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# CONGRESSIONAL GLOBE

FOR THE

SECOND SESSION FORTIETH CONGRESS.

PART IV.

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# THE CONGRESSIONAL GLOBE:

CONTAINING

## THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTIETH CONGRESS;

TOGETHER WITH

AN APPENDIX,

COMPRISING THE LAWS PASSED AT THAT SESSION;

AND

**A SUPPLEMENT,**

EMBRACING THE PROCEEDINGS IN THE TRIAL OF ANDREW JOHNSON.

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BY F. & J. RIVES & GEORGE A. BAILEY.

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CITY OF WASHINGTON:  
OFFICE OF THE CONGRESSIONAL GLOBE.  
1868.

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amend the amendment by striking out the last word. Nothing is more common, I presume, all over the country than the assignment of notes secured by mortgage, different parties holding notes secured by the same mortgage, and each having the benefit of the mortgage to the extent of the notes held by him, the general doctrine being that notes are secured in the order in which they become due, or the order in which they are to the extent of the property mortgaged. The question arises whether the assignment of the note takes with it the assignment of the security of the mortgage. This stamp act comes in, and it is a question whether the assignee is entitled to the benefit of the security. It seems to me some mode might be devised by which that uncertainty would be removed. If it could it would be of great benefit to the country. I do not know whether the subject has ever before been brought to the attention of the Committee of Ways and Means or not.

I withdraw my amendment to the amendment.

The committee divided on the amendment of Mr. STEVENS, of New Hampshire; and there were—ayes thirty-two, noes not counted.

Mr. STEVENS, of New Hampshire. I hope the gentleman will consent to give us a vote in the House.

Mr. SCHENCK. I agree to that, that the amendment shall be reserved for a vote in the House.

Mr. GARFIELD. I move that the committee rise, with a view of doing away with the evening session and continuing our present session until five o'clock. I think the House will be ready to do more business if it is agreed to. Then the committee which meets in the morning to perfect amendments should have time to do so.

The motion was agreed to; there being on a division—ayes 49, noes 30.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and had come to no resolution thereon.

Mr. GARFIELD. I move that the order for an evening session to-day be rescinded, and that the session to-day continue until five o'clock instead of half past four.

Mr. BLAINE. Say half past five.

Mr. GARFIELD. I will only move that the evening session be dispensed with for to-day.

Mr. SCHENCK. I hope that will not be done unless it is agreed to sit until half past five. I admit I should like to have an evening's rest myself, but I am willing to sit until half past five. If we cannot do that I hope the evening session will not be dispensed with.

Mr. PAINE. I voted in favor of the rising of the committee under the supposition that it was agreeable to the Committee of Ways and Means. I understand now it is not, and I shall vote against the pending motion.

The House divided; and there were—ayes 43, noes 35; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. GARFIELD and Mr. PAINE.

The House again divided; and the tellers reported—ayes 53, noes 41.

Mr. TROWBRIDGE demanded the yeas and nays.

The yeas and nays were not ordered.

So the evening session for to-day was dispensed with.

#### LEAVE OF ABSENCE.

Mr. MOORHEAD was granted leave of absence for a week.

#### ENROLLED BILL SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 601) making appropriations for the naval

service for the year ending June 30, 1869; when the Speaker signed the same.

Mr. GARFIELD moved that the rules be suspended and the House resolve itself into Committee of the Whole on the state of the Union to resume the consideration of the tax bill.

Mr. BENJAMIN moved that the House adjourn; and demanded tellers.

Tellers were ordered; and the Speaker appointed Mr. HIGBY and Mr. SCHENCK.

The House divided; and the tellers reported—ayes 47, noes 51.

Mr. BENJAMIN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—ayes 50, noes 50, not voting 89; as follows:

YEAS—Messrs. Baker, Barnes, Beatty, Benjamin, Benton, Blair, Boyer, Brownell, Burr, Chanler, Cullom, Eckley, Ela, Eldridge, Ferriss, Glossbrenner, Golladay, Gravelly, Grover, Harding, Higby, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Hulburd, Julian, Kitchen, Knott, Lincoln, Marshall, Maynard, Mercur, Nicholson, Peters, Polsley, Robinson, Ross, Spaulding, Aaron F. Stevens, Stewart, Taber, Taffe, Lawrence S. Trimble, Trowbridge, Upson, Van Auker, Van Trump, Ward, and Windom—50.

NAYS—Messrs. Allison, Ames, Beaman, Blaine, Butler, Cake, Churchill, Reader W. Clarke, Cobb, Cook, Cornell, Corvode, Daves, Driggs, Eliot, Ferry, Garfield, Getz, Griswold, Halsey, Jencks, Judd, Ketcham, Koontz, Logan, Lynch, McClurg, Miller, Moore, Morrell, Mullins, Niblack, O'Neill, Paine, Pile, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Seefeld, Starkweather, Stokes, Taylor, Twichell, Van Aernam, Robert T. Van Horn, William B. Washburn, and Welker—50.

NOT VOTING—Messrs. Adams, Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnum, Beck, Bingham, Boutwell, Brooks, Broomall, Buckland, Cary, Sidney Clarke, Coburn, Delano, Dixon, Dodge, Donnelly, Eggleston, Farnsworth, Fields, Finney, Fox, Haight, Hawkins, Hill, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Ingersoll, Johnson, Jones, Kelley, Kelsey, Kerr, Ladin, George V. Lawrence, William Lawrence, Loan, Loughridge, Mallory, Marvin, McCarthy, McCormick, McCullough, Moorhead, Morrissey, Munger, Myers, Newcomb, Nunn, Orth, Perham, Phelps, Pike, Plants, Poland, Pruyn, Randall, Selye, Shanks, Shellabarger, Sitgreaves, Smith, Thaddeus Stevens, Stone, Thomas, John Trimble, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—89.

So the House refused to adjourn.

#### RECONSTRUCTION.

On motion of Mr. BEAMAN, by unanimous consent, the amendments of the Senate to the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress were taken from the Speaker's table, and referred to the Committee on Reconstruction.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union, and resume the consideration of the internal tax bill.

Mr. HARDING. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at four o'clock and forty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. KELSEY: The remonstrance of cigar manufacturers and journeymen cigar-makers of the town of Seneca, Ontario county, New York, against an increase of the tax upon the manufacture of cigars.

By Mr. POLSLEY: The petition for the establishment of a post route from Kanawha Salines, in Kanawha county, to Hiram Sizemove's, in Clay county, West Virginia.

By Mr. ROBERTSON: The petition of General Sigel and others, committee of arrangements of the National Association of American Sharpshooters for the third American shooting festival, to be held in New York city

from June 26 to July 6, 1868, praying that certain prizes donated by friends and kindred associations in Europe may be exempted from the payment of duties.

#### IN SENATE.

FRIDAY, June 12, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented the petition of Clinton F. Taggart, for pay for horses lost in the service of the United States; which was referred to the Committee on Claims.

Mr. FRELINGHUYSEN presented the memorial of the Protestant Episcopal parish of St. Mary's, Burlington, New Jersey, praying for the refunding of the duty paid on a chime of bells at New York under a misconstruction of the revenue laws; which was referred to the Committee on Finance.

Mr. MORGAN presented the memorial of James Boorman Johnston and John A. Stewart, trustees for the holders of the mortgage bonds of the Selma, Rome, and Dalton Railroad Company, praying that the lands granted to the State of Alabama and transferred to that railroad company may be exempted from the operation of the bill (H. R. No. 267) to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, Louisiana, and Florida, and for other purposes, and that the change of location and route of that railroad may be recognized and authorized by Congress, and a grant of lands made to aid in its construction; which was referred to the Committee on Public Lands.

Mr. RAMSEY. I present a memorial from that eminent publicist, Dr. Francis Lieber, on the subject of the postal service in the western States. I will read a portion of it:

"The memorial of the undersigned respectfully shows that the existing law regulating the carriage of the mail and charge of postage exacts letter postage on everything carried by the mail to the western Territories this side of California, excepting only newspapers and periodicals when sent to regular subscribers from the respective places of their publication. Books, reports, occasional numbers of periodicals, single newspapers, circulars, documents, maps, pamphlets of all sorts—on all of these the letter postage at three cents for half an ounce must be paid. The law exempts, it is believed, documents franked by members of Congress, but so far as the individual experience of your memorialist goes they do not reach the places of their destination.

"Soldiers stationed in the States this side of the Rocky mountains or in California may, according to the existing law, receive apparel and other things by mail at a reduced postage. This advantage, too, is denied the soldier stationed in the said Territories, who indeed stands most in need of this favor.

"This is a great grievance. Our sons and brothers and fathers in these distant Territories, whether they are in the Army, or pioneers as civilians in the service of civilization, stand most in need of constant and easy mail communication. If we boast that the school goes regularly along with the clearing ax and the minor's pick-ax, we ought not, it seems, to levy such postage on each primer, which is solely needed long before presses can be erected, as to prevent it from being sent by the thousand; and unless this can be done, the school-book is as not existing for the people in the distant West, however active an agent it may be elsewhere."

I move that this memorial be referred to the Committee on Post Offices and Post Roads, and if there is no objection, I ask that it be printed. There are some interesting facts in it that may be useful to the Senate.

The PRESIDENT *pro tempore*. The memorial will be referred to the Committee on Post Offices and Post Roads, and the order to print will be entered if there be no objection. The Chair hears no objection.

#### REPORTS OF COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, reported a bill (S. No. 535) to reward the services of Matthew Low, of Nassau; which was read, and passed to a second reading.

He also presented letters from the Secretary of State and from the Secretary of the Navy, addressed to the chairman of the Committee

on Foreign Relations, in relation to the services of Matthew Low, a resident of Nassau, New Providence, to the United States gunboat Tioga; which were ordered to be printed to accompany the bill.

Mr. NYE, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 189) to amend the various acts establishing the Navy Department of the United States, reported it with amendments.

Mr. HENDRICKS, from the Committee on Public Lands, to whom was referred the bill (S. No. 398) to establish the right of way of the Portage Lake and Lake Superior ship-canal, and to provide for the extension and completion of the same, reported it with an amendment.

Mr. WILLEY. The Committee on Claims have had under consideration the petition of Robert Gibson, of Kentucky, praying for compensation for subsistence stores supplied to the Army of the United States. Mr. President, this presents one of the numerous cases of hardship occurring all over the border States during the war. It seems that United States troops were quartered on the farm of this gentleman for some time, and while there seized and consumed a good deal of his property, hogs, poultry, vegetables, horses, burned his fences, &c. It does not seem to have been done by any regular authority of the officers, though the fact is that the troops did seize and appropriate the property, perhaps to the value of thousands of dollars. It appeared to the committee to be in the nature of an unauthorized depredation by the troops, and although a case of great hardship it is of such a nature that the committee do not feel authorized to enter into it. They are therefore under the necessity of directing the petition to be reported back to the Senate, with a motion that they be discharged from its further consideration.

The PRESIDENT *pro tempore*. The committee will be discharged, no objection being made.

Mr. WILLEY, from the Committee on Claims, to whom was referred the petition of Elizabeth Carson, submitted a report, accompanied by a bill (S. No. 536) for the relief of Elizabeth Carson. The bill was read and passed to a second reading; and the report was ordered to be printed.

Mr. HARLAN. The Committee on the District of Columbia, to whom was referred the bill (S. No. 534) relating to contested elections in the city of Washington, District of Columbia, have directed me to report it back with an amendment. As this is of immediate importance and probably necessary to prevent anarchy in the city, I ask for its present consideration.

Mr. HENDRICKS. I object to its present consideration.

The PRESIDENT *pro tempore*. Objection being made, the bill goes over under the rule.

REV. JOHN M'MAHON.

Mr. MORTON. The Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 137) requesting the President to intercede with her Majesty the Queen of Great Britain to secure the speedy release of Rev. John McMahon, convicted on a charge of treason-felony, and now confined at Kingston, Canada West, have instructed me to report it back and recommend its passage; and I ask for the present consideration of the resolution.

The PRESIDENT *pro tempore*. The Senator from Indiana asks for the present consideration of the joint resolution reported by him. It requires unanimous consent.

Mr. HOWARD. I am very anxious to take up Senate bill No. 256 this morning, relating to the Central Branch Union Pacific railroad. If this resolution is not going to take any time in discussion I will not make any objection to it.

Mr. MORTON and Mr. JOHNSON. It will not take any time.

Mr. CONNESS. I will say that I have no objection to the consideration of this bill, but I hope my friend from Michigan will not call

up the bill to which he refers to the exclusion of one that I am anxious to have action upon and which I think will not excite discussion.

By unanimous consent, the joint resolution was considered as in Committee of the Whole.

The resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### EXCHANGE OF DOCUMENTS.

Mr. ANTHONY. The Committee on Printing, to whom was referred a joint resolution (S. R. No. 121) to carry into effect the resolution approved March 2, 1867, providing for the exchange of certain public documents, have instructed me to report it back with amendments. This is to carry into effect a wholesome law, and the want of this provision stands in the way of it. I hope it will be considered at the present time. I am sure there will be no objection to it.

By unanimous consent, the joint resolution was considered as in Committee of the Whole.

It proposes to direct the Congressional Printer to print fifty copies in addition to the regular number of all documents hereafter printed by order of either House of Congress or any Department or bureau of the Government, and one hundred copies additional of all documents ordered to be printed in excess of the usual number; the fifty or one hundred copies in each case to be delivered to the Librarian of Congress, to be exchanged under the direction of the joint Committee on the Library as provided by the joint resolution approved March 2, 1867. It is further provided that fifty copies of each publication printed under direction of any Department or bureau of the Government, whether at the Congressional Printing Office or elsewhere, shall be placed at the disposal of the joint Committee on the Library, to carry out the provisions of the resolution of March 2, 1867.

The first amendment of the Committee on Printing was to insert after the word "printer," in line four, the words, "whenever he shall be so directed by the joint Committee on the Library."

The amendment was agreed to.

The next amendment was in the eighth line, after the word "documents" to insert "whenever he shall be directed by the joint Committee on the Library."

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

#### PAPERS WITHDRAWN.

On motion of Mr. CORBETT, it was

Ordered, That Goldsmith & Brother have leave to withdraw from the files of the Senate their petition and papers.

#### BILLS INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 537) for the relief of Walter Crane, of Michigan; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. CONNESS. I move that the Senate proceed to the consideration of Senate bill No. 159.

Mr. SHERMAN. I hope not, because by a kind of consent it was agreed that the banking bill should be disposed of to-day.

Mr. CONNESS. I did not so understand.

Mr. EDMUNDS. We have not got through yet with the morning business, and I object to the motion at present, as I desire to introduce a bill.

The PRESIDENT *pro tempore*. The motion cannot now be entertained but by unanimous consent.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 538) in addition to an act to regulate the times and manner of holding elections for Senators in Congress; which was read twice

by its title, and referred to the Committee on the Judiciary.

Mr. EDMUNDS. I now withdraw my objection.

Mr. CONNESS. The objection is withdrawn, and my motion is before the Senate.

Mr. SHERMAN. I renew the objection, unless we can arrange that at one o'clock the bill I have referred to shall come up.

Mr. CONNESS. I have no objection to the honorable Senator's bill being taken up at one o'clock, and I will aid him to take it up then, but I hope he will allow us to do some business in the morning hour.

Mr. SHERMAN. I have not the slightest objection to taking up the Senator's bill now if the banking bill can be taken up at one o'clock.

The PRESIDENT *pro tempore*. This is a question which cannot be argued. The objection must either be made or not. Is there any objection to the consideration at this time of the bill mentioned by the Senator from California?

Mr. SHERMAN. I object.

The PRESIDENT *pro tempore*. Then the motion cannot now be entertained. The introduction of bills is in order.

Mr. SHERMAN. If there is no other morning business, I move to take up for consideration Senate bill No. 440.

Mr. CONNESS. I thought my motion was pending?

The PRESIDENT *pro tempore*. It is not pending, because it was objected to.

Mr. CONNESS. I suppose it depends on a vote of the Senate?

The PRESIDENT *pro tempore*. It does not depend on a vote of the Senate. One objection prevents its being made until the morning business is over.

Mr. CONNESS. The morning business is not over, and I object to the motion of the Senator from Ohio.

The PRESIDENT *pro tempore*. Then that motion cannot be entertained. The introduction of bills and resolutions is in order.

Mr. PATTERSON, of New Hampshire, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 539) to incorporate the Potomac Navigation Company; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 540) to regulate the sale of hay in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

#### ORDER OF BUSINESS.

Mr. CONNESS. Now, if there be no more morning business, I renew my motion to take up Senate bill No. 159.

The PRESIDENT *pro tempore*. The introduction of bills and resolutions is in order, if there be any.

Mr. CONNESS. There do not appear to be any more.

The PRESIDENT *pro tempore*. If there be none, the morning business is through, and the Senator's motion is in order.

Mr. CONNESS. I move to proceed to the consideration of the bill (S. No. 159) relating to the Western Pacific railroad. I will say to the Senator from Ohio that this bill was reported from the Pacific Railroad Committee I think more than three months ago or thereabouts. It has been twice before the Senate, and considered somewhat, but was necessarily laid over on account of the impeachment trial. I wish a vote of the Senate on it. I must be necessarily absent in the beginning of the coming week, and I would regard it as a favor if the Senate would consider the bill now. The bill proposed by the Senator from Ohio we are all for taking up, and it will unquestionably get consideration to-day; and I hope it will not be interposed against this bill.

Mr. SHERMAN. Upon that motion I de



sire to say a word. This is a private bill for the benefit of a railroad company. I have been endeavoring since February last to obtain action upon a bill of great importance to the banking interests of the country, but I have utterly failed up to this time, although it has been reported to the Senate by the unanimous vote of the Committee on Finance, and although it contains provisions of the greatest importance to the banking system, to correct some abuses that are gross and scandalous, and some of its provisions at least ought to receive, and will receive the assent of the Senate. I have been struggling day after day and week after week to get the consideration of the Senate to this bill. The Senator from Illinois [Mr. YATES] gave way on the Colorado bill, with the understanding that I was to call up this bill to-day. Now, it is to be pushed aside with all the other business of the Senate pressing upon us, in order to give to a branch Pacific railroad another gratuity. I ask the Senate whether public measures of great importance ought to be thus thrust aside? The Senator from California no doubt will have an opportunity to get up his bill, but I think I ought to be allowed to present this important public bill now. If it can be assigned as the special order for one o'clock, I do not want to interfere with any other business, but it is manifest that the Committee on Finance cannot get their measures considered.

Mr. WILLIAMS. Make that motion, that the banking bill be made the special order for one o'clock.

Mr. SHERMAN. If that can be done, if the bill I have mentioned, Senate bill No. 440, can be assigned as the special order for to-day at one o'clock, and taken up then, I have no objection to the Senator from California proceeding with his bill. But the idea of comparing a private grant to a railroad company for a depot with a bill which affects the whole circulation of the country, a matter of great public interest, I think is preposterous.

Mr. CONNESS. There can be no objection to the proposition of the Senator.

Mr. SHERMAN. Then I move that the bill to which I have referred be made the special order for to-day at one o'clock, to be considered as the unfinished business.

Mr. CHANDLER. I hope that order will not be made. Last Saturday was set apart for the consideration of bills from the Committee on Commerce, but was devoted to other business; and I desire to ask the Senate to give me to-day for the consideration of bills reported from the Committee on Commerce. If that is objected to, then I ask the Senate to assign me to-morrow.

Mr. SHERMAN. I shall have no objection to the Senator taking any day after the passage of this bill.

Mr. CHANDLER. I move, then, that to-morrow be set apart for the consideration of bills from the Committee on Commerce.

Mr. SHERMAN. We cannot accumulate motions to make special orders in this way.

The PRESIDENT *pro tempore*. The motion really pending is the motion of the Senator from California; which was first in order, to take up his bill; but if there be no objection to assigning one o'clock to-day for the consideration of the bill mentioned by the Senator from Ohio, it can be done. As no objection is made, it will be considered that that order is made.

Mr. SHERMAN. Very well.

#### WESTERN PACIFIC RAILROAD.

The PRESIDENT *pro tempore*. The question now is on the motion of the Senator from California.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 156) relating to the Western Pacific Railroad.

The PRESIDENT *pro tempore*. The bill will be read through.

Mr. CONNESS. The bill has been heretofore read and amended.

Mr. EDMUNDS. Let it be read for inform-

ation as it stands. We do not know anything about it.

The Chief Clerk read the bill, as amended, as follows:

That the Western Pacific Railroad Company of California be, and is hereby, permitted to occupy for the purposes of a depot, store-houses, and other necessary fixtures, so much of the island known as Yerba Buena or Goat Island, in the bay of San Francisco, California, as may, within one year from the time this act shall take effect, be designated by the General of the Army of the United States, with the approval of the Secretary of War, as not being required in time of peace for military purposes; which privilege shall, however, be suspended whenever the United States shall be engaged in war or in imminent danger thereof, and notice of such suspension shall be given to said company, its successors or assigns, by the Secretary of War, with the approval of the President. And in case of such suspension of said privilege it shall be the right of the United States to take possession of the part of said island subject to said privilege, together with all buildings and other fixtures erected thereon by said company, and to occupy and use the same for military purposes during the war, and so long thereafter as shall be deemed necessary by the Secretary of War, with the like approval; and the United States shall pay to said company, their successors or assigns, such sum as may be reasonably due for such use and occupation thereof. The said Western Pacific Railroad Company are also hereby authorized to locate and construct a railroad thence, by the shortest and most practicable route, to a point on its present line at or south of the city of Stockton, and they are hereby enfranchised with all the grants, privileges, and benefits, and made subject to all the conditions of the several acts of Congress relating to the said company and its railroad and telegraph line: *Provided, however*, That nothing herein contained shall be so construed as to increase the subsidies in bonds, beyond that accruing under existing lines of location and laws heretofore passed providing for the construction of the Pacific railroad.

Mr. MORRILL, of Vermont. I move to amend the bill on page 2, line thirty, by striking out after the word "approval" the following words:

And the United States shall pay to said company, their successors or assigns, such sum as may be reasonably due for such use and occupation thereof.

Mr. President, when the United States give this company so valuable a possession as this, if it shall thereafter for merely temporary use require its occupation, it seems to me that it is a pretty bold proposition to ask that the United States shall pay this railroad company a price for its temporary occupancy, when we give up the whole, a most valuable possession, without any consideration whatever, in addition to what we have heretofore given to this road. I take it that no one will have any objection to the amendment I propose.

Mr. CONNESS. The objection to the amendment is this: the terminus or great depot of the Pacific railroad near the city of San Francisco, to accommodate not only the trade involved in the necessities of the States on the Pacific coast, but also involved in the receipt and shipment of merchandise from the East Indies, which we all hope to be of the greatest extent, will need necessarily very costly constructions in the way of buildings, &c. The probability is that the buildings to be erected and the work to be done at this depot will cost several million dollars to utilize and make it adequate for public business. The question involved here is whether, if the Government in time of war should take possession of all these works and buildings, they should not allow such a rent or allowance as would be fair and equitable for their use. It appears to me that to adopt the amendment of the Senator from Vermont would be to do what the Government has never done in any case that I have any knowledge of. As I stated before when this bill was under discussion, land owned by the Government to such an extent as was needed for so great a public purpose as this, has not been denied to any company or party; and this is a question as to whether the Government shall confiscate, take possession, of the structures reared at an immense expense by this company, without allowing any consideration therefor. Having stated it, as I think, clearly, I am perfectly willing that the Senate shall vote upon it.

Mr. HOWARD. I wish merely to add that the Committee on the Pacific Railroad had this subject under consideration at several meetings, and after reflecting upon it as care-

fully as they were able they came to the conclusion to report the bill back with the amendment which has been read, out of which the Senator from Vermont proposes to strike the clause which he has moved to strike out. I trust that that motion will not prevail. It will be necessary, as has been remarked by the Senator from California, that this company, if they occupy the island for such a purpose, shall erect buildings which must be considerably costly. What amount it may be necessary for them to expend in the way of storehouses, depots, &c., on the island, of course we cannot now ascertain; but the amount will necessarily be very large.

The effect of the amendment is to authorize the Government in case of war to take possession of the whole of the island and the whole of the buildings which may have been erected by the company upon the island for purposes of their own, and to use these buildings or structures, whatever they may be, for the use and benefit of the United States during the war and until such time after the war as the Secretary of War may find it necessary. I submit to the Senate that to authorize the Government to take possession of these costly buildings and hold them for any considerable time, thus necessarily suspending the business of the company during that time upon the island, would be or might be a very serious damage to the company, and that they ought, fairly and honestly, to be compensated for such a use. No sum is fixed in the bill which is to be paid for such use and occupation. That is to be left for future consideration, and to be settled in such way as Congress at the proper time may see fit to designate. But this bill simply promises to the company on the part of the Government that in case it shall so use the buildings which may be erected upon the island, it will give them a reasonable compensation for the use and occupation of them. I submit that that is nothing more than simple justice.

Mr. MORRILL, of Vermont. If that is the only explanation of this provision it does not amount to anything at all. We cannot take property of private citizens under the Constitution of the United States without compensation. This is no concession at all on the part of the company to the United States. In case of war we could go and take possession of it by paying for its use, whether this provision was in the bill or not. I submit that it ought not only to stipulate that there shall be no pay, but even that it shall be free. How much does the Senator from Michigan—I suppose he has investigated the subject—suppose the value of this island to be at the present time? What would it sell for?

Mr. HOWARD. It is not possible to furnish any estimate of the value of the island. It is of no value to any person for agricultural purposes, as I have been informed. It is valuable only as a military station in the harbor of San Francisco, and as a depot for the termination of the Union Pacific railroad. It is impossible, therefore, to answer the question which the Senator puts to me as to the actual value of the island. I beg to say, however, now that I am up, if the Senator will allow me, that the bill itself does not convey to the company the title to the island. The Government does not assume to part with the title to the island to the company, but simply to grant to the company a license to occupy such portion of the island as may not be deemed by the General of the Army of the United States necessary for military purposes, for the erection of store-houses, &c.; subject to be reoccupied by the Government of the United States in time of war.

Mr. MORRILL, of Vermont. I have had handed to me by my colleague the report of A. A. Humphreys, brigadier general of engineers, wherein he says:

"The value of this island, over and above the cost of the works necessary to develop it, must be many millions of dollars."

Now, Mr. President, if we do not propose

to give the title to this island to this company, but propose to give them its use and occupancy, why should the United States be required to pay rent for it whenever the emergency may arise that they require it, and especially for war purposes? It seems to be admitted by the very face of the bill that it will be so required in case of war, because it is specially provided that in such a case the United States may resume its possession.

Mr. CONNESS. There is one point, if the Senator will permit me—

Mr. MORRILL, of Vermont. I desire to occupy but a moment's time. I merely rose to call the attention of the Senate to this provision. It seems to me that the common judgment of any man should say that this portion of the bill should be stricken out; and I am somewhat surprised that the Senator from California does not concede it. He is generally a fair man. He is not disposed to be very much of a Yankee, to take advantage and get a smart, sharp bargain; and certainly it seems to me that this goes beyond any Yankee operation that I have ever seen yet: that we are to give to this company a possession which in its value is worth hundreds of thousands of dollars every year, and if we shall merely require it for our own temporary occupancy in case of a great emergency we are to be called upon to repay this company to whom we have given so many largesses, so many benefits, the uttermost farthing for any value that we may derive from the use and occupancy of our own property.

Mr. NYE. Being somewhat familiar with the exact location of this island, I desire to say a few words on this subject. The view which the honorable Senator from Vermont takes, it seems to me, is a narrow one, not justified by the facts. In the first place, the outlay upon the island will be several millions of dollars to enable it to be occupied for military purposes by the Government itself; for I assert, with an entire familiarity with its locality, that it is unavailable as a military depot in the sense in which the Government will require it without that outlay being made by the Government itself or by some one else. On one side of the island the channel is very narrow indeed, and without this land connection it will be entirely unavailable, or to a large extent unavailable, for military purposes, and it is good for nothing else. This company agree to go on and make this large outlay, which will not be less than two million dollars certainly, to get upon this island.

There is another view of this case which the Senate of the United States should take, which it seems to me controls it, and I wish to have the attention of the Senate while I state it. The Government has gone on at great expense and aided in the construction of this railroad. To make it available, to make the securities ample upon which the Government rests for the return of the advances made and to be made to construct the road, it needs this terminus to accommodate the public commercial interests of the country. The Senator from Vermont and his constituents are as much interested in it as the people of the State of California or Nevada, and more, for turn this map whichever way you may, the wealth of the West and of the East all centers upon this Atlantic coast. In a commercial point of view, for great commercial convenience to this enterprise and to the shipping interests of the world, this terminus is demanded. It is no gift to this company.

There is another view which I wish to present, and then I shall have done; and that is the point of economy. I think what is now proposed will save the construction of something like forty-seven miles of road. No such convenience for public commerce can be found as upon this island. We have now reached a new era in the commerce of the world. We have seen in the other branch of this Congress, standing in their Hall, within this week, the representatives of a population of four hundred million people, who bring us the fruits of

the sun, and they are to find their great depot at this island. It is of national importance to furnish commercial convenience to our great continental enterprise that this island should be so dedicated, and not one inch of the title passes and the Government can reclaim it whenever it is needed for its purposes.

Now, sir, I come to the "Yankee" part of the argument. Being a legitimate descendant of the Yankees I have a right to speak of that branch of the case. Sir, there is no Yankeeism in this. It is broad gauge. As my friend from Maine [Mr. MORRILL] the other day told the Senator from Michigan, [Mr. CHANDLER,] there is no flat-bottom and center-board commerce in this; it is keels that navigate the world.

What does the Government part with? Nothing. It simply gives consent to occupy that portion of the island which it does not require for military purposes. It makes doubly valuable the portion of the island reserved for those purposes. It makes it, indeed, what the Government requires, absolutely defensive in its position; and if it shall become necessary in time of war that the country shall use the whole island it may take it all. This company are willing to say that in that contingency the Government shall take it. Under these limitations I can see no objection to the bill. And now I ask my friend from Vermont is it at all likely that in his day or mine that exigency will arise? No, sir; the power of the arms of this country so demonstrated itself to the world that no nation and no combination of nations will dare invade our soil or create the emergency for which this provision is to provide.

Mr. CAMERON. Mr. President, I hope this amendment will be adopted, and after that, whether it be adopted or not, I have another one to offer. For the present I simply desire to say that this is a much more important question to the country and to the Treasury of the country than Senators seem to imagine. I have before me a report made by officers of the Engineer corps under the direction of the War Department which shows that this property is indispensably necessary to the defense of the great city of San Francisco. The report says further in regard to its value, that if the Government were disposed to sell it they could get \$5,000,000 for it. I have no doubt this is true. As I understand it, the island now above water and the shoal water there may be made to contain three hundred acres of land. After awhile, as the city of San Francisco grows toward its magnitude, for it is growing every year—and I agree with the Senator from Nevada that at some future time it will be one of the great cities of the world—as it progresses the value of this island will every year become greater.

If this island is to be used by a railroad all the railroads which shall terminate in San Francisco ought to have the same right there. You have now the Central Pacific railroad approaching completion; you have the Pacific railroad, eastern division, far advanced toward its termination. I hope that in a year or two we shall have a great Northern Pacific railway started also. All these railroads of course will terminate in San Francisco. There are besides various railroads in the State of California made by private individuals and by the bounty of the State which are approaching this great city. All of them ought to have a portion of this territory, if it is to be granted to any. We have at all our great towns found difficulty in having proper locations for the termini of our roads. They have been constantly changing their depots, because in the early start of their operations they did not know the amount of property they would need, nor where the centers of trade would be.

This is in some measure a new place; and we, the national representatives, ought to do something to make it a place worthy of the great city of which it is to be the *entrepôt* and of the whole nation that is going to give this bounty. The amendment which I shall offer as soon as this is disposed of, is to give all the

railroads which may terminate at San Francisco a right to go there.

It is said by the Senator from Nevada that this is not a Yankeeism. True, for the Yankees always pay for what they get. This is one of those schemes which are to make money out of the Government without giving a compensation for it. The railroad companies in the East have paid for not only the land upon which they erected their depots, but for every foot of the land upon which they built their roads. Here the Government gives the company the soil, gives them the right of way, and pays them for occupying it. It gives to every one of these Pacific railroad companies more than principalities in land, and besides that pays them money enough to make the railroads, and more than enough.

Mr. CONNESS. How?

Mr. CAMERON. By the subsidy. I do not object to that; I vote for these roads because I desire to have the great West and the great Pacific coast settled, and to encourage the people who desire to go to reside there. I desire to see inducements held out to send people across there to populate that great country. But I do not desire to see the Government lose all its property for the benefit of an already bloated corporation, for it is bloated, and all those connected with it are making princely fortunes out of it. Why should they not pay for the ground they use as the terminus of their road, as other corporations have done? Especially should we not allow them to take from the Government an island which, as your engineers say, is absolutely necessary to the defense of the city of San Francisco. It is true that we may not have a war this year or next, and perhaps not in our generation; but ages and generations are but small periods in the history and growth of the world. The time will come when there will be a war there just as sure as time turns round, and then the Government will need this property.

I shall not detain the Senate longer now; but when this amendment is voted on, I shall offer the amendment I have indicated.

Mr. CONNESS. Mr. President—

Mr. FESSENDEN. I should like to hear the document read which the Senator from Pennsylvania has in his hands.

Mr. CAMERON. I am much obliged to the Senator for the suggestion, and I send it to the desk and ask that it be read.

Mr. CONNESS. I believe I have the floor.

The PRESIDENT *pro tempore*. The time has arrived when the special order should be taken up.

Mr. CONNESS. This will only take a few minutes. I have but a few words to say.

Mr. FESSENDEN. Will the Senator consent to allow a motion to be made that that document be ordered to be printed?

Mr. CONNESS. That document may be printed, and it may be read from end to end; I have no objection; but I hope the Senator will not undertake to jerk me from the floor when I rise.

Mr. FESSENDEN. Certainly not.

Mr. CONNESS. Mr. President, I shall only occupy one minute, and then it will be time to stop at present, as the hour for the special order is at hand.

There appears to me to be several holes, so to speak, in the logic of my friend from Pennsylvania. Allow me to let him look through them without the aid of glasses. The whole island, he says, is necessary for war purposes, and therefore it should not be given, or any part of it, to one company, and hence he proposes that it shall be given to all companies; for the honorable Senator has an amendment as long as my arm giving the island for the purposes to all companies.

Mr. CAMERON. The Senator will allow me to correct him. I said if it is given at all it should be given to all of them.

Mr. CONNESS. Mr. President, if the outrage is to be committed of allowing the great Pacific railway to have a depot there, then every



railroad in the land must have it, and the outrage must be multiplied and quadrupled!

Mr. CAMERON. That is not logic.

Mr. CONNESS. No, Mr. President, it is not logic. That is what I began to say: I understand what the Senator aims at very well; but if he were as well acquainted with the localities and the demands of these other roads as we happen to be he would not bring forward the amendment which he proposes.

But, sir, I promised not to occupy the time of the Senate, and I intend to abide by that promise. I give notice to the Senate that I shall call this bill up again, perhaps later in the day, when opportunity offers, or to-morrow, and I desire it to be exposed to the closest scrutiny; and I invite the close examination as well as the most forcible arguments of my honorable friend from Pennsylvania to sustain his proposition.

Mr. HOWARD. I merely wish to say, in reply to a suggestion made by the honorable Senator from Pennsylvania, that if in case it shall turn out that in the judgment of the Secretary of War and the President the whole of this island ought to be retained for military purposes they may so retain it, and this company cannot get a foot of it. The military authorities are to determine the question whether any portion of this island can be spared for the purposes contemplated in the bill.

Mr. FESSENDEN. I move that the document which has been laid on the table by the Senator from Pennsylvania be printed.

The motion was agreed to.

Mr. CONNESS. There is a map accompanying it. Let it be printed without the map.

Mr. FESSENDEN. Yes; the original map can be returned with the printed document.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 601) making appropriations for the naval service for the year ending June 30, 1869; and it was thereupon signed by the President *pro tempore*.

#### NATIONAL BANKS.

The PRESIDENT *pro tempore*. The time has arrived for the consideration of the special order.

Mr. CHANDLER. With the leave of the Senator from Ohio, I desire to make the motion which I proposed to make a while ago, that to-morrow be set apart for the consideration of bills from the Committee on Commerce.

Mr. SHERMAN. I have no objection to that motion being made, if it does not lead to debate.

Mr. HARLAN. I shall have to interpose an objection.

Mr. SHERMAN. Then I hope we shall proceed with the regular order.

Mr. HARLAN. I shall want to call up the District business to-morrow.

Mr. CHANDLER. Let the vote be taken on my motion.

The PRESIDENT *pro tempore*. The Senator from Michigan moves that to-morrow be set apart for the consideration of bills reported from the Committee on Commerce.

Mr. HARLAN. I desire to say something before that question is put.

Mr. SHERMAN. A single objection makes the motion out of order at this time.

Mr. CHANDLER. Then I give notice that I shall to-morrow ask the Senate to take up for consideration the bills from the Committee on Commerce. Last Saturday was set apart for those bills, but they then went over, and I shall now ask that to-morrow be substituted.

Mr. SHERMAN. I insist that we go on with the regular order.

The PRESIDENT *pro tempore*. The Senator from Ohio calls for the special order, which is the bill (S. No. 440) supplementary to an act entitled "An act to provide a national currency secured by a pledge of United States

bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864. The pending question is on the amendment reported by the Committee on Finance, to insert the words which will be read after the word "deposits," in line twelve of the first section:

The Chief Clerk read the words proposed to be inserted, as follows:

And the limitation prescribed in section twenty-nine of said act, which restricts the liabilities of individuals, companies, corporations, or firms, for money borrowed of national banking associations to one tenth of the capital of such associations, is hereby made applicable to all deposits made by such associations with the private bankers or brokers or banking associations not organized under the national currency act.

The amendment was agreed to.

The next amendment was to insert the following as the third section of the bill:

SEC. 3. And be it further enacted, That section forty-two of said act be so amended as to provide that within ninety days from the date of the notice served upon the Comptroller of the Currency by any national banking association that its shareholders have voted to go into liquidation as provided in said section, the said association shall pay over to the Treasurer of the United States the amount of its outstanding notes in lawful money of the United States, and take up the bonds which said association has on deposit with the Treasurer for the security of its circulating notes, which bonds shall be assigned to the bank in the manner specified in the nineteenth section of this act; in default of which the Comptroller of the Currency shall sell said bonds to the highest bidder at public auction in the city of New York, and from the proceeds thereof shall pay over to the Treasurer of the United States, in lawful money, an amount equal to the outstanding circulation of such association, and shall pay over any surplus remaining to the officers of the association. And any association which has heretofore gone into liquidation under the provisions of the section to which this is an amendment shall pay over to the Treasurer lawful money equal in amount to its outstanding circulation within thirty days from the date of the passage of this act, in default of which its bonds shall be sold as above provided. And from that time the outstanding notes shall be redeemed at the Treasury of the United States, and the said association and the shareholders thereof shall be discharged from all liability therefor: *Provided*, That any association winding up its affairs for the purpose of consolidation with another bank shall not be compelled to pay to the Treasurer of the United States the amount of its outstanding circulation in lawful money, nor shall its bonds be sold as above provided.

Mr. CORBETT. I ask the Senator from Ohio what will be the result of this amendment, if it is adopted, in case the Government should return to specie payments and adopt such measures as to redeem its own outstanding notes, the legal tenders. Provision is here made for disposing of the bonds held by banks and paying the amount realized from them in currency to the Government to reimburse it and turning over the balance to the bank. If the Government shall have returned to specie payments so as to redeem its legal tenders in specie at any time, will it not be obliged to redeem those notes with gold? It seems to me that when these bonds are disposed of and national bank bills paid out the Government will be obliged to redeem them. Can it redeem them in bank bills, or will it have to pay gold for them, provided it shall then have no legal-tender notes in circulation? I ask the Senator from Ohio what would be the effect of the amendment in that view.

Mr. SHERMAN. The Senator will see that no such case can possibly arise, because before the bank can withdraw its bonds it must deposit with the Treasurer lawful money of the United States to the full amount of its circulation. That "lawful money" is not bank notes; "lawful money" is greenbacks or gold. Consequently, if specie payments were resumed, and our notes were as good as gold, they would have to deposit gold, or greenbacks, which would then be equal to gold.

Mr. CORBETT. The question in my mind was whether this section would allow them to deposit other bank bills.

Mr. SHERMAN. No, sir; the section expressly says "the amount of its outstanding notes in lawful money of the United States." "Lawful money of the United States" is a technical term which applies only to legal tenders or gold.

Mr. CORBETT. That was the point I wished

to be certain about. I was afraid there might be some doubt as to it.

Mr. SHERMAN. There can be none. The words "lawful money" are sufficiently definite.

Mr. FERRY. In the twelfth line of this amendment there is a reference to "the nineteenth section of this act." I suppose the word "this" should be changed to the word "said."

Mr. SHERMAN. It ought to be "the nineteenth section of said act."

Mr. FERRY. I move that amendment.

The PRESIDENT *pro tempore*. That modification will be made without a formal vote if there be no objection.

The Chair hears no objection.

Mr. HOWE. The amendment says these bonds are to be sold "at public auction." Would that require them to be sold at the regular stock sales?

Mr. SHERMAN. The national bank act provides the mode and manner of selling bonds; it is to be done at public auction. They are sold at the stock exchange, I suppose.

Mr. HOWE. Would they necessarily be sold in that way?

Mr. SHERMAN. Yes, sir; because the original bank act requires it. This only repeats its language. The provision is that they must be sold in New York at public auction. If the Senator thinks there is any doubt about it, I have no objection to putting in the words "at the stock exchange."

Mr. HOWE. I simply asked the question. There may be public auctions in New York entirely independent of the stock exchange.

Mr. SHERMAN. But I take it the Treasurer of the United States, as a matter of course, would sell these bonds at the place where all such things are sold.

Mr. HOWE. I should think he would.

Mr. SHERMAN. But if the Senator has any doubt about it he may put in the words "at the stock exchange" after the words "public auction."

Mr. JOHNSON. That had better be done.

Mr. SHERMAN. I have no objection.

Mr. HOWE. I think it would be well to put in those words.

Mr. SHERMAN. Very well, let them be inserted.

Mr. HOWE. I move to insert the words "at the stock exchange" after "auction."

The amendment to the amendment was adopted.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Finance was to insert the following as the fourth section of the bill:

SEC. 4. And be it further enacted, That there shall be allowed to receivers of national banking associations, appointed in accordance with the provisions of the national currency act, in full compensation for their services, a salary of \$1,500 per annum, and in addition thereto a commission of three per cent. upon the first \$100,000; a commission of one per cent. upon all sums above \$100,000 and not exceeding \$500,000, and a commission of one half of one per cent. on all sums over \$500,000 that may be collected; which salary and commission shall be paid by the Comptroller of the Currency out of any moneys realized from the assets of the bank so in the hands of the receiver: *Provided*, That the payment of one half of the commissions may be reserved, in the discretion of the Comptroller, until the affairs of the bank are finally closed. And all receivers, appointed as aforesaid, shall be considered officers or agents of the Government, and shall have the right to bring suits in the United States courts. And the judge of the United States district court for the district in which such suits are brought, shall fix the fees or compensation to be allowed to the attorneys for such receivers, having due reference to the amount of labor performed and to the interests of the creditors of the bank.

Mr. CAMERON. I move to amend the amendment by making "three" in the sixth line "two," "one" in the seventh line "one half;" and "one half" in the ninth line "one quarter," so as to make the commission two per cent. on the first \$100,000, one half of one per cent. beyond that up to \$500,000, and one quarter of one per cent. on all above \$500,000. The amendment of the committee



would give a receiver for collecting \$100,000, \$4,500; my amendment will make it \$3,500.

Mr. SHERMAN. So far as I am concerned I have no objection to the Senator's amendment; but I will state the reason why the Committee on Finance proposed the compensation for which the section provides. This compensation is precisely the compensation of the collectors of internal revenue. We copied from the internal revenue act the rates of compensation now fixed by law for such officers. It will be remembered that the Comptroller of the Currency, in calling attention to the necessity of legislation on this subject, says that the courts in the State of New York have allowed five per cent. on all sums, even in one case where the amount of capital involved was \$1,200,000, amounting to an extortionate sum. This section is for the purpose of reducing the allowances made by the courts, the fees of receivers being now fixed by the State courts. In arriving at what would be a proper compensation we came to the conclusion that the amount allowed now by law to the collectors of internal revenue would be about fair. The duties to be performed by these officers are generally of a high character, often very difficult. Banks are usually broken on account of frauds or peculations or misconduct, and frequently the assets are very difficult to be collected. It was thought, therefore, that on the amount collected a reasonable commission should be given. If the Senator from Pennsylvania, who knows more about the subject than I do, thinks that \$1,500 a year salary, and two per cent. on the first \$100,000 collected is sufficient, I shall make no special objection; but the committee considered the matter fully, and came to the conclusion that we had better leave the rates at the amount proposed by the Comptroller of the Currency, being the rates fixed by law for collectors of internal revenue.

Mr. CAMERON. In the case of collectors of internal revenue, it will be remembered that they collect in small sums from various persons in different parts of the district, and sometimes the districts are very large. Here it is all one business and will be done under the same roof. According to my amendment, if \$100,000 should be collected, the compensation of the receiver would be \$3,500. I think that is sufficient. If the assets are good, they are generally collected almost immediately; and if bad not at all. Then the percentage is increased as the amount enlarges. I think the compensation above \$200,000 is too much, even as I propose to leave it; but I am willing to agree to the reduction proposed. My experience in banking has been that when a bank breaks up the gentlemen who settle its affairs generally get pretty much all that is left. I want to save something for the stockholders, if possible.

Mr. WILLIAMS. Mr. President, I know that it is an unthankful and an unprofitable business to undertake to oppose any proposition here to reduce the pay of anybody who is expected to perform public duties; but I very much doubt the propriety of reducing the amount which is specified in this section as a compensation to receivers appointed to settle up the affairs of national banks. I doubt in the first place the propriety of appointing men to discharge responsible duties and then giving them a starvation salary; and it is to that cause as much as to any other that we may attribute the great demoralization that has crept into the public service of this country. We suppose that we are consulting economy when we appoint men to office and deny them a reasonable compensation for their services, when in point of fact we are endangering, not only the Government, but the people generally who are concerned in the transaction of the public business.

To be a receiver, as it seems to me, in settling up the affairs of a delinquent or broken bank, requires not only a business man, but it requires a man who understands questions of law, who can not only engage in the collection of such debts as may be due the bank, but in

the adjustment of all legal questions that grow out of the settlement. Now, to provide that such a receiver shall receive only \$1,500 a year, and then \$2,000 more for collecting \$100,000, which would make \$3,500 salary for one year's labor, is to provide that no man fit to do the work will undertake it. If a bank was to break in any considerable city, no merchant would undertake the business for that pay; no lawyer would undertake the business for that pay; and you must procure some shyster who expects to make up what he lacks in fees by stealing the assets of the bank. That will probably be the result unless you give to those officers such pay as will induce respectable and honorable men to engage in the business. The courts, while the business has been in their hands of fixing the fees of these officers, have allowed them much more—five per cent. perhaps more than they ought to have received. It may be supposed that a court is honest in this allowance, and that a court understands what is really due a man for the transaction of such business; and a court conversant with the man and the business he has done has allowed much more than this amendment provides.

It seems to me that it is desirable that these persons should be good, honest men, competent men, men in whom the community can confide; and although I am not much of a banker, and know very little about settling up the affairs of broken banks, I did suppose that a receiver had something else to do besides doing business inside of the bank. I supposed that there was usually a large amount of money due to the bank from a great variety of persons, and that it was the business of the receiver to collect the debts due the bank, to marshal the assets, make arrangements for the payment of the debts of the bank, and take the whole responsibility of settling up the business. That I understand to be the duty of a receiver; and although I of course feel no interest in this matter any further than the public is concerned, I think that this compensation is not an unreasonable one, and that we shall not gain anything by reducing it as suggested by the Senator from Pennsylvania.

Mr. CATTELL. The rate of compensation fixed for receivers by the amendment of the committee is precisely the same as that fixed for collectors of internal revenue, \$1,500 per annum salary and the same percentage upon the amount collected. The Comptroller of the Currency recommended this rate himself, and submitted it to the committee, and it was a subject of discussion there. After looking at it in all its aspects, the responsibilities connected with the handling of so much money and the talent required to settle up the affairs of an institution and the integrity and honesty requisite, we thought a receiver ought at least to command as high a salary as that of one of our collectors of internal revenue, and it was with that view that this amount was fixed.

Mr. CAMERON. I endeavored to explain before, but I believe the Senator from New Jersey was not in, that the duties of a receiver are much lighter than those performed by a collector of internal revenue. The latter collects from individuals various sums, small sums and large ones, all over his district; sometimes he has to go all over a congressional district to make the collections. Here it is all done at one place, the banking office, or some house in the town where it is located. I know how difficult it is to succeed here in a proposition to reduce compensation for lawyers, because the Senate is largely composed of lawyers, and they naturally have a sympathy for each other when you talk about reducing the pay of their brethren. It is supposed that a layman, as I was called some time ago, has a prejudice against them; but I am not one of that kind, for I generally pay my lawyers pretty well, though I do not often have to employ them. This is a different affair from ordinary legal business. It requires integrity; it requires a knowledge of accounts; but it does not require any great legal knowledge. A man may not

be fit to be chief justice even of the State of Pennsylvania or New York, and yet he may be a very good commissioner to settle up the affairs of a broken bank. I think the compensation is enough if fixed at the rate I propose, which would give for a bank of \$500,000 assets \$5,250; and I think that is a good sum. It will take him, probably, between two or three months.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania to the amendment of the Committee on Finance.

Mr. CAMERON called for the yeas and nays; and they were ordered.

Mr. DRAKE. I did not intend to say a word about this matter, but if the honorable Senator from Pennsylvania insists upon having the yeas and nays on his amendment I will say a word or two.

The question presented by the honorable Senator from Pennsylvania is whether, when the stockholders of a bank show that they cannot conduct their bank in such a way as to keep it out of liquidation, cannot manage it in such a way as to keep it from breaking, we should put the man that does wind up their affairs upon what the honorable Senator from Oregon has correctly called starvation compensation, in order to save some little for the stockholders. I do not see the thing in any such light. I think if a bank cannot manage its affairs so as to keep out of the hands of a receiver, the receiver ought to be paid a decent compensation for winding up its affairs.

The honorable Senator from Pennsylvania draws a distinction between this case and that of a collector of internal revenue, but he does not state the whole difference. A collector of internal revenue, though he has to collect from a large number of people in different localities, does it through his deputies, while he sits and does nothing, or very little. This receiver has to have everything pass through his own hands, and be individually responsible for everything, from the beginning to the end. I think that the measure of compensation in the bill is perfectly just, and it ought not to be reduced.

Mr. CAMERON. I generally listen with great instruction to my friend, the Senator from Missouri; but this morning, as I think, he is entirely out of the way. He says that because the stockholders of a bank have not been able to manage their affairs, therefore, when some one who is fit gets hold of it, he ought to be paid. The Senator ought to know that stockholders very seldom have much to do with managing the affairs of a bank. If he has ever been a stockholder, as I dare say he has been, he must remember that somebody managed the affairs of the bank, and not himself. It is the shifting of responsibility in banks and other establishments that causes banks and individuals to break.

But the Senator spoke of the collector, and said the collector does his business through deputies. He does to some extent; but much more of his time is employed in his business than a receiver of a bank occupies, because his whole time is given to the duties of his office, and while he has deputies he has himself to travel throughout the district often to make a portion of the collections. It is not so with the receiver who may be employed to do this business. I think the Senator was entirely out of the way this morning. I wish he had gone with me to Pennsylvania last week, and I think he would have different ideas about banking.

Mr. DRAKE. Mr. President, the honorable Senator from Pennsylvania is perfectly aware of that maxim of law which says *qui facit per alium facit per se*.

Mr. CAMERON. I am no lawyer.

Mr. DRAKE. What a man does through another he does by himself. And if the stockholders elect directors who are not capable of managing the affairs of a bank so as to keep it out of liquidation it is their act; and when they by their own act in electing such men

put their bank in liquidation a man that has to take their affairs and wind up the concern ought to be paid at least a decent compensation for doing it.

Mr. CHANDLER. I think this amendment ought to prevail, or otherwise the amount should be reduced even more than is proposed by the Senator from Pennsylvania. A bank going into liquidation of course has what is known in the bank parlors as live paper; that is, paper that is paid at maturity. The receiver employs his teller to receive this money when paid. He is to get an annual salary of \$1,500, and there is no reason on earth why \$3,000 should be paid him on the first \$100,000 he collects in addition to the \$1,500 a year. One per cent. would be a very high rate. Take a bank of \$500,000 or \$1,000,000 capital; \$100,000 would be paid in in three days in the regular course of business, paid to the teller of the bank. Now, tell me why ought this receiver to have three per cent. upon that money which is paid to the teller of the bank in the regular course of business, upon live paper? I desire, if it be in order, to move an amendment to the Senator's amendment, substituting one per cent. in place of the two per cent. which he proposes to insert instead of three per cent. in the section.

The PRESIDENT *pro tempore*. That is not in order, as this is an amendment to an amendment.

Mr. CHANDLER. The proposed rate is too high altogether. All the live paper of the bank, actual business paper, will be paid at maturity, and paid to the teller, so that there will be no responsibility on the receiver any more than on the president or cashier of any bank.

Mr. DRAKE. Suppose the bank had not gone into liquidation, it would be paying three or four times the amount of this receiver's compensation to its president, cashier, teller, and others just to receive the money on that live paper that comes in without any trouble. And why should you now put the receiver upon such a pitiful footing as that, after paying three or four times the amount to the bank staff to do the same thing?

Mr. HENDRICKS. Mr. President, I do not understand this to be a question between the stockholders and the receiver. It is a question between the creditors of a broken bank and the receiver; between the depositors, in the main, from the men of large business who make large deposits down to the persons who may deposit the savings of their daily labor; it is a question between that class of persons and the receiver, and it is not a question between that class of persons and a lawyer, because if the appointment were left to a wise court a lawyer would not be appointed receiver. A good lawyer, an able lawyer is not fit to be receiver. A man that would make a good collector, to go around and by importunity and persistent efforts collect the debts that are due the bank, would not be likely to be a good lawyer. If the bank has claims that ought to be collected that are disputed, then of course the receiver must employ a lawyer, and he ought to employ a good one, of course, when that case arises. We ought to provide simply for the payment of a reasonable compensation to a careful business man. Perhaps the clerk or cashier of the bank would make a very excellent one. I do not believe in following the policy, when we legislate upon these questions, that is mostly adopted by the wealthy banks. Ordinarily, in the cities, when one of the banks fails, the president of a neighboring bank is appointed the assignee, and of course, as between gentlemen of that grade in the financial world, the little matter of compensation is not to be regarded, and he will receive \$10,000 for doing that which some clerk would do for \$2,000 much more promptly and efficiently for the benefit of the depositors.

That is my notion about this business, and I shall vote for the proposition of the Senator from Pennsylvania. I do not believe that when banks fail all the assets ought to go in

the way of costs; they ought to be saved for the benefit of the people who make their little deposits.

Mr. CHANDLER. I ask the Senator from Pennsylvania if he will not amend his amendment by accepting my suggestion to make the commission one per cent. instead of two upon the first \$100,000.

Mr. CAMERON. I am afraid if I accept that amendment I shall lose all. I think we had better take the reduction I have proposed, as we can probably get that.

Mr. CHANDLER. This whole thing is wrong-end foremost. The Senator from Indiana is perfectly correct in his statement that this is a question between the creditors and the receiver rather than between the stockholder and the receiver. A bank that goes into liquidation has very little left, seldom anything, for the stockholders; and it is really a question between the creditors of the bank and the receiver. If you are dealing out strict justice in this matter the arrangement here made should be reversed. The first \$100,000 comes in without any care or trouble whatever, and there should not be over one quarter of one per cent. paid on the first \$100,000, and then you should increase the rate on subsequent collections; because the bad debts, those that are difficult to collect, are the last to come in, and a higher commission should be paid on those deferred payments that come in at the last end of the collection of the assets. Take a bank of \$1,000,000 capital in the city of New York; the first \$100,000 would probably be paid in within three days; perhaps the first \$500,000 would probably be received within sixty days; within ninety days certainly; and there is no reason on earth why two per cent. should be paid a receiver on that. Take the banks all over the country, and \$1,000 is considered a fair salary for a cashier. It is not so in the cities where it is expensive to live; but in the country a large majority of the banks pay salaries less even than to their presidents and cashiers than you propose here as your salary to start with for a receiver.

I hope that the Senator from Pennsylvania will accept my suggestion and amend his proposition to make the commission on the first \$100,000 one per cent., and I feel very sure the Senate will vote that that is sufficient compensation.

Mr. CORBETT. Mr. President, I concur with the Senator from Michigan that this ought to be reversed. The amendment of the committee provides that on the first \$100,000 collected, in which there is really no labor incurred, the receiver shall be allowed three per cent., while upon the last \$100,000, where nearly all the labor is incurred, he shall only receive one half per cent., and under the amendment of the Senator from Pennsylvania he would receive less than that.

Mr. SHERMAN. If my friend will allow me to explain—

Mr. CORBETT. I wish to suggest that after the first \$100,000 is collected, and you get to the small percentage, the person who is intrusted with the collection may resign his office and say that he cannot afford to wind up the affairs for the compensation allowed.

Mr. SHERMAN. The Senator has evidently got on the wrong tack. This discrimination is simply that in the small banks, where the assets are \$100,000, the compensation shall be \$4,500 or \$3,500, as proposed by the Senator from Pennsylvania; and where it is a very large bank the lower rates of percentage operate upon the very large sums collected. I will state also that in order to prevent the receiver from resigning when he has collected the cream of the assets we have inserted a provision that one half the commissions shall be retained until the whole matter shall be closed up, so that there is no object in being receiver for a while and then retiring. One half the gross commissions are to be kept back until the whole matter is settled up.

Mr. CORBETT. I did not read the provision in that manner. Where is that inserted?

Mr. SHERMAN. In line fourteen:

*Provided*, That the payment of one half the commissions may be reserved in the discretion of the Comptroller until the affairs of the bank are finally closed.

Mr. CORBETT. "In the discretion of the Comptroller." If the Comptroller does not reserve that one half, the receiver, after collecting the first one or two hundred thousand dollars, can resign his office and receive the large commission. It may be that if the Comptroller was required to reserve one half, it would be sufficient to prevent the receiver resigning before closing up the affairs of the institution; but it seems to me that if a person appointed receiver was not competent to close up the affairs, he would be very likely to resign, or the institution desire that he should resign, and then he would be entitled to the large commissions on the first one or two hundred thousand dollars. If he should conduct himself in such a manner as to prove him to be incapable, those interested would desire that he should resign, and that somebody else should be placed in his position, and in that event the incompetent person would get a larger amount than the next person who came in and had the greatest trouble and did the most work. I think the system should be reversed, and the larger commissions paid upon the last amounts collected.

Mr. CONKLING. Mr. President, I am inclined to think that the Senator from Pennsylvania is entirely right in the proposition which he makes. In the first place, it is not true that the receivers of these banks perform even the services attributed to them by the Senator from Michigan. Receivers appointed by courts in cases of small insolvencies, do personally very often, and usually superintend and transact the business; but one of these receivers practically does no such thing. He gives a bond and assumes the responsibility, and then one of the first things he does is to retain an attorney, and this very section provides that the court is to allow him the expense of the attorney. The next thing he does is to have a book-keeper, or clerk, or both, and the book-keeper or clerk is the visible presence of the receivership. The receiver is responsible, but the business is transacted by other persons who are paid aside from this commission, for doing it.

I understood some Senator to speak of the impropriety of establishing starvation prices for the benefit of the stockholders of an insolvent bank. What distinction is that which occurs to any mind? Who are the stockholders of an insolvent bank? They are innocent persons whose trustees and representatives have wrecked their investment; and I should like to know what class of creditors are more meritorious than they? They are simply the *cestui que trusts* of a trust fund; and if strict morals in law is not demanded in their case, for whose benefit, I inquire, is it demanded? They are as meritorious as bill-holders, and no creditors of a bank are more meritorious than they. A man who in good faith invests his money in a bank, and then committing it to a board of directors is so unfortunate as to lose it through the recreancy of a cashier or president, or the carelessness of somebody else which does not attach to him, is, I repeat, as meritorious a creditor, and a person having rights as sacred as any pecuniary rights which you can respect. Therefore I submit that this compensation ought to be fixed at what are called starvation prices; that is at the lowest figure which is remunerative, and that I submit is as low a sum as the Senator from Pennsylvania proposes, when you remember that the real business is transacted by attorneys, book-keepers, and clerks, who are paid aside from the compensation given to the receiver.

Mr. MORTON. I believe with the Senator from Oregon [Mr. WILLIAMS] that very low salaries are the cause of much dishonesty in the administration of the Government. In other words, I believe that very low salaries for places where first-rate abilities are required,

instead of being economical, are the dearest and most costly way of carrying on the Government. I make that as a general remark; and now I would submit to the Senator from Pennsylvania himself if you can get a man who has the character, who can give the bond, a heavy bond being required, and who is qualified to undertake a business of this kind and assume the responsibility, for a less compensation than is proposed by the Finance Committee. You cannot. You do not want a cheap man to undertake to settle up the business of a bank with a million of assets. In the first place, the cheap man could not give the bond. You want a man who can give the bond, and who has a character that will warrant the assurance that the business will be done honestly. The amount of bond required is as the Comptroller shall direct.

Take the case of a bank where the assets are \$1,000,000. I ask if you can find a man who is able to give the bond required, who is competent, who by his character can be trusted, who has the business ability, who will undertake to settle up the assets of that bank for less than \$10,000? and that is about all he could get under the amendment of the committee. The Senator from Oregon [Mr. WILLIAMS] says it would be only about nine thousand dollars. I say there is no competent man who will undertake to settle up the affairs of a bank involving \$1,000,000, with all its responsibility, its trouble, and its anxiety, for less than \$9,000. Such a man cannot be found.

Mr. CAMERON. I beg the pardon of the Senator from Indiana for interrupting him; but I will put this case to him: he is a lawyer living in the town of Indianapolis, following his profession, a man of ability and integrity; would he not undertake the settlement of the affairs of a bank in the city of Indianapolis for \$9,000? It would not certainly take him a year to settle it up; and it would not interfere with his other business, for he could practice his profession at the same time. Then he should remember that the expenses of a receiver in the employment of a clerk, &c., are allowed.

Mr. MORTON. A lawyer who would undertake for the sum of \$9,000 to settle up the affairs of a bank the assets of which are estimated at \$1,000,000 would, I think, be regarded as a very cheap kind of lawyer, as a man who estimated his own services at a very low rate. I do not think I would undertake it at all, unless I was out of business.

Mr. HENDRICKS. Allow me to suggest that I do not think my colleague would make a very good receiver. He is too able a lawyer for the place.

Mr. MORTON. I thank my colleague for the compliment; but I will say this, that if I were qualified for the business, whether as a lawyer or a merchant, I would not undertake that sort of responsibility and labor for a less sum than is provided by the amendment of the committee, unless I was out of business, was hard up, and had to do something to make a living for my family.

Mr. JOHNSON. Very hard up?

Mr. MORTON. Yes, very hard up. Now, sir, I believe in paying men according to the responsibility and the character of the business they are called upon to do. The idea of a man undertaking to do a business involving the settlement of \$1,000,000 for the same rate of compensation for which a clerk would be employed who has a regular and certain vocation is contrary to all our notions of the dispatch of responsible business.

If I was a stockholder in a bank, or if I was a creditor of a bank, and that bank had to be wound up in the way pointed out by this bill, I would rather pay a good compensation to the collector, and have him a responsible and first-class man, than to employ a cheap man at a low compensation and take the risk of having the whole thing fail and losing what I had in it. I think the compensation fixed by the committee is small enough in view of the responsibilities to be incurred.

Mr. HOWE. Mr. President, I think attorneys ought to have a fair price for their labor, and I think receivers ought to have; but I respectfully submit that the Senator from Indiana marks his services rather too high. I do not want to underbid any of my brethren in the profession, but I do feel called upon to say, in the interests of my family who are suffering somewhat, that I will take this business of winding up all the national banks at something less than ten thousand dollars on the million. [Laughter.] It would amount to just \$3,000,000 that would come into my pocket at that rate of compensation, and then the additional fees which are to be adjusted by the courts would enable me to hire every lawyer on this floor, secure every particle of professional and personal responsibility there is here, and pay for it. I think under these circumstances I should be willing, being backed up by all this professional talent and professional responsibility, to take \$3,000,000 for my share; in fact, a little less than that. So I shall vote for the amendment of the Senator from Pennsylvania.

But I rose to call the attention of the chairman of the committee to one point. I understood the chairman, the Senator from Ohio, to say that to guard against the consequences of a resignation on the part of a receiver after he had collected a portion of the assets, they have authorized the Comptroller to retain a portion of the commissions until the work is closed up. If that is the purpose of the provision, it seems to me that some addition will have to be made to it, because while it authorizes the Comptroller to retain a portion of the commission until the job be closed, it does not leave him any sort of discretion as to what to do with those commissions.

Mr. SHERMAN. I will state to the Senator that I have already a memorandum prepared on the bill before me for the addition of a few words to carry out the purpose in that respect.

Mr. HOWE. I merely wanted to call attention to that point.

Mr. CORBETT. I think that to meet the case, as stated by the Senator from Ohio, the provision ought to read something in this way: that the commission allowed shall be three per cent. upon the capital of a bank whose capital does not exceed \$100,000; two per cent. upon the capital of a bank whose capital exceeds \$100,000 and does not exceed \$200,000; one and one half per cent. upon the capital of a bank of \$200,000 and not exceeding \$400,000, and so on, fixing the amount according to the capital of the bank instead of three per cent. upon the first \$100,000 collected and a less amount on the subsequent sums collected, because it is evident to my mind that the most difficult portion of the collections is upon the amounts that are collected after the first \$100,000 or \$200,000. For instance, where the capital of a bank is \$500,000, the first \$100,000 will be collected with comparative ease, while the next \$300,000 will be very difficult to collect. I think the provision ought to be amended in the way I suggest.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania [Mr. CAMERON] to the amendment of the Committee on Finance, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 23, nays 19; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Chandler, Cole, Conkling, Cragin, Davis, Edmunds, Ferry, Fowler, Harlan, Hendricks, Howard, Howe, McCreery, Patterson of New Hampshire, Pomeroy, Ramsey, Stewart, Tipton, Vickers, and Yates—23.

NAYS—Messrs. Cattell, Conness, Corbett, Doak, Little, Drake, Fessenden, Frelinghuysen, Johnson, Morgan, Morrill of Vermont, Morton, Ross, Sherman, Sumner, Thayer, Van Winkle, Willey, Williams, and Wilson—19.

ABSENT—Messrs. Bayard, Dixon, Grimes, Henderson, Morrill of Maine, Norton, Nye, Patterson of Tennessee, Saulsbury, Sprague, Trumbull, and Wade—12.

So the amendment to the amendment was agreed to.

Mr. SHERMAN. I will now offer an amendment to carry out the idea of the Senator from

Oregon. I move, at the end of line sixteen of the pending amendment of the committee, to insert the words "which sum"—referring to the half allowance reserved—"shall be paid to the receiver, or in case more than one receiver has acted, shall be apportioned among the several receivers by the Comptroller of the Currency, according to equity."

The amendment to the amendment was agreed to.

Mr. CORBETT. I suggest to the Senator from Ohio that the Comptroller should be directed to retain the one half, and therefore, in line fifteen, the word "may" should be stricken out and the word "shall" be inserted, so as to require the Comptroller to reserve one half.

Mr. SHERMAN. The amendment as it is leaves to the Comptroller the distribution of this fund, and it is scarcely worth while for us to interfere by any peremptory direction.

Mr. CORBETT. I merely make the suggestion.

Mr. SHERMAN. There may be cases where the full amount should be paid to the old receiver. I would rather leave it to the Comptroller.

Mr. FERRY. I move to amend the amendment by inserting after the word "courts," in the nineteenth line, the words:

And may invest the assets of the bank in their hands in bonds of the United States while the affairs of the bank are in process of liquidation, which bonds shall be deposited with the Treasurer of the United States, subject to the order of the Comptroller of the Currency; and the receivers shall also make report to the Comptroller of all their acts and proceedings, and the Comptroller shall be authorized to sell such bonds from time to time, in order to make the dividends and payments provided for in the fiftieth section of the act to which this act is supplementary.

The object of the amendment is to provide for an injustice in the practical operation of the present law. The fiftieth section now provides that all moneys received by the receiver in his administration of the affairs of a bank shall be paid over to the Treasurer of the United States, subject to the order of the Comptroller of the Currency, and that he shall make a report to the Comptroller of the Currency of all his acts and proceedings. The effect of this is that where the affairs of a bank are a long time in the process of liquidation—and they are frequently years, growing out of litigation—during the period of settlement the assets are deposited with the Treasurer of the United States, and if they are used at all the Government gets the interest upon those assets instead of that interest going to the stockholders, where it ought to go. I know of banks in process of liquidation, receivers appointed, where the receivers are now in litigation which must occupy periods of from two to five years. They are unable to invest the assets in their own hands, compelled to pay them over to the Treasury, where they lie idle; and thus, when the affairs of the bank are finally closed and the dividends declared, and what balance remains is ready to be paid over to the stockholders, the amount which might have been received by an investment in Government bonds, as provided for in this amendment, is lost to the stockholders.

Applications have been made to the Comptroller of the Currency to ascertain whether the receivers might, instead of paying over the cash, invest these assets in Government bonds, so that the income of these bonds might go to the stockholders when the bank is finally wound up; and they have been informed that as the law now stands there is no other course but to pay over the assets and let them lie idle. It has seemed to me, therefore, that this was a proper place in this bill to make an amendment to the law which is just and equitable, and, indeed, necessary to the true interests of the stockholders in insolvent banks.

Mr. SHERMAN. I do not like to make amendments here without careful examination; but I do not see myself any objection to this proposition. It simply enables the creditors of the bank to get the interest on the money while it is in process of liquidation.



Mr. FERRY. That is all there is of it.

Mr. SHERMAN. I have no objection to it. The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Finance was to insert the following as the fifth section of the bill:

SEC. 5. *And be it further enacted*, That section twenty-two of the act aforesaid be so amended that the maximum limit of national circulation fixed by said act is hereby increased the sum of \$20,000,000, which amount shall be issued only to banking associations organized in States and Territories having a less circulation than five dollars per each inhabitant, and so as to equalize the circulation in such States and Territories in proportion to population.

Mr. WILSON. I move to amend the amendment by striking out all after the words "sum of," in the fourth line, and inserting:

One hundred million dollars, and in issuing such circulating notes preference shall be given to banking associations in States and sections of the country not adequately supplied with banking facilities. But whenever the amount of United States notes and circulating notes of national banks combined shall be in excess of \$700,000,000, the Secretary of the Treasury is authorized and required to retire and cancel United States notes to the extent of such excess until the whole amount of United States notes outstanding shall be reduced to \$300,000,000.

*And be it further enacted*, That for the purpose of facilitating the resumption of specie payments the interest received by each banking association upon bonds owned and deposited with the Treasurer of the United States by such banking association shall be held as a reserve fund until the said banking association shall redeem in coin the currency issued by it; and the said specie reserve fund shall be used for no other purpose than for the redemption of said currency.

Mr. SHERMAN. Perhaps, in anticipation of the argument of the Senator from Massachusetts on his amendment, I had better state the reasons why the Committee on Finance reported this particular section, and withheld for the present any action upon the important questions raised by the amendment now offered by him. I appeal to the Senator whether, under the circumstances, he ought to open the whole currency question, as his amendment undoubtedly does? There is the same division in the Committee on Finance in regard to the question of currency, the relations of bank notes and United States notes that there is in the Senate and among the people of the country. After fully considering the matter we thought it best, in the midst of a heated political excitement, to avoid discussion of the whole question of currency which will be presented by this amendment, and which is necessarily involved in it. There are other bills lying on your table which involve the question. There is a bill which proposes to deal with the public debt, another which proposes to establish a free banking law, and contains the substantial provisions embraced in this amendment.

Now, is it wise at this period of the session, in the midst of an election campaign involving grave political issues, for us to commence the discussion of this question? If it is, as a matter of course each Senator will have his own project; and if the Senate determine that they will open this whole question the Committee on Finance will present their views and submit their amendments. In order to save the time of the Senate, I may as well state now as hereafter the reasons why the committee offered this section.

There has been great complaint in the western and southern States in regard to the distribution of the national bank circulation. The amount is now limited to \$300,000,000, and the limit has been reached, so that not one dollar of circulation can be issued to any new bank. This limit was fixed in the midst of a war, when eleven States could not get any of the banking circulation because they were rebel States involved in the war. It was done, also, at a time when in the western States, for want of means and facilities, and because of the high price of money, it was impossible to organize banks. This has created in the western and southern States great complaint. It has been especially pointed out by the people of the West that the States of Massachusetts,

Rhode Island, and Connecticut have from fifty to seventy dollars of banking circulation for each inhabitant, while other States have less than five dollars per inhabitant, so that there is gross inequality in the distribution of this banking circulation. As a matter of course, we all feel the necessity of avoiding this popular clamor.

During the last Congress, when the Senator from Maine [Mr. FESSENDEN] was chairman of the Committee on Finance, we had the whole subject under discussion. We had several bills proposing to deal with the equalizing of the currency of the national banks, and, after the most grave consideration, we found it very difficult to deal with. Perhaps the most proper way would be to withdraw some circulation from the States that have an excess and give it to those who have too little; but that would create embarrassment and confusion. It might cause distress to withdraw the banking circulation from Massachusetts, Connecticut, and other States, although there are some States that have less than five dollars per inhabitant. The Committee on Finance, after the most full reflection, have come to the conclusion that we ought to satisfy, to some extent, the demand of the western and southern States for additional banking circulation. We therefore propose to give to those States that have the least a small addition to their circulation. I have a table here which gives the banking circulation in each State at the present time, and it appears that Massachusetts, Rhode Island, and Connecticut have twice or three times the amount they are fairly entitled to, and the State of New York has about twice the amount it is entitled to.

Mr. WILSON. Will the Senator explain what he means by these States having more than they are entitled to?

Mr. SHERMAN. They have more than they are entitled to on the basis of the law, and I will explain in a moment what I mean by it. In my judgment, the Comptroller of the Currency made a great mistake in ever disregarding that provision of the law which required the national banking circulation to be distributed, one half according to population, and the other half according to resources. But I do not want to go into that question, and I make no complaint of anybody. There are some States that have less than five dollars of circulation per inhabitant, and less than one half their share upon any basis whatever which you can take; and it is but fair that they should have some addition. The States that will be benefited by the amendment of the committee, and get a slight addition to their circulation, are Virginia, West Virginia, Wisconsin, Iowa, Kansas, Missouri, Kentucky, Tennessee, Louisiana, Mississippi, Georgia, North Carolina, South Carolina, Arkansas, Alabama, Oregon, and Texas. These States have in some cases as low as forty-two, sixty-eight, and thirteen cents of circulation to each inhabitant. We propose to distribute among them \$20,000,000 of circulation, which will give them all some banking facilities, and in the States where they need them most. It should, also, be remembered that these western States have been largely increasing since the census of 1860. The apportionment was on the basis of the population in 1860, but the western States have increased much more rapidly than the eastern States since then, and that makes the inequality still more gross.

Mr. HOWE. I wish to ask the Senator from Ohio if he supposes that in the distribution of the additional \$20,000,000, provided for in this section, any single western State will get an additional dollar of banking capital?

Mr. SHERMAN. I have no doubt of it.

Mr. HOWE. It would take the whole of the \$20,000,000 to bring the southern States up to an equality with the lowest of the western States, as low as they are.

Mr. SHERMAN. But the Senator will observe that in some of the southern States they may not be prepared to furnish the necessary capital. Twenty millions of circulation, in

the opinion of the Comptroller of the Currency—and after examination we thought so—will give to each of the States I have named some additional relief, not very much. The amount of \$20,000,000 to be distributed is not very large; but there are objections to increasing the amount beyond \$20,000,000, because if you go beyond that you raise the very question which the amendment of the Senator from Massachusetts now raises. If you propose to increase the amount more than twenty millions, many persons who are opposed to an inflation of the currency would think that in accomplishing a good thing we were doing an evil thing by raising the question of too great an issue of paper money. We all felt that no considerable increase of the banking circulation ought to be made until bank notes were equivalent to par in gold. All the committee propose to do is simply to answer a popular and equitable demand of some of the States for some additional banking circulation. My own opinion is that if it were confined to the southern States alone, probably not more than \$10,000,000 would be absorbed until we can consider this whole matter. As Senators see, this is a temporary measure to answer a popular demand which is now a cause of great complaint. If we give this small relief, and the great and difficult questions of currency and finance go over until the next session, we may then be able to deal with them.

The Committee on Finance, under the circumstances, thought it better to give to these States that have so small an amount of circulation, some relief, little as it is, and leave the great questions of free banking, of a general increase of the banking system, of bank notes taking the place of United States notes, of the relative proportions of United States notes and bank notes, to be decided when we are all calm, after the results of the popular election. If these reasons are not sufficient, and the Senator's amendment prevails, as a matter of course it will open the whole subject, and I shall be prepared to propose various modifications.

Mr. WILSON. Mr. President, it is true that the proposition I have made opens the question of the currency, but I found it open when I made the proposition. The committee opened it \$20,000,000, and I propose to open it \$100,000,000. That is the difference between us, with the exception that I do not propose to inflate the currency, whereas the committee propose to do so to the extent of \$20,000,000.

The Senator says the committee have reported in favor of this addition of \$20,000,000 to the national bank circulation, because there is complaint of inequality. Sir, there is complaint of inequality, and there will be after we give the \$20,000,000, though perhaps not so much complaint then as there is at the present time. This addition of \$20,000,000 will do very little to equalize the circulation. The New England States, New York, and Pennsylvania, with a population of less than one third of the country, have more than two thirds of the national bank circulation. There is complaint about this inequality, and there will continue to be complaints about it until some plan of equalization is adopted. If our banks redeemed their notes in specie I should be in favor of a free banking system. It is the only sound policy. As we have not reached specie payments, we propose to regulate the amount of bank circulation.

The committee propose to increase the national bank circulation by the addition of \$20,000,000, and of course to inflate the currency to that amount. My amendment proposes an addition of \$100,000,000 to that circulation, to go to the States which are not adequately supplied with banking capital, and to withdraw \$100,000,000 of greenbacks.

Mr. CATTELL. No.

Mr. WILSON. Yes; I propose to have only a total circulation of \$700,000,000.

Mr. CATTELL. We have now a combined circulation, United States notes and national bank notes, of only \$645,000,000.

Mr. WILSON. In drawing the amendment I went on the assumption that the circulation was \$700,000,000. We have \$300,000,000 of bank-note circulation, and may have a circulation of \$400,000,000 of legal-tender notes. I have no idea that any of the national bank circulation is to be withdrawn from any portion of the country. We were forced into this system by the needs of the country. We had \$60,000,000 of banking capital in the State of Massachusetts when the war began. We received from it into our State treasury \$600,000 a year in the way of taxes. We freely turned our State banks into national banks. We were pressed to do it, and we acted promptly. The same is true of the older States, and consequently they received more than their proportion of the national bank circulation of \$300,000,000. Sir, I wish every legal-tender note could be converted into banking capital, and the banks forced to enter upon the policy of redeeming their bills in specie. Let us compel them to keep the specie they receive from this Government and use it for no other purpose but redemption. The banks are making large profits now, and will do so if we impose this condition upon them. It would be the beginning of a movement for returning to specie payments.

Mr. MORRILL, of Vermont. I propose to amend the amendment of the Senator from Massachusetts, by offering the following as a substitute, to come in at the end of section five.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The Senator's amendment will be in order when this amendment is disposed of. The pending amendment is an amendment to an amendment.

Mr. FESSENDEN. Let it be read, that we may hear what it is.

Mr. MORRILL, of Vermont. I will read what I propose. It is to add to the section:

And upon the issue of any increased national circulation provided for in this section the Secretary of the Treasury is hereby authorized and required to permanently withdraw an equal amount of United States notes.

Mr. President, if it shall be the sense of the Senate, in conformity with the views of the chairman of the Committee on Finance, not to raise great financial questions at the present time, I insist that we shall place this measure before the country so that it shall neither increase nor diminish the amount of circulation now in existence. I understood at the time we passed the resolution restraining the Secretary of the Treasury from further withdrawing any part of the United States notes, that there was no member of the Senate, not even the chairman of the Committee on Finance, who would go for the increase of a single dollar more of circulation. Now it is proposed to increase the amount of banking circulation to the extent of \$20,000,000. I do not object to that under the circumstances, provided we can withdraw an equal amount of United States notes.

Mr. President, there is no more imperious duty resting upon Congress at the present moment than to provide some way by which we can escape from the evils of an irredeemable paper currency. If the Senate are not prepared for a more rapid progress, let them institute free banking to take the place of our United States notes; but I do not believe that at the present moment we are prepared to mature such a system as will receive a majority of the votes of this body, or the other, at the present session.

I admit the inequality of the amount of circulation that is now held by the various States. It is reasonable and proper that we should supply the southern States with some means by which they can move their crops. At the present moment they are entirely destitute of any banking capital except in a very limited number of points. I do not suppose that all this amount will be required by the southern States; but if it were, I think they would have a right to monopolize it in preference to any other States. But if we grant this, shall we

not come back to the principle of retiring an equal amount of United States notes?

I know it may be said that we are withdrawing a circulation that now bears no interest and issuing another that will bear interest. Mr. President, if that argument is valid to-day, there never can come a time when it will not be valid. If the argument is good to-day for not withdrawing the greenback currency, because it is of no cost to the Government of the United States, that argument will exist forever. I should regret to see the Senate taking a course that would seem to sanction such a policy as that.

I have expressed on former occasions my opinion in relation to this subject, and I do not propose to go into any argument now in relation to the impolicy of an irredeemable paper currency as it affects our industrial interests, or as it affects taxation or our expenditures. They are sufficiently obvious. But I do insist that if we are to launch this measure we shall launch it in such a way that we shall not raise the question as to whether we are inflating or diminishing the currency; that we shall do as much in one direction as the other. I should be glad to do very much more; I think it would be for the best interests of the country if we could do very much more; but I do not propose to occupy the time of the Senate. I have said all I desire to say on the subject.

Mr. CONKLING. Mr. President—

The PRESIDING OFFICER. The Chair will state the question. The Chair understood the amendment of the Senator from Vermont to be an amendment to the amendment of the Senator from Massachusetts—

Mr. MORRILL, of Vermont. I understand it is not now in order, being an amendment in the third degree, and therefore I withdraw it.

The PRESIDING OFFICER. The Chair now finds that the Senator from Vermont moved an amendment to that portion of the bill proposed to be stricken out, and therefore it is in order, and is before the Senate, because it proposes to amend that portion which the Senator from Massachusetts proposes to strike out.

Mr. MORRILL, of Vermont. Then I offer the amendment.

Mr. CONKLING. Mr. President, I hope the amendment offered by the honorable Senator from Massachusetts will be rejected, because it is a direct proposition to inflate the currency, and that to a very considerable amount.

Mr. WILSON. I have modified it in that respect.

Mr. CONKLING. Suppose we hear it read as it is modified.

The PRESIDING OFFICER. The amendment immediately before the Senate is the amendment of the Senator from Vermont.

Mr. CONKLING. I am aware of that, but I should like to hear the amendment of the Senator from Massachusetts, as modified, read.

The PRESIDING OFFICER. It will be read for the information of the Senate.

The CHIEF CLERK. The amendment, as modified, is to strike out all of section five after the word "of," in the fourth line, and to insert:

One hundred million dollars; and in issuing such circulating notes preference shall be given to banking association in States and sections of the country not adequately supplied with banking facilities. But whenever the amount of United States notes and circulating notes of national banks combined shall be in excess of \$650,000,000, the Secretary of the Treasury is authorized and required to retire and cancel United States notes to the extent of such excess until the whole amount of United States notes standing shall be reduced to \$250,000,000.

Mr. CONKLING. Mr. President, so modified it is a proposition to inflate only to the amount of \$5,000,000, as I understand it; that is, the difference between \$645,000,000, the amount of currency now said to be outstanding, and \$650,000,000, the amount proposed, and to substitute for a non-interest bearing currency national bank currency which indirectly bears interest, six per cent. being paid upon the bonds upon which it is based. The same

objection is applicable, also, to the amendment suggested by the Senator from Vermont, as that amendment provides for retiring United States notes in the same act by which we issue national bank currency, and for retiring an amount equivalent to the issue; and thus a currency which costs interest is to be put afloat to the amount of \$20,000,000. It is true, no doubt, that it is to be based upon bonds already in existence, and so the interest account of the Government is not to be increased, unless bonds are to be issued and sold to get the \$20,000,000 United States notes which are to be retired. Should this be necessary it does create a fresh interest account against the Government upon the whole issue proposed.

I rose, however, to avail myself of the liberty which other Senators have assumed, to say a word generally in reference to financial management. Considerable animadversion has been made in this Chamber, and in the country, upon the fact that the present Congress has not dealt with the question of funding the public debt; and to this particular point public attention has been largely attracted. Observers suppose that with an easy money market, and with securities of the Government maturing which are to be met by payment, the Secretary of the Treasury is issuing bonds bearing six per cent. interest, payable in coin, equivalent to eight per cent. in currency, with exemption from taxation equal to upward of one per cent. more. This is thought a singular anomaly, when we consider the confidence established all over the world now in the stocks of the United States.

I was a listener recently to a conversation in which persons of some financial experience took part, at which this question was considered, and at which the suggestion was made that this was not in any respect the fault of Congress, that it did not arise from a want of legislation, and that the Secretary of the Treasury had now all the power that could be properly conferred upon him to adapt the bonds he might issue to the best terms to be obtained in the money market. This suggestion was met by a denial—by a statement that the country constantly sustained a loss in this behalf, and that the loss was owing to the laches or default of Congress. It was asserted that the Secretary had no power, when making bonds for sale, to do anything except to issue six per cent. gold-bearing bonds, with at most a fragment of unexpended power remaining in reference to ten-forty bonds, a very limited amount, and that in no event could he issue a security free from a condition making it redeemable at the option of the Government at an early day, nor one the principal and interest of which were both payable in coin. For lack of these and other powers it was said he was constantly compelled to place the Treasury at a disadvantage in the market. If these things be true, if Congress in ignorance, in carelessness, or in willfulness, has gone thus far and done nothing, with such a duty before it, I hold myself responsible, amenable to great blame, as the humblest member of this body, for not giving my action to a matter which I should hold to be of overmastering importance. But, sir, I repel this charge of responsibility altogether. I deny that any part of the responsibility belongs to Congress. I venture to say that no legislative provisions could make the Secretary more absolutely master of the situation than he is now. No discretion more absolute, no option more unchecked, no position more unembarrassed could well be assigned to a financial officer than that which under the law the Secretary has now, to go into the markets, not of our own country merely, but of the world, and negotiate any security which he sees fit to devise, payable at any time not distant more than forty years, payable the principal in coin and the interest in coin, or either alone payable in coin, and bearing such rate of interest, not more than six per cent. in coin nor more than seven and three tenths in currency, as he is able to adopt, and still negotiate the security he issues. If this be so, Mr. Pres-

ident, am I not right in saying that Congress is entitled to be acquitted of all blame, if blame there be, although the acquittal of Congress should be the conviction of the Secretary of the Treasury?

I wish to call attention to the act of March 3, 1865, the first and second sections of which I beg to read:

"Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized to borrow, from time to time, on the credit of the United States, in addition to the amounts heretofore authorized, any sums not exceeding in the aggregate \$600,000,000, and to issue therefor bonds or Treasury notes of the United States, in such form as he may prescribe; and so much thereof as may be issued in bonds shall be of denominations not less than fifty dollars, and may be made payable at any period not more than forty years from date of issue, or may be made redeemable, at the pleasure of the Government, at or after any period not less than five years nor more than forty years from date, or may be made redeemable and payable as aforesaid as may be expressed upon their face; and so much thereof as may be issued in Treasury notes may be made convertible into any bonds authorized by this act, and may be of such denominations—not less than fifty dollars—and bear such dates and be made redeemable or payable at such periods as in the opinion of the Secretary of the Treasury may be deemed expedient. And the interest on such bonds shall be payable semi-annually; and on Treasury notes authorized by this act the interest may be made payable semi-annually, or annually, or at maturity thereof; and the principal or interest, or both, may be made payable in coin, or in other lawful money: *Provided*, That the rate of interest on any such bonds or Treasury notes, when payable in coin, shall not exceed six per cent. per annum; and when not payable in coin shall not exceed seven and three tenths per cent. per annum; and the rate and character of interest shall be expressed on all such bonds and Treasury notes: *And provided further*, That the act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June 30, 1864, shall be so construed as to authorize the issue of bonds of any description authorized by this act. And any Treasury notes or other obligations bearing interest, issued under any act of Congress, may, at the discretion of the Secretary of the Treasury, and with the consent of the holder, be converted into any description of bonds authorized by this act; and no bonds so authorized shall be considered a part of the amount of \$600,000,000 hereinbefore authorized.

"SEC. 2. *And be it further enacted*, That the Secretary of the Treasury may dispose of any of the bonds or other obligations issued under this act, either in the United States or elsewhere, in such manner and at such rates and under such conditions as he may think advisable, for coin, or for other lawful money of the United States, or for any Treasury notes, certificates of indebtedness, or certificates of deposit, or other representatives of value which have been or may be issued under any act of Congress; and may, at his discretion, issue bonds or Treasury notes authorized by this act in payment for any requisitions," &c.

Mr. President, I stop here to analyze briefly these sections before reading the succeeding act by which they are preserved and kept in force, and by which they live to-day for every purpose for which I have cited them. It will be observed, in the first place, that these provisions relieve the Secretary from all obligation to make bonds in form redeemable at the option of the Government at any period prior to their maturity. He may make them payable "at any period not more than forty years from date of issue." That is important because of the suggestion that one respect wherein Congress is in default is failing to clothe the Secretary with power to divest bonds of an early redeemability, which was supposed to impair their availability in the market.

I call attention next to the fact that bonds may be made payable—"the principal or interest, or both"—"in coin," so that if there be any virtue in the fact that one act of Congress expressly authorized the issue of ten-forty five per cent. bonds, payable principal and interest in coin, here is the same provision. It may be nominated in these bonds as it is nominated in this statute that the whole debt, principal and interest, shall be payable in coin, and in nothing else.

Third, I call attention to the fact that as to the amount of interest there is no limit or condition, excepting that it shall not exceed six per cent.

Mr. HOWE. In coin.

Mr. CONKLING. In coin. I am speaking of coin-bearing bonds. I thank the Senator for the suggestion, in coin. If it is currency, it may be seven and three tenths per cent. Therefore, observe, Mr. President, that the Secretary may feel the pulse of the market all

the time. If he can float a five per cent. bond, he is at liberty to issue it. If he can float a five per cent. bond at twenty years, he is at liberty to issue it. If a bond for forty years will be better he can issue that. If he can negotiate a bond at three or four per cent., with a feature of early redeemability, he is at liberty to issue it, or he may make it payable at its maturity, and not before, and the whole of it absolutely in coin, or the interest alone in coin.

Mr. EDMUNDS. Will my friend permit me to ask him a question?

Mr. CONKLING. Certainly.

Mr. EDMUNDS. I wish to inquire how the Secretary of the Treasury, or anybody else, can float a bond, bearing less than six per cent. in coin, so long as the public have a legal right to make use of seven-thirty notes in conversion into five-twenty coin-bearing six per cent. bonds? Does not the law now authorize every holder of a seven-thirty note to convert it into a five-twenty bond? And if it does, how could anybody be induced to take a less than six per cent. bond, when all he would have to do in order to get one would be to buy a seven-thirty note and convert it.

Mr. CONKLING. My honorable friend diverts me from the line of remark I was pursuing by a suggestion less pertinent than those he ordinarily makes. In the first place, I am not referring to bonds issued by the Secretary of the Treasury to the holders of seven-thirty notes. I am not speaking of bonds which holders of other securities have a right to demand. It is said that the Secretary is issuing five-twenty six per cent. bonds to retire compound-interest notes and three per cents., and for other purposes aside from converting the seven-thirty notes. The hypothesis, therefore, upon which the Senator bases his question is not the one before us.

But, again, the Senator will observe that I am discussing the question simply whether there is a legislative cure for the high interest complained of. It is not within the scope of my remarks to inquire whether the nature of the case admits of any improvement in the management of the finances; I am only arguing that the evil does not consist in a failure to legislate, and that Congress cannot provide a remedy. I am discussing not a financial question, not the feasibility of funding the debt at a lower rate of interest, but the naked question whether Congress is to blame because it is not done.

Mr. EDMUNDS. That is to say—

Mr. CONKLING. I will state what I mean fully, if my friend will pardon me, as well without as with interruption.

I am discussing the question whether Congress, by legislation, can do more than it has done to invest the Secretary with power to adapt the securities he issues to the demands of the market, and whether his failure to make better bargains for interest than he does is owing to a want of authority to gauge time, interest, and character of bonds. This is the whole of my inquiry. Thus the Senator will see, I think, that the suggestion he makes is not at all pertinent to the line of my inquiry; he will, I am sure, agree with me that if Congress were to impose upon the Secretary the duty, or give the Secretary the authority, to deprive the holders of the seven-thirties of their option to demand a certain description of bond that would be rank repudiation.

Mr. EDMUNDS. Clearly.

Mr. CONKLING. Clearly; and the Senator will now see that I am not upon that branch of the subject, and am making no suggestion in reference to it. I am simply discussing within the limits of that domain which Congress or the Secretary could occupy without repudiation.

Mr. EDMUNDS. If my friend will pardon me, I misunderstood him. I understood him, in the outset of his remarks, to charge a degree of guilt on the Secretary of the Treasury in not having done something of this kind, and my inquiry was directed to the question

(for I agree with him as to the law) whether the Secretary could do this until he had retired the seven-thirties which he was bound to take up with the five-twenty bonds.

Mr. CONKLING. The Senator obviously did not attend to my remarks, nor did he allow me to come to the concluding part of them, which will be presently, else he could not have misconceived me so far. I trust I am as sensitive as other Senators upon the point of repudiation; and of course I comprehend that when the holder of a Government security has an option to demand a bond of a certain kind, that bond he is to receive; and I cannot understand how the Senator supposed that I was drawing any such question into the controversy.

The financial statement which lies upon our tables will enable the Senator to see that there is an indebtedness matured and not presented for payment amounting to nine millions and something. The Senator before me [Mr. WILLIAMS] has the statement showing precise figures; it is nine millions and something. In addition to this, there are three per cents., and in addition to them, compound-interest notes, as to neither of which exists the option or obligation to which the honorable Senator refers. I am speaking of bonds issued to redeem these, or sold for money to pay these and other like obligations, if any other exist. I make the discussion therefore just as broad as the limits which can be addressed to the honest discretion of Congress; and I proceed to inquire whether it is for lack of legislation, or for lack of anything that Congress can honestly do, that where the Secretary is at liberty to negotiate, he does it by issuing six per cent. coin-bearing bonds in place of more economical securities. I had called attention to the fact that the option was given him as to the form of the security, and touching the medium in which it was payable, both interest and principal:

"And any Treasury notes or other obligations bearing interest, issued under any act of Congress, may, at the discretion of the Secretary of the Treasury, and with the consent of the holder, be converted into any description of bonds authorized by this act; and no bonds so authorized shall be considered a part of the amount of \$600,000,000 hereinbefore authorized."

The Senate will see, without my dwelling upon it, the efficacy of this provision. I come next to the fact that by this act the Secretary is not confined in his negotiations to the American market, but may effect his transactions—

"In the United States or elsewhere, in such manner, and at such rates, and under such conditions as he may think advisable."

I think that is elastic, as much so as any legislator could make it.

Mr. President, if this act, with all these provisions, remains in being, I think I hazard nothing in asserting that it covers all the ground which can be covered by legislation conferring such powers on the Secretary. Let me turn now to the act of April 12, 1866, and see whether the provisions I have read are in being or not. I ask the attention of Senators to its language:

"That the act entitled 'An act to provide ways and means to support the Government,' approved March 3, 1865"—

That is the act, a part of which I have just read—

"shall be extended and construed to authorize the Secretary of the Treasury, at his discretion, to receive any Treasury notes or other obligations issued under any act of Congress, whether bearing interest or not, in exchange for any description of bonds authorized by the act to which this is an amendment; and also to dispose of any description of bonds authorized by said act, either in the United States or elsewhere, to such an amount, in such manner, and at such rates as he may think advisable, for lawful money of the United States, or for any Treasury notes, certificates of indebtedness, or certificates of deposit, or other representatives of value, which have been or which may be issued under any act of Congress."

Bear in mind he may sell them for any representative of value, coin, lawful money, or any other known circulating medium recognized by the laws of the United States, and the proceeds, the avails, are to be used in retiring the debt. Thus, by a plain process,



involving no circumlocution, the markets of the world are open to him. He may go with just such coin-bearing securities as he sees fit to issue, with interest not exceeding six per cent., nor running for more than forty years, and negotiate at the lowest rate of interest, and so far as the plighted faith of the Government does not stand in the way, do the very thing of which we talk so much, namely, fund the national debt at lower rates of interest.

Mr. MORTON. I should like to ask the Senator a question. As I understand, he accepts the amendment of the Senator from Massachusetts, as modified.

Mr. CONKLING. No, sir; I beg your pardon.

Mr. MORTON. I so understood the Senator.

Mr. CONKLING. I beg pardon of my honorable friend; he misunderstood me. I only remarked that the amendment of the Senator from Massachusetts, as modified, was an inflation to the amount of five millions, and would work a substitution of national bank currency for "greenbacks" to the amount which is specified in the amendment.

I wish to make another observation on the general question. If it be true that six per cent. coin-bearing bonds are the best securities for the Government which can be negotiated now, nothing that Congress can do, without repudiation, or, indeed, with repudiation, would cure the evil of high interest, because the laws of trade, I think, would prove superior to the laws of Congress. Therefore, in order to suppose that there could be utility in legislation in the direction of funding the public debt at lower rates, you must assume that the Government could do better than to pay six per cent. in coin, or eight per cent. in currency, which it amounts to, and still more when you take into account exemption from taxation.

Taking, then, this hypothesis as the only one which utilizes the question at all, I submit that it is too clear to be questioned that the existing statute makes the Secretary of the Treasury absolute master of the position. If there be anything in the direction of such power which is not clear upon the face of these acts, I am unable to imagine it. While I have no wish to preach a crusade against the Secretary of the Treasury, or to attack him, or act as his keeper, I feel unwilling, as the humblest member of this body, that the assertion should go unchallenged, that upon us rests the responsibility of withholding legislation by the aid of which the Government would be able to cease paying eight per cent. interest in currency or six per cent. in coin, and fund the debt at three, or three sixty-five, or four per cent., as the case may be. It is only to absolve myself, and, as far as I am permitted to speak for others, to absolve them from responsibility, that I have called attention to existing statutes. From these statutes all may see whether it be true that but for the default of Congress we should borrow money more cheaply, or put out securities bearing a lower rate of interest.

Here I leave the subject.

Mr. SHERMAN. Mr. President, the Senator from New York has gone outside of the merits of the proposition before us, and, as I stated before, it is my desire to keep the discussion as far as possible to the particular proposition before the Senate. I shall only make a few remarks in reply to him, and not follow him into a very dangerous and dubious field of discussion. There is a great deal of feeling in the country as to the responsibility for a fact which I think is discreditable to the United States. While money can be borrowed by any private individual citizen on good securities for three or four per cent. we are now paying eight and forty hundredths per cent. for money. The United States, the most powerful Republic in the world, is paying more for money than any other nation of the first rank. I think it is time that this should cease. The responsibility for that fact is not for me to determine. One thing I can safely affirm, that I am not responsible for delay in acting upon this sub-

ject, for I have over and over again attempted to secure the action of the Senate upon measures tending to reduce the rate of interest on the public debt, but I bow to the manifest will of the Senate not to take up this question at this session. Therefore I will not discuss it.

I ought, however, to say, in justice to the Secretary of the Treasury, for I am not here as his defender, that the Secretary would naturally hesitate about assuming a responsibility which Congress have not been willing to take. The Senator from New York is correct in his construction of the law. I have carefully studied the loan laws, and I believe that the Secretary of the Treasury has the power under existing law, especially under the act of April 12, 1866, to issue any class of bonds authorized during the war. I am sorry indeed that such a power was conferred upon him. It never was done with my consent. Congress ought to prescribe the mode and manner and form, and the limitations of every loan that is made; especially since the uncertainty of war is over. We might prescribe many provisions that would aid him very much to fund the public debt and reduce its burdens. For neglecting to do this, Congress is responsible. It is a very doubtful thing whether he ought to assume to exercise the power of issuing a new class of bonds after the subject has been so much discussed and has not been acted upon in Congress. He can now issue, and I think, negotiate at par, a five per cent. bond, principal and interest payable in coin, redeemable in ten, twenty, or thirty years, and perhaps sell it at a premium. Certainly he should never issue a six per cent. bond while the state of the money market enables him to borrow money at a cheaper rate. But he might very well hesitate in assuming to issue a new class of bonds when Congress hesitates and doubts in regard to the terms.

Mr. CONKLING. If the honorable Senator will allow me, I do not understand the remark which he makes and repeats. He says the Secretary might be excused from this when we ourselves refuse to take the responsibility. I beg to inquire of the honorable Senator how he can say that, if it be true that we have taken the responsibility of conferring upon the Secretary expressly this power most amply and fully? The Senator agrees with me in thinking that we have. How, then, can he say that we do not take or have not taken the responsibility? Surely we cannot take the responsibility of administering the Department, or determining how much on a certain day it is possible for him to do in the way of changing the rate of interest; but everything else, it seems to me, we have done.

Mr. SHERMAN. The Secretary has the undoubted power to issue any kind of specie-bearing bond bearing an interest not exceeding six per cent., and any currency bond bearing interest not exceeding seven and three tenths per cent; but the Secretary would have to decide many questions before he could issue any bond whatever. Shall the interest be six per cent.? Shall it be five per cent.? Shall it be four and a half per cent.? Shall it be four per cent.? Shall it be three per cent.? We refuse to decide that question. He would have to decide it before issuing a single bond. Shall the principal of the bond be paid in gold and the interest be paid in gold? Shall the bonds be taxable, and to what extent? We will not decide these questions, and you cannot get a decision of any of these questions in this Senate.

Mr. CONKLING. We have decided it in this statute.

Mr. SHERMAN. No, sir; you have said to him in that statute, "You may issue any kind of bond; you may take the responsibility; but we are all at sea about what kind of a bond you ought to issue; but if you do not issue such a kind of bond as we think you ought, we will attack you." That is the position in which that statute places the Secretary of the Treasury.

Mr. CONKLING. I do not think so.

Mr. SHERMAN. I think it is. Now, Mr. President, there are many other points—

Mr. MORRILL, of Vermont. The Senator from Ohio ought to add one other thing in justification of the Secretary of the Treasury, and that is, that nobody gets bonds paying six per cent. interest in gold without paying more than one hundred cents on the dollar for them.

Mr. SHERMAN. I ought to say also that the body of the bonds—I think nearly all the six per cent. bonds—that are now being issued are issued in pursuance of the plain provisions of the law in regard to seven-thirty notes. I cannot say now whether any have been issued beyond the amount used in the redemption of the seven-thirties.

Mr. EDMUNDS and Mr. WILSON. Not a cent.

Mr. SHERMAN. I am glad to hear that, because, I should think it almost a crime for the Secretary of the Treasury now to issue a six per cent. bond to pay a currency obligation.

Mr. CONKLING. Will the Senator allow me to make an inquiry?

Mr. SHERMAN. Certainly.

Mr. CONKLING. If that be so, if no bonds are issued except for the purpose of fulfilling this option given to the holders of the seven-thirties, how could any legislation of ours aid the matter?

Mr. SHERMAN. I will answer that. The Secretary of the Treasury has been able to redeem the floating indebtedness, together with the compound-interest notes, mainly by surplus revenue. That resource is exhausted by the reduction of taxes, and he will undoubtedly have to issue new bonds for the debts now maturing. He will be obliged to take the responsibility of determining the direct question which you yourselves hesitate about; and that is, what kind of bonds shall be issued? How much interest shall be paid, &c.? It is manifest now from the state of the money market that the United States could go into the markets of the world with a twenty or thirty years' five per cent. bond and redeem the present matured six per cent. five-twenties. It is probable that a five per cent. bond payable twenty years after date would sell at a higher rate in gold than our five-twenties now do. That is the opinion of many eminent financiers, and I think it is correct. Over five hundred million dollars of the present five-twenties are payable at any moment at our pleasure. The only question is whether they are payable in paper or in gold. Pending that question, which we neglect to decide, pending that doubt, bonds running the long period of twenty or thirty years at a lower rate of interest would induce thousands of people, not only in this country, but in Europe, to take new five per cent. bonds in exchange for their six per cents. There are now many trustees all over this country, in every State of the Union who desire a five per cent. bond in exchange for those now payable. If the Senator will only think of the number of companies that are based upon trust estates, and who would gladly accept a long bond, running ten, twenty, or thirty years, in exchange for the bond that is now payable, he will see that the demand in this country alone will absorb a large number of these bonds.

Mr. CONKLING. Then why are not the bonds issued for the purpose?

Mr. SHERMAN. Simply because, I suppose, the Secretary does not want to decide the very question which Congress has refused to decide; that is, the character of that bond and what interest it ought to bear. But I will not debate that question.

Mr. POMEROY. There is nothing in this bill about bonds.

Mr. SHERMAN. That is true, and I ought not probably to have gone so far into the debate on that subject.

Mr. FESSENDEN. If the Senator will allow me, I will suggest what is the probable answer; and that is, we have gone upon a reg-

ular system of keeping these loans within our control at short periods. We have issued two kinds of bonds, five-twenties and ten-forties. The idea has been to have them controllable, to keep them so that within a very short period of time comparatively we could, if the finances of the Government would permit, take them up. The suggestion which is made by the Senator of issuing bonds at thirty years, or twenty-five years positively, involves the idea of losing that controllability which has been a part of our system; and I suppose what the Secretary is waiting for is to see whether Congress is ready to give up that idea upon which we predicated our financial system heretofore in order to bring about a reduction of the interest. You may issue a five per cent. bond and reduce the rate of interest of course one per cent. and replace the six per cent. bonds now out with that five per cent. bond; but in so doing you decide that you will give up the power of redemption for a certain long period of time, which power you now have.

The first Secretary of the Treasury under the administration of Mr. Lincoln, Mr. Chase, adopted the system which I speak of. I thought it was a good system. I have been waiting for the time to come, and I have believed it would come, when the matter would be all in our own hands, when we might not be obliged to issue a bond even at five per cent., when we might fund a portion of our debt at least, if not the whole of it, at a still lower rate. So long as we hold the control, as we have it now, that is in our power; but if we replace our present bonds, which are within our control, with bonds at a less rate of interest running for thirty years, we lose it, and consequently we cannot look to a lower rate still. The question for Congress to decide is what it is best to do with reference to that particular matter; and it is that question, I take it, which the Secretary of the Treasury prefers that Congress should decide, whether it will abandon the old system upon which we stood in the beginning or whether we will adhere to it.

Mr. SHERMAN. Let me say this further, in justice to the Secretary of the Treasury: it is his opinion undoubtedly, from his public messages, that a bond, say running twenty or thirty years, ought to be issued. It is the opinion of the Senator from Maine, and my own opinion corresponds with his, that we ought not to issue a bond, the principal of which is beyond the powers of redemption beyond ten years. The very first question that the Secretary will have to determine, if he issues new bonds, will be, what shall be the duration of those bonds? He will make them long bonds. He has so stated in his official reports. Now, I do not think that such bonds ought to be issued, and I never would, in any event, issue a bond in the present state of the money market running more than ten years, because I have no doubt that at the end of ten years we can reduce the rate of interest below five per cent. Now, we cannot get money for less than five per cent. But we have failed to legislate on that subject. We have left the matter open; and the Secretary will be compelled, from the pressure of public necessities, to act on his own judgment, on the general laws to which the Senator from New York referred, which are ample, and he will decide this question according to his judgment instead of according to the judgment of Congress. But, sir, I trust we shall not be led any further into this discussion.

The only question now before us, in my judgment, is whether we are willing to give to the southern and western States—nearly all to the southern—some little additional facilities in the way of banking until we can determine the great questions of currency that have been proposed here, and which will be discussed at the next session of Congress. My own judgment is, that public policy will require us to extend these banking facilities to the amount of \$10,000,000 or \$20,000,000. I shall be willing, in case \$20,000,000 be thought by any Senator too much, to give them \$10,000,000;

so that in the leading cities of the South, in Mobile, Charleston, Atlanta, New Orleans, and other places, they may organize banks to aid in promoting the movement of the crops and the like. It ought to be done now. That is the only question in this case, and I trust nothing else will be brought into the debate.

Mr. POMEROY. I have no disposition to make any remarks on this subject, especially upon those questions that are not contained in the bill. This bond question is a bottomless pit, that we can throw into forever, and I believe we shall never then be agreed in regard to it. But the question of allowing our national banks that have been organized and have got no currency to have some currency, is a question of very great interest to those sections of the country from which the currency has been withheld. I suppose it is known to Senators that in the State that I in part represent, we organized national banks without any currency. We had to waive the question; because when we got ready to organize, there was no currency to be given out. Under that clause of the law allowing the banks in the East the right to convert their capital into national banks and take precedence of other organizations, they took up the amount limited in the law.

The apportionment of this currency was made upon the census of 1860. By that census we had a population in Kansas of one hundred and nine thousand, whereas to-day we have a population of three hundred and ninety or four hundred thousand. Even upon the basis of that apportionment, the population of 1860, when we had but one hundred and nine thousand inhabitants, we were entitled to \$750,000, and yet we received only \$350,000 circulation, or just about one half the circulation we were entitled to even under an apportionment based upon the population of 1860. But as our population increased the people of our State organized banks, and they waived the question of having circulation. They had the capital to make national banks, and they wanted banks of that character. Although they got no circulation from the Government, yet in some instances they were enabled to buy circulation. They went to New York and found where there was a surplus of circulation, some banks retiring which had more than they needed, other banks failing, and by some circumlocution, I never knew how it was, by paying three or four per cent., they were able to get circulation. They bought it of those who had it to spare and were willing to retire it, and by concert of action with the Comptroller they were able in some instances and by some means to obtain it.

Mr. JOHNSON. How much have you altogether?

Mr. POMEROY. We have \$350,000 received from the Government, and then the banks have bought fifty or seventy thousand dollars from other parties; so that in the State there may possibly be \$400,000 of bank circulation. Now, I say there is great complaint on this head. I only speak of my own State because it represents a class of States around on the borders that are growing, that are prosperous, but have no circulation comparatively. This bill in its last section is looking a little in the direction of giving relief. It is not anything like the remedy that I think ought to be applied. The Senator from Ohio begins to hint that if Senators think \$20,000,000 too much, he will cut it down to \$10,000,000. I had not supposed, if there was to be any change that it was to be in that direction. If there is to be any amendment to this \$20,000,000 clause reported from the committee, do not let it be downward toward \$10,000,000, but let it be upward toward the wants of the country.

There are those who think we might dispense with all national banks and issue greenbacks; but even if that was done the remote States on the border would not get any of the greenbacks. In order to have circulation distributed over the country to any great extent, to anything like an equal amount, there must be organizations in the locality that can control the currency, or otherwise the great money centers

and markets of the country get it. It is an inevitable law of trade and commerce over which we have little or no control. It may be true that we might dispense with our national currency; those national banks might have issued to them greenbacks instead of national currency, and make them responsible; it would be better to have all one kind of currency in that respect; but there must be organizations in the different localities to control it, or else we lose control of the currency entirely, and it follows our products to market and goes where our products go.

I do not wish to see the amendment of the Senator from Massachusetts adopted. I fear we are not prepared to adopt a system which we must ultimately reach, because the western and southern States are not going to be kept without circulation if we continue the system of having national banks; but I hope there will be at least no diminution of the \$20,000,000 contained in the last section of the bill. This measure may do for this session. It is only a temporary measure if we are looking to the wants of the country. Before long, before we adjourn, there will be Senators here who will demand circulation and banks from six or seven States not represented here now. While this measure is before the Senate why can we not make some provision for those States? I propose when they are returned here to treat them not only as our equals, but in the most liberal and friendly manner. No one can shut his eyes to the wants that have already come to us from those sections of the country.

There is a restlessness, an uneasiness, and I think I may go as far as to say that there is a complaint in my own State and in other western States on account of the unequal distribution of circulation. They cannot see why it is that the eastern States, New York, and Pennsylvania, should have so much of the circulation of the country, and when they organize banks under the law in the West they are not able to get a dollar. I receive letters almost every day from my State inquiring why it was that I was sitting here and allowing such an unequal distribution of what was contained in the law. The Senator from Ohio has explained it; everybody can explain it; but our legislation ought to be of such a character that it does not need explanation. It ought to bear on its face such perfect equality among the citizens of the States and among the States that we should not have to explain to our constituents why it was that we lost our circulation and why we did not get our proportion.

I have thought that law was a most remarkable one. That law got into the tax bill. I confess I did not see it. That law that gave a preference to the old banks to convert their currency into national currency and have a preference over the new organizations found its way by some circumlocution or other into the tax bill where no one would expect it, and it became a law without my attention being called to it, I know. From that day to this, on the border, in the West, we have never had a national bank with national circulation, and we never shall have. We have applied to the Comptroller time and again. He tells us, what of course every one knew before he told it, that although his disposition is to give us circulation, he cannot do it under the law.

The last section in this bill reported by the Committee on Finance, affords a little relief. It is half a loaf, at any rate; and, if the amendment of the Senator from Massachusetts should not prevail, as I hope it will, I certainly hope there will be no diminution of the \$20,000,000 contained in this section. The Senate certainly should come up to that; and that will not satisfy the wants of the South at all. That will be taken up by banks already organized. If you notice the language of this section, they cannot organize another new bank under it. The language is, "which amount shall be issued only to banking associations organized." You cannot organize a new one.



Mr. SHERMAN. Oh, yes, you can.

Mr. POMEROY. I think the intention is to give it only to those banks that have organized and waived the question of circulation. If it means that new banks may be organized, I am glad of it; but I concluded that the construction was that it applied only to banks that are now organized.

Mr. SHERMAN. Oh, no. It applies not only to banks now organized, but banks to be organized. If the Senator has any real doubt about it, it can be made certain; but there is no doubt about it. The section has been carefully prepared. The word "organized" applies not only to the past, but to the future.

Mr. POMEROY. A little amendment of course would make that perfectly clear. If it is intended that banks to be organized shall have it, it is all very well; but there are enough old banks organized to take up \$4,000,000 of this amount. The Senator from Ohio, I suppose, has had his attention called to the fact that there are enough banks already organized that have waived their circulation to take \$4,000,000 out of the \$20,000,000.

Mr. SHERMAN. Those are only in three or four States, not in the South.

Mr. POMEROY. And they certainly should be first supplied. Then we may have \$15,000,000 or \$16,000,000 to organize new banks with. But, sir, to conclude, I will say that I am sure that anything less than the committee have reported will meet with most decided opposition in the country.

Mr. ANTHONY. Mr. President, I think the reason why the States that have a disproportionate circulation came to have so much may be very readily explained. My friend from Kansas seems to overlook the fact that these States were compelled to take that circulation. They did not want to take it. We did not want to take it in my State. We had a bank circulation there; we had banks that satisfied us; but the Federal Government taxed our bank circulation out of existence, and told us to take this circulation or we should have none. Now we are told that that which was forced upon us against our will was a great favor, and we ought to make some compensation for it!

Mr. COLE. The same rule was applied to the banks in the West, in those States where banks were scarce, where the whole banking capital was swept away. They were taxed out of existence, also, but they are not now supplied with circulation.

Mr. ANTHONY. But if they were taxed out of existence, they had the opportunity at the same time to take the national circulation, to organize themselves as national banks.

Mr. COLE. But they cannot get the currency, because it cannot be furnished by the Comptroller.

Mr. CORBETT. The proposition of the Senator from Massachusetts to issue to the West \$100,000,000 in bank currency, in my opinion, is a very generous one. It adds that much really to the West. It is true those banks would have to provide themselves with means to redeem that currency, but it retires that much of the legal tenders that are now circulated mainly in the cities of the East, and sends \$100,000,000 of bank capital to the western and southern states. I think that is a wise provision, and we are approaching the time when something of the kind should be adopted. It places the Government in a position where it can more easily return to specie payments, so far as its own legal tenders are concerned. The Government and the banks must each prepare for a redemption of the notes eventually in specie. If this proposition be adopted there will then be about \$400,000,000 of bank capital, and upon that they have to retain twenty per cent. That will be \$80,000,000 of legal tenders that they will have to provide themselves with to redeem their currency. There will be, after the withdrawal of that \$80,000,000, \$170,000,000 of legal tenders in circulation. The amendment of the Senator from Massachusetts, in my opinion, is a very wise one; but if that cannot be adopted,

then I trust the amendment of my friend from Vermont will be adopted.

Mr. MORTON. Mr. President, I do not desire to argue this question; I do not feel that I am not qualified to do it; but there are two or three very plain things about it. If the amendment of the Senator from Vermont is adopted, if we increase the bank circulation \$20,000,000 we then withdraw the legal-tender circulation to the same amount, and as there is not money in the Treasury to spare for that purpose, it has got to be done by selling bonds; in other words, we add \$20,000,000 to the bonded debt and \$1,200,000 to the interest every year by that operation. If we adopt the amendment offered by the Senator from Massachusetts, we increase the bank circulation \$100,000,000, and we withdraw the legal-tender notes to that amount. We increase the bonded indebtedness \$100,000,000 thereby.

Mr. CORBETT. Do we not pay the interest on the debt now, the same as we should do then? We do not issue any new bonds. The bonds are in the market, and these banking institutions will go into the market and purchase the bonds.

Mr. MORTON. Mr. President, I am not mistaken. If we issue \$100,000,000 of bank currency more than we have, the proposition of the Senator from Massachusetts is that we shall take up \$100,000,000 of United States notes to avoid inflating the currency. How shall we take them up? We have not got those notes in the Treasury collected from taxes to spare. That would make a deficit in the Treasury. Therefore we must get these legal-tender notes by selling bonds to that amount. We would add to our bonded debt \$100,000,000, which would increase the annual interest \$6,000,000, unquestionably.

Mr. President, we are certainly not prepared at this time to adopt the proposition of the Senator from Massachusetts, to increase the bonded debt \$100,000,000, and the amount of interest paid \$6,000,000. If we had the money in the Treasury to take up and cancel these legal-tender notes without selling bonds, if these notes were in the Treasury derived from taxes, and we had the amount to spare, we could just cancel them; but as we have not got the money in the Treasury to spare for that purpose, we must get these legal tenders by selling bonds, just as was done by the Secretary of the Treasury before we stopped the contraction by our late act. That was the way he was there contracting. He was contracting the currency, not by canceling so many legal-tender notes that might be found in the Treasury received from taxes or revenue, but his cancellation took place entirely by selling bonds to that amount, and converting a debt that did not bear interest into a debt that does bear interest. That was the way he contracted the currency, as everybody knows.

Mr. CORBETT. I think the Senator is entirely mistaken about the issue of any additional bonds. There is nothing in the provision, according to the proposition of the Senator from Massachusetts, to increase our debt by issuing new bonds.

Mr. MORTON. I should like to ask my friend one question. That proposition includes the cancellation of \$100,000,000 of greenbacks. Now, how is the Government going to get the \$100,000,000 to cancel them?

Mr. CORBETT. They issue that amount of bank currency to the country, which is based upon the bonds of the United States, which the banks purchase in the market, and retain just that amount more bonds in the country than would otherwise flow to Europe.

Mr. MORTON. The bank currency does not belong to the Government. That goes to the banks upon condition that they deposit bonds to that amount with ten per cent. as a margin. Now, the question of canceling the legal-tender notes is a different proposition entirely, and is done to prevent the inflation of the currency. But to cancel them we must get them; and we can only get them in two ways: either by taxation or by selling bonds

of that amount. We cannot bear the taxation now. Therefore we must get them as the Secretary of the Treasury got them before, by selling bonds to that amount, and thus add \$6,000,000 to the interest of the public debt every year. We cannot stand that.

Now, Mr. President, I will say to the Senator from Ohio that, in my estimation, his proposition amounts, after all, substantially to the proposition of the Senator from Massachusetts, leaving off the question of inflating the currency. If you begin to issue bank currency for the purpose of equalizing the circulation, you cannot stop at \$20,000,000. It will take at least \$100,000,000 to equalize the currency among the several States.

Mr. HOWE. That will not do it.

Mr. MORTON. The Senator from Wisconsin says that will not do it; I say it will take at least \$100,000,000 to do it; and whenever you begin to equalize the currency you will not stop until you have done it. Therefore I say the proposition of the Senator from Ohio amounts substantially to that of the Senator from Massachusetts, with this difference: that the Senator from Ohio would begin now with \$20,000,000 and he would then go up to \$100,000,000 or \$125,000,000, or whatever may be necessary for that purpose, while the Senator from Massachusetts begins with \$100,000,000 at first. That is the principal difference.

I know that the distribution of our bank circulation is unequal; it is a hardship; but I think it is rather too late in the session now to begin upon that question, and I would rather have it deferred until some general system can be adopted. We do not know yet what course we are going to take with these questions; and it seems to me that the whole question ought to be considered together, because it is connected in every part.

Mr. CORBETT. It is said that we shall have a surplus in the Treasury over and above the expenditures from the taxes this year. I think it quite probable that such will be the case. According to the argument of the Senator from Indiana, we have got to have a surplus, and there should be a provision in the bill directing the Secretary to redeem the circulation at such times as he should have a surplus of money to do it with; and there ought to be, perhaps, in the amendment of the Senator from Vermont the same provision. I have no doubt in my mind from the present exhibit of the Treasury that there will probably be a surplus this year, and I think that provision should be made.

I hardly think the amendment of the Senator from Massachusetts will be carried; but it suits me better than the amendment of the Senator from Vermont. If, however, the amendment of the Senator from Massachusetts should not be adopted I shall vote for the amendment of the Senator from Vermont, because it was understood when we stopped the contraction of the currency that we should not go into inflation, and it was especially so stated here by the chairman of the Committee on Finance that he had no idea of taking any steps in the direction of inflation. I charged at the time that that measure to stop the contraction of the currency was but the entering wedge; that the next step would be to inflate the currency. The Senator from Ohio then stated that it was not the idea of the Finance Committee to inflate the currency at all. This is a direct proposition to inflate the currency \$20,000,000, and unless the amendment proposed by the Senator from Vermont is adopted, it certainly does inaugurate a system of inflation which will create great dissatisfaction in financial circles where there is plenty of money now, and who will take advantage of that inflation to increase the prices of everything, and the West will not get any of the additional money.

Mr. FERRY. I am opposed to the amendment proposed by the committee as the fifth section as it stands, mainly for the reasons which have been already given, believing that the adoption of that amendment would be a

step in a downward progress. I am also opposed to the amendment offered by the Senator from Massachusetts, and that submitted by the Senator from Vermont, because their tendency is toward entering upon the consideration of a question which we have neither inclination nor time nor surrounding circumstances to dispose of at the present session. I shall vote against the amendment of the Senator from Massachusetts, and shall vote for the amendment of the Senator from Vermont, believing that by attaching the latter amendment to the section as it stands I shall more certainly be enabled to secure the defeat of the section itself.

Mr. MORRILL, of Vermont. In order to simplify the business before the Senate, I withdraw my amendment so that we may have a vote directly upon the amendment of the Senator from Massachusetts first. If that shall not be adopted, I will then offer the amendment which I have proposed.

Mr. FESSENDEN. I wish to say one word in reply to what was said by the honorable Senator from Indiana [Mr. MORTON] as to the effect of this action. I do not see that there is any avoiding the inference he draws, that if you make it imperative that a like amount of the greenbacks so-called, the United States notes, shall be retired, they must be retired by issuing bonds for that purpose, unless you have a surplus in the Treasury with which you can take them up. We have been cutting down taxes in all directions, and still intend to cut down taxes according to the legislation which is proposed, so that it is not likely we shall have any surplus, but we shall have a deficiency. That matter ought to be considered.

The question comes back to this simply, whether you are going to lose enough on the interest that you would pay for an additional amount of bonds to make it unwise to do it with a view to the resumption of specie payments some time or other. The better way undoubtedly would be, and the sensible way, if we ever intend to resume specie payment at all, to have a surplus in our Treasury every year which can be devoted to that purpose. But if we intend to lighten taxation so that we cannot have a surplus in the Treasury with which to redeem our notes, and go on in that way, and at the same time refuse to issue any kind of securities in the place of them, because they pay no interest and the securities to be issued would pay interest, then it amounts to nothing but an indefinite postponement of the resumption of specie payments. Then the question for Congress to consider is whether that is not enough of an object, at some time or other, to compensate for the additional interest that we might pay, if we shall not have a surplus, if we will not resort to taxation to get means to do it. That is a question for Congress to consider, on which I at present give no opinion, for the matter is not before us.

Mr. MORRILL, of Vermont. The Senator will allow me to suggest to him that there is no probability of our expenditures so far exceeding our receipts that we shall not have a reserve in specie in the Treasury by which these notes could be paid.

Mr. FESSENDEN. It is not a question of how much specie we have; it is a question simply of how much we have over and above what is necessary for the expenditures of the Government. Anything that we want over that we must borrow, no matter in what shape it is put, and we must pay interest on it; so that after all it comes back to the same question, whether or not we lose or gain by issuing paper in some shape or other on which we pay interest, provided we are making progress toward a resumption of specie payments. I have always held, and I was in hopes Congress would stick to that policy, though I have not been particularly gratified at this session by the movements in that direction—I have thought that Congress should adhere to the idea which it proclaimed a few years ago, of a gradual reduction of United States notes, that we might get back to a point where everybody would

redeem in specie in order to accomplish all the good that is to be gained by a redemption in specie of all obligations.

I think, without attempting to elaborate it, that we should save vastly more, year by year, to the country if we could once get back to that state of things than we should be likely to lose by any amount of interest we might pay upon bonds issued to enable us to accomplish it. But the better way still would be not to reduce our taxation so low that we are obliged to resort to anything of that description. The idea was awhile ago—and it was the true one in my judgment, financially—that we should have every year a surplus in the Treasury, to be raised by taxation, (the only proper way,) and that we should apply that surplus to a limited extent and to a reasonable extent, and every year and every month as we went along, fixing it as reasonably as we could toward the accomplishment of that purpose, which is the great purpose, in my judgment, without which we shall never have any sound financial operations in this country. Agreeing with my friends that, in the present state of things, or the prospective state of things, we may be obliged, if we pass this, to resort to borrowing precisely in the same way, yet I am not satisfied that even if we did to the amount of \$20,000,000, provided we improved the system and adhered to it, we should be the losers in the end.

Mr. CORBETT. I should like to know whether, if we even should increase the debt \$100,000,000, and we should pay five per cent., \$5,000,000, on that, it would not be better to pay that and save a much larger amount to the country now lost on the bonds exported? By bringing down the amount of legal tenders, as proposed by the Senator from Massachusetts, to \$250,000,000, we should be in a condition to return to specie payments at once, or within a very short time. Would it not be better to pay the interest on \$100,000,000 at five per cent., being \$5,000,000, and save \$33,000,000 on the export of \$100,000,000 of bonds which we now send out of the country, and which we shall have to redeem hereafter dollar for dollar to foreign holders. While, under the proposition of the Senator from Massachusetts, we pay \$5,000,000 more of interest we shall gain \$30,000,000 on the export of bonds, provided we export \$100,000,000 of bonds next year.

Mr. MORTON. I should like to ask the Senator one question upon that point. Suppose that we substitute bank notes for greenbacks, how much nearer are we to specie payments than we were before? If we substitute \$100,000,000 of bank notes for \$100,000,000 of greenbacks, what do we gain? The Government is liable for the bank notes as much as it is for the legal-tender notes. The bank notes are worth seventy cents on the dollar and the legal-tender notes are worth the same, and no less when taken up. How do you approach specie payments in that way, by putting out other paper redeemable only in paper?

Mr. CORBETT. I will tell you exactly how. If a bank is not able to redeem its notes in legal-tender notes or specie, it must go into liquidation, and you have its bonds to throw on the market, and you will get from those bonds in the foreign market \$100,000,000, where you are now getting only \$72,000,000, thus saving \$28,000,000.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts to the amendment of the Committee on Finance.

Mr. WILSON. I ask that the question be divided. There are two sections in my amendment, and I wish the question taken on each one by itself.

Mr. POMEROY. I hope the Senator will withdraw the last section, and let us vote on the first section of his amendment.

Mr. WILSON. I ask to have the question divided, so that we may vote on the first, and then I shall ask for the yeas and nays on the last section.

Mr. WILLIAMS. Mr. President, I simply

rise to say that I do not wish the vote I am about to give to be construed into an expression of opinion on the questions involved in this proposition. I regret very much that the Senator from Massachusetts should have introduced at this time this proposition, when he knows very well that both Houses of Congress are greatly divided upon the question as between greenbacks and national bank notes. Much discussion has taken place in Congress upon that subject, and it has been impossible to reach any conclusion; and it seems to me that it is wise at this time to avoid any conclusion upon that subject until we can have more time in which to consider the great financial problem that is before us. If this proposition that the Senator from Massachusetts has made is adopted, it will be understood and construed by the country that Congress has taken ground in favor of the annihilation of the greenback currency and the substitution for it of national bank currency. That may be a correct ground to occupy; but so far as I am concerned I prefer not to decide that question until we can have more time to consider and discuss the subject; and the Senator knows very well, if I may be allowed to use the expression here, that our political friends are greatly divided on this question; but perhaps that is not a matter that is entitled to any consideration.

Mr. WILSON. I ask for a division of the question.

The PRESIDENT *pro tempore*. The question is on striking out the words proposed and inserting the first section of the proposed amendment.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question, recurs on the second clause of the amendment.

Mr. WILSON. On the second clause I want the yeas and nays.

Mr. SHERMAN. I suggest to the Senator that as that is an amendment in the nature of a new section, it will come in better after the amendment of the committee is acted on, unless he moves to strike out the fifth section and insert this. Let us vote first on the fifth section, and then his amendment can be offered as a new section.

Mr. WILSON. Very well; I waive it at present; I will offer it afterward.

Mr. MORRILL, of Vermont. I now move the amendment I proposed before, to come in at the end of the section reported by the committee, and I merely call the attention of the Senate to it to see whether we are willing to stand by anything:

And upon the issue of any increased national circulation provided for in this section, the Secretary of the Treasury is hereby authorized to permanently withdraw an equal amount of United States notes.

Mr. HOWE. I want to say simply that I shall vote against that amendment and I shall vote against this section; but if I knew the section would be adopted I think I should still vote against the amendment. As I understand the amendment, it simply requires the Secretary of the Treasury to take out of his vaults \$1,000 which he has received from taxes, and destroy them whenever any number of citizens shall issue \$1,000 in notes.

Mr. EDMUNDS. They are not dollars.

Mr. HOWE. The Senator from Vermont says that they are not dollars. Well, sir, your law says they are dollars, and the tax-payers who put them in the Treasury say they have cost them dollars. I know that at the same time you cancel an obligation of the Government that the Government would have to meet in future years, but you have deranged the tax-paying capacities of the country just to the extent that you destroy this currency. I do not believe that is a fair or a legitimate way of reducing circulation or of retiring the Treasury notes. I think there is a legitimate way of doing that, and I hope to see that way adopted some time or other.

I was utterly opposed to the legislation under which the Secretary was authorized to burn

up four millions of money a month formerly, and I am utterly opposed to giving him authority to destroy any kind of property that he takes out of the pockets of the people for taxes. The only excuse you have for taxing a man is that you want the money to disburse, to meet the Government expenditures. You have no right to tax him in order to get means to destroy, I take it.

Mr. MORRILL, of Vermont. Mr. President, I do not know of anybody that has really shown such an exhibition of hostility against any parties destroying their own notes except an Irish mob that once broke into a private banker's establishment in Great Britain, and they thought they were doing him immense harm by burning up his own printed notes. It seems, according to the Senator from Wisconsin, to be an immense harm to the Government of the United States to destroy their promises to pay! I certainly do not comprehend it. I think this is a question merely of expansion and I propose to introduce an amendment so that we shall neither expand nor contract, so that there shall be an equal amount of circulation afloat after the passage of this bill that there was before it. That is all there is to it.

Mr. HOWE. Mr. President, the Irishman and I would have reasoned precisely alike if it had happened that the house that was broken open was controlled by a man situated precisely as the Government of the United States is. If the notes had been the only means the man had to live on, I think the Irishman would have been entirely right in refusing to destroy them and entirely right in concluding that they would do the owner of the house a great injury in burning them up. These notes are just what the Government has got to live on for this year, and you raised these notes for that very purpose. That is the difference.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont to the amendment of the Committee on Finance.

Mr. MORRILL, of Vermont, called for the yeas and nays; and they were ordered.

Mr. TRUMBULL. If I knew how to accomplish it I should vote either for or against the amendment of the Senator from Vermont in such a way as to defeat this fifth section. I deeply regret that a proposition should be brought into the Senate by the Finance Committee to commence the work of expansion, to borrow \$20,000,000 in time of peace. I think it a humiliating spectacle to this nation that we should propose now to borrow \$20,000,000. That is exactly what this is. I had hoped that we were gradually, as time passed on, approaching the period when we should again have specie payments, when the business of the country would be done upon a specie basis; but it seems we are to depart from that, and to commence borrowing, \$20,000,000 at a clip here, and the Senator from Massachusetts proposes, I believe, to borrow \$100,000,000.

Mr. DRAKE. Will the Senator from Illinois please explain how, if this section is adopted, we borrow \$20,000,000?

Mr. TRUMBULL. If the Senator will read it, he will see that it proposes to amend section twenty-two of the banking act so that the maximum limit of circulation fixed by that act shall be increased \$20,000,000. That authorizes an additional issue of \$20,000,000 for which the Government will be bound.

Mr. DRAKE. How bound?

Mr. TRUMBULL. The Government will be responsible for the notes.

Mr. COLE. It seems to me the position taken by the Senator from Illinois is hardly tenable. I do not know how this can be considered as borrowing. The proposition is simply to authorize the issuing of \$20,000,000 more of circulation, for which United States securities are to be placed in charge of the Comptroller. I do not regard it in any light as adding to the indebtedness of the United States. It cannot possibly be so construed.

Mr. TRUMBULL. Whenever an individual

or a Government puts out a circulation; or authorizes anybody else to put it out, for which it is bound, I regard that as borrowing so much money; it comes back to the Government to be paid. You propose to issue an additional currency here, and get further and further, as it seems to me, all the time from that specie basis to which it ought to be the desire of the country to return. I think the material interests and the prosperity of the country require us to get back to specie payments as soon as we can. I do not believe we are approaching it when we are expanding the currency.

Mr. DRAKE. I shall be very far from attempting to participate in a general discussion of the general aspects of our currency and finances; but there is one thing in regard to this matter which I know enough about to be able to say. I find that the opposition to this section, which is avowedly intended for the benefit of those States where there is very little circulation, comes from those portions of the country where they have all the circulation they need and plenty to spare; where they have fifty dollars of circulation for every inhabitant, and are not willing to give more than fifty cents of circulation to some of the other portions of the Union. The chairman of the Committee on Finance stated that fact, that there are some of the States south and west which have not twelve cents, I think he said, *per capita* circulation.

Mr. SHERMAN. If my friend will allow me, I will give him the figures. In the three States of Massachusetts, Rhode Island, and Connecticut they have \$59,000,000, more than twice their proportion of circulation according to population. If an amendment were offered proposing to withdraw the \$20,000,000 from the States having a great excess, I should feel disposed to vote for it, though I do not want to disturb those States.

Mr. ANTHONY. Will the chairman of the Committee on Finance now state how the taxation *per capita* is in those States?

Mr. SHERMAN. I am not prepared to do that here.

The PRESIDENT *pro tempore*. The Senator from Missouri is entitled to the floor.

Mr. DRAKE. My State happens to be one of those so situated when the banking act went into effect that we could not command the bonds that could be commanded in other sections of the country in order to get banking circulation. Overrun with war, with our whole population profoundly afflicted and impoverished, we could not do as New England could, accumulate money and buy bonds and get national bank circulation. They were growing rich while we were growing poor. Now, sir, when we are beginning to gather up a little again from the adversity of that period and are in a position where we can get bonds and pledge them for national bank note circulation, New England and New York, gorged with all that they want, stand here to say that we shall not have any addition whatever to our national bank circulation.

Mr. President, I confess that I do not know much about finance; but I know enough to understand that kind of injustice, and to utter my protest against it here on the floor of the Senate. I know another thing about this matter: that there is now not a circulation of money in this country more than equal to about twelve dollars and some cents *per capita* of the population of the country; whereas, in 1860, there was a circulation *per capita* of fifteen dollars. I know another thing, too, that the business of the country was largely conducted then with notes and bills of exchange, requiring much less money than it requires now, when the business of the country is so largely a cash business. And yet, sir, we are to be kept down and down and down all the time by that region of country which is going about loaded down with the money that it made in the period of our affliction. Sir, I think I can see this, and I can see it strong enough to justify me in expressing my views in this man-

ner in behalf of the region of country from which I come.

Mr. WILSON. Mr. President, I am sorry to hear the remarks made by the Senator from Missouri. The Senator speaks of what he knows, and he tells us very positively that we have less money in circulation *per capita* than we had before the war. Sir, we have \$650,000,000 of paper money in circulation now. We had \$200,000,000 before the war, and the percentage is larger than it was before the war. So his knowledge is at fault on that point.

Mr. DRAKE. Perhaps not.

Mr. WILSON. Sir, the Senator's knowledge is at fault on another point. He tells us that we in New England made money in the war, so as to be able to establish banks. The fact is we in New England have no more banks now than we had when the war began. Several of our State banks refused to become national banks. The banking capital of Massachusetts has been increased but little, if any, and the same is true of the New England States. The Senator talks about our making money. Let me say that no part of the country made money in the war as did the agricultural States of the West. They increased their wealth and their population largely, they paid off mortgages, and they came out of the war stronger than ever before. New England made money in the war, but the percentage was not one third of what the profit of the Northwest was.

How comes it that in New England we have so large a proportion of the national bank capital? We had the banking capital before the war. In my State we had more than sixty million dollars of banking capital when the war began. On this capital we received one per cent. into the Treasury to support the State government. Congress asked us to change our State banks into national banks, and we promptly did it. Is there anything in this deserving reproach? Is there anything wrong in it? Is this patriotic action to be assailed here? The other States that chose to convert their State banks into national banks did so. The western States did so, and they established some new banks.

I wish we could come to a free-banking system at once. If we could reach specie payments I would be for it; but we cannot do it at present. Now, it is proposed by this committee to add to the national currency \$20,000,000. I propose to have \$100,000,000 of banking capital established in the new sections of the country and in the South, for the reason that what they want there is not circulation so much as capital. Establish banks there, and they will be managed by the business men of the locality who have a local feeling and interest, and they will invest the capital at home, invest it in their local business. Issue an equal amount of greenbacks, and they will float to the Atlantic sea-board, and this greenback is a talk in favor of Boston, New York, and Philadelphia, and against all the agricultural portions of the country.

Mr. FESSENDEN. On the same principle, would not the bank notes come here?

Mr. WILSON. Not to the same extent, by any means. They generally contrive to keep a portion of the circulation at home. Of course the circulation will tend to the commercial points, but the capital will remain at home, and will be employed in the local business of the country. What they need in these new sections is active capital much more than circulation.

Sir, I regret to hear assaults made on any section of the country. There is an inequality in the banking system which ought to be remedied, and I am in favor of beginning now. I have, however, been voted down in my amendment, and now I will vote the \$20,000,000. But, sir, the idea thrown out in the Senate about founding circulation on population is one of the most absurd ideas ever uttered by sensible men. There are portions of a State that need one hundred times the banking capital that other portions of the same State do. There are some States that need ten or twenty times as much banking capital and circulation as



other States need for their business. Take a manufacturing, a commercial, a mechanical community, and it needs ten, twenty, or thirty times over the amount of banking capital and circulation that a purely agricultural population needs. Everybody knows that; and therefore the idea of equalizing the banking circulation of the country according to population is an absurd idea, and should be abandoned at once. Sir, there is, however, too much inequality now, and I will join with Senators at any time in trying to correct it.

Mr. DRAKE. Mr. President, I have not assailed New England nor New England capital. I have only endeavored to repel an assault upon this measure which comes from that region and regions that are similarly situated to that with regard to the abundance of their means. The chairman of the Finance Committee stated that the specific object of this amendment was to enable certain regions of the country to obtain circulation which are now without it, or which have a very small amount of it; and, incidentally, the measure is assailed with opposition from that region which is overflowing with circulation. I do not assail them. They are assailing the country that I come from and the interests of the country that I come from. I am only repelling that assault.

Now, sir, I take issue of fact with the honorable Senator from Massachusetts upon the matter of money *per capita* in this country at this time as compared with 1860. I think the honorable Senator from Massachusetts referred only to the paper circulation of the country in 1860 *per capita*. I included the whole circulation, coin and paper, and in the then population of the country, I assert as a matter of fact, which I believe susceptible of proof and established by official data, that the circulation *per capita* was fifteen dollars, while now I believe it is capable of verification by the official facts that it is only twelve dollars and some cents; and the fact is that the period of 1860 was not a period of inflation in the currency of the country. Are we going to get into a period of inflation now, even if we were to take the circulation of the country up to the same ratio *per capita* that it was in 1860.

Mr. President, I say again, that I do not pretend to understand this whole subject, but I think I can see it plainly enough to understand that the interests of the people I represent in the great valley of the Mississippi are concerned in this matter, and deeply concerned in it—that people who are now paying annually millions of dollars perhaps of interest to the capitalists of the East for money borrowed from them, and for which the eastern capitalists hold mortgages upon their property. They want money and banking facilities to move their products. All that I ask is that they shall have some little share of what is going in the country in that way.

Mr. COLE. Mr. President—

Mr. POMEROY. If the Senator will yield the floor, I will make a motion that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. I should like to have a vote on this section.

Mr. POMEROY. I understand that the Senator from California desires to address the Senate at some length on this question.

Mr. COLE. Not at any length.

Mr. SHERMAN. I should like to have a vote on this question.

Mr. COLE. I am willing to waive what I have to say until we take the vote on the amendment of the Senator from Vermont, if that be deemed desirable.

Mr. SHERMAN. I think we had better vote on it.

Mr. POMEROY. If the Senate is ready to vote I withdraw my motion.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont to the amendment of the Committee on Finance.

Mr. DAVIS. Mr. President, I shall occupy the attention of the Senate for but a few minutes.

Mr. COLE. If there is to be further debate I would rather go on. I yielded the floor to allow a vote to be taken.

Mr. STEWART. I wish to ask unanimous consent to call up a bill with a view of offering some amendments to it for the purpose of having them printed.

The PRESIDENT *pro tempore*. Does the Senator from Kentucky yield the floor?

Mr. DAVIS. I object to any motion of that kind by the honorable Senator from Nevada. He intervenes so many of his rapid and quick movements here that I have become suspicious of him. [Laughter.]

Mr. STEWART. I will state that it is a bill—

Mr. DAVIS. I object to the Senator making his statement.

Mr. POMEROY. I move that the Senate proceed to the consideration of executive business. I suppose the Senator from Kentucky will yield to that motion.

Mr. DAVIS. I do.

Mr. POMEROY. The Senator from Kentucky yielding the floor, I move that Senate proceed to the consideration of executive business.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 1038) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress.

The message further announced that the House had passed the bill (S. No. 280) granting a pension to Michael Hennessy, of Platte county, Missouri.

The message also announced that the House had passed a joint resolution (H. R. No. 294) donating to the Washington City Orphan Asylum the iron railing taken from the old Hall of the House of Representatives, in which it requested the concurrence of the Senate.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker had signed the enrolled bill (H. R. No. 1038) to admit the States of North Carolina, South Carolina, Georgia, Alabama and Florida to representation in Congress; and it was thereupon signed by the President *pro tempore*.

#### DISABILITIES OF NORTH CAROLINIANS.

Mr. STEWART from the Committee on the Judiciary, reported amendments to be proposed to the bill (H. R. No. 1059) to relieve citizens of North Carolina of disabilities; which were ordered to be printed.

#### EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

Friday, June 12, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### AMERICAN SHARPSHOOTERS' FESTIVAL.

The SPEAKER. The Chair asks unanimous consent to lay before the House the following invitation, which has the appearance of being national in its character:

THE EXECUTIVE COMMITTEE OF THE  
AMERICAN SHARPSHOOTERS' SOCIETY.  
NEW YORK, June 9, 1868.

HON. SCHUYLER COLFAX,

Speaker of the House of Representatives:

Mr. SPEAKER: Under the auspices of the National Association of American Sharpshooters a great national festival will be held from June 27 to July 6, 1868, at Jones's Wood, New York city; the festivities to be opened on the 29th of June with a grand public demonstration and procession.

The object of the festival, the third of this kind ever held in America, is not only to bring together once more the societies and organizations of sharp-

shooters existing in the United States, and thereby promote the particular objects of the association, but also to foster and cultivate the unity and harmony of the different nationalities representing the power, civilization, and progress of the American Republic.

In compliance with a resolution of the above association, we beg leave to tender you and the members of the House this invitation, with the most respectful request to honor our festival with your presence.

With the highest respect, we remain, Mr. Speaker, your obedient servants.

For the National Association of American Sharpshooters: THE EXECUTIVE COMMITTEE.

P. F. STEFFEN,

President.

MAXIMILIAN MORGENTHAU, Secretary.

F. SIGEL.

GEORGE KUSTER.

CHARLES G. CORNELL,

JO. CHRIST.

Committee of Invitation.

Address: M. MORGENTHAU, Secretary, &c., No. 86

Fourth avenue, New York.

Mr. JUDD. I move that the invitation be accepted, and that the House be represented at the opening ceremony by a committee of seven of its members.

Mr. STEVENS, of Pennsylvania. I hope not. It is a very bad practice to learn our people to shoot sharp. [Laughter.]

Mr. SPALDING. We want to send some of our sharpshooters.

Mr. STEVENS, of Pennsylvania. The gentleman can do that, undoubtedly.

The motion of Mr. JUDD was agreed to.

Mr. CHANLER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER appointed as the committee Messrs. JUDD, GARFIELD, PAINE, CHANLER, ORTH, ROBERTSON, and KNOTT.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that that body had passed the following bills, each with an amendment, in which the concurrence of the House was requested:

A bill (H. R. No. 870) to remove disabilities from Roderick R. Butler, of Tennessee; and

A bill (H. R. No. 598) to continue the Bureau for the relief of Freedmen and Refugees, and for other purposes.

#### LEAVE OF ABSENCE.

Mr. VAN AUKEN asked and obtained leave of absence for one week.

Mr. ALLISON asked and obtained leave of absence for two days.

#### DONATION OF IRON RAILINGS.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to introduce a joint resolution (H. R. No. 294) donating to the Washington City Orphan Asylum the iron railing taken from the old Hall of the House of Representatives. It has come from the Committee on Appropriations, and there will be no objection to it.

Mr. SPALDING. I would like to know if the Committee on Appropriations can appropriate iron fences. [Laughter.] I object to it.

Mr. WASHBURNE, of Illinois. Let it be read.

Mr. SPALDING. If the gentleman will offer it on his own individual hook I will make no objection.

Mr. WASHBURNE, of Illinois. Well, I will offer it on my own hook.

The resolution was read. It donates the iron railings to the Washington City Orphan Asylum, provided that the same shall be taken away in ten days after the passage of this act.

Mr. WASHBURNE, of Illinois. I have received the following letter on this subject:

ARCHITECT'S OFFICE, CAPITOL EXTENSION,  
WASHINGTON, D. C., June 12, 1868.

Sir: In reply to your verbal inquiries on behalf of the Committee on Appropriations relative to the iron railing recently taken from the old Hall of Representatives, I have the honor to state that the railing is not required for any purpose about the Capitol, nor do I know where it can be used to any advantage at any of the other public buildings.

An unnecessary heavy expense will be incurred by using this railing at the public grounds; the pattern being very expensive, so that the additional railing to match, which might have to be purchased, will make the fence cost much more than a more suitable one should. I therefore recommend that it be dis-

posed of, by sale or otherwise, in order to get it away from the front of the Capitol.

I am, very respectfully, your obedient servant,  
EDWARD CLARK, *Architect.*  
Hon. E. B. WASHBURN, *Acting Chairman Committee on Appropriations, House of Representatives.*

Mr. PRICE. How much is this fence worth?

Mr. WASHBURN, of Illinois. The fence is lying out here near this building, and is an unsightly thing.

Mr. PRICE. I did not ask where it was, but what it cost.

Mr. WASHBURN, of Illinois. I have consulted with the architect of the Capitol, and he says, as his letter shows, that there is no earthly use for it.

Mr. PRICE. It can be sold, I suppose.

Mr. WASHBURN, of Illinois. I have no interest in the matter whatever. If the gentleman objects, let it go.

The SPEAKER. Does the gentleman from Iowa object?

Mr. PRICE. No, sir; I do not.

The joint resolution was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### RELIEF FROM DISABILITY.

Mr. PAINE, by unanimous consent, introduced a bill (H. R. No. 1217) to relieve T. J. Mackey, of South Carolina, of disabilities; which was read a first and second time, and referred to the Committee on Reconstruction.

#### REPRESENTATION OF SOUTHERN STATES.

Mr. BINGHAM. I report back from the Committee on Reconstruction the amendments of the Senate to the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress, with the recommendation that the amendments of the Senate be concurred in; and I call the previous question.

The amendments were read, as follows:

"Page 1, line two of the preamble, strike out and."

"Page 1, line two, after the word 'Alabama,' insert 'and Florida.'"

"Page 1, line eight, strike out the words 'in form.' Strike out all after the enacting clause and insert in lieu thereof the following:

Whereas the people of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida have, in pursuance of the provisions of an act entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, framed constitutions of State government which are republican, and have adopted such constitutions by large majorities of the votes cast at the elections held for the ratification or rejection of the same: Therefore,

*Be it enacted, &c.,* That each of the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida shall be entitled and admitted to representation in Congress as a State of the Union when the Legislature of such State shall have duly ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, upon the following fundamental conditions: that the constitutions of neither of said States shall ever be amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote in said State who are entitled to vote by the constitution thereof herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted, under laws equally applicable to all the inhabitants of said States: *Provided,* That any alteration of said constitutions may be made with regard to the time and place of residence of voters; and the State of Georgia shall only be entitled and admitted to representation upon this further fundamental condition: that the first and third subdivisions of section seventeen of the fifth article of the constitution of said State, except the proviso to the first subdivision, shall be null and void, and that the General Assembly of said State, by solemn public act, shall declare the assent of the State to the foregoing fundamental condition.

Sec. 2. *And be it further enacted,* That if the day fixed for the first meeting of the Legislature of either of said States, by the constitution or ordinance thereof, shall have passed, or have so nearly arrived before the passage of this act, that there shall not be time for the Legislature to assemble at the period fixed, such Legislature shall convene at the end of twenty days from the time this act takes effect, unless the Governor-elect shall sooner convene the same.

SEC. 3. *And be it further enacted,* That the first section of this act shall take effect as to each State, except Georgia, when such State shall, by its Legislature, duly ratify article fourteen of the amendments to the Constitution of the United States proposed by the Thirty-Ninth Congress, and as to the State of Georgia when it shall, in addition, give the assent of said State to the fundamental condition hereinbefore imposed upon the same; and thereupon the officers of each State, duly elected and qualified under the constitution thereof, shall be inaugurated without delay; but no person prohibited from holding office under the United States, or under any State by section three of the proposed amendment to the Constitution of the United States, known as article fourteen, shall be deemed eligible to any office in either of said States, unless relieved from disability as provided in said amendment. And it is hereby made the duty of the President, within ten days after receiving official information of the ratification of said amendment by the Legislature of either of said States, to issue a proclamation announcing that fact.

Amend the title by striking out the word "and," and inserting after the word "Alabama" the words "and Florida."

Mr. FARNSWORTH. Before my colleague on the committee insists on the previous question, I desire him to give way to me to move an amendment and submit some remarks in support of it.

Mr. BINGHAM. I will yield to my colleague, but I hope he will not take much time with his remarks. How long a time will you want?

Mr. FARNSWORTH. Fifteen or twenty minutes.

Mr. BINGHAM. Very well; I yield fifteen minutes to my colleague.

Mr. SPALDING. Before the gentleman from Illinois proceeds I want to move an amendment. I wish to move to concur in the amendments of the Senate with an amendment striking out Alabama.

Mr. FARNSWORTH. I have no right to yield for that purpose.

Mr. SPALDING. My colleague [Mr. BINGHAM] has promised to yield to me for this purpose.

The SPEAKER. He has now yielded to the gentleman from Illinois.

Mr. FARNSWORTH. I move to strike out all of this bill that relates to the admission of Representatives in Congress from Florida. And in support of my amendment I desire to say that I make it, as I think the House will believe from my past course in regard to reconstruction, because I am thoroughly convinced that Florida ought not to be readmitted to representation in Congress with its present constitution.

In the first place, the constitution of Florida was irregularly formed; I can but briefly go over the history of its formation. It seems that a majority of the delegates elected to the Florida convention assembled at the time appointed; they were sworn, organized the convention, elected its officers, and proceeded with the business of the convention for a week or so. In the meantime the minority of the convention, refusing to go into the convention, by constant efforts to withdraw members from the convention succeeded in getting enough to withdraw to leave the convention without a quorum.

The convention, however, assembled from day to day and proceeded, as far as it could without a quorum, in the details of a constitution, and finally adjourned for a week, in order that other members of the convention might come in and that they might submit what they had done to General Meade. Before the expiration of the week, and on Saturday night, I think it was, the minority, who had adjourned to some neighboring village, came in, in the night, broke into the hall, and took possession of it and held it. On the day when the convention was to reassemble they found this minority in possession of the hall, with bayonets at the door to keep them out.

This minority convention, finding that they had not a majority to proceed to business, proceeded first to expel four members of the convention, to vote them out and to vote in the minority candidates, who had no certificates of election, and who in some instances confessedly had but a most meager minority of the votes cast. Acting upon the principle that as they had voted out the men who were elected

somebody ought to represent those districts, they voted in the men who were not elected.

Then they proceeded with the work of making a constitution. After they had completed their labors, in order to get the delegates of the convention to sign it they passed an ordinance providing that no member should receive his pay as delegate to that convention unless he signed the constitution. Many of the members of the convention were very poor men, many of them were colored men, depending entirely upon the pay they should receive as delegates in order to defray their expenses. Of course, they walked up and signed the constitution for the purpose of obtaining money to defray their expenses and pay their debts. By this means they succeeded in getting a majority of the delegates elected to the convention to sign the constitution.

Now, what is the constitution of Florida? It erects a little oligarchy down there in Florida; nothing else in the world. It gives to the Governor-elect of that State the power to appoint nearly all the State officers. And, by the way, the man elected Governor of Florida is one of the Postmaster General's mail agents in Florida. And the man elected Lieutenant Governor is, I believe, from the pineries of Wisconsin, where the Barston frands were got up; and I do not know but what he is another of the post office agents.

The Governor of Florida is authorized by this constitution to appoint all the other State officers, the attorney general, secretary of State, State treasurer, State auditor, superintendent of schools, and all such officers. These State officers are made a sort of staff to the Governor; they are his counsel, and are authorized by the constitution to advise him as to the constitutionality of any law, and as to the proper construction to be given to any provision of the State constitution. And the Governor, taking the advice of the creatures he himself appoints, may set aside any law passed by the Legislature of that State.

Not only that, the Governor of Florida is to appoint all the judges of the State—the supreme court judges and the circuit court judges. Not only that, but the salaries of these judges are fixed very high. They have more circuit judges in the little State of Florida than they had in the great State of Illinois when I first went there, with salaries of from three to four thousand dollars each, while in my State, at this time, judges get \$1,000 salary with some petty fees. The supreme judges of Florida are to get \$4,000 a year each, all being appointed by the Governor. More than that, the Governor appoints the sheriffs and justices of the peace for the whole State. Every sheriff and justice of the peace of the State of Florida is to hold his office at the beck and nod of Governor Reed, the postal agent of the Postmaster General. Who these various officers are to be I do not know; we shall probably find out when we admit the State.

Mr. CULLOM. I desire to ask my colleague whether this constitution, with all the provisions to which he refers, was not submitted to the people and adopted by them?

Mr. FARNSWORTH. I was coming to that. I am aware that the argument will be made that this constitution, with all its provisions, was submitted to the people. So it was, and with all the Federal office-holders of that State in favor of it. They say it was adopted by the loyal votes of Florida. On the contrary, loyal men in Florida say that it was adopted by the rebel votes; for, mark you, this constitution provides that every man in Florida shall vote. Nobody is excluded from the right of suffrage under this constitution. Though a man be covered all over, from the crown of his head to the sole of his foot, with the sin of rebellion and the blood of our slaughtered soldiers, he can vote under this constitution.

There are many other things of which, if I had time, I would like to speak. I might refer to the apportionment of representatives. By this constitution representatives in the Legislature of Florida are apportioned in such a manner as to give to the sparsely-populated

portions of the State the control of the Legislature. The sparsely-populated parts of the State are those where there are very few negroes, the parts inhabited by the white rebels, the men who, coming in from Georgia, Alabama, and other States, control the fortunes of their several counties. By this constitution every county in that State is entitled to a representative. There are in that State counties that have not thirty registered voters; yet, under this constitution, every one of those counties is entitled to a representative in the Legislature; while the populous counties are entitled to only one representative each, with an additional representative for every thousand inhabitants.

I say to this House that there never was such a constitution framed by any State of this Union as that which has been framed by this so-called State of Florida. In my opinion, it will be wise, very wise for this House to reject the State of Florida until she shall come here with cleaner hands than she now presents.

Mr. Speaker, I do not desire to say anything further upon this question.

Mr. PAINE. Will the gentleman from Ohio [Mr. BINGHAM] yield the floor to me?

Mr. BINGHAM. How long a time does the gentleman desire?

Mr. PAINE. Ten minutes.

Mr. BINGHAM. Oh, yes.

Mr. PAINE. Mr. Speaker, it is not without great reluctance and real pain that I find myself compelled to oppose that portion of the report of the committee which favors the inclusion of Florida in this bill. I would be strongly in favor of concurring in the amendments of the Senate with an amendment striking out Florida. The government of that State is to a considerable extent in the hands, and I understand is destined to be in the hands, of citizens of my own State, of some of whom I am the warm personal friend, and hence it affords me deep regret to be compelled, in the interest of what I believe to be justice and fair play, to oppose the inclusion of Florida in this bill.

As the bill passed this House it did not include that State. Florida has been ingrafted upon our bill by the Senate; and I rise now to oppose the Senate substitute so far as Florida is concerned, and to give to the House, as I am bound to, my reasons for opposing it. I can do no less than this, because it has been my duty as a member of the committee to scrutinize this constitution. I ought to explain to the House its character. After I have done that it will be for each member to decide himself whether he will or will not vote for concurrence.

Now, sir, in 1860 the census gave Florida a population of 140,425. Florida is inferior in wealth, and, I believe, in numbers, to the average congressional districts of the United States. I have no idea that there is in the State of Florida this day one half, if, indeed, there is one third, of the wealth or the ability to bear the burdens of taxation that is to be found in the average congressional districts of the United States. At the last election 24,819 votes were cast. The number of registered voters was 28,003. This differs but little from the vote cast in the several congressional districts of the United States. I have a copy of the constitution of Florida in my hand, and from the provisions of that instrument relating to the appointment and election of the officers of the State I will show to the House what officers are appointed by the Governor with the consent of the Senate, what officers are appointed without the advice or consent of the Senate, and what officers are elected by the people, with the terms of each and their salaries, so far as they are fixed by the constitution. Of all the officers of that State the Governor, Lieutenant Governor, Legislature, and constables alone are elected by the people. The following officers are to be appointed by the Governor by and with the advice and consent of the Senate: one chief justice for life, with a salary of \$4,500; two associate justices for life, at a salary of \$4,000; seven circuit judges for eight years, with salaries to be fixed

by the Legislature; thirty-nine county judges for four years, with salaries to be fixed by the Legislature; seven State attorneys for four years, with salaries to be fixed by the Legislature; thirty-nine sheriffs for four years, with salaries to be fixed by the Legislature; thirty-nine circuit court clerks for four years, with salaries to be fixed by the Legislature; one secretary of State for four years, at a salary of \$4,000; one attorney general for four years, with a salary of \$3,000; one comptroller for four years, at a salary of \$3,000; one treasurer for four years, at a salary of \$3,000; one surveyor general for four years, at a salary of \$3,000; one superintendent of public instruction for four years, at a salary of \$3,000; one adjutant general for four years, at a salary of \$3,000; one commissioner of immigration for four years, at a salary of \$3,000; two major generals, term and salary not fixed; four brigadier generals, term and salary not fixed; all militia officers in the State; thirty-nine county assessors for two years, salaries to be fixed by the Legislature; thirty-nine county collectors of taxes for two years, with salaries to be fixed by the Legislature. All these officers are to be appointed for that insignificant State, probably inferior in population, and certainly inferior in wealth, to the average congressional districts of the country, by and with the advice and consent of the Senate, and all the salaries which I have indicated are fixed by the constitution.

I come now to the list of officers to be appointed without the consent of the Senate. They are thirty-nine county treasurers for two years; thirty-nine county surveyors for two years; thirty-nine county superintendents for common schools, each for two years; one hundred and ninety-five county commissioners, each for two years; and as many justices of peace as the Governor may see fit to appoint, each holding his office for life, or at the pleasure of the Governor.

The Governor is chosen by the people for the term of four years, at a salary fixed by the constitution at \$5,000. The Lieutenant Governor is chosen by the people for four years, with a salary fixed by the constitution at \$2,500. Fifty-three representatives are chosen by the people, each for two years, at a salary of \$500, fixed by the constitution, beside mileage. Twenty-four Senators are chosen by the people for four years, at \$500 salary, fixed by the constitution, beside mileage; and constables are to be chosen by the people, one for every two hundred people. These are the officers to be elected by the people.

I am asked by a gentleman near me what are to be the total expenses of this government. I have a table showing in separate columns such of the salaries of these officers as are fixed by the Constitution. I have also estimated the salaries which are to be fixed by the Legislature. I have placed these latter at the lowest possible figures, and it appears that the aggregate annual salaries to be paid the officers of this little State will exceed seven hundred thousand dollars, a burden which almost every congressional district represented in this House is better able to bear than Florida. I send to the Clerk the following table:

*Officers of Florida appointed by Governor and confirmed by Senate.*

	Term.	Salary.
1 chief justice.....	Life.....	\$4,500
2 associate justices.....	Life.....	4,500
7 circuit judges.....	8 years.....	By Legislature
39 county judges.....	4 years.....	By Legislature
7 state attorneys.....	4 years.....	By Legislature
39 sheriffs.....	4 years.....	By Legislature
39 clerks, &c.....	4 years.....	By Legislature
1 secretary of State.....	4 years.....	\$3,000
1 attorney general.....	4 years.....	3,000
1 comptroller.....	4 years.....	3,000
1 treasurer.....	4 years.....	3,000
1 surveyor general.....	4 years.....	3,000
1 superintendent public instruction.....	4 years.....	3,000
1 adjutant general.....	4 years.....	3,000
1 commissioner immigration.....	4 years.....	3,000
2 major generals.....	Not fixed.....	By Legislature
4 brigadier generals.....	Not fixed.....	By Legislature
All militia officers.....	Not fixed.....	By Legislature
39 county assessors.....	2 years.....	By Legislature
39 county collectors.....	2 years.....	By Legislature

*Officers of Florida appointed by Governor alone.*

	Term.	Salary.
39 county treasurers.....	2 years.....	By Legislature
39 county surveyors.....	2 years.....	By Legislature
39 superintendents common schools.....	2 years.....	By Legislature
195 county commissioners.....	2 years.....	By Legislature
Justices of Peace at libitum (say 100).....	Life.....	By Legislature

*Elected by people.*

	Term.	Salary.
1 Governor.....	4 years.....	\$5,000
1 Lieutenant Governor.....	4 years.....	2,500
53 representatives (beside mileage).....	2 years.....	500
24 Senators (beside mileage).....	4 years.....	500
1 constable (1 per 200 voters) (say 100).....	Not fixed.....	—

Now, Mr. Speaker, I cannot consent to fasten upon these people this constitution by approving it to-day in this House. When you come to look at the difficulties in the way of amending the constitution you find additional reasons for hesitating to accept it. I read the constitutional provisions on this subject:

"Any amendment or amendments to this constitution may be proposed in either branch of the Legislature; and if the same shall be agreed upon by a two-thirds vote of all the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on their respective journals, with the yeas and nays thereon, and referred to the Legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice; and if, in the Legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a two-thirds vote of all the members elected to each House, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people in such manner and at such time as the Legislature may prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the Legislature voting thereon, such amendment or amendments shall become a part of the constitution."

It is necessary that two thirds of two successive Legislatures should adopt an amendment to the constitution, and then that the people should ratify it by their own vote. When you consider, sir, that the Governor of the State has the entire patronage of the State, so far as the appointment of executive, administrative, and judicial officers, justices of the peace, and all county officers is concerned, you must see how utterly impossible it will be for the people to shake off the provisions of this constitution which we shall to-day by our votes, if we concur in the amendments of the Senate, fasten upon the people of the State of Florida.

[Here the hammer fell.]

Mr. BUTLER. Will the gentleman from Ohio yield to me?

Mr. BINGHAM. I yield ten minutes.

Mr. BUTLER. Mr. Speaker, I have only the interest in the State of Florida that any other gentleman in the House has; and I only desire a few moments to relieve the provisions of this bill from the argument to prejudice which my friend has put before the House; for after all it is an argument to prejudice.

In the first place, let us examine the method of amending provided for by the constitution of Florida, which he thinks is highly improper and detrimental to the interests of a republican form of government. It is exactly the provision contained in the constitution of the State of Massachusetts; it is exactly the provision of the constitution of the State of New Hampshire; and in Massachusetts we have five times amended our constitution when we have found it necessary. Besides, in New Hampshire it takes two thirds of the people, as my friend from New Hampshire suggests. The fact is that the good people of Florida have taken the old constitution of Massachusetts, New Hampshire, and Maine, and have ingrafted provisions suitable to their condition upon it, and made it their constitution; and the argument made here goes exactly to the constitutions made by our fathers in 1789, and so downward, under which we have lived and grown to man's estate, without being aware we were not living under a truly republican form of government.

Now, then, in regard to the formidable list of State officers here presented. There are



thirty-nine counties in Florida, therefore there must be thirty-nine county assessors. Which county will the gentleman leave without one? There are thirty-nine counties, and there must be thirty-nine county judges, thirty-nine sheriffs, thirty-nine county clerks, and thirty-nine collectors of county taxes.

Again, it is said the constitution of Florida is not republican because these officers are appointed by the Governor. Why, sir, up to 1855, every State officer in the States of Massachusetts, New Hampshire, and Maine was appointed by the Governor or by the Legislature, and we did not have the advice and consent of the Senate to a single appointment of the Governor. And yet we have an idea in Massachusetts that we were reasonably republican in our State Governments.

Let me say another thing. In 1855, under the Know-Nothing Legislature, we amended our constitution in this regard; we elected these officers, every one of them. Now, the proposition in Massachusetts is to come back to the appointment of these officers because it is found that local elections of prosecuting officers give local control to the administration of justice, and bring with them influences which are prejudicial to public interests.

Now, let me say a word upon this subject in another view. My friend has given you an argument drawn from the number of inhabitants of the State of Florida. What are you to do with her? To make a Territory of her? My friend from Illinois [Mr. WASHBURN] says yes.

Mr. WASHBURN, of Illinois. As the gentleman has stated what I said, let me add that, so far as I am concerned, I would remand Florida back to her territorial condition. I do not want her to come here with two Senators to offset the Senators from Illinois or Pennsylvania or New York, and particularly under this constitution. She would get into rebel hands under it.

Mr. BUTLER. I did not yield to you, my friend. Now, let me ask, in answer to that, has she not as many inhabitants as Colorado had, for the admission of which the gentleman voted?

Mr. WASHBURN, of Illinois. I beg your pardon; I voted against it.

Mr. BUTLER. Very well; I am glad the gentleman had so much good sense. Has she not as many as Nebraska had when she was admitted? [Cries of "Oh, no!"] She has, indeed, and more. Has she not as many as Nevada had? Has she not as many as Wisconsin had when she was admitted? [Cries of "No, no!"] "Yes; but the people were different." I am talking about heads now; not hearts. I am talking about numbers. If you are going to make this the rule, then send back these gentlemen from these other States, and remit those States to a territorial condition.

Now, then, it is said that Florida went into the rebellion. So she did. She could not do otherwise, situated as she was. I have nothing to ask for her on that account. But true men, loyal men, good men have gone down there, and have regenerated that State. Twenty-four thousand votes were cast, and that was a very large number out of a population of one hundred and sixty thousand. Twenty-eight thousand voters registered, and twenty-four thousand votes were cast, and of that number the Union men had eight thousand majority for this State government, although there was a division, under the lead of an Illinois man, both in the convention and at the election. I say there was a division in the convention, under the lead of an Illinois man, and General Meade was sent for to heal the difficulty.

Mr. FARNSWORTH. Will the gentleman allow me a moment?

Mr. BUTLER. I have not time.

Mr. FARNSWORTH. You can get your time extended.

Mr. BUTLER. If you will get my time extended, I will yield.

Mr. FARNSWORTH. I ask the gentleman from Ohio [Mr. BINGHAM] to extend the gen-

tleman's time five minutes that I may put a question to him.

Mr. BINGHAM. I will do so.

Mr. FARNSWORTH. The gentleman says that under the lead of an Illinois man a division was attempted in the convention of Florida.

Mr. BUTLER. Yes, sir.

Mr. FARNSWORTH. I suppose he alludes to the first president of the convention, Mr. Richards. According to the report of the men who made this constitution, when the convention first assembled Mr. Richards was legally elected president of the convention. He was not the man who undertook to create a division. It was these other men who withdrew from the convention and subsequently came back at midnight on Sunday and by force broke open the hall and took possession of it. That was where the division first began after the convention had been duly organized.

Mr. BUTLER. Well, was not that the proper time to come back? The convention had adjourned till Monday, and it was necessary that they should come back on Monday morning.

Mr. FARNSWORTH. The men who adjourned the convention were not the men who came back. The men who took possession of the hall were the men who had stayed away.

Mr. BUTLER. I cannot yield further. I was about saying that they came back and took possession of the hall, from which they had been driven by force, and that thereupon General Meade was sent for, and he came down and reinstated these men. The gentleman himself says that the others were kept out by bayonets. Whose bayonets, I pray? The bayonets of the United States, under the orders of the commanding general who went down there.

Mr. FARNSWORTH. Will the gentleman allow me?

Mr. BUTLER. I cannot be interrupted.

Mr. FARNSWORTH. I wish to correct a misstatement.

Mr. BUTLER. You have told your side of the story.

Mr. FARNSWORTH. I have the statements of both sides in my hand.

Mr. BUTLER. I understand precisely how it is. The gentleman has heard Mr. Richards's story, and comes here and retails it to the House. I have heard the other side, and I am going to put before the House such information as I can.

Mr. FARNSWORTH. Will the gentleman yield to me?

Mr. BUTLER. I cannot.

Mr. FARNSWORTH. I got the gentleman's time extended five minutes, and I think he should yield me some of it.

Mr. CHANLER. I rise to a point of order. The gentleman from Ohio [Mr. BINGHAM] extended the time of the gentleman from Massachusetts [Mr. BUTLER] on condition that he should yield to the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. BINGHAM. Oh, no! I yielded five minutes to the gentleman from Massachusetts [Mr. BUTLER] so that he might answer the question of the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. BUTLER. And which I did answer as well as I could.

I now desire to go a little further into this matter. General Meade went down there and sustained the convention. After that the constitution was submitted to the people, and the people ratified it by a majority almost two to one.

What was done next? The Legislature of that State got together and ratified the fourteenth constitutional amendment. On the 15th of this month that Legislature is to elect officers; and on the 16th United States Senators are to be elected.

Now, I want to deal with another argument of gentlemen here. Mr. Reed, the Governor-elect, had been employed there; and thereupon the unfriendly liars who opposed him insisted all around that he was at work to endeavor to elect Postmaster General Randall a United States

Senator from that State. That story was set afloat, and I am sorry to say has found some believers. That will be settled on the 16th of this month. But they have no more intention of electing Alexander Randall, and he is no more eligible, than my friend from Illinois, [Mr. FARNSWORTH;] not a bit; and there is no more danger of his being elected.

Now let me answer the statement of the gentleman from Illinois on my right, [Mr. WASHBURN.] He said he would remit Florida back to its territorial condition. Very well, gentlemen, if you will put all these southern States back into a territorial condition I will go with you. But if you are going to rehabilitate any of these States after their rebellion then serve all alike.

When Texas was admitted into the Union she was admitted with two members of Congress and twelve thousand voters. And it is now proposed by some gentlemen to cut up that State into two, three, or four States.

But time presses, and I must speak briefly on these different points. In the first place, this State organization of Florida has the approval of General Meade. In the next place, it has the approval of the Judiciary Committee of the Senate, and of the Senate. In the third place, it has the approval of a majority of the Reconstruction Committee of this House. Now, are these men all so deceived, and is all virtue—no, I will take that back—is all knowledge of the subject confined to my friends from Illinois, [Mr. WASHBURN and Mr. FARNSWORTH,] and my friend from Wisconsin, [Mr. PAINE?]

All these arguments, all these statements, all the provisions of this constitution have been submitted to the Judiciary Committee of the Senate, and they have found the constitution republican and proper. This constitution has been submitted to the Senate, and they have found it republican and proper. It has been submitted to your own Committee on Reconstruction, and they have found it republican and proper, and have reported it to this House. Now, if you set the example of going back on the matter of reconstruction, I have no doubt there are a good many ready to follow that example. If I were to follow my own ideas altogether, unrestrained by party associations, upon this as a mere matter of policy, I should doubt very much the policy of rehabilitating any one of these southern States. But I hold it as a question of policy as to when these States should be admitted, and not a question of principle, and upon that I feel bound by my party ties. Therefore I shall vote for this bill. I shall hope to see Florida again represented in Congress. I consider that State more certain for the Union and more determined against rebellion than any other of these States, because into that State have gone a great number of northern emigrants to settle there, and she is more sure for the Union than any other southern State.

[Here the hammer fell.]

Mr. HULBURD. Will the gentleman from Ohio [Mr. BINGHAM] yield to me for a few minutes?

Mr. BINGHAM. I will yield to my colleague on the committee for ten minutes.

Mr. HULBURD. Mr. Speaker, when the matter of Florida originally came before the Committee on Reconstruction I concurred with my colleagues on that committee in opposing its admission. And when we originally reported this bill to the House the State of Florida was not embraced in it. There were objections made to the constitution which led me to vote against it.

Since that time the constitution has been objected to has been submitted to the people of Florida, and they, as has already been stated, by a vote of nearly two to one, have accepted that constitution, and ratified it so far as they could ratify it. They now ask that we should admit them into the Union under that constitution.

Now, my friend from Wisconsin [Mr. PAINE] objects to some of the provisions contained in that constitution, especially the provision con-

ferring so sweeping an appointing power on the Governor. To that argument the gentleman from Massachusetts [Mr. BUTLER] has very well answered that the appointing power vested in the Governor under the constitution of Florida is no greater than that formerly exercised by the executive in the New England States and in the State of New York. The real reason for this vesting the appointing power in the Governor of Florida has not yet been stated. I propose briefly to state it, that members of the House may understand the reason for this apparent anomaly.

Among the thirty-nine counties of the State of Florida there are several in which rebel voters are now in the ascendancy. If they are allowed to erect their county organizations by electing county officers it will be done by rebel hands, under rebel auspices, and for rebel purposes. Now, there has been vested in the hands of the Governor the power to make these appointments to insure loyal Union organizations in all the counties. Is not that right, and therefore proper? I do not understand that Governor Reed, the Governor-elect, is charged by anybody with being in sympathy at all with disloyalty or rebellion. His nominations, therefore, will be in the interest of loyalty, of patriotism, of Unionism. It is urged that if these appointments are thus made and have four undisturbed years to run all the counties, including the now rebel counties, will become loyalized and Unionized, so that thereafter they will be true and loyal, part and parcel of a loyal State. Is not that desirable? Is it not worth an effort?

But it is asked—and this is one of the objections made by the gentleman from Wisconsin, [Mr. PAINE]—why not change after that time this provision with regard to the appointing power? Why, sir, provision is made in this very constitution for a revision and modification of any of its provisions, except those affecting the franchise rights, whenever the people of Florida dislike the lodgment of so much power in the hands of the gubernatorial officer. A majority vote of two successive Legislatures and a submission to, and approval by, the voters are all the preliminaries required.

But the gentleman from Wisconsin [Mr. PAINE] objects to the high salaries which are provided for. Why, sir, is it desirable that we here should take into consideration and fix the salaries of the Governor and other officers of the various States of this Union? Suppose we should be called on to say the salary of the Governor of Vermont, which is only \$700, ought to be raised to \$7,000. We might, with as much propriety, interfere in that matter; as to say that because the State of Florida has provided high salaries for her State officers we will keep her out of the Union till she reduces those salaries to suit our views. It is very well known that the southern States have always been in the habit of paying their officers higher salaries than those received by the same officials of our northern States. I understand that before the rebellion the salaries paid to the officers of all the southern States were high in comparison with those paid by the States of the North. Is that anything that concerns us? I cannot see the force of an objection founded upon this matter of salaries. So long as the suffrage rights of all the population, without regard to grade, condition, or color, have been cared for, have been properly secured, and the spirit of the reconstruction acts have been complied with, I cannot see how or why we should oppose the admission of Florida because we object to some details involving no general principles or rights, about salaries provided for in the constitution, or because we think the appointing power is too largely vested in the executive of the State, or because we, perchance, differ about the propriety of several of the subordinate local, county, and State officers holding office for the term of four years.

Mr. BROMWELL. I desire to ask the gentleman from New York [Mr. HULBURD] whether he thinks it entirely safe to trust so important a consideration as the loyal organization of a

State entirely in the hands of one man, so that if he should prove recreant, or, dying, should be succeeded by the Lieutenant Governor, there would be nothing to hinder the entire organization of the State from being committed to the hands of rebels.

Mr. HULBURD. Sir, the people of the State of Florida have not made the tremendous mistake that was made at Baltimore in 1864, by selecting for their second officer a thing who cannot be trusted in case the executive power should devolve upon that officer.

Mr. BROMWELL. But does not the whole thing depend upon one man's fidelity; and if he should die is the man who would succeed him as good as he is?

Mr. HULBURD. He is, I believe, an honest and true, capable loyal man. But, sir, this whole objection arises, as I understand, because a citizen of Illinois went down there and did not succeed in obtaining the majority which he expected. When he went before the people and asked that his particular views and representations should be carried out he succeeded in getting elected only six members of the Assembly. If that Illinois man had succeeded in getting the control of the organization of the State doubtless there would have been no objection here now to the admission of the State, for she cannot be kept out longer on any principle of consistency, I had almost said of decency.

Mr. BROMWELL. I wish to say, so far as I am concerned, that it has nothing to do with this matter what the performances of Mr. Richards have been there, and I have never had any idea that his welfare had anything to do with this matter.

Mr. HULBURD. The constitution of Florida was approved by General Meade, and I say now approved by a majority of the Committee on Reconstruction of this House, who were formerly opposed to its adoption. Is there any good reason, founded on fundamental principle, why this House should not now approve of this bill as amended by the Senate?

Mr. FARNSWORTH. My friend will say when the Committee on Reconstruction approved of this constitution of Florida.

Mr. HULBURD. If it were right I could state what occurred in the committee-room. If my friend will allow me, I will do so.

Mr. FARNSWORTH. I do.

Mr. HULBURD. I understood my friend from Illinois to say in the committee-room this morning that he regarded the constitution of Florida as the best constitution that any of the southern States had adopted.

Mr. FARNSWORTH. The gentleman is entirely mistaken. I never made any remark like that, and the gentleman is mistaken.

Mr. HULBURD. I understood the gentleman to say that it was the best constitution that had been adopted by any of the southern States.

Mr. FARNSWORTH. I never said anything of the kind.

Mr. HULBURD. What, then, was the gentleman's remark, and to what did it apply?

Mr. FARNSWORTH. I may have made a remark in reference to Alabama.

Mr. HULBURD. I was under the impression the gentleman also made this remark in reference to the constitution of Florida.

Mr. FARNSWORTH. The gentleman will do me the justice to say that I said nothing of the kind in reference to the constitution of Florida.

Mr. HULBURD. I did so understand the gentleman; but of course I may have been mistaken.

Mr. FARNSWORTH. The Committee on Reconstruction have unanimously and repeatedly declared against this constitution of Florida.

Mr. HULBURD. Yes, they have; but not since the constitution was submitted and sanctioned by the people.

Mr. FARNSWORTH. Repeatedly; and they do now; but they say that we had better admit the State.

The SPEAKER. The ten minutes of the gentleman from New York have expired.

Mr. BINGHAM. I yield to the gentleman from Illinois.

Mr. BAKER. I wish to say, Mr. Speaker, that as this legislation involves some large questions of law and policy, and as three or five minutes are too short a time in which to discuss them, I will content myself with asking leave to print some remarks on this and the Arkansas bill.

There was no objection; and it was ordered accordingly. [See Appendix.]

Mr. BINGHAM. Mr. Speaker, I do not desire to delay the House with an extended discussion of this bill. I desire to obtain the action of the House speedily on the bill; and having stated very briefly my own views touching the bill, and the reasons why it should pass the House, I will call for the previous question.

Mr. SPALDING. I desire to move to strike out Alabama as well as Florida.

Mr. BINGHAM. I yield for that amendment to be offered.

The SPEAKER. The question will be taken separately on them.

Mr. BINGHAM. On the subject of Alabama I suppose the House to be concluded. It has heretofore voted on the question of admitting Alabama to representation, and its constitution has not since changed, nor is the bill as to Alabama changed by any of the amendments of the Senate. Therefore it is not my purpose to make any further remark on that point.

Touching the objection, sir, that has been raised as to the admission of Florida, it seems to me gentlemen have spoken in haste. They cannot expect the House of Representatives, acting on the suggestions made here in opposition to the constitution of Florida, to condemn the continuous record of the Republic, without exception, for nearly the first forty years of its existence. I undertake to say, Mr. Speaker, of the constitution of the original thirteen States, the constitution of Florida, touching the appointment of judicial and executive officers, is substantially a transcript. It will not do for the House of Representatives at this time of day to declare that the constitutions of the original States of the Union, for the first forty years of our national existence, were not republican, and not in conformity with the Constitution of the United States.

Allow me to state further, Mr. Speaker, that several of the new States, upon their admission into the Union under the Constitution, conformed their constitutions in this behalf to the very provisions of this constitution of Florida and of the original thirteen States. The constitution of my own State, Ohio, followed that precedent, and gentlemen know right well that until within the last eighteen years when that constitution was amended, in 1850, all judicial officers in the State of Ohio were appointed in the same mode and manner as is prescribed in the constitution of Florida. I never heard, Mr. Speaker, the question raised that the constitution of Ohio, adopted in 1802, was not republican.

This is all I have occasion to say upon that point. Touching the other point suggested by the gentleman as to the sparseness of population, I pray gentlemen to hesitate long before they venture to decide that the people of Florida are not sufficiently numerous to constitute a State of this Union, when in point of fact that State is as populous to-day as it ever was at any time after the admission of that State into the Union of the States. There is as much population there to-day as ever there was. It will not do for men who represent the great body of the American people, after all the record that has been made upon this subject, to come and say that the people of Florida are not sufficiently numerous to constitute a State of the Union. Much less will it do for the majority of this House, after the record they made upon the question of the admission of Colorado into the Union as a State with only some six thousand voters, to come and say



in the face of that record—with twenty-four thousand votes cast in Florida under the operation and limitation of your own laws for the new constitution of that State—that there is not sufficient population in Florida to constitute a State.

Neither will it do, Mr. Speaker, for gentlemen who stand here representing the democratic ideas of America to come and condemn a constitution, in the presence of which the constitutions of half the States of the Union pale touching the question of democratic rights and privileges, and vote this constitution down on that ground. The constitution of Florida makes no discrimination between American citizens of full age being made persons resident in the State, but secures the equal right of suffrage to every one of them upon one year's residence. That accords exactly with my ideas of democracy, as I believe it accords exactly with the ideas of democracy entertained by four fifths of the whole body of the American people. The constitution, sir, is democratic by all the traditions of the Republic. It is republican by all the interpretations of the Constitution of the United States.

Having said this, I shall vote, if I shall vote alone, for the admission of Florida. And I vote for the admission of the five remaining States named in the bill upon the same ground that I would vote for the admission of Florida, to wit, that their constitutions are republican and their provisions for the exercise of the elective franchise democratic; and above all—and it is to this I call the attention of this House and of this country—because upon the admission of these six States, upon the express condition named in the bill, may depend the final ratification and incorporation into the Constitution of the Republic of the fourteenth article of amendment.

Oregon but the other day, under the operation of the apostate in the White House, elected a Legislature adverse to—

Mr. BROOKS. Mr. Speaker, I will not call the gentleman to order, but he ought to be.

The SPEAKER. The gentleman calls the gentleman from Ohio to order.

Mr. BROOKS. No, sir, I do not, upon reflection.

Mr. BINGHAM. Perhaps I ought not to have said it.

The SPEAKER. The Chair did not hear what the words were.

Mr. BROOKS. Impeachment is over, and that sort of language is done.

Mr. BINGHAM. It is not quite over.

Mr. BROOKS. Well, go on.

Mr. BINGHAM. There is another tribunal before which we are to try impeachment.

A MEMBER. A *post-mortem*? [Laughter.]

Mr. BINGHAM. Never mind the *post-mortem*. I mean the great body of the American people; they are not dead nor the subjects of a *post-mortem*.

Mr. ROBINSON. Will the gentleman allow me to ask a question?

Mr. BINGHAM. Not now.

Mr. ROBINSON. I thought not.

Mr. BINGHAM. I was calling attention to the fact that—

Mr. SHELLABARGER. Will my colleague allow me to ask a question and make a short statement?

Mr. BINGHAM. I yield to my colleague.

Mr. SHELLABARGER. In the first place, the question I desire to ask my colleague, and which he will answer at his convenience as he proceeds with his remarks, is whether the committee find, and whether in his judgment the fact be so, that Florida, in presenting herself for readmission to her Federal relations, has conformed to the requirements of the acts of Congress relating to that matter? And if Florida has complied with those acts of Congress in substance and in spirit, then the remark that I wish to make is that my own mind furnishes an answer to all that has been said in the way of objections to the details of the constitution of Florida, and it is that those details relate to matters not affecting the

loyalty and safety of the government which is presented for our approval and for the guarantee of the United States. They relate to matters of detail which the people at all times have power to control, and it would be to my mind a strange and wrong position for the Congress to take, to exclude from representation a State on the ground that its constitution in these matters of detail, which do not go to the matter of loyalty, or of safety, or of propriety of being guaranteed, may not be in accordance with the minds of some of us.

And permit me, in conclusion, to say this: that so far as my memory goes, in all the action of Congress the principle upon which we have acted—I mean the majority in Congress, who have the responsibility of rehabilitating these States and welcoming them back as speedily as possible, with the invocation of God's blessing and the blessing of all good men upon them—I say the principle upon which we have acted has been not to control in details, not to take microscopic views of the constitution, &c., that they present, but simply to see that they are loyal and republican and safe. It was rebellion that dashed them from their orbits, and as soon as the rebellious spirit is purged from them, and they are made right in regard to loyalty, let us welcome them back. That has been from the first and will be to the last my own view of this subject.

Mr. BINGHAM. I am glad that my colleague has said what he has said, and especially that he has asked me the question whether Florida has complied with the requirements of the reconstruction acts in the matter of reorganization. I answer him emphatically and directly that she has, and I challenge contradiction from any quarter.

I agree with my colleague that we have no right to question a State about the local details of her constitution, which do not touch the general safety of the Republic and do not conflict with the requirements of the Constitution of the United States or any existing statute law. But, sir, I ask the House to consider the point upon which I was dwelling when my colleague interrupted me so opportunely and so properly, that it does concern the safety of this Republic whether the fourteenth article of amendments shall become part of the fundamental law of the nation. The condition precedent incorporated in this bill, which now presses for decision before this House, is that not one of the six States named in it shall come to political power save upon the condition that its Legislature shall in due form ratify the fourteenth article of amendment. I stand here, Mr. Speaker, to proclaim that by that act of ratification, upon every theory, the fourteenth article becomes part of the Constitution of the United States, and becomes thereby, for all the great hereafter, a rock of safety to all the people of the Republic. It puts an end forever to this wild and guilty fantasy that there is a sovereignty residing in any State of the Union superior to the sovereignty of the Republic; it puts an end forever to the mad declaration of demagogues that it is competent for any State of this Union to enact an ordinance of secession or to levy taxes to the extent of a single farthing for the purpose of waging war against the supremacy of the Republic and the supremacy of its laws.

Mr. Speaker, it does strike me that the decision of this very question upon which the House is about to pronounce may in some sort affect not merely the stability of a political party in this country, but may in some sort touch the stability and perpetuity of the Republic.

I am willing to take all the consequences, and therefore ask that the House will now second the previous question. After that has been done, if some gentlemen desire to be heard to any reasonable extent, I am perfectly willing they shall be heard in the hour to which I will be entitled.

Mr. FARNSWORTH. Will the gentleman from Ohio [Mr. BINGHAM] yield to me for a few minutes upon the question of the proceed-

ings in Florida being in accordance with the reconstruction acts of Congress?

Mr. BINGHAM. After the previous question is seconded I will yield to the gentleman.

The previous question was then seconded and the main question ordered.

The SPEAKER. The gentleman from Ohio [Mr. BINGHAM] has forty-eight minutes of his hour left, having occupied twelve minutes of his time before the previous question was called.

Mr. SPALDING. I understand that both Houses of Congress have agreed to the admission of Alabama, and therefore I will withdraw my motion to strike out of the Senate amendment all that relates to Alabama.

Mr. BINGHAM. I now yield for ten minutes to the gentleman from New York, [Mr. BROOKS,] my associate on the Committee of Reconstruction.

Mr. BROOKS. I am well aware that whatever may be said on this subject on this side of the House is said to unwilling ears. It is not, therefore, from any desire to address this House that I shall make the few remarks that I am about to make, but because it is a part of my duty, as a member of the Committee on Reconstruction, to oppose the passage of all such bills as this.

And first, let me refer to the remark of the gentleman from Ohio, [Mr. SHELLABARGER,] on the other side of the Chamber, that it is not the business of Congress to look into and change constitutions, as suggested by the gentleman from Illinois, [Mr. FARNSWORTH.] He says that as constitutions are framed by the people, it is the duty of the House to submit to the judgment of the people who framed those constitutions. But what is the spectacle presented by this very bill? Georgia presents here a constitution with a provision relating to homesteads.

Mr. SHELLABARGER. Will the gentleman permit me to correct him in relation to a slight misapprehension he has made of what I said?

Mr. BROOKS. Yes, sir.

Mr. SHELLABARGER. I did not say, and I do not think it will be found that I said, that it is not the duty of Congress to look into the constitutions presented by the States. I said that it was not proper for Congress to look into those details of the constitutions which are under the control of the people at all times, and which do not at all affect the loyalty of the people of the State.

Mr. BROOKS. I understand the gentleman. Yet in this very bill we have looked behind the constitution of Georgia and propose to strike out of that constitution all that relates to the homesteads which the people of Georgia have secured to themselves. With a microscopic view the Committee on Reconstruction, or a majority of them, have looked into the details of the constitution of Georgia, and propose to strike out of it certain provisions.

The gentleman from Ohio [Mr. SHELLABARGER] says all we have to do is to look to the loyalty of the people; in other words, to look to the politics of the people; for in the modern acceptance of the term, with the metamorphosis which the definition of the word has undergone since Webster, Worcester, and other lexicographers gave the definition, loyalty has now come to mean only an agreement with the views of the majority of this House; or, in other words, an indorsement of the radicalism of the country.

Now, I will not say in regard to loyalty what Dr. Johnson said about patriotism, for it would not be in order. Dr. Johnson said that patriotism was the last refuge of scoundrels. Now, I will not say that loyalty is the last refuge of scoundrels, for even if I were disposed to do so it would not be within the bounds of order for me, even metaphorically, to make a declaration like that on the floor of this House. But I do say that loyalty now means accord with the party in power. And hereafter lexicographers, if they make definitions founded upon the action of this House, will

be obliged to change their old definition of "loyalty" from lealty or loyalty to law, and define it to mean only allegiance to the Republican party, to the party in power.

The gentleman from Ohio [Mr. BINGHAM] on my left, avows plainly and directly before the country, and I admire the audacity with which he avows it, that the whole and sole object of incorporating Florida in this bill is to secure the ratification of the fourteenth amendment to the Constitution of the United States.

Mr. BINGHAM. The gentleman will excuse me, but I said neither the whole nor the sole of it.

Mr. BROOKS. I do not wish to misrepresent the gentleman. Let him repeat what he said.

Mr. BINGHAM. Well, I said nothing of the kind. I said that upon the admission of the sixth State might depend the ratification of that amendment; and I stated that as a strong reason why the State should be admitted.

Mr. BROOKS. Ah, that is simply the same idea in other words; or, in point of fact, the gentleman has consulted his arithmetic, his addition and subtraction, and by the process of two of the great rules of arithmetic he has come to the conclusion that unless Florida be included in this omnibus bill the proposed fourteenth article of the amendments of the Constitution cannot be carried; that it is necessary, in order to carry that amendment, to include Florida in this bill, and to admit her with these other States. That is the idea which the gentleman avows. So that while one gentleman from Ohio [Mr. SHELLABARGER] avows "loyalty," *alias* Republicanism, as his definition of the standard by which the admission of States is to be determined, the other gentleman from Ohio [Mr. BINGHAM] lays it down as his fundamental creed that in order to change the Constitution of the country, it is necessary, according to his arithmetic, no matter what may be the constitution of Florida, no matter whether the State may be rebellious or anti-rebellious, to overlook and override all other considerations and to admit the State for that object, if not for that object alone. And this is an argument which he addresses to the intelligence, to the patriotism, to the loyalty of the other side of the House, in order to consolidate those ranks over there which have been divided; and he thinks that by an appeal of this sort, altogether of a party character, he can make men change their opinions; and for that purpose, if not for that purpose alone, to alter the very fundamental law of this country. I admire the audacity of that avowal. It may be useful, if not now, hereafter, that posterity may see why and with reference to what the Constitution of the country has been changed.

Sir, if I could look upon this question as being, what the gentleman from Massachusetts [Mr. BUTLER] declares it to be, a question not of principle but of policy, I do not know but that I should agree with him as to the admission of the State of Florida in this omnibus bill. Sir, the party in power will reap no profit hereafter from this arrangement. Conceived in fraud, brought forth in iniquity, as this constitution and that convention were, the admission of the State under such an organization, though it may serve the temporary purpose of securing a change in the Federal Constitution, can result in no good, but rather detriment, to the party in power.

As I have before stated on this floor, two sets of Yankees—"carpet-baggers" from the North and the West—one set from the distant State of Wisconsin, and the other from New England, not having been absent from there long enough to have lost the nasal twang with which they started from their original homes, came before the Reconstruction Committee and contested long and earnestly the question which set of these "carpet-baggers" properly represented the sentiment of the State of Florida. So earnest had been this same contest in that State that General Meade was brought from his headquarters at Atlanta to settle the contro-

versy between the two contending factions of the convention. Equally earnest, equally fruitful in invective and denunciation were these two sets of Yankees that appeared before the Reconstruction Committee. By this bill the Wisconsin set of Yankees is received and the New England set rejected; and the constitution and laws of the State have been so arranged that when the Governor-elect of the State shall be elected to the United States Senate, as he will be, the Lieutenant Governor, also from Wisconsin, steps in and becomes the Governor, with all the appointing power and all the patronage which this bill will concentrate in the hands of that officer. Sir, not only was the constitution conceived in fraud, but the elections were brought forth in iniquity.

We are told that there are twenty-four thousand voters in the State of Florida. The marvel is between these two sets of contending Yankees before the negroes of Florida that the twenty-four thousand was not aggravated into the number of two hundred and forty thousand voters. If the contest had been severe and sharp enough before the ignorant negroes of Florida these votes might not only have been multiplied, but doubled and quadrupled, increased from twenty-four thousand to two hundred and forty thousand. Give me a committee of this House to visit the State of Florida, and I will show that in no primary election in the State of New York ever conceived there in fraud, and never in any place whatever, in the innermost recesses of any invisible groshop, was ever conceived a system of election more fraudulent, more rascally, more villainous than the mass of these elections in the various counties of Florida. Yet here, without investigation, without looking behind the record at all, the honorable gentleman from Ohio comes in and tells us twenty-four thousand voters have voted to support this constitution of Florida.

The other honorable gentlemen from Ohio [Mr. SHELLABARGER] says that he would not look with a microscopic eye into these constitutions at all; and yet in this Florida constitution, in an amendment not submitted here, but in the Senate, in an amendment which comes down to us from the Senate, is a fundamental law fixed by us, a law as irreversible, as irrepensible, as immutable as the laws of the Medes and Persians, a law which puts it out of the power of Florida hereafter to regulate suffrage at their own election, which fixes and ingrafts upon the constitution of Florida for all time to come an immutable law in reference to the right of suffrage in Florida. Sir, this is not the work of Florida. This is the microscopic view of the two Houses of Congress in order to fix forever the right of the negroes to suffrage.

Sir, you legislate in this way in vain. The intelligence, the education of the country, to say nothing of the white race of the country, must govern there as everywhere else in the land.

The SPEAKER. The gentleman's time has expired.

Mr. FARNSWORTH. I wish the gentleman from Ohio to yield to me for five minutes.

Mr. BINGHAM. I yield to the gentleman for five minutes.

Mr. FARNSWORTH. I desire to say a word in reference to the regularity of the proceedings under the reconstruction law. I hold in my hands the proceedings of what is called the Reed party, submitted to the Reconstruction Committee by Lieutenant Governor Gleason. I will read from that statement:

"The convention met, pursuant to General Pope's order, upon the 20th of January. There were only twenty-nine delegates present of the forty-six elected, in consequence of the lack of facilities for traveling, the State being nearly destitute of railroads, and the steamboat communication irregular and uncertain. An effort was made to postpone the election of president until absent members could arrive, but the friends of Daniel Richards objected to any delay, and he was elected as president of the convention."

I will not read further. I can state the facts in fewer words. They became dissatisfied with the rulings of the convention and with the

appointment of the committees. Those who were thus dissatisfied left the convention for the purpose of leaving it without a quorum. They learned afterward the convention had made up a constitution, and had adjourned in order to hear from General Meade. They therefore returned, I think about eleven o'clock at night, and took possession of the hall. They then passed a resolution entering their solemn protest against the unauthorized, unprecedented, and arbitrary conduct of the presiding officer, Daniel Richards; that, himself ineligible to a seat in this body, as shown by the certificates of the board of registration, he had appointed a committee of three ineligible persons to determine the question of eligibility, and when an addition was asked to that committee he had refused to allow them to report. Then, at the close of the proceedings—and to this fact I desire also to call the attention of my colleague—in order to get the signatures of the delegates in that convention, they passed an ordinance that no delegate should have his pay unless he signed the constitution. That ordinance was passed by the convention. It is not to be found in the constitution, because it was not an ordinance to be submitted to the people. But both parties testified before the Committee on Reconstruction to that fact. The committee heard the statement of both parties when they were both present, so there was no possible chance of mistake in regard to the fact. I submit to my colleague whether this makes the proceedings regular and in accordance with the act of Congress.

Mr. BINGHAM. It is a very easy matter, I think, to answer all that has been said by my colleague on the committee [Mr. FARNSWORTH] touching the irregularity of this proceeding. It is very well settled in this country that the presentation of a constitution by the people of any organized Territory, or of any disorganized State of the Union, if you please, is a mere exercise of the right of petition; and it would be a sad day for the people of any State or Territory if it were in the power of their elected delegates in convention assembled by withdrawing in any manner from the convention to take away from them their undoubted right, upon their own motion, if you please, not contrary to law, but subordinate to it, to frame a constitution, vote upon it as your law requires, and present it to the Congress of the United States for approval. It is a question that was settled nearly forty years ago under the administration of President Jackson, settled in the light of an opinion delivered to the Congress of the United States by his distinguished and learned Attorney General, and from that day to this I have never seen it challenged by any man of any party deliberately, in Congress or out of it. It is for the people to pass upon the constitution of Florida, adopted by the people under your own law, no matter who draws up the form. It is for the people to pass upon it. That is the substance of your law; that the people may adopt constitutions of government in the late insurgent States.

Mr. WOODWARD. I ask the gentleman to name a State of this Confederacy which has had its constitution forced upon it by a military power.

Mr. BINGHAM. In the first place we have no confederacy. There was a confederacy sometime ago whose capital was in Richmond, but we have got no confederacy and no confederation now. We have a nationality; we have a Republic.

Mr. WOODWARD. I deny it.

Mr. BINGHAM. I know the gentleman denies it. So does Jefferson Davis.

Mr. WOODWARD. I deny that we have a nationality.

Mr. BINGHAM. I know the gentleman denies that we have a nationality. If we have no nationality, in God's name, by what name are we known among the nations of the earth?

Mr. WOODWARD. The gentleman does not answer my question.

Mr. BINGHAM. I do answer the gentle-

man's question; but I want to answer one part of it first, and I want him to understand that I do not admit that we are without a nationality. Neither do I admit that we are but a confederacy. It was necessary that there should be this conflict between the gentleman and myself, for it rests upon conviction.

Now, as to the other point suggested by the gentleman from Pennsylvania, [Mr. Woodward,] of a constitution forced upon a people by the bayonet within the Republic as the constitution of a State. I say it has never been done by the Government of the United States, nor is it attempted to be done now. The bayonet did not compel the people to vote. It cannot compel them to vote. The gentleman ought to remember the words of the great tribune of the people of France when he said, "Bayonets have no power over the will of the people." They have no more power over the will of the people than they have over the omnipotence of God himself. You may crush men by the bayonet, you may torture men by the wheel, but you can neither by the force of the bayonet nor the torture of the wheel compel freemen to vote! It is a libel upon the freemen of America, unworthy of the place and unjust to the people for any man to talk about American freemen, either among the everglades of Florida or among the granite hills of New England, being compelled to vote by the bayonet. I tell the gentleman he libels the American character when he intimates that any portion of the freemen of this country anywhere, North, South, East, or West, ever voted by compulsion of the bayonet. They vote voluntarily. They vote as freemen only dare vote, according to the convictions of their own minds and according to the purposes of their own will. That is my answer to the gentleman from Pennsylvania.

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question?

Mr. BINGHAM. Yes, but do not delay me.

Mr. ELDRIDGE. The gentleman has told us in very emphatic language that bayonets cannot force men to vote. Well, possibly that may be so, although a friend on my left says he has felt the power of the bayonet, and knows it has some compulsion in it. But I put the question to the gentleman if bayonets may not prevent men from voting, and stand between them and the exercise of the right of suffrage?

Mr. BINGHAM. That is another and very different question, sir, and that is the very thing that was done.

Mr. ELDRIDGE. That was the very thing that was done in these States.

Mr. BINGHAM. That was the very thing that was done for four long years by that party that followed the black banner of treason under the lead of gentlemen who called themselves the confederate States of America, and who seem to find an ally in the gentleman from Wisconsin, from the question which he propounds to me. I deny, sir, that American freemen have ever under the laws of Congress or by the will of the great body of the American people been deterred from voting according to their will and pleasure in accordance with the requirements and subject to the limitations of the Constitution of the United States. Twenty-four thousand men in Florida, constituting three fourths of the freemen of the State, entitled either under its ancient constitution or under our own laws of reconstruction to vote, and constituting the body of that people, acted under no coercion whatever. The man is inexcusable who undertakes to raise any such question here. It was in the power of the people of Florida to sit quietly in their homes, and there was no one to make them afraid or to drag them to the polls. On the contrary, they went voluntarily for the purpose of restoring that State, broken and blasted by armed rebellion, to its former place in the Union, and to give to its people their proper political power in the councils of the nation.

Mr. BECK. I would ask the gentleman whether in this very bill you are not seeking to impose upon the people of Alabama a consti-

tution which not only General Meade, but this House, has declared was rejected by the people of that State in the manner provided by your own law, namely, by staying away from the polls?

Mr. BINGHAM. Not at all. It never was any part of the law to which the gentleman refers that those men who stayed away and would not vote either one way or the other should deprive seventy-eight thousand qualified electors of the right of petition; nor was it, as my honorable colleague [Mr. Shellabarger] right well knows, ever the intention of any gentleman upon this floor who had anything to do with framing those bills to put it in the power of a set of men lately in rebellion to take away from the representatives of the people in Congress assembled the right at any time to alter, amend, or repeal their own laws in the interest of the common country and in the interest of the loyal people. Seventy-eight thousand freemen in Alabama voted for that constitution; and the gentleman from Kentucky, when he turns back the records of his country, will find that the party with which he is in some sort of alliance upon this floor deemed it important, in violation of every provision of the Constitution, to admit a foreign State into this Union after the treaty-making power had rejected it, represented by only twelve thousand voters, by joint resolution did admit the then foreign State of Texas. But that was in the interest of that Democracy which made merchandise of men; and this movement to-day is in the interest of that Democracy which secures freedom to all men and equal rights of suffrage, irrespective of social position, irrespective of complexion, irrespective of wealth, upon the simple condition of citizenship, adherence, and loyalty to the Constitution and laws of the United States within the several States of the Union. This is the marked distinction between the positions occupied by that party which the people have broken up and destroyed, and that great party which to-day represents the intellect and the heart and the conscience, not only of America, but of the civilized world.

And this brings me now to the point which I was approaching when the gentleman interrupted me. I desire to reply to the remarks of the gentleman from New York, [Mr. Brooks,] my associate on the Committee on Reconstruction. He undertook to limit the meaning of the few opening remarks which I made by incorporating into those remarks the words, "The sole purpose, the only purpose, the whole purpose, of admitting Florida is to secure the ratification of the fourteenth article of amendment to the Constitution of the United States."

Mr. Speaker, before I referred to the fourteenth amendment, I had uttered words which excluded every such conclusion as the gentleman has seen fit to draw from my remarks. I had said that the people of Florida had organized a State government republican in form; I had stated that their constitution was democratic; I had stated in substance that having conformed their constitution and laws to the requirements of the national Constitution, and to the requirements of the congressional acts of reconstruction, it was their right to be restored to political power in this Union, and that it was the duty of Congress, in the exercise of the power vested in it by the whole people of this country, to restore the people of that State to their former place in the Union.

The gentleman says there was audacity in my statement. Audacity in what, sir? Audacity in saying that we should lift up the fallen columns of the Republic? Audacity in saying that we should restore ten States, broken and disorganized by rebellion, to their places in the Union? Audacity to make again this great people one people from sea to sea? Audacity in using the words of the great Declaration to take new securities for the future safety of the people of this country, North and South, East and West? I expressed in those remarks which the gentleman calls audacious, merely the declared will of the people of the United States.

Audacity! Sir, is it not audacity in the gentleman, and in the miserable party which he represents, to undertake to thwart in this manner the solemnly declared will of the American people, from Maine to Oregon? Does not the gentleman know that within the last two years the people of twenty-three organized States of this Union, by overwhelming majorities, have declared that it is their will that the Constitution of the United States shall be so amended that State secession and State rebellion shall hereafter be left without color of excuse, without color of authority in that Constitution? Does he not know that the people within those twenty-three States, representing not less than twenty-five millions of the people of this nation, have not only declared that which I have just stated, but have declared further that no State of this Union shall levy contributions to the extent of a single farthing for the purpose of paying the expenses of rebellion against the Government or the Constitution of the United States?

Mr. BURR. Will the gentleman allow me to ask him a question?

Mr. BINGHAM. No, sir; not now. I am dealing with the audacity of the gentleman from New York, [Mr. Brooks.] I want to know whether it was not audacity in the party which the gentleman undertakes to represent here, after the people of Ohio, by a majority of from forty to fifty thousand, had declared in favor of this fourteenth article of amendment to the Constitution of the United States, in a minority in the last vote in the State of Ohio, though by accident a majority in the Legislature, to dare to repeal the recorded will of that people and undertake to revive the expiring fortunes of that rebellion which has covered the land with graves and has filled the land with lamentation?

The gentleman speaks of audacity. Sir, the people will answer that at the polls; they have answered it, and will answer it again.

The gentleman, however, has undertaken to play the rôle of prophet here upon this occasion, and gives us warning that the enactment of this bill, and the admission of those States, and the ratification by them of the fourteenth article of amendment to the Constitution will not profit us? How does the gentleman come to speak so authoritatively? Has he been gifted with the vision of the seer? Does he suppose that the people of the United States are about to take a step backward; that they are about to legalize treason again under the pretense that the sovereignty of the State is superior to the sovereignty of the nation? Does he suppose that they are going to fall back and adopt the theory suggested by the gentleman from Pennsylvania, [Mr. Woodward,] that they are no nationality after all; that they are only a confederacy of separate and independent States, each sovereign within its own territorial limits? Does he, when he gives out these oracular sayings of his, suppose that the people of the United States are really to entertain for a moment the exploded theories of that great and astute man who so long led the South by the splendor of his intellect and the profundity of his logic, John C. Calhoun, that the Government of the United States is nothing but a mere agent, the principals of which are separate, sovereign, and independent States of the Union? God forbid that the gentleman should prove in this matter a prophet of God, or even a prophet of that inferior being who sometimes ventures to prophesy evil in his own name! I trust it may fare with the gentleman in the course of his prophetic pilgrimages as it fared with the prophet of old when he ascended the mountain for the purpose of cursing God's Israel, and on his way was met by the angel, beautiful and immortal, guardian of men and nations, when, lifting his eyes, he saw the plains white with the tents of the chosen, the rescued, the redeemed, and the protected people, was compelled, instead of cursing, to utter blessings and exclaim, "How goodly are thy tents, O Jacob, and thy tabernacles, O Israel!"

Let the House do its duty. Let this Con-



gress restore the disorganized States and bring them back to equal representation in the Congress of a common country. Let it go out all over the world that our feuds are ended, that we are again one united people, having at last but one country, one Constitution, and one destiny; and the whole earth will clap its hands with joy that the Republic, the last refuge of afflicted humanity upon earth, still lives, and by the blood of its patriot martyrs is redeemed, regenerated, and immortal among the nations.

The SPEAKER. The first question is on the motion of the gentleman from Illinois, [Mr. FARNSWORTH,] to amend the Senate amendments by striking out "Florida" wherever it occurs.

Mr. BROOKS. On that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 45, nays 99, not voting 45; as follows:

YEAS—Messrs. Archer, Axtell, Barnes, Beck, Boyer, Bromwell, Brooks, Burr, Cobb, Eldridge, Eliot, Farnsworth, Getz, Glossbrenner, Golladay, Grover, Harding, Holman, Hopkins, Hotchkiss, Julian, Knott, Marshall, Maynard, McCormick, McCullough, Morrissey, Niblack, Nicholson, Paine, Phelps, Pike, Price, Randall, Robinson, Sawyer, Stewart, Stone, Taber, Taffe, Lawrence S. Trimble, Van Auker, Van Trump, Elihu B. Washburne, and Woodward—45.

NAYS—Messrs. Allison, Ames, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Bromwell, Buckland, Butler, Calkins, Churchhill, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Delano, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Halsey, Hawkins, Higby, Chester D. Hubbard, Hulburt, Ingersoll, Judd, Kelsey, Ketcham, Kitchen, Koonitz, Laffin, Lincoln, Loan, Logan, Loughbridge, Lynch, Mallory, Marvin, McClurg, Mercer, Miller, Moore, Morrell, Mullins, Myers, Newcomb, O'Neill, Pile, Plants, Polsley, Pomeroy, Raum, Robertson, Schenck, Scofield, Selye, Shellabarger, Spalding, Starkweather, Aaron F. Stevens, Stokes, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Ward, Henry D. Washburn, William B. Washburn, Welker, William Williams, John T. Wilson, and Windom—99.

NOT VOTING—Messrs. Adams, Anderson, Arnell, Baker, Barnum, Boutwell, Cary, Chanler, Finney, Fox, Haight, Hill, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Jenckes, Johnson, Jones, Kelley, Kerr, George V. Lawrence, William Lawrence, McCarthy, Moorhead, Mungen, Nunn, Orth, Perham, Peters, Poland, Pruyn, Ross, Shanks, Sitgreaves, Smith, Thaddeus Stevens, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Wood, and Woodbridge—45.

So the amendment of Mr. FARNSWORTH was not agreed to.

During the roll call,

Mr. JOHNSON said: I desire to announce that on this question I am paired with the gentleman from Ohio, Mr. LAWRENCE.

The result of the vote was announced as above stated.

The SPEAKER. The question now recurs on concurring in the amendments of the Senate.

Mr. ELDRIDGE. I move that the amendments of the Senate be laid on the table; and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 23, nays 110, not voting 51; as follows:

\* YEAS—Messrs. Archer, Axtell, Beck, Boyer, Brooks, Burr, Eldridge, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Knott, Marshall, McCormick, McCullough, Morrissey, Niblack, Nicholson, Phelps, Robinson, Stone, Taber, Lawrence S. Trimble, Van Auker, Van Trump, and Woodward—23.

NAYS—Messrs. Allison, Ames, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Barnes, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Bromwell, Broomall, Buckland, Butler, Calkins, Churchhill, Reader W. Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Delano, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Halsey, Harding, Hawkins, Higby, Hopkins, Chester D. Hubbard, Hulburt, Ingersoll, Julian, Kelsey, Ketcham, Kitchen, Koonitz, Laffin, Lincoln, Loan, Logan, Loughbridge, Lynch, Mallory, Marvin, Maynard, McClurg, Mercer, Miller, Moore, Morrell, Mullins, Myers, Newcomb, O'Neill, Paine, Pike, Pile, Plants, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shellabarger, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Ward, Elihu B. Washburne, Henry

D. Washburn, William B. Washburn, Welker, William Williams, John T. Wilson, and Windom—110.

NOT VOTING—Messrs. Adams, Anderson, Arnell, Baker, Barnum, Boutwell, Cary, Chanler, Sidney Clarke, Finney, Fox, Griswold, Haight, Hill, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Jenckes, Johnson, Jones, Judd, Kelley, Kerr, George V. Lawrence, William Lawrence, McCarthy, Moorhead, Mungen, Nunn, Orth, Perham, Peters, Poland, Pomeroy, Pruyn, Randall, Ross, Shanks, Sitgreaves, Smith, Stewart, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Wood, and Woodbridge—51.

So the amendments of the Senate were not laid upon the table.

During the vote,

Mr. WASHBURN, of Indiana, stated that Mr. HUNTER, who would vote in the negative, was paired with Mr. HAIGHT, who would vote in the affirmative.

Mr. NIBLACK stated that Mr. KERR, who was absent by leave of the House, would vote against the bill in all its forms.

The reading of the bill, by unanimous consent, was dispensed with.

The vote was then announced as above recorded.

The question recurred on concurrence in the amendments of the Senate.

Mr. BOYER demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 23, not voting 50; as follows:

YEAS—Messrs. Allison, Ames, Delos R. Ashley, James M. Ashley, Bailey, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Bromwell, Broomall, Buckland, Butler, Churchhill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Delano, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Halsey, Hawkins, Higby, Hopkins, Chester D. Hubbard, Hulburt, Ingersoll, Judd, Julian, Kelsey, Ketcham, Kitchen, Koonitz, Laffin, Lincoln, Loan, Logan, Loughbridge, Lynch, Mallory, Marvin, Maynard, McClurg, Mercer, Miller, Moore, Morrell, Mullins, Myers, Newcomb, O'Neill, Paine, Peters, Pike, Pile, Plants, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shellabarger, Spalding, Starkweather, Aaron F. Stevens, Stokes, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, John T. Wilson, and Windom—111.

NAYS—Messrs. Archer, Axtell, Barnes, Boyer, Brooks, Burr, Eldridge, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Marshall, McCormick, McCullough, Morrissey, Niblack, Nicholson, Phelps, Randall, Robinson, Stone, Taber, Lawrence S. Trimble, Van Auker, Van Trump, and Woodward—23.

NOT VOTING—Messrs. Adams, Anderson, Arnell, Baker, Baldwin, Barnum, Beck, Boutwell, Calkins, Cary, Chanler, Farnsworth, Finney, Fox, Haight, Hill, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Jenckes, Johnson, Jones, Kelley, Kerr, Knott, George V. Lawrence, William Lawrence, McCarthy, Moorhead, Mungen, Nunn, Orth, Perham, Poland, Pruyn, Ross, Shanks, Sitgreaves, Smith, Thaddeus Stevens, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Wood, and Woodbridge—50.

So the amendments of the Senate were concurred in.

During the vote,

Mr. NIBLACK stated that on this vote Mr. KERR was paired with Mr. ORTH.

Mr. TRIMBLE, of Kentucky, stated that his colleague, Mr. JONES, was paired with Mr. VAN HORN, of New York.

The vote was then announced as above recorded.

Mr. BINGHAM moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### GOVERNMENT CONTRACTORS.

Mr. WASHBURN, of Massachusetts, by unanimous consent, moved that Senate bill No. 307, for the relief of certain Government contractors, be taken from the Speaker's table and referred to the Committee of Claims.

The bill was taken up, read a first and second time, and referred to the Committee of Claims.

Mr. BROOMALL moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SURVEY OF INDIAN RESERVATIONS.

Mr. BUTLER. I am instructed by the Committee on Appropriations to report back Senate bill No. 170, to provide for deficiency of expenses incurred in the survey of Indian reservations, with the recommendation that it do not pass.

Mr. BUTLER. I yield to the gentleman from Iowa.

Mr. ALLISON. Mr. Speaker, I know how hard it is to resist any report that may be made by any committee of this House, especially the Committee on Appropriations. This is a bill covering certain deficiencies for surveys of public lands. It happens to be my fortune to have a constituent who is interested in this bill, and therefore I feel it my duty to resist the report of this committee, at least so far as my constituent is concerned. The bill chiefly relates to the payment of money to persons who have surveyed Indian lands. The portion which I desire to refer to relates to the survey of the Cherokee lands and Osage trust lands, as I believe they are called.

The House is familiar with the circumstances under which these surveys were made. They were made under authority of two distinct treaties made in 1866 between the Osage and the Cherokee Indians and the United States. I do not know whether it is necessary for me to refer to those treaties. I will only state that the Secretary of the Interior in one case and the Commissioner of the General Land Office in the other case were directed to have the lands surveyed and the proceeds of the sales paid into the Treasury of the United States, a portion being first applied to reimburse the United States for the necessary expenses of surveying these lands. About the time of the ratification of the treaty Congress, in an appropriation bill, appropriated \$50,000 to pay in part the expenses of those surveys. My constituent made these contracts in 1860, and under that appropriation received on his contract \$15,000. There is now due to him about eighteen thousand dollars. I have the account here, adjusted by the Commissioner of the General Land Office.

Now, it has been claimed by some that these treaties were fraudulent, and by others that there was no authority of law for them. All that may be true, yet I claim that when the Government of the United States authorized by contract certain work to be done, and an honest man undertakes to perform that service, good faith to him requires he should receive compensation. This work was done in the fall of 1866 and summer of 1867. It was done in precise accordance with the law which fixed a price for this service, only the Commissioner of the General Land Office let the work at one dollar less per mile, I believe, than the law authorized.

Now, I do not desire to go into the question of these treaties made between the Government of the United States and the Cherokees and Osages. I only desire to call the attention of the House to the fact that here is a man who has performed honest labor under a contract made with the proper officers of the Government, and under and by virtue of a treaty made and ratified by the Senate of the United States. I believe it is unjust to him to keep from him this money which he has honestly earned. The money necessary to pay for this service is to-day in the Treasury of the United States, but by a mere formality the Comptroller refuses to pay the amount due, because he says it is necessary that Congress should make the appropriation.

So far as the Osage lands are concerned, it is well known to members of the House that they were settled up as rapidly as they could be surveyed. There was an absolute necessity for these surveys, because immigrants were going in by the hundred and thousand for the purpose of occupying the lands, and many of them are now taken up.

This bill contains appropriations to the amount of some seventy-nine thousand dollars. I do not know anything in relation to any other

claim except that which affects my own constituent. I have before me all the papers. They convince me that he is entitled to receive his pay, amounting to some eighteen thousand dollars. What I desire the gentleman who reports this bill to do, and what I desire the House to do, is to have this bill recommitted to the Committee on Appropriations in order that they may report it back, allowing men who have honestly performed labor to receive the compensation to which they are entitled, especially when it does not really take any money out of the Treasury, but only takes from it money that is there held for the purpose of reimbursing men who have performed this work.

Mr. LOUGHRIDGE. Was this work performed under a contract made by the United States?

Mr. ALLISON. The work was performed under contracts made with the then Secretary of the Interior, Mr. HARLAN, and the Commissioner of the General Land Office. What I desire to impress on the House is the fact that this work was honestly and faithfully performed, that the Government has received the benefit of it, and that the Government in this regard is a mere trustee for this fund, which goes into the Treasury of the United States from the proceeds of the sale of the lands.

Mr. MAYNARD. Will the gentleman tell us what authority the Secretary of the Interior and the Commissioner of the General Land Office had to contract for surveying these lands?

Mr. ALLISON. They had authority under the treaties made with the Osage Indians and the Cherokee Indians.

Mr. MAYNARD. Does not the gentleman know that this House solemnly decided, the other day, that those treaties were wholly nugatory, and conferred no sort of right, power, or authority on anybody?

Mr. ALLISON. I do not know precisely what the effect of the decision of the House was.

Mr. MAYNARD. I made this same proposition here the other day and argued it before the House with whatsoever of ability I was able, and I will ask the gentleman how he stood on that question.

Mr. ALLISON. I do not know what particular decision my friend refers to, but I want to ask him a question. Here is a surveyor who, under a contract made with the proper officers of the United States, has expended money and performed labor. I ask him if, as a member of this House, he is willing to allow this man to go without receiving his just compensation, and especially when the money does not come out of the Treasury of the United States, but out of the proceeds of the sales of the very lands which he surveyed.

Mr. MAYNARD. I will answer the question very cheerfully. I believe that the treaties to which he alludes are valid and binding obligations upon the Government, and that all the rights and duties imposed and conferred by that treaty are as of high a character as any that we have. I so believed, and so argued the other day when speaking in behalf of the rights of the Indians under the treaties. But the House decided the other way, and what I wish to know is how the gentleman is going to get over that decision?

Mr. BLAINE. By the vote of a majority. Mr. ALLISON. That is the very thing I am trying to get over, and I want a vote of the majority of the House recognizing the fact that this work has been performed and paying the man who performed it his honest and just dues.

Mr. BUTLER resumed the floor.

Mr. PRICE. Will the gentleman allow me few minutes?

Mr. BUTLER. I will yield to the gentleman for five minutes.

Mr. PRICE. I do not know that I shall want five minutes. I merely want to say to the House what I understand to be the facts of the case, and if I understand them properly there certainly ought not to be any hesita-

tion in reference to the action of the House upon it.

A citizen of my State was sent for by the Commissioner of the General Land Office to come to Washington and receive certain orders. He came here, and the Commissioner directed him to go and make a survey of the Osage lands. He knew nothing about the treaty, nor was it any part of his business to know anything about it—whether it was right or wrong. He was acting under the directions of the officers of the Government. He was given to understand when he took this contract that the pay for the work was to come out of the proceeds of the sale of the lands after they were surveyed. With that understanding he proceeded to the field, and by the direction of the Commissioner of the General Land Office he put four parties in the field. Why? Because it is alleged, and nobody denies that, that the lands are needed, that settlers are waiting to go upon them, that they are so anxious to settle these lands that they go upon them without their being surveyed, and the fact is that the settlers were waiting and did take up these lands as fast as they were surveyed. Now, what could any citizen of the Republic do under circumstances of that kind? What would any member of this House do under circumstances of that kind if he were a surveyor and without work and could get a fair price? I ask any gentleman whether he would not have taken the contract when it was offered to him by the Secretary of the Interior or the Commissioner of the General Land Office with the express understanding that no pay was to come to him until the lands he surveyed should be settled and the money paid into the Treasury of the United States, and then he might expect his pay from it?

Now, under these circumstances, and with this state of facts existing, this gentleman took this contract, by direction of the officers of the Government, put four parties into the field, and performed the survey. The lands have been sold and paid for, the very land he surveyed; the money has been paid into the Treasury and is there to-day. Now, I would like the gentleman who reported this bill from the committee to tell me who is to get that money? And when we talk so much here about the rights of the citizen, which ought to be guarded in all civilized countries, I want to know what higher right a citizen of this Republic has than the right to receive from the Government the just compensation promised him, after he has complied with the conditions placed upon him? That money lies to-day in the Treasury of the United States, and it has been especially appropriated to pay for the lands which have been surveyed, and without surveying which—I wish gentlemen to remember that fact—there would not have been one dollar of this money in the Treasury. Can there be a fairer statement of the case than this? Can there be a more equitable claim upon the Government than this claim? If these are not the facts, if this is not the state of the case, then I have misunderstood the case entirely. But if these are the facts, if this is the state of the case, then I undertake to say that no gentleman who understands the case can refuse to acknowledge the justice of the claim, because in his individual capacity he would not for a moment dream of doing so. It is the due of a citizen of this Government, who has performed the duties imposed upon him, and now only asks that he may receive his fair compensation agreed upon.

Mr. BUTLER. If this case was as stated by either of the gentlemen from Iowa, [Mr. ALLISON and Mr. PRICE,] I would agree that this House ought to pay this man. But there is a different way of stating the case. By treaty with the Osage Indians \$20,000 was to be appropriated for the survey of their lands. By the treaty with the Creeks a certain other amount was appropriated, which I do not now remember. In the following year the Government of the United States appropriated [Mr. FARNSWORTH,] not a bit; and there is no

\$50,000 for these surveys, which my friend [Mr. ALLISON] has omitted from his statement. Of that \$50,000; \$15,000 has already gone into the pocket of his client. By the treaty only \$20,000 is to be used for this purpose.

Mr. ALLISON. Not my client; my constituent.

Mr. BUTLER. Constituent of the gentleman. I beg his pardon; it was a slip of the tongue entirely from the force of habit.

Now, let us see what is the proposition here. That we appropriate \$78,000 to pay for surveys; and it is put upon the ground that these surveys have been made. I will not go into the question whether they have or have not been made. All I wish to present to this House is this: that there is no authority of law for making these surveys, and that the appropriation, either by treaty or otherwise, has been expended, and was expended long before this work was done; and, with the agreement in one treaty for \$20,000, and an appropriation toward these surveys of \$50,000, Congress went just as far as it is bound to go and fixed a limit. And the question with the House to-day is, whether any Indian commissioner or any Secretary of the Interior, disregarding the appropriations and the laws of the United States, can authorize any work to be done that he chooses to have done, or any expenditure to be made that he chooses to have made, and then have the men with whom he made that contract or agreement, without having the right to make it, come here and say: "We did the work; we are honest; pay us."

Mr. BLAINE. Will the gentleman allow me to interrupt him for a moment?

Mr. BUTLER. Yes, sir.

Mr. BLAINE. I differ with the gentleman who reported this bill, [Mr. BUTLER,] either through mistake or otherwise, in regard to the statement he now makes. He says this was made the limit. Now, I do not think there was any limit at all. There was no such thing specified in the treaty or appropriation or law as a limit beyond which they should not go. This appropriation was not at all dissimilar to appropriations of like character which have been made ever since this Government has owned public lands, appropriations very much more extravagant in their character. This is nothing more than an ordinary deficiency. Where is the limit? The treaty specified an appropriation, but never said that this much should be appropriated and no more. There is no such clause either express or implied.

Mr. BUTLER. Now, let us see about the limits:

"The Osage Indians having no annuities which would enable them to pay anything to carry this treaty into effect, it is agreed that the United States shall appropriate the sum of \$20,000, or so much thereof as may be necessary, for the purpose of defraying the expense of the survey and sale of the lands hereby ceded."

There is the limit.

Mr. BLAINE. But the point my friend makes is not the point in question. The clause of the treaty under which this survey was made is not the one which the gentleman has read, but it is this:

"The lands herein ceded shall be surveyed as the public lands of the United States are surveyed under the direction of the Commissioner of the General Land Office, and shall be appraised by two disinterested persons, one to be designated by the Cherokee national council, and one by the Secretary of the Interior, and, in case of disagreement, by a third person to be mutually selected by the aforesaid appraisers; the appraisement to be not less than an average of one dollar and a quarter per acre exclusive of improvements."

Under that treaty obligation this work was done. There was no limitation of the treaty obligation. The job was to be done; and the fair implication is that whatever was necessary to do it the Congress of the United States was bound to appropriate.

Mr. BUTLER. Now, then, to resume what I was saying. Part of this claim is under the Osage treaty, the provision of which I have read, and part under the Cherokee treaty. The Congress of the United States has appropriated so much as it thought proper to carry

out the provisions of those treaties, and it is bound to appropriate no more. What is the ground on which this appropriation is claimed? Are gentlemen unwilling to leave the Congress of the United States untrammelled in the matter of appropriations? We have appropriated in the general bill all that was thought proper for surveys of the public lands each year. But how is it attempted to compel the United States to make appropriations which they have not deemed it proper to authorize? When we have appropriated \$50,000, the Secretary of the Interior not only expends that \$50,000, but makes contracts involving an expenditure of \$78,000 more; and then he comes in here through the men who have done the work or their representatives, and says, "You must pay this, because the work has been done;" and although there is no authority of law for this expenditure, although Congress in its judgment decided not to expend any more, yet we are forced into the improper position of seeming to reject a claim for labor actually done, or else paying just as much as the Commissioner of Indian Affairs or the Secretary of the Interior may without authority have contracted to pay.

This bill has received two examinations at the hands of the Committee on Appropriations. After I was at first directed to report the bill, the gentleman from Iowa [Mr. ALLISON] made his statement to me, and I put his case before the committee, when, by the unanimous judgment of all the members present, I was authorized to report the bill with a recommendation that it do not pass. It is time that we should understand whether Congress is to control this matter of appropriations. What is the use of this Congress, under its constitutional authority, determining each year how much money shall be spent if the head of each Department may, as is now claimed, run the country in debt just as much as he pleases and then force through an appropriation to meet such indebtedness upon the ground that somebody has done—what? "In good faith done the work." Sir, the laws are open to all; and it is the duty of every man making these contracts or carrying them out to see just how much money has been appropriated for the particular work. The constituent of my friend from Iowa should have stopped when the appropriation was exhausted. That was his duty; and it was the duty of the Secretary of the Interior to have authorized no work beyond the point to which an appropriation had been made.

Mr. PRICE. I wish to ask my friend from Massachusetts [Mr. BUTLER] a question. Does he not concede that this work has been honestly and fairly done; and if so, is not the party who has in good faith performed it entitled to compensation therefor? If we can this morning, in less than two and a half minutes by the clock, vote away what cost the Government thousands of dollars as an act of generosity, I ask the gentlemen whether we ought not to be sufficiently just to pay a man for labor performed, who has faithfully and honestly complied with his engagement with the Government? It is all in a nutshell; and the answer to this question will settle the case.

Mr. BUTLER. I will endeavor to answer the three questions which the gentleman has put to me, although not in the order in which he has put them. First, he asks whether a man who honestly and justly performs work for the Government is entitled to his pay? Yes, always. Second, whether we can vote away \$2,500,000, more or less, in two and a half minutes? Is it to pay our honest debts? If so, I say yes; but whether we can or not we ought to pay our debts in any event. The other question is, was not this work honestly and faithfully done? On that I am not instructed, but I am instructed that it was not honestly and faithfully done under the law; because it was done in violation of the law; and the law is known of all men, especially of surveyors and Indian agents and all that class

of men, for they study the law with great diligence to see how they may evade it.

Mr. BLAINE. I ask the gentleman to yield to me.

Mr. BUTLER. I do not think I can; I promised not to.

Mr. ALLISON. I ask the gentleman to yield to me.

Mr. BUTLER. For a moment.

Mr. ALLISON. I wish to make a statement. The gentleman from Massachusetts says, so far as this particular claim is concerned, it was in violation of law. I wish to call his attention to facts and dates. The appropriation of \$50,000, of which he speaks, passed Congress on the 28th of July, 1866. This contract with my constituent was on the 15th day of August, 1866, to survey the Cherokee lands and not the Osage lands; and under the Cherokee treaty it is made the duty of the Secretary of the Interior to survey those lands. Therefore I say, so far as the survey relating to the Cherokee lands is concerned, it was made by the Secretary of the Interior in pursuance of the treaty with the Cherokees. And if there is any treaty which can be made with the Indians which is binding upon Congress or the country it is this treaty of 1866. Gentlemen may say that treaty was not ratified. It was ratified and finally signed by the parties on the 11th of August, 1866, several days before this contract was made. I have the certificate of the Commissioner of the General Land Office that this work was faithfully and honestly performed; and I can see no reason why, in justice, equity, and law, this man should not have the reward of his honest toil.

Mr. BUTLER. I am content that he shall have the reward of his honest toil, but I ask him to come to this House, as every other man who has a claim against this Government—to come through the Committee of Claims of this House, and not through the Indian Bureau. I wish him to come and say, "I have a claim for which there was no provision of law, and for which there was no appropriation by law; and, having such a claim, I desire to be recognized, because I believe it is just and honest." My constituents have to come here when they have just claims against the Government. They have to go before the Committee of Claims of this House. But, sir, these surveys of these Indian lands, and all such matters are attempted to be put through here under the claim that they are a deficiency. There was no deficiency of appropriation. It was a willful, direct, intentional violation of the law, and known to be so at the time; and the man who did the work and the Commissioner took the risk of getting an appropriation through Congress, as it had been the custom to do before. When it is said this is here, as a matter of right, to that I answer, you have no right because you had no authority of law.

Now, then, I will deal with this Cherokee matter. It is a survey of a part of the neutral land, that land for which the Connecticut Emigration Company has paid \$800,000; and while we were discussing the subject in this House the treaty was put through the Senate, a treaty by which land worth \$4,000,000, as I am informed, was sold for \$800,000.

Mr. WASHBURN, of Illinois. And ratified?

Mr. BUTLER. Yes, sir; ratified while we were talking about it, while we were calling the attention of the nation to it.

Mr. MAYNARD. Whose lands were they?

Mr. BUTLER. I have no difficulty about that. They were lands belonging to the Cherokee Indians, and they were conveyed with a condition in the title that they never should be sold except by the consent of the United States; and that consent, in my judgment, cannot be given by the Senate of the United States. For what is to be the effect? The Senate have undertaken to ignore the rest of the Government of the United States in this matter by what they call a treaty made up here in the Indian Bureau, taking some eight or nine

thousand dollars to pay the expenses of the Indians, while they were here, to feed and feast them and get them drunk until they made it.

Mr. MAYNARD. By virtue of what arrangement did the Cherokees procure the title to this land. Was it not by treaty?

Mr. BUTLER. Yes, sir; there is no difficulty about that. I admit the title perfectly; but it was covered with this condition: that the United States should have the right to sell. Now, then, what is the effect of selling it?

Mr. MAYNARD. I ask the gentleman whether the assent of the United States was not to be given precisely in the same way that the United States originally gave title to the land—that is, by treaty?

Mr. BUTLER. No, sir; not at all. It was put in without the consent of the United States. Now, what is the effect of that? Why, that the land is sold for \$800,000, and as soon as that is eaten up and drank up by the Indians they come upon the United States for an appropriation of money to take care of them, while \$3,000,000 of their property has gone into the hands of speculators. In the meantime this Osage tract is being surveyed for what purpose? Why, to get through a treaty which is now before the Senate. I believe it was ratified; I do not know; but it was lately before the Senate for eight million acres, at twenty cents an acre, payable in fifteen years.

A MEMBER. Yes, sir; nine millions.

Mr. BUTLER. I keep within bounds. Now, then, I say we are asked to appropriate money for a deficiency for what? To meet these surveys, so that the lands settled may be surveyed at the expense of the United States, and the men who bought these lands by that treaty may get possession of them. I had not intended to go into this matter, but when gentlemen come here and claim such good faith in this matter I want to show this House and the country how impossible it is for us to limit the expenditure of this country if we cannot say how much shall be expended or how much shall be used by officers of the Government; up to this time I say it is quite impossible, because this is the way it is done. While my friend from Iowa [Mr. ALLISON] will go with me in cutting down Indian appropriations, yet when it comes to a deficiency bill, when he is appealed to, as he is in this case, by his constituent, who has done work, then he feels it his duty—and I do not mean to say improperly at all—to come and advocate the cause of that constituent in this House. By such means we get the appropriations raised day by day. The power which gives control to this House over the expenditures of the country becomes practically useless.

Why, sir, do not gentlemen know that you cannot get any public work done of any description within the amount appropriated? It is not possible to do it, because both the contractor and contractee often have an interest in it, and they say, "We will begin upon it and we will run up the appropriation; we will add so much more, and then we will come in and ask the additional sum to be made up in a deficiency bill."

Mr. MAYNARD. The gentleman has stated again to-day, as on one or two previous occasions, that this tract of land was granted to the Indians on the condition that they should never sell it without the consent of the United States. His usual accuracy in such matters led me to suppose that he must necessarily be correct in this statement. I have examined the treaty; it is before me.

Mr. BUTLER. Of what year?

Mr. MAYNARD. Of 1835. It provides that the land shall be conveyed in fee simple to the Indians and their descendants, but I have not been able to find the provision to which he refers. I shall be glad if he will cite that part so that I may examine it.

Mr. BUTLER. I had the citation on my brief when the matter came up before. You will find it is provided for. I cannot at this moment turn to the page. But the very fact



that the Senate have just ratified a new treaty giving that consent is strong if not conclusive evidence of the fact that there is such a provision.

Mr. MAYNARD. I wish the gentleman would turn to it.

Mr. BUTLER. I will turn to it when I get through and satisfy the gentleman. I say that upon this matter the whole question is now to be determined whether we are to hold our control over the expenditures of the Government or not. If this gentleman has got a claim for fifteen or eighteen thousand dollars, let him go to the Committee of Claims, and if he shows a just one I will vote for it; but my proposition is that you shall not force through an appropriation of \$78,000 by the Senate on the pretense of paying an honest man \$18,000 out of it.

Again, sir, I want another principle tested just here, and I would not take up the time of the House if it were not a very important matter. I want it understood whether the Senate of the United States, and the President of the United States, can control the expenditures of this Government, without the consent of this House, by treaties? If they can, there is an end to this Government in the form in which it was first launched by our fathers. If they can properly, as it is claimed, appropriate \$20,000 under the Osage treaty they can appropriate \$2,000,000; if they can appropriate \$2,000,000, then they can appropriate \$7,500,000 for Alaska; if they can appropriate \$7,500,000 for Alaska, they can appropriate \$7,500,000 for St. Thomas; and if they can appropriate \$7,500,000 for St. Thomas, they can appropriate \$1,000,000,000 for Mexico.

Mr. HIGBY. Will the gentleman allow me to ask him a question?

Mr. BUTLER. I will yield for a question simply.

Mr. HIGBY. I would ask the gentleman if the Committee on Appropriations have not been asking Congress to appropriate money under treaties made with Indians all through this session, and if they do not do it every session of Congress—treaties made by the Executive and sanctioned by the Senate without regard to the House?

Mr. BUTLER. Certainly we have, and so much the worse for us. I agree that we have, and we have felt ourselves obliged to do it. But that is another question. The question here is whether the Senate can say we shall appropriate so much money. I say no, and the moment this House gives up its control over this matter we might as well give up all control over the expenditures, because by a reciprocity treaty with any nation the Senate can control all our revenues and by another treaty they can control all our expenditures and this House becomes substantially useless as the constitutional keeper of the taxes of the people.

Mr. MAYNARD. Will the gentleman tell me how it is possible for the nation to make contracts with another nation?

Mr. BUTLER. No, sir; I will not go into that.

Mr. MAYNARD. Will he tell me if he thinks it possible for us to deal in this way with the powerful nations of the earth without involving ourselves at once in war and international complications?

Mr. BUTLER. When we get to be so poor and so weak as to have, in dealing with the other nations of the world, to pay tribute to them by treaty to keep them good-natured, then I am for fighting. But I deny that we are under obligations to any nation on the earth to make any treaty to pay money, and it is wholly against the theory of this Government that we should be making treaties to pay money. We have been making treaties with the Indians to do what? To take care of them and to buy their lands; and a more iniquitous system never was heard of. I yield now to the gentleman from Illinois, [Mr. WASHBURNE.]

Mr. WASHBURNE, of Illinois. I only desire a moment to state to the House the

views by which I was governed in regard to this bill. The bill is sent to us from the Senate with an appropriation of \$78,000, which, it is alleged, is a deficiency under existing laws, for which Congress is obliged to appropriate money. We find that it is no deficiency. We find that the Secretary of the Interior, without authority of law, for some purpose, probably a good one, known to himself, made a contract with a party from Iowa with regard to the survey of lands. It was done without authority of law, and it was his business to know that when he made the contract. The bill when it came from the Senate was sent to the Committee on Appropriations. The Committee found there was no law authorizing this appropriation to be made, and they directed this report to be made, as I supposed, unanimously. I did not suppose the gentleman from Maine [Mr. BLAINE] was opposed to it, but I understand now that he was.

Mr. SPALDING. Yes; and there is another member of the committee here who knew nothing about it.

Mr. WASHBURNE, of Illinois. There was a majority of the committee, and there was no objection to the report made by the gentleman from Massachusetts [Mr. BUTLER] that there was no authority of law for this. The question is, is the House to pass upon this question in this way? This is nothing but a private claim. If this man has done the work let him go with his account before the Committee of Claims; let him introduce his testimony there, and let that committee report upon the claim. But to come in here under the guise of a deficiency, when there is no deficiency, and undertake to load down our appropriation bill with \$78,000, I say is an outrage. I ask gentlemen where they expect to land if they go on with appropriations day after day in this way, if the Committee on Appropriations are to be overruled in this way, and if every effort for economy which we make is to be nullified by the House?

Mr. ALLISON. I wish to ask the gentleman if it is not the fact that this money is now in the Treasury, as proceeds of the sales of these identical lands so surveyed? And before the gentleman answers that question, I wish to say that I know nothing about any portion of this bill, except the amount I have spoken of; and I knew nothing of that until a few days ago, when this man came to my room and explained his case fully to me.

Mr. WASHBURNE, of Illinois. I know nothing about these parties. It seems that not only one but more are interested in this case. And because my friend from Iowa [Mr. ALLISON] has a constituent interested in it, he comes in here and asks us to appropriate \$78,000 in this bill.

Mr. ALLISON. I do not ask any such thing. I only ask that this bill shall be recommended to the Committee on Appropriations, and that they shall examine the case.

Mr. WASHBURNE, of Illinois. Very well. Then I will suggest to my colleague on the Committee on Appropriations [Mr. BUTLER] to let this bill take that course; to let it go back to the Committee on Appropriations, and let us have a thorough sifting of this whole matter in connection with this extraordinary treaty concerning the Osage and Cherokee lands. And let the Committee on Indian Affairs, to whom the message of the President upon the subject was referred yesterday, with power to send for persons and papers, let them examine the whole question, and let us get to the bottom of it.

Mr. BLAINE. That is all that has been asked.

Mr. WASHBURNE, of Illinois. Very well; let us get to the bottom of it.

Mr. SCOFIELD. I desire to ask the gentleman from Massachusetts [Mr. BUTLER] a question.

Mr. BUTLER. Very well.

Mr. SCOFIELD. I understand the gentleman from Illinois [Mr. WASHBURNE] to say that the Secretary of the Interior ordered this

additional expense from honest and correct motives. Now, from the debate all around me, I had been led to suppose that the Secretary of the Interior had ordered this expenditure in order to get this land surveyed ready for the treaty which these speculators have had made. Now, if that inference from that debate is incorrect, and the Secretary of the Interior ordered this survey from correct motives, I would like to know it.

Mr. BUTLER. As we are to open up this whole subject—and it is very necessary to open it up, as two members of the Committee on Appropriations have said that they were not present when this matter was passed upon by the committee—I am quite ready to agree with my colleague on the committee, [Mr. WASHBURNE, of Illinois,] and let this bill be recommended.

Mr. BLAINE. That is right.

Mr. BUTLER. For the purpose of enabling me, when this matter comes up again, to answer every question the gentleman from Tennessee [Mr. MAYNARD] and every other gentleman may ask me—and let the right prevail, for I want to have this thing thoroughly ventilated—I move that this bill be recommended to the Committee on Appropriations; and upon that motion I call for the previous question.

The previous question was seconded and the main question was ordered; and under the operation thereof, the motion to recommit was agreed to.

#### INDIAN COMMISSION APPROPRIATION.

Mr. BUTLER. I have also been instructed by the Committee on Appropriations to report another bill, which I ask to have considered at this time.

Mr. HOLMAN. I desire to reserve the point of order, that, being an appropriation bill, it must receive its first consideration in Committee of the Whole.

Mr. BUTLER. I hope the gentleman will reserve his point of order until I can make a statement in regard to the bill.

Mr. HOLMAN. I will do so.

The bill (H. R. No. 1218) appropriating money to sustain the Indian commission, and to carry out treaties made thereby, was then read a first and second time.

Mr. BUTLER. If the gentleman from Indiana [Mr. HOLMAN] insists upon his point of order, of course this bill must first be considered in Committee of the Whole. But I desire to make a statement to show that the present condition of the public business requires that this bill should be passed at once.

This bill proposes to appropriate \$150,000 to aid the Indian peace commission, to defray their expenses, and to meet the obligations of the treaties which they are now making with certain Indians, among which are the Navajoes, whom they have been able to have removed. I report this bill in response to a desire expressed by General Sherman and the peace commission, who have sent a special messenger here to say that many hundreds of thousands of dollars can be saved to this Government by making a small appropriation to carry out the arrangements that they are now making with the western Indians to prevent a war. In order to give them the means to carry out such an arrangement the Committee on Appropriations have directed me to report this bill. This money is to be expended only to carry out the operations of the Indian commission who are now dealing with the Indians on the Plains.

If the gentleman from Indiana is not satisfied with this explanation, then this bill must go to the Committee of the Whole.

Mr. HOLMAN. I think this bill had better go to the Committee of the Whole.

Mr. BUTLER. Then I move that this bill be referred to the Committee of the Whole on the state of the Union, and that it be printed.

The motion was agreed to.

Mr. BUTLER. I ask consent of the House that this bill be made the special order in Committee of the Whole for Monday next.

Mr. SCHENCK. I object to that. I am willing that it should be made the special order after the tax bill has been acted upon in committee.

Mr. WASHBURN, of Illinois. The gentleman can move on Monday next to suspend the rules for the purpose of making this bill a special order.

The SPEAKER. There is one motion to suspend the rules now pending, submitted by the gentleman from Massachusetts, [Mr. ELIOT,] which will come up on Monday next the first thing after the morning hour.

Mr. BUTLER. I give notice that on Monday next I will move to suspend the rules, in order that this bill may be then considered.

#### ORDER OF BUSINESS.

Mr. SCHENCK. It is now after three o'clock. I ask unanimous consent that the morning hour for to-day may be dispensed with.

Mr. BENJAMIN and others objected.

Mr. SCHENCK. Cannot the morning hour be dispensed with by a majority vote?

The SPEAKER. That requires unanimous consent. The private business may be set aside by a majority vote; but should that be done, then the order would be the call of committees for reports of a public nature.

#### ORDER FOR AN EVENING SESSION.

Mr. SCHENCK. As the morning hour must go on, we can hardly get into Committee of the Whole on the tax bill before half past four o'clock. I will therefore move that there be an evening session this evening at half past seven o'clock, for the consideration of the internal tax bill in Committee of the Whole.

Mr. RANDALL. Is it to be with the understanding that no business is to be transacted this evening except the consideration of the tax bill in Committee of the Whole?

The SPEAKER. That would require unanimous consent.

Mr. RANDALL. I must object to an evening session, unless such an arrangement can be made.

The SPEAKER. The motion is that the House shall meet at half past seven o'clock this evening in Committee of the Whole for the consideration of the tax bill. Such an order can be made by a majority vote. There probably will be no other business transacted, as there is usually no quorum present at an evening session when the House comes out of Committee of the Whole. And any member can then call for a division upon any question, and if no quorum is present no business can be done.

The motion of Mr. SCHENCK for an evening session was then agreed to.

#### ORDER OF BUSINESS.

The SPEAKER. The morning hour has now commenced. This being private bill day, the first business in order is the call of committees for reports of a private nature, commencing with the Committee on Invalid Pensions, where the call rested on Saturday last.

#### MICHAEL HENNESSEY.

The SPEAKER. The pending question is upon Senate bill No. 280, for the relief of Michael Hennessey, of Platte county, Missouri, which was reported from the Committee on Invalid Pensions on Saturday last, by the gentleman from West Virginia, [Mr. POLSLEY,] and was pending when the morning hour expired. The bill has been amended, and the question is upon the third reading of the bill. The bill was then read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### KATE HIGGINS.

Mr. BURR, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1220)

granting a pension to Kate Higgins, of Louisville, Kentucky; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Kate Higgins, of Louisville, Kentucky, the widow of John Higgins, formerly a private in company F, twenty-eighth regiment of Kentucky infantry, to receive a pension as such widow, commencing November 11, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BURR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REGULATION OF JUDICIAL PROCEEDINGS.

Mr. WOODWARD, by unanimous consent, introduced a bill (H. R. No. 1219) amendatory of an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases, and for other purposes;" which was read a first and second time.

Mr. STEVENS, of New Hampshire. I ask that the bill be reported.

Mr. BURR. I cannot yield for that purpose.

Mr. WOODWARD. It relates to common carriers in the southern States.

Mr. STEVENS, of New Hampshire. I do not object.

The bill was referred to the Committee on the Judiciary.

#### SARAH J. ROGERS.

Mr. BURR, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1221) granting a pension to Sarah J. Rogers; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah Jane Rogers, widow of Hugh J. Rogers, late a private in the fiftieth regiment Ohio volunteers, to receive a pension, commencing the 22d of June, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BURR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### HANNAH MOORE.

On motion of Mr. BURR, the Committee on Invalid Pensions were discharged from the further consideration of the petition of Hannah Moore; and the same was laid on the table.

#### CATHARINE GINSLER.

Mr. BURR, from the same committee, also reported a bill (H. R. No. 1222) granting a pension to Catharine Ginsler; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Catharine Ginsler, the widowed mother of John Ginsler, late of company J, one hundred and forty-ninth regiment Pennsylvania volunteers, commencing the 29th of June, 1864.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BURR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BARBARA WEISSE.

Mr. BURR, from the same committee, also reported a bill (H. R. No. 1226) granting a pension to Barbara Weisse; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, provides that the Secretary of the Interior be authorized and directed to place on the pension-roll the name of Barbara Weisse, widow of Michael Weisse, late a private of company K, ninth regiment Michigan infantry, to receive a pension, to date from January 1, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BURR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MARGARET FILSON.

Mr. BURR, from the same committee, also reported a bill (H. R. No. 1223) granting a pension to Margaret Filson; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret Filson, widow of George W. Filson, late a private of company K, ninety-seventh regiment Indiana volunteers, to receive a pension, to bear date from the 1st of January, 1866.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BURR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JANE E. ROGERS.

Mr. BURR, from the same committee, reported a bill (H. R. No. 1224,) granting a pension to Jane E. Rogers; which was read a first and second time.

It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of the applicant, widow of James B. Rogers, late captain in company C, sixty-fourth regiment United States colored troops, commencing July 1, 1864.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BURR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DANIEL FULLER.

Mr. BURR, from the same committee, reported adversely on the petition of Daniel Fuller, of Potter county, Pennsylvania; which was laid on the table.

#### PATRICK COLLINS.

Mr. BURR, from the same committee, reported a bill (H. R. No. 1225) granting a pension to Patrick Collins; which was read a first and second time.

It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Patrick Collins, of Dayton, Ohio, to receive a pension at the rate of ten dollars per month, commencing January 1, 1868.

Mr. HOLMAN. The bill ought to state the company and regiment to which he belonged.

Mr. BURR. Let it be amended in that particular.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being



engrossed, it was accordingly read the third time, and passed.

Mr. BURR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM HUTCHINGS.

Mr. BURR, from the same committee, reported adversely on the bill (H. R. No. 508) granting a pension to William Hutchings, a soldier in the war for the suppression of the rebellion, and the same was laid on the table.

MARGARET ANN WALLACE.

Mr. BURR, from the same committee, reported a bill (H. R. No. 1227) granting a pension to Margaret Ann Wallace, with an amendment in the nature of a substitute.

The substitute was read. It directs the Secretary of the Interior to place on the pension-roll the name of the applicant, widow of the late Brigadier General W. H. L. Wallace, for a pension at the rate of fifty dollars per month from the 10th of April, 1862. It further provides that the pension heretofore allowed to the said widow under the general law be discontinued.

Mr. HOLMAN. I see this pension is fifty dollars a month. It makes an exception. There ought to be some uniform rule on the subject. The general law allows only thirty dollars a month.

Mr. COOK. If the gentleman will examine he will find it to be the fact that in every case where a brigadier general has been killed on the battle-field, as was General Wallace, the pension granted by special law to the widow has been fifty dollars a month. There are five such cases, and this is the last one that can be affected by this rule. I have made the examination, and I understand that to be the fact.

Mr. HOLMAN. All I wanted was to be informed of that fact. I have no objection. I will inquire if the name of Brigadier General P. A. Hackleman is included in any of these acts.

Mr. BURR. It does not appear on this list.

Mr. COOK. I cannot tell the names of all, but I know the names of five.

Mr. HOLMAN. I give notice that I will introduce a bill covering that case.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BURR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOANNA L. SHAW.

Mr. POLSLEY, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1228) granting a pension to Joanna L. Shaw; which was read a first and second time.

It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of the applicant, widow of John E. Shaw, late a private in company E, fourteenth regiment Maine volunteers, and pay her a pension of seventeen dollars per month in lieu of the pension she has been receiving, commencing August 17, 1862.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ANNA H. PRATT.

Mr. POLSLEY, from the same committee, reported a bill (H. R. No. 1229) granting a pension to Anna H. Pratt; which was read a first and second time.

The bill directs the Secretary of the Interior

to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Anna H. Pratt, widow of Wheelock Pratt, late major fifty-fifth regiment Massachusetts infantry, and pay her a pension as the widow of a captain, commencing December 30, 1866.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CHILDREN OF DAVID W. EDWARDS.

Mr. POLSLEY, from the same committee, reported back, with a recommendation that it do pass, the bill (S. No. 424) granting a pension to Bartlet and Carrie Edwards, children of David W. Edwards, deceased.

The bill directs the Secretary of the Interior to place upon the pension-roll the names of Bartlet and Carrie Edwards, children under sixteen years of age of David W. Edwards, deceased, and pay them or their legally-appointed guardian a pension at the rate of fifteen dollars a month from the 13th of October, 1864, until they shall respectively attain the age of sixteen years.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAMES A. GUTHRIE.

Mr. POLSLEY, from the same committee, reported back, with the recommendation that it do pass, a bill (S. No. 420) granting a pension to James A. Guthrie.

The bill directs the Secretary of the Interior to place upon the pension-roll the name of James A. Guthrie, of Iowa, a private in company A, sixteenth regiment Illinois volunteers in the war with Mexico, and pay him a pension at the rate of fifteen dollars a month from the 6th day of June, 1866, to continue during his natural life.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. POLSLEY, from the same committee, made adverse reports on the petitions of F. A. Liebschutz, for increase of pension, Rufus Richmond, late a private in the twenty-ninth Illinois volunteers, and Ira McIntyre; and the same were severally laid on the table.

HANNAH K. COOK.

Mr. POLSLEY, from the same committee, reported a bill (H. R. No. 1230) granting a pension to Hannah K. Cook; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Hannah K. Cook, widow of John N. Cook, late second lieutenant in the one hundred and nineteenth regiment Pennsylvania volunteers, commencing July 28, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN MORLEY.

Mr. POLSLEY, from the same committee, reported a bill (H. R. No. 1231) granting a

pension to John Morley; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John Morley, late a private in company I, seventh regiment New Hampshire volunteers.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RUTH BARTON.

Mr. POLSLEY, from the same committee, reported a bill (H. R. No. 1232) granting a pension to Ruth Barton; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ruth Barton, widow of Albert G. Barton, late a hospital steward in the United States Army, the pension to date from April 7, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM F. MOSES.

Mr. POLSLEY, from the same committee, reported a bill (H. R. No. 1233) granting a pension to William F. Moses; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William F. Moses, late of company A, seventy-second Indiana volunteers, the pension to date from June 6, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LUCRETIA GARDNER.

Mr. POLSLEY, from the same committee, reported adversely upon the petition of Lucretia Gardner, for a pension; which was laid on the table.

FREDERICA BRIELMAYER.

Mr. POLSLEY, from the same committee, reported a bill (H. R. No. 1234) granting a pension to Frederica Brielmayer; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Frederica Brielmayer, widow of William Brielmayer, late a private of company H, second regiment Ohio heavy artillery.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHANNAH CONNELLY.

Mr. POLSLEY, from the same committee, reported a bill (H. R. No. 1235) granting a pension to Johannah Connelly; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the

pension laws, the name of Johannah Connelly, mother of Eugene Connelly, late a private in company E, twentieth regiment Massachusetts volunteers, the pension to date from November 5, 1864.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MINOR CHILDREN OF MICHAEL TRAVIS.

Mr. POLSLEY, from the same committee reported a bill (H. R. No. 1236) granting a pension to the minor children of Michael Travis; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Michael Travis, late a private in company I, seventy-fourth regiment Ohio volunteers, the pension to date from February 16, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### HEIRS OF JAMES COX.

Mr. POLSLEY, from the same committee, reported a bill (H. R. No. 1237) granting a pension to the widow and minor children of James Cox; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the widow, Agnes Cox, and the minor children of James Cox, late of company B, first regiment Ohio heavy artillery, the pension to date from January 10, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LAVINIA A. GITTINGS.

Mr. POLSLEY, from the same committee, reported a bill (H. R. No. 1238) granting a pension to Lavinia A. Gittings, mother of Andrew J. Gittings; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lavinia A. Gittings, mother of Andrew J. Gittings, late of Putnam's rangers, first Maryland cavalry, the pension to date from March 4, 1862.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### OWEN GRIFFIN.

Mr. BENJAMIN, from the same committee, reported a bill (H. R. No. 1239) granting a pension to Owen Griffin; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Owen Griffin, foster father of James Griffin, late a private of company B, twenty-second regiment Wisconsin

volunteers, and John Griffin, late a private of company H, seventeenth regiment Wisconsin volunteers; the pension to be at the rate of eight dollars per month, and to continue during his natural life.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MARGARET LEWIS.

Mr. BENJAMIN, from the same committee, reported a bill (H. R. No. 1240) granting a pension to Margaret Lewis; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret Lewis, mother of John B. Lewis, who served in company A, twelfth regiment Connecticut volunteers, under the name of Clarence L. Ingersoll; the pension to be at the rate of eight dollars per month, to date from April 27, 1863, and to continue during her widowhood.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JOSEPH MASON.

Mr. BENJAMIN, from the same committee, reported adversely upon the petition of Joseph Mason, late of company E, sixth United States infantry, for a pension; which was laid on the table.

#### MRS. ANNA BAGLEY.

Mr. BENJAMIN, from the same committee, reported adversely upon the petition of Mrs. Anna Bagley, for a pension; which was laid on the table.

#### HARRIET E. HAINES.

Mr. BENJAMIN, from the same committee, reported adversely upon the petition of Harriet E. Haines; which was laid on the table.

#### MARY BROWN.

Mr. BENJAMIN, from the same committee, reported a bill (H. R. No. 1241) granting a pension to Mrs. Mary Brown; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mrs. Mary Brown, widow of William Brown, company E, thirty-seventh Iowa volunteers, at the rate of eight dollars per month, to commence on the 3d day of April, 1863, and to continue during her widowhood.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ESTHER FISK.

Mr. BENJAMIN, from the same committee, also reported a bill (H. R. No. 1242) granting a pension to Esther Fisk; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Esther Fisk, widow of John D. Fisk, late a private in the second New York veteran cavalry, commencing November 20, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the

vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. BENJAMIN, from the same committee, also reported adversely upon the following cases; and the same were laid on the table, and the reports ordered to be printed:

Petition of James Supple, company K, eighth United States infantry;

Petition of Mary Brown; and

Petition of Rebecca Scott.

#### WILLIAM O. DODGE.

Mr. BENJAMIN, from the same committee, also reported a bill (H. R. No. 1243) granting a pension to William O. Dodge; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of William O. Dodge, of Kingston, Caldwell county, Missouri, late a member of the Missouri home guard.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MARY D. GAUSE.

Mr. POLSLEY, from the same committee, also reported a bill (H. R. No. 1244) granting a pension to the widow and minor children of Solomon Gause; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary D. Gause, widow and minor children of Solomon Gause, late of company D, sixty-fifth regiment Ohio volunteers, commencing September 11, 1865.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SHERMAN H. COWLES.

Mr. POLSLEY, from the same committee, also reported back Senate bill No. 322, granting a pension to Sherman H. Cowles, with the recommendation that it do pass. It was read a first and second time.

The bill was read at length. It authorizes and directs the Secretary of the Interior to place the name of Sherman H. Cowles, late a private in company E, nineteenth regiment Connecticut volunteers, on the pension-roll, at the rate of eight dollars per month, to commence from the 18th day of May, 1863, and to continue during his natural life.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### WILLIAM BLACK.

Mr. WASHBURNE, of Massachusetts, from the Committee on Revolutionary Pensions and the War of 1812, reported back Senate bill No. 388, for the relief of William Black, a soldier of the war of 1812, with the recommendation that it do not pass; and the same was laid on the table.

#### OROVILLE AND VIRGINIA CITY RAILROAD.

Mr. PRICE. I am instructed by the Committee on the Pacific Railroad to report back House bill No. 332, granting the right of way

over the public lands of the United States to the Oroville and Virginia City Railroad Company, a corporation, and to provide for its construction, and to move that it be referred to the Committee on the Public Lands.

There was no objection, and it was ordered accordingly.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. VAN AERNAM, from the Committee on Invalid Pensions, reported adversely on the following cases, and the same were laid on the table: the petition of Ross O'Connor; the petition of John W. Hill; the memorial of James H. Smith; and the petition of Elizabeth Murphy.

#### ANN CORCORAN.

Mr. VAN AERNAM, from the same committee, reported a bill (S. No. 184) granting a pension to Ann Corcoran, with an amendment.

The bill directs the Secretary of the Interior to place the name of Ann Corcoran, widow of James Corcoran, late a private in company G, fifth regiment New York volunteer infantry, and pay her a pension at the rate of eight dollars per month from the 27th of October, 1864, and continuing during her widowhood.

The amendment was to strike out the date and insert the 6th day of February, 1865, and to add the words "subject to the provisions and limitations of the pension laws."

The bill, as amended, was ordered to be read a third time; and was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CAROLINE E. THOMAS.

Mr. VAN AERNAM, from the same committee, reported a bill (S. No. 421) granting a pension to Caroline E. Thomas, with a recommendation that it do pass.

The bill directs the Secretary of the Interior to place the name of the applicant on the pension-roll and pay her a pension at the rate of eight dollars per month from and after the passage of this act.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MICHAEL KELLEY.

Mr. VAN AERNAM, from the same committee, reported a bill (S. No. 323) granting a pension to Michael Kelley, recommending that it do pass.

The bill directs the Secretary of the Interior to place the name of the applicant, late a private in the first Vermont battery volunteers, on the pension-roll at the rate of fifteen dollars per month, to commence from and after the passage of this act, and to continue during his natural life.

Mr. HOLMAN. This is above the usual rate. I ask the report to be read.

The report was read. It states that the petitioner, while serving at the siege of Port Hudson on the 10th of December, 1863, was wounded by the explosion of a shell fired from the enemy, so as to render the amputation of his leg necessary. The application for a pension was refused by the Department. The circumstances of the case were that when the battery to which he was attached were pitching their camps they found the shell lying on the ground; and being regarded as entirely harmless it was used to hitch horses to by means of a bolt driven into the fuse hole; and while

the petitioner was in the act of preparing a fire to make a dinner for the men, the shell being in the way, he attempted to remove it by a blow with an ax, when it exploded and caused the injury to him.

Mr. HOLMAN. Is fifteen dollars a month the usual pension?

Mr. MILLER. Yes, sir.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CAROLINE AND MARGARET SWARTWOUT.

Mr. VAN AERNAM, from the same committee, reported a bill (S. No. 344) granting a pension to Caroline and Margaret Swartwout, with a recommendation that it do pass.

The bill directs the Secretary of the Interior to place on the pension-roll the names of the petitioners, sisters of Samuel Swartwout, late commodore in the United States Navy, and pay to them, or to the survivor, a pension of thirty dollars per month, from the 15th of February, 1867, during their joint lives, or the life of either of them.

The latter motion was agreed to.

The report was read.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### GEORGE BENNETT.

Mr. VAN AERNAM, from the same committee, reported back with an amendment the bill (S. No. 425) granting a pension to George Bennett.

The bill directs the Secretary of the Interior to place upon the pension-roll the name of George Bennett, late a private in company E, sixth regiment Michigan cavalry volunteers, and pay him a pension at the rate of eight dollars a month, from the 7th of April, 1863.

The amendment of the committee was to strike out all after the word "pension," in line eight, and insert in lieu thereof the words "subject to the provisions and limitations of the pension laws, commencing April 7, 1863."

The amendment was agreed to.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ELLEN CURRY.

Mr. BEATTY, from the same committee, reported back, with the recommendation that it do pass, the bill (H. R. No. 945) granting a pension to Ellen Curry, widow of James Curry, deceased.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ellen Curry, widow of James Curry, late a private in company F, thirty-ninth regiment Illinois infantry volunteers.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MATHEW C. GRISWOLD.

Mr. VAN AERNAM, from the same committee, reported a bill (H. R. No. 1245) granting a pension to Mathew C. Griswold; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mathew C. Griswold, late first lieutenant twentieth regiment New York cavalry, commencing January 11, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### WIDOW AND CHILDREN OF HIRAM HITCHCOCK.

Mr. VAN AERNAM, from the same committee, reported a bill (H. R. No. 1246) granting a pension to the widow and minor children of Hiram Hitchcock; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the names of the widow and minor children of Hiram Hitchcock, late a hospital steward in the eighteenth regiment Wisconsin volunteers, commencing January 7, 1865.

Mr. HOLMAN. This seems to be giving a pension to the widow and children jointly. I believe that is not usual.

Mr. VAN AERNAM. The bill is drawn correctly. The gentleman from Indiana will understand that there are no papers on file in the Pension Bureau designating the names of the children, as in an ordinary case of appeal. This is an original case, and the bill is correct.

Mr. HOLMAN. I move to insert after the words "minor children" the words "under sixteen years of age."

Mr. VAN AERNAM. I have no objection to that.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORLENA WALTERS.

Mr. VAN AERNAM, from the same committee, reported a bill (H. R. No. 1247) granting a pension to Orlena Walters; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Orlena Walters, widow of Lieutenant Elisha Walters, late of the seventh provisional regiment enrolled Missouri militia, commencing October 4, 1863.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ELIZABETH RICHARDSON.

Mr. VAN AERNAM, from the same committee, also reported a bill (H. R. No. 1248) granting a pension to Elizabeth Richardson; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Richardson, widow of William Richardson, late a private in company I, fifth regiment Kentucky cavalry, commencing February 20, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider



the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARGARET C. LONG.

Mr. VAN AERNAM, from the same committee, reported a bill (H. R. No. 1249) granting a pension to Margaret C. Long; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret C. Long, widow of Jesse K. Long, late a private of company E, twenty-eighth regiment Kentucky volunteers, commencing June 6, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAMES ROONEY.

Mr. VAN AERNAM, from the same committee, reported a bill (H. R. No. 1250) granting a pension to James Rooney; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of James Rooney, late a member of company B, seventh Missouri cavalry, commencing April 14, 1863.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHARLES HAMSTEAD.

Mr. VAN AERNAM, from the same committee, reported a bill (H. R. No. 1251) granting a pension to Charles Hamstead; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Charles Hamstead, late a member of Captain Schell's company of West Virginia State guard, afterward the seventh West Virginia volunteers, commencing February 26, 1862.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CHILDREN OF G. W. FREER.

Mr. VAN AERNAM, from the same committee, reported a bill (H. R. No. 1252) granting a pension to the minor children of Garrett W. Freer; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the names of W. G. Freer, Brodhead E. Freer, and Clarence Freer, minor children of Garrett W. Freer, late a special agent in the thirteenth district of New York, as the minor children of a second lieutenant, commencing July 5, 1868.

Mr. HOLMAN. I think this bill should provide that the pension be given to these children jointly. As it now reads the pension would go to each one of the children.

Mr. VAN AERNAM. I have no objection to such an amendment, and will move it.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JULIA L. DOTY.

Mr. BEATTY, from the same committee, reported a bill (H. R. No. 1253) granting a pension to Julia L. Doty; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Julia L. Doty and the minor children of John M. Doty, late a contract surgeon of United States volunteers, who died at Annapolis, Maryland.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FRANCES M. WEBSTER.

Mr. BEATTY, from the same committee, also reported a bill (H. R. No. 1254) granting a pension to Frances M. Webster; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Frances M. Webster, widow of L. B. Webster, late a captain and brevet lieutenant colonel of the fourth regiment of United States cavalry.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THE SPEAKER. The morning hour has expired.

ORDER OF BUSINESS TO-MORROW.

Mr. SCHENCK. Mr. Speaker, it is now so late that I do not propose to move to go into Committee of the Whole on the special order. I hope, however, that members generally will be in attendance to-night, so as to give us a quorum, that we may proceed with the tax bill. I have also a proposition to make. It is that the House agree to meet to-morrow at eleven o'clock a. m., and sit till five o'clock p. m., dispensing with the evening session. I ask the House to give us one good solid day.

Mr. GOLLADAY. I object.

Mr. SCHENCK. I propose, then, that we meet at eleven o'clock to-morrow to go into Committee of the Whole on the tax bill immediately after the morning hour and to continue in session till five o'clock, dispensing with the evening session.

Mr. ELDRIDGE. I object.

AMERICAN SHARPSHOOTERS.

Mr. SCHENCK, by unanimous consent, reported from the Committee of Ways and Means a joint resolution (H. R. No. 295) to authorize the Secretary of the Treasury to remit the duties on certain articles contributed to the National Association of American Sharpshooters; which was read a first and second time.

Mr. SCHENCK. Mr. Speaker, I think a brief explanation will satisfy the House of the propriety of passing this resolution, which the committee unanimously directed me to report. This Association of American Sharpshooters is an association of delegates from all the Ger-

man societies, who are in a short time to hold a grand festival in the city of New York, continuing four weeks, to which festival they have, I believe, invited Congress; and, as I just learn, (for I was not present at the time,) the House, in response to that invitation, has appointed a committee. Individuals in Germany, as well as associations there of a similar character, have agreed to contribute a number of medals, &c., to be among the prizes shot for. We are asked to provide that these articles, to an amount not exceeding \$10,000 in currency, may come in free of duty; and the Committee of Ways and Means are unanimously in favor of the measure.

Mr. ROBINSON. I trust that this resolution will be passed without opposition on either side.

The joint resolution was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress.

SALE OF DAMAGED ARMS, ETC.

Mr. GARFIELD. I ask unanimous consent to report back from the Committee on Military Affairs a joint resolution (H. R. No. 292) directing the Secretary of War to sell damaged or unserviceable arms, ordnance, and ordnance stores. This is a measure of very considerable importance to the Treasury, and I trust there will be no objection to allowing it to be reported now.

Mr. SCOFIELD. I object.

Mr. SCHENCK. In order to encourage gentlemen to come here this evening I move that the House now take its recess.

The motion was agreed to; and the House (at four o'clock and thirty-five minutes p. m.) took a recess till half past seven o'clock p. m.

EVENING SESSION.

At half past seven o'clock the House reassembled in Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

THE CHAIRMAN. The Clerk will continue the reading of the bill where he left off yesterday.

The Clerk read as follows:

Power of attorney for the sale or transfer of any stock, bonds, or scrip, or for the collection of any dividends or interest thereon, twenty-five cents.

No amendment being offered, the Clerk read the next paragraph, as follows:

Power of attorney or proxy for voting at any election for officers of any incorporated company or society, except religious, charitable, or literary societies, or public cemeteries, ten cents.

Mr. BARNES. I move to strike that paragraph out of the bill. This proposes to bring in a very small revenue and is obtained at great inconvenience. This issuing of proxies at any election can only be done immediately before the election. The shareholders of a stock company are distributed in the different sections of the country. Many of them are unacquainted with the character of the stamp the law requires, and when the shareholders meet for an election this is the cause of a very great deal of confusion. I submit to the Committee of Ways and Means whether it is neces-

sary to continue the stamp tax upon these proxies.

Mr. SCHENCK. I rise to oppose the amendment, and I hope that it will not prevail.

The question was taken; and the amendment was rejected.

No further amendment being offered, the Clerk read the next paragraph, as follows:

Power of attorney to receive or collect rent, twenty-five cents.

No amendment being offered, the Clerk read the next paragraph, as follows:

Power of attorney to sell and convey real estate, or to rent or lease the same, one dollar.

No amendment being offered, the Clerk read the next paragraph, as follows:

Power of attorney for any other purpose, fifty cents.

No amendment being offered, the Clerk read the next paragraph, as follows:

Probate of will, or letters of administration: Where the estate and effects for or in respect of which such probate or letters of administration applied for shall be sworn or declared not to exceed the value of \$2,000, one dollar. Exceeding \$2,000, for every additional \$1,000 or fractional part thereof, in excess of \$2,000, fifty cents: *Provided*, That no stamp, either for probate of wills, or letters testamentary, or of administration, or on administrator or guardian bond, shall be required when the value of the estate and effects, real and personal, does not exceed \$1,000: *Provided, further*, That no stamp tax shall be required upon any papers necessary to be used for the collection from the Government of claims by soldiers or their legal representatives of the United States, for pensions, back pay, bounty, or for property lost in the service.

No amendment being offered, the Clerk read the next paragraph, as follows:

Protest. Upon the protest of every note, bill of exchange, acceptance, check, or draft, or any marine protest, whether protested by a notary public or by any other officer who may be authorized by the laws of any State or States to make such protest, twenty-five cents.

No amendment being offered, the Clerk read the next paragraph, as follows:

Receipts for any sum exceeding twenty dollars in amount, not being for the satisfaction of any mortgage or judgment, or decree of any court, or by indorsement on any stamped obligation in acknowledgment of its fulfillment, for each receipt, two cents: but when more than one signature is affixed to the same paper, one or more stamps may be affixed thereto, representing the whole amount required for such signatures.

Mr. SCHENCK. I move to strike out "twenty dollars" and in lieu thereof to insert "fifty dollars."

The amendment was agreed to.

Mr. MILLER. I move to strike out the whole paragraph. I should like to see this tax dispensed with, for there is nothing more annoying than this two-cent tax. I do not know what revenue it brings in, but I do not think it can amount to much. There is no part of the stamp law that is so much found fault with as this two-cent stamp.

Mr. SCHENCK. We have amended the bill by saying that no tax shall be required on receipts for an amount under fifty dollars instead of twenty dollars. It is the stamps upon smaller receipts that cause annoyance.

Mr. MILLER. How much is received from stamps?

Mr. SCHENCK. Eighteen million dollars in the gross. It is \$2,000,000 from these two-cent stamps.

Mr. MILLER. I withdraw the amendment. We must have revenue.

Mr. GETZ. I renew the amendment.

The amendment was disagreed to.

Mr. PRICE. I move to strike out the latter portion of the paragraph after the words "two cents." The reason I do it is simply this. These receipts are made all over the country, and it makes no difference which the sum is, fifty dollars or five dollars, except that there are less at five dollars. But in the rural districts, where men give receipts, they cannot get the stamps without more expense than they are worth. There is no tax in the whole bill, from page one to page three hundred and sixty, that gives so much dissatisfaction as this two-cent tax. I had hoped that the chairman of the committee would himself have moved

to strike out this paragraph and let it go. It will do more to satisfy the people than anything, and will save a great annoyance.

Mr. PAINE. The gentleman did not move to strike out the whole paragraph.

The CHAIRMAN. That was moved and withdrawn.

Mr. PRICE. Then I modify my amendment so as to include the whole paragraph. I thought I had accomplished it. I do not wish to embarrass the bill nor to take up the time of the committee, but I do think the paragraph ought to be stricken out.

Mr. SCHENCK. I have to repeat what I have said before, that the committee have no more interest in this matter than the gentlemen themselves. Our only desire is to collect the revenue. All taxes are inconvenient and this among the rest. But we have endeavored to avoid a great source of inconvenience by raising, as gentlemen will see, the amount of receipt to fifty dollars, no stamp being required on any sum below that.

Mr. MILLER. I suggest to make the amount \$100.

Mr. PRICE. No; strike it all out.

The amendment was agreed to.

The Clerk read as follows:

SEC. 103. *And be it further enacted*, That in any and all cases where an adhesive stamp shall be used for denoting the payment of any tax imposed by law, except as may be otherwise provided, the person making, delivering, or giving the instrument, matter, or thing to be taxed shall affix the stamp and cancel the same by writing thereon the initials of his name and the date upon which the same shall be affixed or used, so that the same may not again be used, or in such other manner as the Commissioner of Internal Revenue may by general regulation prescribe.

Mr. SCHENCK. I move to strike out the words "affix the stamp and cancel the same by writing thereon," and inserting in lieu thereof the following:

To affix the stamp or stamps denoting said tax that the entire surface thereof shall be exposed to view, and shall cancel the same by writing with ink upon each and every stamp so used.

Mr. PETERS. I move to amend by adding the words by inserting "in words or printing." It is very common to print.

Mr. BARNES. Stamping.

Mr. SCHENCK. The last clause of the section reads, "or in such manner as the Commissioner of Internal Revenue may by general regulation prescribe." The report of the scientific commission says the surest way is to have the stamps made of gum and ink which will be erased when it is attempted to be washed out, and to have the canceling done in writing, and we have left it discretionary with the Commissioner of Internal Revenue to allow it to be done by a machine, or in some other way.

Mr. PETERS. Most of the business houses do it by printing.

Mr. SCHENCK. Not always; the surest way is by ink.

Mr. PETERS. It is done by a machine.

Mr. SCHENCK. That is permitted, although the other is a regular way. The purpose for which we require the whole surface of the stamp to be visible is simply this: we find in Philadelphia, for instance, a man engaged in putting up patent medicine where he is required to put on a four-cent stamp. He takes two two-cent stamps, cuts them in two, and uses two halves, so as to show only the edges of them, making them look as if they were two whole stamps. Then he uses the other two halves on another package.

Mr. BARNES. I desire to ask a question. The phraseology of this section applies to instruments, while the remarks of the chairman of the committee apply to articles also.

Mr. SCHENCK. The language is "instrument, matter, or things." That will take in any other thing.

Mr. BARNES. I move to strike out the section for the purpose of offering a suggestion. It seems to me that where articles are multiplied as often as they are in some branches of business to which stamps are applicable, it

would be a matter of impracticability—I might almost say an impossibility—to cancel the stamps in writing. It would require in some establishments in the country a large force of employes to do this kind of work. I presume that there are in Philadelphia, to which the gentleman has referred, establishments that could not cancel the stamps required by this law without the employment of fifty persons. This section gives power to the Commissioner to devise other means of cancellation, and it may be that he will not require it to be done in writing; but if he should, I do not see how it could be done. If I understand the present law this power exists with the Commissioner, and he decides that printing and stamping may be done.

Mr. GRISWOLD. The gentleman, I apprehend, does not understand this section. If he will look at the last two lines of the paragraph, he will see that it leaves the Commissioner at liberty to allow them to be canceled in some other way.

The question was taken on Mr. BARNES's amendment; and it was disagreed to.

The Clerk read the next section, as follows:

SEC. 104. *And be it further enacted*, That the acceptor of any bill of exchange or order for the payment of any sum of money drawn, or purporting to be drawn, in any foreign country, but payable in the United States, shall, before paying or accepting the same, place thereon a stamp for the proper amount of tax, and cancel the same, as the law requires for inland bills of exchange or promissory notes; and no bill of exchange shall be paid or negotiated without such stamp; and if any person shall pay or negotiate, or offer in payment, or receive, or take in payment any such draft or order, he shall be liable to a penalty of \$200.

No amendment was offered; and the next section was read, as follows:

SEC. 105. *And be it further enacted*, That no stamp tax shall be required on official instruments, documents, and papers issued by the officers of the United States Government or of any State, county, town, or other municipal corporation, in the exercise of functions strictly belonging to them in their ordinary governmental and municipal capacity; nor on affidavits, nor on powers of attorney, or any other paper relating to applications for bounty, arrearages of pay, or pensions, or to the receipt thereof; nor on tickets or contracts of insurance when limited to accidental injury to persons, nor on certificates of the measurement or weight of animals, wood, coal, or hay; nor on deposit notes to mutual insurance companies, for insurance upon which policies subject to stamp taxes have been or are to be issued; nor on manifests, bills of lading, or passage tickets, by steamboats or vessels plying between ports of the United States and ports of British North America on the lakes or other inland waters dividing that country from the United States; nor on any certificate of the record of a deed or other instrument in writing, or of the acknowledgment or proof thereof by attesting witnesses, nor to any indorsement of a negotiable instrument, nor on any warranty of attorney accompanying a bond or note, when such bond or note shall have affixed thereto the stamp or stamps denoting the tax required; and whenever any bond or note shall be secured by a mortgage, but one stamp shall be required to be placed on such papers, but the stamp placed thereon shall be for the largest amount required for either of said instruments.

Mr. SCHENCK. I offer, from the Committee of Ways and Means, the following amendment:

Page 154, section one hundred and five, at the end of line twenty, insert the following: "Nor on any duplicate or copy of any instrument in writing retained by the person making, delivering, or giving the same."

The amendment was agreed to.

The next section was read, as follows:

SEC. 106. *And be it further enacted*, That any person who, with intent to evade the tax thereon, shall make, sign, or issue, or cause to be made, signed, or issued, any instrument, document, or paper of any kind or description whatsoever, or accept, negotiate, or pay, or cause to be accepted, negotiated, or paid, any bill of exchange, draft, or order, or promissory note for the payment of money, without the same being duly stamped, and the stamp thereon canceled as required by law, shall, for every such offense, forfeit the sum of fifty dollars; and such instrument, document, or paper, bill, draft, order, or note, not being stamped according to law, shall be deemed invalid and of no effect: *Provided*, That the title of a purchaser of land by deed duly stamped shall not be defeated or affected by the want of a proper stamp on any deed conveying said land by any person, from, through, or under whom his grantor claims or holds title.

Mr. SPALDING. I move to amend that section by inserting before the word "any," on line fourteen, the words "contract or;" so that

it shall read "or any contract or deed conveying said land," &c.

Mr. ALLISON. There is no objection to that.

The amendment was agreed to.

The next section was read, as follows:

SEC. 107. *And be it further enacted*, That no instrument, document, or paper required by law to be stamped shall be admitted or used as evidence in any court, unless the proper stamp denoting the amount of tax payable thereon shall have been affixed thereto and canceled as required by law; nor shall it be lawful to record any such instrument, document, or paper unless a stamp of the proper amount is affixed thereto and canceled in the manner required by law; and the record of any such instrument, document, or paper not stamped as aforesaid shall not be admitted or used as evidence in any court. And any power of attorney, conveyance, or document of any kind, made in any foreign country to be used in the United States, shall pay the same tax as is required by law on similar instruments or documents when made or issued in the United States, and the person to whom the same is issued or by whom it is to be used shall, before using the same, affix thereon and cancel the proper stamp for the amount of tax required.

No amendment was offered.

The next section was read, as follows:

SEC. 108. *And be it further enacted*, That in case any person shall not have affixed to any instrument the stamp required by law thereon at the time of making or issuing the said instrument, and he, or any other person having an interest therein, shall be desirous of affixing such stamp to said instrument, or if said instrument be lost, to a copy thereof, he, or such other person, shall appear before the collector of the proper district, who shall, upon the payment of the amount of the stamp required by law, and of a penalty of fifty dollars, and where the whole amount of the tax denoted by the stamp required shall exceed the sum of fifty dollars, on payment also of interest, at the rate of six per cent. on said tax from the day on which such stamp ought to have been affixed, affix the proper stamp to such instrument or copy and cancel the same, and note upon the margin thereof the date of his so doing, and the fact that such penalty has been paid; and the same shall thereupon be deemed and held to be as valid, to all intents and purposes, as if stamped when made or issued. But if it shall appear upon evidence satisfactory to said collector that any such instrument was not duly stamped at the time of making or issuing the same, by reason of accident, mistake, or inadvertence, and without any willful design to defraud the United States of the tax, or to evade or delay the payment thereof, then and in such case, if such instrument, or, if the original be lost, a copy thereof, duly certified by the officer having charge of any records in which such original is required to be recorded, or otherwise duly proven to the satisfaction of the collector, shall, within six months after the making or issuing thereof, be brought to the said collector of revenue to be stamped, and the stamp tax chargeable thereon paid, it shall be lawful for the said collector to remit the penalty aforesaid, and to affix and cancel the proper stamp upon such instrument. And when the original instrument, or a certified or duly proved copy thereof, as aforesaid, thus stamped so as to entitle the same to be recorded, shall be presented to the clerk, register, recorder, or other officer having charge of the original record it shall be lawful for such officer, upon the payment of the fee legally chargeable for the recording thereof, to make a new record thereof, or to note upon the original record the fact that the error or omission in the stamping of said original instrument has been corrected pursuant to law; and the original instrument, or such certified copy, or the record thereof, may be used in all courts and places in the same manner and with like effect as if the instrument had been originally stamped. In any case where it shall appear that the failure to affix the stamp required by law on any instrument at the time of making, signing, or issuing the same was occasioned by the fact that no collection district was then established at the place where such instrument was made, signed, or issued, and that the required stamp was afterward, and before the 1st day of January, 1869, duly affixed thereto, or to a copy thereof, and canceled according to the provisions of this section, the same shall be as valid to all intents and purposes as if stamped originally as required by law. But no right acquired in good faith before the stamping of any instrument or copy thereof, and the recording thereof, shall in any manner be affected by such subsequent stamping.

Mr. SCHENCK. I offer the following amendment from the Committee of Ways and Means:

Page 156, line eight, after the word "shall" insert the words "under regulations to be prescribed by the Commissioner of Internal Revenue."

The amendment was agreed to.

Mr. SPALDING. I offer the following amendment:

Page 157, line fifty-one, after the word "issued," insert the words: "or when it shall appear that the proper stamp was omitted by reason of a commonly received construction of the act different from that finally, and after the lapse of six months from the date of the instrument, given to it by the Commissioner of Internal Revenue, requiring a stamp."

I will explain the object of that amendment. Where the party executing the instrument does not at the time of its execution suppose that a stamp is necessary, and after the lapse of six months the Commissioner shall decide that a stamp is necessary, in such a case there is no possible place left where the evil can be corrected unless we have an amendment of this sort adopted. In cases that occur after six months have elapsed, where a party in good faith omits to put a stamp but is entirely willing to do it when he discovers his error and that the Commissioner requires a particular stamp, then I want that the party shall have an opportunity to do it. I suppose there will be no objection to the amendment.

Mr. MAYNARD. The gentleman refers, I presume, to cases where the party fails to put on a stamp through a misconception of the law?

Mr. SPALDING. Yes, sir. I will state a case that I know to have occurred. A friend of mine has issued land contracts and put on, perhaps, a twenty-five cent. stamp, and has discovered, after the lapse of six months, that the Commissioner requires, perhaps, a dollar stamp. He is willing to put it on, but he has not the power under the law, and the law, as it now exists, does not give the power. It is for a case like that that I propose this amendment. The Commissioner of Internal Revenue may not have made his decision until more than six months after the instrument is made. It is in reference to a case where the collector himself may not suppose that a stamp is required, or may suppose that a stamp of less value is required. But after the lapse of six months he finds, by a decision of the Commissioner, that a higher stamp is required. Such a case will not often occur, but when it does occur we ought to afford an opportunity to the party, who is really not in fault, to come in and affix a stamp.

Mr. SCHENCK. From comparison, I am satisfied there never was a stamp act before so liberal in its provisions for inadvertence, inexperience, and ignorance as this act is. And surely it will not do to keep it open in this vague manner forever. This has been in operation now for some time, and it has obtained a fixed construction and there is a settled practice under it. It appears to me that it would be a very uncertain matter to open this up in the exceedingly loose manner in which my colleague proposes.

Mr. SPALDING. I wish to provide a remedy and to rectify the practice as it now exists under the law. There is now no remedy.

Mr. MAYNARD. Why not extend the time for affixing the stamp for six months?

Mr. SPALDING. Anything that would relieve us from the difficulty; I do not care what it may be.

Mr. MULLINS. To my mind this whole matter is fully provided for in the following portion of this section:

But if it shall appear upon evidence satisfactory to said collector that any such instrument was not duly stamped at the time of making or issuing the same, by reason of accident, mistake, or inadvertence, and without any willful design to defraud the United States of the tax, or to evade or delay the payment thereof, then and in such case, if such instrument, or, if the original be lost, a copy thereof, duly certified by the officer having charge of any records in which such original is required to be recorded, or otherwise duly proved to the satisfaction of the collector, shall, within six months after the making or issuing thereof, be brought to the said collector of revenue to be stamped, and the stamp tax chargeable thereon paid, it shall be lawful for the said collector to remit the penalty aforesaid, and to affix and cancel the proper stamp upon such instrument.

That seems to me to be just as clear and conclusive as it possibly can be. If it be made more liberal than that it will run into perfect abuse. That is my judgment.

Mr. MAYNARD. I would suggest to the gentleman from Ohio [Mr. SPALDING] to propose, in lieu of his amendment, an amendment to the paragraph just read by my colleague, [Mr. MULLINS,] extending the period there provided for from "six months" to "one year."

Mr. SCHENCK. I have no objection to that. It will give a man an entire year to find out whether he has put the right stamp on.

Mr. SPALDING. Make it two years.

Mr. SCHENCK. If my colleague will be satisfied with one year I will agree to it. That is twice as long as the law now allows.

Mr. SPALDING. Very well; I will modify my amendment as suggested by the gentleman.

The amendment, as modified, was then agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 109. *And be it further enacted*, That no instrument, document, writing, or paper of any description, required by law to be stamped, shall be deemed or held invalid and of no effect for the want of the particular kind or description of stamp designated for and denoting the tax on any such instrument, document, writing, or paper, provided a legal stamp or stamps, denoting a tax of equal amount, shall have been duly affixed and used thereon; but the provisions of this section shall not apply to any stamp appropriated to denote the tax charged on proprietary articles, or articles enumerated in schedule C.

No amendment was offered.

The committee here rose informally; and Mr. BLAINE took the chair as Speaker *pro tempore*.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its Clerks, informed the House that the Senate had passed, without amendment, House joint resolution No. 137, requesting the President to intercede with her majesty, the Queen of Great Britain, to secure the speedy release of Rev. John McMahon, convicted on a charge of treason-felony, and now confined at Kingston, Canada West.

The message further informed the House that the Senate had passed a joint resolution (S. R. No. 121) to carry into effect the resolution approved March 2, 1867, providing for the exchange of public documents, in which the concurrence of the House was requested.

#### INTERNAL TAX BILL.

The Committee of the Whole again resumed the consideration of the internal tax bill.

The following section was read:

SEC. 110. *And be it further enacted*, That there shall be levied, collected, and paid as taxes, upon every package, parcel, article, or thing mentioned and described in schedule C, the several amounts of money set down in figures against the same respectively, or otherwise specified or set forth in said schedule, the payment of which amounts shall be indicated and proved by adhesive stamps to be affixed to such package, parcel, article, or thing, and canceled in the manner and form prescribed by the Commissioner of Internal Revenue; and the articles named in said schedule of foreign manufacture, imported into the United States, shall, in addition to the import duties imposed on the same, be subject to the taxes therein prescribed, and shall have the proper stamps affixed thereon and canceled; and any person who shall sell or offer for sale any of such articles, whether of foreign or domestic manufacture, shall be deemed the manufacturer thereof, and shall be subject to all the taxes, liabilities, and penalties imposed by law upon such manufacturers.

Mr. SCHENCK. I move, by instruction of the Committee of Ways and Means, to amend the section just read by adding to it the following:

And the Commissioner of Internal Revenue may, from time to time, furnish, supply, and deliver to any manufacturer of friction or other matches, cigar lights, or wax tapers, a suitable quantity of adhesive or other stamps, such as may be prescribed for use in such cases, without prepayment therefor, on a credit of not exceeding sixty days, requiring, in advance, a bond in a penal sum of not less than double the denominate value of such stamps, with such security as he may judge necessary, to secure payment therefor to the United States within the time prescribed for such payment. And upon all such bonds or other securities taken by said Commissioner, suits may be maintained in the circuit or district courts of the United States, in the several districts where any of the persons giving said bonds or other securities reside or may be found, in any appropriate form of action.

The amendment was agreed to.

Mr. SCHENCK. I move to insert the following, as an additional section, to come in immediately after the section just read:

SEC. —. *And be it further enacted*, That no stamp tax shall be imposed upon any uncombined medicinal drug or chemical, nor upon any medicine compounded according to the United States or other



national pharmacopœia, or of which the full and proper formula is published in any of the dispensaries now or hitherto in common use among physicians or apothecaries, or in any pharmaceutical journal now issued by any incorporated college of pharmacy, when not sold or offered for sale, or advertised under any other name, form, or guise than that under which they may be severally denominated and laid down in said pharmacopœias, dispensaries, or journals as aforesaid; nor upon medicines sold to or for the use of any person, which may be mixed and compounded for said person according to the written receipt or prescription of any physician or surgeon. But nothing in this section shall be construed to exempt from stamp tax any medicinal articles, whether simple or compounded by any rule, authority, or formula, published or unpublished, which are put up in a style or manner similar to that of patent or proprietary medicines in general, or advertised in newspapers or by public handbills for popular sale and use, as having any special proprietary claim to merit, or to any peculiar advantage in mode of preparation, quality, use, or effect, whether such claim be real or pretended.

Mr. GRISWOLD. Before the question is taken upon the amendment or additional section, just moved by the chairman of the Committee of Ways and Means, [Mr. SCHENCK,] I desire to move to amend section one hundred and ten by adding to it the following:

*Provided, That when such imported articles, except playing-cards, lucifer friction matches, cigar lights, and wax tapers, shall be sold in the original and unbroken package in which the bottles or other inclosures were packed by the manufacturer, the person so selling said articles shall not be subject to any penalty on account of the want of the proper stamp.*

This is simply the provision of the present law, and a provision which it seems to me is practically very important. It will be observed that this section provides a penalty upon persons offering for sale these articles. I cannot learn that any frauds have resulted from the present law. I think this provision is eminently worthy of consideration as a practical provision.

Mr. SCHENCK. The amendment of the gentleman, my colleague on the Committee of Ways and Means, [Mr. GRISWOLD,] does not strictly relate to my amendment, which is to insert an additional section. But I am willing that the question should be first taken on his amendment. I admit that the provision he offers is the provision of the present law. The Committee of Ways and Means, however, though they very seldom disagree with each other, have not agreed with him in regard to retaining that provision of the present law in this bill.

Now, instead of making any argument myself upon this provision, I will send to the Clerk's desk, to be read as my speech, a little article I have just discovered in a Philadelphia paper touching that subject.

The Clerk read as follows:

*"Duties on Foreign and Domestic Perfumery. — A proviso attached to section one hundred and sixty-nine of the internal revenue law permits foreign perfumery to be sold in unbroken packages without being stamped when such perfumery is packed by the manufacturer. The effect of this provision is disastrous to our own manufacturers, since they are compelled by law to stamp all the perfumery made in their establishments, while the foreign merchant is allowed the privilege of disposing of his products without the stamp duty. Such a discrimination, to say the least, is unwise, and calculated to injure home manufacturers. But this is not the only evil caused by the proviso. Unprincipled parties in this and other cities, taking advantage of the license afforded them, are engaged in putting up their goods with imitation labels and trade-marks of the foreign article, thus cheating the Government, and by the fraud seriously injuring those who, in the legitimate business, cheerfully comply with the law and add to the revenue of the country. General SCHENCK, in reporting the new tax bill, has wisely stricken out this obnoxious proviso, and we trust that Congress, having an eye to the interest of American manufacturers and American industry, will look to it that foreign influence, and that of the swindlers in our own country, may not again have the clause 'snaked through' on the final passage of the bill."*

Mr. MAYNARD. I ask the gentleman from New York to modify his amendment so as to strike out "provided that," and to insert "but;" so it will read "but when," for reasons that are obvious. I will not take the trouble to explain the reasons.

Mr. GRISWOLD. I accept that modification.

Mr. BARNES. I should like to have the amendment again read.

The amendment was again read.

Mr. BARNES. Mr. Chairman, that provision is eminently just and proper. So far as protecting domestic manufacturers by not

applying the stamp the tariff act which imposes duties on the arrival of these goods at our custom-houses can be so arranged as to collect an increased duty. There can be no conflict in that respect. The inconvenience to the merchant is great. The articles are small in character, and come in large cases, and the cases are opened and the small packages are opened and the wrappers disturbed in order to affix the stamp. It is a very serious inconvenience to the importer. I can see no reason for it except in the suggestion made by the chairman of the Committee of Ways and Means, that it gives a nominal advantage to the foreign manufacturer over the domestic manufacturer. That I say can be provided for by increasing the duties on imports. I think the amendment is eminently proper.

Mr. O'NEILL. Mr. Chairman, I move to strike out the last line for the purpose of saying a few words in reference to the pending amendment. The article which was read at the request of the chairman of the Committee of Ways and Means was written by a friend of mine who is engaged in this trade in the city of Philadelphia. The manufacture of perfumery is carried on very largely in the city of Philadelphia; and a committee on the part of the gentlemen engaged in this trade very ably presented their case to the Committee of Ways and Means, as I think the chairman will admit. It is an unjust discrimination against our domestic manufacturers, and in favor of the foreign manufacturers to permit the latter to bring in their packages unbroken with a single stamp affixed, while the former are compelled to affix a stamp to every separate article. This injury to our manufactures ought to be remedied. I do not suppose that we are in favor of crushing out our own industry, in however slight degree, in behalf of the foreign manufacturer. I know the gentleman from New York does not want to do it. I am a tariff man, and in favor of home industry in every respect, and believe my friend is, and am therefore surprised he should have submitted this amendment. I withdraw my *pro forma* amendment.

Mr. HIGBY. We have got into confusion about these amendments. The amendment of the gentleman from New York is to one portion of the bill and that of the gentleman from Ohio to another portion.

The CHAIRMAN. Debate is exhausted.

Mr. BARNES. I rise to appeal from the decision of the Chair. I rose to speak to the amendment of the gentleman from Ohio when the gentleman from New York moved his amendment, an amendment entirely distinct in its character.

Mr. SCHENCK. I withdraw my amendment for the present.

The question was taken on Mr. GRISWOLD's amendment; and it was disagreed to.

Mr. SCHENCK. I now renew the amendment which I withdrew for a moment.

Mr. BARNES. I desire the attention of the chairman of the Committee of Ways and Means. I move to strike out all that part of the amendment which refers to excepted articles, the recipes of which are published in the pharmacopœia. There is a class of articles known as proprietary articles, some still under the control of the proprietors, and others which have passed from their control and become public. The latter are exempted while the others require stamps. I desire to increase the articles to be stamped by including the articles called the pharmacopœia articles. There are articles called Bacon's Drops and Godfrey's Cordial, which were started years ago by gentlemen of those names in England, and which are now manufactured by the trade all over the country. The recipes of those articles are published in the pharmacopœia. Druggists here and elsewhere make them up. The recipes purport to state what those articles are made of. Whether they do or not I do not know. Articles made from recipes called by other individual names are required to be stamped, and in character of article and

the appearance of the package they are the same. There are a number of articles known to the trade as British patent medicines. There is a confusion in reference to excepted articles which is unnecessary. I desire that the articles excepted in the amendment of the chairman of the committee from stamping be stamped, to make all articles of a class come under one class with reference to stamps. I do not propose that physicians' prescriptions shall be stamped.

Mr. SCHENCK. It is impossible to get along in this way. We have proposed a section which is precisely a section taken from the present law. At first the committee were of opinion that it might be left out altogether. That, however, was thought to be illiberal, and upon reconsideration the committee instructed me to move to restore the exemption of certain articles as is now done in the present law. The gentleman thinks the section adopted from the present law, which contains the exemption is too broad, if I understand him—that it ought not to exempt so many things. I am perfectly willing to limit it if the gentleman will only put his amendment in some tangible shape. But to talk generally about the section being too broad, and exempting too many things without indicating wherein it is too broad, is a difficult way of managing a subject.

Mr. BARNES. I did not make myself understood by the chairman.

Mr. SCHENCK. I hear the gentleman with a great deal of difficulty.

Mr. BARNES. My amendment is to strike out all that part of his amendment which refers to articles excepted. Strike out all after the word "compounded" to the word "upon," referring to physicians' prescriptions.

Mr. SCHENCK. I understand the gentleman to propose to amend by striking out certain words, so that it shall read: "that no stamp tax shall be imposed upon any medicines sold to or for the use of any person," &c. I will accept that amendment, or, rather, as I have no right to accept it, I am willing to have a vote taken upon it.

The amendment to the amendment was agreed to.

The amendment, as amended, was then agreed to.

Mr. BARNES. I move to amend section one hundred and ten, in line eight, by inserting after the word "thing," the words "exposed to view upon the outside of the wrapper, jar, or bottle," so that it will read, "by adhesive stamps to be affixed to such package, parcel, article, or thing exposed to view upon the outside of the wrapper, jar, or bottle," &c.

Mr. SCHENCK. I hope that will not be adopted. It will be a great opening for fraud.

Mr. BARNES. It seems almost necessary, in order to protect the merchant who deals in these articles, that the stamps to be affixed by this section should be exposed to sight. In the majority of instances it is so. Probably ninety-nine per cent. of all the articles to which stamps are applied are stamped as this provision requires. There are some proprietors, however, who affix the stamps inside of the wrapper surrounding the bottle or jar, and a merchant, in buying a large quantity, in order to protect himself, is compelled to exempt each article, and in doing so he destroys its good appearance. There are accidents occurring in so slight a business as that. It is impossible to guard against employes putting up articles the value of which is three or four cents. They cannot be so watched that many of the articles will not be inclosed without a stamp upon them; and the proprietor himself, undertaking to guard his manufactory or laboratory with the best ability he can bring to bear, is not certain that he is not constantly violating the law. There is no way of detecting these omissions until a report comes from some part of the country that they find the articles unstamped. I have seen the most reliable merchants of this class of goods in the United States led into controversy with

parties in the western States and California. Bills are unpaid on account of reclamation claims in which no proof can be offered; and I submit that it seems to be a necessary protection to the manufacturer himself and to the merchant that these stamps, in all instances, should be exposed to view.

\*Mr. SCHENCK. I hope that amendment will not prevail.

The question was taken on Mr. BARNES'S amendment; and it was disagreed to.

The Clerk read the next section, as follows:

Sec. 111. *And be it further enacted*, That if any person shall make, prepare, sell, offer for sale, or remove for consumption or sale any article or thing enumerated and described in schedule C without affixing thereon and canceling the proper stamps as required by law; or shall conceal or remove, or cause to be concealed or removed, any such article or thing, in or to any place, with a view to evade the payment of the tax thereon; or shall remove, detach, or cause or permit to be removed or detached, the stamp from any such article or thing, with intent to use said stamp on any other article or thing, he shall forfeit to the United States the article or thing in regard to which either of the said offenses is committed; and shall for every such offense be liable to a penalty of \$100, to be assessed and collected as in other cases.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to offer the following amendment:

Page 159, section one hundred and eleven, strike out lines fourteen and fifteen, as follows: "penalty of \$100, to be assessed and collected as in other cases," and insert in lieu thereof the following: "fine of not less than \$100 nor more than \$5,000, and the tax shall be assessed and collected as in other cases."

The amendment was agreed to.

Mr. SCHENCK. I am also instructed by the Committee of Ways and Means to offer the following amendment, to come in at the end of the section:

But friction or other matches, cigar lights, or wax tapers, may be sold and removed for export beyond the limits of the United States without payment of the tax thereon under such rules and regulations as the Commissioner of Internal Revenue may prescribe."

The amendment was agreed to.

The next section was read, as follows:

Sec. 112. *And be it further enacted*, That any proprietor of a proprietary article, or article subject to stamp duty under schedule C of this act, shall have the privilege of furnishing without expense to the United States, in suitable form, to be approved by the Commissioner of Internal Revenue, his own dies and designs for stamps therefor, to be for his exclusive use; which dies and designs, being first approved by the Commissioner of Internal Revenue, shall be made under the direction of the Secretary of the Treasury, and retained in the Treasury Department, and the stamps prepared therefrom and issued to the Commissioner as in other cases. That in all cases where such stamp is used, the said stamp shall be so affixed on the article or package, that in using or opening the same the said stamp shall be effectually destroyed; and in default thereof the said proprietor shall be liable to the same penalty as is prescribed in this act for neglecting to affix a stamp. Any person who shall fraudulently obtain or use any such stamp, or die, or design therefor; and any person forging or counterfeiting, or causing or procuring the forging or counterfeiting any representation, likeness, similitude, or colorable imitation of any such stamp; or an engraver or printer who shall sell or give away any such stamp; or being a merchant, broker, peddler, or person dealing, in whole or in part, in similar goods, wares, merchandise, manufactures, preparations, or articles, or those designed for similar objects or purposes, shall have knowingly or fraudulently in his possession any such forged, counterfeited likeness, similitude, or colorable imitation of any such stamps, shall be deemed guilty of a felony, and, on conviction thereof, shall be fined not less than \$500 nor more than \$5,000, and imprisoned not less than one year nor more than five years.

Mr. SCHENCK. I offer, from the Committee of Ways and Means, the following amendment:

Page 160, line nineteen, strike out all after the word "thereof" down to and including the word "purposes," in line twenty-six, as follows:

And any person forging or counterfeiting, or causing or procuring the forging or counterfeiting any representation, likeness, similitude, or colorable imitation of any such stamp; or an engraver or printer who shall sell or give away any such stamp; or being a merchant, broker, peddler, or person dealing, in whole or in part, in similar goods, wares, merchandise, manufactures, preparations, or articles, or those designed for similar objects or purposes.

And insert in lieu thereof the following:

Or who shall forge or counterfeit, or cause or procure the forging or counterfeiting of any representation, likeness, similitude, or colorable imitation of any such stamp; or any engraver or printer who shall sell or give away any such stamp; or any person who.

The amendment was agreed to.

The Clerk read as follows:

#### SCHEDULE C.

##### Medicines or preparations.

For and upon every packet, box, bottle, pot, vial, or other inclosure, containing any pills, powders, tinctures, troches, lozenges, sirups, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters, essences, spirits, oils, or other medicinal preparations or compositions whatsoever, made and sold, or removed for consumption and sale, by any person or persons whatever, wherein the person making or preparing the same has, or claims to have, any private formula or occult secret or art for the making or preparing the same, or has, or claims to have, any exclusive right or title to the making or preparing the same, or which are prepared, uttered, vended, or exposed for sale under any letters patent, or held out or recommended to the public by the makers, venders, or proprietors thereof as proprietary medicines, or as remedies or specifics for any disease, diseases, or affections whatever affecting the human or animal body, as follows: where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall not exceed, at retail price or value, the sum of twenty-five cents, one cent.

Mr. SCHENCK. This is properly one paragraph down to the end of line seventy-seven. I ask that it may be read, so that I may offer an amendment from the Committee of Ways and Means.

Mr. BARNES. I must object until I know what the amendment is.

Mr. SCHENCK. I propose to strike out from line fifty-six to line seventy-seven inclusive.

Mr. BARNES. I shall be compelled to object, for I want to discuss the different amounts.

Mr. SCHENCK. I do not see how the gentleman can object. I cannot make my motion until the part of the bill which I propose to amend is read. It is really one paragraph; it all relates to the same subject.

The CHAIRMAN. They are treated as separate paragraphs.

Mr. SCHENCK. Then I offer the following amendment from the Committee of Ways and Means:

Page 161, line forty-four, strike out the words "secret and art," and insert "art or secret" in lieu thereof.

The amendment was agreed to.

Mr. SCHENCK. I now offer the following amendment from the Committee of Ways and Means:

Page 162, strike out from and including line fifty-six, down to the end of line seventy-seven, on page 163, as follows:

Retail price or value, the sum of twenty-five cents, one cent. Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of twenty-five cents, and not exceed the retail price or value of fifty cents, two cents. Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of fifty cents, and shall not exceed the retail price or value of seventy-five cents, three cents. Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of seventy-five cents, and shall not exceed the retail price or value of one dollar, four cents. Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of one dollar, for each and every fifty cents or fractional part thereof over and above the one dollar, as before mentioned, an additional two cents.

And insert in lieu thereof the following:

The retail price or value to be fixed by the manufacturer of the article and stamped or printed there, the sum of twenty-five cents, one cent. Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed such retail price or value of twenty-five cents, for each additional twenty-five cents, or fractional part thereof, an additional one cent.

Mr. BARNES. I move to amend the amendment by striking out the word "retail" and inserting "wholesale." This section of the bill is a very singular finance measure. It compels the manufacturer of a chair in Philadelphia to pay a tax upon the price which the chair shall be sold at retail in Chicago. The manufacturer of a book in Boston is to pay a tax, not upon the price which he receives for the book, but the price which the jobber in New York receives for it and the retailer in St. Louis. It seems to me one of the most singular recommendations in this bill that any manufacturer of an article should be taxed at any other price than that which he receives for his products. I have heard no explanation offered for this manner of taxation. Objec-

tionable as the stamping of small articles is, to compel the manufacturer of these small articles to pay not only his own tax but that of every middleman until it reaches the consumer, is, if possible, still more objectionable. I assume that this House has too much practical sense to attempt to levy taxes in that way. I do not wish to impugn the practical ability or the good intentions of the gentlemen on the committee who have presented this recommendation. I understand the sources of their authority. A similar provision has been contained in bills enacted by previous Congresses; but the word "retail" has been included. A modification is now proposed so as to compel the proprietor to fix his price. He is thus practically driven to resort to a subterfuge by printing upon his articles a false price. By this means, I undertake to say, Yankee ingenuity will be able to evade this provision, so that nothing practically will be gained. Yet the proprietors are forced into this false position.

Now, Mr. Chairman, I would like to call the attention of the House to the amount of the tax which it is proposed to impose upon these articles, assuming that the proprietor does print upon his articles the prices at which he thinks they ought to be sold in the locality where they are made. Those articles which sell at fifty cents a dozen or about four cents apiece, are taxed by the requirement of a stamp, one cent each, which is twenty-five per cent. Now, when billiard-tables are manufactured and sold at a taxation of one per cent., I ask whether this House, with its practical sense, is disposed to impose this onerous tax upon what is the poor man's medicine throughout the sparsely-settled districts of this country, making it pay a tax of twenty-five per cent.

[Here the hammer fell.]

Mr. BARNES'S amendment to the amendment was not agreed to.

Mr. BARNES. I move to amend the amendment by striking out "one cent," and inserting "one half cent." Mr. Chairman, I have endeavored from time to time to have this stamping system abolished, putting these articles where they belong, under an *ad valorem* system. The only argument, so far as I have been able to observe, by which the stamp system is defended, is that it is a convenient method of collecting taxes. Now, among the articles enumerated in this bill are billiard-tables and pianos, upon which a stamp could easily be put without any great inconvenience to the manufacturer or the seller; but to impose this stamp tax upon such articles as lucifer matches, the buckles on harness, the buttons on a coat, the cogs on a wheel, and require each of these articles to be manipulated in the manner here provided for, seems to me to be unreasonable.

Mr. MAYNARD. The gentleman from New York will allow me to suggest that upon the articles he has just named there is but a single tax; the tax is collected only once; but a piano, for example, is taxed two dollars every year; and before it is worn out it may be taxed to the entire value of the instrument.

Mr. BARNES. I will reply to the gentleman by saying that as to the articles named in this paragraph, seventy per cent. of them are necessarily composed of double proof-spirits. The manufacturer now pays a tax of at least four hundred per cent. on seventy-five per cent. of his materials. We have in this case an instance of taxation multiplied to a most unreasonable extent. It is the severest taxation enumerated in this bill, and the most difficult in its application. Such taxation cannot be to the advantage of the Government. Now, sir, if stamps are a convenient mode of collecting taxes, why do not the committee propose to extend this system further? Why do they not impose a stamp duty upon native wines, instead of taxing them six dollars a dozen? Why do they not propose to require stamps in regard to various other articles enumerated in this bill? It would seem as if those articles with refer-

ence to which this stamp tax is most inconvenient had been sought out to be subjected to it.

Mr. Chairman, these stamp duties are a relic of a departing system which has been in vogue in England and France. The stamping system in those countries has almost thrown out of commercial circulation those articles upon which stamps have been required. When our internal tax law was first framed, precedents were looked for, and the English law being convenient this system was adopted. Gentlemen have referred to the large profits which they supposed to be made in the manufacture of such articles as those embraced in the paragraph now under consideration. Now, sir, having investigated this subject, I say upon the honor of a gentleman that there is to-day a smaller percentage of profit upon this branch of trade than upon any other in this country with which I am acquainted. Many articles which a few years ago were a source of profit not only to the proprietors, but to the advertising press of the country, are now yielding no profit or are making bankrupt those who own them. So much with reference to the ability of these articles to pay the taxes here imposed upon them. I have proposed to the Committee of Ways and Means to fix upon these articles an *ad valorem* or specific tax. They have not chosen to meet the question in that way. Why is it, sir, that under this bill an article of luxury is taxed one half per cent., while one of these articles which are in many cases articles of necessity are taxed from six per cent. to fifty per cent. In the whole enumeration I cannot find a single article which is taxed less than six per cent. I ask gentlemen of the House to divest themselves of the prejudices attempted to be created by the remarks gratuitously offered by gentlemen on the other side, and to look at this business in the same manner they look at the business of the manufacturer of patent leather, the manufacturer of pianos or of other articles mentioned in the bill. Is it fair? Is it right? Is it becoming practical men to make the invidious discrimination proposed in this bill?

[Here the hammer fell.]

Mr. BARNES's amendment to the amendment was not agreed to.

Mr. SCHENCK's amendment was agreed to.

The Clerk read as follows:

*Perfumery and cosmetics.*

For and upon every packet, box, bottle, pot, vial, or other inclosure, containing any essence, extract, toilet water, cosmetic, hair-oil, pomade, hair-dressing, hair restorative, hair dye, tooth-wash, dentifrice, tooth-paste, aromatic cachous, or any similar articles, by whatsoever name the same heretofore have been, now are, or may hereafter be called, known or distinguished, used or applied, or to be used or applied as perfumes or applications to the hair, mouth, or skin, made, prepared, and sold or removed for consumption and sale in the United States, where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall not exceed the retail price or value of twenty-five cents, one cent. Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of twenty-five cents, and shall not exceed the retail price or value of fifty cents, two cents. Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of fifty cents, and shall not exceed the retail price or value of seventy-five cents, three cents. Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of seventy-five cents, and shall not exceed the retail price or value of one dollar, four cents. Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of one dollar, for each and every fifty cents or fractional part thereof over and above the one dollar, as before mentioned, an additional two cents.

Mr. SCHENCK. I move to amend by striking out in the paragraph just read the following:

The sum of twenty-five cents, one cent. Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of twenty-five cents, and shall not exceed the retail price or value of fifty cents, two cents. Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of fifty cents, and shall not exceed the retail price or value of seventy-five cents, three cents. Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of seventy-five cents, and shall not exceed the retail price or value of one dollar, four cents. Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed

the retail price or value of one dollar, for each and every fifty cents or fractional part thereof over and above the one dollar, as before mentioned, an additional two cents.

And inserting in lieu thereof the following:

To be fixed by the manufacturer of the article, and stamped or printed thereon, the sum of twenty-five cents, one cent; and where such packet, box, bottle, vial, or other inclosure, with its contents, shall exceed such retail price or value of twenty-five cents, for each and every additional twenty-five cents, or fractional part thereof, an addition of one cent.

Mr. BARNES. I move to strike out "retail" and insert "wholesale." Mr. Chairman, I do not think that this question is understood by the House. Of course I have no idea that I can make it better understood than it is now. I will not take up the time of the committee in arguing the question. It may appear that my particular advocacy of subjects pertaining to this class of cases has some personal motive in it; and I desire to say that I am a wholesale merchant in New York, and that handling this class of cases I understand the inconvenience of this manner of paying duties. I do not come here asking favors. I have not asked that this class of manufactured goods or that these merchants shall not be taxed as severely as any others. But I do desire to present their claims, as they have requested, upon the simple ground of equity. They merely wished to be relieved from arrogance and trouble, and the loss of stamps. They desire that Congress, which makes laws now so onerous against them, should understand that they were paying two or three taxes on their products. They pay the wholesale druggist's tax, and the retail tax, as well as their own tax.

Mr. STEVENS, of New Hampshire. Has the gentleman any other objection to this matter of taxation except the expense of the mechanical labor of putting the stamps upon the articles?

Mr. BARNES. There is a great deal of expense. It will appear that these articles are small in amount. They have to be spread over immense premises in a damp state. The room for conducting business of this kind is large. Superintendence for the application of these small stamps is large. The manual labor in applying them is great. Then there are the losses of stamps, which cannot be exactly estimated, but it is a very large item. Then in addition to all those annoyances to these reputable manufacturers comes in the fact that they pay, in no instance, less than six per cent., and as high as fifty per cent. on the top of special tax.

[Here the hammer fell.]

The amendment to the amendment was rejected.

Mr. SCHENCK's amendment was then adopted.

No further amendment being offered, the Clerk read the next paragraph, as follows:

Friction matches, or lucifer matches, or other articles made in part of wood, and used for like purposes, in parcels or packages containing one hundred matches or less, for each parcel or package, one cent.

No amendment being offered, the Clerk read the next paragraph, as follows:

When in parcels or packages containing more than one hundred and not more than two hundred matches, for each parcel or package, two cents.

Mr. SCHENCK. I move to strike that paragraph out.

The motion was agreed to.

The Clerk read the next paragraph, as follows:

And for every additional one hundred matches or fractional part thereof, one cent.

Mr. SCHENCK. I move to insert after the word "thereof" the words "an addition of."

The amendment was agreed to.

Mr. GARFIELD. I ask the gentleman whether he has made provision against a fraud which two years ago was largely practiced against the Government in reference to these stamps on matches? Manufacturers of matches made them of double length, and dipped both ends, thus getting two matches instead of one, which was a source of complaint, and the Commissioner of Internal Revenue recommended that it should be provided against.

Mr. SCHENCK. By regulation and decision of the Department such matches are counted as two matches.

No further amendment being offered, the Clerk read the next paragraph, as follows:

For wax tapers, double the rates herein imposed upon friction or lucifer matches; on cigar lights, made in part of wood, wax, glass, paper, or other materials, in parcels or packages containing twenty-five lights or less in each parcel or package, one cent.

No amendment being offered, the Clerk read the next paragraph, as follows:

When in parcels or packages containing more than twenty-five and not more than fifty lights, two cents.

For every additional twenty-five lights or fractional part of that number, one cent additional.

Mr. SCHENCK. I move to strike that out and insert in lieu of it as follows:

For every additional twenty-five lights or fractional part of that number, an addition of one cent.

The amendment was agreed to.

No further amendment being offered, the Clerk read the next paragraph, as follows:

Playing-cards. For and upon every pack not exceeding fifty-two cards in number, irrespective of price or value, five cents.

Mr. ROBINSON. I move to insert after that paragraph the following:

Provided, That no stamp duty shall be required on any certificate or receipt given for goods received by any pawnbroker where the money advanced upon said goods does not exceed — dollars.

Mr. GARFIELD. I rise to a point of order. The amendment is not germane.

Mr. ROBINSON. It is to be added to the provision in regard to stamps; therefore I think it germane. I do request the Committee of the Whole to hear me one moment on this subject. It belongs to the stamp law, and should go in somewhere.

Mr. ALLISON. If I understand it, it relates to stamps on receipts.

Mr. ROBINSON. It is on certificates or receipts given by pawnbrokers.

Mr. ALLISON. We have stricken out stamps on receipts entirely.

Mr. ROBINSON. This is certificates. I think the committee will see its importance.

Mr. GARFIELD. I withdraw my objection.

Mr. ROBINSON. In a great many cases persons go to pawnbrokers with a very small pledge, something of the value of a dollar, perhaps, upon which they receive five or ten cents. I believe it is now the requirement to put a five-cent stamp on the certificate which the pawnbroker gives, so that the person who makes the pledge gets his five or ten cents and then has to pay an additional five cents for the stamp. This makes it ruinous to these poor people. There is a story of a woman who, every morning after breakfast, pawned her husband's razor, and redeemed it so that her husband would have it the next morning for shaving again. That, perhaps, is an extreme case, but there are cases where articles of the value of a dollar upon which they receive ten or fifteen cents are pledged again and again, and as the law is now interpreted—and I do not think the Committee of Ways and Means have been informed of this interpretation—these pawnbrokers have to affix a five-cent stamp on the certificate, and these poor people have to pay for it. It is wrong to compel these poor people to pay this tax in this way. Having said this much, and having put the chairman of the committee [Mr. SCHENCK] in a good humor a minute ago, I trust he will allow me to make this amendment either in the place I have indicated, or on page 145, line one hundred and fourteen, if it is improper to be inserted here.

Mr. SCHENCK. When the gentleman asked me to make an amendment in schedule C, I said, "Certainly." It did not occur to me, however, that he was going to make it to a different part of the bill.

Mr. ROBINSON. I think it makes not much difference where it goes in.

Mr. SCHENCK. I hope it will not go in anywhere.

Mr. ROBINSON. I ask that it go in here.

The CHAIRMAN. The Chair rules it out of order. The gentleman can introduce it as an independent paragraph. It properly belongs on page 145.



Mr. ROBINSON. I move it as an independent paragraph.

Mr. ALLISON. It seems to me we should have no special legislation for these pawnbrokers.

Mr. ROBINSON. It is not for pawnbrokers.

Mr. ALLISON. We have stricken out the provision in relation to stamps on receipts, and it will be the easiest thing in the world for pawnbrokers instead of giving a certificate for a razor that has been pledged simply to give a receipt for the razor and so avoid the tax entirely. I think there will be no difficulty about it.

Mr. ROBINSON. It is not the pawnbroker I am trying to protect, but the poor people, to whom this is charged. The internal revenue department will still insist, no doubt, in doing as they have done. I move the amendment as a separate paragraph, and I will fill the blank with the words "one dollar;" so that it will read:

No stamp duty shall be required on any certificate or receipt for goods received by any pawnbroker when the money advanced on said goods does not exceed one dollar.

Anything to save these poor people.

The question being taken on the amendment, there were—ayes 83, noes 25.

The amendment was, by unanimous consent, considered as agreed to.

Mr. MAYNARD. I hope that, by general consent, the amendment of the gentleman from New York, which has just been adopted, will be inserted on page 145, where it appropriately belongs.

Mr. ROBINSON. Oh, we can easily fix that when we get into the House.

Mr. ALLISON. I object to going back.

The next section was read, as follows:

#### *Banks and Bankers.*

SEC. 113. *And be it further enacted*, That there shall be levied, collected, and paid a tax of one twenty-fourth of one per cent. each month upon the average amount of the deposits of money, subject to payment by check or draft, or represented by certificates of deposit or otherwise, whether payable on demand or at some future date, with any person, bank, association, company, or corporation engaged in the business of banking; and a tax of one twenty-fourth of one per cent. each month, as aforesaid, upon the capital of any bank, association, company, or corporation, and on the capital employed by any person in the business of banking, beyond the average amount invested in United States bonds; and a tax of one sixteenth of one per cent. each month upon the average amount of circulation issued by any bank, association, corporation, company, or person, including as circulation all certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the vault of the bank, or redeemed and on deposit for said bank. And a true and accurate return of the amount of circulation, of deposits and of capital, as aforesaid, and of the amount of notes of persons, State banks and State banking associations, and of cities, towns, or other municipal corporations, paid out by them for the previous month, shall be made and rendered monthly by each of them to the assessor of the district in which such bank, association, corporation, or company may be located, or in which such person has his place of business, with a declaration annexed thereto, verified by the oath or affirmation of such person, or of the president or cashier of such bank, association, corporation, or company, in such form and manner as may be prescribed by the Commissioner of Internal Revenue. And for any refusal or neglect to make or to render such return and pay the tax, any such bank, association, corporation, company, or person so in default shall be subject to and pay a penalty of \$200, besides the additional penalty and forfeitures in other cases provided by law; and in default of such return the several amounts subject to tax shall be estimated by the assessor or assistant assessor on the best information he can obtain. And in the case of banks with branches each branch shall make a separate return, and the tax shall be assessed on the deposits, circulation, and capital of each severally. And so much of the forty-first section of the "Act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, as imposes a tax on the banks organized under that act, be, and is hereby, repealed: *Provided*, That the deposits in associations or companies known as provident institutions, savings banks, savings funds, or savings institutions, having no capital stock and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the association or company, shall be exempt from tax on so much of their deposits as they have invested in securities of the United States, and on all deposits less than \$500 made in the name of any one person; and the returns required to be made by such provident institutions and savings banks shall be made on the first Monday of January and July of each year, in such form and manner as may be prescribed by the Commissioner of Internal Revenue.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to offer the following amendment:

Page 166, line one hundred and twenty-three, before the word "cities" insert the word "State;" so that it will read:

And a true and accurate return of the amount of circulation, of deposit, and of capital, as aforesaid, and of the amount of notes of persons, State banks and State banking associations, and of State, cities, towns, or other municipal corporations, paid out by them for the previous month, shall be made and rendered monthly, &c.

The amendment was agreed to.

Mr. SCHENCK. I am also instructed by the Committee of Ways and Means to offer the following amendment:

Page 167, line forty-two, strike out the words "the deposits, circulation, and capital of;" so that the clause will read:

And in the case of banks with branches each branch shall make a separate return, and the tax shall be assessed on each severally.

The amendment was agreed to.

Mr. SCHENCK. I offer the following amendment from the Committee of Ways and Means:

Page 167, at the end of line forty-seven insert the words "and requires returns to be made to the Treasurer of the United States;" so that the clause will read:

And so much of the forty-first section of the act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, approved June 3, 1864, as imposes a tax on the banks organized under that act, and requires returns to be made to the Treasurer of the United States, be, and is hereby repealed.

The amendment was agreed to.

Mr. PRICE. On page 166, line fourteen, I move to strike out "one sixth" and insert "one twenty-fourth" in lieu thereof; so that the clause will read:

And a tax of one twenty-fourth of one per cent. each month upon the average amount of circulation issued by any bank, association, corporation, company, or person.

I make the motion for the reasons which I will state briefly, and I would like to have the attention of the committee for a very short time. Take a bank of \$200,000 capital. This bill proposes to tax them half of one per cent. on their capital; that is \$1,000. Then half of one per cent on their deposits. I suppose the bank will have \$500,000 deposits. I am not supposing a case; I have such a bank right in my eye. That makes a tax of \$2,500 on deposits. Then there is a \$400 tax imposed before they can commence business. Put that down. The first thing a bank has to do is to pay into the Treasury of the United States \$400. And then this bill proposes to tax them two per cent. on their circulation. If the bank has a capital of \$200,000, it will have a circulation of \$180,000. Two per cent. on \$180,000 is \$3,600. Now, if gentlemen have put the figures down, they will find that I have got three and three quarters per cent. on the capital.

Now, in the next place, I assume—at least I do not assume it, for I have the papers to prove it—that it will cost for the expenses of running the bank a little over two per cent. on the capital. Put it down at two per cent. in round numbers. Gentlemen ask me if that is a national tax. I tell them no; it is for rent of the bank building, pay of the cashier, teller, book-keeper, and discount clerk—I do not include pay of the president and directors—and fuel, light, and stationery, without which a bank cannot run. Now, if gentlemen will put the figures together, they will discover that they have got between eight and ten per cent. on the capital of that bank. I know, sir, that a man who stands up here to advocate the cause of banks or railroads is in a losing business, and I do not expect that this will amount to anything. But I advertise gentlemen that no bank, unless it be in some Atlantic city, or at some central point of commercial operations, can do business under this tax. It must be very plain to any gentleman that if he has \$100,000 to invest he had better loan it out at current rates of interest at six, eight, or ten per cent., and have no expense for Government or State tax, than to bank with it under the national banking law, with that law as it now stands. And, by the way, let me here

remark that I have not included the State, county, and municipal tax, which a friend near me suggests is two and a half per cent. If it be the object of the Committee of Ways and Means to get rid of these banks this will answer first rate.

Mr. HOOPER, of Massachusetts. Will the gentleman inform us what his bank, as he describes it, gets as interest on its loans? He says the capital is \$200,000. What amount of loans does it draw interest on?

Mr. BLAINE. In other words, what is the amount of its deposits.

Mr. PRICE. I have told the gentleman; about five hundred thousand dollars. It has a circulation of \$180,000.

But there is another item connected with this matter. In reference to banks with a capital under \$200,000, the rate of interest would be greater. Go into the country, away from the great commercial centers, you will find \$50,000 and \$100,000 banks; the majority of them will be of that class.

Mr. HOOPER, of Massachusetts. I do not think the gentleman has answered my question. He states that his bank has a capital of \$200,000, a circulation of \$180,000, and \$500,000 of deposits, making \$880,000 in all.

Mr. SAWYER. Does the gentleman suppose a bank will loan its entire capital?

Mr. PRICE. If my friend from Massachusetts [Mr. HOOPER] thinks our banks loan all their deposits, their circulation, and their capital, he is very much mistaken.

Mr. HOOPER, of Massachusetts. Answer my question, if you please.

Mr. PRICE. There have been questions put to me, looking toward the investment of the capital of a bank; I am not certain whether they are put for the purpose of acquiring information, or for an opposite purpose.

Mr. HOOPER, of Massachusetts. I put my question for the purpose of getting the gentleman's statement before the committee.

Mr. PRICE. I hope my friend from Massachusetts [Mr. HOOPER] will keep as quiet as a man of his temperament can until I am through. Then he can take his five minutes, and I will listen to him with a great deal of pleasure. I suppose that gentlemen all know that before a bank can get its \$180,000 circulation, it has to put \$200,000 in bonds on deposit in the Treasury of the United States. That is where its capital goes.

Mr. BLAINE. And the bank gets six per cent. interest in gold on those bonds.

Mr. PRICE. Yes; so they do; but they do not lend it out in every direction. And this interest I have ciphered up here more than eats up the interest the bank gets on its bonds. The expense of running the bank under the law is more than that. Therefore, as I have said, so far as that goes the bank is losing money, and had far better keep its money out of the bank and use it in some other kind of business. There is nothing wrong in these figures of mine. And when my friend from Massachusetts [Mr. HOOPER] gets the floor I want him to show me where the figures are wrong if he can, and not deal in glittering generalities.

[Here the hammer fell.]

Mr. HOOPER, of Massachusetts. I rise formally to oppose the amendment of the gentleman from Iowa, [Mr. PRICE], for the purpose of giving the gentleman an opportunity to answer my question fairly and squarely. He says that the capital of his bank is \$200,000.

Mr. PRICE. I did not say my bank.

Mr. HOOPER, of Massachusetts. Well, the bank which he presented by way of illustrating his position. He said he knew all about it, and I supposed it was his bank. That bank has a capital of \$200,000, a circulation of \$180,000, and deposits to the amount of \$500,000, making \$880,000 in all.

Mr. PRICE. The bank is obliged to keep a reserve.

Mr. HOOPER, of Massachusetts. I admit that a portion of it is held in reserve; but I think the gentleman will admit that the bank,

under all circumstances, will find a reserve of \$280,000 sufficient, thus leaving, aside from its capital, \$400,000 which it can loan. At six per cent., that will be \$24,000 which it receives for interest on its loans. Then, on the bonds it has deposited in the Treasury for its circulation, it receives interest at the rate of six per cent. in gold, which will be equal to at least eight per cent. in currency.

Mr. MULLINS. It is equal to \$8 40 in currency.

Mr. HOOPER, of Massachusetts. That will then be equal to \$16,800 in currency, which the bank receives as interest on its bonds; which, added to the \$24,000 it receives as interest on its loans, will make \$40,800. Now, I think when the gentleman comes to deduct his expenses from that amount, he will find that there is a pretty good margin left as profits.

Mr. PRICE. With a little experience in banking, I confess it never occurred to me that it was quite so profitable a business as my friend from Massachusetts [Mr. Hooper] makes it out to be. The banker takes \$200,000 to start with; that is all there is in the concern, and buys bonds with every dollar of it, and those bonds are deposited in the Treasury of the United States. For that \$200,000 in bonds draws back \$180,000 in currency. He receives his current deposits in the bank \$500,000. He has now \$680,000. He proposes out of that, \$680,000 to loan \$600,000.

Mr. HOOPER, of Massachusetts. My statement was that the bank has altogether \$880,000, of which it loans \$400,000, making, with the \$200,000 in bonds, \$600,000 upon which the bank receives interest, leaving \$280,000 for reserve.

Mr. PRICE. I beg the gentleman's pardon if I do not state his position correctly. This banker has on hand altogether \$680,000, \$500,000 of which is current deposits; and he loans \$600,000, leaving \$80,000 with which to meet that indebtedness of \$500,000 due the depositors. Would \$80,000 be considered by sound bankers a sufficient margin?

Mr. HOOPER, of Massachusetts. Two hundred and eighty thousand dollars.

Mr. PRICE. No; the gentleman is mistaken. There are \$680,000 to start with, \$500,000 of deposits and \$180,000 of circulation.

Mr. HOOPER, of Massachusetts. And \$200,000 capital.

Mr. PRICE. But the capital is in bonds. My friend counts that \$200,000 twice.

Mr. PIKE. I would like to ask the gentleman whether such a bank as that pays.

[Here the hammer fell.]

Mr. DAWES. I move *pro forma* to amend the amendment by striking out "one twenty-fourth," and inserting "one twelfth." I make this motion merely for the purpose of inquiring of my colleague, [Mr. Hooper, of Massachusetts,] who seems to have charge of this part of the bill, first, what reason has governed the Committee of Ways and Means in proposing to double the tax upon circulation without increasing the tax upon deposits; and secondly, what will be the effect of this change upon the country banks as compared with the city banks? I yield my colleague the remainder of my time that he may answer these questions.

Mr. HOOPER, of Massachusetts. I will say frankly, in reply to the question of my colleague, that our reason for proposing to increase the tax upon circulation was that this circulation is furnished by the United States; the credit of this circulation is the credit of the Government, the Government being responsible for it; and we thought it not unfair, under the circumstances, that the Government should receive one third of the lowest rate of interest which a bank gets by loaning that circulation. If my colleague will look at the returns made by the Comptroller of the Currency, he will find that, with every national bank, the whole amount of its circulation (I say the whole, because it is so nearly that) is constantly out, constantly drawing interest for the bank. No bank gets less than six per cent. on the amount it has in circulation; and as this circulation is

furnished by the Government, circulated upon the faith and credit of the Government, the Government being responsible for it, it seemed to the committee perfectly just that the Government should receive as tax one third of the interest which the bank earns upon it at the lowest rates at which banks are in the habit of loaning money. Another consideration was that there had been a great deal of discussion in regard to the injustice of permitting the banks to have any circulation at all.

In reply to the other branch of my colleague's question, I will say that this proposed increase of taxation on circulation will, I think, operate in the same way upon the country and the city banks in proportion to the amount of their respective circulation. It appears to me that upon a city bank with \$200,000 circulation the effect would be precisely the same as upon a country bank with \$200,000 circulation.

Mr. DAWES. How are the comparative deposits of the city and the country banks?

Mr. HOOPER, of Massachusetts. I presume the deposits are heavier in the cities.

Mr. BLAINE. Take, for instance, the Merchant's Bank of Boston, the largest bank in Boston.

Mr. HOOPER, of Massachusetts. I do not refer to individual cases.

[Here the hammer fell.]

Mr. ALLISON. I desire to oppose the amendment proposed by my friend from Massachusetts, [Mr. DAWES,] and I judge from the question he asked his colleague that he himself lives in the region of country banks. Now, sir, I do not desire this controversy between the city and country banks shall result in reducing this tax upon circulation. I find from an examination of the report of the Comptroller of the Currency that the taxes paid by these banks average two and a quarter per cent. to the United States, and a like sum to the several States. That is the existing tax on the circulation of the national banks. I do not know whether he is seriously in favor of the reduction of that or not. The effect of this bill is to increase the tax on the circulation of national banks one per cent. They are now taxed one per cent. per annum on the circulation, and we propose a tax of two per cent. I think the answer of my colleague on the committee a good one.

Mr. BLAINE. Does the gentleman argue, as the taxes now stand, that it is fairer to put double tax upon the circulation than upon the deposits?

Mr. ALLISON. If he is anxious to put a tax upon deposits—

Mr. BLAINE. My question is whether if you are going to raise so much tax out of the national bank system which is the fairest way to get it.

Mr. ALLISON. That is a pertinent question. One way is to tax the circulation of national banks.

Mr. BLAINE. They are already taxed one per cent. upon circulation.

Mr. ALLISON. I understand that, and I have so stated that the circulation of the national banks is taxed one per cent. This circulation is an absolute gratuity to these banks. These banks in the cities as well as in the country issue every dollar of circulation that they are authorized to issue, and they send these notes out into circulation from Maine to the Gulf of Mexico. They do not redeem them, and if they did it would be in greenbacks, which, practically, is no redemption. My idea is that these national banks can maintain this tax so long as we do not resume specie payment. I am sorry that my colleague [Mr. PRICE] did not answer what the bank he cited received annually in the shape of dividends. I do not know of any national bank that has not divided semi-annually a respectable dividend. If he will turn to the report of the Comptroller of the Currency he will find that each one of them has a respectable surplus.

Mr. DAWES. How do the dividends of the city banks compare with those of the country banks?

Mr. ALLISON. I will answer the gentle-

man. I think that much depends upon the management of the banks. I know of a bank in Chicago that pays a semi-annual dividend of twenty per cent. That is a good bank. It is well managed. I know some country banks that pay semi-annual dividends of fifteen per cent. These are well managed banks. Now, what we propose is an additional tax on these national banks of \$3,000,000.

Mr. PRICE. Are there not banks which have been compelled to wind up, and which do no business?

Mr. ALLISON. Of course. There was one in the oil region of Pennsylvania. It will not pay to do business if they are not well managed. These national banks have special privileges thrown around them. Their charters are valuable whether in city or country. They monopolize because of their charters all the business in the cities and drive out private bankers.

Mr. BENTON. I ask if this tax on circulation is not calculated to prevent circulation and to restrict it?

Mr. ALLISON. That is an answer to my friend over the way. If these national banks are not satisfied with their circulation, let them return it, and we will find others that will take it. I know several towns in my State without national banks, and they cannot get this circulation because it is monopolized by New York and New England. We propose a tax of \$3,000,000 on the circulation of the national banks, and having this monopoly they can well afford it.

[Here the hammer fell.]

Mr. DAWES. I withdraw the amendment.

Mr. SCHENCK. I move to strike out one twenty-fourth and make it one twenty-fifth, merely for the purpose of making a remark in reply to the gentleman from Iowa, [Mr. PRICE.] I will leave without comment the answer made by my colleague on the committee, showing that upon his own statement the bank that he had in his mind ought to make sixteen per cent. net. But there is another funny fallacy, if I may be allowed to make the alliteration, which he has been treating us to. What have we done? We have left the tax on deposits as it was, we have taxed the capital the same, one twenty-fourth of one per cent., and we have increased by this bill the tax on circulation from one twelfth of one per cent. to one sixth. Now, what is the gentleman's calculation? He says we have charged one twenty-fourth on deposits, which is one half per cent. a year; one twenty-fourth on capital, which is another half per cent. a year, and we have charged one sixth on circulation, which is two per cent. a year; thus making, says he, three per cent. on the property of the banker. Now, suppose I had a pig, a horse, and a cow, and I paid twenty-five cents on the pig, one dollar on the horse, and seventy-five cents on the cow. Adding them all together the gentleman would say that I paid two dollars all round, on the pig, the horse, and the cow. That would be precisely his argument. We charge so much on deposits, so much on capital, and so much on circulation—separate things. The gentleman adds them all together and makes three per cent. a year, and he says that we are charging three per cent. on all the property in the banks. It is precisely the case of the pig, horse, and cow. Although the tax is paid on each separate thing, he takes the aggregate and makes out his case.

I am merely giving this as a specimen of the gentleman's logic. Now, what we propose is, as we tax the privilege of supplying the country with money upon that franchise by which the banks furnish the circulation, we thought we might well afford, now that we extend this franchise to the national banks—which are in fact all that are really worth considering, because the State banks have been driven pretty much out of existence—to add another one twelfth, and thus make it one sixth of one per cent. per annum instead of one-twelfth as before.

Mr. BLAINE. I desire to say, with all due respect for the Committee of Ways and Means,

that if they had attempted to make a most injurious discrimination against the country banks they could not have better contrived to do it than they have done in this bill. I am not here to oppose an increased tax or circulation, nor to oppose any tax on national banks which they can stand. But I do maintain that of all the banks in the land that are able to stand a heavy tax the class which can stand it the best are the large State banks which have an enormous line of deposits. And if you will put one half per cent. per annum upon their deposits, unless I am entirely mistaken in my statistics—and I take them now from memory—you will get as much as one per cent. will give on circulation. I think the average is about five hundred and forty million dollars; it may be six hundred million dollars. Now then, put one half per cent. on that amount, and it gives you \$3,000,000. Now, in regard to the country banks, the case cited as an illustration by my friend from Iowa [Mr. PRICE] is no fair sample. A bank with \$200,000 capital that has \$500,000 deposits is a very rare thing. There are three banks in my little town. There is not one of them that begins to have a deposit equal to its capital. The entire capital of the three banks is only \$450,000, and there was never more than \$250,000 of deposits at any one time.

Mr. PRICE. I know a bank on the sun-down side of the Mississippi with \$100,000 capital that has over half a million of deposits.

Mr. BLAINE. Very well; that is in the West. The bank in Chicago that my friend alluded to which divided twenty per cent. is also in the West. But I know of no such bank in New England, unless it be in Boston. If there is any class of capital in this country that can stand an additional tax it is the large banks that have these enormous deposits, and while I am not arguing and do not intend to argue against putting an additional tax on circulation, I protest against allowing these enormous deposits to go untaxed. There is no class of property under the sun that can stand taxation so well as they can.

Mr. ALLISON. Does my friend know why there are large deposits in these banks?

Mr. BLAINE. Because the people put their money in them. [Laughter.]

Mr. ALLISON. Well, that is a very good answer.

Mr. BLAINE. Why is it, then?

Mr. ALLISON. It is because they are allowed to receive interest on deposits.

Mr. BLAINE. So much the more reason why they should pay a tax.

Mr. ALLISON. Your country banks, instead of loaning their money to their neighbors for business purposes, send it to the business centers and speculate in stocks.

Mr. BLAINE. And you propose to make it easier for them to do that by not taxing the deposits.

Mr. ALLISON. Why does not the gentleman propose to increase the tax on deposits instead of fighting the tax on circulation?

Mr. BLAINE. I make the proposition to put one per cent. on the city banks, and it ought to have been done long ago. You will find that the city banks are making ten times as much on their deposits as they make on their capital, and they make it out of their depositors, and that large sum ought not to be allowed to go free.

Mr. SCHENCK. Well, offer your amendment.

Mr. BLAINE. It is not in order now. You strike at the country banks and affect them injuriously, and allow the city banks, which are much more able to bear taxation, to go scot free of additional burdens. That is my complaint against the Committee of Ways and Means.

Mr. SPALDING. What are the regular dividends of your banks?

Mr. BLAINE. I never knew them over ten per cent.

[Here the hammer fell.]

Mr. SCHENCK. I withdraw the amendment to the amendment.

Mr. PIKE. I renew it. I wish to suggest a solution of this difficulty to the committee. Some of these gentlemen seem to represent city banks and others represent country banks. For my part I do not represent banks at all.

Mr. BLAINE. I do not either.

Mr. PIKE. I was going to suggest that we adopt the views of the country banks in relation to the city banks, and tax the city banks as much as the country banks think they ought to be taxed, and then tax the country banks what the city banks think they ought to be taxed. In that way we shall get a fair taxation all round. These gentlemen who are stockholders in these various institutions know, at any rate, and are entirely willing to confess, what their neighbors earn, and by the duplicate confession, one confessing to the other's earnings—I was not going to say their sins, but their earnings—we get the earnings of both classes, and in that way get at a fair and proper basis for taxation. Now, sir, this whole system is a monopoly. Here are three hundred million dollars or more in the banking business. I represent a population that does not share in this monopoly. We have been endeavoring, from time to time, to get some share in this banking business, but up to this time we have been entirely unable to do so except in one or two small instances. Now, then, let the city banks be taxed and the country banks taxed, and then if these gentlemen will but give up the business and give the rest of us a chance to get in it will give my constituents an opportunity. For one I am desirous of placing such a tax upon this peculiar business which is thus monopolized as shall reduce it to such a fair business as compared with the other business of the moneyed capital of this country as shall not make gentlemen so eager to monopolize the whole of it. Deposits are of course a very large source of income to city banks. Let the tax on those be increased to one per cent. Circulation is a large profit to the country banks particularly. Let the tax on that be increased. The imperial power is given them of furnishing the money of the country, and it is the creative power of money that we should tax. Then the taxes should be so as to reduce the earnings of the banks until they reach a point where they will be willing to share the monopoly with others.

Mr. HUBBARD, of West Virginia. I rise to oppose the amendment, and I would suggest as a compromise that the tax on deposits be increased from one twenty-fourth to one twelfth of one per cent. per month, and the tax on circulation be reduced from one sixth to one twelfth of one per cent. per month. That would make the tax one per cent. per annum on deposits, and one per cent. per annum on the circulation.

Mr. ALLISON. Would not the gentleman increase the tax on the capital from one twenty-fourth of one per cent. per month to one twelfth of one per cent., and thus make it equal all round, one per cent. per annum?

Mr. HUBBARD, of West Virginia. I will come to that in a moment. My proposition would make the tax upon the deposits and upon the circulation one per cent. per annum. The bill as it now stands also has a clause imposing a tax upon the capital. But what is that tax, and upon what amount of capital? As this is in my line of business I ask gentlemen to pay a little attention to what I say in regard to it. The provision of the bill is as follows:

And a tax of one twenty-fourth of one per cent. each month, as aforesaid, upon the capital of any bank, association, company, or corporation, and on the capital employed by any person in the business of banking, beyond the average amount invested in United States bonds.

Now, the capital of most all these banks is all invested in United States bonds, so that under this provision there would be no tax at all paid upon the capital. Therefore, this tax of one half per cent. per annum is no charge against the banks, under this bill as it now stands, except upon that portion of the capital not invested in United States bonds, which in most cases amounts to nothing at all.

The tax of one per cent. per annum upon the circulation and deposits would make the tax, according to the estimate of the gentleman from Iowa, [Mr. PRICE,] two and a half per cent. to the national Government. Then there would be two and a half per cent. for State and municipal taxation, and two per cent. per annum for the expenses of the bank. That would make seven per cent. in all.

Now, all admit that upon the capital invested in United States bonds the bank, with the present price of gold, draws interest that is equivalent to at least eight per cent. in currency.

The average amount of deposits in country banks is about equal to their capital, or a little over; taking all the banks of the country it will average at least one and one half times the amount of the capital. There is no use in a bank where the deposits do not equal in amount the amount of the capital stock.

Now, assuming the deposits to equal in amount the amount of the capital, and hold one fourth of the deposits as a reserve, and allowing the banks to make their loans at only six per cent., and we have four and a half per cent. as interest on loans from deposits, and a like amount of four and a half per cent. as interest on loans from circulation after making allowance for the proper reserve, and we have nine per cent. upon the capital as interest on loans. That, together with the eight per cent. interest upon the capital received as interest upon the United States bonds in which the capital is invested, makes the total income of the bank equal to seventeen per cent. upon its capital. From this deduct the seven per cent. for taxes and expenses, and there is left of net income the sum of ten per cent. on the capital. That is evidently a fair percentage of profits on the capital employed in banking, and a larger percentage than is paid by a large majority of the manufacturing or other productive interests of the country.

Now, these banks, it must be borne in mind, are not required to redeem their circulation, but can count all the profits their circulation gives them, for the redemption of that circulation costs them nothing. These banks will not only pay ten per cent. to their stockholders, but will add to their surplus, as they have been doing hitherto, from five to twenty per cent. throughout the country.

I am, therefore, well satisfied that the banks can well afford to pay the increased tax which I propose by my amendment. And after that I will indicate another amendment which I think all will admit the propriety of making.

[Here the hammer fell.]

Mr. BENTON. I will state my position upon this question, and while doing so I desire the attention of the chairman of the Committee of Ways and Means. I think the effect of this increase of tax upon the circulation will be to diminish the circulation. Now, so far as the public is interested in banks, it is interested in the circulation. The public is not interested in the amount of money which the banks make in their speculations in stocks and in all sorts of ways. You ought to put a tax not only on the circulation of the bank, but on its deposits, which are invested in stocks and various kinds of speculations. By this bill it is proposed to put an increased tax on circulation, but scarcely any tax whatever on these deposits, of which the banks have the use for purposes of speculation. By such a provision you exert a direct influence to prevent the banks from extending accommodations to the people.

Mr. Chairman, I have no fear that the banks will be taxed too much. These national banks have, since their establishment, paid their semi-annual dividends of ten, fifteen, and twenty per cent.; and any gentleman who stands up here and talks about these banks not being able to bear the taxation which we propose may address himself to men who do not understand how these banks make their money, but he should not talk to men like my friend from Massachusetts, [Mr. HOOPER,] who know the utter fallacy of any such remarks.

I think with the gentleman from Maine [Mr.



BLAINE] that the increase of our taxation upon these banks ought to be mainly upon their deposits. These deposits are not only loaned out, but are invested in various profitable ways; and they can readily bear a heavy taxation for the support of the Government. I would not take away from these banks their circulation, a measure which has been advocated by some; but I would adopt such policy as to compel them to perform their legitimate function and accommodate the people. Now they do not do that. There are many of our banks, both in the cities and in the country, whose officers, when a loan is applied for, ask the applicant, "How much can you pay? What per cent. can you give?" They do not govern their operations by the law which in ordinary business regulates the transactions of men in regard to the use of their money, but they take all they can get; and I say, let the Government compel them to pay their full share of the taxes.

[Here the hammer fell.]

Mr. PIKE. I withdraw my amendment to the amendment.

Mr. HUBBARD, of West Virginia. I will modify my amendment so as to strike out "twenty-fourth," and insert "twelfth;" making the rate of taxation on deposits one twelfth of one per cent.

Mr. PRICE. I modify my amendment so as to insert "one twelfth." This will make the rate of taxation the same that it is at present.

Mr. MILLER. I move to amend the amendment by striking out "one twelfth," and inserting "one fifteenth." I rise, Mr. Chairman, to say a word in regard to a question which seems to excite interest on all sides of the House. Some gentlemen think that these banks are merely of advantage to the stockholders and to no one else. These gentlemen are mistaken. I do not know about city banks, but I do know about the country banks, and I know that they are not only of advantage to the stockholders, but of advantage to the people generally. If this tax is increased, as it is proposed here, it will tax the country banks out of existence.

Gentlemen say if they are taxed out of existence they will take the circulation. If they are taxed out of existence it would not be long before we should hear of broken banks in the country. In the country the banks make money out of the circulation. I know, so far as the banks in my country are concerned, they make little money out of deposits. They depend upon what money they make on circulation. In the cities it is far different. The deposits there are large and they make a great deal of money on the deposits. But it is not so in the country. The proposition here is not only to tax the deposits, but to put a double tax upon the circulation. What will be the result? The result will be in many sections of the country that the banks will have to wind up. If they cannot make some money they will not run the risk.

Mr. STEWART. What amendment does the gentleman from Pennsylvania propose?

Mr. MILLER. I move to strike out one twelfth and insert one fifteenth.

Mr. Chairman, I am in favor of the amendment of the gentleman from Iowa. As I was saying, so far as the banks in the country are concerned, this tax bill will be onerous. They cannot stand this tax. Gentlemen say let them go. They want to monopolize the banking business in the cities, but country people must be accommodated as well as those of the cities. Gentlemen must recollect that there are great losses in the banking business. Not only the drawers but the indorsers of notes fail, and large amounts of money are lost in that way. And as the banking system is not established the circulation is limited. When we had the State banks, before they were legislated out of existence, we could increase our circulation and the country people become accommodated. It is not so now.

[Here the hammer fell.]

Mr. SCHENCK. I hope by unanimous

consent all further debate on this section will be terminated.

Mr. HOLMAN. I object.

Mr. SCHENCK. I move that the committee rise for the purpose of closing debate.

Mr. BLAINE. You cannot do that. There is no quorum.

Mr. SCHENCK. Then I hope gentlemen will soon run out.

Mr. LYNCH. I rise to make a suggestion to the gentleman from West Virginia, and that is this: the particular case which has been brought before the House by the gentleman from Iowa [Mr. PRICE] of a bank which has \$180,000 circulation and \$500,000 deposits will not be much relieved by double taxation.

Mr. MILLER. I withdraw my amendment.

Mr. LOGAN. I merely desire to suggest an amendment for the consideration of the committee. It is this: I propose after the word "money" to insert "except on deposits of the Government, and on deposits of the Government there shall be a tax of four per cent."

The CHAIRMAN. That is not in order now.

Mr. LOGAN. On the deposits of individuals, I do not know how it is in the East and New York, but in the West a great portion of the banks pay an interest of six per cent.; but on the Government deposits there is no interest paid whatever. At different times the Government has had millions of dollars on deposit for months from which it derived no interest whatever, while the banks derived from six to nine per cent.

Mr. LYNCH. Does not the Government have for every dollar of deposit in the banks ample security, while the individual depositors have no security?

Mr. LOGAN. Well, sir, I would like the gentleman to explain to me what amount the Government derives, so far as it is concerned, from the securities. They do not pay the Government one cent interest. There is a banking institution in this city that has had as high as \$6,000,000 on deposit at a time, and it never paid one cent to the Government on that deposit.

Mr. LYNCH. The point I wished to make was the difference between the deposits of individuals who have no security whatever, who take their own risk, and the deposits of the Government, which are entirely secure; more so than if made in the sub-Treasury.

Mr. LOGAN. That only adds to what I said of the necessity of taxing the individual who makes deposits and receives his six or four per cent. as the case may be.

Mr. LYNCH. And takes his risk.

Mr. LOGAN. Takes his risk.

A MEMBER. Where do they pay six per cent.?

Mr. LOGAN. They do it in my part of the country to my certain knowledge. But the Government, in depositing, gets collateral; but on that collateral the Government pays six per cent. in gold. It does that for the advantage of having its money deposited in a bank out of which many a banker derives six per cent. interest beside the interest on the collateral. Now, sir, I purpose, in order to make this fair, that upon the Government deposits in the banks they shall be required to pay four per cent. Then as regards individual deposits the House may determine the percentage as it sees fit. I do not propose to change that part of the bill. This is all I desire to say. I shall ask a vote at the proper time.

Mr. O'NEILL. I desire to ask a question of the gentleman. Does not the Government receive some benefit from the convenience or advantage of having deposited its money in the banks of the country?

Mr. LOGAN. None on God's earth. It only gives these men a chance to turn the money and make a fortune out of it without giving the Government a particle of benefit.

Mr. PRICE. That happens to be a mistake.

Mr. LOGAN. Well, now, let us see.

Mr. PRICE. All over the country there are collection districts. The collectors must necessarily deposit their money somewhere, and in

a great many instances there is no sub-Treasury and no place to keep the money in but the banks.

Mr. LOGAN. They can express it to the Government sub-Treasury very easily.

Mr. PRICE. Not every day.

Mr. LOGAN. The express runs every day, and there are sub-Treasuries all over the country where money can be deposited.

Mr. PRICE. Oh, no.

Mr. LOGAN. There is a sub-Treasury in New York and in every large city.

Mr. FARNSWORTH. I would ask the gentleman from Iowa [Mr. PRICE] whether the deputy collectors in the different districts deposit in the banks every night?

Mr. PRICE. I am happy to tell my friend that they do, so far as my knowledge is concerned.

Mr. LOGAN. If you have no bank what becomes of the money the collector has?

Mr. FARNSWORTH. They must have to travel a long distance.

Mr. O'NEILL. I rise to oppose the amendment of the gentleman from Illinois, [Mr. LOGAN.] I understand it is impossible in many instances for the Government to have its money deposited in Government depositories; that is, in the sub-Treasury. Now, I presume, as a matter of course, the deposits must be made somewhere for the convenience of the Government. Let me illustrate it. In the State of Pennsylvania there is a vast amount of money collected by local taxation. The money is deposited in the State banks all over the Commonwealth, evidently to the convenience of the State.

Mr. LOGAN. Let me ask the gentleman a question. This Congress has passed a law requiring deposits to be made in the Government depositories or the sub-Treasury where the collection was made within five miles of the sub-Treasury. Is such a deposit in violation of law?

[Here the hammer fell.]

Mr. TROWBRIDGE. I move that the committee do now rise.

The motion was agreed to—ayes 85, noes 84.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and had come to no resolution thereon.

#### CLOSE OF DEBATE.

Mr. SCHENCK. I move that when the House next resolves itself into Committee of the Whole on the state of the Union on the special order all debate on the pending section shall close in three minutes.

Mr. HOLMAN. I hope the gentleman will confine his motion to the pending amendment. This is a very important section.

Mr. SCHENCK. No, sir, on the section; but I will say in ten minutes instead of three minutes. Closing debate will not cut off amendments.

Mr. HOLMAN. I move to amend the motion so as to limit debate only on the pending amendment.

The SPEAKER. That amendment is not in order. The rule gives authority to close debate on sections and on amendments pending thereto, and the motion of the gentleman from Ohio [Mr. SCHENCK] being the larger motion, must be voted down before the vote can be taken on the motion of the gentleman from Indiana.

Mr. ROBINSON. I rise to a question of order. Was it not the understanding when the House took a recess this afternoon that no business was to be transacted to-night except in Committee of the Whole on the state of the Union?

The SPEAKER. It was not; on the contrary the Chair stated that such an understanding would require unanimous consent.

The question was taken on Mr. SCHENCK's motion; and there were—ayes 44, noes 20; no quorum voting.

Mr. ROBINSON. I move that the House do now adjourn.

The SPEAKER. The Chair understands that the gentleman from Ohio [Mr. SCHENCK] has a proposition to make to the House.

Mr. ROBINSON. Then I withdraw my motion.

#### ORDER OF BUSINESS TO-MORROW.

Mr. SCHENCK. I renew the proposition which I made to-day, that the House shall meet at eleven o'clock to-morrow, go into Committee of the Whole on the state of the Union on the tax bill immediately after the morning hour, sit until five o'clock, and have no evening session.

There was no objection; and it was so ordered.

The SPEAKER. No quorum having voted on the motion of the gentleman from Ohio [Mr. SCHENCK] to close debate, it is not agreed to.

Mr. ROBINSON. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at ten o'clock and twenty minutes p. m.) the House adjourned until eleven o'clock a. m. to-morrow.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CLARKE, of Ohio: The petition of Mrs. Vene L. Kennedy, widow of Dr. Lock Kennedy, of Batavia, Ohio, for a pension.

By Mr. CULLOM: The petition of William J. Conkling, in behalf of the one hundred and forty-fifth regiment Illinois volunteers, asking Congress to provide for the payment of the soldiers of said regiment from the date of enlistment.

By Mr. GLOSSBRENNER: The petitions of manufacturers of iron &c., in Cumberland county, Pennsylvania, complaining of the want of efficient protection against the cheaper labor and capital of foreign countries, and praying that Congress will resume consideration of the tariff bill which passed the Senate but failed in the House, March, 1867, for want of time, and enact it into a law at the earliest practicable moment.

Also, a memorial of tobacco and cigar manufacturers and dealers in the various products of tobacco, remonstrating against the proposed change in the internal revenue tax upon tobacco and its manufacturing products.

By Mr. JUDD: The petition of Messrs. Armstrong & Co., and others, asking removal of tax on refined petroleum.

Also, the remonstrance of George Richards and others, against the extension or removal of Howe's patent on sewing-machines.

By Mr. STOKES: The petition of the widow of D. H. Bingham, of Athens, Alabama, praying compensation for forage and other property used by the United States troops during the month of May, 1862.

#### IN SENATE.

SATURDAY, June 13, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. MORTON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### CONTRACTORS FOR IRON-CLADS.

Mr. DRAKE. I ask the consent of the body to take up for consideration Senate joint resolution No. 100.

The PRESIDENT, *pro tempore*. It requires unanimous consent at this time. Is there any objection?

Mr. MORRILL, of Vermont. What is it? Let the title be read for information.

The CHIEF CLERK. The resolution proposed to be taken up is the joint resolution (S.

R. No. 100) for the relief of certain contractors for the construction of vessels of war and steam machinery.

Mr. EDMUNDS. I object. That had better wait until the Senate is full.

Mr. DRAKE. I ask the indulgence of the Senate about this matter. I do not wish to press it while the Senate is so thin, and I am perfectly willing, if the Senate will take it up, to give way to other matters until the Senate becomes more full, which it will in the course of the next ten minutes, and I ask the indulgence of the Senate about it. The whole matter was incidentally discussed the other day in connection with the other bill that was presented, and the Senate, I suppose, understands the case perfectly. Gentlemen who are concerned in this matter, who, as has been before stated, have been driven to the verge of bankruptcy, if not to total, complete bankruptcy, by the subject-matters which this bill covers, have been here for months waiting anxiously to learn whether Congress would give them the poor privilege of going into the Court of Claims to see if they could make out a case.

Mr. TRUMBULL. If the Senator from Missouri will allow his motion to pass by until the Senate is fuller, I will move to take up a little bill to which I am sure there will be no objection.

Mr. DRAKE. I beg the honorable Senator from Illinois to allow this joint resolution to be taken up, and then it may be postponed for other matters, if the Senate will so far indulge me.

Mr. CHANDLER. Is the morning business through?

The PRESIDENT, *pro tempore*. It requires unanimous consent to consider the joint resolution indicated by the Senator from Missouri at this time.

Mr. DRAKE. Does it require unanimous consent?

Mr. EDMUNDS. Certainly. We must first go through with the morning business.

The PRESIDENT, *pro tempore*. Under the new rules it requires unanimous consent until the morning business is through with.

Mr. DRAKE. If the Senate will just let me take it up, I will give way to other business.

Mr. EDMUNDS. You can get it up after the morning business is through with.

Mr. DRAKE. I fear I shall not be able to do it then.

The PRESIDENT, *pro tempore*. Is there any objection to taking up the resolution mentioned by the Senator from Missouri?

Mr. EDMUNDS. Yes, sir; I object.

The PRESIDENT, *pro tempore*. Petitions and memorials are in order.

#### PETITIONS AND MEMORIALS.

Mr. TRUMBULL presented the petition of Emilie Rossmässler, of Quincy, Illinois, praying the passage of an act of Congress prohibiting the translation of the works of Professor E. A. Rossmässler, deceased, by any person without the consent of his widow, and granting a copyright to her for the publication of the translations of those works; which was referred to the Committee on the Library.

Mr. HOWE presented the petition of Charles Radcliff, father and heir-at-law of First Lieutenant H. Gansevoort Radcliff, commanding company C, eighteenth regiment United States infantry, praying payment to him of an amount due from the United States to Lieutenant Radcliff at the time of his death; which was referred to the Committee on Claims.

Mr. CONKLING. I present the memorial of one hundred and twenty residents and citizens of the Territory of Colorado, protesting against the admission into the Union of that Territory as a State under the pending bill, and assigning a number of reasons as their grounds of protest, which, briefly, I will state. They allege that the sparsity of population and consequent small amount of taxable property, taken in connection with the depressed condition of mining affairs, and the high prices necessarily paid for

all services, whether official or otherwise, render it impossible for them to support a State government except by taxation, which will be ruinous to all business enterprises. They recite that the plan of admission at present is a scheme which has been in abeyance for three years, and that it is contrary to the wishes of the people for reasons going beyond the mere question of admission. They recite further that at the election at which it was alleged to have been revived, it was treated as a dead and abandoned issue by both political parties, and that no inference is to be drawn from that election favorable to it; and they recite further that the Senators who seek admission are not the choice of the people of the Territory or of any party, and would not be. The bill having been reported, I ask that the remonstrance lie on the table.

The PRESIDENT, *pro tempore*. That order will be made.

#### REPORTS OF COMMITTEES.

Mr. FRELINGHUYSEN, from the Committee on Claims, to whom was referred the petition of Richard B. Duane, on behalf of Washington Tams, submitted a report, which was ordered to be printed, and asked to be discharged from the further consideration of the petition; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 1069) for the relief of Charles B. Tanner, late first lieutenant sixty-ninth Pennsylvania volunteers, reported it without amendment, and submitted a report; which was ordered to be printed.

#### REPORT OF PARIS EXPOSITION.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution instructing the committee to inquire into the cost of printing the reports of the Paris Exposition, have had the subject under consideration, and instruct me to report a resolution which I send to the Chair, and I ask for its present consideration.

By unanimous consent the Senate proceeded to consider the following resolution:

*Resolved*, That so much of the resolution passed March 19, 1868, as suspends the printing of the report of the commissioner of the United States to the Paris Exposition, be, and the same is hereby, rescinded.

Mr. MORRILL, of Vermont. I have examined this subject since the resolution was referred to the Committee on Printing, and I am of the opinion that if any document should be printed for distribution it is probably wise and proper that this report should be, because I think it will be a benefit to the industrial interests of the country to have the engravings, most of which I understand are mere outlines, that will afford practical facilities for the mechanics and artisans of the country to understand the various products that were exhibited at the Paris Exposition.

But I should like to inquire of the Committee on Printing in reference to a resolution which I had referred to that committee early in the session, in relation to a project by which we were to cease the general publication of documents for distribution, and publish them only at cost for those who might be willing to pay for them. I am desirous that that proposition should be acted upon; but until that principle shall be adopted by Congress, if anything is printed by Congress, I conceive that this is a proper subject to be printed. I desire information in relation to the general policy of the country, as to whether the printing of this mass of useless documents at a vast expense to the country is to be continued or not.

Mr. ANTHONY. That is for Congress to decide. The Committee on Printing agree entirely with the Senator from Vermont that the printing of documents for gratuitous distribution is a great abuse. Although it has been much diminished of late, and the expense of printing for Congress is very much lower in greenbacks than it was formerly in gold, still it is the opinion of the committee that the proposition of the Senator from Vermont ought to be adopted; and we are now preparing such

data and information on the subject as will enable us to present it in a form which we hope will meet the approbation of the Senate. In my opinion there should be a few additional copies printed of those publications which are necessary to be placed before us for our own information. Of course the reports of the Executive Departments are of no use to us unless they are printed. Large masses of manuscript referred to a committee cannot receive any attention even in the committee, much less out of it; and when they are printed I think, and I believe my colleagues of the committee agree with me, a few additional copies should be printed and sold at about the cost of publication, or a little less than the cost of publication, for the Government should do something toward distributing that kind of information, and then let it pass into the hands of those who think it of sufficient value to pay for it. My own experience is that whatever a man gets in this world without paying for it is of very little use to him or anybody else.

I am glad that the resolution which I have reported meets the assent of the Senator from Vermont, as it was on his motion the resolution was passed which is to be rescinded. The committee thought that this report was of very great consequence to the industrial interests of the country, and also to the manufacturing and mechanical productions of the country.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

The resolution was adopted.

#### BILLS INTRODUCED.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 541) to amend an act entitled "An act to aid the construction of certain railroads in the State of Wisconsin," approved May 5, 1864; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 542) for the relief of Thomas W. Ward, collector of customs at Corpus Christi, Texas; which was read twice by its title, and referred to the Committee on Commerce.

Mr. FOWLER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 144) in relation to the erection of a custom-house at Nashville, Tennessee; which was read twice by its title, and referred to the Committee on Commerce.

#### PRATT, ARNOLD, AND WALBRIDGE.

Mr. STEWART submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Postmaster General be requested to furnish to the Senate all information in his Department in regard to an alleged contract of Pratt, Arnold & Walbridge for carrying the mail on route No. 15703, between Humboldt City, Nevada, and Boise City, Idaho, and also in regard to services performed by said parties under said contract, together with all other information touching the claim of said parties against the United States.

#### STATUTE OF LIMITATION AS TO CRIMES.

Mr. TRUMBULL. I move to take up for consideration Senate bill No. 509. I think it will take but a few moments to pass it.

Mr. HARLAN. I desire very much to have the Senate take up and act on the bill pertaining to contested elections in this city. I think it ought to be acted on.

Mr. TRUMBULL. The bill which I move to take up is a bill that ought to be acted on, and I think it will take but a moment. I hope there will be no objection to it.

The motion was agreed to; and the bill (S. No. 509) in addition to an act passed March 26, 1864, entitled "An act in addition to an act entitled 'An act for the punishment of certain crimes against the United States,'" was considered as in Committee of the Whole.

The bill consists of two sections. The Committee on the Judiciary proposed to amend the first section by striking out after the word "committed," in line seven, as follows:

And such indictment may be found within said period, and prosecution, trial, and punishment had

thereon in any judicial district of the United States where the offender may be found, or in which any underwriter or owner of such vessel may reside or have his established place of business: *Proposed.* That nothing herein contained shall prevent the finding of such indictment against any person or persons fleeing from justice after the expiration of said period.

So as to make the section read:

That no person shall be prosecuted, tried, or punished for the capital offenses set forth in the act to which this act is in addition unless the indictment for the same is found by a grand jury within five years after such capital offense is committed.

The amendment was agreed to.

The next amendment was after the word "committed," in line three of the second section, to insert "within three years;" so as to make the section read:

SEC. 2. And be it further enacted, That this act shall take effect from and after its passage, and its provisions shall be applicable equally to offenses committed within three years before and offenses committed after its passage.

Mr. EDMUNDS. I should like to have the chairman explain what this bill means, and who it is for, and so on.

Mr. TRUMBULL. If the Senate desire an explanation about it—I am sure the Senator from Vermont does not, for he knows all about it—it is a bill that was considered in the Committee on the Judiciary. The whole effect of the bill is to extend the time within which men guilty of capital offenses against the United States may be indicted from three years to five years.

Mr. MORTON. I ask the chairman of the committee if it is not intended to meet a particular case?

Mr. TRUMBULL. The bill has its origin probably arising out of the fact that there is a particular case where the limitation will likely expire before proceedings would take place; and that is a very proper reason, I suppose, for calling attention to the law upon that subject and correcting it.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### CONTESTED ELECTIONS IN WASHINGTON.

On motion of Mr. HARLAN, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 534) relating to contested elections in the city of Washington, District of Columbia.

The first section provides that whenever any person has received or shall hereafter receive a certificate from the register of the city of Washington, based upon satisfactory evidence furnished by the commissioners of election, notifying him of his election to any elective office of the city, the person receiving such notification shall be entitled to enter upon the discharge of the duties of his office, and the certificate of the register shall be *prima facie* evidence of his election to and right to discharge the duties of the office.

The second section provides that any person who shall hinder or obstruct a person holding the certificate of election mentioned in the foregoing section from entering upon or discharging the duties of his office, shall be deemed guilty of a misdemeanor, and upon conviction thereof, in any court of competent jurisdiction, shall be fined in any sum not exceeding \$1,000, or be imprisoned in the county jail not exceeding six months, or both, in the discretion of the court.

The third section proposes to give the supreme court of the District of Columbia, or any judge thereof, jurisdiction to enforce, by *mandamus*, or otherwise, the right of any person holding the certificate mentioned in the first section; and the action of the court in relation thereto is to be final.

Under the fourth section any person who claims, or shall hereafter claim, to be elected to any elective office in Washington city, may commence proceedings before the supreme court of the District of Columbia, by petition setting forth the facts upon which he relies,

and shall serve a copy on the incumbent or person who has received the certificate of election; and the person so served is to make answer to the petition within five days; and the court is thereupon to try the rights of the parties to the office in a summary manner; and for that purpose a special session is to be called and held whenever necessary for the purposes of such trial; and the decision of the court in any case so brought before it is to be final and conclusive. And when any contest exists in relation to the election of any member of the board of aldermen or common council, the mayor of the city is to appoint all subordinate officers.

An amendment was reported by the Committee on the District of Columbia, to strike out of the fourth section the following words:

And when any contest exists in relation to the election of any member of the board of aldermen or common council, the mayor of said city is hereby authorized to appoint all subordinate officers.

And in lieu thereof to insert:

And when the legal organization of the board of aldermen or board of common council shall be delayed on account of any contest in relation to the election of any member of either of said boards, the mayor of said city is hereby authorized to make temporary appointments of all subordinate officers, whose appointment or election is authorized by the said mayor and members of said boards under existing laws, to continue until said boards shall be legally organized.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. HENDRICKS. I think some explanation of the force and effect of that amendment ought to be made to the Senate.

Mr. HARLAN. It seems to me the amendment explains itself. Under the existing laws subordinate officers in the city of Washington are elected or appointed by the mayor and the members of the boards of aldermen and common council in joint meeting. While these boards are in a disorganized condition it is impossible of course for them to make an election. It may be necessary, however, to have certain of these offices filled during that period, and the amendment is intended to confer on the mayor the authority to make temporary appointments to act during the period of this supposed controversy. The bill as it stood originally authorized the mayor to make permanent appointments, which the committee thought was not proper. They think the law as it now stands is right; but a contingency having arisen when the boards are unable to organize, when it may be necessary that subordinate officers may be appointed, the authority to appoint them temporarily ought to be lodged somewhere, and the committee propose to lodge it in the mayor for the time being.

Mr. DAVIS. Mr. President, I ask the honorable Senator who has charge of this bill if its operation is not to be retrospective. The first clause reads:

That whenever any person has received or shall hereafter receive a certificate from the register of the city of Washington, based upon satisfactory evidence furnished by the commissioners of election, notifying him of his election to any elective office of said city, the person receiving such notification shall be entitled to enter upon the discharge of the duties of his office.

I understand that a corporation election has recently taken place in the city of Washington. I ask the honorable Senator if the effect and object of this bill is not to furnish a new law to regulate and decide that election from what existed at the time the election took place.

Mr. HARLAN. In answer to the Senator's inquiry, I would state that it is intended to provide a law to meet an existing case. There is now no law on the subject, as far as I can discover by examination.

Mr. DAVIS. The explanation of the honorable Senator is just what I conceived it would be. I understand the present law of the District of Columbia to be such that no disputed election can exist which may not be decided in the courts by the law. If I understand the



state of the case, there is now pending in this city a disputed election in relation to the mayoralty, and probably other officers. This dispute is about to go to the courts for decision according to the existing laws at the time the election took place. The laws as they existed at the time the election took place are not satisfactory, however, to the majority of the Committee on the District of Columbia, and they are not satisfactory to some of the Radical candidates and claimants for these disputed offices; and the effort and object of this bill is simply to introduce a new law and a new principle of decision for those disputed elections than what existed under the law at the time the elections took place. I do not think that that is a proper system of legislation. When an election takes place in the District it ought to be conducted in conformity with the existing law. If it is not so conducted, and there is any irregularity in the election that would entitle either the one candidate or the other to the office that may be in dispute, the contest ought to be decided between the disputants according to the existing law, and it is not, in my judgment, proper legislation for the Congress of the United States to intervene as the supporters and partisans of one of the candidates in a local election, and to establish a new rule and a new principle by which contested elections shall be decided by the intervention of a new law on the subject.

I am not, to be sure, *au fait* on the subject of the local laws of the District of Columbia. I never belonged to the Committee on the District of Columbia. The honorable gentleman is chairman of that committee; and I concede that he is much more familiar with and better informed in regard to the laws that regulate these elections and all the affairs of this District and its people than I am. But if I understand the case there are statutes in operation now by which the disputed questions and the disputed rights to office under the recent corporation election may be decided in the courts under the existing laws at the time the elections took place. After the elections have taken place, and when contested elections and contested rights to the offices are raised or about to be raised in the courts, why should the legislation of Congress be invoked and be thrown in favor of one of the contestants against the other?

If I understand aright, there was no law in existence at the time the election took place, and there is none now, that authorized the register to give such a certificate of election as this first section of the bill provides for; but that does not leave the case without a remedy. It is not necessary for the decision of this contested election and of the rights of the parties to it that this bill should pass to enable the register to give such a certificate. The laws as they now exist may be resorted to, and are sufficient to enable the parties in the contest to the offices that are now in dispute to go to the courts to have their rights decided fairly and properly. If I understand this proposition, it is to pass a retroactive law, to control or to regulate in some degree an election that took place under other laws, and to give to one of the parties contestant in the election an advantage and a right which he has not according to the existing law. In other words, the disputed election now has become a judicial question; it is before the courts, or it is about to be taken to the courts; it has passed from the legislative function to the judicial, or is in a state of *transitu*. It is about to pass from the hustings and the polls to the courts to decide the rights of the parties who were candidates for office; and those rights ought to be passed upon and to be decided according to the laws that were in existence at the time the election took place. One of the parties to this contested election is not satisfied to have the question decided according to the existing law; he comes to Congress; he comes to the Senate; he comes to the Committee on the District of Columbia, and that committee, with partisan haste and zeal, is now concocting bills to

change the law which existed at the time the election took place, and by which the rights of the parties ought to be decided, and proposes new legislation to give to one of the contestants an advantage which the existing law did not give him. Sir, I do not believe that any legislation in such a state of contest growing out of an election, to give to one of the parties an advantage, ought to be undertaken by the Senate. I hope, therefore, that this bill will not pass, but will be rejected.

Mr. HARLAN. Mr. President, the honorable Senator who has just taken his seat presents his objection to the bill fairly. I agree with him that no new law ought to be passed, and no amendment of an old law, unless those who present it can give a satisfactory reason for it; and if there is at this time no satisfactory reason for the passage of this bill, I agree with him that the Senate ought not to enact it. The Senator has stated, however, that he is not familiar with the laws as they now exist, and on account of that want of familiarity he has adopted an error, as I think. There is no existing law which will furnish a remedy for the existing case. This, therefore, is intended to be merely a remedial statute, to provide a remedy for an existing case where there is at present no legal means of obtaining relief.

Under the old charter of the city of Washington, which probably still is in force, at least it is the law under which this election was held, the board of aldermen and the board of common council are the judges respectively of the qualifications and election of their own members. I suppose that that would exclude the jurisdiction of the courts, the law providing that the boards shall be the exclusive judges; in that respect adopting the principle of the Constitution as applied to the Senate and House of Representatives of the Congress of the United States. Usually such a law would be sufficient to provide for the trial of any contested election of a member of either body, but in the existing case this law is inoperative, from the fact that there have been organized two boards of aldermen and two boards of common council, each claiming to have been legally elected under the existing law. The board of common council, I understand, are equally divided; that is, the two organizations have an equal number of members, neither of them has a majority of all; and of course each is as competent to try the legality of the election of the members of the whole board if they were united as the other is. It will appear, therefore, as it seems to me, to every one, that it is utterly impossible for this question to be settled under the law as it exists, there being two organizations, they being equal in number, and neither of them having a majority of the whole; that is, excluding the cases of contest.

This bill proposes that the candidates who received the certificates or notifications of their election from the returning officer under the old law shall be held to be for the time being legally elected, and that any party claiming to be elected adversely to them shall have a remedy summarily before the supreme court of the District of Columbia, or any judge of that court, each one of these judges having the authority, under existing laws in this District, to hold a court, and in this way settle the question of the legality of the election of the members over which this contest has arisen. I suppose that in relation to other officers there may be a remedy under the laws as they exist, but the committee thought it best to make this law general in its provisions. There surely can be no valid objection to trying the validity of the election of any officer, where a contest arises between two candidates each claiming to have been legally elected, before the supreme judiciary of the District. There would be greater prospect of an impartial hearing and decision before the supreme court of the District, as it seems to me and seemed to the committee, than there would be before the judges of election.

The bill, therefore, simply adopts the prin-

ciple which usually controls. I need not remind every Senator present that this Senate has adopted the rule that an applicant for a seat in this body, holding the evidence of his election shall be held to have been legally elected until the contrary shall be shown; that this shall be regarded as *prima facie* evidence of his right to a seat; and, usually, members of this body and of the House of Representatives are admitted to their seats on this evidence. The contestant who disputes the right of the claimant to the seat makes his appearance and the question is afterward tried and decided. The bill adopts the principle that is usually applied in such cases, that the party receiving the certificate of election from the register of the city shall be held *prima facie* to have been legally elected, and then provides an immediate remedy before the supreme court for any party who may claim to have been elected adversely. It was not the intention of any member of the committee to make an unfair law, a law that could be construed to have a party coloring in any way, but to adopt a law which would provide a remedy for the existing case where there seems to be no remedy, and which may be a permanent law for the future.

Mr. DAVIS. Mr. President—

THE PRESIDING OFFICER. (Mr. POMEROY in the chair.) The question is on concurring in the Senate with the amendment made as in Committee of the Whole.

Mr. DAVIS. I will remind the Chair that I know what the subject is before the Senate.

Mr. President, if there is any necessity for this legislation, I should be very far from intervening any objection to it. As I understand the explanation of the Senator from Iowa, the object of this bill is to enable evidence to be manufactured for some of the contestants to these seats that cannot be made under the existing law.

Mr. HARLAN. No. With the Senator's leave, I will say that I have made no such statement. The bill is not for the purpose of manufacturing evidence.

Mr. DAVIS. If I understand the wording of the first section, and if I understand the explanation of the honorable Senator, it is to enable a candidate for office to get a certificate of election which he cannot get under the existing law. The object is to pass a law to enable him to get a certificate of election that shall *prima facie* entitle him to the office. If that be the purpose and object of the bill, it seems to me evident that it is designed to enable evidence to be manufactured for one of the candidates that cannot be manufactured under the existing law. I so understand it.

This bill was introduced on the 11th of June. The honorable Senator from Nevada [Mr. STEWART] interjected an amendment into this bill late the day before yesterday, I believe. I do not object to that. He is an efficient and enterprising Senator; and that was all well enough. But there is no need of such extraordinary haste. I concede that I am not *au fait* on the subject of the laws of Congress regulating this District and its affairs; the honorable Senator from Iowa is; and I propose that he let this bill go over until Monday, until I can inform myself in relation to what would be its connection with existing laws and the rights of the parties contested in these litigated elections, and if the legislation proposed to my mind should be reasonable and necessary I will then intervene no objection to it whatever. If it should be of a different character, it will enable me to inform myself in relation to this particular bill, and how it will bear on the other laws that regulate the affairs of the District and its elections and the rights of parties contesting office, and I shall then be ready to make my objection to it. I propose that the honorable Senator consent that it be postponed until Monday, and made the special order, and taken up in the morning hour, or at any time to suit his convenience on that day.

THE PRESIDING OFFICER. Does the Senator from Kentucky move to postpone the further consideration of the bill?

Mr. DAVIS. I merely made the suggestion to the courtesy of the honorable Senator from Iowa.

The PRESIDING OFFICER. It is not a motion.

Mr. HENDRICKS. I think this bill ought to be recommitted, and if legislation be necessary at all it ought to be upon a fair principle. It ought not to be in regard to the mayor one way and in regard to the board of councilmen another way. Everybody will see at once that it is not right to say that in regard to the mayor a *prima facie* case shall stand and in regard to the aldermen a *prima facie* case shall not stand.

Mr. President, in regard to the recent election in this city, which, of course, everybody knows is the subject of this legislation, although in language it is general, the *prima facie* case was with the mayor voted for by the Republican or Radical party, but the *prima facie* case was with the majority of the board of aldermen and board of councilmen voted for by the Democrats and Conservatives of the city. This bill proposes, by a new and ingenious device, that a *prima facie* case shall be established in favor of the mayor, who shall be put into office and hold his office unless questioned; but in regard to the members of the boards who have the *prima facie* case that shall not be the rule. If any Senator can say that is right, he has a different view of what is right from mine.

Mr. HARLAN. If the Senator will permit me, I think he is in error in his statement of the fact. The same rule is applied to both.

Mr. HENDRICKS. No, sir. The first section of this bill provides that the certificate of the register shall be conclusive, and then the amendment that is proposed by the committee is to add:

And when the legal organization of the board of aldermen or board of common council shall be delayed on account of any contest in relation to the election of any member of either of said boards, the mayor of said city is hereby authorized to make temporary appointments of all subordinate officers whose appointment or election is authorized by the said mayor and members of said boards under existing laws, to continue until said boards shall be legally organized.

Now, the certificate or declaration or finding of the commissioners of election made at the time the law required it to be made, elected Mr. Bowen as mayor of this city, as I understand the facts. The same certificate or finding and declaration by the boards of election under existing laws elected the Democratic or Conservative members of the two boards in a majority of the cases, especially in the case of the majority in the common council. The result was declared, and the vote showed a majority for the Conservatives in the third, fourth, fifth, and sixth wards, and for the Radicals in the first, second, and third; so that a majority of the Conservatives or Democrats had the *prima facie* case. I understand—

The PRESIDING OFFICER. It becomes the duty of the Chair to arrest the business of the morning hour at this time and notify the Senate that the unfinished business of yesterday is before the Senate for consideration.

Mr. HARLAN. I move to postpone the consideration of the regular order for the purpose of continuing the consideration of this bill.

Mr. HENDRICKS. I do not yield for the purpose of that motion.

The PRESIDING OFFICER. The business of the morning hour must be arrested at this time, and the Senator from Indiana is speaking on the business of the morning hour. Another measure becomes the order of the day at this hour without any motion.

Mr. BUCKALEW. What is the order of the day?

The PRESIDING OFFICER. The unfinished business of yesterday.

Mr. BUCKALEW. What is that?

The PRESIDING OFFICER. The banking bill.

Mr. HARLAN. I make the motion to postpone.

The PRESIDING OFFICER. The Senator from Iowa takes the floor upon the bill that is before the Senate, and moves its present postponement.

Mr. SHERMAN. I trust that will not be done, unless it can be laid aside informally. If the Senator can get a vote in a few minutes on his bill I shall not object.

Mr. HARLAN. I have no objection to the regular order being passed over informally until this bill is disposed of.

The PRESIDING OFFICER. The unfinished business can be laid aside if there be no objection.

Mr. HENDRICKS. That will be objected to. I think this bill ought to lie over anyhow, until we can have an opportunity to examine it. The printed bill has just been laid on our tables.

The PRESIDING OFFICER. The Senator from Indiana objects, and it can only be done on a vote. The Senator from Iowa moves that the further consideration of the bill which is now regularly before the Senate be postponed.

Mr. SHERMAN. I certainly will not agree to that; but the Senate can do as they please about it. I do not think that a bill of this kind, called up suddenly, for a special purpose, a local purpose, reported only yesterday, ought to displace important public legislation. I do not believe there is any such necessity for hasty action upon a mere matter of local legislation. Indeed I hope the Committee on the District of Columbia will cut this Gordian knot of local authority, and give us a good city government which will control the city and protect property. They can do that, and we can pass a bill of that sort in less time than it will take to pass this bill. Give us a set of good commissioners to manage the affairs of this city, and you will have no more riots or scenes of violence here.

Mr. HARLAN. That is precisely what the committee propose to do by the passage of this bill, to harmonize these conflicts and give the city a good government, a good mayor, and a good board of aldermen and common council. It is the very thing we propose to do by the passage of this bill. The Senator is in error in saying that this is a bill sprung upon the Senate. The bill was introduced a few days ago, referred to the committee, and printed; it was reported back yesterday and laid on the table of every Senator. Personally I care nothing about the passage of the bill. If disorder should arise I can take my chances, I suppose, with the rest in any mob that may take control of the city. But I regard it as my duty as the organ of the Committee on the District of Columbia, to whom this bill was referred by the Senate, to call the attention of the Senate to the necessity of immediate action on it. I am not sure that it would be in order now to state more at length the reasons for continuing the consideration of this bill. I hope, however, the Senate will take the view of it I have presented.

Mr. SUMNER. Mr. President—

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The question is on postponing the special order.

Mr. SUMNER. I understand it so. I am in favor of proceeding with the bill of the Senator from Ohio, if we can; but I find myself confronted now with a practical question with reference to the District of Columbia, where we have exclusive jurisdiction. It belongs to us to settle the question. The Senator from Ohio has used a strong expression: he says that he hopes we shall now cut the Gordian knot. Very well; this bill is certainly one step in that direction, if it does not accomplish it, and I believe that for the moment it is the best and most efficient step. I hope, therefore, that the Senate will proceed with this bill which affects the District of Columbia, and finish it to-day. We ought not to take up any other business until this bill is acted on. We must give tranquility and peace to the city government of the District, where we have exclusive jurisdiction.

Mr. HENDRICKS. This bill attracted no attention here until it was reported yesterday. The amendment is printed this morning, and for the first time comes upon our tables. There has been no opportunity for this side of the Senate to consider it. I believe we have no representative upon the Committee on the District of Columbia. The political character of the legislation in regard to the District is known very well to the Senate.

Mr. HARLAN. If the Senator will permit me, I will state that the honorable Senator from Tennessee who sits furthest from me is a member of the Committee on the District of Columbia.

Mr. HENDRICKS. Then I withdraw what I said.

Mr. HARLAN. I am not sure but that he regards himself as a Republican or Radical, but I have drawn a different inference. The Senator from Indiana perhaps knows better than I do on that subject.

Mr. HENDRICKS. I did not know that he was on the committee. I thought it was a clean, pure thing. I withdraw what I said on that subject.

Mr. PATTERSON, of Tennessee. Do I understand the Senator from Iowa as referring to me?

Mr. HARLAN. I remarked that the Senator from Tennessee was a member of the Committee on the District of Columbia.

Mr. PATTERSON, of Tennessee. That is true; but I understood the Senator to say in addition that I was a Radical. [Laughter.]

Mr. HARLAN. The Senator misunderstood me. I said that I had supposed that he was not acting with the Republican or Radical party, but that the Senator from Indiana might know better than I did, as he sat nearer the Senator from Tennessee.

Mr. PATTERSON, of Tennessee. I beg the Senator's pardon.

Mr. HENDRICKS. This bill has just come before us in the shape in which we now find it, and I think that we may ascertain the facts which are intended to be met by this legislation more satisfactorily. It is due to us that it should be postponed until Monday; but if it must be considered now, of course we shall do the best we can. The Gordian knot spoken of by the Senator from Massachusetts can easily enough be cut. If it is intended to do right by this bill, it is a very plain thing what is right. It is right that the men who have a *prima facie* case under the existing law should hold the office until the *prima facie* case is set aside on legal investigation and adjudication; and it is not right, whether done in Congress or in a State Legislature, or elsewhere, that you change the evidence establishing the right of a man to an office after his election, and arbitrarily declare that that shall be conclusive upon him. That is right nowhere—

The PRESIDING OFFICER. The Chair thinks it his duty to remind the Senator that the bill before the Senate is not the bill on which he is speaking. The banking bill is before the Senate, and the question is on postponing that.

Mr. HENDRICKS. I understand that.

Mr. SHERMAN. If my friend from Indiana will allow me, I will move to amend the proposition of the Senator from Iowa. As I see it is manifest the Senate are disposed to finish this bill, I will move that the banking bill be postponed until Monday at one o'clock, and made the special order for that hour.

Mr. HENDRICKS. I do not yield for that purpose.

Mr. SHERMAN. Then I give notice that I shall make that motion as soon as I get the floor.

Mr. HENDRICKS. The question now is whether the special order shall be postponed for the purpose of considering the bill in relation to contested elections in the city of Washington.

The PRESIDING OFFICER. On that question the Senator from Indiana is entitled to the floor.

Mr. HENDRICKS. On that question I was

responding to the remarks of the Senator from Massachusetts. It is probable that I am not in order, and that he was. My remarks were addressed directly to his suggestion that the Gordian knot should be cut. Whether the Gordian knot, as presented by the Senator from Massachusetts, is in order for discussion or not should have been decided by the Chair when the Gordian knot was first presented to the Senate. Now I will stop for the decision of the Chair whether it is proper for us to consider the Gordian knot presented by the Senator from Massachusetts.

Mr. SHERMAN. Now, Mr. President—  
Mr. HENDRICKS. I have not yielded the floor. I am waiting until the Chair decides the question of order. The Chair has called me to order.

The PRESIDING OFFICER. The Chair only reminded the Senator of the question before the Senate. It may be that he is in order in replying to any remarks made by the Senator from Massachusetts.

Mr. HENDRICKS. That depends altogether upon whether the remarks were in order.

The PRESIDING OFFICER. Under our rules a large latitude of debate is allowed; and a Senator may reply to any remarks made by another, although not strictly in order on the subject before the Senate.

Mr. HENDRICKS. I am very much obliged to the Chair for permitting me, then, without deciding the point of order, to respond to the question raised by the Senator from Massachusetts. I am aware of the condition of affairs in this city, but the particular facts I do not profess to understand, perhaps, as well as the Senator from Massachusetts. I have not troubled myself to read even the newspaper statements of them, except so far as I have observed them within a few minutes in a paper of yesterday.

Under existing law, the election boards at the close of the election, as I understand, count the votes; they declare the result at each election precinct; they report that result to the register; they report it also to each of the boards of aldermen and common council. The register, under existing law, merely receives that report. He is not a judicial officer to revise that report. He has no power to purge it or to purge the polls. He is to receive the reports of the boards of election as the two city boards receive the reports of the boards of election. So that under existing law the evidence of a man's right to his office depends upon the returns made by the boards of election. Those returns make the election of Mr. Bowen as mayor. Those returns as first made elected the Conservative candidates for the board of alderman and board of common council in four of the seven wards. Now, what does the bill propose? This bill proposes to refer this question to the register. If he has given or shall give a certificate that Mr. Bowen is elected mayor that shall be the evidence. The law governing the election at the time it took place made the report of the boards of election the authority to decide that question. This bill proposes that the certificate of the register shall decide who are elected to the boards in the city, while the law which covered the election, and made the *prima facie* case under law, made the report of the election boards the evidence. Now, sir, why not apply the plain principle that where, according to those reports, a *prima facie* case is made, that *prima facie* case shall stand, and the man having that *prima facie* case shall go into office and hold office until that *prima facie* case is overcome by a legal investigation? Is not that right? Who wants it otherwise?

In one of the wards, as I understand the fact to be, the election board declared the result, and made a return in favor of the Conservative candidates, and afterward they revised that, and made another certificate, for a portion of it at least, and excluded the votes of some soldiers, and then declared a different result in that ward. When that election board had counted the votes, declared and made their return as

required by law, they had no further power over it. They had no judicial functions authorizing them to revise the election and to say that certain votes ought to be excluded. After they had made their returns, when the returns required by the law had been made, they could not be disturbed except upon a judicial investigation.

Now, sir, what I propose is, that this bill shall be returned to the committee, and that they shall report a bill upon the proposition that the *prima facie* case shall stand until that *prima facie* case is set aside upon an inquiry in the courts. That is the law everywhere. What would be thought in one of the States where an election takes place and the certificate of the officers provided by law is made which entitles the party to his office, if afterward the Legislature should provide that another and different officer might issue a certificate and that should make the case? No community would endure that. It would be so palpably wrong that it would not be endured.

Then, sir, it is plain that the *prima facie* case ought to stand until reversed, and I think the quiet of the city requires it. If illegal votes have been cast, that ought to be decided, not by the register of this city, because he has no means of making the proper investigation, but by the proper court. Whether the courts of this city are clothed with sufficient authority to try a question of this sort I do not know. If they are not, I would very cheerfully concur in proper legislation to give them the jurisdiction. I have no objection to that. Let this question be investigated in the courts; but until that investigation shall take place let the plain, square, and honest rule stand that the men who have the evidence of election as provided by law at the time the election took place take their offices and discharge the duties.

The PRESIDENT *pro tempore*. The question is on postponing the order of the day in order to continue the consideration of the bill which has been under consideration in the morning hour.

Mr. MORRILL, of Vermont. When we adjourned last evening the banking bill was under discussion; and I presume it will meet the views of the Senate that that measure shall be postponed until Monday, and be made the special order for that day. I submit that motion.

Mr. POMEROY. I do not think we need postpone it until Monday.

Mr. MORRILL, of Vermont. I understand to-day will be consumed.

Mr. POMEROY. It is not at all certain that we shall need the whole day for this bill.

Mr. MORRILL, of Vermont. There are other measures.

Mr. POMEROY. If any other bill should be taken up to-day and left as the unfinished business, it would take precedence of the special order on Monday.

Mr. MORRILL, of Vermont. I make this motion in accordance with a request of the chairman of the Committee on Finance, who has made inquiry about the business of the day. He thinks it is against the general wish of the Senate to take up the banking bill to-day. As that bill is now in order, and may be called for by the chairman, I suppose there will be no objection to the motion I suggest.

Mr. POMEROY. I object to making it a special order.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont, to postpone Senate bill No. 440 until Monday at one o'clock, and make it the special order for that day. This motion requires a two-thirds vote.

The motion was agreed to—ayes 24, noes 8.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills of the Senate without amendment:—

A bill (S. No. 322) granting a pension to Sherman H. Cowles;

A bill (S. No. 323) granting a pension to Michael Kelley;

A bill (S. No. 344) granting a pension to Caroline and Margaret Swartwout;

A bill (S. No. 420) granting a pension to James A. Guthrie;

A bill (S. No. 421) granting a pension to Caroline E. Thomas; and

A bill (S. No. 424) granting a pension to Bartlett and Carrie Edwards, children of David W. Edwards, deceased.

The message also announced that the House had passed the bill (S. No. 184) granting a pension to Mrs. Ann Corcoran; and the bill (S. No. 425) granting a pension to George Bennett, with amendments, in which the concurrence of the Senate was requested.

#### PENSION BILLS.

The message further announced that the House had passed the following bills, in which the concurrence of the Senate was requested; and they were severally read twice by their titles, and referred to the Committee on Pensions:—

A bill (H. R. No. 945) to place the name of Ellen Curry, widow of James Curry, deceased, a private soldier in company F, thirty-ninth regiment Illinois volunteers, upon the pension-roll of the United States;

A bill (H. R. No. 1220) granting a pension to Kate Higgins;

A bill (H. R. No. 1221) granting a pension to Sarah J. Rogers;

A bill (H. R. No. 1222) granting a pension to Catharine Ginsler;

A bill (H. R. No. 1223) granting a pension to Margaret Filson;

A bill (H. R. No. 1224) granting a pension to Jane E. Rogers;

A bill (H. R. No. 1225) granting a pension to Patrick Collins;

A bill (H. R. No. 1226) granting a pension to Barbara Weiss;

A bill (H. R. No. 1227) granting a pension to Martha Ann Wallace;

A bill (H. R. No. 1228) granting a pension to Joanna L. Shaw;

A bill (H. R. No. 1229) granting a pension to Anna H. Pratt;

A bill (H. R. No. 1230) granting a pension to Hannah K. Cook;

A bill (H. R. No. 1231) granting a pension to John Morley;

A bill (H. R. No. 1232) granting a pension to Ruth Barton;

A bill (H. R. No. 1233) granting a pension to William F. Moses;

A bill (H. R. No. 1234) granting a pension to Frederica Brielmayer;

A bill (H. R. No. 1235) granting a pension to Johannah Connolly;

A bill (H. R. No. 1236) granting a pension to the minor children of Michael Travis;

A bill (H. R. No. 1237) granting a pension to the widow and minor children of James Cox;

A bill (H. R. No. 1238) granting a pension to Lavinia A. Gittings, mother of Andrew J. Gittings;

A bill (H. R. No. 1239) granting a pension to Owen Griffin;

A bill (H. R. No. 1240) granting a pension to Margaret Lewis;

A bill (H. R. No. 1241) granting a pension to Mrs. Mary Brown;

A bill (H. R. No. 1242) granting a pension to Esther Fisk;

A bill (H. R. No. 1243) granting a pension to William O. Dodge;

A bill (H. R. No. 1244) granting a pension to the widow and minor children of Solomon Gause;

A bill (H. R. No. 1245) granting a pension to Matthew C. Griswold;

A bill (H. R. No. 1246) granting a pension to the widow and minor children of Hiram Hitchcock;

A bill (H. R. No. 1247) granting a pension to Orlena Walters;

A bill (H. R. No. 1248) granting a pension to Elizabeth Richardson;



A bill (H. R. No. 1249) granting a pension to Margaret C. Long;  
 A bill (H. R. No. 1250) granting a pension to James Rooney;  
 A bill (H. R. No. 1251) granting a pension to Charles Hamstead;  
 A bill (H. R. No. 1252) granting a pension to the minor children of Garrett W. Freer;  
 A bill (H. R. No. 1253) granting a pension to Julia L. Doty; and  
 A bill (H. R. No. 1254) granting a pension to Frances M. Webster.

Mr. VAN WINKLE. Here are fifty pension bills just sent to us from the House of Representatives. There are twenty more lying in the committee, making seventy, and there are about eighty on the Calendar. I ask the Senate to give me some day next week for the purpose of taking up these bills. Some of them have been on the Calendar since last February. I ask, if there be no objection to that suggestion, that Tuesday next, after the morning hour, be set aside for the consideration of bills from the Committee on Pensions.

Mr. MORRILL, of Maine. I do not like to agree to that. I want to ask the attention of the Senate to the legislative appropriation bill on Monday.

Mr. VAN WINKLE. I will say Wednesday, if that will be more convenient; and as I have had two days set aside heretofore for these bills and got the benefit of neither, I hope the Senate will stick to me this time. I will say Wednesday.

Mr. MORRILL, of Maine. I take this occasion to give notice that on Monday I shall ask the Senate to consider the legislative appropriation bill.

Mr. VAN WINKLE. I hope the Senate will agree to the motion which I have made, that Wednesday next, after the morning hour, be set apart for the consideration of bills reported from the Committee on Pensions.

The motion was agreed to.

#### CONTESTED ELECTIONS IN WASHINGTON CITY.

Mr. HARLAN. I move now to continue the consideration of the District bill.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 534) relating to contested elections in the city of Washington, District of Columbia.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

The amendment was concurred in.

Mr. DAVIS. I offer this amendment as an additional section:

*And be it further enacted*, That the mayor of the city of Washington shall not hold any other office or place of trust, honor, or profit under the United States in the District of Columbia or elsewhere.

My reason for presenting the amendment is that I understand the mayor-elect is the postmaster of the city, and, in addition to that, is a clerk of the Senate. I have heard it said that he was a sort of *omnium gatherum* in relation to offices. How many other offices he may hold besides those I have named I am not informed; but, as I suppose, this is piling up the agony rather too high. If he is to be mayor his duties ought to be restricted to that office, and he ought not at the same time to be allowed to hold the office of postmaster of this city and of a clerk in the Senate. I do not know, if he is thus tolerated, how many other offices his voracious maw may take into it under the indulgence of the Senate. I think the amendment ought to prevail.

Mr. HARLAN. I rise merely to correct an error of the honorable Senator from Kentucky. I understand that the present mayor of the city is not an officer of the Senate at this time. He was, I believe, acting as disbursing clerk of the Senate preceding his election to the office of mayor, but on his election to the latter office he resigned the former, and is not now an officer of the Senate.

Mr. DAVIS. Then the honorable Senator informs us that the mayor has dropped one of his offices. I ask him whether he does not hold on to the other, the postmastership of this city.

Mr. HARLAN. I would state for the information of the Senator from Kentucky, that a change in the post office is completely within the power of the President of the United States and a majority of the Senate of the United States. If in his opinion and that of the President and a majority of this body the two offices are incompatible, the remedy is completely within the control of the political friends of the Senator from Kentucky, if a majority of this Senate approve it.

Mr. DAVIS. I ask the honorable Senator if the office of mayor, in its dignity and duties, is not quite enough for one reasonable man? I think, from the Senator's reference to the condition of affairs and of society in this city a short time since, this mayor would have as much as he could possibly do, and do well, to regulate the affairs of the city and to keep in peace and order the population of the city of Washington. I think it is quite reasonable to restrict the mayor to that office. I ask the honorable Senator is there any propriety, any fitness, any proper policy in the mayor of the city of Washington holding at the same time the place of postmaster of the city?

Mr. HARLAN. If the Senator desires my opinion for the purpose of guiding his action, I of course am bound in courtesy to give it.

Mr. DAVIS. I do not want it for any such purpose as that. [Laughter.] I do not permit you to guide my action in any way. I wanted to know if a special appeal upon a principle of reason and justice and propriety, would be acknowledged by the honorable Senator, not to guide my action, but merely to ascertain what his judgment would be upon it.

Mr. HARLAN. Well, Mr. President, I will state that if any gentleman can with propriety hold these two offices at the same time, I have no doubt that the mayor of Washington can. He is a gentleman of very high character, of a high order of talent, high cultivation, and I have discovered no incompatibility in the law, nothing to prohibit the same person holding both these offices; and if any one could with propriety do it I have no doubt the mayor can.

Mr. DAVIS. That is a very good answer. It is rather an admission that no man can with propriety hold the two offices, as I understand it; and if that be the meaning of the honorable Senator, I fully accord with him.

Mr. HENDRICKS. On this question I will ask for the yeas and nays. I should like to know whether it is the judgment of the Senate that the same party should hold more than one office with the emoluments. I think it is a principle that governs throughout this country that an individual should be satisfied with one office.

Mr. NYE. I suppose the objection both by the honorable Senator from Kentucky and the honorable Senator from Indiana to this individual holding two offices, arises from the fact that he is a Republican. I have never understood that there were too many offices for a Democrat to hold if he could only get them; but I submit to the honorable Senator from Kentucky whether it is not better to let one Republican hold two offices than it is to have two Republicans in the two offices. Does not that suit him better?

Mr. DAVIS. A still better rule than that, if the honorable Senator will permit me to respond, is to allow neither of them to hold an office. [Laughter.]

Mr. NYE. That, I suppose, is the truth of the case, both in the mind of the honorable Senator from Kentucky and the honorable Senator from Indiana. I take it for granted, however, that their great leader can correct this evil. He will do anything that they desire. The honorable Senator from Indiana has but to wave his hand and there can be a vacancy in the post office in a minute; and if the honorable Senator from Kentucky would go in person, the Executive, from his neighboring State, would be too happy to relieve Mr. Bowen from that responsibility. Having strong claims on the Executive, I think they have the corrective

in their own hands, and it is not best for us to meddle with this matter.

Mr. THAYER. My regard for the President prompts me to appeal to my friend from Indiana and my friend from Kentucky not to press this amendment. The President has it in his power to remove the postmaster if it is incompatible in his view for that gentleman to hold two offices. By pressing this amendment they do in my judgment reflect upon their political leader, the President; and I should regret to see them do it. Therefore, out of regard to the President, I hope the Senator from Kentucky and the Senator from Indiana will not press this amendment.

Mr. HENDRICKS. I did not know that the Senator from Nebraska held the views he has just expressed. I thought he regarded the tenure-of-office bill as constitutional and having the legal force of any other law; but I now perceive that he does not believe that law to be constitutional and to have legal force, for the reason that he says the President can turn this man out of the office of postmaster. If the tenure-of-office bill be the law of the land, if it be constitutional, the President has not that power, and the Senator from Nebraska knows it very well. If that be the law, the President of the United States is no longer responsible for the efficiency of the public service—that rests upon the Senate. By that law the President can turn out of office no man who holds office by his appointment with the consent of the Senate, unless the Senate concur in the removal. So that the Senate has voluntarily taken upon itself the responsibility of the efficiency of the executive service, and the Senator from Nebraska cannot say that the President can turn this man out. He cannot do it. No Senator need go to the President and say to him that he can do it, because if he undertakes to do it without the pleasure of the Senate being expressed you say he is liable to impeachment, and you propose to impeach him if he does that which the Senator from Nebraska says he can do.

Mr. President, the reason I have called for the yeas and nays on this question is that I think it ought to be the settled judgment of this country that the same man ought to hold but one office; an important office should receive his entire attention. There is no propriety that we should thus heap upon any man honors and emoluments of office. And I will say to the Senator from Nevada, that in Democratic times it was made the law of the United States, and it still stands upon the statute-book, that the same man shall not receive a salary for more than one office of Executive appointment.

Mr. NYE. More than one Federal office?

Mr. HENDRICKS. Certainly, one Federal office; so that the view of the country as expressed in Democratic times is that one man ought to have but one office; and if you want to pile the honors upon any one man and give him the profits of different offices we shall have the expression of the judgment of the Senate now on this amendment.

Mr. NYE. I simply want to ask the honorable Senator from Indiana, who is *au fait* upon all these questions of Democratic principles, whether that law was passed in Democratic times and by Democratic votes alone. It has always been the law, I think, ever since I can remember, that a man cannot receive pay for more than one Federal office at the same time. But, now, I want to ask the Senator if there is not the same impropriety in holding two offices that there is in being nominated for two at the same time, taking the chances of two; if the man succeeds in one very well; if he does not, he falls back on the other. Is that quite right? If this amendment is to prevail, should there not be an amendment that no gentleman in this Senate, Democrat or Republican, should be a candidate for nomination to two offices at the same time; for instance, the office of Governor of a State and President of the United States. It seems to me absorbing and against the spirit of the old Democratic

law to which the honorable Senator so strictly adheres.

Mr. THAYER. Mr. President, I am one of those who labored under the delusion that the President of the United States had not the right or the authority to remove incumbents of offices without the sanction of the Senate; and I am one of those who also labored under the innocent delusion of believing the tenure of office law constitutional. I believe it to-day. But, sir, my recollection takes me back a couple of weeks since when the Senate declared that the President was not bound by that law. That was the decision, in fact. The Senate declared, by a vote of 19 to 35, that the President had the right to make a removal.

Mr. DAVIS. Do I understand the honorable Senator to acquiesce in that decision?

Mr. THAYER. No, sir; I do not. I most emphatically exercise my private right of condemning that decision, and I as emphatically indorse the decision of the thirty-five who declared that he had not the power to make removals except by the consent of the Senate. But, sir, that decision having been made as it was, I could say to my Democratic friends on this floor who helped to pronounce that verdict of acquittal, that from their standpoint it is unnecessary to make this motion here, because, from their standpoint the President has the right and the power to make the removal. I was speaking for them; and if they will accept my kind offices and good will I will ask them not to put the President in a false position nor reflect upon him by undertaking to pass a motion here which would, in effect, declare that the President did not do his duty.

Mr. HENDRICKS. I will ask the Senator a question, with his permission, before he takes his seat, whether he now repeats the proposition that the President has the right to remove the present postmaster of the city of Washington of his own motion? Has he that right?

Mr. THAYER. Without the consent of the Senate?

Mr. HENDRICKS. Has the President that power to remove?

Mr. THAYER. Not according to my view; but if the decision of the Senate on the impeachment case was correct, which I deny, then I should admit that he had the power. But I will say seriously—and I have been serious, as my friend from Indiana has been, all the way through—that if the President deems it incompatible with law or propriety for this officer to hold the office of postmaster of this city while he is mayor, he can send in a nomination of a successor to him in the post office, and give the reasons for making the proposed removal.

Mr. NYE. Allow me to make one statement. It is a well-known fact that the commission of Mr. Bowen as postmaster expired long ago. There is nothing in the law to which the Senator from Indiana alluded to prevent Mr. Johnson from trying to remove him. He is subject to the will of the Executive. His commission having expired, he is only holding on until a successor is appointed. The President is at liberty to try to fill the place at any time.

The PRESIDENT *pro tempore*. The Senator from Indiana has called for the yeas and nays upon the amendment of the Senator from Kentucky.

The yeas and nays were ordered.

Mr. MORTON. I desire to ask the chairman of the committee a question or two for information. First, I ask him what officer, as the law now stands, has the right to certify as to the result of the vote; and second, I ask him whether there is now, under the law, any provision for which a contested election can be tried, and it can be ascertained what candidate or candidates received a majority of the votes? I should like to know the condition of the law now upon these questions.

Mr. HARLAN. I can answer the Senator best by reading the law in relation to the election of mayor:

"The commissioners hereinafter mentioned shall make out duplicate certificates of the result of the

election of mayor, and shall return one to the board of aldermen and the other to the board of common council, on the Monday next ensuing the election; and the person having the greatest number of votes shall be the mayor; but in case two or more persons, highest in vote, shall have an equal number of votes, then it shall be lawful for the board of aldermen and the board of common council to proceed forthwith, by ballot, in joint meeting, to determine the choice between such persons. The mayor shall, on the Monday next ensuing his election, before he enters on the duties of his office, in the presence of the boards of aldermen and common council, in joint meeting, take an oath, to be administered by a justice of the peace, lawfully to execute the duties of his office, to the best of his skill and judgment, without favor or partiality."

Mr. FESSENDEN. What is the provision in regard to ascertaining who are elected aldermen and common councilmen?

Mr. HARLAN. I will read the law on that subject:

"Immediately on closing the polls, the said commissioners for each ward, or a majority of them, shall count the ballots, and make out under their hands and seals a correct return of the persons having the greatest number of legal votes for members of the board of aldermen and for members of the board of common council, respectively, together with the number of votes given to each person voted for; and the persons having the greatest number of votes for the two boards, respectively, shall be duly elected; and, in all cases of an equality of votes, the commissioners shall decide the choice by lot. The said returns shall be delivered on the day succeeding the election, who shall cause the result of the election to be published in some newspaper printed in the city of Washington; a duplicate return shall, together with a list of the persons who voted at such election, also be made on the day succeeding the election, to the register of the city, who shall preserve and record the same, and shall, within two days thereafter, notify the several persons so returned of their election."

It will be seen, therefore, that in the case of the mayor no certificate or notification is given other than the returns of the commissioners of election for each of the wards to the board of aldermen, and also in duplicate to the board of common council, whereupon he is required to take the oath of office and to enter on the discharge of his duties.

Mr. FESSENDEN. Does not the out-going mayor declare the votes for his successor?

Mr. HARLAN. Not at all. The returns are made directly, in duplicate, to the board of aldermen and to the board of common council.

Mr. FESSENDEN. Of the preceding year?

Mr. HARLAN. The existing board of aldermen and councilmen. In the case of aldermen and councilmen it will be seen that it is contemplated that duplicate returns shall be made to the mayor, who may be the out-going mayor, if he should not be reelected, and also to the register of the city, who is made the custodian of the election records, and whose duty it is made to notify each party elected of his election.

Mr. FESSENDEN. Has that not been done in this case?

Mr. HARLAN. It has been done in this case.

Mr. DAVIS. The law read by the honorable Senator, as I understand it, makes no special provision for a contested election.

Mr. HARLAN. There is a succeeding clause which provides that the board of aldermen and the board of common council shall be the judges of the elections and qualifications of their own members, it being, I think, a copy substantially of the provision of the Constitution of the United States relating to the Senate and House of Representatives.

Mr. DAVIS. I will inquire of the honorable Senator if that clause makes them the final and conclusive judges?

Mr. HARLAN. I think so. The Senator from Indiana [Mr. HENDRICKS] has the law in his hand.

Mr. DAVIS. I suppose, though, that the matter is left to be governed according to the general rule. If there are two candidates for office, and one of them is installed into the office, and the other believes that he is entitled to it because of having been elected according to the law, the latter has the right to assert his claim to the office in a court unquestionably. I suppose that that general law applies to the election of mayor and aldermen here;

but if I am mistaken in that the honorable Senator may readily provide a proper remedy, and that should be a provision to enable a contest between these aldermen, these contesting aldermen or candidates for aldermen, and the contesting candidates for mayor to be brought before a court and to be decided upon the facts according to the law in force at the time the election took place. What objection can there be, if any legislation be needed upon the subject, to that course, I ask the honorable Senator from Iowa?

Mr. HARLAN. The committee attempted to provide the very remedy. If the Senator from Kentucky will allow me, I will read from the fourth section of the bill.

Mr. DAVIS. I have read it. But why intervene other remedies? Why not leave the parties to their *prima facie* and final rights under the law just as the law existed when the election took place, and let this provision for a judgment as to the rights of contestants before the courts go into operation with the officers holding their respective offices according to their returns, as the law existed at the time the election took place?

Mr. HARLAN. I attempted to explain that a few minutes since. The law as it now stands provides, as to the board of aldermen and the board of common council, that "each board shall judge of the legality of the elections, returns, and qualifications of its own members, and shall supply vacancies in its own body," &c. I find in the law no other mode of trial except a trial by the board itself of the qualifications and elections of its own members.

Mr. DAVIS. This is the suggestion which I make to the honorable Senator, that his bill shall simply provide for the decision by the courts of the rights of the different claimants to this office; let the mayor go into his office under his return as the law existed at the time the election took place; let the aldermen go into office on the *prima facie* returns just as the law regulated the returns of the election at the time the election took place; and let this bill simply provide that if the candidate who is not inducted into the office of mayor believes that he is entitled to the office, there shall be a remedy for that candidate who believes he was elected but who did not get the return to enable him to contest his right in court. At the same time, let the bill provide that the aldermen who received returns of their election according to the law in existence when the election took place shall go into office; let it further provide that the candidates who contest the right of those aldermen to their seats shall have a remedy in court to decide which has the better right.

That would be even-handed justice between these parties. The Senator from Indiana [Mr. HENDRICKS] stated clearly and distinctly that here was a proposition to establish a different rule for the induction of those candidates into the different offices. In the one case, it is proposed to induct the mayor on the returns made by the officers whose duty it was to make returns of his election under the law as it existed at the time of the election. Nobody objects to that. As I understand, the Republican mayor has received such a majority, and he has been inducted into office. If the opposing candidate desires to contest his right to the office, let the honorable Senator's bill provide a remedy that will enable the contesting candidate to make the issue in court, and that will allow the mayor who received the returns to remain in the office and execute it until that contest is decided in court. So of the aldermen. As I understand, a portion of the aldermen have received their returns according to the law as it existed when the election took place. Let them go into office and take upon themselves the exercise of its duties just as the mayor did upon the returns of the proper officers of the election; and if the opposing candidates believe that they are entitled to the office, and that those men in whose favor the returns were made are not entitled to the office, let the honorable Senator's bill provide that the men who did not get the returns, but who

claim the office, shall contest their right in court just as a contestant of the mayor is authorized to assert his claims in court.

Mr. BUCKALEW. Mr. President, as I do not intend to vote for this amendment, I will state in a word my reasons. The facts seem to have been misunderstood. Mr. Bowen was called into the office of the Secretary of the Senate, as I happen to know, for a temporary purpose in connection with the investigation into the accounts of the late Secretary, with no design or desire of remaining here, and he actually left after the particular duty that he had undertaken was discharged. As to this matter of his holding the office of postmaster, the explanation already made is satisfactory. His term of office expired, I understand, in March, and he is holding custody of the office and managing it until the President and Senate can select his successor. The reason, I believe, for delay in selecting a successor has been the difficulty of the President, among the very large number of applicants, to fix his mind upon any one person. There is therefore some delay in sending a name in.

I am reluctant to vote for this amendment saying that the mayor of Washington shall not hold two offices, when in point of fact he is not holding under any regular term, and it is not his purpose or desire to hold the postmastership longer than the President permits him *pro tempore* to discharge its duties until a successor be appointed. I hope the Senator from Kentucky will withdraw his amendment.

Mr. HARLAN. I merely wish to remark, in reply to the observations of the Senator from Kentucky, that the bill pending was intended to provide, and I think does provide, precisely the remedy which he so clearly describes. It provides that the aldermen and councilmen who hold the certificate of election shall be permitted to enter on the discharge of the duties of their offices; that that certificate shall be held to be *prima facie* evidence of their right to hold; and the fourth section of the bill provides that any party deeming himself to have been elected adversely to this may appear in the supreme court of the District of Columbia and contest the right of those thus sworn in.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kentucky.

Mr. DAVIS. I believe the yeas and nays have not been ordered on it.

The PRESIDENT *pro tempore*. They have been ordered.

Mr. DAVIS. With the consent of the Senate, then, after the explanation of the Senator from Pennsylvania, I ask leave to withdraw the amendment.

The PRESIDENT *pro tempore*. The call for the yeas and nays will be withdrawn unless objected to. The Chair hears no objection; and now the Senator withdraws his amendment.

Mr. DAVIS. Now, in lieu of that amendment I will offer this:

And be it further enacted, That the mayor of the city of Washington shall not receive the pay or emoluments of any other office.

I will say a single word in support of this proposition. The honorable Senator from Nevada, [Mr. Nye,] who always speaks with so much force and with so much instruction to the Senate, was formerly a Democrat himself, if I understand his political history. I think that he and his ancient Democratic friend, the Senator from Indiana, [Mr. Hendricks,] may come to a proper and correct understanding of what the principle is that was adopted by the Democratic party some years ago in connection with this subject. It was not that the same man should not hold two offices, but it was that the same man should not receive a salary for two offices. We have an example at this time.

The Secretary of the Interior is acting as Attorney General *ad interim*, as I understand. The principle established by the Democratic party is that a man who is an officer of the Government, and whose whole time and services are presumed to be due to the Government and to the country for the salary that he

receives in one office, shall not be permitted to receive a salary in another or two other offices. That I understand to be the principle, and I suppose it is a very proper principle, at least it has been sustained by the Senate and I believe by the House of Representatives at the present session of Congress. The Committee on Claims have had presented to them and have considered various claims in cases where officers of the Government receiving a fixed salary were called upon *pro tempore* or *ad interim* to perform the duties of other offices. They have asked for compensation for the performance of the duties of the other offices to which they were thus temporarily assigned. Their claims for such compensation have been referred to the Committee on Claims, and that committee of the Senate I know has unanimously decided against all such claims for the compensation of an office in addition to the compensation of another office which was fixed by law to the person who was performing temporarily the duties of a second office. I just propose, by this amendment, to apply that principle.

Mr. Bowen holds on to his office of postmaster, as my honorable friend from Nebraska contends, and as the majority of the Senate also contend, until his successor is nominated to the Senate and confirmed by the majority of the Senate. I want the provision which I now offer to meet exactly that case and all other cases, whether of Mr. Bowen or anybody else; so that when he is postmaster of the city of Washington, under the Government of the United States, and is receiving a fixed salary or a salary partly fixed and partly by commissions, or wholly in the one or the other form, payable from the Treasury of the United States, he shall not be allowed at the same time to receive pay as mayor of Washington. I hope the principle of that amendment will meet the approval of my friend the Senator from Nevada.

Mr. FESSENDEN. I should like very much to get at the exact state of the facts before I can vote intelligently on this subject. I do not know that I understand what the facts of the case are. I have understood them to be as I will state them, and I will ask the honorable Senator from Iowa if my understanding is correct.

It is the business of the commissioners of election, as they are called, to receive and return the votes polled. They are mere receiving officers. There is a registry of this city, a list is made out, and the persons whose names are on the list are entitled to vote. The commissioners, as I understand it, are to receive the votes according to the list, and make a return of the votes. They did so in this case, received the votes and made their return; but the next day they undertook to purge the list and make a new return, having assumed to strike out a certain number of votes as having been thrown illegally, thus making themselves judges of the legality of the voting. On that second return, or amended return, the register issued his notices of election, and this bill confirms those notices so far as the *prima facie* case is concerned. Is that the state of the facts?

Mr. HARLAN. The facts, in the order in which they arise, are these: first, a registry was made, as the Senator has stated, of the voters, of those who were supposed to be entitled to vote; and, of course, afterward the election occurred under that registry; but between the time of making that registry and the holding of the election Congress passed a law defining the qualifications of voters, providing among other things—

"That said section"—

referring to a section of the law as to the right of voting—

"shall not be construed as conferring the elective franchise in said city on non-commissioned officers, soldiers, sailors, or marines, in the regular service of the United States, situated or on duty in said city, except such as may have become actual residents, with their families, in said city for one year previous to any election."

This law was enacted defining those qualifications of electors after the registry was made, and before the votes were taken. On the day of the election, in the fifth ward, and perhaps in other wards, soldiers connected with some of the regiments—I think chiefly the twelfth infantry—who had been previously registered, presented themselves as voters and claimed the right to vote. The judges of the election received their votes, but marked the votes and checked them, believing them not to be legal voters. When the election was concluded, as I understand, the whole result was first certified up to the mayor; but on a close examination of the vote in the ward to which I have referred, it was ascertained that these votes would change the result of the election in that ward. The commissioners therefore made a careful count of these votes of soldiers who had not been residing in the city a year, and who were not therefore legal voters under this law, and attached the affidavits of ten of the officers of that ward, being two thirds, there being fifteen in all, and certified that up to the register with the whole return.

Mr. FESSENDEN. And to the mayor, at the same time?

Mr. HARLAN. No; I think the certificate to the mayor was made first, but I am not sure about that. This, at all events, was certified up to the register of the city, and receiving this return from the election officers of the fifth ward, in which they swore that a certain number of voters whose votes had been received, indicating them, were not legal voters who had cast their votes for certain candidates, the register of the city made out his notification to the parties who were duly elected according to this certified statement of the election officers.

Mr. HENDRICKS. I wish to ask the Senator for information a question. Is the vote in this city by ballot, and if so, how did anybody know how those parties voted? Certain votes are excluded. I want to know how anybody knew that those voters voted for this candidate or the other candidate in that sort of a transaction that he is describing.

Mr. HARLAN. It was the easiest matter in the world to ascertain that by checking the ballot and checking the check list, which I understand was done.

Mr. HENDRICKS. Was the ballot checked?

Mr. HARLAN. I understand so. Believing that the party presenting himself was not a legal voter under the law, they received the ballot, but marked it, and also marked the check list of registered voters.

Mr. HENDRICKS. Was there any authority of law for those officers to do that?

Mr. HARLAN. I am not able to answer that question. I am not sure what the regulation is on that subject.

Mr. FESSENDEN. I should like to ask the Senator from Iowa another question. Are the persons who make out the list and the commissioners who are appointed to receive the ballots the same board, consisting of the same persons, or are they different?

Mr. HARLAN. They are different officers.

Mr. FESSENDEN. What power, then, had the commissioners, who are merely to receive the votes of men on the check list, to do anything but receive them? How could they go behind the check list and assume to mark ballots and mark lists? What had they to do except receive the votes and certify the votes received?

Mr. HOWE. I cannot answer that question, perhaps, as well as the Senator from Iowa can; but it seems to me another question is quite as pertinent as that; and that is what law there is to prohibit these canvassers or these commissioners of election or anybody else who sees a ballot put in to put a mark upon it to identify that particular ballot, so that when it is opened he may know who threw that ballot, as the face of the ballot will show whom it is for?

Mr. FESSENDEN. The answer to that is that introducing any such principle interferes entirely with the freedom of election by ballot.



It is never known, in any place I ever heard of, that those receiving the votes exercise any such power.

Mr. HOWE. If there was a law protecting the freedom of election to that extent, then this act was a violation of that law; but if there was none, I take it it would be interfering with the freedom of the action of the commissioners to prohibit them from doing it.

Mr. FESSENDEN. I can only say that in my own State and all other States that I ever heard of, where there was a registry of votes made out by a certain class of officers appointed for that special purpose, their list is conclusive and the votes of those persons are to be received; and the power which those who receive the votes, the commissioners of election, have, is simply to receive the votes of those persons and to see that no other persons than those on the list vote. They have no power whatever except to receive and count and return the votes.

Mr. RAMSEY. Allow me to suggest that in some of the western States the officers of election number the tickets as they are put into the box, and put the same number upon the name of the vote on the check list.

Mr. FESSENDEN. If that is so provided for by law, it can be done.

Mr. RAMSEY. It is by law.

Mr. HOWE. I take it there are no election laws anywhere in any State framed for the purpose of preventing an investigation as to the actual result, the true result of any election. That is always, under the election codes of all States that I know anything about, a subject for investigation, and some tribunal is authorized to go behind the returns and ascertain the fact.

Mr. FESSENDEN. The law here says the board of aldermen and board of common council shall do it.

Mr. HOWE. As the law now stands in reference to the election of aldermen, the tribunal is the board of aldermen; and in reference to the election of common councilmen, it is the board of common council, as I understand. That is the tribunal. Now, here is a bill to give an appellate jurisdiction, an appeal from the decision of those boards, and, I take it, it is competent for the national Legislature to provide such an appeal; but wherever that tribunal is, it has this power of determining, if the evidence exists anywhere, no matter what you may say about the freedom of election, how every man voted. That evidence is not always attainable, but in almost all elections it is attainable, and perhaps in all it is. Certainly it is in a city of this kind, for you may put over every single voter whose name is on the check-list upon the stand and make him swear how he voted. But if the ballot be marked so that the commissioners of election can determine by a number on it or a mark on it whether that ballot was thrown by Mr. Brown or Mr. Jones, then the commissioners of election, when they open the ballot and see whom it is given for, will know just as well whom Mr. Brown and Mr. Jones voted for as they did themselves, and they can make that proof which, independent of this mark, Mr. Brown and Mr. Jones would have to do before the tribunal. So that I see nothing in this bill or nothing in the conduct of the commissioners of election which interferes with the freedom of election, as we understand it. There is no freedom of elections which sanctions the vote of a man whom the law prohibits from voting, and there should be none to that extent. All there is in this bill, it seems to me, that is anomalous at all, is the fact that it provides an appeal from an adjudication which, prior to the passage of this bill, was conclusive. I do not think there was anything very wrong in that.

Mr. FESSENDEN. The Senator from Wisconsin has evidently mistaken this bill. The first section of this bill provides that the register's certificate in the existing case, in this case by a law passed after the fact, shall be conclusive as to the *prima facie* right. That

is the provision. There is no fault found with the provision in the fourth section that there may be an appeal to the courts.

Now, let us look at the operation of it. I am not saying that it may not be all right enough; but I want to get at the exact facts. Here these commissioners of election, whose duty is simply to receive the votes of those whose names are on the list, undertake to check the votes of certain persons, and to ascertain how they voted. When they make their return, and their only business according to law is to return the actual number of votes thrown, instead of doing that, they assume to be judges, to a certain extent, of the election, and they mark a certain number of ballots and return that a certain number of ballots thus marked were thrown by soldiers; and then the register, instead of taking the whole return which gives the *prima facie* right to seats to one set of men, undertakes to throw out the ballots thus marked and thus give the *prima facie* right to seats to another set of men, and issues his notices accordingly. That is the fact about it, and this legislation proposes to make that decision of the register conclusive as to the *prima facie* right to the seats, thus taking perhaps the organization of the boards out of the hands of one set of men, and putting it into the hands of another set of men. That is the effect.

Now, the Senator says there is nothing wrong in marking these votes, and there is no law against it. Is there not? I thought the idea of the ballot was that every man should vote independently, and secretly if he chose to do so, and not have anybody know how he voted. I have always understood that to be the doctrine of the ballot. Why not vote *viva voce*? Because then every one knows how every man votes. The idea of the ballot is that a man may vote without having it known, unless he chooses to have it known by showing his ballot for whom he votes; that he shall not be subjected to other influences. If you may mark the soldier's vote, you may mark my vote if I am a resident in the ward and have been there twenty years, you may mark the vote of every man, no matter who he is whose name is borne on the check list, and you may thus publish to the world, what the voters may not choose to have known, how every man voted in the election. I say that course of proceeding is a palpable violation of the whole doctrine and idea of the vote by ballot, which is that a man may vote freely and have nobody to overlook him.

The Senator says that possibly men may have voted who had not the right to vote. There is a remedy for that. The board of aldermen, who are to decide this question when it comes before them, on looking over the list, if a remonstrance is made, or if a remonstrance is not made of their own motion, may find certain names which they have reason to believe are not the names of legal voters, persons who did not come within the law, and ought not to have been allowed to vote. They have the power, in that case, to call those voters before them, or to take any other evidence that may exist, and find out, if they can, how those men voted, and thus purge the list so as to get rid of all illegal votes. That is the way in which it is done, and the way in which it ought to be done; and the idea that a man simply appointed to receive votes, and receive votes that are on the check list given him by proper authority, saying, "Sir, you will receive the votes of these men and no others," has a right to mark the ballot of any man when it is thrown, and then to open it and return it as questionable, is a new idea to me with regard to proceedings of this kind. I say again, if that doctrine is to prevail you destroy the secrecy of the ballot. You do not help it by saying that the commissioners think that certain men may be illegal voters, may not have a right to vote. That is a matter with which they have no concern. If they can mark the vote of one man they may mark the vote of every man, and the result is that the ballot amounts to nothing but a *viva voce* vote.

Sir, I do not hold to any such doctrine as that. I do not know but that I may vote for the section under the circumstances; I may or I may not; but I am simply wanting to get out the facts so that the Senate shall understand them and the principle upon which this bill is founded.

Mr. CORBETT. My idea of judges of election is that they are appointed to inspect the votes as they are offered; that they are to judge who have the right to vote under the law; and if they are in doubt as to the right of any individual, the judges being usually composed of half of each of the opposing parties—half Democrats and half Republicans—

Mr. FESSENDEN. The Senator will allow me to tell him that in regard to these parties, they are not judges; they are merely ministerial officers to receive the votes. The judges of who shall vote are the men who make out the list originally of the voters. When they make that list they judge who shall be put upon it. These commissioners of election are nothing but ministerial officers to receive the votes of men whose names are on the check list, and no more. They have no power to judge at all.

Mr. CORBETT. They are chosen, I think, from the two political parties, as a usual thing.

Mr. FESSENDEN. That depends upon the law in each particular place. How it is in this place I do not know; it may be so in some places.

Mr. CORBETT. I do not know exactly how it is here, and that is what I wish to understand. I know it is so in our city—the judges receive the votes of those who they agree are entitled to vote; and if they are in doubt as to the right of a person who offers to vote they check the vote and check his name, so that if afterward on examination they find that the man is not entitled to vote they may exclude his ballot; if he has a right to vote, they count it. I do not see why that might not be done here by agreement between these judges.

Mr. FESSENDEN. The honorable Senator from Oregon will allow me to suggest to him that it is barely possible that the law of Oregon does not prevail everywhere else.

Mr. CORBETT. That is true.

Mr. FESSENDEN. His argument applies to this case if that law prevails here, and if it does not it does not apply.

Mr. CORBETT. I should like to have the law stated with regard to the manner in which these votes are cast, if the Senator from Maine can inform me.

Mr. FESSENDEN. I do not know. The Senator from Iowa can probably give the information.

Mr. HARLAN. My attention was absorbed with another matter at the moment, and I did not hear the Senator's inquiry.

Mr. CORBETT. I should like to know whether these judges or commissioners are to judge as to the right of individuals to vote when these votes are offered, whether they have any right to judge at all under the law of the District of Columbia.

Mr. HARLAN. That is a disputed question. At the election one year since, the judges excluded certain colored men from voting, and the Republicans at that time held that they did it illegally; that they were wrongfully excluded, although the judges maintained that they were not residents of the District. The question, as far as I know, has never been settled whether they have a right to exclude a man whom they know to be an illegal voter or not. But I will read the oath which, I understand, the officers take previously to entering upon the discharge of their duties as commissioners:

"The said commissioners shall, before they receive any ballot, severally take an oath or affirmation, to be administered by some justice of the peace for the county of Washington, truly and faithfully to receive and return the votes of such persons as are by law entitled to vote for members of the board of aldermen and board of common council in their respective wards, according to the best of their judgment and understanding; and not knowingly to receive or return the vote of any person who is not legally

entitled to the same.' The polls shall be opened at ten o'clock in the morning and be closed at seven o'clock in the evening of the same day. Immediately on closing the polls the said commissioners for each ward, or a majority of them, shall count the ballots, and make out under their hands and seals a correct return of the persons having the greatest number of legal votes for members of the board of aldermen and for members of the board of common council respectively."

Mr. CORBETT. It seems to me that that constitutes the board judges of the election, though they are named commissioners.

Mr. FESSENDEN. Was not that law passed before the registry law? Has not the registry law been passed since?

Mr. HARLAN. It has been.

Mr. FESSENDEN. That varies all that.

Mr. HARLAN. I understand, by inquiry from the mayor-elect, that this is the oath still administered to these officers.

Mr. FESSENDEN. That may be; but the registry law makes other men judges of the qualifications of the electors.

Mr. CORBETT. How are these commissioners appointed?

Mr. HARLAN. They are appointed by the supreme court of the District.

Mr. HOWE. I desire to make a few remarks in reply to the argument submitted by the Senator from Maine. I am disposed to try this question, not upon the laws of Oregon or of Maine, but upon the laws prevailing here in the District of Columbia, so far as I understand what those laws are; and I will not, for the purpose of what I have to say this morning, raise the question whether the form of the oath just read here as prescribed to the commissioners of election constitutes them judges of election, or vests in them any discretion over the question as to who may or who may not vote; but I will assume that they have a mere ministerial function, and that the duty prescribed to them by law is simply the duty of taking the ballots from the individuals whose names are borne upon the registry. I will assume that this is the only duty prescribed to them by law. But that that is the only labor they may perform, or the only duty with which they may charge themselves in reference to the election, I do not concede. I think they may go further than that. I think they may do any one and every single act with a view to secure a fair and full expression of the legal voters in the ward or in the city which the law does not prohibit them from discharging. It is upon that point, if upon any, that I am at issue with the Senator from Maine.

He assumes that for them to undertake to know how an individual votes whose right to vote they deny, but have not the authority to determine under the law, is a violation of the secrecy and privacy and sacredness with which the law shelters this right to vote. Now, I think he assumes more than the law declares. The law has simply provided that the electors shall vote by ballot; but if in providing that they might vote by ballot it was the purpose of the law to provide that the way in which they voted should never be known, that the individual for whom they voted should never be known to the public, then it was necessary not only to prohibit the commissioners from putting any mark on the ballot, or taking any cognizance of the way in which the individual voted, but it was necessary for the law to prohibit any judicial investigation as to how they voted. It was just as important to prohibit the board of aldermen from calling one of these soldiers before them to make him swear how he voted as it was to prohibit the marking of his ballot when it was received.

But I assume that the law did not intend to cover with the veil of secrecy this fact because it has not done so; it has not prohibited the commissioners from marking the ballot; it has not prohibited the board of aldermen from making the individual swear how he voted. And because it has not done any of these things, but has simply authorized him to put the name of his candidate upon a piece of paper, instead of declaring it at the polls, I assume that it was the purpose of the law only to protect the

vote from public knowledge so far as that single act would tend to protect it and no further, leaving to all other tribunals, judicial and legislative, every other means of determining these two facts: first, whether a man voted who had not a right to vote; and, secondly, how that man did vote, how his vote influenced the election. Both of these facts must be known in order to secure a fair result to the election.

Now, sir, as recited here, the facts in this case seem to be that these commissioners, who, the Senator argues, had a mere ministerial duty—and they seem to have regarded such to be their duty themselves—took the votes of men whose names they found on the registry, and yet who, they believed, were not authorized to vote. Holding that they had not the authority, under the law as it stood, to exclude them, they received the ballots; but it seems they did put a mark upon them, so that they could identify the ballots. It turns out that they were right in their suspicions, that these men had not the right to vote, that the law clearly prohibited them from voting. But I understand that as the law is to-day, the only tribunal which can determine the right of these individuals to vote is the board of aldermen and the board of common councilmen, and I suppose that their adjudication has been in favor of the right instead of against it.

Mr. HARLAN. That the Senator may know the exact facts, I will state that the Conservative members, as they are called, hold that one set of officers were elected in that ward, and the Republican members hold that another set were elected, and they have organized separately, and have two boards of common councilmen and two boards of aldermen.

Mr. HOWE. That makes it a little more mixed; but I am assuming that the whole board of aldermen has decided that these soldiers that your law prohibited from voting had a right to vote, and that they put the law under their feet. I do not care whether it is a minority, or a majority, or the whole board who have done it. The question is whether the supreme authority of the nation stands concluded by that adjudication, no matter how many partook in it. I say it was a fraud. If the voting of the soldiers was a fraud on the law, the adjudication of the aldermen in determining that they had a right to vote was a sanction of that fraud; and if that adjudication had been made by the supreme court of the District it would still have been another sanction of the fraud; and if it had been made by the Supreme Court of the United States it would still be a sanction of the fraud, and if it were made by the Congress of the United States it would be only another sanction of the fraud.

Mr. DAVIS. I will ask the honorable Senator a question, with his permission.

Mr. HOWE. Certainly.

Mr. DAVIS. If a soldier resides in the city of Washington, is he not entitled to vote here?

Mr. HOWE. The law as it stands gives him a right to vote if he has had a residence of a year here, with his family, before the election. But I understand—I am not trying the case myself; I am speaking on the statements made here—I understand that soldiers who had not resided here a day, never had a residence here except as members of a regiment, went to the polls and voted.

Mr. DAVIS. I will ask the honorable Senator another question, with his permission, first stating that I have understood the fact to be different from the statement he has just made, though he may be right. He admits that the officers of this election marked some of the ballots.

Mr. HOWE. I understand it to be so.

Mr. DAVIS. Had they not as much right to indorse the name of the man who deposited a ballot upon the ballot as to mark it?

Mr. HOWE. Yes, sir.

Mr. DAVIS. Had they the right to do either?

Mr. HOWE. Yes, sir; they had a right to do both, simply because the law did not prohibit them from doing either.

Mr. DAVIS. That would not be a secret ballot.

Mr. HOWE. I say the law does not provide for a secret ballot; it provides for a ballot. If it provided for a secret ballot it would require your ballot-boxes to be deposited away from human supervision, where a man could go to it alone out of sight of the rest of the world and there put his piece of paper in. The law does not provide for a secret ballot; it provides for a ballot, and at the same time the law provides that the proper tribunals may know for whom that ballot was given, and every ballot.

Mr. DAVIS. I will ask the honorable Senator if the law provides for an open ballot?

Mr. HOWE. No, sir; it provides for a ballot.

Mr. DAVIS. I will ask the honorable Senator if putting the voter's name on the ballot would not make it an open ballot?

Mr. HOWE. No, sir; not necessarily an open ballot. An open ballot is a ballot which is open and displayed, as I understand it; but I do not understand that the law prohibits an open ballot. A man has a perfect right to go to the polls with an open ballot and put it in. I do not know that the commissioners would be authorized—for I have not seen the full law—having taken the ballot to open it, and yet, unless there is something in the law which prohibits them, they would have the undoubted right to do that thing.

Mr. HENDRICKS. To examine and read it?

Mr. HOWE. To open the ballot, unless the law prohibits the opening of it. I do not know how you would punish them for doing it.

Mr. HENDRICKS. Then they have the right to make a record of the vote cast and how it was cast, as evidence?

Mr. HOWE. Just as good a right to make it as the board of aldermen would have to make it; just as a good a right to make it as the supreme court of this District would have if you give them appellate jurisdiction; just as good a right to do it as any tribunal which assumes to bring a man before it and make him swear how he voted. They make up a record and publish it to the world. Why? They do it in order to determine whether the law has been observed at the election or not.

Now, as I was trying to say, I understand that certain men did come to the polls, whom the law forbade to do so, and cast these votes. I understand that the tribunal with whom rests now the jurisdiction to try and determine their right to vote has affirmed their right to vote; and the question is, shall we stand concluded by that judgment, or shall we provide by an exercise of legislative authority for a new trial, another trial, an appellate trial of that question? I think if there is any reason to believe that this injustice, this outrage upon the law has been perpetrated, it is our bounden duty, our most solemn duty to provide some tribunal to retry and readjudicate the question.

But the Senator from Maine [Mr. FESSENDEN] says that this bill now pending makes the certificate of the register *prima facie* evidence of the right to hold the office pending the litigation. I understand that is the effect of it. What is there wrong about that? Is it not as fair for the law to base the *prima facie* right on the certificate of the register as on the return of the commissioners of election or as upon the adjudication of the board of aldermen? It is the province of the Legislature to say what shall or shall not constitute the *prima facie* right, and to say what shall be evidence of the *prima facie* right.

Mr. HARLAN. If it will not be an interruption of the Senator, I have the law now on one of the points that he has been discussing, and will read it. It is section seven of the act of January 8, 1867:

"That the officers presiding at any election shall keep and use the check-list herein required at the polls during the election of all officers, and no vote shall be received unless delivered by the voter in person, and not until the presiding officer has had opportunity to be satisfied of his identity, and shall find his name on the list, and mark it, and ascertain that his vote is single."

Mr. FESSENDEN. That shows it exactly; that is all he can do.

Mr. HOWE. The Senator says that shows it exactly, and that is all he can do. That is all the law charges him with the duty of doing; but I say he could have done several things beside that, and undoubtedly did do, on the very day of election, some having reference to the fairness of the election, and some having no reference to it whatever. I say he could do anything which the law did not prohibit him from doing.

Mr. DAVIS. I will ask my friend a question with his permission. If the law as it stood at the time the election took place authorized one officer to make the return of the election, is it within the competence or within the propriety of Congress to pass a subsequent law authorizing another officer to make a return of the election?

Mr. HOWE. Yes, Mr. President.

Mr. DAVIS. After the return has been made by one officer, then there is an appeal to Congress to select another officer to make a different return?

Mr. HOWE. Yes, Mr. President, the law could authorize all the people in the District of Columbia to make a return, and each one could make a perfect return, I take it. I do not see any necessity for doing anything of that sort. The question is, after all, and it is the only question, whether the steps taken in this election are final steps, are adjudications which bind all the people of the District, all the candidates who were voted for, and bind the tribunals of the country. If they were final adjudications, that is the end of litigation. If they were not, then it is perfectly competent for the legislative authority to furnish new trials as long as in its discretion it thinks justice can be promoted by new trials—a new trial by the supreme court of the District, and another one by the Supreme Court of the United States if they see fit to do so.

Mr. President, I have said perhaps more than I had need of doing.

Mr. FESSENDEN. Mr. President, I only wish to comment a little on two points made by the Senator from Wisconsin, leaving the others to take care of themselves. The first is an admission which he makes which covers the whole ground I assumed, and that is, he says this voting by ballot, receiving votes, is only intended to protect the secrecy of the ballot so far as that act is concerned, to use his own language. That I agree to, and that is all I have been contending for. I admit with him that all this matter of balloting can be revised and reviewed by the competent and proper tribunal which is finally to pass upon the fact of election. What I contended for was that the very idea of voting by ballot is founded upon the idea of secrecy; that every man should be at liberty to vote in such a manner as not to have his vote known, if he saw fit to do so. That it may be discovered afterward by any particular judicial course marked out to establish the fact whether A or B was elected is no doubt necessary; but so far as the act is concerned, as the Senator calls it, I contend that he has the right to vote, if he has complied with the other requisites, without having those who receive the vote ascertain how he votes. If they can mark his ballot we may just as well have the open *vive voce* vote in the English fashion. Our fashion is as I have stated it, and for the reason that I have given. It is founded on the idea of secrecy; that a man's vote should not be open to the supervision of everybody about him, of those who receive his vote even, that he may be perfectly free and independent in the act. That is the idea of it; and the Senator concedes it so far as the act is concerned, he says; and that is as far as I go.

Now, sir, as to the Senator's other legal idea, that a ministerial officer may do anything that is not prohibited to him, that is a new legal principle. I had always been educated in the idea that a ministerial officer could do just what the law pointed out to him to do, and nothing more. But the Senator says if certain

duties are given to a ministerial officer he need not confine himself to those duties, but anything else that suggests itself to his discretion, his idea of what may be right and proper is open to him, if not prohibited by law. Why, sir, that would upset all the rules of judging of the acts of ministerial officers. The honorable Senator is a learned lawyer. He has been upon the bench. Did he ever hear of a certain maxim, "*Expressio unius est exclusio alterius*?"

Mr. HOWE. I can translate that.

Mr. FESSENDEN. I know the Senator can translate that. I supposed it was a well known maxim, and particularly applicable to ministerial officers, that if certain duties defined by law are devolved upon a certain set of men those duties they can perform, and none others, in relation to that act, legally. They cannot go beyond them.

Now, what does the seventh section of the law passed only last year, read by the honorable Senator from Iowa, say? Simply this: that these commissioners of election may receive the votes of all those persons whose names are borne upon the check lists, as they are called or whatever they are called, and that they may examine them so far as to ascertain the identity of the individual, and that he has a right to vote; and there it stops.

Mr. HOWE. Will the Senator allow me to ask him one question?

Mr. FESSENDEN. Certainly.

Mr. HOWE. Suppose the question is whether these commissioners of election could do anything which the law did not instruct them to do in reference to this election. Suppose it to be an established fact that they did open the ballot, the ballot which Brown put in, and see that he voted for Bowen, and afterward come on the stand and swore to it, what is the court going to say about it? Are they going to receive their evidence, or not? And if the court receives that evidence, what is going to be done with the commissioners?

Mr. FESSENDEN. There is no doubt about that. That is a question I am not discussing, what is to be done with the commissioner. A great many things may be done which are wrong. I am discussing the propriety of the thing, and the Senator is maintaining the propriety of the thing, that they had the right to do it, and it was all proper, or else his argument amounts to nothing.

Mr. BUCKALEW. If the Senator will permit me, I will state that in Pennsylvania the offense is indictable, and there are a great many penalties for not merely peeping into the ballot, but for meddling with it in any way. We understand that those laws are simply a sanction to the general principle of the secrecy of the ballot.

Mr. HOWE. I simply want to say to the Senator from Pennsylvania what the Senator from Maine said to the Senator from Oregon, we are not trying this question on the laws of Pennsylvania.

Mr. FESSENDEN. Still, they illustrate the idea of the sanctity of the ballot, so far as the receiving officers are concerned; and that is all I was talking about. I should not have said so much if the Senator from Wisconsin had not defended this act as not only the right, but the duty of the commissioners to open these ballots, peep into them, mark them, and mark the men. I say it interferes with the very idea of the ballot, with the purity of elections, and the independence of elections. I go upon the general principle.

Mr. HOWE. The Senator misunderstands what I have been driving at. I have not been trying the administration of these commissioners at all. I understood him to reply to the Senator from Iowa, who said that there was a mark upon these ballots, that that could not be done. The Senator from Iowa stated the fact with a view of showing that the means were at hand, in reply to the Senator from Indiana, of learning how these soldiers voted, and the Senator from Maine said they could not do it. I did not undertake to argue the

propriety of the thing; but I will now say, that when they went no further than to identify the votes given by men whose right to vote they thought was questionable under the law, it was a proper act unless there was a statute which prohibited the doing of it.

Mr. FESSENDEN. There I differ with the Senator. That is the very matter I am disputing. I say that was undertaking to do a thing which they had no right to do; that it interferes with the very idea of the freedom and purity of the ballot-box to have ministerial officers undertake to do any such thing. That is where the Senator and I differ.

But I was commenting upon the principle of law which the Senator laid down with so much confidence and elaborated, that a ministerial officer may do anything which is not prohibited.

Mr. HOWE. And I stick to it.

Mr. FESSENDEN. Undoubtedly. The Senator never says anything he does not stick to, right or wrong, I believe, if he has once given an opinion. But his sticking to it, more or less, is not any reason why I should believe his doctrine.

But, sir, I was not arguing whether these ballots were to be thrown out or these votes finally to be counted. I did not undertake to argue that matter at all. I was endeavoring to ascertain for myself what this bill was; and I did not even say whether I might not vote for it; but I wanted to understand distinctly what it was. I agree that this case is a very singular one; but I was trying to learn whether the object of the first section of this bill was not to legalize that very thing in an individual case, and a case that has gone by. That is what I was coming to. The fact having transpired, it appears unquestionably that if these officers had not interfered with the ballot-box, not undertaken to open and mark these votes and mark these men, a certain set of men would have been entitled to their seats on the *prima facie* evidence, whereas they did undertake to interfere with the ballot-box, they did open the ballots, they did mark the ballots, and the consequence is, that they make a return upon which a certificate is issued to a certain other set of men. That is the consequence; and it is that which this first section undertakes to legalize. What I was trying to get at was that the Senate might be in possession of the exact facts, and being in possession of the facts, each Senator can vote, and stick to it, as the Senator from Wisconsin does, according to his own notions.

Mr. FRELINGHUYSEN. Mr. President, I agree with the Senator from Maine, and I think all of us must, as to the general principle that the ballot must be held secret and sacred. It is a great right, and is not to be invaded. But I do not think this is a case where it is invaded. The law imposed a duty upon these commissioners who received the votes, which was, to receive the ballots of those who were registered. That was one duty. But after that registry was made another law was passed, which was binding upon every officer, upon everybody, that a certain class of persons, some of whom were registered, should not vote—soldiers who had not resided here a year.

Mr. HENDRICKS. What law does the Senator refer to?

Mr. FRELINGHUYSEN. I refer to the law which was read, passed after the registry and before the voting.

Now, then, the commissioners had two duties to perform: one was the ministerial duty of receiving the ballots; and another was the duty to preserve the purity of the election; that it should be according to law; that illegal votes should not be admitted; and what do they do? They do the only thing, I think, that could have been done. They could not refuse to receive the votes. Therefore, they received them. They were not at liberty to permit a fraud to be perpetrated upon the election; and therefore, inasmuch as these were only nominal and not actual voters, they marked those



ballots. I do not think that was an invasion of the sanctity of the ballot. The commissioners took the only course that could be taken to obey both laws.

As to this bill being retroactive, let me say that it is no objection to a law that it is retroactive, if the thing, when it was done, was honest and fair and just, and the only defect in it was a technical one, because the law had not provided for such a case. It is perfectly legal and proper and competent for Congress now to say that this return of the commissioners of election, being just, shall be the legal evidence, *prima facie*, of the election of those mentioned in the return. Therefore, I cannot see that the great principle of the secrecy and sanctity of the ballot is by this proceeding invaded, but that, in fact, the only course was taken which could preserve the fairness of that election.

Mr. CORBETT. I always supposed the secret ballot was for the purpose of protecting the voter from the outside pressure that might be about the polls, intended for intimidation. The commissioners or judges of election are the judges of the legality of the votes usually, and I presume were intended to be so in this case. They were to judge who were the legal voters and who were not. I do not see that there was any impropriety in the commissioners of election checking these ballots in the manner which has been stated, when they were satisfied in their own minds that they were illegal votes, or that there was a doubt about them, and when they came to open the ballots and to count them, to declare that there was such a number of soldiers' votes cast, and report that fact and report that they were illegal.

Mr. HENDRICKS. Mr. President, I have a little to say on this bill. The act of January 8, 1867, authorizes:

"Each and every male person, excepting paupers and persons under guardianship, of the age of twenty-one years and upward, who has not been convicted of any infamous crime or offense, and excepting persons who may have voluntarily given aid and comfort to the rebels in the late rebellion, and who shall have been born or naturalized in the United States, and who shall have resided in the said district for the period of one year and three months in the ward or election precinct in which he shall offer to vote."

Those are the qualifications. The act specifies that a soldier, a sailor, a marine, and an officer shall have been a resident in fact of the District of Columbia for one year; but if he were such a resident, he was as legal a voter as any other. How is the right to vote to be ascertained? Not by the election board; but the act from which I have read a portion of a section makes provision upon that subject:

"That the mayors and aldermen of the cities of Washington and Georgetown, respectively, on or before the 1st day of March, in each year, shall prepare a list of the persons they judge to be qualified to vote in the several wards of said cities in any election; and said mayors and aldermen shall be in open session to receive evidence of the qualification of persons claiming the right to vote in any election therein, and for correcting said list, on two days in each year, not exceeding five days prior to the annual election for the choice of city officers, giving previous notice of the time and place of each session in some newspaper printed in said District."

The next section provides:

"That on or before the 1st day of March the mayors and aldermen of said cities shall post up a list of voters thus prepared in one or more public places in said cities, respectively, at least ten days prior to said annual election."

The list must be prepared by this board. Having been prepared it shall be exhibited to the people in some public places so that the people may judge of the correctness of the list; and after it has thus been exposed, this board, immediately within five days before the election, shall be in open session for the purpose of correcting the list; so that if any person has been omitted from the list he may come before the board; and so that if any person be improperly upon the list, any other voter may make complaint to the board and have the list corrected. This investigation is somewhat judicial in its character; and when made, and when this list is thus completed, it is conclusive upon all election officers. Whether it be conclusive

upon a court to which the question might go, I need not now discuss; but upon all executive officers it is unquestionably conclusive, and the law so provides expressly, plainly, and distinctly. When these people come to vote, it is thus regulated by the next section:

"That the officers presiding at any election shall keep and use the check list herein required at the polls during the election of all officers, and no vote shall be received unless delivered by the voter in person, and not until the presiding officer has had opportunity to be satisfied of his identity, and shall find his name on the list, and mark it, and ascertain that his vote is single."

Now, what may these executive officers do? Not revise the list, not adjudicate the question whether any man found upon the list is a legal voter, but they may ascertain his identity. A vote being presented, the board refer to the list. If the man's name is found there, the board may ascertain whether this is the identical person mentioned in that list. Ascertaining that fact, the board must receive his vote, because this is an executive body, not a judicial body, not a revising body.

Now, Mr. President, this whole proceeding was had immediately before the election. The lists were made out. They were exhibited in public places in this city. Any person whose name was not found upon the list had an opportunity within five days before the election, when the board was in open session, of going before the board, and if his right to vote was questioned of producing his evidence; the board would hear his evidence; and upon that evidence adjudicate the question whether he was a legal voter. If any voter observed upon these exhibited lists the name of any person who was not a resident of the District and not within the description of a voter contained in the law, that person, for the purpose of correcting, purifying, and purging the lists, could also go before the board, and it would be the duty of the board then to hear the evidence for and against the right of the voter. That evidence being thus heard in open court, if I may so express it, the adjudication is had; the name is put upon the list, or the name is stricken from the list, according to the judgment. That list then, being thus corrected, being thus conclusive, is handed to executive officers that they may decide who shall vote, not to decide whether a party is a legal voter, for that has been adjudicated according to law, but to decide, in the language of the law, the identity of the party who presents a ballot.

I understand the facts to be, that upon this list were found perhaps one hundred or more soldiers. That list was exhibited; known to the people; the adjudication had; and what did that adjudication settle? It settled that those soldiers were citizens of the District of Columbia, having *bona fide* residences in the District, and entitled to vote; and when that judgment was made by the board of registration I deny that the election board had any right to inquire whether these men were legal voters.

But, sir, what did this board do? They received the votes. They marked the ballots. I will not rediscuss the question of the propriety or impropriety, the decency or indecency of marking the citizen's vote or the soldier's vote. I deny the right, and I simply now enter my protest against the right of any officer to mark and mar any man's ballot when the law authorizes him to vote by ballot. But the votes were received. The identity having been established to the satisfaction of the board of election the votes were received, counted, the result declared under the law, and that certified by the board of election and handed to the proper officers in the District of Columbia.

When that was completed the board was *functus officio*. It had no more work to do. As executive officers they had received the ballots, they had counted the ballots, they had declared the result, they had certified that result to the board of aldermen and board of common council in the city, and to the register; and, after that certificate had been thus given, that board had no more power over the

result than any other citizen of the District of Columbia. Why, sir, if they could do it the next day they could do it the next month. As soon as the paper is signed, and by them delivered to the proper officer in the District of Columbia, their work is done. Are Senators prepared to say that after an election board have counted the votes, have declared the result, have certified that result to the three proper departments of the government of the District of Columbia, they may nullify it?

I ask Senators if under the law, as read by the Senator from Iowa, the return of the officers of the election board is not the title of a man to the office? After his title has been established by that return that board, having gone out of office in respect to that particular election, being *functus officio*, has no more power to disturb that return than a man has to mutilate and destroy his deed after it has been delivered. That return is the evidence of right to the man elected to his office. You might as well mar and mutilate the deed that secures to a man his land as to destroy the evidence upon which rests his title to public office. It is impossible that the thing shall be done as is proposed in this bill. According to law these returns were made. According to law these returns were the evidence of the right to the office; and after that right is vested, fixed, and established according to law, Congress cannot take that office from the man. Congress may abolish the office, but being elected to it, according to all the decisions, he has a right in his office, a right that Congress cannot take from him, except that that office itself, for public considerations, may be abolished.

Then I ask, Senators, when this law which the Senator from Iowa read, passed in January, 1867, defines the qualification of the voters; when the law says that there shall be a board to decide in advance who is a legal voter; when the law says that the list made up by them shall be made public so that the people may examine it, and have it corrected; when the law provides that that board of registration shall hold an open session immediately before the election, and that board holds that session, and the right of the people to vote is fixed by the board, where may that be reviewed? Not by an executive officer. I do not question that for fraud or for palpably wrong decision it may be corrected in the courts. That question is not now before us; but that it can be corrected by an executive board authorized simply to receive the ballots, identify the voters, count the ballots, and declare the result—that that board, executive in its character, can review and revise that list is impossible.

Sir, upon what principle are a hundred votes excluded by this board of election, after the voters have passed the scrutiny that the law has provided, after they have gone before the board of registration and been found, upon inquiry, to be residents of the District of Columbia as required by law? Upon what evidence has that been reversed? I ask Senators, after that board of election received the ballots, after they identified the parties, after they counted those ballots, after they certified the result to the proper officers and departments of the city government, upon what evidence did they reverse the decision of the board of registration? These men stood, according to the finding under the law, as legal voters.

It is said that they were not residents of the District of Columbia? Upon what evidence was that decided? The election board received no evidence. These soldiers' votes were marked, contrary to decency in my judgment. After they had cast their votes, after it had been decided that they should vote, they went from the polls; and in their absence, when they had no hearing, when their evidence could not be received, then it was that their ballots were taken from the box, torn up, if you please; then it was that those votes were stricken out, not upon evidence, not upon inquiry, but by the wholesale. Every man that was known to be a soldier was excluded from his ballot,

because he was a soldier, upon a general presumption that he had not lived in the District of Columbia a year; not as you would inquire as to the right of A, B, and C to vote in the District, but upon the general proposition that the entire company or companies were to be excluded. It is proposed now in this bill to legalize that transaction; in other words, to put men in office who are not elected (for I deny that that election can be called in question as was proposed in this business) for party purposes. It is not to be tolerated in this country that the votes of men, after they have been received, after they have passed all the tests that the law provides, shall be taken from the box and not counted by an executive board. It cannot be endured. The interests of neither party will endure that. It is the right of every man that these votes shall be counted after their legality has been ascertained in the mode prescribed by the law.

Mr. President, the law as it stood at the time of the election and at the time the certificates were given, was that the certificate of the board of election should be the evidence of the election of an alderman; it should be the evidence of the election of a member of the council. That was the evidence provided. This bill proposes that the register's notification shall be the evidence. Why shall that be interposed now? Has not this certificate gone to the register, and has he any evidence beyond the certificate? Has he any evidence beyond the certificate that has gone to the aldermen and to the council? None. He was not at the election. He is not made by law an appellate tribunal to decide whether these soldiers were legal voters. It is now proposed that a new officer, never authorized to review the proceedings of an election, having no judicial authority, but a register to simply place on file these papers, may review this; that he may set aside the election; that he may give a certificate that the law did not allow him to give at the time the election took place; that he may reverse the evidence upon which men are entitled to their offices. As well may the Legislatures of your States after you, Senators, have been elected and the Secretary of State, under the seal of the State, has evidenced to this body your right to hold your seats, provide that some partisan may issue a certificate that shall be of higher authority, upon which you shall be turned from your positions in this body. Sir, it is not right. This bill is not right.

As to the question who is elected, let it be ascertained judicially. If the law as it now stands does not give to any of the courts the power to make the inquiry, I will vote very cheerfully to give the courts the necessary authority. If there has been fraud in this election, let us know it. If it ought not to stand let the court say so, but not a partisan, not a register. Who is the register, and why shall he decide and revise and review? How is he known to us? Upon what principle do we undertake to say that the evidence which made the title to the office good at the time shall be set aside by the decision of the register in this city?

Mr. President, I propose that this bill shall be recommitted to the committee, with instructions to report amendments providing that the person having the evidence of his election to any office as provided by the law in force at the time of the election, shall be entitled to enter upon the discharge of the duties of the office, and to hold the same until his *prima facie* right thereto may be set aside by judicial proceedings. My proposition is simply this: that as the evidence required by the law established a *prima facie* right at the time of the election, so it shall stand until judicial proceedings shall set that *prima facie* right aside and Congress shall not undertake to legislate one man into office and another out. This election has not been satisfactory. That is very well known; but I do not choose here to discuss it. Some facts are within my knowledge that are very offensive, in my judgment, to men who desire honest elections; but I do not understand that

to be a proper inquiry in this body on this bill. I simply take the law as it stands, and I ask that the *prima facie* right shall be respected until by judicial proceedings it shall be set aside. This bill is offensive in this: that in regard to the mayor the *prima facie* right is to be respected; in regard to the aldermen, it is to be otherwise. Is that right? Are Senators willing thus to cut the Gordian knot, in the language of the Senator from Massachusetts?

Mr. HARLAN. The Senator surely does not intend to misrepresent the bill.

Mr. HENDRICKS. No, sir.

Mr. HARLAN. There is nothing of that kind in the bill, if I am capable of comprehending its meaning. The bill does propose that the men who hold these certificates of their election shall enter on the discharge of their duties as aldermen and common councilmen until their right to so hold their offices shall be set aside by the supreme court, providing the very thing the Senator himself has proposed in his proposed instructions to the committee. The bill as it now stands provides that the mayor who is *prima facie* elected, who has been sworn in according to the previous law, shall remain mayor until his right shall be decided in court, and that the aldermen and councilmen who have the certificates of election shall be permitted to hold those offices until their right shall be set aside.

Mr. HENDRICKS. May I ask the Senator what certificate these men hold?

Mr. HARLAN. A certificate from the register of the city, the officer directed by the law to notify the officers of their elections, as I read some time since from the charter. If the Senator will hand the book I will read it again.

Mr. HENDRICKS. I know all about that. The Senator need not trouble himself to read that for the purpose of informing me.

Mr. HARLAN. He is the only officer that is authorized to certify to an election. The commissioners make a duplicate return, one to the mayor of the city, and one to the register of the city. The law does not direct the mayor to notify the parties elected or to give them any certificate whatever, but directs him to publish in the newspapers the return of the commissioners—nothing more—to make a publication for the knowledge of the public; but the law does direct the register to notify the parties elected of their election; so that the register is the only officer in the city who has the right to issue a certificate of election. He has done so to these aldermen and common councilmen, and this bill provides that they shall hold, as having the evidence, *prima facie*, of their right to these offices until that right shall be set aside by the judiciary—the very thing the Senator himself wants.

Mr. HENDRICKS. The law which the Senator has in his hand provides that the board of election shall certify the result of that election, and the register is simply the keeper of that certificate, and when that certificate is filed with him he simply gives notice to the party of what that certificate contains. He is not a judge, he is simply a clerk to inform the party of what has been certified to his office, that the party may enter upon the discharge of the duties of the office, not by virtue of his notice, but by virtue of the certificate which is conclusive evidence upon the question.

Let me call the attention of the Senator to a feature in that law which shows that my construction is clearly right. That law provides that if the vote be the same for the two candidates, then the board shall decide the result by lot. The board must adjudicate how the vote stands, what the vote is, and if the vote is a tie the board is to award the decision by lot, take that mode of ascertaining who is to hold the office. There is no force given to this notice. It is no evidence of title to the office. The evidence of the party's right to his office is in the board of aldermen and the board of councilmen of the city. The election board must return to each of those boards a certificate of the election, and when the alderman

goes to take his seat as a member of the board he does not take it by virtue of the letter of notice from the register. He presents himself and demands to hold his seat by virtue of the certificate that is on file with the board of aldermen.

Mr. WILLIAMS. I should like to ask the Senator a question.

Mr. HENDRICKS. Certainly.

Mr. WILLIAMS. I ask him if the alderman does not present his notice to the board of which he is a member as evidence of his right to a seat?

Mr. HENDRICKS. By no means. He may read it or not.

Mr. WILLIAMS. What does he carry with him to the board to indicate that he is elected? Does he carry the returns of the election with him?

Mr. HENDRICKS. No, sir.

Mr. WILLIAMS. What does he carry?

Mr. HENDRICKS. The law provides that those returns shall be on file with the board.

Mr. HARLAN. Not at all.

Mr. HENDRICKS. Yes, sir; and if the Senator will send me the book I will show it.

Mr. HARLAN. It provides that the returns of the election of mayor shall be made to the boards of common council and aldermen; but that the returns of the aldermen shall be made to the register.

Mr. HENDRICKS. If the Senator will send me the book I will find it. Here it is:

"Each board shall judge of the legality of the elections, returns, and qualifications of its own members."

Now, I ask Senators if the board is to judge upon the letter or notice that the register may send to a member of that board, if that is the conclusive point upon which they are to be adjudicate?

Mr. WILLIAMS. I say, if the Senator addresses himself to me—

Mr. HENDRICKS. No; I did not specially address the Senator, but I shall be very happy to hear him.

Mr. WILLIAMS. I will answer, if the Senator has no objection, that *prima facie* the person having that notice is entitled to his seat just as much as the Senator is entitled to his seat in this Senate when he presents the certificate of his election; but if any person afterward appears to contest his right to a seat, then the board may proceed to examine the evidence upon which that notice was given. If, however, there is no controversy as to the right of the party having the notice of his election to his seat, he takes his seat by virtue of having that notice in his possession, and that is sufficient evidence for that purpose.

Mr. HENDRICKS. Mr. President, the return is also to be made to the mayor, who is also to make a publication of it. Now, I ask Senators if that proclamation is the evidence of election? Would any Senator think of presenting that in a court of justice as evidence of the election? Suppose the question should arise as to who was elected in a certain ward, alderman or member of the council, would any Senator in maintaining an action before the court undertake to introduce either the notice of the register or the publication of the mayor? Clearly not. It is a mere statement from the original. The certificate of the election by the election board, the men who count the votes and declare the result and certify the result, gives the evidence, and whenever it is contested it must stand upon that.

Now, Mr. President, as I understand the facts, the board of election in the fifth ward, having counted the votes, certified the result of the election. That certificate was placed on file in the proper offices. Afterward, the board undertook to review their own certificate, and to ascertain some additional facts which they had no jurisdiction of, which they had no right to consider.

Mr. HARLAN. The Senator will allow me to say that I do not understand that to be the precise state of the facts in their historical order. As I have been informed, they made out one of the copies and sent it to the mayor,

and afterward, in making out the duplicate, in examining the ballots carefully, they made the discovery I before recited, that if these votes were illegal that they supposed were illegal, the effect would be to change the result of the election, and in making out the first and only return to the register of the city, the legal custodian of these documents, they appended to it affidavits setting forth the facts.

Mr. HENDRICKS. I will ask the Senator from Iowa, before he takes his seat, what evidence the election board received in regard to the residence of these soldiers?

Mr. HARLAN. I am unable to answer that. I have not looked into it, and I do not know.

Mr. HENDRICKS. I understand the facts to be that they declared that all the soldiers were not legal voters; that they were all non-residents of the District of Columbia, and excluded the whole of them upon the list of names which they marked and the ballots which they marked.

Mr. HARLAN. I will ask the Senator what is the evidence of that fact?

Mr. HENDRICKS. That is the statement which I have not seen controverted. It is about the same character of evidence that we have been acting upon in regard to this whole business. There is no very satisfactory evidence to support this bill one way or the other. My proposition is a fair one, that the *prima facie* right shall prevail until the cases are heard in the courts. If gentlemen desire to do justice according to the custom in such cases, and what seems to me at least fair and right, there can be no objection to this proposition.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana, to recommit the bill to the Committee on the District of Columbia with instructions.

The motion was not agreed to, there being on a division—ayes 9, noes 24.

The PRESIDENT *pro tempore*. The question now recurs on the amendment offered by the Senator from Kentucky, [Mr. DAVIS.]

Mr. DAVIS. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. SHERMAN. I should like to hear the amendment read.

The Chief Clerk read the amendment; which was to insert as an additional section:

And be it further enacted, That the mayor of the city of Washington shall not receive the pay or emoluments of any other office.

Mr. WILLEY. Ordinarily I think this is a correct principle when there is a proper case to which it can be applied; but Mr. Bowen is now holding the position of postmaster of this city, not by virtue of a commission. The term of his office has expired. He is doing it for the accommodation of the public. It is not an office of the same character as that to which he has been elected. It is not like the instance mentioned by the Senator from Kentucky of the Secretary of the Interior acting also now as Attorney General. If he shall hold the office any longer of postmaster it will be for the accommodation of the public, and not because he is holding on to the office at his own instance, but simply because the President does not appoint some person in his place. Under these circumstances, if he discharges for the public the duties of that office, and also discharges the duties of the office of Mayor, I cannot see the propriety of depriving him of the compensation of both offices under the circumstances. If the circumstances were different, of course I should have no objection to the amendment.

Mr. DAVIS. I suppose if Mr. Bowen was nominated to the office of postmaster, that the honorable Senator from West Virginia would vote for the confirmation of the nomination; and I presume that every Senator present would give the same vote. Then he would continue to receive the pay of mayor, and also the pay of postmaster. The honorable Senator from West Virginia assumes the principle that the President cannot displace Mr. Bowen.

Mr. WILLEY. No, sir.

Mr. DAVIS. Do I understand the honorable Senator to say that the President can remove Mr. Bowen?

Mr. WILLEY. The Senator will understand me to say that Mr. Bowen's term of service has expired. He is not in office now.

Mr. DAVIS. I will ask the honorable Senator whether he is in office or out of office now?

Mr. WILLEY. He is out of office.

Mr. DAVIS. According to the honorable Senator's position, there is no postmaster in the city of Washington. He does not say *de jure* or *de facto*. He says that the late postmaster is out of office.

Mr. WILLEY. He is discharging the duties of two offices at the same time.

Mr. DAVIS. Now, Mr. President, where is the difference in principle? It is now a general law of the United States, and has been for many years, that no man who is in office, receiving the pay and emoluments of one office, shall receive the pay and emoluments of another office at the same time. The honorable Senator has recognized that principle repeatedly in the Committee on Claims, and has voted for its application in denying several classes of officers who charged pay or emoluments for a second office from making such charge against the Government. In that he did right. In that he acted in conformity to a general law of Congress that has been in force and effect for many years, that no individual who holds one office and is receiving the pay of that office shall receive the pay of another office at the same time. Now, sir, suppose the President of the United States should make another nomination for this office, and the nominee was thrown before the Senate, if he were a Democrat the honorable Senator from West Virginia would vote against him.

Mr. WILLEY. How does the Senator know that?

Mr. DAVIS. Judging from what you always do.

Mr. WILLEY. The Senator knows very well that that is not always the case. If he would extend his recollection no further back than the last twenty-four hours, it would satisfy him that that statement is not justified by the facts.

Mr. DAVIS. The Senator now refers to his vote upon the confirmation of the minister to England.

Mr. WILLEY. I will say further, if the Senator will allow me, that when Mr. Johnson turned out every Republican appointed in West Virginia my colleague and myself agreed to the confirmation in their places of about half Democrats.

Mr. DAVIS. I understand the Senator, then, to assume this position: that when the President of the United States makes a nomination of a Democrat competent to perform the duties of postmaster of this city he will vote for his nomination without regard to his politics.

Mr. WILLEY. The Senator will understand me, that whenever a nomination is made, if it suits me, I will vote for it; if it does not, I will not.

Mr. DAVIS. Exactly; and the nominee will be sure not to suit the Senator unless he is a Radical. I do not quarrel with him about that, and do not object to the honorable Senator voting for or against the confirmation of any nomination of the President upon any consideration which he deems proper. But I am assuming now what is the fact: that Mr. Bowen is still postmaster of this city, and that he will continue to be the postmaster until the majority of the Senate shall say that he shall not be the postmaster. The general principle is simply this, and it is the only principle involved in the case, that a man shall not be allowed to receive the pay of two offices at the same time. That is the principle, and every man can comprehend it. It is either right or wrong. If it is right in other cases, it is right also in the case of Mr. Bowen. If others have to be excluded, he should be

excluded. If the tenure-of-office bill be legal and valid in its operation, which I say it is not, but which the honorable Senator from West Virginia says is the fact, that man Bowen is not out of the office of postmaster of this city; he is in it; he is in the performance of its duties; he is in the receipt of its pay and emoluments, and is so entitled to continue until a majority of the Senate shall say that he shall go by confirming another nomination made for the same office by the President of the United States.

There is no difference in principle between the case of Mr. Bowen, such as the honorable Senator from West Virginia sought to draw, and the case of any other officer who is in office receiving the pay and emoluments of one office, and a bill should provide that he should receive the pay and emoluments of another office. I will put this question to the honorable Senator from West Virginia: if there was a collector of customs or of internal revenue or any other officer receiving pay and emoluments, and a proposition was made to give to that officer the pay and emoluments of another office, assigning to him the performance of the duties of another office, would he vote against a proposition withholding from that officer the pay and emoluments of the second office, or would he vote that he should have both? I have no doubt the honorable Senator would vote that he should not have the pay and emoluments of the second office. I know no difference of principle or fact between that case and the case of Mr. Bowen. Mr. Bowen is mayor of this city, *prima facie*, and probably according to law. At any rate, he is installed into the office; he is receiving the emoluments of that office. He is also postmaster of the city of Washington; and I propose that while he is mayor he shall not receive the pay and emoluments of the office of postmaster or any other office. The proposition is understood by the Senate. If the Senate intends to be inconsistent, and to give a Republican Radical favorite the pay of two lucrative offices, as well as their honors, be it so. I cannot do anything myself except submit.

The question being taken by yeas and nays, resulted—yeas 7, nays 31; as follows:

YEAS—Messrs. Buckalew, Davis, Doolittle, Hendricks, McCreery, Patterson of Tennessee, and Vickers—7.

NAYS—Messrs. Anthony, Cattell, Chandler, Cole, Conness, Corbett, Cragin, Ferry, Frelinghuysen, Harlan, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Tipton, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—31.

ABSENT—Messrs. Bayard, Cameron, Conkling, Dixon, Drake, Edmunds, Fessenden, Fowler, Grimes, Henderson, Johnson, Morton, Norton, Saulsbury, Sprague, and Trumbull—16.

So the amendment was rejected.

Mr. BUCKALEW. I move to amend the first section of the bill by striking out the words "satisfactory evidence," in the fifth line, and inserting the words "regular official returns;" so that the section will read:

That whenever any person has received, or shall hereafter receive, a certificate from the register of the city of Washington, based upon regular official returns furnished by the commissioners of election, notifying him of his election to any elective office of said city, &c.

This amendment raises directly the true point involved in this first section. These commissioners of election were appointed by the judges of the supreme court of the District. Their duties were, under the law, to receive the votes of persons on the registration lists, to count the votes, and to make a report to the mayor of the city, who was to give notice in the newspapers of the result. They were then to make a copy or a duplicate of their return and transmit it to the register. That was done; and it was after their duties under the law were completed, and upon the day following the election, that a part of these commissioners proceeded to make out another paper or another return. In my judgment, they had no more right to make it than a member of the Senate had; because their



duties under the law were performed. What it is proposed to validate by this first section is not a return of the election made by the election commissioners; but it is attempted to supersede that regular and official and legal return by a supplemental paper, which was made out by a part of the commissioners. That fact seems to have been overlooked in the debate.

Now, sir, what I propose is, in drafting a law which shall apply not only to the present election, but to all future elections, the register shall make out his certificate from the official returns made to him by the commissioners of election; whereas, under the bill as it now stands, he is to make that return upon any "satisfactory evidence." The very form of this first section exposes its impropriety. It is not proposed that the register shall make certificates upon the official returns filed with him under the law by the election commissioners, but that he may make out his returns upon any "satisfactory evidence" which may be furnished to him by those commissioners, or by any part of them.

Sir, this election was held; and after the votes were counted, on the evening of the day of the election, it was announced that Mr. Given was elected mayor of the city, and that there was a Conservative majority in the common council, and, I believe, a tie in the board of aldermen. After midnight, singularly enough, it was discovered that there was an error in one of the wards, and the commissioners proceeded to correct that error, as it is alleged, by which a majority for Mr. Given was changed into a majority for Mr. Bowen. That was done after the first count, as I understand; and that result was reached, it is alleged, by correcting some error in the night. Whether that was fair or not is not for me to say; but for our present purpose we may assume that it was a fair proceeding and that it was an honest correction of an error.

But sir, what do we have? The commissioners, and the whole of them acting together, made out a return of the election not only for the board of aldermen, but for the board of common council, and transmitted that return to the mayor of the city, under the law. Upon that return there was a Conservative majority in the common council. The mayor, under the law, having received that return, issued a notice through the newspapers of the city, which was in the nature of a proclamation, announcing the result, not only to the candidates, but to the public; and when the board of aldermen and common councilmen were to convene, he transmitted to them, as I understand, these official returns which had been duly made to him by the commissioners of election. Then a part of the commissioners, as I said before, afterward made out a paper or a statement and sent it to the register. It was not a return of the election; it was a statement by them with regard to the quality of certain of the votes alleged to have been soldier's votes, and upon that information, irregular and unlawful, the register made out returns which were laid, or were attempted to be laid, before the legislative body when they convened.

What is the object? There is no doubt about the question of law. The regular return of the election was sent to the mayor of the city and was proclaimed, and that official return was sent to the boards of aldermen and of councilmen when they met, and there was an organization upon those clearly official, regular, lawful papers. But there was a secession, a bolt, by a portion of the members of the common council, who, upon notices merely which the register had sent to particular persons in one of the wards, attempted to admit and to use those men as members of the board, and they set up a separate organization, or attempted to set up one, that cannot endure legal investigation or the action of the common council itself and of the board of aldermen, because the control of the board of aldermen has passed from the bolting party and is in the line of regular and lawful action at this mo-

ment, and this seceding body in the common council, if Congress does not interpose, will be obliged to do just what was done by a similar interest in the Legislature of Pennsylvania on a signal occasion at the time of the Buck-shot war; the seceding members, who set up, under the lead of Mr. STEVENS, a House of their own, were forced to give up their organization and come into the regular body; the dispute came to an end. Just so here; if Congress does not interpose, if by a vote taken here it is shown that Congress will not interpose in behalf of either party to this dispute, this affair will settle itself in twenty-four hours. It was got up, no doubt, with the intention of appealing to Congress and getting some new law by which a partisan advantage should be gained and a decision be made in favor of those who are departing from the laws which regulate the election.

One word more and I will leave the subject. Mr. President, as already argued by the Senator from Indiana, under the law the result of the election was to be certified by the commissioners who held it. They did, after counting the votes, go on and certify the result of the election, and the whole of the commissioners acted in that proceeding, and when they had completed it their functions ended. They had no power to do anything more except, possibly, to transmit the papers afterward. They might do that through a messenger. Then, I repeat, a part of the board undertook afterward to hold a judicial investigation of the election, and get up a paper setting aside some part of the vote which had been polled. And here we are by act of Congress to sanction this proceeding, virtually to turn out the men who were regularly reported elected in one of the wards, and to put their opponents in and to organize the board, so that when it comes to the investigation of the qualifications of those rejected voters, there can be a decision obtained in favor of somebody or of some interest.

Observe there is not the slightest evidence before the Senate, although we are asked to pass this bill, that there was an illegal vote at the election. On the other hand, the presumption is that these were legal votes, although open to question and to investigation, of course, if anybody chooses to raise an inquiry. The presumption is, that the registry was right, that the persons who made the registration, Mr. Bowen himself being one of them, made an honest and proper enumeration of the persons in this city qualified to exercise the elective franchise, and for five days before the election there was the opportunity to revise those lists and to make them perfect and complete and exactly in accordance with this very law which is now appealed to on the subject of soldiers.

I say, then, that every presumption is in favor of the legality of the votes which were received in that ward and which were undeniably upon the registration list. And observe, sir, that under the prior law, before this act of this spring to which allusion is made, one year's residence in this city was required, not of citizens merely but of soldiers also—of all classes. Consequently these registrars, of whom Mr. Bowen was one, must only have registered those persons in the military service who had been residents of the city of Washington for one year before. They did register them, and their names were put up for public inspection, and they remained there after the registration lists were revised. There is, therefore, no reason for the declaration, which is made here with such confidence, that those votes were illegal.

And, sir there is no pretense that the election officers did investigate the question of their right to vote at all. They had no right under the law to do it when the election was held. There is no pretense that they attempted to do it, certainly after the election was over. They entered into no examination; they called no witnesses with reference to these voters. They did not examine the voters themselves.

How could they say that any one of them was not entitled to vote? Certainly they could not. Therefore all that this board did was not only a usurpation of power, but it was an outrage upon the electors of the city of Washington that they, without the slightest authority, without any color of law to sanction their proceedings, should strike from the poll the necessary number to count off particular officers from the returns and count in others, and to do this after these very men themselves had certified under the law the result of the election and their duties had come to an end.

It is not for me, sir, to describe the conduct of these commissioners of election; but there is one thing I can do; I can form an opinion of the attitude and position in which I should be placed by voting for this bill which has been sent here in their interest. I should consider myself disgraced by sanctioning any law to patch up a miserable election trick of this kind to enable certain persons in the common council of the city to possess the legal power if they please hereafter to purge the election, or to transfer this dispute to a court of the District to undergo investigation there perhaps for six months or a year, and meantime install the rejected persons in office in the board of common council and enable them to control the patronage of the city of Washington and place their favorites in office, or, at all events, to hold the other branch of the local legislature, the board of aldermen, in check, and control them in taking such action as they are entitled to take under the law of their organization.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania.

Mr. BUCKALEW called for the yeas and nays; and they were ordered.

Mr. BUCKALEW. This amendment simply provides that the register of the city shall make out his certificate upon the official returns made to him by the election officers instead of "satisfactory evidence."

Mr. WILLIAMS. I wish to make one suggestion to the Senator. I am sure he sees the effect of this amendment, but it defeats the bill. I presume every Senator sees that, because, of course, one board of aldermen will claim that certain returns are not regular, and the other board will claim that they are regular, and it leaves the question just as we find it, and unless we pass the bill as it stands we accomplish nothing.

The question being taken by yeas and nays, resulted—yeas 8, nays 29; as follows;

YEAS—Messrs. Buckalew, Davis, Doolittle, Fowler, Hendricks, McCreery, Patterson of Tennessee, and Vickers—8.

NAYS—Messrs. Anthony, Chandler, Cole, Conness, Corbett, Cragin, Ferry, Harlan, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Tipton, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—29.

ABSENT—Messrs. Bayard, Cameron, Cattell, Conkling, Dixon, Drake, Edmunds, Fessenden, Frelinghuysen, Grimes, Henderson, Johnson, Morton, Norton, Saulsbury, Sprague, and Trumbull—17.

So the amendment was rejected.

Mr. HENDRICKS. In the fourth section, after the word "trial," in the twelfth line, I move to insert the words "and either party may have a trial by jury."

The amendment was rejected.

Mr. HENDRICKS. I move to strike out the following words in the third section, fifth and sixth lines, "and the action of said court in relation thereto shall be final." I will state to the Senate that I think the amendment should be adopted. The proceeding contemplated in this section is summary and ought not to be final. It provides for placing the party in office upon the certificate alone, and does not propose to go into the merits of the controversy, if controversy shall exist, and upon that trial, when the case is to be decided exclusively by the certificate given by the register, the finding or decision of the court ought not to be final. I will read the section:

Sec. 3. And be it further enacted, That the supreme

court of the District of Columbia, or any judge thereof, shall have jurisdiction to enforce, by *mandamus* or otherwise, the right of any person holding the certificate mentioned in the first section of this act; and the action of said court in relation thereto shall be final.

I move to strike from this last clause all after the word "act."

Mr. HARLAN. I see no objection to the Senator's amendment.

Mr. HENDRICKS. Very well.

The amendment was agreed to.

Mr. HENDRICKS. One more amendment and I shall not trouble the Senate. I move to strike out the second section.

The section was read as follows:

SEC. 2. And be it further enacted, That any person who shall hinder or obstruct a person holding the certificate of election mentioned in the foregoing section from entering upon or discharging the duties of such office, shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be fined in any sum not exceeding \$1,000, or be imprisoned in the county jail not exceeding six months, or both said punishments, in the discretion of the court.

Mr. HENDRICKS. This is an extraordinary provision, I think, to make it a crime to obstruct in any way the entering upon an office by anybody. I do not know of any such provision in any of the States, and I think we are getting quite enough of criminal laws on the statutes of the United States without a provision of this sort. I think there are two vices now prevalent, one making a crime out of everything until "crime" ceases to be offensive almost, and the other is requiring everything to be sworn to, so that the sanctity of an oath is absolutely lost.

The amendment was rejected.

Mr. VICKERS. I offer an amendment to add to the fourth section the following proviso:

*Provided*, That this act shall not extend to the contested elections now pending in the said city, but that the said elections shall be decided by the tribunal which shall have jurisdiction of the same.

The amendment was rejected.

The bill was ordered to be engrossed for a third reading; was read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1255) for the relief of Champe Carter, jr.; and a joint resolution (H. R. No. 295) to authorize the Secretary of the Treasury to remit the duties on certain articles contributed to the National Association of American Sharpshooters; in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 322) granting a pension to Sherman H. Cowles;

A bill (S. No. 323) granting a pension to Michael Kelley;

A bill (S. No. 344) granting a pension to Caroline and Margaret Swartwout;

A bill (S. No. 420) granting a pension to James A. Guthrie;

A bill (S. No. 421) granting a pension to Caroline E. Thomas;

A bill (S. No. 424) granting a pension to Bartlett and Carrie Edwards, children of David W. Edwards, deceased; and

A joint resolution (H. R. No. 137) requesting the President to intercede with her Majesty, the Queen of Great Britain, to secure the speedy release of Rev. John McMahon, convicted of treason-felony, and now confined at Kingston, Canada West.

#### BILLS INTRODUCED.

Mr. CATTELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 543) to provide for a further issue of temporary loan certificates for the purpose of redeeming and retiring the remainder of the outstanding compound interest notes; which was read twice by its title, referred to the

Committee on Finance, and ordered to be printed.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 544) to provide for a board of commissioners for the District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. ANTHONY submitted an amendment intended to be proposed to the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869; which was referred to the Committee on Appropriations.

#### HOUSE BILLS REFERRED.

The joint resolution (H. R. No. 294) donating to the Washington City Orphan Asylum the iron railing taken from the old Hall of the House of Representatives was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

The bill (H. R. No. 1215) for the relief of Champe Carter, jr., was read twice by its title, and referred to the Committee on Claims.

The joint resolution (H. R. No. 295) to authorize the Secretary of the Treasury to remit the duties on certain articles contributed to the National Association of American Sharpshooters was read twice by its title, and referred to the Committee on Finance.

#### EXECUTIVE SESSION.

On motion of Mr. POMEROY, the Senate proceeded to the consideration of executive business; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, June 13, 1868.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

On motion of Mr. HOLMAN, by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### NATIONAL BANKS.

Mr. RANDALL. I rise to a question of privilege. On the 25th of May I offered a resolution, which was adopted, calling upon the Comptroller of the Currency for certain information. On the next day the gentleman from Massachusetts, [Mr. HOOPER,] whom I do not now see in his seat, entered a motion to reconsider the vote by which the resolution was adopted. Since that time he has taken no action in connection with that motion, and I now call it up and move that it be laid upon the table.

Mr. CULLOM. Is that privileged?

The SPEAKER. It is, and can be called up at any time when there is no business before the House.

Mr. CULLOM. There is evidently no quorum here.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Pennsylvania will wait until the gentleman from Massachusetts [Mr. HOOPER] is in his seat.

Mr. RANDALL. I have waited two weeks already and the gentleman from Massachusetts has taken no action on the subject, and this is the only time in the day when I can make my motion. I ask that the resolution may be read for the information of the House.

The Clerk read the resolution, as follows:

*Resolved*, That the Comptroller of the Currency be requested to furnish to this House a statement of the amount of dividends declared by the national banking associations since their organization under the present national banking act; the amount credited to the real estate account distinct from the capital expended therefor; the amount credited to the surplus account; the amount of their undivided profits and all losses, each respectively per annum. If such information be not in his possession, he is further directed to take prompt measures to procure and transmit the same to this House.

Mr. WASHBURNE, of Illinois. This is evidently going to require a division of the House, and it is apparent there is no quorum

here. Besides, the gentleman from Massachusetts [Mr. HOOPER] is not present. As this is a privileged matter the gentleman from Pennsylvania [Mr. RANDALL] can call it up at any time.

Mr. RANDALL. I am advised by the Speaker that this is the only time in the day when I can call the matter up.

Mr. HOOPER, of Massachusetts, here entered the Hall and said: I withdraw the motion to reconsider.

Mr. RANDALL. I renew the motion to reconsider, and also move to lay that motion on the table.

The SPEAKER. That is not necessary; and besides the time for making the motion to reconsider has passed.

#### SARAH HACKLEMAN.

Mr. HOLMAN. There was a tacit understanding on yesterday that I should have permission to introduce the bill which I now send to the Clerk's desk to be read. I hope there will be no objection to it.

The bill was one granting a pension to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman.

The bill was read at length. The first section directs the Secretary of the Interior to place on the pension roll the name of Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman, for a pension at the rate of fifty dollars a month, from the 3d day of October, 1862, on which day General Hackleman fell mortally wounded at the battle of Corinth.

The second section discontinues the pension heretofore allowed to Sarah Hackleman under the general law.

The SPEAKER. Is there objection to the introduction of this bill for consideration at the present time?

Mr. HOLMAN. I desire the attention of the House for a moment while I explain this bill. I hold in my hand—

Mr. HARDING. Has that bill been reported from any committee?

The SPEAKER. It has not. The gentleman from Indiana [Mr. HOLMAN] asks unanimous consent for its introduction and consideration at this time.

Mr. HARDING. I think the bill should be referred to a committee.

Mr. HOLMAN. I hope the gentleman will not insist upon that. It was understood yesterday that I should have leave to introduce this bill.

Mr. HARDING. It is a very unusual proceeding.

Mr. HOLMAN. If the gentleman will listen to me for a moment—

The SPEAKER. If the gentleman from Illinois [Mr. HARDING] persists in his objection, the bill is not now before the House.

Mr. HARDING. I insist upon my objection. I am willing that the bill shall be introduced and referred to the Committee on Invalid Pensions.

Mr. HOLMAN. It is too late in the session to expect to get any more reports from that committee, as the gentleman from Illinois well understands.

Mr. HARDING. I hope not, for there are several bills before that committee in which my constituents are interested.

Mr. HOLMAN. I will consent to have the bill referred, if permission can be given to the committee to report upon it at any time.

Mr. WASHBURNE, of Illinois. I hope that permission will be given, and also to report at any time in the case of Mrs. Beeler, the widow of Major Beeler, a paymaster, who died while in the service of the Government.

Mr. HARDING. I object to any special privileges being given to the widows of officers who are now receiving pensions and desire an increase of pension, while there are dozens of widows of private soldiers who need pensions and have not received them.

Mr. HOLMAN. Very well; then I will try and get this bill before the House on Monday next.

## ORDER OF BUSINESS.

Mr. DAWES. I rise to a question of privilege.

Mr. SCHENCK. I call for the regular order.  
The SPEAKER. A question of privilege is the regular order.

Mr. DAWES. I desire to call up for action the amendments of the Senate to the House joint resolution to relieve from political disabilities R. R. Butler, of Tennessee.

Mr. MYERS. Will the gentleman from Massachusetts [Mr. DAWES] yield to me for a moment?

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] has called for the regular order.

Mr. MYERS. I hope the gentleman will withdraw that call for a moment.

Mr. DAWES. In view of the condition of the House this morning I will not call it up at this time if the gentleman from Ohio will permit me to call it up immediately after the morning hour this morning.

Mr. SCHENCK. It will occasion debate or a division of the House, and take up time.

Mr. DAWES. Then, if the gentleman insists upon it, I shall have to call it up now.

Mr. SCHENCK. The gentleman can do as he pleases, but I do not think he should do what he says.

Mr. DAWES. There is no objection, so far as I know, to the amendment of the Senate, but it is necessary to have action of the House upon it.

Mr. MYERS. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. MYERS. My point of order is that it is not in order for gentlemen to converse with each other across the Hall.

The SPEAKER. The Chair thinks it may be, for the gentleman from Pennsylvania [Mr. MYERS] was conversing with the gentleman from Ohio [Mr. SCHENCK] across the aisle a few minutes since.

Mr. MYERS. I, however, addressed the Chair.

Mr. DAWES. If the gentleman from Ohio [Mr. SCHENCK] will not object to my calling this matter up on Monday next, I will not call it up till then.

Mr. SCHENCK. Very well, let it come up on Monday.

Mr. DAWES. I hope the gentleman will make no objection.

Mr. SCHENCK. I cannot help myself, for it is a question of privilege.

## ORDER OF BUSINESS.

The SPEAKER. The morning hour has now commenced, and the first business in order is the reporting of bills of a private nature, commencing with the Committee on Roads and Canals.

No reports from the Committee on Roads and Canals were presented.

## CHAMPE CARTER, JR.

Mr. ELIOT, from the Committee on Freedmen's Affairs, reported a bill (H. R. No. 1255) for the relief of Champe Carter, jr.; which was read a first and second time.

The bill authorizes and directs the Commissioner of Refugees, Freedmen, and Abandoned Lands to pay to Champe Carter, jr., late sub-assistant commissioner of the bureau for the counties of Robertson and Milan, in the State of Texas, out of moneys heretofore appropriated for the use of the bureau, the sum of \$526 50, being the amount due to him for services as sub-assistant commissioner from March 17, 1866, to August 29, 1866.

Mr. WARD. I would like to hear an explanation of this bill.

Mr. ELIOT. Mr. Speaker, Champe Carter, jr., the person for whose relief this bill is proposed, was appointed March 17, 1866, as a sub-assistant commissioner in an interior part of the State of Texas. According to the evidence before the committee he rendered very faithful service from March 17, 1866, till August 29 of the same year. In July, 1866, the bill continuing the bureau was passed, and one of the provisions of that bill required all

the agents of the bureau to take the test-oath. It turned out that Mr. Carter had been engaged in the service of the confederacy. Upon the passage of that law General Kiddoo, who was in command of that division, wrote a letter to Mr. Carter, saying that he was very sorry to be compelled to dispense with his services, but that the law required he should be relieved because he could not take the oath. Carter had before stated to the general what his services had been, and although he was a registered voter and a very loyal and true man yet he was unable to take the oath, and had to be relieved. The accounts for his pay were sent in, and the Commissioner, upon examination, stated that he would be very glad to allow the vouchers to be paid but for the provision of the act which made it necessary that Congress should authorize the payment. The evidence before the committee is very full, showing not only that Mr. Carter is a very worthy man in private life, but that he earnestly and faithfully performed the duties of his office; and no reason exists against giving him pay. He has had no compensation for any of his work on account of the provision of law to which I have referred. The bill makes no appropriation, but simply authorizes the Commissioner to apply moneys now in his hands to the payment of this man.

Mr. WARD. I desire to inquire what were the services rendered by this man to the confederacy which incapacitated him to take the oath?

Mr. ELIOT. He was for a short time a non-commissioned officer in the service of the confederacy.

Mr. WARD. Does the gentleman think we should be employing that class of persons as agents of the Freedmen's Bureau?

Mr. ELIOT. Well, sir, other things being equal, I should say that we should not. But this is a good man, and I hope there will be no objection to the passage of the bill.

Mr. BURR. Will the gentleman permit me to make an inquiry?

Mr. ELIOT. Yes, sir.

Mr. BURR. I wish, in the first place, to ask whether it is necessary to have an act of Congress to provide for payment in special cases of this kind; and secondly, what evidence is there that this applicant, notwithstanding the fact that he held a position in the rebel army and fought against the Government, has been since that time what the gentleman calls "a good man?"

Mr. ELIOT. We have the evidence coming from General Kiddoo, and also the affidavits of two or three officials in the part of Texas where this man resided, certifying upon oath to his character and the general worthiness of his conduct.

Mr. BURR. The gentleman recognizes the fact, then, I suppose, that a man may have been for the time being engaged in the rebellion and yet be a good man. I wish to ask him whether he does recognize that or not?

Mr. ELIOT.

"While the lamp holds out to burn  
The vilest sinner may return."

[Laughter.]

Mr. VAN TRUMP. Was this gentleman a conscript or a volunteer in the confederate service?

Mr. ELIOT. I cannot say from my own knowledge, but I infer from the letter in which General Kiddoo refers to the conversation he had with Mr. Carter that he was so in the service as to be within the purview of the law.

Mr. MULLINS. He ought never to have been there; and, sir, I will never vote for a man who was in the rebel service.

Mr. WASHBURNE, of Illinois. This man rendered the service for which he asks to be paid.

Mr. PILE. Was he in the rebel army or in the confederate civil service?

Mr. TRIMBLE, of Kentucky. I desire to know from the gentleman from Massachusetts whether or not it would not be better to make the bill general in its character, and let it apply to all persons similarly situated?

Mr. ELIOT. There is not another case in the bureau. This is a solitary exceptional case.

Mr. TRIMBLE, of Kentucky. What reason other than that he belonged to the Freedmen's Bureau is there for exempting him than any other man who was in the confederate service. I hope this will be referred to some committee, so we may have uniform general legislation, and not this class legislation.

Mr. HARDING. Was he at the time he was appointed qualified under our laws to perform this service?

Mr. ELIOT. He was appointed before the law was passed in July, 1866, and was in office at the time.

Mr. HARDING. Why, then, cannot the Department pay him?

Mr. ELIOT. Because of the provision of that law which disabled him. He was immediately relieved, and he now asks to be paid for the time he was in service before the law passed making it unlawful for him to be appointed.

Mr. MULLINS demanded the yeas and nays. The yeas and nays were ordered.

The question was put on the passage of the bill; and there were—yeas 49, nays 19, not voting 120; as follows:

YEAS—Messrs. Archer, Baker, Barnes, Beatty, Beck, Brownell, Chanler, Churchill, Sidney Clarke, Cornell, Dawes, Dixon, Ela, Eliot, Ferriss, Getz, Glossbrenner, Harding, Higby, Holman, Hopkins, Chester D. Hubbard, Julian, Ladin, Loughbridge, Merour, Moore, Morrell, Myers, Niblack, Paine, Peters, Pile, Plants, Pomeroy, Price, Randall, Robertson, Sawyer, Shanks, Starkweather, Thaddeus Stevens, Stokes, Thomas, John Trimble, Trowbridge, Upson, Robert T. Van Horn, and Henry D. Washburn—49.

NAYS—Messrs. Beaman, Burr, Cobb, Cullow, Goldaday, Grover, Hawkins, Judd, Ketcham, Knott, Mullins, Scofield, Shellabarger, Aaron F. Stevens, Taber, Lawrence S. Trimble, Van Trump, Ward, and Elihu B. Washburne—19.

NOT VOTING—Messrs. Adams, Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnum, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Doyer, Brooks, Broomall, Buckland, Butler, Cake, Cary, Reader W. Clarke, Coburn, Cook, Covode, Delano, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Farnsworth, Ferry, Fields, Finney, Fox, Garfield, Gravely, Griswold, Haight, Halsey, Hill, Hooper, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Jenckes, Johnson, Jones, Kelley, Kelsey, Kerr, Kitchen, Koontz, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Lynch, Mallory, Marshall, Marvin, Maynard, McCarthy, McClurg, McCormick, McCullough, Miller, Moorehead, Morrissey, Mungen, Newcomb, Nicholson, Nunn, O'Neill, Orth, Perham, Phelps, Pike, Poland, Polsley, Pruyn, Raum, Robinson, Ross, Schenck, Selye, Sitgreaves, Smith, Spalding, Stewart, Stone, Taffe, Taylor, Twichell, Van Aernam, Van Auker, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—120.

The SPEAKER. There is no quorum voting.

Mr. WASHBURNE, of Illinois. Then I move that there be a call of the House.

The motion was agreed to.

The Clerk accordingly proceeded to call the roll, and the following members failed to answer to their names:

Messrs. Adams, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnum, Beaman, Benton, Bingham, Blair, Boutwell, Brooks, Broomall, Butler, Cary, Reader W. Clarke, Coburn, Cook, Covode, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Farnsworth, Ferry, Finney, Fox, Garfield, Haight, Halsey, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Jenckes, Johnson, Jones, Kelley, Kerr, Kitchen, George V. Lawrence, William Lawrence, Lincoln, Loan, Mallory, Marshall, Marvin, McCarthy, McClurg, McCormick, McCullough, Miller, Moorehead, Mungen, Newcomb, Nicholson, Nunn, Orth, Perham, Phelps, Pike, Poland, Polsley, Pruyn, Robinson, Ross, Selye, Sitgreaves, Smith, Spalding, Stone, Taffe, Taylor, Van Auker, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward.

Mr. WARD. Mr. Speaker, I presume many of the absentees were not aware of the fact that the session to-day commenced at eleven o'clock.

The SPEAKER. That may be; it was only ordered last night at ten o'clock. A quorum is now present.



Mr. WARD. I move that the further call of the House be dispensed with.

The motion was agreed to.

The SPEAKER. The yeas and nays will be again called on the passage of the bill.

The question was again taken; and it was decided in the affirmative—yeas 70, nays 27, not voting 92; as follows:

YEAS—Messrs. Allison, Archer, Delos R. Ashley, Baker, Barnes, Beaman, Beatty, Beck, Blaine, Boyer, Bromwell, Buckland, Cake, Chanler, Churchill, Sidney Clarke, Cornell, Dawes, Dixon, Eckley, Ella, Eliot, Ferriss, Fields, Getz, Glossbrenner, Harding, Higby, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Judd, Julian, Ketcham, Laffin, Loughridge, Lynch, Mercer, Moore, Morrell, Myers, Newcomb, Niblack, O'Neill, Paine, Peters, Pile, Plants, Pomerooy, Price, Randall, Robertson, Sawyer, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Ward, Henry D. Washburn, William Williams, and John T. Wilson—70.

NAYS—Messrs. Benjamin, Burr, Cobb, Covode, Cullom, Delano, Golladay, Gravely, Griswold, Grover, Hawkins, Hooper, Kelsoy, Knott, Kootz, Logan, Maynard, Morrissey, Mullins, Schenck, Scofield, Shellabarger, Taber, Lawrence S. Trimble, Van Trump, Elihu B. Washburne, and Welker—27.

NOT VOTING—Messrs. Adams, Ames, Anderson, Arnold, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnum, Benton, Bingham, Blair, Boutwell, Brooks, Broomall, Butler, Cary, Reeder W. Clarke, Coburn, Cook, Dodge, Donnelly, Driggs, Eggleston, Eldridge, Farnsworth, Ferry, Finney, Fox, Gifford, Haight, Halsey, Hill, Asahel W. Hubbard, Richard D. Hubbard, Hulbard, Humphrey, Hunter, Ingorsoll, Jenckes, Johnson, Jones, Kelley, Kerr, Kitchin, George V. Lawrence, William Lawrence, Lincoln, Loan, Mallory, Marshall, Marvin, McCarthy, McClure, McCormick, McCullough, Miller, Moorhead, Mungen, Nicholson, Nunn, Orth, Perham, Phelps, Pike, Poland, Polsley, Pruyn, Raum, Robinson, Ross, Selie, Shanks, Sitgreaves, Smith, Spalding, Stone, Taffe, Taylor, Van Aukken, Bart Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—92.

So the bill was passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED JOINT RESOLUTION.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 187) requesting the President to intercede with her Majesty, the Queen of Great Britain, to secure the speedy release of Rev. John McMahon, convicted on a charge of treason-felony, and now confined at Kingston, Canada West; when the Speaker signed the same.

Mr. MYERS obtained the floor to make a report from the Committee on Patents under the call of the committees, but yielded to Mr. CLARKE, of Kansas.

#### GREAT AND LITTLE OSAGE INDIANS.

Mr. CLARKE, of Kansas. I ask unanimous consent to submit the following preamble and resolution for consideration at the present time:

Whereas it is reported that a treaty has recently been concluded with the Great and Little Osage Indians, by which it is proposed to transfer eight million acres of land, located in the State of Kansas, to a railroad corporation; and whereas it is reported that by the provisions of said treaty the people of the United States are excluded from the rights of homestead and preemption settlement; and whereas it is also reported that improper influences have been used to accomplish the framing and signing of said treaty, and that the interests of the Indians and of the people have been grossly and fraudulently neglected; and whereas an investigation has been ordered by this House, into all the facts connected with said treaty: Therefore,

Resolved, That the President is hereby directed to furnish to this House copies of all instructions, records, and correspondence connected with the commission authorized to make the above-named treaty, and copies of all propositions made to said commission from railroad corporations or by individuals; and the President is requested to withhold said treaty from the Senate until a full investigation can be had and report made by the Committee on Indian Affairs of this House.

Mr. MAYNARD. I will not object to this if the object of introducing it is to inquire into the conduct of our own officials and investigate that with a view to dealing with them. But if the object is to interfere with the treaty-

making power of the Government, I shall feel compelled to object.

Mr. CLARKE, of Kansas. The House has already ordered an investigation into all the facts connected with the making of this treaty by a commission appointed by the President of the United States. The purpose is not to interfere in any way with the treaty-making power.

Mr. MAYNARD. Very well, I withdraw the objection.

Mr. WASHBURN, of Illinois. I suggest to the gentleman from Kansas that he modify his resolution by striking out the word "directed" and inserting "requested." That is the usual mode of addressing the President.

Mr. CLARKE, of Kansas. I will modify the resolution in that way.

Mr. STEVENS, of Pennsylvania. I hope something of this kind will be done. I know that there are two or three men in Texas—railroad men, who are monopolizing the public lands there for their railroads, and obstructing all improvements in the State. I hope there will be a thorough investigation of the whole matter.

The resolution was adopted.

Mr. CLARKE, of Kansas, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MYERS. I desire, before yielding further, to inquire how much of the morning hour there is remaining?

The SPEAKER. The morning hour will expire at eighteen minutes past twelve.

Mr. MYERS. I yield for a moment to the gentleman from Maine, [Mr. LYNCH.]

#### UNITED STATES COURTS.

Mr. LYNCH, by unanimous consent, introduced a bill (H. R. No. 1256) to amend an act entitled "An act to provide for holding the courts of the United States in case of the sickness or other disability of the judges of the district court," approved July 29, 1850; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. RANDALL moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MYERS. I yield now for a moment to the gentleman from Illinois, [Mr. LOGAN.]

#### REMOVAL OF THE SEAT OF GOVERNMENT.

Mr. LOGAN. I do not desire to take up the time of the House, but I desire to give notice that on Monday next I shall move to suspend the rules to offer a resolution authorizing the appointment of a committee of this House to select a site for the capital of the United States, on account of the disregard of the law and the disloyal element that is constantly showing itself in such bitterness in this city toward the loyal people of this country and in disregard of the authority of the United States.

Mr. MYERS. I yield for a moment to the gentleman from Indiana, [Mr. JULIAN.]

#### LANDS IN SOUTHERN STATES.

Mr. JULIAN, by unanimous consent, introduced a bill (H. R. No. 1257) relative to lands sold for non-payment of Federal taxes or under a judgment or decree of the courts of the United States in the States lately in rebellion; which was read a first and second time, and referred to the Committee on the Public Lands.

Mr. HOLMAN moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MYERS. I yield now for a moment to the gentleman from Tennessee, [Mr. HAWKINS.]

#### SETH LEA.

Mr. HAWKINS. I ask unanimous consent of the House to report from the Committee

on Military Affairs a bill for the relief of Seth Lea.

Mr. WASHBURN, of Illinois. Let it be read.

The bill was read. It directs the Secretary of the Interior to place the name of Seth Lea, of Knox county, Tennessee, on the roll of invalid pensions at the rate of the full pension now allowed by law to a second lieutenant, said pension to commence on the 5th day of April, 1865, and to continue for his natural life.

Mr. BURR. I would ask how and why this bill comes from the Committee on Military Affairs?

Mr. HAWKINS. I will explain the bill. This man was employed to recruit for the Federal Army with the promise that he should be commissioned as a lieutenant. After carrying several hundred men across the mountains, and while crossing the mountains with others, he and the men who were with him were captured by the rebels. He was imprisoned in Castle Thunder from 1863 to the close of the war, and was disabled by being frost-bitten while in prison. This bill is reported unanimously by the Committee on Military Affairs.

Mr. WASHBURN, of Illinois. It is a pension bill. It may be a meritorious case, but it seems to me that it ought not to come from the Committee on Military Affairs.

Mr. MAYNARD. I hope no objection will be interposed to this bill. The application was for pay while thus imprisoned in Castle Thunder, having been captured in the manner my colleague [Mr. HAWKINS] has described. The Committee on Military Affairs, however, thought the relief proper in the case would be a pension, and they have reported a bill accordingly. The man is now between sixty and seventy years of age, and is almost dead from the effects of his imprisonment. He is also in very necessitous circumstances in consequence of the war, although when the war commenced he was in comfortable circumstances.

Mr. BURR. If the Committee on Military Affairs see fit to report a pension bill—

Mr. MYERS. I rise to a question of order. If the Patent Committee is not reached before the morning hour expires, will the portion of the hour this morning count against the committee?

The SPEAKER. It will.

Mr. MYERS. I must then resume the floor.

Mr. BURR. I only intended to place the Committee on Pensions right in this matter.

The SPEAKER. The Chair understands the gentleman from Pennsylvania [Mr. MYERS] to object to the consumption of time.

Mr. MYERS. I am willing to yield if the morning hour of to-day is not counted against us, provided the Patent Committee is not called before the expiration of that morning hour.

The SPEAKER. It will count against the committee. Any fraction of the hour will count as an hour.

Mr. MYERS. As we yielded our right to the Committee on Invalid Pensions to the morning hour of yesterday, and as the morning hour of to-day is about to expire, I ask unanimous consent that the remainder of this morning hour be not counted against the Committee on Patents, but that our time shall be regarded as beginning on next private bill day.

Mr. WASHBURN, of Illinois. I object.

Mr. MYERS. Then I must resume the floor now.

The SPEAKER. The gentleman from Pennsylvania [Mr. MYERS] having resumed the floor, the bill of the gentleman from Tennessee [Mr. HAWKINS] is not before the House.

#### WOOD-SCREW PATENTS.

Mr. MYERS, from the Committee on Patents, reported back, with a recommendation that the same do pass, House bill No. 810, for the relief of the widow and heirs of Thomas W. Harvey, deceased.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. MYERS. For the purpose of saving time, I now call the previous question.

Mr. WASHBURN, of Illinois. Has not this bill been already acted upon and disposed of by this House?

Mr. HOLMAN. Let the bill be read.

The SPEAKER. The Clerk will report the bill to the House, after which the question will be upon seconding the call for the previous question.

The bill was read at length. It authorizes the Committee on Patents to hear the application of the widow and heirs of Thomas W. Harvey, deceased, for a reextension of the patent heretofore granted to the said Harvey, on the 30th of May, 1846, for an improvement in machinery for cutting screws, and reissued on the 28th of December, 1858; and also the application of the heirs of Thomas W. Harvey for the reextension of the patent heretofore granted to said Harvey, on the 18th of August, 1846, for improvement in machinery for dressing screw-heads, and reissued on the 4th of January, 1859, and to grant the extension of said patents for the period of seven years respectively, from the 30th of May, 1867, and the 18th of August, 1867, when said patents by law expired; provided that the patents shall be extended only for the benefit of the widow and legal heirs of said Harvey, and that these extensions shall not develop for the use and benefit of any corporation or person claiming any right or interest in either of the said patents by virtue of any alleged agreement, transfer, or assignment heretofore executed by the said heirs, or any arbitration or award heretofore made between the said heirs and any other person or corporation; and if at any time said extended letters-patent shall become in whole or in part the property of the company which owned said patents at the time when they were about to expire, or of their successors, then this act shall at once thereafter become void and of no effect; and provided also that all rights in law or equity of the persons legally in possession of machines covered by said patents shall be fully protected in all cases from the said extensions of letters-patent; provided said Commissioner, after full hearing, upon due notice to all persons desiring to contest said extensions, shall be of opinion that said patents should be so extended.

Mr. MYERS. I call the previous question.

Mr. STEVENS, of Pennsylvania. I move to lay this bill on the table. I have helped to kill it three times, and I want to kill it the fourth time.

Mr. DAWES. I would like to make an inquiry of the gentleman from Pennsylvania, [Mr. MYERS.]

Mr. MYERS. I withdraw the call for the previous question, to hear the gentleman's inquiry.

Mr. DAWES. I desire to inquire whether this is the same patent the renewal of which has been refused by the House heretofore?

Mr. MYERS. It is a new bill.

Mr. DAWES. I trust the gentleman will answer my question.

Mr. MYERS. I have not the time now, as the morning hour is about to expire.

Mr. DAWES. I want to know whether this is the same patent (the bill being drawn in a different shape) the extension of which has been twice defeated in this House?

Mr. MYERS. I will answer the gentleman as soon as I have the time. The Committee on Patents has had no time to report, I having yielded to a number of gentlemen; and the morning hour is about to expire. If the House will second the previous question, I will make a full explanation and yield to other gentlemen who may desire to discuss the bill. I demand the call for the previous question.

Mr. WASHBURN, of Illinois. Have I not the right to call for the reading of the report?

The SPEAKER. The gentleman has not while the demand for the previous question is pending.

Mr. DAWES. Is this proposition, which been twice defeated, to be put through without the report being read?

Mr. MYERS. I will withdraw the call for the previous question, and I trust my colleague [Mr. STEVENS, of Pennsylvania] will withdraw the motion to lay on the table. I have yielded all the time the committee had to-day, and I think we have been treated rather unkindly.

Mr. WASHBURN, of Illinois. What is the pending question?

The SPEAKER. The motion of the gentleman from Pennsylvania, [Mr. STEVENS,] to lay the bill on the table, is still pending.

Mr. MYERS. I hope my colleague, considering the circumstances, will withdraw that motion.

Mr. STEVENS, of Pennsylvania. No, sir; I cannot withdraw it. This is the same old wood-screw patent coming before us in its ghostly form for, I believe, the ninth time.

On the motion of Mr. STEVENS, of Pennsylvania, that the bill be laid on the table, there were—ayes 47, noes 50.

Mr. FARNSWORTH. I call for tellers.

The SPEAKER. The morning hour has expired; and this bill goes over till the morning hour of Friday next.

#### CHILDREN OF G. W. FREER.

The SPEAKER. The Chair is requested by the Committee on Invalid Pensions to state that there was a clerical error in the bill (H. R. No. 1252) granting a pension to the minor children of Garrett W. Freer, which was passed yesterday. The bill provided that the pension should commence July 5, 1868. The date ought to have been July 5, 1863. If there be no objection the correction will be made in the engrossed bill.

There was no objection.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I rise for the purpose of moving that the House resolve itself into the Committee of the Whole on the state of the Union on the tax bill; but before submitting that motion I move that all debate on the pending section in relation to banks be terminated in ten minutes after the House shall again resolve itself into the Committee of the Whole.

The motion was agreed to.

Mr. SCHENCK. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the tax bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

The pending section was section one hundred and thirteen.

The pending question was on the amendment of Mr. PRICE, to strike out in line fourteen the words "one sixth," and insert in lieu thereof the words "one twelfth," so as to make the clause read as follows:

And a tax of one twelfth of one per cent. each month upon the average amount of circulation issued by any bank, association, corporation, company, or person, including as circulation all certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the vault of the bank or redeemed and on deposit for said bank.

Mr. O'NEILL. Mr. Chairman, I will detain the House for a moment only. I rose last evening for the purpose of getting some information from the gentleman from Illinois [Mr. LOGAN] in reference to taxing deposits, and also to learn his views as to the propriety of having the Government funds deposited in banking institutions and private banks. I have since understood, and I thought last evening I was correct, that there was no such thing now as deposits of the Government in private banks. As I learn the facts there are yet national funds in national banks in many parts of the country, and especially in banks located where there are no offices of the sub-Treasury of the United States.

I stated last evening this was a great convenience to the Government and furnished facilities for the payment of Government claims and for the safety of collections in various of the internal revenue collection districts, while at the same time there was a check at all times in favor of the Government by the operations of the clearing-houses to which, especially in cities, the banks go. I was certain and I knew I was right when I stated to the committee, although we have a law restrictive in its character, as to making deposits of national funds in the banks, yet it is inevitable that deposits have to be made in banking institutions in different collection districts, the taxes to a large amount being paid in checks late in the business day when the sub-Treasury offices are closed, and the Government thus has the benefit of the watchfulness of the clearing-houses. Now, sir, while I stand here to-day a bank man, not as I was educated in the Whig party twenty-five years ago, and yet not by any means an anti-bank man as some of those around me were educated to be in the Locofoco party at the same period, still I am not for putting too severe restrictions upon the national banks. I am in favor of the law as it stands and in favor of the existing tax on circulation and deposits, but I do not want to see that tax increased. I know the circulation in some districts of the country and in some States is inadequate to the business done in them. I know in the city I have the honor in part to represent it is said by many that we have not a circulation adequate to the business of the city.

Mr. ELA. Has not one of your Philadelphia banks which had no use for its circulation sold enough to start a country bank for nine per cent. premium?

Mr. O'NEILL. I never heard of such a bank; but that is no point against the argument I make. I do not know of a banking institution of Philadelphia or of Pennsylvania that is to-day urging Congress not to put such a tax upon them as they and their customers should justly pay. I hope the tax upon circulation and deposits will not be increased.

I witnessed the attacks made years ago in Pennsylvania and other States upon the banks under the guise of protecting the people by legislation. These attacks were frequently made for the purpose of injuring these institutions, so necessary, when properly managed, to the business prosperity of the country; and my only interest in them now is to aid in saving them in their usefulness, and not to urge that they should be exempted from their due share of taxation.

[Here the hammer fell.]

Mr. LOGAN. I move to strike out "one sixth," and say "one fifth."

Mr. Chairman, I do not propose to enter into a general discussion of the propriety of banks, for that has nothing to do with the issue before the House. The question is whether the Government of the United States should receive interest on its deposits, the same as individuals. In other words, shall the Government of the United States require collaterals for their deposits, and those collaterals are in Government securities drawing six per cent. interest in gold, when at the same time we have millions of deposits in the banks. We pay the banks six per cent. in gold upon the collaterals, and they pay us not one cent upon the deposits of the Government, deposits upon which they make from six to ten per cent. on loans to individuals. It does seem to me strange that the bank can afford to pay private individuals for deposits from four to six per cent., and yet cannot pay the Government one cent.

Mr. O'NEILL. I speak from the stand-point of my own locality. I say, and I think my colleague from the first district [Mr. RANDALL] will concur with me, that this thing of paying interest on deposits in banks in Philadelphia is unknown.

Mr. LOGAN. Then all I have to say is that they had better deposit their money in Chicago or New York or Louisville or Cincinnati, where they do pay interest on deposits. I do not

know what the system of banking may be in Philadelphia, but it seems to be different from the workings of the banking business everywhere else. I know that six per cent. on deposits has been and is being paid where I live, and I do not see why, if they are willing to pay six per cent. on my money (if I have any to deposit) they cannot pay the Government three per cent. for its money, when the banks are drawing interest from the Government from the mere fact of its having deposits in these banks.

Now, sir, I propose at the proper time to offer—or the Committee of Ways and Means will offer it—the amendment which I suggested last night, that while the provisions of the bill, so far as the circulation of banks is concerned, shall stand as they are, three per cent. shall be paid as taxation by the bank upon the amount of Government deposits; so that the Government may be receiving some interest for its deposits as well as individuals; especially from those banks to which the Government is paying six per cent. in gold for the mere privilege of having banks to circulate the Government's own notes, the Government being responsible for the redemption of those notes. I cannot understand why it is that when you ask a small rate of interest to be paid to the Government upon the deposits of the Government in these banks, you at once raise a hornet's nest in this House. If you undertake to do anything that seems to furnish money to the Government and take it from the grasping clutches of capitalists, the very men that can afford to pay taxes, it seems to arouse the indignation of certain gentlemen here. Now, so far as I am concerned, my theory is that we should not legislate for the rich alone, but seek to take the burden off the poor man. You ought not to put so much upon the poor man that he will be unable to bear it. Unless you seek to derive your revenue from the sources that are well able to afford to be taxed, you will be very likely to find yourself without revenue.

Mr. GARFIELD. I rise to oppose the amendment *pro forma*. I wish to call the attention of the committee to the fact that an increase of the tax on circulation is much less productive of revenue than the same per cent. of increase of the tax on deposits. The report of the Comptroller of the Currency shows that in October last there were sixteen hundred and forty-three national banks, and that the total circulation was about two hundred and ninety-eight million dollars. The total deposits at that time amounted to \$565,500,000, being nearly double the amount of circulation. It will be seen that one twenty-fourth of one per cent. on deposits will produce twice as much as one twenty-fourth of one per cent. on circulation. Therefore, if our object is to increase the amount of revenue derived from banks, we can do it much more effectually by increasing the tax on deposits than by increasing it on circulation, as proposed in this bill. I am surprised that it should be proposed to raise the tax which is already highest, and let the lower tax stand as it is now fixed by law.

Another point, which has not been sufficiently considered in this debate. There is at the present, in my judgment, no more serious evil connected with our banking system than the fact that the banks in the great money centers, such as New York, are allowed to receive interest on deposits. The result is, all the country banks deposit their money in these banks and check against it at the same time that they are receiving interest on it, and are thus enabled substantially to use their money twice. While this is permitted they will of course not have money to lend at home to business men, even on good business paper, except at an exorbitant rate of interest. The result is, that all over the West, and everywhere in the rural districts, the currency is relatively very scarce, although it is very plenty, even a plethora, in all great money centers. There has not been a time in three years when money could not be had on call at a very low

rate of interest, as low as four per cent., and even lower in the city of New York, but it could not be had for sixty or ninety days without a much higher rate, even on the very best security. The reason was that currency was being used in Wall street in gambling operations, based on the rise and fall of stocks and gold. It is loaned on call for that business, when it would not be loaned on long time for the very best security. For these reasons I insist that we ought to throw the burden of taxation rather on deposits than on circulation. I am not sorry that the Committee of Ways and Means propose to get more revenue out of circulation, but I shall insist if they do they must correspondingly raise the tax on deposits.

It is generally conceded that deposits serve many if not all the purposes of currency. Mr. Walker, in his able work on Public Wealth, recently published, insists that all deposits are to be added as a clear addition to the total circulation of the country. If this view be correct, the Committee of Ways and Means ought to show the present difference in the rate of tax or the two should be continued; rather than to ask us—as they do in this bill—to make that difference greater—

[Here the hammer fell.]

The CHAIRMAN. All debate on this section is closed by order of the House.

Mr. LOGAN. I withdraw the amendment to the amendment.

Mr. PRICE. Is the question now on my amendment?

The CHAIRMAN. It is.

Mr. PRICE. And if my amendment prevails it will leave the law just as it is, will it not?

The CHAIRMAN. It will.

The question was taken on Mr. PRICE's amendment, and there were—ayes 42, noes 41; no quorum voting.

Tellers were ordered; and Messrs. PRICE, and HOOPER of Massachusetts, were appointed.

Mr. RANDALL. I desire to ask the Chair a question. Is a vote in the affirmative a vote to keep the tax where it now is under the existing law?

The CHAIRMAN. Yes, sir.

Mr. RANDALL. And a vote in the negative is in favor of increasing the tax.

Mr. MAYNARD. I desire to ask the Chair whether a vote for this amendment will keep the tax at one per cent., and a vote against it make the tax two per cent.?

Mr. FARNSWORTH. I rise to a question of order. That is not a parliamentary question.

The committee divided; and the tellers reported—ayes 51, noes 51.

The Chairman voted in the affirmative.

So the amendment was agreed to.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to offer the following amendment:

Page 165, section one hundred and thirteen, line nine, after the word "banking" insert as follows: "and a tax of one-fourth of one per cent. each month on the average amount of all deposits of public money in their possession to the credit of the Treasurer or of the disbursing officer of the United States."

Mr. GRISWOLD. I move to amend the amendment by inserting after the word "amount" the words "in excess of \$25,000."

The amendment to the amendment was disagreed to.

The question recurred on Mr. SCHENCK's amendment; and being put, the amendment was agreed to.

Mr. SCHENCK. I offer the following amendment from the Committee of Ways and Means to make the section conform to the amendment just adopted:

Page 165, section one hundred and thirteen, line five, after the word "money" insert the words "other than public moneys of the United States."

The amendment was agreed to.

Mr. RANDALL. I offer the following amendment, to come in at the end of the section:

*Provided further*, That none of the money herein

authorized to be collected shall be deposited in a national bank in any city or place where there is located the Treasurer or an Assistant Treasurer of the United States. All public moneys collected and received in any city or place for the Government shall be deposited with such Treasurer or Assistant Treasurer, shall be subject only to the draft of the Secretary of the Treasury or the Treasurer of the United States, as provided by law, and under such regulations as the Secretary of the Treasury from time to time shall deem expedient and establish; and any public officer violating this provision of the law and depositing public money otherwise than is herein directed, and any other person who shall aid therein, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined a sum not exceeding \$5,000, and be imprisoned for a term not exceeding three years, or either, at the discretion of the court.

Mr. SCHENCK. I rise to a point of order. The CHAIRMAN. The gentleman will state his point of order.

Mr. SCHENCK. The first part of this amendment, if it were separated from the rest, I think would be in order, and I should be in favor of it. But the last part of the amendment, proposing to amend the sub-Treasury laws, I think tends to make the amendment out of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. RANDALL. Very well; I will move that portion of my amendment to which the gentleman from Ohio [Mr. SCHENCK] does not object.

Mr. GARFIELD. I would suggest to the gentleman from Pennsylvania [Mr. RANDALL] to modify his amendment by inserting after the word "sub-Treasurer" the words "or other public depository."

Mr. RANDALL. The national banks are public depositories.

Mr. HOLMAN. Let the amendment as now submitted be read.

The amendment was again read, being to add to the section the following:

*Provided further*, That none of the money authorized to be collected under this act shall be deposited in a national bank in any city or place where there is located a Treasurer or an Assistant Treasurer of the United States.

Mr. O'NEILL. I want to ask my colleague [Mr. RANDALL] a question.

The CHAIRMAN. No further debate is in order.

Mr. RANDALL. I could not answer any question if I would.

Mr. LYNCH. I move to amend the amendment by adding to it the following:

*And provided further*, That no public moneys shall be deposited in any bank in any city where there is located a Treasurer or Assistant Treasurer of the United States.

Mr. RANDALL. That is the same as my amendment.

Mr. LYNCH. No, it is not. The amendment of the gentleman applies to moneys collected under this act; my amendment to the amendment relates to any public moneys.

The question was then taken upon the amendment of Mr. LYNCH to the amendment of Mr. RANDALL; and it was not agreed to.

The question recurred upon the amendment of Mr. RANDALL.

Mr. O'NEILL. I move to amend the amendment by adding to it the words "provided such deposits shall be made daily."

Mr. RANDALL. That is provided for elsewhere.

Mr. O'NEILL. Then I will withdraw my amendment.

The question was then taken on the amendment of Mr. RANDALL; and it was agreed to.

Mr. MAYNARD. I move to amend that portion of this section providing for a tax on the average amount of deposits, by striking out the words "one twenty-fourth" and inserting "one twelfth."

Mr. STEVENS, of New Hampshire. I move to amend the amendment by striking out "one twelfth" and inserting "one sixth."

The question was then taken upon the amendment to the amendment, and it was not agreed to; there being, upon a division—ayes twenty-two, noes not counted.

The question was then taken upon the amend-



ment of Mr. MAYNARD, and it was agreed to; there being, upon a division—ayes sixty-three, noes not counted.

Mr. MAYNARD. I have another amendment to offer.

Mr. HUBBARD, of West Virginia. I have an amendment to offer.

The CHAIRMAN. The gentleman from Tennessee [Mr. MAYNARD] will be recognized, being a member of the Committee of Ways and Means.

Mr. MAYNARD. I do not offer these amendments as coming from the Committee of Ways and Means, but as my individual amendments.

Mr. HUBBARD, of West Virginia. I will wait until the gentleman from Tennessee has offered his amendment.

Mr. MAYNARD. I move to amend the portion of this section providing for a tax on the capital of those banks, by striking out the words "beyond the average amount invested in United States bonds;" so that that portion of the section will read as follows:

And a tax of one twenty-fourth of one per cent. each month, as aforesaid, upon the capital of any bank, association, company, or corporation, and on the capital employed by any person in the business of banking.

The question was then taken upon the amendment of Mr. MAYNARD, and it was not agreed to; there being upon a division—ayes twenty, noes not counted.

Mr. HUBBARD, of West Virginia. In order to perfect this section, I move to amend that portion which relates to the tax upon capital by inserting after the word "corporation" the words "engaged in the business of banking;" so that that portion of the section will read as follows:

And a tax of one twenty-fourth of one per cent. each month, as aforesaid, upon the capital of any bank, association, company, or corporation engaged in the business of banking, and on the capital employed by any person in the business of banking, beyond the average amount invested in United States bonds.

The amendment was agreed to.

Mr. BLAINE. I move to further amend this section by striking out the following:

*Provided*, That the deposits in associations or companies known as provident institutions, savings-banks, savings funds, or savings institutions, having no capital stock and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the association or company, shall be exempt from tax on so much of their deposits as they have invested in securities of the United States, and on all deposits less than \$500 made in the name of any one person; and the returns required to be made by such provident institutions and savings-banks shall be made on the first Monday of January and July of each year, in such form and manner as may be prescribed by the Commissioner of Internal Revenue.

I think these deposits in the savings-banks should be taxed the same as deposits in other banks.

The question was taken upon the amendment of Mr. BLAINE, and it was not agreed to; there being, upon a division—ayes thirty-three, noes not counted.

Mr. HOLMAN. I move to further amend this section by inserting after the clause providing for a tax on circulation the following:

And a tax of one per cent. each half year on the principal of all bonds issued by the United States, owned by any bank, including the bonds deposited by said banks with the Treasurer of the United States, to secure circulation or deposits.

The question was taken upon the amendment; and upon a division there were—ayes 10, noes 58; no quorum voting.

Tellers were ordered; and Mr. HOLMAN, and Mr. HUBBARD of West Virginia, were appointed.

The committee again divided; and the tellers reported that there were—ayes 25, noes 75.

So the amendment was not agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 114. And be it further enacted, That every national banking association, State bank, or State banking association, corporation, company, or person engaged in the business of banking, shall pay a tax of ten per cent. on the amount of notes of any person, State bank, or State banking association, town, city, or other municipal corporation, used for

circulation and paid out by them; and such tax shall be assessed and paid in such manner as shall be prescribed by the Commissioner of Internal Revenue.

Mr. SCHENCK. I move to amend by inserting after the word "association" the word "State;" so as to make the section read:

That every national banking association, State bank, or State banking association, corporation, company, or person engaged in the business of banking, &c.

The amendment was agreed to.

Mr. MORRELL. I move to amend by adding at the end of the section the following:

*Provided*, That this section shall not apply to banks, persons, or institutions which are in liquidation, and which have not issued any notes for circulation for a period of more than one year.

My object in offering this amendment is to prevent the levying of this tax on institutions that have for a considerable time ceased to do business, having gone into liquidation.

Mr. SCHENCK. I think there is no objection to that.

The amendment was agreed to.

Mr. PETERS. I move to amend by inserting after the word "pay," in line four, the words "on and after January 1, 1870." The object of this amendment is to postpone the operation of this ten per cent. tax until the 1st of January, 1870. Mr. Chairman, this section introduced in a bill which is designed to raise revenue is on its face entirely prohibitory. The object of this tax of ten per cent. is to strangle the State banks, if the few of them now remaining in existence have any spark of life left. I would prefer that this section should be altogether stricken out, or that the tax should be reduced to a very small percentage; but I presume that this proposition for a postponement of the tax may possibly be more acceptable to the committee.

I venture to say, Mr. Chairman, that the object of this assessment of ten per cent. in previous internal revenue acts was to encourage or perhaps to drive the capital of the country into the national banking system. Has not that object been sufficiently attained? The capital of the country has gone into this system until now there is no more opportunity for investment in that direction. How has this system left some portions of the country in relation to banking facilities? I am looking at this question more particularly from the stand-point of Maine; and I suppose that many other portions of the country are similarly situated. It has several times been stated on this floor that New England and New York have the larger part of the national banking capital. Allow me to say that when it is stated that New England has in large proportion this banking capital it should be said that Massachusetts has it, and especially that the city of Boston has it. Why, sir, in the State of Maine our quota of the national banking capital is less than \$9,000,000, while the Commonwealth of Massachusetts has about eighty million, the little State of Rhode Island about twenty million, and the State of Connecticut about twenty-five million. This has arisen from the fact that during the war a great deal of capital found its way to our large business centers, the mercantile men in those places being quicker-scented. I can say for the State of Maine, especially the eastern part of it, that we are almost wholly without banking facilities. Our State banks are hardly alive; they are dying of the debility and consumption to which they have fallen victims under our previous revenue laws; and after continued struggling we have found no opportunity to get into the national banking system. Business men in the city of Bangor are now obliged to get their banking facilities, in a large degree, from the city of Boston, two hundred miles distant. The result is that while money may be worth from three to five per cent. in the city of Boston, yet in the city of Bangor, many of us in that part of the State being compelled to put ourselves into the hands of the brokers, and be consumed and swallowed up by their rapacity, money is worth from nine to fifteen per cent., and that, too, upon first-class securities.

That is our situation. The national banking system is at present a monopoly; its facilities are not diffused extensively enough. What is the remedy? Either to authorize an increase of the banking capital and give us a part of it or to take off or postpone this enormous taxation of the State banks. The postponement of the tax till 1870 would not tend to bring into existence new banks. But very few of the State banks are now left in existence. These have associated together, and brought a suit, now pending in the Supreme Court of the United States, to test the constitutionality of this tax.

[Here the hammer fell.]

Mr. SCHENCK. The effect of this section, Mr. Chairman, is just as represented by the gentleman from Maine. It is a provision which imposes such a tax upon State bank notes issued by cities and other corporations and by States to serve as money in the use of other banking institutions so as to prevent that issue and drive them out of circulation. Well, sir, it is not a new idea. The law was passed in 1865. It was then made prospective, and took effect on the 1st day of August, 1866, and it has been in full operation, so far as the notes of said banks were concerned, with a view to that policy, ever since the 1st day of August, 1866, now two years. Last year, in 1867, an amendment was made which extended its provisions to the notes issued by any town, city, or municipal corporation. This was an amendment which passed without objection on the representation made that in New Orleans and elsewhere municipal corporations were issuing notes to serve as money.

As the bill now presents the case for the consideration of the committee, it does not alter the law of 1865, which went into operation on the 1st of August, 1866, nor the law of 1867, which extended its provisions to the notes put out by municipal corporations, but only adds a single provision so as to embrace also notes issued to serve as money by States; for it so happens, we have ascertained in one or two of the southern States they have issued notes to serve as money. Then there is nothing at all now or strange in this proposition, and the gentleman is proposing to postpone to 1870 the operation of a law which was originally passed in 1865, and went into effect in 1866, which did go into effect the 1st of August, 1866, and has been in operation and full force ever since. I hope the amendment will not prevail.

Mr. PETERS. I withdraw the amendment.

Mr. PIKE. I renew it. Mr. Chairman, there is no reason why the House should not give attention to this amendment, and I think favorable attention to it. When we come back to specie payments it seems to be the general opinion that the bank law will cease to be a monopoly. As the bank law was founded on the free banking law of New York anybody could bank on the deposit of United States bonds, and when we come back to specie payments anybody can bank on the deposit of national bonds. In the meantime we are hedged in by this iron restriction of \$300,000,000. The proposition of my colleague is, that pending this time we shall allow State banks, what may be left of them, to run free of this odious tax; a tax, by the way, wrested from the proper idea of taxation, this being for the purpose of prohibition and not for revenue. So it is, in effect, a tax in the nature of a prohibition. Let up on this until we resume specie payments and the free banking system comes in, and you may destroy the State banks. I hope, in the mean time, this whole brood of national banks will be dissevered from the General Government, where they do not belong, and specie take their place, so that we shall have in a few words the axiom that prevailed during our war, that gold shall be national and paper sectional. I want this Government to sever its connection from paper in all shapes, whether in "greenbacks" or national bank bills, and place itself upon the constitutional currency of gold and silver. Then, if any of the States wish to deal in paper currency, let

them do it. Let the national currency then be nothing but gold and silver.

Now, we have this currency of the General Government which is now so contracted and restricted that localities that did not at the time come in with the keen scent of the capitalists of the city are stripped of the circulation they had formerly. My district has not the circulation it had formerly, and they are compelled to go outside to the moneyed centers for circulation. The amendment of my colleague would accomplish this purpose, and, while it would be temporary in its nature, if the banking system is to be continued it would be a convenience to the localities and would injure nobody. I hope the amendment will be adopted.

Mr. ALLISON. I desire to say a word in reply to the gentleman from Maine. The effect of this amendment is to revive the old State banks which more than two years ago we virtually destroyed by our legislation.

Mr. PETERS. I would ask the gentleman how can that be? The suspension of the tax for a year and a little over would hardly be an inducement for new banks to go into operation.

Mr. ALLISON. The effect of the amendment will be to send over the country a State bank circulation which is now prohibited. If we are to have any more circulation let us provide for it in the shape of our own Government notes if we have not got enough now. But I rose chiefly to say that if we want to make any progress in this bill we must not be constantly making formal amendments and then speaking on the general subject. And I give notice that hereafter I shall object to these amendments unless there is substance in them.

Mr. WASHBURN, of Illinois. I have tried that myself.

Mr. ALLISON. I yield the remainder of the time to the gentleman from Ohio.

Mr. GARFIELD. I desire to state a fact which I think will be of interest to the committee in connection with this proposition, which is manifestly a step toward reviving the State banks. The best illustration of the bad condition of the currency out of which we have come by the establishment of the national banks, is seen in this curious fact: in 1821 there were \$22,000,000 in the Treasury of the United States not drawn against. In January of that year interest on the public debt to the amount of \$500,000 fell due. The Government was compelled at that time to receive into the Treasury the notes of the various State banks which were current in the localities of the banks. And yet, out of the wretched stuff that made up the \$22,000,000 in the Treasury, the Secretary could not call \$500,000 that would be received for the Government interest. The result was that the Secretary of the Treasury actually negotiated a loan of \$500,000 in order to enable the Government to meet its obligations, although he had in the vaults what professed to be \$22,000,000. That is an exhibition of the kind of currency these State banks gave us, and if revived, would give us again. I will state further, that there was a time under the old State bank system when there were one hundred and eighty broken banks in this country; when one fourth of all the currency afloat in the United States was either worthless or at so great a discount as to be almost worthless. I hope we shall have the wisdom to keep far away from the wretched system from which the war happily delivered us.

Mr. PRICE. A single question. Had we not better kill these national banks now, and go back to the happy financial state to which my friend alludes?

[Here the hammer fell.]

The question was on the amendment of Mr. PETERS.

Mr. PETERS. I move to amend the amendment by striking out seventeen and inserting eighteen. For business purposes the country must have a certain amount of banking capital. If the Government of the United States will allow that amount of banking capital, well enough. In my opinion we have not got it. If

the Government has not the right to supply it, I say we ought to leave the right within the States, and not strangle and destroy these banks by excessive taxation. I do not propose to revive the old State banks, but merely to let those now in existence remain long enough to let them renew the attempt to get into that system which in Maine they have tried very hard to do. The Legislature has been renewing from year to year the charters of four State banks now left in existence for the purpose of allowing them to find an opportunity, through the benevolence of Congress, to come under that national system. But if that system never comes, then I say the State ought to be allowed to grant the banks banking privileges which Congress has as yet neglected to provide.

Mr. PIKE. Mr. Chairman, I desire to say to the gentleman from Ohio [Mr. GARFIELD] that his argument, running back fifty years, reminds me of the argument made when the greenback system was proposed going back to the continental currency. We heard the argument then against the greenback currency, that in continental times a breakfast cost \$500 in continental money. Arguments which go back fifty, seventy-five, and eighty years are musty, stale, and unworthy the attention of the committee.

Mr. SCHENCK. The gentleman from Maine complains of the condition of things in that State. Now, that can partly be accounted for by the report from the Comptroller of the Currency. If you look to Maine you will find that she has sixty-one of these national banks with an aggregate capital of \$9,000,000, and that they have remaining on hand \$1,500,000 of undivided profits and surplus. They have \$1,500,000 of their money deposited in national banks in Boston. It is not to be wondered at that even if they have but \$9,000,000—whereas they had a much larger capital in the time of the State banks—they should in some degree be contributing to this condition of embarrassment and pinching necessity for money when they keep their money locked up in that way. They have it deposited down in Boston for convenience, it may be said, to draw against, but probably, as our western banks do too often, for convenience in speculations, to be carried on there for the benefit of those connected with the bank and the bank itself, instead of keeping it at home to accommodate their neighbors.

Mr. LYNCH. I want to say to the gentleman from Ohio what he ought to know as chairman of the Committee of Ways and Means, that the banks are required to keep a reserve in lawful money, and that the same law which requires them to do that allows them to keep a certain amount of this reserve in these business centers in which they are obliged to redeem their circulation. Boston is one of them, and therefore the amount which the gentleman finds of deposits of the banks of Maine in the banks of Boston is for the purpose of the redemption of their circulation as required by the currency act.

The amendment was disagreed to.

Mr. SELYE. I desire to submit some remarks upon this subject; but inasmuch as the time for debate is limited, I will simply ask leave to print them.

There was no objection; and the leave was granted. [See Appendix.]

Mr. SCHENCK. I ask unanimous consent that all debate may be closed on this section.

There was no objection; and it was so ordered.

Mr. PETERS. I move to amend the section in line four by striking out the words "ten per cent. on the" and inserting "one per cent. per annum on the average;" so that it shall read:

That every national banking association, State bank, or State banking association, corporation, company, or person engaged in the business of banking, shall pay a tax of one per cent. per annum on the average amount of notes of any person, State bank, or State banking association, town, city, or other municipal corporation, used for circulation, &c.

The amendment was not agreed to.

Mr. TRIMBLE, of Kentucky. I rise for the purpose of advocating that amendment.

The CHAIRMAN. The question has been taken; and, moreover, all debate has been closed on this section by the unanimous consent of the committee.

Mr. TRIMBLE, of Kentucky. I did not so understand, or I should certainly have objected.

The CHAIRMAN. The Chair stated the proposition very distinctly, and no objection was made.

Mr. WARD. I hope that by unanimous consent the gentleman will be allowed to proceed.

Mr. SCHENCK. We have no power to do that.

Mr. TRIMBLE, of Kentucky. Then I offer the following as a substitute for the section:

*Provided, That no greater tax shall be collected of State banks upon their circulation than collected from national banks.*

On the amendment, there were—ayes 31, noes 45; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers; and appointed Messrs. TRIMBLE, of Kentucky, and MAYNARD.

The committee divided; and the tellers reported—ayes 31, noes 65.

So the amendment was not agreed to.

Mr. HUBBARD, of West Virginia. I move to amend by inserting the following as a new section:

*Sec. —. And be it further enacted, That there shall be levied, collected and paid a tax of one per cent, per annum upon the amount of United States securities represented by interest-bearing bonds payable at some future day, whether held by any person, bank, association, company, or corporation. And a true and accurate return of the amount of said securities shall be made and rendered annually by each person, bank, association, company, or corporation to the assessor of the district in which such bank, association, company, or corporation may be located, or in which such person may reside, with a declaration annexed thereto, verified by the oath or affirmation of such person, or of the president or cashier of such bank, association, company or corporation, in such form and manner as may be prescribed by the Commissioner of Internal Revenue. And for any refusal or neglect to make or to render such return and pay the tax, any such bank, association, company, corporation, or person so in default shall be subject to and pay a penalty of \$100 beside the additional penalty and forfeitures in other cases provided by law; and in default of such return the amount of the aforesaid securities subject to tax shall be estimated by the assessor or assistant assessor on the best information he can obtain. And the tax herein provided for shall be assessed, collected, and paid upon the amount of the aforesaid securities held on the 1st day of April and be due and payable on the 1st day of May of each year; and to any sum annually due and unpaid after the 1st day of May, as aforesaid, and for ten days after notice and demand thereof by the collector, there shall be levied in addition thereto, the sum of five per cent. on the amount of the tax unpaid, and interest at the rate of one per cent. per month upon said tax from the time the same became due, as a penalty, except from the estates of deceased, insane, or insolvent persons.*

The CHAIRMAN. Debate has been closed.

Mr. HUBBARD, of West Virginia. This is offered as a new section, and I would like to explain it.

The CHAIRMAN. The action of the committee closing debate cuts off all debate until the next section of the bill has been read. Amendments offered now are considered as amendments to the pending section upon which debate has been closed.

Mr. HUBBARD, of West Virginia. This is entirely new matter.

Mr. SCHENCK. Every amendment, I believe, may be supposed to contain new matter.

Mr. HOLMAN. I offer the following as a substitute for the amendment of the gentleman from West Virginia:

*Sec. —. And be it further enacted, That there shall be assessed and collected on all bonds, the interest on which is payable at the Treasury of the United States, a tax of one and one half of one per cent. per annum on the principal of such bonds; one half of such tax on all of such bonds, the interest on which is, or shall be, payable semi-annually, shall be withheld by the proper officer of the Treasury from the semi-annually accruing interest or coupons at the time the same shall be paid, and the tax aforesaid on such of said bonds the interest on which is payable annually shall be withheld as aforesaid from the interest or coupons at the time of the payment thereof; the tax hereby assessed shall be withheld from the interest or coupons becoming due on and after the 1st day of November, 1863.*

On agreeing to Mr. HOLMAN's amendment

to the amendment, there were—ayes 10, noes 58; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers; and appointed Messrs. HOLMAN and BLAINE.

The committee divided; and the tellers reported—ayes 25, noes 72.

So the amendment to the amendment was not agreed to.

Mr. HUBBARD, of West Virginia. If the committee will consent, I will withdraw the proposition I have presented, so that I may offer it at some time hereafter when it can be explained, that the House may vote on it understandingly.

Mr. BENJAMIN. I object to the withdrawal of the amendment.

Mr. HUBBARD, of West Virginia. The objection will only make it necessary for me to change slightly the verbiage of the amendment when I offer it hereafter.

Mr. BENJAMIN. I withdraw my objection.

Mr. HOLMAN. I object. I want a vote on the proposition.

Mr. HUBBARD, of West Virginia. As the committee appears determined to force a vote on this proposition, I ask unanimous consent to make an explanation occupying three minutes.

The CHAIRMAN. The committee, under the rule, has not power, even by unanimous consent, to extend the time to which debate has been limited by the House; but the Chair has not undertaken to enforce the rule where the unanimous consent of the committee has been expressly given, and he will not do so in this case.

Mr. SCHENCK. I must object. If we give unanimous consent for a speech on that side of one minute, three minutes, or five minutes, we must, of course, give unanimous consent for a reply, and so we shall be involved in a debate after debate has been stopped on the section.

Mr. HOLMAN. I move to amend the amendment by adding thereto the following:

And from all coupons hereafter presented at the Treasury after this provision shall take effect the tax herein prescribed shall be withheld by the proper officer of the Treasury.

The amendment to the amendment was not agreed to.

On agreeing to the amendment of Mr. HUBBARD, of West Virginia, there were—ayes 22, noes 41; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers; and appointed Mr. HUBBARD, of West Virginia, and Mr. MOORE.

The committee divided; and the tellers reported—ayes 42, noes 54.

So the amendment was not agreed to.

No further amendment being offered, the next section was read, as follows:

*Brokers.*

SEC. 115. *And be it further enacted*, That there shall be paid on all sales made by brokers, banks, or bankers, whether made for the benefit of others or on their own account, the following taxes, that is to say: upon all sales and contracts for the sale of stock, bonds, gold and silver bullion and coin, promissory notes or other securities, a tax at the rate of two cents for every \$100 of the amount of such sales or contracts; and on all sales and contracts for sale negotiated and made by any person, firm, or company, not paying a special tax as a broker, bank, or banker, of any gold or silver bullion, coin, promissory notes, stock, bond, or other securities, not his or their own property, there shall be paid a tax at the rate of five cents for every \$100 of the amount of such sales or contracts; and on every sale and contract for sale, as aforesaid, there shall be made, signed, and delivered by the seller to the buyer a bill or memorandum of such sale or contract, on which there shall be affixed a lawful stamp or stamps in value equal to the amount of tax on such sale, to be determined by the rates of tax before mentioned; and in computing the amount of the stamp tax in any case herein provided for, any fractional part of \$100 of value or amount on which tax is computed shall be accounted at \$100. And every bill or memorandum of sale, or contract of sale, before mentioned, shall show the date thereof, the name of the seller, the amount of the sale or contract, and the matter or thing to which it refers. And any person or persons liable to pay the tax as herein provided, or any one who acts in the matter as agent or broker for such person or persons, who shall make any such sale or contract, or who shall, in pursuance of any sale or contract, deliver or receive any stocks, bonds, bullion, coin, promissory notes, or other securities, without a bill or

memorandum thereof as herein required, or who shall deliver or receive such bill or memorandum without having the proper stamps affixed thereto, shall forfeit and pay to the United States a penalty of \$500 for each and every offense where the tax so evaded or attempted to be evaded, does not exceed \$100 and a penalty of \$1,000 when such tax shall exceed \$100, which may be recovered with costs in any court of the United States of competent jurisdiction, at any time within one year after the liability to such penalty shall have been incurred; and the penalty recovered shall be awarded and distributed by the court between the United States and the informer, if there be any, as provided by law, who, in the judgment of the court, shall have first given information of the violation of the law for which recovery is had: *Provided*, That where it shall appear that the omission to affix the proper stamp was not with intent to evade the provisions of this section, said penalty shall not be incurred. And the provisions of law in relation to stamp duties in schedule B of this act shall apply to the stamp taxes herein imposed upon sales and contracts of sales made by brokers, banks, or bankers, and others as aforesaid. And there shall be paid monthly on all sales by commercial brokers of any goods, wares, or merchandise, a tax of one twentieth of one per cent. upon the amount of such sales; and on or before the 10th day of each month, every commercial broker shall make a return to the assistant assessor of the district of the gross amount of such sales as aforesaid for the preceding month, in form and manner as may be prescribed by the Commissioner of Internal Revenue: *Provided*, That in estimating sales of goods, wares, and merchandise for the purposes of this section, any sales made by or through another broker upon which a tax has been paid shall not be estimated and included as sold by the broker for whom the sale was made.

No amendment was offered.

The CHAIRMAN. The next section, unless objection be made, will be considered by paragraphs.

Mr. ROBINSON. When would it be in order, Mr. Chairman, to move to strike out the whole schedule contained in the next section?

The CHAIRMAN. If the section is considered by paragraphs, the motion to strike out must be made after each paragraph has been read.

The Clerk read as follows:

*Tax on the use and possession of certain articles.*

SEC. 116. *And be it further enacted*, That there shall be levied, annually, on every carriage, gold watch, and billiard-table, and on all gold or silver plate, the tax or sums of money set down in figures against the same, respectively or otherwise specified, and set forth in schedule A, hereto annexed, to be paid by the person owning, possessing, or keeping the same, on the 1st day in March in each year.

Mr. SCHENCK. I move to amend by inserting after "gold watch" the words "musical instrument."

The amendment was agreed to.

Mr. ROBINSON. I move to strike out the paragraph which has just been read. I would have preferred to move, if it had been in order, to strike out the whole series; and, indeed, if it were in order, I would move to strike out the whole bill.

Mr. SCHENCK. You are a friend of the bill! [Laughter.]

Mr. ROBINSON. I am not, sir. I wish to say, with all due respect to the Committee of Ways and Means, that any committee reporting to Congress such a bill as this, extending as it does over three hundred and sixty pages, when it might be fully set forth in twenty pages, should be sent for twenty years to the Dry Tortugas, or the Wet Tortugas, if there is such a place. I rise for the purpose of moving to strike out this paragraph for the sake of getting a test vote which may decide whether we shall go any further with this bill.

Mr. MAYNARD. If the gentleman wants to curtail the bill, he had better move to strike out a longer paragraph. This contains only eight lines. [Laughter.]

Mr. ROBINSON. Short meter is just as agreeable to me as long meter on this matter.

Mr. Chairman, I propose as each paragraph is read to move to strike it out. We have been engaged I know not how many days or weeks on this bill, and we have only got one third or one half way through it. At the rate we are progressing I do not believe it possible that we shall be able to get through this bill during July. It will then go to the Senate, where it will take all of August and September, and will be returned to this House somewhere about November or December, when we are reassembling after the recess. I wish to say nothing

disrespectful to the Committee of Ways and Means; but if we were in the House I should move to recommit the bill, with positive instructions to prepare a bill not to exceed twenty pages—

Mr. MULLINS. Mr. Chairman, I rise to a point of order. [Laughter.] What is the question under debate?

The CHAIRMAN. Lines one to eight inclusive, on page 171.

Mr. MULLINS. General debate is not in order, I believe.

The CHAIRMAN. Does the gentleman raise a point of order?

Mr. MULLINS. Yes, sir.

The CHAIRMAN. The Chair sustains the point of order—that general debate applicable to the whole bill is not in order on this particular paragraph.

Mr. ROBINSON. The gentleman from Tennessee [Mr. MULLINS] is so much in favor of large measures that he had better reserve his "pint" of order till it becomes a quart. [Laughter.]

Mr. MULLINS. I am good for a gallon for Ireland.

Mr. ROBINSON. My friend is also from Ireland. He has dropped the "Mc" and added an "g."

I will confine myself now to striking out this paragraph. I have already stated a part of my reasons. I shall move to strike out each of the remaining sections as they come up, so, if possible, we may get rid of this bill altogether and substitute for it a bill or resolution simply providing that the tax on distilled spirits shall be fifty cents a gallon and the abominable practice shall be abolished of making rectifiers prove when they have whisky on hand that it is innocent whisky. In order that we may get rid of this bill I shall move to strike out these sections and paragraphs one after the other, so that in the end the bill shall be sent back to the Committee of Ways and Means with instructions to condense the whole thing to the fewest necessary provisions and in the fewest words. I make the prophecy that this bill in anything like its present shape will never pass either House of Congress, and therefore the time we now spend upon it is really valuable time thrown away.

[Here the hammer fell.]

Mr. SCHENCK. Mr. Chairman, the gentleman from New York has expressed some strong opinions about this bill. If we felt more than we do what he has said it would hurt the committee considerably, but as it is we are not discouraged. We have had nothing thus far but opposition from the gentleman. He has given notice of a most novel mode of economizing the time of House. He gives notice, instead of contenting himself with voting against the passage of the bill when it gets into the House, he will move to strike out paragraph after paragraph and section after section. It is like kicking the bill to death by grasshoppers, [laughter.] It is in my judgment a rather strange way of saving time. Now, I wonder at the gentleman's moving this amendment considering that he has turned to be a Democrat. He wants to relieve from tax gold watches, gold plate, carriages—

Mr. ROBINSON. I rise to a point of order. The gentleman is not respectful, especially when he himself is known to have turned. He has gone over to the other side.

The CHAIRMAN. The Chair overrules the point of order.

Mr. SCHENCK. The gentleman and I were Whigs together, and he has gone off to the Democrats.

Mr. ROBINSON. It is the gentleman who has turned over to the Radicals. I remain in favor of the old Whig doctrines of the Constitution.

Mr. SCHENCK. I will relieve him of any bad feeling on the subject, and show what kind of a Democrat he has become. He wishes to relieve from tax gold watches, plate, carriages—

Mr. STEVENS, of New Hampshire. I call



the gentleman to order. This debate does not touch the merits of the question.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SCHENCK. I am talking on the very matter. The gentleman from New York stands here to-day asking us to take off the tax on gold and silver plate, gold watches, billiard-tables, and so on.

Mr. ROBINSON. I wish to take the tax off gold and silver plate out of compliment to the leaders on the other side.

Mr. SCHENCK. He wishes to strike out that part of the bill which taxes articles ordinarily esteemed to be articles of luxury. He wishes to save the rich and to increase the burdens upon the poorer classes. If I have done wrong in saying that he has turned a Democrat, I have at least shown what kind of a Democrat he is. I hope the amendment will not prevail. If we are to have any taxation it should be imposed upon these very articles that are proposed to be stricken out.

[Here the hammer fell.]

Mr. ROBINSON. Can I say a word?

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. ROBINSON. I do not ask a favor, I demand a right.

The CHAIRMAN. It is the right of the Chair to enforce the rules.

Mr. ROBINSON. The Chair will understand that I have a right—

The CHAIRMAN. The question is on the amendment.

Mr. ROBINSON. I rise to propose a parliamentary question, which the Chair will rule in or order if he hears me.

The CHAIRMAN. The gentleman will state his parliamentary question.

Mr. ROBINSON. Seeing my friend from Ohio and I were formerly good Clay Whigs together—

The CHAIRMAN. (bringing down the hammer.) The question is on the amendment—

Mr. ROBINSON. I rise to a question of order.

The CHAIRMAN. Those in favor of the amendment will say ay; those of a contrary opinion no. The ayes have it, and the amendment is lost.

Mr. ROBINSON. I rise to a point of order. I have risen three times to withdraw the proposition, and the Chair absolutely refused to allow me. That was my point of order, that I had a right to withdraw it. Never, sir, in this House has any member been bawled down before when he rose to withdraw his motion. The Chairman here brought down the hammer.

Mr. ROBINSON. I ask whether I have not a right to withdraw the motion which I made?

The CHAIRMAN. The Chair will make a statement. The gentleman rose, and the Chair very civilly stated to him the condition in which he was placed—that it was his duty to enforce the rule. The gentleman then stated that he rose to ask a parliamentary question. The Chair asked him to state it. The gentleman then turned to the gentleman from Ohio [Mr. SCHENCK] and proceeded with the debate which had already been closed, because a point of order had been made upon it.

Mr. ROBINSON. The point of order I made was this—

[Cries of "order."]

The CHAIRMAN. Thereupon the Chair rapped the gentleman down and proceeded to state the question of order, as he will always do on like occasions.

Mr. ROBINSON. I rise to say then—

[Cries of "order."]

The CHAIRMAN. The Clerk will proceed.

The CLERK. "Schedule C"—

Mr. ROBINSON. I rise to a point of order.

The CHAIRMAN. The Clerk will proceed.

The Clerk read as follows:

Carriage, phaeton, carryall, rockaway, or other like carriage, and any coach, hackney coach, omnibus, or four-wheeled carriage, the body of which rests upon

springs of any description, which may be kept for use, for hire, or for passengers, and which shall not be used exclusively in husbandry or for the transportation of merchandise, valued at exceeding \$300, and not above \$500 each, including harness used therewith, six dollars.

Carriages of like description, valued above \$500, each, ten dollars.

On gold watches, composed wholly or in part of gold or gilt, kept for use, valued at \$100 or less, each, one dollar.

On gold watches, composed wholly or in part of gold or gilt, kept for use, valued at above \$100, each, two dollars.

On pianofortes, organs, melodeons, harps, or other parlor musical instruments, kept for use, (not including those placed in churches or schools,) valued at not less than \$100 and not above \$200, each, two dollars.

Mr. SCHENCK. I move to strike out in the last line but one "\$100 and not above;" so that it will read "valued at not less than \$200, each two dollars."

Mr. LOUGHRIDGE. Why do you decrease the tax on pianos from that imposed by the old law?

Mr. SCHENCK. The old law let them off altogether. They have never been restored. By reference to page 96 of the revenue law the gentleman will find that in schedule A pianos were not taxed at all.

The amendment was agreed to.

Mr. LOUGHRIDGE. I move to amend by adding "when the value is over \$400, six dollars."

Mr. ROBINSON. I move to strike out the entire paragraph.

The CHAIRMAN. That will be in order after the paragraph is perfected.

The question was taken on Mr. LOUGHRIDGE's amendment; and it was disagreed to—ayes eleven, noes not counted.

Mr. ROBINSON. I now move to strike out the whole paragraph; and on that motion I want to say one word. I wished, a few minutes ago, to finish one sentence by adding to what I had already said, "I withdraw my motion," and asking the parliamentary question if I had not the right to do so; having been denied that courtesy I propose to go on with what I originally proposed, and move to strike out every paragraph. I had three words to say, and being denied an opportunity of saying then, very unjustly, in my opinion, I shall move to strike out each paragraph.

Mr. WARD. I call the gentleman to order for using language of that kind to the Chair.

Mr. ROBINSON. Let the language be taken down to which the gentleman objects. [Cries of "Oh, no!"]

Mr. WARD. I withdraw the point of order.

The question was taken on Mr. ROBINSON's motion; and there were—ayes 8, noes 75; no quorum voting.

Mr. ROBINSON. I insist on a vote; and I shall do it on every question, because I think I have been unjustly treated.

Tellers were ordered; and Messrs. ROBINSON and HOPKINS were appointed.

The committee divided; and the tellers reported—ayes 7, noes 91.

So the motion was disagreed to.

Mr. LOUGHRIDGE. I move to add to the paragraph the words, "where the value of the piano is over \$500, five dollars." Mr. Chairman, I do not know on what principle this is arranged. If we desire to make this law odious to the people, we are going in the right direction to do it. We tax a man who has a pinchbeck watch worth less than fifty dollars, one dollar, while we only tax the man who has a piano worth \$1,000, two dollars. Now, if that is justice, I do not know what justice is. Our policy ought to be to tax the rich and those who are able to bear taxation, and to have something like equality, and if this bill is not of that character, it shall not receive my vote. I should like the chairman of the Committee of Ways and Means to give me some reason why a piano worth \$1,000 should be taxed only one dollar, while a man who owns a pinchbeck watch worth fifty dollars is taxed for it one dollar. I trust my amendment will be adopted. We have refused to tax United

States bonds, and we ought to tax these luxuries.

The amendment was disagreed to.

Mr. ROBINSON. I move to strike out the last word of the paragraph, and I shall proceed, within my five minutes, to give my reasons for wishing to strike it out. This is a musical concern, and those that "have no music in their souls are fit for treason, stratagem," and some other things. If the Chair will allow me to say one word introductory to my remarks, I will say that when I was on the floor a few minutes ago I had commenced and said three words—

Mr. MULLINS. I rise to a point of order. The gentleman must direct his remarks to the subject under consideration. I insist on order.

The CHAIRMAN. The Chair sustains the point of order. The gentleman must speak to his amendment.

Mr. ROBINSON. Then I shall proceed in order; and the point on which I was talking was about these musical instruments. I did not intend out of this musical harmony to produce discord, and although when I rose to withdraw my amendment and had only said three words I was interrupted, and, as I consider, contrary to the usual courtesy of this House, yet I will not revenge myself on the Committee of the Whole, and I therefore shall not persevere, as I have a right to do, in speaking and insisting on a vote on each paragraph and section.

No further amendment was offered.

The following clauses were then read:

Billiard-tables kept for use, each, ten dollars.

Provided, That billiard tables kept for hire, and upon which a special tax has been imposed, shall not be required to pay the tax on billiard-tables kept for use as aforesaid.

On plate, of gold, kept for use, per ounce troy, fifty cents.

On plate, of silver, kept for use, per ounce troy, five cents.

Provided, That silver spoons or plate of silver used by one family to an amount not exceeding forty ounces troy belonging to any one person, plate belonging to religious societies, and souvenirs and keepsakes actually given and received as such and not kept for use; also, all premiums awarded as a token of merit by any agricultural society, corporation, or association of persons, for any purpose whatever, shall be exempt from tax.

Mr. MAYNARD. I would suggest that the clauses just read relating to plate, &c., be amended by substituting the word "avoirdupois" for the word "troy" where it occurs. My reason for that amendment is that the means of weighing in general use throughout the country has reference to avoirdupois weight instead of troy weight. The avoirdupois ounce is a little less than the troy ounce, and my amendment may have the effect of decreasing a little the income to be derived from this source. But I think the convenience to result from the change I propose will justify the amendment.

Mr. ALLISON. I would ask my friend from Tennessee [Mr. MAYNARD] if the troy weight is not generally marked or stamped on gold and silver plate?

Mr. MAYNARD. I know that technically the weight of gold and silver articles from most establishments, not all of them, but from the large establishments, is marked on the articles, but not in ounces. It is sometimes stamped so indifferently or imperfectly that it is difficult to ascertain what it is. I presume but few persons would make a return of their silver plate, &c., without weighing it themselves, and their domestic means of weighing always have reference to avoirdupois and not troy weight.

Mr. ALLISON. My own impression is that the change proposed would create more confusion than would counterbalance the benefit that might result from it.

Mr. SCHENCK. I think troy weight is the proper weight for the precious metals. The gentleman from Tennessee [Mr. MAYNARD] speaks now, as he did in the Committee of Ways and Means, of the difficulty of calculating the troy weight by persons ordinarily.

Mr. MAYNARD. Very well; it is not worth a contest; I withdraw the amendment.

Mr. SCHENCK. I ask unanimous consent

that this section, and the schedule accompanying it, being schedule A, be taken from this place and inserted in the bill just before section one hundred and two, relating to stamps. By a mistake in putting the sheets of this bill together for the printer, this schedule A was printed after schedule B, relating to stamps.

No objection was made, and the change was made accordingly.

Mr. HOLMAN. I move to insert, as an additional section, to immediately precede section one hundred and seventeen, the following:

SEC. —. *And be it further enacted*, That there shall be assessed and collected on all bonds, the interest on which is payable at the Treasury of the United States, a tax of one per cent. per annum on the principal thereof, one half of which tax on such of said bonds, the interest on which is payable semi-annually, shall be withheld by the proper officer of the Treasury from the semi-annually accruing interest or coupons, at the time of the payment of the same, and the tax aforesaid on all of such bonds, the interest on which is payable annually, shall in like manner be withheld from the interest or coupons accrued on such bonds at the time of the payment thereof. The tax hereby provided for shall be withheld from the interest or coupons becoming due on and after the 1st day of November, 1868.

Mr. UPSON. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. UPSON. My point of order is that the Committee of the Whole has passed the part of the bill relating to the subject of this amendment, and therefore this amendment is not germane to the part of the bill we are now considering. Besides that, we have once voted down this very amendment, I believe.

The CHAIRMAN. This amendment is offered as an independent section, and is in order unless the language be the same as that of the amendment of the gentleman just voted down.

Mr. HOLMAN. It is not the same; it is different in several respects.

Mr. SCHENCK. I have a suggestion to make to the gentleman from Indiana, [Mr. HOLMAN.] This whole subject of the taxation of bonds has been referred, in various ways and forms, to the Committee of Ways and Means; and it is proposed by the committee to consider that subject. If the committee shall decide to propose an amendment upon this subject it will be moved hereafter; and if the committee do not offer any such amendment the gentleman shall have ample opportunity to offer his amendment. I therefore suggest that he withdraw his amendment at this time.

Mr. HOLMAN. I will agree to the suggestion of the gentleman, and withdraw my amendment at this time.

No further amendment was offered.

The next section was read, as follows:

#### Passports.

SEC. 117. *And be it further enacted*, That for every passport issued from the office of the Secretary of State there shall be paid the sum of five dollars, which amount may be paid to any collector of internal revenue, and his receipt therefor shall be forwarded with the application for such passport to the office of the Secretary of State, or any agent appointed by him, to be transmitted to the Commissioner of Internal Revenue, to be charged to the account of such collector; and a like amount shall be paid for every passport issued by any minister or consul of the United States, who shall report the same to the Secretary of State, and account therefor to the Treasury. And all payments for passports shall be accounted for as internal tax.

No amendment was offered.

The next section was read, as follows:

#### Insurance Companies.

SEC. 118. *And be it further enacted*, That there shall be levied, collected, and paid, a tax of one and a half per cent. on the gross receipts of premiums or assessments for insurance from loss or damage by fire or by the perils of the sea, whether inland or marine, or against injury or accident to persons while traveling by land or water, made by an insurance company, or by any association or individual engaged in the business of insurance; and a tax of three per cent. on the like gross receipts of the agency of any foreign insurance company having an office or doing business within the United States, to be paid by the agent of said company; and in the return to be rendered the amount insured, renewed, or continued, the gross amount of premiums received, or assessments collected, and the taxes by law accruing thereon, shall be specifically stated.

Mr. HOPKINS. I move to amend this section by inserting after the words "gross receipts," where they first occur, the words "in money," so that this tax shall not be levied on the premium notes received by these companies. That portion of the section, if so amended, will read:

That there shall be levied, collected, and paid, a tax of one and a half per cent. on the gross receipts in money of premiums or assessments for insurance from loss or damage by fire or the perils of the sea, whether inland or marine, or against injury or accident to persons while traveling by land or water, made by any insurance company, or by any association or individual engaged in the business of insurance.

The amendment was agreed to.

Mr. JUDD. I move to amend the first portion of this section by striking out the words "one and a half" and inserting in lieu thereof the words "one half of one."

The amendment was not agreed to.

Mr. JUDD. I move to amend this section, by striking out the words "gross receipts" and inserting in lieu thereof the words "net profits." I desire to say that the effect of this section as it now stands is to levy a tax upon the losses of insurance companies and not upon their profits alone. The tax upon the gross receipts, as provided by this section as it now stands, is not a tax solely upon the profits made by these companies, but also upon the losses sustained by these companies. The experience of insurance companies for the last two years, I think, shows the propriety of the amendment I have offered. It seems to me that it is for the public interest and for the general public welfare that insurance companies should be encouraged. The action of the people shows that, and our legislation ought not to restrict it. But, as I have already said, the operation of this section as reported, is to compel these companies to pay taxes on their losses as well as on their profits.

Mr. HALSEY. The net profits of these companies are already taxed in another portion of this bill, which provides for a tax on dividends and surplus.

Mr. JUDD. I will let the vote be taken upon my amendment.

The question was taken upon the amendment of Mr. JUDD; and it was not agreed to.

Mr. GRISWOLD. I move to amend this section by striking out the words "and a tax of three per cent. on the like gross receipts of the agency of any foreign insurance company having an office or doing business within the United States, to be paid by the agent of said company." It seems to me the policy of this country should be to encourage the very thing which this discrimination discourages. It is for the interest of all to bring down the rates of insurance in this country as low as possible. For one, I cannot see any possible reason for discriminating in so important a matter against the introduction of foreign capital for the benefit of the people of this country.

Mr. PAINE. It seems to me that the argument of the gentleman from New York [Mr. GRISWOLD] would be good against protecting any other American interest from foreign competition. I think there is adequate capital in the United States to meet all the demands of insurance companies in the country. This provision, for the protection of American insurance companies against foreign insurance companies, is neither unwise nor unjust, when you consider the interests of the entire American people, unless you say that the protection of any American interest against foreign competition is unjust to the entire American people, because it brings down the price of such articles.

Mr. ALLISON. The Committee of Ways and Means inserted this provision, not so much to discriminate against foreign insurance companies, as from the fact that all our American insurance companies are compelled not only to pay a tax on their gross receipts, but they are compelled to pay other taxes in various forms, while the only tax received from for-

eign insurance companies is upon their gross receipts. They make no dividends in this country, and are not subject, therefore, to the burdens to which home insurance companies are subjected.

Mr. GRISWOLD. I withdraw the amendment.

Mr. PETERS. I move to insert the following as a new section:

*And be it further enacted*, That there shall be levied, collected, and paid a tax of two per cent. on the gross receipts of safe deposit companies, or companies known by any other name, or of individuals, who charge and receive compensation for the safe-keeping of money, plate, goods, books, papers, or other personal property of any description.

Mr. SCHENCK. I am in favor of that amendment, and shall vote for it; but I cannot speak for the other members of the Committee of Ways and Means.

Mr. ALLISON. How much is the tax proposed?

Mr. PETERS. Two per cent.

Mr. ALLISON. I think that is too high a tax. Of course it will come out of persons who make these deposits of valuables for safe-keeping. I would have no objection to the amendment if the gentleman will make it one per cent.

Mr. PETERS. There is one fact I wish to recall to the attention of gentlemen. The Comptroller of the Currency has inhibited all national banks from receiving special deposits. That has led to a large business on the part of these safe-deposit institutions, and I understand that they are reaping great profits from it.

Mr. O'NEILL. One word. These institutions have deposits alone of gold and silver plate, jewelry, and valuable papers. They do not have money on deposit with a view to using that money and making profits. These safe-deposit companies are in their infancy, and their charges are now quite heavy. They are useful, and I think ought to be encouraged.

Mr. PETERS. I understand that it is a most profitable business, and this is a class of persons which ought to be compelled to pay taxes. They are for the rich.

Mr. O'NEILL. The gentleman is mistaken. On the contrary they are used by the poorer classes who cannot afford to have safes and iron chests.

Mr. PETERS. I do not see the force of the gentleman's distinction.

Mr. PILE. I desire to say that this class of companies makes most exorbitant charges, and that they realize better profits than any other class. I think they ought to be taxed two per cent.

Mr. PETERS. Are the Committee of Ways and Means in favor of a less tax than two per cent?

Mr. SCHENCK. Railroad companies are charged two and a half, insurance companies four and a half, and if we are going to tax these safe-deposit companies I do not think that one and a half or two per cent. is too much.

The amendment was agreed to.

Mr. STEWART. I move, in the sixth line of the one hundred and eighteenth section, after the word "marine" to insert "or on life or lives." Mr. Chairman, the object of that amendment is to make life insurance companies pay the same amount of tax as fire, marine, and accident insurance companies.

Mr. HOOPER, of Massachusetts. I will state that was omitted after consideration by the Committee of Ways and Means, on the ground that it was desirable to encourage in every way the business of life insurance, for it enables a man with limited means to make provision for his family.

Mr. STEWART. I am aware of the argument that is made in favor of this exception, but the same argument can be used for fire, marine, and accident insurance companies. I do not see any reason for discrimination. There is no life insurance company that does not pay large dividends and have large sur-

pluses on hand. I think it is due not only to these other companies, but to the people of the country, that this should not be an exception. So far as humanity is concerned the argument will apply as well to fire, marine, and accident insurance companies as to life insurance companies. It is as good an argument in one case as in the other.

The amendment was agreed to.

No further amendment being offered, the Clerk read the next section, as follows:

*Transportation Companies.*

SEC. 119. *And be it further enacted*, That there shall be levied, collected, and paid a tax of two and one half per cent. on the gross receipts for the transportation of passengers of every railroad, canal, steamboat, ship, barge, canal-boat, or other vessel, and stage coach or other vehicle, except hacks or carriages not running on continuous routes, engaged or employed in the business of transporting passengers for hire; and on the gross receipts of every toll-road, ferry, and bridge, authorized by law to receive toll for the transit of passengers, vehicles, and freight of any description, over such toll-road, ferry, or bridge. The tax hereby imposed shall not be assessed upon receipts for the transportation of passengers between the United States and any foreign country, but shall be assessed upon the receipts for such transportation from a place within the United States through a foreign territory to another place within the United States, and shall be assessed upon and collected from persons, firms, companies, or corporations within the United States, receiving hire or pay for such transportation of passengers: *Provided*, That no tax under the provisions of this section shall be assessed upon any person, firm, company, or corporation, whose gross receipts do not exceed \$2,000 per annum; and that when the gross receipts of any bridge or toll-road shall not exceed the amount necessarily expended during any term of twelve consecutive months to keep such bridge or toll-road in repair, no tax shall be assessed upon the receipts during the six months next preceding: *And provided further*, That all boats, barges, and flats, not used for carrying passengers, nor propelled by steam or sails, which are floated or towed by tug-boats or horses, and used exclusively for carrying coal, oil, minerals, or agricultural products to market, shall be required hereafter, in lieu of enrollment fees or tonnage tax, to pay as an annual tax, for each and every such boat, of a capacity exceeding twenty-five tons and not exceeding one hundred tons, five dollars; and when exceeding one hundred tons, as aforesaid, shall pay ten dollars; and said tax shall be assessed and collected as other annual taxes provided for in this act.

Mr. SCHENCK. I move to strike out the word "preceding" and insert "succeeding." The amendment was agreed to.

Mr. SCHENCK. I move further to amend by striking out the words "and used exclusively for carrying coal, oil, minerals, or agricultural products to market."

The amendment was agreed to.

Mr. CORNELL. I move to amend by inserting in line five, after the word "passengers," the word "only."

The amendment was agreed to.

Mr. CORNELL. I move further to insert after the word "hire," in line eight, the words "and in lieu of all tonnage tax on steamboats or other vessels for carrying passengers." At present, besides the two and a half per cent., there is a tonnage tax imposed upon steamboats, while railroads only pay two and a half per cent. on passenger receipts. This seems to me unequal and unfair. I have in my hand the tonnage tax of one steamboat. It pays for tonnage tax, \$870; for boiler and inspection, \$165; for hospital fees, fifty-seven dollars; for license stamps, two dollars; while a railroad conducting the same kind of business pays simply two and a half per cent. I believe the tonnage tax which is imposed upon carrying passengers should be stricken out.

Mr. ALLISON. I do not know that I want to oppose the amendment. This tonnage tax and the other taxes have always, I believe, been imposed. I do not like to accept the amendment.

Mr. PIKE. Allow me to suggest that this tonnage tax now applies to foreign as well as American steamers. There is a bill now pending in the House, reported the other day from the Committee on Commerce, and is to be taken up immediately after the passage of this bill, regulating this very matter of the tonnage tax. I think it will accomplish the object of my friend from New York [Mr. CORNELL] much better than this amendment. The operation of this would be to take the tax off all the

foreign steamers. There are steamers running into the port of New York almost every day in the year, and this would abolish the tonnage tax altogether.

Mr. CORNELL. Not at all. It applies to river and sound steamers, and not to foreign vessels at all.

Mr. PIKE. I hope this will be remitted to the bill I have alluded to, which has a section devoted to the tonnage tax.

The amendment was disagreed to.

Mr. TWICHELL. I move to strike out the words "and a half," in line three; so that it will read, "on the gross receipts of railroads," &c., "two per cent." I trust there will be no objection to this from any member of the committee.

A MEMBER. What is the law now?

Mr. TWICHELL. It is two and a half. It is certainly a discrimination against railroads. I do not propose to discuss the question of the reasonableness of my proposition. I am sure it will commend itself to the members of the committee. There is no reason why it should be as high as two and a half per cent. on the gross receipts.

Mr. SPALDING. I think this is right. There is no allowance for expenses.

Mr. SCHENCK. The present charge is two and a half per cent.; we have not increased it.

Mr. SPALDING. That is too high.

Mr. SCHENCK. I am willing to submit to the House whether the tax ought to be reduced.

Mr. TWICHELL. It has been said that the railroads have all increased their fares. The road that I represent has not increased the fare during the war or since.

Mr. HOPKINS. I am very glad to hear that there is one road that has not put up its fare.

Mr. BENTON. I move to strike out "two and a half" and insert "three." The railroads are raising their fares all over the country.

A MEMBER. It will only come back on the people.

Mr. BENTON. It is notorious that there is no more profitable business in the country than this. I yield to the gentleman from Ohio.

Mr. SPALDING. Very many of these companies, I know, after charging their expenses have nothing left with which to pay this two and a half per cent. on their gross receipts. No allowance is made for drawbacks of this sort, and they all complain that the tax is too high. I believe it has been so, and I think the reduction from two and a half to two per cent. is a reasonable one. I believe it would be satisfactory all around.

Mr. BENTON. Let me say, in answer to what the gentleman says, that if we can rely upon the information that we receive through the public press, where the Government has imposed the tax, it has been doubled and trebled by the companies and taken out of their customers, and they virtually have not paid one single cent of the tax. They have doubled and trebled and quadrupled the amount of the tax and charged it to their customers.

Mr. FARNSWORTH. And does the gentleman propose to increase it still further for them to make the people pay an additional amount?

Mr. BENTON. No; I do not propose to give them any such chance. I propose to tax them and limit them in the increase of their rates.

Mr. FARNSWORTH. In many of the States they are already limited by law in their rates of fare.

Mr. BENTON. It has been asserted over and over again by the New York press, and I have never seen it contradicted, that where a tax of one per cent. has been imposed upon them they have imposed five and ten per cent. on their customers.

Mr. STARKWEATHER. I desire to say a word or two upon this subject. There is no tax on this whole list, it seems to me, which is so onerous as this. You tax the entire gross receipts, and the record shows that half the

companies in the country are to-day, after paying their expenses, receiving little or nothing for their investment. More than that, if gentlemen will look at it a little further, they will see that this applies to boats of every character on the lakes and rivers and on the sound. Take the large companies running on Long Island sound between New York and Boston and the intermediate places, and these companies with one single exception have been unable to make a living out of it. One of those companies collects perhaps five hundred thousand or a million dollars during the year and they are assessed on the entire amount, and with a single exception those large companies have made failures. The same thing is true to a great extent of the companies running on the rivers and lakes. Why? Because, after paying this extraordinary assessment, they have nothing to divide. I hope, therefore, that the amendment of the gentleman from Massachusetts will be agreed to. This tax is not only exceedingly burdensome to the railroad companies, but is exceedingly burdensome to the steamboat interest on our lakes, rivers, and sounds.

Mr. BENTON. I withdraw my amendment to the amendment.

The question recurred on Mr. TWICHELL's amendment, and there were—ayes 49, noes 35; no quorum voting.

Tellers were ordered; and Messrs. TWICHELL and FARNSWORTH were appointed.

The committee divided; and the tellers reported—ayes 52, noes 45.

So the amendment was agreed to.

Mr. COBURN. I offer the following amendment:

Page 175, line twenty-eight, after the word "preceding" insert the words "and that when the gross receipts of any street railroad company in cities and towns of less than seventy-five thousand inhabitants shall not exceed the gross expenses during any term of twelve consecutive months, no tax shall be assessed upon the receipts during the six months next succeeding."

The effect of that amendment is to put street railroads in towns of less than seventy-five thousand inhabitants upon a par with bridges and toll-roads. Such street railroads are kept in repair and run very frequently in small cities in the interest of the public rather than of individuals. The amount that the Government would lose by reason of the taking off of the tax, if the tax were taken off where the railroads do not pay, would be very small. There are not in the Union perhaps more than twenty-five cities to which this amendment would apply.

In the State of New York there are some thirty-six street railroads, and there are not five of those thirty-six that do not pay expenses. In the State of Pennsylvania, out of some twenty-six, there are only four that do not pay. And in the State of Massachusetts where there are twenty, there are but three street railroads that do not pay.

These railroads of which I speak are not all in places of less than seventy-five thousand inhabitants. In such places as Salem, Massachusetts; Troy, New York; Wheeling, West Virginia; Harrisburg, Pennsylvania; Indianapolis, Indiana; Nashville, Tennessee; and other places, street railroads are not paying institutions. I think it would be a very great hardship if those companies are made to pay a tax of two and a half per cent. upon their gross receipts, in addition to their original outlay, and the expenses to which they are continually liable.

I think it is but right that these street railroads should be put upon an equality with toll-roads and toll-bridges. The investment that has been made in a street railroad cannot be changed, should it prove to be unprofitable. Having once been built and equipped, it must be continued in operation, or the entire amount invested will be lost. As I said before, I desire to call the attention of the committee to the fact that the deduction from the revenue will be but little should my amendment be adopted, as it applies to those railroads only where the expenses exceed the receipts.



Mr. PILE. I move to amend the amendment by striking out the words "in cities and towns of less than seventy-five thousand inhabitants." If I can get the attention of the committee for a moment I think I can convince them that this exception, if made at all, should be made generally. The same facts and the same remarks stated by the gentleman from Indiana [Mr. COBURN] with regard to street railroads in small cities and towns apply to large cities. I know, as a matter of fact, that in my city not a single street railroad company has paid one cent of dividend within the last three years. The companies have multiplied their roads and increased the number of their cars for the accommodation of the public, until, as I am informed by persons having an interest in those roads, the gross receipts in most cases do not equal the expenditures, and in no case do they exceed the expenditures by a sufficient amount to enable the company to pay a dividend upon the stock of the road. And there is this additional reason for the extension of this exception to railroads in large cities that does not apply to railroads in the smaller cities. In the larger cities there are a great many poor people whose friends the street railroads are; persons who live remote from their places of labor; common laborers, who are dependent upon these roads for their means of transit to and from the place of their daily toil. These railroads in the large cities are kept up largely for the accommodation of the public. And thus far in my city, I know, these railroads have paid little or no profits to their owners or proprietors. There are not those extremes of poverty in the smaller cities and towns as a general thing, that there are in the larger cities. There are not in the smaller towns such large numbers of persons who are less able to pay their fare upon these roads.

If any class of railroads are to be excepted from this tax because they are an accommodation to the poor and to the common people, and because their gross receipts do not exceed their gross expenditures, I think the exception should apply to all roads where that fact obtains, and not be confined simply to the roads in towns and cities of less than seventy-five thousand inhabitants. I hope, if this amendment is to prevail at all, if we are to except any street railroads from this tax, if we are to put these railroads upon the same footing with bridge companies and toll-roads, that we shall extend the exemption to all of these street railroads alike.

Mr. BENTON. This is not the first occasion, Mr. Chairman, when, in view of being subjected to taxation, individuals have suddenly become very poor, receiving no profits from their investments. Now, I do not believe any such thing, as has been asserted, that as a general rule these horse railroads, as they are termed, do not yield any profits. Undoubtedly there are exceptions to the general rule. But as a general thing you find men organizing themselves into companies and asking for corporate privileges for the very purpose of establishing these roads in all our cities and large towns.

Mr. CULLOM. I desire to ask my friend from New Hampshire [Mr. BENTON] whether there is any horse railroad in the town in which he resides.

Mr. BENTON. No, sir; I am glad to say there is not. I think that these horse railroads, instead of being, as claimed, the friend of all who happen to patronize them, are in many cases their worst enemies.

Mr. PILE. On what ground?

Mr. BENTON. On the ground that frequently individuals, instead of walking as they might do, crawl into the horse cars to ride twenty, thirty, and forty rods. It has become so fashionable to ride in the cars that everybody must ride whether there is any necessity for it or not.

Mr. PILE. I am very certain that the poor people of our cities do not agree with the gentleman.

Mr. GRISWOLD. I would like the gentle-

man from New Hampshire to give me, if he is able, the names of three horse railroads that have paid dividends within the last two years.

Mr. BENTON. The gentleman asks me a question with regard to the business of these companies, in reference to which he must know I am not particularly informed.

Mr. GRISWOLD. The gentleman was giving facts, and I supposed he was conversant with the subject. I asked for information.

Mr. BENTON. I can mention the Pennsylvania avenue railroad in this city, and the railroads in the city of New York.

Mr. GRISWOLD. The gentleman is entirely wrong there.

Mr. BENTON. Unless the facts are much misrepresented the railroads in the city of New York are not only making money, but, being taxed one eighth of a cent on their fares, they imposed an additional charge of one cent on their customers, thus taking the tax, increased sevenfold, out of the pockets of the people. I also understand that in the city of Boston enormous profits have been made by these horse railroad companies, much larger profits than those of the regular railroads. If these roads are not profitable, I ask again, why is it that in our large towns you find men rushing to invest their capital in this business and establish new lines?

Mr. MAYNARD. Does not the gentleman know that we have been told here on the very best authority that the banks are in a languishing condition?

Mr. BENTON. I know that.

Mr. MAYNARD. And the patent medicine business has been represented to be in a languishing condition.

Mr. BENTON. Certainly.

Mr. MAYNARD. And the case has been the same with almost every other interest that has thus far come up for consideration. Does the gentleman expect the railroads to be in any more flourishing condition than these other interests?

Mr. BENTON. Not until after these taxes are settled upon. [Laughter.]

Mr. HOOPER, of Massachusetts. I suppose the gentleman from Tennessee [Mr. MAYNARD] considers a bank to be in a "languishing condition" when it pays a semi-annual dividend of only twenty per cent. [Laughter.]

Mr. LYNCH. Does not the gentleman from New Hampshire also know that the hotels at the White mountains are in a languishing condition? [Laughter.]

Mr. BENTON. Not by any means. They are, I am happy to inform the gentleman, in a very flourishing condition.

The question being taken on Mr. PILE's amendment to the amendment, there were—ayes 37, noes 35; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers; and appointed Messrs. PILE and BENTON.

The committee divided; and the tellers reported—ayes 50, noes 47.

So the amendment to the amendment was agreed to.

The question recurred on Mr. COBURN's amendment as amended.

Mr. ELA. I move to amend the amendment by adding:

*Provided*, That all railroads, steamboats, transportation companies or individuals who do a losing business shall be relieved from all internal revenue taxes.

The CHAIRMAN. The gentleman must reduce his amendment to writing, and send it to the Clerk's desk, before it can be entertained.

The question being taken on Mr. COBURN's amendment as amended, there were—ayes 37, noes 38; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers; and appointed Messrs. ALLISON and Judd.

The committee divided; and the tellers reported—ayes fifty, noes not counted.

So the amendment was agreed to.

Mr. TRIMBLE, of Kentucky. I move to

amend the section by striking out, in the twenty-third line, the word "two" and inserting "six;" so as to make the clause read:

*Provided*, That no tax under the provisions of this section shall be assessed upon any person, firm, company, or corporation whose gross receipts do not exceed \$6,000 per annum, &c.

Mr. Chairman, the object of the committee seems to be to protect the smaller class of roads, turnpike companies, &c., and while we recognize this principle it seems to me but fair and just that we should extend this exemption at least to companies whose gross receipts do not exceed \$6,000. If there are any roads in which every section of the country is interested it is these little turnpikes that barely pay expenses. Where they collect from two to four thousand dollars, under the section as it stands, we tax the entire sum. In many parts of the country these turnpike companies are in a languishing condition, and have paid nothing to the stockholders. In my own State I do not believe there is a turnpike company that pays a single cent. Every one in the country is interested in keeping up these turnpike companies, and in having others built where the interests of the country demand them. I think, therefore, that a tax upon these roads is really a tax upon the people. I hope the chairman of the Committee of Ways and Means will consent to this exemption of \$6,000 instead of \$2,000. The entire country is interested in it. There is no one who invests in turnpike companies who expects to make anything out of them. This tax of two and two and one half per cent. deprives them of all hope of making anything out of their investments. My amendment will also relieve the little street railroads whose incomes do not amount to the amount I have fixed. It will also relieve small ferries, which the people of the country are interested in keeping up. I hope the amendment will be adopted.

Mr. SCHENCK. Mr. Chairman, I do not know whether it is likely to meet with success that any one should endeavor to oppose the railroad interest in this House. I am rapidly coming to the conclusion at which my friend from Tennessee [Mr. MAYNARD] has arrived, that every interest of the country, and especially of corporations, must be in a languishing and sinking condition. The moment you touch one of them you hear nothing but embarrassments, losses, and the impossibility of making profits. We have heretofore heard from our friend from Pennsylvania [Mr. SCOFIELD] of "the poor man's light," and from my friend from Michigan [Mr. FERRY] of "the poor man's lumber." The gentleman from New York [Mr. BARNES] told us about "the poor man's medicines," which, in my judgment, are composed of two ingredients, half poison and half profit. [Laughter.] In their sympathetic souls they have no other desire than to help the poor man. No one thinks or seems to have any idea that the stockholders are men who desire to make money at all, or that they are at all concerned in being relieved from this tax. Let us see whether this sympathetic feeling is entirely for the poor man. Let us try these street railroads. With great ingenuity they succeeded a few years ago, and with greater ingenuity they succeeded in getting upon the statute-book a provision—

Mr. STEVENS, of New Hampshire. Is the subject of street railroads now in order?

The CHAIRMAN. It is not.

Mr. SCHENCK. These street railroads managed to get upon the statute-book a provision, when they were charged two and a half per cent., which on their fare is one eighth of one cent, to charge an additional cent upon their fare against the people, and thus get seven eighths upon every passenger by reason of paying taxes; that is, they make money out of taxation. Now, sir, not satisfied with making money out of the tax, they wish to begin at the other end of the string, and take the tax off altogether.

Mr. PILE. I wish to say that so far as the street railroads of St. Louis are concerned

they have not added on an additional cent. Five cents is the standing fare upon every street railroad in the city of St. Louis.

Mr. SCHENCK. I hold in my hand a perfect wail from these street railroads. It is from two excellent gentlemen whom I know. They show by statistics in what a ruinous condition the street railroads are. None of them had made dividends or could make dividends in New York. When asked abruptly what the stock was selling for, they admitted it stood at 150 or 160, or at some high premium. They said that was the result of dealings in real estate which we had no right to take notice of. Well, that may be so; I dare say it is; but my impression is that when the organized aggregations of capital can be used so that the stock which represents that capital in the hands of the holders is kept above par, so as to make it a good investment, they are not suffering to the extent to which they claim. And yet now that we come upon this subject of railroads I find we have waked up a very large feeling of sympathy—to call it by no stronger name—in this House, and that we can hardly do too much for these railroads. We were thought to be acting fairly toward them when we did not propose to increase their tax at all, while in regard to many other taxes there has been a process of equalization and increase. Yet these large corporations—I speak of railroads generally,—which now pay two and a half per cent., if the amendment made to-day becomes a part of the law will pay only two per cent. And I believe one gentleman thought if he could only get the floor he could bring it down to one per cent., such deep sympathy was there in this House for these suffering railroads. All I desire to say is, that while we do not ask to put a heavier burden on them at all than they have had heretofore, we shall hesitate for some time about coming to the belief that these corporations have suffered or are suffering so that we cannot at least keep up in some degree the present contributions which we require of them for the purpose of sustaining the Government.

[Here the hammer fell.]

Mr. JUDD. I move, as an additional amendment, to strike out "six" and insert "five." I have listened with a great deal of interest to the lecture of the honorable chairman of the committee, [Mr. SCHENCK.] It is generally pleasant to the House, and perhaps it is very well advised; but it seems to me that he is urging now upon this committee a principle which has not a basis of reason. The principle upon which all taxation is based, and upon which this bill is based, is that property should pay it, and that the revenues derived from property should bear their proportion for the support of the government. I do not believe the chairman of the committee would say that he intended by this bill, or any portion of it, to tax a man who is losing money, or to tax a man upon property that does not return him any sort of income, but the theory of taxation is that you take it from the man that earns more than his daily bread; you take from his excess and give it to the support of the Government. Now, sir, there is no reason why, when honorable members on this floor assert as within their personal knowledge that a certain branch of industry which is absolutely necessary to the existence of the people in a certain portion of the country is a losing business, that the stockholders derive nothing from it, and that it is kept in existence for the benefit of the masses of the people, any one should turn round and say that those gentlemen are advocating a special interest in this country.

Mr. BENTON. Will the gentleman allow me to ask if it is not very easy under the proposed amendment so to expend their income as to have none left over improvements and repairs?

Mr. JUDD. Allow me to ask the gentleman what is the population of his town?

Mr. BENTON. About five hundred voters.

Mr. JUDD. In answer to the gentleman I

will say that it is possible for any corporation to waste or absorb all its earnings in improvements, if you please; to put them in some form that they shall represent other than profits; but I tell you, when they undertake to expend all their money, their income account shows perfectly well whether they make profits or not. And there is no device by which they can increase their capital or otherwise which the tax-gatherer will not be able to reach. Sir, I have seen cars in my State loaded down with workmen who could not live within the thickly-inhabited portion of the city, coming to their daily labor. I know some of these roads that have been carrying these passengers during the last two years for less than cost. I tell the gentleman from New Hampshire if he will go to any of the large cities where these railroads are in use he will find it is not the company—although they may have entered upon the enterprise for profit—but the people that are benefited.

Mr. BENTON. Will the gentleman allow me to ask him a question?

Mr. JUDD. Yes, sir.

Mr. BENTON. I would like to know at what kind of business those laborers can earn as much money as they could save by walking instead of paying car fare?

Mr. JUDD. I say that the laborer who commences his work at seven o'clock in the morning, being compelled to get his breakfast first, and who would have to walk six miles to his place of work, needs this method of transportation. And after his day's labor is ended, when he has toiled eight or ten hours as hard as he can for the support of his family, my friend from New Hampshire would have him, before he takes his frugal evening meal, repeat that walk of six miles. I tell you this is a tax which we do not propose to impose on the laboring men of our region.

[Here the hammer fell.]

Mr. ALLISON. I oppose the amendment to the amendment.

Mr. JUDD. I withdraw it.

Mr. ALLISON. I move that the committee rise for the purpose of closing debate on this section.

Mr. INGERSOLL. Before that is done I wish to offer an amendment.

Mr. ALLISON. Amendments will still be in order.

Mr. INGERSOLL. But I want to debate it. The question was taken on Mr. ALLISON's motion; and the committee refused to rise.

Mr. KOONTZ. I move to amend the amendment by striking out "six" and inserting "seven." There are many persons throughout the country engaged in carrying passengers who are contractors upon small post routes. They engage in the business, not so much because it is remunerative, but in order to accommodate the wants of the public. It is well known that these mail contracts are awarded to the lowest bidders, and I think it unfair to those parties who have taken the contracts at the lowest price, and who are compelled by public necessity to carry passengers, that they should be taxed. I withdraw my amendment to the amendment.

The question recurred on the amendment proposed by Mr. TRIMBLE, of Kentucky.

Mr. INGERSOLL. I desire, with a view of testing the principle involved in this section, to move to strike out "two and one half" in line three, and insert "seven;" and in line four to strike out "gross" and insert the word "net" in lieu thereof.

The CHAIRMAN. That amendment is not in order until the amendment of the gentleman from Kentucky [Mr. TRIMBLE] shall have been disposed of.

The question was taken on Mr. TRIMBLE's amendment, and it was disagreed to.

Mr. HIGBY. I move to amend the section by striking out in lines six and seven the words "and stage coach or other vehicle, except hacks or carriages not running on continuous routes." Mr. Chairman, I venture the assertion that there is no State in the Union

that pays so much tax upon vehicles of this kind as the State of California; and I venture the assertion that with the exception of the other States on the Pacific slope and the Territories, there is no portion of the Union where the expense of travel is so great as it is there, not because they charge extravagant prices, but because our methods of conveyance are far more expensive than they are here in the East. Now, with this tax added on—I do not mean to say that that is the only cause, but with this tax added on the burden has become so great that in many instances it has broken up our stage routes, and the means of travel from point to point have been taken away from the people. I will give an instance of the difference of expense in different modes of travel. In going from Sacramento to my own town, I pay for the first forty miles in the cars \$2 50; and then for the thirty miles in the stage I pay \$4 50. I go the forty miles in two hours, and it takes seven hours to go the thirty miles. This illustrates the difference between railroad travel and travel by stage in the larger portion of the country.

A gentleman near me says, "Go afoot." I have heard of walking lines of stages, but I am not in the habit of walking so far. Sir, the more money we have to pay for traveling on these stage-coach lines in California per hundred miles the more tax we have to pay, for of course the passengers have to pay this tax. It has been said here by gentlemen that street railroads do not pay, and yet they have to pay this tax. They continue to pay it possibly because they are not so easily broken up and the amount invested in them cannot so conveniently be put in other business. But a stage route can be very easily broken up.

A friend near me [Mr. STARKWEATHER] calls my attention to the fact that of the tax derived from this source last year California alone paid the sum of \$45,569 64. That tax is paid upon routes where it costs four and five times the amount to travel a hundred miles that it does on any railroad in the eastern States, and those routes pay four and five times the tax that is paid for the same distance and amount of travel in the East. It makes an extremely grievous burden upon the people of a State who can travel in no other way than upon those stages. An effort was made in the Thirty-Ninth Congress to keep this tax out of the law, and some of the members of the Committee of Ways and Means were in favor of omitting it. But a majority of the committee held that it should be retained; and it was put in. I think this is one of the burdens from which the people should be relieved. I am not speaking in behalf of the owners and capitalists interested in stage lines, but of the mass of the people who are compelled to travel in this way and can travel in no other; and because the expense of traveling in my State is so extremely high in comparison with the expense of traveling in the East.

Mr. SCHENCK. It is very natural, I suppose, that we should all look at this subject from the point of view in which it necessarily presents itself in the State or locality we represent. The gentleman from California [Mr. HIGBY] objects to taxing these lines of stage-coaches, and moves to strike out the provision imposing the tax, so as to put them upon a different footing, as it were, from that occupied by lines of railroads. And what is the reason he assigns for his opposition? That this tax operates unequally upon different parts of the country.

The whole amount of revenue received last year from the tax on the gross receipts of stage-coaches, carriages, and vehicles upon continuous routes, was about two hundred and forty-one thousand dollars. The gentleman says that he finds that of that amount \$45,000 was collected in California alone. Why is that? Because in California they are running stage-coaches, while in other parts of the country they are running railroads.

I suppose the tax on bullion in California is many times the amount of tax upon bullion in

Indiana, because they dig it in the one place and do not in the other. The tax is collected where the article is found. And the fact that this mode of conveyance is taxed more in one part of the country than another is compensated by the fact that in other parts of the country other taxes are more while in this part of the country they are less. In other words, there is no inequality in the matter, because you tax the mode of conveyance, no matter where it may be found. And in one part of the country you tax one investment of capital, and in another part of the country you tax another investment. It does not follow that California is hardly treated because she pays one fifth of all the tax raised in the United States upon stage-coaches. Other States might respond that they had paid taxes upon railroads very largely beyond their proportion in extent of territory and amount of population. There is a fallacy in the statement and argument the gentleman has made upon the inequality there is in the matter of this taxation.

Now, sir, the Committee of Ways and Means in this matter have not gone beyond the present law. They have reported in this bill the same provision upon this subject that there is in the present law. We have been unable to see why capital invested and employed in one kind of business should be freed from taxation any more than capital invested and employed in another kind of business. One thing, is certain, those who invest their capital in any business do so with a view to the profits they expect to derive upon it. If one kind of business becomes unprofitable, through competition or any other cause, they shift their investment into something else; and thus the whole thing naturally finds something like a level.

Mr. FARNSWORTH. Will the chairman of the Committee of Ways and Means be kind enough to state, as I believe he has the returns before him, how much revenue has been derived from this tax on railroads, steamboats, &c., during the past year?

Mr. SCHENCK. The gross revenue collected under this provision from railroads has been, in round numbers, \$4,128,000; on ships, barges, &c., \$4,876; on stage-coaches, &c., \$241,297; and on steamboats, \$91,805, making an aggregate of between five and six million dollars.

The amendment of Mr. HIGBY was not agreed to; there being—ayes five, noes not counted.

Mr. DRIGGS. I move to amend by adding at the end of this section the following:

*Provided*, That no tax shall be assessed upon the gross receipts of any steamboat or ferry-boat, where the same have not amounted to the actual expense incident to running the same for the six months preceding, upon the production of satisfactory proof to the assessor of such fact.

Mr. Chairman, I would not have proposed this amendment but that I have felt it to be my duty to do so. I am satisfied that no tax should be levied on the proceeds of any business or enterprise when those receipts do not equal the actual expenses. I think, sir, that the cases contemplated by my amendment are peculiar, and perhaps different from any others which have been presented to the attention of the committee. In some of the newer sections of the country, it frequently happens that little steamers are started to run to and from places where small communities have been built up; and this means of communication is a matter of absolute necessity in order to accommodate the people of those settlements. In my own district, a gentleman during the last year ran two boats in that way, which were supported to a great extent by the citizens, who paid double fare in order to keep them running, and to make the receipts somewhere near the expenses. That gentleman was assessed of course upon the gross receipts of those boats. Now, it seems to me that there is a great hardship in imposing such taxation. In many cases these steamers and ferry-boats ply but a few miles. They have been charged, in some instances, custom-house fees on departing and arriving. In regard to some boats of this character in which my own constituents were inter-

ested, I procured a remission of those charges. I believe that such enterprises should be relieved also from this tax on the gross receipts. I think such exemption is equally just with the provision exempting toll-roads and toll-bridges. I hope the amendment will be adopted.

Mr. ALLISON. I oppose the amendment, and ask for a vote.

The amendment was not agreed to.

Mr. INGERSOLL. I move to amend the pending section by striking out the word "two" before the words "per cent.," and inserting in lieu thereof the word "seven;" and also by striking out "gross" before the word "receipts," and inserting "net;" so that the section will read:

That there shall be levied, collected, and paid, a tax of seven per cent. on the net receipts for the transportation of passengers of every railroad, canal, &c.

Mr. Chairman, I do not know that this amendment will meet the concurrence of a majority of the committee; but, whether it shall be adopted or not, I want to enter my protest against the principle involved in this section.

Mr. FARNSWORTH. What does my colleague mean by "net receipts?"

Mr. INGERSOLL. Receipts over and above the expenses of operating the road, canal, or whatever it may be.

Mr. FARNSWORTH. Then you mean profits?

Mr. INGERSOLL. Yes, sir.

Mr. FARNSWORTH. Why not say "net profits?"

Mr. INGERSOLL. There may be a distinction between receipts and profits; because out of the net receipts or earnings of the road, a company might have to pay interest on its bonded or funded debt; but still those net earnings would be profit on the running of the road for the particular year. What I design to accomplish by this amendment is that no railroad company or similar corporation shall be obliged to pay taxation on gross receipts, but only on the surplus after the expenses of conducting the business have been paid. Whether the committee shall agree with me or not, I for one want to enter my protest against the whole principle of assessing a tax on gross receipts. There is no justice, no equity in such a principle. Take, for instance, the railroads in the State of New York. The New York Central railroad earns annually \$14,000,000 of gross receipts, while its net receipts amount to \$4,000,000; that is the amount left after paying the expenses of operating the road. The Erie railroad earns, in round numbers, \$14,000,000 of gross receipts, while its expenses are about ten million dollars, leaving \$4,000,000 of net receipts. I think, sir, those roads paid about two hundred and eighty thousand dollars each per annum upon their gross earnings.

Mr. MAYNARD. My friend will pardon me. That was paid out of the gross earnings, and not out of the net earnings as he calls them.

Mr. INGERSOLL. Many of our roads, and the gentleman will see the distinction, pay on their gross receipts and have no balance left. They have to pay on the gross earnings of the road even if they sink money in the operation. That is the proposition here. And, sir, not one half of the railroads in the United States pay dividends to the stockholders. Take the roads in Minnesota and Wisconsin and elsewhere. There are roads now building in Illinois, extensions of roads in operation, which have never paid one farthing of dividend.

Mr. FARNSWORTH. Is it not in the power of these railroad corporations to make these dividends as they please?

Mr. INGERSOLL. If they are rascals, then make laws to detect them.

Mr. FARNSWORTH. Cannot they take them off in a thousand ways?

Mr. INGERSOLL. I do not want my time taken up with that question. Mr. Chairman, I object to taxing gross receipts. There are many new enterprises, such as the manufacture of sugar from beets, and so on, in which capital is invested, and if you tax the gross

receipts, you tax them when in reality they, in the beginning of these new enterprises, may have suffered very heavy losses. You tax them when they have already borne losses in the hopes that in the end the enterprise will be a success. I do not undertake to break down the revenue from this source. I say that a railroad corporation is better able to pay seven per cent. on the net receipts than two per cent. on the gross receipts.

[Here the hammer fell.]

Mr. ALLISON. I desire to say one word in reply to the various amendments, and then to move that the committee rise to close debate on this section. It is perfectly certain, Mr. Chairman, that from some source we must raise revenue. This practice of raising revenue from gross receipts is in accord with almost every provision in this tax bill. We tax manufacturers so much on sales. Even if they have lost \$10,000 each on their manufactures, still they must pay the tax. So with the wholesale merchants. If they lose, still they must pay the tax. During the last year we secured about six million dollars from this source, and there are other subjects which can be better relieved than this.

Mr. MAYNARD. If we pass this emasculated section, how much will it give?

Mr. ALLISON. We will gain nothing if these amendments are adopted.

Mr. HARDING. I ask the gentleman to inform me whether every dollar of this \$6,000,000 does not come at last from the people upon whom these corporations, taking the burdens off their own shoulders, put them? Do not these companies collect this tax from the people? Does the gentleman understand me?

Mr. ALLISON. I do. I do not know that railroad and transportation companies do so. But, sir, in some States they cannot do it. Whatever is imposed upon the New York Central railroad is compelled to come out of the stockholders of that company. It is the same with some street railroads. They cannot charge it upon their fares.

Mr. INGERSOLL. Do you know any other railroad beside the New York Central where that is the case?

Mr. ALLISON. These railroads do charge it over. It is a heavy burden, I know, but I want gentlemen who ask that these companies may be released from taxation to provide some means by which taxes shall be obtained from some other source. If it is the object of gentlemen to repeal all taxes, then let us do it, and reverse this whole principle. But I say there is no tax more just than this upon transportation, especially when we have reduced it one per cent. Last year we took off all the tax on transportation or freight, because we thought it was a burden on the people. I hope the next year we can take off this entirely. I agree it is a burden, but it is one we must endure for the time being. Therefore I hope the several amendments interfering with the revenue to be received from this source will not be adopted.

Mr. HIGBY. I can tell the gentleman how to remedy it. By equalizing taxation—not by throwing off all taxes, but by equalizing them.

Mr. ALLISON. I am obliged to the gentleman for the suggestion. I move that the committee rise.

Mr. TRIMBLE, of Kentucky. Will the gentleman yield to me? I think if he will agree to strike out \$2,000 and insert \$4,000 it will relieve a great many of these little stage companies and turnpike companies.

Mr. ALLISON. I will agree to that. I believe it is a just and fair amendment. If the gentleman had not made it \$6,000 I would have voted for it before.

Mr. TRIMBLE, of Kentucky. I make that motion.

The CHAIRMAN. It is not in order now. Debate is exhausted on the pending amendment.

Mr. INGERSOLL. I move to strike out the word "receipts."

Mr. SCHENCK. Can the gentleman modify his own amendment and thus make another speech?



The CHAIRMAN. He cannot if it is objected to.

The question being put on the amendment of Mr. INGERSOLL, there were—ayes 7, noes 48; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. INGERSOLL, and TRIMBLE of Kentucky.

The committee divided; and the tellers reported—ayes 24, noes 71.

The CHAIRMAN. The Chair votes in the negative, making a quorum; and the amendment is disagreed to.

Mr. HIGBY. I move to amend by insert after the word "and," in line six, the words "one per cent. on the gross receipts for the transportation of passengers on;" so that it will read:

On the gross receipts for the transportation of passengers of every railroad, canal, steamboat, ship, barge, canal-boat, or other vessel, and one per cent. on the gross receipts for the transportation of passengers on stage coach or other vehicle, &c.

I have proposed this amendment in order to say something in answer to the chairman of the committee, because he did not—I will not say intentionally—but he did not represent the matter as it truly is. If the object is simply to tax capital when he is taxing income upon stage companies it goes a great deal further than our experience justifies. He is taxing the people who support these lines of coaches. They are the ones who will have to pay it, and who do pay it. Sir, we in California have to pay, I will not say extravagant prices, but much higher prices for traveling than is paid anywhere in this Union on stage coaches. I have nothing to say with reference to our railroads or steamboats. Although we are paying a large revenue to the Government by our thousands of passengers from San Francisco to New York every month, we pay the tax willingly. But when you come to our inland travel by stage coaches, I say to the House that the price we have to pay is marvelous; and when this tax is put on over and above it, and the people who travel have to pay it, it will be considered a terrible burden upon them. I think we shall find the same to be the case in the Territories, where they cannot travel by railroad, especially in the Territories west of the Rocky mountains.

Now, sir, the tax that rests on our shoulders in California amounts to over fifty thousand dollars, where we have only some two hundred miles of railroad, and yet on our stage coaches we pay between forty and fifty thousand dollars. That is borne by the mass of the people, those who have small means. They are obliged to travel, and there are no competing lines by which they can go. Upon our great thoroughfares, where there is competition, where there are different lines competing with one another, it is very different. But it is not so in that State and in the neighboring States. There are no competing lines, and they cannot be maintained. It is for that reason that I make this motion, and ask that the people shall be relieved from this burden; for it is not the companies who pay it, but the people.

The question was taken on Mr. HIGBY's amendment, and it was disagreed to—ayes twenty-six, noes not counted.

#### ENROLLED BILLS SIGNED.

At this point the committee rose informally, and the Speaker having resumed the chair,

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. No. 322) granting a pension to Sherman H. Cowles;

A bill (S. No. 323) granting a pension to Michael Kelly;

A bill (S. No. 344) granting a pension to Caroline and Margaret Swartwout;

A bill (S. No. 420) granting a pension to James A. Guthrie;

A bill (S. No. 421) granting a pension to Caroline E. Thomas; and

A bill (S. No. 424) granting a pension to

Bartlett and Carrie Edwards, children of David W. Edwards, deceased.

#### INTERNAL TAX BILL.

The Committee of the Whole on the state of the Union then resumed its session.

Mr. SCHENCK. I ask unanimous consent of the committee that all debate upon this section shall be closed. That will not prevent the offering of amendments.

There was no objection, and it was so ordered.

Mr. TRIMBLE, of Kentucky. I move, on page 173, line twenty-three, to strike out "two" and insert "four" in lieu thereof; so that the proviso will read:

*Provided*, That no tax under the provisions of this section shall be assessed upon any person, firm, company, or corporation whose gross receipts do not exceed \$4,000 per annum, &c.

The amendment was agreed to.

Mr. COBB. I offer the following amendment as a proviso, to come in at the end of the section:

*Provided*, That those railroad companies which have received grants of land from the Government of the United States shall pay four per cent. on their gross earnings.

The amendment was disagreed to—ayes ten, noes not counted.

The Clerk read the next section, as follows:

#### *Express and Telegraph Companies.*

SEC. 120. And be it further enacted, That there shall be levied, collected, and paid a tax of three per cent. on the gross amount of all receipts for carrying on or doing any express business within the United States, or between any place within the United States and any foreign country; and on the gross amount of all receipts for receiving or transmitting dispatches or messages by telegraph.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to offer the following amendment:

Page 175, section one hundred and twenty, line three, strike out the word "three" and insert "two and one half" in lieu thereof; so that it will read:

That there shall be levied, collected, and paid a tax of two and one half per cent. on the gross amount of all receipts for carrying on or doing any express business within the United States, or between any place within the United States and any foreign country, &c.

The amendment was agreed to—ayes fifty-two, noes not counted.

Mr. SCHENCK. I offer the following amendment from the Committee of Ways and Means, to come in immediately after the words just read:

And on the gross amount of all receipts for providing sleeping-cars or other special accommodations for passengers on railroads for which charges other than the fare for transportation are made,

The amendment was agreed to.

Mr. SCHENCK. I propose, now that sleeping-cars are taxed, to add the words "and sleeping-cars" to the head line.

The amendment was agreed to.

Mr. SCHENCK. I offer the following amendment from the Committee of Ways and Means:

Page 175, at the end of line six, insert the words "three per cent.," so that it will read:

And three per cent. on the gross amount of all receipts for receiving or transmitting dispatches or messages by telegraph.

Mr. ALLISON. I should like the chairman of the Committee of Ways and Means to inform the committee the reason for a distinction between express companies and telegraph companies.

Mr. SCHENCK. My colleague had better have asked the committee. The committee this morning, upon a revision of this section of the bill, agreed to bring the tax on express companies down to two and a half per cent. No proposition was made to bring down the tax on telegraph companies. By a vote of the committee the tax on express companies was brought down to two and a half per cent., and hence it is necessary to repeat this language. There were no action in the committee in reference to telegraph companies.

Mr. ALLISON. I will say this: that I happened to be out of the committee-room when the final vote was taken upon this question of the tax upon express companies. But I sup-

posed the amendment applied equally to both parts of the section. I can see no reason for charging telegraph companies three per cent. and express companies only two per cent.

Mr. HOOPER, of Massachusetts. I understood that the motion was to strike out three per cent. and insert two and a half per cent. in both cases.

Mr. SCHENCK. Two of the members of the committee have said that they understood that this amendment was to apply both to express companies and telegraph companies. They will recollect, however, that not one word was said about anything but express companies.

Mr. HOOPER, of Massachusetts. That may be so; but still I understood that the amendment applied to both.

Mr. SCHENCK. If it was so understood, of course the case is different from what I supposed.

Mr. MAYNARD. I know it is not exactly in order to refer to what took place in the committee-room. But I think I may be permitted to say that we had before us persons representing express companies, while there was no one there representing telegraph companies. That was the reason, perhaps, why nothing was said about telegraph companies.

Mr. SCHENCK. Very well; by voting down this amendment the tax will be left at two and a half per cent. upon both telegraph and express companies.

Mr. ALLISON. The Committee of the Whole has reduced the tax on transportation companies from two and a half to two per cent. Under the present law express and telegraph companies are placed precisely upon the same footing. We have agreed to reduce the tax on express companies from three per cent., as reported, to two and a half per cent., for what reason I do not know, except that the proposed tax was too heavy.

Mr. CULLOM. The different companies pursue different kinds of business.

Mr. GRISWOLD. In justice to the chairman of the Committee of Ways and Means, [Mr. SCHENCK,] I desire to say that I was present this morning at the meeting of the Committee of Ways and Means, when we had under consideration the subject of decreasing the tax on express companies. I understood the matter exactly as the chairman says he understood it. Nothing at all was said about reducing the tax on telegraph companies, and I supposed the agreement was to leave that as it was reported in the bill.

The question was then taken upon the amendment of Mr. ALLISON to the amendment of Mr. SCHENCK; and it was not agreed to.

The question recurred upon the amendment of Mr. SCHENCK, to make the tax on telegraph companies three per cent.

Mr. FARNSWORTH. I move to amend the amendment so as to make the tax two per cent. I see no reason why telegraph companies should be taxed more than railroad companies.

Mr. SCHENCK. Because their profits are greater.

Mr. CULLOM. It is the most profitable business in the country.

Mr. FARNSWORTH. It seems to me we might with just as much propriety tax people for the letters they receive. The telegraph interest is an interest which involves the whole people of the country. Everybody is interested in telegraphing, and in having it made as cheap as possible. Taxing it simply increases the cost of telegraphing.

Mr. CULLOM. And it is so with everything else.

Mr. FARNSWORTH. So it is. But why increase the tax on telegraph companies when you decrease the tax upon railroads and express companies? I am not aware that telegraph companies are any more prosperous than express companies. I do not know that express companies have more burdens imposed upon them than telegraph companies. It seems to me it is making an invidious distinction which should not be made. I have no interest in

telegraph companies more than is held in common by other persons. I use them sometimes as others do. But everybody is interested in cheapening the cost of telegrams. It is proposed by some that the Government shall take charge of the telegraph lines of the country and make them a part of the postal system of the Government. Of course you would not tax telegraphing should that be done. If you determine to tax it, then you must let it remain where it now is, under the control of private enterprise. If you tax telegraph companies, you will simply add to the prices which will be charged for telegrams. If the chairman or any other member of the Committee of Ways and Means can give any reason why we should make a distinction in this respect between telegraph companies and express companies, I would like to hear it.

Mr. BENJAMIN. I would inquire of the gentleman from Illinois [Mr. FARNSWORTH] if the telegraph line is the poor man's mail route?

Mr. FARNSWORTH. It ought to be, but it never will be while you impose a tax of three per cent. upon it.

Mr. SCHENCK. I will tell the gentleman why it is proposed to make the difference he speaks of. As the law is now each of these classes of companies is charged three per cent. upon its gross receipts. In this bill they are both embraced in one section. The express companies, through their representatives, have appeared before the Committee of Ways and Means, exhibited statistics, and made statements. After a revision of the whole subject, and taking into consideration the amount of capital employed, the amount of their losses and their profits, and their ability to bear a burden of this kind, the committee came to the conclusion that it was right and proper and just to put the tax upon express companies down to two and a half per cent. But nobody has undertaken to show to the committee that there was any reason for reducing the present tax upon the telegraph companies. The committee, from their knowledge on this subject, were inclined to believe that the tax ought to be left where it is. If the gentleman wants to know my own particular reasons for coming to that conclusion, I can tell him. The express companies cannot be started in opposition to each other without an enormous amount of outlay, while it costs comparatively little to build a few miles of telegraph. Thus competition springs up from time to time between different telegraph companies. Some fail in their struggles to secure a profitable existence while others succeed. But as a general rule the profits from telegraphs have been large in proportion to the cost of establishing them. They have, in general, paid well. My friend from Pennsylvania [Mr. COVODE] says that he has not found it so in his experience; but I know that in cases of which I have some personal knowledge the stock of telegraph companies has been extremely profitable. I am told that the Western Union Telegraph Company has not realized any considerable profits; but perhaps it has not been sufficiently long established. It must, however, be considered that one cannot tell from the returns of these companies whether they are or are not making profits. There are combinations made; there are processes called waterings of stock, expansions of stock, &c., by which companies, upon the statistical tables presented, may appear not to be making profits for their stockholders, when, in fact, the enterprise is yielding large returns for the investment. I yield the balance of my time to the gentleman from Pennsylvania, [Mr. COVODE.]

Mr. COVODE. Mr. Chairman, I desire that the tax on telegraph companies shall be put down to the same rate as that on express companies. I know it to be a fact that the express companies are making larger dividends than the telegraph companies. I happen to be familiar with this question. I have money invested in both classes of companies; and from the one I get dividends, while from the other I get none.

I have had \$10,000 invested in telegraph company stock for a long time, and no dividends whatever have been declared. I do not see why we should impose less taxation on companies that declare dividends than on those that do not. It is unfair and unjust. I only ask that the tax on the telegraph companies shall be made the same as that on the express companies.

[Here the hammer fell.]

The question being taken on Mr. FARNSWORTH's amendment to the amendment of Mr. SCHENCK, it was not agreed to; there being—ayes thirteen, noes not counted.

Mr. SCHENCK's amendment was agreed to.

Mr. SCHENCK. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and had come to no resolution thereon.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 534) relating to contested elections in the city of Washington, District of Columbia; and

An act (S. No. 509) in addition to an act passed March 26, 1864, entitled "An act in addition to an act entitled 'An act for the punishment of certain crimes against the United States.'"

#### LEAVE OF ABSENCE.

Leave of absence was granted to Mr. WINDOM for one week, and Mr. BROMWELL for ten days.

#### ORDER OF BUSINESS.

Mr. HOLMAN. I move that the House adjourn.

Mr. SCHENCK. I believe the order was by unanimous consent that the House continue in session till five o'clock. A bill has just come from the Senate that it is desirable to act upon.

The SPEAKER. That was the order of the House.

Mr. FARNSWORTH. I move to proceed to business on the Speaker's table.

The SPEAKER. If that is done the bills must be taken up in their regular order and disposed of.

Mr. HOLMAN. I hope the motion will not prevail.

On the question of proceeding to business on the Speaker's table, there were—ayes 44, noes 28; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. INGERSOLL and HOLMAN.

Mr. INGERSOLL. If this motion prevails, will it be in order to set aside bills in order to reach any special one?

The SPEAKER. They must be acted on or referred in their order.

Mr. INGERSOLL. I move that the House adjourn.

The SPEAKER. That motion is not yet in order.

Mr. BLAINE. Will it be in order to regard it as five o'clock now by unanimous consent?

The SPEAKER. It would be.

Mr. BLAINE. I think we can so regard it.

Mr. SCHENCK. It will be five o'clock before a count is had.

The SPEAKER. If the chairman of the Committee of Ways and Means makes no objection it can be so regarded.

Mr. SCHENCK. I make none.

The SPEAKER. Then the House stands adjourned till Monday at twelve o'clock.

The House accordingly (at four o'clock and fifty-nine minutes) adjourned.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. BOUTWELL: The petition of Joseph R. Hayes, and 92 others, of Lowell, Massachusetts, in reference to the tax on cigars. Also, a memorial from E. R. Knorr, in reference to ocean charts.

By Mr. ELIOT: The petition of the Benevolent Homestead and Relief Society of Sayannah, Georgia, praying for relief.

Also, the petition of Atlantic Insurance Company and others, of New York, praying for the erection of a breakwater at the entrance of Cuttyhunk harbor.

By Mr. FIELDS: The petition of Jefferson P. Clyde and 86 others, asking a reduction in the expenses of the military, naval, and civil service of the United States.

#### IN SENATE.

MONDAY, June 15, 1868.

Prayer by Rev. A. D. GILLETTE, D. D., of Washington.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of Saturday last was dispensed with.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented two petitions of citizens of Ohio, praying the introduction of hand-loom and such material among the Indians as will attract their attention and lead them to fabricate their own garments; which was referred to the Committee on Indian Affairs.

He also presented a memorial of E. B. Ward, praying a change in the mode of appointments and removals and in the qualifications of all officers who are selected to execute the laws for the collection or disbursement of moneys belonging to the United States; which was referred to the Committee on Finance.

He also presented a petition of Gabriel M. Thomas, of South Carolina, praying a removal of the civil disabilities imposed on him by act of Congress; which was referred to the Committee on the Judiciary.

Mr. WILSON presented a petition of citizens of Vermont, praying a repeal of the charter granted to the Masonic Hall Association of Washington, District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. SHERMAN presented the memorial of A. D. Breed, of Cincinnati, Ohio, praying for confirmation of the land grant of June 3, 1856, to the Selma, Rome, and Dalton Railroad Company, and extension of the time for completing the road and for a change of location; which was referred to the Committee on Public Lands.

#### PAPERS WITHDRAWN.

On motion of Mr. HOWE, it was

Ordered, That D. A. Daniels have leave to withdraw his petition from the files of the Senate, and that it be referred to the Committee on Claims.

#### REPORTS OF COMMITTEES.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred a petition of citizens of New York, praying that a pension be granted to Hannah Cook, submitted a report, accompanied by a bill (S. No. 545) granting a pension to Hannah Cook. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Jane McMurray, submitted a report, accompanied by a bill (S. No. 546) for the relief of Jane McMurray. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of John Sheets, submitted a report, accompanied by a bill (S. No. 547) granting a pension to John Sheets. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom

was referred the petition of Almanda Stackhouse, submitted a report, accompanied by a bill (S. No. 548) granting a pension to Almanda Stackhouse and the children of Parks J. Stackhouse, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Catharina Eckhardt, submitted a report, accompanied by a bill (S. No. 549) granting an increase of pension to Catharina Eckhardt. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1010) relating to pensions, reported it with amendments.

Mr. HENDRICKS, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 486) to facilitate the settlement of certain prize cases in the southern district of Florida, reported it without amendment, and submitted a report; which was ordered to be printed.

Mr. WILLIAMS, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 1157) to cede to the State of Ohio the unsold lands in the Virginia military district in said State, reported it without amendment.

Mr. SUMNER, from the Committee on Foreign Relations, reported a bill (S. No. 551) to carry into effect the two several decrees of the district court of the United States for the district of Louisiana in the cases of the British vessels *Volant* and *Science*; which was read, and passed to a second reading.

He also presented a letter from the Secretary of State, addressed to the Committee on Foreign Relations, in relation to the cases of the British vessels *Volant* and *Science*; which was ordered to be printed.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of Robert Ford, submitted a report, accompanied by a bill (S. No. 550) for the relief of Robert Ford. The bill was read, passed to a second reading, and the report was ordered to be printed.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river, reported it with an amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 410) making appropriations for the repair, preservation, and construction of certain public works in the Territory of Idaho, and for other purposes, asked to be discharged from its further consideration, and that it be referred to the Committee on Appropriations; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 355) authorizing the construction of a bridge across the Missouri river upon the military reservation at Fort Leavenworth, Kansas, reported it with amendments.

Mr. THAYER, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 371) relative to the military reservation at Fort Dalles, in Oregon, reported it without amendment.

Mr. POMEROY, from the Committee on Public Lands, reported an amendment intended to be proposed to the bill (H. R. No. 267) to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, Louisiana, and Florida, and for other purposes; which was ordered to be printed, and recommended to the Committee on Public Lands.

#### SCHOOL LOT IN BURLINGTON, IOWA.

Mr. POMEROY. The Committee on Public Lands, to whom was referred the bill (S. No. 469) confirming the title to a tract of land in Burlington, Iowa, have had the same under consideration, and directed me to report it

back without amendment, and recommend its passage.

Mr. HARLAN. If there is no objection, I should be very glad to have that bill taken up and acted upon now. I do not think there will be one Senator who will oppose. It is a very small matter.

Mr. POMEROY. It is merely a burying lot in the city of Burlington, Iowa, that was reserved from sale by the United States for that purpose, but which they have now abandoned.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to confirm and vest all the title of the United States in and to a certain tract of land in the city of Burlington, Des Moines county, in the State of Iowa, described as being west of lot No. 978 in that city, south of Valley street, west of Boundary street, and north of Market street, and which was originally reserved from sale by the United States and dedicated to public burial purposes, in the "Independent School District" of that city, to be forever dedicated to and used by the school district for public school purposes and for no other use or purpose whatever.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. FOWLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 552) to provide for the better security of life on board of steamboats and steamships and other vessels; which was read twice by its title, and referred to the Committee on Commerce.

Mr. NYE asked, and by unanimous consent, obtained, leave to introduce a joint resolution (S. R. No. 145) in relation to the coast defense; which was read twice by its title, and referred to the joint Committee on Ordnance.

#### REFUNDING OF DUTIES.

Mr. MORGAN. I move to take up for consideration Senate bill No. 448, for the return of certain duties erroneously exacted.

The motion was agreed to; and the bill (S. No. 448) to refund duties erroneously exacted in certain cases was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to refund to importers in the city of New York, in moneys receivable for duties, the excess of duties exacted and paid upon importations and merchandise subject to specific duties, made subsequent to the passage of the tariff act of the 2d of March, 1861, and prior to the passage of the act of the 14th of July, 1862, caused by the non-allowance by the collector of the port of New York for draft upon such importations, as provided by sections fifty-eight and fifty-nine of the act to regulate the collection of duties on imports and tonnage, approved March 2, 1799.

Mr. FESSENDEN. I should like some explanation of that bill. I do not understand what it is.

Mr. MORGAN. The act of March 2, 1861, provided for the collection of specific duties. A circular from the honorable Secretary of the Treasury, issued to collectors of customs, dated March 21, 1861, directed allowances for tare, draft, &c., to be made in accordance with sections fifty-eight and fifty-nine of the general collection act of 1799, which were again brought into operation. Allowances for tare and draft were made in the ports of Boston, Philadelphia, Baltimore, and other ports throughout the United States, under the act of 1861 and under the Treasury circular referred to, in accordance with the uniform practice of the Government under all previous specific tariff acts; but the collector of customs at the port of New York did not make any allowance for draft in cases where tare was allowed, declaring that both allowances could not be made on the same article; in other words, that tare only should be allowed on merchandise imported in packages, and draft only in cases of merchandise imported in bulk. In order to test the point

before the courts some importers of New York protested, and in the case of *Napier vs. Hiram Barney* the court held that the importer was entitled to the allowance of both tare and draft under the acts of 1799 and 1861. The Secretary of the Treasury having acquiesced in the decision of the courts, the duties exacted contrary thereto and paid under protest were refunded to the importers. These petitioners ask that in cases where protests were not made the same allowance be made to them as where there was protest. I have a letter from the Secretary of the Treasury on the subject, which I will read:

TREASURY DEPARTMENT, March 4, 1868.

SIR: I have the honor to acknowledge the receipt of your note dated the 24th ultimo, submitting a letter of Mr. Moses H. Grinnell, of New York, addressed to you under date of February 13, 1868, (which letter is herewith respectfully returned) relative to securing the enactment by Congress of a resolution authorizing the return of duties exacted at the port of New York in alleged violation of law.

The excess of duties referred to in the communication of Mr. Grinnell was exacted by reason of non-allowance for "draft," as prescribed by the fifty-eighth section of the general collection act of 1799, on articles paying specific duties.

The act of March 2, 1861, provided for the collection of specific duties; and Treasury circular of March 21, 1861, directed that allowances for tare, draft, &c., were to be made in accordance with sections fifty-eight and fifty-nine of the act of 1799, which were again brought into operation.

But in view of Treasury circular dated March 24, 1847, directing that draft and tare should not be allowed on the same article, the former applying to merchandise in bulk and the latter to goods in packages, draft was not allowed at the port of New York on goods in packages. It was, however, allowed on such goods at the ports of Boston, Philadelphia, and Baltimore.

In order to test the point before the courts, some importers protested at the port of New York; and, in the case of *Napier vs. Barney*, the court held that the importer was entitled to both draft and tare under the acts of 1799 and 1861.

The Department having acquiesced in this decision, the duties exacted contrary thereto and paid under protest were refunded to the several importers. But no authority existed to refund to those who had not paid under protest; and it is for the relief of the latter class, I understand, that the resolution above referred to is desired.

The case may be considered an exceptional one, in view of the fact that draft was allowed at the ports of Boston, Philadelphia, and Baltimore, and was not allowed at New York. This was in effect a violation of the clause in the Constitution (article one, section seven,) which declares that "all duties, imposts, and excises shall be uniform throughout the United States."

Under these circumstances, I am of opinion that the proposed legislation would be eminently proper.

I am, very respectfully,

H. McCULLOCH,  
Secretary of the Treasury.

Hon. EDWIN D. MORGAN,  
United States Senate, Washington, D. C.

I have here, also, the circular of Mr. Secretary Chase, dated March 21, 1861, in which it is stated:

"That in allowances on account of tax, draft, &c., on goods subject to specific duty under the new tariff, officers of the customs will be governed by the provisions of the fifty-eighth and fifty-ninth sections of the general collection act of March 2, 1799, which are again brought into operation."

This bill and these papers were before the Committee on Finance, and they thought the claim was entirely just, and they have unanimously reported in favor of the bill. If necessary a limit can be fixed on the amount to be paid, which I will propose if it is deemed needful.

The bill was reported to the Senate.

Mr. MORGAN. It is supposed that the amount of duties to be refunded is not far from \$50,000, but so as to have the amount large enough to cover all demands I will offer this amendment:

And the sum of \$60,000, or so much thereof as may be necessary, is hereby appropriated out of any moneys not otherwise appropriated, to carry into effect the objects of this act.

It is not known exactly what the sum is, but perhaps it is well enough to make the appropriation \$60,000.

The amendment was agreed to.

Mr. CONNESS. I would inquire of the Senator who has charge of this bill whether there is any correction necessary to be made touching the collection of duties in any other ports; whether New York is the only place in which those collections were made illegally and



improperly; whether the committee inquired as to that?

Mr. MORGAN. It would appear that the Treasury circular issued in 1861 was carried into effect in all the other ports of the country. Mr. Barney was the only collector who objected.

Mr. CONNESS. That appears by the investigation?

Mr. MORGAN. Yes, sir; that appears by the investigation.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### CONTRACTORS FOR IRON-CLADS.

Mr. DRAKE. I move that the Senate take up the joint resolution (S. R. No. 100) for the relief of certain contractors for the construction of vessels of war and steam machinery.

The PRESIDENT *pro tempore* put the question on the motion; but before announcing the result,

Mr. STEWART. That resolution will certainly lead to discussion, and I desire to call up to-day, and I should like to do it in the morning hour, a bill to remove political disabilities.

Mr. DRAKE. I hope the Senator will allow me to call this resolution to come up now.

Mr. STEWART. Let me make a single remark. It is necessary that the bill to which I refer should be considered to-day, in order that the State governments may go into operation. It will relieve a large number of persons who have been elected to office, and it is very important that the bill should be passed to-day.

Mr. DRAKE. Mr. President, did the Senate agree to take up the joint resolution I mentioned or not?

The PRESIDENT *pro tempore*. That is the question pending now.

Mr. DRAKE. I appeal to the Senator from Nevada in this matter. I do not see that there is any necessity for discussion over this resolution. The whole matter has been extensively discussed in connection with the bill that was passed the other day. I think the Senate can come to a vote upon it immediately without debate; and as I have never asked the Senate before, I believe, to take up any matter in the morning hour I should be very glad to be gratified in this instance.

Mr. STEWART. The taking up of the bill I have mentioned is no particular gratification to me. It is a matter of public business which must be done; but I withdraw my opposition and am willing that the resolution of the Senator should come up.

The PRESIDENT *pro tempore*. The question is on taking up the joint resolution for consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 100) for the relief of certain contractors for the construction of vessels of war and steam machinery.

The preamble recites that Congress, by an act passed on the 2d of March, 1867, provided for the investigation by the Secretary of the Navy of the claims of all the contractors for building vessels of war and steam machinery, and that pursuant to that act the Secretary of the Navy appointed a naval board for the investigation of the claims in question, and that it appears that the provisions of said act have not been fully conformed to in the findings of the board; and Congress having neither the time nor means for the careful legal investigation which the importance of the subject demands, to relieve it from the further consideration of the subject, and as a final settlement of the claims of the contractors, the resolution provides the claims for building vessels of war and steam machinery, referred to in the act entitled "An act for the relief of certain contractors," &c., approved March 2, 1867, be referred to the Court of Claims, which is hereby vested with jurisdiction under that act, whose duty it shall be to investigate and determine the claims of the several petitioners upon the principles of that act, and its finding is to have

the same force and effect as any other judgment of the Court of Claims.

Mr. DRAKE. I have simply to say, sir, unless some Senator calls for information with regard to this resolution, that the whole thing was incidentally discussed the other day in connection with the bill which was urged by the Senator from Indiana [Mr. HENDRICKS] to pay certain sums of money to certain contractors. If there is any point on which any Senator desires information to show the justice of allowing the men concerned in the construction of these vessels to go into the Court of Claims and establish their claim under the terms of the act of March 2, 1867, I am ready to give that information.

Mr. WILLIAMS. I should like to ask the Senator if he does not propose by this resolution to refer to the Court of Claims such claims as were submitted to and rejected by this board of commissioners. Is not that the fact?

Mr. DRAKE. Mr. President, the act of March 2, 1867, entitled "An act for the relief of certain contractors for the construction of vessels of war and steam machinery," authorized the Secretary of the Navy "to investigate the claims of all contractors for building vessels of war and steam machinery for the same under contracts made after the 1st day of May, 1861, and prior to the 1st day of January, 1864," which investigation was to be made upon a basis specified in that act.

Mr. WILSON. What was the basis?

Mr. DRAKE. It was as follows:

"He shall ascertain the additional cost which was necessarily incurred by each contractor in the completion of his work by reason of any changes or alterations in the plans and specifications required, and delays in the prosecution of the work occasioned by the Government, which were not provided for in the original contract; but no allowance for any advance in the price of labor or material shall be considered unless such advance occurred during the prolonged time for completing the work rendered necessary by the delay resulting from the action of the Government aforesaid, and then only when such advance could not have been avoided by the exercise of ordinary prudence and diligence on the part of the contractor, and from such additional cost, to be ascertained as aforesaid, there shall be deducted such sum as may have been paid each contractor for any reason heretofore over and above the contract price, and shall report to Congress a tabular statement of each case, which shall contain the name of the contractor, a description of the work, the contract price, the whole increased cost of the work over the contract price, and the amount of such increased cost caused by the delay and action of the Government as aforesaid, and the amount already paid the contractor over and above the contract price."

Now, Mr. President, I will state in a few words exactly how this matter stands. There are quite a number of vessels concerning which the claims of the contractors were submitted; but I take the cases of nine of them, all of one class, all built under precisely the same contract, all to be built for the same sum of money, and all of them costing very largely above what the contract price was. For instance, here are three together built by the firm of Secor & Co. and the firm of Ferrine, Secor & Co., to wit: the Manhattan, the Tecumseh, and the Mahopac. They cost over and above the contract price \$1,236,101 22. The Navy Department paid over and above the contract price \$521,195 58, leaving a balance of excess over the contract price and that amount of \$714,905 64. This board that was organized by the Secretary of the Navy under the act of March 2, 1867, allowed to those individuals \$115,539 01, leaving unprovided for \$599,366 63. That is one case.

Mr. WILLIAMS. I do not know that I fully understand the Senator. Was this \$115,000 allowed by the board in addition to the \$500,000 paid?

Mr. DRAKE. Yes, sir; that was in addition; and yet notwithstanding all that the Navy Department paid them was above the contract price, and notwithstanding the \$115,000 allowed by the board, these individuals have nearly \$600,000 of excess of cost over the contract price for which there is no provision.

Now, pass on to the Oneco and the Catawba, built by another concern. Upon these two vessels the whole increased cost was upward of six hundred and sixty-five thousand dollars.

The Navy Department paid them upward of three hundred and twenty-two thousand dollars, and this board, though they stand upon the very same footing as the others, the very terms of the contract being identical, the alterations identical, the delays identical, allow them not one cent though they are five hundred and thirty-three thousand dollars nearly out of pocket. So in the case of the Manayunk, where the whole increased cost was nearly three hundred and forty thousand dollars, one hundred and sixty-six thousand and some odd hundred dollars were allowed them by the Department, nothing allowed them by this board at all, and they are one hundred and seventy-two thousand dollars and upward out of pocket. So in the case of the Tippecanoe, Miles Greenwood, on the same facts, is one hundred and seventy-six thousand dollars and upward out of pocket. So in the case of the Etah, the builders are upward of one hundred and fifty-six thousand dollars out of pocket.

The fact is that this board allowed an account of five of these vessels built in the eastern States the amounts specified in the bill that was passed here the other day, and on the other four of the nine built in the western States they allowed not one single cent; and yet the circumstances under which they were built were precisely the same, the contract the same, the specifications the same, the delays on the part of the Government the same, the difference in the price of gold during the period of building the same! Still this board allowed nothing.

Now, then, the simple request here is "Let us go into the Court of Claims: we had no clear showing before that commission; we sent in our request; they never gave us an opportunity to go before them; or at least they never asked of us any explanation; they never gave us an opportunity to come in there and show them how it was that we were damaged. Let us go before the Court of Claims, not for a general demand upon the Government, but let us go there upon the very specific terms of the act of March, 1867, and if we cannot there show a case whereby we are entitled to relief more than this board granted us then let us be turned out. We know that we are to go there and to stay there years before we get this money or any part of it, before we can get any allowance." We know, as I do know and state to the Senate, the fact that some of those concerns were bankrupted by these contracts; and all that they ask is for the poor privilege of going into the Court of Claims and showing their whole case there; and if, under the terms of the act of March 2, 1867, they are entitled to anything, let the court award it, and if they are not, let the court say they are not, and there is the end of it. That is all that is asked. I, sir, appeal to the Senate on behalf of worthy men who have actually been ruined, some of them, by this whole transaction; and if it is not a case where they can be allowed to go there and show themselves entitled under this act of March 2, 1867, not otherwise, to some additional compensation, then of course the Government will suffer naught by it.

Mr. CHANDLER. Mr. President, I do not know the facts in regard to the contractors for these vessels, but I believe the vessels were iron-clads of a light draft, which were ordered during the war. I remember that the Committee on the Conduct of the War was directed by the Senate to investigate into the condition of those iron-clads, and the Presiding Officer and myself were on a sub-committee that did investigate their condition. We went to Boston and Brooklyn and examined them, and we found that of the twenty there was not one that would float, but they would all go to the bottom as quick as iron not worked into vessels.

Mr. DRAKE. Will the gentleman be so good as to state if that was the case with any of the eight named on the margin of this paper?

Mr. CHANDLER. I do not remember.

Mr. DRAKE. Very well; I hope the gentleman will be specific.

Mr. CHANDLER. In that case the Navy

Department, finding that they had committed a blunder, had built some twenty iron-clads at a cost of many millions of dollars which would not float, undertook to reconstruct them, make them over, turn them into torpedo boats or something of that kind. After they had been reconstructed, made over, and turned into torpedo boats at a vast expense, they were not half as good as they were when they would go to the bottom direct.

Now, sir, I do not know whether these are among those vessels or not; but after all, that should have no effect upon the claims of the contractors, though it does reflect upon the Navy Department. They had no right to build twenty vessels that would go to the bottom when their armament was on board, and then they had no right to undertake to turn them into torpedo boats, at a vast expenditure, and make them worse than they were when they would go to the bottom. Still the contractors undoubtedly obeyed the directions of the Navy Department, and are entitled to compensation. I have nothing to say with regard to the merit of these contractors, but I have something to say with regard to the merits of the Navy Department.

**MR. FRELINGHUYSEN.** Mr. President, I was one of the members of the Committee on Naval Affairs who dissented from this report. The chairman, the Senator from Iowa, [Mr. GRIMES,] and myself did not recommend that this joint resolution should pass. I understand the case to be simply this: the contract price for these vessels was, in round numbers, \$14,000,000. By reason of delay and alterations the contractors claimed to be paid \$10,000,000 more. The Department allowed and paid them \$5,000,000 of those \$10,000,000. Then Congress passed the act of 2d of March, 1867, which appointed a commission and authorized that commission to find out what more was due them; and that commission did find out, and reported that \$157,000 more were due; not \$5,000,000, but \$157,000; and the other day we passed a bill appropriating that money, so that it may be paid. Now they ask for liberty to go into the Court of Claims to have the whole subject again investigated. My objection to that is that there is no evidence whatever before Congress that the finding of the commission was not perfectly accurate and just; and until there is some such evidence I think it ought to be final.

Again, if we are determined that no adjudication shall stand, if we set aside every finding that is made by commission and by the Department, we finally shall get a sum of money that will be satisfactory to the claimants, and such as Congress wants to pay, I suppose.

**MR. WILLIAMS.** I should like to ask the Senator if this \$5,000,000 that was paid to these men in the first instance was ascertained by a commission?

**MR. FRELINGHUYSEN.** No; that was paid by the Department.

**MR. WILLIAMS.** Without any examination by a commission?

**MR. FRELINGHUYSEN.** Without a commission being appointed; then a commission was appointed.

If there is to be a review and another adjudication of this subject I think it ought to be by a commission, and not by the Court of Claims, for I do not see how the Government can defend itself, how it can be prepared to bring out the truth there. All these contractors can go to the Court of Claims with their books and their agents and state what they believe to be their view of the case, while the solicitor and the Government will be without means of meeting these allegations, when, if we have a commission, they can without being tied down by the rules of evidence examine the whole subject themselves and come to a just conclusion. But I do not see upon what is based the application to have another hearing until it appears that there is something erroneous in the finding of the commission.

**MR. DRAKE.** That commission had before it the cases of thirty-one different vessels. It

allowed on behalf of six of them certain sums of money, and it rejected all the rest of them; and that, too, when the circumstances connected with the building of the whole of them were absolutely almost identical. And it is a very singular feature of this case that the five vessels of one particular class, of which there were nine, that were selected for the granting of this aid were built in eastern ports, and the four where the aid was denied were built in western ports. It may have been an accident, but it is a very significant accident. These vessels were all built under the same circumstances, that the specifications for the construction of them were withheld for long periods, in the case of the nine vessels of the same class for two years from the time when they ought to have been furnished. During that time gold went up from 118 to 282, and was fluctuating between 150 and 282 the most of the time. Every single article that entered into their construction was of course greatly increased, the delays caused by the Government itself being the cause of loss by that increase of price.

Now, I beg to submit in opposition to the remarks of the Senator from New Jersey, that the report bears upon its very face the want of complete and thorough investigation. Why should there be six vessels selected out of thirty-one, and twenty-five built under the same circumstances completely rejected? That shows that there was not sufficient examination.

**MR. FRELINGHUYSEN.** May I ask my friend a question? Does it appear anywhere that the circumstances of the twenty-five vessels were like those of the six? I think with as much propriety you might say that if an arbitration allowed carpenters and architects an extra price for building six houses, therefore they must allow the same advance on any other twenty-four houses that might be built in the course of the year.

**MR. DRAKE.** As to nine of them I can state the facts to be these, and they are the great points in this investigation. I stated them the other day: that the contract called for the delivery of the specifications to the contractors at the time of the signing of the contract; that none of them were delivered until twenty-eight days afterward, and that from that time on for two years the complete specifications were not delivered, though it is a fact that the contract called for the construction of the vessels within the period of six months. And so during all that long time of the high rate of gold these contractors had to go on and construct that work, with the prices of everything doubled, trebled, and quadrupled, by reason of the rise in the price of gold.

**MR. NYE.** I should like to ask the honorable Senator a question. I think he is laboring under a slight mistake in regard to the character of that report. The board reported simply upon five, but I do not understand that they reported adversely on the others.

**MR. DRAKE.** They simply set it down in the table "none," "none," &c. That is all.

**MR. NYE.** Not an adverse report. If the Senator will turn to the report made two years ago upon the same subject he will find that these vessels were reported upon for various amounts.

**MR. DRAKE.** If it be not the will of the Senate that under the circumstances these contractors, who are ruined by these contracts unless they can get some relief, should have the poor privilege of going into the Court of Claims, and there asking the court to give them such relief merely, simply, as the Government has said it is willing they should have under the act of March 2, 1867, then I have done my duty to them, and I have nothing further to say.

**MR. HENDRICKS.** Mr. President, I felt it to be my duty to vote in committee for this joint resolution, and I think I am authorized in supporting it in the Senate. I do not think the facts stated by the Senator from New Jersey are conclusive against these parties. In the first place, some three years ago the Senate, then in executive session, passed a reso-

lution providing for the appointment of a board to ascertain the losses sustained by these contractors. That board was organized according to that resolution, and reported the losses sustained by the contractors, after five months of session, hearing evidence upon the subject, and requiring each contractor to make an exact statement of every expenditure in the building of each vessel. That report, with the evidence to a considerable extent, came before the Committee on Naval Affairs, and it became my duty to examine it. I was satisfied that these parties had sustained loss to a large amount. The loss amounted very nearly to two million dollars, and I thought that a fair percentage of the loss ought at least to be paid, and I advocated such a bill, and it passed the Senate. It went to the House of Representatives based upon that report. The House Committee of Claims was not willing to agree to the bill. Finally an agreement was arrived at, and the bill passed which has been referred to by the Senator from Missouri, authorizing the appointment of another board, but restricting it in the rule of allowance to this point: that no allowance should be made except the loss was occasioned by the act of the Government. That board was organized, and made its report at this session. My knowledge of the case, as I gathered it from the papers that came with the report of the prior board two years ago, satisfies me that this last board has not been just to these parties. I wish to make no complaint of the Department of the Navy. I think that the Secretary and the heads of bureaus intend to do what is right, but I believe that they are under an influence, because they made the contracts, because the regulated the construction of the vessels, because they interposed the changes in the plans and specifications to such an extent that they cannot, in my opinion, do justice to these parties. That board was organized under the Department; it was not a board provided for by Congress; that is, the persons who constituted the board were not selected by Congress, but selected by the Department.

**MR. FESSENDEN.** Who were they?

**MR. HENDRICKS.** I forget now.

**MR. DRAKE.** The Secretary of the Navy called the board under the act of March 2, 1867.

**MR. HENDRICKS.** Has the Senator from Missouri the names of the board?

**MR. DRAKE.** I have their report here.

**MR. HENDRICKS.** Will the Senator give the names?

**MR. DRAKE.** Commodore J. B. Marchand, Chief Engineer J. W. King, and Paymaster Edward Foster constituted the board.

**MR. HENDRICKS.** I have no criticisms to make on the board; I dare say they are excellent gentlemen; but I think that they have disallowed in many cases where an allowance ought to be made. I think there are many of these contractors who ought to be relieved under the law of 1867 who are not relieved by that report.

Now, I wish to call the attention of Senators to this fact: that the first board said that the losses sustained were in the neighborhood of two million dollars, and the last board allowed only about two hundred or two hundred and twenty-five thousand dollars—a very great difference. The Senate was willing to pass a bill upon the basis of giving a per cent. of the first allowance. I think that this last report is not what it ought to be. I say this after an examination of the case. As far as I could, I went through the testimony, and so I believe did the Senator from West Virginia, [Mr. WILLEY,] who was on a sub-committee with the Senator from Nevada [Mr. NYE] and myself. We undertook to ascertain what were the losses of these parties, and I am perfectly satisfied that this award does not do justice. I do not wish to find fault with the gentlemen who composed the board, or to say that they were governed by improper motives. I have no doubt they acted honestly; but I think they have fallen short of doing for these contractors

what ought to have been done under the act of 1867. Inasmuch as there is such a great difference between the reports of the two boards is it not now proper that Congress should refer the case to the Government's own court, to be decided upon competent evidence to be produced by the contractors and by the Government itself? We have no occasion to distrust this court; it is of our own organization. We have no reason to distrust the principles upon which the court shall make an allowance, if any be made, because we prescribe them. We say that the court shall not allow for anything unless it shall be made to appear that the loss was occasioned by the act of the officers of the Government. If in any case the Government changed the plan and specifications of the vessels after the contract was made, and thereby delayed the construction of the work, caused a loss to these parties, the court is directed to make an allowance. Does any Senator object to that? Ought it not to be so? When I examined the case two years ago, I had before me a statement of the advance in wages and materials. I regret that I have not got it here. It would astonish Senators to look back and see how rapidly wages went up in our workshops; how rapidly iron and copper and all those things that enter into the construction of vessels and of engines advanced in price upon these men. Six months of delay was enough to ruin a contractor; a year was positive ruin unless he was a man of wealth. In some instances I believe, in some classes of iron, the price went up one hundred per cent. in one year.

What was the effect? A contract was made according to which the specifications were to be furnished immediately. In some cases those specifications were not furnished until long afterward, as the Senator from Missouri has stated. The contractors could not go on; they were delayed. In other cases the specifications were furnished and afterward changed, the vessels increased in size and capacity, the engines increased in capacity and power, and the effect was to delay the construction of the work, and these men had to buy their materials and hire their hands when everything cost them two dollars instead of one, and that because the Department furnished the specifications or changed them after the work should have been far on toward completion. I do not think these men ought to sustain this loss. I know if they were doing work for me I could not consent that they should stand it. If I had changed the plan of a house built for me after the contract was made and it had been commenced, I should feel that I could not live in comfort in the house unless I compensated the contractors for that loss.

Mr. FESSENDEN. I wish to ask the Senator a question. Some one, I do not remember who it was, the other day, in stating the case on the other bill, said that the principle upon which this last report was made up was to allow for all losses that had been occasioned by delays or by changes on the part of the Government; that they picked out all those cases and made an allowance, but they did not make an allowance in cases where the losses were not occasioned by the action or want of action on the part of the Government, thus distinguishing between the classes of cases. For this reason it was said there were two bills. That bill was passed, and now this bill, as I understand it, is to provide for claims made against the Government on general principles on account of the rise of prices, &c., but where the increased cost was not occasioned by the action of the Government itself.

Mr. TRUMBULL. This is confined specifically to the law of March 2, 1867.

Mr. FESSENDEN. The other was.

Mr. TRUMBULL. This is.

Mr. FESSENDEN. It may be; but that statement was made on the other bill which was passed the other day.

Mr. HENDRICKS. I will state to the Senator from Maine that this is simply an application for a new trial under the act of 1867.

Mr. FESSENDEN. Exactly; but the question in my mind is whether it has not been tried before this commission, and rejected because the increased cost was not occasioned by any action of the Government. The other bill was distinguished from that case, because the losses there provided for were occasioned, to the extent to which the commission made allowances, by the action of the Government. If that distinction exists between the two classes of cases I want to know why an allowance should be made here.

Mr. HENDRICKS. Whether the board disallowed a claim in any particular case because there was no loss, or because if there were a loss it was the fault of the contractor himself, I am not prepared to say; but of course their allowance is based upon one proposition or the other. Now, these contractors are not satisfied with that, and they ask Congress to allow another trial, a review in a court where they can introduce testimony. They claim that they were not allowed a full hearing before this board, and it is worthy of the consideration of the Senate that this board made up its adjudication in a very short time. I know that to hear the evidence and to examine all these cases would take a good many months of a court that was to go through them and to hear the evidence orally. The first board sat, I think, five months, but the last one a very short time; how long I cannot say. The Senator from Missouri, I believe, did make a statement, but I do not recollect what the time was.

Now, I think I am justified in saying that if I were hearing this case as a judge I would feel authorized to grant a rehearing. I do not believe that justice has been done. The plaintiff asks a rehearing, to go before the Government's own court upon testimony that may be introduced according to law, and have the question decided after full argument and hearing, and then that that decision shall stand. I am not afraid that the Government will suffer by that course. I am not satisfied to see these men stripped of their fortunes in an enterprise that commends them to the gratitude of the country, instead of to constant loss and the destruction of their estates.

Mr. HOWE. Mr. President—

Mr. SHERMAN. Unless there can be a vote on this joint resolution, I feel it to be my duty to call for the special order of the day.

Mr. DRAKE. I hope this resolution will be allowed to pass. My impression is that the debate is over. I have nothing more to say about it. I only ask for a few minutes indulgence.

Mr. SHERMAN. I understand other Senators desire to debate it. I have no objection to the vote being taken, but the special order comes up at one o'clock.

The PRESIDENT *pro tempore*. Will the Senate pass by the special order informally?

Mr. DRAKE. For a little while.

Mr. FESSENDEN. I object to that.

Mr. DRAKE. I suggest to the Senator from Maine that this matter will take but a few minutes.

Mr. FESSENDEN. The Senator from Wisconsin wishes to speak, and I may want to say something myself.

Mr. HOWE. I do not want to occupy any time. I want to offer an amendment.

The PRESIDENT *pro tempore*. Objection is made to laying aside the special order informally. It can, therefore, only be laid aside on motion.

Mr. DRAKE. I move that the regular order be laid aside for a little while, just to get through with this matter.

Mr. SHERMAN. I assure the Senator that while I am in favor of his resolution, and shall vote for it, I see around me a disposition to debate it, and I trust, therefore, the Senate will go on with the regular order. I will agree to take up the resolution at any other time, for I have examined the question.

Mr. TRUMBULL. I am inclined to think the debate will be short. The Senator from Wisconsin wishes to offer an amendment, but

says he is not going to debate it. I think we can get through with this resolution in a few minutes. Let us try it for fifteen minutes.

Mr. SHERMAN. If that is done there will be a struggle about the order of business.

Mr. MORRILL, of Maine. I gave notice on Saturday that I should ask the Senate to proceed to-day to the consideration of the legislative, executive, and judicial appropriation bill, and I think it very important to have that bill considered; but still, if the regular order can be proceeded with, and there is a prospect of concluding it to-day, I should not like to antagonize this bill with it, and will content myself with giving notice that I shall try to call it up to-morrow.

Mr. SHERMAN. I hope the Senator from Missouri, upon the statements made, will withdraw his motion, because it will only lead to a struggle about the order of business.

Mr. TRUMBULL. The Senator from Maine has already announced that he wishes to-morrow to call up the appropriation bill. This resolution will take longer some other time than now, and from the indications I think we can get through with it in a few minutes.

Mr. SHERMAN. I gave way on Saturday, and I trust the Senate will now go on with the special order.

Mr. TRUMBULL. Let us have fifteen minutes for this resolution.

Mr. DRAKE. I only ask fifteen minutes. If we cannot get through with it in that time I shall not press it further to-day.

The PRESIDENT *pro tempore*. It is moved that the special order be postponed for fifteen minutes.

The motion was agreed to; there being on a division—ayes 17, noes 11.

The PRESIDENT *pro tempore*. The joint resolution (S. R. No. 100) for the relief of certain contractors for the construction of vessels of war and steam machinery is before the Senate as in Committee of the Whole.

Mr. HOWE. I move to amend the resolution by adding the following proviso:

*Provided*, That no claim shall be so referred in favor of Secor & Co.; Perrine, Secor & Co.; Harrison Loring; the Atlantic Works, of Boston; Aquila Adams; M. F. Merritt; Tomlinson, Hartup & Co.; or to Messrs. Poole & Hunt, or any or either of them.

The PRESIDENT *pro tempore*. The question is on this amendment.

Mr. HENDRICKS. That is not right. The Senate voted down the principle of that amendment the other day.

Mr. HOWE. Perhaps they will do it again to-day. I want to try it on.

Mr. HENDRICKS. After full discussion it was voted down.

Mr. HOWE. The Senator from Indiana said a short time since that, having investigated the facts in reference to these contracts, he believed there ought to be a new trial, that justice had not been done the contractors by the board recently appointed by the Secretary of the Navy. He may be right in that; but there should be an end to these rehearings at some time. So far as the parties named in this amendment are concerned, they have had two rehearings, two judgments in their favor, and I understand they have another claim growing out of these very contracts pending before the Secretary of the Navy now; and here is a joint resolution which proposes to give them a third rehearing in the Court of Claims. I think that is too many.

The Senator says that the principle of this amendment was voted down by the Senate the other day. I think he is slightly mistaken about that. There was a bill before the Senate the other day to pay the very parties mentioned in the proviso a certain sum of money awarded to them by this board of naval officers. Knowing that it was to be followed by the joint resolution now before the Senate I tried to secure the assent of the Senate to an amendment which should make the sum provided in that bill a full discharge of all claims those parties had against the Government growing out of these contracts. The Senator from Indiana was willing to concede a part of that, but not



the whole. The amendment that I asked to be put upon that bill was not put upon it; so that the Senate voted to appropriate to the parties mentioned in the proviso the whole sum provided by the board. Now, here is a joint resolution which offers to them the same opportunity to sue in the Court of Claims that it provides for these other contractors who did not have anything from the naval board. I think, as the parties named in the proviso have taken one judgment from the Secretary of the Navy and taken another from the board constituted by the Secretary of the Navy and approved by the bill which passed here the other day, that, so far as those suitors are concerned, there should be an end of litigation, and if this resolution passes at all it should pass only for the relief of those who did not get a judgment for anything from the naval board.

Mr. HENDRICKS. I move to amend the amendment by adding the following:

Upon any vessel upon which an allowance was made by the board organized under the act of March 2, 1867.

So that the proviso will read:

*Provided*, That no claim shall be so referred under this act in favor of Secor & Co.; Perrine, Secor, & Co.; Harrison Loring; the Atlantic Works, of Boston; Aquila Adams; M. F. Merritt; Tomlinson, Hart-appee & Co.; or to Messrs. Poole & Hun; or any or either of them, upon any vessel upon which an allowance was made by the board organized under the act of March 2, 1867.

The amendment which I propose to the amendment of the Senator from Wisconsin will make this legislation agree with the bill that passed the Senate the other day.

Mr. HOWE. I hope the amendment of the Senator from Indiana will not be agreed to. The effect of it is to just divide the bill of particulars which has been tried by this naval board. Each of these parties mentioned in the proviso has had a judgment there, a judgment in their favor. That judgment only included a part of their claim; but so far as the judgment was in their favor they have taken the benefit of it. The judgment was upon some of the items in their claim, and the judgment went against them upon some other items. The Senator proposes that they shall stand by the judgment upon those items where judgment was in their favor and that they shall go into the Court of Claims under this resolution to recover for those items on which judgment went against them before the naval board. If the Senate agrees to it of course I cannot help it.

Mr. CRAGIN. I hope the amendment to the amendment will be adopted. If it is adopted, it leaves all parties standing upon an equal footing. Secor & Co. built about one fourth of all the iron-clads built for the Government. By the bill that passed the other day they were allowed on three vessels; on the others they were allowed nothing. There are reasons why they should be allowed on the others just exactly as good as there are why other parties should be allowed. The reason for referring this subject to the Court of Claims is this: these claimants came before the Committee on Naval Affairs and asked us to examine their claims; but they told us at the same time that they were aware we had not the time to investigate these matters; that they involved the examination of large numbers of witnesses, and of long and continuous accounts, and if we would allow them, if we had not the time to examine them, to go to the Court of Claims to institute and prosecute this examination, they would be satisfied, and the Committee on Naval Affairs agreed to this. It is just and right, in my judgment, and I hope that course will be taken.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana [Mr. HENDRICKS] to the amendment of the Senator from Wisconsin, [Mr. HOWE.]

Mr. HOWE. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. To illustrate the force of the amendment, I will state to the Senate

just this: taking as an illustration the firm of Secor & Co., I believe they constructed either seven or nine iron-clads; I think every one of those vessels was in battle and did efficient service. This board has allowed upon either two or three of those vessels. The plans and specifications were changed regarding the others, but they have had no allowance upon them. Now, my amendment proposes that in regard to the vessels upon which an allowance was made by the board they shall not go before the Court of Claims; but in regard to the vessels upon which no allowance was made they shall stand just like the other contractors.

The question being taken by yeas and nays, resulted—yeas 23, nays 18; as follows:

YEAS—Messrs. Cameron, Cattell, Chandler, Cole, Doolittle, Drake, Ferry, Fowler, Harlan, Hendricks, Johnson, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Sherman, Sprague, Stewart, Sumner, Van Winkle, Vickers, Wade, and Willey—23.

NAYS—Messrs. Cameron, Cattell, Chandler, Cole, Fessenden, Frelinghuysen, Howard, Howe, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Pomeroy, Trumbull, Williams, Wilson, and Yates—18.

ABSENT—Messrs. Bayard, Conkling, Connors, Corbett, Dixon, Edmunds, Grimes, Henderson, Norton, Ross, Saulsbury, Thayer, and Tipton—13.

So the amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

Mr. DRAKE. There is a verbal amendment which ought to be made in the joint resolution. The resolution undertakes to set out the title of the act of March 2, 1867. It says, "An act for the relief of certain contractors, and so forth." I wish to have the title set out in full. I move to strike out the words "and so forth," in the fifth line, and to insert "for the construction of vessels of war and steam machinery." That gives the title to the previous act in full.

The PRESIDENT *pro tempore*. That amendment will be made if there be no objection.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in. The joint resolution was ordered to be engrossed for a third reading, and was read the third time.

Mr. WILLIAMS. I ask for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 14; as follows:

YEAS—Messrs. Anthony, Cattell, Connors, Cragin, Davis, Drake, Ferry, Fowler, Hendricks, Johnson, Morton, Nye, Patterson of Tennessee, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Vickers, Wade, Willey, and Yates—24.

NAYS—Messrs. Buckalew, Cameron, Chandler, Cole, Doolittle, Fessenden, Frelinghuysen, Harlan, Howe, McCreery, Morgan, Morrill of Vermont, Williams, and Wilson—14.

ABSENT—Messrs. Bayard, Conkling, Corbett, Dixon, Edmunds, Grimes, Henderson, Howard, Morrill of Maine, Norton, Patterson of New Hampshire, Pomeroy, Ross, Saulsbury, Thayer, and Tipton—16.

So the joint resolution was passed.

Mr. HOWE subsequently said: I ask unanimous consent to correct an error in an amendment made to a joint resolution passed this morning for the relief of certain contractors for vessels of war and steam machinery. I moved a proviso intended to exclude from its operation all that were included in a previous bill which had passed the Senate. I omitted the names of Messrs. Harlan & Hollingsworth, who were introduced into the previous bill by an amendment. I had not the bill as it passed the Senate before me. To put that firm on the same terms as all the other contractors they should be inserted in the proviso. The only regular way, I suppose, is to move a reconsideration.

Mr. SHERMAN. I suppose the correction can be made by unanimous consent.

Mr. HOWE. I hope the Senate will consent unanimously to insert the name of Harlan & Hollingsworth in the proviso.

The PRESIDENT *pro tempore*. The amendment may be made by unanimous consent. Is there objection? There is no objection; and the amendment will be made.

#### PENSION BILLS.

Mr. VAN WINKLE. I hold in my hand

three Senate pension bills which have been returned from the House of Representatives with amendments. The amendments are similar, and are not concurred in by the Committee on Pensions. The committee report them back adversely. I therefore move that the Senate disagree to the amendment of the House of Representatives to one of the bills, say the bill (S. No. 184) granting a pension to Mrs. Corcoran, and ask for a committee of conference on the disagreeing votes of the two Houses; and the others can lie on the table.

The PRESIDENT *pro tempore*. The Senator moves that the Senate disagree to the amendment of the House of Representatives to Senate bill No. 184, and ask for a committee of conference on the disagreeing votes of the two Houses.

The motion was agreed to.

Mr. VAN WINKLE. I move that the committee of conference be appointed by the chair.

The motion was agreed to; and the President *pro tempore* appointed Mr. VAN WINKLE, Mr. TRUMBULL, and Mr. EDMUNDS.

Mr. VAN WINKLE. I move that the other bills with the amendments lie upon the table.

The motion was agreed to; and the bill (S. No. 425) granting a pension to George Bennett, and the bill (S. No. 280) granting a pension to Michael Hennessy, of Platte county, Missouri, with the amendments of the House of Representatives thereto, were laid on the table.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 291) giving additional compensation to certain employes in the civil service of the Government at Washington, in which it requested the concurrence of the Senate.

#### NATIONAL BANKS.

The PRESIDENT *pro tempore*. The special order is now before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 440) supplementary to an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, the pending question being on the amendment of Mr. MORRILL, of Vermont, to the amendment proposed by the Committee on Finance as the fifth section of the bill. The amendment of the committee is in these words:

Sec. 5. *And be it further enacted*, That section twenty-two of the act aforesaid be so amended that the maximum limit of national circulation, fixed by said act, is hereby increased the sum of \$20,000,000, which amount shall be issued only to banking associations organized in States and Territories having a less circulation than five dollars per each inhabitant, and so as to equalize the circulation in such States and Territories in proportion to population.

The amendment of Mr. MORRILL, of Vermont, is to add to the amendment of the committee the following words:

And upon the issue of any increased national circulation provided for in this section the Secretary of the Treasury is hereby authorized to permanently withdraw an equal amount of United States notes.

Mr. SHERMAN. The Senator from California [Mr. COLE] has the floor on that question.

Mr. MORTON. Is it in order to offer an amendment to the amendment of the Senator from Vermont?

The PRESIDENT *pro tempore*. Not just now. It would be an amendment in the third degree.

Mr. MORTON. I will ask to have my amendment read for information.

The Chief Clerk read the proposed amendment, as follows:

*Provided*, That the United States notes so retired shall not be obtained by the sale of bonds, but shall be taken from the funds in the Treasury, collected in the ordinary way.

Mr. COLE. Mr. President, I could hardly persuade myself to allow the vote to be taken upon this part of the bill without tendering a few suggestions to the Senate upon it. This

fifth section provides for the issuance of \$20,000,000 of additional circulation for the use of those States and Territories in which the amount of banking circulation already issued is less than five dollars *per capita*. It is intended in some degree to equalize the circulation under the laws of the United States authorizing the issue of national bank currency. I do not wish to commit myself to the system of national banks by anything I shall say in favor of this amendment. I look upon it only as some relief for a portion of the United States from the great embarrassment under which that portion is at present suffering.

The South and West, as is well understood I believe by all Senators, are greatly in need of money. This addition of \$20,000,000 to them in the form of banking capital or bank issues will afford them only slight relief. It will not entirely meet the emergency. It will not relieve them to any very great extent, but it will afford some relief provided they avail themselves of the offer and take this circulation. Mr. President, those States and Territories of the West and South are the poor portion of the Republic. They are the laboring portions, the productive portions. The other parts of the Union, the North and the East, possess nearly all the capital of the nation. They are the manufacturing portion, the trading portion, the wealthy portion.

There is at present a very great inequality in the distribution of this bank capital; and to this I wish to call the attention of the Senate. In New England at present there is upward of one third of this banking circulation. The total amount issued under the law of 1863 authorizing these national banks is \$300,000,000. Of this the New England States have \$104,959,981. That amount is apportioned to the people of New England, who constitute only about one twelfth of the total population of the nation. New England and New York, which together contain only about one fifth of the total population of the country, have at present upward of seven twelfths of the entire circulation issued to these national banks. The twelve States comprising New England, New York, New Jersey, Pennsylvania, Ohio, Indiana, and Illinois possess of this \$300,000,000 of bank circulation some \$265,000,000; and those States contain a population, according to the last census, of less than sixteen millions, certainly at this day less than half the population of the Republic. In all the other thirty-two States and Territories, including the District of Columbia, which must contain a population of about nineteen millions, perhaps at this time twenty millions, there is distributed of this circulation only about one ninth, or \$35,000,000 all told.

This, as will be seen, is a very great inequality in the distribution of this circulation. The \$20,000,000 that are to be authorized under this fifth section of the bill are to be distributed among some twenty-four States and Territories, and they are the States and Territories that lie west of the Mississippi and south of the Ohio and the Potomac, including the State of Wisconsin. These twenty-four States and Territories, all of which possess less than five dollars *per capita* of this bank circulation, will be the States and Territories among which the \$20,000,000 additional will be distributed. These States and Territories possess at present only about \$20,000,000 of banking capital; and I think it will be ascertained by referring to the census that their total population, including the blacks, is about half the population of the whole country, and if this bank capital or circulation were distributed according to the population they would be entitled to \$150,000,000. It will appear from these figures that these States which possess nearly all of it enjoy a great money monopoly, for such it really is. This remark is particularly applicable to New England and New York, which possess upward of \$177,000,000 of this currency.

But we were told on Friday, by the Senator from Massachusetts [Mr. WILSON] that it is absurd to distribute this circulation according

to population. I do not contend that it should be distributed according to population entirely; but that there should be some reference to population I think a very clear proposition. But if this be absurd it is an absurdity into which the Congress that passed the law fell; for in the seventeenth section of the act of February 25, 1863, authorizing these national banks, we find the following provision:

"That the entire amount of circulating notes to be issued under this act shall not exceed \$300,000,000, \$150,000,000 of which sum shall be apportioned to associations in the States, in the District of Columbia, and in the Territories, according to representative population, and the remainder shall be apportioned by the Secretary of the Treasury among associations formed in the several States, in the District of Columbia, and in the Territories, having due regard to the existing banking capital, resources, and business of such States, District, and Territories."

Thus it will be seen that by a provision of the law half of it was to be distributed according to representative population; and if that be an absurdity clearly it is one into which Congress itself fell.

But this circulation is not to be distributed in accordance with wealth. It is to be distributed for the accommodation of the people and in accordance with the business requirements of the people. A larger proportion of it is required in new countries in accordance with the amount of business than in old countries or well-established communities. In the commercial centers, as, for instance, New York and Boston, there are such institutions as clearing-houses. Banks are abundant there through which the business is done by a system of checking, a system of credits. I presume not one tenth of the business in the city of New York is done by the actual use of money, but, on the other hand, by the use of credits and checks. It is very different in the new States, where the population is scattered, where people are strangers to each other, and have but little credit upon which to rely. There business has to be done upon a money basis. There is need, therefore, in nearly every transaction, of money with which to perfect it. There is, therefore, much difference between the older communities; these business centers, and the new States and Territories in this respect.

The proposition that is pending here is not to withdraw any of this circulation from the States which now possess it. It is conceded by this bill to be proper that the States which now possess this circulation should retain all they have. There is no disposition at all to interfere with them. The proposition is to provide some circulation, a small amount, for this portion of the Union, where it is at present exceedingly scarce.

It is well understood that business is very much impeded in the West and South for the want of money; and if capitalists are found there who can invest in United States bonds to the amount of \$20,000,000 and deposit them with the Treasurer and draw ninety per cent. of bank notes, which they may in turn lend to their neighbors for such security as the neighbors can furnish in the particular localities, why should not they be allowed to do this? It is a privilege that is now only enjoyed by the people of the East and the North. At present the South and the West depend to a very great extent upon the East and the North for the money with which to prosecute their business; but the business capacity and wealth of the people of the South and the West are not understood at the North, or where these banks are located; and so they have no credit there, and, as a consequence, if money is borrowed where they have no credit a larger interest is to be paid, and it is not an unusual thing for the people of the West and the South to pay enormous interest, often as high as two per cent. a month, a ruinous rate.

But whenever the proposition is made from any quarter to furnish these people with circulation, which they so much stand in need of, the cry of inflation is raised. This is a sort of hobgoblin or bugbear brought forward for the purpose of frightening the representatives of

the people from furnishing this needed circulation. It is a specious cry. If there is a liability to inflation by the issues of more bank circulation, certainly there must already be inflation in New England and New York, where they have greatly surpassing their proportion of that already issued; but they at the North and East do not complain of inflation. They are full of money and bank circulation; they have it in abundance, and they wish to retain what they have, but are at the same time unwilling to furnish those portions of the Union that are in want of it with a small proportion, such as may afford some accommodation to those sections. The people of the West and the South of these twenty-four States and Territories, if furnished these \$20,000,000 of circulation, would be in some degree independent of their more wealthy neighbors at the North and East; and to put them in this condition will not result at all in an unfavorable inflation of the currency. It cannot have that result; it cannot produce that effect.

But the statement that is made for the purpose of preventing this addition to the circulation is that it will impair the public credit. Let us for a moment examine that. The public credit does not depend upon the amount of circulation; it depends upon the success of business, upon the productive industry of the country, upon its growing wealth; and everything that tends to check the productive industry of the country, everything that has for its object the suppression of labor and industry, must affect the public credit unfavorably.

The Secretary of the Treasury has made a recommendation that this circulation be furnished at the South. I believe at some time he has recommended also that a portion of the circulation that has been furnished to the East or North, particularly to New England and New York, shall be withdrawn and furnished to these more destitute sections. In a letter of the Secretary, dated in 1866, I find the following paragraph:

"I also think it a matter of great importance that provision should be made to meet the wants of those States which have been in rebellion. Banking facilities are necessary to develop the industrial interests of the South, and to stimulate the production of those staples which enter so largely into the financial interests of the country. At the same time it would be wise policy to afford the people of that section an opportunity to become peculiarly interested in the successful maintenance of the Government of the United States; and, inasmuch as Congress has assumed entire control of the currency of the country, and, to a very considerable extent, of its banking interests, prohibiting the interference of State governments, it would seem to be the plain duty of Congress to make adequate provision to meet the business wants of all sections of the country in the way of banking facilities."

That recommendation has been entirely disregarded thus far, and always upon the plea that there would be something wrong and detrimental to the country in adding to the circulation.

The proposition contained in the amendment of the Senator from Vermont to withdraw an equal amount of greenbacks to the amount of bank circulation which is allowed to be put forth, is not one that meets my approval. It would be necessarily adding so much to the interest-bearing debt of the country, unless the amendment proposed by the Senator from Indiana should prevail with it. We have not the greenbacks or United States notes with which to make the exchange, or with which to supply the deficiency; they must necessarily be raised by issuing interest-bearing par bonds; there is no other way we have for raising them, and it would therefore be a conversion of \$100,000,000 of non-interest-bearing securities into so much bearing interest. This, in my judgment, would be a proposition most unfavorable to the Government, and it would not at all relieve the country from the stringency in the money market. It would leave the amount of money in the country precisely as it is. It would afford some little relief in this point of view; it would allow this banking circulation to be taken in those Territories and States where it is now scarce, but that is all the relief

that would flow from it; and as the drainage of money is from the West and South to the East and the North, there would, in a little while, unquestionably be the same dilemma under which those sections of the Union are now suffering.

The amount of money afloat at present is much too small, as I believe, for the business requirements of the country. The total amount of circulation is something less than seven hundred million dollars; the amount of United States notes is about three hundred and fifty-six millions; the amount of fractional currency about thirty millions; the amount of national bank circulation is \$300,000,000; the amount of gold perhaps on the western coast would bring it up to about seven hundred millions. If the population is thirty-five millions, this would be only twenty dollars *per capita* to the whole population, and this in a depreciated currency which is equivalent to gold or silver to only about fourteen dollars per head. This is less by far than is used in the other civilized and commercial countries that compete with the United States in business and wealth. In England, I think, the amount *per capita* is at least twice that. In France it is as much as in England, or more. I have not before me the figures, but, if I remember well, such is the fact.

In my opinion it is the duty of the Government to provide the kind of money that is needed by the people. That is a sovereign power. It is provided by the Government in nearly all the civilized countries. The Government takes it upon itself to fix the value and denomination of coins. The Government does not furnish the gold and silver; it issues the gold and silver in the form of coin to those who bring them to the Government for the purpose of being reduced to coin; and there has never happened such a thing in modern times as a Government refusing to coin gold and silver for those who have gold and silver to be thus converted. There has never been an attempt to restrict the amount of hard money in any country. There has never been any complaint on the ground that there was too much good money afloat, and why should there be a distinction between the money that is made of gold and silver and that which is issued by the Government as representatives of the value of gold and silver? There is, in my opinion, no good reason to be urged why the Government should not take it upon itself to issue the representative of money which is in the form of paper the same as it takes upon itself to fix the value of coins and the description of money when we are without paper. The only duty on the part of the Government is to see that the money which is issued as the representative of gold and silver shall be well secured, and this plan has been adopted by this Government in the banking system that is in vogue. The Government has required security to be deposited in the Treasury; upon that this representative of value is issued. As long as this money is well secured why should not the amount that is to be issued be left to the requirements of business? If any person or any section of the country has the security to tender to the Government for this representative money why should not that section of country or that individual, if it be needed by the requirements of business, be permitted to put his securities in that form in which they shall be available to him? The whole duty of the Government will be to see to it that the securities are perfect and abundant. The laws of trade can safely be trusted to fix the amount of good money that may at any time be required.

The only danger that has ever manifested itself of too much money in a country has been of money that has not been properly secured or money of low value. There is danger of inflation when coins are reduced in value by the addition of alloys. There is danger of an inflation of the currency when the securities are inadequate, when there is no disposition, it may be, or no purpose on the part of those

who issue it to redeem the money that is put afloat. In such a case it is an object on the part of those who have the issuance of the money to put forth as much as they can, as much as they can persuade people to receive. It is a gaining operation with them. But if they are to leave on deposit the value of the money which they receive, it will be different if the deposit can be of more value to them, can be used in some way better than in the form of money, they will so use it, and there is no danger whatever of the country ever becoming flooded with good money.

The banking system we now have I believe to be the best that has ever been adopted in this country. It is the safest we have ever had. It is not a new system; it had been adopted in many of its features in several of the States of the Union. It had been recommended by writers on political economy long before it was adopted by the United States Government. I find in a work published in 1852 on the Progress of Nations by an author of considerable notoriety, Mr. Seaman, the exact plan of the present national banking system of the United States laid down in detail. I believe it to be the very best system that has thus far been adopted, but it is defective in many respects. It would be better, in my judgment, if there could be great freedom on the part of all the citizens, who have the securities that are required by the Government, to surrender to the Treasury and receive in lieu of them United States notes, rather than to leave the bonds to draw interest for those who deposit them as security. This would result in withdrawing from our interest-bearing indebtedness at least the \$300,000,000 that are now issued as national bank circulation and replacing them with a like amount of non-interest-bearing greenbacks. We should thus save at least \$25,000,000 a year interest. The interest that is now paid in gold on this amount is \$18,000,000, equivalent to \$25,000,000 in greenbacks or United States notes.

Besides, this system of banking is liable to many abuses. It is a very great privilege to those who can avail themselves of it. It certainly amounts, on the part of those who receive it, to a privilege of drawing double interest upon their capital. They take their bonds to the Treasury, leave them on deposit, and receive ninety per cent. of circulation which they loan out upon interest. Thus the bankers receive interest not only upon the \$100,000 deposited with the Treasury, but also on the \$90,000 of circulating notes which they receive. Then, why may not a man who receives his \$90,000 in circulation immediately convert that again—less the amount to be kept on hand—into United States bonds in some other bank, or invest it in some other banking operation, and receive circulation again to the amount of, perhaps, seventy odd thousand dollars? After he has received his new circulation, why may he not again invest it in United States bonds and receive ninety per cent. again, and so multiplying his interest until he receives thirty or forty per cent. on the original investment of \$100,000? To be sure there is a provision in the law that the persons receiving the circulation shall not use it in a way to increase their banking capital; but that prohibition applies only to the bank to which the circulation is issued, and what is to hinder a person receiving the circulation first issued from making the same disposition of it in some other bank?

The fact is, Mr. President, this banking privilege that is granted by the laws of the United States is an exceedingly advantageous one, one of immense value to the people who have so hastily and early availed themselves of it. It is of great advantage to the people of New England and New York, who have absorbed so large a portion of it; and I do not wonder very much at their extreme anxiety to prevent any addition to the amount, or to prevent the people of the South and the West, where there is more poverty and more destitution, from adding to their independence of the

section where this banking capital has been taken up.

I believe, Mr. President, that there should be no hesitation on the part of the Senate in affording this little measure of relief to these destitute portions of the country. It will add to their productiveness. At present they are in a withered, decaying condition; they are paralyzed for the want of circulation; they are unable to move their crops for the want of money; and if this relief is not permitted, they will decline in wealth, they will continue in their present condition of poverty and distress, and after a while will become even less productive, and as a consequence less advantageous to the wealthy portions of the Union, the East and the North. Whatever is done to encourage industry, whatever is done to add to the productiveness of the South and the West, will but add to the general prosperity of the nation and improve its credit. I hope therefore, Mr. President, that this amendment will be acquiesced in.

Mr. MORRILL, of Vermont. Mr. President, when a gentleman sets out with an unsound principle at the start and claims that paper money is just as good as gold and silver coin, you may expect that fallacy to run through his entire argument. Now, I am surprised at the disinterested generosity of the Senator from California. If there is a Senator on this floor who ought to be a stickler for a speedy restoration of specie payments, it is the Senator from California; for by an irredeemable paper currency the relative power of gold is lessened, the purchasing power of it is vastly diminished, and this is an evil under which the people of California and all other gold and silver producing States and Territories have been groaning for years, ever since the introduction into the country of this unusual flood of paper money, and yet the Senator from California proclaims here that paper money is just as good as gold or silver.

Mr. COLE. I am sure the Senator from Vermont does not intend to misrepresent me. I spoke of paper money well secured, secured by the value it represents.

Mr. MORRILL, of Vermont. I understood the limitations which the Senator laid down, and he evidently meant that the kind of paper money which we have issued is just as good as gold or silver and just such as he is ready to issue \$20,000,000 more of without conditions. Does not the fact stare him in the face that gold is forty per cent above paper? Is not that a significant showing of the fallacy of his argument? Have we not enough of that kind of circulation? If we had not too much of it, it would be at par, or else we have destroyed the credit of our country—an idea that I do not admit; but I will say that we are in danger of destroying it when we take steps in the direction of expansion instead of contraction.

But the Senator goes on further to state that when this paper money is issued by a party who manifests no purpose of redeeming it, then it is of less value. Here is an example: there is a proposition before us which proposes not to redeem any portion of this paper money, but to increase the amount of it by the sum of \$20,000,000, and yet the Senator from California is one of the earliest opponents of an amendment offered by me providing that if the national banking circulation shall be so increased, we shall retire an equal amount of United States notes.

But the Senator from California has iterated and reiterated the idea that the North and the East possess the wealth of the country, and are opposing this measure for increasing the circulation. Why, sir, a Senator from New England [Mr. Wilson] has proposed to increase it five times the amount proposed by the bill of the committee. Only one of the Senators from New England, the Senator from Connecticut, has shown any disposition to oppose the proposition, although I think the whole Senate will be justified in opposing it if it comes in the shape of a naked expansion of paper money. Why, then, does the Senator from



California come out here with a statement that New England and New York are particularly averse to this increase of banking circulation, or averse at all to allowing other parts of the country to enjoy the same privileges which they enjoy? Fix your laws as you please, and the North and the East will try to endure it; but the evil of an inflated currency is not a local one; the whole country has an interest in getting out of the present quagmire, not in plunging deeper into it.

I have sometimes thought that some gentlemen in the West, if they could get a measure before the Senate that would confiscate the property of the widows and orphans in the East, for they own a pretty large share of what there is there, would be willing to do it. Why, sir, the wealth that has been accumulated in New England and the North has been the slow growth of two centuries. Can gentlemen expect that new States like California, Nevada, and other of our western States, as prosperous and flourishing as they may be—and I rejoice that they are—are going to jump at once into the wealth and the civilization of centuries? Have these States any less banking capital now than they had before the creation of the national banking system? I should like to know if the creation of the national banking system has diminished the amount of banking capital of any of those western States about which we hear so much. Did they not help to establish the new system? The people of my State when this system was adopted had a banking system with which they were content, and they had a much larger circulation than they now have. It was a system that contributed largely by the taxes imposed upon it to the support of the State government. Our people went into the national banking system reluctantly; and it was not until after forcible measures of legislation were adopted, a year subsequent to the passage of the banking law, that the North generally adopted it. They went into it because they found that their capital was to be slowly but surely confiscated if they did not go into it. They went into it because they had the capital and the Government needed it. Was there any more reason why the western States should not go in than the eastern? I do not like to hear the eastern and northern States reproached for stepping forward at a time when the Government was in peril and bringing forth their treasures—the careful savings of generations of men—to the support of the Government. Why did not the West step forward and avail themselves of the privilege? They say they have the means now, and they must have had the means then or they accumulated it during the war. They had the same opportunity that we had, and money is worth as much in the West for banking purposes as in the East; much more; the dividends are larger.

Now, Mr. President, for all the wealth that is accumulated in the East and the North men work there more hours per day, and their capital is employed at a less price, than in any other portion of the Union. Why, sir, the men in the Northeast work from twelve to fourteen and fifteen hours a day; and that is the way they accumulate wealth; they loan their capital for six per cent., and that is the way they accumulate their wealth. That is not the case with the western States. There their climate is such and their facilities in the way of agriculture are such that they do not work half the year anyhow—the winter is a holiday—and they work a very small number of hours usually when they do work; and when they loan their capital their laws permit them to take ten per cent., and in some places permit them to take more.

Now, Mr. President, in relation to the matter that is specially before us, it is simply a plain proposition that if we increase the amount of the national banking circulation then that we shall retire an equal amount of United States notes. I think that is wise, not only financially, but I think it is eminently wise politically, that we should not increase, should not inflate our currency at this time. Is it not

obvious that our United States notes are considered worth less in the market than any other securities that we have? Why should we not either retire them or refuse to put out anything more akin to them, or anything to compete with and depress them still more? Our bonds sell for one hundred and ten or one hundred and twelve, making them ten or twelve per cent. above our national bank note circulation. Our people believe one will be paid and fear as to the other. It seems to me that it is perfectly plain we have got too much currency of some sort out already; and if gentlemen in the West or in California or in any other section of the country expect to make bank note circulation available in their localities until we resume specie payments they are very much mistaken. While there is a suspension of specie payments the capital will flow to the Atlantic coast—to the money centers of the country. It will flow to places where you can find room for all sorts of trade and speculation; you cannot find it in the interior. In my own State the circulation runs off to the Atlantic coast; you cannot keep it in the interior; it will go where there is the greatest opportunity for speculation. When there is anything in the interior which can be purchased at a profit, then paper money will find it out, but not till then.

I hope, Mr. President, that the proposition which I have presented will commend itself to the judgment of the Senate. If we cannot take any active steps by which we are to resume specie payments, let us certainly beware of taking any steps which are to retard that event.

Mr. CONKLING. Mr. President, to vote for the fifth section of the bill without amendment is to favor an inflation of the paper currency of the country; and although the proposed issue is limited to \$20,000,000 now, still the proposition is to enter again upon a policy of expansion. I am compelled, in this view, to vote against the section; and the query in my mind is whether the provision will be rendered admissible by either of the amendments suggested. Before remarking upon this, I have a word to say in reply to the honorable Senator from California.

Nothing that he has said, and nothing that can, in truth, be said, will call upon any Representative of the State of New York to apologize for her part in the financial experience of the country since the war began. The State of New York has nothing in that regard to regret or excuse. Far from it. She has done too much and suffered too much to be taunted for any shortcoming or any favor she has received. Her connection with the present banking system is no exception to the claim I thus make for her. When rebellion raised its hand New York had a banking system of her own, matured and perfected by long experience, which supplied the wants of her people, and comforted with her vast resources and her great commerce.

We were satisfied with it. It was, in my belief, a better system than that under which we are living now. Regarded in respect of its relations to the Government, it was free from one contradiction found in the present system which has not yet been reconciled to the satisfaction of unbiased and discerning men.

The general banking system, regarded as a fiscal problem between the Government and the people, involves an interest in coin of six per cent. per annum upon bonds exempt from taxation, paid by the United States to corporations for circulating a currency for which the United States are ultimately responsible, and which currency they might themselves have issued without the expense of one farthing beyond the paper and engraving and the cost of striking it off. I have heard a great many financiers deal with this point, and I have never heard it so disposed of as to make it appear a good fiscal arrangement for the Government of the United States.

Without pursuing this I repeat that New York had a banking system satisfactory to herself, a system carefully guarded, and the

people of New York were content; a system guarded against inflation, for, although banking circulation was based upon mortgages of real estate, and so far unchecked in volume, it was also based upon State stocks to the extent of one half, which stocks could never be increased a farthing without a popular vote of the people of the State consenting to the increase.

In this way it will be seen the basis of banking while flexible was safe from undue expansion.

Thus the people of the State of New York had provided for themselves a banking system ever within their own control, ever secure in its workings, under which they had a currency and banking facilities adapted to their wants. When the war broke out the banking interest like all others were asked to come forward and lay their offerings upon the altar of the country. Which interest was it, I ask, that leaped forward with a bound sooner than the banks and the capitalists of the State of New York? Without having the figures before me, and speaking only from recollection, I assert the banks advanced to the Government their entire capital, and then, as the trustees of their depositors, they advanced a sum which surprised the nation and the Government.

After this, despite all this, the banks of New York, in common with the banks of the other States, were subjected to national legislation; the long and short of which was to tax them out of existence, and they were compelled to lie down upon a Procrustean bed of national finance and be shortened if they were found too long, or stretched if they were found too short.

Without dwelling upon the history of this transaction, Mr. President, I think it ought at least to exempt New York from invidious comments respecting her part in the revolution by which her moneyed institutions were swept away, and to exempt her citizens and her representatives from the necessity of defending their State in this behalf.

It is true, sir, that the Comptroller of the Currency departed and allowed others to depart from the letter and, I think, from the spirit of the law in distributing the bank currency; and, as far as that is true, and as far as the inequality can now properly be removed without flying to other and greater evils, undoubtedly it should be done. It is proposed now to do it by a mere addition of \$20,000,000 to the paper currency of the country. This is the proposition as it came from the committee. This has no objection for those, as the honorable Senator from Vermont says, who believe that a piece of paper with the stamp of the Government upon it is money just as valuable as a piece of coin of the same denomination. I am not of these believers. I believe that coin, like a barrel of flour or any other property, the product of human labor, has a value which consists in the fact that it represents the cost of production. And therefore it is, without entering into particulars, that I discard these theories of paper money. And because I do, without stopping to argue the question, I do not see how I can vote to increase, on any pretense, the volume of paper currency, whether the increase at the moment proposed be twenty millions or something more or something less. I believe that the good of the country, considered at large, and the individual prosperity and contentment of the people, consists largely in bringing down prices, in short, in restoring to wholesome relationships values and the medium paid for values; that is, in the restoration of specie payments.

I content myself with assigning these reasons for objecting to the provision as it was reported by the Committee on Finance. And now, Mr. President, I wish to ask the Senator from Vermont and the Senator from Indiana, and also the Senator from Massachusetts, if he means to renew hereafter the amendment proposed by him and withdrawn, to attend to the question presented by those amendments, and see whether upon the whole they help the case?

The amendment proposed by the Senator from Vermont will have the effect of increasing the annual interest account \$1,680,000; it will fasten that amount of interest upon us in any aspect in which it can be viewed. The effect of the amendment proposed by the Senator from Massachusetts will be to fasten upon us an interest account amounting to \$6,400,000 a year. I will state the process by which I reach this result.

Twenty million dollars of national bank currency is to be issued. For this, and for the whole of it, bonds are to be lodged with the Comptroller of the Currency, upon which is to be paid six per cent. in coin semi-annually, and in addition to that they are divested of the burden of taxation. With gold at 140 this interest is not less than nine and a half, and I think not less than ten per cent. How are these bonds to be furnished? Are they to be issued for the purpose of becoming the basis of this currency? If they were, the process and the effect would be palpable; obviously the whole amount of interest upon them would be added to the interest account. But the Senator from Vermont will say, no; new bonds are not to be issued. Bonds already afloat, upon which the Government is now paying interest, are to be applied to this purpose, and thus no increase whatever of interest is to take place.

Let us examine that for a moment, in connection with the amendment of the Senator requiring the cancellation of "greenbacks," so called. Bonds are afloat, no doubt; the identical \$20,000,000 to be employed are afloat, the currency is to be given upon them; and then \$20,000,000, the corresponding amount, of United States notes, commonly called "greenbacks," are to be annihilated as an offset, to the end that the volume of the currency may be preserved exactly where it was before. How are these "greenbacks" to be obtained? Are bonds to be issued and sold to obtain them, as the honorable Senator from Indiana fears, and offers his amendment to prevent? If they are, I need not stop to argue that we have the direct, simple transaction of adding the interest of \$20,000,000 at six per cent. semi-annually in coin, besides the immunity from taxation.

But the Senator from Vermont will say again, perhaps, as the Senator from Indiana seeks in his amendment to say, no; bonds shall not be sold to obtain greenbacks, but as greenbacks flow in as revenue the Secretary shall subtract the amount and retire or annihilate it as circulating medium. Is this proposed as the mode of avoiding the assumption of interest? If so, will some Senator answer me this: if the people are to be taxed to raise this parcel of the revenue, this \$20,000,000 above the necessities of the current outgo of the Government, are we not bound, economically and properly, to take these \$20,000,000 of greenbacks and with them pay off \$20,000,000 of interest-bearing indebtedness? If we do not do so, but allow this \$20,000,000 interest-bearing indebtedness to run, it will be allowed to run only because although we have in our coffers the greenbacks with which to extinguish it, we are compelled to cancel and annihilate them, because in the mean time we have put out \$20,000,000 or national bank bills, which they must antidote and offset. Am I not right in saying that in the result you either add to the interest account the interest upon \$20,000,000, or, if it is more accurate so to state it, you retain an interest account upon \$20,000,000, with which otherwise you might dispense? The mode of statement is only a phrase or technicality in bookkeeping.

Mr. MORRILL, of Vermont. Will the Senator give way for a moment?

Mr. CONKLING. Certainly.

Mr. MORRILL, of Vermont. The Senator has conjured up unnecessary lions in the track, I think. By the statement of the Secretary of the Treasury it will be seen that he anticipates a revenue from premiums on gold to the extent of about twenty million dollars. If he receives any such amount as that from premiums on gold, of course he sells his gold for

greenbacks, and there would necessarily be a sufficient amount of greenbacks which might be retired. The premium on gold, in order to realize \$20,000,000, would require the sale of not less than \$50,000,000 of gold. Of course, then, there will be that amount of greenbacks on hand. But suppose that were not so, the Senator from New York is in favor of a speedy return to specie payments, and I ask him how we are ever to return unless we are willing to take up these greenbacks and pay interest on the amount. I do not expect any other result. I am willing to meet it now. I expect to have to meet it. Does the Senator expect that we should ever resume specie payments without doing that? Does he expect that we shall resume specie payments and continue forever United States notes in circulation?

Mr. CONKLING. Mr. President, can it be possible that the statement made by my honorable friend from Vermont is satisfactory to his mind? If it is, let me see if it be satisfactory to any other member of this body who will give me his attention for a moment. The Senator says the Secretary, selling gold, receives a large premium, which premium he turns into greenbacks. To be sure he does; and when it is turned into greenbacks it is in the Treasury, like all the rest of the revenue. What is it then? Has it any peculiarity separating it from the rest of the public money? Is it more saving to use that particular money than any other? Is it not of the first importance that all money not required for current expenses should be devoted to paying off the public debt, the interest on which never stops? Interest is the grievous, blighting feature in all public debts; in our case it is doubly hard to be borne, because our rate of interest is unknown to the national debts of Christendom, except in a single other case. Is it not, I repeat, for the interest of the Treasury and of the people that the Secretary should use this surplus fund and every surplus fund to extinguish the interest-bearing debt? Is not this as clear and as true whether the fund arises from the sale of gold or the premium on gold as if it came from any other source? Is there any distinction between funds? Is there any magic about \$20,000,000 received from one source rather than another when it is once covered into the Treasury? The moment it is there one thing is certain: if it is not demanded by the current expenses of the Government, if it is not an absolute necessity to devote it to paying current requisitions, the place where it should go in honesty, in bookkeeping, in legislation, and in fact, is to the payment of the interest-bearing debt, to the payment of that portion of the matured or redeemable debt, whatever it may be, upon which the largest interest is running. Is not that palpable to every Senator? And does it help the case at all for the Senator from Vermont to say that \$20,000,000 of greenbacks, in place of extinguishing \$20,000,000 of interest-bearing debt, are to be destroyed because these greenbacks have been received from selling gold rather than from the taxes paid by the people of the country, or from any other source? If destroying them was the whole transaction it might be said that the volume of paper currency was thereby reduced; but destroying them for the purpose, and as part of the transaction proposed, defeats this result.

Mr. MORRILL, of Vermont. It meets the objection about taxation.

Mr. CONKLING. The Senator says it meets the objection about taxation. Does it? Let me turn to that. Is it true that if you take it out of one pocket and put it into another, you gain or lose anything? Is it true that if you take from the Treasury \$20,000,000 derived from premium on gold and devote it to a certain purpose, and then take \$20,000,000 from another place and devote that to the purpose for which the first \$20,000,000 should have gone, you have saved anything in the operation? That may do on the stump; it may do to say to some people, "Oh, no; you are not taxed for this; we are going to do this after

the fashion of the man who proposed to abolish taxes and pay all expenses out of the Treasury." That may do in certain places; but it will not do when put under the microscope and examined as it will be by men who understand, at least in a homely way, financial or business questions.

Now, let me come to the other suggestion made by my honorable friend. He appeals to me to know if I am not in favor of returning to specie payments. He knows I am, because for many summers and many winters he and I have voted and labored together in that direction. But he asks whether I expect to return to specie payments if all the greenback notes are kept afloat. No, sir, by no means; but the question is whether we are to inflate the currency of the country \$20,000,000 on the one hand, and on the other at the same time annihilate a non-interest-bearing circulation of even amount, and then pretend that we are doing it with a view to curtail the currency, or to approach specie payments. That is the proposition. If any man can show me that by putting out bank bills for which the Government pays interest, and in the same breath retiring greenbacks to the same amount for which it pays no interest, we are reducing the volume of paper currency, or hastening the day when specie payments are to return, I should be glad to learn the arithmetic or the process by which that result may be arrived at. I do not understand it. It would be like my taking up a check of my own, dated ahead and bearing no interest, and replacing it with my note bearing interest, with a view to diminishing my liabilities!

Mr. President, this will not do. The Senate is brought to the defeat of this proposition to increase bank circulation, or else to an inflation of the currency to the amount proposed, or else to taking up \$20,000,000 of inexpensive currency to the end that \$20,000,000 may go out which bears an interest of nearly ten per cent.

These are the three alternatives. Now, sir, as matter of right, I have no doubt what should be done, if it can be accomplished. The localities and the banks which have received without law an excess of circulation, should be called upon to relinquish the small percentage asked for now by the localities who have not received their share. The banks enjoying more than their rights should be scaled down until a recall of currency has taken place sufficient to supply this demand. That has been proposed repeatedly. I understand from the Senator from Ohio that he on one occasion introduced a bill looking in that direction, which was dropped.

A bill was introduced in the other House, which I have before me, with a provision apparently well considered, which, if it were thought well to take it up, would enable us, no doubt, to reach a conclusion upon the theory I suggest. But not wishing to interfere with this bill, but merely to assign the reasons for the vote I shall give, I do not feel inclined to offer such an amendment or to make more than a suggestion on the point. I only say in passing that, as an original question, if we could get at it, all must agree that all parties should be put somewhat in *status quo*, they should be brought back toward where they were. As a simpler mode, this proposition is before us; but it involves the question whether we ought on the one hand to inflate the currency, or whether on the other, as an antidote to that, we ought to strike down the corresponding amount of non-interest-bearing circulation, to the end that we may substitute for it these \$20,000,000, upon every penny of which interest is to be paid, either by a further issue of bonds, which would create a further interest account, or by annihilating greenbacks received in the collection of the revenue, which can be spared, and then by withholding those greenbacks from the cancellation of a corresponding amount of interest-bearing debt, and thus putting an end to them for the mere purpose of obliteration as the debit entry in the account of the circulation of the country. It seems to me we can-

not avoid that conclusion; and, although I should be very glad to find an alternative corrective of the grievance complained of, I cannot vote either for the inflation or for the transmutation of \$20,000,000 which bear no interest into \$20,000,000 bearing oppressive and extravagant interest.

Mr. SHERMAN. Mr. President, there is one view only, and that I wish to present in connection with the views presented so very clearly by the Senator from Vermont and the Senator from New York in regard to this matter; a view that neither of them has taken, and that, when presented, I think presents the whole case. This bill does not seek to inflate the currency nor to diminish the currency; it does not propose to affect the currency question. The Senate has directed us substantially not to interfere with the currency, either by an increase or a diminution; but still there is one evil that must be rectified, which is so palpable that every man can see it. It is made a political question as well as a financial question. That is that the present circulation of the banks in this country is grossly and improperly distributed. I can give the reason for it, if necessary; it is owing to a misconception of the act. I agree with the Senator from New York that it grew out of a misconception of the act by the Comptroller of the Currency, but I do not wish to find any fault now. The fact exists; it is so palpable and so gross that every man can see it without knowing the difference between two and four. In some of the States they have seventy-seven dollars in circulation for each inhabitant; in others sixty dollars; in others fifty dollars; in others forty dollars; and in others thirty dollars; while in some of the States they have only twenty-five cents for each inhabitant.

The Senator from Vermont triumphantly says, "Why did not these States come forward and get their circulation when they could; New England did it, and New England therefore ought to retain what she has." The answer is palpable. Take the State of Missouri: Missouri was threatened by guerrillas, and no man of ordinary prudence would start a bank there at the time this banking circulation was absorbed; and the result was that Missouri, a powerful State with a large city within her limits, the city of St. Louis being larger now than any city in all New England, has no banking circulation of any account. That is so gross and palpable as to present a case where every Senator would say that State ought to have the benefit of this circulation if it is of any benefit whatever. So in regard to Kentucky: Kentucky was more or less threatened during the whole war; and although Louisville was never occupied by the rebels, it was so threatened that no prudent man would embark there in banking capital, which requires safety above all other pursuits. The result is that Kentucky has no circulation, and so of every rebel State. Your law was passed when it was not in the power of any one to start national banks in those States. They are without them. They are now being restored to their former places in the Union; they are about to have Senators and Representatives on these floors. They have cities; they have commerce; they furnish cotton; they furnish the basis of a large and profitable commerce and manufacturing operations. It is necessary to have currency to move their crops. Is it not right that they should have some? They have none now.

The inequality of the distribution of the banking circulation is so palpable that no Senator can overlook it. How shall that be corrected? If I wanted to make this a matter of sectional feeling I would say at once New England ought to give from her excess what is wanted. The Comptroller of the Currency says \$20,000,000 will be sufficient to satisfy the reasonable demands for currency of these States, for a time at least, until the question can be treated in a broader and more statesmanlike view. He says that with fifteen or twenty million dollars he could satisfy all the reasonable

demands of the southern States at present, and he asks us to authorize him to issue circulation to that amount to the South. But where shall we get it?

The amount limited by law, \$300,000,000, is already reached. Shall we issue new circulation beyond \$20,000,000. If so, we encounter the opposition of those opposed to any increase of circulation. Shall we take from those who, without authority of law, now possess more than their share by a misconception of the act as we claim? If we take the first proposition and increase by \$20,000,000, how much is that? Only six per cent. of the present amount of bank circulation, or only three per cent. of the aggregate circulation of the country. It is therefore a very small amount. But the limit of \$300,000,000 was fixed when in the midst of war, when in no one of the rebel States could you circulate a single dollar of your greenbacks or national bank notes. Since that limit was fixed our population has increased about fourteen per cent. according to the ratio of increase. We have added to our governed population over ten million people that had none of this circulation when you fixed the limit, and since that time our wealth has largely increased. Several of our western States have more than doubled since 1860 when the census was taken on the basis of which the apportionment was made.

Is it, therefore, unreasonable now, five years after this limit was fixed, to propose an increase of \$20,000,000, which is only a trifling percentage of increase? We thought not. On the other hand, if we attempt to tamper with the banks already in existence, we incur a formidable opposition. I introduced a proposition some years ago to withdraw from Connecticut, Rhode Island, and Massachusetts, a portion of their banking circulation. Their Senators very properly said: "We took this circulation at your request; we adopted your banking system; we surrendered our own; we did it in good faith; is it right or fair now for you to withdraw a portion of our circulation when we accepted your banking system?" My answer was: "Although you have your circulation, upon, I think, an erroneous construction of the law, yet your people did it in good faith and have based their operations upon it; therefore it would be hard, to say the least, to withdraw from these three States that have an excess of circulation, \$20,000,000." These States have an excess of over twice their share of \$60,000,000—\$59,573,837—based upon population. If you allow these States twice their share on account of their wealth, their being old States, and having an old banking circulation, allowing them that to make them equal, then they have \$60,000,000 more than their share. If there was a way by which \$20,000,000 of this circulation could be withdrawn from them and given to the other States I should be very glad to do it; but, sir, I say it is impracticable.

Several bills have been introduced and referred to the Committee on Finance proposing this equalization of circulation, but none of them have been satisfactory. None of them could be adopted without doing injury to local interests that have accepted your banking system in good faith; and, therefore, as the lesser of two evils we propose to add \$20,000,000 to the aggregate of circulation. Some Senators are disposed to exaggerate the evils of inflated paper money. Why, sir, our paper is far less inflated now than it was two or three years ago. We had at one time \$450,000,000 of greenbacks at the same time when we had \$300,000,000 of bank currency; and we had, besides, compound interest notes and various forms of floating indebtedness which now are all paid off. We have no circulation and nothing that enters into circulation except greenbacks, bank circulation, and three per cent. certificates, which can only be held by banks. So that that which forms the circulation of the country has been vastly diminished until a demand has come to us rather to increase than to diminish; and we dare not now in face of the popular opinion

reduce the volume of our greenbacks or our national bank currency. We dare not, I say, in fair obedience to the popular will which governs Senates as well as everybody else.

Why, therefore, this persistent objection to a small increase of circulation which will only present local advantages and local facilities to communities that never had the benefit of the system at all, either of greenbacks or of banks. If you could issue \$20,000,000 of greenbacks and distribute them over the South, that might be fair. It would give us \$20,000,000 without interest; but you cannot do that. Greenbacks have no local habitation and no local name. But when you establish local banks in a community, say in the city of Mobile, you give to that city the local advantage of banking circulation, you give it the local advantage of banking capital, and the merchants have more or less of the benefits of that local circulation and local capital at the seasons when it is necessary to move the crops.

I say, then, that the conclusion to which the committee arrived, to give this little addition, to be distributed as far as may be among those States that have the least, I think is the fairest solution of this matter until the great question can be settled on a more comprehensive basis. So far as my constituents are concerned, this bill does not affect them at all. We have about our share of circulation. We have no cause to complain. We are perfectly satisfied with it. But the relief proposed by this bill will go to the States of the West and South that are now severely pressed by the results of the war and that need this little aid to support them on the revival of trade and commerce, and to give a little impetus to reviving industry.

Mr. STEWART. I should like to inquire of the chairman of the Committee on Finance whether the first section of the bill, by correcting the abuse, which undoubtedly is an abuse, of using the reserve, will not have a tendency practically to produce contraction to some extent?

Mr. SHERMAN. That will not affect this question, because, as a matter of course, these banks will be chartered where there are no banks now.

Mr. STEWART. Will it not affect the aggregate amount of circulation?

Mr. SHERMAN. Not at all. The only question is whether the circulation shall be kept at home and lent at home, or whether it shall be sent to New York and lent at New York. The first section applies to a different state of facts entirely.

Mr. FESSENDEN. Mr. President, the Senator from New York [Mr. CONKLING] seems to advocate a very desirable state of things, which is a return to specie payments at some day or other, and as early a day as possible; and at the same time he has pointed out certain difficulties which would follow from the course proposed by the committee, even with the amendment offered by the Senator from Vermont. He has shown that by it we either do increase, or do not reduce, our interest account. It is certainly very desirable to reduce it if we can, and surely we ought not to increase by any means if we can avoid it. But I failed to perceive in his argument that he proposed any remedy whatever for what is said to be the difficulty that this proposed issue of \$20,000,000 is designed to remedy. He left that question untouched.

The question before the Senate, as I understand it, is whether or not the condition of affairs in some of the States is such as absolutely to require an increase of their local circulation, and as that increase of the local circulation cannot be had under the present amount fixed by law, whether it is desirable to increase that amount to a certain extent? My friend from Vermont says it may be desirable to do it, but at the same time you must not increase at all the total circulation; that is already sufficiently inflated; and therefore he proposes that just in proportion as you increase the banking circulation you shall diminish and contract the national circulation



proper; that is, United States notes. That idea undoubtedly has the germ in it of what I believe to be the correct principle and the solution of the whole difficulty. We wish to return to specie payments at as early a day as possible, for obvious reasons, which I will not stop to argue. The reasons address themselves to everybody's mind. It is quite apparent that you cannot do that so long as the national circulation remains as high as it is. That is out of the question. It therefore becomes desirable to reduce that circulation in order to accomplish that object; and that was the idea upon which Congress a short time ago proceeded.

There are men in the community who are very strict and very close who argue that \$300,000,000 is circulation enough for the whole country. I do not believe that; but at the time when that limit was fixed for the national bank notes it is quite obvious it was as high as we ought to go, for the reason that it only made a part of the circulation, and was only to make a part of the circulation. We had at that time, and were to have, about \$400,000,000 additional of Government currency; and it was not desirable that we should throw the whole system of banking open and let everybody bank as much as he pleased without fixing any limit and without adopting any system by which it could be brought down to and confined to a reasonable amount. Consequently, it was fixed at about three hundred million dollars. The idea was, or at least my idea was, that if that system was to remain permanent the amount must necessarily be increased in proportion to the increase of business of the country from time to time, either by increasing the limit or by throwing the whole matter open to anybody that wished to enter into it, which I believe might safely be done under a proper state of things. But that could not be done then; that is, it could not be done without dangerously inflating the currency, until you adopted a system by which you took the Government circulation out of existence; and it could not be done with a hope of returning to specie payments so long as you left this Government circulation in existence at the same time. It was evident it would not do to leave all that in existence which prevented our return to specie payments, and throw the whole matter open for everybody to have as much circulation as they chose to risk their capital upon, because there would be no end to it, and the circulation would be enormous, and the return to specie payments would be indefinitely postponed.

Now, sir, what was the system which Congress hinted at, and which, in my judgment, was a sound one? It was the gradual reduction of the national circulation down to a point when the Government could resume specie payments safely, and to so graduate it, although its termination and its course were to be perfectly evident, as to show those engaged in banking that they must set their houses in order and prepare themselves when the Government was prepared also to resume specie payments, for one must follow the other; not to do the thing suddenly, which might break the banks, or expose them to great difficulties, but to reduce gradually that which had grown gradually according to the necessities of the case and the ability of the country, so that you might finally come to a point where the Government liabilities were so reduced that the Government could resume, and the banks having due notice could also be prepared to resume at the same time.

It was for that purpose, with that leading idea, although the action taken did not go so far, perhaps, as I would have been willing to go at that time—that we adopted the rule that we would, in the first place, fix the amount that was to be reduced each year—\$4,000,000 a month, I think it was; that was considered to be enough, as much as the country would bear at that time; but the idea was that it was to continue and be a gradual reduction, so as to gradually but surely bring the Government back to a condi-

tion where specie payments could be resumed, and having that time to look forward to that the banks would also be prepared to meet it in the same way, and capital would be so accumulated as to enable the country to do it safely.

Well, sir, what have we seen at this session? Forthwith there is an outcry, "You must stop reduction;" and not only stop reduction, but by a vote that was passed here in the Senate, "You must not intimate that you ever mean to reduce any more." You will not even say that the volume of United States notes shall not go back to the \$400,000,000 where it started from, although we got it down to \$360,000,000. Those were the notes of the Senate. The two cries were simultaneous; one was, "Stop the reduction" with reference to these greenbacks, the national circulation. Another was, "Reduce taxation so as to have no surplus in the Treasury to reduce with." We were having a presidential election coming off; candidates were advocating greenbacks *ad libitum* and other schemes like it; and the consequence was that Congress got frightened, and we cried, "Reduce taxes; stop reducing the amount of the greenbacks; stay just as we are;" and what is the consequence? It was passed. We refused to carry out the system, and here we are in precisely this difficulty at the present day.

If we had carried on our system and continued our reduction, we should not have been met with the difficulty that my friend from New York has stated in his speech to-day; and that is, it will not do to issue this \$20,000,000, because you inflate the currency, unless you take in the greenbacks. We should have had the \$20,000,000 in; we should have been in a condition, and we should have been getting gradually into a condition in the course of a year or two hence when we could have resumed specie payments, if necessary, and when we could have done the other thing that will then make itself obvious to the mind of everybody. You may either fix a much larger point or a point far beyond that to which you are now limited, \$300,000,000, or you may, when you get back to specie payments and have taken the national circulation out of the way, just say to everybody, "Bank as much as you please; take out your charter; furnish the circulation." There is no danger in it if the thing is well secured, because business will regulate it. No man will bank unless he can make money by it. My friend from Pennsylvania [Mr. CAMERON] would not carry on banking if he did not know he was making something out of it; nor would anybody else. It will be regulated by the demands of the country for circulation, and with specie payments resumed, and the circulation itself well protected by a pledge of bonds, or anything else you may substitute for bonds of equal value and protect the country entirely, you might well say to anybody, "Take out your charters; let business regulate the matter."

The difficulty, therefore, Mr. President, in which we are at this moment comes from this: I foresaw, everybody foresaw, that the unequal distribution of the \$300,000,000 of bank circulation would make trouble. It had made it before; and that trouble is constantly increasing as the southern States are coming in and calling for the use of circulation; and as other States which have not had their sufficient share are increasing in their business, they want more. It is necessary that they should have it; but you have closed it out of your power to give them more for the very reason of your legislation at this session, that you have stopped reducing the amount of national circulation, that you have not been taking in one side in order to prepare yourself to let out on the other side.

Now, sir, my general idea is that the whole solution of the problem is very simple. I have looked at this matter, studied it in my way, and read the schemes that have been sent to me and sent to every Senator in favor of this way, that way, and the other way to return to specie payments. They have been of all sorts and sizes and dimensions and characters; but

there is not anything in any of them hardly. There is but one simple mode of proceeding, and that is, take in your national circulation to a point where you can redeem. If you take it in to \$150,000,000 you can resume specie payments easily, I take it, because those \$150,000,000 would be held by the banks; they would not trouble anybody. My friend on my right [Mr. CATTELL] could fix the amount much better than I could, but my own impression is that when you have got it down to \$150,000,000 you may easily, so far as the Treasury is concerned, resume specie payments at that moment.

Mr. HENDERSON. You can do it when you get it down to \$250,000,000.

Mr. FESSENDEN. I doubt whether you could do it at \$250,000,000; but you certainly could at \$150,000,000. The banks in the mean time could prepare themselves. They understand when a storm is coming. They see, when the policy of the Government is once fixed, what they have got to do. They understand managing their own affairs; and, fixing the time at a reasonable distance ahead they would unquestionably be ready to start with the Government in the resumption of specie payment.

But the fright about taxation, the cry for diminution of taxation, cutting it down to the lowest notch, and the cry also against any further reduction of the currency, of which we heard so much, have placed us precisely in the category where we find ourselves; and that is, we cannot meet the demands upon us for increased circulation from different sections of the country of local character, for the very reason that we have not put ourselves in a condition to do it without inflating the currency so much. That is the trouble; and undoubtedly my friend from New York is right when he says, suppose you do this thing that is proposed and adopt the amendment of my friend from Vermont, you just take \$20,000,000 which you might appropriate to reducing the interest account. So you might if you had it; but that does not relieve us of this difficulty, and that is, that circulation is wanted in certain portions of the country which have not got any. That is the matter to be solved. That is the problem just now before the Senate for its consideration.

I merely rose to point out the failure in proper policy which, in my judgment, has led to this difficulty; but nevertheless, pointing that out, here we are. Shall we deny to these sections of the country that which they need so much, if they do need it; and on that point I am very much inclined to follow my friends on the Committee on Finance. When I was a member of the committee I liked very much to have people follow me, and therefore I am very much inclined to be a good soldier myself, unless I can see very good reasons for not being so. They think it is absolutely necessary. It undoubtedly involves a sacrifice to a certain extent, but that sacrifice it is necessary to make from the necessity of the case and from the course of our own legislation, from our own want of firmness, from our own want of system in not adhering to a correct principle when we had once adopted it, and being frightened by the cry out of doors with reference to it.

Mr. CONKLING. Will the honorable Senator allow me to make an inquiry of him?

Mr. FESSENDEN. Yes, sir. I do not know that I can give an answer; but I have no objection to the question.

Mr. CONKLING. The honorable Senator stated that the amendment of the Senator from Vermont had in it the germ of the true idea, if I caught his expression, proposing to reduce greenbacks so called in proportion as national currency was issued. Now, I have here, and have been looking at it to see if I was right, a national bank bill upon which I see is printed the language of the act making it a legal tender for everything due from the United States and to the United States, in substance, except customs duties, and on the other side of the account, interest on the public debt. I wish

now to inquire of the Senator whether, if we could exchange the whole greenback circulation, \$445,000,000, or whatever it may be, for national bank circulation, so as to annihilate the one and substitute the other, we should thereby be any nearer specie payments than we are now, unless we were to violate the faith of the Government establishing the national banks; and whether, aside from there being the same volume of paper out, answering the same purpose, we should not simply be increasing our interest account for the whole amount? In other words, if he will be kind enough to explain how it is that the germ of the true idea appears in this amendment, that by putting out national bank bills as fast as we retire greenbacks we are thereby approximating specie payments?

Mr. FESSENDEN. I had explained it. There is a very great difference between the two. I want to get rid of this whole system of legal-tender notes. When you have taken them up, they are out of the way and no longer a legal tender, and a circulation replaces them which is not a legal tender to the same extent; at any rate which is of an entirely different character, protected in the way that it is by law. You substitute one for another. The Senator asks me how you can do that without increasing your interest account. You cannot if you borrow money to pay it; but if you will put your taxation at a rate that will give a surplus, there is no difficulty about it, because you have a surplus raised, and that is the only way you can do it.

The difficulty in this whole matter, in my judgment, is that financial men and speculators of all sorts, and even members of Congress, have been trying to find some way of getting rid of our difficulties besides paying our debts. There is no other way. We have got to pay them some how or other, and we can only pay them by raising money, and by raising money by taxation. I agree that I do not want the taxation to be enormous, and I do not want it done this year, or next year, or any particular year or number of years that you suggest; but be in the way of doing it, pay something each year, reduce your taxes to such a point as will meet the expenses of the Government and give you some surplus to apply to the payment of your debts. That is the only way; and the first application that I would make of that surplus would be to redeem this legal-tender currency so called. It is a nuisance, as I think all that currency issued by the Government is, so long as it prevents the Government from being able to pay every demand upon it in specie. That is the simple idea I have; and therefore I say I would substitute one for the other, for the reason that when you have got the demands upon the Government which are payable in specie out of the way to an amount that they can meet, then you get back to specie payments as a matter of course; there is no trouble about that, and the banks come with you if they manage their affairs rightly.

The honorable Senator from Ohio suggested one other idea, which I agree with in part, but not in the whole. He says the people outside have settled this question in making these demands, and we must echo their sentiments with regard to them. So we must so far as their sentiments are just and right; but you cannot tell how the people are upon these questions. A portion of them are one way; a portion of them another way; and a portion of them another way. The difficulty is, that each gentleman supposes that those he represents constitute the people, or the majority of them. They do not constitute the people; that is, the whole people. We must make a system for the country, and I believe there is no way in which we can satisfy the claims of the people upon us so well as by ourselves devising a proper remedy for these evils, even although at the time it may seem disagreeable to them, and following it strictly and straightly. If they do not like it at first, they will like it when it

works well. If rightly devised it will work well. That is our duty; and I say again, we were upon the right track, in my judgment, when we were reducing the claims against the national Treasury, and approximating as fast as we could, consistently with the interests of the country, to what would be a correct normal condition of things, and that is what we ought to have continued to do, instead of being frightened out of it, in my judgment. Still, I know so little about these matters that I do not speak with any degree of confidence; and yet that is my idea, and for so much as it is worth I give it to the Senate.

Mr. MORTON. Mr. President, we are told that this is simply \$20,000,000 that Senators propose to inflate the currency with, and that it is demanded by the necessity of equalizing the circulation and giving to certain western and southern States and Territories circulation which they need. I realize that necessity as strongly as anybody; but I do not agree with the Senator from Ohio that the responsibility of the great inequality that now exists is to be thrown upon the Comptroller of the Currency. From my reading of the law, the responsibility is with Congress, and not with the Comptroller of the Currency.

Mr. President, this bill is not simply a measure to increase the circulation \$20,000,000; but it is the beginning of the future financial policy of this country. If passed, it is to be the entering wedge and the beginning of what will be the future financial policy of our country. If we give \$20,000,000 for the purpose of equalizing circulation, we recognize the necessity and the importance of that; but can we stop there? Twenty million dollars will not begin to equalize it. Everybody knows that. I heard a Senator say on Friday that it would take over one hundred million dollars to do it; and what would \$20,000,000 be to the States and Territories that are spoken of in the way of equalizing the currency? It will be but the beginning, and at the next session you must go on and on, until you do reach that equality of which we hear so much. Then, sir, it will not be simply the question of putting \$20,000,000 additional currency in circulation, but it will be the question of putting \$100,000,000, or more than that, in circulation, sooner or later, for this very purpose.

The Senator from Ohio [Mr. SHERMAN] is for inflating the currency directly \$20,000,000. The Senator from Vermont [Mr. MORRILL] is for taking up an equal amount of United States notes and canceling them, so as to keep the volume of the currency the same that it is now. There are difficulties either way. In the first place, if we take up an equal amount of United States notes, as I argued the other day, it must be done in one of two ways: either by taking the money that is paid into the Treasury in the way of revenue, getting your \$20,000,000 of legal-tender notes in that way, or by selling bonds to that amount and getting them in that way, as the Secretary of the Treasury heretofore contracted. I take it for granted that the Senate is opposed to the increase of the bonded interest-bearing debt; that it is opposed to converting a debt that pays no interest into a debt that pays nine or ten per cent. interest in currency. I shall therefore dismiss, as not a thing likely to be done, the idea that we are to go to work, as seems to be argued by the Senator from Maine, and convert this non-interest-bearing debt into an interest-bearing debt. Then if we will not do that—

Mr. FESSENDEN. I beg the Senator's pardon; I advocated no such thing. Still, I do not know but that it might be wise in a certain case. My idea is to pay it off. I said we ought to pay off this non-interest-bearing debt, but we ought to pay it off out of moneys taken from the Treasury, raised by taxation. We ought not to increase our debt to do it; but still, as the Senator suggests that idea, I will say to him that it is very questionable in my mind whether we should not benefit the people by borrowing money to take it up; whether

they would not save more than they would lose in that way if we can get to specie payments by it.

Mr. MORTON. Then the Senator's proposition is this: that the people of the country shall be taxed in the course of the next few years to the amount of between three and four hundred million dollars, the money to be drawn directly from the pockets of the people, and at a time when they ought not to be paying off any portion of the national debt for the purpose of paying off the non-interest-bearing part of our debt and leaving the bonded debt just what it is. That is the Senator's proposition roundly.

On the other hand, the Senator from Ohio seems to be in favor of inflation. He thinks we could bear a much larger amount of currency than we now have, and even then not get back to what we had a few years ago. I had hoped that the Senate had got past the time when it was necessary to argue the evils of the inflation of the currency—the general increase of speculation; the general diminution of productive industry and the resort to speculation instead. Does not every man know that the result of an inflation of the currency is to increase the price of everything that is bought and sold, first beginning with the price of personal property, then touching real estate, and then, perhaps, coming to labor?

Mr. FESSENDEN. It begins with labor.

Mr. MORTON. The Senator says it begins with labor. I submit that it is the experience of the world that the price of labor is the last thing that is inflated.

Mr. FESSENDEN. The Senator does not understand me. I mean to say that labor is the first thing to suffer from inflation.

Mr. MORTON. With that understanding I agree. It is the first thing to suffer from inflation and the last thing to be improved by it. Sir, as soon as inflation takes place speculation begins; and what is the effect of it? Everything acquires two prices, the real price and the speculative price.

Mr. SHERMAN. If it will not interrupt my friend and make him cross his path, I should like to ask him a question. If inflation has such terrible evils, why does he not adopt the doctrine of the Senator from Maine and resume specie payments in that way?

Mr. MORTON. I do not cross my path. I think the Senator crosses his path, as I can very clearly show him. It is not a question whether you shall go one way or the other, but it is a question of stability. Every interest in this country demands stability and demands that we shall avoid fluctuation.

As I was remarking, Mr. President, when inflation begins property acquires two prices: the real, actual, demand price, and the speculative price. Men can put property into warehouses and hold it for a rise of prices, and thus, as we saw during the war and during this great inflation, the price of goods goes up fifty, one hundred and fifty, two hundred, and three hundred per cent., because of this speculative price brought about by the great abundance of money. But how is it with labor? You cannot put labor into a warehouse and hold it for future demand or speculation. The demand for labor is immediate, as labor is needed; and therefore, when inflation takes place, labor is the last thing to be inflated and the first thing to feel the evils of it. Mr. President, we have already suffered the evils of inflation. We have had one great inflation, and we have got part of the way down. It has cost the American people dearly in coming down. The down grade is marked at every step by bankruptcies and ruin in every part of this country. Would the Senator from Ohio have us make the ascent again, that we may have again the ruinous descent? I trust not.

If this system of increasing the national bank currency shall be adopted the country will not resort to inflation, but it will probably resort to the other system of taking up and canceling the United States notes.

Now, Mr. President, the most important

thing for us to do, and the thing we ought to do before this Congress adjourns, is to take some steps toward the return to specie payments. Every other financial scheme is a nostrum as compared with that. It cannot be done, nor can it be done indirectly. It will not "turn up," as Micawber might suppose it would. It will not come around incidentally or indirectly by resorting to some other gentle, ineffective, meaningless measure. Sir, the way to return to specie payments is by taking some direct step in that direction. As the Senator from Maine said, the only way to pay a debt is to pay it; and I say the only way to return to specie payments is by taking some step in that direction; some step that looks toward it; some step that will give the country assurance that specie payments will be made.

Now, sir, how is it to be done? I do not know; I am not a financier; but as I believe in direct measures and not indirect, Machiavelian measures, the way to return to specie payments, in my judgment, is to fix some time when this Government will redeem its legal tender notes. Give everybody notice; let the people prepare for it; let the Government prepare for it by collecting its reserve of gold; let everybody get ready for it; and as the time approaches when you are to return to specie payments, the premium on gold will gradually go down, until as you get to that time it will have gone altogether; and then the legal-tender notes being as good as gold the people will not want the gold except for specific purposes.

Mr. President, it was a strange idea suggested by the Senator from Maine to-day, not for the first time, for I have heard it a number of times, and from other Senators on this floor—I believe the Senator from Vermont concurs in it—that by simply withdrawing the legal-tender notes you thereby return to specie payments. That all you have got to do is to get clear of these notes, either by burning them up, taking them from the revenue, or by canceling them, taking them from the proceeds of bonds sold, and as soon as you have done that, you have got to specie payments. Yes, Mr. President, you have got there then, but you have got there by a panic, by a crash. You have got there in the same way that you would get there if the Supreme Court were to decide to-morrow that the legal-tender notes were unconstitutional, and therefore there would be nothing a legal tender but gold and silver; but what would be the result? There would be a general falling of prices and values, the result of which would be an almost universal bankruptcy. No, sir; it is a mistaken notion to suppose that you have got to specie payments healthfully and safely by simply withdrawing legal-tender notes. You have got there then by necessity; but you have got there by universal bankruptcy and convulsion.

Why, Mr. President, your bonds are worth but seventy-four or seventy-five cents on the dollar in gold, if you count it in the way of discount. The whole country now is under a deception in regard to the value of legal-tender notes and national bank currency; and what is it? It is because the depreciation of these notes is measured, not by discount in the honest way, but is simply measured by the premium on gold, and therefore is kept out of sight of the people. The legal-tender note is par in contemplation of law. It is par because you can make your neighbor take it in payment of debts. If it is only worth six cents on the dollar in gold, still, in contemplation of law, it is par. The gold and silver are kept out of sight. Therefore you measure the depreciation of these notes not by discount but by the premium on gold. You sell your legal-tender notes at par and your bank notes at par; but if you look at gold it is forty per cent. premium. That is the way you measure the depreciation. But whenever you withdraw the legal-tender notes from circulation, then they cease to be par and gold becomes par, and you count the depreciation of your bonds and your national bank notes and everything by discount.

Mr. FESSENDEN. Then you are back to specie payments.

Mr. MORTON. You are back to specie payments; but all the foundation of these banks is then twenty-five to forty per cent. below par. You count by discount then, and not by the premium on gold. Measuring the depreciation of these notes by the premium on gold is precisely like paying taxes under the form of a tariff. The people pay millions of taxes to the Government in the form of a tariff, because the duties are covered up in the general price of the article which they pay to the merchants, and do not reflect that one half of that price has been brought about by duties paid to the Government. The legal-tender note is now par in our contemplation. Gold is now out of view, and we think but little of the premium on gold; but the very moment you take away the legal tenders, then it becomes discount and everybody sees it. We do not want an increase of national bank notes, indefinitely or to a large sum, when we know they are only worth seventy cents on the dollar. That is all your national bank note is worth to-day; and we do not even get that much for it, because where the price of commodities is regulated by a depreciated currency that is a legal tender you never do get what is, in point of fact, the actual value of your currency, and especially in dealing in real estate. Now, sir, the moment your legal-tender note is gone, the moment it has been withdrawn in accordance with the suggestion of the Senators from Maine and Vermont, then the depreciation in the national bank note remains just what it is to-day.

Mr. SHERMAN. I should like to ask my friend a question. If the legal-tender notes were out of the way he says the depreciation would still continue as to bank notes, if I understood him.

Mr. MORTON. I say you do nothing to prevent that continuing as to them.

Mr. SHERMAN. On the contrary, any holder of a bank note might present it to the bank and demand gold, and as a matter of course it would have to be paid in gold, or else it would be brought here and the bank would be exploded at once.

Mr. MORTON. I was just coming to that.

Mr. SHERMAN. If the Senator wants to get back to specie payments, it can only be the retirement of the greenbacks that will bring us there.

Mr. MORTON. Not at all; not their retirement in that way, as I shall show you after a while.

Mr. SHERMAN. If the Senator can show us how to retire the greenbacks, except by paying them, I should like to hear it.

Mr. MORTON. That is just what I propose; to return to specie payments by doing what the Government promises to do, and that is, by paying these greenbacks in gold. Now, I wish to ask the Senator a question, because it shows the weakness of the question he asked me. He says if you take away the greenbacks the holder of the national bank note can present it to the bank for payment. The bank has got no notes to redeem in; according to the original constitution of the bank it must pay in gold; but, I ask you, where is the bank that can redeem its issues in gold when that bank is predicated upon bonds that are only worth seventy or seventy-four cents on the dollar, when the whole constitution of the bank is thirty per cent. below par? No bank can do it. It is idle to suppose because you take away the greenback circulation and require the bank to pay in gold that you thereby bring up the value of the stocks of that bank and its outstanding notes thirty per cent., so as to make it par in gold. You do not do it. That is the fallacy the Senator from Maine is laboring under—that because you take away greenbacks and require the banks to redeem in gold you thereby give a gold value to their stocks and to their bills, which are to-day thirty per cent. below par, gold being at par. Sir, you cannot return to specie payments in any such

way as that, I respectfully submit. We did not depart from it in that way, and we cannot get back to it in that way. We must get to it through the same medium by which we left it; and that must be by beginning the work of honestly redeeming these legal-tender notes in gold.

Why, sir, this system that I have advocated here seems to be predicated on the idea that it is a mere operation of law by which you are to return to specie payments; that Congress can resolve that the banks shall redeem after a certain period, and they will redeem. Sir, that is preposterous. Congress can create no power in the banks to redeem in gold and silver. Their very financial constitution to-day is thirty per cent. below gold in value. You may strike out the legal-tender notes; you may take any course you please, and you cannot restore the difference between their actual value and their gold value. We count their notes at par to-day, because gold is at forty per cent. premium; but when we take away the legal-tender notes, then we will measure their depreciation by discount, and that will bring them down to seventy cents on the dollar.

Mr. President, in my judgment it is the first business of the Government to take some steps toward a return to specie payments; and as I said before, and I wish to reiterate that statement, it is not to be done by wishing it; it is not to be done simply by some indirect and imperfect remedy; but it is to be done by some legislation looking directly toward it and making provision for it. If it were left to me I would fix a day in the future, and I would say that on and after that day the Government would redeem the legal-tender notes in gold, and thus comply with the promise made on their face. They are to-day over due paper that is dishonored by the maker. We cannot keep these notes up by the mere solvency of the maker. The solvency of the maker never kept over due paper at par, and never will. They have the additional value of being legal tenders, which the bank notes will not have when they stand alone. They are receivable for certain taxes; but all these things have failed to keep them at par, and they are worth but seventy cents on the dollar to-day.

Mr. HENDERSON. Will the Senator permit me to ask him a question?

Mr. MORTON. Certainly.

Mr. HENDERSON. I ask him why he would fix a day to redeem greenbacks in gold at par, when he can commence redeeming them now at seventy cents on the dollar?

Mr. MORTON. Yes, Mr. President, we can go out and buy them at seventy cents; but I ask how it would build up the credit of this nation if it were to go out and buy its own paper in the market, like a broker, at seventy cents on the dollar, when it refuses payment at the Treasury Department, which says that they shall have a dollar for every dollar promised upon the face of that bill? Sir, that would dishonor the credit of the nation.

Mr. HENDERSON. Let me ask the Senator, then, whether it is any less dishonorable to sell gold, which is the only constitutional currency, as I understand, according to his idea, at a premium?

Mr. MORTON. The cases are entirely different; but I am free to say that I have never approved of the policy of selling gold in the market, instead of reserving that gold until we can redeem our greenbacks.

Mr. HENDERSON. Congress passed a law authorizing the Secretary of the Treasury to do it.

Mr. MORTON. To sell gold?

Mr. HENDERSON. Certainly.

Mr. MORTON. I never voted for it.

Mr. HENDERSON. I think you did.

Mr. MORTON. I think not; I was not here. There were a great many sins committed by Congress that I am not responsible for, although I have no doubt in the course of time I shall have my share.

Now, Mr. President, suppose we fix a time—



I will suggest now, simply by way of illustration, the 1st day of July, 1871—and declare that upon that day the Government will begin to redeem her paper. I will not say that she shall carry on all her operations in gold; but that upon that day she will redeem in gold the legal-tender notes presented at the Treasury Department, or at a place fixed for that purpose. What is the effect of it? To-day the Government gives no assurance that the legal-tender notes will ever be redeemed. To-day the Government pays no interest on that paper, and does not say whether she will ever pay the paper or not. We have only the vague hope and expectation that she will. But when we fix a time at which we will redeem that paper then every man can take his slate and pencil and set down what his legal-tender note is worth to-day, and as the time passes on and the period of redemption approaches the premium on gold disappears in the ordinary way. At the end of the first year, it will not be more than fifteen or sixteen per cent.; at the end of the next year, seven or eight; and as you come to the actual time of redemption the premium on gold fades away before you reach it; and then the people do not want the gold except for specific purposes.

I do not believe that more than \$150,000,000 of gold would be required to begin and to carry on the work of redemption. The idea that a great many have that we must have as much gold on hand as we have greenbacks is entirely fallacious. There is no foundation for that opinion. Why, sir, it is a matter of experience all over this country, and, in fact, in Europe, that banks that have one dollar of coin in their vaults for every three dollars in circulation can carry on and do business safely. I am told that no bank has ever failed in this country that had that proportion of coin in its vaults; that upon examination the banks that have failed have not had more than one fifth or one sixth or one seventh the amount of coin in their vaults to their paper in circulation. I have seen a statement from a very able writer saying that no bank has ever failed in this country that kept a proportion of coin in its vaults of one dollar to three.

Now, Mr. President, to take an illustration: in the crash of 1837 the State Bank of Indiana suspended. The Legislature of the State met and gave it five years within which to resume. At the end of three years its notes were as good as gold; and when the five years expired the people had forgotten the time, and there was very little demand made upon the bank for gold. Such instances are numerous in the bank history of this country and of England and Scotland; and such would be the condition in this case if we were to fix a time when we would resume specie payments or redeem these notes in gold. By the time we reached that period, or before, the premium on gold would have run out, and there would be comparatively but a small demand upon the Government for gold. Why? Because, in the first place, of the confidence in the Government; in the second place, these legal-tender notes would be more convenient and desirable to the people in every respect except where they required the gold for specific purposes, than the gold itself. And, sir, I make another statement, which I ask some of the eminent financiers around me who seem to understand all about this question to bear in mind: there would be less gold required in general circulation in this country than there was before the war when we had a system of local specie-paying banks? Why? Because the bills of the State Bank of Indiana in 1860—as good a bank as there was in the United States—would not pay my hotel bill at the city of New York or Washington. They were of a local character, and if I traveled East I must supply myself with gold or the bills of eastern banks. That created a demand for gold; and what was true of the banks of Indiana was true of the banks of Kentucky and Tennessee, and of every other western and southern State. That created a demand for gold that would not exist now. Why, sir, the Indiana merchant in

paying for his goods in New York was compelled to buy his exchange on New York at from one and one third to three and sometimes five per cent., to pay his debts in the East; and this created a constant demand for gold; and yet the banks paid specie. When the legal-tender note comes to be as good as gold the merchant can carry \$10,000 of them about his person without show and without inconvenience in going to New York; or he can send them to New York by express for a very small sum, and he will have no occasion to buy gold; whereas before the war, and under a system of local specie-paying banks, he had to buy gold for that purpose, or buy exchanges, which was the same thing.

Mr. FESSENDEN. Will the Senator allow me to ask him a question?

Mr. MORTON. Yes, sir.

Mr. FESSENDEN. He proposes to fix a time ahead when we shall redeem these greenbacks in gold; resume specie payments, in other words, because we shall then have to pay them. I want to ask the Senator where he proposes to get the gold to do it with?

Mr. MORTON. I propose to get gold from the same source that we have been getting it.

Mr. FESSENDEN. That is taxation, is it not?

Mr. MORTON. That is from duties on imports, is it not?

Mr. FESSENDEN. Does the Senator suppose that we are to import such an amount that we can get gold enough from duties to meet all our interest that we are obliged to pay in gold at the present time, and at the same time have \$350,000,000, more or less, to pay off these notes?

Mr. MORTON. I did not talk about \$350,000,000.

Mr. FESSENDEN. More or less, as much as may be necessary.

Mr. MORTON. I endeavored to encounter the fallacy awhile ago that we were required to have as much gold on hand as we had greenbacks out in order to resume specie payments. That was never necessary in regard to banks; and why should it be in regard to the Government, which has better credit than any bank ever had? Sir, that is not necessary. As I said before, you can begin to redeem safely when you have one half or less than one half of the amount in the Treasury that you have greenbacks out.

Mr. FESSENDEN. Now, I will ask the Senator whether it is not a similar process to retire the greenbacks immediately in small amounts, as they are taken into the Treasury, provided you have a surplus? because you have got to have a surplus anyhow to do it.

Mr. MORTON. One question at a time. I will answer that question after awhile if you will remind me of it. I think the Senator's question a moment ago was where we would get the gold. By reserving it in the Treasury, and not selling it.

Mr. FESSENDEN. If we reserve it, how are we to pay our debts in the meantime?

Mr. MORTON. Well, sir, we have been paying our gold interest, and still there has been enough gold sold, we are told, to give us premiums to the amount of \$20,000,000. Sir, if that gold had not been sold, but had been reserved in the Treasury, we would have gold enough in the Treasury to-day to begin the work of redemption now.

Mr. SHERMAN. Let me answer that matter now.

Mr. MORTON. I should like to finish what few scattering remarks I have to make.

Mr. SHERMAN. I will simply say that up to within the last six months a very large portion of our interest was payable in paper money, and therefore a great deal of gold was sold; but on the 1st of July next the whole of our interest will be payable in gold, and we shall have no considerable sums of gold to sell. We certainly cannot have over twenty-five or thirty millions at the outside each year to sell.

Mr. MORTON. We shall have gold in the future as we have had it in the past. There is

no question about that. The Government can procure the gold without trouble. Let me suggest, in this connection, how are the banks to resume specie payments unless the Government does it? If the Government does not do it, but throws the responsibility on the banks, they will have to buy the gold. I have endeavored to show that the banks cannot buy the gold. When the very constitution of the banks is thirty per cent. below par they cannot do it, and their paper will come to a discount and a ruinous discount if you throw the responsibility on them. We shall have gold in the Treasury. By reserving it for three years from this time, with what we have on hand now, we shall have enough to begin the work of redemption.

Now, sir, I want to say to the Senator from Maine and my friends about me, who seem to be exceedingly amused, for of course they know all about it and I know I do not, that when we have approached nearly the time of returning to specie payments, and when the premium on gold in this country is no more than ten per cent. or five per cent. we can then, if we should need gold to the extent of thirty or forty or fifty millions, raise it upon our fifty-two bonds at par. Instead of converting greenbacks worth seventy cents into gold-bearing bonds we can then in London raise as much gold as we want on our bonds at par, which are now selling at only seventy cents on the dollar in gold, and if there should be a deficit in gold any small amount could be readily supplied at that time.

Mr. CORBETT. I ask the Senator from Indiana whether, if the Government should first return to specie payments, the bond would not then be at par in gold? Consequently the bonds held by the banks for the redemption of their circulation would be at par also. The natural result follows. The Government must first return to specie payments, and then the banks can return to specie payment, because their bonds will have advanced to par in gold.

Mr. MORTON. My friend is right in the main body of his question. Mr. President, I am going to answer that question indirectly, but I think I shall answer it satisfactorily. I lay down this proposition, that the credit of a country never can get above the value of the circulating medium in which the business of that country is done if that circulating medium is the legal tender.

Now, what is the fact in regard to our bonds? They have followed the value of gold, and it was so clear through the whole war. Your fifties sold at par in legal tenders when gold was worth only 106 and at par in legal tenders when gold was worth 232. The proposition held true in regard to everything. It holds true in regard to State stocks, with one or two exceptions; it holds true in regard to railroad stocks; that is, that the general circulation of the country controls the credit of the country, and you cannot get above it. Railroad stocks that were at par in New York before the war in gold are simply at par in legal-tender notes worth only seventy cents on the dollar. What is the reason of it? Because you cannot get above that currency in which all the business of this great country, amounting to \$30,000,000,000 a year, is transacted. Your State stocks that were at par before the war, as a general thing, in gold, although they are certainly as good now as they were then, and your railroad stocks, which, on the average, are forty per cent. better in point of average value because their debts have been paid off, are now at par in legal-tender notes worth seventy cents on the dollar, whereas before the war they were at par in gold. They follow the inevitable law that our own Government bonds followed through the war. They are governed by the value of that great currency in which the business of the country is done.

Mr. President, if this be true, it shows that the place to begin with is the circulating medium, and to make that as good as gold. You may talk about getting your bonds up to par in Europe; but to talk about getting your fifties to par when your legal-tender notes

are not worth but seventy cents on the dollar is an absurdity. The business of the country is done on the basis of that circulating medium, and every credit goes down or goes up to it.

Now, Mr. President, one word in regard to inflation. I would not disturb the currency as it stands. I am glad that we stopped contraction. It was going on until it had become almost ruinous. I am not in favor of inflation; but I would continue the present state of things as nearly as possible. I believe that stability is necessary now to prosperity in this country. We must have peace in our currency as well as peace from arms. We must have stability, and then let industry and development and growth do the rest.

Now, we have, in my judgment, currency enough. Business men, however, can understand that better than I can; and I would have the work of future contraction to go on at the same time with and as a part of the work of redemption. If, however, the business men of the country should be of the opinion generally that more currency was required by the demands of business, it should be increased accordingly; for inflation does not begin until after that point has been passed; but I do not understand such to be their opinion. Let me suppose that we shall agree that we shall redeem on the 1st day of July, 1871. We have given time for reconstruction; we have given time for a recurrence of good crops; we have given time for the development of industry everywhere and general returning prosperity. On the day that we begin to redeem our legal-tender notes, on that day we add from two hundred and fifty to three hundred and fifty millions to the currency; we inflate it to that amount. How? All the gold and silver on that very day become a part of the volume of the currency. We inflate to that extent; but it is a legitimate inflation. Gold and silver now are not a part of the currency any more than horses and cattle are; they are simply commodities; but the very day we begin to redeem our legal-tender notes they become a part of the great volume of the currency, and we inflate to that amount, but we contract at the same time as these legal-tender notes are brought in and destroyed, so that the work of inflation and the work of contraction go together. Therefore there will be then no convulsion, there will be then no shock, it will all be done quietly; it will be done almost imperceptibly. The people will scarcely be aware of the process by which the legal-tender notes become as good as gold; and instead of having that universal rush to the Treasury for gold that some people have talked about, whenever we begin the work of redemption, as I said before, there will be no more demand for gold than there was before the war, and not nearly as much, because our bank paper at that time was local in its character and would not pay debts in distant parts of the country.

Then, Mr. President, let us go on as evenly as we can, but let us give this nation assurance that at some time the Government will redeem these promises. Let us give the nation assurance that on the 1st of July, 1871, or the 1st of January, 1871, or at some other time that may be agreed upon by Congress, we shall then begin the work of redemption. I want a gradual process; I want no shock; I want no panic, no convulsion; I do not want, by simply taking away legal-tender notes, to bring down the value and price of everything suddenly to the specie level. There is no necessity for that; and how will the country be benefited by that process? We withdraw from specie payments by the medium of legal-tender notes; we must return by the same road. We cannot return by the channel of national bank notes. The banks can never perform that office for us; it must be done by the Government, and it must be done simply by an honest performance of our promises to pay. It is not a mysterious, involved, intricate system of finance that I would recommend; I am incapable of conceiving such a plan; but it is the straight-

forward, direct performance of what we promised to do; and as we cannot perform that duty, and the whole world knows it, let us fix the earliest time when we can do it; let us assure those who hold our paper that on a certain day we will redeem that paper; let them prepare for it; let the Government prepare for it; let the whole world get ready for it; and it will come easily; it will come without a jar; it will come without trouble to the country.

Now, Mr. President, I will answer the concluding part of the question of the Senator from Oregon in regard to redemption by the national banks. Referring to the promises I have pointed out, the national banks then come to redeem with perfect ease, because the same process that enables the Government to do it brings to them the ability to do it; and the ability to pay in specie by the banks and by everybody returns by this imperceptible, it may be somewhat protracted course, that I have pointed out by which the general currency of the country, the standard currency by which all values are now measured, becomes equal to gold. At present the legal-tender notes are not the standard of value; they are only the standard of prices. Gold is as much the standard of value to-day as it ever was. I can take \$7,000 in gold and buy as much property with it as I can with \$10,000 in legal-tender notes. The increased price paid by the notes simply indicates the measure of depreciation. Gold is the standard of value, and paper is the standard of price; but when gold and greenbacks approach each other and become of the same value the greenback becomes equally the standard of value as does gold; they are convertible; and then we shall have such currency as will afford relief to the whole country without that convulsion of which so many have stood in dread. As legal-tender notes become the standard of value as well as the standard of price the holders of those notes are benefited along with the whole country far more than by the inflation of the currency, as the Senator from Ohio would indicate. That does not benefit anybody but the speculators. If I have \$10,000 in legal-tender notes to-day, they are worth only \$7,000 in gold; treating it as discount and not as premium, they are simply worth seventy cents on the dollar, which is a discount of thirty per cent. By the process I indicate these notes gradually appreciate in value until they become equal to \$10,000 in gold, which their face calls for. I am just as much benefited as if the Government had issued an additional \$3,000 to me gratuitously, and kept those notes at their present value, and in fact more, because from being worth only \$7,000 in gold they are worth \$10,000.

A great many people have the idea that you can make money plenty by simply issuing it in large quantities, and a great many think it ought then to be distributed *per capita* or in some other way by which everybody should have some. A gradual appreciation of the legal-tender notes, a gradual return to their original value being as good as gold, the redemption of them, it seems to me, solves the whole financial problem. What becomes, then, of your question about paying the bonds in greenbacks or in gold? As soon as the legal-tender notes become as good as gold, that question is gone; that thing which troubles politicians so much disappears and a thousand other questions go along with it. There are so many benefits to result from this process that it seems to me it ought to be the first thing to be looked to by the Congress of the United States. But, sir, here is a bill that I must say looks to me like a dodge. It does not furnish enough relief to the southern States to amount to much, but it is an excuse for not doing anything toward the main thing which ought to be attended to, which would do more to give confidence and restore the value of our currency than anything else, and that is to take some direct step, to give some direct assurance that this Government will at a certain time redeem its legal-tender notes in gold.

Mr. FESSENDEN. Mr. President, the Senator from Indiana has given us a great deal of sound doctrine. I agree with him fully in his statement of the good consequences that would result from returning to specie payments. I do not see but that his whole argument as to the mode comes to the same result that mine does. I propose to return to specie payments at an indefinite period in the future, as soon as it can be done without derangement of the business of the country by attempting to do too much. The Senator says, no, that will make a very great trouble; and he proposes to fix a time ahead, say 1871, and say that at that time we will return to specie payments. I shall be glad if we can get back to them by that period. But now I want to ask him how he proposes to do it. He says save your gold. Well, how are you to save your gold? By procuring something else in which to pay your debts as they accrue, support the Government, pay your interest, pay all demands. That is the only way you can do it. How are you to procure that? Is there any royal road to it? I know of no other way than by taxation. Your money is raised in that way, either through customs indirectly, or by direct taxation in the form of internal revenue. In order to accomplish this purpose of resuming specie payments in 1871 the Senator must be able to pay all the expenses of this Government of all kinds, and to lay up a surplus to meet that contingency. Is there any other mode? I know of none other.

Now, what is my proposition? I propose to return to specie payments, say in 1871, and how do I propose to do it? By retiring our notes gradually, say \$4,000,000 a month, if you please. But how am I to do that? In no way but by taxation, getting enough surplus revenue to enable me to do it without increasing the debt of the country, for neither of us proposes to do that.

Mr. MORTON. Will the Senator allow me to point out the distinction?

Mr. FESSENDEN. Certainly.

Mr. MORTON. Redeeming at the end of a certain time, say July, 1871, and going on to retire these notes at the rate of \$4,000,000 a month, makes all the difference in the world. Why? We tried it at the rate of \$4,000,000 a month, and it was simply a reduction of the whole volume of currency. We retired at the rate of \$4,000,000 a month, and we did not thereby add any gold or silver to the currency. Gold and silver were still commodities. But when you come to the work of not retiring your circulation by buying it up or destroying it in the way pointed out, but redeeming it on a fixed day, on that very day you add all the gold and silver in the land to the whole volume of currency; they become part of the currency of the nation, and instead of a contraction there is actually an inflation, and a large inflation, which is only to be counteracted by the contraction growing out of the notes you redeem and take out of circulation. But while the process goes on of retiring \$4,000,000 a month, and before the time when you redeem, the gold and silver are no more a part of the currency of the country than they are to-day, and they never can be until the Government actually does what it said it would do, redeem its legal-tender notes in gold.

Mr. FESSENDEN. The Senator's ideas are incomprehensible to me. I do not know that the currency is to be made currency of gold and silver by the Government's laying up gold and putting it into circulation in large quantities. That must be a gradual process which takes place consequent upon the withdrawal of paper. When a certain kind of currency is withdrawn which takes the place of gold and silver, gold and silver replace it by the natural course of business; and as you go on withdrawing from the volume of the currency so much paper, the idea is that gold and silver, in the course of the business of the country flow in naturally to supply the vacancy thus created; whereas the Senator's financial scheme is to let the Government run in debt,

to expend all its energies in laying up in the Treasury immense amounts of gold and silver to take up all this paper at once. There is the difference between his system and mine.

As I said before, you must found them both upon the same idea, and that is upon the idea of taxation. You must have a surplus revenue, unless you run in debt constantly, in order to accomplish this purpose. If you do not propose to increase your debt you must have a surplus revenue. What does the Senator propose to do with it? Turn it into gold and put it into the Treasury and keep it there. What do I propose to do with it? Take your paper up regularly, gradually. Does the Senator imagine that the business of this country is not to be more disturbed by one great sweeping operation, a change at one moment, substituting immense quantities of gold for paper, than by doing it gradually from year to year and month to month?

Mr. MORTON. I desire to ask the Senator a question, with his permission.

Mr. FESSENDEN. Certainly.

Mr. MORTON. The Senator proposes, instead of disposing of the gold that day, to take up the paper gradually. Will he take it up at its face or buy it up in the market; and if he buys it up in the market, I want to know how much credit that gives to the Government, when it buys up its own paper at a discount, instead of redeeming it?

Mr. FESSENDEN. We do not propose any such thing. The Senator is running after shadows, he will permit me to say. The greenbacks flow into the national Treasury from year to year, and from month to month. If there is more than we have occasion to pay out, all we have to do is to cancel them, and there is an end of them, and we retire them just as we put them out, in the same way.

Mr. MORTON. And selling gold?

Mr. FESSENDEN. Selling gold if necessary to meet anything. If we have more gold than we have occasion to use, and we can afford to contract faster than the limit fixed, we may use it in that way if we please; but the Senator was for stopping that course. However correct his doctrine may be, however sound the doctrine he may lay down, when he comes to act he says, "Stop contraction; keep everything as it is now; let the currency be expanded; let prices be high; let everything be irregular; have nothing fixed, nothing stable; have no system from now till 1871 or 1875, as the case may be; let the country suffer under all these evils, from want of a system, and from the want of perceiving that we have any."

Suppose the Senator's plan is carried out, and the Government says to-day that in 1871 it will redeem its notes, do you suppose the people will not be looking to see whether you will be able to redeem in 1871? Unless they prepare for it, and prepare for it precisely in the way I suggest, by taxation and having a surplus revenue to meet it, when that time comes they will be just as badly off as they are to-day, no nearer to redemption in 1871 than they are now in 1868. The thing is not to be done by an act of Congress, unless that act of Congress points to some regular mode of accomplishing the purpose. As I stated before, there is only one way, and that is to get the money over and above what you use for necessary expenses of the Government, and appropriate it to that purpose. The Senator has abandoned the idea of a gradual approach to it, and says he will have nothing gradual; that all shall be done upon one and the same day, and by an act of Congress. If that is the course adopted, and he does nothing toward preparing for it, when that day comes he will be as badly off as he is to-day; he will be in precisely the same condition, and the country will be as badly off as it is to-day.

Sir, it cannot be accomplished in that way. The Senator says you cannot do anything by obliging the banks to redeem, or putting the responsibility upon the banks. Who talks of putting it upon the banks? Nobody. I say that when the Government pays in specie, the banks

must pay in specie then, or within a short time afterward, because what they hold as reserve will then be equivalent to specie. At present, so long as there are greenbacks enough, greenbacks take the place of specie in the banks; but when they are withdrawn, the banks must redeem in gold or wind up. That is a necessity that follows. I would give them time to prepare for it, give them notice, have it gradual, let everybody understand what is to come and be approaching it; not fix some definite period in the future when we must return to a most halcyon state and yet do nothing to accomplish it. Sir, you cannot do it in that way.

Mr. CORBETT. Mr. President, to me, as a business man, it seems very plain that if I was doing a business of \$100,000,000 a year, and I should put out my paper bearing no interest, commonly called "shipplasters," and say to my workmen "take these at par," and they should go with those notes to purchase flour and should find that for a barrel of flour which they could purchase for ten dollars in gold they had to pay fourteen dollars in my shipplasters, I should have to pay them forty per cent. more for their labor than I should if gold were my currency, because they would require that much more to enable them to live. A man who is doing business of \$100,000,000 a year in that way must necessarily pay \$140,000,000 for what he would have to pay \$100,000,000 for if he was operating upon a gold basis. If he went and borrowed that \$100,000,000 for that year what would he pay? He would pay six per cent. per annum—\$6,000,000. But he is a coward, and he says, "I will not increase my debt \$100,000,000; I will not make myself liable for that; but I will give my due bills, which bear no interest, and which are at a discount of forty per cent.; I will pay those out to my employes, and consequently everything they produce for me will cost me just forty per cent. more than it would if I borrowed the \$100,000,000 and paid interest on that and paid them in gold directly." So we hesitate, are afraid to borrow one or two hundred million dollars, which would enable us to return to specie payments. What would be the result if we borrowed one of two hundred million dollars? We should pay simply the interest upon that sum, whereas we are now constantly paying forty per cent. on everything.

If we export \$100,000,000 of our bonds this year we sell what we ought to get \$100,000,000 for for about \$70,000,000, and we consequently lose \$30,000,000 on that operation; whereas if we paid \$6,000,000 interest we should save this immense depreciation; we should place ourselves upon a cash basis, and we should simply be paying the interest for the time being and would bring everything to a gold standard. Consequently we should be enabled to ship more products out of the country at a gold standard than we should if gold were at forty per cent. premium, because no man is going to sell what cost him \$1,400,000 for \$1,000,000 and send it to Europe trusting to get \$1,500,000. He says, "I do not know whether I shall get the extra \$400,000 or not when my return comes from Europe in the shape of goods; I may not be able to get more than \$1,300,000; a change in the relative value of gold and paper in the mean time may cause me to lose \$100,000."

The only solution to this problem is that we have either got to tax the people sufficiently to reduce the volume of legal tenders to a hundred and fifty or two hundred and fifty million dollars; so that we can give notice that on a given day, as my friend from Indiana says, we shall resume specie payments and prepare for that day, or we must take up gradually our notes and let capitalists and the people see that we are taking them in. When they see gold increasing in the Treasury and currency diminishing, they will say, "The Government intends to resume specie payments; she is decreasing her currency, and increasing her gold." Continue this course, and you will soon have money on hand with which to pay your greenbacks dollar for dollar,

and the result will be that you will have very little demand for your gold. Then in a few years, confidence being once more restored, the banks will take the same position; the Government stocks will be worth dollar for dollar in gold, because you will have returned to specie payments; the banks holding Government stocks to secure the circulation of their notes will be worth dollar for dollar in gold. When the people see that if they present their currency for redemption they can get gold, when they know that bank notes are secured by gold-bearing stocks on which they can get gold any day, they will not be in any hurry to present their notes. So it has been, and will be again. In that way the banks can return to specie payments as well as the Government.

That looks to me to be the only sensible way in which we can accomplish it. But we say we will not tax the people \$6,000,000 a year to save \$30,000,000 a year to the Government and to our people. If we save these \$30,000,000 in our exchanges, would not that amount be in circulation among the people? I say that it would. If you pay to Frankfort \$6,000,000 interest you get in return \$100,000,000 in gold, which would enable you to return to specie payments; and then whatever you send out of the country you send out at par, at the gold value, and the consequence would be that you would be enabled to export more out of the country besides getting dollar for dollar for your bonds, and in that way you would return to specie payments, and you never will return to specie payments until you tax the people sufficient to retire the legal tenders to a sufficient point to enable you to say to everybody, "Bring on your legal tenders and we will pay you dollar for dollar; we have the gold to meet them." When people find that you have the gold to pay them with they will not want it. You must bring the legal tenders down to that point that you show your ability to redeem them, and then you will be on a specie basis; and until that time arrives, if you do not tax the people, if you are not willing to tax them, you will never reach it. I am free to say that I would rather pay \$6,000,000 a year interest than lose \$30,000,000 in the exportation of our bonds to pay the balance of trade against us. That is the simple result of the whole plan. We shall not improve our position if we are not willing or brave enough to stand up and say that we will tax the people \$6,000,000, but that we will constantly go on, like a man who is doing a losing business all the time and has not the pluck to say I will borrow \$100,000,000 with which to pay my debts; I will put myself on a gold basis, and I will pay everybody in gold instead of paying the \$140,000,000 which it would cost me if I do not borrow the \$100,000,000." As long as you continue in this position when you have forty per cent. per annum on gold, everything being based on that, no one will send products out of the country instead of gold; the only things that go abroad are gold and United States bonds, and the products of the country are kept at home and eaten up. If a man has a surplus he is not going to sell what cost him \$140,000 for \$100,000 and send it out of the country; he will hold it until next year, and then if he cannot sell it he will eat it up; and you do eat it up, you consume it within yourselves, you do not ship it out of the country. That is the consequence of the present state of things.

It seems to me, and it has seemed to me for a long time, that if you borrow enough money to place yourselves on a specie basis you save a great deal in the end. In this way you can get sufficient gold in the Treasury to pay a large amount of the legal tenders and bring the volume of them within easy reach. When you do that, the banks will resume specie payments. Look at the condition of the banks to-day; look at the banks of the city of New York; take the Bank of Commerce, the Bank of New York, the American Exchange Bank, the leading banks there, most of the responsible banks



have a surplus to-day of forty per cent. Why do they keep that surplus of forty per cent.? Why do they not divide it among their stockholders? For the reason that they expect you to take steps toward specie payments, and when you do they know that they must prepare themselves to pay in specie, and they are looking ahead to the possibility of having to place themselves on a gold basis. The small banks, the banks in the interior, probably have not this surplus; but I tell you all far-seeing men, all far-seeing banking institutions, desire to return to a specie basis, and all who have the good of the country at heart are preparing to put themselves on a specie basis whenever the proper time arrives. It is only necessary for the Government to take a step toward putting itself on a specie basis, and the banks will do the same.

I do not agree with my friend from Indiana that by merely fixing a time, without taking any other step such as I have indicated, we shall secure a return to specie payments. The banks have a capital of \$400,000,000; they are required to keep in their vaults twenty per cent. in legal tenders or gold. They have not got gold because you do not make it necessary for them to keep gold; and the consequence is they have \$80,000,000 in legal tenders. Whenever you say that you will return to specie payments without reducing the legal tenders, what is to hinder the banks from pouring that mass of legal tenders on you and taking your gold entirely out of your Treasury, they taking the ground, "We will prepare ourselves for the emergency, and leave the Government to take care of itself." For that reason, when we have \$350,000,000 of legal tenders in circulation we cannot take that step. Reduce your legal tenders to \$150,000,000, or possibly \$200,000,000, and you might return to specie payments, because the banks as you reduced your currency would be gradually drawing in their legal tenders so as to keep themselves in condition to present their \$80,000,000 for gold whenever you returned to specie payments, and place themselves on a specie basis.

There is no way that I can see except either to increase the gold in the Treasury by borrowing the amount needed to put you in this condition, or to reduce the volume of legal tenders so that you will have specie in the Treasury to meet them when presented. As soon as the Government takes that step the banks will prepare to resume, and they will be ready to redeem their currency, and will place themselves in a position to resume specie payments.

There are some other points that, as the discussion went on, presented themselves to my mind, but I made no note of them, and I do not recall them just at this moment.

Mr. CAMERON. Mr. President, I rise to move that the bill under discussion be laid on the table. I do so because I am satisfied that the discussion will not bring any result favorable to the country or agreeable to the Senate. We have spent the whole day already; no two Senators have agreed, and it is one of those subjects on which you will never get two intelligent men to agree as to the details. I am satisfied that the whole discussion is no benefit to the currency question, is an injury to the country, and a great injury to the Republican party. I want all these questions of doubt laid aside until after the election in November. I hope by that time we shall have a Republican President, when we shall be able to go to work and legislate safely and properly for the benefit of the country. This question of currency and of banking, as I said the other day, everybody understands so well that he will not believe anybody else knows anything about it. [Laughter.] I could talk for a week on this subject and you would not be a bit wiser after I was done than when I started. I will not make a speech; I content myself with moving to lay the bill on the table.

Mr. SHERMAN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 14, nays 24; as follows:

YEAS—Messrs. Buckalew, Cameron, Chandler,

Conkling, Corbett, Frelinghuysen, Hendricks, Howe, Morton, Patterson of Tennessee, Sprague, Trumbull, Vickers, and Yates—14.

NAYS—Messrs. Cattell, Cole, Davis, Doolittle, Drake, Fessenden, Fowler, Harlan, Henderson, Morgan, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Sumner, Tipton, Van Winkle, Wade, Willey, Williams, and Wilson—24.

ABSENT—Messrs. Anthony, Bayard, Conness, Cragin, Dixon, Edmunds, Ferry, Grimes, Howard, Johnson, McCreery, Morrill of Maine, Norton, Saulsbury, Stewart, and Thayer—15.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont to the amendment of the committee.

Mr. MORRILL, of Vermont, called for the yeas and nays; and they were ordered.

Mr. MORTON. Is it in order to present an amendment to that amendment?

Mr. SHERMAN. No. This is an amendment to an amendment.

Mr. CHANDLER. The Senator from New York asked whether it would promote resumption if all the greenbacks were retired. The Senator from New York must know that the greenbacks are held as a reserve by the national banks of the country. Your law compels every national bank which is a depository to retain one quarter of all its capital circulation and deposits in lawful money of the United States. Withdraw your greenbacks and they must substitute gold or silver, for they must retain this reserve. As your process goes on of withdrawal your specie must flow in to take its place. Hence I should answer the Senator certainly, for you have to substitute an equal amount of coin for the greenbacks you have retired, or nearly that amount.

Mr. President, it is an entire misapprehension that the issue of these \$20,000,000 is inflation of the currency. By reference to a report of the Secretary of the Treasury, Executive Document No. 4, it will be found that the States of Michigan, Wisconsin, and Iowa, with eighteen members of Congress and nearly three millions of population, have a circulation of \$9,611,000; while the three States of Massachusetts, Connecticut, and Rhode Island, with a representation of sixteen members and a population of between two and three million, have a circulation of \$86,864,000, or more than nine times the amount which is awarded to the other three States.

Gentlemen argue that you must issue your currency in proportion to wealth. Very well: take that if you please; I deny that there is this excess of wealth in those three States. It is true that there are larger accumulations in a few of the cities, but the masses of the population of the three States having \$9,000,000 of circulation required as many dollars *per capita* as the masses of the three States having \$86,000,000.

Mr. President, in those western States wealth is more equally disseminated among the people. Each farmer, each mechanic, and each laboring man requires as many dollars in currency to transact his business as the same number of laboring men, farmers, and mechanics do either in Connecticut or Rhode Island or Massachusetts. The three States I have named have more currency than they can possibly circulate within their own limits; that currency seeks a vacuum to fill, and that vacuum is found in the States of Wisconsin, Iowa, and Michigan; and I name those three States, not because they are the smallest, but because they are a fair average. The State of Michigan has a circulation of \$3,822,000. It requires constantly \$15,000,000 to move our products, our lumber, our iron, our wool, wheat, corn, and oats. It requires, I say, \$15,000,000 constantly to carry on our business operations. The difference between \$3,822,000 and \$15,000,000 has to be supplied from Massachusetts, Rhode Island, Connecticut, and other States that have an excess. We have the capital, we have the will, we have the wealth; we have everything except the opportunity to introduce this circulation. Now, give us this opportunity and you send home to Massachusetts, to Rhode Island, and to Connecticut what they do not require and cannot

use. It is not an inflation of the currency; it is simply driving home what we do not want, driving from our own circulation what we are prepared to furnish ourselves if you will give us an opportunity. That is the operation of this section; it is not to inflate your currency by any manner of means.

Mr. President, the very moment this Government is prepared to redeem its issues you will find your banking institutions prepared to redeem theirs. I am willing to-day to give free banking facilities to all sections that require them. Let your Government take care of its paper, and let the banks take care of theirs. Your security is ample; you issue ninety per cent. only of the face of your Government bonds. Those bonds are now worth 116, and you have twenty-five per cent. margin. Let the banks and the bankers take care of themselves. Whenever the Government is prepared to resume specie payments, general resumption will be at hand and at hand at once.

I repeat, sir, that this is no inflation. It does not add a dollar to your circulating medium. Those States that have more than they can use will be compelled to surrender their circulation, except what they require, and not fill the vacuum of the West and the South. There is where the excessive circulation in Massachusetts, Rhode Island, Connecticut, and the other eastern States that have from fifty to one hundred dollars *per capita*, which they cannot use in those States, goes to; they use the excess in filling the vacuums of the Northwest, the West, and the South.

The only portion of this bill that I consider of any value whatever is the last section. The first section is utterly atrocious; but, sir, I shall allude to that when it comes up for examination. The first section, I say, is atrocious. Even the name of the bill should be changed if you are going to pass that; it should be characterized from that first section as a bill to enable a few banks and bankers in the great cities of New York, Philadelphia, and Boston to swindle the balance of the United States. That is all of it; it is nothing more and nothing less. But, as I said before, I shall discuss that when it comes up for discussion. I hope this amendment of the Senator from Vermont will not prevail. The last section is the only thing that would induce me to vote for the bill at all, but it is virtually destroyed by the amendment of the Senator from Vermont.

Mr. HENDRICKS. I do not suppose it is contemplated to complete the consideration of this bill to-night, and as it is five o'clock I do not see the necessity of staying here any longer, and staying every day to unusual hours. I move that the Senate do now adjourn.

Mr. ANTHONY. Will the Senator withdraw his motion for a moment, that I may make a statement in reply to the remarks of the Senator from Michigan?

Mr. HENDRICKS. Will the Senator from Rhode Island renew my motion?

Mr. ANTHONY. Yes, sir.

Mr. HENDRICKS. Very well; I withdraw it.

Mr. ANTHONY. The Senator from Michigan has arrayed the population and representation of Wisconsin, Michigan, and Iowa against the population and the representation of Massachusetts, Connecticut, and Rhode Island, showing how much larger a proportion of the national currency is in the smaller States.

Now, sir, if the currency was to be distributed according to population, his argument would be a very sound one; but I think it is very apparent that the currency should be distributed according to business. An agricultural population requires much less currency than a manufacturing and mechanical population. There is perhaps no better evidence of that kind of business, of that kind of production which requires a banking circulation, than the returns of the internal revenue. The three States which the Senator has named, Wisconsin, Michigan, and Iowa, pay to the internal revenue \$7,600,000. Rhode Island pays

\$5,000,000, two thirds as much as those three States combined; and Massachusetts, Connecticut, and Rhode Island together pay \$40,600,000 of internal revenue, against \$7,600,000 in the States he has adduced as having a smaller circulation.

I do not know but that the circulation ought to be equalized. Perhaps there is a larger proportion of the circulation in those States which first felt the necessity of obtaining it, and which if they did not feel that necessity, having a banking circulation that was driven out of existence by the taxation of the Government, were compelled to take the national circulation. But certainly there ought to be a very great disproportion as estimated by population between the States which the Senator from Michigan has brought up in comparison with each other.

The *PRESIDENT pro tempore*. The question is on the amendment to the amendment.

Mr. HENDRICKS. I thought the Senator from Rhode Island was going to renew the motion to adjourn.

Mr. ANTHONY. I beg the Senator's pardon. I pledged myself to renew the motion to adjourn, which I now do; but I hope it will be voted down.

Mr. SHERMAN. I hope we shall have a vote on the question we have debated so long.

Mr. SUMNER. I hope my friend from Rhode Island will withdraw the motion to adjourn that I may offer a resolution.

Mr. ANTHONY. It is in the hands of the Senator from Indiana.

Mr. HENDRICKS. Very well.

#### RECEPTION OF THE CHINESE EMBASSY.

Mr. SUMNER. I offer the following resolutions:

*Resolved*, That Mr. Burlingame and his associates of the Chinese embassy be invited to visit the Senate at one o'clock of Wednesday next.

*Resolved*, That a committee of three be appointed by the Chair to wait upon them and introduce them to the Senate.

If the Senate will allow me, I will make an explanation with regard to the precedent that I have followed in drawing these resolutions. It is the precedent of Louis Kossuth, who was received by the Senate in January, 1852.

Mr. HENDRICKS. Mr. President, I did not yield for the purpose of a speech.

Mr. SUMNER. I am not going to make a speech; I hope the Senator will pardon me; I am only going to read from the Journal of the Senate.

Mr. HENDRICKS. My motion is pending to adjourn if the Senator intends to make an argument on these resolutions.

Mr. SUMNER. I will say nothing that I think the Senator himself will not be willing to hear; I wish simply to read the record from the Journal of the Senate on a kindred case. On the 8th of December, 1851, Mr. Shields moved the following resolution:

*"Resolved*, That a committee of three be appointed by the Chair to wait upon Louis Kossuth on his arrival at the capital and introduce him to the Senate."

After discussion that passed by 80 yeas and 15 nays. Afterward a select committee of three are appointed consisting of Mr. Shields, Mr. Seward, and Mr. Foote of Mississippi. This committee, by Mr. Shields, reported afterwards as follows:

"That the committee recommend that the same proceedings be pursued as in the case of General La Fayette, to wit: that the chairman of the committee introduce him in these words: We present Louis Kossuth to the Senate of the United States; upon which the Senators are recommended to rise, and the President will invite him to be seated.

The report was read; and on motion.

*"Resolved*, That the Senate agree thereto."

Afterward, under date of January 5, 1852, I find the following entry:

"At one o'clock Louis Kossuth was conducted into the Chamber of the Senate by the committee appointed for the purpose; and

Mr. SHIELDS, as chairman of the committee, introduced him to the Senate.

The Senate having risen, the President *pro tempore* addressed him as follows:

"Louis Kossuth: I welcome you to the Senate of the United States. The committee will conduct you to the seat which I have caused to be prepared for you.

"The Senators having resumed their seats.

"On motion by Mr. MANGUM.

"That the Senate adjourn, in order that the members may present their respects to Louis Kossuth individually.

"It was determined in the affirmative; and

"The Senate adjourned."

Mr. HENDRICKS. Who does the Senator propose shall repeat that to the Chinese?

Mr. SUMNER. The President of the Senate.

Mr. VAN WINKLE. I move to amend the resolutions by inserting Thursday instead of Wednesday. Wednesday is set apart for bills of the Pension Committee.

Mr. SUMNER. I beg to say to the Senator that it will not take more than twenty minutes.

Mr. VAN WINKLE. But if as in the other case the Senate adjourn—

Mr. SUMNER and others. No, no.

Mr. VAN WINKLE. I withdraw the amendment.

Mr. BUCKALEW. Mr. President, I am opposed to these resolutions, although I do not intend to consume time in debating them. I will simply state what action, in my opinion, ought to be taken, and for that I believe also there is precedent. It is, if the chairman of our Committee on Foreign Relations thinks it expedient, that Mr. Burlingame and his people may appear here informally, and that a simple motion that the Senate take a recess for fifteen or twenty minutes be submitted and agreed to. I do not think this is a case resembling that of the visit of La Fayette to the Federal city, or can be put upon a similar footing. I think it is a visit perhaps as much of curiosity upon both sides as anything which can be imagined. The convenient and proper mode for disposing of this subject by the Senate is, when these persons arrive here, to simply take a recess of fifteen minutes, and let members see them. I submit, therefore, that the best way will be to either adjourn or lay these resolutions on the table, and then let the other course be adopted.

The resolutions were agreed to; and Messrs. SUMNER, SHERMAN, and JOHNSON were appointed the committee.

The *PRESIDENT pro tempore*. It is, by the Senator from Indiana, [Mr. HENDRICKS,] moved that the Senate do now adjourn.

Mr. SHERMAN called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 17, nays 25; as follows:

YEAS—Messrs. Buckalew, Cameron, Chandler, Conness, Corbett, Davis, Drake, Fessenden, Fowler, Hendricks, McCreery, Morton, Patterson of Tennessee, Ramsey, Sprague, Tipton, and Vickers—17.

NAYS—Messrs. Anthony, Cattell, Cole, Conkling, Cragin, Drake, Frelinghuysen, Harlan, Henderson, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Ross, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Wade, Williams, Wilson, and Yates—25.

ABSENT—Messrs. Bayard, Dixon, Edmunds, Ferry, Grimes, Howard, Howe, Johnson, Norton, Saulsbury, Thayer, and Willey—12.

So the Senate refused to adjourn.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 291) giving additional compensation to certain employes in the civil service of the Government in Washington, was read twice by its title, and referred to the Committee on Finance.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House insisted upon its amendment to the bill of the Senate (S. No. 184) granting a pension to Mrs. Ann Corcoran, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and has appointed Mr. VAN AERNAM of New York, Mr. MILLER of Pennsylvania, and Mr. BURK of Illinois, managers at the same on its part.

The message also announced that the House had passed the bill (S. No. 534) relating to contested elections in the city of Washington, District of Columbia.

#### NATIONAL BANKS.

The *PRESIDENT pro tempore*. Senate bill No. 440 is before the Senate as in Committee

of the Whole, and the question is on the amendment of the Senator from Vermont [Mr. MORRILL] to the amendment of the Committee on Finance.

The question being taken by yeas and nays, resulted—yeas 16, nays 27; as follows:

YEAS—Messrs. Anthony, Conness, Corbett, Cragin, Fessenden, Harlan, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Van Winkle, Vickers, Willey, and Wilson—16.

NAYS—Messrs. Buckalew, Cameron, Cattell, Chandler, Cole, Conkling, Davis, Drake, Fowler, Frelinghuysen, Henderson, Hendricks, Howe, McCreery, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sherman, Sprague, Stewart, Sumner, Tipton, Trumbull, Wade, Williams, and Yates—27.

ABSENT—Messrs. Bayard, Dixon, Doolittle, Edmunds, Ferry, Grimes, Howard, Johnson, Norton, Saulsbury, and Thayer—11.

So the amendment to the amendment was not agreed to.

Mr. MORRILL, of Vermont. The next question is on the adoption of the section itself?

The *PRESIDENT pro tempore*. The question is on the amendment of the committee.

Mr. MORRILL, of Vermont. That amendment is the adoption of the last section?

The *PRESIDENT pro tempore*. Yes, sir; that is the question.

Mr. DAVIS. I offer an amendment to the fifth section, to strike out all after the enacting clause—

Mr. SHERMAN. That amendment is not yet in order. The final vote is not taken on the section.

Mr. DAVIS. This is a substitute for it.

The *PRESIDENT pro tempore*. The amendment of the committee is not yet disposed of.

Mr. CONKLING. The Senator from Kentucky offers a substitute for the pending amendment of the committee.

Mr. DAVIS. I offer a substitute for the fifth section of the pending amendment.

The *PRESIDENT pro tempore*. That is in order.

Mr. DAVIS. I move to strike out all of the section after the enacting clause, and to insert:

That there shall be withdrawn by the Comptroller of the Currency from the banks of any State or Territory that may have an excess of circulation notes upon the principle of their distribution as regulated by law and the rules established by the Treasury Department, and the circulation notes so withdrawn shall be distributed by the Comptroller of the Currency among the national banks of such States and Territories as may have less than their proper proportion of circulation notes.

I will say a word or two upon this amendment. It seems to be admitted here that some of the States have two or three times more than their proportion of the circulation notes. There is a great opposition to inflation and to the increase of the public debt; and I feel all that opposition myself; but it comes directly and most actively from the States that have this excess of circulation notes, and especially from the New England States. Now, if the honorable Senator from Vermont, and the other Senators from that portion of the Union are so strenuous in their opposition—

Mr. TRUMBULL. I will appeal to the Senator from Kentucky, if he will allow me, to know if he will give way for an adjournment? It is evident that we cannot get through with this measure to-night, and it is now nearly half past five o'clock.

Mr. DAVIS. As my remarks would extend for some fifteen or twenty minutes, I would prefer to give way.

Mr. TRUMBULL. I move, then, that the Senate adjourn.

Mr. SHERMAN. I call for a division on that motion.

Mr. TRUMBULL. I think we had better adjourn.

Mr. SHERMAN. I desire, with the leave of the Senate, to say one word on this motion. I object to the adjournment on the statement made to me by the Senator from Maine, [Mr. MORRILL,] that he desires to take up an appropriation bill to-morrow. If the Senate desires to continue this bill to-morrow I have no objection to the adjournment; but I do not want to adjourn now, and when we meet to-morrow find this measure antagonized with an

appropriation bill and have a discussion as to the order of business. If the Senate adjourn now I hope it will be with the understanding that we shall go right along with this bill tomorrow.

The PRESIDENT *pro tempore*. The motion to adjourn is not debatable.

Mr. SHERMAN. I call for the yeas and nays on the motion.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 16; as follows:

YEAS—Messrs. Buckalew, Cameron, Chandler, Connors, Corbett, Cragin, Davis, Drake, Hendricks, Howe, McCreery, Morton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Sprague, Tipton, Trumbull, Vickers, Wade, Willey, Williams, and Yates—24.

NAYS—Messrs. Anthony, Cattell, Cole, Conkling, Frelighuysen, Henderson, Morgan, Morrill of Maine, Morrill of Vermont, Pomeroy, Ross, Sherman, Stewart, Sumner, Van Winkle, and Wilson—16.

ABSENT—Messrs. Bayard, Dixon, Doolittle, Edmunds, Ferry, Fessenden, Fowler, Grimes, Harlan, Howard, Johnson, Norton, Saulsbury, and Thayer—14.

So the motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, June 15, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

The SPEAKER. This being Monday, the first business in order is the call of the States and Territories for bills and joint resolutions for reference to their appropriate committees, not to be brought back into the House by a motion to reconsider, commencing with the State of Maine.

### FELONIES AND MISDEMEANORS.

Mr. CHURCHILL introduced a bill (H. R. No. 1258) to define felonies and misdemeanors and to regulate peremptory challenges in the courts of the United States, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

### HARBOR OF OSWEGO.

Mr. CHURCHILL also introduced a joint resolution (H. R. No. 296) giving the assent of the United States to the construction of certain wharves in the harbor of Oswego, New York; which was read a first and second time, and referred to the Committee on Commerce.

### DETENTION OF PASSENGERS AT BALTIMORE.

Mr. MILLER introduced a joint resolution (H. R. No. 297) instructing the Committee on Roads and Canals to inquire into and report whether passengers from the North and West are delayed at Baltimore in being conveyed over a branch of the Baltimore and Ohio railroad between Baltimore and Washington, and if so, the cause of such delay, and what legislation is necessary to prevent such detriment in traveling to the metropolis of the nation; and also to inquire and report whether the Baltimore and Ohio Railroad Company are exacting and receiving from through passengers a greater sum than by existing laws they are allowed to exact; which was read a first and second time, and referred to the Committee on Roads and Canals.

### HOMESTEAD LAW.

Mr. KOONTZ introduced a bill (H. R. No. 1259) amendatory of the homestead law; which was read a first and second time, and referred to the Committee on the Public Lands.

### PATENT LAW.

Mr. MYERS introduced a bill (H. R. No. 1260) being a further addition to an act to promote the progress of the useful arts; which was read a first and second time, and referred to the Committee on Patents.

### HABEAS CORPUS ACT.

Mr. THOMAS introduced a bill (H. R. No. 1261) amendatory of an act relating to *habeas corpus* and to regulate judicial proceedings in certain cases, approved March 3, 1863; which

was read a first and second time, and referred to the Committee on the Judiciary.

### WESLEY P. DAVIS.

Mr. VAN TRUMP introduced a bill (H. R. No. 1262) granting a pension to Wesley P. Davis; which was read a first and second time, and referred to the Committee on Invalid Pensions.

### JOSEPH A. FRY.

Mr. VAN TRUMP also introduced a bill (H. R. No. 1263) granting a pension to Joseph A. Fry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

### SARAH BENEDEM.

Mr. VAN TRUMP also introduced a bill (H. R. No. 1264) for granting a pension to Sarah Benedum, widow of Nelson Benedum; which was read a first and second time, and referred to the Committee on Invalid Pensions.

### PAYMASTERS' ACCOUNTS.

Mr. ADAMS introduced a bill (H. R. No. 1265) amendatory of an act entitled "An act to facilitate the settlement of paymasters' accounts," approved March 16, 1863; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

### PARTITION OF TEXAS.

Mr. STOKES introduced a joint resolution (H. R. No. 298) for the division of the State of Texas and the admission of the same into the Union; which was read a first and second time, referred to the Committee on Reconstruction, and ordered to be printed.

### VALUATION OF PUBLIC LANDS.

Mr. JULIAN introduced a bill (H. R. No. 1266) to aid in ascertaining the value of certain public lands; which was read a first and second time, and referred to the Committee on the Public Lands.

### CHARLES V. KELLEY.

Mr. PAINE introduced a bill (H. R. No. 1267) for the relief of Charles V. Kelley; which was read a first and second time, and referred to the Committee on Military Affairs.

### ORDNANCE FOR ARKANSAS AND OTHER STATES.

Mr. PAINE also introduced a bill (H. R. No. 1268) to authorize and require the Secretary of War to deliver certain ordnance to the States of Arkansas, Louisiana, South Carolina, North Carolina, Georgia, Alabama, and Florida for the use of the militia upon the discontinuance of military governments therein; which was read a first and second time, referred to the Committee on the Militia, and ordered to be printed.

### RELIEF OF DISCHARGED SOLDIERS.

Mr. COBB introduced a joint resolution (H. R. No. 299) for the relief of certain honorably discharged soldiers of the volunteer forces of the Union Army; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

### MILITARY WAGON-ROAD.

Mr. CAVANAUGH introduced a bill (H. R. No. 1269) to provide for the construction of a wagon-road for military and postal purposes through the Territories of Dakota, Montana, and Washington; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

### PUBLICATION OF TREATIES, ETC.

Mr. CAVANAUGH also introduced a bill (H. R. No. 1270) to provide for the publication of the treaties and laws of the United States in the States of California, Nevada, and Oregon, and in the Territories of Washington, Idaho, and Montana; which was read a first and second time, and referred to the Committee on Printing.

### INDIANA POST ROUTES.

Mr. NIBLACK introduced a bill (H. R. No. 1271) establishing certain post roads in

the State of Indiana; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

### PROMOTION OF REVENUE.

Mr. HOOPER, of Massachusetts, introduced a bill (H. R. No. 1272) to promote the efficiency of the revenue, &c.; which was read a first and second time, and referred to the Committee on Commerce.

### DIX, BLATCHFORD, AND OPDYKE.

Mr. PRUYN. Mr. Speaker, I have a petition, accompanied by a joint resolution, from John A. Dix, Richard M. Blatchford, and George Opdyke, custodians of \$2,000,000 on the part of the Government, to be expended at the time communication was cut off between Washington and the North at the opening of the rebellion. These gentlemen expended that money, but there are two accounts standing open on the books of the Treasury against them, and they ask to have the proper credits made for the purpose of extinguishing that apparent charge. I introduce a bill to that effect, accompanied by a statement of the case, and I ask its reference to the proper committee.

The bill (H. R. No. 1273) in reference to certain accounts on the books of the Treasury Department against John A. Dix, Richard M. Blatchford, and George Opdyke was read a first and second time.

The SPEAKER. This claim being novel in its character, the Chair cannot designate the appropriate committee, but would suggest the Committee on Public Expenditures.

Mr. SPALDING. I suggest that it be referred to the Committee on the Judiciary.

The bill was referred to the Committee on the Judiciary.

### NATURALIZATION OF ALIENS.

Mr. CHURCHILL introduced a bill (H. R. No. 1274) concerning the naturalization of aliens; which was read a first and second time, and referred to the Committee on the Judiciary.

### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. NUNN.

### LEAVE TO PRINT.

By unanimous consent, leave was granted to Mr. BEATTY and Mr. GOLLADAY to print speeches. [See Appendix.]

### EXTRA PAY TO GOVERNMENT EMPLOYÉS.

The SPEAKER. There being no further bills and joint resolutions, the next business in order during the morning hour is the call of the States and Territories for resolutions, and the House resumes the consideration of the joint resolution (H. R. No. 291) giving additional compensation to certain employés in the civil service of the Government at Washington, introduced on Monday last by the gentleman from Indiana, [Mr. WASHBURN.] The question is on seconding the demand for the previous question.

Mr. WASHBURN, of Indiana. I withdraw the demand for the previous question, and modify the joint resolution; and on it, as modified, I demand the previous question.

The joint resolution, as modified, was read. It provides that there shall be allowed and paid out of any money applicable to the purpose, heretofore or hereafter to be appropriated to the same classes of officers and other persons in the civil service of the United States Government at Washington embraced in the joint resolution of Congress entitled "Joint resolution giving additional compensation to certain employés in the civil service of the Government at Washington," passed February 28, 1867, an additional compensation of twenty per cent. on their respective salaries as fixed by law, or where no salary is fixed by law upon their pay respectively from and after the 30th day of June, 1867, to the 30th of June, 1868. But if any such officer or other person shall have performed service for less than one year, he is to be allowed the twenty per cent. only upon the actual sum he shall have received



for such service. So much of such additional compensation as may be due to the employés of the Patent Office is to be paid out of the funds of that office. The resolution is not to apply to persons whose salaries as fixed by law exceed \$2,500 per annum. No person who has served in the confederate army, so called, is to be entitled to the additional compensation. The resolution includes such persons as have been employed in any capacity in the Government Printing Office, or in any of the Departments, and the watchmen on the Dome of the Capitol and in the Capitol grounds, the inspector of marble, and the foreman of mechanics at work on the Capitol extension, and the watchmen on said extension, whether inside or out, and the employés of the jail; and it includes not only those now in the service, but those who have at any time during said year been in the service.

Mr. HOLMAN. I submit to my colleague that that proposition does not embrace the \$900 female clerks. I hope he will modify it so as to embrace that class of clerks.

Mr. FARNSWORTH. I ask the gentleman to allow me to offer an amendment, to which there will be no objection.

Mr. WASHBURN, of Indiana. I insist on the demand for the previous question.

Mr. FARNSWORTH. Then I hope the previous question will be voted down.

The question was put on seconding the previous question; and there were—ayes 55; noes 47.

Mr. FARNSWORTH demanded tellers.

Tellers were ordered; and Messrs. FARNSWORTH, and WASHBURN of Indiana, were appointed.

The House divided; and the tellers reported—ayes 62, noes 55.

So the previous question was seconded.

The question was upon ordering the main question; which was then taken.

Before the result was announced,

Mr. UPSON called for the yeas and nays.

Mr. MULLINS. I move to lay the resolution on the table.

Mr. UPSON and Mr. BENJAMIN called for the yeas and nays upon the motion to lay the resolution on the table.

Mr. HARDING. I rise to a question of order.

The SPEAKER. The gentleman will state his point of order.

Mr. HARDING. I desire to know whether the mover of this joint resolution can accept such an amendment as will give those who now receive thirty dollars a month a yearly salary of \$600?

The SPEAKER. That is not a parliamentary question which the Chair can entertain at this time.

Mr. HARDING. I want to know if the gentleman will accept such an amendment?

Mr. WASHBURN, of Indiana. I will inform the gentleman privately, if he will ask me.

Mr. UPSON. I withdraw the call for the yeas and nays upon ordering the main question.

The main question was then ordered.

The SPEAKER. The question now is upon the motion to lay the joint resolution on the table; upon which the yeas and nays have been called.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 55, nays 73, not voting 61; as follows:

YEAS—Messrs. Allison, Bailey, Baker, Beaman, Beatty, Beck, Benjamin, Benton, Boutwell, Buckland, Butler, Churchhill, Reader W. Clarke, Coburn, Cook, Corvode, Eggleston, Ela, Farnsworth, Ferriss, Fields, Halsey, Harding, Hawkins, Holman, Chester D. Hubbard, Hulburd, Judd, Kelsey, Ketcham, Koonitz, Laffin, Loughridge, Marvin, Maynard, McCarthy, Mullins, Nunn, Pike, Pile, Polsley, Price, Sawyer, Scofield, Shanks, Aaron F. Stevens, Taylor, Trowbridge, Upson, Van Aernam, Ward, Elihu B. Washburne, Welker, William Williams, and John T. Wilson—55.

NAYS—Messrs. Adams, Archer, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Barnes, Bingham, Blair, Boyer, Burr, Cake, Cary, Cobb, Cornell, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Ferry, Garfield, Glossbrenner, Golladay, Gravely, Grover, Higby, Hopkins, Hotchkiss, Humphrey, In-

gersoll, Julian, Kitchen, Lincoln, Loan, Logan, Mallory, McCormick, Mercur, Miller, Moore, Morrell, Myers, Newcomb, Niblack, O'Neill, Paine, Peters, Phelps, Plants, Pomerooy, Pruyn, Raum, Robinson, Schenck, Shellabarger, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Stone, Taber, Taffe, Thomas, Lawrence S. Trimble, Twichell, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, and Woodward—73.

NOT VOTING—Messrs. Ames, Arnell, Barnum, Blaine, Bromwell, Brooks, Broomall, Chanler, Sidney Clarke, Cullom, Dawes, Delano, Eldridge, Finney, Fox, Getz, Griswold, Haight, Hill, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Jenckes, Johnson, Jones, Kelley, Kerr, Knott, George V. Lawrence, William Lawrence, Lynch, Marshall, McClurg, McCullough, Moorhead, Morrissey, Mungen, Nicholson, Orth, Perham, Poland, Randall, Robertson, Ross, Selye, Sitgreaves, Smith, John Trimble, Van Aukun, Burt Van Horn, Van Wyck, William B. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—61.

So the joint resolution was not laid on the table.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the joint resolution.

Mr. WASHBURN, of Indiana. Upon that question I call the previous question.

Mr. MULLINS. I desire to offer an amendment to this joint resolution.

The SPEAKER. No amendment is now in order.

The previous question was then seconded and the main question ordered; which was upon the passage of the joint resolution.

Mr. WARD. Upon that question I ask for the yeas and nays.

The question was taken upon ordering the yeas and nays; and there were thirty-four in the affirmative.

So the affirmative being more than one fifth of the last vote the yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 71, nays 59; not voting 59; as follows:

YEAS—Messrs. Adams, Anderson, Archer, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Barnes, Bingham, Blair, Boyer, Burr, Cake, Cary, Cobb, Cornell, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Garfield, Glossbrenner, Golladay, Gravely, Higby, Hopkins, Hotchkiss, Humphrey, Ingersoll, Jenckes, Johnson, Julian, Kitchen, Lincoln, Loan, Logan, Mallory, McCormick, Miller, Moore, Morrell, Myers, Newcomb, O'Neill, Phelps, Plants, Pomerooy, Pruyn, Randall, Raum, Robinson, Shellabarger, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Stone, Taber, Taffe, Thomas, Twichell, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, and Woodward—71.

NAYS—Messrs. Allison, Bailey, Baker, Beaman, Beatty, Benjamin, Benton, Blaine, Boutwell, Buckland, Butler, Churchhill, Reader W. Clarke, Coburn, Cook, Corvode, Cullom, Eggleston, Ela, Farnsworth, Ferriss, Ferry, Fields, Grover, Halsey, Harding, Hawkins, Holman, Chester D. Hubbard, Hulburd, Judd, Kelsey, Ketcham, Koonitz, Laffin, Loughridge, Lynch, Marvin, Maynard, McCarthy, Mullins, Nunn, Pike, Pile, Polsley, Price, Sawyer, Scofield, Shanks, Aaron F. Stevens, Taylor, Lawrence S. Trimble, Trowbridge, Upson, Ward, Elihu B. Washburne, Welker, William Williams, and John T. Wilson—59.

NOT VOTING—Messrs. Ames, Arnell, Barnum, Beck, Bromwell, Brooks, Broomall, Chanler, Sidney Clarke, Dawes, Delano, Eldridge, Finney, Fox, Getz, Griswold, Haight, Hill, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Jones, Kelley, Kerr, Knott, George V. Lawrence, William Lawrence, Marshall, McClurg, McCullough, Mercur, Moorhead, Morrissey, Mungen, Niblack, Nicholson, Orth, Paine, Perham, Peters, Poland, Robertson, Ross, Schenck, Selye, Sitgreaves, Smith, John Trimble, Van Aernam, Van Aukun, Burt Van Horn, Van Wyck, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—59.

So the joint resolution was passed.

The announcement of the vote was greeted with applause by spectators in the gallery, which was promptly checked by the Speaker.

Mr. WASHBURN, of Indiana. I move to reconsider the vote by which the joint resolution was passed; and also move that the motion to reconsider be laid on the table.

Mr. WASHBURN, of Illinois. On that motion I call for the yeas and nays.

Mr. WASHBURN, of Indiana. I withdraw the motion to reconsider.

# TAXES ON WHISKY AND TOBACCO.

Mr. SHANKS. I submit the following resolution; on which I demand the previous question:

*Resolved*, That in the judgment of this House it will inflict a serious loss upon the national revenues to delay the revision of the taxes on distilled spirits and tobacco until the same can be accomplished by a general revision of the entire internal revenue system; and the Committee of Ways and Means is hereby instructed to report without delay a separate bill for the revision of the taxes on the manufacture and sale of distilled spirits and tobacco.

Mr. SCHENCK. I hope there will be no attempt to force through such a resolution as this without hearing from the Committee of Ways and Means.

The SPEAKER. Debate is not in order.

Mr. MAYNARD. Cannot this proposition be debated?

The SPEAKER. It cannot, while the call for the previous question is pending.

The previous question was seconded; there being—ayes 62, noes 48.

The question being, Shall the main question be now put?

Mr. PILE moved that the resolution be laid on the table.

Mr. SCHENCK. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 60, nays 79, not voting 50; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baker, Banks, Beatty, Boutwell, Cake, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Cullom, Eckley, Eggleston, Ela, Farnsworth, Garfield, Gravely, Griswold, Higby, Hooper, Hopkins, Chester D. Hubbard, Ingersoll, Jenckes, Judd, Kitchen, Loan, Logan, McClurg, Miller, Morrell, Mullins, Myers, Newcomb, O'Neill, Paine, Phelps, Pile, Polsley, Pomerooy, Raum, Sawyer, Schenck, Aaron F. Stevens, Stewart, Stokes, Taffe, Taylor, Twichell, Robert T. Van Horn, Henry D. Washburn, Welker, Thomas Williams, and John T. Wilson—60.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Beaman, Beck, Benjamin, Benton, Bingham, Blaine, Blair, Boyer, Buckland, Burr, Butler, Cary, Corvode, Dawes, Dixon, Dodge, Donnelly, Driggs, Eliot, Ferriss, Ferry, Fields, Glossbrenner, Golladay, Grover, Halsey, Harding, Hawkins, Holman, Hotchkiss, Hulburd, Humphrey, Johnson, Julian, Kelsey, Knott, Koonitz, Laffin, Lincoln, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McCormick, Mercur, Moore, Nunn, Peters, Pike, Plants, Price, Pruyn, Randall, Robinson, Scofield, Shanks, Shellabarger, Spalding, Starkweather, Thaddeus Stevens, Stone, Taber, Thomas, Lawrence S. Trimble, Trowbridge, Upson, Van Aernam, Van Trump, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William Williams, and Woodward—79.

NOT VOTING—Messrs. Ames, Arnell, Baldwin, Barnum, Bromwell, Brooks, Broomall, Chanler, Churchhill, Delano, Eldridge, Finney, Fox, Getz, Haight, Hill, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Jones, Kelley, Kerr, Ketcham, George V. Lawrence, William Lawrence, Marshall, McCullough, Moorhead, Morrissey, Mungen, Niblack, Nicholson, Orth, Perham, Poland, Robertson, Ross, Selye, Sitgreaves, Smith, John Trimble, Van Aukun, Burt Van Horn, Van Wyck, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—50.

Mr. MAYNARD. I move to reconsider the vote by which the House has refused to lay the resolution on the table; and on that motion I call for the yeas and nays.

Mr. TROWBRIDGE. I move that the motion to reconsider be laid on the table.

Mr. MAYNARD. I have not yielded the floor.

Mr. SCHENCK. I rise to a privileged question.

Mr. MAYNARD. I have not yielded the floor. Mr. Speaker, am I not entitled to be heard on the motion I have made?

The SPEAKER. The gentleman is not. The question is undebatable.

Mr. MAYNARD. Then I yield the floor to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. I move to reconsider the vote by which the previous question was seconded. I desire to know whether this House will summarily lay aside the tax bill, upon which so much labor has been expended, without hearing the nine gentlemen who, as the Committee of Ways and Means, have been charged with the preparation of that bill.

The SPEAKER. Debate is not in order. Mr. SCHENCK. I know it is not; but I

must protest against the committee being choked down without an opportunity to make an explanation.

The SPEAKER. The gentleman is not in order.

Mr. WASHBURN, of Illinois. We have voted away about two million dollars to give extra pay to the clerks in the Departments, and I am opposed to remaining here to impose additional taxes on the people to pay that extra allowance.

The SPEAKER. The gentleman from Illinois is not in order.

Mr. MAYNARD. I have made a motion to reconsider the vote by which the House refused to lay the resolution on the table; and on that motion I call for the yeas and nays.

The SPEAKER. The yeas and nays cannot be taken on reconsidering the vote by which the previous question was seconded, because the vote on seconding the previous question cannot be taken by yeas and nays.

Mr. MAYNARD. My motion is to reconsider the vote on laying on the table.

The SPEAKER. Did the gentleman vote with the majority?

Mr. MAYNARD. I did. I changed my vote for the purpose of making this motion.

The SPEAKER. The gentleman moves to reconsider the vote by which the House refused to lay the resolution on the table.

Mr. MAYNARD. Am I not entitled to the floor on that?

The SPEAKER. You are not, for two reasons. The motion to reconsider the vote refusing to lay the resolution on the table is not debatable, nor is the motion to lay on the table debatable.

Mr. MAYNARD. I demand the yeas and nays.

Mr. SPALDING. I move that the motion to reconsider be laid on the table.

Mr. MAYNARD. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 62, not voting 56; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Barnes, Beaman, Beck, Benjamin, Blaine, Blair, Boyer, Buckland, Burr, Butler, Cary, Covode, Dawes, Delano, Dixon, Dodge, Donnelly, Eliot, Ferriss, Ferry, Fields, Glossbrenner, Golladay, Grover, Halsey, Harding, Hawkins, Holman, Hotchkiss, Hulburd, Humphrey, Johnson, Julian, Kelsey, Knott, Koontz, Laffin, Lincoln, Loughbridge, Lynch, Mallory, Marvin, McCarthy, McCormick, Mercer, Moore, Peters, Price, Pruyn, Randall, Robinson, Shanks, Shellabarger, Spalding, Starkweather, Thaddeus Stevens, Stone, Taber, Thomas, Lawrence S. Trimble, Trowbridge, Upson, Van Aernam, Van Trump, Ward, Cadwalader C. Washburn, Elihu B. Washburne, and Woodward—71.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baker, Banks, Beatty, Benton, Bingham, Boutwell, Cake, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Cullom, Eckley, Eggleston, Ela, Farnsworth, Garfield, Griswold, Higby, Hooper, Hopkins, Chester D. Hubbard, Ingersoll, Jenckes, Judd, Kitchen, Loan, Logan, Maynard, McClurg, Miller, Morrill, Mullins, Myers, Newcomb, Niblack, O'Neill, Paine, Pike, Plants, Polsey, Pomerooy, Raum, Sawyer, Schenck, Aaron F. Stevens, Stewart, Stokes, Taffo, Taylor, Twichell, Robert T. Van Horn, Welker, Thomas Williams, and William Williams—62.

NOT VOTING—Messrs. Ames, Arnell, Baldwin, Barnum, Brooks, Broomall, Chanler, Churchill, Driggs, Eldridge, Finney, Fox, Getz, Graveley, Haight, Hill, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Jones, Kelley, Kerr, Ketcham, George V. Lawrence, William Lawrence, Marshall, McCullough, Moorhead, Morrissey, Mungen, Nicholson, Nunn, Orth, Perham, Phelps, Pike, Poland, Robertson, Ross, Scofield, Selye, Sitgreaves, Smith, John Trimble, Van Aukun, Bart Van Horn, Van Wyck, Henry D. Washburn, William B. Washburn, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—56.

So the motion to reconsider was laid on the table.

Mr. SCHENCK. I move to reconsider the vote by which the previous question was seconded. I want to see whether this House will accept any explanation. [Cries of "Order!"]

Mr. MAYNARD. I make another motion. I move that the House do now adjourn.

Mr. WASHBURN, of Illinois. That comes from the Committee of Ways and Means.

Mr. MAYNARD. I give notice—  
[Cries of "Order!"]

The SPEAKER. If gentlemen persist in speaking when called to order, the Chair will be compelled to bring the matter to the notice of the House.

Mr. FARNSWORTH. I ask the Committee of Ways and Means have five minutes for explanation.

Mr. HARDING. I object.

Mr. SCHENCK. I ask for the yeas and nays on the adjournment. If the House adjourns the Committee of Ways and Means, being refused any opportunity of explanation upon this floor in relation to the condition of the bill and how speedily we may have action on it, we may be able to reach the country through the public press. [Cries of "Order!"]

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 20, nays 104, not voting 65; as follows:

YEAS—Messrs. Anderson, Blair, Boyer, Cake, Sidney Clarke, Cook, Cornell, Ferriss, Glossbrenner, Harding, Judd, Kitchen, Niblack, O'Neill, Polsey, Randall, Aaron F. Stevens, Robert T. Van Horn, William Williams, and John T. Wilson—20.

NAYS—Messrs. Adams, Allison, Archer, Delos R. Ashley, Axtell, Bailey, Baker, Barnes, Beaman, Beatty, Beck, Benjamin, Benton, Boutwell, Buckland, Burr, Butler, Cary, Churchill, Reader W. Clarke, Cobb, Coburn, Covode, Cullom, Dawes, Delano, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferry, Fields, Garfield, Golladay, Graveley, Grover, Halsey, Higby, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Hulburd, Humphrey, Johnson, Julian, Kelsey, Knott, Koontz, Laffin, Lincoln, Loan, Loughbridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, McCormick, Mercer, Miller, Moore, Morrill, Mullins, Myers, Newcomb, Paine, Peters, Pike, Plants, Pomerooy, Price, Pruyn, Raum, Sawyer, Scofield, Shanks, Shellabarger, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Taber, Taffo, Taylor, Thomas, Lawrence S. Trimble, Trowbridge, Twichell, Upson, Van Aernam, Van Trump, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, and Woodward—104.

NOT VOTING—Messrs. Ames, Arnell, James M. Ashley, Baldwin, Banks, Barnum, Bingham, Blaine, Broomwell, Brooks, Broomall, Chanler, Dixon, Eldridge, Finney, Fox, Getz, Griswold, Haight, Hawkins, Hill, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Jenckes, Jones, Kelley, Kerr, Ketcham, George V. Lawrence, William Lawrence, Logan, Marshall, McCullough, Moorhead, Morrissey, Mungen, Nicholson, Nunn, Orth, Perham, Phelps, Pike, Poland, Robertson, Robinson, Ross, Schenck, Selye, Sitgreaves, Smith, Stone, John Trimble, Van Aukun, Bart Van Horn, Van Wyck, William B. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—65.

So the House refused to adjourn.

The question recurred on reconsidering the vote by which the previous question was seconded.

Mr. SCHENCK. On that I ask for tellers. Tellers were ordered.

Mr. PILE. I think there will be no objection to the chairman of the committee being heard fifteen minutes.

Mr. BUTLER. I will consent, provided somebody may be allowed the same time to answer.

Mr. BENJAMIN. I object.

Mr. STEVENS, of Pennsylvania. I move to lay on the table the motion to reconsider.

Mr. SCHENCK. Can the yeas and nays be called on that motion?

The SPEAKER. They cannot.

Mr. SCHENCK. Then I ask for tellers.

Tellers were ordered; and the Chair appointed Messrs. SCHENCK and SHANKS.

The House divided; and the tellers reported—ayes 63, noes 52.

The question recurred on ordering the main question.

Mr. SCHENCK. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. MAYNARD. I move that the House take a recess till half past seven o'clock this evening.

The SPEAKER. The Chair thinks that motion in order. The only doubt the Chair has is that the House is acting under the previous question. The Clerk will read the rule in relation to recess.

The Clerk read as follows:

"Where it is convenient that the business of the House be suspended for a short time, as for a conference presently to be held, &c., it adjourns during

pleasure. But it is not in order pending a motion to suspend the rules, so as to take an immediate vote on a pending proposition."

The SPEAKER. No motion to suspend the rules is now pending, and the motion for a recess is in order.

Mr. SCOFIELD. Will a motion to suspend the rule to allow the Committee of Ways and Means to be heard a few minutes be in order?

The SPEAKER. That motion will be in order, because the rule in regard to suspending the rules applies on Monday to anything before the House at the time.

Mr. SCOFIELD. I make that motion.

Mr. BUTLER. Add to it that those opposed may have an equal length of time.

The SPEAKER. The motion to suspend the rules will not be in order till after the vote is taken on the motion to take a recess.

Mr. MAYNARD. I withdraw the motion for a recess.

Mr. SCOFIELD. I then move to suspend the rules to allow the Committee of Ways and Means half an hour to speak upon the original motion, to refer this subject back to the committee, and also to allow the friends of the motion fifteen minutes in addition.

Mr. STEVENS, of Pennsylvania. I move to amend the motion by saying half an hour to each side.

The SPEAKER. The motion to suspend the rules cannot be amended.

Mr. SCOFIELD. I will modify my motion in the way suggested by my colleague, so as to allow the friends of the motion half an hour.

The question being taken on suspending the rules, it was agreed to—ayes 76, noes 36; two thirds having voted in the affirmative.

Mr. SCHENCK. Mr. Chairman, I do not desire to go on myself. After hearing what gentlemen have to say in opposition, I will allow some of my colleagues on the committee to reply.

Mr. BUTLER. I rise to a point of order in regard to the debate. As this is an argument upon the pending motion of the gentleman from Indiana, [Mr. SHANKS,] I desire to inquire whether it is for the chairman of the Committee of Ways and Means to close the debate, or for those to whom he shall give the time allowed to the committee?

The SPEAKER. The order of the House controls that question. The rules having been suspended, whatever usage may prevail on that subject is also suspended. The gentleman from Pennsylvania [Mr. SCOFIELD] will correct the Chair if he is wrong, but he understood the motion to be to allow a half an hour to the Committee of Ways and Means, and a half an hour in reply to those who are in favor of the pending resolution.

Mr. SCOFIELD. I think that was the way the motion was made.

Mr. SCHENCK. Any way the House pleases. Mr. Speaker, after the decisive vote that was given the other day when an attempt was made to resist going into Committee of the Whole to consider this bill at all, I supposed we had passed the point and had reached that view and condition of the subject that the House, or at least all on this side of the House, would unite in endeavoring to push this bill through and perfect it in such a manner as to be able at the earliest possible time to send it to the Senate. I have looked at that vote, and find in it that which part surprises me, and that which does not. At that time the House decided to go on with the bill by a vote of 82 against 57. Seventy-five of the eighty-two were Republicans in this House. Of the fifty-seven nearly one half were Democrats. Nearly every Democrat voted against it with the exception of two gentlemen who vote with us and sustain us, being members of the Committee of Ways and Means, and having devoted their time to this whole matter—the gentleman from New York [Mr. BROOKS] and the gentleman from Indiana, [Mr. NIBLACK.] With these two exceptions, nearly every Democrat, except four or five, voted not to go on with this business.

I could understand that, because these gentlemen have not the responsibility that I had supposed the Republican party felt in the legislation in which we are engaged. Gentlemen of the Republican party will say, however, that their object is not to shirk this responsibility, but to reach such a position of things that we may meet the most crying demands of the country, legislate in regard to tobacco and distilled spirits, and leave everything to await future legislation that concerns other matters connected with the public revenue. The first reply I have to make in behalf of the Committee of Ways and Means to that, is this: we have spent—I need not say how laboriously—more than five months in preparing the bill. We have had before us hundreds and thousands of persons representing all the various interests of the country in relation to these subjects. We have attempted to present a bill which should be an entirety, a bill which should cover the whole ground, and a bill which, considering all subjects, as well those continued, those changed, and those released from burdens, would in the aggregate give us means to support and carry on the Government by supplying sufficient revenue. It is proposed now to break the entirety of this bill, and to confine the attention of Congress to legislating only upon distilled spirits and tobacco. And when is that motion made? Why, when in the bill before us, we have passed over one hundred and seventy-six pages of it and there are little more than the same number, perhaps, remaining, being almost entirely made up of these subjects of tobacco and distilled spirits. And the fact is, as I feel free to explain to the House, that this very morning, having taken up the bill at the point at which it was left on Saturday by the House, we find that the next subject is "lotteries." We do not suppose that, so far as lotteries and theaters are concerned, there is really any disposition to legislate, not in accord with the committee in their behalf, and that from these things a little more revenue might be raised. Yet these are to be cut off.

We come next to mineral oils. After full discussion of that subject, hearing, as we are accustomed to do, all the interests of the country, and after considerable deliberation, the committee have come to the conclusion to move to strike out all the sections in relation to mineral oils excepting the one hundred and thirty-second section, which provides against explosive compounds, and leave mineral oils among the general manufactures of the country relating to useful articles. That would have disposed of fourteen pages more of the bill. And then, after a few minutes more of work, I feel warranted in saying to the House and the country less than half the bill would have remained. And that remaining portion, with the exception of incomes and legacies, where very little change is made from the present law, and no changes except such as have been suggested by members of the House, and on which we find there will be general concurrence—nearly the whole of that remaining portion of the bill is made up of the two subjects of tobacco and its manufactures and distilled spirits.

Just when the House has reached these subjects, just when we stand before the country ready to take up these matters and dispose of them, having completed the rest of our work, and being ready to report it to the House to be put upon its passage, we find this exhibition of opposition made here; made with the concurrence, I admit, of nearly the united Democratic party here, and made also, to our surprise, with the concurrence of about one third or a little more of the members on this side of the House with whom we are accustomed to act.

Now, sir, it must be obvious that there is some reason underneath all this which the Committee of Ways and Means cannot comprehend. What is it? Gentlemen think in good faith, as I am bound to believe, that a bill might be brought in relating to the subjects

of tobacco and distilled spirits, short, brief, covering all the ground necessary upon these subjects, and passed through the House and Senate, so that we may speedily go home.

Now, I undertake to say, in the first place, that a very large proportion of this bill in relation to those two subjects, although made up of various details in relation to the mode of collecting the taxes, and the mode of preventing frauds, almost all those details must necessarily be incorporated in any bill that may be passed upon this subject. Even if we should report a bill upon those subjects alone, we should feel compelled, with the views we have acquired after months of examination, to retain those features to a very great extent. We should do this, whether the tax on whisky be put up or down; and I have before notified the House that the impression of the members of the Committee of Ways and Means, or a majority of them, is that the tax on whisky ought to be very materially reduced. In either case, however, we should have to retain pretty much all of this matter of details in the bill.

What more? If gentlemen will study this bill they will find that we must retain about one half of all that portion of the bill which we have already gone over; because we have undertaken not only to reform the provisions of the present law in relation to frauds in the collection of taxes upon particular subjects, but we have gone into the whole administrative department of the bureau or department, whatever it may be made, for the collection of internal revenue, with a few to simplifying it upon the one hand and making it more efficient upon the other. And I would scarcely give you a snap of my finger for all in this bill in relation to distilled spirits and tobacco and its manufactures, however valuable I think that matter is, unless you connect with it certain administrative sections, running all through this bill, and intended to make possible the collection of such taxes as you may impose.

Take a single illustration, the matter of revenue stamps. I have the utmost confidence in the integrity and earnestness of the present Commissioner of Internal Revenue, however some gentlemen may possibly differ in relation to his energy and decision of character, and whether he has been sharp enough in defending himself against influences of a political character in the one direction, which hamper and prevent his usefulness, or against the frauds in another direction which are practiced. But while I have that confidence in him, let me say to this House and to the country, that we found in the present law, among other things, that there was no check whatever upon the subject of the issuing of revenue and other stamps; and that while the Commissioner was putting three or four or five million dollars' worth of stamps upon the markets of the country through official channels, he might, if he had been so disposed, put one or two or three million dollars' worth of stamps on the market on his own motion and pocket the proceeds. Now, we have attempted through checks to remedy all that by requiring all the stamps manufactured and issued under the direction of the Treasury Department to be issued to and charged as money against the Commissioner of Internal Revenue, and to be issued by him to and charged against all the other officers of the law engaged in the business. But I give this only as an illustration.

I say that all through this bill there are, as we confidently believe, many eminent reforms made, to which in great part we have now had the assent of this House, and which are essentially necessary, if you are going to collect your tax even upon distilled spirits and tobacco.

But after all our labor in the presentation of the subject in the House, we are met by an attempt to get away from it. I inquire again, why this feeling? A little while ago, within three days past, I was glad to feel myself sustained, not only by the vote that was taken a week ago, but by expressions in harmony with that vote made by members all around this

Hall, including some who are now voting to give the whole subject the go-by. What has influenced them? I speak with the utmost respect when I say (not speaking of the action of the Senate) that Senators have been very busy in representing to members of this House that if the bill revising the whole revenue law be passed as an entirety and sent to them they cannot afford to take the responsibility of cutting it down to a partial bill upon particular subjects, but must go through the whole of it, and that thus the House and the Senate may be kept here until perhaps the end of August. Well, sir, so far as I am concerned, I am not going to legislate with reference to the opinions of the Senate or of Senators. I shall endeavor, as a member of this House and a Representative of the country, to do what the people expect and demand and what is right to be done in regard to a revision of the taxes, and I will let those at the other end of the Capitol take the responsibility of their own action. But I say that, after the bill has been matured first by the Committee of Ways and Means, then subjected to the criticism of all parties interested in its various parts who have come before us since it was put in print and sent out to the world, and then, under the light of those criticisms, amended in the House and perfected so far as this House is able to perfect it, there is no reason why the labor of the Senate should be so long and so exhausting either upon their time and attention or upon the time of gentlemen here who are anxious to get away.

Now, then, one word (which I wish also to go to the country) in behalf of the Committee of Ways and Means. During fourteen years' service in Congress I have never known a committee (and in this I am to be understood as speaking of other gentlemen, and not myself) who labored so persistently, so continuously, in season and out of season, by night and by day, meeting every day, not excepting a half dozen days, for four or five months past, as the Committee of Ways and Means have done. And this bill is the work they have presented.

Now, sir, while the impeachment trial was going on, while members around me (and I see dozens of such) were at home with their families, and while since then, since we have taken up this bill, members whom I see before me were at home looking after their nominations or something else, this committee has stayed here and worked on; and (I say it in no offensive sense) the very gentleman who is the medium for presenting this morning this resolution to give the bill the go-by has, I believe, been at home, looking after his interests there, and was not here the other day to vote upon the bill. I do not know how much time he has been here since the bill has been going on in Committee of the Whole; he can explain for himself. I mean nothing offensive in the allusion; but I say that the opposition to the consideration of the bill comes in great part (and I speak of what I know the record shows) from gentlemen who have been enjoying days and weeks, perhaps in some instances nearly months, of leisure at their homes with their families and about their private business, while we have been working on and on every day, and almost every night.

I do not say this in praise of the work that we present. That must be taken for what it is worth. It must be taken on its merits. But I say that when we are half through that work, and more than half through, when we have reached just those subjects of distilled spirits and tobacco, leaving little or nothing that will cost more than a few hours' labor except those very subjects which are made the occasion of offering this resolution, it does not look well; and it shall be understood by the country—for I now proclaim it—that there is an attempt made to throw us back upon a condition of things which will require that another week or more shall be employed by the committee in putting together all the different parts of the bill necessary to help out the collection of the tax upon these objects. And I want that



particular fact specially noted. I have already explained that there are pages upon tobacco, there are pages upon distilled spirits, but we cannot present anything like a perfect or consistent bill unless we add to those parts section after section to be culled out, rearranged, and modified from other parts of the bill, now relating to all subjects which are to be objects of administrative law, but which must then be so fashioned as to apply particularly and only to these, but which must be put into the bill even if they do apply only to these.

To do that work will require the committee, in my belief, as long or near as long, I believe quite as long, if they do their work well and properly, as it will require to go through with this bill in the Committee of the Whole on the state of the Union. I give it not only as my own opinion, but as the opinion of the Committee of Ways and Means. And I know what I say. I give it as the opinion of the committee, with all the good faith to go at this work and do what we can, we cannot prepare such a bill as you will instruct us to bring in under about the same time it will take us to go through with the remainder of the bill.

In order to lighten the labor of the Committee of the Whole on the subject of tobacco we have been in session an hour and a half before you, gentlemen, who are now opposing this bill, thought it necessary to come here. We have been here since half past ten o'clock this morning; and there are now delegations from different traders and manufacturers of tobacco waiting in the committee-room with whom we have not finished. We have been running backward and forward, as well as we could, between the House and the committee-room, attending to our votes here while endeavoring to carry on our action there. The result of the discussion this morning is that the criticisms provoked from the tobacco trade and tobacco manufacturers represented in the various branches of the trade by the publication of our bill have been met and considered, and we are ready to present such questions to the House for their consideration as will provide modifications or amendments to be made so far as that interest is concerned.

And, sir, the same thing is true in regard to distilled spirits. We have notified gentlemen to appear before us to-morrow and next day with a view to meeting their criticisms and listening patiently to what they have to suggest, so we may collect the revenue which the Government ought to have and at the same time provide no injustice shall be done to any citizen.

But in the midst of this we are to be set at a different work; in the midst of this we are to be thrown back to begin again; in the midst of this we are to take up this bill, repair to our committee-room, and in the hour or so we can get each morning before we come to attend to our business here set ourselves to work to bring in the two subjects in one bill which these gentlemen think ought alone to be put into this bill—something about distilled spirits and something on the subject of tobacco, and as we say it must also give us something which will provide the necessary machinery and administrative sections to secure the collection of the taxes you want to derive from these sources.

Mr. Speaker, I could talk a long time upon this subject if I were so disposed, and longer than the time allowed me; but I think I shall not extend my remarks further.

Mr. GARFIELD. I wish to ask the gentleman a question.

Mr. SCHENCK. I will yield for that purpose.

Mr. GARFIELD. I wish to ask my colleague whether, in his judgment, if we pass the bill as it now lies upon our table, in case it should be found necessary to do ultimately just what this resolution looks to, it will not be better to pass the bill as it now is and allow the Senate to cut out such portions as they can get through with speedily and return to us, and whether that would not accomplish the

object of the resolution better than the adoption of the pending resolution.

Mr. SCHENCK. I think what I have said leaves that fairly to be inferred. That certainly is my opinion. I say we cannot get back such a bill as these gentlemen ask for in much less time than it will take to go through this bill now just as it is; and I say if we are to go at that work after this bill has left this House, then in the House committee we can do it as well as between now and then. It seems to be a difficulty that Senators have said they will not take the responsibility of cutting down the bill in that way, and therefore out of great respect for those Senators, and for fear that the Senate will keep us here a long time, we must accommodate our views to theirs, and take upon ourselves the labor of presenting a half bill instead of leaving it to the other branch of Congress.

Now sir, I do not believe that it will take any such time as has been spoken of. How much time has been occupied on this subject? There was the DELANO and Morgan case. There were various occasions when reports were made from the managers, and Mr. Woolley was brought before us. There have been questions from the Committee on Appropriations brought in from time to time. There have been various other incidental matters cutting down the time allowed us since the first day of this month when we first took up this bill in the House, besides the time allowed for general debate, so that we have not had five whole days on this bill this far. I do not think we have had more than four. And yet we have gone half through the bill.

When I predicted that we could go through this bill in three weeks gentlemen said oh, if that were possible they were willing to go on; but they thought it would take nearer three months. Sir, suppose we have used two weeks. The House will understand that another week most probably, if gentlemen will stay here and keep a quorum, will do the work. I admit that we must have the presence of members. I admit that members must not go away and break up a quorum and then come back and try to break down the bill. That will not answer. But if we can have a quorum here, a working majority, I say that in all human probability—and what we have done already proves that I am right in my prediction—a week will finish the bill. That is the declaration which I now make in the presence of the House and the country.

Again, I say if this bill gets the go-by, and if in consequence of the action pursued here we are delayed in any way hereafter, it must be remembered who takes the responsibility. It is the Democratic party, almost to a man, with about one third of the Republican party. I cannot tell what the vote has been to-day. It has not been so strongly in the direction of sustaining the bill, so far as Republicans are concerned, for fewer of them have sustained it to-day. But the vote the other day was eighty-two for going on with the bill, consisting of seventy-five Republicans and seven Democrats; while against going on with the bill there were thirty-four Republicans and twenty-three Democrats. That is more than two to one of the Republicans in favor of going on. A little more than one third of the Republicans, uniting with nearly the whole of the Democrats, voted against going on with this work. To-day the proportion is pretty nearly the same.

I wish it to be understood, then, that so far as the Committee of Ways and Means are concerned we are sustained by the gentleman from Indiana, [Mr. NIBLACK,] the gentleman from New York, [Mr. BROOKS,] who have stood with us faithfully and manfully on this subject; but with those exceptions nearly the undivided Democracy goes with a portion of the Republican party, and there is no escaping from the conclusion that while the majority of those who feel the responsibility because they represent the party that is in the majority of the House are waiting and anxious to go on, less than a majority are uniting with the Democrats

to defeat that object. I will yield the rest of the time to any member of the committee who wishes to be heard.

The SPEAKER. The gentleman has five minutes remaining.

Mr. MAYNARD. I desire to obtain the floor simply to say that in the statement of the facts relating to the action of the committee, as they have been presented by the chairman of the committee, he has not done more than justice to the committee, while, so far as he himself is concerned, he has failed to do justice to his own labors. For, instead of five months, I think the Calendar will show it is nearer seven. By an assiduity of labor that I have never seen equaled in my experience, this bill has been discussed, its provisions examined one by one, and this is the result of the labor; and I fully concur in what the chairman has stated, that to take out of this bill the subjects of tobacco and distilled spirits, and to introduce them with those provisions of the law which relate to collecting the duty upon them, and adapt them to the present law as it is—to bring this new cloth into old garments—will only operate to make the rent worse. It will require a vast amount of labor, and that labor will not accomplish what is hoped, expected, and believed can be accomplished by this bill. I yield to the gentleman from Indiana, [Mr. NIBLACK.]

Mr. NIBLACK. Mr. Speaker, I have voted all the while in favor of the proposition to go on with this bill since the motion to postpone it has been submitted. I have done so, in the first place, because I am a member of the Committee of Ways and Means, which reported it, and because I believe that it is only proper courtesy on my part to sustain the committee in a matter of this kind. But I have done it for the additional reason that I think there is much legislation needed upon the subject of internal revenue taxes, some of which, at least, we may be able to accomplish by passing this bill. But I am the more particularly anxious that this proposition to postpone, or in other words to emasculate the bill, shall not succeed for the reason that I think it will result in a positive loss of time to this House and to this Congress. As has been well said by the chairman of the Committee of Ways and Means, we cannot mature a new bill in perhaps less than a week so as to meet the requirements of the resolution now pending. If we should go on with the consideration of the bill, I think we could in that time dispose of it so far as the House is concerned, and we would, therefore, be rid of the question by about the time which will be required for the committee to prepare a new bill as instructed by this resolution. It may be that the Senate, when this bill should reach it, if it ever shall, will decide to take out so much of it as relates to whisky and tobacco, and send it back in this amended form. If so, the responsibility will be upon the Senate, and it will then be a matter of economy of time, perhaps, for them to do so, if they shall so resolve. But for the House to adopt that course, and attempt now to separate some sections of the bill and pass a portion of them, I think would result in an absolute loss of time, and looking to that, and to that alone, I am earnestly opposed to this proposition to postpone the further consideration of the bill.

The SPEAKER. The half hour assigned to the Committee of Ways and Means has expired, and the gentleman from Indiana, [Mr. SHANKS,] the mover of the resolution, is entitled to the floor.

Mr. SCHENCK. Before the gentleman proceeds I desire to say that if I was mistaken in what I said in regard to him, I will withdraw it. I believe the gentleman got an indefinite leave of absence, and was away for ten or fifteen days, and has only been here for the last two or three days. I believe he was not here when the bill was taken up, nor when the motion to postpone was made by the gentleman from Massachusetts, [Mr. BUTLER.] He can correct me if I am wrong.

Mr. SHANKS. I do not feel that that is a subject for consideration at present, and while I have the highest regard for the opinions of others, I must say that it is the legitimate duty of every member upon this floor to speak to the business of the House, and not to individuals. I know it is an easy thing to say that you will go to the country and hold members responsible before the country for what they do here. I am responsible to the country for what I do, and I stand before my people to speak for them. I have been with my people; and I now say to you, sir, and to this House, in all kindness, that I think if the gentleman from Ohio had been among his people he would have learned something better than to stand here to-day and say to me what he has said on this question. I do not introduce this resolution for the purpose of hurting the feelings or assailing the judgment or impugning the integrity of any man or set of men.

I have the highest regard for the opinions of the Committee of Ways and Means, and I am glad that they have discussed and examined these matters. But if it is true that they have spent so much time and exercised so much care and deliberation in determining for themselves with such precision the importance and correctness of this work, it certainly cannot be true that they will be so much troubled to take out of the bill and make a simple proposition the provisions in relation to the articles which I have named. If the matter has been so thoroughly considered it cannot be difficult to take from the bill these particular provisions and bring them before the House for immediate action. Now, I do not wish to do anything against the bill. I do not know but that it is correct. I do not assail the bill or the committee that reported it. But it must be known to every member, unless he has been so absorbed in the business in hand as to know nothing of what is passing around him, that the Senate of the United States, of which I speak with all deference and respect, is at least not a rapidly moving body. How long it will take them to pass the bill I do not know. The House is occupying some three or four weeks with it, and we do not manifest a great deal of dignity in the discharge of our duties. Sometimes men who manifest more dignity do not move as fast as we do.

Now, Mr. Speaker, it is said that I left this House on a leave of absence. I did, sir; but that has nothing to do with this matter. I returned to this House again in due time. The gentleman seems to think that I do not know what was going on here, because I was not in the House. Let me say to him that I know what is going on here although I am not here, and so do the people of the country, although they are not here.

They know there is formed in this country to-day a whisky ring, as it is called, because the tax on whisky is so high that they can afford to form and keep in operation that ring. They have banded themselves together and have wrenched from the people the taxes upon distilled spirits, and have used them for the manipulation of the very elements against which the country ought to be protected. And the people now demand that that tax shall be reduced so that the great inducement for these frauds may be removed.

The gentleman from Ohio [Mr. SCHENCK] says that the record upon this matter must go to the country. Sir, I want it to go to the country. And if men propose to attack in this way those who differ from them concerning the business of this House, let it also be borne in mind that the people will hold responsible those who will not act in such a way as at once to wrench from the hands of these men the means by which they now despoil the country. I want that to go to the country also.

There is another thing I desire to speak about. It was said by the gentleman from Ohio [Mr. SCHENCK] that I was the medium by which this resolution was brought before the House. Now, sir, that was at least unkind. I have not called the gentleman the medium of the views of the

Committee of Ways and Means. I am not the medium of anything but the wishes of my constituents. I speak and act for them, and I will always do it here and elsewhere. It is for the people I represent that I speak and act. And though I will overlook the remark of the gentleman, I still think it was unkind, and was a remark which should not have been made by a member of his age and experience.

Mr. SCHENCK. I hope the gentleman will not misunderstand me.

Mr. SHANKS. I do not misunderstand the gentleman.

Mr. SCHENCK. I understood the gentleman to represent a sentiment entertained by a number of persons, and I supposed the gentleman was the medium through which that sentiment was expressed.

Mr. SHANKS. The resolution is the medium of that sentiment, and is clearly expressed.

Mr. SCHENCK. It was not introduced without consultation, I suppose.

Mr. SHANKS. I consulted with my people, and I understand the resolution to express their sentiments.

Now, Mr. Speaker, if the Committee of Ways and Means have considered this matter thoroughly, and come to a conclusion as to the best thing that should be done in regard to it, why do they throw themselves back upon their dignity and refuse to act upon the matter again? I understood the chairman of the committee to say that the committee could not—perhaps he said they would not—act upon this measure. Now, I think it is the duty of the committee to act upon any measure this House may direct them to consider. And when they will not do that, then I think it will be highly proper that they should cease to be members of a House whose orders they will not obey. The country will hold those men responsible who throw themselves back on their dignity and say, "We will not act, because our judgment in this matter has not been considered."

Mr. SCHENCK. We do not say that.

Mr. SHANKS. I introduced this resolution in good faith, and will stand by it. I now yield the remainder of my time, except five minutes, to the gentleman from Massachusetts, [Mr. BUTLER.]

THE SPEAKER. There are twenty-two minutes of the gentleman's half hour remaining. The gentleman from Massachusetts [Mr. BUTLER] will be entitled to the floor for seven minutes.

Mr. BUTLER. I am sorry, Mr. Speaker, that the debate in this case has gone to the prejudices rather than to the merits of this question. The question of the votes of gentlemen, in conjunction with others, if they vote according to their conscience, I trust will never be brought up. And that we are to be frightened from our propriety because gentlemen of the Democratic party see fit to vote with us is a new party lash which I never understood was put on before.

Mr. SCHENCK made some remark not audible to the reporter.

Mr. BUTLER. I do not care to have a running debate with the gentleman in his seat. As I said, this is a new party lash. Now, I find upon an examination of the record of the last vote that fifty-three Republicans voted with me, and fifty-eight voted with the gentleman from Ohio. The gentleman had to aid him a mutual admiration society of eight members, forming, with himself, what is commonly called "the Committee of Ways and Means," each of whom gets up here and tells us what all the others have done. According to their account there never before was so much work, so much virtue, so much vigilance and devotion to the public interest, as found in that committee.

Now, I did not intend to say one word on this subject, because I know that this committee has, as I have heretofore said, worked well, and nothing is to be said against them; and I reckon them among my most valued friends. When I vote for the postponement of their tax bill I am saying simply that what took them seven months to prepare I do not feel myself

competent to deal with in a week; and whoever does has not so high an opinion of the committee as I have.

Now, let us see; they took seven months to hear the case. They worked day and night; they were very vigilant and very diligent; and after they have worked upon this bill seven months, they now propose we shall pass it in ten days. Be it so. Suppose we pass the bill in ten days, it will take one week afterward to engross it. We shall not get this bill through before the 1st day of July, and then it will take a week to engross it. It then goes to the Senate. It will take a week there to get it in print. Then the Senate committee have a right to consider it as long as our Committee of Ways and Means; for there are many hundreds of men who have not got what they wanted before our Committee of Ways and Means, and who will want to be heard before the Senate committee; and they must have a hearing. The bill will not get out of the Senate committee for less than six weeks, though they work day and night, because they cannot do in six weeks, working day and night, so much as the Committee of Ways and Means have done in seven months, working day and night, never sleeping except so much as was simply necessary for personal health. [Laughter.]

Then, what time have we? That brings us into the middle of September. Then the Senate goes to work upon the bill. Having no previous question, the bill, if passed there this session, cannot get through till some time in October or November. What advantage, then, will the country get from this bill this year? Why not, as I proposed to do, postpone this bill, if ever the question can be reached, till the first day of next session, letting it remain in its present position until that time, and then pass it through as fast as we can.

Now, then, a word as to party, to which the chairman of the committee has alluded. We are here on the eve of a presidential election. Nay, we are in a presidential campaign, or ought to be. Let me repeat that, because "I want it," as the phrase is, "to go to the country." We are or ought to be in a campaign, in order to save this country under the men who have fought for it for the past five years. Yet we are kept here doing what? Trying to pass a tax bill which there is not a man in this House believes will be passed this session through both branches. If there is such a one, let him rise and let me see him, "for him have I offended."

Mr. MULLINS, (rising.) Let the gentleman take a good look at me. [Laughter.]

Mr. BUTLER. I see the gentleman; and I congratulate the Committee of Ways and Means that they have one faithful man on their side. [Laughter.]

Sir, I might adopt a similar style of argument to that used by the gentleman from Ohio. Suppose I should say to him, "Why, sir, did you not vote with a solid Democratic vote this morning to pay \$1,700,000 if not \$2,000,000 out of the Treasury to the clerks here in Washington, male and female, rebel and Union?"

Mr. WASHBURN, of Indiana. The gentleman is mistaken there.

Mr. BUTLER. I cannot yield to anybody. Mr. WASHBURN, of Indiana. The gentleman ought to take back the word "rebel," because the resolution expressly provides against that.

THE SPEAKER. The gentleman from Massachusetts [Mr. BUTLER] declines to yield.

Mr. BUTLER. That resolution provides for twenty per cent. addition to the salaries for all sorts of clerks. Without any opportunity for discussion it was passed through here under the pressure of these galleries filled with clerks, male and female, watching their men. [Laughter.] Under such pressure \$2,000,000 of money were voted out of the Treasury to pay clerks, male and female, who are receiving, on the average, higher salaries than are earned by the three learned professions in this country.

Mr. WASHBURN, of Indiana. I rise to a point of order. I want to know what this dis-

cussion has to do with the postponement of the tax bill?

The SPEAKER. The rules were suspended to allow the gentleman from Ohio half an hour, and then half an hour to other gentlemen in reply. The Chair thinks the gentleman from Massachusetts is hardly transgressing the limits to be allowed to the debate under such circumstances.

Mr. BUTLER. It is entirely germane, sir, when we are called upon to sit here in the summer weather, to give up all other occupations, to give up this great presidential campaign, and to give up all the interests of the country for the purpose of raising money to pay these clerks who, again I say, are overpaid, paid more than any of the learned professions in any part of the United States.

Mr. MAYNARD. How did the gentleman vote on the twenty per cent. proposition?

Mr. BUTLER. Against it ever.

Mr. MAYNARD. Then we voted together, and I ask the gentleman to vote with me on this question.

Mr. BUTLER. I wish all of the Committee of Ways and Means could say as much.

Mr. MULLINS. I can say it, although I am not a member of the Committee of Ways and Means. [Laughter.]

Mr. BUTLER. The volunteer member of the Committee of Ways and Means, I believe, did vote against it.

I say again the argument put forward is that we must have voted wrongly because Democrats voted with us. I have no doubt the gentleman from Ohio [Mr. SCHENCK] voted conscientiously; that is his affair; but the fact that he voted with the Democrats is quite apparent; and in the coming presidential campaign we will have to shoulder and carry that vote of his. I want, if we are going into this campaign, to get through with this session some time or other in order to have an opportunity on the "stump" to explain the gentleman's vote on the twenty per cent. matter.

Now, then, sir, what we on our part desire is this: we want to take these two subjects of taxation, whisky and tobacco, out of this bill now, and pass upon them at once; and we desire to act on these at once and pass them, because it will take until September or late in the fall to pass the bill with them in it. Again, if we should lose this tax bill for want of time to perfect it in both branches, we should lose the benefit of arranging the whisky and tobacco taxes which the country demands.

Why, sir, this whisky tax has fallen from \$80,000,000 to \$13,000,000, and the difference between \$200,000,000, which ought to be collected, and \$13,000,000 which is returned, goes into the pockets of speculators, "the whisky ring," which has been too strong for the Government so far, and I will say which I thought, before the vote this morning, was too strong for this House. They want the high tax kept on; and the effect of keeping this bill before the country and before the House and Senate, where it cannot be passed and where but one man has ventured to look us in the face and tell us he believed it could pass, the effect, I say, will be to keep the high tax on whisky and keep alive the "whisky ring."

Let me say to you, gentlemen of the Republican side of this House, if you allow this Congress to adjourn without taking means to bring this whisky ring into subjection to the country you might as well adjourn forever, so far as you are concerned. That is known to every man here who has seen the inner workings of the "whisky ring."

Now, sir, I have a single further observation to make, and then I will give the floor back to my friend from Indiana, [Mr. SHANKS;] and it is this: if the gentlemen of the committee, as they say, cannot draw up and report a bill embracing the sections concerning the tax on tobacco and distilled spirits in less than one week, how can they expect us to discuss and pass the same whisky and tobacco sections in their bill in a week in this House? They say we have just got up to these sections in their

bill, and that we can go forward and pass them in a week, but that if we do not the committee cannot even draw up the same sections in a new bill in less than a week. If the committee cannot draw up a bill containing these sections after all their experience, how can this House be expected to discuss amendments and get through with them in a week?

We wish not to be misunderstood or misrepresented in our design. We are attempting here, if we can, to cure two running sores of corruption, to stop two leaks in the public Treasury, and to do it at once. The gentleman from Ohio persists that his bill, as it now is, furnishes the only remedy. He so insists, I fear, out of pride of offspring, out of pride in his work; that there is nothing so good for this purpose as the bill the committee have hatched out after seven months' incubation. Practically, however, it is in effect to say that the tax on whisky and tobacco shall not be reduced this session. If his bill be proceeded with without modification the effect will be that no bill touching whisky or tobacco can be passed. We shall thus be holding on to a bill uselessly and causelessly, and one which no one believes can be passed into a law this session.

Are we ready to do that? And when gentlemen taunt me with the responsibility for opposing this I am quite ready and willing to take it, and so will every Republican here be. Sir, we take it because we think this bill is a useless experiment. We want to do something practical. We on this side of the question have no pride of opinion. We have no love of offspring. We have no mutual scratch-my-back-and-I-will-tickle-your-elbow contrivance to maintain, but we stand directly upon the question of practical legislation, and want to pass what we can pass. We do not want to undertake to pass that which we cannot pass. It is on this proposition that we stand in our support of this resolution. I yield the rest of my time to the gentleman who gave me the floor.

Mr. SHANKS. I yield one minute to the gentleman from New York.

Mr. PRUYN. I simply wish to call the attention of the House to the fact that some weeks ago, before the discussion of this measure commenced, I requested the chairman of the Committee of Ways and Means to introduce a brief bill of the character now contemplated, telling him frankly that I had understood from his own side of the House, and from his own political friends, that they did not believe this bill could be gone through with at this session. We must look at this matter practically and determine, as the gentleman from Massachusetts [Mr. BUTLER] has said, whether in our judgment the bill now before the House, should it pass this body, can be acted upon by the Senate at this session. If it cannot pass the Senate it is wasting our efforts to go through with it here. Were there sufficient time for the purpose I should be very glad to coöperate in any proper effort to improve the internal revenue system, which is very defective; but I am satisfied that the most we can now hope for is to legislate on the important points mentioned in the resolution.

Mr. SHANKS. I yield five minutes to the gentleman from Iowa.

Mr. PRICE. Mr. Speaker, I am one of the unfortunate fifty-seven, if so designated, who voted originally for going on with the consideration of this bill; and I feel called upon to avail myself of the courtesy of the gentleman from Indiana to give my reasons for it, for I flatter myself that I do not do anything on this floor or off it without having, as I conceive, a good reason for it. And here, lest I forget it before my five minutes expire, allow me to say that I have no fault to find with the Committee of Ways and Means. I have no antagonism to them whatever. I think they have labored industriously, zealously, and honestly for the perfection of the bill. But I think, like all mortals, they have failed in some instances to bring it to perfection. There are a great many particulars in which the bill might have been

improved, as evidence of which I will refer to the fact that after spending seven months in bringing forth this bill they come in here with a quantity of amendments. I will not attempt to number them—themselves proving conclusively that the bill is far from being perfect. But I find no fault on that account; I only cite the fact to show that the bill is very imperfect as it is.

The chairman of the committee stated when this bill was introduced that we could get through it in ten days or two weeks. I knew then, as I know now, that he was mistaken. I have no doubt he thought so, but I was satisfied, from what little experience I have had here, that we could not get half through with it. The fact proves who was right, for we have been engaged nearly three weeks on the bill and have not got half through it yet. We are nearly half through the pages, but remember we have got to go back and consider six pages which we found ourselves unable to act upon with any degree of certainty, and therefore passed them over.

Mr. SCHENCK here made a remark inaudible to the reporter.

Mr. PRICE. Sir, I am not afraid to go to the country on my vote. I may be wrong in the votes I give, but being afraid to go to the country is not one of my failings; and it is not worth while to try to scare me.

Mr. SCHENCK. I suppose the gentleman would like to be right as to his facts.

Mr. PRICE. Undoubtedly.

Mr. SCHENCK. The bill was taken up, and then various other matters interfered with it, so that instead of being engaged on it nearly three weeks it has not had more than five full days' consideration.

Mr. PRICE. I do not think any of the gentlemen who voted with the fifty-seven in this case feel very much scared about this going to the country, for it was a self-evident fact to all men inside of this Hall, and outside of it, too, that we could not get the bill through at any time during the present session. The question of whisky and tobacco must be considered. We must have something in reference to that matter to go to the country or we shall go home condemned by every honest Republican and Democrat between the Atlantic and the Pacific; and it is for the very reason that we must have that that we are now in favor of postponing this bill and advocating the resolution. Let us take up the matter of the tax on whisky and tobacco and pass something upon that, and after that is done, if we have time, we can take up the balance of the bill and finish it.

We have no fault to find with the bill, or with the Committee of Ways and Means, but it is a question of expediency whether we shall do something in reference to whisky and tobacco, or do nothing at this session. That is why the men who are advocating this resolution take the ground they do. They may be mistaken, but they are honest in it, and their judgment may possibly approach as near to perfection as that of those by whom they are opposed. They do not claim to be perfect, but they say that they have a right to their opinions on this floor, and they think they have the good of the country as much at heart as the Committee of Ways and Means, and no more. We have no fault to find with the committee, but it is a matter of policy and prudence whether we shall take up this matter and act upon it and give it to the country. And let me remind the House that we cannot hope to have the bill passed in less than three months if we go through with the whole bill, when, if we take up the whisky and tobacco provisions, we may have a bill in less than three weeks, or less than one week, and let it go to the country, and thus, if possible, defeat these infamous swindlers of the public known as the whisky ring of the country. That is why we advocate the resolution, and for no other reason in the world. We want to go before the country and on the record in a proper manner.

The SPEAKER. The time allowed for



debate has expired, and the question is upon ordering the main question to be now put, on which the yeas and nays have been ordered.

Mr. SCOTFIELD. I ask unanimous consent to insert "mineral oils" in the resolution.

Mr. SPALDING. I object.

Mr. WASHBURN, of Illinois. I hope that by unanimous consent the call of the yeas and nays will be dispensed with.

Mr. SCHENCK. No, sir; I want the yeas and nays on ordering a vote on this question.

The question was taken; and it was decided in the affirmative—yeas 79, nays 63, not voting 47; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Barnes, Beaman, Beck, Benjamin, Bingham, Blaine, Blair, Boyer, Buckland, Burr, Butler, Cary, Covode, Dawes, Delano, Dixon, Dodge, Donnelly, Driggs, Eldridge, Eliot, Ferriss, Ferry, Fields, Glossbrenner, Golladay, Grover, Halsey, Harding, Hawkins, Holman, Hotchkiss, Hulburd, Humphrey, Johnson, Julian, Kelsey, Kitchen, Knott, Kuntz, Ladin, Loughbridge, Lynch, Mallory, Marvin, McCarthy, McCormick, Mercer, Moore, Myers, Newcomb, Nunn, Pike, Plants, Price, Pruyn, Randall, Robinson, Selye, Shanks, Shellabarger, Spalding, Starkweather, Stewart, Stone, Taber, Thomas, Lawrence S. Trimble, Trowbridge, Upson, Van Aernam, Van Trump, Ward, Elihu B. Washburne, William Williams, and Woodward—79.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beatty, Benton, Boutwell, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Cullom, Eckley, Eggleston, Ela, Farnsworth, Garfield, Gravelly, Griswold, Higby, Hooper, Hopkins, Chester D. Hubbard, Ingersoll, Jenckes, Judd, Loan, Logan, Maynard, McClurg, Miller, Morrill, Mullins, Niblack, O'Neill, Paine, Peters, Phelps, Pile, Polstey, Pomeroy, Raum, Sawyer, Schenck, Scofield, Aaron F. Stevens, Stokes, Taffe, Taylor, Twichell, Robert F. Van Horn, Henry D. Washburn, Welker, Thomas Williams, and John T. Wilson—63.

NOT VOTING—Messrs. Ames, Arnell, Barnum, Bromwell, Brooks, Broomall, Chanler, Finney, Fox, Getz, Haight, Hill, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Jones, Kelley, Kerr, Ketcham, George V. Lawrence, William Lawrence, Lincoln, Marshall, McCulloch, Moorhead, Morrissey, Mungen, Nicholson, Orth, Perham, Poland, Robertson, Ross, Sitgreaves, Smith, Thaddeus Stevens, John Trimble, Van Auker, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—47.

So the main-question was ordered.

The question was upon the adoption of the resolution.

Mr. MAYNARD. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 74, nays 63, not voting 52; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Barnes, Beaman, Beck, Benjamin, Blaine, Blair, Boyer, Buckland, Burr, Butler, Cary, Dawes, Delano, Dixon, Dodge, Donnelly, Driggs, Eldridge, Eliot, Ferriss, Ferry, Fields, Glossbrenner, Golladay, Grover, Halsey, Harding, Hawkins, Holman, Hotchkiss, Hulburd, Humphrey, Johnson, Julian, Kelsey, Kitchen, Knott, Kuntz, Ladin, Loughbridge, Lynch, Mallory, Marvin, McCarthy, McCormick, Mercer, Moore, Newcomb, Nunn, Pike, Price, Pruyn, Randall, Robinson, Selye, Shanks, Shellabarger, Spalding, Stewart, Stone, Taber, Thomas, Lawrence S. Trimble, Trowbridge, Upson, Van Aernam, Van Trump, Ward, Elihu B. Washburne, William Williams, and Woodward—74.

NAYS—Messrs. Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beatty, Benton, Boutwell, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Cullom, Eckley, Eggleston, Ela, Farnsworth, Garfield, Griswold, Higby, Hooper, Hopkins, Chester D. Hubbard, Ingersoll, Jenckes, Judd, Loan, Logan, Maynard, McClurg, Miller, Morrill, Mullins, Myers, Niblack, O'Neill, Paine, Peters, Phelps, Pile, Plants, Polstey, Pomeroy, Raum, Sawyer, Schenck, Scofield, Aaron F. Stevens, Stokes, Taffe, Taylor, Twichell, Robert F. Van Horn, Henry D. Washburn, Welker, Thomas Williams, and John T. Wilson—63.

NOT VOTING—Messrs. Allison, Ames, Arnell, Barnum, Bingham, Bromwell, Brooks, Broomall, Chanler, Covode, Finney, Fox, Getz, Gravelly, Haight, Hill, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Jones, Kelley, Kerr, Ketcham, George V. Lawrence, William Lawrence, Lincoln, Marshall, McCulloch, Moorhead, Morrissey, Mungen, Nicholson, Orth, Perham, Starkweather, Thaddeus Stevens, John Trimble, Van Auker, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—37.

So the resolution was adopted.

Mr. SHANKS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### GREAT AND LITTLE OSAGE INDIANS.

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives:

I transmit herewith a report from the Secretary of the Interior, made in reply to a resolution adopted by the House of Representatives on the 13th instant. The treaty recently concluded with the Great and Little Osage Indians, to which the accompanying report refers, was submitted to the Senate prior to the receipt of the resolution of the House upon the subject.

ANDREW JOHNSON.

WASHINGTON, D. C., June 15, 1868.

Mr. CLARKE, of Kansas. I move that the message and accompanying document be printed, and referred to the Committee on Indian Affairs.

The motion was agreed to.

Mr. CLARKE, of Kansas. I also move that the Committee on Indian Affairs have leave to report upon this subject at any time, not within the morning hour.

The SPEAKER. That would require unanimous consent.

Mr. SCHENCK. I object.

Mr. CLARKE, of Kansas. I hope the gentleman will withdraw his objection.

Mr. SCHENCK. I want to offer a resolution, and when the gentleman hears it he will understand why I object.

The SPEAKER. The President's message upon the subject being before the House, any motion growing out of it is naturally in order. But if the floor passes away from the gentleman from Kansas, [Mr. CLARKE,] the next business in order will be the motion to suspend the rules, submitted by the gentleman from Massachusetts [Mr. ELIOT] on Monday last.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had disagreed to the amendments of the House to Senate bill No. 184, granting a pension to Mrs. Ann Corcoran, and asked a committee of conference upon the disagreeing votes of the two Houses upon the bill; and announced that Mr. VAN WINKLE, Mr. TRUMBULL, and Mr. EDMUNDS had been appointed the conferees on the part of the Senate.

The message further announced that the Senate had passed the following bills, in which the concurrence of the House was requested:

An act (S. No. 448) to refund duties erroneously exacted in certain cases; and

An act (S. No. 469) confirming the title to a tract of land in Burlington, Iowa.

#### MRS. ANN CORCORAN.

The request of the Senate for a committee of conference upon the disagreeing votes of the two Houses upon Senate bill No. 184, granting a pension to Mrs. Ann Corcoran, was considered by unanimous consent, and agreed to.

The Speaker subsequently appointed Mr. VAN AERNAM, Mr. MILLER, and Mr. BURR, as the conferees on the part of the House.

#### ELECTION CONTEST—CHAVES VS. CLEVER.

The SPEAKER, by unanimous consent, laid before the House additional evidence in the contested-election case of Chaves vs. CLEVER, New Mexico; which was referred to the Committee of Elections, and ordered to be printed.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I ask unanimous consent to submit the following resolution for consideration at this time:

Resolved, That after the report of a tax bill by the Committee of Ways and Means, in pursuance of the order just passed, no other business shall be in order but the consideration of the bill so reported by said committee except reports from the Committee on Enrolled Bills.

Several MEMBERS. That is right.

The SPEAKER. The Chair will state that this will cut out the morning hour entirely. Is there objection?

Mr. INGERSOLL. I object.

Mr. SCHENCK. I move to suspend the rules to introduce the resolution.

Mr. ELIOT. I must object to that at this time.

Mr. SCHENCK. Mr. Speaker, is it not in order to move to suspend the rules?

The SPEAKER. It will be if the gentleman from Kansas [Mr. CLARKE] and the gentleman from Massachusetts [Mr. ELIOT] both surrender the floor.

#### GREAT AND LITTLE OSAGE INDIANS.

Mr. SCHENCK. I withdraw my objection to the motion of the gentleman from Kansas, [Mr. CLARKE.]

The SPEAKER. If there is no further objection it will be ordered that the Committee on Indian Affairs have authority to report upon the question of the treaty with the Osage Indians at any time outside of the morning hour.

There was no objection.

#### RIVER AND HARBOR BILL.

The SPEAKER. On last Monday night, just before the adjournment of the House, the gentleman from Massachusetts [Mr. ELIOT] moved to suspend the rules for the purpose of discharging the Committee of the Whole from the further consideration of the river and harbor bill, and ordering that the bill be at once considered in the House. That is now the pending motion.

Mr. ELIOT. I will modify my motion so as to assign the bill for consideration on Thursday next after the morning hour.

Mr. ALLISON. I ask the gentleman to name either an earlier or a later time.

Mr. ELIOT. If the gentleman from Iowa [Mr. ALLISON] is under the impression that the Committee of Ways and Means will be prepared to report the tax bill by Thursday, I have personally no sort of objection to taking up the river and harbor bill to-morrow, and disposing of it in season to clear the way for the tax bill.

Several MEMBERS. Take up your bill to-morrow.

Mr. BLAINE. Will that cut off the special order for Wednesday—the bill to protect American commerce?

The SPEAKER. It will not. That bill, having been made a special order by unanimous consent, will have priority over all other orders.

Mr. BLAINE. Then I do not object.

Mr. DAWES. I do not want to lose my right to call up the question of privilege, the bill to admit R. R. Butler to a seat.

The SPEAKER. The Chair will state that when special orders are being assigned after the morning hour questions of privilege should be called up immediately after the reading of the Journal. If there is no objection it will be ordered that the Committee of the Whole be discharged from the further consideration of the river and harbor bill, and that it be considered in the House as in Committee of the Whole to-morrow after the morning hour.

There was no objection.

Mr. ELIOT. I move to reconsider the vote by which the order was just made in regard to the river and harbor bill; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I again ask unanimous consent to submit the following resolution:

Resolved, That after the report of a tax bill by the Committee of Ways and Means, in pursuance of the order just passed, no other business shall be in order but the consideration of the bill so reported by said committee except reports from the Committee on Enrolled Bills.

Mr. SPALDING. Does that cut off appropriation bills?

The SPEAKER. It cuts off all other business than the tax bill.

Mr. SPALDING. Then I object.

Mr. SCHENCK. I move, then, to suspend the rules for the purpose of introducing and adopting the resolution just read.

The motion was agreed to.

So the resolution was introduced and adopted. Mr. ALLISON moved to reconsider the vote

just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SCHENCK. Gentlemen ask how soon a bill of that kind can be reported. That depends on circumstances, but mostly on the interpretation of the resolution. We are to report, so the resolution says, on the revision of the taxes. If we are only to report what shall be the tax on distilled spirits and what on tobacco, we will be able to report very soon indeed. If we are to retain all the machinery provided for the collection of the tax and all those portions of the bill dovetailed together giving it unity, I do not know how long it will take. Inquire, therefore, of gentlemen wiser than myself what interpretation they put upon this resolution? It only directs the revision of the taxes. I wish to know whether we are to go into the machinery for the collection of the taxes, whether we are to introduce the necessary provisions which we have already reported.

Mr. DAWES. The House has confidence that the committee will report such measures and such tax on whisky and tobacco as may be required.

Mr. SCHENCK. I ask in good faith to have the interpretation of this resolution settled. I find members of the Committee of Ways and Means are disagreed to some extent as to what the resolution at last means. I ask that the resolution be again read.

Mr. WASHBURN, of Illinois. That does not bring the resolution again before the House?

The SPEAKER. It does not.

The resolution was again read.

Mr. SCHENCK. Now, Mr. Speaker, I ask when the Committee of Ways and Means report a bill under that resolution the members of the House will stay here and help us to get it through. When we had the other bill before us the members who voted to-day to set it aside left us by their absence without a quorum in Committee of the Whole, and thus delayed action.

Mr. PRICE. The gentleman does not refer to me, for I was always in attendance.

Mr. SCHENCK. I believe the gentleman attended faithfully.

Mr. HARDING. I was always present in Committee of the Whole on the state of the Union.

Mr. SCHENCK. The gentleman need not purge himself, I will give him a certificate. Both of those gentlemen having been here are as well aware of the fact as I am that while they and I and others have been here we have been without a quorum to attend to this business; and we were without a quorum because of the absence of many of those who voted this morning to send this bill back to the committee.

Mr. HARDING. I understand the gentleman to say he is in favor of the reduction of the tax on whisky.

Mr. SCHENCK. I think the committee will be inclined to go for it.

Mr. HARDING. I hope the committee will not procrastinate, so there may be an end to the reign of the "whisky ring."

Mr. LOGAN. I hope we will have no more insinuations, and that this debate, which is entirely out of order, will be brought to a close.

The SPEAKER. The debate is not in order.

Mr. SCHENCK. I thought I was in order. The House suspended the rules for the introduction of my resolution to make the bill, when reported from the Committee of Ways and Means, the special order until disposed of. In view of that I wish also to have the order of the House instructing the committee more definite. It is now indefinite, and gives rise to various interpretations.

The SPEAKER. The gentleman's resolution was adopted..

#### CONTESTED ELECTIONS IN WASHINGTON.

Mr. SCHENCK. I offer the following resolution; and if I cannot have unanimous consent to offer it I will move to suspend the rules.

Resolved, That the rules be suspended, and Senate

bill No. 534 be taken from the Speaker's table for action at this time; and after twenty minutes' debate on each side the vote shall be taken on the passage of the bill without any dilatory motions whatever."

Mr. ELDRIDGE. What is that bill?

The SPEAKER. It is the Senate bill relating to contested elections in the city of Washington.

Mr. BOYER. I object.

Mr. ELDRIDGE. It is an outrage to attempt to pass this bill, allowing only twenty minutes for debate.

Mr. SCHENCK. I insist on my resolution for the suspension of the rules for the purpose indicated.

Mr. RANDALL. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 103, nays 27, not voting 59; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Buckland, Butler, Calkins, Churchill, Reader W. Clarke, Cobb, Cook, Cornell, Covode, Cullom, Dawes, Delano, Dixon, Dodge, Donnelly, Driggs, Eggleston, Eli, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravelly, Harding, Hawkins, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Ingersoll, Jenckes, Judd, Julian, Kelsey, Kitchen, Kootz, Ladin, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercer, Miller, Moore, Morrill, Mullins, Myers, Newcomb, Nunn, O'Neill, Peters, Pike, Plants, Polley, Pomeroy, Price, Raum, Sawyer, Schenck, Scofield, Seelye, Shanks, Shellabarger, Spalding, Aaron F. Stevens, Stokes, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Ward, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, and William Williams—103.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Beck, Boyer, Burr, Cary, Eldridge, Glossbrenner, Golladay, Grover, Hotchkiss, Humphrey, Johnson, Knott, McCormick, Nicklack, Phelps, Pruyn, Randall, Robinson, Stewart, Taber, Lawrence S. Trimble, Van Trump, and Woodward—27.

NOT VOTING—Messrs. Ames, Arnell, Banks, Barnum, Bromwell, Brooks, Broomall, Chandler, Sidney Clarke, Coburn, Eckley, Finney, Fox, Getz, Griswold, Haight, Halsey, Hill, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Jones, Kelley, Kerr, Ketcham, George V. Lawrence, William Lawrence, Lincoln, Marshall, McCullough, Moorhead, Morrissey, Mungen, Nicholson, Orth, Paine, Perham, Pike, Poland, Robertson, Ross, Sitgreaves, Smith, Starkweather, Thaddeus Stevens, Stone, John Trimble, Van Auker, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—59.

So (two thirds having voted in favor thereof) the rules were suspended and the bill was before the House, and was read a first and second time.

The bill was reported. It provides that whenever any person has received or shall hereafter receive a certificate from the register of the city of Washington, based upon satisfactory evidence furnished by the commissioners of election, notifying him of his election to any elective office in said city, the person receiving such notification shall be entitled to enter upon the discharge of the duties of his office, and the certificate of the register shall be *prima facie* evidence of his election to and right to discharge the duties of the office.

The second section provides that any person who shall hinder or obstruct a person holding the certificate of election mentioned in the foregoing section from entering upon or discharging the duties of his office, shall be deemed guilty of a misdemeanor, and upon conviction thereof, in any court of competent jurisdiction, shall be fined in any sum not exceeding \$1,000, or be imprisoned in the county jail not exceeding six months, or both, in the discretion of the court.

The third section proposes to give the supreme court of the District of Columbia, or any judge thereof, jurisdiction to enforce, by *mandamus* or otherwise, the right of any person holding the certificate mentioned in the first section.

Under the fourth section any person who claims, or shall hereafter claim, to be elected to any elective office in Washington city may commence proceedings before the supreme court of the District of Columbia, by petition setting forth the facts upon which he relies, and shall serve a copy on the incumbent or person who has received the certificate of elec-

tion; and the person so served is to make answer to the petition within five days; and the court is thereupon to try the rights of the parties to the office in a summary manner; and for that purpose a special session is to be called and held whenever necessary for the purposes of such trial; and the decision of the court in any case so brought before it is to be final and conclusive. And when the legal organization of the board of aldermen or board of common council shall be delayed on account of any contest in relation to the election of any member of either of said boards, the mayor of said city is hereby authorized to make temporary appointments of all subordinate officers, whose appointment or election is authorized by the said mayor and members of said boards under existing laws, to continue until said boards shall be legally organized.

Mr. RANDALL. I move to lay the bill on the table.

Mr. ELDRIDGE. On that I call the yeas and nays.

The SPEAKER. The Chair cannot entertain the motion. By the resolution suspending the rules the House has ordered after twenty minutes' debate on each side that the vote shall be taken on the passage of the bill, without any dilatory motion whatever.

Mr. ELDRIDGE. The motion to lay on the table is not a dilatory motion. The Speaker has so held.

The SPEAKER. The order of the House is precisely the reverse, however, to-day. This order is not only "without any dilatory motion whatever," but it says that after twenty minutes' debate on each side the House shall take a vote on the passage of the bill.

Mr. RANDALL. Is it not in the power of the House to vote the bill down—to kill it?

The SPEAKER. It is; by rejecting it.

Mr. RANDALL. Well, I want to take a summary method of doing it, by laying it on the table.

The SPEAKER. The House has ordered, under a suspension of the rules, that after twenty minutes' speeches on each side the vote shall be taken on the passage of the bill.

Mr. ROBINSON. When was that order made?

The SPEAKER. Just now, under a suspension of the rules, by a vote of yeas 103, nays 27.

Mr. ROBINSON. I understand that the rules were suspended to bring the bill before the House, but that does not pass the bill.

The SPEAKER. It does not pass the bill, of course.

Mr. ROBINSON. I have not heard any resolution put that we shall have twenty minutes' speaking on each side.

The SPEAKER. That is now to commence.

Mr. ROBINSON. By what order?

The SPEAKER. Under this order which the Chair will read.

Mr. ROBINSON. The House simply suspended the rules that the bill might be brought up.

The SPEAKER. That is not a correct statement. The resolution adopted by the House was as follows:

Resolved, That the rules be suspended, and Senate bill No. 534 be taken from the Speaker's table for action at this time, and after twenty minutes' debate on each side the vote shall be taken on the passage of the bill without any dilatory motions whatsoever.

Mr. ROBINSON. The Speaker will excuse me; I was mistaken.

Mr. SCHENCK. Gentlemen will observe that the charter under which we are doing business just now is the resolution just passed. [Laughter.]

Mr. ROBINSON. It is not the usual way, and I was mistaken.

Mr. SCHENCK. It allows twenty minutes' debate to each side. That is not very much better than putting the previous question on the bill, I admit, but it does afford gentlemen on either side an opportunity through some one or more of their number to state the reasons why they will vote for or against the bill. That is all.

Mr. BOYER. I do think twenty minutes' time is entirely inadequate for the discussion of such a measure as this.

Mr. SCHENCK. It is too late now to reconsider that matter.

Mr. BOYER. I make an appeal to the gentleman and to the House to allow longer time.

Mr. SCHENCK. I should have finished by this time, if the gentleman had not interrupted me, and given way to him.

At present the law does not provide any way for trying cases of contested elections. The Senate has passed and sent to us a bill which supplies that omission. So far as the mayor of this city is concerned, I believe that whatever dispute may have occurred in relation to his being inducted into office all are agreed that he at least was elected by a small majority. So far as the members of the two boards constituting the council of the city (its legislative department) are concerned, there is a dispute in at least one of the wards, and there are two sets of claimants. In consequence of this there has been an organization or attempt at organization by both, and each has recognized a different mayor, one the mayor-elect and the other an *ad interim*, whom they have created for the occasion. This condition of things, although people at a distance may regard it as rather a "tempest in a tea-pot," considering the excitement that it has occasioned here in this city, is yet very serious, and I am assured by more than one gentleman who from his position ought to know and understand the subject well, that if Congress stands by and permits this anomalous condition of things to continue it will result probably in violence before the end of the week, such being the threats made and such the temper that is being excited.

Now, I regard it as a thing not for a moment to be consented to that we, acting as the Legislature of this District and city, should sit here and permit such a condition of things to continue when we can apply a remedy. I have been anxious, therefore, that the bill from the Senate which remits this subject to the supreme court of the District should not only become a law, but that by our concurrence in it, with or without amendment, as the case may be, it should become a law so soon as to prevent this condition of things from ripening into further or greater troubles.

Without going into the details of this bill, these are the reasons why I will support it, being satisfied with its provisions in the main.

Now, so far as I am concerned, I am willing to give any portion of the time I control to gentlemen on the other side, so that they can give their reasons for not supporting the bill.

Mr. ELDRIDGE. I think it proper that the debate on the other side should be concluded before we take our twenty minutes.

Mr. SCHENCK. Very well. I have stated the reasons which are sufficient to control my vote for this bill. I will now yield the floor to any gentleman who may get it. I do not suppose that we are compelled to occupy the entire twenty minutes allowed for this side.

No one arising to speak in favor of the bill, The SPEAKER said: The debate in favor of the passage of the bill is now closed.

Mr. RANDALL. I desire to say here that the object of this bill is to accomplish a political result which I deem unworthy of any political party, certainly of the now dominant party, in a country like ours.

Some time ago a bill was passed through this House in reference to the charter of the city of Washington. The dominant party, then supposing that they were in danger of losing the mayoralty of this city, changed the old mode of appointing and electing every officer in this city, took that power away from the mayor and gave it to the joint convention of council and aldermen. The election came on. Admitting the statement of the gentleman from Ohio [Mr. SCHENCK] to be correct, their candidate for mayor was unexpectedly elected, while, also unexpectedly to them, the two branches of the common council were carried by the white people of the district, who were

aided by the soldier, against the black people of the District. It now becomes necessary to traverse the whole mode of electing and appointing officers, which results from the bill lately passed, and to change it so that by this procedure the control of the two branches of the common council shall be handed over to the black people of this District.

This bill is a proposition to do nothing more or less than to throw out three white candidates for the council in one ward and put in their places three white representatives of the negroes in that ward. That is the sole issue. I say again, that I have never known any party, in any part of the country, who stooped so low to do that which was wrong, to profit by it; and I do not believe they will profit by it in this case. I believe as they were defeated and overthrown under the charter which they thought it necessary to pass, in order to put down the white people of this District, so will they fail again.

In the particular ward to which I have referred they have undertaken to deprive the soldiers of the right to vote, to which they were entitled quite as much as were the negroes who were brought in and made voters in this District after a residence of fifteen days.

However, no effort of mine can stop the action now proposed. My province is only to expose the proposition and the purpose of it. I am surprised that gentlemen on the other side should undertake to act in this way. They are undertaking to give the black people of this District the control over the white people of the District. That is really the issue involved in the passage of this bill.

For one, I shall content myself with casting my vote against this measure in every shape and form. I now yield to my colleague, [Mr. BOYER.]

Mr. BOYER. Mr. Speaker, we seem to have arrived at that stage of the legislation of Congress when it is in vain to appeal to any principle of justice or fairness, or to advocate any cause because it is founded upon existing law, unless at the same time it can be demonstrated that it is for the interest of the party in power, and will serve to perpetuate its rule. It is the same whether the proposition be the reconstruction of a State, or the election of mayor and councilmen of a city.

I have not time to discuss the questions involved in this measure. I have not time to read the law as it stands upon the statute-book, a law which was framed by this Congress for its own purpose, and intended to regulate the municipal elections of the city of Washington, and which, because it does not now operate as it was supposed it would, so as to continue the power of the Republican party in this city, it is proposed to change, after the election which it is to affect has actually taken place, and to direct that certificates of election shall be given to those who failed to receive a majority of the votes at the polls.

By the act of Congress lately passed there were five judges of election provided for the city of Washington, to be appointed by the supreme court of the District. Those judges were to attend to the registration of voters, and to decide who was a legal voter within the meaning of the act of Congress. These judges of election were actually appointed by the supreme court of the District. They performed their duties. Lists of registration were made out and perfected. Another act of Congress subsequently passed provided that there should be commissioners of election appointed by the same court, who were to receive the ballots cast by the persons whose names had been entered by the judges of election upon the lists of registration. These commissioners were ministerial officers merely. By the express provisions of the law they are to decide, not upon the qualifications of voters, but only upon their identity; and this is all in fact that in the late election the commissioners of election undertook to perform. In the fifth ward of this city it so happened that these commissioners of election in pursuance

of their duty returned, as it was provided by law that they should do, that certain individuals who had received a majority of the votes cast were elected to the common council. It happened that they were not Radicals, as was expected, and hence the trouble. The register of the city, who under the law has nothing to do but simply to make a record of the returns and to notify the persons elected—mere ministerial acts—undertook to withhold the notice from certain persons of those who were returned in the first instance by the commissioners of election as having been legally elected to the council. It is true that after the performance of that act, the commissioners of election were induced to make a supplemental return; but when they did that they were *functi officio*, without any further power and incompetent to revoke the return which they had previously made according to the express provisions of the law. The law further provides, that upon returns being so made, the mayor of the city shall proclaim the persons so returned elected. That was done in this instance. Yet those gentlemen thus elected and so returned and proclaimed as elected were denied the right to take their seats at the council board. And now, it being evident that there is no law for such a proceeding, this shameless retroactive measure has been introduced into the Senate, passed there, and is now before this House, for the purpose of making the certificate of the register, who before had no judicial powers, the *prima facie* evidence of election, thus changing the law from what it was when the election took place for the mere purpose of enabling the Republican party to have a majority of councilmen at the board where they had been unexpectedly left in a minority by the result of the election.

Mr. NIBLACK. I trust the gentleman will allow me a single inquiry. I have not had an opportunity of examining this bill since it was passed by the Senate; but I understand that as to the question of a *prima facie* case, it creates one rule with reference to the mayor, and another with reference to the members of the council. I wish to inquire whether that is the fact?

Mr. BOYER. It is.

Mr. NIBLACK. And being so, does not that operate in each case in favor of the Republican candidates?

Mr. BOYER. Undoubtedly it does. The design is patent upon the very face of the bill. I wish I had time to ventilate it before this House and before the country. It was well for the gentlemen on the other side to restrict the debate on this side of the House to twenty minutes. It is their habit thus to restrict debate when the measure which they introduce and undertake to force through this House will not bear the test of honest, fair discussion.

Mr. DAWES. I would like to ask the gentleman one question. Who, under the existing law, gives the certificates to the parties claiming to be elected?

Mr. BOYER. Under the existing law it is provided that the mayor shall proclaim who are elected according to the returns of the commissioners of election; and that was done in this instance. The register has nothing more to do with it than to perform the simple ministerial act of notifying the persons who are elected; and whether he notifies them or not under the law it cannot make one particle of difference, nor affect in the slightest degree the validity of the election of those who are returned as the elected officers by the commissioners, and who are proclaimed to be so elected and returned by the mayor.

Mr. DAWES. I was simply inquiring who, under the existing law, gives the certificates.

Mr. ELDRIDGE. The gentleman from Massachusetts ought not take up the time of the gentleman from Pennsylvania [Mr. BOYER] when it is so limited.

Mr. BOYER. No, sir; I cannot yield further. The gentlemen are welcome to all the capital they can make by the passage of this measure. If we cannot discuss it here, we can take the



opportunity to discuss it before the country. We shall show that those whose votes were thrown out were soldiers who resided here one year, and had been legally registered according to the law as it existed at the time. I should like to ask how it was known that their votes were cast for the conservative candidates? I should like to know upon what law or correct principle these men undertake to decide that the votes thus cast were on one side or the other? What official evidence had they? What testimony did they take? What judicial tribunal of any kind was the case ever before?

Mr. MAYNARD. As the gentleman asks for information—

Mr. BOYER. I cannot yield. The reply would be, I suppose, that the commissioners of election undertook to mark the ballots which were voted by these soldiers, so their ballots could afterward be recognized in the count. I should like to know upon what correct principle that is to be allowed in any community where it is provided by law that the election shall be by ballot? The sanctity of the election by ballot depends on its privacy. No election officer or any other man in the community has the right to look inside of a citizen's ballot to find out how he voted. He has no more right to do that than to put his hand into the pocket of the voter and take from it his pocket-book. Doubtless, when the next municipal election in Washington takes place, this Congress, if the majority in it should remain as it is, will invent some new dodges for the emergency, and set aside the law which they are now making with as little scruple as they dispose of that which they enacted a few months ago, if by so doing they can help their own friends into office.

I have been informed that the votes of over a hundred soldiers were thrown out of the ballot-box to accomplish the object in this case. All these have, without any judicial investigation, been deducted from the votes polled for the Conservative candidates. Has it come to this that the presumption is that the enlisted soldier when he goes to the polls votes the Democratic ticket? If that be so on that issue I should rejoice to go before the country. Let the dusky sons of Africa vote the Republican ticket. If we have the white soldiers of the country to vote ours, we shall be content with this exchange, and we do not mean to be always defrauded.

I am sorry I must discuss this measure in this desultory way. If I had time I should prefer to review with more deliberation the law as it stands, and expose more at length the injustice, the fraud, and the outrage of this bill upon the rights of the voters of this city. As it is we have little else to do upon this occasion than to enter our protest against this iniquitous measure, and put ourselves upon record against it by our votes.

The SPEAKER. The question is on the passage of the bill.

Mr. NIBLACK demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 94, nays 25, not voting 70; as follows:

YEAS—Messrs. Allison, Anderson, Bailey, Baldwin, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Buckland, Butler, Clarke, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Delano, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Fields, Garfield, Gravely, Halsey, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Jenckes, Judd, Julian, Kelsey, Knott, Laffin, Joan, Logan, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercer, Miller, Moore, Morrell, Mullins, O'Neill, Paine, Peters, Pike, Pile, Plants, Polsley, Pomeroy, Price, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Spalding, Aaron F. Stevens, Stokes, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Ward, Elihu B. Washburne, Henry D. Washburn, Welker, William Williams, and John T. Wilson—94.

NAYS—Messrs. Adams, Axtell, Barnes, Beck, Boyer, Burr, Eldridge, Eggleston, Golladay, Grover, Holman, Hotchkiss, Humphrey, Knott, McCormick, Niblack, Pruyn, Randall, Robinson, Stewart, Stone, Tabor, Lawrence S. Trimble, Van Trump, and Woodward—25.

NOT VOTING—Messrs. Ames, Archer, Arnell,

Delos R. Ashley, James M. Ashley, Baker, Banks, Barnum, Bromwell, Brooks, Broomall, Cary, Chandler, Cornell, Ferry, Finney, Fox, Getz, Griswold, Haight, Hawkins, Hill, Asabel W. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Johnson, Jones, Kelley, Kerr, Ketcham, Kitchen, George V. Lawrence, William Lawrence, Lincoln, Loughbridge, Marshall, McCullough, Moorhead, Morrissey, Mungen, Myers, Newcomb, Nicholson, Nunn, Orth, Perham, Phelps, Poland, Raum, Robertson, Ross, Selye, Sitgreaves, Smith, Starkweather, Thaddeus Stevens, John Trimble, Van Anken, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—70.

So the bill was passed.

During the roll-call,

Mr. RAUM stated that he was paired with his colleague, [Mr. MARSHALL.]

The result having been announced as above recorded.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

Mr. ELDRIDGE. I demand the yeas and nays on the motion.

Mr. SCHENCK. I withdraw it.

#### PAYMENT OF BOUNTIES.

Mr. PAINE, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to communicate to this House a statement of the number of additional bounties paid under the act of July 28, 1866, by the paymaster general during each month since January 1, 1863, to claimants from the respective States and Territories.

Mr. PAINE moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EXTRA PAY OF GOVERNMENT EMPLOYEES.

Mr. BINGHAM. I rise to a privileged motion. I move to reconsider the vote by which the House passed the joint resolution (H. R. No. 291) giving additional pay to certain employes in the civil service of the Government at Washington.

#### REMOVAL OF THE CAPITAL.

Mr. LOGAN. I move to suspend the rules for the purpose of introducing the following preamble and resolution:

Whereas it is obvious that a disloyal element exists in the city of Washington, which is adverse to the authority of the Congress of the United States, and that a large portion of the citizens thereof have determined to set the laws of Congress at defiance, and to shield and defend conspirators and assassins, to menace and insult the representatives of the people assembled to make laws for the government of the nation; and whereas a great portion of the citizens of said city are at the present time, in direct violation of law and in defiance of the authority of Congress, attempting by revolutionary measures to overthrow the legally constituted authorities thereof by preventing said authorities from the due exercise of their legal functions, which proceedings are calculated and intended to produce riots and bloodshed, and render the city undesirable as a residence, and an unsafe and unfit place for Congress to assemble; and whereas it is of the highest importance that the capital of the nation and the archives of the Government should be in a place wholly secure from foreign invasion; and whereas it is of the greatest consequence that the seat of Government should be easily accessible by many lines of railway, and should be located in a populous region and a rich and highly cultivated country, and where obstructions to access and free communications are not interposed by the hostile legislation of neighboring States:

*Be it resolved*, That a committee of five members be appointed by the Speaker to inquire into the propriety and expediency of removing the seat of the General Government from said city of Washington to a point near the geographical center of the Republic, and that said committee be authorized at any time to report by bill or otherwise.

Mr. BOYER. I object to the introduction; it is a gross slander on this community.

Mr. ELDRIDGE. Is not the question debatable?

The SPEAKER. It is not.

Mr. ELDRIDGE. I was about to say I thought it was a foul slander on the people of this District.

The SPEAKER. Debate is not in order.

Mr. BOYER. It is utterly without foundation in truth.

Mr. LOGAN. I call the gentleman to order.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. ROBINSON. It is not understood that the adoption of the motion will carry the resolution also.

The SPEAKER. It does not. It is a motion to allow the resolution to be offered at the present time.

Mr. MAYNARD. Will it be in order if the motion prevails to discuss it?

The SPEAKER. The gentleman from Illinois [Mr. LOGAN] will then be entitled to the floor subject to the hour rule.

Mr. BOYER. Is it in order to move to lay it on the table?

The SPEAKER. It is not.

The question was taken on suspending the rules; and there were—yeas 43, nays 67, not voting 79; as follows:

YEAS—Messrs. Allison, James M. Ashley, Beatty, Benjamin, Butler, Cake, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Donnelly, Ela, Ferriss, Ferry, Gravely, Harding, Higby, Hopkins, Judd, Julian, Kelsey, Loan, Logan, McClurg, Mercer, Moore, Morrell, Mullins, Paine, Pike, Price, Sawyer, Shanks, Taffe, Upson, Robert T. Van Horn, Elihu B. Washburne, Henry D. Washburn, Thomas Williams, William Williams, and John T. Wilson—43.

NAYS—Messrs. Adams, Bailey, Baker, Banks, Barnes, Beaman, Beck, Bingham, Boutwell, Boyer, Burr, Cary, Churchill, Dawes, Delano, Driggs, Eldridge, Eliot, Farnsworth, Fields, Garfield, Golladay, Griswold, Grover, Hawkins, Holman, Hotchkiss, Chester D. Hubbard, Hulburd, Humphrey, Ingersoll, Jenckes, Knott, Koonitz, Laffin, Mallory, Marvin, Maynard, McCarthy, McCormick, Miller, Myers, Niblack, O'Neill, Peters, Pike, Polsley, Pomeroy, Pruyn, Randall, Robinson, Schenck, Spalding, Starkweather, Stewart, Stokes, Stone, Tabor, Taylor, Thomas, Lawrence S. Trimble, Trowbridge, Twichell, Van Aernam, Van Trump, Ward, and Woodward—67.

NOT VOTING—Messrs. Ames, Anderson, Archer, Arnell, Delos R. Ashley, Axtell, Baldwin, Barnum, Benton, Blaine, Blair, Bromwell, Brooks, Broomall, Buckland, Chanler, Cook, Cornell, Dixon, Dodge, Eckley, Eggleston, Finney, Fox, Getz, Glossbrenner, Haight, Halsey, Hill, Hooper, Asabel W. Hubbard, Richard D. Hubbard, Hunter, Johnson, Jones, Kelley, Kerr, Ketcham, Kitchen, George V. Lawrence, William Lawrence, Lincoln, Loughbridge, Lynch, Marshall, McCullough, Moorhead, Morrissey, Mungen, Newcomb, Nicholson, Nunn, Orth, Perham, Phelps, Plants, Poland, Raum, Robertson, Ross, Scofield, Selye, Shellabarger, Sitgreaves, Smith, Aaron F. Stevens, Thaddeus Stevens, John Trimble, Van Anken, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Welker, James F. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—79.

So (two thirds not voting in favor thereof) the rules were not suspended.

Mr. BUTLER obtained the floor.

#### TAX ON MINERAL OIL.

Mr. SCOFIELD. With the permission of the gentleman from Massachusetts, I ask unanimous consent to offer the following resolution:

*Resolved*, That the Committee of Ways and Means be authorized to include in such new tax bill as they may report the subject of mineral oil.

Mr. SPALDING. I object.

Mr. SCOFIELD. Will the gentleman allow me to move a suspension of the rule?

Mr. BUTLER. I will, but not to have the yeas and nays called on it.

Mr. SCOFIELD. I move to suspend the rules to enable me to offer the resolution.

The question was taken; and two-thirds not voting in favor thereof, the rules were not suspended.

#### INDIAN COMMISSION APPROPRIATION.

Mr. BUTLER. I move that the rules be suspended, and that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill (H. R. No. 1218) appropriating money to sustain the Indian commission, and to carry out treaties made thereby, and the same be considered in the House now.

The question was taken; and two thirds voting in favor thereof, the rules were suspended and the bill was brought before the House for action, the question being on ordering it to be engrossed and read a third time.

Mr. BUTLER. I only desire to state to the House that this appropriation bill is for the purpose of enabling the Indian commission under General Sherman to carry out the engagements they are now making with Indians.

in settling hostile demonstrations. The bill is reported upon the request of the commission by special messenger, and also by telegrams to both Houses. I trust there will be no objection to the bill, as there was none in the Committee on Appropriations.

Mr. WALD. How much money does the bill appropriate?

Mr. BUTLER. One hundred and fifty thousand dollars.

The bill was read. It appropriates \$150,000 for the purpose of carrying out treaty stipulations with various Indian tribes and defraying expenses and disbursements made by the commission authorized by the act of July 20, 1867, entitled "An act to establish peace with certain hostile Indian tribes during the year 1868;" the money to be expended under the direction of the commission.

Mr. BUTLER. I move the previous question on the bill.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BUTLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### AMERICAN PRISONERS IN GREAT BRITAIN.

Mr. ROBINSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the President of the United States is hereby requested by this House to take such measures as shall appear proper to secure the release from imprisonment of Messrs. Warren and Costello, convicted and sentenced in Great Britain for words and acts spoken and done in this country, by ignoring our naturalization laws, and to take such other measures as will secure their return to our flag with such ceremonies as are appropriate to the occasion.

#### MURDERS IN SOUTH CAROLINA.

Mr. ASHLEY, of Ohio. I move to suspend the rules to enable me to offer the following preamble and resolutions:

Whereas information, regarded as reliable, has been received that Solomon Dill, of Camden, South Carolina, late a member of the constitutional convention in said State, and a member-elect to the Legislature, together with two colored men, citizens of the United States, were brutally murdered on the night of the 6th instant, at the residence of said Dill, for no other reason than their devotion to the Union and the Government; and whereas in pursuance of the same system of organized assassination Mr. W. I. Mixon, school commissioner-elect for Barnwell county, North Carolina, was also recently assaulted by armed desperadoes and dangerously, if not mortally wounded: Therefore,

*Resolved*, (as the sense of this House,) That General R. K. Scott, the Governor-elect, should at once take the most active measures for the arrest of the said assassins and murderers, and to that end he is requested to offer a reward of \$10,000 for their prompt apprehension.

*Resolved further*, (as the sense of this House,) That it is the duty of the general commanding of said district to apprehend and place in close custody all well known desperadoes residing in the vicinity where said murders were committed, as a measure necessary to aid in revealing the murderers and to check the recurrence of such acts in the future.

Mr. FARNSWORTH. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at five o'clock and five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CAKE: A memorial of Thomas B. Bancroft and others, citizens of Ashland, Schuylkill county, Pennsylvania, complaining of the inadequacy of customs duties to protect the productive interests of the country, and praying for the reconsideration and passage of the general tariff bill which failed in the Thirty Ninth Congress.

By Mr. CARY: A petition from the merchants and grocers of the city of Memphis, Tennessee, protesting against any change in the existing tariff on imported sugar.

By Mr. HOOPER, of Massachusetts: The petition of James H. Beal and others, presidents and directors of national banks, in favor of creating the office of United States sealer, for the purpose of sealing scales and weights used in national banks, navy-yards, custom-houses, &c.

By Mr. JULIAN: The petitions of numerous citizens of Iowa and Missouri, praying a grant of land to aid in constructing the Iowa and Missouri State line railroad.

By Mr. MORRELL: The petition of R. B. Myers and 39 others, citizens of Conneautville, Crawford county, Pennsylvania, complaining of the depression of industry, and praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of 44 farmers and citizens of Oneida township, Huntingdon county, Pennsylvania, praying for increase of protective duties for the benefit of manufacturing industry.

Also, the petition of John Palmer and 205 others, workers in coal at Dudley, Huntingdon county, Pennsylvania, representing that their industry is greatly depressed and many of their trade out of employment, and praying for such additional protective duties as will relieve their distress and aid them in the unequal contest with the underpaid labor of Europe.

Also, the petition of 3 manufacturing firms of Mifflin county, Pennsylvania, employing, when in full operation, 45 workmen, now employing 26 workmen, signed also by citizens of said county, complaining of the insufficiency of customs duties to protect the industry of this country against the cheaper capital and labor of foreign countries, and praying that Congress will resume consideration of the tariff bill as passed by the Senate, which failed in the House March, 1867, and enact it into a law at the earliest practicable moment.

Also, the petition of iron manufacturers of Huntingdon county, Pennsylvania, employing, when in full operation, 400 workmen, now employing 137 workmen, signed also by 75 citizens of said county, setting forth that the industry of the country is paralyzed for want of efficient protection against the cheaper capital and labor of foreign countries, and praying that Congress will resume consideration of the tariff bill, as passed by the Senate, which failed in the House March, 1867, and enact it into a law at the earliest practicable moment.

Also, the petition of Reynold & Moorhead, manufacturers of iron at Clarion, Pennsylvania, setting forth that they employ when in full operation 280 workmen, and have now but 160, complaining of the suffering condition of the productive interests of the country, and the paralysis of its industry, resulting from the want of efficient protection against the cheaper capital and labor of foreign countries; and praying that Congress will resume consideration of the tariff bill, as passed by the Senate, which failed in the House March, 1867, for want of time, and enact it into a law at the earliest practicable moment.

Also, the petition of 23 manufacturing companies and firms of Blair county, Pennsylvania, employing, when in full operation, 1,536 workmen, now employing 951 workmen, setting forth that customs duties, which were sufficient under a high gold premium, have become wholly inadequate to protect the industry of this country against the cheaper capital and labor of foreign countries, and in prospect of a continued decline in gold must shortly prove ruinous; that much of the distress now prevalent, and daily increasing, would be relieved by the legislation suggested in Special Commissioner Wells's report of last year, as perfected in the tariff bill which failed in the House March, 1867, for want of time; and praying that Congress will resume consideration of that measure, and enact it into a law at the earliest practicable moment.

By Mr. NIBLACK: A memorial of A. J. Wells and sundry others, citizens of Indiana, praying the establishment of a post route from

Grandview, by way of Gentryville, Polk Patch, Pikeville, Pike County Springs, and Winslow, to Petersburg, in said State.

By Mr. PETERS: The petition of A. D. Manson and others, of Bangor, for improvement of Richmond Island harbor, on the coast of Maine.

By Mr. PHELPS: Resolutions of Baltimore Board of Trade, against proposed reduction of duties on foreign coals.

Also, a memorial of the representatives of 24 coal mines in Maryland, protesting against any reduction of the duty on bituminous coal imported from Canadian provinces.

By Mr. PRICE: The petition of citizens of the States of Missouri and Iowa, asking for a grant of land to aid in the construction of the Iowa and Missouri State line railroad.

By Mr. RANDALL: The petition of Henry B. Ashmead, S. C. Collins, W. Harvey Miller, King & Baird, and 124 others, printers of Philadelphia, representing that the productive interests of the country are suffering and its industry paralyzed for want of efficient protection against the cheaper labor and capital of foreign countries; that much of the distress now prevalent and increasing daily would be relieved by the legislation suggested in Special Commissioner Wells's report of last year, and perfected in the tariff bill as passed by the Senate, which failed in the House of Representatives March, 1867, for want of time; and praying that Congress will resume consideration of that measure and enact it into a law at the earliest practicable moment.

Also, the petition of 76 employes of Sherman & Co., printers of Philadelphia, to the same effect.

Also, the petition of Moore & Simpson, D. Rodney King, Lewis S. Moore, and others, business men of Philadelphia, to the same effect.

Also, a memorial of Shields & Brother, G. W. Huntzinger, James A. Needles, Horace H. Soule, Samuel Sems, W. E. S. Baker, and 91 others, manufacturers, coal-miners, and shippers, and business men of Philadelphia, complaining of the paralysis of productive industry; and praying that Congress will resume consideration of the tariff bill which failed in the House of Representatives March, 1867, and enact it into a law at the earliest practicable moment.

By Mr. TAFTE: The petition of O. P. Mason and 1,000 others, citizens of Nebraska, praying the passage of the bill pending in Congress to grant aid in the construction of the Midland Pacific railway, in the State of Nebraska.

#### IN SENATE.

TUESDAY, JUNE 16, 1868.

Prayer by Rev. A. D. GUILLETTE, D. D.

On motion of Mr. SHERMAN, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. CONKLING presented a petition of cigar manufacturers and journeymen cigar-makers, praying the adoption of the system of collecting the revenue on cigars by making the stamp a revenue stamp instead of an inspector's stamp, sold only to licensed manufacturers; which was referred to the Committee on Finance.

He also presented a memorial of persons interested in the mining of coal in the United States, protesting against any action which would tend toward the reduction of the present duty on coal; which was referred to the Committee on Finance, and ordered to be printed.

Mr. CAMERON presented the memorial of the National Board of Trade, praying the passage of an act to incorporate said board; which was referred to the Committee on the Judiciary.

Mr. HARLAN presented a report of the executive committee of the Regents of the

Smithsonian Institution, on the influences of the Washington city canal on the health of the population of the city; which was referred to the Committee on the District of Columbia, and ordered to be printed.

#### REPORTS OF COMMITTEES.

Mr. MORRILL, of Maine. The Committee on Appropriations, to whom was referred the bill (S. No. 465) for the erection of school-houses and the maintenance of schools in the District of Columbia outside of the cities of Washington and Georgetown, instruct me to report the same back and ask to be discharged from its further consideration, and that it be referred to the Committee on the District of Columbia. The Committee on Appropriations will take notice of the intention, if it is so desired, to move this on the miscellaneous appropriation bill.

The report was agreed to.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the joint resolution (S. R. No. 141) requiring the Special Commissioner of the Revenue to act as superintendent of the Bureau of Statistics in the office of the Secretary of the Treasury, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the message of the President of the United States, communicating a report from the Secretary of State, in relation to recent events in the empire of Japan, moved that it be printed; which was agreed to.

He also, from the same committee, to whom was referred the petition of Stephen G. Montano, submitted a report, accompanied by a bill (S. No. 553) to pay Stephen G. Montano, a citizen of Peru, an unpaid balance of money awarded to him by the mixed commission authorized by the convention of January 12, 1863, between the United States and Peru. The bill was read and passed to a second reading, and the report was ordered to be printed.

#### BILLS INTRODUCED.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 146) authorizing the sale of certain bonds belonging to the Choctaw and Chickasaw Indians, and the adjustment and payment of certain claims against them; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 147) for the relief of Jonathan S. Turner; which was read twice by its title, and ordered to be printed.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 554) to promote commerce among the States and to cheapen transportation of the mails and military and naval stores; which was read twice by its title.

Mr. SHERMAN. In regard to the reference of that bill, I have consulted some members of the Committee on Commerce, to whom some might suppose it should properly go, or to the Committee on Post Offices and Post Roads. As the bill is a very important one, proposing to construct railroads from the city of Washington in different directions, and as there is a great deal of dispute about the right to do so, I will move that it be referred to a select committee; I do not expect any action upon it at this session, but with a view that the select committee may turn their attention to the subject and report early in the next session.

The PRESIDENT *pro tempore*. Of how many shall the committee be composed?

Mr. SHERMAN. Seven, to be appointed by the Chair. The committees to whom the matter would naturally be referred have a great deal of business on hand.

The PRESIDENT *pro tempore*. It is moved

that the bill be referred to a select committee to consist of seven members.

The motion was agreed to.

Mr. SHERMAN. I also move that the bill be printed.

The motion was agreed to.

Messrs. SHERMAN, SUMNER, CHANDLER, RAMSEY, STEWART, BUCKALEW, and VICKERS were appointed the committee.

#### ONEIDA INDIANS.

Mr. HOWE submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be directed to inform the Senate whether he has issued any order or adopted any regulation prohibiting the individuals of the Oneida tribe of Indians from cutting and removing timber from the common lands of the tribe; and if so, under what laws such prohibition is sanctioned, and what penalties are imposed for a violation of such rule. Also, if he has authorized the agent of said tribe to sell such timber and take pay therefor; and what security he has taken of such agent for the proper disposition of the proceeds of such sales.

#### CHOCTAW AND CHICKASAW INDIANS.

Mr. HARLAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be requested to furnish the Senate, as soon as practicable, any information in his possession relative to the present status of the claims of loyal Choctaw and Chickasaw Indians, under the forty-ninth article of the treaty with those tribes of April 28, 1866, and to inform the Senate what moneys or securities are held by the United States for said tribes.

#### REMOVAL OF POLITICAL DISABILITIES.

Mr. STEWART. I move that the Senate proceed to the consideration of House bill No. 1059.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1059) to relieve certain citizens of North Carolina of disabilities.

Mr. STEWART. Mr. President, there are before the Senate several reports from the Judiciary Committee on this subject; one to relieve citizens of North Carolina—

The PRESIDENT *pro tempore*. Would it not be well to have the bill read first?

Mr. STEWART. Allow me one word of explanation. There have been reported from the committee several propositions of this sort: a bill to remove disabilities from citizens of North Carolina, and also, a bill to remove disabilities from citizens of Alabama. The committee have considered a large number of other names in an informal way, and I desire to propose, in lieu of the bill that is before the Senate, an amendment, in the nature of a substitute, containing a variety of names. It will be unnecessary, therefore, to read the original bill. The substitute that I offer contains all the names embraced in the bill, and also combines all the bills that have been reported, and those that have been sent to the Judiciary Committee on this subject.

The PRESIDENT *pro tempore*. The reading of the original bill will be dispensed with unless it is called for by some Senator, and the substitute only will be read.

The Chief Clerk proceeded to read the amendment, which was to strike out all after the enacting clause of the bill and to insert the following in lieu thereof:

(Two thirds of each House concurring therein.) That all legal and political disabilities imposed by the United States upon the following-named citizens of North Carolina in consequence of participation in the recent rebellion be, and the same are hereby, removed, namely:

Franklin county: A. M. Timberlake, W. S. Harris, E. A. Crudup, and Green H. Grupton.

Wake county: William H. Harrison, Willey D. Jones, Albert Johnson, Jacob Sorrell, Hilliard J. Smith, C. L. Harris, and W. R. Richardson.

Pitt county: Joseph Staten, Lewis Hilliard, Charles J. O'Hagan, Calvin Cox, James C. Langley, and Charles Roundtree.

Halifax county: Charles N. Webb, John O'Brien, John T. Gregory, George W. Owens, John A. Reed, and J. T. Evans.

Beaufort county: Samuel T. Carrow, Hiram E. Stille, William B. Rodman, George L. Windley, Howard Wiswall, Edmund Hodges, Luther Ruff, Jesse G. Bryan, Edward J. Warren, Edward S. Hoyt, Samuel Windley, John B. Respass, Henry Hodges, Jesse Robason, and William A. Blount.

New Hanover county: David Bunting, Edward

Kidder, Silas N. Martin, James H. Chadbourne, George Chadbourne, George Hooper, James Alderman, and L. H. Bowden.

Stanley county: Joseph Marshall, James E. Malden, Dumas Coggins, Daniel Richey, La Fayette Green, Allen Burris, Franklin A. Laiton, and John A. Morton.

Davidson county: Evander Davis, Emory Davis, Ephraim Hampton, Green H. Lee, David Loftin, Willis Cecil, and Henderson Adams.

Person county: John D. Wilkerson.

Caldwell county: Loyd T. Jones, William M. Barber, A. W. Austin, Samuel McCall, Washington Moore, James M. Barber, Robert B. Bogle, and Hosea Bradford.

Wilson county: George W. Blount, Newett D. Owens, William D. Farmer, John Wilkinson, and Francis W. Taylor.

Forsyth county: Joseph S. Phipps, John G. Sides, John M. Stotts, Israel Moses, William Chnard, E. A. Vigar, William B. Stipe, and Allen Spach.

Transylvania county: Jeremiah Osborne, J. C. Duckworth, Samuel Reed, Robert Hamilton, J. W. Clayton, William R. Galloway, Perry Orr, Isaac Harris, R. P. Kilpatrick, and G. C. Neil.

Henderson county: Benjamin Williams, James M. Justice, William D. Whitted, James Spanu, R. J. Allen, M. Owenby, John C. Willick, M. E. Lance, D. M. Justice, Leander Pace, William K. Leadbetter, Bedford Brown, S. R. Stanell, G. P. Edney, Thomas Osteen, S. B. O. McCall, and David Stradley.

Gaillard county: William M. Mebane, Joseph Haskins, Wyatt Ragsdale, Robert P. Dick, Frederick Fenton, Calvin Causey, George W. Bowman, Newton D. Woody, Barnabas Pore, John Hyatt, John W. Kirkman, Andrew C. Murrow, Abram Clapp, David Greenson, and Robert M. Stafford.

Alamance county: Joseph C. Thompson, Nathaniel Stout, William P. McDaniel, Simpson Vestle, James Albright, and Henry Boon.

Lincoln county: Rufus Clarke, W. B. Bynum, and Henry Wilkinson.

Bladen county: Dugald Blue and Calvin Jones.

Wilkes county: R. M. Smith, John M. Brown, James F. Tugman, Andrew Porter, Samuel P. Smith, sen., John F. Partier, Isaac S. Call, Harold Hays, Ambrose Wiles, Toliver Shoumate, William E. Reynolds, Emanuel Harrold, James H. Hays, Calvin J. Cowles.

Cleveland county: James O. Bridges, Andrew Parker, David Hall, Henry Wortman, A. W. Gowins, John Cook, Lewis Donns, and J. C. Ryer.

Cumberland county: Robert Orrell, A. G. Thornton, Duncan G. McCormick, and Robert Mitchell.

Sampson county: Caeton Cessoms, Robert Cain, Clifton Ward, Amos N. Hall, William Cessoms, Robertson Ward, and Lorenzo D. Hall.

Catalet county: Malvin J. Davis, W. J. Doughty, and John C. Manson.

Duplin county: William E. Hill and Thomas K. Murphy.

Currituck county: M. V. B. Gilbert, M. D. Lindsay, and W. D. Chaddick.

Alexander county: Robert Carson, R. O. Benner, W. W. Stafford, William S. Teague, Elisha Beber, Gabriel Marshall, William M. Bogle, Thomas J. Jula, Daniel Moore, George W. Long, James J. Teague, Andrew C. Watts, F. D. Reese, F. A. Campbell, and J. N. Carson.

Mecklenburg county: H. W. Pritchard, William E. Myers, Robert McEwen, Jeremiah S. Reed, Rufus Barringer, Robert M. Martin, and Alex. McIver.

Camden county: Isaac Morrisett, John M. Forbes, A. P. Cherry, George W. Spencer, and James W. Chamberlain.

Edgecomb county: William S. Battle, Redden S. Pelway, John J. Killebrew, William H. Knight, Jesse Mercer, Eum L. Moore, Thomas Norfleet, Llewellyn Harrold, W. H. Joseph, Joseph Cobb, R. W. Proctor, William W. Parker, John Norfleet, Henry E. Odum, John W. Johnson, Micajah F. Edwards, Lawrence Bunting, Robert Norfleet, and Napoleon B. Bellamy.

Alleghany county: William A. Brooks, Morgan Bryan, A. Marion Smith, William Andrews, Nathan Weaver, Goldman Huggins, L. M. Blackburn, Reuben Sparks, Hugh Hanks, John Parsons, John A. Jones, Solomon Scamper, and Alexander Black.

Ashe county: John Williams.

Hyde county: Sylvester McGowan, James G. Carrowan, George V. Credle, W. B. Tooley, and Joseph F. Flowers.

Iredell county: Thomas Holcomb, E. B. Stimpson, and Henry C. Cowles.

Wayne county: Curtis H. Brogden and John C. Rhodes.

Stokes county: John H. Shaffer, A. H. Joyee, Aquila Moore, William V. Shelton, J. R. Jewett, Ambrose Jessup, Ira Gentry, James Harris, J. B. Young, J. J. Martin, Eaton B. Terrell, W. B. Vaughn, and William M. Gordon.

Perquimans county: Nathan B. Cox, Robert J. White, and Jonathan W. Albertain.

Yadkin county: Moses Gross, Meekins Castions, Thomas Hanes, George Long, E. C. Brown, Aquila Speer, Thomas E. Martin, Samuel C. Wech, Winston Fleming, James H. Myers, H. Thomason, J. N. Vestal, Jesse Roives, Sexton Jones, Moses Chappell, S. Speere, Jonathan Waggoner, George Nix, David Hutchins, J. S. Jones, William W. Patterson, George D. Williams, Barnett C. Myers, William H. Rodwell, T. L. Tulbert, John D. Holcomb, R. M. Pearson, and Jesse Lackey.

Harnett county: James S. Harrington, John F. Shaw, Neil McLeod, Robert A. Norden, James Hodge, John Harrington, James M. Turner, and A. J. Tudington.

Northampton county: William Barrow, John B. Odom, Noah E. Odom, David A. Barnes, Jesse W. Grant, Jesse Flyche, Samuel Calvert, sen., Samuel J. Calvert, and George Helleman.



Madison county: F. M. Lawson, O. S. Deaver, D. E. Freeman, James Ramsey, James Croder, and L. G. Biggum.

Warren county: William A. White, John W. Puffin, John H. Bullock, John C. McGraw, James T. Russell, Nathaniel R. Jones, William W. White, and J. T. Allston.

Union county: William M. Austin, Arthur Stigall, Robert Bivens, Benjamin F. Fincher, James McNeely, Miles A. Lemons, Jackson Greene, Thomas W. Griffin, Richard Tarlton, and Asa Brumblow.

Nash county: George N. Lewis and Absalom Bines.

Rowan county: J. A. Hawkins, Matthias Boyden, George Bernhard, Levi Trexler, William P. Atwell, and Peter Williamson.

Washington county: James A. Melson, Thomas Benbridge, Eli Spruill, and W. W. Ward.

Rockingham county: Thomas Settle and Thomas A. Ragland.

Burke county: James H. Hall, Joseph Deaton, Assey Mull, Jeremiah Smith, William Bailey, and James Hildebran.

Gaston county: D. A. Jenkins.

Montgomery county: John K. Loffin, James Batten, James W. Kessas, David Wright, John C. Nichols, and James B. Ballard.

Chowan county: Charles E. Robinson.

Pasquotank county: John Pool, George D. Pool, Frank Vaughn, F. M. Godfrey, C. W. Granly, Jr., W. G. Pool, George W. Charles, and C. W. Hollowell.

Buncombe county: James Reed, James P. Ellar, Levi Pauland, P. J. Israel, Amasa Roberts, and James E. Reed.

Moore county: Thomas W. Ritter, William J. King, John S. Ritter, R. W. Barrett, M. J. Blue, Jordan Sluor, Samuel W. Seawell, D. W. McDonald, John P. Cole, Alexander H. McNeil, and Benjamin Spivey.

Richmond county: Oliver H. Dockery, George McKinnon, John A. Long, and Elisha T. Long.

Haywood county: A. J. Murray, Isaac Clarke, D. B. Ford, Henry Franklin, Samuel Fitzgerald, J. W. Harbin, J. M. Patton, W. S. Evans, R. E. Medford, and R. S. Owens.

Jackson county: E. D. Brindle, L. C. Hooper, Mordcai Zackey, Wilson Enshy, J. J. Hooper, and A. Cope.

Davie county: Uriah H. Phelps, John R. Williams, and William B. March.

Greene county: John Harvey, Richard J. Williams, John J. Osman, William P. Grimsley, Joseph H. Dixon, William T. Dixon, and D. A. Spivey.

McDowell county: James H. Duncan, C. S. Copeland, John Elliott, James A. McCall, John O'Brien, Thomas Ludbotter, Elijah Morgan, John T. Gregory, and Charles H. Webb.

Cabarras county: Victor C. Barringer.

Cherokee county: William McGuyre, T. R. McCombs, Phelix T. Axley, Christopher Gentry, George W. Ferguson, B. K. Dickey, and George W. Hall.

Bertie county: Jonathan Taylor, George N. Greene, Frederick Muller, and Louis C. Bond.

Granville county: Robert Garner, Eugene Gibson, Solomon G. Wise, and E. B. Lyons.

Martin county: John Watts, William C. Ehorn, F. P. Bazemore, John L. Knight, Samuel W. Watts, Josiah M. Catterson, and Joseph J. Martin.

Polk county: Martin Hambleton, Nesbitt Dinsdale, James Jackson, R. S. Abrams, and J. W. Hampton.

Rutherford county: G. W. Logan, Rufus Williams, Israel P. Sorrels, J. E. McFarland, B. W. Andrews, Moses Wilkeson, W. B. Freeman, Edward Hawkins, R. J. McCraw, Eli Whisnant, Martin Walker, Willis Bradley, W. G. Mode, J. W. Mode, James H. Carpenter, James McFarland, John A. Carpenter, R. A. Scoggins, Smith McCarrey, W. G. Wilson, R. F. Carpenter, C. J. Sparks, L. L. Deck, A. Hollowfield, H. H. Hopper, B. W. Barber, W. O. Wallace, A. C. Martin, J. W. Gibson, and Jerre Jackson.

Lenoir county: Walter A. Dunn, James L. Cannaday, Anthony Davis, Joshua Rouse, and James M. Parrot.

Robeson county: James Sinclair, Benjamin A. Howell, and Edward K. Proctor.

Craven county: Edward R. Stanley, Charles R. Thomas, and Frederick J. Jones.

Johnston county: Thomas D. Sneed, P. P. Massey, B. L. Hinnent, Willie Holt, John R. Coats, Samuel Woodley, Ray Phillips, J. P. Peck, Robert Messengale, William A. Smith, James H. Ennis, Franklin Phillips, W. D. Holt, Thomas Edgerton, and Bryan Williams.

Randolph county: John Pope, Henry Pressnell, William McGee, James Lathan, Alson Jennings, B. A. Sellers, J. R. Bulla, Alfred Julian, James T. Fox, Elijah Whitney, Joel Ashworth, and E. T. Blair.

Brunswick county: Robert W. Woodside, L. D. Thurston, Lorenzo Frink, Lewis Galloway, D. K. Bennett, D. L. Russell, and P. Priolan.

Chatham county: R. M. Brown, W. C. Council, Benjamin I. Hodge, William Lancy, R. C. Colton, Ezekiah Henderson, R. C. Council, William Griffin, Joseph Brazington, Elias Bryan, and H. H. Burk.

Surry county: Drury McGee, Thomas Martin, T. J. Williams, C. H. Kepp, Joel Hurtz, Martin Payne, George A. Jarvis, J. S. Pedigo, James Nations, Isaac Armfield, Gideon Bryant, John Nichols, A. H. Knapp, John C. Thompson, C. C. McKie, William Hodges, B. F. Scott, James Venable, Martin Axum, John McCloud, and Jeremiah Gay.

Macon county: R. M. Henry, W. H. Higdon, C. T. Rodgers, A. L. Parton, and A. Vaughn.

Orange county: H. B. Guthrie.

Granville county: R. W. Lassiter.

Person county: John Barnett, S. C. Barnett, George W. Norwood, Joseph Massey, Chesley Hamlin, James T. Sergeant, and C. S. Winstead.

Northampton county: Edmund Jacobs and James W. Newsom.

Edgecomb county: Robert Austin.

Chowan county: William R. Skinner, John H. Hall, Robert G. Mitchell, and James A. Woodard.

Haywood county: A. L. Herren.

Carteret county: William B. Duncan, Isaac Ramsay, and Thomas Duncan.

Wake county: Bartholomew F. Moore, Joseph W. Holden, R. W. Wynne, and William Jenks.

Cleveland county: John W. Logan.

Chatham county: John A. McDonald.

Craven county: Richard T. Berry and Charles R. Thomas.

Wake county: William W. Holden.

Burke county: Tod R. Cadwell.

Davidson county: Henderson Adams.

Rutherford county: George W. Logan and Cebern L. Harris.

Yadkin county: Richmond M. Pearson.

Guilford county: Robert P. Dick.

Rockingham county: Thomas Settle.

Person county: Edwin G. Reade.

Brunswick county: Daniel L. Russell, Jr.

Rowan county: Nathaniel Boyden.

Richmond county: Alfred Dockery.

Iredell county: Anderson Mitchell.

Rockingham county: James Blythe and David S. Ellington.

Johnston county: B. R. Hinnant.

Henderson county: W. D. Justus.

Rockingham county: John W. Foster and Turner W. Patterson.

Granville county: James I. Moore and R. P. Taylor.

Rutherford county: Eleazer McArthur.

Bertie county: John S. Shepperd.

Catawba: James Motz.

Pitt county: Richard Short.

Fayetteville: Ralph E. Baxton.

Cumberland county: Warren Carver.

McDowell county: W. W. Gilbert.

Anson county: William T. Tucker.

Halifax county: A. L. Pierce.

Duplin county: James K. Williams.

Cherokee county: M. B. Crisp.

Warren county: Isham H. Bennett, Benjamin E. Cook, T. A. Montgomery, John H. Bullock, Alexander S. Steel, John W. Rogers, and John J. Rodwell.

Bertie county: William P. Gurley.

Cleveland county: Eli H. Vaulenwider.

Ashe county: Eli Baggeal, Jackson Litzeman, John Calhoun, James Gagg, and John E. Greer.

North Carolina: G. B. Arledge, A. B. Blanton, B. H. Blount, Daniel Coleman, sen., Jackson Dalton, J. W. Fuller, William Golden, John Gibbs, W. P. Grimsley, N. B. Hampton, J. M. Hamilton, Holter Hildebrand, W. D. Justus, Jesse Jenkins, Absalom Kelly, Ed. B. Lyon, Sotelo W. McKinnon, George Nickles, Miles Padgett, William H. Puryear, Everett Phillips, R. J. Powell, Josephus Reed, Calvin J. Rodgers, James Rains, John Ritter, A. J. Scroggins, H. E. Stitley, Benjamin Thompson, J. A. Thorn, Jos. Taylor, and Charles Williams.

Sec. 2. *And be it further enacted*, That all legal and political disabilities imposed by the United States upon the following named citizens of Alabama in consequence of participation in the recent rebellion be, and the same are hereby removed, namely: Joshua F. Morse, Walter H. Grant, J. G. Harris, J. McCaleb Wiley, Benjamin F. Porter, W. H. Wood, J. E. Conoley, J. C. Meadors, C. C. Sneas, A. J. Scrimsner, F. W. Sykes, Joseph Comans, James M. Ligon, Thomas D. Fister, Ferdinand L. Hammond, Thomas W. Martin, S. C. Posey, W. B. Figures, Joseph C. Bradley, David C. Humphreys, David P. Lewis, William A. Austin, Lemuel Sanford, H. C. Sanford, William S. Mudd, Robert Blair, Robert S. Hefflin, James L. McDonald, James Longstreet, Milton J. Saffold, Hardy Wilkins, James R. Dillard, John Henderson, Jeff. Holley, P. O. Harper, W. B. Nichols, J. J. McLemore, Benjamin F. Saffold, Thomas Peltum, Moses Camak, James S. Clark, R. M. Hunter, William Wood, J. P. Timberlake, John B. Talley, W. J. Matthews, Larkin Willis, J. B. Ragsdale, John R. Caffey, William A. Caffey, Jonathan Latham, James Williams, William Lovelady, P. W. Cargile, Allen Lee, Charles Womble, Hiram Barton, Andrew J. Fites, John Brown, James L. Boyd, J. H. Byers, Wiley H. Pope, B. F. Harris, Joseph W. Strygley, J. B. McDonald, Thomas Masterson, John T. Tary, John M. Proctor, Cliff Branton, John D. Johnson, William Bishop, John D. Terrell, Burr W. Wilson, James M. Moore, Barnett Moses, Joseph Clifton, H. W. Matthews, E. S. Masterson, A. B. Masterson, William C. Kirby, John R. Nesmith, Thomas H. Nesmith, A. J. Kirby, J. T. Abimathy, O. H. Bynum, A. J. Ingle, James Hogan, Joseph P. Conner, Jesse Ingram, W. P. Beason, Majors Self, W. Brascal, John Yielding, Caleb King, William O. Winston, G. N. Winston, William J. Haralson, George W. Malone, D. L. Nicholson, Theodore Watson, John Minnis, L. W. Davis, John T. Foster, George S. Huston, Robert McElvaine, John Elliott, Caleb Price, Cleveland F. Moulton, Averett Howard, J. D. Cunningham, J. W. Hughes, M. C. Stokes, A. Howard, J. H. Nettles, Walter L. Coleman, G. Goldthrait, David Campbell, William Trammel, W. J. Gilmore, William G. Delony, John Edwards, J. B. Hubbard, H. A. Manning, A. Strickland, T. B. Newsom, George W. Watson, David L. Nicholson, Joseph C. Boyd, C. Dobbs, Nicholas Davis, Robert Alexander, Joseph C. Boyle, B. B. McCraw, W. L. Taylor, W. L. Ward, Henry Clifton, Thomas J. Jackson, John M. Ward, Henry Clifton, T. K. Bramley, J. P. Hall, Edward P. Tucke, James L. Caldwell, R. C. Parish, C. D. Hudson, John Appleby, Alexander Monox, W. P. Crook, James H. Houston, John W. A. Jackson, William C. Sherrod, W. B. Jones, David Day, George Charleton, James S. Clark, William McDonald, James W. Moore, C. C. Tompkins, Galen Terrell, John M. Modor, L. F. May, Moss Carrack, Thomas Stubblefield, John C. Moore,

Thomas M. Peters, L. D. Lusk, Moses Maples, J. R. Eastlan, J. T. Ledyard, James Gavity, John Bingham, Harry D. Houston, Ezra P. Coappel, Harry I. Thornton, late of Alabama; and also all officers-elect at the election commenced the 4th day of February, 1868, in said State of Alabama, and who have not publicly declined to accept the offices to which they were elected.

SEC. 3. *And be it further enacted*, That all legal and political disabilities imposed by the United States upon the following named citizens of Georgia in consequence of participation in the recent rebellion be, and the same are hereby removed, namely: James Martin, of Bibb county; McWhorter Hungerford and Jesse Wimberly, of Burke county; Thomas Paulk, of Berrien county; N. N. Gober, of Cobb county; W. W. Merrill and George W. Merrill, of Carroll county; W. O. Edmonson, of Chatooga county; John C. Johnson, Asa M. Jackson, John W. Johnson, Josiah A. Browning, John C. Nunnally, and Robert Flournoy, of Clark county; John C. Richardson, Daniel Fowler, William L. Richardson, John Foutz, Robert M. Barrett, and Samuel A. Fowler, of Dawson county; Benjamin F. Bruton, B. F. Powell, Richard H. Whitley, and John Higdon, of Decatur county; L. H. Roberts, of DeKalb county; James A. Harrison, of Franklin county; S. F. W. Minot, of Fayette county; Nathan Yarborough and Thomas J. Perry, of Floyd county; Bluford D. Smith, Joseph E. Brown, and George S. Thomas, of Fulton county; R. L. McWhorter, James R. Bynum, D. A. Newsom, C. J. Caldwell, R. C. Hales, John Altonell, G. H. Thompson, W. H. McWhorter, Jr., R. H. Hulbert, and J. C. Broom, of Greene county; W. H. Rainey, John B. Miller, Whitson Frohook, Henry F. Beach, and John Brooks, of Glynn county; James H. Maxwell, George M. Wyatt, W. J. Atkins, J. C. Griffin, John Fryer, and Willis Goodwin, of Henry county; Joel R. Griffin, William A. Matthews, John H. Hose, Augustus Alden, A. C. Thompson, Kinehen Taylor, Elbert Fagan, James W. Love, Jesse Cooper, and Robert Braswell, of Houston county; George F. Page, of Lee county; Joshua Griffin and A. J. Liles, of Lowndes county; M. A. Potts and M. B. Potts, of Monroe county; Francis M. D. Hopkins, of Miller county; J. M. Kusty, (or Bartz), of Mitchell county; W. Woods, of Morgan county; S. F. Strickland and C. D. Forsyth, of Paulding county; Ephraim Tweedy, James N. Ellis, William Doyle, and Joseph P. Carr, of Richmond county; Duncan Jordan and William B. Dixon, of Randolph county; W. D. Hamilton, of Scriven county; J. H. Caldwell, J. T. McCormick, Thomas C. Miller, and E. H. Worrell, of Troup county; John R. Evans, M. C. Smith, Henry H. Tooke, C. H. Latimer, Thomas S. Hopkins, Theophilus P. Perry, and Thomas S. Paine, of Thomas county; Marion Bethune, J. T. Costin, Albert Costin, J. L. Gunn, and B. Carley, of Talbot county; William F. Holden, Tallafiero county; Augustus H. Lee, of Newton county; James H. McWhorter, W. H. Ward, F. L. Upton, and F. J. Robinson, of Oglethorpe county; Edward R. Harden, of Randolph county; David B. Harrell, of Stewart county; L. H. Greenleaf, of Ware county; William Griffin, of Wilkison county; S. C. Prudden and A. C. Mason, of Putnam county; W. U. Gibson and Samuel F. Gove, of Twiggs county; W. K. DeGraffenreid, Marshall DeGraffenreid, and W. J. Lawton, of Bibb county; J. H. Harrison, of Franklin county; William Gibson, of Richmond county; John R. Strother, of Baldwin county; J. G. M. Warnock, John McKinnon, William G. Bagwell, Abraham Strickland, Murdock McClellan, and Robert Humphries, of Brooks county; J. K. Corker, of Burke county; William P. Edwards, of Taylor county; John C. Johnson, Asa M. Jackson, John W. Johnson, Robert Flournoy, G. W. Nunnally, Flournoy W. Adams, and Peter W. Hutchison, of Clark county; James M. Clark, of Sampter county; David Wheelabel, of Hall county; James Huffaker, of Whitfield county; John M. Mathews, A. L. Byrd, G. H. Byrd, H. T. Sanders, John N. Montgomery, Joel Hunt, M. A. Daniel, Gabriel Nash, and V. H. Deadwyler, of Madison county.

SEC. 4. *And be it further enacted*, That all legal and political disabilities imposed by the United States upon the following named citizens of Arkansas and South Carolina, in consequence of participation in the recent rebellion, be, and the same are hereby removed, namely: W. M. Harrison, of Drew county, and James K. Berry, of Pulaski county, of Arkansas; and C. C. Bowen, F. J. Moses, R. M. Wallace, John D. Ashmond, of South Carolina.

Before the reading of the amendment was concluded,

Mr. WILLIAMS. I wish to inquire whether there is any particular necessity for reading all those names. There is a long list of names there, and the Senate know nothing about the particular individuals, but must depend of course upon the Committee on the Judiciary. For the sake of saving time I suggest that the reading of the names be dispensed with.

The PRESIDENT *pro tempore*. The reading of the names may be dispensed with by unanimous consent. Is there any objection? No objection being made, the reading of the names will be dispensed with.

Mr. DOOLITTLE. I should like to inquire of the Senator having charge of the bill if the name of Joseph Keener, of Jackson county, North Carolina, for whose relief I presented a petition, is included.

Mr. STEWART. I do not recollect.

Mr. DOOLITTLE. I would also inquire in regard to James W. Terrell, of Jackson county, North Carolina, whose petition I presented the other day. I move that those names be inserted.

Mr. CONNESS. I should like to know who those persons are, and whether due inquiry has been made in regard to them, what their position and opinions are. I do not mean now what are called mere political opinions, but how far they are prepared to forget their former offenses. I should like to hear something about them.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin.

Mr. CONNESS. If we can get no information as to these names, I for one shall vote against the bill if they are inserted, because I will not vote to remove the disabilities from any man unless his case has been examined sufficiently to give us a guarantee for his obeying the law and keeping the peace in the future. I shall oppose the bill in all its stages unless we have that guarantee.

Mr. DOOLITTLE. I presented the petition of Mr. Keener, and it was referred to the Committee on the Judiciary. The facts set out in the petition are no doubt correct. I have received a letter from him, in which he makes a statement in relation to himself. He says in his letter to me:

"In addition to the facts stated in the petition, you may say truly that I have not at any time thrown any obstacle in the way of reconstruction under the law. As a member of the Legislature of North Carolina since the rebellion, in 1865, I gave my support to the most liberal legislation for the freedmen of this State. It is due to truth and candor to state that I was opposed to the present constitution of North Carolina. Should you feel any delicacy in asking pardon for a so-called rebel, you will be kind enough to hand this petition to some other person who has not."

The petition is in the hands of the Judiciary Committee, and I supposed the committee would act upon it. He does not state in his letter to me what part he took in the rebellion. If the Senator from Nevada will send for the petition he can ascertain the facts.

Mr. POMEROY. I ask the Senator if he knows anything personally about this case.

Mr. DOOLITTLE. I do not, except from the letters I have received; and how are we to act on these cases? Here come before the Senate two or three hundred names.

Mr. POMEROY. Does the Senator know the parties who wrote the letters?

Mr. DOOLITTLE. This is the letter I received from the gentleman himself.

Mr. POMEROY. Do you know him?

Mr. DOOLITTLE. I do not personally know him, but I felt called upon to present the petition.

Mr. CONNESS. I hope the Senator will send up the letter to be read at the desk. I have not heard a word of it.

Mr. SHERMAN. I hope the amendment will be withdrawn.

Mr. DOOLITTLE. I do not propose to withdraw it unless there is some good reason for withdrawing it. This gentleman I suppose is like the other gentlemen who are named in this bill, men who have at some time given their support directly or indirectly to the rebellion while the thing was progressing; but now that it is over, and that there is a proposition that disabilities be removed, these gentlemen ask that their disabilities may be removed.

Mr. Terrell says that he was opposed to the constitution framed for North Carolina by the convention of 1868, "but should it be finally adopted I expect to make a quiet and peaceable citizen under it. In the late election in this State my name was placed on the ticket for county commissioner without my knowledge, and I was elected. It is true this is a very small office, but I think it of some local importance that I be permitted to hold it. Besides, whether I ever seek office or not, I would of course prefer freedom from disabilities." This is signed by James W. Terrell, who has been elected county commissioner.

Mr. STEWART. I have sent for the peti-

tions in these cases, and I find that they are signed by the petitioners alone, and I came across no one who could give me any information in regard to them. I could get no further information than was in the petitions of the parties themselves. The cases may be all right, but I should not like to act affirmatively on their own mere statement.

Mr. HENDRICKS. I would suggest to the Senator from Nevada that, so far as I have observed, the Committee on the Judiciary have desired to restore the men elected to office as far as possible. The last person named seems to have been elected to the office of county commissioner.

Mr. DOOLITTLE. With the leave of the Senate I will read what the petitioner states, and I think it will be satisfactory to the Senate:

WEBSTER, JACKSON COUNTY, NORTH CAROLINA,  
May 25, 1868.

To the Honorable the Senate and  
House of Representatives in Congress assembled:

The petition of James W. Terrell respectfully sheweth that he was appointed postmaster at the small county office of Qualla Town, in the county of Haywood, in the fall of 1852, and held that position until the breaking out of hostilities in 1861; that by participation in the rebellion as a captain in the confederate army he falls within the restrictions of the proposed fourteenth article to the Constitution of the United States; and your petitioner further sheweth that at the late election in this State he was elected county commissioner for the county of Jackson. He therefore respectfully asks that your honorable body remove the disability in his case so as to allow him to take the position to which he has been elected; and, as in duty bound, your petitioner will ever pray.

JAMES W. TERRELL.

I have no doubt that is the state of the fact.

Mr. CONNESS. Now, if the Senator will permit me—

Mr. DOOLITTLE. Allow me to read also the petition of the other party, and then the whole facts will be presented to the Senate:

WEBSTER, JACKSON COUNTY, NORTH CAROLINA,  
May 25, 1868.

To the Honorable the Senate and  
House of Representatives in Congress assembled:

The petition of Joseph Keener respectfully sheweth that he was from the year 1839 to 1844 a member of the Legislature of North Carolina, and that during the war of the rebellion, although above the age of bearing arms, he sympathized with the confederate army, and was also during the war a member of the North Carolina Legislature, which brings him under the restrictions of the Howard amendment to the Constitution of the United States. Your petitioner further sheweth that he was, at the late election in North Carolina, elected to the lower House of the Legislature. He therefore prays your honorable body to remove his disability, so as to allow him to take his seat in that body to which he has been elected; and, as in duty bound, your petitioner will ever pray.

J. KEENER.

Those are the papers which I received and had referred to the Committee on the Judiciary.

Mr. CONNESS. Now, Mr. President, I have simply to say in regard to these cases that I am prepared to vote at any time to remove the disability from any of those citizens who have been engaged in the rebellion when it shall appear, outside of their own testimony, and in addition to it, that they were not guilty of cruelties and violations of the laws of war and of civilization pending the war, and when it shall be shown in addition that they are now prepared in good faith to "accept the situation," not to accept it and fight it, but to accept it and become peaceable residents and citizens of the United States. We are dealing with persons who voluntarily disfranchised themselves, made themselves alien to our country and its institutions. I am prepared, notwithstanding, to deal liberally and generously with that portion of them who did not commit unnatural crimes, who did not violate the laws of war and humanity, and who are now prepared to act in good faith toward the nation and its people; but I desire other than their own testimony as to that point. Since I have been here, and since the termination of the war, I have had many such letters from persons known to me, some of whom left the State of which I am a resident and went to participate in the war, and did take part in it; but their letters were of such a character, while they were seeking pardon and exemption from disabilities, that I could not present them, nor ask for such relief for them. In no instance have I had a

letter that did not give evidence of the pride of opinion and of section and of faction that led to the war.

Mr. President, the business upon which we are entering this morning, if we pass this bill as proposed by the member of the Judiciary Committee, carries with it a great many risks at best. We are sure to readmit to the rights and privileges of citizenship many who are not fit for them. We are bound, it appears to me, to exercise peculiar care. I am not prepared to relieve the disabilities of any person upon his own petition. Let those petitions be referred to the Judiciary Committee. Let them investigate through the best means in their power, and ascertain who the parties are, what their antecedents are. I will not now be understood, again I say, as referring to political opinions, because if a man has not the right to disagree to propositions submitted to him I do not know any other right that he can be said to have; but I wish that his patriotism, his disposition to behave well in future, shall be tried and established. Therefore I hope that we shall not agree to the amendment of the honorable Senator from Wisconsin, but that those names will be referred to the committee and acted upon in the future, if found to be worthy of such action.

Mr. FERRY. Mr. President, I shall vote for the amendment of the Senator from Wisconsin, and as my vote is governed by the general view which I entertain with regard to the duty of Congress in cases of this kind I desire to state it now very briefly, so as to avoid the necessity of stating it again. I think it is safer for society, I think it is safer for the peace of the country, North and South, that all political disabilities which have grown out of this rebellion should cease. I would prefer a general law to that effect. But while no such general law is upon the statute-book, if any citizen now laboring under those disabilities makes respectful application to Congress for their removal, I will vote to grant the prayer of his petition, because I believe it is better for those communities that persons laboring under these disabilities should be able by their votes, and as members of the Legislatures of those States, to make known their wants and feelings, than that they should be kept a discontented, sullen class in society, and their disabilities thus remain simply a source of evil. I think a true policy requires the same principle to be adopted with regard to them that I would apply to other adult citizens who may have what some would consider disqualifications for the exercise of the elective franchise, but to whom the extension of that franchise is safer than its denial. The general principle applies, in my judgment, to all alike.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin to the amendment of the Senator from Nevada.

Mr. CONNESS. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOOLITTLE. I will simply state the fact which is stated in their petitions; one of these persons is elected a county commissioner, and one is elected a member of the Legislature. They both set out this fact in their petition, and ask to have the disabilities removed. There are hundreds of names contained in the bill, as reported by the Committee on the Judiciary, but I presume the Committee on the Judiciary have had no opportunity to inquire into the particulars in relation to these persons, except the fact that they have been elected, perhaps, to office in the State of North Carolina, and it is desirable that this disability should be removed, so that they can accept the offices to which they are elected.

Mr. STEWART. I will inform the Senator that, in regard to all of them, I have seen somebody who knew them, or received letters from persons whom I knew, and who were known to Senators, with regard to the facts. The name of no man is inserted without being vouched for by somebody who knows him.

Mr. TRUMBULL. I will state further, for the information of the Senator from Wisconsin, that the Senator from Nevada has had particularly in charge this matter of inquiring into the character and conduct of the men who have been recommended to have their disabilities removed; and that he has spent a great deal of time on the subject. During the last two months he has made inquiries of everybody from whom he could obtain information. I will state further, that most of the persons whose disabilities are recommended to be removed by the Committee on the Judiciary are persons whom the constitutional conventions have recommended should be released from their political disabilities. I believe we have included every name thus recommended by the constitutional conventions. I think every name they recommended has been inserted, and there are some names added to that list, on the representation of reliable persons in those States, with whom the Senator from Nevada has had intercourse, and from whom he has obtained information. I admit that it is very difficult to obtain satisfactory information in regard to perhaps a thousand names, but the committee have taken the recommendations of the constitutional conventions as far as they went, and have added a few names upon what they regarded reliable authority. This was the best disposition we found it in our power to make. It may not be entirely satisfactory; and I wish to say to the Senator from California that it is possible the committee have made mistakes, and it would be wonderful if they had not made some in this long list of names from several States; but we have had to act upon such information as we could obtain, adopting, as a principle, to relieve everybody who gave evidence of his intention to acquiesce fairly in the condition of the country brought about by the results of the war, and to sustain honestly and fairly the laws which have been enacted by Congress for the reorganization of the rebel States.

Mr. CONNESS. I have not complained of the investigations made by the committee. I have only suggested that we should not add names upon their individual application. We have the name now of one of the two persons here before us who says he is a member-elect of the Legislature of the State of North Carolina. There is no recommendation from any other source in favor of remitting the political disabilities in his case. Why, sir, his vote in the Legislature may send a man here that we cannot admit. While we are endeavoring to admit these States to equal representation in Congress, is it possible that such a man could not have found loyal citizens in North Carolina to recommend him to Congress? Certainly not. He has either not taken the trouble to do it, or fearing that he could not he has not undertaken it. I only complain that the committee seem prepared to admit amendments of this character. When a committee have made the best investigation and the most careful inquiry they can they have exhausted their power in the premises; and I am so willing to relieve this class of disabilities that I am ready to take any report that a standing committee of this body shall make, unless I know of special facts to the contrary.

Mr. WILLIAMS. I am disposed to be very liberal in the exercise of this power; but there will be numerous applications of this kind to Congress, and what we do now may be regarded as a precedent hereafter. If now we relieve persons from these disabilities upon their own petitions, without any evidence whatever as to their former conduct or present character or opinions, we shall establish a precedent, as it seems to me, that renders this constitutional disability a perfect nullity—a mere piece of mockery. The President of the United States will not pardon any man upon his own individual application; that application must be supported by some other evidence, showing that the man has some merit of some kind or description. If this petition was accompanied by any affidavit of any person stating that these

men were men whose characters afforded sufficient guarantee that they would be good and peaceable citizens I should be very much disposed to include them within this bill; but we do not know but that they may be leaders in the Ku-Klux-Klan; they may be men engaged in deeds of violence, or who countenance violence and crime in southern States, and are otherwise objectionable. If they are not included in this bill that does not necessarily preclude them from obtaining the benefits of a law like this. I have no doubt that we shall be constantly passing laws of this description. If these men will bring forward some affidavit or some evidence of some nature or description that they are suitable men to whom this favor of Congress should be extended, I am prepared to go for it. I am in favor of a liberal policy on this subject; but I do not think we ought at once to dispense with the constitutional disability and treat it as a perfect nullity and allow any man simply to come in here with a mere petition and have Congress remove his disability.

Mr. TRUMBULL. I wish to say one word in reply to a remark made by the Senator from California, that the committee seem disposed to admit these amendments. The committee has not expressed any opinion that this amendment be adopted. It is offered here in the Senate; the committee has not considered it at all. So far as I am concerned, I beg leave to say to the Senate that these petitions do not present a case that calls upon the Senate, in my judgment, to relieve these parties. What do they say? They state in their petitions that they have been elected to office; they do not even profess themselves that they are prepared to abide by the legislation of Congress. They make no pretense of the kind; they simply say that they were engaged in the rebellion, and have been elected to office, and ask to be relieved. Who elected them? For aught I know they may have been elected by the enemies of the country, by the worst rebels there are there. If there was any statement in the petition itself it would present a different case. We not only have no evidence from anybody that these parties are of that class who ought to be relieved from disabilities, but we have not a statement of the parties themselves; and unless Congress is prepared at once to pass a general law relieving everybody, there certainly is no case presented by these two parties.

The question being taken by yeas and nays, resulted—yeas 12, nays 23; as follows:

YEAS—Messrs. Cole, Davis, Doolittle, Ferry, Henderson, Hendricks, Johnson, McCreery, Patterson of Tennessee, Sprague, Van Winkle, and Vickers—12.

NAYS—Messrs. Cameron, Chandler, Conkling, Conness, Corbett, Drake, Harlan, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Pomeroy, Sherman, Sumner, Thayer, Tipton, Trumbull, Wade, Walcott, Williams, and Wilson—23.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cattell, Cragin, Dixon, Edmunds, Fessenden, Fowler, Frelinghuysen, Grimes, Morton, Norton, Patterson of New Hampshire, Ramsey, Ross, Saulsbury, Stewart, and Yates—19.

So the amendment to the amendment was rejected.

Mr. HENDRICKS. At the close of the fourth section I move to add the words "and George W. Jones, of Tennessee."

Mr. POMEROY. I should like to hear some statement about Mr. Jones.

Mr. HENDRICKS. I did not think it necessary to make a statement about him, he is so well known to most of the Senators—particularly known to the Senator from Ohio, [Mr. SHERMAN,] who served in the House of Representatives with him—as one of those southern men who always opposed secession. I believe at one time he was a member of the Richmond congress, and that is all the connection he had with the southern cause, so far as I know. It was known to the Senator from Ohio, I believe, as it was known to myself when I served in the House of Representatives with him, that he was opposed at all times to the policy of the extreme men of the South. He was as conservative in his views as anybody in the House, and devoted to the Union.

Mr. CONNESS. I desire to inquire of the

honorable Senator whether there is an application from Mr. Jones.

Mr. HENDRICKS. No, sir; I do it as his friend, so far as I know.

Mr. CONNESS. You propose to grant him relief for which he does not apply?

Mr. JOHNSON. He has applied.

Mr. CONNESS. I hope the committee to whom his application has been referred will state to us why that application has not been granted, or what action has been taken upon it. I will go very far toward taking any statement the honorable Senator from Indiana may make, and my purpose is not to doubt any statement that he does make; but if Mr. Jones has made an application I should like to know before I vote what it is; I should like to hear it read, and to know why the committee have refused it.

Mr. HENDRICKS. I understand that the Senator from Tennessee [Mr. PATTERSON] has a letter from Mr. Jones on this subject. He did not refer it to the committee, and I did not know of any such letter, and I did not base my motion upon the letter. In that letter I understand he expresses his earnest desire to be relieved from political disabilities. I made my proposition upon my own knowledge of him. I know that, as a member of the House of Representatives, he was one of the most useful members, a vigilant, careful, attentive man, esteemed by men of all sections. He was not a sectional man, and was as much opposed, in my judgment, to the secession movement as any man in the North. He was extremely bitter against it. I saw him as late as the summer of 1860, and had conversations with him. Indeed, I think I had conversations with him in the spring of 1861. Just how late it was I will not say, but it was in the summer of 1860 or the spring of 1861. I knew even up to that time how very bitterly he was opposed to all such movements. During the whole course of his service, during the four years I was in the other House with him, there was no man more opposed to the extreme views of the South than he was. He was a useful man, a man of intellect, a man of high integrity, and will be useful whenever he comes to assist in the great work of the restoration of this country.

Mr. COLE. The Senator from Indiana is a member of the Judiciary Committee, and can inform us whether this name was before the committee and whether it has been acted on by the committee, whether it has been rejected by the committee or not.

Mr. HENDRICKS. My impression is, but I will not speak with confidence about that, that I suggested to the Senator from Nevada to add Mr. Jones's name; and I think the objection was that this bill was confined to two States, Alabama and North Carolina. That was the only objection that was made in the committee, so far as I understood.

Mr. STEWART. The name was not considered in committee.

Mr. HENDRICKS. Except just that far. Allow me to add that I would rather, from my own knowledge of a man, his fitness to be a citizen, represent the case without his application than with it. I know George W. Jones as well as I do almost any public man, and I am willing to vouch for his honor anywhere and everywhere.

Mr. WILSON. Mr. President, we ought not to make this matter of removing political disabilities a mere farce. I do not concur, therefore, in the declaration made by the Senator from Connecticut. Toward the people of the rebel States our first duty was and is to do justice. We have in a measure done justice to the loyal men of those States. Our next duty to the people of those States is to be merciful to the disloyal, to those who have offended against the laws of the country. There are probably about fifty thousand of these persons under disabilities. I am willing to remove the disabilities of the great body of these persons at once. There are a few hundreds of the men who engaged in the rebellion I would allow to wait a little while until they manifest a disposition to support their country and its



institutions. Without one cause on earth these men plunged the nation into civil war. The blood of hundreds of thousands of their countrymen is on their souls. No previous character, no certificates can remove from them the crime of rebellion against their country. Upon the heads of these leading men rests the responsibility of the blood and the crimes of the last seven years. Before the nations, before God, these leaders of the rebellion are responsible for the sorrow and agony of the great civil war through which the nation has passed. In spite of their crimes against their country, which will blacken as the ages roll on, I shall be ready to pardon any one of them whenever he manifests a disposition to submit to the authority of the Government, and to use the influences that belong to him as a citizen of the United States to maintain the laws of the country. Whenever and wherever I see manifested a spirit of loyalty, a disposition to do justice to others, to accord to others what it asks for itself, I shall hasten to relieve political disabilities.

Sir, I understand that this bill applies to two or three States, and that the Judiciary Committee intend to report other measures of relief. As this is the first bill for the removal of political disabilities, I think we had better pass it as it came from the Judiciary Committee. We shall doubtless have at this session of Congress other bills in which these amendments may be incorporated by the committee after investigation. I have since the close of the rebellion been in favor of universal amnesty and universal suffrage. Had those under disabilities been willing to unite with us in according rights to others their own disabilities might have been removed ere this. But while these persons who were laboring under disabilities have demanded what they choose to call their rights, they have strenuously striven to withhold rights from others. Against their protest, against their active efforts, against the protests and efforts of their friends, Congress, after a two years' struggle, and the people of eight States lately in rebellion, have achieved civil and political rights for the millions lately held in bondage. Many of these men, laboring under political disabilities, are madly striving to undo what has been done, to overturn what has been established, and to take from their fellow-men rights they demand for themselves. Now, I am willing that these men, guilty of the war, who were criminally guilty during the war, and who are more bitterly disloyal now than they were before the war or during the war, should remain under political disabilities until the spirit of the rebellion shall manifest itself less fiercely in their acts than it now does, and until the hopes that led them into rebellion and now animate them in their struggles shall have disappeared forever. Men who ask for the mercy of their victorious country should at least deal justly with their countrymen whose rights are quite as sacred as their own.

The Senator from Indiana wishes to remove the disabilities of Mr. George W. Jones, of Tennessee, formerly a member of the House of Representatives. It is true Mr. Jones opposed the movements tending to rebellion, but he bowed to the rebellion when it was inaugurated, and was a member of the rebel congress. Whenever he shall ask for the removal of political disabilities I shall be ready to comply with his wishes. I have not learned that he has asked for the removal of disabilities, or that he has manifested a disposition to acquiesce without a further struggle in the policy of the Government, essential to secure the unity of the country and the liberties of the people. In voting to remove political disabilities I do not require that the person relieved shall be a believer in my political faith, or a supporter of my political principles. The Republican party had no traitors in its ranks. It never had any sympathy with treason or with traitors. It overthrew slavery, the inspiration of the rebellion, and has given to the emancipated bondmen the rights and privileges of American citizenship. To support

the ever-loyal Republican party, to sustain its wise and beneficent measures of reconstruction upon the basis of loyalty and liberty, affords to Congress and the world ample evidence of the abandonment of the fatal theories and policies of the rebellion, and of genuine repentance for the errors of the past. I am ready, and I am sure Congress will be ready, to remove the disabilities of such a rebel, and the loyal heart of the country will readily welcome the removal of such disabilities. I do not, however, ask that the rebel who does work for repentance shall act with the Republican party before I consent to relieve him. I have recommended, and I shall continue to recommend, the relief of gentlemen I believe to be fair-minded men; men who are ready to acquiesce in the results of the war, and to stand by their country in the future, although such persons have no political sympathy with me, or with the great party with which I act.

Mr. HENDRICKS. Mr. President—

The PRESIDENT *pro tempore*. The morning hour having expired, the Chair feels called upon to announce the fact that the unfinished business of yesterday is regularly before the Senate.

Mr. HENDRICKS. I do not wish by my amendment to delay this bill.

Mr. WILSON. I hope this bill will be passed.

Mr. SHERMAN. I have no objection to allowing the unfinished business to go over temporarily for a few minutes.

The PRESIDENT *pro tempore*. If there be no objection, the order of the day will be passed over informally. It is so ordered.

Mr. HENDRICKS. Mr. President, I served four years in the House of Representatives with George W. Jones. I came to know and esteem him as an honest man, as a clear-headed and able legislator. No man in the House of Representatives, in my judgment, was more useful to the country; no man more contributed to save the public Treasury from thieves and plunderers than George W. Jones. Naturally an honest man, his nature was against all wrong upon the public Treasury. I esteemed him as one of the most useful of legislators; and it was a pleasure to me this morning to have the opportunity, as his friend, as one who esteemed him as an honest man, and as a useful citizen, to make this motion. But sir, from the Senate, from the Congress, I will not accept of his restoration to political rights grudgingly. If it is not given cheerfully, because he has shown his devotion to his country, because for years he stood out firmly, fearlessly, in the midst of much opposition, against every movement in the southern States that tended to secession, let it not be given at all. It was because I knew this, because I knew that there ought not to be a moment of delay when you are restoring men for political considerations, to restore one man upon the consideration that he was an honest man and a faithful public servant that I offered this amendment. But sir, as it is contested, I shall not accept it as a thing granted grudgingly, and I withdraw the amendment. I was not written to by Mr. Jones, no appeal was made to me for him. I wanted to do it as his friend, as one that knew him to be a good man.

Mr. SHERMAN. Before the Senator withdraws his amendment I desire to say a word.

Mr. HENDRICKS. Certainly, I will let it stand for that purpose.

Mr. SHERMAN. I served with Mr. Jones six years in the House of Representatives. He was one of the oldest members in consecutive service. Mr. Houston and Mr. Jones were, I think, the oldest members of the House in consecutive service while I was there. Mr. Jones was undoubtedly what the Senator from Indiana says, a thoroughly honest, reliable man; one of the most useful legislators from any section of the country we had in the House of Representatives; and I have no doubt that the Judiciary Committee would have proposed to relieve him from all political disabilities if his case had been brought to them. He was a

Union man up to the breaking out of the war, and was dragged by mistake into secession. What part he took in the war I do not know. I know, however, that he remonstrated against the vile conduct of the representatives from the seceding States, but I have no doubt he has come within the disabilities of the law, because I understand he was for a time at least a member of the rebel congress. Mr. Jones has been here since, and I have no doubt desires the reconstruction of the southern States. He lives in a State which has long been in harmony with the Union, the State of Tennessee. I agree, however, that in this bill we ought to include no case which has not been examined by the Judiciary Committee. I am very glad the Senator from Indiana proposes to withdraw his amendment, and the Judiciary Committee will no doubt consider this as sufficient notice, and will inscribe the name of George W. Jones, of Tennessee, in the next roll of persons to be relieved from disabilities.

Mr. CONNESS. I was just about to say that there was no indorsement which could be made of the character of a man that I would sooner receive than that made by the honorable Senator from Indiana; and after hearing him the second time, so far as I was concerned, I was about to withdraw all opposition that I had made to the amendment he proposed; and if he shall see fit to allow it to remain I shall so withdraw all opposition.

Mr. SHERMAN. I hope, then, it will be allowed to go upon the bill.

Mr. CONNESS. I withdraw all opposition, but with the understanding that the safe mode is, as suggested by the Senator from Ohio, that these cases be regularly examined by the committee.

Mr. HENDRICKS. What the Senator from California says is most agreeable to me; it is very gratifying to me, indeed, and unless there be further objection I will leave my amendment to stand.

Mr. MORRILL, of Vermont. I hope the amendment will be adopted. I knew Mr. Jones in the House of Representatives, and as the Senator from Indiana and the Senator from Ohio have said he was one of the most useful men there in relation to the subject of claims against the Government that I ever knew, with the exception, perhaps, of Mr. Giddings. He was a bitter partisan; but he was, through and through in spite of that, an honest man. He is now an old man, and I trust there will be no opposition to the amendment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana to the amendment of the Senator from Nevada.

The amendment to the amendment was agreed to.

Mr. STEWART. I move to amend the amendment by inserting at the end of the fourth section a name which has been accidentally omitted, the name of Thomas J. Mackey, of South Carolina, an excellent man, very well known to gentlemen here.

The amendment to the amendment was agreed to.

Mr. VICKERS. I offer this amendment as a new section:

*And be it further enacted*, That all legal and political disabilities imposed by the United States upon all citizens of the eleven southern States which were in rebellion in consequence of participation in the recent rebellion be, and the same are hereby removed: *Provided*, That each of said persons shall first take an oath before a judge of a court, or before the clerk or prothonotary of the county where he may reside, that he will support the Constitution of the United States. And that this section shall not apply to any one who may be under indictment for a violation of the Constitution or laws of the United States.

The amendment to the amendment was rejected.

The amendment of Mr. STEWART, as amended, was agreed to.

The bill was reported to the Senate, and the amendment made as in Committee of the Whole was concurred in. The amendment was ordered

to be engrossed, and the bill to be read the third time. The bill was read the third time.

Mr. BUCKALEW. I desire to say a word before the bill is passed. I understand that opposition to it would be entirely fruitless; and I shall content myself with a vote against it without asking for a formal call of the yeas and nays.

I object to the system of legislation of which this bill is an illustration, in the first place, because this is a sort of exercise of pardoning power by Congress. I consider it a very bad and pernicious system in itself. In the next place, I object to it because it must necessarily be partial and unfair. I am told that there are about four hundred names in this bill. Out of that whole number I know only two upon one side of politics. There may be more, but the number is scarcely worth counting. Nearly the entire number of the four hundred are selected with reference to party objects. A convention to form a constitution meets in North Carolina, and the political majority in the convention pass around the State, pick out their prominent, active, useful political friends, and they recommend them in a body here to Congress. They desire these men to take the offices of the State, wield the political influence of the State, and to be useful to the party organization in the future; and these names, under that general recommendation, are reported as a matter of course from the Judiciary Committee, who know nothing about the individuals, and they are passed here upon the ground that the convention has recommended them.

Then we are told that some names have been added by the committee, on the recommendation of whom? Of these political gentlemen from the South who have been chosen to offices or expect to hold offices under the new constitutions, and who are in political accord with the majority of Congress. A few of those names are added. One name I believe was added in committee upon the other side, and one has been added by a vote of the Senate just taken. I consider those additions of a few names to be quite politic, as it gives a sort of odor of fairness, though in an infinitely small degree, to the proceeding. But substantially this kind of legislation must be purely partisan in its character. It can be nothing else. I am not complaining of gentlemen of the majority who make up bills in this way and pass bills of this character. If we are to enter upon the system at all it is in human nature, it is inevitable, that the system should be such as I have described it.

Now, sir, nothing can be clearer than that the power to remove disabilities incurred by crime is a function which pertains to the President of the United States under the Constitution. This legislation is in the nature—I will not assert that it is absolutely so—but it is in the nature of a usurpation of executive power. In the first place, under a general law, you impose penal consequences upon past conduct by an *ex post facto* law. Whether you administer that system through the courts, or administer it directly through political agencies, is immaterial. The nature of the thing is to punish men for their conduct, and punish them for crimes which they have committed; and then Congress reserves to itself a dispensing power, which is in its nature a pardoning power; and you are exercising that by this legislation.

On principle, therefore, this whole system is, in my judgment, open to the strongest, clearest, most powerful objections; and besides that, when you come to look at it practically you discover what it is and what it must be in its very nature, an unfair, partial, and partisan system. You can make nothing else of it. It does not make any difference who administers it, what class of men in Congress vote these bills through; such must be its character everlastingly and always. And herein, in this very fact, we have a proof of the wisdom of those constitutional arrangements in the Federal Government, and in the several

States, and in other countries having civilized institutions, by which clemency, pardon, the dispensing with laws is everywhere lodged with the executive power of the Government. It cannot be exercised by a numerous body. If it is lodged with them it must become a thing odious and unjust; it must be partial and unfair; it must be partisan and partisan only; and if any persons are included or brought within the scope of a system of irregular benevolence of this kind who do not belong to the political party in power, it must be simply to give an odor of apparent fairness to a system which is essentially unjust.

I do not, as I said, choose to protract debate on this subject. I have simply said so much to indicate the vote which I shall give on this and on all other similar bills short of a general bill which shall remove disabilities. I would vote for a bill which removed disabilities as a general rule, leaving some particular exceptions, because, in substance, that would be repealing your former laws. I am willing to vote for anything which is in the nature of a repealing statute, or substantially a repealing statute, but for no bill which is in its nature a dispensing statute, a statute dispensing with the existing law.

Mr. HOWARD. If the honorable Senator from Pennsylvania, before he takes his seat, will answer me one short query, I shall be obliged to him. If I understand him correctly, he holds, or seems to hold, that the rebels incurred no disabilities whatever which Congress can recognize. Did I misunderstand the gentleman?

Mr. BUCKALEW. I did not say so.

Mr. HOWARD. I understood him so to intimate; and I think that his argument when properly analyzed will come to exactly that result. Now, sir, I dissent entirely from such a view of the subject. I hold that by waging war upon the Government of the United States and committing treason, as they did by wholesale, the persons thus acting became enemies of the United States. They have been so considered by the whole community. They have been so treated by the authorities of the United States, civil and military. They have been so regarded by our courts of justice, and adjudged to be enemies of the United States.

Now, how has it come to pass that in a war, although it is characterized sometimes as a civil war, and properly, perhaps, the prevailing party has no authority to impose terms upon the opposite party when they are to be received again into fellowship and admitted to the enjoyment of political rights? I hold, sir, that by waging war upon the Government of the United States these people were public enemies. They so denominated themselves. They claimed to be the enemies of the United States. They boasted of it. It was with them a matter of exultation and pride.

Now, the war having closed, that is, the actual fighting having closed, while we are in process of settling the controversy and effectually suppressing the rebellion and reestablishing peace upon a secure and permanent basis, may we not declare that such and such persons, once enemies of the United States, shall be and remain permanently or temporarily, if we say so, under disabilities; and may we not properly whenever we see fit, as the law-making power, the prevailing party, relieve those persons from those disabilities? And may we not do this without incurring the charge which is perpetually hurled against a majority of this Senate of indulging in partisan legislation? Sir, there is no partisanship in it.

A few days ago the honorable Senator from Indiana, [Mr. HENDRICKS,] in commenting upon the bill for the extension of the Freedmen's Bureau, saw fit to characterize that great and beneficent measure as another partisan measure. It seems that we can do nothing, we can devise no measure that does not attract these odious epithets from our opponents on the other side of the Chamber. Whatever we do, be it this thing or the other, is sure to be stigmatized as a partisan measure by them.

Mr. CONNESS. Who are not party men!

Mr. HOWARD. They are not partisan men, of course; they are entirely above all party considerations! It is very true that every mother's son of them during the recent impeachment trial, not as a party measure, of course, [laughter,] voted for the acquittal of the accused. It was their consciences, undoubtedly, that led them to that conclusion. I find no fault with it. But let them remember that the country may look upon that unanimity, so singular among so many lawyers of this body, as a little suspicious, especially when they boast of their conscientious convictions and denounce us for indulging in partisan measures!

Mr. DOOLITTLE. The honorable Senator will allow me a single question. It is this—

Mr. SHERMAN. This debate is going on by unanimous consent, and I hope it will not be protracted.

Mr. DOOLITTLE. I merely wish to ask a question.

Mr. HOWARD. If the honorable Senator wishes merely to put a question to me, I have no objection to yield.

Mr. DOOLITTLE. My question is simply this: whether the honorable Senator does not think that his question to the Senator from Pennsylvania is a pretty long one? [Laughter.]

Mr. HOWARD. The Senator from Pennsylvania had taken his seat.

Mr. DOOLITTLE. You asked him to give way for a question.

Mr. HOWARD. He had taken his seat, and I took the floor properly.

Mr. President, the gentlemen who fling this charge out so flippantly and constantly may as well take it for granted from this day forth that, as Republican Senators, we shall not be very swift to readmit into a participation in the affairs of this Government rebels who have always been their friends, whether they are the friends of rebels now or not. We shall not be very ready to admit back into Congress and into a participation in the affairs of the Government and the country those red-handed rebels who have given us heretofore so much trouble, and are still virulent and unrepentant. They may well take it for granted that we intend to have some security for the future against the recurrence of the bloody war which their southern friends and *protégés* have waged against us. For one, sir, I am bound, if I cannot have indemnity for the past, to have at least permanent security for the future; and I will knowingly relieve no one of them from his disabilities who still harbors in his heart the spirit of rebellion.

Sir, I think we had better make a little something out of the victories we have achieved, and not fling them away, as the honorable Senators on the other side of the Chamber wish us to do. I believe in no such doctrine. In making a bargain I will see to it that I get the best of it if I honestly can.

Mr. BUCKALEW. Mr. President, the Senator from Ohio [Mr. SHERMAN] is very anxious to get up his bill, which is the regular order. I am, therefore, precluded from answering the Senator from Michigan. I will, however, make one remark. His speech about rebels and against rebellion, a speech which he always makes with such force, with such exactness of language and warmth of manner, is misapplied upon this bill. This is a bill to relieve rebels. That is its very object; and therefore declamation against rebels and the enormity of their offense is quite out of place, at least from the mouth of a gentleman who proposes to vote for this bill. All that is between the Senator from Michigan and myself, is the point of thus selecting one kind of rebels in preference to another kind. The Senator from Michigan would prefer to select for his clemency those red-handed and horrible rebels who are likely to vote for him, possibly to give him success in the elections of the present year. While he is selecting rebels, "red-handed rebels," for congressional clemency, I would

choose that he should select a little from both sides, so that there should not be any disturbance in the effect on our national politics.

I am not asking him to emancipate anybody at present; I am proposing no bill; I am simply criticising this bill for the emancipation of rebels from the horrible condition of political inferiority in which they are plunged by congressional legislation, and I am suggesting, simply as a matter of criticism, a sort of political speculation of and concerning this legislation, that when you come to pick rebels by special delegation in congressional bills you will be very apt to pick those who will vote with you, who will assist you to hold office and to maintain predominance in authority in the Government of the United States; and hence the inconvenience of this system. I grant the Senator from Michigan that if my political friends were in power and were administering a system of this kind they would do precisely the same thing. They would follow the law of their own interests, and in emancipating red-handed rebels, bloody from the terrible scenes of the late war, they would select men who would give them political influence in the Government and maintain their authority.

The Senator does not perceive that my remarks, made only in vindication of the vote I propose to give, were directed to this general system, and were not intended to criticise or to complain particularly of his action, because I know that rests in human nature. We are so fallible, so imperfectly constituted, that we follow our own interests; and when we act as party men we follow our party interests. It is the system that is wrong, a system which cannot be administered fairly and justly and equally; which will always be perverted to the interests of the party to whose hands it is committed. I am endeavoring to call attention to this subject, so that at an early day—not at this moment—we shall return to sound principles. Of course this bill is going to pass, and the brain of the Senator from Nevada is doubtless teeming with other bills, which will doubtless be introduced by him into this Chamber, and which, possibly, we shall pass before we adjourn. I am calling attention to the subject, so that when the "sober second thought" comes after a little, when the pinch of the political emergency has passed, we shall return to sound principles with reference to this sort of legislation, and when we come to deal with "red-handed rebels" we shall attempt to deal with them equally and justly upon principles of public policy, instead of party expediency.

Mr. HOWARD and Mr. DOOLITTLE. Mr. President—

Mr. STEWART. I hope we shall have a vote.

Mr. SHERMAN. I call for the regular order of business.

Mr. HOWARD. Just one word. I wish to make a single remark.

Mr. SHERMAN. I call for the regular order of business, and I hope the Senate will proceed with it.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the Senate proceed to the consideration of the unfinished business of yesterday.

Mr. STEWART. I call for a division on that motion.

Mr. SHERMAN. I call the attention of the Chair to the fact that the unfinished business comes up as a matter of course when called for. It is not necessary to take a vote.

The PRESIDENT *pro tempore*. That is true. It was informally passed over.

Mr. SHERMAN. I call for the regular order.

Mr. DOOLITTLE. I believe I had the floor when the honorable Senator from Ohio called for the regular order of business; but if the regular order is up—

Mr. SHERMAN. It is up.

Mr. DOOLITTLE. Then I have nothing to say.

The PRESIDENT *pro tempore*. Before pro-

ceeding with the regular order, the Chair desires to lay before the Senate certain bills.

Mr. BUCKALEW. I desire to make one remark. I am very much averse to cutting off the Senator from Michigan from any response, and I hope the Senate will let him have the floor.

Several SENATORS. Let us pass this bill.

Mr. SHERMAN. Debate is not in order on that. I am perfectly willing to take a vote on the passage of the bill, but—

Mr. HOWARD. But you are not willing to hear a word from the Senator from Michigan.

Mr. SHERMAN. When the friends of the bill are not willing to allow a vote to be taken upon it, when debate will evidently delay action upon it, I certainly have a right to object.

The PRESIDENT *pro tempore*. The order of the day is before the Senate.

Mr. STEWART. I move that it be temporarily laid aside; and let us try to get a vote on this bill.

The PRESIDENT *pro tempore*. You have tried it once.

Mr. STEWART. I know we have tried it once, but I think we can succeed this time.

Mr. SHERMAN. You can get a vote in the morning without any trouble.

Mr. STEWART. I do not think there will be any further debate. I make the motion for this reason—

The PRESIDENT *pro tempore*. The regular order can be passed over by common consent.

Mr. SHERMAN. It is utterly idle to do it. I object.

Mr. STEWART. Give us five minutes.

Mr. SHERMAN. Five minutes would not be enough, nor twenty.

Mr. TRUMBULL, (to Mr. SHERMAN.) Give us until two o'clock, and if we do not pass it by that time we will take up your bill.

Mr. SHERMAN. I am perfectly willing to agree to that if that is the understanding.

The PRESIDENT *pro tempore*. It is moved that the regular order be postponed until two o'clock, with a view of taking a vote on this bill.

The motion was agreed to.

Mr. HOWARD. I have but a word to say.

Mr. DOOLITTLE. I understood I had the floor when the Senator from Ohio called for the order of the day.

Mr. SHERMAN. You can divide the time between you.

Mr. HOWARD. The difference between the honorable Senator from Pennsylvania and myself appears to be this, when expressed briefly and clearly: he would pass a bill removing all disabilities from rebels, making it of universal application, thus readmitting to their political rights every person who is already under political disabilities, while I would simply follow out the policy of this bill and readmit to political rights only such rebels as have brought forth fruits meet for repentance. That is the simple difference between the Senator from Pennsylvania and myself.

Now, sir, I take it for granted that the committee who have had this bill under consideration have investigated the merits of every person whose name is inserted in the bill, so far as it has been practicable for them to do so, and that they have learned that they have become repentant; that they are willing again to cooperate in the Government of the United States, and to abandon the rebelism which has made them insane heretofore. Whenever such a case shall present itself to me hereafter; whenever I find a person who has once been a rebel, who has heartily, cordially, and honestly abandoned his rebel sentiments, and is willing to return to his ancient allegiance, I will vote to relieve him of his disabilities; but I will not vote for a bill such as the Senator from Pennsylvania seems to suggest, relieving at one grand sweep from disability every rebel within the limits of the United States. There is where we differ,

and there, I believe, is the point of difference between the party to which he belongs and the party to which I belong.

Mr. DOOLITTLE. Mr. President, this bill assumes that the fourteenth amendment proposed to the Constitution has already been adopted, and that these persons are in fact under disability; that, although as citizens of the United States they have been convicted of no crime whatever, they are under political disabilities and made incapable of holding office. I dissent from that assumption altogether.

Mr. CONKLING. How does it do it any more than the reconstruction act?

Mr. DOOLITTLE. In relation to the reconstruction acts imposing disabilities I never believed that an act of Congress could impose a disability.

Mr. CONKLING. No; but how does this assume anything more than that?

Mr. DOOLITTLE. Perhaps it assumes nothing more than that; but, sir, an act of Congress can no more put a man under disabilities until he be tried and convicted of some offense against the Government than an act of Congress could direct a guillotine to be erected and drag a man to it and take his head off. The whole attempt to do it is utterly unconstitutional and void. But if the constitutional amendment known as the fourteenth article is adopted, then it becomes a part of the constitutional law of the land, and could impose disabilities. I supposed that this bill must assume, as a matter of course, that that article had been adopted, or it could not assume to relieve disabilities. In my judgment there is no such power. As a matter of course other gentlemen who believe that they have the power to impose disabilities by law will take the opposite ground.

Mr. TRUMBULL. If the Senator will allow me, the bill was purposely framed so as to avoid deciding the question. If you will look at the wording of it, you will see that it declares "all legal and political disabilities imposed" are relieved. If there are any, then the intention is to remove them; if there are none, the bill will do no harm.

Mr. DOOLITTLE. I do not care to dwell on this point. The principal difficulty is this: it is impossible for the Judiciary Committee to try the fifty or one hundred or two hundred thousand cases of persons at the South resting under disability. The doctrine contended for here is that the case of every individual must go to the committee and be examined, and the committee must have good reasons for reporting in any particular case, where a man is tried, in favor of relieving him from his disabilities. It is practically impossible to do justice to these persons in that way. It is impossible in the very nature of things. Therefore I insist that Congress should provide some general law by which these persons who are to be freed from the disabilities existing upon them can be tried by some tribunal, as it is impossible for the question to be tried here in Congress.

As to the number of persons resting under disabilities, some persons estimate that fifty thousand will cover the number. Why, sir, there are twenty-five thousand in Alabama alone, as the facts go to show. Under the first law that Congress ever passed on this subject every man who ever held any State office, executive, judicial, or legislative, who was required to take an oath to support the Constitution of the United States, was put under disabilities. The estimate which gentlemen make of there being only fifty thousand of these men is utterly without foundation.

Now, in relation to this bill, and simply to show how unjust these proceedings must necessarily be, I have before me papers from North Carolina which show how these recommendations came here to the committee that the disabilities should be removed from these two hundred persons. It is a party recommendation of their party friends.

Mr. NYE. Let me inquire of the honorable Senator if that explanation is from Austin,



from the same person from whom he presented a memorial the other day?

Mr. DOOLITTLE. No, sir; it is not from Austin. Some two hundred or more names were sent forward here by party friends in North Carolina, certifying that they ought to have their disabilities removed. The Judiciary Committee could practically know nothing about them. They took this certificate; the names of those persons were put in the bill; and it is to be passed through. Of necessity, you do no justice in the case. It is simply a recommendation to us based upon the recommendation of party friends in North Carolina; and it must be so. I do not blame the committee, because they cannot examine the cases and try two hundred men before the committee. They cannot try fifty thousand men and determine this question. We have got to determine it by some general law. There is no other way in which justice can be attained.

I have no purpose to speak with a view to delay the action of the Senate. I have never, I believe, spoken before the Senate for the purpose of occupying time. I simply desire to present these points which force themselves upon my mind. I desire that the Judiciary Committee should bring forward some general proposition requiring a man to give bonds, or that he take oaths of allegiance, or something, so that it can be applied generally, and not applied simply to partisans on one side; that if a man believes in certain political doctrines we will remove his disabilities.

I have papers before me referring to several of the persons named in this bill, showing that they were among the most active among the secessionists of North Carolina, stating particularly what part they took in the rebellion; but I do not desire to mention them by name, nor to go into the details or the particulars. It would take up time to do it; but among the list contained in the bill are men who were the most active of all the secessionists of North Carolina—men who were members of the convention, who signed the ordinance of secession, persons who administered the laws in relation to conscription, persons who administered the laws in relation to the shooting of deserters by hundreds, men who were the bloodiest kind of rebels, if we are to judge from the part they took in the rebellion. But, sir, I do not care to go into the details or the particulars. I simply desire to protest that this is not the true mode in which to reach this evil. The Judiciary Committee should provide some general legislation, so that if a man brings himself within certain rules to be established he shall be entitled to amnesty.

Mr. FOWLER. I suppose that the clause in the constitutional amendment which this bill is intended to provide against was inserted for the reason that these persons in the southern States were not deemed safe persons to exercise the right of suffrage and hold office. If that was true at the time that clause was inserted in the constitutional amendment, it is true to-day, in my judgment. I do not think a sufficient length of time has elapsed to enable us to determine whether these persons are yet competent to exercise the right of franchise. If it had, I see no good reason why the bill might not be made general and applied to all. A great many of the persons included in this bill are not much better than the others. In my opinion, it would be better to postpone this subject until the whole country is satisfied that these persons ought to be admitted to their privileges as citizens of the United States, and then a general bill could be passed by the Congress of the United States for the relief of these men. I shall, therefore, vote against this bill.

The PRESIDENT *pro tempore*. The question is on the passage of the bill.

Mr. STEWART. On that question I call for the yeas and nays.

The PRESIDENT *pro tempore*. The question will be taken by yeas and nays, it being necessary that two thirds should vote for the bill to pass it.

The question being taken by yeas and nays, resulted—yeas 35, nays 6, as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conness, Corbett, Cragin, Ferry, Fessenden, Harlan, Henderson, Howard, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ross, Sherman, Sprague, Stewart, Sumner, Thayer, Trumbull, Van Winkle, Willey, Williams, Wilson, and Yates—35.

NAYS—Messrs. Buckalew, Davis, Fowler, McGreevy, Vickers, and Wade—6.

ABSENT—Messrs. Bayard, Conkling, Dixon, Doolittle, Drake, Edmunds, Frelinghuysen, Grimes, Hendricks, Norton, Ramsey, Saulsbury, and Tipton—13.

The PRESIDENT *pro tempore*. On this question the yeas are 35 and the nays 6. Two thirds having voted in the affirmative, the bill is passed.

On motion of Mr. STEWART, the title of the bill was amended so as to read: A bill to relieve disability of certain persons engaged in the late rebellion.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1218) appropriating money to sustain the Indian commission and carry out treaties made thereby, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 870) to remove political disabilities from Roderick R. Butler, of Tennessee.

The message further announced that the House requested the return of the joint resolution (H. R. No. 291) giving additional compensation to certain employes in the civil service of the Government at Washington, yesterday transmitted to the Senate for concurrence.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 534) relating to contested elections in the city of Washington, District of Columbia; and

A bill (H. R. No. 870) to remove political disabilities from Roderick R. Butler, of Tennessee.

#### RETURN OF A JOINT RESOLUTION.

Mr. SHERMAN. I move that the joint resolution (H. R. No. 291) giving additional compensation to certain employes in the civil service of the Government at Washington be returned to the House of Representatives in accordance with the request they have just sent to us.

The motion was agreed to.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in obedience to law, a statement of contracts made by the quartermaster's department during the month of May, 1868; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

#### RECEPTION OF THE CHINESE EMBASSY.

Mr. JOHNSON. The Chair did me the honor, yesterday, to appoint me one of the committee to provide for the reception of the Chinese Embassy in the Senate Chamber. I am called away by other duties, and shall not be able to discharge this particular function. I therefore ask to be excused, and that my place may be supplied by the Chair.

The question being put, Mr. JOHNSON was excused.

The PRESIDENT *pro tempore*. The Chair will appoint Mr. HENDRICKS in place of Mr. JOHNSON on that committee.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 1218) appropriating money to sustain the Indian commission and carry out treaties made thereby was read twice by its title.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on Indian Affairs, if there be no objection.

Mr. SHERMAN. As that is a matter of pressing necessity, I think it should go to the Committee on Appropriations. It came from the Committee on Appropriations in the House.

The PRESIDENT *pro tempore*. It will be referred to the Committee on Appropriations.

#### CIVIL APPROPRIATION BILL.

Mr. POMEROY submitted an amendment, to be proposed to the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

#### NATIONAL BANKS.

The PRESIDENT *pro tempore*. The special order is now before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 440) supplementary to an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, the pending question being on the amendment of Mr. DAVIS to the amendment proposed by the Committee on Finance as the fifth section of the bill. The amendment of the committee is in these words:

SEC. 5. And be it further enacted, That section twenty-two of the act aforesaid be so amended that the maximum limit of national circulation, fixed by said act, is hereby increased the sum of \$20,000,000, which amount shall be issued only to banking associations organized in States and Territories having a less circulation than five dollars per each inhabitant, and so as to equalize the circulation in such States and Territories in proportion to population.

The amendment of Mr. DAVIS is to strike out all of the section after the enacting clause and to insert:

That there shall be withdrawn by the Comptroller of the Currency from the banks of any State or Territory that may have an excess of circulation notes upon the principles of their distribution as regulated by law and the rules established by the Treasury Department, and the circulation notes so withdrawn shall be distributed by the Comptroller of the Currency among the national banks of such States and Territories as may have less than their proper proportion of circulation notes.

Mr. VAN WINKLE. Mr. President, I wish to submit a few remarks in reference to the section now under consideration—the fifth section of the amendment offered by the Senator from Ohio. I am disposed to vote for the section as it stands in the bill, if it can be so passed, although I think it proper for me to declare my dissent from some of the principles which it contains. I accept it as a good deal less than half a loaf when we cannot get the whole. I think something further should be done in reference to the want that this section proposes to remedy. I object particularly to the last clause of the section, although I do not know that its remaining in the section can do any harm. The words are, "And so to equalize the circulation of such States and Territories in proportion to population." Population is so manifestly an improper means of estimating the fair share of circulation which should go to each State and Territory, that I presume I need not discuss it at any length. If the distribution of circulation now was confined to population, especially at the rate here fixed, at five dollars per head, I should like to ask my friend from Rhode Island [Mr. ANTHONY] what would become of his State? and I might ask the same question of the Senators from Massachusetts where the population is small compared with the extent of their business.

I am desirous also to make these remarks, because a sub-committee consisting of two members of the Finance Committee, the Senator from New York, [Mr. MORGAN], and our late associate, Mr. Guthrie, and myself, prepared and submitted to the Senate a bill on this subject of the equalization of the circulation throughout the Union, which was referred to the Finance Committee. As that measure

received no action at the previous session I again prepared the bill, with some slight modifications, and submitted it to the Senate and had it referred to the Finance Committee at this session. I am thus, I may say, pledged, as it were, to the increase of the circulation, and upon principles which appear to me much more just and equitable than the section that is now before us. However, as I have said, I will accept that section as a part of this bill, supposing I can get nothing better, because I know that the want of additional bank capital is great, and that plain justice, to say nothing of the business of the country, demands that some such provision should be extended.

In the bill of which I have spoken the sub-committee endeavored to ascertain some fair ratio upon which this equalization could be based. The previous legislation on the subject had established the rule that one half of the circulation was to be distributed according to population, and the other half according to the business, banking capital, &c., of the State, in the judgment of the Secretary of the Treasury, or of the Comptroller of the Currency. By some means, when the new banking law was passed this section was left out, and afterward, after an interval of a year or more, the section was again inserted; so that that now stands as the rule for equalizing the circulation, and the only rule.

I ask the pardon of the Senator from Kentucky [Mr. DAVIS] for forgetting that his proposition is under consideration at the present time; but my remarks have as much reference to his amendment as they have to the measure before us.

It was under these circumstances that the New England States obtained an excess of the circulation; and I am happy to say that, in my opinion, it was by no means their fault. It was not in consequence of any grasping disposition on their part, or any desire to obtain for themselves what they were not willing to allow to others. On the contrary, when this banking law was first passed, when the system was first put in operation, the banks and the people of New England and of every other portion of the country were strongly solicited to embark in it in order that the system might be started.

Again, when it was found that it was impossible that the national circulation and the circulation of the then remaining State banks could exist together, or could circulate together without disadvantage, at least to the national circulation, they were strongly urged to convert their remaining State banks into national banks, which they generally did; and, in fact, an amendment was passed to the law at that time by which the preference was given to the remaining State banks. They availed themselves of this, and the result is that they have now an excess of the circulation.

There is another consideration connected with it. On the plan that I proposed the excess would not be so great as it now seems; and from some calculations that were made at the time by myself and the gentlemen associated with me in the sub-committee I am persuaded, although our data were considerably vague, that the State of New York, for instance, has not to-day any excess of circulation.

I will, with the permission of the Senate, state some of the features of that plan. By it population was an element in ascertaining the ratio of circulation, but it was not the only element. It was compounded with the productions, mineral, manufacturing, and agricultural, of each State; that is to say, the amount to be given to each State was ascertained by a compounded ratio of its population and production. Although I should not, if that bill was before the Senate, insist upon precisely that mode of ascertaining it, I am satisfied it is the best that could possibly be adopted. Under the law as it stands, it is not even a combined ratio of population and production or capital or business, or whatever they call it. It is simply dividing one half according to the population—a very unfair and untrue basis—and dividing the other half ac-

cording to the opinion of some officer of the business, &c., of the States. That plan proposed to reduce to certainty what can be reduced to certainty and ought to be reduced to certainty. It proposed to resort to the census, the decennial enumeration of the business and persons of the United States; and taking that as the basis to ascertain what is the population and what is the production of every State, and by compounding those ascertain the ratio. As I said before, I am satisfied that that is the fairest and most equitable way by which this could be done; but I was not wedded precisely to that plan if a better one, or one apparently better, could have been suggested.

As a further provision, when this ratio had been ascertained, \$300,000,000 were to be apportioned among the several States. Three hundred million dollars was the limit of the circulation of these banks. Every State was to be assigned its portion under that \$300,000,000, and States that had not their fair share now were to have it after. That would still leave some States in excess to a greater or less degree. The increase is not so great as it would at first appear, as I provided that the circulation of the banks in States having an excess should be reduced ten per cent. of their capital; that is, those now circulating ninety per cent. of their capital should circulate eighty per cent.; but this reduction was not to take place except as the bills were returned to the Treasury to be destroyed, and in case of a bank failing, or anything of that kind, of course it would lose the benefit of that circulation afterward.

My calculation was—and I must again apologize for a calculation that is made upon such vague data, but I made it the best way I could and after considerable reflection—that that would add not to exceed \$40,000,000 to the circulation of the whole country; and it is done in this way: the excess that is now talked of, for instance, in the State of Massachusetts, is not as great as it is represented; that is, it is represented as much greater than it would be on a fair and equitable distribution of the circulation. I had provided, also, that the first benefits of this increased circulation should be given to State banks for six months from the passage of the act, taking that feature from the amendatory law which was introduced here, and to which I have already referred. I then had a further provision similar to that offered to this section by the Senator from Vermont [Mr. MORRILL] yesterday, namely, that if the circulation at any time exceeded \$300,000,000, a number of greenbacks equal in amount to the excess should be withdrawn from circulation and permanently destroyed.

I think this plan provided, perhaps, for any case that was likely to occur, and ought not, I think, to be obnoxious to the objections that have been made on this floor on both sides. In the first place, it had the grand merit, or purported to have, and was designed to have, the grand merit of being equal and just to all the States and Territories. In the second place, the increase, if any, would have been very slow and gradual, because banks cannot be established in a day, and if there was any excess of the amount designed as circulation for the national banks it would be got rid of by redeeming as many greenbacks. I think that the one circulation, for all practical purposes, especially with the resumption of specie payments, would be as good as the other. I do not see that any injury would have been effected in any way, while the general interests would, perhaps, have been benefited.

I should like to call the attention of my western and northwestern friends, and perhaps others, to this consideration. We are plunged every year into a time of shortness of money and high exchanges. High prices must be paid for money whenever the crops come to be moved. We have not banking capital enough. This plan would give to Ohio, and to every western State beyond it, perhaps, an increase of banking circulation. If it was not sufficient to enable them to move the crops by means of

their circulation, it would still lighten the difficulty a great deal, and it would cost them far less.

It may be said that this capital would have to be supplied from the East. Grant it; it would only be making a permanent loan to the West, a sufficiency, perhaps, for the removal of the crops, and it would not be thrown periodically almost into convulsions by the high prices of money.

As I have already stated, I am disposed to vote for this amendment of the committee, as we can get no better; but I thought it due to myself, and those who were associated with me, to say that we had prepared a different plan, which would have been submitted to the Senate if it had met the approbation in full or the committee. I have stated my own views and reasons, and I doubt not those of the gentlemen who were associated with me. But as I cannot get that plan, or cannot get a proper distribution of this circulation, as I am sure those whom this amendment will relieve are entitled to this additional circulation, I shall vote for the amendment.

Mr. DAVIS. Mr. President, I frankly confess that I am not well informed on the subject of finance, bank circulation especially. I admit the defect of my information generally in relation to those subjects. The amendment that I have offered is simply to attract the attention of Senators to the matter that they may consult together and make propositions, and in the future adopt the wisest and most just that can be made. That is all the purpose I have in relation to this matter.

Mr. President, we have a most extraordinary system of banking in the United States. The States may incorporate banks, but those banks can issue no paper for circulation. The entire circulation of the banks of the United States is furnished by the Government of the United States, and according to the report of the Comptroller of the Currency the aggregate amount is about three hundred and three or three hundred and four million dollars. I think the honorable Senator from West Virginia was about right, that the aggregate amount of circulation, according to the Comptroller of the Currency, is about three hundred and three or three hundred and four million dollars.

Mr. VAN WINKLE. A little less. Three hundred million dollars is the limit.

Mr. DAVIS. This report says about three hundred and three million dollars.

Mr. VAN WINKLE. There must be a deduction there for bills returned.

Mr. DAVIS. Well, a little less than \$300,000,000; that is the limit. Now, sir, how is this circulation distributed among the States? Maine has \$7,619,386; New Hampshire, \$4,228,355; Vermont, \$5,722,780; Massachusetts, \$57,429,205; Rhode Island, \$12,508,670; and Connecticut, \$17,550,655; making an aggregate to the six New England States of \$104,954,081; a sum considerably in excess above one third of the whole amount of the entire circulating notes of the United States. New York has \$72,558,805; New Jersey, \$9,150,165; Pennsylvania, \$89,330,070. The aggregate of the circulation notes distributed to these three States, New York, New Jersey, and Pennsylvania, amounts to \$121,039,000. So that the New England States have an excess of several millions over one third of the whole circulation; and the States of New York, New Jersey, and Pennsylvania having an excess of \$21,000,000 above one third of the whole amount of the circulation.

Ohio has \$18,454,280 of circulation, and Indiana has \$11,042,240 of circulation. I suppose that these two States have something about their just proportion of the circulation notes of the United States; but there is a great excess over this just proportions given to the New England States, and also to the States of New York, New Jersey, and Pennsylvania. The six New England States, New York, New Jersey, Pennsylvania, Ohio, and Indiana, have a circulation in the aggregate of \$255,470,000, leaving to all the residue of

the States only about forty-six million dollars of circulation notes, an amount less than Massachusetts has by \$11,000,000, and less than New York has by about twenty-six million dollars, and only in excess of the circulation of Pennsylvania about seven million dollars. Is this a fair and proper distribution of the circulation notes that enter so largely into the circulating medium of the country? Should this vastly unequal and unjust distribution be allowed to remain undisturbed? Certainly not.

With the position of honorable Senators on the floor, who have expressed their desire that the Government of the United States and the banks of the United States should gradually come to the return of specie payments, I heartily agree.

But, Mr. President, something must be done in the intermediate time. There is a very great want of sufficient circulation in some sections and in some States of the United States. It seems to me that in New England there is a large excess of this circulation, and that in New York and Pennsylvania there is an excess. I do not hold that a redundant circulation is advantageous to a country. I believe in a full circulation, such an amount of circulation as will stimulate industry and quicken business and commercial exchanges. That condition of things is wholesome; but when the circulation exceeds that just point it seems to me that the excess of circulation becomes a vice and a disadvantage rather than an advantage.

Now, Mr. President, what is the proposition to remedy this unequal distribution of the circulation notes furnished by the United States? It is that an additional amount to the extent of \$20,000 shall be issued for the purpose of being distributed in those States that have less than their due proportion.

There are two modes in which this may be done. One is suggested by my amendment, that the Comptroller of the Currency upon the principle, either simple or compound, on which he has distributed these circulation notes among the banks of the different States, shall withdraw as much from those that have an excess of circulation as that excess amounts to, and that he shall distribute it, upon the same principle as he has heretofore made distribution, among the banks of the States that have a deficiency of circulation. Can there be any just and reasonable objection to that? There certainly cannot be by gentlemen who are anxious to return to specie payments, because if the very way I suggest is not adopted there must be necessarily an inflation of the currency by the issue of \$20,000,000 more of circulation notes. That I do not believe to be wise. It is certainly an unnatural and a vicious state of things for a country with the population and business of the United States to have a spurious paper circulation to the utter exclusion of all circulation of the precious metals. This evil ought not to be increased; it is not wisdom or sound political economy, in my judgment, to increase it; but it ought to be gradually reduced without producing any convulsion or great sacrifice of the interests of the country so as to reach gradually but certainly the point of the resumption of specie payments.

Mr. President, if there were \$20,000,000 of circulation notes in the Treasury of the United States which the Government did not want to use otherwise, it would be a simple process for the Comptroller of the Currency to distribute those \$20,000,000 of notes on deposit in the Treasury among the States that had less circulation than their share. How is the Government to get this amount of \$20,000,000? I have suggested one mode.

There is another mode: let the Government reduce its expenditures. If it be practicable, and the Government will adopt at once the proposition to reduce its expenditures twenty or thirty millions a year, it would immediately be placed in possession of the amount of circulation notes to \$20,000,000, or exceeding that sum, for distribution among the States that have less than their proper proportion.

How can that be done? By the simplest process in the world. Wherever there is a will there is a way. Here is a way, and the will is all that is necessary. The Army of the United States, according to the last official report that I saw, amounted to exceeding fifty-eight thousand men. There is certainly no necessity, in the present condition of the United States and its relations with themselves, with foreign countries, and with the Indian tribes, for one solitary soldier over twenty thousand. Then reduce your Army to twenty thousand men; reduce it by thirty thousand, and that would cause a saving to the public Treasury of at least a thousand dollars per man. The reduction of the Army by thirty thousand would render the sum in the Treasury for the support of the Army to the amount of \$30,000,000 unnecessary to be appropriated to that object.

Here are two modes of getting this money; both of them, in my judgment, would be just and statesmanlike and proper. I think that the New England States have an excess of circulation; I think New York and Pennsylvania have an excess, also.

Now, what is the tendency of the circulation of the country and its aggregation? It is the commercial and manufacturing emporiums. The whole United States by its merchants and traders go to New York to lay in their stocks; they take those stocks home and distribute them over the whole country to their customers. Those customers exist in all the States, and most of them are producers, either agricultural, manufacturing, or mechanical. They want to sell the products of their own labor and skill at home. To purchase them a circulation among those producers in the distant and different States from the commercial emporium at New York is necessary. They cannot buy the goods that are purchased in that great emporium and distributed by the factors and merchants over the whole country unless they have the money to pay for them. They cannot get this money until they sell the products of their industry; they cannot sell those products of industry unless there be a circulation in the neighborhood, in the local markets where the sales take place, to pay for them.

Then an additional and a large additional circulation is necessary in most of the States in order to carry into complete effect this system of production and sale which I have just recounted. These local producers, agricultural, mechanical, and manufacturing, are the customers of the local merchants. The local merchants must have pay for their goods which they purchase in New York. To enable them to receive this pay their customers must have a circulation in their immediate neighborhoods with which to pay for these goods. They pay their accounts every six months or every twelve months, or give cash in hand to the merchants.

They pay in these circulation notes largely. The notes are thus aggregated in the hands of the local merchants; they take them on to New York with the purpose of laying in additional supplies. In that way the course of trade produces a constant and ever-recurring aggregation of the circulation of the whole country at the commercial emporium of New York and in the manufacturing emporiums of New England and of the Northwest, as at Cincinnati and Chicago and other points where there are extensive manufactures.

Mr. President, in my judgment, instead of the great manufacturing emporiums needing the largest distribution of circulation from the Comptroller of the Currency, they need proportionably the least amount, because the tendencies of trade, the results of their business and of their commerce, are to draw this circulation from every part and portion of the United States to those centers.

Now, sir, the United States Government has stifled the State banks. I was present when that mischievous policy was adopted, and, in my judgment, a more mischievous policy never was adopted. The banks in my State had on hand at that time gold and silver coin,

some of them exceeding their circulation, and on an average about equal to it. How were those banks attacked by the policy of Congress? Congress could not repeal their charters, could not abrogate the banks by direct action; but they imposed a tax upon their circulation which the banks could not bear, and in that way forced them to withdraw their entire circulation and to go into the national banking system, and to receive the paper issued for the purposes of circulation and money from the Treasury of the United States. After this system has been adopted by Congress and the Government of the United States, is it right to leave to the State of Kentucky, for instance, that had a circulation of about fourteen million notes of its own banks, every dollar of which was convertible, at the pleasure of the holder, at the bank counter into gold or silver—is it just to that State, and other States similarly situated, to abolish their banks by the indirect legislation which I have adverted to, and to dole out to them the meagre circulation of a little above two million dollars where they had before the war upward of fourteen million? Sir, the system is wrong; it is unequal, it is unjust. If that course of measures which will finally lead to the resumption of specie payments is to be steadily persevered in, as it ought to be, in my judgment, you must compel the banks of the States that have such a vast overplus of their proportionate circulation, to yield up a portion of it, that this excess may be distributed among the States that have a deficiency.

Mr. MORRILL, of Vermont. I desire to call the attention of the Senator from Kentucky for a moment to the practical working of his amendment. I think the Senate would be more in favor of his idea if his amendment were made so that it could be practically carried out. How is the Comptroller to withdraw this circulation? Is it to be all from Massachusetts, or all from Massachusetts and Rhode Island, the two States having the greatest excess; or is a certain percentage of the whole to be taken; or is it to be drawn from the banks having a large circulation, excluding the smaller banks? The Senator will see that the amendment as it is could hardly be practically carried out by the Comptroller of the Currency.

Mr. DAVIS. I am fully aware that the honorable Senator from Vermont is much more competent to mature my idea and to reach my purpose than I am myself, because he is unquestionably much more familiar with this and all cognate subjects than I am or pretend to be. I shall therefore be obliged to him or to any other Senator who will endeavor to perfect, or bring into the best practical operation, the idea which I have suggested in my amendment. I am not wedded to that form; indeed, I am not satisfied with the form in which I have presented it. There are gentlemen here whose intelligence and knowledge of the subject-matter would enable them to present it in a much better form than I have done, and I desire and earnestly request them to do so. In the mean time I will throw out a few general ideas that ought, in my judgment, to be calculated to gain favor with the Senate for the general principle which I have proposed in my amendment.

The States of New England are highly manufacturing; the State of New Jersey is so; some of the principal cities of the northwestern States are so; and they send out and distribute over the whole country a large aggregate amount of the various manufactures of our people. They find their customers and their markets, to a very considerable extent, in the distant States; largely in my State. So of the merchants who import goods from foreign countries and sell them to the factors and country merchants all over the land. It is the interest of these merchants at New York and Baltimore and other commercial emporiums, and also of the manufacturers at all the principal points where manufacturing industry prevails, to make articles for exportation into other States, and it is important to them that the



people of the States to which they send their manufactured articles and where they are sold should have the means of paying for them. It would add to their means, facilitate them in the acquisition of those means if there were a more equal and proportionate distribution of circulation notes among those States that are the purchasers and consumers of the articles sold at the commercial and manufacturing emporiums of the United States. I think a proper regard for their own interests would induce the people of the States that have a redundant currency to yield a portion of it, and the result of it would be a return of the money for which their goods and manufactured articles would be sold into the States, where a redistribution of the circulation would be made, and I believe that this equilibrium, by the course of the business and trade of the country, would soon be reestablished.

I think it is not only just, but it is the interest of the importing merchant, of the large manufacturer, of the men who sell their goods, wares, and merchandise, and their manufactured articles to those States that have a deficiency of circulation, that they should be reasonably and justly supplied with it. I think that if they would consent to yield back to the Comptroller of the Currency a portion of their circulation, it would not only be to the interest of the people of the States where it would go and in whose banks it would be placed, but it would be essentially and as much to the interests of the merchants and manufacturers of the States who gave it up.

But, Mr. President, there is a great principle involved in this question. If I, as an individual, am in debt, and I want money to pay my debts and am about to build a fine house that will cost a sum incompatible with the payment of my debts, what is my duty as an honest and a prudent man? It is to refrain from building my fine house and to appropriate the money which it would cost to the payment of my just debts. This relieves me from debt, makes me a freeman, for no man who owes money which he cannot pay is a freeman, and it does justice to those to whom I am indebted. The Government of the United States is somewhat in that condition. They have an Army of fifty-eight thousand men; those men cost something like fifteen hundred dollars a head per annum. To reduce the Army thirty thousand men, it is a small estimate to say, would save to the Treasury at least \$30,000,000 a year. Let the majority, let the statesmen, let the patriots of Congress resort to that measure of retrenchment; let them reduce the Army to twenty thousand men, and there is no necessity whatever, public, general, or local, that requires an army of one man beyond that number, and immediately the Treasury of the United States and the United States are placed, within a reasonable time, in the possession of more than ten millions of circulating notes above the amount that is required to execute the provision that is now under consideration for distributing \$20,000,000 among the States that have none.

Sir, there is no better economy than retrenchment, there is no wiser statesmanship than retrenchment, where expenditures are excessive and unnecessary. If the Congress to-day or to-morrow should reduce the Army to twenty thousand men, they would by that single step have withdrawn an imperative demand from the Treasury of the United States of thirty or forty million dollars; the \$20,000,000 which is proposed by this provision to be distributed among the States that have less than their just proportion of circulating notes would be immediately and conveniently supplied; and the policy could go into operation without an increase of the circulation of the country, without any expansion, but simply by a just, wise, and proper economy in the reduction of the numbers of the Army.

I trust, Mr. President, that the honorable Senator from Vermont, or some other experienced and able member of the Senate, will put my amendment in proper shape. That Sen-

ator has given a great deal of attention and thought and labor to this subject and to similar subjects. It seems to me that the present state of things is anomalous, is unjust, and partial; that it favors some of the States beyond a judicious statesmanship in furnishing them with a redundant circulation, and it withholds from other States a necessary amount of wholesome circulation. This condition of things has been produced by the legislation and policy of Congress. They have the power and they ought to adopt steps and measures to reform it, to equalize the circulation among the States, not only for the benefit of the States that would receive a larger proportion of it, but the whole United States, and that without impairing that policy of retrenchment and reduction in the currency which, in my judgment, is one of the essential conditions to the return of specie payments.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kentucky to the amendment of the Committee on Finance.

Mr. CONKLING. Of course I shall vote for the principle of this amendment, as I indicated I should be glad to do yesterday before it was offered. I suggest, however, to the honorable Senator from Kentucky that if he wishes to test its strength fairly he ought to modify it so as to specify an amount. There is a criticism, perhaps as mere matter of composition, to be made on the amendment as it now stands, "that there shall be withdrawn from the States which have an excess." What shall be withdrawn? One listener might understand it to be the entire excess, whether it was needed or not; another might understand it to be so much as should be necessary. In any event it seems to me the amount ought to be specified. Therefore I suggest to the Senator to insert the words "the amount of \$20,000,000." They will come in appropriately early in his amendment. Then we shall have precisely the proposition in bulk and amount that we have here, and the question will be fairly presented whether it shall be derived from an inflation, as proposed by the original proposition, or shall be derived, as the Senator from Kentucky proposes, by withdrawing it from the excess of those States now possessed of an excess.

Mr. DAVIS. I understand that the Senator proposes to modify my amendment so as to fix \$20,000,000 as the amount of the withdrawals. I accept the modification.

Mr. CONKLING. Let the words "the amount of \$20,000,000" come in after the word "Department" in the Senator's amendment.

Mr. DAVIS. Very well.

Mr. HENDRICKS. I shall vote for this amendment, but not for some of the reasons that have been assigned. Where the circulation of a country has the same value in every portion of it, its distribution over that country will depend upon the demands of commerce, and I do not think it is much more important, so far as the mere question of the supply of currency in a particular locality is concerned, whether the bank that issues the money is located in that locality or another locality, for currency being the uniform value over the country will float to those localities where there is the greatest demand for it. In other words, I do not think it more important that a bank shall be located in a particular city in order to furnish that city a currency, if the currency has uniform value, than it has that the mint which issues the gold shall be located in that particular city. The gold currency being coined in the city of Philadelphia finds its way as readily into the western country, if there be a demand for it, if commerce demands it, as if the mint were located in the West. But, sir, the business of banking under the national banking system is a very profitable business, and it is not just that a larger proportion shall be given to one section than to another. It is a question, in my judgment, of the profits to be realized by the citizens in the business of banking. For instance, the State of Massachusetts has \$40,000,000, as I understand is

the case, above her proportion, taking the population into consideration. Then she furnishes to the West in proportion to that excess the currency that the West must use in shipping its produce and its stock, and Massachusetts gets the profits from the western country of that banking business.

That is not just in my judgment. The bill having uniform value over the country floats to the West when the demands of commerce require it to be there; but New England having the banking business given to it by partial legislation, or by a partial execution of the law, is allowed to make many millions of profit over another section of the country. That is the reason, in my judgment, why the proposition of the Senator from Kentucky is a fair one and just.

Just how this shall be brought about of course Senators cannot decide, but what ought to be can be done. If the eastern States have an undue proportion of banking facilities that can be credit in some way. When the bills are returned they need not be issued again, and when there shall be a sufficient return an institution can be established in the West or in the South. But, sir, I am not going to vote for any bill that will extend in any amount the banking currency of the country. I have said, and I still am of the opinion, that the banking system as established under existing laws is a stupendous folly. If it be the business of the Government of the United States to furnish to the people of the country a paper currency I cannot see why that paper currency shall not be issued directly by the Treasury, with the credit of the Government stamped upon it, instead of this indirect system, which gives the credit to the bank because the bank has deposited in the Treasury the bonds of the nation.

The paper issued by the bank rests for its credit upon the bonds of the Government; in other words, the credit of the bank is based upon the credit of the Government; and in order to get that credit of the Government we are paying as a nation six per cent. in gold upon all the currency that has been issued. The wisdom of that I have never been able to see. I was not able to see it when it was adopted during the war. I could not see how that relieved the finances of the country. It was claimed by very wise men at the time that it did furnish relief. It seemed to me, and I am of the opinion still, that the credit of the Government being the basis of the credit of the bank, the issue might just as well be made directly by the Treasury without paying an interest.

Now, sir, for the use of the bank bills the people of the United States are paying in interest above twenty million dollars every year. For the use of some three hundred millions of bank paper to aid the commerce of the country the people are taxed to the amount of the interest on the bonds that stand as the basis of that banking business. Why should that be so? Why not issue directly from the Treasury of the United States the Treasury notes, and rest them directly upon the credit of the Government, and save that \$20,000,000 annually of gold interest.

Mr. President, I would not be in favor of a sudden withdrawal of all the bank paper of the country. This must be brought about gradually. Instead of increasing the banking business of the country under the present policy and system, I am in favor, as rapidly as we can, of withdrawing from that system, and so far as it is the judgment of Congress that the Government ought to furnish a paper currency to the people, let it be furnished directly from the Treasury. Are these bank bills in higher credit with the people, do they furnish any greater aid to commerce than the Treasury notes issued directly?

This bill proposes an increase, to a small extent it is true, but it proposes an increase of the bank paper of the country. I shall not support that. I shall support the opposite policy of gradually, but as rapidly as we can, withdrawing from this system that taxes all

the people for the paper currency that is furnished by the Government of the United States. That may be saved, and in a few years, instead of being taxed for a paper currency, we may have a paper currency not taxed, upon which the people do not pay a tax in the form of interest paid in gold upon bonds deposited in the Treasury.

Getting away from that system, and saving that burden upon the people, then, as is suggested by the Senator from Kentucky, reducing the expenses of the Army \$50,000,000 a year, which is practicable, which is possible, which ought to be done at once, which ought to have been done during the last two years, and abandoning the expenditures for the Freedmen's Bureau, and returning to the legitimate business of this Government, we can bring the expenditures of this Government within the easy management of the people. I am grateful to the Senator from Kentucky for his suggestion of retrenchment in the direction to which he has referred. It can be made. I have examined it somewhat. The Army of the United States, instead of costing \$100,000,000 a year, ought not to cost the people more than \$50,000,000 a year. When we make these plain, simple, and easy reforms, I believe that the taxes upon the people need extend to but a very few articles. Reduce your tax upon whisky to one dollar per gallon and let it be collected, which is possible, which is practicable at that rate; and then a reasonable, fair, proper tax upon tobacco, and a few other articles and perhaps upon incomes, and the other interests of the people may be relieved from taxation.

Before the war, in 1860, the production of whisky in this country was about ninety million gallons a year. In the State of Indiana it was about nine millions; in Ohio about fifteen millions; in Illinois, about fifteen millions. The policy that has been adopted has destroyed that interest. Put the tax at a reasonable rate, at one dollar per gallon, and let us collect, say sixty, seventy, or eighty million dollars upon whisky, instead of twelve or thirteen millions under the present inefficient state of legislation, or the present failure in the executive department, and we shall have made a great advance toward the relief of the people.

Mr. President, I did not intend to discuss the question at any length, but simply to express my opposition to any extension of the present banking system, which in my judgment, is based upon a wrong policy.

Mr. WILSON. Mr. President, I admire the skill displayed by the Senator from Indiana in the discussion of controverted political questions. I am often reminded, as I listen to that Senator, of the position of that famous down-easter, Colonel Ethan Spike, who declared that he was in favor of the Maine law but against its execution. [Laughter.] The Senator goes a little forward, then he backs a little. He bravely asserts his propositions, and then he cautiously qualifies and modifies them, so that he is for and against all the contested points relating to finance and currency before the country. Sir, this going for a thing and then backing on it, going a little this way and a little that way will hardly work out the solution of the financial problems before the country.

Sir, I shall vote for the amendment proposed by the Senator from Kentucky. I am opposed to any further expansion of the currency, either by the banks or by the issue of legal-tender notes. We have gone too far in the direction of expansion already for the productive interests of the country and the interests of the toiling men of the country. We have eight or ten million men engaged in the productive industries of the nation, and their weekly labor is worth seventy-five or one hundred million dollars. A few million dollars more or less imposed upon the nation in the form of taxation is of little consideration compared with a policy that shall bring a sound

currency. An unsound, vicious currency may impose a loss of five hundred or one thousand million dollars a year. What, then, does a few million dollars annually amount to as a burden upon the nation, if it shall secure to us in two or three years the restoration of a sound currency?

It seems to me that sound policy, the permanent and enduring interests of all sections of the country, and especially the interests of the toiling millions require that the greenback circulation shall be reduced to an amount which can be redeemed and made equal to specie. Mr. Pendleton, now the champion of irredeemable paper money, declared in 1862, on the floor of the House, that the legal-tender notes were sent into the world stamped with irredeemability; that we put on them the mark of Cain, and like Cain they would go forth to be vagabonds and fugitives on the face of the earth. He declared that private ruin and public bankruptcy, either with or without repudiation, would inevitably follow the issuing of the greenbacks. There are those who would keep the stamp of irredeemability upon the legal-tender notes; there are those who would continue to send them forth to be vagabonds and fugitives on the earth, until repudiation should come. It seems to me to be the province of statesmanship to enter upon a policy that shall stamp redeemability upon the face of these greenbacks and make these vagabond and fugitive notes equal to the purest gold.

Sir, it is clear to me that what the people of the new States and the southern States need is banking capital, not the further issue of legal-tender notes by the Government. Banks established and managed in localities where active capital is required furnish the means of discounting local paper or of making the loans required for local interests. The Treasury of the United States will not go into the business of exchanging greenbacks for the notes of country traders, nor country money-borrowers.

I believe the present banking system of the United States is the best banking system the world ever saw. The first year of the war swept away seventy-nine banks in Illinois, thirty-nine banks in Wisconsin, and nearly all the banks in Michigan and Minnesota. The people of the Northwest and of the Southwest have been robbed under the old banking system of millions of dollars. The billholders of the national banks have not lost a single dollar by the failure of any of those banks. Ohio and Indiana had when the war opened, safe and well-managed banks. We had \$125,000,000 of banking capital in New England. The national banking system was forced upon us. New York had a safe banking system and she was forced to give it up. The safety of the present banking system to the note-holders is demonstrated. No sooner does a bank fail than its notes rise above their par value.

Mr. SHERMAN. Does the Senator know why the value of the notes rises when the bank fails?

Mr. WILSON. Yes, sir.

Mr. SHERMAN. It is simply because the western banks then find an opportunity to go and buy them up, for the advantage of that circulation, which they ought to have without discount. There are banks in existence in the western States that have paid from ten to forty thousand dollars in New England and New York for the privilege of starting banks where ever banks there have failed.

Mr. WILSON. I understand that subject.

Mr. POMEROY. The banks of the West have been compelled to buy the circulation of New England and New York, and pay three and four per cent. for it.

Mr. COLE. Which they ought to have for nothing.

Mr. WILSON. Sir, I am opposed to increasing the circulation of legal-tender notes, and I am opposed to increasing the bank circulation. I desire to get to a specie-paying system at the earliest possible day consistent with safety; but it does not seem to me that

we are doing anything in the direction of specie payments. On the contrary, it seems to me we are every day drifting further from it. This greenback policy means that we shall never come to it. It means that we shall impose upon the country an irredeemable paper currency, condemned by every man who ever wrote on banking, and every statesman in our own country or any other country. No man known as a financier in the Old World or in the New sustains the views expressed by the Senator from Indiana. An irredeemable paper currency issued by the Government has been condemned and is now condemned by financiers and statesmen. Alexander Hamilton pronounced the issuing of paper money by the Government "a seducing and dangerous expedient," "likely to be extended to a degree which would occasion an inflated and artificial state of things incompatible with the regular and prosperous course of political economy." Sir Robert Peel declared that "the effect of the State having the complete control of the circulating medium in its own hands would be most mischievous."

Sir, I am opposed to continuing, without any effort to change it, this irredeemable paper money system. It is a burden upon the productive industry of the country, it is a heavy burden upon toiling men. Rather than enter upon a system of further expansion, I would vote to reduce the amount of circulation the Government has accorded to Massachusetts.

Mr. HENDRICKS. I wish to ask the Senator one question, if he will permit me, before he takes his seat.

Mr. WILSON. Certainly.

Mr. HENDRICKS. I wish to know why, to the workingman, the bill of a bank is more secure when it rests for its credit upon a Government bond than a note issued by the Treasury upon the faith of the Government?

Mr. WILSON. It makes no difference to the workingman whether he has a legal-tender note or the note of a national bank in his pocket, but it does make a difference to the workingman whether we have an irredeemable paper currency, or whether it be a currency redeemable in gold and silver on demand. The labor of the country demands a sound currency, a currency based upon gold and silver. We should enter at once upon a policy that shall give us at no distant day such a currency. Instead of entering upon it, we now propose, in order to give twenty millions of the currency of the national banks to the new States and the southern States, to expand the currency to that amount. Why not withdraw the circulation of legal-tender notes to the same amount we increase the circulation of the national bank notes? We have passed through a severe commercial crisis. The business interests of the country are improving. If we shall be blessed with good crops the business men of the country have the best reason to hope for a marked improvement in all departments of productive industry. The laboring men of the country, who have severely felt the pressure upon the business interests of the nation, are now looking to the future with renewed confidence and hope. Why, then, for the benefit of jobbers and speculators who fatten upon the misfortunes of the people, derange and disturb the monetary affairs of the country by entering upon a policy of expansion? I take no part in this work of increasing the amount of irredeemable paper money, nor of imposing new burdens upon labor.

Mr. HENDERSON. Mr. President, I believe the proposition now before the Senate is one to modify the twenty-second section of the banking act so as to authorize an increase of the circulation notes of the national banks to the extent of \$20,000,000. It is a very simple proposition; there is but very little in it; but gentlemen have gone outside of the question before the Senate, and they are discussing the effect upon property, upon real estate and personal property, the effect upon the wages of the laboring man, of a return to specie pay-

ments. No part or parcel of the discussion, it seems to me, with due deference to the gentlemen who have entered into it, has anything to do with the proposition before the Senate.

The original banking act made the limit of \$300,000,000 to the circulation notes of the banks. I never saw any use in it; I never saw any sense in it; because banking, in my judgment, ought to be left like any other business, perfectly free. If we bank under the national system let us bank as they banked in New York. I believe there was no limitation upon the number of banks or upon the amount of circulation there.

Mr. CONKLING. I beg to dissent from the Senator's proposition. In New York there was this check: one half of all the basis of banking must consist of stocks of the State, the amount of which stocks was fixed, and by the constitution could never be enlarged except by the consent of the whole people expressed in a positive vote.

Mr. HENDERSON. That, I suppose, left banking to be carried on to the extent of the entire stocks of the State of New York, only one half of the basis of the circulating medium being required to be of New York stocks.

Mr. CONKLING. But the whole debt of the State was very small.

Mr. HENDERSON. Was it fixed by the constitution?

Mr. CONKLING. Yes, certainly; it was practically fixed.

Mr. HENDERSON. I ask the Senator, then, if a circulation could not have been based in New York under that very banking system upon coin instead of stocks? Were there not banks existing even under the very banking law of New York whose circulation was based upon coin and not upon stocks? Certainly there were. There was no limitation upon the amount of circulation. Banks might be established *ad libitum*, just whenever any person wanted to establish a bank, under the banking system of New York. That is my recollection. I am aware there was what is called a free banking law of New York, requiring, as the Senator says, a deposit with the register of the State of a certain character of public stocks, one half of which, I believe, as he states, should be stocks of New York, and the other half of which should be stocks of other States; but that did not prevent, under the laws of New York, any man from banking upon coin. He had a perfect right to bank upon coin and to issue large credits on the coin in the vaults of the bank. In other words, there never was a limitation in the State of New York upon the amount of the circulating medium.

Why, Mr. President, under the old system of banking, it was very rare, indeed, for any State to have any limitation upon the amount of circulating notes. Anybody complying with the terms of the banking laws of the State might go on and bank. Was there ever any reason in establishing this national system, and coercing, as my friend from New York said so ably here yesterday, all the State banks to go out of existence, for putting on this limitation? I understood perfectly well why the limitation was put on at the time. Why was it? It was because at that time we had not less than from eight to fifteen hundred million dollars of circulating medium issued by the Government upon Government credit. We had the greenbacks; we had the compound-interest notes; we had the certificates of indebtedness; we had every variety and form and shape of indebtedness, which constituted a circulating medium; some being a legal tender, and others not a legal tender. The fear was that in the establishment of the national banks we might increase to a very dangerous extent the circulating medium, and hence it was thought advisable at that time to put a limitation upon the national notes.

Is there any cause for it at this time? We have largely reduced that circulating medium based upon Government credit. It is out of the way. A large quantity of the greenback

circulation has been removed. Nearly all of the compound-interest notes are gone; I believe not exceeding twenty-five or thirty million dollars of them are outstanding at present. They will all soon be out of the way. All this vast amount of circulating medium issued upon the credit of the Government in the shape of seven-thirties, small notes, and other interest-bearing notes, and some of them non-interest-bearing have now disappeared, and the currency of the country has been largely reduced.

And let it be remembered, Mr. President, in connection with the reduction of the currency, that we have largely increased the population that use it. It must be remembered that at the time the currency was so expanded, eleven of the States, ten of them at any rate, because a part of the State of Tennessee was under our control, a large portion of the Union at that time did not use our circulating medium at all, neither the national notes nor the bank notes. Since that time we have conquered a mighty nation; we have conquered eleven States and blotted out the entire circulating medium that they had, and we have substituted ours for it, thereby giving a larger basis for the operation of this circulating medium, giving at least nine million people, turning the slaves into freemen, who are now demanding a circulation, demanding money in this shape, just like the white people of the northern States. They are operating for themselves. They are laborers, they are mechanics, they are merchants, they are doing business like the whites of the South. A vast amount of money is needed for that nine or ten million people; and yet we have gone on contracting the circulation.

The great idea here seems to be to have an early return to specie payments. I do not object to it. I should be a heretic if I were to say that I doubt the policy of a speedy return to specie payments. I am almost afraid to say it. I have got enough on my shoulders already, and if I were to say that, I suppose I never should survive. Every Senator seems to think that the age of happiness will be when we have returned to specie payments; commerce will revive; manufactures will be better than they were before; and agriculture will prosper beyond anything known before. I do not believe a word of it; and I do not want to force a state of affairs, the expediency of which I doubt. I doubt very much whether we shall be any better off under a reign of specie payments than we are at present. I have not time to go into the reasons for this extraordinary statement. I have no doubt it sounds very heretical to a great many of my hearers, if they pay any attention to it at all. But, Mr. President, reasons can be given why in all probability we are better off without this Elysium of specie payments. I am old enough (and not very old at that) to know that commerce and business did not thrive under the reign of specie payments any better than they do now; and every Senator knows perfectly well that such is the case. Do you not know that under specie payments we had commercial and financial revulsions every eight or ten years to such an extent that people often said when a period of prosperity was upon us, that it is the beginning, or the indication, the symptom indeed of financial crisis and financial difficulty? And everybody knows that it has come upon us again and again. The Senator from New York [Mr. CONKLING] smiles. Certainly he can smile; but when we go back to specie payments again, we shall find the same financial difficulties existing.

Mr. CONKLING. I will retract my smile if the Senator wishes me to do it. [Laughter.]

Mr. HENDERSON. As the smile is withdrawn, I will proceed.

Now, Mr. President, to return to the proposition before the Senate, I do not wish to discuss these other matters—it is a proposition to enable the States that are without banking facilities, on account of the limitation imposed by the twenty-second section of the banking

act upon circulation notes, to extend their circulation \$20,000,000. Gentlemen say at once that this is a proposition to expand the currency. The Senator from Ohio answered that very properly when he said that it was no such proposition at all. How does the Senator from Massachusetts make clear his proposition that this necessarily expands the currency? He said it was an expansion, and he wanted to live in the ancient ways of his fathers and did not want to move either one way or the other; he did not want to disturb the currency. He has got \$356,000,000 of greenback circulation out; but he would not take in a dime of it. He does not want to contract, and he does not want to expand. We have just got in that glorious fix with \$356,000,000 of greenbacks out and \$300,000,000 of circulating notes of banks, and that is the Elysium. He does not want to move—

Mr. WILSON. The Senator will allow me to say that I would reduce it at least \$20,000,000 and resume specie payments immediately.

Mr. HENDERSON. How would you reduce it?

Mr. WILSON. I would fund it.

Mr. HENDERSON. Fund it in what?

Mr. WILSON. In bonds of the Government.

Mr. HENDERSON. Bonds of what sort? Mr. WILSON. Of the Government of the United States.

Mr. HENDERSON. Six per cent. bonds?

Mr. WILSON. Yes, sir; or five per cent., or anything I could get it at.

Mr. HENDERSON. Gold-bearing bonds?

Mr. WILSON. Yes, sir.

Mr. HENDERSON. Would the Senator do that—fund these notes of the Government called greenbacks into a six per cent. security and then not extend this limitation, so that banking could exist in any of the States?

Mr. WILSON. If the Senator desires an answer, I will say this; if I had my way I would reduce the greenbacks to a point at which we could redeem them, and maintain that redemption. I would adopt free banking. I agree with the Senator in that; and I would have the banks redeem their circulation.

Mr. HENDERSON. They do redeem it now.

Mr. WILSON. That is, I would enter on a system that would bring that about in the course of a year or two.

Mr. HENDERSON. I do not pretend to say that I would contract the greenback circulation at all. I am willing that Senators shall enter this Elysian field of specie payments. It is a myth, a humbug, and always was. It has never been otherwise in this country; and the Senator knows it as well as I do.

Mr. WILSON. It so happens that every man in the world with a knowledge of finance disagrees with the Senator.

Mr. HENDERSON. The Senator knows perfectly well that the banks in this country suspended specie payments in 1837. He knows that they suspended specie payments in 1847. He knows that again in 1857 they suspended specie payments; and he knows perfectly well that they did so in 1861 and remained suspended for years, when their paper went to a discount much larger than the apparent premium on gold today. What sort of an Elysium was it? He knows perfectly well what it was. The Senator was in business, I presume, during those days, I suppose as early as 1837; and he remembers the state of affairs that existed in this country from 1837 to 1843, and again in 1847, in 1857, and in 1861. We suspended in 1861 and have remained suspended, State banks and all, from that day to this; and the Senator will find out when we get back to specie payment it will not last six months. I prophesy that our Government will be in the condition that the English Government was in 1816. They passed an act of Parliament declaring they would resume specie payments in 1816, I believe. After the close of the war with France, and Waterloo was fought, the English Government supposed they could go back to specie payments im-



mediately, having been suspended for over a quarter of a century. What was the success? They passed their act. Some Senator said yesterday fix a day—I think it was my friend from Indiana—

Mr. MORTON. I did not say that.

Mr. HENDERSON. Then I take that back; but some Senator said, "Fix a day for the resumption of specie payment and work up to it."

Mr. MORTON. I said that, but I was not speaking of the Bank of England.

Mr. HENDERSON. Certainly not; but you would fix a day here, and that is just what the English Government did. They thought when the war closed with great glory to the Government that prosperity and everything else would come upon the resumption of specie payments. Why, sir, the English Government were enabled to carry on the war with Napoleon simply because they suspended specie payments, and never could have done it otherwise. Every man who knows anything of the history of that Government, knows perfectly well that it would have been utterly impracticable for them to carry that war through on the basis of specie.

Mr. MORTON. I should like to ask the Senator this question: when the final resumption by the Bank of England took place was it not in consequence of the English Government having fixed a period of three years within which to resume, and did not the bank resume in a year and a half?

Mr. HENDERSON. If the Senator wants my opinion, I give it in this way: the English Government fixed a time again and again; they fixed on the year 1816 for resuming; and what was the result? The premium on gold increased immediately on the passage of the act instead of diminishing, and when the day for resumption came they had produced a monetary distress in the country that had not existed for ten years preceding. They then fixed 1818 for resumption; and what was the result? They brought another monetary panic in that country. They then fixed 1820 and again 1822; and the history of the times will disclose the fact that every effort on their part resulted in new disasters. Go back to the history of that time, and you will find that such is the fact. Why? Simply because you cannot bring about specie payments by an edict of Parliament or Congress.

Mr. WILSON. They got to a specie basis there at some time.

Mr. HENDERSON. They got there before the expiration of the last term, as the Senator from Indiana properly states. They did fix the time again in 1824 or 1825, and before the time arrived they did resume specie payments, but they resumed it upon the increasing business of the country, upon the revival of industry, and upon other things that bring about specie payments, not upon the act of Parliament. So it will be here. We shall resume specie payment when the business of the country justifies it and when our productions are more than equal to our importations. When we have built up foreign balances and can draw upon those foreign balances, and can increase our circulating medium in the precious metals in this country, then we shall resume specie payments, not before. The precious metals have departed; they are not in the country; and it is idle to talk about resuming specie payments until the revival of business, commercial prosperity, agricultural prosperity, and mechanical prosperity shall have put large balances abroad to our credit. It cannot be done otherwise.

Mr. MORTON. I should like to ask the Senator if the demand for gold is not governed by the ordinary law of supply and demand; and while there is no demand in this country for gold except to pay duties, I ask him if gold will not continue to go out of the country? There is no demand for gold now except for the purpose of paying duties, and therefore gold does not stay here, but goes where it is used as currency, where it is demanded for other purposes besides duties.

Mr. HENDERSON. I thought gold was very much in demand. I have not heard a Senator make a speech on this subject who did not crave a return to specie payments. Every Senator seems to look forward with as much delight to that happy period as he would to the haven of rest before him. I cannot see that former times justify the belief of Senators that we are going to have such prosperous times when we do return to specie payments, because we have had financial difficulties and panics, as I have shown, during periods of specie payments and necessity brought us to a suspension of specie payments. It will not be a year after we have resumed specie payments before an act of Congress will be passed justifying a suspension of specie payments. You will see an act of Congress passed in less than twelve months after resumption, justifying or legalizing the action of the banks in suspending specie payments.

You talk about resuming specie payments! What are you going to resume with? The little coin you have got in the Treasury—\$100,000,000? What will be the result? You have \$356,000,000 of greenbacks out. Then, I suppose, we shall rush to the Government vaults and draw that out. The banks will do it, of course, in order to resume themselves. How much money have they got? They have not over fifteen or twenty million dollars in their vaults and \$300,000,000 out. How are they going to resume? Is there coin enough to do it? Surely not. What will be the result? You will have a discount on paper instead of having a premium on gold and a uniform value to your paper throughout the country, both greenbacks and circulating notes, and they are worth just as much in Missouri as they are in New York to-day. Your paper is now perfectly uniform, though it is depreciated. I admit it is depreciated, but it is uniform; but it will not be uniform after that occurs; and do you not know it? You then set shaving shops to work from one end of this land to the other. Why? Because instead of having a premium on gold you have a discount upon paper, and it is exactly the same, and you will have to legalize your suspension or every national bank will be wound up. When you have taken up your greenbacks and canceled them, and the national banks have suspended specie payment, I should like to see the glorious haven of rest you have entered. What is the use of gentlemen talking otherwise? Do they not know that such will be the case?

This is a plain, practical view of this question, and every man of business interests or doing business in the country knows it. What is the use of disguising it, what is the use of trying to conceal the fact, and with a five-cent piece in our pocket swearing to the world that we are rich? There is not a word of truth in it. We are not rich. We have been engaged for five or six years in destroying property. We have destroyed hundreds and thousands of millions of property. We have been compelled to take the laboring men from the plows and workshops throughout the country and send them into the Army to defend the Union. That was all right enough; but you cannot take a million men for five or six years and keep them occupied in destroying property, abandoning all the industries of the country, and still remain rich.

Mr. WILSON. Does the Senator mean to say that we have not as much wealth now as before the war?

Mr. HENDERSON. I mean to say that we have not as much wealth *per capita* now as before the war. I heard the Senator on that point; I know all about his views. He has a bloated state of affairs. He has blown a bladder up in the New England States and thinks he is rich. I know exactly what he is; I know exactly what the New England people are. I know they have accumulated very largely, and did accumulate during the war, because of their situation. You had not this war on your own soil as we had in Missouri. We were engaged in destroying each other's prop-

erty—necessarily so engaged. Civil war was upon our soil, and we were destroying each other, and destroying each other's property. You were not doing so in New England. You were carrying on your workshops and supplying the Army. You were supplying knapsacks; you were supplying harness; you were supplying guns; you were supplying every article used by the Army; and you sold at enormous rates. You sold to the Government at three and four prices, did you not? You had the capital of the country. What little we had was destroyed. You took bonds at forty cents on the dollar; and now, having them in your pocket, you come to Congress and say, "Gentlemen, we must resume specie payments." Why did you not talk about doing business on the specie basis during the war? Why did you insist upon selling a set of harness for a cavalry horse to us at ninety dollars, when at the old prices we could have bought it at thirty dollars; and you know it.

You insisted on so selling, and did so sell to the Army. We had to give our obligations to you for ninety dollars for an article really not worth over thirty-five dollars. Now, immediately after that is done, and you have got the compensation in your pocket in the shape of a Government bond, you come before the country and say, "Yes, you have got a limitation of \$300,000,000 on national banking, and you must withdraw the greenbacks, take them out of the question," and immediately upon doing that you know you come to suspension, and the country will be bankrupt. You say, "I cannot help that; I have got a bond and want to appreciate it to par." We will see what it will be worth after you have done it. That will depreciate instead of appreciating it. It will depreciate everything in the country; and every man knows it. Why? Because you have produced a monetary panic, which always depreciates property and always depreciates bonds and everything else.

Mr. WILSON. I ask the Senator if there is not more taxable property to-day in the State of Missouri than there was in 1860?

Mr. HENDERSON. Certainly.

Mr. WILSON. Is it not so in every loyal State of the Union?

Mr. HENDERSON. No, sir.

Mr. WILSON. And measured by the gold standard, too?

Mr. HENDERSON. No, sir.

Mr. WILSON. The loyal States are worth at least \$4,000,000,000 more than they were in 1860.

Mr. HENDERSON. All the loyal States taken together?

Mr. WILSON. Yes, all the loyal States together are worth \$4,000,000,000 more than in 1860, and that, too, on the gold basis.

Mr. HENDERSON. I am not talking about the aggregate wealth. I spoke of the wealth *per capita* a little while ago. I know that population has increased. There has been an immense immigration to this country. The Senator must recollect that in 1860 our population was thirty-one millions, and now it must be in the neighborhood of forty millions. I apprehend that there is a greater aggregate wealth; but the Senator knows perfectly well that in all the seceding States there has been not only a destruction of \$500,000,000 of property, but there has been a depreciation of \$500,000,000 more. He knows that land worth fifty and seventy-five dollars an acre previous to the war is now selling for two dollars and a half and five dollars; and a very slow sale at that. In regard to the seceding States, I know they brought these consequences upon themselves; they are but the penalty of their own corrupt doings; I will not justify them; but to deny that there is a depreciation of property is idle and useless. The Senator knows to the contrary.

But, Mr. President, I have nothing to do now with the aggregate wealth nor the *per capita* wealth of the country. I am simply talking about this measure. Why is it that we

cannot get a vote upon it? I have been led off by the very singular remarks of such gentlemen as my friend on my right [Mr. CONKLING] and others into discussing the entire question. They must discuss everything, and when you get to talking about it you must follow them on. The Senator from Massachusetts [Mr. WILSON] is very well calculated to lead a gentleman off from almost anything. He has rambled wonderfully on this question.

Now, Mr. President, all that we have before us is the proposition of my worthy friend, the chairman of the committee, who very modestly asks that you permit these southern States that have no banking capital at all under the act, because they were not in the Union at the time, to establish banking capital on which to base a circulating medium of \$20,000,000. I do not care whether you defeat it or not. The fact is, I believe, upon a reconsideration, I would rather you would do it than not. Go on with this sort of work; it is not going to hurt anybody. At the next session of Congress you will do what I desired to do in the beginning of this, and we ought to have been attending to it instead of other business. We ought to have been regulating the finances of the country; but we were specially engaged in the discharge of another important duty. We should have made banking perfectly free, and let every man bank who has the bonds of the Government to deposit.

Mr. President, who told this Congress, who communicated the wisdom to this Congress to enable them to know exactly how much circulating medium the business of this country demands? It is wisdom beyond that of Solomon. It is wisdom beyond anything I can conceive of. With twenty million people we needed a circulating medium of \$1,500,000,000 you said, and you issued it to the people, and you forced it upon them by calling it a legal tender in payment of debts. Now, you will not permit the small sum of \$20,000,000 to be given where they have no banking capital, with the obligation on their part to redeem in the lawful money of the Government, when we have intimations that the Supreme Court will decide the legal-tender clause of your greenback circulation to be void and of no effect.

That brings us to specie payments at once. We see what will be the result of it. We see what sort of a fix the country will be placed in. It will require legislation. We ought to prepare for it now. If gentlemen are really sincere about desiring to return to specie payments, how do they expect to come to it? Must you not come to it through the medium of banks, by having banks in every part of the country to collect coin for the purpose of meeting their obligations? Can the Government go on collecting coin to prepare for specie payments? Attempt that, and you will have your people clamoring for the sale of gold. Whenever there is any large accumulation of gold in the Treasury there is a clamor for the Secretary of the Treasury to put gold upon the market so as to bring gold down. If the Secretary of the Treasury does not put it on the market, gold goes up; but just as soon as the Secretary sells a little gold in New York, gold goes down; and it is because of this clamor that he is compelled to keep the premium on gold down as far as possible. We can only resume specie payments through the medium of the banks, just as the Senator from Ohio very modestly proposed. I did not want to adopt any such system, but I was compelled to do it. I have been compelled to yield. The Finance Committee insist that we cannot go into free banking at this session. Why? It is dangerous to talk about finance anyhow, dangerous to talk about taxation, and there is danger in everything.

Mr. SHERMAN. I do not wish my friend to misrepresent the Finance Committee. The Finance Committee occupy no such position. They brought these questions deliberately before the Senate, and have asked the attention

of the body to them, but have been voted down every time.

Mr. HENDERSON. I am not talking about the Finance Committee.

Mr. SHERMAN. You said "the Finance Committee."

Mr. HENDERSON. I am talking about the Senate. Does not the Senator know that the Senate has taken this ground?

Mr. SHERMAN. I agree that the Senate has, but the Finance Committee has not.

Mr. HENDERSON. The Finance Committee did not; but every member of the Finance Committee in the Senate I supposed so voted. Did not the Senator from Ohio so vote?

Mr. SHERMAN. Vote how?

Mr. HENDERSON. Vote to ignore financial questions at this session.

Mr. SHERMAN. I beg leave to say that I do not think any member of the committee voted to ignore the financial questions. They did their duty in bringing forward those questions, but could not get the Senate to act on them.

Mr. HENDERSON. I am talking of the action of the Senate, not of the committee.

Mr. SHERMAN. I do not know any member of the Finance Committee who in the Senate refused to consider these questions.

Mr. HENDERSON. Well, Mr. President, when any question was discussed as to the propriety of taking up financial measures at this session I heard no opposition from members of the Finance Committee in the Senate to the conclusion arrived at. If the Senator wants my opinion I will say that I am justified by the identical bill he now reports; I voted for him to report it, but I have a right to comment on it, and I will comment on it.

Gentlemen talk about the people of the West. Why should the people of my State be compelled to stand by and listen to such a speech as the Senator from Massachusetts has made, with his pocket full of bonds, insisting that the greenbacks shall be withdrawn, and that nobody shall have an increase of the circulating medium; that he has got an iron rule fixed upon us, and that the West must submit to it; that we shall have no more circulation, and all we ever get we must pay ten per cent. for to some bank in New England that will agree to surrender—

Mr. WILSON. I do not wish to interrupt the Senator's speech, but I have said nothing of the kind. I said nothing about bonds.

Mr. HENDERSON. You offered to surrender some of the circulating medium of Massachusetts. You have that circulating medium in Massachusetts, and of course you must have deposited bonds for it.

Mr. WILSON. I offered to take \$10,000,000 of Massachusetts and give it to you.

Mr. HENDERSON. Has the Senator any interest in national banks? How many banks does he own in Massachusetts?

Mr. WILSON. Me personally?

Mr. HENDERSON. Yes. [Laughter.]

Mr. WILSON. If it will be any service to the gentleman, I will tell him that I have not a dollar in any national bank, and I have no bonds of the Government; and if the gentleman wishes me to go further, I can tell him that I have not \$500 of any kind of property on earth. [Laughter.]

Mr. HENDERSON. Then I ask the Senator how it is that he offers to give up his \$10,000,000 of the circulating medium of Massachusetts? He is like a certain individual who offered the whole world on one occasion when he did not own an inch of it. [Laughter.]

Mr. WILSON. I am the representative in the Senate in part of the State of Massachusetts; and I think I know something of her sentiments, of her opinions, and of her interests; and it will be far wiser to take these \$20,000,000 from the existing banks, although a considerable portion of it would come upon my own State, than to increase at this time the amount of paper money circulating in the coun-

try, and I shall so vote, regarding this as a less evil than the other. Now, I hope the Senator understands my position on this subject.

Mr. HENDERSON. Well—

Mr. PATTERSON, of New Hampshire. I would like to ask the Senator from Missouri a question.

Mr. HENDERSON. That will relieve me from answering the Senator from Massachusetts, and it is utterly impossible for me to do it, for I do not understand him.

Mr. PATTERSON, of New Hampshire. The question I wish to put springs from the position the Senator has taken here. I understand it to be the same position taken by the Senator from Indiana, that money, like water, flows to the lower level, the place where it is wanted, and it makes little difference whether you have a bank in New England or at the West, the money will go where it is wanted.

Mr. HENDERSON. I took no such position.

Mr. PATTERSON, of New Hampshire. Did not the Senator take a position in favor of free banking?

Mr. HENDERSON. Yes, sir.

Mr. PATTERSON, of New Hampshire. Under a system of free banking if New England, either by her option or by the force of the Government, were to invest her surplus capital in banking, what business would you have to take that vested right and her invested property away from her and force it into another section of the country, any more than you would have a right to take out of the manufacturing establishments of New England the capital which is invested in making cloth?

Mr. HENDERSON. I fully agree with the Senator that we have no more right to do it; but the Senator from Massachusetts makes the proposition, and he has no more right to do it than I have.

Mr. PATTERSON, of New Hampshire. I understood the Senator from Missouri a moment ago to complain of the Senator from Massachusetts because he did not assent to taking the bank stock from Massachusetts and giving it to the West.

Mr. HENDERSON. No, sir; the Senator from Massachusetts knows better than that. The Senator from New Hampshire was half asleep. [Laughter.] I noticed him; he paid no attention. I knew very well he did not understand it.

Mr. CAMERON. May I ask the Senator from Missouri to allow me to make a motion?

Mr. HENDERSON. A motion for what?

Mr. CAMERON. It is to this effect: that to-day and hereafter the Senate will adjourn at four o'clock. I do not make the motion to interrupt business; but I think it will be more agreeable to ourselves, more beneficial to the country, and perhaps we shall expedite business, if we adjourn at a fixed hour every day.

Mr. HENDERSON. In order to make this long speech of my friend short, I object to being interrupted.

The PRESIDENT *pro tempore*. The Senator from Missouri is not to be interrupted but by his consent; and I hope he will not consent. [Laughter.]

Mr. HENDERSON. I by no means consent, because I am now in the midst of a speech that will, perhaps, not close until five o'clock.

Mr. CAMERON. I hope to God it will not last much longer. [Laughter.]

Mr. HENDERSON. I have known many hopes entertained by my friend that have never been realized, and perhaps this is not the last. [Laughter.]

Mr. President, I have sat here patiently desiring a vote on this proposition. I now desire a vote upon it. I do not wish to prolong this debate. I have certainly not participated in it heretofore, and I did not intend to participate in it; but when such extraordinary views are expressed as I have heard here to-day I feel it my duty to notice them. Perhaps from the indications I see around me I misunderstood what the Senator from Pennsylvania said just now.

Mr. CAMERON. Does the Senator desire that I shall repeat what I said?

Mr. HENDERSON. Yes, as Senators generally seem to be very much amused.

Mr. CAMERON. The Senator said that he had not made a long speech and did not desire to occupy the time of the Senate, but it might take him until five o'clock to get through with his remarks. I said in reply that I hoped to God he would not occupy much more time than he had already done upon this subject?

Mr. HENDERSON. At this session?

Mr. CAMERON. To-day.

Mr. HENDERSON. Oh! Well, Mr. President, I do not know that I have occupied a great deal of the time of the Senate recently. I always listen with a great deal of pleasure to the Senator from Pennsylvania, and I think he has occupied much more of the time of this body than I have. I think generally I hear him every day when I am here. Surely I have not participated in any debates here for the last two or three weeks. I have said nothing in the body during that time. For two or three weeks past I have certainly not attempted to make a speech or a remark on any subject.

Mr. CAMERON. May I ask the Senator from Missouri whether there is any special reason why he has made no speech the last few weeks?

Mr. HENDERSON. I am making a speech now because of the fact that I have heard views expressed here yesterday and to-day that I could not, as a representative of any part of the West, listen to without replying to them. I see perfectly well what is to be the result; it is to make the people of the West pay this public debt; and everybody else can see it. You are holding a depreciated debt now which was contracted with a depreciated currency, and the proposition is to resume specie payments instantly, and every Senator seems to fall into it; and almost every Senator I have heard speak derives the idea of stopping the contraction of the greenbacks, whose contraction we suspended a short time ago, during this very session of Congress, by a large majority. Senators seem to condemn the action of the Senate and House of Representatives which stopped contraction on the part of the Secretary of the Treasury; and now almost all demand that at least there shall be no further expansion, and that in the course of a short time these depreciated notes shall be funded in a six per cent. gold-bearing debt. I am opposed to it. I suppose I shall be left almost alone here; but I can tell Senators they will never carry a portion of the people of this country upon any such proposition. A large proportion of them will see to it that no such proposition shall be carried, because I believe the people entertain correct views in reference to this matter.

But, Mr. President, as I said in the beginning, I do not wish to enter into these questions, because they are questions that do not legitimately belong to the discussion of the bill under consideration. The measure before us is a proposition to enable States to have a circulating medium which now have none. It does not propose to take from New England anything according to the view of the Senator from New Hampshire. I do not propose to take a dollar from Massachusetts, and I do not believe we have a right to do it. I do not propose to take from Rhode Island and Connecticut, because it would injure the business of those States. I do propose however to pass this bill though it does not satisfy me. If I had my way I would take off the limitation entirely and let us bank freely anywhere. Let us do that, and then if you want to withdraw the greenback circulation you can do it; and do you not arrive at specie payments the moment you do it?

The Senator from Massachusetts says we must not take off the limitation, but must go on funding the greenbacks until we get them down to \$200,000,000. Why, sir, the country will be bankrupt before we reach it. Why not take off the limitation first, and then go on to

reduce the greenback circulation, if you want to arrive at specie payments? Do not produce a pressure without providing a means of relieving the community; and then, if they complain, all they have to do is to deposit bonds and take out circulating notes, and the very moment the greenbacks are reduced to \$250,000,000 my impression is that you have arrived at specie payments. That is just what I would do; I would take the limitation off national banking, I would have none upon it, and then if you want specie payments proceed to withdraw the greenback circulation, and by that process of course you arrive at specie payments. Whether it is going to do us any good to come to specie payments as suddenly as some gentlemen suppose is necessary, is another question that I do not propose to go into now; but at the proper time I think I can show some reasons why it is not expedient with the present condition of our industries in this country to attempt anything of the sort. It will only result in disaster and monetary ruin.

Mr. President, I shall not detain the Senate much longer, as I promised my distinguished friend from Pennsylvania and others that I would not do so. I rose merely to protest against the views expressed by several gentlemen, because they seemed to be almost unanimously concurred in by Senators all over the House, or at least I have heard no dissent, although we adopted the contrary policy in the beginning of the session. Everybody now seems to be for specie payments. Some want to cancel the greenbacks, some want to fund them in bonds at six per cent.; but everybody wants to get rid of them. Sir, I am opposed to any such policy. The Senate may overrule me, but they will not try it a great while. I am willing to reduce gradually, but I am never willing to reduce until you take the limitation entirely off banking and make it free, so that the people of the country may relieve themselves whenever you undertake this pressure of the withdrawal of greenbacks.

Mr. MORTON. I wish to understand if the Senator's proposition is to make banking free, and then allow the banks to redeem their issues in paper money instead of gold and silver?

Mr. HENDERSON. The Senator asks me if that is my intention. I will read the proviso to the bill which I had the pleasure of reporting from the Finance Committee, and it will show him what my proposition was. The bill was to make banking free, to repeal the twenty-second section of the banking law entirely, and then it was accompanied by this proviso:

*Provided, That whenever the amount of United States notes and circulating notes of national banks combined shall be in excess of \$700,000,000 the Secretary of the Treasury is authorized and required to retire and cancel as rapidly as possible United States notes to the extent of such excess, until the whole amount of United States notes outstanding shall be reduced to \$250,000,000.*

I was authorized by the Finance Committee to report that bill in the early part of the session. It does not express my views, because I would put on no limitation; but the Committee on Finance supposed it would be proper to put a limitation of \$700,000,000. That was saying, "Open the door to banking; let everybody bank as he chooses; but as banks increase, and the circulating medium of the banks—national notes—go into circulation, the Secretary of the Treasury shall retire the United States notes in that proportion, leaving at all times \$700,000,000 out." That was the proposition reported. It would at least make banking free. That would be an infinitely better proposition than this; but I go for this because it is just as far as it goes. It is just to the States that have not now their proper proportion of national circulation; and I do not want to derange the monetary affairs and the commercial business of the New England States or of New York. New York has more than her share of national bank notes.

Mr. CONKLING. No.

Mr. HENDERSON. I say that since her banks have adopted the national system New York has more of the national circulation than

her population entitles her to; but suppose we should undertake to withdraw seven or eight or ten millions of the circulating medium from New York under legislation such as my friend from Kentucky proposes, what effect would it have on business in New York? My friend from New York [Mr. CONKLING] is too good a financier not to know that it would derange business in that great city very much. My friend from Massachusetts, who talks of giving up \$10,000,000 from the manufacturing industry of New England, because the Massachusetts banks have their circulation all over New England, does not for a moment contemplate what sort of effect it would have on the business interests of that section of the country? The proposition of my friend from Kentucky is all wrong; the true remedy is to take down the bars, take off the limit, and let banking be free like all other business.

Mr. President, suppose you reduce the greenback circulation \$100,000,000 more, leaving it only \$256,000,000, would not every Senator feel that we should have approached within a few cents on the dollar of a specie standard? Why? Because with a free-banking system almost every dollar of the greenbacks would be required in the reserve banks, and whenever the whole amount of United States notes is required as a reserve in the national banks, specie payments come as a matter of course, because there are then no greenbacks in circulation, and the greenbacks held by the banks answer the purpose of gold. It is only, I repeat, through the medium of the banks that you can come to specie payments at all.

Mr. President, I hope this bill will be passed, and I am astonished that any opposition should be presented to it. It is but a measure of justice to the States which have no bank capital, and can have none under the laws of Congress. We find the people without any bank facilities. We have killed the State banks by act of Congress, put them out of existence, forced them to that Procrustean bed of which my friend from New York spoke yesterday. It is impossible for them to bank. Now you insist upon preventing the State banks from doing anything, and also insist upon putting a limitation of \$300,000,000 upon the national banks. Is there any justice in it; any reason in it? There is none except this idea of forcing specie payments. Go on with your hot-bed system, and see what it will result in. You will see what sort of specie payments you will have without specie and \$600,000,000 to pay. Make any attempt to do it, and the business and industry of the country will come to disaster and ruin.

Mr. President, it does not expand the currency a dollar to pass this bill. You have to redeem. It only requires that a larger amount of the United States notes shall enter into the reserves of the banks; a larger part of the greenback circulation will be absorbed as a reserve, and although you increase this circulating medium it has the effect simply to give facilities where facilities are needed; and if the people of the South need these facilities at home, it will only result in putting back into the banks of New England, and of New York and Pennsylvania, the same amount there. Gentlemen seem to suppose that if the banks have paper somebody will rush there and borrow it at eight or ten or twelve per cent. for the mere purpose of having money in his pocket. Senators should not imagine that people are generally so short sighted as that. People do not borrow money from banks unless they want money. If my friend from New York would only consider for a moment that a large portion of the bank notes of New York are now circulating in the southern States, and that the result of this establishment of facilities in the South will only have the effect to put the banks nearer to the people of the South where they can get accommodation, I think he will be reconciled to it. How would a man from Richmond do in the city of New York borrowing money, where he has to give a couple of indorsers? I apprehend he would have



some difficulty in doing it. He is unknown; his neighbors and friends are unknown. He wants the facilities in Richmond. So a man in New Orleans wants the facilities there; he does not want to go to Boston to borrow money; his indorsers are not known there; his bill of exchange cannot be sold to the Boston bank. The result of this movement will simply be that you put the circulating medium where it is needed and where the people can be accommodated at their own doors, where the indorsers are known, and where their paper can be discounted; and it will simply result in putting back into the New England banks that redundancy of circulation not needed and which is now circulating in the southern States.

Mr. President, it is but just to the people of the South, it is but just to the people of the States which have no circulating medium. Why is it that gentlemen insist on an irredeemable circulation issued in their own States, a forced loan to the people who cannot have bank stock themselves? How just is it to force your currency on them, irredeemable as it is, making a loan upon the people of every other State of the Union, and you yourselves receiving interest on it? Why not let the people who have to borrow receive the dividends on the banks. They cannot get stock in your banks, and if they could, it would not do them any good, because, as I said before, they could not get accommodation from your bank counters. Let the accommodations be among the people who want them. Let them own the stock. Is that anything more than just and right? Surely not.

Senators need not imagine that people will go to a bank and borrow for the mere glory of having money in their pockets. Let us trust the people as we trust ourselves. We are not fond of paying six or ten per cent. for money for the mere privilege of having it idle in our pockets. A man does not borrow usually unless he wants it in business, and when he does want it in business, in the name of common sense give him facilities near his door, where those who indorse his paper are known. Is there anything wrong or unjust in this? Surely it does not extend the circulation a dollar.

If you mean to take off the limitation entirely and let banking be perfectly free, there would not be an expansion of a single dollar. The people will not borrow money unless they want it; and if they do not want it there will be no expansion, and the banks are not likely to put out any more than the people demand, because bankers know perfectly well that they have to redeem what they put out either in what you call United States notes or in gold; and when the Supreme Court comes to decide that the legal-tender clause is void that very moment the banks find nothing to be lawful currency of the United States except gold, and they will have to redeem their entire paper in that.

Hence the banks are very cautious, at least during the present year. They must be very cautious in putting out paper in the face of any probability or even possibility of a decision of that sort. My friend from Oregon, [Mr. WILLIAMS,] I believe, has argued the case before the Supreme Court; the case is pending there to be decided at the beginning of the next term. But even if the Supreme Court should not decide in that way, the disposition of Congress seems to be to fund the greenbacks; to cancel them, to get them out of the way. If that be done, what can the banks redeem in except coin? Are they likely, in view of the prospect of being compelled to redeem in coin, to put out any more paper than the business demands of the country require? Surely not. Then why is it that Senators insist that this is a proposition to expand the currency. I repeat again, and I want the people to understand, that the proposition of gentlemen simply is to force specie payments by denying a circulating medium to the people, and whenever you get specie payments in that way you bring disaster and ruin on the country.

Mr. CORBETT. It seems that this is not a question of circulation in the West, but a question of the profits of the banks. It resolves itself right to that point. If a man has the money to establish a bank in the western country he must go East to purchase the bonds on which to issue his bank currency. If the West now have the currency to establish banks with \$20,000,000 of circulation what will be the result? Take, for illustration, a bank with \$100,000 capital. Suppose a man in St. Louis has the money with which to establish such a bank; he goes to New York and purchases \$100,000 of United States stocks, which are worth 110. He must therefore pay \$110,000 in currency, legal-tender notes or bank notes, which he takes from St. Louis, for \$100,000 of bonds. He takes those bonds and deposits them with the Treasurer of the United States, and gets in return \$90,000 in bank currency, which he takes back to St. Louis. The result is that he has \$90,000 to circulate among the people of Missouri, whereas he had \$110,000 before. Therefore it is not a question of currency, for he reduces his currency \$20,000, but it is a question as to the profits of the bank which he establishes. If the people of the South and West have the currency there now with which to establish these banks, what is the use of establishing the banks? If they have the currency and desire to establish the banks the result is that when they take that currency to New York and convert it into bonds and get their banks going they have less currency than they had before. What is the use, then, of increasing the bank circulation, except for the profits they make in banking?

To assert that the issuing of \$20,000,000 more currency is not expansion, seems to me to be folly. This is a direct proposition of expansion, which we have pledged ourselves to the country against. It is against the policy of resumption of specie payments upon the road to which we entered after the war. You have now seven dollars of currency in circulation to one dollar of gold. Add this \$20,000,000, and you make it \$7 20 to one dollar, and you are just that much further from specie payments, and I do not see how we are to reach resumption by increasing the volume of currency and increasing the price of everything. The office-holders, the clerks in your Departments, are coming here because the price of everything is so high and asking you to increase their salaries twenty per cent. You hesitate to do that, and now you propose to issue a currency that will make it cost them more to live than it does at present. You have already doubled the price of every article they use here for the sustenance of life; you hesitate about increasing their salaries twenty per cent.; and now you propose to increase the currency \$20,000,000, which will add two and a half per cent. to the value of gold, and the result will be that the price of everything will advance. The necessaries of life will advance in price; these persons will be compelled to pay more and they will have to come to you and ask for a still further increase of salary. The question is whether we shall keep on increasing this circulation, advancing prices, adding to salaries, to the pay of Senators and all employes of the Government, or whether we shall stand still and work up gradually to a position where we can see a prospect of resumption.

I do not desire to contract the currency at present, but I implore Senators to look well to this, and at least let us stand where we are. If the West have money to invest in banking capital, they do not need this provision, for they have more currency than they will have after they establish these banks. It is a mere question of dollars and cents as to the profits. Why increase the currency for the purpose of giving profits to people in the West? It would seem that the people of the East have more money in New York to-day than they want and are only getting three or four per cent. for it. If the people of the West desire money, it will flow there for speculation in flour and products of every kind; but I say they have more cur-

rency now than they can use. I hope this bill will be laid on the table; it seems to me that it is only a proposition to increase the circulation, and to place ourselves in a worse position, further off from specie payments than we were before.

Mr. POMEROY. If we could ever get to a vote on this question it would be gratifying to me. I voted with the Senator from Ohio two or three days ago to take up this bill because he assured me that we could complete it that day.

Mr. SHERMAN. It is not my fault that we did not do so. I have sat here perfectly quiet all day to-day and have not heard the pending amendment discussed more than fifteen minutes during all this livelong day. Now, I hope the Senate will stand by me until this bill is defeated or passed or put out of the way in some mode.

Mr. POMEROY. I have made up my mind never to vote to take up another bill in regard to banks. It is an endless theme. Whenever we begin a discussion about banks there is no end to it. My excellent friend from Oregon [Mr. CORBETT] has shown that it is a grand system of retrenchment. The new idea of my friend from Oregon is exceedingly interesting, because he shows that if we now organize new banks under this provision we shall have \$20,000 less of currency on every \$100,000 than we had before. If this is a system of retrenchment of that kind, I am against it. I was going to vote for it until my friend from Oregon proved that it was such a reduction of currency to issue \$20,000,000 more that I am in doubt whether I shall vote for it or not. [Laughter.]

Mr. CORBETT. A reduction to your section of country.

Mr. CHANDLER. I move that the bill be laid on the table.

Mr. CONKLING. We had better take the vote on this amendment first.

Mr. CHANDLER. Very well; I withdraw the motion for the present.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kentucky [Mr. DAVIS] to the amendment of the Committee on Finance.

Mr. SHERMAN called for the yeas and nays, and they were ordered.

Mr. SHERMAN. Now, I beg to occupy the attention of the Senate for one minute. I want to get the sense of the Senate on the simple proposition whether they will recall \$20,000,000 of circulation from the New England States. That is the result of the proposition of the Senator from Kentucky. If the Senators from New England are willing to agree to that, I have no objection, and if the Senate so decide, I am then prepared to conform my action to the judgment of the Senate on that point.

Mr. POMEROY. I should like to ask how this circulation can be withdrawn? There is no law to withdraw it.

Mr. SHERMAN. That is the question to be solved. Let us have the vote.

The question being taken by yeas and nays, resulted—yeas 27, nays 15; as follows:

YEAS—Messrs. Bayard, Buckalew, Cameron, Cole, Conkling, Corbett, Davis, Doolittle, Ferry, Harlan, Hendricks, Howe, McCreery, Morrill of Vermont, Morton, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Stewart, Sumner, Thayer, Tipton, Trumbull, Vickers, Wade, Wilson, and Yates—27.

NAYS—Messrs. Anthony, Cattell, Chandler, Cragin, Fessenden, Henderson, Howard, Morgan, Morrill of Maine, Nye, Röss, Sherman, Sprague, Van Winkle, and Williams—15.

ABSENT—Messrs. Conness, Dixon, Drake, Edmunds, Fowler, Frelinghuysen, Grimes, Johnson, Norton, Ramsey, Saulsbury, and Willey—12.

So the amendment to the amendment was agreed to.

Mr. CHANDLER. I now move that the bill, with the amendments, be laid upon the table; and on that motion I ask for the yeas and nays.

Mr. SHERMAN. I trust the Senator from Michigan will withdraw the motion for a

moment. I wish to state the position of the bill.

Mr. CHANDLER. I withdraw the motion for the present.

Mr. SHERMAN. I will not detain the Senate more than a few moments. This bill contains two clauses which excite some interest. The first section prohibiting the payment of interest on bank balances I consider important, and I desire a vote on it. Then this section as amended prohibits any increase of banking circulation, but provides for a withdrawal of the \$20,000,000, the issue of which we propose to authorize by withdrawing it from three or four New England States. I do not think the section as it now stands is so framed that it can be executed promptly, but when I saw what was the sense of the Senate, that this increase should be withdrawn from those States having a surplus, I carefully drew a section which the Senator from Kentucky is satisfied to receive as a substitute for his proposition, which will carry out easily and perfectly what is now the deliberate judgment of the Senate.

Mr. SUMNER. Let us hear it read.

Mr. SHERMAN. I will ask that it be read as part of my remarks; but perhaps I had better read it myself, as it is my own handwriting. It is to strike out the whole of the fifth section as it stands and to insert:

That to secure a better distribution of the national banking currency there may be issued circulating notes to banking associations organized in the States and Territories having less national banking circulation than five dollars per inhabitant; but the amount of such circulation shall not exceed \$20,000,000; and the circulation herein authorized shall within one year be withdrawn *pro rata* from banks organized in States and Territories having a circulation exceeding that provided by the act approved March 3, 1863, entitled "An act to amend an act entitled 'An act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof,'" to ascertain which the Comptroller of the Currency shall make a statement showing the amount of circulation to be returned by each of such banks, and shall make a requisition for such amount upon such bank; and upon failure of such bank to return the amount so required within the year aforesaid, it shall be the duty of the Comptroller of the Currency to sell at public auction in New York an amount of bonds deposited by said bank as security for their circulation equal to the circulation to be withdrawn from such bank, and with the proceeds to redeem so much of the notes of such bank as may come into the Treasury as will equal the amount required from them.

I was glad to see a disposition on the part of the Senators representing States that have an excess of circulation to allow a withdrawal of a small percentage of their circulation in order to supply the States that have so little. Some Senators may not understand the pressure of public feeling in some of the States on this subject; but I assure the Senate now that for us to adjourn without making some provision to equalize the banking circulation of the country, especially in States that have none, will be a cause of widespread and general dissatisfaction. I know there is a feeling in the Senate against the increase of paper money, and I reciprocate that, and I am glad to see that Senators from New England States, most of whom would be affected by this provision, are willing to surrender a small portion of their excess of circulation to comply with this demand for \$20,000,000.

If this amendment is adopted it will provide a way by which within a year the States having no banking circulation now will have a local circulation of their own, and it will be withdrawn from the others by slow and gradual process, so as not to disturb the business of the country. I am rather glad, on the whole, that the Senate have come to this conclusion. The Committee on Finance did not feel safe in reporting to the Senate a proposition to take from banks already legally organized a portion of their local circulation.

Mr. FESSENDEN. I ask the Senator whether his amendment as drawn provides for taking first from those States which are most largely in excess. There are some States that are very largely in excess of what they are entitled to, and others that have only a single excess.

Mr. SHERMAN. The law now requires

that one half of the total circulation of the national banks, \$150,000,000, shall be distributed according to population, and the other half according to business, resources, &c., somewhat upon the idea advanced by the Senator from West Virginia. The first duty of the Comptroller of the Currency under this section will be to make this distribution.

According to the law referred to in the section, one half will be divided according to population, and the other half according to business, resources, &c., which will be ascertained, no doubt, from the census or from other authority. The result will be, I think, that New York, which has enormous commercial and other resources, will be found not to have more than its proportion, or very little more. The only States, so far as I know, that will be affected by it, will be Massachusetts, Rhode Island, Connecticut, possibly Maryland, and perhaps Vermont; but I cannot say certainly until the apportionment is made. I do not think more than six or seven States will be required to furnish the excess. Maine has twelve dollars of circulation per inhabitant. It has more than its proportion if the whole \$300,000,000 were based on population; but when it is based on resources in part, Maine probably would be entitled to a fraction above what she would have if the whole were distributed upon population alone.

At any rate, this would carry into execution to the extent of \$20,000,000 the meaning and intent and purpose of the law requiring a distribution of bank circulation. If the Senate is willing to take this the Senator from Kentucky authorizes me to offer it as a substitute. I take it as the judgment of the Senate; this, I believe, will be effective. I would be very glad to have the bill passed in this way, although I would have preferred to issue the \$20,000,000 without disturbing any bank organization in the States.

Mr. BUCKALEW. Mr. President, I desire to ask the Senator from Ohio a question. He anticipates, I suppose, a motion to lay this bill on the table. I desire, before I am required to vote on that motion, to understand whether he intends to persist in the passage of the first section of this bill?

Mr. SHERMAN. I have no authority, representing the Committee on Finance, to waive any section of the bill; but I do not want to debate the first section, and coming with them to have a vote at once on it. If a majority of the Senate are for it, I want it in the bill. The first section, in my judgment, is exceedingly important for the safety of the system; but I want the Senate to pass upon it. I do not intend to debate that section.

Mr. BUCKALEW. Some time ago a question was taken upon considering this bill after a debate upon that first section, and the Senator from Ohio stated that he would regard that as a test vote.

Mr. SHERMAN. On that section?

Mr. BUCKALEW. Yes, sir.

Mr. SHERMAN. But I will say to the Senator that several Senators who voted to lay the bill over on that occasion came and told me that they voted to postpone it not with a desire to defeat the bill, but to satisfy the wish of the Senator from Pennsylvania, [Mr. CAMERON,] who wanted further time to look into it.

Mr. BUCKALEW. It was understood that would dispose of the bill, at least so far as the important question involved in the first section was concerned. I, among others, agreed afterward informally to take up this bill and have it considered; and the object was that the other parts of the bill might be passed; it was said that the other sections were important, were necessary to perfect the banking system; but I had no idea when participating in the movement to get this bill up again that we were to have the first section pressed for adoption. If the Senator does not inform us that he is willing to waive that first section, I shall vote with the Senator from Michigan to lay the bill on the table; if not, I will vote against him.

Mr. CHANDLER. It is perfectly evident that the discussion of this bill is hardly com-

menced yet. The first section will lead to a longer discussion than has yet occurred upon the bill; and the result of that discussion, in my judgment, will be to strike out that section. But this last section, which is the only portion of the bill that commends itself to my mind, is a fallacy even under the proposition of the Senator from Kentucky. It amounts to nothing. It is not a tub to the whale; it is not a herring to a school of sharks. It is mere ballast. I therefore, to avoid three or four days' discussion on this bill, which certainly must follow, renew my motion to lay the whole subject on the table; it is, in my judgment, utterly useless to go on with it; and on that motion I ask for the yeas and nays.

The yeas and nays being taken resulted—yeas 21, nays 22; as follows:

YEAS—Messrs. Anthony, Bayard, Buckalew, Cameron, Chandler, Conkling, Conness, Corbett, DeCottle, Ferry, Harlan, Hendricks, Howe, Morrill of Maine, Morton, Sprague, Stewart, Trumbull, Vickers, Williams, and Yates—21.

NAYS—Messrs. Cattell, Cole, Cragin, Davis, Fessenden, Henderson, McCreery, Morgan, Morrill of Vermont, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ross, Sherman, Sumner, Thayer, Tipton, Van Winkle, Wade, Wiley, and Wilson—22.

ABSENT—Messrs. Dixon, Drake, Edmunds, Fowler, Frelinghuysen, Grimes, Howard, Johnson, Norton, Ramsey, and Saulsbury—11.

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the committee as amended—the fifth section.

Mr. SHERMAN. I will now offer my amendment, or I can do it in the Senate.

Mr. CAMERON. I move to strike out the first section; and on that I ask for the yeas and nays.

Mr. CHANDLER. I stated yesterday that when that first section came up I was prepared to discuss it. That first section, as I stated, is perfectly atrocious. It proposes to prohibit any national bank in the three large cities, where all the national banks throughout the United States are compelled to keep their balances, from paying interest on those balances, even although they may desire thus to pay interest. Now, sir, there is not a national bank, I presume, in the whole United States that is not compelled to keep a deposit in some one of these three large cities, and generally they are compelled to keep a large deposit there. Take country banks with \$100,000 capital; and nine out of ten of them, as is shown by the statement which I have on my desk, have a deposit of one hundred thousand dollars or upward. The redemptions are all made by drafts upon the city of New York or upon the city of Boston or the city of Philadelphia. I asked the cashier of the largest bank in the city of Detroit, a few days before I left home, what amount of redemptions had been called for in the four years the bank had been in existence; and he told me that one single ten-dollar bill was every redemption he had made in the four years.

He had not been called upon except for that one ten-dollar bill. All the banks must redeem by drafts upon New York or upon these large States. Your law compels them to redeem there. The demand for redemption is upon those cities. The banks require even in specie-paying times \$1,000 in drafts on New York where they redeem one single dollar of their notes in coin. The ratio is not too highly stated when I say that they require \$1,000 in drafts on New York when they are paying coin, to one dollar redemption at their counter.

Then again, sir, throughout the Northwest the entire business of our banks almost is by exchange on eastern cities. A man goes out to buy a thousand head of cattle, a million bushels of wheat, a million feet of lumber, a thousand tons of copper, or whatever else he goes out to buy; he goes prepared to draw upon the great cities; he will draw perhaps at thirty or sixty days; those drafts are there discounted, and funds naturally accumulate there. A bank with a capital of \$1,000,000 in the West will nine times out of ten have a million or more on deposit. Here is their \$1,000,000

of circulation, and here is their \$1,000,000 of deposits, all liable to be called upon at a moment's notice; all must be redeemed, if called upon, by drafts on New York; they are compelled to keep large balances there. A bank without \$1,000,000 of deposits and \$1,000,000 of circulation is compelled, in order to be in a safe condition, to keep at least \$500,000 constantly on an average on deposit in the eastern cities.

The banks in those cities are anxious to pay four per cent. interest upon this reserve fund. It amounts to an enormous sum. I have on my desk a statement that the average amount the year around is over seventy-three million dollars. They are anxious to pay four per cent., and why? Because the average amount for which they loan these reserve funds is six per cent. and upward. They make not only the four per cent. they pay, but they make fifty per cent. additional upon the four per cent. they pay; the average is over six per cent. and has been for the last six years, and will be for the six years to come.

As I stated a short time ago, the proposition itself is atrocious, because here are the heaviest banks in the United States, and the most reliable, standing ready to pay four per cent. and anxious to do it; but you say that if banks who are forced to make these deposits receive that four per cent. on them they shall immediately go into bankruptcy. Mr. President, this first section is and should be designated a proposition to swindle the whole people of the United States for the benefit of a few banks and bankers in the three great cities of the United States.

Mr. President, if this section is to pass, I propose to offer an amendment, and I will read it now, but I will not offer it. I do not propose that these rich banks and bankers, these few individuals in the three great cities, shall enrich themselves at the expense of the entire people of the United States. These little banks, these seventeen hundred banks scattered all over the United States are in the habit of paying the four per cent. which they receive in New York for trust funds and court funds and other funds that lie there permanently. Strike off the possibility of their receiving that four per cent. and they will refuse to pay the four per cent.; therefore you are robbing not the banks, but the trust funds and the widows' and orphans' funds all over the nation. If this section is not stricken out, I shall, after the vote is taken, offer an amendment which I will read now, but do not yet offer. It is made by this first section the duty of the Comptroller of the Currency to see that this act is observed, and I propose to put in after "observed" the following proviso:

*Provided, That it shall be unlawful for any national bank or banking association in the cities of New York, Philadelphia, or Boston, receiving deposits from national banks as provided in this section, to loan any portion of their deposits; and it is to be made the duty of the Comptroller of the Currency to see that this proviso is enforced; and upon violation thereof by any national bank or banking association he is to be authorized and required to proceed, as in other cases of default, to appoint a receiver and wind up the affairs of such association, according to the provisions of section fifty of said act.*

If you prohibit them from paying interest, prohibit them from receiving interest. The banks in these great cities are very differently situated from the country banks anywhere throughout the United States. If a bank in New York or in Boston has to-day \$100,000 or \$500,000 over, that it thinks it will not require for four or five days or for thirty days, its cashier steps out and says, "I will loan this surplus for thirty days or five days or one day for five or six per cent.," and he will take his interest for one day or thirty days or sixty days; but it is not so with the banks throughout the country. They are compelled to take their regular business paper in the regular way, and rely on the receipts from that paper for their interest account; but in New York, as everybody well knows, the banks loan to the last dollar this surplus fund, this seventy odd millions that continually lie there as a permanent

fund almost. They can tell within \$1,000,000 any day the amount that will be there, and it amounts, I say, to a permanent fund.

The banking institutions of those great cities are ready and anxious to pay four per cent. under competition; but the getters up of this bill—I do not believe it was got up in the Committee on Finance, I do not believe they would do so unjust a thing; I believe it was gotten up by a committee from these banks—not satisfied with receiving two per cent. or three per cent. excess over the four, want the whole. Instead of making their \$1,500,000, which that per cent. would give them on the seventy odd millions, they want to make six or seven per cent. out of it, and defraud the entire people of the United States to do it. A beautiful thing it would be if carried!

If the Senate shall refuse to strike out this first section, which is in all its phases atrocious, then I shall offer and hope to carry this proviso compelling them that pay no interest to receive no interest, compelling them to hold their reserve deposits on hand and not loan them. What is good for the country banks is good for them. Let them receive nothing upon their deposits and pay nothing, and then they will always be ready to meet their liabilities. I hope the first section will be stricken out.

Mr. CATTELL. Mr. President, I am very sorry, indeed, to detain the Senate, already exhausted by a very extensive discussion upon this bill; and having heretofore, when the subject was before the Senate three months ago, explained my views in regard to the first section of this bill, I regret being compelled again to trespass on the indulgence of the Senate. But the malicious attack of my friend from Michigan upon this first section, denominating it atrocious, which I believe the dictionary says is the sum of all wickedness, and denouncing it as a swindle upon the people of the United States, as I am willing to acknowledge the paternity of the section myself, it seems to me incumbent that I should say a few words in reply to the assault.

Mr. SPRAGUE. If the Senator will give way, I will submit a motion to adjourn, and he can be heard to-morrow on this question. I move that the Senate do now adjourn.

Mr. SHERMAN. I trust not. We shall have a vote in a few minutes. ["No." "No."] The PRESIDENT *pro tempore*. The question is on the motion to adjourn.

Mr. SHERMAN called for the yeas and nays, and they were ordered; and being taken resulted—yeas 16, nays 18; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Chandler, Corbett, Cragin, Doolittle, Hendricks, Howe, McGreevy, Patterson of Tennessee, Sprague, Vickers, Wade, Wilson, and Yates—16.

NAYS—Messrs. Cattell, Cole, Connors, Davis, Harlan, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Willey, and Williams—18.

ABSENT—Messrs. Bayard, Conkling, Dixon, Drake, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Howard, Johnson, Morton, Norton, Nye, Pomeroy, Ramsey, Ross, and Sausbury—20.

So the Senate refused to adjourn.

Mr. CATTELL. Mr. President, I shall detain the Senate but a few minutes on a simple explanation of the principles, as I understand them, involved in the first section of the bill which the Senator from Michigan [Mr. CHANDLER] now moves to strike out.

When this bill was under consideration some two months ago I advocated at some length the principle contained in this section; and I should not now trouble the Senate further on the subject but for the malicious attack made upon this section of the bill by the Senator from Michigan, who has seen fit to speak of it as "atrocious," and to call it a swindle. The simple purpose of the section is to prohibit the payment of interest, by national banks, on the deposits or balances of other national banks, and thus prevent the indirect use of the reserve required to be held by all national banks.

The national currency act provides for the

maintaining in all the national banks of a given reserve of lawful money, a sum considered by those who originated the system and by all who are familiar with the principles of banking as essential to the safety and security of all banking operations. Every intelligent merchant and every intelligent banker knows that there must always be held, behind either his commercial business or his banking operations a reserve upon which to fall back under extraordinary circumstances and upon extraordinary occasions. Before the establishment of the national banking system in all the commercial cities the clearing-house arrangement established a rule among themselves requiring each of the banks connected with the association to maintain a given amount of reserve in lawful money. During the period of specie payments that reserve was, of course, held in coin, and always in lawful money. So particular were these associations in regard to this subject, and so important did they deem it, that they agreed among themselves that reports made weekly under oath by the officers of each bank should be submitted to the association in order to ascertain whether this agreement was complied with.

In the establishment of the national banking system this principle of maintaining a reserve, which is the conservative power of the moneyed interest of the country; just that which prevents a bank from working up to its maximum and putting to use its last dollar; just that which is the safety and security of the immense business operations of the country, was wisely provided for. A skillful and prudent engineer would not carry a pressure upon a steam boiler up to its maximum capacity. If he should do so, the slightest accident or derangement of the machinery would result in disaster. And your laws wisely limits the pressure which shall be put upon steam machinery far below what has been found by actual test to be its maximum capacity.

It is upon that principle, upon the principle that it is unsafe to work up the whole of the capital of the country, especially of a country with a large amount of paper currency, that this lawful reserve is required to be kept by the banks of the country. And it is this reserve that constitutes, in my judgment, the balance-wheel of our financial system.

In the fixing of this lawful reserve, it was provided that in the large cities, in the localities where the demand was likely to come in larger amounts, and where sudden emergencies are always soonest felt, a reserve of twenty-five per cent. upon the entire indebtedness of the banks should be always maintained; and in order that the currency of the national banking system should be uniform in its character, in order that it should make a circulating medium of equal value all over the country, it was provided in the organization of the system that the banks in the interior should redeem their currency at certain commercial centers, and nineteen cities of the Union were named as points at some one of which the banks organized in the interior should maintain a deposit for the redemption of their circulation. In view of the fact that these banks were compelled to redeem at these commercial centers, the national banking act provided that they should only be required to maintain in all a reserve of fifteen per cent. of their indebtedness, making at once a difference of ten per cent. between the reserve which was required of the banks in the large commercial cities and the reserve required of the interior banks—a discrimination in favor of the latter.

And more than that; the law not only discriminated in favor of the country banks for this reason, by providing that only fifteen per cent. should be required of them as a reserve, but in view of the fact that, for the sake of establishing a uniform currency, it had been provided that these banks should establish redemption points in one of these cities, the law went a step further, and provided that out of the fifteen per cent. of reserve, out of this lower percentage which was granted for this



reason to the country banks, they should be permitted to hold on deposit in any of the redemption cities, in any one of the nineteen named, not any one of the three great cities of which the Senator talks so loudly to-day, but in any one of the cities named in the bill, in the gentleman's own city, the city of Detroit, which is one of the redemption centers; that these banks should be permitted to keep three fifths of this reserve there and count it precisely the same as if it was lawful money in the vaults of the bank.

Now, take a bank of \$100,000 capital in the interior, and suppose it has \$100,000 of circulation and \$300,000 of deposits, it has an aggregate indebtedness of \$400,000. The reserve required by the banking act of that country bank is \$60,000, while a bank similarly situated in one of the cities would be required to keep a reserve of \$100,000. It is said that it is a hardship that these banks should be compelled to redeem their money at the commercial centers in the redemption cities. Then your law turns around and provides that while this bank shall only be required to keep \$60,000 as the entire amount of its reserve, it may take three fifths of that amount, say \$36,000, and place it on deposit in any bank in one of the nineteen cities, and be permitted to count it as a part of the reserve precisely the same as if it was within its own vaults, where, but for this provision, it must have been kept.

Mr. President, I do not object to that provision at all. It is a liberal one, liberal in all its aspects to the country banks. It is liberal not to require of them more than fifteen per cent. reserve, when the city banks must keep twenty-five per cent.; and it is liberal, liberal in the extreme, that when these banks, from their business relations, for the purpose of drawing exchange and for the purpose of redeeming their circulating notes, are obliged to keep in the commercial centers some of their funds, the national banking law not only allows them to hold it there for their own convenience, but absolutely permits them to count it as a portion of their reserve, the same as if it was held in lawful money at home.

Now, the question comes whether these banks shall deposit this reserve in the commercial cities under such circumstances as amounts absolutely to a loan of it. They are forbidden to use this money at home. If it were not for this privilege of depositing in the city banks and counting it as reserved, they would be compelled to keep the fifteen per cent. in their vaults, and it would be a violation of the law if they were to loan one dollar of the fifteen per cent. which is required for a reserve. You insist, all honest, competent, faithful financiers insist that that reserve is necessary, and that you have placed the reserve as low as is safe to the country banks at fifteen per cent.; and yet you say that these banks may indirectly violate this law, that while you forbid them to loan this money to their own people in their own neighborhoods, for whose accommodation the bank was established, you yet admit that they may take three fifths of the reserve which you require, and virtually loan it under the name of a deposit to one of the banks in the redemption cities at four per cent., or such other rate of interest as may be agreed upon, thus virtually destroying all the conservative power of the reserve contemplated in your bank act.

And that is not all. It is not only the fact that the reserve is thus brought into use, but the temptation is so strong for the country banks to withdraw their assets from the country and place them in the commercial centers, where beside obtaining interest upon their balances they can draw exchange upon them at large profits, day after day, by a charge of one fourth or one half per cent. or more on their exchange, that they keep in the cities a much larger sum even than the three fifths of their required reserve. The worst feature of the whole thing is, that instead of keeping only the three fifths of the reserve, which

would be something like forty million dollars, you find in the redemption cities seventy odd million dollars of the funds of the interior banks. More than one third of all the banking capital outside of the redemption cities is gathered up and sent to the commercial centers, there to foster speculation, to be loaned out on call by the day, or even by the hour, as my friend from Pennsylvania [Mr. CAMERON] suggested the other day, while the people in the interior, in the West and Southwest, are clamoring for circulation and demanding an increase of banking facilities.

Mr. STEWART. I wish to put the same question to the Senator from New Jersey that I put to the Senator from Ohio. If the country banks send three fifths of their money to the cities, and loan it to the city banks at four per cent. per annum, of course the city banks use it or they would not pay interest on it. If you stop that, is it not contraction? It may be a bad practice that you propose to stop, but will not the stopping of it be practically contraction to that extent?

Mr. CATTELL. In my judgment the practice has no influence on expansion or contraction so far as the excess above the reserve of which I have just been speaking is concerned. It only takes the money out of its legitimate channels, attracts it from where it legitimately belongs to localities where it is not needed. The Senator from Maine [Mr. FESSENDEN] suggests that if the reserve is used, as it is indirectly by the city banks loaning it, it produces expansion, which is undoubtedly true.

The whole truth of the matter, Mr. President, is that the system of paying interest upon bank balances is a mistake from the beginning. Banks are constituted to be lenders and not borrowers of money; and whenever they become borrowers and bidders for money they fail to serve the purposes for which they were established, and become institutions injurious to the community. The object of a bank is to cheapen the rate of interest. Banks are established for the purpose of accommodating the community and of equalizing and cheapening the rate of interest. How is this accomplished when a bank goes out into the market as a borrower of money, borrowing it at one rate and relending it to somebody else at a higher rate? Is it the legitimate business of a bank to borrow money under any circumstances? I insist on it that banks are established to lend money, not to borrow it; and the whole system of the payment of interest on bank balances is illegitimate banking, and it has been so held by all the eminent bankers, both of this and the old country, for the last half century.

The Bank of England, as a matter of principle, has always held that it was illegitimate banking to pay interest on bank balances; and I believe the history of our own country will show that the banking institutions the most stable, those which have the greatest confidence of the communities where they are located, have resisted the pernicious practice of paying interest on bank balances. I am sure this is so in the city of Philadelphia, and I believe the oldest and strongest banks in the city of New York are of this class. The Bank of Commerce, wielding a capital of \$10,000,000, to this day, I understand, refuses under any and every circumstance the payment of interest on bank balances as a matter of principle, and, in my judgment, they act wisely.

Most assuredly if there be any propriety in establishing by law a reserve of lawful money to be kept by the banks, it is a grave mistake to permit it to be used indirectly when you refuse to have it used directly.

The Senator from Michigan speaks about a bank in the interior with \$100,000 capital having over one hundred thousand dollars on deposit in the city of New York.

Mr. CHANDLER. Fifty thousand dollars. Mr. CATTELL. The Senator said \$100,000, but I am willing he shall say \$50,000, if he prefers. We have been discussing here for days the propriety of authorizing banking institutions to supply the wants of the West and

of the Southwest. Let me ask of what use a banking institution in that section would be if it sent its entire capital of \$100,000 to New York and placed it upon deposit there? Will anybody tell me what advantage there is in the establishment of a bank in a particular locality, which is, of course, intended for the benefit of the business, the commerce, manufactures, and agriculture of that neighborhood, if you take the whole amount of its capital and send it to New York or to Philadelphia or to Boston, or even to Detroit, where it may just as well be sent, for it will be remembered there are nineteen of these redemption cities, and that Detroit is one of them.

The Senator from Michigan has seen proper to talk about this first section being for the benefit of the three great cities. I beg to say that this is an entire misapprehension against the interests of every one of the three great cities. The gentlemen in New York would not seek to get this amount of money for their institutions and agree to pay a certain rate of interest for it if they did not think there was a gain from it; and it is quite clear if interest is not allowed on these bank balances, the amount kept in New York will be materially reduced. It is against the interest of the city of Philadelphia, in which I am somewhat concerned. Why? Take as a simple matter of illustration, if you please, the little bank over which I have the honor to preside. According to our business now, we must maintain a reserve of about half a million of dollars. According to the provisions of the law as it now stands, we can send \$300,000 over to the city of New York, loan it at four per cent. per annum, and get \$12,000 upon it. I need not tell this body that, being anxious as everybody else to make money in all lawful ways, we have done this to some extent, because it is allowed by the law; but I insist upon it that it is a bad practice; I insist upon it that it is unwise thus to destroy the conservative power of the reserve, and indirectly defeat the provisions of the law in this particular. If fifteen per cent. is too much reserve to require of the interior banks, we ought to reduce the amount; we ought not to require them to carry more than they should carry, and then permit them indirectly to defend the object of the law by virtually putting into use what should be held unused as the reserve.

Beside, this practice is one of the disturbing elements in our finance. When this money from the interior is sent into our great commercial centers it is sent at times when money is easy, when it is plethoric in the country. It comes to New York and meets precisely the same condition of things there; money is abundant. What is the result? The amount of the bank reserve accumulates very largely, and the bank cashier runs out into the street to find somebody to loan it to at a low rate of interest on call. The result is to stimulate stock speculation. Erie and Harlem go up one, two, three dollars a share, because all the money from the interior is swept into the great commercial centers. What is the next result? By and by the crops are to be moved, and there comes a demand from the country for money; and the first thing you know is that money very suddenly is getting tight in New York; money is worth one per cent. more this week than it was last; the banks are beginning to draw in their call loans; and what is the result? The result is that stocks go down again; there is one, two, three, or five dollars a share decline upon Erie and upon Harlem. The consequence is that the men who watch this sort of thing, your stock speculators and gamblers in Wall street, are enabled to make money while the legitimate business of the country is absolutely disturbed by this state of things.

Mr. SHERMAN. Will my friend allow me to fortify his argument in this particular by telling him of a historical case that occurred not very long ago? The great commotion of 1857 was caused by just this practice. Nearly all the western banks had deposited their funds in New York with the Ohio Life and Trust

Company at four or five per cent. Our Ohio people were terribly bitten. All at once the concern was found to be in a failing condition. The country banks commenced drawing on the Ohio Life and Trust Company. The company threw its collaterals on the market, which led to the depreciation, and the whole thing exploded. That was caused by the country banks depositing the balances with that company in order to get interest.

Mr. CAMERON. Allow me to say a word about that. I beg leave to contradict the chairman of the Committee on Finance, the Senator from Ohio, in the fact he has mentioned. The Ohio Life and Trust Company and the banks of Ohio did not loan, but borrowed money. It was the borrowing of that great Ohio corporation which broke up the banks of the country at that day, and the Senator from Ohio ought to know that historical fact at least.

Mr. SHERMAN. I am perfectly sure that the fact is as I have stated.

Mr. CAMERON. I remember the history of that day. I remember that a speculative corporation called the Ohio Life and Trust Company borrowed money everywhere where ever it could get it.

Mr. CHANDLER. Untold millions almost.

Mr. CAMERON. Yes, untold millions. It threw its securities into the city of New York and the New York banks, and New York capitalists took its securities until it broke up the whole of them. That is the history of that day.

Mr. SHERMAN. I said that the State banks had put their funds with the Ohio Life and Trust Company, and that the company loaned out the money, and that was the cause of the difficulty.

Mr. CATTELL. I shall be very happy to have these gentlemen settle their differences at some other time.

Mr. HENDRICKS. Will not the Senator yield to a motion to adjourn? It is plain that we cannot finish this bill to-night.

Mr. CATTELL. I shall not detain the Senate much longer. In regard to the question which has been raised between the Senator from Ohio and the Senator from Pennsylvania, I have only to say that the circumstances connected with that case are familiar to everybody who was engaged in commercial affairs at the time. The fact is, that the Ohio Life and Trust Company established its principal branch in the city of New York, and there it learned New York habits, it learned to bid for the country bank balances and to pay interest on them. It had in its office in New York, which was its main office, although it was called the Ohio Life and Trust Company, immense sums of money borrowed from corporations and individuals for which it was paying interest. It was suddenly called upon in 1857 to pay some of its debts due on demand; the collapse came, and it tumbled down. I think that is really the state of the case in regard to that institution.

The Senator from Michigan very kindly in the course of his remarks exonerated the Finance Committee from the wickedness and atrocity of having originated this measure; and I believe he honestly thinks to-day that the committee themselves would not have committed so great a swindle upon the country as the introduction of the first section of this bill. I believe he has great faith in their integrity, but not so much, I apprehend, in their discernment. Now, I beg to say that the subject has been brought to the attention of Congress more than once by the Comptroller of the Currency and the Secretary of the Treasury.

Mr. CAMERON. Who has confidence in the Secretary of the Treasury?

Mr. CATTELL. The Senator asks me a question which I leave the Secretary's friends to answer. There are some of them here, I believe. The Comptroller of the Currency in his last report, which I think one of the ablest documents sent to Congress during the present session, argues it at length, and I beg leave upon this question to close my remarks by

reading the argument which the Comptroller of the Currency made in regard to it. It convinced me and I think it ought to satisfy the Senate. For years it has been my custom to think and to talk upon this subject and to discuss it with eminent bankers in Philadelphia, New York, and elsewhere; and I have to say that I do not know in the whole circle of my acquaintance a banker of skill, a man cultivated on the subject of finance, who does not agree that the payment of interest by banks on bank or individual balances is an error and is illegitimate banking. If this reform does not come at this Congress it will come at some time. If it does not come through the action of Congress preventing the national banks, over which it has control, from paying interest on balances it will come when the evils of the system come to be developed, and when bank officers themselves will be compelled in self-defense to adopt it as a principle.

I will now read what the Comptroller of the Currency says on this subject, and I beg the Senator from Michigan to observe that probably the gentleman guilty of the atrocity, to which he has alluded, may be Mr. Hulburd or some other of the gentlemen who have been connected with our financial department for the last two or three years, and therefore the committee are somewhat sustained by their opinions on the subject. Mr. Hulburd says in his report:

"Attention is respectfully called to a practice prevailing, more or less, in the banks of the principal cities, of paying interest on the balances of country banks—a practice characterized by the Chancellor of the Exchequer of England in commenting upon the causes which led to the crisis of 1857, as one eminently liable to abuse, and containing within it elements of danger, and to which many of the evils of the recent crisis may be attributed.

"Country banks keep deposits with city banks for the purpose of facilitating exchanges in carrying on their own business."

They do not do it to oblige the city banks, but to facilitate their own business—

"and ordinarily, it is to be presumed, they find a profit in doing such business, and in keeping a working balance in the city banks. The funds so placed are needed, and properly belong there, but will not be allowed to exceed the amount actually necessary for the current demands of business. The payment of high rates of interest on such balances attracts all the spare capital from the country to the commercial centers, while it is still payable on call. This capital would not remain dead or unemployed, but it is drawn away from the country where it is needed, to the business centers where the rate of interest is higher. The cities then come into competition with the country, and compel borrowers in the country to pay higher rates."

M. Pereire, president of the *Credit Mobilier*, of France, says that "banks have been instituted only to lower the rate of interest, and they fail in their mission when they do not fulfill that character." But this is one of the minor evils of the practice.

"The city banks, by the payment of interest, offer a premium for deposits, the volume of which should be regulated only by the ebb and flow of trade. An artificial stimulant is applied in order to accumulate funds in excess of the natural demand. So long as the country banks can employ their means more profitably at home they will do so; but when their own trade is dull, they will send their money to the business centers; and it so happens that the city banks will secure the greatest abundance of means exactly at the time when they have the least use for them. But as they pay interest for such deposits, they must be used; the city banker becomes a broker, a seeker after investments; he must get more interest than he pays or he will lose money; he must loan it on call, for it is payable on demand, and it will always be demanded when he wants it most. Deposits are the reserve of the country, and the deposits of the country banks at the centers of trade are their reserves for all demands and liabilities. Required by law to keep a reserve equal to fifteen per cent. of their deposits and circulation, three fifths of this reserve may consist of balances due from city banks. Forbidden to use their reserve in their own business they remit it to New York, where it is not held in reserve, but is loaned to stock-brokers and speculators. Receiving interest on the amount under the name of a deposit, they really loan it on call to the city banks, which in their turn loan it at a higher rate of interest."

I submit, Mr. President, that the principle contained in the first section of this bill is a correct one, and that if nothing further is done by this Congress on the subject of finance, it is imperatively demanded, for the safety of the national banking system, for the credit and the honor of the law upon our statute-book requiring a specified reserve, that you shall not permit the national banks to do indirectly what

you refuse to permit them to do directly; that you shall not make it unlawful for the interior bank to loan any part of the fifteen per cent. reserve to the people in the neighborhood in which the bank is located who may need bank accommodations for legitimate business, and yet permit such bank to send three fifths of its reserve to one of the redemption cities and virtually make a loan of it there, counting it all the time as their reserve, the same as they would unused lawful money in their own vaults.

Mr. CAMERON. Mr. President—

Mr. BUCKALEW. I hope my colleague will allow me to ask a question. I do not know much about banking, and I desire some information, some instruction. I do not understand why a country bank, where the rate of interest is six per cent., should refuse to accommodate its neighbors at that rate, and send its funds to the city banks and deposit them there and get four per cent. on them. I find a statement of that sort—it seems to me incomprehensible—made in the paper read from the Comptroller of the Currency, and also insisted upon by the Senator from New Jersey.

There is another point upon which I wish enlightenment. If we pass this bill and forbid the city bank from paying any interest upon the money of the country bank which it holds, I desire to know whether the city bank will actually use that fund and make profit on it as before?

Mr. CATTELL. I shall be glad to answer both of the gentleman's questions. In the first place the country banks cannot loan this money, which is required to be held as a reserve of fifteen per cent. at home at all at any rate of interest. That is the answer to that question.

Mr. BUCKALEW. Then it must be because there is no demand of business at home for it.

Mr. CATTELL. No; it is because they cannot do it; by law they are compelled to reserve fifteen per cent. in their vaults, and of that three fifths they are allowed to send to New York and count as their reserve. If it were not so sent they would have been obliged to keep it in lawful money in their vaults.

Mr. BUCKALEW. My question was generally in regard to this transfer of funds. Moneys over and above this reserve are sent to the cities.

Mr. CATTELL. Certainly. I will answer that question as well as I can. In the first place, that reserve amounts to about forty million dollars. That is a good deal of money to start with. But there is something like seventy million dollars kept in the cities, and the reason for that I apprehend is to be found in the fact that the amount of money in a country bank is often larger than they are willing to loan upon time paper; larger than they are willing to lend to A, B, or C for sixty or ninety days or four months, the earliest time they can get it back; but it is a sum which they can send off to a city, and they can there get four per cent. on the amount, subject to call whenever they shall want it; and as they can use a larger amount of their funds in that direction with safety, because it is payable on call, they will deplete their home market of money which is needed there for local purposes.

Mr. CAMERON. It is hardly fair that here at half past five o'clock I should be compelled to reply to my colleague upon this interesting question.

Mr. CATTELL. Your colleague!

Mr. CAMERON. I say my colleague, because although he is elected from New Jersey he lives in Philadelphia. [Laughter.] If the gentleman's legal colleague [Mr. FRELINGHUYSEN] were here he would take directly the opposite course on this bill. I regret that he is not here because he lives in New Jersey and my friend and colleague lives in Philadelphia. There are—

Mr. HENDRICKS. Will the Senator yield to a motion to adjourn?

Mr. CAMERON. Certainly.

Mr. HENDRICKS. It is very evident that we cannot conclude this discussion to-night.

This is upon a very important question, and the discussion has but recently come down to the real question.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania [Mr. CAMERON] has the floor.

Mr. CAMERON. I yield to the motion to adjourn.

Mr. CATTELL. I beg the courtesy of the Senator from Indiana to make one correction. The Senator from Pennsylvania does not desire to do me injustice—

Mr. CAMERON. Oh, no; I want to do you honor.

Mr. CATTELL. If there were no New Jersey, I should be glad to live in Philadelphia; but there being such a State as New Jersey, and my residence being there, I claim that gentlemen shall not misrepresent me by saying that I live in Philadelphia. Besides, Mr. President, I discovered when I was a little disposed to take some hand in the appointments in Philadelphia that my friend, the Senator from Pennsylvania, gave me to understand that I resided in New Jersey and represented New Jersey. [Laughter.] I do not want this thing to apply one way one day and another way the next.

Mr. CAMERON. I desire to say that I intended to do honor to the Senator who represents New Jersey, because I think it is a great honor to her that her representative should live in the city of Philadelphia. Now, he talks about my having objected to his interfering in the appointments in Philadelphia. I did object; but I was new in the Senate then, and the Senate listened to him, and he put upon me and upon the people of my State several very bad men because he did represent the city of Philadelphia in place of representing New Jersey.

Mr. HENDRICKS. Now does the Senator yield to a motion to adjourn?

Mr. CAMERON. Certainly.

Mr. HENDRICKS. I move that the Senate adjourn.

Mr. SHERMAN. I call for the yeas and nays. I want to pass this bill.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 13; as follows:

YEAS—Messrs. Bayard, Buckalew, Cameron, Chandler, Conkling, Corbett, Cragin, Harlan, Hendricks, Howe, McCroery, Patterson of New Hampshire, Sprague, Stewart, Vickers, Wade, Willey, Wilson, and Yates—19.

NAYS—Messrs. Cattell, Cole, Davis, Henderson, Morrill of Maine, Morrill of Vermont, Ross, Sherman, Thayer, Tipton, Trumbull, Van Winkle, and Williams—13.

ABSENT—Messrs. Anthony, Conness, Dixon, Doolittle, Drake, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, Howard, Johnson, Morgan, Morton, Norton, Nye, Patterson of Tennessee, Pomeroy, Ramsey, Saulsbury, and Sumner—22.

So the motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, June 16, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

### RECIPROCITY TREATY.

Mr. COVODE, by unanimous consent, presented a remonstrance against the renewal of that part of the reciprocity treaty which would reduce the duty on bituminous coal for the benefit of Nova Scotia interests, signed by representatives of sixteen collieries in Pennsylvania; which was referred to the Committee of Ways and Means, and ordered to be printed.

### EXTRA PAY OF GOVERNMENT EMPLOYÉS.

Mr. BINGHAM. I ask consent of the House that a request be sent to the Senate for the return of the House joint resolution No. 291, giving additional pay to certain employés in the civil service of the Government at Washington, in order that action may be taken here upon the motion I entered yesterday to reconsider the vote by which that joint resolution passed this House.

Mr. WASHBURN, of Indiana. I object.

### RODERICK R. BUTLER.

Mr. DAWES. I rise to a question of privilege, and call up the amendment of the Senate to the bill of the House No. 870, to remove political disabilities from Roderick R. Butler, of Tennessee.

The question was upon concurring in the amendment of the Senate, to strike out all of the bill after the enacting clause, and also to strike out the preamble, and in lieu of the portion stricken out to insert after the enacting clause of the bill the following words:

That all legal and political disabilities imposed by the United States upon Roderick R. Butler, of Tennessee, in consequence of participation in the recent rebellion, be, and the same are hereby, removed. And the said Butler, on entering upon the discharge of the duties of any office to which he has been or may be elected or appointed, instead of the oath prescribed by the act of July 2, 1862, shall take and subscribe the following oath: I, Roderick R. Butler, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will faithfully discharge the duties of the office on which I am about to enter, so help me God.

Mr. MULLINS. I wish to know the position in which this now stands, and the character of the amendment now under consideration.

Mr. DAWES. I will explain this amendment in a few words. It does not differ, except in form, from the bills sent to the Senate from this House. The House, as it will be remembered, passed two bills, one generally providing that when political disabilities were, by act of Congress, removed from any individual, then he shall be required simply to take the oath prescribed in that bill; an oath to support the Constitution of the United States, and not the oath prescribed by the present law, requiring him to swear that he has not participated in the rebellion. The House also passed another bill removing political disabilities from Roderick R. Butler. The Senate have amended the bill by incorporating in it the principle of the other bill, leaving the general bill still pending in the Senate. The House passed both these bills by very large majorities, and the Senate have indorsed them by putting both in the same bill by an almost unanimous vote; all but five voting in the affirmative, I believe.

Mr. MULLINS. How many Senators did not vote?

Mr. DAWES. I do not know.

Mr. MULLINS. I understand that there were twenty-six Senators who did not vote at all upon the question.

Mr. PRICE. Does not this bill propose to modify the test-oath so as to permit Mr. Butler to take his seat here without taking the test-oath?

Mr. DAWES. This prescribes just the oath prescribed by the bill which passed this House by a majority of three fourths or more. Of course as to this gentleman it does modify the test-oath; otherwise there would be no occasion for passing it.

Mr. PRICE. Is not this the very action we refused to take in the case of Senator PATTERSON, of Tennessee?

Mr. MULLINS. And of Mr. Brown, of Kentucky?

Mr. DAWES. The same, and has already been fully discussed.

Mr. BAKER. Does this bill dispense with the test-oath?

Mr. DAWES. So far as this gentleman is concerned it dispenses with all that part of the test-oath which calls upon him to swear that he did not render aid and comfort to the enemy in any respect, because in point of fact he was a member of the rebel Legislature of Tennessee. Having been such member of the rebel Legislature, it is necessary for him, as an honest man, coming here as he does, not to take the oath at all and not take his seat here or to have the oath modified.

Mr. SHELLABARGER. If this matter came from the Committee of Elections I was not present in the committee when it was considered, and know nothing about the action of

the committee. I rise now simply for the purpose of inquiring of my friend from Massachusetts [Mr. DAWES] whether this proposed action does not relate to a matter which, if the pending constitutional amendment had become a part of the Constitution of the United States, would require a vote of two thirds of each House of Congress?

And I desire to say this in addition, that if that amendment be not now in fact a part of the Constitution of the United States, we deem it to be virtually so. And I should regret, especially at this time, just when we are upon the threshold of entering upon the policy of progress which that constitutional amendment is to inaugurate and make perpetual, I would regret to see a letting down, on the part of the law-making power, in regard to the singularly important matter covered by that constitutional amendment.

Mr. DAWES. I reply to my colleague that he does recognize the very question in the mind of my colleague. It passed the House by a two-thirds majority recognizing the element of that constitutional amendment. It came back from the Senate with a two-thirds majority there, and unless the House concurs in the amendment by a two-thirds majority it will not have the legal effect which we expect it to have. I acquiesce in all that my colleague on the committee says, and it is for that reason I hope this amendment will be concurred in by a two-thirds majority. I will therefore call for a division.

I will say that the whole matter was discussed with reference to its application to the constitutional amendment. It goes upon the broad plan that the constitutional amendment contemplates there will be cases which will meet the judgment of two thirds of both branches that will require the remission of that in part, and that such cases must address themselves to the sound discretion and judgment of two thirds of both branches. The Committee of Elections, when this case was before them, were of the unanimous opinion that of all others was one of these cases. It went to the other branch and a new committee, having no connection with this Committee of Elections, examined the case *de novo*, and came to the same conclusion in the light of this constitutional amendment; and it passed the Senate with only five dissenting votes.

Mr. SHELLABARGER. I hope my colleague will have a call of the yeas and nays, and that he will also favor the House and country with the reasons which operate in exempting this individual.

Mr. DAWES. I suppose a division will answer as well as the yeas and nays.

Mr. MULLINS. Let us have the yeas and nays by all means.

Mr. DAWES. On the question of the reasons which induced the committee to report this resolution, they have been already given when my colleague on the committee, as the House as well as the committee regret, was absent on account of ill-health. When this matter was before the House it was spread upon the record in the Globe at great length. I have no hesitation in rehearsing it before the House, but I apprehend the House, who heard me then, are satisfied with the reasons then given.

Mr. SHELLABARGER. I did not know that my colleague had explained it before.

Mr. DAWES. As to my own position in this matter—

Mr. MULLINS. Allow me.

Mr. DAWES. In a moment.

Mr. Speaker, I would not ask the House to vote upon such a proposition unless I had myself a good reason that I was willing to put upon the record and stand by; and I so stated at that time and put the reasons that actuated the committee upon the record, and more than three fourths of the House pronounced them satisfactory. I hope, therefore, there will be no occasion for consuming further time. I will now call for the previous question.

Mr. MULLINS. I thought you were going to give me a few minutes?



Mr. DAWES. I do not want to consume time, although I am willing to discuss the question. I will yield to the gentleman from Tennessee simply for a question.

Mr. MULLINS. I hope the gentleman from Massachusetts will allow me to make a few remarks explanatory of my position. I was not here when it passed before. I will not consume five minutes of your time.

Mr. DAWES. How long do you want?

Mr. MULLINS. Five minutes will do me.

Mr. DAWES. I will yield five minutes to the gentleman from Tennessee.

Mr. MULLINS. Mr. Speaker, perhaps the fewest number of men who live in the State of Tennessee feel more solemnly or are under a deeper sense of the importance of the circumstances which surrounded us than I am myself; but at the same time while this is the case, I wish the House to distinctly understand from me that my vote here will be cast upon the side maintaining the fundamental principles which stand as the flaming sword before the gateway of this mighty sheepfold of our Republic, guarding its way, not against men, but guarding the principles that are here encoined and lie environed in this fortification. I ask why we shall break down that rule in regard to the test-oath? Let it be taken by all good men. I do not say this is a bad exception, and as a man I have no more to say in regard to it than I have about the man in the moon. I for one would be willing to forgive all that is human to forgive, but when we surrender that principle to an individual I do not want it to be understood nor recorded in this House that I surrender it and vote to break down the fortification that stands as the Word of God to Israel. I maintain that you should obey it and elevate the principle, putting all upon the high and broad platform.

I have nothing to say as between all parties any more than if I was not a Tennessean. I have no more obligation resting upon me than to record my vote, believing this is a weak point in the fortification. And now, as my five minutes are about up, I only desire to add that I was in hopes this cup might pass by me, but being here, I must clear my conscience before my country and my God.

Mr. STOKES. I desire to ask the chairman of the committee if this amendment of the Senate repeals or modifies the test-oath.

Mr. DAWES. It does not repeal or modify it at all, but it prescribes that this man on taking the oath of office shall not be required to swear that he did not participate in the rebellion.

Mr. STOKES. It is well known to this House that on a former occasion I took very high and strong ground against the repeal or modification of the test-oath. I would do it again to-day. I would not now record my vote to repeal or modify that oath generally. But this is an extraordinary case of my colleague. Here is a man who presents himself to this body and asks us to permit him to take his seat. He comes from one of the most loyal districts in the State of Tennessee. He comes here by a larger majority than any other member from that State. He comes with a larger majority of soldiers' votes than any other member from that State. He comes into this House with a majority of nearly eleven thousand votes of the true and loyal men of Tennessee. Here is an honorably discharged Federal soldier, who has served his country, with his discharge in his pocket, a man who put his only son in the Union Army to defend the flag of his country. The committee have wisely, as I think, prescribed a way by which this man can be permitted to take his seat in this Hall, and I for one shall vote for the amendment of the Senate with a great deal of pleasure. At the same time I do not in any way interfere generally with the test-oath. I hope the House will pass the amendment, and do justice not only to my colleague but to the soldiers and loyal people of his district who sent him here. I ask the House to stand by the proposition of the Senate.

Mr. CHANLER. Will the gentleman from Massachusetts yield?

Mr. DAWES. I will yield three minutes.

Mr. CHANLER. I am very much obliged.

Mr. DAWES. I would willingly let the gentleman have all my time so far as I am concerned.

Mr. CHANLER. Oh, I understand—five minutes to Tom and three to Dick. I do not require one minute to state this case probably. But this question is an illustration of the whole course of these proceedings. I am for universal amnesty.

A MEMBER. And universal suffrage?

Mr. CHANLER. But I do not think this is the way to begin. I do not think this is a fair test of the sentiment of this House universally expressed as it should be in a vote for the admission of that member. There is no doubt that during the rebellion Mr. Butler represented a constituency in the rebel government. I understand that he went there on the broad principle of representative government, because that was a government *de facto* of his section of the country. Under that principle every member of the rebel congress was entitled to his seat in such political organization as was shut off from the administration of this Government by existing war. Universal amnesty looks to the admission of every member of the rebel congress with as much justice, right, and logic as we are now about to confess in admitting this member from Tennessee. I do not wish to oppose on any personal ground the admission of this gentleman, but I hope the House will go further and throw open the door to Mr. Butler's colleagues in the confederate government, where he sat and voted and acted with them, as illustrated by the position in which he put himself upon the Duncan letter, already fully exposed to the House and the country.

Mr. DAWES. I believe my friend was for him when the bill was up before.

Mr. CHANLER. Your friend is for the admission of every man who can show a good record.

Mr. DAWES. Well, that includes this gentleman.

Mr. CHANLER. Excuse me; you exclude a great many gentlemen who are as good as this one, and I am arguing exactly on that point. Does the gentleman propose to let him and all others in here because like me he is in favor of universal amnesty? Oh, no; but because this gentleman will, in case of a defeat before the people and in the Electoral College, when he comes here, vote with a certain organization to elect the Chicago candidates by a vote of this House. He is merely organizing for another election for presidential candidates to admit this gentleman upon this floor by a partisan vote, and five minutes are allowed to one man and three minutes to another to state the facts of the case. I am quite willing that this shall go before the people as a proof of the breadth and depth of the earnestness of the chairman of the Committee of Elections, and his principles and practices in organizing his party for future victory. But if he intends to organize this Government upon representative principles, let him admit the colleagues of this gentleman from Tennessee who are now excluded from any positions under this Government by express law as being outside of the pale of loyalty.

The SPEAKER. The gentleman has had four minutes, and his time has expired unless the gentleman from Massachusetts extends it.

Mr. CHANLER. That would be asking too much. I will ask permission to leave the question with a brilliant flash of silence.

Mr. DAWES. Being sure of my friend's vote in carrying the measure, I will not quarrel with his reasons. I now yield for three minutes to the gentleman from Tennessee, [Mr. MAYNARD.]

Mr. MAYNARD. I do not think it will require three minutes for me to say that in giving my vote on this question I shall be governed by precisely the same considerations

which two years ago controlled my vote here on a similar question that related to a gentleman from my own State who was an applicant for a seat in the Senate, and who, like the applicant in the present case, had been during the war a Union man, as this gentleman has been. I was, therefore, in favor, as I expressed myself at the time, of opening a side door to let in a friend to the Government, while I kept the main entrance guarded to keep out its enemies; and it is upon that principle that I shall cast my vote in favor of the present bill.

Mr. MULLINS. Will my colleague allow me one minute?

Mr. MAYNARD. Certainly; I yield my colleague the remainder of my time.

Mr. MULLINS. This man voted men and money to the confederate government that hampered me and ruined my means and put Union citizens in jail, and I cannot vote to admit him. I wish him no harm, and I hope his God will forgive him for it. I can forgive it, but I cannot break down the barrier.

Mr. MAYNARD. I do not stand here vindicating or attempting to vindicate anything that other gentlemen may have done; it is as much as I can do to vindicate myself. While the course of other Union men during the war may have been different from that of my friend, and different possibly from what I would have adopted under like circumstances, yet when I know that a man was a friend of his country, and that he acted for what he believed to be the good of his country, I will not stand here and challenge him on a mere question of judgment even if his judgment should fail to coincide with my own.

[Here the hammer fell.]

Mr. DAWES. I now move the previous question.

Mr. TRIMBLE, of Kentucky. Will the gentleman yield to me for a few minutes?

Mr. DAWES. I cannot yield.

Mr. TRIMBLE, of Kentucky. I want the gentleman to answer a question which may determine my vote.

Mr. DAWES. I will hear the question.

Mr. TRIMBLE, of Kentucky. I voted for the bill now before the House when it was formerly under consideration. I desire to inquire now whether or not this proposition is intended to be under the proposed fourteenth constitutional amendment, and whether unless this bill be passed by a two-thirds vote Mr. Butler may be sworn in as a member of this House; and whether or not it is competent for this House to pass upon Mr. Butler's case and admit him, whether this bill receives a two-thirds vote or not. The answer to these questions may determine my vote upon this measure.

Mr. DAWES. I do not know by what rule the gentleman would cast his vote against this bill under these circumstances. If it is right that these disabilities should be removed I should suppose that fact would govern his vote. But that is not a matter for me to determine. If this bill passes by a two-thirds vote, then it steers clear of all question under that constitutional amendment, whether it be now a part of the Constitution or not. If it does not pass by a two-thirds vote, then, if that amendment is a part of the Constitution, this bill will be of no avail. I call the previous question.

Mr. TRIMBLE, of Kentucky. The gentleman has not answered my question.

The previous question was seconded and the main question was ordered, which was upon concurring in the amendment of the Senate.

Mr. MULLINS. I call for the yeas and nays.

The yeas and nays were ordered. The question was then taken; and it was decided in the affirmative—yeas 99, nays 28, not voting 62; as follows:

YEAS—Messrs. Anderson, Archer, Delos R. Ashley, Bailey, Baker, Banks, Barnes, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Boyer, Broomall, Buckland, Calk, Churchill, Cleaver, W. Clarke, Cook, Cornell, Dawes, Delano, Dixon, Dodge, Driggs, Eckley, Eggleston, Elin, Elliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Glossbrenner, Gravelly, Hawkins, Higby, Hill, Hopkins, Hotchkiss, Chester D. Hubbard, Jenckes, Judd, Kelsey, Kitchen, Koontz,

Lafin, Lincoln, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercer, Moore, Morrill, Myers, Newcomb, Niblack, Nicholson, O'Neill, Paine, Peters, Pike, Pile, Plants, Polsley, Pomeroy, Randall, Raum, Sawyer, Schenck, Seofield, Starkweather, Thaddeus Stevens, Stewart, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Cadwalader C. Washburn, Eihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, and Woodward—99.

**YAYS**—Messrs. Adams, Burr, Cary, Chanler, Sidney Clarke, Cobb, Cullom, Eldridge, Golladay, Grover, Halsey, Harding, Johnson, Julian, Knott, McCormick, McCullough, Miller, Mullins, Price, Pruyn, Spalding, Stone, Taber, Lawrence S. Trimble, Van Trump, Van Wyck, and Ward—28.

**NOT VOTING**—Messrs. Allison, Ames, Arnell, James M. Ashley, Axtell, Baldwin, Barnum, Beck, Boutwell, Brownell, Brooks, Butler, Coburn, Covode, Donnelly, Finney, Fox, Getz, Griswold, Haight, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulbard, Humphrey, Hunter, Ingersoll, Jones, Kelley, Kerr, Ketcham, George V. Lawrence, William Lawrence, Loan, Logan, Marshall, Moorhead, Morrissey, Mungen, Nunn, Orth, Perham, Phelps, Poland, Robertson, Robinson, Ross, Selye, Shanks, Shellabarger, Sitgreaves, Smith, Aaron F. Stevens, Van Auken, Burt Van Horn, Robert T. Van Horn, Thomas Williams, Stephen F. Wilson, Windom, Wood, and Woodbridge—62.

So the amendment was concurred in.

During the call of the roll,

Mr. MYERS said: I desire to announce that my colleague, Mr. KELLEY, is still detained at home by illness.

Mr. DAWES moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

**EXTRA PAY OF GOVERNMENT EMPLOYÉES.**

Mr. BINGHAM. I now move that a message be sent to the Senate asking for the return of House joint resolution No. 291, giving additional pay to certain employes in the civil service of the Government at Washington.

Mr. RANDALL. Is that a privileged question?

The SPEAKER. A motion is pending to reconsider the vote by which that joint resolution was passed, but it cannot be acted upon while the joint resolution is pending in the Senate. A motion to request the Senate to return the resolution for the purpose of enabling the House to dispose of the motion to reconsider is privileged like the motion to reconsider.

Mr. RANDALL. I move to lay the motion to reconsider on the table.

The SPEAKER. That motion is not in order, as the motion to reconsider is not now before the House.

Mr. WASHBURN, of Indiana. I move to lay on the table the motion of the gentleman from Ohio, [Mr. BINGHAM,] to request the Senate to return to this House the joint resolution referred to.

Mr. RANDALL. That will do just as well.

Mr. WASHBURN, of Illinois. Is not such a request as this always conceded as a matter of course?

The SPEAKER. Not always, necessarily. Mr. WASHBURN, of Illinois. I have never known it to be refused.

The SPEAKER. The Clerk will read the rule upon the subject.

The Clerk read as follows:

"A motion to reconsider, if made in time, may be entertained, notwithstanding the papers connected with the original proposition have gone out of the possession of the House. And pending a motion to reconsider the vote on the passage of a bill, the Speaker should decline to sign the said bill if reported by the Committee on Enrolled Bills. [When the papers have been sent to the Senate, it is usual, in case of a motion to reconsider, to send a message to that body requesting their return.]"

The SPEAKER. The Digest says it is usual to send such a message; but no order can be adopted by the House except by a majority vote.

Mr. MAYNARD. I desire to make an inquiry of the Chair, the answer to which may control my vote. If the joint resolution remains in the Senate, can we ever reconsider the vote by which the joint resolution passed this House?

The SPEAKER. No action can ever be

taken upon the motion to reconsider while the joint resolution is not in the House.

Mr. MAYNARD. The motion to reconsider being made and now standing upon the record, could the joint resolution ever become a law without our acting upon the motion to reconsider?

The SPEAKER. That question is not now before the House, and the Chair declines to rule upon it.

Mr. MAYNARD. I want to know whether I am right in my view. If I am I will vote to lay the motion upon the table.

The SPEAKER. The Chair does not decide questions of order in advance. The pending question is privileged, as the question out of which it grew is privileged. The motion to reconsider cannot be considered until the bill is before the House.

Mr. RANDALL. It seems to me that the rule does not bear the Chair out in the construction he has given to it. It says in case of reconsideration. Now, there has been no reconsideration. The motion to reconsider has only been entered.

The rule was again read.

Mr. RANDALL. I am wrong, sir, and you are right.

Mr. BLAINE. Has not the usage been for the Clerk to retain any bill or joint resolution within the period when a motion to reconsider can be made?

The SPEAKER. It has not. The usage has been the reverse. As soon as bills and resolutions are passed they are sent to the Senate. If they were retained it would delay important business of the session.

The question now is on the motion to lay on the table.

Mr. SPALDING. If that succeeds it disposes of the whole matter?

The SPEAKER. It disposes of this motion unquestionably.

Mr. WARD. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. BUTLER. What is the effect of the motion?

The SPEAKER. To lay the motion of the gentleman from Ohio on the table.

Mr. BUTLER. Is it possible to get back the resolution in any other way?

The SPEAKER. The Chair cannot anticipate the action of the House subsequently.

The question was taken; and it was decided in the negative—yeas 52, nays 77, not voting 60; as follows:

**YEAS**—Messrs. Adams, Anderson, Archer, Delos R. Ashley, Axtell, Barnes, Boyer, Burr, Cake, Cary, Chanler, Cobb, Donnelly, Driggs, Eckley, Eldridge, Glossbrenner, Golladay, Gravely, Hotchkiss, Johnson, Kitchen, Lincoln, Mallory, McCormick, McCullough, Moore, Morrell, Myers, Niblack, Nicholson, O'Neill, Paine, Phelps, Plants, Pomeroy, Pruyn, Randall, Robinson, Spalding, Starkweather, Thaddeus Stevens, Stokes, Stone, Taber, John Trimble, Twichell, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, and Woodward—52.

**NAYS**—Messrs. Allison, Bailey, Baker, Benaman, Beatty, Beck, Benjamin, Benton, Bingham, Blaine, Boutwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Coburn, Cook, Covode, Cullom, Dawes, Delano, Dixon, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Fields, Halsey, Harding, Higby, Hill, Chester D. Hubbard, Ingersoll, Jenckes, Judd, Julian, Kelsey, Knott, Koontz, Lafin, Loan, Loughridge, Marvin, Maynard, McCarthy, McClurg, Mercer, Miller, Mullins, Newcomb, Peters, Pike, Pile, Polsley, Price, Raum, Sawyer, Seofield, Selye, Shanks, Aaron F. Stevens, Taylor, Lawrence S. Trimble, Trowbridge, Upson, Van Aernam, Van Wyck, Ward, Eihu B. Washburne, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, and John T. Wilson—77.

**NOT VOTING**—Messrs. Ames, Arnell, James M. Ashley, Baldwin, Banks, Barnum, Blair, Bromwell, Brooks, Sidney Clarke, Cornell, Dodge, Ferry, Finney, Fox, Garfield, Getz, Griswold, Grover, Haight, Hawkins, Holman, Hooper, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hulbard, Humphrey, Hunter, Jones, Kelley, Kerr, Ketcham, George V. Lawrence, William Lawrence, Logan, Lynch, Marshall, Moorhead, Morrissey, Mungen, Nunn, Orth, Perham, Poland, Robertson, Ross, Schenck, Shellabarger, Sitgreaves, Smith, Stewart, Taffe, Thomas, Van Auken, Burt Van Horn, Stephen F. Wilson, Windom, Wood, and Woodbridge—60.

So the House refused to lay the motion on the table.

Mr. BINGHAM's motion was then agreed to.

**ENROLLED BILL SIGNED.**

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined, and found truly enrolled, Senate bill No. 534, relating to contested elections in the city of Washington, District of Columbia; when the Speaker signed the same.

**JOSEPH POWELL.**

Mr. MAYNARD. I ask unanimous consent to introduce the following resolution in connection with the resolution passed a few minutes since:

*Resolved*, That there be paid out of the contingent fund of the House to Joseph Powell, contesting the seat of Hon. R. R. Butler, Representative from the first congressional district of Tennessee, in full for his expenses in taking testimony under direction of the Committee of Elections and prosecuting the contest, \$2,000.

Mr. ELDRIDGE. How many votes did that man get?

Mr. SPALDING. I object.

Mr. ELDRIDGE. I understand he only received sixteen votes.

Mr. EGGLESTON. I call for the regular order of business.

**NEW YORK POST OFFICE.**

Mr. FERRY, from the Committee on the Post Office and Post Roads, reported a bill (H. R. No. 1214) to provide for the erection of a building for a post office and the United States courts in the city of New York; which was ordered to be printed, and recommitted to the committee.

Mr. UPSON moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

**SALE OF DAMAGED ARMS, ETC.**

Mr. GARFIELD. I ask unanimous consent to report from the Committee on Military Affairs for present action a joint resolution (H. R. No. 292) directing the Secretary of War to sell damaged or unserviceable arms, ordnance, and ordnance stores.

Mr. WASHBURN, of Illinois. I think there is very great objection to this. I object.

**LOYAL CHOCTAWS AND CHICKASAWS.**

Mr. CLARKE, of Kansas, by unanimous consent, introduced a joint resolution (H. R. No. 300) for the relief of loyal Choctaw and Chickasaw Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

Mr. UPSON moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

**ALEXANDRIA CANAL.**

The SPEAKER. The morning hour has now commenced. The regular order is the call of the committees for reports, and the House resumes the consideration of the bill reported from the Committee for the District of Columbia (H. R. No. 892) relating to the Alexandria canal, which was pending at the expiration of the morning hour on Thursday last.

The Clerk resumed and concluded the reading of the bill.

Mr. INGERSOLL. If I can have the attention of the House a few minutes, I think I can explain this bill in a satisfactory manner. In 1830 Congress chartered the Alexandria Canal Company. The House will remember that at that time the county of Alexandria formed a part of the District of Columbia, so that no other legislative authority could have created the canal company. In pursuance of the authority contained in that charter the company went on and built a canal and an aqueduct across the Potomac river at Georgetown.

In 1846 Congress retroceded to the State of Virginia the county of Alexandria, thereby, as it was supposed, conferring jurisdiction upon the State of Virginia over this corporation that had been created by act of Congress sixteen

years before. In 1861 the State of Virginia went into the rebellion, and during the progress of the war the Government of the United States took possession of the canal and aqueduct. The canal was nearly destroyed. The aqueduct was turned into a bridge for the use of the Government and the public and used for five years for the transportation of troops, munitions of war, &c., into Virginia. During that period the old aqueduct was about worn out.

At the close of the rebellion the old company resumed possession and control of the canal, but found itself bankrupt and without the means to prosecute the work of repair. They therefore advertised that they would lease it to anybody who would take it for a term of years for a fair consideration. The gentlemen named in this bill came forward and made a lease with the old company for ninety-nine years for a certain consideration in money to be paid to the canal company. Fearing that the old canal company had no authority in law to make the lease, and that the State of Virginia had acquired jurisdiction over the company by the act of retrocession of 1846, these gentlemen, Messrs. Wells, Quigley, and Dungan, went to the Legislature of Virginia in 1867, I think, and secured the passage of an act authorizing the old company to make a lease and confirming any lease that they might make.

The question may be asked why Congress should ratify that grant or action of the Virginia Legislature. It may be said that it is a rebel Legislature. I think not. It will be remembered that Governor Peirpoint formed a government, and established its headquarters at Alexandria, during the rebellion in 1863, and that that Legislature was recognized by Congress when it required the assent of the Virginia Legislature to the creation of the State of West Virginia out of the domain of old Virginia. After the suppression of the rebellion this Legislature went to Richmond with Peirpoint at its head. In 1867 an election was ordered, which was acquiesced in by the administrative authorities of the Government after the suppression of the rebellion, and that election resulted in the election of members of the Legislature loyal to the Government of the United States, and who have been recognized as such up to this time. That is all the connection that the Legislature of Virginia has had with the subject. It is proposed that the corporation may have authority to make this lease, and the sanction of that Legislature is required.

Now, then, what is asked by this bill? These lessees of the old canal company have gone on and expended the necessary amount of money to put the old canal in thorough repair. They have built a new aqueduct at a cost of at least \$250,000 to replace the old one which the Government used during the entire war without compensation to the old company. They now propose to build a bridge for the use of the public on the same piers and on the top of the framework of the aqueduct. It will make a very convenient bridge, as regards location, for the convenience of the public both in Virginia and in the District of Columbia. They propose to build a bridge and to be remunerated by the tolls that they shall collect. It will be remembered that there are two other bridges in the District of Columbia—the Long Bridge and the Chain Bridge—and the people will at all times have their option over which bridge they will cross. It will be entirely at their option whether they will use this bridge for compensation to the builders or not. That is all there is in this bill. The committee have examined the proposition thoroughly, and, I believe without a dissenting voice, have recommended the passage of the bill as a public convenience, interfering with no public or private rights whatsoever in the District of Columbia; and if nobody desires any further information I will ask the previous question.

Mr. WASHBURN, of Illinois. Oh, I hope my colleague will not call the previous question. I hope he will let us discuss this bill a little.

Mr. INGERSOLL. I cannot yield for discussion at the present time. If my colleague proposes an amendment I will hear him, or I will yield for a question only.

Mr. WASHBURN, of Illinois. I am much obliged to my colleague for his courtesy. I would like to move some amendments to the bill. I do not know that it is in order to move an amendment if the gentleman insists on the previous question, but I presume the House would like to know something in regard to the bill before it votes upon it.

Mr. INGERSOLL. I do not yield for the purpose of discussion. I have told the House something about the bill already, and if my colleague is not satisfied with the bill I will yield to him to offer amendments.

Mr. WASHBURN, of Illinois. I will suggest an amendment to my colleague.

Mr. INGERSOLL. I object to debate. If the gentleman will suggest an amendment I will hear it.

Mr. WASHBURN, of Illinois. There is a provision in the fifth section of the bill that as soon as the bridge is so far completed as to be ready, fit, and convenient for the passage of persons and animals, &c., but there is no provision here as to who shall certify when the bridge is ready and fit. I propose to amend that.

Mr. INGERSOLL. I yielded for an amendment, and not for debate.

Mr. WASHBURN, of Illinois. I am stating an amendment and referring to the portion of the bill to which it is applicable. But I will first propose to strike out a portion of the fourth section. It provides that the said railroad shall be kept on the same footing as postal roads are required to be kept. There is no objection to that, but there is to what follows, namely, "and the same is hereby declared to be a postal road." I would like to know of my colleague why he desires to have such a provision as that in the bill?

Mr. INGERSOLL. What objection have you to it?

Mr. WASHBURN, of Illinois. What is the purpose of making this particular piece of railroad specifically by law a postal road for the benefit of this company. Does the gentleman object to striking that out?

Mr. INGERSOLL. Well, not very much.

Mr. WASHBURN, of Illinois. Well, let it be stricken out, then.

Mr. INGERSOLL. I will say in reply to the gentleman from the Galena district, [Mr. WASHBURN]—for I want to treat my colleague with candor—the citizens of Georgetown many years ago in their corporate capacity brought an action against this Alexandria Bridge Company upon the ground that it was an unlawful structure over a navigable river, and was a nuisance. You will find the case reported in 12 Peters. The Supreme Court held in that case that it was not an unlawful structure; and confirmed the decision of the circuit court, which dismissed the bill.

Mr. WASHBURN, of Illinois. If that be so, then what is the use of this extraordinary legislation?

Mr. INGERSOLL. I will tell the gentleman. No longer ago than last winter the citizens of Georgetown brought another action against this company upon the ground that it was an obstruction of the navigation of this river. The case was heard before the supreme court of the District of Columbia, and after an elaborate argument, and a long hearing, the court decided that it was a legal structure and not a nuisance, and dismissed the case. We have thus had the adjudication of those courts upon this question, and it is, perhaps, not really important for the interests of this company that Congress shall declare it a postal road, or a public way for the Government. But it can do no harm, and will put at rest the constant litigation that the citizens of Georgetown insist upon as against this company.

Mr. WASHBURN, of Illinois. That is just what I supposed was the reason why this was put in here. There is a matter of litigation

between this company and the city of Georgetown.

Mr. INGERSOLL. Oh! no.  
Mr. WASHBURN, of Illinois. There has been.

Mr. INGERSOLL. Yes, sir.  
Mr. WASHBURN, of Illinois. And gentlemen want to come in here and cut off Georgetown and everybody else by putting this extraordinary provision in this bill.

Mr. TROWBRIDGE. Will the gentleman from Illinois [Mr. INGERSOLL] yield to me?

Mr. INGERSOLL. For a question.

Mr. TROWBRIDGE. I wish to inquire whether by a permanent provision of the present law all railroads are not postal roads now? That is my impression, and I once had something to do with this subject.

Mr. INGERSOLL. If that is so, then let this provision on this subject be allowed to remain in this bill. But I am not aware that such is the law.

Mr. TROWBRIDGE. I think it is.

Mr. INGERSOLL. I know that in the Wheeling bridge case the company was chartered to build a bridge; and the Pennsylvania Railroad Company brought suit against the bridge, because, as that company alleged, it was an obstruction to the navigation of the Ohio river.

Mr. BROOMALL. The city of Pittsburg brought the action.

Mr. INGERSOLL. I think both the city and the company did so. The States of Ohio and Virginia chartered a company to build that bridge. One action was brought by, I think, the Pennsylvania Railroad Company; that is my recollection, though I may be wrong about that; still it was a Pennsylvania interest that brought the action. Up to that time there had been no congressional action whatever in reference to that structure. Subsequently to bringing that suit the bridge company came before Congress and asked for some affirmative legislation which should recognize it as a lawful structure. I do not say how that legislation was got through Congress, for I do not know. I was not here. I simply know the fact that affirmative legislation was had. And the Supreme Court after that recognized the action of Congress as valid and binding upon the Supreme Court when it declared that to be a lawful structure and a post road. I have not looked at the point whether all railroads are by general law declared to be post roads or not.

Mr. TROWBRIDGE. They are.

Mr. INGERSOLL. It may be so; if they are not, they ought to be. However, if the House wants to strike out this provision I am willing that they should do so.

The question was then taken upon the amendment of Mr. WASHBURN, of Illinois; and it was agreed to.

Mr. WASHBURN, of Illinois. There is another amendment which I think my friend will be as willing to agree to as he has been to this amendment. It is provided that as soon as this bridge shall be completed for the passage of vehicles, &c., they shall be allowed to charge a toll. But there is no way in which that is to be determined; nothing is said about who is to determine that fact.

Mr. INGERSOLL. If no one can cross the bridge of course they cannot be made to pay any toll.

Mr. WASHBURN, of Illinois. Let the gentleman hear me. We ought to provide, before these parties shall be allowed to charge this toll, that their road shall be completed. I move to amend section five, so it will read as follows:

SEC. 5. And be it further enacted, That as soon as the chief engineer of the Army shall certify to the Secretary of War that said bridge is so far completed as to be ready, fit, and convenient for the passage of persons, animals, and vehicles, the said lessees, their successors, and their legal representatives, may demand, have, and receive, in advance, the following tolls; to wit: for any foot passenger crossing on said bridge, two cents; for any horse, mule, or jack, any ox, or other horned cattle, five cents; for any vehicle drawn by one animal, fifteen cents; drawn by two animals, twenty-five cents; drawn by four animals, thirty-five cents, but no extra charge shall be made



for the driver of such vehicle; for any hog, sheep, or other live creature, one cent.

Mr. INGERSOLL. I agree to that amendment.

Mr. WASHBURN, of Illinois. We ought to have the certificate of some officer that it has been built before toll is collected.

The SPEAKER. If there be no objection the amendment will be considered as adopted.

There was no objection; and it was ordered accordingly.

Mr. WASHBURN, of Illinois. After the word "cent," in the twelfth line, section five, I move to insert the following:

Which said certificate shall be published for three weeks in two daily papers in the city of Washington at the expense of this company.

Mr. INGERSOLL. I agree to that.

There being no objection the amendment was considered as adopted.

Mr. WASHBURN, of Illinois. There is another amendment which I hope the gentleman will agree to, and it is this: it is required that it shall be lawful for said lessees to commute those rates to persons requiring yearly passes. Of course it would be lawful without any legislation by Congress. I want to make it obligatory. This may be a great thoroughfare across which the people from Virginia will bring their market products, and it is of great importance that they should be permitted to commute. I want to amend the section so it will read as follows:

*Provided, however,* That it shall be obligatory on said lessees to commute those rates to persons requiring yearly passes at a reduction of the rates herein specified of at least twenty-five per cent.

Mr. INGERSOLL. I object to that. Everybody permanently located on each side of the bridge would of course come and demand their commutation passes, and the result might be a great loss to the company. There is no obligation which compels the people to go over this bridge. It is a private enterprise. These parties have already expended \$250,000 on this canal and aqueduct. They do not ask any aid from the Government. The gentleman asks something unreasonable, and I think unfair.

Mr. MULLINS. Inform me how much the Government paid toward this aqueduct? We now propose to give it to this company.

Mr. INGERSOLL. Nothing that I know of.

Mr. PAINE. I wish to offer some amendments.

Mr. INGERSOLL. I will hear them.

Mr. PAINE. I move to strike out in section four these words:

And they may have such other rights and powers, and under such restrictions as at present are provided in the general railroad laws of the State of Virginia.

Inasmuch as this road comes into the District of Columbia it seems to me absurd that we should allow the State of Virginia, even if Virginia were admitted into the Union, to make laws for the road; and I, for one, cannot vote for a bill which allows Virginia to interfere in this District in this way. I hope the gentleman from Illinois will allow me to move the amendment.

Mr. INGERSOLL. I agree to that.

The amendment was adopted.

Mr. PAINE. I offer the following amendment:

Strike out the following words in reference to the connections of this railroad:

Or with any other railroad running to said city, or with any railroad running to Georgetown, in the District of Columbia.

The reason of that amendment, is that in passing this section as it now stands it will confer rights without any limit in the future. We should know what rights and powers we confer upon this company.

Mr. INGERSOLL. I agree to that.

There being no objection, the amendment was considered agreed to.

Mr. BUTLER. I should like to inquire whether this is a report from a committee.

Mr. INGERSOLL. It is.

Mr. BUTLER. Is the gentleman authorized to accept these amendments?

The SPEAKER. He has not done so. They were severally agreed to.

Mr. BUTLER. I desire to ask this question: whether or not the piers and superstructure on which this railroad and bridge are to rest have not already cost the Government two million dollars nearly?

Mr. INGERSOLL. They have not.

Mr. BUTLER. How much?

Mr. INGERSOLL. All there is about that is this: during the progress of the work, some thirty years ago or more, the canal company threw a quantity of *débris* into the river, to some extent injuring the channel of the Potomac. A large amount of broken stone, earth, &c., accumulated, and there was complaint made with regard to it. Thereupon Congress appropriated \$300,000 to the company upon condition that all that *débris* should be removed by the company, and that in future no more should be deposited there. At the time that appropriation was made the entire county of Alexandria, through which this canal was intended to and now does run, was within the limits of the District of Columbia, forming the territory over which Congress exercised exclusive legislation.

Mr. BUTLER. Who built these stone piers upon which the aqueduct rests mentioned in the second section? Did not Congress do that?

Mr. INGERSOLL. No, sir. The original canal company chartered by Congress received from Congress an appropriation of \$300,000 upon the condition I have named; but, sir, if the Government should pay a reasonable compensation for the aqueduct which it used during the five years of the war, which it had exclusive control of, and in the use of it destroyed the canal and its franchise altogether, so that at the close of the war that property, which had cost a great many hundreds of thousands of dollars, was almost worthless, it would amount to far more than three hundred thousand dollars. The Government has almost destroyed this property without paying one dollar of compensation to the old company, and none is proposed to be paid now.

Mr. BUTLER. Why should the Government pay for damages done in the State of Virginia, which was disloyal, any more than in the rest of the rebel States?

Mr. INGERSOLL. Nobody proposes to pay for damages in that or any other disloyal part of the country.

Mr. BUTLER. That is the proposition.

Mr. INGERSOLL. No, sir; that is not the proposition before the House. I demand the previous question.

Mr. RAUM. I ask the gentleman to allow the following amendment to come in at the end of the bill:

*And provided further,* That Congress hereby reserves the right to regulate the tolls on said bridge.

Mr. INGERSOLL. I do not think that Congress should reserve the right to regulate a private enterprise because it happens to be a bridge across the Potomac at Georgetown any more than the right to regulate the price of calico in Massachusetts. I do not allow the amendment to be offered.

Mr. WASHBURN, of Illinois. I hope the gentleman will admit the usual provision in bills of this sort. I presume he does not intend to have it passed without such a proviso as this, which I ask to be allowed to move as an additional section:

*Sec. —. And be it further enacted,* That the right is hereby reserved to Congress to amend, alter, or repeal this act.

Mr. INGERSOLL. All right.

The amendment of Mr. WASHBURN, of Illinois, was agreed to.

Mr. WASHBURN, of Illinois. A single question. Is it understood that the amendment in regard to tolls and commutation is pending and to be voted upon?

Mr. INGERSOLL. It is not; Mr. Speaker, my time is rapidly running away, and I cannot admit that amendment. I have yielded very liberally, but I cannot yield any further. I

demand the previous question on the bill and amendments.

On seconding the previous question there were—ayes 49, noes 23; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. INGERSOLL and HUMPHREY.

The House divided; and the tellers reported—ayes sixty-four, noes not counted.

So the previous question was seconded.

The main question was then ordered.

Mr. WASHBURN, of Illinois. I demand the yeas and nays on ordering the preamble to the bill to be engrossed.

The yeas and nays were not ordered.

The preamble was ordered to be engrossed—ayes 57, noes 40.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NATIONAL SAFE DEPOSIT COMPANY.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back, with the recommendation that it do pass, the bill (H. R. No. 579) supplemental to an act to incorporate the National Safe Deposit Company of Washington, in the District of Columbia, approved January 22, 1867.

The bill was read. The first section empowers the National Safe Deposit Company to receive on deposit from time to time such sums of money, not less than ten cents, as may be offered by tradesmen, clerks, mechanics, laborers, servants, minors, married women, and others, and to invest the same in stocks of the United States, or such other security or securities as may from time to time be authorized by the board of directors of said corporation. The corporation shall receive all sums of current money offered as aforesaid, and invest the same in the manner aforesaid, and as soon as practicable they shall allow to the depositors interest on their deposits, to be regulated by the board of directors, and they shall pay the amounts deposited, with the interest thereon, or any part thereof, not less than ten cents, to the depositors at the place of business of said corporation at any time during business hours, on demand.

The second section provides that the board of directors shall regulate the rate of interest upon deposits and publish the same annually; that interest shall not be allowed to any depositor until his deposit amounts to five dollars, the interest to be calculated by calendar months only, and no interest to be allowed for the fraction of a month; that deposits made by minors or married women may be repaid to them and their receipt shall discharge the said corporation from any further claims for sums so repaid.

The third section authorizes the company to receive and hold on deposit and in trust, estate, real and personal, including the notes, bonds, obligations, and accounts of estates and individuals and of companies and of corporations, and the same to purchase, collect, adjust, and settle, and also to sell and dispose of the same in any market in the United States or elsewhere without proceeding in law and equity, and for such price and at such times as may be agreed upon between them and parties contracting with them; that the company shall also possess and have the power to make insurance for the fidelity of persons holding places of responsibility and trust.

The fourth section authorizes the company to increase their capital stock to \$500,000.

Mr. GARFIELD. Will the gentleman allow me to ask him a question?

Mr. INGERSOLL. Certainly.

Mr. GARFIELD. If this bill is merely to provide for safe deposit, it seems to me perfectly proper; but as I caught the reading of the bill, it authorizes them to do a broker's business and insurance business. I did not

hear the bill very distinctly, and I would like to ask whether the bill does allow a broker's business to be worked in under the charter which this bill grants?

Mr. INGERSOLL. There is nothing intended to be "worked in."

Mr. GARFIELD. I will take that back. I merely meant to ask whether this bill could not be so construed, or whether it may not be so intended, as to make this a brokers' company? Perhaps it may be all right.

Mr. INGERSOLL. I will state all I know about this bill, and all that there is in it, so far as I know. I think not more than a year ago Congress passed an act chartering what is called the Washington Safe Deposit Company, like institutions having been created in nearly all the principal cities of the United States, being for the safe keeping of valuable papers or anything else of value inclosed in small compass. This corporation, chartered two years ago, went on and erected a building, within which it placed its vaults of the most superior kind, and engaged in the business specified in the charter. The company has been in operation now for something like two years; it has conducted its business in the most satisfactory manner. Yet, it being a new business, an experiment, it has barely managed, with the best of management, to pay its expenses, although it is composed of perhaps the best men in the community in a business sense. They now ask that their authority shall be extended so as to embrace the receiving on deposit of small sums of money; enlarging the power of that institution to some extent to that enjoyed by savings-banks.

Mr. PRUYN. Will the gentleman allow me to make a single remark?

Mr. UPSON. Is this a unanimous report of the committee?

Mr. INGERSOLL. I think so; with the exception of one member, perhaps.

Mr. PRUYN. Will the gentleman yield to me now?

Mr. INGERSOLL. For a moment, yes.

Mr. PRUYN. I have looked over this bill hastily, and I think several of its provisions are very proper. But there are some things mingled with the good which I think should not be there.

Mr. INGERSOLL. Then move to strike them out.

Mr. PRUYN. I refer among other things to a provision giving to this company power to insure the faithful discharge of duties and trusts, connected with the power to exercise the rights of savings-banks. Now, these two things should not be coupled together; no savings-banks should incur such risks. I therefore move to strike out that part of the bill which authorizes this company to make insurances; in fact, I move to strike out the entire third section.

Mr. INGERSOLL. I am willing to have that portion stricken out to which the gentleman objects, relating to insurance.

Mr. PRUYN. That section embraces two things; one is authorizing this company, now made a savings-bank, to act as general agents for buying and selling property of all kinds; the other is authorizing this savings-bank to insure the fidelity of persons holding places of trust and profit. Now, it strikes me that these two things are quite incompatible with the exercise of the power of a savings-bank.

Mr. BOUTWELL. Is not this a savings-bank already?

Mr. INGERSOLL. It is not.

Mr. BOUTWELL. What is it?

Mr. INGERSOLL. It is a safe deposit company, and nothing else.

Mr. PRUYN. I think it is a highly respectable and well managed institution.

Mr. INGERSOLL. I will accept so much of the gentleman's motion as refers to the insurance power of this company.

Mr. BOUTWELL. I have an objection to the details of this bill, and to the whole bill.

Mr. INGERSOLL. I do not yield to the gentleman to argue against the bill.

Mr. BOUTWELL. Then I hope the House will vote down this bill, for it contains propositions for different kinds of business, wholly incompatible with each other, and such as we should not pass in any bill.

Mr. INGERSOLL. It may be that the Republic will be overthrown if this bill should pass. I call the previous question upon it.

Mr. BOUTWELL. Are we to have no time in which to discuss this bill?

Mr. INGERSOLL. There are but three minutes of the morning hour left, and it may be that this is the last of my political existence, at least so far as the Committee for the District of Columbia is concerned.

Mr. MAYNARD. I think the gentleman should allow an amendment to this bill, providing that the gross receipts of this company shall be taxed the same as the gross receipts of express companies are now taxed.

Mr. INGERSOLL. I have no objection to that.

Mr. MAYNARD. Then I move the amendment I have indicated.

Mr. ALLISON. What does the gentleman mean by gross receipts?

Mr. MAYNARD. That is a term well understood in revenue laws.

The amendment of Mr. MAYNARD was then agreed to.

Mr. INGERSOLL. I now call the previous question.

The question was taken upon seconding the previous question; and upon a division there were—ayes 30, noes 38; no quorum voting.

The SPEAKER. The morning hour has expired, and this bill goes over until the morning hour of to-morrow.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate, pursuant to request, returned to the House the joint resolution (H. R. No. 291) giving additional compensation to certain employees of the civil service of the Government at Washington.

The message further announced that the Senate had passed a joint resolution (S. R. No. 100) for the relief of certain contractors for the construction of vessels of war and steam machinery, in which the concurrence of the House was requested.

#### ENROLLED BILL SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 870) to remove the political disabilities from Ioderick B. Butler, of Tennessee; when the Speaker signed the same.

#### UNITED STATES MINT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a letter from the Treasurer of the United States Mint, recommending an increase of the salaries of four clerks employed in said Mint, with the further recommendation of the Secretary of the Treasury; which were referred to the Committee on Appropriations.

#### QUARTERMASTER GENERAL'S DEPARTMENT.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting, in compliance with law, a statement of the contracts made by the quartermaster general's department during May, 1868; which were referred to the Committee on Military Affairs.

#### LEAVE OF ABSENCE.

Mr. LAFIN was granted leave of absence for ten days.

#### RIVER AND HARBOR BILL.

The SPEAKER. The House resumes the consideration of House bill No. 1046, making appropriations for the repair, preservation, and completion of certain public works, and for other purposes, on which the gentleman from Massachusetts [Mr. Eliot] is entitled to the floor.

Mr. BINGHAM. I desire to call up my motion to reconsider.

The SPEAKER. It is not now in order.

Mr. FARNSWORTH. I rise to make a motion that is in order. I move that we proceed to the consideration of the business upon the Speaker's table.

The motion was disagreed to.

Mr. ELIOT. Under the order of the House this bill is to be considered in the House as in Committee of the Whole on the state of the Union. I ask the Chair if that is not so?

The SPEAKER. It is to be considered in the House as in Committee of the Whole.

Mr. ELIOT. What is the rule in reference to the consideration of the bill in the House as in Committee of the Whole?

The SPEAKER. When the House resolves to consider this or any other bill in the House as in Committee of the Whole it is understood to mean that it shall be under the five-minutes debate. If the bill were ordered to be considered in the House as in Committee of the Whole without limitation, then the hour debate would apply.

Mr. ELIOT. My understanding of the rule at the time the motion was made was that the bill should be considered in the House as in Committee of the Whole, and that general debate was to be allowed; and after that was closed the bill should be open for five-minutes debate. Under that impression I supposed it would be competent for me to submit some general considerations on this subject, vindicating the action of the committee from suggestions made in the report which has been submitted by the minority of the committee.

The SPEAKER. The Chair will state that he will submit the question to the House for them to determine, as they made the order. When appropriation bills are ordered to be considered in the House as in Committee of the Whole it has always been understood that they were to be under the five-minutes debate.

Mr. GARFIELD. I understood the Speaker to announce the other day, when it was agreed to consider this in Committee of the Whole, that the five-minutes rule would prevail. We are all aware of that.

The SPEAKER. That is the general usage. If the House understood it differently they can manifest it.

Mr. SCHENCK. Why should not the rule apply in this as in any other case?

Mr. ELIOT. I wish to say the construction now given to the rule is different from what I supposed the rule was. I am always glad to get rid of the necessity for making speeches.

The SPEAKER. The gentleman from Massachusetts is familiar with the usage, and during the many years he has been here he cannot recollect an instance where, under like circumstances, there has been anything but the five-minutes debate.

Mr. ELIOT. I do not question the construction of the Chair.

The SPEAKER. It is not the Chair's construction, but that has been the usage.

Mr. PAINE. Does it require unanimous consent for the gentleman to make his remarks?

The SPEAKER. The Chair thinks it does.

Mr. PAINE. I hope the gentleman will not be deprived of the rights that he could exercise under the rules of the House.

Mr. ELIOT. I will not ask it.

Mr. PAINE. I desire the gentleman should have an opportunity to make the remarks he has prepared. I was about to make the motion unless unanimous consent was given. I hope it will be.

Mr. SPALDING. I am always pleased to hear the gentleman from Massachusetts, but I must object.

Mr. ELIOT. Then I will avail myself as well as I can of the privilege allowed me under the five-minutes rule. Of course I shall be unable to make some statements which it seems to me proper should be made to show the propriety of favorable action upon this bill. I suppose the only thing to be done now is to

have the bill read item by item under the five-minutes rule.

The SPEAKER. The gentleman will have five minutes on every clause of the bill.

Mr. MAYNARD. I suggest that several of the items be read, and then that the gentleman make a five-minutes speech; then several more of the items and another five-minutes speech.

Mr. ELIOT. It is hard to cut up a speech into five-minutes sections. [Laughter.]

Mr. CULLOM. I would inquire if the gentleman from Ohio [Mr. SPALDING] is not willing to allow the gentleman from Massachusetts half an hour.

Mr. SPALDING. Not six minutes, Mr. Speaker. I will give him five. [Laughter.]

Mr. ELIOT. Mr. Speaker, I certainly will not, under the leave which has been granted me, take advantage of the courtesy of the House, but I will try to confine myself within the thirty minutes.

A MEMBER. The gentleman from Ohio [Mr. SPALDING] refuses to withdraw his objection.

Mr. ELIOT. I beg pardon. I will then come under the five-minutes rule.

Mr. SCOFIELD. I rise to inquire whether any portion of the bill has been read?

The SPEAKER. It has been supposed to be read in Committee of the Whole.

Mr. SCOFIELD. Can the gentleman from Massachusetts speak before any portion is read?

The SPEAKER. If the gentleman insists, the Chair will have the first clause read.

Mr. SCOFIELD. I insist on following the rule, because the Chair always insists upon it when I am out of order. [Laughter.]

The SPEAKER. The gentleman is rarely out of order; whenever he is the Chair will rule so. The Clerk will report the bill until some member proposes an amendment.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums of money be, and are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to be expended under the direction and superintendence of the Secretary of War, for the repair, preservation, and completion of the following works heretofore commenced under the authority of law, and for the other purposes hereinafter named: That is to say,*

Mr. KELSEY. I rise to a point of order. The bill is not reported in accordance with the rules for reporting appropriation bills. It does not state the aggregate amount of money appropriated at the end of the bill.

Mr. BLAINE. That applies to the Committee on Appropriations only.

Mr. WASHBURN, of Illinois. If the gentleman will refer to my substitute he will see that I have conformed to the rule.

Mr. ELIOT. The objection comes too late.

The SPEAKER. The rule to which the gentleman from New York alludes refers exclusively to the Committee on Appropriations, which did not report this bill.

Mr. ELIOT. It is to be reported by paragraphs, and no paragraph has yet been passed.

The SPEAKER. The Clerk will read the bill by paragraphs.

The Clerk read the first two items of appropriation, as follows:

For improvement of Superior City harbor, in the State of Wisconsin, \$30,000.

For improvement of Wisconsin river, \$40,000.

Mr. WASHBURN, of Illinois. I move to strike out that paragraph.

Mr. ELIOT. The gentleman from Illinois does not propose to defend his motion, and I rise for the purpose of opposing it.

The SPEAKER. He waives his right by resuming his seat. The gentleman from Massachusetts can now have an opportunity to be heard.

Mr. ELIOT. The appropriation which is now the subject of consideration is for the improvement of Wisconsin river, in the State of Wisconsin. It rests, Mr. Speaker—and the committee have directed the report to be made—upon the recommendation of the War Department, and upon arguments which have been submitted to the committee through the Legislature of Wisconsin, by a memorial which has

been printed and laid before the members of the House, stating very fully the objects of the appropriation and the great importance of the appropriation to the internal commerce of the country. I have in my hand the memorial from the Legislature which states the character of the improvement itself, the importance of it to the States in that section of the Union, the growing commerce of that region, and the plan of improvement which the Government, under the authority of surveys made by order of the House, has determined upon. I had a long interview with the distinguished engineer who has had the examination of this work in charge, at the instance of the chairman of the committee and of my friend from Wisconsin, [Mr. WASHBURN,] who is more particularly interested in this locality, and I learned from him the arguments upon which the propriety of this appropriation rests. The work itself is one which has to be done if the Government of the United States proposes to continue the policy which has been laid down for the last three or four years in regard to internal improvements. It is not an exceptional case. It rests upon the same general grounds upon which all the appropriations which are asked for in this bill rest. I do not know whether the gentleman proposes to question the propriety of the policy. In former times, you know very well, sir, when the southern platforms ignored the power under the Constitution of making these appropriations, it was very difficult for the House, under the two-thirds rule, to get before the House a bill of this description. Do you not remember, Mr. Speaker, some eight years ago how earnestly the gentleman from Illinois [Mr. WASHBURN] tried to get out of the Committee of the Whole a river and harbor bill for the purpose of bringing it to the attention of the House? There are not a great many of those now present who were in the House. The gentleman from Ohio [Mr. BINGHAM] and yourself, the gentleman from Pennsylvania, [Mr. STEVENS,] my colleague upon my right, [Mr. DAWES,] the gentleman from Illinois, [Mr. FARNSWORTH,] the gentleman from Pennsylvania, [Mr. MOORHEAD,] and my friend from Illinois, [Mr. WASHBURN,] were here. We all witnessed the earnestness with which the gentleman from Illinois, who was then on the Committee on Commerce, struggled to get the bill, which I now hold in my hand, out from the Committee of the Whole. It was opposed upon the ground that the whole matter was outside the range of our action, and although upon that question there was a very large majority in favor of the measure, yet by a vote of 105 to 61 it was defeated.

Now, sir, since 1865, there have been two bills reported from the Committee on Commerce, with the assent of the whole committee—not of gentlemen of one political character, but of all political shades—for the purpose of improving the rivers and harbors of the country. The bills met the approval of the gentleman from Illinois. And yet at that time we had just come out of the war and were some hundreds of millions of dollars more in debt than we are now. But the representatives of the people in Congress recognized the duty which their constituents imposed upon them, to see that the internal improvements of the country were so made as that the cereal products of the West could find, in some cheap mode, transportation to the East. It is in the line of that policy that this appropriation bill is offered.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. I move to amend the paragraph by striking out "forty" and inserting "twenty." This is an appropriation which I would be glad to see made if I thought the work practicable. It is an appropriation in which my own constituents are interested, and I may say deeply interested, and if I could see that there was anything practical in it I would be willing to vote for the appropriation. But I think I know something about this Wisconsin river. I have lived in the

neighborhood of it for more than twenty-eight years, and I know that it has always been considered by the people there that the Wisconsin river is not practicable for steamboat navigation. Such is the treacherous character of the channel, sand bars being formed, and there being sudden rises and falls of the river, that before any railroad bridges were built, and in the face of every effort to navigate that river in order to bring its commerce down the Mississippi to Dubuque and Galena, we found it necessary to abandon all attempts.

At the last session of Congress an appropriation of \$40,000 was made for this purpose. The gentleman from Massachusetts [Mr. ELIOT] says that I assented to that river and harbor bill. I do not know but that I may have given it a sort of assent. I had very little to do with it. I was sick, and I believe when the bill passed I was not present. But I find that there is an appropriation here of \$40,000 for the improvement of the Wisconsin river.

Well, sir, I am sorry to say that the gentleman from Massachusetts [Mr. ELIOT] did not read the report of General Warren on this subject. According to that report this improvement which we are now asked to initiate will cost, before it can ever amount to anything, from two million three hundred and sixty thousand to three million five hundred and forty thousand dollars. And let me say here that I do not believe there is money enough, and will scarcely be money enough to spare in the Treasury for the next ten years, to make that river navigable, unless you construct a canal from its mouth, where it empties into the Mississippi river, up as far as the portage. And yet it is here proposed, in the present condition of the public Treasury, to commence this improvement which, according to the lowest estimate of General Warren, will cost the Government some three hundred and sixty thousand dollars. I say that we cannot afford to undertake works of this kind, which do not promise us more and greater results.

The idea has been practically abandoned of making this a navigable river. If gentlemen will be good enough to read the report of General Warren, they will see that a great deal of it refers to bridges that have been built over the river, and to the cost of dredging away the obstructions which those bridges have made. And then in addition to that he says it will require an annual appropriation of from twenty to thirty thousand dollars.

I have no time, in five minutes, to refer much to the general subject of river and harbor improvements. The gentleman from Massachusetts [Mr. ELIOT] says I was at a certain time in favor of river and harbor improvements. I was; but it was at a time when we had money in the Treasury, at a time when the people were not loaded down with debt. I was then willing to make liberal and proper appropriations. But times have changed, and I confess that my notions upon the subject have changed to some extent. I do not believe, to the extent I formerly did, in making appropriations for every object of the kind in the country; \$20,000 for a harbor here, \$40,000 for a harbor in some other place, and \$50,000 for some other harbor, and so on. I do not now believe in making these appropriations for local objects, where they have no public interest.

[Here the hammer fell.]

Mr. ALLISON. I desire to say but a word or two in reply to the gentleman from Illinois, [Mr. WASHBURN.] I am surprised that he should be found opposing this particular appropriation in this bill. There is no proposition contained in this bill for the improvement of any harbor, or for any purpose whatever, that affects the interests of so many people as this very appropriation for the improvement of the Wisconsin river. In the brief space of five minutes allotted to me I cannot enter upon an argument upon this subject, but can only urge upon members the general statement of its importance to the grain growing region of the West, to every farmer who cultivates the soil of four States adjacent to this improvement.



The gentleman says that the Wisconsin river cannot be made navigable. In that he disagrees with the best engineering talent of this nation. This river has been examined over and over again by the engineer bureau of the War Department, and they all say that it can be made navigable. This appropriation of \$40,000 is but a small one, and is really intended to verify the statements made by those distinguished engineers, and to prepare the work so that improvement upon a scale commensurate with our necessities may be entered upon in the future.

I tell the gentleman from Illinois that not only his constituents, but the people of four States of the West are vitally interested in the progress of this work. It will cheapen the expense of transportation from the Mississippi river to the lakes at least thirty per cent. Every article that is raised in the northwestern States will be transported up and down that river if it is properly improved. Every man who raises a bushel of grain in Iowa, Wisconsin, and Minnesota, is now compelled to pay tribute to the great railroad corporations of that region.

No man I ever heard of before ever said that this was not a convenient water communication. Vessels have passed up and down that river for years. It is a mistake to say that this river cannot be made navigable by means of a reasonable appropriation expended upon it. It is true that General Warren suggests it may cost from two and a half to three and a half million dollars to make this work complete.

Now, I know this does not appear to be an Illinois river; it is a Wisconsin river in this case. But though it does lie north of the State of Illinois, yet I would call the attention of the gentleman to the fact that there is a vast region of country north of this Wisconsin river, and west of it, and south of it, which will be benefited by this improvement.

Mr. WASHBURN, of Illinois. Why does the gentleman refer to the Illinois river?

Mr. ALLISON. I referred to the fact that this is a Wisconsin river. And the people of a large region of country are interested in the improvement of this river, and desire to avail themselves of a cheap water communication by way of the lakes to the Atlantic sea-board. If that appropriation is not to be made, then there ought not to be one single item of appropriation made in this bill. I regard it as the most important appropriation made there, not because it affects my constituents alone, but because it affects that great grain-growing region of country. It affects the price of grain in New England and New York, and the price to the consumers of all articles transported from the East to the West and the West to the East.

This Wisconsin river passes a point where there is a canal only one mile and a half in length, and that connects the Fox river with the Wisconsin river. It is acknowledged to be the cheapest means of communication between the Mississippi river and the lakes by way of Green bay; and I ask gentlemen to remember that I speak here not only on behalf of four million people who cultivate the soil, but on behalf of the toiling millions of the eastern States who are consumers of our products.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. I withdraw the amendment.

Mr. WASHBURN, of Wisconsin. I move to increase the amount to \$50,000.

Mr. Speaker, the Wisconsin river, being a large portion of it in my district, and there being a large number of people living upon it, and being useful, indeed, in navigation, I feel bound to say a few words to sustain this appropriation. Now, sir, the object of this appropriation and the object of the improvement of the Wisconsin river is to give complete navigation from the Mississippi river to the lakes. This is to create a ship-canal between the Mississippi river and the lakes. It is alleged the Wisconsin river is impracticable and cannot be

made navigable for that purpose. I am not here prepared to say whether it can or cannot. It is the opinion of General Warren that by the expenditure of the sum of \$3,000,000 it can be made so navigable. If it can be made so navigable no appropriation of money could be made so advantageous to the country as this, for I could easily demonstrate that the country could save \$3,000,000 annually by the aid of a ship-canal from the Mississippi river to the lakes. The distance is some two hundred miles. I will say further that you have appropriated to the Fox river for the purpose of improvement a very large amount of land. The Fox river has been improved. Slack-water navigation has been created; and there is a canal from Wisconsin river and the slack-water navigation to Green bay.

Mr. WOODWARD. How do you propose to improve the Wisconsin river?

Mr. WASHBURN, of Wisconsin. General Warren, in the report which he has made on the subject, shows you how he proposes to do it. He proposes to improve the bed of the Wisconsin river not by a canal, but by a system of dams.

Mr. WOODWARD. There is no water there.

Mr. ALLISON. There is plenty of it.

Mr. WASHBURN, of Wisconsin. I will state the character of the Wisconsin river.

Mr. WOODWARD. I know something about this river, and I say there is no water there.

Mr. WASHBURN, of Wisconsin. The gentleman from Pennsylvania says he knows something about that river. That may be, but I know something about it. I have lived near its banks longer than I dare say, twenty-five years at least. I know it is a very bad river, not for the want of water, for there is abundance of water, but it has a very wide, sandy bed and the channel is constantly shifting. There is enough of water if you will confine it. You may know there is water enough when I tell you that the river is three or four hundred miles in length and drains an extensive region of country. It is the largest river in Wisconsin. There is abundance of water if it can only be controlled. This bill proposes rather as an experiment an appropriation of \$40,000. If it appropriated \$3,000,000 I would not vote for it, because I am by no means certain on the plan recommended by General Warren successful navigation can be obtained. But I do desire this appropriation of \$40,000 should be made.

Mr. FARNSWORTH. For what purpose?

Mr. WASHBURN, of Wisconsin. As an experiment.

[Here the hammer fell.]

Mr. COBB. I rise to oppose the amendment. I understand from the report of the engineer, General Warren, that \$40,000 is all that it is desirable to have appropriated at this time, and that it is contemplated to use that money by way of experiment by constructing a wing-dam to test the practicability of the improvement of this river. Therefore I oppose the increase as moved by my colleague. But my principal object in seeking the floor is to reply to the remarks of the gentleman from Illinois [Mr. WASHBURN] in regard to its being conceded by everybody that this river is not susceptible of improvement so as to make it navigable. I think the gentleman is mistaken in his assertion. A considerable portion of this stream passes through the district which I have the honor to represent, and I know that it has always been the opinion of those best acquainted with the stream that a very trifling outlay of money judiciously applied would make it navigable the year round. It is true that the navigation of it has been abandoned; I have seen a great many steamboats navigating it in years gone by, and it has always been the opinion not only of engineers, but of the numerous raftsmen who have navigated the stream since the settlement of the country, that it is capable of being made navigable all the time. There is plenty of water, as has been observed, but being spread over a wide bed the depth is so shallow that sand bars are

formed which are constantly shifting, so that an acquaintance with the channel of the stream at one time does not enable the pilots to understand it at another. But notwithstanding all this, engineers give it as their opinion—and in this they are confirmed by the raftsmen—that by the system of wing-dams at a great many points in the river this difficulty may be overcome; and I believe such will be the result. I hope the appropriation will not be stricken out.

Mr. WASHBURN, of Wisconsin. I withdraw the amendment.

Mr. SCOFIELD. I move to make it \$80,000 instead of \$40,000. There are two or three questions about making this appropriation which I think the House will do well to consider. In the first place, the friends of this improvement say that the \$40,000 proposed to be given here is only a small beginning, and that it will require \$2,000,000 more to accomplish anything. Now, I think in giving the \$40,000 we determine the question whether we are to give \$2,000,000 hereafter, or to lose the \$40,000 altogether. It is another question whether this improvement can ever be made, even if we determine to give the \$2,000,000. Gentlemen who advocate it say that there is a very large quantity of water; that it is a very wide river bed; and that sand bars are formed which shift from one side to the other constantly, forming new channels. They propose, therefore, to have the river bed walled in and in some way confined. Now, it is very uncertain—and the friends of this appropriation will judge whether it is not so—whether if these \$2,000,000 are finally appropriated the stream will after all be rendered navigable.

But, sir, back of all this there lies a very important consideration. This stream is all in one State. Almost all of it lies in the single congressional district of my friend from Wisconsin, [Mr. COBB,] as he says.

Mr. COBB. A large portion of it, I said.

Mr. SCOFIELD. A large portion of it, then, lies in my friend's district. Another small portion runs through the district of his colleague, [Mr. HOPKINS,] and I suppose my friend behind me [Mr. PAINE] will claim some portion of it in his. But it is all in the State of Wisconsin. Now, sir, we have in the State of Pennsylvania just as large an improvement as that which is here contemplated. We have chartered a company and they have gone on and improved the Monongahela river; and other States are making similar improvements in the navigation of rivers lying within their limits. It is different when you come to a large river like the Mississippi or the Missouri or the Ohio. But when you take a comparatively small stream, which is very difficult of navigation and uncertain in regard to its improvement, although the State in which it lies may be benefited by the improvement, I submit whether this House should at this time enter upon the experiment of improving the navigation. Because if we appropriate this \$40,000 we do enter upon it. And I submit to gentlemen who have matters in this bill about which there is no doubt, whether we ought to endanger the passage of just measures or absolutely necessary measures by putting in so many appropriations for new works, at a time when our national debt is every day increasing and our taxes are every day diminishing.

Mr. COBB. I would like to ask the gentleman this question: whether the improvement of the harbor at Erie is one of those just measures to which he refers?

Mr. HOPKINS obtained the floor.

Mr. SCOFIELD. Allow me a moment to answer the question.

Mr. HOPKINS. Very well.

Mr. SCOFIELD. I say to the gentleman that I do not want to mix up any interest I may have in the bill with that of anybody else. I want to vote fairly and honestly on each measure. Gentlemen may retaliate on me or on the interests of my district if they see fit, but I know my friends from Wisconsin are above

any feeling of that kind. I shall vote on this question according to my judgment, and if, when the appropriation for the harbor of Erie comes up, that appropriation, if it is honest and just, and shall be defeated because I have fought against other measures, then my constituents will suffer.

Mr. HOPKINS. I quite agree with the gentleman from Iowa [Mr. ALLISON] that this appropriation is, for its amount, more important in its character than any other one appropriation in the bill. I have not the statistics at hand, and if I had I should not have time to use them; but the territory tributary to this river raises to-day of wheat alone one hundred million bushels; and that amount of grain, which is mainly transported to the East, and from there to Europe, passes over the States of Wisconsin and Illinois upon railroads at an average cost of fifteen cents per bushel. This improvement, if completed, even at the cost estimated by the engineer department, of \$3,000,000, will save that amount of transportation of grain, not only to the people of Iowa and Wisconsin and Illinois and Minnesota, but will save it to the consumers. The people of the East are as much interested in this improvement as we are in the West. The great want of the West is cheaper transportation of our surplus products. That country has already become the granary of this continent, and is destined to become ere long the granary of the world. The man who puts his finger or his foot on these works of internal improvement, which are so necessary to the development of that country, does an act of injustice to himself and his constituents and to the nation at large. This river is susceptible of being made navigable. It has a volume of water to-day that, if properly controlled, would float any boat that now runs on the Mississippi above Galena, and between that point and St. Paul. I have lived near this river for ten years, and nearer to it than my friend from Galena, and I assert that it is capable of being made navigable at a less expense than any other water navigation we shall ever have between the Mississippi river and the lakes.

Mr. MILLER. I understood the gentleman's colleague to say that this appropriation of \$40,000 was merely to test an experiment.

Mr. HOPKINS. This appropriation of \$40,000 is asked for at the suggestion of the engineer department for the purpose of building some wing-dams to control the current of the river, and see if that is the best way of improving it. It is undoubtedly the cheapest way, and if you will permit them to test it, we shall get an improvement which the gentleman from Pennsylvania, with all his ideas of economy, for which I honor him, and the gentleman from Illinois, will be proud of as citizens of the United States.

Mr. FARNSWORTH. I understand the gentleman to say that this is the most feasible project for water communication between the Mississippi river and the lakes. I want to inquire if Rock river, which runs through the States of Wisconsin and Illinois, is not more feasible?

Mr. HOPKINS. I will say to my friend from Illinois that I am myself and my constituents are more directly interested in the Rock river than in the Wisconsin river. I should be glad to see Rock river improved, and I expect to live to see the day, if I live to the common age of man, when not only the Wisconsin river will be made navigable, but Rock river and the Illinois river also; and with those three great navigable rivers running through that territory which produces so much, we shall have what the West wants and needs.

[Here the hammer fell.]

Mr. SCOTFIELD. I withdraw my amendment.

Mr. DELANO. I move to reduce the amount to \$5,000, not for the purpose of occupying the time of the House in reference to this particular item of the bill, but to direct the attention

of the House to some general views and ideas connected with the bill.

This bill appropriates for lake harbors, \$811,000; for close harbor, \$318,000; for the improvement of rivers, \$2,741,000; for the purchase of certain localities, and a certain appropriation for the Portland and Louisville canal, \$2,017,000, and for the continuation of surveys, \$260,000; in all, \$6,141,000. It will be observed by those who analyze this bill that there are thirty-two lake harbors appropriated for; twenty-seven rivers appropriated for, and ten close harbors appropriated for. It is so arranged as to reach perhaps the individual interests of some seventy members of this House. It may be set down, to begin with, as an omnibus that a great many people can ride in.

Now, sir, if we were in a condition financially to commence this scheme of improvements, I am not prepared to say that I should be among those who would oppose it. But we have just crushed out a rebellion without regard to cost; we have nearly got through the work of restoration and reorganization; and if there is anything left for the Republican party now to do, which in point of importance is higher and above all other things, it is a proper and economical administration of this Government. We might part with this \$6,000,000 for the purposes contemplated by this bill, without laying a burden upon the people which they could not endure; but we would be inaugurating a scheme which would lead to the expenditure of untold millions in the future.

In reference to the particular item immediately under consideration, the friends of the appropriation say that it is only an experiment to test the manner and practicability of carrying out the project of connecting the waters of the Mississippi river and the great lakes.

There is another project of connecting the waters of the Mississippi and the lakes by an improvement extending through the State of Illinois. And the people of Ohio desire to improve the connection they have made of the waters of Lake Erie and the Ohio river. But are we prepared to enter upon this scheme at this time? Is it just to the constituencies whose interests it is our duty to protect for us to pass such a bill as this at this time? In almost all cases covered by this bill the appropriations here proposed are but entering wedges to secure a way into the Treasury. The time may come when these appropriations will be required, but I deny that now is the fit and proper time to enter upon this policy of public improvements. At the proper time, when it is in order, I will offer an amendment to this bill, proposing a certain amount of limited appropriations for the preservation of such works as we have now in hand but which need a little more assistance, and leave this entire policy for action at some future day when our constituencies will be better prepared to bear the burden.

[Here the hammer fell.]

Mr. ELIOT. We might as well meet this question now as at any time. And perhaps the particular appropriation now under consideration furnishes as good an occasion for the contest which it is evident this bill must meet as any item will afford. Sir, it is because these improvements are demanded by the people; it is because these improvements, although they cost money, are among the expenditures which are productive, or while they cost money return into the Treasury more money over and over again than they cost; it is because of those things that the Committee on Commerce instructed the reporting of this bill. Some of these measures are to a certain extent experimental. How can it be otherwise? There is no question that the improvement is demanded; there is no question that the interests of the country require it, and that a large amount of revenue will be produced to the country if the improvement shall be made. An appropriation is made at the beginning for the purpose of seeing how it shall best be done.

And upon this the question comes up whether,

considering the present condition of the Treasury, it is or is not best for us to stop where we are. If it is, then let this bill be laid on the table. If the members of this Congress are prepared to go back to their constituents and say that because of the fact that we have just passed through a long and expensive war, and because we have a large debt to pay, therefore we have concluded upon the whole to let the whole system of internal improvements rest where it now is, be it so. But I predict that it would be the most disastrous policy we could pursue. This is no mere party question. The gentleman from Ohio [Mr. DELANO] has analyzed this bill and found so many lake appropriations, so many river appropriations, so many appropriations upon the coast, and so many inland.

The object of the bill, sir, is to furnish ways and means by which the industries of the country can be made operative, by which they can work so as to make the opportunities which God in his providence gave to us effective and available.

Mr. Speaker, of what value is it to us because in one season at the West an amount of grain can be raised which puts to shame the accumulations of Pharaoh in the days when the brethren of Joseph went down into Egypt to save their father from starvation? Of what avail is it, sir, if the constituents of the gentleman from Illinois have got to burn their corn for fuel, because they cannot convey it to market?

If we are to be told because the Treasury is in the condition in which it is we are to wait year after year until the time shall come, as the gentleman says in his report, when labor is lower, when money is more plenty, why, sir, let me say before that time has come, if these appropriations are made and these improvements carried on, the amount of money put into the Treasury by reason of these improvements will over and over again pay the expenses to which we are now subject.

Sir, we have got to appropriate four or five million dollars annually as one of the natural, fair, ordinary expenses of this Government if we do our duty as the legislators of this country, in which God has permitted us to live; and it is in vain to single out this item or that item for the purpose of raising on it a general argument against appropriations of this kind, unless, indeed, gentlemen propose to stop where we are.

Now, Mr. Speaker, in regard to this special appropriation. The Wisconsin river, as you know very well, enters into the Mississippi. The Fox river enters into Green bay. The object of the appropriation is to make such communication between Green bay and the Mississippi river as that the whole production there can be carried down to the Mississippi river, so along down to St. Louis and New Orleans and out to the ocean; or the other way, as my friend from Wisconsin says. This is the early part of the improvement.

[Here the hammer fell.]

Mr. ALLISON withdrew his amendment.

Mr. PILE. I move to make it \$50,000 instead of \$40,000.

Mr. Speaker, the wealth of this country, as of all others, arises from production, and production can only be stimulated and kept up by rapid and cheap means of interchanging commodities for the transportation of the productions of one locality to another, for the transportation of productions in excess to where they are wanted. These great avenues of industry have received from all wise governments careful consideration and encouragement. Until a very short period river and ocean and wagon transportation have been the principal medium of interchange of commodities from one locality to another. Recently the era of railroads commenced. They have been built in this country as well as in all other civilized countries; but it has been demonstrated that the railroad transportation is used for the interchange of light commodities, and that we must at last fall back and rely upon

the river and ocean for the transportation of heavy commodities and the large agricultural products of the country. What the Mississippi valley needs, that wonderful region of the country, unequaled by any upon the globe, what it needs to stimulate its production is cheap transportation; and for that there must be competing lines of water communication. The Mississippi river must be improved, and its mouth and channels and outlets opened and deepened, affording constant and ready communication with the ocean. It is equally necessary we should provide for communication northward to the lakes, so that in the summer months it may be a perfect line of water navigation. Then the productions of the Mississippi valley will be transported either way cheaply and readily.

In the light of this fact, which bears directly upon this specific improvement that is now before the House, I think an appropriation of \$40,000 as an experiment to test whether the plan submitted by General Warren, the engineer, is practicable, should be made without hesitation. It is true that if this river can be improved its ultimate improvement will require an expenditure of two million or two million five hundred thousand dollars; but if the experiment proves that it cannot be so improved as to render it navigable then the expenditure of \$40,000 does not necessarily entail an expenditure of the larger sum.

Mr. WASHBURN, of Illinois. Does not the gentleman know that we appropriated \$40,000 last year?

Mr. WOODWARD. I rise to express a few thoughts on the general subject before the House. I am opposed to all these appropriations. The rivers of the country are provided by nature undoubtedly for the transportation of the products of our country; and no more legitimate work can be proposed than to improve their navigation so as to enable people to get the products of their labor to market. I agree to that, and I agree with those western gentlemen who magnify the importance of that garden of the world in which they live; for such I believe it will come to be realized by the world, and that before many years. I look forward to the time when people abroad will depend upon the great West for the bread they eat; and I wish the people of this country generally would turn their attention to farming more than they are doing. I wish some politicians would turn farmers. It is undoubtedly true that the products of these fertile lands are to be carried to market principally by water, for they will not bear transportation by any more artificial communications. These things are all true, and the argument so far as these facts are concerned is with the gentlemen who support this appropriation.

But here is what I want to say: the Wisconsin river, if I understand it, rises, flows, and empties in the State of Wisconsin. Is not that the fact?

Mr. WASHBURN, of Wisconsin. That is so.

Mr. WOODWARD. Now, sir, upon what principle does that State come to the Congress of the United States and ask us to vote the money of the people of the United States in an abortive attempt to make that river navigable by steamboats? If the descending navigation of the Wisconsin be not sufficient for the people who live along its banks they should do what we have done in Pennsylvania who live along the Susquehanna—take our own funds and improve our own navigation for the purpose of carrying to market the products of our own industry. That is what they ought to do. The Susquehanna rises in New York, runs into Pennsylvania, runs back into New York, and then again into and through Pennsylvania, and empties into Chesapeake bay, in the State of Maryland. And yet you do not find the people along that river coming to Congress and asking an appropriation of money to improve it. On the contrary, we have got a canal, if not more than one, along the river, constructed by State taxes, out of State funds, under State authority. There it is, and the

people have derived those advantages from it which gentlemen truly depict as likely to result from the improvement of the Wisconsin river. I agree that that river should be improved, but I maintain it should be improved by the people who are interested in it, as in the older parts of the United States they have improved the rivers upon which they depended. In a certain sense, it is true, everybody is interested.

Mr. WASHBURN, of Wisconsin. The gentleman insists that it should be improved by the State of Wisconsin. Would he also insist that when it is improved by that State and made a thoroughfare from the Mississippi to Lake Michigan the public should have the benefit of it?

Mr. WOODWARD. Most assuredly.

Mr. WASHBURN, of Wisconsin. The public outside of Wisconsin?

Mr. WOODWARD. The State of Wisconsin cannot shut the people of the United States off from communication through that river.

Mr. VANTRUMP. If my honorable friend from Pennsylvania will allow me, I can add an important fact to the argument he is now making in regard to the State improvement of the Susquehanna river. Some forty years ago the State of Ohio, then in her infancy, projected and completed, without any appeal to the Federal Treasury for aid, a magnificent canal, running from Lake Erie to the Ohio river, a distance of more than three hundred miles, at a cost of several million dollars. And yet it today accommodates the commerce not only of Ohio, but of New York, Pennsylvania, and the New England States on the northeast, as well as of Kentucky, Tennessee, and other southern States on the southwest. Let other States, in regard to improvements confined within their own borders, go and do likewise, and then they will have some semblance of claim to ask Ohio, through her Representatives in Congress, to appropriate the money of the people at large to new local improvements.

Mr. WASHBURN, of Wisconsin. The State of Ohio taxes the public well, too, for the accommodation.

Mr. ELDRIDGE. Will the gentleman from Pennsylvania [Mr. WOODWARD] allow me to ask him a question? It is rare that we get an opportunity thus to do it. While I am with him in the proposition—

[Here the hammer fell.]

Mr. PAINE obtained the floor.

Mr. ELDRIDGE. I hope, by unanimous consent, the gentleman from Pennsylvania will be allowed five minutes to complete his remarks.

Mr. WOODWARD. I have never yet had time to get an entire idea before the House under the five-minutes rule. [Laughter.]

Mr. PAINE. So far as I am concerned, I am perfectly willing that the gentleman shall proceed.

No objection was made.

Mr. ELDRIDGE. Then I will finish the question I was propounding to the gentleman. The gentleman says that this Wisconsin river ought to be improved. He admits all that gentlemen claim for it, except the source from which they should derive the means to improve the river, and he tells us about the Susquehanna as being of great importance to the States of New York and Pennsylvania. Now, I ask the gentleman if there is not in this very bill an appropriation for the improvement of the Susquehanna, and is the gentleman going to oppose it?

Mr. WOODWARD. I am. I did not know there was such an appropriation in the bill. But I tell the gentleman that I am going to vote against that very appropriation, and I will vote against it as heartily as I will vote against the appropriation for the Wisconsin river. I am in earnest about this matter. The gentleman from Illinois, [Mr. WASHBURN], who first rose to oppose this bill, touched the real core of this question. This country is in no condition to waste money on these abortive attempts to improve rivers that their Maker made unnavigable, and which man never can make more

than navigable for descending navigation. That is all you can do unless you make a canal, and if you want a canal let the State of Wisconsin make it. But the gentleman from Illinois touched the real sensitive nerve of this whole subject when he told us that in the present financial condition of the country—and I believe he said to which the Republican party had brought the country—we were in no condition to appropriate money for this purpose.

Now, I wish to respond with all my heart to that sentiment. Look at what has been passing here before us for the last few days. A bill was brought in by the Committee of Ways and Means to raise revenue to carry on this Government; a bill which shows that the whole ingenuity of that committee was exhausted to find objects of taxation; a bill which will bring the Government down upon the industries of the people as it never was brought down upon them before, and will grind the poor of this country into deeper dust than they have ever been ground down to before, and that for the main purpose of paying the interest on our bonds to the bondholders. While the genius, the wit, of this House is being employed necessarily to devise measures to screw money out of the people of this country to pay to the bondholders, many of whom are foreigners, I protest against a waste of these funds in an abortive attempt to improve western rivers that the western States ought to improve without coming to the General Government.

Mr. DELANO. The gentleman either misrepresents or misunderstood me. If I understood him correctly he said just now, alluding to my remarks, that I said the Republican party had brought the country into its present financial condition. I said no such thing.

Mr. WOODWARD. The gentleman speaks of misrepresentation. I have another matter, as you well know, Mr. Speaker, which I would like to have an opportunity to explain, and if I had misrepresented the gentleman he would not have been the first member on this floor who has borne gross misrepresentation; but I did not allude to the gentleman. I intend no misrepresentation of any gentleman, and least of all of the gentleman from Ohio. I maintain that it is due to the people of this country that we should gather up all our energies and concentrate all our forces upon providing means for reducing and removing this national debt. Let me tell gentlemen that that debt has grown \$10,000,000 in the last month.

[Here the hammer fell.]

Mr. PILE. I withdraw the amendment.

Mr. PAINE. I renew it. Mr. Speaker, it is a mistake on the part of the gentleman from Pennsylvania, who has just taken his seat, [Mr. WOODWARD], as it was a mistake of the gentleman from Pennsylvania, [Mr. SCOTFIELD], who sits near me, to say that this is merely a Wisconsin measure, that it a local object which is to be promoted by this appropriation.

Sir, it is indeed true that this river lies wholly within the territorial limits of the State of Wisconsin. But the object of the improvement is to connect the head-waters of the Mississippi river with the chain of great lakes on our northern frontier, and although the State of Wisconsin, as I freely admit, has probably more direct interest in this improvement than any other single State, it is not true that the benefits of this appropriation will be confined to the State of Wisconsin alone. The State of Iowa has little less interest in this improvement than has the State of Wisconsin. I am not sure, sir, that the State of Iowa has not an equal or even a greater interest in it than Wisconsin. The State of Illinois is certainly very greatly interested in this appropriation. The agricultural exports and bulky imports of the western portion of that State will undoubtedly seek this channel, if successfully opened, as their outlet to and inlet from sea-board and foreign markets. The same will be true to some extent of the exports and imports of the State of Minnesota, and also of the States of Missouri and Nebraska.



More than that, sir, every manufacturing and commercial State between the Alleghanies and the Penobscot having an interest in the reduction of the cost of bread or the expansion of northwestern trade will see her own prosperity promptly and sensibly stimulated by this or any successful development of a water transit for agricultural products from the Northwest to the sea. It is not, then, a petty, local project. It will be no more a local improvement than is that of the Falls of St. Anthony, which is altogether within the State of Michigan, or the improvement of the St. Clair river, which touches only a single State. Why, sir, like the Niagara ship-canal, like the canal around the falls of the Ohio, this channel of trade, while situated in a single State, will bear back and forth the commerce of many States, will form a link in a great chain reaching from New York through the valley of the great lakes and the valley of the Mississippi to New Orleans. The great and rapidly growing agriculture of the Northwest must have a water outlet for its products to the sea. As the gentleman from Pennsylvania [Mr. WOODWARD] admitted, they will not bear the necessary cost of transportation by railway; they must be transported by water. This is not less vital to the consumer than to the producer of bread.

Look, for an illustration, at the State of the gentleman who opposes this appropriation so strenuously, the gentleman from Illinois, [Mr. WASHBURN]. In the year 1865 his State produced over one hundred and seventy-seven million bushels of corn alone. The precise amount was one hundred and seventy-seven million ninety-five thousand eight hundred and fifty-two bushels. That corn was worth in his State, on an average, only twenty-nine and a quarter cents per bushel, while in the six New England States, at the same time, it was worth on an average \$1 19 cents per bushel, and in New York it was worth ninety cents per bushel. The difference between the aggregate value of this corn crop of 1865 on the soil of Illinois and its value in the market of New York was \$116,883,262 32.

It would have cost the constituents of the gentleman from Illinois, and the other gentlemen representing that State on this floor, more to transport that corn crop alone to the New York market than the entire agricultural products of that State for 1865 were worth on the soil of the State. It would have cost more than the home value of the entire crop of Illinois, including wheat, corn, oats, potatoes, hay, and everything else raised that year by the people of that State. The entire crop of corn, wheat, rye, oats, barley, buckwheat, potatoes, tobacco, and hay, was worth at home only \$116,274,321, and the difference between the home market and New York market of the corn alone was, as I said, \$116,883,262 32.

And why? Because the cost of railway transportation renders it utterly impossible for his constituents and for the people of Illinois generally to transport their heavy products to the markets of the East by rail. The Northwest must have improved means of water transportation to the sea. And nature has indicated to us the great routes which we must take. A thousand miles from the Atlantic and the Mexican Gulf, the wonderful valleys of the lakes and Mississippi intersect. About their intersection lie the grain-growing States which are able to feed not only the people of this Republic, but the people of other nations also.

In the first place, we must have through the northern valley water routes around Niagara falls and from Lake Erie or the St. Lawrence or both to New York. And we must have the waters of the northern Mississippi connected with the waters of the great lakes by means of this improvement, or by means of the Rock river improvement, or by means of the Illinois river improvement, or in some other way which careful surveys and experiments shall show to be cheapest and best.

[Here the hammer fell.]

Mr. BUTLER. Mr. Speaker, I agree

thoroughly with every word that has been said upon the question of the ultimate necessity of water transportation for the agricultural products of this country. I agree, also, that under other circumstances it would be the duty of the General Government to aid in the improvement of that water transportation. I take no exception to anything that has been said by the gentleman from Wisconsin [Mr. PAINE] or the gentleman from Missouri [Mr. PIKE] upon that subject. But I except to a statement that has been made by the gentleman from Pennsylvania, [Mr. WOODWARD.] If I heard him aright, he said that this is the condition of things to which the country has been brought by the Republican party. I pray to differ with the gentleman in that judgment. It is a condition of things to which the Democratic party has brought this country.

And that is the foundation of my argument now. Because of what has gone before, because of the war just closed, we are now as a people so burdened with taxes, so troubled with exactions, that I think it is our duty to wait before we add to those taxes for the purpose of making improvements, however good in theory and however necessary in fact.

Wisconsin, Illinois, Iowa, have all grown to their present gigantic proportions without these improvements. They can wait one year longer without them, for their present growth is enormous. I agree to all that. I ask, then, which is best; whether we should go forward and attempt these improvements now or wait until we have got into a condition where we can be just before we are generous?

Sir, if we upon this side of the House are to stand upon anything as to the policy upon which we propose to go into the next campaign it is upon economy of administration. We have only this floor to show that desire. The Executive Departments of the Government, which substantially control the administration of the finances, are not within our reach or within our control; and the people must look here upon this floor as the only place where we, as a party, can exhibit the principles upon which we stand. If, then, we vote away at this time six or eight million dollars let me say to you that the people will say, "With our taxes we cannot afford to make the experiment;" and for this reason: without arguing the question as to whether these expenses are necessary or are promising great results or not, I say we are in no condition to meet these expenditures. You might as well ask one of the mill-owners of my State, who is so far in debt that his mill is mortgaged and he cannot get production to meet his expenditures, to go into great expenditure to improve his property and render it more productive at this moment. Wait until we are able, until we are able as a people, then I will vote for this and other expenditures of a like character.

I ask my friends from the Northwest which would they rather do—have these rivers improved this year, and upon the charge of extravagance which will be made against us in the country, have power pass out of our hands and so prevent future improvements—

[Here the hammer fell.]

Mr. ELIOT. I move that all further debate be closed on the pending paragraph in five minutes.

The motion was agreed to.

Mr. ELIOT. I now yield to my colleague.

Mr. BANKS. Mr. Speaker, I do not wish to engage in the discussion of the general subject; but I will say, in my opinion, this country is to be changed and improved before it will be able to pay the interest on its public debt. There must be something done, sir, for the industry of the country.

Mr. ELDRIDGE. I desire to know, Mr. Speaker, what question the gentleman from Massachusetts is authorized to discuss. Is there any amendment now pending?

The SPEAKER. There is no amendment pending.

Mr. PAINE. I withdraw my amendment.

Mr. BANKS. I renew it.

Mr. ELDRIDGE. How can the gentleman speak when the House has closed debate?

The SPEAKER. It was ordered to be closed in five minutes.

Mr. ELDRIDGE. I desired an opportunity to speak myself.

The SPEAKER. The motion of the gentleman from Massachusetts was to close debate in five minutes and it was adopted.

Mr. BANKS. Mr. Speaker, I do not regard the proposition to improve the Wisconsin river as an experiment. I do not think it will prove an abortive affair, as suggested by the gentleman from Pennsylvania, [Mr. WOODWARD.] I believe the plan of the Government engineer, General Warren, will be entirely successful and entirely satisfactory. I have seen this tried myself, and I cannot by any possibility doubt the result. I have seen, Mr. Speaker, large steamers embedded from five to six feet in the sand with the river bed apparently dry leaving a single little stream of water and then by the aid of wing-dams I have seen these steamers lifted up by the power of water alone and floated into the river. I have seen that done; and I am just as confident that this proposed plan of the engineer will make this river navigable as that I can go from my place outside of this Hall, and at a cost of less than \$40,000. The effect will be marvelous. The principle is perfectly simple. It is this: where the water is spread over a large surface it leaves no depth and allows no navigation; but if you collect that water by means of these wing-dams into a single channel just wide enough to admit a steamer, you may increase the depth of the water from five or six inches, or even where there is apparently none at all, to the depth required for steamboat navigation. I would not have believed it had I not seen it tried; but having seen it, I know that the result of this experiment will be an entire success. Therefore I shall vote for the proposition.

Mr. WASHBURN, of Illinois. I desire, in the remaining time of the gentleman, to call the attention of the gentleman from Massachusetts [Mr. ELIOT] to the report of General Warren in regard to the expense. The gentleman says it can be done for \$40,000. What does General Warren tell us in this official document will be the expense of the improvement which my friend undertakes to inaugurate to-day? It is twenty to thirty thousand dollars a mile! That amount of money is to be taken out of the Treasury in order to attempt the experiment of making this river navigable.

Mr. ELIOT. I desire to say that I do not represent the views of Massachusetts upon this question, but rather the views of the West in spite of the opposition of the chairman of the committee.

Mr. WASHBURN, of Illinois. I do not yield to my friend to interrupt me in this way.

Mr. ELIOT. I think I am entitled to the floor.

The SPEAKER. The gentleman from Massachusetts is entitled to the remainder of the time, if he claims it.

Mr. WASHBURN, of Massachusetts. Whose time is it now?

Mr. BANKS. The gentleman from Illinois has no right to speak in my time.

Mr. WASHBURN, of Illinois. I think I have spoken in the gentleman's time. [Laughter.]

Mr. BANKS. I withdraw the amendment.

The question recurred on the motion of Mr. WASHBURN, of Illinois, to strike out the paragraph.

Mr. WASHBURN, of Illinois. I desire to make a suggestion to facilitate our action on this bill.

Mr. ELDRIDGE. I object.

Mr. WASHBURN, of Illinois. I desire to make a suggestion to close debate. It is in relation to voting. Will the gentleman hear it?

Mr. ELDRIDGE. No, sir.

Mr. WASHBURN, of Illinois. I rise

then to a question of order. Has not the House a right to take the yeas and nays on every separate proposition in the bill?

The SPEAKER. After the House has passed through the bill as in Committee of the Whole, making various amendments, when the question recurs, Shall the bill be engrossed and read a third time? a separate vote can be demanded on every proposition that remains in the bill not having been stricken out.

Mr. WASHBURN, of Illinois. The suggestion I make is that: that having that right to a separate vote on the various propositions we shall save a great deal of time after we have discussed the various propositions by letting them pass, and when it comes to the engrossment we can have a separate vote.

The SPEAKER. That can be done by withdrawing the motion to strike out.

Mr. WASHBURN, of Illinois. I understand that, and I withdraw my motion to strike out the pending paragraph. I shall, however, demand a vote in the House on the main proposition. I do not care about taking up the time now, as it merely involves two votes. That is all there is of it.

The SPEAKER. The Clerk will read the rule on page 16 of the Digest.

The Clerk read as follows:

"Upon the engrossment of any bill making appropriations of money for works of internal improvement of any kind or description, it shall be in the power of any member to call for a division of the question, so as to take a separate vote of the House upon each item of improvement or appropriation contained in said bill, or upon such items separately, and others collectively, as the member making the call may specify; and if one fifth of the members present second said call, it shall be the duty of the Speaker to make such divisions of the question, and put them to vote accordingly."

Mr. PHELPS. I wish to inquire at what precise point of time it is competent to ask for that division?

The SPEAKER. When the question is stated by the Chair, "Shall the bill be engrossed and read a third time?" a separate vote can be asked on any appropriation that remains in the bill and has not been stricken out.

Mr. ELDRIDGE. I desire to inquire of the Chair whether, the motion of the gentleman from Illinois [Mr. WASHBURN] having been withdrawn, I have not now an opportunity of moving an amendment to the paragraph?

The SPEAKER. The gentleman has, but without debate, because debate on the paragraph has been closed.

Mr. ELDRIDGE. I understood that it was only closed on the proposition of the gentleman from Illinois.

The SPEAKER. On everything in regard to the Wisconsin river.

Mr. ELDRIDGE. I do not desire to move an amendment for the purpose of amendment, but for the purpose of speaking to it.

The SPEAKER. The gentleman cannot do that under the order of the House.

Mr. SPALDING. This bill being considered in the House as in Committee of the Whole, is it in order at any time to move to lay the bill on the table?

The SPEAKER. This being the House, the motion to lay on the table can be made.

Mr. SPALDING. At any time?

The SPEAKER. At any time. It would not be in order in Committee of the Whole, but being in the House as in Committee of the Whole, the double privileges of the House and of the Committee of the Whole are vested in the body in acting on the bill.

Mr. WOODWARD. On the motion to lay on the table I demand the yeas and nays.

The SPEAKER. The gentleman from Ohio [Mr. SPALDING] did not make that motion.

Mr. WOODWARD. Then I make the motion.

Mr. ALLISON. And on it I demand the yeas and nays.

Mr. ELIOT. I hope this will be considered a test vote.

Mr. WASHBURN, of Illinois. I hope

the gentleman from Pennsylvania will withdraw his motion. There will be a substitute offered which I think will be satisfactory to the House.

Mr. JENCKES. I rise to a question of order. I wish to make an inquiry of the Chair.

The SPEAKER. That is not a question of order.

Mr. JENCKES. It relates to a question of order. Is not the order of the House that the bill shall be considered as in Committee of the Whole?

The SPEAKER. It is.

Mr. JENCKES. Then how can a motion to lay on the table be entertained if the bill is being considered as in Committee of the Whole?

The SPEAKER. Precisely for the same reason that the yeas and nays can be called in the House on any proposition now pending before it. They cannot be called in Committee of the Whole, yet they may be in the House when the House is acting as in Committee of the Whole.

Mr. JENCKES. Does the Chair decide that the yeas and nays can be called now on any proposition?

The SPEAKER. They can.

Mr. JENCKES. I should raise the same question of order on that.

The SPEAKER. The Chair would answer it by the Constitution of the United States, which declares that "the yeas and nays of the members of either House on any question shall, at the desire of one fifth of those present, be entered on the Journal." That does not apply to the Committee of the Whole, but it does to the House of Representatives.

Mr. WOODWARD. I withdraw the motion to lay on the table.

The Clerk read the next paragraph, as follows:

For improvement of Ontonagon harbor, Lake Superior, \$20,000.

Mr. FARNSWORTH. For the purpose of saying a few words I move to strike out that paragraph. I do not know anything about this harbor, or whether the appropriation is a proper one or not. But I, for one, do not propose to ride in this omnibus—

Mr. ALLISON. I rise to a point of order. I insist that the gentleman must confine his remarks to the paragraph.

Mr. FARNSWORTH. Well, if the gentleman does that the same rule must be enforced on other gentlemen.

Mr. ALLISON. That is what I want.

The SPEAKER. The gentleman has a right to state his reasons for moving to strike out the paragraph.

Mr. FARNSWORTH. I understand that a substitute for the bill has been prepared which provides for some of the most important works. I am myself in favor of general appropriations for rivers and harbors; but I am not in favor of making an appropriation for every little river and every little harbor that any gentleman may happen to have in his district for the purpose of getting his vote. There are some works of importance in the West. The St. Clair flats should be improved and harbors of refuge should be built, for they are works which pertain to the interests and commerce of the whole country. But at the present time to appropriate \$10,000 to be thrown into Lake Michigan at this point, and another \$10,000 to be thrown into it ten miles farther off, and another \$10,000 to be thrown into it a few miles further on; to appropriate, as this bill does, \$5,000 for this river and \$5,000, for that, appropriations which, in the judgment of any candid man, cannot be of any importance whatever in prosecuting the works proposed, it seems to me is all very absurd.

I do not know, Mr. Speaker, whether it is now in order to move a substitute for this entire bill.

The SPEAKER. A substitute for the bill can now be moved, but action upon it will be reserved until the original bill has been perfected.

Mr. FARNSWORTH. It would save a great deal of time if we could act upon the substitute at once.

Mr. WASHBURN, of Illinois. I desire to say to my colleague [Mr. FARNSWORTH] that a substitute will be proposed, to be offered at the proper time, which I think will meet with his approbation and the approbation of a majority of this House.

Mr. FARNSWORTH. I think this is no time for the Congress of the United States to enter upon new works of internal improvement. Our constituents do not demand it, the country does not demand it, and certainly the interests of the country will not be promoted thereby at the present time.

[Here the hammer fell.]

Mr. ELIOT obtained the floor.

Mr. DRIGGS. I hope the gentleman will yield to me for one minute.

Mr. ELIOT. Very well; I will yield to the gentleman for one minute.

Mr. DRIGGS. I understood the gentleman from Illinois, [Mr. FARNSWORTH], when he first rose, to say that he did not know anything about this harbor. That was, perhaps, one of the best reasons in the world why he should oppose this appropriation. Now, I want to say that I do know something about it. There was an appropriation made of \$100,000 to build a harbor at one of the most exposed points on that immense inland sea, Lake Superior. The Government is now engaged in building that harbor, and the War Department has estimated for only just enough to keep the works there from waste and decay, to carry it along so as to have it protected until a more appropriate time to make a larger appropriation to complete the work. That is the real condition of it. I will only say now, because I have not more time, that I hope the House will not strike out this appropriation.

[Here the hammer fell.]

Mr. ELIOT. The objection made by the gentleman from Illinois [Mr. FARNSWORTH] to this bill is that it is an omnibus bill. There has not been a river and harbor bill passed for many years which did not include in it all the points of importance which the Congress that passed upon it deemed it desirable to legislate for at that time. In earlier days it was the practice to introduce a separate bill for each particular point. But it was found to be inconvenient to do that, and the practice has grown up, which has been uniform for many years, to put all the appropriations for such purposes in one bill, and that necessarily makes what the gentleman calls an omnibus bill. This point, covered by the item now under consideration, is one upon which the Government has been and is now engaged at work in the expenditure of moneys heretofore appropriated. It is now in the course of construction. And the point made by the gentleman from Illinois [Mr. FARNSWORTH] that he is in favor of harbors of refuge is met by the answer that this is just one of those points.

It is stated by the engineers who have had this matter in charge that this very point, Ontonagon, is important if there was no commerce at all there; of vast importance as a harbor of refuge. Therefore it comes within the principle of the substitute which the gentleman from Illinois [Mr. WASHBURN] has talked about, in which he makes provision for one harbor of refuge. This is a very important point in that respect. Now, sir, this is not a new work. It has been examined, surveys of it were made in the first place, and afterward appropriations were made. It is now in the course of construction and completion. It occupies the same ground in that regard that most all the appropriations in this bill do, for all of them, with here and there an exceptional case, are for works which are now in the course of completion.

The question was upon the amendment of Mr. FARNSWORTH.

Mr. FARNSWORTH. I moved that amendment with reference to this particular item

merely for the purpose of submitting some general remarks. I now withdraw the amendment.

No further amendment was offered.

The following clauses were read:

For improvement of Eagle harbor, Lake Superior, \$20,000.

For improvement of Marquette harbor, Lake Superior, \$20,000.

For improvement of Green Bay harbor, Wisconsin, \$35,000.

For improvement of Chippewa river, \$5,000.

For improvement of Manitowoc harbor, Wisconsin, \$35,000.

For improvement of St. Croix river, \$5,000.

For improvement of Sheboygan harbor, Wisconsin, \$20,000.

For improvement of Milwaukee harbor, Wisconsin, \$15,000.

Mr. PAINE. I move to amend the appropriation for the improvement of Milwaukee harbor by increasing it to \$25,000.

Mr. Speaker, I cannot state all the reasons for my amendment for want of time, but I think I have satisfied the gentleman from Massachusetts [Mr. ELIOT] that this increase ought to be made. I will read from page 22 of the estimates for these appropriations:

"An extension of both piers three hundred feet would postpone for many years the injurious results now threatened. This extension is therefore recommended by the engineer in charge, at a cost of \$65,872 80. Deducting present balance of appropriation on hand, \$38,354 53, would leave, say \$23,000, which could be profitably expended during the next fiscal year. The recommendation is approved."

Then I turn to page 78, and, relating to the same appropriation, I find this:

"This extension is necessary; for the bar, though forming slowly, will in course of time obstruct the entrance if nothing be done to prevent it, and if the work be delayed it will cost more when it is done, because the bar will have to be dredged away, thus incurring an expense not necessary now."

I do not ask the House to appropriate any more than is called for by the engineers in order to finish this work. I only move to add \$10,000, bringing the appropriation up to \$25,000; and I ask the gentleman from Massachusetts, who reported this bill, whether it is not reasonable?

Mr. ELIOT. I am bound to say in regard to this amendment that there was some error. From examination at the War Department I am satisfied it ought to be corrected. This, with other appropriations the gentleman will call attention to, are eminently sound and proper. This appropriation should be increased to \$25,000. I hope, therefore, the amendment will be adopted.

The amendment was agreed to.

The Clerk read as follows:

For improvement of Racine harbor, Wisconsin, \$10,000.

Mr. PAINE. For the same reason I move to increase this \$10,000, and make it \$20,000.

I will say, so far as the harbor of Milwaukee is concerned, the city itself has expended nearly half a million dollars upon it. The city of Racine has also expended a large amount on this harbor. I shall move to increase the appropriation for Kenosha also. The engineer reports as follows:

#### "9. Harbor of Racine, Wisconsin.

"The plan for this harbor is to extend both piers, composed of cribs ballasted with stone, until a depth of fifteen feet of water is reached, and to dredge between the piers until twelve feet is obtained throughout.

"Due notice having been given, the bids were opened and contracts entered into for prolonging the north pier the required distance.

"The engineer in charge recommends dredging between the piers to a depth of fourteen feet. The estimated cost of this improvement was \$84,172 48; the amount appropriated was \$45,000; amount required to complete the work, \$39,172 48; add for additional dredging, \$5,000; amount which can be profitably expended during the next fiscal year, \$45,000. The recommendation is approved.

"(See Appendix A, 8.)

#### "10. Harbor of Kenosha, Wisconsin.

"During the present season the contractors have extended the south pier three hundred and fifty-two feet, and will complete the extension of the north pier one hundred and ninety-two feet.

"A depth of twelve feet has been obtained throughout the greater part of the water-way, between the piers, by dredging. The old piers are in bad condition, and require rebuilding from the water surface. The basin inside is very shallow.

"The engineer in charge does not consider it necessary to extend the piers further at the present time, but thinks it proper to repair the old work and dredge the basin to the depth of ten feet; for which he estimates"—

For repairs of old pier work.....\$20,000  
For dredging required in basin..... 85,000

Total.....\$105,000

Mr. ELIOT. The improvement of this harbor now contemplated can be found set out at length in the report, pages 75 and 76. These harbors are important not only for the purposes of commerce, but as harbors of refuge. The gentleman's amendment is in accordance with the estimates.

The amendment was agreed to.

The Clerk read the next clause, as follows:

For improvement of Kenesho harbor, Wisconsin, \$10,000.

Mr. PAINE. I move to increase that to \$20,000.

The amendment was agreed to.

The Clerk next read the following clauses:

For improvement of harbor of Chicago, Illinois, \$48,000.

For improvement of Michigan City harbor, Indiana, \$35,000.

For improvement of harbor of St. Joseph, Michigan, \$20,000.

For improvement of South Haven harbor, Michigan, \$20,000.

For improvement of Grand Haven harbor, Michigan, \$20,000.

For improvement of Muskegon harbor, Michigan, \$10,000.

For improvement of White river harbor, Michigan, \$75,000.

For improvement of Pentwater harbor, Michigan, \$25,000.

For improvement of Pere Marquette harbor, Michigan, \$20,000.

For improvement of Manistee harbor, Michigan, \$25,000.

Mr. PILE. I find the last appropriation read is an increase on the estimates. I move to reduce it to \$20,000, and I should like to know the reasons for the increase.

Mr. FERRY. Will the chairman of the committee allow me to reply to the gentleman from Missouri, [Mr. PILE.]

Mr. ELIOT. Certainly.

Mr. FERRY. Mr. Speaker, the gentleman from Missouri has moved to reduce the appropriation for Manistee harbor from \$25,000 to \$20,000, and asks why it has been increased above the amount recommended in the report. By reference to the annual report of the engineer department, to which I now call the attention of the gentleman, it will be seen that the amount originally recommended for that harbor was \$60,000. With a view to bring the appropriations this year within the lowest possible limits, the House requested the chief of engineers to submit an estimate of the least amount that would be consistent with the preservation of the works, already commenced and partly finished. The response to this request was the supplemental estimate to which the gentleman refers. In this modified report, making a very large reduction from the original one, I most heartily concurred. The condition of our finances, the burdens of necessary taxation demanded a scrupulous regard for the most economical expenditure of the public funds compatible with the public interests.

To show the gentleman how far that disposition was regarded, and in which I most cheerfully cooperated, I call his attention to the fact that for the harbors in the district I represent the amount was reduced from \$433,000 to \$185,000, a reduction of \$248,000; and it will be further seen how materially this operated on Manistee harbor, when the estimates for that were cut down to one-third the original amount recommended. That the gentleman and the House may appreciate how far I shared in that disposition to cut down appropriations to the lowest possible figures consistent with a wise regard to a just economy, let me instance the case of Grand Haven harbor, where I reside. The original estimate for this was \$75,000, and mostly for the construction of a new north pier. Believing that

we could get along without a north pier for the present as we had for the past, I recommended abandonment of that till we were better able to meet the necessary appropriation, and that only so much as was necessary to complete the existing south pier and fully protect that should be appropriated. Twenty thousand dollars only was therefore recommended for Grand Haven harbor, instead of \$75,000.

Upon the same theory of a wise economy I urged an appropriation for Muskegon harbor, sufficient to protect the piers already built, but of such temporary character, largely of slabs, exposed to the fire of passing steamers, and \$10,000 was recommended in the last estimate where none was deemed necessary in the first estimate. Knowing that any day fire or other elements might so injure or destroy existing piers there that the harbor might be seriously damaged, I could well urge something for that object—and it was true economy, too—since I had cheerfully acquiesced in cutting down my own harbor from \$75,000 to \$20,000.

It is for this reason, sir, that Muskegon harbor appears with \$10,000 in the last estimate against nothing in the first one. Upon the same principle of a wise regard to the condition of the several harbors within my district, for similar reasons it was necessary to increase Manistee harbor from \$20,000 to \$25,000, as the bill appears. Bearing in mind that the original estimate for this harbor was \$60,000, the gentleman ought not to complain if our laudable economy has reduced the appropriation there \$35,000, even if he discovers that the \$25,000 in the bill is actually \$5,000 more than appears in the supplemental estimate. This \$5,000 I urged for protection against the ravages of fire, and because I felt confident that \$20,000 would not be enough to keep going the work already commenced, and give due protection to money already expended, and insure safety to the growing commerce of that river.

More than this, Mr. Speaker, without disparaging other points of like energy, I may freely say that this appropriation and more is due alike to the enterprise and merits of the citizens of Manistee. With an outlay and persistency which entitle them to all praise they have, until within a very short time, made all the improvements of that harbor at their own charges. It is but just to them that the Government should now come to their rescue and share the burden of this work. Of my own knowledge and observation do I speak when I say that the enterprise exhibited all along the western shore of Michigan in respect to improvement of harbors of refuge is worthy the consideration of the Government. Winds prevailing as they do from the westward the whole shipping of the chain of lakes are more or less exposed to that shore, and the magnitude of that commerce entitles, yea, demands aid to construct suitable harbors of refuge, and you cannot have too many such. Vessels that are annually stranded upon that shore speak louder than my feeble voice for what I am contending. I regret, Mr. Speaker, that the five-minutes' rule deprives me from saying what I would like to say on this question of protection to harbors and commerce and which the subject demands, but I trust the gentleman is answered and that he will no longer press his amendment.

Mr. PILE. I withdraw the amendment.

The Clerk read as follows:

For improvement of harbor at Aux Bees Scies, Michigan, \$10,000.

For improvement of Saugatuck harbor, Michigan, \$30,000.

For improvement of the St. Mary's river, Michigan, \$20,000.

For improvement of Au Sable river, Lake Huron, Michigan, \$20,000.

For improvement of St. Clair flats, Lake St. Clair, \$200,000.

Mr. EGGLESTON. I move, on behalf of the Committee on Commerce, to insert the following:

For improvement of the Sandusky river, Ohio, \$15,000.

The amendment was agreed to.



Mr. BUCKLAND. I move to insert the following:

For improvement of harbor at Port Clinton, Ohio, \$10,000.

Mr. WASHBURNE, of Illinois. I know that is right.

Mr. ELIOT. I do not recognize the particular right of the gentleman from Illinois to say that this should go in.

Mr. WASHBURNE, of Illinois. Why not?

Mr. ELIOT. Because he has not charge of the bill.

Mr. BUCKLAND. I wish simply to say that this is a port where there was a survey made last year, but no appropriation was recommended by the committee. I offer it because I suppose my constituents expect me to do so. It is one of the lake ports between Sandusky and Toledo.

Mr. SPALDING. It is needed, also.

Mr. BUCKLAND. Yes, sir; and I think it is right and proper. I do not desire to make a speech on the subject.

Mr. EGGLESTON. The amendment that has just passed is for that improvement, and therefore I think it is unnecessary to add this \$10,000.

Mr. BUCKLAND. My colleague is mistaken. The Sandusky river does not go to Port Clinton at all. It is at the mouth of the Portage river.

Mr. EGGLESTON. I withdraw the objection.

Mr. ELIOT. I object to any amendment of this sort. The committee have endeavored in the appropriations of this bill to keep down the expenditures so far as practicable consistent with the interests that have been represented to them by petition through the House in the ordinary way, or by application at the committee-room by gentlemen interested in the subject of the bill. It will be manifest that the bill as it came from the committee would be loaded down so as to be too heavy to be borne if gentlemen upon the floor make amendments because of the interest they severally represent, and they are agreed to by the House. I cannot say what the merits or demerits of the appropriation asked for are, but I can say that so far as the committee's work has been done it has been their endeavor to study carefully all the improvements which have been reported and to recommend none unless they came supported by arguments from the War Department, by recommendation of the bureau of engineers, and by considerations which seemed to the committee proper to be taken into account in reporting the bill to the House. I cannot, therefore, consent without any examination of the matter in hand that the amendment should be made, and must ask the House to vote against it, because otherwise it is perfectly obvious that gentlemen all around would be desirous of inserting amendments for the interest of their special localities without having them acted upon in the committee.

The question was taken on Mr. BUCKLAND'S amendment, and it was disagreed to.

Mr. ASHLEY, of Ohio. I desire to ask the gentleman who has charge of this bill why the harbor of Toledo has been omitted in the appropriations made this year?

Mr. ELIOT. Certainly, the gentleman has a right to an answer on the floor of the House; he has had an answer in private.

Mr. WASHBURNE, of Illinois. What question is before the House?

The SPEAKER. No debate is in order.

Mr. ASHLEY, of Ohio. I move to strike out the last word.

The SPEAKER. There is no last word pending.

Mr. ASHLEY, of Ohio. Then I move to insert the following:

For harbor of Toledo, \$30,000.

Mr. WASHBURNE, of Illinois. Let that go in.

Mr. ELIOT. I desire to oppose the amendment. My friend from Illinois says, "Let that go in." The truth is, the gentleman from Illinois is desirous that this bill shall be de-

stroyed, and it is a part of his parliamentary tactics to endeavor to make the measure as odious as possible before the final vote is taken. Very good tactics, but when it is known as thoroughly as it is in the case of my friend the tactics are very apt to be harmless.

I will say to my friend from Ohio [Mr. ASHLEY] who has earnestly, assiduously, in season and out of season, pressed upon the committee the desirableness of inserting an appropriation for Toledo in this bill—who has, in fact, beset the committee behind and before, and laid his hands upon it in order to get that appropriation made—that this is the simple and plain reason why the committee have not done it. The appropriation which was made last year has not yet been expended. The appropriation is sufficient for the purpose for which it was then designed. Upon examining the harbor of Toledo report was made to us by the chief engineer that the importance of that harbor is so decided, and the interests of commerce that are connected with it are so great, that it is important before another appropriation shall be made that a more careful survey should be had and a more careful plan of improvement adopted, in order that when the work is done it shall be in accordance with the wants of the locality. That has not been done. As soon as it is done, there will be such a report made as will enable the committee to insert in a river and harbor bill a proper appropriation. Not having the proper information now, the committee could not do what my friend has desired.

Mr. ASHLEY, of Ohio. Has there not been a report submitted to the committee by the War Department on the survey made last fall?

Mr. ELIOT. Well, sir, if the gentleman will examine the last report he will find that in the report itself are found the facts which I have stated, that it is important, in view of the importance of the harbor itself, that a further examination and further plans should be made of the improvements before they can be properly entered on.

[Here the hammer fell.]

Mr. ASHLEY, of Ohio. I withdraw my amendment.

Mr. WELKER. I offer the following amendment:

For improvement of Black river harbor on Lake Erie, \$20,000.

I feel, Mr. Speaker, that I would be neglecting the interests of my constituents, representing, as I do, one of the districts bordering on the southern shore of Lake Erie, if I did not offer this amendment. I have in my district perhaps one of the best harbors on Lake Erie, that at the mouth of the Black river, and my colleague from Cleveland [Mr. SPALDING] will bear me out in saying that it is the only competing point for the navy-yard which we expect to get on the southern shore of Lake Erie. I am astonished that the Committee on Commerce have not seen the importance of this harbor and recommended an appropriation for its improvement. I do not know personally whether my constituents residing there want this appropriation or not, but I feel that, representing that district, as I do, I should ask at the hands of Congress, in this division or distribution of the public funds, an appropriation of \$20,000.

Mr. UPSON. If this is such an excellent harbor why do you want money to improve it?

Mr. WELKER. To make it better. While all these harbors are being improved, I think my constituents have been very much slighted in not having an appropriation recommended for their benefit.

Mr. FARNSWORTH. I understand the gentleman to say that he does not know whether his constituents want this appropriation or not.

Mr. WELKER. This is the only harbor I have in my district. Almost every other member has his appropriation in this bill, and I think my district should be also represented in this bill.

Mr. FARNSWORTH. The gentleman seems to think that his district is entitled to at least

this much in the general distribution of the public funds.

Mr. WELKER. I desire to say in further recommendation of this place that it is a growing town, and I would be glad to afford labor to persons there by the expenditure of public money to be appropriated by this bill. I would be exceedingly glad if Congress would make this appropriation, in order that my constituents, and the constituents of all the other members who have appropriations in this bill, may be employed during this summer. It not only would be a relief to them, but I have no doubt it would be of great advantage to me personally, if I could get this appropriation made. [Laughter.] I hope, therefore, no objection will be made to it.

Mr. ELIOT. I desire to say that I am glad, on account of the gentleman from Black river, [Mr. WELKER,] that his constituents have not a Representative upon this floor whose duty it has been to get up a river and harbor appropriation bill for presentation to this House. There have been more cases than I can remember, like unto this which the gentleman has spoken of, which have been brought before the Committee of Commerce for the purpose of seeing whether special localities might not for special reasons be accommodated with appropriations. I can only say to my friend that the uniform rule of the committee has been to exclude every application that has not rested upon survey, estimate, and recommendation from the War Department, and the object of which did not of itself possess intrinsic importance.

Sir, it will not do for us to expend the public money where only purely local matters are involved. And I take this occasion to say to the House that, in my judgment, there is not one single appropriation asked for in this bill where the interests of commerce as well as the interests of localities are not subserved.

Mr. WELKER. Do I understand the gentleman from Massachusetts [Mr. ELIOT] to say that there has been no survey of Black river harbor? If he did say so, he certainly is mistaken. There was an appropriation made last year, as there was several years before; and it is about as notorious as any harbor on that lake.

Mr. ELIOT. Then the gentleman will find, if he will look a little further, that there is enough of the money already appropriated now on hand for all purposes that will be wanted during this year, and that at this time no appropriation is wanted for the point he has designated.

I could not tell, without having the books before me, what were the reasons why the committee did not insert an appropriation for this or that purpose, except the general reason that there is money enough on hand to carry the work reasonably forward until next year.

Some time ago a resolution was sent to the War Department directing it to revise and reduce the estimates for the works in preparation. In consequence of that resolution circulars were sent to the engineers throughout the country having charge of those works, and upon the reports received from them the estimates were revised and reduced, and appropriations in accordance with those estimates have been embraced in the bill now before the House. In some cases there have been appropriations omitted. And it may be, and probably is, that the locality referred to by the gentleman from Ohio [Mr. WELKER] is among those for which no appropriations are now wanted. I will state what he probably knows, that there are about ten thousand dollars of the appropriation for his locality still unexpended. I hope, therefore, he will withdraw his amendment.

Mr. WELKER. I cannot withdraw it.

The question was then taken upon the amendment of Mr. WELKER, and it was not agreed to; there being upon a division—ayes 45, noes 51.

Mr. SPALDING. In order to perfect this bill as much as I can I move to amend it by inserting the following:

For increasing the capacity of the ship-canal at Sault Ste. Marie, \$50,000.

I offer this amendment in obedience to instructions from my constituents, a large number of whom have petitioned for an appropriation to increase the capacity of that canal.

Mr. SCOFIELD. I believe that canal is owned by a company, which was very richly endowed by the United States before the canal was built. The United States gave them a very large quantity of land, out of which, I believe, they have made large fortunes. And I believe they charge fees for transportation over this canal.

Mr. UPSON. I desire to correct the gentleman. This canal is not owned by a company, and no fees are charged, except what are necessary to keep it in repair. The lands donated by the Government were all given to secure the building of the canal.

Mr. PRUYN. I desire to say to the gentleman from Pennsylvania [Mr. SCOFIELD] that I was one of the unfortunate persons who was engaged in building this canal, and I can assure him that no money was made out of it. I desire to say, however, that it was the best operation of a public character that the United States ever entered into. The gentleman from Michigan [Mr. DRIGGS] has heretofore given to this House the facts in regard to that matter. The canal is now owned by the State of Michigan. No company has anything to do with it. It is the property of the State, and they levy toll enough to keep the canal in repair. That is the present condition of things. I hope the gentleman from Pennsylvania will be ready at the proper time with the appropriate legislation to afford that canal the relief to which it is entitled in consequence of the expenses of this public work over the receipts.

Mr. SCOFIELD. I judge from the character of the gentleman and his associates that they would not embark in a bad speculation.

Mr. PRUYN. The gentleman has been misinformed this time.

Mr. BLAIR. Mr. Speaker, I am familiar with the facts in relation to this work. There was granted a large quantity of public land to the State of Michigan for the building of this canal. The State under the authority of the act of Congress created a company. The State itself has no interest in the work itself. It is the trustee for the Government of the United States. It has no right to levy any toll or to acquire any money whatever, any revenue from this work, except for the purpose of keeping it up in repair and paying expenses of keeping it up. It was limited to that.

I will say further that the State of Michigan has borrowed itself the sum of \$100,000, which had to be laid out on this canal in addition to the appropriations made by the General Government to keep up this work. That is all the interest the State has in it.

I will add that the State of Michigan has no greater interest in this work than at least five or six other States which do business through it. It is a great national highway and needs improvement whether this is appropriated or not. The State of Michigan is simply the trustee for the Government. The company which made this work used up all the lands for that purpose.

Mr. DRIGGS. I move to make it \$45,000. I hold in my hand a proposition for surveys and estimates preparatory to a report on this subject at the next session of Congress. I have had sent to me fifteen or twenty petitions covering nearly all the shipping interests of the lakes, of the ports in my own State and of other States interested in keeping up this work, and these petitions I have referred to the Committee on Commerce. That committee has reported the appropriations in this bill. I propose to offer an amendment to them.

The SPEAKER. It is not relevant.

Mr. RANDALL. As it is manifest we cannot finish this this afternoon, I move that we adjourn.

Mr. WASHBURN, of Illinois. I suggest to the gentleman from Pennsylvania to withdraw the motion to adjourn until the gentleman from Ohio [Mr. DELANO] can move his sub-

stitute for the bill which will test the sense of the House on this question.

Mr. RANDALL. I withdraw the motion to adjourn.

Mr. DRIGGS. The amendment I wish to propose is as follows:

*Provided, That in addition to the foregoing surveys and estimates, the Secretary of War be, and hereby is, directed to cause surveys and estimates to be made for deepening and increasing the capacity of Sault Ste. Marie's ship-canal, in the State of Michigan.*

Mr. DELANO. I now propose a substitute for the bill.

The SPEAKER. That must be reserved until the bill has been gone through.

Mr. DRIGGS. I will withdraw my amendment for the present.

Mr. DELANO. I move to recommit the bill to the Committee on Commerce, with instructions to report the substitute which I send to the Chair.

The SPEAKER. That motion is in order.

Mr. ELIOT. I hope the House will allow me to be heard upon it.

The SPEAKER. The gentleman will be entitled to five minutes in opposition to the motion.

The substitute of Mr. DELANO was read, as follows:

Strike out all after the enacting clause and insert: That the following sums of money are hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated, under the direction of the Secretary of War, for the repair and preservation of certain harbors and works already commenced, and for the improvement of certain rivers; that is to say:

For the improvement of harbors on our northern lakes and for the St. Clair flats, \$500,000.

For the improvement of coast harbors, \$150,000.

For the improvement of rivers, including Des Moines, Rock Island rapids, and Hell Gate, on East river, Wisconsin and Patapsco rivers, at the discretion of the Secretary of War, \$1,300,000.

For the purpose of completing reports, maps, and diagrams on bridges on the Mississippi river, \$3,000, and for purchase and repair of instruments, \$1,000, and for the purpose of a survey for deepening the ship-canal at Sault Ste Marie, \$1,000.

*And be it further enacted, That all work done under the authority of this act shall be performed under contracts made by the Secretary of War, who shall prescribe suitable rules for the issuing of proposals for materials or labor, having regard to the most effective use of moneys appropriated: Provided, That separate proposals and contracts shall be required in all cases when the same can be, in the judgment of the Secretary, judiciously and properly made.*

Mr. JENCKES. Does the Chair decide that this motion is in order before the bill is perfected?

The SPEAKER. The Chair so rules. This is a motion to recommit with instructions. The bill is being acted upon in the House as in Committee of the Whole, with the Speaker in the chair. It is being considered section by section under the rule allowing five minutes to debate *pro* and *con.* on amendments. If that limitation had not been adopted, the gentleman from Massachusetts [Mr. ELIOT] might have demanded the previous question on the bill without considering it by clauses, allowing only one amendment and an amendment to the amendment. But as the rule in regard to amendments and debate in Committee of the Whole has been adopted by order of the House it is in order to move to recommit at any stage as it would also be to lay the bill on the table.

Mr. NICHOLSON. Will the gentleman yield to allow me to offer an amendment to the instructions?

Mr. DELANO. I cannot yield. I desire to state that the substitute which I offer appropriates \$2,000,000. It may vary a little from that amount. It appropriates for improvements of harbors on our northern lakes, at the discretion of the Secretary of War, without identifying or naming the places, \$500,000, and for the improvement of rivers and harbors, especially naming the Des Moines rapids as among them, to be taken into consideration by the Secretary of War, \$1,300,000. But I desire it to be understood that all these appropriations are left subject to the discretion of the Department.

In submitting this proposition we do just what Congress did during the prosecution of

the war when they felt it was necessary that something should be done to preserve improvements in progress, and that all could not be done that might be necessary to satisfy the wishes of all parts of the country. The policy of making limited appropriations for the preservation of works in progress was adopted because the finances of the country demanded it and the condition of things required it. I propose to continue that policy now instead of entering upon this new policy proposed by the Committee on Commerce, and I do it for the reasons I have already suggested to the House. This nation is like a strong man who has been engaged in a conflict demanding all his resources, has passed through it and needs rest and repose; not inactivity, not total inaction, but recuperation. While we are drawing our breath to recover we propose to preserve such works as are in progress and make an appropriation of \$2,000,000 for that purpose.

But I have not time to press the considerations in favor of this substitute. I desire the House to consider whether it is not better to take this policy now, and continue it till the nation has recovered its financial vitality and energy, so as to justify the entering upon a theory or practice of general improvements of our rivers and harbors. Now, sir, more I could say; but it is only the leading ideas that I wished to present to the House, and therefore I will say no more.

Mr. ELIOT. This is a most remarkable proposition. The Committee on Commerce, under the instructions of the House, have been engaged pretty earnestly and conscientiously for some months in preparing this bill. The gentleman from Illinois, [Mr. WASHBURN,] the chairman of the committee, when the report was made, submitted an amendment in the nature of a substitute, which has been printed. We have it before us. To-day the House has been discussing the various provisions reported by the committee, and now the gentleman from Ohio—

Mr. SCHENCK. I rise to a point of order. I desire to know whether the gentleman has a right to adopt the speech which I made yesterday about months of hard labor and conscientious application to duty as reasons why his bill should prevail. [Laughter.]

The SPEAKER. He certainly has. Any gentleman has a right to adopt the remarks of another.

Mr. SCHENCK. Very well, sir.

Mr. ELIOT. If I remember aright, I had heard that same speech from the gentleman before yesterday and on occasions when the House did pretty much the same thing as they did yesterday. [Laughter.]

Now, Mr. Speaker, the House understands this matter pretty well. I have these two great objections to make to this unprinted amendment, which is sprung upon the House with the concurrence of my friend from Illinois, [Mr. WASHBURN,] who had his substitute printed for the purpose of taking, it may be, strength from the bill reported by the committee. I have this to say concerning the unprinted bill. It appropriates \$2,000,000 and turns that sum over very kindly to whoever may be Secretary of War to dispose of about as he shall think advisable; whether regularly in office or *ad interim* is of no consequence; he is to have the whole control of the disposition of this money, expending it here or expending it there, in this amount and in that amount, as his judgment shall dictate. The gentleman from Ohio distinctly, by his bill, gives the power to the Secretary of War. If he chooses to take the advice of the chief engineer he may do so. If he chooses to apply the money according to his own discretion, he may do so.

Then, too, there is a provision in this unprinted bill that all the work shall be done by contract, which, as it stands in the bill, is not only a vicious provision, but one that has been found to be hurtful to the public interests ever since it was first reported in a river and harbor bill two years ago. The difficulties of the system have been insuperable, and in the bill

which the committee have this year reported to the House it has been very materially changed. I say that it would be hurtful to the country and not helpful to it.

If the House is prepared to instruct the Committee on Commerce to bring in such a bill as that we shall bow gracefully to their judgment. Personally it is a matter that does not concern me. I am rather working for the West than for the East, for all parts of the country, and I believe that the interests of the commerce of the country and of the revenues of the country demand that the bill as we have reported it should pass.

Mr. DELANO. I move to close all debate on the pending motion.

Mr. PILE. Will the gentleman yield to me to offer an amendment to the instructions?

Mr. DELANO. No, sir; we may as well take the vote on my motion.

Mr. ROBINSON. I move that the House do now adjourn.

The motion was agreed to; and the House (at four o'clock and fifty minutes p. m.) adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BOYER: The petition of J. Wood & Brother, iron manufacturers, and of 46 iron-workers of Conshohocken, Pennsylvania, complaining of the depression of manufacturing industry, which affects disastrously every form of production and business, and praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

By Mr. COVODE: The petition of sundry citizens of Westmoreland and Alleghany counties, Pennsylvania, for reduction of whisky tax.

By Mr. CHANLER: The petition of John T. Conover, president of the Traders' and Mechanics' Association, Abraham J. Felter, and others, citizens of New York city, for an appropriation for the removal of rocks and other obstructions which impede the navigation of the East river entrance to New York harbor at Hell Gate, and for the removal of rocks in the harbor, known as Battery, Diamond, and Coenties reefs.

Also, the petition of Horatio Allen and others, for the same purpose.

Also, the petition of William Searls, president New York Stock Exchange, and other members thereof, for same purpose.

Also, the petition of A. W. Greenleaf and others, citizens of New York, for the same purpose.

By Mr. DODGE: The petition of citizens of Wayne county, Iowa, asking grant of lands to aid in constructing the Iowa and Missouri State Line railroad.

By Mr. McCARTHY: The petition from the cigar-makers of the State of New York, under the seal and signature of the president of the Cigar-makers' National Union, against alterations of the revenue laws as proposed in the bill now before Congress on the manufacture of cigars.

By Mr. MERCUR: The memorial of Grove Brothers and 84 others, manufacturers of iron, and workmen at Danville, Pennsylvania, complaining of want of efficient protection against the cheaper labor and capital of foreign countries, and praying for reconsideration of the tariff bill which failed in the Thirty-Ninth Congress, and that it may be enacted into a law at the earliest practicable moment.

By Mr. NICHOLSON: A memorial of W. Jones & Co. and others, morocco manufacturers of Wilmington, Delaware, complaining of the inadequacy of customs duties to protect the productive interests of the country against the cheaper labor and capital of foreign countries, and praying for the reconsideration and passage of the general tariff bill which failed in the Thirty-Ninth Congress.

By Mr. O'NEILL: The petition of Edward W. Miller, Edward Gaskill & Co., and 93 others, bookbinders in Philadelphia, Pennsylvania, representing that the customs duties which were sufficient to invite the investment of capital and labor in manufactures have become inadequate, and, in prospect of a continued decline in gold, must shortly prove ruinous; that much of the distress now prevalent and increasing daily, would be relieved by the legislation suggested in the report of Special Commissioner Wells, and perfected in the tariff bill (as passed by the Senate) which failed in the House of Representatives March, 1867, for want of time, and praying that Congress will resume consideration of that measure and enact it into a law at the earliest practicable moment.

Also, the petition of Charles Guenther and 42 others, lithographers, of Philadelphia, Pennsylvania, representing that the depression of the manufacturing industry of the country affects disastrously every form of production and business, and must reduce the revenues and endanger the credit of the Government; and praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, a memorial of Wolfe & Co., Hampshire Paper Company, W. A. Wanhopp, Thomas C. Percival, William Shealds, George C. Ewing, Charles Spencer, and 97 other manufacturing companies and firms of Philadelphia, Pennsylvania, complaining of the depression of industry caused by want of efficient protection to the labor of the country; and praying that Congress will resume consideration of the general tariff bill which failed in the Thirty-Ninth Congress for want of time, and enact it into a law at the earliest practicable moment.

By Mr. PRICE: The petition of 266 citizens of the State of Iowa, asking for a grant of land to aid in the construction of the Iowa and Missouri State Line railroad.

By Mr. SPALDING: The petition of H. B. Tuttle and others, citizens of Cleveland, Ohio, for an appropriation by Congress for the improvement of the river and canal at the Sault Ste. Marie.

Also, a memorial of sundry citizens of Cleveland, Ohio, in regard to the tax on cigars.

#### IN SENATE.

WEDNESDAY, June 17, 1868.

Prayer by Rev. A. D. GILLETTE, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of War, communicating a draft of a proposed law relative to the judge advocates of the Army; which was referred to the Committee on Military Affairs and the Militia.

He also laid before the Senate a letter of the Secretary of War, transmitting a communication from General Sheridan, commanding the department of Missouri, urging that the Central Pacific Railroad Company be required to extend their road from Atchison to Fort Leavenworth; which was referred to the Committee on the Pacific Railroad.

#### RECONSTRUCTION LAWS.

The PRESIDENT *pro tempore* laid before the Senate resolutions of the constitutional convention of Texas, in favor of the transfer from the military commander of the fifth military district to that convention the power and authority to appoint and remove registrars for ascertaining and recording the qualified voters of that State.

Mr. DRAKE. I ask for the reading of the resolutions.

The PRESIDENT *pro tempore*. The resolutions will be read.

The Chief Clerk read as follows:

"Resolved, First, That in the opinion of this convention it is necessary in this State, to a fair adminis-

tration of the laws of Congress upon the subject of the reconstruction of the States lately in rebellion, to so change the provisions of said laws as to transfer from the commander of the fifth military district to this convention the power and authority to appoint and to remove registrars for ascertaining and recording the qualified voters of the State of Texas.

"Resolved, Second, That this convention respectfully but earnestly urge upon the Congress of the United States the change indicated in the preceding resolution, at the earliest practicable moment.

"Resolved, Third, That the president of this convention transmit to the President of the Senate and Speaker of the House of Representatives of the Congress of the United States copies of these resolutions."

The resolutions were referred to the Committee on the Judiciary, and ordered to be printed.

Mr. CAMERON. I present the petition of King & Baird, William A. Hand, Thomas Sinclair, and four hundred others, printers and book-binders of Philadelphia, Pennsylvania, representing that the productive interests of the country are suffering and its industry paralyzed for the want of efficient protection against the cheaper labor and capital of foreign countries. They say that the customs duties, which, under a different condition of affairs, were sufficient to invite the investment of capital and labor in various branches of manufacture, and which subsequently, under a high gold premium, continued to foster them, have become at present inadequate, and, in prospect of a continued decline in gold, must shortly prove utterly insufficient. The manufacturing population cannot continue to pay prices for provisions, even approaching those now realized by agriculturists, while exposed to competition with the Old World under a tariff framed to meet exigencies of a totally different character. Nor will the removal of internal taxation, though vitally important, afford in itself the relief necessary. They declare, further, that much of the distress now prevalent, and daily increasing, would be relieved by the legislation suggested in Special Commissioner Wells's report of last year, and perfected in the tariff bill (as passed by the Senate) which failed in the House of Representatives in March, 1867, for the want of time. They therefore pray Congress to resume the consideration of that measure, and, with such modifications as its wisdom may suggest, to enact it into a law at the earliest practicable moment. I move that this petition be referred to the Committee on Finance.

The motion was agreed to.

Mr. CAMERON presented a memorial of workmen and firms of the State of Pennsylvania, and a memorial of Horace S. Soule and others, manufacturing companies, firms, and business men of Philadelphia, Pennsylvania, complaining of the insufficiency of the customs duties to protect domestic industry against the cheaper labor and capital of foreign countries, and praying for the reconsideration and passage of the general tariff bill which failed for want of time in the Thirty-Ninth Congress; which were referred to the Committee on Finance.

He also presented a petition of F. B. Brown, Abram Suydam, and others, zinc and steel makers of Pennsylvania, complaining of the depression of industry, and praying for such increase of protective duties as will revive manufactures and restore prosperity to the country; which was referred to the Committee on Finance.

He also presented a petition of workers in iron and coal and manufacturers of Pennsylvania, praying for such additional protective duties as will relieve their distress, secure a home market for the products of their industry, and aid them in the unequal contest with the underpaid labor of Europe; which was referred to the Committee on Finance.

Mr. SUMNER. I present a petition of merchants and shipowners of Boston, in which they represent that the action of the Executive and of Congress in 1823, in recognizing the independence of the South American republics, after they had established it as a fact, although never conceded by Spain, affords a



just precedent for similar action on the part of our Government with reference to the war commenced by Spain in 1864 on the republics of Peru, Chili, and Ecuador, and which was prosecuted with more or less activity until May, 1866, but which these petitioners represent has now for upward of two years past entirely ceased, with no prospect of resumption. Therefore these petitioners submit that they have the right as citizens of the United States to deal with either of those Powers heretofore belligerent, or with their citizens or subjects, upon the same footing and to the same extent as if a formal treaty of peace had been ratified and exchanged; and they now address Congress and ask some action on their part to protect them in that asserted right of commerce. I move the reference of this petition to the Committee on Foreign Relations.

The motion was agreed to.

Mr. VICKERS. I present a memorial of citizens of Baltimore, remonstrating against any reduction of the duty on coal. I move that this remonstrance be referred to the Committee on Finance; and as it contains many valuable facts in a brief space I move that it be printed.

The motion was agreed to.

Mr. CATTELL presented a petition of citizens of Philadelphia and Cincinnati, praying an extension of the law allowing the free entry of steam-ploving machinery into the United States; which was referred to the Committee on Finance.

Mr. DAVIS. I ask leave to present a petition. As it is short I will ask to have it read, that the Senate may be put in possession of its contents, and then it can be referred to the Committee on the Judiciary to make inquiry into the subject.

The PRESIDENT *pro tempore*. Is there any objection to the reading of the petition? No objection being made it will be read.

The Chief Clerk read as follows:

To the honorable Senate and

House of Representatives of the United States:

Your petitioner, William S. Chipley, respectfully states that he is a citizen of the United States, and a resident of the city of Lexington, in the State of Kentucky. That he is the father of William Dudley Chipley, a citizen of Columbus, Georgia, who has been arrested and imprisoned by order of the military authorities of the United States without cause and in disregard of the provision of the Constitution of the United States, and carried out of the district in which any offense charged against him was committed to Atlanta, Georgia, some two hundred miles distant from his home, and is now confined there in a cell which is wholly unfit for the confinement, even as punishment, of a condemned criminal. He is denied the privilege of seeing or consulting with either his family, his friends, or his counsel, and deprived of all information as to the nature of the charge against him, without power to summon or procure the attendance of witnesses in his defense. In short, he is utterly at the mercy of his persecutors, and denied every right which the Constitution and laws secure to the citizen. He is not, and has not been, either in the naval nor military service of the United States. He is a commission merchant in Columbus, a married man, and a good citizen, as all who know him will testify. Your petitioner does not know certainly what the charges against his son are, and can only surmise, from the statements of discharged negro witnesses who were arrested, confined, and examined touching his connection therewith, that he is imprisoned for complicity in the murder of one G. W. Ashburn, who was killed in a house of ill-fame.

Mr. HOWE. That communication seems to me a very lengthy one, and it is from a private citizen I understand. If it calls for any action at all I suppose the Judiciary Committee can tell us what action it calls for. I therefore move its reference to the Committee on the Judiciary.

Mr. DAVIS. I have no objection to that course. I desired it to be read merely that it should attract the attention of the Senate, so as to draw the consideration of the Senate to it. I move that the petition, with the accompanying papers, be referred to the Committee on the Judiciary.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. EDMUNDS. I am instructed by the Committee on the Judiciary, to whom were referred the bill (H. R. No. 970) to provide for a temporary and provisional government

for Alabama; the bill (S. No. 348) declaring the State of Alabama restored to the right of representation in Congress; the bill (S. No. 463) to provide for a temporary and provisional government for Alabama, and the joint resolution (S. R. No. 112) to restore Alabama to representation in Congress, to report the same back adversely, because the subject has already been acted upon; and I move to take them off the Calendar that they be indefinitely postponed.

The motion was agreed to.

Mr. EDMUNDS, from the Committee on the Judiciary, to whom were referred resolutions adopted at a meeting of Republicans held in Dennopolis, Alabama, in favor of the passage of an act declaring the constitution of that State ratified; a memorial of citizens of Jones, Fayette, and Warren counties, Alabama, praying Congress to pass a law setting aside and declaring null and void the ordinance of the late convention of that State; and a petition of Rufus Andrews, of New York, inclosing petition relative to the clause in the Alabama constitution concerning wharfage, asked to be discharged from their further consideration; which was agreed to.

Mr. WILLEY, from the Committee on the District of Columbia, who were, by a resolution of the Senate of February 12, instructed to inquire into the facts connected with the forcible ejection from the cars of the Alexandria and Washington railroad of one of the employes of the Senate on account of race, on Saturday, February 8, 1868, and to inquire what legislation, if any, is necessary to protect the rights of passengers on that road, submitted a report; which was ordered to be printed.

Mr. YATES, from the Committee on Territories, submitted an additional report to accompany the bill (S. No. 11) to admit the State of Colorado into the Union; which was ordered to be printed.

Mr. HARLAN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 526) to amend an act incorporating the Washington and Georgetown Railroad Company, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 480) in relation to the pay of grand and petit jurors in the District of Columbia, asked to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary; which was agreed to.

Mr. WILLIAMS, from the Committee on Finance, to whom was referred the joint resolution (H. R. No. 96) for the relief of John Sedgwick, collector of internal revenue third district California, reported it without amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 347) to amend an act to divide the State of Illinois into two judicial districts, approved February 13, 1855, reported it with amendments.

He also, from the same committee, to whom was referred a petition of Miss G. C. Smith, asking an amendment of the bankrupt law so that her mother will not be deprived of the amount of property allowed an insolvent; three petitions of citizens of Illinois, praying the establishment of two annual terms of the United States circuit and district courts at Quincy, Illinois; the resolutions of the constitutional convention of Virginia, in favor of extending the period during which the first clause of the bankrupt act shall operate; a memorial of citizens of New York city, remonstrating against any extension of the time limited in the law for commencing proceedings in bankruptcy; a memorial of citizens of Boston, in relation to bankruptcy; and two memorials of citizens of New York, in relation to bankruptcy, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 1021) in

amendment of an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867; the bill (S. No. 401) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," and a joint resolution (S. R. No. 142) to refer the claim of George Choppening and former act of Congress for his relief to the Court of Claims, reported adversely thereon, and recommended their indefinite postponement.

#### SALE OF HAY IN THE DISTRICT.

Mr. PATTERSON, of New Hampshire. The Committee on the District of Columbia, to whom was referred the bill (S. No. 540) to regulate the sale of hay in the District of Columbia, have had it under consideration, and have directed me to report the bill favorably and to ask action upon it at this time. It will take but a moment.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that all hay and straw which may be sold by weight in the District of Columbia shall be sold by the net hundred, and every two thousand pounds net weight shall be a ton.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. PATTERSON, of New Hampshire. I am also directed by the same committee to report back two other bills on the same subject, and to move that they be indefinitely postponed.

The motion was agreed to; and the bill (S. No. 271) to regulate the sale of hay and straw in the District of Columbia, and the bill (S. No. 461) to regulate the sale of hay in the District of Columbia, were postponed indefinitely.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 143) to authorize the Secretary of the Treasury to remit the duties on certain religious books donated to the people of the United States; which was read twice by its title, and referred to the Committee on Finance.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 149) authorizing the sale of damaged or unserviceable arms, ordnance, or ordnance stores; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### RETURN OF A BILL.

Mr. FERRY. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the Secretary of the Senate be directed to request the House of Representatives to return to the Senate the bill to amend the act of March 3, 1865, providing for the construction of certain wagon-roads in Dakota Territory, being House bill No. 650.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FERRY. Mr. President, the bill referred to by the resolution came from the House of Representatives, and was amended in the Senate owing to a mistake made by the Secretary of the Interior in a communication forwarded to the Committee on Territories, from which the bill was reported. That mistake having been corrected, it is desirable to get back the bill in order to correct the bill itself.

The resolution was adopted.

#### JONATHAN JESSUP.

Mr. RAMSEY. I move that the Senate proceed to the consideration of House bill No. 867.

Mr. EDMUNDS. What is the title of it?

Mr. RAMSEY. "A bill for the relief of Jonathan Jessup, postmaster at York, Pennsylvania."

The motion was agreed to; and the bill was considered as in Committee of the Whole. It proposes to authorize the Auditor of the Treas-

ury for the Post Office Department to allow Jonathan Jessup, of York, Pennsylvania, the sum of \$1,807 36, in the auditing of his accounts for the fiscal year of 1867.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANDREW S. CORE.

Mr. VAN WINKLE. I move that the Senate take up for consideration Senate bill No. 522, reported from the Committee on Finance. It is a bill of only five lines, and will not lead to any discussion.

Mr. EDMUNDS. What is the title of it?

Mr. VAN WINKLE. "A bill to authorize the Commissioner of the Revenue to settle the accounts of Andrew S. Core." The circumstances are such that a settlement cannot be made without this authority.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It directs the Commissioner of the Revenue to settle and close the accounts of Andrew S. Core, late collector of internal revenue for the second district of Virginia, (now West Virginia,) upon principles of justice and equity.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time, and passed.

NATIONAL BANKS.

Mr. SHERMAN. I move that the Senate resume the consideration of the unfinished business of yesterday.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 440) supplementary to an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864.

The pending question was stated to be on the motion of Mr. CAMERON, to amend the bill by striking out the first section, in the following words:

That it shall be unlawful for national banks located in the cities of Boston, New York, Philadelphia, or any of the cities named in section thirty-one of an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, to pay interest on the deposits or balances of any other national banking association, or to offer any inducement, other than the prompt and correct transaction of business, in order to secure such deposits; and it is hereby made the duty of the Comptroller of the Currency to see that this act is observed; and upon a violation thereof by any national banking association, he is hereby authorized and required to proceed, as in other cases of default, to appoint a receiver to wind up the affairs of such association according to the provisions of section fifty of said act.

Mr. CAMERON. Mr. President, I do not think it necessary to occupy the time of the Senate in discussion this morning, because the simple question now pending is between the country banks and the city banks. The Senator from New Jersey [Mr. CATTELL] spent half an hour or an hour yesterday on the principles of banking. The general principles which he laid down were pretty correct; but the principal matter, the marrow of this case, he did not touch at all. I have said from the beginning that this is a bill gotten up for the purpose of using the funds of the country banks without paying them for them. It is very natural, perhaps, that gentlemen situated as he is, representing banking corporations in the cities, should desire to get all the funds of the country possible without paying for them. The country banks do not send their deposits to the cities for the purpose of speculating, but they are compelled to send them there. In the first place, they are compelled by the banking law to keep a reserve fund there, and then in the course of trade their funds go there as a matter of course. They now get a small interest while they are there, and they suffer them to remain there only when they cannot be used at home. It is fair that they should be allowed to receive compensation for that use. On the other hand, the city banks are the great speculators.

Every crisis which has broken up the banks of the country has begun with the city banks on account of their speculations in stocks, the facilities they have for loaning their money by the day or by the hour, as they often do, at a large rate of interest. The country banks have no such temptation. A large portion of the year they need all their funds at home, and their customers and their stockholders would compel them to use them there if they were otherwise inclined. It is only when their capital is of necessity in the possession of the city banks that it is proposed that the city banks should pay them for the use of it.

This whole subject of banking is one which is so much talked about that we generally lose sight of the main matter of a bill when anything comes up connected with it. The old banking system was a good one in its day. The early banking system of this country, which has been so much abused, was one of the most important schemes ever invented for a new country like ours. We had a rich soil; we had a vigorous people; we had an extended country; but we had no capital. The original country banks got their life from an act of incorporation which generally included within its machinery the best men of the community. These men together staked their character and their property, and they issued their notes which passed as money. That did very well until the country became rich, and then the system, as a matter of course, fell down from its own weight.

I remember very well when I had charge of a little bank with \$100,000 capital, and we had an average circulation of \$700,000, and we never failed to meet our notes, and nobody ever doubted that we could meet them. So long as we did so they were just as good as money. The old system broke down, as I say, because the country became rich and the banks accumulated and men became speculators outside of the banks and broke them down. The New York system of banking, which was the next one, was better than the old system of banking, and much better than the system we have now. That system made circulation perfectly secure, because the stocks of New York and the stocks of the General Government were the basis of it, and under that system everybody that desired to bank might bank.

We shall some day come to that and have a general free-banking system based on our Government loans, and then every man who desires to bank will do so, and when he finds it unprofitable he will quit it. That is the system you will ultimately come to, and such discussions as we had yesterday and the day before will bring us to it sooner, because there is now a desire and a competition all over the country to get banks, as if having banks in a particular quarter made money plenty there. It is not so. You might just as well say that you should have a mint to coin your gold in every county or in every State of the Union. Money is an element of trade, which flows where it is wanted; and after it has been used and done its duty in a particular quarter it goes back to the centers of trade. It is just like the water flowing to the ocean and again reaching the clouds and coming down to us. We do not reflect upon the working of this machinery, but we all seem to have a special knowledge of banking.

The Senator from New Jersey [Mr. CATTELL] read yesterday from the Comptroller of the Currency a very learned report, which he copied from some reports published in England and France; but they were all statements of general principles that had nothing to do with the question before us. It is, I repeat, simply whether you shall allow these banks to manage their business in their own way as shall seem to them best, relying on their integrity and their intelligence to preserve their own credit, and thus preserve the interests of the public, or whether you will compel them to throw their money into the city banks, where speculators may use it in inflating stocks, and producing a system of gambling which prevents

men from following the regular pursuits of industry.

As I said, I do not desire to trouble the Senate, and I will not. I should have preferred to postpone this subject until the next session, because then I think the country will be in a condition when we may legislate wisely and well in regard to currency and finance; but if it be the pleasure of the Senate to act on the bill I think the first section should be stricken out.

Mr. SHERMAN. I call for the yeas and nays on the motion to strike out the first section.

The yeas and nays were ordered.

Mr. CHANDLER. I hope this first section will be stricken out. The Senator from New Jersey [Mr. CATTELL] alluded yesterday to the large amount of money which the country banks were obliged to hold in their vaults or upon deposit in the eastern cities; in other words, a reserve which he said they were not permitted to work up. But, sir, the Senator from New Jersey has himself introduced a bill authorizing the issue of three per cent. certificates intended to be held as that very reserve, and to bring that reserve into an interest-bearing shape.

The Senator says that the country banks are compelled to hold fifteen per cent. of the whole amount of their capital and deposits on hand in lawful money, and the depository banks twenty-five per cent.

Mr. CATTELL. The Senator from Michigan misunderstood me. I said fifteen per cent. of their circulation and deposits, not of their capital and deposits.

Mr. CHANDLER. That is true. The depository banks are compelled to hold twenty-five per cent. of their circulation and deposits on hand at all times, and the western banks are permitted to have a portion of their reserve of fifteen per cent. on deposit in the large cities. Now, the Senator says that it will be much safer if these reserves are not upon interest. Will the Senator explain to me how and why it is safer that the self-same bank should hold these deposits and pay no interest on them than that it should hold them and pay an interest of four per cent.?

Mr. CATTELL. Does the Senator want an answer?

Mr. CHANDLER. Yes, sir; I should like to hear the answer.

Mr. CATTELL. I can give it in a single word. There is an inducement to pile up money in the city of New York, by the payment of interest, which ought to be kept at home.

Mr. CHANDLER. I shall come to that directly, and the answer to that will be a part of my argument. The Senator alluded to that point yesterday. The law compels these western banks to deposit in the national banks in the cities which are Government depositories. Hence the deposit must remain in the self-same hands, whether interest be paid or be not paid under the law. Now, the Senator says that if no interest be paid these funds will be retained and held at home, instead of being deposited in the national depositories in the great cities. Sir, the Senator has been too long a banker to make that statement intending it. I tried to explain yesterday, and I will try to explain again to-day, so that he may comprehend it, that the western banks, and the eastern banks outside the large cities, make nearly all their redemptions by draft upon those large cities. In the cities of the West, even in specie-paying times, more than nine tenths of all their redemptions were made by draft on New York; and to-day a bank that cannot draw upon New York might as well shut up shop. The effect would be the same upon its credit that a refusal to pay specie would be upon a bank in specie-paying times. They must draw upon New York when the demand is made.

My statement yesterday was, or was intended to be, that a bank of \$100,000 circulation almost anywhere would have \$100,000 in deposits, and the average in the report before

me shows that I rather understated it. Here, then, is a liability of \$200,000 liable to be called upon at any moment. I stated that it was absolutely necessary for the safety of that bank, no matter where located, in any country town throughout the whole length and breadth of this land, to keep an average deposit of not less than \$50,000 in some one of the large cities to draw upon; and whether you pay interest or do not pay interest will neither increase nor diminish it a single half dollar. The bank must be ready to meet its liabilities, and it must meet them in that way; and if it has not exchange on New York it must still draw and instantly express the bills to meet the draft when it arrives.

The city banks are willing and anxious to obtain these deposits at four per cent. Why? Because whatever the fund may be which they have over on any given day, they can loan it, not at four per cent., which they pay, but at six or seven per cent., and sometimes even at a higher rate of interest. Whether they pay four per cent. or nothing they will loan it to the very last dollar they have on hand, daily as they do now. The intent and meaning of this section is that they shall be enabled to pocket, not the residuum over four per cent., but the whole six or seven or eight per cent., whatever the amount may be that they obtain from day to day for their excess.

It is a mistake to suppose that this will change the amount of these deposits. There is not a bank throughout the West that does not receive more than double the amount of interest it receives on its deposits in the great cities. In Cincinnati the average rate of bank interest is not less than ten per cent., as I am informed; in Detroit about that; in Chicago twelve per cent.—three times the amount they receive. Do you suppose a bank in Chicago would deposit its funds in New York at four per cent. when it could get twelve per cent. at home? Certainly not. As I said before, it will not make the difference of a single half dollar in the amount they deposit, whether they receive four per cent. interest or no interest at all. There is not a bank in a single State, even including the New England States, which will not be seriously injured by the passage of this first section. Neither will it affect the amount of circulating medium at home. This is the argument that has been used in both Houses: "Withdraw your interest and the banks will keep their money at home and use it there." Why, sir, what use have they for it? As I said yesterday, I asked the cashier of the largest bank in the city in which I live what amount of redemption he had been called upon for in the three years the bank had been in existence, and he told me a single ten dollar bill. A man stepped in and told him he would like a greenback for a ten dollar bill, and he gave it to him; and that was all the redemption he was called upon for in three long years.

But, sir, day after day they are called upon for vast sums in redemption by drafts from the large cities. The city banks can well afford to pay these drafts, for they know almost to a certainty the amount which they will have on deposit at a given day. One section draws largely to-day, and another section largely to-morrow. One section draws in the spring and another in the fall. Drafts are made largely for the wool crop or the wheat crop. As I showed yesterday, and I have the figures before me, the average amount which they are compelled to keep in New York, and will keep in these large cities and will be compelled to keep, whether you pay interest or not, is something over seventy-three million dollars. Now, sir, I can well understand, and so can you, why the banks and bankers in the cities of New York, Boston, and Philadelphia should desire to have these vast deposits without paying any interest at all in order to swell their own dividends; but it would be an injustice, not only to every bank and banker, but to individuals. In the city in which I live the banks pay to their depositors for trust funds and court funds and

funds that are to remain a long time on deposit, the precise sum which they receive for their balances in New York. It is their custom. Cut off this interest on the balances, and you cut off the interest that is paid to widows and orphans and trust funds and all other funds throughout the United States.

I intended no disrespect to the Senator from New Jersey yesterday when I said that this bill ought to be designated "A bill to enable a few bankers in the large cities to swindle the people of the United States in order to swell their own profits;" for that is exactly what this bill will do if you pass it. But, sir, if this section is not stricken out, I shall then offer my amendment prohibiting these banks that now desire to be relieved from paying any interest from loaning a single dollar on their deposits, and I hope the Senate will adopt that amendment, and then these men will be more anxious to defeat this section than I am now.

Mr. SPRAGUE. I do not intend to make a speech on this question, but I do wish that Senators would understand the exact condition in which the business of the country will be placed by the section under discussion if it is permitted to stand as law. I may be in error as to my judgment of the effect of this section, but it strikes me that the moment the banks are called upon to have a reserve in the event of this section passing it will be to that extent a curtailment of the currency. You will not certainly compel any of these country banks to make their deposits in a city bank unless there is security of some kind or compensation for it. Why will you ask a country bank to deposit in a New York bank any amount for the redemption of its circulation? Why not permit those banks to hold the amount in their own vaults for the redemption of their own currency? That, I understand, is the measure which the Senator from Michigan proposes.

Mr. CHANDLER. If the Senator will pardon me for one moment, the present law compels the banks to redeem in the large cities as well as at home. That is the law now.

Mr. SPRAGUE. Of course there is manifest injustice in compelling a reserve to be kept in a bank in New York by a bank in Michigan without compensation, because for this currency the bank in Michigan has made payment. The result, then, will be that this reserve fund will in effect be withdrawn from the business of the country into the country banks, and to that extent the bank capital upon which the business of the country is now being carried on will be restricted. That is my judgment in the matter, that the effect will be that if there is \$60,000,000 now as a reserve you will permit the country banks to hold that amount in lawful money of the United States for the purpose of making their redemptions or redeeming their bills, and to that amount there will be a contraction of the banking facilities of the United States. If I am not correct in this I wish to be made so.

Mr. President, if I could make my views as plain as the Senator from Vermont [Mr. MORRILL] did his the other day, it would be exceedingly gratifying to me; or if I could make myself as well understood as the Senator from Indiana, [Mr. MORTON], who disclaims all knowledge of finance and of banking, it would be exceedingly gratifying to me. I wish there were more such men in this body who knew nothing of banking, but who would bring to the consideration of these questions the ordinary common judgment necessary to all practical questions. It has been my judgment from the beginning of the discussion of this question that the bankers of this country have "run the machine." The bankers of this country have had the manipulation of everything connected with the finances of the country, both in the Finance Committees in the Senate and House, at the Treasury, and with the President of the United States. In my judgment, all and each of these positions is susceptible of the clearest proof.

I will state for the information of the Senate, and it is undoubtedly within the knowledge of

every one who hears me, that from the foundation of the banking principle of Great Britain, by which she has been able to carry a great debt two hundred years and more, she has repudiated the counsels of bankers from that time to this, and there is not one to-day who gives her counsel and advice in the management of her finances. It is a matter of history that the Bank of England in its yearly organization has ever refused admittance to its board to those engaged simply in the manipulation of money and making money upon money. It is a significant fact, and history has shown it to be true, that where men are engaged in any pursuit as a business they are unfit to take a wide view of all the conditions of the people and of the people's interests.

The PRESIDENT *pro tempore*. Will the Senator suspend his remarks?

#### RECEPTION OF THE CHINESE EMBASSY.

The Sergeant-at-Arms appeared at the main entrance of the Senate Chamber at one o'clock, and announced the presence of the committee of the Senate and the Chinese embassy.

The members of the embassy, escorted by the committee of the Senate, Messrs. SUMNER, SHERMAN, and HENDRICKS, advanced within the bar, the Senators rising and standing till the members of the embassy were seated. The committee and the embassy having reached the area in front of the Secretary's desk,

Mr. SUMNER, on behalf of the committee, said: Mr. President, I present Mr. Burlingame and his associates of the Chinese embassy to the Senate of the United States.

The PRESIDENT *pro tempore*. I welcome Mr. Burlingame and his associates of the Chinese embassy to the Senate of the United States. The committee will conduct them to the seats prepared for them.

Mr. Burlingame and his associates of the Chinese embassy were conducted to seats provided for them in the area in front of the Secretary's desk.

The distinguished visitors having been seated,

Mr. ANTHONY. Mr. President, I move that business be suspended for twenty minutes, in order that Senators may have an opportunity to pay their respects individually to our distinguished guests.

The motion was agreed to unanimously.

The President *pro tempore* vacated the chair, and he and the other members of the Senate were severally introduced to the dignitaries of the embassy by the committee.

The recess having expired, the embassy left the Senate Chamber, escorted by the committee, and the Senate resumed its business.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1275) relating to the Alexandria canal, in which the concurrence of the Senate was requested.

#### AFFAIRS IN TEXAS.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate a telegraphic dispatch which has just been received from the constitutional convention of Texas, with an earnest request that it be immediately laid before the Senate. If there be no objection it will be read.

The Chief Clerk read as follows:

AUSTIN, TEXAS, June 16, 1868.

I am directed by the Texas convention to forward you the following resolutions adopted this day, duly attested copies of which will be sent you by mail. The immediate action of Congress is earnestly requested by the loyal people of this State:

Whereas lawlessness and crime exist to such an alarming extent in portions of this State, it is deemed proper to do all in the power of this convention to protect life and property, and for the suppression of crime: Therefore,

1. *Be it resolved*, That this convention respectfully urge upon the Congress of the United States the necessity of authorizing the organization by the body of a military force in the several counties in this State, to act in conjunction with and under the direction of the military commander therein, for the protection of the lives and property of the citizens now every day being preyed upon by assassins and rob-



bers to an extent unparalleled in the history of civilized communities in times of peace, and which, if not speedily arrested, must result in the destruction of social order.

2. *Resolved*, That if protection is not speedily provided in some form by the national Government to the loyal and law-abiding citizens of Texas they will be compelled, in the exercise of the sacred right of self-defense, to organize for their own protection.

3. *Resolved*, That this convention have full confidence in Brevet Major General J. J. Reynolds, commander of the district of Texas, and that to the extent of the means placed at his disposal he will give protection and preserve peace.

E. J. DAVIS,  
President Convention.

Hon. B. F. WADE,  
President of the United States Senate.

The *PRESIDENT pro tempore*. What order will the Senate take?

Mr. EDMUNDS. I move that the communication be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 1275) relating to the Alexandria canal, was read twice by its title, and referred to the Committee on Commerce.

#### NATIONAL BANKS.

The *PRESIDENT pro tempore*. The bill (S. No. 440) supplementary to an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, is now before the Senate as in Committee of the Whole. The pending question is on the motion of the Senator from Pennsylvania, [Mr. CAMERON,] to strike out the first section of the bill, and on this question the Senator from Rhode Island [Mr. SPRAGUE] is entitled to the floor.

Mr. VAN WINKLE. I venture to suggest, Mr. President, that this day after one o'clock was set apart by special resolution for the consideration of bills from the Committee on Pensions.

The *PRESIDENT pro tempore*. That is true; but that order is superseded by the unfinished business of yesterday according to our rules, and it will require a motion to take up the pension bills.

Mr. CONKLING. I hope the honorable Senator from West Virginia will not interpose his motion until the honorable Senator from Rhode Island shall have concluded the remarks in the midst of which he was found when one o'clock arrived.

Mr. VAN WINKLE. I shall not call for the regular order until the close of his remarks.

Mr. SPRAGUE. Mr. President, I stated it as my belief that the provision of this bill as reported from the Committee on Finance would in effect contract the currency to the amount of the reserve, because it would be manifestly unjust to require a country bank to keep a deposit to redeem its bills at any other place than its own counter; and if that amount was kept in its own vaults it would, to the extent of that amount, be a curtailing of the capital now employed in the business of the country, for the reason that the deposits which are now made to redeem the circulation of these national banks are employed, not perhaps in the business operations of the country, but in the business of bankers; and if they do not have this amount with which to do their banking they will withdraw from the ordinary business of the country an amount equivalent to it. I hope I have been able to make myself understood. I believe that will be the practical result of the operation.

Mr. President, it is immaterial to the business interests of this country what legislation you pass, how much you may agitate matters of finance, when you arrive at the condition when a dollar in paper is equal to a dollar in gold. When that time comes I will unite with the Senator from Ohio and vote for as many hundreds of millions of circulation as you can count in a day, to be given to anybody that will purchase and deposit United States bonds as security for its payment; and I have no doubt that the Senator from Vermont will unite with me in that proposition. The circu-

lation of Rhode Island, now \$13,000,000 of national currency, would in that event not amount, in my judgment, to more than two or three million dollars. It would, in fact, go back to the old condition of things when we in New England could hardly keep in circulation more than ten or fifteen per cent. of our capital.

Sir, I should not be doing justice to or properly representing my constituency did I not raise my voice in protest against the act of the Senate of yesterday, when, in my judgment, a solemn contract was violated. I remember well in the beginning of this war when the people of my State, in common with the people of the whole country, were called upon to defend the flag and to sustain the institutions of the country. I remember well the difficulty that existed in obtaining money to carry on the war. I remember well the scheme that was put out by the then Secretary of the Treasury to capture and sequester and obtain possession of the banking capital of the country. I remember well the proposition that he made with a view to that end, which is the present national banking system of the country. Senators must not forget that the national banking system of this country has performed that part in establishing this Government which contributes money for the payment of your soldiery and for the purchase of your supplies. You took from Rhode Island every dollar, or nearly every dollar, that is now represented by the national banking capital there, and instead of our former system we now have the national system. Was that interest ours then? Did that belong to the people of that State, or did it belong to the national Government to do with it as it pleased? It was thought by the people of that State that that interest was their own, and that they contributed it to the Government of the United States for the purpose of carrying on the war, and took in lieu of it that which they now possess, and which by yesterday's vote you propose to deprive them of.

I hope, sir, that it will not be in my time that the people of this country will again be called upon to defend the flag of the nation. If they shall be, I have no doubt that they will respond as they have done before; but I hope that those who are then the leaders of the people will forget this instance of breach of contract so that in that time when a solemn obligation is entered into the people of that day will believe that it will be sacredly and fully carried out. I have no regret to express on this point, except in that view of the case, in regard to which my regret is as great as I have words to express it. My judgment is that this is but the beginning of the end, and that the people of Rhode Island and the rest of New England, and all those who have taken so much of your national securities, had better take warning and alarm at this exhibition of ingratitude and injustice. We have taken our full share of the national securities, and now the sooner we dispose of them the better, it would seem from this action.

If I had my way, I would suspend all further agitation of the question of finance during the year. Our business operations are now carried on upon the basis of paper thirty or forty per cent. below par. Every variation from that, whether it be thirty-five or forty-five, and every agitation of the question, affects prices, affects enterprise, affects the operations of business and the labor of the country to that extent. There is no interest, unless it may be the agricultural interest, for the time being, that is in any way affected favorably by the present condition of things, unless the banking interest. The latter are able at once to change their securities, whereas men engaged in permanent business, who are obliged to make their investments for a year in advance, are unable to conform themselves and are unable to conform their business operations to the changing system of legislation. I venture to express the wish that all measures relating to the finances of the country be suspended for this year, and I have viewed with satisfaction the several motions made to lay this bill on the table. I

did so from this fact, which I think will strike every Senator with favor when it is considered: that the honorable Senator from Ohio is advocating the policy of increasing the circulation, and the late chairman of the Committee on Finance is advocating a policy of contraction, two leading minds in this body have opposite and contrary views. In my judgment, the views of both are erroneous. The past year, ending the 31st of December last, considering the amount of business that was done by the people of the country, was, perhaps, the most disastrous of any year in our history. It was brought about by that system of contraction the Senator from Maine advocates so strenuously.

If we had a standard value upon which to carry on our business, and that value was recognized by the world, there would be ample banking facilities for all the purposes of legitimate business. It is not for the want of banking capital that the West is in such a condition to-day as to demand an increase of circulation, but it is in consequence of the character of that banking; it is in consequence of the material that is used, or that we are obliged to use, in carrying on the business of the country, that every withdrawal of it or any increase of its quantity affects injuriously all interests. There must be steadiness and permanency somewhere in every business operation; and whatever tends to disturb and unsettle is injurious.

The policy of the Senator from Ohio would be to increase the issues of the national currency; he would send a larger quantity of the national currency into the market, which would in effect practically tend to a greater depreciation, because there is more of it than can be used legitimately or than will be used legitimately in the practical business of life. This course adds to the already large sums collected in the various cities for the purposes of stock operations.

The Senator from Kentucky and the Senator from Michigan desire more banking capital or currency for their States, and the Senator from Kentucky has succeeded in withdrawing that amount from Rhode Island. There is not a bank in Rhode Island that loans its money in any other way than to carry on some factory or other. The result of the action taken by the Senate is of course that these institutions must find capital in some other quarter for the purpose of carrying on their business. But, sir, it is a remarkable fact that Rhode Island, in carrying on her business, is constantly and almost invariably obliged to go into the New York market for the purpose of procuring circulation with which to pay her labor. Our present bank bills are not in fact or in effect circulation; they do not go back to the banks that issue them; they remain in the hands of those who collect them for purposes of speculation, and are readily bought by the banks for their customers to be used by those customers in paying for the labor they employ. Kentucky and Michigan, therefore, will come to the various centers of money if they want this circulation, and will buy it as we in Rhode Island buy ours. All that will be obtained by this movement will be a little more interest as a compensation for the amount that is withdrawn; the sum withdrawn from Rhode Island and Massachusetts and Connecticut will be given to Michigan and Kentucky and other States, and they will derive nothing but the interest on that amount. They will be curtailing the operations of the manufacturers in New England, and will do themselves no good; they will not build up one institution of that character in their States, and this money will be used either to keep up or depreciate the price of stocks.

A proposition made here to debase the coin of the country would be looked upon by every reasonable mind with dissatisfaction and with disgust; but a proposition to issue a dollar in currency, which requires eventual payment of a dollar in gold, is to that extent a debasement of the currency. You issue a debased

currency when you issue any paper not based upon a settled, known, understood value; and that value must be a standard value, and gold is the only standard value. Whenever, therefore, you issue an additional amount of currency, if currency is not based upon the gold standard, you in effect debase your coin in another form. One is paper, the other is gold; each is valuable only as it represents value. A dollar in paper is equally as good as a dollar in gold if it has a value equal to it, and not otherwise. The policy of the Senator from Ohio asks you to issue and the country to receive more of this debased, this changeable currency and value.

I did not mean when I rose to make any extended remarks on this question; but believing that all these financial schemes are simply advocated in the interests of men engaged in manipulating money affairs, and believing that they are in no wise called for by any interest of the country, I could not hesitate to express, though feebly, my disapprobation of everything tending to legislation in the direction indicated by the measures that are before the Senate and before Congress. There can be no safe course except that which tends toward specie payments, as all admit. An increase of this currency puts that off. Restricting the amount of this currency bankrupts your business. Both of these policies, therefore, are wrong. The only sure course to pursue is to increase the value of your securities. They are now depreciated; they are not worth what they purport to be; and until you can create for them a value equal to that which they purport to bear upon their face you can never arrive at specie payments; you can never arrive at a settled condition of business operations in the country; you can never furnish a safe road out of your dilemma. I shall vote for the proposition of the Senator from Michigan, and I trust I shall have an opportunity after that to vote to lay the whole subject on the table.

Mr. HENDRICKS. Mr. President, I shall vote for the proposition to strike out the first section of this bill. In doing so, it is proper for me to say that I was very much impressed by the able argument of the Senator from New Jersey, [Mr. CATTELL.] Some portions of his argument I agree with. I doubt very much whether it is a safe system of banking that one bank shall pay to another interest on deposits; but I think that is a matter that ought to be regulated by the interest of business and commerce itself. I understand there are just two cases to be provided for by this section. In the first place, the banks of the interior are compelled by the banking law to keep on deposit in certain cities a portion of their capital.

Mr. SHERMAN. They are not compelled; they are authorized.

Mr. HENDRICKS. Well, they are required by the nature of the business. They are required to be prepared to redeem their bills at certain points; and to comply with that requisition as a matter of course they must have funds at some one of the specified points to meet any demand for redemption.

Mr. SHERMAN. I will say to the Senator from Indiana that, practically, now the redemption of the national banking currency is merely nominal. One hundred dollars in any bank in New York will redeem all the circulation of any country bank that may be presented.

Mr. CAMERON. I hope the Senator from Indiana will let me say just one word. There is no practical difficulty now; but when we come to pay specie then the redemption becomes imperative. The necessity for all interior banks is to redeem their notes at the commercial centers, Philadelphia and New York. Now, they settle by checks and transferring accounts; but when we come to specie payments they must redeem their notes. We must look to that, because this law will act in the future as well as the present.

Mr. HENDRICKS. Mr. President, I am speaking of the necessity that the law, in my judgment, places upon the banks. Take a

bank in the central portion of the State of Indiana, for instance. It is required to be prepared to redeem its bills at some one of the points mentioned in the law. Just to-day perhaps redemptions are not required, not called for; but there may come a time, and not far distant, when the redemptions will be required. The bank must be prepared to meet them. Now, as the law stands, whenever redemptions do arise, the bank must be ready to meet them whenever they are called for. Therefore, the law contemplates that the banks shall be prepared to meet any demand of this sort. To do so, they ought to have means on deposit at some one of these points. Why not allow them interest upon those deposits, if the interest of the bank in which the deposit is made will allow it? That bank must judge for itself whether it can safely pay interest upon these deposits.

But, sir, the most important question is that which the course of trade and business presents. The demands upon the West from the East constantly accruing make it necessary that the banks of the West shall be prepared to draw upon the East. Our shipments of produce and cattle make this necessary constantly. Practically it is about thus: a man wishing to buy produce or stock in the West borrows the money for a short period from one of our banks; that bank takes his check or draft payable in the city of New York; and when he has purchased his stock on his credit, and shipped it, and sold it in New York, out of the proceeds he meets his paper; and this money is then on deposit in the city of New York to meet exchange from the West to the East.

Now, it is not strange that the deposits in the cities mentioned by the Senator from New Jersey should be \$70,000,000 when the reserve fund of these banks is only \$40,000,000. The large business between the East and the West requires perhaps that amount of western funds in eastern banks. No bank in the city of Indianapolis, where I reside, could transact business for a day unless it was prepared to draw upon the East. Our business requires it. A merchant finds his indebtedness becoming due to-day in the city of New York. How is he to pay it? He does not want to send the money; but he buys exchange and pays it thus, and the bank makes a small profit, a very small profit, indeed, out of it. But to be prepared to meet that class of business, very important to our trade and commerce, the bank must have deposits in some eastern bank or it cannot carry on the business.

If the bank keeps constantly on hand a fund in an eastern bank, if it is the interest of the eastern bank to have that fund, and if that eastern bank can pay interest upon that fund, why not allow it? It seems to me that the business itself, the interests of the two institutions, will regulate that matter. If the bank in the East is transacting its business upon an unsafe system the western bank will not long credit it. Of course the western bank will seek to deposit in a safe institution in the East; and if that institution can afford to pay interest upon this large fund it is well that it should be done; and this is one of the sources of profit to the western stockholders. I do not know very much about banking; but it seems to me that this is a plain proposition. While the Senator from New Jersey may be right, and I think he is right, that paying interest upon deposits is not a safe system for the bank paying that interest, yet that bank must judge of that for itself. Its stockholders must look to their own interests. If it is a source of profit to have money on deposit at four per cent. they can judge of that.

I am not afraid of the evil complained of by the Senator from Ohio. If the banks in the East are allowed to pay upon deposits made by western banks, he fears that that will withdraw the banking capital and currency from the West to the East. I think, practically, that cannot be so, for it is known to the Senator from Ohio, as it is to myself, that the banks of the West, in the regular course of their

business, make from eight to twelve per cent. It would be a remarkable fact if they should deposit their funds beyond the necessities of business at four per cent. when they can make from eight to twelve per cent. by the use of their money in the West. That cannot be. I know that the abuse which the Senator wishes to avoid does not exist. I shall vote to strike out this section. I do not expect to vote for the bill itself; but yet on this single motion I shall vote to strike out.

Mr. WILLIAMS. Mr. President, I voted for this section in the Committee on Finance, but not because I had any particular interest in the prosperity of any class of banks. So far as this discussion has progressed, it has settled down into a controversy between the interior and the city banks; and the only question that seems to be considered of any moment here is as to which class of banks shall make the most money out of the present condition of affairs. I have no interest whatever in that contest.

I have heard complaints from various sources that the people of the western States were without the necessary amount of circulation; and Congress is besieged from time to time with applications to extend the circulation in the western States, so as to accommodate the people there with monetary facilities. It appeared to me, from such evidence as I was able to obtain, that the present system had a tendency to deprive the people of the West of a circulation or of sufficient circulation, or of that amount of circulation, which they would have if this section became the law of the land.

It has been argued that it was improbable that the banks in the western States would put their circulation in the banks of the eastern cities and receive four per cent. upon it when they could loan that circulation in the neighborhoods where they do business for eight, ten, or twelve per cent. That argument would be good if the fact did not contradict it. No matter what the reasoning may be on the subject, the fact is admitted on all hands that seventy odd millions of circulation that belongs to the interior banks is deposited in the banks of the three great cities; so that in point of fact that amount of circulation is withdrawn from the people of the western States. That is a fact. What the inducements are I of course am not able to say; but it may be that this is a continuous loan to the city banks. It is not subject to those contingencies that loans to individuals are. It may be that the security is more perfect, and it is possible that this difference in the interest may be made up by the rate of exchange to some extent. Various considerations may influence the interior banks to adopt this policy; but whatever those considerations may be, whether sufficient or insufficient to our minds, the fact is that they produce this result, that this money that ought to be in the banks of the western States, there to accommodate the local necessities, is found in the banks of these great cities, to be used there for the purpose of stimulating speculation of all sorts and descriptions, which is the bane of the present day.

What is the reason, I will ask, for extending the banks of this country, multiplying these western banks according to the wishes of the American people, if, when a bank is located in any western State, it immediately commences the transaction of business in the city of New York or of Philadelphia? Multiply these banks, and you increase the circulation in the large cities, and the only effect is to stimulate speculation there, while the necessities of the people of the West are not relieved by the multiplication of your banks.

I am quite surprised, Mr. President, I must confess, to find such a stubborn opposition to this section, which was put into this bill, as I understood, for the express benefit of the western people. I am surprised to find them so unanimously opposed to it. If they manage to strike this section out of the bill I hope they will not come any more to Congress beg-

ging for additional banks; I hope we shall hear no more on that subject.

I have no inflexible theory upon this financial question. I judge from circumstances. I am willing to do what I can, consistent with the business interests of the country, to accommodate the western people. I supposed that this measure was intended for that purpose and would have that effect. But it seems that there is some danger that some banks located in the western States, no matter what the interests of the people may be, will not receive as much interest if this bill passes as they now receive. It appears to be a matter of no consequence as to whether they accommodate the people of that section or not in the estimation of Senators. I, knowing nothing about these banks, and caring nothing about them, had supposed that the object and effect of this section would be to prevent the flow of circulation from the western States to the eastern cities.

It is pretended here as a reason for this that the law requires these western banks to keep in the eastern cities a certain amount for the purpose of redeeming their circulation. What commentary does the Senator from Michigan make upon that assumption, when he said that he was told by a banker in the city of Detroit that during three years he was only called upon to redeem one ten-dollar bill. If that be true, then the seventy odd millions of money in the eastern cities is not necessary to redeem the circulation.

Mr. CHANDLER. Will the Senator allow me one moment right there?

Mr. WILLIAMS. Certainly.

Mr. CHANDLER. While they were called upon to exchange greenbacks for only one ten-dollar bill, they had to daily redeem their deposits by exchange on New York.

Mr. WILLIAMS. I understand that.

Mr. CHANDLER. I tried to beat the idea into the Senator's head; but it is hopeless, and I will not try it again. [Laughter.] It is the simplest business proposition that ever was presented to a man's common sense; but it is utterly hopeless to beat it into the Senator's head, and I resign the task.

Mr. WILLIAMS. The Senator need not put himself to any unnecessary trouble to beat ideas into my head, because it is necessary, in the first place, that he should have some correct ideas in his own, [laughter;] and it is possible, in his zeal on this subject, that he is not so much governed by what the people of the West need and desire as by what the banks of Detroit or some other city need in reference to this matter.

Now, sir, I acknowledge—I have not pretended to deny—that there was a necessity for some deposits in the cities to meet the drafts of these local banks. Nobody has controverted that position; but the idea upon which this bill proceeds—and I am indifferent as to its passage, but I want now to have it understood that we are to have no more clamor from the West about additional banking facilities, when the whole effect of it is to increase the circulation in New York, Philadelphia, and Boston—I say the idea is, that when these city banks pay interest upon this circulation there is an inducement for withdrawing from the circulation in the West that which they need and putting it into the already exorbitant circulation of the cities.

This morning I received a circular. I do not know that any consequence is to be attached to it, but I find this statement in it—I suppose it is sent to all Senators; it appears to be a printed circular:

"Throughout the country trade is unusually quiet, and with the consequently limited demand for loans the banks of the interior are allowing large balances to accumulate with their correspondents here, which it is found difficult to employ except at exceedingly low rates, three and four per cent. being the current interest upon demand loans."

It seems that immense deposits of money are accumulating in these eastern banks, and at this particular time it is said that we must extend the circulation \$20,000,000 and provide

for the establishment of new banks in the West so as to accommodate the people. And now, when we undertake to provide by law to prevent this flow of circulation from the West to these cities we are met with the objection that it will not do to legislate in this way because it will injure somebody's bank in the western States.

I do not care particularly about the fate of this section, for the bill, as it is now amended, seems to me to be, with my little knowledge of financial matters, very nearly an absurdity. I do not pretend to know as much about finance as the Senator from Michigan, or many other Senators; but it seems to me to be an absurdity in finance to take, by an arbitrary law of Congress, \$20,000,000 of circulation from one section of this Union and undertake to locate it in another section of the Union, disturbing, deranging, and breaking up business everywhere by your legislation. I undertake to say that Congress cannot control and regulate the currents of trade and commerce by any arbitrary legislation, and the less of it we have the better for the country; for the laws of commerce are surer and wiser and safer than any law that Congress can make upon the subject. So far as I am concerned I would rather now that Congress would drop this whole subject at once than undertake to invade the eastern States, where their capital no doubt is altogether employed in business, and withdraw from their business and their circulation \$20,000,000, and undertake to send it to Texas or Oregon or California, or some other part of the country.

I only rose to give my reasons for supporting this section; but if the bill remains as amended, I do not care one straw what becomes of any of the sections.

Mr. MORRILL, of Vermont. Mr. President, I gave my consent in the Committee on Finance to this section purely on the principles enunciated by the Senator from New Jersey, as a question of banking. I do not believe that banks are created to borrow money; they are created to lend. I did it for this other reason, that the banking law of this country required a certain amount of reserve to be held by the banks, upon which no banking operations could be had except for the purposes of redemption; it was not to be used for the purpose of discounts; and yet by this evasion, by this simple process on the part of the country banks of depositing their reserves in the city banks, the city banks avail themselves of them for the purposes of discounts. I was unwilling myself, when the whole business of banking in this country had been revolutionized by our national system, to give greater facilities to the banks in the cities for mere purposes of stock-jobbing and speculation.

Before the inauguration of this system, when we had specie payments, the banks in the cities, although authorized to keep out as large a circulation as the banks in the country, never availed themselves of that privilege, for it was not possible that they could keep it out. The country banks then had to redeem their circulation once in every six or twelve weeks, but the city banks would be compelled to redeem their circulation almost daily or weekly; and therefore these banks of large capital, capital of millions, kept out but a very insignificant amount of circulation. One of the largest banks of this character, holding \$10,000,000, as I am informed, kept out no circulation.

But the Senator from Oregon is very much mistaken if he supposes the West do not understand their interest about this matter. They will not be able if this bill should pass or not pass to discount one single dollar more than they otherwise would. If this reserve is kept at home, they cannot bank upon it. It will not increase their circulation in the least. They must keep it as a reserve.

Mr. WILLIAMS. It has been admitted here throughout this discussion that there were \$30,000,000 of money on deposit in the city banks in excess of the reserve. I referred particularly to that.

Mr. MORRILL, of Vermont. That will not be affected by this law.

Mr. WILLIAMS. That may be.

Mr. MORRILL, of Vermont. This only relates to the reserve.

Mr. HOWE. You are mistaken about that.

Mr. CATTELL. It covers the whole.

Mr. MORRILL, of Vermont. Well, it will not be affected by it, because they can make their deposits with bankers, private individuals, and evade it; so that it will make no difference as to that. It is a necessity on the part of the western banks, and of all country banks, to keep their deposits in the city for the purpose of drawing upon them; and they do it from motives of self-interest, because they desire to obtain a larger rate of interest, and any person applying to them for a discount will not receive bills, but will receive checks upon which a greater amount of exchange will be charged than would be required to transport the bills from the city to the bank.

Mr. President, there is no question but what this section will tend to the benefit of the city banks and against the country banks. There is no doubt about that. The city banks will obtain the same amount of deposits, or nearly the same, for which they will pay no interest, and the country banks will be deprived of that amount of profits. It is not to be concealed that that will be the effect of the bill so far as that is concerned. The only question about it is whether we shall continue to foster and to strengthen these city banks or not. That is for every Senator to judge for himself.

Mr. HOWE. Mr. President, I have not said a word in the course of this debate, and I did not think I should; but having listened to it considerably, I have come to the conclusion that I shall be obliged to vote for this amendment, notwithstanding the arguments urged against it by the Senator from New Jersey [Mr. CATTELL] yesterday, which have been repeated substantially by the Senator from Vermont [Mr. MORRILL] to-day. I never like to vote against a measure supported by the Senator from New Jersey particularly; and whenever I do, I feel called upon to apologize, either publicly or privately. I have concluded to submit briefly my apology for the vote I am about to give on this question publicly. I should not have felt the courage to do that even but for the kind words thrown out by the honorable Senator from Rhode Island [Mr. SPRAGUE] just now in support of those who speak upon this subject without knowing anything about it. [Laughter.] Happening to fall within that category, I felt authorized to say a word myself upon it.

One reason I have for voting against the adoption of this new restriction was stated very emphatically and forcibly by the Senator from Oregon, [Mr. WILLIAMS,] who has just resumed his seat. He gave utterance to a truth that has dimly suggested itself to my mind several times since this debate commenced, the idea whether, after all, this Congress, (and it is a very able Congress; I take it no man will doubt that,) in spite of its supreme ability, is able to manage the banking of the country better than the banks can do it themselves. The Senator from Oregon denies it, and I am inclined to think he is right. Up to this time the banks have managed this very subject, and, so far as I know, have done it with considerable success. Why not leave them to do it hereafter? He has confidence in their ability, and I have confidence in their ability, and why not let them play their hands? I am inclined to think we had better let them. That is one reason I have for voting against putting this restriction upon the banks.

But what are the reasons urged for the restriction? The Senator from New Jersey says it is a violation of a fundamental principle, not only in the national banking law, but in all banking systems whatever, which is that the banks should be required to keep a certain amount of funds in reserve; and he says that the national banking law recognizes that necessity, and requires of the central banks that



they should keep twenty-five per cent. of their circulation and deposits as a reserve, and discriminates against them and in favor of the country banks by releasing the latter from the obligation of keeping any more than fifteen per cent. of their circulation and deposits, and he says that this is absolutely necessary to the safety and well-being of any banking system; and he says that this practice of depositing the reserve and of taking interest upon it is in violation of this fundamental principle and destructive of it.

I am not familiar with this subject, but I am inclined to think the Senator is wrong in assuming that the national banking law requires any such reserve as he states. It does say, I believe, in about so many words, that there shall be that reserve; but suppose there is not that reserve, what then? You cannot safely declare that a law requires a certain thing to be done or not to be done, until you examine the penalties or the means for enforcing the command. What, then, if the reserve falls below twenty-five per cent. in the central banks, or fifteen per cent. in the country banks? So far as I understand, the only penalty which is imposed upon the bank is that it is required to stop loaning. When its reserve falls below the twenty-five or fifteen per cent. it cannot discount time paper any longer; but it may go on still discounting sight bills. If I am right about this, then instead of the law requiring a reserve of twenty-five or fifteen per cent. it simply requires that the bank shall not loan on time more than seventy-five or eighty-five per cent. of its circulation and of its deposits; but the balance of the fifteen or twenty-five per cent. it may employ in purchasing sight bills.

If this is the true construction of the act, then this discrimination in favor of the country banks and against the city banks which the Senator from New Jersey complains of is not so apparent to me as it seemed to be to himself. But if he is right and I am wrong as to the interpretation of the act, is there not a hardship imposed upon the country bank from which the city bank is relieved, in this: the city bank is required only to redeem its circulation at its own counter; the country bank is required to redeem its circulation, and to be prepared to do so at all times, both at its own counter and in some one of the central cities? There is a double redemption for which the country bank must provide, and a single redemption for which the city bank must provide.

Mr. CATTELL. Allow me to say to the Senator that I have explained that several times. In order to provide for that double obligation the law allows two fifths of this fifteen per cent. to be kept there for that purpose and counted as reserve. There is no hardship in redeeming at another place when you provide that your reserve shall be kept there and counted.

Mr. HOWE. I understand that. There would not be any hardship at all in it if the law only required the redemption to be for the amount of three fifths of the reserve which they are allowed to keep on deposit at the central banks; but that is not the requirement of the law. The requirement of the law is that the whole circulation must be redeemed on demand at the central banks.

Mr. CATTELL. The whole circulation is not anything like three fifths of the reserve. The reserve is a percentage on the whole amount of deposits and circulation, so that the amount of reserve is infinitely larger than the whole circulation.

Mr. HOWE. It may be, or it may not be. I cannot say how that is. But the home liability must be provided for at the same time. I cannot regulate discount myself. I am only speaking of the obligations which the law imposes upon the two classes of banks. The Senator says, and says truly, that three fifths of this reserve may be deposited in the vaults of these redeeming banks, and when deposited there it shall count to the country bank just as if it was in its own vault. That is neither a privilege nor advantage, nor, perhaps, a hard-

ship. It is a permission to the country bank to reckon three fifths of its reserve, which is not in its own vaults, but is in the vaults of one of the redeeming banks, as if it were in its own vaults; but then it is no more nor less, taken with the two fifths, than the fifteen per cent. after all.

But, after all, that does not provide for redemption. When your law has said to the country bank, "You must redeem your circulation and your deposits at home on demand, and your circulation in the city bank on demand," what obligation has it imposed upon the country bank? Simply this: it is a victim in the hands of the city bank, and it must make its own terms with the city bank. The city bank will not undertake to redeem the circulation of the country bank without compensation. That compensation, I take it, is in deposits, and what those deposits shall be is a matter regulated not by law, but by arrangement between the two banks. That is the obligation the law puts upon the country bank, and you have left them to mutual arrangements, mutual contract and understanding in order to effectuate, to execute this law; and so far the city and country banks have done it to their mutual satisfaction.

That the possession of these deposits is an advantage to the city bank all admit. The Senator from Vermont admits that. The Senator from New Jersey does not dispute that. But the Senator from New Jersey, and I think the Senator from Vermont, also, rather urged the idea that for the sake of getting this four per cent., which is said to be the amount paid on these deposits, the country banks were crowding their means into the city banks. I do not think that treats the country banks fairly. I do not think it is just, or that it pays due tribute to their judgment and discrimination; and they are smart. I do not believe that of the meager circulation and consequent capital, for after all our banking capital is to a great extent limited by our circulation in the West. I do not think it is fair to suggest that out of that small amount of capital they crowd a large portion of it into the cities to get four per cent., when they could loan it at from seven to ten in their own neighborhood. To meet this requirement of the city banks, to meet the necessities of trade, a large portion of their means are kept, I suppose, in the city banks to the advantage of those banks, and the four per cent. which the city banks pay for it helps to make up the account of profits to the country banks. This seems to me to be a perfectly fair and perfectly safe arrangement.

The Senator from Oregon says that if our country banks do these things we must not complain about having too little bank capital allowed to us. Sir, they do it because your law obliges them to do it; and if our banking capital was only half what it is they would still have to make the same proportionate use of it, in all probability, that they do now; and if it were double the sum that it is now they would still make the same disposition of it.

What is the grievance, what is the injury, that springs from this usage? The Senator from New Jersey has pointed us to the only one I have heard mentioned; and that is, that it stimulates to speculation; money piles up in the city banks and it stimulates speculation in the cities. That is a grievance; that is a hardship; that is an abuse, I suppose. I should be glad to put an end to it; and if I could see any way of putting an end to it now without imposing a hardship upon the country institutions I think I should be willing to do it. But I do not see that way; and until my friend, the Senator from New Jersey, shall show us that some one of these speculators cheated him, who lives there and is exposed them, I am not so very anxious to put an end to these speculations, especially when we have to pay the cost of ending them. If I should hear in some unhappy day that they had proved more than a match for him, and got the advantage of him, then I should seek more earnestly than I do to-day for some means of arresting that sort

of speculation. That is the only abuse that I have heard of yet as growing out of this practice of paying interest on deposits; and I am inclined to think that, until I hear some other, I shall vote to allow the banks to pay it as long as they want to.

The PRESIDENT *pro tempore*. The question is on striking out the first section of the bill, on which the yeas and nays have been ordered.

The Chief Clerk proceeded to call the roll.

Mr. WILLIAMS (when his name was called) said: I am paired on this question with the Senator from Nebraska, [Mr. THAYER.] If he were here he would vote to strike out this section, and I should vote to retain it.

Mr. CATTELL. I feel it my duty to state that my colleague [Mr. FRELINGHUYSEN] was paired on this question with the Senator from Missouri, [Mr. DRAKE.] He took some interest in it on the opposite side to the one I take. If he were present he would vote in favor of striking out this section. I thought it due to him to make this statement, as the Senator from Missouri happens to be absent and unable to explain it.

The result was announced—yeas 26, nays 11; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Chandler, Cole, Conkling, Cragin, Davis, Doolittle, Edmunds, Ferry, Harlan, Hendricks, Howard, Howe, McCreery, Morrill of Maine, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Sprague, Stewart, Trumbull, Vickers, Wade, and Yates—26.

NAYS—Messrs. Cattell, Fessenden, Henderson, Morgan, Morrill of Vermont, Sherman, Sumner, Tipton, Van Winkle, Willey, and Wilson—11.

ABSENT—Messrs. Bayard, Conness, Corbett, Dixon, Drake, Fowler, Frelinghuysen, Grimes, Johnson, Morton, Norton, Nye, Ramsey, Ross, Saulsbury, Thayer, and Williams—17.

So the amendment was agreed to.

Mr. DAVIS. I will now offer an amendment—

Mr. SHERMAN. The question should now be taken on the amendment that I offered to your amendment.

Mr. DAVIS. Very well.

Mr. SHERMAN. I now offer the amendment that I read last night.

#### PENSION BILLS.

Mr. VAN WINKLE. While the Clerk is looking for that amendment, with the consent of the Senate I should like to remark that this day has so far gone by that it would be of no use to the Pension Committee, and I ask the Senate if they will not in their kindness give me Saturday, and make the business of the Pension Committee the special order for that day. This is the fourth time that I have been disappointed.

Mr. POMEROY. I suggest that we have an evening session for that purpose.

Several SENATORS. No, no; it is too hot.

Mr. VAN WINKLE. I cannot consent to that. I want a whole day. I have seventy-five bills on the Calendar.

The PRESIDENT *pro tempore*. The motion can only be put by unanimous consent. Is there any objection? No objection; the Chair will put the question on the motion that pension bills be made the special order for Saturday next.

The motion was agreed to.

#### NATIONAL BANKS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill S. No. 440, supplementary to an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864.

Mr. SHERMAN. I now offer my amendment.

The PRESIDENT *pro tempore*. That amendment is not strictly in order until the bill is reported to the Senate.

Mr. SHERMAN. Very well; let it be reported to the Senate.

Mr. RAMSEY. I desire to offer an amendment to the bill.

Mr. SHERMAN. The Senator can offer his

amendment in the Senate just as well. I know what the amendment is. I desire to have action on the amendment I have pending first.

Mr. RAMSEY. Very good.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in Committee on the Whole. The question will be taken on the amendments collectively, unless a separate vote be demanded by some Senator.

Mr. SHERMAN. I call for a separate vote on the amendment to the fifth section. I desire to offer an amendment to that amendment.

The PRESIDENT *pro tempore*. That amendment will be reserved. The question is on concurring in the other amendments.

The remaining amendments were concurred in.

Mr. SHERMAN. Now I offer my amendment to the amendment of the Senator from Kentucky to the fifth section in the nature of a substitute, and I ask that it be read.

The Chief Clerk read the amendment; which was to strike out all of the fifth section, as amended, after the enacting clause, and to insert in lieu thereof:

That to secure a better distribution of the national banking currency there may be issued circulation notes to banking associations organized in the States and Territories having less national banking circulation than five dollars per inhabitant; but the amount of such circulation shall not exceed \$20,000,000; and the circulation herein authorized shall within one year be withdrawn *pro rata* from banks organized in States and Territories having a circulation exceeding that provided by the act approved March 3, 1865, entitled "An act to amend an act entitled 'An act to provide a national currency, secured by a pledge of United States bonds and to provide for the circulation and redemption thereof;'" to ascertain which the Comptroller of the Currency shall make a statement showing the amount of circulation to be retired by each of such banks, and shall make a requisition for such amount upon such bank; and upon failure of such bank to return the amount so required within the year aforesaid, it shall be the duty of the Comptroller of the Currency to sell at public auction in New York an amount of the bonds deposited by said bank as security for their circulation equal to the circulation to be withdrawn from such bank, and with the proceeds to redeem so much of the notes of such bank as may come into the Treasury as will equal the amount required from them.

Mr. BUCKALEW. I do not know what the word "*pro rata*" means in that amendment. It seems to me it leaves it very dubious.

Mr. SHERMAN. The word "*pro rata*" is used in the law, and its effect is perfectly clear. This retirement of the circulation of banks having an excess is to be *pro rata* upon the amount of their circulation; that is, a bank of \$100,000 would have to give up half as much circulation as a bank of \$200,000. It is *pro rata* upon the circulation. The same expression is used in the original banking act. I think I have drawn this amendment very carefully. I have submitted it to several Senators. In my opinion it expresses the idea as near as it can be expressed in a few words.

Mr. RAMSEY. I should like to inquire of the Senator from Ohio how this surrender of their circulation by the banks is to be enforced?

Mr. SHERMAN. This proposition provides the mode, if the Senator had listened to it. They are required to surrender the amount of circulation assessed upon them within one year. If they fail to do it, the great body of this circulation comes into the Treasury of the United States or the sub-Treasury at New York, and the Treasurer will be bound to retain the notes of those banks, and the bonds of those banks to the amount of the circulation called for from them are to be sold for the purpose of redeeming these circulating notes. That is the only way in which it can be done. The objection to the amendment proposed by the Senator from Kentucky is that it did not point out a mode in which this circulation could be retired.

Mr. RAMSEY. Then I hope the amendment of the Senator from Ohio will be adopted.

Mr. SHERMAN. That is the only difference that I know of between the two.

Mr. MORRILL, of Vermont. I move to

amend the substitute by offering in lieu of it the original proposition which I made in committee, striking out all after the first word of the one and inserting the other. I ask the Secretary to read the amendment.

The PRESIDENT *pro tempore*. This amendment is in the third degree now, I understand.

Mr. MORRILL, of Vermont. I suppose that anything that is offered as a substitute may be amended.

Mr. SHERMAN. I suppose the proper way is to vote on the pending amendment. Then the amendment of the Senator from Vermont is to the original fifth section. This is an amendment to the amendment of the Senator from Kentucky, or rather an amendment to the amendment of the committee.

Mr. MORRILL, of Vermont. Yes; but after having adopted the amendment of the Senator from Ohio, it will then be too late for me to offer my amendment, and therefore, in order to get a vote upon it, I must offer it now. I ask the Secretary to read the amendment.

The PRESIDENT *pro tempore*. It will be read for information.

The Chief Clerk read the proposed amendment, as follows:

And that upon the issue of any increased national circulation provided for by this section the Secretary of the Treasury is hereby authorized and required to permanently withdraw an equal amount of United States notes.

Mr. SHERMAN. That is clearly not in order. We are now acting upon the action of the committee. That action of the committee is the amendment offered by the Senator from Kentucky, and I offer a substitute for that.

Mr. MORRILL, of Vermont. I am proposing to amend the amendment of the Senator.

Mr. FESSENDEN. The Senator from Ohio offers a substitute for the section. Before that substitute is acted upon the Senator from Vermont proposes to amend the section by adding these words to it.

Mr. SHERMAN. But the section is out of the way.

Mr. CONKLING. If the Senator from Maine will hear a suggestion, that is not, I submit, what the Senator from Vermont proposes to do. The Senator from Vermont proposes to amend the original section as it stood. That was stricken out in Committee of the Whole, and an entirely different section, to which this amendment is not applicable, was substituted. Now, the Senator from Ohio moves to strike out that substituted section and to insert the amendment which he offers. The Senator from Vermont proposes to amend the original section, which was stricken out in Committee of the Whole, and is not before us at all.

Mr. MORRILL, of Vermont. Mr. President, as the section now stands, as proposed to be amended by the Senator from Ohio, it will take from New England about twenty million dollars of banking capital. While I prefer that to a positive increase of our amount of circulation, yet I submit that it is not so well as it would be to adopt the original proposition as presented by me, which will make no disturbance in the amount of banking capital held by anybody, but will increase the amount by retiring an equal amount of United States notes.

I agree with the Senator from Oregon that this section will create a very considerable derangement of the business of New England, and that other portions of the United States have as much interest in her prosperity, in keeping the machinery at work in New England, as New England herself. The amount of banking capital there is used for what purpose? To keep the business of the country going. Take Rhode Island or Connecticut or Massachusetts. When their people purchase wool in Ohio or Illinois or Vermont they have not a sufficient amount of capital to go there and buy it from their own means; but ninety-five per cent. of all the money that is paid out for wool is obtained from banks in their own neighborhood. They could not get discounts

in the western banks if they were to go there. The names that they would offer are entirely unknown there. Take the amount of stock that is purchased by drovers in New York, Vermont, Illinois, and Kentucky. When these men come from their own neighborhoods, they get discounts from their own banks; but if they come from the Atlantic coast they have to obtain discounts there; and it requires a great deal of money to move the amount of stock, of sheep, of wool, and of horses that is taken to market.

I only desire, Mr. President, to call the attention of the Senate to the difference between the propositions. It seems to be the general opinion that ere long we shall reach a system of free banking. Will you, then, for this little interim of time compel these banks to withdraw the amount of circulation that they now have out, to be restored to them in twelve or eighteen months hereafter? It seems to me that this is an unnecessary revolution. It is a difficult matter. It will make a fractional sum to all these banks that have to be curtailed; and then the question arises whether you are to take it from the large banks or the small banks. In all parts of New England a very considerable portion of this circulation is distributed in banks of a small amount of capital—of \$50,000. The law sets forth that no bank shall be organized for less. Are you going to diminish these little banks? I submit that there are a great many difficulties about this question when you reduce it to this shape.

I suggested to the Senator from Kentucky a proposition which I think would be fair; that is, that when any of these banks should fail in New England, or should, from any reason, be wound up, then you should take the circulation of such banks and give it in quarters that were destitute. That would operate no hardship upon New England. But it seems to me that to take these banks and strip them according to a certain given percentage, big and little, great and small, is a species of oppression. The alternative which I present works no hardship upon anybody. It only retires an equal amount of United States notes and allows this increase. What is the objection to it? I trust that the amendment that I have proposed to the substitute of the Senator from Ohio may meet with the favor of the Senate.

Mr. SHERMAN. I desire to know whether this proposition is in order or not before I make a brief reply to the Senator from Vermont?

The PRESIDENT *pro tempore*. The Chair has some doubt whether it is strictly in order; but at the same time perhaps the most convenient way and the simplest way would be to take a vote upon it.

Mr. SHERMAN. I have no objection. Now, Mr. President, let us look at the way in which this case stands. I am surprised at the position of the Senator from Vermont. The Committee on Finance, after the most careful consideration, settled a difficult question. A demand was made upon us for some circulation in twelve States of the Union, and we finally agreed rather than disturb the volume of legal tenders, to give them \$20,000,000 of increased bank circulation. As a matter of course this did not affect the State of any Senator represented in the Committee on Finance, except the State of my friend from Missouri, [Mr. HENDERSON.] That was the proposition. In my opinion it is altogether the wisest; but the Senate has, on the question being presented by a motion of the Senator from Vermont, refused to decrease the amount of legal-tender notes in order to make room for this \$20,000,000. That was done by a decided vote. Then the Senate, by a decided vote, aided by the Senator from Vermont, declared that these \$20,000,000 should be deducted from the existing bank circulation. The Senator from Vermont advocated and supported that proposition. Every other member of the committee voted against it. He forced this proposition upon us. He voted for the proposition of the Senator from Kentucky.

Mr. MORRILL, of Vermont. If the Senator will allow me, I say now I shall vote for it; but I do not think it is as good as the original proposition. I am against expansion. I am perfectly consistent. While I shall vote for this, if I cannot do better, I prefer to do better.

Mr. SHERMAN. Now, I ask the Senator, a member of the committee reporting this bill, having once tried his proposition fairly, and having been voted down by ten or fifteen majority, is it worth while now, on this hot day, to waste more time? Suppose I should pursue the same course after having reported this bill, not having the slightest feeling in regard to it; suppose I should insist on having these questions debated and voted upon, and then voted upon all over again, the Senate would be out of patience with me.

Now, sir, the proposition of the Senator from Vermont is to retire \$20,000,000 of greenbacks. Does anybody suppose that that can be done and receive the assent of both Houses of Congress at this session? It is perfectly idle to attempt to send such a proposition as that to the other House. Indeed, even in this body, a proposition to increase the volume of greenbacks would receive more votes than a proposition to diminish the volume of greenbacks. That was tried here early in the session, and I believe but five Senators voted to diminish the volume. Perhaps I am mistaken in that; I do not pretend to be accurate about a vote so long ago; but the Senate almost by a unanimous vote declared that there should be no further diminution of the volume of greenbacks. Why, then, renew the struggle? The question now is between getting this \$20,000,000 by curtailing the greenbacks, or by curtailing the bank circulation.

I was glad to see, and I commend it as patriotic, many of the New England Senators, representing States that would be affected by this proposition, vote for surrendering up a portion of their circulation in order to make up this deficit in the southern States. I was glad to see it. The Senator from Vermont so voted. All the difference between my proposition and the proposition of the Senator from Kentucky, which I took as the sense of the Senate, is simply that this provides a mode and manner of effecting what the Senator from Kentucky desired to effect. I submitted it to him, and he agreed to it as probably the easiest and best way.

Many difficulties might suggest themselves. I can state many. The Senator from Vermont suggests one, that probably we had better take this off the banks of larger circulation. How can you regulate that at this time? It is utterly impossible. A reduction *pro rata* will affect any of these banks but very little; and I have no doubt that it will be made within a year with scarcely a perceptible flurry in the States that will be affected by it. If we intend to give to the southern States any national circulation we cannot do it on a better basis than the one we have now adopted. It is a mere temporary expedient. If we now refuse to equalize this circulation, or to take any step in that direction, what will be the result when twenty Senators come here on this floor to participate in our deliberations and demand some participation in the benefits of this national banking circulation?

It is said that it is now of no service to the States who have it. Then, if it is of no service to those States, why hang on to it so vigorously? But it is of service to every community to have a local bank, because its circulation is loaned out in the community; and we ought to do that much at least for the benefit of the southern States.

I believe myself that the result of our action and the result of all this long debate on this bill, the vote that has been taken refusing to correct the gross and palpable abuse by which national banks are drawing interest on their reserve, will react against the system more than anything that has transpired in Congress. When

the national banks are not content with the benefits conferred upon them by law, but will insist also on drawing interest to the last dollar of their reserve, it will do more to weaken the whole system than anything that has transpired.

But I do not want to debate that over again. I trust that the Senate will stand by its action. It was made against my vote, and with the vote of the Senator from Vermont. Let us settle this question, and get it out of the way of other business that is now pressing upon us. The other sections of the bill, to which there is no opposition, I regard as important and as strengthening the banking system; and I desire to save what is left of this bill.

Mr. CONKLING. Before the vote is taken, that we may give it intelligently, I should like to inquire what the situation of this amendment is, and what is to follow it? The Senator from Vermont proposes now, I understand, to amend the amendment of the Senator from Ohio. If the amendment of the Senator from Vermont is carried, I inquire upon what will the Senate then be called to vote?

The PRESIDENT *pro tempore*. As the Chair understands the amendment, it substitutes for the fifth section the proposition of the Senator from Vermont.

Mr. MORRILL, of Vermont. If the Chair will permit me, it leaves the section so that an increase of \$20,000,000 will be allowed, but will require a withdrawal of an equal amount of United States notes.

Mr. CONKLING. Mr. President, I beg to state now in a word the attitude of this question, as I understand it, because I am not able to tell how my vote is to count if I vote for the amendment proposed. Originally, the proposition was to issue \$20,000,000 of national currency. So that this amendment applies and was to the effect that a corresponding sum of United States notes should be retired at the same time. That is all intelligible. That proposition, however, was struck out altogether, and the committee inserted the provision offered by the Senator from Kentucky, in place of all these, that \$20,000,000 should be withdrawn from the national banks now in excess. The amendment offered by the Senator from Ohio is merely to revise and improve, as he thinks, this provision of the Senator from Kentucky, to make it more effectual.

Mr. BUCKALEW. Make it work better.

Mr. CONKLING. Make it work better, as the Senator says. Now, the Chair will see that it is wholly repugnant to the amendment offered by the Senator from Vermont. His amendment has no relation whatever to this. Suppose it were adopted; we should then have before us an amendment providing that \$20,000,000 should be withdrawn from the national banks, and that the Secretary of the Treasury should cancel \$20,000,000 more of greenbacks. Is that what anybody means? Certainly not. Therefore I submit to the Chair, with great deference, that unless we are lost in the mazes of metaphorical confusion, or some other confusion, this amendment is out of order, and the amendment of the Senator from Ohio, being to strike out the proposition of the Senator from Kentucky and insert this revised edition of that, is the only thing upon which we can now vote.

Mr. MORRILL, of Vermont. I think the Senator from New York fails to understand the proposition, or else I do. My proposition is simply to come in at the end of the section as it originally stood.

Mr. CONKLING. Now, if my friend will allow me, that section is not, and cannot be, before the Senate. Why? Because the Senate is acting upon the report of the Committee of the Whole, in which there is an absence of that amendment. It was expressly stricken out, and no such thing appears. My point of order is that there is nothing here to which this amendment can attach. The thing to which the Senator seeks to attach it is absent; it is gone forever, unless we reconsider the

vote in Committee of the Whole and reinstate it in the bill.

Mr. MORRILL, of Vermont. I beg pardon; the amendment of the Senator from Kentucky attaches to the end of that section.

Mr. CONKLING. Not at all; there is where the Senator is mistaken. The amendment of the Senator from Kentucky obliterates that section and takes its place, and there it stands; and now the Senator from Ohio proposes to strike out that and substitute his section, and the Senator from Vermont offers an amendment to that which, if placed upon it, I say with all respect to him, would not only fail to make sense, but would be so repugnant as to be ludicrous.

Mr. MORRILL, of Vermont. Then I will vary the proposition so as to include the whole section as it stood when reported from the committee with this amendment, which I offer.

Mr. CONKLING. That may do; then we can vote intelligently upon that, but we cannot otherwise.

Mr. DOOLITTLE. This amendment proposed by the Senator from Ohio has an ambiguous look upon it; and I should like to know what it means. If I read it correctly, it proposes now to increase the circulation \$20,000,000, and then in the course of a year begin a system of reduction to reduce \$20,000,000. That is the way it reads. There is to be an additional circulation thrown out at once of \$20,000,000, and then in the course of a year there is to commence a reduction of \$20,000,000 in the circulation where it is held in excess.

The effect of the proposition is simply to expand the paper circulation \$20,000,000 now, and then reduce it again in a year. If the bill provided that this new circulation should be issued just in proportion as the existing circulation is reduced elsewhere, there would be no expansion of the circulating medium; there would be no stimulation of speculation or of prices by the action of the Senate; but if you give \$20,000,000 new paper circulation now, and within a year from this time begin to reduce it again, you will have the effect of buoying us up and then letting us down again. I do not think it a wise system of finance. There is no stability in the circulation produced by this. It seems to me the amendment of the Senator from Ohio is defective in that it does not provide that the new circulation shall be issued as the old circulation is withdrawn and just in the same proportion. Then there is no expansion.

Mr. SHERMAN. I do not want to go over this so often. The law now limits the amount to \$300,000,000. That limit stands, and is not effected by this provision. The total amount cannot exceed the present amount authorized by law. But this debate has grown to be a wearisome thing. I have listened to it; I have sat here and heard every thing in the world discussed except the question at issue. I do not think the limit fixed by law of \$300,000,000 is at all changed.

Mr. DOOLITTLE. Well, Mr. President, this is a new law authorizing the expansion of the circulating medium \$20,000,000. The effect of the bill is to authorize the putting in circulation of \$20,000,000 of paper which is not in circulation now. It then provides for in a year beginning a contraction of \$20,000,000, so as to bring yourselves back again where you are now. The effect of it is to give an unnatural stimulus by issuing \$20,000,000 of bank paper, very soon to be followed by a retiring of the same \$20,000,000 next year. What is the effect on credits, prices, and values? I think that unless we wish to adopt the principle of the expansion of the paper medium the amendment ought certainly to contain a provision which shall limit expansion as the other is retired during the year, so that there is no shock produced, there is no expansion produced, and there is no curtailment of the paper circulation produced by this law.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from



Vermont to the amendment. The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Ohio to the amendment made as in Committee of the Whole.

Mr. FESSENDEN. I wish to suggest a proviso to the section drawn by the Senator from Ohio, which perhaps he will accept; it carries out the original idea of the Senator from Kentucky:

*Provided*, That the \$20,000,000 of additional circulation herein authorized shall be issued only as circulation shall be withdrawn as herein provided, so that at no time shall the whole amount of circulation notes exceed \$300,000,000.

Mr. SHERMAN. That is almost precisely in the words of a proviso which I have drawn myself, which I will add to my amendment, in these words:

*Provided*, That the circulation herein authorized shall be issued only as circulation is withdrawn, and so that the aggregate circulation shall not at any time exceed \$300,000,000.

Mr. DAVIS. I have no objection myself to the proposition of the Senator from Maine; I think it is a repetition of the meaning and effect of the proposition made by the Senator from Ohio. In that view of the effect of both propositions, I am willing, so far as I am concerned, to accept the proposition of the Senator from Maine.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio to the amendment made as in Committee of the Whole.

Mr. HENDERSON. I desire to inquire whether, under the amendment as now modified, with the proviso added, it is possible for the Comptroller to withdraw the \$20,000,000 without issuing them to the southern States.

Mr. FESSENDEN. He issues precisely as he withdraws.

Mr. HENDERSON. I understand that he cannot increase the total amount over and above \$300,000,000; but is there any requirement that he may not decrease below that?

Mr. FESSENDEN. He is required to issue \$20,000,000 more, and to withdraw for that purpose.

Mr. HENDERSON. I should like to have the amendment of the Senator from Ohio read in connection with the proviso. My understanding now is that under that proposition \$20,000,000 may be withdrawn and not a dollar issued.

Mr. EDMUNDS. That would not hurt the country any.

The PRESIDENT *pro tempore*. The amendment will be read.

The Chief Clerk read as follows:

That to secure a better distribution of the national banking currency, there may be issued circulation notes to banking associations organized in States and Territories having a less national banking circulation than five dollars per each inhabitant; but the amount of such circulation shall not exceed \$20,000,000; and the circulation herein authorized shall, within one year, be withdrawn *pro rata* from banks organized in States having a circulation exceeding that provided for by the act approved March 3, 1865, entitled "An act to amend an act entitled 'An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof,'" to ascertain which the Comptroller of the Currency shall make a statement showing the amount of circulation to be retired by each of such banks, and shall make a requisition for such amount upon such bank, commencing with banks in States having the largest excess of circulation; and upon failure of such bank to return the amount so required within the year aforesaid it shall be the duty of the Comptroller of the Currency to sell at public auction, in New York, an amount of the bonds deposited by said bank as security for their circulation equal to the circulation to be withdrawn from such bank, and with the proceeds to redeem so much of the notes of said bank as may come into the Treasury as will equal the amount required from them: *Provided*, That the circulation herein authorized shall be issued only as circulation is withdrawn, and so that the aggregate of circulation shall not at any time exceed \$300,000,000.

Mr. HENDERSON. I suggest to the Senator from Ohio that after the words "circulation herein authorized," in the proviso, he insert the words "and actually issued." The proper construction of the language as it is will certainly give the Comptroller authority to

withdraw \$20,000,000 whether banking capital is used in the South or not.

Mr. FESSENDEN. Not at all. He can only withdraw for the purpose of issuing.

Mr. HENDERSON. If that be the idea there can be no objection to inserting the words "and actually issued" after the words "circulation herein authorized."

Mr. FESSENDEN. It is already issued—already out.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio to the amendment.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on concurring in the amendment made as in Committee of the Whole as thus amended.

The amendment, as amended, was concurred in.

Mr. RAMSEY. I suppose the bill is now open to further amendment.

The PRESIDENT *pro tempore*. It is.

Mr. RAMSEY. I offer this amendment as an additional section:

*And be it further enacted*, That when any national banking association shall desire to change its name or location, the directors of such association shall file with the Comptroller of the Currency a written statement, setting forth the changes proposed and the reasons therefor, and upon the approval of the Comptroller of the Currency the first and second articles of the organization certificate of such association may be amended by a vote of the shareholders owning three fourths of the stock, so as to provide for such removal and change of name, which amendment shall be certified to the Comptroller of the Currency under the seal of the association, together with the names of the shareholders and the number of shares held by each voting for or against the amendment. Whereupon notice shall be given at the expense of the association by publication for thirty days in one newspaper published in the city of New York, one in the city of Washington, and one in the place where such association is located, or if there be no newspaper at such place, then in a newspaper published at the nearest place thereto, that said association has taken the necessary steps to change its name and location, and calling upon all creditors to present their claims for payment, and at the expiration of thirty days from the first publication of said notice the office of the association may be removed as aforesaid; but provision shall first be made for the payment of its deposits and the redemption of its circulating notes at an office in the place where said association was originally organized for six months after the removal, and after the expiration of six months all deposits not paid shall be payable, and all circulating notes not redeemed shall be redeemable at the office of the association: *Provided*, That none of the rights of creditors, none of the liabilities of debtors, and none of the rights or liabilities of the association shall be in any way impaired or modified by such change of name or location; and the removal shall not be beyond the bounds of the State of its first location.

This amendment is intended to supply an omission in the original banking bill, and was drawn up at my instance by the Comptroller of the Currency, and meets his approbation. I have before me a letter of his, in which he says:

"Mr. Ramsey's bill, which I have marked as section three, was prepared originally under my supervision, and is intended to meet a want which has long been felt. Quite a number of applications have been made by national banks for the privilege of changing their names or location, all of which I should have favored if the law had given me power to do so. Several banks, organized originally in the oil regions, in localities where business was brisk and money plenty, have, by the fluctuations in the oil trade, and the failure of the oil wells, been left almost entirely without business, and have become entirely useless as banks. It would be very desirable if some provision could be made for their removal. I think the concurrence of three fourths of the stockholders and the approval of the Comptroller of the Currency, which this bill requires, would prevent any abuse of the privileges therein granted."

It so happens that two or three banks in my State were located erroneously at the inception of this banking system; and they wish to remove to other and more desirable localities; the stockholders of the banks consent, and the people of the locality to which they wish to go desire to have them. I can see no reasonable objection to allowing them to do it, and I am surprised that having this unqualified approbation of the Comptroller of the Currency before them, the Committee on Finance did not recommend this proposition.

It was natural that in the first institution of these banks throughout the country some of

them should have been mislocated, and it is surprising to me that the first law did not provide in some way for allowing a change of location.

Again, doubtless there must be occasion for the change of names. Surely, that is a very harmless thing, and there can be no objection, I imagine, to allowing a bank to change its name when that is desired under proper safeguards.

I am surprised that the Committee on Finance did not see this matter in the same light that those whom I represent and the Comptroller of the Currency did. Surely no harm can come from the proposition. It is, indeed, most obviously right. Why should there not be some proposition on the statute-book to meet the case? It may be said, let each case come here on its own merits, and a special law can be passed; but where errors are so certain to be made, where there must be necessarily many mistakes, why should we not provide a general remedy and not put parties to the inconvenience of coming to Congress in every special case. For myself I think the proposition is obviously right, and I hope the Senate will so regard it.

Mr. SHERMAN. We examined this matter of putting banks on wheelbarrows and wheeling them from one State to another and one county to another, and concluded that it would not do. If the business of a bank dies out in any particular place the law points out a mode in which it may be wound up very easily. We have provided a section hereunder which it can be wound up in sixty days, and then the stockholders can take their chance for a new location. The result of a proposition of this kind would be, as every Senator can see, that banking capital would concentrate in the large commercial ports with great advantage to banks and to the injury of the communities throughout the country generally. When the Senator from Minnesota comes to consider it and think of it, I am sure he will find that it is surrounded with difficulties. The Finance Committee unanimously rejected the proposition after fair examination.

Mr. RAMSEY. A very common mode of killing a thing that is right in itself is by giving it a bad name; and so the Senator calls this a proposition to move about these banks on wheelbarrows. Why did not the Comptroller of the Currency see it in that light? He makes no objection of that kind. The whole matter is in his province, under his constant supervision, and he sees no difficulty of that kind. When a bank is mislocated and another location is desirable, what possible harm can there be in allowing it to be removed from one place to the other?

Again, sir, to guard against any abuse of this privilege, it is required that a removal shall only take place with the consent of the Comptroller of the Currency. His supervision was your only guarantee against abuse in the first location of the banks. His assent was then required, as I now require it, to any change of location. The law requires a certain population in order to justify a bank of a certain capital. All these securities still remain in the law. The proposition which I have made is not to allow banks to remove themselves about on wheelbarrows, but it is simply to allow changes of location under proper supervision by the Comptroller of the Currency. He is the officer of the Government who has special charge of banking affairs, and the proposition is entirely agreeable to him. I ask for the yeas and nays on my amendment. I want to see whether localities that have not been accommodated can be accommodated.

The question being taken by yeas and nays, resulted—yeas 11, nays 23; as follows:

YEAS—Messrs. Cole, Cragin, Harlan, Howard, Howe, Pomeroy, Ramsey, Vickers, Wade, Wilson, and Yates—11.

NAYS—Messrs. Buckalew, Cattell, Conkling, Davis, Doolittle, Edmunds, Ferry, Fessenden, Henderson, Hendricks, McCreery, Morgan, Morrill of Vermont, Patterson of New Hampshire, Patterson of Tennessee, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Willey, and Williams—23.

ABSENT—Messrs. Anthony, Bayard, Cameron, Chandler, Conness, Corbett, Dixon, Drake, Fowler, Frelinghuysen, Grimes, Johnson, Morrill of Maine, Morton, Norton, Nye, Ross, Saulsbury, Thayer, and Tipton—20.

So the amendment was rejected.

Mr. DAVIS. I propose an amendment, on which for myself I wish to take a silent vote, without calling for the yeas and nays:

*And be it further enacted, That all laws imposing any tax upon the circulation notes or notes of issue made by any bank of any State or Territory, or imposing any tax in any form upon such banks, be, and the same are hereby, repealed.*

The amendment was rejected.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. MORRILL, of Vermont. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 14; as follows:

YEAS—Messrs. Buckalew, Cattell, Chandler, Cole, Cragin, Davis, Doolittle, Ferry, Harlan, Henderson, Howard, McCreery, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Van Winkle, Wade, Willey, and Wilson—25.

NAYS—Messrs. Anthony, Bayard, Cameron, Conkling, Edmunds, Fessenden, Hendricks, Howe, Morgan, Sprague, Trumbull, Vickers, Williams, and Yates—14.

ABSENT—Messrs. Conness, Corbett, Dixon, Drake, Fowler, Frelinghuysen, Grimes, Johnson, Morrill of Maine, Morrill of Vermont, Morton, Norton, Saulsbury, Thayer, and Tipton—15.

So the bill was passed.

Mr. MORRILL, of Vermont, (when his name was called.) I am paired with Mr. MORRILL, of Maine. If he were present he would vote against the bill, and I should vote for it.

#### REMOVAL OF POLITICAL DISABILITIES.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1059) to relieve certain citizens of North Carolina of disabilities, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. F. FARNSWORTH of Illinois, Mr. H. E. PAINE of Wisconsin, and Mr. J. B. BECK of Kentucky, managers at the same on its part.

On motion by Mr. STEWART, the Senate proceeded to consider its amendments to the bill (H. R. No. 1059) to relieve certain citizens of North Carolina of disabilities, disagreed to by the House of Representatives; and

On motion by Mr. STEWART,

*Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.*

It was ordered that the conferees on the part of the Senate be appointed by the President *pro tempore*; and Messrs. STEWART, WILSON, and SHERMAN were appointed.

#### EXECUTIVE SESSION.

Mr. HOWARD. I move to take up the bill (S. No. 256) relating to the Central Branch Union Pacific Railroad Company.

Mr. SHERMAN. I think we had better go into executive session, and not waste time about the order of business. I move that the Senate proceed to the consideration of executive business.

Mr. POMEROY. Let the bill of the Senator from Michigan be taken up first.

Mr. SHERMAN. The question of taking it up will lead to debate. I think we had better go into executive session.

Mr. NYE. I hope the Senator will allow this bill to be taken up.

Mr. EDMUNDS. Debate is not in order on this motion.

Mr. POMEROY. On the motion to go into executive session I ask for the yeas and nays. The yeas and nays were ordered.

Mr. RAMSEY. I appeal to the Senator from Ohio to withdraw his motion. The Senator from Michigan, I understand, is willing when his bill is taken up to yield.

Mr. EDMUNDS. I object to any debate. The PRESIDENT *pro tempore*. The ques-

tion is on the motion of the Senator from Ohio, that the Senate proceed to the consideration of executive business.

The question being taken by yeas and nays, resulted—yeas 22, nays 15; as follows:

YEAS—Messrs. Anthony, Bayard, Buckalew, Cole, Conkling, Davis, Doolittle, Edmunds, Fessenden, Henderson, Howe, McCreery, Morgan, Morrill of Vermont, Patterson of New Hampshire, Patterson of Tennessee, Ross, Sherman, Sprague, Trumbull, Van Winkle, and Vickers—22.

NAYS—Messrs. Cameron, Cragin, Ferry, Harlan, Hendricks, Howard, Nye, Pomeroy, Ramsey, Stewart, Sumner, Wade, Willey, Wilson, and Yates—15.

ABSENT—Messrs. Cattell, Chandler, Conness, Corbett, Dixon, Drake, Fowler, Frelinghuysen, Grimes, Johnson, Morrill of Maine, Morton, Norton, Saulsbury, Thayer, Tipton, and Williams—17.

So the motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 17, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### ELECTION CONTEST—M'KEE VS. YOUNG.

Mr. COOK, from the Committee of Elections, to whom were recommittees the report and papers in the case of McKee vs. Young, of the ninth congressional district of Kentucky, submitted a report in writing, accompanied by the following resolution:

*Resolved, That Samuel McKee was duly elected a member of the House of Representatives in the Fortieth Congress from the ninth congressional district of the State of Kentucky.*

The report was laid on the table and ordered to be printed.

Mr. COOK. I desire to give notice that I shall call up this report some day early next week.

Mr. KERR. I desire to inquire if this is a report of the majority of the committee or only of a minority?

Mr. COOK. It is the report of the majority.

Mr. KERR. I was not aware that any such report had been agreed to.

Mr. COOK. The report was adopted in committee yesterday, in the absence of the gentleman from Indiana, [Mr. KERR,] but the gentleman from New York [Mr. CHANLER] was present.

#### WASHINGTON GAS-LIGHT COMPANY.

Mr. WASHBURN, of Indiana, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved, That the president of the Washington Gas-Light Company be, and is hereby, requested to furnish this House without delay a statement showing the quantity in feet of illuminating gas furnished the Government of the United States by said company, and the amount of money received for the same from the 30th day of June, 1867, to the 31st day of May, 1868, and an estimate for the month of June, 1868, giving the quantity of gas furnished each month separately, and the amount of money received therefor; also, designating in said statement the quantity of gas furnished each department of the Government, and the amount received for the same; and the number of lamps supplied with gas by said company upon the streets, avenues, public grounds, parks, public gardens, &c.*

STARK B. TAYLOR.

Mr. CULLOM asked and obtained leave to have withdrawn from the files of the House and referred to the Committee on the Judiciary the papers relating to the increased salary to Stark B. Taylor, bailiff of the Court of Claims.

#### TAX ON DISTILLED SPIRITS.

Mr. STEVENS, of Pennsylvania, by unanimous consent, submitted the following resolution; which was referred to the Committee of Ways and Means:

*Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of bringing in a bill to collect the revenue on distilled spirits, on the principle of taxing the capacity of the still and apparatus, making due allowance for the waste, to contain provisions like the following:*

*First. Call in experts, builders, and operators to ascertain the utmost quantity which a still could produce in twenty-four hours, constant running.*

*Second. Let the distiller take out a license for just*

such time as he may choose to operate, paying or giving good security to pay the tax on all spirits which could be produced within the period of the license.

*Third. If the distiller should be found to overrun the period of his license, he should be subject to imprisonment in the penitentiary.*

*Fourth. If any one should be found to have distilled spirits without a license he should be subject to like punishment.*

*Fifth. If there should be any unoccupied distillery, the key should be given to a revenue officer, who should be heavily punished if he should suffer it to go into the hands of any other person for the purpose of using the distillery.*

*Sixth. The keeping of any concealed stills should be heavily punished.*

#### TAX ON BANKS.

Mr. INGERSOLL. I ask unanimous consent to submit the following resolution for consideration at this time:

*Resolved, That the Committee of Ways and Means are hereby directed to consider and report upon the subject of a tax on the capital, deposits, and circulation of all national and other banks of issue in connection with the bill directed by the House to be prepared.*

Mr. RANDALL. I will not object to the resolution if the gentleman will include in his resolution the words "deposits of Government funds."

Mr. INGERSOLL. Very well; I will modify my resolution to that effect.

The resolution, as modified, was agreed to.

#### HOT SPRINGS RESERVATION, ARKANSAS.

Mr. JULIAN, by unanimous consent, introduced a bill (H. R. No. 1276) for the sale of the Hot Springs reservation in Arkansas; which was read a first and second time, and referred to the Committee on the Public Lands.

Mr. ELDRIDGE moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. VAN WYCK. I ask unanimous consent to submit the following preamble and resolution for consideration at this time:

Whereas foreign nations should not be allowed to raise the question whether American citizenship was acquired by birth or adoption, the rights of citizenship being the same to all citizens; and whereas this Republic has pledged its faith to persons of all nations that residence, renunciation of former allegiance, and compliance with our laws make them citizens here, and the honor of the nation is pledged that such promise be redeemed, no matter whence came the citizen or how powerful the nation that denies it; and whereas Great Britain has, in defiance of the law of nations, a portion of her own history and the results of the war of 1812 lately established in her courts the dogma once a subject always a subject, and has in repeated instances refused to recognize the rights of American citizens by denying them the privilege of mixed juries, treating as subjects of her realm many of our citizens who had periled life in defense of this Government during the war of the rebellion, in some cases arresting and imprisoning for words spoken in this country; Therefore,

*Resolved, That the President of the United States immediately demand from any foreign country who may have imprisoned American citizens for words spoken in this country acknowledgment as complete and ample as was made by Mason and Slidell, and if such apology is denied, he report the fact to Congress for its action; also, that he demand reparation in all cases where American citizens have been treated as subjects of a foreign Power. And that to all such persons now imprisoned the rights herein claimed shall be granted; and that he report to this House what he has done, if anything, to secure such rights and redress the wrongs above set forth.*

Mr. STEVENS, of Pennsylvania. I object, sir. This is a very grave matter, about which I know nothing, and yet a great many things are asserted. I object.

Subsequently Mr. STEVENS, of Pennsylvania, withdrew his objection; and the preamble and resolution went over for discussion.

J. HORTON.

On motion of Mr. WARD, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of J. Horton, and without leaving copies on file.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate of the United States, by Mr. GORHAM, its Secretary, notifying the House that that body had

passed House bill No. 1059, to relieve certain citizens of North Carolina of disabilities, with amendments, in which he was directed to ask the concurrence of the House.

#### NATIONAL SAFE-DEPOSIT COMPANY.

The SPEAKER. The question in order is the consideration of the bill (H. R. No. 579) supplemental to an act to incorporate the National Safe-Deposit Company of Washington, in the District of Columbia, approved January 22, 1867, reported from the Committee for the District of Columbia. The pending question is on the amendment of the gentleman from Tennessee [Mr. MAYNARD.]

Mr. WASHBURN, of Illinois. What is it?

The SPEAKER. "The gross receipts to be taxed the same as the gross receipts of express companies."

Mr. BOUTWELL. Is the bill open for debate?

The SPEAKER. It is not.

Mr. BOUTWELL. I wish to speak five minutes.

Mr. INGERSOLL. When the question is taken on the amendment of the gentleman from Tennessee, I will yield the floor to the gentleman.

The SPEAKER. At the expiration of the morning hour yesterday the House was dividing on seconding the previous question, no quorum voting.

Mr. INGERSOLL. I modify my demand for the previous question, so as to cover only the amendment of the gentleman from Tennessee.

The previous question was seconded and the main question ordered.

The House divided; and there were—ayes 30, noes 21; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. TWICHELL and Mr. HOTCHKISS.

The House again divided; and the tellers reported—ayes 47, noes 49.

So the amendment was disagreed to.

Mr. INGERSOLL. I yield the floor to the gentleman from Massachusetts for five minutes.

Mr. BOUTWELL. My objection to this bill, Mr. Speaker, is, first, to the principle of the bill. It proposes to endow a company already existing to receive on deposit articles of value and keep them in safes in a fire and burglar-proof building, and to charge commission and compensation therefor. It authorizes this company to receive moneys, the savings of the poor in this District and vicinity. Now, then, it is a well-fixed rule in England and France, and in this country, that savings institutions, which take the fruit of the labor of the poor, of widows and orphans, should not be allowed by law to do any other business whatever, involving the proceeds of the industry of these people who are not capable of taking care of their money themselves. Therefore I object to endowing this corporation with any power of this sort.

Then, in the next place, wherever savings institutions are properly established they are mutual. This is not. They are authorized to receive the savings of the poor, and are to publish annually the rate of interest they will allow and take the difference to themselves. Therefore it is merely endowing this corporation with the authority of Congress to borrow money for their own advantage instead of holding it in trust for the benefit of the depositors.

Then, in the next place, and it is a more serious objection, they are authorized to be pawnbrokers, to receive on deposit in trust personal property and real estate; and in addition to that they are endowed with a power which no corporation under any Government ever was endowed with, and that is to dispose of real estate put into their hands in trust without any proceeding of law or equity, only having the consent of the purchaser to the transaction. The person who deposits or places in their hands real or personal property by this act has no control over it whatsoever. I believe I have said enough, if enough can be said, to

satisfy this House that no such power ought to be granted to that institution.

Mr. INGERSOLL. What part of this bill authorizes this company to dispose of property put in their possession without the consent or authority of the parties from whom they receive it?

Mr. BOUTWELL. The third section of the bill as it stands authorizes them to dispose of real estate put into their hands in trust without any proceeding in law or equity whatsoever.

Mr. INGERSOLL. I desire the Clerk to read the third section, as modified.

The Clerk read as follows:

SEC. 3. And be it further enacted, That the said National Deposit Company be hereby authorized to receive and hold on deposit and in trust estate, real and personal, including the notes, bonds, obligations, and accounts of estates and individuals, and of companies and of corporations, and the same to purchase, collect, adjust, and settle, and also to sell and dispose of the same in any market in the United States or elsewhere without proceeding in law and equity, and for such price and at such times as may be agreed upon between them and parties contracting with them.

Mr. BOUTWELL. Is that satisfactory?

Mr. INGERSOLL. Mr. Speaker, in reply to some objections of the gentleman from Massachusetts urged against this bill I have to say that the city of Washington has not the population or business sufficient to sustain a corporation limited to the mere business of a savings-bank. A city with a floating or temporary population of fifteen or twenty thousand, and a permanent population of perhaps twice that number, can hardly expect to support a purely savings-bank. Consequently it is found necessary to couple with it some other business. The Safe-Deposit Company, which has been in operation long enough to give evidence of its utility, practicability, and necessity, propose to extend the powers of the company under the provisions of this bill. There are no better business men, perhaps, in the city of Washington than those who have organized this Safe-Deposit Company. They are now carrying it on; but with the best business ability brought to bear upon its prosecution they have only been able to make it pay current expenses.

Now, what is the length and breadth of this proposition? This company propose to receive on deposit such sums of money as people see fit to deposit with it, and on sums exceeding five dollars, if remaining a definite time, they propose to pay a certain rate of interest. They propose, in addition to that, to act as agent for parties who have estates to settle or who have real estate that they wish to sell. In other words, they propose to constitute themselves a general agent, under the authority of this bill, to transact such business as any party may see fit to put into their hands within the limitations of the bill. If they have the power to settle estates, and if they have power to insure a faithful performance of the duties imposed upon any trustee, what objection is there to that? None that I can see. What objection is there if any person owning an estate selects this company as trustee, with specific directions, to appropriate the rents and profits received from that trust to certain specific purposes? Suppose within a month after the trust is assumed the party directs this company to sell it, what need is there of any proceeding in a court of equity in such a case as that? None whatever. The party owning the property, personal or real, puts it in the hands of this corporation to be disposed of in accordance with the directions he shall give. In the disposition of property belonging to minors or estates this company will be subject to the orders and decrees of the courts.

Mr. O'NEILL. I ask the gentleman whether this bill proposes an extension of power in the franchise conferred upon this company?

Mr. INGERSOLL. It does.

Mr. O'NEILL. I will then take occasion to say, with the permission of the gentleman, a very few words in regard to the result of granting such powers in Pennsylvania to companies of this kind. There is a number of

these companies that have been organized in Philadelphia within a few years past, which have had trust powers conferred upon them by the Legislature at the suggestion of the courts, and now many trust estates are being settled by such companies, either on the application of the parties themselves or upon the decisions and adjudications of our courts, not only to the great convenience of parties interested, but insuring greater safety to them. I think the extension of this franchise to this company is a most excellent idea, and I hope, from what I have known in my own experience of the carrying on of such institutions, that this House will grant the extension. It is most assuredly for the convenience of the people. I do not see what liability there is of losses, and why there is not sufficient responsibility for the funds put in their possession in trust. The power to control that trust is certainly with the courts, and any wrong doing by this company, just as I have seen it in my own State, would subject it to a decision of the courts, and they could be forced by the power of the courts to do what is right and proper, and in equity toward the parties whose funds have been placed with them in trust.

Mr. STEWART. Is the gentleman aware that this bill allows this corporation to purchase and sell real and personal estate?

Mr. O'NEILL. Yes, I am aware of that. They can do it upon certain conditions.

Mr. STEWART. They can purchase and sell any kind of real and personal estate, and there is no condition whatever.

Mr. O'NEILL. It is not an absolute power.

Mr. STEWART. Yes, sir, absolute.

Mr. RANDALL. Will my colleague tell me what act of the Pennsylvania Legislature ever gave such powers as are provided for in this bill?

Mr. O'NEILL. I can tell my colleague what acts of the Legislature of Pennsylvania conferred such powers as these, and what companies possess them. They are well known to him. Our Philadelphia Saving Fund Company has all these powers.

Mr. RANDALL. That has been in existence ninety years, and is in existence without any legislative enactment.

Mr. O'NEILL. It was chartered perhaps eighty or ninety years ago; but its powers and franchises have from time to time been increased by the Legislature of Pennsylvania, and there are other companies.

Mr. RANDALL. They have no power to buy and sell real estate except for the location of their own place of business.

Mr. O'NEILL. I do not say they have. I am speaking simply to the point of giving this corporation power to receive funds upon trust; and I know from actual experience in our own State that such companies as this, with such powers, have done and are doing great good for those whose funds are placed in their charge.

Mr. RANDALL. And some of them have done great harm.

Mr. O'NEILL. Not one of them that I know of.

Mr. RANDALL. One of them is before the courts at this time.

Mr. O'NEILL. That is not the same kind of company. It is a deposit company. The power to which I am speaking now is the power of acting as trustees. I know there have been some worthless deposit companies.

Mr. RANDALL. There is everything embraced in this bill.

Mr. O'NEILL. I am speaking only to this one power to which, I understand, the gentleman from Massachusetts [Mr. BOUTWELL.] objects. All the leading safety-fund companies in Philadelphia have power to accept funds as trustees.

Mr. PRUYN. I suggest to the friends of this bill that it be recommitted to the committee, with authority to the committee to report it back at any time, in order that it may be perfected. It is open to objections which it is almost impossible to obviate in a discussion of this sort. Those difficulties may be obviated



if the bill be recommitted, and, if it is in order, I will make that motion.

Mr. BLAINE. What is it?

Mr. PRUYN. That the bill be recommitted to the Committee for the District of Columbia, with power to report it at any time.

The SPEAKER. The motion to recommit is in order if the gentleman from Illinois [Mr. INGERSOLL] yields the floor for that purpose, but the power to report at any time requires unanimous consent.

Mr. RANDALL. I object.

The SPEAKER. Does the gentleman from Illinois yield the floor to enable the gentleman from New York to move to recommit the bill?

Mr. INGERSOLL. No, sir, I do not. It would have been well, perhaps, had this bill been printed, for I see that the gentleman from Massachusetts [Mr. BOUTWELL] is under great misapprehension in regard to the provisions of this bill, especially in regard to the third section. That section does not provide that this company shall have uncontrolled authority to dispose of any estate, personal or real, held in trust by it; there is no such authority conferred. They have authority to hold estates and settle them, to collect indebtedness to estates, to hold and dispose of real property; but it is subject to the decree of the court having jurisdiction of the estate, and which puts the estate within the control of the company. It is regulated by the decree of the court; otherwise this company never can act as trustee of any funds belonging to estates. Am I not right in that?

Mr. BOUTWELL. They can of individual funds.

Mr. INGERSOLL. What objection is there to that? I have spoken of what are the rights of this company, so far as concerns estates belonging to minors and others. But an individual, having the absolute right to dispose of his own property as he sees proper, puts his property, real and personal, in the hands of the company to dispose of for him, according to such terms as he may dictate. Is there anything objectionable in that? This company has no more right to touch the estate of any minor or any ward, or to touch any trust fund whatever, without a decree of the court first made conferring that authority, than I have. Therefore I do not see that there can be any valid objection to the powers conferred by this section.

Mr. PRUYN. There is nothing in this third section about a decree of a court.

Mr. INGERSOLL. Will the gentleman tell me how this company can get the legal control of the estate of any minor or person of full age, or of any estate whatever, without the authority of a court?

Mr. PRUYN. I have just read that section. If I understand it at all, and can comprehend what it means, it confers a general authority to deal in real and personal estate. Now, I hold that that business ought not to be connected with the business of a savings-bank; the two things are not compatible with each other, and ought not to go together. There is no reference whatever to any court; there is no reference to any judicial order being requisite for the acceptance of this trust.

Mr. INGERSOLL. I have not said otherwise. But I have said that it is not possible for any corporation or person to assume the legal control of any estate, trust fund, or trust property, without the sanction of a court. I deny that the third section confers the right upon this company to deal generally in buying and selling real estate.

Mr. PRUYN. Will the gentleman agree to have this bill amended so that this company shall only hold such property as may be placed under their control by the order of some court of competent jurisdiction?

Mr. INGERSOLL. So far as relates to any estates of minors, &c., I will.

Mr. PRUYN. To everything.

Mr. INGERSOLL. No, sir. What do I need of an order from a court if I wish to select this company to sell real estate for me?

Mr. PRUYN. I do not want this company to do any business of the kind.

Mr. INGERSOLL. I may want it, and I would prefer this corporation to a land agent.

Mr. SCOTFIELD. Why is a corporation needed to buy and sell land and other property unless it is to get rid of all liabilities so as to pocket the profits? What security is there for a corporation to deal in lands and chattels?

Mr. INGERSOLL. None whatever, and there is no such authority conferred in this bill. I will offer an amendment to the third section which may obviate some of the objections urged against it. I move to amend the third section by adding to it the following:

*Provided, That all deposits received and appropriated in conformity with this act, and all business transacted in relation thereto, shall be separate and distinct, and in no way connected with deposits made for safe-keeping and business transacted in relation thereto, as provided in the act to which this is a supplement.*

Mr. PRUYN. Of course they will do that without any such authority.

Mr. POMEROY. Will the gentleman yield to me for a few moments?

Mr. INGERSOLL. I will.

Mr. POMEROY. If I understand this bill correctly, there is now in existence in this city a safe-deposit company, with a charter giving it powers as such. The first and second sections of this bill, if I understand them correctly, give them the power of a savings-bank. The third section gives them the powers of a trust company. So that if the bill becomes law you will have a safe-deposit company in the city of Washington with full powers as a safe-deposit company, with full powers as a savings-bank, and with full powers as a trust company. Now, sir, I wish to ask the gentleman whether he believes it safe in any particular instance or as a rule to be generally applied to the conduct of these businesses throughout the United States to intrust any company with the exercise of corporate powers as dissimilar as are necessary for the management of such a company?

Mr. INGERSOLL. If that is the question, I am ready to answer it.

Mr. POMEROY. That is the question. Is it safe that three classes of business, entirely separate and distinct, should be included under one charter and exercised by one direction?

Mr. INGERSOLL. Now, Mr. Speaker, I wish to reply to that. If the Congress of the United States were in session in the city of New York or Philadelphia or Boston or Chicago or St. Louis or Cincinnati, and had exclusive jurisdiction with regard to all legislative powers therein, I should answer the gentleman like this: as any one of the various businesses to which he has referred would afford, properly conducted, legitimate profits to any well-conducted company, I would separate them. I would not allow them to be consolidated so far as my vote was concerned. But if I were asked to give the safe-deposit company of some little village in addition the powers of a savings-bank, and of a general trust company, if you please, I should say I would, because the exercise of those powers in a village of two or three or five thousand inhabitants would not endanger the interests of the country or the rights of parties with whom this institution should do business. Now, in the city of Washington it has been tried and proved that a safe-deposit company, no matter how well managed, is not a paying business. Such men as Jay Cooke and others organized this Safe-Deposit Company nearly two years ago. They have conducted it well thus far, but it barely pays expenses. They have put up a first-class building, and put in it as good safes as are in the country. It is well regulated in every regard. That is its character. But, sir, it does not pay. They have lost money. It does not pay any profit. I know something about it, and I say that it has not been remunerative.

A MEMBER. I suppose the gentleman will not cut off debate.

Mr. INGERSOLL. No, sir. You shall

all be heard. There is plenty of time. There is no limit to-day, as there was yesterday.

Mr. Speaker, these men, after having faithfully tried to sustain themselves under their present charter, find that it cannot be done. There is, so far as I know, no savings-bank in this city. It is not believed that a mere savings-bank will be remunerative. These men, believing they have facilities, capacity, and the necessary qualifications all round, ask Congress to allow them to incorporate that business into the one they are already prosecuting. In addition, they have asked Congress to allow them to do business as the agent of any party who may select them. If you do not want to trust them you need not employ them. If you think you can find a better trustee you can employ him; there is no compulsion. That is all of that. If Congress does not think it compatible with individual rights to grant these powers to this corporation then vote them down. But I assure gentlemen that these men associated in this bill are men of integrity and well qualified to discharge these various powers under the authority of this bill.

Now, Mr. Speaker, I want to take a vote on the proposition whether the powers of a savings institution shall be added to those of a safe-deposit company. I therefore demand the previous question.

Mr. CHANLER. I understand the gentleman to say there is no savings-bank in this city. I do not wish to contradict him, but I am under the impression that there is one advertised as the Freedmen's Saving and Trust Company.

Mr. INGERSOLL. The gentleman has, perhaps, given the Freedmen's Bureau more care and attention than I have.

Mr. CHANLER. No, sir; I am not more familiar with that institution than he is, but I do not want the gentleman to mislead the House. I want him to stick to the facts.

Mr. INGERSOLL. If the gentleman has found out the fact which he states, I was not aware of it.

Mr. CHANLER. The gentleman is chairman of the Committee for the District of Columbia, and professes to know something about the affairs of the capital, and he makes the positive statement, as I understand, that there is no savings-bank in the city of Washington, and upon that he bases his argument in favor of a provision in this bill. I wish to know whether I have misapprehended him in his statement.

Mr. INGERSOLL. I do not know upon what authority the gentleman makes this statement, but I am willing to believe what he states if he is.

Mr. CHANLER. The gentleman says he does not know that there is such an institution. Now, I ask him if he did not vote for the passage of just such a bill as this through this House, reported by the gentleman from Massachusetts, [Mr. BALDWIN.] And I would like to know if there is not such an institution in this city at this time. I do not think it is fair to induce members to vote for a banking institution like this under the plea that no institution for savings alone can be supported in this city, when there is such a savings institution now in existence.

Mr. INGERSOLL. I yield to the gentleman from New York, [Mr. PRUYN,] who wishes to offer an amendment.

Mr. PRUYN. For the purpose of reconciling conflicting views as to the third section, I propose to strike it out and offer the following as a substitute:

That the said company may execute any trust as to real or personal estate which may be agreed upon according to law or which may be authorized by any court of competent jurisdiction, and on such terms and in such manner as such court may from time to time order and direct.

I will explain the amendment in a word. It authorizes any individual to make any legal agreement with this company in regard to any trust as to real or personal estate under authority of law, and also authorizes the company to execute any trust as to real or personal estate

which may be conferred upon them by any court of competent jurisdiction.

Mr. INGERSOLL. Well, I will accept that, and ask a vote upon it. I now yield to my colleague on the committee.

Mr. BALDWIN. Mr. Speaker, I am sure that no amendment whatever can make this bill fit to be passed by this House. I therefore am opposed to the amendment moved by the gentleman from New York, [Mr. PRUYN.] I wish to express here, as I did in the committee, my opposition to the bill, and the opposition expressed there by a portion of the committee. It is a bill that should not pass.

Mr. BROOMALL. I ask permission to offer an amendment, to strike out the third section and insert in lieu of it the following:

That the said company be, and they are hereby, authorized to keep a hotel, to open and maintain a barber's shop and a lager beer saloon, and to conduct any other business that will pay.

[Laughter.]

Mr. INGERSOLL. I agree to that, provided the gentleman from Pennsylvania [Mr. BROOMALL] shall run the lager beer saloon. [Laughter.]

Mr. Speaker, the gentlemen who are interested in this institution are anxious to make it a success. They want nothing but what they think right and legitimate; but as there is apparently considerable opposition to the third section, I will move that it be stricken out, because I would rather have the bill without that section than to have the bill fail. I renew the demand for the previous question.

Mr. PRUYN. I withdraw my amendment. Mr. SCOFIELD. Is it in order now to move to lay the bill on the table?

The SPEAKER. It is; and as the gentleman from Missouri [Mr. BENJAMIN] has given notice of such a motion as soon as the gentleman from Illinois surrendered the floor, the motion will now be considered as made.

Mr. BENJAMIN. I move to lay the bill and amendments on the table.

Mr. INGERSOLL. Is it understood that the third section of the bill is stricken out?

The SPEAKER. The motion to strike it out is pending.

Mr. INGERSOLL. And I have called the previous question on that motion.

The SPEAKER. The demand for the previous question is pending, but the motion to lay on the table takes precedence.

Mr. INGERSOLL. I simply want the House to understand that I am willing it shall be stricken out.

The question was put on Mr. BENJAMIN'S motion; and there were—ayes 66, noes 32.

Mr. INGERSOLL. I call for tellers.

Mr. KELSEY. I demand the yeas and nays. We may as well order them at once. It will come to that in the end.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 85, nays 32, not voting 72; as follows:

YEAS—Messrs. Anderson, Delos R. Ashley, Bailey, Baker, Baldwin, Boaman, Beatty, Beck, Benjamin, Benton, Bingham, Blair, Boutwell, Boyer, Broomall, Buckland, Butler, Cary, Chanler, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Cornell, Covode, Delano, Ela, Eldridge, Ferriss, Fields, Garfield, Glossbrenner, Golladay, Gravely, Haight, Harding, Higby, Hotchkiss, Chester D. Hubbard, Hulburd, Johnson, Julian, Kelsey, Ketcham, Kitchen, Knott, Marvin, McCarthy, McCormick, Mercer, Moore, Mullins, Newcomb, Niblack, Nicholson, Paine, Plants, Polsley, Pomeroy, Price, Randall, Raum, Scofield, Selye, Shanks, Shellabarger, Smith, Spalding, Aaron F. Stevens, Stewart, Taffie, Taylor, John Trimble, Lawrence S. Trimble, Upson, Van Aernam, Robert T. Van Horn, Van Trump, Van Wyck, Ward, Elihu B. Washburne, William B. Washburn, John T. Wilson, and Woodward—85.

NAYS—Messrs. Archer, Barnes, Blaine, Cake, Sidney Clarke, Donnelly, Driggs, Farnsworth, Ferry, Hawkins, Ingersoll, Jencks, Judd, Koontz, Loan, Loughbridge, Maynard, McClurg, Miller, Morrell, O'Neill, Peters, Pike, Pruyn, Sawyer, Starkweather, Stokes, Stone, Taber, Henry D. Washburn, Thomas Williams, and William Williams—32.

NOT VOTING—Messrs. Adams, Allison, Ames, Arnell, James M. Ashley, Axtell, Banks, Barnum, Bromwell, Brooks, Burr, Cullom, Dawes, Dixon, Dodge, Eckley, Eggleston, Eliot, Finney, Fox, Getz, Griswold, Grover, Halsey, Hill, Holman, Hooper, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Jones, Kelley, Kerr, Laffin,

George V. Lawrence, William Lawrence, Lincoln, Logan, Lynch, Mallory, Marshall, McCullough, Moorhead, Morrissey, Mungen, Myers, Nunn, Orth, Perham, Phelps, Pile, Poland, Robertson, Robinson, Ross, Schenck, Sitgreaves, Thaddeus Stevens, Thomas, Trowbridge, Twichell, Van Auker, Burt Van Horn, Cadwalader C. Washburn, Welker, James F. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—72.

So the bill and amendments were laid on the table.

Mr. BOUTWELL moved to reconsider the vote by which the bill and amendments were laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. INGERSOLL. As the House has sent this bill to the gentleman's "hole in the sky," I do not see the necessity of this motion.

#### JUDGE ADVOCATE OF THE ARMY.

The morning hour having expired,

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a draft of a proposed law relating to the Judge Advocate of the Army, with the approval of the Department; which was referred to the Committee on Military Affairs.

#### RESOLUTIONS OF THE TEXAS CONVENTION.

The SPEAKER also, by unanimous consent, laid before the House resolutions of the Texas constitutional convention, asking that the reconstruction laws be so amended as to transfer the power to appoint and remove registers from the military commander of the fifth district to the convention; also asking Congress to authorize the organization of a militia force by the convention, to act in conjunction with and under the direction of the military commander, for the protection of the lives and property of citizens, now every day preyed on by assassins and robbers, and expressing their confidence in General Reynolds, the commander of the district of Texas, that he will, to the extent of the means placed at his disposal, give protection and preserve the peace.

The resolutions were referred to the Committee on Reconstruction.

#### LEAVE OF ABSENCE.

Mr. DODGE asked and obtained indefinite leave of absence.

Mr. BARNES asked and obtained leave of absence for five days.

#### CAPTURE OF JEFFERSON DAVIS.

Mr. WASHBURN, of Massachusetts, by unanimous consent, from the Committee of Claims, reported a bill (H. R. No. 1277) to provide for the distribution of the reward offered by the President of the United States for the capture of Jefferson Davis; which was read a first and second time, recommitted, and, with the report accompanying the same, ordered to be printed.

#### ANTIETAM CEMETERY.

Mr. WASHBURN, of Indiana, by unanimous consent, from the Committee on Military Affairs, submitted a report on the subject of burying confederate dead in Antietam cemetery; which was ordered to be printed, and recommitted.

#### REMOVAL OF POLITICAL DISABILITIES.

Mr. PAINE. I ask unanimous consent to have taken from the Speaker's table the amendment of the Senate to House bill No. 1059, to relieve certain citizens of North Carolina of disabilities, and have it referred to the Committee on Reconstruction.

No objection was made, and the amendment was referred accordingly.

#### PROMOTION OF AMERICAN COMMERCE.

The SPEAKER. On yesterday the House was considering, as the special order, the river and harbor appropriation bill as in Committee of the Whole. On the 27th of May the House granted unanimous consent that House bill No. 929, to promote American commerce, should be taken up after the morning hour on a day fixed, to the exclusion of any other busi-

ness whatever. That bill has been twice put off, but is now reached. The pending question is upon a substitute reported from the Committee on Commerce. If there is no objection the substitute will be regarded as an original bill, for the convenience of amendments.

No objection was made.

The substitute was read. The first section provides that section four of an act entitled "An act amendatory of certain acts imposing duties upon foreign importations," approved March 3, 1865, and section fifteen of an act entitled "An act increasing temporarily the duties on imports, and for other purposes," approved July 14, 1862, shall be amended so that the tonnage tax therein imposed shall be collected only from vessels arriving from foreign ports.

The second section provides that a drawback equal to the duties paid be allowed to shipbuilders on lumber, cordage, iron, copper, chains, and anchors actually used and employed by them in the building and rigging of any ship, steamer, or other vessel built within the limits of the United States; the amount of drawback in all cases to be ascertained and paid in such manner and under such regulations as may be prescribed by the Secretary of the Treasury; provided that five per cent. on the amount of all drawbacks so allowed shall be retained for the use of the United States by the collectors paying such drawbacks respectively.

The third section repeals the fifth section of an act entitled "An act concerning the registering and recording of ships or vessels," approved December 31, 1792.

The fourth section provides that hereafter boats or other vessels of the United States less than twenty tons burden shall not be enrolled, and no certificate of registry shall be required of them; and that such boats or vessels shall be licensed, and in every other respect be liable to the rules and regulations and penalties now in force relating to registered and enrolled vessels.

The fifth section extends the provisions of the act entitled "An act authorizing the Secretary of the Treasury to issue registers to vessels in certain cases," approved December 23, 1852, to vessels built within the United States; provided that the same were not transferred during the rebellion to foreign owners.

Mr. ELIOT. I now move to recommit this bill.

Mr. MORRELL. I desire the gentleman to yield to me to offer an amendment.

Mr. ELIOT. I will hear it read.

Mr. MORRELL. I desire to move to amend the second section by inserting after the words "United States," where they first occur, the following:

And in order that American lumber, cordage, iron, copper, chains, and anchors may be used in the construction of American vessels, a bounty equal to the drawback allowed on such foreign articles shall be allowed and paid, where American articles are actually used in such construction.

Also to further amend the second section by inserting the words "and bounty" after the words "the amount of drawback."

Mr. ELIOT. I will permit the amendment to be offered, but I do not commit myself to its support.

Mr. SPALDING. I desire to offer some amendments to this bill.

Mr. ELIOT. I will hear them read.

Mr. SPALDING. I desire to move to amend the first section by adding to it the following:

Provided, That vessels of the United States touching at Canadian ports shall not thereby be subjected to the tonnage tax.

Also, add to section five the words, "with a view to avoid the risk of sailing under the American flag, and for that purpose only;" so that the section will read:

Sec. 5. And be it further enacted, That the provisions of the act entitled "An act authorizing the Secretary of the Treasury to issue registers to vessels in certain cases," approved December 23, 1852, are hereby extended to vessels built within the United States: Provided, That the same were not transferred

during the rebellion to foreign owners with a view to avoid the risk of sailing under the American flag, and for that purpose only.

Mr. ELIOT. I will allow those amendments to be offered.

Mr. LYNCH. Will the gentleman allow me to offer an amendment to the first section?

Mr. ELIOT. I will hear it.

Mr. LYNCH. I desire to move to amend the last clause of that section by inserting the words "of foreign nations" before the words "arriving from foreign ports."

Mr. ELIOT. I will allow the amendment to be offered; and now I renew the motion to recommit.

Mr. Speaker, I am glad to have an opportunity to bring before the House a bill which I regard of such national importance to the shipping interests of the United States as the one which is now under consideration. It is called "A bill to promote American commerce." That title, however, does not indicate fully the importance of this bill. It is, in fact, a bill which is calculated, so far as legislation may do it, to enable the United States, as a marine power, to assume the position among the nations of the earth held prior to the year 1861. This Government of ours, the knowledge of which has been mainly carried to every port and to every clime by the stars and stripes, has now reached a point when it becomes necessary that Congress, by appropriate and wise legislation, shall so enact that, in the language of the sea, we may be enabled to "heave out" our flag again, that we may show to our foreign rivals that we still live; or else we shall be obliged to "lower our flag" to the British lion; or else—and I say it to gentlemen on this floor, for I believe it will come to that—we shall have to "hang out the white flag" in the presence of the commercial navies of the world.

Mr. Speaker, it was to avoid either of these last alternatives that I have been permitted by the Committee on Commerce to report the bill now before the House, and I cannot but express my gratification at being able to do. This is, I believe, the only bill which has emanated from that committee during the last four or five years that has had in view the general commercial and shipping interests of the United States. During the pendency of the war it was not surprising the committee should not report in that direction, because we know in the midst of arms commerce, as well as law, must be silent. But since the rebellion has closed times have gone on worse and worse for the great shipping interests of the country, so that now, unless we in some way legislate for the protection not of one section, but of that national interest, there is imminent danger it will entirely die out. Sir, with the convictions I have of the importance of this legislation, I should be false to the duty which has been confided to me as one of the guardians of the commerce of this country if I had failed to bring to the House at as early day as I could some measure similar to the one before us. And I do hope I may have the attention not only of my colleagues on the committee, but of the members of the House, so far as to enable me, if I can, to satisfy them this legislation is necessary. If I cannot do that I shall defer with regret, as well as I may, to the judgment of the House. I want to do this briefly and plainly, explicitly and clearly as I can. I desire to show that the condition of our commercial tonnage demonstrates that the combined effects of war, heavy taxes, a deranged currency, and oppressive legislation have been so disastrous that the existence—I do not say the prosperity—the existence of our foreign commerce in American vessels is in imminent danger of destruction. If I can do that, then I am quite sure—if I can satisfy the House that this measure is right—I shall have their countenance, because I know that being true, we shall all of us admit some legislation is required.

Then I would like to say, briefly as I can, how far this law would afford relief. I wish to say right here and in advance to argument

opposed to this bill, that the passage of the bill, so far as the main section is concerned, the second section will not operate to the prejudice of the revenue of the country. It calls for the remission of duty on certain articles imported and used in the construction of vessels. If the shipping interests of the country were as they were when ships were being built at all our ship-yards, the argument would be strong that to remit duties on materials imported from foreign countries, which enter into the construction of vessels, would materially affect the revenue interests of the Government. But what if no vessels are built; what if no ships are constructed; what if your shipping interests were killed off; what if your ship yards are dismantled; what if the capital employed in building vessels is diverted from it? If no ships are built no revenues will be derived. I propose to show that is the condition of affairs rapidly coming in this country. While no revenue will be lost it will on the other hand enable the shipping interest to contend with the other difficulties, which still lie before them. Before specie payment is resumed, unless this bill or some measure similar to it shall be passed, it will be too late to revive the shipping interests; we will have to recreate and reconstruct them.

Mr. Speaker, you do not want me to say that a maritime nation that is not willing to be a third or fourth class Power must build its own vessels and control its own carrying trade. This country of ours rests its claim to international respect upon three foundations: agriculture, commerce, and manufactures. I say that each of those interests ought to contribute its own strength to the common glory of the country. There are countries that are purely agricultural; there are others that are almost solely agricultural. Their products are sent to the markets of the world, but not in their own vessels or by their own means of transportation. In other countries the busy brain and the working hand are constantly employed at low wages manufacturing commodities for other people. But neither the agricultural nor the manufacturing people can take the highest rank among nations, nor can a commercial nation be a first-class Power unless it builds its own vessels and controls, to a great extent, its own carrying trade. That, sir, is the law of commercial life. It is not the law of the United States only, nor the law of England alone, nor of France alone. It is not the law of to-day only, nor was it the law alone when Phœnicia or Venice controlled the seas; but it is to-day, and ever has been, the great law of national commercial life. It is like that law of justice which Cicero so well describes: "*Nec erit alia lex Romæ, alia Athenis, alia nunc, alia post hæc; sed et omnes gentes et omni tempore, una lex, et sempiterna et immortalis continebitur.*"

Mr. Speaker, the men who legislated in these Halls in the early days of our Republic recognized the force of this law and walked in the light of it. Among the very earliest of your acts will be found one that recognized substantially the principle of the first section of this bill. And then afterward our navigation laws were passed, under which our commerce, from small beginnings, by rapid strides, advanced until it reached the highest point in 1861.

No man of us, Mr. Speaker, who has visited foreign lands, has failed, I am sure, to feel pride because of the commercial rank his country has held. For it is maritime superiority that gives rank among the nations of the earth. Neither an agricultural nor manufacturing nation, but the nation which controls the seas, is recognized as first among the nations. That has been so in all times—from the time, some fifteen centuries before the Christian era, when Danaus carried his ship from Egypt into Greece, down to this day.

Now, Mr. Speaker, I desire briefly to show what the condition of affairs is now in this country. Some weeks ago the gentleman from Maine, [Mr. PIKE,] in the course of an able

and carefully prepared argument on this subject, referred to certain statistical tables which he had collected tending to the same point to which I want to call your attention. The facts that I have to state are different from those given by him; that is to say, gathered from different sources, but in aid of the argument there presented.

The total tonnage of the United States at the end of the fiscal year 1861, which was the year in which we reached our highest point, was 5,539,813 tons. This includes tonnage of all kinds, coastwise and inland, sail and steam registered tonnage. On the 30th of June, 1867, the amount of tonnage was reduced to 3,868,615 tons. That is to say, the whole tonnage in the course of these six years decreased 1,671,198, or nearly one third.

But, Mr. Speaker, foreign tonnage suffered more during that period than coastwise and inland tonnage. In 1861 we had 2,540,020, and in 1867 we had 1,178,715 tons. That is to say, we lost 1,361,305, or more than one half of the whole tonnage between 1861 and 1867. If we had the returns of 1868 they would show a still greater reduction.

But this is not all. In 1864, I think, a bill was reported from the Committee on Commerce for the readmeasurement of the tonnage of the country in order to enable us to know what the actual tonnage was; for the old laws did not in any way determine that. The effect of the law of 1864 was to diminish the apparent tonnage by between ten and fifteen per cent. Now, if an allowance be made of ten per cent., which is less than it ought to be, and that is deducted from the tonnage of 1867, it will appear that the loss of foreign tonnage between 1861 and 1867 is, in fact, fifty-eight per cent. This is the actual loss. It will terminate, if we go on decreasing in this way, after a few years in an absolute and total loss.

I have here another statement tending to show that same fact.

In the Merchants' Magazine I read recently an argument for our foreign commerce, from which I give the following extract:

"We have prepared the following table for the purpose of indicating the changes which have taken place in the registered sail tonnage of the country for the eight years from 1789 to 1797, and from 1797, by decades, to 1867:

Year.	Reg'd sail Tonnage.	Change.	Rate per cent. of change.
1789.....	123,893		
1797.....	597,777	increase in 8 years.....	478,884 or 384 1/2
1807.....	848,307	increase in 10 years.....	250,530 or 42
1817.....	800,725	decrease in 10 years.....	47,582 or 5 1/2
1827.....	747,170	decrease in 10 years.....	53,555 or 6 1/2
1837.....	809,343	increase in 10 years.....	62,173 or 8 1/2
1847.....	735,682	decrease in 10 years.....	426,359 or 52 1/2
1857.....	2,377,094	increase in 10 years.....	1,141,412 or 92 1/2
1867.....	1,178,715	decrease in 10 years.....	1,198,379 or 50

"This table shows an average gain of eighty-one per cent. for the periods given, including the remarkable growth which took place between 1789 and 1797, when, in consequence of the wars then prevailing among the maritime Powers of Europe, our foreign tonnage increased three hundred eighty-four and a half per cent., and including also the decades between 1807 and 1827, when there was a decrease of five and a half and six and a half per cent. respectively. As the period from 1789 to 1797 may be considered exceptional, let us refer to the growth of our foreign tonnage during the three decades between 1827 and 1857; the first of these shows an increase of only eight and a third per cent., and yet the average of the three is fifty-one per cent. In looking forward in 1857 through the coming ten years, it would not have been thought extravagant to anticipate an increase equal to the average of the previous thirty years. What would any of us have then said had it been predicted that in 1867 our foreign commerce would show for the last ten years not a gain of fifty-one per cent., but a loss of fifty per cent.? Let us see how much this difference really is between what in 1857 would not have been an unreasonable anticipation and the actual truth:

In 1857 our foreign tonnage was.....	2,377,094
Add fifty-one per cent. for the average growth per decade from 1827 to 1857.....	1,212,318

Our tonnage might have been expected to reach in 1867.....	3,589,412
Our actual tonnage in 1867 was.....	1,178,715

Showing a difference of..... 2,410,697 or sixty-seven per cent., and leaving our tonnage in 1867 just one third of what in 1857 we should have been justified, by past experience, in estimating that it would be. In these last calculations we make no allowance whatever for the new system of admeasurement.



"These are the figures, and they need no comment. They are disheartening enough; but they must be looked at and understood in all their significance if we would endeavor to reach a remedy."

Now, then, let us look at the relative loss. I have shown you what the actual loss has been, and how that in a few years tending in that line the time would come when our foreign commerce would be swept from the ocean.

Mr. HARDING. I desire to inquire of the gentleman whether this decline in our tonnage is not mainly due to the fact that we have been engaged in a war?

Mr. ELIOT. That is a very proper question, and I will say to the gentleman from Illinois that beyond controversy that fact has operated very largely; it has probably tended directly to affect some five hundred thousand tons of tonnage, but that does not account or begin to account for the condition of things existing now. Put us as we were before the war, and it would require but a very short time for the tonnage which was lost because of the rebellion to be replaced. It was in a favorable condition before the war, and the shipping interest did not require drawbacks. I will say to my friend that if he will give his vote and influence to this bill it will be entirely satisfactory to me to have him offer an amendment that the provisions of this bill shall cease and expire within six months after the resumption of specie payment.

Mr. MILLER. I would like to ask the gentleman whether, if this bill passes, it will not be the means of breaking up many of the manufactories of the United States?

Mr. ELIOT. No; I think the energetic men of Pennsylvania will not be injured. While they have such persistent and able men upon the floor of Congress as they have now, my friend need not fear.

Mr. MILLER. Then we must stop this free-trade movement.

Mr. ELIOT. We did suppose before 1861 that the time was at hand when we should be able to equal upon the seas our greatest foreign rival. In 1861, as I have stated, our tonnage reached the point of 5,539,813 tons. At that time Great Britain had a tonnage of 5,800,000 tons. That is to say, she had 260,187 tons more than we had. So rapidly were we drawing up with her that it would have taken but a few years for us to equal her. Why, one single ship-yard in my own State in the course of ten years alone would turn that difference of tonnage. Donald McKay, if business were as it had been before 1861, could turn out his dozen ships, averaging some twenty-five thousand tons a year, and could himself have brought up the tonnage of this country to that of Great Britain.

In 1866 England had 7,366,808 tons, while we had 3,868,615 tons. That is to say, in that short time, instead of being 260,000 tons short of England, we were less by 3,488,193 tons, and to-day the difference is greater. I have given the condition of English tonnage in 1866. I have not the returns for 1867. I have given you our condition in 1867.

Now, sir, it is manifest enough that if Congress does not interfere to rescue this commerce of ours, which is failing, we shall be driven from the ocean. We cannot compete with foreign Powers. We must yield at once and let England rule the seas. In 1860 our foreign trade equalled in money \$663,000,000. Of that our own ships had \$443,000,000, and foreign vessels \$220,000,000. In 1866 that same trade equalled \$866,000,000; and of that our ships had \$262,000,000, and foreign ships \$604,000,000; and at this rate, in a few years, our whole foreign commerce would be carried on in British bottoms. From a statistical table recently furnished by our consul at London to the Department of State, it appears that in 1861 one third of the carrying trade of the whole world was by our vessels.

In 1866 our vessels had less than one sixth of that carrying trade, showing the rapid decline in that direction, while British vessels in 1866 had more than one half of that trade.

One other fact which speaks as loudly to the House as perhaps any fact can. In 1861 four hundred and seventy-two American ships entered the port of London; in 1866 only seventy-one American vessels entered that port. That is going pretty near the bottom line. And if we go much further, as I said just now, it will be too late to legislate to revive this trade; we should have to recreate.

The object of this bill is to put strength in the hands of the men who build up the navy of the country, that our commercial marine may live and not die. Is there any American who wants to see this state of things continue? I should like to appeal to the West on this question, not because it is an eastern interest, because it is not; it is a national interest, if ever any interest upon the face of the earth can be national. I want to appeal to the West on that ground.

It has been my fortune in this House and in committee to contend as earnestly as I could and as long as I might for those measures which seemed to them to be especially important for them; not because they were important alone for them, but because I believed that the proposed legislation was of importance to the whole land. Why, sir, what is the national advantage of the immense agricultural resources of the West if you cannot get your agricultural products to market? And so we have been trying to aid in the opening of river and harbor accommodations, so that those who are able to supply the granaries of the world might be permitted to leave their own homes and find a market for their products. And they do not want to go to that market in foreign vessels. They do not want to make it necessary that every bushel of grain that goes from New York across the ocean—nay, that which goes from the West to New York city, shall go in foreign vessels. I apprehend they will not be willing to submit to that humiliation.

Now, while we know perfectly well that all during our past life as a nation our flag upon the ocean has been our glory; while we know that the time is at hand when that flag will have to be struck, not to a foreign foe, but to that legislation at home against which it cannot stand, I will ask the West as well as the East whether it is not for their common interest that a remedy should be found. With fair play we can rival the world.

There is not only no nation upon earth that so prostrates its maritime interests, but there is no country upon earth where at home an interest is so prostrated as is this shipping interest of ours in this country and by ourselves.

Mr. FERRISS. Will the gentleman allow me to ask him a question?

Mr. ELIOT. Certainly.

Mr. FERRISS. I would inquire whether the change in the relative amount of the tonnage of Great Britain and this country is not entirely the result of the war?

Mr. ELIOT. All through the war it was right and proper that such taxation should be proposed as would enable the Government to raise money to pay the war debt. Of that taxation the shipping interest has borne more than its share; we do not complain of that. Beside, and independent of that, the difference between the prices of imported articles which go into the construction of ships now and before the war is more than one hundred and one per cent. And the difference thus made has been just enough to disable entirely the shipping interest from going on.

Now, we do not come into this House and ask for legislation which does not find acceptance in other portions of the world in this exact direction. What do you suppose would be thought of any man who would get up in the Parliament of Great Britain and propose to subject the shipping interest to the customs duties borne by the shipping interest of our country? They go further than this bill proposes to go. They not only remit the duties on all the articles which go into the construction of their vessels, but they remit the duties on

the outfit, provisions, and everything in any way connected with the vessel and the conducting the voyage.

Mr. O'NEILL. I wish to ask the gentleman from Massachusetts who has charge of this bill to turn his attention to the amendment offered by the gentleman from Pennsylvania [Mr. MORRELL] relative to drawback upon American lumber, copper, cordage, chains, and anchors used in ship-building.

Mr. ELIOT. I cannot do that now.

Mr. O'NEILL. I hope the gentleman will give his attention to that before he concludes his argument.

Mr. ELIOT. The gentleman will see that is in a different line of legislation from what is proposed in this bill. It is not bounty that is asked for in this bill.

Mr. O'NEILL. I merely wish to have the gentleman explain to the House whether in this indirect way to take off the duties on these American products would not be a protection to American manufactures? These interests being large, and especially in the State of Pennsylvania, I should like to have his views on the amendment which I trust the House will pass at the proper time.

Mr. ELIOT. Now, suppose we continue this policy a little longer, what will be our condition in case of war? Since the rebellion closed we find that we have few ships of our own upon the ocean. From the city of New York, from the cities of Philadelphia and Baltimore, from the city of Boston, from all along the Atlantic coast where foreign commerce is carried on, the time will come that the property transported abroad will wholly go in foreign ships. Well, sir, let that time come, as come it will. In the mean time the ship-yards are dismantled and capital turned from that into other channels. Now comes war. How long are we to be without a war? Who can tell? During this last war who can estimate the value of our Navy—a war at home, a war with rebellion, a war not making it needful to fight our battles mainly on the ocean, a war not calling upon us for a large naval fleet to do our fighting for us. Suppose a foreign war comes, I ask honorable gentlemen of the West how are they to build ships? Do they expect it is possible to extemporize a navy then when we have none of our own? We had in 1861. We had, moreover, appliances and means to build vessels. As they were wanted and as fast as they were wanted they were turned out for the Government.

How shall we conduct the next war when it comes? The question gives its own answer. It cannot be done. This is not a question for the eastern Atlantic shore, for the eastern part of this land; it is a question for the whole country, if there can be such question propounded to Congress.

I have here a letter from Donald McKay, a ship-builder of East Boston, one of the largest and most successful ship-builders we have. Let me read it:

EAST BOSTON, February 15, 1868.

Editor of the Traveler:

Within the last few months several conventions have been held in different parts of the country, and the cause of the depression of the mechanical and manufacturing interests has been fully discussed, and suggestions have been made for the relief of these suffering branches. As yet no meeting has been held—with one exception in Maine—to consider the cause of the almost complete stagnation of the ship-building interest, and present the fact to Congress that severe taxation is the principal cause of such great depression, and asking for relief. The United States ship-builder cannot compete in the construction of ships with his provincial neighbor until relief is obtained by having the burden of taxation removed. I have been endeavoring for several weeks, and without success, to find a sufficient number of ship-builders to sign a call for a meeting of discussion, and the feeling among those I saw was they had given ship-building up, and did not expect to ever lay any more keels. Most of these gentlemen have built thousands of tons of shipping, and employed thousands of men, and are well known to the mercantile community. Within a circuit of five miles I can count twenty ship-building firms who are now idle, and have been since the war, and most of them built from two to four ships annually before the war. For myself, I have constructed some years twelve tons, while at present I am engaged in building only a ship of twelve hundred and eighty-five tons, hav-

ing already spent ten months time on her, and I cannot find a merchant who will buy her at her actual cost, not including therein my own services. The cause of this high cost is principally attributable to enormous taxation, and a consequent high cost of material and high rate of labor. While new ships continue so costly but few merchants will invest in them, because they can place their money in United States bonds, free of taxation, which will pay higher interest than they can receive from shipping.

I annex a list of duties (in gold) upon various articles entering into the construction of a new ship of one thousand tons:

Iron, 120,906 pounds.....	\$1,209 06
Iron spikes, 9,983 lbs.....	249 15
Galvanized spikes, 2,409 lbs.....	60 23
Castings, 14,408 lbs.....	216 12
Chain cables and rigging chains, 58,300 lbs.....	1,457 50
Anchor, 10,700 lbs.....	240 75
Metal and nails for do., 20,338 lbs.....	711 83
Salt, 1,200 bu.....	216 00
Manilla, 12,423 lbs.....	310 57
Hemp, 28,774 lbs.....	863 22
Duck for sails and house tops, including spare sails, 7,150 yds.....	714 90
Clutch rings, 1,500 lbs.....	36 00
Foreign white pine lumber and decking.....	825 00
Foreign hackmatack knees.....	330 00
Copper bolts, composition, castings, paints, oils, crockery, cabin trimmings, nails, and sundry outfits.....	1,225 00

Total dutiable articles for 1,000 ton ship, (gold).....\$8,665 33

As a partial relief to the ship-building interest I would suggest that Congress permit a drawback of duties paid on materials entering into the construction of new vessels, (which at the present date on a one thousand ton ship proves to be between eight and nine thousand dollars, as shown above), and this privilege is accorded to the ship-owners and ship-builders of Great Britain, enabling them to compete with all other commercial nations, and their drawback extends to all articles of construction, equipment, and stores used in building and fitting out of new vessels.

Interested persons can obtain from the honorable Secretary of the Treasury, for purposes of comparison, the register amount of tonnage built each of the past twenty years. There have been so few vessels built for our merchants in recent years that the average age of American sea-going ships is over ten years, and on this account our insurance companies meet with many losses, and yet the shipowner now pays double the old rate of marine insurance.

DONALD McKAY.

Now, Mr. Speaker, how is the Treasury to be affected by passing this bill? If ships are not constructed then no revenue can be derived from the material which enters into ship-building. If vessels are not built the articles will not be imported. No duties are to come if the articles are not used. Therefore remitting the duties, while it invites importation so far as is needed, does not affect the Treasury one dollar, because, whether the bill passes or does not pass, the Treasury cannot be affected. Of course I am now assuming that no ships are built. If a few should be under the present law at such losses as would be borne because of an unwillingness entirely to give up the pursuit, or of an inability, perhaps, to enter on some other, the Treasury will be only to that extent affected.

Mr. GARFIELD. I desire to ask the gentleman a question, if it will not disturb him in his line of argument. It seems to me that a part of the explanation of the falling off of our tonnage is due to the fact that steam tonnage has largely taken the place of sail tonnage. I do not know what the ratio is between a ton of steam tonnage and a ton of sail tonnage.

Mr. ELIOT. It hardly will tend to an explanation, I think, because the rapidity with which a steamer moves enables it to make several voyages to and fro where a sailing vessel does one.

Mr. GARFIELD. Therefore, I suggest the inquiry whether our present tonnage is not as efficient an instrument of commerce as our tonnage of ten or fifteen years ago was, when a very large proportion of our vessels were sailing vessels, whereas it is now very rapidly becoming changed in its proportions, so that a much larger ratio is steam tonnage. Therefore we have an effective tonnage which is much greater than appears in the reports of commerce and navigation, and it may be that our commerce has more nearly recovered from its depression than the returns would indicate. I do not suggest this as explaining all the depression, but as an important element in the calculation.

Mr. ELIOT. There is no doubt that to a

certain extent the suggestion is well founded. It is true that for some years past steam tonnage has been taking the place measurably of sail vessels, but this is for certain purposes and in certain trades. Besides, we have no steamships, or very few, in foreign commerce. The steamers that ply between this country and Europe are now foreign built and foreign owned.

I have stated that Great Britain refuses to impose upon her interests the burden with which we have crushed the shipping interest of this country. I do not mean to say that the legislation proposed can at once enable the shipping interest to take the position it held some years ago, but I do say that until we return to specie payment, until prices are natural and labor becomes better regulated, some legislation like this is absolutely needful to rescue from destruction the interest of commerce. The relief can be withdrawn at any time. The shipping interest asks for no bounty at the hands of Congress. They simply assert that the commercial marine must go out of existence, and submitting the facts to the House they ask whether we are willing that the time shall come when the mercantile navy and marine of the United States shall cease to exist, when the stars and stripes will remain at home, the bunting folded up and stored away in the upper rooms of their owners' houses, and the British flag shall float over all the seas?

There are several sections of this bill to which I have not particularly alluded; nor do I desire to unless information is wanted by the House. In regard, however, to the last section, I wish to say this: in 1852 there was a law passed authorizing the Secretary of the Treasury to issue American registers to foreign-built vessels which were wrecked on our coast and when they were condemned as wrecks, purchased by Americans, and rebuilt at an expense of three fourths of the value of the property. In the course of the administration of that law it came to pass that a wreck occurred on our coast of a foreign vessel which had been owned for many years in a foreign land, but which had originally been built in this country. The Attorney General, on examining the law, decided that the spirit of the law justified the Secretary of the Treasury in issuing an American register to the vessel, although the words of the statute were "foreign-built vessel." But since then the construction has been different, and a vessel built in this country, although it may have been owned for very many years by foreigners, if wrecked on our coast, could not be purchased except for old material, to be broken up and consumed; it could not be rebuilt, because under the law it could not be registered as an American vessel. The only effect of this section is to authorize the Secretary of the Treasury in cases of that kind to issue registers to vessels actually built in America, provided they were not transferred to foreigners during the war.

Mr. MILLER. I would ask the gentleman what the provisions of law are which the third section repeals?

Mr. ELIOT. The act of July 31, 1792, concerning the registering and recording of ships or vessels, requiring oaths to be filed in the custom-house by every owner, whenever transfers were made of ownership. It is a law that has not been for many years enforced, and which it would be almost impossible fairly to enforce without great burdens to the shipping interest. We therefore recommend that it shall be repealed.

The gentleman from Pennsylvania [Mr. O'NEILL] called my attention to an amendment offered by his colleague, [Mr. MORRELL.] That amendment is that for the encouragement of American iron, lumber, copper, and manufactures, there shall be allowed bounties upon articles used in the construction of ships to the same extent as the drawback would be if those articles were imported. I have only to say that it did not seem expedient for the shipping interest to be placed in the position of a party asking bounties. We have had in New Eng-

land too much opprobrium and reproach because of bounties which at last were repealed at the instance of the men who received them. On your files the first petition from parties interested for the repeal of the fishing bounties came from Provincetown, at the end of Cape Cod, in my district, signed by the parties who were supposed to be benefited. We do not want bounties, and therefore no provision of that sort was inserted in the bill.

[Here the hammer fell.]

Mr. BLAIR. I would not venture to intrude at all upon the time of the House if it were not that a very great interest in my State is deeply affected by this bill. I do not say by any means that that ought to defeat the bill; but I do say that it requires consideration of the House before they shall adopt this measure. I listened attentively to the speech of the gentleman who reported this bill from the Committee on Commerce, as I did also to the labored argument of the gentleman from Maine [Mr. PIKE] the other day upon the same question. I hear from both these gentlemen that the ship-building interest of the country is greatly oppressed and requires relief. I have listened for the purpose of ascertaining, if I could, what it is that so oppresses that interest. What is the difficulty? Have we changed the laws in any such way that we have oppressed this interest? Is it by an act of Congress passed within the last five or six years that this interest has been cast down? Do gentlemen tell us what it is that is the difficulty here? I want to know, before they ask me to apply the remedy they seek, what is the injury? I desire that these gentlemen shall tell us what it is that has oppressed this interest. They can hardly expect that we shall be able to apply the remedy unless we understand the disease. I think the law remains as it has been for a long series of years on this subject. We have not interfered, at least against the shipping interest, in any way to my knowledge. I do not understand the gentleman to claim that that has been the case.

Nevertheless, it is said that this interest is oppressed very greatly. Well, sir, I think I might answer that by the question, is that the only interest in this country that is oppressed? Why, sir, we hear here every day that almost all the great interests of the country are oppressed and ruined. One gentleman tells us that the iron interest is cast down; another says that the coal-oil interest is languishing; and so, if you run through almost the entire list of the great interests of the country, you will hear that there is oppression upon them. It is certainly true that many great interests of the country are in a degree oppressed, but that, sir, grows out of the condition of the country, and I must insist, unless gentlemen can show that there is some other reason, that in regard to the ship-building interest the reason is precisely the same.

Mr. FARNSWORTH. Will the gentleman from Michigan yield to me to allow me to make a report from the Committee on Reconstruction? The committee have instructed me to report back the amendment of the Senate to the bill to relieve citizens of North Carolina of disabilities, with the recommendation that it be disagreed to. I desire to make the report, and ask for a committee of conference.

Mr. BLAIR. I will yield for that purpose.

#### REMOVAL OF POLITICAL DISABILITIES.

Mr. FARNSWORTH. The Committee on Reconstruction, which is authorized to report at any time, have instructed me to report back Senate amendment to House bill No. 1059, to relieve certain citizens of North Carolina of disabilities, and to recommend that the amendment be non-concurred in, and that a committee of conference be asked on the disagreeing votes of the two Houses upon the bill.

Mr. WASHBURN, of Illinois. Will the gentleman admit an amendment to correct a name in the Senate amendment? The name "John D. Ashmond" should be "John D. Ashmore," of South Carolina.

Mr. FARNSWORTH. That can be done by the committee of conference.

Mr. BROOKS. I think it would be well to have the Senate amendment printed.

Mr. FARNSWORTH. We can do very well without that.

The motion to non-concur in the amendment of the Senate and ask for a committee of conference was agreed to.

The SPEAKER subsequently appointed Mr. FARNSWORTH, Mr. PAINE, and Mr. BECK as the conferees on the part of the House.

#### PROMOTION OF AMERICAN COMMERCE.

The House then resumed the consideration of the bill (H. R. No. 929) to promote American commerce.

Mr. BLAIR. I feel justified in saying that it is not sufficient, when asking for extraordinary remedies for particular interests, to say that to some extent they are languishing at this time. That is a common complaint, one which applies quite as much to other interests as to this one.

Now, sir, taking for granted, for the sake of argument, all that has been said concerning this special ship-building interest, what is the remedy which this bill proposes? And I may be allowed to say that, as I understand, this bill comes here upon its own merits alone; it does not have the sanction of the Committee on Commerce as a committee, but the gentleman from Massachusetts [Mr. ELIOT] is allowed to report it to the House; as I am informed the Committee on Commerce has not committed itself to the measure. What is the remedy that this bill proposes? It consists of five sections, the first of which provides—

That section four of an act entitled "An act amending certain acts imposing duties upon foreign importations," approved March 3, 1865, and section fifteen of an act entitled "An act increasing temporarily the duties on imports, and for other purposes," approved July 14, 1862, be, and the same are hereby amended so that the tonnage tax therein imposed shall be collected only from vessels arriving from foreign ports.

I see no objection to that section, and do not intend to make any contest upon it. Neither do I think it is a matter of so great importance that this bill should be passed on that account. The third section of this bill provides:

That the fifth section of an act entitled "An act concerning the registering and recording of ships or vessels," approved December 31, 1792, is hereby repealed.

That has reference, I understand, solely to registering and recording of vessels. The fourth section of this bill provides—

That hereafter boats or other vessels of the United States less than twenty tons burden shall not be enrolled, and no certificate of registry shall be required of them. Such boats or vessels shall be licensed, and shall in every other respect be liable to the rules and regulations and penalties now in force relating to registered and enrolled vessels.

This, I presume, is all very well; but it certainly cannot particularly relieve the ship-building interest of the country at large. The fifth section provides—

That the provisions of the act entitled "An act authorizing the Secretary of the Treasury to issue registers to vessels in certain cases," approved December 23, 1852, are hereby extended to vessels built within the United States: *Provided*, That the same were not transferred during the rebellion to foreign owners.

Now, in all these four sections I find nothing that can very materially aid the ship-building interest. I conclude, therefore, that the sum of the great benefits that are to be derived from this bill are to be found in the second section, which provides—

That a drawback equal to the duties paid be allowed to ship-builders on lumber, cordage, iron, copper, chains, and anchors actually used and employed by them in the building and rigging of any ship, steamer, or other vessel built within the limits of the United States; the amount of drawback in all cases to be ascertained and paid in such manner and under such regulations as may be prescribed by the Secretary of the Treasury: *Provided*, That five per cent. on the amount of all drawbacks so allowed shall be retained for the use of the United States by the collectors paying such drawbacks respectively.

This, then, is the main object of the bill: to allow a drawback upon copper, lumber, iron,

cordage, chains, anchors, and the like. Now, in regard to the copper interest I believe I can speak as loud as any gentleman can in favor of the shipping interest, and, if I am not mistaken, with quite as much reason.

The copper mining interest upon Lake Superior—and I speak of that particularly because I happen to understand it better than I do any other copper mining interest—the copper mining interest upon Lake Superior has employed a capital of fully \$50,000,000. In consequence of the closing of the war, and, I suppose, partially from the failure of the demand for copper, and still more because the protection upon that article is much less than upon most articles of the sort, that interest is at this time in a very depressed condition. The House doubtless has noticed the very large number of petitions which have come here from that interest for relief. They ask that the copper interest of the country shall be protected by duties somewhat corresponding to those which are applied to iron and other similar interests of the country. And by and by, when that bill shall be reached, we shall ask the House to consider the question whether this interest does not need protection.

It would be easy, and perhaps it would be well, to state more at large what this copper interest is. But I will not detain the House further than to say that the Lake Superior copper mines produce nine thousand of the twelve thousand five hundred tons of copper produced in this country. It is, therefore, a very important interest. I need not enlarge upon the fact that while this interest has been more developed in the mines of my State than elsewhere, it is nevertheless a vast and increasing interest all over the country.

What I wish to say here is, that I do not wish to make any point against the ship-building interest; while I will give my vote and voice in every case to aid that interest, so far as it may be possible, yet I cannot be asked here to strike down another of the great interests of the country. On the contrary, we must get on together. And I will say to the gentleman from Massachusetts, in all seriousness, that if he expects this to be a great nation commercially it must also be a great nation productively. It must take care of all of its interests at home as well as abroad. I tell him that he will never see the stars and stripes floating in triumph upon every sea all over the world if he strikes down our home interests in behalf of the ship-building interest.

Mr. PIKE. I wish to say, with the permission of the gentleman from Michigan, that the ship-building interest is a customer for Michigan copper to a very small extent. I have here a very carefully prepared table, showing the amount of duties collected on these various articles.

Mr. BLAIR. I do not yield for a speech, although I do yield for a question.

Mr. PIKE. At the proper time I will explain this matter to the satisfaction of the House.

Mr. BLAIR. I will say further in explanation of the objection I have to this bill, it grants a drawback on imported copper which is no more or less than taking the duty off copper and allowing it to come into competition with our home copper interest. When that is done I undertake to say it will destroy the copper mines of Lake Superior. It will admit foreign copper free.

Mr. LYNCH rose.

Mr. BLAIR. I suppose the gentleman expects to reply to me, and what he has to say I prefer he shall say then.

The gentleman from Maine says that the ship-building interest has not been a very large patron of the copper interest. That may be true; but my opinion was otherwise. It will result, if this be adopted, that the copper produced abroad will come in here free, and will be consumed by the ship-building interest to the extent needed. My opinion is, however, that copper is a material very largely used in ship-building. During the war the copper

interest flourished largely, growing out of the fact that the amount of copper used had largely increased in consequence of the great number of ships that were then built.

Now, sir, the gentleman from Maine, [Mr. PIKE], who made an elaborate speech the other day, intends not only to antagonize this interest of copper, but to leave every other interest in this country unprotected. Let me read from the speech he made on that occasion:

"Mr. MYERS. If the gentleman will allow me, I do not know that I disagree with him in what he has said, but I do not like one of his arguments. Does he mean to tell this House and the country that the relief we have given from taxation is simply to certain rich manufacturers, and not to the laborers whom they employ throughout the whole country? If not, why does he use such an unnecessary argument here in behalf of a just bill?"

"Mr. PIKE. I made a statement that cannot be contradicted, that we relieved from taxation the rich manufacturers of the country. It cannot be denied that we have failed to relieve the humble interests of the country that I have described. I know the argument of the gentleman from Pennsylvania, [Mr. MYERS]. It is familiar to me from my boyhood. It is that the incidental benefits that accrue to the manufacturer reach the employé. I have used that kind of argument ever since I learned to talk in public. I was a protectionist in my day, and I argued that in protecting the manufacturer we protected the employés; that manufacturing establishments would draw around them operatives who would receive the drizzle of protection that filtered through their employers. I am not so thoroughly imbued with the justice of that idea as I used to be."

I cannot understand the gentleman from Maine, Mr. Speaker, for he places the ship-building interest, or rather this bill, upon the ground distinctly that it is hostile to the protective policy of the country. He proposes to do that with that interest. I will not stop here to complain of the manner in which he treated this interest then. But if he used the language that he says he did he was much less of a protectionist than I supposed him to be. He says that he used the argument that, by protecting the rich manufacturers the poor people would have some little "drizzle" of that protection at the same time. I have been a protectionist all my life, and I say to the gentleman that I have never mentioned any such "drizzle" in any of my arguments. I refer to this solely for the purpose of showing that the gentleman was against this and the other great productive industries of the country. This Congress at least has long enough shown a disposition not to abandon that protective policy; hence I do not think it necessary to discuss it now.

I say, then, that the drawback is simply an infraction of the protective policy of the country. There is not an argument that can be used in favor of it which is not equally an argument for the abolition of the entire protective policy of the country. It strikes at that and nothing else. If it is best for the United States to foster its own industry, if it is best to take care of our own interests, then we cannot consistently pass this bill.

I will say further that I do not believe the passage of this bill is necessary. For when I look into the gentleman's figures which he took so much pains to arrange for our information, and see what the amount of tonnage was in 1861, as compared with the amount in 1867, it appears plain enough from those very tables that the ship-building interest has not suffered any more than the other great interests of the country. It is true that during the war, in consequence of the existence of confederate cruisers on the ocean, our ships were to a great extent driven from it, and the natural consequence is that as yet they have been unable to be replaced. The gentleman from Maine will understand, of course, that it takes some time to recover from this depression. There is no great interest that can be invaded and crippled in this way without some depression. But, sir, I have as much faith as I have in anything that the enterprise of the American people will remedy this evil as it has remedied similar evils before.

We have been a great commercial nation, and we shall continue to be such. I am not prepared as yet to shed any tears over the flags of my country that the gentleman from Mas-



sachusetts [Mr. Ellor] thinks will be carried into lofts and stowed away by and by while we mourn over the decadence of the power and glory of the American people. If you will take care of the great interests of the country at home I am willing to let foreign ships struggle for supremacy on the seas and fight the battle in their own way, believing that our flag will triumph there as it has in the great struggle for nationality.

I believe I have occupied the time of the House as long as I ought to on this subject. I repeat that my objection to this bill is simply that it undertakes to maintain this one interest by striking at another which is equally important, and we cannot afford to foster one interest by detriment to others of equal importance. I shall be glad to have the burdens of the country equalized, if they are not already equalized, but after the statements on the other side in favor of the bill I am not able to see that it is at all necessary that this measure should be passed. I intended to move as an amendment, before I sat down, to strike out a section of the bill.

The SPEAKER. That is not in order; the motion to recommit is pending.

Mr. BLAIR. I yield to my colleague, [Mr. Driggs.]

Mr. DRIGGS. Mr. Speaker, I do not intend to occupy the attention of the House but a short time, as my time is limited to the brief period yielded to me from his time by my colleague, [Mr. Blair], and as I have promised a portion of that time to the gentleman from Pennsylvania, [Mr. Myers.] I desire to say that I understood my colleague, [Mr. Blair], in reply to Mr. Pike, of Maine, to say that that gentleman had stated—and which I had also understood him to say—that a very small proportion of the copper used in ship-building was obtained from Lake Superior. That statement, Mr. Speaker, I doubt not is strictly true, and for the very best reason it is true. The reason, sir, why our native copper is not used is because it has no protection, and these ship-builders find it much more convenient and economical to buy copper produced from foreign ores, the product of penal and cheap labor, brought into the country almost free and thrown into the market in ruinous competition with the production from the mines of Lake Superior and other sections, which are borne down by taxation of every kind to support the Government. If this bill passes, and a drawback is allowed to the ship-builder equal to the duty on foreign copper, it is very doubtful whether even the small proportion of which the gentleman speaks will come from Lake Superior or any other American mines; for it will be utterly impossible for them to compete with the foreign article imported free of duty.

I hold in my hand, and will send to the Clerk's desk to be read, a letter from a prominent ship-builder in Maine. This letter, I think, sir, will convince the gentleman, the House, and the country that he does not represent the entire wishes of the ship-builders of the country in urging this drawback of the duty paid on foreign copper. As the letter will show for itself what this intelligent ship-builder thinks of the proposition, I will suspend any further remarks until it is read.

The Clerk read as follows:

BATH, MAINE, March 21, 1868.

Sir: I take the liberty to write you on allowing a drawback on foreign materials used in the construction of vessels, as I am one of those who are opposed to the withdrawal of duties.

I have not written our Maine Senators, as they are committed to the friends of that measure. I will briefly state my reasons. In the first place, it would be unjust to those who have invested their money in ships, and the reduction of duties entirely would lessen the value of their property just so much as the drawback would amount to. We have built in the last four years four ships. The duties on the foreign articles in them would be about forty thousand dollars, and we should lose that amount, because the vessels would not sell for so much.

Another reason why there should be no encouragement of that kind is that there are more vessels now built, and being built, than are wanted.

The cotton crop is not half what it was before the

war, when we had four million five hundred thousand bales. Ships will do well enough, and can afford to pay duties.

It seems to me nothing can be more suicidal than the course of the friends of this drawback.

It would be as though woolen manufacturers, whose interest is depressed, should ask Congress to take the duties from machinery or materials made abroad as a remedy for mills now idle, causing new mills to be built, because cheaper than the old ones. What ship-owners now want is profitable business for the vessels they now have, and then we shall have a healthy, not a hot-house, growth of ship-building. Much complaint has been made of the decrease of American commerce without cause.

A large number of vessels were sold during the war, and we got our money for them, and these vessels are now employed mostly in the same business that they would have been employed in under the American flag; and the cry that our commerce is dying out I think is only raised because many of those who have sold and now have their money in bonds wish to have the privilege of building ships cheaper than their neighbors, and when they can do it they will sell and go to building again. To-day American iron and chains are being used because they can be bought cheaper than the foreign article. Give a drawback, and every article that can be imported will be, and the home manufactures that depend on ships for their sale must stop. To show that ship-building is not quite dead there are now preparations being made to build on our river, the Kennebec, about fifteen ships and barks, averaging about one thousand tons each, and they will be built, duty or no duty; and if we cannot build them here they will be built in other places. The number of ships that will be built in this State the coming year I have no means of knowing, but I think it will be quite large, full enough for the prospect ahead. There was a time when I felt it would be well to have the duties removed, but on reflection I am convinced it will be better for all concerned that the duties remain as they are.

Respectfully, yours, L. W. HOUGHTON,  
of Houghton Brothers.

Hon. Z. CHANDLER.

P.S. In addition to other reasons why duties should not be taken off articles used in ship-building, we have a coastwise trade that foreign flags are not allowed to participate in; and should it be left to owners of vessels as a choice either to pay duties or allow foreign flags to be employed in our coastwise trade nine out of ten would prefer to pay duties.

\* \* \* We had a short time since a meeting of ship-builders in our city on this subject of drawbacks, and I think not over half a dozen were present from outside the city, showing that there is little interest in the subject.

Mr. DRIGGS. Mr. Speaker, that letter so fully expresses the whole question, and coming, as it does, from a ship-builder in the State of Maine, the gentleman's [Mr. Pike] own State, I shall say no more on the points to which it refers. While, as it has been said by the gentleman who preceded me, iron is protected by a duty of about fifty per cent., copper is only protected by a duty of five per cent. Sir, the people representing this once prosperous and now depressed American copper interest have been here for the last two years praying and begging Congress to save them from utter ruin by the imposition of a small increased duty. They have sent here numerous petitions, more numerous, as I believe, than has been done in reference to any other interest.

They do not ask that full protection given to other American productions; they only ask for twenty per cent. This, it is understood, the Committee of Ways and Means is unanimously in favor of giving them, and I earnestly believe the House will be in favor of conceding this eminently just claim as soon as that committee shall report the bill to the House for its action. The gentleman from Maine has stated that a very small amount of copper is used in ship-building. Mr. Speaker, this is either a very careless statement or my information is greatly at fault. I am informed by those who claim to know, and I believe it is true, that at least one third of all the copper used in the United States is for copper bottoms and for other necessary purposes in ship and steamboat building. And I will state another fact for the information of the House, and particularly for the gentleman from Maine, that the State of Michigan not only produces three fourths of all the copper used in the United States, but that it is capable of producing it all, and of exporting with proper protection an equal amount. Besides this, Mr. Speaker, the State of Michigan builds a greater amount of tonnage in ships and steamboats annually than does the State of Maine. But considering the vast national interest of copper they do not desire, any more than did the gentleman whose

letter has been read, that one source of national wealth shall be ruined to build up another. In view of all these considerations and facts, it would not only be a manifest wrong, but an extreme cruelty, for this House to pass the bill introduced by the gentleman from Maine, for a drawback of the duties on the copper used in ship-building, and I earnestly trust that the House will not consent to so manifest an injustice, and that the bill will not pass. I regret that I have not more time to urge my objections, and that I must now yield the balance of my time to the gentleman from Pennsylvania, [Mr. Myers.]

Mr. MYERS. I have very little to say about this bill, but the mention of my name in connection with the debate the other day, and a few facts within my knowledge justify me in saying a few words in regard to it. Petitions are pouring in from all parts of the United States for an increased protection to American manufactures and American labor, and one member after another is presenting those petitions, and yet at this very time, apparently in a single interest and with no argument that it will benefit all interests, a bill is introduced very specious upon its face, but absolutely conflicting with all or most of those petitions.

I have no objection to the first section of this bill. There is none that I know of. But although I represent a ship-building interest, a district largely engaged in ship-building, there has come to me no voice in behalf of such a measure as this, although it has been published by the papers throughout the country. If any of my constituents who are engaged in ship-building desired such a measure, I believe I should have heard of it. I think that those I represent hold views similar to those expressed in the letter which has just been read at the Clerk's desk. If we could protect one interest without injuring others by this bill, I, for one, should have no objection to it. But, sir, I take it that in the section of country from which the gentleman from Maine [Mr. Pike] comes there are some persons engaged in manufacturing chains; there are some persons engaged in manufacturing anchors; there are some engaged in manufacturing cordage; yet all those interests are to be stricken down, because as to them this measure is free trade. The drawback allows the ship-builder to import all these articles free of duty; that is, the duties are to be paid, but he gets them back. There are also manufacturers of machines and workers of iron that enters into the construction of vessels, to say nothing of the copper interest so ably represented by my friends from Michigan. Yet of all these interests are to a certain extent to be stricken down, without appearing to do so, by the second section of this bill.

If, Mr. Speaker, we may protect the ship-building interest in this way, why may not the same reasoning be applied to every other interest in the land which needs the same resuscitation? My district is, to a certain extent, a ship-building district, and the city I in part represent is a commercial city, and while to a certain extent commerce has declined, it has been because of causes beyond our control, because of the war. But, with proper energy and enterprise, such as that displayed at Baltimore, of which my friend from Maryland [Mr. Phelps] boasted the other day, our vessels will soon sweep across the ocean as they did before. I believe that ships will be built as enterprise is brought forward. I believe that this interest needs no more protection than other interests, and that no ship-builder would care to strike down these other interests merely for the sake of the benefit of the drawback herein provided.

What are we asked to do? For the sake of a certain number of ship-builders, in order that they may get their lumber and cordage and chains and anchors and their labor from Canada cheaper than they can now do, this provision is to be put upon the statute-book to the detriment of many other important interests of the country.

My friend from Maine, [Mr. Pike], in his

speech the other day, spoke of our relieving the manufactures of the country. He spoke then of the necessity of passing this bill, though it had not then even been reported to the House. But I suppose he was anxious to speak upon it, and took that opportunity to do so, for fear another opportunity would not present itself. He referred to the fact that we had relieved certain people from taxation, and argued that we should therefore take off the tariff duties upon other articles. Now I want to say a word or two in reply to the gentleman from Maine, and other gentlemen who go with him in favor of this bill, and particularly of the principles contained in this second section.

Sir, before we took the tax off manufactures we relieved this ship-building interest by taking off the tax from everything that entered into ship-building. And I was one of the foremost in endeavoring to get that done, offering an amendment for that purpose. In reality we relieved the ship-building interest from taxation before we relieved the other interests. Therefore the argument of the gentleman made at any time is not a good one. That is all I have to say about that.

I wish to protect this interest, but I shall vote against this second section. If I cannot succeed in striking that section out I shall very gladly support the amendment of the gentleman from the Johnstown district of Pennsylvania, [Mr. MORRELL.]

Mr. WASHBURN, of Massachusetts. Will the gentleman allow me to ask him a question? Mr. MYERS. Certainly.

Mr. WASHBURN, of Massachusetts. I would ask the gentleman if he is in favor of relieving the industrial interests of the country from the very heavy tariff they have been obliged to pay upon wood-screws, the patents for which we have been asked by the gentleman to extend? [Laughter.]

Mr. MYERS. I will answer the gentleman, although his question is not very relevant. Whenever he can show that the industrial interests of the country are unduly taxed in any way I will go with him to relieve them from taxation. And whenever I show him that any measure proposed here is one which will tend to oppress the industrial interests of the country I shall expect him to go with me in opposing it.

Mr. LYNCH. Mr. Speaker, I presume it is hardly necessary to urge upon the attention of this House the great importance, the great national importance, of taking immediately some steps to regain the position which before the rebellion we held as a great maritime Power.

The truth of that wise saying of one of England's most sagacious statesmen, "that they who control the commerce of the world control the wealth of the world, and they who control the wealth of the world control the world itself," is, I think, too well appreciated here to need any argument from me to secure recognition. Sir, I take it that it is only necessary to ascertain what measures are needed to restore our lost commerce, and with it our lost advantage in the race for commercial supremacy in order to secure their adoption. While I do not believe in the policy of forcing into existence interests by governmental aid which can never stand alone, and which can only be sustained by the constant and continual support of the Government, I do believe it to be the true policy of every nation to aid, protect, and foster every great national interest that can by such protection and fostering care attain a position where it can sustain itself.

That the commercial interest of this country can become self-sustaining would not admit of a doubt, even if the fact had not been demonstrated by actual experience. A country abounding in all the material for the construction of ships, possessing a vast extent of seacoast, indented with the finest bays and harbors to be found in the world, that produces and consumes every article known to commerce, and is inhabited by as hardy and enterprising a race of men as ever peopled any country, has surely all the elements of a great

commercial nation. It is only necessary to refer to the statistical tables to show the commanding position we had attained as a commercial nation prior to the recent great civil war through which we have just passed. The following table shows the relative increase of American and English tonnage in each decade from 1830 to 1860 inclusive:

*Tonnage owned by the United States and Great Britain at different periods.*

	U. S.	G. B.
1830.....	1,191,776	2,531,819
1840.....	2,180,764	3,311,338
1850.....	3,535,451	4,232,962
1860.....	5,353,868	5,710,968

Showing an increase of American tonnage in these thirty years of nearly three hundred and fifty per cent. to an increase of English tonnage of about one hundred and fifty per cent.

The following tables, covering the period from 1861 to 1866, inclusive, show a loss in American tonnage in six years of 1,043,090 tons, or about twenty per cent; while the tonnage of Great Britain in the same time increased 1,402,615 tons, an increase of about twenty-five per cent.

*Tonnage owned by the United States and Great Britain at different periods.*

	U. S.	G. B.
1861.....	5,539,813	5,895,369
1862.....	5,112,165	6,041,358
1863.....	5,128,081	6,629,403
1864.....	4,986,401	7,103,261
1865.....	5,096,781	7,322,604
1866.....	4,310,778	7,297,984

A comparison of the tonnage engaged exclusively in the foreign trade would show still more to our disadvantage; as the American tonnage engaged exclusively in the coastwise trade has during this period considerably increased.

Let us now see how we stand in relation to the carrying trade of the world. The following tables show the amount of American and foreign tonnage entering the ports of the United States from foreign countries in different years from 1830 to 1866:

	American.	Foreign.
1830.....	967,227	131,900
1840.....	1,576,946	712,363
1851.....	3,054,340	1,939,061
1860.....	5,921,285	2,353,911
1861.....	5,023,917	2,217,554
1862.....	5,117,685	2,245,278
1863.....	4,614,698	2,610,378
1864.....	3,066,434	3,471,219
1865.....	2,943,661	3,216,967
1866.....	2,886,060	4,410,424

The total foreign commerce at all the ports of the United States at three distinct periods before and since the war was in value, as follows:

Years.	In American vessels.	In foreign vessels.
1857.....	\$405,485,462	\$131,139,904
1860.....	547,247,757	255,040,793
1867.....	296,675,185	577,627,754

These tables show that while in 1860 we had engaged in foreign commerce to and from American ports more than double the amount of tonnage employed by all other nations, in 1866 the figures had become reversed, and the foreign tonnage engaged in this trade nearly doubled that of the United States, and that the amount in value of foreign commerce to and from American ports had fallen off in the same proportion.

A still more startling proof of the decadence of our influence in the foreign carrying trade is afforded by contrasting the business done by American, British, and French vessels between ports foreign to each class of vessels. In 1853 the American tonnage engaged in this trade was 4,004,013 tons to 3,363,121 British and 854,029 French, nearly as much as both put together. In 1860 the American tonnage was nearly six million to 4,700,000 British and 1,300,000 French, about the same proportion. In 1865 American tonnage had fallen to about three million tons, and that of Great Britain had risen to 7,000,000 tons. The following table from the reports of the Bureau of Statis-

\* In the official tables the American tonnage entering from foreign countries in 1853 is put down at 3,372,060; but this is the new measurement, which would be reduced fifteen per cent. to bring it to the old standard.

tics exhibits the figures in detail. I commence at 1853, for the reason that from 1849 to 1853 I find no statistics of the amount of British tonnage.

Year.	Entered inwards.			Cleared outwards.		
	American.	British.	French.*	American.	British.	French.*
1853.....	4,004,013	3,363,121	854,029	3,766,789	3,847,058	911,164
1854.....	3,752,115	3,313,549	921,186	3,011,302	3,362,663	1,011,611
1855.....	3,861,391	3,633,153	1,006,419	4,068,979	3,892,011	1,042,279
1856.....	4,365,484	4,433,792	1,191,424	4,538,364	4,620,818	1,215,154
1857.....	4,721,570	4,716,709	1,356,657	4,630,691	4,630,250	1,375,092
1858.....	4,385,612	4,816,100	1,286,810	4,490,033	4,367,855	1,274,289
1859.....	6,265,683	4,003,266	1,326,322	6,165,924	4,801,042	1,401,164
1860.....	6,921,285	5,193,019	1,345,396	6,297,367	4,631,670	1,274,219
1861.....	6,023,917	4,778,016	1,434,778	4,899,313	5,182,862	1,468,461
1862.....	5,117,685	5,326,265	1,589,763	4,961,818	5,546,183	1,559,886
1863.....	4,614,698	5,369,184	1,610,347	4,447,219	6,442,643	1,660,940
1864.....	3,066,434	6,492,606	1,610,347	3,060,918	6,442,643	1,660,940
1865.....	2,943,661	7,022,948	No data.	3,023,134	7,116,067	No data.

If anything further were needed to prove the disastrous effects of the war and taxation upon our shipping interests, it will be found by an examination of the subjoined tables of the value of the exports and imports carried in American and foreign bottoms in the foreign trade from 1850 to 1866:

*Statement exhibiting the proportion of the commerce of the United States, in value, which was performed by American and foreign vessels, respectively, from 1850 to 1866.*

Fiscal year.	TOTAL IMPORTS.*	
	American vessels.	Foreign vessels.
1850.....	\$189,657,043	\$38,481,275
1851.....	163,650,543	52,574,589
1852.....	155,258,467	53,028,358
1853.....	191,688,325	76,290,322
1854.....	215,376,273	86,117,821
1855.....	202,234,900	59,233,620
1856.....	249,972,512	64,667,430
1857.....	259,116,170	101,773,971
1858.....	203,700,016	78,913,136
1859.....	216,123,428	122,644,702
1860.....	228,164,855	134,001,399
1861.....	201,544,055	134,106,098
1862.....	92,274,100	113,497,629
1863.....	109,744,580	143,175,340
1864.....	81,212,077	248,350,818
1865.....	74,885,116	174,179,596
1866.....	112,040,395	333,471,763
Total.....	\$2,806,142,855	\$2,014,508,635

Fiscal year.	TOTAL EXPORTS.†	
	American vessels.	Foreign vessels.
1850.....	\$99,615,084	\$52,283,679
1851.....	152,456,689	65,931,322
1852.....	139,476,937	70,181,429
1853.....	155,028,802	75,917,355
1854.....	191,322,266	84,474,054
1855.....	203,250,562	71,903,284
1856.....	232,295,762	91,609,146
1857.....	251,214,907	111,745,825
1858.....	243,491,288	81,163,133
1859.....	249,617,953	10,171,600
1860.....	279,082,902	121,039,394
1861.....	179,972,733	69,372,180
1862.....	125,421,318	104,517,667
1863.....	132,127,891	199,880,691
1864.....	102,819,409	237,442,730
1865.....	92,551,061	263,303,283
1866.....	213,671,466	351,761,028
Total.....	\$3,043,444,025	\$2,172,773,769

Sir, no language of mine can add force to facts like these. They show conclusively that our foreign commerce has been nearly annihilated by the war in consequence of the inability of the Government to afford it protection. They furnish also a key to the motive that actuated foreign nations, particularly Great

\* Gold values at foreign place of exportation.  
† Mixed gold and currency values in United States, mainly currency.

Britain, whose commercial rival we had become, in giving aid and comfort to the rebellion. Shall we allow those nations that aided in destroying our commerce to profit by its destruction? or shall we encourage and stimulate its reproduction by enacting wise and liberal measures in regard to it?

It is said that every interest in the country should bear its proportion of the public burden; and I fully concur in the general correctness of that proposition. But I submit whether this particular interest which has been crushed almost out of existence by the war, while those other great interests, agriculture and manufactures, have been stimulated and improved thereby, should not be made an exception to this general rule.

If an article of American manufacture is taxed, if the raw material which enters into its composition pays an impost duty, the article when manufactured is protected by a duty upon its foreign competitor, which is intended to cover not only these disadvantages, but also the increased cost of American over foreign labor.

And now I wish to call the attention of my friend from Pennsylvania [Mr. MYERS] to the difference between the protection this great interest receives, and the protection which is afforded to the manufacturing interests which that gentleman represents. They are protected by the tariff which is put upon those articles that are included in our tax laws.

The gentleman from Michigan [Mr. BLAIR] asked wherein our laws have been changed in regard to this ship-building interest that it now requires protection. I ask that gentleman and the gentleman from Pennsylvania wherein our laws have been changed in regard to the interests they represent? And yet those gentlemen, from the commencement of the war to the present time, have come here and demanded more protection, and we have given it to them. We have advanced the import duties *pari passu* with and in proportion as we have advanced our internal taxes. The laws in regard to the ship-building interest have not been altered to meet the altered condition of affairs, while the laws in regard to manufactures have been so altered.

Let us see how it is with the American ship-builder. He must build his ship with high-priced labor, and high-priced and high-taxed material; every thing from stem to stern, and from keelson to truck, has paid an excise or an impost duty. And when the ship is launched and ready for business, provisioned with taxed stores and manned with a taxed crew, the foreign ship, built with cheap labor, without a single article which has entered into her construction having paid a tax to the Government, with every article of ship stores exempt from duty, this ship, thus built, manned, and provisioned, hauls alongside of the American ship, at an American port, and enters into free competition with her for all foreign commerce. Is it strange, with this condition of things, that the American flag is fast disappearing from the ocean so far as foreign commerce is concerned? Is not the fact that it has held its own so well against such adverse circumstances conclusive proof that, with reasonable protection from the Government, we should soon regain all we have lost?

I would like to ask my friends from Pennsylvania, who are constantly asking for more protection—which I have always been willing they should have—how long they think they could stand the competition if it were possible for the Englishman to bring over here his rolling mill and machine-shops with workmen to run them; bringing at the same time provisions and clothing for the workmen; all free of duties or taxes; and then be allowed to sit down beside and enter into free competition with them? This, sir, is just what the English ship-builder is allowed to do in competition with the American ship-builder and ship-owner; and the present bill affords only a partial relief; because in the nature of the case only partial relief can be afforded. There ought to be a provision in the bill under consideration

by which an American ship, clearing for a foreign port, should be allowed to take its stores as the English ship does, in bond, free of duty. The disadvantages which we labor under, of higher paid officers and crews to man our ships, is one under which we have always labored, but for which we have been compensated by the superior intelligence and enterprise of our officers and sailors. To show how rapidly, with reasonable encouragement and protection, our commerce can be restored, we have only to refer to the tables which I have presented, showing the increase of American as compared with foreign tonnage, and to the following table showing the amount of tonnage built each year from 1850 to 1866, inclusive:

TREASURY DEPARTMENT, Bureau of Statistics, November 10, 1866.

Years.	Ships and barks.	Brigs.	Class of vessels.			Total number of vessels built.	Total tonnage.
			Schooners.	Sloops and canal-boats.	Steamers.		
1850.....	247	117	547	290	229	1,390	272,218.54
1851.....	211	65	522	326	223	1,307	226,203.60
1852.....	225	79	534	267	229	1,307	351,433.46
1853.....	269	65	584	394	271	1,414	422,311.43
1854.....	334	95	631	661	281	1,710	523,010.04
1855.....	381	135	686	669	281	1,774	583,450.04
1856.....	306	103	594	479	221	1,703	578,801.70
1857.....	251	58	504	258	226	1,384	510,286.60
1858.....	222	46	431	400	226	1,225	454,601.32
1859.....	89	38	297	284	172	870	202,897.48
1860.....	110	38	372	289	204	1,011	223,194.30
1861.....	110	17	360	360	183	1,143	223,194.30
1862.....	62	17	207	371	187	864	170,884.84
1863.....	97	34	212	1,113	183	1,823	310,884.84
1864.....	112	45	322	1,389	496	2,306	510,740.64
1865.....	109	46	309	926	411	1,788	381,905.64
1866.....	96	61	457	858	318	1,838	330,140.56

\*New admeasurement.

Statement showing the number and class of vessels built, and the tonnage thereof, in the several States and Territories of the United States, from 1850 to 1866, inclusive.

Mr. ELDRIDGE. With the permission of the gentleman, I would like to make an inquiry. I understood him to say that there is nothing in the materials of which the ship is built that is not taxed. Now, I ask him what there is that any laboring man in the West wears, from the crown of his head to the sole of his feet, or what there is that he uses, that is not taxed for the benefit of the manufacturer?

Mr. LYNCH. If the gentleman had listened to my argument he would have seen that I had already anticipated his question. While the late war nearly annihilated American commerce, it protected and stimulated the agricultural and manufacturing interests of the country; and to-day, with all the taxes that are placed on these interests, they are in a more thriving condition than they were before the war. And, let me tell the gentleman further, that by the repeal of the reciprocity treaty we have granted still further protection to the agricultural interest.

Mr. ELDRIDGE. We have borne the taxes which were put on in consequence of the enormous expenses of the war very cheerfully; but why should we have our taxes increased on every article which we consume, while these men ask to be relieved from the taxes imposed on their shipping interest?

Mr. LYNCH. I have already answered the gentleman's question, that those interests, notwithstanding the taxes imposed upon them, are, on account of the protection that was afforded and the stimulus given to all these branches of industry by the war, now actually better off than they ever were before, even when they paid no taxes, while the ship-building interest has been almost annihilated by taxation imposed without any compensating advantages, for the reason that you impose a duty upon everything that goes into the construction of the American ship, and then compel that ship to compete with the foreign-built vessel which is entirely exempt from all duties and taxes. There is no analogy in any other interest in the country. I defy the gentleman to point out any. Nowhere in the United States are the products of the foreign agriculturist allowed to compete free from tax or duty with the products of our own farmers; and thus protected by the Government the western farmers, represented by the gentleman from Wisconsin, are enabled to bear their portion of the burdens of supporting the Government.

Mr. ELDRIDGE. I agree that the English ship should not be able to come alongside of our wharves, and be free from the taxation that our American ships have to endure. I agree that our ships should not be subject to this tax; but I object and protest against the discrimination the gentleman would make in favor of the ships and against our laboring men.

Mr. LYNCH. I do not agree with the gentleman in his free-trade notions, even if he agrees with me on this bill. I am in favor of protecting American labor and industry; but, as I have said before, all the other branches of American industry of which the gentleman speaks are better off to-day, even after paying the taxes, than before the war, because they have been stimulated and protected, while this ship-building interest is the only one which has had no protection, either from destruction during the war or from free competition with these untaxed foreign ships since.

Mr. O'NEILL. Will the gentleman allow me a question?

Mr. LYNCH. Yes, sir.

Mr. O'NEILL. I understand him to say he is in favor of protecting American industry in general. Is that so?

Mr. LYNCH. Yes, sir.

Mr. O'NEILL. Then, sir, I ask him just to look for one moment to the very practical amendment offered by my colleague, [Mr. MORRELL,] and say whether, in carrying out his idea of protecting American industry in general, he cannot vote for that amendment?

Mr. LYNCH. My answer to the gentleman is, as I have said before, that those interests are already very well protected by high duties. It is only a very small amount of articles represented by the gentleman that go into the construction of ships and that are proposed to be exempted under this bill. But these gentlemen from Pennsylvania are so grasping in this matter that, notwithstanding all the stimulus that has been given to their interests by the war and by a protective tariff, they are not willing to yield to the great national ship-building and ship-owning interests this small pittance that it asks and that it must have in order to live.

Mr. O'NEILL rose.

Mr. LYNCH. I decline to yield to the gentleman from Pennsylvania any further.

Mr. O'NEILL. Only one word.

Mr. LYNCH. I cannot yield.

Mr. O'NEILL. I wish merely to ask a question.

Mr. LYNCH. I will answer a question.

Mr. O'NEILL. I want the gentleman from Maine to answer me a question, and it is this: he speaks of the grasping of Pennsylvania after protection for all of her interests. Why, sir, Pennsylvania had to come here in the broad light of day and run her chances in a general tariff bill, and not by injecting into a bill, referring to some special interests, a few



lines to do away with protective duties on many imported articles.

Mr. LYNCH. My answer to the gentleman is this: when the provisions of the drawback section of this bill were incorporated into the tariff bill in the last Congress and passed the Senate, these gentlemen from Pennsylvania came forward and demanded that it should be struck out. It was, in the Committee of Ways and Means, stricken out of that bill because of their opposition, and that is the reason why we are now obliged to bring it in by a special bill. It is because we cannot get in the general legislation the protection we need, on account of the gentleman and those who act with him.

Mr. O'NEILL rose.

Mr. LYNCH. I decline to yield further. Now, I wish to say a word in reference to another Pennsylvania interest which came here when we had a reciprocity treaty, which allowed us to bring coal from Nova Scotia free of duty. But a small quantity of that coal the statistics proved ever found a market west of New York, while but a very small quantity of the bituminous coal of Pennsylvania ever went east of New York. Yet, sir, these gentlemen come here and insisted that coal should have a high rate of duty put upon it, when it afforded no protection to them, because this Nova Scotia coal found its market principally east of New York and all the bituminous coal of Pennsylvania south of New York; so that they did not come into competition. Yet they came here and had a tax put upon that Nova Scotia coal, taxing New England manufacturers without deriving any advantage by way of protection to their bituminous coal.

Now, Mr. Speaker, let me resume the course of my argument and recall attention to the table which I introduced just before I was interrupted by the gentleman from Wisconsin. A careful examination of that table will show that although we built nearly as much tonnage in some years during the war as before, it was mostly of a class suited to the internal navigation of the country, schooners, sloops, canal boats, and steamers, while the tonnage of the class suited to our sea-coast and foreign commerce, ships, barks, and brigs, built in that period, was comparatively small.

Now, sir, in order to foster our commerce we have to do something more than to lift from it the burdens which the war left imposed upon it. This interest has been crushed. It must be revived. Before the war it had no protection, enjoyed no exemption, and yet it grew and flourished. Revive it, build it up, place it on something like an equal footing with its foreign competitor, and it will again grow and flourish, increasing the wealth and power of the nation.

We are told by some that we should repeal our navigation laws, and buy instead of building our ships. The nation that builds ships owns them. If England builds our ships she will own them as she now owns nearly all the ocean steamers that do our carrying trade. But why should we buy ships when we have such facilities for building them that we can, as experience has proved, compete successfully with Great Britain and every other foreign nation in the carrying trade of the world. Are gentlemen willing to say to the American ship-builder, "You must pay an import duty on all the raw materials that enter into the construction of your ships, and build them with taxed labor, while the same materials, after having been wrought up into a ship in a foreign country, with foreign labor, may be admitted duty free." Do gentlemen seriously propose this discrimination against American labor and American capital? Great Britain allows her citizens to purchase and register foreign-built vessels; but she adopted that policy only after she had made her navigation interest strong by protecting it and relieving it of every burden of taxation. While she admits the free importation and registry of foreign ships, she admits free of duty every article which enters into the construction of her own ships. Give the American ship-builder ten years of such protection

as the English ship-builder has enjoyed, and you may then admit foreign ships to American registry free, and he will not only protect himself but will drive the foreign ship-builder out of his own market.

I wish to say a word in reply to the gentleman from Ohio, [Mr. GARFIELD,] who asked if the introduction of steam navigation did not account for the falling off of our tonnage; this falling off being in consequence of the greater capacity and speed of steamers over sailing vessels. Does not the gentleman know that the whole ocean steam navigation is in the hands of foreigners? We have not a single line of steamships running in or out of an American port to or from any foreign port.

Mr. RANDALL. How does the gentleman propose to correct that?

Mr. LYNCH. By the passage of this bill as one of the measures, and I hope I shall have the gentleman's vote in its favor.

I am informed by a gentleman near me that there is a line of steamers running out of Baltimore. Those steamers were built abroad and sail not under the stars and stripes but under the union-jack.

Mr. HOOPER, of Massachusetts. There is a line from California to Japan.

Mr. LYNCH. The gentleman says that there is a line from California to China and Japan. That may be the case. I think there is such a line, sustained by a large Government subsidy; but the gentleman very well knows that there was an attempted line from Boston to Liverpool, and that those vessels after two or three trips have come under the auctioneer's hammer, because they could not be sustained, being high-priced ships, with high-priced labor and high-priced provisions, while to their English competitors those articles have been free.

Mr. Speaker, a few days since there stood at the bar of this House the embassy of one of the oldest and most populous nations of the world. The chief and spokesman of that embassy claimed for the people of that nation the virtues of temperance, frugality, and industry, and a high cultivation and scientific attainments, and boasted that it could command the services of eighty million fighting men. And yet, sir, that great nation, great in its internal resources, in the extent of its territory, and in population, is scarcely a recognized Power among the nations of the world. While that nation from which we derive our origin, that little sea-girt isle which makes but a dot on the map of the world, with a commerce whitening every sea, has planted her flag in every quarter of the globe and laid the world under contribution to her aggrandizement.

Sir, the commercial greatness of England is the result of no lucky accident, but of sagacious statesmanship and wise legislation. The historian attributes it to the navigation laws passed by Cromwell's Parliament more than two centuries ago. May the future historian, be able to comment upon the commercial greatness, commercial supremacy, of our own country two centuries hence, and trace the source of that greatness, in part at least, back to the wise legislation of this Fortieth Congress, which has by its enemies been likened to that long Parliament of Cromwell.

I yield now to the gentleman from New York, [Mr. BROOKS.]

Mr. BROOKS. Mr. Speaker, I do not intend to say anything here upon the subject of the tariff upon copper or iron, but I shall ask the attention of the House, in the first place, to the necessity of protecting the shipping and commerce of the country. There are three great, prominent interests in all countries: commerce, agriculture, and manufacturing. Without dwelling upon which is the first of them, or attempting to classify them, it is admitted upon all sides that these are the three great interests; and although our agriculture and our manufacturing are in a high degree of prosperity, yet it is a fact that there is not now crossing the ocean under the American flag a single steamer, unless it be a small—and

ragged line running occasionally from the city of New York, and an American line running from California to China and Japan, created and protected solely by the generosity of this Congress and sustained by a large bounty from the Government, without which it would be unable for a single hour to sustain our flag upon the ocean against the competition of France or of England.

Throughout all time and in all countries and in all periods of the world it has been the ambition of every nation first to protect its flag and to protect its commerce. Unless a nation is strong upon the sea, unless she presents a bold exterior front to all foreign nations, unless her harbors and rivers are protected by her navy, unless her flag floats in triumph over the ocean, no matter what may be her power on land—even though she have eighty million men in arms like China—yet she is a weak and powerless nation if she be without a wide and well protected commerce on the seas. This, as has been said by the gentleman from Maine, [Mr. LYNCH,] is the history of the British nation. It rose from an insignificant Power occupying a little island in the ocean, without authority or dominion, to the conquering and subjugation almost of the whole world to its flag. It first rose from that insignificance purely and solely by the influence of its navigation laws. Those laws monopolized for English commerce its coastwise trade and forced its manufactures, its imports, and its exports into its own bottoms under its own flag. Those wise laws of Cromwell were maintained and defended throughout all time till Britain obtained the mastery of the seas by which she achieved her power.

And hitherto it has been our policy in this country, in like manner, to protect our flag. For that purpose we have secured to our commerce, against all foreign intervention, the whole coastwise trade of this country. No vessel under the British, French, or Danish flag can leave New York and go around Cape Horn to California or anywhere on the Pacific coast. There is no interference in that trade on the part of foreigners, because, in imitation of the laws of England, we have preserved to our own people the control and domination of our own coast trade under our own flag. For this purpose we have erected light-houses along our coasts and given bounties to our sailors. For this purpose, for the protection of our fisheries mainly as a nursery for seamen, we have once, if not twice, gone to war with the strongest Power in the world.

But we have now arrived at a new period in our history. We are now unable to compete with foreigners hardly out of sight of our own harbors, except as we have the monopolizing protection of our own coastwise laws. No American flag over an American steamer can now float upon the ocean, unless protected by an American bounty, in competition with steamers under British or French flags. It is a mortifying spectacle, to be daily and hourly witnessed in New York, of the flags of England, France, and the nations of the north of Europe floating over ships that bring our own people and our own commerce and trade from abroad to our own ports, while they are reaping all the profits of that carrying trade.

Mr. HIGBY. Will the gentleman say how he would help that; whether by subsidies, or by taking the tariff duties off these articles?

Mr. BROOKS. I will reach that presently.

Mr. ELDRIDGE. If the gentleman will allow me, I would like to ask him why it is that the English are able to build ships so much cheaper than we can?

Mr. BROOKS. The gentleman is roguish and mischievous, and wants to involve me in a discussion of the tariff question. I will not answer him just now.

The system of drawbacks proposed by this bill is nothing new in the history of our commerce. The manufacturers of New England now have on their cotton goods exported just what the ship-builders of Maine are asking, a drawback upon those articles upon which

internal taxes and duties have been levied. Whatever cotton goods manufactured in this country are exported to the Indies, to Smyrna, to South America, receive in the port of export the benefit of the drawback, and just the same benefit is exacted which the commerce of Maine now demands.

Mr. VAN TRUMP. Is the gentleman from New York [Mr. Brooks] in favor of the three cents per pound drawback on cotton goods?

Mr. BROOKS. I am not to be led off from my line of argument by mischievous questions of that kind put by my friends on this side of the House.

Mr. DRIGGS. Will the gentleman allow me to interrupt him for a moment?

Mr. BROOKS. Very well.

Mr. DRIGGS. When the gentleman states that the commerce of Maine asks for this drawback upon materials used in ship-building, how does he reconcile that statement with the statement of the gentleman whose letter I had read at the Clerk's desk a few moments ago?

Mr. LYNCH. If the gentleman from New York will allow me, I will say to the gentleman from Michigan [Mr. Driggs] that the letter he had read was not from a ship-builder but from a ship-owner, who does not want ship-building materials exempt from duty, because then ship-builders will build cheap ships to come in competition with the ships he owns. If I am not mistaken he has sailed his vessels under a foreign flag, and has a branch of his house at Liverpool.

Mr. DRIGGS. That gentleman says that a convention of ship-builders resolved that if these drawbacks are allowed it would decrease the value of all the shipping interest of this country.

Mr. LYNCH. The gentleman is mistaken; there has been no such action by any convention of ship-builders in this country.

Mr. BROOKS. What the people of Maine really want they will make known through their Representatives upon this floor, and their Senators in the other branch of Congress. The very fact that the letter referred to was written to a Senator from Michigan, and not to a Senator from Maine, shows that the writer of it does not represent the people of Maine in that respect. He says that upon four ships he has paid \$40,000 tax to the Government, or an average tax of \$10,000 per ship. I call the attention of gentlemen to the enormity of that tax. I ask gentlemen to say how the sailors of our country, how the commerce of our country, to say nothing of the flag of our country, can compete with ships and sailors from the ports of northern Europe, if they have to pay this tax? It is the enormity of this tax that has driven our ships off the sea as well as our steamers. It is the enormity of this tax which concentrates in New Orleans and Mobile and Charleston the fleets of all Europe to export our own cotton, tobacco, and rice from those ports. It is so much taken from the commerce of this country.

Mr. DRIGGS. These drawbacks are so much taken from the other industries of the country.

Mr. BROOKS. Now, sir, I wish to say that this system of drawbacks is not a new thing. It is part of our warehouse system. We are constantly importing goods into the country which are put into warehouses. If they do not enter into the consumption of this country, but are taken out of the warehouses and exported, drawback is allowed upon them. But, sir, the difference between this and the other manufactures of the country is this: when an American ship leaves an American port and ventures out upon the wide seas, upon the Atlantic or the Pacific, toward the East Indies or into the China sea, from that moment she is not like a manufacture here at home, protected as the manufactures here are from thirty to three hundred per cent. against manufactures elsewhere, but she is an American manufacture floating upon the high seas in competition with all the world. Her labor and industry are under our flag there upon the

high seas coming into competition with all the other nations of the earth.

Mr. HARDING. I hope the gentleman will give us some information. I desire to ask him why this American steamship line which got up a trade between the United States and Japan, having a capital of some forty-five million dollars, is able to continue its business and to hold the exclusive possession of that trade?

Mr. BROOKS. I will answer the question again, and I hope the gentleman will give me his attention. That Pacific mail steamer is protected by the coasting-trade laws. None but the American flag can go from New York to Panama, and from Panama to San Francisco. None but American bottoms can carry American goods. That is a protection in the first place. In the second place that line has a large monthly subsidy from the Government.

Mr. BLAINE. Five hundred thousand dollars a year for ten years.

Mr. BROOKS. It has a bounty of \$5,000,000 in ten years, and beside it has no competition with other flags or other steamers.

Mr. HARDING. I understand that England pays subsidies to her line.

Mr. BROOKS. Not the California line.

Mr. HARDING. The line I refer to traverses the Pacific ocean to China.

Mr. BROOKS. From San Francisco to Japan. That is the line which has a subsidy from the Government of \$500,000 a year for ten years, making \$5,000,000.

Mr. ELDRIDGE. I hope my friend will not consider me as intruding upon him, but I would ask if it would not be a good speculation for our Americans who are building ships to go to England and buy them?

Mr. BROOKS. Yes, sir.

Mr. ELDRIDGE. It seems to me that would be a good plan.

Mr. BLAINE. And not leave a sailor in this country who could lay the keel of a single vessel.

Mr. ELDRIDGE. We could get plenty of sailors by giving fishing bounties.

Mr. BROOKS. If I ever indulged in rhetorical declamation upon the floor of this House, if I was ever given in any degree to any display of oratory, as I am not, I would ask the House to forget for one moment every pecuniary consideration, everything relating to party, and to reflect solemnly upon the indispensable necessity of maintaining our flag upon the ocean. First and foremost of all things I repeat that in our contest with foreign nations unless our ships and sailors are protected and maintained, unless the people of Maine, the great nursery of seamen, are sustained in their interests, unless the people of the lakes are sustained in their interests in competition with the people on the other side, that people, that labor, and those seamen must suffer in competition with all others.

I speak, then, not for the interest of copper or iron, not for tariff or anti-tariff, but for the great, I may say the predominant, interest of our country, and that is the protection of our flag and the nursery of our seamen, without which and without the passage of a bill something like this, our commerce must decline more and more and our flag fade away from the ocean day by day, until, sooner or later, under the existing system, with the enormous pressure of the existing tariffs, you will soon cease to see passing coastwise from New York to Savannah or New Orleans or California, not only the American flag on the ocean, but even an American sailor. You will soon cease to see your flag on the ocean at all, unless it is protected by your legislation. I yield to the gentleman from Maine.

Mr. PIKE. I yield a moment or two to the gentleman from Wisconsin.

Mr. WASHBURN, of Wisconsin. Mr. Speaker, the grounds for this exceptional legislation are, as I understand, as follows: first, that the great shipping interest of the country, unlike any other interest, was, during the war, wiped out and destroyed, and, as a consequence, the carrying trade of the country has

fallen into the hands of that country by whose perfidy our commerce was brought low; second, that by reason of the war and our inflated currency consequent thereon, with the high internal taxes, high wages, and the high price of articles entering into a ship, it is impossible to build and sail an American ship in competition with a foreign ship; and that, in point of fact, no ships bearing the American flag are now seen in foreign waters, and very few new ships are being built or can be built. In the cities of New York and Boston there is not a single ship on the stocks. I believe both these statements are true. I am unwilling to see Great Britain longer reap the harvest of her perfidy without at least making an effort to restore our ancient supremacy on the sea. To do so will, in my judgment, strike down no other interest. We build no ships, and we can under existing laws, build none. Consequently the Michigan copper derives no benefit from ship-building, and cannot be injured if we pass this bill. Anxious to see our flag once again floating upon the ocean, and believing that this bill will greatly tend to that result and injure no other interest of this country, I shall vote for it.

Mr. DRIGGS. That is a very pretty little speech if it was all correct; but as it is not it does not amount to much. [Laughter.]

Mr. SPALDING. Allow me to say that I adopt the speech of the gentleman from Wisconsin, [Mr. WASHBURN]; and for the same reasons that he gives I shall vote for the bill.

Mr. PIKE. I am very glad to hear from the gentleman from New York [Mr. Brooks] upon this measure, which is one of great importance not only to my constituents but it seems to me to the nation at large. And I am very much obliged to the gentleman from Wisconsin [Mr. WASHBURN] for so succinctly stating the reasons why this legislation should be adopted. I stated at some length the other day—I do not propose to repeat the statement now in detail—that American commerce is in a most languishing condition. I gave a table of statistics from the Treasury Department exhibiting the statistics of our commerce before the war and its position now. Those statistics are not denied or controverted by anybody. I showed that while other interests were flourishing during the war and are now in the main in thrifty condition, this great national interest was stricken down, so much so that there is scarcely in any foreign port to-day an American flag to be seen.

One of our shipmasters, returning from a voyage to Calcutta the other day, says that on his voyage there and back he spoke but two American ships. And last week a naval officer told me that in the great highway between this country and Europe, as he sailed from Annapolis to France and back again last year, he scarcely met an American ship on the voyage, but those he did speak were vessels bearing the cross of St. George. And so it is everywhere. Go to the ports of the West Indies, where we formerly did the whole trade of \$60,000,000, and to-day we are doing less than half of it. Go to the ports of South America, where we formerly did eleven parts of the trade, England one, and now there are three British ships to one American. These trades are not carried on by steam, as gentlemen suggest, but by sailing vessels. The various trades of the country are filled to repletion with British vessels. And the question now for you, gentlemen, to determine is whether or not you will, as an American Congress, render some assistance to American shipping? There is no other measure that you can place upon your statute-book except this that will be of any benefit to them.

I have studied this whole question with diligence, quickened by the interests of my constituents, and I can devise no measure except this. If you strike at this, you strike the last blow at American commerce abroad. And what are the objections? Why, my friends from Michigan, for whom I have the highest respect, come up here and object on the ground

of copper. Why, sir, I have in my hand a list of the various articles used in the construction of ships and the duties on them. On a ship of seven hundred and fifty tons there were duties amounting to \$4,500, and of that the whole amount of tax on "copper bolts, nails, and paint" together is only \$175. Our ships have not been coppered in this country for a series of years past. They go abroad to be coppered and will go abroad for that purpose whether this bill is passed or not. This matter of copper, therefore, is the merest trifle, and I do not care whether it is in the bill or not. I am perfectly willing that it shall be stricken out. I hope my distinguished friends from Michigan, who base their attack on copper, will withdraw and let copper be stricken out. It is too small a matter to contest.

Let me say further that the bill does come in conflict with the iron interests of Pennsylvania; but I was in the Senate a few weeks since when a bill similar to this was under discussion there, and the senior Senator from Pennsylvania, who is as largely interested in the welfare of that great State as perhaps any man in it, made an argument in favor of the bill, and said that Pennsylvania could afford to be generous to this interest.

Mr. MAYNARD. I rise to a point of order. I submit that it is not in order for the gentleman to refer to the proceedings of the other branch of Congress for arguments to influence this House.

Mr. PIKE. I am through with that.

The SPEAKER *pro tempore*, (Mr. DAWES occupying the chair.) The Chair sustains the point of order.

Mr. PIKE. I can only say to the gentlemen from Pennsylvania on this floor that while they act for themselves, as I know they will, I hope they will manifest no such selfishness as to grasp at so weak a customer as the shipping interest, and hold him with such iron grasp as to squeeze the very life out of him, and all for the purpose of making a small profit out of sales to him that they can well afford to forego. They can afford to let this customer go free, and this whole House can afford to say to American ship-builders and American ship-owners, for the time, depressed as you have been by these adverse circumstances, you may go free from these onerous navigation laws that necessity has heretofore imposed upon you until you get an opportunity to recuperate somewhat; until you can reestablish American shipping abroad; until once more the struggling nationalities of the world and the hundreds of thousands of the oppressed may gather heart and hope from seeing the stars and stripes float again in their harbors, and thus gather from it the knowledge that the great Republic of the West is strengthening itself, and will aid them by its influence and example and by the power of its principles in their struggles hereafter. I cannot believe that this House will deliberately abandon the right arm of our national strength.

Mr. ALLISON obtained the floor.

Mr. BROOMALL. Will the gentleman yield to me for a moment to suggest an amendment?

Mr. ALLISON. I yield to the gentleman. The SPEAKER *pro tempore*. No amendment is in order at this time.

Mr. BROOMALL. I propose, with the consent of the gentleman from Massachusetts [Mr. ELIOT] and of the gentleman from Iowa, to offer an amendment to the amendment of my colleague, [Mr. MORRELL.]

The SPEAKER *pro tempore*. Does the gentleman from Massachusetts withdraw the motion to recommit?

Mr. ELIOT. I will first hear what the amendment is.

Mr. BROOMALL. I desire to amend the amendment of my colleague [Mr. MORRELL] by inserting just before the proviso in the second section, the following:

And for the purpose of raising the moneys required to pay the said bounty, and to compensate the loss by the said drawback, ten per cent. thereof shall be added to the duties now imposed by law upon all goods hereafter imported.

Mr. ELIOT. I cannot withdraw the motion to recommit to allow any such amendment as that to be offered.

Mr. COVODE. I desire to correct an error into which the gentleman from Maine [Mr. LYNCH] seems to have fallen. He said there had not been a ton of coal shipped from Pennsylvania and Maryland to any port east of New York. I desire to say that there were thirty thousand tons of coal shipped from my own mines, in my own county, to the East; it was sent to Massachusetts last year, and we expect to ship fifty thousand tons there this year.

Mr. LYNCH. I desire to say that I was speaking of the time when the reciprocity was in operation. I did not intend to say, and if I did it was by mistake, that not a ton of coal was shipped east of New York; but I intended to say that no large amount was shipped there. And I want further to say that I made this same statement at a dinner in Pittsburgh, and it was not only not contradicted, but I was told by the largest owners of coal mines there present, that what I had said was literally true.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed, without amendment, House bill No. 867, for the relief of Jonathan Jessup, postmaster at York, Pennsylvania.

The message further announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 522) to authorize the Commissioner of Revenue to settle the accounts of Andrew S. Core; and

An act (S. No. 540) to regulate the sale of hay in the District of Columbia.

The message further announced that the Senate requested the return of House bill No. 650, to amend the act of the 3d of March, 1865, providing for the construction of certain wagon-roads in Dakota Territory.

#### WAGON-ROADS IN DAKOTA.

The SPEAKER *pro tempore*. If there be no objection, the request of the Senate, just received, will be granted, for the return to the Senate of House bill No. 650, to amend the act of the 3d of March, 1865, providing for the construction of certain wagon-roads in Dakota Territory.

No objection was made; and the bill was accordingly directed to be returned to the Senate.

#### PROMOTION OF AMERICAN COMMERCE.

The House then resumed the consideration of House bill No. 929, to promote American commerce.

Mr. ALLISON. I desire to occupy a few moments by calling attention to the second section of this bill. I have not examined the other sections particularly, and therefore shall not now refer to them.

I object to the second section of this bill, first, because it does not come from the proper committee of this House. The proposition involved in that section is one to take money out of the Treasury of the United States placed there by means of import duties, and therefore should be considered in connection with any tariff bill which may be brought forward. My friend, the chairman of the Committee on Commerce, [Mr. WASHBURN, of Illinois,] smiles at that remark. I know this question was referred to that committee, but I hold that I am correct nevertheless, as the subject should be considered by the Committee of Ways and Means.

In considering this section we must from necessity consider what amount of money will be taken out of the Treasury of the United States in order that that money may be given to the ship-builders of Maine and other States. They tell us that it costs \$10,000 to the ship-builders on each ship they build, because of the onerous tariff duties we have imposed. I believe that is true. I agree with my friends who advocate this measure that this ship-building interest has been depressed because of

excessive duties, as I also believe other interests have been depressed by excessive duties upon other articles. The true remedy lies in a revision of our tariff laws so that no great interest shall be depressed in order to foster and protect particular interests.

But who is to be protected by means of this bill? If you will turn to this second section you will see that everything that enters into the building of a ship is to be allowed to be imported free of duty; in other words, a drawback is to be given to the man who imports any article to be used in the construction of any vessel. It is simply a proposition to enable the ship-carpenters of Maine to use the lumber of New Brunswick and Canada, the iron and copper of England and Sweden, and the cordage of Russia, in building their ships. It proposes to strike down absolutely three or four or five of the great interests of this country, in a certain degree at least, by a vicious system of drawbacks, under which great frauds may be perpetrated on the revenue.

Now, I want my friend from Maine [Mr. BLAINE] to tell us why they ask for free trade in ship-building, and insist upon protection for every other branch of manufacturing industry?

Mr. BLAINE. I can answer the gentleman.

Mr. ALLISON. In a moment. If free trade is good for Maine and for ships and ship-building, why is it not good for the whole country? If it is good for one great interest, why is it not good for all great interests? I want that question answered.

Mr. BLAINE. I will answer the gentleman in a word, that the shipping interest is differently situated. When you build a ship for the commerce of the world you send it abroad to compete with every other ship in every other country. You are unable by your laws to give her any protection or to prevent the greatest competition from every other nation in the world. When you protect your manufactures at home by laying a duty upon the same manufacture of other countries, why, sir, you shut out the entire competition of the world. If you levy an internal revenue tax upon our manufactures here, you at the same time raise the tariff duty in order that the internal tax may not depress the home manufacture or give an advantage to the foreign article. You raise the tariff in order that you may shut out foreign competition. If the gentleman from Iowa cannot see the difference between a vessel launched and that departs for foreign ports, not deriving any benefit from our laws, and which has to compete with all the other nations of the world, if he cannot see the difference between that and the manufactures which are protected by a high class of duties, he must then conclude that his logic is false.

I say further, Mr. Speaker, that I object entirely to this being considered a bounty to the ship-builder. I object utterly to it. I deny it. I deny that it is a bounty. I say that all the ship-builders ask is to be relieved from these burdens. There is a wide distinction in the logic and statement of the case. You find no protection to these ships. If I build a ship on the banks of the Kennebec, send her to Liverpool, and she meets a ship from the banks of the St. John, or from any other part of the world, now what protection do your laws give her over the foreign ship? What protection do you give her? Not the slightest in the world.

Mr. ELDRIDGE. I should like to ask the gentleman from Maine a question, if he will allow me, right in the line of what he is saying. There are three or four million men in the West who ask only to be relieved from the burdens of taxation. The gentleman says that is all the ship-building interest ask. I say there are three or four million laborers in the West—

Mr. BLAINE. When that question comes up we will then discuss it.

One fact further; I have not listened to the debate, but I suppose it has been exhausted. There is one fact which gentlemen ignore entirely, and that is the freights of these ships



are in many instances more valuable than the cargoes they carry, the immense trade carried in American bottoms from the Chincha Islands, the guano trade, there the freights were uniformly worth more than the cargo itself. To-day the vast amount of freights for the transportation of British coal amount to more than the cargo. It is on freights that Great Britain is growing rich and drawing to herself the riches of the world. Yet we stand here haggling over the remission of a little bit of duty which is insignificant compared with the millions of freights we might have in our grasp if we gave any fair encouragement to our commerce.

Mr. ALLISON. Mr. Speaker, I was asking, when interrupted by the gentleman from Maine, how he and others on this floor, who have imposed on us heavy burdens in the shape of a tariff, can reconcile their votes with a proposition to absolutely free one entire class of industry from all internal and external taxation except that paid as consumers of products? Every interest in this country must expect to be burdened, at least for some time to come. We must have a heavy duty upon articles imported from abroad. We must have a large revenue. We must also have internal taxation. Every interest in the country is compelled to pay revenue in one shape or the other to the Government. Here is a proposition that one great interest shall be exempted from internal taxation, and that they shall have all their materials imported free. The gentleman from Maine speaks of the freights being more valuable in many instances than the cargo. That is not confined to trade upon the ocean. A bushel of corn in Iowa, on the farm where it is produced, is not worth half as much as it is in Boston and New York; and this difference in price is paid to those who transport it, and yet by your navigation laws which protect the American ship-owner the western farmer is compelled to transport this hard-earned product in an American vessel from New Orleans to New York or Boston, although a foreign vessel may be ready at New Orleans to transport his product for one fourth the price charged by the American vessel. Not content, however, with the advantage secured by our navigation laws, we are asked to allow this drawback upon all that enters into the building of a vessel, instead of adjusting import duties so that this interest, as well as all others, may prosper alike.

While I would gladly see the ship-carpenters prosper in this country, I cannot consent that prosperity shall come to them by means of any special legislation here. I would prefer that they should build houses, if they cannot build ships profitably without coming here and asking us to put into their pockets four or five million dollars annually in the shape of drawbacks which must be replaced with duties paid by the consumers of the whole country.

Mr. BLAINE. The effect would be to put more cargoes in English vessels.

Mr. ALLISON. My friend knows very well that the shipping interest of Great Britain, as well as of the United States, has been depressed for the last two or three years. The registry of the tonnage of England for 1867 was less than that of 1866.

Mr. PIKE. How much?

Mr. ALLISON. Two or three hundred thousand tons, I believe.

Mr. PIKE. Oh, no.

Mr. ALLISON. And the tonnage of 1866 was less than that of 1865, so that this depression of the ship-building interest is not confined to the United States alone, but has extended over other nations. And why? Because the channels of commerce are changing, as are the modes of transporting products. For almost a century we have had navigation laws which gave special privileges to our own people engaged in the coastwise trade. And the gentleman from New York [Mr. Brooks] cites that as a reason why the Pacific Mail Steamship Company is prosperous, and has been able to extend its business so as to establish a line

between California and China. Now, the coastwise trade, protected by our navigation laws, is a bounty to American ship-owners and ship-builders; and to-day, if you wish to ship a cargo from New York to San Francisco, you are compelled to pay tribute, under the construction of your navigation laws, to an American steamship company. No foreign vessel can carry a cargo from New York to San Francisco or the reverse. Now that great trade is confined to American vessels, and, notwithstanding this favorable legislation, has decreased for a few years past because of the building of three or four lines of railway between New York and New Orleans, which have taken much of the carrying trade hitherto performed by vessels alone, and because of the rebellion, which, for a time, nearly destroyed it.

Of over two thousand steam vessels registered in Great Britain in 1867 only fifty-three are wooden vessels. Iron vessels are rapidly taking the place of wooden ones; so that it was not only because of these high duties that the general shipping interest is depressed, but because of all these changes in the construction of vessels and modes of transportation; and I will add, because, also, we are in an unfortunate condition, coming out of a gigantic war, resulting in the depreciation of our currency, which create high prices and, consequently, high wages. Now are we, because of this temporary, abnormal condition of things, to go into special legislation for the benefit of a particular interest, confined at most to a few localities, and which must be temporary in its character.

Mr. Speaker, I have no intention of discussing at length the provisions of this bill. I only want to warn gentlemen on both sides of the House that they are establishing a principle here which exceeds anything that has hitherto prevailed in our legislation, a principle which will take money out of the Treasury of the United States for the benefit of a class. Since this debate began it has been stated that on the Kennebec river there are to-day fifteen or twenty vessels being built. Now, this bill proposes to give to these ship-builders a bounty of from five to ten thousand dollars on these very ships in the shape of drawbacks on the materials they use. Sir, I, for one, in the present depressed condition of our finances, while the people are straining the last nerve to put money into the Treasury, am opposed to this special temporary legislation. I think we may as well test the question now on this bill. I have promised, however, to yield to the gentleman from Missouri, [Mr. Pile,] after which I shall move to lay the bill on the table.

Mr. ELDRIDGE. Will the gentleman yield for a question?

Mr. ALLISON. Yes, sir.

Mr. ELDRIDGE. I desire to make an inquiry in regard to the effect of this bill. I understand the gentleman to say that already by virtue of our laws a large protection is given to all American vessels engaged in the coastwise trade. Is there any provision in this bill which proposes to allow these drawbacks by which any discrimination is made between those vessels engaged in the coasting trade and those engaged in the carrying trade to foreign ports?

Mr. ALLISON. None whatever, as I understand.

Mr. ELDRIDGE. It seems to me that there would be manifest justice in making a discrimination.

Mr. PIKE. Let me say that we have no statistics giving the amount of tonnage confined to the coasting trade. During the summer time vessels engage in the coasting trade, and in winter the very same vessels go to the West Indies and engage in the foreign trade. Formerly they did that, and they had the West India trade, but to-day they are driven out of that trade by British vessels, and the sugars of Havana and the dye-stuffs and sugars of Hayti and the West Indies generally are brought into New York in foreign vessels, and the very class of vessels the gentleman speaks of come

in competition with English vessels as much as any other.

Mr. ELDRIDGE. I hope the gentleman from Iowa will allow me to make a single remark in reply to the gentleman from Maine.

Mr. ALLISON. Yes, sir.

Mr. ELDRIDGE. It must be manifest to the House that these vessels for which the gentleman asks protection by this legislation have now a very large protection whenever they are engaged in the summer in the coasting trade, and that they have a monopoly of that very business. And yet the gentleman asks that they shall be further protected.

Mr. PIKE. The great majority are not in the coasting trade at all; they are altogether in the foreign trade.

Mr. ALLISON. I yield for a few moments to the gentleman from Missouri, [Mr. Pile.]

Mr. PILE. Mr. Speaker, the city that I have the honor in great part to represent is largely interested in copper and very largely interested in iron. The State in which that city is situated has more iron than any other State in the Union and, perhaps, more than any other three States. And yet, sir, coming as I do from that State and from that city thus interested in copper and iron, on which drawbacks are to be allowed by this bill, I favor the bill, and hope that it will pass, because it is one step, and one step only, in the right direction.

So far, sir, in the progress of this discussion the measure has been treated mainly as if it applied to the ship-building interest of the State of Maine, and to that interest alone. If that were true, I should oppose the bill, but I do not so understand it. The measure is intended, and will so far as it goes in the right direction, tend to relieve the burdened commerce of the United States, and in doing that will incidentally promote the peculiar interests of the extreme Northeast. What we must do, if we are not ready to make up our minds to allow England to do the carrying trade of this country, is to adopt such legislation as will bring back to American commerce and American bottoms the trade that we have lost in the last eight years. And I want to say that this bill is defective; and my objection to it is that it does not go far enough, and that its effect will only be partial. The price of labor is so high in this country, and will be so high for the next twenty-five or fifty years, that with all taxes removed from the ship-building interest, and from the materials used in ship building, and all tariffs removed from articles that enter into the construction of vessels, American ship-yards cannot, in my judgment, and will not be able in the next twenty-five years, to compete with England and France, and especially with England, with her pauper labor, her cheap labor, in the construction of ships, and especially of that class of vessels that do the ocean carrying trade. If we would relieve American commerce from the causes that are crucifying and destroying it we must allow American capitalists to go and buy their vessels where they can buy them cheapest.

I want to say, now, that it is my deliberate opinion, from three or four months' careful consideration of this subject, and from the statistics which I have examined, but which I have not time to refer to now, that our trade will continue to be carried as it now is—to be carried in the proportion of \$600,000,000 in foreign bottoms to \$200,000,000 in American bottoms, or in a still greater proportion in the future, unless we allow capital to buy cheaply manufactured vessels where it can.

And if it be true—and I think it is capable of demonstration that it is true—that our only means of participating in the commerce of the seas, in carrying our own products to foreign shores, and bringing back to this country the products of other lands, is by relieving our commerce from these restrictions, then I think it should be relieved. If we are not willing that the whole of this carrying trade shall continue to be done in foreign bottoms, if we want to bring this trade back to the owners of Amer-

ican vessels and to American shippers, then we must relieve it from these restrictions and allow capital to buy these vessels. It is only a question whether foreign shippers shall do this carrying trade for us, or whether we shall allow our people to buy vessels and compete with them.

And with a view of perfecting this bill, and carrying it still further in the right direction, I have prepared an amendment, which I earnestly hope the gentleman from Massachusetts, [Mr. ELIOT,] who has charge of this bill, will allow to be offered. I send to the Clerk and ask to have read an additional section, which I desire to offer to this bill.

The Clerk read as follows:

SEC. 6. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to allow the registry and enrollment of five iron steamships of foreign construction, to be used in the transportation of western produce between the mouth of the Mississippi river and the sea-board cities: *Provided*, Said ships shall be owned exclusively by American citizens.

Mr. PILE. I hope the gentleman will allow this amendment to be offered.

Mr. ELIOT. It is not germane to the bill; and I would not allow it to be offered if it were.

Mr. ALLISON. I now yield three minutes of my time to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER. I do not desire to say much in regard to this bill. I will first say to my friends from Michigan, who are so much troubled about the copper-mining interest in that State, that the people of Massachusetts have planted about six million dollars in copper mines around Lake Superior, the stock of which is not, as a general thing, worth the paper it is printed upon; and they are as much interested in the high tariff on copper as others are, still they do not oppose that interest to the ship-building interest.

I will state a single fact to the House which I think deserves some consideration. In 1862 we had two hundred and sixty-eight thousand tons of shipping engaged in the fishing business. We have gone on losing and losing our interest in that business until now we have but a little over ninety thousand tons engaged in the fishing business. It has not been by any means because of the reduction of the bounty on codfish. Nor has it been, as has been suggested to me, because petroleum has put down the price of whale-oil. Kerosene has reduced the price of lard-oil to a certain degree, but the price of whale-oil is as high as it ever was, to a great extent. It is simply because of wrong legislation in reference to our commercial interests.

This matter is not of local interest merely. Every day we are paying to foreign vessels the freights for the articles of commerce carried to and from this country, and will continue to do so until we properly foster our shipping interest. The corn of the State of Illinois is not worth so much by from two to five cents per bushel as it would be if we had American shipping, as can be easily demonstrated by statistics. This bill is therefore a western bill as well as an eastern bill. It takes nothing out of the Treasury now, because there are substantially no ships building now; there is no cordage, no iron, and no copper now being imported for the purpose of ship-building.

It is said that there are fifteen ships building on the Kennebec. Why, sir, if the ship-building business of this country was in a proper condition those fifteen ships would be multiplied by ten. Yet, what is the fact? You can go to St. Johns, New Brunswick, and buy for fifty dollars a ton a ship which will register A No. 1 at the insurance offices; while on the Kennebec a ship cannot be built under our laws for less than ninety dollars a ton. It is true our ship would be better, but it would register no better; it would not bring a higher price; the only advantage would be that it would last a little longer.

[Here the hammer fell.]

Mr. ALLISON. The contest between our

friends from Maine and Pennsylvania, as evidenced by the amendments proposed, only shows that the effect of this bill, if passed, will be to take money out of the Treasury of the United States; and, Mr. Speaker, as a means of testing the sense of the House on this question I move to lay the bill on the table.

Mr. ELIOT. I raise the point of order that that motion cannot be made pending the motion to recommit.

The SPEAKER. The Chair overrules the point of order.

Mr. PIKE. If the bill is not laid upon the table I will move to strike out the provision in regard to copper.

Mr. INGERSOLL moved that the House adjourn.

The motion was disagreed to.

Mr. HARDING demanded the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 45, not voting 62; as follows:

YEAS—Messrs. Adams, Allison, Delos R. Ashley, James M. Ashley, Bailey, Baker, Beaman, Beatty, Beck, Benjamin, Bingham, Blair, Broomall, Buckland, Cake, Cary, Reader W. Clarke, Cobb, Coburn, Cook, Covode, Cullom, Delano, Driggs, Eldridge, Farnsworth, Ferriss, Ferry, Fields, Garfield, Getz, Golladay, Griswold, Grover, Halsey, Harding, Hawkins, Higby, Hill, Hooper, Chester D. Hubbard, Ingersoll, Jones, Kelsey, Kerr, Ketcham, Kitchen, Knott, Koonz, Logan, Loughridge, Maynard, McCarthy, McCormick, Mercer, Miller, Moore, Mullins, Mungen, Myers, Niblack, O'Neill, Polsley, Pomeroy, Raum, Schenck, Scofield, Shanks, Shellabarger, Taffe, Lawrence S. Trimble, Trowbridge, Upson, Robert T. Van Horn, Van Trump, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, and John T. Wilson—82.

NAYS—Messrs. Archer, Baldwin, Banks, Barnes Benton, Blaine, Boutwell, Brooks, Butler, Churchill Cornell, Dawes, Dixon, Eastleton, E. A. Eliot, Haight, Hotchkiss, Hulburd, Humphrey, Jencks, Johnson, Judd, Lynch, Morrell, Nicholson, Peters, Pike, Price, Pruyn, Robertson, Robinson, Sawyer, Smith, Spalding, Starkweather, Aaron F. Stevens, Stewart, Stone, Taber, Taylor, Trichell, Van Aernam, Cadwalader C. Washburn, and William B. Washburn—45.

NOT VOTING—Messrs. Ames, Anderson, Arnott, Axtell, Barnum, Boyer, Bromwell, Burr, Chauler, Sidney Clarke, Dodge, Donnelly, Eckley, Finney, Fox, Glossbrenner, Gravely, Holman, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Julian, Kelley, Lullin, George V. Lawrence, William Lawrence, Lincoln, Loan, Mallory, Marshall, Marvin, McClurg, McCullough, Moorhead, Morrissey, Newcomb, Nunn, Orth, Paine, Perham, Phelps, Pile, Plants, Poland, Randall, Ross, Selye, Sitgreaves, Thaddeus Stevens, Stokes, Thomas, John Trimble, Van Auker, Burt Van Horn, Van Wyck, Ward, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—62.

Mr. ALLISON moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT OF GENERAL RUSLING.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting the report of Brevet Brigadier General James F. Rusling, inspector of the quartermaster general's department, for the year ending June 30, 1867; which, on motion of Mr. DAWES, was referred to the Committee of Elections.

TWENTY PER CENT. TO CLERKS AND OTHERS.

Mr. BINGHAM. I give notice that after the reading of the Journal to-morrow, I will call up my motion to reconsider the vote by which the joint resolution was adopted giving twenty per cent. additional pay to the Department clerks and others.

The SPEAKER stated that the House resumed the consideration of the bill reported from the Committee on Commerce, by Mr. O'NEILL, on which he was entitled to the floor.

Then, on motion of Mr. WASHBURNE, of Illinois, (at five o'clock and five minutes p.m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of citizens

of Fayette county, Texas, for a division of said State.

By Mr. DAWES: A memorial of Thomas Allen, praying for payment of balance due for printing statistics for the State Department in 1841 under a special provision of law.

By Mr. BANKS: A memorial of the administrators of Elias Howe, jr., in aid of his petition praying an extension of his patent.

By Mr. KETCHAM: The petition of F. W. Sanborn, acting ensign United States Navy, for relief.

Also, the petition of F. W. Sanborn, late commanding officer United States steamer Columbine, asking for the payment of prize money to officers and crew of said steamer.

By Mr. MARVIN: The petition of the president and directors of the New York Northern Railroad Company, asking aid of the General Government for the construction of a railroad from Schenectady to Ogdensburg, thereby saving one hundred miles between tide-water and the St. Lawrence river, opening to market the inexhaustible beds of iron ore in northern New York, and perfecting the military defenses on our northern frontier.

By Mr. MULLINS: The petition of Joseph Ramsey and William T. Tune, collector and assessor of internal revenue for the fourth district of Tennessee, praying a modification of the internal revenue laws in a reduction of the tax upon distilled spirits, and to tax the capacity of the distillery.

By Mr. WILLIAMS: The petitions of 4 manufacturing firms of Alleghany and Armstrong counties, Pennsylvania, employing when in full operation 635 workmen, now employing 385 workmen; signed, also, by employees of said firms, setting forth that owing to the want of sufficient protection against the cheaper capital and labor of foreign countries, the productive interests of this country are suffering and its industry paralyzed; and praying Congress to resume consideration of the tariff bill (as passed by the Senate) which failed in the House March, 1867, and enact it into a law at the earliest practicable moment.

Also, the petition of S. A. Pearce and others, citizens of Butler county, Pennsylvania, complaining of the depression of manufacturing industry, and praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

IN SENATE.

THURSDAY, June 18, 1868.

Prayer by Rev. A. D. GILLETTE, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate of the 16th instant, information relative to the present status of the claims of loyal Choctaw and Chickasaw Indians under the forty-ninth article of the treaty with those tribes of April 28, 1866; which was referred to the Committee on Indian Affairs, and ordered to be printed.

CREDENTIALS.

Mr. SPRAGUE presented the credentials of his election by the Legislature of Rhode Island as a Senator from that State for the term of six years from the 4th of March, 1869; which were read, and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. WILSON presented a petition of John C. Rand, F. B. Dakin, George P. Carter & Co., S. G. Andrews, and four hundred and forty other firms and individuals engaged in printing and book-binding in Boston, Massachusetts, complaining of the insufficiency of the customs duties to protect domestic industry against the cheaper labor and capital of foreign countries, and praying for the consideration and

passage of the general tariff bill which failed for want of time in the Thirty-Ninth Congress; which was referred to the Committee on Finance.

Mr. SPRAGUE presented the petition of William Roach, representing that he is the father of Ellen Roach, who was killed by the explosion at the arsenal in Washington city, in June, 1864, and that he has not received any part of the money appropriated for the relief of the sufferers, praying such an appropriation for his relief as may seem just and equitable; which was referred to the Committee on Claims.

#### AMERICAN SHARP-SHOOTERS' ASSOCIATION.

Mr. MORGAN. The Committee on Finance, to whom was referred the joint resolution (H. R. No. 295) to authorize the Secretary of the Treasury to remit the duties on certain articles contributed to the National Association of American Sharp-shooters, have had the same under consideration, and have directed me to report in favor of its passage. The proposition is to remit the duties on prizes contributed to this association to the extent of \$1,000 in currency. I ask that the resolution may be considered at this time; it is rather important, as the association hold their festival next week.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury to remit the duties on all prizes contributed to the National Association of American Sharp-shooters for the third American shooting festival, by friends and kindred associations in Europe, which may be imported into the United States prior to the 6th day of July, 1868; but the value of the prizes so contributed and imported is not to exceed the aggregate sum of \$1,000 in currency.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### JONATHAN S. TURNER.

Mr. FERRY. The Committee on Patents and the Patent Office, to whom was referred the petition of Jonathan S. Turner, for an extension of his patent, report in favor of it, and recommend the passage of a joint resolution (S. R. No. 147) for his relief, which I introduced the other day. The resolution will, I think, lead to no debate, and as it is important for the interests of this party that it should be passed at once I ask that it may be considered now.

By unanimous consent, the joint resolution (S. R. No. 147) for the relief of Jonathan S. Turner was considered as in Committee of the Whole. The preamble recites that Jonathan S. Turner, of Fair Haven, in the county of New Haven, and State of Connecticut, obtained letters-patent of the United States for an improvement in alarm-clocks, dated July 13, 1852; that he did, on or about the 27th day of December, 1865, file in the Patent Office his petition or application for an extension of the term, in accordance with the provisions of the eighteenth section of the patent act, approved July 4, 1836, and complied with all the requirements of the rules and laws applicable thereto, except the inadvertent omission of one revenue stamp of the value of five cents, for which omission only the Acting Commissioner of Patents did, on the 12th day of July, 1866, refuse to extend the patent. The resolution proposes, therefore, to direct the Commissioner of Patents to extend the term of the patent for seven years from and after the 13th day of July, 1866. The patent, so extended, is to have the same validity, force, and effect as though the extension had been allowed and certified by the Commissioner of Patents, in accordance with the eighteenth section of the patent act, approved July 4, 1836, before the expiration of the original term.

Mr. FERRY. The facts in the case are stated in the preamble. Mr. Turner made his application for a renewal of his patent after

the expiration of its original term in the ordinary mode; it was referred to the proper examiner, and by him recommended to be granted; but the papers upon being examined by the Acting Commissioner of Patents were found in a single instance to be destitute of a revenue stamp of the value of five cents, and the Acting Commissioner of Patents did not feel authorized to act upon the paper in which that omission was made, and declined to extend the patent. As soon as the fact was made known to Mr. Turner he made this application, and the Commissioner of Patents, in a communication to the committee, earnestly recommends that the prayer of the petitioner be granted.

Mr. POMEROY. I wish to ask the Senator whether in dating this back the patentee would have a remedy against those who have manufactured the article in the interval?

Mr. FERRY. There has been no manufacture during the interval. It is a patent of not much value, and very little use. I am not aware that there has been any interest created during the interval.

Mr. POMEROY. I do not wish to give the right to this patentee to prosecute persons who have been manufacturing in this interval by the fact that we now date it back and make it good for two years.

Mr. FERRY. I believe there are no adverse parties.

Mr. POMEROY. I do not know anything about it myself.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### ORDER OF BUSINESS.

Mr. CHANDLER. I desire to ask the Senate to devote to-day to the business of the Committee on Commerce. The Senator from Maine [Mr. MORRILL] gave us notice that he should call up a bill from the Committee on Appropriations; but he is unwilling to-day, and will not be able to occupy the day as he expected to do. I therefore ask the Senate to grant this day from one o'clock to the Committee on Commerce. I move that the business from that committee be made the special order for one o'clock.

Mr. POMEROY. I hope there will be no special orders made for to-day. There are various bills on the Calendar that will require but little or no time, perhaps, that should be considered.

Mr. CHANDLER. I have twenty-one bills in my drawer reported from the Committee on Commerce. Last Saturday a week ago was set apart for the consideration of the business of that committee, but it was pushed aside by our reconstruction bill. I must have a day for this business. Of course, I do not wish to antagonize with other bills. I have not antagonized the bills of the Committee on Commerce, although there are a great number of them, with other measures, for the reason that they would require a whole day. I therefore ask for to-day for the consideration of bills from that committee.

Mr. POMEROY. There are other committees that have charge of bills of great importance as well as the Committee on Commerce. I always go with the Senator from Michigan; but there are other committees, the Committee on Public Lands, the Committee on Post Offices and Post Roads, that have charge of bills of importance.

Mr. CHANDLER. Very well; we must assign a day to each committee. It will not do to antagonize bill by bill. If I can only present one bill and leave twenty it will simply lead to constant antagonism. If the Senate will not give me to-day, I shall ask for to-morrow, or the earliest day that they will grant; but a day I must have. I hope to get through in a day, but may not. I shall do the very best I can.

Mr. MORGAN. Do I understand the Senator from Michigan to say that the legislative

appropriation bill is not to be considered to-day?

Mr. CHANDLER. The Senator having it in charge is sick, and, as I am informed, will not be here, and therefore I think this is the best day I can have.

Mr. MORGAN. If that be so I think it is entirely proper that the Committee on Commerce should have to-day in lieu of the day that was taken from them.

Mr. CHANDLER. Last Saturday a week ago was granted to the Committee on Commerce, but it was taken from us by the reconstruction bill, and therefore I now ask for to-day for the business of that committee.

Mr. POMEROY. There can be no objection to bills of public importance being considered, whether they come from the Committee on Commerce or any other committee; but that all the bills of the Committee on Commerce shall be considered in one day is a monstrous proposition. Public bills of great importance should be considered without regard to the committees from which they come.

Mr. CHANDLER. We have given Saturday to the Committee on Pensions, and it is the custom to grant days in this way to various committees.

Mr. POMEROY. I am perfectly willing that public bills of great importance reported from the Committee on Commerce shall be considered; but I am not willing to agree that we shall go on and take up the whole list of bills reported by them simply because they come from that committee.

Mr. CHANDLER. If I should get up every morning and antagonize a single bill from the Committee on Commerce with other measures we should spend our whole time in discussing the order of business, whereas if the Senate will give me one day I can accomplish what would take twenty days by antagonizing other bills as they came up.

Mr. POMEROY. There is not a Senator on this floor but can say that. That is true of all bills and of the business of every committee.

Mr. CHANDLER. It is the custom, and has been ever since I have been a member of the body, to grant a day in this way to particular committees. The Committee on the District of Columbia has a day; the Committee on Pensions has a day. The Committee on Commerce now asks for a day. It has been the custom of the Senate ever since I have been in the body, which has been nearly twelve years, to grant such a request; and I hope it will be continued.

Mr. POMEROY. In order to break up that custom the Senate adopted a rule requiring a two-thirds vote in order to make a special assignment.

Mr. TRUMBULL. What is the question before the Senate?

The PRESIDENT *pro tempore*. There is no question before the Senate, unless by common consent, until the morning business is through with. Reports of committees are regularly in order; but the Senator from Michigan proposes to make a motion which can only be received at this time by unanimous consent.

Mr. TRUMBULL. Let that be postponed until one o'clock, and then we can settle it.

Mr. CHANDLER. Very well.

#### REPORTS OF COMMITTEES.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia to report back the report of the Secretary, communicating, in compliance with a resolution of the Senate of January 20, 1868, information relative to the purchase and sale of vessels by the War Department during the war of the rebellion. The document is a very voluminous one, and the committee thought it was not best to order it to be printed, but to return it to the Secretary's office, where it may be ordered to be printed at any time. I move that the committee be discharged from its consideration.

The motion was agreed to.

Mr. WILSON, from the same committee,



to whom was referred the bill (S. No. 529) establishing rules and articles for the government of the armies of the United States, reported it with amendments.

Mr. HENDRICKS, from the Committee on Public Lands, to whom was referred the memorial of the Governor of Minnesota in relation to the university lands in that State, submitted a report, accompanied by a bill (S. No. 555) authorizing the allowance of the claim of the State of Minnesota to lands for the support of a State university. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. POMEROY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 939) to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports, reported it without amendment.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the resolution (H. R. No. 215) relative to the Louisville Bridge Company, reported it without amendment.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (S. No. 542) for the relief of Thomas W. Ward, collector of customs at Corpus Christi, Texas, reported it without amendment.

Mr. CATTELL, from the Committee on Finance, to whom was referred the bill (S. No. 543) to provide for a further issue of temporary loan certificates for the purpose of redeeming and retiring the remainder of the outstanding compound-interest notes, reported it with an amendment.

Mr. WILLEY. The Committee on Claims, to whom was referred the joint resolution (S. R. No. 138) to appoint a board of examiners for claimants against the United States in the State of Nevada, have directed me to report it back and move its indefinite postponement.

Mr. STEWART. I hope that resolution will not be indefinitely postponed.

The PRESIDENT *pro tempore*. The report will be passed over, if objection be made to its consideration.

Mr. WILLEY. I will change my motion, then, and simply move that the committee be discharged from the further consideration of the joint resolution.

The motion was agreed to.

Mr. WILLEY, from the same committee, to whom was referred the petition of John Lockwood, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of J. G. Bigelow and the petition of Julius W. Knowlton, asked to be discharged from their further consideration; which was agreed to.

ROBERT L. LINDSAY.

Mr. DAVIS. The Committee on Claims have had under consideration a joint resolution (H. R. No. 268) for the relief of Robert L. Lindsay. I am directed to report the resolution back to the Senate without amendment, and to recommend its passage.

Mr. DRAKE. I would ask the unanimous consent of the Senate to allow that joint resolution to be put on its passage now. I will state to the Senate that there are circumstances in the condition of this gentleman of very great urgency; and as the House has passed the resolution, and the Senate Committee on Claims has reported in favor of it, I ask the unanimous consent of the Senate to consider it now.

By unanimous consent the joint resolution was considered as in Committee of the Whole. It proposes to direct the Paymaster General of the Army to pay to Robert L. Lindsay, late of the fiftieth regiment Missouri volunteers, the full pay and allowances of a second lieutenant of infantry from the 2d day of August, 1864, to the 30th day of November, 1864.

Mr. WILSON. I desire some explanation of this resolution.

Mr. DRAKE. The honorable Senator from

Kentucky is quite familiar with the facts, and I presume can give the explanation better than I can.

Mr. DAVIS. I can explain it in a very few words. Mr. Lindsay was commissioned by the Governor of Missouri a second lieutenant in 1864. His commission bears date in July of that year. He proceeded very actively and successfully to raise a company, beginning some time in August. So soon as he raised his company he joined the service, and was in the battle of Pilot Knob, where he, with other officers, received the special notice and approbation of General Rosecrans for gallant services. He had not an opportunity, in consequence of his being cut off by Price's army from the place where the regiment was, to muster in his company until after the battle, and until after he had raised his company and rendered this active and distinguished service for three or four months' interval of time, in which he asks to be allowed the pay of a second lieutenant. He simply asks to be allowed that pay for the time he was actually in the service of the United States and doing gallant service, for which time he was unable to have his company mustered in by reason of the facts I have stated.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. POMEROY. I am charged with several bills that have been for some time in my drawer, put into my hands by men from States that are not represented, the States of Alabama and Georgia. I have delayed introducing them because I thought it was due that those States should be represented here; and as there is now a hope that they will soon be represented I have thought I would introduce the bills so that they may be printed and lie over. Of course I do not expect any action on them until these States are represented. They relate to expired railroad grants and some local legislation that we cannot be as familiar with as the representation from the States concerned. I merely want to introduce the bills for the purpose of reference and have them printed with the distinct understanding that no action will be taken upon them until these States are represented. I ask unanimous consent to introduce these bills now, notice not having been given.

No objection being made, leave was granted to introduce a bill (S. No. 556) to revive the grant of lands to aid in the construction of a railroad from Selma to Gadsden, in the State of Alabama, and to extend the time for the completion of said road, and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

By unanimous consent, leave was also granted to introduce a bill (S. No. 557) for completing a direct and continuous line of railroad from Washington city to Mobile and other points South, creating a post route from Washington city to Mobile and New Orleans, thereby securing a more certain, speedy, and economical transportation of the United States mails, military stores, and munitions of war; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 558) to extend the limits of certain land grants in Iowa and Minnesota; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 150) relative to the payment of certain claims to loyal citizens of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 559) to authorize the Secretary of the

Interior to rent rooms necessary for the speedy and convenient transaction of the business of the Patent Office; which was read twice by its title, and referred to the Committee on Appropriations.

#### APPEALS AND WRITS OF ERROR.

Mr. TRUMBULL. I move to take up Senate bill No. 472, which has been reported from the Committee on the Judiciary.

The motion was agreed to; and the bill (S. No. 472) supplementary to an act entitled "An act to allow the United States to prosecute appeals and writs of error without giving security" was considered as in Committee of the Whole. It proposes to extend the provisions of the act entitled "An act to allow the United States to prosecute appeals and writs of error without giving security," approved February 21, 1863, to writs of error, appeals, or other process in law, admiralty, or equity, issuing from, or brought up to, a circuit court of the United States.

Mr. TRUMBULL. The only provision of this bill is to allow the United States to prosecute appeals from the district to the circuit courts without giving security for costs. It becomes necessary in revenue cases. It is very desirable oftentimes to have those cases taken from the district court by appeal or writ of error to the circuit court. As the law now stands security is required on the part of the United States. Of course it is difficult to obtain it, and improper that it should be required.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### THE CHIEF JUSTICESHIP.

Mr. TRUMBULL. I now move to take up House bill No. 861, relating to the Supreme Court of the United States.

The motion was agreed to; and the bill (H. R. No. 861) relating to the Supreme Court of the United States was considered as in Committee of the Whole.

Mr. TRUMBULL. The Committee on the Judiciary reported an amendment, to strike out all of the House bill after the enacting clause and insert a substitute. The amendment only need be read.

The PRESIDENT *pro tempore*. The original bill will not be read unless some Senator calls for its reading. The words proposed to be inserted in lieu of it by the amendment of the committee will be read.

The words proposed to be inserted were read, as follows:

That in case of a vacancy in the office of Chief Justice of the Supreme Court of the United States, or of his inability to discharge the powers and duties of the said office, the same shall devolve upon the associate justice of said court whose commission is senior in time until such inability shall be removed or another appointment shall be duly made, and the person so appointed shall be duly qualified, and this act shall apply to every person succeeding to the office of Chief Justice pursuant to its provisions.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

#### PORT OF DELIVERY AT CAMBRIDGE.

Mr. CHANDLER. I propose now, with the indulgence of the Senate, to go on with the bills of the Committee on Commerce. I move first to take up Senate bill No. 533.

The motion was agreed to; and the bill (S. No. 533) to establish Cambridge, in the State of Maryland, a port of delivery, was read the second time, and considered as in Committee of the Whole. By the bill Cambridge, within the collection district of Baltimore, is to be a port of delivery within that district; and a deputy collector is to be appointed to reside at the port of Cambridge, whose compensation is to be the usual fees of office and nothing more.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

## MICHIGAN COLLECTION DISTRICTS.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of House bill No. 198.

The motion was agreed to; and the bill (H. R. No. 198) to reestablish the boundaries of the collection districts of Michigan and Michilimackinac and to change the names of the collection districts of Michilimackinac and Port Huron was considered as in Committee of the Whole.

The first section proposes to extend the collection district of Michigan so as to embrace all the territory and waters of the State of Michigan lying west of the principal meridian and south of the latitudinal line dividing townships number forty-three from townships number forty-four, north of the base line of that State, excluding the territory bordering Green bay and including the island of Bois Blanc.

The second section provides that the collection district of Michilimackinac shall hereafter be called the district of Superior, and shall embrace all that part of the upper peninsula of the State of Michigan lying east of the principal meridian, all the islands in and bordering upon the St. Marie river, and all that part of the State of Michigan lying west of the principal meridian and north of the latitudinal line dividing townships number forty-three from townships number forty-four, north of the base line of the State, including the territory bordering Green bay, together with all the islands, waters, and shores of Lake Superior and the adjacent territory unto the head-waters of all the rivers and streams tributary thereto and within the jurisdiction of the United States.

The third section provides that the collection district of Port Huron, in the State of Michigan, shall hereafter be called the district of Huron.

Mr. HOWE. I have just had my attention called to this bill, and I wish to inquire of the Senator from Michigan if it proposes to annex the ports on the waters of Green bay to the Mackinaw district?

Mr. CHANDLER. No, sir; it does not. On the contrary, it enlarges the Green Bay district; gives a portion of the Mackinaw district to the Green Bay district. The districts are now so arranged that portions of the Mackinaw district are very inconvenient of access to Mackinaw. We propose now to divide them by the meridian line, and to add to the Green Bay district that portion lying adjacent to Green bay, and to give the whole of Lake Superior to the Mackinaw district.

Mr. HOWE. But I understood the Clerk to read "including the waters of Green bay" or "the territories bordering on Green bay," in describing the Mackinaw district.

Mr. CHANDLER. I ask that the bill be laid aside informally until the Senator from Wisconsin can examine the map.

The PRESIDENT *pro tempore*. It will be passed over informally if there be no objection.

Mr. CHANDLER subsequently moved to resume the consideration of the bill; which was again considered by the Senate as in Committee of the Whole.

Mr. HOWE. This is unquestionably meant to be right; but I think if the Senator from Michigan will listen to me for a moment he will see that an amendment of two or three words will prevent any misunderstanding about it. The district of Mackinaw is declared to include all the territory of Michigan west of the meridian line, and north of the line between townships forty-three and forty-four, "including the territory bordering Green bay." I propose to insert after the word "territory," in the tenth line of section two, the words "in said State."

Mr. CHANDLER. I will agree to that. The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

## COLLECTION DISTRICT OF PHILADELPHIA.

Mr. CHANDLER. I move that the Senate proceed to the consideration of House bill No. 538.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 538) to extend the boundaries of the collection district of Philadelphia, so as to include the whole consolidated city of Philadelphia.

The Committee on Commerce reported the bill with an amendment, to strike out all of the original bill after the enacting clause, in the following words:

That the collection district of Philadelphia be so extended as to include within its boundaries the whole consolidated city of Philadelphia.

And to insert in lieu thereof:

That the port of entry and delivery of Philadelphia, Pennsylvania, is hereby extended so as to include within its boundaries the whole consolidated city of Philadelphia.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. CONKLING. I venture to ask one question about this bill. What is the occasion for it? Why are not the boundaries heretofore established satisfactory, and why is it necessary to change them now?

Mr. CHANDLER. I will state to the Senator that the collection of foreign duties has not included the whole city of Philadelphia. Since the district was first established the city has been enlarged, and there are large depots of oil up and down the river; and it is for the convenience of the commerce of the city to include the additions to the city of Philadelphia in one district. That is the reason.

The amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

## BILL RECOMMENDED.

Mr. COLE. With the permission of the Senator from Michigan, I desire to move the recommitment of a bill to his committee which needs further amendment and revision. I move, therefore, that the bill (S. No. 247) to amend an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes," be recommitted to the Committee on Commerce.

The motion was agreed to.

## D. H. MACDONALD.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of Senate bill No. 361.

The motion was agreed to; and the bill (S. No. 361) for the relief of D. H. MacDonald, late acting United States consul at Cape Town, Cape of Good Hope, was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to D. H. MacDonald, late acting United States consul at Cape Town, Cape of Good Hope, the sum of \$587 67, in full pay for his services as acting consul.

Mr. HENDRICKS. I think that bill ought to have gone to the Committee on Claims. I should like to know if there is any report accompanying it. It is a small bill, to be sure.

Mr. CHANDLER. There is a report from the Secretary of State, with a recommendation that the claim shall be paid, on file with the papers.

Mr. HENDRICKS. I think it ought to go to the Committee on Claims.

Mr. CHANDLER. It was referred to the Committee on Commerce. This gentleman was sent out to Cape Town to take the place of a man who was neglecting and abusing the duties of his office. This man took charge of the office and performed its duties, and took charge of the archives and retained them during this short period, for which we have recommended that he be paid; but the other man contested his right, and until the action of the Department the one that we now propose to

pay performed the duties of the office, and the committee were unanimously of the opinion that he should receive the salary. It is but a small amount. The Clerk can read the recommendation from the Secretary of State to that effect, if the Senator desires it.

The PRESIDENT *pro tempore*. Does the Senator from Indiana move the reference of the bill to the Committee on Claims?

Mr. HENDRICKS. I think it ought to go to that committee; but it is so inconsiderable a sum that I will not make that motion if the report of the Secretary of State sustains the claim. The chairman of the committee asks that the communication from the State Department be read, and if that is satisfactory I am willing to accept it.

The PRESIDENT *pro tempore*. The communication will be read.

The Chief Clerk read as follows:

DEPARTMENT OF STATE,  
WASHINGTON, February 3, 1868.

SIR: I have the honor to acknowledge the receipt of your note of the 18th ultimo, inclosing a petition of D. H. MacDonald, esq., for compensation as acting consul at Cape Town, from the 17th of January, 1863, to the 9th of June of the same year, and requesting such information as may be in this Department relating to said claim.

In answer thereto, I have to inform you that considerable correspondence has taken place between this Department and Mr. MacDonald with reference to his claim, all of which it is not thought worth while to communicate, but which is at your disposal should your committee desire it.

On the 28th July, 1866, Mr. MacDonald addressed a letter to this Department with regard to his claim. On the receipt of that letter the matter was investigated, and the result of that investigation was an opinion that Mr. MacDonald's claim should be paid, but that an application must be made to Congress for relief. Herewith inclosed is a copy of the letter of this Department to Mr. MacDonald, dated September 27, 1866, in answer to his communication.

As further evidence in the case, I herewith send you a copy of a communication from Hon. Benjamin Pringle, dated at Cape Town, December 30, 1863, in which he expresses the opinion, after investigation, that Mr. MacDonald is equitably entitled to the payment of his claim.

The petition of Mr. MacDonald is herewith returned to you.

I am, sir, your obedient servant,  
WILLIAM H. SEWARD.  
Hon. Z. CHANDLER, Chairman of the United States Senate Committee on Commerce.

Mr. HENDRICKS. That is a very remarkable communication from a Department to establish a claim. I will ask the Senator having the bill in charge whether this person discharged the duties for the months mentioned in that letter?

Mr. CHANDLER. Yes, sir; he did.

Mr. HENDRICKS. What was the other man doing?

Mr. CHANDLER. He was drunk. [Laughter.]

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

## EVENING STAR NEWSPAPER COMPANY.

Mr. PATTERSON, of New Hampshire. I move to take up Senate bill No. 209. It is a little bill reported in March last, which I should like to have passed.

The motion was agreed to.

Mr. CHANDLER. I move that the Senate proceed to the consideration of Senate bill No. 204.

The PRESIDENT *pro tempore*. The Senator from New Hampshire has interposed a motion to take up the bill mentioned by him.

Mr. CHANDLER. I submit that that is not in order. This day is devoted to the business of the Committee on Commerce.

Mr. PATTERSON, of New Hampshire. I ask the gentleman's pardon; I was not aware of it.

Mr. CHANDLER. I move that the Senate proceed—

Mr. PATTERSON, of New Hampshire. I wish the gentleman would give way for a few moments. It will not take more than three minutes to pass this bill. It has been on the table since March last.

Mr. CHANDLER. I have more than twenty bills to pass, and if I give way to the Senator I must give way to others.

Mr. PATTERSON, of New Hampshire. I will help the gentleman to pass the whole lot if he will let this pass through.

The PRESIDENT *pro tempore*. The bill taken up on motion of the Senator from New Hampshire will be read. It is the only one in order. It could be passed three times over while Senators are talking about it. [Laughter.]

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 209) to incorporate the Evening Star Newspaper Company of Washington. It proposes to create and declare Crosby S. Noyes, Clarence B. Baker, Alexander R. Shepherd, George W. Adams, and Samuel H. Kauffmann, and their associates and successors, a body corporate and politic by the name and style of the Evening Star Newspaper Company of Washington, for the purpose of carrying on the business of printing and publishing at the city of Washington, in the District of Columbia, with the usual powers and privileges of a corporation. The capital stock of the company is not to be less than \$100,000, nor more than \$200,000, in shares of \$1,000 each.

The bill was reported to the Senate without amendment.

Mr. HENDRICKS. I do not know that the Senator will be content with the amendment that I propose, but it is to add to the last section that the stockholders shall be individually responsible for the indebtedness of the company to the extent of the par value of their stock.

Mr. PATTERSON, of New Hampshire. I have no objection to that.

Mr. CHANDLER. I move that the bill under consideration be laid aside for perfection, and that the Senate proceed with the business of the Committee on Commerce. I move the postponement of this bill until to-morrow.

Mr. PATTERSON, of New Hampshire. I hope that will not be done. It will not take two minutes to dispose of it.

Mr. CHANDLER. Let me go on.

Mr. PATTERSON, of New Hampshire. Let us pass this bill through, and then we can take up your bills.

Mr. CHANDLER. I make the motion that it be postponed until to-morrow.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The amendment will be reported.

Mr. CHANDLER. If the amendment is prepared, I have no objection.

The CHIEF CLERK. The amendment is to add to the last section the following:

And that each stockholder in the said company shall be individually liable for the debts of the company to the extent of his stock at its par value.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### SURGEON OF MARINE HOSPITALS.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of Senate bill No. 204.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 204) to provide for the appointment of a supervising surgeon of marine hospitals of the United States. It proposes to direct the Secretary of the Treasury to appoint a competent surgeon at a salary of \$— per year, payable monthly, to be styled supervising surgeon of United States marine hospitals, whose duty it is to be, under the direction of the Secretary of the Treasury, to inspect and superintend the administration of the marine hospitals of the United States now in use or that may hereafter be erected.

The Committee on Commerce reported the bill with two amendments. The first amendment was in line three, after the word "that," to strike out the words "the Secretary of the Treasury be authorized and directed to appoint" and to insert the words "the President of the United States shall nominate and appoint,

by and with the advice and consent of the Senate."

The amendment was agreed to.

The next amendment was in line six, to fill the blank with "\$3,000," so as to make the salary of the supervising surgeon \$3,000 per year.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. COLE. It seems to me that the title of that bill ought to be changed, so as to read "A bill to provide for the appointment of supervising surgeons for the marine hospitals of the United States."

Mr. SHERMAN. It only provides for one supervising surgeon.

Mr. COLE. As I understand it, it is intended to provide supervising surgeons for all the marine hospitals.

Mr. CHANDLER. No; one supervising surgeon for all the hospitals.

Mr. HENDRICKS. It provides for the appointment of one surgeon, who shall have general charge of the whole of them.

Mr. COLE. I did not so understand the bill.

The CHIEF CLERK. The title of the bill is: "A bill to provide for the appointment of a supervising surgeon of marine hospitals of the United States."

Mr. CHANDLER. It is only one officer for all of them.

Mr. COLE. Very well.

#### COLLECTION DISTRICT IN OREGON.

Mr. CHANDLER. I now move that the Senate take up Senate bill No. 153.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 153) to establish a collection district in the State of Oregon. It provides that all that part of the State of Oregon lying south of Cape Perpetua, embracing all the waters, islands, bays, harbors, inlets, shores, and rivers therein, shall be a collection district, and shall be called the Umpqua district; and the port of entry for the district is to be at Coos bay, and a collector for the district is to be appointed, whose salary is to be \$1,500 per annum, and who is to perform the same duties as the collector for the other collection district in the State.

The Committee on Commerce reported the bill with amendments. The first amendment was in lines five and six, to strike out the words "shall be a collection district and shall be" and to insert "is hereby separated from the collection district of Oregon, and shall be, and hereby is, constituted and created a separate collection district in said State, and the same shall be."

The amendment was agreed to.

The next amendment was in line eleven, after the word "appointed" to insert the words "to reside at said port of entry."

The amendment was agreed to.

The next amendment was in lines thirteen and fourteen, to strike out the words "the same duties as the collector for the collection district in said State" and to insert the words "all the duties and be subject to all the responsibilities devolving by law upon collectors of customs."

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### GEORGE WRIGHT.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of House joint resolution No. 246.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to

consider the joint resolution (H. R. No. 246) directing the Secretary of State to present to George Wright, master of the British brig J. and G. Wright, a gold chronometer, in appreciation of his personal services in saving the lives of three American seamen, wrecked at sea on board of the American schooner Lizzie F. Choate, of Massachusetts.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### CHANGE OF NAMES OF VESSELS.

Mr. CHANDLER. I move that the Senate proceed to the consideration of House bill No. 1120.

The motion was agreed to; and the bill (H. R. No. 1120) to authorize the Secretary of the Treasury to change the names of certain vessels was considered as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury to change the name of the yacht W. W. Abell, owned by James Lloyd Greene, of Norwich, Connecticut, administrator of the estate of Benjamin D. Greene, late of Norwich, deceased, and John Jeffries, jr., of Boston, Massachusetts, to that of Ethel; and also to change the name of the yacht L'Hirondelle, owned by James Gordon Bennett, jr., of the city of New York, to that of Dauntless, and to grant these vessels registers in these respective names, they being pleasure yachts only, and not engaged in commercial or other business.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### EVANSVILLE MARINE HOSPITAL.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of House joint resolution No. 44.

The motion was agreed to; and the joint resolution (H. R. No. 44) relating to the sale of the marine hospital at Evansville, Indiana, was considered as in Committee of the Whole. It is an authorization to the Secretary of the Treasury to sell the marine hospital at Evansville, Indiana, to the highest bidder, for not less than \$10,100, who will keep the same for hospital purposes.

The joint resolution was reported to the Senate.

Mr. SHERMAN. That resolution seems to be unusual in fixing the price at which the sale shall be made. I ask the Senator from Michigan on what basis this price is fixed?

Mr. CHANDLER. The joint resolution has passed the House of Representatives upon the recommendation of the Secretary of the Treasury. It is desirable that the building should be kept open as a hospital, and certain benevolent individuals have agreed to take it at the price named and keep it open.

Mr. SHERMAN. But the price being fixed, and no provision made for a public sale, it looks like an arrangement. However, as the Senator is satisfied that it is all right, I shall not object.

Mr. CHANDLER. Both the House committee and the Senate committee were satisfied.

The joint resolution was ordered to a third reading, read the third time, and passed.

#### R. P. PARROTT.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of Senate bill No. 303.

The motion was agreed to; and the bill (S. No. 303) for the relief of R. P. Parrott was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to pay to R. P. Parrott the sum of \$12,198 35, in full payment for building an iron light-house at Cape Canaveral, in the State of Florida.

Mr. MORRILL, of Vermont. I should like some explanation of the bill.

Mr. MORGAN. In 1860 the Government made a contract with Mr. Parrott to build a light-house at Cape Canaveral, Florida. In February, 1861, Mr. Parrott suspended the



work at the request of the Government. The papers were presented some two years ago, and referred to the Light-House Board by the Committee on Commerce, and all the facts stated by Mr. Parrott were proved to be correct. Upon a report of the committee, based on the action of the Light-House Board, the Senate at that time passed a bill for Mr. Parrott's relief. The measure is recommended by the Light-House Board and by the Secretary of the Treasury, but not to the full amount he claimed. The letter of the Secretary of the Treasury is very short, and I will read it:

TREASURY DEPARTMENT, April 2, 1866.

SIR: Your letter of the 16th ultimo, with inclosed memorial of R. P. Parrott, of Cold Spring, New York, praying an increased appropriation for building an iron light-house at Cape Canaveral, Florida, having been referred to the Light-House Board, I now have the honor to transmit herewith a copy of their report under date of 31st ultimo, in which is recommended that relief to the extent of \$12,198 35 be granted to the memorialist; which report and recommendation have my concurrence.

I am, very respectfully,

H. McCULLOCH,

Secretary of the Treasury.

Hon. Z. CHANDLER, Chairman Committee on Commerce, Senate United States.

The papers are somewhat lengthy, and I suppose it is not necessary to go through them. The facts are that the work was suspended at the request of the Government, and afterward constructed when the cost of materials was very greatly increased after the war was over. It is for that that this bill is here.

Mr. CHANDLER. This bill was passed by the Senate during the last Congress.

Mr. MORGAN. Passed unanimously two years ago.

Mr. MORRILL, of Vermont. Is there a written report?

Mr. CHANDLER. There was in the last Congress. The papers are voluminous; but the committee agreed unanimously in favor of the claim. It is a very just claim.

Mr. MORRILL, of Vermont. I merely desire to inquire whether this bill makes an allowance for the increased cost of building the light-house over the contract price, or whether it is according to contract? Has there been any prior allowance, and are the committee aware of how much that allowance is in excess of the contract price?

Mr. MORGAN. This is for the enhanced price of materials caused by the postponement by the Government. Mr. Parrott was ready to go on with the work, but during the war he could not go on with it. When he did go on with the work it cost him this addition to his contract price, and it is proposed to pay him for it, as the delay was caused by the action of the Government.

Mr. MORRILL, of Vermont. Then this is no part of the contract, but in excess of the contract?

Mr. MORGAN. In excess of the contract for the enhanced price of the materials caused by the postponement at the request of the Government.

Mr. MORRILL, of Vermont. I ask the Senator from New York whether he himself is satisfied that it is right?

Mr. MORGAN. I am entirely satisfied.

Mr. MORRILL, of Vermont. Has the Senator examined the papers?

Mr. MORGAN. I have examined them fully.

Mr. TRUMBULL. Is there a report of the Light-House Board in the case?

Mr. MORGAN. The report of the Light-House Board is in the papers, and can be read if desired.

Mr. TRUMBULL. I should like to hear that report read if it is not too long.

Mr. MORGAN. I send that report to the desk to be read.

The PRESIDENT *pro tempore*. The paper will be read if there be no objection.

The Chief Clerk read as follows:

TREASURY DEPARTMENT,  
OFFICE OF THE LIGHT-HOUSE BOARD,  
WASHINGTON, March 31, 1866.

SIR: The memorial of R. P. Parrott, referred by the Senate Committee on Commerce to the honorable

Secretary of the Treasury, and by him to the Light-House Board for report, having been duly considered the following is submitted:

The memorialist on the 17th December, 1860, contracted with the United States, through a proper agent, the engineer secretary of the Light-House Board, for the iron work of a first-class light-house, to be erected at Cape Canaveral, Florida.

Upon the breaking out of the rebellion, the Government desiring to suspend operations upon that coast, as well as to avoid the disbursement of money at a time of great stringency, inquired of Mr. Parrott upon what terms he would suspend the work. On the 5th February, 1861, he submitted a letter from which he gives an extract in his memorial. This letter contained two distinct propositions, the first of which was accepted by the Government in a communication of which the memorialist gives a true copy, as ascertained by comparison with the records in this office.

In accordance with this proposition the United States has paid Mr. Parrott the sum of \$12,603 68, erroneously stated in the memorial at \$12,500.

In this connection it may be proper to give a statement of all the bids received from parties who desired to have the original contract. They were as follows:

Gage, Warner & Whitney, Nashua, New Hampshire, \$69,600; James Bogardus, New York, \$65,756; People's Works, Philadelphia, \$63,800; Donio & Roberts, Boston, \$57,000; J. G. McPheeters, St. Louis, \$55,521 87; Globe Locomotive Works, Boston, \$55,000; William Adams & Co., Boston, \$52,932; Pusey, Jones & Co., Wilmington, \$49,500; Henry Steele & Son, Jersey City, \$47,440; Atlantic Works, Boston, \$45,000; William M. Ellis & Bro., Washington, \$45,000; J. P. Morris & Co., Philadelphia, \$45,000; Hittinger, Cook & Co., Charlestown, Massachusetts, \$44,900; Hazlehurst & Co., Baltimore, \$39,000; Ira Wrim, Portland, Maine, \$39,556; Trenton Locomotive and Machine Manufacturing Company, Trenton, New Jersey, \$39,450; Poole & Hunt, Baltimore, \$35,550; Knapp, Rudd & Co., Pittsburg, \$32,000; J. Morton Poole & Co., Wilmington, \$31,985; R. P. Parrott, Cold Spring Foundry, \$23,000.

The following facts appear from this statement, namely:

There are four bids, each of which is more than twice the amount of Mr. Parrott's.

There are nine more, each of which exceeds one and a half times the amount of Mr. Parrott's bid.

If the amount asked for by Mr. Parrott to reimburse him for the loss he must suffer by the completion of his contract be added to his original bid, the amount will be \$30,517 84. There are only six of the original bids which are less in amount than this, notwithstanding the low prices of labor and materials at that time, and three of these six are only a few hundred dollars less.

The board has taken pains to ascertain from manufacturers the present prices of labor and materials, and an estimate, based upon the lowest prices given, shows that the total amount required to complete the work is \$27,594 67.

By the terms of his contract Mr. Parrott is bound to complete the work for \$15,396 32; which, deducted from the amount of the estimate, leaves a balance of \$12,198 35, which is the amount Mr. Parrott will lose unless Congress affords relief.

The board therefore respectfully recommends that relief to the extent of \$12,198 35 be granted to the memorialist.

Very respectfully,

W. B. SHUBRICK,

Chairman.

Hon. HUGH McCULLOCH, Secretary of the Treasury.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### CONSULAR CERTIFICATES.

Mr. CHANDLER. I move now to take up for consideration Senate bill No. 442.

The motion was agreed to; and the bill (S. No. 442) to amend section one of an act to prevent and punish frauds upon the revenue, and for other purposes, approved March 3, 1863, was considered as in Committee of the Whole. It proposes to amend the act to prevent and punish frauds upon the revenue, to provide for more certain and speedy collection of claims in favor of the United States, and for other purposes, approved March 3, 1863, by adding to section one thereof the following additional proviso:

And provided further, That in case of goods, wares, and merchandise imported from a foreign country adjacent to the United States, the declaration in this section hereinbefore required may be made to, and the certificate indorsed by, the consul, vice consul, or commercial agent, at or nearest to the port or place of clearance for the United States.

Mr. MORRILL, of Vermont. I desire to ask the Senator from Michigan what the purpose of this bill is, and what evil it is intended to remedy?

Mr. CHANDLER. I will answer the Senator very briefly. This applies solely to countries adjacent to the United States. It is customary for farmers and others not conversant with the law to cross over into Canada for the purchase of animals, or for the purchase of a particular kind of seed barley or seed wheat.

They will go perhaps one hundred miles from the nearest port of entry at which they propose to import the goods without the knowledge that it is necessary to have a consular certificate from the consul at the place where they made the purchase, and great inconvenience has been experienced in that regard. The bill applies as well to the State of the Senator from Vermont as to the State of Michigan. It applies all along the frontier. The bill is to remedy that inconvenience. A farmer purchasing a horse, for example, would have to go back perhaps one hundred or one hundred and fifty miles to get a consular certificate, when the certificate of the consul at the port nearest the port of entry of the United States would do just as well. It applies simply to this case, and is meant to remedy that one inconvenience.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ANTHONY. I offer this resolution, and ask for its present consideration:

Resolved, That one hundred and fifty additional copies of House bill No. 605 be printed for the use of the Senate.

This is the legislative, executive, and judicial appropriation bill, of which there are no copies left. The resolution has received the assent of the Committee on Printing.

The resolution was agreed to.

Mr. RAMSEY submitted amendments intended to be proposed to the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. HARLAN submitted amendments intended to be proposed to the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869; which were referred to the Committee on Appropriations, and ordered to be printed.

#### WAGON-ROADS IN DAKOTA.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, returned to the Senate, in compliance with its request, the bill (H. R. No. 650) to amend the act of March 3, 1865, providing for the construction of certain wagon-roads in Dakota Territory, with the amendment of the Senate thereto.

Mr. FERRY. I move that the bill just returned from the House of Representatives be recommitted to the Committee on Territories.

The PRESIDENT *pro tempore*. The vote on the passage of the bill must first be reconsidered.

Mr. FERRY. I ask that, by unanimous consent, that reconsideration may be had.

The vote passing the bill was reconsidered by unanimous consent. The vote by which the bill was ordered to a third reading was also reconsidered, and the bill was recommitted to the Committee on Territories.

#### SALE OF SHIPS TO BELLIGERENTS.

Mr. CHANDLER. I move to take up for consideration Senate bill No. 94.

The motion was agreed to; and the bill (S. No. 94) declaratory of the law with regard to the sale of ships to friendly belligerents was read the second time, and considered as in Committee of the Whole.

By this bill, in order to remove all doubt with regard to the existing law, it is declared that nothing contained therein shall be construed to render it illegal to sell or charter a vessel or steamer built within the United States, or purchased from the United States, to any foreign Government at peace with the United States, or to any subject of such Government, although the vessel or steamer be wholly or in part prepared for war, if the transaction is simply commercial, with no intent on the part of the seller or charterer to participate in any belligerent act; and the vessel or steamer, while *in transitu*, is to be in no respect exempted from the law of contraband.

Mr. TRUMBULL. This is a very important bill. According to my recollection it changes the present law, which has stood on the statute-book perhaps for forty years, prohibiting the sale of vessels that may be turned into vessels of war. One of our difficulties during the recent rebellion grew out of the fitting out of vessels in Great Britain, which were sold to the rebels, and armed after they had passed out to sea frequently. I did not know that this bill was coming up this morning; but a bill somewhat similar was at one time before the Committee on the Judiciary, and my recollection is that it was not thought best to recommend its passage at that time. Perhaps the Senator from New York [Mr. CONKLING] will remember about that. This is a bill that proposes to authorize the sale of vessels which may be turned into vessels of war, and is in contravention of the policy of the Government, I think, ever since its foundation. The Senator from Massachusetts [Mr. SUMNER] more particularly represents our foreign affairs, and if he is satisfied with the bill I do not propose to interpose any further objection than to call the attention of the Senate to it as a very important change in the law, which may possibly involve us in difficulties with friendly Powers hereafter in the event of foreign wars.

Mr. CHANDLER. If Senators will read the proviso they will find that this bill is very carefully guarded. It has been carefully prepared. The proviso is:

*Provided, That the transaction is simply commercial, with no intent on the part of the seller or charterer to participate in any belligerent act, and that the vessel or steamer, while in transitu, is in no respect exempted from the law of contraband.*

Thus it will be seen that the bill is very carefully guarded. It has been petitioned for, I believe, by all the vessel builders on the Atlantic coast—certainly by all in New York. My friend from New York [Mr. MORGAN] will, I think, remember that the petition to which I refer was signed by every vessel builder in New York. I think the whole vessel interest has applied for the passage of this bill.

Mr. CONKLING. Will the Senator be kind enough to state to us what the law is now, as he understands it, and then the change made by this bill, and the extent of the change?

Mr. CHANDLER. The law, as it now is, is a little mixed. It is governed more, perhaps, by usage than positive statute. This is declaratory of what the law is and shall be construed to be. The law lies now as much in the usage of nations as in definite statutes. The object of this bill is merely to define what the law is and shall be hereafter construed to be.

Mr. CONKLING. A mere statute of construction, then?

Mr. CHANDLER. Yes; that is, the bill says the law shall be construed so and so. It is declaratory of the law with regard to the sale of ships to friendly nations. That is all. I think the bill ought to pass. It is certain that the ship-builders of the United States want it to pass.

Mr. CONKLING. Mr. President, if the effect of this bill were to be, and we could have that assurance, to measure to the other nations of the earth precisely what is meted out by them to us, I think it ought to pass; but it relates to a very complicated and delicate subject, to one which, in the House of Representatives, has been considered elaborately by the Committee on Foreign Affairs, and which is embraced within memorials and bills that have several times been referred here to the corresponding committee of this body. I had no expectation that such a bill was to come at any time from the Committee on Commerce, and certainly no expectation that we were to consider it this morning. My impression is that it is a jump in the dark. I submit to the Senator from Michigan that if he is going in this present bill to press the subject upon the attention of the Senate it would be well to allow it to stand over to the end that we may consider it a little and take it up hereafter. My impression is, as I said before, that the subject-matter belongs appropriately to the Committee on Foreign Rela-

tions. It is not a thing by itself; it is one link in a chain a good many links in which need to be burnished; and whenever we take up the subject at all, I think it should be more completely and more intelligently than we can do it now, and certainly in a bill so brief as this. I do not wish, however, to interpose any objection to the bill; I make my remark in the nature of a suggestion to the Senator, that I think he had better let it stand over or else send it to the Committee on Foreign Relations.

Mr. CHANDLER. I have no objection to its standing over, but I will simply state a fact that has just come to my knowledge. This bill was drawn really by the chairman of the Committee on Foreign Relations as a substitute for another measure, and is very carefully guarded. I state the fact to show that it has certainly had the attention of the chairman of the Committee on Foreign Relations, and it is, as we think, very carefully guarded. But if the Senator from New York desires that the bill shall lie over I shall not object.

Mr. MORRILL, of Vermont. I would suggest an amendment to the chairman of the Committee on Commerce that I think will obviate any further difficulty, and that is to insert in the proviso a clause requiring the transaction to have the approval of the Secretary of State.

Mr. FERRY. What good would that do?

Mr. CHANDLER. I think that complicates it without doing any good.

Mr. FERRY. It would give the Secretary of State control of all that kind of commerce.

Mr. CHANDLER. I think the bill is sufficiently guarded now. If it be the pleasure of the Senate to pass it we may as well do it at once; if not, let it go over.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### GREAT BRITAIN AND ABYSSINIA.

Mr. CHANDLER. I now move to take up Senate joint resolution No. 69.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution (S. R. No. 69) to preserve neutrality between the Government of Great Britain and the king of Abyssinia.

Mr. CHANDLER. I move that the joint resolution be indefinitely postponed.

The motion was agreed to.

#### DUTIES ON DAMAGED MERCHANDISE.

Mr. CHANDLER. I now move to take up for consideration Senate bill No. 76.

The motion was agreed to; and the bill (S. No. 76) providing for the abatement of duties on merchandise damaged on the voyage of importation was considered as in Committee of the Whole.

The first section provides that merchandise, which may have sustained damage during the voyage of importation, shall be entitled to an abatement of duties in proportion to the damage so sustained; but no abatement of duties for damage on any merchandise shall be allowed unless claim therefor shall be made by the owner or consignee within ten days after the landing of the same, nor unless it shall be proved to the satisfaction of the collector, or chief officer of the customs of the port into which the merchandise is imported, that the damage alleged was sustained after the merchandise had been shipped from a foreign country destined for, and previous to its landing in, the United States. The damage, in all cases, is to be ascertained and appraised by the officers of the customs charged with the ascertainment and appraisement of the value of merchandise imported from foreign countries.

The second section provides that before any order for the ascertainment and appraisement of damage alleged to have been sustained during the voyage of importation shall be granted by the collector, or other chief officer of the customs, the owner or consignee shall make application to such collector, or other chief officer, specifying the description of the merchandise and the number of packages, parcels,

or quantities, or which an abatement for damage is claimed, and such application shall be made in such form, and be sustained by such proofs, as the Secretary of the Treasury may prescribe.

The third section makes it the duty of the inspectors, or other officers of the customs, under whose supervision any merchandise imported from foreign countries is unladen, to keep a particular account of all packages and parcels of such merchandise which may exhibit any appearance of damage during the voyage of importation, and to note the same in books kept and the returns made by them; and the day on which the unloading of any vessel is completed is to be deemed and taken to be the date of the landing of all merchandise imported in such vessel, from which the ten days may run, within which the owner or importer is allowed to make claim for damage.

It is provided by the fourth section that no abatement of duties on account of alleged damage during the voyage of importation shall be made in respect to any merchandise which has passed into the custody and control of the owner or consignee; but such packages and parcels of merchandise as exhibit, on landing, appearance of damage, may, at the request of the owner or consignee, be deposited in any public or bonded warehouse, or other suitable place, to be designated by the collector, or other chief officer of the customs, there to remain at the risk and expense of such owner or consignee, until the damage, if any, shall have been ascertained and appraised.

The fifth section provides that merchandise entered for warehousing, and deposited in public or bonded warehouse, may be examined by the owner or consignee, under such general regulations as the Secretary of the Treasury may prescribe, to ascertain if such merchandise has sustained damage during the voyage of importation; and in respect to merchandise sent to public warehouse by the collector, or other chief officer of the customs, for examination and appraisement, pursuant to law, the appraiser is to report to such collector, or other officer, if the same has sustained damage, and the amount thereof; and if it shall be proved that such damage was sustained during the voyage of importation, it shall be allowed in the liquidation of the duties, as if application had been made for abatement by the owner or consignee in the manner and within the time hereinbefore required.

Mr. MORRILL, of Vermont. When this bill was up for consideration on a previous occasion I gave notice of an amendment, which is printed in the form of two additional sections. I will merely state that they have received the approval of the Treasury Department, and the chairman of the Committee on Commerce has no objection to them. I now present these sections and ask that they be read.

The Chief Clerk read the amendment, which was to add to the bill the following sections:

SEC. 6. *And be it further enacted*, That no abatement of duties for damage shall be made in respect to the articles of merchandise hereinafter enumerated, namely: anchors and parts thereof, beeswax, barilla, bells for churches, bituminous substances in a crude state, bones and bone tips, brimstone, camphor, crude; chalk, clay, unwrought; cocculus Indicus, corn, coral, unmanufactured; cork-tree bark, emery stone, flints and flint stones, flour, grain, grease, gums of all kinds, horns and horn tips, India-rubber in all forms, manufactured or unmanufactured; iron and steel in all forms, manufactured or unmanufactured; ivory, unmanufactured; marble and stone of all kinds, unmanufactured and unfit for use unless manufactured; marrow, meal, metals of all kinds, pure or in composition, in the crude state, or in bars, pigs, blocks, or sheets, or old and fit only to be remanufactured, and ores of metals; all mineral substances in a crude state, nuxvomica, natron, ochres and ochry earths, when dry; oil, paving stones, pitch, plaster of Paris, unground; pumice stone, rosin, sal ammoniac, spirituous liquors, sponge, tallow, tar, crude; teeth of animals, wine, wood of all kinds, unmanufactured, including dyewoods in the stick, and timber and lumber of all kinds, split, sawed, or hewed.

SEC. 7. *And be it further enacted*, That no abatement of duties for damage, except from breakage, shall be made in respect to the following named articles, namely: busts, casts, statues, and ornaments of plaster; castings of iron and iron vessels; china, porcelain, stone, and earthenware, composed wholly of earthy or mineral substances; glass, glassware, and all articles made wholly of glass; liquids of all kinds

in bottles; roofing and paving slates and tiles, and manufactures of stone of all kinds; precious stones and imitations thereof; and no abatement of duties shall be made for stains or injury to casks containing liquids, nor for damage of molasses by souring, nor shall there be in any event an average allowance for damage.

Mr. SHERMAN. My attention has not been called to this bill before. It seems to me that it is a part of the tariff system, and ought to go to the Finance Committee in connection with the tariff. It is a bill to provide for an abatement of duties, to modify the law in regard to duties. The provisions in regard to the abatement of duties are all under the tariff law. I do not know to what extent this bill changes the tariff law.

Mr. MORRILL, of Vermont. I agree with the Senator from Ohio that the original bill ought to have been sent to the Committee on Finance; but it not having been sent there, and having been considered by the Committee on Commerce, I saw no other way to propose any amendment but by offering it to this bill. I understand the original bill has received the approval of the Department, but it ought not to pass without this amendment, because it changes our laws in relation to damages. The amendment which I have proposed will leave the law very much as it now is, with the addition of a few articles more upon which no damage is to be allowed; and it is in harmony with the practice of other nations.

Mr. SHERMAN. This bill relates to the tariff, and is really a part of the revenue system. I move that it be referred to the Committee on Finance; and I will state to the Senator from Michigan that, if I find it satisfactory, I will return it to his charge as soon as I can examine it.

Mr. CHANDLER. I have no objection to its taking that course.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the bill and amendments be referred to the Committee on Finance.

The motion was agreed to.

#### REGISTERING OF VESSELS.

Mr. CHANDLER. I now move to proceed to the consideration of Senate bill No. 505.

The motion was agreed to; and the bill (S. No. 505) to amend section five of an act entitled "An act concerning the registering and recording of ships or vessels," approved December 31, 1792, was considered as in Committee of the Whole. It proposes to repeal section five of an act entitled "An act concerning the registering and recording of ships or vessels," approved December 31, 1792.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### BRIG HIGHLAND MARY.

Mr. CHANDLER. I move that the Senate proceed to the consideration of Senate joint resolution No. 113.

The motion was agreed to; and the joint resolution (S. R. No. 113) authorizing the Secretary of the Treasury to issue an American register to the British-built brig Highland Mary was read the second time, and considered as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury to issue an American register to the British-built brig Highland Mary, owned by H. and S. French, of Sag Harbor, New York.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### BARK AUG. GUARDIEN.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of Senate joint resolution No. 36.

The motion was agreed to; and the joint resolution (S. R. No. 36) authorizing the Secretary of the Treasury to issue an American register to the bark Aug. Gardien was read the second time, and considered as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury to issue an

American register to the bark Aug. Gardien, of the port of New York, the same being a French-built vessel, but now owned by American citizens.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### BARK GOLDEN FLEECE.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of Senate resolution No. 109, which was reported adversely by the Committee on Commerce.

The motion was agreed; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 109) authorizing the Secretary of the Treasury to issue an American register to the bark Golden Fleece.

Mr. FERRY. I desire to be informed by the chairman of the committee what were the facts in the case of the bark Golden Fleece, and if there be any special reason why an American register should not be issued?

Mr. CHANDLER. Last winter and winter before last the Committee on Commerce, both in the House of Representatives and in the Senate, had numerous applications from persons who had changed their flags during the rebellion; and after full consideration of the subject in all its aspects, the committees decided not to report favorably upon the application to give an American register to any ship that had changed her flag for safety during the period of the war. The reasons for this decision were these: if all the vessels belonging to our mercantile marine had changed their flags for safety during the war it would have been utterly impossible for the Government to have carried on the war; they could not have obtained transportation. During the rebellion most of the shipping interest of the United States obtained security by paying, I think my friend from New York told me, ten per cent. additional insurance risk. All could be insured by paying ten per cent. additional risk. These parties are loyal men, very loyal men; but they changed their flag, and this vessel comes under our rule. That is all there is in the case.

Mr. FERRY. I have nothing to say with regard to the general rule upon the consideration of this particular case, although I might, if that were the subject-matter of inquiry now, have doubts as to the expediency of that general rule, especially in these days, when we are complaining that our flag is driven from the ocean and our commerce languishing in consequence of that fact. But in reference to this particular case I have something to say.

The principle upon which the rule has been adopted by the committee would seem to be that although the persons who changed their flag might be loyal citizens yet that the act itself was an unpatriotic act, and that therefore they ought not to be permitted to return their vessels to the protection of the American flag. Now, sir, I know the owners of the bark Golden Fleece. The principal owner is Mr. Thomas R. Trowbridge, of the city of New Haven, in my State, a gentleman who stands next to no man in my State or in New England in his patriotic devotion and exertions from the beginning of the war. Himself far advanced beyond the period of military service, scarcely had Fort Sumter fallen when he devoted his whole energies, to my certain knowledge, to the raising of troops in the State of Connecticut, assisting our noble Governor, furnishing supplies out of his own private purse; and when the conflict actually began I have myself seen this same gentleman at the front, tending to the wants of our regiments; and I have no doubt that the amount contributed by him from his own private means during the period of the war and the results of his personal exertions were surpassed by those of no other citizen throughout the whole country.

Now, sir, what was the fact in regard to the bark Golden Fleece? She was on a voyage, as I understand, laden with a valuable cargo, and the

confederate corsairs were roaming the seas right upon her very track. The additional war risk, if paid for by the increased insurance, would not compensate for the loss of his vessel; his own Government was unable to protect him; and he it so that an error of judgment was committed by this question in transferring the vessel, for the sake of the protection of the ship and cargo, to a foreign flag, is it right that a citizen who has done so much as I know this gentleman has done, (and who since the close of the war, partly on account of his patriotic services, the citizens of my State have again and again offered the nomination for the Governorship of that State and he has steadily refused it,) is it right for an error of judgment that he and his partners may have committed during the war, to continue to affix this stigma and compel him to keep his property afloat under the British flag? Now, I submit, Senators, if the general principle be right, if it be true that Mr. Trowbridge did commit an error of judgment, yet, stating what I know in regard to this gentleman, an exception ought to be made by the Congress of the United States in his case. I hope that the bill will not be indefinitely postponed, but passed.

Mr. SUMNER. I agree with the Senator from Connecticut in the view that he has presented, and indeed I should be disposed to go a little further and ask the Committee on Commerce if they are disposed now, at this late day, to adhere to the rule which they originally adopted? I do not undertake to criticize that rule so originally adopted by them. It may have been very proper immediately after the close of the war, when many applications were made. I myself was in the habit at the time of receiving applications from ship-owners whose interests were involved. But I venture now to ask the committee whether that rule has not been in force long enough?

We are now looking about in every direction to do away, so far as we can, with all those rules and usages that were the growth of the war. We have already passed a bill through this Senate which has relieved a large number of persons of their disabilities at the South; and now the question that I again put to the committee, is whether we may not properly turn to the North and see whether there are not parties there against whom a rule has been enforced which is calculated to be of serious detriment to them in their property and business. I am not going to raise the question whether the rule, when it was begun, was not entirely expedient. I accepted it as such at that time; but I submit that at this moment, when we are all seeking to bring about what, borrowing a phrase from another time, I would call the "era of good feeling," we may not properly apply that sentiment to this rule?

Now, unless I am mistaken, we should go beyond this individual case and generalize. We should open the door for the return of these flying vessels who left us for their safety or for the interests of their owners during the war. We should let them come back in peace and take their place once more in the mercantile marine of the country. Such, I must say, is the inclination of my judgment on this question, stated in its most general form; and that brings me to this special case. Even supposing the Senate is not disposed to adopt the more general proposition which I suggest, we have then the question presented on the individual case that has been argued by the Senator from Connecticut. It may be that the Senate will think it better to proceed by individual cases rather than by an alteration of the general rule. So be it; this individual case comes now before us, and, on the statement of the Senator from Connecticut, for one I shall be entirely content that by the legislation of this country we shall say to this vessel "come back."

Mr. CHANDLER. Mr. President, the Committee on Commerce had this subject a long time under consideration before it decided what course it would pursue. The impression of the committee was that to permit these vessels to come back and resume their flag after



the termination of the war would be in all future wars offering a premium to those who should desert the flag. It was not only the ten per cent. which was a tax upon our commerce, but the insurance upon the cargoes was likewise ten per cent. additional. Consequently our vessels during the whole four years of war were compelled to do business at that loss over all vessels that changed their flag. Why should we take back a vessel that enjoyed this immunity for four years, I may say unpatriotically, although I would not apply that remark to this case, for my impression is that the owners of this vessel, had they been with the ship, would not have changed the flag. Mr. Trowbridge is as patriotic as my friend from Connecticut asserts; no man more so. The Committee on Commerce, in view of all the circumstances, were willing to make an exception of his case, and during the last Congress we reported a bill for his vessel, which was passed and sent to the other House, but the House refused to concur in it. We were willing to make an exception of the owner of this ship on account of his loyalty and devotion to his country. But, sir, the committee did not think—at least they have not yet arrived at the conclusion—that the rule ought to be changed. The matter is in the hands of the Senate. I have not the slightest objection to the Senate passing this bill, if they choose to do so, inasmuch as I once advocated it myself; but I am still satisfied that the general rule adopted by the committee was a correct one, and that it should be enforced. Let it be understood in all future time that the man who changes his flag during a war has changed it forever. We could not have carried on the war if our ship-owners generally had pursued this course. We had something like a thousand transports at one time engaged by the Government carrying supplies. If our ships had all changed their flags, where should we have found this transportation? It is perfectly evident that if their owners had done as these owners did our war would have failed for want of transportation. While I insist upon the general rule, I am not strenuous about its application to this case.

Mr. FESSENDEN. It strikes me that this is a very simple question. I do not know what the circumstances of this particular case are, for I have not heard them stated. I infer, however, from what has been said by the Senator from Michigan, that the flag was not in this case changed by the direction of the owners, but by direction of the master, the owners not being aware of it.

Mr. CHANDLER. It was acquiesced in by the owners during the war, after it was done.

Mr. FESSENDEN. Then the case does not differ at all from any other case where the change was made originally by direction of the owner if he acceded to it and availed himself of the benefits that accrued. It strikes me that the question is a very simple one; and it is, whether a man engaged as one of our people in our great contest should be permitted during the pendency of that contest to withdraw his property to his own particular benefit from the risk which others assumed in consequence of the war, and thereby put money into his own pocket, and during the war derived all the benefits from that course of action which he expected to derive from it, and then when the war is over just come back again upon an equal footing with those who exposed their property, and did not shrink or skulk from the dangers properly appertaining to their position. I cannot conceive that the question presents itself in any other light.

I unite with the sentiments which have been advanced by the honorable Senator from Massachusetts [Mr. SUMNER] as to the importance of kindness and conciliation, and an endeavor to away with the asperities that have grown up during the war. I am very glad to hear him express these sentiments; but it strikes me that it is a very singular application of them to apply them in the first instance to owners of property belonging to men who were of our-

selves, and being of ourselves chose to avail themselves of that position among ourselves to escape partially from the risks and dangers which others ran, to withdraw themselves or their property by a change of flag, by concealment of a fact, by so far just putting themselves outside of their country for the sake of gain or to escape loss, and then claim to come back again on an equal footing with those, and perhaps to the injury of those, who did not resort to that course of action.

In consequence of the withdrawal of such large amounts of shipping during the war other people put their property into that description of business, and any one can see that the introduction of foreign shipping largely into our commerce must affect their interests to a very considerable degree. It has been against the policy of this country always to nationalize shipping not built by ourselves. It is only done under very peculiar circumstances; generally in cases of wreck, where the amount of repairs put upon a vessel exceeds the original cost, and those repairs are made in this country. If that is the policy of the nation, is it right so far to controvert it, so far to act against it, as to introduce this large quantity of shipping at once among ourselves, when the owners have chosen in a time of national peril to denationalize it? Sir, I am for letting them take the consequences of their own act; at any rate I am not disposed to pass laws here in Congress for the mere purpose of giving additional value to property which the owners of that property chose voluntarily to withdraw from the protection of our flag. I see no justice in it, and no propriety in it, and therefore, I shall vote against the bill.

Mr. FERRY. A few words in reply to the Senator from Maine. The Government of the United States has a duty to its mercantile marine and its ship-owners as well as they have a duty reciprocally to the Government of the United States. The Senator complains that the bill legislates to bring back under our flag those who have voluntarily renounced the protection of that flag. That is a begging of the whole question, for the very difficulty was that at this time the Government of the United States utterly failed in the performance of its first duty, perhaps from no fault of its, probably owing to its misfortune. The Government failing in the protection which it was bound to afford to the owners of the mercantile marine of the country, many of them resorted to the protection of other flags. While I do not excuse entirely those who sought the protection which their own Government did not afford from a foreign flag, I do say that now when the complaint is universal—and I have heard it on the floor of the Senate from the Senator from Maine—that our flag is banished from the ocean; now, when loyal American citizens who, not being able to obtain from their own Government during that period the protection which it was its duty to bestow upon them, from error of judgment, perhaps, sought that protection abroad, desire to come back and build up again our mercantile marine by the addition of I do not know how many more vessels to that marine, that we should continue, according to the Senator's argument, forever to ostracize these loyal citizens of the Republic, seems to me to be bad in principle and bad in policy. It may well be that a Senator from the State of Maine, upholding most firmly always upon this floor the policy which he has just enunciated as the policy of the Government in regard to nationalizing any foreign-built vessels, might be glad to extend the operation of the same rule to those vessels which were compelled to seek protection under a foreign flag.

I did not intend in the commencement of this discussion to go at all into the general inquiry as to the policy of the rule adopted by the Committee on Commerce, but I directed my argument mainly to this special case, where a vessel being on a voyage across whose track came the confederate pirates the master, with the responsibility of the vessel and cargo upon

him, unable to find protection from his own Government, sought temporary protection under a foreign flag, seeking, as it was his duty to do, the interest of the owners, and subsequently those owners acquiesced in the action at the very time when, to my certain knowledge, the principal owner of this vessel at any rate was engaged in pouring out his treasure as freely as water for the purpose of filling up our regiments and sustaining our troops in the field; and you say that these men for the error, if it be an error, committed then, shall be forever stigmatized by adverse votes of Congress upon an application of this kind, as during that very war having been unpatriotic and quasi disloyal to their country.

I agree with the general principle enunciated by the Senator from Massachusetts, [Mr. SUMNER,] that it is time to put an end to these things on both sides, North and South. I think it is time to bring back harmonious feelings and the old fraternal relations if we can do so without endangering the interests and the future welfare of the country. I cannot see any danger from an operation of this kind; but I can see danger where such men as I know the owners of this vessel to be are kept perpetually stigmatized by the action of Congress and turned out of its doors when they come here, asking simply to increase the mercantile marine of the country by a vessel that is now under a foreign flag, and refuse because of an error which they may have made two or three years ago.

Mr. CHANDLER. I send to the desk the petition of the owners of this vessel, and ask that it be read as it sets forth their own case fully.

The Chief Clerk read as follows:

*To the Honorable the Senate and House of Representatives of the United States in Congress assembled:*

The undersigned, merchants of New Haven, Connecticut, and loyal citizens of the United States, respectfully represent that for a period of more than fifty years their house have been engaged in foreign commerce; that during the great rebellion they were owners and employers of many vessels in their own trade; that in 1862 they contracted for the building of a fine bark, for their business, at a large expense, namely, for about thirty thousand dollars; that in the autumn of 1863, when the vessel was completed and ready for sea, the rebel cruisers were making such havoc with United States vessels that your petitioners having nearly their whole fortunes exposed to capture by the rebels—and as this bark with her cargo would amount to fully \$50,000 additional—thought it prudent to avail of an opportunity to seek protection by selling the vessel to a friend who was a British subject, and taking a mortgage on the said vessel they accordingly sold the vessel, calling her the *Golden Fleece*, and thus she passed under the English flag, but has never passed out of the actual ownership of your petitioners. They now wish to have the said vessel returned to the American flag, and in accordance therewith humbly petition that an American register be granted to the said bark *Golden Fleece* formerly of New Haven.

H. TROWBRIDGE'S SONS.

NEW HAVEN, February 14, 1868.

Mr. FESSENDEN. That makes a worse case than I supposed. It seems now that at the time the vessel was being built the owners deliberately came to the conclusion that they would put her under a foreign flag, and for that purpose made a sham sale. So it seems they are solely responsible for it, and it was deliberately done. I do not see how their case differs in the slightest possible degree from a great many other cases where the same thing was done in precisely the same way.

This vessel was built early in the war, when the building of vessels was comparatively cheap. At this time, in consequence of the war itself, the cost of building vessels has almost doubled. Now, if you choose to bring back all these vessels thus sold—and they are quite numerous—you bring into our commerce to compete with vessels that were not thus sold and vessels built at the present time at double the cost vessels that have not cost more than half as much, and thus affect their interests and the interests of ship-building generally.

Mr. CHANDLER. The Senator will permit me to state that there were ten hundred and seventy-six vessels in all that either changed their flag or were destroyed—a very large number.

Mr. FESSENDEN. I call that a very large

number. The Senate will see at once what the effect would be upon the existing commerce that has been built up, so far as it could be built recently. It is giving to those men who chose not to run the hazard over those who chose to run the hazard, as many did, this striking advantage. Is that dealing justly by those who scorned to cover their property in that way, by disclaiming the protection, so far as it went, of the flag of their country and for the time putting their vessels under a foreign flag? I think it would not be just.

As to putting a stigma upon these gentlemen, I think that is a very curious way to look at it. If they had not brought their petition here nobody would have known anything about it; no stigma would have been put upon them by Congress. It is very curious logic that people come voluntarily into these Halls and say, "We have done a certain thing which you do not approve, which the country does not approve, which does not approve itself to the mind of any right-thinking man, perhaps, for the sake of gain, or to avoid loss; we ask you to restore to us not only the advantages we have lost thus voluntarily, but to give us a preference, in fact, over others who took a different course from us, and if you do not do it it is putting a stigma on us." That is hardly an argument, I think, to be addressed to the sense of the Senate on a question of that description.

Why, sir, the argument which the Senator from Connecticut makes, that they did this thing because the country was unable to make them secure in the possession of their property, might as well be carried further, and it would justify any other mean or disloyal act that was done by any man simply because he thought himself in danger at the time his country was in danger. You may carry it out to justify desertion, or even treachery, as more is granted to one who desires to save his life than one who desires to save his property.

Sir, I am opposed to this whole thing, not only on the general principle which I have stated, but on the principle that carrying this out the effect is materially to injure the interests of men who were not exposed to the charge to which these gentlemen are exposed. They must take the consequences of their own act. They chose voluntarily to take their chance for the sake of gain. Let them be satisfied with it, and having saved their property and made their gain, let them not come and ask for more at the expense of others who are more worthy in that particular than they are themselves.

The bill was reported to the Senate without amendment.

Mr. MORGAN. The report of the committee was adverse in this case.

The PRESIDENT *pro tempore*. If no amendment be offered, the question is on ordering the bill to be engrossed for a third reading.

Mr. FERRY. I ask for the yeas and nays on that question.

The yeas and nays were ordered.

Mr. SUMNER. Before the vote is taken I desire to make one remark. I remember that several years ago while the war was raging, when there were various questions before the Senate of confiscation, of emancipation, of the enforcement of military rule in the rebel States, I said from my seat in this Chamber that I regarded all these measures, except the great act of emancipation, as acts of war for the maintenance of the rights of my country; that when those rights had been secured, and when there was no longer any reason for the enforcement of any of those rules, I would be among the foremost to insist upon removing them all; that no one should outdo me in clemency to any rebel the moment the time had come when that clemency could be shown with safety to the Republic. I am not sure that the time has yet come when all those rules which were then adopted with regard to the rebel States can be relaxed. I am not sure that it can be done consistently with the public safety.

But now I turn round to this other rule which

was made to bear on the shipping interest of the northern States, and I apply to that the same principle that I would apply generally to the rebel States. I ask myself whether there is any reason of public safety that shall require the further maintenance of that rule. I cannot find it. The Senator from Maine says that the return of these vessels would bring a large interest in competition with another interest that is already in the country and which took no advantage of a foreign flag. It may be so. But I would ask whether that argument is not applicable to every proposed change in the rebel States; whether we can confer any rights on any individuals, or relax any of those severe rules anywhere in the rebel States, without, in some respects, directly or indirectly, bearing also upon faithful Unionists during the war? It seems to me that the argument, if apt in one case, is also apt in the other. For myself, so far as the rebel States are concerned, I fall back upon the position which I took some four or five years ago in this Chamber, that when the change can be made consistently with public safety it shall not want my vote. And now I ask that the same rule shall be applied to cases like that before us. I believe that there is no question of public safety now; I believe that this ship can be allowed to come back and take her old colors or her natural colors, the colors that belong to her, without the Government receiving any detriment.

Mr. MORGAN. As one member of the Committee on Commerce who reported this bill, I desire to say that I shall feel instructed by the decision of the Senate on this bill and I have no doubt the committee will also. This seems to be a test case. It is not like many others, where the captain of a vessel changed the flag in a foreign country without the knowledge of the owners. The flag was changed in this case by Mr. Trowbridge himself. There were two courses open to him while he was building his ship and when he concluded to send her to sea: he could pay the extra insurance, or he could make a sale of the ship and change its flag. He chose the latter course, and placed his ship under the British flag. Others chose the opposite, and paid the additional insurance. If the Senate shall decide that they will grant a register to Mr. Trowbridge, a highly-respectable gentleman, whom I have had the pleasure to know for a great number of years, I, as one member of the committee, shall consider this question settled, and that hereafter we are to grant all these applications. Heretofore we have granted none.

Mr. FESSENDEN. I will suggest one other idea; and that is, that during the war all these vessels were in fact British vessels. They were under the British flag, engaged in British commerce; and their interest was, as it was the interest of British commerce, to destroy ours, what we had to destroy; and I am told as a matter of fact that the enemy got probably more information in regard to us through men sailing these vessels which were transferred to the British flag than they did from any other quarter. They were acting against us all the time necessarily, because they were British ships; and now they come and demand that they shall be taken back again under our flag. I think that I would extend mercy to the rebels that the honorable Senator from Massachusetts speaks of to-day quicker than I would grant a petition of this kind.

The PRESIDENT *pro tempore*. The question is on ordering the bill to be engrossed for a third reading, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 11, nays 20; as follows:

YEAS—Messrs. Davis, Ferry, Henderson, Patterson of Tennessee, Pomeroy, Ramsey, Sprague, Sumner, Van Winkle, Vickers, and Willey—11.

NAYS—Messrs. Buckalew, Cameron, Chandler, Cole, Conkling, Corbett, Fessenden, Harlan, Hendricks, Howard, McCreery, Morgan, Nye, Patterson of New Hampshire, Saulsbury, Tipton, Trumbull, Wade, Williams, and Yates—20.

ABSENT—Messrs. Anthony, Bayard, Cattell, Conness, Cragin, Dixon, Doolittle, Drake, Edmunds,

Fowler, Frelinghuysen, Grimes, Howe, Johnson, Morrill of Maine, Morrill of Vermont, Morton, Norton, Ross, Sherman, Stewart, Thayer, and Wilson—23.

So the bill was rejected.

#### SALE OF SHIPS TO BELLIGERENTS.

Mr. PATTERSON, of New Hampshire. If the Senator from Michigan will allow me one moment, I wish to move to reconsider the vote by which Senate bill No. 94, declaratory of the law with regard to the sale of ships to friendly belligerents, was passed. It will take but a moment.

Mr. CHANDLER. Let the motion be entered.

The PRESIDENT *pro tempore*. If there be no objection that motion will be entertained.

Mr. PATTERSON, of New Hampshire. I merely wish to say that this bill pretends to settle by an act of legislation a grave question of international law. It also forecloses all action upon a case which for six weeks past has been under consideration by the Committee on Retrenchment. It is well known that the Navy Department has sold two of our iron-clads to the Peruvian Government, or to certain parties who have sold them to the Peruvian Government.

Mr. CHANDLER. Let the motion to reconsider be entered.

The PRESIDENT *pro tempore*. The question is on reconsidering the vote by which the bill was passed.

The motion was agreed to.

THOMAS W. WARD.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of Senate bill No. 542.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 542) for the relief of Thomas W. Ward, collector of customs at Corpus Christi, Texas. It proposes to direct the proper accounting officers of the Treasury to settle the accounts of Thomas W. Ward, late collector of customs for the district of Corpus Christi, Texas, from March 5, 1867, to July 31, 1867, and to allow him the same compensation and emoluments as if he had been legally collector of customs for that district for that period. It further proposes to recognize the deputy collector appointed by Thomas W. Ward on the 7th of March, 1867, as the legal deputy collector of the district, and the accounting officers are to settle his accounts in the same manner as if he had been legally appointed and all his acts were legal.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### ORDER OF BUSINESS.

Mr. MORGAN. I move that the Senate now proceed to the consideration of House bill No. 764, for the relief of certain exporters of distilled spirits. It has been a long while before the Senate. I believe there is now no longer any objection to it; and it is very important that the bill should be taken up and disposed of.

Mr. HOWE. I wish to ask the Senator from New York if he will not allow me to call up a bill? I do not wish to antagonize it to him; but the chairman of the Committee on Appropriations, who is not able to be here to-day, sent word to me that there was an urgent necessity for the passage of the bill appropriating \$150,000 to sustain the Indian peace commission, so called. I suppose it will occupy but a moment, and I hope the Senator will allow that to be taken up.

Mr. MORGAN. When this bill is taken up, if it does not thereby lose its place, I shall not object to that measure being taken up; but I think the Senator had better let this bill be passed. I think it can be disposed of in a few minutes. It was up once before, but some objection was made, as it was feared there would be frauds under it; but I think those objections are removed.

The PRESIDENT *pro tempore*. The ques-

tion is on the motion of the Senator from New York, to take up the bill (H. R. No. 764) for the relief of certain exporters of distilled spirits.

Mr. HOWARD. I really hope that the Senate will not take up that bill, but will take up Senate bill No. 256, relating to the central branch Union Pacific railroad—a bill which has been before the Senate and has been pretty thoroughly discussed, and one which is of a great deal of importance, both to the Government and the parties who are interested in it. It has been pending before the Senate now for several months, and has been from time to time discussed, and I really hope the Senate will now consent to take it up and finish it, dispose of it one way or the other. I do not like, of course, to antagonize it against the bill of the honorable Senator from New York, but I do not see any other way that I can take. I hope, therefore, that the bill which is now mentioned will not be taken up, and that mine will be.

Mr. CONKLING. Without reference to the bill which it is proposed now to take up, I hope the Senator from Michigan will not insist upon taking up the bill that he suggests. The Senator from Vermont, [Mr. EDMUNDS,] who is not able to be here to-day, wishes to be heard on that bill, and has so stated. Several other Senators wish to be heard upon it; and to be entirely frank about it, I am one of those who have some observations to make upon the bill. I have investigated it with care since it was discussed before, and have provided myself with papers to put at rest some mooted questions with regard to it. It therefore certainly cannot be finished to-day, and I hope it will not be taken up in the absence of several Senators, two at least, who have announced their wish to be heard upon it when it is taken up.

I know my honorable friend from Michigan has proposed twice before to take up this bill, both times in the morning hour, when there was unfinished business which would cut it off at one o'clock; and the objection has been made by Senators that they wished to have an opportunity to discuss it, and therefore did not wish it to be taken up for ten or fifteen minutes or half an hour. Now, I will promise the Senator, for one, that if he will move to take up this bill at any time when the Senate is in its ordinary condition of fullness, after the morning hour, I will assist him to get it up, because I agree it ought to be disposed of one way or the other, although I differ with him entirely in saying that the public have any interest in it, except as to the question whether \$2,500,000 shall be taken from the Treasury and a large donation of lands made. In that sense, of course, they have an interest. But every Senator who has been here to-day knows that at hardly any time has there been a quorum present. The Senate is somewhat fuller now than it was a few moments ago; but we all observe the unusual thinness of the body. I submit that a bill of this sort ought not to be taken up at such a time as this, and more especially not when, as I say, Senators wish to be heard, two of whom at least are detained on this occasion from sickness, and are unable to be present—the Senator from Vermont [Mr. EDMUNDS] and the Senator from Indiana, [Mr. MORTON.]

Mr. NYE. The Senator from New York says he desires to discuss the measure proposed to be taken up by the Senator from Michigan. There will probably be as much time to-day as he wants to use in his argument. I think it ought to be taken up. Here is a road that has only one end to it, and the bill ought to be taken up, and let these people who have been here all the winter dancing attendance on Congress know what their fate is to be. If it is taken up now, and the honorable Senator from New York commences the discussion, I know he will be able to speak the day out, especially if he has got the papers he says he has. I hope that he will use what little time there is left of to-day himself. Then so much of the argument will be over, and to-morrow,

undoubtedly, the Senator from Vermont [Mr. EDMUNDS] will be here, and in that way we shall get along with the bill; but if the Senate wait until everybody is here who wants to make a speech upon it we shall probably not reach it this session. It is a question, I contend, that the public are interested in, outside of the sense which the honorable Senator from New York suggests. It is a question in which the public faith is concerned, as I look upon it; and I insist upon it, it ought to be determined one way or the other, for I do not misstate the case when I say that this road has no connection, and it is impossible to make one unless Congress do something to put the company upon their own resources or to give them means to carry on the work so far as to fulfill the faith originally pledged.

Mr. HENDRICKS. I think the Senator from Michigan [Mr. HOWARD] perhaps had better accept the suggestion of the Senator from New York, [Mr. CONKLING,] with this modification: we should have an understanding that the bill will be taken up to-morrow at one o'clock. I think the bill ought to be considered, and I should like very much to hear the views of Senators upon it.

Mr. HOWARD. To-morrow has been set apart for the consideration of pension bills.

Mr. SUMNER and others. Oh, no; Saturday is set apart for pension bills.

Mr. HOWARD. If I can have such an understanding, I will be entirely content to take it up at one o'clock.

Mr. HENDRICKS. I wish to add, as a reason why I would like a postponement until to-morrow, that the Senator from Vermont [Mr. EDMUNDS] will discuss the question as a lawyer, of course, and I should like to hear his views upon it. It is a law question, in my opinion, that is involved in this case. When the bill first came up I was decidedly against it, because I thought this road never ought to be a part of the Pacific railroad plan; but upon an examination of the law I find myself very much embarrassed about it. It is almost impossible to resist the conclusion that the law has committed Congress to the support of this road; and as I find myself thus embarrassed about it, I should like to hear the views of Senators who are opposed to the bill, and I shall oppose taking a vote in their absence. I suggest that it be the understanding that this bill be taken up to-morrow at one o'clock, and be disposed of to-morrow.

Mr. MORRILL, of Vermont. I suggest to the Senator from Indiana to name Monday, because if the Senator from Maine [Mr. MORRILL] should be well enough to be in his place to-morrow he will, undoubtedly, insist upon proceeding with the regular appropriation bills that are now pending.

Mr. WILLIAMS. Let it be subject to that contingency.

Mr. MORRILL, of Vermont. You had better place it beyond all contingencies, and have it understood when the bill is to come up.

Mr. HENDRICKS. There is no hurry about the appropriation bills. They have never failed yet, I believe, but once. As the friends of this bill have sought to have it considered so frequently, I think it is due that we should take it up to-morrow.

The PRESIDENT *pro tempore*. The question before the Senate is on taking up the bill mentioned by the Senator from New York, [Mr. MORGAN.]

Mr. SUMNER. I am in favor of the bill that is now moved by the Senator from New York, [Mr. MORGAN.] Indeed, I am very anxious that it should be considered and passed. I am also in favor of the bill moved by my friend, the Senator from Michigan, [Mr. HOWARD,] and I think that it ought to be taken up and passed. All things considered, I should prefer to proceed with the railroad bill this afternoon, and I think we might begin by listening to the Senator from New York, [Mr. CONKLING,] who has enlightened us repeatedly on the subject, and, I have no doubt, will continue to do so as long as the bill is under dis-

cussion. But then he might begin this afternoon, if we should take it up at three o'clock. If the Senate is not disposed to proceed with it this afternoon, then I think that there should be an understanding that it shall be taken up at one o'clock to-morrow, and that nothing else shall be allowed to interfere with it until it is acted on finally. If the opposition of the Senator from New York should then prevail, be it so; but let us act upon it. I think that the bill is too important, whether you look at it in the light of the public interests involved or of the private interests in question, for the Senate to continue to sport with it, if I may be pardoned the expression, as it seems to me to have done during the last two months. Great interests are here in question. Private individuals have made large sacrifices, and they are now held in suspense. I do not think it right. I remember that the Senator from Ohio, [Mr. SHERMAN,] when he began the opposition to this bill, publicly announced here that the parties had an unquestionable equity. That was his own language. On looking into the bill, I am sure that he did not overstate the case; they have an unquestionable equity, and I think the Senate ought, therefore, to come to some understanding now to proceed with that bill until it is brought to a close.

The PRESIDENT *pro tempore*. Is there any objection to taking up the bill mentioned by the Senator from New York?

Mr. SUMNER. I wish to have an understanding with regard to the railroad bill, or I shall oppose taking up the other bill.

Mr. ANTHONY. The understanding is for those who agree to it. I do not agree to any such understanding. If the Senator from Maine comes in here to-morrow and asks us to take up an appropriation bill I shall vote to take it up against a railroad bill or any other private bill. It is true that the appropriation bills are never lost; they never can be lost; but they can be crowded into the heel of the session, so that they pass without any proper consideration; and every session we find in them, not only appropriations that are injudicious and inconsiderate, but we find legislation that never would have passed if we had had time to consider it. I will not agree, for one, to postpone these appropriation bills, which not only are necessary to carry on the Government, but which, by the system that has so long prevailed, contain a great deal of legislation for private interests, and let them be pushed aside to the close of the session when we are to pass them, as I have seen an appropriation bill passed here, without being read.

Mr. MORGAN. I think the Senate must conclude that it is time that the bill I have moved to take up was disposed of. It passed the House of Representatives on the 4th of March, came here a few days afterward, and had a favorable report from the Committee on Finance. I was instructed to report it, and as I supposed at the time without any opposition. It was brought up in the Senate, and it received some opposition from members of the Committee on Finance, and it was laid over. The business of all the persons engaged in the exportation of alcohol and rum to Africa has been suspended, hung up entirely, awaiting action on this bill; and no State has so much interest in it as the State of Massachusetts. I am therefore a little surprised at my friend on my right [Mr. SUMNER] stating that he would prefer of the two that the railroad bill should be taken up; a bill to grant a subsidy to a railroad in Kansas in preference to this bill relating to the exporters of New York and Boston.

Mr. NYE. I should like to inquire of the Senator from New York whether the Africans are suffering from the want of this rum, or the merchants of Boston are suffering from not being able to send it? [Laughter.]

Mr. MORGAN. They are suffering both ways. [Laughter.]

Mr. TIPTON. I should like to have this question put in such a form that I could vote for taking up the bill designated by the Senator



from New York; but I cannot do so unless I can have an understanding that the bill moved by the Senator from Michigan can come up to-morrow. If a motion can be made in that way, I shall vote to act on both bills.

The *PRESIDENT pro tempore*. Each must stand upon its own merits. There can be no such agreement except by a vote of the Senate.

Mr. CONKLING. I rise, Mr. President, to join issue with the honorable Senator from Massachusetts, [Mr. SUMNER,] not in respect of his wit and facetiousness, both of which are great, nor in respect to the legislative morals, the idea of fair dealing among gentlemen which enters into the statement he makes. He seems to think that acting from what the doctors call *vis a tergo*, a pressure from behind, about this, it is quite right for him to insist that a bill of this private nature shall be pressed in the absence of Senators whom he knows, by reason of sickness, are detained from the Senate, and who have announced that they wish to be heard upon it. I have no quarrel with him on that subject.

Mr. SUMNER. What one Senator is in the predicament the Senator describes? It is all news to me.

Mr. CONKLING. If the Senator from Massachusetts condescended to pay attention to what other members of this body says, and particularly the humbler members of the body; if that honor had just now fallen to my lot when I stated, naming them, two Senators who wish to be heard on the subject, and who are detained from illness, I should be relieved from the Senator's rising from his seat and inquiring of me who is in that predicament. The Senator was not out of his seat, but he sat where he does now when I made the statement which I refer to.

Mr. President, I rose to take issue with the Senator upon his statement of fact. I rose to object to his saying to the Senate that I have repeatedly enlightened, or attempted to enlighten, the Senate upon this subject. That statement is wholly incorrect, although the Senator made it without any qualification. I once took the liberty, on the first occasion when this bill was up, of assigning my reasons for voting against it. I have never discussed it on any other occasion, unless literally I am to except the question which I put to the honorable Senator who sits behind me [Mr. HANLAN] when he addressed the Senate, for explanation. I have never discussed the question in any other way, except once or twice to interpose an objection to its being taken up, as it seemed to me out of season.

The truth is, then, Mr. President, that I did once address the Senate against this bill; and I have no apology to make to the honorable Senator from Massachusetts for so doing, although I have witnessed the extreme zeal on various occasions with which he has pressed this matter upon the Senate. On the occasion to which I refer several Senators, among others the Senator from Kansas, [Mr. POMEROY,] disputed—more than that—he contradicted directly a statement which I made, which I had received from others. Since that time I have taken pains to fortify myself; to find out whether, in truth, I was right or whether he was right; and I say to the Senator from Massachusetts that whenever this bill comes up again, unless the rules of the Senate are so changed as to confine observations in the body to the more eminent members of it, I shall take the liberty of going again somewhat over this ground, to the end that we may see whether in law or in equity we are bound to put our hands into the Treasury and take the sum of \$2,500,000 from it and present it to these men, who, I believe in my conscience, in morals and in law, are no more entitled to it than my honorable friend who sits before me. I shall hold it my privilege to do that; and when I have done it, it will be true, should the Senator see fit to say it, that I shall have then twice addressed this body on the subject. But it is not true now that I have repeatedly, or more than once, attempted to enlighten the Senate

or "vex the ear" of the Senate upon the merits of this bill.

Mr. HOWARD. It is not, perhaps, very material whether the honorable Senator from New York has addressed the Senate once or twice or three times on this subject. We all know very well his strenuous opposition to the bill; and we all know that he has gone into the subject heretofore very fully; at least I supposed he had done so. What I want at the hands of the Senate is that this bill shall be taken up and fairly heard and passed upon, as other bills in the nature of claims against the Government are passed upon; that it shall be considered, voted upon, and decided one way or the other, after whatever amount of discussion may be necessary. The bill has been lying on our tables for five months to-morrow, and has been somewhat discussed; I think sufficiently discussed; and I think it is of that nature which calls upon us to pass upon it either *pro* or *con*, and to satisfy the parties in interest, who have been waiting upon us here for the past five months and more, whether or not we will give them the relief, or any part of it, which they ask at our hands. The question simply addresses itself to our common sense, and I cannot but observe that the opposition to taking up this bill to-day comes from those gentlemen who have shown a decided opposition to the measure in all its forms and phases.

Mr. HOWE. The question, I believe, is on the motion to take up the bill referred to by the Senator from New York, [Mr. MORGAN.]

The *PRESIDENT pro tempore*. That is the motion.

Mr. HOWE. I am decidedly in favor of that motion, because the Senator from New York is willing when his bill is taken up to let it be put aside for a moment to pass the bill in relation to the Indian peace commission, which, I am instructed, it is very important should be passed to-day; and I hope the Senate is ready to vote on the question of taking up that bill. I do not propose to antagonize it against the bill moved by the Senator from New York, because to this there is no objection, I understand, and it will occupy but a moment. But we seem likely to spend the day in discussing another bill which is not before us, nor is there any motion to bring it before us at present. I wish the Senate would take a vote on the motion to take up the bill of the Senator from New York.

The *PRESIDENT pro tempore*. The question is on taking up the bill mentioned by the Senator from New York.

The motion was agreed to.

Mr. HOWE. Now, I ask the consent of the Senator from New York to take up this other bill.

Mr. MORGAN. We can pass this right away.

Mr. POMEROY. I hope the bill of the Senator from New York will be laid aside to pass the bill of the Senator from Wisconsin.

The *PRESIDENT pro tempore*. It will be laid aside informally, if there be no objection, for the purpose of taking up the other bill.

#### INDIAN PEACE COMMISSION.

Mr. HOWE. I now move to take up House bill No. 1218.

The *PRESIDENT pro tempore*. The Chair is informed that that bill has not been reported from the Committee on Appropriations.

Mr. HOWE. I am instructed to report, and I now do so.

By unanimous consent, the bill (H. R. No. 1218) appropriating money to sustain the Indian commission and carry out treaties made thereby was considered as in Committee of the Whole, for the purpose of carrying out treaty stipulations with various Indian tribes and defraying the expenses and disbursements made by the commission, authorized by the act of July 20, 1867, entitled "An act to establish peace with certain hostile Indian tribes during the year 1868." The bill appropriates the sum of \$150,000, to be expended under the direction of the commission.

The bill was reported to the Senate without

amendment, ordered to a third reading, read the third time, and passed.

#### EXPORTERS OF DISTILLED SPIRITS.

The *PRESIDENT pro tempore*. The bill (H. R. No. 764) for the relief of certain exporters of distilled spirits, taken up on motion of the Senator from New York, is now before the Senate, and the pending question is on concurring in the amendments made as in Committee of the Whole.

The amendments were concurred in.

Mr. SHERMAN. I hope the attention of the Senate will be called to this bill, because I think it is a very important one. I have no objection in the world to the exportation of rum that has been manufactured under the circumstances stated in this bill, that is, manufactured under a contract to be delivered for exportation. I have no desire to interfere with the exportation of honest dealers even in rum. But, in my judgment, the bill as it now stands, if passed, will open the door to whisky frauds to a very large extent. We passed, some time in January last, a bill prohibiting the exportation of spirits in bond, because it was shown to the Committee of Ways and Means and the Committee on Finance that frauds were practiced under pretense of exportation by exportation bonds to a very large extent. Cases were furnished to us. If the Senate will look at this bill they will see how it may be open to similar frauds. My only hesitation about the bill grew out of the fact that I feared under its provisions rum and alcohol might be exported in fraud of the law. I will read the bill:

That the act of January 11, 1868, entitled "An act to prevent frauds in the collection of tax on distilled spirits," be so construed as to permit alcohol and rum, which at the date of the passage of said act were already distilled or redistilled and intended for export, &c.

That embraces nearly all the alcohol in this country, or might be made so by proof that could easily be furnished by the "whisky ring"—an intangible thing that we can talk about! The bill authorizes the export of alcohol and rum.

"Which at the date of the passage of said act"—

That is, to-day, or to-morrow, whenever this bill passes—

"Were already distilled or redistilled and intended for export."

How easy it will be to prove that! It is said that there are now twenty million gallons of whisky on hand. I do not know how many gallons of alcohol there are. The one can be converted into the other with great rapidity. It is a mere process of distillation or redistillation, and it is a very simple one. Under this bill, by simply proving that the alcohol or rum, when it was manufactured, was intended for export, they have the right to export it under the old law; and they may do it in another case:

"Or actually contracted for to be delivered for exportation."

So that alcohol already in existence may be exported, either when it was "distilled or redistilled and intended for export"—how easy it will be to prove that fact—"or actually contracted for to be delivered for exportation." It will only be necessary for the exporter to furnish proof of either of these two states of fact in order to enable him to avoid and evade the law. Then he may give transportation or exportation bonds according to law and he may export it.

Mr. FESSENDEN. I ask the Senator what danger there is of fraud in that? If I understand the matter, the law was changed not because there was any aversion to the exportation itself, but because under the bonding system there were abuses by which the spirits pretended to be exported were really sold in this country. Now, if this is only intended for a particular article, limited in its character, is there any danger of its going into use in this country and not being actually exported?

Mr. SHERMAN. This bill simply repeals the act of January last as to all alcohol and rum which may be brought within either of

those two classes; because the old law, the law which was repealed in January, provided for transportation and export bonds precisely as this will do. This bill furnishes no additional guard or restraint on the exportation of rum or alcohol. It simply provides that if proof is made that it was already distilled and was intended for export, or that it was contracted for exportation, the law is to stand as it did before the act of January last, and it may be exported under transportation bonds.

I know that no Senator desires to see the hold we have on the whisky on hand loosened. I have no doubt that in a short time, when we reduce the tax on spirits, we shall be able to get the revenue from nearly all the whisky on hand, which, according to official estimates, is twenty million gallons. Indeed, it has been estimated as high as forty millions; but I take the lowest, twenty millions. If that is so, we may by holding on to this whisky interfere somewhat with the legitimate trade in rum for Africa; but we shall at any rate prevent any further frauds in regard to the whisky on hand. That is the only fear I have had in regard to this bill. If it could be confined to the article of rum, which, according to the statements made to us, is the only article exported to Africa, the negro always preferring rum to whisky, and if it could be made with such guards as would prevent fraud in the exportation, I should have no objection whatever to the bill, because, as a matter of course, any revenue bill which we may pass will allow, under proper guards, the exportation of whisky and rum manufactured in this country. But I am satisfied, without now being able to offer the proper amendments, that this bill will open the door to fraud. I am satisfied, from a statement that has been made to me, that this bill will be the medium by which frauds will be committed on the revenue by the exportation of alcohol and whisky; because the proof required by this bill can be so easily furnished, will be so easily manufactured, will admit cases of fraud more easily than under the existing laws.

This is all I desire to say upon the subject. I know that the bill is pressed a great deal by merchants and others who desire to export rum, because it is a legitimate and fair trade in the ordinary course of business operations, and I do not desire to interfere with that trade; but I am afraid that this will be the entering wedge by which we shall lose more revenue ten times than the value of the trade in rum between this country and Africa.

Mr. MORGAN. Mr. President, the fact that there was a possibility that frauds might grow up under this bill led the committee to make inquiry and to be more than usually particular about it. The Commissioner of Internal Revenue, after it passed the House, saw no difficulty in making regulations that would confine it entirely to the two articles of alcohol and rum. It is a mere question whether this bill shall be passed now, or whether we shall wait for the bill which is in the House of Representatives, in which they have provided, as I understand, for this very thing; but it is rather severe upon the merchants who have chartered shipping for this trade to be compelled to retain it in the harbor until after the passage of that bill. This bill is limited to sixty days, within which time the merchants are to be allowed to remove and export alcohol and rum "already distilled or redistilled and intended for export, or actually contracted for to be delivered for exportation."

All such spirits are to be actually exported within sixty days from the passage of this act.

Mr. FESSENDEN. Why not confine it to that actually contracted for, by substituting the word "and" for "or" at the end of the seventh line; so as to read, "already distilled or redistilled and intended for export and actually contracted for," &c.

Mr. MORGAN. I have no objection to that amendment.

Mr. FESSENDEN. I suggest to the Senator from Ohio whether that will not meet his

objection, to just change the word "or" at the end of the seventh line into "and;" so that the bill will read:

That the act of January 11, &c., be so construed as to permit alcohol and rum, which at the date of the passage of said act were already distilled or redistilled and intended for export and actually contracted to be delivered for exportation, &c.

That will limit it to those who have made contracts. The law is very hard now on the men who have actually made contracts and are waiting for this permission to export.

Mr. SHERMAN. That amendment, as a matter of course, will take away one half of the chances of fraud. I think "alcohol" should also be stricken out. I am told the article of rum is a cheap article, and all the letters that have been written to me on this subject are about rum. If the Senator will also move to strike out "alcohol," in the sixth line, and confine it to rum, a distinct article of commerce, that will lessen the chances of fraud very materially, because alcohol is a very valuable product, and can be put in small bulk.

Mr. MORGAN. There is some alcohol exported to South America from New York and Baltimore; but it is an entirely different article from whisky, and is not known as whisky at all.

Mr. SHERMAN. Alcohol can be converted into whisky, and whisky into alcohol by a very simple process of distillation, I am told.

Mr. HOWE. I wish to know from the Senator from New York or the Senator from Ohio whether there was any evidence before the committee that any considerable quantity of these spirits were contracted for to be exported?

Mr. MORGAN. Yes, sir. When the bill was up before—probably it escaped the attention of the Senator from Wisconsin—there was evidence presented to the Senate, especially from the collector of Boston and others, as to the number of vessels that were engaged for this trade, and how severely the law operated upon the commerce of that port. I have also myself received numerous letters, and I presume every member of the committee has, complaining very bitterly of this delay.

Mr. HOWE. Mr. President, the fact that several vessels in Boston had been employed in this trade would not be evidence that any merchants had outstanding contracts for spirits to be exported hereafter; and if that was urged there should be some evidence of it, it seems to me, before the committee, instead of letters from the merchants.

Mr. FESSENDEN. They will have to furnish the proof of the contract under this bill.

Mr. MORGAN. The exportation is to be under regulations made by the Internal Revenue Bureau.

Mr. HOWE. It is true they will have to furnish evidence of a contract; but getting that evidence hereafter is a very different thing from having it already, and having it submitted to the committee. I wish to ask one more question, and that is, if there was any evidence or any suggestion from any quarter that contracts were outstanding for the distillation of these spirits for export? For I see the bill provides for the case of spirits contracted to be distilled for export.

Mr. MORGAN. We have had letters on the subject; but no proof of it, except the communications from the parties.

Mr. HOWE. I have one suggestion to make upon that point. I understand—I suppose the Senator from New York knows that fact—that these liquors cannot be distilled for less than forty-five cents a gallon. Is not that about it?

Mr. MORGAN. I do not know the exact expense. I am not well-informed on that subject.

Mr. SHERMAN. I think that is the case with rum. Whisky can be manufactured for twenty-five cents.

Mr. HOWE. I take it whisky cannot be distilled for twenty-five cents a gallon as grain is now; but I am told that whisky has been selling at from fifteen to twenty cents in bond.

Mr. FESSENDEN. Rum is not made from grain.

Mr. HOWE. I am talking about whisky and alcohol. I do not think it very likely that merchants will be contracting to pay forty-five or even twenty-five cents to have spirits distilled to be exported when they can go into the market anywhere and buy in bond for fifteen or twenty cents.

Mr. FESSENDEN. The bill is now confined to rum.

Mr. HOWE. I did not so understand.

Mr. FESSENDEN. We propose to strike out everything but rum.

Mr. HOWE. Well, that would make it purely a New England transaction, and I cannot have anything to say against that. [Laughter.]

Mr. MORGAN. The Senator from Ohio has moved to strike out "alcohol." I suppose the bill would meet the case of the persons engaged in the African trade if that was stricken out; but there are some persons engaged in the South American trade who export alcohol. However, in order to have the bill passed, I will accept the amendment.

Mr. SHERMAN. I move, then, to strike out in the sixth line the words "alcohol and," and also to strike out the word "or" at the end of the seventh line, and to insert the word "and."

Mr. FESSENDEN. And put a comma after the word "exportation" in the eighth line.

Mr. SHERMAN. I desire to say in offering this amendment that I shall vote against the bill on the ground that frauds will be likely to arise under it; but I think this amendment will lessen the chances of their arising very greatly.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The amendment of the Senator from Ohio will be reported.

The Chief Clerk read the amendment, which was in line six to strike out the words "alcohol and," and in line seven, after the word "export" to strike out the word "or" and insert the word "and;" so that the bill will read:

That the act of January 11, 1868, entitled "An act to prevent frauds in the collection of tax on distilled spirits" be so construed as to permit rum, which at the date of the passage of said act was already distilled or redistilled and intended for export, and actually contracted for to be delivered for exportation, to be withdrawn, removed, &c.

\* The amendment was agreed to.

Mr. SHERMAN. After the word "act" in the twelfth line, I move to insert the words, "and as shall be provided for hereafter." The bill now provides that this exportation shall be under such regulations "as were required therefor immediately prior to the passage of said act." The exporters have got so familiar with those regulations that I am afraid they have learned to evade them.

Mr. FESSENDEN. If you stop to pass new regulations, it will delay them all the time the Treasury Department is making them.

Mr. SHERMAN. They can be promulgated at once. All this exportation will be from one or two ports.

Mr. FESSENDEN. Still, it makes a delay in the time, and it is so small a matter that I think it had better stand as it is.

Mr. SHERMAN. The Senator is mistaken. I have letters showing that there are at least a dozen vessels now waiting to transport this rum.

Mr. FESSENDEN. That is comparatively small.

Mr. SHERMAN. It is a pretty large amount of spirits.

The amendment was agreed to.

Mr. NYE. Mr. President, even with that amendment, it seems to me that this bill is opening a pretty wide door. I am a little suspicious whenever we attempt to legislate in favor of opening the doors on this whisky business.

Mr. MORGAN. The bill is now confined to rum.

Mr. NYE. I was going to say that it has a peculiar faculty of transforming as well as transporting itself. It will be rum when it starts,

and alcohol when it comes out, or water. Two months ago I was in New York, and I met an old acquaintance of mine, a captain of a vessel, who said he was just in from Australia. I asked him what his cargo was. He said he supposed he carried out two thousand barrels of whisky, but when he got there and went to get his consul's certificate he found that he had carried two thousand barrels of water. I expect that will be about the way this New England rum will be transported: it will be water when it gets to Africa. In this process of being transported from one place to another, it will become alcohol first, Santa Cruz next, New England rum next, and all be back in the shape of whisky in the city of New York.

Now, sir, I feel kindly toward these gentlemen who want to export it out of the country. I think they are doing a great favor to the public! But, sir, it is not going out. The old trade in New England rum and slaves in Massachusetts is not quite done away with yet. I do not understand this African trade; there is an Australian trade carried on in the manner that I have stated; there is a Gulf of Mexico trade to Matamoros. All this article disappears, and nothing comes into the Treasury of the United States. I think the experience of the Senate will bear me out when I say that these bonds have been the fruitful source of all the frauds upon the Government. Here we see a redistillation bond mentioned. I should like to inquire of the Senator from New York what kind of alcohol they make out of rum that is redistilled.

Mr. MORGAN. I do not know.

Mr. NYE. That is in the bill. The honorable Senator from Ohio may possibly be more familiar with the subject than my friend from New York, and may be able to tell me what redistilled rum would be.

Mr. SHERMAN. No; I cannot. Whenever I have seen rum I have always seen it in the raw state. [Laughter.]

Mr. NYE. I appeal to my friend from Massachusetts [Mr. WILSON] if he knows what redistilled rum is.

Mr. WILSON. No; I know what cold water is. [Laughter.]

Mr. NYE. That is the best thing; and that is what this will turn out to be—water, not cold, but warm. [Laughter.] I will inquire of any Senator what kind of rum is it that is redistilled?

Mr. SHERMAN. I imagine that that term applies only to alcohol.

Mr. NYE. I understand that is stricken out.

Mr. SHERMAN. I know it is stricken out. I am not sufficiently acquainted with the subject to inform the Senator.

Mr. NYE. I do not know, but I suppose this bill applies to what we used to know as old New England rum. It is a beverage that is well known; but I never heard of its being redistilled into anything else. It will kill around the corner with the first distillation. [Laughter.]

Mr. President, I am afraid of this bill. I assure you that if there are twelve ships waiting, in view of the change this system is undergoing, they will take every gallon of liquor in the city of New York and the city of Boston under these export bonds.

Mr. SUMNER. You do not want to keep it at home?

Mr. NYE. No; but, as I say it is going to be devoured here, I want it to pay something to the Government. I know the care with which the Senator from New York investigates these things; but I am a little afraid that these men have got the weather-side of him in this maneuver to ship twelve ship-loads of rum, distilled or redistilled, to Africa. It seems to me that is not the current that rum takes; it is not the vein in which it runs. It will be lost in this whirlpool of the "whisky ring," and it will turn out as vapor or water on the coast of Africa. I think we had better keep it at home until something is paid on it. The moment these bonds are executed not one cent will ever be collected upon them, and not one gal-

lon of this whisky or rum, in my judgment, will ever reach Africa or any foreign or South American port.

Sir, the whisky frauds have done more to demoralize this country than all other institutions that have been started. Your public officers all smell with fraud. They have been committed under the system of bonding; and it is a well-known fact that there has been a regular line, not of steamers, but of sailing ships from the city of New York, taking out whisky under export bonds in gutta-percha bags, transferring it at sea to another ship, and then bringing it back into our own ports, and using it here, thus defrauding the Government out of every cent of revenue upon it. Sir, I mistrust this bill. As a change in the tax bill is anticipated, I suppose there is a great desire to run out quickly this accumulation of rum and alcohol, so as to get it back and get it into shape before the taxes are knocked entirely off. I think that, perhaps, is the hope about it. If there is any expectation of getting anything to the Government from whisky it seems to me we had better hold on to what we have got as a sort of security, to be transferred with other assets when our friends on the other side shall get into power. [Laughter.] We shall then hand over to them the whisky in bond.

Mr. MORRILL, of Vermont. Mr. President, it should be borne in mind that we had laws up to the passage of the law repealing the bonded warehouse system in relation to whisky that permitted these parties to engage in the exportation of rum. It was suddenly shut down upon them without a moment's notice. Many of them had made written charters, as was in evidence before the committee, for vessels in this trade. A large share, perhaps two thirds of all this business, is done at the port of Boston. We had before the committee a statement from the collector of Boston that there never has been a case of fraud known in that port in relation to this trade.

Now the question again arises whether we shall permit this article of rum to go out of the country, and to continue a certain kind of trade that is profitable to the country. They get returns of palm oil; they get ivory; and there are many articles that we get, even from Liberia, in return for this article.

I am perfectly aware that it is almost impossible that we can have any bonded system by which we can absolutely determine that there shall be no frauds; but I think that there are as many guards and securities about this bill as perhaps we can put on by legislation. The time which it is to run is extremely short. It is only for sixty days, allowing parties to get rid of the obligations upon which they have entered. I think it is safe for the Senate to allow the bill to pass.

Mr. HOWE. Will the Senator answer me a couple of questions before he sits down?

Mr. MORRILL, of Vermont. I cannot promise that beforehand.

Mr. HOWE. The first question I should like to be informed upon, and I ask it for information, is whether the Senator remembers, as he is more likely to do than I would, the amount of rum exported from this country during the last fiscal year?

Mr. MORRILL, of Vermont. I do not remember how much was exported. I know that there have been great frauds in relation to it; but I do not remember the amount.

Mr. HOWE. You know that there have been great frauds?

Mr. MORRILL, of Vermont. I know that there have been great frauds in relation to our exports; I mean of whisky.

Mr. HOWE. I refer to rum.

Mr. MORRILL, of Vermont. No; I do not know how much has been exported.

Mr. ANTHONY. There has not been a single fraud in the export of rum.

Mr. HOWE. I am told there has not been a single fraud in the export of rum. If that is so, the returns must show it; and I supposed the Senator from Vermont was familiar with the amount of export. There is another ques-

tion I desire to ask which I will put to the Senator from New York. I notice that this bill as reported only asked thirty days to close up these contracts. It has been delayed here on its passage for several weeks, and now they ask for sixty days. I assume that there cannot be any more under contract now than there was then, for in the face of this hostility to permitting this export, I take it new contracts would not be made. I ask why sixty days are required now when only thirty were deemed necessary when the bill was first before us?

Mr. MORGAN. As the bill passed the House of Representatives, it was fixed at thirty days; but the Commissioner of Internal Revenue thought the time was too short within which to prepare the regulations, and the Committee on Finance unanimously agreed to recommend sixty days; and we did recommend sixty days at that time.

Mr. HOWE. I understand that by the bill as reported from the Committee on Finance this export was to be made under regulations already out, and not under new regulations, and that these new regulations have been provided for by an amendment introduced by the Senator from Ohio.

Mr. SHERMAN. They may be.

Mr. HOWE. They may be new regulations?

Mr. MORGAN. The Commissioner of Internal Revenue told me that thirty days was too short a period to enable him to make regulations and obtain the necessary proof; that the whole thirty days would be taken up in that way. We therefore amended it so as to make it sixty days.

Mr. HOWARD. I wish to ask a question of the Senator from Vermont. I really do not understand what is meant by redistillation in Africa.

Mr. FESSENDEN. It is not to be redistilled there, but here.

Mr. SHERMAN. I feel quite sure that the word "redistillation" applies to the article of alcohol alone. Alcohol may be redistilled and changed, and as we have stricken out the word "alcohol," we ought properly to strike out the word "redistilled;" but I am not sufficiently positive as to whether rum can be redistilled.

Mr. FESSENDEN. What harm will it do to leave it in? It may be that they sometimes redistill rum to refine the quality.

Mr. HOWARD. I merely wanted an explanation. There seemed to be a dark cloud on that branch of the subject.

Mr. FESSENDEN. There is no danger about it. It remains rum anyhow.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time.

Mr. SHERMAN. I should like to have the yeas and nays on the passage of the bill.

Mr. FESSENDEN. Oh, let it pass as it is. It cannot do any harm.

Mr. SHERMAN. I think it may.

The yeas and nays were ordered; and being taken, resulted—yeas 13, nays 17; as follows:

YEAS—Messrs. Anthony, Cole, Conkling, Corbett, Cragin, Fessenden, Morgan, Morrill of Vermont, Sumner, Van Winkle, Willey, Williams, and Wilson—13.

NAYS—Messrs. Chandler, Davis, Ferry, Harlan, Hendricks, Howard, Howe, McCroery, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sherman, Sprague, Thayer, Tipton, and Trumbull—17.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Cattell, Conness, Dixon, Doolittle, Drake, Edmunds, Fowler, Frelinghuysen, Grimes, Henderson, Johnson, Morrill of Maine, Morton, Norton, Nye, Patterson of New Hampshire, Saulsbury, Stewart, Vickers, Wade, and Yates—24.

So the bill was rejected.

Mr. SPRAGUE afterward submitted a motion to reconsider the vote rejecting the bill; and the motion was entered.

ROCK ISLAND BRIDGE.

Mr. HARLAN. I move that the Senate proceed to the consideration of the joint resolution (H. R. No. 201) in relation to the Rock Island bridge.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.



It proposes to amend the act of Congress "making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, as to direct the Secretary of War to order the commencement of work on the bridge over the Mississippi river at Rock Island; but the ownership of the bridge is to be and remain in the United States, and the Rock Island Pacific Railroad Company is to have the right of way over the bridge for all purposes of transit across the island and river, upon condition that the company shall pay to the United States, first, half the cost of the superstructure of the bridge over the main channel and half the cost of keeping the same in repair, and shall also build at its own cost the bridge over that part of the river which is on the east side of the island of Rock Island, and also the railroad on and across the island of Rock Island. Upon a full compliance with these conditions the railroad company is to have the use of the bridge for the purposes of free transit, but without any claim to its ownership. The railroad company, within six months after the new bridge is ready for use, are to remove their old bridge from the river and their railroad track from its present location on the island of Rock Island. The Government may permit any other road or roads wishing to cross on the bridge to do so by paying to the parties then in interest the proportionate cost of the bridge; but no such permission to other roads is to impair the right granted to the Chicago, Rock Island, and Pacific Railroad Company, and the total cost of the bridge is not to exceed the estimates made by the commissioners appointed under the act approved June 27, 1866.

In case the Rock Island and Pacific Railroad Company shall neglect or fail, for sixty days after the passage of the resolution, to make and guarantee the agreement specified in the act of appropriation, approved March 2, 1867, then the Secretary of War is required to direct the removal of the existing bridge and to direct the construction of the bridge herein mentioned, and expend the money appropriated for that purpose in that act; and the Rock Island and Pacific Railroad Company is not to have, acquire, or enjoy any right of way or privilege thereon, or the use of the said bridge, until the agreement shall be made and guaranteed according to the terms and conditions of the act of appropriation.

The Committee on Post Offices and Post Roads reported the joint resolution with an amendment, to add as an additional section the following:

SEC. 3. And be it further resolved, That any bridge built under the provisions of this act, shall be constructed so as to conform to the requirements of section two of an act entitled "An act to authorize the construction of certain bridges, and to establish them as post roads," approved July 25, 1865.

Mr. MORRILL, of Vermont. I merely desire to call the attention of the Senate to this joint resolution. It looks extremely harmless; but, in my judgment, instead of its being a measure of that character, it is one that will involve the Government not only in needless expense, but in a needless law-suit. Instead of enlarging the powers that we have already granted to this company, our business should be to repeal what we have heretofore done. Why should we make an agreement to build a bridge there and keep it in repair, and that the company is only to restore one half of the cost to us? But not content with the law as it stands, they propose that we shall go forward and tear down an existing structure and build another. I merely desire to call the attention of the Senate to this kind of legislation, which, if I might be permitted to characterize it, I would say was monstrous.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the committee.

Mr. MORRILL, of Vermont. I ask for the yeas and nays, for the purpose of calling the attention of the Senate to it.

Mr. TRUMBULL. The Senator from Vermont surely does not want the yeas and nays

on this amendment, which requires that the bridge shall conform to the general law on the subject of bridges over the Mississippi river.

Mr. MORRILL, of Vermont. No; I merely desire to call the attention of the Senate to the subject. I withdraw the call for the yeas and nays.

The PRESIDENT *pro tempore*. The question is on the amendment.

Mr. HARLAN. I desire to say in relation to this amendment, that I have no wish that the amendment should be adopted, nor do I deem it necessary. The bridge is to be constructed under the direction of the engineers of the War Department, and it can hardly be supposed to be probable that they would construct a bridge that would materially obstruct navigation. Therefore I do not think that amendment necessary. But a majority of the Committee on Post Offices and Post Roads directed it to be reported. I shall vote against the amendment myself.

Mr. RAMSEY. The good thing that there is in this resolution is that it supersedes the old Rock Island bridge, which has been a great nuisance to the navigators of the river. It is objectionable in a great many ways, and has been the cause of the destruction of a great deal of property on that river. The people injured have been in the courts of the United States; they have been all around trying to get rid of it, and at length they have hit upon this plan. That is the merit of this resolution.

Mr. MORRILL, of Vermont. I ask the Senator from Minnesota whether there is any more property in the United States building a bridge here than there is in building a bridge over any other river throughout the United States? Why should the United States be put to the expense of building a bridge at this point rather than at any other in the United States? For myself I can see no reason for it whatever.

Mr. RAMSEY. Certainly the Senator will concede that for a great many years, in the courts and in every other way, the steamboat men and the river men of the West have attempted to get rid of the old Rock Island bridge, which is a nuisance and a curse to the navigation of the river, chiefly because the piers instead of being placed parallel with the thread of the stream, as the laws now require, were placed obliquely, causing a great destruction of property on the river. The river men have attempted to get rid of it. They have gone into the courts and everywhere else, but they could not do it. At length they hit on this happy compromise with the Government, that when another bridge is built the existing bridge shall then be removed. That is the great merit of this thing, and led the Post Office Committee to give its assent to it.

Mr. TRUMBULL. I think I can answer the Senator from Vermont, who inquired why the Government should build a bridge here more than anywhere else over a river. The Senator certainly is aware that the Government of the United States is the owner of the island of Rock Island in the Mississippi river, a large island—I do not remember the precise number of acres, but I should think two thousand acres of land—which it has reserved from sale from the beginning, as a most desirable and useful point to be held by the United States Government; and some years ago a law was passed establishing an arsenal and armory at Rock Island. The Government has commenced very expensive works there. When the rebellion broke out it had not in all the Northwest a single deposit of arms. This is being made the great armory for the Northwest; it is located on the Mississippi river near where railroads cross; and it is necessary, in the opinion of the Government engineers, that the Government of the United States should have bridges to connect this island both with the Illinois shore and with the Iowa shore. The value of the great works which the Government is erecting there depend upon having this connection; they must have it with the

shores; and the Government is about to erect a bridge as a necessity for the works which are being established there. This is being made the great depot for arms in all the Northwest.

The Government owns the whole of the island. The Government has taken steps since it commenced these works to procure the title to a small portion of the island upon which preemption claims were established some years ago, and has also acquired the title to some very small islands contiguous to this island of Rock Island. There is great water power there, with all the advantages for an armory and arsenal that could be obtained anywhere. At any rate, the Government has always so supposed and has selected it. The reason why the Government is interested in the bridge is because the works erected there will be almost valueless without it. You must have a bridge. How are you going to get to the island of Rock Island? It is separated from the main body of the land on both sides. We have had a bridge connecting the island with the Illinois shore, put there by private parties years ago; but I think it has been injured or partially carried away recently.

Mr. WILSON. We have got to build a bridge there.

Mr. TRUMBULL. Unquestionably we have. Then the question arises whether there should be two bridges. The Rock Island and Pacific Railroad Company has a bridge now which crosses the river north of the island, and is erected at a point where the navigating interests have complained very much of it, whether rightly or not I will not undertake to say. But they have their railroad bridge, and this arrangement was entered into between the Government of the United States, acting through the War Department, and the owners of this railroad bridge, by which they agreed that their bridge might come down and they would pay half the expense of erecting a bridge at another point which it was supposed would be less objectionable to navigation and which is absolutely necessary to the Government. The Government must have it. This plan has received the sanction of the Government officials, is recommended by the engineers, and indorsed by the Department of War, by Mr. Stanton when he was Secretary of War. I am not sure whether General Schofield has made a formal recommendation or not; but General Schofield was one of the commission appointed under authority of the War Department who assessed the damages that were to be paid to parties who had interests in Rock Island, and he is familiar with this whole matter. I think there is a reason why the Government of the United States needs a bridge here that does not apply to any other point that I know of: it is an absolute necessity that the Government of the United States must have it.

Mr. HARLAN. Mr. President, this is not a new proposition. In the act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes, approved March 2, 1867, this appropriation was made, with the proviso which I will read:

"For the erection of a bridge at Rock Island, Illinois, as recommended by the chief of ordnance, \$200,000: *Provided*, That the ownership of said bridge shall be and remain in the United States, and the Rock Island and Pacific Railroad Company shall have the right of way over said bridge for all purposes of transit across the island and river, upon condition that the said company shall, before any money is expended by the Government, agree to pay and shall secure to the United States, first, half the cost of said bridge; and second, half the expenses of keeping said bridge in repair; and upon guaranteeing said conditions to the satisfaction of the Secretary of War, by contract or otherwise, the said company shall have the free use of said bridge for purposes of transit, but without any claim to ownership thereof."

When they attempted to carry out this arrangement between the company and the Secretary of War, in pursuance of the provisions of this law, it was ascertained that the company had not the legal power under its charter to make the contract. The company and the Secretary of War *ad interim*—General Grant was then, I believe, acting as Secretary

of War—made an arrangement in, I believe, the precise terms of this resolution, except the amendment which is now pending, and intended to execute it as a contract under the law which I have read; but when the question was submitted to the Attorney General, with a view of having the contract executed, he examined the charter of the company referred to, and decided that, in his opinion, they had not the legal right to make such a contract, and on that account the question came up in the House of Representatives, and they have proposed to enact the contract previously drawn up under the direction of the Secretary of War between the Government and this company.

This explains the origin of the bill. It is in pursuance of a law now existing, and is intended to provide a legal remedy to enable one of the parties to carry out in contract what Congress intended it should do under the law which I have read.

I might state in relation to the merits of the question, (although it seems to me they are not now properly pending,) that Congress has already decided that this bridge shall be built; it has provided for it by a law now on the statute-book, providing that the company shall pay one-half and the United States the other half of the expense. The reasons for that, I apprehend, were those which have been hinted at by the chairman of the Committee on Post Offices and Post Roads. The Rock Island Railroad Company had a bridge for railroad purposes which was badly constructed, which was an impediment to navigation. The people above on the river complained very much of the existence of the bridge as a partial obstruction to commerce; and so with the people below, particularly the merchants at St. Louis. They desired the removal of that bridge. The bridge was sufficient for the purposes of the company, but they have agreed that their bridge shall be destroyed and that they will pay half the expense of constructing another bridge.

At the same time the Government needs a bridge, and if this company should not thus unite with it, would be under the necessity of constructing one at its own expense.

The resolution also provides that if any other railroad company shall desire to use this bridge for the purposes of transit across the river, it may do so by paying a just proportion of the expense. It is believed, I think, that another railroad company will use the bridge, and thus diminish the cost of this structure to the Government of the United States to one third. I was told but a minute since by one of the colleagues of the honorable Senator from Illinois that the Secretary of War has asked for an appropriation of \$100,000, which is now pending before the House of Representatives, for the construction of a bridge between the island and the main land on the Illinois shore. If this resolution should pass, the railroad company would be compelled to build that structure; and this member of the House desired very much that the Senate should act on this measure so that they might know what to do with the Secretary's recommendation in relation to an appropriation for that structure. It will be seen by looking at the top of the second page that this resolution provides that this company "shall also build at its own cost the bridge over that part of the river which is on the east side of the island of Rock Island, and also the railroad on and across said island of Rock Island," so that if it becomes a law this company will be obligated to build the bridge at its own cost on the east side of the island, and pay the whole cost of moving the track of the road across the island, and one half of the entire cost of the main structure on the west side of the island. There is, it seems to me, no reasonable objection to the passage of this joint resolution.

Mr. MORRILL, of Vermont. Mr. President, I desire that the Senate should fully understand this question. It is true that the Government of the United States has some interest upon this island. After they estab-

lished a Government arsenal there they bought out a bridge connecting with the Illinois shore and paid for it. The Senator from Illinois is mistaken if he supposes that any Secretary of War has ever recommended this measure. General Grant recommended it, but no Secretary Stanton has ever committed his name to any paper recommending this at all, as I understand.

Mr. TRUMBULL. I think the Senator is mistaken.

Mr. MORRILL, of Vermont. I think I am not. That is according to the information I had in the Committee on Post Offices and Post Roads.

Mr. TRUMBULL. My information is directly the reverse.

Mr. MORRILL, of Vermont. The information before the Committee on Post Offices and Post Roads was that he declined to do it. Mr. President, does it look likely that the United States want a railroad across there? Do they own any railroad, that they are compelled to have a railroad bridge? I know that the Senators from Iowa and Illinois would like to have the United States build a bridge across there. They not only want a bridge built for the accommodation of ordinary travel, but a railroad bridge. They want it so that the men who are employed on the island can go across to Iowa, and buy lager beer, peanuts, and tobacco daily; they want some portion of the trade of that island; but it is utterly idle to contend here that the United States have an interest that requires them to lay out a million of money in building a bridge across this stream. We might as well be required to build a bridge across the Ohio or Mississippi at almost any other point as to be required to build this bridge.

Imprudently, as I think, Congress passed a previous law agreeing to build one half of the bridge provided this Rock Island and Pacific Railroad Company would build the other half; but the railroad company declining to do it, we now have a bill sent to us from the other House directing that the United States Government shall commence at once upon the work of building a bridge entirely at its own cost, leaving it to the option of the railroad company whether it will come forward hereafter and pay one half the expense or not, or pay one half the expense of keeping it in repair. Why should we keep up a magnificent structure, half at our expense, even if the company should come forward and agree to this contract? Why should we not only build a bridge, or build one half of it if they come into the contract, and pay one half the expense of keeping it in repair for all time to come, when for all the purposes that the United States want any connection with the Iowa shore for we can build a bridge for one tenth part the sum?

Mr. CONKLING. What does the bill provide on that point? That we are to keep only half of it in repair?

Mr. MORRILL, of Vermont. This changes the law. Under the old law we were to build one half the bridge and keep one half in repair. This bill sets out that we are to commence and build the bridge at once, and then it provides that if the company shall come forward and pay one half the expense they may do so.

Mr. President, there is more under this bill than even this. It is said that the present existing bridge there is a nuisance. If it is a nuisance, why not go to the courts and have it abated? Why should we legislate a nuisance out of existence?

Mr. RAMSEY. People have been in the courts for many years and expended a vast amount of money in litigation to get rid of this bridge, and they cannot do it.

Mr. MORRILL, of Vermont. Because the courts will not declare, and they cannot prove that it is a nuisance.

Mr. RAMSEY. Yes they have proved it.

Mr. MORRILL, of Vermont. Then the courts have not done their duty.

Mr. RAMSEY. There are legal quibbles, you know.

Mr. MORRILL, of Vermont. Ah!

Mr. RAMSEY. If the Senator will allow me further, I will say that actions are brought in the United States district court for Illinois. That court has jurisdiction of only part of the river, and cannot order down the whole bridge. Suits are brought also in the district court for Iowa, and there the same difficulty is encountered. The court has jurisdiction over only half the river, and cannot disturb the whole bridge.

Mr. MORRILL, of Vermont. I think it is very safe to leave the matter in the hands of the Legislatures of those two States. I do not understand why we are to determine a lawsuit in relation to a railroad bridge across the upper Mississippi; nor can I understand why we are suddenly called upon to commence this structure and to build a bridge beyond what it will be even pretended is required for the purposes of the United States. If the United States want an opportunity for their workmen to get across into Iowa, where they can buy lager-beer cheaper than they can in Illinois, let them say so; bring in a bill here for that purpose, not bring one in here that is to cost a million or more of money.

It is claimed here that the old bridge is a nuisance. Is there anything to guard against the new bridge being a nuisance? The Senator from Iowa has just said that he did not care anything about this last amendment proposed to guard that particular point. We have got one nuisance, and the Senator from Iowa is quite willing that the bill should pass without any protection or safeguard against erecting another—

Mr. HARLAN. The Senator certainly does not intend to misrepresent me.

Mr. MORRILL, of Vermont. I do not.

Mr. HARLAN. I stated in connection with that, that I had no belief that the engineers of the War Department would construct a bridge so as to create a nuisance. Therefore I did not deem the amendment necessary. I thought it would be necessary, if we were incorporating a company to build a bridge, to guard against an improper structure; but as this is to be constructed under officials of this Government, engineers of the Army, I had full confidence they would build it on the best plan; and for that reason I had no wish that this amendment should be adopted.

Mr. MORRILL, of Vermont. When this matter was up before I was quite willing that this company should be allowed to build one half this bridge and allow the law to stand as it is, compelling the United States to build the other half; but, on examining it, I think the previous law ought to be repealed. I think it was highly imprudent that the United States ever engaged to build any portion of this bridge. I see no propriety in any expenditure on the part of the Government for any such structure as is contemplated by this bill.

Mr. HENDERSON. Mr. President, I should like to inquire of the Senator from Iowa or the Senator from Minnesota having charge of this bill, what is the estimated cost of the bridge; how much will it be necessary for the Government of the United States to appropriate in order to construct the bridge now contemplated?

Mr. HARLAN. I have not the report of the board of engineers that had this matter under examination, and am unable therefore to answer the Senator's inquiry.

Mr. RAMSEY. I have no recollection of it. It has been in charge of the Senator from Iowa for a long while. If the question is on the amendment I think there is a misprint in regard to that. Am I correct? Is the question on the amendment?

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question is on the amendment of the committee.

Mr. RAMSEY. The third section, which is the amendment, reads thus:

*And be it further resolved, That any bridge built*

under the provisions of this resolution shall be constructed so as to conform to the requirements of section two of an act entitled "An act to authorize the construction of certain bridges and to establish them as post roads," approved July 25, 1865.

There was no Congress in session in July, 1865; but the general Mississippi river bridge bill is the act of July 25, 1866. The second section of that act provides all the requirements that Congress have recently thought ought to be imposed on bridge-building on that river. Section two of that act provides:

"That any bridge built under the provisions of this act may, at the option of the company building the same, be built as a draw-bridge, with a pivot or other form of draw, or with unbroken or continuous spans: *Provided*, That if the said bridge shall be made with unbroken and continuous spans, it shall not be of less elevation in any case than fifty feet above extreme high-water mark, as understood at the point of location, to the bottom chord of the bridge, nor shall the spans of said bridge be less than two hundred and fifty feet in length, and the piers of said bridge shall be parallel with the current of the river, and the main span shall be over the main channel of the river and not less than three hundred feet in length: *And provided also*, That if any bridge built under this act shall be constructed as a draw-bridge, the same shall be constructed as a pivot draw-bridge, with a draw over the main channel of the river at an accessible and navigable point, and with spans of not less than one hundred and sixty feet in length, in the clear on each side of the central or pivot pier of the draw, and the next adjoining spans to the draw shall not be less than two hundred and fifty feet; and said spans shall not be less than thirty feet above low-water mark and not less than ten feet above extreme high-water mark, measuring to the bottom chord of the bridge, and the piers of said bridge shall be parallel with the current of the river: *And provided also*, That said draw shall be opened promptly upon reasonable signal for the passage of boats, whose construction shall not be such as to admit of their passage under the permanent spans of said bridge, except when trains are passing over the same; but in no case shall unnecessary delay occur in opening the said draw during or after the passage of trains."

The PRESIDING OFFICER. The error will be corrected by substituting 1866 for 1865, if there be no objection. The Chair hears no objection, and that correction is made. The question is on the amendment as modified.

The amendment was agreed to.

Mr. SHERMAN. I think the gentlemen in charge of this measure ought to give us the cost of the bridge, because it seems from the papers that the cost is referred to and has been estimated by the Government and the estimates are on file. I should like to know myself what the cost of this bridge is to be, whether \$200,000 or \$1,000,000. The amount appropriated is \$200,000.

Mr. WILSON. I hope this measure will go over until we can ascertain the facts of the case.

Mr. MORRILL, of Vermont. I hope it will go over until next December, and I make the motion that it be postponed until December next. If anybody will look at the second section, he will see that we provide not only for building one bridge, but for removing another. I move that the bill be postponed until December. That will leave the existing law which compels us to build one half the bridge, provided the railroad company build the other half, and I think that is quite enough and much more than we ought to do.

Mr. HARLAN. That is just what this joint resolution provides for: it reenacts the old law, but puts it in such a shape that it can be executed. The law as it stands would be sufficient if it could be carried into effect. The Senator says he is satisfied with the law as it exists.

Mr. MORRILL, of Vermont. No; I am not.

Mr. WILLIAMS. I should like for information to ask the Senator from Iowa one question. Are there any bridges now connecting the island with the main land?

Mr. HARLAN. There is none on the Illinois side. The bridge there has been swept away; and I have in my hand now a communication signed "J. M. Schofield, Secretary of War," recommending an appropriation of \$100,000 to put in the bridge between the island and the Illinois shore, which bridge, if this resolution shall pass, will be constructed by the railroad company.

Mr. WILLIAMS. So that the only bridge now is the one connecting the island with Iowa?

Mr. TRUMBULL. There is no bridge now connecting the island on either side. There is no bridge from the island to Iowa, except the railroad bridge.

Mr. HARLAN. It is not a carriage bridge; it is a railroad bridge. It touches the island at a point above the point named in this resolution.

Mr. TRUMBULL. The communication of the Secretary of War transmits a report of the ordnance office, which says:

"The temporary bridge connecting Rock Island arsenal with the city of Rock Island, on the Illinois shore, was destroyed by ice and flood during the past winter, and there are now no means of communication between them but a temporary ferry. The necessities of the public service require frequent communication of persons and transfer of materials between the city and arsenal, and the reestablishment of a bridge is necessary. A permanent bridge is preferable for every reason, and on the ground of economy. The estimate for the construction of such a bridge is \$100,000, and I recommend that an appropriation of that sum be requested from Congress for the purpose."

Mr. MORRILL, of Vermont. That is in addition to this bill.

Mr. TRUMBULL. This is a communication dated on the 3d day of June. I am reading from a letter of General Dyer, who is chief of ordnance; and that letter is communicated by the Secretary of War in the following letter:

WAR DEPARTMENT,  
WASHINGTON CITY, June 8, 1868.

Sir: I have the honor to send herewith, for the consideration of the proper committee, a communication of June 3 from the chief of ordnance, recommending an appropriation of \$100,000 for the construction of a bridge to connect Rock Island arsenal with the city of Rock Island, Illinois.

Very respectfully, your obedient servant,

J. M. SCHOFIELD,  
Secretary of War.

HON. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

Now, this bridge having been carried away, there is a necessity for a bridge at once; but this is not required if the bill passes, because the bill under consideration makes provision for a bridge connecting the island with the Illinois shore, as well as for a bridge connecting the island with the Iowa shore. General Schofield was one of the commissioners that made the estimates, fixed the proportions which it was proper should be paid by this railroad company to the Government; and I have been assured by two members of the House of Representatives, since this debate began, that this bill did have the sanction of the Secretary of War; that the Secretary of War himself framed it in part; that it was submitted to him and had his sanction; and that that Secretary of War was Mr. Stanton. I am authorized to state that on the authority of two members of the House of Representatives, given to me within the last ten minutes.

I trust, Mr. President, that this matter is not to be postponed on the motion of the Senator from Vermont, because he supposes that this bridge is to cost something. Of course it is to cost something; we expect it to cost something. And is it not something appropriate to the armory at Springfield? Can you manufacture guns and cannon without some expense? After having commenced these works upon this island are you to stop?

Mr. MORRILL, of Vermont. We do not want a railroad there.

Mr. TRUMBULL. Do you not want bridges?

Mr. MORRILL, of Vermont. Not there.

Mr. TRUMBULL. If there is a necessity to connect the island with the main shore you must have a bridge to do it. The War Department thinks there is such a necessity and an immediate necessity for such a bridge, and any one would know that there was a necessity for it, I should think.

Mr. MORRILL, of Vermont. The bridge that was carried away cost \$14,000, and I suppose another one could be built for the same money.

Mr. TRUMBULL. Perhaps the Senator from Vermont has been there and knows what it will cost. I know nothing except the information communicated here officially. According to the estimate of the engineers of the Government, it is economy to build a bridge that will cost \$100,000. The Senator from Vermont says that \$14,000 built the old bridge. I am not advised about that, he may be correct; I do not know what it cost; but I do know, according to the estimates of the proper officers of the engineers whose duty it is to inquire into this matter, that the expense of a proper bridge will be \$100,000. Now it is proposed not to have a bridge at all, and to postpone this measure until next December. Then you had better sell your Rock Island arsenal and armory. Sir, in my judgment, it would be most miserable economy to postpone the passage of a proper bill to carry out the existing law. This is no new matter. As the Senator from Iowa has already stated, the law made provision before for this bridge, but in carrying into effect the provisions of that law the railroad company and the Government were unable to make a contract which was satisfactory to both parties without some further legislation, and this measure is framed with a view to enacting the necessary legislation. It is the joint result of a conference between the War Department and this railroad company, and it has the sanction of the War Department.

Mr. WILSON. I should be glad to look into two or three points connected with this measure, and with the consent of the Senator having it in charge, I propose that we now go into executive session. By this course we shall have some time to look into the matter.

Mr. TRUMBULL. There is no objection to that, certainly.

Mr. WILSON. I move, then, that the Senate proceed to the consideration of executive business.

Mr. STEWART. I wish to make a report from the committee of conference on the bill for the removal of political disabilities.

Mr. WILSON. I withdraw my motion to allow that report to be made.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills of the Senate, with amendments, in which it requested the concurrence of the Senate:

A bill (S. No. 164) to provide for appeals from the Court of Claims, and for other purposes; and

A bill (S. No. 377) to change the times of holding the district and circuit courts of the United States in the several districts in the State of Tennessee.

#### REMOVAL OF DISABILITIES.

Mr. STEWART submitted the following report:

The committee of conference of the two Houses on the amendment of the Senate to the bill (H. R. No. 1059) to relieve certain citizens of North Carolina of disabilities, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses as follows:

That the House recede from their disagreement to the amendment of the Senate, and agree to the same with the following amendments:  
Strike out "George S. Houston, of Alabama," and "George W. Jones, of Tennessee."  
Strike out "and Tennessee," where it first occurs in section four, and insert "and" after "Arkansas" where it first occurs in section four.  
Also, strike out "Robert Austin," of North Carolina, and insert "Robert H. Austin."  
Strike out "Wiley D. Jones," of North Carolina, and insert "Willie Jones."  
Strike out "Eugene Grisson," of North Carolina, and insert "Eugene Grissom."  
Strike out "John D. Ashmond," of South Carolina, and insert "J. D. Ashmore."  
Strike out "John M. Rusty [or Burtz]."

WILLIAM STEWART,  
HENRY WILSON,  
JOHN SHERMAN,

Managers on the part of the Senate,  
J. F. FARNSWORTH,  
H. E. PAINE,

Managers on the part of the House,

Mr. HENDRICKS. I wish simply to express my contempt for the small business that has



been accomplished by this committee of conference. I mean no disrespect to the gentlemen representing the Senate, for I believe they have tried to represent the Senate. Selecting two names and striking them out because they are not of a political party to satisfy the House of Representatives! I venture to say that there is no name in the list contained in this bill that has as much support in favor of his attachment to this Union as that of George W. Jones, of Tennessee. I know that before the Committee on the Judiciary there was no such evidence in support of any single name as was given yesterday by the Senator from Ohio [Mr. SHERMAN] and the Senator from Vermont [Mr. MORRILL] in support of George W. Jones. For years he stood up against every influence at the South that tended to bring on the conflict, against this party to some extent, against men, that led in the efforts to bring about a clash between the two sections of the Union.

And now, for no reason except that there is no evidence that he has attached himself to a political party, he is to be stricken out of this bill removing disabilities. He has not been in any of the States where the reconstruction policy has been carried out. Of course he has given no opposition to that, because he has not been there. He is a citizen of Tennessee who, so far as I know, has been living a quiet, retired, unobtrusive life, who has participated to no extent in public affairs since the war was over. I have not heard of his taking any part in any of the controversies in the southern States; he has had no opportunity to show any hostility to the party in power; but he has been leading a quiet, retired life. Now he is stricken out of this bill. I do not make an objection particularly to the other name that is named being stricken out. Perhaps the committee have some reason for that in the fact that Mr. Houston was a member of Congress, as I now understand—I did not recollect it before—and withdrew from Congress at the time his State seceded. I knew of him that prior to secession he occupied very much the same position that Mr. Jones did, that he was a conservative man, giving his influence, and all of his influence, against the schemes of the extreme men of the South.

I regret now that I insisted on the name of Mr. Jones being added to the bill; it has to be yielded after the Senate by a unanimous vote put it in—a unanimous vote on the testimony of Senators themselves. The question is whether we shall recede from the position we took. I hope the Senate will not do it. I shall not insist upon the other name, because there is some doubt about it in the fact I have mentioned that was brought to my attention by the Senator from Nevada—a fact not known to him until, perhaps, to-day. I do not insist about that; but in regard to George W. Jones I say there is more evidence in favor of the propriety of his restoration to the full exercise of the right of citizenship than in regard to any other name in the bill.

There is not one of these men that can produce as much evidence. George W. Jones contributed not one particle to bring on this rebellion; he gave all his influence against it; while in this bill there are men who did everything they could to bring it on, whose hands are stained with northern blood, who participated in the war, fought in the battles, were in the secession legislatures, voted to take their States out; and they are to be restored while such a man as George W. Jones is to be kept out!

Of course any man will have feeling about a thing of that kind. Such palpable wrongs every man ought to denounce here and everywhere. I speak, sir, because I like George W. Jones, as every man liked him that served with him in the House of Representatives, not only because of his personal qualities, but because of his devotion to the public service and its integrity. Of all the men of the South I do not know a better man. He is incomparably above the men who went into the strife and now seek to avoid the responsibility of it by polit-

ical action. Compare him not with the Holdens and that class of men! It cannot be done! I ask the Senate in regard to Mr. Jones to stand by its unanimous vote of yesterday.

Mr. DAVIS. Mr. President, I have not much confidence in rebels who come in and profess to be Radicals. I would give them very little if any trust except in a very special case. Now, I would suggest that the Senate reject this report of the committee of conference, and that another committee be appointed to confer with the committee on the part of the House, and that they adopt a short, plain comprehensive bill in about these terms:

*Be it enacted*, That every red-handed rebel who took part against the Government of the United States in the late war, whose hands are still red with the blood of Union soldiers, upon taking an oath that he will support the Radical party shall be, and he is hereby, reinstated in all his rights, civil, political, and social.

Mr. STEWART. Would the Senator from Kentucky vote for that bill?

Mr. DAVIS. I would as soon vote for that bill as vote for the one under consideration. I think that in principle and in justice that would be about equivalent to this.

Mr. STEWART. I ask for the yeas and nays upon the adoption of the report.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 7; as follows:

YEAS—Messrs. Anthony, Cattell, Cole, Cragin, Fessenden, Harlan, Henderson, Morgan, Morrill of Vermont, Nye, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Thayer, Trumbull, Wade, Willey, Williams, and Wilson—22.

NAYS—Messrs. Davis, Doolittle, Hendricks, McCreery, Patterson of Tennessee, Ross, and Van Winkle—7.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Chandler, Conkling, Connors, Corbett, Dixon, Drake, Edmunds, Ferry, Fowler, Frelinghuysen, Grimes, Howard, Howe, Johnson, Morrill of Maine, Morton, Norton, Patterson of New Hampshire, Saulsbury, Tipton, Vickers, and Yates—25.

So the report was concurred in.

#### COURTS IN TENNESSEE.

Mr. WILSON. I renew my motion.

Mr. TRUMBULL. Will the Senator from Massachusetts allow us to dispose of two bills which have been returned from the House of Representatives with amendments? I think the Senate can dispose of them in a moment if the Chair will lay them before the body.

Mr. WILSON. Very well.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 377) to change the times of holding the district and circuit courts of the United States in the several districts in the State of Tennessee.

The amendment was in line five, to strike out the words "March and September" and insert "January and July."

Mr. TRUMBULL. I move that the Senate concur in the amendment of the House of Representatives. It merely changes the time when a court is to be held.

The amendment was concurred in.

#### COURT OF CLAIMS.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 164) to provide for appeals from the Court of Claims, and for other purposes.

The amendment was to insert the following section after the eighth section of the bill:

*And be it further enacted*, That it shall be the duty of the clerk of the said Court of Claims to transmit to Congress, at the commencement of every December session, a full and complete statement of all the judgments rendered by the said court for the previous year; stating the amounts therefor and the parties in whose favor rendered, together with a brief synopsis of the nature of the claims upon which said judgments have been rendered.

Mr. TRUMBULL. I move that the Senate concur in that amendment.

The amendment was concurred in.

#### EXECUTIVE SESSION.

On motion of Mr. WILSON, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, June 18, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### VACANCIES ON COMMITTEES FILLED.

The SPEAKER appointed Mr. DELANO to fill the vacancy in the Committee on Foreign Affairs, and Mr. KNOTT to fill the vacancy in the Committee on Expenditures in the Interior Department.

#### CALL OF THE HOUSE.

Mr. BINGHAM moved that there be a call of the House.

The motion was agreed to.

The Clerk proceeded to call the roll, and the following members failed to answer to their names:

Messrs. Ames, Axtell, Baldwin, Barnes, Barnum, Boyer, Brouwell, Brooks, Burr, Cook, Covode, Dixon, Dodge, Driggs, Finney, Fox, Garfield, Glossbrenner, Grover, Holman, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hubbard, Humphrey, Hunter, Ingersoll, Johnson, Jones, Judd, Kelley, Ladin, George V. Lawrence, William Lawrence, Loan, Lynch, Mallory, Marshall, Miller, Morrissey, Mungen, Nunn, Orth, Perham, Plants, Poland, Pomeroy, Pruyn, Randall, Kaum, Ross, Selye, Shellabarger, Sitgreaves, Taylor, Van Auken, Burt Van Horn, Robert T. Van Horn, John T. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward.

The SPEAKER. One hundred and twenty members have answered to their names, and a quorum is present.

Mr. BINGHAM. I move that all further proceedings under the call be dispensed with.

The motion was agreed to.

Mr. BINGHAM. I now desire to call up the motion to reconsider the vote by which the House passed the joint resolution (H. R. No. 291) giving additional compensation to certain employes in the civil service of the Government. But I will first yield to the gentleman from Massachusetts, [Mr. BANKS.]

#### MODIFICATION OF THE LAWS OF NATIONS.

Mr. BANKS. I ask unanimous consent to present the memorial of insurance companies, ship-owners, and merchants of Massachusetts, praying that action may be had in favor of a modification of the laws of nations, so that whenever hostilities between belligerent nations shall have ceased for the period of one year the state of war shall be deemed at an end so far as other Governments or the citizens thereof are concerned, notwithstanding the absence of any formal treaty or declaration of peace. I ask to have the memorial referred to the Committee on Foreign Affairs.

Mr. WASHBURN, of Illinois. Cannot that come in under the rule?

The SPEAKER. It can.

Mr. BANKS. It is an important memorial.

The SPEAKER. If there is no objection it will be referred to the Committee on Foreign Affairs. The Chair hears none, and it is so referred.

Mr. BANKS. I ask to have it printed.

Mr. WASHBURN, of Illinois. For what purpose?

Mr. BANKS. I withdraw the request.

#### TERRITORY OF WYOMING.

Mr. SPALDING. I ask to have Senate bill No. 357, to provide a temporary government for the Territory of Wyoming, printed, still remaining on the Speaker's table.

No objection being made, it was ordered to be printed.

Mr. ASHLEY, of Ohio, subsequently entered a motion to reconsider the order to print, saying that he desired to offer some amendment to the bill.

#### EXTRA PAY OF GOVERNMENT EMPLOYÉS.

Mr. BINGHAM. I now call up the motion to reconsider the vote by which the House passed the joint resolution (H. R. No. 291) giving additional compensation to certain employes in the civil service of the Government at Washington.

Mr. WASHBURN, of Indiana. I move to lay the motion on the table.

The SPEAKER. Does the gentleman from Ohio surrender the floor?

Mr. BINGHAM. I do not. I call the previous question on the motion to reconsider.

The SPEAKER. The gentleman cannot speak after that.

Mr. BINGHAM. I do not desire to.

Mr. WASHBURN, of Indiana. I move to lay the motion to reconsider on the table.

Mr. ELIOT. I desire to ask a parliamentary question: whether the result of the motion, if carried, will not be to open to amendment the last clause of the resolution. I think it was not understood by many who voted in favor of it.

The SPEAKER. If the motion to lay on the table the motion to reconsider prevails, the bill will then stand as it passed and will be sent to the Senate. If it should not prevail, and the House should then reconsider the third reading of the bill, it would then be open to amendment.

Mr. WASHBURN, of Indiana. If the gentleman will agree to allow me to make the motion on the third reading I will withdraw it now.

Mr. BINGHAM. It will amount to the same thing.

Mr. WASHBURN, of Indiana. No, it will leave the bill open to amendment.

Mr. BINGHAM. I cannot make any agreement about it.

Mr. WASHBURN, of Indiana. I then insist on the motion.

The question being put and appearing to be carried,

Mr. WASHBURN, of Indiana, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 45, nays 86, not voting 58; as follows:

YEAS—Messrs. Anderson, Archer, Delos R. Ashley, James M. Ashley, Calk, Cary, Cobb, Eckley, Eldridge, Glossbrenner, Golladay, Grayely, Hotchkiss, Humphrey, Johnson, Kerr, Kitchen, Logan, McCormick, Moore, Morrell, Mungen, Myers, Nicholson, O'Neill, Paine, Prunyn, Randall, Robinson, Schenck, Smith, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Stone, Taber, Thomas, John Trimble, Twichell, Robert T. Van Horn, Van Trump, Henry D. Washburn, and Woodward—45.

NAYS—Messrs. Allison, Bailey, Baker, Beaman, Beatty, Beck, Benjamin, Benton, Bingham, Blaine, Boutwell, Broomall, Buckland, Butler, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Cornell, Covode, Daws, Delano, Dixon, Donnelly, Driggs, Eggleston, Ela, Eliot, Farnsworth, Ferry, Fields, Getz, Haight, Halsey, Harding, Hawkins, Hill, Hubbard, Judd, Kelley, Kelsey, Ketcham, Koonz, Loan, Loughbridge, Marvin, Maynard, McCarthy, McClurg, McCullough, Mercer, Moorhead, Mullins, Newcomb, Peters, Pike, Pile, Plants, Polsley, Price, Robertson, Sawyer, Scofield, Shanks, Aaron F. Stevens, Taffey, Taylor, Lawrence S. Trimble, Trowbridge, Upson, Van Aernum, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, and James F. Wilson—86.

NOT VOTING—Messrs. Adams, Ames, Arnell, Axcell, Baldwin, Banks, Barnes, Barnum, Boyer, Broomwell, Brooks, Burr, Cullom, Dodge, Ferriss, Finney, Fox, Garfield, Griswold, Grover, Holman, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Jones, Kelley, Ladin, George V. Lawrence, William Lawrence, Lincoln, Lynch, Mallory, Marshall, Miller, Morrissey, Niblack, Nunn, Orth, Perham, Phelps, Poland, Pomeroy, Raum, Ross, Selye, Shellabarger, Sitzgreaves, Van Anken, Burt Van Horn, John T. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—58.

So the House refused to lay the motion to reconsider on the table.

The question recurred upon seconding the demand for the previous question on the motion to reconsider.

The previous question was seconded and the main question ordered; being upon the motion to reconsider the vote by which the joint resolution was passed.

Mr. WASHBURN, of Indiana. On that question I demand the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and the motion to reconsider was agreed to.

The question recurred on the passage of the joint resolution.

The SPEAKER. The Chair has been requested by the committee of clerks in the various Departments to state to the House that the applause at the passage of the joint resolution a few days since was disapproved by them and by the clerks generally, and they wished the Speaker to state this, fearing that it might have prejudiced them in the eyes of the House.

Mr. BINGHAM. I now move to lay the joint resolution on the table.

Mr. RANDALL. On that motion I demand the yeas and nays.

Mr. WASHBURN, of Indiana. Will the gentleman from Ohio withdraw that motion to allow me to enter a motion to reconsider the vote by which the joint resolution was ordered to be engrossed and read a third time, so that it may be amended.

Mr. BINGHAM. I cannot, for the reason that the amendments would not improve it.

Mr. MAYNARD. I suggest to the gentleman from Ohio that it would be only fair to let the gentleman, who has charge of the joint resolution, have an opportunity to suggest what amendments he desires.

Mr. MULLINS. I object.

Mr. RANDALL. Then let us vote down the motion to lay on the table.

Mr. BINGHAM. I insist on my motion.

The yeas and nays were ordered.

Mr. WASHBURN, of Indiana. If this motion is defeated, will the joint resolution be open to amendment?

The SPEAKER. A motion can be made to reconsider the third reading, and if that prevails the joint resolution will be amendable.

Mr. WASHBURN, of Indiana. Then it will be amendable if this motion is lost?

The SPEAKER. It will be if the third reading is reconsidered.

The question was taken; and it was decided in the affirmative—yeas 68, nays 64, not voting 57; as follows:

YEAS—Messrs. Allison, Bailey, Baker, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Boutwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Cornell, Covode, Daws, Delano, Eggleston, Ela, Ferry, Fields, Getz, Haight, Halsey, Harding, Hawkins, Hill, Hubbard, Judd, Kelley, Kelsey, Ketcham, Koonz, Loughbridge, Marvin, Maynard, McCarthy, McClurg, Mercer, Mullins, Newcomb, Peters, Pike, Polsley, Price, Robertson, Sawyer, Scofield, Shanks, Aaron F. Stevens, Taylor, Trowbridge, Upson, Van Aernum, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, and John T. Wilson—68.

NAYS—Messrs. Anderson, Archer, Delos R. Ashley, James M. Ashley, Beck, Blair, Calk, Cary, Cobb, Dixon, Donnelly, Driggs, Eckley, Eldridge, Eliot, Farnsworth, Glossbrenner, Golladay, Grayely, Grover, Higby, Hotchkiss, Jenckes, Johnson, Kerr, Kitchen, Knott, Loan, Logan, Mallory, McCormick, McCullough, Moore, Moorhead, Morrell, Mungen, Myers, Niblack, Nicholson, O'Neill, Paine, Plants, Pomeroy, Prunyn, Randall, Robinson, Schenck, Shellabarger, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Stone, Taber, Taffey, Thomas, John Trimble, Lawrence S. Trimble, Twichell, Robert T. Van Horn, Van Trump, Henry D. Washburn, and Woodward—64.

NOT VOTING—Messrs. Adams, Ames, Arnell, Axcell, Baldwin, Banks, Barnes, Barnum, Boyer, Broomwell, Brooks, Burr, Chanler, Cullom, Dodge, Ferriss, Finney, Fox, Garfield, Griswold, Grover, Holman, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hunter, Humphrey, Ingersoll, Jones, Kelley, Ladin, George V. Lawrence, William Lawrence, Lincoln, Lynch, Marshall, Miller, Morrissey, Nunn, Orth, Perham, Phelps, Pile, Poland, Raum, Ross, Selye, Sitzgreaves, Smith, Van Anken, Burt Van Horn, Stephen F. Wilson, Windom, Wood, and Woodbridge—57.

So the joint resolution was laid on the table.

Mr. BINGHAM. I now move to reconsider the vote by which the joint resolution was laid on the table; and I also move that the motion to reconsider be laid on the table.

Mr. WASHBURN of Indiana, and Mr. ROBINSON, called for the yeas and nays on the motion to lay the motion to reconsider on the table.

The question was taken upon ordering the yeas and nays; and upon a division there were twenty-seven in the affirmative.

So (the affirmative being one fifth of the last vote) the yeas and nays were ordered.

The question was then taken; and it was

decided in the affirmative—yeas 73, nays 57, not voting 59; as follows:

YEAS—Messrs. Allison, Bailey, Baker, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Boutwell, Broomall, Buckland, Reader W. Clarke, Coburn, Cook, Cornell, Covode, Cullom, Daws, Delano, Donnelly, Eggleston, Ela, Ferriss, Ferry, Fields, Getz, Haight, Halsey, Harding, Hawkins, Hill, Hubbard, Judd, Julian, Kelsey, Ketcham, Koonz, Loan, Loughbridge, Marvin, Maynard, McCarthy, McClurg, Mercer, Moorhead, Mullins, Newcomb, Peters, Pike, Pile, Plants, Polsley, Price, Robertson, Sawyer, Scofield, Shanks, Aaron F. Stevens, Taylor, Trowbridge, Upson, Van Aernum, Van Wyck, Ward, Elihu B. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, and John T. Wilson—73.

NAYS—Messrs. Anderson, Archer, Delos R. Ashley, Beck, Blair, Calk, Cary, Chanler, Cobb, Dixon, Driggs, Eckley, Eldridge, Eliot, Farnsworth, Glossbrenner, Golladay, Grayely, Grover, Higby, Hotchkiss, Jenckes, Johnson, Kitchen, Knott, Logan, Mullins, McCormick, McCullough, Morrell, Mungen, Myers, Niblack, Nicholson, O'Neill, Paine, Pomeroy, Prunyn, Randall, Robinson, Schenck, Shellabarger, Smith, Spalding, Starkweather, Stewart, Stokes, Stone, Taber, Taffey, Thomas, John Trimble, Lawrence S. Trimble, Twichell, Robert T. Van Horn, Van Trump, Henry D. Washburn, and Woodward—57.

NOT VOTING—Messrs. Adams, Ames, Arnell, James M. Ashley, Axcell, Baldwin, Banks, Barnes, Barnum, Boyer, Broomwell, Brooks, Burr, Butler, Churchill, Sidney Clarke, Dodge, Finney, Fox, Garfield, Griswold, Holman, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hunter, Humphrey, Ingersoll, Jones, Kelley, Kerr, Ladin, George V. Lawrence, William Lawrence, Lincoln, Lynch, Marshall, Miller, Moore, Morrissey, Nunn, Orth, Perham, Phelps, Poland, Raum, Ross, Selye, Sitzgreaves, Thaddeus Stevens, Van Anken, Burt Van Horn, Cadwalader C. Washburn, Stephen F. Wilson, Windom, Wood, and Woodbridge—59.

So the motion to reconsider was laid on the table.

#### GREAT AND LITTLE OSAGE INDIANS.

Mr. CLARKE, of Kansas. I have been instructed by the Committee on Indian Affairs, who are instructed to report at any time not in the morning hour, to submit a report for action at this time. I ask that the report be read.

The report was read, as follows:

The Committee on Indian Affairs, to whom was referred the message of the President of the United States and accompanying documents relating to a treaty lately made by the United States with the Great and Little Osage Indians, report as follows:

It appears from information before the committee that the treaty was prepared in Washington before the session of the council with the Osages, and that its terms were agreed upon by various parties in interest before submission to the Indians. The treaty, in substance, relinquishes by the said Osage Indians an exceedingly valuable tract of land lying in southern Kansas, amounting to eight million acres. It does not provide for the retrocession of the said lands to the United States, but transfers the same to a railway company, known as the Leavenworth, Lawrence, and Galveston Railroad Company, at a price per acre of about nineteen cents. It transfers said lands upon said terms, with the condition that said company shall pay to the Secretary of the Interior within three months from the date of the ratification of the said treaty, by the Senate of the United States \$100,000 to the use and for the benefit of the said Osage Indians. The balance of the \$1,600,000, the price of said lands, is made payable in annual installments of \$100,000 per annum, together with interest at five per cent, per annum, secured only by the bond of the railroad company, and not even made a mortgage on the road.

No provision is made in this treaty for the protection of the settlers upon that portion of the ceded lands known as the diminished reserve, of whom it appears there is a large number, but they are left wholly to be dealt with according to the mercy or cupidity of the parties controlling said railway. Of those settlers upon another portion of the lands ceded, known as the Osage trust lands, comprising about three million two hundred thousand acres, such as occupied a "square quarter section" at the time of the date of the treaty, are allowed one hundred and sixty acres, including their improvements, at the Government price. Inasmuch as these lands were only recently surveyed, it follows, upon the testimony of reliable witnesses, that nearly all of these settlers will be excluded from the benefits of the proviso because very few have located upon "square quarter sections," as surveyed.

It is also in evidence that other propositions more favorable to the Indians, the settlers, and the United States were submitted to the Commissioner, but were withheld from the Indians by them and refused consideration. The following propositions were submitted to the commissioners by the Missouri, Fort Scott, and Santa Fe Railroad Company:

First. A purchase of all their lands for said road at \$2,000,000, \$100,000 to be paid in ninety days from the ratification of the treaty by the Senate of the United States, and the other payments at the rate of \$100,000 per year until the whole purchase money is paid, the whole to bear interest at the rate of five per cent, per annum from the ratification and promulgation of the treaty till paid.

Second. One hundred and sixty acres of land se-

cured, free of cost, to every half-breed Osage, male and female, over twenty-one years of age, who may desire to remain on said lands and become a citizen of the United States.

*Third.* One hundred and sixty acres secured to such settlers who may be on any portion of said lands at the date of said treaty, at \$1 25 per acre, being Government price therefor.

*Fourth.* Every sixteenth section of said lands to be donated to the State of Kansas for the endowment of her public schools.

*Fifth.* The interest of said purchase money to be paid semi-annually, and disposed of in the treaty in a manner satisfactory to the Indians, and so as to promote their best interests.

*Sixth.* Patents to issue to said company for said lands only in proportion to the amount actually paid.

*Seventh.* Said principal and interest to be paid by said railroad company to the Secretary of the Interior, and the interest disbursed to the Indians by him, through the Commissioner of Indian Affairs.

This proposal was accompanied by the tender of a reasonable guarantee for the fulfillment by the said company of their part of the proposed compact, and was peremptorily dismissed by the commission. It will be seen that their refusal to submit these or any other propositions to the Indians indicates a singular bias in favor of the parties who by the terms of this treaty obtain these lands at nearly half a million dollars less than the sum offered in the above proposal.

It also appears that the State of Kansas is entitled by the terms of the act admitting that State into the Union to the sixteenth and thirty-sixth sections in each township of surveyed public lands to accrue to the permanent school fund of that State; that in lieu of said sections the State is guaranteed an equivalent therefor; that a large portion of the State has been taken out of the operation of this beneficial provision for schools by the numerous Indian reservations therein; that the disposition heretofore made of these reservations no equivalent has been granted the State for the said sections; that at the session of the said Osage council, while deliberating upon the terms of this treaty, the State superintendent of public instruction for Kansas applied to the said commissioners to obtain some provision among the various terms of the pending treaty for the school fund of the State—representing that the lands proposed to be granted the Leavenworth, Lawrence, and Galveston Railroad Company comprised fully one sixth of the whole State, and should contribute their equal share to the permanent school fund, in accordance with the plan upon which public lands in Kansas were disposed of by the act of admission. It appears that he was refused in this reasonable prayer.

It further appears that the said Leavenworth, Lawrence, and Galveston Railroad Company, according to their survey, do not contemplate constructing their road upon or across these lands; that the said lands are amply sufficient in value to richly endow two or three roads if justly appropriated and disposed of; that upward of one half thereof are rich and valuable lands, and such as would readily sell to actual settlers at or more than \$1 25 per acre.

There are also charges before your committee that the Osages were improperly influenced to consent to the signing of said treaty; that they were very reluctant to execute it; and that at no time before or since its execution were they satisfied to sell their lands at such a price or upon such securities.

It appears to your committee that the system of bartering immense tracts of Indian lands to railway companies or private parties, without protection to the settlers, and by methods calculated to bar the advance of civilization, or in any way, except by absolute cession to the United States, is too unreasonable to merit serious thought, and if such lands are to be made available for works of public improvement they should so be disposed as to give full protection to present and prospective settlers, and should accrue to the use and benefit of all the roads that they will reasonably endow.

Your committee therefore conclude that said treaty is in violation of the rights of the settlers and of justice to the Indians; that it is unjust to the tax-payers of Kansas, because it places in the power of a corporation the means to prevent the speedy settlement of about one sixth of the State; that it is unjust to the State of Kansas, in that it ignores the school interests as guarded by the act of admission, and operates injuriously upon the prospective growth and settlement thereof; that it is unjust to the nation, because the lands granted are sufficient to endow various roads, and are ample to secure the building of the whole line from Fort Leavenworth to Galveston bay; that it is destructive of the railroad system of Missouri and Kansas, and while of no benefit or advantage to the Government, it accomplishes no result except to extravagantly enrich the persons controlling the company in whose interest it was executed.

Appended to this report are respectfully submitted a protest of the Governor, secretary of State, auditor of State, State treasurer, attorney general, and superintendent of public instruction of the State of Kansas, marked A. Also the affidavit of Z. R. Overman, a representative of the settlers upon the lands sold, marked B; affidavit of Solomon Markham, also representing the settlers, marked C; affidavit of General Charles W. Blair, marked D; affidavit of George H. Hoyt, marked E; together with a copy of the provisions of said treaty.

The committee recommend the adoption of the following resolutions, and that copies of the same be furnished for the information of the Senate.

SIDNEY CLARKE,

R. T. VAN HORN,

JOHN P. C. SHANKS,

JOHN TAFFE,

G. W. SCOTFIELD,

W. MUNGEN.

*Resolved*, (as the sense of the House of Representatives,) That the treaty concluded on the 27th of May, 1838, with the Great and Little Osage tribe of Indians, both in its express terms and stipulations, and in the means employed to procure their acceptance by the Indians, is an outrage on their rights; that, in transferring to a single railroad corporation eight million acres of lands, it not only disregards the rights and interests of other railroad corporations in the State of Kansas, and builds up a frightful land monopoly in defiance of the just rights of the settlers and of the people of the United States, but assumes the authority, repeatedly denied by this House, to dispose of those lands by treaty otherwise than by absolute cession to the United States, and for purposes for which Congress alone is competent to provide.

*Resolved*, That this House does hereby solemnly and earnestly protest against the ratification of said pretended treaty by the Senate, and will feel bound to refuse any appropriations in its behalf, or to recognize its validity in any form.

*Resolved*, That a copy of the foregoing resolutions be transmitted to the Senate of the United States.

The following are the documents accompanying the report:

(A.)

EXECUTIVE DEPARTMENT,  
TOPEKA, KANSAS, June 9, 1868.

To the Senate of the United States:

The undersigned, executive officers of the State of Kansas, most respectfully memorialize your honorable body against the ratification of the treaty recently concluded with the Osage Indians, whereby they agree to cede the lands now held by them in this State to the Leavenworth, Lawrence, and Galveston Railroad Company, on the following grounds, to wit:

1. That the Osages were induced to conclude the treaty by threats and false representations, whereby they were made to believe that it was the design of the State authorities to make war upon them, and either kill them or drive them from their reservation.

2. That the price agreed to be paid is grossly inadequate to the value of the lands; that a much larger price was offered; that the payments are extended over a long series of years; and that the final consummation of the treaty would be a flagrant robbery of the Indians.

3. That no provision is made in the treaty for the benefit of schools, or in the interest of the settlers who have gone upon the lands and made improvements, but that both these interests are remitted to the tender mercies of speculators and monopolists.

4. That the lands thus ceded comprise nearly one fifth of the area of the entire State, the whole of which will be withheld from settlement and development, except upon such terms as the monopolists may dictate.

5. That the success of this fraud will tend to retard immigration, thus militating against the best interests of the State, as well as of the country at large.

6. That the persons who will derive the chief benefits of this treaty are strangers to the State, and in no wise identified with its interests.

7. That they believe the whole system of permitting or encouraging the Indians to cede to private corporations is pernicious; that in extinguishing Indian titles the Government should become the purchaser, permitting the settlers to procure titles at the minimum rate, withdrawing from sale when the aggregate of the purchase-money shall have been realized, and then allowing the preemption and homestead laws to operate as in other cases.

For these and other reasons which might be enumerated, the undersigned respectfully request the Senate to negative the treaty recently concluded with the Osages, and which has been or will be submitted for their consideration.

S. A. CRAWFORD, Governor.

R. A. BAKER,

Secretary of State.

J. R. SWALLOW,

Auditor of State.

M. ANDERSON,

State Treasurer.

GEORGE H. HOYT,

Attorney General.

P. McVICAR,

Superintendent Public Instruction.

The foregoing is a true copy, furnished at the request of Hon. SIDNEY CLARKE.

(B.)

District of Columbia, ss:

Z. R. Overman, of lawful age, first being duly sworn, deposes and says he is a citizen of the State of Kansas, and resides upon a portion of the lands known as the diminished reserve of the Great and Little Osages; that he was selected by the settlers upon the said reserve and by the settlers upon the lands known as the Osage trust lands to attend a council thereafter to be held between the representatives of the several bands of the Great and Little Osage Indians and certain commissioners of the United States for the purpose of effectuating a treaty between the said Indians and the United States; that the said council was held in the month of May last, and a treaty was signed by the chiefs and head men of the said tribe and the commissioners of the United States on or about the 27th day of May last; that prior to and at the signing of said treaty affiant was in attendance upon the sessions of the said council; that he is personally well acquainted with the chiefs, head men, and braves of the said bands; that the commissioners of the United States produced at said council a draft of a treaty already prepared, being the same treaty in form and substance afterward executed by the parties respectively, and which is now pending the action of the Senate of the United States.

Affiant further deposes and says that it was evident from the hearing of the said commissioners, and from their proceedings at the said council, that they intended to make the said treaty exclusively for the benefit and in the interest of the Leavenworth, Lawrence, and Galveston railroad, represented by one William Sturges, of Chicago, and disregarding the rights of the settlers, the rights of the Indians, of other railroads, and the State of Kansas; that the said commissioners claimed that the said treaty was agreed upon in Washington before the session of the council, and could only pass and be ratified by the Senate of the United States as drawn and presented.

Affiant further says that the said Indians did not want to sell their lands; did not want to sell to a railroad company, but to the Government of the United States if forced to part with them, or otherwise, to parties making the best and highest bid for the lands; that the sessions of the council were secret, and white men were excluded therefrom unless attached or belonging to the party of the said commissioners; that the Indians wanted certain white men for counsel present at the conferences, but were refused unless they would take such counsel as were assigned them by the commissioners; that Professor P. McVicar, superintendent of public instruction for the State of Kansas, applied to the said commissioners to have certain lands in each township set apart to the permanent school fund of the State, as guaranteed to the State of Kansas in the act of admission, and the said commissioners wholly refused to allow said lands, or any equivalent therefor, to be so devoted to the State.

And affiant further says that the Indians of the said tribe of Great and Little Osages complain that they were forced to sign the said treaty by threats that the United States would withdraw its protection from them, and that their presents, gifts, or annuities would be withheld from them, and by divers other intimidations and influences, and that if they had not so been influenced they would not have signed the said treaty, and are still and remain greatly dissatisfied; that there is a large population of white settlers upon both the diminished reserve and the trust lands of the said Osages; that these settlers entered upon the said lands with the full knowledge and voluntary consent in writing of the chiefs and head men of the said Indians; that there has been no survey of the diminished reserve, and that the trust lands have only been recently surveyed; that very few of the settlers upon the trust lands are located "on a square quarter section" as surveyed, and consequently get one hundred and sixty acres, including their improvements, at Government price; that no protection was promised or guaranteed in any form to the balance of the settlers upon either the trust lands or the diminished reserve; that fully half of the eight million acres included in the said lands bartered by the terms of the said treaty to the Leavenworth, Lawrence, and Galveston railroad—controlled by the said William Sturges—are first class and very valuable lands, fully equal to the best lands in Kansas; that the settlers thereupon are willing to pay \$1 25 per acre for the said lands; that affiant fully believes from the number of settlers already locating upon said lands that four million acres of said lands could be disposed of by the Government of the United States within four years from the date hereof.

Z. R. OVERMAN.

Subscribed and sworn to before me this 16th day of June, 1868.

E. M. CHAPIN,

Justice of the Peace.

(C.)

District of Columbia, ss:

Solomon Markham, of lawful age, being duly sworn, deposes and says that he is a citizen of Kansas, and resides near the Catholic Mission, so called, in Neosho county, Kansas, and upon lands lately belonging to the reservation of the Great and Little Osage Indians; that he was sent by the settlers upon the Osage lands to the city of Washington to secure through the Congress of the United States a sale of such lands transferred or ceded to the United States or other parties by the said Osages to the settlers upon said lands on just and reasonable terms; that the late treaty executed on Drum Creek, in Osage county, by certain commissioners of the United States with the said Osage Indians is a fraud upon the people of Kansas and the whole country; that the said treaty works deep injustice to a large number of worthy and industrious people who have located their homes and families upon the said lands, for the following among other reasons, namely: because the said settlers are left to the mercy of the parties controlling the Leavenworth, Lawrence, and Galveston Railroad Company for the location, amount, and price of their lands; that no guarantees are given them that any railway will be constructed through or upon said lands or any portion thereof; that the Osages had agreed and were willing to sell their lands to the Government so that the Government might dispose of them to actual settlers upon terms just and reasonable; that no part of said lands were set apart to the permanent school fund of the State, in accordance with the plan upon which Kansas was admitted. And affiant says that more than one half of the eight million acres bartered away by the terms of this treaty to the railroad owned or controlled by Mr. William Sturges, of Chicago, are valuable lands equal to any in the United States, and ought not to be put in title and possession of any man; that within four years, if thrown open to actual settlement, every acre would be disposed of easily at the price of \$1 25; that the proceeds of the lands upon any just and reasonable method would build three railways instead of one, as proposed in this treaty; that affiant is informed and believes that the sale of these lands ostensibly to the Leavenworth, Lawrence,



and Galveston railroad is in fact a sale to William Sturges, of Chicago, who controls the said company, and who is endeavoring to obtain said lands for the purpose of a vast speculation, and that the said treaty was executed in fraud of the settlers, the Indians, the people of Kansas, and the whole country, and various other railway companies who offered more for the lands than did the said Sturges and company.

SOLOMON MARKHAM.

Subscribed and sworn to before me this 16th day of June, 1868.

E. M. CHAPIN,  
Justice of the Peace.

#### Statement relative to the Osage Treaty.

A treaty was concluded on Drum Creek, in the Osage nation, about the 27th of May last, between the chiefs and braves of the Osage Indians and Hon. N. G. Taylor, commissioner of Indian affairs, Hon. Thomas Murphy, superintendent of the central superintendency, Colonel A. G. Boone, and Major Snow, agent of the Osages, representing the Government, with Judge Blackledge as secretary of the commission.

The treaty conveys the whole of the Osage lands, comprising eight million acres, (being fifty by two hundred and fifty miles,) to the Leavenworth, Lawrence, and Galveston Railroad Company for \$1,600,000, payable as follows: \$100,000 in cash within three months from the ratification of the treaty, and the remaining \$1,500,000 in the bonds of the company, payable \$100,000 each year for fifteen years, and bearing interest at the rate of five per cent. per annum. It is really a treaty by and between the Osage Indians and the railroad company, to which the Government becomes a party by permitting it to be done in the interest of the company, and without protecting the rights of the Indians by providing any security for the payment of the money other than the bonds of said company. These bonds are really the only security the Indians have. It is true that the treaty provides that patents shall be issued only in proportion to the amount paid; but the railroad company does not wish patents to issue until they are ready to sell, which will not be until the road is completed to a point opposite to said lands, and may not be for the next ten years. In the mean time the Indians will hold the bonds, but be utterly destitute of money—their lands sold, but they without means to purchase others in their stead.

It is scarcely to be expected that the Cherokees or Creeks will sell them lands for these bonds, or that the Government will purchase and pay for lands for them, taking these railroad bonds as security for payment. If the interests of the Indians are to be consulted, the representatives of the Government should have provided some tangible security for the payment of the money as it became due, either by the indorsement of the Government or otherwise; and they should have permitted the sale to be made to the company offering the highest price for the lands, other considerations being equal. The subjoined correspondence will show that the commissioners were determined the treaty should be made in the interest of the Leavenworth, Lawrence, and Galveston Railroad Company, and on the terms proposed by its representatives or made not at all.

These lands comprise nearly one fifth of the whole State of Kansas, and are the last body of lands out of which railroads can be endowed. There are enough to endow three roads reasonably well; and if they are to be disposed of for the benefit of railroads the interests of the railroad system of the State should be taken into consideration, and the roads of southern Kansas, in which the lands lie, should have their fair proportion. Especially should the Missouri, Fort Scott, and Santa Fé railroad be endowed, as it has its initial point at Sedalia, on the Missouri Pacific, and runs southwesterly, via Fort Scott and Osage Mission, through the whole length of these lands, two hundred and fifty miles, in the direction of Santa Fé. This road has no grant or endowment of public lands, while the Lawrence and Galveston road already has eight hundred thousand acres along its line in the State of Kansas, donated to it by the liberality of Congress; and its surveyed line does not run within twenty miles of the lands ceded to it by the recent treaty.

The treaty makes no provision for the half-breed Osages who may desire to remain on said lands and become citizens of the United States. It makes no increase in the State endowment of schools, and makes but insufficient and incomplete provision for the hardy pioneers who are the out-posts and advance guard of the civilization rapidly moving to the West.

The trust lands (so called because ceded in trust by a former treaty) are embraced in this treaty, the former one so far as it applies to them, being abrogated by the new arrangement. They comprise a tract of twenty miles, north and south, running the whole length of the tract; and the treaty provides that settlers on the lands, at the date of the treaty, may have one hundred and sixty acres, including their improvements, at Government price, on a square quarter section. As the survey is just completed, and as nearly all the settlement there was made prior to said survey, it follows that few have their improvements on a square quarter; and as they are not permitted to cross section or quarter section lines to fill out their one hundred and sixty acres, but few will derive any benefit from the provision. Indeed, it seems expressly made with a view to cut off as many of the settlers as possible, under the color and show of apparent fairness.

No provision whatever is made for the settlers on the remaining portion of said land—being thirty by two hundred and fifty miles in extent—but they are left wholly to the tender mercies of the railroad company.

It is proper to add in this connection that the directors of the Missouri, Fort Scott, and Santa Fé Railroad Company, besides the protection they offered to the settlers, were and are willing, if their company receive all or any portion of these lands, that an express provision may be incorporated into the treaty to the effect that the price of Government lands shall be the price of these lands—that is to say, \$2.50 per acre within ten miles of their road on either side, and \$1.25 per acre beyond—the settler to take his lands upon such showing of occupation and improvement as would entitle him to the benefit of the preemption act of September 4, 1841, and its amendments. Justice to the settler imperatively demands that this provision should be made in the treaty, let the lands be disposed of otherwise as they may.

It may be further stated that the Indians knew they had been offered a higher price for their land than this treaty provides—that this higher price was offered them by men whom they knew and in whom they had confidence, with some of whom they had had dealings for twenty-five years, and they were naturally anxious to sell to the best advantage, and to men whom they thought they could trust; but they claim that the commissioners informed them that the Government would not permit them to sell to any company except the Leavenworth, Lawrence, and Galveston Company. The truth of this is corroborated by the fact that the commissioners, all of them, without exception, stated repeatedly to white men, in reply to urgent entreaties to divide the lands among two or three roads, that no treaty could or would be ratified by the Senate unless the whole of the lands were given to this one company.

It was publicly represented, too, by those who assumed to speak by the authority of the commissioners, that this treaty was drawn up and agreed upon in Washington, before the commission went out; that it was drawn with the approval of leading members of the administration, and leading members of the Senate, of both political parties; that the combination or "ring" was too powerful to be withstood, and that the treaty would have to be made and confirmed as originally drawn.

The chiefs repeatedly asked permission to have certain white men in whom they had confidence, as their counsel, present at their conference with the commissioners, to advise and counsel with them; but the commissioners refused, unless they would take such counsel as they (the commissioners) chose to provide, which they were not willing to do.

It is certain that for over two weeks the Indians refused to sign the treaty, no one, apparently, being in favor of it; and that all at once, apparently without any sufficient cause, they all signed it. They claim that they were forced to do it by threats and intimidation on the one part, and fair promises on the other in case of compliance.

It is more than probable that these threats were made by outside parties in the interest of the railroad company, and not countenanced by the commissioners; but there was so much apparent identity of interest between them that it was difficult for even an observant white man to tell who represented the Government and who the railroad company, and it is, therefore, not at all wonderful that the Indians failed to detect the difference between them. Certain it is, that one commissioner, at least, publicly stated to the Indians that their annuity goods, due them by the provisions of a former treaty, would not be delivered to them till they signed this treaty; and that, seemingly, in pursuance of this threat, said goods were reloaded into the wagons which had brought them to the council grounds; and it is equally certain that said goods were not distributed until after the treaty had been signed.

The Indians claim that they were threatened with the displeasure of the Government if they refused to sign; that they were told that the Government would not protect them against the Arapahoes unless they made the treaty; and Commissioner Boone did state in public council that if the Osages would sign this treaty they (the commissioners) would go out on the Plains and conclude a peace between the Osages and Arapahoes.

The Indians represent that they were told that unless they signed this treaty they would get no presents, no annuity goods; that the Government would not pay them for the land already purchased of them, and that the Governor of Kansas would turn the militia of the State out against them, and they would kill and drive them off their lands, taking them without any payment whatsoever; and when they fled to the Plains they would be decimated by the Arapahoes, and between the two enemies they would gradually be extinguished.

It is not claimed that these threats were made or countenanced in any way by the commissioners—honorable men would stoop to no such miserable subterfuge—but it is susceptible of proof that such threats, and probably worse ones, were made to the Indians by white men who were in daily association with the commission, and who professed to speak by their authority.

It is known to the writer of this statement that outside parties stated that the commissioners had resolved to remove the representatives of the Missouri, Fort Scott, and Santa Fé Railroad Company by military force from the Osage reserve, on the pretext of interfering with the treaty; and that this was communicated to the friends of that road with a view of inducing them to intermit their efforts to get from the commission a fair proportion of these lands; but the friends of that road had too high a respect for the commission to believe that they had ever authorized such threats, and therefore gave no credence to them.

Attention is invited to the correspondence cited below.

CHARLES W. BLAIR,  
President Missouri, Fort Scott, and Santa Fé  
Railroad Company.

No. 1.

OSAGE NATION, May 18, 1868.

SIR: I have the honor to propose to you, and through you to the commission appointed to treat with the Osage Indians for their trust lands and diminished reserve, that the lands comprised therein be acquired by the United States Government and offered for sale, in a body, to the highest bidder, thus leaving it open to the competition of all companies who desire to purchase the same, hereby pledging myself that the railroad company I represent will offer for the whole of said lands at least the sum of \$2,000,000, giving any guarantee of payment that the Government may require, which sum is \$500,000 more than that proposed to be paid by the Leavenworth, Lawrence, and Galveston Railroad Company.

Should it be against the policy of the Government to purchase lands except under condition of immediate transfer to parties or companies who can make the required payments, we respectfully request your commission to create the trust in the treaty for the benefit of our company, we to pay therefor the sum of \$2,000,000. I would also state that our railroad company is properly incorporated, traverses the whole length of these lands from East to West, and is in the hands of men of capital and influence.

We propose, also, to accept all the terms and conditions of the treaty as already drawn and prepared by the commission, and, in addition, to secure the rights of the half-breeds, protect the settlers, and make liberal donations for school purposes, changing the treaty only by substituting the name of the Missouri, Fort Scott, and Santa Fé Railroad Company for that of the Leavenworth, Lawrence, and Galveston Railroad Company, for which change we offer more than a half million dollars in addition to the amount proposed by Mr. Sturges.

Our company is composed of and supported by men of large capital and influence, (the Governor of the State being one of the directors,) who are abundantly able to give all the guarantees required by the treaty, or which may be imposed by the Government, such guarantees to be given prior to the submission of the treaty to the Senate for ratification.

I also make this proposition: for the purpose of harmonizing conflicting interests and advancing the interest of the North and South, as well as the East and West national thoroughfare, I am content that the treaty may include both roads, giving the Leavenworth, Lawrence, and Galveston Company two thirds of said lands, and securing to the Missouri, Fort Scott, and Santa Fé Railroad Company one third of the same, being equal in proportionate value, and divided by blocks of sections from north to south, two blocks to their road and one to ours, alternately, through the whole length of said lands, east to west, we to take ours by express stipulations in the treaty to our road by name, and on the same terms and conditions of payment and otherwise as are imposed on the other company.

All these propositions seem to me fair and just, and the acceptance of any one of them will secure the cordial cooperation of myself and friends in favor of the speedy completion of the treaty, by the exertion of all the influence we can command in its behalf.

I am, Colonel, very respectfully, your obedient servant,

CHARLES W. BLAIR,  
President Missouri, Fort Scott, and Santa Fé  
Railroad Company.

Hon. N. G. TAYLOR, Commissioner of Indian Affairs.

P. S.—I would respectfully request that this proposition be filed and preserved with the papers of the commission for further reference.

C. W. B.

No. 2.

OSAGE NATION, May 20, 1868.

SIR: As it is anticipated or feared that representations may or have been made to your commission that the Missouri, Fort Scott, and Santa Fé Railroad Company is irresponsible or unable to furnish to the Government the proper guarantees of payment, in case they acquire any or all of these lands by treaty, I have the honor to propose to you, as security for such guarantees as may be required, the bond of S. A. Williams, B. P. McDonald, and C. F. Drake, who are worth over one hundred thousand dollars; or I am willing to give you here, on the ground, as collateral security for such guarantees, the draft of the banking-house of A. McDonald & Brother, on New York, for the sum of \$50,000.

This security is offered as a pledge of our entire good faith, as well as our ability to comply with any condition of payment which may be imposed on our company in case said lands are granted to it.

Very respectfully, your obedient servant,  
CHARLES W. BLAIR,  
President Missouri, Fort Scott, and Santa Fé  
Railroad Company.

Hon. N. G. TAYLOR, Commissioner of Indian Affairs.

Reply to Nos. 1 and 2.

OSAGE COUNCIL GROUND.

OSAGE NATION, May 20, 1868.

SIR: Your communication of the 13th instant, addressed to me as Commissioner of Indian Affairs, making various propositions in reference to the purchase of the Osage lands, was received and laid before the commission.

I was instructed by the commission to reply that, for various reasons satisfactory to it, neither of your propositions is accepted.

With sentiments of high personal respect, I have the honor to remain, your obedient servant,

N. G. TAYLOR,  
President Osage Commission,  
General C. W. BLAIR, President Fort Scott and Santa  
Fé Railroad Company.

No. 3.

OSAGE NATION, May 25, 1868.

Sir: As you stated, in your public council with the Indians, that all future consultations between the commissioners and Indians were to be private, from which all others were to be rigidly excluded, and thus other parties can only reach the Indians through you, I have the honor to request permission to call them together in council with the representatives of the Missouri, Fort Scott, and Santa Fé Railroad Company, with a view of submitting to their consideration a treaty with said company on the following basis:

*First.* A purchase of all their lands for said road at \$2,000,000—\$100,000 to be paid in ninety days from the ratification of the treaty by the Senate of the United States, and the other payments at the rate of \$100,000 per year until the whole purchase money is paid, the whole to bear interest at the rate of five per cent. per annum from the ratification and promulgation of the treaty till paid.

*Second.* One hundred and sixty acres of land secured, free of cost, to every half-breed Osage, male and female, over twenty-one years of age, who may desire to remain on said lands and become a citizen of the United States.

*Third.* One hundred and sixty acres secured to such settlers who may be on any portion of said lands at the date of said treaty, at \$1 25 per acre, being Government price therefor.

*Fourth.* Every sixteenth section of said lands to be donated to the State of Kansas for the endowment of her public schools.

*Fifth.* The interest of said purchase money to be paid semi-annually, and disposed of in the treaty in a manner satisfactory to the Indians, and so as to promote their best interests.

*Sixth.* Patents to issue to said company for said lands only in proportion to the amount actually paid.

*Seventh.* Said principal and interest to be paid by said railroad company to the Secretary of the Interior, and the interest disbursed to the Indians by him, through the Commissioner of Indian Affairs.

As this council has now been in session about two weeks, and the Indians have thus far declined to treat, although all other propositions have been withheld from them, except that of the Leavenworth, Lawrence, and Galveston Railroad Company, it is now but fair that they should have an opportunity of considering another proposition which gives them a larger sum of money for their lands, protects the settlers on the same, secures a home to the half-breeds, enlarges the State endowment for school purposes, and which is quite as fair to the Government as the proposition so long considered and rejected.

If the responsibility of the company is doubted, I again offer, as before, as a guarantee of good faith and pecuniary ability, the bond of men worth \$100,000 or the draft of a responsible banking house on New York for \$50,000, to be forfeited in case the company fail to comply with the requirements of the treaty. I have also the honor to request that this proposition be filed with the papers of the commission for further reference.

Very respectfully, your obedient servant,

CHARLES W. BLAIR.

President Missouri, Fort Scott, and Santa Fé Railroad Company.

Hon. N. G. TAYLOR, Commissioner of Indian Affairs.

Reply to No. 3.

OSAGE COUNCIL GROUND.

OSAGE NATION, May 26, 1868.

Sir: Your communication addressed to me, of yesterday's date, was handed to me half an hour since by Colonel Wilson.

I have the honor in reply to inform you that, having, immediately on its receipt, submitted your letter to the commission, it instructed me, unanimously, to respond that this commission, having been appointed and commissioned by the President to treat with the Osage Indians, has no power to transfer that authority to others, nor any disposition to do so. We have pleasure in adding that present indications are entirely favorable to a successful termination of our labors.

With sentiments of high regard, I have the honor to be, very truly, your obedient servant.

N. G. TAYLOR,

President Osage Commission and Commissioner Indian Affairs.

General CHARLES W. BLAIR, President Fort Scott and Santa Fé Railroad Company.

(D.)

District of Columbia, Washington county, ss:

Before the undersigned, a notary public in and for the District of Columbia, personally came Charles W. Blair, of lawful age, who, being duly sworn, deposes and says, that the correspondence copied in the accompanying printed statement is a true copy of the correspondence that passed between him and Hon. N. G. Taylor, Commissioner of Indian Affairs. He further states that the facts embodied in the printed statement accompanying said correspondence, so far as the same are stated of his own knowledge, are true, and, so far as stated on the information of others, he believes to be true, both in substance and in fact.

CHARLES W. BLAIR.

Sworn to and subscribed, this 16th day of June, A. D. 1868.

JOHN F. CALLAN,

Notary Public.

(E.)

District of Columbia, ss:

George H. Hoyt, being duly sworn, deposes and says he is a citizen of the State of Kansas, and is attor-

ney general of the said State; that since the execution of the treaty between the United States and the Osages of southern Kansas, at Drum Creek, on or about May 27, A. D. 1868, numerous complaints have been lodged in his office relating to the said treaty and the action of the commissioners of the United States. And affiant avers upon information and belief that gross deceit was practiced upon the said Osage Indians by these said commissioners; that these said Indians were informed or caused to be informed by the said commissioners that the United States would not protect them or give them their presents or annuities unless they consented to sign the particular treaty brought by them from Washington; that other inducements were held out to the said Indians, and, among others, the promise to secure peace between them and their enemies, the Arapahoes.

Affiant further avers that the lands conveyed by the terms of said treaty to the Leavenworth, Lawrence, and Galveston Railroad Company comprise about eight million acres, equal to about one-sixth of the area of the whole State of Kansas, and nearly double the area of the State of Massachusetts; that he is familiar with that section of the State of Kansas, having frequently traversed it; that more than half the said lands are first class and very rich and valuable lands—well watered and timbered along the waters of the Neosho and the valleys of the Verdigris rivers, together with numerous tributaries; that the said lands are desirable in every respect, and are being fast settled upon by a thrifty and industrious people; that abandonment of those settlers, by this treaty, to the cupidity of speculators and non-residents, has caused a very bitter feeling to pervade the people of the whole State; that a large portion of these lands would readily sell for \$1 25 per acre within three or four years; that the proceeds of their sale, upon any just or reasonable terms, would construct not only the Leavenworth, Lawrence, and Galveston railway to and beyond the limits of Kansas, but would also build the Fort Scott and Santa Fé and the Union Pacific, southern branch, railways.

And affiant says that Kansas is entitled to the sixteenth and thirty-sixth sections of land in each township, or an equivalent therefor, for the permanent school fund of the State; that a large portion of the State has been absorbed by Indian reservations; that in the retrocession or transfer of these reservations no equivalent has been granted the State for said sections; that Professor McVickar, superintendent of public instruction for Kansas, applied to the commissioners to obtain a portion of said Osage lands for the uses of the school fund, and his application was refused. And affiant says all the above facts, together with various other material evidence, he will be able to produce in case reasonable time is allowed him before the ratification of the said treaty by the Senate of the United States, and further saith not.

GEORGE H. HOYT.

Subscribed and sworn to before me, this 16th day of June, 1868.

E. M. CHAPIN,

Justice of the Peace.

Articles of a treaty made and concluded at the Osage council ground, on Drum creek, in the Osage nation, in the State of Kansas, on the 27th day of May, A. D. 1868, by and between the United States, represented by Nathaniel G. Taylor, Commissioner of Indian Affairs; Thomas Murphy, superintendent of Indian affairs for the central superintendency; George C. Snio, agent for the Indians of the Neosho agency; and Albert G. Boone, special agent, (commissioners duly appointed by the President of the United States for the purpose,) and the Great and Little Osage tribe of Indians, represented by their chiefs, councilmen, and head men duly authorized to negotiate and treat in behalf of said tribe, as follows:

#### ARTICLE I.

The tribe of the Great and Little Osage Indians are desirous of removing from Kansas to a new and permanent home in the Indian Territory, and of making an advantageous and absolute sale of their lands in the State of Kansas. They desire, moreover, to so dispose of these lands as to aid in the speedy extension of the Leavenworth, Lawrence, and Galveston railroad to and through the Indian Territory, it being the only road now in process of construction running directly through the said Territory which is to be the future home of themselves and their race, and for the further reason that it will give them in their new home the means of transit and transportation, and will tend to promote among them and their brethren the arts and habits of civilized life. The Government of the United States is willing that the company constructing said railroad may become the purchasers of said lands on terms favorable to the Osages and the settlers, because said railroad has received from the United States no money subsidies, and only an inconsiderable land grant, and because when constructed it will become a great trunk line from the Missouri river to the Gulf of Mexico, and with its branches will open to settlement vast and fertile districts, now too remote from railroads and navigable waters to be susceptible of advantageous settlement and cultivation.

It is, therefore, agreed that the Leavenworth, Lawrence, and Galveston Railroad Company, a corporation duly organized under the laws of the State of Kansas, shall have the privilege of purchasing the present reserve of the Osages in Kansas, and also the strip of land lying along the north border of the present reservation, ceded to the United States in trust by article second of the treaty between the United States and the Great and Little Osage Indians, concluded September 29, 1865, on the following terms and conditions: said company shall, within three months after the ratification and promulgation of this treaty, pay to the Secretary of the Interior

\$100,000 in cash, and shall execute and deliver to him its bonds for the further sum of \$1,500,000, bearing interest, payable semi-annually, at the rate of five per cent. per annum; the interest on said bonds to commence when the Osages remove from their present reservation, which date shall be fixed, and notice thereof given to the company, by the Secretary of the Interior. One hundred thousand dollars of said bonds shall become due and payable each and every year after the date of execution thereof, so that the last \$100,000 of said bonds shall become due and payable in fifteen years from the date of execution thereof. And if said company shall pay the said sum of \$100,000, and deliver its said bonds, bearing interest for \$1,500,000, as above provided, and shall, one year thereafter, pay \$100,000 of said bonds, and interest on the whole of said bonds from the date when said interest shall have begun to accrue, and shall have built and equipped not less than twenty miles of said railroad from Ottawa, Kansas, in a southerly direction, then patents shall be issued to it by the Secretary of the Interior for an amount of said lands to be designated under his direction equal in value to one fifteenth part of the lands which are herein authorized to be sold to said company, deducting and excepting, however, from said amount of land the lands which shall have been, between the date of the purchase by said company and that date, purchased by settlers as hereinafter provided.

And if said company shall, annually thereafter, pay \$100,000 of said bonds, and interest as thereinbefore provided on all the remaining bonds, and shall, each and every year thereafter, build and equip not less than twenty miles of said road until the same shall have reached the southern boundary of the State of Kansas, it shall, at the date of each of such annual payments, receive patents for a like amount in value of said lands, to be selected under the direction of the Secretary of the Interior, deducting and excepting from said amount the lands which shall have been, between the date of the next preceding payment and that date, preempted and paid for as hereinafter provided; and on payment of the last of said bonds and interest, as herein provided, it shall be entitled to receive patents for all the remainder of said lands herein authorized to be sold to it.

The whole of said lands, if purchased by said company, shall be appraised, at its expense, by three disinterested appraisers to be appointed by the Secretary of the Interior, whose compensation shall not exceed ten dollars per day, in full for services and expenses, and whose appraisal, when approved by the Secretary of the Interior, shall govern in ascertaining the relative value of the amounts of land from time to time selected and paid for, as hereinbefore provided. When said company shall make its first payment and deliver its bonds to the Secretary of the Interior, as above provided, he shall execute and deliver to it a certificate setting forth the fact that it has elected to purchase the lands herein provided to be sold, and is entitled to the possession and use of the same; which certificate shall be evidence of the right of said company to the possession and use of the said lands so long as it shall comply with the conditions of purchase therein prescribed as against all persons except Osages or other persons connected with the nation as may have authority from the Secretary of the Interior to remain temporarily on said lands. But such certificate shall not authorize the taking of any timber or stone from any of said lands, except from such as shall have been selected and paid for as herein provided.

None of said lands shall be subject to taxation except such as shall have been patented to said company, or selected and paid for as above provided. And whenever any patent shall issue to said railroad company for any part of said lands it shall contain the condition that said company shall sell the lands described in said patent, except so much as may be necessary for the operation of said road, within five years from the issuance of said patent. But if the said company shall fail to pay the said sum of \$100,000 first above mentioned, and to deliver its bonds for \$1,500,000, as above provided, within three months from the ratification and promulgation of this treaty, then it shall have no exclusive right of purchasing said lands, but the lands shall then be surveyed under the direction of the Secretary of the Interior, and appraised by three disinterested appraisers, to be by him appointed, and offered for sale to actual settlers for a period of one year from the promulgation of this treaty, at not less than its appraised value, under such rules and regulations as the Secretary of the Interior may, from time to time, prescribe. And at the expiration of said year, should any of said lands remain unsold, the Secretary of the Interior shall cause the same to be sold in a body for cash, at not less than its appraised value. The proceeds of such sales, as they accrue, after deducting the expenses of survey and appraisal, shall be invested by the Secretary of the Interior for the benefit of said Indians, as hereinafter provided.

The Secretary of the Interior may proceed to sell the said lands in a body on the most advantageous terms; provided, however, that the same conditions and terms shall be observed as herein stipulated: And provided further, that said lands shall not be sold for less than the price herein agreed to be paid therefor. In the event that after sufficient notice has been given no sale can be made of said lands in the manner last aforesaid, and if the said company shall, after paying said sum of \$100,000, and delivering said \$1,500,000 of bonds, fail to make payment of any portion of the principal or interest remaining due within thirty days from the date when the same shall become due and payable, said company shall forfeit all its right to any portion of said lands not heretofore selected and paid for. And all of said lands herein provided to be sold to said company which shall remain unpaid for shall thereupon be sold by the



Secretary of the Interior in the manner hereinbefore provided. And in case said company shall desire to pay any portion of said bonds before the same shall become due and payable, it shall be permitted to do so, and shall be entitled on such payment to have lands selected and patented to it in like manner as on the payment of the bonds when due. And no patent shall issue to any assignee of said company for any of the lands purchased by it under the provisions hereof.

#### ARTICLE II.

The right of way is hereby granted to said company through the lands herein authorized to be sold, not exceeding one hundred feet in width, and the right to take from said land such timber, stone, water, and other material as may be necessary for the construction and operation of the road, and for the construction of its stations, culverts, and bridges: *Provided, however,* That no timber or stone shall be taken by the company or its agents from any of the lands not paid for, except on the payment of the fair value of such timber or stone, and under such regulations as the Secretary of the Interior shall prescribe, for which amounts the company shall be entitled to credit on paying, as herein provided for the lands from which such timber and stone may have been taken.

#### ARTICLE III.

The proceeds of the sales of lands herein authorized to be sold shall be invested for the Osage nation in United States registered stocks, except as herein-after provided, and the interest thereof shall be applied semi-annually under the direction of the Secretary of the Interior, as follows: (The interest on \$100,000 shall be paid in support of schools in said nation;) the interest on \$300,000 shall be paid in cash for national purposes; \$5,200 thereof shall be paid as compensation to the chiefs and councilors of the nation; \$5,000 shall be expended for the encouragement of agriculture, to be paid *pro rata* to each head of a family in proportion to the number of acres cultivated and improvements made thereon by individual members of the tribe, the object being to encourage real industry among them, and the remaining \$4,800 shall be expended under the direction of the council and agent for the tribe in the payment of such other expenses as may be necessary for the benefit and support of their national government; and the interest on the balance shall be paid to the members of the nation *per capita*, or to the council for distribution in money, goods, provisions, and other articles of necessity as the council of the nation and the agent for the tribe may recommend under the direction of the Commissioner of Indian Affairs.

#### ARTICLE IV.

All persons being heads of families and citizens of the United States, or members of any tribe at peace with the United States, who have settled on the strip north of the present Osage reservation known as the "trust lands," and are at the date of the signing hereof residing thereon as *bona fide* settlers, shall have the privilege at any time within one year from the date of the ratification of this treaty, of purchasing from the United States a quarter section, at \$1.25 per acre, to be selected in one body according to legal divisions, and to include, as far as practicable, the improvements of each settler: *Provided, however,* That said quarter section shall not consist of, or be made up from, parts of different quarter sections.

#### ARTICLE V.

Nothing in this treaty shall be held to impair the rights of half-breed Osages, and of the heirs of Joseph Swiss, under the provisions of article fourteen of the treaty concluded September 29, 1865, and it is hereby declared that the following persons are the heirs, and the only heirs, according to the Osage customs and laws, of the said Joseph Swiss, namely: Phoebe Beyette, Julia Kavellette, Julia Ann Delorin, and Jacob Swiss; and it is hereby provided that the improvements of said half-breeds now on the lands herein stipulated to be sold, shall be appraised by the commissioners appointed to appraise these lands, and the value thereof shall be paid to the owners of said improvements by the parties purchasing them, within six months after the ratification of this treaty.

They shall have an equal right, in proportion to their number, with the full-blood Indians, in all the benefits to be derived from this and all former treaties with the Osage Indians, and shall select from their number one of their people who shall represent them in the councils of the nation, upon an equal footing with the other members of said council.

#### ARTICLE VI.

As a compensation to the Osages for the stock and farming utensils which the United States agreed to furnish them by the second article of the treaty of January 11, 1839, and which were only in part furnished, the United States agrees to pay the said nation \$20,000; and as compensation for the saw and grist mill which the United States agreed by said treaty to maintain for them for fifteen years, and which were only maintained five years, the United States agrees to pay said nation \$10,000, which sums shall be expended under the direction of the Commissioner of Indian Affairs in the following manner: \$12,000 in erecting agency buildings, a warehouse, and blacksmiths' dwellings, and a blacksmith shop, and the remaining \$18,000 in the erection of a school-house and church and the purchase of a saw and grist mill, which mill is to be managed and controlled by the society in charge of the Catholic mission, for the benefit of said Indians.

#### ARTICLE VII.

The reservation herein authorized to be sold shall be surveyed as other public lands are surveyed,

under the direction of the Secretary of the Interior, and the expenses of survey paid by the said Leavenworth, Lawrence, and Galveston Railroad Company.

#### ARTICLE VIII.

If the proceeds of the sale of the lands ceded to the United States by the first article of the treaty of January 21, 1867, shall exceed the amount of purchase-money paid therefor by the United States and expenses incident to the survey and sale thereof, then the remaining proceeds shall be invested for the Osages in United States registered stocks, and the interest thereon applied semi-annually as other annuities.

#### ARTICLE IX.

The Osage Indians, being sensible of the great benefits they have received from the Catholic mission, and being desirous to have said mission go with them to their new homes, it is hereby stipulated that two sections of land, to be selected by the said society at or near the agency, shall be granted in fee-simple to John Shoemaker in trust for the use and benefit of the society sustaining said mission, and it shall have the free use of such timber and firewood as may be necessary for the use of said mission and school on condition that said society shall establish and maintain a mission and school for the education and civilization of the Osages. But if the said society shall fail to avail itself of the provisions of this treaty within twelve months after the removal of said Indians to their new home it shall forfeit all the rights, privileges, and immunities herein conferred upon it, including said lands, in which contingency these same rights, privileges, and benefits so forfeited shall inure to any other Christian society willing to assume the duties and responsibilities, and comply with the conditions herein enjoined on said mission: *Provided, however,* That in the event no Christian society should avail themselves of the benefits herein provided within two years from the removal of said Indians to their new homes, then all funds herein set apart for said school and missionary purposes shall be applied, under the direction of the Commissioner of Indian Affairs, to such purposes as in his judgment will best promote the moral, intellectual, and industrial interests of the Osage nation: *Provided,* That the annual expenditure for school purposes may be increased at the discretion of the Commissioner of Indian Affairs to an amount not to exceed \$5,000, as in his judgment the educational necessities of the Osages may require, to be deducted from the annuities.

#### ARTICLE X.

The Great and Little Osage nation of Indians being anxious to relieve themselves from the burden of their present liabilities, and it being essential to their best interests that they should be allowed to commence their new mode of life free from the embarrassment of debt, it is hereby stipulated and agreed that all just and valid debts which may be due and unpaid at the date of the signing of this treaty, either to whites or Indians, by said Osages, shall be liquidated and paid out of the funds arising from the sale of the lands herein stipulated to be sold, so far as the same shall be found just and valid on an examination thereof, to be made by the agent of the tribe and the superintendent of Indian affairs for the central superintendency, whose duty it shall be to examine all claims presented to them within one year from the promulgation of this treaty and to take in writing the evidence in favor of and against said claims, and after having made such examination, they shall submit said claims to the national council of the Osage nation for their approval or rejection, and report their proceedings thereon, with the evidence and decision of the council, and their opinions in each individual case, to the Commissioner of Indian Affairs, whose decision, subject to the revision of the Secretary of the Interior, shall be final: *Provided,* That the amount so allowed and paid shall not exceed \$40,000; *And provided further,* That if the amount of just claims shall exceed the sum of \$40,000, the said amount of \$40,000 shall be divided *pro rata* among the different claimants whose claims shall have been established and allowed.

#### ARTICLE XI.

The United States agrees that the agent for said Indians in the future shall make his home at the agency buildings; that he shall reside among them and keep an office open at all times for the purpose of prompt and diligent inquiry into such matters of complaint, by and against the Indians, as may be presented for investigation under the provisions of their treaty stipulations, as also for the faithful discharge of other duties enjoined on him by law. In all cases of depredation on person or property, he shall cause the evidence to be taken in writing and forwarded, together with his finding, to the Commissioner of Indian Affairs, whose decision, subject to the revision of the Secretary of the Interior, shall be binding on all the parties to this treaty.

#### ARTICLE XII.

If any individual belonging to said tribe of Indians, or legally incorporated with them, being the head of a family, shall desire to commence farming, he shall have the privilege to select, in the presence and with the assistance of the agent then in charge, a tract of land within said reservation not exceeding three hundred and twenty acres in extent, which tract when so selected, certified, and recorded in the land book, as herein directed, shall cease to be held in common; but the same may be occupied and held in the exclusive possession of the person selecting it and of his family so long as he or they may continue to cultivate it. Any person over eighteen years of age, not being the head of a family, may in like man-

ner select, and cause to be certified to him or her for purposes of cultivation a quantity of land not exceeding eighty acres in extent, and thereupon be entitled to the exclusive possession of the same, as above directed. For each tract of land so selected a certificate containing a description thereof, and the name of the person selecting it, with a certificate indorsed thereon that the same has been recorded, shall be delivered to the party entitled to it by the agent after the same shall have been recorded by him in a book to be kept in his office subject to inspection, which said book shall be known as the "Osage Land Book." The President may at any time order a survey of the reservation, and when so surveyed Congress shall provide for protecting the rights of said settlers in their improvements, and may fix the title held by each. The United States may pass such laws on the subject of alienation and descent of property, and on all subjects connected with the government of the Indians on said reservation and the internal police thereof, as may be thought proper.

#### ARTICLE XIII.

It is hereby agreed that the first article of the treaty made at Conville trading post, Osage nation, in the State of Kansas, on the 28th day of September, A. D. 1865, by and between the United States and the Osage tribe of Indians, shall be, and hereby is, so amended as to strike out in the second line of the fourth page, (printed copy,) after the word "Interior," the words "on the most advantageous terms;" and in the third and fourth lines, after the word "laws," strike out the words "no preemption claim;" so as to make the clause, of which the words stricken out are members, read as follows: "Said lands shall be surveyed and sold under the direction of the Secretary of the Interior for cash, as public lands are surveyed and sold under existing laws, but no homestead settlement shall be recognized." It is also agreed to add after the last word in the amended clause, namely, "recognized;" *Provided,* That nothing in this amendment shall be construed as to diminish in any way the funds derivable to the Indians under said treaty, or construed so as to interfere with vested rights under said treaty.

#### ARTICLE XIV.

The United States hereby agrees to sell to the Great and Little Osages tribe of Indians, for their future home, at a price not to exceed twenty-five cents per acre, the following-described district of country, namely: commencing at a point where the ninety-sixth meridian west from Greenwich crosses the south line of the State of Kansas; thence south on said meridian to the north line of the creek country; thence west, on said north line, to a point where said line crosses the Arkansas river; thence up said Arkansas river, in the middle of the main channel thereof, to a point where the south line of the State of Kansas crosses said Arkansas river; thence east on said State line to the place of beginning. It is hereby agreed that the United States shall, at its own expense, cause the boundary lines of said country to be surveyed and marked by permanent and conspicuous monuments. Said survey to be made under the direction of the Commissioner of Indian Affairs. And it is hereby stipulated and agreed that when the United States has secured a title to the above described lands, the Osages shall be required to move and reside thereon; but nothing in this treaty shall be so construed as to compel the said Indians to remove from their present reservation until the Government has secured said title, and notice thereof given by the Commissioner of Indian Affairs to the agent of said Indians.

#### ARTICLE XV.

The Osage tribe of Indians hereby assent to any alterations or amendments which the Senate of the United States may make to this treaty: *Provided,* That such alterations or amendments do not affect the rights and interests of said Osage Indians, as defined and secured in this and former treaties.

#### ARTICLE XVI.

The Osages acknowledge their dependence on the Government of the United States, and invoke its protection and care. They desire peace, and promise to abstain from war, and commit no depredations on either whites or Indians; and they further agree to use their best efforts to suppress the introduction and use of ardent spirits in their country.

#### ARTICLE XVII.

The United States hereby agree to pay to the Great and Little Osage tribe of Indians a just and fair compensation for stock stolen from them by whites since the ratification of the treaty of September 29, 1865, and it is made the duty of the agent for the said tribe to investigate all claims of this character and report the same with the proofs in each case to the Commissioner of Indian Affairs within three months from the ratification of this treaty.

#### ARTICLE XVIII.

It is hereby agreed that the Commissioner of Indian Affairs shall make an examination of the accounts of the Osage tribe of Indians, and if he finds that the sum of \$3,000 due Claimant, a chief of said tribe, under the ninth article of the treaty of 1839, has never been paid to said chief, he shall cause the said sum to be paid to said Claimant for the sole use and benefit of the band of which he is chief.

In testimony whereof the undersigned, the said Nathaniel G. Taylor, Thomas Murphy, George C. Snow, and Albert G. Boone, commissioners as aforesaid, on behalf of the United States, and the undersigned chiefs and head men of the Great and Little Osage tribe of Indians, have hereunto set their hands



and seals, at the place, day, and year first above mentioned.

[L. S.] N. G. TAYLOR,  
President of Commission.  
[L. S.] THOMAS MURPHY,  
[L. S.] GEORGE C. SNOW,  
[L. S.] ALBERT G. BOONE,  
Commissioners.

A. N. BLACKLIDGE, Secretary of Commission.

JOSEPH PAW-NE-NO-PASHE, or White Hair,  
Principal Chief.

Gah-he-gah-ton-gah, (chief Clamor's band,) his X mark.

Black Dog, (chief of Black Dog's band,) his X mark.

Dog Thief, (second chief Big Hill band,) his X mark.

Mon-shon-o-lar-ka, (second chief Young Clamor's band,) his X mark.

William Penn, second chief Black Dog's band,) his X mark.

Big Heart, his X mark.

Kan-sa-gah-ne, (first counselor to Big Hill band,) his X mark.

Ch-sha-la-sha, (third chief Big Hill's,) his X mark.

Wa-che-wa-he, (third chief Clamor's band,) his X mark.

Major Broke-arm, (third chief Black Dog band,) his X mark.

Ma-i-ka-ha, (fourth chief Black Dog's band,) his X mark.

Clar-mont, (chief of Carmont band,) his X mark.

Tan-non-ge-he, (chief Big Hill band,) his X mark.

Little Beaver, (second chief White Hair's band,) his X mark.

No-pa-wala, (first chief Little Osages,) his X mark.

Strike Axe, (second chief Little Osages,) his X mark.

Tallers, (second chief Clannor's band,) his X mark.

Wah-ho-pa-wah-no-sha, his X mark.

Wa-sho-pi-wat-tanka, (fourth chief Little Osages,) his X mark.

Wa-ti-sanka, (fourth chief Little Osages,) his X mark.

Thes-a-watanga, (third chief To-nan-sha-hees,) his X mark.

Wy-o-ha-ke, (third chief Little Osages,) his X mark.

Tail Chief, (fourth chief Big Hill's,) his X mark.

Mo-en-e-she, his X mark.

Ho-wa-sa-pa, (Big Chief's band,) his X mark.

Wa-ta-an-ka, (principal counselor of Big Chief's band,) his X mark.

Ne-ka-ka-honey, (principal counselor of Black Dog's band,) his X mark.

Black Bird, (Joe's band,) his X mark.

Non-se-an-ka, (Black Dog's band,) his X mark.

Wa-ko-e-wa-sha, (Big Hill brave,) his X mark.

Sa-pe-ke-sa, (second counselor to Big Camer,) his X mark.

Was-come-ma-nah, (Clarmont brave,) his X mark.

To-tan-ka-she, (Clarmont brave,) his X mark.

Sa-pa-kora, (Clarmont brave,) his X mark.

Wa-sha-she-wat-ian-ker, (Clarmont brave,) his X mark.

Mo-sha-o-ker-shan, (Big Hill brave,) his X mark.

Che-wa-te, (Little Osages,) his X mark.

Wa-ho-pa-in-ka, (Little Osages,) his X mark.

Matthew, (Little Osages,) his X mark.

Hard Chief, (Little Osages,) his X mark.

Wa-ka-le-sha, (Little Osages,) his X mark.

Shiika-wa-ti, (Little Osages,) his X mark.

Wa-sho-she, (Little Osages,) his X mark.

Pa-ne-no-pa-sha, (Little Osages,) his X mark.

Che-to-pah, (principal counselor Little Osages,) his X mark.

Hard Rope, (White Hair's principal counselor,) his X mark.

We-pi-she-way-lap, (Beaver's counselor,) his X mark.

Ke-no-e-nen-ke, (second counselor to White Hair,) his X mark.

Wa-la-ho-na, (counselor White Hair's band,) his X mark.

Ka-ke-k-wa-ti-anka, (little chief White Hair's band,) his X mark.

Ta-pi-gua-la, (little chief White Hair's band,) his X mark.

Yellow Horse, (Big Hill brave,) his X mark.

Go-she-seer, (brave Big Hill band,) his X mark.

No-son-ta-she, (Big Hill brave,) his X mark.

Ne-ko-con-see, (Big Hill brave,) his X mark.

Wa-pe-sum-see, his X mark.

Ne-ko-leverla, his X mark.

Ya-ha-su-she, (third chief Big Hills,) his X mark.

Joseph Paw-ne-no-pashe's braves, his X mark.

Or-le-he-non-she, his X mark.

Cho-she mon-nee, his X mark.

Him-sha-ga-cire, his X mark.

Wa-kon-ta-okke, his X mark.

Wa-shin-pe-she, his X mark.

Gron-na-ta-ne-gah, his X mark.

Ila-gha-nee, his X mark.

Ne-char-you-law, his X mark.

Paw-nee-way-na-taw, his X mark.

Wa-hon-ga-ta-gon-she, his X mark.

War Eagle, his X mark.

Ne-cha-na-shon-tow-ga, his X mark.

Ka-ke-ga-wa-ta-ghe, his X mark.

Non-son-do-she, his X mark.

Wa-mon-cha-na-che, his X mark.

Pa-hou-do-gra-he, his X mark.

Strike Ax, his X mark.

Ka-tum-mo-ne, (White Hair brave,) his X mark.

Pe-she-o-la-ha, (White Hair brave,) his X mark.

Wa-sho-ti-in-gah, (White Hair brave,) his X mark.

Big Elk, (White Hair brave,) his X mark.

Ki-he-ki-na-she-p-she, (Beaver's little chief,) his X mark.

Ka-he-ga-sta-ka, (little chief Beaver's band,) his X mark.

Ve-ne-ka-ka, (little chief Beaver's band,) his X mark.

Wolfe, (little chief Beaver's band,) his X mark.

Wa-no-pa-she, his X mark.

Ne-ko-le-bra, his X mark.

Shin-ko-wa-gah, (Beaver's counselor,) his X mark.

Men-ti-anka, (brave,) his X mark.

O-pon-to-ga, (third chief Clarmont's band,) his X mark.

Wa-he-sa-he, (principal counselor old Lamor,) his X mark.

Ho-ne-ka-she, his X mark.

Night, his X mark.

Wolfe, (fourth chief Clamore's band,) his X mark.

Kob-ka-she, his X mark.

Wa-sha-tun-ka, his X mark.

Her-la-she, his X mark.

Le-he-pie, his X mark.

Pa-hungra-ha-kie, his X mark.

Ne-ka-gone, his X mark.

Me-lo-tu-mu-ni, (12 o'clock,) his X mark.

O-cunse-wa-skun, his X mark.

No-pa-wa-hre, his X mark.

Ka-la-wa-sho-she, his X mark.

Mo-kas-ko-a-la-quah, his X mark.

Kon-sa-ka-a-ree, his X mark.

O-kee-pa-lo, his X mark.

Signed in our presence this 27th day of May, A. D. 1868.

ALEXANDER B. BANKS,  
Special United States Indian Agent.

GEORGE W. YATES,  
Captain Seventh United States Cavalry.

J. S. KALLOCH,  
M. W. REYNOLDS,  
Reporter for Commission.

MOSES NEAL,  
CHARLES ROBINSON,  
W. P. MURPHY,  
WILLIAM BABCOCK.

The undersigned, interpreters of the said nation, do hereby certify that the foregoing treaty was read and interpreted by us to the above named chiefs and head men of the Osage nation, and that they declared themselves satisfied therewith, and signed the same in our presence.

ALEXANDER BEYETT,  
United States Interpreter.

LEWIS P. CHOUTEAU,  
Special Interpreter.

AUGUSTUS CAPTAIRE,  
Special Interpreter.

The question was upon adopting the resolutions reported from the Committee on Indian Affairs.

Mr. CLARKE, of Kansas. Mr. Speaker, this is one of the most remarkable transactions that has ever occurred in the whole history of this Government, one which, in my judgment, demands the earnest, serious consideration of this House. It is neither more nor less than the transfer of eight million acres of land, which properly belong to the public domain of the United States, which belong to the landless millions in all parts of the country, into the hands of a railroad corporation, to be subjected to their supreme and unlimited control.

It will be my purpose, in the brief time I shall occupy the attention of the House, to state, as well as I may, the main facts connected with this proposed speculation. This most remarkable treaty now before the Senate, and being pressed upon their attention by the most remarkable and unjustifiable means, was made and framed in all its details and in all its essential features between the high contracting parties here in the city of Washington long before it was transmitted by the commission appointed by the President to the Indian country; it was so framed several months before it was sent to the Indian country by the commission appointed by the President; in fact, it was not made by the commission at all, but by the parties in interest, who design to absorb eight million acres of land which properly belong to the public domain of the United States.

This great body of land is located on the southern line of the State of Kansas, running two hundred and fifty miles from east to west, and fifty miles from north to south, immediately on the northern borders of the Indian territory.

Sir, it is not extravagant to say, looking to the development of Kansas and Missouri in view of the valuable franchises conferred upon the various roads there by the Government, that this body of land, the best land within the area of the whole country, is worth at least at this very moment \$12,000,000; \$150 per acre. And yet it is proposed by this treaty to transfer this immense tract of land, comprising one-sixth of the State of Kansas, into the hands of one man, Mr. William Sturges, of Chicago, who is in fact the Leavenworth, Lawrence, and Galveston Railroad Company. I will say in reference to this corporation that it is a public enterprise in which the people of that whole sec-

tion of country from Lake Superior to the Gulf of Mexico are immensely and deeply interested. It is one in which the people of Kansas are anxious to aid in a proper and reasonable way. It is one which I, as a member of this House and as a citizen, should feel bound to aid by any proper means in my power.

Sir, as I have said before, this proposition is a remarkable one; it is an unjustifiable one; it is one wrong in principle, and one accomplished, I believe, by improper means. I have said at a moderate estimate this great body of fertile lands is worth at least \$12,000,000. In addition to this, up to this time this railroad company has received from the State of Kansas one hundred and twenty-five thousand acres of land through the action of the Legislature of that State—worth at least three dollars an acre—amounting to \$375,000. It has also received from the Government five hundred thousand acres of land along the line of the road—land worth at least \$750,000. It has also received from the county of Douglas \$400,000 in bonds, and from other counties \$500,000 in bonds; making in the aggregate \$14,025,000 as the amount of franchises conferred upon this road if this treaty pending in the Senate shall receive the sanction of that body. Now, sir, all this railroad proposes to do is to build one hundred and fifty miles of road at the rate of twenty miles per year, which, at a liberal estimate, can be constructed for \$25,000 a mile, making \$3,750,000; leaving an absolute profit to the company of \$10,275,000.

Now, sir, there are many questions affecting the public prosperity, the rights of individuals, and the interests of the State I have the honor to represent upon this floor, and also affecting the interests of the whole country, which demand an investigation in connection with this most remarkable treaty.

Sir, the people of Kansas are anxious to have an outlet upon the Gulf of Mexico. In this anxiety I fully share. But, sir, notwithstanding that, I have abundant evidence in extracts from newspapers and letters that they earnestly protest against this treaty in its present obnoxious form. My constituents demand protection from all systems of land monopoly. They protest against injustice in all its forms. They ask, if this land is to be used for the benefit of railroads, that provision be made to open it to immediate settlement at a stated price per acre, and that the profits accruing be used to construct at least eight hundred miles of different railroads, instead of one hundred and fifty miles, as provided in this treaty. They are willing to encourage the Galveston road to an extent necessary to secure its speedy construction. But they are not willing the whole substance of the State should be absorbed and the rights of the masses infringed by exorbitant and unreasonable demands.

I send to the Clerk's desk, and ask to have read, the following article from the Lawrence Tribune, one of the leading journals in my State.

The Clerk read as follows:

"We are not very familiar with the new treaty, except that we learn that eight million acres of the best lands in Kansas have been contracted by the high contracting parties for twenty cents per acre, on the condition that the Galveston Railroad Company shall construct only twenty miles of railroad per year. This is unreasonable and unjust, not particularly to the Indians, for we do not go much on Mr. 'Lo,' but to the hard-working, honest settlers of Kansas. It is right to encourage railroads and railroad men, but the settlers and all the people of Kansas have rights which white men are bound to respect."

"It is unjust, because Mr. Sturges and his friends agreed to build this road to the south line of the State, without any Indian donation, within two years from the time the franchise was donated to them, and he and his friends have no right to require seven years for what they agreed to accomplish."

"It is unjust to the people, because no limit is made to the price which the railroad company may ask for these lands."

"It is unjust to the tax-payers of Kansas, because it places it in the power of one man to prevent the settlement of at least one tenth of the State, except upon his own terms."

"It is unjust to the State, because these lands are sufficient to secure the building of the whole line of the road to Galveston, by a larger donation to them than is given even to the Union Pacific railroad."

"Either the company should be compelled to build the road through to Galveston, or to construct one hundred and fifty miles of the branch by way of Emporia.

Hon. William Spriggs, who is well acquainted with those lands, told us that they were unexcelled by any lands on which he had ever set his eyes. It is a low estimate to call them worth \$8,000,000 more than the company pay for them, and it is not extravagant to say that the company will realize \$25,000,000 for them.

"By no means would we say anything to defeat the road; but we would plead for its speedy construction. Let the treaty be so amended as to require a sufficient amount of road to be constructed, first upon the main line, then on the branch toward Emporia. The Neosho valley, that enterprising and prosperous portion of Kansas, on and near which these lands lie, have rights in the public domain. The good sense of the managers of this enterprise ought to teach them that the enormity of this grant requires them at once to suggest such amendments.

Never was such an opportunity presented for the development of a country as is now offered to southern Kansas in this treaty, and our Senators and Congressmen will have a heavy responsibility resting upon them if this \$25,000,000 worth of land is not made to construct at least six hundred miles of Kansas railroads."

Mr. CLARKE, of Kansas. I also call attention to the following article from the Lawrence Republican:

"The principle on which this treaty is founded, as we understand it, is the purchase of eight million acres of very choice lands from the Osage Indians by the Government at twenty cents per acre, and a donation of all the net profits arising from the sale of the same to the endowment of railroads in Kansas.

"The net proceeds from these lands have been variously estimated at from eight to twenty-five million dollars; and we think we are safe in saying that \$16,000,000 can be realized from that source without seriously retarding the settlement of the country.

"This settled, the next question arising is, how shall this sum be appropriated? The treaty, in its present shape, appropriates the whole sum to the construction of one hundred and fifty miles of the Galveston railroad, amounting to more than \$100,000 per mile, which no one can fail to recognize as a reckless waste of resources, and one which, if submitted to, will convict our Senators in Congress of the grossest neglect of the best interests of the State they represent.

"We look upon the Galveston railroad as an enterprise in a national point of view, second only to the Union Pacific; and in the first place this treaty should be amended by the Senate as to secure the construction of that road beyond contingency. This most desirable object can be effected by the appropriation of one half of the sum above named, which would be equal to a donation of \$16,000 per mile for a distance of five hundred miles. At that distance from the present terminus of the road, the road now being constructed from Galveston northward would be met. No one can doubt, for a moment, that a donation of this magnitude, and the liberal land grants already made to this road, together with what the Cherokees and the State of Texas propose to give, will make it the most richly endowed road on the continent, and secure its speedy construction beyond a doubt.

"What shall we do with the remaining eight millions, equal to an endowment of \$16,000 per mile for five hundred additional miles of railroad in Kansas? We could use one fourth of that sum in the construction of the Emporia and Olathe railroads, of the first importance, and enterprises worthy of the first consideration. This still leaves us six millions for other roads that are alike needy and equally important.

"It is in the power of the Senate so to amend this treaty as to secure the construction of at least one thousand miles of railroad in the place of the one hundred and fifty, as provided for in the treaty, and our Senators thus have an opportunity of conferring benefits on all parts of the State that they represent of the first magnitude. We trust they will not let the opportunity pass without improvement."

The Junction City Union, an influential journal, published in the interior of Kansas, speaks as follows:

"Much indignation has been created throughout the State by the unfairness of and manifest swindle existing in the terms of the treaty made with the Osages. It was made entirely in the interest of the Leavenworth, Lawrence, and Galveston Company, whose road does not touch the lands. The tract treated for consists of eight million acres on the south border of Kansas, and is fifty miles north and south by two hundred and fifty east and west. It comprises nearly one fifth the State, and is fertile and productive in the extreme. This land all goes to a railroad company for \$1,600,000, or twenty cents per acre, no endowment for State schools, and no provisions made for the half-breeds. Other companies desired to purchase the lands, but the commissioners refused their propositions, claiming they were only authorized to treat in behalf of the Lawrence and Galveston Company. There is no security to the Indians for the payment of their money, only \$100,000 being paid in money within three months from the ratification of the treaty, and the residue in the bonds of the company, running through a period of fifteen years.

"It is claimed that the land is sufficient to build three or four railroads. While it is manifestly unjust to Government and dishonest to grant such extravagantly liberal donations, the State of Kansas has a

far greater interest in the manner of the disposition of the land. The policy of making land grants to railroad companies has become oppressive by the high rates fixed upon the land, whereas if the terms of treaty established that the proceeds of the land should go to railroad companies, the settlement of the country is rapidly promoted instead of retarded. We understand that Congressman CLARKE months ago announced that he would fight the ratification of any treaty which stipulated that the land, instead of the proceeds, should go to a railroad company. Some very bitter opposition has sprung up to this treaty, and we hope for the good of the State it may fail to be ratified."

I might quote from many other journals of my State extracts of the same importance, but this is unnecessary. But not only the press, but the people appeal to us for relief from this threatened injustice. I ask to have read the following letter from a well-known citizen of Kansas.

The Clerk read as follows:

VERDI, KANSAS, June 7, 1868.

DEAR SIR: I wish to say that the treaty recently made with the Great and Little Osage Indians, including the trust lands, we regard as wrong in principle. The public domain, as far as the title of the Indian is extinguished, should be held sacred to the use of the settler who by his labor improves and cultivates, and by so doing develops the country. The purchase of millions of acres to be owned by one individual or company is dangerous. Place one fifth of this State in the control of one company and you build up monopolies that we cannot but regard as very dangerous. I am living on the trust land here. We supposed the land being treated for we had a right to settle, and by proclamation of sale had a right to think that ere this we would be in possession of a certificate of purchase from the Government. But, instead, there seems to have been a studied effort to drop us in the dark, and now there are various rumors: first, that there is no provision for the settler; second, that there is some kind of partial provision by which some of us must lose largely of our improvement. We learn, also, there is no provision at all for those that were settled on the Osage diminished reserve. This would ruin many families who have expended all their means on the land. What I want is for you to exercise your influence in behalf of the settler, and save our young State, of which we are justly proud, from the clutches of such soulless corporations.

Ever yours,  
Hon. SIDNEY CLARKE, M. C.

J. A. BEANE.

Mr. CLARKE, of Kansas. The following letter is but one of many of the same character:

VERDI, WILSON COUNTY, KANSAS,  
June 7, 1868.

SIR: Permit me to call your attention to the treaty made with the Osage Indians in favor of Sturges & Co., May 27th last. Every settler here feels that the treaty is a great swindle.

The settlers living on the Indian land are not respected in the treaty, and the settlers on the trust land are not given the privileges that are usually given by the Government in selecting their claims, and, what is still more important, have to settle with a company instead of the Government, and take a bond for a deed and wait fifteen years for a good title. No one here wants to trust a company in this way.

I will not attempt to give any further particulars, but earnestly ask you to look into the matter and stand between the settlers and this great wrong, which I trust you will do.

Respectfully, your obedient servant,

E. H. PARRIS.

Hon. SIDNEY CLARKE.

The following sets forth the facts in reference to the settlers on the trust lands:

HUMBOLDT, KANSAS, June 3, 1868.

DEAR SIR: Knowing you to be the friend of the settler, I would call your attention to a matter of the most vital interest to a large portion of your constituency—the settlers on the Osage trust lands. The treaty just made with the Osages, and soon to be referred to the Senate for ratification, provides that the settler shall purchase one hundred and sixty acres at \$1 25, but it restricts the settler to the limits of the same quarter section, which, if ratified in its present form, will be most ruinous to the settler. There are three facts that must be taken into consideration in determining the rights of the settler. 1. A large proportion of the settlements were made prior to the Government survey, and they could not locate their claims in reference to quarter section lines. 2. The entries under the fourth article were irregular in shape, leaving the adjoining claims also in an irregular shape—so the settler cannot enter one hundred and sixty acres in the same quarter section. 3. Also, the settler made his improvements with the view of purchasing his lands at public sale, and of course could have purchased in any shape. In perhaps the majority of instances two or three settlers live on the same quarter section, with their improvements around, so under this provision all but one will be defeated in his entry, and he can enter all the improvements that happen to be on his quarter section without any reference to the owners thereof.

From what I know personally and have heard from all sections of the trust lands as to the location of the settlers' improvements, I know they are in no instances located in reference to section line. Under

such an unjust provision three fourths of the settlers would suffer more or less, while many it would break up entirely, for they have spent their all in their improvements, all for what? Just to give the railroad a few more acres of land at sixteen cents per acre, to the ruin of the settler.

I was present at the council and called the attention of the commissioners to these facts, and they assured me that they would so change that article as to give the settler his improvements, which I supposed was done till I saw a statement of it this morning in the Lawrence Journal. Nothing could be done then without consulting Mr. Sturges, and of course he would oppose it and the three commissioners must yield. Such a gross outrage must be checked, and the settlers are all looking to you as their Representative and friend to guard their interests. I know I express the wishes of thousands of settlers, and I most earnestly hope you will give your especial attention to this matter.

Very respectfully,

J. B. F. CATES.

Hon. SIDNEY CLARKE, Washington, D. C.

At this moment the following letter has been referred to me by the honorable gentleman from Illinois, [Mr. WASHBURN:]

LAWRENCE, KANSAS, June 2, 1868.

SIR: A treaty has just been forced from the Osage Indians, whereby they sell all their diminished reserve and trust lands, embracing eight million acres, to the Leavenworth, Lawrence, and Galveston Railroad Company for \$1,600,000, payable in sixteen semi-annual installments. Three eighths of said land are the finest in Kansas for farming, while the remainder is inexhaustibly rich in mineral wealth. The intention now is to rush this treaty hastily through the Senate upon the false assumption that unless the Osages are at once removed bloody collisions with the whites will ensue. The treaty was drafted some time since at Washington. The settlers and those who shall desire cheap homes for many years to come can rely only on you and such of your associates as are opposed to the usurpations of monopolies for relief. Appreciating your previous efforts in this direction, I now write you in behalf of all poor men who may in the next ten years desire to emigrate West, and request that you will institute an inquiry as to the means whereby so iniquitous a treaty was obtained, and why actual settlers are not allowed to obtain, by the terms thereof, their homes at \$1 25 per acre, instead of selling to a monopoly at fourteen cents per acre on sixteen years time.

I am, sir, respectfully, your obedient servant,

HENRY C. WHITNEY.

Hon. E. B. WASHBURN, Washington, D. C.

But I must not detain the House with these appeals for justice. I will conclude this testimony with the following:

OSAGE TRUST LANDS, WILSON COUNTY, KANSAS.

DEAR SIR: By request of many citizens of Kansas living upon the public domain, I send you this note, asking your influence in behalf of settlers so located. Many settlers came on these lands treated for by Mr. Sturges this season, and located themselves as permanent settlers of this State. A great number are now raising the necessities of life upon the farms of older settlers, and cannot work their own "claims" until crops are made. Towns have been surveyed and improved. Cannot such settlers and companies rely upon your protection in Congress?

Yours, &c.,

JAMES J. BARRETT, M. D.

Hon. SIDNEY CLARKE.

Mr. Speaker, aside from all this, aside from the great injustice the treaty perpetrates upon the people of my State, it is wrong in principle, wrong in fact, and ought to be earnestly and sternly resisted by the Congress of the United States. I pass, then, to the consideration of the power of this House over this question. Perhaps if we act in accordance with the past policy of the Government in reference to the transfer of these Indian reservations to individuals and private corporations we have little power in connection with this question; but, sir, representing the people of the United States, representing the interests of the whole country, it appears to me it is within the province, and within the just prerogatives and powers, of this House to enter its protest, having the facts before it, on an examination into the case by one of the legally constituted committees of the House. It is clearly within our power to enter a protest against the ratification of this treaty on behalf of the United States; and to say to the Senate that if that remarkable treaty is ratified by that body we will not make the appropriation to carry it out, and will not recognize its validity.

Mr. WASHBURN, of Wisconsin. I wish to inquire of the gentleman what provision of the treaty there is that requires legislation to carry it out. Is there any appropriation required by the terms of the treaty?

Mr. CLARKE, of Kansas. I am not able

to answer the gentleman only in a general way—that there are some appropriations necessary to be made by Congress to carry out the provisions of some treaty; not the one to which I am now alluding—in regard to the disposition of the land.

Mr. WASHBURN, of Indiana. I desire to ask the gentleman from Kansas if the title to the land is not now in the Indians, and whether it is to-day a part of the public domain.

Mr. WASHBURN, of Wisconsin. The Indians have a mere possessory right there after all.

Mr. CLARKE, of Kansas. That question has been up before this House heretofore, and I believe this body has repeatedly expressed its opinion that the Indians have only a possessory right so far as this reservation is concerned, and that it is not in the power of the Senate but of Congress to dispose of the land, which, as I said before, properly belongs to the public domain of the United States whenever it shall be transferred from the possessory right of the Indians.

Mr. SCOTFIELD. Will the gentleman allow me one moment upon that very question?

Mr. CLARKE, of Kansas. Yes, sir.

Mr. SCOTFIELD. The committee, as I understand, do not undertake to decide the question whether the Indians have a possessory right to the land or a right in fee-simple. But it is conceded on all hands that they cannot alienate the land, whatever title they may have to it, except to the United States. That is the stipulation. The question now is whether a few worthless Indians may be brought to Washington or some men not much more deserving sent out there to treat with them, and a treaty may be made with them in this way, by which the United States are made to consent to the alienation of this land to a body of speculators that may happen to fall in with the Indians and get control of their agent. The committee were of opinion, I believe all who were present—at all events I was of that opinion—that the consent to be given by the United States was not within the treaty-making power; that the President and the Senate could not give that consent to the alienation of this large body of land belonging to the public; that we could not carve out a tract of eight million acres of land, as large as the States of Massachusetts, Connecticut, and Rhode Island all together, and put it under the control of a few speculators. They may be very good men, and we have no objection to their making a fortune legitimately, but we do object to putting this land beyond the control of the United States and closing it to the right of settlement. The question now is, will the House consent that the control over this vast domain shall, under a wrong interpretation of the treaty-making power, be confined to the hands of a few men, who have in the first place got the consent of the Indian department and of the President, then the consent of a committee of the Senate, and lastly, the consent of the Senate itself. Shall this land belong to the nation or to these men?

Sir, for myself I intend never to give my consent to allowing the treaty-making power to add to or diminish the domain of this country. It has no power either to cede away the State of Maine to Great Britain or to acquire new territory on the Northwest, or to exercise exclusive control of the House of Representatives over the limits of this country either to contract or enlarge them.

Mr. CLARKE, of Kansas. Now, Mr. Speaker, I desire to say a few words in reference to the settlement of these lands, after which I will yield the floor to others who desire to be heard. When it came to my knowledge that an attempt was made to make a treaty with the Great and Little Osage Indians, I presented to the chairman of the commission the views which I entertained as a Representative from the State of Kansas in reference to the provisions which should be incorporated into the proposed treaty. And I will say here that these Indian reservations, by the permission

of the Interior Department and of the Commissioner of Indian Affairs, are occupied at this moment by thousands of settlers who have gone there in good faith and established their homes, built school-houses and churches, and introduced all the elements of civilization. Now, sir, the Secretary of the Interior ought to have known, if he did not know months ago, these facts. Under this state of facts, when it came to my knowledge that a proposition was to be made to treat with these Indians for this land I presented to the chairman of the commission the views which I entertained upon the subject in the interest of the people of my State, a copy of which I hold in my hand.

In this paper I insisted that right and justice demanded that this great body of land should be opened up to the operation of the preemption and homestead laws of the United States. But I said that if that could not be done, that if this land was to be transferred to a railroad corporation, then I insisted, in the interest of the people I represent, that this land should be opened to settlers at \$1 25 an acre, the railroad company taking the profit between nineteen cents an acre and \$1 25 an acre, which would yield to the company several million dollars in the course of the next four or five years. At the same time I urged upon the commission the propriety of protecting the settlers upon another portion of this Osage reservation included within the provisions of a bill which has already passed this House, and is awaiting the action of the Senate. I expressed the opinion that unless these essential provisions were incorporated in this treaty in the interest not only of the people of my State but of the people of the whole country who pay the taxes and have an interest in the public domain of the United States, the treaty could not and ought not to receive the sanction of the Senate of the United States:

HOUSE OF REPRESENTATIVES,  
WASHINGTON, D. C., April 13, 1868.

SIR: In a conversation on Friday last you informed me of the appointment of yourself and other gentlemen as a commission to make a new treaty with the Great and Little Osage Indians, with the view of extinguishing the title to their lands in the State of Kansas, and removal to a new reservation in the Indian territory. This result is most ardently desired by the people of my State, in accordance with the will of Congress expressed several years since, and is in harmony with the interests of the Indians and of the Government.

But there is another question in which Kansas, and the whole country, has a deep interest, and to which I desire to call your attention and the attention of your associates on the commission, before you enter upon the duties assigned you. I refer to the manner of extinguishing the Indian title to the diminished reservation, and the opening of the same to the vast flow of emigration now seeking new homes in southern and southwestern Kansas. The land for which you are to treat comprises about eight million acres. It is fertile in its soil, situated in a mild climate, is well watered and wooded, and must be in every way vastly attractive to the multitude of people now seeking homes on the new lands of the continent.

Sound public policy, as well as the interests of the Indians themselves, demands that this great body of land should be opened up for settlement at once, and placed in a position where the settlers can obtain perfect titles, and at a price not exceeding \$1 25 per acre.

It would be far preferable, and but justice to our pioneer settlers, to have this land opened up to homestead entry. But if this cannot be done, then the people of my State and the public interests generally unite in the demand that the new treaty shall provide for preemption rights at the usual price per acre. It is estimated that seventy-five thousand people are now on their way to, and are making arrangements to settle in the State of Kansas the present year. Indeed, it is not improbable that the increase of our population will be double that number. Most of these people are seeking for new and cheap lands. In behalf of these hardy pioneers, many of whom fought for the defense of the Government, whose protection they now ask from all systems of land monopoly, I earnestly appeal. As the only Representative of my State in the lower branch of Congress, I shall insist that all future treaties for the acquisition of Indian reserves in Kansas be based upon the principle I have indicated, namely, that the lands be opened up to actual settlers, free from all schemes of speculation and monopoly so disastrous to the prosperity of the new States.

I am advised that proposition will be made by railroad corporation to secure these lands by absolute purchase. To this I have no objection, provided the company making the purchase build the road through the lands, and they are immediately opened to settlement at Government price. There is probably about two million acres east of the Arkansas river and six million acres west of said river. I as-

sume that the purchase can be made from the Indians at a price not exceeding \$1,500,000, and certainly not exceeding \$2,000,000. The profits derived from the sale of the land to actual settlers during the next five years would yield enough money to build the Galveston road to the Arkansas river, at Fort Gibson, or run a road west or southwest an equal distance. Thus the interests of railroads and of the State and of actual settlers would be all subserved, and a land policy established which would add greatly to the growth and wealth of the State I represent. I do not indicate the details of this policy, but if railroad companies desire to purchase, the principles I have indicated can be easily incorporated in the detailed provisions of the proposed treaty.

There is another important question to which I earnestly call your attention.

The settlers on the land ceded and sold by the treaty proclaimed January 21, 1867, are yet without titles to their homes.

A joint resolution has been passed by the House of Representatives for the relief of these settlers and is now pending in the Senate. I appeal to your commission to meet the settlers referred to in full and free conference, and in the treaty you are about to make, provide for the full recognition of their rights, as you have abundant power to do, and thus settle the question, already too long at issue, in the interests of justice. I also recommend that you insert a clause in the new treaty recognizing the full power of Congress to legislate hereafter.

The importance of the questions to which I have referred to the interests of a large portion of my constituents, and the pressing necessities of immediate solution makes no apology on my part necessary in thus earnestly addressing you, and through you the gentlemen of the commission.

The title to the land of a country is the first question to be considered in any point of view. Especially is this true in a State like Kansas, where the people are devoted to agricultural and pastoral pursuits. It is for such a people I have the honor to seek for justice at your hands, as well as for the landless millions of the country now seeking for new homes where they can add so materially to the wealth and power of the nation.

It is but proper to add that in my opinion no treaty that does not open the lands to immediate settlement, essentially in accordance with the views I have suggested, can or ought to receive the approval of the Senate.

I ask you to make my views known to your commission and to the Secretary of the Interior.

Very respectfully, your obedient servant,

SIDNEY CLARKE.

Hon. N. G. Taylor, Commissioner of Indian Affairs, Washington, D. C.

Notwithstanding that I represent the State in which this large body of lands is situated, no attention has been paid to the views which I presented in the interest of the people of that State and of the whole country; but this treaty has been made in the interest of private parties and in the interest of a corporation. I have strenuously insisted that this land should be open to settlement by some process at \$1 25 per acre, so that the people of my State and of all the States, whenever the treaty shall be concluded, shall have the privilege of entering on these lands at the Government price, yielding the homestead privilege, which, on reflection, I think I ought not to have yielded in reference to so large a body of lands and so favorably situated for immediate settlement. But desiring to encourage this great public enterprise, desiring to secure as speedily as possible this outlet to the Gulf of Mexico from the interior of the continent by the completion of this great public thoroughfare now in process of construction, I was willing that this railroad company should receive the profit between the purchase money, nineteen cents per acre, and \$1 25, which would yield them sufficient money to make a continuous line of railroad from Fort Leavenworth, Kansas, to Galveston bay, in the State of Texas. But not satisfied with that, not satisfied with this reasonable proposition, the gentleman interested, or rather the proprietor of this road—for one man has furnished all the money for the construction—has seen fit to bring before the Senate of the United States a treaty which strikes down in the most ingenious manner the rights of the State of Kansas as a whole, as well as the rights of the people of all the States, and urges the Senate to indorse such an unjust proposition.

Now, sir, it seems to me that the action proposed by the Committee on Indian Affairs, to whom this subject has been referred, is just and proper. It seems to me that the House ought not to sit idly by and see eight million acres of the public domain of the United States transferred by treaty into the hands of a corporation or of one individual, this House,



representing the people, exercising no control or supervision over the matter whatever. The time has come here and now for us to exercise the prerogatives which properly belong to us, to put a stop to this outrage, this wrong, which is being inflicted upon the people of this country by transactions of this character, which of late have been far too frequent.

This treaty is not alone involved in a proper decision of this question. There are other treaties at this moment pending in the Senate proposing to transfer other Indian reserves—in fact other Indian reserves have been transferred into the hands of railway companies and private parties to the detriment of the interests of the people. And if this House shall, by refusing to exercise its power, by refusing to express its opinion, sanction this course of proceeding, how long will it be before the whole public domain of the United States will be absorbed by these unjustifiable means, and it will be beyond our reach to arrest this great wrong.

The Committee on Indian Affairs have thought proper to report these resolutions and to ask for them the favorable consideration of this House to assert the power which we properly possess in this matter, expressing our opinion as one of the coordinate branches of Congress, presuming that the Senate will respect that opinion, and hesitate before they give their sanction to this flagrant injustice.

I now yield for ten minutes to the chairman of the Committee on the Public Lands, [Mr. JULIAN.]

Mr. JULIAN. Mr. Speaker, the measure now before the House involves the disposition of a large portion of land in the State of Kansas, which ought to be dealt with as public land of the United States. I therefore desire to speak briefly upon the question before us.

Some ten days ago I introduced a resolution in this House calling on the President to inform the House by what authority and for what reason the large tract of territory referred to was conveyed directly to a railroad corporation in the State of Kansas, and not to the United States, by which the disposition of it would have devolved upon Congress? The President replied, through Secretary Browning, that the treaty then pending had not been officially communicated by the commissioners, and he could not therefore give the desired information.

The gentleman from Kansas [Mr. CLARKE] thereupon introduced another resolution calling on the President for the same and some additional information relative to this treaty. The President, in reply, informed the House that the treaty had been sent to the Senate, and being a secret document he could not tell us anything in relation to it.

And thus the Representatives of the people are left without any definite, certainly without any official knowledge, respecting this singular transaction; this monstrous project, involving the disposition of so large a portion of the domain of Kansas. To obtain this knowledge and bring it before this House was the purpose of the committee whose report is now before us.

Now, Mr. Speaker, the facts in this case are so very remarkable that I must beg the particular attention of the House to what I have to say. The land referred to consists of a body fifty miles wide and two hundred and fifty miles long, containing, consequently, twelve thousand five hundred square miles or eight million acres, which, divided by one hundred and sixty, will give an aggregate of fifty thousand homesteads of one hundred and sixty acres each; and allowing every head of a family to represent an average of five persons—which is the ordinary computation—it would sustain a population of two hundred and fifty thousand. The territory is larger than either of the States of Rhode Island, Delaware, Connecticut, Massachusetts, Vermont, New Jersey, New Hampshire, or Maryland. It lacks but little of being large enough to enable you to carve out of it three such States as Massachusetts, Connecticut, and Delaware.

Yet, it is proposed to transfer the whole of this domain, by a pretended Indian treaty, to a single railroad corporation in the State of Kansas, in utter disregard of the rights of the great body of the *bona fide* settlers on the land, in defiance of the authority of Congress over our Indian reservations, the moment the right of occupancy by the Indians is relinquished, and in shameless disregard of the equal rights of other railroad corporations to the aid of the Government. Such a transaction needs no other exposure than its bare statement to secure for it the condemnation of all honest men. All this land is to be sold to this railroad corporation at nineteen cents per acre, on a credit of fifteen years, payable in equal annual installments, and in the stock of the railroad company. And although a proposition was made by another railroad corporation to pay \$2,000,000, instead of \$1,600,000, and to reserve the sixteenth and thirty-sixth sections for school purposes in the interest of Kansas, and to protect the rights of settlers on this land, including the Indian half-breeds on it, yet that proposition was contemptuously spurned by the railroad company and the Indian commission having the matter in charge.

Mr. Speaker, this Indian commission was appointed by one Andrew Johnson some time ago, composed of men who seem to have been admirably fitted for the work they have done. Instead of being an Indian commission it has proved itself to be a thieving commission, whether its action is considered in relation to the Indians or to the settlers on the land or to the Government itself. I mean exactly what I say. I find certain expressive words scattered here and there through the dictionary, and when I meet with a case like this I feel justified in giving them fit employment. It was a thieving commission, organized to cheat the Indians, and aid and abet the cold-blooded rapacity of railroad monopolists.

A VOICE. Who are these commissioners?

Mr. JULIAN. The names of the commissioners are N. G. Taylor, Hon. Thomas Murphy, superintendent of the central superintendency; Colonel A. G. Boone; and Major Snow, agent of the Osage Indians.

Sir, I repeat it, this was a commission for swindling, spoliation, and plunder, and every act of this transaction brands it as I have branded it. In the name of honest people everywhere, I denounce it as the foul job of men who must have been chosen to perform it, and who have done their work with a perfection of skill and workmanship that surpasses anything I have heard of in the way of public plunder.

Mr. BURLEIGH. I ask the gentleman whether he refers to the peace commission?

Mr. JULIAN. I am glad the gentleman has asked that question, for I understand these men are not the peace commission which has gone out on a noble errand, but special commissioners appointed by the President of the United States to negotiate this swindle, a swindle, as I am reliably informed, that was concocted and worked up in the city of Washington a year ago between Mr. Sturges and the men who have acted as his tools under the name of Indian commissioners.

Mr. Speaker, these Great and Little Osage Indians had no power to cede these lands to a railroad corporation. They had, as the gentleman on my right has said, the right of occupancy upon these lands under previous treaties with the Government. The title was in the United States, and their power over the lands was simply the power of cession to the United States, and was exhausted the moment they exercised that power.

Why, sir, has it come to this that we are to sit here and recognize the right of the President and Senate to build railroads and make land grants in contravention of the powers of Congress? If we want to build the Leavenworth, Lawrence, and Galveston railroad, and endow that company with land grants for the purpose, it is for the Congress of the United States to do it, and not the Osage Indians or

the treaty-making power. The Osage Indians, as this House has repeatedly decided, had no power to transfer these lands to any railroad company. And the Senate has no power to grant away the public domain, certainly not by treating with Indians, who are the mere wards of the United States, and have no title to the land.

Conceding the power referred to by the gentleman from Pennsylvania, [Mr. SCOFIELD,] the power of the President and Senate to cede away a portion of the State of Maine, it is wholly inapplicable to the treaty with these minor children of the nation who have no title to their lands and no power by treaty, except to cede their right of occupancy to the United States.

Mr. Speaker, since the year 1861 we have had a new Indian policy. As I stated here on another occasion, prior to 1860 all our treaties with the Indian tribes went upon the principle of directly granting to the United States the lands upon which the Indians resided, and of thus giving to Congress, at once, their management. In 1861 we began this policy of special treaty stipulations by which the jurisdiction of Congress over the public domain has been to a very great extent overthrown in the interest of monopolists and thieves; and, sir, this Osage Indian treaty is the crowning flower and fruit, the rich culmination of the system. It has grown worse and worse, and more and more defiant, because it has been unchecked in its course; and this last ripe product of its infernal achievements goes very far to make respectable the ordinary thieves and pickpockets who have found their way into the jails and penitentiaries of our country.

Mr. Speaker, I invoke the interposition of this House, in the name of decency and of common justice, in checking these flagrant outrages, and calling upon the Senate to repudiate them. Let us say to our Senators that we will not recognize the validity of this treaty by paying any of the expenses occasioned by it; that we deny the right of the President to execute titles under it, and that to our utmost we condemn and protest against it.

Mr. CLARKE, of Kansas. Mr. Speaker, when I was upon the floor I ought to have stated that under this treaty it is within the power of this company to break this contract at any time. It may go on until it selects the best lands and then terminate the contract, leaving the poor lands to fall to the Government. It may terminate the treaty at any time without any penalty whatever. I yield now five minutes to the gentleman from Indiana.

Mr. SHANKS. Mr. Speaker, as a member of the Committee on Indian Affairs of this House, I am not willing to let this matter pass without at least putting upon record, in addition to the committee's report, my denunciation of the origin, practice, and purpose of this movement. I desire to call the attention of the House to the fact that if this transaction is permitted to be consummated by the consent of this House another consequence may result. The Cherokee nation, which is organized within the limits of this Government, can as well sell out their whole domain to a set of speculators, either for railroad or other purposes, who may organize within this Government a State in the hands of a few men who would have absolute control of its lands, and of course of its destiny, against the best interests of the country and people. If we permit this to be done in one portion of the territory of the United States now, and we consent to the establishment of the precedent, and allow other parties to do the same thing, the result will be that all the vast region now controlled or occupied by the Indians will become the property of individuals, contrary to the settled policy of this Government, which has been to open all its domain to settlement and improvement. In addition to that it will necessarily require appropriations of money out of the public Treasury to carry out these treaty stipulations.

It should be the purpose of this Government

to prevent fraud in all transactions connected with the public lands. It should be its purpose to carry out more extensively than heretofore the great educational interest which it has inaugurated by encouraging the establishment of schools and colleges throughout the great West by the aid of lands donated for that purpose. Now, sir, in all this vast tract there is no provision for a single school if this act is consummated. That whole region of country will be left in the darkness of ignorance for years and years to come, while grasping speculators shall wring from unwilling hands whatever prices they may choose to exact for their lands. The country will be deprived of all those improvements which are necessary to the progress of civilized society. I wish to say, as one member of this committee, that I look upon this as one of the most gigantic frauds ever sought to be perpetrated on the Government or people; and the same foul parties, practices, and purpose are at the bottom of it that stamp with infamy all the proceedings of this most cursed Administration.

Mr. SHELLABARGER. Mr. Speaker, I am amazed at what is represented to be the action of the executive part of the Government of the United States touching the ceding of these lands lying within one of the States to a corporation. What is the nature and extent of this treaty power of the United States? It is the power of one sovereign State—the United States of one part—to make with any other sovereign a contract which becomes the law of the land, and so binding that it cannot be changed either by the United States or by any State; and if by treaty the President and the Senate can dispose of one sixth of the territory of one State of this Union, so as to give these lands to a corporation or individual, then so could they contract with any foreign State that such foreign State might purchase and own and exercise jurisdiction over such lands within such State. This results from the very nature of the power to make treaties. Whatever does come fairly within the power of the United States to make a treaty about it must be a thing touching which the power to contract is complete and unlimited, unless to appropriate money, and in which the contract may in all respects be whatever the parties having the power to contract may choose to make it. If, then, the lands within a State can be ceded by treaty to corporations, through the power given by the treaty to Indians, so can they be so ceded by contract to a foreign State with such power and jurisdiction as the contractors may please.

Now, sir, can this be possible; when, by the Constitution, the United States cannot acquire any land or exercise any jurisdiction over any land within any State except only such as by "the Legislature of the State in which the same shall be for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings?" And even to this limited extent and for these limited purposes, these lands cannot be acquired and perpetually governed except by the authority, not of the treaty-making power, but of the Congress, and with the assent of the Legislature of the State. And can the President and Senate, by treaty, dispose of one sixth of a State or all of a State to whomsoever the treaty-making power is competent to contract with, and confer such rights, jurisdictions, and powers as the United States can give over everything which is within its power to make treaties about. It may be said that this treaty does not attempt to do more than confer title to these lands, a thing the United States clearly may do, and does not withdraw them from the jurisdiction of the State of Kansas, nor to give them to a foreign jurisdiction. The obvious reply to that suggestion is, first, that I have already given. I am not arguing that the United States could not by law authorize this title to be sold to this corporation; but I am arguing that whatever the United States can dispose of by treaty must be a thing as to which the treaty may be made, whatever the contracting parties may

deem it wise to make it; and I conclude that, just because it is evident that the treaty could not stipulate with the Indians that these lands should be forever the property of the United States and subject to its exclusive jurisdiction, or that the treaty could not grant these lands to a foreign State, therefore this subject-matter of the disposal of the public lands cannot come within the scope of that treaty-making power which, in its nature, must be so unlimited. No, Mr. Speaker, the power to dispose of the public lands is to be found in that clause of the Constitution which gives to Congress, and not to the treaty-making power, the "power to dispose of and to make all needful rules and regulations respecting the territory and other property belonging to the United States." This clause of the Constitution is plainly a power to dispose of the lands of the United States by providing for their sale and conveyance of title, and to govern them while they are the property of the Government. And obviously this is precisely what is here attempted to be done by the treaty-making power, but which the Constitution expressly intrusts to Congress. Surely, Mr. Speaker, if the action of the Executive in this matter were done deliberately and in full view of the usurpation it seems to me to involve, and is such as described by the gentlemen who have spoken, it would make a proper case for such proceeding as has just failed at the other end of the Capitol. According to my memory heretofore the Congress, and not the treaty power, has disposed of the public land, and this is a new practice.

Mr. JULIAN. I merely wish to correct the gentleman from Ohio on a matter of fact. For some seven years past the President and Senate have been doing exactly such things on a smaller scale as are proposed in this infamous treaty, and it is to check and prevent the continuance of that policy that the proceeding now before the House is directed.

Mr. SHELLABARGER. Do I understand the gentleman to say that by treaties we have been giving away lands within the States?

Mr. JULIAN. In repeated cases we have done it within the last few years. I wish to say further, that while I agree with the gentleman as to the power by treaty to accept and receive grants of lands by the United States, I wish to remind him that that does not apply, and cannot apply, to these Indian lands, the titles to which are in the United States, while the right of occupancy alone is in the Indians, who may certainly cede that right to the United States, but certainly could not cede it to any corporation.

Mr. SHELLABARGER. I am glad the gentleman has reminded me of what I meant to say touching the anomalous character of our treaties with the Indians, and their anomalous relations to the United States. As to the fact he states that such treaties have been made, though the fact had escaped my memory, it does not make right or sanctify a manifest usurpation of the powers of Congress over the disposal of the public lands. As to the relations which the United States sustain and assume toward Indian tribes in treating with them, what I wanted to say is that we treat with them, not really as foreign nations, but as the inhabitants of our country and as the wards of the United States; and we treat with them generally not in the way of the ultimate and final disposal of the public lands, but only as to their possessory rights, leaving the final disposal of their lands to the action of Congress whenever the Indian titles may be terminated.

Mr. CLARKE, of Kansas. I would inquire of the Chair how much time I have left.

The SPEAKER *pro tempore*, (Mr. DAWES.) The gentleman has seven minutes of his hour remaining.

Mr. CLARKE, of Kansas. I now yield to the gentleman from Ohio [Mr. CARY] for five minutes.

Mr. CARY. I regret exceedingly that I can have but five minutes on a question of this magnitude. I am in favor of the adoption of

these resolutions. I think it is our duty, as far as possible, to arrest this gigantic swindle, a swindle not only upon the Indians, but upon the settlers who may be there, upon the State of Kansas, and more than all a gigantic swindle upon the whole people of this country.

It is proposed to permit these Indians to convey eight million acres of the most fertile portion of Kansas to a railroad corporation, for a railroad that will cost to build it not to exceed \$3,000,000, while the lands ceded are worth to-day \$12,000,000, leaving a clear profit of \$9,000,000 to a single individual who owns that railroad. The amount of territory proposed to be ceded is one third as large as the State of Ohio, and twice as large as the State of Massachusetts. Gentlemen upon the other side speak of this treaty as an act of "this infernal administration." Sir, the President has had, the Senate have had, and the Osage Indians have had bad examples and bad precedents set them heretofore. This is but another of the swindles that have been practiced upon the people of this country in regard to public lands. This is like the case of the Pacific railroad. In that case a few men organized a railroad corporation and obtained a subsidy from Congress nearly large enough to build the road, and then they obtained a cession from Congress, not from the President of the United States, not from the Senate alone, but from this House of Representatives, of land enough to make four such States as New York, Pennsylvania, Ohio, and Indiana, and have enough left over to make two States like Massachusetts.

Now, no wonder, after such an example as that, that these untutored savages are willing to give eight million acres of land to a little contemptible railroad company, whose road does not go anywhere near this land.

Sir, this whole system is a swindle. I insist that the Congress of the United States are only the trustees of the public domain, and that we have no right to grant these lands to any railroad corporation under heaven. You may give the proceeds of public lands to railroads; but the lands themselves are the inheritance of the whole people. Every man who will settle upon these lands, and open up a farm and cultivate it, is entitled to the privilege of doing so. But I cannot be led into a general discussion of this subject upon this proposition. I think it is the imperative duty of this House to pass these resolutions, to pass other resolutions, to do anything to prevent this swindle upon the people of this country and upon the Indians. This treaty proposes to give eight million acres of our public land to a railroad corporation whose road will not go anywhere near it. It is part and parcel of the whole system of railroad land-grant legislation. The President of the United States, the Senate of the United States, and the Osage Indians are doing in this case only what the Thirty-Ninth Congress did in precisely a similar case.

Mr. CLARKE, of Kansas. The Committee on Indian Affairs have instructed me to offer a substitute for the second resolution, as follows:

*Resolved*, (as the sense of this House,) That the objects, terms, conditions, and stipulations of the aforesaid pretended treaty are not within the treaty-making power, nor are they authorized either by the Constitution or laws of the United States; and therefore this House does hereby solemnly condemn the same, and does also earnestly but respectfully express the hope and expectation that the Senate will not ratify the said pretended treaty.

The resolution originally reported from the committee was as follows:

*Resolved*, That this House does hereby solemnly and earnestly protest against the ratification of the stipulations of said pretended treaty by the Senate, and will feel bound to refuse any appropriation in its behalf, or to recognize its validity in any form.

The question was upon the substitute; and being taken, it was agreed to.

Mr. CLARKE, of Kansas. I now call the previous question upon the series of resolutions as amended.

The previous question was seconded and the main question ordered.

The series of resolutions were then unanimously adopted.

Mr. CLARKE, of Kansas, moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CLARKE, of Kansas. I move that the report and accompanying documents be printed in the Globe.

The motion was agreed to.

Mr. CLARKE, of Kansas. I now make the ordinary motion to print the report and papers accompanying it.

The motion was agreed to.

#### HOGAN VS. PILE.

Mr. COOK, from the Committee of Elections, in the matter of the contested-election case of Hogan vs. PILE, submitted a report concluding with the following resolution:

*Resolved*, That WILLIAM A. PILE is duly elected a member of this House from the first district of Missouri.

The report was laid upon the table, and ordered to be printed.

Mr. CHANLER submitted a minority report, which was also ordered to be printed.

#### M'KEE VS. YOUNG.

Mr. COOK. Mr. Speaker, I wish, as I understood the tax bill will be reported on Monday next, and as it is made the special order from day to day to the exclusion of all other business, to give notice that I will on Saturday call up after the morning hour the case of McKee against Young.

#### HANNAH MOORE.

Mr. HILL, by unanimous consent, moved that the petition of Hannah Moore be taken from the table, and referred to the Committee on Invalid Pensions.

The motion was agreed to.

#### CHARGES AGAINST A SUPREME COURT JUDGE.

Mr. BOUTWELL, from the Committee on the Judiciary, moved that that committee be discharged from the further consideration of a resolution referred to them relative to one of the justices of the Supreme Court of the United States, and that the same be laid on the table.

The motion was agreed to.

#### UNITED STATES COURTS IN TENNESSEE.

Mr. BOUTWELL, from the Committee on the Judiciary, reported back Senate bill No. 377, to change the time of holding the district and circuit courts of the United States in the several districts in the State of Tennessee, with an amendment.

The bill provides that the circuit and district courts for the district of East Tennessee shall hereafter be held at Knoxville, on the second Mondays of March and September in each year; for the district of Middle Tennessee at Nashville, on the third Mondays of April and October of each year; and for the district of West Tennessee at Memphis, on the fourth Mondays of May and November of each year. All recognizances, indictments, or other proceedings, civil and criminal, now pending or returnable in those courts, are to be entered in court and be heard and tried according to the times of holding the courts as herein provided. The act is to take effect from and after the first Monday in July, 1868.

The amendment was read as follows:

Strike out "March and September" and insert "January and July."

The amendment was agreed to.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that that body insisted on its amendment to

House bill No. 1059, to relieve certain citizens of North Carolina of disabilities, non-concurred in by the House and agreed to the committee of conference asked for, and had appointed Mr. STEWART, Mr. WILSON, and Mr. SHERMAN the managers of said conference on its part.

It further announced that the Senate had passed a bill (S. No. 440) supplementary to an act entitled "An act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, in which the concurrence of the House was requested.

It further announced that the Senate had indefinitely postponed House bill No. 970, to provide for a temporary and provisional government for Alabama.

It announced, in conclusion, that the Senate had passed without amendment House joint resolution No. 295, to authorize the Secretary of the Treasury to remit the duties on certain articles contributed to the National Association of American Sharpshooters.

#### APPEALS FROM THE COURT OF CLAIMS.

Mr. BOUTWELL, from the Committee on the Judiciary, reported back Senate bill No. 164, to provide for appeals from the Court of Claims, and for other purposes, with the recommendation that it do pass.

The first section provides that an appeal to the Supreme Court of the United States shall be allowed on behalf of the United States from all the final judgments of the said Court of Claims adverse to the United States, whether such judgments shall have been rendered by virtue of the general or any special power or jurisdiction of said court under the limitations now provided by law for other cases of appeal from said court.

The second section provides that said Court of Claims, at any time while any suit or claim is pending before or on appeal from said court, or within two years next after the final disposition of any such suit or claim, may, on motion on behalf of the United States, grant a new trial in any such suit or claim and stay the payment of any judgment therein, upon such evidence (although the same may be cumulative or other) as shall reasonably satisfy said court that any fraud, wrong, or injustice in the premises has been done to the United States. But until an order is made staying the payment of a judgment the same shall be payable and paid as now provided by law.

The third section provides that whenever it shall be material in any suit or claim before any court to ascertain whether any person did or did not give any aid or comfort to the late rebellion, the claimant or party asserting the loyalty of any such person to the United States during such rebellion shall be required to prove affirmatively that such person did, during said rebellion, consistently adhere to the United States, and did give no aid or comfort to persons engaged in said rebellion; and the voluntary residence of any such person in any place where, at any time during such residence, the rebel forces or organization held sway, shall be *prima facie* evidence that such person did give aid and comfort to said rebellion and to the persons engaged therein.

The fourth section provides that no plaintiff or claimant, or any person from or through whom any such plaintiff or claimant derives his alleged title, claim, or right against the United States, or any person interested in any such title, claim, or right, shall be a competent witness in the Court of Claims in supporting any such title, claim, or right, and no testimony given by such plaintiff, claimant, or person shall be used; provided that the United States shall, if they see cause, have the right to examine such plaintiff, claimant, or person as a witness, under the regulations and with the privileges provided in section eight of the act passed March 3, 1863, entitled "An act to amend an act to establish a court for the investigation of claims against the United States," approved February 24, 1855.

The fifth section provides that from and after the 1st day of July, 1868, the Attorney General of the United States for the time being shall, with his assistants, attend to the prosecution and defense of all matters and suits in the Court of Claims on behalf of the United States. There shall be appointed by the President, by and with the advice and consent of the Senate, two assistant Attorneys General, who shall hold their offices for four years respectively, unless sooner lawfully removed, and whose salaries shall be \$4,000 each per year, payable quarterly, and who shall be in lieu of the solicitor, assistant solicitor, and deputy solicitor of the Court of Claims, and of the Assistant Attorney General now provided for by law; and the existing offices of solicitor, assistant solicitor, and deputy solicitor of the Court of Claims, and of Assistant Attorney General, are hereby abolished from and after the 1st day of July, 1868. The Attorney General shall have power to appoint two additional clerks of the fourth class, and one clerk at a salary not exceeding \$2,000, in his office.

The sixth section provides that it shall also be the duty of the said Attorney General and his assistants, in all cases brought against the United States in said Court of Claims founded upon any contract, agreement, or transaction with any executive Department, or any bureau, officer, or agent of such Department, or where the matter or thing on which the claim is based shall have been passed upon and decided by any Department, bureau, or officer intrusted by law or Department regulations with the settlement and adjustment of such claims, demands, or accounts, to transmit to said Department, bureau, or officer, as aforesaid, a printed copy of the petition filed by the claimant in such case, with a request that the said Department, bureau, or officer to whom the same shall be so transmitted as aforesaid, will furnish to said Attorney General all facts, circumstances, and evidence touching said claim as is or may be in the possession or knowledge of the said Department, bureau, or officer; and it shall be the duty of the said Department, bureau, or officer to whom such petition may be transmitted and such request preferred as aforesaid, without delay, and within a reasonable time, to furnish said Attorney General with a full statement of all the facts, information, and proofs which are or may be within the knowledge or in the possession of said Department, bureau, or officer, relating to the claim aforesaid. Such statement shall also contain a reference to or description of all official documents or papers, if any, as may or do furnish proof of facts referred to in said statement, or that may be necessary and proper for the defense of the United States against the said claim, together with the Department, office, or place where the same is kept or may be procured. And if the said claim shall have been passed upon and decided by the said Department, bureau, or officer, the statement or answer to be transmitted to said Attorney General, as hereinbefore provided, shall succinctly state the reasons and principles upon which such decision shall have been based. In all cases where such decision shall have been made upon any act of Congress, or upon any section or clause of such act, the same shall be cited specifically. And if any previous interpretation or construction shall have been given to such act, section, or clause by the said Department or bureau transmitting such statement, the same shall be set forth succinctly in said statement, and a copy of the opinion filed, if any, shall be annexed to such statement and transmitted with the same to the Attorney General aforesaid. And where any decision in the case shall have been based upon any regulation of an executive Department, or where such regulation shall or may, in the opinion of the Department, bureau, or officer transmitting such statement, have any bearing upon the claim in suit, the same shall be distinctly referred to and quoted *in extenso* in the statement transmitted to said Attorney General; provided, however, that where there



shall be pending in the said court more than one case, or a class of cases, the defense to which shall rest upon the same facts, circumstances, and proofs, the said Department, bureau, or officer shall only be required to certify and transmit one statement of the same, and such statement shall be held to apply to all such classes of cases as if made out, certified, and transmitted in each case respectively.

The seventh section provides that it shall and may be lawful for the head of any executive Department, whenever any claim is made upon said Department, involving disputed facts or controverted questions of law, where the amount in controversy exceeds \$3,000, or where the decision will affect a class of cases or furnish a precedent for the future action of any executive Department in the adjustment of a class of cases, without regard to the amount involved in the particular case, or where any authority, right, privilege, or exemption is claimed or denied under the Constitution of the United States, to cause such claim, with all the vouchers, papers, proofs, and documents pertaining thereto, to be transmitted to the Court of Claims, and the same shall be there proceeded in as if originally commenced by the voluntary action of the claimant. And the Secretary of the Treasury may, upon the certificate of any Auditor or Comptroller of the Treasury, direct any account, matter, or claim of the character, amount, or class described or limited in this section to be transmitted, with all the vouchers, papers, documents, and proofs pertaining thereto, to the said Court of Claims, for trial and adjudication; provided, however, that no case shall be referred by any head of a Department unless it belongs to one of the several classes of cases as to which, by reason of the subject-matter and character, the said Court of Claims might, under existing laws, take jurisdiction on such voluntary action of the claimant. And all the cases mentioned in this section which shall be transmitted by the head of any executive Department, or upon the certificate of any Auditor or Comptroller, shall be proceeded in as other cases pending in said court, and shall, in all respects, be subject to the same rules and regulations; and appeals from the final judgments or decrees of the said court therein to the Supreme Court of the United States shall be allowed in the manner now provided by law. The amount of the final judgments or decrees in said cases so transmitted to said court, where rendered in favor of the claimants, shall in all cases be paid out of any specific appropriation applicable to the same if any such there be; and where no such appropriation exists the same shall be paid in the same manner as other judgments of said court.

The eighth section provides that no person shall file or prosecute any claim or suit in the Court of Claims, or an appeal therefrom, for or in respect to which he or any assignee of his shall have commenced and has pending, or shall commence and have pending, any suit or process in any other court against any officer or person who, at the time the cause as above alleged in such suit or process arose, was in respect thereto acting or professing to act, mediate or immediately, under the authority of the United States, unless such suit or process, if now pending in such other court, shall be withdrawn or dismissed within thirty days next after the passage of this act.

The ninth and last section provides that all provisions of any act incompatible herewith be, and the same are hereby, repealed.

Mr. BOUTWELL. I will demand the previous question, after allowing the gentleman from Illinois [Mr. WASHBURN] to offer an amendment which he desires to make.

Mr. WASHBURN, of Illinois. I move to amend by adding the following section:

SEC. — And be it further enacted, That it shall be the duty of the clerk of the said Court of Claims to transmit to Congress at the commencement of every December session, a full and complete statement of all the judgments rendered by said court for the previous year, stating the amounts thereof, and the par-

ties in whose favor rendered, together with a synopsis of the nature of the claims upon which said judgments have been rendered.

Mr. BOUTWELL. I demand the previous question on the bill and amendment.

Mr. BROOKS. I ask the gentleman if this bill has been printed as reported by the Judiciary Committee?

Mr. BOUTWELL. It has not been printed. It is a Senate bill and was printed in the Senate.

Mr. BROOKS. What amendments have been made by the Judiciary Committee?

Mr. BOUTWELL. None whatever. It is reported just as it came from the Senate. The gentleman from Illinois has just proposed an amendment requiring returns to be made by the clerk of the transactions of the court.

Mr. BROOKS. I have listened with all the attention I could give to the reading by the Clerk, but it is almost impossible to comprehend so long a bill as this. It seems to me it is driving it rather fast to put it through under the previous question.

Mr. BLAINE. It is printed, and has been on the files for a month.

Mr. STEVENS, of Pennsylvania. I wish to say that there are one or two words that are ambiguous, and I move to amend by inserting that this bill shall have no retroactive effect.

Mr. BOUTWELL. I cannot yield for that purpose. I think it unnecessary to introduce any such amendment. The bill in the nature of the case is prospective.

On seconding the previous question there were—ayes 36, noes 18; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. BOUTWELL and BROOKS.

The House divided; and the tellers reported—ayes 76, noes 20.

So the previous question was seconded.

The main question was then ordered; and under the operation thereof the amendment of Mr. WASHBURN, of Illinois, was adopted; and the bill, as amended, was read the third time.

Mr. BROOKS. I call the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 27, not voting 74; as follows:

YEAS—Messrs. Anderson, Bailey, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Bromall, Buckland, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Delano, Dixon, Donnelly, Driggs, Eggleston, Ely, Eliot, Farnsworth, Ferriss, Ferry, Fields, Gravelly, Harding, Highby, Hill, Chester D. Hubbard, Hulburd, Jenckes, Judd, Kelsey, Ketcham, Koontz, Loan, Loughridge, Marvin, McCarthy, McClurg, Mercer, Moore, Morrill, Mullins, Myers, Newcomb, O'Neill, Paine, Peters, Plants, Polsey, Pomeroy, Price, Robertson, Sawyer, Scofield, Selye, Shanks, Shellabarger, Aaron F. Stevens, Stokes, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Robert T. Van Horn, Van Wyck, Ward, Cadwalader G. Washburn, Elihu B. Washburne, William B. Washburn, Walker, Thomas Williams, William Williams, and Stephen F. Wilson—88.

NAYS—Messrs. Adams, Archer, Beck, Brooks, Cary, Chanler, Eldridge, Getz, Glossbrenner, Grover, Haight, Hawkins, Hotchkiss, Humphrey, Ingersoll, Jones, Kerr, Knott, McCullough, Mungen, Nicholson, Pruyn, Randall, Stone, Taber, Lawrence S. Trimble, and Van Trump—27.

NOT VOTING—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baker, Barnes, Barnum, Boyer, Bromwell, Burr, Butler, Dodge, Kellogg, Finney, Fox, Garfield, Golladay, Griswold, Halsey, Holman, Hooper, Hopkins, Asabel Hubbard, Richard D. Hubbard, Hunter, Johnson, Julian, Kelley, Kitchen, Ladin, George V. Lawrence, William Lawrence, Lincoln, Logan, Lynch, Moorhead, Marshall, Maynard, McCormick, Miller, Phelps, Pike, Morrissey, Niblack, Nunn, Orth, Perham, Moorehead, Pile, Poland, Raum, Robinson, Ross, Schenck, Smith, Spalding, Starkweather, Thaddeus Stevens, Greaves, Stewart, Taffe, Upson, Van Aernam, Van Aiken, Burt Van Horn, Henry D. Washburn, James F. Wilson, John T. Wilson, Windom, Wood, Woodbridge, and Woodward—74.

So the bill was passed.

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUITS IN UNITED STATES COURTS.

Mr. THOMAS, from the Committee on the Judiciary, reported adversely on the bill (H.

R. No. 801) relating to suits in the courts of the United States, and for other purposes; and the same was laid on the table.

HABEAS CORPUS ACT.

Mr. THOMAS also, from the same committee, reported adversely on the bill (H. R. No. 1219) amendatory of an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases, and for other purposes;" and the same was laid on the table.

Mr. THOMAS also, from the same committee, reported back the bill (H. R. No. 1261) amendatory of an act relating to *habeas corpus* and regulating judicial proceedings in certain cases, and for other purposes, with an amendment in the nature of a substitute therefor.

The SPEAKER. If there is no objection the substitute will be considered as an original bill.

Mr. INGERSOLL. Let the original bill be read.

Mr. THOMAS. I will explain. The two bills on which the committee have just reported adversely are provided for in this bill. In other words, we have consolidated three bills on kindred subjects into one, which the Clerk is about to read.

The substitute was read. It provides that no owner or owners of any ship or vessel or of any railway or of any line of transportation, no persons, firms, or corporations engaged in business as common carriers of goods, wares, or merchandise of any kind between the States, shall be subject or liable to answer for or to make good to any person or persons, firms, or corporations, any loss or damage which may happen to any goods or merchandise whatever which shall have been delivered to any such owner or owners, or to any ship or vessel, or to any railway, or to any line of transportation, or to any persons, firms, or corporations engaged in business as common carriers of goods, wares, or merchandise of any kind between the different States, whenever such loss or damage shall have been occasioned by the acts of those engaged in hostility to the Government of the United States during the late rebellion, or whenever such loss or damage shall have been occasioned by any of the forces of the United States, or by any of the officers in command of any such forces.

The second section provides that this act shall not be construed to affect any contract of insurance for war risks which may have been made with reference to any goods, wares, or merchandise which shall have been so destroyed.

The third section declares that the provisions of an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863, shall extend to any suit or prosecution, civil or criminal, which has been or shall be commenced in any State court against the owner or owners of any ship or vessel, or of any railway, or of any line of transportation, firm, or corporation engaged in business as common carriers of goods, wares, or merchandise, for any loss or damage which may have happened to any goods, wares, or merchandise whatever which shall have been delivered to any such owner or owners of any such ship or vessel, or of any railway or of any line of transportation, firm, or corporation engaged in business as common carriers, and where such loss or damage shall have been occasioned by the acts of those engaged in hostilities against the Government of the United States during the late rebellion, or where such loss or damage shall have been occasioned by any forces of the United States or by any officer in command of such forces, subject however to the provisions contained in the second section of this act.

The fourth section provides that where any suit is pending, or may hereafter be brought, in any State court for or against any partnership, firm, joint stock company, or corporation, and any member of such partnership, firm, joint stock company, or corporation is, when

such suit is pending, a citizen of another State, such member, whether he be plaintiff or defendant, if he will make and file in such State court an affidavit stating that he has reason to believe, and does believe, that, from prejudice or local influence, he will not be able to obtain justice in such State court, may, at any time before final hearing or trial of the suit, file a petition in such State court for the removal of the suit into the next circuit court of the United States to be held in the district where the suit is pending, and offer good and sufficient sureties for his entering in such court, on the first day of its session, copies of all process, pleadings, depositions, testimony, and other proceedings in said suit, and doing such other appropriate acts as are required to be done by the act entitled "An act for the removal of causes, in certain cases, from State courts," approved July 27, 1866; and that it shall thereupon be the duty of the State court to accept the sureties and proceed no further in the suit; and the copies aforesaid being entered in the United States court, the suit shall proceed in the same manner as if it had been brought there by original process; and all the provisions of the act referred to respecting bail, attachments, injunctions, or other restraining process, and in respect to any bonds of indemnity or other obligations given upon the issuing, or granting of any attachment or other restraining process, shall apply with like force and effect in all respects to similar matters, process, or things in the suits for the removal of which this act provides.

The fifth section provides that if a suit be commenced in any State court by a citizen of the State in which the suit is brought alone or in conjunction with any other complainants against a citizen of another State solely or in conjunction with any other person or persons, such citizen of the other State shall have the same right to remove the suit into the circuit court of the United States as if he were the only defendant, and as if all the plaintiffs were citizens of the State in which the suit is brought.

The sixth section provides that when the defendant desiring to remove a suit is a corporation created by or under the laws of a State other than that in which the suit is brought, any affidavit required for the purpose of such removal may be made by any officer, director, or agent of such corporation.

The seventh section provides that this act shall apply to suits already commenced, provided that no final hearing or final judgment or decree shall have been had thereon.

The substitute was agreed to.

The question recurred upon ordering the bill to be engrossed and read a third time.

Mr. THOMAS. I will simply remark that this is a bill analogous to laws of a like character passed repeatedly by Congress. I do not anticipate that the House desires any discussion on the subject, and I move the previous question.

Mr. WASHBURN, of Illinois. I would like to ask the gentleman from Maryland before he calls the previous question a question in relation to some of the provisions of the bill.

Mr. THOMAS. I withdraw the previous question for that purpose.

Mr. WASHBURN, of Illinois. I do not know but that the provisions of the bill may be all correct; but it is a long bill, and it was impossible for me to catch the whole meaning. If there is anything in the bill which takes away the right of the citizen of a State to sue an express company in that particular locality and have the case tried in that locality, I am opposed to it.

Mr. THOMAS. Well, that is one of the prime objects of the bill.

Mr. WASHBURN, of Illinois. Let me state a case. Suppose, for instance, one of my constituents at Galena sustains a loss by an express company of \$10,000 or of \$100, and sues the express company in the local court, does this bill authorize the express company

to take the case out of the local court at Galena and into the United States Court at Chicago to be tried there? If it does, I am against it.

Mr. THOMAS. This law may not precisely fit each individual case that may be conceived of in gentlemen's imaginations as occurring in their own vicinity. It is for general public purposes. It is founded not on any experience derived from instances in the courts of Illinois, but it has its origin in the condition of affairs in the southern States, and instead of indulging in mere declarations on the subject, I will read extracts from two letters that have been put in my possession from gentlemen well acquainted with the condition and sentiment of that country, showing the absolute necessity for legislation of this character on the part of Congress.

In one of these letters I find this declaration:

"I have been a practicing lawyer for forty-five years and upward, and think I can claim some experience in the profession. I have no hesitation in saying that the course of decisions in your cases—"

This includes judges as well as juries—

"forces me to the conclusion that it is next to impossible to defend you successfully, even when the law is on your side."

In another part of the same letter the writer says:

"I will not undertake to say that you can be protected by Federal legislation. But unless some change can be worked out from that or some other source I do believe that an institution so valuable to the public as yours is, will be compelled to discontinue its operations."

Mr. VAN TRUMP. How do those extracts explain the question of jurisdiction between the several courts, State and Federal?

Mr. THOMAS. I will come to that presently. I have other letters of like import, from one of which I will read:

"We feel bound to advise you of the strong and bitter feeling against the express companies in this State. It seems to be confined to no class of people, but to pervade all ranks in all sections, and even among the members of the bar its influence is very marked. Its violence has recently much increased, and in the excitement now prevailing in our country we meet on all sides with passionate denunciations and prejudices."

"The odium in which you are held is political. Your company is usually styled 'a Yankee concern.'"

"The contruction given to the law of carriers in this State by the courts is such that no corporation engaged in that business can live."

These letters all breathe one and the same spirit. I will respond to the inquiry of the gentleman from Ohio [Mr. VAN TRUMP] by saying that one of these bills was introduced by the distinguished lawyer from Pennsylvania, [Mr. WOODWARD,] another by a distinguished gentleman from Illinois, [Mr. INGERSOLL,] and the third by myself at the instance of constituents of mine in the State of Maryland. Now, if it is the determination of this House that those non-residents shall not have a fair hearing anywhere, then let the law stand as it now is. But if, on the contrary, you think that the citizens of the United States ought to have a fair chance before the tribunals of the United States, then pass this bill.

Mr. TRIMBLE, of Kentucky. Will the gentleman allow me to ask him a question?

Mr. THOMAS. Certainly.

Mr. TRIMBLE, of Kentucky. I would inquire of the gentleman whether or not, under the provisions of this bill, an action against a railroad company or express company or any other company named in this bill may not be removed from a State court to a Federal court; and whether any case can be prosecuted to final judgment in a State court while there is a single stockholder of the company who is a non-resident?

Mr. THOMAS. That is the very thing I am aiming at; I avow it without hesitation. We live in extraordinary times, and with an extraordinary condition of society in one section of our country; and if there be authority in the Government of the United States to rescue its citizens from the wrong done them in the State courts, then it is the duty and the prerogative of this Government to exercise that authority. It is for that purpose that bills are here reported and acted upon day after day.

And let me say to the gentleman from Kentucky, [Mr. TRIMBLE,] that we do not propose to carry citizens of Kentucky or South Carolina before a foreign jurisdiction, but before the courts of the United States, before juries of our own countrymen summoned by impartial marshals, who are sworn to try impartially the cases that come before them. We put all the citizens of the country upon the same platform, and unless the House is disposed to leave my constituents and the constituents of every member on this floor without the means of obtaining a fair trial, they will pass this bill. I now call the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. TRIMBLE, of Kentucky, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 80, nays 42, not voting 67; as follows:

YEAS—Messrs. Delos R. Ashley, Bailey, Baldwin, Beaman, Beatty, Benton, Blaine, Boutwell, Broomwell, Buckland, Butler, Calkins, Church, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Cornell, Covode, Dawes, Donnelly, Driggs, Eggleston, Ella, Elliot, Farnsworth, Ferriss, Ferry, Fields, Harding, Higby, Hill, Chester D. Hubbard, Hulburd, Jencks, Julian, Keisey, Ketcham, Kitchen, Koontz, Loan, Loughridge, Mallory, McCarthy, McClurg, Mercur, Moore, Moorhead, Morrell, Mullins, Newcomb, O'Neill, Pile, Plants, Polsley, Pomeroy, Price, Robertson, Sawyer, Seofield, Shellabarger, Smith, Spaulding, Starkweather, Stokes, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, and John T. Wilson—80.

NAYS—Messrs. Adams, Archer, Baker, Beck, Blair, Brooks, Cary, Chanler, Cobb, Cullem, Eldridge, Getz, Glossbrenner, Golladay, Grover, Haight, Hawkins, Hotchkiss, Humphrey, Ingersoll, Johnson, Jones, Judd, Kerr, Knott, Marvin, McCullough, Mungen, Niblack, Nicholson, Paine, Peters, Pruyn, Randall, Shanks, Stewart, Stone, Taber, Taffe, Lawrence S. Trimble, Van Trump, and Elihu B. Washburne—42.

NOT VOTING—Messrs. Allison, Ames, Anderson, Arnell, James M. Ashley, Astell, Banks, Barnes, Barnum, Benjamin, Bingham, Boyer, Broomall, Burr, Delano, Dixon, Dodge, Eckley, Finney, Fox, Garfield, Gravelly, Griswold, Halsey, Holman, Hooper, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Kelley, Laffin, George V. Lawrence, William Lawrence, Lincoln, Logan, Lynch, Marshall, Maynard, McCormick, Miller, Morrissey, Myers, Nunn, Orth, Perham, Phelps, Pike, Poland, Raum, Robinson, Ross, Schenck, Selye, Sitgreaves, Aaron F. Stevens, Thaddeus Stevens, Upson, Van Auker, Burt Van Horn, Henry D. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Wood, Woodward—67.

So the bill was passed.

Mr. THOMAS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER *pro tempore* (Mr. DAWES in the chair) stated that the morning hour had expired.

#### IMMIGRANT SHIPS.

The House then resumed the consideration of the special order, being House bill No. 1100, to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels, and for other purposes," on which Mr. O'NEILL was entitled to the floor.

The first reading of the bill for information was dispensed with.

Mr. O'NEILL. Mr. Speaker, I wish to state to the House that this subject came before the Committee on Commerce on the joint resolution presented by the gentleman from New York, [Mr. CHANLER,] which was followed in a few days by resolutions from the Germans of the city of Cincinnati, presented by the gentleman from Ohio [Mr. EGLESTON] and his colleague, [Mr. CARY.] I wish to say further that the preparation of the bill did not fall exclusively on me. I was aided by my colleagues of the sub-committee of the Committee on Commerce, the two gentlemen from New York, [Mr. HUMPHREYS and Mr. ROBERTSON,] and also

by Captain W. M. Mew, the efficient head of the division of steamship inspection of the Treasury Department, as well as others engaged in shipping interests. The result is the bill before the House, which we consider one eminently fitted for the purposes had in view.

I will state in a few words the object of this legislation. It seeks the enforcement of penalties never before enforced for the purpose of securing proper light, ventilation, and space upon ships carrying immigrants to this country, and to insure for them full protection in morals, health, and comfort. It provides regulations for determining the proper number of passengers each ship is to carry. It imposes the duty upon our consuls abroad of seeing that the immigrants do not come from districts infected with epidemic diseases, thus preventing the importation of pestilence, and upon the collectors of our ports at which they arrive of making thorough and proper examination of the condition of the emigrants and the vessels in which they are brought, as well as for obtaining all other pertinent information. It also attempts to prevent in future the overcrowding of passengers, thus stopping the risks of engendering disease upon the passage. In short, it looks to the entire protection of those who leave their homes abroad to come here and settle among us. Certainly no subject should attract greater attention in an American Congress, representing the territorial vastness of our country; it is dictated alike by the interests of humanity and a sound national policy.

This bill is in many respects similar to the acts of 1855 and 1860. The committee has sought to revise and improve those laws. Our general object is to see whether we cannot enforce the penalties provided by them against those who violate the law in this regard. Since we have taken up the subject a marked effect has been produced in other countries, and it is confidently believed that there will be some joint international action binding all countries from which immigrants come under one law common to all, comprising a system which will end the abuses now existing. The power of the courts has been of no avail to correct evils which have brought misery and death to hundreds of our fellow-creatures enduring the horrors of an Atlantic voyage in pest-ships.

Mr. WELKER. How does the gentleman propose to enforce the provisions of this bill? Does he do it by enforcing the penalties upon the guilty parties after coming to this country, or does he provide for an investigation of the matter before they sail from foreign countries for this country, so as to take care of the immigrants on the passage?

Mr. O'NEILL. Of course we can do nothing until the vessel reaches this country. Then we provide for enlarged jurisdiction, an improvement upon the procedure under the existing laws. We not only give jurisdiction to the United States courts, but extend it directly to the commissioners of those courts, so that there may be full and prompt remedy for the wrongs complained of. We take the power from the officers of the Treasury Department of stopping proceedings and remitting the fines and forfeitures. We also give power to the immigrants to follow the guilty parties wherever they may go within our limits. If they go to Boston, Philadelphia, or Baltimore, we give the poor immigrant who has suffered the right to follow them and sue them in the courts wherever they may be. We provide for every facility for bringing guilty parties to justice.

Mr. INGERSOLL. Is there any provision existing for the enforcement of any penalty against the ship itself? Is there any jurisdiction conferred upon any courts for enforcing rights as against the ship itself?

Mr. O'NEILL. The penalty is an alien against the vessel. In section twenty-one you will find the following provision:

That the amount of the several penalties imposed by the provisions of this act upon the owner, agent, or master, shall be liens on the vessels in the employment of which such provisions shall be violated, and

such vessels may be libeled therefor in any circuit or district court of the United States within the jurisdiction of which they shall arrive.

The House will perceive that this bill, while not putting restrictions impossible to be complied with upon those engaged in carrying immigrants to our shores, is designed to lodge in the hands of the real sufferers abundant means of redress, actually throwing open our courts to them all over the land, thus showing to the world that the moment they embark they are measurably under the protection of our beneficent laws.

The bill may possibly be made more perfect before it passes the other branch of Congress; but so far as we can we have endeavored to perfect this so that immigrants may recover for the wrongs done them. I have a few amendments to offer from the committee, after which I shall yield to the gentleman from New York, [Mr. CHANLER.]

Sundry amendments were offered by the committee, which were severally agreed to; so that the bill, as amended, will read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there shall not be carried on any vessel on a voyage between the United States and foreign territory not contiguous thereto a greater number of passengers than in the following proportion, to wit: On the second deck and lower deck, neither being an orlop deck, one passenger for every one hundred and twenty cubic feet of clear space contained therein, and on the main deck and poop deck, one passenger for every one hundred cubic feet of clear space contained therein, the space in each case to be ascertained in the manner provided by law for the measurement of tonnage. And no passenger shall be carried on an orlop or temporary deck; nor on any deck where the height or distance between decks, or from the deck to the roof or covering of deck houses, measured on the inside, is less than six feet; nor upon any deck not having good and sufficient side lights and ventilation; nor on any sailing vessel except upon the main and poop decks and deck houses, subject to the aforesaid limitation as to space and height between decks. If a greater number of "statute adults" than the number allowable by the proportion aforesaid be carried during a voyage, or be brought within the United States by a voyage, or be taken on board a vessel within the United States for a voyage, the owner, agent, or master shall forfeit fifty dollars for each passenger so carried, brought, or taken on board in excess of the number allowable by the provisions of this section. And if the number of such statute adults in excess is more than twenty-five per cent. of such allowable number, the owner, agent, and master shall be deemed guilty of a misdemeanor, and upon conviction thereof the owner or agent shall be fined not exceeding \$5,000, and imprisoned not exceeding six months, or either, at the discretion of the court, and the master shall be imprisoned not less than six months and not more than one year.

SEC. 2. *And be it further enacted,* That the owner, agent, or master shall provide for each statute adult a single berth, not less than six feet in length nor less than two feet in width, or a like space in a double berth, which shall be of the same length and at least four feet in width, divided into two compartments by a suitable partition board not less than one foot high, which berths shall be built of good and substantial material and workmanship, shall be ranged lengthwise with the vessel, against the sides or against a substantial bulkhead or other secure support extending from deck to deck, shall be separated at each end by a like partition of at least the width of the berth from any other berth or structure adjacent; there shall be no more than two tiers of berths if the height or distance between decks is less than seven and one half feet, nor more than three tiers of berths in any case, and the interval or space between the lowest berth and the deck beneath shall not be less than nine inches, and each deck on which passengers may be carried under the provisions of this act shall be divided into at least three distinct compartments, separated by a well-constructed bulkhead, the foremost of which compartments shall be occupied by single male passengers of the age of twelve years and upward; the next abaft shall be occupied by families, that is to say, consisting of husbands and their wives, and children under twelve years of age, the berths or cabins in which compartments shall be effectually separated from each other in such manner as to provide suitable privacy and seclusion for each family, or where any such cabin affords more cubic space than is required for each member of one family the extra space shall be occupied by another or part of another family; and the next compartment abaft shall be for the exclusive use and occupancy of single females of the age of twelve years and upward; and each compartment shall be connected with the deck above by suitable companionways; and in case of a non-compliance with the provisions of this section the owner, agent, or master of the vessel shall forfeit and pay the sum of five dollars for each passenger on board.

SEC. 3. *And be it further enacted,* That the owner, agent, or master shall provide for passengers of each sex a separate hospital in a compartment, properly divided off by a partition, in suitable parts of the vessel appropriated for passengers, to be used exclu-

sively as such, properly built and secured, containing not less than eighteen clear superficial feet of the deck for every fifty passengers; and such hospital or hospitals shall be fitted with bed places and supplied with proper beds and bedding and utensils, and throughout the voyage kept so fitted and supplied. And for every failure to comply with any of the requirements of this section the master, owner, or owners of the vessel shall be liable to a penalty of not less than \$100 and not more than \$1,000.

SEC. 4. *And be it further enacted,* That the owner, agent, or master shall provide the passengers in each compartment on each deck, suitable means of communication with the upper deck of the vessel by a substantial stairway furnished with a hand-rail, and covered at the upper deck by a booby-hatch or house over the passage-way leading to the compartments allotted to such passengers below deck, firmly secured to the deck or combings of the hatch, with two doors, the sills of which shall be at least one foot above the deck, so constructed that one door or window in such house may at all times be left open for ventilation. In case of a non-compliance with the requirements of this section the owner, agent, or master shall be liable to a penalty not exceeding \$500.

SEC. 5. *And be it further enacted,* That the owner, agent, or master shall provide for each compartment containing not more than one hundred passengers, at least two ventilators, one of which shall be inserted in the after part of the compartment, and the other in the forward part of the compartment, one of them provided with an exhausting cap and the other with a receiving cap proportioned to the size of the compartment. In a compartment containing two hundred such passengers, the diameter of each shall be twelve inches in the clear, and in like proportion for a larger or smaller number of passengers; said ventilators shall rise at least four feet six inches above the upper deck of the vessel, and be of the most approved form and construction; nevertheless, if it shall appear from the report to be made and approved, as hereinafter provided, that the compartments are equally well ventilated by any other means, such other means of ventilation shall be deemed a compliance with the provisions of this section. In case of non-compliance with the provisions of this section the owner, agent, or master shall incur a penalty of \$500.

SEC. 6. *And be it further enacted,* That the owner, agent, or master shall provide for the passengers on the upper deck, housed and conveniently arranged, at least one caboose or cooking-range, the dimensions of which shall be equal to four feet long and one foot six inches wide for every two hundred passengers; and provision shall be made, in the manner aforesaid, in this ratio, for a greater or less number of passengers; but nothing herein contained shall take away the right to make such arrangements for cooking between decks as may be approved by the officers charged with the execution of this act. In case of non-compliance with the requirements of this section, the owner, agent, or master shall incur a penalty of \$200.

SEC. 7. *And be it further enacted,* That the owner, agent, or master shall, during the voyage, from the time of receiving the passengers on board, and including the time of detention at any place before the termination thereof, issue to each passenger, or, where the passengers are divided into messes, to the head man for the time being of each mess, on behalf and for the use of all the members thereof, an allowance of pure water and sweet and wholesome provisions of good quality, as follows: daily, three quarts of water to each passenger, exclusive of the quantity herein specified as necessary for cooking purposes; weekly, three and a half pounds of good Navy bread, one pound of wheat flour, one and a half pounds of oat-meal, one and a half pounds of rice, one and a half pounds of peas or beans, two pounds of potatoes, one and a quarter pounds of beef, one pound of pork, two ounces of tea, one pound of sugar, two ounces of salt, one half an ounce of mustard, one quarter of an ounce of ground black or white pepper, and one gill of vinegar. Substitutions for the foregoing articles of weekly allowance may be made by the master, as follows, namely: one pound of preserved meat for one pound of salt pork or beef; one pound of flour or Navy bread, or one half a pound of pork or beef, for one and a quarter pounds of oat-meal, or one pound of rice, or one pound of peas or beans; one pound of rice for one and a quarter pounds of oat-meal; and one and a quarter pounds of oat-meal for one pound of rice; three and a half ounces of cocoa, or of coffee roasted and ground, for two ounces of tea; three quarters of a pound of molasses for one half a pound of sugar; one gill of mixed pickles for one gill of vinegar. And there shall be issued to each passenger between the United States and any Asiatic port the following allowance of provisions daily, three quarts of water; and weekly, vegetables or fruit, fresh or dried, three pounds; rice, bread, flour, and taro, seven pounds; fresh or salt meat and fish, two and three quarter pounds; tea, one and a half ounces; China oil, three fourths of a gill; butter, for cooking, three fourths of an ounce; vermicelli, two ounces. In addition to such allowance of water to each passenger, the master shall issue, for cooking purposes, an additional supply of pure water after the rate of at least ten gallons for every one hundred passengers, for every day of the voyage; and shall cause the food and provisions of all the passengers to be well and properly cooked daily, and to be served out and distributed to them at regular and stated hours, by messes, or in such other manner as shall be deemed best and most conducive to the health and comfort of the passengers, of which hours and manner of distribution due and sufficient notice shall be given. If the passengers on board any vessel engaged in carrying passengers, either between the United States



and Europe or between the United States and Asia, shall, during the time they are entitled to receive the foregoing allowance, be put on allowance in meat, bread, or water that is short in quantity or bad in quality, the master, owner, or owners of such vessel shall pay one dollar to every passenger for every day and for each particular of bread, water, and meat, in respect to which he shall be put on such allowance, and one half a dollar to every passenger for every day and for every other particular of such weekly allowance, in respect to which he shall have been put upon an allowance which is short in quantity or bad in quality, unless it shall be proved that at the time of leaving the last port from which the vessel set out upon her voyage she had on board, for the use of the passengers, well secured under deck, a quantity of provisions and water sufficient, according to the allowance herein prescribed, for the voyage. If the owner, agent, or master of any such vessel shall wilfully fail to furnish and distribute such provisions, cooked as aforesaid, he or they shall, upon conviction thereof before any circuit court or district court of the United States, be fined not more than \$1,000, and shall be imprisoned for a term not exceeding one year; but the enforcement of this penalty, or any of the penalties prescribed by this act, shall not affect the civil responsibility of the owner, agent, or master, to such passengers as may have suffered from any violation thereof.

SEC. 8. *And be it further enacted*, That the messes into which the passengers in any vessel may be divided shall not consist of more than ten statute adults in each mess, and members of the same family, whereof one at least is a male adult, shall be allowed to form a separate mess. The provisions, according to the section, shall be issued, such of them as require to be cooked, in a properly cooked state, daily, before two o'clock in the afternoon, to the head person, for the time being, of each mess, on behalf and for the use of the members thereof. The first of such issues shall be made before two o'clock in the afternoon of the day of embarkation or for such passengers as shall be taken on board. And the parents or guardians of sick or nursing infants shall be allowed free access to the cambouse or cooking range, at any time before twelve o'clock noon, or after two o'clock afternoon, and permitted there to prepare food for such sick or nursing infants. In case of non-compliance with any of the requirements of this section, the master, owner, or owners of the ship shall, for each offense, be liable to a penalty not exceeding \$500.

SEC. 9. *And be it further enacted*, That the master of every vessel shall maintain good discipline and such habits of cleanliness among the passengers as will tend to the preservation and promotion to health; and to that end he shall, before sailing, cause suitable printed regulations in the English, French, and German languages, for this purpose, to be posted conspicuously in each compartment, and shall keep the same so posted during the voyage, and shall cause the compartments occupied by such passengers to be kept at all times in a clean, healthy state; and the owner or owners of every such vessel are required to construct the decks and all parts of said compartments so that they can be thoroughly cleansed; and they shall also provide two safe, convenient privies or water-closets in suitable parts of the vessel for the exclusive use of the passengers, and each class of compartments in the proportion of one privy or water-closet to every fifty passengers, and such privies or water-closets shall not be taken down until the expiration of forty-eight hours after the arrival of the vessel at the port of final discharge, unless all the passengers sooner quit the vessel; and the passengers shall be entitled to remain on board the vessel till the expiration of such time, and be provided for and maintained in the same manner as during the voyage. And the master of every such vessel shall permit and require the passengers to bring their beds and bedding to the upper deck at least three times a week, in fine weather, for the purpose of airing the same; and the passengers shall likewise be permitted to frequently exercise on the upper deck. And the owner, agent, or master of every vessel shall provide, for disinfecting purposes, a supply of carbolic or cresylic acid, and cause the same to be used in proper quantity and in a proper manner, on the deck occupied by the passengers, and also in the hold, fore-cabin, and bilges of the vessel as the physician, or the master, if there be no physician, may deem necessary. For every violation of the provisions of this section the owner, agent, or master shall incur a penalty not exceeding \$500 nor less than \$200.

SEC. 10. *And be it further enacted*, That the owner, agent, or master of every vessel carrying on board passengers, including the officers, crew, and passengers, and of every vessel of the United States bound on a sea voyage of a thousand miles or more, and carrying one hundred persons, shall provide throughout the voyage a duly qualified physician, whose competency in the case of a domestic vessel shall be determined under such rules and regulations as the Secretary of the Treasury may prescribe. But an alien employed in a foreign vessel, who, by the laws of the country to which the vessel belongs in which he is employed, is authorized to practice, shall be deemed duly qualified; and every such vessel employed as aforesaid shall be provided, for the use of the passengers, officers, and crew, with a supply of medicines, medical comforts, surgical instruments, and other things proper and necessary for diseases and accidents incident to sea voyages, and for the medical treatment of the passengers during the voyage, including carbolic or cresylic acid for disinfecting purposes, with written or printed directions for the use of the same, respectively, good in quality and sufficient in quantity for the probable exigencies of the voyage, and properly packed and placed under the charge of the physician, when there is one on board, to be used under his direction; and in the case of vessels of the

United States bound from a port of the United States, the owner, agent, or master shall have such medicines, medical comforts, instruments, disinfecting agents, and other things, put up by an apothecary or apothecaries designated by the Secretary of the Treasury, on the recommendation of the collector, or other chief officer of the customs of the port, subject to such rules and regulations as the Secretary of the Treasury may prescribe. For any violation of the provisions of this section the owner, agent, or master shall incur a penalty not exceeding \$1,000, nor less than \$500; and any apothecary who shall supply medicines, medical comforts, instruments, disinfecting agents, or other things, in an adulterated condition, or of inferior quality, shall be deemed guilty of a misdemeanor, and on conviction thereof shall incur a like penalty; and no such vessel shall be allowed to clear from any port of the United States unless provided as in this section required.

SEC. 11. *And be it further enacted*, That the owner of every vessel of the United States carrying passengers, and bound on a sea voyage of five hundred miles or upward, shall provide for the use of the passengers, officers, and crew, medicines, medical comforts, and other things, with the directions for the use of the same, and put up as required in the preceding section in the case of vessels of the United States. And for every violation of this section the owner, agent, or master shall incur a penalty not exceeding \$500 nor less than \$100.

SEC. 12. *And be it further enacted*, That every master or other officer, seaman, or other person employed on board a vessel, who shall, during the voyage, under promise of marriage, or by threats, or by the exercise of his authority, or by solicitation, or the making of gifts or presents, seduce and have illicit connection with any female passenger, shall be deemed guilty of a crime, and upon conviction shall be punished by imprisonment for a term not exceeding twelve months, nor less than three months, or by a fine not exceeding \$1,000, or both, and the court sentencing the person so convicted may, in its discretion, by an order to be entered on its minutes, direct the amount of fine, when collected, to be paid for the use or benefit of the female seduced, or her child or children, if any. *Provided*, That the subsequent intermarriage of the parties seducing and seduced may be pleaded in bar of a conviction.

SEC. 13. *And be it further enacted*, That no officer or seaman, nor other person employed on board of any such vessel, shall visit or frequent any part of the vessel assigned to passengers, except by the direction or permission of the master of the vessel; and every officer, seaman, or other person, who shall violate the provisions of this section, shall be deemed guilty of a misdemeanor, and on conviction thereof shall forfeit to the said vessel his wages for the voyage of the said vessel during which the said offense has been committed, and shall be imprisoned for a term of not less than three months, nor more than twelve months. Any master who shall direct or permit any officer or seaman or other person employed on board of such vessel, to visit or frequent any part of said vessel assigned to passengers, except for the purpose of doing or performing some necessary act or duty as an officer, seaman, or person employed as aforesaid, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of \$500 for each occasion on which he shall so direct or permit the provisions of this section to be violated by any such officer, seaman, or other person employed on board of such ship or vessel.

SEC. 14. *And be it further enacted*, That the owner, agent, or master of every vessel shall provide one stewardess for every fifty female passengers on board, which stewardess shall be a married woman of good character, and the wife of an employé of the vessel; and one steward for every fifty male passengers on board. And it shall be the duty of the stewardess or steward, and of the physician, if there be one, and master or chief mate, to preserve proper order, decorum, and cleanliness in the female and male compartments respectively, and shall assist the physician in taking proper care of the sick, and generally superintend the police of the passenger decks; and such steward or stewardess shall not be required to assist in navigating or working the vessel, and such stewards and stewardesses shall be regularly appointed employés of such vessel, and shall not be selected from among the passengers on such vessel; and every such vessel so employed shall have on board a sea-faring man for every one hundred passengers, who shall be employed in cooking the food of the passengers; and said cook shall likewise be exempt from the duty of assisting in navigating or working the vessel. For a violation of any of the provisions of this section the master, owner, or owners shall incur a penalty of not less than \$500, nor more than \$500.

SEC. 15. *And be it further enacted*, That the provisions of the act of August 30, 1852, and the acts amendatory thereof, so far as they relate to boats and life-preservers on board passenger steamers, shall, from and after the time this act takes effect, apply with equal force and impose like penalties for their violation in the case of sailing passenger vessels belonging in whole or in part to a citizen or citizens of the United States.

SEC. 16. *And be it further enacted*, That the owner, agent, or master of any vessel carrying passengers to or from the United States shall not carry as cargo horses, cattle, gunpowder, bituminous coal, naphtha, benzine, petroleum, nitro-glycerine, lucifer matches, nor any other explosive article or articles which ignite by friction, gunpowder or green hides, nor any other article, either as cargo, as aforesaid, or as ballast, which by reason of the nature, quantity, or mode of stowage thereof, will be likely to endanger the health, comfort, or safety of the passengers; and the owner, agent, or master, who shall violate any of the pro-

visions of this section shall, for each offense, on conviction thereof, incur a penalty of not less than \$1,000 nor more than \$10,000, and, at the discretion of the court, be imprisoned for a term not exceeding one year nor less than one month.

SEC. 17. *And be it further enacted*, That the master of any vessel arriving in the United States, or any of the Territories thereof, from any foreign place whatever, at the time that he delivers a manifest of the cargo, and if there be no cargo, then at the time of making report or entry of the vessel, pursuant to law, shall also deliver and report to the collector of the district in which such vessel shall arrive, a list or manifest of all the passengers taken on board of the said vessel at any foreign port or place; in which list or manifest it shall be the duty of the said master to designate particularly the age, sex, and occupation of the said passengers respectively, the compartment of the vessel occupied by each during the voyage, the country to which they severally belong, and that of which it is their intention to become inhabitants; and shall further set forth whether any and what number have died on the voyage; which list or manifest shall be sworn to by the said master, in the same manner as directed by law in relation to the manifest of the cargo; and the refusal or neglect of the master aforesaid to comply with the provisions of this section, or any part thereof, shall incur the same penalties, disabilities, and forfeitures as are provided for a refusal or neglect to report and deliver a manifest of the cargo aforesaid.

SEC. 18. *And be it further enacted*, That no such vessel shall take on board at any foreign port or place passengers with the intent to bring such passengers to the United States, unless the list or manifest required by the provisions of section twenty of this act shall have been duly examined, verified, and certified to by the United States consular officer at such port or place. And such consular officer shall use his utmost diligence to ascertain and discover whether such passengers come from any port, place, or district where, at the time of his or her leaving such port, place, or district, any infectious, contagious, or other disease, shall have been raging in an epidemic form; and if he shall find that no such disease was so raging, as aforesaid, he shall duly certify to such list or manifest; otherwise he shall withhold the same, and shall not make such certificate. In such consular certificate he shall fully set forth, in such form as the Secretary of the Treasury shall prescribe, that he has faithfully performed the duties required of him by the provisions of this section, and shall transmit, monthly, to the Secretary of the Treasury, a certified copy of each list or manifest made and certified as aforesaid. And if any vessel shall bring any passengers within the jurisdiction of the United States, in violation of the provisions of this section, the owner, agent, or master of such vessel, upon conviction thereof, shall incur a penalty of not less than \$1,000 nor more than \$10,000, and shall be liable to imprisonment for a term of not more than one year, nor less than three months, at the discretion of the court. And any consular officer of the United States who shall fail to perform the duties imposed upon him by the provisions of this section shall, upon conviction thereof, incur a penalty of not less than \$1,000.

SEC. 19. *And be it further enacted*, That in case there shall have occurred on board any vessel arriving at any port or place within the United States or its Territories, any death among the passengers, (other than cabin passengers,) the master, or owner of such vessel shall, within twenty-four hours after the time within which the report and list or manifest of passengers is required to be delivered to the collector of the customs, pay to the said collector the sum of ten dollars for each passenger above the age of five years who shall have died on the voyage by natural disease; and the said collector shall pay the money thus received, at such times and in such manner as the Secretary of the Treasury, by general rules, shall direct, to any board or commission appointed by and acting under the authority of the State within which the port where such vessel arrived is situated, for the care and protection of sick, indigent, or destitute emigrants, to be applied to the objects of their appointment; and if there be more than one board or commission who shall claim such payment, the Secretary of the Treasury shall determine which is entitled to receive the same, and his decision in the premises shall be final and without appeal. *Provided*, That the payment shall in no case be awarded or made to any board or commission or association formed for the protection or advancement of any particular class of immigrants, or immigrants of any particular nation or creed; and if the master, owner, or consignee of any vessel refuse or neglect to pay to the collector the sum and sums of money required within the time prescribed by this section, he shall forfeit and pay the sum of fifty dollars, in addition to such sum of ten dollars, for each passenger upon whose death the same has become payable, to be recovered by the United States in any circuit or district court of the United States where such vessel may arrive, or such master, owner, or consignee may reside; and when recovered, the said money shall be disposed of in the same manner as is directed with respect to the sum and sums required to be paid to the collector of customs.

SEC. 20. *And be it further enacted*, That the collector of the customs at any port of the United States at which any vessel shall arrive, or from which any vessel shall be about to depart, shall examine such vessel and ascertain whether the requirements of this act have been complied with. He shall also examine each vessel on its arrival at his port and report to the Secretary of the Treasury the time of sailing, the length of the voyage, the ventilation, the number of passengers, their nationality, their supply of food, the number of deaths; the sex of those who died

during the voyage, with his opinion of the cause of the mortality, if any, and if none, what precautionary measures, arrangements, or habits are supposed to have been instrumental in causing the exemption, and such other information as the Secretary of the Treasury may prescribe, and shall quarterly forward copies of the manifest or list of passengers herein provided to the Secretary of State of the United States, by whom statements of the same shall be laid before Congress. The Secretary of the Treasury shall make such rules and regulations, and cause to be made such special examinations into the practical operation of this act, and of the efficiency of the officers acting thereunder, as he may consider necessary; and the expenses incurred in making such examinations shall be paid out of any money in the Treasury of the United States not otherwise appropriated.

SEC. 21. *And be it further enacted*, That the amount of the several penalties imposed by the provisions of this act upon the owner, agent, or master, shall be liens on the vessels in the employment of which such provisions shall be violated, and such vessels may be libeled therefor in any circuit court or district court of the United States within the jurisdiction of which they shall arrive.

SEC. 22. *And be it further enacted*, That all the penalties imposed by the provisions of this act may be sued for and recovered in the name of the United States, in the district court or circuit court, or before a commissioner of either of said courts within the jurisdiction of which the offense shall have been committed, or in which the offender may come. One half of such penalties when recovered, unless otherwise provided, shall be to the use of the informer, and one half to the use of the United States. Such penalties may also be recovered in an action of debt, by any person who will sue therefor in any court of the United States. But nothing herein shall prevent the recovery of such penalties in any other form of legal proceedings known to the law and its practice in the respective States.

SEC. 23. *And be it further enacted*, That every master shall keep posted during the entire voyage in a conspicuous place in each compartment, and in the fore-castle, at least one copy of a synopsis of the provisions of this act, printed in English, French, and German, to be prepared by the Secretary of the Treasury, and supplied in sufficient quantities to the consular officers, and collectors of customs of the United States, who shall, on the application of any master for the certificate required by the eighteenth section of this act, furnish such master with four sets of the synopsis aforesaid. For every violation of this section such master, or the owner or owners of such vessel, shall, upon conviction thereof, incur a penalty of \$500, and if it shall appear by the examination to be made by the collector of the customs, as provided in the twentieth section of this act, that the requirements of this section have not been complied with, it is hereby made the duty of such collector to institute suit in the proper court for the recovery of the penalty herein specified: *Provided*, That a certificate from such consular or consular officer of the United States to the effect that he was not, at the time of the application aforesaid, in possession of such synopsis of the provisions of this act, shall exempt such master or owner or owners of such vessel from liability to the penalty imposed by this section.

SEC. 24. *And be it further enacted*, That this act shall take effect within thirty days from the time of its approval; and it is hereby made the duty of the Secretary of State to give notice in the ports of Europe, and elsewhere, of this act, in such manner as he shall deem proper.

SEC. 25. *And be it further enacted*, That whenever any damage is sustained by any passenger in his or her person, or by injury to his or her baggage after he or she shall have embarked in a vessel, either by dereliction of duty or non-observance of the provisions of this act on the part of the owner, agent, master, or other employe on board the vessel, the owner, agent, or master shall be liable to the full amount of damage to every persons so injured or his or her legal representatives, and in any action on the part of a passenger for damages it shall not be a defense that the party injured consented to the act or acts complained of or took passage with the knowledge of them.

SEC. 26. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed. But such repeal shall not effect any security given before this act takes effect, anything done before this act takes effect, any liability accruing before this act takes effect, any fine, penalty, forfeiture, or other punishment incurred, or to be incurred, in respect to any offense committed before this act takes effect, or any legal proceeding or other remedy for enforcing or recovering any such liability, penalty, forfeiture, or punishment as aforesaid; and such repeal shall revive no act heretofore repealed.

#### Miscellaneous Provisions.

SEC. 27. *And be it further enacted*, That for the purposes of this act the following words and expressions, whenever they occur, shall respectively have the following signification, if not inconsistent with the context or subject-matter; that is to say:

"Passengers" shall include all passengers except cabin passengers and infants less than one year old; and no person shall be deemed cabin passenger unless the space allotted to his or her exclusive use shall be in the proportion of at least thirty-six clear superficial feet of deck to each statute adult, nor unless they shall be inducted throughout the voyage at the same table with the master or first officer of the ship.

"Statute adult" shall signify and include one passenger over twelve years of age, or two passengers under twelve years of age.

"Single male" shall signify a male passenger over twelve years of age, unmarried or unaccompanied by his wife.

"Single female" shall signify and include a female passenger over twelve years of age, unmarried or unaccompanied by her husband.

"Owner" shall signify and include the owner or charterer of a "vessel" herein described.

"Master" shall signify the person who shall be borne on the ship's articles as master, or who, other than a pilot, shall for the time being be in charge or command of a vessel.

"Agent" shall signify and include a consignee and any person, other than the master, authorized to act for the owner in matters relating to the passage contract.

"Vessel" shall signify every description of seagoing vessel, domestic or foreign, propelled otherwise than by oars, and employed in the carriage of passengers upon any voyage to which the provisions of this act extend.

"Main deck" shall signify the deck in a vessel immediately beneath the upper or spar deck; the "second deck" shall signify the deck immediately beneath the "main deck;" and the third deck, not being an orlop deck, shall signify the deck immediately beneath the second deck.

"Compartment" shall signify a space on a vessel on any proper deck, kept free of cargo or stores, for the exclusive use and occupation of passengers, extending fore and aft to a substantial bulkhead, built athwartships and firmly attached to the side of the vessel, and having suitable means of ready communication with the upper deck.

"Voyage" shall signify and include a voyage of any such vessel, with passengers on board, from a foreign territory to the United States, or from the United States to a foreign territory.

Unless otherwise expressed or required by the context, any word or expression hereinbefore defined, or other matter not expressed, and requisite in any particular enactment herein to carry out the purposes of this act, shall be supplied on construction.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed severally without amendment bills and joint resolutions of the following titles:

Joint resolution (H. R. No. 44) relative to the sale of the marine hospital at Evansville, Indiana;

Joint resolution (H. R. No. 246) directing the Secretary of State to present to George Wright, master of the British brig, J. and G. Wright, a gold chronometer, in appreciation of his personal services in saving the lives of three American seamen, wrecked at sea on board of the American schooner Lizzie F. Choate, of Massachusetts;

Joint resolution (H. R. No. 268) for the relief of Robert L. Lindsay;

A bill (H. R. No. 1120) to authorize the Secretary of the Treasury to change the names of certain vessels; and

A bill (H. R. No. 1218) appropriating money to sustain the Indian commission and carry out treaties made thereby.

The message further announced that the Senate had passed severally with an amendment, in which the concurrence of the House was requested, bills of the following titles:

A bill (H. R. No. 538) to extend the boundaries of the collection district of Philadelphia so as to include the whole consolidated city of Philadelphia;

A bill (H. R. No. 861) relating to the Supreme Court; and

A bill (H. R. No. 198) to reestablish the boundaries of the collection districts of Michigan and Michilimackinac, and to change the names of the collection districts of Michilimackinac and Port Huron.

The message further announced that the Senate had passed the following Senate bills and joint resolutions, in which the concurrence of the House was requested:

An act (S. No. 361) for the relief of D. H. Macdonald, late acting United States consul at Capetown;

An act (S. No. 472) supplementary to an act entitled "An act to allow the United States to prosecute appeals and writs of error without giving security;"

An act (S. No. 533) to establish Cambridge, in the State of Maryland, a port of delivery;

An act (S. No. 153) to establish a collection district in the State of Oregon;

An act (S. No. 303) for the relief of P. R. Parrott;

An act (S. No. 442) to amend section one of an act to prevent and punish frauds upon the revenue, and for other purposes, approved March 3, 1863;

An act (S. No. 542) for relief of Thomas W. Ward, late collector of customs, district of Corpus Christi, Texas;

Joint resolution (S. No. 113) authorizing the Secretary of the Treasury to issue an American register to the British-built brig Highland Mary;

Joint resolution (S. No. 36) authorizing the Secretary of the Treasury to issue an American register to the bark Aug. Guardian;

Joint resolution (S. No. 147) for the relief of Jonathan S. Turner;

An act (S. No. 505) to amend section five of an act entitled "An act concerning the registering and recording of ships or vessels," approved December 31, 1792;

An act (S. No. 209) to incorporate the Evening Star newspaper; and

An act (S. No. 204) to provide for the appointment of a supervising surgeon of the marine hospitals of the United States.

#### COMMITTEE ON ENROLLED BILLS.

The SPEAKER. The Chair desires to state to the House that all the members of the Committee on Enrolled Bills are absent, and the Chair will, therefore, if there be no objection, appoint two additional members of the committee.

There was no objection; and  
The SPEAKER appointed Mr. WILSON, of Ohio, and Mr. GOLLADAY additional members of the Committee on Enrolled Bills.

#### LEAVE OF ABSENCE.

By unanimous consent indefinite leave of absence was granted to Mr. CLARKE, of Ohio, after Monday next, on account of indisposition.

#### LEAVE TO PRINT.

By unanimous consent leave was granted to Mr. MULLINS to print some remarks on the bill relieving R. R. Butler from disabilities. [See Appendix.]

#### RIVER AND HARBOR BILL.

Mr. EGGLESTON. When the bill now before the House is disposed of, the river and harbor bill will come up. It has been suggested by my colleagues on the Committee on Commerce, and by those who are opposed to some portions of the bill, that we should fix on Tuesday next, or some day early next week, for final action on that bill, as some of those interested in its discussion wish to leave the city to-night. I therefore suggest to my colleague on the committee, [Mr. ELIOT,] who has the bill in charge, that he make a motion to postpone, if he sees fit to do so.

Mr. ELIOT. From the best information I can obtain I think the probability is that we shall have the tax bill upon us before it would be possible to mature the river and harbor bill, and by the rule of the House it will then become necessary for us to enter on the consideration of that bill. I do not object to the suggestion made by my colleague on the committee to postpone the river and harbor bill until Tuesday next, with the understanding that it shall be considered immediately after the tax bill is disposed of.

Mr. SPALDING. That will not do. There are other bills waiting to come in. I object.

Subsequently Mr. SPALDING withdrew his objection, and the bill (H. R. No. 1046) making appropriations for the repair, preservation, and completion of certain public works, and for other purposes, was postponed until Tuesday next after the morning hour.

#### IMMIGRANT SHIPS.

The House resumed the consideration of the bill (H. R. No. 1100) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels, and for other purposes."

Mr. O'NEILL. I offer the following amendment, not from the Committee on Commerce, but on my own motion:

At the end of section twenty-six insert the following:

*Provided*, That fifty per cent. of the gross amount of the commutation or head-money collected from any vessel bringing immigrants to any port of the United States be placed to the credit of the respective States in which the immigrants settle by a *pro rata* distribution among said States, and the said fifty per cent. to be made under the supervision of the Secretary of the Treasury, to whom monthly statements of the amounts received in each port shall be made by the individual or association collecting the same.

I will explain the amendment, and I think it will strike the minds of some members, at least, as very appropriate. The object of it is this: in all the ports where immigrants arrive there is collected what is called "head-money." It is collected from the ship-owners technically, but really it is from the immigrants. For instance, in New York the head money amounts to two dollars on each passenger. Large sums of money are thus collected either by commissioners of immigration, boards of health, or by individuals detailed for the purpose by municipal authorities, and the sum realized generally, I am informed, in its full extent is not appropriated to the purpose for which it is paid. Some two or three hundred thousand immigrants arrive in New York yearly, a few thousand in Philadelphia, and perhaps more in Baltimore than in the latter city. Baltimore is now prepared to do a larger business than ever of this kind by the steamship lines to which reference was made the other day by the gentleman from Maryland, [Mr. PHELPS.] The parties who collect this money pay, I have no doubt, a considerable portion of it for the support and maintenance of some of the poorer immigrants who arrive in the ports where it is collected, but the bulk of the money should go to the States where the immigrants settle, and where, if want and poverty overtake them, they can be benefited by the fund to which they have indirectly contributed, for, as I understand it, though the money ostensibly comes from the ship, it actually is paid by its addition to the charge for passage.

It is well known that some of these immigrants do not come here to work, but they go into our pauper asylums and establishments and remain about our towns and cities. Still I am glad to say that a great many of them do not come within that category. The most of them go out to the West; they remain in New York but a few days. I understand they are usually shipped off within three or four days, often within twenty-four hours. Yet this commutation or head-money remains in the hands of the commissioners or board of emigration, and does not go exclusively to the support of those from whom it is derived.

Mr. BENJAMIN. By what authority is this money collected? By virtue of a law of Congress or by virtue of a State law?

Mr. O'NEILL. I expected that question to be asked, and I am ready to answer it. I presented this amendment not by authority of the committee, as I have said, but upon my own responsibility, with a view to ascertain whether we can enact such a law. This head-money is imposed by State legislation, not by acts of Congress. And yet I doubt very much whether, under the Constitution of the United States, a State has any right to do this.

Mr. BENJAMIN. I desire to know the views of the gentleman upon the right and authority of the Congress of the United States to control a fund raised in pursuance of the legislative action of the various States. Perhaps we have that authority, but I do not see it clearly.

Mr. O'NEILL. The amendment I have offered is intended to raise that question, to see by what right a State imposes this tax upon immigrants arriving in this country. It is not intended so much to get hold of that money as to settle that question. My impression is that there is no right in the States to do it. I am

of opinion there is a right in the Congress of the United States to do it, and in it alone is the power vested.

Mr. UPSON. What disposition is it proposed to make of this money?

Mr. O'NEILL. My amendment proposes to take fifty per cent. of it to be distributed among the respective States where these immigrants settle, according to the average number of those who settle in the respective States. Why should the State of New York take two dollars from the pocket of every immigrant who lands there, and authorize these associations to accumulate this fund? I have no doubt they do a great deal of good, in the way of charitable assistance, yet I do not see why they should be allowed to exact this tax from all immigrants who arrive at New York. They do not come merely to the port of New York or the port of Philadelphia, or the port of Baltimore; but their destination is the United States, and they may not settle until they reach the Rocky mountains or the Pacific slope.

Mr. UPSON. How is this money, so distributed to the various States, to be applied for the advantage of these immigrants?

Mr. O'NEILL. By the authorities of the State through those who may be delegated to assist the needy immigrant.

Mr. WILLIAMS, of Pennsylvania. Will my colleague [Mr. O'NEILL] allow me to interrupt him a moment?

Mr. O'NEILL. Certainly.

Mr. WILLIAMS, of Pennsylvania. I understand my colleague to say that he doubts, perhaps he denies, the power of the State to impose this tax.

Mr. O'NEILL. Yes, sir.

Mr. WILLIAMS, of Pennsylvania. Is not the effect of his amendment to affirm that power?

Mr. O'NEILL. It does to some extent in effect affirm that power. But it will give an opportunity of appeal to the courts, when the question can be determined whether any such right exists in a State.

Mr. JUDD. Will the gentleman yield to me for a few minutes?

Mr. O'NEILL. Certainly.

Mr. JUDD. The amendment presented by the gentleman from Pennsylvania [Mr. O'NEILL] presents questions of very great importance. It not only involves the legal proposition of the right to levy this tax upon emigrants, as suggested by the gentleman from Pennsylvania, [Mr. WILLIAMS,] but the further question, namely, in what manner and by whom the fund thus collected shall be disbursed to accomplish the most good for the class supposed to be benefited by it.

I think I can safely say that a majority of the immigrants to this country have a fixed destination before they leave their homes; that a majority of those immigrants do not intend to remain in the ports of their arrival. This tax is levied by these State associations ostensibly for the purpose of aiding and protecting the poor and the needy on their arrival and during their earlier residence here. If I understand the provisions of the immigrant laws in force in the port of New York, societies organized under the laws of that State collect from each ship a tax of two dollars for each immigrant under the claim of caring for the needy; the charities distributed from that fund do not extend beyond the limits of that State, and the immigrant destined for the Northwest gets no benefit from the fund to which he has contributed after he gets beyond the boundary lines of the State of New York, no matter how destitute and suffering may be his condition.

This levy that is made upon each immigrant, although nominally paid by the owner of the ship, is in reality paid by the passenger, the ship-owners include in the fare of such immigrant. Hence, in the case of immigrants destined for Minnesota, Wisconsin, Illinois, and the Northwest generally, when they get where they are taken ill or their means are exhausted, become a burden upon the citizens at the point

where this occurs, and charity takes the place of reliance upon a fund that those parties have helped to create, and this burden, although cheerfully borne by the philanthropic, ought not to be imposed upon them. There is no reason why the mere passer through New York should contribute to a fund that he can never have the benefit of as soon as he passes the State line. The surpluses now accumulated ought in some form to reach the persons who were intended to be benefited.

An instance of that kind occurred in the city of Chicago within the last two years. Nearly a thousand immigrants destined for Minnesota, every one of whom had paid this tax, which had gone into the hands of the commissioners of emigration in New York, were entirely destitute when they arrived at Chicago, without money to proceed upon their journey to support themselves while tarrying there. They were thrown upon our streets; they taxed the capacity of every foreign aid society in our city to support them, until by voluntary contributions, and by the generous charities of the community—and I will add of the railroad companies in the way of free transportation—they were sent to their ultimate destination. That, Mr. Speaker, cost the citizens of Chicago in voluntary contributions \$5,000 in money. They ought to have had the privilege of calling upon the societies in the cities where this money was paid to make a contribution to them of a portion of it. Such cases are strictly within the spirit, object, and intent of this kind of legislation. And the laws should be so framed as to provide for these contingencies; and unless some changes are made in the mode of distributing this fund so as to meet the necessities of those for whose benefit it is created controversies will arise that will shake these institutions. The inquiry will very properly be made whether this tax accomplishes the purpose for which it was created. It may create magnificent public buildings that are an honor to the city of New York, but the emigrant may starve after he passes the boundaries of that State. Some mode of caring for those that need aid while they are on their journey should be devised, and then practically the good would be accomplished that the theory of this thing presupposes.

Mr. O'NEILL. I propose now to yield to the gentleman from New York, [Mr. CHANLER,] but before doing so I wish to add a word or two to what I have already said. I much prefer the amendment as it stands. If, however, the House does not see fit to pass it, I will only say that at some future time I will prepare and introduce a bill to cover the point.

Mr. JUDD. I did not rise, Mr. Speaker, for the purpose of attacking these organizations in the large sea-ports in any shape or form, but only to call the attention of this House, and the gentlemen representing those cities, to the fact that some arrangement should be made by legislation so the proper equities might be dealt out.

Mr. O'NEILL. I believe the board of commissioners of emigration in New York does a great deal of good. It has been the means of erecting some grand charities in that city. I am here ready to do that organization full justice. All I want is to have the question tested. If the tax is to be collected I do not see why we should not legislate for its distribution at points distant from its collection.

Mr. CHANLER. I hope the gentleman from Pennsylvania will adhere to the intention that he has just stated, and that is to prepare and bring in a separate and distinct proposition touching this matter. It is a question outside of the purposes of this bill. I hope he will draw up and report such a bill to the House at an early day.

Mr. O'NEILL. I withdraw my amendment, and hope the House will act at once upon this bill for the protection of immigrants and pass it. It will result, I think, as I said at the beginning, in securing on this most important subject the joint action of the different nations who are interested in it.



I also hope, Mr. Speaker, when we shall have perfected our immigration laws we may do something for the enactment of a general naturalization law upon such a basis as will protect us and our institutions, and will so enforce the law as to prevent the illegal exercise of the elective franchise by those who have scarcely touched our shores. I have heard that ship-loads of immigrants, within twenty-four hours of their arrival at the port of New York, have been led to the polls by designing men, and many of them, I have no doubt, totally ignorant that they were violating the law, have set at naught the votes of the American-born and law-abiding adopted citizens who have exercised their dearest right in good faith to their country.

Mr. CHANLER. I propose the following amendment to the twelfth section, which I understand the gentleman from Pennsylvania will agree to.

Mr. O'NEILL. I yield to the gentleman's amendment. He has been helping us to perfect the bill.

Mr. CHANLER. I move to add to the twelfth section the following:

Any unmarried male passenger, master, or other officer, seaman, or other person over fourteen years of age, on board any vessel carrying passengers to or from any part of the United States, who shall openly live and cohabit with any unmarried woman shall thereafter be deemed the lawful husband of such woman, and they shall be husband and wife, and subject to all the privileges and liabilities of that relation.

Mr. CHANLER. The object of this is to carry out the object of the bill, and to prevent the seduction of female emigrant passengers on their way across the ocean. It is an amendment which is needed. One of the great sources of trouble in emigration is the seduction of women by the officers and men and by passengers pretending to be married to those women, and abandoning them and their children upon reaching the shore. The object of this bill is to embody the spirit of the law of the State of New York regulating marriage. It has been submitted to one of the gentlemen from New York on the Committee of Commerce, [Mr. HUMPHREY,] who approves it as being in accordance with the law of New York. I urge it as a preventive measure, and doing no injury to any one.

Mr. O'NEILL. I suggest to the House that they will adopt the gentleman's amendment. It certainly can do no harm, and it will protect the innocent in many cases.

Mr. COVODE. I would like to have the gentleman from New York [Mr. CHANLER] answer this question: if there should be improprieties committed by one man on half a dozen women how are they going to settle that difficulty. [Laughter.]

Mr. GLOSSBRENNER. Send him to Utah. [Laughter.]

Mr. CHANLER. My friend suggests sending him to Utah. [Laughter.] But the gentleman will understand that the compartments of these immigrant ships are separated. They have three kinds of compartments—one for unmarried males, one for unmarried females, and one for married males and females. Therefore it will be very easy for a person claiming to be married to a woman to get access to the cabin of married people, thereby doing great injury to the women in that compartment and great injury to the ship. The immorality, therefore, will be sanctioned by your bill unless you protect these women by some such provision. I ask for a vote.

The question being put, there were—ayes fourteen.

Mr. CHANLER. I demand tellers. Tellers were refused.

Mr. CHANLER. I move to amend by adding at the end of section eighteen the following:

And such consular officer shall on proper and satisfactory proof, be suspended from his office by the President, and on conviction be removed from office, and be thereafter disqualified from holding any office of honor, trust, or profit under this Government.

I will merely state that the eighteenth section relates to infected ships sailing from European ports to this country, and the object of my amendment is to enforce more strictly the duty of consuls and consular agents of inquiring into the condition of those towns and townships from which the immigrant comes. If he shall omit to protect the ship by proper means he is to be liable to a severe penalty. It is a necessary protection from those infectious diseases which we have seen so frequently prevailing on ship-board in the last few years. The very case which gave rise to this bill, called the pest ships, was one where the ship started without proper precaution and with a number of infected passengers. Had the consular agent taken such proper precautions as are called for in this bill, the great loss of life in that case would have been prevented. I propose simply a more stringent means of securing the discharge of the duties of our consular agents.

Mr. RANDALL. I suggest that the gentleman strike out the last part of the proposed amendment.

Mr. CHANLER. Very well.

The amendment as modified was as follows:

And such consular officer shall, on proper and satisfactory proof, be suspended from his office by the President.

The amendment was agreed to.

Mr. BROOMALL. I suggest to my colleague to move to strike out the last clause of the bill, as follows:

Unless otherwise expressed or required by the context, any word or expression hereinbefore defined, or other matter not expressed, and requisite in any particular enactment herein to carry out the purposes of this act, shall be supplied on construction.

Mr. O'NEILL. I have no objection to striking it out. If the gentleman from New York will conclude his remarks now I will call the previous question.

Mr. CHANLER. I will do so.

Mr. ROBINSON. I desire to ask the gentleman from Pennsylvania [Mr. O'NEILL] what did he mean by the remark made a few moments ago that he intended at a future time to move some amendment to the present law to prevent immigrants arriving here from voting.

Mr. O'NEILL. I did not yield to the gentleman; but I will reply—

Mr. ROBINSON. If the gentleman does not wish to yield I will take my seat.

Mr. O'NEILL. If the gentleman had listened to me he would have heard what I said. I made no such proposition as he referred to.

Mr. ROBINSON. The gentleman is entirely wrong about that matter.

Mr. CHANLER next addressed the House. [See Appendix.]

Mr. O'NEILL. I now call the previous question.

Mr. BROOKS. I wish to ask the gentleman from Pennsylvania a question.

Mr. O'NEILL. I withdraw the call for the previous question for that purpose.

Mr. BROOKS. The bill is a pretty long one, and I have not had time to read it through. My question is how he proposes in this bill to regulate immigration in foreign vessels—in foreign steamers, for instance? It was stated here yesterday in debate, and is a fact well known that most of the steamers which bring immigrants to this country are foreign steamers, under a foreign flag. How can this bill regulate and control those vessels?

Mr. O'NEILL. I will endeavor to answer the gentleman. The existing laws relating to the carrying of immigrant passengers are very imperfect, and decisions have been made against their application to steamships. This bill seeks to apply the same penalties against the owners or agents or consignees of steamships carrying passengers as former laws applied to sailing vessels. Now, sir, we do not say that by this law we can regulate foreign vessels, but we do say from what we learn from the representative of the Prussian Government, and the representative of the British Government, and

the representatives of several steamship lines running from other countries, that many Governments will take action on this subject, and we are now framing what we consider may be the basis of a proper immigrant bill to suit all the countries of the world.

Mr. BROOKS. The apprehension I have is that unless this matter is regulated by treaty, while these severe penalties are imposed on our own vessels and none on foreign vessels, the whole immigrant trade of the country will be carried on in foreign bottoms.

Mr. O'NEILL. The bill, of course, seeks to impose penalties on all vessels which bring immigrants. We can certainly enforce our law when the vessels reach our shores. That right has never been questioned; there is no doubt about that. I now call the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time.

Mr. ROBINSON. I call for the reading of the engrossed bill.

Mr. RANDALL. I move that the House do now adjourn.

The motion was agreed to; and the House (at four o'clock and forty-five minutes p. m.) adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BANKS: A memorial of insurance companies, ship-owners, and merchants of New York, asking that measures may be taken to establish the principle, as a part of international law, that after the cessation of hostilities for one year between belligerent nations, the state of war shall be deemed at an end, notwithstanding the absence of a formal treaty or declaration of peace, signed by Francis Skiddy, Grinnell, Minturn & Co., Russell Sturgis, C. H. Marshall & Co., Howland & Aspinwall, Nesmith & Sons, Charles Luling & Co., Howland Frothingham, Snow & Burgess, C. P. Fisher & Co., and others.

Also, a memorial of insurance companies, ship-owners, and merchants of New York, asking that measures may be taken to establish the principle as a part of international law, that after the cessation of hostilities for one year between belligerent nations, the state of war shall be deemed at an end, notwithstanding the absence of a formal treaty or declaration of peace, signed by J. D. Jones, Atlantic Mutual Insurance Company; John A. Parker, Great Western Insurance Company; John H. Lyell, New York Mutual Insurance Company; J. R. Myers, Pacific Mutual Insurance Company, and others.

By Mr. BECK: The petition of Dr. William S. Chipley, of Lexington, Kentucky, praying that his son, William Dudley Chipley, of Columbus, Georgia, and others, now imprisoned at Atlanta, be delivered by the military authorities, by order of Congress, to the civil tribunals for trial, according to the provisions of the Constitution and laws. Said petition is accompanied by a number of affidavits, which are made part of it.

By Mr. BUTLER: The petition of Gilbert Pierce and others, for leave to build a bridge over a portion of the navigable waters of the harbor of Boston.

By Mr. GROVER: The petition of John B. Bland, of the city of Louisville, Kentucky, for compensation for buildings destroyed by fire in said city by Federal soldiers.

By Mr. KERR: A memorial of Simeon K. Wolfe, W. L. Carter, William N. Tracewell, H. S. Wolfe, Alanson Stephens, S. M. Stockslager, Henry Zenor, M. M. Hon, Edward Harbison, Morgan B. Clark, John L. Wolford, and others, for the relief of Jacob Biggs, whose eyes were destroyed in battle in the late war.

By Mr. STOKES: The petition for the relief of James M. Marshal, of La Fayette, Tennessee.

## IN SENATE.

FRIDAY, June 19, 1868.

Prayer by Rev. A. D. GILLETTE, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

## PETITIONS AND MEMORIALS.

Mr. WILSON presented resolutions of the Legislature of Massachusetts, in favor of the construction of a ship-canal connecting Lakes Erie and Ontario; which were referred to the Committee on Commerce.

Mr. MORGAN presented the petition of the United States Express Company, praying that the Secretary of the Treasury be authorized to issue to that company United States bonds and compound-interest notes in lieu of bonds and notes destroyed by fire on the 30th of January, 1866; which was referred to the Committee on Claims.

Mr. POMEROY presented the petition of William Pollard, late a second assistant engineer United States Navy, praying to be restored to the rank in the Navy from which he has been dismissed; which was referred to the Committee on Naval Affairs.

Mr. CATTELL. I present a memorial numerously signed by underwriters and merchants of Philadelphia, urging the importance of the coast survey for the preservation and development of the commercial wealth of the country, and earnestly requesting that no means be adopted to lessen the full efficiency of that service. I understand the Committee on Appropriations have reported on that subject, and I therefore move that the memorial lie on the table.

The motion was agreed to.

Mr. CONKLING. I ask leave to present the memorial of a number of insurance companies, praying that Congress will, by resolution or such other action as may be proper in the premises, declare and establish as a principle governing the relations of the United States with other nations at peace with this country, but which as between themselves may have been at war, that whenever hostilities between such belligerents shall have ceased for so long a period of time as to raise the presumption that they will not be renewed (and which period the memorialists would suggest should not, unless in exceptional cases, exceed one year) the state of war shall be deemed to be at an end, so far as the Government and citizens of the United States are concerned, notwithstanding the absence of any formal treaty or declaration of peace. The memorial sets out the evils growing out of the uncertain state of thing existing in reference to the other Powers, the South American republics for example, which having had difficulties among themselves have not come to a condition of peace by formal treaty; and the memorialists ask some action of Congress which will enable our citizens to deal with those belligerents and yet not impinge upon any obligations which they ought to observe. I move that the memorial be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. CONKLING. I present a similar memorial, signed by a number of leading merchants of the city of New York, and I move that it take the same reference.

The motion was agreed to.

## MRS. ANN CORCORAN.

Mr. VAN WINKLE. I submit a report from a committee of conference.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (S. No. 184) granting a pension to Mrs. Ann Corcoran, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the Senate recede from their disagreement to the amendment of the House, and agree to the same.

P. G. VAN WINKLE,

LYMAN TRUMBULL,

Managers on the part of the Senate.

H. VAN AERNAM,

G. F. MILLER,

Managers on the part of the House.

Mr. VAN WINKLE. I move that the report be adopted.

Mr. MORRILL, of Vermont. I should like to have the Senator from West Virginia state what the subject is.

Mr. VAN WINKLE. It is a pension bill, and the amendment relates simply to the date at which the pension shall commence.

The report was concurred in.

## MICHAEL HENNESSY.

Mr. VAN WINKLE. There are two other pension bills which have been returned from the House of Representatives with amendments, and which are now on the table, which I should like to have acted upon. The first is Senate bill No. 280.

There being no objection, the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 280) granting a pension to Michael Hennessy, of Platte county, Missouri. The amendment was to strike out all after the word "pensions," in line five, and to insert in lieu thereof "subject to the provisions and limitations of the pension laws, commencing January 1, 1865."

Mr. VAN WINKLE. I move that the Senate concur in the amendment of the House. The motion was agreed to.

## GEORGE BENNETT.

Mr. VAN WINKLE. I now move to take from the table Senate bill No. 425, which has been returned from the House with an amendment.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 425) granting a pension to George Bennett. The amendment was to strike out all after the word "pension," in line eight, and to insert in lieu thereof "subject to the provisions and limitations of the pension laws, commencing April 7, 1863."

Mr. VAN WINKLE. I make the same motion in that case.

The amendment was concurred in.

## REPORTS OF COMMITTEES.

Mr. MORRILL, of Vermont, from the Committee on Claims, to whom was referred the petition of Sister M. Zavier and Sister De Sales, of Charleston, South Carolina, submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Dennis Sullivan, submitted a report; which was ordered to be printed.

Mr. EDMUNDS, from the Committee on the Judiciary, to whom was referred the bill (S. No. 538) in addition to an act to regulate the times and manner of holding elections for Senators in Congress, reported it with amendments.

Mr. HENDERSON, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 478) to amend an act entitled "An act for the removal of the Sisseton, Warpeton, Medawakonton, and Warpekuta bands of Sioux or Dakota Indians, and for the disposition of their lands in Minnesota and Dakota," approved March 3, 1863, reported it without amendment.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of William McDonagh, reported adversely thereon.

Mr. WILLEY, from the Committee on the District of Columbia, to whom was referred the petition of True Putney, of Washington, District of Columbia, in relation to paving carriage-ways in the city of Washington, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of Rowland Cromelien, praying the right of way on any avenue or main line of railroad in the city of Washington for the privilege of testing his patent for an improvement in railroads; a petition of citizens of Washington city, District of Columbia, praying for the speedy passage of a bill rechartering that city; a petition of citizens

of the District of Columbia, praying equal rights with other citizens of the United States; a resolution of the Senate directing the Committee on the District of Columbia to inquire whether any legislation is necessary to secure safety and convenience of passengers on street cars of the Metropolitan Railroad Company, in Washington, District of Columbia; resolutions of the common council of the city of Washington, District of Columbia, in favor of granting an extension of the city charter with such amendments as may be deemed advisable, asked to be discharged from their further consideration; which was agreed to.

## DONATION OF IRON RAILING.

Mr. FESSENDEN. The Committee on Public Buildings and Grounds, to whom was referred the joint resolution (H. R. No. 294) donating to the Washington City Orphan Asylum the iron railing taken from the old Hall of the House of Representatives, have had the same under consideration, and directed me to report it back without amendment and recommend its passage. This railing is of no value to us, and it may be of some value to this orphan asylum; and if there be no objection, I move that the resolution be taken up and passed.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It proposes to donate to the Washington City Orphan Asylum the iron railing taken from the old Hall of the House of Representatives, now in the Capitol Grounds, on condition that it be taken away in ten days after the passage of this joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## EVANSVILLE MARINE HOSPITAL.

Mr. MORTON. I desire to move to reconsider the vote by which the joint resolution (H. R. No. 44) authorizing the sale of the marine hospital at Evansville, Indiana, was passed yesterday.

The PRESIDENT *pro tempore*. The Chair is informed that the resolution has gone to the House of Representatives, and it will be necessary to make a motion to request the return of the bill from the House.

Mr. MORTON. Should that be made preliminary to this motion?

The PRESIDENT *pro tempore*. Yes, sir. The Chair will put the question on a motion requesting the return of the joint resolution from the House of Representatives.

The motion was agreed to.

## ISRAEL T. CANBY'S SURETIES.

Mr. WILLEY. The Committee on Claims, to whom was referred the bill (S. No. 428) for the relief of the sureties of Israel T. Canby, late receiver of public moneys at Crawfordsville, Indiana, have had it under consideration, and directed me to report it back to the Senate without amendment and recommend its passage, accompanied with a report which I ask may be printed.

The PRESIDENT *pro tempore*. The report will be printed, if there be no objection.

Mr. HENDRICKS. There are but three of these sureties alive who are responsible. One of them is a very old gentleman, and another is very frail from sickness, and I should like very much to have the bill passed at this session. As it is a very clear case and a very short bill, I should like to have it considered now if possible. I ask that the bill be read, and then, if there be any objection to it, I will not insist upon it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to release the sureties of Israel T. Canby, late receiver of public moneys at the land office at Crawfordsville, Indiana, from all liability arising from any defalcation, omission, or misconduct of his as such receiver; and it directs the proper officers of the Treasury Department to dismiss any and

all suits and actions that may have been instituted against the sureties, and to enter the proper discharges on the books of the Department.

Mr. HENDRICKS. I will say to the Senate that in 1829 Mr. Canby was appointed receiver at the land office at Crawfordsville, Indiana. In 1831, nearly forty years ago, there was a default. His bond was then a good one. A number of responsible gentlemen were upon it. In settling that default the Government, through the district attorney, took a large quantity of lands, and sold and otherwise disposed of those lands from time to time, and some bonds and some money. The Government considered the securities so good that they returned to Mr. Canby a large amount of lands in the State of Illinois. How those lands were disposed of can never be very well ascertained. The returns in the Treasury are very unsatisfactory. But it has gone on now about forty years, and there are only three sureties left who are responsible—Mr. Stevens, Mr. Palmer, who is a very old man, and Mr. Michael G. Bright, who is very frail and confined to his bed, and it will be a very great hardship to embarrass them with litigation about it. The security was ample at the time it was given into the charge of the district attorney; but it passed from one district attorney to another, so that it is impossible to say just how it does stand in the Department. The committee has made this report entirely from statements derived from the Department, and I ask the passage of the bill.

Mr. WILLIAMS. How much does the Government hold against these men?

Mr. HENDRICKS. I cannot say. One estimate would be about three thousand dollars, while the interest, perhaps, would bring it up to ten or eleven thousand dollars. These sureties claim that the amount of assets placed in the hands of the district attorney, under a compromise with Mr. Canby, were several thousand dollars beyond the amount of the default. I wish to say that the last clause of the bill is not necessary. I thought a suit had been commenced, but the Department was simply preparing to bring a suit. Since the bill was introduced I received a letter from the gentleman in the Department having charge of the matter to know what action would probably be taken by Congress, so that he might decide whether to institute a suit, and I told him of the pendency of the bill.

Mr. EDMUNDS. Is there a written report?

Mr. HENDRICKS. Yes, sir.

Mr. EDMUNDS. Is it printed?

Mr. HENDRICKS. No, sir; it was just made this morning.

Mr. EDMUNDS. I think the bill had better go over until to-morrow, so that the report can be printed.

Mr. HENDRICKS. Unless we get this bill through very soon it cannot pass the other House, and two of these gentlemen are very frail.

Mr. EDMUNDS. They probably will not die before to-morrow. We ought to see the report of the committee in print, so as to know the grounds on which it proceeds.

Mr. HENDRICKS. I have stated them correctly.

Mr. EDMUNDS. I do not doubt the Senator's statement, but it is impossible from merely listening here to understand how the case really stands. This relieving of sureties is rather a dangerous business. I move that the bill be postponed until to-morrow, and that the report be printed. I shall probably have no objection to it on examination, but I desire to see the report.

The motion was agreed to.

#### BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 560) to transfer the Indian Bureau and Indian affairs from the Interior Department to the War Department; which was read twice by its title.

Mr. POMEROY. I have provided in this bill that the bureau for the War Department known as the Freedmen's Bureau shall take charge of Indian affairs. We have provided that that bureau shall cease its operations in the States of the South as fast as they are restored into the Union. I think a measure of this kind at least should be considered by the committee, and perhaps by the Senate. I move that it be referred to the Committee on Indian Affairs.

The motion was agreed to.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 561) to incorporate the Citizens' Gas Company of the District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 562) for the relief of the United States Express Company; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 151) to drop from the rolls of the Army certain officers absent without authority from their commands; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### NAVAL REGISTER.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That one thousand copies of the Navy Register for 1868 be printed for the use of the Senate.

#### ARMY REGISTER.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That two thousand copies of the Army Register for 1868 be printed for the use of the Senate.

#### JOHN F. MASCHER'S PATENT.

Mr. CATTELL. I move that the Senate proceed to the consideration of a little bill introduced by me, which has been reported by the Committee on Patents and the Patent Office with an amendment. It is Senate bill No. 295.

The motion was agreed to; and the bill (S. No. 295) for the relief of Eliza Mascher, widow of John F. Mascher, was considered as in Committee of the Whole. The Committee on Patents and the Patent Office proposed to amend the bill by striking out all after the enacting clause and inserting the following:

That Eliza Mascher, administratrix of John F. Mascher, deceased, who obtained a patent No. 9611, for an improvement in daguerreotype cases, dated the 8th of March, 1853, with additional improvement, No. 134, annexed to said original patent, dated 19th of February, 1856, for fourteen years, which expired on the 8th day of March, 1867, be authorized to apply to the Commissioner of Patents for the extension of said patent for seven years, under the regulations now in force for the extension of patents, as if she had made application previous to its expiration, as required by law; and the Commissioner of Patents is directed to investigate and decide the application for extension on the same evidence and in the same manner as other applications for extension are decided: *Provided*, That the application for extension be made within thirty days after approval of this act, and the decision of the Commissioner be rendered within ninety days from the filing of said application in the Patent Office: *And provided further*, That nothing herein shall be so construed as to hold responsible in damages any person who may have manufactured or used the daguerreotype cases, with the improvement and addition aforesaid, or used cases containing the improvement and addition aforesaid, between the expiration of the patent and the approval of this act: *And provided also*, That the Commissioner shall be satisfied before granting such extension that it will insure entirely to the benefit of the said Eliza Mascher.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### UMATILLA INDIAN RESERVATION.

Mr. CORBETT. I move that the Senate take up Senate bill No. 215, which was reported

from the Committee on Indian Affairs, and afterward recommitted.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 215) to vacate and sell the Umatilla reservation in the State of Oregon.

The bill, on being recommitted to the Committee on Indian Affairs, was reported with an amendment to strike out all after the enacting clause and insert the following:

That the superintendent of Indian affairs for the State of Oregon is hereby authorized and directed, if practicable, to negotiate a treaty with the Indians now living on the Umatilla reservation in said State, providing for the relinquishment by said Indians to the United States of their right and claim to said reservation, and for their removal to some other reservation to be selected in said State or in the Territory of Washington, and to be described in said treaty, and the sum of \$2,000 is hereby appropriated for the purpose of defraying the expenses of negotiating said treaty.

*Sec. 2.* *And be it further enacted*, That provision shall be made in said treaty securing to said Indians the full value of their lands, together with the value of all improvements thereon, and no part of said lands shall be sold for less than \$1 25 per acre.

Mr. CORBETT. I move to amend the amendment by inserting in line nine of the first section after the word "reservation," the words "or reservations;" so that the Indians may be divided, a part put upon a reservation in Washington Territory, and a part upon a reservation in the State of Oregon, if it shall be necessary.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### EXPORTERS OF DISTILLED SPIRITS.

Mr. MORGAN. I move now to take up House bill No. 764, which failed yesterday, and on which a motion to reconsider was entered.

The motion was agreed to; and the Senate proceeded to consider the motion of Mr. SPRAGUE, to reconsider the vote by which the bill (H. R. No. 764) for the relief of certain exporters of distilled spirits was rejected.

The motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. The question now is on the passage of the bill.

Mr. EDMUNDS. Let it be read for information.

The PRESIDENT *pro tempore*. The bill will be read as it now stands amended.

The Chief Clerk read as follows:

That the act of January 11, 1868, entitled "An act to prevent frauds in the collection of tax on distilled spirits," be so construed as to permit rum, which, at the date of the passage of said act, was already distilled or redistilled and intended for export, and actually contracted for to be delivered for exportation, to be withdrawn, removed, and exported from the United States under such transportation and export bonds and regulations as were required therefor immediately prior to the passage of said act, and as shall be provided for hereafter: *Provided*, That all such spirits shall be actually exported within sixty days from the passage of this act; and that before any such exportation shall be permitted, proof in writing shall be furnished by sworn evidence, to the satisfaction of the Commissioner of Internal Revenue, that such liquor was in fact at the date mentioned intended for export, and distilled or redistilled for that purpose or actually contracted for to be so exported. And upon failure to so export the same within said sixty days the tax thereon shall become due and payable, and the bonds given for the transportation and export thereof shall be forfeited and collected as in case of such bonds not canceled according to law.

Mr. SHERMAN. The word "liquor" in the proviso ought to be stricken out and the word "rum" substituted.

Mr. COLE. I would rather oppose this suggestion, for a very good reason which I can state. I suppose the bill ought to include whisky as well as rum.

Mr. SHERMAN. I will state to the Senator that we have already stricken out alcohol, so that the bill is now confined to rum, and the latter clause of the bill ought to conform to the first.

Mr. COLE. It seems to me that that would



operate very much against a certain trade which has sprung up on the Pacific coast. Within three or four years past quite a considerable trade has sprung up between San Francisco and the mouth of the Amoor river. The principal article in which this trade consists is whisky; and, as I am well informed, some forty thousand gallons were contracted for prior to the passage of the law of the 11th of January last. It has been manufactured since that time; but the bill that was then passed interfered with its exportation, thus breaking up that trade which is a growing trade and likely to be valuable to the country. If this one article of that trade is stricken out we destroy the trade; the trade itself will probably be broken up. The merchants engaged in it cannot carry on the trade unless this article is included. Now, if this bill is to be passed relieving any parties from the operation of the act of the 11th of January, I think it should be so broad as to include those persons who entered into contracts for the exportation of this liquor.

I will state further that there is no probability of any fraud being practiced on that coast. There has not been at any time any charge of fraud in connection with the whisky trade on that coast. I do not know what liability there may be to fraud on the Atlantic coast; but if there should be some little liability here, it will only be a liability that must exist very generally at present.

I ask, therefore, for the reason I first stated, that the bill be so amended as to allow the exportation of whisky. It is only for the accommodation of this one trade, this new commerce which is springing up between our coast and the Amoor river, which will in a few years become a very extensive and valuable branch of commerce. I hope that that will not be excluded from this bill, and that the merchants who have made contracts there will not be cut off entirely by the use of the word "rum" instead of the word "spirits" or "liquor," which was originally in the bill.

Mr. MORRILL, of Vermont. I ask my friend from California if he had not better wait until the bill which the Committee of Ways and Means are now preparing comes up. It will provide for the trade to which he alludes. I presume that bill will be before us in the course of a week or ten days.

Mr. COLE. The suggestion would be forcible if it were not for a singular circumstance. These supplies must be put into the Russian possessions at the mouth of the Amoor river early in the season, and it is very important that this restriction be removed speedily; else the whole trade for this entire season will be utterly broken up. If they are not allowed to export this whisky immediately, or very soon, it will be altogether too late for the season, and the trade will be broken up, and will go into the hands of the other countries. That is the reason why, as I believe, this should be included now; there should be no delay.

Mr. SUMNER. Does the Senator reduce his motion to form?

Mr. COLE. It is not necessary—

The PRESIDENT *pro tempore*. The question now is on striking out the word "liquor" and inserting "rum."

Mr. SUMNER. It seems to me that is a merely verbal question.

The PRESIDENT *pro tempore*. It is merely to make the bill consistent with itself.

Mr. COLE. If the bill needs other amendments to make it broad enough to accommodate this particular trade, I move to amend it in that respect by inserting after the word "rum"—

The PRESIDENT *pro tempore*. It is not in order to amend the bill now, except in some verbal respect by common consent, because it has been read the third time, and the question is on its passage.

Mr. STEWART. The third reading can be reconsidered.

Mr. SUMNER. I suggest to my friend from California whether he had not better wait for

the other bill. There is an urgent necessity for the passage of the present bill. There are considerable interests that are now in jeopardy from this delay, and if the Senator presses his proposition on this bill I fear he may endanger the whole.

Mr. COLE. It may be a matter of necessity and urgency on the part of manufacturers of rum in Massachusetts; but it is a matter of equal necessity and urgency on the part of those gentlemen who are manufacturing whisky in California. They do not manufacture rum there, but whisky to supply this particular trade. I assure Senators that these contracts had been entered into before the law of January 11 was passed. To enforce that law against them will result in very great disadvantage to those persons who have engaged in the trade and entered into these contracts. I do not wish to jeopardize the passage of the bill; but time is certainly all-important so far as these contracts in San Francisco are concerned.

The PRESIDENT *pro tempore*. The Senator from Ohio moves to strike out the word "liquor" and insert "rum," to make the bill consistent with itself. That amendment can be made by common consent. The Chair hears no objection, and it is made.

Mr. COLE. Now I move to insert the words "and whisky" after the word "rum" where ever it occurs.

The PRESIDENT *pro tempore*. The motion is not in order, inasmuch as the bill has been read the third time.

Mr. COLE. If the amendment I have suggested cannot be made by unanimous consent, I will move to reconsider the vote by which the bill was ordered to a third reading.

Mr. SHEKMAN. The motion to reconsider involves the question whether we shall repeal the act of January last, because, as a matter of course, if you allow the exportation of rum and whisky under rules and regulations now provided or hereafter to be provided, it is a repeal of the act of January last, no more, no less. That act was intended to prevent the exportation of whisky and prevent its being moved from distillery to distillery, and has stopped off certain frauds, so that there are now held in Government warehouses something like twenty or thirty million gallons of whisky.

The Senators from New England have represented that a trade to a small amount in New England rum is still carried on with Africa, and they have made pretty strong appeals all around the Senate, as I see, to relieve that trade at this particular season. For myself, I think it wrong to pass the bill, even limited to rum, and I shall vote against it in any form in which it is put. But certainly the proposition of the Senator from California will open wide the door to fraud in regard to all whisky now on hand. It is utterly idle to attempt to restrain frauds in whisky if you allow the exportation of it, in the face of the repeated cases that have occurred in this country of fraudulent exportations at New York and elsewhere. Merely because they are carrying on a small trade between San Francisco and the Amoor river is no reason why we should endanger the revenue from the vast bulk of spirits now held in the warehouses of the country. It is a very delicate subject to interfere with, and I trust Senators will avoid anything like changes on a subject of this kind without the most careful consideration.

Mr. COLE. I do not understand that this repeals the law of the 11th of January any further than as it may apply to contracts made prior to that time for the exportation of liquor. It does not repeal the law; it leaves it as it is except as it applies to those particular contracts then entered into. It is for the sole purpose of relieving persons who make those contracts from the dilemma in which they were placed by the passage of that law after they had made their contracts. I cannot see how it will jeopardize the success of the bill if the word "whisky" is included with "rum;" and I therefore move the reconsideration.

Mr. WILLIAMS. I was opposed to this bill

in its original form, and when it was under consideration at a prior day I made some objections to its passage; and I shall now oppose its passage if whisky is inserted in the bill, though I am willing, under existing circumstances and upon the information that I have received, to vote for the bill if its operations are confined to contracts made for the exportation of rum. I should be very willing to so amend this bill as to accommodate the particular traffic to which the Senator from California refers; but he must see that if the word "whisky" is inserted in this bill it opens wide the door to the commission of fraud everywhere in the United States, and it allows those frauds to be committed in all the States everywhere, and in undertaking to benefit that particular interest, or that particular trade, we break down all restrictions upon the whisky traffic, and enable persons who are so disposed to evade the revenue laws of the country.

I was informed, when this bill stood in its original shape, that there were persons in Cincinnati and elsewhere in the large cities of the country, with hundreds of barrels of whisky, who were ready to avail themselves of the provisions of this bill by defrauding the revenue, as this enabled them to transport the whisky under pretense that it was for exportation. It is under that system that the great frauds, or many of them, have been committed, and it was found necessary to repeal absolutely the law allowing bonds for transportation to be given so far as whisky was concerned.

It is represented that there is rum in the New England States, which is an article exclusively manufactured there, I believe, for which contracts were made prior to the passage of the act to which this bill refers, and this simply allows those persons who contracted to sell that rum to send it out of the country by giving transportation bonds. It is a fact, also, that there has been no fraud, or at least few, if any, frauds committed upon the revenue in the exportation of rum; but all the great frauds have grown up out of the whisky traffic, and if we insert "whisky" in this bill we simply open up transactions which we have undertaken to prevent by the act of 11th of January, to which this bill refers.

The PRESIDENT *pro tempore*. The question is on reconsidering the vote by which the bill was ordered to a third reading.

Mr. SUMNER. The Senator from Oregon [Mr. WILLIAMS] has very correctly stated this case; and I must say that I hope the bill will not be opened to amendment. I do not mean to express any opinion on the question raised by the Senator from California; but I do think that this present bill had better be kept by itself without any embarrassment from the larger question of whisky; you cannot name the word without embarrassment.

Now, this bill meets a specific case. There is a well known commerce, being the commerce with Africa, which at this moment centers in all parts of Boston and Salem. There is also a little of it in Providence, but its main home on this side of the water is in Boston and Salem. An essential element of that commerce is the New England rum. I am sorry to say so, but so it is; without that the commerce must fail. I understand that at this moment there are several vessels that for months have been lying idle in the harbor of Boston, and there is one also in the harbor of Salem waiting for this act of justice on the part of Congress, so that they may export this article in pursuance of the contracts which they had actually made before the act of Congress in January last.

This bill is simple; it is precise; it applies to that single case; it relieves a commerce that stands by itself, and it affects the distillers and also the ship-owners, both of whom must suffer largely without this relief.

I do hope that the bill will not be embarrassed by any extraneous question. The parties who are to be benefited by this bill are entirely blameless; they have never fallen under any suspicion of fraud or of fraudulent attempt

to violate the laws; they are not involved in the "whisky ring;" they have nothing to do with it; they stand apart from all that extensive transaction. They are associated with what is known as the African commerce; and I beg to assure the Senate from what I learn from my correspondence—I have here a dozen letters from excellent persons, merchants and others, in Massachusetts, who are interested in this commerce, who assure me that without the relief of this bill, that commerce must suffer very much, involving very serious loss to individuals.

Mr. COLE. I beg to assure Senators that there is no disposition on my part to embarrass the passage of the bill; but when the bill was originally reported it was broad enough to cover the case to which I have made allusion. I was not in my seat yesterday when the bill was first called up. I was here in time to vote for its passage. I supposed, as reported, it would be applicable only to such contracts as were made in good faith for liquor to be exported prior to the 11th of January. I do not appreciate the statement made by the Senator from Oregon, to the effect that it will open the door for fraud. I do not know how any liquor can be exported under this bill, except such as was contracted for like that to which I have made reference in California, before the law of the 11th of January. I have been watching for this bill a long time, and urging the committee to act upon it for the benefit of the trade from San Francisco to the Amoor river. A great deal of delay has taken place necessarily in bringing it up, from the pressure of other business; and now when it is brought up, I assure the Senate it will work great disappointment, and will be ruinous in its effects on persons in San Francisco if it is passed in the form to which it has been changed, to include only rum instead of liquor. I regret very much that that change has been made. I hope that the bill will be so modified as to permit these contracts in San Francisco to be fulfilled, as well as the contracts made in Boston and Salem.

Mr. NYE. When this bill was under consideration yesterday I opposed it, and should do so to-day but for the fact that I have consulted thoroughly with the distinguished Senator from Massachusetts now absent, [Mr. WILSON,] and he assures me that it is all right. I think when we get a certificate from him that African rum is all right that will be sufficient for the rest of the Senate. [Laughter.] Therefore I shall cease to further oppose the bill. I sympathize strongly with my friend from California, and shall vote at the proper time for the privilege which he asks, to allow the manufacturers and traders of San Francisco to trade with the Amoor river. But that cannot be delayed more than a week, and I am apprehensive that it will embarrass the bill now. I think we had better let these merchants go, and especially I appeal to my friend from California, upon the certificate of my distinguished friend from Massachusetts that the traffic is right, not to interpose. It will form a good precedent, one of which I shall avail myself in assisting to pass the proposition of the Senator from California when that comes up. I think we had better let this bill pass as it is. I think it is the best first step that can be made toward the success of that which he and myself both desire.

Mr. HOWE. I voted yesterday against the passage of this bill, and I believe I shall vote against the reconsideration.

Mr. SUMNER. It has been reconsidered.

Mr. HOWE. I understand the question to be on the reconsideration.

Mr. SUMNER. The question now is on the reconsideration of the third reading of the bill.

Mr. SHERMAN. As I understand the state of the question, if the Senate should refuse to reconsider the previous votes the question will then again recur on the passage of the bill. We have already reconsidered the vote on the passage of the bill.

Mr. HOWE. So I am just now reminded. I was not aware of the state of the question.

The question now is on reconsidering the third reading of the bill.

The PRESIDENT *pro tempore*. That is the question. Unless that is done no amendment can be made to the bill.

Mr. HOWE. Well, sir, as I was opposed to going back at all, of course I am logically opposed to going back any further. The trade for which the Senator from California wishes to provide, I apprehend, is not of any very essential importance to the country, though it may be to the parties engaged in it. Looking at the last report we have on the subject of commerce and navigation I cannot find that any distilled spirits of any kind were exported to any part of the Russian possessions in Asia. As to the rum traffic, which it is said the Senator from Massachusetts sitting by me [Mr. WILSON] certifies to be all right, I think that is of less importance than is generally supposed. I tried yesterday to ascertain what it did amount to. I have consulted the same authority to which I just now referred, the returns to the Treasury Department, and I find that the whole amount of spirits distilled from molasses exported to all the ports of the world was but one million seven hundred thousand gallons, which is not a very heavy export; and of that quantity one third was exported to Turkey; about eight hundred thousand gallons were exported to the British possessions in Africa, and thirty thousand to Liberia. That is not, I submit, a very important trade to provide for; and if it be true that the export of one million seven hundred thousand gallons imperils, endangers the collection of not less than \$150,000,000 of internal revenue which we have lost for the last two years on this article of whisky, I think we can well afford to sacrifice the whole trade. We ought to have at least \$175,000,000 of revenue from this one article of whisky. We consume in this country beyond all question one hundred million gallons of spirits of all kinds.

Mr. STEWART. If the Senator will allow me—

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday, being the joint resolution (H. R. No. 201) in relation to the Rock Island bridge, is before the Senate.

Mr. POMEROY. If the Senator from Iowa, [Mr. HARRIS,] who has charge of that measure, will allow it to be laid aside informally, I should like to take up the bill that was discussed some time yesterday informally on the motion of the Senator from Michigan, [Mr. HOWARD.] If there be no objection, I trust it will be laid aside, and that the Senate will proceed to the consideration of Senate bill No. 256.

Mr. HARRIS. If it can be done informally, so that the unfinished business shall not lose its place, I shall not object.

Mr. SUMNER. I hope the Senate will proceed with the consideration of this question until it is settled. We can close it in ten or fifteen minutes. I do not wish to debate it. Let us bring it to a close.

The PRESIDENT *pro tempore*. The unfinished business can be passed over by unanimous consent.

Mr. EDMUNDS. I object.

The PRESIDENT *pro tempore*. Objection being made, it cannot be done without a motion.

Mr. SUMNER. I move that it be laid aside informally.

The PRESIDENT *pro tempore*. That is objected to.

Mr. HARRIS. Is the joint resolution No. 201 before the Senate?

The PRESIDENT *pro tempore*. It is, being the unfinished business of yesterday.

Mr. SUMNER. I move that the unfinished business be postponed for an hour, in order that we may proceed with the consideration of the pending question.

The motion was agreed to.

Mr. SUMNER. Now I move that the Senate proceed with the consideration of the bill

that was under consideration at the expiration of the morning hour.

The PRESIDENT *pro tempore*. That bill is before the Senate, and the question is on reconsidering the vote by which it was ordered to be read a third time.

Mr. STEWART. I merely wish to remark to the Senator from Wisconsin that if his objection to this bill is predicated on the ground that by not passing it we shall get any more revenue I think he has not familiarized himself with the workings of the department. I do not think it makes much difference what amount of distillation we have so far as getting anything into the Treasury during the next six or eight months is concerned. There does not appear to be anything gained in that way in any event. If he can show whereby this would make any change in that regard, the argument would be good.

Mr. HOWE. I should like to inquire of my friend whether he rose to put a question to me or to tell me something?

Mr. STEWART. To tell you something.

Mr. HOWE. I wish the Senator had done that before I started. I want to have the benefit of all the information I can get on the subject before I commence to discuss it. I am much obliged to him for his information. I am inclined to think I cannot rely upon it very safely, and it will not do for the revenue department to rely upon it.

I was about saying that I think we ought to have \$175,000,000 per annum from this article. We consume one hundred million gallons of distilled spirits in this country annually. If two dollars a gallon were paid on it it would give us \$200,000,000. I do not think we ought to be irrational enough to exact payment on all that is distilled, until we get purer than we are to-day. We are now getting about a million a month. The rest of it goes out without paying anything. One of the grand contrivances, as we are told on all hands by those who are familiar with the workings of the revenue laws, which I am not and do not profess to be, for getting this article into the market is this pretense of exporting it, putting it aboard ship free, and bringing it back and landing it somewhere and throwing it on the market.

Mr. STEWART. There is where you are mistaken. It is a mistake to suppose that because that is one of the grand contrivances if you stop that you prevent frauds. Since we have stopped that they have contrived some other mode to accomplish the same result and get it out.

Mr. HOWE. This stops one of the modes; and the question I wish to present to the Senate, without spending any time in the argument of it, as the friends of the measure want a vote upon it, is whether we can afford to imperil this great revenue for the sake of fostering this trade which amounts to so insignificant a sum.

Mr. SUMNER. If I thought that the present bill, if passed, would imperil by a hair's breadth the revenue to which the Senator refers, I would not vote for it, nor utter one word in its favor.

Mr. HARRIS. I desire to ask of the Senator from Massachusetts an explanation upon another point. We have laws prohibiting the introduction and sale of whisky and rum to our own savages, and I understand this is a bill to open the trade with a similar class of people in Africa. I should like to know if, in his opinion, it would be good policy for a Government like ours to foster a trade which can be carried on in no other way, as we have heard here during the discussion of this bill, than by the introduction of rum?

Mr. SUMNER. I do not propose to foster it at all. I simply propose that the Government should repeal a law by which it interfered on the 11th day of January last with existing contracts for the exportation of this article, it being in the main exported to the African coast and the Mediterranean. It is an essential article in that commerce, for what use, for what purpose, I do not know; I have never inquired. I only know, on the reports

of merchants and others who are interested, that this article has been regarded as essential to commerce. I have here among the letters before me one from the superintendent of exports and drawbacks in Boston, from which I will read a passage, as follows:

"The joint resolution of 11th January bears very heavily on the merchants engaged in the African and Mediterranean trade. Not a vessel has sailed for the coast of Africa from this port since, and the business is becoming very much deranged.

"Spirit, though by no means the whole, is so important an article in a cargo for the African coast that on the trial of Ames Oaksmith for piracy, testimony was introduced to show that he had no spirit on board, and therefore that it could not be a legitimate African voyage.

"Boston has now almost a monopoly of the African trade, but if it is crushed out and killed for a time, when it revives, if it ever does revive, it will not be in Boston. Messrs. Jussig, Goddard & Co. told me a few days since that they should load a vessel for the Mediterranean, shipping American cottons largely, if they could only ship some five hundred barrels alcohol at the same time."

Alcohol, as the Senator from Maine [Mr. FESSENDEN] remarks, is struck out. I have another letter here from a person who is engaged in the manufacture. He says:

"Please do not consider my case individual; for I assure you that it is representative; and that there are other material interests suffering from the law of which I complain. I am a distiller producing New England rum only; and that entirely for export.

"Now, sir, the law of January 11, 1868, prohibiting the export of spirits in bond bears heavily upon me and very heavily upon my patrons. My warehouse is full of rum; my distillery closed; my workmen with their families dependent upon me for support; my patron's vessels lying at their wharves month after month; their contracts with foreign merchants unfulfilled; their agents in foreign countries at great risk and expense idle; and their business here dying. All this and much more my space will not permit me to write in consequence of an unconstitutional law which benefits no one, except manufacturers and dealers in illicit whisky. Neither myself nor my patrons have ever been engaged in traffic in distilled spirits in the United States; nor have either ever been accused at law of any fraud or attempted fraud upon the Government."

He then proceeds to give several reasons, and he adds at the end:

"The law of January 11, passed for the avowed purpose of preventing frauds, and thereby increasing the revenue from distilled spirits, has failed in both purposes, and has had the effect to kill the only legitimate traffic in spirits existing to any noticeable extent in this country at the time of its passage, namely, the distillation and sale of rum in bond for export.

"The rum in warehouse, to which I have before alluded, was made on contracts entered into in good faith with well known exporters previous to January 1, 1868."

There is the whole case. The rum to which this is applicable is held now under contracts made anterior to the act of Congress which it is proposed to repeal.

As to the inquiry of the Senator from Iowa I will add another word. There is a plain distinction between the two cases to which he calls attention. The Indians are our wards, and directly under our influence. Here is a commerce extending along the coast of a continent and entering the Mediterranean. One of its essential articles is now in question. In return for this article we receive palm oil, ivory, coffee, and ground-nuts. What is done with the rum I cannot tell. I know not that it becomes the destructive agent which it is unquestionably when in the hands of the Indian. If the Senator would impeach the present trade with Africa, so far as it embraces this article, I do not see easily where he will stop. Our revenue is now increased by duties on foreign brandies. Shall these be abandoned? Our railroads transport whisky and rum. Shall we forbid the transportation? In putting these questions I present the difficulties involved in the inquiry of the Senator. For myself I regret this commerce. I wish that it did not exist. But it does exist. Considerable interests are embarked in it under the expectation of good faith on the part of the Government. I am unwilling to see these sacrificed; and this is all my present object.

Mr. MORRILL, of Vermont. I merely desire to correct the Senator from Wisconsin [Mr. HOWE] as to this trade being entirely without value or consideration. If he will examine the reports prior to the war he will find that the trade was very considerable. I

have before me the commerce and navigation report for the year ending June 30, 1860, which shows that the spirits made from molasses that were exported amounted to two million eight hundred and fifty-five thousand gallons; and in some years it will be found that it was more than double that. But the trade, although not of large aggregate amount, is quite important in relation to palm oil and ivory. Ivory is an article that is growing exceedingly scarce and dear for the last few years, and Great Britain and other countries are very eager to obtain a monopoly of it. This trade picks up a very considerable amount of ivory, which they must obtain from England unless we get it ourselves. - It is important in that respect that we should be able to continue this trade.

Mr. SPRAGUE. I entered this motion for reconsideration at the instance of gentlemen from the other House, without a thorough and full investigation. I did it somewhat upon the idea that it was beneficial to New England that the bill should be reconsidered, and that it should pass. The important consideration is simply this: the bill of January last was enacted to prevent frauds, and so that the Government should obtain a larger revenue from whisky and spirits than it otherwise would be able to obtain. The question with me is, whether or not, after the passage of that law, the Government, in fact, has obtained a larger revenue from spirits. The contrary is the fact. You are obtaining no more revenue, I understand, from the tax on whisky to-day than you were in January last, or prior to that time. Therefore, it is quite clear that the law in fact is a dead letter, so far as regards obtaining a larger revenue for the Government.

Mr. HOWE. Will my friend allow me to suggest what may possibly be an explanation of that fact, that we do not get any more revenue now than we did before the repeal of the bill?

Mr. SPRAGUE. Certainly.

Mr. HOWE. Is not this the explanation: since the repeal of that law, there has been greater difficulty experienced in getting these spirits on to the market, and, as a consequence, these spirits have not been put on the market nor exported, but are piled up in the warehouses. The Senator from Ohio stated yesterday that the lowest estimate of the amount now in the warehouses was twenty million gallons. That is one fourth of a year's distillation. He said other estimates placed it as high as forty millions. That is half a year's distillation. Now, having accumulated this whisky in the warehouses while this law has been repealed, is there not great reason to fear that restoring the law will simply provide the means of putting this accumulation on our own market?

Mr. SPRAGUE. You restore the old law, as I understand, for only a period of sixty days, and I believe the bill is now confined solely to the article of rum. It is clear to me that during this short space of time there can be sufficient watchfulness on the part of the revenue officers in a general way or in shipments to other countries than Africa. This African trade is about the tail-end of the foreign business of New England. She had a little business with the West Indies, but Canada now takes that. The honorable Senator from Massachusetts, [Mr. SUMNER,] by the purchase of Alaska, has about used up our ice business. [Laughter.] We had a little export business to Africa, from which we got some palm oil and dates; but by the law of January last we shall lose that. I enter my protest, as usual, against any such legislation. I hope the Senate will consider that point and not consider the fact of the inability to execute the revenue law. I think it is a spectacle not well to be assented to and acknowledged that this Government is unable to execute its own laws and that in consequence of that inability it will go on from step to step cutting off the business and the trade of its people.

The PRESIDENT *pro tempore*. The ques-

tion is on reconsidering the vote by which this bill was ordered to be read the third time.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question recurs on the passage of the bill.

Mr. SHERMAN. I should like to have the yeas and nays on that question.

The yeas and nays were ordered.

Mr. HENDRICKS. I wish to inquire of the Senator from Ohio if the bill is now confined to rum that is manufactured for the particular purpose of exportation?

Mr. SUMNER. It is.

Mr. HENDRICKS. I wish to know whether, in such a case, it conflicts with the existing law?

Mr. SHERMAN. Rum undoubtedly is ardent spirits, and comes within the law of January last. As I said before, the only objection I have to the passage of the bill is not to interfere with the existing trade, but because I do not believe it will be possible to prevent the fraudulent exportation of spirits under this bill. I know that the gentleman to whom the Senator from Massachusetts refers will not do it, but others will do it under cover of the law.

Mr. SUMNER. I do not think any such trouble can arise under this bill.

Mr. SHERMAN. That is for the Senate to determine for themselves.

The question being taken by yeas and nays, resulted—yeas 26, nays 14; as follows:

YEAS—Messrs. Anthony, Bayard, Cattell, Chandler, Cole, Conkling, Corbett, Cragin, Dixon, Edmunds, Fessenden, Hendricks, Howard, Morgan, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Sprague, Stewart, Sumner, Tipton, Van Winkle, Williams, Wilson, and Yates—26.

NAYS—Messrs. Davis, Doolittle, Ferry, Harlan, Henderson, Howe, McCreery, Morton, Patterson of Tennessee, Ross, Sherman, Trumbull, Wade, and Wiley—14.

ABSENT—Messrs. Buckalew, Cameron, Conness, Drake, Fowler, Frelinghuysen, Grimes, Johnson, Morrill of Maine, Norton, Ramsey, Saulsbury, Thayer, and Vickers—14.

So the bill was passed.

On motion of Mr. MORGAN, the title of the bill was amended so as to read, "A bill for the relief of certain exporters of rum."

#### EVANSVILLE MARINE HOSPITAL.

A message from the House of Representatives, by Mr. LYON, Chief Clerk, returned to the Senate the joint resolution (H. R. No. 44) relating to the sale of the marine hospital at Evansville, Indiana, in accordance with the request of the Senate.

Mr. MORTON. As the joint resolution (H. R. No. 44) relating to the sale of the marine hospital at Evansville, Indiana, has now been returned to us, I move to reconsider the vote by which the joint resolution was passed by the Senate.

The motion was agreed to.

Mr. MORTON. I now move to recommit the joint resolution to the Committee on Commerce, and I desire to call the attention of the chairman of the committee to it.

The motion was agreed to.

#### GREAT AND LITTLE OSAGE INDIANS.

The message also announced that the House had directed certain extracts from its Journal to be transmitted to the Senate; which were transmitted.

The PRESIDENT *pro tempore* laid before the Senate the following resolutions of the House of Representatives, transmitted as extracts from its Journal:

*Resolved*, (as the sense of the House of Representatives,) That the treaty concluded on the 27th of May, 1868, with the Great and Little Osage tribes of Indians, both in its express terms and stipulations, and in the means employed to procure their acceptance by the Indians, is an outrage on their rights; that, in transferring to a single railroad corporation eight million acres of lands, it not only disregards the rights and interests of other railroad corporations in the State of Kansas, and builds up a frightful land monopoly in defiance of the just rights of the settlers and of the people of the United States, but it assumes the authority, repeatedly denied by this House, to dispose of those lands by treaty otherwise than by absolute cession to the United States, and for purposes for which Congress alone is competent to provide.

*Resolved*, (as the sense of this House,) That the objects, terms, conditions, and stipulations of the aforesaid pretended treaty are not within the treaty-



making power, nor are they authorized either by the Constitution or laws of the United States; and therefore this House does hereby solemnly condemn the same, and does also earnestly but respectfully express the hope and expectation that the Senate will not ratify the said pretended treaty.

*Resolved*, That a copy of the foregoing resolutions be transmitted to the Senate of the United States.

The *PRESIDENT pro tempore*. What order will the Senate take on these resolutions?

Mr. SUMNER. Those resolutions of the House of Representatives relate to a matter which properly comes before the Senate in executive session. They do not properly appear here in the course of legislative business. I should desire, therefore, that they should be transferred to the executive business of the Senate and then referred to the Committee on Indian Affairs.

Mr. POMEROY. I hope they will be printed.

Mr. HARLAN. Why not refer them directly to the Committee on Indian Affairs?

Mr. SUMNER. That can be done. I preface that motion, however, by expressing my regret that they were not presented to the Senate in executive session, as they concern the executive business of the body and not the legislative business.

The *PRESIDENT pro tempore*. The resolutions were considered in public session in the House of Representatives, and of course were sent here in public session.

Mr. HARLAN. I move that that they be referred to the Committee on Indian Affairs.

Mr. POMEROY. I hope they will be printed.

The *PRESIDENT pro tempore*. The resolutions will be referred to the Committee on Indian Affairs and printed, if there be no objection.

The *PRESIDENT pro tempore* laid before the Senate a letter from the Secretary of the Interior, transmitting a copy of a communication from the Secretary of War, inclosing copies of letters from General Sherman relative to the treaty with the Sac and Fox Indians, now before the Senate; which was referred to the Committee on Indian Affairs.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1100) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels, and for other purposes;" and

A bill (H. R. No. 1261) amendatory of an act relating to *habeas corpus*, and regulating judicial proceedings in certain cases.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 867) for the relief of Jonathan Jessup, postmaster at York, Pennsylvania; A bill (H. R. No. 1120) to authorize the Secretary of the Treasury to change the names of certain vessels;

A bill (H. R. No. 1218) appropriating money to sustain the Indian peace commission and carry out treaties made thereby;

A joint resolution (H. R. No. 246) directing the Secretary of State to present to George Wright, master of the British brig J. and G. Wright, a gold chronometer, in appreciation of his personal services in saving the lives of three American seamen, wrecked at sea on board of the American schooner Lizzie F. Choate, of Massachusetts;

A joint resolution (H. R. No. 268) for the relief of Robert L. Lindsay;

A joint resolution (H. R. No. 295) to authorize the Secretary of the Treasury to remit the duties on certain articles contributed to the National Association of American Sharpshooters;

A joint resolution (H. R. No. 294) donating

to the Washington City Orphan Asylum the iron railing taken from the old Hall of the House of Representatives;

A bill (S. No. 164) to provide for appeals from the judgments of the Court of Claims, and for other purposes;

A bill (S. No. 280) granting a pension to Michael Hennessy, of Platte county, Missouri;

A bill (S. No. 377) to change the time of holding the district and circuit courts of the United States in the several districts in the State of Tennessee; and

A bill (S. No. 425) granting a pension to George Bennett.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 1100) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels, and for other purposes," was read twice by its title, and referred to the Committee on Commerce.

The bill (H. R. No. 1261) amendatory of an act relating to *habeas corpus*, and regulating judicial proceedings in certain cases, was read twice by its title, and referred to the Committee on the Judiciary.

#### CENTRAL BRANCH PACIFIC RAILROAD.

Mr. HOWARD. I now move that the Senate proceed to the consideration of Senate bill No. 256.

Mr. TRUMBULL. I will inquire what will be the effect of that motion when the hour of two o'clock arrives. Will the joint resolution, which was the order of the day, then come up?

The *PRESIDENT pro tempore*. I can hardly answer this question satisfactorily to myself. It was postponed.

Mr. TRUMBULL. For an hour, to enable the other bill to be disposed of.

The *PRESIDENT pro tempore*. I suppose when that hour has expired the unfinished business will be before the Senate again.

Mr. TRUMBULL. If that joint resolution comes up at the end of the hour, I shall not object to this motion.

The *PRESIDENT pro tempore*. I suppose it does under the rule, as I understand it. The question is on taking up the bill mentioned by the Senator from Michigan.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 256) relating to the Central Branch Union Pacific Railroad Company.

Mr. POMEROY. When this bill was before the Senate on a previous occasion, the Senator from Iowa [Mr. HARLAN] was addressing the Senate, and was broken off in the middle of a speech by the expiration of the morning hour. I suppose he desires to finish his remarks on that question.

Mr. HARLAN. So much time has elapsed since this bill was before the Senate—

The *PRESIDENT pro tempore*. Before the debate proceeds, the amendment pending, offered by the Senator from Vermont, [Mr. MORRILL,] will be read.

The Chief Clerk read the amendment, which was in lines twenty-four and twenty-five, to strike out the words "for any greater length of road than one hundred and fifty miles from" and to insert the word "beyond;" so that the proviso will read:

*Provided*, That no subsidy in United States bonds shall be allowed to said Central Branch Company beyond the termination of the one hundred miles on which bonds are already authorized to be issued on said line of railroad.

Mr. HARLAN. I was about to remark that it has been so long since this bill was before the Senate that it will be very difficult for me to begin now where I left off; and if a vote can be taken without further discussion I would much prefer to have the vote taken on the bill than to submit any further remarks myself.

Mr. EDMUNDS. I suppose I am not foreclosed by the observations of my friend from Iowa from saying something. I believe I was broken off, six or eight weeks ago, much in the same manner as the Senator from Iowa; and

in order to make myself understood, I shall have to begin at the beginning.

Mr. President, I have desired to investigate this subject with entire impartiality, and so far as I am conscious of my intellectual operations, I have done so. If I have failed to see the merit which the friends of this bill suppose it to contain, it is not because I have not listened to those friends in doors and out of doors, "in season and out of season," to their heart's content. Every suggestion that ingenuity could provide which should induce one to go for the bill has been made to me. Every sentiment which sympathy sometimes permits us to express has been appealed to. And so if I have felt obliged to come to a conclusion which differs from that of the Senators who advocate this bill, it has not been for want of investigation and for want of teaching.

But, Mr. President, the truth is, nevertheless, I believe, that any fair man who merely desires to do his duty in protecting the Treasury of the United States, and protecting the taxpayers whom he represents, must conclude that this claim has no just or legal foundation. This company may have been unfortunate under the circumstances that have taken place. It appears from their own statement, and I believe it, that they have been; that they find themselves with a hundred miles of railroad built from the Missouri river westward in the State of Kansas, not in any Territory of the United States, which does not pay running expenses. In a State that is rapidly filling up with population, as we are told; a State that is the garden of the West, that should support its population of millions, and will in due time, I dare say, this company finds itself now, after having received \$1,600,000 of the money of the United States in aid of the construction of its road, with a hundred miles of railroad and with expenses in running it so great that they are not met or satisfied by the income of the property. Now the company wish the United States to give them \$2,500,000 more of its bonds, its credit, in order to enable them to prosecute that enterprise one hundred and fifty miles, as the bill provides, so as to connect with the great Pacific line which is to terminate at Omaha or somewhere near the one hundredth meridian west.

If we are in a condition to subsidize all the branches which are authorized by State authority, converging westward to the one hundredth meridian, from Iowa, from Kansas, from Missouri, and from all that great region of country, then this application comes to us with as good a ground for support as any application could. Those who are engaged in it are respectable men unquestionably. I dare say they have spent their money economically; and they have that natural desire for a reasonable margin of profits that all business men have. But the question is whether we can take the step of adding to our already somewhat large stock of bonds of one kind and another, \$2,500,000 more in aid of what is really, and nothing else, a State enterprise, a company chartered by the State of Kansas, the length of whose whole line is in the State of Kansas, subject to the laws of Kansas, and to the laws of no other government or community on earth. That is the question.

Senators all know perfectly well that the theory of this Pacific railroad business was to have one grand trunk line from the one hundredth meridian west to the borders of California, and to permit as many branch lines in the States running from the Mississippi or the Missouri, or wherever else State authority might grant them, to connect there, as chose to do it. It is true that afterward, by the act of 1864, the line through Iowa, I believe, which comes out at Omaha or somewhere there, became practically a part of that great trunk line. And now we have the application of this company to become another part of this great trunk line. It appears to me, I am sorry to say, that there is no justification for such an application.

It is said, I know, and it is pressed with great

pertinacity, that there is a legal obligation arising out of our previous statutes which compels us, in the exercise of legal good faith as well as moral good faith, to grant this subsidy; that is to say, that by force of the act of 1864 this company was permitted, with the subsidy, bonds as well as lands, to extend its line to the one hundredth meridian under the circumstances which that law provided for, although the express letter of the law declared in so many words that it should only have a subsidy in bonds for one hundred miles in length from its eastern termination. Of course it would require a pretty strong degree of argumentation to convince a fair man who had no motive or interest to subvert except just to do right that when the statute of 1864, as well as that of 1862, declared, in words, that the amount of subsidy this company should have should only be for one hundred miles, the real meaning of the law, after all, was that in a certain contingency it should be for two hundred and fifty miles. It would require, I say, a pretty large degree of ingenuity to do that.

It is claimed, I know, that the opinion of Mr. Curtis, employed by this company to give an opinion for a proper compensation, argues us out of that result. Sir, I do not believe it. I think that Mr. Curtis, with a great deal of skill and ingenuity, has evaded the precise point, and has dealt in what an eminent orator of his own town once described to be "sounding and glittering generalities."

The ground upon which that claim is made (and I must be excused for referring to the statutes) is supposed to be this: that by the act of 1864 these various lines were permitted to consolidate with each other, and one section of the act of 1864 provided, it is said, that in case any one of these lines that were to consolidate should fail to build its road according to the obligation that the law imposed so as to make a complete connection with some of the other lines, then the line with whom such a connection might be made should have an opportunity to take up the right of the other defaulting company and to extend the road over the line which had been previously granted to the other; and they say that inasmuch as the company with which this was to connect—the Union Pacific, eastern division, I believe it is called—has not built in the direction and to the extent that the act of 1864 authorized it to build, this company is now, therefore, lawfully authorized to go on with the construction of the road, and is entitled to receive the subsidy in bonds for doing it. I entirely dissent from that proposition as a matter of law. I have studied the statutes with the utmost care, and have listened, as I have said, to the personal argument of one of the gentlemen connected with this line, which was certainly very ingenious, and one which, I do not doubt, he believed in himself, to show that that was its construction; but I cannot bring my mind to see it in that light.

The Union Pacific Company, eastern division, was authorized by that very act of 1864 to connect its line with the Union Pacific proper west of the one hundredth meridian by an express authority; and so was any of the other companies that were to connect with that line. They were authorized by the act of 1864 expressly to connect west of the one hundredth meridian at any point they might choose, somewhere in the vicinity of Denver, I think it was. Perhaps there was no limitation at all; I am not sure about that. All that the act of 1866 provided, which is the act these claimants now complain of, was, that the time within which the eastern division line should file its location and survey, and I do not know but begin its work—I am sure about that—should be extended a certain length of time.

Mr. CONKLING. No; file its map.

Mr. EDMUNDS. That is all the act of 1866 provided. So that by the act of 1864, under which this claim of right on the part of these claimants is made, the very company that they now complain of as having diverged its line to their injury was authorized to select any

route that it pleased to select, so that it connected anywhere west of the one hundredth meridian with the Union Pacific Railroad Company. Now, therefore, there can be no equity, there can be no grant which can ever operate so long as the Union Pacific, eastern division, is going on, in favor of these parties, under the very section that they claim under, for the reason that the Union Pacific Railroad Company, eastern division, down to to-day is doing precisely the thing that the act of 1864 authorized it to do; that is to say, building westward with the authority to connect, and with the obligation to connect, as the law stands, with the Union Pacific railroad proper at some point west of the one hundredth meridian; so that the Eastern Division Railway Company, using the language in this section under which this claim is made, has not defaulted in the slightest degree. It has not failed to do any one thing that the act of 1864 required it to do. It is exercising now whatever authority it does exercise under the power and authority that this very act of 1864 gave to it. And, as I have said, this same act declared, in express terms, when this authority was conferred upon the Eastern Division Company, that in no event should this particular line have more than its hundred miles of subsidy.

The gentlemen who are interested in this line knew, of course, of the law of 1864. The act of 1864 was passed before this particular Central Branch Company—if that be the name of it—had begun any operations at all. If I am correctly informed, (and if I am not the chairman of the committee will correct me,) the operations of the Central Branch Pacific Railroad Company had not commenced on the passage of the act of 1864. Am I right?

Mr. HOWARD. I am not able to furnish the Senator from Vermont with exactly the facts as to the state of the work on the branch road now under consideration at that time; but I think he has been misinformed with regard to the fact of no work having been commenced on the Central Branch at that date.

Mr. EDMUNDS. As the chairman of the committee does not seem to know, and believes I am misinformed, I must give my authority. My authority is the very officers of this company who are now here pressing this claim. Unless I am very much mistaken—and if I find that I am I will take the earliest possible moment to correct it—when they were attempting to convince me that this was a just claim—and I was willing to be convinced, I must confess, because they are gentlemen of rectitude and sincerity apparently—when they were endeavoring to convince me what the state of this case was, and why I ought to go for this bill, in order to ascertain what their equities were, I made the usual inquiries that any body who wished to understand the subject would. What was your company about when this act of 1864 passed? Let us ascertain whether there was anything in that act which did you injustice. Were you a party to it? Were you satisfied with its passage? Were you one of the promoters of it? I understood these gentlemen to reply that they were. And then, when I asked them what was the state of the work on your road at that time; had you invested any money in the construction of that road, I understood them to reply that they had not. They, therefore, did not claim that there was anything in the act of 1864 which they had any right to complain of or any disposition to complain of; but, taking the act of 1864 as it stood, they claimed that in order to carry out its provisions in their favor, on account of the subsequent conduct of Congress in 1866 and of the Eastern Division Company, they were authorized to receive this subsidy. I think, then, I am not mistaken when I say that, referring to the act of 1864 amending that of 1862, we find this company in a condition when they not only have no right to complain of that legislation, but were actually one of the parties who promoted it and obtained it to be made, having no money invested, having no work done; and therefore, referring to the act of

1864 as the foundation upon which their subsequent operations were taken, as well as those of the eastern division, we have a right, and we must, indeed, look at the fair meaning of that act as we construe it, having no fee or interest to misconstrue it, in order to ascertain what their rights are as respects the eastern division.

When we come to see what those rights are, it does not seem to be capable of being misunderstood. I agree that it is very easy to employ counsel to make up an opinion and give a statute any construction you may wish for it. If I go to my counsel and tell him that I want an opinion made out which will give me a right under a statute, and he looks at it with the ingenious eyes of a skillful man, he can write an argument that will be at least very confusing, as that of Mr. Curtis is. That is what he is employed to do, to present that side of the question, and so it will be with every statute, because human language is not sufficiently exact and particular to be entirely incapable of being misconstrued or misunderstood.

Mr. TRUMBULL. I should like to inquire of the Senator from Vermont, if I understood him correctly—but perhaps I only understood part of what he was saying—did he say that the central branch or its officers assisted in the passage of the act authorizing a change of the route of the eastern division?

Mr. EDMUNDS. I am speaking of the act of 1864 now; I have not yet come to the act of 1866. I understand the officers who are now representing the central branch to say that the act of 1866 was passed injuriously to their rights and interests, without their knowledge or consent.

Mr. TRUMBULL. And they protested against it, as I understand.

Mr. EDMUNDS. They protested against it in the House of Representatives, as they say; but I will come to that presently.

In what I say about the construction of these statutes I wish to be borne out by the judgment of the Senate, and therefore I shall refer in all cases where I can to their exact language. The ninth section of the act of 1864 provides:

"That any company authorized by this act to construct its road and telegraph line from the Missouri river to the initial point aforesaid—"

That, you will perceive, related to the Union Pacific, eastern division, the one which this company is now complaining of, as one of the companies included in that act—

"That any company authorized by this act to construct its road and telegraph line from the Missouri river to the initial point aforesaid, may construct its road and telegraph line so as to connect with the Union Pacific railroad at any point westward of such initial point, in case such company shall deem such westward connection more practicable or desirable; and in aid of the construction of so much of its road and telegraph line as shall so be a departure from the route heretofore provided for its road, such company shall be entitled to all the benefits and be subject to all the conditions and restrictions of this act: *Provided further, however,* That the bonds of the United States shall not be issued to such company for a greater amount than is heretofore provided if the same had united with the Union Pacific railroad on the one hundredth degree of longitude: nor shall such company be entitled to receive any greater amount of alternate sections of public lands than are also herein provided."

Here, Mr. President, by this section, as the Senate will perceive, was an express authority, in language absolutely unmistakable—at least as much so as language is capable of being—to the Union Pacific railroad, eastern division, whose action is now the sole subject of complaint on the part of this Central Branch Company, to extend its road westwardly to any point of connection which it might choose beyond the one hundredth degree of longitude.

Mr. POMEROY. I do not like to interrupt the Senator; but, if he will allow me, I wish to ask why they came in 1866 to get the right to go there if they had that right in 1864?

Mr. EDMUNDS. I am not the keeper of the Union Pacific railroad, eastern division; in fact I know less about it than I do about the central branch, because I have not been subjected to that kind of attention from its

officers that I have been from those of the central branch—no offensive attention either.

Mr. POMEROY. Perhaps the Senator may not be aware that they had applied to go up where he says they had a right to go when the Senator from Iowa was Secretary of the Interior, and that construction was not put upon it by the Secretary of the Interior, and therefore they came to Congress.

Mr. HARLAN. The question was referred to the Attorney General, and the Attorney General thought that they had not the right.

Mr. EDMUNDS. Had not what right?

Mr. HARLAN. Had not the right to change their location.

Mr. EDMUNDS. What do you mean by changing their location? Do you mean to say that the Attorney General decided that, under the act of 1864, the Union Pacific, eastern division, had not a right to construct its road and telegraph line so as to connect with the Union Pacific railroad proper at any point west of the initial point?

Mr. HARLAN. Mr. President, I mean this: under the act of 1862 and the act of 1864 this Eastern Division Company had located their line of road with the approval of the Secretary of the Interior, my predecessor; and the Attorney General held that they had no right to change the location, that the rights of other parties had vested, and that they had no right to make the change. The Senate will remember that under that law it is provided that each branch shall be so located as to enable each other branch to make its connection within the limits specified in the law, and the location of the several branches having been made under that provision of law, the law also provides that this shall be done subject to the approval of the President of the United States; and this having been done, and the rights of other parties having vested, it was held that they could not make the change.

Mr. EDMUNDS. I do not know what change they want to make with the Secretary of the Interior; and I am unable to ascertain from my friend from Iowa now whether the Attorney General decided that this statute was in force or was not. I have the impression that if we had the Attorney General here, and could cross-examine him, we should discover that he was then of opinion that this statute was in force, and that its language meant exactly what it says: that the Union Pacific Railroad Company, eastern division, might extend its line to any point of connection with the Union Pacific railroad proper, west of the one hundredth meridian, that it pleased. It says so in terms that are incapable of being misunderstood. What the Senator from Iowa says as to their being bound to permit other companies to connect with them eastward of the one hundredth meridian is perfectly true; and if the Union Pacific, eastern division, was to connect with the Union Pacific proper at the eastern boundary of California, this company could connect with it on the eastern side of the one hundredth meridian, if it wanted to do so. There is no difficulty about that. It has a perfect legal right, if my friend from Iowa is correct, to connect with the Union Pacific, eastern division, if it goes around by South America to reach California, anywhere this side of the one hundredth meridian. But inasmuch as the statute did not provide that any of these connecting companies should connect west of the one hundredth meridian, of course the company that my friend from Iowa is speaking for must comply with the statute and connect east of the one hundredth meridian; and there is a line of road for it to connect with east of the one hundredth meridian, or five hundred miles west of it; and it is a mere question of convenience and of profit between the two companies at what point east of the one hundredth meridian the central branch shall connect with the eastern division. The real point of complaint, however, is, I suspect, that the central branch people wish to go northwest to make a connection. whereas, according to the direction in which the Eastern Division Company are now

building their road, they would have to go southwest. It is perfectly easy for them to connect east of the one hundredth meridian; but they wish to compel the eastern division to bend their road to the northwest, so that they can connect with it in that direction, instead of being obliged themselves to bend their own line to the southwest. It may be a matter which would produce no profit at all if they were to connect in the southwest; but that is a matter with which the law has nothing to do.

So we find, Mr. President, that the act of 1862 gave this State company authority to build one hundred miles of line in its own State, and a right to have \$1,600,000 of our bonds to do it with, with the express proviso that it should not have in any event—and I use, I believe, the exact language of the statute; my friend, the chairman of the committee, will correct me if I am wrong—receive a subsidy in bonds for more than the first one hundred miles. Is there any ground of misconstruction about that? Could this company have misunderstood what that meant when they set out to undertake to build this line, the law declaring to them that in no event should they receive this subsidy in bonds for more than one hundred miles? Sir, it would be an insult to the sense of the Senate to suppose that that language could have been misunderstood by anybody. Then, coming down to the act of 1864, we find that the company with whose line this was to connect, were, if they chose, authorized by an act of which this company was a promoter, a company which at that time had not expended a dollar to extend their line to any point of junction with the main trunk west of the one hundredth meridian, still leaving the company making this claim to make its connection with the eastern division east of the one hundredth meridian at any point that it might choose, having "in no event" again a right to a subsidy for more than one hundred miles.

As I have said, Mr. President, after having listened to all the ingenious persuasions of these gentlemen—and they have been ingenious—and having had my sympathies appealed to, because this road does not pay, I have been unable to even see a doubt under the act of 1864 as to what its plain meaning is; and I may add that I have yet to hear from the officers of this company, or from anybody else, any complaint as to what the act of 1864 provided as an amendment to the act of 1862.

They do not go back to that; they claim that the act of 1864 is all right, and they say that all they ask for is such rights as the act of 1864 gave to them. They claim that under the sixteenth section of that act, inasmuch as the eastern division swung its line to the south with a view of connecting at Denver, as that same act by the ninth section gave it authority to do, they are, therefore, entitled to build an independent line to the northwest until they shall strike the Union Pacific at the one hundredth meridian. I have no objection to their building that line; but when they undertake to convince me that my conscience is bound or my sense of law is bound, under the construction of these statutes, to make the Treasury of the United States a contributor to that road, I say they make a great mistake, because the law is not capable, as it appears to me, under any fair or even under any exact and technical construction, of being wrested to any such purpose. They were only authorized by that sixteenth section, as I said, and as the language of the law is, to build on the line where the eastern division should or might have built, in case that company made default in constructing the line where the act of 1864 authorized it to construct; and as I have shown by the very language of the act of 1864, it did authorize the eastern division to construct according to its own free will and pleasure to any point that it might choose west of the one hundredth meridian.

Taking these two sections together, what is the meaning of the law? One section authorized the eastern division to construct at its

own discretion to any point of connection west of the one hundredth meridian. Then putting the very construction on the sixteenth section which the claimants do, the sixteenth section authorized the claimants, in case the eastern division should make default in constructing that line within the time that the act provides to a point of connection west of the one hundredth meridian, to take it up and construct it; but it so happens, as we all know the fact is, that the eastern division has not made any default in constructing its line to a point west of the one hundredth meridian. That company has chosen, under the authority of this act of 1864, to swing its line further to the south than it had intended to do, it is said, in order to connect at a point more suitable to its own notions of the traffic and profits which would arise from its constructing the line, and that is all it has done.

But, suppose, Mr. President, for the sake of the argument, that under this act of 1864 this Eastern Division Company had been guilty of a violation of their duty in swinging their line so much to the south, does that give this Central Branch Company any right to ask Congress to make it good? Do we stand as the guarantors or sureties of every railway company to whom we give a subsidy that they shall perform all their other obligations in favor of everybody else? Are we the ultimate residuary of reimbursement to every railroad company whose undertaking is interfered with by another? Is that the sense of equity that is to be appealed to in a body like this? Why, suppose, Mr. President, that in your own State the Legislature of Ohio should have chartered two lines of railway and authorized one to connect with the other, and upon the faith of that authority one of those companies should have gone on and expended money with a view to make the connection, and the other company does not choose to comply with the law, or the Legislature itself chooses to repeal the charter entirely from motives that commend themselves to its own sense of what its public duty is, what then? That is one of the chances of business which all business men who have sagacity foresee are possible to happen. There can be no obligation on the part of a State that charters an incorporated company and gives it certain privileges and makes it its duty to submit to certain burdens and easements that belong to another; there is no equity which compels that State to uphold and compel performance by that corporation of its duty unless it chooses to do so. It may repeal the charter the next day if it sees good reason for it; and while, if it acted grossly, unjustly, and corruptly, it might give the party injured a right to appeal to its sense of returning justice for reimbursement, it could scarcely give such a corporation a right to demand of it that it should take up the whole business that the other company had abandoned and carry on an entirely new and independent line of operations. That could scarcely be contended.

Now, Mr. President, what is the act of 1866, which, as it is said, is the real ground of complaint? The equity which is set up against Congress is that in 1866 it passed this law:

An Act to amend an act entitled "An act to amend an act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes,' approved July 1, 1862," approved July 2, 1864.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Union Pacific Railway Company, eastern division, is hereby authorized to designate the general route of their said road, and to file a map thereof, as now required by law, at any time before the 1st day of December, 1866; and upon the filing of the said map, showing the general route of said road, the lands along the entire line thereof, so far as the same may be designated, shall be reserved from sale by order of the Secretary of the Interior: *Provided*, That said company shall be entitled to only the same amount of the bonds of the United States to aid in the construction of their line of railroad and telegraph as they would have been entitled to if they had connected their said line with the Union Pacific railroad on the one hundredth degree of longitude as now required by law: *And provided further*, That said company shall connect their line



of railroad and telegraph with the Union Pacific railroad, but not at a point more than fifty miles westwardly from the meridian of Denver, in Colorado.

You will notice that by the act of 1864, which I have read, the Eastern Division Company had an unlimited right to connect at any point west of the one hundredth meridian. The only change in the act of 1866 made as to that connection was that it imposed a limitation upon the Eastern Division Company by which it prohibited their making this point of connection more than fifty miles west of the meridian of Denver. All the rest that it declared was that the time, which was running out, for their complying with the law, filing their maps, and going on with their operations, should be extended until the 1st day of December, 1866. Within that time this statute in express terms declared that they should do whatever they were to do "as now required by law;" that is to say, in accordance with the provisions of the act of 1864. That is all they are to do; they are to file their maps and designate their line of route before the 1st day of December, 1866, as then required by the existing laws of the United States. That is all.

The PRESIDENT *pro tempore*. The time has now expired for which the order of the day was postponed.

Mr. HOWARD. I move that the order of the day be further postponed, that we may continue the consideration of this bill.

The motion was agreed to.

Mr. HENDRICKS. I should like for my own information to ask the Senator from Vermont a question upon the construction of these statutes. I do not know whether I have understood his argument correctly. Suppose the act of 1866 had not passed, authorizing a change of the route of the southern branch, when that branch had failed to construct its road so as to connect with the northern line, and thus by its failure prevented the connection of this particular road with it, would that have given this company a right under the act of 1862 and the act of 1864 to have continued its construction so as to make the connection itself either at the one hundredth meridian, or west of that, and to have received the bounties provided in the law?

Mr. EDMUNDS. In answer to my friend from Indiana, I will say in the first place that this little road that we are now speaking of was not apparently, from the whole scope of the acts together, expected or intended to be a branch of the Union Pacific proper, but it was a local road, intended to run from the Missouri river to tap this eastern division at a point about one hundred miles distant from the river; and whether this particular local road was one that came within the consolidation acts of 1864, they are so confused, I am not certain. In what I have been saying I have taken it for granted that that was so, and that if the Union Pacific, eastern division, had made default within the language of the sixteenth section of the act of 1864, and had failed to build their road under that act entirely, this company would have been authorized to go on and connect at the one hundredth meridian, taking the subsidies that otherwise would have belonged to the eastern division. I take that for granted in what I am saying, although in looking at the statutes it is open to some doubt whether that is so or not; but the matter upon the other point seemed so plain to my mind that I did not trouble myself to settle definitely in my own judgment how this point would be. In what I am now saying about this bill, I take that for granted for the purposes of whatever views I have to give.

The result of that would be, if we are to proceed and give this company the subsidy to the one hundredth meridian, that we shall have reversed exactly the policy that we laid down in 1862 and 1864 as to these subsidies, because in both those acts we expressly declared that we would only give one subsidy to the one hundredth meridian to both these companies, and that subsidy should belong to the eastern

division, and we would give this particular local company a subsidy for one hundred miles and no more; and whereas the eastern division were to be permitted to go to the one hundredth meridian by the act of 1862, and were to have a subsidy the whole way, now the effect is, if we have to come to that by the result of these operations, instead of giving one subsidy to the one hundredth meridian, we give two for the whole distance for two independent lines. Of course that is a matter of very serious detriment and injury to the Treasury, as far as any of these subsidies may be thought to be so, because we are obliged to pay just double the money that when we set out in aiding these roads we expressly declared we would pay; and in order to have no mistake as to what we meant, as to how much we would give, because it is all a bounty, we declared in both those acts that we would not give a subsidy for more than one hundred miles, in any event, to this line, and that we would not give to the eastern division more than to the one hundredth meridian, in any event, upon that line; and so when we gave this permission to the Union Pacific, eastern division, to file its map up to the 1st of December, 1866, and limited its connection to the point of Denver, we again expressly declared, in explicit terms, that that should not authorize it to receive any subsidy beyond the one hundredth meridian; that is, any more than it was entitled to before.

The hardship to our Treasury, if the poor old thing has not got so paralyzed that hardship does not affect it at all, is that we are giving a double subsidy to parallel roads that are, so to speak, in that western country, within a stone's throw of each other, to do the same business. If we have the art of manufacturing money as rapidly as some financiers suppose we have, if it is a mere question of printing, it would not be so serious; but if it ever becomes a question of paying, a question of a sound condition of Government credit, which, I take it, like all other credit, must be measured by the amount of its debt as compared with its resources, then it is a very serious question, indeed; it is a question that we are bound to consider whether we can take another step in any direction, as we are now situated, in the aid of any line of railroad by way of subsidies in money. We can give them the lands, because, if we do not, either the Indians or somebody else will get them, as we discover, and I do not know that there is any great choice as to what shall be done with the lands.

Mr. CONKLING. We have given them to another company.

Mr. EDMUNDS. But when we come to another part of it, when we come to giving our credit in bonds, that we and nobody else are bound to pay to the holder, it is a matter of very serious concern how far we ought to go. As I said, when we set out we gave notice as distinct as language possibly could to these companies, that this particular company which is now a claimant for our bounty, or upon our justice, as my honorable friend from Missouri would represent it, that they should only have \$1,600,000 of our credit; that is, bonds for one hundred miles, and no more in any event; and we said to this other company that they were to tap at the distance of one hundred miles, "You shall only have subsidies of our credit to the one hundredth meridian," probably three hundred or three hundred and fifty miles from the Missouri river. Now, it is said that by some hocus-pocus or other that nobody could understand in the time that it took place, all this is entirely upset, and that while the Union Pacific Company, eastern division, has made no default at all, is carrying on its work and receiving its bonds to connect at some point in the meridian of Denver—a long way from it yet, I suppose, but it will get there some day or other—it has become a defaulter, and that by force of the act of 1864 the central branch is entitled to keep up the franchises that we gave it, and which it has lost under the act of 1864, and build its line to the one

hundredth meridian. That would be a very singular conclusion to come to; and the fact is it shocks your common sense when you look at the whole of that statute together. The only ground upon which, with any plausibility at all, with even the thinnest and shadowless plausibility this company can make any claim against us would be the ground that we had acted in bad faith in permitting the eastern division to swing its line so far to the south that they would have to go further, east of the one hundredth meridian, to connect than they otherwise would, and that therefore we ought not to give them the privilege of going to the one hundredth meridian, but to make good before the Committee on Claims the damages they have sustained in consequence of that.

Mr. HENDRICKS. Will the Senator allow me to ask him a question?

Mr. EDMUNDS. Certainly. As I am now debating this matter for my own information and that of the Senate I should like to have any questions put.

Mr. HENDRICKS. I am very anxious to get the Senator's opinion on a law question that has struck my mind with a great deal of force. Suppose the southern road had without any authority of Congress, after following the line prescribed in the statute for a certain distance, turned in a southwestern direction, so that it should become impossible for this particular road to make the connection contemplated by the statute, would that have been such a default under the act of 1864 as would have authorized this company to make the connection with the main trunk at the one hundredth meridian, or east of it, and to have given it the benefits provided in the statute.

Mr. EDMUNDS. Most clearly not, for the reason that if the eastern division had done what the act of 1864 authorized it to do, as it has done so far, plainly to my mind there could be no default under the same statute in the company's exercising the discretion that that statute gave to it. That cannot be a default within the meaning of the statute, plainly.

Mr. HENDRICKS. If the statute required the road to run in a northwestern direction, so as to connect with the northern line and so as to enable this road to connect with it, and instead of thus constructing its road the company had turned in a southwestern direction so as to make a connection impossible, and that without authority of law, would not that have been a default in constructing the line contemplated in these laws?

Mr. EDMUNDS. I think that, as an abstract question, my friend may be answered in the affirmative as to that. If the act of 1864 authorized and required the eastern division to build a particular road in a particular direction to a particular point, and declared that in default of its doing that another company might take up the line and build it, and it did make that default, the other company's rights would attach, unquestionably.

Mr. HENDRICKS. Now, I will ask the Senator one further question; and if he will answer that satisfactorily it will remove some trouble on my mind. After the act of 1864, does it disturb the rights of this company thus to extend its line so as to make the connection and enjoy the subsidies, and does the consent of Congress to this departure of the southern road from the prescribed line so as to defeat the connection, impair the legal or equitable rights of this particular line?

Mr. EDMUNDS. Most unquestionably the act of Congress would impair any legal rights this road derived from an act of Congress if Congress chose to change it, because Congress has sole control over its own legislation; and if this company, by the act of 1864, had an express right to connect with the eastern division at a particular point, and an act of Congress in 1866 chose to repeal all the rights of the eastern division, this company would not have a right to go on. I think that must be clearly so, inasmuch as Congress is the master of its own actions; and if it has granted a right to one, and those rights are dependent upon a right which

it has granted to another, if it chooses for good reasons to take away the right it granted to the other this right would fall. That would be one of the misfortunes of this state of things, and they happen in State legislation, as my friend knows, almost every day.

But the trouble is that my friend from Indiana has suggested a hypothetical and not a real case, because the act of 1864 did not declare that the eastern division should go to the northwest and should connect at the one hundredth meridian; it declared that it might extend its road to any point west, and connect at any point west of the one hundredth meridian that in its discretion, as I have read the language, it should choose. That is what it declared in express terms. It gave a discretion to the eastern division to extend its road and connect at any point west of the one hundredth meridian it might please. This is the language:

"That any company authorized by this act to construct its road and telegraph line from the Missouri river to the initial point aforesaid, may construct its road and telegraph line so as to connect with the Union Pacific railroad at any point westwardly of such initial point, in case such company shall deem such westward connection more practicable or desirable."

It therefore, by unmistakable language, reposed a discretion in the Union Pacific Railroad Company, eastern division, to so adjust the latitude, if I may use that expression, of its line as in its judgment would best conduce to its own interests, and connect with the Union Pacific proper at any point west that it might choose. That was thought to be, in 1866, a discretion a little too unlimited, and therefore when they came to us to get the time within which they might do that extended, we declared that that point of connection should be limited to within fifty miles of Denver, so as not to give it an unlimited sweep across the whole continent; and the act of 1864, in that connection, in express terms declares that no company should have any greater right to a subsidy on account of that western extension than they had by the original act of 1862, which expressly declared, as I have said, that the one company should only have a subsidy to the one hundredth meridian and the other, the one before us, for one hundred miles.

Mr. HARLAN. That the Senator may not spend more time upon that point than is necessary, I suggest to him that admitting his construction of the statute of 1862, from which he is now reading, the members of the Senate who take an adverse view to him contend that the statute of 1864 remedied that difficulty.

Mr. EDMUNDS. I am much obliged to my friend from Iowa. It happens to be the statute of 1864 that did remedy the difficulty, and it is that very statute that I have been reading from. I have just been reading from the ninth section of the act of July 2, 1864.

Mr. HARLAN. As it is recorded in the volume which I have before me, it is the act of July 1, 1862.

Mr. EDMUNDS. I am reading from the thirteenth volume of the Statutes-at-Large. The act from which I read at the commencement of it is stated to have been passed on the 2d of July 1864, and at the end of it there is the declaration in the usual way, "Approved July 2, 1864."

Mr. HARLAN. What page?

Mr. EDMUNDS. Page 360; and the ninth section is the one which I have been reading. I agree with my friend from Iowa, that the act of 1864 must be taken to have superseded the act of 1862 as far as it went, and it was for that reason, not to take up his time unnecessarily, that I was endeavoring to have the Senate understand how clear and plain this language of the ninth section of the act of 1864 is. If that company had not a discretion before that time, but were by the act of 1862 bound to go up the Republican river—if that is the name of it, and I believe everything is Republican in Kansas, certainly its politics are—then the act of 1864 removed that obligation and gave them discretion in express terms

to exercise their own judgment as to how and where that line should go and strike the Union Pacific west of the one hundredth meridian. And there it stands in black and white, and no amount of ingenuity of my friend from Iowa or my friend from Michigan can wipe it out. It does not need a lawyer to understand it. A man who is accustomed to read his Bible can understand what that ninth section means. There is no contrivance of words that can possibly be adopted which would make it more plain than that makes it, that there was given to this Eastern Division Company a discretion which was only limited by its own judgment of what its interest required, as to whether it should go up the Republican or down some other river, because in the language of that act that discretion was confided to it in terms; it was to its judgment that the central branch and Congress and everybody else was to submit. We gave the central branch power to connect with the road of that company, but to connect with the road of that company as we had given it the discretion to locate it, and not as the wishes of the central branch might dictate its location.

Mr. HOWARD. Will the Senator from Vermont allow me to interrupt him?

Mr. EDMUNDS. With the greatest pleasure. I am only desirous to get at the truth.

Mr. HOWARD. Does the Senator from Vermont hold that this discretion, about which he says so much, contained in the ninth section of the act of 1864 would authorize the eastern division to take up its map and change its location from time to time, notwithstanding it may have filed its map formally and legally, and fixed its location, thereby fixing its rights. Did the discretion of which he speaks authorize all this to be done even after the lands were withdrawn from sale by the formal order of the Secretary of the Interior? Certainly, it seems to me, he cannot carry the idea of discretion so far as that.

Mr. EDMUNDS. I do, Mr. President, carry it as far as that. We will say that under the act of 1862 this company was required to build on a particular line to a particular point, as it was. Both these companies came to Congress to get the act of 1864 passed to change that, and they inserted the ninth section in order to make a new provision as to this eastern division for one, and what did they say? They said that that company, so authorized, might construct its line so as to connect with the Union Pacific at a different point far to the west. How could they connect at a different point far to the west unless it could change its location, if it had located a point of connection at the one hundredth meridian, the eastern terminus of the Union Pacific? It would either have to locate further west to connect with it at another point by running over the very line of the Union Pacific and on its very track, or else it would have to swing its line more to the south at a point further east, would it not? Therefore, if you take it for granted that at the time of the passage of the act of 1864 the Eastern Division Company had located its line to the northwest with a view of striking the Union Pacific at the particular point of its termination on the one hundredth meridian, then you can put no other construction upon this ninth section of the act of 1864 than to give it a meaning which would confer an authority upon the Eastern Division Company to extend its line to some other and more western point: and in order to do that it must make use of those incidents which belong to such an extension, of course. My friend from Michigan says, "Suppose the lands had been withdrawn from market?" Could not Congress by this act permit them to be restored? Could they not remedy any injury received from it? Most certainly it could. You must give some force, you must give some effect to the plain language of this act; and when you find—because it would really rather strengthen the argument than otherwise—that under the act of 1862 the situation of the line of the eastern division was not such as it desired it should

be; that it did not, at all events, wish to connect at the very terminal point of the Union Pacific, but wished to have authority to swing its line further to the westward to the neighborhood of Denver, and see that that being the situation Congress speaks in the way that it does in this ninth section, I submit to any fair man that you must give it a reasonable and fair construction to enable the company to exercise the authority that Congress had bestowed upon it. If, therefore, there was a location, this was a plain authority on the part of Congress for it to change its location and connect at another point, because the act of 1862 says that it shall connect at the one hundredth meridian, and the act of 1864 says it need not connect at the one hundredth meridian, but may connect at any point that, in its discretion, it may deem best calculated to promote its interests; and that was a wise and proper thing when the subsidies were not increased. Why? Because the men who were investing their capital in that line, who were to control its business, ought to be permitted to judge at what point it would be most advisable to their interests that they should connect.

Let it be borne in mind that all this was done with the knowledge and approbation of the company that is now making this claim on our bounty, and that in the same act we said to that company, "While you may connect with this other company that we are authorizing to stretch westward to Denver, you shall connect inside of the one hundredth meridian, and you shall not have in any event more than one hundred miles subsidy in bonds." In that state of the case it seems to me to be trifling with language to turn over to this sixteenth section and say that under it the eastern division company has made a default, because it has not; it has done exactly what the ninth section permitted it to do; and in doing that, of course, unless you say that the statute is nonsense, that the sections are contradictory, they cannot have made default.

Mr. HENDRICKS. Will the Senator allow me to ask him one further question?

Mr. EDMUNDS. Certainly.

Mr. HENDRICKS. I want to see if I understand the Senator's position correctly. The act of 1862 required the southern line to be so located as to enable this road to connect with it at a point one hundred miles from the Missouri river, or near that. Now, does the Senator claim that the ninth section of the act of 1864 relieves that road from the obligation to make such a location as would permit that connection?

Mr. EDMUNDS. No, I do not claim either way upon that. I claim that the act of 1864 permitted the Union Pacific Railroad Company, eastern division, to do exactly what it has done; that is, to locate its line upon such a route as best pleased it to reach Denver, and that it still gave authority to the company now making this claim to connect with it east of the one hundredth meridian. If it is not for their interest to connect with a line going to swing so far to the south, they are not bound to connect with it. My friend seems to misunderstand the situation of the question by supposing that we were imposing an obligation in respect to this connection on either of these companies. We gave one permission to build on a route of its choice to Denver by the act of 1864 and the act of 1866, and we gave the other permission to connect with that route anywhere east of the one hundredth meridian. This company can connect with the line of the eastern division now if it does go to Denver on the route it is building. The trouble with this company is that it will not be so profitable to them to connect with this southwestern bend as with a northwestern bend as it supposes.

Mr. HENDRICKS. This is the provision I referred to in the question I submitted to the Senator in the ninth section of the act of 1862:

"And said railroad through Kansas shall be so located between the mouth of the Kansas river, as aforesaid, and the aforesaid point on the one hundredth meridian of longitude, that the several railroads from Missouri and Iowa, herein authorized to

connect with the same, can make connection within the limits prescribed in this act, provided the same can be done without deviating from the general direction of the whole line to the Pacific coast."

Now, I had supposed that in this general plan this law made it obligatory on the lower company so to locate its road that the company now under discussion might make a connection. The question which I asked the Senator was whether the ninth section of the act of 1864 relieved that company of that obligation, allowed it to swing its entire line westward as far as it pleased, and thus defeat one purpose of the act of 1862—the purpose of a connection.

Mr. EDMUNDS. My friend comes to a conclusion in putting his question which is not warranted by the fact. He says you thus defeat the connection that the act of 1862 authorized this present company to make. The fact is that it does not defeat the connection. The act of 1862 authorized the company now in question to connect at any point east of the one hundredth meridian, not at the end of one hundred miles. It might connect anywhere between the Missouri river and the one hundredth meridian. Now, the eastern division company stretches from the Missouri river to the one hundredth meridian, just as it would have done after the act of 1862, only it does not strike the one hundredth meridian at the same point of latitude that it would have done under the act of 1862, but it strikes it at a point further south. This company making this claim therefore has a perfect right, undoubtedly, by force of all these acts together, to swing down to any point east of the one hundredth meridian that it wishes to do, and connect with the line of the eastern division. There is nothing in the world to prevent it, except the fact that it will not pay.

Mr. HENDRICKS. The act of 1866 gives that authority.

Mr. EDMUNDS. It is the act of 1864, I repeat to my friend from Indiana. The act of 1862, which he has correctly read, required the eastern division to connect with the Union Pacific on the one hundredth meridian; and, inasmuch as the location of the Union Pacific was at a certain point on the one hundredth meridian then, or was expected to be, just about where it is now, west of Omaha, it authorized this other company to strike this northwestern line, as it then would be connecting at the one hundredth meridian, at any point it pleased east of that, not at the limit of one hundred miles, or two hundred, or three hundred, but wherever it pleased. It gave a discretion to the central branch to connect anywhere. Now the act of 1864 comes in and declares that the principal branch line, the eastern division, need not connect with the Union Pacific at the end of its line, on the one hundredth meridian, but may swing on further west, and, therefore, it authorized it to cross the one hundredth meridian at any point it pleased, but it still gave the company my friend is speaking for the right to connect, and it has the right now. Nobody is trying to defeat that right; but the trouble and the cause of grievance is, that under this authority of the act of 1864 the eastern division has located its road so far to the south that the people who are making this claim upon our bounty do not find it to their advantage to make any connection. There is nothing in the law which hinders their connecting with it on the present line.

Mr. HENDRICKS. But the trouble is that the law and the geography taken together do not allow it.

Mr. EDMUNDS. Exactly; but I do not know that we have in any of these acts undertaken to guaranty the geography of Kansas. All we have guarantied by the acts of 1862 and 1864, taken together, is authority for this eastern division to connect at Denver, or at any point west of the one hundredth meridian. And we, in the same act, have given authority to the central branch to connect with this eastern division at any point east of the one

hundredth meridian. Now, it so happens that the principal line, under this authority, has located its road in such a condition that in point of geography, my friend says—but rather in point of profit, because there is nothing in geography that will hinder it except the fact that it will not be a paying enterprise—the central branch people do not want to connect, but they want to take up under the sixteenth section of the act of 1864 the privileges which they say, by the act of 1862, were granted to this other company of going northwest and having a double subsidy over the whole line. That is the sum and substance of it. I do not deny—because I have not the least feeling of hostility to these people, but the contrary; I only speak from a sense of duty to my constituents as a portion of the people who bear the burdens of this country—I do not deny that the result of the act of 1864 which all parties agreed to, and the location under it, has been unfortunate to the Central Branch Company; because by force of this act of 1864 the Eastern Division Company have located their road on a line where by the act of 1862 they could not have gone. But the answer to all that is, as far as it applies to us, very plain, that by force of this statute of 1864 we did not guaranty to the central branch people that the eastern division should go to the northwest rather than to the southwest. We only guarantied to the central branch people that the eastern division should exercise its own discretion as to where it would make its connections west, and therefore as to the route over which it should make its own connection west. That is all we did. And then there is this further answer—and I beg my friend from Indiana to bear it in mind—the fact is, as I get it from these people, that at the time the Central Branch Company were parties to the passage of this act they had invested no money, and would have had no right to complain if we had made any change that we pleased, and left them out entirely by the act of 1864. Their rights had not attached as they tell me.

Mr. HENDRICKS. When did they make their investment?

Mr. EDMUNDS. Some time in the year 1865, unless I am very much mistaken. If I am informed afterward that I am mistaken I will correct it at once; but I am sure I cannot be, although it is some time ago since I was told about it. These are facts that the Committee on the Pacific Railroad ought to have furnished us with. I will say, with all respect to my friend from Michigan, that a matter of this importance ought not to be brought forward here and, when we are applying for information, we be told by the chairman that it is a subject on which they are not advised—matters that are material to us. I dare say it is not the fault of the chairman, but it is a mere oversight; but we ought to have known authoritatively from this committee, by a written report, the history of this work, so that we could judge whether there was any injustice done by the act of 1864; the history of it, so that we could judge what was done at the time of the passage of the act of 1866. I do not know how much money was spent then; we shall come to that. Sufficient for this present purpose is the fact that I state on information from the officers of this company, subject to correction if I turn out to be wrong, that when the act of 1864 was passed this company had not invested a dollar; that it had not lifted a spade; that it had not done anything which could have given it any rights against us if we had chosen to sweep away whatever of privileges we had given it before. Then we again begin with the act of 1864.

Mr. HOWARD. Does it make any difference as to the rights of the central branch whether it had commenced its work in 1864 or not?

Mr. EDMUNDS. I should think it would make a great deal of difference. I think when an act of Congress provides, as all these acts do, that it shall be the subject of modification and repeal, having a just regard to the rights

and interests of the persons upon whom it is to operate, it would make a great deal of difference with the propriety of our legislation in changing those rights, whether any of the privileges we had granted had been acted upon and money invested on the faith of them or not. I know it would in Vermont, and I think it would everywhere else; I think my friend from Michigan will agree that it should everywhere. No principle of law is plainer than that as it respects these corporation grants as to repealing or changing them. When a right has become vested and acted upon, and money invested upon the faith of it, it is unjust to make any change. If you have granted a mere naked right or license to go over the public lands or to receive subsidies from you, can you not revoke that right and revoke that subsidy if the party has not acted upon it? Most clearly you can, and nobody is injured and nobody has a right to complain.

So it stood in 1864; and now I will return to what I was saying when my friend from Iowa undertook to shorten my lucubrations by referring to the act of 1862. This was the condition of things when the act of 1866 was passed. Then the Eastern Division Company had authority already to make their connection at any point west of the one hundredth meridian. All that they applied for, and all that the act of 1866 gave them, was an extension of time within which they should file the designation of the route and the map of their road, as the law then required them to do. It says so in terms: "it is hereby authorized to designate the general route of their said road and to file a map thereof, as now required by law;" and in order to comply with the then requirements of the law, that is, the act of 1864, it gave them until the 1st day of December, 1866, putting on the careful proviso again that this should not in any sense be construed as giving them a right to claim any more bonds, but limiting, as I have said, their unlimited right to connect west of the one hundredth meridian, to a point fifty miles west of Denver. That is all the act of 1866 did. It did not authorize the Eastern Division Company, unless they had authority before, to swing their line anywhere. A great deal of talk has been made about the bad faith of the passage of the act of 1866; about its giving the right to the eastern division to run away from this central branch when they had no right to run away before, about its authorizing them to violate the sixteenth section of the act of 1864, so as to give the central branch the right to a subsidy for the whole three or four hundred miles.

When you turn to the act you find that there is nothing of the kind there, and that all the act does is to grant a mere extension of time for filing the designation of their route on the map of it as the law of 1864 required them to do in express terms. Then, so far as Congress is concerned, inasmuch as the act of 1864 was one to which all the parties agreed, and one which, at the time of its passage, did not act injuriously to this company, because it had not done anything or got any rights. I say that all the act of 1866 did was to leave the law of 1864 just as it stood except in the single particular that it extended the time of the Union Pacific, eastern division, for a few months and limited what was before an unlimited right to connect west. There is no bad faith in that.

It is an entire misconstruction to say that by the act of 1866 we gave up any right or obligation which we had as against the Union Pacific, eastern division, or which the central branch had. It is only, as I have said before, a misfortune of events, and not of legislation, which has injured this central branch company. It is the fact that the principal company that had the discretion by the act of 1864 found it wise to exercise that discretion in a way that was injurious to the central branch; but we cannot make that good, and it is preposterous to ask us to do it.

There is a little more about the passage of this act of 1866, Mr. President. It was shortly after I had the honor to become a member of



this body, and I paid more attention to the debates at that time than I have done since, because they were fresh to me, and I confess that when the subject was under discussion at that time I had a little suspicion that there was something about the measure which in point of results would produce a schism afterward. The Senator from Kansas [Mr. POMEROY] I remember offered an amendment to the bill of 1866, which I will read. On a certain day in June of that year the bill was taken up on motion of the Senator from Michigan, the chairman of the Committee on the Pacific Railroad, and the Chair stated the question to be on the amendment proposed by Mr. POMEROY, to add to the first section the following proviso:

"And provided further, That should the Union Pacific Railroad Company, eastern division, under the provisions of this act, file their map locating their road upon a different route from that indicated in their map heretofore filed in the Department of the Interior, then and in that event the Hannibal and St. Joseph Railroad Company, or their assigns being authorized to connect with the said railroad under the several acts to which this is an amendment, may be, and are hereby, authorized to continue their road westwardly from the point provided for in the aforesaid acts to a connection with the Union Pacific railroad at some point east of the one hundredth meridian of longitude, and for that purpose may have the same provisions and be subject to all the restrictions and limitations of the said Pacific railroad acts."

There was a distinct proposition to add to the bill of 1866 exactly what this company now asks for; that is in effect a double subsidy, leaving one subsidy to the Union Pacific, eastern division, to the one hundredth meridian, and giving by that amendment another subsidy in express terms to this company for the same distance. That was the proposition. The honorable chairman of the committee [Mr. HOWARD] said, in reply to that:

"It was intimated yesterday that the amendment offered by the honorable Senator from Kansas required a further appropriation of money or of subsidies in order to carry it out. The amendment itself was never before the Committee on the Pacific Railroad; and that committee is in no sense responsible for the measure. If that be its effect, I most respectfully and earnestly suggest to the honorable Senator to withdraw the amendment, so far as this bill is concerned, because it must surely give rise to considerable discussion and loss of time, and present his amendment in the form of a separate measure, and let it be passed upon on its merits, if it has merits. It is quite sure that in the present state of things in this body there is danger of losing the whole bill if the Senator insists upon that amendment."

The Senator from Kansas [Mr. POMEROY] responded:

"I did not suppose that this amendment would endanger the bill. My point was this: the road having been located in one valley in my State, and the land withdrawn from market, and parties having acquired interests there, great injustice would be done them unless some company were authorized to build a road there. I thought I would submit the matter fairly to the Senate. If the Senate conclude that no injustice will be done anybody, then, of course, they will vote the amendment down; but I wish it distinctly understood that parties have acquired rights under that location that they cannot be divested of, either by Congress or any other body, without repairing the damage. I thought that was so, and I believe it is so. If the Senator has read the opinion of the Secretary of the Interior, which was submitted to the Attorney General and approved by him, he will see precisely the point I am aiming at."

The debate went on:

"Mr. HOWARD. I think I apprehend the point. The Senator cannot doubt that Congress will be entirely willing to do complete justice to all those individuals who may suffer pecuniarily in consequence of the passage of the bill now under consideration. I should be quite willing at all times to grant any relief which justice requires to those persons who have thus located in that region."

"Mr. POMEROY. If Congress is ready to make up for all those losses, there will be no difficulty."

"Mr. HOWARD. But I do not see the propriety, exactly, of incorporating such a provision as that in the bill now under consideration. It is in itself a separate and distinct proposition, and it ought to be so treated, as it strikes me."

"Mr. POMEROY. The Senator may not understand that this amendment is germane to the bill; but I do not agree with him on that point. This bill now proposes to change the location of the road—nothing else; but that is not the point I am objecting to. The point I am objecting to is, that when that is done, justice ought to be done to the parties who have taken it for granted, under the previous bill, that this road was to be located in the valley of the Republican."

"Mr. CONNESS. The provision of law now is, that the Pacific railroad, eastern division, shall be located

through the valley of the Republican river, and the Senator from Kansas says that because of that provision many persons have bought the even sections of land of the Government, and paid the enhanced price of \$2 50 an acre for them, and that if this bill shall pass authorizing the company to vary the route, to change the location to the valley of the Smoky Hill river, those settlers ought to be compensated by the Government, and not required to pay \$2 50 an acre for their land."

"As suggested by the honorable chairman of the Pacific Railroad Committee, of course the Government will make such a provision if we pass this bill."

"But the best part of the proposition of the Senator from Kansas now comes in. He says that in lieu of the benefit that would thus be conferred upon the settlers, it is but fair to allow a company that the honorable Senator or his people have up there to extend their line so as to authorize them to join the Union Pacific railroad, and also to have bonds of the United States, at the rate of \$16,000 per mile, in addition to lands. If there is any proposition settled, at least for this session, so far as the Pacific Railroad Committee of this body can settle it, it is that they will authorize no addition of bonds to be paid to any company building or engaged in building a branch of the Pacific railroad. That question has been deliberately examined upon a bill presented by the honorable Senator and urged by him, and the committee have reported upon it. Now I submit to him that the Senate cannot—of course he has a right to get a vote, and I hope he will get a vote upon it—the Senate cannot, at this session at least, authorize an addition of bonds to branches of the Pacific railroad such as is contemplated by his proposition."

Then the matter went over for awhile, but it came to be discussed again, when Mr. KIRKWOOD, of Iowa, said:

"I move to strike out the first section of the bill. I wish to correct the remarks of the Senator from Kansas. Do I understand him to say that if the bill as reported shall pass his understanding is that the road of which he spoke, running west from Hannibal, will have the right, under the existing law, to connect with the main trunk at the one hundredth meridian?"

"Mr. POMEROY. No, sir; not under the existing law. They have the right to connect on the Republican where this company filed their map, not at the one hundredth meridian."

"Mr. KIRKWOOD. Do I understand the Senator to say that they will have the right to connect at some place within the main stem of the road?"

"Mr. POMEROY. Yes, sir."

"Mr. KIRKWOOD. Where?"

"Mr. POMEROY. At a point on the Republican river about one hundred miles west from the Missouri river. They have located their line to that point and filed their map and issued their bonds."

"Mr. HENDERSON. Who has done that?"

"Mr. POMEROY. The assignees of the Hannibal and St. Joseph road."

Then the thing was further debated, pro and con, and we finally come to this result: Mr. POMEROY again said:

"Though the Hannibal and St. Joseph Railroad Company had the right to build a branch under the provisions of the act, they had to use a charter to be obtained from the Legislature of Kansas, from the fact that a company in one State could not be authorized even by an act of Congress to build in another State except with the consent of the State and by using a charter of that State. The laws say that they shall have land and bonds for only one hundred miles. It does not say that they shall not build any further, as the Senator seems to claim. This company located its road and filed its plat on the Republican. The Hannibal and St. Joseph road had notice then, and all the world had, that this company was going up the Republican."

He then proceeds to state the case, that they had gone out to connect, and then he says:

"That is why that company have been opposed to any change, because they were satisfied with the legislation as it was; and if the other route is taken, the Smoky Hill route, it requires further legislation to enable them to connect somewhere else."

Again, the Senator from Kansas, [Mr. POMEROY] after this debate that I have recited, withdrew the amendment that he offered, voluntarily. I have been informed, and it appears in fact from a remark that fell from the Senator from California, [Mr. CONNESS], that at that time, in July, 1866, my friend from Kansas was the president of this very company. He represented the company on this floor. I do not speak of it in any offensive sense; it was perfectly proper that he should be the president of the company; but what I mean is, that my friend from Kansas was acting, as he rightfully might be so far as the debate went certainly—voting might be another question—for the interest of the company of which he was the president. He brought forward this question.

Mr. POMEROY. The Senator means to say, I presume, that I was acting as a Senator from the State of Kansas.

Mr. EDMUNDS. I mean to say—and my

friend will correct me if I am wrong—that in July, 1866, he was president of the Central Branch Pacific Railroad Company.

Mr. POMEROY. Yes, I think I was nominally president of the company until a month or two after that. Since then I have had no interest in it whatever.

Mr. EDMUNDS. I am not complaining of what my friend from Kansas did, because he did right as to presenting this question to the Senate then; but what I say is, that if there was a doubt on the construction of these statutes, if it was claimed by the Central Branch Company that this legislation of 1866 was going to operate injuriously to them in such a way as to give them a claim upon our justice or bounty, it was the duty of my friend from Kansas who had the interests of the road at heart and who had a knowledge of all its affairs, to propose the very amendment that he did. Now, what I complain of is—after having stated that my friend did his duty, I now come to my complaint—that that Senator, being the responsible organ and agent of the company, having stated what he claimed its rights to be at that time on this floor, voluntarily withdrew any objection to the passage of that bill of 1866 and withdrew his amendment, which provided for the very thing they want now, so as to let that bill pass, without telling us either that he gave up for the company the claim that they had or else that he should demand of us in the future this justice that he thought was denied.

Mr. POMEROY. For some reason, the Senator says, I withdrew the amendment. I will read the reason assigned at the time.

Mr. EDMUNDS. What page is it? I was trying to find it.

Mr. POMEROY. Page 8256 of the Globe:

"I believe the pending question is on the amendment that I submitted. I have conversed with very many of the members of the Pacific Railroad Committee, and as they desire to report upon this proposition separately, not connected with this bill, I do not desire to press it against the wishes of the friends of this measure and of our railroads. I will therefore withdraw the amendment."

Mr. CONKLING. What day of the month was that?

Mr. EDMUNDS. June 19, 1866.

Mr. POMEROY. I will only add that when the Senator from Iowa [Mr. HARLAN] shall make his remarks, he will state to the Senate that he, as Secretary of the Interior, instructed me that the rights of this company would not be impaired by my withdrawing the amendment.

Mr. EDMUNDS. We will take the evidence of the rights of the company from the officers of the Government in some more official way. If we can get at that, I should like to see that opinion of the Attorney General and the report of the Secretary of the Interior on this subject. It would be well worth studying, perhaps.

Now my friend from Kansas says that he withdrew this amendment, acting in the interest of his company, because, as he stated, the committee desired to report upon it separately. Let me read a little further in the same connection.

Mr. POMEROY. The Senator will not say that in doing it I was acting in the interest of the company. I was acting as a Senator in the interest of my State. I was not here acting in the interest of any particular company; but I thought, for the interest of my State, it was best not to embarrass a bill which had for its object to build a line through the whole length of that State, and learning that it would not interfere with the rights of anybody else, I did withdraw the proposition.

Mr. EDMUNDS. I think if the Senator had told us on the 19th of June, 1866, that he had offered this amendment in the interest of the company of which he was president, and as a matter of justice to them, and that he withdrew it at the request of the committee, but that if that bill passed, his company whom he represented would demand the same justice of Congress that they are now demanding, there would have been quite a different result in the action of 1866. I say the members who

voted for that act of 1866, or acted upon it at all, (and I do not remember which way I voted,) when this question was raised would have been very slow, as the chairman of the committee said, and as the Senator from California said, to report or recommend any bill which would have given any company a pretense of claiming any further subsidy in bonds. That was what appeared in the debate.

My friend says that he withdrew this amendment, acting in the interest of his State, in order to let the bill pass which could not have passed with it, because the committee were going to report upon it separately. Let me read what was said on that subject.

"Mr. POMEROY. For that reason, if that meets the concurrence and views of the friends of this measure and of the Pacific Railroad Committee, as I understand it does, I withdraw the amendment."

"The PRESIDENT *pro tempore*. The amendment before the Senate is withdrawn."

"Mr. GRIMES. Am I correct in understanding the Senator from Kansas to say that the members of the Pacific Railroad Committee have informed him they will report back his proposition in an independent bill?"

"Mr. POMEROY. No, sir. I said they preferred to consider it as an independent measure. I did not say what they would report for, I do not know; they have not made their report yet. They may make it, and when they make it we shall be able to tell what it is."

Mr. POMEROY. They have made it now.

Mr. EDMUNDS. Yes. Now, what I am complaining of, as I said before, and I trust gentlemen will not feel uneasy about it, is this extraordinary state of things: we had the other day, if I remember correctly, when the chairman of the committee got up this bill, a speech in its support from him, in which he characterized the legislation of 1866 as a gross outrage and injustice upon the rights of the company of which my friend from Kansas was the president, and it was to repair that injustice, to make amends for that outrage and wrong upon their rights that this legislation of 1868 was asked for; not that the general good of the country required that we should subsidize this local road, but that through the almost criminal misconduct of Congress in impairing the vested rights of the company of my friend from Kansas, we were bound to make it good as damages, compensation, restoring to them the rights that we had unjustly deprived them of; and then when I asked my friend from Michigan if he did not report this very bill of 1866, and if it did not go through under a debate managed by him, he coolly replied to me that he did not see what that had to do with the question!

I say we have a right to complain. I do not complain that a report of this kind was made in 1866 by my honorable friend from Michigan, because, as far as I can see, it was a report that did not alter the state of things, and was a proper and correct report. All that I complain of, in the proper and parliamentary way, is the fact that my friend is urging this bill with so much zeal to atone for the "outrage" of 1866! In that he is mistaken. There is the trouble about it. I say that when my friend from Michigan reported a bill from this same committee in 1866, which passed into a law, and the president of the company that is now supposed to have been affected by that, proposed an amendment which would have remedied that entirely, but which would have cost the Government \$2,500,000 to do it, and voluntarily withdrew that amendment and suffered the bill to pass, it is with bad grace that that company come forward to demand compensation for an injustice done to them, because we cannot come to any other conclusion than that that injustice, if it was one, was done by their voluntary consent. It is true my friend from Kansas is a Senator and represents his State. It is also true that as the president of the company he must have had knowledge that that bill was under consideration. Of course he had, and as such his company was charged with knowledge of it; as such he rightfully and properly brought forward an amendment which would do all that he now claims the company have a right to ask. That is all perfectly right; but what I say is that it is unjust now to insist

upon our passing this bill and giving this company \$2,500,000, when the other bill which they complain of as an outrage was suffered to go through this body by the voluntary assent of the responsible organs and officers of the company. That is the proposition, and I think it will be difficult for Senators to answer it.

Mr. POMEROY. The Senator may not have understood me. I said that after consulting with the committee and the Secretary of the Interior, being informed first that the committee desired, as I said, to report the measure in a separate bill, and being informed by the Secretary of the Interior that that bill did not deprive this company of their rights, I withdrew the amendment. That is the point. The committee have now reported a separate bill.

Mr. EDMUNDS. That does not alter the question at all, so far as this bill is concerned. We find that the Kansas company, the local road of which my friend is the president and responsible organ, for reasons that are satisfactory to itself, induces its Senator, the Senator of its State, who properly represents its interests as one of his constituents, to withdraw any objection to the passage of the bill of 1866 that is now characterized as an outrage. I say if it is an outrage now it was an outrage then. That is my proposition.

Mr. POMEROY. I hope the Senator is not intending to make any mistake or to say that I in any measure represent this company. Thirty or thirty-five days after that another president was elected, and I have no connection with it; that is, I have no material interest in it.

Mr. EDMUNDS. You mean you are now only a director, and not the president.

Mr. POMEROY. Yes; I own one share I believe; but I mean that I have no personal interest in the matter.

Mr. EDMUNDS. That perhaps is quite immaterial, except of course on the mere voting question, though my friend will judge for himself about that. But so far as the interests of the company are concerned, I am sure they have a sufficient number of friends who will protect them. The Pacific Railroad Company has become the friend of this company, although it was not in the year 1866.

Mr. SHERMAN. There is one matter which I suppose the Senate would like to understand; and that is, when this act of 1866 was passed, how many miles of this railroad had actually been built, and how much money had actually been expended on this road.

Mr. EDMUNDS. I tried to ascertain that from the chairman of the committee when the bill was up before, but without success.

Mr. POMEROY. I can tell you.

Mr. EDMUNDS. I should like to hear it.

Mr. HOWARD. If the Senator from Ohio will allow me—

Mr. SHERMAN. I mean at the time when the "outrage" commenced.

Mr. HOWARD. At the time of the passage of the law of 1866, I understand the Senator from Ohio to say—

The PRESIDING OFFICER, (Mr. Howe in the chair.) Does the Senator from Vermont yield the floor; and if so, to whom?

Mr. EDMUNDS. I do not yield. I will hear an explanation from the chairman of the committee. Such as my friend from Ohio wants.

Mr. HOWARD. I am not able to give any precise information as to the amount expended at that time; but I am credibly informed about a million dollars; I think between one and two million dollars at the time of the passage of the act of 1866—not at the time of the passage of the act of 1864, which was the question the Senator from Vermont put. They had been at work for two years.

Mr. EDMUNDS. How many miles had been built in 1866, when this act passed?

Mr. HOWARD. I am not able to say.

Mr. POMEROY. Forty had been accepted by the Government at that time, I understand, and about sixty built. I think that was about it.

Mr. DOOLITTLE. On that point I should like to inquire of the Senator from Michigan, if the Senator of Vermont will allow me, whether this \$1,000,000 of which he speaks was \$1,000,000 expended by the company of their own money or \$1,000,000 which they realized from the Government bonds and subsidies?

Mr. HOWARD. Certainly they could not have realized it from the subsidy, because the subsidy papers had not yet been issued to them. They probably raised it by first mortgage bonds in part. I do not know how much stock they had actually paid in.

Mr. EDMUNDS. May I ask of my friend from Michigan how much stock money has actually been paid now into this company?

Mr. HOWARD. As I am not a member of the company, and have nothing to do with it at all in its private matters, I do not see that that is a very reasonable question to put to me. I am not presumed to know how much stock has been paid in by each individual stockholder.

Mr. EDMUNDS. Do you know, whether you presume to know or not?

Mr. HOWARD. I will not answer the question, because I think it is one I cannot be expected to answer.

Mr. POMEROY. I will answer it. I can tell.

Mr. EDMUNDS. I decline to yield to my friend from Kansas, as I have not finished with the Senator from Michigan. This is a singular state of things. Here is a committee, one of the most influential and respectable and responsible of this body, that report a bill here based upon an equity, as they say, in favor of this company, on account of its having been led into an expenditure which now will go for nothing unless we can relieve them, on account of our legislation in 1866. In the course of the debate it becomes material to inquire how much this company have been led in; how much they have expended really of money that the United States have not furnished them with, or they have not got on the strength of property the United States granted to them in land; and we ask my honorable friend, the chairman of the committee, and he says that is a matter foreign to him, and he declines to answer the question. There is no power, certainly, in any individual member to compel my friend to answer the question; and I should be the last man to try to exercise it if there were.

Mr. POMEROY. If the Senator desires to know, I can tell him.

Mr. EDMUNDS. Not just yet. I want to ask a question which I think the chairman of the committee will answer. May I inquire of him, if he is willing to answer, how much money has been raised upon the bonds of this company, upon the road?

Mr. HOWARD. I am not able to say how much has been raised upon the bonds of the road.

Mr. EDMUNDS. How much has the road cost altogether?

Mr. HOWARD. I will answer in part these specific interrogatories which the Senator from Vermont puts to me. He seems to act as if he was interrogating the committee on a bill of discovery in which there was some fraud hidden or some concealment.

Mr. EDMUNDS. Oh, no; I merely want to know the facts.

Mr. HOWARD. I refer to the general air and manner of the Senator. Now, sir, the amount of Government bonds issued to this company, as certified by the Secretary of the Treasury on the 15th of June instant, is \$640,000. They had the right under their charter to issue precisely the same amount of first mortgage bonds. Whether they have actually done that, I do not know; but the presumption would naturally be that they had done so. That is all I can say in answer to the question.

Mr. EDMUNDS. We are not likely to get much information, evidently, from the committee as to the condition of this company.

Perhaps the committee are right, or the chairman is right, in supposing that the condition of this company, what it has done with its means, how much it has advanced on the credit of our bonus, is entirely immaterial to this question, and that this equity that is now pressed on our attention is one that depends upon some more fanciful and imaginative theory than the hard and naked fact of money advanced upon the strength of this legislation; and so we must endeavor to get along in the dark, so far as the committee is concerned, as well as we can. I should have supposed, when a company came before the committee and desired legislation of this character, that one of its first steps under the direction of the committee would have been to make a plain, straightforward, and honorable showing of what it had done with the \$1,500,000 that it had received from the United States; how much money it had raised upon the Government bonds; how much stock it had actually paid in; how much money it had expended in the construction of the road; and generally what its financial condition was, in order to show fairly to those who were to pass laws for its benefit that it had an equity; that it had expended money in good faith under this legislation; that it had taken all the steps that the law authorized it to take, and had made no improper use of the funds that had been bestowed upon it; and to show that without this legislation it would be left in a condition in which it might justly complain. But it appears that the committee did not take any such view of it; perhaps the company is not to blame for it; and all that we are favored with in the way of information is exactly what is contained on the face of the bill; and that is, a bill to give to this company \$2,400,000 of United States bonds for a supposed outrage—and I think I use the very language my friend from Michigan did the other day—that we committed by the act of 1866 in authorizing the Eastern Division Company to file its designation of route and its maps by the 1st day of December, 1866; because that is all we did.

Mr. POMEROY. Does the Senator desire any information about what has been paid in by this company? I will answer at any time, if he desires it; but I do not wish to interrupt him.

Mr. EDMUNDS. I do not know that my friend from Kansas is a member of the committee.

Mr. POMEROY. No, sir; but the Senator asked, "Can any one tell?" I say I can.

Mr. EDMUNDS. I should like to hear it, certainly, as I do not wish to do this company any injustice.

Mr. POMEROY. I desire to state in a single word what was true up to 1866. For the last two years I know nothing about it. But on their own stock, on the stock subscribed, the amount paid in then was three hundred and sixty-odd thousand dollars. What they have done since, I do not know. I know they pay in a great deal. But up to that time, that is two years ago, when I did know something about it, they had paid in three hundred and sixty-odd thousand dollars of their own stock subscribed by the company.

Mr. EDMUNDS. Then it would be much cheaper if there were an equity here, a demand on our justice, to refund this \$360,000 or \$500,000, if that be the amount these gentlemen have now really advanced, and let the Government take the railroad for a Government military one, to carry supplies out to the Kansas Indians and the troops, than it would be to authorize the building of two hundred miles more, and giving \$2,500,000 for that. If the business of that country, in the State of Kansas—for Senators must bear in mind the road is there and nowhere else—is not enough to warrant the building of a line of railroad where this line of railroad wants to go, then it appears to me that it is rather an unwise business for Congress to undertake to prop it up by subsidizing it. The theory of these subsidies is that Congress has a second mortgage on the

property for the amount of the subsidy, and that therefore the road—inasmuch as the company may make a first mortgage for the same amount—ought when done to be worth double the amount of the subsidy; and if the road will not pay expenses when built, if it will not pay a profit on its stock when built in the interest of its stockholders in the State of Kansas, how can we be asked to furnish subsidies for building it? The theory upon which we have furnished subsidies so far has been that we were aiding in the construction of a line of immense magnitude, which was to bind the distant parts of the country together; and as such that theory was probably sustainable. But here, without undertaking to stop any of the lines we authorized to build westward for this connection, it is proposed to add one more branch from the one hundredth meridian, entirely in the State of Kansas, subject to the laws of Kansas, existing under the laws of Kansas.

Mr. POMEROY. The Senator may not be aware that if this road is built any further it will be built in the State of Nebraska, and not in Kansas; it is now up to the Kansas line.

Mr. EDMUNDS. It goes into Nebraska. I do not see that that helps it. If this line of road in the States of Nebraska and Kansas, going out to the main line, in addition to the lines already existing, will not pay, if it is not worth anything, why is it that we are asked to put up our money in aid of its construction? It is not a national line, if it does go into both of these States; it is not a Pacific line; it is a local line, to which we were induced to give a subsidy for one hundred miles in the first place under the condition that we should never be called upon to give any more; and now it comes forward and says that, because we extended to the 1st of December, 1866, the time of this other line to file its designation of route and its plat of survey, there has thereby been committed an outrage upon the company, in the language of the chairman of the committee, that we are bound to make good with \$2,500,000 more.

As I said, Mr. President—and I do not want to take any more time about this matter—I began to investigate this case, listening to the accounts of its friends, who are gentlemen of respectability; and I do not blame them for getting the money if they can. I began it with a sincere desire, because they were persons introduced to me by friends of mine, to help them if I could justly and conscientiously; but the more I studied, the more I looked at it in one aspect and another, listening to the very accounts that those who urge it proceed upon, the more I am convinced that it has no ground of equity or law or justice upon which they have a right to claim it. If they can satisfy the Senate that great public considerations, such as induced these other subsidies, should lead to our aiding in the finishing of this line, that is one thing; but all I have said upon it depends upon the claim upon which it is made to rest by the chairman of the committee as merely a remedy which we are bound to apply for the outrage that we committed two years ago, when, if we committed any outrage at all, we did it with the eyes of the company wide open, in the presence of its president here assenting to it without any protest.

Mr. HARLAN. Mr. President, I am very much gratified that the Senator from Vermont has informed the Senate that this is a subject that can be comprehended by a person who is not a lawyer. I therefore have some hope of presenting a statement of the case so clearly that those who, like myself, make no great pretensions to knowledge of the law, may comprehend it.

I think I shall be justified in saying, also, without being subject to the charge of egotism, that I regard this as one of the very few subjects that I believe I understand quite as well as the Senator who has just taken his seat; and I do not intend any personal reflection when I say that, as it seems to me, he has perverted the facts and grossly misstated the law.

Mr. President, in the first place let us refer

to the law of 1862, which provided that a railroad and certain branches should be constructed, forming a through and connected line of uniform gauge from the Missouri river to the Pacific ocean. This law provided that this work should be constructed by four distinct companies; one chartered by the law itself, called the Union Pacific Railroad Company. That was charged with constructing the line from the one hundredth meridian to the eastern boundary of California, and eastward from the one hundredth meridian to some point on the western border of Iowa. Another company, the California Central Railroad Company, I think it was styled, was charged with constructing that part of the line lying between the Pacific coast and the eastern border of California. A company now known as the Union Pacific railroad, eastern division, was charged with building that part of the work lying between the mouth of the Kansas river at Kansas City, on the western border of Missouri, up the valley of the Kansas river, in a northwestern direction, and up the valley of the Republican river, being a branch of the Kansas, to the one hundredth meridian, the starting point of the main-trunk line. And still another company was charged with constructing that part of this work lying between the town of Atchison, on the Missouri river, and the valley of the Republican river, supposed to be about one hundred miles in length, and so named and limited in the law.

Now, I desire to read the exact text of the law of 1862, in order that we may comprehend the character of the work thereby authorized and the difficulties that immediately arose in carrying into effect the provisions of this law. The first clause I will read is in section nine:

"And said railroad through Kansas shall be so located between the mouth of the Kansas river, as aforesaid, and the aforesaid point on the one hundredth meridian of longitude, that the several railroads from Missouri and Iowa, herein authorized to connect with the same, can make connection within the limits prescribed in this act, provided the same can be done without deviating from the general direction of the whole line to the Pacific coast."

I will read in this connection from the twelfth section of the act of 1862:

"The whole line of said railroad and branches and telegraph shall be operated and used for all purposes of communication, travel, and transportation, so far as the public and Government are concerned, as one connected and continuous line."

It is also provided that—

"The route in Kansas west of the meridian of Fort Riley, to the aforesaid point on the one hundredth meridian of longitude, to be subject to the approval of the President of the United States, and to be determined by him on actual survey."

It will be observed that it was the intention of Congress in passing this law that this road and branches should be operated as one through line. The law says that the road and its branches shall be operated as one connected, continuous line from the Missouri river to the Pacific coast; it provides that these branches shall be so located as to enable each of them to make a connection within the limits specified; and in order that one of these companies should not defraud or obstruct another company in the location of its road, so as to derive advantages from this connection, the final power to locate was put in the President of the United States, and he was authorized, if necessary, to do this on an actual survey of these lines. I am admonished by my friend from Michigan [Mr. HOWARD] that this law is mandatory; the President is required to do it.

It was the intention, therefore, as it seems to me beyond all cavil and doubt, that each of these branches and the trunk line should be so built as to connect and be operated together as one road. Another provision in the law requires that the gauge shall be uniform of the main line and the branches from the Missouri river to the Pacific coast. Now for the difficulty of carrying into effect this law; and I shall pass over the points of difficulty except that which seems to me to be directly pertinent to the question raised here in the Senate. The seventeenth section of this law provided—

"That if said roads are not completed, so as to form a continuous line of railroad, ready for use,



from the Missouri river to the navigable waters of the Sacramento river, in California, by the 1st day of July, 1876, the whole of all said railroads before mentioned and to be constructed under the provisions of this act, together with all their furniture, fixtures, rolling stock, machine-shops, lands, tenements, and hereditaments, and property of every kind and character, shall be forfeited to and be taken possession of by the United States."

Here are four distinct companies authorized to build some parts of this work; it is required to be completed within a given time; and if each branch and the whole road shall not be completed and operated within the time limited the whole of the property of each and all the companies is to be forfeited to the United States. Under that law these companies did just so much as was necessary for them to claim that rights attached; but as the Senator from Vermont has very properly stated, neither of these companies invested much money. They did just so little as was practicable in order to secure the right to construct the road, and came to Congress pointing out this difficulty, among others, that if one of these four companies should be in default at the end of the time named, although each of the other companies might complete its part of its work, yet the companies not in default, as well the company in default, would forfeit all the money they had invested. They asked Congress to remedy this defect, to remove this barrier. They told us that they could not induce capitalists to invest money in this way, placing it beyond the control of the company in which the capital was to be invested. The Committee on the Pacific Railroad attempted to cure this among other defects which it is not necessary for me to refer to on this occasion, by providing first that each and all of these companies might consolidate, and in that way become one company, so that the interests of all should be merged in one organization, and in that way, if possible, obviate this difficulty.

But as they supposed Congress had not the power to compel these companies to thus consolidate, they provided that if any of these companies should not thus consolidate, and if any one of them should fail to build that part of the work assigned to it within the time named, any other company building its part of the work within the time specified might proceed to build that part which the first-named company had failed to construct.

Senators will perceive that the whole purpose of this section, section sixteen of the act of 1864, was to enable any one of these companies should it be a single company, to go on and build this work if each and all the other three should fail. The only question is whether Congress did thus provide. They intended to do so; and if Senators will read that section of the law of 1864 I think they will find that it is clearly provided that any company not being in default, after having constructed its part of the road, may proceed to build any part of the line which any other company may have failed to build.

This is as the law stood in 1866. It is manifest, it seems to me, that if the act of 1866 had not been passed, there would have been no necessity for this bill. If the Eastern Division Railroad Company had on its own motion diverted from the line of the Republican river, there could be no doubt in the case. I may observe here that that was the line on which they had located their route. They had filed their plat in the Department of the Interior showing the line of the road. So had the Atchison and Pike's Peak Company and the Union Pacific Railroad Company's branch line to the western border of Iowa. These maps had been filed, showing the lines of these branches, had become a part of the record, and each company had been investing its money with a view to form the connections at the general points indicated.

The Eastern Division Railroad Company concluded that it would be to their interest to change the route of their road from the Republican to the valley of the Smoky Hill river, and they applied to the Interior Department for that purpose. The question of their right

to relocate their line so as to build the road in another direction, breaking up the connections that had been formed under the previous action of the other companies, was referred to the Attorney General, and he held, as I think very properly, that the company had not the right then to change its location; the time had passed when it had the legal right to do so. Hence if the law of 1866 had not been passed, and the Eastern Division Railroad Company had failed to build that part of the line between the western terminus of the Atchison line and the one hundredth meridian, as it seems to me no Senator will contend that this company would not have had the right, after completing its one hundred miles, to take up the work at the end of that hundred miles and secure its connection at the one hundredth meridian or east thereof.

The only objection urged against this, if I understand my honorable friend from Vermont, was that in the law of 1862 there is a provision that this Atchison Railroad Company should in no event receive lands and subsidy for more than one hundred miles. I confess I was surprised at the labored manner of the delay on this clause of section thirteen of the law of 1862. That section provides, first, that the Hannibal and St. Joseph Railroad Company may build a road from St. Joseph, by way of Atchison, toward the valley of the Republican river for the distance of one hundred miles next west of the Missouri river, and grants lands and subsidy for that distance. Then a proviso is added:

"Provided, That if actual survey shall render it desirable, the said company may construct their road, with the consent of the Kansas Legislature, on the most direct and practicable route west from St. Joseph, Missouri, so as to connect and unite with the road leading from the western boundary of Iowa at any point east of the one hundredth meridian of west longitude, or with the main trunk road at said point; but in no event shall lands or bonds be given to said company, as herein directed, to aid in the construction of their said road for a greater distance than one hundred miles."

It will be seen that here is a grant made which is put in the alternative. The company may build one hundred miles of road west of the Missouri river, from Atchison westward, or they may, if the Legislature of Kansas will permit it, build the road directly west from St. Joseph, but even in that case they shall only have lands and subsidy for one hundred miles; they shall have no more lands and no more bonds if they shall adopt the latter named line than if they adopt and build on the first-named line. That is all, as it seems to me, there is in this section; and be it observed that is the law of 1862. It is claimed that under the law of 1862 this company could have built the line up the valley of the Republican river if the Eastern Division Railroad Company had failed. It was to cure that inability that the law of 1864 was enacted. That was one of the things complained of. The Atchison Company said, "We may build our road and the Eastern Division Company may not build theirs; we shall then be left with the western terminus of our road out on the prairie without any connection; the money we thus invest will become worthless; we desire to have some provision put in the law that will enable us by putting in more money to realize the proper returns from the construction of this road if the Eastern Division Company should fail;" and the law of 1864 was enacted to cure this defect and give them this right, and as I think no Senator will maintain that they would not have had that right unquestionably if the law of 1866 had not been enacted.

Mr. President, you must construe a law in connection with the facts as they exist at the time of the enactment of the law. At the time of the law of 1864 the line of the road of the Eastern Division Company had been located up the valley of the Kansas river and the valley of the Republican river, and within a very short distance of what turns out to be the end of one hundred miles from the town of Atchison, on the Missouri river, affording the Atchison road an opportunity to connect. The law

of 1862 provided that their final and definite location should be under the control of the President of the United States, and that he should provide that they should be so located as to secure this connection. Then the law of 1864 comes in and provides that if the Eastern Division Railroad Company shall not build that part of their line lying between the end of their road and the one hundredth meridian, the Atchison and Pike's Peak Railroad Company may do so; that is, they may put in additional money, and in this way secure from loss their former investment.

The Senator from Vermont maintains, however, that under the law of 1864 this Union Pacific Railroad Company, eastern division, had the right to form its junction with the main trunk line at a point west of the one hundredth meridian; but he failed to notice the fact that the law of 1862 provides that the beginning of the trunk line shall be on the one hundredth meridian between the north border of the valley of the Platte and the south border of the valley of the Republican, and provides that the Eastern Division Railway Company's line shall be so located as to connect with the end of the line of the Atchison and Pike's Peak Railroad Company.

After forming that connection, it would become impossible from topographical reasons, for them to fail to go in through this gate-way between the southern border of the valley of the Republican and the northern border of the valley of the Platte; and the intention of the committee, as I well remember it to have been, was to provide for the contingency of its being found inconvenient to bridge the Platte river on the one hundredth meridian, or east of it, so as to form this junction. It was supposed it might be found to their advantage to build a few miles westward in order to obtain a better crossing of the river, either for the main-trunk line, if it should conclude to cross to the south side of that river, or if it should continue up on the north side it might be more convenient for the Eastern Division Company to build a few miles westward in order to secure a proper place for a bridge for a crossing at that very difficult stream, for every one acquainted with it knows it is one of the most difficult rivers to bridge perhaps in existence. So it was provided that they might do so, but in that case they should have no additional lands or bonds for that part of their line west of the one hundredth meridian.

Mr. President, these facts as they exist and the law, as it seems to me, perfectly harmonize with the construction I place upon the rights of this Atchison and Pike's Peak Railroad Company, now known as the Central Branch Pacific Railroad Company. The Eastern Division Railroad Company did not disguise their purpose; they came here with an open hand and open heart; they told the members of this committee plainly their purpose was not to form a connection with the main-trunk line, but to build off in a southwestern direction. They attempted to deceive nobody. They asked for just enough legislation to enable them to do this; and as the facts then existed and as the law then stood, all that was necessary to be done was for Congress to grant them the right to relocate their line. Previously it had been located within the proper connecting distance of the western terminus of the Atchison and Pike's Peak railroad. They got the right from Congress to relocate the line, and relocating the line they placed it where they told the committee they intended to place it. No Senator can be ignorant of the fact that they stated here openly and in the newspapers to everybody that they had found gold on the Smoky Hill river, and they thought the timber was more abundant; they thought had they secured a better line on which to construct their road.

Mr. FESSENDEN. Will the Senator allow me to ask whether I understood him correctly on one point? Do I understand that this Eastern Division Company stated to the committee, at the time they applied for this change or for the law that was passed in 1866, that they did

not design to join the main trunk, but to locate in a different direction?

Mr. HARLAN. Perhaps I may have uttered it a little too strongly. They did not disguise it from me, and I think they did not from anybody. They published in the newspapers their reasons for desiring the change.

Mr. FESSENDEN. We never heard it stated in Congress when the bill was up that there was any such design.

Mr. HARLAN. The law itself provides that they may so locate their road as to form a connection fifty miles west of Denver?

Mr. FESSENDEN. That is a connection with the main trunk there. Now, the idea that they did not desire at that time to join the main trunk, but to go off south, is news to Congress.

Mr. HARLAN. It may be that they never said in words that that was not their purpose. I think it was their purpose then to build a branch road.

Mr. FESSENDEN. They either concealed it from the committee, or else the committee concealed it from Congress.

Mr. HARLAN. I was not a member of Congress at that time. I do not wish anybody else to be held responsible for any utterance of mine; I only state the facts as they came to my knowledge, giving my source of information; and if any one will read the law of 1866, in connection with a knowledge of the topography of the country, he must know that it was the intention not to unite with the main trunk line ever.

Mr. FESSENDEN. What, then, is that language put in the law requiring a connection at a point not over fifty miles beyond Denver?

Mr. HARLAN. A distance of fifty miles west of Denver puts it west of the Rocky mountains, and anybody acquainted with the topography of the country must know that they never intended to build a branch road two thirds of the way across the western half of this continent for the purpose of uniting with the trunk line Pacific railroad. It was not a doubtful question to me at least, that the purpose was from the beginning to build to Santa Fé, and cross down into New Mexico and Arizona—a work by the way, I think, far more important to them and to the country than to build a mere branch road to the city of Denver, or uniting with the Pacific railroad west of that point. It would be a reflection on their own sagacity and their own common sense to suppose that they ever intended to build this main line so as to become a mere branch to the Union Pacific railroad proper. I do not see how it is possible that any man of ordinary intelligence could have been misled by the character of the bill. But, then, if any one had examined the law carefully, he would have seen, as it seems to me, that if Congress authorized this company to change the location of its road so as to break up the connection formed with it by the other companies, they thereby defeated the object of the law of 1864, for that was to enable each one of these companies to invest its money safely, so that it should not be under the necessity of losing all the money it had put into the construction of any part of this work if another company failed, but might, by adding thereto, make the whole investment profitable.

Mr. EDMUNDS. Why can they not connect now?

Mr. HARLAN. It would cost the United States probably just as much to enable them to connect with this Santa Fé road as with the other; but their purpose never was to go to Santa Fé. Their purpose is that indicated in the laws of 1862 and 1864, to build a branch of the Union Pacific railway directly across the continent to San Francisco.

Mr. EDMUNDS. Suppose this act of 1866 really tells the truth, as we thought it did when we passed it, that the eastern division was going to Denver, or some place near Denver, what is the practical difficulty in the line you are speaking for connecting with it now?

Mr. HARLAN. I suppose it would require about the same length of road to form a proper connection with that line which would be necessary to form a connection with the main line.

Mr. EDMUNDS. How far is it from the end of the one hundred miles to Fort Riley?

Mr. HARLAN. I do not remember.

Mr. RAMSEY. About one hundred and fifty miles.

Mr. HARLAN. If it is one hundred and fifty miles, it is the same distance provided for in the pending bill.

Mr. EDMUNDS. If my friend from Minnesota, who lives about as far off Fort Riley as I do, will look at the map I think he will find it is about four hundred and fifty miles.

Mr. RAMSEY. I only live four or five hundred miles from it, and the Senator lives as many thousands.

Mr. EDMUNDS. How far would it be directly west in the line of this present road before it would hit the route of the eastern division but for the act of 1866?

Mr. HARLAN. I suppose it would not hit it this side of China. The eastern division road diverges off southwest.

Mr. EDMUNDS. "But for the act of 1866," I said.

Mr. HARLAN. I remarked during the Senator's absence from his seat, that an examination of the map would show that it was practicable to form the connection in one hundred miles.

Mr. EDMUNDS. But you say you have built it one hundred miles under the act of 1864. Now, projecting it from there west, how far would you have to go before you hit the eastern division if it had been located under the act of 1864?

Mr. HARLAN. Not an inch; because the law, as I read from the text itself, provides that the President shall so locate these lines of road as to form a connection within the distance specified, and authorizes him to employ the necessary engineer force in order to obtain information.

Mr. EDMUNDS. Do you understand that that means that the distance specified is within one hundred miles, or east of the one hundredth meridian?

Mr. HARLAN. The "distance specified" between what points?

Mr. EDMUNDS. East of the one hundredth meridian. The statute does not mean that the connection is to be formed within the one hundred miles, but that they are to have a subsidy for one hundred miles and form a connection east of the meridian of longitude specified, the one hundredth meridian. I think my friend will come to that opinion himself if he will look at the statute.

Mr. HARLAN. No, Mr. President, the Senator is as much in error as he was when he contradicted me when I attempted to correct him while he was on the floor.

Mr. EDMUNDS. Just about. I agree with you as to that.

Mr. HARLAN. I have read the text of the law itself. I will read it again:

"Said railroad through Kansas shall be so located between the mouth of the Kansas river, as aforesaid, and the aforesaid point on the one hundredth meridian of longitude."

That is, the eastern division road shall be so located—

"that the several railroads from Missouri and Iowa, herein authorized to connect with the same, can make connection within the limits prescribed in this act, provided the same can be done without deviation from the general direction of the whole line to the Pacific coast."

Mr. EDMUNDS. Does my friend understand that to mean that all those roads have got to connect within one hundred miles, or inside of the one hundredth meridian?

Mr. HARLAN. No, sir; and the question itself indicates the want of information of the Senator. Another clause in this law provides that a branch railroad, which I have referred to before, may be built from Sioux City so as to form a connection with the main trunk line at the one hundredth meridian or east thereof.

The law of 1864 provides that the Burlington and Missouri River Railroad Company may build a branch railway from the mouth of the Platte river westward, so as to form a connection with one or the other of these lines. Then another clause of the law of 1862 provides that a branch road may be built from the city of Leavenworth to the town of Lawrence; but on that line there are no lands or bonds given as subsidy, and there are no bonds given on the Burlington branch road.

Here, then, are six branch roads: one going up the valley of the Kansas river, now known as the Eastern Division Railroad Company; one from the city of Leavenworth to Lawrence; the Atchison and Pike's Peak Railroad Company; the Burlington line; the Omaha line, and the Sioux City line. Subsidies in bonds, however, were to be given conditionally to the Sioux City line, and positively only to three of these branches, what is now known as the Omaha branch, the branch west from Atchison, and the branch up the Kansas river. So the Senator will see that I am not wrong, and he is. The law was intended to enable the President to control each of the companies so as to bring their several branch roads in connection with the main trunk line or with each other within the limits named.

Mr. EDMUNDS. I wish to ask my friend again whether he understands by the language he read that all these roads which he speaks of are to have connection within one hundred miles, or whether the word "limits" means within the limits of the one hundredth meridian?

Mr. HARLAN. It cannot mean anything else than that this Atchison and Pike's Peak Railroad Company shall have this connection within one hundred miles, and that the other branch roads shall have their connection with the main trunk at the one hundredth meridian, or with some one of the branch lines at a point east of the one hundredth meridian.

Mr. EDMUNDS. How can my friend maintain that construction when the very same word is applied to all of them, and the very language of the act is that all these roads shall have an opportunity to connect with the eastern division within the limits named. Must you not apply the word "limits" to all of them alike? Can he say that as to one of them it means inside the one hundredth meridian, and as to others it means within one hundred miles?

Mr. HARLAN. Yes, sir; because as to one of them the exact number of miles is named in the law, and as to the others the exact distance is left to subsequent survey, which will result from the topography of the country and the interests of construction.

Mr. EDMUNDS. Will my friend be kind enough to read that part of it which relates to the one hundred miles?

Mr. HARLAN. I have read it.

Mr. EDMUNDS. Does it speak of anything only a subsidy of one hundred miles?

Mr. HARLAN. That is all; that a subsidy should be granted for only one hundred miles. I am sorry my friend did not listen to that part of my remarks.

Mr. EDMUNDS. Does not the charter of the Atchison and Pike's Peak railroad, now called the central branch, provide for building a road from Atchison to Pike's Peak across the whole State of Kansas?

Mr. HARLAN. That may be so. The Senator is doubtless quite as well informed on that subject as I am. The charter received by this company from the State of Kansas may authorize them to build a road to Pike's Peak, which means, I think, Denver.

Mr. EDMUNDS. If when that act was passed this company was authorized to build across the whole State of Kansas, and the law said it should have a subsidy for only one hundred miles, how does the Senator reason it out that the word "limits" there, when applied to where it shall make the connection, refers to the subsidy and, not to the distance provided by the charter?

Mr. HARLAN. It seems to me the answer.

is very plain; they have the right under the law of the United States to build one hundred miles—

Mr. EDMUNDS. They have a right to the subsidy, not a right to build at all.

Mr. HARLAN. They may have additional and other rights under the law of Kansas. It is not material to the solution of this question whether they have or not.

Mr. EDMUNDS. Does my friend maintain that Congress gives the Atchison and Pike's Peak road authority to build anywhere in the State of Kansas, or does the act of Congress only say that if they do build they shall have a subsidy for one hundred miles?

Mr. HARLAN. The exact location of the line of their road may be controlled by the charter that they derive from the Legislature of Kansas; but that does not affect the question now pending. We confer on this and other companies certain rights. We have an object in it. We desire a through line. We desire that each of these branches shall form a connection with the main trunk line for the purpose of carrying the freights of the United States; and we provide that if they do not form this connection, do not build a road so that the main road and the branches can be worked as one continuous line they shall forfeit all the money they invested. In the face of that fact the Senator comes here and asks if it was the intention of Congress to control the location of the line of that road.

Mr. EDMUNDS. No, sir. I asked the Senator if he supposed that Congress undertook to grant any authority to build a road in the State of Kansas, or if Congress only undertook to aid a road which, under the authority of Kansas, should be built.

Mr. HARLAN. I must be supposed by the Senator to be duller than I think myself. I will not enter into the constitutional question whether the United States can charter a railroad company within the limits of a State. I have heard very learned arguments on that subject upon this floor, but I have never participated in them for obvious reasons. The Senator himself may be quite competent to argue that question, but it is not pertinent to the issue now before the Senate. The question is what did Congress intend by the law of 1864? Did Congress intend to enable this company to invest its money safely? It could not do so without being provided with a connection with the main trunk line, or the line of the Eastern Division Company, and to give them that right of connection the sixteenth section of the law of 1864 was enacted.

Mr. EDMUNDS. Now, if my friend will permit me to interrupt him for a moment, I wish to remind him that I did not open to him a constitutional question. I merely inquired of him as to the purport of the act of Congress, whether we undertook to confer on this company authority to take private property and build a road; or whether, taking up the company as we found it already authorized by the law of Kansas to build a road, we provided that we would give it a subsidy in case it should make a certain connection. Then I wish to ask him whether, alluding to the word "limits" in the law, this connection could not be just as well made if the eastern division went up the valley of the Republican by extending this road more than one hundred miles until it should strike that road, as well as to have this road bend so far to the east that it should strike it exactly at the point of one hundred miles? That is what I wish to get at.

Mr. HARLAN. If the Senator will turn his attention to the seventeenth section of the act of 1862 he will ascertain what the purpose of the act of 1864 was in this respect, as I read during, I think, his absence from his seat. It is provided that if this main trunk line and branches are not built within the time specified so as to form a connected line, they are to forfeit all the money they invest.

Mr. EDMUNDS. All the rights the United States gives them; not the State rights, I take it.

Mr. HARLAN. That may be so as a question of law; I shall not attempt to solve that question. The fact is here on the face of the law, if the Senator will turn his attention to it, that the law of 1864 was enacted to enable these companies to safely invest their money to avoid that necessary forfeiture growing out of the default of one of the other companies over which they had no control. It cannot be contended, it seems to me, by any fair-minded man that that was not the intention of the law, if he will examine the seventeenth section of the act of 1862 and compare it with the sixteenth section of the act of 1862. That being the intention of the law, then the practical question arises whether the facts that now exist justify this company in claiming the right to form that connection. Had the act of 1866 never been passed, and had the Eastern Division Railroad Company failed to build on that line, they unquestionably would have had that right, to save the money previously invested in the one hundred miles of road, by making an additional investment in the construction of the remaining part so as to secure a connection with the main trunk line. Then if under the act of 1866 they are deprived of this right, they are deprived of it by the act of Congress, which, so far as they are concerned, is equivalent to the act of God, for they have no power to control the act of this body except through the influence of reason.

Mr. President, if this were a question arising between great and powerful nations instead of the Atchison and Pike's Peak Railroad Company, composed of a few private citizens and the United States, if it were the Government of France or England or Russia, whose equitable or legal rights were being trifled with, a Power capable of vindicating its rights, of coercing nations that should attempt to trample upon them, would anybody for a moment hesitate to come to the conclusion that Congress would grant them what was intended by the law of 1864? But here are a few private citizens who happen to have a few thousand dollars in money, and the Government can take these rights from them if it chooses. They have no means of redress, as I suppose. They do not choose to attempt the use of any other means of redress than the power of reason and appeal to conscience, and hence they are here.

They say: "Under the law of 1864 we have invested our money in good faith; you promised us a connection with the eastern division railroad; you directed the President to so locate that line as to secure this connection, and on failure on their part to build their line you then authorized us to build up the valley of the Republican river to the one hundredth meridian, and thus secure a connection and save our investment from loss. We should have had that right but for the subsequent legislation, the legislation of 1866." If they have not the legal right to build the road under the law as it stands, it is in consequence of the act of 1866, in consequence of the act of this Government, the act of Congress, over which these private citizens had no control; and they are here, as it seems to me, very properly asking that their rights may be preserved, or at least that their equities may be considered. If they have no legal rights, construing the law technically as my honorable friend does, they surely have equitable claims. In justice you are bound to give them the opportunity to make additional investments and secure the property that otherwise would become perhaps a total loss.

Mr. HOWE. Will the Senator allow me to ask him for an explanation on one point?

Mr. HARLAN. With great pleasure.

Mr. HOWE. Understand him to insist that the law required the President to locate the line of the eastern branch Pacific railroad so that this central branch could connect with it within one hundred miles of Atchison. I understand him to say that that is the law.

Mr. HARLAN. I think that is the effect of it.

Mr. HOWE. I wish to understand when,

in point of fact, the eastern branch was first located through Kansas?

Mr. HARLAN. I am unable to answer that question.

Mr. HOWARD. I can answer the question.

Mr. HARLAN. I shall be obliged to the Senator from Michigan if he will give the information.

Mr. HOWARD. By looking at the report of the committee in this case it will be seen that the map of the eastern division was filed in June, 1865.

Mr. HOWE. Now, I wish to ask whether that line was not, when it was first located, located up the valley of the Kansas and the Republican Fork to the one hundredth meridian?

Mr. HARLAN. Certainly.

Mr. HOWE. And that would not enable the central branch to connect with it within one hundred miles, would it?

Mr. HARLAN. That renders it necessary to make an explanation. The law of 1862 provides that the company shall indicate the general route of their road, subject to a final location growing out of the necessities of the topography of the country, as the facts may be developed by engineering. This Eastern Division Railroad Company located the general line of its road up the valley of the Kansas and the Republican branch of the Kansas river to the one hundredth meridian. The final and definite location grows out of specific surveys, grows out of engineering estimates, and was never made; and it is that final and definite location that is put under the control of the President, and he is authorized, as the Senator will see from reading the law, to do it after actual survey, not by drawing a line across a map indicating the general location as it would be indicated by the land surveys, but that he shall do it by actual survey and shall then do it so as to enable these companies to connect within the respective limits.

Mr. President, the last point I propose to speak upon is a reply to some observations submitted some time since by the honorable Senator from New York, [Mr. CONKLING,] when this question was pending before. He, doubtless honestly, believes that if this company had equitable rights, judged by the construction of the law, they had not judged by the existing facts, for he recited that under this law they were entitled to alternate sections of public lands on each side of the road within a limit of ten miles; and I think he figured up the amount of lands that they would thus derive, and also informed the Senate that they had purchased part of an Indian reservation, amounting to some hundreds of thousands of acres, which was supposed to be of great value, and then that they had raised from the United States \$1,600,000 in Government bonds, and that under the law they had authority to issue their own bonds as the road progressed to an equal amount, making \$3,200,000 in bonds. Hence, to sum up, this company own \$3,200,000 of bonds, a vast amount of lands, being the alternate sections on each side of the road, and two or three hundred thousand acres growing out of a purchase from some Indian tribe, and that they are therefore vastly wealthy; or as we should style it on the frontier, they have "a good thing" as it is, and they need no relief.

Well, Mr. President, in point of fact it turns out that they do not derive a large quantity of land as alternate sections. I believe the whole quantity is about two hundred and thirty thousand acres, and the amount that they would have derived under the law of 1862 has been largely diminished by a clause in the law of 1864 providing that the location of certain college scrip made by the friends of some of our New England Senators here should not be interfered with by the location of the lands granted to this road; that is, that the locations made intermediate between 1862 and 1864 should remain valid. In this way the company lost a large amount of land that otherwise they would have possessed under the law of 1862.



But it is said that they own \$3,200,000 in bonds. How much are they worth? The bonds of the Government are not granted to the company; they are loaned to the company. The company is bound to pay the interest on these bonds semi-annually from year to year, and when matured to pay the principal. How much are their bonds worth? They issue their promises to pay to the amount of \$1,600,000. Who pays these bonds? The company will pay the interest on them as it matures, and the principal when the bonds mature. That is to say the company are in debt \$3,200,000, and that is figured up here as evidence of vast wealth held by this company. Why, Mr. President, suppose these bonds were all in the pocket of my friend from New York, and he held them in his pocket until they matured, the interest must be paid by him each six months from year to year, and when the bonds mature he must pay the principal, of what value are they to him? I never knew that it enriched a man to give his promise to pay bearing interest.

If he holds his own note against himself, of what value is it to him? It is valueless; and most men when they acquire possession of their own paper obligating them to pay money, destroy it as soon as they have the legal right to do so. How is it if they receive the paper of another party, and are bound when they receive that paper to pay interest on it, and to pay the principal when it is due? It is no better than their own paper. In the end the company must pay this \$3,200,000, if it has ever been issued; but the chairman of the Committee on the Pacific Railroad read from a paper just now, which I believe he received from the Secretary of the Treasury within a few days, showing that they have drawn but about six hundred thousand dollars, I think, of Government bonds.

Mr. EDMUNDS. That is a mistake. This company have got their whole \$1,600,000, or else I am very much at fault.

Mr. HARLAN. The Senator from Michigan can furnish the exact information, I apprehend.

Mr. HOWARD. I will read from a communication dated "Treasury Department, June 16, 1868," a "statement showing the amount of United States bonds issued to the several Pacific railroad companies; the amount of accrued interest thereon to date, and the amount paid by the said companies under the fifth section of the act of July 2, 1862," and among the items is "issued to the Atchison and Pike's Peak railroad," which is the old name of this corporation, "\$640,000" of United States bonds, and the interest accrued upon them is \$67,661 74.

Mr. EDMUNDS. Now give us a statement of the amount of bonds issued to the "Central Branch Union Pacific railroad," the new name of this corporation.

Mr. HOWARD. It is the same corporation under a new name.

Mr. EDMUNDS. I know it; but what I wish to get at is whether that statement covers all bonds issued to this company under all names, or only covers the bonds issued under its old name.

Mr. HOWARD. It goes by this name. This is the same corporation.

Mr. EDMUNDS. I know; but since those bonds were issued, its name has been changed to "Central Branch Union Pacific," its present name. My friend from Michigan will find, unless I am very much mistaken, that in order to accommodate this company—it was perfectly right that it should be done—when its name was changed, all the bonds issued afterward were issued under its new name.

Mr. HOWARD. I think not. This communication was sent to me in answer to a resolution passed by the Committee on the Pacific Railroad, asking for specific information as to the whole amount of Government bonds issued to the Union Pacific Railroad Company and each and all its branches, with a statement of the interest accrued upon the bonds thus issued,

and the interest repaid to the Government. I have not by me at this moment the letter which I addressed to the Department, but I will read the letter of the Secretary, dated June 15, 1868:

"Sir: I have the honor to acknowledge the receipt of your letter of the 12th instant, relative to the amount of bonds issued to the several Pacific railroad companies, the accrued interest thereon, and the amount repaid to the United States by said companies. In reply, I herewith inclose a statement giving the information required."

The fact of the change of name is perfectly notorious.

Mr. HARLAN. Mr. President, this is immaterial, for if they have not, as I suppose they have not, drawn the whole of the bonds, they may draw them, for they have built the whole one hundred miles, and, therefore, are entitled to them. I only mention it incidentally as a passing fact. They may draw the whole of them, and they may issue an equal amount of their own bonds; but of what value are they? They give the company credit for the time being, and that is all. The United States, therefore, has merely loaned to this company the \$1,600,000 of bonds, and the company accepting the provisions of the laws of 1862 and 1864, is bound to pay every dollar of it when matured; so that instead of being capital on hand, it is a debt owed. Now, to ascertain how much the company is worth as a corporation, I apprehend you would assess the value of their lands, the value of their road-bed, their rolling-stock, and their equipment, and deduct therefrom the amount of their debts; then deduct at least the \$3,200,000 which they owe in bonds, one half of it to the United States, and the other half to private holders.

Mr. HOWARD. I beg to make a correction in reference to the statement which I read before. The whole amount of bonds issued to this corporation is \$1,600,000, and they were issued to the corporation under different names.

Mr. EDMUNDS. My friend will permit me to say that his own statement shows it is just as I stated before. Six hundred and forty thousand dollars of bonds were issued under the name of the Atchison and Pike's Peak railroad, and the balance, nearly a million, under the new name, Central Branch Union Pacific.

Mr. HARLAN. I am very glad to be accurate, and I am obliged to Senators for correcting me as to this fact; but, as I before observed, it makes no difference; for if they had not received these bonds they had a right to draw them under the law; but drawing these bonds, they merely obligate themselves to pay them when they become due. It is an advantage to the company in this way, the credit of the United States in the money markets of the world is better than the credit of a company, and therefore to hold the paper of the United States with authority to negotiate it enables them to raise money when perhaps otherwise they would not be able to do so on terms so good.

And making the lien of the Government for the ultimate payment of these bonds a second class lien on the road makes the company's bonds equal to the Government bonds in amount, equally valuable. It is, therefore, of very great advantage to the company to have the privilege of negotiating these bonds to raise money to construct the road; but in estimating the wealth of the company you must deduct the whole amount of their indebtedness. A part of that indebtedness is the liability, ultimately, to pay the Government bonds, and to pay the company's bonds in addition to their other indebtedness; and the value of the franchise is just so much in value as will be left after deducting from the whole the amount of this indebtedness.

It may not be to the interest of the company to make these naked statements of fact; but it may and probably is necessary to make them in order that we may arrive at their true condition in a financial point of view; and as that was supposed to be material by the Senator from New York, I have felt it to be proper to

thus expose what I deem a logical fallacy in the use of its effect.

Mr. CONKLING. As the Senator is addressing this argument for my benefit especially, will he allow me to make an inquiry?

Mr. HARLAN. Certainly.

Mr. CONKLING. The argument is conclusive, I think, and that I may understand the full force of it, I wish to ask the Senator whether it proves this: that the larger subsidies a road receives the poorer it becomes in respect of being the more in debt; so that the Union Pacific road having received, as this statement shows, an enormous subsidy, is the most unfortunate, the most largely indebted, and comes the nearest to being insolvent of any corporation that we know anything about.

Mr. HARLAN. Why, certainly, Mr. President, it is so if their property is not worth an amount proportionately great, just as if the Senator should pay \$100 for a horse that was worth but fifty dollars; if he went in debt fifty dollars and bought the horse he would be in a less ruinous condition financially than if he went in debt \$100 for the same horse; but if he bought a horse worth double the former with his \$100, I suppose his financial condition would not be changed; and so with these roads.

Mr. CONKLING. So that to complete the statement, if I may understand it, if the road receives from the Government lands and the right to mortgage those lands to the amount of \$16,000, which is a first lien upon them, and then receives in addition to that \$16,000 more in the credit and obligation of the Government, it is poor by reason of that fact. The Government having created the basis of its own mortgage, and allowed the company to make the incumbrance upon that the primary lien, and then donated them \$16,000 a mile besides, which goes, and properly goes, into the statement of the public debt which the Government owes, because they have done that, and then had an understanding with the company that the Government is to be indemnified against the interest, and they are to provide for the paper in the end, they become poor by the operation! If that is what the Senator means, I confess I cannot comprehend him.

Mr. HARLAN. Mr. President, I do not mean any such thing, and never said any such thing, and nothing that I have said can properly be tortured into any such thing.

The Senator says, "if the United States grants land to the company." Why, sir, he knows as well as every other Senator that the grant of land is absolute. If the company build the road they get a title in fee to the land; and I never said, and did not intend to be understood as saying, that the more land you granted to a company the poorer it becomes; nor did I ever say that the more bonds the company borrowed the poorer it would become if they were properly invested. I said it would be an advantage to the company to hold the bonds of the United States, if it was necessary for them to borrow money, because the credit of the United States is worth more in the market, or is supposed to be, than the credit of any one of these companies. Holding the bonds of the United States to negotiate, they could borrow money on better terms, and consequently could build the road at a cheaper rate, and their franchise on that account would be the more valuable.

But when this work shall have been completed, and when these bonds shall have become matured, and when the company comes to foot up its assets and liabilities, I ask the Senator to tell me if it will not be compelled to deduct from its assets the bonds as one part of its liabilities. To be sure, if it should break up, if it should become insolvent and not be able to pay its debts, then the Government could not collect the bonds. But suppose the money is invested properly, and the road is worth all that it costs, and these stockholders put in a part of the money out of their own pockets; they sell the land for money and put that in, negotiate their bonds and Government bonds

and risk their money in the road, then in order to ascertain the wealth of the company you must put down the value of the road completed with the rolling stock and equipment, and deduct from that value the liabilities, and these bonds are a class of those liabilities, must be paid by the company, and, in the end, after the road shall have been completed, the more they owe, whether to the Government or to private parties, the worse they will be off as a matter of course.

Mr. CRAGIN. Will the Senator allow me to suggest a question?

Mr. HARRAN. Certainly.

Mr. CRAGIN. It is whether the wealth of this company and its ability to pay its bonds to the Government and to individuals does not depend largely upon whether it is enabled to make connection with the main trunk, and thereby make its property valuable and be enabled to do business?

Mr. HARRAN. Certainly, Mr. President, that is obvious to every one. If it would be to the advantage of the company itself, it would be to the interest of the holders of the company's bonds and the holders of the United States bonds or the parties issuing the United States bonds. If the company's property would be worth more per cent. after investing more money and forming this connection, then the probabilities would be increased that the Government would lose nothing in the end.

Mr. President, I am sorry to have detained the Senate so long in attempting to present my understanding of this question. I would not have done so had it not been for my failure to apprehend the force and pertinency of much that was said by the Senator from Vermont.

Mr. HENDRICKS. Mr. President, when this bill was first discussed this session my opinion and prejudices were both against it; but I was requested to examine the law, and I thought it was but just that I should do so. I have examined it as well as I have had the time to do; and the more I have examined, the more I have heard it discussed, the more my first impressions have been staggered. I will not say that I have yet to come to a definite conclusion that I must vote for the bill, but I am very strongly inclined in that direction, and I will express the views I now entertain about it, crude as they may be.

In the first place, I cannot avoid this consideration as one of policy, that this company now holds or is entitled to receive upon the construction of one hundred miles \$1,600,000 of the bonds of the United States. The safety of this Government in its loan of credit to this company will depend upon the value of the work.

The road has now a terminus upon the Missouri river and one out in the wilderness. Having such termini, any Senator can see that its work cannot be of any great value. It must have some connection; as every Senator knows, the value of a railroad depends upon its connections. To make the road a security sufficient and ample for the advance made by the Government, for its \$1,600,000 advance, some value must be given to it by securing to it another terminus. We all know that the security is not now. I think it is proper for me to consider that in my decision upon the bill.

It is also, I think, proper for me to consider, as a representative from Indiana, that the southern part of that State and its great railroad enterprises are interested in the southern branch of the Pacific railroad. If our only connection with this road is by Chicago, then we have to go, in order to reach it, from the latitude of Indianapolis, one hundred miles, while if we have a road constructed from Atchison so as to connect on the one hundredth meridian with the great road, then we are almost on a parallel. Our main roads through Indiana running westward would connect with the roads in the latitude of St. Louis, and thus give us connection with this road and a connection with the great Pacific road without taking a circuit of one hundred miles to

the north to reach the Omaha branch. So that it is proper, as a representative of the State of Indiana, that I should consider that fact, which I regard as important.

If I had been a member of Congress in 1862 I have no thought that I should have voted for the Pacific railroad plan. When I was in the House of Representatives, ten or twelve years ago, I expressed my views upon the subject. I thought there ought to be one main road running from St. Louis to San Francisco, a central road for the Union, and let private enterprise make the other connections. But I find this plan upon the statute-book, and it is only for me now to inquire what are the legal propositions growing out of the law.

First, it is apparent that this was intended to be an entire system, the main road from the one hundredth meridian westward to the eastern line of California, with a branch from the mouth of the Kansas river to connect at the one hundredth degree of longitude, with a branch from Atchison to connect with that road. And this was an entire enterprise, one entire road, although constructed by different companies. It was regarded as an entire work, so that if any one of the companies should fail in the construction of its road the entire work should be forfeited. If it was a system and a plan surely it was intended that there should be connections; surely it was not intended that this particular road running westward from Atchison should be a part of the Pacific railroad plan and yet have no connections with that road.

Such, in my judgment, is the fair construction of the legislation of 1862. And what is the express provision upon the subject? It is that the road from the mouth of the Kansas river shall be extended to connect with the great road at the one hundredth meridian; and there is one feature of that provision to which I wish to call the attention of Senators. The location of the whole of that road was not left to the discretion and judgment of the company, but when you get out to a certain point it is then placed under the control of the President of the United States, and I believe that in that respect this particular road is different from any other portion of the Pacific railroad plan. "The route in Kansas west of the meridian at Fort Riley, to the aforesaid point on the one hundredth meridian of longitude, to be subject to the approval of the President of the United States, and to be determined by him on actual survey." I ask Senators why that provision in regard to that particular part of the route is found in the law. Is it not that the President of the United States shall protect this Atchison branch in its connection? because the provision I have just read follows what I will now read:

"And said railroad through Kansas shall be so located between the mouth of the Kansas river as aforesaid, and the aforesaid point on the one hundredth meridian of longitude, that the several railroads from Missouri and Iowa, herein authorized to connect with the same, can make connection within the limits prescribed in this act, provided the same can be done without deviating from the general direction of the whole line to the Pacific coast."

What do these provisions amount to? That the road from the mouth of the Kansas river to the one hundredth degree shall be so located that the road from Atchison, running westward, may make a connection with it, and to make that entirely secure and not to leave it to the discretion and judgment of the company, the President of the United States shall control it upon actual survey. Is it not very plain that it was the purpose of the act of 1862 to secure to this Atchison road a suitable connection at a point supposed to be about one hundred miles west from Atchison?

Mr. HOWE. I wish the Senator would point out where he finds the evidence in that act, the act of 1862, that the Atchison road was to connect with what we now know as the eastern division road at all, anywhere. What evidence is found in the act of 1862 that it was intended that the Atchison branch should connect with the Kansas city branch?

Mr. HENDRICKS. It was not absolutely

so. The Atchison branch had a discretion to connect with the Omaha line, but that was left to the judgment of the company itself. Now, I will read to the Senate what I think is the provision of the law and give to it the construction that I think is proper:

"That the Hannibal and St. Joseph Railroad Company of Missouri may extend its roads from St. Joseph, via Atchison, to connect and unite with the road through Kansas."

That is the eastern division, as the Senator calls it. This Hannibal and St. Joseph company may connect it with the road through Kansas. The road through Kansas is the one that had one terminus at the mouth of the Kansas river and the other at the one hundredth meridian of longitude. I will read this again:

"That the Hannibal and St. Joseph Railroad Company of Missouri may extend its roads from St. Joseph via Atchison, to connect and unite with the road through Kansas, upon filing its assent to the provisions of this act, upon the same terms and conditions in all respects, for one hundred miles in length next to the Missouri river, as are provided in this act for the construction of the railroad and telegraph line first mentioned, and may for this purpose use any railroad charter which has been or may be granted by the Legislature of Kansas."

Now, I will ask the Senator from Wisconsin to give his attention to the language that is here used. The Hannibal and St. Joseph Railroad Company may extend its road; not may make a departure in a southwestern direction, so as to connect with the Atchison road, if it should take a southwestern direction, but it is authorized to extend its road. The Hannibal and St. Joseph road is an eastern and western road, running almost upon a parallel of latitude. An extension of that road would be a western road. Then we have this provision that the Hannibal and St. Joseph road may be extended from Atchison until it shall connect with the road running through Kansas. Where shall it connect? At such point as an extension will intersect the Kansas road. Taking the thirteenth section of the act of 1862, in connection with the provisions of the ninth section of the act of 1862, and it amounts to this: the Hannibal and St. Joseph road may be extended westward from Atchison until it shall connect with the road running through Kansas, and in order to secure that result the road running through Kansas from the mouth of the Kansas river to the one hundredth degree of longitude shall be so located as to allow that connection; and, to make that entirely clear, the President of the United States shall have the control of that part of it from Fort Riley to the one hundredth meridian, and he shall decide upon it after actual survey.

Mr. HOWE. Now, I wish to ask the Senator from Indiana, as I am not familiar with the geography of that country, if the President should undertake to locate the line west of the meridian of Fort Riley, so as to enable the Atchison branch to connect with it within one hundred miles of Atchison, if he would not have to deflect considerably east of that meridian?

Mr. HENDRICKS. I do not understand the question.

Mr. HOWE. The question is this: if the President had undertaken to locate the Kansas branch from a point west of the meridian of Fort Riley, in such a way as to enable the Atchison branch to connect with it, and to connect within one hundred miles from Atchison, would not that location have been necessarily deflected very much to the east; in other words, is not Fort Riley west of a point one hundred miles from Atchison?

Mr. HENDRICKS. I cannot answer that question, for I have never measured it, nor never observed the measurement made by any body else. The Senator from Kansas, looking to the map, says that it would not be much more than fifty miles from Atchison to a line running north and south from Fort Riley.

Mr. HOWE. Fort Riley is near the junction of the Republican and Smoky Hill Forks, is it not?

Mr. HENDERSON. No, sir.

Mr. HOWE. How far is it from there?

Mr. HENDERSON. You are asking for the junction of the Republican with the Smoky Hill?

Mr. HOWE. I am asking how far Fort Riley is from the junction of those two rivers.

Mr. DOOLITTLE. It is at the junction.

Mr. HOWE. Do I understand Senators to say that the junction of these rivers is not one hundred miles west from Atchison?

Mr. POMEROY. It is not one hundred miles west from Atchison in a straight line.

Mr. HOWE. I will ask the Senator from Kansas to have this geographical question settled: have not the one hundred miles of road been already built from Atchison, and is not the western terminus of that road in the valley of the Blue river?

Mr. POMEROY. A little beyond, fourteen miles beyond.

Mr. HOWE. I ask the Senator if the valley of the Blue river is not east of the Republican Fork?

Mr. POMEROY. Not east of the mouth of the Republican Fork where Fort Riley is.

Mr. HOWE. But it is east of the Republican Fork?

Mr. POMEROY. It is.

Mr. HOWE. East of the Republican Fork; so that the one hundred miles have been built from Atchison and have not reached the meridian of Fort Riley.

Mr. POMEROY. The mouth of the Republican at Fort Riley is much east of the valley of the Republican on the meridian of Atchison; one hundred miles out from Atchison does not reach the Republican valley, although it reaches the meridian of Fort Riley, because the Republican river comes in from the southwest. Although one hundred miles does reach the meridian of Fort Riley and goes beyond it, yet it does not reach the Republican valley on that meridian. That is the state of the case.

Mr. HENDRICKS. The question suggested by the Senator from Wisconsin is one whether the plan adopted in 1862 was practicable or not. That I cannot answer.

Mr. HOWE. That was not my question.

Mr. HENDRICKS. It is certain it was the intention of Congress that the road from the mouth of the Kansas river running in a northwestern direction should be so located as that the Atchison branch might connect with it and might give some value to it. That is the legal proposition in the act of 1862; and to make that secure it is placed under the control of the President of the United States.

Mr. CONKLING. I should like to be informed upon this point: suppose that is the meaning of the law, that the eastern division was to be so built that the Atchison and Pike's Peak road could connect with it within one hundred miles; will the Senator explain to me why it was that the Atchison and Pike's Peak road ran so far to the north that no matter where the eastern division ran, they could not connect within one hundred miles? Why did they not go down in a direction toward Pike's Peak, which would have taken them to a connection with the eastern division where the eastern division now lies on the ground?

Mr. HENDRICKS. I will call the attention of the Senator from New York to the language of the thirteenth section of the act of 1862, to which I called the attention of the Senator from Wisconsin a few minutes ago. The provision in regard to this road that is now claiming protection at our hands, that it may be an extension of the Hannibal and St. Joseph road; and that language, I understand to mean, in its ordinary and proper construction, an extension in the same direction, and the Hannibal and St. Joseph road being a road running from the east to the west, this branch is a road running from the east to the west.

Mr. CONKLING. Now, let me inquire of my honorable friend if he does not know that the very thing this road did was to run almost at right angles to the Hannibal and St. Joseph road, right down the river to Atchison?

Mr. HENDRICKS. Certainly; and that is

not an obscure question, for the language of the law I read shows how that is: "The Hannibal and St. Joseph Railroad Company may extend its roads from St. Joseph via Atchison;" and that required that departure from a western line. That departure is provided for in the section itself. Then an extension of a road ordinarily would mean a continuance of it in the same general direction.

Mr. CONKLING. Certainly, the Senator and I agree now; but I beg of him to enlighten me on this point: why was it, having run down to Atchison, and it being a road to run then in a general westwardly direction, that they pointed it so far north that one hundred miles would not bring it in connection with this eastern division, whereas if they had gone towards Pike's Peak they would have effected their junction east of Fort Riley, in which event it would have been wholly immaterial to them whether the eastern division went up the Republican Fork or down the Smoky Hill. I cannot understand why it is that they picked out the particular location which, in any event, within one hundred miles prevented their gaining a connection.

Mr. HENDRICKS. Will the Senator, before I answer his question, allow me to ask him one?

Mr. CONKLING. Certainly.

Mr. HENDRICKS. Why is it that in regard to so much of this Kansas road as is northwest of Fort Riley, the location of it is placed under the control of the President of the United States—and that is the only part of the railroad system provided for in that law that is placed under his control—what was the purpose of taking it from under the control of the company and placing it under the control of the President of the United States?

Mr. CONKLING. I am not sure that I understand the application of the question which the Senator puts to me. He says what was the object in intrusting to the President of the United States the ultimate approval of the location or the ultimate fixing of the location. Is that the point?

Mr. HENDRICKS. That is the point.

Mr. CONKLING. I do not see what possible application that has to this case.

Mr. HENDRICKS. Then I will try and answer it myself.

Mr. CONKLING. I do not understand the scope or drift of it.

Mr. HENDRICKS. Inasmuch as the law provided that there should be a connection, and it was a very important thing, and the precise point could not be fixed, therefore it was provided that the point where it would be likely to take place should be under the control of the President, and that that part of the road should be so located as to allow this connection. The very fact that that part of the road is placed under the control of the President of the United States in its location is evidence that Congress expected the connection should take place at some point northwest of Fort Riley.

Mr. CONKLING. So that we are to understand, then, that if the road, in place of lying where it does, pointed two or three degrees further north, in which event there would have been a gap of one hundred and fifty miles before it could have touched this other road, then there is an equity which would oblige us to go on and bridge that span? Would not that follow from the same reasoning?

Now, that I see the point of the Senator, I beg to answer the question which he put before. I suppose the purpose was to give to the President a certain supervision of the location—not that the President was to cause a survey to be made, but that these parties in interest were to cause surveys to be made, the ultimate approval of which, fixing the route, was committed to the President of the United States. They went on and surveyed this route, and being in general feasible, he approved that. But does the Senator mean to imply that if they had surveyed, deflecting a little further to the south, so that the terminus of their one hundred miles would have brought their road

in contact with the Leavenworth, Pawnee, and Western road, the President of the United States, under this same power, should not and would not have approved that? And if so, then practically the whole thing was committed, as we know it was, to the discretion of the parties who were doing the work. If they committed any very wild transgression the President, no doubt, would have interfered; and it was only to guard against that that the power was committed to him.

Mr. HENDRICKS. The power to control the location of the road from Atchison westward is not in the law given to the President of the United States; and why not? Because the interests of the company would compel that company to seek the best connection possible, not by running in a southwestern direction, and thereby increasing the distance to the common point of the great Pacific road, but by seeking a direct western connection, in the language of the law an extension of the Hannibal and St. Joseph railroad, a useful connection with the road running from the mouth of the Kansas river to the one hundredth degree of longitude.

Mr. CONKLING. Then they should have gone further north.

Mr. HENDRICKS. They might have departed, perhaps, from an exact western line somewhat; but the use of the language in this law which you find here indicates a purpose on the part of Congress to establish a line westward from Atchison.

Now, Mr. President, the act of 1862, in its general scope and in its particular provisions contemplates that this Atchison branch shall have a suitable connection. To say otherwise would be to attribute great folly to Congress. That Congress should grant a subsidy of such great magnitude to a road running one hundred miles westward into the wilderness and stop there is to accuse Congress of absolute stupidity. Congress intended this connection for useful purposes, not by running, as is suggested by the Senator from New York, in a southwestern direction, and thus increasing the distance to the common point at the one hundredth meridian of longitude, but by a western road to make a connection with this road which runs through Kansas.

The next question as a legal one is, does the act of 1864 change the law in this respect? I understand the Senator from Vermont to base his argument upon the proviso to the ninth section of the act of 1864. I do not give the construction to that proviso which the Senator does. It is:

"That any company authorized by this act to construct its road and telegraph line from the Missouri river to the initial point aforesaid, may construct its road and telegraph line so as to connect with the Union Pacific railroad at any point westwardly of such initial point, in case such company shall deem such westward connection more practicable or desirable."

The Senator argues that that authorizes a general departure from the line contemplated in the act of 1862. I do not so regard it. What was this provision intended for? That if the company, when it came to locate this branch, should find that a connection exactly at the one hundredth meridian of longitude could not well be made, then they might make that connection somewhat to the westward; how far is not said; but to the westward, if necessary, leaving that discretion in the company—not a discretion to change its whole line; not a discretion to change the line so as to prevent and make impossible a connection of one of the other branches—but such a departure in regard to its northwestern terminus as might be indicated by the character of the country, the character of the river that they had to cross near there, or any other consideration that might control the judgment of the company. So, sir, I do not understand that the proviso to the ninth section of the act of 1864 has changed the law of 1862, but it leaves it as it was, that this Atchison branch shall have a proper connection.

Then we come to another provision, which



in my judgment is very important, in the act of 1864. The sixteenth section of that act, in the first place, provides that these companies may consolidate one after another until perhaps the whole enterprise shall be under the control of one company. That perhaps was contemplated in the sixteenth section of the act of 1864. Then it provides that if any two of these roads shall become consolidated and shall construct their roads, and some other road which forms a necessary link in the great work shall not be constructed, this consolidated company may construct such road and have the benefit of all the provisions of the law in favor of the company whose road it has thus constructed. That is found in this language:

"And in case, upon the completion of such consolidated organization of the roads or either of them, of the companies so consolidated, any other of the road or roads of either of the other companies authorized as aforesaid, (and forming, or intended or necessary to form a portion of a continuous line from each of the several points on the Missouri river, heretofore designated, to the Pacific coast,) shall not have constructed the number of miles of its said road within the time herein required, such consolidated organization is hereby authorized to continue the construction of its road and telegraph in the general direction and route upon which such incomplete or unconstructed road is heretofore authorized to be built, until such continuation of the road of such consolidated organization shall reach the constructed road and telegraph of said other company, and at such point to connect and unite therewith."

And then it is provided that for the construction of this additional road the companies thus consolidated shall have the benefit of all subsidies. Further on it is provided:

"And in case any company authorized thereto shall not enter into such consolidated organization, such company, upon the completion of its road as heretofore provided, shall be entitled to, and is hereby authorized, to continue and extend the same under the circumstances, and in accordance with the provisions of this section, and to have all the benefits thereof, as fully and completely as are herein provided touching such consolidated organization."

Taken altogether, that section means just this: if any separate company, that being the company authorized to construct a road with which its road is to form a connection, shall fail to construct that road, this company may construct it in its stead, and in the construction of that part of the road shall have the benefit of the subsidies. It seems to me that that is the plain reading of the sixteenth section of the act of 1864. This is consistent with the general plan that these several roads shall form one system connecting several points upon the Missouri river with the Pacific coast. As I have said, I would not be in favor of such a system; but I find these provisions upon the statute-book.

I find that in 1864 Congress said to this Atchison road, "Construct your hundred miles; you shall have your subsidy; connect at that point, or any point near thereto, with the Kansas road, and thus have your connection with the main great Pacific road; and if this Kansas branch is not built so as to give you the connection with the great Pacific road, you may continue your road from the hundred miles northwestwardly until you make the connection yourselves, and in the construction of that part of the road you shall have the subsidies." In my judgment, that is the construction of the law, though I am not as confident in it as if I had had more time to examine it. Unless I hear some reason that shall disturb my judgment thus formed, I expect to vote for the bill.

Mr. DOOLITTLE. I suppose it is hardly expected that we can get to a vote on this question to-night. I therefore move that the Senate adjourn.

Mr. HOWARD. I believe that pensions are the subject of consideration for to-morrow; but I wish to say that I shall consider the bill which is now before us as the unfinished business on Monday, and shall call it up and see if we can get a vote upon it. I wish to have that understanding, if possible.

The PRESIDENT *pro tempore*. The question is on the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, June 19, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOSTON.

The Journal of yesterday was read and approved.

## QUARTERMASTER'S DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting, in compliance with the acts of April 20, 1868, and July 17, 1862, a statement of contracts made with the quartermaster's department during May, 1868; which was referred to the Committee on Military Affairs.

## SUPPLY OF GAS TO THE GOVERNMENT.

The SPEAKER also, by unanimous consent, laid before the House a communication from the president of the Washington Gas-Light Company, transmitting, in compliance with the resolution of the House of the 17th instant, a statement relative to the amount of illuminating gas furnished the Government during the year ending June 30, 1866; which was referred to the Committee for the District of Columbia, and ordered to be printed.

## ORDER OF BUSINESS.

The SPEAKER. The first business in order is that which was pending at the adjournment last evening when the House had ordered the bill (H. R. No. 1100) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels, and for other purposes," to be engrossed and read a third time. The gentleman from Pennsylvania [Mr. O'NEILL] is entitled to the floor.

SAMUEL N. MILLER.

Mr. O'NEILL. I yield for a moment to my colleague, [Mr. MYERS.]

Mr. MYERS. I ask unanimous consent that Senate bill No. 454, for the relief of Samuel N. Miller, be taken from the Speaker's table and referred to the Committee on Patents.

Mr. ELIOT. Is it desired to have that bill acted on to-day? If not, I hope that we shall go to the Speaker's table and refer all the bills upon it after the morning hour.

The SPEAKER. The Committee on Patents is entitled to the morning hour to-day; and the Chair supposes that is the reason why the gentleman wishes the bill referred.

Mr. ELIOT. All right; let it go.

There being no objection, the bill was taken from the Speaker's table, read a first and second time, and referred to the Committee on Patents.

Mr. UPSON moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. GORHAM, its Secretary, requesting the return of House joint resolution No. 44, relating to the sale of the marine hospital at Evansville, Indiana.

It further announced that the Senate had agreed to the amendment of the House of Representatives to the bill of the Senate No. 425, granting a pension to George Bennett.

It further announced that the Senate had agreed to the amendments of the House of Representatives to Senate bill No. 377, to change the times of holding the district and circuit courts of the United States in the several districts in the State of Tennessee.

It further announced that the Senate had agreed to the amendments of the House of Representatives to Senate bill No. 164, to provide for appeals from the Court of Claims, and for other purposes.

It announced in conclusion that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to House bill No. 1059, to relieve certain citizens of North Carolina of disabilities.

## ADDITIONAL BOUNTIES.

Mr. WASHBURN, of Indiana, by unanimous consent, reported from the Committee on Military Affairs a bill (H. R. No. 1279) in relation to additional bounties, and for other purposes; which was read a first and second time, ordered to be printed, and recommitted.

Mr. UPSON moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURN, of Indiana, subsequently said: There is a misunderstanding in relation to laying the motion to reconsider on the table. I ask unanimous consent that the motion be regarded as not agreed to. Let the bill be read, in order that it may be understood.

No objection being made, it was so ordered, and the bill was read at length. It provides that when a soldier's discharge states that he is discharged by reason of "expiration of term of service" he shall be held to have completed the full term of his enlistment and entitled to bounty accordingly.

The second section provides that the prohibition of bounty in the fourteenth section of the act of July 28, 1866, to any soldier who shall have bartered, sold, assigned, transferred, loaned, exchanged, or given away his final discharge papers or any interest in the bounty provided by this or any other act of Congress, shall not apply in cases where the full amount of bounty has been advanced by States, counties, or towns, to the soldiers or to their families.

Section three provides that the widow, minor children, or parents, in the order named, of any soldier who shall have died after being honorably discharged from the military service of the United States, shall be entitled to receive the additional bounty to which such soldier would be entitled if living, under the provisions of the twelfth and thirteenth sections of an act entitled "An act making appropriations for sundry civil expenses of the Government, for the year ending June 30, 1867, and for other purposes," approved July 28, 1866, and the said provisions of said act shall be so construed.

Mr. WASHBURN, of Indiana. I now enter the motion to reconsider the reference of this bill.

## ERIE AND ONTARIO SHIP-CANAL.

Mr. BANKS, by unanimous consent, presented resolutions of the Legislature of the State of Massachusetts, in relation to a ship-canal connecting Lakes Erie and Ontario; which was referred to the Committee on Roads and Canals, and ordered to be printed.

JOHN H. OSLER.

Mr. BOYER moved that the Committee on Military Affairs be discharged from the further consideration of the petition of John H. Osler for relief, and that the same be referred to the Committee of Claims.

The motion was agreed to.

## NEW YORK WAR CLAIMS.

Mr. KETCHAM, by unanimous consent, reported from the Committee on Military Affairs a bill (H. R. No. 1278) providing for the appointment of a commission to examine and report upon certain claims of the State of New York; which was read a first and second time, ordered to be printed, and recommitted.

Mr. UPSON moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM REYNOLDS.

Mr. KETCHAM moved that the Committee on Military Affairs be discharged from the further consideration of the petition of William Reynolds, asking to be reimbursed for expenses incurred in defending himself against unlawful arrest and prosecution as a deserter, and that the same be referred to the Committee on the Judiciary.

The motion was agreed to.

## MERCANTILE MARINE.

Mr. CHANLER. I ask unanimous consent to present and have printed and referred a protest of the Ship-owners' Association of New York city against the passage of the bill in relation to the mercantile marine of the United States, which provides for the appointment of marine boards, with power to supervise the construction, equipment, repairs, &c., of vessels of the merchant marine.

Mr. COBB. I think this petition had better take the ordinary course, and be handed to the Journal Clerk under the rules.

## IMMIGRANT SHIPS.

Mr. ELIOT. I call for the regular order.

The SPEAKER. The first business in order is the consideration of House bill No. 1100, to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels, and for other purposes," upon which the previous question has been ordered, and which was pending at the time of adjournment yesterday. The question is upon the third reading of the bill.

The bill was then read the third time.

The question was upon the passage of the bill.

Mr. O'NEILL. Upon that question I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. CHANLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The question was taken; and upon a division, there were—ayes seventy-two, noes not counted.

So the motion to reconsider was laid on the table.

## ORDER OF BUSINESS.

The SPEAKER. The morning hour has now commenced, and the first business in order, to-day being Friday, is the reporting of bills of a private nature, commencing with the Committee on Patents, where the call rested at the expiration of the morning hour on Saturday last.

## WOOD-SCREW PATENTS.

The SPEAKER. The pending bill is House bill No. 810, for the relief of the widow and heirs of Thomas W. Harvey, deceased, reported from the Committee on Patents by the gentleman from Pennsylvania, [Mr. MYERS.] The pending question is upon the motion of the gentleman from Pennsylvania, [Mr. STEVENS,] that the bill be laid on the table. The question was taken upon that motion on Saturday last, but before the result was announced the morning hour expired.

Mr. MYERS. I understand that my colleague [Mr. STEVENS] will not press his motion.

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] is not present, and therefore his motion must be acted upon, and cannot be withdrawn.

Mr. GARFIELD. I desire to say that if it was withdrawn I would renew it.

The SPEAKER. The question is upon the motion that the bill be laid on the table. The bill will be again read.

The bill was read at length. It authorizes the Committee on Patents to hear the application of the widow and heirs of Thomas W. Harvey, deceased, for a reextension of the patent heretofore granted to the said Harvey, on the 30th of May, 1846, for an improvement in machinery for cutting screws, and reissued on the 28th of December, 1858; and also the application of the heirs of Thomas W. Harvey for the reextension of the patent heretofore granted to said Harvey, on the 18th of August, 1846, for improvement in machinery for dressing screw-heads, and reissued on the 4th of January, 1859, and to grant the extension of said patents for the period of seven years, respectively, from the 30th of May, 1867, and the 18th of August, 1867, when said patents by law expired; provided that the patents shall

be extended only for the benefit of the widow and legal heirs of said Harvey, and that these extensions shall not be valid for the use and benefit of any corporation or person claiming any right or interest in either of the said patents by virtue of any alleged agreement, transfer, or assignment heretofore executed by the said heirs, or any arbitration or award heretofore made between the said heirs and any other person or corporation; and if at any time said extended letters-patent shall become in whole or in part the property of the company which owned said patents at the time when they were about to expire, or of their successors, then this act shall at once thereafter become void and of no effect; and provided, also, that all rights in law or equity of the persons legally in possession of machines covered by said patents shall be fully protected in all cases from the said extensions of letters-patent; provided said Commissioner, after full hearing, upon due notice to all persons desiring to contest said extensions, shall be of opinion that said patents should be so extended.

The question was then taken upon the motion to lay the bill upon the table; and upon a division there were—ayes 36, noes 50; no quorum voting.

Mr. TROWBRIDGE, Mr. FARNSWORTH, Mr. BEAMAN, and Mr. WASHBURN of Massachusetts, called for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 49, nays 81, not voting 69; as follows:

YEAS—Messrs. Allison, Ames, Bailey, Baldwin, Beaman, Beatty, Boutwell, Buckland, Butler, Churchill, Reader W. Clarke, Cobb, Covode, Dawes, Ela, Eliot, Farnsworth, Ferry, Fields, Garfield, Griswold, Harding, Hooper, Chester D. Hubbard, Julian, Kitchin, George V. Lawrence, Loughridge, McCarthy, Moorhead, Paine, Platts, Price, Randall, Raum, Schenck, Shellabarger, Smith, Spaulding, Starkweather, Trowbridge, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, and James F. Wilson—49.

NAYS—Messrs. Adams, Anderson, Delos R. Ashley, Baker, Banks, Beck, Bouton, Blair, Brommell, Cake, Chanler, Sidney Clarke, Coburn, Cook, Cornell, Culom, Dixon, Donnelly, Eggleston, Ferriss, Getz, Glossbrenner, Golladay, Grover, Halsey, Hawkins, Higby, Hill, Holman, Hotchkiss, Hulburt, Humphrey, Jenckes, Johnson, Judd, Kerr, Ketcham, Knott, Koontz, Lincoln, Loan, Logan, Lynch, Mallory, Marvin, Maynard, McClurg, McCormick, McCullough, Mercor, Miller, Moore, Morrill, Mullins, Mungen, Myers, Newcomb, Niblack, Nicholson, O'Neill, Orth, Peters, Phelps, Pile, Polsley, Robertson, Robinson, Scofield, Thaddeus Stevens, Stewart, Stokes, Taber, John Trimble, Upson, Van Aernam, Van Trump, Ward, John F. Wilson, Windom, Woodbridge, and Woodward—81.

NOT VOTING—Messrs. Archer, Arnell, James M. Ashley, Axtell, Barnes, Barnum, Benjamin, Birmingham, Blaine, Boyer, Bromwell, Brooks, Burr, Cary, Delano, Dodge, Driggs, Eckley, Eldridge, Finney, Fox, Gravely, Haight, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Jones, Kelley, Kelsey, Laffin, William Lawrence, Marshall, Morrissey, Nunn, Perham, Pike, Poland, Pomeroy, Pruyn, Ross, Sawyer, Selye, Shanks, Sitgreaves, Aaron F. Stevens, Stone, Taffe, Taylor, Thomas, Lawrence S. Trimble, Twichell, Van Auker, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburne, Stephen F. Wilson, and Wood—59.

So the House refused to lay the bill on the table.

The question then recurred on seconding the demand for the previous question.

Mr. MYERS. I withdraw the demand for the previous question, in order to answer the expectations of the House that a brief explanation shall be made in regard to the bill now before us. It is a bill I am instructed by the unanimous vote of the Committee on Patents to report. I am also authorized to assert that this bill has, perhaps, more merits than any bill we have hitherto reported, and we report very few.

Mr. WASHBURN, of Massachusetts, rose.

Mr. MYERS. I decline to yield at the present moment. The gentleman has done his best to kill this bill; but I will yield to him at the proper time. I can satisfy the House this measure is right, or I do not desire its passage. At present I desire to submit my own statement, in order that the case may be put before the House intelligibly.

It was stated the other day that this was the same old bill resuscitated over and over again.

Perhaps it may be as well to state in the outset that in the last Congress a bill was passed, and that this is substantially the same, with the exception that it remedies some of the objections then urged against it. The bill failed in the last Congress by a small majority, because a fraudulent paper was introduced upon this floor, not so intended, I will say, by the honorable gentleman from Massachusetts, who presented it. The statement was then made that the patent would not inure to the benefit of the widow and heirs who now claim it.

As soon as opportunity was afforded, but too late for a remedy then, the paper was found to be a manufactured one. The assignment did not inure beyond the extended term for seven years. I have all the papers and proofs before me on this point, and if necessary I will have them read to the House.

Such having been ascertained to be the fact, the Committee on Patents felt it to be its duty to report a bill again. It is shown that the inventor never received a dollar for the inventions secured by the letters-patent and now sought to be extended, of vast utility as they are, and which have cheapened the articles made by them all over the United States. It has brought countless benefits to those who use it. If they knew to whom they were indebted for them they would, by common consent, agree that this patent should be extended.

Before this invention of machinery for the manufacture of wood screws they were manufactured by hand. By these automatic machines and previous machines of his invention, now become public, they can be made better, quicker, and of course cheaper, and the benefit to the people is as undisputed as in the Blanchard, Woodworth, and other cases, where Congress extended the patents.

When this bill was last up it was met with a new device. The honorable gentleman from Massachusetts [Mr. BUTLER] then spoke as follows:

"I am informed this is a fact, and I wish to know whether it came before the committee. Mr. Harvey some years ago sold to a large iron proprietor in Massachusetts the right to manufacture screws under his patent, and gave a bond in the sum of \$10,000 that this manufacturer should enjoy that privilege. But afterward, and while the machinery was being set up to manufacture these screws, Mr. Harvey sold his patent to this Providence company for \$125,000, and then came forward and paid the \$10,000 bond rather than carry out his contract with the Massachusetts manufacturer. That, I am informed, is the fact, and it may explain why Massachusetts is not in favor of paying any more money as a royalty to this Rhode Island company."

This statement, and a similar one made by one of his colleagues quietly to members, defeated the bill, although by a large majority the House had just refused to lay it on the table, and defeated it would have remained so far as the action of the Patent Committee was concerned; but on the Monday following gentlemen arose in their places, each saying—

"Thou can't not say I did it!"—

each one anxious that the fault should not be placed on him of making what was an erroneous statement. When this occurred the committee asked as their privilege to have the case referred back to them to take the testimony of the iron proprietor and member referred to. This was done, and it was found that the facts were not as represented, but that the transactions referred to were ten years before these patents were issued to Mr. Harvey, and the whole story was exploded.

With the exception of one particular the bill before the House is the same bill that was previously reported. In its present shape it is very reasonable, and should be acceptable to the House. We provide that this monopoly which has had the benefit of these patents, this great company which is so much dreaded, shall never have the benefit of this extension. If it does become the owner or part owner the patent shall become void. That is a sufficient answer to any one who pretends that this American Screw Company are to have the benefit of the extension.

And now I claim the attention of the House to the proof that the inventor never received

a dollar out of these inventions, except that at one time while he was perfecting them he received a salary of \$100 a month. I have the affidavits here to that fact. After inventing various machines for the perfection of the manufacture of wood screws, all of which have gone to the benefit of the public—six of them are in public use and can be used to manufacture many of the screws in ordinary use. After the invention of those the idea of perfecting the machine came into the inventor's mind. He had received from various other inventions, to which I referred on a former occasion, \$100,000. But it required an enormous number of machines for making the different sizes of screws. In perfecting these machines he spent \$100,000, and had to borrow \$70,000 of Charles Ely, of New York city, to whom he gave as security an assignment of the first term of the patent, fourteen years. Therefore he never received one dollar out of the first term. Not only that, but he was unable to pay the \$70,000 out of the profits of the first term, and arbitrators were selected to award the value of the seven years' term, to be extended by the Commissioner of Patents. They said it was worth, I think, \$35,000. There were \$40,000 then due to Mr. Ely. Mr. Harvey died, and Mr. Ely held the extension to repay himself the balance due, but it never did repay him. He sold it under the decree of the arbitrators to this American Screw Company, a company which has four thousand machines, and which makes seven ninths of all the wood screws in the United States, and which, through its various emissaries and in manifold ways, seeks to obtain these patents. If extended, this widow and these heirs will have the right to the machines, and they can compete with this great company which even now has a right to run its own machines whether you extend this patent or not. If not extended, they have the monopoly, and instead of the prices being lessened they will be increased. These are the facts mainly exhibited under oath to the committee. Now, before calling the previous question, I yield to the gentleman from Massachusetts.

Mr. WASHBURN, of Massachusetts. I have but a few facts to state in reference to this case, if I can have the attention of the House. The gentleman says I have made an effort to prevent the extension of this monopoly. I am free to say that I have made such an effort, and I am ready to renew it to-day. But I do not desire to do it on any unfair ground, or on anything else than a fair statement of facts. As I said when this question was up before, that if I had been misinformed, if the American screw monopoly was not at the foundation of this whole proceeding, if it was not to perpetuate a monopoly in this business, then I had been very much deceived.

Now, I wish to state a few facts to the House, and if gentlemen will listen to them I think they will come to the same conclusion that I do in this case. When this patent was first reported by the committee, in January, 1867, and an effort was made to have it extended, facts were presented which, on the 5th of February, 1867, led this House to reject its extension. It was claimed at that time that the American Screw Company was to receive the benefit of this extension.

Mr. MYERS. By whom?

Mr. WASHBURN, of Massachusetts. I claimed that they were, but the Committee on Patents and the gentleman from Pennsylvania said that they had no interest directly or indirectly in that extension. What is the state of the facts? When the question was then before the House a corporation in my own district with \$500,000 capital invested in the manufacture of screws appeared here by their attorneys and desired that this monopoly might not be extended further, and did all in their power to prevent the extension. The Union Screw Company of Providence, Rhode Island, appeared here with their attorney and did everything in their power to prevent the extension of the monopoly. Where are those

corporations to-day, I ask the gentleman? Why the corporation in my own district have appeared here and said these individuals have made arrangements with us, and it is better for us to have this extension granted than it is not to have it, and so far as we are concerned we prefer that you would not oppose the extension of this patent. The Union Screw Company of Providence, Rhode Island, which appeared here and did everything in its power to prevent the extension, do not appear here to-day. Why not? I have some other facts to read here, and I ask the gentleman who reports this bill to gainsay or dispute them if he can. The bill extending this patent was rejected on the 5th day of February, and on the 18th day of March, after the bill was rejected, and after the Union Screw Company and these other corporations had appeared against it, it seems that the American Screw Company, the very company that the Committee on Patents claims has no interest—

Mr. MYERS. I want the House to hear the gentleman, but I want the gentleman to confine himself to a certain amount of time.

Mr. WASHBURN, of Massachusetts. Well, give me ten minutes.

Mr. MYERS. I will give you ten minutes in all.

Mr. DAWES. I rise to a question of order. The gentleman from Pennsylvania has no right to limit my colleague. My colleague took the floor himself without any limitation.

The SPEAKER. The Chair overrules the point of order. The floor was assigned to the gentleman from Pennsylvania, and he yielded it to the gentleman from Massachusetts. He has a right under the usage of the House to resume the floor whenever he sees fit.

Mr. DAWES. I understood him to surrender the floor.

The SPEAKER. He did not.

Mr. WASHBURN, of Massachusetts. I was saying that this extension was denied on the 5th of February. On the 18th day of March the American Screw Company went to the Union Screw Company of Providence, who had appeared here and opposed this extension, and made an agreement with them that they would purchase all their interest, and there are a few conditions in that agreement to which I wish to call attention. The agreement was that the American Screw Company should purchase all the interest of the Union Screw Company, and here is one of the conditions:

"And that said Union Screw Company, its officers and agents, acting in its behalf, shall at once discontinue all opposition in its behalf of the extension of the Harvey patents, so called, now pending before the Congress of the United States."

That was on the 18th of March, after the Union Screw Company had appeared here and opposed the extension, and it had been rejected. The American Screw Company make an agreement to buy out that company, and bind them not to continue their opposition to the extension of the patent.

Mr. MYERS. Will the gentleman state what he is reading from?

Mr. WASHBURN, of Massachusetts. The agreement of the American Screw Company to buy out the Union Screw Company. I ask the Clerk to read what I have marked, and which I send to his desk.

The Clerk read as follows:

"And said party of the second part hereby agrees to discontinue and hereafter refrain from all opposition to the extension of the Harvey patents before Congress in its behalf; and said party of the first part hereby agrees to and with the party of the second part to guaranty and secure to the party of the second part, until the party of the first part shall have fully carried out in good faith all the agreements herein on its part, the same interest and rights in every particular that they would have or be entitled to if the so-called Harvey patents, application for the extension of which is now pending before the Congress of the United States, should not be extended, but should be allowed to expire, provided, said party of the second part carry out their agreement herein on their part in good faith."

Mr. WASHBURN, of Massachusetts. This agreement was carried out, and \$161,510 was paid to the Union Screw Company. Now, if the American Screw Company had no

interest in this extension, why did they enter into an agreement with these corporations to cease all their opposition to this extension? I put this question to an individual who has known all about its proceedings, who has acted as counsel for this company, the Harvey heirs and the American Screw Company. He admitted that it was the expectation of the American Screw Company to derive the benefits of this reextension.

What I wish to state to the House is this: there is not a corporation that appears here to oppose this extension; but all have been either bought up or been arranged with not to oppose the extension of this monopoly. This American Screw Company, as is known to those who have examined this matter, have made it the greatest monopoly that ever existed in this country. And not less than from fifty to seventy five per cent. of profit has been put upon every gross of screws they manufacture. And when there was danger that screws would be imported from abroad, they came here and succeeded in getting a tariff put on screws which amounted almost to a prohibition. Then they manufactured screws and scattered them all over the country in vast amounts, with profits to the extent of millions of dollars, all of it coming out of those who use them.

My position in regard to this extension is this: scattered throughout my district, and throughout this country are thousands of manufacturers; furniture manufacturers, chair manufacturers, piano-forte manufacturers, carriage manufacturers, manufacturers of every rank and class, who are using these articles to a great extent. They come forward and say that this great monopoly has applied to them to pay an enormous price for these screws; and now they ask, that having guarantied to the patentee this monopoly for twenty-one years, it shall now be thrown open to the public. They say, "You talk about relieving us from the burdens of taxation; yet, while you relieve us from the burden of taxation to the extent of removing the five per cent. tax, do not press upon us this monopoly of the screw manufacture, which enters into all our manufactures to so great an extent." There is hardly a manufacturer or hardware dealer or merchant of any kind in my district who has not besought me to do what I can to oppose the extension of this monopoly.

[Here the hammer fell.]

Mr. MYERS. I have listened to my friend from Massachusetts, [Mr. WASHBURN.] and I have no doubt he has great interest in these screw companies. Yet while he is perpetually defending what must be to their interest, he apparently agrees with me that the American Screw Company is one of the greatest monopolies that has ever existed in this country. Fail to extend this, and they have by their four thousand machines and great capital the monopoly and the profit of this invention, and widow and heirs of the inventor will not get a dollar. Extend it, and, while the Treasury loses not a dollar, you do a great justice to the memory and representatives of an American inventor, such as the American people have never failed to sanction.

Mr. WASHBURN, of Massachusetts. I hope the gentleman will not misrepresent me.

Mr. MYERS. I will not.

Mr. WASHBURN, of Massachusetts. The gentleman knows there is not one of these corporations but is here in favor of this extension.

Mr. MYERS. The gentleman is mistaken. Mr. WASHBURN, of Massachusetts. Will the gentleman mention one of them?

Mr. MYERS. I will answer the gentleman in spite of his interjections and objections. I supposed that at the last minute some new paper would be read. It is the third time this expedient has been resorted to. It is practiced in the interest of somebody. It is not practiced in the interest of this widow and these heirs. It is not practiced in the interest of this manufacturer. Who does the gentleman represent? And what is the reason of his intense



activity and feeling against the bill? The parties, by our direction, gave notice all over the United States, and we received no protests; but we did see the requests of two hundred hardware men, who ask for this extension. I should like to know whose interest it is. The gentleman says it is in the interests of his constituents. I honor and esteem the gentleman from Massachusetts for protecting the interests of his constituents. I have nothing to say against him on that ground. But, sir, let me answer him, and "mark how plain a tale will put him down." This bill provides that if ever the American Screw Company shall become the possessor of this patent then it shall become null and void. That sets at nought all agreements between these companies who wish to rob this widow of her rights. I now demand the previous question.

Mr. GARFIELD. If this bill is to pass, I ask my friend whether he will not accept an amendment to pay out of the Treasury the money these heirs are said to have lost instead of taxing our mechanics in the country?

Mr. MYERS. Two or three times I have already stated to this House, upon my knowledge of the facts and proofs in this case, that this extension does not tax the people. I can prove that this is so. I have already fully done so. The people of my district are as much interested in it as the people of any other district in the United States. I have shown how it has been a blessing and not a tax to the people.

Mr. WASHBURN, of Massachusetts. The gentleman from Pennsylvania has pledged himself to the House that he would mention some manufacturing company which was against this extension. With the exception of the American Screw Company, not one of them has made opposition to this monopoly. Put your finger upon one of them.

Mr. MYERS. They appear somewhere in this House. They appeared by counsel before the committee. They have advocates on this floor. We find no agreement like that referred to. Who gave it to the gentleman? They are invisible, but their influence is as perceptible as the atmosphere we breathe, and the president of one of them, the Boston Screw Company, caused the insertion in the Post of the article once before read here against the bill. I must now insist on the demand for the previous question.

Mr. WASHBURN, of Massachusetts. I hope the demand for the previous question will not be seconded.

Mr. MYERS. If the gentleman wishes to make any more speeches he can print them, and not make them out of order across the floor. [Laughter.] I yield to the gentleman from Ohio.

Mr. SHELLABARGER. I understood the gentleman to say there were no remonstrances against this extension presented to the committee, but there were petitions the other way. I wish to say this in behalf of my district, that in reference to no extension pending before Congress have I received such a number of remonstrances, earnest and vigorous, and I think reasonable, as I have against this.

Mr. MYERS. I decline to yield further, and insist on the demand for the previous question.

The House divided; and there were—ayes 44, noes 45; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. MYERS, and Mr. WASHBURN of Massachusetts.

The House divided; and the tellers reported—ayes sixty-four, noes not counted.

So the previous question was seconded.

The main question was then ordered; and under the operation thereof, the bill was ordered to be engrossed and read a third time; and it was accordingly read the third time.

Mr. WASHBURN, of Massachusetts. I ask the yeas and nays on the passage of the bill. Let the country see who are in favor of extending this monopoly.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 65, nays 71, not voting 53; as follows:

YEAS—Messrs. Adams, Anderson, Archer, Axtell, Banks, Beck, Blair, Calkins, Chandler, Sidney Clarke, Coburn, Cornell, Dixon, Donnelly, Eldridge, Ferriss, Getz, Golladay, Gravely, Grover, Haight, Halsey, Higby, Hill, Holman, Hotchkiss, Humphrey, Jenckes, Johnson, Kerr, Ketcham, Knott, Koonz, Lincoln, Logan, Mallory, Marvin, Maynard, McClurg, McCullough, Mercer, Miller, Moore, Morrill, Mullins, Myers, Newcomb, Niblack, Nicholson, O'Neill, Peters, Polsley, Pomeroy, Robertson, Robinson, Scofield, Stewart, Stokes, Taber, John Trimble, Van Aernam, Van Trump, Ward, Windom, and Woodbridge—65.

NAYS—Messrs. Allison, Ames, Delos R. Ashley, Bailey, Baker, Baldwin, Beaman, Beatty, Benjamin, Benton, Bingham, Boutwell, Buckland, Butler, Churchill, Reader W. Clarke, Cobb, Cook, Covode, Cullom, Dawes, Delano, Eckley, Eggleston, Eli, Eliot, Farnsworth, Fields, Garfield, Glossbrenner, Harding, Hooper, Chester D. Hubbard, Hulburd, Judd, Julian, Kelsey, George V. Lawrence, Longhridge, Lynch, McCarthy, Moorhead, Orth, Phelps, Pike, Pile, Plants, Price, Randall, Raum, Sawyer, Schenck, Shellabarger, Smith, Spalding, Starkweather, Aaron F. Stevens, Stone, Taylor, Trowbridge, Twichell, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Woodward—71.

NOT VOTING—Messrs. Arnell, James M. Ashley, Barnes, Barnum, Blaine, Boyer, Bromwell, Brooks, Broomall, Burr, Cary, Dodge, Driggs, Ferry, Finney, Fox, Griswold, Hawkins, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Jones, Kelley, Kitchen, Ladin, William Lawrence, Loan, Marshall, McCormick, Morrissey, Munson, Nunn, Paine, Perham, Poland, Pruyn, Ross, Selye, Shanks, Sitgreaves, Thaddeus Stevens, Taffe, Thomas, Lawrence S. Trimble, Upson, Van Auker, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburne, Stephen F. Wilson, and Wood—53.

So the bill was rejected.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was rejected; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THOMAS CROSSLEY.

Mr. MYERS, from the Committee on Patents, reported back a bill (S. No. 426) for the relief of Thomas Crossley, with a recommendation that it do pass.

The SPEAKER. The morning hour has expired, and the bill goes over till to-morrow in the morning hour.

#### REMOVAL OF DISABILITIES.

Mr. FARNSWORTH. I rise to a privileged question. I submit the following report:

The committee of conference of the two Houses on the amendment of the Senate to the bill (H. R. No. 1059) to relieve certain citizens of North Carolina of disabilities, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the House recede from their disagreement to the amendment of the Senate, and agree to the same with the following amendments:

Strike out "George S. Houston, of Alabama," and "George W. Jones, of Tennessee,"

Strike out "and Tennessee," where it first occurs in section four, and insert "and" after "Arkansas" where it first occurs in section four.

Also, strike out "Robert Austin," of North Carolina, and insert "Robert H. Austin,"

Strike out "Wiley D. Jones," of North Carolina, and insert "Willie Jones,"

Strike out "Eugene Grisson," of North Carolina, and insert "Eugene Grisson,"

Strike out "John D. Ashmore," of South Carolina, and insert "J. D. Ashmore,"

Strike out "John M. Rusty for Burtz,"

J. F. FARNSWORTH,

H. E. PAINE,

Managers on the part of the House.

WILLIAM STEWART,

HENRY WILSON,

JOHN SHERMAN,

Managers on the part of the Senate.

I do not desire to detain the House. The amendments are most of them verbal, with the exception of the dropping of two names which the Senate had inserted in the bill. Before calling the previous question, I yield to my colleague on the committee from Kentucky,

[Mr. BECK.]

Mr. BECK. Mr. Speaker, I only desire to state why I failed to sign the report of the conference committee of which I was a member, not to argue the principles contained in it which make it so objectionable to me. I have done that on a former occasion, and am only more and more confirmed in my opinions by what is transpiring now. That pardon is an executive and not a legislative function is too clear for argument;

that this is a usurpation of the pardoning power is equally evident. That it is converted into a mere party machine, by which the worst men in the country are whitewashed and made clean before the law if they will only make up in party servility what they lack in integrity and honesty, is too apparent to need even exposure; and that the best and truest men in the country, those to whose honor, integrity, and devotion to principle the restoration of these now disjointed States to their proper relations could most safely be intrusted, are to be kept under perpetual ostracism unless they will abandon, or pretend to abandon, all their principles, and bow the knee to the idol which Radicalism has set up and seems determined to maintain, is perfectly plain. The aptest illustration of the truth of what I say is to be found in the report now before the House. We sent the names of many hundreds of men residing in North Carolina, admitted rebels, to the Senate, asking concurrence in the removal of their political disabilities because they had joined the Radical party and had voted for the adventurers who had taken possession of that State. Whether they were honest or not, whether they were men of character or not, no man in this House knew, except in a few instances. It was simply the carrying out of a contract with the Radical leaders in the State, that if these men would prove false to their race and people, give the negro and carpet-bag concern respectability and a show of acquiescence by the people of the State, so it could be carried, and the positions of Governor, Senators, and members of this House secured to the Radical provost marshals and bureau agents, the political disabilities of the persons so selling their manhood and their birthright should be removed by the dominant majority here, and the people of the North would be told that the white men of the South were in great numbers aiding in reconstruction, only obstinate and persistent rebels refusing.

The Senate added several hundred more to the list, making no objection to any of those sent there by us. Among those so added, and whose character, integrity, and high position was vouched for by every Senator who spoke of them, were George W. Jones, of Tennessee, and George Houston, of Alabama; and they were included in the bill, and their disabilities removed by a vote 37 to 3; every Republican Senator present voting for the bill. This House disagreed, without inquiry into the cause of the disagreement, and the committee of conference, whose report has just been read, was the result. The Senate managers receded from their amendment on the demand of the House so far as to strike out the names of Jones and Houston. Mr. Jones seemed to be the special object of attack; perhaps he lives in a district in Tennessee that would return him to this House, and thereby remove whoever now represents it. I do not know what district he lives in, nor who represents it, and therefore make no personal allusions; but the avowed fact is that the Tennessee delegation in this House are united and determined in their opposition to him, and that opposition has controlled and changed the vote of the Senate. Mr. Jones, honest, upright, intelligent, resisting the secession of his State as long as resistance was possible, as honorable Senators asserted on their personal responsibility, is sacrificed because he will not bow the knee to Baal; does not believe that a military despotism is a better government than that provided for in the Constitution; does not believe that the negro is superior to the white race; and will not prostitute himself and his principles even for the sake of being relieved from the onerous and galling ostracism under which he and thousands of others (Senator Wilson says fifty thousand) are now struggling.

It is for this House to again assert before the country, as I have no doubt it will, that honesty, integrity, capacity, faithfulness to trusts, and unsullied honor constitute no test or guarantee for the removal of disabilities. Nothing but blind and unquestioning obse-

quiousness to Radicalism is so considered or regarded. That is all I desire to say.

Mr. FARNSWORTH. My colleague on the committee [Mr. BECK] is mistaken somewhat in regard to the recommendations of the names that were sent to the Senate by the House. The Committee on Reconstruction acted upon those names, not solely upon the recommendation of a committee of our own party appointed by the convention of the State, but also upon the recommendations of citizens, including men who were not members of the Republican party. Some of the names in the bill are names of men who were really loyal during the rebellion, but who held some office which disqualifies them. They are now disposed to accept the situation in good faith, and to support the reconstruction measures of Congress. Those names were scrutinized by the Reconstruction Committee and by the House, and then sent to the Senate. The Senate have now added a large number of names. The Senate, acting through a committee, scrutinized the names that had been sent to them from the different States. But the two names of Mr. Jones, of Tennessee, and Mr. Houston, of Alabama, and perhaps some others, were added to the list upon the individual motions of Senators. I do not understand that they have ever asked to be pardoned; I do not understand that they have ever sent a petition here asking that their disabilities be removed. But they stand upon their dignity; they do not humble themselves and ask for this boon, but wait for it to be offered to them unasked. Those two men were formerly members of Congress, but they went out of the Union with their States. I do not myself think they were original secessionists; but they went with their States, and one of them at least went into the rebel Congress.

Now, in acting with reference to these names, whom should your committee consult? So far as the man from Tennessee was concerned, we naturally consulted the members from Tennessee on this floor as to the condition of the mind of that man, and whether he was a fit subject for pardon. And from all that was told us we came to the conclusion that until he came here and asked us to relieve him from disabilities it was not worth while for us to tender to him this act of amnesty.

Now, we do not propose to remove disabilities merely from those of our own party, as has been charged here. We do not stop to inquire whether a man is going to vote with the Republican party or not. But we do inquire whether a man is acting with the loyal people of the nation or with the rebels of the South at the present time. We think it of much more importance to inquire what a man is now doing, and what has been his conduct since the rebellion was put down, than what he did before the rebellion. If he was originally a loyal man and opposed to secession, but afterward went into the rebellion, or took part with the rebels, if he seeks now to prevent a state of good order and restoration in his State, we consider that he is not a fit subject for amnesty.

Mr. ELDRIDGE. I would like to ask the gentleman a question.

Mr. FARNSWORTH. Very well.

Mr. ELDRIDGE. I desire to inquire of the gentleman whether in the list of names as this bill passed the House there were the names of any persons concerning whom the gentleman had any information which led him to believe they were not going to act with the Republican party?

Mr. FARNSWORTH. If the gentleman asked me if there were in that bill more than twenty persons about whom I had got information they were going to vote with the Republican party, I could not answer that question. I do not now remember but of two of whom I was informed they were acting with the Conservative party. Of all who are here in the bill I only know of two who are going to vote with the Republican party. Their names are quite prominent, one has been elected to Congress from North Carolina, Mr. Boyden. One of them is a judge, or he holds some other office,

whom I was told or the committee was told belonged to the Conservative party. How many are going with the Conservative party and how many with the Republican party I do not know. We were informed by the committee from North Carolina that they were persons from whom political disability should be removed.

Mr. ELDRIDGE. I wish to ask the gentleman from Illinois whether in his action he has not been governed by the assurances from these men that all the persons whose disability he seeks to remove are in good faith going to vote with the Republican party? Is not that the principle upon which he has acted?

Mr. FARNSWORTH. The gentleman's question is unnecessary. I have said that is not the question.

Mr. BECK. I wish to ask the gentleman a question. Is it not a fact that the names of Mr. Houston and Mr. Jones were presented by and voted for by prominent Republican Senators. I ask him whether they were not unanimously voted for by every Republican Senator present?

Mr. FARNSWORTH. I do not know, as I have not examined the Globe.

Mr. BECK. That is true.

Mr. FARNSWORTH. I know that every Senator, except one from Kansas and one from West Virginia, voted to adopt this report. That I first saw in the Globe.

Now, sir, I wish to say, in reference to relieving from disability these men, that while I do not ask whether a man belongs to the Republican party I do stop to inquire whether the man is disposed to support the voice of the Union people, those who suppressed the rebellion, as expressed through Congress. If he is not disposed to act in accord with the Union men in supporting those laws I am indisposed to relieve him from political disability.

Sir, those rebels stand in the relation, I was going to say, as outlaws. These rebels are not entitled to any rights here. They could not come and demand anything of the Union people who put down the rebellion. The voice of the Union people has been organized into law, and these men must submit to that voice before they can ask me to vote to relieve them from disability. When I find such men as these acting in hostility to the Union people of their State and of the United States, and trying all they can to prevent reconstruction and peace and good order in the South, I will not relieve them. I will relieve a rebel who fought us gallantly, who was an original secessionist and went into the rebel army, but who gave up and surrendered in good faith and who now puts his shoulder to the wheel to support the Government. I will relieve such men sooner than one of those men who stood by the Union to the last hour and then went over to the rebellion.

Mr. ELDRIDGE. I wish to see whether we understand the gentleman from Illinois.

Mr. FARNSWORTH. I yield now to the gentlemen from Tennessee.

Mr. STOKES. Mr. Speaker, inasmuch as the Representatives from the State of Tennessee have been referred to in this discussion, it is due to the House and to ourselves that I should make a brief statement of the connection we have had with this subject. A few days ago I received information from the other end of this Capitol that George W. Jones, of Tennessee, and George S. Houston, of Alabama, were put into this bill in order to relieve them of political disabilities. I was requested, with two of my colleagues, to answer an inquiry as to how those gentlemen stood, how they had acted heretofore, and what was their position to-day. We wrote a joint note and returned it. We stated that George W. Jones was a rebel, that he went into the rebellion and was connected with it, and that if he had ever repented we did not know it. I now say to this House that I do not know it now. Mr. Jones has not said one word, written one line, or done one act to my knowledge toward the reorganization of the State government. Be-

sides, there was no petition and no request on his part that I ever heard of for the removal of his disability. No member from Tennessee on this floor ever heard the expression of a desire on his part to be relieved. I understand that some Senator moved to insert his name into the bill without any petition on his behalf or any knowledge that he desired to be relieved. I stated to the members of the committee of this House that I did not know whether he desired it or not. I further stated to them that he had not changed to my knowledge.

Now, sir, I have no personal feeling toward Mr. Jones whatever. If he had come here, if he had sent a petition to me or to any member of this House, or of the Senate, jointly with a respectable list of true Union men, asking to be relieved of his disability, I would have thrown no obstacle in his way whatever. But until he has asked for relief why should we volunteer to grant it? He lives not in my district, but in that of my colleague, [Mr. MULLINS,] and if he resided there and desired to return to this House I should have no fear at all of his interfering with me. I believe we ought to relieve men when they desire it, but not until they express that desire. I for one am not willing to relieve them until they bring forth fruits meet for repentance, and are recommended by their loyal neighbors, who are presumed to know what they have been engaged in, and what course they have pursued since they abandoned the lost cause.

But a few days ago, in a convention held at Nashville, a distinguished member, General Forrest, in a speech, which I find reported in the newspapers, declared that he fought in the rebel cause four years, and believed he did right then and believed it now, and he had no compromise to make. That man is a delegate to the Democratic convention at New York on the coming 4th of July. When I am asked to relieve those men who declare that they have no retraction to make, no compromise to offer, who still claim that they did right, who still adhere to their former principles, I for one am not willing to relieve them. I presented the name of a gentleman for relief who was a rebel soldier and had it referred to the Committee on Reconstruction yesterday. I did it because there was a number of men, true and loyal men, in his county who desired his disability removed and he himself also desired it. Upon their recommendation I put upon the petition as strong an indorsement as I could, urging the committee to report in his favor.

Mr. MUNGUN. Will the gentleman answer me this question. Will he vote to give relief to Mr. Jones were he to vote the Democratic ticket?

Mr. STOKES. I answer that I care not how a man votes. I do not think he ought to vote that ticket nor any other other patriot.

Mr. MUNGUN. That is a mere matter of opinion.

Mr. STOKES. Certainly it is. Now, as I have said all I desire to say, I yield the floor.

Mr. MULLINS. Will the gentleman from Illinois yield to me?

Mr. FARNSWORTH. I yield five minutes to the gentleman.

Mr. MULLINS. Probably that will be long enough; it is a short time nevertheless. I am unacquainted with the names of the parties that are presented here for pardon or for relief for the part they took in that "little unpleasantness" that was gotten up in the southern States, which I believe at the start was an original organization coming out from the Democratic party, and was never to be regarded as anything more or less than an overgrown, huge, Democratic secession mob, (laughter,) alone founded upon a desire for public plunder, or at least prompted by that together with another view that underlay it or was the great substratum upon which the foundation rested, to perpetuate the rule of the lords of the lash in the southern confederacy, in which the Democratic party could reign as lords and

kings, as monarchs and whip-masters, to drive the negro and all who did not own them to lick the hand that lashed their backs. They went on in this dreadful war of death, the most inhuman one that has ever been visited upon any country, the Indian savage in his rude state to the contrary notwithstanding. [Laughter.] Nakedness exposed to the lash of the rod in the hands of rebels, and that upon the bare backs of the females, the loyal wives of the husbands of the South. They have run on for four long, dreadful, bloody years; they have strewn the South with human graves; and the loyal bones of the men of the North lie rotting upon the hills of the South without Christian burial to-day. And while they were thus running riot in blood and in triumph over the sacrifice of human life and assailing the stars and stripes, and civil, political, and religious governments, they were overtaken and crushed out. And now, when they have been crushed out, they come up and state what? That we surrendered; we surrendered. That is not the term now. They said they submitted. They never surrendered only when they were captured by the mighty armies of the Republic that were for the perpetuation of the Government of our fathers and sought to perpetuate the right of all beings to stand before the burning eye of God, accountable to Him who died for them, that the will of man should be free. That is the power that brought them down; that power that stood here under the stars and stripes that waved over the bloody fields of 1776 and rode the storm against the British lion. [Laughter.] It met the southern Anak and negro god and made it bow—the Democratic party as its figure-head—that had been reveling in blood, that had plundered the public Treasury of the United States and beggared it, that ravaged the public arsenals and carried away the arms, and had captured the whole sea-coast and every vessel in every harbor. And now, after having done that, "Let us alone," they say, "while we are pulling the apples from the tree; do not you throw rocks at us;" [laughter,] "just let us alone." We used some few gentle words and they only defied us and mocked at us.

Now, we came in council together and took to our bosom an old man called Abraham. [Laughter.] Ay, and he looked into that pit, and he saw there Dives who had driven the negro Lazarus from his table and would not give him even the crumbs. And he saw a figure coming up with its garments dyed in blood. "Who is that I see on the black horse, with the sword drawn against the rainbow of hope and promise of the world, the stars and stripes?" [Laughter.] "It is Death, riding under the ensign of the Democratic party of the South, in open war against human liberty and human rights." Then, oh, my soul, look down and wonder at them coming up now as doves, holy, and never having imbrued their hands in blood! [Laughter.] Now, we ask to be forgiven. Oh, yes.

[Here the hammer fell.]

Mr. MULLINS. Give me two minutes longer.

Mr. FARNSWORTH. I will yield the gentleman five minutes longer.

Mr. MULLINS. Why, Mr. Speaker, I had to some extent forgotten that I was limited, for I was speaking on an illimitable subject, one that is as broad as the canopy of heaven spread over the civilized world; one, too, which not only shook the continent of America, but hurled in deep weeds of mourning all the people of the eastern world that look out for the coming of a promised land, for fear that it was to be smitten down, that it was to hang its head and become a despotism instead of the asylum of all the oppressed. Nevertheless, under theegis of the goddess of American liberty and the Federal flag we have met the diseases of the swamps; we have met every pestilence that walketh in darkness or wasteth at noon-day; we have lain under the burning sun of the South upon our arms. What to do? To catch and capture in a human way, but at the point of the

bayonet, the Democratic party headed by John C. Calhoun at first, and then by Breckinridge, and Toombs, and Rhett, and Cheves, and the whole gang. And when we have caught them and got them they say, "Oh, now, look you here! you are breaking the Constitution into a thousand pieces." Why? "Why, you have taken my negroes and set them free, and such a thing never was known before in all the Israel of God." [Laughter.]

Why did we set them free? Why did we do it? You began the fight. You were killing your own children to protect human slavery. We thought we had better set them free, and if we had compromised on that we never could have saved the nest. To save the nest we had to break the eggs, and in breaking the eggs we thereby struck the snake—this mighty copperhead—a death wound, which even reached its vitals. [Laughter.] What was the very element that prompted you to go into rebellion? Human slavery. We struck at it, and when we reached that step, under the lead of that old monarch—that old monarch, did I say? I take that back; that old patriarch, Abraham of old, or Abraham of modern times, and under his lead we lifted our banner and said seven times seven we will march around the walls of this Babylon—this Democratic Babylon—like Joshua of old, and with our rams' horns give a great blast. [Laughter.] Finally we gave them the last blast. Sherman run through like a dose of salts, [laughter,] like a flying, fiery eagle, and Grant, like a mighty anaconda, [laughter,] stretched round and with his right hand took Sherman by the left, and Sherman with his right took Grant by the left, and they said, "Now a long pull, a strong pull, and a pull altogether," and out fell the bottom of the rebellion, [laughter,] every hoop broke loose, and they were turned out upon the common plain of civilization and human rights loose, like the poor fellow's milk. [Laughter.] Then we told them, "Go home and mind your business; do not take up arms any more against us; and, look here, above all things obey the laws of your land, and you shall be protected in all your rights, personal and pecuniary." But we never at any time said, you shall have political rights; that never has been recorded.

One thing I declare now, that that obligation has never been released, Andrew Johnson to the contrary notwithstanding, and they are prisoners of war to-day. Now they come up to be pardoned. Every one of them was engaged in this unholy rebellion. They drove away from the State the loyal men of the State, from their homes and their families, unless they happened to own twenty negroes, when they could be allowed to remain as overseers. If they did not own that many negroes then the conscript officers came along. If they were dodged, what next? Why, the bloodhounds raised in the South to run down negroes were used by the conscript officers to run down these men. They did that in my own district; so help me God that was so. And now they say there was no crime in it. What are the facts? I want to enumerate them.

[Here the hammer fell.]

Several MEMBERS. Let his time be extended.

Mr. FARNSWORTH. Very well; I will yield for another five minutes.

Mr. MULLINS. Now about the bloodhounds around my own door. I was driven out because I loved the flag of my country, and never bowed the knee to Baal. I went out and we conquered these men. What next? We undertook to start a civil government there, and I undertake to say that ninety-nine out of every hundred of the rebels were against it. We brought many of them in, though they had been in the rebellion; and then no sooner do they get inside of the fortifications than they turn their backs upon us.

Now, here is George W. Jones, with whom I have been personally acquainted over forty years. He is personally a gentleman; he was raised a mechanic, learning the saddlers' trade,

I believe. He won his way up gradually. If he had not owned a negro he would not have voted in the southern confederacy. He was an elector on the Douglas ticket. As soon as the election was over the State was voted out of the Union by between forty-one and forty-two thousand. Mr. Jones bowed his head and went out with the State, and accepted a position in the confederate Congress at Richmond, as confederate representative from my congressional district. When he came home, and we attempted to set up a civil government, he never attempted to help us in any shape or form that I ever heard of. I know him personally; he has been in my house and I have been in his. I was sheriff for six years in succession, and every year he was there. He did not attempt to aid in setting up a civil government; had he done so, the franchise bill of Tennessee to-day would have admitted him to the ballot-box. But he is without the camp.

Now, without petitioning for it himself, or doing anything of the sort, he seeks to be relieved of his disabilities. Why? For the same reason, I fear, that so many are asking for it; because by the bad doings of this dreadful rebellion they have taken such an emetic that it vomits them out on the figure-head of the Democratic platform. He comes and asks pardon, not through himself, but through a friend. If he would help us set up a civil government I would go in for it. But the Ku-Klux-Klan broke in the windows of the post office, and he sat there—

[Here the hammer fell.]

#### ENROLLED BILLS SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 867) for the relief of Jonathan Jessup, postmaster at York, Pennsylvania;

An act (H. R. No. 1120) to authorize the Secretary of the Treasury to change the names of certain vessels;

An act (H. R. No. 1218) appropriating money to sustain the Indian commission and carry out treaties made thereby;

Joint resolution (H. R. No. 246) directing the Secretary of State to present to George Wright, master of the British brig J. and G. Wright, a gold chronometer, in appreciation of his personal services in saving the lives of three American seamen, wrecked at sea on board of the American schooner Lizzie F. Choate, of Massachusetts;

Joint resolution (H. R. No. 268) for the relief of Robert L. Lindsay; and

Joint resolution (H. R. No. 295) to authorize the Secretary of the Treasury to remit the duties on certain articles contributed to the National Association of American Sharpshooters.

#### REMOVAL OF POLITICAL DISABILITIES.

The House resumed the consideration of the bill for the removal of political disabilities; upon which Mr. FARNSWORTH was entitled to the floor.

Mr. BROOKS. Will the gentleman yield to me for a short time?

Mr. FARNSWORTH. For how long?

Mr. BROOKS. For five or ten minutes.

Mr. FARNSWORTH. I will yield to my colleague on the Committee on Reconstruction for five minutes.

Mr. BROOKS. I had intended to reply to the honorable gentleman from Illinois, [Mr. FARNSWORTH.] But the interposition of the very eloquent speech of the very eloquent gentleman from Tennessee [Mr. MULLINS] has quite disarmed me of saying what I had intended to say. And I would say to my friend from Ohio, who usually sits near me, [Mr. BINGHAM,] that if he does not look out for his laurels he will soon find out that in all respects as regards eloquence and poetical beauty the star of Tennessee will outshine the star of Ohio.

This bill should be carefully looked at in



order to be fully understood. When the House passed this bill full of names uncounted we were undertaking to do a retailing business in the way of amnesty. The only difference between us on this side of the House and the Republican party is that we would pardon by wholesale, while the other side of the House would pardon altogether by retail. This bill as it passed the House with its hundreds of names, was our peculiar budget in that line of business. The Senate, not to be outdone by us, added on a whole host of names; I have not counted them, but the correspondent of the New York Tribune, who seems to have had time to count them, says there were twelve hundred of them.

Now, I wish gentlemen on the other side to understand what they are doing. I am for both wholesale and retail amnesty. So far as I can speak for the Democratic party, we intend to enter into both branches of the business, wholesale and retail. I intend to swallow the whole of these bills without reading them.

Among these names which the Senate have added on are some of the very worst red-handed rebels of the South; red-handed rebels who were engaged in all the business which the gentleman from Tennessee [Mr. MULLINS] has so eloquently described; slaveholders, overseers, slave-drivers, whipmasters, scorpion-drivers, secession devils.

Mr. MULLINS. Did I say all that? [Laughter.]

Mr. BROOKS. They are the worst sort of characters. Yet I am for pardoning them. And the great point of difference here seems to be whether or not we shall put on the names of two others.

Mr. MULLINS. Is the gentleman in favor of pardoning unrepentant rebels?

Mr. BROOKS. I am for mercy and pardon to all; I would pardon everybody. Does any gentleman know among these twelve hundred names how many repented? I venture to say the Reconstruction Committee has not read the names. Do you know anything about these men for whom you vote?

Mr. MULLINS. Very few of them.

Mr. BROOKS. How do you know they are repentant?

Mr. MULLINS. I have not yet said that I would vote for or against them.

Mr. BROOKS. Oh, yes; you will vote for them.

Mr. MULLINS. I expect so.

Mr. BROOKS. They will all be voted for. They will all be put through. The only distinction the gentleman from Illinois draws is whether they will support the reconstruction laws. All are rebels with him who oppose the reconstruction laws, and all are loyal in the South who will support the reconstruction laws. Loyalty has a new definition every day. At this day and this hour it is the support of the reconstruction acts. The definition the gentleman from Illinois gives of loyalty would exclude six hundred thousand Democratic voters in the State of New York at this day and this hour; to become seven hundred thousand, I believe, in the coming November election. All those would be excluded, and more than that, hundreds and thousands of Republicans, who, like the Democrats, are opposed to the reconstruction laws. Yet this is the definition to be laid down upon which men are to be pardoned. The question is to be, do they or not support the reconstruction laws? Under that definition the Executive of the country, elected by your own party, would not be loyal. Abraham Lincoln would not be loyal under the gentleman's definition of loyalty. Neither would the majority of the Supreme Court, for they are opposed to the reconstruction laws. If Congress had permitted, it is believed, in the McCordle case, they would have declared the reconstruction laws unconstitutional. Such is the general belief. It was so much the belief of the gentleman from Ohio, [Mr. SCHENCK], and the gentleman from Iowa, [Mr. WILSON], that they took insidious action to hurry through

the House a bill to repeal the powers of the Supreme Court of the United States to prevent their decision in the McCordle case.

I wish the gentlemen on the other side of the House would define what constitutes loyalty, devise some fixed definition. A short time ago any man who was not in favor of impeachment was not a loyal man. Before that there were other tests of loyalty. They vary from day to day in such a manner that it is impossible for southern men to know what constitutes loyalty. Is it not time, Mr. Speaker, that this foolery was over? Will not the country soon be disgraced with the exhibition of such bills as this in detail, these exhibitions of mere party pardon, got up for mere party purposes in the South?

Mr. MAYNARD. Will not my friend try his hand to give us a definition of loyalty?

Mr. BROOKS. Certainly, sir, if my time is extended.

Mr. FARNSWORTH. I will yield to the gentleman for ten minutes more.

Mr. BROOKS. I will tell the gentleman my definition of loyalty, and I am happy to give my meaning of loyalty. Loyalty is a French word. Loyalty, or lealty, is faithfulness to the law. That alone constitutes what is loyalty. All these modern interpositions and interpolations have been the invention of men who had in view nothing but party purposes. Whoever, sir, supports the Constitution of the United States, whoever comes here swearing to support the supreme law of the land, is a loyal man—loyal to the Constitution, loyal to the country. Those who create a new definition of loyalty, who say I am not loyal because I do not belong to the Radical or Republican party, invent a false definition of the word loyalty.

In our own native tongue, after our Revolution, there was no such word as loyalty. It referred alone to those who had been faithful to the king and queen of Great Britain. Here it now means, not faithful to king and queen, but faithful to the party in power. What constitutes loyalty now is fidelity to party, not fidelity to the Constitution, the laws; the country, but fidelity to the administration of party. Whenever party and country return to the real meaning of the word loyalty, when it shall mean only fidelity to the supreme law of the land—the Constitution of the United States—then will we have begun an era happy and auspicious. Good feeling will then once more exist in this land.

Mr. LYNCH. I ask the gentleman to yield to me.

Mr. BROOKS. Certainly.

Mr. LYNCH. I ask the gentleman if every member of the House and of the Senate from the southern States who went into the rebellion had not taken that same oath of loyalty to the Constitution which he now requires?

Mr. BROOKS. I will answer the gentleman by saying that if you will give me a committee I will venture the assertion that I can prove that five hundred of the names in these two bills I now hold before me have taken a like oath in some manner or form and have violated that oath; and yet you propose to pardon them in a wholesale bill containing over twelve hundred names.

Mr. LYNCH. I think the fact that that oath was not sufficient is a good reason why another should be substituted, the same which we have taken ourselves and which the gentleman and his party have to take.

Mr. BROOKS. Sir, I know not what oaths you mean to administer now to our party, but if you will give us the same which you give to your own party we are quite willing to accept it. What I object to here is the selection of a few particular men because they belong to your party; that you have selected them solely by party. Such is the organization of the human mind that the most extreme rebels of the South, the first and foremost secessionist, will be the first to come here and crouch and cringe before the Radical party and demand their pardon, while those who were at last

driven into rebellion by the high handed power of the secessionists who had control of the States, such men as Houston, of Alabama, and Jones, of Tennessee, will be the last to come here and claim the exemption which you propose in this bill.

Sir, I knew Mr. Jones and Mr. Houston. I served with them both in this House amid more tumultuous scenes of excitement between the South and the North than I have seen at a later period. It was pending the compromise bills of 1850. Side by side with those men were the Clays, the Websters, the Casses, and the Douglasses of the Senate, and other gallant men. Here on this floor stood Houston and Jones battling for no secession, but for the nationality of this Union, resisting to the very last secession, though following their States in the act of the secession wrongfully, I think. And yet now, when the Senate has inserted in this bill a pardon for these two gentlemen, we are asked to concur in the report of the committee by the rejection of those two gentlemen, because they are Democrats, while, out of over twelve hundred, six or seven hundred, so far as we know unrepentant rebels, are to be pardoned to-day by the two bills before me. Take them, page, [handing the bill and amendment to a page,] take them to the Clerk. I go for the whole. I am a wholesale not a retail dealer in all matters of pardon.

Mr. FARNSWORTH. Mr. Speaker, I have already stated on this floor, and it is, perhaps, unnecessary to repeat it again, that the conference committee of the House in making this report have not asked the question whether a man belongs to the Republican or the Democratic party. They have made no discrimination of that sort. Of course there is no necessity for the pardon of anybody unless he has done something. George W. Jones and George S. Houston were members of Congress when their States seceded. They went out. I do not think they advised secession, but they went with their States, and accepted elections to the confederate congress. As members of that congress they took an oath to support the confederacy against the Constitution of the United States. That makes them subject to these disabilities. They have never asked Congress to pardon them. They are not, as we are, "loyal to the law"—adopting the test of my friend from New York. And that was the test I stated that the committee applied to these men, not whether they are loyal to a party, but "loyal to the law." Those men are not loyal to the laws of Congress, to the organic voice of the Union men of the United States; but they say, "Your laws are unconstitutional and void; you have broken the Constitution." They are in combination with arrant rebels, who were original rebels. They are not in accord with the Union men of their States. They are not recommended by the Union men for pardon.

Now, if it so happens that we can only find now and then a Democrat in all of those States who is a fit subject for pardon, is it the fault of the Republican party? is it the fault of the Reconstruction Committee? is it my fault? By no means. If it so happens that there are but few in all the South now affiliating with the Democratic party who are fit subjects for this amnesty, it is not the fault of the Republican party; it is their own fault. They go to the party which is nearest to their love, and I suppose a fellow feeling makes gentlemen wondrous kind. The conference committee, therefore, struck out those two names, and the Senate have agreed to the report. We are told by all the members from Tennessee on this floor that the conference committee did right in rejecting the name of Mr. Jones. I, too, knew these gentlemen here in Congress; I served with them; I knew them very well. I have no doubt they are honest gentlemen as the world goes, and when they come to us and say, "Pardon us; we are sorry we went into the rebel congress; we accept the situation in good faith; we will take hold and reconstruct our State governments upon the principles laid down in

your laws, and restore peace and concord and harmony," then I am willing to take them by the hand and pardon them. I say again it is not so much a question what a man was before the war as what he has been during and since the war. I call the previous question.

Mr. COBURN. Will the gentleman yield to me for a few minutes?

Mr. FARNSWORTH. I am appealed to by gentlemen all around me to press a vote.

Mr. COBURN. I regard this as a very important subject, one of prime importance, and some of us do not agree with the committee.

Mr. PAINE. I hope my colleague on the committee will yield a few moments.

Mr. FARNSWORTH. If the gentleman has any name that he wishes to criticize I will yield to him.

Mr. COBURN. There is no name which I wish to criticize.

Mr. FARNSWORTH. Then I cannot yield.

The previous question was seconded and the main question ordered.

Mr. WARD. I hope the gentleman from Illinois will now yield to the gentleman from Indiana.

Mr. FARNSWORTH. If I have the floor I will yield a few minutes.

The SPEAKER. The gentleman is entitled to the floor for one hour to close the debate.

Mr. FARNSWORTH. Then I yield ten minutes to the gentleman from Indiana, [Mr. COBURN.]

Mr. COBURN. Mr. Speaker, the Committee on Reconstruction have not seen fit to report to the House the facts in connection with this bill, either general or special. We literally know nothing of the former or present condition of these men—more than sixteen hundred in number—whether they have applied for pardon, whether they have sincerely acted with the Union party, whether they have established themselves in the confidence of Union men, or whether the communities in which they reside need their help in the work of reconstruction. Their mere names are submitted, in most instances; that is all.

To my mind this is a subject of the gravest importance, and one which cannot be too thoroughly discussed. This bill relieving citizens of southern States from the disabilities incurred by rebellion and treason is, to say the least, premature. I hesitate to make this assertion in the face of the report of the Committee on Reconstruction, and in view of the action of this House upon the bill relieving certain citizens of North Carolina, some four hundred in number, from the penalties and disabilities in a like case. I had no reason to doubt the sincerity of those persons in their attachment to the genuine cause of reconstruction, and could possibly have no feeling of animosity to them or to those who now apply for relief. By far the greater number are names wholly unfamiliar and in fact unknown to the members of this House, and would never have been known here as former rebels but for the fact of this measure submitted for our consideration in their behalf. Nothing personal can enter into our judgment upon this matter, and what we do we can safely do under the guidance of those general principles and those comprehensive ideas which, if justly founded, must result in a happy solution of the most difficult problem the termination of war has left us to solve.

This bill proposes to restore the persons named in it to all their rights as American citizens, notwithstanding their recent acts of rebellion and treason; and the avowed object is to put them at once in a condition to hold offices and participate in the political affairs of the reconstructed State. It is more than pardon, more than amnesty, in the ordinary sense of those terms. It is a prize offered to those who have, by their recent action in politics, given assurance that they have present sympathy in our plan of reconstruction; a prize given to recent deadly enemies which we only bestow

upon the citizens of friendly nations after at least five years of probation; a prize never before offered by a Government to rebellious citizens; a prize that may prove to them the worse than useless means of making new strife, and to us a sword given into hands that will pierce our very joints and marrow.

These States lately in rebellion have citizens who have been loyal during the war and who require no legislation to enable them, and in view of this fact we may well pause before a policy is adopted which will give to rebels lately in arms political supremacy over the loyal and faithful citizens who braved the persecutions of their neighbors and the terrors of the organized outlaws who surrounded them, or who may have borne arms in defense of the honor, the laws, and the flag of their native land, even though these Union men may have been poor and unlettered, unused to political management, unskilled in debate, untried in the responsibilities of office, and timid in the exercise of power.

It may be well questioned whether these qualities are not to be preferred in the officers of a people just emerging from civil war, to those of men whose self-sufficiency and daring made them leaders in revolt; whose arts led astray their humble neighbors; whose arrogance overawed the halting patriot into silence; whose wealth gave sinews at an early day to the still feeble revolution, or whose long experience and lofty position put them in control of whole communities. It may be matter of serious question whether the modest, quiet, obedient, simple-minded, brave, loyal citizen is not to be preferred in reorganizing to him who has long held office, has with ready facility taken prominent part both for and against and then for his country, who regards himself as belonging to the ruling class, and who feels that society rests upon the shoulders of such as himself.

But aside from considerations of this kind, the fact of voluntary and flagrant rebellion alone against the laws of the land, the act of forgetfulness of that supreme duty every citizen owes to his country, should, for a time at least, work disabilities to every member of society guilty of them, be his condition high or low. Upon this principle the fourteenth article of the Constitution is founded, and scarcely a loyal man in the land was found who did not approve of this feature. Hardly has it become a part of our system before sweeping enactments are introduced calculated to nullify it and opening the way virtually to its abolition. Unless some overruling necessity can be shown such a course would seem suicidal.

The following summary of General Grant's report to Congress, made up from the report of district commanders, shows the condition of the voting population of the unreconstructed States:

"Virginia—General Scofield's report gives the whole number of voters registered in Virginia at 225,933, of whom 129,111 are whites, and 105,832 colored. Of these 4,417 whites and 12,887 blacks failed to vote on the question of calling a convention. Judging from the tax list and other data, the number of whites who failed to register is 16,343. There is no report of the number of disfranchised in Virginia under the reconstruction laws.

"North Carolina—General Canby reports 106,721 white and 72,932 colored voters in North Carolina, nearly all of whom voted. It is estimated that 19,477 whites and 3,289 blacks failed to register, and of these 11,686 whites are disfranchised.

"South Carolina—In South Carolina there are 46,853 white and 80,550 black voters registered; 10,992 whites and 4,167 blacks failed to register. About seventy-five per cent. of the whites are disfranchised.

"Georgia—In Georgia 96,333 white and 95,168 colored voters are registered, of whom 69,333 whites and 24,753 colored failed to vote; 10,000 whites are disfranchised and 8,500 refused to register.

"Alabama—In Alabama there are 61,295 white and 104,518 black voters, of whom 37,155 white and 32,947 colored failed to vote. There are no data to show the number disfranchised.

"Florida—In Florida few are disfranchised, and nearly all are registered and have voted. The number of whites is 11,914, and blacks 16,079.

"Mississippi—General Gillem says no data is kept from which to ascertain the number of votes of the different colors in Mississippi.

"Arkansas—In Arkansas 25,697 failed to vote.

"Louisiana—General Hancock reports that 45,218

whites and 84,436 blacks were registered in Louisiana. Of this number 50,489 failed to vote, but in what proportion the general is unable to say, nor can he report how many are disfranchised.

"Texas—In Texas 55,633 whites and 49,497 colored votes were registered, of whom 1,757 whites and 35,932 blacks voted. The number disfranchised cannot be ascertained."

Out of this number it would seem possible to select enough of men, white men, too, if you please, to hold the offices and manage, for the time being, public affairs. The fact that persons laboring under disabilities have been elected is not proof conclusive that only such persons can be found to fill the offices. It is rather evidence that those elected have prominence in society, and have recently taken a stand among Union men; goes to the question of notoriety rather than loyalty, and is indicative that the person belongs to the self-styled ruling class rather than to the moderate and gentle number of those who shrink from the public gaze, and avoid the strifes of politics.

And who is this so-called ruling class? Mainly composed of rich and prominent men in business and the professions; who were in a great measure instrumental in bringing on the rebellion and precipitating the country into war, needlessly and recklessly; men who sinned against light and knowledge; who have been weighed in the balance and found wanting. Many of them learned, many of them refined, many of them polished and cultivated, many of them ornaments in social life, and, except for this one damning taint, mainly engendered by slavery, as noble specimens of men as the nation has produced. I mean the fixed impression that they are and ought to be the ruling class of this country; that they are born, by the grace of God, to ride, booted and spurred, over the rest of mankind.

But there are others among them whose pride and arrogance are not coupled with vigor of intellect and elegant cultivation. These men have tyrannized, socially and politically, too long. They are not fit to be a ruling class; and nowhere else could or would have been. Let them die out now. Let us have no more hot-beds; no more green-houses for such tropical plants. What other state of society could have ever given prominence to such contemptible fellows as Pryor, Wigfall, Rhett, Brooks, or Keitt? They really represent no healthy element of society anywhere. Just as the fungus represents decaying wood, just as the baleful miasma represents the fetid, reeking marsh, they represented society. The war has cleaned off the face of those States, and putrid decay is no longer there. New vegetation will spring up, new nature will replace the old.

As an illustration of the unhealthy tendencies of the false ideas held by the ruling class in that region, we have very recently had laid upon our tables a pamphlet prepared by Wade Hampton, Samuel McGowan, and other gentlemen, composing the State central executive committee of the Democrats of South Carolina, in which is set forth an explicit statement showing lists of the State officers, the delegates to the constitutional convention, and the members of the Legislature, with the amount of taxes charged to them, which is very small, and, in most cases, nothing. The members of the constitutional convention, numbering one hundred and twenty-one; and one hundred and twenty of these paid, in the aggregate, \$370 69; that ninety-seven out of one hundred and twenty-three members of the House of Representatives pay but \$60 39; and that neither the Governor, secretary of State, comptroller general, treasurer, attorney general, or superintendent of public instruction pay any tax. These facts are stated as the strongest argument against the propriety of allowing such men to hold office and reorganize a new State government.

Such an argument is not surprising in the mouths of such men. They submit with confidence the statistics to prove that wealth is a necessary element of ability to hold and discharge well the duties of office. Comment is unnecessary. Plain republicans have supposed

that poverty was not a crime, and could not work disabilities. But here is the assertion that poverty, not treason, is the disabling condition. Let such men remember that the poor, unlettered fishermen of Galilee were selected to do a grander work of reconstruction than ours.

The true representative of the South is the laboring man, the man of vigor, the man of nerve, the man of business, the man of enterprise, the self-reliant, independent, active, hard-working American, not the impotent, arrogant, lazy, pampered, conceited child of slavery, too proud to work, too feeble to shift for himself; just the man to hanker for official position. The man who works must rule. Labor hardens his muscle, steadies his nerves, clears his brain, gives him confidence, patience, activity, and ingenuity. Responsibility makes robust his intellect, and makes manly his character. The working nations rule the world, so the workers of a people rule it, and ought to.

The power should be put into the hands of these working men who have all the true manhood in them, who develop the land, who have inspected and know its wants, and who own it or will own it. The brains of a people always accompany its industrious hands and its painstaking eyes.

Abolish at once all thought of a ruling class but one, and that is the one of merit. This is true democracy. Invite in the honest foreigner. Tell the poor laboring man—poor white trash, if you will sneer at him—to take hold, fill the offices, look to the Government himself, and let no one manage his politics, and it will give such men force and character and power. Cut them off from the interference of these old traitorous intriguers, keep such men out in the cold, keep them silent, keep them under ban, keep them in disgrace, and these true, genuine, loyal, liberty-loving, God-fearing men will come up and fill the places of trust and power. Better that illiterate men should be honored than that unprincipled men should be. Better let him be Governor who cannot write his name than he who has signed it in the cause of revolt and national dishonor.

But if you once break the barrier in favor of these gentlemen, who claim to be alone fit to occupy official position in the South, all will push for admission, the checks will yield and fall down and finally every traitor will pass through, and the moral effect on the present and coming generations cannot be measured. The hallowed name of country will be a by-word and treason will not be known as a crime.

And while I say this, let me say there are many men of the South who were in the army of rebellion and in its civil service whom I can trust; men who at the outbreak of war were loyal Union men, and whom I shall fail in describing in that trying and terrible day; their steadfastness of soul, their forgetfulness of self, their fervent loyalty, their unfaltering faith. When organized society broke away from the Union, they refused to go; when their neighbors were drawn off by the powerful influences and sympathies of their section, when some sold out for civil, others for military position, they could not be bought. Some were imprisoned, some exiled, some slain, their property seized or destroyed, their families scattered, their friends turned to bitter foes.

Talk of martyrs, here they are—talk of heroes, here are many—talk of devotion and patriotism, here they are, blazing and blazing on the rude hearthstone, far away in the woods, far up on the mountain side, in the distant, lonely glen, where poverty and ignorance and obscurity dwell. In that dreadful time love of country for a while seemed to have fled the abodes of wealth and refinement and power, and to have sought a shelter by the humble firesides of the poor.

But as the war continued, and the organization of treason became perfected and the fatal lines of the confederacy, like some mighty serpent, closed around them, these men were overcome; a reign of terror, a ferocious despotism swept them into the torrents of war;

the conscript officers dragged them by the thousand into the rebel army, and the rich traitor's war became the poor Union man's fight. And those who loved and could cheerfully have died for their country were thus mustered in hostile array against it. Such men I can forgive. Rather let me say they have done nothing that needs forgiveness. But for those who dragged them from their allegiance, who uprooted society, who betrayed the flag, who devised this vast network of iniquity, what measure of atonement can secure them forgiveness?

We should take solemn warning from the language of the Republican State convention of Maryland, held in May:

"The Republicans of this State are the property of no man or set of men. They have been taught the necessity of individual thought and independent action.

"It was because the masses of the South allowed themselves to be led, because they allowed a few persons claiming to be their superiors by birth, family connections, or wealth, to do their thinking, that against their better judgment they were plunged into the vortex of rebellion, from which they are now emerging decimated and impoverished.

"The people are not likely to repeat that folly. If men would be leaders they must be locomotives, and not figure-heads. They must pull, and not go only when they are pushed."

I say frankly that these States had better remain unreconstructed than be reorganized and fall under Democratic control. Their only safety is in being established Radical Republican. Military rule, and even anarchy, are better than democracy, the most odious type of civil government.

That State is now groaning under a military despotism. Provision has been made for the raising of an enormous military fund by fines and taxes, and for the constant drilling and disciplining of the citizens as soldiers. Every offense which human ingenuity can invent is created, and even civil magistrates are made the tools of carrying on the behests of the Governor in controlling the people of the State. As a specimen the following extract from a Maryland paper shows in some measure the rigor with which the new military law is enforced:

"James McNew, of company D, sixth regiment Maryland National Guard, was fined two dollars and costs by Justice Wheeler, on the complaint of Captain Smith, commanding the company, that he had violated section thirty-five of chapter four hundred and fourteen of the militia law of Maryland. This section imposes a fine for absence from the regular parades prescribed by law. This is the first case of the kind that has happened. Justice Wheeler has now thirty-five similar cases before him."

Justices of the peace are empowered to render such and other military judgments on the certificates of captains of companies without further evidence, notwithstanding the laws of the United States and the Constitution provide that such military trainings shall be according to the discipline prescribed by Congress.

What is the condition of Maryland to-day? In the language of the Republican convention of May 6, "The Republican party is neither holding the fruits of the present nor laboring for the future." "Maryland is an unreconstructed State." "We cannot carry a county in the State." "Disloyal public functionaries are dominating in our State and domineering over loyalists." "A standing army is eating out the substance of a tax-ridden people." And yet Maryland was a Union State at one time since the war. The malign influences of the "leading class" have led her astray.

A mere glance at affairs in Kentucky will show the consequences of a complete enfranchisement of rebels. There men are honored, put in position and trusted for their services in the cause of treason. The Lexington Gazette advocates the election of General John S. Williams as Commonwealth's attorney for that district, on the ground of his services to the confederacy during the war, and claims that his victory at Saltville should elect him to any office in the State. The present attorney general of the State is John Rodman, who served as a colonel in Bragg's army. The auditor of State is D. Howard Smith, who was the chief

of John Morgan's staff. The city council of Louisville within a few months, fired with hate of the Union, passed resolutions asking Congress to volunteer to relieve John C. Breckinridge from the penalties of treason, inasmuch as he is too honorable a man to acknowledge that he has done wrong by rebellion, and cannot stoop to ask as a favor what Congress should accord as a right, adding that his eminent abilities are needed in managing the political affairs of the State; an argument which we have almost heard duplicated by Republicans in this Hall. Breckinridge is a good specimen of the type called the "ruling class" of the South. A man of ability and cultivation, proud, arrogant, self-sufficient, disobedient to law, boastful of honor, but of a kind of honor that has found no definition as such elsewhere than with such as he. A few stump speeches for reconstruction, a few weeks probation, and he may knock at the door and come in with his garments white as wool. His ambition and ability would give him a high place among Republicans, and the Union soldiers and tax-payers would soon be taught to look with reverence on the man who betrayed us in the Senate, fought us in the field, plotted ruin to the nation, and brought on the untold horrors of civil strife. We did not come here to begin such a policy as this. The people sent us here for other purposes.

Akin to this policy is that which leads certain persons to collect large sums of money for the benefit of the Virginia college over which General Lee presides. This institution has furnished no evidence that its influence will be given toward the Union and its institutions. The following extract from a letter of Gerritt Smith, defending his course in giving a large sum to this college, is of itself the best specimen of this magnanimous madness that has yet found its way into print.

PETERBORO, April 15, 1868.

To the Editor of the Standard:

I see in your and other newspapers, and also in letters which I receive, complaints of my giving money to a college in Virginia. Men who stand very high in my esteem join in these complaints.

Although my own heart does not abound in love, I nevertheless seem to rely more than do most persons on the power of love to remove the wrongs and quiet the troubles of life—of public as well as of private life.

The South surrendered; but she still hated the North. My plan of getting this hatred out of her heart was for the North to love it out. Hence my proposition for giving the South a large sum of money—say fifty or a hundred million dollars—to help her out of the ruin which the sin of oppression, common to herself and the North, had brought upon her. Such and other naturally-accompanying expressions of love and pity would have palsied and purged out her hatred. But so it was that my plan for this love-conquest did not meet with much favor.

I was glad to be bailed for Jefferson Davis—not merely nor mainly from regard to him, whose long imprisonment without a trial was so cruel and so utterly indefensible; but also to show my good feeling toward the South, and to do in this wise what little I could toward bringing the North and South together. But the Republican party denounced the bailing of Jefferson Davis, and, in so doing, flung away a golden opportunity for strengthening itself, and for giving peace to the country.

A few weeks ago I was asked to help a college in Virginia. It is true that I had, from the time the South laid down her arms, been doing what I could for some of her white families whom the war had impoverished. But while I had been giving thousands to promote the education of her blacks, I had given nothing to her white schools. Now, however, I had an opportunity to give to one of them—the one, moreover, which was founded by the "Father of his Country." I confess that I was glad to improve the opportunity, and that I was sorry I could not make a tenfold greater gift.

You think that "Washington College" hates the North. Perhaps it does. But should the North endow it, there would be hardly a possibility for it to continue to hate her.

We have here the spectacle of that amiable and interesting old gentleman, Gerritt Smith, attempting to make a "love conquest" of the southern heart. He is wooing the stubborn damsel with money, and, like many another lovely, smitten, hapless wight, setting high value on his solid charms, thinks he can buy up her tender regards. If he should succeed, it will be the first instance in the long history of the workings of the gentle passion.

"Like Diana's kiss, unasked, unsought,  
Love gives itself, but is not bought."

To bestow favors on such institutions, under



such influences, with such teachers as Lee and Maury, seems to argue a moral obtuseness and bluntness, a forgetfulness of the distinctions between right and wrong. So long as there are thousands of poor, uneducated patriots, why neglect them and educate traitors? So long as there are thousands of solid, reliable, Union men, why put power in the hands of their enemies?

As a specimen of the sentiments of some of the leading presses of this "ruling class" I quote the following passages, clearly indicating their purposes as to our cherished measures of reconstruction.

The Memphis Appeal says:

"The rescue of the South from the utter damnation that seems about to fall upon and overwhelm us all, is only to be effected by restoring the powers of the Government to the hands of white men; and denying to the negro, now and forever, without exception or qualification, the right to vote. To effect this only do we struggle.

"Between us and the black man there can be no other relation than that of patron and client, unless he is fool enough to make himself a danger and a nuisance in the State. If he will keep his proper place we will to the utmost of our power and influence secure to him his freedom and his civil rights, and none shall oppress or make him afraid, if we can prevent it. If he is not content with that it may be that he will, by and by, have to be content with less; and if so, he may thank those for it who have misled him.

"To give these ignorant, stupid *sans-culottes* the right to vote in municipal affairs, and to elect the mayors and aldermen of cities, is a union of villainy and absurdity so despicable that it would provoke a sardonic smile on the countenance of Beelzebub. To any one who has given them that right we would vote nothing but a halter; for, compared with it, robbery and murder are laudable acts and meritorious services done the Commonwealth."

The Mobile Advertiser says:

"The detestable work of the herd of adventuring scoundrels and ignorant negroes assembled at Montgomery is complete, and the 'abomination of abominations,' as it came from their hands, is to be submitted, in the shape of a monstrous thing named a constitution, to what its fiendish authors call the suffrages of the people."

The Charlottesville (Virginia) Chronicle comments thus on the result of the election in that State in October last:

"By Tuesday's work the negroes have set their seal to their doom. There is no longer any peace. The question now is, who shall occupy and rule the territory between forty and thirty-two degrees north latitude—the blacks or the whites?"

The Lynchburg Virginian, on the same occasion, utters a similar threat:

"It only remains for the white people of Virginia to look to their interest and labor to protect it. They should concert measures without delay to fill the State with white laborers from the North and from Europe. They must crowd the negro out. They must rid the State of an element that will hinder its prosperity; an element that, under the influence of base white demagogues—themselves without property—would tax the property of others to relieve themselves of obligation to educate their children and care for their paupers."

The Lynchburg News says:

"We are gratified to learn that one hundred and fifty negroes, employed at the Wythe iron mines, all of whom voted the straight-out Radical ticket, were discharged on Tuesday by the owner of the works. This is precisely the step which every employer should take."

The Petersburg (Virginia) Index says:

"Send them adrift unhesitatingly. Let them learn how unsatisfactory are the husks upon which the Radicals would have them feed. They will soon weary of the diet and then, when they have proved repentance, let them return and be assisted in their efforts to become worthy people. But the offense has been grievous, and the penance should be severe, and the conversion must be proved by works. Until it is established they should be shunned as enemies.

"Let no man sleep under your roof, break your bread, drink of your cup, who has spoken at the polls in favor of that party which would despoil your house, embitter your crust with slavery, and fill your cup with the poison of humiliation."

In addition look at the following extracts from the Montgomery Alabama Mail, made in further illustration of the spirit of hate still animating a very large body of these people. The paper was published on the 11th of February last, and since the election held on the new constitution:

"Our 'White' Black List.—The Roll of Dishonor.—See Who and What They Are.—Below we give the names of the renegade, or brevet whites, who voted last week in this city for the bogus constitution, framed by carpet-bag adventurers and ignorant negroes, and who by their votes have denounced the white race, and proclaimed themselves in favor of

negro supremacy and equality. It is a consolation to know that the number is small. Let their names be preserved and entered upon the roll of dishonor:

"George Ely, carpet-bagger and negro candidate for judge of probate.

"W. T. Hatchett, chief of registration.

"J. W. Dimick, carpet-bagger and bureauite.

"N. B. Cloud, negro candidate for superintendent of education.

"W. B. Cloud, the 'son of his father,' formerly a confederate soldier, took the 'test oath,' and was one of the election managers."

And so on through more than a column of similar abuse.

The subjoined article appears in the same number of the Mail:

"Discharged.—Within the past few days a large number of negro employes have been discharged in this city, who, by voting for the negro constitution directly arrayed themselves against the whites and their business interests. Served them right. The negroes were warned of this in time, but many of them preferred to go with the scallawags and carpet-baggers, and against their true friends, and hence many of them are now out of employment. We are glad to see that this plan has been generally adopted in nearly all parts of the State."

Then we have an article denouncing General Meade for proposing to extend the time of voting, which winds up as follows:

"If General Meade again lends himself to the Radicals and negroes, we shall be greatly disappointed. If he intends to commit such an outrage upon the rights and liberties of the white race, now that the infamous constitution has been defeated by a large majority, we would suggest, in order to save time, that General Meade issue an edict, stating 'that the negro constitution of Alabama is hereby declared to be adopted.' Such an order would save time and money; and while it would be denounced as an outrage and usurpation by the civilized world, it would be applauded by the negroes and their carpet-bag candidates for office."

But it may be said why quote these expressions of blatant rebels in opposition to the relief of repentant rebels whose speeches, influence, and acts are now with us? To this I say that the barrier once broken down and the way opened for the relief of such men, and many thousands will soon find some means to obtain it; by an altered tone, through sympathy, by personal influence, by the use of money, by the help of friends, by some of the many ways which men facile to enter the ranks of treason may adopt. Such men are not to be trusted. And there will be no end to their solicitation and electioneering for the purposes of relief if once the opportunity is offered to procure it by such means. The difficulties attendant upon acquiring a proper knowledge of the position of applicants for relief are almost insurmountable. Nothing short of the labors of an investigating committee upon the character and standing of each applicant will give satisfactory knowledge, and no person should be relieved until such a committee had been appointed and made a thorough examination.

The danger is that in a short time the acts of relief will be granted as personal favors, as matters of friendship, or as mere electioneering tricks without reference to the opinions or principles of the applicant; just as legislative divorces are granted in some States. The determination of a question of returned loyalty or political regeneration is rather a judicial than a legislative one, and should in all cases be tested by the application of certain general rules and not otherwise. The applicant for pardon should file a petition, should show his attachment to the Union, should show the necessity to the community and to the reorganization of society.

In all the history of nations we find no parallel to the magnanimity we have displayed to rebels. When Sherman's army came back on their grand review, no trophies, no treasure, no captures graced the train. The war-worn veterans, covered with the tattered blue, bore aloft as their only emblem of victorious pride their soiled and shot-torn flags—the mementoes of the strifes and storms that had been silenced forever. They had met and snatched from rebel hands the arms of treason, and bid their foes depart in peace in the very spirit of the Redeemer. No confiscation, no banishments, no levies, no imprisonments, no executions ensued. Not one traitor was hung. And the chief of the rebellion is at large, bailed out by famous Union men.

The constitutional amendment, mild, wise, just, kind in all its enactments, is the basis of reconstruction. The clemency of this plan in reëfranchising these men, politically prostrated by their own crimes, if it results successfully will be the marvel of mankind. Many men who deserve imprisonment, banishment, with forfeiture of all property; many who deserve the halter, have not only their liberty and their property, but, in addition, full civil and political rights; may vote and hold offices, and assist in managing the very Government they so recently attempted to destroy. Monarchs have made restorations and granted amnesties, but they were to subjects, not rulers; and they who had been in rebellion were graciously permitted to live and enjoy the protection of the laws, never claiming the right to make them.

If treason is not to be made odious thus, pray tell me how is it to be done? If it is as safe to fight on the side of treason as on the side of the nation, what check is there upon rebellion and revolt. If each party only take the hazards of war, the risks of battle and disease, and when peace is made come together on equal footing to determine future policy, a premium will be held out for treason, and it will be more profitable to fight against than for one's country, for in the event of successful revolt the insurgents will have seized a vast prize, while the successful patriot must share with his enemy and conquered fellow-citizen, the very fruits of victory, and the disposition of all that has been attained by the force of arms. Adopt such a rule and our country is launched upon a sea of anarchy, disorder, violence, and inevitable ruin. No race of men will madly peril their lives for a government which cannot discriminate in their favor. They will prefer a despot, who at least knows and recognizes his friends.

We are yet in the midst of the work of reconstruction. Secretly and openly its enemies are busy day and night to thwart our measures. Property, liberty, life, all are in constant peril. The whole South is full of these men, banded together by deadly oaths, to put down and destroy Union men. Murders and burnings and the most barbarous outrages are constantly perpetrated upon our friends. The Ku-Klux-Klans, banded together for diabolical purposes, prevail wherever a hatred of the Union and a love of the "lost cause" are found. Slavery is attempted to be reëstablished by the foulest means in various places; in South Carolina as a punishment for crime upon the most trivial pretexts. In Maryland General Grant reports that—

"Apprenticeship still holds large numbers of colored children in virtual slavery. The evils and cruelties resulting from this system, sanctioned by the State laws, are matters of constant complaint. As many as two thousand cases have been presented in a single county."

From Kentucky similar testimony comes. A friend of the colored people writes from Evansville, Indiana, to a religious paper in the North:

"We read, almost daily, of murders, arsons, and robberies perpetrated against the rights of colored persons in the southern States; but there are outrages perpetrated in the State of Kentucky of which as yet nothing has been published. I refer to the fact that colored persons, mostly children and youth, are held as slaves in that State." These children are not called slaves—this is an ugly word—but apprentices. To all intents and purposes they are slaves; only they are treated, if possible, with greater cruelty than they were before the war. All along this Ohio river border are parents whose children are thus held in bondage in Kentucky. Many of the fathers were soldiers in the Union Army; and they dare not venture across the river after their children."

With our work in the rebel States but fairly begun, cognizant of the dangers surrounding it, fully aware of the sleepless vigilance of its enemies, why shall we at such a time throw down a single restriction? Every sensible man in the land paused before he yielded to the necessity of giving the ballot and official capabilities to the men who had so recently been cramped, narrowed, beclouded, and broken, as the effects of slavery. Even Garrison hesitated. Again, such men paused and shivered at the next step we have taken, and that is to give the ballot to rebels recently in arms, con-

fessedly hostile, and only laying down their arms after a long and tedious struggle, when they were utterly exhausted, their treasury bankrupt, their ordnance, medical, and commissary stores, their quartermaster's supplies annihilated, their manufactories, arsenals, and armories destroyed, their ports blockaded, their forts taken, their whole land overrun and swept by the hurricanes of war, their capital taken by storm, and their great armies driven and scattered like chaff in the whirlwind. It did seem a double peril to enfranchise such men, and yet we have reinvested them by the hundred thousand with political rights, given them equal power with ourselves, and told them to try again the task of self-government. But a few, comparatively, were excluded. The report made this month by General Grant to Congress shows that there are 106,721 white, and 72,932 colored voters in North Carolina. And it is estimated that 19,477 white, and 3,289 colored men failed to register, and of these 11,686 are disfranchised—about one eleventh of the white men of age to vote, and a seventeenth of all the males of age to vote.

That in Georgia there are 96,333 white and 95,168 colored voters; and that 8,500 men failed to register, and that about 10,000 whites were disfranchised, and 60,333 whites and 24,758 colored men failed to vote. About one tenth of the white males of age to vote and one twentieth of all the males of age to vote. These States may be considered as containing near the average of persons disfranchised. Some are above it, some below it.

What great hardship is it that one seventeenth of the voters of North Carolina and one twentieth of the voters of Georgia are disfranchised? What necessity to break over the rule thus fixed? Is it possible that sixteen seventeenths of the North Carolinians and nineteen twentieths of the Georgians cannot furnish men to fill the offices? If it be so they had better remain under military government till loyal men mature.

But we have no reason to doubt the assertion that there are thousands of men, white men, who can, without the proposed legislation of relief, fill all the offices well. And to allow the loyal Union element for a time to control that region would seem but ordinary fairness in view of their utter exclusion for four years by rebel power; and should be done, not as a measure of punishment or in the spirit of ill-will or hate, but of that moderate and equitable kindness which would pacify and harmonize the troubled elements of society. The Union men of the South can better be trusted by us than former rebels; the people there will give them greater confidence; the respect, inspired by loyalty, if we ourselves properly estimate it, will grow year by year; and that patriotism, which had no price, will be valued as it should be, and receive an honest devotion.

It ill becomes the sympathizers with treason to charge those of us who desire to guard carefully the restoration of rebels to power with hatred, thirst for vengeance, and malignity, while their friends throughout the South, instead of accepting the situation and yielding in good faith, as they were in honor bound to do by their surrender, continue their warfare upon defenseless Union men, with the weapons which the coward and assassin use; and sheltered by the seclusion of the forest, or the mountain, or veiled by the darkness of midnight, carry out their diabolical schemes of torture and murder. For the present we say put only Union men on guard. This is the hatred, this the spite, this the tyranny, this the crime against humanity for which they cry so loudly. Let such men pause for a moment and look at the spirit displayed in different parts of these unreconstructed States by their newspapers which do, in a great measure, reflect public sentiment. The Montgomery Alabama Mail, in speaking of resistance to the congressional measures of reconstruction, says:

"We have a right to appear to the *ultima ratio regum*. From the valleys should go up the defying

shouts of an outraged people! From the hill-tops should blaze forth the fiery cross of vengeance, and the soil of Alabama, from the rivers to the gulf, should thrill once more beneath the feet of freemen! By the memory of Alabama's sons, who died in glory on the plains of Chalmette, at the victory of Horse Shoe, on Malvern Hills, at Chickamauga, at Shiloh, and at Manassas, we would say strike!

"Strike for your altars and your fires!  
Strike for the green graves of your sires!  
God and your native land!"

The secret and murderous organization known as the Ku-Klux-Klan is encouraged publicly after the following style by the Tuscaloosa (Alabama) Monitor to do its terrible deeds:

"Cannot some of those Eutaw boys, who expelled Parson Hill, be paid to come this way and work upon a 'dozen more such?' There is nothing like keeping your hand in. Here is material enough for you to work on for a few nights. Every exchange comes full of accounts from every quarter of the South of the singularly beneficial operations of nightly visitors in disguise. Most of the newspapers either encourage openly the preservation and extension of the organizations or recommend by plain innuendoes. Some few mawkishly moral sheets of the Conservative stripe oppose the institution (Ku-Klux-Klan); while, of course, all the miserable Radical organs are loud in their howlings against it; for it only works to the detriment of villains, with which loyal leagues are synonymous."

Even the ministers of the gospel must find banishment or death at the hands of these unhung criminals.

The Richmond Enquirer follows in the same strain of encouragement to a society linked in bonds made of the assassin's steel:

"It is now very evident that this 'Ku-Klux-Klan' is not a meaningless Merry-Andrew organization, but that under its cap and bells it hides a purpose as resolute, noble, and heroic as that which Brutus concealed beneath the mask of well-dissembled idiosyncrasy."

The Vicksburg (Mississippi) Times echoes its foul and daring sentiments bitter with hate and vengeance:

"Let the friends of negro domination be eternally ostracized. Let those who vote for George Craven McKee, Beroth Buzzard Eggleston, and the miserable creature Barry, be spurned from the presence of every really white man in the State. It is the only way to deal with them, as well as the robbers who seek to rule over us."

At Memphis, Tennessee, the chief of police, Mr. Beaumont, arrested a conclave of the Ku-Klux-Klan, whereupon the Avalanche thus denounces him with threats of death:

"Whether the organization be genuine or bogus, Beaumont has been guilty of conduct for which he ought to be murdered."

This newspaper is the Democratic organ of Tennessee, and dares thus openly to demand the commission of the most dreadful of crimes. This sheet approves of the murder of Ashburn, of Georgia, and in connection with it the following statement is made:

"It is said that a steamboat was the first public conveyance that left Columbus after the killing of Ashburn, and that it was loaded down with New England school-marmes and Yankee missionaries of one sort or other."

Death is the familiar friend of these knightly gentlemen and exile to helpless women. We might expect such acts from the savages on the western plains, from the Blackfeet, Sioux, or Comanches, but scarcely from our southern brethren; scarcely from the ruling class of that region, the scions of chivalry; scarcely from those high heroic gentlemen who alone are fit to manage the politics of the reconstructed States. We could scarcely expect such treatment of ladies from the men who claim to embody the gallantry, honor, courtesy, liberality, justice, and loyalty which are the first elements of chivalry—from the professors of those beautiful graces which soften down the hardships of daily life, which make the protection of the weak a religious duty, the enthusiastic devotion to women a sacred obligation.

That amorous swain, Gerritt Smith, is needed there to conquer them with love and sighing like a furnace, to woo them again into the gentle paths of humanity. A college endowed with a few hundred thousand dollars, and having some of these editors for a faculty, would soon humanize, harmonize, and Unionize the young scions of the ruling class. And should this prove ineffectual a special act of Congress, relieving them from all disabilities, might be obtained to add sweetness and gentleness to their manners.

General Meade having arrested the murderers of the ill-fated Ashburn and confined them in Fort Pulaski, in addition to public demands for their release he is violently denounced for discharging his duty, and his removal is demanded. The Columbus (Georgia) Sun condemns him for ascertaining upon whose shoulders rested "the responsibility of the taking off of one of the most obnoxious pests that ever afflicted a civilized community," and the editor goes on to say:

"We should but half perform our duty if we should hesitate to appeal to a superior power for immediate, active, and effective interference for these unjust, outrageous, and illegal proceedings." And again: "In behalf of the people of district No. 3, who of late have had cause grievously to feel the mailed hand of the vain and incompetent man (General George G. Meade) in whose hands their lives and liberties have been unwisely and unfortunately placed, we pray for his prompt removal." The article concludes as follows:

"We beg of Mr. Johnson to recall the fact that the Supreme Court of this country has solemnly declared that military commissions are unauthorized and illegal in times of peace, and this, the law of the land, he is in duty bound to see executed in letter and in spirit."

"We pray him further to remember that to the people of the South he is indebted for much of the strength that enabled him to pass through his late peril, which threatened him and the Government. Though the courage and integrity of a few men in a moment of need brought an ordeal never experienced by any of his predecessors, it is not going beyond the bounds of reason to say that the unanimous backing afforded him by the people of the South, their sturdy adherence to their plighted faith, their stubborn support of his constitutional prerogatives, their respect for law and obedience to authority, were among the most powerful elements that contributed to the triumph of principle over the tricks of a faction. To such a people he owes at least all the protection that lies within his power to extend."

"One enemy less," said the Macon Messenger and the Columbus Sun when George W. Ashburn was taken by a gang of Democratic ruffians from his quiet bed and murdered for his political opinions.

"We warn those who have been prominent in insisting in humiliating and insulting southern whites to be careful in future, and remember the fate of the tiger Robespierre."

Says the Herald, of Newman, Georgia, in the spirit of those who drenched the streets of Paris with gore and shocked the civilized world with their fiendish enormities. In harmony with this utterance the Iuka (Mississippi) Gazette exclaims:

"The southern people will never follow the crazy 'God-and-morality,' negro-worshipping, spoon-stealing, white-man-hating, outside-of-the-Constitution-standing, black-and-white-blood-mixing, woman-crowding, baby-strangling, egow-pronouncing, hell-deceiving, New-England-Yankee-clock-peddling, chicken-stealing, box-ankled, bandy-shanked, round-shouldered, hypocritical, canting, psalm-singing, cowardly, cut-throat, slandering, vulgar, slimy-mouthed, onion-eating, whiskey-drinking, sausage-stuffing scoundrels."

What a beautiful spectacle of Christian patience it will be to see Gerritt Smith and Beecher, with college endowments, arm in arm, with such editors, followed by Chief Justice Chase, with his gospel of universal amnesty and universal suffrage, while in his rear, scarce able to keep up in the rapid march for want of breath, we see a bevy of benevolent, sympathetic Congressmen with their special bills of relief to peculiarly mild rebels and remarkably repentant traitors! What a delightful task of weaning rebel lambs, like these editors, is in reserve for philanthropic Congressmen for the next score of years!

These indications, and others in vast numbers like these, tell every reflecting, cool-headed, kind-hearted, merciful, considerate citizen to beware, to go slow in restoration of power to such men or their friends. Such lessons teach us that peace is on the brink of destruction in such men's hands; that national ruin, an end of law, a reign of violence, robbery, arson, persecution, cruelty, savage fury, war, open murder, and secret assassination would follow their restoration to power.

Such men and their Democratic friends should be a little cautious how they charge us with malign purposes when we wish to interpose a few safeguards between our peace and the horrors which they invoke.

We would say to leading rebels, Your coun-

try needs improving; your roads and bridges are out of repair; your farms are in bad order; your towns are decaying; your agriculture, trade, labor system, and manufactures need reviving; your people are demoralized by the war; your school system is in a wretched condition; your social system is deranged; your churches are demoralized; your professions need a stimulus of energy and study; your whole social and political state is dilapidated, weakened, decrepid. Here is a vast field for your energy, ambition, philanthropy, Christianity, and love, a life's labor will not suffice to renovate and restore it. If you must work in public, work there, and leave the field of politics to Union men, who have long been silent when you spoke; who have long paid taxes when you made the levy; who filled the ranks of war when you sounded to arms; who never before had a public trust which they might betray, and who now, though late in life, may yet illustrate the fact that even the humblest walks produce men ready for all the emergencies that may arise, and capable of managing well public affairs as they have done their own quiet business.

We would say in all kindness the fortunes of war which you invoked have placed the power in our hands and the responsibility is upon us; the present and the vast future look to us for a safe and wise adjustment of our troubles, and we must, for the present, look alone to those who have been in sympathy with us. When the affairs of the rebel States have become settled; when secret organizations hostile to the Government shall have ceased to conspire; when the Union man is safe and his property secure; when the laws are respected and obeyed, and society has gone back into its natural and peaceful channels, then will be a proper time to relieve men from the disabilities incurred by rebellion, and to permit them to share in the control of the State and nation. Not till then will it be safe or wise to do so.

I am at a loss to comprehend the position of Union men who now, with ready hands since the war is over, are willing to bestow on victor and vanquished alike the honors and responsibilities of civil rule; who consent that the rebel and Union dead should sleep side by side in a common cemetery, consecrated to the sacred memories of the sacrifices of the nation; who are ready to sing a common requiem over their ashes; who would welcome back alike patriots and traitors to the Halls of Congress, and bid them sit down together and cast lots for the control of the nation as coolly as did the Roman soldiery for the garments of their slain Redeemer.

Such transcendental patriotism is too delicate for actual life. The strong lines drawn by the plowshare of war are not yet erased. Men will have memories. Men will have hearts, pass what laws you will. No enactment you can make will put the true Union man of the South on a level with him who was his enemy during the war. All honor to the brave and true men who under the fiery trials that swept like a hurricane over them in the South, yet, under them all, still maintained their fealty to the Union. We hail them here to-day as the sternest and truest types of patriots, tried by the flames, pure as fine gold. We would welcome them to seats in this Hall as worthy to sit down beneath the shadow of the eagle and the stars in the sacred places of Madison and Henry, Pinkney and Lowndes, Clay and Berrien, Jackson and Livingston.

To the men engaged in the rebellion we cannot deny the highest praise for courage and good conduct, enterprise, activity, and sagacity in the field worthy a better cause. When war had ended they returned, as did the Union soldiers, to their former homes; there they are to-day, the pets of society, the heroes of many a gallant exploit, the cherished models of manhood for the young.

There they are, holding offices, wielding public opinion, guiding legislative action, controlling the press, swaying the social circle,

grasping the reins of business, and striving now to enter the Halls of Congress and mold the legislation of the nation. Here they are to-day pressing on as they did under Lee and Johnston, Bragg and Van Dorn, Hood and Hardee, to snatch the power they claim as their rightful heritage. Allow it, as a principle, that they may be elected, and year after year they will be sent up to these Halls knocking for admission, and boldly claiming it as due to their people. Allow this principle, and the war feuds will be kept up at home, hatred of our institutions fostered; and every returning election will be the chosen occasion to rekindle and keep alive the fires of rebellion by speeches, newspapers, social influence, money, and all the appliances familiar to the electioneering campaigns in the South. The hostility thus perpetuated goes down and involves generations in the struggle.

A wise policy demands that it should be eradicated, that new men be put forward unconnected with rebellion, true, loyal, upright, staunch men, who have no bitter memories to cherish, no lurking hope for the overthrow of the Union, no mad affection for a lost cause smoldering in their hearts. Do this and wiser and better counsels will prevail; and the regenerated South will take her position where her grand historic characters, where Jefferson and Rutledge, Marshall and Legare, Gaston and Crawford, dying, left her; and not where Breckinridge, Beauregard, Toombs, Wigfall, Cobb, and Davis plunged her. From that dark abyss she is now emerging, shaking off the fetters that have so long bound her, purging "her misty eyeballs," with the new song of freedom on her lips, and its proud flag torn but flying above her, we welcome her again to her old place beneath the Dome of the Capitol.

In this great struggle two distinct lines of policy have been marked out by the friends of the Union. The one timid, hesitating, half-hearted, sickly, sentimental, kind, conciliatory, delaying.

The other positive, aggressive, downright, fighting, outspoken, ready to take responsibilities.

The war began, and the former thought seventy-five thousand men enough; that rebellion was a ninety-days' job; that Kentucky might remain neutral; that if a large army was mustered the South would no longer fight, but consider herself checkmated by the mere development of force; that nobody ought to be hurt; that rebel property must not be seized or wasted, but guarded; that slavery must not be touched; that slaves should not be used; that they should not fight; that rebels should at the end of the war be restored at once to all their rights; that all differences between Union men and rebels should be at once and forever effaced, and all mementoes of the strife annihilated; that the late rebels should be coaxed, petted, and cajoled into loyalty and patriotism by gifts and flattery; that when Mr. Johnson had clearly shown his purposes we should still hang on to his skirts and dawdle with him on the edge of the gulf of ruin; that we should hesitate to impeach him; that we should hesitate to arrest him when impeached, though he held the Treasury and the Army. Such has been their policy, hesitating, halting, stumbling, feeling along.

The latter, when the first gun sounded, recognized the fact that war existed and meant fighting; meant destruction; meant enormous expense; meant abolition of slavery; meant the crushing of the physical power of our enemies; meant taking their property; meant expelling them from office; meant ceasing to trust them or trade with them; meant disfranchising and punishing their leaders; meant doing, in a word, as we went along, everything that we could find to do to put them down and our cause up; meant that vigorous war was the merciful course; meant, as time rolled on, the summary breaking with Mr. Johnson upon sight of his treachery; meant putting restored power in the hands of our friends South in the

safest shape possible, be it by ballots or bullets, or both; meant the impeachment of the apostate President, his arrest, the withdrawal of his clutches from the national Treasury and military power; meant a thorough and absolute establishment in all the rebel States of the policy, the principles, the vital forces of the Union party.

Such is the spectacle exhibited by Union men on either hand. The one fighting and feeding; paying compliments to and cajoling their foes; striking with one hand, guarding with the other; snaiting and giving time to let the wound heal; by their temporizing and vacillating policy protracting the war and multiplying its expenses.

The other, ready to march and strike at all times, knowing but two sides, friends and foes, and knowing well the difference. Pressing over every obstacle, filling up the armies with new levies; keeping up supplies; keeping the people's hearts warm; confident of success; recognizing God as the ruler and vindicator; despising the political atheists who foreboded defeat; anxious when the war was over to see the loyal, brave, and true put in control North and South, East and West; unsmitten by the mawkish sentimentality of universal amnesty, that political somnambulism which leads the bewildered dreamer to climb and walk upon the cliffs and pinnacles of destruction.

If universal amnesty be a sound doctrine, then tear down your jails, raze the walls of your penitentiaries, chop down the gallows, wipe out your penal laws, abolish your criminal courts, take off your police, and let the age of chivalry begin. Put men on their honor, and when they do wrong take no notice of it; let society, untrammelled by laws, regulate itself. Why punish offenders for robbing a henroost or pilfering pocket-money, and let him go free who has broken the safe of the nation, plundered its arms and stores by the million, and taken the life of those who have been put in trust? Universal amnesty is universal insanity, universal anarchy, universal ruin.

I dread the tendency of these measures of relief as drawing us to the verge of that gulf.

I may be wrong in this matter; I may seem to be harsh. I disavow such motives. What I say I say in the cause of mercy, in the name of humanity, in the interest of peace. Not the peace of to-day alone, but of the long-coming future—of that time when the bitterness and heartburnings of to-day shall have been quenched by the hand of time or of death; and when the vast future will hold us to account for the manner in which we this day legislate.

Then it may be seen that he who was loth to yield too readily back to hostile hands the power of the country, the administration and execution of its laws, the shaping of its policy, was the true and kind friend of both sections, and that his voice, which may now seem to grate harshly with the note of remonstrance, called in vain the attention of his countrymen to the sorrows and calamities which they were about to bring upon themselves.

Again, I disclaim all ill-feeling toward these men. I honor such as Holden and Longstreet for their frank and manly course. Permit me to say they can better atone in the retirement and quiet of unofficial position the wrongs they have done their countrymen. When a calmer day shall have arisen upon the land, and all the angry clouds of civil strife have fled from the heavens, such men may safely be permitted again to resume their position as citizens; but while every breeze is laden with troubles, and the very capital of the nation is shaken by the earthquakes of an unadjusted rebellion, let them be silent till those who periled all for the salvation of the country have restored it to peace.

Mr. FARNSWORTH. I now yield five minutes to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER. Mr. Speaker, I have asked from the gentleman who has charge of this bill permission to say a word or two in order



to indicate to the House the classes of persons which, as one, I would desire early to relieve from disabilities. The common idea has been that where a man was originally opposed to secession and after the war had intervened, gave up his Union sentiments and went into the war in behalf of the confederacy, such a man should receive the first attention. Sir, I am opposed to that view, because those men when they became secessionists became by far the most bitter, for the reason that, having opposed secession, they had to go further than the original secessionists in order to show their allegiance to the cause, and feeling that they had fallen from their high estate, you will find them to-day all over the South the most bitter, the most untrustworthy and unreliable men.

There are two classes of men who in my judgment should receive early attention at the hands of the loyal Congress. They are the men—and they were very few, but their paucity in numbers makes them the more select—they are the men who stood firm during the whole time when the waves of secession beat around them, and they blenched not and gave not way, standing firm for the right. That class of men I hold higher than even the Union men at the North, because we had something to restrain us which they had not.

The class that I would deal with next is the class of men born in the South, brought up with southern ideas, and honestly believing that secession was right, for there were brave and gallant men who did believe so, and who, believing that they were right, fought for the cause which they espoused with valor, with energy, with fortitude, and fought to the end. And when that end had come honestly and in good faith they accepted the verdict; they submitted to the great arbitrament of the sword; and from that time henceforth became true Union men, as they were before true confederates. They are men who, having done all they could for what they believed to be right, have in good faith accepted the judgment rendered upon the field of battle, and from that time forward have been true Union men as they are to-day true Union men.

Now, to give an instance, in order that there may be no misunderstanding upon that subject, I will venture to call the name of one, although I have never seen him, to show how ready I am to forgive, where truth, probity, and honesty of purpose have characterized the action of the man. James Longstreet, if I remember his first name aright, was a paymaster in the Army of the United States. Of all the paymasters of the United States who went into the rebellion, he alone settled up his accounts with the United States, honestly and fairly and justly, as he would have done had he remained in our service. A southern man, he went into "the lost cause" with all his heart; he fought nobly and well. And we can recognize valor everywhere where it accompanies honesty of purpose. He alone of all the paymasters of our Army who went into the rebellion settled up every one of his accounts, and accounted for all the money in his charge. Then, following what he believed to be his duty, he went into the confederate army, and they had no more able or faithful general. When the rebellion was over, when "the lost cause" was lost, he gave his parole, accepted the situation, and, as I am informed, he thanks God that slavery, the cause of this war, has gone down forever. And he is now as true a Union man as he was before a true confederate. As for me I am as ready to give him my hand, and every man like him, as I am to give it to any man, for he has exhibited a truth to his sentiments, a fidelity to his opinions, and an honesty of purpose which entitles him and all like him, to come back into the Union. "There is more joy in Heaven over one sinner that repenteth than over ninety and nine good men that need no repentance."

[Here the hammer fell.]

Mr. FARNSWORTH. I now yield five minutes to the gentleman from Wisconsin, [Mr. PAINE,] my colleague on the committee.

Mr. PAINE. I probably ought to make a brief statement to the House respecting the mode in which these lists of names have been prepared in the Senate and in the House, the evidence upon which the respective committees of the Senate and the House, and the two bodies themselves, have been induced to accept those lists; and also the consideration which influenced the committee of conference to adopt this report.

In the first place a bill passed this House which constitutes the basis of the legislation upon which we are this day called to act. Of course it was impossible for this House, or for the entire Committee on Reconstruction, to scrutinize each name, and weigh the evidence applicable to each case. Therefore that duty was intrusted to a single member of the conference committee, the one for this House being the acting chairman of the Committee on Reconstruction, [Mr. FARNSWORTH,] who makes this report. He weighed the testimony relating to each person named in the bill of the House, and made up his own mind as to the merits of the application for each individual. We accepted the bill he offered upon the strength of his assurance that he had examined each case, and was satisfied that each individual therein named ought to be relieved by this House and by the Senate of the political disabilities he had incurred.

That bill passed this House and went to the Senate, and the Senate added to it other lists of names. And the Committee on the Judiciary of the Senate adopted substantially the same course we had here pursued in ascertaining what names should be included in that bill. The duty was imposed particularly upon Senator STEWART, and he assured me, in the conference between the two Houses, that he had spent a great deal of time in making the examination, and that no name had passed his scrutiny without abundance of evidence sufficient to satisfy him that the person ought to be relieved by Congress of the political disabilities he had incurred by his participation in the rebellion.

There was, however, another bill which passed this House, which it was my duty to examine: a bill embracing the names of two citizens of Arkansas. I carefully examined their cases, and for reasons which I gave to this House on a former occasion I was satisfied that they should be relieved.

Now, the Senate adopted in the bill which they passed as a substitute for the House bill, not only the names that went over from the House, but also the names which had passed the scrutiny of the Judiciary Committee of the Senate, and the two names embraced in the bill which I myself had examined and reported to this House. And the entire list as agreed upon was adopted by the conference committee with the exception of two names—the names of Mr. Jones, of Tennessee, and Mr. Houston, of Alabama. I would have been glad, as an individual member of the conference committee, to have accepted those names. I was strongly inclined to do so, but on inquiry among members of this House who were acquainted with them and their conduct since the passage of the reconstruction act I ascertained strenuous opposition would be made here. I regretted to learn it, but I did ascertain that fact, and therefore became convinced, as the conference committee became convinced, that it would be better to submit these names in another bill.

Now, a few words in reply to the suggestions of my friend from Indiana, [Mr. COBURN.] It is not true this bill which comes before the House as the action of the conference committee embraces the names of leading politicians in those States who are sought to be relieved of their political disabilities incurred in the rebellion; but the fact is that the great majority of the names embraced in this bill are the names of men who were at the outset opposed to the rebellion, but who, while the rebellion was in progress, although in heart opposed to it, on account of their situation, their social relations, by reason of the fact that

they resided as they did in the midst of the rebellion, one for one cause and another for another, one in one form and another in another, were implicated in the rebellion by committing acts sufficient to require the relief of this House in order that they may be enfranchised.

The SPEAKER. The gentleman's time has expired.

Mr. FARNSWORTH. I yield now for five minutes to the gentleman from Ohio, [Mr. SHELLABARGER.]

Mr. SHELLABARGER. Mr. Speaker, it is only because this measure is so important as the introduction to what are for years to come to be the Government's practices, touching this supremely important matter of enabling the authors of the rebellion to become the rulers of the Republic, that I venture to say a few words; not to affect the votes of others, but only to explain to my constituents my own. I do not expect that the result of the vote will be changed by anything that is now said. I wish, therefore, only to justify me in the vote I shall give against this bill.

I will begin, sir, by reading a few words from the first authority upon the international law in this nation, and perhaps in the world:

"Conciliatory and not vindictive measures are demanded by considerations of policy, not less than by humanity, in civil war, is strongly maintained by Olmeda."

I accede to that because it is wise, and because it has been for centuries, ever since we have had a modern civilization and an international law on the subject, the rule that the great mass of men engaged in rebellion should be the subjects of national clemency. But while I subscribe to that, while the whole country demands that at our hands, there is another principle of international law stated by the same authority equally demanded by the principles of the public law, by the practices of all civilized and stable Governments who, in administering laws, discriminate between virtue and crime, between patriotism and treason, and by our national conscience and its safety. That other principle for which I insist is thus stated by Wheaton on the same page from which I have read. I will read two sentences only from the same authority, touching that other principle. They are in these words:

"When the sovereign has conquered the opposite party and obliged it to demand peace, he may except from the amnesty the authors of the troubles and the chiefs of the party, cause them to be adjudged according to the laws, and punish them if found guilty."

Again I read:

"When the sovereign has conquered the party opposed to him, and obliged it to demand peace, it is customary to concede to it a general amnesty, excepting from it the authors and chiefs, whom he may punish according to the laws."

Now, sir, in these three sentences, I maintain before my country and fellow-members, is embodied the wisdom which has resulted from the experience of a thousand years, and especially during the latter half of that thousand years, when this sublime fabric of international law has been erected for our guidance and the guidance of all wise nations on this subject. The authors and contrivers of the mischief must be excepted from the national amnesty, must be tried and punished according to the laws.

Now, why do I say I am opposed to this bill as one not recognizing these principles? First, because the committee has not given to any of us who are to vote, nor to our country, our injured country, our country which feels such intense interest in this matter, in any written report, any one word showing why any of these men should be exempted from the consequences of their great crime.

We in this bill begin a practice, a policy of national clemency, stupendous in its consequences. I pray that we may begin wisely and well. I pray that the Congress and country may know, when it exempts not only from punishment for their immense crime the very authors and contrivers of that crime but enables them at once to assume rule in the Republic, why they ought not to be dealt with according

to these wise rules of the public law which I cite, and according to our own laws against treason. Our soldiers who come back to us with scars demand to know this. The families of those who came not back from the wars demand to know. By written reports we ought to know why the authors of the rebellion ought now to be enabled to become our rulers. Not one word of written report enables us to know.

That is the first reason why I cannot vote for the bill, because I cannot vote intelligently.

Another is that I find at least one of the contrivers of secession and rebellion, one of the men on whose soul is perhaps more of the blood of our fellow-men than upon any other man's soul, except, perhaps, Jefferson Davis himself. I refer to the name of General Longstreet. If there be another man so guilty as he it is the man Stonewall Jackson, who has gone to the bar of God, and asks no amnesties here. Why are we to enable him to now rule in the Republic? No word of reply is given us by any report, and yet my friend from Massachusetts [Mr. BUTLER] gets up here and makes an apology for him which could be made by any other caught or conquered criminal, to wit, that after he has been conquered, overthrown by the forces of war, he has become sorry for his crime. Nothing more.

[Here the hammer fell.]

Mr. BROOKS. I demand the yeas and nays on agreeing to the conference report.

The yeas and nays were ordered.

The question was taken; and there were—yeas 79, nays 55, not voting 55; as follows:

YEAS—Messrs. Allison, Ames, Delos R. Ashley, Bailey, Baker, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Buckland, Butler, Cake, Churchill, Cook, Cornell, Dawes, Delano, Driggs, Ella, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravelly, Griswold, Halsey, Harding, Hill, Chester D. Hubbard, Hubbard, Judd, Kelsey, Ketchum, Kootz, George V. Lawrence, Logan, Loughbridge, Marvin, McCarthy, Mercur, Moore, Moorhead, Morrill, Myers, Newcomb, O'Neill, Paine, Peters, Pile, Plants, Poland, Polsley, Pomroy, Raum, Robertson, Sawyer, Schenck, Scofield, Smith, Spalding, Stewart, Stokes, Taylor, Trowbridge, Upson, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Windom, Woodbridge, and the Speaker—79.

NAYS—Messrs. Adams, Archer, Baldwin, Beck, Brooks, Broomall, Cary, Sidney Clarke, Cobb, Corburn, Coyode, Cullom, Eckley, Eggleston, Eldridge, Getz, Glossbrenner, Golladay, Haight, Hawkins, Higby, Holman, Hotchkiss, Humphrey, Johnson, Jones, Julian, Knott, Loan, Mallory, McClurg, McCullough, Miller, Mullins, Niblack, Nicholson, Orth, Phelps, Pike, Price, Pruyn, Robinson, Shellabarger, Starkweather, Aaron F. Stevens, Taber, Taffe, John Trimble, Van Aernam, Van Trump, Van Wyck, Ward, Thomas Williams, William Williams, and Woodward—55.

NOT VOTING—Messrs. Anderson, Arnell, James M. Ashley, Axtell, Banks, Barnes, Barnum, Boutwell, Boyer, Bromwell, Burr, Chanler, Reader W. Clarke, Dixon, Dodge, Donnelly, Finney, Fox, Grover, Hooper, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Jencks, Kelley, Kerr, Kitchen, Ladlin, William Lawrence, Lincoln, Lynch, Marshall, Maynard, McCormick, Morrissey, Mungen, Nunn, Perham, Randall, Ross, Selye, Shanks, Sitgreaves, Thaddeus Stevens, Stone, Thomas, Lawrence S. Trimble, Twichell, Van Aiken, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburne, Stephen F. Wilson, and Wood—55.

The SPEAKER. As the bill in its terms requires that two thirds of each House shall concur in its passage, the report of the committee of conference is rejected.

Mr. BROOMALL. Mr. Speaker, I move to reconsider the vote by which the bill was rejected; and if it is in order I will move to postpone action on that motion.

The SPEAKER. Did the gentleman vote in the negative?

Mr. BROOMALL. I did for the purpose of moving to reconsider the vote.

Mr. ELDRIDGE. I demand the yeas and nays.

Mr. FARNSWORTH. Is the motion to reconsider debatable?

The SPEAKER. It is.

Mr. FARNSWORTH. I desire to say a word.

The SPEAKER. The gentleman from Pennsylvania [Mr. BROOMALL] is entitled to the floor.

Mr. BROOMALL. I yield to the gentleman from Illinois [Mr. FARNSWORTH] ten minutes.

Mr. FARNSWORTH. Mr. Speaker, it has

already been stated to the House over and over again that unless this bill or a like bill passes neither of the States of North Carolina and Georgia can reorganize under the constitutions which they have made. This bill embraces the men who are elected to office under those constitutions. If gentlemen are disposed to create at the South a black man's party as against a white man's party, then they will adhere to their votes against relieving white men of disabilities. If we are to apply an iron rule here that no man shall be relieved of disabilities who is under disabilities, that nobody shall have his disability removed except those who have none to remove, there is an end of the subject, and you have in the South a white man's party against a black man's party. It comes to that and nothing else, and when you come to that the black man's party goes down. When intelligence is arrayed against ignorance, when experience is arrayed against inexperience, when the politicians are arrayed against these ignorant, inexperienced men who are not politicians, who are naturally timid, and have been rendered more so by their past experience in slavery, it certainly does not require any logic to convince men that the black man's party goes to the wall; there is an end of all reconstruction in these States; there is an end of all constitutional government there, and we must perpetuate the government of the bayonet. If gentlemen are prepared to come to that, if they are disposed to saddle the expense upon the Government of an attempt to perpetuate the government of that vast people by the bayonet alone, then let them refuse to relieve from disabilities any of these men. If the gentleman from Ohio, [Mr. SHELLABARGER], who last addressed the House and spoke of General Longstreet, is right, and no man is to be permitted to repent, no man who fought us is to be permitted to lay down his arms and assist us in restoring peace and creating order out of the turmoil and disorder which reign there, what encouragement, I ask, is there for any of these men to help us?

Some gentlemen seem disposed rather to prefer those milk-and-water, Janus faced men who stuck to the Union until their States went out and held off a little while after, and then went into the rebellion with all their hearts, and all their might, and all their minds, and who stick to the rebellion yet, rather than the men who gave up "the lost cause" when it was lost; and are now striving in good faith to help us.

Now, if this idea is to prevail, there is an end to all amnesty, and that provision in the constitutional amendment which provides that we may relieve these men from disabilities is a dead letter, and it might as well never have been passed.

Mr. LOAN. Will the gentleman allow me to ask him a question?

Mr. FARNSWORTH. Yes, sir.

Mr. LOAN. I desire to know what evidence these rebels have furnished here and placed on record that they do repent, and intend to act with fidelity to the Union party or to the country?

Mr. FARNSWORTH. All of them.

Mr. LOAN. I say what evidence have they furnished here?

Mr. FARNSWORTH. I understood the gentleman to ask how many of them had furnished evidence?

Mr. LOAN. No, sir; what evidence have they placed on record here?

Mr. FARNSWORTH. Why, Mr. Speaker, it has been stated over and over again to the House, both by myself and by other gentlemen, what the evidence has been. It has been in their own communications, and in the communications of loyal men. It has been in the evidence of the members of Congress, Governors and various other officers elected in these States who have come before the Committee on Reconstruction and given their testimony.

Mr. LOAN. Why not place it before the House, so that we may know what it is before we vote?

Mr. FARNSWORTH. Why, if we should place that evidence before the House the gentleman from Missouri would never read it.

Mr. LOAN. Indeed I would if I could get it. Mr. FARNSWORTH. He would not have time to read one quarter of it. Besides that, I suppose the committee was appointed to take the evidence and examine and weigh it, and that the information they report to the House as the result of that examination is entitled to some little respect. We have stated, and if the gentleman does not believe us he would not believe though one should rise from the dead, that in all these cases we have acted on the evidence of loyal men. The gentleman will not take that evidence. If he will not, he need not; and he may continue to vote against it until he is gray, as I suppose he will. If he will not take the evidence in a case which has been stated over and over again to the House, he is fixed in his opinions. And if a man is judicially blind, I believe there is no salve which will open his eyes.

I have already stated that a very large number of the names in this bill are those of men elected to office by loyal men. This bill as it passed the House originally related to North Carolina, and was intended to relieve from disability those who had been elected to office in that State. The Senate, equally particular in their discrimination, added other names to the list.

Mr. WELKER. Will the gentleman allow me to interrupt him a moment at this point?

Mr. FARNSWORTH. Certainly.

Mr. WELKER. I wish to inquire of the gentleman whether it is not a fact that the constitutional conventions of Georgia and South Carolina made a thorough investigation of the character of these gentlemen, and unanimously recommended that their disabilities be removed; and also that in pursuance of that recommendation a great number of these gentlemen have been nominated upon their State tickets and elected by the legal voters of the States?

Mr. FARNSWORTH. That is true. And not only that, but we have omitted a great many names of those so recommended, about whom we are not satisfied by other evidence besides that supplied by the conventions.

Mr. GARFIELD. Will the gentleman yield to me for a moment?

Mr. FARNSWORTH. Certainly.

Mr. GARFIELD. I wish to ask a question, and in connection with that question to make a suggestion, which, if I am right, I think will have some weight with this House. If I understand it aright—and if I am not correct the gentleman will correct me—in regard to several of these States, the passage of this bill is absolutely essential to the establishment of reconstructed governments; and the defeat of this bill will be to say virtually that reconstruction, as provided by Congress, shall be broken down, shall not succeed; that these States shall be remanded to the anarchy out of which we have for three years been trying to rescue them. And I would ask the gentleman if, in view of all the circumstances, it is not best to have this bill set down for a rehearing a few days later than this time, when the members of this House will understand more fully the importance of the measure they are called to act upon?

Mr. FARNSWORTH. In reply to the gentleman from Ohio, [Mr. GARFIELD], I have but to reiterate what I have already said; it is true these States cannot be reorganized without the passage of this bill.

Mr. BROOMALL. I must resume the floor. Mr. HARDING. Will the gentleman yield to me?

Mr. BROOMALL. Not now.

Mr. HARDING. For a few moments.

Mr. BROOMALL. Not just at present. I desire to say at this time only that I believe this bill is not understood by the House, and I think a delay of a day or two will satisfy three fourths of the members of this House that it ought to pass. I therefore move that the further consideration of this subject be postponed until Tuesday next, after the morning hour;

and upon that motion I call the previous question.

Mr. HARDING. I move that the motion to reconsider be laid on the table.

The SPEAKER. The motion to lay on the table takes precedence of the motion to postpone.

Mr. BROOMALL. If the gentleman from Illinois [Mr. HARDING] will withdraw his motion, I will agree to yield some time to him when this question again comes up.

Mr. HARDING. Very well; I will withdraw the motion.

The previous question was seconded and the main question ordered.

The question was upon the motion of Mr. BROOMALL, to postpone until Tuesday next.

The SPEAKER. The Chair will state that should the House be engaged on Tuesday next in the consideration of the tax bill this would be postponed until after that was disposed of.

Mr. BROOMALL. We cannot help that.

The SPEAKER. The Chair deemed it proper to inform the House of the possible result of postponing this subject till Tuesday next.

Mr. BROOMALL. I am urged by friends to substitute Monday for Tuesday.

The SPEAKER. The previous question has been seconded and the main question ordered upon the motion to postpone, and the gentleman cannot now modify his motion except by unanimous consent.

Mr. ELDRIDGE and Mr. HIGBY objected.

Mr. BROOMALL. I move to reconsider the vote ordering the main question.

The motion to reconsider was agreed to.

Mr. BROOMALL. I now modify my motion so that this subject be postponed till Monday next after the morning hour, and upon that motion I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to postpone was agreed to.

Mr. BROOMALL moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILLS SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 164) to provide for appeals from the judgments of the Court of Claims, and for other purposes;

An act (S. No. 280) granting a pension to Michael Hennessy, of Platte county, Missouri;

An act (S. No. 377) to change the time of holding the district and circuit courts of the United States in the several districts in the State of Tennessee; and

An act (S. No. 425) granting a pension to George Bennett.

#### BUSINESS ON THE SPEAKER'S TABLE.

Mr. ELIOT. I move that the House now proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

#### LINCOLN MONUMENT ASSOCIATION.

The next business upon the Speaker's table were the amendments of the Senate to House joint resolution No. 216, to authorize the Secretary of War to place at the disposal of the Lincoln Monument Association damaged and captured ordnance; which were read as follows:

Amend the resolution by inserting after the word "authorized" the words "at his discretion," and after "1867" inserting the word "such," and after the word "captured" inserting "bronze and brass;" so as to make the resolution read:

That the Secretary of War be, and he is hereby, authorized at his discretion to place at the disposal of the Lincoln Monument Association, incorporated by an act of Congress entitled "An act to incorporate the Lincoln Monument Association," approved March 30, 1867, such damaged and captured bronze and brass guns and ordnance, out of which to cast the statues of the principal figures surmounting and

to be incorporated in said structure: *Provided*, That no metal as aforesaid shall be thus appropriated until the voluntary contributions for said purpose actually in the hands of the treasurer shall amount to \$100,000.

Add at the end of the resolution the following: And no more metal shall be thus appropriated than what shall be actually used for the purpose of casting the figures as herein mentioned.

Mr. DRIGGS. I will say that the association are willing to accept these amendments.

The amendments of the Senate were concurred in.

Mr. GARFIELD moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PRINTED MAIL MATTER.

The next business upon the Speaker's table was the amendment of the Senate to House bill No. 176, to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864, which was read as follows:

Strike out all after the enacting clause, and in lieu thereof insert the following:

The operation of the fourth section of an act to provide for carrying the mails of the United States to foreign ports, and for other purposes, approved March 25, 1864, shall cease and determine on and after the 30th day of September, 1868.

The fourth section of the law of March 25, 1864, is as follows:

"And be it further enacted, That all mailable matter which may be conveyed by mail westward beyond the western boundary of Kansas, and eastward from the eastern boundary of California, shall be subject to prepaid letter-postage rates: *Provided, however*, That this section shall not be held to extend to the transmission by mail of newspapers from a known office of publication to bona fide subscribers, not exceeding one copy to each subscriber, nor to franked matter to and from the intermediate points between the boundaries above named at the usual rates: *Provided further*, That such franked matter shall be subject to such regulations as to its transmission and delivery as the Postmaster General shall prescribe."

Mr. FARNSWORTH. I move that the bill and amendment be referred to the Committee on the Post Office and Post Roads.

Mr. CAVANAUGH. I ask the gentleman to yield to me to make a statement in regard to this bill.

Mr. FARNSWORTH. I yield to the gentleman from Montana.

Mr. CAVANAUGH. Mr. Speaker, as I understand this bill, it is relative to carrying the mails across the country, and to repeal that provision of the existing law charging letter postage upon all printed matter from west of the western boundary of Kansas and east of the eastern boundary of California. If I am wrong the chairman of the Committee on the Post Office and Post Roads will correct me. Now, sir, I make the statement to this House that every pound of printed matter that goes from the east to the west of Kansas to the people of Montana, Nevada, Colorado, Idaho, Utah, New Mexico, and Arizona, pays this corporation of Wells, Fargo & Co. from seventy-five cents to one dollar per pound. Instead of being able to purchase the Atlantic Monthly or Harper's Magazine, the Times, Herald, Tribune, or some other favorite newspaper at a reasonable rate, our people have to pay all the way from fifty cents to \$1 50 a copy for the magazines and twenty-five cents for the papers I have named. The provisions of the law, as it stands, are most unjust. There are in the Territory of Colorado from twenty-five to thirty thousand people; in Utah seventy-five thousand inhabitants at least; in Idaho over fifty thousand; and in Montana over sixty thousand; in Nevada from thirty to forty thousand. You, therefore, under the existing law, which it is proposed now to repeal, tax the intelligence of the people when you tax their reading matter.

And furthermore, let me state that gentlemen are mistaken as to the character of the people who live in those Territories. We are a reading people in the West. It is not the fossilized remnants of civilization who go to the West, but the young men with living blood in their veins. It is the poor young men and not

the wealthy who go to the West; the young, the middle aged, and old men of energy and pluck from New England and the Middle States; and, sir, they go to reap fortune in the development of the great resources which God in his wisdom has hidden in our mountains, men who create and build up new States, who found new Commonwealths, who add new stars to the national flag, who lay broad and deep the foundations of civilization in the hitherto unknown section of the continent; the ax and the rifle lead; the church and the school-house follow.

Now, Mr. Speaker, I ask the gentleman from Illinois, why the people of the Territories I have named should be taxed, why this embargo should be laid on their intelligence, why the Department at Washington should discriminate between the Rocky mountains and Kansas, Nebraska, Oregon, and California. Why lay this embargo upon the keystone which holds the arch of the nation together? ay, this golden keystone; for almost every mountain pass, gulch, and cañon is rich with the precious metals, and her teeming soil yields bounteous harvests to repay the husbandman for his industry.

But my friend from Illinois asks, "Why do you not subscribe for these publications?" My answer is those who inhabit the mining regions are engaged in mining to-day, fifteen hundred it may be, in one locality, and to-morrow one half move off to another mining region, start a new camp, and advance the outposts of civilization, enterprise, and industry; but carry with them their love of knowledge and of literature, and it is the duty of the Government to gratify that love free from unjust and ungenerous taxation.

I therefore, Mr. Speaker, earnestly hope that the House will concur in the Senate amendment to this most just and proper bill, giving to the reading, thinking, and intelligent masses of the Territories the same privileges, the same free access to the mails that you award to the people of the older States of the Union.

[Here the hammer fell.]

Mr. CHILCOTT. Mr. Speaker, this bill was considered and favorably reported from the Committee on the Post Office and Post Roads of this House. It passed the House without a dissenting vote. The Senate amended it, providing that it take effect in September next, instead of from and after its passage, as previously provided in the bill. This amendment was made to prevent an attempt on the part of the overland mail contractors from the possibility of recovering damages from the Government. This the people of the West will be willing to accept, although not entirely what they had expected. The bill now before the House provides for the repeal of the fourth section of an act "to provide for carrying the mails of the United States to foreign ports, and for other purposes," approved March 21, 1864. The section we propose to repeal provides "that all mailable matter which may be conveyed by mail westward from the western boundary of Kansas, and eastward from the eastern boundary of California, shall be subject to prepaid letter postage rates;" thus discriminating against all the States and Territories between said boundaries, and which has the effect of keeping from the reach of the intelligent and honest pioneer of the West the periodicals and literary works of the day, unless they pay express freight thereon to the overland mail contractors to the amount of sixty or seventy cents per pound, or pay postage to the amount of ninety-six cents per pound. And the reasons for the contractors struggling so hard against the repeal of this obnoxious and unjust law, is from the fact that it will prevent them from robbing our pioneer citizens by forcing them to pay express freight on every book that they may see proper to send East for, thus unjustly making millions of dollars out of the hard-earned money of the citizens of the West.

This bill proposes to repeal that which, in my judgment, is anti-republican, because it



discriminates against citizens of the United States, and has for its object to keep from said citizens the great privilege of obtaining that knowledge which can only be derived by reading the periodicals and literary books of the day.

I am very much surprised to hear the honorable chairman of the committee advocating the doctrine of discriminating against my constituents, as well as he professes to love justice and equality. This bill only provides for the repeal of a bill which is wrong in principle, and unjust and oppressive on the citizens of the West. The statements of my honorable friend in regard to the extra cost to the Government, although honestly, no doubt, made on his part, is the same that has been made on every occasion by the contractors when an attempt has been made to wipe this law, so unjust to our people, from the statute-books of our country. And what surprises me more than anything else is the fact of my friend from Illinois opposing this bill after its having been favorably considered in his committee, and after his having expressed himself to me as being favorable to the repeal of said restriction.

This bill which we so much complain of, forces us to pay ninety-six cents per pound for a book from the city of New York, when from Great Britain to any port of the United States it costs only twenty-four cents per pound; and yet we find upon the floor of the American Congress opposition to its repeal. I am opposed to any legislation discriminating against any American citizen on the subject of mail facilities, and especially against the industrious pioneers of the West who have done so much to develop the country, and who have spent millions of money developing the mineral regions of the West, and who have, by energy and industry, cultivated the valleys and the plains of the West, and have made blossom as the rose that which previously had been reported by explorers as the great American desert. And it is nothing but justice that we should have the same privileges that are extended to citizens of our common country in other States and Territories of the United States. I hope the Senate amendment will be concurred in.

Mr. CLARKE, of Kansas. I ask the gentleman from Illinois to yield me five minutes.

Mr. FARNSWORTH. Very well.

Mr. CLARKE, of Kansas. I desire to say that I entirely concur with the remarks of my friend from Colorado [Mr. CHILCOTT] and my friend from Montana, Mr. CAVANAUGH. I am somewhat surprised at the course of the chairman of the Committee on the Post Office and Post Roads, in desiring that the bill, as amended by the Senate, should be referred to that committee, where every one knows it will "sleep the sleep that knows no waking." This restriction against these Territories of the United States has, in my judgment, existed long enough. The people of those regions ought to be relieved at once instead of postponing it till September, as the amendment proposes. I understand that during the past four or five years this overland company which carries your mails has been relieved from carrying everything except letters and newspapers sent to subscribers. But, sir, they have not even carried those. They have adopted a system of carrying mail-bags of their own and making the people along the line believe that their own mail-bags would reach their destination more speedily and expeditiously by paying extra charges—by marking them "By express, Wells, Fargo & Co.," in addition to the direction, "Overland mail."

Now, sir, it seems to me that in order to do full justice Congress ought at once to remove this restriction and require Wells, Fargo & Co., who are to day the contractors for the transportation of the overland mail, to transport all the mail matter as other mails are transported in other portions of the United States. This is a great injustice to the people of the interior of the continent, and I am sur-

prised, not only at the action of the committee of this House, but at the action of the Senate, in not at once, immediately, instead of next September, removing this restriction and opening these mails free to the people of the Territories and of the Pacific coast.

Mr. FARNSWORTH. If I can have the attention of the House for a moment I will state briefly the points about this bill. The House passed a bill removing the restriction which was imposed by the act of 1864, I believe, which required that printed matter should pay letter rates between the western boundary of Kansas and the eastern boundary of California, where it had to be carried by stages, except that newspapers, magazines, and periodicals, are carried there, as everywhere else, to regular subscribers from the office of publication. The present contract expires in the fall, in October, I believe. The Senate have amended the bill so as to make it take effect in the fall, and sent it back to the House.

Upon examination of the bids put in at the Department for carrying the mails for the next four years, and on inquiry with reference to the intentions of the parties who have bid for carrying the mails—the bids for the letter mails being already in—we find this fact: that the difference of expense will be about one million dollars if we remove this restriction and allow the publishers of books, magazines, &c., to send by mail their packages to dealers in the various places in these remote Territories. The House will see at a glance that they would load down the stage coaches and make the mails very bulky and heavy, and the contractors cannot afford to carry this immense load of matter at the same rate at which they are now carrying the letters and newspapers, &c., to the regular subscribers.

The Committee on the Post Office and Post Roads considered this question, and also, I believe, considered it in conjunction with the committee on the part of the Senate, on one occasion when I was not present, at the Post Office Department, a few days ago, and they instructed me to make the motion, when this bill was reached, to refer it to the Committee on the Post Office and Post Roads. They came to the conclusion that it is not worth while to saddle the Department with this extra expense at present.

Mr. CAVANAUGH. Will the gentleman allow me to ask him a question?

Mr. FARNSWORTH. Certainly.

Mr. CAVANAUGH. Do not Wells, Fargo & Co. carry all this matter now and load down their coaches with it at express charges? I know they do.

Mr. FARNSWORTH. I have no doubt of that. They would not carry it if they were not paid extra.

Mr. CAVANAUGH. They charge \$1 50 for every book that goes through.

Mr. FARNSWORTH. I cannot yield further. It is very true that the stages carry express matter, but they are paid for it extra. Now, if we require them to carry all that matter for which they now get paid as express matter in the mails, they will not do it, of course, without extra pay. That is the very point in the bill.

I yield now for five minutes to the gentleman from Nevada, [Mr. ASHLEY.]

Mr. ASHLEY, of Nevada. I will not occupy much time, but I want gentlemen of the House to understand this matter, because I think I am right, and that our cause deserves their votes. This overland mail was started at a time when it met with great opposition from the Atlantic and Pacific Mail Steamship Company. They had had the contract previously, and wished to demonstrate that it was impossible to maintain an overland mail route. They did, in the first instance, overburden the stage coaches with extraneous matter sent by emissaries of the steamship company. This law was then passed in 1864 to relieve this overland company from that matter for the time being. It worked well undoubtedly, for it enabled the

Overland Mail Company to maintain their route.

Since that time the railroads have been extended so that the line is shortened now about eight hundred miles. And by the time this bill is to take effect, the 30th of September, when the present contract with Wells, Fargo & Co. will have expired, there will probably be not more than seven or eight hundred miles of staging on this route. These companies have heretofore received \$750,000 for carrying this mail. When the bids were opened the other day, with a view to this bill passing, and the route being shortened some thousand or twelve hundred miles, Wells, Fargo & Co. put in a bid to carry this mail for \$1,800,000. When the gentleman from Illinois [Mr. FARNSWORTH] referred to the increased expense he must have had reference to that extraordinary bid, nearly double what they have heretofore received. All the bidders for that route had that very same thing in view. I have seen some of these bids. There is one from responsible parties to carry the mail over the route between the termini of the railroads for \$460,000 per annum; or nearly three hundred thousand dollars less than the amount heretofore paid. Another bid, and the lowest that was put in, was for \$335,000, or less than one half of what has been heretofore paid. So that, for my part, I do not understand how the gentleman sustains his proposition that it will cost more than heretofore, when all the bids, except that of Wells, Fargo & Co., are for a much less amount than that now paid.

Now, let me show that this will not be so much of an increase and burden as the gentleman says. The present law, passed in 1864, provides that franked matter shall pass over this line under regulations to be prescribed by the Postmaster General. And all the public documents sent by members of Congress go that way now, or rather the company is bound to carry them, whether they really carry them or not; I presume they do not.

The only increase will be in the main, what I know from experience in my own town to be the case. This law of 1864 provides that newspapers and periodicals sent to *bona fide* subscribers shall be carried at the usual rates. Now, this does not meet the necessities of the people of Nevada. As the gentleman from Montana [Mr. CAVANAUGH] says, the people there will compare favorably with those of other parts of the country, so far as intelligence and reading is concerned. But they are not regular subscribers to papers and periodicals. Our miners do not know how long they will remain in any place, and instead of subscribing regularly for a paper they buy it of the news-dealer. In my town from four to five hundred papers are received daily from California. And until this last summer the overland company never threw any obstacle in the way.

This last summer, after Wells, Fargo & Co. had acquired the management of the whole route, they began to put the screws on mercilessly. And on the newspapers from California they required ninety-six cents per pound for transportation by mail to our town, when freight was carried over the same route and upon the same stages at seven cents a pound.

[Here the hammer fell.]

Mr. ASHLEY, of Nevada. I hope the gentleman will allow me a little more time.

Mr. FARNSWORTH. I will yield a few minutes more to the gentleman.

Mr. ASHLEY, of Nevada. I suppose this increase and burden will be mostly made up from the newspapers and periodicals for the supply of the readers of that portion of the country. There is still to be a reduction of one half; within a short time the railroads will have come within seven or eight hundred miles of each other. And let me call the attention of the House to one other inconvenience: if this law is not now changed, although the mail may be taken within thirty, forty, or fifty miles of a town, there will be a charge of three cents

per half ounce, or ninety-six cents per pound, for carrying those mails that forty or fifty miles.

Now, consider that the Committee on the Post Office and Post Roads were unanimously in favor of this bill, that it passed the House without opposition and went to the Senate, and they passed it, with a provision that it should take effect from and after the 30th of September next, when the bill comes back here we who are more immediately interested are willing to accept this bill in this form, especially as by that time the route will be decreased in length several hundred miles.

Now, then, Mr. Speaker, I hope that even-handed justice will be meted out to the people who live west of the western boundary of Kansas and east of the eastern boundary of California. The law affects only those east of California. Those who live east of Oregon are not affected because of the peculiar phraseology of the law, which is from the eastern line of California eastward, and from the western meridian of the western line of Kansas westward. This bill simply places them upon the same bases with all the other people of the United States. The mails will not be overloaded because there will be no more matter than now. It will be no heavier than it now is, but it will relieve the people from paying this express company such price as it may choose to put upon printed matter. This being the effect of the bill I hope it will now be acted upon and passed. It is just as correct now as in the early part of the session. As to Wells, Fargo & Co., I insist, as a matter of justice to the people between Kansas and California, we should not give them any more favors than other people; that we ought not to give them more than other people are willing to receive for carrying that mail matter. I learn that propositions are made to carry this mail under the change of the law, as suggested, for \$330,000. I hope the House will pass the pending measure.

Mr. FARNSWORTH. I think now I will resume the floor and decline to yield further.

Mr. BASHFORD. I hope the gentleman will yield to me for three minutes.

Mr. FARNSWORTH. I will yield to the delegate from Arizona for three minutes.

Mr. BASHFORD. Mr. Speaker, this bill has been deliberately considered in this House. All the objections made to it were met at the time when it passed. It was deliberately considered in the Senate, and they put an amendment upon the bill fixing a future day for it to go into operation. No one can object to that except the friends of the bill. Instead of going into effect immediately it is to go into effect at a future day. We make no objection to that. If I understand the chairman of the Committee on the Post Office and Post Roads he does not go back and renew the objections made here at the time the bill was passed, but says that since that time there have been contracts entered into, and this would affect those contracts, and those contractors would come here and charge the Government more than they otherwise would if we should take this restriction off of printed mail matter. Now, this question has been before Congress for the last year and more. This bill was introduced a long time before; and, sir, if it had been desirable, if the Committee on the Post Office and Post Roads had wished this bill to pass, how easy it would have been for them to suspend, by joint resolution, the letting of these contracts until this bill was passed, and then urged the bill through the House, putting our people upon equal footing in all respects with other people of the United States. The pioneers who go into our remote Territories have hardships enough to endure. They have dangers and troubles to meet from the Indians. You have collectors and receivers of public money among us. You make us help bear the burdens of Government, and yet deny us the right to send newspapers and other printed matter through the mails. I think it would be a great injustice not to pass this at once. I hope, therefore, it

will not be referred to the Committee on the Post Office and Post Roads.

Mr. FARNSWORTH. I am only desirous the House should understand this matter. I have here now the figures showing the difference in these bids. These contracts before let very soon. The contractors must make provision for their forage before the season is far advanced. There are five bids for carrying this mail. Wells, Fargo & Co., \$1,300,000, with the understanding that they are to carry printed matter if we pass this bill. There are four other bids, and the highest of which is \$460,000, being \$900,000 less than the bid of Wells, Fargo & Co. These other bidders made these bids with reference to the law as it is now, excluding heavy mail matter. The House will understand that the law now does not exclude newspapers and periodicals to regular subscribers. It cuts a little hard on the book trade and the publication offices, the men who are dealing in these articles. The question for the House is whether we shall now add this \$900,000 to the expenses of the Department or wait a little. As fast as this railroad is completed these things are all carried, and in the course of a year, very likely, we may be able to amend the law without saddling this amount of expense upon the country. I now call the previous question.

The previous question was seconded and the main question ordered.

The question was first taken on the motion to refer the amendment to the Senate to the Committee on the Post Office and Post Roads; and it was disagreed to.

The question recurred on concurring in the amendment of the Senate; and it was concurred in.

Mr. CHILCOTT moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 184) granting a pension to Mrs. Ann Corcoran.

Also, that the Senate had agreed to the amendment of the House to the bill (S. No. 280) granting a pension to Michael Hennessy, of Platte county, Missouri.

The message further announced that the Senate had passed a bill (H. R. No. 764) for the relief of certain exporters of distilled spirits, with an amendment, in which the concurrence of the House was requested.

Also, that it had passed without amendment a joint resolution (H. R. No. 294) donating to the Washington City Orphan Asylum the iron railing taken from the old Hall of the House of Representatives.

Also, that it had passed bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 215) to vacate and sell the Umatilla reservation, in Oregon; and

An act (S. No. 275) for the relief of Eliza Mascher, widow of John F. Mascher.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution (H. R. No. 294) donating to the Washington City Orphan Asylum the iron railing taken from the old Hall of the House of Representatives; when the Speaker signed the same.

#### LEAVE OF ABSENCE.

Mr. ASHLEY, of Ohio, was granted leave of absence on account of serious illness in his family.

#### FREEDMEN'S BUREAU.

The next business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 598) to continue the Bureau for the

relief of Freedmen and Refugees, and for other purposes.

The amendment of the Senate was to add the following as a new section:

SEC. 5. *And be it further enacted*, That the Commissioner is hereby empowered to sell for cash, or by installments with ample security, school buildings and other buildings constructed for refugees and freedmen by the bureau, to the associations, corporate bodies, or trustees who now use them for purposes of education or relief of want, under suitable guarantees that the purposes for which such buildings were constructed shall be observed: *Provided*, That all funds derived therefrom shall be returned to the bureau appropriation and accounted for to the Treasury of the United States.

Mr. ELIOT. I am authorized by a majority of the committee to move that the amendment of the Senate be concurred in. On that motion I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE. I demand the yeas and nays on concurring in the amendment of the Senate.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 93, nays 20, not voting 71; as follows:

YEAS—Messrs. Ames, Delos R. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Blaine, Blair, Bontwell, Buckland, Butler, Calkins, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Delano, Dixon, Donnelly, Driggs, Eckley, Eggleston, Elna, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravelly, Halsey, Harding, Higby, Hill, Chester D. Hubbard, Hulburd, Ingalls, Jenckes, Judd, Julian, Kelsey, Ketcham, Kitchen, Koontz, Lincoln, Loan, Mallory, McCarthy, McClurg, Mercer, Miller, Moore, Morrell, Mulholland, Myers, Newcomb, O'Neill, Paine, Peters, Pike, Pile, Poland, Polley, Pomeroy, Price, Raum, Sawyer, Scofield, Shanks, Shellabarger, Starkweather, Aaron F. Stevens, Stewart, Stokes, Taffe, Taylor, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Windom—93.

NAYS—Messrs. Archer, Beck, Brooks, Eldridge, Getz, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, McCormick, Munger, Nicholson, Phelps, and Stone—20.

NOT VOTING—Messrs. Adams, Allison, Anderson, Arnell, James M. Ashley, Axell, Barnes, Barnum, Bingham, Boyer, Bromwell, Broomall, Burr, Cary, Chanler, Churchill, Reader W. Clark, Dawes, Dodge, Finney, Fox, Glassbronner, Griswold, Hawkins, Hooper, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Kelley, Ladin, George V. Lawrence, William Lawrence, Logan, Loughridge, Lynch, Marshall, Marvin, Maynard, McCullough, Moorhead, Morrissey, Niblack, Nunn, Orth, Perham, Plants, Pruyn, Randall, Robertson, Robinson, Ross, Schenck, Solye, Sitgreaves, Smith, Spalding, Thaddeus Stevens, Taber, Thomas, Lawrence S. Trimble, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Trump, Elihu B. Washburne, Henry D. Washburn, Stephen F. Wilson, Wood, Woodbridge, and Woodward—71.

So the amendment of the Senate was concurred in.

Mr. ELIOT moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SALE OF IRON-CLADS.

Mr. JENCKES, from the joint Committee on Retrenchment, made a report in relation to the alleged fraudulent sale by the Navy Department of the iron-clads Onecota and Catawba to Alexander Swift & Co.; which was ordered to be printed, and recommitted to the committee.

Mr. UPSON moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### COLLECTION DISTRICT OF PHILADELPHIA.

The next business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 538) to extend the boundaries of the collection district of Philadelphia so as to include the whole consolidated city of Philadelphia.

The amendment of the Senate was read, as follows:

Strike out all after the enacting clause to the end of the bill, and insert in lieu thereof as follows: That the port of entry and delivery of Phila-

delphia, Pennsylvania, is hereby extended so as to include within its boundaries the whole consolidated city of Philadelphia.

Mr. O'NEILL moved that the House concur in the amendment of the Senate.

The motion was agreed to.

Mr. O'NEILL moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### THE CHIEF JUSTICESHIP.

The next business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 861) relating to the Supreme Court of the United States; which was taken up and read, as follows:

Strike out all after the enacting clause to the close of the bill, and insert in lieu thereof as follows:

That in case of a vacancy in the office of Chief Justice of the Supreme Court of the United States, or of his inability to discharge the powers and duties of the said office, the same shall devolve upon the associate justice of said court whose commission is senior in time until such inability shall be removed or another appointment shall be duly made, and the person so appointed shall be duly qualified; and this act shall apply to every person succeeding to the office of Chief Justice pursuant to its provisions.

Mr. WILSON, of Iowa, moved that the amendment of the Senate be concurred in.

The motion was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MICHIGAN COLLECTION DISTRICTS.

The next business on the Speaker's table was the Senate amendment to the bill (H. R. No. 198) to reestablish the boundaries of the collection districts of Michigan and Michilimackinac, and to change the names of the collection districts of Michilimackinac and Port Huron; which was taken up and read, as follows:

Page 1, line sixteen, after the word "Territory," insert "in said State."

Mr. FERRY moved that the amendment of the Senate be concurred in.

The motion was agreed to.

Mr. FERRY moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EXPORTERS OF DISTILLED SPIRITS.

The next business upon the Speaker's table was the Senate amendments to the bill (H. R. No. 764) for the relief of certain exporters of distilled spirits; which were taken up and read, as follows:

In line four strike out the words "alcohol and."  
In line five strike out "were," and insert "was."  
In line six strike out "or," and insert "and."  
In line ten, after the word "act," insert "and as shall be provided for hereafter."  
In line eleven strike out "thirty," and insert "sixty."  
In line fourteen strike out "liquor," and insert "rum."  
In line seventeen strike out "thirty," and insert "sixty."  
Amend the title by striking out the words "distilled spirits," and inserting in lieu thereof "rum."

Mr. BUTLER moved that the amendments be concurred in.

The motion was agreed to.

Mr. BUTLER moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### THANKS TO HON. EDWIN M. STANTON.

The next business upon the Speaker's table was a concurrent resolution of the Senate of June 1, 1868; which was taken up and read, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That the thanks of Congress are due, and are hereby tendered, to Hon. Edwin M. Stanton for the great ability, purity, and fidelity to the cause of the country with which he has discharged the duties of Secretary of War, as well amid the open dangers of a great rebellion as at a later period when assailed by the Opposition, inspired by

hostility to the measures of justice and pacification provided by Congress for the restoration of a real and permanent peace.

Mr. GARFIELD. I move that the House concur in the resolution, and as I believe it is well enough understood, I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. MUNGEN. I demand the yeas and nays on concurring.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 102, nays 25, not voting 63; as follows:

YEAS—Messrs. Allison, Ames, Delos R. Ashley, Bailey, Baldwin, Beatty, Benjamin, Benton, Blaine, Blair, Boutwell, Buckland, Butler, Calk, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Calum, Delano, Donnelly, Driggs, Eckley, Eggleston, Elia, Eliot, Farnsworth, Ferriss, Fields, Garfield, Gravelly, Griswold, Halsey, Harding, Higby, Hill, Hooper, Chester D. Hubbard, Hubbard, Jencks, Judd, Julian, Kelsey, Ketcham, Kitchen, Koontz, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, O'Neill, Orth, Paine, Peters, Pike, Pile, Poliste, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Smith, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, Twichell, Upson, Van Aernam, Van Wyck, Ward, Wadswader C. Washburn, Henry D. Washburn, William B. Washburn, Walker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Windom, Woodbridge, and the Speaker—102.

NAYS—Messrs. Archer, Beck, Brooks, Cary, Chandler, Eldridge, Getz, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, McCormick, Mungen, Niblack, Nicholson, Phelps, Prayn, Stone, and Taber—25.

NOT VOTING—Messrs. Adams, Anderson, Arnell, James M. Ashley, Axtell, Baker, Banks, Barnes, Barnum, Beaman, Bingham, Boyer, Bromwell, Broomall, Burr, Churchill, Reader W. Clarke, Dawes, Dixon, Dodge, Ferry, Finney, Fox, Glossbrenner, Hawkins, Hopkins, Asahel H. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Kelley, Ladin, George V. Lawrence, William Lawrence, Marshall, Marvin, McCullough, Morrissey, Newcomb, Nunn, Perham, Plants, Poland, Randall, Robinson, Ross, Selye, Sigreaves, Spaulding, Thaddeus Stevens, Stewart, Thomas, John Trimble, Lawrence S. Trimble, Trowbridge, Van Auker, Bart Van Horn, Robert T. Van Horn, Van Trump, Elihu B. Washburne, Stephen F. Wilson, Wood, and Woodward—63.

So the resolution was concurred in.

Mr. GARFIELD moved to reconsider the vote by which the resolution was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MAIL SERVICE IN DAKOTA AND MONTANA.

The next business upon the Speaker's table was Senate joint resolution No. 184, authorizing a change of mail service between Fort Abercrombie and Helena; which was taken up, and read a first and second time.

The question was upon ordering the joint resolution to be read a third time.

The joint resolution, which was read, authorizes the Postmaster General to change the character of mail service from Fort Abercrombie, Dakota Territory, to Helena, Montana Territory, to post-coach service.

Mr. DONNELLY. This is a change from "pony service," as the present service is called, to coach service. This joint resolution has been informally examined by the Committee on the Post Office and Post Roads, and I am assured by the chairman of that committee [Mr. FARNSWORTH] that they are satisfied it should pass. I therefore ask for its present consideration, and call the previous question upon it.

Mr. WARD. I object to this way of passing bills without their being investigated by the committees appointed for that purpose.

Mr. DONNELLY. This is a Senate joint resolution, and could not possibly have been formally before the committee; and to refer it at this stage of the session will be to kill it.

Mr. WASHBURN, of Indiana. How much increased expenditure does it involve?

Mr. DONNELLY. From fifty to sixty thousand dollars.

Mr. WASHBURN, of Indiana. Will it not be more than \$80,000?

Mr. DONNELLY. I do not think so.

Mr. FARNSWORTH. It is true, of course,

this will cost the Government something. It is a proposition to change the mail service from horse service to stage-coach service, three times a week. There is now a tri-weekly line running to Fort Abercrombie; but there is only a "pony service," as the gentleman from Minnesota [Mr. DONNELLY] styles it, from there to Helena, in Montana Territory. The Committee on the Post Office and Post Roads have informally examined this joint resolution. While they have not directed me to report upon it, I believe they are not hostile to it. I took pains to inquire at the Post Office Department what would be the probable cost of this proposed change, and in reply I received a letter which I will ask to have read.

The letter was read, as follows:

POST OFFICE DEPARTMENT, CONTRACT OFFICE, WASHINGTON, June 6, 1868.

SIR: In answer to your verbal inquiries of yesterday you are respectfully informed that this Department estimates the cost of mail service three times a week in four-horse post coaches on the route from Fort Abercrombie, in Dakota Territory, to Helena, in Montana Territory, supposing the distance to be nine hundred miles, at \$135,000 per annum; and that such estimate is considered a liberal one.

Very respectfully, your obedient servant,

GEORGE W. McLELLAN,

Second Assistant Postmaster General.

Hon. J. F. FARNSWORTH, Chairman of Committee on the Post Office and Post Roads, House of Representatives.

Mr. FARNSWORTH. The estimate made is quite large enough. I do not know how much the present costs; but it should be deducted from this estimate. I believe this is the first appropriation made to establish a stage line upon that northern Pacific route. I am in favor of it. There is a very large population in the northern portions of our western States and Territories, and I am in favor of doing something for them. This is on the line of the Northern Pacific railroad. It seems to me no more than just and proper that we should pass this joint resolution.

Mr. WARD. What is the additional expenditure?

Mr. FARNSWORTH. Some sixty or eighty thousand dollars a year.

Mr. WARD. Does the gentleman from Illinois think we ought to consent to the expenditure of that large amount without any investigation of any committee of this House?

Mr. FARNSWORTH. I think it far better that we should carry letters to the people there who are upon this route at this price than to vote a million to carry printed matter, as we have done a while ago for our other Territories. We have never yet done anything for this northern overland mail route. It supplies many forts and military stations where they have a large population. We have never yet given them anything but a pony mail.

Mr. DONNELLY. Mr. Speaker, a statement from me may perhaps answer some of the objections in the minds of gentlemen here, and I ask the attention of the House for a few minutes.

I am no more interested in this change of mail service than other gentlemen upon this floor. An examination of the map will show that the Territories of Montana and Idaho lie immediately west of the Territory of Dakota and the State of Minnesota; that they go to form part of our great northern belt or tier of States. At the present time intercourse with that country over the mail and stage routes is by way of the Salt Lake valley. Direct communication in a line due East and West, as proposed by this joint resolution, will shorten the distance between New York and Montana one thousand miles, and that, sir, seems to me a sufficient justification of this bill. If any member of this House, or if any citizen of this country starts to go by railroad and stage from the city of New York to the Territory of Montana he has to travel one thousand miles further than he would have to travel if this stage line were established. That is to say, he has to descend from the latitude of New York city to the line of St. Louis, and thence to the Salt Lake country, and thence to ascend north to a point even higher than the latitude of New York.



The expense of the change is considerable compared with the evil which it remedies. The service by horses, or pony service conducted by Indians, now costs the Government \$84,000. If this change is made according to the letter from the Post Office Department, just referred to, it will cost the Government \$134,000, or \$50,000 additional, and in exchange for this increased outlay we get a stage line that will shorten communication between Montana and our northern tier of States one thousand miles.

What are those Territories? They are rapidly developing into mighty Commonwealths. The Territory of Montana shows to-day a population of fifty thousand, not an idle, unproductive population, but a population of miners who are taking out of the bosom of the earth that metal which is to add to the riches of this land.

We may talk here, Mr. Speaker, about our various policies of finance, of changing this form of bond into that form of bond, of recalling this form of indebtedness and issuing that form, but it is apparent to all sensible men that the best scheme of finance is to pay the debt, and that the means to pay the debt must be dug from the bosom of the earth either by the processes of agriculture or the processes of mining.

Now, sir, why should we not have this change? What is \$50,000 compared with the development that country will receive? By shortening the line of communication one thousand miles a vastly increased emigration across the State of Minnesota, across the Territory of Dakota, will pour into Idaho and Montana, and this nation will receive back the abundant fruits of their industry in the shape of the precious metals to be used at home or to be shipped abroad in payment of our debts to foreign nations.

If there are no other questions to be asked I will call for the previous question.

Mr. WARD. I ask the gentleman to yield to me a moment.

Mr. DONNELLY. Certainly.

Mr. WARD. I do not know that I wish to make any opposition to this measure if it came properly before the House. What I mean by that is, that I think this House, as the guardian of the public Treasury, at this time especially, owes it to itself and to the country to see to it that no appropriations of public money are made unless for reasons of the gravest necessity. Now, what is the question before the House? A bill comes from the Senate proposing to create a new post route, and we have a proposition before us to expend from sixty to one hundred thousand dollars in the creation of that route. Gentlemen interested in the section of territory to be affected rise and recommend the proposition; but the chairman of the committee on the Post Office and Post Roads says that he cannot, from the informal examination he has been able to make, favor it. So, after all, we have no recommendation of a committee of this House. Now, I say let it be referred to the Committee on the Post Office and Post Roads; let them examine the matter and make their report upon it. Let it have a deliberate consideration, and if it is found to be wise and proper to expend this amount of money to establish this new route, let it be done.

Mr. DONNELLY. In answer to the gentleman from New York, [Mr. WARD,] I will say that it is impossible that this bill should have been before the Committee on the Post Office and Post Roads except in an informal way. The Postmaster General was so solicitous that this change should be made, believing it was demanded by the growth of the country and by the emigration that was tending in that direction, that he at first sought to make the change without asking the permission of Congress. He believed he had the power so to do, but upon a critical examination of the law he came to the conclusion that he had not that power. So the matter was brought before the Senate of the United States. It was examined by the Committee on the Post Office and Post

Roads of that body, received their recommendation, and passed the Senate. It is now taken from the Speaker's table for action. It is absolutely impossible that it could have been before the Committee on the Post Office and Post Roads of this House, save as I said, in an informal manner. In that informal manner it has been considered, and the committee through their chairman tell us they are satisfied it ought to pass.

Mr. COVODE. I would ask the gentleman whether he is not aware that \$80,000 were thrown away on this route last year and not a single mail was carried over it? A few mails were started by Indians but not one ever went through. And in this connection I call the attention of the House to the fact that a most enormous bill has been run through over the chairman of the Committee on the Post Office and Post Roads to-day, without reference to that committee, a bill in which \$1,000,000 are involved. I want this bill to go to the committee. Let us have a fair report on the subject.

Mr. CAVANAUGH. Will the gentleman from Minnesota permit me to answer the gentleman from Pennsylvania, [Mr. COVODE?]

Mr. DONNELLY. Certainly.

Mr. CAVANAUGH. I desire to say that I know more about this mail route than it is possible for the gentleman from Pennsylvania [Mr. COVODE] to know. I know that the mail was carried from St. Paul by the way of St. Cloud and Fort Abercrombie, and came as regularly as possible under the circumstances to the town of Helena, my home. I know that the mail was carried over that route during the last summer, and a portion of the last winter, and the contractors were so earnest in the discharge of their duty that for hundreds of miles the letter mail was carried on the backs of men traveling on snow-shoes. I hope the gentleman from Pennsylvania [Mr. COVODE] is answered, and that he is satisfied.

Mr. DONNELLY. The gentleman from Montana [Mr. CAVANAUGH] seems to have given a sufficient answer to the remark of the gentleman from Pennsylvania.

Mr. DELANO. I desire to make a parliamentary inquiry, whether a motion to refer this bill to the Committee on the Post Office and Post Roads is in order.

The SPEAKER. If the gentleman from Minnesota [Mr. DONNELLY] surrenders the floor without demanding the previous question it will then be in order; or if the previous question should be voted down it will then be in order.

Mr. WARD. I hope it will be voted down.

Mr. DELANO. I desire to inquire of the gentleman upon what authority he limits the expenditure of this enterprise to \$40,000. If I correctly understood the chairman of the committee he said he was not himself informed as to the probable cost. I hear from different parts of the House different opinions as to this increased expense. Many gentlemen estimate it much higher than the gentleman from Minnesota does. I know very well that these estimates are very often made, and I want to know the gentleman's authority for his estimate.

Mr. DONNELLY. My answer to the gentleman is simply this: I have been informed, and believe, for I was cognizant of the circumstances at the time the service was let, that the present service costs \$84,000 a year. The chairman of the Committee on the Post Office and Post Roads has clearly stated to the House that the Postmaster General has informed him by letter read here, that if this bill passes, the service will cost, "at a liberal estimate," \$134,000, which, as I figure it, is an increase of precisely \$50,000 per annum.

Now, Mr. Speaker, I appeal to the justice and fairness of this House to treat this northwestern country liberally. We well know that there is not a human probability that the Committee on the Post Office and Post Roads will have an opportunity to report again this session. We know, therefore, that if we commit this joint resolution to that committee we defeat

it for this session. If it is a just and righteous measure let us pass it. If it is not, let us vote it down, and not resort to what I may almost call subterfuges to kill the measure.

Mr. WARD. How do we know that it is a just and righteous measure if we do not find it out through the instrumentality of the committee appointed for the purpose of ascertaining the facts? How do we know it?

Mr. DONNELLY. By that common sense and judgment with which God has endowed most men. [Laughter.]

Mr. WARD. The gentleman has more than his share, and I was inquiring for a little of his. [Laughter.]

Mr. DONNELLY. I should be happy if time permitted it to fully enlighten the gentleman, but it would take time.

Mr. MAYNARD. This is not a question for levity, it strikes me, but for serious, substantial information. I wish to know what the present service is that costs \$80,000?

Mr. WASHBURN, of Indiana. What are the postal receipts from the pony service now there?

Mr. DONNELLY. We did not ask these questions when the liberality of this country spread over the uninhabited wastes of the South the mighty net-work of the postal service, and we have no right to put such questions here to this great and growing northwestern loyal country—loyal all the way through.

Mr. MAYNARD. Does the gentleman refuse to answer my question and tell me what the present service is?

Mr. DONNELLY. I have already twice stated that it is a "pony" or horse service.

Mr. FARNSWORTH. It is fair that I should state to the House that if this joint resolution is referred to the Committee on the Post Office and Post Roads, it is not at all likely that the committee will have an opportunity of reporting it at this session. If the joint resolution is to be passed at all it ought to be passed now, so that whoever shall contract for the service may be able to provide the necessary teams, forage, &c., for the seasons in that country are not as long as they are here and the men who propose to contract for the service will require all the time between now and the fall to get ready.

As I said when I was up before, I will say now, in reply to the question put by the gentleman from Indiana [Mr. WASHBURN] to the gentleman from Minnesota, [Mr. DONNELLY,] as to what the postal receipts are upon this route, that I presume they are very trifling. The postal receipts on every route are very trifling until you get the route established. The postal receipts on the central route to California were very trifling until you had the route established, and a line of stages to carry the mails. While you are only carrying the mails by Indian and pony service, which is irregular, fugitive, spasmodic, the people are not going to travel or send their letters that way. They will rather go round two or three hundred miles. If you wish to develop the country and to facilitate its settlement, the only way is to do as we did in the case of the central route, to give them some facilities, to put a stage route on and thus pave the way for settlement.

The Committee on the Post Office and Post Roads are of the opinion, from the cursory examination they have given to it, that this is a fair joint resolution. While it will cost the Department something, it will only cost about one tenth as much at the most as will the bill that has just passed, and passed, too, to afford the booksellers, publishers, and dealers greater facilities in their trade. It seems to me that it is very much like straining at the gnat after we have swallowed the camel to refuse to give these people away up there in the North, these military posts, and these remote territories, a tri-weekly stage line after you have opened the door to all the booksellers in the United States to send their books all over the Territories by stage coaches.

Mr. DONNELLY. I now call the previous question.

Mr. DELANO. Is it in order to move to lay this joint resolution on the table?

The SPEAKER. It is.

Mr. DELANO. Unless the gentleman from Minnesota [Mr. DONNELLY] will withdraw his call for the previous question I must make that motion.

Mr. DONNELLY. I cannot withdraw it.

Mr. DELANO. Then I move that the joint resolution be laid on the table.

The question was taken; and upon a division there were—ayes 34, noes 58; no quorum voting.

Mr. DELANO. I ask for the yeas and nays.

Mr. HIGBY. I move that the House now adjourn.

The motion was agreed to; and accordingly (at four o'clock and fifty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CHANLER: The protest of Edward Hincken, president, George M. Clearman, vice president, Thomas M. Sandford, secretary, of the Ship-owner's Association of the State of New York, against the passage of a bill relative to the mercantile marine of the United States.

By Mr. EGGLESTON: The petition of all the principal liquor merchants of Cincinnati, Ohio, praying that the tax on whisky may be reduced to twenty-five cents per gallon.

By Mr. KOONTZ: The petition of Thomas J. Eddowes and 100 others, of Bedford county, Pennsylvania, asking for the establishment of a post route from Orleans, on the Baltimore and Ohio railroad, Alleghany county, Maryland, to Bloody Run, Bedford county, Pennsylvania.

By Mr. MOORHEAD: The petition of S. Chadwick, farmer, and others, citizens of Alleghany county, Pennsylvania, complaining of the depression of industry, and praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, a memorial of the Board of Trade of Pittsburgh, Pennsylvania, recommending that Government aid or subsidy be extended to the Kansas branch of the Pacific railroad.

#### IN SENATE.

SATURDAY, June 20, 1868.

Prayer by Rev. A. D. GILLETTE, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### TERRITORIAL LAWS.

The PRESIDENT *pro tempore* laid before the Senate the acts, resolutions, and memorials of the Territory of Montana, passed by the fourth Legislative Assembly, convened at Virginia City November 4, 1867; which were referred to the Committee on Territories.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of citizens of Philadelphia, Pennsylvania, praying that pensions be granted to the soldiers and widows of soldiers of the war of 1812; which was referred to the Committee on Pensions.

He also presented a petition of Duncan Jordan, praying an extension of the time for applications in bankruptcy; which was ordered to lie on the table.

He also presented the petition of stone cameo cutters of the city of New York, praying an increase of the tax on cut cameo; which was referred to the Committee on Finance.

He also presented a memorial of citizens of Louisiana, against the recognition of the constitution of that State by Congress; which was ordered to lie on the table.

Mr. MORGAN. I present the petitions of Walter Scribner, Francis Hart, Henry Conklin, and two hundred and thirteen others, printers and bookbinders of New York city, representing that the industry of the country is paralyzed for want of efficient protection against the cheaper labor and capital of foreign countries; that much of the distress now prevalent and increasing daily would be relieved by the legislation suggested in Special Commissioner Wells's report of last year, and perfected in the tariff bill (as passed by the Senate) which failed in the House of Representatives March, 1867, for want of time, and praying that Congress will resume consideration of that measure and enact it into a law at the earliest practicable moment. I move the reference of the petition to the Committee on Finance.

The motion was agreed to.

Mr. MORGAN presented a petition of citizens of Philadelphia, Pennsylvania, praying that pensions be granted to the soldiers and the widows of soldiers of the war of 1812; which was referred to the Committee on Pensions.

Mr. SUMNER presented a petition of citizens of Philadelphia, Pennsylvania, praying that pensions be granted to the soldiers and the widows of soldiers in the war of 1812; which was referred to the Committee on Pensions.

Mr. SUMNER. I present the memorial of John Beeson, known to many Senators as having devoted his life to philanthropic efforts in behalf of the Indians, in which he represents that the enormous waste of life and money and the demoralization from the frauds and wars upon the Indians demand immediate redress, and he proceeds to set forth several particulars under different heads, of which he proposes a reformation. I move the reference of this petition to the Committee on Indian Affairs.

The motion was agreed to.

Mr. BAYARD presented a petition of E. and A. Betts, H. B. Seidel, Casper Kendall, D. Lammot, jr., and one hundred and thirteen others, manufacturers and workmen of Wilmington and Dover, in the State of Delaware, complaining of the paralysis of domestic industry resulting from the want of efficient protection against the cheaper labor and capital of foreign countries, and praying for the enactment of a general tariff law, similar to the bill which was matured but not finally passed by the Thirty-Ninth Congress; which was referred to the Committee on Finance.

He also presented the petition of W. Jones & Co. and others, Morocco manufacturers of Wilmington, Delaware, complaining of the depression of industry, and praying for such an increase of protective duties as will revive manufactures and restore prosperity to the country; which was referred to the Committee on Finance.

Mr. PATTERSON, of Tennessee, presented a petition of citizens of Philadelphia, Pennsylvania, praying that pensions be granted to the soldiers and the widows of soldiers in the war of 1812; which was referred to the Committee on Pensions.

Mr. CONKLING presented a petition of citizens of Philadelphia, Pennsylvania, praying that pensions be granted to the soldiers and the widows of soldiers in the war of 1812; which was referred to the Committee on Pensions.

Mr. WILLEY presented a petition of citizens of Philadelphia, Pennsylvania, praying that pensions be granted to the soldiers and the widows of soldiers in the war of 1812; which was referred to the Committee on Pensions.

Mr. YATES presented a petition of citizens of the United States, praying the adoption of a law investing all men with the equal exercise of the elective franchise in all the States; which was referred to the Committee on the Judiciary.

#### REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 214) to authorize the Secretary of War to settle the claims of

the State of Kansas for services of the militia called out by the Governor of that State, upon the requisition of Major General Curtis, the commander of the United States forces in that State, to repel the invasion of General Price, reported it with amendments.

#### ORDER OF BUSINESS.

Mr. HARLAN. If the morning business is through, I move that the Senate proceed to consider House joint resolution No. 201, in relation to the Rock Island bridge.

Mr. SHERMAN. There are several Senators who have examined that question and are opposed to that measure who are not here, and as this day was specially set aside for pension business I doubt very much whether we ought to proceed with a matter that is disputed.

Mr. HARLAN. I think the special order referred to by the Senator from Ohio was fixed for one o'clock, and we have ample time to dispose of this joint resolution in the mean time.

Mr. FESSENDEN. But there are not more than a dozen Senators in the Chamber, and there are several gentlemen absent who are opposed to that resolution. It would not be right to take it up now in their absence.

Mr. SHERMAN. There is not a quorum present, and I think it will be very unwise to take it up now.

Mr. TRUMBULL. If the Senator from Iowa does not press his motion at this moment, I wish to move to take up another bill.

Mr. HARLAN. I shall not press it in view of the observations made by other Senators, and therefore withdraw my motion; but I desire that the subject shall be properly considered, and I shall repeat the motion at the first opportunity.

#### DISTRICT COURT OF CAIRO.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of House bill No. 347, to which, I presume, there is no objection. It is a bill to authorize the holding of a district court at Cairo.

The motion was agreed to; and the bill (H. R. No. 347) to amend an act to divide the State of Illinois into two judicial districts, approved February 13, 1855, was considered as in Committee of the Whole.

The Committee on the Judiciary reported the bill with an amendment, to strike out all after the enacting clause, in the following words:

That, in addition to the terms of the circuit and district courts of the United States for the southern district of Illinois, now held at Springfield, terms of said circuit and district courts shall hereafter be held at the city of Cairo, in said district, to begin on the first Mondays of March and October of each year.

SEC. 2. And be it further enacted, That the clerks of the said circuit and district courts shall keep clerks' offices for said courts at the city of Cairo, and all the records and papers pertaining to business in said courts at the city of Cairo shall be kept therein, and they shall appoint deputy clerks for said courts, who shall reside in said city of Cairo.

SEC. 3. And be it further enacted, That the district attorney for the southern district of Illinois shall perform the duties of his office in the circuit and district courts held at the city of Cairo, and the marshal of said district shall keep an office at the city of Cairo, and appoint a deputy, who shall reside in said city of Cairo.

And to insert in lieu thereof:

That, in addition to the terms of the district court of the United States for the southern district of Illinois, now required by law to be held at the city of Springfield, terms of said court shall hereafter be held at the city of Cairo, in said State, commencing on the first Mondays of March and October in each year.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

Its title was amended so as to read: A bill for holding terms of the district court of the United States for the southern district of Illinois at the city of Cairo, in said State.

#### ADMISSION OF COLORADO.

Mr. YATES. I move that the Senate proceed to the consideration of Senate bill No. 11, to admit the State of Colorado into the Union.

Several SENATORS. Oh, no.

Mr. YATES. I wish to say to the Senate in relation to this bill that the committee have again had it under consideration and have reported it back with amendments, to which nobody will object, to refer the whole matter back to the people, and the State is only to be admitted on the condition that it adopts the fourteenth amendment to the Constitution. I am sure in its present shape there will not be any objection to the passage of the bill.

Mr. VAN WINKLE. I should like to make a statement to this effect: several Senators who are now absent called on me yesterday to know what I intended to do with regard to the pension bills, and I told them that I intended to call them up as soon after the reading of the Journal as I could; and I apprehend that several Senators, not being interested, are absent with that understanding. I have no objection to this bill in the form which I understand it assumes; but I do not think, perhaps, it would be strict justice, as I may have led them into the error myself, to take up any bill of this sort when so many Senators are absent.

Mr. FESSENDEN. I do not think we ought to take up such a bill to-day.

Mr. CONKLING. I should like to make an inquiry of the honorable Senator from Illinois. Is it his purpose to take up the bill now and dispose of it in the morning hour?

Mr. YATES. Yes, sir. I presume the Senator from New York did not hear the statement I made a moment ago. I stated the bill had been again under consideration before the committee, and this is a compromise bill to which there is no objection, I believe, from anybody in the Territory. It simply proposes to refer the matter back to the people.

Mr. POMEROY. The bill is now merely an enabling act, and I think there can be no objection to it.

Mr. CONKLING. I know in general terms what the amendment is that is suggested to the Colorado bill. It is an amendment which I believe is calculated to remove objections to it. At the same time I have no idea that the bill can be taken up and passed in any form in the morning hour to day. In addition to that, there is not a quorum of the Senate present, as we all see; and the understanding was that this day was to be devoted to another purpose, and that that particular business was certainly to occupy the day. Now, I submit to my honorable friend, without wishing to interfere at all with him in getting up his bill, that this is an unfortunate time to select to do it. If the amendment is satisfactory to all interests, and if it shall avoid all objections, certainly there can be no purpose in pressing it now, in the absence of Senators; whereas a majority being absent, and absent upon an understanding that no business of this sort was to be considered to-day—for the understanding went as far as that—I submit to the honorable Senator that it would rather provoke suspicion and distrust of the amendment and the bill than to win for it the consent of those who otherwise might be inclined to concur in it. Therefore, not making the suggestion in enmity to the measure or the amendment, it seems to me it would be better to wait until a day comes that general business is in order, and in expectation, too, and then take up Colorado, and if the amendment is satisfactory, as I hope it will be, there will probably be no objection to its passage.

Mr. YATES. I should not have moved to take up the bill but for the understanding that all objections to it were removed by the amendment; and even now I shall not press it, although I do not understand the force of the points made by the Senator from New York. I withdraw the motion for the present.

#### BALTIMORE AND OHIO RAILROAD.

Mr. SUMNER. There was a resolution which I offered some months ago relating to the railroad between Washington and Baltimore, which I wish to call up, and, after making a single remark with regard to it, I

propose to withdraw it. I wish to assign the reason for my action.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. SUMNER on the 17th of February last:

*Resolved*, That the Committee on the District of Columbia be instructed to consider if any additional legislation is necessary in order to secure the rights of colored persons on the railroad from Washington to Baltimore.

Mr. SUMNER. Mr. President, when I offered that resolution I had in my hands a great deal of evidence showing abuses on that road; that colored persons, very respectable, of both sexes, had been treated very badly on the road between Washington and Baltimore. Having that information I felt it my duty to call the attention of the Senate to it. The consideration of the resolution at the time was objected to by the Senator from Maryland, who is not now in his seat, [Mr. JOHNSON.] Since then I am happy to say a change has taken place on that road, and I am not aware now that there is any occasion for inquiry. By way of confirmation of this statement I beg to read a letter which I have received from one of the former complainants, one whose family had been badly treated on the road, George T. Downing, as follows:

WASHINGTON, D. C., June 18, 1868.

DEAR SIR: I have the pleasure to inform you that the managers of the Baltimore and Ohio railroad have yielded to the progressive spirit of the age; a point which will not be appraised until men shall be respected according to their merit, regardless of their color, until color shall not be a badge either of distinction or of contempt.

I have been assured by the managers of the above road that its passengers shall enjoy its advantages regardless of their color, and that its managers will punish by dismissal any of its employees who shall disregard this, its rule.

Yours, &c.

GEORGE T. DOWNING.

HON. CHARLES SUMNER.

Under these circumstances, considering that the managers have come into this explicit understanding with Mr. Downing, who is a representative of the colored race, I do not propose to press the inquiry any further, and I therefore ask leave to withdraw the resolution.

The PRESIDENT *pro tempore*. The resolution will be withdrawn, if there be no objection.

#### ISRAEL T. CANBY'S SURETIES.

Mr. HENDRICKS. I move to take up the bill that was before the Senate yesterday morning in the morning hour. It will take but a moment, I presume, to consider it. The report is now printed.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 428) for the relief of the sureties of Israel T. Canby, late receiver of public moneys at Crawfordsville, Indiana.

Mr. MORTON. I know something about the character of this application, and I think the bill ought to pass. The liability of these parties has been suffered to slumber for full forty years until nearly all the bondsmen are dead, and I think it would be a matter of gross injustice now to press the collection of this money upon two old men, one of whom is a paralytic and cannot raise his hand, as I am told, and the other is an old man living in the town where I reside who has but a few days before him. It occurs to me where the Government has suffered a liability of this kind to sleep for forty years that there is no equity or justice in attempting to collect it after that time, and especially under the circumstances that surround these parties.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### NAVY-YARD BRIDGE.

Mr. HARLAN. I move that the Senate take up for consideration a resolution introduced some time since by me in relation to a survey for a bridge across the Eastern Branch. There will be no objection to it, I am sure, and it is necessary to be passed now in order

that we may obtain the information for the consideration of a bill that has been referred to the District Committee.

The motion was agreed to; and the Senate proceeded to consider the following resolution submitted by Mr. HARLAN on the 28th of May last:

*Resolved*, That the Commissioner of Public Buildings and Grounds be directed to make a survey of the lower bridge, known as the navy-yard bridge, across the Anacostia, and report a plan for a permanent structure across the same at or near the present site capable of sustaining a railway track and cars, with a footing on each side of the carriage track, with an estimate of the cost of the same.

Mr. HARLAN. Perhaps the resolution ought to be amended so as to read, "the officer acting as Commissioner of Public Buildings and Grounds."

The PRESIDENT *pro tempore*. That modification will be made.

The resolution, as modified, was adopted.

#### CHANGE OF REFERENCE.

Mr. POMEROY. With the leave of the Senate I ask that the Committee on the Pacific Railroad be discharged from the further consideration of the bill (S. No. 557) for completing a direct and continuous line of railroad from Washington city to Mobile and other points South, creating a postroute from Washington city to Mobile and New Orleans, thereby securing a more certain, speedy, and economical transportation of the United States mails, military stores, and munitions of war, which I had referred by mistake to that committee a day or two ago. I desire to have it referred to the select committee on the subject of national railways, of which the Senator from Ohio [Mr. SHERMAN] is chairman.

The PRESIDENT *pro tempore*. That order will be made if there be no objection.

#### DISTILLED SPIRITS FOR ARMY HOSPITALS

Mr. WILSON. I move to take up House joint resolution No. 262.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 262) authorizing certain distilled spirits to be turned over to the Surgeon General for the use of the Army hospitals. It authorizes the Secretary of the Treasury to deliver to the Surgeon General of the Army all the distilled spirits produced during the experiments made by the late commission for testing meters for the internal revenue service, to be used for the Army hospitals, and to be paid for at a reasonable cost out of any moneys appropriated for the purchase of Army hospital stores, the amount received to be applied toward the expenses of the commission.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### HYGEIA HOTEL AT FORTRESS MONROE.

Mr. WILSON. I now move to take up House joint resolution No. 266.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 266) to authorize the enlargement of the Hygeia Hotel at Fortress Monroe, Virginia. It proposes to authorize the Secretary of War to grant permission to Henry Clark, proprietor of the Hygeia Hotel at Fortress Monroe, Virginia, to enlarge the hotel in such a manner as may be compatible with the interests of the United States; but such enlargement, or any building hereafter erected by any person or persons upon the lands of the United States at Fortress Monroe, are to be at once removed, at the expense of the respective owners, whenever the Secretary of War shall deem such removal necessary; and no claim for damages therefor is to be made upon the Government of the United States; and the building so to be enlarged is to be subject to taxation under State and national authority the same as other property.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.



## BRITISH STEAMER LABUAN.

Mr. SUMNER. I move that the Senate proceed to the consideration of Senate bill No. 528, reported from the Committee on Foreign Relations, to carry into effect a decree of the district court at New York.

The motion was agreed to; and the bill (S. No. 528) to carry into effect the decree of the district court of the United States for the southern district of New York in the case of the British steamer Labuan was read the second time, and considered as in Committee of the Whole. It provides for the payment to William Bailey, William Leetham, and John Leetham, of England, or their legal representatives, owners of the British steamer Labuan, of \$131,221 30, with interest from June 2, 1862, to the time of payment, and \$5,000 without interest; also, to Messrs. De Jersey & Co., of England, or their legal representatives, part owners of the cargo of the same steamer, \$3,613 92, with interest from May 21, 1862, to the time of payment; and to Francisco Amendiaz, of Matamoros, Mexico, or his legal representatives, part owner of the cargo of the same steamer, \$2,067 17, with interest from June 6, 1862, to the time of payment; such sums being due under a decree of the district court of the United States for the southern district of New York, pronounced March 25, 1868, on account of the illegal capture of the British steamer Labuan and her cargo by a cruiser of the United States.

Mr. CONNESS. Mr. President, my friend, the chairman of the Committee on Foreign Relations, always manifests a great degree of promptness in reporting bills for the payment of British ships. I suppose that ascertained debts should be paid, but I am sorry to see that there is not an equal promptness by him in reporting bills for the protection of the rights of Americans abroad. There have been times—and I should be sorry if they had passed—when the rights of men demanded protection and immediate attention quite as much as the property of men. My friend would scarcely wish to occupy the position of being here as the special advocate of the rights of property and the payment of debts as contradistinguished from the support and sustenance of the rights of men, either white or black.

When a question was under consideration a few days since cognate to the subject, I took the liberty to inquire of the honorable chairman of the Committee on Foreign Relations when we could expect a report upon the House bill now long with that committee, and he made answer that the committee would take it up at its next meeting. Since that time it has been stated in the public press, I hope not correctly, that the committee has agreed to lay that bill over, postpone it until the next session of Congress.

Now, Mr. President, it would scarcely become me to criticise the action of a committee of this body, and particularly to assume that this statement is a correct one to base such criticism upon; and until the honorable chairman shall state that it is correct I shall not be understood as criticising the action of the committee; but I will say now, while I am up, that it is scarcely the thing, as it appears to me, upon an important subject, that a committee shall agree to postpone consideration of it without submitting that question to the body which had referred it to them. I am of the opinion that there is no one requirement greater now at our hands than that there be American law as the basis of action for our Government upon the great subject to which I have adverted, and which is comprehended by the bill before the Committee on Foreign Relations.

I rise, Mr. President, to call attention to that bill, and to invite the attention of the country to it, and to give notice that at an early day I intend to move to discharge the committee from its further consideration, and get the yeas and nays upon that question, unless there shall be a report made. I want the privilege of voting that American citizens,

being abroad upon their own proper business, shall not be subject to interference, interruption, arrest, or imprisonment by any foreign Power on earth; and upon that proposition I intend to have, in one way or another, an early vote.

It was stated in the newspaper connection that I have referred to that the action was taken to some extent in deference to diplomatic representatives of foreign Powers at Washington. That can scarcely be true, sir; it cannot be true.

Mr. SUMNER. And of Mr. Seward, it was said.

Mr. CONNESS. And of Mr. Seward, it was said. That can scarcely be true, either. I will not, however, undertake at this time to discuss the Secretary of State in this connection, because I do not think it would be proper; but as one Senator here, and as a citizen feeling a deep interest in this subject, but not claiming any exclusive interest in it, as was intimated on another occasion by the honorable Senator, I do claim that it is a subject worthy of our attention, and which demands our early attention.

And, Mr. President, the tone of public feeling upon this subject is sound and true. It is not ephemeral, nor asserted at this time for local political effect; but the opinion is made up in the face of the arrest of our citizens abroad and their incarceration in foreign prisons, from which they are gradually being discharged by the grace of her majesty the Queen of Great Britain and Ireland, if not other potentates of Europe.

As I said on another occasion, if this Government is not able, ready, willing, and determined to support its citizens abroad, it must be held to have abdicated one of its most essential functions; and I intend to ascertain how many American Senators there are who will hesitate to give earnest effect to this opinion. I do not intend to occupy my seat here and vote for the payment of damages to British ships while American citizens are in British prisons; and I hope, sir, there will be an end to it. We are constantly engaged in acts of courtesy, civility, comity, toward foreign nations, and especially toward that nation which never makes and never has made any ceremony in putting its strong arm upon our people whenever it suited its policy.

I should like now, Mr. President, in this connection to know how long the honorable chairman of the Committee on Foreign Relations is to give precedence to bills for the payment of British ships, and to neglect from one session of Congress to another the important question I have referred to?

Mr. SUMNER. Mr. President, the Senator from California addresses a question directly to me, apparently holding me responsible for the order of business and the reports made by the Committee on Foreign Relations. Sir, he does me too much honor and assigns to me too great a responsibility. I am here on this floor a Senator like himself, and the representative of that committee; that is all. So far as I act on questions from the committee, it is only as its representative. I do what I am instructed to do. Now, that committee has instructed me to report a bill to carry into effect a decree of the district court for New York with regard to which I presume there can be no objection. It has as yet given me no instructions on the matter to which the Senator calls my attention and the attention of the Senate. I refer to the bill from the House of Representatives with regard to the rights of American citizens abroad. When the Senator called attention to that on a former occasion I said that it was then under the consideration of the committee. It has been on three several occasions considered by the committee, and the action of the committee thus far is not my action but the action of the committee, and I may say unanimously. I will not go into the consideration of that action now. I prefer not to step aside from the bill actually before the Senate; there is no occasion

for it. If the Senator pursues his motion according to the notice he has given, there may be then occasion for it.

I shall content myself with simply one observation. There has been a report in the newspapers with reference to the action of the committee on the bill referred to. The report is entirely without foundation. It is stated that the chairman of the committee had had a conference with the Secretary of State, and acted in pursuance of the Secretary's suggestions. On that statement I have this to say, that I have never once exchanged a word with the Secretary of State on that bill, nor have I ever received any suggestion from him, direct or indirect. That is the answer that I give to that report. So far also as the report pretends to attribute influence to foreign diplomacy I may make the same remark. The bill was considered by the committee independently, without any influence from any quarter, and the conclusion that they have reached thus far was founded on their own judgment, looking at the best interests of the country, and with a desire, I believe, as sincere as that of the Senator himself to maintain the rights of American citizens abroad. If thus far they have not been able to see their line of duty precisely as the Senator sees his, I hope the Senate will be candid enough not to attribute to them any want of interest in the cause to which he refers.

He reminds the Senate that the committee can report bills relating to property and neglect bills relating to human rights. I am not aware that I have reported from that committee during this session any other bill that falls within the category to which the Senator refers. This is the first bill of the kind—the bill I now hold in my hand—because it is the first with regard to which there has been any occasion for action. It was a bill almost of necessity, because it was to carry out a judgment of one of our own courts declaring that the United States stood in debt to certain persons, and this bill simply proposes to provide the means for the payment of that debt. I cannot well understand why a committee which thus simply discharges its duties should be arraigned for some imagined neglect of the great cause of human rights to which I believe all its members are as sensitive as the Senator from California himself. Certainly I will not yield to that Senator on that subject in any form in which it can be presented. My opinions of the rights of American citizens, whether at home or abroad, have been too often declared. I desire that those rights shall be asserted and maintained. Possibly I may differ from the Senator as to the way in which those rights should be asserted and maintained; but I cannot allow that Senator to consider himself more devoted to that cause than I am.

Now, I hope, if the Senate please, unless the Senator wishes to remark further, they will act on the bill.

Mr. CONNESS. I do wish to make some further remarks. This is a very curious answer, and full of instruction, to the question that I had the honor to propound to the honorable chairman of the Committee on Foreign Relations. What is most noticeable in it—and I call the attention of Senators and the country to the honorable Senator's answer—is that he does not step with firm tread, but he steps forward in dealing with this subject as though his feet were clothed with moccasins. He says, in the first place, that he is not the committee. Does he imagine that we do not know that? He tells us not what the committee has done, but intimates that it has with unanimity determined to postpone this great question. Well, Mr. President, I did not arraign the committee; but it is my right to inquire into this subject here. Nor did I claim any superior interest in this subject to any other Senator. I wish it distinctly understood that upon this question I am peculiarly and only American.

But, Mr. President, I intend to pursue the notice that I have given, and I shall invite the

attention of the few representatives of the opposite party on the other side of this Chamber, and hope, when the question comes up, to get their votes; and that the party I belong to here, peculiarly representing, as I believe, human rights, shall be, if not voluntarily spring into this contest, shamed into it. I do not intend that it shall be left unacted upon.

If this subject were near the heart of my honorable friend from Massachusetts as other subjects that he takes hold of, think you that he would not press it upon the attention of the committee of which he is chairman, and then upon the attention of the Senate? Why, sir, with what eagerness he rises in his place when he has a petition to present here involving an alleged outrage upon a single individual, and that within the reach of our right hands or right arms! But upon this subject month after month may pass, season after season—nay, year after year—and American citizens may rot and die in foreign prisons!

I now, Mr. President, conclude by giving notice that at an early day of the coming week I shall propose a resolution to discharge the Committee on Foreign Relations from the further consideration of the subject, that the Senate of the United States may vote upon it.

Mr. SUMNER. I ask now action on the bill before the Senate.

Mr. STEWART. I hope there will be no action taken immediately on this bill. We should at least understand something more about it.

Mr. SUMNER. If the Senator will be good enough to look at the printed letter which accompanies it, and the decree of the district court, I think he will find that there is no occasion for delay. The bill simply carries out the decree.

Mr. STEWART. There is no written report of the committee.

Mr. SUMNER. I beg the Senator's pardon; it is all in print.

Mr. STEWART. I should like to have the bill lie over that I may look into it.

Mr. SUMNER. If the Senator raises the question that the United States is not to carry into execution a decree of the district court adjudging that the United States shall pay a certain sum of money, then there may be occasion for it to lie over.

Mr. STEWART. I must certainly raise that very question. If any of our courts have awarded damages to British subjects for illegal captures, or anything of the kind, I am opposed to making any appropriation for paying them until the Alabama claims are settled, and particularly the claims of those whalers in the Pacific ocean who were destroyed by Waddell, who was afterward harbored in England. Six weeks after the fall of the rebellion, this man, Waddell, destroyed an entire whaling fleet, destroying the whole property, the substance of their lives, of the poor men who owned those vessels. They were burned by him when he had before him papers announcing the end of the rebellion, but he said he did not care for that; and he afterward went to Great Britain and was harbored there. I understand he has been here at Annapolis since, and is now harbored by our Government. No steps have been taken to relieve those sufferers; and until there can be mutual justice done, until there can be some arrangement made in regard to the damages done by the privateers that Great Britain sent out to destroy our commerce, I think we should refuse all appropriations to pay just or unjust claims to British subjects for damages sustained during our war. I do not complain of the decision of the court in the case, because I know nothing of the facts; but I would not pay any such claim until there shall be a settlement of the claims of our citizens. They have been treated a great deal worse than British subjects have been, have been subjected to much greater losses, and under more cruel and aggravating circumstances. I do not think it is a very good time to make appropriations to pay claims

of British subjects at this session, and I hope the bill will be postponed.

Mr. HENDRICKS. I should like to ask a question.

Mr. TRUMBULL. It is one o'clock, I believe.

The PRESIDENT *pro tempore*. To-day was set apart for the consideration of pension bills at this hour.

Mr. SUMNER. I understand that the Senator from Indiana proposed to ask a question in regard to the bill which has been under discussion.

Mr. CONNESS. I think that had better go over to-day.

Mr. HENDRICKS. I was going to ask the Senator from Massachusetts if the court has decided the question?

Mr. SUMNER. The court has decided, and the bill is to carry into effect the decree of the court.

Mr. HENDRICKS. Is this a question of restitution?

Mr. SUMNER. It is.

Mr. HENDRICKS. Was the vessel sold?

Mr. SUMNER. The vessel was sold.

Mr. HENDRICKS. What became of the money? Was it paid into the Treasury? Is this to pay the amount that the vessel sold for?

Mr. SUMNER. It is to pay that amount. It is a case of restitution where there was an illegal capture.

Mr. HENDRICKS. If the money has not been paid into the Treasury, the court can pay it on a restitution.

Mr. SUMNER. The money has been paid into the Treasury, and the decree of the court now adjudges the United States responsible to this amount, and distributes the same according to the proportions mentioned in the bill among the owners of the vessel and of the cargo.

Mr. HENDRICKS. What is the aggregate?

Mr. SUMNER. It is mentioned in the bill, but I have forgotten the precise amount. There is a report accompanying it. I went over the facts of the case in drawing the bill some time ago, and I cannot remember the precise figures. The bill was founded precisely on the decree.

Mr. VAN WINKLE. Mr. President, I ask the Senate to proceed with the pension bills.

Mr. SUMNER. Before the Senator calls up his bills, I wish to understand whether the pending bill will lead to debate? If so, I shall not press it now.

Mr. STEWART. I should like to examine the papers; and if there is a report there I hope it will be printed.

Mr. SUMNER. It is printed and on your table; it has been printed for some time.

Mr. CONNESS. I wish to say that I desire to be heard on this subject again. I have some information now touching the action of the Committee on Foreign Relations, and will state what that is on another occasion.

The PRESIDENT *pro tempore*. The Senator from West Virginia moves that the Senate proceed to the consideration of the order of the day, being the bills reported from the Committee on Pensions.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the amendments of the Senate to the following bills:

A bill (H. R. No. 176) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864;

A bill (H. R. No. 593) to continue the Bureau for the Relief of Freedmen and Refugees, and for other purposes;

A bill (H. R. No. 538) to extend the boundaries of the collection district of Philadelphia so as to include the whole consolidated city of Philadelphia;

A bill (H. R. No. 861) relating to the Supreme Court of the United States;

A bill (H. R. No. 198) to reestablish the

boundaries of the collection districts of Michigan and Michilimackinac, and to change the names of the collection districts of Michilimackinac and Port Huron; and

A bill (H. R. No. 764) for the relief of certain exporters of distilled spirits.

The message further announced that the House had concurred in the concurrent resolution of the Senate tendering the thanks of Congress to Hon. Edwin M. Stanton, late Secretary of War.

The message also announced that the House had agreed to the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 184) granting a pension to Mrs. Ann Corcoran.

The message further announced that the House had passed the bill (S. No. 426) for the relief of Thomas Crossley; and the joint resolution (S. R. No. 134) authorizing a change of mail service between Fort Abercrombie and Helena, severally without amendment.

#### BILL INTRODUCED.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 563) for the preservation of the harbors of the United States against encroachments; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

#### HENRY E. MORSE.

Mr. VAN WINKLE. I move that the Senate proceed to consider House bill No. 152.

The motion was agreed to; and the bill (H. R. No. 152) for the relief of the widow and children of Henry E. Morse was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll the names of the widow and minor children under sixteen years of age of Henry E. Morse, late a private in company G, ninth regiment Vermont volunteers, subject to the provisions and limitations of the pension laws.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### MILTON ANDERSON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 246.

The motion was agreed to; and the bill (H. R. No. 246) granting a pension to Milton Anderson was considered as in Committee of the Whole. The bill is a direction to the Secretary of the Interior to place the name of Milton Anderson, late a private in company K, of the one hundred and fifteenth regiment Illinois infantry volunteers, on the pension-roll, at the rate of fifteen dollars per month, to commence from the 1st day of May, 1863, and to continue during his natural life.

Mr. CONKLING. I wish to inquire of the honorable Senator from West Virginia whether all these bills which are being passed have received his personal examination?

Mr. VAN WINKLE. They have not only received my personal examination, but are House bills, and have been examined and approved by the committee there and then have passed the House of Representatives.

Mr. CONKLING. That of course we know. As they are House bills, they have passed the House, or they would not be here. But I would like to know whether, independent of that, the Senator has himself examined them?

Mr. VAN WINKLE. I can assure the Senator that I have examined and I believe read every paper in all the cases, and they have also been canvassed before the Pension Committee of the Senate.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### JAMES L. DICKERSON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 257.

The motion was agreed to; and the bill (H. R. No. 257) for the relief of James L. Dickerson was considered as in Committee of the Whole. By its terms the Secretary of the Interior is to place on the pension-roll the name of James L. Dickerson, late a private in company D, first West Virginia artillery, in the war of 1861, and to pay him the same pension allowed privates, subject to the provisions and limitations of the general pension laws, to commence on the 27th day of June, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARY B. CRAIG.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 258.

The motion was agreed to; and the bill (H. R. No. 258) for the relief of Mary B. Craig was considered as in Committee of the Whole. It provides for placing the name of Mary B. Craig, of Marshall county, West Virginia, widow of Samuel F. Craig, on the pension-roll, at the rate of eight dollars per month, to commence on the 1st day of July, 1865, subject to the limitations and provisions of the pension laws.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MARGARET HUSTON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 280.

The motion was agreed to; and the bill (H. R. No. 280) to grant a pension to Margaret Huston was considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place the name of Margaret Huston on the roll of pensions as a widow, at the rate of seventeen dollars per month, from January 1, 1865, subject to the limitations and provisions of the pension laws.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

DAVID VAN NORDSTRAND.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 455.

The motion was agreed to; and the bill (H. R. No. 455) granting a pension to David Van Nordstrand was considered as in Committee of the Whole. It provides for placing the name of David Van Nordstrand, late of company H, of the one hundred and twenty-seventh regiment of Indiana volunteer infantry, on the pension-roll, at the rate of fifteen dollars per month, from and after the passage of the act.

Mr. VAN WINKLE. I move to amend the bill by striking out the words "the passage of this act," and inserting "9th day of October, 1864."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. SHERMAN. I should like to ask the Senator what is the reason for going back?

Mr. VAN WINKLE. The law expressly puts it at the date of the injury or discharge. This bill was founded principally on the evidence of Mr. Speaker COLFAX. He drew the bill himself, and made a mistake in drawing it, which he did not perceive until it had passed the House of Representatives. He then came to me and asked me to offer the amendment. It is strictly in accordance with law.

Mr. CONKLING. Does the amendment make the pension date from the time of the disability, or from the discharge?

Mr. VAN WINKLE. I cannot say which. The disability was the loss of a leg.

Mr. SHERMAN. If the disability was so marked as the loss of a leg, why could not the person get his pension in the regular way?

Mr. VAN WINKLE. This man lost his leg when he was sent off on particular duty. He was on a railroad car and fell from the top of the car, and his leg was crushed. At the time

this occurred the Pension Office was not in the habit of allowing pensions in such cases; but I am entirely satisfied on examination that it is a correct case, and that the man should have his pension according to the amendment.

The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

CORNELIA K. SCHMIDT.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 517.

The motion was agreed to; and the bill (H. R. No. 517) granting a pension to Cornelia K. Schmidt, widow of Adam Schmidt, deceased, late a private in company A, thirty-seventh Ohio volunteers, was considered as in Committee of the Whole. By its terms the Secretary of the Interior is to place on the pension-roll the name of Cornelia K. Schmidt, widow of Adam Schmidt, deceased, a private in company A, thirty-seventh regiment Ohio volunteers, and to pay her the pension allowed a private during her widowhood, subject to the provisions and limitations of the pension laws, to commence on the 10th day of April, 1864; and in case of her death or marriage the pension is to be paid to the minor children of Adam Schmidt, deceased, who may be under sixteen years of age, subject to the provisions of the general pension laws.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ELIZA J. RENNARD.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 517.

The motion was agreed to; and the bill (H. R. No. 517) granting a pension to Eliza J. Rennard, widow of William K. Rennard, deceased, late a private in tenth Ohio volunteers, of war of 1861, was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll the name of Eliza J. Rennard, widow of William K. Rennard, deceased, a private in tenth Ohio battery of volunteers of the war of 1861, and to pay her the pension allowed a private during her widowhood, subject to the provisions and limitations of the pension laws, to commence on the 1st day of March, 1865; and in case of her death or marriage the pension is to be paid to the minor children of William K. Rennard, deceased, who may be under sixteen years of age, subject to the provisions and limitations of the general pension laws.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOSEPHINE K. BUGHER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 520.

The motion was agreed to; and the bill (H. R. No. 520) to place the name of Josephine K. Bugher on the pension-roll was considered as in Committee of the Whole. By its terms the Secretary of the Interior is to place the name of Josephine K. Bugher, of Missouri, on the pension-roll, at the rate of twenty dollars per month, commencing on the 1st day of August, 1861, as widow of Captain William J. Bugher, subject to the limitations and provisions of the pension laws.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

SUSAN A. MITCHELL.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 526.

The motion was agreed to; and the bill (H. R. No. 526) increasing the pension of Susan A. Mitchell was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations

of the pension laws, the name of Susan A. Mitchell, mother of Lieutenant Leander F. Alley, late of company I, twentieth Massachusetts regiment volunteer infantry, as the mother of a second lieutenant, in lieu of the pension she is now receiving.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOHN Q. A. KECK.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 236.

The motion was agreed to; and the bill (H. R. No. 236) granting a pension to John Q. A. Keck, late a private in the third Missouri cavalry, was considered as in Committee of the Whole. It provides for placing the name of John Q. A. Keck, late a private in the third Missouri cavalry, on the pension-roll, to commence on the 19th day of December, 1862, and to be subject to the provisions and limitations of the pension laws.

The Committee on Pensions proposed to amend the bill by inserting after the word "roll," in line four, the words "and to pay him a pension of fifteen dollars per month."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

ALMIRA WYETH.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 411.

The motion was agreed to; and the bill (H. R. No. 411) for the relief of Almira Wyeth was considered as in Committee of the Whole.

The Committee on Pensions proposed to strike out all of the bill after the enacting clause, in these words:

That the name of Almira Wyeth, widow of James M. Wyeth, late a private in company I, seventy-fifth regiment Illinois volunteers, be placed on the pension-roll in pursuance of existing law in such cases, commencing on the 5th day of March, 1863.

And in lieu thereof to insert:

That the Secretary of the Interior is hereby authorized and directed to place the name of Almira Wyeth, widow of James M. Wyeth, late a private in company I, seventy-fifth regiment Illinois volunteers, on the pension-roll, and allow and pay her a pension at the rate of eight dollars per month, from the 5th day of March, 1863, to continue during her widowhood.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment concurred in. The amendment was ordered to be engrossed, and the bill to be read the third time. The bill was read the third time, and passed.

GEORGE F. GORHAM.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 518.

The motion was agreed to; and the bill (H. R. No. 518) granting a pension to George F. Gorham, late a private in company B, twenty-ninth regiment Massachusetts volunteer infantry, was considered as in Committee of the Whole.

The first section is a direction to the Secretary of the Interior to place on the pension-roll the name of George F. Gorham, late a private in company B, twenty-ninth regiment Massachusetts volunteer infantry, in the war of 1861, and provides that he be paid the same amount of pension allowed in similar cases, subject to the provisions and limitations of the general pension laws, to be computed from the 16th day of January, 1865.

The second section provides that inasmuch as George F. Gorham is now insane, and his father, John J. Gorham, appointed guardian, it is ordered and directed that the pension money be paid over to said guardian to be applied to the support of George F. Gorham during his insanity.

The Committee on Pensions reported an



amendment, to strike out in lines seven, eight, and nine the words "paid the same amount of pension allowed in similar cases, subject to the provisions and limitations of the general pension laws," and to insert "allowed and paid a pension at the rate of twenty-five dollars per month."

The amendment was agreed to.

Mr. VAN WINKLE. I move, in the second line of the second section, to strike out the words "and his father, John J. Gorham, appointed guardian;" and also to strike out the word "said" and insert "his," in the fourth line. The bill provides that the pension shall be absolutely paid to his father. His father may die and another guardian be appointed. The amendment is that the pension shall be paid to his guardian, whoever it may be.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed, and the bill to be read the third time; the bill was read the third time, and passed.

#### PRESIDENTIAL APPROVAL OF BILLS.

A message from the President of the United States, by Mr. W. G. MOORE, his Secretary, announced that the President had on the 19th instant approved and signed the following bills:

An act (S. No. 322) granting a pension to Sherman H. Cowles;

An act (S. No. 323) granting a pension to Michael Kelley;

An act (S. No. 344) granting a pension to Caroline and Margaret Swartwout;

An act (S. No. 420) granting a pension to James A. Guthrie;

An act (S. No. 421) granting a pension to Caroline E. Thomas; and

An act (S. No. 424) granting a pension to Bartlett and Carrie Edwards, children of David W. Edwards, deceased.

W. W. CUNNINGHAM.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 522.

The motion was agreed to; and the bill (H. R. No. 522) granting a pension to W. W. Cunningham was considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place the name of W. W. Cunningham, late a sergeant of company C, thirteenth New York cavalry, on the pension-roll, subject to the provisions and limitations of the pension laws, to commence from the 25th day of October, 1865.

The Committee on Pensions proposed to amend the bill by inserting after the word "roll," in line six, "and to allow and pay him a pension at the rate of fifteen dollars per month."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read the third time. The bill was read the third time, and passed.

JAMES S. TODD.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 523.

The motion was agreed to; and the bill (H. R. No. 523) granting a pension to James S. Todd was considered as in Committee of the Whole. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the name of James S. Todd, of North Carolina, father of two sons who died in the first regiment North Carolina volunteers.

The Committee on Pensions proposed to amend the bill by adding to it "and to allow and pay him a pension at the rate of eight dollars per month, to commence from the passage of this act, and to continue during his natural life."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment concurred in.

The amendment was ordered to be engrossed, and the bill to be read the third time. The bill was read the third time, and passed.

AUSTIN M. PARTRIDGE.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 524.

The motion was agreed to; and the bill (H. R. No. 524) granting a pension to Austin M. Partridge was considered as in Committee of the Whole. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Austin M. Partridge, late a wagoner in company F, twenty-sixth regiment of Iowa infantry, commencing March 26, 1864.

The Committee on Pensions reported an amendment, to insert in line seven, after the word "infantry," the words "and allow and pay him a pension at the rate of eight dollars per month."

Mr. VAN WINKLE. The committee withdraw the amendment.

The PRESIDENT *pro tempore*. The amendment will be considered as withdrawn if there be no objection.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MAHALA M. STRAIGHT.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 373.

The motion was agreed to; and the bill (H. R. No. 373) to place the name of Mahala M. Straight upon the pension-roll of the United States was considered as in Committee of the Whole.

The Committee on Pensions proposed to amend the bill by striking out the letter "A," in the fourth line, and inserting "M;" and also by inserting after the word "deceased," in the fifth line, the words "late a private in company E, one hundred and twenty-ninth regiment Illinois volunteers."

The amendment was agreed to.

The next amendment was to insert after the words "United States," in line seven, the words "and to pay her a pension at the rate of eight dollars per month, to commence on the 5th day of September, in the year 1862, and to continue during her widowhood."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments concurred in. The amendments were ordered to be engrossed, and the bill to be read the third time.

The bill was read the third time and passed; and its title was amended so as to read, "a bill to place the name of Mahala M. Straight upon the pension-roll of the United States."

NANCY WEEKS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 463.

The motion was agreed to; and the bill (H. R. No. 463) increasing the pension of Nancy Weeks, widow of Francis Weeks, a soldier of the war of 1812, was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to increase the pension of Mrs. Nancy Weeks, widow of Francis Weeks, late of the State of Georgia, and a soldier of the war of 1812, to ten dollars per month, from and after the passage of this act, and to continue during her natural life.

The Committee on Pensions reported the bill with an amendment in line six, to strike out the words "a soldier of the war of 1812" and to insert "an ensign in the revolutionary war;" and in line nine to strike out the words "natural life" and insert the word "widowhood."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill read a third time. The bill was read the third time, and passed; and

its title was amended so as to read, "A bill increasing the pension of Nancy Weeks, widow of Francis Weeks, an ensign in the revolutionary war."

JOHN KELLEY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 454.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 454) granting a pension to John Kelley. It proposes to direct the Secretary of the Interior to place on the pension-roll the name of John Kelley, late a private in company H, sixty-seventh regiment Pennsylvania volunteers, to date from the 16th of January, 1865, subject to the provisions and limitations of the pension laws.

The Committee on Pensions reported the bill with an amendment, to insert after the word "volunteers" the words "and to allow and pay him a pension at the rate of eight dollars per month."

Mr. VAN WINKLE. The committee withdraw that amendment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PLEASANT STOOPS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 456.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 456) granting a pension to the minor children of Pleasant Stoops. The bill instructs the Secretary of the Interior to place upon the pension-roll the names of the minor children of Pleasant Stoops, late a member of company F, eighteenth regiment of United States infantry, to date from the day of his death, subject to the provisions and limitations of the pension laws.

The Committee on Pensions reported the bill with amendments. The amendments were, in line five to insert the names of "David Henry Stoops, Pleasant Stoops, and Sturges Stoops;" in line six to strike out the word "minor" before "children," and after the word "children" to insert "under sixteen years of age;" and in line eight, after the word "infantry," to insert "and to pay to them or their legally-authorized guardian or guardians a pension of eight dollars per month;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and instructed to place upon the pension-roll the names of David Henry Stoops, Pleasant Stoops, and Sturges Stoops, the children, under sixteen years of age, of Pleasant Stoops, late a member of company F, eighteenth regiment of United States infantry, and to pay to them or their legally-authorized guardian or guardians a pension of eight dollars per month, to date from the day of his death, subject to the provisions and limitations of the pension laws.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed; and its title was amended so as to read, "A bill granting a pension to the children of Pleasant Stoops."

BENJAMIN B. NAYLOR.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 516.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 516) for the relief of the widow and minor children of Benjamin B. Naylor, late a pilot on the gunboat Patapsco. By the bill the Secretary of the Interior is directed to place the names of the widow and minor children under sixteen years of age of Benjamin B. Naylor, late a pilot on the gunboat Patapsco, on the pension-roll, at the rate allowed by law to pilots in the Navy, to commence on the 15th day of January, 1865, the

same to be subject to the provisions and limitations of the pension laws, and paid out of the naval pension fund.

The Committee on Pensions reported the bill with amendments, in line four to strike out the word "minor" before "children," and in line seven to strike out the words "allowed by law to pilots in the Navy," and to insert the words "of fifteen dollars per month."

Mr. VAN WINKLE. The committee withdrew those amendments.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SOLOMON ZACHMAN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 521.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 521) to place the name of Solomon Zachman on the pension-roll.

The Committee on Pensions reported the bill with amendments. The amendments were in line six after the word "roll" to insert the words "and to pay him;" in line seven to strike out the words "commencing on" and to insert the word "from;" in lines eight and nine to strike out the words "subject to the limitations and requirements of the pension laws," and to insert "to the 6th day of June, 1866, and thereafter at the rate of fifteen dollars per month during his natural life;" so that the bill will read:

That the Secretary of the Interior be authorized and directed to place the name of Solomon Zachman, of Marion county, Ohio, formerly a member of company D, eighty-second Ohio volunteers, on the pension-roll, and to pay him at the rate of eight dollars per month, from the 30th day of May, 1864, to the 6th day of June, 1866, and thereafter at the rate of fifteen dollars per month during his natural life.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed; and its title was amended so as to read, "A bill granting a pension to Solomon Zachman."

JEREMIAH T. HALLETT.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 525.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 525) granting a pension to Jeremiah T. Hallett. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jeremiah T. Hallett, late a member of company I, first United States infantry, commencing March 10, 1864.

The Committee on Pensions reported the bill with an amendment, to insert after the word "infantry," in line seven, the words "and to allow and pay him a pension at the rate of twenty-five dollars per month."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

SARAH E. PICKELL.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 659.

The motion was agreed to; and the bill (H. R. No. 659) granting a pension to Sarah E. Pickell was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah E. Pickell, widow of John Pickell, late of the thirteenth regiment New York volunteers, at the rate of seventeen dollars per month, commencing April 6, 1866.

The Committee on Pensions reported an amendment to the bill, to insert after the word "volunteers" the words "and to pay her a pension."

Mr. VAN WINKLE. The committee withdrew that amendment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM CRAFT.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 661.

The motion was agreed to; and the bill (H. R. No. 661) granting a pension to the widow and minor children of William Craft was considered as in Committee of the Whole. The bill, as passed by the House of Representatives, directed the Secretary of the Interior to place on the pension-roll the names of the widow and minor children of the late William Craft, late of company H, eighty-second Pennsylvania regiment, subject to the provisions and limitations of the pension laws, to commence April 6, 1865.

The Committee on Pensions reported the bill with amendments. The amendments were in line five to strike out the word "the" and to insert "Susan F. Craft;" and also to strike out the words "and minor children" and to insert "and the child under sixteen years of age;" in line six to strike out the words "the late;" in line seven to strike out the letter "H" and to insert "D;" and in line eight, after the word "regiment," to insert "and to pay her a pension at the rate of ten dollars per month;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the names of Susan F. Craft, widow, and the child under sixteen years of age of William Craft, late of company D, eighty-second Pennsylvania regiment, and to pay her a pension at the rate of ten dollars per month, subject to the provisions and limitations of the pension laws, to commence April 6, 1865.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed; and its title was amended, so as to read, "A bill granting a pension to the widow and child of William Craft."

GEORGE R. WATERS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 662.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 662) granting a pension to the widow and minor children of George R. Waters. The bill, as it passed the House of Representatives, directed the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the widow and minor children of George R. Waters, late a member of the fiftieth regiment New York engineers, commencing November 17, 1864.

The Committee on Pensions reported the bill with amendments. The amendments were in line six to insert the name of "Mary Waters," and also to insert the words "the three," and to strike out the word "minor" before "children," and after the word "children" to insert the words "under sixteen years of age;" in line eight to strike out the word "fiftieth," and insert "fifteenth," and also to strike out the word "engineers" and to insert the words "volunteers, and to pay her a pension at the rate of fourteen dollars per month;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Mary Waters, the widow, and the three children under sixteen years of age, of George R. Waters, late a member of the fifteenth regiment New York volunteers, and to pay her a pension at the rate of fourteen dollars per month, commencing November 17, 1864.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed; and its title was amended so as to read, "A bill granting a pension to the widow and children of George R. Waters."

CYRUS D. WOOD.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 663.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 663) granting a pension to Cyrus K. Wood, the legal representative of Cyrus D. Wood. The bill, as it passed the House of Representatives, proposed to direct the Secretary of the Interior to pay to Cyrus K. Wood, of Auburn, Maine, father and legal representative of Cyrus D. Wood, late of company H, tenth regiment Maine volunteer infantry, eight dollars per month from the 8th of May, 1863, to the 6th of June, 1866, and twenty-five dollars per month from the 6th of June, 1866, to the 8th of April, 1867.

The Committee on Pensions reported the bill with amendments. The amendments were, in line four to strike out the words "pay to Cyrus K. Wood, of Auburn, Maine, father and legal representative of," and to insert the words "place on the pension-roll the name of," and in line seven, after the word "infantry," to insert the words "and to pay to him a pension at the rate of;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Cyrus D. Wood, late of company H, tenth regiment Maine volunteer infantry, and to pay to him a pension at the rate of eight dollars per month from the 8th day of May, 1863, to the 6th day of June, 1866; and twenty-five dollars per month from said 6th day of June, 1866, to the 8th day of April, 1867.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed, and the bill be read a third time. The bill was read the third time, and passed; and its title was amended so as to read, "A bill granting a pension to Cyrus D. Wood."

CHARLES GOULER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 664.

The motion was agreed to; and the bill (H. R. No. 664) granting a pension to the minor children of Charles Gouler was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the minor children of Charles Gouler, late a private in company F, ninth New Hampshire volunteers, commencing April 18, 1866. The bill also repeals an act approved April 18, 1866, entitled "An act granting a pension to Mrs. Emerance Gouler," and an act approved July 13, 1866, entitled "An act amendatory of an act entitled 'An act granting a pension to Mrs. Emerance Gouler.'"

The Committee on Pensions reported the bill with amendments. The amendments were in section one, line six, to strike out the words "the minor" before "children" and to insert "Willie, Ellen, and Tellis Gouler," and after the word "children" to insert "under sixteen years of age;" in line eight, after the word "volunteers," to insert "and to pay them a pension at the rate of eight dollars per month;" and in line ten to insert "to continue until they severally attain the age of sixteen years;" so that the first section will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Willie, Ellen, and Tellis Gouler, children under sixteen years of age of Charles Gouler, late a private in company F, ninth New Hampshire volunteers, and to pay them a pension at the rate of eight dollars per month, commencing

ing April 18, 1866, to continue until they severally attain the age of sixteen years.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed. The title of the bill was amended so as to read, "A bill granting a pension to the children of Charles Gonler."

SUSAN V. BERG.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 665.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 665) granting a pension to Susan V. Berg. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Susan V. Berg, widow of Charles Berg, who was killed in the employ of the quartermasters' department, in Kansas, on or about the 12th day of November, 1864, at the rate of eight dollars per month.

The Committee on Pensions reported the bill with an amendment, to insert in line nine the words "and to pay her a pension."

Mr. VAN WINKLE. The committee withdrew that amendment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HENRY H. HUNTER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 666.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 666) granting a pension to Henry H. Hunter. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Henry H. Hunter, a resident of Knox county, Kentucky, who was wounded while serving with the first regiment of Kentucky volunteer cavalry, commencing October 7, 1861.

The Committee on Pensions reported the bill with an amendment, in line seven to strike out the word "and," and in line eight, after the word "cavalry," to insert the words "and to pay him a pension at the rate of fifteen dollars per month."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill read a third time. The bill was read the third time, and passed.

ELIZABETH BUTLER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 668.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 668) granting a pension to Elizabeth Butler, widow of Cyrus Butler. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Butler, widow of Cyrus Butler, late a special agent in the provost marshal's office in the nineteenth Pennsylvania district, and pay her as the widow of a private, commencing October 31, 1864.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MYRON WILKLOW.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 669.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 669) granting a pension to the widow and minor children of

Myron Wilklow. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the widow and minor children of Myron Wilklow, late a member of company B, forty-seventh Ohio volunteers, commencing June 2, 1865.

The Committee on Pensions reported the bill with amendments. The amendments were, in line six to insert the name "Sarah A. Wilklow," and also to strike out the word "minor," and insert "Almira, Emma, and Mary Wilklow;" in line seven, after the word "children," to insert "under sixteen years of age;" and in line nine, after the word "volunteers," to insert the words "and to pay her a pension of fourteen dollars per month;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Sarah A. Wilklow, the widow, and Almira, Emma, and Mary Wilklow, children under sixteen years of age, of Myron Wilklow, late a member of company B, forty-seventh Ohio volunteers, and to pay her a pension of fourteen dollars per month, commencing June 2, 1865.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed and the bill to be read a third time. It was read the third time, and passed; and its title was amended so as to read, "A bill granting a pension to the widow and children of Myron Wilklow."

ANDREW HOLMAN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 670.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 670) granting a pension to the widow and children of Andrew Holman. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the widow and minor children of Andrew Holman, late a private in company G, twenty-ninth regiment of Ohio volunteer infantry, commencing March 26, 1865.

The Committee on Pensions reported the bill with amendments. The amendments were, in line six to insert the name "Kezia Holman," and also to strike out the word "minor," and insert the words "the three;" in line seven, after the word "children," to insert the words "under sixteen years of age;" and in line nine, after the word "infantry," to insert the words "and to pay her a pension at the rate of fourteen dollars per month;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Kezia Holman, the widow, and the three children under sixteen years of age, of Andrew Holman, late a private in company G, twenty-ninth regiment of Ohio volunteer infantry, and to pay her a pension at the rate of fourteen dollars per month, commencing March 26, 1865.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

HENRY KANEDAY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 671.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 671) granting a pension to the widow of Henry Kaneday. The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the widow and minor children of Henry Kaneday, late a private in company I, fifteenth regiment Iowa infantry, commencing May 5, 1862.

The Committee on Pensions reported the bill with amendments. The amendments were in line six to insert the name of "Elizabeth Kaneday," and also to strike out the words "and minor children," and in line eight, after the word "infantry," to insert the words "and to pay her a pension at the rate of eight dollars per month;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Kaneday, the widow of Henry Kaneday, late a private in company I, fifteenth regiment Iowa infantry, and to pay her a pension at the rate of eight dollars per month, commencing May 5, 1862.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

CHARLES W. WILCOX.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 672.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 672) granting a pension to the widow and minor children of Charles W. Wilcox. The bill, as passed by the House of Representatives, directed the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the widow and minor children of Charles W. Wilcox, late of company B, ninety-seventh Illinois volunteers, commencing March 16, 1863.

The Committee on Pensions reported the bill with amendments, to insert in line six the name of "Martha J. Wilcox," and also to strike out the word "minor," and to insert "James W., Clarinda I., Ira E., and Charles E. Wilcox;" in line seven, after the word "children," to insert "under sixteen years of age;" and in line nine, after the word "volunteers," to insert "and to pay her a pension at the rate of sixteen dollars per month;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Martha J. Wilcox, the widow, and James W., Clarinda I., Ira E., and Charles E. Wilcox, children under sixteen years of age, of Charles W. Wilcox, late of company B, ninety-seventh Illinois volunteers, and to pay to her a pension at the rate of sixteen dollars per month, commencing March 16, 1863.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time and passed, and its title was amended so as to read, "A bill granting a pension to the widow and children of Charles W. Wilcox."

THOMAS CONNOLLY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 676.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 676) granting a pension to Thomas Connolly. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Thomas Connolly, late a member of company A, sixty-ninth New York volunteers.

The Committee on Pensions reported the bill with an amendment to insert at the end of the bill the following:

And to pay him a pension at the rate of fifteen dollars per month, commencing on the 30th day of June, 1865.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.



JAMES HEATHERLY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 677.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 677) granting a pension to the minor children of James Heatherly. The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the minor children of James Heatherly, late of company E, eleventh West Virginia volunteers, commencing December 19, 1866.

The Committee on Pensions reported the bill with amendments. The amendments were, in line six to insert the names of "Joseph, Sarah, Loami, Francis, and James Heatherly;" in line seven to strike out the word "minor" before the word "children," and after the word "children" to insert the words "under sixteen years of age;" in line nine, after the word "volunteers," to insert "and to pay them a pension at the rate of eight dollars per month;" in lines ten and eleven to strike out the words "December 19, 1866," and insert "January 24, 1865, and to continue until they severally attain the age of sixteen years;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Joseph, Sarah, Loami, Francis, and James Heatherly, the children under sixteen years of age of James Heatherly, late of company E, eleventh West Virginia volunteers, and to pay them a pension at the rate of eight dollars per month, commencing January 24, 1865, and to continue until they severally attain the age of sixteen years.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed. Its title was amended so as to read, "A bill granting a pension to the children of Thomas Heatherly."

JOHN H. FINLAY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 770.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 770) granting a pension to John H. Finlay. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John H. Finlay, late a member of company G, second Illinois cavalry, commencing October 6, 1864.

The Committee on Pensions reported the bill with two amendments. The first amendment was in line seven, to strike out the word "commencing" and to insert the words "and to pay him a pension at the rate of eight dollars per month from."

The amendment was agreed to.

The next amendment was to insert at the end of the bill the words "until June 6, 1866, and thereafter at the rate of fifteen dollars per month."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

MARY GRAHAM.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 667.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 667) granting a pension to Mary Graham. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary Graham, mother of John Graham, alias Patrick Ryan, late of company A, eighteenth

United States infantry, commencing September 10, 1866.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CORNELIUS L. RICE.

Mr. VAN WINKLE. I now move to take up for consideration House bill No. 675.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 675) granting a pension to the widow and minor children of Cornelius L. Rice.

The Committee on Pensions reported the bill with amendments. The amendments were, in line six to insert the name of "Elizabeth Rice," and also to strike out the words "minor children" and insert the words "William T. S. Rice, the child under sixteen years of age;" and in line nine, after the word "volunteers," to insert the words "and to pay her a pension of ten dollars per month;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Elizabeth Rice, the widow, and William T. S. Rice, the child under sixteen years of age, of Cornelius L. Rice, late a member of company B, ninety-first regiment Pennsylvania volunteers, and to pay her a pension of ten dollars per month, commencing December 4, 1866.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed. The title of the bill was amended so as to read, "A bill granting a pension to the widow and minor child of Cornelius L. Rice."

CAPTAIN WILLIAM M'KEAN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 828.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 828) for the relief of Captain William McKean. It directs the Secretary of the Interior to place the name of William McKean, late captain company I, ninety-second regiment New York volunteers, on the pension-roll, and to pay to him the same pension allowed by the general pension laws to persons having lost the sight of both eyes in the military service of the United States, to be paid under the restrictions and limitations imposed by the pension laws.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DAVID HOWE.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 769.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 769) granting a pension to David Howe. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of David Howe, late a special agent in the provost marshal's office for the fourth Massachusetts district, commencing April 21, 1865.

The Committee on Pensions reported the bill with an amendment, to insert in line seven, after the word "district," the words "and to pay him a pension at the rate of fifteen dollars per month."

Mr. VAN WINKLE. The committee withdraw the amendment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN D. LAY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 771.

The motion was agreed to; and the Senate,

as in Committee of the Whole, proceeded to consider the bill (H. R. No. 771) granting a pension to John D. Lay. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John D. Lay, a citizen of Daviess county, Missouri, commencing on the 1st of January, 1862.

The Committee on Pensions reported the bill with an amendment, to insert after the word "Missouri," in line six, the words "and to pay him a pension at the rate of fifteen dollars per month."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

ROBERT M'CRORY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 772.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 772) granting a pension to Robert McCrory. The bill makes it the duty of the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Robert McCrory, late third assistant engineer on the steamer John Raine, commencing May 19, 1863.

The Committee on Pensions reported the bill with an amendment, to insert in line seven the words "and to pay him a pension at the rate of fifteen dollars per month."

Mr. VAN WINKLE. I withdraw that amendment; and I will state, in explanation of the withdrawal of so many of these amendments, that I do it in consequence of a conference with the committee of the other House. Wherever there is anything on the face of the bill which indicates the rate of pension I shall withdraw the amendments of the Committee on Pensions. Therefore, I withdraw this amendment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 538) to extend the boundaries of the collection district of Philadelphia so as to include the whole consolidated city of Philadelphia;

A bill (H. R. No. 861) relating to the Supreme Court of the United States;

A bill (H. R. No. 176) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864;

A bill (H. R. No. 764) for the relief of certain exporters of rum;

A bill (H. R. No. 598) to continue the Bureau for the relief of Freedmen and Refugees, and for other purposes;

A joint resolution (H. R. No. 198) to reestablish the boundaries of the collection districts of Michigan and Michilimackinac, and to change the names of the collection districts of Michilimackinac and Port Huron; and

A joint resolution (H. R. No. 216) to authorize the Secretary of War to place at the disposal of the Lincoln Monument Association damaged and captured ordnance.

WILLIAM H. M'DONALD.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 773.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 773) granting a

pension to William H. McDonald. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William H. McDonald, late of company F, sixtieth regiment New York volunteers, commencing March 11, 1862.

The Committee on Pensions reported the bill with an amendment, to insert after the word "volunteers," in line seven, the words "and to pay him a pension at the rate of fifteen dollars per month."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read the third time. It was read the third time, and passed.

AMOS WITHAM.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 774.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 774) granting a pension to Amos Witham. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Amos Witham, father of Amos O. Witham, late a member of company A, thirtieth Maine volunteers, commencing August 3, 1864.

The Committee on Pensions reported the bill with an amendment, to insert in line seven, after the word "volunteers," the words "and to pay him a pension at the rate of eight dollars per month."

Mr. VAN WINKLE. I withdraw that amendment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ERASTUS KINSEL.

Mr. VAN WINKLE. I now move that the Senate proceed to the consideration of House bill No. 775.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 775) granting a pension to the widow and minor children of Erastus Kinsel. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the widow and minor children of Erastus Kinsel, late a private in company A, one hundred and twenty-fifth regiment Pennsylvania volunteers, commencing April 7, 1863.

Mr. VAN WINKLE. Since this bill was reported by the Committee on Pensions, the lady has married; and so I desire to offer a substitute for the bill giving the pension to the child. I move to strike out all after the enacting clause, and to insert:

That the Secretary of the Interior is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Rebecca Jane Kinsel, the only child under sixteen years of age of Erastus Kinsel, late a private in company A, one hundred and twenty-fifth regiment Pennsylvania volunteers, and to pay her a pension at the rate of eight dollars per month, commencing April 7, 1863, and to continue until she attains the age of sixteen years.

Mr. CONKLING. I should like to inquire what is the object and effect of this substitute?

Mr. VAN WINKLE. The woman has married again, and the child succeeds to the pension. The bill originally gave the pension to the widow, but now the widow's name is left out and the name of the child inserted. It does not increase, but on the contrary diminishes the amount.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed; and its title was amended so as to read, "A bill granting a pension to Rebecca Jane Kinsel."

ZEPHANIAH KNAPP.

Mr. VAN WINKLE. I now move that the Senate proceed to the consideration of House bill No. 776.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 776) granting a pension to Zephaniah Knapp, of Luzerne county, Pennsylvania. The bill requires the Secretary of the Interior to place the name of Zephaniah Knapp on the pension-roll, at the rate of eight dollars per month, to be computed from the 1st of January, 1867, and to continue during his natural life.

The Committee on Pensions reported the bill with an amendment to insert in line five, after the word "roll," the words "and to pay him a pension."

Mr. VAN WINKLE. The committee withdraw that amendment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HAMPTON THOMPSON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 822.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 822) granting a pension to Hampton Thompson. The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Hampton Thompson, late a private in company G, sixty-third regiment Pennsylvania volunteers, commencing September 13, 1865.

The Committee on Pensions reported the bill with an amendment, to insert after the word "volunteers," in line seven, the words "and to pay him a pension at the rate of twenty-five dollars per month."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

GEORGE W. LOCKER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 823.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 823) granting a pension to George W. Locker. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of George W. Locker, late a private in company G, fifteenth Iowa volunteer infantry, commencing June 7, 1862.

The Committee on Pensions reported the bill with an amendment, to insert after the word "infantry," in line seven, the words "and to pay him a pension at the rate of eight dollars per month."

Mr. VAN WINKLE. We withdraw that amendment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANNIE VAUGHN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 824.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 824) granting a pension to Annie Vaughn. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Annie Vaughn, widow of Daniel Vaughn, late a private in company A, fifty-eighth Pennsylvania volunteers, commencing December 25, 1863.

The Committee on Pensions reported the bill with an amendment, to insert after the

word "volunteers," in line seven, the words "and to pay her a pension at the rate of eight dollars per month."

Mr. VAN WINKLE. The committee withdraw that amendment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN S. PHELPS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 673.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 673) granting a pension to the widow and minor children of John S. Phelps. The bill, as it passed the House of Representatives, directed the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the widow and minor children of John S. Phelps, late a lieutenant in the thirty-fifth regiment of Kentucky mounted infantry, commencing July 23, 1863.

The Committee on Pensions reported the bill with amendments. The amendments were, in line six to insert the name "Saffrona C. Phelps;" and also to strike out the word "minor" and insert "Caleb S. Phelps;" in line seven to strike out the word "children" and insert "child under sixteen years of age;" in line eight to insert the word "second" before "lieutenant;" in line nine after the word "volunteer" to insert "and to pay her a pension at the rate of fifteen dollars per month for herself during widowhood, and two dollars per month for the said child until he shall attain the age of sixteen years;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Saffrona C. Phelps, the widow, and Caleb S. Phelps, child under sixteen years of age of John S. Phelps, late a second lieutenant in the thirty-fifth regiment of Kentucky mounted infantry, and to pay her a pension at the rate of fifteen dollars per month for herself during widowhood, and two dollars per month for the said child until he shall attain the age of sixteen years, commencing July 23, 1863.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed. The title was amended so as to read, "A bill granting a pension to the widow and child of John S. Phelps."

JOHN W. HUGHES.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 825.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 825) granting a pension to John W. Hughes. By the bill the Secretary of the Interior is directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John W. Hughes, late a private in company I, nineteenth Iowa volunteers, commencing February 21, 1863.

The Committee on Pensions reported the bill with an amendment, to insert after the word "volunteers," in line seven, the words "and to pay him a pension at the rate of — dollars per month."

Mr. VAN WINKLE. I move to fill the blank in the amendment with "fifteen." It is an accidental omission.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted. The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

MICHAEL MELLON.

Mr. VAN WINKLE. I move that the Sen-

ate proceed to the consideration of House bill No. 826.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 826) granting a pension to Michael Mellon. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Michael Mellon, late of company H, sixty-second Illinois volunteers, commencing May 13, 1863.

The Committee on Pensions reported the bill with an amendment in line seven, after the word "volunteers," to insert "and to pay him a pension at the rate of eight dollars per month."

Mr. VAN WINKLE. We withdraw that amendment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANN WILSON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 827.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 827) granting a pension to Ann Wilson. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ann Wilson, widow of Michael Wilson, late of company F, seventy-first New York volunteers, commencing December 20, 1865.

The Committee on Pensions reported the bill with an amendment, to insert after the word "volunteers," in line seven, the words "and to pay her a pension at the rate of eight dollars per month."

Mr. VAN WINKLE. The committee withdraw that amendment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MRS. SUSAN TEN EYCK WILLIAMSON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 829.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 829) granting a pension to Mrs. Susan Ten Eyck Williamson. It directs the Secretary of the Interior to place the name of Mrs. Susan Ten Eyck Williamson, widow of Charles L. Williamson, late a captain in the United States Navy, on the pension-roll, at the rate of thirty dollars per month, to commence from and after the passage of this bill, and to continue during her widowhood, the pension to be paid out of the naval pension fund.

The Committee on Pensions reported the bill with an amendment, to insert after the word "roll," in line six, the words "and to pay her a pension."

Mr. VAN WINKLE. We withdraw that amendment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIZABETH BARKER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 434.

The motion was agreed to; and the bill (S. No. 434) for the relief of Elizabeth Barker, widow of Alexander Barker, deceased, was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to allow and pay to Elizabeth Barker, widow of Alexander Barker, late a private in company F, twenty-second regiment Massachusetts volunteers, a pension at the rate of eight dollars per month, from the 13th of July, 1862, the date of the death of her husband, until the 7th of October, 1867, on which date her present pension commenced. The bill was reported to the Senate without

amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CARRIE E. BURDETT.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 238.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 238) granting a pension to Carrie E. Burdett. It proposes to direct the Secretary of the Interior to place the name of Carrie E. Burdett, widow of James F. Burdett, late an acting assistant surgeon in the military service, on the pension-roll, at the rate of seventeen dollars per month, to commence on the 6th of August, 1866, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ACTING ASSISTANT SURGEON'S PENSIONS.

Mr. VAN WINKLE. I now ask the Senate to proceed to the consideration of Senate bill No. 201, with a view of postponing it indefinitely.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 201) to amend an act entitled "An act to amend the several acts heretofore passed to provide for the enrolling and calling out the national forces, and for other purposes," approved March 3, 1865. By the provisions of the bill the widows, minor children, or the dependents of acting assistant surgeons dying while performing, or from any wound received or disease contracted while performing that duty, are to be entitled to the same benefits of the pension laws as if the deceased had actually been mustered into the service as assistant surgeons; and any application and depositions heretofore filed in behalf of any widow, minor child, or dependent of any contract surgeon dying from any wound received or disease contracted while performing duty, is to be received and regarded by the Commissioner of Pensions as if this amendment were enacted and in full force at the time of filing of the evidence.

Mr. VAN WINKLE. I move that the bill be indefinitely postponed.

The motion was agreed to.

CHILDREN OF LA FAYETTE CAMERON.

Mr. VAN WINKLE. I now move that the Senate proceed to the consideration of Senate bill No. 175.

The motion was agreed to; and the bill (S. No. 175) for the relief of Joseph McGhee Cameron and Mary Jane Cameron, children of La Fayette Cameron, deceased, was considered by the Senate as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place the names of Joseph McGhee Cameron and Mary Jane Cameron, residents of the District of Columbia, children under sixteen years of age, of La Fayette Cameron, deceased, on the pension-roll, subject to the provisions and limitations of the pension laws, and to pay them a pension at the rate of eight dollars per month, and to each the additional sum of two dollars per month from the 17th of December, 1862, until they severally attain the age of sixteen years.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HENRIETTA NOBLES.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 232.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 232) granting a pension to Henrietta Nobles. It proposes to direct the Secretary of the Interior to place the name of Henrietta Nobles, widow of Captain Daniel G. Nobles, of the fourth regiment of Tennessee infantry, upon the pension-roll, and to pay her a pension at the rate of twenty dollars per

month, to commence on the 2d of November, 1862, and continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SYLVESTER NUGENT.

Mr. VAN WINKLE. I now move that the Senate proceed to the consideration of Senate bill No. 456.

The motion was agreed to; and the bill (S. No. 456) for the relief of Sylvester Nugent was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll the name of Sylvester Nugent, late a private in company F, eleventh regiment Massachusetts volunteers, and to allow and pay him a pension at the rate of eight dollars per month, from the 19th of October, 1862, the date of his discharge, until the 14th of July, 1865, on which date his present pension commenced.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ELIZABETH J. MILLER.

Mr. VAN WINKLE. I now move that the Senate proceed to the consideration of Senate bill No. 457.

The motion was agreed to; and the bill (S. No. 457) granting a pension to Elizabeth J. Miller, widow of General John Miller, was read the second time, and considered as in Committee of the Whole. The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth J. Miller, widow of General John Miller, of Kentucky, and to allow and pay her a pension at the rate of thirty dollars per month, to commence from the 30th of August, 1862, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ELIZABETH STEEPLTON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 494.

The motion was agreed to; and the bill (S. No. 494) granting a pension to Elizabeth Steepleton, widow of Harrison W. Steepleton, deceased, was read a second time and considered as in Committee of the Whole. It directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Steepleton, widow of Harrison W. Steepleton, late a private in company E, sixth regiment Indiana legion, and allow and pay her a pension at the rate of eight dollars per month, to commence on the 9th of July, 1863, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HENRY REENS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 495.

The motion was agreed to; and the bill (S. No. 495) for the relief of Henry Reens was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to allow and pay to Henry Reens, late a private in company I, thirtieth regiment Massachusetts volunteers, now on the pension-roll, his pension from the 3d of June, 1865, the date of his discharge from the service, until the 10th of March, 1867, on which day his present pension commenced.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RILEY H. SMITH.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 496.

The motion was agreed to; and the bill (S.



No. 496) granting a pension to Riley H. Smith was read the second time, and considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Riley H. Smith, late a private in company D, third regiment West Virginia cavalry volunteers, and allow and pay him a pension at the rate of fifteen dollars per month, from the 6th of June, 1866, to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### CATHARINE WANDS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 497.

The motion was agreed to; and the bill (S. No. 497) for the relief of Catharine Wands was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to allow and pay to Catharine Wands, mother of John Wands, late a private in company I, seventh regiment New York heavy artillery volunteers, now on the pension-roll, her pension from the 3d of June, 1864, the date of her son's death, until the 22d of January, 1868, on which date her present pension commenced.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### ANNA M. HOWARD.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 498.

The motion was agreed to; and the bill (S. No. 498) granting a pension to Anna M. Howard was read the second time, and considered as in Committee of the Whole. It authorizes the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Anna M. Howard, mother of George W. Howard, late a private in company C, eleventh regiment New Jersey volunteers, and allow and pay her a pension at the rate of eight dollars per month from the 12th of February, 1864, to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 450) relative to filing reports of railroad companies, with an amendment, in which the concurrence of the Senate was requested.

The message also announced that the House had passed a bill (H. R. No. 1035) authorizing the Manufacturers' National Bank of New York to change its location; and a bill (H. R. No. 1282) authorizing certain banks named therein to change their names, in which it requested the concurrence of the Senate.

#### REPRESENTATION OF ARKANSAS—VETO.

The message further announced that the President of the United States having returned with his objections the bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress, to the House of Representatives, in which House it originated, the House had, in conformity with the Constitution, proceeded to reconsider the bill, and having passed the same by a two-thirds vote, the objections of the President to the contrary notwithstanding, transmitted it, with the President's objections, to the Senate.

#### MARTIN WHITT.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 499.

The motion was agreed to; and the bill (S. No. 499) granting a pension to the widow and child of Martin Whitt, deceased, was read the second

time, and considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret Whitt, widow of Martin Whitt, late a private in company B, fourth regiment Kentucky volunteers, and to allow and pay her a pension at the rate of eight dollars per month for herself during widowhood, and two dollars per month for the child of Martin Whitt until it shall attain the age of sixteen years, commencing September 19, 1863.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### LUCINDA R. JOHNSON.

Mr. VAN WINKLE. I move to take up for consideration Senate bill No. 500.

The motion was agreed to; and the bill (S. No. 500) granting a pension to Lucinda R. Johnson was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lucinda R. Johnson, widow of Doctor Bluford Johnson, of Illinois, late a contract surgeon in the military service of the United States, and to pay her a pension at the rate of seventeen dollars per month, to commence March 7, 1865, and to continue during her widowhood.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### HARRIET W. POND.

Mr. VAN WINKLE. I move that we proceed to the consideration of Senate bill No. 501.

The motion was agreed to; and the bill (S. No. 501) granting a pension to Harriet W. Pond was read the second time, and considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place on the pension-roll the name of Harriet W. Pond, wife of ——— Pond, formerly Harriet W. Stinson, and to allow and pay to her as in her own right, and not subject to the claim or control of her husband, a pension at the rate of seventeen dollars per month, to commence on the 21st day of August, 1864, and to continue during her natural life.

Mr. VAN WINKLE. There are some peculiarities about this bill, which, as it is an original Senate bill, I think it proper to bring to the notice of the Senate.

Mr. POMEROY. Let it go; I understand all about it.

Mr. VAN WINKLE. If no explanation is desired, very well.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### JULIA WHISTLER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 516.

The motion was agreed to; and the bill (S. No. 516) granting a pension to Julia Whistler was read the second time, and considered as in Committee of the Whole. It proposes to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Julia Whistler, widow of William Whistler, late a colonel in the United States Army, at the rate of thirty dollars per month, to commence December 3, 1863, and to continue during her widowhood.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### HENRY BROWN.

Mr. VAN WINKLE. I move now to proceed to the consideration of Senate bill No. 517.

The motion was agreed to; and the bill (S. No. 517) granting a pension to the widow and children of Henry Brown, was read the second

time, and considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Rehma Brown, the widow, and Nancy J., Alvey F., Sarah C., and Henry, children under sixteen years of age of Henry Brown, late a private in company K, tenth regiment Tennessee cavalry volunteers, and to pay her a pension at the rate of eight dollars per month during widowhood, and two dollars per month for each of the children, until they shall attain the age of sixteen years, commencing January 31, 1864.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### JOHN P. FETTY.

Mr. VAN WINKLE. I move now to take up for consideration Senate bill No. 518.

The motion was agreed to; and the bill (S. No. 518) granting a pension to the widow and child of John P. Fetty was read the second time, and considered as in Committee of the Whole. The Secretary of the Interior, under its provisions, is to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Fannie Fetty, the widow, and Ethel May Fetty, child under sixteen years of age, of John P. Fetty, late a private in company I, fourteenth regiment West Virginia infantry volunteers, and to pay her a pension at the rate of eight dollars per month for herself during widowhood, and two dollars per month for the child until she shall attain the age of sixteen years, commencing October 31, 1864.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### EMMA M. MOORE.

Mr. VAN WINKLE. I move to take up for consideration Senate bill No. 519.

The motion was agreed to; and the bill (S. No. 519) granting a pension to Mrs. Emma M. Moore was read the second time, and considered as in Committee of the Whole. By its terms the Secretary of the Interior is to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mrs. Emma M. Moore, widow of Edwin W. Moore, and to pay her a pension at the rate of thirty dollars per month, from the 5th day of October, 1865, during her widowhood.

Mr. VAN WINKLE. I move to amend the bill by striking out "thirty dollars," in the seventh line, and inserting "twenty-five dollars."

The amendment was agreed to.

Mr. VAN WINKLE. This, Mr. President, is also a peculiar case; but as the Senator from Kansas says he knows all about it, I shall not explain it unless an explanation is asked for by some Senator.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and it was read the third time, and passed.

#### MARTHA STOUT.

Mr. VAN WINKLE. I move to take up next for consideration Senate bill No. 520.

The motion was agreed to; and the bill (S. No. 520) granting a pension to Martha Stout was read the second time, and considered as in Committee of the Whole. The Secretary of the Interior is to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Martha Stout, widow of Tinson Stout, late a private in the Daviess county company of home guards, Kentucky militia, and to pay her a pension at the rate of eight dollars per month, to commence on the 11th day of August, 1864, and to continue during her widowhood.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM M. WOOTEN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 521.

The motion was agreed to; and the bill (S. No. 521) granting a pension to the children of William M. Wooten, deceased, was read the second time, and considered as in Committee of the Whole. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Alfred C. Wooten, Susan M. T. Wooten, Jesse Wooten, and Rosalia M. Wooten, children under sixteen years of age of William M. Wooten, deceased, late a private in the Daviess county company of horse guards, Kentucky militia, who, or their legally appointed guardian or guardians, are to receive a pension at the rate of fourteen dollars per month, to commence on the 11th day of August, 1864, and to continue until they severally attain the age of sixteen years.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

SALLY GRIFFIN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of the bill (S. No. 413) granting a pension to Mrs. Sally Griffin, which has been reported adversely.

The motion was agreed to.

Mr. VAN WINKLE. I move the indefinite postponement of the bill.

The motion was agreed to.

HANNAH COOK.

Mr. VAN WINKLE. I move to take up next Senate bill No. 545.

The motion was agreed to; and the bill (S. No. 545) granting a pension to Hannah Cook was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Hannah Cook, widow of Lyman N. Cook, deceased, and to pay her a pension at the rate of \$22 50 per month, to commence from the 2d day of April, 1868.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JANE M'MURRAY.

Mr. VAN WINKLE. I move that we proceed to the consideration of Senate bill No. 546.

The motion was agreed to; and the bill (S. No. 546) for the relief of Jane M'Murray was read the second time, and considered as in Committee of the Whole. It provides for the payment to Jane M'Murray, of Carlisle, Pennsylvania, widow of Ezekiel M'Murray, a soldier of the war of 1812, a pension at the rate of eight dollars per month, in lieu of the sum of four dollars per month now received by her, to commence from the 14th day of July, 1862.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN SHEETS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 547.

The motion was agreed to; and the bill (S. No. 547) granting a pension to John Sheets was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John Sheets, late a private in company F, twelfth regiment West Virginia volunteers, and to pay him a pension at the rate of fifteen dollars per month, to commence on the 14th day of March, 1863.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

PARKS J. STACKHOUSE.

Mr. VAN WINKLE. I move now to take up Senate bill No. 548.

The motion was agreed to; and the bill (S. No. 548) granting a pension to Amanda Stackhouse, and the children of Parks J. Stackhouse, deceased, was read the second time and considered as in Committee of the Whole. By its provisions the Secretary of the Interior is directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Amanda Stackhouse, widow of Parks J. Stackhouse, late a private in company G, second regiment Pennsylvania reserves volunteers, and to pay her a pension at the rate of fifteen dollars per month for herself during widowhood, and two dollars per month for each child of Parks J. Stackhouse under the age of sixteen years, to commence on the 29th day of March, 1868, and to continue until they severally attain the age of sixteen years.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

CATHARINE ECKHARDT.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 549, which is the last pension bill I shall trouble the Senate with to-day.

The motion was agreed to; and the bill (S. No. 549) granting an increase of pension to Catharine Eckhardt was read the second time, and considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to pay to Catharine Eckhardt, widow of Henry L. Eckhardt, late a private in company C, fifth regiment Missouri volunteers, in addition to the pension heretofore granted her, the further sum of two dollars per month, for and on account of the care, custody, and maintenance by her of Anna M. Eckhardt, a child under sixteen years of age of Henry L. Eckhardt by a former wife, from the 3d day of February, 1868, while she has such care, custody, and maintenance, until the child shall attain the age of sixteen years.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

PACIFIC RAILROAD REPORTS.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 450) relative to filing reports of railroad companies. The amendment was to add to the bill the following section:

SEC. 4. And be it further enacted, That in addition to the eight subjects referred to in section twenty of the act of July, 1862, to be reported upon, there shall also be furnished annually to the Secretary of the Interior all reports of engineers, superintendents, or other officers who make annually reports to any of said railroad companies.

Mr. POMEROY. I move that the amendment be concurred in.

The motion was agreed to.

REPRESENTATION OF ARKANSAS—VETO.

The PRESIDENT *pro tempore* laid before the Senate the bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress, which had been received from the House of Representatives with the veto message of the President thereon.

The Secretary read the veto message, as follows:

To the House of Representatives:

I return without my signature a bill entitled "An act to admit the State of Arkansas to representation in Congress."

The approval of this bill would be an admission on the part of the Executive that the act for the more efficient government of the rebel States, passed March 2, 1867, and the act supplementary thereto, were proper and constitutional. My opinion, however, in reference to these measures has undergone no change, but, on the contrary, has been strengthened by the results which have attended their execution.

Even were this not the case, I could not

consent to a bill which is based upon the assumption either that by an act of rebellion of a portion of its people the State of Arkansas seceded from the Union, or that Congress may, at its pleasure, expel or exclude a State from the Union, or interrupt its relations with the Government by arbitrarily depriving it of representation in the Senate and House of Representatives. If Arkansas is a State not in the Union, this bill does not admit it as a State into the Union. If, on the other hand, Arkansas is a State in the Union, no legislation is necessary to declare it entitled "to representation in Congress as one of the States of the Union." The Constitution already declares that "each State shall have at least one Representative;" "that the Senate shall be composed of two Senators from each State," and "that no State without its consent shall be deprived of its suffrage in the Senate."

That instrument also makes each House "the judges of the elections, returns, and qualifications of its own members," and therefore all that is now necessary to restore Arkansas in all its constitutional relations to the Government is the decision by each House upon the eligibility of those who, presenting their credentials, claim seats in the respective Houses of Congress. This is the plain and simple plan of the Constitution; and believing that had it been pursued when Congress assembled in the month of December, 1865, the restoration of the States would long since have been completed. I once again recommend that it be adopted by each House in preference to legislation which I respectfully submit is not only of at least doubtful constitutionality, and therefore unwise and dangerous as a precedent, but is unnecessary, not so effective in its operation as the mode prescribed by the Constitution, involves the additional delay, and from its terms may be taken rather as applicable to a Territory about to be admitted as one of the United States than to a State which has occupied a place in the Union for upward of a quarter of a century.

The bill declares the State of Arkansas entitled and admitted to representation in Congress as one of the States of the Union upon the following fundamental condition:

That the constitution of Arkansas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall be duly convicted under laws equally applicable to all the inhabitants of said State: *Provided*, That any alteration of said constitution, prospective in its effect, may be made in regard to the time and place of residence of voters."

I have been unable to find in the Constitution of the United States any warrant for the exercise of the authority thus claimed by Congress. In assuming the power to impose a "fundamental condition" upon a State which has been duly admitted into the Union on an equal footing with the original States in all respects whatever, Congress asserts a right to enter a State as it may a Territory, and to regulate the highest prerogative of a free people—the elective franchise. This question is reserved by the Constitution to the States themselves, and to concede to Congress the power to regulate this subject would be to reverse the fundamental principle of the Republic, and to place in the hands of the Federal Government (which is the creature of the States) the sovereignty which justly belongs to the States or the people, to the true source of all political power by whom our Federal system was created, and to whose will all is subordinate.

The bill fails to provide in what manner the State of Arkansas is to signify its acceptance of the "fundamental condition" which Congress endeavors to make unalterable and irrevocable. Nor does it prescribe the penalty to be imposed should the people of the State amend or change the particular portions of the constitution which it is one of the purposes of the bill to perpetuate, but leaves them in uncertainty and doubt as to the consequences of such action, when the circumstances under

which this constitution has been brought to the attention of Congress are considered. It is not unreasonable to suppose that efforts will be made to modify its provisions, and especially those in respect to which this measure prohibits any alteration. It is seriously questioned whether the constitution has been ratified by a majority of the persons who, under the act of March 2, 1867, and the acts supplementary thereto, were entitled to registration and to vote upon that issue. Section ten of the schedule provides that—

"No person disqualified from voting or registering under this constitution shall vote for candidates for any office, nor shall be permitted to vote for the ratification or rejection of the constitution at the polls herein authorized."

"Assumed to be in force before its adoption, in disregard of the law of Congress, the constitution undertakes to impose upon the elector other and further conditions. The fifth section of the eighth article provides that 'all persons, before registering or voting,' must take and subscribe an oath which, among others, contains the following clause:

"That I accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men."

It is well known that a very large portion of the electors in all the States, if not a large majority of all of them, do not believe in or accept the political equality of Indians, Mongolians, or negroes with the race to which they belong. If the voters of many of the States of the North and West were required to take such an oath as a test of their qualification, there is reason to believe that a majority of them would remain from the polls rather than comply with its degrading conditions.

How far and to what extent this test-oath prevented the registration of those who were qualified under the laws of Congress it is not possible to know; but that such was its effect, at least sufficient to overcome them all and give a doubtful majority in favor of this constitution, there can be no reasonable doubt.

Should the people of Arkansas, therefore, desiring to regulate the elective franchise so as to make it conform to the constitutions of a large proportion of the States of the North and West, modify the provisions referred to in the "fundamental condition," what is to be the consequence? Is it intended that a denial of representation shall follow? And if so, may we not dread, at some future day, a recurrence of the troubles which have so long agitated the country? Would it not be the part of wisdom to take for our guide the Federal Constitution, rather than resort to measures which, looking only to the present, may in a few years renew, in an aggravated form, the strife and bitterness caused by legislation which has proved to be ill-timed and unfortunate?

ANDREW JOHNSON.

WASHINGTON, June 20, 1868.

Mr. TRUMBULL. I move that the message be printed, and that the subject be postponed until Monday.

The motion was agreed to.

#### EXECUTIVE SESSION.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

Mr. HARIAN. I desire very much to have the attention of the Senate to several District bills, and it is not now quite the usual time for adjournment; and I think if the Senate would give the Committee on the District of Columbia an hour to-day we could dispose of several bills that will not elicit discussion, and, perhaps, in this way economize time very much.

Mr. SHERMAN. There was rather an understanding that we should not do anything but pension business to-day, and we have not a quorum, so that if there was any dispute on any bill it could not be passed.

The PRESIDENT *pro tempore*. Does the

Chair understand the Senator from Ohio to persist in his motion.

Mr. SHERMAN. Yes, sir; I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, June 20, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### LAWS OF MONTANA.

The SPEAKER laid before the House a copy of the laws of Montana Territory; which were referred to the Committee on the Territories.

#### MAIL SERVICE IN DAKOTA AND MONTANA.

The SPEAKER. The first business in order is that pending at the adjournment yesterday, being Senate joint resolution No. 184, authorizing a change of mail service between Fort Abercrombie and Helena. The joint resolution had been read three times, and the gentleman from Minnesota [Mr. DONNELLY] had called the previous question, pending which the gentleman from Ohio [Mr. DELANO] moved that the joint resolution be laid upon the table. The question was taken, but no quorum voted. The gentleman from Ohio called for the yeas and nays, pending which the House adjourned. The question now is upon ordering the yeas and nays on the motion that the joint resolution be laid on the table.

The yeas and nays were not ordered.

The question was again taken upon the motion to lay the joint resolution on the table, and it was not agreed to.

The question recurred upon seconding the previous question.

Mr. WARD. If the previous question is not seconded, will it then be in order to move to refer this joint resolution to the Committee on the Post Office and Post Roads?

The SPEAKER. It will.

Mr. FARNSWORTH. And it will kill it.

Mr. WARD. The chairman of that committee [Mr. FARNSWORTH] seems to be friendly to the measure, and I desire to refer it to his committee for investigation.

Mr. FARNSWORTH. We have investigated it informally.

Mr. WARD. Are the committee prepared to report in its favor?

Mr. FARNSWORTH. I think they are.

Mr. DONNELLY. It is utterly impossible for the committee to report on this joint resolution at this session if it is referred to them. To refer it will be to kill it.

Mr. HIGBY. Have not the Committee on the Post Office and Post Roads a measure of a similar character now before them?

Mr. FARNSWORTH. Not that I am aware of.

Mr. HIGBY. I understood they had.

Mr. FARNSWORTH. O! yes; I think they have; a bill or petition or something of the kind.

Mr. HIGBY. Did not a majority of the House Committee and all the members of the Senate Committee on the Post Office and Post Roads unite in a joint request to the Post Office Department to make the change here contemplated?

Mr. FARNSWORTH. I think that is so.

Mr. BOUTWELL. Is there any exigency in this business that justifies taking this joint resolution out of the ordinary course? Why not refer it to a committee for examination, even if they do not report upon it until the next session?

Mr. DONNELLY. It is very important that this joint resolution should pass now, so that the parties who may take the contract may have time to build the necessary station houses,

depot houses, and bridges during the coming fall.

Mr. WARD. Is it not always made a pretext for putting large bills through at the heel of a session, that we have not time for committees to examine them? I have noticed that the largest jobs that have gone through Congress in the way of expenditures come up at the heel of the session, and the pretext always is that they cannot be examined by committees for want of time. I insist that we should take time to examine this scheme, involving, as it does, an increased expenditure to the extent of \$70,000.

Mr. DONNELLY. I insist upon the previous question.

The question was taken upon seconding the previous question; and upon a division there were—ayes 44, noes 32; no quorum voting.

Mr. WASHBURN, of Indiana, and Mr. WARD, called for tellers.

Tellers were ordered; and Mr. DONNELLY and Mr. WARD were appointed.

The House again divided; and the tellers reported that there were—ayes 60, noes 35.

The Speaker voted in the affirmative; and accordingly the previous question was seconded. The main question was then ordered.

The joint resolution was then ordered to a third reading; and it was accordingly read the third time.

Mr. WARD demanded the yeas and nays on the passage of the joint resolution.

The House divided; and there were—ayes eighteen, noes not counted.

Mr. WARD demanded tellers on the yeas and nays.

Tellers were ordered.

The SPEAKER. More than enough have voted for tellers to order the yeas and nays, and they will be considered ordered, if there be no objection.

There was no objection; and it was ordered accordingly.

The question was taken; and it was decided in the affirmative—yeas 57, nays 50, not voting 82; as follows:

YEAS—Messrs. Adams, Anderson, Delos R. Ashley, Beaman, Beck, Blair, Coburn, Donnelly, Driggs, Eldridge, Farnsworth, Fox, Golladay, Grover, Haight, Higby, Hotchkiss, Ingersoll, Jones, Johnson, Jones, Judd, Kelsey, Knott, Koortz, Lincoln, Loughridge, Marvin, McClurg, McCormick, Moorhead, Morrell, Morrissey, Mungen, Newcomb, O'Neill, Paine, Poland, Price, Sawyer, Sitgreaves, Smith, Starkweather, Stokes, Taber, Taffe, Taylor, Lawrence S. Trimble, Trowbridge, Twichell, Van Aernam, Van Trump, Cadwalader C. Washburn, James F. Wilson, Windom, Woodbridge, and Woodward—57.

NAYS—Messrs. Bailey, Baker, Baldwin, Beatty, Benjamin, Benton, Boutwell, Buckland, Coker, Reader W. Clarke, Cobb, Cook, Cornell, Cullom, Eckley, Eggleston, Eli, Ferriss, Garfield, Getz, Glossbrenner, Harding, Hawkins, Hill, Holman, Chester D. Hubbard, Julian, Ketchum, George V. Lawrence, Maynard, McCarthy, Mercer, Moore, Mullins, Orth, Plants, Polsey, Pomeroy, Scofield, Spalding, Aaron F. Stevens, Thaddeus Stevens, John Trimble, Van Wyck, Ward, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, and John T. Wilson—50.

NOT VOTING—Messrs. Allison, Ames, Archer, Arnell, James M. Ashley, Axtell, Banks, Barnes, Barnum, Bingham, Blaine, Boyer, Bromwell, Brooks, Broomall, Burr, Butler, Cary, Chanler, Churchill, Sidney Clarke, Covode, Dawes, Delano, Dixon, Dodge, Eliot, Ferry, Fields, Finney, Gravely, Griswold, Halsey, Hooper, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Kelley, Kerr, Kitchen, Lufkin, William Lawrence, Loan, Logan, Lynch, Mallory, Marshall, McCullough, Miller, Myers, Niblack, Nicholson, Nunn, Perham, Peters, Phelps, Pike, Pile, Pruyn, Randall, Raum, Robertson, Robinson, Ross, Schenck, Selye, Shaaks, Shellabarger, Stewart, Stone, Thomas, Upson, Van Auker, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburn, William Williams, Stephen F. Wilson, and Wood—82.

So the joint resolution was passed.

During the vote,

Mr. HILL stated that Mr. MYERS was paired with Mr. RANDALL.

The reading of the vote was, by unanimous consent, dispensed with.

The vote was then announced as above recorded.

Mr. DONNELLY moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.



MRS. ANN CORCORAN.

Mr. VAN AERNAM: I submit a report from a committee of conference.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (S. No. 184) granting a pension to Mrs. Ann Corcoran, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the Senate recede from their disagreement to the amendment of the House, and agree to the same.

H. VAN AERNAM,

G. F. MILLER,

*Managers on the part of the House.*

P. G. VAN WINKLE,

LYMAN TRUMBULL,

*Managers on the part of the Senate.*

The report was adopted.

Mr. VAN AERNAM moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THOMAS CROSSLEY:

The SPEAKER stated that the House resumed in the morning hour, which had just commenced, the consideration of Senate bill No. 426, for the relief of Thomas Crossley, reported yesterday from the Committee on Patents by Mr. MYERS.

The bill was read. It provides that Thomas Crossley have leave to make application to the Commissioner of Patents for the extension of the letters-patent issued to him for improvements in machines for printing woolen and other goods for the term of fourteen years from April 5, 1854, the letters-patent bearing date June 20 in that year, in the same manner as if the petition for such extension had been filed at least ninety days before the expiration of the patent, and that the Commissioner be authorized to consider and determine this application in the same manner as if it had been filed ninety days before the expiration of the patent.

Mr. JENCKES. Mr. Speaker, I rise for the purpose of making an explanation. It is simply to enable the petitioner to make a correction as to a date. It gives him no rights. It makes no grant. It does not control the action of the Patent Office or any person employed there. It permits him to file his petition now as if he had filed it at the time allowed by law. There was an accidental mistake.

I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. JENCKES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 861) relating to the Supreme Court of the United States;

An act (H. R. No. 538) to extend the boundaries of the collection district of Philadelphia so as to include the whole consolidated city of Philadelphia;

An act (H. R. No. 598) to continue the Bureau for the Relief of Freedmen and Refugees, and for other purposes;

An act (H. R. No. 764) for the relief of certain exporters of rum; and

An act (H. R. No. 176) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864.

ANDREW S. CORE.

On motion of Mr. HUBBARD, of West Virginia, the bill (S. No. 522) to authorize the Commissioner of the Revenue to settle the

accounts of Andrew S. Core was taken from the Speaker's table, read a first and second time, and referred to the Committee of Ways and Means.

ABELARD GUTHRIE.

Mr. POLAND, from the Committee on Revisal and Unfinished Business, submitted the following report:

The Committee on Revisal and Unfinished Business, to whom was referred the memorial of Abelard Guthrie, praying to be allowed mileage and per diem as Delegate from the Territory of Nebraska to the Thirty-Second Congress, have had the same under consideration, and respectfully report:

That the memorialist, on the 17th day of December, 1852, presented a memorial to the House of Representatives, asking to be admitted as a delegate from the Territory of Nebraska. The matter was referred by the House to their Committee of Elections. On the 3d of March, 1853, the Committee of Elections reported to the House that the memorialist was not entitled to admission as a Delegate, and asked to be discharged from the further consideration of the case; and the House unanimously so ordered.

It does not appear that the memorialist made any application to Congress for compensation until the 23d of February, 1854, when his memorial for that purpose was presented, and was referred to the Committee on the Judiciary, and the matter has been kept before the House in some form from that time to the present. The committee have not studied its history closely enough to be able to give the precise dates or order of its transfer from one committee to another, but it appears to have been before the Committees on the Judiciary, of Elections, on Appropriations, on Claims; and more than once before some of them.

The Committee of Elections, in 1856, and again in 1862, reported in favor of paying the memorialist five dollars per day, from the time of presenting his memorial to the close of that Congress, and his mileage, not exceeding \$2,000.

All the other committees who have had the matter before them have reported adversely to the payment of any sum to the memorialist, or have been discharged from its consideration without reporting thereon.

This committee, having at last been intrusted with the investigation of this claim, consider that justice to the memorialist, as well as to the House, requires that it should be finally disposed of, and they have therefore endeavored, as far as possible, at this late day, to ascertain the facts upon which its merits rest.

Such election as was held was in the month of October, 1852. There was at that time no organized government in the Territory of Nebraska. What was called the territory of Nebraska embraced all the present States of Nebraska and Kansas, and a considerable amount of territory beside. What extent of settlement or number of people there were in that extensive region we have not had opportunity to investigate. Some part, and perhaps all the people there, desired to have a territorial government established, and it was deemed advisable by some of them that some one should be sent to represent their wishes and intents before Congress.

The memorialist stated before us that meetings were held in four places, and that about one hundred votes were cast in all. It should be stated, however, that when the Committee of Elections reported upon the memorialist's right to a seat, they stated that there was voting at but two places. What notice was given of these meetings that were held, or how extensive this notice was, or whether any other part of the people of that region had any opportunity to hold meetings and vote, did not appear. If any evidence was ever before Congress as to these meetings, or anything in the character of credentials to the memorialist, none can now be found. There were no election officers to call or hold elections, and such meetings as were held were mere voluntary and informal meetings of a few persons who had become resident in that new region.

It is not claimed now by the memorialist that he was legally entitled to a seat as a delegate, or that he is by any law entitled to compensation as such. He claims compensation upon the ground that he performed valuable public service in promoting the establishment of a territorial government for Nebraska. He also urges that claims of a character similar to his have been recognized and paid by order of Congress.

An act establishing a territorial government for Nebraska passed the House in February, 1853, but failed to pass the Senate.

The committee have no special evidence on the subject, but they do not doubt the memorialist used his best efforts and influence to promote the establishment of a territorial government. The history of that region since that time is of a public character, and need not be repeated. But we cannot regard the service of the memorialist as of such a public character, or as being for the benefit of the Government in any such sense as to entitle him to be paid therefor out of the public Treasury.

The precedents upon which the memorialist relies are the cases of Hugh N. Smith, of New Mexico, and A. W. Babbitt, of Utah, who claimed and asked to be admitted to seats as Delegates from those Territories respectively before any territorial organizations therein. They were denied seats, but were allowed their mileage and per diem.

It appears, however, that those gentlemen were chosen by conventions of delegates chosen from all parts of those Territories, so that in some sense they might be said to be representatives of the entire people of such unorganized districts. But in the case

of the memorialist, he cannot be considered as the representative of any more than a few individuals, and the request upon which he came here is no better than if no meeting had been held, and he had come by the private and personal request of each of them.

But the committee are of opinion that the precedents themselves are mischievous in principle and ought not to be followed, even if the memorialist brought his case within them. He came here as the agent and representative of private wishes and interests; and though those wishes and interests were to be forwarded by procuring a law of the most public character, still his character and responsibility are not changed thereby. If Congress recognize the validity of that class of service, and the liability of the Government to pay therefor, there will be no limit to calls upon the public funds. In this or any similar case, two or half a dozen agents might be sent to operate upon Congress, and if their services were equally beneficial, they would all be equally entitled to be paid for their services out of the public Treasury.

The committee therefore ask to be discharged from the further consideration of said memorial, and recommend that the same be laid on the table.

Mr. POLAND. I am not able to state any further facts than are contained in the report.

The committee was accordingly discharged from the further consideration of the memorial, and the same was laid on the table.

VENTILATION OF THE HALL.

Mr. COVODE, by unanimous consent, made a report from the Committee on Public Buildings and Grounds in relation to ventilation of the Hall of the House of Representatives; which was ordered to be printed, and recommended to the committee.

Subsequently Mr. COVODE entered a motion to reconsider the vote by which the report was recommended.

PAYMENT OF WITNESSES.

Mr. COVODE also, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be paid as mileage and per diem to George H. Haupt and Lewis W. Leeds, witnesses before the Committee on Public Buildings and Grounds, \$124 each.

LEONIDAS SMITH.

Mr. KERR, by unanimous consent, introduced a bill (H. R. No. 1280) for the relief of Lieutenant Leonidas Smith, late of the twenty-second regiment Indiana volunteer infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

JACOB BIGGS.

Mr. KERR also, by unanimous consent, introduced a bill (H. R. No. 1281) for the relief of Jacob Biggs; which was read a first and second time, and referred to the Committee on Invalid Pensions.

Mr. UPSON moved to reconsider the votes by which the bills were referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NATIONAL BANK IN NEW YORK.

Mr. POMEROY. I report back from the Committee on Banking and Currency a bill (H. R. No. 1035) authorizing the Manufacturers' National Bank of New York to change its location, with a recommendation that it do pass. Without reading the bill I will state that it simply authorizes this bank to change its location from New York city to Brooklyn. It was formerly located in Brooklyn, but at the time it formed itself into a national bank it changed its location to New York city. It now desires to go back to Brooklyn.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POMEROY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHANGE OF NAMES OF NATIONAL BANKS.

Mr. POMEROY, from the same committee, reported a bill (H. R. No. 1282) authorizing certain banks named therein to change their names; which was read a first and second time.

The bill provides for the change of the name of the City National Bank of New Orleans to the Germania National Bank of New Orleans, whenever the board of directors of said bank shall accept the new name by resolution of the board, and cause a copy of such resolution, duly authenticated, to be filed with the Comptroller of the Currency; provided such acceptance shall be made within six months after the passage of this act.

Section two provides that all the debts, demands, liabilities, rights, privileges, and powers of the City National Bank of New Orleans shall devolve upon and inure to the Germania National Bank of New Orleans, whenever such change is effected.

Sections three and four contain similar enactments providing for the change of the names of the National Bank of Plattsburg to the Vila National Bank of Plattsburg.

Mr. FARNSWORTH. Is this a private bill?

The SPEAKER. The Chair regards this as a private bill. On page 15 of the Digest will be found this language:

"It has been the practice in Parliament and also in Congress to consider as private such as are for the interest of individuals, public companies or corporations, a parish, city, county, or other locality."

Mr. FARNSWORTH. I would suggest that this bill, if I understand it, changes a public law.

The SPEAKER. That is very often done by private bills.

Mr. FARNSWORTH. Would a bill in relation to the Pacific railroad changing the existing law be a private bill?

The SPEAKER. The Chair will rule upon that question when it comes up. There is a general pension law, but every special pension law passed by Congress changes that general law in regard to certain persons, and yet such bills are always held to be private bills.

Mr. FARNSWORTH. Those are bills for the relief of private persons.

The SPEAKER. The Chair thinks that this is clearly a private bill, and the question is on ordering it to be engrossed and read a third time.

Mr. FARNSWORTH. It seems to me that this is a way of whipping the devil round the stump, by closing up the affairs of one bank and starting another without going through the process required by law at the present time; and if that is the case, I am against it.

Mr. POMEROY. I will state that the object of the bill is not to accomplish any such purpose. I am as strongly opposed to that as the gentleman is. Its object is simply this: The House all understand that at the original organization of these national banks the old original bank names had to be surrendered, and, as was the case in the celebrated Stickney family, whose children were all named: first Stickney, second Stickney, third Stickney, and so on, these banks were required to be named first national bank, second national bank, and so on; and all that is sought to be accomplished is simply to change the names of the banks to such names as the parties desire. This is now allowed, the original system adopted of requiring them to be known by numbers having been abandoned by the Treasury Department itself. In the organization of national banks for some time past the old system has been abandoned and they have been allowed to take such names as they desired. There is a particular reason why they desire to have the name of this bank in New Orleans changed to the "Germania National Bank." The bank stock and the bank have passed almost entirely into the hands of Germans, and they wish to make it in its character and in its direction such as to attract the confidence and support of the German citizens of New Orleans, and they are very anxious to have it known as the Germania National Bank. The reasons assigned were such that the Committee on Banking and Currency unanimously agreed to it, as they did also in the other case. In the other case the change proposed is simply to insert the name of the individual who is and

has been at all times the ruling man of the bank in place of "second." That is all. It does not change the location of the bank; it does not change the securities nor the circulation nor the liabilities in any way or manner. I will ask the previous question on the bill.

Mr. MUNGEN. Will the gentleman allow me a moment?

Mr. POMEROY. Certainly.

Mr. MUNGEN. As I understand the original national banking law, or by the Treasury regulations, the banks were required to take the name of the locality and a number in numerical order. Now, it seems to me that there is something in a name. I think the security of United States stocks ought to give faith and assurance enough to the Germans of New Orleans or of any other place as to the redemption of the notes of a bank—their issue being based on Government bonds. You might call it the Hamburg bank or the Amsterdam bank or the Rotterdam bank or any other bank, but I do not think it would add to the credit or responsibility thereof. I like German names, as General Scott did; but I fail to see the necessity for this change of name. I apprehend it will involve some new and additional expense. I presume the next step will be to return the old issue and have a new issue printed with the new name on it. I think it is only an additional expense, without any corresponding benefit. I see no particular objection to it, neither do I see any particular necessity for it.

Mr. POMEROY. I do not know that there is any public necessity requiring this to be done. But it is only giving to these banks the same right in adopting names that half of the other banks have had. In pursuance of regulations of the Secretary of the Treasury, and not according to law, banks at first were required to adopt numerical designations, but afterwards that was not required. I now call the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POMEROY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REPORTS OF PACIFIC RAILROAD COMPANIES.

Mr. PRICE. I ask consent to report back, with an amendment, from the Committee on the Pacific Railroad, Senate bill No. 450, relative to filing reports of railroad companies.

The SPEAKER. This is a public bill, and will require unanimous consent for its consideration at this time.

Mr. WASHBURN, of Wisconsin. Let the bill be read.

The bill was read. The first section provides that the reports required to be made to the Secretary of the Treasury on or before the 1st day of July of each year, by the corporations created by or entitled to subsidies under the provisions of an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and the acts supplemental to and amendatory thereof, shall hereafter be made to the Secretary of the Interior on or before the 1st day of October of each year, the reports to furnish full and specific information upon the several points mentioned in the twentieth section of the act of 1862, and shall be verified as therein prescribed, and on failure to make the same as herein required, the issue of bonds or patents to the company in default shall be suspended until the requirements of this act shall be complied with by such company; and the reports hitherto made to the Secretary of the Treasury under that act shall be transferred and delivered by him to the Secretary of the Interior, to be filed by him.

The second section provides that the corpo-

rations created by the provisions of the acts of Congress approved July 2, 1864, and July 27, 1866, and known as the Northern Pacific Railroad Company, the Atlantic and Pacific Railroad Company, and the Southern Pacific Railroad Company, shall make reports to the Secretary of the Interior on or before the 1st of October of each year, as are required to be made by the Union Pacific railroad and branches, under the provisions of the first section of this act, and on failure so to do shall be subject to the like suspension.

The third section provides that the reports required from the commissioners appointed to examine and report in relation to the road of any of the corporations whereto reference is made in this act, shall be addressed to and filed in the Department of the Interior; and so much of any and all acts as requires any reports from such companies, or any officers thereof, to be made to the Secretary of the Treasury, is hereby repealed.

Mr. WASHBURN, of Wisconsin. I understand that this is merely a proposition to change the method of making reports on the part of these companies. Under existing laws some are to be made to the Secretary of the Treasury and some to the Secretary of the Interior. This bill simply requires that all the reports shall be made to the Secretary of the Interior. I think that is very proper, and therefore will make no objection to it.

The amendment reported from the committee was to add to the bill the following:

SEC. 4. And be it further enacted, That in addition to the eight subjects referred to in section twenty of the act of July, 1862, to be reported upon, there shall also be furnished annually to the Secretary of the Interior all reports of engineers, superintendents, or other officers who make annual reports to any of said railroad companies.

The amendment was agreed to.

The bill, as amended, was then read the third time, and passed.

Mr. PRICE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ELECTION CONTEST—M'KEE VS. YOUNG.

Mr. COOK. I now call up the contested-election case of McKee vs. Young, in relation to the ninth congressional district of Kentucky.

The resolution, reported by the majority of the Committee on Elections were read as follows:

Resolved, That J. D. Young was not legally elected a member of the House of Representatives of the Fortieth Congress from the ninth congressional district of Kentucky.

Resolved, That Samuel McKee was duly elected a member of the House of Representatives in the Fortieth Congress from the ninth congressional district of the State of Kentucky.

Mr. COOK. There was another resolution reported from the Committee of Elections some time before those just read. I ask that it also be now read.

The Clerk read as follows:

Resolved, That John D. Young, having voluntarily given aid, countenance, counsel, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Representative in this House from the ninth congressional district of Kentucky, or to hold a seat therein as such Representative.

Mr. COOK. Mr. Speaker, if I can get the attention of the House for a short time, I think I can make clear the reasons for the adoption of the resolutions just reported.

On the 9th of July, 1867, the Committee of Elections made their first report in relation to the Kentucky election cases, which report was adopted by the House. In that report the committee say:

"The committee are of opinion that no person who has been engaged in armed hostility to the Government of the United States, or who has given aid and comfort to its enemies during the late rebellion, ought to be permitted to be sworn as a member of this House, and that any specific and apparently well-grounded charge of personal disloyalty made against a person claiming a seat as a member of this House ought to be investigated and reported upon before such person is permitted to take the seat; but all charges touching the disloyalty of a constituency in a State in which loyal civil government was not overthrown

during the late rebellion, or the illegality of an election, are matters which pertain to a contest in the ordinary way, and should not prevent a person holding a regular certificate from taking his seat."

After that report was made, the House directed the Committee of Elections to inquire during the coming vacation of Congress whether certain named gentlemen claiming seats in this House as Representatives from the State of Kentucky had been guilty of such acts of personal disloyalty as disqualify them from holding seats on this floor as Representatives from Kentucky.

After that investigation in Kentucky, the Committee of Elections made a report December 3, 1867, which reported their conclusions as follows, referring to the first-named report:

"The committee adhere to the views expressed in that report, that no man who has been engaged in an attempt to overthrow the Government and subvert the Constitution by force of arms, or who has voluntarily given aid, countenance, counsel, or encouragement to persons so engaged, ought to be admitted to a seat in this House to make laws for the nation he has traitorously sought to destroy, and it is apparent that there must be power in this House to prevent this, the House being the judge of the qualifications of its members, of which fidelity to the Constitution is one, and that this end can only be certainly accomplished by the investigation of any specific and apparently well-grounded charge of personal disloyalty made against a person claiming a seat as a member of this House, before such person is permitted to take the seat."

In the same report the committee said:

"Whenever it is shown by proof that the claimant has, by act or speech, given aid or countenance to the rebellion he should not be permitted to take the oath, and such acts or speech need not be such as to constitute treason technically, but must have been so overt and public, and must have been done or said under such circumstances, as fairly to show that they were actually designed to, and in their nature tended to, forward the cause of the rebellion."

In this report the principle is announced that any one who has given aid or comfort to the rebellion shall not be permitted to take the oath.

Now, sir, the Committee of Elections believe that the evidence shows Mr. Young, one of the claimants to this seat, from the State of Kentucky, comes fairly within the rule laid down by the committee in this report to which I have referred. The evidence shows both by speech and act he has given aid and countenance to the rebellion, and that such speeches and acts in their nature tended to give countenance to the rebellion, and must have been so designed. And the proof on this point I will first call to the attention of the House; and from that proof the House will become satisfied, as the committee has already become satisfied, that John D. Young is not entitled to a seat as Representative from Kentucky, unless, indeed, the House is prepared to reverse the decision of the House in sustaining the previous reports of the committee.

This proof I will proceed to lay before the House. Now, first as to the charges of personal disloyalty against John D. Young. The committee say in their report if the claimant to the seat has by act or speech given aid and countenance to the rebellion he is not entitled to a seat in this House. The proof is that John D. Young did repeatedly give aid and countenance to the rebellion by speech and act. His position was a prominent one. He was the leader of public opinion. His opinion guided that of the community where he resided in reference to public affairs. His opinion was in favor of the rebellion, and its expression was designed manifestly to give aid and countenance to the rebellion. He was county judge before and during the rebellion. It was impossible, then, that such a man, occupying such a position, declaring himself openly for the rebellion, against the Union and national Government, and in favor of the pretended confederacy, could be considered in any other light than as giving aid and countenance to the rebellion.

First, I will refer to the proof of what were his declarations. Mr. Sharp testifies:

"In an interview with him [Young] he took the ground that the war was not a rebellion, but a revolution. I recollect distinctly asking him if he thought the South had just cause for the revolution. He said

he thought it had. I laid his case before General Boyle, and was ordered by him to send Mr. Young to camp Chase."

On page 59, Mis. Doc. 47, G. W. Parsons testifies:

"In the year 1861, one day Mr. Young stayed for dinner," &c. "I was there." "After dinner Mr. Gill, Mr. Young, and myself got into conversation on the subject of the war. It was after Mr. Lincoln had called for seventy-five thousand men, and that was the subject of the discussion. Mr. Young took position against the action of the President, and remarked, among other things, that Mr. Lincoln ought to be impeached and hung as high as Haman. I asked him what ought to be done with Jefferson Davis, and he said 'nothing'; that Mr. Davis had violated no constitutional obligation."

On page 58, Mis. Doc. 47, Spotswood Deadman (colored) testifies:

"He [Young] always talked in favor of the rebellion."

On page 57, same book of testimony, John Miller testifies:

"All took him to be a rebel. He was a rebel. I heard Josh Ewing talking to him one day and saying that he could take his [Ewing's] sons into the rebel army, but could not go himself. That was on the street in Owingsville."

And this is confirmed on page 65, same book, by W. H. T. Moss, who testifies:

"Mr. Joshua Ewing and Mr. Young and a crowd were chatting in the street one morning, and I heard Mr. Young remark to Mr. Ewing, 'I expect to have a company in South Carolina to fight the Yankees, and I expect to take your boys with me.' Ewing replied, 'Perhaps you will. If you do not like this country you had better leave.'"

On page 72, same book, James Hall testifies:

"He [Young] was in favor of the South gaining its independence. I heard him speak of it frequently on the street in Owingsville."

These declarations are repeated by a man holding the office of county judge of that county. They were accompanied by acts to which I desire, very briefly and as succinctly as I can, to call the attention of the House.

It is in proof that at different times, Mr. Young gave food to bands of rebels who were organized in the commencement of the war in the vicinity of his residence. On page 58, said Mis. Doc. 47, Spotswood Deadman (colored) testifies:

"When the rebels were passing through Owingsville, where I was then living, and where Mr. Young lived, he took a very active part in feeding them and conveying provisions to them." "When rebels were passing through he would take them to his house and feed them." "At this time nobody was forced to feed them unless he chose. It was voluntary." "Sometimes he would go out and meet them, and he would welcome them to town."

#### POINTS OUT A UNION SOLDIER.

But Union soldiers were not favorites with those who were in favor of "the South gaining its independence."

Another fact to which I wish to call attention is the charge which is made against Mr. Young, and which the committee believe is sustained by the proof, that at one time when a squad of rebel cavalry came into the town of Owingsville, where Young resided, they were met by Young, who, after a very pleasant interview, in which there seemed to be an entire concurrence of opinion between the rebels and Young, the latter said to the commanding officer that in such a house was a Yankee soldier, and suggested that they should go for him. Thereupon the party of men went to the house and captured the Union soldier who was there found. I ask the attention of the House to the evidence upon that point.

Greenup Nickell, on pages 16 and 17 Miscellaneous Document No. 13, above named, testifies as follows:

"By SAMUEL MCKEE:

"Question. State where you reside, your age, and what position you occupied during, in 1863, the late rebellion."

"Answer. I reside in Centre county; I am forty years old; I was a captain, company A, fifty-fourth Kentucky mounted infantry, Federal Army; went into the Army in 1864, in the fall season."

"Question. Please state if you have any knowledge of any disloyal act or acts committed during the rebellion by Judge John D. Young, now claiming a seat in the Fortieth Congress from the ninth Kentucky district—anything in aid or encouragement of the rebellion, or those who were in arms against the Government of the United States."

"Answer. In the spring of 1863, I was on my way from Mount Sterling, Kentucky, home. After passing Owingsville, between Owingsville and State

Bridge, I was met by a squad of confederate soldiers, as they called themselves, in number from fifteen to twenty; as near as I remember; they told me they were going into Owingsville and did not allow anybody to go out until they got ready, and that I must go back with them, which I did. After they rode into the town there was a pretty general rushing of the town people, who came up or out to see them. Among others who came, there was a certain gentleman who came down toward where I was, and up to the men who had me in charge, and close by where I was standing; he was pointing his finger in the direction of a certain house, and named the house, but I don't now remember the name of said house, and told the men that in that house there was a 'Yankee soldier,' and to go for him, which the rebel soldiers did. A part of the lot went to the house, and some who remained near me turned toward the gentleman, whom I did not know, and spoke to him and said 'How are you, Judge Young?' This same man whom they called Judge Young, and a part of the rebel soldiers, turned away from me and engaged in conversation, in rather a lower tone of voice than at first; I did not hear what was then said, but in a very short time a part of the same men went off and in a few minutes returned with some horses, upon one of which they mounted the prisoner they had taken, and soon after moved off. Before they returned with the horses, the man whom they called Judge Young went off, and I did not then again see him any more.

"Question. Have you seen him since? And if so, state the circumstances."

"Answer. I don't know whether I have ever seen him since or not, but at February court, just previous to the May election last, I was in court, in the court-house at Moorehead, and while the court was going on I heard some one speak out, 'How are you, Judge Young?' I was at once reminded of the same expression I had heard at Owingsville, and turned to see who it was. Tom Hayes, who had been a captain in the rebel army, was standing near, and I took him to be the man, from the voice, who then addressed the man he called Judge Young. I was not acquainted myself with Judge Young, but when I saw him there in the court-house at Moorehead, I took him to be the same I had seen at Owingsville, and believe that he was the same man. These are the only two times I have seen Judge Young, if this was him."

"Question. Please describe the man whom you saw, and whom they called Judge Young."

"Answer. As near as I recollect, he seemed to be about a common man in height and size. He was a good-looking man, as I thought; had very dark hair, dark whiskers, and a very keen black eye; thought about as keen an eye as I had ever seen."

"Question. Were you a soldier or citizen when captured near Owingsville in 1863?"

"Answer. I was a citizen, dressed in citizen's clothes, and had nothing to do with the Army at that time."

"Question. Did the rebel soldiers capture the Yankee soldier from the house to which Young pointed?"

"Answer. They captured the soldier, brought him out, and took him off with them; released me, and told me I could go where I pleased."

"Cross examined:

"Question. Please state who was in command of the rebel squad that captured you near Owingsville, Kentucky, in the spring of 1863; and state what time of year it was."

"Answer. I did not know any of the squad of rebels that captured me in 1863. I was captured in the spring, I think, the last of February, or the first of March."

"Question. Please state whether you were acquainted with any of the citizens of Owingsville when you were taken there; and if so, who were they?"

"Answer. When I was taken back to Owingsville, I did not recognize anybody that I knew living there. I recognized Jo. Wells, who resided in the neighborhood; he was with me when I was arrested and went with me to Owingsville."

"Question. Did you hear J. D. Young use any disloyal language; and if so, what was it?"

"Answer. A man whom the soldiers called Judge Young came to them and pointed to a house, and told said soldiers that there was a Federal soldier there, and to go for him, which they did; this is all the language I heard the man called Judge Young use. The soldiers that arrested me professed to belong to Colonel Clarke's command."

"Question. State the height, age, weight, &c., of the man that was called Judge Young by said squad of soldiers."

The evidence, in my opinion, fully identifies this Judge Young named by the parties as the person who pointed out where this Federal soldier could be found and captured.

One witness, J. W. Moore, an ex-member of the rebel Congress, was introduced by Mr. Young, and testified before the committee, and the attempt was made to prove by him that Captain Greenup Nickell was not entitled to belief on oath.

This ex-rebel congressman testifies that he had been in Kentucky but one day since, in 1861; that he knew two men by name of Greenup Nickell, of Morgan county, one sixty, and the other "perhaps thirty years of age," and that "the younger was of a bad character,"

The testimony shows the witness, Captain Nickell, to be Greenup Nickell, of Carter county, and forty years of age; so that there



is nothing conflicting in the testimony of this ex-rebel congressman and this Federal captain.

The contestee, Mr. Young, is fully identified in the testimony as the same person alluded to by the witness Greenup Nickell. That witness (p. 17, Mis. Doc. No. 13) testifies:

"Question. Have you seen him since, and if so, state the circumstances?"

"Answer. I don't know whether I have ever seen him or not; but at February court, just previous to the May election last, I was in court in the courthouse at Moorehead, and while the court was going on I heard someone speak out, 'How are you, Judge Young?' I was at once reminded of the same expression I had heard at Owingsville, and turned to see who it was. Tom Hayes, who had been a captain in the rebel army, was standing near, and I took him to be the man, from the voice, who then addressed the man he called Judge Young. I was not acquainted myself with Judge Young, but when I saw him there in the courthouse at Moorehead, I took him to be the same I had seen at Owingsville, and believe that he was the same man. These are the only two times I have seen Judge Young, if this was him."

On page 40, same book of testimony, another witness testifies:

"There has not lived any other man called Judge Young in this county, except John D. Young, the party to this contest," &c.

On page 45, same book, another witness testifies:

"John D. Young is the only man by the name of Young in this county who has been a judge. He was judge of the Bath county court."

The testimony of Dr. John H. Williams, on page 31, Mis. Doc. No. 13, proves that Mr. Young gave "aid and comfort" to the enemies of the Government by associating with rebel soldiers. He testifies:

"I have been acquainted with John D. Young some ten or fifteen years, and do state that during the rebellion I saw John D. Young on Beaver creek and at Thomas Greenwald's, who confessed to be a captain in the rebel army; and I saw Mr. Young pass in toward Blackwater, where I was informed that there was a rebel camp on Blackwater; and I was told by the rebel soldiers that John D. Young was engaged in recruiting soldiers for the rebel army; and I never heard any person dispute his being a sympathizer with the rebels until he became a candidate for Congress. And I further state that I saw him in company with rebel soldiers that claimed to belong to Peter Everett, and were with him in his last raid in Kentucky, and, so far as I could judge, John D. Young seemed to be agreeably situated when with those soldiers; and I was informed by the rebel soldiers that John D. Young was an officer in their army; this I was told by Jacob Edwards and two of the Sexton boys, who were in the rebel army; and I saw Mr. Young passing some two or three times, and I think oftener."

There is one other point in this evidence to which I ask the attention of the House, and I will pass from it.

In 1861 there was a gathering of rebels at Prestonburg, Kentucky. They gathered there at a rendezvous for the purpose of organizing a regiment for the rebel service. While they were there gathered John D. Young was at that place. It is alleged by him, and there is proof tending to show it, that he went there for the purpose of dissuading a brother-in-law, I believe, from joining the rebel regiment. But it is in proof that when he went there, understanding fully the design of that gathering, and that a rebel regiment was to be formed, he took with him a minie rifle. It is in proof that arms were very scarce among the rebels at that point. It is further in proof that when Young left Prestonburg he said to one of the sons of Joshua Ewing, who was a Union man, whose son Young had threatened to have with him in South Carolina to fight the Yankees, who was then there for the purpose of joining that rebel organization, and who did join it, "There is a good gun; take care of it;" that Ewing took the gun, carried it with him into the rebel army, and when he left the rebel service gave it to his cousin, who continued in the army. He never was asked for the gun by Young; he never was called to account for it at all. The gun passed from Young to Ewing, a rebel soldier, manifestly with the intent of supplying what was then the greatest need of the rebel soldiers gathered there, arms to fight against the Government.

Mr. BECK. I know the gentleman does not desire to misstate the testimony.

Mr. COOK. Certainly not.

Mr. BECK. I know you do not. You will find by the testimony that it is not shown that

Judge Young carried that gun there at all; and it is expressly proved by young Ewing himself that he was not in the rebel army, did not go into the rebel army then, and did not join it for more than a year afterward.

Mr. KERR. In the September following.

Mr. BECK. Yes, sir; in the September following. I know the gentleman does not wish to misrepresent anything.

Mr. COOK. I will read the testimony exactly.

Mr. BECK. You will find that he was not in the rebel army, and did not join it for some time after.

Mr. COOK. I read the proof precisely as it is reported by the committee.

"Henry H. Ewing sworn and examined.

"To Mr. McKee:

"I live in Owingsville, Kentucky. I am acquainted with Mr. Young. I do not know anything about his disloyalty. I believe he was a southern sympathizer. He was at Prestonburg when there were a parcel of men there collected to be organized into the confederate service. They were not organized at the time. I have no knowledge of Mr. Young having been a candidate for an office in that organization. I do not know that he had a gun there. He showed me a gun standing in the porch of the House where he was staying, and asked me to take care of it. He said, 'There is a good gun; take care of it.' He never spoke to me about going into the rebel army."

"To Mr. Kinkead:

"I am a son of Mr. Joshua Ewing. I and my two brothers were in the confederate army. Mr. Young had nothing to do with inducing me to join the confederate army. I understood at the time that Mr. Young was at Prestonburg that his object was to get his brother-in-law to go home."

"To Mr. Scofield:

"I took care of the gun for three or four weeks, and then, when I was coming home, I gave it to a cousin of mine in the army, and I think he sold it. I afterward went back to the army, and stayed till the surrender. The gun was a minie rifle. I do not know why Mr. Young brought it there. He never inquired of me what became of it. I never told him."

"To Mr. Kerr:

"I do not know whether Mr. Young knew I was going into the rebel army."

"To Mr. McKee:

"Guns were scarce there at the time. There were no guns there of any consequence."

"To Mr. Cook:

"It was understood for what purpose the men were there in camp; that they were preparing to go into the southern army."

#### MESSAGE FROM THE PRESIDENT.

A message was received from the President, by Mr. Moore, his Private Secretary, informing the House that the President had returned, with objections thereto, the bill (H. R. No. 1059) to admit the State of Arkansas to representation in Congress.

Mr. COOK resumed the floor.

Mr. FARNSWORTH. Before the gentleman proceeds I ask him to yield to let the veto message from the President on the Arkansas bill be presented.

Mr. COOK. I yield for that purpose.

#### ADMISSION OF ARKANSAS TO REPRESENTATION.

The SPEAKER. The Chair lays before the House the following message from the President of the United States returning to this House, in which it originated, a bill with his objections.

The Clerk read the message, as follows:

To the House of Representatives:

I return without my signature a bill entitled "An act to admit the State of Arkansas to representation in Congress."

The approval of this bill would be an admission on the part of the Executive that the act for the more efficient government of the rebel States, passed March 2, 1867, and the act supplementary thereto, were proper and constitutional. My opinion, however, in reference to these measures has undergone no change, but, on the contrary, has been strengthened by the results which have attended their execution.

Even were this not the case, I could not consent to a bill which is based upon the assumption either that by an act of rebellion of a portion of its people the State of Arkansas seceded from the Union, or that Congress may, at its pleasure, expel or exclude a State from the Union, or interrupt its relations with the Government by arbitrarily depriving it of representation in the Senate and House of Representatives. If Arkansas is a State not in the

Union, this bill does not admit it as a State into the Union. If, on the other hand, Arkansas is a State in the Union, no legislation is necessary to declare it entitled "to representation in Congress as one of the States of the Union." The Constitution already declares that "each State shall have at least one Representative;" "that the Senate shall be composed of two Senators from each State;" and "that no State without its consent shall be deprived of its suffrage in the Senate."

That instrument also makes each House "the judges of the elections, returns, and qualifications of its own members;" and therefore all that is now necessary to restore Arkansas in all its constitutional relations to the Government is the decision by each House upon the eligibility of those who, presenting their credentials, claim seats in the respective Houses of Congress. This is the plain and simple plan of the Constitution; and believing that had it been pursued when Congress assembled in the month of December, 1865, the restoration of the States would long since have been completed, I once again recommend that it be adopted by each House in preference to legislation which I respectfully submit is not only of at least doubtful constitutionality, and therefore unwise and dangerous as a precedent, but is unnecessary, not so effective in its operation as the mode prescribed by the Constitution, involves the additional delay, and from its terms may be taken rather as applicable to a Territory about to be admitted as one of the United States than to a State which has occupied a place in the Union for upward of a quarter of a century.

The bill declares the State of Arkansas entitled and admitted to representation in Congress as one of the States of the Union upon the following fundamental condition:

"That the constitution of Arkansas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall be duly convicted under laws equally applicable to all the inhabitants of said State: *Provided*, That any alteration of said constitution, prospective in its effect, may be made in regard to the time and place of residence of voters."

I have been unable to find in the Constitution of the United States any warrant for the exercise of the authority thus claimed by Congress. In assuming the power to impose a "fundamental condition" upon a State which has been duly admitted into the Union on an equal footing with the original States, in all respects whatever, Congress asserts a right to enter a State as it may a Territory, and to regulate the highest prerogative of a free people—the elective franchise. This question is reserved by the Constitution to the States themselves, and to concede to Congress the power to regulate this subject would be to reverse the fundamental principle of the Republic, and to place in the hands of the Federal Government (which is the creature of the States) the sovereignty which justly belongs to the States or the people, to the true source of all political power by whom our Federal system was created, and to whose will all is subordinate.

The bill fails to provide in what manner the State of Arkansas is to signify its acceptance of the "fundamental condition" which Congress endeavors to make unalterable and irrevocable. Nor does it prescribe the penalty to be imposed should the people of the State amend or change the particular portions of the constitution which it is one of the purposes of the bill to perpetuate, but leaves them in uncertainty and doubt as to the consequences of such action, when the circumstances under which this constitution has been brought to the attention of Congress are considered. It is not unreasonable to suppose that efforts will be made to modify its provisions, and especially those in respect to which this measure prohibits any alteration. It is seriously questioned whether the constitution has been ratified by a majority of the persons who, under the act of March 2, 1867, and the acts supplementary

thereto, were entitled to registration and to vote upon that issue. Section ten of the schedule provides that—

"No person disqualified from voting or registering under this constitution shall vote for candidates for any office, nor shall be permitted to vote for the ratification or rejection of the constitution at the polls herein authorized."

Assumed to be in force before its adoption, in disregard of the law of Congress, the constitution undertakes to impose upon the elector other and further conditions. The fifth section of the eighth article provides that "all persons, before registering or voting," must take and subscribe an oath which, among others, contains the following clause:

"That I accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men."

It is well known that a very large portion of the electors in all the States, if not a large majority of all of them, do not believe in or accept the political equality of Indians, Mongolians, or negroes with the race to which they belong. If the voters of many of the States of the North and West were required to take such an oath as a test of their qualification, there is reason to believe that a majority of them would remain from the polls rather than comply with its degrading conditions.

How far and to what extent this test-oath prevented the registration of those who were qualified under the laws of Congress, it is not possible to know; but that such was its effect, at least sufficient to overcome them all and give a doubtful majority in favor of this constitution, there can be no reasonable doubt.

Should the people of Arkansas, therefore, desiring to regulate the elective franchise so as to make it conform to the constitutions of a large proportion of the States of the North and West, modify the provisions referred to in the "fundamental condition," what is to be the consequence? Is it intended that a denial of representation shall follow? And if so, may we not dread, at some future day, a recurrence of the troubles which have so long agitated the country? Would it not be the part of wisdom to take for our guide the Federal Constitution, rather than resort to measures which, looking only to the present, may in a few years renew, in an aggravated form, the strife and bitterness caused by legislation which has proved to be ill-timed and unfortunate?

ANDREW JOHNSON.

WASHINGTON, June 20, 1868.

The SPEAKER. The question under the Constitution is, Will the House, on reconsideration, agree to the passage of this bill?

Mr. STEVENS, of Pennsylvania. I move the previous question on that.

Mr. ROBINSON. Is not the privileged question which has been up, the contested-election case, the matter now in order, and can we not insist on going on with that question?

The SPEAKER. As the Constitution is higher in authority with the House than the rules, this question is higher in authority than the question which the House has been considering—the contested-election case.

Mr. ROBINSON. I do not remember that part of the Constitution, sir.

The SPEAKER. If the gentleman will read the Constitution and the rules of the House together he will find that the Chair is correct.

Mr. STEVENS, of Pennsylvania. It would be very well for the gentleman to begin and read it through.

The SPEAKER. The rule can be found on page 188 of the Digest.

Mr. STEVENS, of Pennsylvania. I object to its being read. Let the gentleman read it himself.

The SPEAKER. This is a privileged question under the Constitution, which is higher in authority than the rules of the House.

The previous question was seconded and the main question ordered.

The SPEAKER. The Constitution requires

that this question shall be taken by yeas and nays.

The question was then taken; and there were—yeas 111, nays 31, not voting 48; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, Bailey, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Buckland, Butler, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Delano, Donnelly, Briggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Griswold, Harding, Hawkins, Higby, Hill, Hooper, Chester D. Hubbard, Hulburd, Ingersoll, Jenckes, Judd, Julian, Kelsey, Ketcham, George V. Lawrence, Lincoln, Loan, Logan, Loughbridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercier, Moore, Moorhead, Morrell, Mullins, Newcomb, O'Neill, Paine, Peters, Pike, Pile, Plants, Poland, Polsley, Pomroy, Price, Robertson, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Taffe, Taylor, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Windom, Woodbridge, and the Speaker—111.

NAYS—Messrs. Adams, Archer, Axtell, Beck, Boyer, Brooks, Cary, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Johnson, Jones, Kerr, Knott, McCormick, Morrissey, Mungen, Niblack, Pruyn, Robinson, Sitgreaves, Taber, Lawrence S. Trimble, Van Trump, and Woodward—31.

NOT VOTING—Messrs. Arnell, James M. Ashley, Baker, Baldwin, Barnes, Barnum, Bronwell, Broomall, Burr, Chandler, Dawes, Dixon, Dodge, Finney, Gravely, Halsey, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Kelley, Kitchen, Koontz, Laffin, William Lawrence, Marshall, McCullough, Miller, Myers, Nicholson, Nunn, Orth, Perham, Phelps, Randall, Raun, Ross, Selye, Stone, Thomas, Van Anken, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburne, Thomas Williams, Stephen F. Wilson, and Wood—48.

During the call of the roll the following announcements were made:

Mr. GETZ. I desire to state that my colleague, Mr. RANDALL, is paired with my colleagues, Mr. MYERS and Mr. STEPHEN F. WILSON.

Mr. KOONTZ. I desire to state that I am paired with Mr. McCULLOUGH, of Maryland, on this question. If I voted I would vote in the affirmative.

Mr. BENJAMIN. My colleague, Mr. VAN HORN of Missouri, is detained from the House by sickness. If he were present he would vote in the affirmative.

Mr. WARD. My colleague, Mr. VAN HORN of New York, is detained from the House, for what reason I cannot tell. If he were present I have no doubt he would vote aye.

Mr. ELDRIDGE. The gentleman from Illinois, Mr. BURR, is paired with my colleague Mr. HOPKINS. I think Mr. BURR would vote against this bill; and I think very likely my colleague, Mr. HOPKINS, would vote the other way.

Mr. RAUM. My colleague, Mr. MARSHALL, is absent by leave of the House. Before leaving I paired with him on this bill. He would be against the bill and I for it.

Mr. ROBINSON. My colleague, Mr. BARNES, is absent on leave. He would vote against this bill if he were here.

Mr. BOYER. My colleague, Mr. VAN AUKEN, is absent on leave. If he were present he would vote against this bill.

After the conclusion of the call of the roll, The SPEAKER said: On the question, "Will the House on reconsideration agree to the passage of an act to admit the State of Arkansas to representation in Congress?" the yeas are 111, and the nays 31. Two thirds having voted in the affirmative, the bill has again passed the House, and will be transmitted, with the message of the President, to the Senate for their reconsideration.

Mr. ROBINSON. Is it in order now to move a reconsideration of the vote just passed?

The SPEAKER. It is not, according to the Digest.

Mr. ROBINSON. As I was put down by the Constitution, I do not want to be now put down by the Digest.

The SPEAKER. The rule, to be found on page 188 of the Digest, is as follows:

"A vote on the passage of a vetoed bill cannot be reconsidered."

The gentleman from Illinois [Mr. Cook] is now entitled to the floor.

Mr. ROBINSON. Will the gentleman yield to me for a moment to make an explanation?

Mr. COOK. I cannot yield for any explanation.

COVINGTON AND OHIO RAILROAD.

Mr. POLSLEY. Will the gentleman yield to me for a moment to introduce a bill for reference?

Mr. COOK. Certainly.

Mr. POLSLEY, by unanimous consent, introduced a bill (H. R. No. 1282) relating to the Covington and Ohio railroad, and its establishment as a post route and military road of the United States; which was read a first and second time, and referred to the Committee on Roads and Canals.

Mr. POLSLEY. I ask that the bill, with the accompanying memorial, be printed.

The motion to print was agreed to.

ELECTION CONTEST—M'KEE VS. YOUNG.

The House then resumed the consideration of the contested-election case of McKee vs. Young, ninth congressional district of Kentucky; on which Mr. Cook was entitled to the floor.

Mr. COOK. I was in error in saying that the evidence shows that Mr. Young himself took this gun to the rebel rendezvous; but the evidence is that the gun was there; that there Young assumed to control it; that he pointed it out to Ewing; told him it was a good gun, and that he must take care of it; that Ewing took the gun with him into the rebel army, and was never asked for it afterward; and the gentleman from Kentucky [Mr. BECK] was in error in saying that there was no proof that Ewing was in the rebel army. He stated himself:

"I and my two brothers were in the confederate army. I took care of the gun for three or four weeks, and then, when I was coming home, I gave it to a cousin of mine in the army, and I think he sold it. I afterward went back to the army and stayed till the surrender."

Now, sir, the proof is that at this encampment where men were being enlisted for the rebel army there was a minie rifle over which Mr. Young exercised control. Mr. Ewing took charge of the gun; he took it and kept it. Under all these circumstances it is perfectly apparent that this gun was furnished by Mr. Young for the rebellion to supply a need in the rebel camp for offensive weapons.

I pass now to refer to the pointing out to a squad of rebel cavalry where a Union soldier might be captured. The only question that can be raised is as to the identity of the man who pointed out the house where a Union soldier was to the rebel squad. The witness testifies that when they came into the town of Owingsville, the place of Judge Young's residence, this man met them there. The witness says that he pointed out the house where the Union soldier was, and he told the rebel soldiers to go for him. Some time afterward he was seen by the witness in court and recognized by him. The question of identity is the most material one on this point, and it being in the power of Judge Young when the committee was in Kentucky to present himself before this witness and ask whether he was the man or not, and not having done so, it seems to me that the proof is conclusive that it was Judge Young who pointed out this house where this Union soldier was captured.

I pass now from this point and this resolution. If the rule adopted by the House is not to be reversed, that any man who by act or speech gave aid and comfort to the rebellion, and under such circumstances as to show it was designed to give aid and encouragement to the rebellion, shall not be entitled to take a seat upon this floor, if that rule is not to be done away with and the decision, then I think it certain that this first resolution reported by the committee must be adopted.

I now come to the other resolutions. I am aware there may be honest difference of opinion as to the conclusions to which the commit-

tee have arrived. I will give briefly the reasons which induced the committee to come to the conclusion that Mr. McKee was entitled to the seat from the ninth congressional district of Kentucky. The official majority returned for Mr. Young was 1,479 votes. From the testimony I think it is clear that of these 625 votes were cast by men who had been soldiers in the rebel army. The condition of these soldiers at that time was this: the rebel armies had surrendered to the Union armies, and upon the condition that the company and regimental officers signed paroles for their men and the men were allowed to return to their homes, there to be unmolested by the United States authorities so long as they remained faithful to their paroles and obeyed the laws where they resided. This is a part of the public history of the country. These men, then, were in the condition of paroled prisoners of war. They were not included in the amnesty proclamation of the President. Prior to this election, on the 29th of May, 1865, the President of the United States issued an amnesty proclamation specially excepting from such amnesty, under the tenth exception, all men in the rebel army who had been citizens of States in which loyal State governments had not been overthrown. These men, then, were paroled prisoners of war, specially exempted from amnesty in the President's proclamation. They were like the rebel soldiers in the field, excepting the fact that they had been captured.

Mr. ADAMS. Will the gentleman allow me to ask him a question?

Mr. COOK. Certainly.

Mr. ADAMS. The ground upon which the gentleman places himself is that these soldiers are paroled prisoners of war, and especially excepted from this amnesty.

Mr. COOK. I do not think that is quite a fair statement of it.

Mr. ADAMS. That is the way I understood it: that they were in the condition of paroled soldiers excepted from amnesty. If they had not been excepted from amnesty they would not be in the condition of paroled prisoners. Is that your position?

Mr. COOK. My position is this: that having been surrendered on parole they were in the condition of paroled prisoners of war; that their condition had not been changed by any amnesty proclamation.

Mr. ADAMS. That is what I want to come at. You say they were in the position of paroled prisoners of war because they had surrendered and gone home. Now, I desire to ask if there is any proof that any considerable portion of the men who are charged with being rebels were in the war at the close of it, or were included in the terms of surrender. On the contrary, is there not an absence of proof to show that they were in the war at its close and that they were under the terms of surrender?

Mr. COOK. The proof is that these men were soldiers in the rebel army. In relation to many of them the time is identified when they were such rebel soldiers, but in relation to many others it is not so identified by the proof. But if they were soldiers in the rebel army and residents of the State of Kentucky who had left the State for the purpose of joining the rebel army, they were either men who had been surrendered by the officers of the rebel army at the time the surrender was made, or there is no proof whatever that they had left the army and had changed their condition as rebel soldiers. If, indeed, they were citizens of Kentucky, and had left that State for the purpose of joining the rebel army, then I insist they came within the provisions of the act of Congress which declares that where men desert from the service of the United States, or go away so as to avoid the draft, they are considered as having waived their right of citizenship in the United States. In either event they were not entitled to vote at this election.

It seems to me absurd to say that men who were fighting to destroy this Government might be shot on the field of battle, might be made prisoners of war and confined in prison for the

purpose of preventing their destroying the Government by force of arms, and yet that it is impossible to prevent their voting to accomplish the same object. I desire to submit this question fairly to the House. The proof in relation to the matter is that these men were at some time or other during the continuance of the war rebel soldiers.

Mr. ADAMS. I do not wish to be troublesome, but a question occurs to me here. The gentleman remarked—

Mr. COOK. I yield only for a question.

Mr. ADAMS. It is necessary to preface it in order that it should be understood. The gentleman stated that he could not see the difference, inasmuch as the war was over, in their condition now and when they were in the army except that they had been captured. I will ask the gentleman if he does not know that Congress, wherever it professes to have the right to regulate the question of suffrage, has not undertaken to deny to rebels the right to vote simply because they were rebels? Has it been the policy of Congress, in States where they have the control of this question, to deny to rebels the right to vote simply because they were rebels except such as were officers above a certain rank?

Mr. COOK. I understand it to have been the policy, first of the proclamation of the President, and then of the reconstruction acts of Congress, to prescribe who may vote in the organization or reconstruction of those State governments; that is, in the preliminary proceedings therefor.

Mr. ADAMS. I will ask the gentleman if he does not think the vote to establish or institute a form of government is just as important and as great an act of sovereignty as a people can perform; and if it does not require as full and as complete an amnesty, and as full and complete a removal of disabilities for the purpose of voting upon that subject, as for the purpose of voting for the government of a State reformed and reestablished?

Mr. COOK. I will answer that question by saying that I do not believe that a rebel soldier, captured or otherwise, whether paroled or not, ought to vote in the election of men who are to make laws for the nation in this House; and that if the rule which the House has adopted be right to refuse seats here to men who have been engaged in armed hostilities to this Government, it is right to reject the votes of men who have been endeavoring by force of arms to overthrow the Government. That is my view of the subject.

Now, it is proven that 625 men who voted for Mr. Young were rebel soldiers; and this proof embraces but a portion of the district. It is alleged by the contestant that it was impossible to take proof through the whole of the district in relation to rebel soldiers, because he could not get the officers before whom the notices were given, or any officers in some portions of the district, to take the proof. Eight hundred and eighty-three of the majority given for Mr. Young in this district was given in precincts where some one or more of the officers of the election had been a rebel soldier. I understand the law of Kentucky to be that rebel soldiers were disqualified from acting as judges of election in any manner. That is my understanding of the law. I will quote the law upon which I rely as sustaining this view. Before I do that, however, I wish to refer very briefly both to the decision of the Supreme Court of the United States and the decision of the supreme court of the State of Kentucky as to what the status of these rebel soldiers was who were not included in any act of amnesty, nor included in any law removing disabilities.

The Supreme Court of the United States, in the celebrated prize cases, uses this language in relation to these men:

"They have cast off their allegiance and made war on their Government, and are none the less enemies because they are traitors."

The supreme court of the State of Kentucky, in the case of *Blaine vs. Adams Express*

Company, which I hold in my hand, in speaking of Morgan's band—a band raised in Kentucky, commanded, as I understand, by an officer of the State of Kentucky, and in all respects standing on the same ground as men who had served in the rebel army—used this language:

"Public policy, and consequently the law, holds common carriers to a peculiar responsibility extremely stringent, admitting no excuse for the loss of goods except an act of God or of a public enemy which could not by any proper care or available form have been averted. No other human force than that of a public enemy will exonerate the carrier, because otherwise he might fraudulently muster or combine with a force to rob himself. The only question in the case is, was Morgan's band, in the technical sense, a public enemy, and the answer depends on whether the strife in which they were fighting is a civil war. War is either international or civil, foreign or domestic. Insurrection, however violent or formidable, is not war. Civil war is preceded by insurrection, which, however magnified and matured into war in its legitimate sense, and when so characterized, the parties are belligerents and respectively entitled to belligerent rights. And history records no civil war more flagrant or gigantic than that in which our country is now engaged. If this be not war what is war, and when or where did it ever race and desolate and destroy? It has been so treated at home and abroad by our own Government in all its Departments as well as by foreign Governments, and if it be war now it was as certainly war, and as much war, on the 11th of May, 1862."

Both by the decision of the Supreme Court of the United States and by the decision of the supreme court of Kentucky these men are held to be public enemies, and the question, it seems to me, presents itself whether men who have been enrolled in the armies of the public enemies of the United States are legal voters to select the law-makers of the Government, the officers of the Government, at a time when they have not in any manner received the benefit of any amnesty or any law removing disabilities? That is the simple question which I desire to present to the House.

Mr. JONES. Will the gentleman yield to me for a question?

Mr. COOK. Yes, sir.

Mr. JONES. I desire to ask him if he is not aware that the Kentucky Legislature passed a law in the year 1865 granting an amnesty to all persons who joined in the rebellion?

Mr. COOK. No, sir; I am not. I am aware that they repealed the law which formerly existed on the statute-book.

Mr. JONES. They passed a law in 1865 that all persons who joined in the rebellion should be restored to their rights as citizens.

Well, then, I would ask the gentleman another question. The Constitution of the United States says that electors for Representatives in Congress shall have the same qualifications as electors for the most numerous branch of the State Legislature. That being the fact, had not the Legislature of Kentucky a right to grant that amnesty and to say who shall be voters?

Mr. COOK. Mr. Speaker, if the laws of Kentucky provided that the whole confederate army which was in Kentucky, composed in considerable part of the residents of Kentucky, should have the right to vote in electing members of this House, I do not think that this House ought to recognize that right, and that the public enemies of the United States ought not to control the Government of the United States.

Mr. JONES. That may be the gentleman's opinion, but I ask him to look to the Constitution of the United States. The only provision in the Constitution in regard to the qualification of electors for Representatives in the Congress of the United States is that which I have referred to.

Mr. COOK. I cannot yield for an argument.

Mr. JONES. The States have a right to regulate suffrage, and no law of Congress has yet been passed in contravention of that.

Mr. COOK. It is contended that men who have been engaged in armed hostility to the United States, unless disqualified by the laws of Kentucky, have a right to vote in elections of members of this House. That is the proposition, and that proposition I deny. The same



right to protect itself which authorized the Government to send troops into the State of Kentucky, not upon the call of her Governor, not upon the call of her Legislature, to subdue an armed rebellion against the United States by capturing and destroying the rebel armies upon the soil of Kentucky. The same right exists to prevent the destruction of the Government by the election of officers who shall control the Government for the same ends.

The Constitution provides, in the second section of the first article, that—

"The House of Representatives shall be composed of members chosen every second year by the people of the several States."

Now, my position is that a public enemy is no portion of the "people of the several States."

Mr. JONES. Read on a little further.

Mr. COOK, (reading:)

"And the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Mr. JONES. Exactly.

Mr. COOK. It is incompetent for the Legislature of the State of Kentucky to make electors of men who are not people of the State of Kentucky; and if any persons are public enemies they are not people of Kentucky, not a part of the body-politic and public enemies at the same time.

Mr. JONES. Then I would ask the gentleman to show me any law of Congress which provides that these gentlemen shall not vote?

Mr. COOK. I decline to yield further. I will give the gentleman full opportunity to make his speech. I hold that armed enemies of the Government in Kentucky are not people of the State of Kentucky within the meaning of the Constitution. And these men are, by the decision of the Supreme Court of the United States, and of the supreme court of the State of Kentucky, public enemies of the Government. I will now refer to the laws of the State of Kentucky, which I think disqualify these enemies of the Government from being judges of election. In Myers's Supplement, page 456, is the following:

An Act to amend section one, article three, chapter thirty-two, title "Elections," of the Revised Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter, so long as there are two distinct political parties in this Commonwealth, the sheriff, judges, and clerk of election, in all cases of election by the people under the Constitution and laws of the United States, and under the constitution and laws of Kentucky, shall be so selected and appointed as that one of the judges at each place of voting shall be of one political party, and the other judge of the other or opposing political party; and that a like difference shall exist at each place of voting between the sheriff and clerk of elections: *Provided*, That there be a sufficient number of the members of each political party resident in the several precincts as aforesaid to fill said offices. And this requirement shall be observed by all officers of this Commonwealth who have the power to appoint any of the aforesaid officers of election, under the penalty of a fine of \$100 for each omission, to be recovered by presentment of the grand jury.

That act was passed February 11, 1858. On the 15th of March, 1862, the following act was passed:

An act to amend an act entitled "An act to amend section one, article three, chapter thirty-two, title 'Elections,' of the Revised Statutes," approved February 11, 1858.

SEC. 1. That in construing the act approved February 11, 1858, to which this is an amendment, those who have engaged in the rebellion for the overthrow of the Government, or who have in any way aided, counseled, or advised the separation of Kentucky from the Federal Union by force of arms, or adhered to those engaged in the effort to separate her from the Federal Union by force of arms, shall not be deemed one of the political parties in this Commonwealth within the provisions of the act to which this is an amendment.

SEC. 2. This act to take effect from and after its passage.

Mr. JONES. Will the gentleman yield to me?

Mr. COOK. Not now.

Mr. JONES. I want to read an act passed by the Legislature in 1865.

Mr. COOK. I am familiar with that law, and the gentleman can read it when he comes to speak.

I understand that the law which I have just

read provides that judges of election shall not be selected from those who were engaged in the rebellion for the overthrow of the Government, or who in any way aided, counseled, or advised the separation of Kentucky from the Union by force of arms, or adhered to those engaged in the effort to separate the State from the Federal Union by force of arms. That constitutes the disqualification.

And the rule has been well settled that where an officer of election is disqualified from holding the office, that election is invalid. The rule is different where the judge selected is competent to hold the office, but has not been qualified according to the forms of law. But if the judge or clerk or sheriff of the election is disqualified by the law from holding the office, it is precisely the same in principle as though the election was held without any officer whatever.

There are numerous authorities upon this question. It has been repeatedly settled in this House. I will refer to the authorities without reading them particularly. The first case is that of Eastman vs. Scott, in the first volume of Contested Election Cases, page 275, in which that rule was held. The same rule was held in another case, and the same rule was held during the present session in the case of Delano vs. Morgan, which has been decided and approved by the House. In the case of Bennett vs. Chapman, of Nebraska, this same rule was also held. I will now read from the Contested Election Cases, from 1834 to 1865, page 212, Bennett vs. Chapman:

"Persons assumed to act as judges of election and clerks were appointed without the requirements of law. This is quite sufficient of itself, according to well-settled principles repeatedly established by this House for the rejection of the entire poll at Archer. In the case of James Jackson vs. Anthony Wayne, of Georgia, first session of Second Congress, it was decided by this House that when the law regulating the election required that three magistrates should preside at the election, a return by three persons, two of whom were not magistrates, was defective. The right of suffrage, great and inestimable as it may be, is nevertheless a right regulated and qualified by law. Indeed, it can only be properly exercised in conformity to the requirements of law; without these it would soon cease to be valuable."

I hold, therefore, the law to be well settled that where persons acted as officers of election who were disqualified by the law from holding that office, the entire poll where such officers officiated should be rejected. Such a poll has no more authority than if it were held by officers who were non-residents or not citizens of the United States. It gives no validity to the election. But I will not discuss this question at any length at present.

Mr. BECK. I ask the gentleman how he answers the provisions of two statutes of Kentucky, which I ask permission to read, as they are short. First, the act of December 19, 1865, provides:

"That an act entitled 'An act to amend the fifteenth chapter of the revised statutes entitled 'Citizens, Expatriation, and Aliens,' passed March 11, 1862, be and the same is hereby repealed, and all persons who may have lost any constitutional, legal, or other right or privilege by the operation of said act shall be and are hereby restored to the full and free use and enjoyment of the same as completely as if such act had never been passed; and this act shall be a bar to any prosecution or indictment growing out of said act."

The other act, passed January 13, 1866, provides that the power to pardon persons who have committed treason is vested in the General Assembly, and that all persons who have at any time before committed treason against the Commonwealth shall be absolved from all pain and penalties.

Mr. COOK. I cannot yield further. I understand that repealed an act different from the one the gentleman has stated. It applied to the act I hold in my hand, an act in reference to the expatriation of citizens, and it does not refer to the act I have quoted. The act I quoted was the act of March, 1862, and is not the act repealed by the act quoted by the gentleman from Kentucky.

Now, if you reject the votes of men who had been in the rebel army, if you throw out the votes taken and certified by the men disqualified by the law of Kentucky from acting as

officers of election, then Mr. McKee is entitled to a seat upon this floor by a majority of forty-one votes. The whole question as to the right of Mr. McKee to a seat, in my opinion, turns upon the decision of the two points:

First. Can a man be elected to a seat in this House by the votes of soldiers of the rebel army? and, second, can votes be counted which were taken and certified by men who were also rebel soldiers, who, by the laws of Kentucky, are disqualified from acting as officers of election? The decision of these questions by the House must determine the right of Mr. McKee to the seat claimed by him.

Mr. Speaker, before I sit down I move the following resolution, that the contestant may be heard in this case:

*Resolved*, That Samuel McKee, contestant in the case now being considered, be permitted to address the House.

Mr. UPSON. Under the rules of the House.

Mr. COOK. I accept that as a modification of my resolution.

The resolution, as modified, was adopted.

Mr. KERR. Mr. Speaker, before I proceed to consider the last report which has been laid upon our tables from the Committee of Elections in this case, I desire briefly to reply to some positions assumed by my colleague on the committee, in his remarks this morning, because they seem to be somewhat disconnected from the other part of the subject.

It is said, in the first place, that Mr. Young, who received a majority of 1,479 votes in the race for election to Congress in this ninth district of Kentucky, is not a loyal man, and therefore ought not to be allowed to take the oath required by the act of 1862. In the minority report, which I had the honor, in the first instance, to submit to this House in reference to this case, I discussed this branch of the case at some length and examined in a spirit of fairness the evidence touching this point. I do not intend now to go over that evidence at any considerable length, for my time will not permit me to do it; but I do invite the attention of gentlemen to that report to the end that they may at least do themselves, if not me, the justice to be advised what the facts are touching this case, so that they can act and decide intelligently on the final vote. The report of the majority submitted on the 18th instant is strangely brief, meager, and unsatisfactory. It states conclusions, but gives no evidence.

It is first charged that he fed rebel soldiers. The proof on that point, Mr. Speaker, does show that on several occasions Judge Young did furnish provisions to men who were engaged in the rebel service. The testimony also shows, and in some instances from the mouths of the same witnesses, that some of the best Union men in the ninth congressional district did just the same thing; and that they did it under circumstances which divested the act of every element of criminality, of every particle of disloyalty; that they did it under circumstances under which every principle of law, of morality, and of humanity, justifies the doing of it, under circumstances under which you, Mr. Speaker, and I would have done it. Many times under circumstances of absolute compulsion. Many times under the influence of fear. Other times for the purpose of saving Union men from having their property taken from them by brute force.

I presume that the statement of Mr. Hall, with regard to the "basket of provisions," will not be taken by an intelligent jurist as evidence of anything except the mere fact that he may have seen a negro with a basket. He does not even know what was in the basket: the negro only told him. He does not say that it was intended for the rebels at Boyd's, or that he knows it ever reached them, and, what is more material than all, he neither says nor intimates that Young was at home at the time, or, if at home, that he knew a syllable about what the negro was doing with the basket, what he intended to do with it, what it contained, or anything about it. Whatever may

have been the motive or intention of the transaction, it nowhere appears that Young had any knowledge of or connection with it whatever. And the same is true of the testimony of the negro man Spottswood Deadman, upon which the committee seem to have arrived at the conclusion that Mr. Young actually gave aid and comfort to the rebellion. The witness testifies as follows:

"Question. Where do you reside?  
 "Answer. At Mount Sterling, Kentucky.  
 "Question. What do you know of Mr. Young's loyalty during the war?  
 "Answer. When the rebels were passing through Owingsville, where I was then living, and where Mr. Young lived, he took a very active part in feeding them and conveying provisions to them. He always talked in favor of rebellion, and when rebels were passing through he would take them to his house and feed them. He also swapped a horse with Colonel Morgan, who was in the rebel service.  
 "Question. What do you know about Mr. Young feeding rebels?  
 "Answer. I saw provisions going from his house, and saw him taking rebels to the house.  
 "Question. Did not Union men give the rebels something to eat?  
 "Answer. Of course they did. They were forced to do so.  
 "Question. Is that the only aid you know of Mr. Young giving to the rebellion?  
 "Answer. I believe it is.  
 "Question. At the time you speak of, when Mr. Young sent provisions to the rebel camp, nobody was forced to feed them unless he chose?  
 "Answer. No, sir.  
 "Question. It was a voluntary act?  
 "Answer. It was voluntary.  
 "Question. There had been no force used on either side up to the time General Nelson came into the State?  
 "Answer. No, sir.  
 "Question. When was it that you speak of?  
 "Answer. In 1861, at the commencement of the war. I saw Mr. Young's boy, Louis, carrying provisions to the camp, which was about two miles out."

Whether this witness is more intelligent than the general mass of negroes in Kentucky it is not necessary to inquire, but I would invite attention to the character of his statements, and let candid and impartial minds determine for themselves what weight they are entitled to. He says: "When the rebels were passing through Owingsville, where I was then living, and where Mr. Young lived, he took a very active part in feeding them, and in conveying provisions to them." But what does this "very active part" which Mr. Young took in feeding the rebels turn out to be! When carefully criticised, it seems, according to his own statements, that "in 1861, at the commencement of the war, he saw Mr. Young's boy, Louis, carrying provisions to the camp, which was about two miles out." How often? Let him answer himself:

"Question. About how often did you see food going out from Mr. Young's house to those camps or squads of rebels?  
 "Answer. Two or three or four times."

The broad assertion which this witness makes with such avidity, that Mr. Young "took a very active part in feeding rebels and conveying provisions to them," seems to have been justified in his mind by having seen another person altogether, the "boy Louis," two or three or four times, "carrying provisions to the camp, which was about two miles out;" but does he show that Young had anything to do with it? Does he state the quantity or kind of provisions, or that Young ever knew of their being carried to the camp? Does he state how he knows that the provisions ever went to the camp at all, which was two miles out? But where is the "boy Louis?" He could have told whether Young sent him with the provisions, and surely his testimony was not omitted by the contestant on account of his color, race, or condition, and his industry in hunting up other witnesses justifies the conclusion that if he would have testified to anything to Mr. Young's prejudice Mr. McKee would have produced him. "He would take rebels to his house and feed them," says Deadman; yet how does he know whether they were fed or not? He may have seen rebels going to Young's house in company with Young, but does it necessarily follow that Young fed them or encouraged them in their enterprise in any way? He says that Young swapped horses with Colonel Morgan; yet Morgan himself swears that Young consented to or rather suggested this

arrangement to save the horse of Mr. Barnes, one of his Union neighbors, less able to lose it, an act which should rather be applauded as one of neighborly kindness and generosity than paraded as an evidence of disloyalty and treason. Taking the whole of Deadman's testimony together, I am utterly unable to find that it furnishes anything like satisfactory evidence of an act or expression calculated or intended to forward the cause of the rebellion; and besides, it should be borne in mind, while considering the testimony of Hall and Deadman, that it is proved by John Trumbo and others that while the rebels were encamped at Boyd's, in 1861, they sent into town and compelled the citizens to send them food. It may be conceded that the boy Louis did take provisions out to the rebel camp two or three or four times in 1861; that rebels were seen in Young's company, and going to his house; yet I insist that there is not an iota of proof that Young even knew that the provisions were sent, or that he ever spoke a word of encouragement to the rebels; and surely it will not be said that a man whose integrity even his political enemies speak of as unimpeachable shall have a stigma cast upon his good name, be deprived of the position to which he has been fairly elected, and his constituents deprived of their right to be represented by the man of their choice, on such flimsy, unsatisfactory, and incoherent evidence as this.

Such is the case in reference to Judge Young's feeding rebel soldiers. He did sometimes take them to his house; he sometimes gave them food and lodgings; and the testimony shows in many cases he did these acts for the express purpose of protecting Union men in the town where he lived—his neighbors and fellow-citizens and friends—from being outraged by these men. Is that criminal? Will this House decide that the laws of humanity in times of public strife are suspended, and that men must act like brutes, like bitter personal enemies, like monsters of the forest, toward each other?

The next charge which the majority of the committee seem to have come to the conclusion "is made to appear by clear and satisfactory evidence" is, that Mr. Young pointed out a Union soldier to some rebels, who captured him and carried him off at Young's suggestion. The only witness who testified to this fact is Greenup Nickell, a worthless rascal and felon, who relates the circumstance as follows:

"In the spring of 1863 I was on my way from Mount Sterling, Kentucky, home. After passing Owingsville, between Owingsville and State Bridge, I was met by a squad of confederate soldiers, as they called themselves, in number from fifteen to twenty, as near as I can remember. They told me they were going into Owingsville, and did not allow anybody to go out until they got ready, and that I must go back with them, which I did. After they rode into the town there was a pretty general rushing of the town people, who came up or out to see them. Among others who came there was a certain gentleman came down toward where I was, and close by where I was standing; he was pointing his finger in the direction of a certain house, and named the house, but I don't now remember the name of said house, and told the men that in that house there was a 'Yankee soldier,' and to go for him, which the rebel soldiers did. A part of the lot went toward the house, and some who remained near me turned toward the gentleman, whom I did not know, and spoke to him and said: 'How do you, Judge Young?' This same man whom they called Judge Young, and a part of the rebel soldiers, turned away from me and engaged in conversation in rather a low tone of voice than at first. I did not hear what was then said, but in a very short time a part of the same men went off, and in a few minutes returned with some horses, upon one of which they mounted the prisoner they had taken, and soon after moved off. Before they returned with the horses the man whom they called Judge Young went off, and I did not then again see him any more."

Before proceeding to examine this statement it should be remarked that the testimony of this witness was taken under very singular circumstances. It seems, from an examination of the numerous notices served in this case, that Mr. Young was first notified that the deposition of Greenup Nickell would be taken in Carter county on the 4th of September. (See H. Doc. 13, pp. 88, 89.) Mr. Young attended, and the witness was not produced. Mr. McKee then gave notice that he would take the deposition

of Nickell in Rowan county, on the 30th and 31st of October. Mr. Young's attorney was present to cross-examine, and again the witness was not produced. (H. Doc. 13, p. 75.) Mr. Young, on the 26th day of August, had notice served on Mr. McKee that he would take the deposition of Thomas W. Green in Maysville, Mason county, on the 14th and 15th days of November; and on the 2d day of November Mr. McKee again gave notice that he would take the deposition of this witness at Morgan county, on the 13th and 14th of that month, when it would be impossible, in the very nature of things, for Young to reach there from Maysville, or go from there to Maysville in time to take the depositions at the latter place. Had Nickell known Young personally there would, perhaps, have been nothing at all peculiar in the circumstance that his attendance could not be procured until Young was compelled to be absent, but it does become somewhat suspicious when taken in connection with the following statement in his testimony:

"Question. Have you seen him since? and if so, state the circumstances."

"Answer. I don't know whether I have ever seen him since or not, but at February court, just previous to the May election last, I was in court in the court-house at Moorehead, and while the court was going on I heard some one speak out, 'How are you, Judge Young?' I was at once reminded of the same expression I had heard at Owingsville, and turned to see who it was. Tom Hayes, who had been a captain in the rebel army, was standing near, and I took him to be the man, from the voice, who then addressed the man he called Judge Young. I was not acquainted myself with Judge Young, but when I saw him there in the court-house at Moorehead I took him to be the same I had seen at Owingsville, and believe that he was the same man. These are the only two times I have seen Judge Young, if this was him."

Could Young have been present and the witness been compelled to meet the question face to face, "Is this the man to whom you allude?" his answer might have exploded the whole testimony, just as Willis Hockaday's affidavit was when he was brought face to face with Young. But the statement of this witness does not seem to carry the air of truth upon its face. It has the limping, uncertain style of one who is conscious of swearing to a falsehood, who has a general idea of the outline of the lie he is to tell without having fixed up the minute details. He says, "After they rode into town there was a pretty general rushing of the town people, who came up or out to see them. Among others who came there was a certain gentleman came down toward where I was, and up to the men who had me in charge, and close by where I was standing; he was pointing his finger in the direction of a certain house, and named the house, but I don't now remember the name of said house," &c. This does not look like the simple, unvarnished language of truth. He carefully forgets the name of the certain house; cannot mention the names of any of the crowd who "came up or out;" and, besides, he is careful to place Jo. Wells, the only man he recognized at all, so far off as not to be able to see or hear the "certain gentlemen who came down toward where he was, and up to the men who had him in charge, and close by where he was standing." Superadded to those suspicious features, this witness is proved by Judge Moore, a lawyer of Washington city and former resident of Kentucky, who testifies to having known him well while he, Moore, was county judge in Kentucky, to be a man of notoriously bad character, and utterly unworthy of belief on oath; and besides all this, such conduct as the testimony of this witness would, by implication, attribute to Mr. Young is utterly inconsistent with his whole course during the war.

Why was not this man Nickell produced and examined by Mr. McKee when Judge Young or his attorney could be present? Why was the matter so managed by him that he could be sure of an *ex parte* examination of his witness? Is it an unjust conclusion to assume that he feared the result of a cross-examination or to have his facile witness confronted by his intended victim? If there had been a fair and proper examination of this scamp the result would have, no doubt, developed another such

case as that of Willis Hockaday, in which another scandalous *ex parte* affidavit was tinkered up in the office of the contestant himself; but when the witness was called upon before your committee in Kentucky to testify in reference to the identity of the party, he took back every word he had said in that statement that was material to this case, and said that he did not know Judge Young at all. Why did not the contestant in this case, when your committee or the sub-committee was in Kentucky taking evidence in regard to the loyalty of Mr. Young, produce this man Nickell before us and examine him then, so that we could cross-examine him if Judge Young did not do it? He could have produced him then as well as before.

John Trumbo swears that Young "exerted himself to have *him* paroled when he was captured by Morgan's forces at Owingsville," when it was dangerous for him to make the journey for that purpose. That he also tried to procure the release of James Murray, and that he always manifested a willingness to assist in protecting the people of the town against outrages by confederate soldiers. (H. Doc., p. 80.) D. B. Lacy swears that Young was of service to him on one occasion when he was in danger from the rebels. (H. Doc., p. 81.) Joseph H. Richards testifies that he constantly interfered for the protection of Union men and all quiet citizens. (H. Doc., p. 82.) That he interfered to prevent the robbing of Mr. Brothers's store. Judge N. P. Reid, of the circuit court, A. J. Lee, James Murray, all of them Union men, near neighbors of Mr. Young during the war, testify substantially that he did everything in his power for the protection of Union men; and Colonel Morgan testifies to his exertions in behalf of Mr. Barnes. Even Mr. Sharp testifies that Mr. Young warned the messenger who had been sent to summon him to appear before the provost marshal of danger on account of the proximity of rebels, and advised him how he might avoid it. It is deemed unnecessary, however, to multiply citations from the evidence before the House, showing that Mr. Young's course throughout the war was that of a peaceable, law-abiding, good citizen, disposed to do everything in his power for the protection of all classes. I must, therefore, be pardoned for not believing that he could have, in this instance, so far departed from this course so universally known among his neighbors as to have been instrumental in the capture of a man whom nobody but Nickell ever heard of, and he even fails to name. Surely, if Young had taken the oath, and were on trial for having taken it falsely, no gentleman would hesitate as a juror to acquit him of perjury if the charge were sustained alone by the testimony of Nickell. Then why should he be deprived of his seat in Congress on that testimony, when the law declares that he shall forfeit it only on *conviction* of having falsely taken the oath, if, indeed, the oath applies to a member of Congress at all?

With regard to the gun at Prestonburg, the only evidence is that of Henry H. Ewing, which is as follows:

"To Mr. McKEE:

"I live in Owingsville, Kentucky. I am acquainted with Mr. Young. I do not know anything about his disloyalty. I believe he was a southern sympathizer. He was at Prestonburg when there were a parcel of men there collected to be organized into the confederate service. They were not organized at the time. I have no knowledge of Mr. Young having been a candidate for an office in that organization. I do not know that he had a gun there. He showed me a gun standing in the porch of the house where he was staying, and asked me to take care of it. He said, 'There is a good gun; take care of it.' He never spoke to me about going into the rebel army."

"To Mr. KINKADE:

"I am a son of Mr. Joshua Ewing. I and my two brothers were in the confederate army. Mr. Young had nothing to do with inducing me to join the confederate army. I understood, at the time that Mr. Young was at Prestonburg, that his object was to get his brother-in-law to go home."

"To Mr. SCOFFIELD:

"I took care of the gun for three or four weeks, and then, when I was coming home, I gave it to a cousin of mine in the army, and I think he sold it. I afterward went back to the army, and staid till the surrender. The gun was a minie rifle. I do not

know why Mr. Young brought it there. He never inquired of me what became of it. I never told him."

"To Mr. KERR:

"I do not know whether Mr. Young knew I was going into the rebel army."

"To Mr. McKEE:

"Guns were scarce there at the time. There were no guns there of any consequence."

From this testimony the majority of the committee seem to have drawn the inference that Mr. Young had taken the gun to Prestonburg and given it to Henry Ewing, but to me it bears a very different interpretation. It does not show that Young owned or claimed the gun, or that he carried it there. It is true the author of the committee's report seems to lay much stress upon the witness's answer to a question by Mr. SCOFFIELD: "I do not know why Mr. Young brought it there;" but I submit that such is not a fair mode of dealing with the testimony. The witness had just testified that he did not know that Young had a gun there at all, and, of course, when his interrogator assumed that he *had* brought it there, and asked *why* he did so, the witness could only answer that he did not *know*, without desiring to be understood as saying that he had in fact done so. But treat this evidence fairly, candidly, and impartially, and it amounts simply to this and nothing more: Young had gone to Prestonburg, not to assist in the organization of rebel troops, but to persuade his brother-in-law to go home; that so far from assisting or encouraging the organization of rebel troops his influence was against it, as is clearly shown by the evidence of George M. Ewing, already quoted, who afterward opposed his election for county judge in 1865 on that account; that there was a gun sitting in the porch of the house where Young was staying. No one states who brought it there, or when it was brought there, and, as no one seemed to claim it, Young simply remarked to Ewing that there was a good gun, and suggested to him to take care of it. Young was not staying at the camp, as he probably would have done if he had gone there to participate in the organization of the rebel force. He never spoke to either Henry or George Ewing about going into the army, as he naturally would have done if he had favored their intentions, being his near neighbors as they were. He never inquired of Ewing about the gun afterward, as he would have been certain to have done had he given it to Ewing with a view of his taking it into the army, and afterward met him at home and found he had not joined the army as he had expected. Ewing does not swear that Young gave him the gun, or even pretended to have any claim to it, and the language used by him does not even imply as much. Had the gun been Young's, and had he intended to give it to Ewing, his language would not have been, "take care of it," but, "I make you a present of it," or, "I will give it to you," or, "you may have it," or some equivalent expression; while, if it was his in fact and he simply desired him "to take care of it," he would naturally have inquired about it afterward when Ewing returned home without going into the army. How, therefore, this testimony can possibly be tortured into evidence that Young owned the gun, that he carried it to Prestonburg, or that he gave it to Ewing, and all for the purpose of aiding the rebellion, is more than I can see. It is utterly inconsistent with the personal character of Judge Young, which was pure and spotless, and is sustained by no other testimony, and is negated by the established prudence, quiet bearing, and honorable official position of Mr. Young.

It is further alleged that Judge Young, when sent for by William S. Sharp, provost marshal of his county, who by his own testimony is proven to be one of those hypocritical, tyrannical, and detestable men, better denominated scoundrels and thieves, that too often disgraced the Federal service and brought true loyalty into contempt during the late war, he, the judge, took the ground that the war was not a rebellion but a revolution, and that the South had just cause for a revolution. This

villain, Sharp, had been in the habit of summoning suspected persons, or such citizens as he did not like, and such as were able to pay such fees as he might demand of or extort from them, to appear before him and take the oath of allegiance to the Government, and requiring them to pay him from five to fifty dollars for administering it, assessed according to their ability to pay, all which sums he kept as the perquisites of his office, and retains to this day. All this was in palpable, disgusting, wicked violation of law, and is confessed by the guilty scoundrel, and yet by him it is attempted to defame the character of Judge Young.

His remarks to Mr. Sharp were made under such circumstances as to absolutely repel any such hypothesis. He had called Judge Young before him to offer him the oath and receive his fee, and was examining him with a view of testing his loyalty by his own statements, and the remarks attributed to him were made use of, if at all, during the course of that examination, within the hallowed precincts of a provost marshal's office, and in the sole presence of one whose *loyalty* was remunerated by a *carte-blanche* to extort money from his neighbors *ad libitum* for the high privilege of swearing allegiance to their own Government. They were not even voluntarily made, but extorted from him by the provost marshal in the exercise of his high inquisitorial functions. And will it be pretended, then, that these circumstances "fairly show" that in making use of these remarks Mr. Young "actually designed" to and that his remarks "in their nature tended to forward the cause of the rebellion?" Perhaps he may have been intending to seduce Mr. Sharp to descend from the exalted pedestal of power, resign the golden harvest of perquisites, and throw himself into the arms of the unpromising cause of the enemy, but it must be confessed that such a supposition is not very probable.

Nor is there any more ground for presuming that the other expressions testified to were designed or tended to forward the cause of the rebellion. In the conversation with Mr. Parsons, at Mr. Gill's, Mr. Young simply expressed the opinion that Mr. Lincoln should be impeached for his call of seventy-five thousand soldiers. In doing this he only stated the logical results of positions assumed by the most distinguished statesmen in Congress but a short time before. He said nothing calculated or intended to persuade any one to take up arms against the Government, and there was no one present who had actually done so, and who might have been thereby encouraged to persevere in his rebellion.

Nor can it be maintained that the conversation with Joshua Ewing, in 1861, detailed by Mr. Moss, comes within the rule laid down by the committee. To say nothing of the danger of predicating any important decision upon evidence of a casual conversation, six or seven years after it took place, arising from the defects of human memory, and the liability to misunderstand as well as misinterpret what was said; but admitting that he used the exact expression attributed to him, and still there is not a syllable in the proof to justify the conclusion that it was either "actually designed or in its nature tended to forward the cause of the rebellion." On the contrary, it will strike the candid mind simply as an idle expression made to an intense, blatant, super-serviceable, pretended Union man, in order to irritate him, and nothing more. There is no proof that Young said anything in that entire conversation either intended or calculated to induce any one to take up arms against the United States, or to continue in his hostility thereto if actually engaged in the rebellion. The inference is, further, that this remark, if made at all, was long before the war became flagrant, or had in fact begun, and while the scene of difficulty was confined to South Carolina; else why should he have said he expected to have a company in that State? But this testimony has been cited by the committee no



doubt to create the impression that Young influenced Ewing's sons to join the rebel army. That this insinuation is, however, not only unfair, but in the very face of the proof will be seen by reference to the testimony of the Ewings themselves. If any one in the world knew whether Mr. Young had induced them to go into the rebel army they of course did. Yet Henry Ewing swears that he knows nothing of Young's disloyalty. "Mr. Young had nothing to do with inducing me to join the confederate army." (See H. Doc. No. 47, p. 60.) And George M. Ewing testifies, on the next page, that he "never heard Mr. Young encourage any man to go into the southern army."

With regard to the conversation detailed by James Hall, I can only express my amazement that any one should refer to it as a proof of disloyalty, much less that the remark there attributed to Mr. Young should be considered as intended "to forward the cause of the rebellion." The very opposite is the truth. Instead of trying to induce Mr. Hall to take up arms against the Government, or espouse the cause of the rebellion, he tells him that he has been to Prestonburg; tells him that there was a body of men there, and warns him as a Union man to be on his guard, as they were getting to be pretty well drilled. But this fact was, perhaps, elicited to create the impression that Young went to Prestonburg to assist in the organization of the rebel force being at that time collected there. And it may have been alluded to in the majority report for a similar reason. But what are the facts? Young never denied being there, but always declared that his intention in going there, so far from being to assist or encourage the organization, was to persuade his brother-in-law not to go into the rebel army. Henry Ewing, who was there at the time, says: "I understood at the time Mr. Young was at Prestonburg that his object was to get his brother-in-law to go home." George M. Ewing, who was also there, testifies as follows:

"I live in Owingsville, Kentucky. I always looked upon Mr. Young as a southern sympathizer. I know nothing of his acts. He never took any part, that I know of, in raising troops for the South. I never heard him encourage any man to go into the southern army. I heard him declare himself a State-rights man, but never that he was in favor of the confederacy. I joined the rebel army in September, 1861. I do not know anything of Mr. Young's being an applicant for a position in the rebel army. I heard it reported that he ran for colonel of my regiment at Prestonburg, but there was no regimental election at all. In the spring of 1863, when he was running again for county judge against Mr. Wylie, I was electioneering against Mr. Young, and I said that Wylie had gone to Prestonburg and stuck to the army for four years, but that Young had gone there and had nearly broken up the regiment by taking men off instead of letting them stick to the army, and that, therefore, I was opposed to him."

If this amounts to "clear and satisfactory" proof, then it is difficult to perceive what may not be so, especially when it is considered in connection with the testimony of Thomas M. Green, esq., who was a Union candidate in opposition to both the parties to this contest, and was anxious to fix upon Mr. Young the charge of complicity with the rebellion, and especially in this particular instance. He says:

"I here state upon oath, and with a full sense of the importance of telling the truth, that along the whole route, and more particularly at Prestonburg and at Owingsville, where Judge Young lived, I made diligent inquiry to ascertain if Judge Young had been guilty of any treasonable act. I interrogated those who intended to vote for Captain McKee, Union men who intended to vote for me, and rebel soldiers and rebel sympathizers alike. I was especially careful to question men who had been at Prestonburg at the time alluded to by Captain McKee. I made these inquiries for the purpose of using any information I might gain against Judge Young and for my own benefit. The result of all my investigations was that I could learn of no act on the part of Judge Young which was treasonable in its extent or nature, and to my own disadvantage I was compelled to acquit him, Judge Young, of any such act."

I hold, therefore, that the evidence wholly fails to show that Judge Young is or was at any time a disloyal man in any just legal sense. He was disloyal in the cant phrase and clap-trap demagoguery of the day. If such slang,

however, is to be made the basis for conviction of the highest crime known to human laws, and for the deprivation of important rights, then I may as well admit that Judge Young has no standing in this House. But in every just sense, I hold him loyal and competent to take the test-oath.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed, without amendment, joint resolutions and bills of the House of the following titles:

A joint resolution (H. R. No. 266) to authorize the enlargement of the Hygeia Hotel, at Fortress Monroe, Virginia;

A joint resolution (H. R. No. 262) authorizing certain distilled spirits to the Surgeon General for the use of the Army hospitals;

A bill (H. R. No. 659) granting a pension to Sarah E. Pickell;

A bill (H. R. No. 516) for the relief of the widow and minor children of Benjamin B. Naylor, late a pilot on the gunboat Patasco;

A bill (H. R. No. 454) granting a pension to John Kelley;

A bill (H. R. No. 524) granting a pension to Austin M. Partridge;

A bill (H. R. No. 526) increasing the pension of Susan A. Mitchell;

A bill (H. R. No. 520) to place the name of Josephine K. Bugher on the pension-roll;

A bill (H. R. No. 519) granting a pension to Eliza J. Renuard, widow of William K. Renuard, deceased, late a private in tenth Ohio volunteers of war of 1861;

A bill (H. R. No. 517) granting a pension to Cornelia K. Schmidt, widow of Adam Schmidt, late a private in company A, thirty-seventh Ohio volunteers;

A bill (H. R. No. 280) granting a pension to Margaret Huston;

A bill (H. R. No. 258) for the relief of Mary B. Craig;

A bill (H. R. No. 257) for the relief of James L. Dickerson;

A bill (H. R. No. 246) granting a pension to Milton Anderson; and

A bill (H. R. No. 152) for the relief of the widow and children of Henry E. Morse.

The message further announced that the Senate had passed bills of the House of the following titles, with amendments, in which he was directed to ask the concurrence of the House:

A bill (H. R. No. 347) to amend an act to divide the State of Illinois into two judicial districts, approved February 16, 1855;

A bill (H. R. No. 662) granting a pension to the widow and minor children of George R. Waters;

A bill (H. R. No. 661) granting a pension to the widow and minor children of William Craft;

A bill (H. R. No. 525) granting a pension to Jeremiah T. Hallett;

A bill (H. R. No. 521) to place the name of Solomon Zachman on the pension-roll;

A bill (H. R. No. 456) granting a pension to the minor children of Pleasant Stoops;

A bill (H. R. No. 453) granting a pension to Nancy Weeks, widow of Francis Weeks, a soldier of the war of 1812;

A bill (H. R. No. 373) to place the name of Mahala M. Straight on the pension-roll of the United States;

A bill (H. R. No. 523) granting a pension to James S. Todd;

A bill (H. R. No. 522) granting a pension to W. W. Cunningham;

A bill (H. R. No. 518) granting a pension to George F. Gorham, late a private in company B, twenty-ninth regiment Massachusetts volunteer infantry;

A bill (H. R. No. 411) for the relief of Almira Wyeth;

A bill (H. R. No. 236) granting a pension to John Q. A. Keck, late a private in the third Missouri cavalry; and

A bill (H. R. No. 455) granting a pension to David Van Nordstrand.

The message further announced that the Sen-

ate had passed a bill (S. No. 428) for the relief of the sureties of Israel T. Canby, late receiver of public moneys at Crawfordsville, Indiana; in which he was directed to ask the concurrence of the House.

#### McKEE VS. YOUNG—AGAIN.

Mr. KERR. I will devote no more attention at this time to the consideration of the facts touching the loyalty of Judge Young; but I desire to be heard for a moment in reference to the history of this case. I want to call the attention of the House to its history. Its history has had no parallel, at least in my acquaintance with contested-election cases in Congress. It has had no parallel certainly in the history of that kind of cases in this Congress. Its history is extraordinary. It has pursued the most singular course up to its present attitude before the House; and its course has been so singular as to impress my mind with the conviction that there is something more intended to be obtained by the decision than the doing of justice to these parties upon the law and the evidence in the case. I fear the committee has suffered itself to be placed in an attitude of most doubtful propriety. Its conduct justifies the apprehension that a mere partisan end is to be attained in clear violation of justice and law.

In the Birch case the Committee of Elections decided, and the House sustained that decision, that each State in the Union has the exclusive right to regulate and control the suffrage to be enjoyed by its own citizens, to enlarge or limit it.

In that case from the State of Missouri, you will recollect the laws of Missouri and the newly-adopted constitution of that State had changed the right of suffrage in Missouri by greatly limiting it, and that, too, under the most extraordinary circumstances. Yet this House held the State of Missouri, being her own judge in all matters of this kind, could restrict or extend the right of suffrage to her own citizens, so as to increase or diminish the body of her electors at her own pleasure. In the case of Delano vs. Morgan, the same committee, in perfect inconsistency with their ruling in the case of Birch vs. Van Horn, and in numerous other cases held by indirection, not directly, that, under the pretense of punishing for desertion, they can regulate suffrage in any State of this Union by act of Congress, by mere legislative declaration that certain citizens, as a class, are guilty of crime, and without trial by civil or military tribunal, according to any system of law and without conviction, disfranchise such class, in flagrant violation, in my judgment, of the first principles of the Constitution, of our social compact, of natural justice, and of the reserved and most sacred rights of the States; and upon that pretense it was that, in my judgment, one of the greatest wrongs ever committed against the right of representation in this country, according to the will of the people themselves, was committed by this House. It was upon the basis of that sort of assumption that in the case of Delano vs. Morgan the honorable gentleman who now occupies the seat was elected by this House as the Representative of the thirteenth district of Ohio, and George W. Morgan, whom the people of that district had themselves elected, was expelled from his seat and sent home. Thus was committed by this House and by the Radical party of this country the first palpable attempt to establish the doctrine that Congress has the right to regulate suffrage in the loyal States, directly or indirectly. It was a most dangerous and alarming innovation. It now becomes more dangerous because likely to be so soon extended.

On the 23d of March last the Committee of Elections, in their report on this case, unanimously decided that Mr. McKee, the contestant, did not receive a majority of the legal votes cast in the ninth district of Kentucky, and that he was therefore not entitled to a seat in this House. They at the same time held that Judge Young was disloyal and was therefore

not entitled to the seat. At a subsequent time my colleague on the committee [Mr. UPSON] made a minority report as against the original majority report in this case. In that original report the committee say that the proof shows that not more than 666 rebel soldiers voted in that district and voted for Judge Young. "But the committee finding that there is no law of Kentucky disfranchising rebel soldiers have not been able to see how those votes can be rejected." Yet after having given these two opinions, after having made these two solemn decisions, the same committee, by a report subsequently filed, and but a few days ago, take back all they said in those two cases.

## INTERNAL TAX BILL.

Mr. SCHENCK. I ask the gentleman from Indiana to give way to me for a moment to report, in pursuance of the order of the House, from the Committee of Ways and Means, a bill (H. R. No. 1284) to change and more effectually to secure the collection of internal taxes on distilled spirits and tobacco and to amend the tax on banks, for the purpose of having it printed.

Mr. KERR having yielded, the bill was ordered to be printed.

Mr. SCHENCK. By the order of the House I have a right to proceed to the exclusion of all other business with this bill. I have ascertained that by giving it to the Printer by five o'clock this afternoon we can have it printed and ready on Monday morning. I desire, therefore, the unanimous consent of the House not to go on with the bill until it is printed, but that I may call it up on Monday morning. I give notice that I will call it up on Monday.

Mr. MÜNGEN. I ask whether it will be printed by that time?

Mr. SCHENCK. Yes, sir; I have ascertained that it can be.

Mr. MÜNGEN. I have no objection.

Mr. ADAMS. Will it be taken up in preference to the election case now pending before the House?

Mr. SCHENCK. I wish to accommodate the House, because whenever it is taken up it excludes everything else by order of the House. I do not want to break in upon this case to-day; I prefer to have the bill printed. I will therefore give notice that at a particular hour—say two o'clock on Monday if it is agreeable to the House—I will call it up.

Mr. MAYNARD. I suggest if this election case should go over till Monday, of which there is some possibility, the tax bill could be taken up immediately after this case is disposed of.

Mr. SCHENCK. We had better fix some hour and let the pending case accommodate itself to that hour.

Mr. JONES. I suggest that it be taken up immediately after the conclusion of this case.

Mr. SCHENCK. I do not know how long this will run on.

Mr. JONES. Probably not more than till two or three o'clock on Monday.

Mr. SCHENCK. I prefer to agree on a certain time; naming the hour.

Mr. JONES. Say three o'clock.

Mr. GARFIELD. There is a motion of high privilege set down for Monday, to reconsider the vote by which the disability bill was rejected. That will come in.

Mr. SCHENCK. It cannot come in, for by the absolute order of the House, when this bill is reported back we have a right to go on with it to the exclusion of even the morning hour, all reports of committees, and all questions whatever, except reports from the Committee on Enrolled Bills.

Mr. GARFIELD. I know that, but I suggest that we fix an hour so as to be able to dispose of the disability bill.

Mr. SCHENCK. I propose to fix an hour, but if gentlemen insist upon going on now under the stringent order of the House, that of course prevents our getting the bill printed, which everybody wants to see. In case we do not go on with it I want to know precisely

when we can, and I propose two o'clock on Monday.

Mr. KERR. I have no objection if this election case be disposed of.

Mr. WARD. Say three o'clock.

Mr. JONES. I rise to a point of order. The gentleman's proposition cannot be entertained during the discussion of the question pending before the House.

The SPEAKER *pro tempore*, (Mr. BOWWELL in the chair.) The Chair rules that the gentleman who had the floor [Mr. KERR] yielded.

Mr. SCHENCK. Will I have the power to take the floor on this bill under the absolute order of the House at such time as I may demand hereafter?

The SPEAKER *pro tempore*. The Chair does not understand that the gentleman can take any member off the floor.

Mr. SCHENCK. I do not want to take anybody off the floor.

Mr. JENCKES. I understand it to be the order of the House that the tax bill shall be considered, and I object to any particular hour being assigned. I perfectly concede to the chairman of the Committee of Ways and Means the right to proceed with the bill.

Mr. KERR. I believe I must claim the floor.

Mr. SCHENCK. I do not want to do anything discourteous toward the gentleman from Indiana, who has kindly yielded to enable me to get the bill printed. But under the absolute order of the House I can go on with the bill at any time. I do not care to go on now. I want the bill printed for the information of the House. But I want to know if gentlemen will not agree that at two o'clock on Monday we shall go on with the bill?

The SPEAKER *pro tempore*. The Chair understands that the chairman of the Committee of Ways and Means can call up the bill at any time on Monday.

Mr. SCHENCK. I give notice then that I will try to get it up at two o'clock on Monday.

Mr. COOK. I give notice, then, that I shall call the previous question on the contested-election case to-night.

Mr. SCHENCK. Several members ask that there may be extra copies of the tax bill printed. I move that one thousand extra copies of the bill be printed.

The motion was referred, under the law, to the Committee on Printing.

## PURCHASE OF ALASKA.

Mr. BANKS. I hope the gentleman from Indiana will allow me to give a notice to the House.

Mr. KERR. I think I ought not to yield any longer. What does the gentleman desire?

Mr. PILE. Only to give a notice.

Mr. BANKS. It is not in regard to this matter. I only want to give a notice. The Committee on Foreign Affairs do not wish to interfere with the consideration of the tax bill; but as soon as that bill is disposed of they will ask the House to consider the treaty for the purchase of Russian America.

Mr. PAINE. Will the gentleman from Indiana yield to me ask the gentleman from Massachusetts a question in regard to the Alaska bill?

Mr. KERR. I must decline to yield further.

## M'KEE VS. YOUNG—AGAIN.

The House then resumed the consideration of the contested-election case of McKee vs. Young.

Mr. KERR. On the 17th day of June the Committee of Elections made a third, and, I hope, a last report in this case, in which they declare that Mr. McKee did receive a majority of the votes legally cast in the ninth district of Kentucky, and was therefore elected. In the case of Delano vs. Morgan the committee held that persons who had been guilty of desertion, under the twenty-first section of the act of Congress of March 3, 1865, on the subject of desertions from the military service, were not

legal electors in the State of Ohio. The committee now extend that unjust rule to the ninth district of Kentucky; but they do not stop with the application of that rule to this case; they go further and apply another rule, hitherto not settled by any Congress, hitherto not considered or attempted by any Committee of Elections, hitherto not approved anywhere in this country by any legislative or judicial tribunal, and, I trust, not now to be approved or tolerated as it is recommended by the committee, and that rule is this: that it is the duty of this House, wherever persons are allowed to vote in any State of this Union, loyal or disloyal, who have been soldiers in the late war against the Union, to strike from the polls the names of such persons, and not allow them to be counted at all, notwithstanding the total absence of any law of Congress disfranchising them, and of any law of the States in which they vote disfranchising them, or of any law of this country, fundamental or statutory, on the subject of suffrage, that either attempts or pretends to disfranchise them. We are told now, for the first time, that rebel soldiers were allowed to vote in the ninth district of Kentucky, and that persons who have been in the rebellion as soldiers are not legal voters, although they are expressly made legal electors by the States of which they are citizens.

Will the honorable gentlemen of the majority of the committee point out to this House one single case, one single instance, in which Congress has attempted by law to disfranchise a citizen of a loyal State because he was in the rebellion? There is no such law; there never was any such law. And if Congress should ever attempt to enact that kind of a law, it would simply be attempting, as it has many times attempted, to enact laws without authority under the Constitution, in violation of the Constitution, and in violation of the rights of the States, and of civil liberty in this country. The regulation of suffrage belongs to the States alone, and the only safety for our institutions is in the faithful observance by this Government of the reserved rights of the States on this great question. When this barrier to congressional supremacy is overcome the establishment of centralism and despotism will speedily follow.

Is there any law of Kentucky which says that those ex-rebel soldiers should not, in 1867, be allowed to vote? Certainly there is not, and it is not pretended that there is. There was once a law enacted in Kentucky, in 1862, which declared that persons who had gone into the rebellion, or given aid and comfort to the enemies of the country, or attempted to overthrow the Government, or to take Kentucky out of the Union, should henceforth not be qualified to exercise the rights of suffrage in that State. But under that law a case was made and an appeal was taken to the Court of Appeals of the State of Kentucky, and that court by unanimous opinion held that under the constitution of Kentucky that law was utterly void because unauthorized thereby; and thus the law was judicially repealed.

Subsequently, on the 15th of March, 1865, the Legislature of Kentucky, by a specific act of legislation, repealed that law, and declared that it should be as if it had never been enacted. And on the 19th day of December, 1866, there was enacted by the Legislature of Kentucky a law which declared that all persons who at any time had committed the offense or crime of treason against the Commonwealth of Kentucky were thereby pardoned and absolved from all the pains and penalties thereto attached.

Now, it will not be suggested by any lawyer in this House that it is not in the power of the State of Kentucky or of any State of this Union to grant amnesty to her own citizens as to offenses committed against her own laws. That is what Kentucky has done in this case, and what Kentucky had the right to do. She has pardoned those of her citizens who had committed treason against her, and has restored

them to all the rights, all the privileges, and all the franchises that as citizens of Kentucky they hitherto possessed and exercised.

Mr. BENTON. Does the gentleman hold that the Congress of the United States cannot deny to a citizen of a State the right to vote on account of his having been engaged in waging war against the Government of the United States?

Mr. KERR. That question has nothing to do with this case. What the power of Congress may be is in no way material to the decision of this case. If Congress has any such power, it has not exercised it. Then why talk now about the existence or non-existence of any such power? Congress has not attempted to exercise any such power, and therefore that question has nothing to do with this case.

Mr. BENTON. Then I would inquire whether the State of Kentucky has any power to enact a law declaring that citizens of that State who tried to get the State out of the Union should be deprived of the right of suffrage?

Mr. KERR. That question has as little to do with this case as the other question has.

Mr. BENTON. The gentleman has been discussing both of those questions, if I understood him.

Mr. KERR. I have not discussed them, but have stated the absence of any such laws. The gentleman's last question has as little to do with this case as the first question, has because the State of Kentucky has not attempted, in this case, to disqualify any of the men who voted for John D. Young.

Mr. BENTON. Did not the State of Kentucky enact a law that the persons whom I have indicated had not the right to vote?

Mr. KERR. It did; but that law has long since been repealed, as I have stated. But I will answer both of the questions of the gentleman, not because they have anything to do with this case, but because the honorable gentleman seems to be vexed that I have not answered them.

Mr. BENTON. Oh! no.

Mr. KERR. I say that Congress has no power, under the Constitution of the United States, to disfranchise the citizens of a State for any offense until, under a law of Congress, legally and constitutionally enacted, the offenses shall have been defined and the punishments prescribed, and the persons shall have been legally and constitutionally charged with the commission of the offenses after the enactment of the laws, and convicted thereof by courts of legal and competent jurisdiction; and then, I say, they can only be disfranchised by being deprived of actual personal liberty.

Mr. BENTON. Will the gentleman allow me?

Mr. KERR. I decline to yield further. They cannot deprive them of the right of suffrage. They can deprive them of the physical ability to exercise the right of suffrage by shutting them up in prisons or otherwise depriving them of personal liberty, but not otherwise. The loss of suffrage results, as an incident, from the loss of personal liberty. But Congress cannot adjudge disfranchisement to continue after the offender is discharged from all other punishment and set at liberty.

I say, as to the second question, it is competent for the Commonwealth of Kentucky, or any State in the Union, to disfranchise whom that State pleases. The State of Missouri did do so in pursuance of her own law. But if the constitution of Kentucky gave to her Legislature no power to make that disfranchisement then it could not be legally done. I concede that the State may have power to do that, to make a valid disfranchisement, but it has done nothing of the kind.

Mr. COOK. I will ask the gentleman a question. Now, if the Legislature of Mississippi sent Jefferson Davis to the Senate of the United States, I would inquire whether it would be bound to receive him before his trial and conviction?

Mr. KERR. If the honorable gentleman

will tell me what that has to do with this case, I will gladly answer. I refer the honorable gentleman to the answer made to his inquiry by a distinguished Senator of his own party, Senator HOWE, when the inquiry was put in the Senate. He will find that is a satisfactory answer to his question. At this time I decline to go into that discussion.

But I invite the attention of my excellent colleague on the committee to the fact, if Jefferson Davis is a traitor, if he committed acts of treason, and I say he did, against the Federal Government, there are several gentlemen now about to be admitted upon this floor who have done the same thing, and by the gentleman's vote they are to come in here, and are to be allowed to take an exceptional sort of oath, as a qualification, I suppose, to get into this House.

Following the singular course of this committee in this case down to the present time, I cannot but remark, Mr. Speaker, upon the singular rapidity with which vicious examples, vicious acts of legislation, vicious acts of party power and supremacy, become precedents in this country, and are followed by others more revolutionary, and less justifiable acts of wrong on the part of this House. Shakespeare hath most truly said:

"'Twill be recorded for a precedent;  
And many an error, by the same example,  
Will rush into the State."

The case of Delano vs. Morgan is referred to in the last report filed in this case as an authority to settle various grave questions here. The gentleman from Illinois [Mr. COOK] in that report states, citing the case of Delano vs. Morgan, that—

"It has long been held that if the officers of election are not capable of holding the office the election has no more validity than would an election where no officers whatever were appointed; it is otherwise where persons capable of holding the office are appointed, although they may not have complied with the forms of the law. (Easton vs. Scott, 1 Contested-Election Case, page 272; Delano vs. Morgan, decided the present session.)"

My worthy friend also refers to other cases; and upon such authorities asks this House to reject the entire polls in many precincts, and thus disfranchise large numbers of electors for no fault or wrong of theirs, unless it is because they gave majorities for Judge Young. The ground alleged against them is that the election officers had been rebel soldiers, and therefore could not become legal and competent officers of the election.

The cases cited here, and several others cited by my colleague on the committee, have no bearing on the question before the House. I have not time to discuss them in detail. I say I challenge the production of one single case in the entire history of contested elections that sustains the position assumed by the majority of the committee. There is not a single case in this country, but, on the contrary, I can point out, and have in my possession at least one hundred cases in Congress, in legislative bodies, and in the reports of judicial tribunals, which are directly in the very teeth of this assumption, and show that in it there is no law, that it has no basis in authority or decent precedent anywhere.

Reference is made, for example, to the case of Jackson vs. Wayne, (1 Cont. Elec. Case, p. 47,) that came up from the State of Georgia to this House. Now, my worthy colleague is a lawyer, and I have a right to expect that when he invites the attention of the House to a decision he will at least have the kindness to give to that decision the only construction it will bear; that he will at least have the frankness to read that decision to the House, in order that the House may be its own judge, if he is not willing himself to put a construction upon the case.

What did the House decide in that case? I ask the attention of gentlemen to it. I read from the syllabus of the case, which faithfully indicates all there is in it affecting the case now before the House:

"The law of Georgia requires that three magistrates

shall preside at elections; and it was held that a return by three persons, two of whom were not magistrates, was defective."

"Two of whom were not magistrates." Well, what has that to do with this case? If the law of Kentucky held that this election should have been conducted by three township trustees, and the officers were not trustees at all, then this decision would apply. But this decision has no application at all to this case. In Georgia two of the election officers were not magistrates at all. Therefore they were not acting under color of authority; they were neither officers *de jure* nor *de facto*. They had no legal right to preside at that election; they were not chosen magistrates at all, regularly or irregularly, under color of law or without it. In this case all officers were acting under the color of law, elected according to law in every particular. And the honorable gentleman only objects that the officers in these rejected precincts in Kentucky were not personally competent to be elected as judges, sheriffs, and clerks, because they had been rebel soldiers. The law of Kentucky disfranchising them had been repealed in 1865, both by the courts and by the Legislature, and amnesty had been granted them all by the State in December, 1866, and they had thus been fully restored to all their political rights, franchises, and privileges as citizens of that State; and the act of her Legislature of March 15, 1862, by clear implication and in legal effect had been repealed, and there could no longer exist any disqualification arising out of its provisions. The act of amnesty is the latest law, and, upon every principle of statutory construction, it repeals all inconsistent laws. Ex-rebel soldiers were thereafter as competent to become election officers under the laws of Kentucky as any other persons.

But it is insisted that the failure to comply with the provisions of the following law of Kentucky authorizes the rejection of the entire polls of the precincts in which the failure occurs. (Myers's Supplement, p. 456:)

An act to amend section one, article three, chapter thirty-two, title "Elections," of the Revised Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter, so long as there are two distinct political parties in this Commonwealth, the sheriff, judges, and clerk of election, in all cases of elections by the people under the Constitution and laws of the United States, and under the constitution and laws of Kentucky, shall be so selected and appointed as that one of the judges at each place of voting shall be of one political party, and the other judge of the other or opposing political party; and that a like difference shall exist at each place of voting between the sheriff and clerk of election; *Provided*, That there be a sufficient number of the members of each political party resident in the several precincts, as aforesaid, to fill said offices. And this requirement shall be observed by all officers of this Commonwealth who have the power to appoint any of the aforesaid officers of election, under the penalty of a fine of \$100 for each omission, to be recovered by presentment of the grand jury.

In *Blakey vs. Golladay*, in the present Congress, the Committee of Elections and the House decided that the provisions of this law are merely *directory*, and neglect to comply with them cannot render illegal the elections. It may subject the offender to criminal prosecution.

Besides, it should be borne in mind that it is nowhere insinuated, either in the allegations or the evidence, that either of these officers failed in any particular to discharge his duties faithfully, honestly, and impartially; that there is not an iota of evidence that Young received a single vote more, or McKee a solitary vote less than if they had not been appointed. Wherefore, then, should the votes of these several precincts, honestly and fairly cast and truly and impartially returned, be rejected, even if it should be admitted that all the officers of the election belonged to the same party? What reason can be suggested for such a proceeding in justice, morality, or a decent regard to the freedom of the elective franchise, the cornerstone of civil liberty? But even granting that all the election officers in these precincts belonged to the same political party at the time



of their appointment, and still the objection urged by the contestant on that account, to the validity of the votes cast is utterly futile. He admits that they were appointed by the officer or court legally authorized to do so, and, therefore, whether they were qualified according to the strict letter of the statute, or not, they exercised the functions of their several offices under color of authority. In a word they were officers *de facto*, and their acts, in so far as the public or third parties who have an interest in them are concerned, are as effectual and valid as if they had been officers *de jure*. There is, perhaps, not a principle better known to our entire system of jurisprudence than this. It was never doubted, even in England, where the statutes against the appointment of persons to office who have not taken the oaths of supremacy, adjuration, &c., are remarkable for their stringency, and it has, perhaps, never been questioned by any intelligent court in this country; on the contrary, it has been repeatedly affirmed by the supreme court of almost every State in the Union, as well as by the Federal courts.

My colleague refers to the case of *Easton vs. Scott* (1 Contested-Election Case, p. 272) to sustain his positions. In that case there is no question decided that in any respect bears materially upon this case. It is there decided that—

"If an election is required by law to be held by three judges, who are to be sworn, and it is held by two not sworn, their proceedings are irregular, and the votes taken by them are to be rejected."

In this case no such facts arose or are established. The boards were all full, the officers duly sworn, after having been chosen and qualified according to the laws of Kentucky, and their returns are all regular.

Reference is also made to the case of *Howard vs. Cooper* (2 Contested-Election Case, p. 282) and with equal misapprehension of its value and character. In that case but two persons pretended to act as judges. There was, therefore, no compliance with the law; but in the case under consideration there was an actual compliance with the law, and even if the officers were incompetent for the reasons alleged, yet no fraud being alleged or proved, they were officers *de facto*, and the election was clearly valid. In this connection I refer to *Milliken vs. Fuller*, *Bartlett's Contested-Election Case*, page 176; *Ohio, &c. vs. Ritt*, *American Law Register* for December, 1867, page 90; *Barret vs. Reed*, 2 Ohio, 410; *Johnson vs. Stedman*, 3 Ohio, 96; *Elden vs. Sexton*, 5 Ohio, 216, all of which are directly in point.

I hold, therefore, Mr. Speaker, that all these election officers were legally eligible and competent, and that if the contrary were true yet their proceedings were valid and legal, and must be held good by this House, because they acted under color of authority. They were legally chosen; their conduct was regular; there is no fraud alleged or proved; there is no bad faith or corruption shown. Under such circumstances the acts of the officer, whether he possessed the legal qualifications to constitute him an officer *de jure* or not, have always been held by all the courts of the country to be valid. In the leading case on this subject, of the *People vs. Cook*, 14 Barbour, 259, the court say:

"It is sufficient that they were inspectors *de facto*. They came into office by color of title, and that is sufficient to constitute them officers *de facto*. The rule is well settled by a long series of adjudications, both in England and this country, that acts done by those who are officers *de facto* are good and valid as regards the public and third persons who have an interest in their acts; and the rule has been applied to acts judicial as well as ministerial in their character. This doctrine has been held and applied to almost every conceivable case."

I could cite authorities to the same effect to almost any number. Out of the immense number of American cases in which this doctrine has been emphatically stated as the law, I deem it sufficient to cite the following: *Commonwealth vs. Fowler*, 10 Mass., 301; *Mason vs. Dillingham*, 15 Mass., 170; *McGregor vs. Bach*, &c., 14 Vermont, 428; *Cummings vs. Clark*, 15 Vermont, 653; *Keyler vs. McKissom*, 2 Rawle; *Neal vs. Oversears*, 5 Watts, 538;

*Bond vs. Bank Washington*, 11 S. & R., 411; *McKean vs. Summers*, 2 Penn., 297; *Barrett vs. Reed*, 2 Ohio, 410; *Johnson vs. Stedman*, 3 Ohio, 96; *Elden vs. Sexton*, 5 Ohio, 216; *St. Louis Co. vs. Sparks*, 10 Mo., 117; *Pritchett vs. People*, 1 Gilm., Ill., 529; *Cook vs. Hall*, 1 Gilm., 580; *People vs. Ammon*, 5 Gilm., 170; 13 Mich., 527; 1 Mon., (Ky.), 297.

For further example, in the State of Ohio in one case an officer of election was appointed by a county judge, who, at the time of his election was a resident of another county than that for which he was chosen, and therefore lacked the qualifications of residence and citizenship in the county over which he was to preside as judge. Yet the supreme court of Ohio held that inasmuch as he was elected under the forms of law and acted under color of authority, although he had not a shadow of legal authority or eligibility to that office, his action must be sustained.

Mr. Speaker, it is said by my colleague [Mr. Cook] that citizens of Kentucky to the number of 666 who voted for Judge Young had been in the rebel army, and that it would be singular if Congress had not the power to prevent rebels from voting, when it is conceded that it has the power to kill rebels, to shoot them down, or to imprison them when in a state of war. I hardly know how to answer that kind of logic. If it had anything to do with this case, or presented any difficulty in this case, I would cheerfully concede it was worthy of consideration. But what has it to do with the case? When these men were in actual rebellion against this Government who questions the right of the Federal Government to overcome their resistance by taking their lives or by effecting their capture or by imprisoning them or by doing anything consistent with the laws of war and of the country? But when this election took place there was no war in this country, there were no belligerents, but there was profound peace. There was no resistance to law. Where, then, do you get the authority to say that these men are now rebels and in rebellion, and that they therefore may be stricken down and deprived of their right to vote under the laws of their own State? There is no such law, and the inquiry, therefore, has nothing to do with this case, and can have no valid or legal bearing upon its decision. It is dragged in for prejudice rather than argument. The very object of the war was to suppress resistance to the laws, to vindicate the integrity of the country, to bring the citizens back to peaceful obedience and pursuits, and not to strip them of rights or franchises as citizens. It was not a war for conquest and subjugation.

It is said by my colleague, [Mr. Cook,] in his singular report, that these ex-rebel soldiers are embraced in no amnesty or pardon of the President. Let us see. On May 29, 1865, the President issued a proclamation of amnesty, the tenth paragraph of which says that "all persons who left their homes within the jurisdiction and protection of the United States, and passed beyond the Federal military lines into the pretended confederate States for the purpose of aiding the rebellion," shall have full amnesty and pardon. This embraces all the voters referred to. There is not a word of proof that they did not all avail themselves of it by taking the prescribed oath.

But it is said when they left their State and went into the rebellion they waived their right of citizenship in the State of Kentucky. Waived it! I would like to know under what law, in pursuance of what authority, the citizenship of any citizen of this country can be waived. What law of Congress provides the means by which a man may waive his citizenship in a State? What law in the State of Kentucky provides any such process? There is none. It is simply assumption. It is simply running into the cant logic of the day which has no foundation in law or in decent common sense. A man cannot waive sacred rights like those of citizenship and suffrage in this country in any such sense as to become disfranchised. To hold that a citizen can thus lose such rights is to

put it in the power of Congress or of State Legislatures to decitizenize and disfranchise electors at their pleasure, without regard to any of the guarantees for civil liberty or prohibitions against *ex post facto* laws or bills of pains and penalties. The legislative power in the country may then declare that the doing of any act by the citizen shall *ipso facto* place him outside the pale of law, make him an alien and outcast from his country without a hearing or trial or conviction; without courts of justice or indictment, formal charge, or proof. The doctrine is absurd and monstrous.

When these ex-rebel soldiers left the State of Kentucky they continued to be citizens of the State; when they returned to that State they were no more citizens than they were before; they were no less citizens than they were before. They had no less rights as citizens of Kentucky than they had before, unless under a legal and constitutional law of Kentucky they had been indicted for the crime, tried, and convicted. Then their rights might have been diminished, their citizenship might have been taken from them, and their right to vote might have been lost. But that has not been done here as to one single voter out of this whole number. The gentleman from Kentucky [Mr. ADAMS] very pertinently suggested in reference to this case, that, under the system of reconstruction, about which we have heard so much in this House of late, Congress has never even attempted to say that the common soldier of the South had forfeited in the least his right of suffrage. The very contrary is the truth. That right is recognized. That right has never been taken from him. That right continues. It is as sacred to-day as it was before the war. Certain classes, I agree, have been disfranchised, but that disfranchisement is in violation of the rights of those States, and of the Constitution of the United States.

Mr. SHELLABARGER. I wish to ask my colleague on the committee a question. I understand him to say that persons engaged in the rebel service came back to Kentucky with precisely the same rights that they had before, and that those rights continued until they were convicted. Now, the question that I wish to ask is whether he holds that a person arrayed in war, and enlisted in the rebel army, could, in Kentucky, vote for members of Congress while so arrayed in war?

Mr. KERR. I say no.

Mr. SHELLABARGER. And yet they were not convicted?

Mr. KERR. I say no; and I do not need to tell so intelligent a lawyer as my colleague is why I say so. During war, in the midst of the clash of arms, one system of law prevails, while during peace, when war has ceased, when there is no public enemy, when there are no belligerents, when there is no resistance to law, then the civil law again reigns supreme, and under that changed condition of things I say these men hitherto engaged in war may vote as legally as he or I. If deprived of that right it must be according to law, upon conviction and judgment, under the laws of the State, for Congress has no power to regulate suffrage in the States.

[Here the hammer fell.]

Mr. GOLLADAY obtained the floor.

Mr. KERR. I do not wish to encroach on the patience of the House, but I would like to have a few minutes longer.

Mr. LYNCH. I ask that by unanimous consent the gentleman's time be extended five or ten minutes.

Mr. KERR. Ten minutes will be enough.

Mr. COOK. I wish to say that I shall absolutely have to call the previous question within one hour from this time. If the ten minutes is to be taken out of the hour of the gentleman from Kentucky [Mr. GOLLADAY] I have no objection; otherwise I must object.

Mr. GOLLADAY. I will yield ten minutes of my time to the gentleman from Indiana.

Mr. KERR resumed the floor.

Mr. SHELLABARGER rose.

Mr. KERR. I must decline to yield for further questions. I desire to state some facts in connection with this case.

Mr. SHELLABARGER. I wish to say a single sentence.

Mr. KERR. I must decline to yield, as my time is so short.

We are told in the majority report in this case—the last one I mean—that 625 men who had been in the rebel army voted for Judge Young. Now, I desire to invite the attention of gentlemen to the fact that in this report, as made up by the committee, there is a total absence of proof to sustain these allegations. On the contrary, it appears that in all the election districts in this ninth congressional district of Kentucky the only persons who voted, even upon the theory of the majority of the committee, contrary to law, number 818; and I hold in my hand a statement, precinct by precinct, of all those votes, which shows upon all the testimony taken here that only 818 men are proved to have voted for Mr. Young who were ex-rebel soldiers, or to have been disqualified even upon the theory of the majority of the committee.

In every case in which the majority propose to reject either individual votes or entire polls the testimony is extremely vague and incomplete, and as to nearly all the precincts it is the merest hearsay, rumor, common political slang, or partisan denunciation, wanting every element of legal evidence. It is too worthless and trashy to be worthy of recital. The testimony as to the election officers is of the same general character. It is uncertain, unsatisfactory, and fails in most cases to identify the alleged incompetent officer with the alleged ex-rebel soldier whom the officer is said to be. In some cases there is an identity of names shown, but no identity of person. Yet upon such evidence it is proposed to commit the great outrage not only of refusing the seat to the legally elected representative, Judge Young, but to give it to his opponent, repudiated by the people, who has the good fortune to be the political partisan and satellite of the majority in this House. To this end the House is called upon to violate most important principles, to declare that Congress has power, even without formal law, to say who shall and who shall not vote in the States—to regulate suffrage in all the States.

The majority of the committee say that 883 persons who voted for Judge Young were disqualified because they voted at elections where disqualified officers presided. They say that there were 625 persons voted who were themselves rebels; and rejecting all those votes, they make the majority for Mr. McKee to be 41 votes; but as I make up the footing of their own figures, I find the actual majority their own figures indicate is but 37 instead of 41.

Then, by turning to the evidence by which they hope to sustain their case, I find that they reject the vote of Centreville precinct, Fleming county, upon the testimony of Samuel McGuire alone, which I will read. He says:

"Mason Caywood and William H. Cord (judges of election) have been publicly known as southern sympathizers and in favor of the so-called southern confederacy, both during and since the war."

The majority for Mr. Young in that precinct was 132. The only evidence is that those election officers were "known as southern sympathizers." There is no testimony that they were rebel soldiers; there is no testimony that they committed one single act of disloyalty or that they were guilty of any act of treason. There is no testimony upon which a court and jury would for one moment hold that those men were disqualified to sit as judges or clerks of that election. The only testimony is that the witness himself, a friend and partisan of the contestant, had heard other people say that those men were "southern sympathizers."

I do not need to tell intelligent gentlemen here that that was the common clap-trap in political circles in the State of Kentucky during the last seven years. Whenever men wanted to intimate that persons were disloyal men they would say they were rebel sympathizers.

The Radical party all over the country, indeed, both North and South, have been in the habit of saying the same thing in regard to the Democratic party, including in their denunciations men who have shed their blood and periled their lives in the service of their country in that very war. And yet upon that kind of vague charges, based upon common hearsay, without a single particle of proof to sustain them, it is attempted to reject the vote of an entire precinct and to deprive Judge Young of the 132 legal majority given him by the legal voters of that precinct.

I could refer to other towns and precincts and show the same state of facts, based upon evidence as worthless, as flimsy, as unsatisfactory, as the testimony in reference to this precinct. In other words, taking the committee's own figures and examining the evidence in the record that tends to sustain them, or to which the committee appeal to sustain them, and it appears to me most surprising that any member of the committee should be willing to claim that they establish a shadow of right in Mr. McKee to the seat. It is impossible upon any view of the evidence in the record that shall approximate judicial fairness to exclude the precincts referred to. I do hope, Mr. Speaker, that to the great wrong of refusing this seat to Judge Young there will not be added the disgrace of giving it to the contestant. It is not the duty of Congress to elect members to this House.

Mr. JONES. Will the gentleman allow me to ask him one question right here?

Mr. KERR. Yes, sir.

Mr. JONES. Did the committee inquire in the precincts where McKee got a majority whether any of the officers of elections were disqualified, as they contend they were disqualified where Judge Young received a majority of the votes?

Mr. KERR. I cannot say whether any such inquiry was made by any member of the committee. I am very sure of one thing, that no such inquiry is indicated by any of these reports, and that is the only basis upon which the honorable gentleman may reach a conclusion. If any such facts were inquired into they are carefully kept out of this report; they are kept from this House.

But upon the facts presented here, only in an *ex parte* way, in a partisan way, this House is now asked to reverse the first decision of this committee, to reverse its own ruling heretofore in similar cases, and to now establish a new rule to control this case, without any just, fair, and impartial presentation of the facts of the case by the majority of the committee. How can any intelligent gentleman of this House take up that report and answer to his own judgment and conscience why he should change the opinion first reported by the committee in this case; why he should now turn round and surrender his own judgment and act on that of another without evidence, without examination, without the facts, without the testimony, without anything that can justify a gentleman in coming to such a conclusion on a question like this in which, by his high position and solemn obligations, he is required to act and decide impartially and judicially? I trust that such an act of stultification will not be approved by this House, and that we will have an end of the vicious precedents lately established here.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had passed without amendment House bills of the following titles:

An act (H. R. No. 665) granting a pension to Susan V. Berg;

An act (H. R. No. 667) granting a pension to Mary Graham;

An act (H. R. No. 668) granting a pension to Elizabeth Butler, widow of Cyrus Butler;

An act (H. R. No. 769) granting a pension to David Howe;

An act (H. R. No. 772) granting a pension to Robert McCrory;

An act (H. R. No. 774) granting a pension to Amos Withaw;

An act (H. R. No. 776) granting a pension to Zephaniah Knapp, of Luzerne county, Pennsylvania;

An act (H. R. No. 823) granting a pension to George W. Lochor;

An act (H. R. No. 824) granting a pension to Annie Vaughn;

An act (H. R. No. 826) granting a pension to Michael Mellon;

An act (H. R. No. 827) granting a pension to Ann Wilson;

An act (H. R. No. 828) for the relief of Captain William McKean; and

An act (H. R. No. 829) granting a pension to Mrs. Susan Ten Eyck Williamson.

The message further announced that the Senate had passed House bills of the following titles, with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 663) granting a pension to Cyrus K. Wood, the legal representative of Cyrus D. Wood;

An act (H. R. No. 664) granting a pension to the minor children of Charles Gouler;

An act (H. R. No. 666) granting a pension to Henry H. Hunter;

An act (H. R. No. 669) granting a pension to the widow and minor children of Myron Wilklow;

An act (H. R. No. 670) granting a pension to the widow and children of Andrew Holman;

An act (H. R. No. 671) granting a pension to the widow of Henry Keneday;

An act (H. R. No. 672) granting a pension to the widow and minor children of Charles W. Wilcox;

An act (H. R. No. 673) granting a pension to the widow and minor children of John S. Phelps;

An act (H. R. No. 675) granting a pension to the widow and minor children of Cornelius L. Rice;

An act (H. R. No. 676) granting a pension to Thomas Connolly;

An act (H. R. No. 677) granting a pension to the minor children of James Heatherly;

An act (H. R. No. 770) granting a pension to John H. Finlay;

An act (H. R. No. 771) granting a pension to John D. Lay;

An act (H. R. No. 773) granting a pension to William H. McDonald;

An act (H. R. No. 775) granting a pension to the widow and minor children of Erastus Kinsel;

An act (H. R. No. 822) granting a pension to Hampton Thompson; and

An act (H. R. No. 825) granting a pension to John W. Hughes.

#### M'KEE VS. YOUNG—AGAIN.

Mr. GOLLADAY. Mr. Speaker, in the discussion of the question before this House as a young member of Congress I ask the indulgence and attention of members to the views I shall submit to their judgment. And if, in the excitement of the moment or in the heat of debate, I shall utter one word that savors of personal unkindness or reflects upon any member upon this floor, let me say in advance that it is as foreign from my nature as it certainly is from my intention to say aught that shall wound the feelings of any member on this floor.

The case before the House is an anomalous one. There are circumstances connected with it which makes it of extreme interest to every member of this House and to the country; and in the beginning it becomes me to notice the various reports which have emanated in this one case from the Committee of Elections. There is, indeed, such a variety of reports that we are left in doubt as to what really is the report of the committee, or rather of the majority of the Committee of Elections; and when the committee so disagrees with itself I contend that it fails to command that consideration and authority to which it might otherwise be entitled.

I maintain, sir, as a leading proposition, that in these various reports on this case the Committee of Elections have not the right to claim they have given this case a fair and impartial examination, because they are so utterly inconsistent with the reports heretofore made in the preceding election cases; they are wholly inconsistent with the reports in the Kentucky cases already decided. First, let me refer to the report of the gentleman from Illinois [Mr. Cook] in the cases of Beck, Grover, and Jones, made in December, 1867. It is there held as follows:

"But while the committee entertained no doubt that it is the right and duty of this House to turn back from its very threshold every one seeking to enter who has been engaged in armed hostility to the Government of the United States, or has given aid and comfort to its enemies during the late rebellion; yet we believe that in our Government the right of representation is so sacred that no man who has been duly elected by the legal voters of his district should be refused his seat upon the ground of his personal disloyalty, unless it is proved that he has been guilty of such open acts of disloyalty that he cannot honestly and truly take the oath prescribed by the act of July 2, 1862; and further, that the commission of such acts of disloyalty to the Government should not be suspected merely, but should be proved by clear and satisfactory testimony, and that while mere want of active support of the Government or a passive sympathy with the rebellion are not sufficient to exclude a person regularly elected from taking his seat in the House, yet whenever it is shown by proof that the claimant has by act or speech given aid or countenance to the rebellion, he should not be permitted to take the oath, and such acts or speech need not be such as to constitute treason technically, but must have been so overt and public, and must have been done or said under such circumstances as fairly to show that they were actually designed to, and in their nature tended to, forward the cause of the rebellion.

Now, sir, I maintain there is not in this whole volume of testimony one single, solitary act or speech, interpreted by the surrounding circumstances in Kentucky, which, in accordance with the doctrine of the Committee of Elections, as laid down in the report which I have read, would disqualify Judge Young from taking his seat upon this floor, to which he was elected by a large majority of the popular vote of his district. This is rather a bold declaration, but I believe it is susceptible of proof. All that they attempt, in two or three isolated cases, is to make it appear that there was a suspicion of the loyalty of Judge Young during the rebellion. In all this volume of testimony they have failed to prove one single act of disloyalty against Judge Young. Yet, while with the two or three witnesses they have produced to cast a suspicion upon him, there are dozens who say, although the country has been thoroughly traversed and ransacked to find something against him, that he was a law-abiding man, and never, within their knowledge, gave any aid or encouragement to the rebellion, and most of them, too, the witnesses of contestant McKee, who were introduced to prove this particular fact, as the balance of their testimony most clearly shows.

Let me call attention to the testimony of some of these witnesses.

T. B. Oldham, page 56, swore as follows:

"Question. Did Mr. Young confess in that speech that he had been guilty of any act of hostility against the Government of the United States?"

"Answer. No, sir. He denied that in most unequivocal terms. I never heard him admit that he had given aid and comfort to the rebellion."

"Answer. I have been a special friend of Mr. McKee; that is true. I have been a warm friend of his since he was twenty years old. I have taken but little pains to get witnesses. I think I only tried to find one."

JOHN MILLER sworn and examined.

"By Mr. McKee:

"Question. What was Mr. Young's course?"

"Answer. All took him to be a rebel. He was not a Union man."

"By Mr. SCOFIELD:

"Question. Do you know of any acts of his in opposition to the laws of the United States?"

"Answer. I do not. He was a rebel. That is all I know about it."

"By Mr. McKee:

"Question. Did you ever hear Mr. Young talk in reference to the rebellion?"

"Answer. Yes. I heard him say something one day about Dutch Yankees and sour kraut."

"By Mr. SCOFIELD:

"Question. Did you hear him say anything indicating his position?"

"Answer. I heard him say one day that there was no Constitution; that the Constitution was broken.

That is the only thing I recollect. I heard Josh Ewing talking to him one day, and saying that he could take his (Ewing's) sons into the rebel army, but could not go himself. That was on the street in Owingsville.

"By Mr. McKee:

"Question. There is something in your affidavit about Mr. Young and two others leaving Owingsville one night carrying bundles.

"Answer. Some men went out with bundles. I cannot say Young was with them."

"By Mr. KINKEAD:

"Question. Did you ever know Mr. Young to do anything against the laws of the land?"

"Answer. I did not."

"Question. Did you ever hear him advise anybody to break the law?"

"Answer. I never did."

"Question. Did you ever hear him express any opinion adverse to the Government?"

"Answer. Only that the Constitution was broken."

Now I come to Spotswood Deadman, a colored man, spoken of on the other side—let us see what he says on the subject, (page 58:)

"By Mr. KINKEAD:

"Question. What do you know about Mr. Young feeding rebels?"

"Answer. I saw provisions going from his house, and saw him taking rebels to the house."

"Question. Did not Union men give the rebels something to eat?"

"Answer. Of course they did. They were forced to do so."

"Question. Is that the only aid you know of Mr. Young giving to the rebellion?"

"Answer. I believe it is."

I submit that my friend on the other side, who referred to this part of the testimony, neglected to read that particular part by oversight or otherwise.

Then here is the further proof that is brought against him to show that he gave provisions to the rebels.

"Answer. In 1861, at the commencement of the war, I saw Mr. Young's boy, Louis, carrying provisions to the camp, which was about two miles out."

"By Mr. McKee:

"Question. After the war got in full progress, whenever rebel troops came into the town of Owingsville what did the Union men do generally?"

"Answer. They had to go away."

Then further down is this evidence:

"By Mr. KERR:

"Question. You were a Union man always?"

"Answer. Yes."

"Question. What did you do when the rebel soldiers came to town?"

"Answer. I would sometimes stand and look on. Generally speaking, I was working at my trade of saddlery for the rebels, and I was never interrupted. I was working for an employer."

"Question. Do you mean to say that Mr. Young would go out to the country to welcome the rebels coming into town?"

"Answer. No; he would come out from his house and meet them on the street."

That is the kind of evidence. The rebels all left and he was a good Union man, and when they came he quietly stands and looks on, to use his own language.

Michael Carpenter (page 61) gives this testimony:

"I never knew Mr. Young to do anything in aid of the rebellion except as I have told you. I do not think I ever heard him encourage a young man to go into the confederate army."

George M. Ewing (page 61) testifies thus:

"I live in Owingsville, Kentucky. I always looked upon Mr. Young as a southern sympathizer. I know nothing of his acts. He never took any part, that I know of, in raising troops for the South. I never heard him encourage any man to go into the southern army. I heard him declare himself a State-rights man, but never that he was in favor of the confederacy."

Then I come to the testimony of several other witnesses called by Mr. McKee, who say they knew of no single act of Judge Young which compromises him in any way as acting with the rebels, nor of expressions which fairly show "that they were actually designed to, and in their nature tended to, forward the cause of the rebellion," to use the language of the Committee on Elections heretofore quoted from.

Then we hear the testimony of Bierbower himself, who, it will be recollected, was the right-bower of Colonel McKee in taking depositions. Judge Young met him on the stump and said he defied any man to put his finger on a single act which compromised him or connected him in any way with giving aid and comfort to the rebellion; and he further said if any man should so swear he would prosecute him for perjury. This declaration by Young was made all over the district during the canvass,

publicly and privately, within the knowledge of this contestant; and the proof by Mr. Green, a candidate for Congress with Young and McKee, is that McKee failed or refused at any and all times in the presence of Young to make this charge.

But, Mr. Speaker, let us go back to the inception of this case, to see how it was gotten up. The decision against Judge Young was not made in any of these reports. Oh, no; that decision was made in this House last July, and any man who will read the record of the debate at that time will see that it was a foregone conclusion at that time. Why? The dominant party, in addition to a not unnatural desire to have a member of Congress from Kentucky who sympathized with their political sentiments, in and out of Congress, especially that branch who lived in Kentucky, most earnestly desired to strike a blow at the public sentiment of the State, and punish "rebel Democracy," as they facetiously call it, by insult and injury, in striking down her Representative. Colonel McKee made ten distinct allegations against Judge Young as reasons why he should not have his seat. And yet not one of those ten allegations has he proved in this testimony.

There is the statement of Willis Hockaday, a negro, who was talked about so much; then, also, one William S. Sharp. Now I propose to talk a little about this Hockaday to show how he stands upon this question. Here is his deposition, published in the Congressional Globe in July last:

STATE OF KENTUCKY, County of Montgomery:

This day personally appeared before me, a notary public in and for the county and State above, Willis Hockaday, who states that in the year 1861 he was at work at Raccoon Furnace, in the county of Greenup, Kentucky; that in the month of September or October, of said year, a band of rebels came to said place from the Upper Sandy country on a raid; that they captured a number of men and carried off a large number of horses and other property. Affiant states that he himself was captured by these rebels and carried off, but after four or five days made his escape. John D. Young, of the county of Bath, and the same man who was on the 4th day of May, 1867, elected to the Fortieth Congress from the ninth Kentucky district, was with said band of rebels, and was in command of the same, representing himself as a colonel, and was by the men under him called by that title. Affiant was captured in the night, taken out of his bed, ordered to get up and go with them, which he did. During the night affiant did not recognize any of the persons, but the next day saw Young among the men, and commanding them. After his escape he made his way toward Camp Dick Robinson, and on his way through Owingsville, Bath county, related the circumstance, and was then told that Young was absent from home and had gone to the rebel camp at Prestonburg. After his capture he was taken through Grayson, Carter county, and up Little Sandy to Dry Fork. At night affiant made his escape; and further saith not.

his  
WILLIS HOCKADAY,  
mark.

Attest: E. A. THOMAS, J. P. NELSON.

Sworn to before me by Willis Hockaday, who states in my presence, and the presence of the witnesses whose names appear above, that he has heard the foregoing affidavit read and has fixed his mark to his name to the same, and that its statements are true. Witness my hand and seal this 15th day of June, 1867.

G. E. MILLER,  
Notary Public for Montgomery county, Kentucky.

You who have paid but little attention to this case will be surprised to learn that not a word of this is true. This Mr. Willis Hockaday—a gentleman of color—made a deposition, which is also in the Globe, directly to the contrary in every sentence and every word. And not only so, but he made his appearance before the sub-committee of the Committee of Elections at Lexington, Kentucky, and I will read from his testimony on the subject, and you may judge for yourselves what credit should be attached to the statement and motives of a man who has introduced just such testimony. Here is his testimony:

"I live in Stoner, Clark county, Kentucky. I formerly resided at Mount Sterling. In the fall of 1861 I was in Greenup county, at Raccoon Furnace. A squad of six or eight men came there one night and called me up, and took me off with them. I did not know any of them. We fell in with other squads of men, till they numbered some fifty altogether. Next morning there came riding up two very respectable-looking gentlemen, and I was told that one of them was commander of the company, and that his name was Young. I finally made my escape.



"By Mr. KINKEAD:

"Question. Is this gentleman (Mr. Young) the person who you were told was Mr. Young?  
 "Answer. Oh, no; he was a heavier-built, portlier man. I supposed the men who carried me off were rebels."

This man, negro though he was, seemed to know instinctively that Judge Young was not a rebel. He said, "The men who carried me off were rebels." Instinct is sometimes very unerring, even in darkies!

"Question. Who wrote the first affidavit that you made in this matter?"

"Answer. Captain McKee.

"Question. Do you know what was in that affidavit?"

"Answer. I cannot tell now.

"Question. Did you know at the time?"

"Answer. I may have known, but I did not understand."

"Question. You heard the affidavit read at the time you signed it?"

"Answer. I deny hearing it read.

"Question. You afterward made another affidavit?"

"Answer. Yes.

"Question. Was that second affidavit read over to you?"

"Answer. Yes, sir.

"Question. Did you understand it?"

"Answer. I reckon I did. The first affidavit was never read over to me, according to my recollection.

"By Mr. McKEE:

"Question. You gave me your statement, and I wrote it down?"

"Answer. I suppose so. There was no person in the room but yourself. There was a colored man there when I was going in, and I told him I wanted Mr. McKee to write a letter for me. I did not say anything to Mr. McKee about any such letter. I had never been in Mr. McKee's office before. The subject of the election came up. I came back another day, perhaps the second or third evening afterward. Mr. McKee said to me as I was passing: 'Willis, call at my office when you have time.' I said I would do so. On my way back he was still sitting there, and said, 'Willis, have you time to come to my office now?' I said yes; and I went up with him, not knowing what he was up to. I had not got into the secret of the thing; but when he commenced writing and asked me these important questions I surmised what he was after.

"Question. Did I not ask you at the time if you knew John D. Young?"

"Answer. Yes; and I told you I did not.

"Question. Then I said, 'Perhaps it was not he?'

"Answer. I said I was told it was a gentleman named Young.

"Question. And I described the general outlines of Mr. Young, and you said that fitted?"

"Answer. I said that was about his size."

Further on in this examination Captain McKee admits that the affidavit was in his handwriting. Now, I submit whether Captain McKee can be allowed to falsify his own witness. This man, for whom he seems by the proof to have made a deposition for the unholy purpose of keeping Judge Young from his seat on this floor, and thus fraudulently usurp his place, proves, to his surprise and mortification, to be made of "sterner stuff," and even in his ignorance confounds the intelligence of the contestant, and leaves him upon the record a picture of humiliation, and, I might add, infamy, if allowable, for the "slow-moving finger of scorn to point at."

I come now to Mr. Sharp's testimony, upon which and what purported to be W. Hockaday's and McKee's own statement, Mr. Young was prevented in July last from taking his seat in this body; and his deposition is very important. I shall quote from it to show what kind of man this Mr. Sharp is, upon whose evidence, in fact, Mr. Young is to be kept out of his seat. The substance of his deposition is that he ordered Judge Young to appear at the provost marshal's office at a certain time, that Judge Young did appear, and, as he heard, called twice, but he was not there himself, and then Judge Young was guilty of the disloyalty of leaving the country, and went to that rebel State, Vermont, a thing I am sure for which the contestant never can forgive him. If he had gone to South Carolina it might have been different. But I read from the testimony:

"Question. How long did you act as provost marshal at Sharpburg?"

"Answer. About three months. I used to summon men to take the oath generally on information furnished by their neighbors.

"Question. How many men did you send to Camp Chase?"

"Answer. Three or four, I think. One of them was ordered there by General Boyle, positively.

"Question. What compensation did those men pay you for administering the oath?"

"Answer. They were charged from five to twenty-five dollars; poor men were charged nothing."

Mark that! This generous provost marshal Sharp allowed poor men to swear gratis, but a man who happened to be worth something, like Judge Young, had to pay from five to twenty-five dollars for the poor privilege of taking his oath.

"Question. What amount of money did you collect from that source?"

"Answer. I do not know; I never kept any account.

"Question. Several hundred dollars?"

"Answer. Yes, sir; several hundred dollars.

"Question. Did you account for that money to the Government?"

"Answer. I did not."

What! This loyal provost marshal, upon whose testimony Captain McKee relies, appears in this presence as a thief; a man who received money as provost marshal in behalf of the Government and never accounted for it!

I am not done with this military robber, Mr. Sharp, yet. I will go on with his testimony, for there is a heap of good reading in it. I will show you exactly what sort of testimony has been gotten up to keep Judge Young out of his seat. There is the testimony of Hockaday to begin with. But he was an honest colored gentleman; too honest to be used for this purpose, and some substitute had to be found for him. But, again, to Mr. Sharp. What is his testimony?

"Question. Did General Boyle ever give you authority to make charges of that kind?"

"Answer. Not positively.

"Question. Directly or indirectly?"

"Answer. I took it indirectly.

"Question. By writing?"

"Answer. No, sir.

"Question. What did he ever say to you which authorized you to call men before you and charge them for administering the oath?"

"Answer. He did not say I was to charge them, but he said they would have to foot the bills.

"Question. That is the only authority he gave you?"

"Answer. That was as strong as he said.

"Question. Did many of them object to pay you for administering the oath?"

"Answer. No, sir.

"Question. Do you recollect telling Mr. Young's brother-in-law that you would administer the oath to him for ten dollars?"

"Answer. I do not.

"Question. Had you any fixed tariff of fees?"

"Answer. I had not; I generally charged a man by the trouble he gave and his ability to pay.

"Question. What trouble did you have except issuing the summons and administering the oath?"

"Answer. Nothing else.

"Question. You had the same trouble with all?"

"Answer. Yes.

"Question. Then you exacted according to the wealth or poverty of the party before you?"

"Answer. I suppose that had something to do with it.

"Question. And this money you put in your own pocket?"

"Answer. I do not suppose that any of it ever went to the Government."

Of course not; you never heard of a thief returning to the Government anything that he stole therefrom. This man appropriated to himself what he had exacted from the poor and unfortunate men in his district. Honest, loyal agent! How the Government felt itself lean upon his mighty arm for protection! He then went on:

"A good deal of it went for expenses of men and horses in serving summonses. I recollect paying one individual \$100 on the order of Colonel Metcalf."

"Question. Was there not great alarm and terror all through the country at those exactions made on the people?"

"Answer. I think there may have been some little uneasiness about the Camp Chase end of the thing. I do not think anybody was alarmed about anything else.

"Question. Do you state as a fact that you offered to administer the oath to Mr. Young?"

"Answer. Certainly; I offered him the privilege of taking the oath.

"Question. But you did not require it of him?"

"Answer. I did.

"Question. What was Mr. Young's answer?"

"Answer. I do not recollect positively; I suppose he said he had no occasion to take it.

"Question. Did he not say that he was in office, and had already taken the oath?"

"Answer. He probably did; I do not recollect. I had summoned Mr. Young there as I believed he was disloyal, from the cant of the community."

What do you think of such a fellow as this! Really dispensing oaths as a charity to poor men, though an affliction to men of any means, to put money in his own purse, in the name of loyalty, and by the power of the Government literally robbing Kentuckians:

"To Mr. SCOFFIELD:

"I do not recollect that there was any agreement

on the part of Mr. Young and myself what was to occur in the event of General Boyle's decision, either way. We parted in a friendly manner, and Mr. Young said he would appear on the day fixed.

"Question. For what was he to appear—to be sent to Camp Chase, or to determine whether he would take the oath?"

"Answer. I do not think that Mr. Young ever came right square down and said that he would under no circumstances take the oath, nor was there any agreement as to what should be done, dependent on General Boyle's decision. I would, however, have sent him to Camp Chase, whether he took the oath or not, as General Boyle directed me to do so.

"Question. Was it generally reported there that Mr. Young used his influence with the confederates for the protection of Union men at various times?"

"Answer. I cannot say that much. A cousin of mine, who went to summon Mr. Young, informed me that Mr. Young advised him to travel back by a different route to avoid falling into the hands of rebels."

I do not blame Judge Young for leaving this wild waste, leaving the place where there were so many soldiers and such provost marshals, and going to some green spot where there was peace and kindness and liberty and justice.

Here is our friend, Colonel McKee, with ten propositions to prevent Judge Young from taking his seat. He introduced this man Sharp. He introduced Hockaday. He thought this colored man could be made to act to suit his purpose; but, rising above the ignorance of his race, in the purity of truth and in nature's sprout nobility, he scorned to tell a lie or allow himself to be made a tool of to suit the partisan and personal malignity which had literally enveloped the contestee in its fiery flames of persecution and defamation.

I will now call attention to the testimony of Mr. Morgan. I will read it to the House, and I ask whether Judge Young did more than any high-minded man would have done under like circumstances? Nay, I ask any true Union man on this floor if he would not commend the nobility of the act? My friend, Colonel McKee, will pardon me for not addressing this interrogatory to him also.

"C. C. MORGAN sworn and examined.

"To Mr. KINKEAD:

"I reside in Lexington, Kentucky; I have known Mr. Young about four years; I saw him in Owingsville in February, 1863; I was in the confederate service; we had been on a raid in Kentucky, and I started with a party of men to Owingsville, and took possession of it; we got there about half past ten o'clock at night; we surrounded Barnes's hotel and took possession of it; shortly afterward Mr. Young came up and interceded for Barnes to prevent damage being done, and to provide somewhat for our wants, giving as a reason that Barnes was a poor man, and asking me to be as light upon him as possible; he invited me to go to his house that night, but I declined, stating that I would stay with the men; one of the men took a horse belonging to some of the Barneses, and Mr. Young came to me to have it released; the man said he was bound to have a horse, and Mr. Young invited him to go to his stable and take any horse he chose in exchange for Barnes's horse; we knew Barnes to be a decided Union man, which was a great reason for our taking the hotel; we generally put up with Union men. We always required the citizens to feed us; of course it was a relief to Barnes to have us supplied from other quarters; provisions were sent in by outsiders. I recollect meeting Mr. Brother, a son-in-law of Mr. Barnes; I passed through Owingsville once or twice after that; once I told Mr. Young that my horse was very tired and wanted rest, and asked him to indicate some very good Union man who had a good horse that I could take in place of mine; he said he would rather I should not do so, but I insisted that I would, and he said, 'If that is the case you may take one of my horses; I brought his horse out; it was a very bad-looking horse, but really a very good one, and I rode his horse off and left mine behind. Mr. Young showed no disposition to oppress or molest Union men; he stood in the attitude of their protector all the time; two men with bad reputations were in the town one evening, armed and bent on mischief, and Mr. Young came to me and begged me to use my authority to prevent trouble, and I managed to send them off; one of them had the reputation of being a *quasi guerrilla*."

Rather than his poor Union neighbor should lose his horse, which he could ill afford, he gave up his own horse. This shows the pure and high-toned character of Judge Young.

Now let us see what the other witnesses say:

"ANDREW TRUMBO sworn and examined.

"By Mr. KINKEAD:

"Question. Where do you reside?"

"Answer. In Franklin county, about two miles from Frankfort, Kentucky. I resided in Owingsville, Bath county, up to September, 1863. I represented the ninth congressional district of Kentucky in the Twenty-Ninth Congress.

"Question. How long have you known Mr. Young?"

"Answer. Ever since his infancy.

"Question. State what you know about his obedi-

once to the laws of Kentucky of the United States, and his conduct as a citizen?

**Answer.** I cannot speak very much about Mr. Young after the 5th of September, 1862. On that evening, being a Union man, I got notice to quit the country. The advance of Humphrey Marshall's forces came into my town, and the Union people had all left but myself. That evening I left home and lay in the woods forty-one days and nights. I was well acquainted with Mr. Young from his infancy up to that time. He was my neighbor, and he was our county judge. He was an orderly man, a correct man, and a perfect gentleman. I had to leave the country, and I went to Illinois with my stock of mules to feed them during the winter. I went home two or three times during the year 1863, accompanied by soldiers, and saw Mr. Young each time. He met me as he always had done. I was not afraid of Mr. Young, but I was afraid of a good many of his neighbors. It is proper that I should state I always looked upon Mr. Young as a southern sympathizer—what I called a rebel; but as to his acts, I never knew him to do anything that was wrong. He appeared to be a law-abiding man. There was a provost marshal at Sharpsburg who used to send for men suspected of sympathizing with the South, and require them to take the oath—making them pay sums varying from ten to three hundred dollars. I was opposed to that, and spoke against it, so that some of my friends began to doubt my loyalty."

Now I come to Thomas Y. Nesbitt. Let me read his testimony:

**"THOMAS Y. NESBITT sworn and examined.**

**"To Mr. KINKADE:**

"I live in Maysville, Kentucky. I lived in Owingsville in 1861. I have known Mr. Young all my life. During the troubles he deported himself as a quiet, orderly citizen. I never knew of his doing anything to aid the rebellion. I know that he kept me out of the rebel army at one time. I had made up my mind to join the rebel army, and talked to my father about it. He tried to persuade me not to go. I went up street to make some arrangements about going. I met Mr. Young on the street and spoke to him about my going, although I do not know why. He told me I ought not to go; that the best thing for me to do was to stay at home. I think if it had not been for what he said to me I should have gone to the rebel army that very night. I heard a man say the other day, at Maysville, that Mr. Young told him if he did go to the rebel army it would be the worst thing he ever did."

Now I come to B. D. Lacy, (page 81:)

"I had frequent interviews with Mr. Young. He demeaned himself as a quiet citizen all through the troubles, giving no aid to the rebellion that I know of. His sympathies were for the South. I recollect his being of service to me on one occasion when I was in danger from some rebel soldiers. I heard of his having frequently interfered in the same way for other citizens."

I come next to Joseph H. Richard, (page 82:)

"I reside in Owingsville, and resided there during the troubles. I have been always a Union man. Mr. Young lived in the village. I knew him very well. His deportment was that of a good, orderly citizen, attending quietly to his duties. I never knew him to do anything toward aiding the rebellion. His sympathies were well known to be with the rebellion. He was a quiet man. I think that if he had done anything contributing materially to the aid of the rebellion it would have been generally known. He constantly interfered for the protection of Union men and of all quiet citizens."

I might read extracts from dozens of witnesses to the same effect.

I now invite your attention to two pictures—the contestee and the contestant. Look upon this and then upon that—"Hyperion to a satyr." One of them is found giving no aid or comfort, but on the other hand discouraging by every possible means known to him others from going into the southern army. Young George M. Ewing says when Judge Young was a candidate he voted against him, not because he went to the rebel camp, and so far gave aid and assistance to the rebellion, but because he caused a regiment to be disbanded, and because he was instrumental in deterring young men from going into the southern army. Therefore he voted against him:

**"GEORGE M. EWING sworn and examined.**

**"To Mr. McKee:**

"I live in Owingsville, Kentucky. I always looked upon Mr. Young as a southern sympathizer. I know nothing of his acts. He never took any part that I know of in raising troops for the South. I never heard him encourage any man to go into the southern army. I heard him declare himself a State-rights man, but never that he was in favor of the confederacy. I joined the rebel army in September, 1861. I do not know anything of Mr. Young's being an applicant for a position in the rebel army. I heard it reported that he ran for colonel of my regiment at Prestonburg, but there was no regimental election at all. In the spring of 1866, when he was running again for county judge against Mr. Wylie, I was electioneering against Mr. Young, and I said that Wylie had gone to Prestonburg and stuck to the army for four years, but that Young had gone there and had nearly broken up the regiment by taking men off instead of

letting them stick to the army, and that, therefore, I was opposed to him.

**"To Mr. KINKADE:**

"I am a son of Mr. Joshua Ewing. I am sure there was no election at Prestonburg at which Mr. Young's name was brought out. There was only a temporary election for colonel, when Finklin was chosen; but James S. Williams came soon afterward from Richmond with a commission as colonel. I saw Mr. Young at Prestonburg, and asked him what he was doing there. He said he was not going into the army. He did not say what business he had. It was my impression that he influenced men to leave Prestonburg. I had started off with fifty-one men, and there were twenty-five or thirty more; but after Young left we put our companies together, and there was not a full company."

**"By Mr. SCOTFIELD:**

"Question. Do you desire the committee to understand that Mr. Young, from motives of affection or relationship, induced some men to go home, or do you mean to say that he persuaded them from you because he was opposed to your cause?"

**Answer.** I do not know what was the reason. I do not know that he did persuade the men to leave; but I know that Young left, and the men left when he did."

"Question. And in the electioneering campaign you only charged that he had been of no service to the cause, while his competitor had been?"

**Answer.** Yes, sir.

"Question. While he concurred with you in sentiment, you thought he had never aided by act?"

**Answer.** That was my impression.

"Question. How long were you in the service?"

**Answer.** I served twelve months regularly, and was in the army about two years longer—about three years altogether. I was captain part of the time.

**"By Mr. McKee:**

"Question. Is it not a fact that many of the men left because Young did not get the office?"

**Answer.** Not that I know of.

"Question. Because they were dissatisfied with the organization of the regiment?"

**Answer.** There was no talk of an election at all when Young left there. Colonel Williams had come back from Richmond, and it was the understanding that Williams had been ordered to take command of the troops. I looked upon Mr. Young as a southern sympathizer. My father was a Union man all the time, and still sticks to it.

**"By Mr. Cook:**

"Question. At the time your company was at Prestonburg, did you hear anything said about Young having any office whatever in the regiment, either by company officers or anybody else?"

**Answer.** No, sir; I never heard his name mentioned as an officer. We got to Prestonburg in September and stayed there as sort of unorganized body till the 18th of November, when we were sworn in. Mr. Young was not there more than three or four days—not over a week any way. I very seldom saw him in camp.

**"To Mr. KERR:**

"I knew Mr. Young's brother-in-law, Badger. He was not one of the men who went away."

McKee brings up three witnesses such as I have shown before you. Look at Judge Young attending to the wants of his fellow-men, always giving aid and comfort to the Union man; giving food to the hungry, like a humane, kind, Christian gentleman, ever ready to do his duty. He was truly a friend in need. This whole book teems with the depositions of men who swear that he was a benefactor and a protector to them as Union men; and not a solitary act of disloyalty is proven against him in all this record.

You know, Mr. Speaker, and every member on this floor knows, that the whole district had been ransacked, and as with a fine-tooth comb raked and scraped with partisan malignity, with a spirit not of heaven nor even of earth, to find evidence against Judge Young. And yet he stands forth to-day redeemed and disenthralled of all the infamous charges affecting his loyalty. I grieve to see that the Committee of Elections, some of whom I dare call friends, men of such acute legal minds that, uninfluenced by party idiosyncracies, I would hardly dare to question a proposition put forth by them, have reported against him.

But, sir, there is a miasmatic political influence that seems to have permeated this body within the past four months that is perfectly terrific for patriots to look upon. Without intending to do wrong, men whose instincts are kindly seen to have their judgments warped so that they follow their prejudices and partisan feelings rather than the rules of justice and law. They seem to have sought in every conceivable way to bring proof against this man. They have not given him the benefit that the most-ordinary criminal has of being deemed innocent until he is proved guilty. They have gone on the opposite principle, and charged him

with guilt and condemned him upon insinuations and innuendoes. Trifles light as air are to them confirmations strong as proofs of holy writ. He is simply a man who professes to be a Democrat of the States-rights school, and one who has never given aid and comfort to the rebellion, as is proved by fifteen or twenty witnesses. He declares he can take the oath, and that he will prosecute for perjury any man who dares to swear that he ever gave aid and comfort to the rebellion. But just because he happened to be in camp and seeing a gun lying there said to young Ewing, "There is a gun, take care of it," he is to be deprived of a seat in this body. No one proves that he brought that gun there, or that he ever owned it. But twelve months afterward, not ten, that young man goes into the rebel army and carries that gun with him. Therefore it is regarded as proof against Judge Young that he is a rebel, or that he encouraged men to enter the rebel army.

What do you think of such proof as that? You would not condemn the meanest chicken-thief in the country on trial before a jury upon evidence so flimsy and unreliable as this. What does it amount to? Mr. Nickell does not prove that he knows John D. Young or ever did know him, only that he saw him once. And this facile witness, this subtle, Indian-rubber gentleman, notice to take whose deposition was given at three distinct times, and was never taken when Mr. Young was present, appears and swears that he heard a man whom he thinks was Young say, "There is a Federal soldier over there; go for him." He saw him for but a moment, and then he left. And four long years afterward this man of convenient memory, this superserviceable and facile witness, swears that the man he saw was called Judge Young, and that he supposes it to be the same man. Upon this testimony, so unreliable and uncertain, you are asked to exclude one of Kentucky's purest men from a seat in this Hall, when there is not a shadow of a shade of proof that he ever was guilty of a single, solitary act of disloyalty to the Government of the United States.

Let it be remembered that this man Nickell is particularly proven by testimony of men referred to in the report of the committee, but rejected by the committee as being unfit to be believed on oath.

Further, that Judge Moore swears that in 1861 he knew two men of the name of Greenup Nickell, one sixty the other about thirty at that time, and that while he was acting as judge in Kentucky said Nickell was arraigned, if I remember, for hog stealing, and that he would not believe him on oath. The committee, in the report of Mr. McCune, as if acting as special counsel for McKee, reject this proof by their manner of reporting it, because Judge Moore was a rebel congressman, and further that he said that the younger Nickell was about thirty years of age, and this man, a noted character, was proved to be forty, thus conveying the idea that either there were three Greenup Nickells, or that Judge Moore's statement was incorrect. If the Greenup Nickell Judge Moore knew in 1861 was thirty, then he would be about thirty-eight now, and no fair man can doubt that Judge Moore was correct and knew and described this identical Nickell.

Mr. Speaker, I know that I am arguing against a foregone conclusion. I know that men, however honestly disposed, living under the miasmatic malarial influences that now surround this Capitol hardly dare to do justice toward a Democrat, I do not care who he is, for fear they should meet the fate of those at the other end of this Capitol who recently, acting under the solemnities of an oath, dared to speak their sentiments as men.

Sir, this district in Kentucky was canvassed most thoroughly, not only by the contestant in this case, but by a distinguished member now on this floor from Tennessee, [Mr. MAYNARD] and a gentleman from Mount Sterling. They attempt to prove that they were not allowed to speak. The evidence here is that they were never interrupted, but were invariably heard

with politeness and kindness throughout the length and breadth of the district, and yet it is proposed to reject the choice of that district, partly on the ground of threats by rebels to prevent discussion. Why, sir, it is notorious, among Kentuckians at least, that that district was more strongly Union, more strongly for the Government, and had more fighting men in the Union Army than any other two districts in the State, and had fewer fighting rebels than any other district; and yet this man, who is the choice of that district, is to be denied a seat here! Sir, I am not surprised at it. I am prepared for it. Once before I witnessed a vote here to strike down one of the proudest sons of Kentucky. And to-day you are again going to hold an election for a member of Congress from Kentucky; to-day you are called upon by the report of the committee to unseat the choice of Kentucky, and to give the seat to a man who has not received the votes of the people of Kentucky, in violation of the laws of the United States. And for what? I hope that gentlemen will pardon me for saying simply for partisan purposes, in my judgment.

Now, sir, I come to the law. The committee themselves reported that the contestant was not entitled to the seat. They said they could not see how they could give him the seat; nor could I. But a change has come over the spirit of their dream. It seems, according to the gentleman from Michigan, [Mr. Urson,] that they have got up something in the Morgan and Delano case by which they are going to elect him. There is not a single proposition in the Morgan and Delano case that can by possibility come within a squirrel's jump of any similarity with this case, and yet one of the members of the committee says that thing in his report. Why? Are these men proven to be deserters? In Morgan's case the men were proven to be deserters from the Union Army. They do not accuse these men of being deserters in this case, but they accuse them of being rebels and rebel sympathizers, and therefore they propose to reject their votes.

The gentleman from Michigan [Mr. Urson] elects Mr. McKee by 856 votes in his minority report. Then the committee—I suppose, since he must have joined with the others to make a majority report; I do not believe there ever was a majority of that committee in favor of this proposition; only four of them—they elect him by 46 votes. Now, how are you going to reconcile the committee's count of 46 votes with the count of the gentleman from Michigan [Mr. Urson] of 856 votes? Or how is the committee going to reconcile that with their other report, that Mr. McKee is not entitled to the seat at all? The report of Mr. Cook in this case recommends "that Samuel McKee was duly elected a member of Congress," notwithstanding Young received nearly 1,500 majority.

This same committee, 2d December, 1867, in the case of Blakey vs. Golladay, where Blakey was contending for his election as against Hise upon the same grounds of McKee, say:

"He then claimed that a comparison of the poll-books of the several precincts showed that at the election, which in the State of Kentucky is *visa voce*, but 23 of all the officers of election voted for him, while 219 voted for Mr. Hise, and 57 did not vote at all.

"The attention of the committee has not been called to any provision in the statutes of Kentucky prescribing in what manner the several county courts are to define political parties and ascertain the exact political faith of each appointee, so as to enable them to comply with the provisions of these statutes. Obviously they cannot resort to the poll-book of the next election, the tests to which the claimant has appealed to show that the statutes have been disregarded, for they are required to make the appointments long before these poll-books have any existence. No poll-book of an election to be held after the appointment is made can afford evidence to guide in making the appointment. If resort is to be had to the poll-book of the election next preceding the appointment, to determine the political status of the several appointees, then, for aught that appears in this case, those poll-books would show that status to be what the law requires, for no evidence from these poll-books or elsewhere was offered to show how these several officers of election voted at the election next preceding their appointment. If personal knowl-

edge of the political opinions of men on the part of county judges, or general political reputation, are to be the guide in making the appointment of the officers of election, it is difficult to see in what manner this committee could determine that the statute had not been complied with in making the appointment. It is sufficient, however, to say that there was no offer of evidence that any such test was disregarded. But the conclusion to which the committee arrived has rendered unnecessary all speculation as to the true construction or mode of administering the law which it is claimed has been violated.

"If all that the memorialist claims in this respect be admitted, namely, that in eleven out of the twelve counties composing the district this law had not been complied with, and that a non-compliance with it renders null and void the election in those counties, still it is the unanimous opinion of the committee that no such result as is claimed by the memorialist—namely, his own election—would follow."

This same committee on March 23, 1868, made a report in this case, as reported by Mr. McClurg, in which they say:

"After an examination of the testimony the committee are not willing to say that more than 752 rebel soldiers voted for Mr. Young. Of those 86 are hereafter rejected in the entire vote of various precincts for other causes, which would reduce the vote of the rebel soldiers to 666. But the committee, finding that there is no law of Kentucky disfranchising rebel soldiers, have not been able to see how those votes can be rejected.

"The third point in contestant's notice is substantially the same as the second. The fourth is, that in a number of counties and precincts the freedom of the election was violated, and Union men prevented by reason of threats, intimidation, and force, from casting their votes for him, (McKee.)

"The committee fail to find this allegation sustained by the testimony.

"The ninth relates to the freedom of the canvass; and the committee are unable to find testimony to sustain this allegation to such a degree as to justify the rejection of votes.

"The fifth and tenth are very general, and require no comment."

In less than three months afterward this same committee, without even pretending that they have any new facts or law in the premises, now stultify themselves by overriding their deliberately expressed opinion in other cases as well as this. I respectfully ask how they can reconcile this palpable inconsistency, and I bespeak for them at the hands of others that charity which I can scarcely find the facts in the case warrant in myself.

I will tell you my surmise about it. I do not believe any member of the committee ever wrote this last report. If I were a betting man, which I am not, I would bet the whisky, which you all say is a good Democratic drink, that no member of that committee ever wrote that report. Nay, further, if the truth were known, I believe it would turn out that the committee are to-day ashamed of that report. The committee, through the gentleman from Illinois, [Mr. Cook,] say in this report:

"It appears perfectly clear to the committee that persons who had been soldiers in the rebel army had no right to vote or to act as officers of election. They had surrendered to the Government of the United States upon the condition that each company or regimental officer should sign a parole for his men, and each man was allowed to return home, not to be disturbed by United States authority so long as he observed his parole and the laws in force where he resided."

Now, where do they find that? Where is there any proof to that effect? It is a mere assumption, without a particle of proof. They go on and say—

"These men were especially excepted from the amnesty proclaimed by the President May 29, 1865, under the tenth exception, and there appears to have been no other act of amnesty up to the time of this election which could include them; they were paroled prisoners of war."

Mr. Speaker, let us look at that a moment. I believe that point has not been touched. I am very glad they have some respect for the amnesty proclamations of Andrew Johnson, evinced by their quoting from one. I am willing to go to them to show that these men were amnestied generally. I take you upon that proposition and ask you to vote with me upon this question. Now, in the amnesty proclamation referred to, of May 29, 1865, President Johnson says:

"To the end, therefore, that the authority of the Government of the United States may be restored, and that peace, order, and freedom may be established, I, Andrew Johnson, President of the United States, do proclaim and declare that I hereby grant to all persons who have, directly or indirectly, participated in the existing rebellion, except as herein-

after excepted, amnesty and pardon, with restoration to all rights of property, except as to slaves, and except in cases where legal proceedings, under the laws of the United States providing for the confiscation of property of persons engaged in rebellion, have been instituted."

Remember that the question of suffrage or citizenship is not in that exception at all. It relates to property alone. But I will waive that and pass to another of Mr. Johnson's proclamations. Here is one issued on August 20, 1866. Remember that was previous to the election when Judge Young was elected, which was in May, 1867. I ask your attention to it because I believe it is the crowning point of this argument. I believe it goes directly to the gravamen of this whole issue, and throws it back to the State authority of Kentucky. The President, in this proclamation of August, says:

"And I do further proclaim that the said insurrection is at an end, and that peace, order, tranquillity and civil authority now exist in and throughout the whole of the United States of America."

The question of whether Congress has the power to disfranchise rebels of Kentucky or any other loyal State has been lugged into this debate as a make-weight, to influence the minds of the majority of this House by an appeal to a favorite hobby of the power of Congress. In reply, I say Congress has the power, and I am constrained to say will, to do any wrong almost; and we of the minority, with the Constitution itself, must bleed withal, as long as the statute-books retain un repealed and unchallenged that particular wrong. But this is not the question. Congress so far has not, directly or indirectly, passed any law touching the right of suffrage in loyal States, but still recognizes the right of States to regulate that in their own way. In the absence of any congressional law upon the subject we naturally fall back upon the State law.

Now, in what condition do you find these rebel soldiers after those proclamations? I lay down this proposition to start with: I contend that not a single solitary rebel in Kentucky is this day disfranchised from voting at all by the statute law of that State. I maintain that the veriest rebel in Kentucky, who fought during the whole war or quitted before it was ended, right or wrong by law, has to-day the same right to vote in Kentucky that I have or that Mr. McKee has. Now, the person who wrote this report must have known better; indeed I am warranted in saying that the committee knew better, for I myself, when my own case was pending before that committee, showed them the law of 1865, and read it to them. And yet they come here now and refer to the law of 1862.

[Here the hammer fell.]

Mr. COOK obtained the floor.

Mr. GOLLADAY. I ask for ten minutes more.

Mr. ELDRIDGE. I move that the gentleman's time be extended for ten minutes. He yielded ten minutes of his time to the gentleman from Indiana [Mr. KERR] at the suggestion of the gentleman from Illinois, [Mr. Cook.]

Mr. COOK. I object; and demand the previous question.

Mr. ELDRIDGE. He gave ten minutes of his time to the gentleman from Indiana.

Mr. COOK. I demand the previous question.

Mr. ELDRIDGE. I rise to a question of order. The Chair did not deduct the time that the messages from the Senate took up in their reception.

The SPEAKER *pro tempore*, (Mr. BOWWELL in the chair.) The Chair sustains the point of order, and allows the gentleman from Kentucky five minutes additional.

Mr. GOLLADAY. I thank the Chair and my friend from Wisconsin.

Now, sir, let me read an extract from the very last report in this case, that of the gentleman from Illinois, [Mr. Cook.] He says:

"It appears perfectly clear to the committee that persons who had been soldiers in the rebel army had no right to vote or to act as officers of election. They had surrendered to the Government of the United States upon the condition that each company or regimental officer should sign a parole for his men, and



each man was allowed to return home, not to be disturbed by the United States authority so long as he observed his parole and the laws in force where he resided. These men were especially excepted from the amnesty proclaimed by the President May 29, 1865, under the tenth exception, and there appears to have been no other act of amnesty up to the time of this election which could include them. They were paroled prisoners of war. No reason occurs to the committee why these men should be allowed to vote which would not apply with equal force to them while actually in the field against the Government. The only difference which appears is, that they had now been captured; their object, aim, and intent, whether in fighting or voting, was manifestly to destroy the Government. It seems absurd to say that it was a patriotic duty to kill them while they were in arms against the Government to prevent the destruction of the Government by them, and at the same time wholly illegal to refuse to allow them to accomplish the same result by their votes. The whole plan of reconstruction by Congress, as also the plan of reconstruction proposed in the proclamations of the President, has proceeded upon the assumption that those who had renounced their allegiance to the Government and fought against it have forfeited their right to vote."

Where is there any law for that? I deny the whole of that statement. There is not a particle of law for it whatever anywhere within my knowledge. That is a misstatement of fact, not intentional, I hope, but nevertheless a misstatement. They refer to what is well known in Kentucky as the disfranchising law. I submit not only that this report is erroneous, but that it is directly at war with the position taken by the committee itself. I put the decision of the committee to-day against the decision of the committee three months ago. Here is the law, the disfranchising act of March 1, 1862:

An act to amend section one, article three, chapter thirty-two, title "Elections," of the Revised Statutes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That hereafter, so long as there are two distinct political parties in this Commonwealth, the sheriff, judges, and clerk of election, in all cases of election by the people under the Constitution and laws of the United States, and under the constitution and laws of Kentucky, shall be so selected and appointed as that one of the judges at each place of voting shall be of one political party, and the other judge of the other or opposing political party; and that a like difference shall exist at each place of voting between the sheriff and clerk of elections: *Provided,* That there be a sufficient number of the members of each political party resident in the several precincts as aforesaid to fill said offices. And this requirement shall be observed by all officers of this Commonwealth who have the power to appoint any of the aforesaid officers of election, under the penalty of fine of \$100 for each omission, to be recovered by presentment of the grand jury.

MARCH 15, 1862.

An act to amend an act entitled "An act to amend section one, article three, chapter thirty-two, title 'Election,' of the Revised Statutes," approved February 11, 1858.

SECTION 1. That in construing the act approved February 11, 1858, to which this is an amendment, those who have engaged in the rebellion for the overthrow of the Government, or who have in any way aided, counseled, or advised the separation of Kentucky from the Federal Union by force of arms, or adhered to those engaged in the effort to separate her from the Federal Union by force of arms, shall not be deemed one of the political parties in this Commonwealth within the provisions of the act to which this is an amendment.

SEC. 2. This act to take effect from and after its passage.

There the committee stopped. They knew no other law, or for reasons satisfactory to themselves they saw fit to cite no other law. I propose to read another law, passed December 14, 1865, by the Kentucky Legislature:

"That the act entitled 'An act to amend the fifteenth chapter of the Revised Statutes entitled 'citizens, expatriation, and aliens' passed March 11, 1862, be, and the same is hereby, repealed; and all persons who may have lost any constitutional, legal, or other right or privilege by the operation of said act shall be, and are hereby, restored to the full and free use and enjoyment of the same, as completely as if said act had never been passed.

"SEC. 2. *And be it further enacted,* That this act shall be in force from its passage, and may be pleaded in bar of any prosecution or any indictment or other penal proceedings growing out of said act."

Again, I refer to an act passed January 13, 1866, entitled "An act to pardon all persons who have heretofore committed the crime of treason against this Commonwealth:"

"Whereas the power to pardon persons who have committed treason against this Commonwealth is, by the constitution, vested solely in the General Assembly thereof: Therefore,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all persons who have at any

time heretofore committed the offense or crime of treason against the said Commonwealth be, and they are hereby, pardoned and absolved from all the pains and penalties thereto attached.

"SEC. 2. *And be it further enacted,* That any person heretofore indicted for such offense in any of the courts of this State may plead this act in bar of further prosecution of such indictment."

Now, I submit if there be a single, solitary elector in the ninth district of Kentucky who, by the act of the Kentucky Legislature, or by any act of the Federal Government, is not entitled to vote, that Andrew Johnson himself has proclaimed universal amnesty and restoration to all such.

And here I rest the case, in the hope that though you do emasculate the State of Kentucky further by depriving Mr. Young of his seat on this floor, as noble, gallant, and glorious a representative as ever sat in this Hall, you will not insult Kentucky by foisting upon her by your vote a man whom she spurned and repelled at the polls, and against whose representative of her sentiments as one of Kentucky's humblest representatives on this floor, in her name and in the name of liberty and justice, I enter my most solemn protest.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that that body had agreed to the amendment of the House to Senate bill No. 450, relative to filing reports of railroad companies.

It further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

An act (S. No. 175) for the relief of Joseph McGhee Cameron and Mary Jane Cameron, minor children of La Fayette Cameron, deceased;

An act (S. No. 232) for the relief of Henrietta Nolles;

An act (S. No. 238) granting a pension to Carrie E. Burdett;

An act (S. No. 484) for the relief of Elizabeth Barker, widow of Alexander Barker, deceased;

An act (S. No. 456) for the relief of Sylvester Nugent;

An act (S. No. 457) granting a pension to Elizabeth J. Miller, widow of General John Miller;

An act (S. No. 494) granting a pension to Elizabeth Steepleton, widow of Harrison W. Steepleton, deceased;

An act (S. No. 495) for the relief of Henry Reens;

An act (S. No. 496) granting a pension to Riley H. Smith;

An act (S. No. 497) for the relief of Catharine Wands;

An act (S. No. 498) granting a pension to Anna M. Howard;

An act (S. No. 499) granting a pension to the widow and child of Martin Whitt, deceased;

An act (S. No. 500) granting a pension to Lucinda R. Johnson;

An act (S. No. 501) granting a pension to Harriet W. Pond;

An act (S. No. 516) granting a pension to Julia Whistler;

An act (S. No. 517) granting a pension to the widow and children of Henry Brown;

An act (S. No. 518) granting a pension to the widow and child of John P. Petty;

An act (S. No. 519) granting a pension to Mrs. Emma M. Moore;

An act (S. No. 520) granting a pension to Martha Stout;

An act (S. No. 521) granting a pension to the children of William M. Wooten, deceased;

An act (S. No. 545) granting a pension to Hannah Cook;

An act (S. No. 546) for the relief of Jane M. Murray;

An act (S. No. 547) granting a pension to John Sheets;

An act (S. No. 548) granting a pension to Amanda Stackhouse and children of Parkes J. Stackhouse, deceased; and

An act (S. No. 549) granting increase of pension to Catharine Eckhardt.

#### ORDER OF BUSINESS.

Mr. COOK. I demand the previous question.

Mr. MUNGEN. I move that the House adjourn.

The question being put on the motion to adjourn, there were—ayes 25, noes 69; no quorum voting.

The SPEAKER. The Chair will order tellers.

Mr. UPSON. Is it necessary to have a quorum?

Mr. MUNGEN. I withdraw the motion.

Mr. ELDRIDGE. The gentleman from Kentucky [Mr. TRIMBLE] wishes to make a speech on this question, which he is now prepared to make. I hope the House will allow him the opportunity.

Mr. TRIMBLE, of Kentucky. I hope the gentleman from Illinois will not press the previous question now, but will let me have thirty minutes on Monday. This is an important question.

Mr. COOK. It is apparent that I cannot press this question on Monday after the tax bill comes up, and I must, therefore, insist on the previous question.

Mr. TRIMBLE, of Kentucky. I hope the gentleman will consent that I shall have an opportunity to express my views on this question. I have not troubled the House often.

Mr. ELDRIDGE. The gentleman from Kentucky will be satisfied with thirty minutes.

The SPEAKER. It is proposed by the gentleman from Illinois, [Mr. Cook,] as the Chair understands, that the discussion shall continue, but that by unanimous consent the previous question shall be understood to be seconded at the close of this day's session.

Mr. ELDRIDGE. Will that require the gentleman from Kentucky to make his speech this evening?

The SPEAKER. It will.

Mr. ELDRIDGE. Then I object.

Mr. BECK. I desire to know if the House will grant me leave to publish my views on this case?

There was no objection, and the leave was granted.

Mr. TRIMBLE, of Kentucky. After a session of five hours I do not feel like inflicting on the House a speech at this time. I would like to have time on Monday morning.

Mr. COOK. I have promised part of my time to the gentleman's colleague, [Mr. ADAMS.]

Mr. TRIMBLE, of Kentucky. By general consent there will still be an opportunity to have the vote taken on this question before the tax bill comes up.

Mr. JONES. I would like to ask the gentleman from Illinois what pressing necessity there is to demand the previous question this day on this case? It has occupied the committee for four or five months, and now we have had but two hours, discussion upon it. There are other gentlemen here from Kentucky who would like to say a word on this case.

Mr. MULLINS. And Tennessee wants to say something.

Mr. JONES. It is a great question affecting the sovereignty of the States, and I say it is unfair, improper, and unmanly to demand the previous question on it. [Cries of "Order!" "Order!"]

Mr. COOK. The tax bill comes up on Monday.

Mr. ROBINSON. I move that the House adjourn; and on that motion I demand the yeas and nays.

Mr. UPSON. I rise to a question of order. Has there been any action in the House since a motion to adjourn was voted down?

The SPEAKER. That motion was withdrawn.

Mr. ROBINSON. I withdraw the motion.

Mr. ELDRIDGE. Will not the gentleman from Illinois consent that the gentleman from Kentucky [Mr. TRIMBLE] shall speak for thirty minutes on Monday morning? There is no disposition to occupy the time of the House.

Mr. COOK. I want to say to the gentleman from Kentucky [Mr. TRIMBLE] that I have already promised thirty minutes of my closing hour to his colleague, [Mr. ADAMS;] and thirty minutes ought to be reserved for those who shall defend the other side of the proposition. That seems to me to be right and reasonable.

Mr. ELDRIDGE. I understand a proposition to have been made that Judge TRIMBLE may go on to-night for thirty minutes. Now I propose that by unanimous consent he shall be allowed thirty minutes on Monday morning, not to come out of the hour of the gentleman from Illinois; and that then the previous question shall be considered as seconded.

Mr. COOK. I am perfectly willing that the gentleman from Kentucky shall have any time that the House will allow him, if it is not to come out of my time.

Mr. GARFIELD. Will it be understood, then, that at the end of Judge TRIMBLE's thirty minutes the previous question will operate?

Mr. ELDRIDGE. That is understood.

The SPEAKER. The Chair will state to the House the condition of business, which, of course, accumulates toward the close of the session. After the morning hour on Monday the first business in order will be the consideration of the motion to reconsider the vote rejecting the report of the committee of conference on the bill removing political disabilities. That, unlike other business, can be taken up and acted on at any time, whatever else may be before the House. It is the only character of business that can be taken up when other business is being transacted, being highly privileged. The motion to reconsider will come up immediately after the morning hour. When that shall have been disposed of, if the previous question should not be operating at the adjournment to-night, this election case will then be resumed; but if the Committee of Ways and Means should demand the floor, they will be entitled to it under the order of the House.

Mr. SCHENCK. I ask unanimous consent that the morning hour of Monday be dispensed with.

Mr. HARDING. I object.

Mr. GARFIELD. I ask unanimous consent that the hour of meeting Monday be eleven o'clock a. m. instead of twelve o'clock.

The SPEAKER. That would require unanimous consent. Is there any objection?

Mr. GARFIELD. I hope there will be no objection.

The SPEAKER. The Chair hears no objection, and that will be the order.

Mr. SPALDING. I object.

Mr. KELSEY. I object.

Several MEMBERS. The objection is too late.

Mr. HARDING. I will withdraw my objection to dispensing with the morning hour of Monday.

Mr. ASHLEY, of Nevada. I renew the objection.

The SPEAKER. Objection being made, the morning hour of Monday will not be dispensed with.

Mr. PRUYN. I ask unanimous consent that the House meet at half past six o'clock Monday morning and adjourn for the day at eleven o'clock.

Mr. BLAINE. The gentleman can come here as early as he pleases.

The SPEAKER. The gentleman from New York [Mr. PRUYN] asks unanimous consent that the House meet at half past six o'clock on Monday morning and adjourn for the day at eleven o'clock. Is there objection?

Objection was made by several members.

The SPEAKER. Then the hour of meeting will be eleven o'clock.

Mr. SPALDING. How can that be?

The SPEAKER. The gentleman's colleague [Mr. GARFIELD] asked unanimous consent that the hour of meeting on Monday next be eleven o'clock.

Mr. SPALDING. And I objected.

The SPEAKER. The Chair asked if there

was any objection, and hearing none, said that there was no objection.

Mr. SPALDING. I certainly objected.

The SPEAKER. The Chair heard the gentleman make an objection after the announcement.

Mr. SPALDING. I certainly objected before any announcement was made.

Mr. GARFIELD. I was listening for objections and I heard none.

Mr. SPALDING. I say I did object.

The SPEAKER. If the gentleman states that he made his objection in time, before the Chair made the announcement, of course the Chair will entertain the objection.

Mr. SPALDING. I certainly did object, both before and after the announcement.

The SPEAKER. Then objection being made, the hour of meeting on Monday will be twelve o'clock m.

Mr. ROBINSON. I move that the House now adjourn.

Mr. GARFIELD. Is it in order to move that the House now take a recess until eleven o'clock Monday morning?

The SPEAKER. The gentleman from New York [Mr. ROBINSON] has moved that the House now adjourn, and the motion to adjourn takes precedence of the motion to take a recess. Should the motion to adjourn be withdrawn or voted down, then a motion for a recess would be in order.

Mr. GARFIELD. I ask the gentleman to withdraw his motion to adjourn, so that I may submit a motion for a recess.

Mr. ROBINSON. I will withdraw the motion to adjourn.

Mr. GARFIELD. I now move that the House take a recess until eleven o'clock on Monday morning, with the understanding that after this case has been resumed for a half an hour the previous question shall be considered as ordered.

Mr. FARNSWORTH. I desire to ask a parliamentary question of the Chair.

The SPEAKER. No debate is in order, but the Chair will answer a parliamentary question.

Mr. FARNSWORTH. If the House shall take a recess until eleven o'clock on Monday morning, will any business set down for consideration on Monday come up before twelve o'clock?

The SPEAKER. It will not.

Mr. FARNSWORTH. Then what will be the advantage of taking a recess until that time?

The SPEAKER. The session of to-day, and the consideration of the business pending at the time the recess is taken will be resumed at eleven o'clock and continued until twelve o'clock, when the session of Monday will begin.

Mr. FARNSWORTH. I have no objection to that.

The question was then taken on the motion of Mr. GARFIELD for a recess until eleven o'clock a. m. on Monday next; and upon a division there were—ayes 84, noes 15.

So the motion was agreed to; and accordingly (at five o'clock and five minutes p. m.) the House took a recess until eleven o'clock a. m. on Monday next.

#### AFTER THE RECESS.

The House at eleven o'clock a. m. [Monday, June 22, 1868] resumed its session of Saturday.

#### DAVID VAN NORDSTRAND.

The SPEAKER, by unanimous consent, took from the Speaker's table the amendment of the Senate to House bill No. 455, granting a pension to David Van Nordstrand.

The amendment of the Senate provided that the pension should commence on the "9th of October, 1864," instead of "from and after the passage of this act."

The amendment was concurred in.

Mr. BLAINE moved to reconsider the vote by which the amendment was concurred in;

and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ASSISTANT LIBRARIAN.

Mr. BLAINE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Appropriations is hereby directed to include in the deficiency bill a provision fixing the salary of the Assistant Librarian in charge of the Hall Library the same as that paid to the file, printing, and enrolling clerks.

Mr. BLAINE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PENSION BILLS REFERRED.

The following pension bills from the Senate were, by unanimous consent, taken from the Speaker's table, severally read a first and second time, and referred to the Committee on Invalid Pensions:

An act (S. No. 175) for the relief of Joseph McGhee Cameron and Mary Jane Cameron, minor children of La Fayette Cameron, deceased;

An act (S. No. 232) for the relief of Henrietta Nolles;

An act (S. No. 238) granting a pension to Carrie E. Burdett;

An act (S. No. 434) for the relief of Elizabeth Barker, widow of Alexander Barker, deceased;

An act (S. No. 456) for the relief of Sylvester Nugent;

An act (S. No. 457) granting a pension to Elizabeth J. Miller, widow of General John Miller;

An act (S. No. 494) granting a pension to Elizabeth Steepleton, widow of Harrison W. Steepleton, deceased;

An act (S. No. 495) for the relief of Henry Reens;

An act (S. No. 496) granting a pension to Riley H. Smith;

An act (S. No. 497) for the relief of Catharine Wands;

An act (S. No. 498) granting a pension to Anna M. Howard;

An act (S. No. 499) granting a pension to the widow and child of Martin Whitt, deceased;

An act (S. No. 500) granting a pension to Lucinda R. Johnson;

An act (S. No. 501) granting a pension to Harriet W. Pond;

An act (S. No. 516) granting a pension to Julia Whistler;

An act (S. No. 517) granting a pension to the widow and children of Henry Brown;

An act (S. No. 518) granting a pension to the widow and child of John P. Petty;

An act (S. No. 519) granting a pension to Mrs. Emma M. Moore;

An act (S. No. 520) granting a pension to Martha Stout;

An act (S. No. 521) granting a pension to the children of William M. Wooten, deceased;

An act (S. No. 545) granting a pension to Hannah Cook;

An act (S. No. 546) for the relief of Jane M. Murray;

An act (S. No. 547) granting a pension to John Sheets;

An act (S. No. 548) granting a pension to Amanda Stackhouse and children of Parkes J. Stackhouse, deceased; and

An act (S. No. 549) granting increase of pension to Catharine Eckhardt.

#### PRINTING OF INTERNAL TAX BILL.

Mr. CAKE, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That one thousand extra copies of the bill revising the internal tax on whisky and tobacco, &c., be printed for the use of the House.

#### ELECTION CONTEST—M'KEE VS. YOUNG.

The House resumed the consideration of the contested-election case of McKee vs. Young, in the ninth congressional district of Kentucky,

Mr. TRIMBLE, of Kentucky, being entitled to the floor.

Mr. COOK. I deem it proper that I should call the attention of the House to a section of an act passed on the 2d day of March, 1867, and to say that the section being incorporated in an act having no relation to the general subject of legislative declarations on the subject of secession and rebellion had escaped my notice, and so far as I know the notice of members of the committee. I deem it but fair and just, therefore, to call the attention of the House to that section. It is as follows:

"Sec. 2. And be it further enacted, That section one of the act entitled 'An act to increase the pay of soldiers in the United States Army, and for other purposes,' approved June 20, 1864, be, and the same is hereby, continued in full force and effect for three years from and after the close of the rebellion, as announced by the President of the United States by proclamation bearing date the 20th day of August, 1866."

I was not aware that there was any statute which gave any legislative declaration about the close of the rebellion. This section being incorporated in an appropriation bill escaped my notice.

Mr. TRIMBLE, of Kentucky, addressed the House. [See Appendix.] Before concluding, he said: I believe, Mr. Speaker, I have three minutes of my time remaining, and I will yield them to my colleague, [Mr. BECK.]

Mr. BECK. I wish to state two facts, but I do not think I can do it in three minutes.

The SPEAKER. The session of Saturday will expire at twelve o'clock m. and then the business of the morning hour of Monday will begin.

Mr. BECK. I will wait and get ten minutes of the time of my colleague, [Mr. ADAMS.]

Mr. ELDRIDGE. I suggest that the gentleman from Kentucky [Mr. BECK] have the three minutes given to him by his colleague [Mr. TRIMBLE] when the debate is resumed, and that only seven minutes be deducted from the time of his other colleague, [Mr. ADAMS.]

There was no objection, and it was ordered accordingly.

Mr. COOK. I now demand the previous question, and will let the subject go over in that way.

Mr. BOUTWELL moved that the House adjourn.

The motion was agreed to; and thereupon (at twelve o'clock m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Mrs. Mary Tiffany, of Schenectady, New York, for relief.

Also, the petition of citizens of Fayette, Blanco, and Kerr counties, for a division of said State.

Also, remonstrance of John Beeson, against the payment of any money to speculators in Indian wars.

Also, a remonstrance of Howard Wiswall, of Washington, North Carolina, against being included in the act relieving from disabilities, as he had never been disloyal to the Government of the United States.

By Mr. BANKS: A memorial of the mechanics employed in the navy-yard at Washington, District of Columbia, praying that they may be included in the list of employes of the Government to whom an increase of twenty per cent. on their pay may be given.

Also, a memorial of John Beeson, praying for the abolishment of the Indian Bureau, and the establishment in the place thereof of an Indian department of the Government, for the purpose of better protection of the Indian tribes from unjust treatment, together with a proposed system for the better government of the Indians.

By Mr. LYNCH: The petition of James Murphy, of Maine, asking compensation for time unjustly detained as a deserter.

#### IN SENATE.

MONDAY, June 22, 1868.

Prayer by Rev. A. D. GILLETTE, D. D.

On motion of Mr. MORTON, and by unanimous consent, the reading of the Journal of Saturday last was dispensed with.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 1035) authorizing the Manufacturers' National Bank of New York to change its location, and the bill (H. R. No. 1282) authorizing certain banks named therein to change their names, were severally read twice by their titles, and referred to the Committee on Finance.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions adopted at a meeting of the National Typographical Union, held at Washington, District of Columbia, June 3, 1868, in favor of the passage of a law making eight hours a legal day's work; which were ordered to lie on the table.

He also presented resolutions adopted at a meeting of the National Typographical Union, held in Washington city, June 4, 1868, against the passage of an international copyright law; which were referred to the Committee on the Library.

Mr. RAMSEY presented a petition of citizens of Philadelphia, Pennsylvania, asking that the soldiers of the war of 1812 and the widows of deceased soldiers be placed on the pension-roll; which was referred to the Committee on Pensions.

Mr. WILLEY presented the petition of James C. White, of Portsmouth, Virginia, praying a removal of the civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. YATES presented a memorial of settlers on Cherokee neutral lands, asking that they may purchase their homes at \$1 25 per acre, and protesting against the granting of large tracts to railroads; which was referred to the Committee on Indian Affairs.

Mr. HOWE presented the memorial of G. E. Weiss and L. B. Rice, inspectors of customs of the port of Milwaukee, remonstrating against an American register being granted to the schooner Victoria, a Canadian-built vessel; which was referred to the Committee on Commerce.

Mr. SUMNER. I present a petition from Rev. Rufus Ellis, of Boston, pastor of the First Church there, and several other persons, leading members of that society, in which they set forth that they have ordered from England painted glass windows to be used in their new church which they are now building, valued at from ten to fifteen thousand dollars, and which are expected to arrive in this country about the 1st of October next. They state that it was found impossible at any expense to procure first-class work of this character in the United States; and believing that the undertaking will tend to raise the standard of taste in matters of art, and will facilitate and improve manufactures of that character in the United States as being the most considerable attempt yet made to supply good models; and also in consideration of the expense of the enterprise, they respectfully ask the remission of the duties on this glass. I move the reference of this petition to the Committee on Finance.

The motion was agreed to.

Mr. SUMNER. I have received, and been asked to present what is entitled "a memorial" from William Cornell Jewett, in which he asks Congress to establish a Government bank, and through that a financial policy, under which, according to the statement of his petition, the national debt will be consolidated, its redemption provided for without any tax upon the people or the future care of Congress, and the national honor protected. I move the reference of this memorial to the Committee on Finance.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the resolution (S. R. No. 151) to drop from the rolls of the Army certain officers absent without authority from their commands, reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 149) authorizing the sale of damaged or unserviceable arms, ordnance, and ordnance stores, reported it without amendment.

#### SITE OF FORT COVINGTON.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 264) to provide for the sale of the site of Fort Covington, in the State of Maryland, to report it back without amendment and recommend its passage. It is a joint resolution containing but one section, and, if there is no objection, I should like to put it on its passage.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It authorizes the Secretary of War to sell in entirety or by subdivisions, at public auction to the highest bidder, after thirty days' notice in three daily newspapers in the city of Baltimore, one of which newspapers shall be published in the German language, a certain tract of land belonging to the United States, situated within the limits of that city, on the Patapsco river, Maryland, known as the site of Fort Covington, containing about two and three quarters acres, more or less, with all the tenements, rights, and privileges pertaining thereto; and the proceeds of the sale are to be paid into the Treasury of the United States.

Mr. WILSON. I will simply state that the joint resolution has the approval of the War Department, and is recommended by the Department.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### AMERICAN CITIZENS ABROAD.

Mr. CONNESS. I offer the following resolution:

*Resolved*, That the Committee on Foreign Relations be discharged from the further consideration of the bill (H. R. No. 768) concerning the rights of American citizens in foreign States.

Mr. SUMNER. I object to its consideration to-day.

The PRESIDENT *pro tempore*. Objection being made, the resolution must lie over under the rules.

Mr. CONNESS. I give notice that to-morrow I will ask the Senate to consider this resolution, and at the same time submit some remarks in connection therewith.

#### ELIZABETH CARSON.

Mr. WILLEY. I move to take up for consideration Senate bill No. 536.

The motion was agreed to; and the bill (S. No. 536) for the relief of Elizabeth Carson was read the second time, and considered as in Committee of the Whole. By its terms the Secretary of the Treasury is to pay to Elizabeth Carson, of Bourbon county, Kentucky, the sum of \$2,630 40, in full satisfaction for subsistence, use of jail, fuel, fire, care, and attention furnished by her to conscripts, deserters, and rebel prisoners confined in the jail of Bourbon county, Kentucky, by the military authorities of the United States in the years 1862, 1863, 1864, and 1865.

Mr. EDMUNDS. What committee reported that bill?

Mr. DAVIS. I ask for the reading of the report of the Committee on Claims.

The Chief Clerk read the following report, made by Mr. WILLEY on the 12th instant:

The Committee on Claims, to whom was referred the petition of Elizabeth Carson, praying compensation for subsistence furnished to prisoners confined in the Bourbon county jail, in Kentucky, by order of the military authorities of the United States, from



August, 1862, to the latter part of 1865, having considered the same, beg leave to report:

That Mrs. Carson is a widow, residing in Bourbon county, in the State of Kentucky, and was from August, 1862, to the latter part of the year 1865, the keeper of the jail in said county; that during that time the military authorities of the United States then stationed in said county took control of said jail as a military prison and compelled her to furnish subsistence for conscripts and for deserters from the United States Army and prisoners taken from the rebel forces; that during said time she furnished subsistence, amounting in all to four thousand three hundred and eighty-four days' subsistence, for prisoners placed in said jail by said military authorities; that said authorities never paid a cent therefor; that said petitioner kept an accurate account of the number of days' subsistence thus furnished, which is filed with her petition, with evidence of the justice and truth thereof; that she also claims compensation for fire furnished in the prison for a portion of said time, and also for fuel furnished to the guards around the jail, and also for rent for said jail; and her charges for subsistence are at the rates of seventy-five cents per day, and for fire thirty-five cents per day, which were the rates allowed by law in that jail for keeping persons confined therein under the civil law. Her total claim thus made out amounts to the sum of \$4,618 70.

Upon examination of the facts, and upon consideration of the case, the committee are of opinion to allow her sixty cents for each day's subsistence, making the sum \$2,630 40, in full discharge of her account. Accordingly they report the accompanying bill.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 455) granting a pension to David Van Nordstrand.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 450) relative to filing reports of railroad companies;

A bill (S. No. 426) for the relief of Thomas Crossley;

A bill (S. No. 184) granting a pension to Mrs. Ann Corcoran; and

A joint resolution (S. R. No. 184) authorizing a change of mail service between Fort Abercrombie and Helena.

#### THANKS TO SECRETARY STANTON.

Mr. EDMUNDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Senate communicate to Hon. Edwin M. Stanton the concurrent resolution of the two Houses, signed by the Presiding Officers thereof, presenting to him the thanks of Congress for his eminent public services while Secretary for the Department of War.

#### ADMISSION OF COLORADO.

Mr. YATES. I move that the Senate proceed to the consideration of Senate bill No. 11.

Mr. MORRILL, of Vermont. Let the title of the bill be read that we may know what it is.

The CHIEF CLERK. "A bill (S. No. 11) to admit the State of Colorado into the Union."

Mr. MORRILL, of Vermont. I hope that bill will not be taken up in the morning hour.

Mr. YATES. It will take but a few minutes.

Mr. MORRILL, of Maine. I desire to say to my friend from Illinois that at one o'clock to-day I shall ask the Senate to indulge me in taking up the legislative appropriation bill.

Mr. YATES. This will not interfere with that.

Mr. MORRILL, of Maine. Very well.

The question being put, there were, on a division—ayes 15, noes 3; no quorum voting.

Mr. YATES. I suppose it is necessary to ask for the yeas and nays. I wish to make a statement to the Senate, and then I think the Senator from Vermont will withdraw his objection.

Mr. CONNESS. I hope the Chair will put the question again.

The PRESIDENT *pro tempore*. There is a quorum present.

Mr. CONNESS. I ask that the vote be taken over again.

The question being again put, there were, on a division—ayes 21, noes 8.

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 11) to admit the State of Colorado into the Union.

The preamble recites that on the 21st of March, 1864, Congress passed an act to enable the people of Colorado to form a constitution and State government, and offered to admit that State, when so formed, into the Union upon compliance with certain conditions therein specified; that it appears by a message of the President of the United States, dated January —, 1866, that the said people have adopted a constitution which, upon due examination, is found to conform to the provisions and comply with the conditions of that act, and to be republican in its form of government, and that they now ask for admission into the Union. The bill therefore proceeds to enact that the constitution and State government which the people of Colorado have formed for themselves be accepted, ratified, and confirmed; and to declare the State of Colorado to be one of the United States of America, which is admitted into the Union upon an equal footing with the original States in all respects whatsoever.

The second section declares Colorado to be entitled to all the rights, privileges, grants, and immunities, and to be subject to all the conditions and restrictions of an act entitled "An act to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," approved March 21, 1864.

The third section provides that the act shall take effect with the fundamental and perpetual condition that within the State of Colorado there shall be no abridgment or denial of the exercise of the elective franchise or of any other right to any person by reason of race or color, (excepting Indians not taxed;) and neither this condition nor the laws of Congress securing such equality of rights now in force in the Territory of Colorado shall be abrogated or set aside, anything in the constitution or laws of that State to the contrary notwithstanding, the right to require and enforce a compliance with and obedience to this condition being reserved to Congress.

The Committee on Territories propose to amend the bill by adding as a new section:

Sec. 4. *And be it further enacted*, That it shall be the duty of the acting Governor of the Territory of Colorado, as soon as practicable after the passage of this act, by proclamation, to call a general election to choose members of the State Legislature and State officers to fill the places of all whose terms of office shall have expired under said constitution. Said election shall be held, and the legal voters registered under the laws now in force in said Territory. The time for holding said election shall be fixed not more than ninety days after the passage of this act, and the time for the meeting of the Legislature at the capital of the Territory and the installation of the State officers shall be fixed, not more than thirty days after said election, by said proclamation. All the officers so elected shall continue in office until the commencement of the next constitutional term of their offices respectively: *Provided*, That before being admitted to representation in Congress, the Legislature so elected and convened shall ratify the amendment to the Constitution of the United States known as the fourteenth article, and also the fundamental conditions herein imposed. And in case said Legislature shall refuse to ratify said amendment and said conditions this act shall be null and void.

Mr. MORRILL, of Vermont. Mr. President, I do not know precisely what amendments the Committee on Territories propose to this bill; but I am very sure they cannot lick it into any shape that will command my vote. I am utterly hostile to making little boys put on men's clothes and men's hats before their time. The idea of erecting a State government in a Territory that cannot possibly have over about thirty thousand inhabitants to me seems preposterous; and it is utterly impossible for the gentlemen who represent the Committee on Territories to show, by any census that has

been taken, or by any vote that has been given, or by any production of the country, that Colorado has even that amount of population. Then they come here with a constitution made by a mob, or not made under any authority of law, either of Congress or the Territory, and ask us to adopt it and accept it, and receive men from them as Senators and Representatives.

Mr. President, in relation to these vast Territories in the West, we ought to have some order, some system or rule, by which we shall admit one and all when they have arrived at their proper stature and growth. I am utterly opposed to admitting any State until it has at least a population sufficient for one Representative in the House of Representatives. To admit them before that time is to try a very poor experiment, in my judgment. It imposes a heavy expense upon the people without adequate compensation, and it is unfair to the rest of the Union.

I know it is claimed here that this Territory within the last year or two has increased rapidly in population; but if gentlemen will take out that kind of population that has been drawn there temporarily in consequence of the construction of a railroad across the State they will find that the actual population has possibly been diminished. There is no evidence of an increase. As I understand, it is not much of an agricultural country; its great attraction has been as a gold-mining country, and the yield of gold has been steadily decreasing from year to year. Let me call the attention of the Senate to this great decrease.

Mr. NYE. What document does the Senator propose to read from?

Mr. MORRILL, of Vermont. A document that appears to come from an honest man, who is willing to tell the truth about Colorado, as I wish that others would be, and no doubt they are. But, sir, I will not read from it; I will make a statement without going into details. The fact is, according to the reports on finance, that whereas the Territory as long ago as 1832 and 1863 produced something like two million and a half or more of gold, it has been steadily decreasing; so that in 1866 it produced in value but little over a million, and in 1867 less than a million dollars.

I know that it is claimed that the amount of internal revenue tax has increased, showing that the population must have increased; but I have a statement here from a gentleman of that Territory, by the name of Teller, which shows that the chief amount of increase was derived from the importation of whisky in bond, and that one party alone paid something like thirty thousand dollars of taxes on that, and consequently there was an increase of internal revenue of about three thousand dollars. I think these facts prove only that Colorado is a better place than some others to collect the tax on whisky.

But, Mr. President, as I said in the first place, I am utterly opposed to having any of these Territories admitted until they have the requisite population. If this bill provided that a new census should be taken, and on its being shown that Colorado had a sufficient amount of population to entitle it to a Representative in the other House; that the people should go on and make a constitution by a convention duly authorized by law, and then submit it to the popular vote, I should be willing, should it be accepted by the people, to vote for a bill admitting the State, but not otherwise. I understand that this bill contemplates nothing of that character.

Sir, look at these Territories. Many of them, if they ever become peopled, ought to be divided into several States. Some of them contain territory sufficient for two, three, or four large States; others may not ever become populated so as to require to be cut up. Once admitted as States, however unwieldy in size, they must forever so remain. Let us wait at least until they have developed the country sufficiently to know whether they are to become

large and populous or not, and if they are likely to become populous, we ought to move with such rapidity as not to reserve the power in our hands to divide them into States of proper dimensions. It may be that we ought to make out of some of them two, three, or four States. This early, hasty action, pushed on for no other conceivable motive than because a few very excellent gentlemen desire to represent that country in Congress, is, it seems to me, utterly unstatesmanlike. We surely ought not to act upon any such ground or motive. For one I hope that we shall either set aside and postpone the whole matter, or else make out a plan, as was formerly the custom of Congress, to authorize the people of the Territories to meet together and form a constitution in convention, properly called, to have a census taken, and then present the constitution here, and if everything shall be in fit shape and in the order that has been almost the uniform practice of our forefathers, then allow them to come in for admission, and not otherwise.

Mr. CRAGIN. I desire to offer a few remarks in reply to the Senator from Vermont. Being a member of the Committee on Territories, and having examined this question with considerable care, I desire to state briefly the reasons why I am in favor of the passage of this bill.

The Senator says that he is opposed to the clothing of young boys in the garments of men. As a general principle, I should be opposed to that proceeding; but the Senator from Vermont probably will remember that in 1864, when he was a member of the House of Representatives, Congress passed enabling acts authorizing Colorado, Nebraska, and Nevada to form State constitutions preparatory to admission into the Union.

Mr. MORRILL, of Vermont. And the people of Colorado acted under that and rejected it.

Mr. CRAGIN. And, Mr. President, so desirous was Congress at that time for the admission of these Territories that there were not men enough opposed to the proposition in either branch of Congress to call for the yeas and nays. The enabling acts passed without a division in both branches of Congress, and Nebraska and Nevada have been admitted under those acts with as great irregularities in the formation of their constitutions as in the case of Colorado.

Colorado, by the census of 1860, had a population of over thirty-four thousand inhabitants, more than either of the other Territories which have since been admitted into the Union; and to-day I believe as much as believe that I am standing in this Chamber that Colorado has more inhabitants than either Nebraska or Nevada has, certainly more than Nebraska had at the time she was admitted into the Union, and recent votes demonstrate my position. The last vote in Colorado, last fall, was 9,849. The vote in Nebraska just prior to her admission, on the question of the election of a member of Congress, was only 8,041; and the last election in Nevada for member of Congress showed only 9,842 votes, less than the vote in Colorado at last fall's election.

Now, Mr. President, if there was any reason in 1864 why this Territory, in conjunction with Nebraska and Nevada, should be admitted into the Union as a State, that reason exists now, and exists with stronger force, for Colorado since that day has been developed in her resources, her population has increased, and she is better prepared to assume the responsibilities of a State, and more entitled to be admitted here.

The Senator from Vermont says that her constitution was made by a mob. I do not know to what he refers. I know the constitution was formed, submitted to the people, voted upon, and a majority of those voting voted for its adoption. In Nebraska the Legislature formed the constitution and submitted it to the people, and it was ratified, and we accepted it here and admitted the State. In

Colorado the constitution was formed by a convention elected by the people, and then their work was submitted to the people, and by them ratified.

Now, briefly, to show the resources of this Territory, and as an evidence of its population, I will refer to one item only, for I do not intend to occupy time in this discussion. The last report of the Postmaster General shows that the receipts of the Department from Colorado increased from \$16,781 05 in 1864, at the time the enabling act was passed, to \$32,580 24 in 1867. The receipts of the Post Office Department have doubled since the population of Colorado was shown to be over thirty-four thousand. As compared with Nebraska, Oregon, Nevada, Arkansas, and Florida, the receipts from Colorado were considerably larger than the receipts from either of those States. From Nebraska the receipts were \$30,770 89; from Oregon, \$28,656 23; from Nevada, \$22,550 18. The post office receipts were \$10,000 less in the State of Nevada than they were in the Territory of Nevada.

Mr. President, the Committee on Territories have examined this question; they have become satisfied that the people of Colorado almost unanimously desire admission; and they have reported this bill with amendments practically resubmitting the question to the people; for if the Legislature which is to be elected under this bill shall refuse to accept the conditions and adopt the constitutional amendment, then this act is to be null and void. The question of admission will enter into the election, which will result from this bill, of members of the Legislature.

I hope, therefore, that this bill will be passed, and that we may admit this Territory. After this is done, I shall be ready to join with the Senator from Vermont, whenever any other Territories come here, and require that they shall have a population equal to the population required for a member of Congress in the old States. But under the circumstances, that enabling act having been passed inviting this Territory with Nevada and Nebraska to come into the Union, and the people having accepted it, I think the plighted faith of this nation is pledged practically to their admission.

Mr. MORRILL, of Vermont. Will the Senator from New Hampshire allow me to ask him a question?

Mr. CRAGIN. Certainly.

Mr. MORRILL, of Vermont. Did not the people of Colorado, when they were called upon to vote under that authorization of Congress, reject the constitution that was framed?

Mr. CRAGIN. At the first trial they did reject it, and then afterward another constitution was formed and submitted to the people, and they adopted it.

Mr. MORRILL, of Vermont. Was it made by any legal, authorized authority? Was it not made by a convention of the people? In other words, it might as well be called a mob, so far as any legal authority is concerned.

Mr. CRAGIN. It was made by a convention elected by the people.

Mr. MORRILL, of Vermont. But not authorized by the territorial Legislature or by Congress.

Mr. CRAGIN. I would suggest to the Senator that the constitution of Nebraska was made by the territorial Legislature and submitted to the people.

Mr. MORRILL, of Vermont. I am now talking about this one.

Mr. NYE. I should like to ask the honorable Senator from Vermont if that makes any difference? Does the Constitution prescribe any manner in which a State shall make its constitution? It ought to be the will of the people; that is all that is required.

Now, Mr. President, I desire to say a word on this subject, because the honorable Senator from Vermont so fiercely attacks the conclusions to which the committee have come, and treats them as of so little consequence to him that he says it is impossible to lick the thing into shape so that he can lick it after us—a

delicate expression, and one that conveys undoubtedly the full meaning of hatred to this proposition which the honorable Senator entertains! Sir, I owe no apology to this Senate, and especially to the Senator from Vermont, that I stand here representing in part a new State. I come here as a representative of that State at the request of this Government. When States were falling out of this Union, and it was necessary to put in braces, new States were invited to fill up the vacuum that had so unnaturally occurred. To that invitation Nevada listened in the hour of the Government's necessities, not her's; for it was at a sacrifice to her own personal interests and her own personal expenses that she took upon herself the burden of a State government at the request of the honorable Senator from Vermont, as he says himself. Therefore, I owe no apology for standing here in the sisterhood of States as the representative of a State on an equality with the State of Vermont.

Neither does Colorado deserve to be treated with that utter contempt which the manner and the language the honorable Senator from Vermont has seen fit to use would indicate. She was invited at the same time. The good men of that State rallied to perform what the Government requested. Sir, they were no mob. They were men who shared the honors and the defeats of this war, men who are scar-worn now, and whose fidelity to this Union never failed in the darkest hour of its necessity, men whose character and reputation, both public and private, would not suffer in comparison with those of any Senator on this floor. Therefore, I insist upon it, whatever the honorable Senator's objection may be to the passage of this bill, that he was not at liberty to treat those who shared in this effort with that apparent contempt which his language would indicate.

But, sir, let us go a little further. I know something of the West and of the necessities of the western States and Territories. I assert here that any man who will sit carefully down and read the act organizing one of these Territories will find that it is not broad enough nor deep enough nor wide enough to protect the interests of a mighty growing people like that of Colorado or Nevada, with the new interests which those enactments did not contemplate; and therefore, as a matter of protection, they require a State government. Sir, I have not yet reached that point that I despise the day of small things. The growth of Nevada or the growth of Colorado will not be like the growth of Vermont by any means. Vermont has been growing for a century, and she is not overgrown yet, but these Territories and these States leap at once, by the indisputable power of the rush of emigration, into manhood. The broad fields of the West for pastoral and agricultural purposes invite emigration, and to-day more bushels of grain are grown in Colorado than in Vermont. Vermont is a purchaser of Colorado. In addition to her precious metals Colorado has far more inviting fields, her acres are broader and deeper; and therefore the growth of Vermont furnishes no parallel by which the honorable Senator can judge of these new States. Look at the city of Cheyenne to-day upon the plains in a newly-organized Territory, and it equals any city almost in the State of Vermont. In point of population Cheyenne to-day will equal, and more than equal, Burlington or Bennington, or any of those towns. Vermont's most energetic sons, save the honorable Senator himself, are going there, and they will be Vermonters there.

But, sir, I have heard whispers here of a growing jealousy of the West, and it all comes from one direction. I share in none of these prejudices. I appeal to Senators on this floor; I appeal to the Senators from Massachusetts and the Senators from New York, if my vote has ever been cast up on any such ground of jealousy of the East. No, sir; our growth is the growth of the East. In the State of Nevada will be found Massachusetts' most enterprising sons; and they bring with them their institutions and the love for them that

makes it a loyal State. In Colorado will be found the sons of Vermont. They bring with them the habits of industry and economy and frugality which stamp New England's greatness everywhere, and the West glories in it. It is this combined energy, this emigrating power of the older States, that is building up new ones like the gourd in the night, that will reflect back the principles of New England improved by their expansion upon the broad plains of the West. Sir, I hope we shall hear no more of that jealousy. It was a similar cry that once rent this Union in twain—North; South! I appeal to the Senator from Vermont if there has not been a new birth of this nation. We are one and indivisible. I share in the honor and glory of Colorado as much as I do in that of Vermont or Nevada.

I repudiate the idea that the people of Colorado are asking anything that the Government has not invited them to ask. This is the feast to which the Government invited them, and they come as soon as they may. They have come here clad in the garments of loyalty to this Government, and I insist upon it that the honorable Senator from Vermont is not at liberty to treat them with that disrespect which he so earnestly and so short-handedly did this morning.

We had the question up a year or two ago, and the honorable Senator on my left [Mr. SUMNER] took grounds against it, because he wanted a greater number of population. Sir, it does not make so much odds what the number is as what the quality is. That is what makes a State, the energy of the people. What are you going to do with Colorado? You have admitted Nebraska on the one side with a population less than hers, or no more; you have admitted Nevada on the other to the same feast, on the same invitation; and now the honorable Senator from Vermont rises here and says to Colorado, "Notwithstanding you are invited and the feast prepared, yet two meals have been eaten, and you shall not have the other; we are going to keep that in reserve until you grow to be a great people." Look at the reasoning of the honorable Senator. He is going to wait until they grow up sufficiently to make two or three States before he will admit them. What a sensible thing that will be, to keep these Territories until they get population enough to make two or three States, so that they can be divided up! Why did you not think of that when you admitted Arkansas? Why did you not think of that when you admitted Florida? Why did you not think of that in the case of Rhode Island? We poll more votes in my State to-day than they do in the State of Rhode Island; and yet we find no fault about it. To be sure, we are not all huddled in together as they are there; but we are spread out upon wide extended plains, and in the mountain gorges; but what of that? We are one people. We are there beating the mountains fine, in scriptural parlance, and filling up the valleys; and yet to-day, with the marks of our swaddling clothes still upon us, the whistle of the engine and the rattling of the train is heard in that new-born State.

But my honorable friend says he would keep us in a territorial condition until we get large enough to make three or four States, so that Congress could cut it up and equalize it. Why, sir, the claim of the West is that New England has got too small States. She huddles twelve Senators right in a nest there. I share not in that feeling. The complaint of the East is that the States of the West are too large; but that gives the East always the preponderance. Sir, who would strike at Ohio because she is larger than Vermont? Who would strike off Illinois, admitted with a population of forty-five thousand, because she spreads so widely over the prairies, and to-day attracts the eyes of the world for her aggregated wealth? Who would strike Wisconsin, because she is larger than Massachusetts, from the sisterhood of States? Who that has looked at the growth of the great Northwest, magical as it has been, would com-

pel the new communities springing up there to wait until by the plodding necessities of New England, Vermont included, they wended their way in wagons there, until they had population enough to be cut up into two or three States? Sir, I repudiate that idea. I say that the faith of this nation is pledged to admit Colorado. She lies now right at the gateway of this mighty West. The whistle is first heard upon her domain across the Missouri, and its last notes sound as it goes into the gorges of the Rocky mountains. With widespread pastoral fields, with fields now waving with the ripening grain, with mines rich in themselves, with an energetic population—all save one, and that is Teller—she asks to be admitted. She has stood here by her representatives and knocked until their knocks have gone far into the night in response to our own invitation. It is time that we should let this people in, and have none of this little jealousy.

Mr. President, I insist upon it that the Committee on Territories, when they laid this report on the honorable Senator's desk, laid it there with full as much confidence in its correctness as he has in the statements of Mr. Teller. There is the fruit of the examination of the committee; and I can say that this subject has not only been examined now, but it has been under the examination of that committee for more than two years.

Mr. MORTON. I should like to ask my friend from Nevada a question which I think is material to the decision we are about to make. I want to ask him the population of Colorado, and what data and what evidence he has got on that subject?

Mr. NYE. I was coming to that. I read from the report of the committee:

"The Commissioner of the General Land Office"—who is generally suspected to have about as much information as Teller—

"in his last report estimates the present population of Colorado at about one hundred thousand. Others estimate it at from seventy-five to one hundred thousand. While these may be over estimates, the facts above cited show that thirty or forty thousand, as claimed by the opponents of admission, must be too low."

Then it goes on to state the population of other States at the time of their admission:

"Ohio was admitted in 1802. The census of 1800 gave her a population of forty-five thousand and twenty-eight."

Mr. FESSENDEN. What was the ratio of representation then?

Mr. NYE. I do not remember—less than it is now.

Mr. FESSENDEN. Was not that population then equal to the ratio?

Mr. SUMNER. That was required under the ordinance that there should be enough for a member.

Mr. NYE. Does the honorable Senator from Massachusetts mean to say that it was very irregular or illegal to admit a State with less population than that?

Mr. SUMNER. I simply mean to say that the rule under the original ordinance for the Northwest Territory required that there should be population enough to choose one Representative in the House of Representatives?

Mr. NYE. I undertake to say that according to that rule Ohio had not enough; and there was no rule then existing that does not exist now for the admission of States. I undertake to say that the rule stands as it has ever stood, precisely; and I assert that at the time Ohio was admitted she had not the requisite number for a Representative in Congress; neither had Illinois. I read from the report of the committee:

"Illinois was admitted in 1818. The census of 1820, two years after, gave her a white population of 53,183. Four years after the admission of Florida, the census of 1850 gave her a white population of 47,203. Two years after the admission of Oregon the census of 1850 gave her a population of 52,337. The census of 1820 gave the white population of Missouri at 55,988. She made application that year, and was finally admitted in 1821. A number of other States were admitted with evidence of no more population than is indicated in Colorado."

Now, Mr. President, I have to say, in con-

clusion, that the reason that would exist, and did exist, in 1818 and 1820, cannot by any possibility apply now. The olden time has passed away, and all things have become new. States are born with a rapidity that would have astonished the men of that day, and they are peopled with a rapidity which no human head can calculate. Sir, the great national thoroughfare through Colorado will, in two or three years, take by its cheap and rapid communication to that State a population equal to Vermont. The State of Nevada, to which my colleague on the committee alluded, will have a population of one hundred thousand ere autumn comes. I see my honorable friend from Maine [Mr. FESSENDEN] smiles. I hope he smiles with gladness at the prospect. Now the State of California, just born, sends out more from her borders to-day than any other State in the Union, and her fields are not half touched.

A word more, sir, and I shall have done. The committee, at its last meeting, reported an amendment to this bill which takes away all the objections of the Senator from Vermont. The Senators-elect from Colorado had been here so long waiting for my honorable friend's and other's minds to open to the occasion, that they thought their time was served out, and in order to prevent any feeling upon that score, the committee reported an amendment providing for a new election of a Legislature, with this proviso added to that section:

*Provided*, That before being admitted to representation in Congress, the Legislature so elected and convened shall ratify the amendment to the Constitution of the United States, known as the fourteenth article, and also the fundamental conditions herein imposed. And in case said Legislature shall refuse to ratify said amendment and said conditions this act shall be null and void.

If the honorable Senator has faith in the representation of Mr. Teller, that the people of Colorado do not want to become a State, let him vote for this bill, and they will have in two months the opportunity to say so by their vote. Before they can come into the Union, a new Legislature must be elected and convened, and that Legislature must ratify the constitutional amendment. Thus the people of Colorado have the full opportunity of deciding upon the question whether they will be admitted or not, and I contend that it is not fair to avoid re-submitting the opportunity this bill presents to Colorado of becoming one of the family of this nation. It is due to their interests, it is due to the interests of this Government, it is due to the growing interests of that people, that they should have the protection which only a State government can give.

Mr. HENDRICKS. I had supposed, from the statement made by the Senator from Illinois, [Mr. YATES,] that this bill would excite very little controversy. I understood from his statement made on Friday—

Mr. MORRILL, of Vermont. Will the Senator from Indiana yield to me for a few moments, that I may say a few words to the Senator from Nevada?

Mr. HENDRICKS. With great pleasure.

Mr. MORRILL, of Vermont. Mr. President, it is, perhaps, unfortunate that I should have permitted myself to say anything on this subject; but if I had not, I should never have given the chance for the exhibition of wit which the Senator from Nevada always has at his disposal; but take away the perversions, take away the misstatements, not intentional, of course, as to what I said, and there will be very little foundation for any of the remarks of the Senator from Nevada. I have said nothing derogatory of Colorado, or of any of her citizens. I merely called attention to the fact, as I believe, that she has an insufficient population to support a State government or to entitle her to representation in Congress. I believe the fact to be so, and notwithstanding the statements here of the Commissioner of the General Land Office upon no substantial basis that I am aware of, that he thinks there is a population of eighty or one hundred thousand inhab-



itants in that Territory. I believe that no vote they have given, that no census which has been taken, will show that they have at the present time any more than thirty or thirty-five thousand inhabitants.

Mr. HENDRICKS. I ask the Senator when was any such opinion as that expressed by the Commissioner of the General Land Office?

Mr. MORRILL, of Vermont. I understood the Senator from Nevada to quote the opinion of the Commissioner of the General Land Office, giving an estimate of something like one hundred thousand population; but taking the estimate of the amount of population according to any vote of the Territory, and admitting that they have as large a population in proportion to the vote as Oregon or California, and they cannot have to-day much more than about thirty thousand inhabitants.

Mr. CRAGIN. Will the Senator allow me to make a suggestion on that point?

Mr. MORRILL, of Vermont. I only wish to say a word more myself, and then I shall yield the floor entirely. All I desire is that we shall have some rule established by which we are to admit these States, and hold out even-handed justice to them all. I would not allude further to the vote of the State but for the fact that the Senator from Nevada has rather intimated that these votes out there are all right. Now, I have not a particle of doubt that whenever this State is admitted it will be what we sometimes call a copperhead State; and if the vote of the people is fairly taken they will be represented by those who are opposed to the gentlemen who usually sit on this side of the Chamber.

Mr. CRAGIN. The Senator from Vermont says that the vote in Colorado, nine thousand three hundred and forty-nine, would not show a population of more than thirty thousand. I beg to state to the Senator from Vermont that I have made a calculation compared with the vote of the State of Vermont. The population in Vermont is about three hundred and eighteen thousand. Her vote at the last election was forty-two thousand one hundred and twenty-five; about one in seven. The vote of Colorado was nine thousand three hundred and forty-nine. That multiplied by seven gives sixty-five thousand four hundred and forty-three, estimating the population in the same proportion to the vote as is the case in Vermont.

Mr. MORRILL, of Vermont. Will the Senator take the vote of New Hampshire, and, admitting that we have as many able-bodied men entitled to vote in Vermont as in New Hampshire, see how it is there?

Mr. CRAGIN. I am aware of the difference in the vote of the two States. I contend that a vote in a sparsely-settled Territory, especially a mining country, is no indication whatever of the population. In my State, where every man votes, where the parties are close and nearly every vote is brought out, there is a very large vote, indeed.

Mr. EDMUNDS. What per cent. of the population vote in your State?

Mr. CRAGIN. About one in four and a half.

Mr. HENDRICKS. Will the Senator from New Hampshire allow me to call his attention to one fact? In estimating the population from the vote in a mineral country, is the Senator not aware that the voting population is very much larger in proportion to the entire population than in an agricultural State? To illustrate, is the Senator not aware of the fact that in 1860 the census of Colorado showed a population of twenty-five thousand?

Mr. CRAGIN. Thirty-four thousand and some odd.

Mr. HENDRICKS. Twenty-five thousand is the last census that was taken in 1860; and of the entire population there were of women and children under twenty-one about six thousand, and the residue, according to the census, was a voting population; so that there were three or four or five of voting population to one non-voting.

Mr. CRAGIN. I am aware of the fact suggested by the Senator from Indiana that in the early settlement of a mining Territory the males largely preponderate; but Colorado has been settled now some eight years. In 1860, I will inform the Senator—he seems not to be aware of it—the census taken by the United States showed over thirty-four thousand inhabitants; but since that time eight years have passed away and Colorado has become settled permanently; men have gone there with their families, and the number of women and children has vastly increased in proportion to what was evidenced by the census of 1860. I have not the slightest doubt, from what appeared before the Committee on Territories, and from information that I gather generally, that the population of Colorado is to-day from sixty-five to eighty thousand inhabitants.

Mr. MORRILL, of Maine. I now ask my friend from Illinois, [Mr. YATES,] who has charge of this bill, to allow House bill No. 605 to come up. I understood him to say he would not antagonize the bill with it.

Mr. YATES. I do not intend to antagonize, but I will say to the Senator that I do not think there will be much more debate on this bill.

Mr. EDMUNDS. You cannot get a vote immediately.

Mr. MORRILL, of Maine. Let it go over.

Mr. YATES. It can be passed over informally so as to be first in order.

The PRESIDENT *pro tempore*. The bill can be passed over informally, if there be no objection.

Mr. HENDRICKS. I do object, for the reason that the Senator from Pennsylvania [Mr. BUCKALEW] desires to be heard on this Colorado bill, and he cannot be here this afternoon.

Mr. MORRILL, of Maine. Then I move that the Senate proceed to the consideration of House bill No. 605, of which I gave notice, and with which my friend from Illinois assured me that he would not antagonize.

Mr. HOWARD. Mr. President, I regret to antagonize the bill before the Senate on Friday last with the one which has been mentioned by the honorable Senator from Maine, but I am really very anxious to dispose of the bill relating to the central branch of the Pacific railroad, and I gave notice on Friday that I should at the close of the morning hour to-day call up that bill for the purpose of finishing the discussion and coming to a vote upon it. I hope, therefore, the Senate will see fit to take up that bill again and proceed to dispose of it. If it be the desire of the Senate to do so, I will agree that in case the Senator from Maine wishes to proceed with his appropriation bill after the central branch bill is taken up it shall be laid aside informally in order to accommodate him.

Mr. EDMUNDS. That will be objected to.

Mr. MORTON. I think this policy of discussing a bill for a time and then laying it aside to take up another bill is one very wasteful and prodigal in its character. It would be better for the Senate now to dispose of the Colorado bill, because if it is put off until to-morrow you will have this discussion all over again and perhaps more of it. Here are two other bills pressing, and if we postpone this now the time which has been spent this morning in the consideration of it will be virtually lost. I have not been here long, but I have seen much time wasted in that way, and I think the policy is a very bad one.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine.

The motion was agreed to.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

Mr. TRUMBULL. Before proceeding with

the bill under consideration, I ask the Senator from Maine to allow us to dispose of the bill for the recognition of the State government in Arkansas, which was returned by the President with his objections on Saturday. The Senate was not full when the message came in, and I suppose it will probably lead to no discussion, as the matter has already been fully discussed. It is very likely that we can take the vote on that question at once, and it is a matter that we ought to act upon, being in the nature of a privileged matter. If the Senator from Maine will consent to let the appropriation bill be laid aside for a few moments, I think we can get the vote on the Arkansas bill. I suggest, therefore, that the appropriation bill be laid aside temporarily for that purpose.

Mr. MORRILL, of Maine. Considering the character of that measure, I will consent to the proposition, with the understanding that if it leads to discussion I shall be at liberty to resume the consideration of the appropriation bill.

Mr. TRUMBULL. Yes, sir. Let it be laid aside informally in that way.

The PRESIDENT *pro tempore*. The bill before the Senate may be laid aside informally if there be no objection. No objection being made, it will so be laid aside.

Mr. TRUMBULL. I ask that the Senate now proceed with the consideration of the bill returned by the President, relative to the recognition of the State government of Arkansas.

The PRESIDENT *pro tempore*. If there be no objection, that bill will be regarded as before the Senate. The question is on the passage of the bill, the objections of the President of the United States to the contrary notwithstanding. This question must be taken by yeas and nays.

Mr. DAVIS. Mr. President, I cannot consent that the vote on this question shall be taken without some debate.

Mr. MORRILL, of Maine. Will the Senator yield to me?

Mr. DAVIS. Certainly.

Mr. MORRILL, of Maine. As this leads to debate—

Mr. TRUMBULL. Not a long debate.

Mr. MORRILL, of Maine. I should think it would be pretty long by the books on the desk of the Senator from Kentucky.

Mr. TRUMBULL. I think we had better go on with this bill and finish it. I hope the Senator from Maine will not interpose. We can hear the Senator from Kentucky, and then take the vote.

Mr. MORRILL, of Maine. But I understood the honorable Senator from Illinois to agree that if this bill led to discussion, I should be at liberty to call up the appropriation bill again.

Mr. TRUMBULL. I did, and if there is to be any protracted discussion on this bill I shall not insist upon it; but I have no idea that there will be.

Mr. MORRILL, of Maine. There was no "protracted" about it, it was "discussion." There is discussion; and now I call for the regular order.

Mr. TRUMBULL. If the Senator insists upon it, I suppose I must give way.

The PRESIDENT *pro tempore*. The regular order will be proceeded with. The bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, is before the Senate as in Committee of the Whole. It will be read, and as the amendments reported by the Committee on Appropriations are reached in their regular order in the reading of the bill they will be acted upon if there be no objection.

The Chief Clerk proceeded to read the bill, the amendments reported by the Committee on Appropriations being acted on in their order as recited in the reading of the bill.

The first amendment was to insert "clerk to Committee on Appropriations, \$2,220" in lines forty-four, forty-five, and forty-six, in the clause making appropriations "for compensa-

tion of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate."

The amendment was agreed to.

The next amendment was in line fifty-three, to strike out "\$98,704 80," and insert "\$100,924 80," as the gross appropriation for officers, &c., receiving an annual salary in the service of the Senate.

The amendment was agreed to.

The next amendment was in line fifty-six, to strike out "twenty-five" and insert "ten;" so as to reduce the appropriation for stationery for the Senate to \$10,000.

The amendment was agreed to.

The next amendment was in line fifty-seven, to strike from the appropriations for the contingent expenses of the Senate the item "for newspapers, \$5,000," and in lieu thereof insert:

For newspapers and stationery for seventy-four Senators, to the amount of \$125 each, \$9,250.

The amendment was agreed to.

The next amendment was in line sixty-four, to strike out "second" before "session" and insert "third;" so as to make the clause read as follows, among the items of contingent expenses of the Senate:

For reporting and printing the proceedings in the Daily Globe for the third session of the Fortieth Congress, \$15,000.

The amendment was agreed to.

The next amendment was in line seventy-two, to strike out "three thousand" and insert "fifteen hundred," and in line seventy-four, to strike out "\$15,000" and insert "\$10,000;" so as to make the clause read, among the items of contingent expenses of the Senate, as follows:

For paying the publishers of the Congressional Globe and Appendix, according to the number of copies taken, one cent for every five pages exceeding fifteen hundred, including the indexes and the laws of the United States, \$10,000.

The amendment was agreed to.

The next amendment was in line eighty, to reduce the appropriation "for packing-boxes for Senators" from "\$3,500" to "\$1,000."

The amendment was agreed to.

The next amendment was in line one hundred and thirty-six, to strike out "eleven" and insert "six."

The amendment was agreed to.

The next amendment was to strike out line one hundred and thirty-nine in these words "for Capitol police, \$64,000," and in lieu thereof to insert:

For one captain, \$2,800; two lieutenants, at \$1,800 each, \$3,600; thirty privates, at \$1,584 each, \$47,520; twelve watchmen, at \$1,000 each, \$12,000; one superintendent in the crypt, \$1,440; uniforms, \$4,600; contingent expenses, \$500; making in all \$71,748; one half to be paid into the contingent fund of the Senate and the other half into the contingent fund of the House of Representatives.

Mr. HENDRICKS. I wish to ask the chairman of the Committee on Appropriations if this appropriation cannot be very materially reduced. I see here for policeman a higher rate of compensation than is allowed to gentlemen in the Departments doing clerical duty; as for instance, the captain gets more than the chief clerk of a bureau, more than the chief clerk of the General Land Office, for example. That should not be so.

Mr. MORRILL, of Maine. Allow me to explain?

Mr. HENDRICKS. Certainly.

Mr. MORRILL, of Maine. This appropriation is in exact conformity with the provisions of the law reorganizing the police, which was reorganized in 1867; and in addition to the compensation, or as part of the compensation, that law provided for uniforming these policemen, and that enters into a part of the expense.

Mr. HENDRICKS. The clothing of these gentlemen is provided for in this same section.

Mr. MORRILL, of Maine. What I mean to say is that the amendment is in conformity to the statute organizing the Capitol police, which was passed last year.

Mr. HENDRICKS. I think these sums ought

to be reduced. Here I see that the captain gets above two thousand dollars; two lieutenants \$1,800, each, which is the compensation of a chief clerk of a bureau, I believe; and then there are thirty privates with a compensation larger than the great body of the clerks in the Departments. First-class clerks get \$1,200, but these privates are to have \$1,584 each, thirty of them. I understood that the business of retrenchment was to commence somewhere, and I think we may as well commence right here. It is a small matter to notice, perhaps, but I think both the number of policemen employed about this Capitol and the rate of compensation may be very materially decreased, so as to save at least twenty thousand dollars in this item. I propose, now, to strike out "two thousand and eighty-eight dollars" as the salary of the captain, and insert "fifteen hundred dollars;" and if this be agreed to, and a corresponding reduction takes place throughout, I shall propose, at the close of the section, an amendment declaring that these rates shall be the rates of compensation, so as to change the law in that respect.

Mr. MORRILL, of Maine. I should like to have the Senate understand precisely what this proposition is. It is a proposition to appropriate a less sum of money than the officer is entitled to by the law of Congress. If my honorable friend were to propose to modify or repeal so much of the law as provides for this compensation, he would be proceeding perhaps regularly, but I can hardly conceive that it would be becoming propriety to propose to appropriate for an officer a less salary than is provided by the law creating the office.

I wish to say a word in reply to the honorable Senator from Indiana on another point. He institutes a comparison between the services of these police officers and those of clerks in the Departments. These officers are on duty twelve hours a day. The Senator need not be told, I suppose, that the clerks to whom he refers serve only six hours, and they receive all the way from fourteen hundred dollars—

Mr. HENDRICKS. Twelve hundred.

Mr. MORRILL, of Maine. They receive from twelve hundred to two thousand dollars for a service of six hours a day; these men receive from fifteen to eighteen hundred dollars for a service of twelve hours a day; so that my honorable friend will see that upon the score of merit, or upon the score of hours' service actually rendered, the disparity is not near as great as it ought to be. In proportion to service the salary of these men ought to be increased instead of being diminished. I submit to my friend that on examination he will not find the disparity which he supposes to exist.

Mr. HENDRICKS. We never estimate the amount of compensation by the number of hours; it is by the qualifications that are requisite to fill the place. The chief clerk of a Department must have such information, such scholarship, such business training as will enable him to take charge of very large matters. Take the case of the chief clerk of the Third Auditor's office. Millions of dollars pass through that office annually; I believe some years hundreds of millions. A man is paid about eighteen hundred or two thousand dollars a year for taking charge of that sort of business as chief clerk of the bureau. Take the General Land Office, where the operations of the bureau extend over many States and Territories, having large questions to settle, the chief clerk contributing very materially to the settlement of all questions in the office, with a salary of eighteen hundred or two thousand dollars a year. Although he may spend but six or eight hours a day, what is the comparison between him and a man who steps around here to see that there is no disturbance? There is no comparison as to the real labor that is performed. What comparison can there be between a man who sits down at his desk and for six hours closely applies himself to intellectual labor attending to important questions that come before him, and a man that is step-

ping around here at his leisure holding conversations with agreeable people in the halls of this Capitol? The one is a loafing sort of life; the other is a life of real labor. A man can very well afford to step around here without fatigue for twelve hours, while there is great fatigue in the other case.

I think this appropriation can be very much reduced. My impression is that years ago there used to be four or five policemen around this Capitol. It has grown up to be a decided force. Here is provision for a captain, two lieutenants, thirty privates, and twelve watchmen—forty-five men. Forty-five men to preserve order in this Capitol, where there never has been any disorder that I have heard of, where there is scarcely any policeman necessary! The law ought to be changed. To pay them at these rates is simply remarkable, in my opinion.

In answer to the other suggestion of the Senator, I propose, if the Senate shall be of opinion that this little matter ought to be amended at all, to add at the close of this paragraph a provision that the new rates shall be fixed as the compensation of these men. I propose to put the thirty privates at just the pay that the first-class clerks in the Departments receive, \$1,200. It is the pleasure of Congress, I believe, now fixed, that the clerks of the Departments shall not have twenty per cent. additional compensation, so that they do not get the benefit of the usual provision. I think we had better come down to about the same rates in regard to men who do not discharge intellectual labor, but simply watch around this Capitol and do nothing except to step about.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana to the amendment of the Committee on Appropriations.

Mr. HENDRICKS called for the yeas and nays; and they were ordered.

Mr. SHERMAN. I should like to have the law read which fixes the pay of these officers. I think myself the salaries are too high, but I wish to see whether the law fixes them.

Mr. HENDRICKS. I will modify my amendment so as to say, instead of \$1,500, \$1,800 for the captain of police, and I propose further to amend the clause by fixing for the two lieutenants \$1,600 each instead of \$1,800, and for the thirty privates \$1,200 each, so as to make them correspond with the grades of clerks in the Departments, and I propose to leave the watchmen at \$1,000, as they are.

Mr. MORRILL, of Maine. I should like to have the Senate understand exactly what this proposition is. It is a proposition to change the compensation of the Capitol police as established by law last year. The Senator from Indiana thinks the police power of the Capitol larger than it need be. That may be so; but the committee who reported the organization last year did not think so. He says there are forty. This is a large building, and it is to be policed every hour in the year. He says the duties are somewhat unimportant and not clerical. They may not be clerical; but I think a single moment's reflection will satisfy anybody that they are not unimportant. They have the entire charge and responsibility of this building, its safety, its order, and the order of everybody that attends here. The Senator says he has heard of no disorder.

Mr. HENDRICKS. Does not the Sergeant-at-Arms have charge of this building?

Mr. MORRILL, of Maine. No, sir. If my friend would reflect a moment he would see that the Sergeant-at-Arms has nothing to do with the charge of this building. The Sergeant-at-Arms is doorkeeper of the Senate. He may have some specific duties here; but he has no oversight whatever over this building. Now, I submit respectfully to the Senate that the Senator has no information which authorized him to ask the judgment of the Senate on this proposition.

If the law ought to be changed, let it be changed on the suggestion of the proper com-

mittee. A committee of both branches organized the police department last year, systematized it; and this was the result. Now the honorable Senator proposes to organize anew, as I submit without the necessary information. There was no option on our part but to make the appropriation as it is. If the Senate think that it is safe to follow the lead of the Senator in making this amendment they will so vote.

Mr. HENDRICKS. There were one or two suggestions made by the Senator from Maine that rather surprised me. He says if this is to be done at all it ought to be done by the committee. Then submit to the Senate that we adjourn and let the committee pass this bill. If my voice is not to be heard in regard to the public expenditures, I had better quit—

Mr. MORRILL, of Maine. The Senator quite misunderstood me. I said that this subject of revising the organization of the Capitol police ought not to come from this committee; that the subject having been once determined by a committee, the revision of it ought to come from the appropriate committee.

Mr. HENDRICKS. Then the Senator suggested next to the Senate whether they had better follow my lead. I ask no Senator to follow my lead. The Senator from Maine is a leader; his official position makes him a leader—

Mr. MORRILL, of Maine. Mr. President, I do not allow the Senator to misrepresent me.

Mr. HENDRICKS. That is exactly what the Senator said.

Mr. MORRILL, of Maine. I said no such thing, and dreamed of no such thing as admonishing the Senate not to follow the lead of the Senator. What I did suggest, most respectfully as I said, was that the Senator had not the information which justified him in moving the proposition. That is what I said. And, sir, I do not allow the Senator to rise here and put into my mouth a leadership which I neither assume nor ascribe to him.

Mr. HENDRICKS. The Senator did not ascribe any leadership to me—

Mr. MORRILL, of Maine. No.

Mr. HENDRICKS. But he submitted to the Senate whether, in regard to this amendment, it was best to follow my lead.

Mr. MORRILL, of Maine. No.

Mr. HENDRICKS. That is the word the Senator used, and I know it. I am speaking in the best of humor.

Mr. MORRILL, of Maine. So am I.

Mr. HENDRICKS. I do not want anything else about this matter but the best feeling toward the Senator from Maine, for I have great respect for him; but I submit to the Senate that I have all the information on this subject that it is necessary to have to judge of it, and I say that when the laws of the country fix the salary of the chief clerk of an important bureau at \$2,000, or at \$1,800 a year, it is absurd that a captain of police at the Capitol must have as much. His duties are not as responsible; they are not as arduous; and in no respect ought the compensation be so large.

We can judge of the salary that ought to be given to these persons. The fact that it was fixed by a law passed a year or two ago does not prevent the consideration of the question now. I believe that the proposition I have made gives a liberal compensation to these persons. I am willing that they shall be well paid, but Senators know very well that this same class of men at home cannot make anything like so much money. The salaries that I propose will command the services of faithful and good men. There is no difficulty about that. I do not want to disturb the efficiency of the service by reducing the salaries below what they ought to be; but in these times the salaries ought to be fixed at such rates as will secure good service. I believe the proposition I have made will secure it. Upon that I want the yeas and nays.

Mr. YATES. Mr. President, I think it is well enough for the Senate to understand the

proposition upon which it is about to vote. I have listened to the Senator from Indiana with a good deal of interest, and I admire the zeal which he shows for retrenchment and reform. I admire also the particular point at which he begins his policy of retrenchment and reform. I should not be surprised if his speech would figure in the approaching canvass for President. But, sir, I prefer that retrenchment and reform which aim to retrench the Government's expenses in some important particular. I have no great admiration for an attack upon clerks or upon subordinate officers; I do not believe in expending time in the discussion of what the salary of a police officer shall be so that the time costs more than the salary itself would be. I have had no person appointed to one of these offices; I am not acquainted with one of these policemen that I know of; but is it an unreasonable amount to pay the head of the police force around the Capitol the sum of \$2,800 a year? I am not so desirous of a reputation for retrenchment and reform as to say that \$2,800 is too much for the head of an important department like this.

Mr. HENDRICKS. The Senator is mistaken in the bill he is advocating. He puts the salary at \$720 more than the bill provides.

Mr. YATES. Two thousand eight hundred dollars I believe it is.

Mr. HENDRICKS. Two thousand and eighty dollars.

Mr. YATES. Then it is less than I would be willing to pay. The Senator says that this Capitol does not require a police force of forty men. I think it would be a degradation to the people of the United States to say that a building like this, so extensive, the Capitol of the United States, could be expected to have a police force of less than forty or forty-five men. I am sure that the Senate has not wisely considered this proposition of retrenchment and reform, and is beginning at the wrong end. I do not think the salary allowed this officer is at all unreasonable, and therefore I shall vote against the Senator's amendment.

Mr. CONNESS. Mr. President, the honorable Senator from Indiana has a reason that I apprehend has not been developed for this raid of his against the Capitol police, and I desire that he shall have the benefit of it. He, perhaps, was too modest to proclaim it here; but the Capitol police, I believe, have really offended him seriously. On an occasion not long since there was a remarkable character of this country who charged himself, either at his instance or at the instance of other patriotic persons in the country, with carrying the American flag from one end of the Union to the other, or rather from the South to the national Capitol, beginning somewhere down South on the Mississippi—I do not remember now where—and he was feasted, I think, all the way through, and the late rebels gave in their adhesion to the flag, and this patriotic hero bore the standard to this Capitol. The last crowning act of his was to have been the raising of the flag from the Dome; and by some misunderstanding or other, as to jurisdiction, I think, the police interfered with his going up to perform that service. But after some consultation, I think the Sergeant-at-Arms, under whose direction to some extent the police are, agreed that the flag should be raised as contemplated; but by that time the patriotic men who formed the escort of this patriot determined that they had been offended in some way or other, and they refused indignantly. I am inclined to think that that has rested in the mind of our friend from Indiana from that time to this, and that the Capitol police are not acceptable to him when they perform their duty in that way.

If the Senator will state to me that that is the cause of their offense against him, and he will indorse the statement that the captain of the police force or any part of it violated what was a courtesy or a rule of right in the premises, I will agree to go with him in obtaining such need of satisfaction as the case demands. I wished to make this statement so that the ques-

tion shall be put upon its true ground. If the captain of the police force has offended seriously, let us punish him by all means.

Mr. HENDRICKS. Mr. President, it is always fair to let a Senator stand upon the reasons that he gives for himself. One reason assigned by the Senator from Illinois, [Mr. YATES], if it had been original with him, would have entitled him to rank as a genius, perhaps; but inasmuch as the Senator from Nevada, [Mr. NYE], a few days ago, was the author of the suggestion about some future political movements, the Senator from Illinois has not even the virtue of originality in his suggestion. In the proposition that I have made I have not thought of the future. I do not trouble my head with that. I guess the Senator thinks a good deal more about nominations to be made in the future than I do. If he is troubled as little about that as I am his sleep will not be disturbed at nights.

The honorable Senator from California knows that there was a sufficient reason for rebuking the captain of police, and, therefore, he has suggested—I had not thought of that; I am glad the Senator has suggested it; it had not entered into my head—that a policeman here refused to do credit and honor to the flag that was honored everywhere that Sergeant Bates carried through the southern States.

Mr. CONNESS. Ah, that was his name!

Mr. HENDRICKS. That flag had not received an insult anywhere until it came back, in the hands of a gallant soldier, to the Capitol of the United States. Indeed, a captain of police that would do such a thing ought to be rebuked, and I thank the Senator from California for suggesting so strong an argument.

But, sir, my only reason for moving the amendment was that I thought the compensation fixed for these men by existing law was unreasonably high, and that we might save some ten or twenty or thirty thousand dollars; not much, perhaps; it may not be worth saving. The Senator from Illinois, as a test now of the certainty and accuracy of his judgment upon the question, thought the captain of the police was getting \$2,800, and he thought that was little enough, and that it ought not to be reduced, when that was more than \$700 above what the bill provides. So he is mistaken in all of his estimates on the subject. I think the proposition I have offered to the Senate is enough, and therefore I submit it. If it is the pleasure of the Senate to continue the salaries as they are, be it so.

Mr. SHERMAN. I think the salaries named by the Senator from Indiana are ample to secure the services of these officers, and ordinarily I should vote with him. My judgment is decidedly in favor of his amendment, but it seems that two years ago Congress passed a provision allowing all the clerks and employes in the Executive Departments twenty per cent. additional compensation, but it was so worded as to confine it to a single year; but when Congress came to legislate for their own clerks and employes they made the language so general as to increase the compensation twenty per cent. permanently, and subsequently the same year they inserted a provision in one of the appropriation bills that increased the pay of the police in the same way:

"The Capitol police and the policemen at the Executive Mansion shall be entitled to the increased compensation allowed by law to the officers, clerks, messengers, and others in the employ of the Government."

The House of Representatives have refused to continue the twenty per cent. to the employes of the Executive Departments, but by law the compensation of the employes of both Houses of Congress, the Capitol police, &c., is permanently increased twenty per cent. There is no justice and no reason in such legislation, and no man can defend it. If there is a reason for increasing the compensation of our own officers the same reason should apply to those of the Executive Departments, and with much more force, because they are employed all the year round, while ours, on the average are not employed over five months in



the year. Such discriminating legislation in favor of our own employes is, to say the least, not very creditable to Congress.

But as this whole subject is now being considered by a select committee of the two Houses I think it would not be wise to strike down the compensation of the Capitol police until that committee report. I understand the Senator from Maine [Mr. FESSENDEN] is almost prepared to report a bill from that committee. For this reason, though I agree with the Senator from Indiana, that the compensation named by him is enough, I feel inclined to vote against the amendment, in the hope that we may at the same time bring back the standard of pay of all the employes about the Capitol to what it was before the change in the law.

Mr. SPRAGUE. Before the vote is taken, I wish to say that my colleague [Mr. ANTHONY] has been called home by the death of his brother.

The question being taken by yeas and nays, resulted—yeas 11, nays 19; as follows:

YEAS—Messrs. Davis, Doolittle, Ferry, Harlan, Hendricks, McCreery, Morrill of Vermont, Patterson of Tennessee, Saulsbury, Sherman, and Sprague—11.  
NAYS—Messrs. Chandler, Cole, Conkling, Corbett, Cragin, Dixon, Fessenden, Howe, Johnson, Morgan, Morrill of Maine, Nye, Ramsey, Sumner, Thayer, Trumbull, Wade, Wiley, and Yates—19.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cameron, Cattell, Connors, Drake, Edmunds, Fowler, Frelinghuysen, Grimes, Henderson, Howard, Morton, Norton, Patterson of New Hampshire, Pomeroy, Ross, Stewart, Tipton, Van Winkle, Vickers, Williams, and Wilson—24.

So the amendment to the amendment was rejected.

The amendment of the Committee on Appropriations was agreed to.

The next amendment was in line one hundred and sixty-six, to strike out "three thousand" and insert "fifteen hundred;" so as to make the clause read as follows, among the contingent expenses of the House of Representatives:

For paying the publishers of the Congressional Globe and Appendix, according to the number of copies taken, one cent for every five pages exceeding fifteen hundred, including the indexes and the laws of the United States, \$9,500.

The amendment was agreed to.

The next amendment was in line one hundred and seventy-five, to reduce the appropriation "for folding documents, including materials," for the House of Representatives from \$50,000 to \$42,000.

The amendment was agreed to.

The next amendment was in line one hundred and eighty-three, to reduce the appropriation "for laborers" for the House of Representatives from \$12,000 to \$5,000.

The amendment was agreed to.

The next amendment was to reduce the appropriation for "miscellaneous items" for the House contingent fund from \$70,000 to \$50,000.

The amendment was agreed to.

The next amendment was to strike out line one hundred and eighty-five, in the appropriations for the House contingent fund, in these words:

For newspapers, \$12,500.

And in lieu thereof to insert:

For stationery and newspapers for two hundred and fifty Members and Delegates, to the amount of \$125 each, \$31,250.

The amendment was agreed to.

The next amendment was in line one hundred and ninety-one, to reduce the appropriation "for twenty-five pages and three temporary mail-boys" for the House of Representatives from \$16,000 to \$6,720.

The amendment was agreed to.

The next amendment was in line one hundred and ninety-five, to reduce the appropriation for stationery for the House of Representatives from \$30,000 to \$15,000.

The amendment was agreed to.

The next amendment was in the appropriations for the Library of Congress, to strike out in line two hundred and thirty-seven the word

"four" and insert "three," and to strike out in line two hundred and thirty-eight "\$3,456" and insert "\$2,592;" so as to make the clause read:

For three laborers, at \$864 each, \$2,592.

The amendment was agreed to.

The next amendment was in line two hundred and forty, to strike out "two" and insert "three," and in line two hundred and forty-one, to increase the appropriation from \$2,880 to \$4,320; so as to make the clause read:

For three assistant librarians, at \$1,440 each, \$4,320.

The amendment was agreed to.

The next amendment was after line two hundred and eighty, to strike out the following clause:

For compensation to the Private Secretary, assistant secretary, short-hand writer, clerk of pardons, three clerks of fourth class, steward, and messenger of the President of the United States, \$18,800.

And to insert in lieu thereof the following:

For compensation to the Private Secretary, one clerk of class four, steward, and messenger of the President of the United States, \$8,200: *Provided*, That so much of the fourth section of the act of July 23, 1866, making appropriation for legislative, executive, and judicial expenses of the Government for the year ending June 30, 1867, as authorizes the President of the United States to appoint an assistant secretary, a short-hand writer, a clerk of pardons, and two clerks of the fourth class is hereby repealed.

Mr. SHERMAN. I should like to have some reason given for this amendment. It proposes to repeal entirely the law regulating the official family of the President. That law was prepared, I know, with a great deal of care a few years ago. There were only a small number of officers allotted to the President's House and employed by him, and they were constantly employed, and were said to be insufficient. It seems to me we ought not to change this law, especially at the incoming of a new Administration. If there is any good reason for it, I should like to hear it from the Senator having charge of the bill.

Mr. MORRILL, of Maine. It did not occur to the committee that they were interfering with the official family or the official relations of the President in any essential way. The amendment leaves the clerical force of the President precisely where it was in 1865. In 1866 the committee supposed there were some reasons for increasing the force of the President, which reasons were of a peculiar character, and which will be sufficiently indicated by reading the increased force which was then put at the disposal of the President. The increase was as follows: he was authorized to appoint an assistant secretary, a short-hand writer, a clerk of pardons, and two clerks of the fourth class. Now, it is known to Congress that about that time, in 1866, the executive department of the Government was thronged with applications for pardons, and it was thought proper to authorize the appointment of a clerk of pardons. The Committee on Appropriations supposed that that time had gone by; that there was no further necessity for a clerk with a special designation—on pardons. I submit to my friend from Ohio whether he believes, under the present circumstances, that that officer is any longer needed?

Then, as to the functions of an assistant secretary, the President already has two secretaries. There are two secretaries provided for in this bill; and nobody, I suppose, knows better than my honorable friend from Ohio that in addition to that, he has his chief Private Secretary, detailed from the Army; so that, as matter of fact, he has three: two provided by law, and one provided by detail; and but for this amendment to the bill he would have four. Now, will my friend say that he believes the official family of the President is being interfered with by this bill, when, as it stands, the President will have three secretaries? As it came from the House he had four. There is no limitation on the force he may have, because the power of detail for secretaries and clerks is unlimited. The committee, therefore, saw no reason, so long as the President has the power to detail whomso-

ever he pleases from the Army or from any branch of the service to perform just such duties as he chooses, why Congress should be called upon to make these additional appropriations.

Mr. SHERMAN. I should like to ask the Senator from Maine by what authority the President has the right to detail an officer of the Army to perform clerical duties? I know it has been done; but I do not know what law would authorize it.

Mr. MORRILL, of Maine. My friend knows that such is the fact.

Mr. SHERMAN. Yes, sir; I know it is done.

Mr. MORRILL, of Maine. Colonel Moore is a paymaster in the Army. He is one of the acting secretaries certainly of the President of the United States, as we have had occasion to know this morning, and as I suppose is well known; and he has been for, perhaps, years. Therefore I submit to my honorable friend from Ohio, that it is not interfering in any sense which would be an embarrassment to the President with his official family. He still has left to him all the force that President Lincoln had during his entire administration; all that was found to be necessary in 1865; and in addition to that he has this detailed assistant secretary. If there is anything to be said in favor of the retention of these officers the committee were not informed of it. If any argument could be made on that point it might be as to one of the two clerks that are struck out; but as to the clerk of pardons and the assistant secretary it is impossible to conceive that the President can require either the pardon clerk or an additional secretary to the two he already has. The committee were not informed that there was any state of things at the executive department that requires any force as to clerks beyond what existed in 1865. If the Senator from Ohio has any information in regard to the clerks that are struck out here he can state it.

Mr. DIXON. The proposition now before the Senate, as I understand it, is to strike out the following appropriation:

For compensation to the Private Secretary, assistant secretary, short-hand writer, clerk of pardons, three clerks of fourth class, steward, and messenger of the President of the United States, \$18,800.

And in lieu of those words to insert:

For compensation to the Private Secretary, one clerk of class four, steward, and messenger of the President of the United States, \$8,200: *Provided*, That so much of the fourth section of the act of July 23, 1866, making appropriation for legislative, executive, and judicial expenses of the Government for the year ending June 30, 1867, as authorizes the President of the United States to appoint an assistant secretary, a short-hand writer, a clerk of pardons, and two clerks of the fourth class, is hereby repealed.

I am not myself entirely informed as to the clerical force employed by the President. I know very well whenever I have happened to be at the Executive Mansion they all seemed to be very busily employed; a great deal of work was to be performed; and I had not supposed that there was any necessity of reducing the force or that it could be done with any propriety. I suppose that when that portion of the act was passed which it is now proposed to repeal it was thought by Congress that the force authorized was actually necessary at the Executive Mansion. I believed it to be so then, and I believe it to be so now. I must confess it strikes me very unfavorably to change to so very great an extent as is proposed the assistants now furnished by the Government to the President for performing his duties. It seems to me that if the honorable Senator who has charge of this bill had wished to enforce economy he might have commenced a little nearer home.

Now, sir, whether the clerical force allowed to the President is proper or not, as I have said, I am not prepared to say; but I wish to call to the attention of the Senate and of the country, when we are making this great reduction in a manner which seems somewhat invidious to the practice of the Senate in regard to clerical employment. We have a certain number of

standing committees; I do not know precisely how many. Some of these committees meet and do business and some of them do not. I have the honor of being a member of a committee of the Senate which has not met this session, to my knowledge. I have received no notice of it, if they have met. I speak of the Committee on Manufactures, presided over by the distinguished Senator from Rhode Island, [Mr. SPRAGUE.] I have the honor, also, of being a member of another committee which has met, and which has important duties to perform. Each of these committees employs a clerk. There are, I will not undertake to say how many, standing committees in all; but twenty-four, I think, as I judge by a hasty glance; and every one of these standing committees is furnished with a clerk at about eighteen hundred dollars a year, whether they meet or not; and I undertake to say that not half of them meet at all; at any rate if they do, it is not more than twice a year. For what purpose are these clerks furnished to such committees? For the benefit of the chairman to perform his business, to do his work. I will not say that that is improper. I do not say that it is improper. I do not know but that it is proper; but I say if the honorable Senator wishes to reduce the clerical force and save the Government expense it seems to me it would be more proper to begin with the committees here in this body which never meet, and have not even a pretense of any labor to perform, and still are furnished with a clerk, than to go to the Executive Mansion and deprive the President of two or three clerks.

In my judgment the President needs all the aid that he has. I do not believe that when the law of 1866 was passed, he was furnished with any more assistants than he needed. The whole executive business of this country is to be performed by three or four or five clerks. I do not think it is too much. I think he is entitled to all that assistance, and while I have not the slightest doubt that the honorable chairman of the Committee on Appropriations has acted in good faith, honestly in this matter, as he always does, and believes that here can be a proper saving, I do think he has made a mistake. I think the Senate ought not to adopt this amendment. But if the honorable Senator were to substitute for this amendment a proposition that committees of the Senate which do not meet over twice a year shall be deprived of their clerks, he would save to the Government twice as much money as this does, and it would come with much better grace from the Committee on Appropriations than does this amendment.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the committee.

The question being put there were on a division—yeas 11, noes 7; no quorum voting.

Mr. MORRILL, of Maine. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 12; as follows:

YEAS—Messrs. Cole, Conkling, Conness, Edmunds, Ferry, Harlan, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Pomeroy, Stewart, Sumner, Thayer, Tipton, Trumbull, Wade, and Wilson—19.

NAYS—Messrs. Bayard, Davis, Dixon, Doolittle, Hendricks, McCreery, Patterson of Tennessee, Ross, Saulsbury, Sherman, Sprague, and Willey—12.

ABSENT—Messrs. Anthony, Buckalew, Cameron, Cattell, Chandler, Corbett, Cragin, Drake, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Howe, Johnson, Morton, Norton, Nye, Ramsey, Van Winkle, Vickers, Williams, and Yates—23.

So the amendment was agreed to.

The next amendment was in line three hundred and two, to strike out the words "five hundred and thirty-eight" and to insert "seven hundred and twenty;" so that the clause will read:

For compensation to the laborer in charge of the water-closets in the Capitol, \$720.

The amendment was agreed to.

The next amendment was in line three hundred and nine, to strike out the words "sixteen thousand and eighty" and to insert "nine-

teen thousand two hundred and ninety-six;" so that the clause will read:

For compensation of a foreman and twenty-one laborers employed in the public grounds, \$19,296.

The amendment was agreed to.

The next amendment was in line three hundred and twelve, to strike out the word "nine" and to insert "eight;" so that the clause will read:

For compensation of two watchmen at the President's House, \$1,800.

The amendment was agreed to.

The next amendment was in line three hundred and fourteen, to strike out "seven hundred and twenty" and to insert "one thousand;" so that the clause will read:

For compensation of the doorkeeper at the President's House, \$1,000.

The amendment was agreed to.

The next amendment was after line three hundred and fourteen, to strike out the following clause:

For compensation of assistant doorkeeper at the President's House, \$720.

The amendment was agreed to.

The next amendment was to strike out lines three hundred and seventeen, three hundred and eighteen, and three hundred and nineteen, in the following words:

For compensation of one night watchman at the public stables and carpenters' shops south of the Capitol, \$1,000.

The amendment was agreed to.

The next amendment was in line three hundred and twenty-one, to strike out "thirty-six hundred" and to insert "five thousand;" so that the clause will read:

For compensation of five watchmen in reservation No. 2, \$5,000.

The amendment was agreed to.

The next amendment was in line three hundred and twenty-four, to strike out "five" and insert "seven;" so that the clause will read:

For compensation of drawkeepers at the Potomac bridge, and for fuel, oil, and lamps, \$7,000.

The amendment was agreed to.

The next amendment was in line three hundred and thirty-one, to strike out "seven hundred and twenty" and to insert "eight hundred and sixty-four;" so that the clause will read:

For compensation of furnace keeper under the old Hall of the House of Representatives, \$864.

The amendment was agreed to.

The next amendment was in line three hundred and forty-one, to insert after the word "Congress," the words "and Supreme Court room;" so that the clause will read:

For compensation of the person in charge of the heating apparatus of the Library of Congress and Supreme Court room, \$1,000.

The amendment was agreed to.

The next amendment was in line three hundred and fifty-two, after the appropriation for compensation of the officers of the Department of State, to insert the following proviso:

Provided, That the act of August 18, 1856, entitled "An act to amend an act entitled 'An act requiring foreign regulations of commerce to be laid annually before Congress,' approved August 16, 1842, and for other purposes," and also that the second section of the act of July 25, 1866, entitled "An act making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1867, and for other purposes," be, and the same are hereby, repealed.

Mr. SUMNER. Mr. President—

Mr. MORRILL, of Maine. If the Senator will allow me, I wish to amend the amendment of the committee, by inserting the words "third section of the" in the first line; so as to read:

Provided, That the third section of the act of August 18, 1856, &c.

The PRESIDENT *pro tempore*. That modification will be made, if there is no objection.

Mr. MORRILL, of Maine. The object of the amendment of the committee is to repeal that third section instead of the act itself. That may obviate the objection which the Senator may have to it.

Mr. SUMNER. Not at all; if anything it will make the objection still more important.

I am instructed—

The PRESIDENT *pro tempore*. The amendments of the Committee on Appropriations are not yet gone through with.

Mr. SUMNER. The question is on this proposed amendment of the Committee on Appropriations. I was about to say that I was instructed by the Committee on Foreign Relations to oppose the adoption of this amendment, and to move instead thereof an appropriation for the officers whose offices it is proposed by this amendment to destroy. This amendment is aimed at certain officers in the Department of State; and if you look at it, you will see it is divided into two clauses. The first is as follows:

"That the act of August 18, 1856, entitled 'An act to amend an act entitled 'An act requiring foreign regulations of commerce to be laid annually before Congress,' approved August 18, 1842, and for other purposes, shall be repealed'"

This has now been amended on the motion of the Senator from Maine by making the repeal applicable only to the last section of the act of 1856, the effect of which is to destroy the office known as that of superintendent of statistics and one clerk in the office. The section is as follows:

"That the Secretary of State be, and is hereby, authorized and required to appoint one clerk, who shall have charge of statistics in said Department, and shall be called 'Superintendent of Statistics,' and shall receive a salary of \$2,000 per annum, and shall be allowed, as an assistant, one clerk of the third class, which clerk the Secretary of State is hereby authorized and required to appoint."

That section, it will be observed, naturally belongs to the statute where it appears. The object of this statute is to provide that commercial information communicated by consuls shall be reported to Congress, and further, that consuls shall be bound to procure such information. But you will observe that if the statute simply provided for the communication of such information to Congress, and that consuls should communicate that information to the Department of State, it would not go far enough. There must be a provision for the examination and systematizing of that information; and this is found in the third section, which it is now proposed to repeal, under which the Secretary of State is authorized to appoint a clerk, whose duty it shall be to receive, examine, and arrange these statistics. Now, the question that you are to decide is, whether you are to give up that branch of duty in the Department of State. It was assigned to that Department as long ago as 1856, and it has been discharged faithfully, I believe, ever since.

You will remember, sir, that only a year or more ago a superintendent of statistics was appointed in the Treasury Department with a salary of \$3,500 a year. It was the opinion of the committee that the service done at the Department of State in examining, arranging, and reporting these consular statistics might properly be assigned to the general Bureau of Statistics at the Department of the Treasury, if it were deemed important to continue that bureau. I have heard some objections to it partly on the ground that the present superintendent was not in all respects what would be desired for the place. On that, however, I do not express any opinion. I think that all the statistics of the Government, what I would call the statistics proper, should pass through one bureau; that it is not expedient to have one general bureau at the Treasury Department and another special bureau at the State Department. At the same time, I must observe that the committee in making their present proposition do not undertake to transfer from the State Department the bureau which was created there in 1856, but they abolish it. They leave all the consular statistics which may be received there, and which now for twelve years have been examined, arranged, and reported by a special clerk in that Department, unprovided for.

It seems to me that it is not expedient to touch this subject until we are prepared to

systematize it by bringing all the statistics that are gathered together at one department or another into one bureau. No such thing is proposed by this amendment. Therefore, I have to submit, that, all things considered, it will be expedient, at least for the present, not to adopt the amendment; in short, to leave this little Bureau of Statistics, if it may be so called, or rather this clerkship of statistics at the State Department, to go on for the present as it has for the last twelve years, and meanwhile the committee, perhaps, can take into consideration the expediency of carrying out the suggestion which I have ventured to make, by consolidating all these statistical inquiries under one head.

That is all that I have to say with regard to the first part of this amendment; and this brings me to the second.

Mr. CONKLING. Before the Senator leaves this point, I will inquire who holds the place in this Department now?

Mr. SUMNER. I do not know his name. I do not find the name on the list in the Congressional Directory. I have nothing but that before me.

Mr. FESSENDEN. You will find it in the Blue Book.

Mr. SUMNER. I have not the Blue Book here. If there is one at the Secretary's desk I should like to have it. In the statute he is called a clerk:

"That the Secretary of State be, and is hereby, authorized and required to appoint one clerk, who shall have charge of statistics in said Department, and shall be called 'Superintendent of Statistics,' and shall receive a salary of \$2,000 per annum, and shall be allowed, as an assistant, one clerk of the third class, which clerk the Secretary of State is hereby authorized and required to appoint."

In reply to the Senator from New York, I would say that according to the Blue Book the Superintendent of Statistics is Benjamin F. Hall; under the head of "where born," "New York;" under the head "whence appointed," "New York."

Mr. CONKLING. As I have interrupted the Senator once, I beg to inquire whether Mr. Benjamin F. Hall holds this office now?

Mr. SUMNER. I only know by the Blue Book. This is all I know about it.

Mr. CONKLING. I was about to inquire, then, in what geographical range he exercised his functions, if the Senator knew he held the office?

Mr. SUMNER. I know nothing about it beyond the Blue Book.

Mr. CONKLING. I know a great deal about it beyond the Blue Book, and I thought the Senator might know what was the geographical range of his functions.

Mr. SUMNER. No, I do not. This brings me, then, to the second clause of the amendment, which is as follows: "And also that the second section of the act of July 25, 1866, entitled 'An act making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1867, and for other purposes,' shall be repealed. In order to understand this amendment, I will read the section which it is proposed to repeal. It is the second section of the consular and diplomatic bill for 1866, as follows:

"That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, a Second Assistant Secretary of State in the Department of State, and also an Examiner of Claims for the same Department, whose salary shall be \$3,000 per annum; and the salary of the Second Assistant Secretary of State shall be \$3,500 per annum; and such sums are hereby appropriated."

It will be remembered by Senators that this section passed after very considerable discussion, in the course of which there were various propositions, differing in character, and the Senate at last harmonized on this in the form which it now has. One of the propositions was that we should create an office to be called a Solicitor of Claims. Objection was made to that title, and also, I think, to the salary proposed; but it was felt that something of the kind was needed there; that there was a vast deal of business under the head of claims, or

of subjects kindred to claims, involving legal inquiries which the Secretary himself could not undertake to investigate. It was considered that he needed some additional assistance of that kind; and after a very careful inquiry the Senate, according to my recollection, by a large vote, agreed to create an office to be called an Examiner of Claims, with a salary of \$3,000. I may say that since that office was created circumstances from time to time have made me considerably acquainted with the business that has passed through the hands of its incumbent, who is well known, I believe, to the Senator from New York, Mr. E. Peshine Smith, also of New York. I have always found him a faithful, attentive, laborious officer. It seems to me he has a great deal of business assigned to him, and that he performs a very important function in the Department of State. A Senator asks me if he is the gentleman who was once reporter of some of the New York courts. I understand that he is; a lawyer of learning, of judgment, and of industry. I think it would be very hard upon the Department of State to deprive it now of the services of such an officer, one who by experience has become even more useful than he was at the beginning. I think that the public interests would suffer very much if that office were abolished. This is all I have to say upon that at present.

And that brings me to the other proposition to abolish the office of Second Assistant Secretary of State. Again I say I think it will be hard to do that. It would be hard on the gentleman who now holds that office, Mr. Hunter, well known to this Senate, who has been in the Department of State now for more than forty years, who may be called at this moment the living index of the Department. I believe it would be a great loss to that Department and a detriment to the public interests if his office were abolished. Of course with the abolition of his office he is set afloat; he is deprived of his place in that Department where he has labored for forty years; and where he has accumulated an experience which nobody else in the country has. It seems to me that he is needed there.

But the question arises, shall we have a Second Assistant Secretary of State? On that I desire to say a word. Why not? The business of the Department of State is now large and increasing. The foreign relations of our Government are more extensive at this moment than they have ever been before. Our consular posts are everywhere—on every coast, in every sea. Our diplomatic posts are at every considerable capital of the world. Every consul, every minister communicates habitually with the Department of State, and his letters are habitually answered. This cannot be done in a perfunctory way, nor can it be done without a great deal of assistance. There must be many minds and many hands employed in the conduct of all that extensive correspondence, and yet there are in the Department of State comparatively few hands. There are fewer than there are in any other Department of the Government; and thus it is that the Department of State, which in the arrangement of our Cabinet was placed at the head, is actually at the foot in the number of persons that it is able to employ at home within its own walls. It has the smallest body of clerks of any one of the Departments.

Then allow me, sir, to call your attention to another distinction. Unlike other Departments, the Department of State has no heads of bureaus; it has no chiefs of sections. It has its Secretary of State, and now under existing laws it has a First Assistant Secretary, and a Second Assistant Secretary, and an examiner of claims; and that is all. If you look at the other Departments, you will see the difference. Take the Treasury Department. I know well the difference between the business proper that passes through the Treasury Department and the business proper that passes through the Department of State. There is a difference which I do not disguise; but I sub-

mit that there is not a difference so great as to justify the enormous disproportion in first-class agents or employés in the Department. Looking at the Treasury Department you will see that there are no less than nineteen different persons who may be called, though they have another name, Assistant Secretaries of the Treasury. There are first the two Assistant Secretaries of the Treasury who go by that name. You have then a Special Commissioner of the Revenue, Mr. Wells. You have then a supervising architect, who may be considered the Assistant Secretary of the Treasury in matters of architecture. You have then the director of the Bureau of Statistics, Mr. Delmar. You have then the First Comptroller; then the Second Comptroller; then six Auditors. Then you have the Treasurer of the United States; then the Register of the Treasury, the Comptroller of the Currency, the Commissioner of Customs. Then you have a whole bureau recently created of vast importance, the Bureau of Internal Revenue, with a Commissioner of Internal Revenue, and three deputy commissioners. Then you have in the Treasury a Solicitor of the Treasury, and an Assistant Solicitor of the Treasury. Besides all these, you have the Coast Survey, with its enlightened superintendent, Professor Pierce; making, as I have already said, more than twenty different persons in the Treasury Department alone, all of them with a compensation equal to that of an assistant Secretary.

Mr. FESSENDEN. And the light-house establishment.

Mr. SUMNER. There is also the light-house establishment, the Senator from Maine reminds me. I had forgotten that. All of these officers have salaries as large, at least, as an Assistant Secretary of a Department, and some of them larger. For instance, the Treasurer of the United States has a salary of \$6,000; the Commissioner of Internal Revenue a salary now of \$6,000 also; the Solicitor a salary of \$4,000; and the Comptroller of the Currency \$5,000. So much for the Treasury Department.

If you look at the War Department you will find that the number of heads of bureaus there is full as large, if not larger, than in the Treasury Department itself. It is true you no longer have an Assistant Secretary of War, but you have an Adjutant General with five different assistant adjutant generals; and be it remembered all of them residing in the city of Washington, with their names in the Washington Directory. You have two inspectors general; you have an acting quartermaster general, an assistant quartermaster general, then a deputy quartermaster general, and still two other quartermaster generals. Then you have a subsistence department, with also a Commissary General, an assistant commissary general, and an assistant to the commissary general. Then you have the medical department, with a Surgeon General, an assistant surgeon general, assistant medical purveyor, compiler of medical records, and five assistant surgeons. You have then the pay department, with a Paymaster General, and three different paymasters under him. You have then the chief of engineers, with a corps of engineers under him. Then you have an ordnance department, with a chief of ordnance, an inspector of armories and arsenals; principal assistant to the chief of ordnance, and also another assistant to the chief of ordnance. Then you have the Bureau of Military Justice, with a Judge Advocate General, and four other judge advocates under him. Then you have a signal department, with a chief signal officer. Then you have the Bureau of Refugees, Freedmen, and Abandoned Lands, with a Commissioner, being the excellent and distinguished Major General Howard, and an assistant commissioner under him, and an acting assistant adjutant general, commissary of subsistence, and a chief medical officer. Besides that you have the military department of Washington, with a commandant and an assistant adjutant general.



I might go through all the Departments of the Government with the same result. I might take up the Navy Department and show the different heads of bureaus there, all of them confirmed by this Senate, and every one in the character of his duties not unlike an Assistant Secretary of the Navy. I might go also to the Post Office Department and show you there three Assistant Postmasters General. But I stop; I will not take your time. I wish to impress upon the Senate, if the Senate will pardon me, the importance of continuing this office in the Department of State. I think you cannot take it away without interfering essentially with the business of that Department, and without doing injustice, which I believe you will not willingly do, to an old and valuable public servant. Because he is called Assistant Secretary of State I hope you will not argue that on that account he should be cut adrift. It may be said that there ought to be only one Assistant Secretary of State; I presume to suggest that as in other Departments there are heads of bureaus and functionaries who in point of fact in the service that they render are, substantially, Assistant Secretaries, so in the Department of State itself there should be more than one person who should render that class of service, call him Assistant Secretary of State, or something else, or whatever you please.

In order to present this question for the votes of the Senate and to present the amendments of the committee which are consolidated in one, separately, I will move to strike out all that part of the amendment of the committee which repeals the second section of the act of July 25, 1866, relating to the examiner of claims and Assistant Secretary of State.

Mr. MORRILL, of Maine. I suggest to the Senator that he will reach the same result, perhaps, if he moves to divide the question, so as to take the question first on the first proposition contained in the amendment.

Mr. SUMNER. Very well; any way that will be agreeable to the Senator. I merely wish to get at the result.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) Does the Senator from Maine move to divide the amendment of the committee?

Mr. MORRILL, of Maine. I suggest whether it would not be more convenient to the Senator from Massachusetts in that way.

Mr. SUMNER. If I move to strike out the last part I get at the result, and unless the Senator from Maine should prefer to have it presented in some other way, I will move to strike out of the amendment of the committee the words:

And also that the second section of the act of July 25, 1866, entitled "An act making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1867, and for other purposes."

The PRESIDING OFFICER. The question is on the amendment to the amendment, striking out the words indicated by the Senator from Massachusetts.

Mr. MORRILL, of Maine. I will say a word or two in explanation of the action of the committee. By the third section of the act of 1866 a Second Assistant Secretary of State and an examiner of claims were provided for in these words:

"That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, a Second Assistant Secretary for the Department of State; and also an examiner of claims for the same Department, whose salary shall be \$3,000; and the salary of the Assistant Secretary of State shall be \$3,500 per annum; and such sums are hereby appropriated."

Most of the statutes providing for additional service in the year 1866 were for temporary service, for additional service deemed to be necessary growing out of the particular circumstances in which the Government in several Departments found itself at the close of the war. By an examination of the statutes it will be seen that almost all the Departments were increased during the year 1866, and in most of the laws, I think, for that year this additional force was regarded as temporary. Certainly

some of it was, I know, and as a general proposition I think it is true that the additional force was not contemplated as a permanent addition to the service of the several Departments of the Government to which it was added during the years 1865 and 1866. Some of it, I know, was limited to a period of two years.

Now, sir, I do not know, and have no right to know, what influenced the House of Representatives, but I suppose that this consideration had something to do with it. The House of Representatives made no appropriation for these officers, for the Second Assistant Secretary of State and for the examiner of claims, which had been provided for by the act of 1866, as I suppose under the circumstances to which I have referred. Finding the House of Representatives to have acted thus, the question naturally arose in the committee, "What is the duty of the Committee on Appropriations on the part of the Senate?" Shall we concur in the proposition of the House? Is it fair to presume that they have examined this branch of the service, and understand what its relations are and what its needs are, and if so, what ought the committee to do?" Finding no appropriation for these two officers, and finding the law upon the statute-book creating these two offices, assigning them certain duties, the committee came to the conclusion that perhaps it was its duty to submit to the Senate the proposition of dispensing with these offices altogether; for surely it could hardly be expected that Congress would refuse to make an appropriation for offices provided for by law, and yet leave the statute creating them unrepealed. So the Senate Committee on Appropriations instructed me to report this amendment.

Now, Mr. President, whether this service is absolutely necessary or not I do not know. The Committee on Appropriations, I am free to say, had no especial, and no very general information on that subject. We are obliged to rely upon such presumptions as arise naturally from the history of the Government. Looking at that, we know that this branch of the service got along well enough during the war with one Assistant Secretary of State. We know well enough that the duties of that Department cannot be more onerous now than they were during the war. We certainly know that during the war we were obliged to provide for additional force in many of the Departments. We had, I think, two Assistant Secretaries of War during the period of the rebellion; we have only one now. We had two Assistant Secretaries of the Navy during that period; we have only one now. We had, I think, two Assistant Secretaries of the Treasury; I am sure we have but one in fact, though I think there are two in law, at the present time. But I do not suppose that the Senator from Massachusetts will contend that the business of the Department of State has increased correspondingly with that of some of the other Departments of the Government. While in some of the Departments of the Government it is practicable to go back to the period anterior to the war, what would be called the peace establishment anterior to the war, it must be confessed by those who are at all acquainted with the business of the Government that there are certain departments of the Government where the business has really increased since the conclusion of the war. That is the case in some of the bureaus of the Treasury. The committee, therefore, felt bound to act upon the general information within its knowledge, and the conclusion to which we came was, that these additional officers, like others, were created during the exigencies of the war, and were probably not expected to exist long afterward; and reasoning from this general information, and adopting the action of the House of Representatives, that the House had not chosen to provide for these officers, on the supposition, as we supposed, that they were not necessary, the committee deemed it its duty to present this amendment for the consideration of the Senate. If

the Senator from Massachusetts has satisfied the Senate that the exigencies of the war still exist in the State Department, that although during the war it was not necessary and not until 1866 that there should be a Second Assistant Secretary of State, the exigency does exist now which did not exist during the war, then of course the Senate will not concur in the action of the committee.

Mr. JOHNSON. I am glad that the honorable chairman of the Committee on Appropriations makes no serious, if any, opposition to this amendment.

Mr. MORRILL, of Maine. The Senator is mistaken.

Mr. JOHNSON. I considered it no serious opposition, because he concluded by saying that, if the honorable member from Massachusetts, the chairman of the Committee on Foreign Relations, supposed that the exigencies of the war in one sense still existed, perhaps the Senate would be for continuing the policy that led to the adoption of the original law.

Mr. MORRILL, of Maine. I believe my language was "if the Senator from Massachusetts had satisfied the Senate."

Mr. JOHNSON. I was in hopes that he had satisfied my friend, and I am not entirely sure that he has not done so. That will be tested when the vote is given.

The war, to be sure, is over, Mr. President, and happily over; but the business of the State Department is just as burdensome now as it was during the pendency of the war; and from my knowledge of it, obtained during the past three or four years, I am satisfied that it is very important that there should be an Assistant Secretary of State, even independent of the value of the particular incumbent. But so far as that incumbent is concerned I do not think I exaggerate when I say that his services could not be supplied at this time by any other citizen as well as they are now performed by him. He has been in the Department for a great many years, and during a great many Administrations, and has given entire satisfaction to every one of them; and I am convinced that without his aid, they would have found it much more difficult to conduct the Department as satisfactorily as they have done.

As to the other officer, it is equally important that he should be retained. The claims against the United States that are presented to the State Department are very numerous and very large, and it is very important for the interests of the Government that there should be some officer specially charged with the examination of such claims. That involves, of course, a good deal of labor, and requires that there should be some officer particularly competent in matters of that kind. I concur with the head of the State Department in thinking that it is all important that this particular officer should be retained. He has saved, I believe, thousands upon thousands of dollars to the Treasury, and if he is permitted to remain there the result will be found equally beneficial to the Government.

Mr. FESSENDEN. Mr. President, I do not know that there is any opposition to the amendment proposed by the Senator from Massachusetts; but I rise simply for the purpose of adding my testimony to the fact that in the opinion of the Committee on Foreign Relations it is necessary to retain both the examiner of claims and the Second Assistant Secretary of State. The office of examiner of claims is a matter that has grown up in consequence of claims filed which arise out of the war, and of course they are more numerous now than they could have been at any time during the war itself. I know that at the time this statute was passed I examined this matter very carefully with regard to the necessity of having such an officer, and I came to the conclusion that it was an assistance the Secretary of State was fairly entitled to. It is perfectly impossible for him to examine himself the claims that are filed in his Department and decide upon them without the aid of a good lawyer, and for the

purpose of having them thoroughly examined and presented to him it was absolutely necessary to appoint somebody, and I have heard no objection to the man selected.

With regard to the office of Second Assistant Secretary of State, it was made for a special purpose. Mr. Hunter, who now holds that office, had been chief clerk of the Department on a salary, I believe, of \$2,000.

Mr. SUMNER. Less than that the greater part of the time.

Mr. FESSENDEN. Or \$1,800 for a great number of years, and was a most valuable officer. He had a family; and a man like him, situated as he was, having been there so long, so absolutely essential to the proper conduct of the business of the Department from his experience and intelligence, was fairly entitled to a salary which would give him a decent livelihood in these times; and for the purpose of doing that it was thought advisable and proper to create the new office of Second Assistant Secretary of State for his special benefit; in the first instance for the sake of giving him a salary which was adequate to his services. It was put upon that ground, and it was passed, I think, with very great unanimity. He is a gentleman, I believe, having no politics particularly offensive to nobody, but devoted to the business of his office, and master of the ordinary business of the State Department. Now, in consequence of his old office being filled, the effect of repealing this law, would be to just put Mr. Hunter out of office, at a time of life when he cannot turn to any other business; and it would be very unjust to him to do so.

On reflecting upon the subject I am satisfied that the office ought to be permanent, without referring to the case of Mr. Hunter at all. There should be somebody in an office of that description familiar with the business. I believe such is the idea in England, though the Senator from Massachusetts can say a great deal better how it is there. In that Government, I understand, there are certain officers holding high rank, assistants, who are permanent, and remain as such, men of long experience, whose appointments are not political and who are not changed. When Mr. Hunter shall retire it will be proper, in my judgment, to put somebody in his place who has been in the Department a long time and is competent to discharge those duties, if such a man can be found—the ordinary business of the Department—who knows all about it, where to look for everything, business which he has done as chief clerk, which perhaps a chief clerk might do, to be sure; but which you cannot find every man competent to do, as prices are at present, who would do it for the salary of a chief clerk which Mr. Hunter so long received. The principal Assistant Secretary of State holds an office more of a political character. He oversees the appointments, consular appointments particularly. He aids the Secretary in writing his communications to foreign ministers, &c., and is more intimately connected with the Secretary himself, and with a change of administration is likely to go out of office. That particular place is not in its nature permanent.

So, sir, notwithstanding this office was originally created for the purpose of doing justice to a most valuable public servant, I am satisfied that it should remain; that it should be in its nature permanent; that we shall always need two Assistant Secretaries of State having distinct duties, one of whom is to be considered a man to remain, and without whose aid no new Secretary can get along, and the other of a different and perhaps a political character.

My colleague has adverted to the fact that there were two Assistant Secretaries of the War Department, and also two Assistant Secretaries for the Navy Department, and that one of each has been dispensed with. That is very true; and why? Because there are in those Departments heads of bureaus, as suggested by the Senator from Massachusetts; the business is divided up into departments, bureaus properly so called, which have at their head generally

experienced men understanding the business of the offices, and one Assistant Secretary is enough, undoubtedly, in each of those Departments. As remarked by the Senator from Massachusetts, that division of labor does not take place to that extent in the Department of State; and thus the Assistant Secretaries are all the men there who answer at all to those positions.

Now, sir, with regard to the other point, and that is the statistical matter. My opinion is that there ought to be but one Bureau of Statistics, to which all these things ought to be referred. I am unwilling to dispense with the valuable information that we get by reason of collecting these statistics. As all of us understand, they are the digests of communications made by our consuls abroad with regard to our trade and commerce and other matters of interest. They have been made for the last dozen years, and they are valuable; and if the repealing of that branch of the statutes was to eventuate in dispensing with this collation of this information received from our consuls abroad I should be opposed to it. I think it would have been better for the Committee on Appropriations to have proposed an amendment for the transfer of it to the Bureau of Statistics in the Treasury Department, and of all the papers relating to it, rather than to have attempted to dispense with it generally. I do not know but that if you repeal the statute it may go there as a matter of course, and the papers be transferred; but all the communications that are made by our consuls of this information, which is of so much value and which ought to be collated, are made to the Department of State, and if it is not to be collated there, all that correspondence with the Department of State must necessarily be transferred to the statistical bureau of the Treasury. You will notice that this information is very frequently mixed up with political matter, or rather with matter or information which is not perhaps proper to be communicated to the public at the time when it is collated.

Therefore it has been managed in the Department of State; so that that which was in its nature confidential and ought to be kept secret should not pass out of the archives of the Department itself, and that which was of general commercial information should be gathered into a volume by itself. I suppose that is the reason. Still an amendment might be made, undoubtedly, by which all that information could be transferred to the statistical bureau which we have now in existence in the Treasury Department. I am not so particular about that, and if the Committee on Appropriations think it necessary to repeal the law on that point I have no particular objection. My friend, the Senator from New York, says he has some information relating to that subject, which I shall be very glad to hear. He will probably enlighten us, as he always does. But, with regard to the other particular matter, which the honorable Senator from Massachusetts has moved to strike out, I think it absolutely necessary that it should be stricken out. These things were provided for two years ago after very considerable examination and careful deliberation, and I have no doubt at all that they ought to remain, for the present at least.

Mr. CONKLING. Mr. President, when the Senate shall have refused to sustain the Committee on Appropriations in recommending reductions so often that reducing expenditures becomes hopeless such recommendations ought to cease. A great soothsayer has said that—

"Things without remedy  
Should be without regard."

And yet I am inclined to think the committee would indulge itself in recommendations of reductions after the Senate had shown that its face was set like flint against them. There would be a sort of luxury in these recommendations to me if it were only to enjoy the pleasure I had from witnessing these exhibitions of loyalty on the part of distinguished members of this body. Edmund Burke, I think, defined

loyalty to be a proud submission to something or other of which at the time he was talking; and there seems to be a sort of common law—if it were on a large scale it would be, perhaps, a comity of nations—which obliges the members of committees of this body to act, if necessary, as efficiently as fiery dragons in defending the Department with which their committee has relations on every side against the incursions and encroachments of the Committee on Appropriations.

This morning we proposed to reduce this "magnificent household" of the President, as I heard it called three or four years ago in the House of Representatives. It shocked my sense then, and it has ever since; but it might with great propriety in definition have been called a royal household for the President—a thing gross and unpardonable, as I believed at the time; but certainly unpardonable now. We proposed to reduce it to the point at which Abraham Lincoln uncomplainingly received it, and with it administered the affairs of the Government; and immediately the sword of my gallant friend from Connecticut [Mr. Dixon] leaped from its scabbard. I waited curiously to know for which committee he spoke, and at length he announced himself, that he appeared as a member of the Committee on Manufactures! He said it had not met; but I inferred that his business had been to manufacture plausible, although with great respect to him, poor excuses for continuing expenditures which cannot be defended. But after a most gallant, dashing, and brilliant foray my friend, the Senator, permitted an incoming Administration, now that the war is over, now that pardons are put out by general law, by proclamations of amnesty, as they are called, in place of being stricken off like hand-bills on a machine, as I saw them some time ago at the White House, we are permitted to dispense with the pardoning clerk and with the other people who go to make up the magnificent appointments of this Executive household.

Then we come to the State Department, and the hunt is headed, of course, by the honorable Senator from Massachusetts, [Mr. SUMNER,] who is never found sleeping upon his post when anybody proposes a suggestion looking to curtailment in the Department of State. That is as I supposed it would be. Before the Clerk had finished the reading of this amendment I instinctively turned to the Senator from Massachusetts to see the orb of the State Department rise and shed light upon the impropriety and shortcoming of the Committee on Appropriations. The chairman of the Committee on Appropriations says that the honorable Senator from Massachusetts was already on his feet before I expected to see him rise. [Laughter.] I retract anything I said in derogation of that statement.

Now, Mr. President, what is all this? The first question in the order in which some Senator treated it is, whether there shall be two Assistant Secretaries of State? Has the jaded ingenuity of the Senator from Massachusetts—I venture to say it is jaded, because it has been exercised so much and so often in favor of these applications—has the ingenuity of the Senator from Massachusetts started any reason why we should have now two Assistant Secretaries of State? I know he said the War Department and the Treasury Department are organized with heads of bureaus. If I were to stop and discuss that I think I could give ample reasons to warrant the saying that it makes nothing in favor of the idea that we are to have in the State Department, and in that Department alone, two Assistant Secretaries. Why is it that the Foreign Office of the Government from the morning of the Government until the war was able successfully to proceed without such a suggestion?

Mr. WILSON. It is since the war that the office of this Assistant Secretary has been created.

Mr. CONKLING. I am aware of it. After the completion of the war this office was created; but that is no matter for any purpose:

I will admit that it was after the war had ostensibly, and to a great extent really no doubt led to an accumulation and a diversity of business in the State Department, which required or was argued to require additional help, that a Second Assistant Secretary was supplied; and now, when looking to the future, that exigency has gone, why is it, I inquire, that we ought to have two Assistant Secretaries of State?

The incumbent is an excellent man, says one Senator, and another agrees with him. I have no doubt of it. If he is so excellent that he ought to be the Assistant Secretary, the under-chief of the Department, that argument might be interesting to the gentleman who now holds that place, for it might make this proposed incumbent formidable as a competitor, should a change be proposed. But is it logical to say that because a particular man who does not occupy an office would make an excellent incumbent for that office, therefore you should create a mate to it, to the end that he may occupy an office the *fac simile* of the one to which you say he belongs, but which he does not happen to possess? Mr. Hunter is a good man, I have no doubt; I have heard always that he was in his way, and I have no belief to the contrary; but if Mr. Hunter is desirable in the State Department, not as an under-Secretary, but in a place subordinate to that, then, according to practice, the actual experiment and the actual proof of the question, he belongs in the position of chief clerk of the Department, with pay appropriate to that place and appropriate to him.

Is there anything more to be said about it? Not, I submit, unless the argument is sound that whenever you cannot put a man in the place which you think he would adorn you as to create another place as near like that as you can make it in order that you may put him, if not on the same pedestal, on an equal footing.

Two other suggestions are made. One is as to Mr. E. Peshine Smith, who, my friend from Connecticut truly suggested, was once the reporter of our State, a good lawyer, a man of high respectability, and of unusual ability and attainment. Mr. E. Peshine Smith holds the place of examiner of claims in the State Department, and from this circumstance is derived again an argument personal to Mr. Smith, that he ought to be continued. Mr. President, I presume that I am not the only member of this body who knows that Mr. E. Peshine Smith, with or without this appropriation bill, with or without this amendment, does not intend and is not to be induced to hold hereafter this place. I doubt if he holds it now; but I have no information which will enable me to say that technically and formally his connection with it is severed; but it is matter of notoriety that Mr. Smith is to have charge of a daily journal in the State of New York, of which, I think, he has charge now. Therefore we may as well lay out of the case whatever there is personal to Mr. Smith, or whatever cogency there is in the fact that a man so good as Mr. Smith in the past held this place.

If the State Department hereafter requires an officer, in addition to the staff of that Department, to examine accounts or claims, that fact will no doubt appear instantaneously with the exigency, and then we can act upon it; but the theory now is that we are to continue it because Mr. Smith, an excellent man, is there. This is the argument, in effect, made by the Senator from Massachusetts, who introduced prominently the fact that Mr. E. Peshine Smith was there; and then by way of aiding and abetting him, my ingenious friend, [Mr. Dixon,] who is always sagacious and on the alert, interjected as a make-weight that this might be the reporter of the State of New York, with a view to magnify the force of this suggestion; and in that the honorable Senator from Massachusetts, gracefully and apparently without any reluctance consented that this was the Mr. Smith.

Mr. DIXON. I think my friend is entirely mistaken. I have heard of Mr. Smith frequently, but never of this identical Mr. Smith. I never said that he was the reporter. Somebody else must have said it.

Mr. CONKLING. I beg pardon of the Senator from Connecticut. I am so accustomed to hearing timely and sagacious suggestions from him that hearing a "still small voice" in this neighborhood on this occasion making that ingenious allusion, I took it for granted that it must proceed from the sagacious leader of the party to which my friend belongs. I have long admired the dexterity with which, "in season and out of season," he put in make-weights like that. I do not know of any gentleman who excels him in that; and when I heard this, it sounded to me so like him that I took it for granted that it came from the political inventor from Connecticut. [Laughter.] However, I acquit the Senator of the authorship of the suggestion; but it came from somebody in his neighborhood; it came from an adjoining town to the Senator, precisely from which one in his neighborhood I do not know.

Now, Mr. President, to drop this matter of the examiner of claims, the information I had as a member of the committee, and that I have gathered from various sources was and is that this officer in the State Department is not a necessity looking to the future, and that the necessity which justified it in the past is diminishing so rapidly that it would be an imprudent thing to appropriate for it in the future.

Now, we come to the remaining one of this trio, the Superintendent of Statistics. I recollect when the Monitor engaged the Merrimac down in Hampton Roads, hearing some naval gentleman discoursing and describing, with great volume and zeal, the action, and talking about iron-clads. He said there never was such an invention; it was the prettiest thing and the handiest thing that ever was; and, said he, every family ought to have one. Now, I do not know but that every family ought to have a bureau of statistics and somebody to superintend it. [Laughter.] The Senator from Maine [Mr. FESSENDEN] does not think so. He is not accustomed to thinking things which will not stand the test of reason and argument; and when I heard him say—I believe I am right in addressing this to him; I think I can fasten it on him—when I heard him say that the Bureau of Statistics ought to be consolidated, ought to have some local habitation and name somewhere in some one place, I felt very sure that I was right in thinking that, too. I had thought about it several times and had concluded that that would be an excellent suggestion and a practical one. There is such a place in the Treasury Department, and it seems to be one of those instances again in which the office and the incumbency of the office present some sort of repugnance or dissatisfaction. There is in the estimation of some Senators a man in the place who ought not to be there; but who the man is outside that ought to be there, I do not know, and it is not important I should; I shall be permitted to vote for his confirmation, following other Senators, when his name comes here, if he is appointed by the President, as I believe he is to be.

But there in that Department is a Bureau of Statistics, and there it should not be in this bureau, or clerkship, as the Senator from Massachusetts called it, if statistics are to be perpetuated in the State Department. The two things are repugnant; as we say sometimes in court, they cannot both be true, and one or the other ought to be overset. The House of Representatives, in looking at this, very likely found out something about the facts. The facts in general terms are these: The person who holds this office is one with whom I have long had an acquaintance; I knew him more than twenty years ago, and I have seen him from time to time ever since, and certainly I have no wish if the facts would

warrant me in doing it, to criticise him in any respect.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1059) to relieve certain citizens of North Carolina of disabilities.

The message also announced that the House had passed a joint resolution (H. R. No. 806) to authorize the Secretary of the Treasury to remit the duties on certain articles contributed to the National Association of American Sharpshooters, in which the concurrence of the Senate was requested.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A joint resolution (H. R. No. 266) to authorize the enlargement of the Hygeia Hotel, at Fortress Monroe, Virginia;

A joint resolution (H. R. No. 262) authorizing certain distilled spirits to the Surgeon General for the use of the Army hospitals;

A bill (H. R. No. 659) granting a pension to Sarah E. Pickell;

A bill (H. R. No. 516) for the relief of the widow and minor children of Benjamin B. Naylor, late a pilot on the gunboat Patapsco;

A bill (H. R. No. 454) granting a pension to John Kelley;

A bill (H. R. No. 524) granting a pension to Austin M. Partridge;

A bill (H. R. No. 526) increasing the pension of Susan A. Mitchell;

A bill (H. R. No. 520) to place the name of Josephine K. Bugher on the pension-roll;

A bill (H. R. No. 519) granting a pension to Eliza J. Rennard, widow of William K. Rennard, deceased, late a private in tenth Ohio volunteers of war of 1861;

A bill (H. R. No. 517) granting a pension to Cornelia K. Schmidt, widow of Adam Schmidt, late a private in company A, thirty-seventh Ohio volunteers;

A bill (H. R. No. 280) granting a pension to Margaret Huston;

A bill (H. R. No. 258) for the relief of Mary B. Craig;

A bill (H. R. No. 257) for the relief of James L. Dickerson;

A bill (H. R. No. 246) granting a pension to Milton Anderson;

A bill (H. R. No. 152) for the relief of the widow and children of Henry E. Morse;

A bill (H. R. No. 665) granting a pension to Susan V. Berg;

A bill (H. R. No. 667) granting a pension to Mary Graham;

A bill (H. R. No. 668) granting a pension to Elizabeth Butler, widow of Cyrus Butler;

A bill (H. R. No. 769) granting a pension to David Howe;

A bill (H. R. No. 772) granting a pension to Robert McCrory;

A bill (H. R. No. 774) granting a pension to Amos Whitam;

A bill (H. R. No. 776) granting a pension to Zephaniah Knapp, of Luzerne county, Pennsylvania;

A bill (H. R. No. 823) granting a pension to George W. Lochor;

A bill (H. R. No. 824) granting a pension to Annie Vaughn;

A bill (H. R. No. 826) granting a pension to Michael Mellon;

A bill (H. R. No. 827) granting a pension to Ann Wilson;

A bill (H. R. No. 828) for the relief of Captain William McKean;

A bill (H. R. No. 829) granting a pension to Mrs. Susan Ten Eyck Williamson; and

A bill (H. R. No. 455) granting a pension to David Van Nordstrand.



## LEGISLATIVE, ETC., APPROPRIATION BILL.

The PRESIDENT *pro tempore*. House bill No. 605 is before the Senate, and the Senator from New York is entitled to the floor.

Mr. CONKLING. Mr. President, if every Senator has counted those pension bills he will be in a condition, I hope, to receive the remaining suggestion which I was going to make in reference to the superintendent of statistics in the State Department. The Senator from Nevada, [Mr. NYE,] I think, has, as I have, an old-time acquaintance with the incumbent of this place, and I inquired of that Senator a moment since if he knew how long it was since this gentleman had been within the District of Columbia, or in the city of Washington, and he mentioned an occasion two years ago on which he knew of his being here, and mentioned some other information which had been given him in regard to him, as to where he usually was, which, if he deems it worth while, he can state to the Senate. He did not state to me particularly what it was. I was unable to remember any occasion so recent as that when I had known of the presence of the incumbent of this place at the seat of Government. I have known of his being elsewhere. I do not mean "elsewhere" in the sense in which that word has been employed sometimes in Congress. [Laughter.] But I have known of his being at a distance from the capital, and therefore I ventured to inquire of the Senator from Massachusetts in what orbit, geographically or astronomically, this official moved when he performed his functions. I think it very clear that he does not discharge the duties of this office in Washington, nor is he, in the language of accredited envoys, "near the Government of Washington" in any sense, diplomatic or otherwise. On the contrary, I think the fact is that he is habitually at least six hundred miles, as the mails and the people usually go, from the place at which this office is attributed to him.

Mr. President, when we consider that we have a Bureau of Statistics in the Treasury Department, and when we consider the state of this Bureau of Statistics, if bureau it be, when we consider its somewhat peripatetic character, it seems to me very hard to conclude that the Committee on Appropriations was called upon to say that a considerable sum of money, the amount necessary to pay the salaries of the chief officer and of an assistant, one clerk of the third class, should at this time be appropriated from the Treasury.

Now come, Mr. President, to a point at which I am admonished to stop, lest I make some suggestion in respect to economy or retrenchment. I think, if I go further, I may say something which will be on the confines of that question, and that "gives me pause." Without venturing a suggestion of that kind, without intimating that the Treasury is not bubbling over with money, and without doubting that we are bound "diligently to inquire and true presentment make" of every place where we think a little more money might advantageously or comfortably be used, it occurs to me that this particular point is one of the least tenable of all those I have heard recently suggested upon which we could manage to get rid of a small sum. On the contrary, I think, without any time to reflect, I could suggest a great many ways in which this money could be thrown away in a manner more justifiable and more plausible than this.

Upon the whole, then, Mr. President, and having the fear of the Senator from Massachusetts all the time before my eyes, and with the trepidation and self-examination which arises from that fact, I think that, having agreed to this report as a member of the committee, I shall put the best face on it and stand up here boldly and vote (if we are allowed to vote upon these provisions relative to the State Department) that a Secretary of State, an Assistant Secretary of State, and a chief clerk, a proper man suitably paid, are enough to squeeze

through and take the chances for the time being of conducting the foreign relations of the Government; and when it shall turn out that it is necessary to have a lawyer in Mr. Smith's place, if they can get a good one, and there is really use for him, I shall then follow the Senator from Massachusetts in voting for the appropriation which may be necessary; and when we are not able to take a sufficient account of stock in the State Department, without having a Bureau of Statistics there, or a Bureau of Statistics floating somewhere else in space on the spinning disc of some planet or other, if it is not there, then I shall follow the Senator from Massachusetts in voting for that, too; but as I stand with the chairman of the committee near me and looking at me occasionally, I hardly see how I can retreat from agreeing to this report; and upon the whole, with all the courage I have, I shall stand up and vote when my name is called to try the experiment once of reducing a little the expenditures of the State Department.

Mr. DIXON. Mr. President, the Senator from New York [Mr. CONKLING] spoke of the luxury of listening to the debates of this body when led by the Senator from Massachusetts [Mr. SUMNER] and the Senator from Maine, [Mr. FESSENDEN.] It is always a luxury to me to listen to the Senator from New York; and seldom have I ever enjoyed a greater array of illustration or a more boundless profusion of vocabulary than that Senator has to-day indulged in. He began by telling us what an ancient soothsayer had said, though I do not know who that soothsayer was.

Mr. CONKLING. I beg the Senator's pardon. The soothsayer to whom I referred was born and died on the 23d of April, and that day was not a very distant day, looking back by centuries. I did not say that he was an ancient soothsayer by any means.

Mr. DIXON. The Senator referred to a soothsayer; and he illustrated his argument, as he nearly always does, with historical illustrations. Then he spoke of what Mr. Burke had said, and gave us his definition of patriotism or loyalty. I supposed he was going to give us Dr. Johnson's definition, too.

Mr. CONKLING. That was "the last refuge of a scoundrel," you know.

Mr. DIXON. I supposed the Senator was going to give us that, too. Then he made other allusions, and finally the Senator charged me with having interfered with this debate, and informed the Senate who Mr. Smith was. When I heard that charge, I supposed of course I must be mistaken, but I had no recollection of it. I have known many gentlemen of that name; but who this particular individual is I cannot say.

But the Senator attacked me with his usual severity—it would have been severe but for his good nature—because I had ventured to intimate to the Senate that I thought there was a better place, a more seemly and more becoming place, for economy, here in this body, than to deprive the President of the United States of two or three clerks. I found in the bill a provision that the President should be stripped of some of his clerical aid, and I ventured to say upon that proposition something which did not seem to commend itself to those advocates of economy of whom my friend from New York is the leader and the chief. I find that they always take some impracticable scheme of economy, and after having advocated it he sits down in utter despair because he is unable to advance his scheme. I thought that if there was a real, sincere desire to economize the expenses of the Government, it would be more fit, more seemly, on the part of the Senate to cut off the clerkships of some of the committees of this body that never meet. I ventured to say so, not thinking that I should be attacked as I have been by my friend from New York, though in a manner which actually makes it almost agreeable to me, so extremely amusing and interesting is that Senator that to be his victim is almost a pleasure. If that Senator

really does desire to play the economist, as it is pretty evident to my mind that he does, here is an opportunity for him. He has been here now I think about a year, and I have heard him discuss a great many subjects, but I think economy is his theme. As to the final result of all, he comes down to that; that is the refrain, "economy." If he wishes to economize, let me tell him what he can do. Let him take the hint which I have already given. This very bill provides an appropriation of \$33,000 for clerks of committees of this body—private secretaries to Senators. The honorable chairman of the Committee on Appropriations took great pains to insert in italics an appropriation of \$2,200 for a clerk to the Committee on Appropriations. I do not say that it is not necessary.

I know the other House of Congress originates all these appropriation bills, and we have only to receive them as they come from there; but probably a clerk is necessary to that committee at an expense of \$2,200. It struck me, however, that when the chairman of that committee was depriving the President of the United States of a secretary he might have been willing to do a little clerical work himself; but still I do not say, nor do I believe, that a secretary or clerk for the Committee on Appropriations is improper. I only allude to it as showing what he deems necessary.

Then there are three other committees that have \$2,200 clerks; and then there is a sweeping appropriation of \$25,000 for clerks of committees of this body, and pages and carryalls. But let me tell the Senators that those pages and carryalls are paid for out of another appropriation for "miscellaneous items," and the \$25,000 will all go for clerks, and that will not be sufficient to pay them, because there are about twenty committee clerks with a salary amounting to \$1,800 a year, in addition to the \$2,200 clerks.

Mr. WILSON. No, they are paid by the day.

Mr. DIXON. This is really an abuse; and it is not a small matter, though it may be small in amount. Take the Committee on Contingent Expenses of the Senate as an example. When I had the honor of being chairman of the committee I never thought of having a clerk. The Secretary of the Senate is the clerk of that committee; but now you have given it a separate committee clerk. The Secretary of the Senate presents his bills to the Committee on Contingent Expenses, and he keeps the records himself. But now you have appointed a clerk to that clerk—a clerk to the Committee on Contingent Expenses of the Senate! It is a very useful and convenient thing to my friend from New Hampshire, [Mr. CRAGIN.] He deserves it; I agree he ought to have a private secretary furnished to him; but I do not think he ought to vote against one for Andrew Johnson after having received one for his sole benefit; it is for nobody else's.

Again, take the case of the Committee on Manufactures, of which I am a member. It is highly proper that my friend from Rhode Island, [Mr. SPRAGUE,] the chairman of that committee, should have a clerk for the committee. The labors of that committee are arduous. True, we have thus far deferred them, and we propose to do so until the end of the session. They have been so arduous that we have not been able yet to surmount the infinite Alps that rise before us. We have not commenced or undertaken to do anything, though, of course, we shall undoubtedly do something. Our clerk is there.

I do not know why my friend from New York does not attack this abuse. It is not because he does not know it. Ignorance can never be pleaded by him as an excuse in regard to any abuse under this Government. I have wondered whether it is not possible that he may look forward to the time when, having been in the Senate as long, perhaps, as I have been, he may be a chairman of a committee and have a clerk himself. I cannot say but that that is

the reason of his silence on this matter. He may be waiting for the time when he shall be chairman of a committee. I cannot suppose that he has overlooked this matter.

I confess, Mr. President, that I think the attack upon the clerical force at the Executive Mansion is very small business; and I wonder at it in view of the fact that the Senate thinks it proper to give to nearly every Senator who has been here two or three years a private secretary.

Mr. EDMUNDS. We give one to the President.

Mr. DIXON. But here are twenty-four private secretaries to do the legislative business of twenty-four Senators; and does the Senator suppose that the whole executive business of this Government is to be performed by the President of the United States with four secretaries? He has no more secretaries than he needs. I care nothing about the question whether he shall be deprived of one or more secretaries. I cannot positively say that he needs all that assistance. If the honorable chairman of the Committee on Appropriations will say that there are too many, more than are needed, I shall defer to this opinion; but I ventured to say to him that I thought we might begin nearer home, and I repeat the saying, notwithstanding the speech of my friend from New York.

I think that if my friend from New York is really sincere in his desire to make himself the champion of economy, as it is evident he intends to do, if he wishes to present himself to the country as the man who on all occasions, no matter what they may be, in season or out of season, shall stand up here and oppose every appropriation which shall be extravagant, there is the place for him to begin. In my judgment he will then have the credit of attacking an abuse here in this very body. But no, silent as the grave, that silver tongued eloquence of his is never heard upon anything here. Not a word has he to say as to the question whether private secretaries shall be furnished to Senators; but when Mr. Peshine Smith, a very respectable gentleman I have no doubt, or when some one that nobody ever heard of, is in question, then we hear the voice of my friend from New York.

He ventures to attack me and the party to which I belong, of which he says I am a leader. That party is a unit almost in this body, very small. He can attack me, and he can attack the President, who seems to have very few friends at this time here in this body. Would it not have been better, I ask my friend in good faith, for him to attack a real grievance and then to acquire the credit and honor he desires. Coming from the great State of New York, he might lead in this great foray on the expenses of the Government. Nobody is better qualified. I will not dwell upon his capacity; we have had examples enough to know all about it; but if the Senator would follow my advice on that subject, although of course I cannot be considered capable of advising him, and attack a real abuse, I think he would acquire more credit than he otherwise will do.

Mr. TRUMBULL. Mr. President, we have just listened to two very interesting speeches, which will undoubtedly lead to many more upon the same subject; and as there is no probability of getting through this bill to-night, and there is an important measure which ought to be acted upon, I hope the Senator from Maine will not object to my moving to postpone the further consideration of this bill until one o'clock to-morrow, with a view to proceeding to the consideration of the veto message. Let us dispose of the Arkansas question.

Mr. SUMNER. I suggest that we get a vote on this proposition.

Mr. TRUMBULL. That is the very thing you cannot do.

Mr. MORRILL, of Maine. It is plain enough that if I yield to all propositions for delay I shall never be able to pass an appropriation bill. At the same time, if it be the

pleasure of the Senate to proceed to the consideration of the bill which the Senator from Illinois has in charge, the importance of which I acknowledge, and there is a probability of finishing it to-day, so that I shall not have the interruption to-morrow, I shall not object. Is it the purpose of the Senator to finish that bill to-night?

Mr. TRUMBULL. I hope we can do so. Several Senators. Certainly.

Mr. SUMNER. I would ask my friend, the Senator from Maine, if we cannot have a vote on this pending proposition?

Mr. MORRILL, of Maine. I will allow this bill to go over informally for the purpose of taking up the bill referred to by the Senator from Illinois.

The PRESIDENT *pro tempore*. The bill will be passed by informally if there be no objection. No objection being made the bill is passed by.

#### REPRESENTATION OF ARKANSAS—VETO.

The Senate proceeded to reconsider the bill (H. R. No. 1039) entitled "An act to admit the State of Arkansas to representation in Congress," with the President's objections thereto.

The PRESIDENT *pro tempore*. The question is on the passage of the bill, the objections of the President of the United States to the contrary notwithstanding, on which the question must be taken by yeas and nays.

Mr. DAVIS. Mr. President, it is not my purpose to enter into a lengthy discussion of the bill and veto message which are now under consideration. It is a short bill, but I think there was never so much iniquity concentrated in a bill of this extent.

The bill does not purport to be a bill to admit Arkansas as a State into the Union, but it provides that the State of Arkansas shall be entitled and admitted to representation in Congress "as one of the States of the Union upon the following fundamental condition: that the constitution of Arkansas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted." That is the whole of the bill. The proposition is that the State of Arkansas shall by this bill be admitted to representation in the Senate and in the House of Representatives. Where does Congress derive any power to pass such an act? What provision of the Constitution authorizes this legislation? Arkansas is either a State in the Union or she is not a State in the Union, but a Territory. If she be a State in the Union she is entitled to representation in both Houses of Congress by the express provisions of the Constitution, and neither Congress nor any other power has the authority to deprive her of that right. If Arkansas is not a State in the Union I suppose the theory of the gentlemen who deny that proposition must be that she is a Territory of the United States. If she be a Territory, then an enabling act ought to be passed to authorize her people to form a State constitution with a view to her admission into the Union as a State.

Now, sir, if there be any other theory which covers the case of Arkansas, my mind has not yet comprehended it, nor have I heard it suggested by any one. Upon either of these hypotheses, I ask the question, Has Congress any power whatever to legislate upon the subject in the form of this bill? If you resort to constitutional power, there is as much power in Congress to abolish the government of the State of Maine which my honorable friend before me [Mr. MORRILL] represents with so much ability in part in the Senate, and then to pass a law to admit the State of Maine to representation in the two Houses of Congress after having excluded that representation from other States. Is Congress omnipotent? Has Congress powers outside of the Constitution and that are not

delegated by the people of the States in that instrument? I suppose not. If that be true, then where is the power of Congress first to abrogate and destroy the State government of Arkansas, and then to pass laws for her reconstruction, prescribing who of her people shall vote and who shall not vote, and who shall be elected to office and who shall not be?

If I understand the facts aright, Arkansas some thirty years ago was admitted as a State into the Union. According to my recollection, she never changed her constitution from the one under which she originally became a State; but of that fact I do not speak with confidence. If she changed it, it was but once, and some years before the rebellion broke out, and she never made any amendment of her constitution when she went into secession or during the war. That State called a convention, and that convention passed an ordinance of secession, and the State became a *quasi* member of the southern confederacy; and, if I am correctly informed, the constitution identical in all its provisions with that which existed in Arkansas before the rebellion continued to be her constitution throughout the whole of the trouble.

What, then, is the condition of Arkansas. She went into the rebellion with a constitution approved of either tacitly or expressly by Congress, and under which she had continued to be a member of the Union for a great number of years. She made no change in that constitution. In the course of time the rebellion was put down by force of arms, and it found Arkansas in possession of the same constitution under which she had lived as a member of the United States for many years. But by a convention of her people called after the suppression of the rebellion, rescinded her ordinance of secession, passed a resolution in which she renounced the right of secession, and the Legislature ratified the thirteenth amendment of the constitution abolishing slavery throughout the United States. More than this, she repudiated her public debt contracted during the war, and her convention abolished slavery within her borders. She has been by various acts passed by Congress recognized as a State of the Union. The Supreme Court has heard cases coming up from Arkansas, as one of the United States, before and since the rebellion. The President by many acts, in the appointment of marshals, collectors, and other United States officers in Arkansas, has recognized that State as one of the States of the Union.

Here, then, is a State that never changed its constitution and form of government, but did attempt to secede from the Union and to attach itself as a member of the southern confederacy adhering to precisely the same constitution and government which it had previously possessed, and when the rebellion was suppressed rehabilitating itself under the same constitution as a member of the United States and accepting the conditions that were suggested by the executive department of the Government of the United States; and then being recognized by the official acts of Congress, of the Supreme Court, and of the President of the United States as a member of the Union, and electing Senators and Representatives to Congress, and sending them up with their credentials of election, and asking that they be admitted to represent her as one of the United States.

Sir, I have now in my desk the Governor's commission of three Senators in Congress from that State, who were elected by her Legislature after she had thus been recognized by the Government of the United States in all its departments as a member of the Union. Two of these commissions have not yet expired. These men presented themselves at the bar of the Senate some two or three years ago, and exhibited official evidence of their having been chosen as Senators from that State, and demanded, as their right and the right of the State, that they should be admitted to their seats. Now, to my mind the simple act of duty and of the soundest policy was then for the Senate and House of Representatives to have permitted the members

of the two bodies who came here from that State to take their seats. All the other States that had been engaged in the rebellion took the same course as Arkansas, sent up their Senators and Representatives, and complied with the same conditions to reestablish proper relations with the Government of the United States. All that was necessary to have now a perfect union of all the States, and their full participation in all their rights under the Government of the United States, was simply for the two Houses to have admitted their Senators and Representatives.

Mr. President, I do not believe that Congress had any legitimate power to take a contrary course. Congress for the last two or three years has been engaged largely in abolishing State governments, in denying to them the admission of their representatives in the two Houses of Congress, in excluding the presidential functions and power from these States, and superseding it by the power of Congress, represented by the General of the armies and his subordinates, and expelling the courts, United States and State, and superseding them by military tribunals.

Mr. President, all the legislation of Congress in relation to the southern States and their reconstruction, as it is termed, has to be the most flagitious usurpation of power. There is not a shadow of authority for it in the Constitution. But, Mr. President, I am not going extensively into this subject. I rejoice to think that the terrible reign and rule of radicalism draws to a close, and the restoration of the Constitution and the Union, of law, order, and liberty, approaches in the distance, and before another year has passed away will have composed the passions engendered and healed the wounds inflicted by the great civil war and made us again one people. Before the formation of the Constitution each State was a distinct and independent political sovereignty and possessed of all the powers of a nation. The people of the several States voluntarily formed the Government of the United States by relinquishing a portion of their sovereignty and powers and organizing them into a common government by a written Constitution. That instrument forms a limited Government, without any original, but wholly of delegated powers; and has, and can have, no powers whatever but those which are vested in it by the express language of the Constitution, or its necessary implication; and all the sovereignty and powers of which the people of the several States did not divest themselves and embody in the common Government by the Constitution, were both by implication and the words of one of its provisions, reserved by the States and people respectively. Among those retained is the sovereign and exclusive power of each State to make and alter at pleasure its own constitution and form of government, and manage its own internal and domestic affairs in any manner that does not conflict with the Constitution of the United States.

The Constitution and Government of the United States may be dissolved and brought to an end by the consent of the people of the several States, or by successful revolution; and it exists in perpetuity until terminated in one of those modes; but the States, with their governments, exist in absolute perpetuity, with the power and right of self-government in their people, under the Constitution of the United States, which they can never alienate or forfeit, and of which they cannot be divested but by conquest or revolution.

The most essential constituent of this sovereign and reserved power of self-government by the States is the right to confer upon or to withhold suffrage and all other political rights and powers from any portion of their people who did not possess them when the constitution was adopted.

Congress has no constitutional or rightful power whatever to invest the negro population of Virginia, North Carolina, South Carolina, Florida, Georgia, Alabama, Mississippi, Ark-

ansas, Louisiana, and Texas with the right of suffrage, or any other political right.

Congress has no constitutional or rightful power whatever to abolish the governments of those States formed by their people who possessed the political power of the several States at the time; or to substitute provisional military governments in their stead; or to authorize a part of the white people and the negroes of those States to form other governments for them; and the governments set up, or about to be set up, by the usurped power of Congress, through the instrumentality of their negro population, and the General and Army of the United States, and by the detraction of the President and the Supreme Court, are utterly null and void.

The free white people of the United States will not allow the ignorant and stolid negroes of those ten States, and the white adventurers who managed them, to appoint a President. The electors chosen under the authority of the spurious and burlesque governments recently set up in those States, backed and supported by whatever power, will not be counted in the next presidential election.

I will present this position in a more striking point of view. There are in all the States three hundred and seven electoral votes. The Radical party and their candidate, General Grant, and the Army, will not suffer the legitimate governments in the ten southern States to choose electors; and those chosen by their negro governments, numbering seventy, being excluded, will leave two hundred and thirty-seven, and one hundred and nineteen will be required to elect a President. The conservative candidate will probably receive the electoral vote of California, Connecticut, Delaware, Indiana, Kansas, Kentucky, Maryland, New Jersey, New York, Ohio, Oregon, and Pennsylvania, making an aggregate of one hundred and thirty-eight.

If the Radical candidate were to receive the vote of all the other States, which is not probable, excluding those chosen by negro governments, he would have ninety-nine electoral votes, or thirty-nine less than the conservative candidate; but add to the vote of General Grant the seventy electors chosen by the negro governments of the southern States, and it would make one hundred and sixty-nine votes, thirty-one more than the conservative candidate. In this way the negroes of the ten southern States would not only defeat the efforts of the white people of the United States to elect their President, but would appoint a President for them in flagitious violation of the Constitution. This grand enterprise of fraud, force, and usurpation cannot succeed. The candidate for the presidency who receives the majority of the electoral votes chosen by the free white men of the United States will be constitutionally and *de jure* the President, and they will see to it that he shall be *de facto*.

Ambitious, bad, and reckless men will be met and foiled at the threshold of their further scheme to force negro suffrage on the other States, at a more convenient season, by the agency of a President and members of Congress chosen by negro governments, constructed partly for that purpose.

Those governments are no more obligatory upon the white people whom they oppress, or to be respected by all good and true citizens, than if they had been set up by the Emperor of France or the Queen of Great Britain; the power that foisted them upon an erring, gallant, subjugated, penitent, but proud and protesting people, was no less alien and illegitimate for that purpose. Those governments must be heaved off from their crushed victims, or their enslavement will be the precursor of the fate of all the other white people of the United States. So many of them cannot be enslaved, and the others continue long to be free; but they must be delivered from slavery, and freedom for all be provided with better guaranties.

Prudence and their own safety, as well as justice, magnanimity, and fraternity call upon

the yet free and patriotic people of the other States to rescue their race and kindred of the southern States from the degrading and galling chains of political slavery to negroes. The work has begun and is progressing; and when it is completed it will be for their enfranchised brothers in the full restoration and enjoyment of all their constitutional liberties, rights, and powers, to decide for themselves whether or not they will confer on the negro population of their respective States any or what extent of suffrage.

The Caucasian is the highest type of man, and its vast and rapidly increasing numbers in the United States recoil with instinctive disgust and horror from the idea of amalgamation with the negro, the lowest race, and the national weakness and degradation it would produce; the examples of Mexico and the countries of South America powerfully confirm the teachings of their irrepressible instincts.

This white race is also fully impressed with this truth, that if five millions of negroes are allowed to dwell in one third of the States, if there is to be any permanent peace between the races, the negro must occupy that lower and subordinate position in which he was placed by their Creator. Their enfranchisement from personal slavery, and their investment of all civil rights, are not incompatible with the welfare of either race. But wholly incapable of any well ordered self-government as the negro is, in any condition from primitive barbarism to any stage of civilization which he can attain, his association with the white man in the exercise of political power would introduce a great disturbing element, and be productive of various and grave disorder and evil; and with his efforts to obtain social equality would produce conflicts that would result in the destruction of the negro, or his expulsion from the country, or his reduction to a quasi slavery. It would be wisdom for the African race who inhabit our country, to ask the white race to guaranty to them equal civil rights, and to decline, expressly and wholly, political rights and social equality. Upon this platform the negro would generally find in the white man a kind and protecting friend; but on that which he now occupies, and to which he has been beguiled by false friends, he will always be confronted by a superior race and a stern and conquering foe.

But besides sweeping away forever from the people of the southern States the worst governments that now exists in the civilized world, governments which organize both despotism and anarchy, the true, good, and brave men of the United States have other and most important work to perform. They have to restore our mixed system of State and national Governments, as the foremost men of all this earth made it; each State having equal rights with all the others, and the exclusive and recognized sovereign power to make and alter at pleasure its own constitution and form of government, and to manage its own domestic affairs in harmony with the Constitution of the United States; and the Government of the United States to be restricted to the regulation of affairs between the United States and foreign Governments, and among the several States, and to be supreme within the sphere of its constitutional powers.

The liberties of the people are founded upon the States, the exclusive power of their people to make their own governments and laws upon their reserved sovereignty and rights; and the stability, strength, and security of the whole system is imparted by the due execution of the powers with which the people of the several States invested the General Government by the Constitution. In our vast country liberty can be secured only by the States, their governments, and the inviolability of their reserved sovereignty and rights; peace, stability, and strength only by the Government of the United States, administered in conformity and subordination to the Constitution. The adjustment of powers, which the Consti-



tution made between the States and the United States, has been essentially, almost fatally, disorganized by the Radical party. The difficult but imperative duty of every true and enlightened patriot is to combine and struggle together until it is restored.

They have to crush out the fell spirit of radicalism from the whole land. They have to gather up and reconstruct the broken fragments of the Constitution, and restore in harmony, authority, and power our great charter of government and liberty. They have to erect other defenses against the encroaching and usurping tendencies inherent in Congress; and to restore the Presidency and the Supreme Court to the possession and exercise of the important powers and functions which that dominating department has, for the time, wrested from them. They have to take additional guarantees that the Governments of the United States and the States shall move without collision in their respective orbits, as described by the Constitution; and that the Supreme Court shall always promptly execute its great conservative power of deciding questions of conflict of jurisdiction between them. They have to recover those priceless rights and liberties of person, property, self-government, and pursuit of happiness which are the chief ends of our scheme that have been temporarily betrayed and overthrown by the faithless sentinels and guards charged with their watch and defense, and devise more securities for their enjoyment against the assault of internal enemies and the perversion of power by governmental officials.

I have given but a sketch of the great and most interesting work that has to be undertaken by all our countrymen who are worthy of their heritage of liberty and constitutional government. Until it is performed they have no stable government, no liberty, no security of person or property. The accomplishment of this work is their present, continuing, deathless, immortal mission, passing from sire to son. Let every true man give to it, if needful, all the days of his life; and if in that time it is not completed, let him bequeath his part of the progressing work to his children, and to his children's children, as the most sacred and precious of all trusts.

The PRESIDENT *pro tempore*. The question is on the passage of the bill, the objections of the President of the United States to the contrary notwithstanding.

Mr. HOWE. I wish to state that the Senator from Maine [Mr. MORRILL] and myself have paired with the Senator from Connecticut, [Mr. DIXON.] The Senator from Maine was obliged to leave the Senate Chamber on account of ill health. If he were here, he and I would vote in the affirmative, and the Senator from Connecticut in the negative.

The question being taken by yeas and nays, resulted—year 30, nays 7; as follows:

YEAS—Messrs. Chandler, Cole, Conkling, Connors, Corbett, Cragin, Edmunds, Ferry, Fessenden, Harlan, Howard, Morgan, Morrill of Vermont, Nye, Patterson, of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Sprague, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Wiley, Wilson, and Yates—30.

NAYS—Messrs. Bayard, Davis, Decolittle, Hendricks, McCreery, Patterson of Tennessee, and Saulsbury—7.

ABSENT—Messrs. Anthony, Buckalew, Cameron, Cattell, Dixon, Drake, Fowler, Frothingham, Grimes, Henderson, Howe, Johnson, Morrill of Maine, Morton, Norton, Vickers, and Williams—17.

The PRESIDENT *pro tempore*. On this question the yeas are 30, and the nays 7. So (two-thirds of the Senators present having voted in the affirmative) the bill is passed, and having been passed by a similar vote in the other House, has become a law, the objections of the President of the United States to the contrary notwithstanding.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 306) to authorize the Secretary of the Treasury to remit the duties on certain articles contributed to the National Association of American Sharpshooters, was read twice by its title, and referred to the Committee on Finance.

Mr. CONNESS. I move that the Senate proceed to the consideration of executive business.

Mr. HOWARD. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, June 22, 1868.

The House met at twelve o'clock m. The reading of the Journal of Saturday's proceedings was, by unanimous consent, dispensed with.

The SPEAKER. This being Monday, the first business in order is the call of the States and Territories for bills and joint resolutions for reference to their appropriate committees, not to be brought back into the House by a motion to reconsider, commencing with the State of Maine.

#### REGISTRY OF VESSELS.

Mr. PIKE introduced a bill (H. R. No. 1285) to repeal an act concerning the registering and recording of ships or vessels, approved December 21, 1792, and for other purposes; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

#### DRAWBACK ON SHIP-BUILDING MATERIALS.

Mr. LYNCH introduced a bill (H. R. No. 1286) to allow drawback on articles used in the construction of vessels; which was read a first and second time, and referred to the Committee on Commerce.

#### FUNDING THE NATIONAL DEBT.

Mr. KELSEY introduced a bill (H. R. No. 1287) to provide for funding the national debt and for taxing the interest-bearing bonds hereafter issued by the United States, and for other purposes; which was read a first and second time, and referred to the Committee of Ways and Means, and ordered to be printed.

Mr. KELSEY. I hope, Mr. Speaker, that the Committee of Ways and Means will consider and report on this subject without delay.

#### SAMUEL P. TODD.

Mr. ROBINSON introduced a joint resolution (H. R. No. 301) relative to the claim of Samuel P. Todd, deceased; which was read a first and second time, and referred to the Committee of Ways and Means.

#### SCHENECTADY AND ST. LAWRENCE RAILROAD.

Mr. MARVIN introduced a bill (H. R. No. 1288) to aid in the construction of a railroad for military and postal purposes through the wilderness of northern New York, from Schenectady to the St. Lawrence river; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

#### OPENING OF A NEW INLET.

Mr. HAIGHT submitted a memorial of the Legislature of the State of New Jersey, and several thousand citizens of the eastern portion of said State, asking Congress for an appropriation to open an inlet from the head of Barnegat bay to the Atlantic ocean, on the New Jersey coast, for the preservation of life along the coast, to facilitate commerce, and to protect Government property from the encroachments of the sea; which was referred to the Committee on Commerce.

#### EDMUND W. WANDELL.

Mr. WOODWARD introduced a bill (H. R. No. 1289) for the relief of Edmund W. Wandell; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### APPRENTICES IN NAVY-YARD SAIL LOFTS.

Mr. O'NEILL introduced a bill (H. R. No. 1290) relative to indentured apprentices and apprentices under instructions in the mechanical shops and sail lofts of navy-yards; which was read a first and second time, and referred to the Committee on Naval Affairs.

#### MARY HASSETT.

Mr. STOKES introduced a joint resolution (H. R. No. 302) for the relief of the heirs of Mary Hassett, of the State of Alabama; which was read a first and second time, and referred to the Committee of Claims.

#### RELIEF FROM POLITICAL DISABILITIES.

Mr. COBURN introduced a bill (H. R. No. 1291) to provide for the relief from disabilities of certain persons who have been engaged in rebellion; which was read a first and second time, referred to the Committee on Reconstruction, and ordered to be printed.

#### INDEPENDENCE OF CRETE.

Mr. SHANKS introduced a joint resolution (H. R. No. 303) for the recognition of the independence of Crete; which was read a first and second time, and referred to the Committee on Foreign Affairs.

By unanimous consent the joint resolution was ordered to be printed in the Globe, as follows:

*Be it resolved by the Senate and House of Representatives, &c., That the civilization of this age calls for the most liberal forms of government among men; that it is the privilege and the duty of this Government to foster in every just and proper way the rise and progress of free institutions wherever the people are competent to maintain the same; that the people of Crete having shown by their long suffering and Christian forbearance, by their fortitude, by their devotion and their heroic defense of their homes, their country, and their religion, that they are competent to maintain a free government, it is the duty of the United States to recognize them as free and independent.*

#### ANDREW J. GRAY.

Mr. HOLMAN introduced a bill (H. R. No. 1292) to increase the pension of Andrew J. Gray; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### COAL-TAR AND GAS-LIGHT COMPANY.

Mr. INGERSOLL introduced a bill (H. R. No. 1293) to incorporate the Washington and Georgetown Coal-Tar and Gas-Light Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### CITIZENS' GAS COMPANY.

Mr. INGERSOLL also introduced a bill (H. R. No. 1294) to incorporate the Citizens' Gas Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### WILLIAM J. COTTY.

Mr. BENJAMIN introduced a bill (H. R. No. 1295) granting a pension to William J. Cotty, late of the twenty-first Missouri infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### POST ROUTE IN IOWA.

Mr. LOUGHRIDGE introduced a bill (H. R. No. 1296) to establish a post route from Buckingham, Iowa, to Laporte City, Iowa; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### OCEAN TELEGRAPH CABLE.

Mr. COBB introduced a bill (H. R. No. 1297) to grant the right to lay and land an ocean telegraph cable; which was read a first and second time, and referred to the Committee on Foreign Affairs.

#### MENDOCINO RESERVATION.

Mr. HIGBY presented a resolution of the Legislature of the State of California, asking that the Mendocino reservation be abandoned and the land reopened for preemption; which was referred to the Committee on Indian Affairs.

#### SURVEY OF LANDS IN CALIFORNIA.

Mr. HIGBY also presented a resolution of the Legislature of the State of California, asking an appropriation by Congress for surveys of public lands in said State; which was referred to the Committee on Appropriations.

#### HARBOR OF SAN DIEGO.

Mr. HIGBY also presented a resolution of the

Legislature of the State of California, asking aid from Congress to improve the harbor of San Diego, in that State; which was referred to the Committee on Commerce.

#### NATIVE GRAPE BRANDY.

Mr. HIGBY also presented a resolution of the Legislature of the State of California, asking Congress to remit or reduce the tax on native grape brandy; which was referred to the Committee of Ways and Means.

#### INDIAN DEPREDACTIONS IN CALIFORNIA.

Mr. HIGBY also presented a resolution of the Legislature of the State of California, asking that steps be taken by the General Government to ascertain the losses suffered by citizens of the State in late Indian depredations and making indemnity for the same; which was referred to the Committee on Indian Affairs.

#### PROTECTION TO FOREIGN-BORN CITIZENS.

Mr. HIGBY also presented a resolution of the Legislature of the State of California, asking Congress to demand of foreign Governments full and ample protection to our foreign-born citizens while temporarily residing under those Governments; which was referred to the Committee on Foreign Affairs.

#### MAIL ROUTE IN CALIFORNIA.

Mr. HIGBY also presented a resolution of the Legislature of the State of California, asking Congress to demand of foreign Governments full and ample protection to our foreign-born citizens while temporarily residing under those Governments; which was referred to the Committee on Foreign Affairs.

#### SOUTHERN PACIFIC RAILROAD.

Mr. HIGBY also presented a resolution of the Legislature of the State of California, asking Congress to grant the same aid in lands and subsidies to the southern Pacific railroad as have been granted to the Union and Central Pacific railroads; which was referred to the Committee on the Pacific Railroad.

#### CALIFORNIA AGRICULTURAL COLLEGE.

Mr. HIGBY also presented a resolution of the Legislature of California, asking Congress to allow the State to invest in unencumbered, productive real estate the proceeds of the one hundred and fifty thousand acres of land donated to the State by Congress for the construction of an agricultural and mechanics' arts college; which was referred to the Committee on Education and Labor.

#### NAVIGATION OF THE COLORADO RIVER.

Mr. HIGBY also presented a resolution of the Legislature of the State of California, asking Congress to aid Captain Trueworthy, of San Francisco, to perfect the navigation of the Colorado river, in the Territory of Arizona; which was referred to the Committee on Commerce.

#### LAND DISTRICTS IN CALIFORNIA.

Mr. JOHNSON introduced a bill (H. R. No. 1298) to transfer the counties of Sierra and Nevada from the Sacramento land district to the Marysville land district; which was read a first and second time, and, with the accompanying papers, referred to the Committee on the Public Lands.

#### SETTLERS UPON THE PUBLIC LANDS.

Mr. WINDOM introduced a bill (H. R. No. 1299) conferring certain rights on settlers on the public lands of the United States; which was read a first and second time, and referred to the Committee on the Public Lands.

#### ENTRIES UNDER HOMESTEAD LAW.

Mr. WINDOM also introduced a bill (H. R. No. 1300) authorizing repayments in cases of illegal entries under the homestead law; which was read a first and second time, and referred to the Committee on the Public Lands.

#### RAILROAD GRANT.

Mr. ASHLEY, of Nevada, introduced a bill (H. R. No. 1301) to aid in the construction of a railroad and telegraph line from the Humboldt to the Colorado river; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

#### INDIAN TREATIES.

Mr. TAFTE introduced a bill (H. R. No. 1302) to regulate treaties with Indian tribes; which was read a first and second time, and referred to the Committee on Indian Affairs.

#### MAIL ROUTES IN NEBRASKA.

Mr. TAFTE also introduced a bill (H. R. No. 1303) to establish certain mail routes in the State of Nebraska; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### REMISSION OF DUTY.

Mr. HOOPER, of Massachusetts, introduced a bill (H. R. No. 1304) to remit the duty on a meridian circle imported as a present for the Astronomical Observatory, Cambridge, Massachusetts; which was read a first and second time, and referred to the Committee of Ways and Means.

#### ISLANDS IN GREAT MIAMI RIVER.

Mr. MUNGEN introduced a bill (H. R. No. 1305) to repeal an act relative to islands in the Great Miami river, approved March 2, 1868; which was read a first and second time, and referred to the Committee on the Public Lands.

Mr. MUNGEN also introduced a joint resolution (H. R. No. 304) to suspend action by the General Land Office under the provisions of an act relative to islands in the Great Miami river, approved March 2, 1868; which was read a first and second time, and referred to the Committee on the Public Lands.

#### MONITOR AND MERRIMAC.

Mr. GRISWOLD introduced a bill (H. R. No. 1306) allowing prize money to the officers and crew of the Monitor for the fight with the Merrimac in Hampton Roads, March 9, 1862; which was read a first and second time, and, with the accompanying papers, referred to the Committee on Naval Affairs.

#### TRANSPORTATION OF UNITED STATES MAILS.

Mr. TWICHELL introduced a bill (H. R. No. 1307) in relation to the transportation of United States mails by railroad companies; which was read a first and second time, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

#### ORDER OF BUSINESS.

The SPEAKER. The next business in order, during the remainder of the morning hour, is the call of the States for resolutions, commencing with the State of Indiana, where the call rested at the expiration of the morning hour on Monday last. No resolution was offered from Indiana.

#### BRIDGES ACROSS THE MISSISSIPPI AND OHIO.

Mr. RAUM introduced a joint resolution (H. R. No. 305) in respect to the construction of bridges over the Ohio and Mississippi rivers; which was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

Mr. RAUM. I call the previous question on the joint resolution.

The joint resolution, which was read, provides that hereafter all bridges to be constructed, and in process of construction, over the Ohio and Mississippi rivers, shall be made with unbroken and continuous spans, and the span of any such bridge covering the main channel of the river shall be five hundred feet in length in the clear.

The question was upon seconding the previous question; and being taken, upon a division, there were—ayes 40, noes 44; no quorum voting.

Tellers were ordered; and Mr. RAUM, and Mr. TRIMBLE of Kentucky, were appointed.

The House again divided; and the tellers reported that there were—ayes 46, noes 62.

So the previous question was not seconded.

Mr. TRIMBLE, of Kentucky. I desire to discuss this joint resolution.

The SPEAKER. The joint resolution,

giving rise to debate, goes over under the rule.

Mr. RAUM. I ask that the joint resolution be printed.

The motion was agreed to.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. VAN AERNAM.

#### COMMEMORATION OF UNION DEAD.

Mr. LOGAN submitted the following resolution, upon which he called the previous question:

*Resolved*, That the proceedings of the different cities, towns, &c., recently held in commemoration of the gallant heroes who have sacrificed their lives in defense of the Republic, and the record of the ceremonial of the decoration of the honored tombs of the departed, shall be collected and bound, under the direction of such person as the Speaker shall designate, for the use of Congress, and that a sum not exceeding \$1,000 be appropriated for this purpose out of the contingent fund of the House.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. LOGAN moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DAILY HOUR OF MEETING.

Mr. NEWCOMB. I submit the following resolution, and upon it call the previous question:

*Resolved*, That this House will meet at eleven o'clock a. m. during the remainder of this session, and that there shall be two morning hours each day, when it does not conflict with the present orders of the House in relation to the tax bill.

The SPEAKER. The latter part of this resolution in relation to morning hours requires unanimous consent or a suspension of the rules. A majority vote can fix the hour of meeting.

Mr. NEWCOMB. Then I move that the rules be suspended.

The SPEAKER. The rules cannot be suspended during the morning hour.

Mr. NEWCOMB. Then I modify my resolution so that it shall provide only that the hour of daily meeting for the remainder of the session shall be eleven o'clock a. m.

Mr. MAYNARD. I suggest to the gentleman to modify his resolution so as to provide for evening sessions instead of meeting at eleven o'clock.

Mr. NEWCOMB. We can do both.

Mr. WASHBURNE, of Illinois. I am willing to meet at eleven o'clock until the tax bill shall have been disposed of. But after that we will have very little important business to attend to; and if we have too much time we will be left a prey to all sorts of schemes to rob the public Treasury.

Mr. NEWCOMB. There is a great mass of business before the committees in which the public is interested, and which has not yet been reported.

Mr. BENTON. I move that the resolution be laid upon the table.

The motion was agreed to.

#### OSAGE RIVER IMPROVEMENT.

Mr. McCLURG submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Public Lands be, and hereby are, instructed to inquire into the expediency, utility, and public policy of making a liberal grant of land, including the vacant land along the course of the Osage river in the State of Missouri, for the improvement of said river.

Mr. McCLURG moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### THE PUBLIC DEBT.

Mr. LOUGHRIDGE. I submit the following resolution, and upon it I call the previous question:

*Resolved*, That in the opinion of this House the interests of the country require that the public debt should be reorganized and reduced to a simple and uniform system, more easily understood by the people

than it is in its present complicated form, and that the interest on the debt should be reduced, and that for this purpose the Committee of Ways and Means are instructed to prepare and report to the House at as early a day as possible a bill providing for the funding of the public debt and the reduction of the rate of interest thereon in such manner and to such an extent that taxation may be reduced and equalized as far as possible consistently with good faith to national creditors and justice to the people.

Mr. ELDRIDGE. I hope the gentleman will modify that resolution so as to insert the word "reconstructed" in place of the word "reorganized." It will correspond with our habits here.

Mr. LOUGHRIDGE. I demand the previous question.

The previous question was seconded.

Mr. PRUYN. I want it referred to the Committee of Ways and Means.

The SPEAKER. It is referred to that committee with instructions.

Mr. SPALDING. I hope the word "requested" will be inserted instead of "instructed."

Mr. WARD. I think the committee ought to be instructed.

Mr. LOUGHRIDGE. I insist on the resolution in its present form.

Mr. SPALDING. I move that the resolution be laid upon the table.

Mr. HOLMAN. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. SPALDING. I withdraw the motion to lay upon the table for the present.

Mr. WASHBURN, of Illinois. I move to reconsider the vote by which the previous question was seconded.

The House divided; and there were—ayes 60, noes 36.

Mr. WARD. I demand tellers.

Tellers were ordered; and Mr. HOLMAN, and Mr. WASHBURN, of Illinois, were appointed.

The House again divided; and the tellers reported—ayes 60, noes 40.

So the motion was agreed to.

The question then recurred on seconding the previous question, and it was refused.

Mr. GARFIELD. I move that the resolution be referred to the Committee of Ways and Means.

Mr. WASHBURN, of Illinois. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. HOLMAN. This motion to refer to the Committee of Ways and Means defeats the resolution, and I therefore demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—ayes 67, nays 69, not voting 53; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Bailey, Baldwin, Banks, Beaman, Bingham, Blaine, Blair, Boutwell, Brooks, Churchill, Coburn, Cornell, Covode, Delano, Driggs, Elliot, Ferriss, Fields, Garfield, Griewood, Hawkins, Higby, Hill, Hooper, Hulburd, Jenckes, Koontz, George V. Lawrence, Lynch, Marvin, Maynard, McCarthy, Mercer, Moore, Morrill, Mullins, Mungen, Myers, O'Neill, Paine, Plants, Poland, Pomeroy, Pruyn, Robertson, Sawyer, Schenck, Shellabarger, Smith, Spalding, Starkweather, Thaddeus Stevens, Stokes, Taffe, Taylor, Twichell, Upson, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Thomas Williams, James F. Wilson, and Woodbridge—67.

NAYS—Messrs. Adams, Anderson, Axtell, Baker, Beatty, Beck, Benjamin, Benton, Boyer, Buckland, Butler, Cary, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Donnelly, Eckley, Eggleston, Ela, Eldridge, Farnsworth, Ferry, Fox, Getz, Glossbrenner, Golladay, Gravely, Grover, Haight, Harding, Holman, Hotchkiss, Humphrey, Ingersoll, Johnson, Judd, Julian, Kelsey, Kerr, Knott, Loan, Logan, Loughridge, Mallory, McClurg, McCormick, Newcomb, Niblack, Orth, Pike, Polsley, Price, Raum, Scofield, Shanks, Stewart, Taber, Lawrence S. Trimble, Trowbridge, Van Trump, Ward, Henry D. Washburn, Welker, William Williams, John T. Wilson, and Woodward—69.

NOT VOTING—Messrs. Archer, Delos R. Ashley, James M. Ashley, Barnes, Barnum, Bromwell, Broomall, Burr, Cake, Daves, Dixon, Dodge, Finney, Halsey, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hunter, Jones, Kelley, Ketcham, Kitchen, Ladin, William Lawrence, Lincoln, Marshall, McCullough, Miller, Moorhead, Morrissey, Nicholson, Nunn, Perham, Peters, Phelps, Pile, Randall, Robinson, Ross, Selye, Sitgreaves, Aaron F. Stevens, Stone, Thomas, John Trimble,

Van Aernam, Van Auken, Burt Van Horn, Robert T. Van Horn, Stephen F. Wilson, Windom, and Wood—53.

So the House refused to refer the resolution to the Committee of Ways and Means.

The resolution was adopted.

Mr. WARD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILLS AND JOINT RESOLUTION.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 450) relative to filing reports of railroad companies;

An act (S. No. 426) for the relief of Thomas Crossley;

An act (S. No. 184) granting a pension to Mrs. Ann Corcoran; and

Joint resolution (S. R. No. 134) authorizing a change of mail service between Fort Abercrombie and Helena.

#### CURRENCY DEBT.

Mr. PRICE offered the following resolution; and demanded the previous question thereon:

*Resolved*, That the Committee on Appropriations be instructed to inquire into the expediency of appropriating \$50,000,000, to take up the matured and maturing indebtedness of the United States, which is payable in currency, as the same may become due; said amount to be taken from the coin in the Treasury, to be sold for that purpose, as needed, by public proposal, and providing by law that no new indebtedness shall be incurred on the part of the United States, by the sale or issue of its bonds, notes or other securities, until the coin reserve in the Treasury is reduced to \$25,000,000; said committee to report by bill or otherwise.

Mr. ALLISON. I ask my colleague to modify the resolution so as to instruct the committee. I think it should be so modified.

Mr. BLAINE. I do not think that ought to be done. Does the gentleman wish that the committee should be instructed?

Mr. PRICE. I think it is better as it is.

Mr. FARNSWORTH. It instructs the Committee on Appropriations; it should be the Committee of Ways and Means.

The SPEAKER. Such resolutions generally go to the Committee of Ways and Means.

Mr. PRICE. I prefer it should go to the Committee on Appropriations.

Mr. SPALDING. I give notice that if the previous question is voted down I shall move to amend by inserting the Committee of Ways and Means.

On seconding the previous question there were—ayes 40, noes 64.

So the previous question was not seconded.

Mr. SPALDING. I now move to amend by inserting the Committee of Ways and Means; and I renew the demand for the previous question.

The previous question was seconded—ayes seventy-three, noes not counted.

Mr. INGERSOLL. I move to lay the resolution on the table.

The motion was disagreed to.

The main question was then ordered; and the question being taken on the amendment of Mr. SPALDING, it was agreed to.

The question recurred on agreeing to the resolution as amended.

The SPEAKER. The morning hour has expired.

#### WAREHOUSING SYSTEM.

Mr. MORRELL, by unanimous consent, from the Committee on Manufactures, reported a bill (H. R. No. 1308) to modify the warehousing system; which was read a first and second time, ordered to be printed, together with the accompanying report, and recommended to the committee.

Mr. ALLISON moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REMOVAL OF DISABILITIES.

The House resumed the consideration of the motion to reconsider the vote by which the report of the committee of conference on the bill (H. R. No. 1059) to relieve certain citizens of North Carolina of disabilities was rejected, the consideration of the question being postponed till to-day, on which Mr. BROOMALL was entitled to the floor.

Mr. BROOMALL. I do not desire to occupy the time of the House upon this matter after the somewhat lengthy debate on Friday last. I wish first to have a vote taken on the question of reconsideration, which the House may or may not make a test vote.

Mr. SCOTFIELD. Mr. Speaker, will a majority vote be sufficient for a reconsideration?

The SPEAKER. It will.

Mr. BROOMALL. It will probably be a test vote; I would like to have it such.

The SPEAKER. A majority can agree to an amendment, and upon any vote up to the very last, except upon the passage of the bill. Any auxiliary motion, therefore, like the motion to reconsider, requires only a majority vote.

Mr. BROOMALL. I will call for a vote on the motion to reconsider, and reserve my right to the floor until the present motion is acted upon. I demand the previous question.

Mr. BROOKS. I understand the gentleman to say he considers the vote on the question of reconsideration a test vote. Am I right?

Mr. BROOMALL. Yes, sir.

Mr. BROOKS. Well, I shall vote to reconsider, in the hope that Mr. Jones, of Tennessee, and Mr. Houston, of Alabama, will be put in.

Mr. BROOMALL. That far it will not be a test vote.

The previous question was seconded and the main question ordered; and the question being taken there were—ayes 90, noes 19.

So the vote by which the report was rejected was reconsidered.

The question again recurred on agreeing to the conference report.

Mr. BROOMALL. I yield for a few moments to the gentleman from Illinois, [Mr. LOGAN.]

Mr. LOGAN. Mr. Speaker, I desire to take up only a very few moments of the time of the House, but inasmuch as I intend to vote for this bill I thought it was due at least that I should have a chance to explain the reasons why I do so. At the time the bill was before the House originally I opposed it, and stated my opposition to one of the names that appear in this bill. Not having changed my views at all in regard to the policy that should be adopted in reference to relieving from disabilities persons who have been engaged in the rebellion, I feel constrained to vote now for this bill, for the reasons which I will state. First, the Chicago convention, when it assembled, admitted as a delegate Governor Brown, of Georgia, and he was recognized in that convention and made a speech to the convention. The same convention passed a resolution which has become a part of the platform of the Republican party, suggesting the relieving of persons from their disabilities who have given evidence to the country that they are willing to adhere to the Government as loyal men. I do not give the language of the resolution, but that is the substance of it. That being the case, I feel it to be my duty, acting with the Republican party, under the circumstances, these names having been examined by the committee and reported on favorable, to vote for the bill. I feel that, as a party man, I am acting under instructions given in our platform by delegates from all parts of this nation, States and Territories, assembled for the purpose of enunciating to the people of this country the principles on which they will stand in the campaign before the country. Believing it to be the true and proper spirit to act on, when my party has decided I am willing to lay aside my prejudices and my own views for the purpose of harmonizing on this question; and I shall vote for the bill.



Mr. BROOMALL. Mr. Speaker, in the debate the other day it was complained that we were acting without a report of the committee setting out the circumstances of each particular case. It was also complained that we were acting in the dark and without information generally. I myself felt that as to a great many gentlemen upon the floor that must be strictly true. With regard to myself, however, it is otherwise. Having been associated with other gentlemen upon this floor and elsewhere in a voluntary committee formed for the purpose of aiding the business of reconstruction, I was in a position to be acquainted with the circumstances generally of the persons embraced within the bill, and was entirely satisfied not only to vote for it, but to urge my fellow-members to do so. I will now state that so far from this list having been got up at haphazard and without proper examination, it has really gone through so many particular instances of nice scrutiny that it would be very strange, indeed, if there were left in it a single element of error.

In the first place, a long list of names, amounting to some thousands, were recommended by the different constitutional conventions, assembled for the purpose of reconstructing the States of the South, for the removal of disabilities. Those conventions were composed of persons who knew the individuals about whom they certified, who were most interested in the question, and who had most to suffer if a mistake should be made in any case. And it might be considered safe to let the matter rest with them to decide who should and who should not be relieved of disabilities. But this was not done. So earnest were the members of the two Houses of Congress, and other gentlemen who had an interest in the question of reconstruction, to prevent the removal of disabilities in any improper case, that these lists were placed before the voluntary association of which I spoke and of which I am a member, who cut down the lists very materially, striking out the name of every man about whom no definite information could be obtained beyond that furnished by the conventions, and striking off every man with whose name there was connected a single taint of suspicion as to his present loyalty and his good faith in the work of reconstruction.

By this means the list of thousands was reduced down to where it now stands, to between eight and nine hundred. But the scrutiny did not stop there. This list went before the Committee on Reconstruction of the House, and was still further scrutinized, and the circumstances attending each individual case were examined. The list then went before the Committee on the Judiciary of the Senate, where it underwent a similar scrutiny. And after all that, prominent leading loyal men of the South, men whose loyalty never was questioned, were sent for from the different States to examine the lists again and again for fear a mistake should be made. And the result of all that scrutiny and examination is the bill upon which the committee of conference have reported.

I will repeat, then, that if there should be in the bill any improper name, it would be a very remarkable circumstance.

Mr. WILLIAMS, of Pennsylvania. Will my colleague allow me to ask him a question right at this point?

Mr. BROOMALL. Yes.

Mr. WILLIAMS, of Pennsylvania. As the gentleman has now become the champion of this bill, I would be glad if he would state to the House, and especially for my own satisfaction, whether there is any one case, and if so how many, of application placed upon your files by any of these individuals for the grace of the nation, an application involving the concession of past error and a profession of contrition and a desire to return to their true relations. I am not willing to have the grace of this nation forced upon anybody. I am perfectly ready, upon an exhibition of the sort I have indicated, to vote for the relief of persons from disability in individual cases where

persons have placed themselves in the category I have endeavored to indicate. But to go further would be to do away entirely with the constitutional provision, and to make the whole thing a mere farce before the nation and the world.

Mr. BROOMALL. It is well the gentleman has asked me the question. I can only answer him in general terms in the affirmative. There are many, very many. I said that a great deal of this scrutiny was exercised by a voluntary association of individuals, of which I happened to be a member, and made some of it myself.

I will answer the gentleman's question further by saying that these individuals were at one time looked upon as a kind of medium of communication between the loyal men of the South and the loyal Congress. The first applications were made through that association. The members of it refused to consider any of them until they had been scrutinized by the constitutional conventions of the respective States, and to a very large extent the original applications were accordingly made to those conventions. I hope the gentleman is satisfied.

Mr. WILLIAMS, of Pennsylvania. No, sir; not yet.

Mr. BROOMALL. All these men are asking a favor; the grace of the Government is not forced upon any individual. If my colleague [Mr. WILLIAMS, of Pennsylvania,] is at all afraid that we are forcing this grace of the Government upon any of them unwillingly, then I suppose he will agree with me that they can refuse it, and if need be they can keep themselves in the same category they are in now, by committing a little more treason.

Mr. WILLIAMS, of Pennsylvania. Will the gentleman allow me—

Mr. BROOMALL. I think the gentleman need not be afraid; I have rarely heard of an individual refusing a pardon.

Mr. WILLIAMS, of Pennsylvania. I desire the gentleman to answer specifically the question I put. Is there any application on the part of these individuals, made directly or through the mediation of other persons, for the grace which it is now proposed to bestow upon them?

Mr. BROOMALL. These are applications from the conventions of their States, to which they were directed first to apply personally, being told that that was a prerequisite to having their cases considered here. Now, I do not know that it would make the case any better if we had the original applications to these conventions here upon our files; and I do not think it would make it any worse. There are also many original applications here.

Mr. ARNELL. Will the gentleman yield to me for a question?

Mr. BROOMALL. Yes. Certainly.

Mr. ARNELL. I desire to ask the gentleman if any application has been made by General Longstreet?

Mr. BROOMALL. The case of General Longstreet bothered the parties concerned in reporting it probably more than any other case; and yet, I believe, all who have examined the matter attentively have come to the conclusion that his is a proper case. I can only say that the General of the Army is one of the most earnest vouchers for the loyalty at present and the thorough repentance of General Longstreet; and it is believed by the gentlemen acquainted with the temper of the South, and the business of reconstruction, that to take a strong case like this of Longstreet, where the sin is great and the repentance is known, open, and thorough, such as to bring down upon his head the most violent denunciations of the class of men whom he has deserted, it is such a case, in my judgment, and in the judgment of those who have examined it, which will show the South better than anything else that nothing is asked but thorough loyalty hereafter and thorough repentance of past crimes. No man has been more diligent and earnest in aiding the reconstruction of the South than General Longstreet; and I, for one, have no hesitation in voting to remit his disabilities.

Why, sir, if we condemn him where will he go? His own class would murder him if we now desert him. If we, his new friends, whom he has so much aided, now sneer at him and spurn him, he will have no inducement to do good in the future. If we treat him as such a man ought to be treated, his future course will justify our action.

Mr. LOAN. I wish to ask the gentleman from Pennsylvania whether General Longstreet is more devoted to the Republic at this time than he was to the rebellion two years ago; and whether we have any assurance, if in case of any misfortune to us, he would not abandon us at once?

Mr. BROOMALL. I will answer that by saying I never heard that Paul was any more devoted to the Christian religion after his conversion than he was to the persecution of the Christians before that time.

Mr. ELDRIDGE. I wish to inquire of the gentleman from Pennsylvania, whether one of the reasons he gave for including in this list the name of General Longstreet was not because he was recommended by the General of the Army?

Mr. BROOMALL. I said "vouched for."

Mr. ELDRIDGE. Now, if that be a good reason, I should like to know why he has not included in this list of names the name of Robert E. Lee, because General Grant swore before the Judiciary Committee that he had recommended to the President a full pardon for General Robert E. Lee.

Mr. BROOMALL. I suppose we might get thirty-five votes on the other side by putting in the name of General Robert E. Lee.

Mr. ELDRIDGE. And also get the General of the Army with you.

Mr. BROOMALL. We do not choose to do it. I suppose we could get the votes of the thirty-five gentlemen on the other side of the House if we were to put into the bill the names of the Democratic members of the Thirty-Seventh and Thirty-Eighth Congresses; but we will not, though by refusing we lose those votes.

Mr. BROOKS. Is the gentleman from Pennsylvania aware that a principal, leading, prominent man on the list of twelve hundred on the table is one of those who advised and counseled publicly the assassination of Abraham Lincoln? Is he aware of that fact?

Mr. BROOMALL. What is the name?

Mr. BROOKS. Is he aware of that fact?

Mr. BROOMALL. I certainly am not.

Mr. BROOKS. Will the gentleman permit me to read?

Mr. BROOMALL. No.

Mr. BROOKS. Does the gentleman say no?

Mr. BROOMALL. I do; I know that just now, at the final vote, a gentleman whose name is upon the list has been charged with certain matters. I do not know what they are, but as the charges were not made before the proper tribunal at the proper time I will not believe them now. If I were told by one of his enemies that the gentleman from New York had committed a crime last night I would not be bound to believe it.

Mr. BROOKS. Will the gentleman answer my question? He has not done so yet. I am going to vote for the pardon of this man who counseled the assassination of Abraham Lincoln in this list with so many others.

Mr. BROOMALL. I am glad to hear the gentleman is going to vote for the bill.

Mr. BROOKS. But I do not think the gentleman is aware of the fact I refer to. Will he permit me to read?

Mr. BROOMALL. I will not allow to go upon the records here with my consent any charge against any gentleman which was not brought before the proper tribunal at the proper time. I am satisfied the charge is not true.

Mr. BROOKS. Not when it is shown he counseled the assassination of Abraham Lincoln!

Mr. WARD. Will the gentleman yield to me?

Mr. BROOMALL. I do.

Mr. WARD. I wish to ask the gentleman from Pennsylvania whether he knows the fact that one of the parties named in this bill has sent a communication to this House saying that he has not solicited pardon, and has not committed any crime for which he should be pardoned?

Mr. BROOMALL. I am not aware of that fact. If I were to see such a communication I would want the signature sworn to before I would believe it.

Mr. WARD. Will the gentleman allow me to ask him whether he is in favor of general amnesty to all rebels?

Mr. BROOMALL. No, sir.

Mr. WARD. If you are not in favor of general amnesty to all rebels, how can you support a proposition to pardon twelve hundred of these leading rebels without a single allegation on record that they have repented, or that there is any special reason why they should be pardoned? And, further—

Mr. BROOMALL. I yield no further. I am pressed all around.

Mr. WARD. A single other question.

The SPEAKER. The gentleman from New York will resume his seat. The gentleman from Pennsylvania declines to yield.

Mr. BROOMALL. I am sorry I cannot yield to the gentleman from New York any further.

Mr. WARD. I do not design to transgress the rules of the House in any way, though I know I am a little pertinacious. I now ask the gentleman from Pennsylvania whether he did not agree to give me five minutes of his time, and, if that be so, whether I cannot ask him a further question?

Mr. BROOMALL. I will yield to a further question. There was something said about that.

Mr. WARD. I wish to ask the gentleman whether, if this bill is passed, any of these parties who are included in it, if elected, cannot be admitted into Congress, and whether this bill does not cover two gentlemen from the State of North Carolina who were elected to Congress and are waiting to be admitted after this law is passed, having served in the rebel army?

Mr. FARNSWORTH. No.

Mr. BROOMALL. I do not know that fact. It does not alter the case, however.

Mr. FARNSWORTH. There is not a word of truth in the statement of the gentleman from New York. This bill embraces the name of Mr. Boyden, who fed our prisoners during the war, a man who was known by every Union soldier in prison at Salisbury as their friend. He was elected as a conservative; but he received a great many Republican votes.

Mr. WARD. I do not mean him at all.

Mr. FARNSWORTH. Well, then, the gentleman did not mean anybody.

Mr. WARD. I mean a lieutenant colonel in the rebel army for a year and a half; and I assert what I know.

Mr. FARNSWORTH. Who is that man.

Mr. WARD. I cannot give you the name, but Mr. French, of North Carolina, informed me this morning that such was the fact.

Mr. FARNSWORTH. I cannot possibly let the statement of the gentleman from New York go upon the record in the face and eyes of the investigation of this subject by the Reconstruction Committee and of the committee of conference without denying it *in toto*. There is but one member of Congress elected from North Carolina included in this bill, and that is Mr. Boyden. There is one of the judges also embraced in the bill. But neither of these were in the rebel army. This bill does not embrace any leading rebels. It has been stated over and over again that it embraces a great many men who really have not asked for any pardon, because they have never done anything making it necessary for them to ask it; but they became disabled by reason of holding some petty office during the war, not dreaming at the time that that dis-

abled them from holding office under the Federal Government. They refused to go into the rebel army. Now we find by reason of our legislation that they are disqualified.

Gentlemen ask for petitions. There are thousands of petitions before our committee besides those sent us by the congressional committee, of which my friend from Pennsylvania [Mr. BROOMALL] is a member. Gentlemen ask that we make a report in the case. Why, sir, to make a report in each case of twelve hundred men would cover reams and reams of paper, and no one would read it. It is not expected that the committee should make a report in each case.

Now, I desire to say one word about General Longstreet, because there are some gentlemen here who do not understand his position. The Reconstruction Committee unanimously once relieved his name, with four or five others, for relief. Upon some little discussion in the House the report was ordered to be recommitted. The committee have not reported his name again, although they are all in favor of it. When we sent the bill to the Senate the Senate committee, upon an investigation, in adding the names of various gentlemen of different States, put in the name of General Longstreet. That is the way his name comes in the bill. We cannot amend by striking it out. We have to pass or reject the bill. General Longstreet wrote a letter more than a year ago, which was published all over the country, in favor of the reconstruction policy of Congress, which brought down upon his head the most terrible and scathing rebukes of all the leading secessionists in his country. So ostracised did he become by his former associates that he was obliged to change his residence and move to another town to engage in business for his support. Now, I ask gentlemen who oppose General Longstreet because he fought us if they have not more respect for a rebel who showed his consistency by going into the army and fighting us honorably than they have for a stay-at-home fellow who shirked out of the army himself but egged him on? I have; and I would rather relieve him than any old politician who sneaked out of danger.

Mr. BROOMALL. I have only to say, in conclusion, that my anxiety to have this measure adopted at this time arises from the fact that the State organizations which are about to go into operation in the States of Georgia, North Carolina, and Alabama cannot go into operation until the disabilities of many of these men are removed.

Mr. PAINE. Will the gentleman yield to me for a few moments?

Mr. BROOMALL. I will yield for a moment.

Mr. PAINE. Mr. Speaker, the gentleman from New York [Mr. WARD] has asked the question of the gentleman who has charge of this measure whether he does not know that there are one or two applicants for relief under this bill who have been rebel officers or soldiers and who desire, being relieved by Congress, to come here as Representatives from the State of North Carolina. He has asked that question, leaving the House to understand that he knows that to be the fact, and he has stated to the House that he has been informed by another Representative from North Carolina that such is the fact. He has left upon the minds of Representatives the impression that his informant believes that this applicant is not a worthy subject of legislative relief and ought to be excluded from this bill.

Now, sir, it is unfair for a gentleman to allege before this House indirectly in the form of a question what he does not know to be true, what he would not be willing positively to assert. Since he has asked that question and given the House to understand that his informant is opposed to the relief of the particular applicant referred to, I have asked that Representative from North Carolina what the facts in the case are, and he tells me that there is indeed in this bill an applicant for relief from North Carolina who was in the rebel army, but

that after having served a short time in it he left that army, threw up his commission, and joined the Union party of North Carolina, and has from that time forth until this day been an efficient and faithful Union man, and he himself believes he ought to be relieved.

Mr. WARD. Now, I ask the gentleman from Pennsylvania to allow me a moment. The gentleman from Wisconsin has in a manner assailed me, and I do not think the gentleman can refuse me a moment to reply. I have not occupied the five minutes which the gentleman agreed to give me.

Mr. BROOMALL. I will yield for the shortest possible time.

Mr. WARD. I had no desire to say anything unfair in this matter or to convey a false impression to this House. I was informed that Mr. Dockery, a member-elect from the State of North Carolina, served a year and a half in the rebel army as lieutenant colonel. I understand that that is the fact. I assert it to be the fact now upon information from a member of Congress-elect from that State of the name of French. I now wish to say further, as a matter of justice, that I understand that this Mr. Dockery, after a year and a half's service in the rebel army, threw up his commission and joined the Union Army, and has been a good Union man since, and has aided in the work of reconstruction. And I desire to say further, that I am opposed to admitting anybody into this Congress, or passing any law which will permit any man to come into this Congress, who has aided in the work of rebellion, and at whose door lay the deaths of half a million of people.

Mr. BROOMALL. I have learned—

Mr. PAINE. Will the gentleman allow me one word more?

Mr. BROOMALL. Not now. I have learned from the best authority that the gentleman from New York [Mr. WARD] is mistaken as to the time; it was two months instead of eighteen months. But no matter about that. He has given the strongest reason why the name of the individual referred to should be embraced in this bill as that of a man who, when he found out he was wrong, turned around and not only repented of the wrong he had committed, but fought on our side. He ought to have his disability removed, and I will vote for such cases every day.

I was about saying when I was interrupted that unless these disabilities are removed those States cannot organize until after another election; and we will have half a dozen States in the South under organizations as thoroughly rebel as any organizations that existed during the actual rebellion—I mean the organizations gotten up by President Johnson and Mr. Seward upon mere proclamation and without any authority of law. And these States will be under such organizations for perhaps a year or two. And if any gentleman on this side of the House wants to see the Union men of the South remain under that kind of government any longer than is necessary I must say he has a very strange way of looking at things; and if there is any gentleman here who wants to see the next presidential election come off with the Union men of the South under the control of these rebel organizations, I am inclined to think that that gentleman must be found upon the other side of the House, and a very great way over upon the other side.

Mr. STEVENS, of Pennsylvania. I decline to yield further to my colleague, [Mr. BROOMALL], and demand a vote. [Laughter.]

Mr. BROOMALL. Very well, I have done.

Mr. COVODE. Will the gentleman yield to me for a question?

Mr. BROOMALL. For a question, yes.

Mr. COVODE. I would inquire of the gentleman whether it is necessary to reconstruction that Longstreet should be relieved from disabilities? Does not the gentleman know that Longstreet shed more loyal blood than any other man commanding the same number of rebel troops?

Mr. BROOMALL. I have already answered that question. I now call the previous question.

The question was taken upon seconding the previous question; and upon a division there were—ayes seventy-one, noes not counted.

So the previous question was seconded.

The main question was then ordered, which was upon concurring in the report of the committee of conference.

Mr. UPSON. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 98, nays 44, not voting 48; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Cook, Cornell, Delano, Dixon, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Griswold, Harding, Hill, Hooper, Chester D. Hubbard, Hulburd, Jencks, Judd, Kelsey, Ketcham, Koontz, George V. Lawrence, Lincoln, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, Mercer, Moore, Moorhead, Morrill, Myers, Newcomb, O'Neill, Paine, Peters, Pike, Plants, Poland, Polsley, Pomeroy, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Thaddeus Stevens, Stewart, Stokes, Taylor, Thomas, Trowbridge, Twichell, Upson, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Windom, Woodbridge, Woodward, and the Speaker—98.

NAYS—Messrs. Adams, Archer, Barnes, Beck, Boyer, Brooks, Cary, Sidney Clarke, Cobb, Coburn, Corvode, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Hawkins, Higby, Holman, Humphrey, Ingersoll, Johnson, Jones, Julian, Kerr, Knott, Loan, McCormick, Mungen, Niblack, Orth, Pruyn, Robinson, Shellabarger, Sitgreaves, Aaron F. Stevens, Taber, Lawrence S. Trimble, Van Trump, Ward, Thomas Williams, and William Williams—44.

NOT VOTING—Messrs. James M. Ashley, Axtell, Barnum, Brownell, Burr, Cake, Chanler, Cullom, Dawes, Dodge, Finney, Gravely, Halsey, Hopkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Kelley, Kitchen, Laffin, William Lawrence, Marshall, Maynard, McClurg, McCumough, Miller, Morrissey, Mullins, Nicholson, Nunn, Perham, Phelps, Pike, Price, Randall, Ross, Starkweather, Stone, Taffie, John Trimble, Van Aernam, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Wyck, Stephen F. Wilson, and Wood—48.

So (two thirds voting in the affirmative) the report of the committee of conference was concurred in.

During the call of the roll,

Mr. GETZ said: My colleague, Mr. RANDALL, is paired upon this question with my colleagues, Mr. CAKE and Mr. STEPHEN F. WILSON.

Mr. FARNSWORTH. I move to reconsider the vote by which the report of the committee of conference was concurred in; and I also move that the motion to reconsider be laid on the table.

The SPEAKER. The vote upon concurring in the report has been once reconsidered; it cannot again be reconsidered.

M'KEE VS. YOUNG—AGAIN.

The SPEAKER stated that the House would now resume the consideration of the Kentucky contested-election case of McKee vs. Young; on which Mr. Cook was entitled to the floor.

Mr. COOK. I demand the previous question on the report of the Committee of Elections.

The previous question was seconded and the main question ordered.

Mr. COOK. I rise now under the rules to close debate, and of the hour to which I am entitled I yield thirty minutes to the gentleman from Kentucky, [Mr. ADAMS,] and thirty minutes to the gentleman from Michigan, [Mr. UPSON.]

Mr. ADAMS. I yield ten minutes of my time to my colleague, [Mr. BECK.]

Mr. BECK. Mr. Speaker, there are two distinct questions presented by the Committee of Elections for the consideration of the House, which are argued separately, both in the majority and minority reports. The first in order is, Who was elected by the people? because if it turns out that Colonel McKee was elected there will be neither necessity nor propriety in this House considering the question as to the capacity of Judge Young to take the oath and hold the position.

It is only after this House has determined that Judge Young has been duly elected by the qualified electors of his district, and would, because of such election, be entitled to his

seat, unless he be laboring under some personal disqualification, that it either ought to, or can properly institute an inquiry as to his qualifications, under the power it claims to inquire into the qualifications of its members. It is too late now, after the decisions rendered with almost (if not) perfect unanimity at the present session, to contend that the personal disqualification of Judge Young, if any be found to exist, can in any way inure to the benefit of Colonel McKee. His right is dependent on the vote cast, and that has to be determined before the other question can arise. I shall, therefore, consider that first, and after I show, as I can, conclusively, and I mean what I say, conclusively, that Colonel McKee has no shadow of claim to the seat, I will briefly discuss the right of Judge Young to it, which I hope to establish satisfactorily, even under the ruling of this House, the legality of which I do not propose in this case to discuss or controvert. The whole Committee of Elections, with perhaps one exception, after a full examination of all the facts, agreed to the report which they laid before the House on the 23d of March, 1868, which closed as follows:

*Resolved*, That Samuel McKee, not having received a majority of the votes cast for Representative in this House from the ninth congressional district of Kentucky, is not entitled to a seat therein as such Representative.

That report was made after the most mature and thorough investigation, which had been prolonged for more than eight months, and after all the questions had been fully discussed before the committee by the parties and their advisers, both orally and by printed briefs. The exact question as to the validity of the votes cast by men who had been in the rebel army, and the right of returned rebels to act as officers of the election, being specially considered, as the printed briefs laid on the tables of members at the time, both of which are now before me, will show, and the committee thus disposes of the question as to the votes cast by the rebel soldiers, and as to the freedom and fairness of the election:

"The second point relied upon by contestant, in his notice is that the vote of rebel soldiers, who were paroled prisoners of war, and who voted for Mr. Young, should be rejected.

"While the testimony may tend to show that even more than two thousand paroled rebel soldiers who, at the date of the election, 4th May, 1867, were without pardon and amnesty, voted for Mr. Young, as the contestant contends, it is admitted by the contestant in his brief that the proof is not complete and satisfactory as to more than seven hundred and sixty-seven.

"After an examination of the testimony the committee are not willing to say that more than seven hundred and fifty-two ex-rebel soldiers voted for Mr. Young. Of those eighty-six are hereafter rejected the entire vote of various precincts for other causes, which would reduce the vote of the rebel soldiers to six hundred and sixty-six. But the committee finding that there is no law of Kentucky disfranchising rebel soldiers, have not been able to see how those votes can be rejected.

"The third point in contestant's notice is substantially the same as the second. The fourth is, that in a number of counties and precincts the freedom of the election was violated, and Union men prevented, by reason of threats, intimidation, and force, from casting their votes for him, (McKee.)

"The committee fail to find this allegation sustained by the testimony."

And on page 10 of this report the committee proceed, in stating McKee's claim, to show that while he claimed that returned rebels could not act as officers of the election, still he admitted what the committee unanimously assume cannot be successfully controverted, that the law of 11th of March, 1862, (known as the expatriation law)—

"Was repealed 19th December, 1865, which restored citizenship to those who had been in armed rebellion, &c., that they were restored to the right to vote, but not to the privilege of being election officers."

These views, thus expressed, would seem to me to be conclusive as to the right of the confederate soldiers to vote, both on the committee and Colonel McKee, and to commit the committee at least to the fact that there was no fraud or unfairness in the conduct of the election. Yet in the face of all this the same committee, with the exception, I believe, of the distinguished gentleman from Vermont,

[Mr. POLAND,] and the gentleman from Missouri, [Mr. McCLURG,] without any further proof or argument, reconsidered their former report, and on the 17th of June submitted to the House the report we are now considering, closing it with the following resolutions:

*Resolved*, That J. D. Young was not legally elected a member of the House of Representatives of the Fortieth Congress from the ninth congressional district of Kentucky.

*Resolved*, That Samuel McKee was duly elected a member of the House of Representatives in the Fortieth Congress from the ninth congressional district of the State of Kentucky.

In this last report the committee say:

"It appears perfectly clear to the committee that persons who had been soldiers in the rebel army had no right to vote or to act as officers of election. They had surrendered to the Government of the United States upon the condition that each company or regimental officer should sign a parole for his men, and each man was allowed to return home not to be disturbed by United States authority so long as he observed his parole and the laws in force where he resided. These men were especially excepted from the amnesty proclaimed by the President May 29, 1865, under the tenth exception, and there appears to have been no other act of amnesty up to the time of this election which could include them; they were paroled prisoners of war."

And they say further:

"The evidence shows conclusively that in many parts of this district at the time of the election legal voters were prevented from voting by threats and intimidation; many witnesses testified that they who abstained from voting lest they should endanger their personal safety, and the proof shows these fears to have been reasonable."

I desire to use the mildest language possible in speaking of this remarkable report. The simple facts are the severest criticism. That a committee of this House should, in an elaborate and carefully considered report, after patient and thorough investigation, and after both sides had been fully heard, determine, in March last, that Colonel McKee was not elected; that the returned rebel soldiers were beyond question legal voters by the laws of Kentucky; that there was no evidence to sustain the allegation that the freedom of the election had been violated or Union men prevented from voting by reason of threats, intimidation, or force, and that the same committee, without an additional fact proved, or argument presented by either party, and without giving any reason to the House for such a change, should now report that Colonel McKee was legally elected; that it is perfectly clear that persons who had been soldiers in the rebel army had no right to vote or to act as officers of election; that the evidence shows conclusively that in many parts of that district at the time of the election legal voters were prevented from voting by threats and intimidation, would appear to me perfectly incomprehensible but for the knowledge I have of the fact that the dominant majority allow no obstacle to stand between them and the accomplishment of their purposes. I have seen a war avowedly prosecuted to perpetuate the Union and the Constitution, as pledged in the Crittenden resolutions, converted, for party purposes, into a war of conquest and subjugation. I have seen the thirteenth amendment to the Constitution of the United States adopted by reason of the votes of the Legislatures of States that were afterward declared not to be States by the party taking the benefit of the act. I have seen even the reconstruction acts, the favorite bantlings of the Radical party, trampled under foot in order to put a State government unanimously Radical over the once great State of Alabama. I have seen the grossest frauds and the most flagrant outrages perpetrated and indorsed in order to Africanize and radicalize the other southern States. I have seen the executive and the judiciary almost annihilated because they were obstacles in the onward march of the majority to consolidation and despotic power, and therefore I do not wonder at anything that party necessity may demand. This House may reject Judge Young; may set aside his majority of 1,479 votes; all of them as much entitled to exercise the right of suffrage as any men in America. It may appoint Colonel McKee or any one else to misrepresent his district; all this will only add another count



to the indictment on which the Radical party will be arraigned before the court of last resort in November next.

But I must return to the record, and first to the Constitution of the United States, for which the people of this country still have some regard. Section two of article one provides:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures."

Will any man on this floor dare to deny that the State of Kentucky has the exclusive right to determine what portion of her people shall have the right to vote for representatives in the most numerous branch of the State Legislature? Will any man venture to assert in the face of laws of Kentucky regulating suffrage in that State, which are published in the report of the committee made to this House in March last, that those returned rebel soldiers had not the right to vote for members of the Legislature of Kentucky. I presume not. Yet if they had, they had the right to vote for a Representative in Congress. One State may allow female suffrage, alien suffrage, or negro suffrage, may remove all restrictions; another may exclude all these, and, as in Rhode Island, impose property qualifications, yet the members sent here cannot be questioned, nor their right to a seat withheld because the majority of the members here disapprove of the action of the State in saying who should and who should not be electors. Let the principle be established, as I suppose it will be by the dominant majority in this case, that Kentucky has not the right to determine who shall be electors there, and that Congress will exclude the votes of all such as the majority here do not think ought to be allowed to cast their votes for members of the State Legislature or of Congress from that State, and what is the result? Why that one House of Congress regulates and determines all questions of the right of suffrage in the States, at least so far as the members of this House are concerned.

Let there be no grumbling when majorities change. Let the rule you propose to adopt be adhered to, and it follows that every Republican member of Congress who is elected by a majority of negro votes in the eleven southern States—for I include Tennessee—may be rejected the moment we elect a majority of Democrats in the other States and their places be given to the Democrats who get the majority of the white votes in these districts. We think Kentucky has as much right to say that her own sons—many of them the most honorable, intelligent, and gifted of her people—shall exercise the right of suffrage, if they did take the part of the South, as that your reconstructed States shall say that the political power there shall be placed in the hands of ignorant and degraded negroes. I do not pretend to predict what the Democratic party will do. I know we think this is and ought to be a white man's Government. But what I do say is that if you establish the principle now asserted in the last report of the majority of the Committee of Elections, in spite of all our protestations and remonstrances, it will not lie in your mouths to find fault with any action the Democrats may hereafter see fit to take in regard to the Representatives sent here by the negro votes of the South, when their seats are contested by men who have received majorities of the white votes in the districts where they reside. Bad precedents cannot always be set aside when the immediate purpose they were intended to serve is accomplished.

It will be remembered that the question of Judge Young's loyalty or disloyalty does not enter into nor constitute an element in determining this question. If the seat is awarded to Colonel McKee because he was duly elected he would have been as much entitled to it if General Grant had opposed him as he is now. It is simply a decision that 625 votes received by legally appointed and competent judges of the election in Kentucky, the legality of which

has been certified by the Governor of Kentucky to this House, shall be set aside and disregarded solely because this House claims the right to determine who shall and who shall not have the right to vote in Kentucky, the Constitution of the United States and the laws of the State to the contrary notwithstanding. The party in power will repent this decision in sackcloth and ashes, or I am very much mistaken. The constitution of Kentucky, in force when this election was held, and still in force, prescribes that all white male citizens of the State, twenty-one years of age, who shall have resided in the State two years, or in the county, town, or city in which they offer to vote one year next preceding the election, shall be electors of the most numerous branch of the Legislature of that State. (New constitution of Kentucky, art. 2, sec. 8.) It follows, therefore, that no vote cast for either Young or McKee can lawfully be rejected on account of the voter's participation in the rebellion, no matter to what extent that participation may have gone; and there is still less pretext for this claim of contestant, because Congress has never assumed to declare who shall or shall not be voters in Kentucky, even granting that there are those who may be willing to go to the extent of admitting that it has that power. It is true that the Legislature of Kentucky, by an act approved March 11, 1862, sought to deprive all who had participated in the rebellion of the right of suffrage, but this act was repealed by an act approved December 19, 1865, which is as follows:

"SECTION 1. That an act entitled 'An act to amend the fifteenth chapter of the revised statutes, entitled 'Citizens, expatriation, and aliens,' passed March 11, 1862, be, and the same is hereby, repealed, and all persons who may have lost any constitutional, legal, or other right or privilege by operation of said act shall be, and are hereby, restored to the full and free use and enjoyment of the same, as completely as if said act had never been passed.

"SEC. 2. This act shall be in force from its passage, and may be pleaded in bar of any prosecution on any indictment or other penal proceedings growing out of said act."—*Myer's Supplement*, page 687, Appendix.

The act of March 11, 1862, had also been declared unconstitutional and void by the supreme court of Kentucky, and full pardon had been granted to all who took part in the rebellion by the act of January 13, 1866. The President had proclaimed the rebellion as closed on the 28th of August, 1866, and Congress had indorsed and ratified this proclamation by an act passed March 2, 1867. So that long before the 4th of May, 1867, when this election was held, all who had in any way participated in the rebellion were restored to all their political rights and privileges, and had all the qualifications of an elector as fully as if they had never been in the rebellion at all. What difference, then, does it make in this case whether seven hundred or seven thousand of those who voted for Young had been in the rebel army? They were still, under the constitution and laws of Kentucky, qualified electors of the most numerous branch of the State Legislature, and had as much right to vote for a member of Congress under the Constitution of the United States as either of the candidates themselves.

I will notice the other laws of Kentucky touching elections when I come to speak of the precincts rejected in the last report because of the supposed ineligibility of the officers of the election there, or some of them, and will only state here that if I am right, or rather if the committee was right when, in March last, it said in its report:

"The committee, finding that there is no law of Kentucky disfranchising rebel soldiers, have not been able to see how those votes can be rejected."

This branch of the case is closed, because, in order to be able to declare McKee legally elected, the committee not only have to reject by wholesale all the votes cast at all the precincts where either a rebel soldier or sympathizer was an officer, but have to reject the 625 votes of the men who were rumored to have been at some time or other in the rebel army, and after they have done all that they can only foot up a majority of 37 for Colonel McKee.

Of course, if the 625 of whom I have been speaking, none of whom voted at any of the precincts that were excluded, have been wrongfully stricken out, all the other questions might be conceded and Judge Young still be duly elected, as the committee can only claim a majority of 37 for McKee after rejecting all the precincts and all the individuals that any witness either knew or had ever heard of as having been at any time during the war rebels or rebel sympathizers.

But I propose to show, and as I said at first to show conclusively, that all the judges and other officers of the election at the rejected precincts were legally qualified to act as such. All the reports concede that any man in Kentucky who has the right to vote is competent to be an officer of an election. The first report intimated, rather than asserted, that there might be some question as to the legality of this election at a number of precincts, because a majority of the officers conducting the election there voted for Judge Young. The last report seeks to exclude the votes cast at these precincts for the reason that the officers, or some of them, were not qualified voters, because they had been rebels, and therefore could not be officers of the election. I will first cite the laws of Kentucky bearing upon this question, and then notice the objections made in said reports. The laws I refer to are as follows:

"Each county court shall, in the month of June or July in every year, appoint two justices of the peace, if so many there be, or one justice and one other suitable person, as judges, and a clerk of the election for each precinct in the county. It shall also in the month of March or April of every second year appoint two suitable persons as judges, and a clerk of the election for each district for the election of justices of the peace and constables in the county. Such judges and the clerks shall hold their offices till their successors are appointed and qualified."

"Should the court fail to appoint such judges or clerk, or either fail to appear for thirty minutes after the time for commencing the election, or refuse to act, the sheriff or his deputy shall appoint a suitable person or persons to act in his or their stead at that election."—*Rev. Stat. of Kentucky*, vol. 1, p. 432.

[Myer's Supplement, p. 456.]

"An Act to amend section one, article three, chapter thirty-two, title 'Elections,' of the Revised Statutes.

"Be it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter, so long as there are two distinct political parties in this Commonwealth, the sheriff, judges, and clerk of election, in all cases of election by the people under the Constitution and laws of the United States, and under the constitution and laws of Kentucky, shall be so selected and appointed as that one of the judges at each place of voting shall be of one political party, and the other judge of the other or opposing political party; and that a like difference shall exist at each place of voting between the sheriff and clerk of elections: *Provided*, That there be a sufficient number of the members of each political party resident in the several precincts as aforesaid to fill said offices. And this requirement shall be observed by all officers of this Commonwealth who have the power to appoint any of the aforesaid officers of election, under the penalty of a fine of \$100 for each omission, to be recovered by presentment of the grand jury.

"MARCH 15, 1862.

"An act to amend an act entitled 'An act to amend section one, article three, chapter thirty-two, title 'Elections,' of the Revised Statutes,' approved February 11, 1853."

"SEC. 1. That in construing the act approved February 11, 1853, to which this is an amendment, those who have engaged in the rebellion for the overthrow of the Government, or who have in any way aided, counseled, or advised the separation of Kentucky from the Federal Union by force of arms, or adhered to those engaged in the effort to separate her from the Federal Union by force of arms, shall not be deemed one of the political parties in this Commonwealth within the provisions of the act to which this is an amendment.

"SEC. 2. This act to take effect from and after its passage."

The first act merely points out how officers of elections shall be appointed. The second provides that each political party, so long as there are two, shall be equally represented in the officers so appointed, and inflicts a fine of \$100 on the judge or sheriff who violates this provision. The third, which is an amendment to the second, as its title shows, merely provides that no political organization which adheres to those engaged in rebellion, or which gives it aid or comfort, or seeks to separate Ken-

tucky from the Federal Union, shall be recognized as a political party in the State, so as to demand that the officers conducting any election shall be composed in part of the adherents of such organization; and no judge or sheriff shall be liable to be indicted or fined for failure to appoint the members of such political organization to conduct elections.

It disfranchises no one, disqualifies no one; is at most only an instruction to the county judges and sheriffs to ignore all political organizations seeking to separate Kentucky from the Union, and not to recognize the right of any set of men to submit that question, or any question looking to that end, to the people at the polls, yet the Committee of Elections, in their zeal, blindness, or desperation, have seized upon this amendment to the law of 1858, and have attempted to argue that it disqualifies any man from acting as an officer of any election in the State, no matter what the proposition to be voted on may be; no matter what his politics may be when he acts, who has ever been in any way connected with the rebellion. According to the arguments made on the other side, though the election officers be now as radical as any of the committee; though he supports the Radical nominees; though the war has been ended for years, and there is no party in the land looking to secession or rebellion, yet if he at any time took part in the rebellion, or in any way gave it aid or comfort, the whole vote of the precinct at which he was either judge, clerk, or sheriff, must be rejected, and the votes of hundreds, it may be of thousands, of legal voters discarded. Such a construction of that law is sheer folly. A mere citation of the law, in connection with that of which it is amendatory, exhausts the argument. If it is plain that two and two make four, it is equally so that the law referred to neither disfranchises, nor disqualifies, any citizen of Kentucky from being an officer of the election for justices of the peace, constables, and members of Congress, held on the 4th of May, 1867, and all the efforts of gentlemen on the other side to reject 883 votes cast for Young over McKee on that ground, as is done in the last report, only show how little either law or facts are regarded when party ends are to be subserved.

There is, perhaps, a little more plausibility in the suggestion made in the first report of the committee, that the law of 1858, which required an equal division of the officers of the election between the two political parties, had been violated, as the proof shows that at a number of the precincts a majority of the officers voted for Judge Young.

In answer to that, I would say that it makes no sort of difference whether all these precincts are counted or rejected, because even if they are all rejected Judge Young's majority is nearly six hundred, as the report of the committee admit, if the vote of the returned confederate soldiers cast at other precincts are counted, as they must be. I would say further that the law only fines the officers for failing to make the appointments as therein required; it is not contemplated by it anywhere that the legal voters of the precincts shall by any neglect, oversight, or mistake of the county judges or sheriffs be deprived of their right of suffrage; that acts of officers *de facto* are (especially in the absence of all fraud, and none is pretended to have existed here) valid, and the rights of third persons will be guarded and protected as though the acting officers were appointed according to all the forms of law, is a principle recognized by the courts of every State in the Union.

I suppose it will hardly be contended that an officer of an election had necessarily abandoned his party because he refused to vote for Colonel McKee to represent his district in the Fortieth Congress. That is the only evidence he offers to sustain the charge that the Republican party did not have the proper proportion of election officers at several of the precincts. To assume that is to assume that he is the embodiment of Republican principles, faith,

and practice, and that a failure to indorse him personally, morally, and politically, is to destroy the political status of the recusant, and ostracize him as a traitor to his principles—a high and arrogant pretension, surely. I observe by the returns set forth in the brief of Colonel McKee that he received six hundred less votes in 1867 than he did in 1865, and about one thousand less than the Union candidate (as he calls him) received in 1866. Were all these men false to their principles, or did they refuse to vote for Colonel McKee for personal reasons satisfactory to themselves? The presumption, in the absence of proof, is in favor of the latter. Who nominated Colonel McKee as the Republican candidate to represent that district in this Congress? The record fails to show that anybody did. He undertook the race on his own responsibility, calling himself a Radical, and men voted for him or not, just as they pleased. The officers who acted in May, 1867, were doubtless appointed as fair representatives of their respective parties at the time of their appointment, and without any suspicion that a contest would arise in which special personal fealty to Colonel McKee, at a particular time, should be made the test of an officer's political status. Even sound Republicans might well refuse to vote for him or for any individual who sets himself up as the leader of the party; and when he undertakes, as he does, to rely on that failure, he ought to be required, at least, to show that the difference was of a political and not of a personal nature. This he utterly fails to do—fails to show that at least half the officers so appointed had not previously acted with the Republican party. The report of the committee, made by Mr. McClurg, while it seems to admit the correctness of the views I have stated, says, after setting forth the number of precincts at which a majority of the officers of the election voted the same ticket, (I presume for Judge Young,) "a sufficient number of votes are shown by the poll-books to have been given for Mr. McKee to prove that election officers could have been selected from his friends." The committee do not say that these officers were not selected at the time of their appointment from the political party to which Colonel McKee professed to belong, which is all that in any event the law requires, but that they were not selected from among his friends. How, I ask again, could the county judges and sheriffs know who Colonel McKee's friends were. Other State officers were to be elected at the same time who might with equal propriety have claimed that their special friends should be appointed.

Why did he not before the election make known the fact that they were not his friends, so that his friends could have been substituted. He does not pretend that he lost a single vote by the misconduct of any officer. He made no complaint beforehand, though the appointments had been publicly made two months before, and the votes of these men were all on record at the regular stated election in August, 1866, when the Union candidate, according to his own table, received in the district nearly one thousand more votes than he did in May, 1867. It is now too late, even if there is anything in the question, which I deny, for Colonel McKee to seek to avail himself of the technicality. There were three parties in the field in May, 1867: Judge Young representing the Democratic party, Mr. Green the Conservative Union party, and Colonel McKee the Radical party. The officers could not be so appointed as to represent each equally. Some years before there were but two parties, calling themselves Democratic and Union parties. The Radicals advanced, the Conservatives hung back, a split occurred, and a triangular race ensued, the great mass of the Conservatives have united with the Democracy, and the Radicals in Kentucky themselves are still very far from being a unit on the present issues. Colonel McKee had taken occasion while a member of the Thirtieth Congress, especially on the 20th of March, 1866, (see Globe, vol. 57, pages 1526-27,) to

vulgarly and traduce his State and her people on this floor in a manner that met with no response from the moderate, well-informed portion of his own party. His justification of the arrest and imprisonment of Colonel Wolford and Colonel Jacob, as gallant officers as any in the Federal service; his wholesale slanders of the circuit judges of his State, all of whom had been elected in 1862 as undoubted Union men, and are so still; his charges that rebels were protected while loyal men were prosecuted by the courts and the people were all known to be such false and unfounded aspersions that many of the best men of his party repudiated him and them. For I am not partisan enough to deny that there are very many members of the Radical party in Kentucky of the highest personal character, who would repel all such calumnies, and who would refuse to indorse by their vote or countenance any member of their party who would utter them. How far these things influenced the officers of the election to vote against Colonel McKee I do not pretend to know; but the presumption is that the county judges did their duty in the appointment of officers until some proof is adduced to the contrary.

The Committee of Elections in the case of Blakey vs. Golladay, from Kentucky, at the present session, lay down the true rule. They say:

"The attention of the committee has not been called to any provision in the statutes of Kentucky prescribing in what manner the several county courts are to define political parties and ascertain the exact political faith of each appointee, so as to enable them to comply with the provisions of these statutes. Obviously they cannot resort to the poll-book of the next election, the tests to which the claimants have appealed to show that the statutes have been disregarded, for they are required to make the appointments long before these poll-books have any existence. No poll-book of an election to be held after the appointment is made can afford evidence to guide in making the appointment. If resort is to be had to the poll-book of the election next preceding the appointment to determine the political status of the several appointees, then, for aught that appears in this case, those poll-books would show that status to be what the law requires, for no evidence from these poll-books or elsewhere was offered to show how these several officers of election voted at the election next preceding their appointment. If personal knowledge of the political opinions of men on the part of the county judges, or general political reputation, are to be the guide in making the appointment of the officers of election, it is difficult to see in what manner this committee could determine that the statute had not been complied with in making the appointment. It is sufficient, however, to say that there was no offer of evidence that any such test was disregarded."

The language of that report applies quite as well to this case as it did to the case of Golladay, and is just what we contend for. The truth is, Mr. Speaker, there never was more than a mere handful of Radicals in Kentucky, according to the now recognized tenets of the party. Colonel McKee had to deny everywhere throughout his district that he was in favor of negro suffrage, and however zealous he may be for it here he could not go back to his district and get the support of a corporal's guard in any county unless he continued to deny it. Our people with signal unanimity believe that the white is superior to the negro race; that this is a white man's Government; that in time of peace the military is and must be subordinate to the civil authority; that the Constitution furnishes a rule for the government alike of rulers and people, North and South, and we intend to show our faith by our works in November next.

It ought not to be matter of amazement to the Radical party that men who voted with them in Kentucky in 1866 voted against them in 1867. You have only to look at the changes that have taken place all over the country. Where are your overwhelming majorities in New York, Ohio, Pennsylvania, and elsewhere, on the faith of whose support you launched out on the experiment of congressional omnipotence and negro equality? Gone! gone! because of your own illegal and oppressive legislation, and are now incorporated into the ranks of your opponents. Surely it is to be expected that men in Kentucky whose votes in 1866 showed them to be acting with the

Republican party, and who might therefore be properly appointed officers of an election to represent that party at the polls, might in May, 1867, after you had passed your reconstruction acts and reported your confiscation bill in March, 1867, have halted, and while supporting the magistrates and constables, perhaps put forward by the Union or Republican party in May, have refused to vote for Colonel McKee, who seems to have exhibited at all times a determination to keep up with his party no matter to what extremes it went.

But I will not argue this question further. There is no decent pretext for the rejection either of the 625 votes reported by the committee as having been cast for Young by men who had been rebels—although I might show that there is no proof except hearsay as to over two hundred and fifty of these men, that they ever took part in the rebellion—nor of the 883 majority at the various precincts set forth in the report at which men acted as judges, clerks, or sheriff, who had taken part in or favored its success. But admitting, for the sake of argument, that all the committee claim is true; that the 625 votes cast by returned rebel soldiers ought to be rejected; that all the majorities for Young at all the precincts where returned rebels acted in any capacity as officers of the election, should be thrown out and Judge Young is still elected, even according to the last report of the committee, though they assert otherwise. They set forth the majorities at the various precincts and make the aggregate 883; add to this 625 and 8 deserters, and the total is 1,516; deduct Young's official majority, 1,479, and they foot up McKee's majority, when correctly subtracted, as 37. In order to get the 883, in giving the precincts they say, as a reason for rejecting 132 majority for Young:

"Centreville precinct, Fleming county, Mason Caywood and William H. Cord, judges of election. Samuel McGuire (p. 96) testifies, 'Mason Caywood and William H. Cord have been publicly known as southern sympathizers, and in favor of the so-called southern confederacy both during and since the war.'"

"Young's majority in this precinct, 132."

It is not pretended by the committee that any of the election officers at this precinct ever had taken part in the rebellion in any form. The only excuse is, that they were southern sympathizers; and when we turn to the proof to sustain even that, we find that the witness, Samuel McGuire—upon whose testimony alone the committee rely to prove that—swears that he did not know either Mason Caywood or William H. Cord, and that statement of the witness is part of the same answer from which they extract their quotation made in the report. I give the question and answer in full as a fair specimen of the way in which the committee, in their last report, have treated this question, and that the country at least may understand by what rules of justice the rights of Democrats in this House are tested:

"Question. Do you, or do you not, know the names of the officers of election in May, 1867, at the Elizaville, Tilton, and Centreville precincts, in Fleming county, and if you know said officers, do you know their political sentiments? Answer fully as to all your knowledge of these points."

"Answer. The names of officers at Centreville precinct are Mason Caywood and William H. Cord, judges; George A. Cord, sheriff, and Samuel T. Blair, clerk; Mason Caywood and William H. Cord are reputed Democrats, and voted for John D. Young for Congress. George A. Cord voted for Samuel McKee, and S. T. Blair for Thomas M. Green. At Elizaville, John N. Proctor and O. H. Dewey were judges, David Adams, sheriff, and Charles Darnall, clerk. John N. Proctor, David Adams, and Charles Darnall voted for John D. Young, and O. H. Dewey for Samuel McKee."

"Question. Do you or do you not know if the men named in your last answer, Mason Caywood, W. H. Cord, John N. Proctor, David Adams, Charles Darnall, and Thomas Butler, are, and were during the late rebellion, 'rebel sympathizers'?"

"Answer. My personal knowledge extends only to John N. Proctor and David Adams. As to them I answer yes. Mason Caywood and William H. Cord have been, and are publicly known as southern sympathizers, and in favor of the so-called southern confederacy, both during and since the war."

It will be observed that the other persons, John N. Proctor and David Adams, were not officers at the Centreville precinct, and as to Mason Caywood and William H. Cord, the witness personally knew nothing. Yet, as I

said, on that evidence, and that alone, the committee undertake to reject the Centreville precinct, which gave Young 132 majority. Surely this House will not sanction such an outrage; surely the committee will not risk their reputation as judges and fair men on such a state of fact. If these 132 be restored to Young, and the report be allowed to stand as to all else, Young's majority will be ninety-five, and he must be declared duly elected.

I will not argue at length the question as to Judge Young's eligibility. The distinguished gentleman from Indiana, [Mr. KERR,] one of the committee, and my colleagues [Messrs. GOLLADAY and TRIMBLE] have exhausted that branch of the case.

While I utterly deny that the act of July, 1862, requiring a test-oath, is applicable to members of this House, that it is constitutional if it was intended to be so applied, or that this House can prevent the member-elect from taking it if he is willing to do so, yet I know that Judge Young would rather that his right hand should wither and his tongue cleave to the roof of his mouth than take that oath if he did not know that he could take it honestly, conscientiously, and in good faith; and the fact that he is ready and willing to do so is to me the highest evidence that he can do so properly.

The next highest evidence is, that during the whole canvass, which lasted for months, and was an animated and excited one, while Young was publicly defying any and all men to bring aught against him, or against his right and ability to take that oath; while Mr. Green, one of his opponents, was, as he testified, inquiring of men of all shades of political opinion, everywhere throughout the district, for some fact that he could use against Young on that point, and could hear of nothing; and while McKee, thus urged and challenged, failed to make a single allegation, either at Prestonburg, where they all met, or anywhere else, during the canvass or afterward, till the celebrated Willis Hockaday affidavit was, in July last, paraded before this House; these things, I say, ought to be conclusive that no disability in fact exists on the part of Judge Young.

It is certain that all the men who know Judge Young, regardless of their political opinions or prejudices, testified that while he was at all times opposed to the prosecution of the war, and strongly suspected, if he did not believe, that it was being waged for the purpose of the conquest and subjugation of the South, and, therefore, sympathized with her people, he, as a citizen of Kentucky and a judge of one of her courts, remained faithful and true to his allegiance to his State, and obeyed all laws, State and Federal, whether he liked and approved them or not. Whenever any friend, neighbor, or acquaintance, no matter of what politics, needed his assistance in any way, or at any time, his hand and heart were alike open, and at any personal risk or sacrifice he relieved the distressed and ministered to the wants of the needy. With such a record from political friends and opponents, he can afford to be rejected by this House, and rely on the men of his district to vindicate his reputation from all the assaults of his enemies.

I am glad to be relieved from the discussion of the testimony of such witnesses as Greenup Nickle and a few other infamous characters, who have been snubbed to blacken the fair fame of Judge Young. It has been done already so fully that further exposure would be but repetition. I will, therefore, submit the question so far as I am concerned.

Mr. ADAMS. I now yield my remaining time to the gentleman from Vermont, [Mr. POLAND.]

Mr. POLAND. Mr. Speaker, I thank my friend from Kentucky [Mr. ADAMS] for yielding to me his time in order that I may say a few words relative to the position of the Committee of Elections, or rather my own position in reference to this matter. By the favor of the Speaker I have the honor to be a member of the Committee of Elections. This contest between McKee and Young was heard by the

committee early in the winter. The hearing was very protracted. The case was elaborately argued on both sides. The case was further fully considered in the committee; and, as I understood the judgment of the committee, it was unanimous that Mr. McKee was not elected; and a majority of the committee determined that Young had received a majority of the votes but was ineligible on account of having been guilty of some disloyal act. As I understood it at the time, and as I continued to understand it up to the time a minority report was filed by the gentleman from Michigan, [Mr. URSON,] I understood, and I have taxed my recollection in vain to remember when it was any other way, than that the Committee of Elections were unanimous in determining Mr. McKee was not elected, not having received a majority of the votes. During my absence for ten days previous to last Thursday this case was in some way reconsidered by the committee, and a majority of the committee reversed their former action and determined McKee was elected. I saw by the newspapers while I was absent such was the action of the committee, and I was curious to know upon what ground the judgment of the committee was reversed, but I did not learn it until I saw the report here.

Now, Mr. Speaker, I have as much confidence in the judgment of committees, and am as willing to base my action and my vote here on the action of any intelligent committee of this House as any member upon this floor, and I should be sorry to believe that the Committee of Elections was not as much entitled to the consideration of this House as any other committee. If, however, the House do not concur with me they can be accommodated in this case, for they have the judgment of the committee both ways. [Laughter.]

After learning that the judgment of the committee had been reversed, and they had reported Mr. McKee was entitled to the seat, I will say in the limited time since my return I have endeavored carefully to review this case and see whether it was not possible the original judgment of the committee was wrong, and I could agree with the last report of the committee; but, sir, I have been unable to come to any such conclusion. The grounds upon which this last report are based are so fallacious that any gentleman who will give it a careful consideration will see that they cannot be sustained and acted upon by the House.

Now, as I understand, when the gentleman from Illinois [Mr. COOK,]—who is very candid, and also very careful, in the utterance of his opinions—read to the House the section of the act of March 2, 1867, and declared that it had not come to the notice of the committee until after they had made their report, no other inference could be drawn from what he said than that if they had had knowledge of the existence of that act at the time the report was made this last conclusion of the committee would never have been reached.

Now, sir, I want to say a word in relation to Mr. Young, because I did agree with the majority of the committee in reference to his ineligibility, and I am prepared now to vote that he is not entitled to a seat here. There is certain evidence in the case in reference to disloyal acts by Mr. Young, some portion of which I do not believe to be true. By that I do not mean to say that the witness who testified did not suppose he was testifying to the truth, but I think he was mistaken in reference to Mr. Young being the man who directed the squad of rebel soldiers where to find a Yankee soldier and to arrest him. That portion of the evidence I lay entirely out of the case, because I do not believe it was Mr. Young. It is entirely at war with his whole course as shown by the testimony.

There is another witness, who testifies to something in relation to his giving a gun to a man who was talking about going into the rebel army. But that evidence is very meager. It possibly would bear the construction which the committee have put upon it, that he fur-



nished a gun to a man knowing that he was going into the rebel army. But, sir, while the evidence in relation to disloyal acts of Young is so very meager and unsatisfactory it is clear to my judgment that he was a rebel at heart. I think this was his true position, as shown by the evidence. At the outset of the rebellion, before there was any actual war, his sympathies were with the South. He talked strongly upon that subject, and very likely his leading position in the community might have given him an influence, so that his conversation had such an effect that it may be said that he gave such aid and countenance to the rebellion that he ought not to be allowed to take a seat here, and that he could not properly take the test-oath. But, sir, I am disposed to resolve the doubts in reference to his disloyal conduct, in view of what were his known wishes and expressed feelings. His sympathies were all with the rebels; and although the evidence is so meager in relation to overt acts of disloyalty, I am disposed to vote against him upon this principle: I would as soon associate with a man on this floor who fought for the rebellion as with one who prayed for the rebellion. So much in reference to that.

Now, in reference to the right of Mr. McKee. Mr. Young received 1,400 or 1,500 majority of votes in the district. The committee get rid of 625 of those votes upon the ground that they were given by men who had served in the rebel army at some time during the war, and that they stand in the relation of paroled prisoners of war; that in point of fact there is now really existing in legal contemplation a rebel army, or was at the time of this election, in May, 1867; therefore, these men are to be treated as though they were still in the rebel army or as if they were captured and held as prisoners of war.

Now, Mr. Speaker, in my judgment, if there never had been a proclamation by the President; if there never had been any action by Congress, still if the war was in fact over as matter of public history, and the power with which we were at war was destroyed, there would be no sense in saying that those men are still to be regarded as a part of the rebel army in the service or as paroled prisoners or actual prisoners of war. But, sir, on the 20th of June, 1866, the President of the United States issued his proclamation declaring that the war was at an end, that peace reigned throughout the entire country; and Congress, by the act of March 2, 1867, expressly recognized the validity of that proclamation. Therefore, what becomes of this theory? I believe it was given up, as I said before, by the gentleman from Illinois [Mr. Cook] this morning, so that the entire groundwork or basis upon which those 625 votes are to be set aside is entirely destroyed by that act of 1867. The committee, in my judgment, stand in reference to that precisely as a certain judge I knew who once decided a case on the strength of a statute that turned out to have been repealed some four or five years before. It was generally supposed he cut rather a ridiculous figure.

But, sir, there is another answer to this. There is not a particle of evidence in this case that any of the rebel soldiers who gave these 625 votes were in the war at its close, or but very few of them. I have carefully looked through the evidence on this subject, and there is not evidence to show that more than twenty of them continued in the service of the rebellion until the close of the war. On the other hand, the evidence affirmatively proves that a very large proportion of them were not in the rebel service at the close of the war. I have made some memoranda on that subject from the evidence. M. W. Mitchell testifies to 41 rebel soldiers who voted for Young, and only 18 of them, he says, were in the rebel service at the close of the war. M. Literal testifies to 5, and none of them, he says, were in the service till the close of the war. Henry Whitt testifies to 27 who voted for Young, and only 2 of them, he says, were in the rebel service till the close of the war. Frank Hunter testifies to 82 rebel

votes that were given for Young, and only 1 of the men, he says, served till the close of the war. B. J. Bennett testifies to 27 votes, and only 6 of them served till the close of the war. B. Hayden testifies to the number of 80 rebel votes, and he says he does not know that any of them served till the close of the war. J. M. Lewis testifies to 9, and only 2 served till the close of the war.

Now, Mr. Speaker, by throwing out these 625 votes, and by throwing out a little more than 800 votes upon another ground, the Committee report that McKee was elected by 41 majority. The evidence shows affirmatively, however, that more than three times the number of 41 of the 625 men who gave those votes were not in the rebel service at the close of the war. They had left the rebel army before. This number includes men, and very many of them, who, it appears from the evidence, were never in the regular rebel service. Some of them were only engaged in some of the guerrilla fights, and they are all spoken of as having served in the rebel army. So that upon that ground, (if it is not entirely demolished in point of law, as I have endeavored to show,) the evidence shows affirmatively that but a small proportion of the 625 men were in the rebel army at the close of the war. This new light, therefore, which the committee discovered about paroled prisoners of war, I think is entirely demolished, and may be said to be out of sight.

Then comes the question which has been raised whether the fact that a man has been in the rebel service disqualifies him to vote for members of Congress. It is conceded that there is no statute of Kentucky that disqualifies a man from voting on that ground. They did at one time pass such a statute, but the courts decided that it was unconstitutional, and the Legislature repealed it. That is regarded, as it should be regarded, I think, as a declaration or as an enactment by the Legislature that these men were duly and legally entitled to vote in that State. Well, sir, I am one of those who believe, as I understand my party generally to believe, that this matter of suffrage in the States is to be regulated by the States; that it belongs to them; that Congress cannot interfere with it; that it is beyond our power. But I need not debate that question. Whether or not it is in the power of Congress to say that men who have served in the rebel armies shall not be voters in the States, Congress never has said so, never has passed any such law. So that whether such power resides in Congress or not, Congress has never attempted to exercise it.

I have seen it stated in some newspaper that the reason why the Committee of Elections came to this strange conclusion was in consequence of a principle that had been decided by this House in the recent case of Delano vs. Morgan. Well, sir, what was that? The great question in that case was in reference to the votes of two or three hundred deserters.

Congress passed a law, not declaring that deserters should not vote in the States, but declaring that deserters from the armies of the United States should lose their citizenship, that they should forfeit their citizenship of the United States. That is clearly within the power of Congress. Congress has the right to say how citizenship of the United States may be acquired, and Congress has the right to say how citizenship of the United States shall be lost.

Well, sir, in my judgment, and, as I understand it, in the judgment of the committee, that law did not affect the right to vote in Ohio. But the Legislature of Ohio had declared that one of the qualifications for voting in that State was that a man should be a citizen of the United States. Therefore it was by virtue of the law of Ohio, not by virtue of the law of Congress, that a person was disfranchised in Ohio for deserting. Congress could say whether they were citizens of the United States or not, and having declared that deserters were not citizens of the United States, and the law of Ohio having declared that none but citizens

of the United States should vote in Ohio, these deserters were deprived of the right of voting in that State by virtue of the law of the State.

It will be seen by this statement how short that principle falls of what is claimed in this case, how entirely different the question is. There was no attempt in that case, by the Committee of Elections or by the House, to say that Congress had the right to regulate the right of suffrage in Ohio. Of course we had the same right in that respect in Ohio that we have in Kentucky.

There was a suggestion made by the gentleman from Illinois, [Mr. Cook,] who made this report, in the opening of his argument in support of his report, that it would be very odd, indeed, if Congress had the right to say that a man who had aided the rebellion should not have a seat upon this floor, and could not also say that such a man should not vote for a member of Congress. There is a sort of plausibility in that suggestion; but, upon examination, every gentleman upon this floor will see the distinction in the power of Congress over the two cases. In reference to the right of a man to hold a seat upon this floor, the Constitution of the United States gives this House the express right and power to determine in reference to the qualifications of its members. Congress, by the passage of the test-oath act, has virtually enacted that men who cannot truly swear to what that oath contains shall not be entitled to seats; while, as to who shall be voters in the States, the Constitution gives Congress no power, and if it did, Congress has never exercised it.

[Here the hammer fell.]

The SPEAKER *pro tempore*, (Mr. TROWBRIDGE.) The time of the gentleman from Vermont [Mr. POLAND] has expired. The gentleman from Michigan [Mr. UPSON] is now entitled to the floor for thirty minutes.

MR. UPSON. The time has so far elapsed that there will not be an opportunity for me to make any extended remarks on this occasion. But there have been some suggestions made by my colleagues on the Committee of Elections, the gentleman from Vermont, [Mr. POLAND,] and the gentleman from Indiana, [Mr. KERR,] which make it proper that I should say something in relation to the history of this case, and of my connection with it. There is a misapprehension in reference to this case, so far as regards the action of the Committee of Elections.

I never concurred in the first majority report of the committee. And the only reason why I did not write a minority report at the time the majority report was made was the state of my health. A number of days while the case was being heard before the committee I lay upon the lounge in the committee-room, not being in a condition for active labor. But at the time the gentleman from Missouri [Mr. McCLURG] made that report he knew that I had all along dissented from it, as well when the report was made, as when it was being considered by the committee. And I understood the gentleman from Missouri to state, at the time he made the report, that "the gentleman from Michigan [Mr. UPSON] did not concur in the report," and I went to his seat and told him that that statement made by him obviated the necessity of my making any statement myself to the House. I would ask the gentleman from Missouri to correct me, if I am mistaken.

MR. McCLURG. The statement of the gentleman is correct.

MR. UPSON. So gentlemen will see that it is not any new light which has arisen that has governed my action in this case. Afterward, when I anticipated that the case was coming up in the House, I asked permission to make a report, and I accordingly did make, on the 2d of June, 1868, the minority report, which has been referred to so often in this discussion.

I wish now to call the attention of the House to that report in order to show my friend, who has just preceded me, [Mr. POLAND,] that I was not reduced to any necessity of counting

out rebel votes in order to show that Mr. McKee was elected. But, on the contrary, I claim, and I could show conclusively to the House if I had the time, that it is exactly as I say and as I then stated in said report. If my friend from Kentucky, [Mr. GOLLADAY,] who addressed the House on Saturday, will read the reports, he will discover that the committee in its last report recommend the same thing that was laid down in my report. Therefore I concurred with them to that extent. I did not concur with them in the first instance, but I did concur in the last report, holding Mr. McKee elected. I went further than they did in their last report, but I concurred in the result, and therefore can properly vote for their resolution. The gentleman from Kentucky will find it is of frequent occurrence that members of a committee concur in the action proposed, but who do not altogether agree with the reasoning by which that action is attempted to be sustained and enforced.

But, sir, the report was not unanimous even to the extent claimed. The gentleman from Ohio [Mr. SHELLABARGER] was not present when the decision was first made, being absent on account of sickness. And in fact still another member was not present, but being convinced as to what his vote should be, left it with the chairman. On this last report there is an actual majority of the committee in favor of Mr. McKee. I say that in perfect good faith, and I am sure the gentleman from Kentucky, [Mr. GOLLADAY,] who, on Saturday, seemed to doubt this, will not question the statement of a gentleman who makes a report that it is the report of a majority of the committee. I know it is the report of the majority of the committee.

Now, sir, what was claimed in the first majority report, and what was attempted to be shown in the minority report? In the first instance it was held that the rule heretofore laid down justified them in taking the ground that Mr. Young was disqualified and not entitled to take a seat in this House by reason of disloyalty, in which the minority report also concurred, and so the majority of the committee still hold. In the second place it was held that Mr. McKee had not received a majority of the votes cast at said election, therefore was not elected. The majority of the committee in the first report stated that finding no law of Kentucky disfranchising rebel soldiers they did not reject them in their computation. They held, also, that deserters were not disqualified voters by the laws of Kentucky. They counted 8 votes for Mr. Young, the votes of deserters, which gave him the majority, as stated in said report. Allowing him those 8 votes gave him a majority of 5 votes. I went on in the minority report and showed that the majority had counted 666 rebel votes for Mr. Young. I called attention to that, and also stated, in the very same report, that to make up Young's majority of 5 votes, the votes of 8 deserters from the Federal Army were counted by the majority for Young, which, if rejected, as they ought to have been, would have given McKee a majority of 8 votes. That is on the basis of the first report, and that Mr. McKee was accordingly entitled to the seat.

Mr. ADAMS. Did the first report they made in this case say Young's majority was only 5; or did they say, assuming it to be the fact that the positions taken by McKee were true, then Young's majority would still be 5?

Mr. UPSON. I state the basis laid down in the report, or statement given by the gentleman who drew it; that gentleman ciphered out 5 majority for Young, and therefore, as it did not on that computation elect McKee it was considered unnecessary to pass upon the legal points any further.

Mr. ADAMS. I wish the gentleman to state it.

Mr. UPSON. I have stated it, and I decline to yield further. We have yielded half of the hour to which the committee is entitled to close this debate to the other side, and the discussion, so far, has been mainly upon the other side; and therefore I cannot be expected to yield the brief time allowed me in addition. I have stated the position laid down by the

committee; and if I had time I would be glad to yield to the gentleman to ask any question he pleased pertinent to the issue.

The contestant in his notice in the first place charged disloyalty against Mr. Young, and that he was not therefore entitled to a seat upon this floor. This charge was sustained in the report of the committee, and in that I understand the gentleman from Vermont [Mr. POLAND] still concurs. But this charge it is not necessary to pass upon if Mr. McKee has received a majority of the votes legally cast at this election.

In the second place, it was charged by the contestant in his notice that in almost every precinct rebels voted for Mr. Young; and in the third place it was charged there was fraud, violence, and intimidation of loyal voters by reason of which the loyal voters were prevented from the free expression of their will at the polls; and lastly, that in the appointment of the election officers the laws of the State were openly disregarded and violated, and persons who were disqualified or ineligible by reason of disloyalty or otherwise, assumed to officiate as such officers.

These charges were made specific enough to apply to most of the election precincts in the district, and many counties and precincts were particularly specified. I insisted then in my report that these deserters should be rejected, and that 8 votes of deserters deducted from the entire vote would leave, on their own count, a majority of 8 for Mr. McKee.

But I went still further. The evidence in the case shows—I refer also to the poll-books which are not printed but copies of which were before the committee, it being considered unnecessary to print them—that at Little Sandy precinct, Morgan county, one of the judges had been in the rebel army, and was therefore disqualified to act as such by the laws of Kentucky. But my friend from Vermont [Mr. POLAND] may see that this was not a "new light" to me because it was before the argument was had and before the vote was taken in the House on the case of Delano vs. Morgan, to which he alludes. The majority returned for Young at that precinct was 55, and being clearly illegal, on the basis of the first report as well as the last, it should be deducted from the vote for Mr. Young. That makes McKee's majority 58.

But still further. The vote of Centreville, in Fleming county, was overlooked by the majority of the committee in said first report. The return gave Young a majority of 132. This, also, was deducted in the minority report as illegal, making McKee's majority 190 without rejecting the votes of the rebel soldiers. But in addition to this it further appeared that of the remaining votes counted by the majority for Young in the first report, 666 votes were cast by returned rebel soldiers, and this was specially commented upon in the minority report.

The last majority report made after the case had been recommitted to the committee rejects 625 votes of the rebel soldiers and also the 8 votes of the deserters, together with the returns from certain election precincts where one or more rebels officiated as election officers; but does not reject all the precincts specified in the previous majority and minority reports.

Here I call attention to the fact that in Mason county, out of forty-four election officers, twenty-eight were men who are recognized in the testimony as having been notorious sympathizers with the rebellion during the war, and voted for Mr. Young. Seven of the others voted for Thomas M. Green and five for Mr. McKee, while four did not vote at all. But while the evidence shows that twenty-eight were notorious sympathizers with the rebellion, not one of the returns of the votes cast in the various precincts in that county where these men officiated has been rejected in the last report of the majority. I insist that these men were disqualified by the law of Kentucky from acting as officers of election. There were returned as cast at the various precincts in this

county, where these men officiated at the election, the following majorities for Young:

Elizaville.....	80
May's-Lick.....	172
Maysville, No. 1.....	131
Minerve, No. 4.....	65
Maysville, No. 2.....	112
Lewisburg, No. 8.....	148
Washington.....	69
Germantown.....	86

863

which returns I hold to be illegal and should be rejected.

The elections held and returns made by officers illegally appointed or not properly qualified, are illegal, and should be rejected. It is sufficient to refer to the following precedents:

"If the State law requires three magistrates to preside at the election, a return made by three persons, two of whom were not magistrates, was held defective. (*Johnson vs. Wayne, Cl. & H., 47.*)

"The neglect of the returning officers to be sworn, where the law requires them to act under oath, vitiates all returns made by them. (*McFarland vs. Culpepper, Cl. & H., 221.*)

"If an election is required by law to be held by three judges, who are to be sworn, and it is held by two not sworn, the votes taken by them are to be rejected. (*Easton vs. Scott, Cl. & H., 272.*)

"The neglect of election officers to take the oath required by law vitiates the polls for the county or precinct in which such officer acts. (*Draper vs. Johnston, Cl. & H., 702; and see also Letcher vs. Moore, Cl. & H., 715.*)

"Where the law required the board of election officers to consist of three persons and but two officiated, the vote was rejected. (*Howard vs. Cooper, Bartlett's Election Cases, 275.*)

"Where the poll-book was not certified to by any of the officers of the election, held that the vote should not be counted. (*Chrisman vs. Anderson, Bartlett, 328.*) See also a remark of the committee in *Harrison vs. Davis, (Bartlett, 343)*, and especially the report of the committee in the case of *Delano vs. Morgan*, of the present session."

Now, here are 863 votes returned by these officers who were appointed in open violation of the laws of Kentucky; and to show that I am correct I will simply refer to the law, which, it will be seen, is penal in its character.

The original law, with the amendment, is as follows:

[Myers's Supplement, p. 456.]

"An act to amend section one, article three, chapter thirty-two, title 'Elections,' of the Revised Statutes.

"Be it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter, so long as there are two distinct political parties in this Commonwealth, the sheriff, judges, and clerk of election, in all cases of elections by the people under the Constitution and laws of the United States, and under the constitution and laws of Kentucky, shall be so selected and appointed as that one of the judges at each place of voting shall be of one political party, and the other judge of the other or opposing political party; and that a like difference shall exist at each place of voting between the sheriff and clerk of election: *Provided*, That there be a sufficient number of the members of each political party resident in the several precincts, as aforesaid, to fill said offices. And this requirement shall be observed by all officers of this Commonwealth who have the power to appoint any of the aforesaid officers of election, under the penalty of a fine of one hundred dollars for each omission, to be recovered by presentment of the grand jury."

MARCH 15, 1862.

"An act to amend an act entitled 'An act to amend section one, article three, chapter thirty-two, title 'Elections,' of the Revised Statutes,' approved February 11, 1858.

"SECTION 1. That in construing the act approved February 11, 1858, to which this is an amendment, those who have engaged in the rebellion for the overthrow of the Government, or who have in any way aided, counseled, or advised the separation of Kentucky from the Federal Union by force of arms, or adhered to those engaged in the effort to separate her from the Federal Union by force of arms, shall not be deemed one of the political parties in this Commonwealth within the provisions of the act to which this is an amendment.

"SEC. 2. This act to take effect from and after its passage."

Thus it will be seen that on the 15th of March, 1862, after the rebellion had commenced, the Legislature of Kentucky passed a law that in construing the act which I have just read—

"Those who have engaged in the rebellion for the overthrow of the Government, or who have in any way aided, counseled, or advised the separation of Kentucky from the Federal Union by force of arms, or who have adhered to those engaged in efforts to separate her from the Union, shall not be deemed one of the political parties of this Commonwealth within the provisions of the act to which this is amendatory."

They go on further than overt acts of treason. They say any person "who in any way aided, counseled, or advised the separation of Kentucky from the Federal Union, or adhered to those who were engaged in efforts to separate her from the Union." Now, then, those men who notoriously sympathized with the rebellion could not have so done without in some way aiding, advising, or counseling it. And it is worthy of remark that, notwithstanding this charge was contained in the notice served on Mr. Young, he did not take any evidence to contradict this evidence brought here on the part of the contestant. And my friend from Kentucky, when he referred to the case of Mr. Coryell, at Orangeburg, in Mason county, forgot to mention that he was also a candidate for justice of the peace, and disqualified to act as an election officer by the law of Kentucky, which requires the coroner to act in such cases; and therefore, independent of the charge of disloyalty, he was disqualified by the reason that he was a candidate for office at that election.

There being 863 of this class of votes thus illegally returned, I find that even allowing all the rebel votes it would leave a majority of 273 for Mr. McKee. But I insist that the law of the case has not been changed at all by the law which was read to-day, and which was referred to by the gentleman from Vermont, [Mr. Poland.] The mere fact that Congress referred to the date of a certain proclamation as the date from which two years should run for certain military purposes does not affect this question in the least. The simple question is this: when men engage in war against their country, and take up arms against it, do they or do they not forfeit any political rights? Gentlemen will not claim that while waging war against the Government they have a right to elect members of Congress. Then when peace is restored I deny that these men's original political rights spring up immediately into action without any act of the sovereign power of the nation. I am willing to go before the people of the country upon that issue. I say that when a rebel throws down the cartridge-box he cannot take up the ballot-box and immediately assume either to come into this House, or send an agent here to represent him, without the consent of the sovereign power of the nation. The effect would be nothing more nor less than to permit him to reorganize rebellion on the floor of this House under legal forms and proceedings. No republican government can exist on any such basis. Gentlemen say there is no precedent. Well, of course, in the very nature of things, there can be no precedent. There is no precedent for such a rebellion, and I hope to God there will never be another. But in order to prevent it it is necessary for us to distinctly lay down and assert the principle that all political rights do not necessarily revert to all men who engage in rebellion when peace is first restored as they were before the rebellion unless by the permission of the sovereign power of the people.

The gentleman from Indiana says that this is a matter which is wholly controlled by the local authorities of the States. I submit to him that the local authorities of the States have no control over the naturalization laws of the country, and that that is an exclusive power in the General Government. But the position which he lays down, if carried out, abrogates that clause of the Constitution, strikes at the whole power of naturalization, so far as allowing men to vote for Federal officers is concerned, and would make it null and void. I submit to him that no republican government can exist in safety which will permit a man who has been engaged in arms against it the moment the rebellion is overpowered to go to the ballot-box and vote for a Representative in the national Legislature.

Mr. JONES. I will ask the gentleman if the reconstruction acts passed by Congress do not permit such men to vote?

Mr. UPSON. Those men in the South derive their power to vote solely and wholly

from the acts of Congress. Can the gentleman show any such law of Congress in relation to rebels in Kentucky?

Mr. JONES. I cannot.

Mr. UPSON. It is by virtue of the reconstruction acts of Congress, not by any inherent right of their own, that they have the right to vote in the southern States, and when I look into the State of Kentucky and find that every man who is black, no matter how intelligent or moral he may be, is disfranchised, I do not think it lies with them to exclaim so loudly about the injustice of excluding rebels from the polls.

Mr. JONES. Is there any difference between persons who went out of the State and fought and those who remained in the State?

Mr. UPSON. One reason why I insist upon a rigid construction of the State law is because of the condition of things in Kentucky, consequent upon the rebellion. There are some things which are matters of history. If the gentleman who quoted the proclamations of the President on Saturday [Mr. GOLLADAY] had examined the same book a little further (McPherson's Manual,) he would have found therein the terms of the surrender of Lee and Johnston, which he so persistently denied.

Now, in relation to the necessity of enforcing these laws of Kentucky in relation to election officers, I call attention to the fact that, as a matter of history, we know and can take notice judicially in this House of the fact that a large portion of the citizens of that State went into the rebellion, and that there has been there a great deal of irregularity, violence, and intimidation of Union men ever since the rebellion was overthrown. I saw but a few days since a notice in the papers that a marshal of the United States had recently been killed in Kentucky because of his Unionism.

And even as late as September 30, 1867, Major General Thomas, in his report from the headquarters of his department, which will be found in the last annual report of the Secretary of War, in writing of the violence and bloodshed in his department, and of the murders and robberies in the country districts in Tennessee and Kentucky, makes use of this language:

"The town of Columbia, in Maury county, Tennessee, may also be mentioned as standing prominently forth for obstacles thrown in the way of obtaining justice through the civil courts by any who were not identified with the confederates. The petty officers of the law, particularly a sheriff, by virtue of that freemasonry existing among rebels and rebel sympathizers in that locality, oftentimes could make life almost unbearable to those who had not remained consistently disloyal to the Government. Nor did Kentucky yield to Tennessee the palm for disorder and violence, particularly in localities not easily accessible to troops. A band of desperadoes, known as 'regulators,' taking the law into their own hands, or rather setting all law at defiance, scourged the country, marking their victims and dealing murders and robberies with a ferocity unparalleled in any civilized community. When called upon by those suffering from these incursions for assistance, I helplessly referred the complaints to the State authorities, who, although perfectly willing to act, and though deploring the condition of the affected localities, could find no remedy through the law, and, they failing, it became necessary for me to so post my troops throughout Kentucky that by their presence they might intimidate, if they could not prevent, the existing lawlessness."

"In Kentucky as well as in Tennessee the administration of justice depends in a great measure upon the personal characters of the judge, sheriff, and jurors, the laws seemingly making but little difference."

This, as I have stated, is from a report from General Thomas, made as late as September 30, 1867, more than four months after this election was held in Kentucky. In this State the voting is *viva voce*; the name of each voter and the candidate for whom he votes being publicly cried by the sheriff or his deputy, and recorded by the clerk.

From the nature of their powers and duties as well as from the condition of Kentucky consequent upon the rebellion, it will be seen how important it was that these election officers should be impartially selected and appointed as required by law, equally from each of the two political parties, and also that no participant in or adherent of the rebellion

should be allowed to be appointed or to act as such election officer; and the law of Kentucky recognizes this importance by imposing a penalty on all officers of that State, having the power to appoint any of such election officers, who fail to observe these requirements.

And I might refer to the evidence to show how intimidation prevailed at this election, and the necessity for having these laws enforced. The county judge of Mason county, who was a paroled prisoner from Camp Jackson, appointed all these officers in that county, and he himself was by law one of the county board of canvassers of the election.

In addition to that, I may call the attention of the House, in the few minutes that remain to me of my time, to some testimony to further show the necessity of a proper enforcement of the State law. On page 39 you will find this:

"Question. Please state if in this county, at the May election, 1867, any violence, force, or threats were used against Union men; and if so, state all you saw or knew."

"Answer. I was at the Mud Lick Springs precinct, and saw force used, or weapons, against Union men. The circumstances were these: one Enoch Pergam shot Thomas Clark, a Union man, for no other reason, as I thought, than that he declared himself in favor of negro suffrage. Pergam said any man who votes for that ought to be shot, and he did shoot him. After Clark was shot he ran off some twenty steps and crossed the fence. I went to him and saw he was fatally shot, and assisted him to the house and waited on him. I saw across the road Mr. Pergam and several men flourishing pistols and making demonstrations, and I went to Robert Wells, the sheriff of the county, and asked him to arrest Pergam, and he said he could not do it then. I offered to assist him. I was then advised by Union men to get away from there, and I did go away."

"Question. Was any arrest made, and did the man Clark die?"

"Answer. There was no arrest made while I stayed, and the man Clark did die. There might have been an arrest after I left. I do not believe that the sheriff or any one else would have been safe to have attempted making an arrest at that time."

Let me now read from pages 47 and 48 of the testimony what Mr. Roberts swears to:

"Answer. I was during the month of April in the following counties: Lewis, Lawrence, Boyd, Floyd, Morgan, Pike, Montgomery, and Bath, and had an excellent opportunity of ascertaining the feelings of the people in those counties, (in Morgan and Floyd particularly,) where the rebel element prevails. Captain McKee was threatened, if the word of some of the most prominent citizens can be relied on. As for myself I would not have undertaken to canvass those counties advocating the principles of Captain McKee without sufficient guard to prevent disturbances; I would consider that I was hazarding my life. In West Liberty, Morgan county, the meeting of which Captain McKee was the speaker was interrupted by a gang of returned rebel soldiers, and several pistols were drawn, and had it not been for Captain McKee's bold effrontery they would, no doubt, have either killed or crippled him. I heard previous to Captain McKee's going there that it would be unsafe for him to attempt to speak there, as there had been threats made against his life. During the disturbance I heard some of the crowd say, 'Kill the d—n nigger,' (referring to McKee.)"

"Question. From what you saw and know of the state of feeling at certain points in this congressional district in May, 1867, do you or do you not believe it would have been dangerous for men to vote for McKee at some of the precincts of the upper counties, and do you or do you not believe that some loyal men were deterred from voting at said May election for Samuel McKee because of a dread of violence then or afterward to themselves?"

"Answer. From what I saw and heard I do firmly believe that there was danger of men voting for McKee being either violated or disturbed either in person or property; at some of the precincts in the district it was not safe for a man to vote his sentiments."

This was in precincts which I insist should be thrown out; and if they are, it elects McKee.

I read from page 66 to show the fear of personal violence under which some of these witnesses testified:

"Question. What is the character of all the men named by you as voting for Young? Are they not peaceable law-abiding citizens?"

"Answer. Many of them are, but some of them are not."

"Question. Please name the man or men of the above number who were not peaceable, law-abiding citizens, on the 4th of May, 1867."

"Answer. I cannot and will not answer this question; I am afraid of personal violence."

I may also add that in numerous instances, as shown by the testimony, the officers before whom the testimony was taken, assuming to themselves the prerogatives of this House, took upon them to decide on the legality and admissibility of testimony; overruled ques-



tions that were put by contestant, and did not allow them to be answered, and, as is alleged by contestant, in some instances even refused to write down his question and thus prevented him from showing what questions he asked or what he offered to prove; and the ruling made by the officer in rejecting it.

[Here the hammer fell.]

The SPEAKER. The hour for closing the debate has expired, and the question recurs on the following resolutions reported from the Committee of Elections:

*Resolved*, That John D. Young, having voluntarily given aid, countenance, counsel, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Representative in this House from the ninth congressional district of Kentucky, or to hold a seat therein as such Representative.

*Resolved*, That J. D. Young was not legally elected a member of the House of Representatives of the Fortieth Congress from the ninth congressional district of Kentucky.

*Resolved*, That Samuel McKee was duly elected a member of the House of Representatives in the Fortieth Congress from the ninth congressional district of the State of Kentucky.

Mr. KERR. I gave notice that at the proper time I would move a substitute for the first resolution.

The SPEAKER. If there be no objection it will be considered pending.

Mr. KELSEY objected; but subsequently withdrew his objection.

Mr. KERR's substitute was received, and read as follows:

*Resolved*, That John D. Young was duly elected a member of this House from the ninth congressional district of Kentucky, and should now be admitted to his seat herein, upon taking the oath prescribed by law.

Mr. KERR. I demand the yeas and nays on that substitute.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 30, nays 90, not voting, 69; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Barnes, Beck, Boyer, Brooks, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Holman, Humphrey, Johnson, Jones, Kerr, Knott, Mungen, Niblack, Pruyn, Robinson, Sitgreaves, Taber, Lawrence S. Trimble, Van Trump, and Woodward—30.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Banks, Beatty, Benjamin, Benton, Blaine, Blair, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Donnelly, Eggleston, Ferriss, Ferry, Fields, Garfield, Gravelly, Harding, Higby, Chester D. Hubbard, Hulburt, Ingersoll, Judd, Julian, Kelsey, George V. Lawrence, Lincoln, Loughridge, Lynch, Mallory, Maynard, McCarthy, McClurg, Mercur, Myers, Newcomb, Paine, Peters, Pike, Pile, Plants, Poland, Poley, Pomeroy, Price, Raum, Sawyer, Schenck, Shanks, Shellabarger, Spaulding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, John T. Wilson, Windom, and Woodbridge—90.

NOT VOTING—Messrs. James M. Ashley, Baker, Baldwin, Barnum, Beaman, Bromwell, Buckland, Burr, Cake, Reader W. Clarke, Dawes, Dodge, Driggs, Ela, Finney, Griswold, Haight, Halsey, Hawkins, Hill, Hooper, Hopkins, Hotchkiss, Asabel W. Hubbard, Richard D. Hubbard, Hunter, Jenckes, Kelley, Ketcham, Kitchen, Koontz, Laffin, William Lawrence, Loan, Logan, Marshall, Marvin, McCormick, McCullough, Miller, Morrissey, Nicholson, Nunn, Perham, Phelps, Randall, Robertson, Ross, Scofield, Selye, Smith, Stewart, Stone, Taft, John Trimble, Van Aernam, Van Auker, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburne, James F. Wilson, Stephen F. Wilson, and Wood—69.

So the substitute was rejected.

During the roll call,

Mr. TROWBRIDGE said: My colleague, Mr. BEAMAN, is absent on account of indisposition. He came here this morning, against the positive order of his physician, to vote on the disability bill.

Mr. KOONTZ. I am paired with Mr. McCULLOUGH. I would have voted no.

Mr. McCORMICK. I am paired with my colleague, Mr. VAN HORN. He would vote no, and I would vote ay.

Mr. HAIGHT. I am paired with my colleague, Mr. HALSEY. If here he would vote no, and I would vote ay.

Mr. GETZ. My colleague, Mr. RANDALL, is paired with Mr. CAKE.

Mr. HOTCHKISS. I am paired with Mr. ASHLEY, of Ohio.

Mr. ELDRIDGE. I am desired by Mr. BURR to state that he is paired with Mr. HOPKINS. He would vote ay if here, and my colleague would vote the other way.

Mr. WARD. My colleague, Mr. VAN HORN, is absent on leave; he would have voted no.

The result having been announced as above recorded,

The question recurred on agreeing to the first resolution reported by the committee as follows:

*Resolved*, That John D. Young, having voluntarily given aid, countenance, counsel, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Representative in this House from the ninth congressional district of Kentucky, or to hold a seat therein as such Representative.

The resolution was agreed to.

The question then recurred on the second resolution of the committee as follows:

*Resolved*, That J. D. Young was not legally elected a member of the House of Representatives of the Fortieth Congress from the ninth congressional district of Kentucky.

The resolution was agreed to.

The question recurred on the third resolution of the committee as follows:

*Resolved*, That Samuel McKee was duly elected a member of the House of Representatives in the Fortieth Congress from the ninth congressional district of the State of Kentucky.

Mr. ELDRIDGE. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 62, nays 43, not voting 84; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Banks, Beatty, Benjamin, Benton, Blaine, Blair, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Donnelly, Eggleston, Ferriss, Ferry, Fields, Garfield, Gravelly, Harding, Higby, Chester D. Hubbard, Hulburt, Ingersoll, Judd, Julian, Kelsey, George V. Lawrence, Lincoln, Lynch, Mallory, Maynard, McCarthy, Mercur, Moore, Morrell, Mullins, Myers, Newcomb, Paine, Peters, Pike, Poley, Price, Raum, Sawyer, Shanks, Starkweather, Stokes, Trowbridge, Upson, Van Wyck, Ward, Henry D. Washburn, Welker, William Williams, and John T. Wilson—62.

NAYS—Messrs. Adams, Archer, Axtell, Bailey, Baker, Barnes, Beck, Bingham, Boyer, Brooks, Cary, Chanler, Eldridge, Farnsworth, Fox, Getz, Glossbrenner, Golladay, Grover, Hawkins, Holman, Humphrey, Johnson, Jones, Kerr, Knott, Loughridge, Moorhead, Niblack, Orth, Poland, Pruyn, Robinson, Sitgreaves, Spaulding, Thaddeus Stevens, Stewart, Taber, Taylor, Thomas, Lawrence S. Trimble, Van Trump, and Woodward—43.

NOT VOTING—Messrs. James M. Ashley, Baldwin, Barnum, Beaman, Boutwell, Bromwell, Broomall, Buckland, Burr, Butler, Cake, Churchill, Reader W. Clarke, Cullom, Dawes, Delano, Dixon, Dodge, Driggs, Eckley, Ela, Eliot, Finney, Griswold, Haight, Halsey, Hill, Hooper, Hopkins, Hotchkiss, Asabel W. Hubbard, Richard D. Hubbard, Hunter, Jenckes, Kelley, Ketcham, Kitchen, Koontz, Laffin, William Lawrence, Loan, Logan, Marshall, Marvin, McCullough, McCormick, McCullough, Miller, Morrissey, Mungen, Nicholson, Nunn, O'Neill, Perham, Phelps, Pile, Plants, Pomeroy, Randall, Robertson, Ross, Schenck, Scofield, Selye, Shellabarger, Smith, Aaron F. Stevens, Stone, Taft, John Trimble, Twichell, Van Aernam, Van Auker, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—34.

So the resolution was agreed to.

During the roll call,

Mr. McCORMICK said: I am paired with my colleague, Mr. VAN HORN.

Mr. HAIGHT. I am paired with my colleague, Mr. HALSEY. He would vote ay and I would vote no.

Mr. GETZ. My colleague, Mr. RANDALL, is paired with Mr. CAKE.

Mr. KOONTZ. I am paired with Mr. McCULLOUGH. My vote would be ay.

Mr. MERCUR. Mr. VAN HORN, of New York, is absent on leave; if here he would vote ay.

The result having been announced as above recorded,

Mr. UPSON moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

Mr. ELDRIDGE. On that I demand the yeas and nays. I do not believe Mr. McKee

is any more elected to this Congress than the man in the moon.

Mr. UPSON. I withdraw the motion. I rise to a question of privilege. I ask that the oath of office be administered to Mr. McKee.

Mr. BROOKS. From what State?

Mr. McKEE presented himself and took the oath prescribed by law.

#### ENROLLED BILLS SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 455) granting a pension to David Van Nordstrand;

An act (H. R. No. 162) for the relief of the widow and children of Henry E. Morse;

An act (H. R. No. 246) to grant a pension to Milton Anderson;

An act (H. R. No. 257) for the relief of James L. Dickinson;

An act (H. R. No. 258) for the relief of Mary B. Craig;

An act (H. R. No. 280) to grant a pension to Margaret Huston;

An act (H. R. No. 454) granting a pension to John Kelley;

An act (H. R. No. 516) for the relief of the widow and minor children of Benjamin B. Naylor, late a pilot on the gunboat Patapsco;

An act (H. R. No. 517) granting a pension to Cornelia K. Schmidt, widow of Adam Schmidt, deceased, late a private in company A, thirty-seventh Ohio volunteers;

An act (H. R. No. 519) granting a pension to Eliza J. Kennard, widow of William K. Kennard, deceased, late a private in tenth Ohio volunteers of war of 1861;

An act (H. R. No. 520) to place the name of Josephine R. Bugher on the pension-roll;

An act (H. R. No. 524) granting a pension to Austin M. Partridge;

An act (H. R. No. 523) increasing the pension of Susan A. Mitchell;

An act (H. R. No. 659) granting a pension to Sarah E. Pickell;

An act (H. R. No. 665) granting a pension to Susan V. Berg;

An act (H. R. No. 667) granting a pension to Mary Graham;

An act (H. R. No. 668) granting a pension to Elizabeth Butler, widow of Cyrus Butler;

An act (H. R. No. 769) granting a pension to David Howe;

An act (H. R. No. 772) granting a pension to Robert McCrory;

An act (H. R. No. 774) granting a pension to Amos Witham;

An act (H. R. No. 776) granting a pension to Zephaniah Knapp, of Luzerne county, Pennsylvania;

An act (H. R. No. 823) granting a pension to George W. Locker;

An act (H. R. No. 824) granting a pension to Annie Vaughn;

An act (H. R. No. 826) granting a pension to Michael Mellon;

An act (H. R. No. 827) granting a pension to Ann Wilson;

An act (H. R. No. 828) for the relief of Captain William McKean;

An act (H. R. No. 829) granting a pension to Mrs. Susan Ten Eyck Williamson;

Joint resolution (H. R. No. 262) authorizing certain distilled spirits to be turned over to the Surgeon General for the use of the Army hospitals; and

Joint resolution (H. R. No. 266) to authorize the enlargement of the Hygeia Hotel, at Fortress Monroe, Virginia.

#### LEAVE OF ABSENCE.

Leave of absence was granted to Mr. HULBURD for one week.

#### LEAVE TO PRINT.

By unanimous consent, leave was granted to Mr. ADAMS to print remarks on the Kentucky contested-election case. [See Appendix.]

## ORDER OF BUSINESS.

Mr. SCHENCK. I desire now to ask the House to proceed to the consideration of the tax bill.

Mr. HIGBY. I ask the gentleman from Ohio to yield to me to ask the House to take up a Senate bill from the Speaker's table and put it upon its passage.

Mr. SCHENCK. If it will not require a division of the House or consume time I will do so.

Mr. HIGBY. If it does I will not press it. If the bill is not passed before the 1st of July it will be of no consequence.

Mr. SCHENCK. What bill is it?

Mr. HIGBY. It is a bill to extend a railroad grant to the State of California.

Mr. SCHENCK. I know that bill will occasion a division.

Mr. HIGBY. I think not. The chairman of the Committee on the Public Lands simply wishes to move an amendment which I am willing to accept.

Mr. SCHENCK. There will be no difficulty in passing it before the 1st of July if the gentleman will aid us in pushing the tax bill through.

Mr. HIGBY. It will be put off from day to day until it is too late.

Mr. SCHENCK. It is a matter about which there will certainly be a division of the House.

Mr. HIGBY. It will not take five minutes.

Mr. SCHENCK. I yield now to my colleague on the Committee of Ways and Means, [Mr. ALLISON,] who desires to correct the Journal.

## CORRECTION OF THE JOURNAL.

Mr. ALLISON. On the final vote on Monday last on the resolution of the gentleman from Indiana, [Mr. SHANKS,] in regard to the tax bill, I voted in the negative. On examining the record I find that my name is not recorded. I ask that the Journal be corrected.

The SPEAKER. The Journal will be corrected accordingly.

Mr. SCHENCK. I yield now for a moment to the gentleman from Wisconsin, [Mr. PAINE.]

## ADDITIONAL BOUNTIES.

Mr. PAINE. I wish to have a correction made in a resolution which passed the House on Monday last. Every member of the House has an interest in the correction. I understand that the resolution has been so construed at the pay department as to necessitate a considerable delay in the payment of bounties. I did not intend it to have any construction such as has been put upon it. I do not know now how they have construed it; but I learn from a gentleman who has been up there that they have so construed it as to occasion great delay in the payment of bounties. I therefore ask unanimous consent to offer the following resolution:

*Resolved*, That the resolution adopted on the 15th instant, calling upon the Secretary of War for information respecting the payment of additional bounties, be, and it hereby is, so modified as to require only a statement of the aggregate number paid since January 1, 1868.

There was no objection; and the resolution was considered and agreed to.

## SALE OF DAMAGED ORDNANCE.

Mr. SCHENCK resumed the floor.

Mr. GARFIELD. Will the gentleman give way to me to report a resolution?

Mr. SCHENCK. Yes; if it will not consume time.

Mr. GARFIELD. I ask leave to report back from the Committee on Military Affairs a joint resolution directing the Secretary of War to sell damaged or unserviceable arms, ordnance, and ordnance stores.

Mr. BLAINE. I object.

Mr. GARFIELD. I hope the gentleman will withdraw his objection. The committee unanimously recommend the passage of the resolution; and it is very important; it will put money in the Treasury.

Mr. BLAINE. I withdraw the objection.

Mr. BROOKS. I demand the regular order of business.

The SPEAKER. That is in the nature of an objection, and the joint resolution is not before the House.

## AMERICAN SHARPSHOOTERS.

Mr. SCHENCK. While gentlemen are asking to make corrections, I am directed by the Committee of Ways and Means to ask for one. We reported a little bill authorizing the Germans to import a number of medals and other prizes presented to them, to be shot for at the great festival to which your committee is to go in New York. In transcribing the bill the assistant clerk—not the regular clerk of the Committee of Ways and Means, but an assistant who was volunteering for us—made a mistake and put it that they should not exceed in value \$1,000, whereas it was distinctly written \$10,000. The bill has passed both the House and the Senate, and I am told that the President will sign another bill, which has the correct amount, instead of the first bill, if the House will only pass it.

The SPEAKER. The Chair remembers that it was distinctly stated to the House by the gentleman from Ohio [Mr. SCHENCK] that the sum was \$10,000.

Mr. SCHENCK. All the records will show that. I ask unanimous consent to introduce for consideration at this time, a joint resolution to remit the duties on \$10,000 worth of these articles.

No objection was made; and accordingly a joint resolution (H. R. No. 306) to authorize the Secretary of the Treasury to remit the duties on certain articles contributed to the National Association of American Sharpshooters, was introduced, and read a first and second time.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## SALE OF DAMAGED ORDNANCE.

Mr. BROOKS. I withdraw my objection to the gentleman from Ohio [Mr. GARFIELD] reporting from the Committee on Military Affairs the joint resolution in relation to the sale of damaged ordnance.

No further objection being made,

Mr. GARFIELD reported from the Committee on Military Affairs a joint resolution (H. R. No. 292) directing the Secretary of War to sell damaged or unserviceable arms, ordnance, and ordnance stores, with a recommendation that the same do pass.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution, which was read, directs the Secretary of War to cause to be sold, in such manner and at such times and places, at public or private sale, as he may deem most advantageous to the public interest, the old cannon, arms and other ordnance stores in possession of the War Department, which are damaged or otherwise unsuitable for the United States military service, or for the militia of the United States, and to cause the net proceeds of such sales, after paying the proper expenses of sale and of transportation to the place of sale to be deposited in the Treasury of the United States.

Mr. VAN WYCK. Is not that rather an unwise proposition, to allow these stores to be sold at either public or private sale?

Mr. GARFIELD. I have information from the War Department that they have been offered more at private sale for small lots of these articles than they could possibly get offered at public sale, and they specially recommend that the power to dispose of these articles at private sale be given to the Department.

Mr. SCHENCK. I know that to be the case. Mr. VAN WYCK. That will probably be so until the Secretary of War has power to sell at private sale, and then those gentlemen will manipulate to secure the articles for very little. I would much prefer that the Secretary of War be required to expose these articles at public sale.

Mr. SCHENCK. That has already been done.

M. GARFIELD. That has been done again and again. And many of these articles have been withdrawn from public sale because there have been no bidders. The following letter from the chief of ordnance will explain the matter fully:

ORDNANCE OFFICE, WAR DEPARTMENT,  
WASHINGTON, April 1, 1868.

SIR: I have the honor to acknowledge the reference to this bureau for report of the letter of the Hon. R. C. SCHENCK of the 18th ultimo, in relation to the execution of the joint resolution of Congress reducing the expenses of the War Department by concentrating the business of the different bureaus of the Army now scattered in and around New York city, and requesting that the chief of ordnance might be directed to report in regard to the collection of salable cannon, arms, ammunition, and other surplus ordnance stores at a common point for such disposition of them as the Secretary of War may have directed, or may hereafter direct to be made, and what room would be needed for the storage of such articles; and beg leave to submit the following report:

The arms of foreign manufacture and obsolete patterns, with the ammunition for the same, and the cannon of caliber and models which have become obsolete, and are no longer required for arming the forts, or for the field service, and all other surplus ordnance stores which are unsuitable for our military service, should be sold whenever prices can be obtained; and as several attempts to sell arms and other condemned stores by public auction at the arsenals have been unsuccessful, (more than two hundred thousand stands of arms out of an aggregate of three hundred and seventy thousand advertised and offered at auction having been withdrawn either because no bids could be obtained on fair prices offered,) I am decidedly of opinion that the sales of arms and other ordnance stores should not, as a general rule, be by public auction.

The average prices obtained for arms at private sale have been nearly double that obtained by public auction for similar arms.

If the policy of selling the surplus arms and other ordnance stores at private sale, and when fair prices can be obtained, should be adopted, it will, in my opinion, be for the interest of the Government to collect the arms, ammunition, and other surplus ordnance stores, not including cannon, at or in the vicinity of New York city, which is the only great market for these articles, to be there classified, arranged, and held in readiness for sale.

There are a million of arms of foreign manufacture and irregular and obsolete patterns, and sixty million cartridges for the same, besides a large quantity of leather-work—accouterments, horse equipments, artillery harness, &c., which have been in service and should be sold, but which are worth more than the scrap value of the materials—which may be advantageously disposed of in the manner herein recommended.

Should it be decided to collect this property at New York city not less than a million and a half cubic feet will be required for its proper storage.

The views expressed in the accompanying report of Brevet Colonel Crispin, the agent of this department at New York, to whom the letter of Hon. R. C. SCHENCK was referred, are concurred in and adopted by this bureau.

The letter of Hon. R. C. SCHENCK is herewith returned.

Very respectfully, your obedient servant,

A. B. DYER,

Brevet Major General, Chief of Ordnance.

Hon. E. M. STANTON, Secretary of War.

Mr. VAN WYCK. Will the gentleman consent to amend the joint resolution so as to require the Secretary of War to first offer these articles at public sale on thirty days' notice?

Mr. GARFIELD. Very well; I will consent to that amendment.

Mr. VAN WYCK. Then I move to amend as I have indicated.

The amendment was agreed to.

The joint resolution, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## CALIFORNIA AND OREGON RAILROAD.

Mr. SCHENCK. If the bill concerning

which the gentleman from California [Mr. HIGBY] appears to be so anxious can be disposed of without a division of the House I will consent to its being considered at this time.

Mr. HIGBY. The chairman of the Committee on the Public Lands [Mr. JULIAN] and the chairman of the Committee on the Pacific Railroad [Mr. PRICE] have both examined it, and they do not object to it if the gentleman from Indiana [Mr. JULIAN] can be allowed to offer a small amendment, to which I will not object.

No objection being made,

A bill (S. No. 216) to amend an act entitled "An act to grant land to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon," was taken from the Speaker's table and read a first and second time.

The question was upon ordering the bill to be read a third time.

The bill, which was read, provides that section six of the act entitled "An act to grant land to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon," approved July 25, 1866, shall be so amended as to provide that, instead of the time now fixed in said section, the first section of twenty miles of said railroad and telegraph line shall be completed within two years after the passage of this act, and at least twenty miles in each three years thereafter, and the whole on or before the 1st of July, 1880.

Mr. JULIAN. I move to amend the bill by striking out "two years" and inserting "eighteen months;" also by striking out "three years" and inserting "two years."

Mr. HIGBY. I have no objection to that. The amendment was agreed to.

The bill, as amended, was then read the third time, and passed.

Mr. HIGBY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REAR ADMIRAL CHARLES WILKES.

Mr. WOODBRIDGE, by unanimous consent, introduced a bill (H. R. No. 1309) for the relief of Charles Wilkes, rear admiral of the Navy; which was read a first and second time, and referred to the Committee on the Judiciary.

#### EXPENSES OF INDIAN PEACE COMMISSION.

Mr. WARD, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the Secretary of the Treasury be requested to transmit to this House copies of all vouchers on file with the accounting officers for expenditures made by authority of the Peace Commission so called, under the act to make peace with certain hostile Indian tribes, approved July 20, 1867.

Mr. WARD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PERSONS UNDER MILITARY SENTENCE.

Mr. ELDRIDGE. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Secretary of War be directed to inform this House the names of all persons now under sentence by military commissions, courts, or authority at Dry Tortugas, together with the nature of the crimes charged and the term of sentence and the unexpired time now remaining. Also the same information with reference to all persons imprisoned at Atlanta, Georgia, where it is reported some twenty persons are confined in military dungeons.

Mr. SCOTFIELD. I object.

#### PACIFIC RAILROAD.

Mr. PRICE. I ask unanimous consent to take up and pass Senate joint resolution No. 137, extending the time for the completion of the Pacific railroad. It is similar to the one called up by the gentleman from California.

Mr. STEVENS, of Pennsylvania. I object.

#### CAPTAIN D. W. M'DOUGAL.

Mr. ARCHER, by unanimous consent, introduced a joint resolution (H. R. No. 307) ten-

dering a vote of thanks to Captain D. W. McDougal; which was read a first and second time, and referred to the Committee on Naval Affairs.

#### LEAVE OF ABSENCE.

Mr. GLOSSBRENNER, by unanimous consent, was granted leave of absence for ten days.

#### LAWS OF UTAH.

The SPEAKER, by unanimous consent, laid before the House the acts, resolutions, and memorials of the Legislative Assembly of Utah; which were referred to the Committee on Territories.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I call for the regular order of business.

The SPEAKER. The Chair will read in the presence of the House the resolution which now operates in regard to the tax bill. It was adopted on the 15th of June:

*"Resolved*, That after the report of the tax bill by the Committee of Ways and Means in pursuance of the order just passed, no other business shall be in order but the consideration of the bill so reported by said committee, except reports from the Committee on Enrolled Bills."

As the House sees, that rescinds the morning hour every day and excludes every other business but reports from the Committee on Enrolled Bills. Every morning the demand for the regular order of business will put the House in Committee of the Whole on the tax bill, as was the case during the trial of the President, when the House, under its own order, each day at a certain hour resolved itself into the Committee of the Whole and proceeded to the bar of the Senate.

This resolution only excepts the reports of the Committee on Enrolled Bills. There are two cases beside, arising under the Constitution of the United States, which the House cannot exclude. One is a veto of the President of the United States. The Constitution says that the House shall "enter his objections at large on their Journal and proceed to reconsider it." That is an imperative mandate of the Constitution that the House shall proceed to reconsider the question on the passage of the bill, and although a majority of the House may postpone its consideration, still the question must come up when the Speaker lays a President's veto message before the House.

The other case is where a member claims the right to be sworn in from any State in regard to which there has been recent legislation. The question may be referred to a committee; it may be postponed, but it must come before the House.

The Chair has stated these two exceptions. All other business, save these two and the reports from the Committee on Enrolled Bills, will be superseded by the tax bill until it is disposed of.

Mr. PRUYN. How about messages from the Senate?

The SPEAKER. The Chair intended to refer to those first. Of course they will always be received.

Mr. ELDRIDGE. Suppose a resolution is brought in to impeach the President?

The SPEAKER. The Chair will rule upon that when it is presented. It is not now pending.

Mr. ELDRIDGE. I do not know, it may not come up from the committee now holding a *post mortem* examination of the preceding impeachment.

Mr. GARFIELD. Can business be done by unanimous consent.

The SPEAKER. It can, but a demand for the regular order of business will be an objection.

Mr. SCHENCK. Before going into the Committee of the Whole I move that the first reading of the bill for information, as it is printed, be dispensed with.

The motion was agreed to.

Mr. ROBINSON. I wish to ask the Speaker when it will be in order to move a substitute for the bill covering only the points desired by

the House so we may be able to get away from here in reasonable time?

The SPEAKER. It will be in order at any time, but must be reserved until the committee has gone through with the pending bill. As it is a substitute for the bill, under the parliamentary law the original bill must first be perfected before the substitute can be acted upon.

Mr. ROBINSON. I would like to have the privilege of offering this sometime before the bill is perfected. The House may be three weeks in considering the long bill reported by the committee. It will never pass as reported, I apprehend.

The SPEAKER. The gentleman will have an opportunity to offer his substitute at the proper time in Committee of the Whole.

Mr. ROBINSON. May I ask to have it read?

Mr. SCHENCK. No, sir; it can be offered in Committee of the Whole at any time. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole.

The SPEAKER. The bill has not yet been referred to the Committee of the Whole. It is yet in the House.

Mr. SCHENCK. I move that it be referred to the Committee of the Whole.

Mr. FARNSWORTH. Why not consider it in the House as in Committee of the Whole?

The SPEAKER. Experience has proved that a bill of this kind can be proceeded with more rapidly in Committee of the Whole than in the House, where the yeas and nays can be called on every proposition.

Mr. ROBINSON. I move to recommit the bill. I presume that would take precedence of the motion to refer.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] still has the floor.

Mr. SPALDING. I desire to state that I withdraw my objection to the introduction of the resolution offered a little while ago by the gentleman from Pennsylvania, [Mr. COVODE.]

Mr. INGERSOLL and others called for the regular order.

Mr. SCHENCK. As the regular order is insisted upon, of course the resolution of the gentleman from Pennsylvania cannot be considered. I renew the motion to refer the bill to the Committee of the Whole.

Mr. ROBINSON. I move to recommit it with instructions to report the substitute I have indicated. I believe I made the motion to recommit after the gentleman from Ohio had surrendered the floor.

The SPEAKER. In the first place the gentleman is mistaken in the fact that the gentleman from Ohio had resumed his seat. In the second place the motion to refer to the Committee of the Whole has priority over the motion to refer to a standing committee.

Mr. SCHENCK. I demand the previous question on the motion to refer to the Committee of the Whole.

Mr. ROBINSON. I will not press my motion further. I wanted to save time.

The previous question was seconded; and the main question ordered; and under the operation thereof the bill was referred to the Committee of the Whole.

Mr. SCHENCK. I move that when the House shall resolve itself into Committee of the Whole on the internal tax bill all general debate terminate within say one hour.

Mr. MUNGEN. On that motion I demand the yeas and nays.

The yeas and nays were refused.

The motion of Mr. SCHENCK was agreed to.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the State of the Union, and proceed to the consideration of the internal tax bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the State of the Union, (Mr. BLAINE in the chair,) and proceeded to the consideration of the special order, being the



bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

Mr. SCHENCK. Mr. Chairman, I think it probable that all the time I shall claim of the House will be less than that limited by its order. I think I can make all the explanation I desire to submit in less than an hour. The committee of Ways and Means have instructed me to report the bill now before this committee for consideration, which has been framed in direct obedience to the orders of the House. By the resolution of last Monday the committee was instructed to report only that which related to the revision of the tax upon distilled spirits and upon tobacco. Two days afterward there was sent to the committee from the House an order to include in the bill and report such changes as might be deemed necessary in relation to the tax on banks. The title of the bill which is now before members in conformity with those orders explains just what the bill contains. It is "A bill to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks."

I am sorry, Mr. Chairman, that we have had to report a bill such as this. I am sorry that this House thought it necessary to call on us to present only some partial and piecemeal work in connection with the revision of the internal tax system of the country. It is but adding one more act to the quarter of a hundred which now cumber the statute-book upon this subject. I doubt the policy of these partial attempts at a revision admitted on all hands to be generally needed, and I was never more convinced that we ought not to have undertaken our work after that manner than when I came to consider the effect of the bill which we passed in March, and which on the 31st day of that month in the present year received the approval of the President—a bill to exempt certain manufactures from tax. If that bill had not been passed a general revision of the tax system would undoubtedly have taken place. But I see now in different directions in this House gentlemen who were eager for the passage of that special legislation who fell away from us as soon as they had accomplished what they particularly desired, a relief of local and special interests in which they felt the most immediate concern. And so, I fear, it may be hereafter. I fear that when gentlemen shall have accomplished an amendment of the law in regard to internal taxes, so as to make some reform in the system so far as distilled spirits, tobacco, and banks are concerned, we shall find many of them growing indifferent to any further reform embracing the general needs of the country upon all subjects which present objects of taxation. I am sorry on another account. I do not wish to revive an old controversy, nor to say anything which shall not be in perfect good temper; but the Committee of Ways and Means thought they were not particularly well treated before by this House, and the House, as the committee predicted, has gained nothing by the course which it has pursued.

The first instance upon record, perhaps, is exhibited of a committee of this House, deemed generally to be one of the most important, after they were half way or two thirds of the way through with the consideration of an important bill in Committee of the Whole, stopped by an order of the House, and the committee not even permitted to explain, in a few minutes allowed for that purpose, the condition of the bill, their views in regard to it, and what might or might not be the best policy of the House, until they obtained that privilege by filibustering for it, and then not except upon the condition that they should do it after a vote had been taken and when gentlemen had committed themselves on the question, and not then except upon the further condition that they should be replied to without opportunity of response by those who desired the House to take that course. It was predicted then that nothing

would be gained. What has been gained? I think that if we had gone on through all the past week, from Monday until Saturday, with such opportunities as we could have had, we should, by this time certainly, as the committee predicted, have gone through with the whole matter of distilled spirits.

Mr. BUTLER. I rise to a question of order. This debate is not germane to the bill, and does not explain its provisions.

The CHAIRMAN. The Chair overrules the point of order. The Chair cannot prescribe a line of debate to the chairman of the Committee of Ways and Means.

Mr. SCHENCK. I thank the gentleman for his anxious desire to have this matter fully understood. The committee then said it would probably take that week, and we are still of that opinion. And in obedience to the orders of the House, we now report upon these particular subjects. The length of time that will yet be occupied will depend upon the disposition and temper of the House to take up and press forward in good faith, according as we can agree upon the special provisions contained in the bill now under consideration, all that relates to the tax upon these articles.

But there was another reason assigned then, to which I wish now to call the attention of the House, and it is my duty to do so, why we ought not to have given the go-by, ought not to have thrown aside the greater portion of the original bill over which we had gone in order to confine ourselves to distilled spirits and tobacco only. That reason is to be found in this: throwing aside the work of the Committee of Ways and Means, which had been already revised by the Committee of the Whole on the state of the Union, we threw aside provisions made for such an addition to the revenue of the country that we are very much afraid now that the revenue may fall short of the wants of the country.

Mr. BUTLER. How much short?

Mr. SCHENCK. I will tell the gentleman. If there be retained in the present bill the additions made to the tax on banks, an increase of one half of one per cent. per year on deposits, three per cent. upon public moneys deposited with them, and an addition which the committee now propose of one per cent. per annum upon the circulation, the whole together will make an increase of taxes amounting to about three million seven hundred thousand dollars. The average deposits of Government moneys I have ascertained are about twenty-three million dollars, which, at three per cent., will give \$690,000. An increase of one half per cent. upon the average deposits of other moneys, of \$538,000,000, will give \$2,690,000, and there will be an increase of over a million dollars from the additional tax we propose upon the circulation of the banks. If that be retained in the bill, and I am told it is doubtful whether such will be the disposition of the majority of the Committee of the Whole, for it is said the House was surprised into adopting the order giving the Committee of Ways and Means authority to include banks in this new bill—if that be retained there will still be a loss by not adopting the other portions of the old bill of about twelve million five hundred thousand dollars, as we estimate it after the most careful examination.

For instance—and this is the principal item—by the bill which has been thrown aside for the present, we put dealers, wholesale and retail, particularly wholesale dealers, upon the same footing with manufacturers, and required them to pay, not one tenth of one per cent., as under the present law, but one fifth of one per cent. upon their sales above \$5,000 per annum. That alone would make a difference of about eight million dollars. Then when you add to that what is lost by not putting an increased tax upon lotteries, brokers, insurance agents, lawyers, jewelry, pianos, fire-arms, public amusements, &c., the whole together, exclusive of the increased tax on banks, amount to about twelve and a half million dollars. We regret, on that account, that we should be confined to

this tax upon distilled spirits and upon tobacco, even if we include the tax on banks.

There is another thing which it is proper—and I am instructed by the committee to do so—I should call to the attention of the Committee of the Whole. Under the absolute instructions of the House we have felt constrained to confine ourselves to that which, directly or indirectly, relates exclusively to the tax upon the articles embraced in this bill. In doing this we had necessarily to abandon a large portion of the general bill which we would gladly have held on to as a part of a system, all dove-tailed together, which we had attempted to adopt as a general revision of the present tax laws.

For instance, we had a provision that there should be a division of labor in the office, or the department of internal revenue, whichever it might be. I throw aside the question now whether it should or should not be an independent department; for I confess it seemed to be the opinion of the House that it should not be an independent department. We had provided for a division of labor, which would have resulted in much more efficiency and security in the proper execution of the law.

We had also provided for a strict accountability for money and stamps, running through several sections of the bill, all of which is now lost; and there remains the same old loose system under which I am surprised there has not been more fraud and loss than really there has been.

Then, again, we had provided seizures should be made hereafter with the consent of the collector and assessor, and upon a division of opinion between them, under the umpirage of another and a superior officer, so there should not be oppression of the tax-payer by arbitrary seizures to the extent that now occurs.

We had also a section which did away, to a great extent, with that loose system of compromising which now prevails, and hedged round the power to make these compromises, and limited the exercise of functions in that direction, on the part of the Commissioner, by restraints which would have prevented so much license as now prevails in that direction.

We had a provision against drawbacks; and I will call the attention of the House particularly to the fact we proposed to have a supervision in the different judicial districts of the collection of taxes under the authority of the collectors and assessors, and of their conduct and the conduct of all inferior officers in connection with their duty, and to dispense with the roving officers which infest the country in all directions.

We had proposed to break up the whole system of authorizing the collector or assessor to be sent from his district into another district to make seizures at his will, and usurp the functions of the local officer; and we had also done away with that old system so fruitful in the vicious practice which has heretofore and will still exist if the old system continues of appointing special agents and roving inspectors to traverse the country, seizing right and left, levying black mail, and imposing generally upon the people of the country, while they profit more than occasion, by their services, to be paid into the Treasury.

We did not believe we had the right to insert any of these general provisions; and I make these preliminary remarks for, though the committee felt itself restrained from inserting such things in the bill, if the House gets along smoothly and it is able to agree to that now reported, the committee may feel it to be its duty to move separately some of the features of the old bill along with this, so as to make the collection of the tax, on even these articles, effective.

Mr. BOUTWELL. I hope the gentleman will let me ask him a question. Do I understand the Committee of Ways and Means, who reported this bill, are opposed to it, and believe the machinery provided in this bill and in the general law is insufficient for the purpose of collecting this tax?

Mr. SCHENCK. We are by no means opposed to the bill, and if gentlemen will not think it a vain assumption I think we have reported still a good bill. But I think the bill, being taken out of even a better system and leaving out certain provisions which would have made it still more effective, can hereafter be made more effective if the Committee of the Whole is willing to concur with us in reporting some provisions in regard to the subject. For instance, the matter of which I spoke last. We will propose, outside of this tax to which we were directed to confine our attention, to have ingrafted upon this bill a provision, if the Committee of the Whole think proper, to sweep away some sixteen or seventeen hundred officers on roving commissions and have a more rigid system of supervision.

Mr. BOUTWELL. I think, Mr. Chairman, from this statement it is idle for the House or the committee to go on attempting to perfect this bill if after all it is a fragmentary, incomplete system, and I am rather of the opinion it is better. Now if the Committee of Ways and Means do not feel itself justified in reporting this as a perfect system as far as it goes, to recommit the bill now so as to have the Committee of Ways and Means devise a perfect system for the collection of the tax on distilled spirits and tobacco. It seems to me the consideration of the subject requires the consideration of the machinery in connection with the tax, whatever the system may be. I should be sorry to go on with this bill, and before we adjourn be compelled to consider another bill containing a system for the collection of the tax we levy in this. If we are in that condition I think we ought to take some other steps.

Mr. SCHENCK. It is due to the Committee of the Whole that I should go further in my explanation. My friend from Massachusetts was not here, I think, when that order was made. The order, it will be remembered, was imperative. By a majority of ten the House instructed the committee to bring in a bill confining our report to these particular subjects. I do not wish to be misunderstood. I think we have presented a bill which will, to a very great extent, remedy the abuses and provide against the evils of the present system, while regulating at the same time the tax upon those articles which are the special objects treated in the bill. But because we did not feel authorized to introduce one or two other special matters of regulation, because they do not pertain particularly to whisky and tobacco, we have prepared one or two amendments, which at the close of the bill we shall submit to the committee for their adoption or not, which we think will bring some of this machinery to the aid of the bill we have reported. But, with that exception, I think it due to the House to say that while we think we have a bill reasonably perfect, we do not wish to be understood as claiming all the responsibility of this bill. This is not a bill of the Committee of Ways and Means. It is the best bill we could make up under the instructions of the House, and we wish gentlemen to be advised that we expect them to share with us any imperfections there may be in the bill for want of its covering the ground generally. And I suppose by their votes they are willing to do that.

Now, sir, these are no new views. These are just what were in substance the remarks made at the time the committee were instructed; and with all due deference to the gentleman from Massachusetts, and to others who take a different view, we were not directly, as we thought, met upon these grounds. We were more or less jocularly and with more or less propriety, as gentlemen might so regard it, characterized as a "mutual admiration society," and we were upbraided with certain views that some of us had given on other subjects. But so far as the views we submitted to the House were concerned, I beg leave to say there was not much of argument in reply to the argument or statement we made. It is true it was said with some ingenuity that we had taken six or seven

months to prepare a bill, and it must be expected that gentlemen in the House would want six or seven months, or, at all events, some considerable time to consider it. I recollect the gentleman from Massachusetts went so far in his arithmetic as to say that the whole of the next short session added to the present one, according to his view, would hardly be sufficient to dispose of the bill.

The gentleman from Massachusetts [Mr. BUTLER] thinks I am not representing fairly his objections made at that time. I think I recollect them very well. I think we were treated to a sort of arithmetical problem, that if it took so many months to prepare a bill, it must necessarily take a great deal of time to consider it in the House, a great deal more for the Senate to consider it, and so it would consume more time than the remainder of this session, so that he really thought, admitting his premises, that he had made out a clear case that we should not be able to finish it before the 4th of March next. We were not allowed an opportunity to reply, but I thought at the time that we might have said to the House that it by no means followed because so much time was taken in the preparation of the bill that anything like the same proportionate time must necessarily be occupied in considering the bill in the House. I have always thought that just in proportion to the labor and care and assiduity with which a bill is prepared and sought to be perfected in committee, does it stand a chance of requiring less time in the House. However that may be in other cases we have had an example in this House of the readiness on the part of a great many of us to follow the lead of the committees of managers and other important committees of this House, and, under the previous question, have manifested so great a confidence in their work as to take what they offered us even almost entirely without debate, yielding our judgment to theirs.

Now, we had asked nothing of this kind. We had gone regularly into Committee of the Whole, examining the entire work of the Committee of Ways and Means, section by section, and clause by clause, with the fullest and freest opportunity for amendments. And yet we are thought to have been extravagant in our expectation that that would have been in some degree satisfactory when we have seen that in other important cases, and with other committees, a very different rule has prevailed.

But, sir, I have been by interruptions betrayed into saying a great deal more on this subject than I had intended. My desire was simply to apprise the House that abandoning for the present, at least, the general system dovetailed together, by which we had sought to fuse into one law the twenty-five laws you have now on the statute-book, under the order of the House we have selected the two or three matters segregated from the rest of that long bill to which the House seemed willing by its vote to turn its attention and did the best we could with it. But we desire to explain that before we are through with the bill, we shall probably feel it our duty to advise the House, that if they will accept one or two amendments, which will bring something of the machinery to which I have adverted into this bill to go in connection with it to the country, it will not only be to the benefit of the revenue system at large, but will particularly aid in that portion of it to which we have been required to confine ourselves in the bill reported.

What have we done on those subjects to which we have been directed to confine our attention? I ask the attention of gentlemen now while I explain in a plain conversational manner just what they will find to be the provisions of the bill.

The first subject, distilled spirits, we have treated of by introducing with some revision all or a large number of the minute details to enforce obedience to the law and the collection of the tax which gentlemen will find in the original bill from which we have taken, having

recently prepared them, those provisions. Then on the subject of the tax itself we have agreed, after discussion, to settle down upon a recommendation to the House to make the tax a direct tax on distilled spirits of sixty cents a gallon. In connection with this we have provided that the payment of that tax shall be at the distillery warehouse. We have provided, as gentlemen will find as they follow the sections, that there shall be no removal of spirits from the distillery without the payment of this tax, except in four specific cases which are the only exceptions. That is, it may be removed for direct exportation; it may be removed to be redistilled into alcohol, that alcohol being for exportation; it may be removed for manufacture into medical preparations and compositions, as provided under the present law in section one hundred and sixty-eight, and returned under bond to be exported; and it may be taken out of bond to be used in this country by scientific associations and colleges for the preservation of objects of scientific interest and curiosity. This last is a part of the present law. Gentlemen, perhaps, have not known how much alcohol is used in that way, but I believe some forty or fifty thousand gallons at least were used during the last year. They have used more than twenty thousand gallons at Professor Agassiz's museum alone.

These, then, are the only removals that can take place from the distillery without payment of the tax, and with the exception of one of them, the use of alcohol in scientific institutions, every such removal is connected entirely with the transportation of the article abroad. It may be laid down, therefore, as a general proposition that the tax we propose is sixty cents a gallon paid at the distillery, and no removals can take place from the distillery warehouse to the export warehouse for any other purpose than for exportation. There is to be no removal, as we had at first in the original bill thought of proposing to the House, from an export warehouse for any consumption in this country.

Mr. GARFIELD. Before my colleague [Mr. SCHENCK] leaves this point, I wish he would explain fully the particular reason for adopting the rate of sixty cents per gallon rather than fifty cents, or any other sum. I do not know but there may be some principle involved, which leads him to adopt sixty as the specific number, or perhaps it was merely an arbitrary choice.

Mr. SCHENCK. I have no objection to answering that question, although it is perhaps infringing a little upon the right of the Committee of Ways and Means not to expose its action. My own particular reason was this: I had satisfied myself that if the tax was put as low as fifteen cents per gallon it would crowd out this illicit distillation of molasses and prevent general illicit distillation in the country by making it unprofitable; and if seventy-five cents per gallon was not low enough for that purpose, I felt satisfied that some ten or fifteen cents lower in the rate of taxation would merely accomplish that result. For one, therefore, I was willing, if I must fall below seventy-five cents, to go at least as low as sixty cents per gallon.

There may be gentlemen here in the House who are of opinion that we ought to have gone down to fifty or twenty-five cents per gallon in order to stop illicit distillation. Without going now into an argument on that point, I will simply say that comparing all the authorities on the subject, the information obtained from distillers, traders, revenue officers, and persons disconnected with either of those, but having some knowledge of the operation of the former law—putting together the information derived from many hundreds of these persons, with all the communications received upon the subject, amounting to cords of manuscript—this was my general conclusion. I do not know that I can make my answer any clearer. It was not arbitrary; it was not a piece of mere guess-work. It was a decision in which the members of the Committee of Ways and Means

could concur; dividing between those who would go lower and those who would have the amount higher. This was a decision in which we all could concur, as one which would be likely to accomplish a great reform and break down the whisky frauds about which we were all so anxious.

But we did not suppose that sixty cents direct tax would be a sufficient burden upon this article that ought to contribute so largely to carry on the operations of the Government. If we therefore put it at sixty cents, lessening the temptation to fraud, bringing under the eye of the law more distinctly, so that it might give microscopic observation, beyond what could be done when there was a broad tax of two dollars per gallon, with all the efforts made to accomplish frauds under a tax of that kind, we thought we ought not to confine temptation to only one point, but should scatter it, so that the temptation being made small at one point, and at another, and another, and another, yet by the aggregate taxes at those points we should make it something on the average like what that article ought to pay.

Leaving the direct tax, then, at sixty cents, we come next to the consideration of what special taxes should be imposed upon distillers, to make up the aggregate contribution toward the wants of the Government. We propose that every distiller who distills fifty barrels or less in a year, shall pay \$200 as a special tax, and four dollars as a further special tax upon each barrel above the fifty barrels.

Gentlemen will find that provided for in section sixty-five of this bill. It is the same system which we had introduced in the general bill; but we have modified it in this respect; instead of imposing a special tax of \$1,000 upon every distiller who makes two hundred barrels or less a year, we have brought it down from two hundred to fifty barrels or less, so as not to crush out altogether the small distilleries in Kentucky, Tennessee, or elsewhere, where they make few barrels in a year and that of a superior quality. The principle is the same, four dollars per barrel, only the starting point is set lower down.

In the same way we propose that every rectifier who rectifies two hundred barrels or less in the course of a year, shall pay a special tax of \$200, and fifty cents additional for each barrel above the two hundred.

We have put a tax of twenty-five dollars upon the compounders of liquors. We have divided retail dealers, those who sell any less quantity than a quart of liquor to be used at the place where sold, and have classified them so according to their sales they shall pay twenty-five, fifty, one hundred, two hundred, or one thousand dollars, upon the principle that the man under the Astor House, New York, or the St. Charles, New Orleans, or elsewhere, who sells \$10,000, or even \$100,000 of liquors in this way, shall not be left off like the little retail dealer on the cross-roads, who keeps one of the groggeries of the country.

Upon wholesale dealers we have increased the tax on sales. We charge each wholesale dealer \$100 to begin with, and then three per cent. upon all his sales above \$3,000 per annum.

We charge the manufacturer of stills fifty and twenty dollars for each still or worm that he manufactures, and thus by a specific tax upon him and a special tax upon his trade, we will realize a considerable amount never before obtained from that source.

Mr. INGERSOLL asked a question which was entirely inaudible at the reporter's desk.

Mr. SCHENCK. No, sir; we propose a special tax on whisky.

Mr. INGERSOLL. Suppose the wholesale dealer sells for exportation a thousand barrels?

Mr. SCHENCK. If he takes his liquor from the distillery warehouse to the export warehouse, in bond and with all of these securities provided, and sends it out of the country, then of course it escapes tax; but if it leaves the distillery warehouse and becomes free

whisky upon the market, it must stand the tax on sales, and all the other taxes.

I must go back and repeat my original explanation. Direct tax is collected at the distillery, and whisky, when it comes from the distillery warehouse, must be taxed, except in those particular instances where it is intended for exportation or preserving specimens in museum jars.

Then we have another system of taxation, which may be called the tax on capacity. On the subject of taxation of capacity we have found where it has been attempted it has always been abandoned where it has been sought to tax the capacity of the stills or tubs themselves; but there has lately been introduced abroad in lieu of that, and which we think may be introduced with advantage at home, a tax according to the number of bushels of grain which can be mashed and fermented at a distillery. We have, therefore, added to these other classes a tax of five dollars a day on every distillery that is capable of mashing and fermenting one hundred bushels each day or less; and whenever a distillery has the capacity for mashing and fermenting fifty or one hundred bushels more, we add three dollars a day for each hundred bushels or fractional parts of a hundred bushels.

We have in the bill, as gentlemen will find, strict provisions. Unless notice is served of their stopping, they are to be taxed as if running all the time. They are by law considered always running unless it is otherwise made to appear.

One thing more. They pay two dollars a day when they do not run as a sort of tax for having a distillery which may be used.

These, then, are the three modes of taxing distilled spirits: by direct tax, all sorts of specific taxes on distillers, rectifiers, manufacturers of stills and worms, and a tax upon the capacity of the distillery to mash and ferment.

As to what amount we can collect under this system of taxation by repeated calculation I cannot make any revenue less, with any due enforcement of the law, from this source than from sixty-five to seventy millions a year.

Mr. BUTLER. What is the tax per gallon on whisky taking all these direct and specific taxes together?

Mr. SCHENCK. It is very difficult to say. The special tax of four dollars per barrel will amount to about ten cents per gallon. We have computed the barrel to contain forty gallons of proof. Then there is sixty cents to be added to that, making seventy cents. Then we cannot tell how much the tax on sales will amount to per gallon, because of the difficulty of applying it to the retail dealer and the difficulty of making the calculation between the price of the liquor and the percentage put upon that price. We have no statistics showing the prices at which the sales are made, but only the aggregate sales. But I suppose some twelve or fifteen cents will be added in that way per gallon. Then if you add the other special tax I presume the whole tax upon the liquor, spread out in this way, will amount to something over a dollar per gallon. It may amount to more, but I put it at what I suppose to be the lowest estimate. I think the aggregate of this tax will exceed a dollar a gallon.

Mr. MYERS. I desire to ask the gentleman a question, or rather two questions. In the first place, how, by the system proposed, will you be able to ascertain how many gallons the tax is to be assessed upon? Are you to ascertain it by a meter, or how? In the second place, if the system of the capacity be so good as the gentleman seems to think—and I am glad to know that he entertains that belief—why may it not be a proper mode of assessing the tax altogether? First, how do you propose to ascertain the proper tax and prevent fraud, and second, why may not the capacity system be enlarged so as to cover the whole tax?

Mr. SCHENCK. I will answer the last question first. Our object has been not to make the tax upon any particular branch of production so high as to renew the old tem-

tation under which such large frauds have been committed. But while we take care not to make it too low, and yet to make it low enough in regard to each particular mode of taxation, by scattering it over the whole product in all its various stages, this is as low as we could get a combined tax that would produce something like a sufficient revenue.

Now, as to the other question, how we ascertain the quantity of spirits, I wish the gentleman would have saved me the labor of going over several sections by having read the bill itself. He would have found in the first place that we cast around the production of the liquor such safeguards as have never been before placed around it, so as to prevent any of it from escaping from between the worm of the still or the receiving cistern and the distillery warehouse. We do not permit it to go out to the warehouse without the tax being paid, and it is to be proved to be paid by a stamp to be attached to the barrel.

Then for a further security we have provided that in making up the account of what is produced at the distillery there shall be certain calculations always made by the assessor, and every distillery shall be presumed to have produced so much in proportion to the amount of grain or mash that has been used. That is another security, all of which will be better explained if the gentleman will take the trouble to refer to the sections on that subject.

Mr. MYERS. One question further. I have read that part of the bill, and the gentleman is explaining to us what we all may here read. But I want to know whether the system does not provide for meters at the expense of the Government?

Mr. SCHENCK. Yes, sir; we have provided that the Government may adopt meters, hydrometers, saccharometers, or whatever may be deemed necessary for the enforcement of the tax, and whatever is adopted shall be at the expense of the Government. We have done that in order to take away what may seem to be a reasonable complaint by distillers of the imposition practiced upon them in having had to deposit a very considerable amount of money and wait till it is determined how much they shall pay for a meter they are required to use. We have also followed out the same principle in regard to storekeepers, as we explained once before to the committee, that they shall be paid by the Government hereafter and not by the distiller; so that, unlike the present whisky inspectors, they shall not be the slaves and bondmen of the distiller himself, but shall be under the direction of the Government, to be removed from place to place like any other officers, and not permitted to grow fast like attachments and fixtures in the distillery, as much belonging to the distiller as any other part of his apparatus.

Now, I have spoken of the mode of payment, which is to be by stamps. The committee, after examining a great number of plans and suggestions, finally provide in their bill for a stamp, and after having determined what kind of stamps should be used they procured the execution up at the Treasury Department of specimens so as to satisfy the House that such a system is practicable. All the stamps are to be put up in this form, [exhibiting a number of stamps bound together in book form.] Every collector who receives such a book is to be charged with the value in money of all the stamps and the stamps attached to them. Here is a book of stamps for forty gallons and a fraction—between forty and fifty gallons. A man has forty-seven gallons of whisky on which he pays tax. You cut off one of the stamps, which is forty gallons, and then seven of the coupons, which are between the stamp and the stamp, and then the forty-seven gallons of whisky exactly are paid for, and the collector is charged with forty-seven gallons for which he is presumed to have received the money, and he is only credited on his return of the book with as many coupons as remain attached to the stamp. We have had a series of experiments performed at the Patent Office by which



it is ascertained that these stamps may be put upon a smooth surface of wood with an adhesive substance and covered with a transparent varnish, so as to prevent abrasion or destruction by water, and that engraved stamp will be evidence that the whisky sold has paid the tax. If whisky is found traveling without such evidence of course it is to be presumed to be whisky with the tax unpaid.

Some gentlemen may say here that the committee acted, perhaps, a little partially in this matter as between Mr. Clark, of the Treasury Department, and other persons. I desire to explain that this is not the invention of Mr. Clark, or of any other person; but it is a combination of ideas first agreed upon by the committee before any engraver knew anything whatever about it. Then an engraver was called in to see whether he could execute such a stamp according to the ideas of the committee. This is another portion of the system which may or may not be adopted, depending upon the Commissioner of Internal Revenue. Each of these stamps—the specimens that I now exhibit—has a hole through it and a thin piece of tissue paper upon the back of it, the whole being engraved together, as upon one sheet of paper. It will adhere to the wooden surface of the barrel, so that it is impossible to take the stamp off without tearing the tissue paper and revealing that the stamp has been removed; so that it cannot be transferred from one barrel to another.

These are things which are left, of course, to be carried out in the administration of the law. All that the committee undertook to satisfy themselves of was that such a thing was practicable, and then to provide that those charged with the administration of the law should adopt something of the sort.

Mr. STEWART. Can the gentleman state the number of gallons of whisky now in bond and upon which no tax has been paid?

Mr. SCHENCK. It amounts at this time to between twenty and twenty-five million gallons.

Mr. STEWART. One other question.

Mr. SCHENCK. It is a little over twenty-five million gallons. It has been increasing lately.

Mr. STEWART. If the bill as reported by the Committee of Ways and Means is passed will not the owners of those twenty-five million gallons of whisky have a monopoly of the trade in whisky at a tax of sixty cents a gallon, while that hereafter made will have to pay a tax of a dollar a gallon?

Mr. SCHENCK. We have made a provision in our bill, as the gentleman will see, that every gallon of this whisky shall be taken out of bond, and the tax paid upon it in one hundred days. That settles the matter at once, so far as the payment of the tax upon that whisky is concerned. But there may be some advantage to those men who hold whisky free from this special tax, for that is what I suppose the gentleman refers to.

Mr. STEWART. Yes, sir.

Mr. SCHENCK. That is a matter, however, which we cannot help. Every change in the law benefits somebody and injures somebody.

Mr. STEWART. Will not this change benefit the whisky ring?

Mr. SCHENCK. It is impossible to do anything with the law without treading upon some one's toes and helping others, though it may not be intended. That was one of the reasons why I was very reluctant to give up the two-dollar tax. I think in many cases there is more harm done by frequent changes of the law than by adhering to the law, though that law may not originally have been the best that might have been enacted. But as we finally determined to change, and come down to a lower rate of taxation, we concluded that we would make the complete change at once. And I know of no way in which we can prevent some persons from getting some benefits, and some persons from suffering some injury, in the transition from one law to another.

Mr. BOUTWELL. I would ask the gentleman

whether it would not be practicable for the committee to propose amendments by which whisky on hand in bonded warehouses shall be subject to a duty additional to the sixty cents per gallon, which shall substantially meet the requirements of the case?

Mr. SCHENCK. That may possibly be done. But then there is another thing to be considered: there is very little honest tax-paid whisky out of the bonded warehouses now already manufactured; and in the endeavor to do justice to the Government and as between individuals by putting an additional duty upon that which is in bond you would at the same time confer a great benefit upon those who are holding illicit whisky, whisky the tax upon which they have defrauded the Government out of, which whisky is outside of the bonded warehouses.

I do not know that there is any other matter connected with this article of distilled spirits about which gentlemen care to inquire. I will now submit a few words of explanation in relation to the article on tobacco.

[Here the hammer fell.]

The CHAIRMAN. The time assigned by order of the House for general debate has now expired. The bill will now be read by sections for amendment.

The first section was read, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there shall be levied and collected on all distilled spirits on which the tax prescribed by law, has not been paid, a tax of sixty cents on each and every proofgallon, to be paid by the distiller, owner, or any person having possession thereof; and the tax on such spirits shall be collected on the whole number of gauge or wine gallons when below proof, and shall be increased in proportion for any greater strength than the strength of proof spirit as defined in this act; and any fractional part of a gallon in excess of the number of gallons in a cask or package, shall be taxed as a gallon. Every proprietor or possessor of a still, distillery, or distilling apparatus, and every person in any manner interested in the use of any such still, distillery, or distilling apparatus, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom and the tax shall be a first lien on the spirits distilled, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, and on the lot or tract of land whereon the said distillery is situated, together with any building thereon, from the time said spirits are distilled until the said tax shall be paid.

Mr. VAN WYCK. I move to amend the first clause of this section, which provides for the tax per gallon on distilled spirits, by striking out "sixty cents" and inserting "fifty cents."

Mr. INGERSOLL. I hope the gentleman from Ohio [Mr. SCHENCK] will consent that the committee now rise.

Mr. SCHENCK. I have occupied so much time in explaining this bill, that I am willing to move that the committee now rise, and I will then submit to the House the question whether they will or will not have night sessions after to-night.

The motion that the committee rise was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union pursuant to the order of the House had had under consideration the Union generally, and particularly the special order, being House bill No. 1284, to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, and had come to no resolution thereon.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate having proceeded in pursuance of the Constitution to reconsider the bill entitled "An act to admit the State of Arkansas to representation in Congress," returned to the House of Representatives by the President of the United States with his objections, and sent by the House of Representatives to the Senate with the message of the President returning the bill, have resolved that the bill do pass, two thirds of the Senate agreeing to pass the same.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. CHURCHILL.

#### ORDER FOR EVENING SESSIONS.

Mr. SCHENCK. I now ask unanimous consent that after to-day and until the tax bill, now in Committee of the Whole, be disposed of, the House shall hold evening sessions, taking a recess daily from half past four until half past seven o'clock.

Mr. HARDING. With the understanding that no other business but the tax bill shall be considered.

The SPEAKER. No other business can be transacted except by unanimous consent.

Mr. KERR. I object.

Mr. SCHENCK. I move that the rules be suspended for the purpose indicated.

The rules were suspended; and the order was made accordingly.

Mr. ALLISON moved to reconsider the vote by which the order was made; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that that body had passed a joint resolution (H. R. No. 264) to provide for the sale of the site of Fort Covington, in the State of Maryland.

The message further announced that the Senate had passed a bill (S. No. 586) for the relief of Elizabeth Carson, in which the concurrence of the House was requested.

#### CAPTAIN CHARLES N. GOULDING.

Mr. COBB. I ask unanimous consent to report back from the Committee of Claims Senate bill No. 251, for the relief of Captain Charles N. Goulding, late quartermaster of volunteers.

Mr. SCOFIELD. I object.

Then, on motion of Mr. INGERSOLL, (at five o'clock p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: A remonstrance of R. McKechnie, president, and John Collins, secretary, inclosing resolutions of National Typographical Union, against the proposed copyright law.

By Mr. DONNELLY: A memorial of William L. Banning, D. W. Ingersoll, John L. Merriam, and others, citizens of St. Paul, Minnesota, for the improvement of St. Mary's river and St. Mary's ship-canal; also, a similar memorial from the Chamber of Commerce of St. Paul, Minnesota.

By Mr. ELIOT: The petition of Richard Borden and others, citizens of Fall River, Massachusetts, praying that the collector of customs at Fall River may have an increase of salary.

By Mr. HUMPHREY: A memorial of the cigar manufacturers and dealers in Buffalo, New York, remonstrating against the increase of the internal revenue tax on cigars.

By Mr. KETCHAM: The petition of Buchanan & Fogg, of New York city, contractors for carrying the United States mail on route No. 6435, asking for increased allowance for such services.

By Mr. LINCOLN: The remonstrance of W. H. Baldwin and others, of Watkins, New York, against an increase of the tax on cigars.

By Mr. PRICE: The petition of 326 citizens of the States of Missouri and Iowa, asking for a grant of land to aid in the construction of the Iowa and State Line railroad.

By Mr. TWICHELL: The petitions of bookbinders and printers of Boston, Massachusetts, representing that the productive interests of the country are suffering and its industry paralyzed for want of protection against the cheaper labor and capital of foreign coun-

tries; that customs duties, which were sufficient under a high gold premium to create and foster manufactures, have become inadequate and must shortly prove ruinous; that much of the distress now prevailing would be relieved by the legislation suggested in the report of Special Commissioner Wells, as perfected in the tariff bill passed by the Senate, which failed in the House March, 1867, and praying that Congress will resume consideration of that measure and enact it into a law at the earliest practicable moment.

## IN SENATE.

TUESDAY, June 23, 1868.

Prayer by Rev. E. E. S. TAYLOR, D. D., of Brooklyn, New York.

The Journal of yesterday was read and approved.

## PETITIONS AND MEMORIALS.

Mr. YATES presented a memorial of Darnielle & Grout, and others, cigar manufacturers of Alton, Illinois, praying Congress to authorize the use of revenue stamps instead of inspectors' stamps, and to retain the tax on cigars at five dollars per thousand; which was referred to the Committee on Finance.

Mr. HOWARD. I present the petition of Charles Foster and numerous others, soldiers of the war of 1812, living at Philadelphia, Pennsylvania, in which they say that the soldiers of the late civil war have been rewarded with a munificence unexampled in the history of nations. They received, in most instances, bounties hitherto unheard of; liberal pay and sufficient clothing from the Government. Cities, counties, and States vied with each other in contributing to their comforts, and the nation did immortal honor to itself in thus rewarding its gallant defenders. But they ask how it is with the soldiers of 1812? They did not receive one cent of bounty; the volunteers provided their uniforms, the officers their side arms, and the militiamen their clothing at their own expense. They were not paid till four or five months, or even a longer period, after the Government alleged they were discharged; whereas the soldiers of the late war were paid when discharged in par money, while those who served in the war of 1812 received depreciated Treasury notes for their services, and the privates only eight dollars per month. They pray, therefore, that the surviving officers and privates of the war of 1812 may receive pensions and be inserted upon the pension-roll. I move that the memorial be referred to the Committee on Pensions, and I venture to call the special attention of the committee to this eloquent memorial.

The motion was agreed to.

Mr. BAYARD. I present the petition of William Notson, M. D., and others, citizens of Philadelphia, in the State of Pennsylvania, who state that in order to encourage the volunteers and militia to prompt and energetic action, and as an act of justice to the survivors of the war of 1812, all who served in that war, whether as soldiers or sailors, or were actually engaged in action, and the surviving widows of any who have died, or who may hereafter die, should be placed on the pension-roll of the United States, it now being fifty-three years since the termination of the war, while the soldiers who served in the revolutionary war with Great Britain were placed on the pension-roll in 1818, being only thirty-five years after peace was declared. I move the reference of this petition to the Committee on Pensions.

The motion was agreed to.

Mr. CHANDLER presented a petition of B. Wilkins and twenty citizens engaged in the business and commerce on Lake Superior, asking a grant of lands for the extension of the Portage Lake and Lake Superior ship-canal to Keweenaw bay; which was referred to the Committee on Public Lands.

Mr. FRELINGHUYSEN presented the petition of George C. Hutter, formerly a paymaster in the United States Army, praying to be

relieved from the payment of certain money deposited by him in banks in the so-called confederate States, and seized and used by the confederate government; which was referred to the Committee on Claims.

He also presented the petition of citizens of Philadelphia, Pennsylvania, praying that pensions be granted to the soldiers and sailors and the widows of soldiers and sailors of the war of 1812; which was referred to the Committee on Pensions.

Mr. FERRY presented the petition of Linus Parmelee, a soldier of the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. EDMUNDS. I, in common, I think, with every other Senator here, have received a petition which purports to come from citizens of the county of Philadelphia, residing at Chestnut Hill, in the State of Pennsylvania, which represents what my honorable friend from Michigan [Mr. HOWARD] read, and is signed by fifteen or twenty persons, none of whom I know, and none of whom, according to the statement in the petition, are soldiers or widows of soldiers of the war of 1812. I do not know anything as to the authenticity of the petition; but inasmuch as the right of petition is sacred, I will assume that it is authentic, and move that it be referred to the Committee on Pensions.

The motion was agreed to.

Mr. CATTELL presented a petition of citizens of Philadelphia, praying that pensions be granted to the soldiers and sailors of the war of 1812, and the widows of such as have deceased; which was referred to the Committee on Pensions.

Mr. SHERMAN. I present a petition of citizens of Philadelphia, Pennsylvania, praying that pensions be granted to the soldiers and sailors and the widows of soldiers and sailors in the war of 1812, similar in character and place of paternity to those presented by other Senators. I move that this petition be referred to the Committee on Pensions.

The motion was agreed to.

Mr. HENDRICKS. I present a remonstrance of between seventy and eighty non-commissioned officers and soldiers of the Army stationed in this city, setting forth the fact that they have been residents of this city for more than a year, and residents of the fifth ward of the city for more than three months, having no other residence, and no right to vote anywhere else than in the city of Washington; that without a hearing or an opportunity to establish their rights their votes have been denied them at the recent municipal election; and that a bill recently passed by the Senate cuts them off from a proper hearing to establish their right. They therefore present their petition to Congress, that they may have a hearing before this body. I suppose it is proper that their petition should go to the Committee on the District of Columbia, and I move that reference.

The motion was agreed to.

Mr. JOHNSON presented the petition of Anna R. Voorhees, widow of Commodore Philip F. Voorhees, United States Navy, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. POMEROY presented a petition of Joel Hyatt, praying for compensation for property taken for the use of the Government; which was referred to the Committee on Claims.

Mr. SUMNER presented a petition of Thomas Symmes, praying for an honorable discharge from the United States Navy; which was referred to the Committee on Naval Affairs.

## PAPERS WITHDRAWN.

On motion by Mr. FRELINGHUYSEN, it was

Ordered, That the petition and papers of Lizzie R. Smith be withdrawn from the files of the Senate, and referred to the Committee on Claims.

## REPORTS OF COMMITTEES.

Mr. SUMNER, from the Committee on

Foreign Relations, to whom was referred the bill (H. R. No. 768) concerning the rights of American citizens in foreign States, reported it with amendments.

Mr. SUMNER. At the same time I am directed to report back to the committee a large number of petitions and resolutions of public meetings and State Legislatures, relating to the same subject, and ask to be discharged from the further consideration thereof.

The committee were so discharged.

Mr. FERRY. I am instructed by the Committee on Patents and the Patent Office, to whom was referred the bill (S. No. 580) relating to patents, to report it back without amendment, and with a recommendation that it pass. I desire to call up this bill for its passage at some time this session at as early a day as possible. I therefore call the attention of Senators to it.

Mr. CORBETT. I offer the following resolution, and ask its present consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of reporting a bill securing the right to Indians in such manner that they may testify in cases of murder, manslaughter, rape, &c., as between whites and Indians.

There being no objection, the Senate proceeded to the consideration of the resolution.

Mr. CORBETT. I desire to state that I hold in my hand a letter from an Indian agent in Idaho Territory, setting forth a case of murder wherein an Indian was murdered by a white man, and where the case was tried in the court there twice, and the white man was acquitted in consequence of the Indians not being allowed to testify. I desire to submit the letter with the resolution and call the attention of the chairman of the Committee on the Judiciary to the case.

The resolution was adopted.

## BILLS INTRODUCED.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 564) for the relief of Huldigs Cowperthwaite and Enoch H. Vance, and for other purposes; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 565) to authorize the Secretary of State to adjust the claim of Gustavus J. Cushman for office rent while commissioner under the reciprocity treaty; which was read twice by its title, and referred to the Committee on Commerce.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 566) to authorize a bridge to be constructed between Boston and East Boston; which was read twice by its title.

Mr. WILSON. I move that the bill be referred to the Committee on Commerce; and I will simply say to the chairman of the committee that the Legislature of Massachusetts have authorized the construction of a bridge, and this is to see whether Congress will sanction the act. I call his attention to it, without committing myself in any way to the measure.

The bill was referred to the Committee on Commerce.

## ELECTION OF SENATORS.

Mr. EDMUNDS. If there be no further morning business I move to take up Senate bill No. 538, relating to the election of Senators. It will pass without any objection, I suppose.

Mr. JOHNSON. Will the honorable member permit me to say, before the bill is taken up, that I have received a note from my colleague [Mr. VICKERS] stating that he is very much indisposed, and is detained from the Senate in consequence of it at his residence in Maryland. He hopes to be here in a few days.

The motion of Mr. EDMUNDS was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 538) in addition to an act to regulate the times and manner of holding elections for Senators in

Congress. It provides that whenever any person shall have been elected a Senator in Congress, in the manner provided in the first section of the act to which this is an addition, and shall have died or shall die, or refuse to accept the office, before the commencement of his term of office and during the session of the Legislature by which he shall have been chosen, then the Legislature is to proceed, on the second Tuesday after it shall have notice of such death or refusal, to elect another person Senator in Congress in the manner provided in the first section of the act to which this is an addition.

The Committee on the Judiciary reported the bill with an amendment, to strike out in lines five and six the words "or shall die;" in line six to add the letter "d" to the word "refuse;" in line seven to strike out the words "and during the session of," and in line eight to strike out the words "by which he shall have been chosen as aforesaid, then said Legislature;" so as to make the bill read:

That whenever any person shall have been elected a Senator in Congress, in the manner provided in the first section of the act to which this act is an addition, and shall have died or refused to accept said office before the commencement of his term of office, the Legislature shall proceed, on the second Tuesday after it shall have notice of such death or refusal, to elect another person Senator in Congress in the manner provided in the first section of the act to which this act is an addition.

The amendment was agreed to.

Mr. JOHNSON. I was not here when the bill was reported by the honorable member from Vermont, and I am not certain that I know what its contents are. I rise, therefore, to ask him whether it takes from the Executive of a State, where a vacancy occurs during the recess of the Legislature, the authority to appoint.

Mr. EDMUNDS. Of course not.

Mr. JOHNSON. I ask that in reference to my own State, as our Legislature meets only biennially.

Mr. EDMUNDS. The bill is only intended to provide for an omission in the present law; so that if a vacancy happens by the death or declination of the person elected if the Legislature have not yet adjourned they may proceed to elect and fill it. It does not interfere with the executive power of appointment as it now exists.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. DAVIS. I ask for the reading of the bill as amended.

The bill, as amended, was read.

Mr. DAVIS. I would suggest one difficulty in relation to this bill. If the Legislature of the State is not to convene in its regular or adjourned session until after there shall have been a session of Congress, and of the Senate, it would be a very great expense and inconvenience to convene the Legislature expressly to make such an election.

Mr. STEWART. It does not require that.

Mr. DAVIS. It does from the reading of it.

Mr. STEWART. No, sir.

Mr. DAVIS. It provides that the election shall be made by the Legislature.

Mr. CONKLING. Will the Senator allow me?

Mr. DAVIS. Let us have the bill read again.

The bill, as amended, was read.

Mr. CONKLING. Will the Senator from Kentucky be kind enough to tell me whether there is any precedent or authority under which the Governor can appoint to fill an office of which no person has ever been the incumbent? In other words, if a Senator-elect dies or declines before he receives his office, so that in truth he was never in it, can the Governor fill that vacancy?

Mr. DAVIS. I have not examined that question; but the statement of the Senator does not reach the objection I made at all. I understand this to be the provision of the bill: whenever there is not a Senator in the cases provided for by it, by reason of death or dec-

lination of the Senator-elect, then, within a certain time, and a short time after the Legislature shall have received notice of the death or declination, it shall proceed to another election. If the Legislature is not then in session, it must be convened for that purpose according to the requisition of the bill.

Mr. EDMUNDS. Allow me to correct my friend from Kentucky.

Mr. DAVIS. I may not comprehend, as I am informed I do not, the provision of the bill. I have been asking for a copy of it, and I cannot get it. If I were to read it probably I could understand it. But that is my comprehension of the meaning and effect of the amendment adopted as in Committee of the Whole, and if I understand it correctly I think that is a conclusive objection to the measure.

Mr. EDMUNDS. My friend from Kentucky is entirely mistaken as to the meaning of the bill as amended. It provides that where a Senator-elect shall die or refuse to accept, the Legislature at a certain time after it shall have notice of that fact shall proceed to elect again. Now, I will suggest to him that if such a fact should occur during the recess of the Legislature, the Legislature could not by any possibility have notice until they met. The bill does not call on the Governor to convene an extra session or do anything else. It says that when the Legislature of the State have notice that an office which they have once filled will fail, because the person whom they have elected has declined or died, then they shall go on and elect over again. That is all it provides. It is a mere omission in the present law. It does not require the Legislature to meet, but if they are met and receive notice they shall act.

Mr. DIXON. Will the Senator allow me to suggest an amendment to this bill which possibly may obviate all difficulty?

Mr. EDMUNDS. There is no difficulty now.

Mr. DIXON. I would insert after the word "Legislature" the words "if in session." That will meet the objection. I understand that now the law does not provide for any new choice in the case of the death or refusal to accept of the person elected. The Senator says the Legislature cannot act unless in session, because they cannot be informed unless in session. Then why not put in the bill the words "if in session?"

Mr. EDMUNDS. The objection to that is that it would make the law, if my friend will pardon me for saying so, appear almost ridiculous on the face of it. The idea of a Legislature, which is a corporate body, which has no existence as a Legislature until it is met in its hall, being spoken of as a Legislature having notice if in session, as if it were possible that it could have notice otherwise, is a species of law-making that I for one would prefer to be excused from going into. The bill is not open to any dispute, when you look into it, now.

Mr. DAVIS. If the amendment is intended to have the meaning just expressed by the honorable Senator from Vermont, it is certainly worded, I think, with a good deal of infelicity. The bill, as amended, provides—

That whenever any person shall have been elected a Senator in Congress—

I should say "to Congress" myself; I would point that out as one of the infelicities of the bill—

in the manner provided in the first section of the act to which this act is an addition, and shall have died—

I will confine it to that case—

before the commencement of his term of office, the Legislature shall proceed, on the second Tuesday after it shall have notice of such death, to elect another person Senator in Congress.

I understand from the honorable Senator that the Legislature can only be notified when it is in session. If that be his meaning and the meaning of the bill, it might have been much better and more distinctly expressed. Every member of the Legislature, when the Legislature was in recess, might be informed of the death of the Senator-elect, and a ques-

tion might well be made then whether the Legislature had not been notified of the death of the Senator-elect, and whether, according to the literal provision of this act, the Legislature from some indefinite time, when each and every member of it had been notified through the newspapers of the death, would be required to convene for the purpose of electing another Senator.

I probably do not understand the provision as the honorable Senator who framed the bill intended; but I think it is his fault, and not mine. I do believe that the language is indistinct, vague, and very infelicitous, especially for a gentleman of the acumen and learning of the honorable Senator from Vermont. I thought to have been redrawn, and redrawn in better form. I think the honorable Senator from Maryland [Mr. JOHNSON] ought to have this bill referred back to his committee, and he take up the pen and put it in shape. It certainly is a little obscure and a little difficult to understand in the language in which it reads.

Mr. DIXON. According to the construction of the Senator from Vermont, the bill only provides that the Legislature on receiving notice of the death or refusal to accept shall proceed to a new election, and he says that the Legislature cannot receive such notice unless it is in session at the time. On looking at the bill I think he is right. I do not see how a Legislature can be informed of a vacancy in the office of Senator unless that Legislature is in session. I suppose the object of this bill is to provide for a case which is probably omitted in the first law.

Mr. EDMUNDS. That is it exactly.

Mr. DIXON. I have not examined the law; but it is certainly a great omission if that law has not provided for a second choice at the same identical session of the Legislature. I did not suppose such was the case; but I am told that under the law the Legislature becomes *functus officio* as to this function immediately upon having chosen a Senator, and cannot, in case of his death or refusal, elect another. This provides for that case, as I understand; and if that is the object the bill is perfectly proper.

Mr. EDMUNDS. That is the whole purpose.

Mr. DIXON. I do not say that it is not proper in other respects. Now, as to the Legislature receiving notice, some States have one mode of calling a session, and some another. In Connecticut, I think, the Legislature can only be summoned by the Governor unless they themselves provide for it by an adjournment. But I must confess, with that understanding, if that is the meaning of the bill, I see no objection to it, and I do not think it will be necessary to make the amendment that I suggested.

Mr. SPRAGUE. I desire to call the attention of the Senator having charge of this bill to a provision in the original law that acts very inconveniently for the Legislature of my State in its election of a Senator. We have two sessions each year, one for the purpose of organization in the spring, and the other in the winter for legislative business. The Legislature meets and organizes on Tuesday at the spring session, and has always adjourned each year on the following Friday, only using the week for organization preparatory to legislative business in the winter. Now, by the provision of the original law they are required to meet on the second Tuesday after the organization, in the case of an election of a Senator, and recently they were compelled to adjourn over for two weeks, which was very inconvenient for our farmers. They desire to have an effort made to modify that act, so that the election shall be held on the Tuesday after the organization and meeting of the Legislature. Therefore, I suggest to the Senator from Vermont to allow an amendment to be made of this character: that when the Legislature of a State meets and organizes on Tuesday it shall be lawful to elect a Senator the Tuesday following. That would meet our case, and would not interfere, in my judgment, with the regular working of the law.



Mr. EDMUNDS. I hope my friend from Rhode Island will not offer or insist upon that amendment. This same subject was discussed when the law was passed two years ago, and the very large concurrence of opinions then was that the most satisfactory and feasible method was to adjust it in the way that the law did, on the second Tuesday after the meeting of the Legislature, which would carry it usually about ten or twelve days into the session. It was thought just and right, as a matter of political expediency—and I use the term in its appropriate, and not in its party sense—that members of the Legislature should have an opportunity to consult with each other as to the person whom they would honor by the appointment to represent their State, and therefore that the election ought not to be brought on immediately on the meeting of the Legislature. If you were to have it at an earlier time, say the first Tuesday after the notice, or the first Tuesday after the meeting, it might sometimes happen that it would be the very next day, or even the first Tuesday of the meeting, the very day; so that the more the thing was discussed two years ago the more it seemed proper that the law should be left as it was left in the statute. I know that in the State of Rhode Island it is somewhat inconvenient, but these elections only happen once in six years, and where the Legislature of Rhode Island—as I hope they may continue to do—go through so agreeable an occupation as they have recently in meeting again for the purpose of unanimously returning my friend, I am sure it ought to be rather a jubilee than a burden. I hope my friend will not insist on the amendment.

Mr. DIXON. I beg leave to make one additional suggestion to those I have already made, and I ask the attention of the Senator from Vermont who reported the bill. This bill, it seems, is to provide for an omitted case, where the law provides for an election and the Senator-elect is supposed to have died or to have refused to accept. It strikes me, on a little further reflection, that although that may be called an omitted case, it does not leave the Legislature *functus officio* by any means. It is a case in which the Congress of the United States, having power to make rules and regulations with regard to the election of Senators, has failed to act at all. It is a case in which no law has been passed. That, I think, on reflection, is the situation of it. A Senator has been elected under a law of Congress in the supposed case. A vacancy occurs. There is no existing law of Congress. What then? Is the Legislature deprived of its power to elect a Senator? It can go on and elect a Senator under its own law and its own regulations, Congress having failed in that case to make a rule or regulation or alter a rule or regulation. I doubt whether Congress has the power to deprive the Legislature of the power to act in such a case as that.

Mr. EDMUNDS. I agree to all that.

Mr. DIXON. Therefore, although I have no objection whatever to this bill, and I do not say that it is not proper, and that it may not be the best way to regulate it, still I do not think there would be an impossibility of action on the part of the Legislature in such a case.

Mr. EDMUNDS. I agree to that entirely. But the same reason which produced the original law ought to produce this completion of it. If the different branches of the Legislature were of different political views, they might be unable to meet but for a regulation which this act of Congress in 1866 was intended to provide, to cause the representatives of the State under the Constitution to meet and elect; and this bill is only a completion of that. I agree to the law that the Senator lays down.

Mr. DIXON. I understand the Senator to say that the Legislature would not be deprived of the power to act.

Mr. EDMUNDS. Yes, sir; I say that.

Mr. HENDRICKS. At first I thought this bill was not necessary; but there are one or two cases that may occur, not likely to occur,

perhaps, that are not provided for in existing laws, and as I examined the bill in the Committee on the Judiciary I could not see any serious objection to it. There is no danger of the Governor calling the Legislature together to fill a vacancy which he may fill himself. I do not think there is any danger of usurpation in that direction. Therefore, I thought it proper to support the bill, although the occasion for this legislation may not arise very frequently.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### SENATORS FROM ARKANSAS.

Mr. THAYER. I present the credentials of the Senators-elect from the State of Arkansas, Mr. Rice and Mr. McDonald, and ask that they be read, and the oath of office administered to them.

The Chief Clerk read the credentials, as follows:

#### STATE OF ARKANSAS, to wit:

The General Assembly of this State, assembled under the provision of section two of article five of the constitution as adopted by the convention on the 11th day of February, A. D. 1868, a copy of which is hereto annexed, having on the 15th day of April, A. D. 1868, in pursuance of an act of Congress entitled "An act to regulate the times and manner of holding elections for Senators in Congress," approved July 25, 1866, chosen Alexander McDonald a Senator of the United States for the term ending on the 4th day of March, A. D. 1871.

Therefore we, John N. Sarber, president *pro tempore* of the Senate, and John G. Price, Speaker of the House of Representatives, do hereby certify the same to the Senate of the United States.

Given under our hands this 15th day of April, A. D. 1868.

JOHN N. SARBER,  
President *pro tempore* of the Senate.  
JOHN G. PRICE,  
Speaker House of Representatives.

#### STATE OF ARKANSAS, to wit:

The General Assembly of the State, assembled under the provisions of section two of article five of the constitution as adopted by the convention on the 11th day of February, A. D. 1868, a copy of which is hereto annexed, having on the 15th day of April, A. D. 1868, in pursuance of an act of Congress entitled "An act to regulate the times and manner of holding elections for Senators in Congress," approved July 25, 1866, chosen Benjamin F. Rice a Senator of the United States for the term ending on the 4th day of March, A. D. 1873.

Therefore we, John N. Sarber, President *pro tempore* of the Senate, and John G. Price, Speaker of the House of Representatives, do hereby certify the same to the Senate of the United States.

Given under our hands, this 15th day of April, A. D. 1868.

JOHN N. SARBER,  
President Senate *pro tempore*.  
JOHN G. PRICE,  
Speaker House of Representatives.

The PRESIDENT *pro tempore*. Those gentlemen will advance to the desk—

Mr. DAVIS. Mr. President, I hold in my hand the credentials of two other gentlemen for the same office of a prior date. I will ask the Clerk to read them.

The PRESIDENT *pro tempore*. They will be read if there be no objection.

Mr. HOWARD. Before the reading of those credentials I should like to understand from the Senator from Kentucky what was the authority under which the credentials he has now presented were issued? Who are the men? By whom were they selected, and when?

Mr. DAVIS. The credentials upon their face will show that. They have been on file in the office of the Secretary of the Senate for two years.

Mr. HOWARD. I suppose the matter rests right here: that the two persons whose names are mentioned in the credentials just presented by the Senator from Kentucky are persons elected under the Johnson Government; under his proclamation of 1865. Is not that the case, I will inquire of the Senator?

Mr. DAVIS. Mr. President, the papers, if read, will tell exactly how the fact is, and that will prevent any discussion of the question of their contents between the Senator and myself. I propose that the Clerk shall read them, that the Senate may be possessed of their contents, and I then propose to make a motion.

Mr. HOWARD. Indubitably the fact is as I stated, and therefore I move now to lay

those credentials presented by the Senator from Kentucky on the table; and I call for the question.

Mr. DAVIS. Mr. President—

The PRESIDENT *pro tempore*. That is not a debatable motion. The rule is that when a paper is proposed to be read, if the reading is objected to it can only be ordered by a vote of the Senate; but the motion now is to lay the paper on the table.

Mr. DAVIS. I suppose there is no motion before the Senate except the motion to swear in the Senators whose credentials have been presented by my honorable friend from Nebraska. I move that the credentials which he offers and the credentials which were presented and received by the Senate two years ago, and which are on the files of the Senate, be referred to the Committee on the Judiciary, that that committee may report which class of Senators are entitled to be received.

The PRESIDENT *pro tempore*. The question is on laying the papers proposed to be read on the table, and the motion is not debatable.

Mr. CONKLING. I rise to make an inquiry of the Chair. If these papers which it is proposed to lay on the table are before the Senate, they are offered, I take it, in connection with the other credentials or as a substitute; and I inquire of the Chair whether, if we lay them on the table, it carries the whole subject on the table or not?

The PRESIDENT *pro tempore*. The Chair cannot determine that there is any connection between the two sets of papers. The motion, if it prevails, will carry the papers embraced in the motion to the table.

Mr. CONKLING. The Senator from Nebraska moves that these gentlemen be sworn in, and presents the papers on which that act shall be grounded. The Senator from Kentucky offers other papers in connection with these; and now the motion is to lay them on the table. I should have some doubt, it seems to me, if I were in the Chair, if the papers were before the body, as I do not suppose they are, in holding that the motion to lay on the table could prevail without carrying the whole subject.

Mr. HOWARD. The Senator from New York will understand that my motion related only to the credentials offered by the Senator from Kentucky, and not to the others which have been read. Now, sir, if my motion to lay on the table is in order, I object to any further debate, and ask for a vote upon it.

Mr. CONKLING. Mr. President, I rather think we are entitled to a ruling from the Chair, and to the opinion of the Chair, whether the gentleman objects to it or not.

The PRESIDENT *pro tempore*. The Senator from New York rose to a question of order. That is proper, but it is not debatable.

Mr. CONKLING. I rose for that purpose, and I beg to submit to the Chair a suggestion. In words the motion was of course confined to certain papers, which I submit are not before the Senate, and therefore not the subject of such a motion; but if they are, they are before us in connection with the credentials first presented, and I submit that the effect of the motion would be to carry all the papers on the table. I suggest, however, that the papers to which the motion of the Senator from Michigan applies are not before the Senate at all.

The PRESIDENT *pro tempore*. It is impossible for the Chair to determine that there is any connection between these papers. We have not heard them; we do not know what they relate to. The reading of them is objected to. The Senator from Kentucky asks that certain papers be read; that is objected to; and we know nothing about any connection between them and other papers.

Mr. SHERMAN. I rise to a question of order. A motion is made to lay certain papers on the table. Any Senator has a right to have them read to know how to vote on the question of laying on the table. He has a right to ask that the papers may be read so as to inform himself what they are in order to decide

how to vote, whether to lay them on the table or not. If Senators will allow the papers to be read I presume I shall then vote for the motion of the Senator from Michigan, but I think we ought to hear the papers read. They are brief.

Mr. POMEROY. It seems to me another question of order might be raised, whether it is proper to read the credentials of men who are dead.

Mr. HENDRICKS. I should like to know how many questions of order are in order.

Mr. POMEROY. I had information which satisfies me, and I think it is a matter of public notoriety, that Mr. Jones is dead, and one of the credentials offered by the Senator from Kentucky relates to Mr. Jones.

Mr. SHERMAN. How do we know whether they are the credentials of Mr. Jones or Mr. Smith until they are read?

Mr. POMEROY. They have been here for two years. It is not the first time that they have been presented to the Senate. Every Senator has heard them read before this.

Mr. HOWE. Mr. President, it strikes me that there is another question of order that might be raised—

The PRESIDENT *pro tempore*. We will decide one question at a time.

Mr. HOWE. Will the Chair indulge me in a single suggestion?

The PRESIDENT *pro tempore*. We will begin at the beginning, and we will hear no argument until this is decided. Then the Senator can appeal and argue the appeal, but not till the Chair has decided the question.

Mr. HOWE. I have not heard anything to appeal from yet.

The PRESIDENT *pro tempore*. The Senator from Kentucky offers papers and asks that they be read to the Senate. The reading is objected to, and a motion is made to lay those papers on the table without knowing what they are. That is a matter under the control of the Senate, and the rule is that that question is not debatable. The motion, I suppose, is in order. The Senate may lay papers that it knows nothing about on the table for aught I know, if they see fit to do it. The Chair thinks it is in order, and the question is upon the motion to lay on the table, and that is not a debatable question.

Mr. HENDRICKS. Before I vote on that question I wish to know what papers they are, and therefore I ask that they be read.

Mr. CONNESS. That is not in order.

The PRESIDENT *pro tempore*. A Senator has the right to call for the reading of the papers before any question is put in regard to them, and they will be read if the Senate see fit to have them read.

Mr. STEWART. I call for the reading of the indorsement.

The PRESIDENT *pro tempore*. In regard to the reading of papers the rule is that if the reading of any paper is called for and it is objected to it shall be determined by the vote of the Senate. Is there any objection to the reading of these papers?

Mr. CONNESS and others. I object.

The PRESIDENT *pro tempore*. Objection being made, the question must be decided by the Senate. The question is: Shall the papers be read?

Mr. HENDRICKS. I ask for the yeas and nays on that question.

The PRESIDENT *pro tempore*. Under our rules this question must be decided without debate.

Mr. HENDRICKS. I ask for the yeas and nays. I want to know whether a Senator has a right to have a paper read before he votes on it. I do not know what these papers are.

The yeas and nays were ordered; and being taken, resulted—yeas 30, nays 16; as follows:

YEAS—Messrs. Bayard, Cole, Conkling, Corbett, Cragin, Davis, Dixon, Doolittle, Drake, Edmunds, Fessenden, Fowler, Harlan, Henderson, Hendricks, Johnson, McCreey, Morgan, Morrill of Vermont, Morton, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Ross, Sherman, Sprague, Trumbull, Van Winkle, Willey, and Yates—30.  
NAYS—Messrs. Cattell, Chandler, Conness, Ferry,

Frelinghuysen, Howard, Howe, Morrill of Maine, Nye, Pomeroy, Stewart, Sumner, Thayer, Tipton, Wade, and Wilson—16.

ABSENT—Messrs. Anthony, Buckalew, Cameron, Grimes, Norton, Saulsbury, Vickers, and Williams—8.

The PRESIDENT *pro tempore*. The papers will be read.

Mr. CONNESS. Now, Mr. President, before the reading takes place, I desire to inquire of the Secretary of the Senate how the papers, having been upon the files of the Senate and in its custody, came in the possession of the Senator to be presented here again? I ask that question.

Mr. EDMUNDS. Let them be read first that we may know what they are.

Mr. DAVIS. I will answer the Senator from California.

Mr. CONNESS. I ask the question of the Secretary first.

Mr. DAVIS. You have no right to put a question to the Secretary. I make that point of order.

The PRESIDENT *pro tempore*. The Chair is informed that these papers were delivered to the Senator on his application.

Mr. CONNESS. Will the Chair please repeat the statement?

The PRESIDENT *pro tempore*. I am informed that the papers were delivered to the Senator from Kentucky on his application.

Mr. CONNESS. From the files of the Senate?

The PRESIDENT *pro tempore*. I suppose so.

Mr. DAVIS. That is the fact.

The PRESIDENT *pro tempore*. The papers will be read.

The Chief Clerk read as follows:

EXECUTIVE OFFICE,  
LITTLE ROCK, November 26, 1866.

STATE OF ARKANSAS, to wit:

The General Assembly of this State, on the 24th day of November, 1866, having, in pursuance with the Constitution of the United States of America, chosen John T. Jones a Senator of the United States to fill the vacancy in the senatorial term commencing the 4th day of March, A. D. 1865, by the present General Assembly declaring the election of W. D. Snow for that term to be invalid and illegal:

Therefore I, Isaac Murphy, Governor of the State of Arkansas, do hereby certify the same to the Senate of the United States.

Given under my hand and the seal of the State of Arkansas this 26th day of November, 1866.

[L. S.] ISAAC MURPHY,  
Governor of Arkansas.  
ROBERT J. WHITE,  
Secretary of State.

STATE OF ARKANSAS, EXECUTIVE OFFICE,  
LITTLE ROCK, March 4, 1867.

STATE OF ARKANSAS, to wit:

The General Assembly of this State, on the 21st day of February, 1867, having, in pursuance with the Constitution of the United States of America, chosen Augustus H. Garland a Senator of the United States for six years, commencing on the 4th of March, 1867, to fill the vacancy occasioned by the resignation or non-acceptance of Andrew Hunter, who had previously been elected United States Senator from this State for said term:

Therefore I, Isaac Murphy, Governor of the State of Arkansas, do hereby certify the same to the Senate of the United States.

Given under my hand and the seal of the State of Arkansas this 4th day of March, 1867.

[L. S.] ISAAC MURPHY,  
Governor of Arkansas.  
ROBERT J. WHITE,  
Secretary of State.

Mr. HOWARD. I move that those two papers lie on the table.

The PRESIDENT *pro tempore*. It is moved that the papers just read do lie on the table.

The motion was agreed to.

Mr. DAVIS. Those papers are well laid on the table, because they were on the table at the time the motion was made, as the records show. They were presented some time ago, and were then received and laid on the table; and they have been there from that time to this. I move now, Mr. President, that the credentials just read, with the credentials offered by the honorable Senator from Nebraska, be referred to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. The papers are on the table at present.

Mr. DAVIS. I move, then, that the credentials presented by the honorable Senator

from Nebraska be referred to the Committee on the Judiciary for a report. I suppose that that motion is debatable, is it not?

The PRESIDENT *pro tempore*. It is debatable.

Mr. DAVIS. These papers carry evidence in favor of two classes of claimants to seats in the Senate. It is a general rule that the older title is the better title. It is a rule in the Senate *prima facie*. I make the motion to refer the credentials offered by the honorable Senator from Nebraska to the Judiciary Committee, that the committee may have the subject before them, with general power to inquire who are the Senators from the State of Arkansas according to the Constitution; whether those Senators be the gentlemen whose names are expressed in the credentials offered by the honorable Senator from Nebraska, or the gentlemen whose names are expressed in the credentials which I have had read. That is an important question. It is an important constitutional question. It is an important question that enters into the civil history of the country of this day; and I make the motion with a view to have the question in both aspects referred to the Judiciary Committee, that that committee may report upon the case and settle the precedent that should arise properly on the facts now before the Senate. I presume that if that reference be made it will give rise to two reports from that committee, one by the majority and one by the minority. I have my own definite opinion, as no doubt every Senator has his, in relation to the true rule of law and the Constitution that governs this matter. Upon that question I suppose there will be a division among the committee, and probably there will be two reports, one by the majority and one by the minority. The report of the majority, no doubt, would receive the sanction and approval of the Senate, and in conformity to that report these gentlemen would be admitted to their seats in this body; but for myself I have no doubt that the report of the minority of the committee would contain the true principle of the case, and the principle that ought to rule the action of the Senate. It is not with a view to any present action of the Senate on that question that I make the motion, but simply that the Committee on the Judiciary may have the whole subject under its consideration; and if there be, as I have no doubt there would be, diverse views in that committee on this subject, that the diverse views of the committee might have expression in a report made both by the minority and the majority of the committee, and that this double expression of conflicting opinion might be entered upon the archives of the Senate to be a part of the civil history of the country in relation to this subject to be perpetuated in the future.

Mr. HOWARD. Mr. President, the Senator from Kentucky seems desirous to continue and expand the controversy which for years past has existed between the Executive of the United States and the Congress of the United States, in respect to the right and power of taking the initiatory steps for the reconstruction of the rebel States. On the other hand, I desire to bring that controversy to a close as soon as practicable, and to give the country rest and quietude in respect to that agitating topic.

He asks to have the credentials presented by the honorable Senator from Nebraska referred to the Committee on the Judiciary, for, as he says, the purpose of enabling that committee to solve the great constitutional question which he presents to the Senate, and upon which he is kind enough to inform us that his opinion has long since been made up. Sir, the Senate and House of Representatives, the law-making power of the United States, long since solved that great constitutional question. They did so when, in the enactment of the reconstruction acts, they declared that all the governments then existing in the rebel States were in their essence illegal governments, as established by Mr. Johnson, and that they could be regarded and should be regarded in no other

light than as provisional, until substantial, permanent governments could be inaugurated under the reconstruction laws. We therefore have settled the question that the bogus Legislature of Arkansas, organized under the order of President Johnson in 1865, was not a legal, constitutional government, and we passed a law to enable the people of that State to call a convention, for the purpose of forming a new constitution and electing a new State government, in pursuance of the terms of that act. They have done so, and the gentlemen who now present themselves to the Senate and ask for admission are the persons who were thus duly elected by the Legislature of Arkansas, assembled in pursuance of our own laws; and thus this great constitutional question, so far as it depends upon the power of Congress, is settled; it is fixed and forever at an end, so far as the State of Arkansas is concerned; and all that remains for us to do here is to keep our faith with the people of that State, and to admit Senators properly elected under their new constitution to seats in this body.

Mr. HOWE. Mr. President, I believe the usage has obtained when a Senator has been compelled to vote upon a question without offering a word of explanation of his vote, that he should take the next debatable question that is presented to the Senate to explain his reasons. Availing myself of that privilege, I want to say one word, while this question is pending, in explanation of my vote on the question of reading those credentials.

The Senator from Kentucky offered those credentials and stated that they had been on the files of the Senate some two years. With that statement in my ears I thought I could take judicial notice, if it is proper to use the expression, that they were precisely the credentials which have been read—credentials which were offered here by gentlemen formerly claiming to be elected to the Senate, and which were by the vote of the Senate laid upon the table. I thought, if that was the fact, he had no right to present those credentials here. I supposed he was not rightfully, legally in possession of them. Of course there was no impropriety in the Clerk's delivering them to him, or his taking them, under the usage of the body; but I supposed that the fact of having them in his possession under those circumstances did not authorize him to make any motion upon them or present them to the Senate. The Senate had them in its custody.

Mr. DAVIS. Will the honorable Senator permit me to say a word?

Mr. HOWE. Yes, sir.

Mr. DAVIS. I made no motion in regard to them.

Mr. HOWE. I understood the Senator to move their reference to the Committee on the Judiciary, with the credentials offered by the Senator from Nebraska. I understood him to make that motion upon those credentials, and I understood him to call for the reading of those credentials. I thought neither of those steps could be taken. I was called upon to vote whether they should be read or not. I thought they ought not to be read, because the Senate never had allowed them to be taken off its table; and yet, by the vote of the Senate, those papers which had once been laid upon the table, without any motion to take them off, have been read here. It is not a very grievous thing to complain of. I only take the opportunity to make this statement in justification of the vote I gave, because I do not think it was a very heinous vote to give under the circumstances.

Mr. TRUMBULL. Mr. President, before disposing definitely of these credentials I think it somewhat important that we should understand exactly what they are, and adopt a rule that may guide us in regard to similar cases which will be presented doubtless within a few days. I see by the newspapers that the Legislature of Florida has also elected Senators, and Georgia, and North and South Carolina, and Alabama, will all of them elect Senators in a few days, I trust, who will present themselves

here. Congress passed a bill, which became a law yesterday, declaring that the State of Arkansas was entitled to representation in the Congress of the United States under the constitution which was formed and adopted by the people recently, within a few months, and to-day the credentials of two gentlemen are presented as having been elected to the Senate by the Legislature of the State of Arkansas. These credentials are certified to by the presiding officers of the two houses of the Legislature of that State. Manifestly this election did not take place under the act of Congress prescribing the time and manner of electing Senators. That act requires the Legislature of a State, on the second Tuesday after it convenes, when there is a vacancy in the office of Senator from that State, or the term of a Senator is about to expire, to proceed in each house separately to vote for a Senator, and to meet on the next day and compare the votes of the two houses together, and if both houses have voted for the same individual that individual is declared to be the Senator-elect from the State; if they have not the two houses then in joint convention they proceed to elect a Senator; and the law further requires that the Governor of the State shall give a certificate which constitutes the credentials, stating the election, and the law specifies the facts to be stated in the certificate. The certificates in these cases are not in compliance with that act of Congress. The Senators were elected, as appears by the certificate, before Congress had passed the act recognizing the State of Arkansas, or the government which has been set up there as entitled to representation in Congress, and they present themselves in the same condition that Senators elected from new States have always presented themselves.

It has been the practice from the foundation of the Government whenever new States were formed from Territories for the Legislature, before the State was formally admitted into the Union, to organize and elect its Senators, and when Congress subsequently recognized the State organization it has been construed to have relation back to the time when the organization took place, and the acts of the Legislature have been held to be valid, and the Senators thus elected, although they were elected by a Legislature not at the time recognized as a Legislature of a State of the Union, have been held to be Senators elected by the Legislature of the State, and have been admitted to their seats. It was, only within a few years, perhaps within two or three years—I have not the act before me, and do not remember its precise date—that Congress legislated at all upon the subject of the election of Senators. Before that time it left each State, through its Legislature, to fix its own time and manner of electing Senators. In some States they were elected by a joint convention of the two houses composing the Legislature; in other States each house acted separately, and it required the joint concurrence of the two houses acting separately to perfect an election. Now, Congress has legislated; but notwithstanding this legislation, which does not apply to a case like the present or to the case of new States, it is, I apprehend, competent for Congress to recognize an election which has taken place, as this one in Arkansas has, before the Legislature was recognized as the legitimate Legislature of the State and without having the certificate which is prescribed by the law under which elections took place in States duly organized. It is certainly competent for the Senate alone to pass upon the qualifications and elections of the members of the body.

Certainly nothing is to be gained by requiring the particular evidence specified in the statute. The object of the statute in requiring the Governor to give a certificate of the election of Senators was to prescribe a mode which should be simple and convenient and easy of execution, and to avoid any controversy as to the evidence; but if the Senate has satisfactory evidence of the election, that is all that is requisite. We have decided that this State

government inaugurated in Arkansas is the legitimate State government. We have recognized this Legislature as having authority to elect Senators. It has made that election. I presume nobody doubts that there is sufficient evidence on your table of the election of the gentlemen who have presented themselves here as having been elected; and it is now for us to decide whether we shall receive these gentlemen notwithstanding the act of Congress. I think we may do so; and doubtless we could refuse to do so and compel the Legislature of Arkansas again to go into an election.

Mr. EDMUNDS. I would like to ask my friend a question as he is speaking on this subject; and that is what the rule is in relation to this form of election which elects one of these gentlemen to a particular term less than six years, and another to another term less than six years. If it were a case of a vacancy in the representation of a State, of course under the constitution the State Legislature would fill up the vacancy after the Governor had exercised his power, if he had done so. If those States are to be regarded as in the nature of States whose governments were completely disorganized, then the question I wish to put to my friend for his consideration and that of the Senate is whether these Senators ought not to have been elected in general and under the Constitution, which provides the specific manner of ascertaining their terms, shall be classified by lot, or whether we ought not now to go through with the classification as the Constitution requires. That is a question which I wish to suggest for his consideration, and it is a question of considerable practical importance under the Constitution.

Mr. TRUMBULL. That is a subject to which I had not paid special attention, and I have only given it the reflection which has been within my power since the question has been propounded by the Senator from Vermont; but it seems to me that these Senators are elected properly in that respect. Arkansas was a State of the Union, and the terms of her Senators were fixed when Arkansas was admitted into the Union as commencing at a particular time. The period of six years for which each one serves is a fixed period; and it is no matter whether Arkansas had Senators a portion of this time or not. Suppose that her government had not been disorganized, but for some reason or other she had had no Senators for a dozen years; still the periods would run on, commencing and terminating at a particular point of time, which could be ascertained with certainty by going back to the first drawing of terms by her Senators when the State was admitted. I have not looked to see, but I take it for granted that these persons are elected to fill out terms which have already commenced. Perhaps the term of one Senator will terminate on the 4th of March, 1869, and the other on the 4th of March, 1873. I do not know how that may be in this case; but these are fixed terms, and there being no Senators to fill the terms which expire on those days, and Arkansas having now got into a position that authorizes here to elect Senators, she elects them to fill out those terms which have already commenced to run.

Mr. EDMUNDS. Then you claim that these are vacancies in the representation of the State, within the meaning of the Constitution.

Mr. TRUMBULL. I claim that the term having been once fixed, the persons now elected are elected to fill out those terms which run on, and there is no necessity for the drawing of lots. The Senator from Kansas [Mr. POMEROY] has handed me a list showing that in the case of Arkansas the term of one Senator will expire on the 4th of March, 1871, and of the other on the 4th of March, 1873, so that these terms have gone on in the same manner as if the State had been represented all the time. I think there is no difficulty in that respect, and I see myself no insurmountable difficulty to allowing these Senators to be sworn on the evidence which is presented. It will facilitate the reorganization of these States to



allow this to be done. I know of nothing that is to be gained by remitting them back to the same Legislature, to be elected over again in a particular mode, when that mode was not applicable to the case under consideration.

Mr. THAYER. I will state to the Senate that the Legislature of Arkansas did follow the provisions of the law of 1866 regulating the election of Senators in every particular; that is, the election took place in each house on the second Tuesday after the meeting of the Legislature; and the next day the two houses met in joint convention and declared the result. The provisions of the law in that respect were fully complied with. The Senator from Illinois has called attention to the certificate. It is signed, it is true, by the presiding officers of the two houses for the reason that the Legislature did not recognize the old Governor and the new Governor had not taken the oath of office, was not in possession of the office, and was simply Governor-elect. They therefore furnish the next best evidence, the official certificate of the president of the senate and speaker of the house. I suppose what the Senate wants is evidence of the election, evidence sufficient to satisfy the Senate that these gentlemen were duly elected. The provision of the law is that it shall be the duty of the Governor to certify the result of the election. But we can take the next best evidence, and that is furnished. I can hardly conceive that the absence of the Governor's certificate under these circumstances would afford sufficient ground for refusing to administer the oath of office to these gentlemen.

In regard to the reference of these credentials to the Judiciary Committee, I can hardly conceive of any reason for that. The acts of Congress under which these gentlemen appear here have been complied with in every particular, as Congress has declared in the act which became a law yesterday. That act declared that Arkansas, having complied with all the conditions prescribed by Congress, is now entitled to representation. I cannot, therefore, perceive any reason for a reference of these credentials. There are no contestants; no other gentlemen appear here claiming the seats. We cannot recognize any election which took place under the provisional government. We can only recognize the acts done by virtue of the authority of Congress as conveyed in the laws it passed, and the bill which became a law yesterday. I hope, therefore, no further objection will be made to these Senators being sworn in.

Mr. HENDRICKS. Mr. President, the real questions that arise upon an objection to these credentials were, in my judgment, settled by the passage of the bill of yesterday. It is known to the Senate that I do not believe in the right of Congress to establish State governments; but as this is the first of the States that has presented claims for admission in the Senate under what is called the reconstruction policy, it seems to me that the Senate should take the most liberal action possible. But I think these credentials should go to the proper committee. Other States will be here very soon asking that their Senators be received; and although most of the questions are concluded by the action of the Senate in passing the bill, or will be when the omnibus bill shall have passed, yet as these elections are likely to take place in a very irregular manner the credentials ought to be examined by the proper committee. Upon that ground I shall vote for the proposition of the Senator from Kentucky, not to delay the admission of these gentlemen to their seats, but for the purpose of seeing that the election has been so far regular at least that we ought to recognize it, and to see that the evidence is satisfactory.

In this case, we have not the ordinary evidence that comes to the Senate. There is not a certificate here from the chief executive officer of the State under the seal of the State, but the separate certificates of the presiding officers of the two branches of the Legislature.

Mr. EDMUNDS. A general certificate.

Mr. HENDRICKS. Very well; it amounts to a separate certificate. It is the joint certificate of the two, each certifying, I suppose under the act of Congress, the action of his body. If this election took place according to the law regulating the election of Senators, this is the separate certificate of the two presiding officers, because the president of the senate could not know officially what took place in the house, nor could the speaker of the house know officially what took place in the senate, and if they united in the certificate it amounts simply to a certificate each for his own body.

The question suggested by the Senator from Illinois, in my judgment, is an important one. How far the Senate is now bound by the law is worthy of very careful consideration. In the absence of law on the subject, the Senate may admit under its general constitutional power such persons as Senators as they deem to have been properly elected; but as Congress has prescribed the mode of an election, it is worthy of very deliberate consideration how far each branch is bound by that law. I understand from the Senator from Illinois that this election did not take place according to the law, but in some irregular manner.

Mr. THAYER. Oh, no; it was in exact accordance with the law.

Mr. HENDRICKS. The Senator from Nebraska says that it did take place exactly in accordance with the provisions of the law.

Mr. TRUMBULL. I meant to be understood as saying that it did not take place in accordance with the law, the Legislature at that time not being recognized by Congress as a Legislature. It could not, of course, act in accordance with the law until there was a State government in Arkansas authorized to elect Senators, and there was no State government in Arkansas authorized to elect Senators at the time this election took place. The act of Congress recognizing that State organization is of a subsequent date, and of course it could not, therefore, be in strict compliance with the law. But I proceeded to say that I supposed the action of Congress subsequently might have relation back, so as to make valid what then took place. I understand from the Senator from Nebraska that the form of proceeding was in accordance with that prescribed by that act of Congress.

Mr. THAYER. Yes, sir; that is what I meant to say.

Mr. HENDRICKS. I have no special feeling about this matter. I think it is safe to make this reference, as this is the first of these States coming in under the reconstruction acts, not only that the evidence of the election may be examined, but any other question that the Committee on the Judiciary think properly arises.

Mr. JOHNSON. I think the credentials should be referred, but I rise for the purpose of expressing an opinion which I entertain, subject to correction if I am in error; and that is that the authentication of the credentials is sufficient. It is a subject that I had occasion to consider when it was thought to be possible that a difficulty might arise in my own State. At one time it was believed that, in consequence of a failure to elect a Senator from Maryland strictly in accordance with law, the Governor of the State could decline to give his certificate. I was consulted at that time, and came to the conclusion, in which I had entire confidence, that if he did refuse to give his certificate and the election should turn out to have been according to law, the Senate would consider the credentials sufficiently authenticated if they were signed by the presiding officers of the two houses.

But, for the reasons stated by my friend from Indiana, I think it very advisable that these credentials should be referred to the Committee on the Judiciary, that some general rule may be established by which all subsequent difficulties may be averted. It is true that in one sense the election was not held in this instance according to the act of Congress

for the reason stated by the honorable member from Illinois, that there was no Legislature in existence recognized by Congress as the Legislature of the State. But that has often occurred. In some instances there have been enabling acts, constitutions have been framed and adopted by the people, and Senators have been elected by the Legislatures before the States were admitted into the Union; but when they were admitted into the Union the Senators were received. Even in the case of California, which became a State without any enabling act, the Senators elected in advance of her admission were received.

In relation to the first point, it appeared to me that the provision that the Governor was to authenticate the credentials was merely directory, and could be dispensed with in all cases where it was found impossible that that should be done, either because the Governor declined to sign them, or because there was no Governor in office.

Mr. MORTON. Mr. President, I understand a question is raised in regard to the authentication of these credentials, as to the evidence of this election. It is not necessary that these credentials should set forth that the election took place in the precise form marked out by the statute. The credential that I hold in my hand declares that the election was held in pursuance of the act of Congress of 1866, specifying the act. In the absence of any showing to the contrary, shall we not presume, this statement being uncontradicted, that the election was held in the very form prescribed by that act? Is it necessary that it should go on and say that the two houses met and did thus and so, and afterward met together to consider the question of an election? That is all embraced in the general declaration that the election was held in pursuance of the act of Congress.

These credentials are signed, not by the Governor, but by the president of the senate and the speaker of the house of representatives. Is not that all the evidence that is necessary? You have not made the certificate of the Governor necessary. The act of Congress does not do so. It goes on to state how this election shall be held, and the concluding section of the act reads as follows:

"That it shall be the duty of the Governor of the State from which any Senator shall have been chosen as aforesaid to certify his election under the seal of the State to the President of the Senate of the United States, which certificate shall be countersigned by the secretary of State of the State."

It shall be the duty of the Governor to make the certificate; but you cannot compel him to perform that duty. He is a State officer. His certificate is not indispensable. If there is other evidence which satisfies the Senate that the election was held in pursuance of the act of Congress of 1866, that is enough. Suppose the Governor refused to make the certificate altogether. He has failed in this case from some cause; it is not important to inquire what that cause was. Suppose he refused to make it. He is a State officer, and you cannot compel him to make it. You cannot punish him for not making it. If he refuses to make it that does not invalidate the election. If evidence is produced which is satisfactory to the Senate that the election was held in pursuance of the act of Congress, that is enough. If the Governor makes the certificate, that is conclusive. Congress need not go behind that. But suppose he refuses to do it, what are you to do? Does the election fall to the ground? You cannot force him to do it. You cannot compel him by a *mandamus* or by any other authority to make the certificate. But, sir, he has not got the power in his hands to defeat an election. If the evidence is satisfactory that the act of Congress has been complied with, that these men were elected in the way pointed out by that act, it is all that ought to be required. I do not care whether the Governor failed to make the certificate because of accident or sickness, or because he refused to make it; it is not important, it is not indispensable to the election. The question is:

was the election held in accordance with the act of Congress, and if it was, whatever satisfies the Senate on that subject is sufficient.

Mr. HENDRICKS. Will my colleague allow me one moment?

Mr. MORTON. Certainly.

Mr. HENDRICKS. If he understands me as saying that the certificate of the Governor is essential to the right of the party to his office he misunderstands me. It is the election which gives the man a right to his office, and the certificate is but evidence of the election. But as the law prescribes the character of the evidence that shall be furnished, in the absence of such evidence ought not the evidence presented to be examined by a committee? That is all I undertake to say.

Mr. MORTON. If there was any doubt about it, it might be proper to do so. The certificate of the Governor is not here, but the certificate of the two presiding officers is here. The Senator will admit that the certificate of the Governor is not indispensable. The absence of it does not defeat the election. It is simply a question, after all, whether there is satisfactory evidence before the Senate that these men were elected in pursuance of the act of Congress. The speaker of the house and the president of the senate say they were. Does anybody doubt that this certificate is true? There is no doubt entertained by anybody here on that subject. Therefore, a reference to a committee is a mere matter of form, which can do no good to anybody, and only accomplishes delay. For that reason I object to the reference. This great work has suffered many delays. This act is the consummation of a work that has been going on for a year and a half, or nearly so. It is time it was ended. Here is evidence that leaves no doubt upon the mind of any Senator here. There is no question about the fact. These men have been elected in pursuance of the act of Congress. Why not let them be sworn at once?

Mr. DAVIS. Mr. President, a motion was made to admit two gentlemen as Senators from the State of Arkansas. Their credentials were presented, and it was proposed that they should take the oath required by the Constitution and the law. I thought that it was not regular, but against the right and truth of the case that those two men should be admitted to seats in the Senate. I therefore made a question upon that right, as it was my prerogative to do. They are the first of a series of Senators who are to be introduced under the reconstruction laws, and I conceived that it was an important action on the part of the Senate to admit them; and as I believed that they were not entitled to admission I decided to make the question at least, and I made it in the form of moving that the credentials of these gentlemen be referred to the Committee on the Judiciary. I had applied to the Secretary of the Senate at his office before to see these credentials, to know in what form they had been made; but they were not on file, and the objections which now come up on their face and in the form of the election I did not know of, as the credentials were not with the Secretary and I had no opportunity of examining them. Upon my motion to have their credentials referred I was using the credentials of other men, previously made out in their favor, as a part of my remarks, and it was only in that form, as a part of the remarks that I intended to make upon the case, that I asked to have them read by the Clerk. I supposed that if the credentials of the men who are now presented are referred to the committee the other credentials and all other testimony bearing upon any questions in the case of course would go before that committee. In making the motion, it was my intention and my purpose to bring as far as I could before the Senate and the committee, if the question should be referred to the committee, all the testimony bearing properly upon any question arising in the case.

Now, Mr. President, it turns up, after the debate has commenced, by the admission of the honorable chairman of the Committee on

the Judiciary, that the election of these Senators took place before (according to the principle of the majority of the Senate) the Legislature of Arkansas was a constitutional and legal Legislature. I understand that position to be conceded, that this body, calling itself the Legislature of Arkansas, got together and proceeded to make an election by which these two gentlemen were selected as Senators from that State to the United States Senate, when, according to the principle of the majority of the Senate, there was no such thing in existence as a constitutional and legitimate Legislature of the State of Arkansas. It is conceded that the election took place by a body that was not authorized to make it, which, according to the principle of the gentleman, had no legitimate power to make it; and yet, as Congress yesterday passed a law declaring that Arkansas was entitled as a State in the Union to be admitted to representation in both Houses of Congress, it is contended that Congress should therefore sanctify and make valid this informal and void election of Senators from that State. It is a singular position, to say the least, that an election which had no validity, which was unauthorized by the Constitution and the laws, and therefore utterly void, can be made good and valid by the action of Congress. I ask, under that state of fact and of principle, who would make the election of these Senators, the Legislature of Arkansas or the Senate of the United States?

Mr. MORTON. I should like to ask the Senator from Kentucky one question. I ask him if it is not consistent with the whole practice of the Government in the admission of States? Territories are formed as States, but, before they are admitted, I ask him if their Legislatures do not elect Senators at a time when they are not Legislatures of States, but only in embryo; and whether such elections are not ratified and made valid by relation back when the State is subsequently admitted? Has not that been the practice of the Government from the very beginning?

Mr. DAVIS. I concede that; and upon this principle: that the people of the State had formed the State before it was admitted into the Union, and that the only action of Congress was to admit a State into the Union that had been previously formed by the people of that State.

Mr. MORTON. I ask if it was not still a Territory until it was actually admitted? If it was a State and to be regarded as a State for a moment until its actual admission?

Mr. DAVIS. I say not, in response to the honorable Senator. The State would exist in an organized form at the time of its admission as a State into the Union by Congress. Congress has no right to form a State. Congress has no constitutional power whatever to make a State or to form a State. The people make the State, form the State, and frame its State government; and after all this work is done the simple, isolated act which the Congress does is to admit the State, as it has been formed, into the Union as one of the United States.

According to the theory of the honorable gentlemen who constitute the majority of the Senate Arkansas was not a State in the Union, and not a State at all, at the time the election of these Senators took place, as I understand. Assuming their principle to be true, that Arkansas was not a State, then her Legislature was not a legitimate, valid Legislature of the State of Arkansas. It certainly then had no power to elect a Senator, or to give that election such validity as that when Congress should pass a law declaring that Arkansas should be entitled to representation in the Senate and House it would sanctify that election made by a body that was not a Legislature at all. Sir, this is a grave question. It is certainly of such a character as merits a reference to the Judiciary Committee, that that committee may consider it and report upon it to the Senate.

One word with regard to the other objection, which has been conceded to exist, to the admission of these Senators. Congress has passed

a law which requires a particular form of evidence of the fact of the election of a Senator. That form of evidence, in one of its important requisites, in the present case is defective. The Governor of that State has not attached the certificate which the law requires to the credentials of these elected Senators. Will Congress, in the absence of that essential part of the proof, admit them without a reference of their credentials and their case to the Judiciary Committee? There may, or may not, exist a sufficient cause for the absence of that feature in the proof. If there is a sufficient cause for its absence, and it may be dispensed with, the facts upon which it may be dispensed with are certainly proper for the consideration and report of the Judiciary Committee.

Mr. President, I was impelled to make objection to the admission of these Senators upon the ground that I previously stated. I do not believe that they have any constitutional claim or right whatever to seats as Senators from the State of Arkansas; and to meet their right, and to compete with it, I endeavored to have thrown before the Senate the legitimate and exactly legal returns or commissions of previous Senators from that State, whose terms of service, as evidenced on the face of the credentials, have not yet expired. I believed, as I now believe, that the right of the men who held the previous credentials was not only the paramount right, but the only right to a claim of seats upon this floor as Senators, and that consequently the two gentlemen who are presented this morning have no right whatever to seats in the Senate.

The Senator from Michigan [Mr. HOWARD] says that that question has been settled, and that I am seeking to revive the controversy between the President and Congress as to which of those two powers of the Government should reconstruct these States. Sir, I have always denied that either of those powers of the Government had any right to pass reconstruction laws. I concede no such principle as that. I have always combated that principle, that power, that right on the part of the President or Congress either to reconstruct or to prescribe terms for the reconstruction of the States that were in the rebellion. My principle has been, as has often been expressed to the Senate, that when the rebellion was subdued, crushed, and the people of those States that were in rebellion made their submission to the United States Government, the Constitution itself, by its own principles and its own operation and effect, restored them to the Union and enabled them to claim all their rights in the Government as States of the United States.

But the honorable Senator says that that question has been settled; that it has been adjudged by the Senate and House of Representatives. I tell the honorable Senator that there is an appeal pending before the American people from that judgment, and in my opinion that judgment will be swept away, and will, before twelve months, exist as naught, as nothing. But that is a question of opinion between the honorable Senator and myself.

I have explained the considerations that moved me in making my objection, and I have stated my opinion in relation to the matter, and the grounds upon which, generally, it was formed, and I therefore leave the case.

Mr. POMEROY. The question I believe is, whether these credentials shall be referred to the Committee on the Judiciary. I move to lay that question on the table.

Mr. TRUMBULL. That will dispose of the whole subject.

Mr. POMEROY. I understand that that will lay the credentials on the table, where they should be, and then we can proceed to swear in the Senators-elect.

Mr. CONNESS. I understand the discussion to be at an end, and I hope the Senator will withdraw the motion, and let us vote.

Mr. POMEROY. I will withdraw it if no more speeches are to be made; but it is now after two o'clock, and we have been discussing a question which has been discussed here ever

since I have been in the Senate about the power of these States to organize governments. If that question is to be discussed on the presentation of credentials and on a motion to refer credentials I think the subject should be laid on the table. I do not want to cut off any person who desires a moment to reply; and if the Senator from Michigan wishes to do so, I will withdraw the motion.

Mr. HOWARD. I have but one word to say in reply. I do not propose to attempt to answer the honorable Senator from Kentucky upon the constitutional question which he has raised. I am quite content with the decision which has been made of that great question; and I am equally confident with himself that upon the trial of that question again before the great court of appeal which he seems to invoke the decision will be as decidedly adverse to him and his party as it has been in Congress.

I wish, however, to say one word in regard to the act of 1866, which is appealed to here by the gentlemen opposing the admission of these Senators, and as to which it is said that the credentials on the table are not in conformity with the provisions of that act. Now, sir, what was the date of that act? It was passed in July, 1866. At the time that act was passed the rebel States were still in their anomalous condition. They had no regular governments. They were held by the authorities of the United States by virtue of the triumph of our arms; and the very text of that act, when carefully considered, will be found not to be applicable to the States in that particular condition. I do not regard the act of 1866 as applicable by its terms or by its spirit to the readmission into Congress of the rebel States. It was not expected to apply to them, because in many of its provisions it was utterly impossible to apply it.

Then, again, eight months afterward, in March, 1867, Congress passed what is known as the first reconstruction act. That act and its supplements declare in substance that when the rebel States shall have complied with the terms contained in those acts the States shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided; that is, as provided in the State constitutions which the respective rebel States may have formed. We are not bound by the act of 1866 in regard to the credentials of Senators from those States; but we are simply thrown back upon our constitutional authority to judge of the qualifications of the persons elected, and of the sufficiency of their credentials. When Senators look at the act of 1866, it will be obvious enough to any one, I think, that it is impossible to apply the terms of that act to the rebel States. It was never supposed that it would be so applied. But in regard to the readmission of the rebel States we are governed exclusively and solely by the reconstruction acts and by our naked, constitutional authority. Therefore, supposing as I do, that these credentials are truthful upon their face, and that these gentlemen have been elected by the Legislature of that State altogether in pursuance of the reconstruction acts, I think they are entitled to their seats, and I am therefore opposed to the reference of the question to the Judiciary Committee, and am in favor of their being immediately sworn in.

The PRESIDENT *pro tempore*. The question is on referring the credentials to the Committee on the Judiciary.

The motion was not agreed to.

The PRESIDENT *pro tempore*. It is now moved that the Senators-elect be sworn in.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senators-elect from Arkansas will advance to the Chair and take the necessary oaths.

The Senators from Arkansas, Messrs. McDONALD and RICE, escorted by Mr. POMEROY and Mr. THAYER, advanced to the desk, and having taken the oaths prescribed by the Constitution and the act of July 2, 1862, took their seats in the Senate.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 822) granting a pension to Hampton Thompson.

The message further announced that the House had passed a joint resolution (H. R. No. 292) directing the Secretary of War to sell damaged or unserviceable arms, ordnance and ordnance stores, in which the concurrence of the Senate was requested.

The message also announced that the House had passed the bill (S. No. 216) to amend an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon," with amendments, in which the concurrence of the Senate was requested.

#### INDIAN APPROPRIATION BILL.

Mr. CORBETT submitted an amendment intended to be proposed to the bill (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1869, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

#### CALIFORNIA AND OREGON RAILROAD.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the bill (S. No. 216) to amend an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon." The amendments were in line ten, to strike out the words "two years" and to insert "eighteen months, and in line twelve, to strike out "three years" and to insert "two years."

Mr. CORBETT. I move that the Senate concur in those amendments.

The motion was agreed to.

#### SALE OF DAMAGED ORDNANCE.

The joint resolution (H. R. No. 292) directing the Secretary of War to sell damaged or unserviceable arms, ordnance, and ordnance stores, was read twice by its title.

Mr. WILSON. As that is a joint resolution of but a few lines, I ask that it be put upon its passage.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the joint resolution at this time. Is there any objection?

Mr. EDMUNDS. Let us hear what it is first. Let it be read for information.

The Chief Clerk read the joint resolution, which is a direction to the Secretary of War to cause to be sold, after offer at public sale, on thirty days' notice, in such manner and at such time and place, at public or private sale, as he may deem most advantageous to the public interest, the old cannon, arms, and other ordnance stores in possession of the War Department which are damaged or otherwise unsuitable for the United States military service or for the militia of the United States, and to cause the net proceeds of such sales, after paying all proper expenses of sale and transportation to the place of sale, to be deposited in the Treasury of the United States.

Mr. EDMUNDS. I think that resolution had better be referred. I think I can suggest to my friend an amendment that it clearly requires. It raises just such a question as we have repeatedly considered here.

The PRESIDENT *pro tempore*. The joint resolution can only be considered at the present time by unanimous consent.

Mr. MORRILL, of Maine. I object.

The PRESIDENT *pro tempore*. Objection being made, it will be referred to the Committee on Military Affairs and the Militia.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the

United States, communicating, in compliance with a resolution of the Senate of the 28th ultimo, correspondence relating to the act of Congress prohibiting persons in the diplomatic service from wearing uniforms or official costumes; which was referred to the Committee on Foreign Relations, and ordered to be printed.

#### AMERICAN CITIZENS ABROAD.

Mr. CONNESS. I offered a resolution yesterday to discharge the Committee on Foreign Relations from the further consideration of the bill (H. R. No. 768) concerning the rights of American citizens in foreign States. As that bill has been reported by the committee this morning I desire to withdraw the resolution. The committee having reported the bill, and I having no object in view but to get the early consideration of the Senate to the bill, I now ask leave of the Senate to withdraw the resolution.

The PRESIDENT *pro tempore*. The Chair hears no objection, and the resolution is withdrawn.

#### PRINTING OF A PETITION.

Mr. HENDRICKS. I presented a petition this morning of certain voters of this District, which I desired to have printed. I intended to make the motion at the time I presented it; but I forgot to do so. I now ask that the petition be printed.

The PRESIDENT *pro tempore*. That order will be entered, if there be no objection.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 216) to amend an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon."

A bill (H. R. No. 822) granting a pension to Hampton Thompson; and

A joint resolution (H. R. No. 264) to provide for the sale of the site of Fort Covington, in the State of Maryland.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is now before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th June, 1869, the pending question being on the amendment of Mr. SUMNER to the amendment of the Committee on Appropriations. The amendment of the committee was to insert after line three hundred and fifty-two, following the appropriation for the compensation of the officers of the State Department, the following proviso:

*Provided*, That the third section of the act of August 18, 1856, entitled "An act to amend an act entitled 'An act requiring foreign regulations of commerce to be laid annually before Congress,' approved August 16, 1842, and for other purposes," and also that the second section of the act of July 25, 1866, entitled "An act making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1867, and for other purposes," be, and the same are hereby, repealed.

The amendment of Mr. SUMNER was to strike out of the amendment of the committee the following words:

And also that the second section of the act of July 25, 1866, entitled "An act making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1867, and for other purposes."

Mr. SUMNER. I do not know that it is advisable to protract this discussion; and yet there were some remarks that were made at the close of the debate yesterday to which I should like for one moment to reply. I have nothing to say with regard to the first part of the amendment of the committee relating to the clerkship of statistics in the State Depart-



ment. I leave that in the hands of the Senate. If the Senate think it advisable now to stop that appropriation and to destroy that little office I shall interpose no serious objection. I do not think it advisable to make the change at this moment. I would not recommend it myself until there was a systematic effort to establish a statistical bureau in the Treasury Department to which this might be transferred. But this may be abandoned without any serious detriment to the public business. The State Department will not suffer. Therefore, I shall say no more about it.

But when we come to the two other offices, the examiner of claims and the Second Assistant Secretary of State, there I have to say that the proposed change cannot be made without serious detriment to the public service. The Senator from New York [Mr. CONKLING] seems to have a very inadequate idea of the services rendered by the examiner of claims. Since his remarks yesterday I have made further inquiry with regard to those services, and all the testimony that I can obtain is that they are of great importance to the public interests. Indeed, I doubt if the business at the State Department, or much of it in which our fellow-citizens are interested, could move easily and smoothly without some such office as that. That office was created after a discussion running over two or three years, in which many Senators took part. I did not myself vote for it, or come into its support in any way, except after the most careful inquiry. I satisfied myself two years before that office was created that it ought to be created; that there was need of such an office in the Department of State. Finally it was created; and now I understand the Senator from New York to ask for evidence of the importance or of the necessity of that office? What evidence would he have? He has the testimony of the Committee on Foreign Relations, charged with the special consideration of this question. I believe they were unanimous originally in the recommendation made two or three years ago, and they are now unanimous in thinking it expedient that the office should be preserved. What more would the Senator have? If I might venture my own personal testimony I do not know that it would be any reinforcement to that of the committee, and yet circumstances have given me some opportunities of knowing the course of business there and the important duties discharged by this officer. I consider him essential to the business of the Department.

Mr. EDMUNDS. Tell us a little of the details of what he does. I do not understand it.

Mr. SUMNER. Since the war and during the war there was a large number of claims against our Government much beyond what had ever been at any time before, so large in number, so extensive in amount, so important to the claimants that they required very great attention.

Mr. HOWE. Where did they come from?

Mr. SUMNER. From every source, North, East, West, and South, growing out of the war, growing out of the action of British cruisers, growing out of the enforcement of the rights of war, claims upon our Government, claims of our own citizens directly on our Government, other claims of our citizens on foreign Governments.

Mr. HOWE. By what law does the State Department take jurisdiction of those claims on our Government?

Mr. SUMNER. They are claims that arise under the office of the Department of State. However, those are very small; I merely allude to them. The great body of our claims grow out of our relations with foreign Powers.

Mr. HOWE. I wish the Senator would explain a little of the nature of those claims, and how the Department gets jurisdiction of them to adjust them.

Mr. SUMNER. I am not aware that the State Department has undertaken to adjust them.

Mr. HOWE. Then what are the duties of this officer?

Mr. SUMNER. To make reports to the Secretary of State on all these claims as they are presented from time to time, day by day, and then they are presented to Congress. There are two or three bills that I have reported from the Committee on Foreign Relations within a short time founded on these very inquiries; one growing out of a claim under the mixed commission of the United States and Peru that sat two years ago; another, a claim of a colored person in the island of Nassau, who rendered important assistance to one of our cruisers through which a prize was captured of some seventy thousand dollars in value. That was presented to the State Department.

Mr. FESSENDEN. Then there are the claims also to carry out the decrees of the United States courts.

Mr. SUMNER. Then there were another class of claims to which the Senator from Maine calls attention, with regard to which there are two or three bills now on the Calendar, in order to carry out decrees of the Supreme Court of the United States, the district court at New York, and the district court at New Orleans.

Mr. HOWE. They are sent here.

Mr. SUMNER. Not at all. They are sent to the Department of State, and by the Secretary of State they are referred to the examiner of claims, who makes a report on the facts that the Secretary may be able to judge what he shall do with regard to them. It is to this officer that complicated papers of all kinds and inquiries are referred by the Secretary. Take these very questions of naturalization; take the case of Father McMahon and the case of John Lynch: I find that going through the papers that all the papers relating to those two cases went through the hands of this examiner of claims, who made an abstract of the papers and a report upon them.

Mr. HOWE. Who is he?

Mr. SUMNER. Mr. E. Peshine Smith, of New York. I believe the services are of great value; I think the business of the Department would halt without such a person there.

But the Senator from New York told us that this gentleman was about to leave. Of that he has, I am inclined to think, exclusive information. At any rate, I have never heard of it before; and on inquiry this morning of the person who ought to be best informed I found that he had no such information. But whether he is about to leave or not is a matter of indifference. The office should be preserved. If he leaves, then I trust we shall find some person who will be a proper successor.

And this brings me to the other case, of the Second Assistant Secretary of State. I need hardly add anything to what was said yesterday so well by different Senators. It is within the knowledge of all that this office was created for Mr. Hunter, believing that it would furnish a field for the exercise of his talents and of his peculiar experience, and also that he deserved this promotion. It surely was not a very large promotion for one who had at that time given nearly forty years of his life to the public service; but it would be very hard at this time to deprive him of this rather small promotion, where I am sure he is rendering efficient service to the country.

The Senator from Maine [Mr. FESSENDEN] reminded me yesterday that in other countries there were usually two Assistant Secretaries of State, or Assistant Secretaries of Foreign Affairs. This is particularly the case in England. One of those goes out with the administration; the other remains to continue, if I may so express myself, the traditions of the office. He is not regarded as a political character, and he holds under all administrations one after the other. I think that in the conduct of our public affairs there is some reason why such an officer should exist among us. I think he may be useful; and I hope now we may set an example of that stability in the Department of State that will make this office permanent; so that amid all the vicissitudes of politics this Second Assistant Secretary may remain un-

disturbed. The First Assistant Secretary would naturally give up his office with the administration. He is always supposed to be in peculiar personal and political relations with the Secretary of State, and of course he would share the fortunes of that functionary. But it need not be so with the Second Assistant Secretary; and, indeed, I think for the public interests it should not be so.

If I add to these remarks something of what I said yesterday, that in all other departments of the Government, though there may not be by name two assistant secretaries, there are officers who in the service they render are practically assistant secretaries of the department, I shall complete, I think, the argument for retaining this office.

Mr. HOWE. If this amendment moved by the Senator from Massachusetts could be so modified as to save so much of the section which the amendment of the committee proposes to repeal as provides for a Second Assistant Secretary of State, and would still rid us of the employment of this clerk of claims, I should apply to my chief, the chairman of the Committee on Appropriations, for leave to support the amendment.

Mr. HENDRICKS. I have drawn up an amendment for that purpose, and if the Senator will allow me I will offer the amendment.

Mr. HOWE. Certainly, if it is in order.

Mr. HENDRICKS. I offer the following amendment—

The PRESIDENT *pro tempore*. There are two amendments pending now.

Mr. HENDRICKS. I propose to amend the matter proposed to be stricken out, and it is in order to perfect it before it is stricken out.

Mr. HOWARD. Let it be read, that we may see what it is.

The PRESIDENT *pro tempore*. It will be read for information.

The Chief Clerk read the proposed amendment of Mr. HENDRICKS, which was to insert after the word "that," in line three hundred and fifty-seven, the words "so much of," and after the word "purposes," in line three hundred and sixty-two, to insert the words "as authorizes the appointment of an examiner of claims for the Department of State;" so that the latter portion of the proviso would read:

And also that so much of the second section of the act of July 25, 1866, entitled "An act making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1867, and for other purposes," as authorizes the appointment of an examiner of claims for the Department of State, be, and the same are hereby, repealed.

Mr. HENDRICKS. If the Senator will allow me, I will explain the effect of that proposition.

The PRESIDENT *pro tempore*. Does the Senator from Wisconsin give way for an explanation?

Mr. HOWE. Yes, sir; but I think I understand it.

Mr. HENDRICKS. The same section provides for the Second Assistant Secretary of State that provides for this examiner. My amendment proposes to strike out so much of that section as authorizes the appointment of that examiner of claims. I have not any thought that that office is of any consequence at all to the public service, and therefore I wish to strike it out.

Nor do I believe in the doctrine of the Senator from Massachusetts, that there are any such dark places in the Departments as that a man of ability cannot master their duties in a very short time. I believe anybody with force of character, intelligence, and education can go into that Department and understand all about it in a reasonable time. I do not believe in the idea that all the wisdom of the age and all the efficiency of the public service are going to pass away with Mr. Hunter. But, sir, Congress, after careful and full debate a year or two ago, decided upon this office for the express purpose of making provision for him; and I know no reason now for reversing that action.

We decided then to provide this office for him. That was a thing decided, and I am in favor of letting it stand decided.

Mr. SUMNER. Allow me to suggest that Congress at the same time, in the same section, gave the same decision with regard to the examiner of claims, and after a most careful inquiry. The Senator says he does not believe the office is necessary. If that Senator would tell me that he had taken the trouble to inquire into the business of the Department, and on inquiry had satisfied himself that this office was not necessary, I should be willing to accept his judgment; but he will pardon me if I say that I do not think that on this question the divination of the Senator can be set against the knowledge and testimony of others who have made themselves acquainted with it.

Mr. HENDRICKS. This much I do know, that when there is a Bureau of Statistics in one Department we do not need another. All this information ought to go there.

Mr. SUMNER. I say nothing about the Bureau of Statistics. The question now is as to the examiner of claims. You observe, under this amendment of the committee, there are three different offices that are touched; one is the clerkship of statistics, then there is the examiner of claims, then the Second Assistant Secretary of State. I say nothing about the clerkship of statistics, because if the Senate choose to sacrifice that I say it can be done without detriment to the public service; but I do not think that you can sacrifice either of the other offices without mischief.

Mr. HENDRICKS. The Senator has called in question my knowledge of the labors of this gentleman. I will ask the Senator from Massachusetts whether he has made any report of his labors, whether it has been communicated to Congress, and whether, indeed, the chairman of the Committee on Foreign Relations himself knows anything about them? Of course I have not gone into his office and sat beside his desk. I do not know personally by observation what he has done. I will ask the Senator whether he has made that sort of observation, or whether there is any public report of his labors which enables us to know anything about them?

Mr. SUMNER. I answer frankly and fully to the Senator that I have, to the best of my ability, made that inquiry. My inquiry and observation have extended now over two or three years.

Mr. HENDRICKS. I will ask the Senator what the labors have resulted in?

Mr. SUMNER. They have resulted in facilitating immensely the business of the State Department.

Mr. HENDRICKS. That is very general. What have they done?

Mr. SUMNER. We will take the claims on England for spoliation on our commerce. Those have all been presented to the State Department.

Mr. HENDRICKS. The old French spoliation claims?

Mr. SUMNER. Oh, no; the English, the Alabama claims, the Shenandoah claims, the Stonewall claims, growing out of depredations on our commerce during the rebellion. Those claims, as the Senator is aware, are multitudinous. Their name is legion. They have been presented, on the invitation of the Department of State, to that Department. It has been the duty of this examiner to arrange them and put them in condition for action. They have been made the basis, as the Senator is aware, of an extensive correspondence with the British Government, part of which has been communicated to Congress, and some of it is still uncommunicated. That is one very considerable item of his duties; and beyond that, as I am informed, whenever an inquiry occurs which does not properly belong to one of the clerks of the Department, out of the ordinary run, it is committed to this examiner of claims; and, as I have already said, I have had occasion, within twenty-four hours, to read his report on the evidence in the case of Father McMahon,

and also of John Lynch, who were proceeded against in Canada.

Mr. HENDRICKS. I was not aware that those cases fell under the description of claims.

Mr. SUMNER. The Senator is aware that I said that inquiries which did not properly belong to any clerk were, by the Secretary of State, handed to him. But then I do not wish to be carried into any wrangle on this subject; I am only here in the discharge of my duty. I have stated my information.

Mr. HENDRICKS. The Senator carried me into a wrangle by saying I knew nothing about it, and I wanted to see what the Senator knew.

Mr. CONKLING. I ask the Senator from Indiana to let me interpose, if there is any danger of a wrangle. Will the Senator from Massachusetts be kind enough to enlighten me upon this point? Under the examination of the Senator from Indiana, who, he says, does not know anything about this, he has cited one case in which the examiner of claims has been a useful man—the case of the Alabama claims. Without professing to know anything about it, and appealing to the fountain of light on this subject, I ask the Senator from Massachusetts to state anything that the examiner of claims has done in that case, except to superintend the copying of the correspondence. I ask him also whether it is not true that an accomplished lawyer from his own city has been here for long periods of time to deal with, and has dealt with, those Alabama claims, and dealt with them exclusively, so far as professional treatment is concerned. If what I say be true, then I wish to submit to the Senator, as well as a man who does not know anything about this is permitted to do; that he does not make any case by that item of evidence showing the utility, even in the past while war claims were accumulating, of continuing this officer.

Mr. SUMNER. The Senator inquires with regard to an eminent lawyer from Boston, who, on my invitation, came to Washington, and at his own charge volunteered his services to the State Department, not, as the Senator from New York imagines, to go over the claims of American citizens on Great Britain—not at all; he has not looked at one of them, to the best of my knowledge, but to review the correspondence between the two Governments relating to the great principles of international law involved in that inquiry.

Mr. CONKLING. I will inquire of the Senator whether Mr. Bemis did not make the brief, and the only brief I have heard of, that ever has been made, representing the position of our Government upon those claims?

Mr. SUMNER. I am not aware that Mr. Bemis has made any brief upon the subject. I hear it now for the first time, though my intimacy with him is great.

Mr. CONKLING. It is possible I characterize it in the wrong way. Has anybody ever made, to the Senator's knowledge, any statement upon paper, any codification, any exhibition upon paper, whatever the proper term may be, representing the position of this country upon those claims as the State Department view it, except Mr. Bemis?

Mr. SUMNER. I am not aware that Mr. Bemis has done it. I hear it for the first time, though my relations with him were almost daily while he was here in Washington.

Mr. CONKLING. Shall we understand, then, from the Senator that Mr. Bemis confined himself to perusing this correspondence?

Mr. SUMNER. Mr. Bemis perused the correspondence and made his own abstract of it.

Mr. CONKLING. "Abstract!" That is a word with which I was not familiar. [Laughter.] That is the word I ought to have employed.

Mr. SUMNER. The Senator and myself do not understand each other. I am not aware that Mr. Bemis has performed there any function that belonged to the examiner of claims; that he was in any respect an examiner of claims.

Mr. CONKLING. I did not say he was. The Senator, in answer to my honorable friend from Indiana, adduced the Alabama case, which everybody conceived to be the complicated case, if there was any truth in this idea that we needed such an officer, because it is the conspicuous instance of claims of a character falling within the purview of the State Department. The Senator, therefore, instanced that case as showing the overmastering importance of this officer, with prolonging whose life he has been charged, he says, by his committee. Now, then, the inquiry being put as to what has been done in that one case, it turns out, as far as the Senator has gone, that a very able man has been reviewing and abstracting the correspondence; has been doing that whatever it may be—

Mr. SUMNER. The Senator is entirely mistaken in supposing that that belonged to the duties of the examiner of claims. The examiner of claims, as I understand his duties, was to consider the claims as presented by American citizens to the Department of State. Mr. Bemis, as I have always understood, devoted himself to perusing the correspondence that had passed between the Department of State and Mr. Adams relating to the great principles involved in those claims.

Mr. CONKLING. Am I wrong, then, in supposing that the Senator from Massachusetts cited the Alabama claims as the instance in which this officer had been so valuable?

Mr. SUMNER. I cited that as one instance. I hope my friend will pardon me. I do not care about prolonging the discussion.

Mr. CONKLING. In answer to that, to trespass one moment further upon the courtesy of my friend from Indiana, I beg to say this: I have heard the Senator from Massachusetts repeat a great many times that the Committee on Appropriations had acted in the dark, taken a step in the dark; and then I have heard him repeat as often expressions indicative of the painful labor, the procrastinating and attenuated attention which he had bestowed upon subjects of this sort, and the methodical, the conclusive, the infallible manner in which he had reached the opinion which he expressed. Now, he says he does not wish to be drawn into anything of this sort with me, and awhile ago he said that he did not wish to wrangle with the Senator from Indiana. With him we all know it is very hard to wrangle, because it takes two to wrangle, and he is usually not one of the two who do that business. But I submit to the Senate, with great respect, that it will hardly do for any man to rise here and, *ex cathedra*, express opinions of this sort, and put down the report of a committee, and then decline to state what the facts are that he has picked up in the long process through which he has gone.

I believe, after hearing the honorable Senator, that this office in the State Department, looking to the future, is wholly useless; and I believe the Senator would be utterly unable, on the stand as a witness, or in his place as a Senator, to respond to intelligent questions in such a way as to show, within his own knowledge, any reason whatever for retaining this officer. He has cited one instance, that of the Alabama claims, which, as I understand it, is a most striking illustration of the want of any utility in this officer in question. And now, when I press it a little, without meaning any disrespect to him, of course, he declines because he does not wish to be drawn into a wrangle with one Senator, nor into the answering of unnecessary questions of another.

My understanding is that Mr. Bemis is the man to whom was committed the perusal, the codification of this correspondence, the man to whom was committed the solution of those questions upon which the claims of all the claimants depended; and it is to that I was calling the attention of the Senate and of the Senator. I certainly do not wish to pursue the subject if he does not; but I beg to say to him that he will find more willing hearers than I am if he finds Senators who will take in the lump these

stately phrases which the Senator employs with a view to convincing the Senate that he knows more about this matter than anybody else. I say to him frankly that I do not believe it, and he must not expect me to do so until he furnishes some evidence.

Mr. HOWE. Mr. President—

Mr. HENDRICKS. Will the Senator allow me one minute further?

Mr. HOWE. I have heard three speeches since I got the floor, but I have no objection to hearing another.

Mr. HENDRICKS. I merely wish to explain my amendment very briefly. By inserting after the word "that" the words "so much of," it will prevent the repeal of the whole second section of the act of July 25, 1866; and then by inserting the other words after the word "purposes" it will effect the repeal of that part which provides for the examiner of claims.

Now, I wish to say, in reply to the Senator from Massachusetts, with the indulgence of the Senator from Wisconsin, that the labor upon the Alabama claims is without value, in my judgment, in the very nature of the case, for the reason that when we shall arrive at that state of negotiation between the United States and England that England shall recognize her liability to pay those claims, their amount must be ascertained in some way provided for by the treaty, or by the result of the negotiations, probably by the appointment of a commission. That commission will hear evidence, and this Government will be properly represented before such a commission, and take the place which is now contemplated by this examiner. This examination now is premature. It will furnish no evidence against England, for she is no party to it. It is not made under any negotiation with her. Therefore, in my judgment, upon that particular case and class of cases, the examinations now made are without value.

Mr. HOWE. Now, I want to add two or three words to the little that has been said on this subject, especially because I have had to listen to a very earnest protest on the part of the Senator from Massachusetts against my following my own convictions or my own opinions on this question. He seems to be impressed with the idea that as he has examined it longer and knows more about it than I can, therefore I ought to act upon his judgment and not refer to my own. The position would be pretty well taken with one qualification: if the Senator would be willing to tell us what he knows about the necessity of this examiner of claims I should be bound to listen to his testimony, and if he made it intelligible to me, then I could see as he did; but it will not do for him to testify that there is a necessity when he does not tend to convince me, unless he can show me the necessity. I never knew that Senator yet to be in possession of a fact that he could not explain. I never supposed that he knew anything that he could not tell, and tell adequately, and tell to my comprehension; and I am bound to say, though I think he has made an honest effort to inform me upon this point, he has utterly failed. I do not hold him responsible for it. I am not going to deny that I am personally responsible myself, or that my nature is not. Yet I am inclined to think the responsibility rests with the case that he has taken in hand. He has simply failed to show me the necessity for this officer, because there is no necessity for him in the world.

Sir, an examiner of claims in the State Department, I take it, must have something to do with one of three kinds of claims: either claims which individuals present against this Government, or claims which this Government presents against foreign Governments, or claims which individual citizens of the United States wish to urge upon foreign Governments through the agency of the State Department. If this examiner is there for the purpose of expediting claims of citizens against this Government or claims of anybody against this Government, I have simply to say that the Secre-

tary of State has nothing to do with them, the examiner has nothing to do with them, no business with them; they cannot appropriate a dollar; they cannot adjudicate a dollar; it is outside of their jurisdiction altogether. If this officer is supposed to have relation to claims on the part of our Government against foreign Governments, then I have to say that the Secretary of State himself is that examiner and nobody else; and we have not authorized any substitution, and we should not authorize any substitution. If there is any high and sacred duty belonging to that officer, it is that; and to substitute Mr. E. Peshine Smith for Mr. William H. Seward, although it might be a good substitution, until it is authorized by the appointing power, I think it had better not be provided for by the appropriating department of the Government. If it be neither the one nor the other of those classes of claims, but it be claims of individual citizens which they wish to urge upon the attention of foreign Governments through the State Department, it is plainly the business of the claimant himself to prepare a statement of his claim, to set forth the grounds upon which it rests, to make up his own briefs or to make up his own abstracts, whichever may be needed to present the case so that the Secretary of State, and not an examiner of claims, can pass upon the propriety of it, and enable him, not an examiner, but the Secretary, the responsible officer under the Constitution, to determine whether it is a proper claim to present to the attention of a foreign Government or not.

Indubitably, there may be papers in the State Department bearing upon the claims of citizens on this Government, and we may have occasion to call for those. We find such evidence in every one of the Departments; we are calling for it every day, and that evidence is furnished us by \$1,200 clerks in every other Department. I do not see why they cannot furnish it in the State Department just as well. If there is a necessity for such an officer in that Department it is because he is to do the work of an extra clerk, or it is because he is to assume some portion of the responsibility which the law said should devolve on the Secretary himself. For the division of that responsibility we furnish him one assistant constantly, and it is the effort of a part of this amendment to secure him another assistant. For that part of the amendment I am anxious to vote. I was not present in committee when it was considered there. I should not have acquiesced, I think—unless I had heard reasons for that amendment which I have not heard on the floor of the Senate—in the propriety of discontinuing the employment of the Second Assistant Secretary of State. I cannot dispute the Senator from Indiana when he says that he does not believe all the wisdom of the world will die when Mr. Hunter dies. He may be entirely right in that; but I am very much inclined to think that when Mr. Hunter dies a great deal of the wisdom of the State Department will perish. Undoubtedly it can be supplied; but I have the impression, though I do not pretend to know as intimately on this point as the Senator from Massachusetts must know, and as other Senators must, that Mr. Hunter is one of those officers of whom we have two or three or more specimens, I am glad to know, in the service of the Government, who are a sort of *valde mecum* in their respective offices, who know all about the duties of their office, and by reason of their long employment and close attention and great natural capacity have made themselves masters of the history and of the whole work of their respective Departments. It is a calamity to any Government to lose the services of such an officer. I think he is one. I think we have at the head of the Land Office another. I think we have as chief clerk of the Indian Bureau another of that class of men. I should be very sorry to see, for the want of any reasonable appropriation of dollars, the Government lose the services of such an officer. Now, I shall vote with great cheerfulness for the amendment moved by the Senator from

Indiana because I understand it effects just what I desire to see effected, the retention of this Second Assistant Secretary of State, and the dismissal of the examiner of claims.

Mr. FESSENDEN. Mr. President, I still remain of the opinion that this examiner of claims ought not to be dispensed with. Of course it is a matter of no interest to me particularly. I had something to do, I think, at the time with passing the law providing for an examiner of claims, and I came to the conclusion at that time that it was necessary to have such an officer, more from what was said to me by the Secretary of State on the subject than by anything that I could know about the State Department.

The Senator from Wisconsin [Mr. Howe] is right in his supposition as to what must be the nature of these claims, as a general rule, and the kind of service which has to be done, and in supposing that it is a service absolutely to be performed, in the last instance, by the Secretary of State himself. It not infrequently happens and must happen in Departments of the Government having a great deal of business before them that, while they have to decide upon claims to a certain extent, with regard to the question whether they are proper claims to be presented against foreign Governments, and to be urged, yet the head of a Department like the Secretary of State, with all his other avocations, conducting the diplomatic correspondence of the country principally, may not have time; when these claims amount to a very considerable number, to go over them all, arrange the papers, examine the evidence, and look up the law particularly, and devote all the time to that detail which must be devoted in order to come to a right understanding of the subject.

I have had some experience, though not very much, in this matter of the judgment that has to be passed upon subjects by the head of a Department. The Secretary of the Treasury is obliged to decide upon a great many questions of claims of one kind and another. If the Secretary of the Treasury was compelled look up all those questions himself, to arrange the papers, to collate and digest the testimony, and to state the principles and the statutes applicable to each particular case, it would be utterly impossible for him to get through one twentieth part of the business to be done by him. Of course he has to settle the matter in the last resort; but there are in the Department of the Treasury several clerks, in fact, passing upon different kinds of questions, familiar with their respective branches, who arrange the papers, collate the testimony, state the facts, and state the statutes and the law applicable to those facts, making a brief, in point of fact; and when that is done, the case in a comparatively narrow compass is submitted to the Secretary, and he passes upon it, either with or without further examination as may seem necessary to him.

Until the war there was very little of that in the State Department; there was no more, perhaps, than the Secretary could do himself; but it was stated to me by the Secretary of State that the claims upon foreign Governments and some upon our own Government—for there are many upon our own Government that come before him, of which I could give an instance if necessary—were so numerous that it was impossible for him, with all the other duties that were pressing upon him, to discharge that duty, that he must have some assistance, and that he had in his Department no clerk who was entirely qualified to do what was necessary to be done. In the first place he required a good and practiced lawyer as well as a good man of business to make an abstract and statement of these claims, the law and principles applicable to them, to be presented to him for his decision. I believed the Secretary of State; I believe him now. He is not a man to ask for help that he does not need. He is a laborious man, devoted to his duties, desirous to discharge them all; and when he stated to me that he absolutely needed this assistance in order to get through



with the business that was pressing upon him from the very great number of those claims that must come before him for examination, I aided in passing that law in order to give him the assistance that I thought and still think he needs.

That statement, coming from him, is not to be answered by the fact that any member of the Committee on Foreign Relations in this body is not prepared to go through and undergo a cross-examination upon exactly what all this business is. I do not know, nor do I pretend to know, nor is it necessary that I should know in order to come to a right understanding of the question on that statement from the officer at the head of that Department. That necessity pressing upon him is as great now as it has been, and the only question, as it strikes me, which is pending before the Senate is simply this: shall we deprive him of this assistance which any one can see who is at all familiar with the workings of the Department may be necessary to him, and which he avers is absolutely necessary in order to enable him to discharge the duties of that Department and to meet the requisitions upon him from our fellow citizens which he must necessarily be called upon to meet? My opinion is, as I said before, that this officer is necessary, and I am unwilling to have him dispensed with.

Mr. SUMNER. Mr. President, the Senator from Maine has referred to the testimony of the Secretary of State some time ago at the creation of this office. I am able to communicate his testimony this morning. In the course of business I saw him before the meeting of the Senate; and when allusion was made to the proposition to abolish the office of the examiner of claims he expressed himself very strongly against it, saying he regarded that office as essential to the business of the Department. He did not see how the business could be conducted to the satisfaction of the community without that office. Now, that is his testimony.

Senators have undertaken to cross-examine me on the subject; they have asked me to give a bill of particulars of all that this officer has done. I am not able to do it. I give my opinion on what I know. I have known the opinion of the Secretary of State, and of other persons in the Department now, for several years on this subject. Then, being at the Department in the transaction of official business, I have had occasion to see this officer myself. Then, from my connection with the Committee on Foreign Relations, I have necessarily had a great deal of correspondence with the Department of State; hardly a day passes that I do not receive communications of some kind from the Department covering papers and reports of different kinds. It is in those communications that I have had occasion to see the active talent and industry of this officer. I have seen it year by year and month by month. Now, that is my testimony. It may not satisfy my cross-examiners, the Senator from New York or the Senator from Wisconsin, and I freely say, in reply to them, that I cannot furnish the details. I never have busied myself to inquire into them. Enough if I satisfied myself that the office was important to the public interests. Personally I can have no interest in this. My acquaintance with this officer is very slight; since he has been here I have had nothing but official relations with him; but I am obliged to say that in my opinion he has rendered essential service to our country, and that his office ought not to be abolished.

The Senator from Wisconsin made an analysis of the different kinds of claims that might be presented to our Government. I do not object to his analysis; but take, for instance, the claims of foreign Powers on the United States; there is a very extensive class; and when they are presented it can hardly be expected that the Secretary of State himself will make the first examination of perhaps the complicated papers attending those claims. He necessarily puts that into the hands of another person, who goes over them and makes

his abstract, and prepares the way for the final examination by the Secretary himself. And so when our own fellow-citizens present their claims to the Department of State, asking the Department to transmit them to England or to France, or to wherever else the claimant may appeal; the Secretary of State is not able himself to go over these claims and all the proofs accompanying them. In the first place, he must commit that duty to another person who performs what in the profession might be called the duty of the attorney, who prepares the case for the final action of the Secretary himself.

I believe in all this matter there is no mystification, nor is there any exaggeration. It is all plain as human duty, and I believe it grows out of the necessities of the public service. I hope, therefore, that both these officers will be allowed to remain, the examiner of claims and the Second Assistant Secretary of State.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts to the amendment.

Mr. MORRILL, of Maine. I supposed the question was on the amendment proposed by the Senator from Indiana.

The PRESIDENT *pro tempore*. That is not in order. The amendment of the Senator from Massachusetts is an amendment to an amendment.

Mr. MORRILL, of Maine. But is it not in order to perfect the words proposed to be stricken out?

The PRESIDENT *pro tempore*. It is in order to perfect the bill, but this is part of an amendment merely.

Mr. CONKLING. Mr. President, as it seems we are about to vote upon the whole of the amendment proposed by the Senator from Massachusetts, I wish to make one suggestion. The strength of the case against the amendment of the Committee on Appropriations is the advice of the Committee on Foreign Relations; and now before making a statement, I wish to read to the Senate what the Senator from Massachusetts said yesterday. The amendment of the committee being read, which amendment proposed to put an end to three officers, the second under-secretary, the examiner of claims, and the superintendent of statistics, the honorable Senator from Massachusetts made this statement:

"I was about to say that I was instructed by the Committee on Foreign Relations to oppose the adoption of this amendment, and to move instead thereof an appropriation for the officers whose offices it is proposed by this amendment to destroy. This amendment is aimed at certain officers in the Department of State."

And the Senator then proceeded to argue the importance of all three of these persons and the impropriety and danger of putting an end to the offices of all three alike. Now, Mr. President, that we may see in one instance the extent of that critical process by which the chairman of the Committee on Foreign Relations supervises and overrules the Committee on Appropriations, I wish to make this statement: I was visited this morning by a person who knows better than the Senator from Massachusetts can know what is done in the Bureau of Statistics in the State Department, as it is called, and from him I learn that if this amendment of the committee is adopted, so far as the superintendent of statistics is concerned it puts an end to the tenure of a man who has had for a long period of time nothing in the world to do with the business of statistics in the State Department, who has simply received his salary, not professing to render any service in return. I am informed, further, that the adoption of this amendment, sweeping away that place, will leave the actual preparation and compilation of statistics in precisely the same hands in which it is now—the hands of an unthanked clerk of the Department, detailed by the Secretary of State to do that business, a man who receives nothing specifically for doing it, but who takes his compensation as a clerk, asking nothing more, and for that com-

pensation does all the service for which we have been paying. And yet the honorable Senator from Massachusetts (as I said yesterday, the great orb of the State Department, who rises periodically in his effulgence and sends his rays down the steep places here to cast a good many dollars into the sea) rises and says that he is unanimously instructed by the Committee on Foreign Relations, in substance, to inform the Senate that they are approaching the edge of a precipice, and that they are to do great harm if they abolish this office, because he grouped them all together and made one equal in his indispensability with the other two.

Mr. SUMNER. Will the Senator allow me to correct him there?

Mr. CONKLING. Certainly, as I am always honored to be corrected by the Senator.

Mr. SUMNER. The Senator is very much mistaken. I made a distinction between the offices, and my motion is to strike out of the amendment of the committee that part which proposes to abolish the offices of examiner of claims and of Second Assistant Secretary of State, leaving the amendment of the committee, so far as it touches the statistical clerkship, unaffected. And in the course of my remarks, if the Senator will do me the honor to look at them, he will find that I made that distinction; and I began my remarks this morning by saying that I had nothing to say with regard to the statistical clerkship; I should leave that in the hands of the Senate. I made my question with regard to the two other officers whose existence in the Department I thought important to the public interests.

Mr. CONKLING. The proposition of the Senator to leave one of these offices in the hands of the Senate implies that the Senate is not to be permitted to pass upon the other two. It reminds me of a meeting somewhat famous which took place in a certain office in State street, Albany, where a certain man in New York, after making up the entire State ticket on the Democrat side, came down to the State prison inspector and had some difficulty about it in his own mind; he could not solve it to his own satisfaction, and so finally he said, "It is of no consequence; we will leave that to the convention; let them nominate a State prison inspector." [Laughter.] The Senator from Massachusetts proposes to make final disposition of all this matter except with regard to this one officer, and that he will leave to the Senate! I rather think, Mr. President, that before we have finished, all this will be left to the Senate by some hook or crook, and upon that theory I will continue to make an observation or two.

I repeat now that the Senator stated, as I read yesterday, that he was instructed; let me give his language:

"I was instructed by the Committee on Foreign Relations to oppose the adoption of this amendment, and to move instead thereof an appropriation for the officers whose offices it is proposed by this amendment to destroy."

Does not that mean the superintendent of statistics as much as it means anybody else? The Senator may have had some mental reservation about it. I am aware that he did go on afterward to argue and to propose to take the question upon the latter part of the amendment first. I know that he said this morning that in his judgment this officer, the superintendent of statistics, ought not to be abolished, that he thought it was not wise or safe to do it, but he intimated that he had not so much feeling about that as he had about the other two. But I was commenting upon his statement made yesterday, that his committee backed him in saying to the Senate that this amendment of the Appropriation Committee ought not to be adopted, but that appropriations ought to be made for the officers, to wit, three in number, whom it was proposed to strike out. It is to that I am calling attention, and there the record bears me out.

Mr. FESSENDEN. I beg leave to say that that is precisely what the committee did agree to do.

Mr. CONKLING. Certainly. I had no doubt about it. The Senator from Maine shows now that I am right in quoting the Senator from Massachusetts, and that the Senator from Massachusetts was right in quoting the authority of his committee. I had no doubt about it. Under these circumstances, having sat a number of times, as I have said, as the humblest member of the Committee on Appropriations, under the somewhat caustic animadversions of the Senator from Massachusetts, implying that we are in outer darkness on all these subjects, and that if knowledge is not confined to him it certainly is confined to somebody who does not belong to the Appropriation Committee, I have taken the trouble to repeat the statement which was made to me this morning on undoubted authority, that this work is done in the State Department by an unbanked clerk, designated, perhaps, by a wave of the hand of the Secretary of State to perform this duty, and repealing the existing law as regards the superintendent of statistics will leave that same clerk performing the same duty, and make no change except that a man six hundred miles away, having for two or three years drawn the salary of this place, will cease to draw it.

Now, Mr. President, I have only to say that in my belief the Committee on Foreign Relations, when they gave this instruction, were not permitted by the chairman of the committee to enjoy the benefit of all the information which he says he has on this subject. On the contrary, that committee, after proper tuition by its chairman, after being educated as far as it is capable of being educated in the mysteries of the State Department by him, would never, I apprehend, have instructed him to come here and caution the Senate against the false and almost fatal step that it was likely to take in abolishing, among other things, the office of the superintendent of statistics in the State Department, and as we are compelled now to vote upon his amendment as it stands together I trust that it will be voted down, and that the Senator from Indiana will have an opportunity to propose his amendment, and allow Mr. Hunter to stand upon his own footing, because I am very free to say, in harmony with my honorable friend from Wisconsin, that of these three places the Second Assistant Secretary, under all the circumstances, seems to me the one to retain, if indeed we are to retain either.

Mr. SUMNER. Mr. President, the Senator from New York has a passion for misunderstanding me at least; and he has a manner of expressing it imported from the other end of the Capitol to which we have been less accustomed, I believe in this Chamber, than others have been in the House of Representatives. I am sorry. I wish it were otherwise. I have tried to make a frank statement. I have no personal interest; I am seeking nothing but the public interest. I do not doubt that the Senator from New York is also seeking the public interest; I make no suggestion to the contrary, though I do not see that the public interest requires the peculiar line of argument and cross-examination and the manner which the Senator has chosen to adopt; but that is for him to choose, and not for me.

The Senate will bear me witness that from the beginning of this discussion I made a plain distinction between these different offices. I said that I had little to say for the clerkship of statistics beyond this; that I thought when the change was made it should be transferred to a general bureau of statistics wherever that might be, whether in the Treasury Department or in any other Department of the Government, or whether such bureau should be elevated into a department. My criticism on the present proposition was that it abolished the office in the State Department without transferring its duties anywhere else. That is all. I did not even know the present incumbent, and I made no inquiry with regard to him, for in this whole matter I acted, if I may so express myself, impersonally. I had no in-

dividual in view whose interests I wished to promote.

Now, I ask the Senate if I have been treated candidly by the Senator from New York? In the face of my open statement, that with regard to this statistical clerkship I was comparatively indifferent, that I did not think the public interests would suffer if it were abolished, that therefore I made no plea for its preservation, but that I willingly left it to the Senate, was it candid for the Senator to make the comments upon me that he did? I propound the question and leave it.

And that brings me again to the two other officers with regard to which I made a clear distinction. I regarded then both of them as performing duties important to the public service. Now, it seems to me generally admitted all around the Chamber that with regard to one of them I was right. Even the Senator from New York does not ask to have the Second Assistant Secretary of State sacrificed; but he says, hand over the examiner of claims, let him be sacrificed; and the argument, if I understand his last speech, is that the Senator from Massachusetts insisted that the statistical clerkship should be preserved, and because, according to his representation, I so insisted, in his opinion, and on good grounds, as exhibited by him, the statistical clerkship ought not to be preserved, therefore these others should not be! I do not understand that logic. I do not understand the logic of taking up a case to which I did not refer, on which I did not build, with regard to which, in the discussion to-day, I have made no pretension whatever. I do not understand the logic of taking that case, which may not be sustained by reason or by fact, and arguing from that against the other.

Admit that the statistical clerkship should be abandoned, does it follow that you must abandon the other two offices? Clearly not. I have from the beginning made a difference between the cases; though, as I said when I opened my remarks yesterday—and little did I think then that the discussion was to run on in this way for so long a time—I was instructed by the Committee on Foreign Relations to oppose the whole amendment relating to the three different officers. But then the committee took into view the different grounds—the position in each case. They saw that the statistical clerkship might be dispensed with without great detriment to the public service, but they thought that when it was dispensed with its duties ought to be transferred to some bureau of statistics, and that the measure as now proposed was on that account incomplete; therefore they instructed me to oppose the abolition of that office under the present amendment. Had any substitute been brought forward to transfer the duties of that office to the Bureau of Statistics, that would have presented entirely a different question.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts to the amendment of the Committee on Appropriations.

Mr. SUMNER called for the yeas and nays; and they were ordered.

Mr. EDMUNDS. I do not want to take time; but I think the only way I can reach the result I wish to reach is to vote in favor of the motion of the Senator from Massachusetts, to strike out the whole clause, and then I shall vote afterward to retain only the Second Assistant Secretary. If I vote against his amendment and to retain the clause reported by the committee I do not perceive how I can afterward divide it.

Mr. CONKLING. Then the amendment of the Senator from Indiana reaches it.

Mr. EDMUNDS. No; I do not think that will be in order.

Mr. MORRILL, of Maine. I would inquire whether, if this proposition of the Senator from Massachusetts should be rejected, the proposition of the Senator from Indiana, to modify the amendment reported by the committee, would be in order?

The PRESIDENT *pro tempore*. That would be in order.

Mr. SUMNER. It would then be open to amendment.

Mr. RAMSEY. I desire to know how I am to vote. I wish to retain Mr. Hunter in office. I think him a most valuable officer. I care nothing about the other two clerks. How shall I vote?

Mr. MORRILL, of Maine. If the proposition of the Senator from Massachusetts is voted down, and the proposition of the Senator from Indiana prevails afterward, the Senator from Minnesota will reach the end he seeks to accomplish.

Mr. EDMUNDS. That is not so certain.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts to the amendment of the committee.

The question being taken by yeas and nays, resulted—yeas 22, nays 14; as follows:

YEAS—Messrs. Bayard, Cattell, Cragin, Dixon, Doak, Little, Drake, Edmunds, Fessenden, Frelinghuysen, Henderson, Howard, Johnson, McCreery, Morgan, Morrill, of Vermont, Patterson, of New Hampshire, Patterson, of Tennessee, Russ, Sprague, Sumner, Wiley, and Yates—22.

NAYS—Messrs. Chandler, Cole, Conkling, Ferry, Howe, Morrill, of Maine, ye, Ramsey, Rice, Sherman, Stewart, Trumbull, Wade, and Wilson—14.

ABSENT—Messrs. Anthony, Buckalew, Cameron, Conness, Corbett, Davis, Fowler, Grimes, Harlan, Hendricks, McDonald, Morton, Norton, Pomeroy, Salisbury, Thayer, Tipton, Van Winkle, Vickers, and Williams—20.

So the amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment as amended.

The amendment, as amended, was agreed to.

Mr. SUMNER. Now, with the permission of the Senator from Maine, [Mr. MORRILL,] I will simply move to make the proper appropriation in that clause for these two officers.

Mr. MORRILL, of Maine. Let us go through with the amendments of the Committee on Appropriations. This clause may be changed in the Senate; I shall propose further amendments which may change the character of the bill in that respect.

The PRESIDENT *pro tempore*. The Clerk will proceed with the reading of the bill.

The reading of the bill was continued, the amendments reported by the Committee on Appropriations being acted on in their order as reached in the reading of the bill.

The next amendment of the Committee on Appropriations was in line three hundred and eighty-nine, to strike out "five" and insert "eleven," so as to appropriate for eleven clerks of class four in the office of the Secretary of the Treasury.

The amendment was agreed to.

The next amendment was in line three hundred and ninety-one, to strike out "eleven" and insert "twelve," so as to appropriate for twelve clerks of class three in the same office.

The amendment was agreed to.

The next amendment was in line three hundred and ninety-two, to strike out "six" and insert "fourteen," so as to appropriate for fourteen clerks of class two in that office.

The amendment was agreed to.

The next amendment was in line three hundred and ninety-three, to strike out "six" and insert "fifteen," so as to appropriate for fifteen clerks of class one in that office.

The amendment was agreed to.

The next amendment was in line three hundred and ninety-six, to strike out "\$66,400" and insert "\$101,800."

The amendment was agreed to.

The clause from line three hundred and eighty-eight to line three hundred and ninety-seven, as thus amended, is as follows:

For compensation of the Secretary of the Treasury, two Assistant Secretaries of the Treasury, chief clerk, eleven clerks of class four, additional to one clerk of class four as disbursing clerk, twelve clerks of class three, fourteen clerks of class two, two clerks of class two, (transferred from the Third Auditor's office,) fifteen clerks of class one, (two of whom were transferred from the Third Auditor's office,) one mes-

senger, one assistant messenger, and three laborers, \$101,800.

Mr. SHERMAN. With the leave of the Senator from Maine, I wish to move, on behalf of the Committee on Finance, to amend the bill by inserting in line four hundred: "For one chief clerk, \$2,000." This is to provide for the chief clerk of the Construction Bureau of the Treasury Department. It is to supply an omission.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was in lines four hundred and eight and four hundred and nine, to strike out the words "declared to continue" and insert "continued."

The amendment was agreed to.

The next amendment was to insert after "chief clerk," in line four hundred and twelve, the words "six clerks of class four;" after the word "laborers," in line four hundred and fifteen, to insert "and for temporary clerks, \$4,500;" and in lines four hundred and fifteen and four hundred and sixteen, to strike out "in all, \$32,940," and insert "in all, \$48,200;" so as to make the clause read:

For First Comptroller of the Treasury, chief clerk, six clerks of class four, eight clerks of class three, seven clerks of class two, (three of them transferred from Third Auditor's office,) two clerks of class one, one messenger, and two laborers, and for temporary clerks, \$4,500, in all, \$48,200.

Mr. SHERMAN. I move to amend the amendment by inserting \$9,000 instead of \$4,500, in line four hundred and sixteen.

Mr. MORRILL, of Maine. I hope my friend will allow me to go on.

Mr. SHERMAN. This is the proper time to amend the amendment. It is the only time I can do it. I propose to make the appropriation for temporary clerks in the First Comptroller's office \$9,000 instead of \$4,500. I desire to state that there are some amendments necessary in regard to these bureaus. I have carefully examined the matter, and I am satisfied that the amount of force allowed by the bill is entirely too low. The House of Representatives, in making the appropriations for the bureaus in the Treasury Department, did not allow the amounts estimated for, nor the amounts fixed by law, but took the old basis before the war. Our Committee on Appropriations has very properly, in nearly every case, increased the clerical force as fixed by the House of Representatives. Since the bill has been reported I have received communications in great number showing that in certain bureaus, where there can be no possibility of mistake about it, the force allowed is not sufficient to carry on the service.

The Committee on Finance, therefore, propose certain amendments to raise the amount so as to give them a force barely sufficient to carry on the business. In many cases we propose to allow less than they ask for. In regard to the office of the First Comptroller of the Treasury no one doubts that the statement of Mr. Taylor can be relied on. He says, in an official communication, that with the assistance given in here he cannot carry on his office. I think what I propose to allow will barely allow him to discharge the duties. The business of the Treasury Department now cannot be carried on with the force before the war, because that Department is now settling up the business of the war; the war accounts are passing through the Auditor's and Comptroller's offices, and the war has occasioned a very large increase in the business of the Department. It will be necessary for me to offer several amendments in regard to the Treasury Department. The first one is in this amendment of the Committee on Appropriations to increase the allowance for temporary clerks in the First Comptroller's office from \$4,500 to \$9,000.

The amendment to the amendment was agreed to.

Mr. MORRILL, of Maine. Now, the gross amount of the appropriation should be increased by adding \$4,500, so as to make the

total \$52,700. I move that amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment was in line four hundred and nineteen, to strike out "seven" and insert "twelve;" in the same line to strike out "fourteen" and insert "twenty;" in line four hundred and twenty to strike out "fifteen" and insert "twenty-eight;" in line four hundred and twenty-one to strike out "six" and insert "twenty-one;" after "one," in line four hundred and twenty-two, to insert "twelve copyists;" and in lines four hundred and twenty-three and four hundred and twenty-four, to strike out "\$71,480" and insert "\$137,000;" so as to make the clause from line four hundred and eighteen to line four hundred and twenty-five read:

For Second Comptroller of the Treasury, chief clerk, twelve clerks of class four, twenty clerks of class three, twenty-eight clerks of class two, (one of them transferred from the Third Auditor's office,) twenty-one clerks of class one, twelve copyists, one messenger, one assistant messenger, and two laborers, in all \$137,000.

The amendment was agreed to.

The next amendment was in line four hundred and twenty-six, after "chief clerk" to insert "three clerks of class four" in the clause relating to the office of the Commissioner of Customs.

Mr. SHERMAN. I am instructed by the Committee on Finance to move an amendment to that amendment, to strike out "two" and insert "three," so as to provide for three clerks of class four in the office of the Commissioner of Customs. The Commissioner asks for five, and we have cut it down to three. I have a letter from the Commissioner on the subject.

Mr. MORRILL, of Maine. The Senator now proposes to provide for a new clerk.

Mr. SHERMAN. If the Senator desires fuller information on the subject, I will send up the letter of the Commissioner of Customs to be read. He makes a very strong showing in favor of a larger number of clerks than we propose to allow him.

The Chief Clerk read the following letter:

TREASURY DEPARTMENT,  
OFFICE OF COMMISSIONER OF CUSTOMS.  
June 16, 1868.

SIR: I beg leave to call your attention to the classification of the clerks in this bureau, first premising that it is one of the three revising bureaus of the Department. By House bill No. 635, as reported with amendments by the Committee on Appropriations of the Senate, this bureau is allowed two clerks of the fourth class only.

As my chief clerk has been absent on account of sickness a good deal during the last eighteen months, and is now confined to his bed with inflammatory rheumatism, one of my fourth-class clerks acts as chief clerk.

I ask to be allowed three more fourth-class clerks, to be taken from my third class, for the following reasons: one of my third-class clerks is in charge of the captured and abandoned property division, an important and perplexing business. The clerk having charge of this in the First Auditor's office, whose doings are revised here, is a fourth-class clerk.

Within the past year the whole warehouse business has been sent from the Secretary's office to this. It became necessary to devise and carry into effect a new system of keeping the warehouse accounts, which had got into inextricable confusion. Judge Thurman, a man of good legal mind and accustomed to customs affairs—a third-class clerk in this office—was assigned the task of reorganizing this branch of accounts. With diligent labor he has accomplished it, and now has it in charge. These accounts now, *pro forma*, pass through the First Auditor's office and then come to this. At once a fourth-class clerk was assigned to the duty of passing them in the Auditor's office, but being entirely ignorant of the business was instructed how to perform his duties by Judge Thurman, his inferior in pay and grade. Is it right that these two clerks—and valuable ones they are—who revise the business of their respective divisions in this office should receive less pay and stand a grade lower than the clerks in the Auditor's office having charge of the same business, but who know that this office is responsible for errors and not that?

Again, I have a clerk of the third class, Mr. Weed, a good lawyer and most invaluable clerk, in charge of the New York accounts. He is indefatigable, and saves the Government, I will not say a hundred, but certainly more than ten times the amount of his salary every year in scrutinizing these accounts as they were never before scrutinized. I think he is justly entitled to the grade and compensation of a fourth-class clerk; indeed, he does more than double the labor of some pretty good clerks.

Judge Thurman and Mr. Weed are about fifty

years of age. Mr. Fletcher, in charge of captured and abandoned property accounts, about forty years of age. He is also an indefatigable laborer.

In recommending, or rather asking, that the number of my fourth-class clerks be increased, I beg leave to say that I do not think the number of the third class should be diminished, nor that of the second class. I greatly need two additional clerks, say of the first class. If these should be allowed that class might then be diminished by one.

I have been obliged to write this very hastily, and I beg you to excuse its crudeness.

Very respectfully, your obedient servant,

N. SARGENT, Commissioner.

Hon. JOHN SHERMAN, Chairman Finance Committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment was in line four hundred and twenty-seven, to strike out "four" and to insert "six;" in the same line to strike out "seven" and insert "nine;" and in line four hundred and twenty-nine to strike out "thirty-one thousand and three" and to insert "forty thousand nine;" so that the clause will read:

For Commissioner of Customs, chief clerk, three clerks of class four, six clerks of class three, nine clerks of class two, seven clerks of class one, one messenger, and one laborer, in all, \$40,920.

Mr. MORRILL, of Vermont. I suggest to the chairman of the Committee on Appropriations that now having inserted one additional clerk, it is necessary to increase the amount of the appropriation.

The PRESIDENT *pro tempore*. The appropriation will be changed to \$42,720, if there be no objection.

The amendment, as amended, was agreed to.

The next amendment was in line four hundred and thirty-one, in the clause making provision for the clerical force of the First Auditor of the Treasury, to strike out "two" and insert "four," so as to allow four clerks of class four.

Mr. SHERMAN. In regard to the office of the First Auditor of the Treasury, I am assured by him, and by the Secretary of the Treasury, that he cannot get along with the number of clerks appropriated for. The Committee on Appropriations have proposed to amend this clause somewhat, but not so that I can offer my amendments. I suggest, therefore, that all the amendments in the clause relative to the First Auditor's office, be passed over informally for the present, and I will at a later stage of the bill offer a substitute for that whole clause.

The PRESIDENT *pro tempore*. If there be no objection the amendments in the clause from line four hundred and thirty-one, to line four hundred and thirty-eight, will be passed over. The reading of the bill will proceed.

The next amendment was in the clause providing for the Second Auditor's office, to strike out lines four hundred and forty-six to four hundred and fifty-two, as follows:

And the clause of the act of March 14, 1864, authorizing fifteen clerks of class three, fifty clerks of class two, and one hundred and forty clerks of class one, in the office of the Second Auditor of the Treasury, is hereby continued in force until the 30th day of June, 1869, and no longer.

The amendment was agreed to.

The next amendment was after line four hundred and seventy, to insert "also one clerk of class four, four clerks of class two, four clerks of class one, one copyist, and two laborers, to be employed as a temporary force;" and in line four hundred and seventy-three, to strike out the words "forty-nine thousand nine" and to insert "sixty-four thousand two;" so as to make the clause read:

For compensation of the Fifth Auditor, chief clerk, two clerks of class four, four clerks of class three, seven clerks of class two, fifteen clerks of class one, six copyists, one messenger, and one laborer, employed in his office; also one clerk of class four, four clerks of class two, four clerks of class one, one copyist, and two laborers, to be employed as a temporary force, in all, \$64,220.

The amendment was agreed to.

The next amendment was on page 23, line five hundred and forty-six, to strike out "one" and to insert "two" before "hundred thousand;" so that the clause will read:

For detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws,



or conniving at the same, in cases where such expenses are not otherwise provided for by law, \$200,000.

The amendment was agreed to.

The next amendment was in line five hundred and seventy-nine, after the words "public lands" to insert the words "private land claims and surveys."

The amendment was agreed to.

The next amendment was in line five hundred and eighty-nine, to strike out "twenty" and insert "forty;" and in line five hundred and ninety, to strike out "thirty-four" and insert "fifty-eight;" so that the clause will read:

For compensation of additional clerks in the General Land Office under the act of March 3, 1855: for one principal clerk as director, one clerk of class three, four clerks of class two, forty clerks of class one, and two laborers, \$38,640.

The amendment was agreed to.

The next amendment was in lines six hundred and fifty-eight and six hundred and fifty-nine, to strike out the words "two thousand five" and to insert "six thousand three," and also after the word "dollars," in line six hundred and fifty-nine, to strike out "\$4,500;" so that the clause will read:

For compensation of the surveyor general of Minnesota, \$2,000, and the clerks in his office, \$6,300.

The amendment was agreed to.

The next amendment was in line six hundred and sixty-five, to strike out the word "four" before "thousand" and to insert "six," and also after the word "thousand" to insert "three thousand," and in line six hundred and sixty-six to strike out "\$6,000;" so that the clause will read:

For surveyor general of Kansas, \$2,000, and the clerks in his office, \$4,300.

The amendment was agreed to.

The next amendment was in line six hundred and sixty-nine, to strike out "\$7,000" after "dollars;" so that the clause will read:

For surveyor general of Colorado and Utah, \$3,000, and for the clerks in his office, \$4,000.

The amendment was agreed to.

The next amendment was in lines six hundred and seventy-three and six hundred and seventy-four, to strike out "\$4,500" and to insert "\$11,000;" and also, in lines six hundred and seventy-four and six hundred and seventy-five, to strike out "\$7,500;" so that the clause will read:

For surveyor general of California and Arizona, \$3,000, and for clerks in his office, \$11,000.

Mr. POMEROY. I want to call the attention of the chairman of the Committee on Appropriations to this clause. I do not understand why the \$4,500 should be stricken out in lines six hundred and seventy-three and six hundred and seventy-four and \$11,000 inserted.

Mr. MORRILL, of Maine. The \$4,500 and the \$7,500 are put together.

Mr. EDMUNDS. The clause now reads, as amended, "For surveyor general of California and Arizona, \$3,000, and for clerks in his office, \$11,000," which makes the appropriation \$14,000.

Mr. POMEROY. That is the criticism I was about to make.

Mr. MORRILL, of Maine. That is evidently an error.

Mr. COLE. No, sir; it is not an error.

Mr. MORRILL, of Maine. It seems to be an error as it stands.

Mr. COLE. Eleven thousand dollars for the clerks in the surveyor general's office in California is the amount of the estimate for that service. The usual amount of appropriation for the survey of the land in that State is, I believe, \$50,000, and that is the amount estimated for this year. The fact is there is a great necessity for surveying the public lands in that State. The tide of population setting in that direction is very great; so great, indeed, that last month six thousand emigrants went to that State. It will be borne in mind that it is a very large State, comprising about two hundred thousand square miles, and the tendency of the population now is not to the mines, but to the agricultural regions, as will be ob-

served from the fact that the exports of grain there have been very great; and there is very great distress and annoyance among those settling in the agricultural regions for the want of ability to get titles to their lands.

Mr. MORRILL, of Maine. My friend from California will pardon me for interposing, but I think I can now say to the Senator from Vermont that the apparent mistake is not a real one, and that the clause is all right. I will read it as amended:

For surveyor general of California and Arizona, \$3,000, and for clerks in his office, \$11,000.

We intended to make an appropriation of \$14,000, and if the Senator will refer to the book of estimates he will see that it is precisely what was estimated for, and the appropriation is in the form estimated for. The estimate is:

For the surveyor general of California and Arizona, \$3,000.

Clerks in his office as per act, &c., \$11,000.

Our information on that subject, which the Senator from California was communicating, satisfied us that the estimate was not too much.

Mr. COLE. I will only add, that so great is the necessity of which I was speaking of permitting the people settling in the agricultural portions of the State to acquire a title to their property that the Legislature of the State passed a resolution asking for a much larger appropriation for the survey of the public lands than has been accorded by the committee, and larger than will be accorded by the Senate or the House of Representatives. The reasonable amount that is asked here is certainly not extravagant by any means. It will not come up to the emergency.

The amendment was agreed to.

The next amendment was in lines six hundred and seventy-seven and six hundred and seventy-eight, to strike out "\$7,000;" so that the clause will read:

For surveyor general of Idaho, \$3,000, and for clerks in his office, \$4,000.

The amendment was agreed to.

The next amendment was in line six hundred and eighty, after the word "hundred" to insert "and two;" and after the word "dollars" to insert "and seventy-two cents;" and in lines six hundred and eighty-one and six hundred and eighty-two to strike out "\$6,500;" so that the clause will read:

For surveyor general of Nevada, \$2,502 72, and the clerks in his office, \$4,000.

The amendment was agreed to.

The next amendment was in line six hundred and eighty-five, to strike out "\$6,500;" so that the clause will read:

For the surveyor general of Oregon, \$2,500, and for the clerks in his office \$4,000.

The amendment was agreed to.

The next amendment was in line six hundred and eighty-eight, to strike out "\$6,500;" so that the clause will read:

For surveyor general of Washington Territory, \$2,500, and for the clerks in his office, \$4,000.

The amendment was agreed to.

The next amendment was in line six hundred and ninety, to strike out "four" and insert "six;" and after the word "thousand" to insert "three hundred;" and in line six hundred and ninety-one, to strike out "\$600;" so that the clause will read:

For surveyor general of Nebraska and Iowa, \$2,000, and the clerks in his office, \$6,300.

The amendment was agreed to.

The next amendment was in line six hundred and ninety-three, to strike out "three" and to insert "four;" and in line six hundred and ninety-four to strike out "\$6,000;" so that the clause will read:

For surveyor general of Montana, \$3,000, and for the clerks in his office, \$4,000.

The amendment was agreed to.

Mr. TRUMBULL. As it is very clear that we cannot finish this bill to-day, and there is a necessity for an executive session, I move that the Senate proceed to the consideration of executive business.

Mr. MORRILL, of Maine. Suppose we go on a little longer with the bill.

Mr. TRUMBULL. It is half past four now, and we have but half an hour for an executive session if we adjourn at five. I insist on my motion.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, June 23, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The reading of yesterday's Journal was, on motion of Mr. MAYNARD, by unanimous consent, dispensed with.

### REPRESENTATIVES-ELECT FROM ARKANSAS.

Mr. PAINE. Mr. Speaker, I rise to a question of privilege. I send up the credentials of the Representatives-elect from the State of Arkansas, together with a resolution on which I demand the previous question.

The Clerk read the resolution, as follows:

*Resolved*, That the oath of office be now administered by the Speaker to Hon. Logan H. Roots, Hon. James Hinds, and Hon. Thomas Boles, Representatives-elect from the State of Arkansas.

Mr. MAYNARD. I suggest to the gentleman from Wisconsin to take the course pursued in the case of Tennessee. The credentials of the Representatives-elect from Tennessee were formally referred to the Committee of Elections. The gentleman will see that is a wise and prudent proceeding. We had a report from the Committee of Elections almost immediately. I think it is the best course for us to pursue now.

Mr. PAINE. I withdraw the demand for the previous question. I wish to say a word by way of explanation and in reply to the gentleman from Tennessee. Having examined the credentials myself, having found them correct, and having heard of no contest of the claim of these gentlemen to their seats in this House, although they have been here for weeks and months waiting for admission, I do not see any good reason why we should refer their credentials to the Committee of Elections in the first instance any more than in ordinary cases of credentials presented where there is no notice of contest. If there is any contest, if there is any question in reference to the election of these gentlemen, if there is any doubt of their right to represent the State of Arkansas in this House, then I will admit it is proper to refer these credentials to the Committee of Elections, although even in that case the rights of contestants would not be concluded or prejudiced by the administration of the oath. If any gentleman will state that he has heard of any charge against either of these gentlemen of disloyalty or of any irregularity in the election at which they were chosen I will consent to this reference. Unless this is done I do not see why in this case we should depart from the ordinary procedure in like cases.

Mr. MAYNARD. If the gentleman will allow me, I will say a word. He was a member of the last Congress and will remember what I am about to say. At the commencement of that Congress the credentials of the Tennessee delegation were referred by the House to the Committee on Reconstruction. That committee reported substantially with regard to Tennessee the action that has been taken in regard to Arkansas. When that had been perfected into law the House then referred the credentials to the Committee of Elections. That committee reported them back, and the members from Tennessee were then sworn in. I think the same prudent course should be pursued in this instance.

Mr. PAINE. Mr. Speaker, as the gentleman seems in earnest in this matter, and other gentlemen near me express the same opinion, I will modify my resolution as follows:

*Resolved*, That the credentials of the Representatives-elect from the State of Arkansas be referred to the Committee of Elections.

The resolution, as modified, was agreed to.

## DRAWBACK ON SHIP-BUILDING MATERIAL.

On motion of Mr. LYNCH, by unanimous consent, the bill (H. R. No. 1286) to allow drawback on articles used in the construction of vessels, which was yesterday referred to the Committee on Commerce, was ordered to be printed.

## ADMISSION OF ARKANSAS.

Mr. STEVENS, of Pennsylvania, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Clerk of the House of Representatives be directed to present to the Secretary of State the act entitled "An act to admit the State of Arkansas to representation in Congress," together with the certificate of the Clerk of the House of Representatives and Secretary of the Senate, showing that the said act was passed by a vote of two thirds of both Houses of Congress after the objections of the President thereto had been received, and after the reconsideration of said act by both Houses in accordance with the Constitution.

## REPORT OF CHIEF OF ORDNANCE.

Mr. BUTLER, by unanimous consent, presented a report of the Chief of Ordnance; which was ordered to be printed, and referred to the Committee on Ordnance.

## PENSIONS TO EX-OFFICERS.

Mr. O'NEILL, by unanimous consent, introduced a bill (H. R. No. 1310) to provide for the granting of pensions to those ex-officers of the United States Army, according to their rank at date of final muster out, who were wounded while serving as enlisted men and who are not now drawing pensions as officers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

## BRAZIL MAIL STEAMSHIP COMPANY.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting statement of the sums paid without protest during the years 1865, 1866, and 1867, on the vessels of the United States and Brazil Mail Steamship Company at the port of New York, amounting to \$7,611 10; which was referred to the Committee on Appropriations.

## ADMISSION OF ARKANSAS.

Mr. MILLER. I ask unanimous consent to record my vote on the bill for the admission of Arkansas.

The SPEAKER. The Chair cannot ask unanimous consent.

Mr. MILLER. Then I wish to say if I had been here I would have voted in favor of the bill, notwithstanding the veto of the President.

## CONTRACTS PAYABLE IN GOLD.

Mr. BROOKS. If there is no objection—and if there is I would instantly withdraw it—I move to take up from the Speaker's table the bill of the Senate allowing contracts to be made in gold. It is pretty important that it should pass.

Mr. HOLMAN and Mr. ALLISON objected.

## SALE OF HOT SPRINGS RESERVATION.

Mr. JULIAN. I introduced a bill the other day providing for the sale of Hot Springs reservation in Arkansas. I ask unanimous consent that it be printed.

The bill was ordered to be printed.

## R. P. PARROTT.

On motion of Mr. ROBERTSON, by unanimous consent, the bill (S. No. 303) for the relief of R. P. Parrott was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

## REMOVAL OF DISABILITIES.

Mr. CULLOM. I desire to correct the Journal. I am recorded as not voting on the bill for the removal of disabilities yesterday. I voted against the bill.

## MILLIGAN CASE.

On motion of Mr. ARNELL, by unanimous consent, the report of the Secretary of War in regard to the Milligan case was taken from the Speaker's table, ordered to be printed, and referred to the Committee on the Judiciary.

Mr. WASHBURN, of Illinois, moved to

reconsider the various votes by which bills had been referred this morning; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## PRINTING OF A REPORT.

Mr. JENCKES, by unanimous consent, submitted the following resolution; which was read and referred, under the law, to the Committee on Printing:

*Resolved*, That three thousand extra copies of the report of the Committee on Retrenchment on the civil service of the United States be printed for the use of the House.

## HAMPTON THOMPSON.

On motion of Mr. LAWRENCE, of Pennsylvania, by unanimous consent, the amendment of the Senate to the bill (H. R. No. 822) granting a pension to Hampton Thompson was taken from the Speaker's table.

The amendment of the Senate was to insert in line five, after the word "volunteers," the words "and to pay him a pension at the rate of twenty-five dollars per annum."

Mr. LAWRENCE, of Pennsylvania. I move that the amendment of the Senate be concurred in.

Mr. MILLER. I think the amendment had better be referred to the Committee on Pensions.

Mr. LAWRENCE, of Pennsylvania. The amendment does not increase the pension allowed by the House bill. It only specifies the amount, which the House bill did not.

The amendment was concurred in.

Mr. LAWRENCE, of Pennsylvania, moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ORDER OF BUSINESS.

Mr. SCHENCK. I propose to call for the regular order, but before doing so I wish to state to the House that by its order, being in Committee of the Whole on the state of the Union, we take a recess from half past four until half past seven o'clock. I ask that by unanimous consent the House shall remain in Committee of the Whole on the state of the Union for fifteen minutes after half past four o'clock, gentlemen staying here or not as they please, in order to afford the gentleman who acts as chairman of the Committee of the Whole on the state of the Union [Mr. BLAINE] an opportunity of delivering a ten-minutes' speech, not on the tax bill.

Mr. WASHBURN, of Illinois. No business to be done?

Mr. SCHENCK. No business to be done.

Mr. FARNSWORTH. I would like to know what subject the gentleman is going to speak upon.

Mr. ELDRIDGE. Would it not answer quite as well for the gentleman from Maine to have the use of the Hall for this purpose for some evening? [Laughter.]

The SPEAKER. Is there objection to the proposition of the gentleman from Ohio, [Mr. SCHENCK?]

No objection was made.

## IMPROVEMENT OF WESTERN RIVERS.

Mr. EGGLESTON. I ask unanimous consent to present the resolution which I send to the Clerk's desk, and that it be referred to the Committee on Commerce.

The Clerk read as follows:

CINCINNATI, OHIO, June 22, 1868.

The Cincinnati Chamber of Commerce, on the 20th instant, unanimously adopted the following:

*Resolved*, That in the opinion of this Chamber it is of vital importance to the commerce of the Ohio valley, and of the West generally, that the appropriations named in the river and harbor bill now before Congress for the works at the falls of the Ohio river and at the rapids in the Mississippi river, as well as for the general improvement of navigation in those rivers, should be granted at the present session; and that we earnestly request our Senators and Representatives to give these features of the bill prompt and efficient support.

JOHN A. GANO,

President Chamber of Commerce.

Hon. BENJAMIN EGGLESTON.

Mr. COBB. That can be presented under the rules. I object.

The SPEAKER. It will be referred by the Journal clerk.

## INTERNAL TAX BILL.

Mr. SCHENCK. I call for the regular order of business.

The House, under the order heretofore made, resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

The section under consideration was the following:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there shall be levied and collected on all distilled spirits on which the tax prescribed by law has not been paid, a tax of sixty cents on each and every proof gallon, to be paid by the distiller, owner, or any person having possession thereof; and the tax on such spirits shall be collected on the whole number of gauge or wine gallons when below proof, and shall be increased in proportion for any greater strength than the strength of proof spirit as defined in this act; and any fractional part of a gallon in excess of the number of gallons in a cask or package shall be taxed as a gallon. Every proprietor or possessor of a still, distillery, or distilling apparatus, and every person in any manner interested in the use of any such still, distillery, or distilling apparatus, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom, and the tax shall be a first lien on the spirits distilled, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, and on the lot or tract of land whereon the said distillery is situated, together with any building thereon, from the time said spirits are distilled until the said tax shall be paid.

The pending amendment was the one moved by Mr. VAN WYCK, to reduce the tax on whisky to fifty cents per gallon, instead of sixty cents, as reported by the Committee of Ways and Means.

Mr. VAN WYCK. Mr. Chairman, the country, with great unanimity, are demanding the reduction of the tax on whisky, and the committee in its proposition have but yielded to that demand. Some weeks ago, when I submitted a report exposing the machinations and power of the whisky ring to some, it seemed almost incredible. Examinations since then made show its power still more incredible. It has stalked through the antechambers of this Hall, through the corridors of the Senate, and controlled the avenues to the Executive Mansion. While it directed the action it defied the power of the Government. I then believed that the only way to destroy the ring and check the immense frauds and demoralization permeating that branch of the service was to reduce the tax to fifty cents per gallon; to take away its wealth by depriving it of the source of its ill-gotten gains, and that the tax be collected at the worm of the still, thereby dispensing with that great means of fraud—bonded warehouses. Everything I then stated has been more than vindicated, and conclusions then formed fully justified by subsequent facts. The whisky ring then opened its batteries and honored me with its denunciations through every channel they could reach. At that time it was announced the Ways and Means would oppose any reduction and that the temperance sentiment of the country would insist upon a high tax. Feeling, therefore, confident of the retention of power the ring became more insolent, stole larger sums from the revenue, commanded thousands unblushingly and almost publicly to manipulate legislation. So bold and arrogant had it become in this last act that the people everywhere demanded that this power should be destroyed, and as it could only be destroyed by being impoverished that the tax must necessarily be reduced. Such was my position when I made the report as a member of the Committee on Retrenchment, and such is my position to-day.

The tax as proposed by the Committee of Ways and Means, at sixty cents per gallon, in my judgment, will fail to drive out illicit distillers of molasses. I think, therefore, it is necessary to reduce that tax to fifty cents per

gallon, so that the chances of illicit distillation may be removed. The cost of the manufacture of whisky is from thirty-five to forty cents per gallon. Add a fifty-cent tax, and you make the whisky worth from eighty-five to ninety cents per gallon. Now, the cost of making molasses whisky is somewhere in the region of eighty to ninety cents per gallon.

Now, if we are to strike down illicit whisky by means of reducing the tax, I think it is necessary to reduce it so low that we may strike down every source of fraud and violation of the law. And in my judgment it is necessary to reduce this tax to fifty cents per gallon, in order to shut out the chances of illicit distillation. I would myself rather favor a reduction below fifty cents, as many members of the House favor, than to leave it above that sum. One thing is evident, this whisky ring must be destroyed, or the power of this Government to collect taxes is gone.

[Here the hammer fell.]

Mr. SCHENCK. The amendment proposed by the gentleman from New York [Mr. VAN WYCK] is to reduce the tax on whisky to ten cents less per gallon than the amount recommended by the Committee of Ways and Means. The gentleman who makes that motion places himself upon the same ground taken by the committee; he says that he believes it necessary to come down to fifty cents per gallon, in order to make it unprofitable to manufacture illicit whisky. I shall not extend the remarks I made upon that subject yesterday by adding to them now. But in reply to the argument of the gentleman from New York, [Mr. VAN WYCK,] in favor of his amendment, I want to take advantage of this occasion to correct an error into which I was betrayed yesterday. While occupying the floor with explanations in relation to this tax upon distilled spirits, I was frequently interrupted and compelled to answer at the moment, gathering my thoughts for the purpose as I best could; and when some gentleman inquired what I believed would be the aggregate tax per gallon upon distilled spirits under this bill, by adding together the direct tax, the tax on capacity, the tax on sales, and all the special taxes, I replied that in my opinion it would amount to a dollar or more. I am now satisfied I was wrong in that statement. I was having in my mind some calculations made in my head as I proceeded, based upon a former supposition that the direct tax would be fixed at about seventy-five cents or a dollar per gallon. Now, the truth is that the aggregate tax provided for in this bill cannot amount to a dollar per gallon. I have made a careful calculation upon the subject which I desire to submit to the Committee of the Whole.

The direct tax, as all are aware, is sixty cents. Then there is a special tax of \$200 on the first fifty barrels or less of a distillery, with four dollars per barrel on every additional barrel, a barrel being by law required to be forty gallons of proof-spirits. This would be an addition of ten cents per gallon.

It is a little difficult to state what would be the amount of the tax upon sales; but the tax at wholesale being three per cent. upon the sales, if you average whisky at \$1.33 per gallon (and it might, perhaps, as a general average, come down to about that if the tax were reduced to only sixty or seventy cents,) three per cent. would amount to only four cents per gallon. The retail charges have been increased so that they, added to the wholesale, would make an equivalent of about five or from five to six cents per gallon.

The tax upon the capacity is five dollars per day upon the mashing and fermenting of a hundred bushels. A hundred bushels, at the average of twelve quarts to the bushel, would be three hundred gallons. This per diem tax having reference to the amount taxed would be equivalent to about a cent and a half per gallon. Thus the whole tax in the aggregate, saying nothing about the tax upon sales, (which is comparatively a small matter and hardly to be taken practically into the account,) would be from seventy-six and a half to seventy-seven

cents per gallon. I am therefore enabled, after a careful calculation, to reply now to the question which was put to me, and to state to the House that if the direct tax be fixed at sixty cents, and the propositions of the committee in regard to all other taxes be adopted, whisky will be taxed at about from seventy-six and a half to seventy-seven cents per gallon.

Mr. FARNSWORTH. I would like to make an inquiry of the chairman of the Committee of Ways and Means.

The CHAIRMAN. Debate on this amendment is exhausted.

Mr. INGERSOLL. I move to amend the amendment by striking out "fifty" and inserting "twenty-five," so as to make the tax twenty-five cents per gallon. I wish to submit to the consideration of the committee some facts in connection with this subject, so far, at any rate, as the manufacturers' interest is concerned.

Peoria has long been noted as a great central point for the manufacture of high wines and alcohol. Peoria engaged largely in this manufacture long before the war. All along during the past twenty-five years it has been largely engaged in the manufacture of alcohol for the export trade. The gentleman from Massachusetts [Mr. HOOPER] inquires what amount of tax Peoria has paid to the Government on distilled spirits under our revenue laws. My recollection is that it has paid about sixteen or seventeen million dollars of revenue, a very large sum. Up to four months ago some of the distilleries in the district which I represent continued to run, but during the last four months not a single gallon of whisky or high wines has been made in that district. The reason is that the manufacturers there cannot compete with the fraudulent manufacture of whisky or high wines in localities more favorable for the illicit traffic, such as New York, Philadelphia, Boston, Chicago, and Cincinnati. There is only one method by which the honest, legitimate manufacturer in the West can be sustained, and that is by reducing the tax to such a point as does not amount to an offer of an immense premium to fraud, while at the same time enforcing your revenue laws with great strictness.

Now, sir, I have moved to reduce this tax to twenty-five cents, and I desire to give my reasons in favor of this proposition. In the first place, you have tried to collect the two-dollar tax, and you have failed. When the tax was sixty cents per gallon the Government collected more revenue than it has collected during the last year at the two-dollar tax. During the year when the tax was sixty cents the Government collected \$28,000,000, while during the last year, although the tax has been more than trebled, only \$13,000,000 have been collected. If the tax be reduced to twenty-five cents per gallon no export or bonded warehouses will be required. The tax can be collected everywhere at the distillery before the whisky has been removed from the premises. Thus all whisky, when it leaves the distillery, becomes free whisky in the market. Business men can then draw against it for the legitimate purposes of business upon the commission house with which they do business. Now, no such thing can be done. Not a house in the West can ship whisky to New York and make a draft against it for one dollar a barrel. The reason is that they can have no assurance the whisky will not be seized at Chicago, again at Buffalo, and so all along the route; and before the whisky gets to New York its entire value has been eaten up by costs and charges levied by the hungry and not always scrupulous agents of the Government.

Now, sir, by reducing the tax upon whisky you will revive the industries of the West connected with this business, and you will, moreover, put more money into the Treasury at twenty-five cents per gallon than at the present tax, provided you will lay a five per cent. tax upon the sales of wholesale dealers and upon retail dealers. It will, in my opinion, then be easy to collect \$50,000,000 from whisky alone;

and, beside that, it will do away, in all probability, with the corruption on the part of revenue officers and all others now engaged in defrauding the Government out of its tax.

Let me state some facts in regard to Peoria. It has \$1,500,000 invested in distillery property alone. Before the enormous frauds were committed, which closed the distilleries in Peoria, they employed three thousand men, who earned from two to three millions a year as wages. They consumed more than five million bushels of grain per annum. Besides, they fed and fattened thousands of cattle and hogs which found a market in New York and Philadelphia. All this great interest has been virtually destroyed. Now, reduce the tax to twenty-five cents and you will rescue this interest from absolute ruin, and in all probability revive an interest which has contributed so largely to the local prosperity of Peoria, and contributed to the revenues of the Government nearly twenty million dollars.

[Here the hammer fell.]

Mr. BUTLER. I rise, Mr. Chairman, to oppose the amendment of twenty-five cents, because I desire the whisky tax may be fixed at twenty cents; and the reason I have for this is not, as has been stated by the chairman of the Committee of Ways and Means, lest the business should be done by illicit distilleries. So far as I can learn the difficulty is with the rectifiers and wholesale dealers. A tax, perhaps, of a larger amount could be obtained from distilleries; but I desire to put it so low as to get rid of transportation bonds—to get rid of that great source of fraud. At twenty cents, that will bring, with special taxes, the tax on whisky up to forty or forty-five cents—a little larger, I think, than the Committee of Ways and Means calculated.

Now, sir, I assume that whisky can be made for from twenty-five to thirty cents per gallon. If you lay a tax so large that the tax is larger than the cost of the article, then the tax becomes a matter of speculation; and as you exceed the cost of the article, you step by step encourage evasion of the tax. That is the reason you cannot collect the present tax on whisky. A man can make his whisky for twenty cents a proof-gallon of the purest quality. If he can save one gallon out of ten he gets even by fraud; if he can save two out of ten he makes a profit. For that reason it is impossible to collect the tax. If you bring down the tax so a man to get a dollar has to risk a dollar, then the tax will be paid and collected. If he risks one dollar to get one, then it is a mere lottery. With the tax at sixty cents, as fixed by the Committee of Ways and Means, he risks one dollar to get three; and, at the same time, the distiller in the West cannot go on and pay his tax before he transports his liquor. Therefore, if you inaugurate the tax at sixty cents, you inaugurate a system of transportation bonds, which are the great source of fraud.

There is another reason why I want this tax brought down. Let me say now if you tax at sixty cents, with special taxes making it about eighty cents, your whisky will stand as it now does. With two dollars a gallon we do not collect more than a dollar or ninety cents. The reason is the taxes will not be paid. But if you put it at twenty, twenty-five, or thirty cents you can collect it. There will be more money paid over, and what is of still more consequence, you break down the whisky interest—I will not say ring—which is too strong for your Government to-day. You break up the corruption fund which will be collected from the people by the whisky influence to be used against the Government.

[Here the hammer fell.]

Mr. INGERSOLL. I withdraw the amendment for the purpose of allowing the gentleman from Iowa [Mr. ALLISON] to renew it.

Mr. ALLISON. I will not renew the amendment, but will offer another, to insert fifty-five instead of sixty. I only desire to offer this for the purpose of saying a word or two to the committee. And I desire here in advance to



warn members against the danger of going to another extreme. Some members seem disposed to put the tax down to twenty or twenty-five cents a gallon on distilled spirits. Now, the gentleman from Massachusetts [Mr. BURLER] is mistaken in his calculation as to the amount of revenue we can raise out of distilled spirits by this bill. I take it for granted the Committee of Ways and Means have adopted all the incidental taxation that it is possible to impose upon distilled spirits, to wit: a special tax on the distillery, a special per diem tax, and a tax on sales. Now, the chairman of the committee has presented an estimate of the incidental tax upon this article. I believe the chairman is too high in this estimate. Indirect taxes, before the spirits are put upon the market, will not exceed six cents per gallon, so that if the proposition of the gentleman from Illinois or the gentleman from Massachusetts should prevail it will make the tax less than forty cents per gallon, which, taking the very highest possible estimate of the quantity, would only amount to \$30,000,000 per annum or less.

Now, Mr. Chairman, the amount of tax that we ought to realize on distilled spirits should not be less than \$50,000,000. The people of this country will not rest satisfied with a less amount raised from that source. But it is impossible to realize more than from twenty-five to thirty million dollars if you put your tax at twenty-five cents or less per gallon. Now, gentlemen say they desire to reduce this tax to a point so low that we can dispense with all transportation in bond. I wish to call the attention of the committee to this question of transportation in bond. The bill as presented to the House prohibits transportation in bond except for exportation, and the exportation of distilled spirits is necessarily confined to two distinct articles, namely, alcohol and rum, one being exported almost entirely from the city of Boston and the other from New York. Gentlemen seem to forget that we have in this bill a provision which, while it is intended to protect, and must in a very great degree protect, honest and fair men who are engaged in the business of distilling, requires this tax to be collected at the distillery warehouse, and that at the warehouse there shall be put on each barrel or package a stamp indicating the number of gallons contained in it and that the tax has been paid thereon. So I apprehend that the honest distiller can have no difficulty in securing from his banker, or from those who advance him money, the amount of money required upon that barrel or package when he exhibits it with the revenue stamp placed there by the collector of the district, showing that the tax has been paid.

Now the cost of producing a gallon of spirits from corn is twenty-five cents, which makes the barrel cost about ten dollars. Now, a tax of sixty cents will make about twenty-four dollars a barrel.

[Here the hammer fell.]

Mr. GARFIELD. I rise to oppose the amendment. I wish to say in the outset that I have, for three years, been of the opinion, as I am to-day, that it is folly for Congress to attempt to collect a tax of two dollars a gallon on distilled spirits. Whenever I have had an opportunity to vote on this question, whether in the Committee of Ways and Means or in this House, I believe my vote will be found recorded in favor of the reduction of the tax. But at this time I suppose at least a majority of the people agree that the hope of collecting two dollars is gone. The only question, then, is where we ought to put the rate. The Committee of Ways and Means propose to reduce it on the direct tax to sixty cents per gallon, but let it be understood that the committee have raised the tax in the various forms of special, per cent., and per diem taxes to the amount of sixteen and a quarter cents per gallon. All the special taxes now collected on spirits under the law will not amount to more than one quarter of one cent per gallon. Therefore, the sixteen and a quarter cents

which the committee have added in the way of special taxes may be considered, with the exception of the quarter of a cent, as a clear addition to the tax on whisky. In other words, while they have reduced the direct tax from two dollars a gallon to sixty cents, they have increased the indirect taxes sixteen cents a gallon, making a tax of seventy-six and a quarter cents per gallon, according to the bill before us. The prevailing reason in the minds of all members here why we should reduce the tax is the necessity of breaking up the great power of the whisky ring; that combination which defrauds the revenue and prevents us from getting revenue on more than one gallon in ten. The only practical question of statesmanship for us to consider is whether seventy-six and a quarter cents is too high a tax to enable us completely and effectually to break up the combination.

I believe it is too high, and I am in favor of putting the direct tax down to fifty cents, but not lower. Now, I am aware that the precise amount of tax which will best meet the necessities of this case cannot be determined with the certainty with which we settle questions that depend on general principles. Without a full exhibit of the minute details, I am of the opinion that fifty cents direct tax can be collected without much fraud. I may not be able to give sufficient reasons to satisfy gentlemen why that is my faith; certainly I cannot do it in five minutes. But I am persuaded that a tax of seventy-six and a quarter cents on whisky, with all the opportunities that have been so long enjoyed, and the skill that has been acquired by experts in fraud, will be too much. As my colleague suggests, they have diffused the direct tax. That is wise, and we are pretty certain to get the sixteen and a quarter cents, and I would not disturb a single item of those special taxes so far as I have yet considered them. But I believe that if the committee will take fifty cents as the rate, and so far reduce the incentives to fraud and the temptation to rascality, with the additional guards thrown around the revenue in this bill in the machinery for collecting it, we shall be reasonably safe.

[Here the hammer fell.]

Mr. ALLISON. I withdraw the amendment to the amendment.

Mr. KELLEY. I move to amend the amendment by striking out "fifty cents" and inserting "forty cents." I do so because I believe that at that figure we will collect more revenue than at any other that can be inserted. I believe that with the tax direct and indirect, amounting to nearly eighty cents on the gallon, the frauds will be almost as large in gallons as it is with the present tax. The question put by the gentleman from Iowa [Mr. PRICE] to his colleague [Mr. ALLISON] during my absence involved the whole gist of the matter. I read it at my home. He interrogated his colleague as to whether the thing he was driving at was not to get grain whisky at such a price that it and the tax would be less than the price of molasses whisky without the tax, and there he hit the nail upon the head. The gentleman from Ohio [Mr. SCHENCK] says it hit Philadelphia. Not Philadelphia, but the scoundrels of the country who have been poured into Philadelphia to drive her old business men of integrity out of it. It hits New York; it hits Chicago; it hits the unconvicted felons, who, as I had occasion to say in quoting the language of an officer of the revenue, are creatures who would be committing burglary and highway robbery, or expiating their crimes in the penitentiary, if they did not find it more profitable and safe to be cheating the Government and the community in illicit distillation. Now, a reduction of the tax to sixty cents would diminish to some extent the price of molasses, and would consequently diminish the price at which molasses whisky can be produced. Ten cents above fifty cents is a mere bonus to fraud; a mere payment of millions to scoundrels to cheat the Government of other

millions and tens of millions, and I fear that the difference between forty and fifty cents would operate to that effect.

Now, let us, while we are correcting this evil, do it effectually. Do not let us follow the unwise philosophy of a humane man, who was too kind-hearted to take all the dog's tail off at one swoop and took a little piece off each day. Do not for the next year leave the morals and the revenues of the country a prey to the men who hold them both at their mercy under the patronage of the Administration, but let us strike a point which will give us revenue enough for the Government, as forty cents per gallon, with the additional sixteen and a quarter cents, will do. The last day I was in the House I learned from a member from New York that he had the day before, in the ordinary course of business, shipped alcohol from New York to the western part of Kansas. Now, let us make this so that nature will have some influence in regulating this important branch of trade, so that the West may produce whisky where the corn is grown.

[Here the hammer fell.]

Mr. PRUYN. When I was a member of the Committee of Ways and Means in the Thirty-Eighth Congress, with two or three of my associates on that committee, I urged very warmly the propriety of reducing the then proposed tax of two dollars per gallon to one dollar. We failed in our efforts to do so, yet the result has proved just what was predicted at that time by the opponents of a large and heavy tax. No Government ever offered a greater bounty to fraud, perjury, and all kinds of iniquity than this Government did when it established the whisky tax at two dollars per gallon. It was a tax that all persons, looking at the value of the article, had told us never could be collected, never would be paid, but would be evaded at all times and under all circumstances. It was a tax that broke down honest distilleries and encouraged those who were dishonest in the illicit distillation of spirits.

I am glad that the Committee of Ways and Means have yielded at last to the acknowledged sentiment of the House and of the country, and have proposed to make this tax sixty cents instead of two dollars per gallon. And under a code of the most extraordinary character, such as is now contained in this bill, imposing fines and penalties and requisitions such as a man can hardly comply with, the tax is increased, as the chairman of the Committee of Ways and Means [Mr. SCHENCK] says, about sixteen or seventeen cents per gallon; making the whole tax some seventy-six or seventy-seven cents per gallon.

Now, the whole amount of whisky manufactured in the country at the present time, as I am assured by those well informed upon the subject, is about one hundred million gallons per year; perhaps a little more, and perhaps a little less. With the proposed tax we should receive a revenue from whisky of about seventy-five million dollars per annum.

Now, it is very difficult to decide just where the point is to which we can go with safety and collect the tax, and find that it will not be evaded by the distillers. My own impression is that the gentleman from New York, [Mr. VAN WYCK] who has moved to reduce this tax to fifty cents per gallon, has just about hit the right point. And for one I am prepared, with the information I now possess upon the subject, to vote for fifty cents per gallon, believing that to be a tax which can be collected. If to that amount you add the other taxes of seventeen cents per gallon, you will have a tax of sixty-seven cents per gallon, yielding a revenue of about sixty-seven million dollars per annum; a very large revenue when contrasted with the ten, twelve, or fifteen million dollars per year now collected, an amount which will do very much, indeed, to strengthen the Treasury and the resources, character, and financial condition of this country.

I should therefore be very glad to give my vote to fix the tax upon distilled spirits at fifty

cents per gallon, believing that, on the whole, to be the best point on which we can settle and dispose of this matter.

[Here the hammer fell.]

Mr. KELLEY. I withdraw the amendment to the amendment.

Mr. JUDD. I renew the amendment to the amendment for the purpose of explaining in a very few words my conviction and belief. I observe, from the course of the discussion this morning, that there is a very general concurrence of sentiment that the tax on distilled spirits as at present fixed by law cannot be collected. Discreditable as that may be to the parties really responsible for this condition of affairs, it is a condition not to be disregarded in the framing of our revenue laws. While my conviction is that the larger part of these frauds upon the Government are attributable to the administration of the present law and the executive department of the Government, I cannot exclude entirely from my consideration the fact that the high rate of taxation and the enormous profits derived from the violation of law has been one proof of the causes that induced the present position. My conviction is that if this law and its enforcement were a private enterprise men honest to execute would be found. If the rules of honesty and business capacity, that prevail ordinarily among our business men, were applied to the execution of the present law, instead of receiving from this source only about fourteen million dollars during the past year the Government would have received \$100,000,000. But the history of the country, and its administration during the last year shows, distinctly and clearly, that under the present system we were not to collect the present tax. Impunity induces boldness, and we are degenerating daily, and the influence of this demoralization is extending wider and wider; and the combinations to defeat the execution of revenue laws are growing stronger. The skill displayed in violating law if applied to any honest calling would entitle the possessors to honor and renown. We cannot change the Administration, as has been recently demonstrated, and the question recurs can we do anything, so as first, to prevent in any degree these frauds upon the Government, and secondly, to obtain the largest amount of revenue for the Government. It is perfectly evident that the tax of two dollars has not given us fifteen cents per gallon during the last year. The gentleman from New York [Mr. PRYOR] says not five cents. My desire was to state it large enough, so that if there was any error it would be against my position and not in its favor. Hence no man should be alarmed at the proposition of my colleague from Peoria [Mr. INGERSOLL] to reduce the tax to twenty-five cents, if by reducing the tax to that figure we shall do something towards restoring the moral tone of those dealing in this article, by removing the temptation to defraud. At that price the Government will obtain more revenue than it has obtained during the last year at the present rate of two dollars as fixed by the present law.

I say, then, let us, in accomplishing these objects, cut off, according to the illustration of the gentleman from Pennsylvania, [Mr. KELLEY,] the entire tail at once. Let us not make another experiment upon this question. If it is doubtful whether a specific tax of sixty cents a gallon, with the additional taxes by way of licenses, &c., provided for in this bill will have the effect of preventing these frauds and realizing the proper amount of the revenue, let us go below sixty cents, and my judgment, Mr. Chairman, is, that if both forms of taxation when computed together make a tax of seventy-six cents on a gallon, as estimated by the chairman, [Mr. SCHENCK,] there is a margin of profit to the fraudulent that will continue the system in operation, and that we shall have gained nothing for the Government. The only effect is in a measure to reduce the profits of the parties concerned in defrauding the Government. I think that a tax amounting in the

whole to fifty cents per gallon is as high as a safe collection of the revenue will warrant. The specific levy of thirty-five cents, adding to that the license, will, in my view, accomplish what is desired by this bill, that is, take away the temptation for fraud and give the Government a fair income from this article of luxury. In the present situation of the country it is safer, Mr. Chairman, to err on the side of reduction. If things continue as they have been this source of revenue will substantially cease. At any rate, the experiment must be made, and the fears expressed that there will not be revenue enough to meet the wants of the country will be dismissed in consideration of the condition of the receipts from this source. My desire is that we shall so frame this bill as to fix the entire levy, whether by special tax or otherwise, at an amount not exceeding fifty cents. To do this we must, according to the estimates made by the chairman of the Committee of Ways and Means, as to the amount from licenses, &c., reduce the special tax to about thirty-five cents. If you add to that the amount of the license tax, as provided in this bill, you have a rate of about fifty cents per gallon. And I repeat again, Mr. Chairman, that my belief is that unless we destroy illicit distillation and put an end to these frauds, we shall get no revenue, and that the only sure method under the control of the legislative department of the Government is to reduce the taxes.

Mr. SCHENCK. I observe that there is manifested by the House a good deal of harmony on this subject, not only among members, but between the Committee of the Whole and the Committee of Ways and Means. The Committee of Ways and Means have made a recommendation to the House of sixty cents as the amount of the direct tax. They do not ask to have it considered in any other light than as a recommendation. They will be perfectly satisfied with any figure that the House may, in its discretion, think it wisest to fix. Indeed, the committee were somewhat divided upon the subject, some favoring a tax a little below sixty cents, and others a tax a little above that amount. The common purpose we all had in view was to fix an amount of tax which shall be collected, and which in process of being collected shall not be subject to those evasions and frauds which have been the disgrace of the country.

It is not worth our while, however, to stand here kicking at the "whisky ring" or fighting it, because it is very hard to ascertain what that ring is. I sometimes doubt whether it really has an existence as an organization. It is a sort of myth. In saying this I do not mean to be understood as saying that there is not a band of rascals in the country making money by frauds in reference to whisky; but these men, so far as I have been able to discover, while they are all ready to cheat the Government, are almost all ready at the same time to cheat each other. If there is anything that a distiller or a whisky dealer engaged in these frauds suspect more than anything else it is that the revenue officer with whom he is colluding will cheat him; and the revenue officer who is trying to get blackmail is just about as fearful that the distiller or the dealer from whom he expects to get it will cheat him in the course of their transactions. We, therefore, have them all to fight; and whether you call them a "whisky ring" or by any other name, there is a large number of dishonest persons throughout the country, official and unofficial, against whom we have to protect the Treasury. How shall we do it? I say—and we all seem to be agreed upon the point—by putting the direct tax low enough to take away the inducements to this fraud. What shall be the amount? The reason I have declared my willingness to assent to a tax of fifty cents is that the great proportion of the present fraud comes from the distillation of spirits from molasses. Now, it takes a gallon and a half of molasses to make a gallon of spirits; and the present price of molasses being

forty-five cents per gallon, it requires sixty-seven and a half cents worth of molasses to make a gallon of spirits. It will cost something like ten cents to manufacture it, which brings it to seventy-seven and a quarter cents. You cannot make a gallon of these fraudulent spirits from molasses and sell it in the market for less than about eighty or eighty-eight cents. It may become lower hereafter; but this being the case, I doubt whether we have gone too high in fixing sixty cents. If the House prefer fifty cents as the direct tax on whisky, I will suggest when we come to that point, to increase the tax upon capacity.

[Here the hammer fell.]

Mr. HARDING. I move to strike out twenty-five cents, and in lieu of it to insert twenty-six cents.

Now, Mr. Chairman, I wish to say to the committee, while I am as anxious to obtain a large amount of revenue from this source as any gentleman upon this floor, I am fully convinced, after considerable observation bestowed on this subject during the last three or four years, living, as I do, in the neighborhood of distilleries, that no considerable amount can ever be realized from the tax upon distilled spirits if we put this tax at a higher figure than twenty-five or thirty cents.

Now, sir, before the war, as will be remembered by gentlemen who hear me, whisky or alcohol sold for about sixteen cents per gallon by wholesale. The tax of sixty cents now proposed by the Committee of Ways and Means is about four times what the article sold for previous to the war. It is certainly, at least, three times the value of the article. This is an inducement to fraud. Where a man has fair remuneration for honest labor there is no inducement to perpetrate fraud; but fraud upon the revenue is invited where the tax is so much greater than the cost of the production of the article itself. If we wish to collect the revenue from this source we must reduce the tax to the sum I have stated. While I have great confidence in the ingenuity with which the committee have framed this bill, and while I approve the means of distributing the tax, taxing the capacity, taxing the barrel, taxing the product, and so on, yet, sir, I wish to say that, in my judgment, it does not prevent fraud. We are to have a system of stamps. Stamps are to be put upon the barrels. How do they prevent parties from drawing out the contents of the barrel and filling it with illicit whisky? I confess I do not see how that can be prevented by this system of stamps. I am of the opinion that the tax can only be collected at the distillery. The moment you permit the party to remove the whisky from the distillery without paying the tax and to allow it to be transported in bond that moment you open the door to fraud. We have had experience enough already on that point. If you permit the whisky to go in the cars for exportation, what opportunity is there for fraud? What opportunity for changing the barrels? They will have depots where that can be done.

Why, sir, our distilleries in Illinois did a profitable business until we allowed the transportation of whisky in bonds without paying the tax. The moment that was allowed our distilleries in Peoria were closed. How they continued up to that time I know not.

In the brief time allowed me I can only throw out a few disconnected ideas. There are, Mr. Chairman, millions of money invested in the manufacture of distilled spirits. Let us put this tax so low that the men interested in this illicit distillation will have to give it up; for, sir, it costs more to manufacture whisky in an illicit way than in the regular and legal mode. Let us have the honest manufacture protected against the illicit distilleries. Then the Government will collect more revenue; and that can only be done by reducing the tax.

[Here the hammer fell.]

Mr. LOGAN. Mr. Chairman, I rise to oppose the amendment for the purpose of having an opportunity of giving my views in reference to the tax upon distilled spirits. We

attempted, sir, at one time to prevent frauds in distilled spirits in this country by trying, if possible, to get the Administration to appoint none but honest men for the collection of the revenue. I made the best fight I could on that subject, but failed. For that I have received any amount of abuse, for which, however, I care nothing. They have even gone so far as to employ a man who has vilified me all winter in my own State and who is now running around this city like a vulture.

But, sir, becoming satisfied that this cannot be done, then what is the next best thing for us to do in order that the Government shall not be defrauded of all the revenue? Believing that the House have determined to reduce the tax, I desire to recur to the argument that I made on the first occasion, which was that I was in favor of collecting it at the distillery, so that the distiller himself shall be willing to pay it rather than employ dishonest means of evading the law.

Now, sir, the committee have reported sixty cents. As a matter of course I agree to that report, and am willing to stand by it if the House so agree. But I say now that if the additional tax is an inducement to fraud I am in favor of reducing it to less than that. I prefer myself to fix fifty cents, although, so far as the report of the committee is concerned, I have concurred in it. With this reduced taxation there will be no inducement to fraud.

Now, sir, I have never been in favor of giving the whisky men—the rings, as they are termed, and perhaps correctly—more advantage under the law than they ask themselves. If there is a whisky ring—and I have no doubt of it myself, at least there is some organization of the kind, though it may not be a ring—let us give them no more than they ask. How, then, are we to destroy them? Now, I was in favor last winter of keeping the tax at two dollars. Why? Because we have twenty-five million gallons in bond which would give us a revenue of \$50,000,000. I was desirous of having that \$50,000,000 paid on those spirits in bond before we reduce the tax. That was one reason why I advocated retaining the present tax. But as it seems the tax is to be reduced, I want to get as much as I can from whisky in bond and whisky out of bond. At twenty cents we would get very little, at thirty cents more, at forty cents more, and at fifty cents still more. But with even fifty cents we will only get \$12,500,000 on the amount of spirits in bond. I am in favor of fifty cents, but at whatever sum the tax is fixed I am in favor of collecting it at the distillery.

That is my theory. But I believe, from what I have learned, that it is the best plan. When you allow transportation in bond for any purpose whatever you allow an opportunity for fraud. My friend from Iowa [Mr. ALLISON] knows that from his own town over eight hundred barrels were transported last year to New York which never paid one dollar of tax.

-[Here the hammer fell.]

Mr. MILLER rose, and was recognized by the Chair, but yielded to

Mr. LOGAN, who said: I move to amend by striking out sixty and inserting forty-five.

Mr. EGGLESTON. How did the gentleman keep the floor?

Mr. LOGAN. If the gentleman understood parliamentary rules he could keep it in the same way. [Laughter.] I was speaking of eight hundred barrels upon which no tax was ever paid, because it was transported by some roundabout way, and just after it was supposed to reach the warehouse the warehouse was burned up and the whisky with it, as was alleged. Two days after it started from Dubuque it is said to have reached the warehouse. That was impossible, as everybody knows—as the evidence shows. We try in vain to ferret out these frauds. Thousands have been committed in the same way.

Now they talk about the whisky ring. Last winter there was a whisky convention in Washington city, represented by people from Missouri, Illinois, and every State in the Union

where whisky is distilled. Mr. Curtis, of my own State, was president of that convention. They resolved first that—

“In order to confine the opportunities of fraud to as small a space as possible and avoid the multiplication of expensive officials, we recommend that the tax be assessed and paid at the still, or when the spirits leave warehouse class ‘A,’ and that class ‘B’ warehouses be entirely abolished.”

The convention made that recommendation to us last winter.

Sir, I have been in favor of collecting the tax at the distillery from the time I knew anything about the matter, and I am for it to-day. I was told by an attorney of the whisky men the other day that if I dared to vote against transportation in bond they would send a man to Congress next time who would vote for it. I say let them do it. So far as I am concerned I shall not vote for anything that I think wrong. If the whisky ring is strong enough to make this Congress do just as they have a mind to, so be it. But I do not believe any such thing. I do not believe there is a member of Congress controlled by any such influence. These slanders that are afloat through the country are the slanders of penny-a-liners who are employed to slander and bedaub the reputations of men in this House. But let us act on a principle that is sensible. Let us collect the tax—let it be sixty, fifty, forty, or thirty cents, as it may be—at the distillery, and have no transportation in bond, and then you will get your tax, and you will never do it in any other way.

An argument is made here that western men will be crippled by that measure. It is no such thing. I will tell you what the effect will be on the West. The moment you collect the tax at the distillery warehouse and pass a bill forfeiting the real estate in case of fraud you drive the distilleries to the side of the cornfields, which is the proper and legitimate place for them to be. That will be the effect of it. When you collect the tax at the distillery you drive them from the places where frauds are committed and put them where frauds cannot be committed. That will be the effect, and hence I am for that principle.

Now, Mr. Chairman, I desire to read another resolution of this whisky convention. They resolved that inasmuch as the tax was likely to be reduced to fifty cents a gallon it should be collected at the distillery with a stamp; and they say “that any barrel of distilled spirits found leaving a distillery or class ‘A’ warehouse, without such stamp, should be condemned and destroyed and the distiller fined \$300 for each barrel; and that any person who shall buy an unstamped barrel of crude distilled spirits should be liable to the same penalties as the distiller.”

[Here the hammer fell.]

Mr. MILLER obtained the floor.

Mr. SCHENCK. I ask the unanimous consent of the committee that all debate upon this section shall close in fifteen minutes.

Mr. BOUTWELL, Mr. COVODE, Mr. INGERSOLL, and others objected.

Mr. SCHENCK. Well, as gentlemen seem to be full of the subject, let the debate go on.

Mr. COVODE. I represent a great whisky district, and I want to say something before the debate is closed.

Mr. MILLER. Mr. Chairman, it cannot be expected that within the brief period allowed members to discuss this section of the bill under consideration that any one member can present his views fully. The question under this section is as to the amount of tax to be imposed on distillation of spirits. I confess, Mr. Chairman, that a tax of two dollars per gallon on an article that costs but thirty cents to manufacture appears to be exorbitant, and is higher than imposed in any other country save that of Great Britain and, perhaps, Russia. The amount of whisky annually manufactured in the United States is variously estimated; some make it fifty million gallons, others seventy-five million, and others even as high as one hundred million gallons. The able Commissioner of Internal Revenue, (Mr. Rollins,) in his last annual report, page 18, says, that “after

careful consideration of the facts presented, and after conference with many of the principal dealers and manufacturers from all sections of the country, the commissioners are of opinion that with the maintenance of the present tax of two dollars per gallon the quantity of distilled spirits which may be expected to be produced and rendered subject to assessment for the immediate future will be from forty-two to forty-five million gallons.” In 1865 the Government realized near sixteen million dollars; in 1866, over twenty-nine million dollars; in 1867, over twenty-eight million dollars, and the present year, from returns already made, it will exceed but little over thirteen million dollars at two dollars per gallon; and of that the expense of collecting will be near three million dollars. I do not believe, Mr. Chairman, in the doctrine contended on this floor that two dollars tax per gallon cannot be collected. I am satisfied if honest men were selected as revenue officers its collection could be enforced; still I admit that the enormous tax of two dollars per gallon is an incentive to commit frauds, and therefore am in favor of reducing the tax, believing that by doing so the Government will realize a greater amount of revenue from whisky tax. But I am opposed to making the tax less than fifty cents per gallon. Some of the gentlemen contend that it ought to be reduced as low as twenty-five cents. Such a reduction, in my opinion, would be wrong and greatly reduce the revenue, and the result would be that Congress would find it necessary shortly to raise it again. Much has been said in regard to the “whisky ring.” Mr. Chairman, the only effective means, in my opinion, to thwart the frauds of that ring is to put the tax at a reasonable rate, say fifty or sixty cents per gallon, and enforce the collection by stringent laws. I agree, Mr. Chairman, with the honorable gentleman from Illinois [Mr. LOGAN] that the tax ought to be collected at the distillery. One great drawback to the revenue is the numerous useless officers employed, which absorbs a large amount of the revenue, and this abuse ought to be corrected at once. Now, Mr. Chairman, I would say to the committee let us fix the tax at a fair rate, have no more officers employed than absolutely necessary, and I have no doubt we will realize from distilled spirits from thirty to thirty-five million dollars per annum.

Mr. FARNSWORTH. I am not among those who can say “I told you so,” when we put this tax at two dollars per gallon, for I did not then suppose there was so much rascality and corruption in the country as the sequel has proved to be the case. But I am now a thorough convert to the propriety of reducing this tax so far, after securing the revenue, as to prevent the demoralization and corruption in the country.

The only question now before the House—for I believe members are generally in favor of the reduction of the tax now imposed—is, how low shall we reduce the tax? Now, I do not believe with the gentleman from Pennsylvania [Mr. KELLEY] that we should reduce the tax so low that the cost of producing grain whisky, with the tax added, shall be as low as the cost of producing molasses whisky without the tax.

Now, crime is always expensive, and we should take that fact in consideration. A man does not steal a little when he risks a great deal of punishment. He will not set up a still in a secret place, and cannot afford to buy up revenue officers, and manufacture molasses whisky simply for what it costs to buy the molasses and make the whisky from it. He must make a large margin of profit before he will run the risk of punishment and pay the amount he must for purposes of corruption.

Now, it seems to me that a tax of fifty cents per gallon, the sum resolved upon by the convention of honest distillers last winter—as they called themselves, and I know nothing to the contrary—is about the right figure.

Mr. INGERSOLL. Allow me to correct my colleague. The amount recommended by



the convention of distillers was twenty-five cents per gallon.

Mr. FARNSWORTH. They were first satisfied with a tax of fifty cents per gallon. I remember a conversation I had with some members of that convention; and while they advocated reducing the tax to twenty-five cents per gallon, yet they told me that they could stand fifty cents per gallon; and that at fifty cents per gallon they thought the fraudulent distiller in New York, Philadelphia, or elsewhere could not compete with them. They said that when they created their distilleries beside the corn-cribs, where the corn is cheap, the man in New York could not import the corn and distill the whisky, cheat the Government out of the tax, and make money by it.

I would then reduce the tax to fifty cents per gallon, and make clean, square work of it, and then put a tax of a dollar for every two gallons, or twenty dollars per barrel, and then I would increase the tax on sales to five per cent. That I think would be easily collected, and it seems to me we could realize the whole tax, or very nearly the whole of it, at those rates of taxation, which would realize a very good revenue to the country. I have thus given my views upon this subject very briefly.

[Here the hammer fell.]

Mr. MILLER. I withdraw the amendment to the amendment.

Mr. PILE. I renew the amendment to the amendment. If the city I represent, and the millions of grain growers who contribute to the trade and commerce of that city were not so vitally interested in this question of the tax on whisky and the production of whisky in this country, I should not presume to say a single word on this subject. From the discussion this morning I think it is apparent that three results are intended to be reached by every member who has participated therein. The first object sought is that the corrupt combination which now controls the manufacture of and trade in whisky shall be thoroughly and effectually broken up. The second is that we shall prevent the continued distillation of molasses, and restore the production of this article to the grain of the West, and that its manufacture shall be carried on in localities where nature and the production of the grain has furnished the greatest facilities. These two objects being accomplished, we then desire that there should be collected from distilled spirits the largest amount of revenue that can possibly be secured. To attain this object, while at the same time effectually breaking up these corrupt combinations and restoring the production of this article to the distillation of grain and to localities from which it has been transferred by the frauds that have prevailed for the last three years, we should, I think, make the tax not more than forty cents.

The highest rate now named is, I believe, sixty cents, the lowest twenty, and I ask the attention of the committee to this single consideration: that it is of far more importance that these corrupt combinations be broken up, and the production of this article restored to the distillation of grain and to the localities where the grain is produced, than to secure to the Government the difference in revenue between thirty cents and fifty cents or forty cents and sixty cents; and if there is a difference of opinion among those who have given careful consideration to the subject as to whether a tax of forty or sixty cents will most effectually secure these objects, then it seems to me wiser that we should fix the lower figure than that we should incur any risk of the continuation of these corrupt combinations. If we fix the specific tax at forty cents, and then increase the tax, as I am in favor of increasing it, upon the fermenting capacity of the still from four to ten dollars per barrel, it will make the aggregate tax sixty to sixty-two and a half cents; five to eight cents lower than the amount to which the chairman of the Committee of Ways and Means thinks it could be raised, and yet prevent the distillation of whisky from molasses and imported articles. We had better

fix the rate six, eight, ten, or even fifteen cents below this figure than incur the slightest risk of the continuation of the distillation of spirits in small distilleries, hidden away in garrets and cellars. If we reduce the tax to forty cents, twenty cents below the figure fixed by the committee, the loss of revenue to the Government will not be important as compared with the risk of continuing for ten or twelve months longer the corrupt combinations that now control the manufacture of this article, defrauding the Government, corrupting the morals of the people, and preventing the collection of the revenue. I withdraw the amendment.

Mr. HIGBY. I renew the amendment. I rise rather for the purpose of seeking information than to attempt to impart it. In the course of the debate this morning the gentleman from Ohio [Mr. GARFIELD] made the statement that, in addition to the tax of sixty cents a gallon, there is provided in the bill a tax of sixteen and a half cents not provided for in the present law. I ask the chairman of the Committee of Ways and Means whether that is the fact?

Mr. SCHENCK. I think that is substantially the case. Under the present law there is no other tax than the two dollars per gallon except the tax on the sales, which, being only one tenth of one per cent. on the amount above \$25,000, amounts to next to nothing, and a small special tax of \$200 upon distillers.

Mr. HIGBY. Then this bill provides virtually for a taxation of seventy-six and a half cents as against two dollars under the present law. Mr. Chairman, from the earliest moment of the imposition of the tax upon this article of whisky, I believe in the Thirty-Eighth Congress, I have been in favor of the sum of fifty cents, together with the member from Ohio and many other members of the House at that time. And I will say to the gentleman from Illinois, [Mr. LOGAN,] who quoted from the proceedings of a certain gathering in favor of the reduction of the tax to fifty cents per gallon, that that was not an original idea with that body of men, for there has been a certain number of the members of the Thirty-Eighth and Thirty-Ninth Congresses who have always been of the opinion that the tax upon whisky should not be more than fifty cents. If that body of men were dishonest men and trying to defraud the Government it seems to me it would be their object to get the tax up to the highest figure, when they would have the opportunity to make more money than to have it reduced to the lowest figure.

I was about to say, Mr. Chairman, I had intended to sustain the committee in fixing the tax at sixty cents per gallon, although my own idea is that fifty cents is as high as the tax ought to be. If there is to be added sixteen and a half cents to the sixty cents, making seventy-six and a half cents per gallon as an offset against two dollars a gallon, it seems to me we ought to come to the direct tax of fifty cents a gallon upon distilled spirits. That, in my judgment, is what the tax ought to be.

In reply to what has been said, that it will be impossible to collect this tax, I will say we ought certainly to make the experiment of the machinery contained in the present bill. If it is not strong enough let us make the machinery stronger, and let us see whether we can collect this amount of fifty cents. If we find it is not strong enough, then when Congress meets again next December we can make it stronger and see whether we cannot defeat those who are defrauding the Government.

It seems to me that we ought never to make a great difference between the cost of the article manufactured and the tax imposed upon it. If the tax be many times more than the cost of the article it will leave room for fraud, and there is no more ingenious people than the American people in this and in all other respects.

The CHAIRMAN. The gentleman's time has expired.

Mr. HIGBY. I withdraw the amendment.

Mr. PAINE. Mr. Chairman, I understand the question before the committee, if the

amendment to the amendment were withdrawn, would be the amendment of the gentleman from New York [Mr. VAN WYCK] to the tax fixed by the Committee of Ways and Means. I wish to know whether I am right in that statement?

The CHAIRMAN. That is so. If there be no amendment to the amendment pending then the question will be on the amendment of the gentleman from New York.

Mr. PAINE. The gentleman from California has withdrawn the amendment to the amendment, and I now propose an amendment to the amendment on which I shall ask for a vote of the House. I propose to amend the amendment of the gentleman from New York by fixing the tax at thirty-five cents per gallon. The chairman of the committee informs us that in addition to sixty cents per gallon there are other taxes imposed by the bill which, if the per gallon tax is fixed at sixty cents, amount in the aggregate to sixteen and a quarter cents per gallon, raising the tax to seventy-six and a quarter cents per gallon. If we put the tax at thirty-five cents then there will be added ten cents of the tax of four dollars on the barrel of forty gallons, three cents of tax in the shape of the three per cent. tax on sales at wholesale, one cent retail charges, and one cent and one quarter of tax of five dollars on capacity per day of mash, in all fifteen and a quarter to be added to thirty-five cents, making fifty and a quarter cents. I have made up my mind that fifty cents would be a fair tax. My amendment will make it almost exactly fifty cents. I should be willing to vote for a higher tax, but I should be unwilling to vote for a lower tax than thirty-five cents in addition to the fifteen and a quarter cents proposed by the bill. I shall ask for a vote on my amendment of thirty-five cents which, with the fifteen and a quarter cents, will make the aggregate tax fifty and a quarter cents.

Mr. EGGLESTON. I wish to renew the amendment to reduce the tax to twenty-five cents. I am opposed to the other amendment. I am from a district which pays more tax than any in the United States, with the exception of one or two, and yet there is not a distillery in the district. I am satisfied from what I have heard on this floor this morning that the object of members of the committee is to get as much money out of the whisky tax as they can. Now, if the Committee of Ways and Means had taken the course which I think they ought to have taken last November, and started this machinery then, we would have now been some thirteen or fourteen million dollars better off than we are. I am willing to shoulder a portion of the blame myself. But I sent two or three resolutions to the committee some time ago, one of them proposing to farm out the manufacture of whisky in this country. In that way I believe we could realize sixty million dollars per annum from the manufacture of distilled spirits.

Mr. STEVENS, of New Hampshire. Does the gentleman know of any civilized Government that ever farmed out the manufacture of spirits?

Mr. EGGLESTON. I know of no civilized or uncivilized country that does not collect the tax on spirits better than we are doing now. There is no country on earth that would let its revenue system be run as ours has been run in reference to the collection of this tax. Frauds have been committed all over the United States, under the eyes of the revenue department and of members of Congress. Remonstrances have been made against it, but it has gone on until the country has become demoralized in consequence of the failure to collect the tax.

Now, sir, if the committee will cut off the manufacture on whisky entirely, we would realize more money in the next six months than we have for the last six months. I suppose my friend from New Hampshire would say that no civilized country would do that. But, sir, if you cut off the manufacture for six months you would get the tax of two dollars a

gallon on what is now in bond, and that would give you \$50,000,000.

My opinion is we should make it twenty-five cents per gallon and collect it at the distillery. Then you collect it on all that is made, and you would have more revenue than you get in the way it is running now. I am satisfied that the chairman of the Committee of Ways and Means is as well acquainted with the whisky question as any gentleman on this floor, because he is surrounded by distilleries in his district, where there are more of them, perhaps, than in any other district in the United States. I have a high appreciation of his opinion on this question. But, sir, I am satisfied the country is running to ruin by letting the present system run on in the way it is going, and I advise the chairman of the committee to get this bill out of the Committee of the Whole as soon as possible, with the tax fixed at twenty-five cents a gallon, or at all events reducing it; I am not particular as to the exact amount; put the previous question on it, and pass it as soon as possible. Hundreds of thousands of dollars are being stolen every day while we are debating this subject. I am satisfied that the machinery is as good as it can be, and I wish to have the vote taken as soon as possible. If I cannot get the tax reduced to twenty-five cents I will agree to thirty, fifty, or even sixty cents. But I prefer it should be twenty-five cents.

[Here the hammer fell.]

Mr. PAINE. I withdraw the amendment to allow the gentleman from Massachusetts to renew it.

Mr. BOUTWELL. I renew the amendment not because I favor it, but for the purpose of objecting to the policy of reducing the tax materially below the report of the committee. It is useless to suppose that the reduction of the tax even to twenty cents will operate very essentially in the way of deterring persons from attempting to defraud the revenue. These attempts were inaugurated when the tax was twenty cents, and they will be renewed and persevered in even if you put it at twenty cents. At present the object to be looked at is to raise from the tax on distilled spirits money enough after making due allowances for such frauds as will be committed to enable the Government to go on without returning to the taxation of those articles which have been exempted by previous legislation. Assuming that we can collect the tax on eighty million gallons, as we might with honest and efficient public officers, at sixty or seventy cents a gallon, we have a revenue of fifty or sixty million dollars a year from distilled spirits, and this revenue is needed to enable the country to avoid getting into debt or imposing taxes on articles already exempt.

The point to which I wish to direct the attention of the committee is this: that we cannot be justified before the people of this country in reducing the tax below the revenue wants of the Government without making another effort to collect it at that point. We abandon the tax of two dollars a gallon because it has proved, under the circumstances that exist, impracticable to collect it; but we are not justified in putting the tax below the revenue wants of the country until an effort shall have been made, extending beyond the term of the present administration of the Government, when we hope to have our revenue laws better administered than they are to-day. If we put the tax below fifty cents we certainly shall be deficient in the necessary revenue to carry on the Government, and I think there is the pivotal point upon which we should legislate at this time. I do not accept the theory that even at twenty cents you will drive distilling back to the grain-growing districts. Unless the tax is collected in the maritime ports, if it is collected in the grain-growing district, it will be cheaper to send the grain to New York and other maritime ports where there are opportunities of defrauding the Government and evading the payment of the tax and manufacture the whisky there than to manufacture it in the West and pay the tax there.

There is another point upon which I wish to remark, and I make the remarks now, because I intend, if I do not change my views on further examination, to offer an amendment to the report of the committee, unless the committee shall see fit to propose it themselves, which I should much prefer, to separate by law, and in the license granted, the business of distilling for export and for the manufacture of medicine from the general business of distilling in the country, so that transportation in bond shall be limited to the product of those distilleries that are licensed for the purpose of engaging in the business of manufacturing for export only. The great frauds upon the revenue heretofore have been in consequence of the transportation bonds being violated. The business of manufacturing for export will be from four to five million gallons a year. That will employ a certain number of distilleries. Those distilleries cannot have a monopoly of the business because they come in competition with the foreign distiller who also manufactures for export to the consuming countries of the world.

[Here the hammer fell.]

Mr. SCHENCK. It was my purpose to make some reply to the amendment offered by the gentleman from Wisconsin, [Mr. PAINE,] but the gentleman from Massachusetts, [Mr. BOUTWELL,] although renewing that amendment, has submitted to the House most of the views, anticipating mine, against its adoption. I was going to put my opposition to the amendment mainly upon the ground of the question of revenue which it involves. In their anxiety to bring about a wholesome condition of things, as it is supposed, in the collection of the tax on whisky, so as to prevent evasion and frauds, gentlemen must take care that in their underbidding of each other they do not come to a point where we shall cease to have that revenue which we ought to have and which we must have from whisky, tobacco, and articles of this kind, unless we are to be thrown back upon oppressive taxes to be imposed upon other industrial pursuits.

Now, sir, I suppose the production of distilled spirits to be from eighty to ninety million gallons. The whole tax imposed by the proposed bill, then, will scarcely bring the amount of tax up to the \$70,000,000 estimated by the Committee of Ways and Means as being necessary in order to help out the other taxes for the support of the Government.

But if the proposition should prevail to reduce the tax to thirty-five cents instead of sixty cents, including these indirect taxes as a part of the fifty cents, which is assumed to be all that is necessary in the aggregate, we should get below that standard, even if we collected the whole tax, and there must necessarily be a deficiency of some twenty, thirty, or forty millions, probably about thirty millions. I believe, sir, that something equivalent to that which is proposed by the committee can, if enacted into a law, be enforced, and that up to that point we can, with reasonable certainty, count upon a collection of the taxes.

But the gentleman from Wisconsin is wrong, it seems to me, in another proposition. He counts as a part of his fifty cents this three, four, or five per cent. on the aggregate of the wholesale and retail dealers' sales. That is nothing to the distiller. That is a tax imposed upon the trade in this article after it has been produced and has passed out upon the market of the country, and therefore it is not fairly to be counted as a part of the fifty cents.

My colleague [Mr. EGGLESTON] complains that we have not adopted a system suggested by him at some former time, of farming out the tax. All I have to say on that point is that under the Governments of some of the eastern countries this system of farming out taxes has been tried, and being made a matter of individual speculation has become so hateful that even the submissive people of those countries have risen against it. If we should attempt in this country to let a body of private individuals have the benefit of some fifty, sixty,

or eighty millions of taxation upon assuming to collect the tax and pay a certain amount to the Government, I would not give the snap of my finger for the lives of the agents employed in collecting that tax. Our people would never submit to anything of the kind. Quieter, more submissive people than ours are not disposed to submit to that mode of collecting taxes. I therefore hold such a system to be entirely out of the question.

We are now endeavoring to impose and arrange our taxes in such a way as in the aggregate to raise sufficient revenue for the purposes of the Government; and I think the Committee of Ways and Means are not much out of the way in the figures which they submit.

Now, Mr. Chairman, I desire that the debate upon this particular section shall be brought to a close, gentlemen having been heard pretty generally all around; and unless the committee will give unanimous consent I will move that the committee rise in order to terminate debate in twenty minutes. There are, I believe, no other amendments to be offered requiring discussion, excepting one which I think a very good one; but I will confine my proposition to closing debate upon the particular subject of the amount of the direct tax. I ask unanimous consent that debate on that question be closed in twenty minutes.

Mr. INGERSOLL. I object.

Mr. SCHENCK. I move, then, that the committee rise for the purpose of terminating debate.

On the motion there were—ayes 69, noes 80.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had, pursuant to the order of the House, had under consideration the Union generally, and particularly the special order, being House bill No. 1284, to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, and had come to no resolution thereon.

Mr. SCHENCK. I move that when the House shall again resolve itself into the Committee of the Whole on the state of the Union upon the special order, all debate upon the amount of direct tax on distilled spirits shall terminate in twenty minutes.

Mr. INGERSOLL. Say thirty minutes.

Mr. SCHENCK. I yield to the importunities of a great many gentlemen, and modify my motion so as to limit debate to thirty minutes.

The motion was agreed to.

#### MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was presented by Mr. W. G. Moore, his Private Secretary.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the State of the Union, and resume the consideration of the internal tax bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

The CHAIRMAN. By order of the House all debate on the question of fixing the amount of taxation per gallon on distilled spirits will terminate in thirty minutes. The pending question is upon the amendment of the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. BOUTWELL. I withdraw the amendment.

Mr. COVODE. Mr. Chairman, I desire to renew the amendment offered some time ago by the gentleman from Missouri [Mr. PAINE] to strike out "sixty" and insert "forty," so as to make the amount of the tax forty cents per

gallon. I had come to the conclusion, Mr. Chairman, that fifty cents is the proper amount at which to fix the direct tax; but since learning that the bill, as reported by the committee, contemplates an indirect taxation of from sixteen to twenty cents additional, I have become satisfied that this will place the aggregate taxation so high that there will be room for enormous frauds.

Prior to the war the southern States consumed annually thirty million gallons of whisky, manufactured principally in the North and West. Now the southern people make their own whisky, and they make it, to a large extent, without the payment of the tax. When I was in Louisiana, two years ago, my attention was called to six extensive distilleries then being carried on in Rapides parish, and paying neither tax nor license. Some months ago I received a letter from Dr. Waters, secretary of the convention then in session at New Orleans, stating that those distilleries continue to run, and do not pay one cent of tax or license.

The great object in reducing the tax is to put an end to the frauds which have existed; and if a specific tax of fifty cents per gallon should be adopted as the aggregate of the taxation on whisky, I believe we could thereby accomplish the object sought; but if there be in addition an indirect tax of sixteen to twenty cents, I believe we cannot accomplish that object. At the present time the South is not only making its own whisky, but is sending into the North for sale whisky that has never paid the tax. We must break up this system of fraud, and in endeavoring to do it let us take such measures as to accomplish it at once.

Mr. GRISWOLD. I desire to suggest to the gentleman from Pennsylvania [Mr. COVODE] that he loses sight of the fact that the aggregate of this tax is distributed. An aggregate tax of seventy-five cents, distributed among the distiller, the seller, and the consumer, is no greater practically than would be a tax of fifty cents at the still.

Mr. COVODE. I understand that; but if you examine the proceedings of the court at Richmond a few days ago, you will see that the men engaged in perpetrating frauds on the Government know how to get over everything of that kind. Four of them paid the Government officer \$30,000 for permission to cheat the Government out of \$250,000 a year; and then, upon being found guilty in court, they are sentenced to pay the enormous fine of \$1,000 or upward, and to undergo an imprisonment of one year or more.

Mr. Chairman, I represent a district which pays more tax on whisky than any other district of the United States. I believe that in my district will be found the largest number of distillers that have acted in good faith. They have been shut out from the market for the last six months. What I desire is that the Government shall collect the tax; and if it were possible to collect the tax of two dollars per gallon I would never propose a reduction, but they have not collected one tenth of that amount.

[Here the hammer fell.]

Mr. ARCHER. Mr. Chairman, this House is proposing in this bill to make what seems to me to be a strange admission, that a law of the United States providing for the collection of a tax cannot be enforced. Now, sir, if this Government is the Government that we have always supposed it to be, the present tax on whisky ought to stand. And I say it ought to stand if for no other reason than the vindication of the Government. If this country could enforce its laws against ten million people in arms against it, I say it presents a strange spectacle if it cannot enforce a law to collect the taxes.

Mr. Chairman, if the energies which this House has displayed and its committees have displayed for the last three months in investigating the impeachment or the evidence against the President, had been used in the investigation of the frauds against the Government or this question of the whisky tax, its collection

could have been enforced; and if a committee had been appointed by this House and used the same energy as the committee used in looking up the evidence against the constitutional head of this Government, I say that those who have violated the law in reference to this whisky tax would before this time have been brought to punishment.

Now, sir, if we go on legislating in this way this "whisky ring," or the men who are setting the law at defiance which fixes the tax on whisky at two dollars a gallon, will set a law at defiance if the tax be fixed at fifty cents or any other sum. I say it is due to the dignity of the Government that, instead of repealing the tax on whisky, this House should take such measures as will bring those who violate the law to a proper punishment, and the energy of this House ought to be brought to bear for that purpose. When the majesty of the law has been established, and not before, let us legislate for the reduction of this tax.

Mr. WOODBRIDGE. I move to insert two dollars a gallon.

Mr. PAINE. I rise to a point of order. As the question stands there is no chance for that motion.

The CHAIRMAN. The gentleman is correct, but the Chair will explain. The pending amendment to the amendment is to insert thirty-five cents. The bill which the Clerk will read is very obligatory that it is not in order to strike out what has once been inserted.

The Clerk read as follows:

"Although it is not in order to strike out by itself what has been inserted, it may be moved to strike out a portion of the original paragraph comprehending what has been inserted, provided the coherence to be struck out be so substantial as to make this effectively a different proposition."

The CHAIRMAN. If sixty cents be stricken out and any other sum inserted it will cut off all further amendment on that point; and the Chair has thought it agreed with the pleasure of the House to allow a wider range of debate than that rule would call for, of course, within the thirty minutes to which the debate has been limited.

Mr. PAINE. I withdraw the point of order.

Mr. COVODE. I withdraw my amendment.

Mr. WOODBRIDGE. I now move to insert "two dollars."

Mr. Chairman, it will be recollected by yourself and others who were members of the Thirty-Eighth Congress, that when the internal revenue law was inaugurated in the course of the discussion two views were taken in regard to the tax on whisky, one that it should be taxed heavily, because its use was immoral, and the other because it was an article of luxury. I then thought it should be considered like any other article of commerce, and that, although its improper use engendered immorality and vice, other considerations were more important in determining the amount of the tax which should be imposed. After much examination and discussion Congress settled upon two dollars a gallon. At the time this seemed to be satisfactory to the country. No such difficulties in the execution of the law appeared as to induce the Thirty-Ninth Congress to diminish the tax. We are now, however, told that the tax must be reduced in order to enable us to collect it, or, in other words, that in our law-abiding and law-respecting country there is no power whereby the law, as it now stands in this regard, can be executed.

Such an assertion is an assault on our Government and our people. All I suppose will admit that the article of whisky, so far as taxation is concerned, must be regarded as a luxury, and all will also admit that it is wise political economy to obtain revenue from luxuries so far as possible. Thereby the productive industry of the country is relieved, and the price of those articles which necessarily enter into the consumption and comfort of the laboring man reduced. Upon this ground whisky can well bear the tax of two dollars a gallon. It is now proposed to reduce the tax to sixty cents. The only argument in favor of such reduction, so far as I have heard, is that if we

impose a higher tax the law cannot be enforced. A whisky ring scares Congress out of its adherence to duty and propriety, and regulates our legislation at its will. Such is a fair statement of the proposition, and what cowards we are!

The fault, sir, is not in the law. The difficulty is not in the alleged fact that combinations of wicked men can at pleasure defeat the execution of the law. The fault is in the Government itself. The law is good enough. The two-dollar tax can be collected. In order to execute the law we must have for the chief revenue officer a man of large intellectual endowment, of iron will, of marked executive power. The various subordinates should be responsible to him and subject to his control. When a subordinate proves himself to be incapable or dishonest he should be turned out, and politics should have nothing to do with it.

My own State, sir, has nothing but a general interest in this matter. I do not suppose that there has been a gallon of whisky distilled within its boundaries for many years, and perhaps there is as little drank there as in any section of the country. All our people are burdened with taxation, and it is our duty to lighten that burden as far as possible, and at the same time preserve every national obligation according to the letter and the spirit.

My policy would be to tax whisky and tobacco, articles of mere luxury, heavily, and with a fair and moderate tax upon petroleum, stamps, and two or three other articles, raise the required revenue.

[Here the hammer fell.]

Mr. ORTH. Mr. Chairman, in the very limited time allotted us by the order of the House it is impossible to do anything like justice to so vast and interesting a question as the one now under consideration.

Revenue and taxation in their various forms always affect to a greater or less extent the business interests and commercial relations of a people, and hence the legislator should exercise his power over these measures with great caution. A change of taxation, either in its amount or its mode of collection, will to some extent affect the values of property; it may depress one species of property and appreciate another species; and we should prevent, if possible, too great a difference in these extremes of appreciation or depression. Our people, with singular unanimity, have long since agreed that alcohol, (or whisky,) for many reasons, should be made to bear a very large proportion of the public burdens. How best to accomplish this object has for years engaged the attention both of the public and of Congress. Could the present tax be collected by the officers of the Government and placed in the national Treasury there would be no demand for its reduction.

But it is a melancholy fact that our laws are evaded and disregarded. Interested parties and corrupt officials are appropriating to themselves millions of dollars of the public revenue, thus defrauding the national Treasury and increasing the burdens of the honest taxpayers of the country, and we have now to meet the question whether we shall permit such a state of affairs to continue longer, to the disgrace of the country both at home and abroad.

It is most humiliating, but the fact stares us in the face, and cannot be controverted, that this Government is not to-day able to enforce its laws for the honest collection of the revenue on this particular species of property.

I have not the time to enter at length upon the causes which produce this sad result; but most prominent is the belief that the executive branch of the Government is derelict in its duty, and offers no effective resistance to the rings of plunderers who now appear to control it.

To the legislative department of the Government there is but one remedy left, and that is to reduce this tax to such a point as will enable the honest manufacturer of whisky to compete with its illicit production. That point, in my judgment, is that which places the tax nearest



the cost of the production of whisky, which would be somewhere in the range between twenty-five to fifty cents per gallon. By this reduction you drive the illicit distiller from his occupation, for crime is always more or less expensive, and in proportion as you increase the profits of crime to that extent you increase crime itself.

Nor will this reduction have the effect of reducing the general revenue, but rather to increase it, for we see that with the present tax of two dollars per gallon we realize only about thirteen million dollars of revenue, while our experience has proved that with a much less tax we have heretofore been enabled to collect a much greater revenue.

Believing, therefore, that public morals as well as the public revenue will both be subserved by a change of the tax on whisky, I shall vote to fix that tax at the lowest sum named, to wit: twenty-five cents on the gallon, and failing in that, shall vote for such other sum in reduction of the present tax as shall finally be able to command a majority of the votes of this House.

Mr. STEVENS, of New Hampshire. Mr. Chairman, I am in favor of the reduction of the tax on distilled spirits for the reason that the attempt to collect any considerable portion of the two-dollar tax has proved a failure. This tax and the attempt to enforce its collection have defrauded the revenue, debauched the administration of public affairs, and sapped the very foundations of official and private morals. Why is it, sir? In my opinion these results are the direct consequence of a wide departure from that sound maxim of political economy which seeks to keep the tax below the cost of production. Here is a tax which bears to the cost of production the ratio of one to six and a half. Such a disproportion cannot fail to stimulate fraud and corruption to an alarming extent, even under the most favorable administration of our revenue laws. How much greater and more alarming have been the frauds under the corrupting influences of the present Executive! On the one hundred million gallons of whisky made in the United States we collect now \$12,000,000, six million gallons only paying a tax, while ninety-four millions escape collection entirely. Such is the operation of the present law; and while all admit the unfortunate influence of the Executive upon its collection, I am free to confess that this excessive tax is wrong in principle and vicious in its practical results. Distilled spirits, as an article of luxury, should be taxed to the utmost limit consistent with its collection. Beyond that you cannot safely go, beyond that limit your law becomes worse than a failure.

The Committee of Ways and Means, after struggling to invent some method of collecting at least a moiety of the present tax, have reluctantly acceded to the general demand for its reduction. Their bill proposes a special tax of sixty cents on the gallon with incidental taxes bringing it up to about seventy cents. This is indeed a great concession. Still, I fear that in its practical results it will be found to be too largely in excess of the original cost of production and violation of the principles to which I have adverted. Therefore, sir, I hope the tax will be reduced still further, leaving less inducement to fraud and converting the stimulus that now exists, and must under a high tax always exist, to evade its payment. We ought, perhaps, to be able to collect a tax of fifty cents per gallon. This would give us an annual revenue of \$50,000,000 from this source alone, a sum nearly double the amount which has been collected under existing laws and four times as much as we are now realizing. I am willing to try the experiment of such a reduction, in the belief that it will operate to break up the swindling rings which now ply their corrupt and fraudulent practices all over the country, and yield such a revenue to the Government as ought to be derived from articles of luxury.

Mr. INGERSOLL and Mr. HOLMAN rose. The CHAIRMAN recognized the former.

Mr. HOLMAN. The gentleman has spoken once on this subject and I have not.

Mr. INGERSOLL. I have not spoken on this proposition to increase this tax to two dollars.

The CHAIRMAN. Technically the gentleman from Illinois is right, though the debate has been upon the general subject. The Chair therefore recognizes the gentleman from Illinois.

Mr. INGERSOLL. I desire to hold it, then. I wish to correct a statement made by my colleague, "that since the passage of the law last January in reference to the export of whisky the manufacture of it in the Peoria district has ceased." It had nearly all ceased long before. Out of some twenty manufacturing houses in that district not more than four or five have been in operation for the past year.

Now, sir, I propose to show that sixty cents cannot be collected at the distillery. I do not believe that any distiller in the West can raise the necessary amount of capital with which to run a fifteen hundred bushel house, and there are many larger. A fifteen hundred bushel house will produce six thousand proof gallons per day; at fifty cents per gallon tax, he will have to pay \$3,000 per day. New York is the great market. He ships to New York, and he cannot expect to receive returns from the sale of the whisky sooner than thirty days, if you grant that he finds the price in the market satisfactory. He will have to run his house thirty days before he gets any return. It will be seen that he has paid \$90,000 tax in the thirty days. The actual cost of the production for that time is not less than \$45,000 more, which makes \$135,000; and this is only for one month. Now, it often happens that the distiller does not find the market price satisfactory, and is compelled to hold the whisky for a year, and in this event he would require over one million five hundred thousand dollars capital to do business on for one year. At the present time no distiller can draw on his commission merchant for advances on whisky shipped, for the reason that the whisky is continually liable to seizure, and is therefore no security.

Now, a word in reply to the gentleman from Massachusetts, [Mr. BOWWELL.] New England has little interest in the manufacture of whisky. That may account for the position of that gentleman. Now, seven eighths of the capital invested in distilleries is invested in the middle and western States. Hence it is proposed to throw all this burden of taxation on the West, while the manufacturers of New England have been relieved from the burden of the five percent. tax on manufacturers. This will not do. The burden of taxation should be distributed with the strictest regard to equity and justice; all bearing their fair proportions.

My remarks in reference to the fifty-cent tax are based upon the assumption that the tax is collected at the distillery. If one removal in bond shall be allowed, which ought to be done, it would enable western distillers to do business.

[Here the hammer fell.]

Mr. WOODBRIDGE. I withdraw the amendment to the amendment.

Mr. HOLMAN. I move to amend the amendment by striking out "fifty" and inserting "forty." I think the tax ought to be lower than forty cents a gallon. I think the interests of the country would be promoted if the tax were fixed at twenty cents a gallon. In my judgment the tax ought to be fixed at twenty cents, and in making the motion to fix the tax at forty cents I am influenced by the belief that the majority of the committee have determined not to reduce the tax below forty cents. I am, indeed, apprehensive that a reduction to forty cents cannot be obtained.

Mr. Chairman, I represent a district very largely engaged in the manufacture of distilled spirits, and I know that not only has that interest been almost destroyed by the unwise legislation of Congress, but other important interests of industry incidentally connected with that

branch of manufacture have been utterly prostrated. By the unreasonable tax imposed on distilled spirits our industrial interests have been destroyed, and fraud has transferred this branch of manufacture to the great cities. In my own district gentlemen of unquestionable integrity have been engaged in the distilling business. The leading firm engaged in the business are gentlemen of as high character as any business men of the Northwest, and have for twenty years commanded the highest degree of respect and confidence. They assure me that unless the tax is greatly reduced all honorable men will be driven from the business, that a tax of twenty or twenty-five cents per gallon while putting an end to the stupendous frauds which have disgraced this business would manifestly increase the revenues of the country. They believe that in a country like ours no system can be devised to prevent extensive fraud when the motives are so great, and when, by reason of the enormous tax, the profits of successful fraud are so enormous.

It has been said that when the tax of twenty cents was imposed in 1862 frauds were perpetrated. I never heard that suggested before. On the contrary, the universal impression in my section of the country has been that during the time that tax was in operation it was faithfully and honestly collected.

I hold in my hand an article from a leading commercial paper in the Northwest, the Cincinnati Gazette, discussing this subject fully, urging a tax of twenty cents, and protesting, in the name of the business men and manufacturers, against imposing restrictions, endless regulations, and infinite details, such as are proposed in this bill, which would cripple this branch of business and other branches of business indispensably connected with our prosperity. It is manifest that if the tax is fixed at twenty cents, to be paid at the distillery, we may abandon at once the embarrassing and complicated system of regulations prescribed in this bill, and when the spirit has paid the tax at the distillery it will pass untrammelled into the market. It is unjust to the Northwest that this business, connected as it is with the grain-growing interest, the great interest of the Northwest, should be so loaded down and hedged in by a system of regulations which is the inevitable consequence of the imposition of an enormous tax. Dispense with the high tax; impose a tax on this article about equal to the value of the article itself, and then, the motive for fraud being gone, business will resume its natural and proper relations, the revenues of the country will be collected, and the fraud and public demoralization which now curses the whole land, rendering our legislation odious and disreputable, will cease.

[Here the hammer fell.]

Mr. ALLISON. I rise to oppose the amendment, and I wish to say a word or two with reference to the rate of tax which may be fixed here by the committee. I want to call attention particularly to this fact, that if we fix the tax this year at twenty-five cents or twenty cents we will be compelled to come back here at the next session of Congress and raise the tax again. If there is any one thing that honest people want it is stability and permanence, and not to be shifted and drifted about by speculators who may want a high tax to-day and a different tax to-morrow. I want gentlemen, therefore, to fix the rate of tax that we will be willing to stand by as a permanent measure of legislation to go into our statute-book, and that will raise the amount of revenue that we require from these articles of luxury. I submit that twenty or twenty-five cents a gallon is not a sufficient tax to raise the amount of revenue that must be raised from the article of distilled spirits. We raise to-day ten cents a gallon from oil. We have raised hitherto twenty cents a gallon and collected every dollar of that tax. Gentlemen are mistaken in saying that these indirect taxes affect this question. These indirect taxes have nothing whatever to do with the amount of specific tax to be levied upon distilled spirits.

What is the tax? The first is in the nature of a license or special tax, and is distinct and separate from a specific tax. If a man undertakes to manufacture whisky at all he must pay the tax of four dollars per barrel before he can set up and run a distillery. If he runs an illicit distillery then he incurs the penalty of forfeiture of all the real estate upon which the distillery is situated. Under this bill a distillery cannot be run without the owner of it also owns the real estate upon which it is located. And if an illicit distillery is permitted to be run all title to the real estate is forfeited.

And so in regard to the tax on dealers. That is levied upon the wholesale dealer after the specific tax of fifty, forty, sixty cents, or whatever it may be per gallon, has been collected and paid. It does not go into the general account upon which frauds can be committed. Manufacturers have paid the tax of five per cent. upon their sales for the last three years. Now we propose to collect a tax of only three per cent. upon wholesale liquor dealers. Is it to be presumed that there will be any great evasion of that tax? And yet that is a distinct and separate tax, entirely separate from the specific tax upon distilled spirits, and has nothing to do with the frauds upon the revenue.

Therefore, whatever tax is levied by law upon distilled spirits as a specific tax, is separate and distinct from any other tax. Therefore my friend from Wisconsin [Mr. FAINE] makes a mistake when he proposes to make the specific tax thirty-five cents per gallon. He says he is willing to make the total tax fifty cents per gallon, including all the taxes. This indirect tax is a different tax entirely from, and has no reference whatever to, the specific tax of sixty cents.

The Committee of Ways and Means have reported sixty cents per gallon as the specific or direct tax. I do not know that the committee are wedded to that particular sum. For myself, I am willing that the tax shall be reduced to fifty cents per gallon, if that will harmonize the views of members upon the subject. Now, I submit that can be collected, and will be paid as any tax upon distilled spirits will be paid.

There will be evasions of the law always, I do not care what the tax may be. There are men in the mountains and valleys and out-of-the-way places who will seek to evade the tax, let it be whatever it may. But we can collect a greater amount of tax at fifty or sixty cents per gallon than we can at a lower rate.

[Here the hammer fell.]

Mr. STEVENS, of Pennsylvania. I desire to say but a few words.

The CHAIRMAN. But one minute is left of the time allowed by the House for debate on the portion of this section relating to the tax per gallon on distilled spirits.

Mr. STEVENS, of Pennsylvania. I merely want to say a few words.

The CHAIRMAN. The Chair will permit the gentleman from Pennsylvania [Mr. STEVENS] to proceed until some member objects.

Mr. HOLMAN. I hope there will be no objection by any one.

Mr. STEVENS, of Pennsylvania. I think this is one of the most difficult questions that ever arose in legislation. I think the object to be considered is not so much the amount of tax which you levy as the mode of collecting the tax. My judgment is that if you would collect the tax by one of two ways you would be able to collect it either by virtue of the capacity of the still or by virtue of the capacity of the mash, which would, perhaps, be a little more accurate. Now, from the most thorough examination that I have been able to give to this subject, I have no doubt at all that by the adoption of either of these plans you would be able to collect the tax on at least four fifths of all the liquor in the country. Now there is not one fourth collected.

I believe, too, that if that were done there could be no general evasion of the law. It could be so arranged that every dollar of it could be collected, except what was necessarily lost by the borings of the instrument. I had

hoped, therefore, that the Committee of Ways and Means would have adopted some such plan. I find, upon an examination of the English, Spanish, Italian, and many other systems, that those two plans are found to be perfectly feasible. As regards the amount of tax to be placed upon this article, I regard that as a matter of very little importance. Under the plan here proposed, if the tax be one dollar you will not collect it; if it be a half a dollar you will not collect it. Suppose the tax be fixed at a half a dollar a gallon and you send out to collect it, how much will you collect? Probably one fourth, and that one fourth will be two thirds less than the amount which really ought to be collected. Therefore, as I said before, the amount of tax put upon this article is a matter of no importance. I shall vote for whatever sum the Committee of Ways and Means desire, because I am willing to gratify their tastes—I do not mean their appetites—I am willing to gratify their tastes, believing that it cannot possibly make one farthing of difference whether we put this tax at a dollar or at fifty cents per gallon. That is about all I had to say on that point.

I have tried for three years past to get one of these systems adopted. I myself introduced a bill and sent it to the Committee of Ways and Means; but it is not there now. I ought not, perhaps, to speak of it, because it may be regarded as offensive. But I beg that committee, between this and the next session of Congress, to go into some cave where the good old Monongahela is made, and take care not to have with them any man who drinks too much; and by experiment they will find that they can adopt an instrument that will save the tax on nine tenths of all the distillation.

The CHAIRMAN. Debate has now closed by order of the House. The gentleman from New York [Mr. VAN WYCK] moves to strike out "sixty," and insert "fifty," as the tax per gallon. And the gentleman from Indiana [Mr. HOLMAN] moves to amend the amendment by striking out "fifty," and inserting "forty." The question is upon the amendment to the amendment.

Mr. SCHENCK. I have a proposition to make to the committee which I trust will be agreed to by unanimous consent; that is, that we vote first upon "sixty cents," then on "fifty," and so on successively upon each proposition down until some amount is agreed upon by the committee.

Mr. INGERSOLL. I want to modify the proposition, so that we may begin at "twenty-five," and vote up.

The CHAIRMAN. Any proposition which is contrary to the ordinary parliamentary course will require unanimous consent.

Mr. SCHENCK. That is what I asked.

The CHAIRMAN. The gentleman from Illinois [Mr. INGERSOLL] objects.

Mr. SCHENCK. Very well; then let the question be taken in the regular way.

The CHAIRMAN. The question, then, is upon the amendment to the amendment.

Mr. INGERSOLL. When will I have an opportunity to vote on the "twenty-five" cent proposition?

The CHAIRMAN. If the amendment to the amendment is not adopted, the amendment will then be open to amendment.

Mr. INGERSOLL. I ask unanimous consent that the voting be first on "twenty-five," and so on up till something is agreed to.

Objection was made.

Mr. COBB. Has the word "sixty" been stricken out of the section, and a blank created there to be filled?

The CHAIRMAN. It has not. The proposition of the gentleman from New York [Mr. VAN WYCK] is to strike out "sixty" and insert "fifty." The amendment to the amendment is to strike out "fifty" and insert "forty."

The question was then taken upon the amendment to the amendment; and upon a division there were—ayes 29, noes 63; no quorum voting.

Mr. HOLMAN called for tellers.

Tellers were ordered; and Mr. HOLMAN and Mr. ALLISON were appointed.

The committee again divided; and the tellers reported that there were—ayes 34, noes 79.

So the amendment to the amendment was not agreed to.

The question recurred upon the amendment of Mr. VAN WYCK, to strike out "sixty" and insert "fifty."

Mr. INGERSOLL. I move to amend the amendment by striking out "fifty" and inserting "twenty-five."

The question was taken upon the amendment to the amendment; and it was not agreed to, there being upon a division—ayes 35, noes 77.

Mr. INGERSOLL. I move to amend the amendment by striking out "fifty" and inserting "thirty."

The amendment to the amendment was not agreed to.

Mr. INGERSOLL. I now move to amend the amendment by striking out "fifty" and inserting "thirty-five."

The question was taken upon the amendment to the amendment; and it was not agreed to, there being upon a division—ayes 40, noes 79.

Mr. HOLMAN. I move to amend the amendment by striking out "fifty" and inserting "twenty."

The question was taken upon the amendment to the amendment; and, upon a division, it was not agreed to—ayes 23, noes 78.

Mr. BROOMALL. I move to strike out "fifty cents" and insert "one dollar."

The amendment to the amendment was not agreed to.

Mr. BUTLER. I move to amend the amendment by striking out "fifty" and inserting "forty-two."

The question was taken upon the amendment to the amendment; and it was not agreed to, there being upon a division—ayes 36, noes 73.

Mr. HARDING. I move to amend the amendment by striking out "fifty" and inserting "forty-five."

The amendment to the amendment was not agreed to.

Mr. MULLINS. I move to amend the amendment by striking out "fifty" and inserting "forty-eight."

The amendment was not agreed to.

The question recurred upon the amendment of Mr. VAN WYCK, to strike out "sixty" and insert "fifty;" and being taken, it was agreed to, there being upon a division—ayes 87, noes 37.

The CHAIRMAN. The question now recurs on the amendment of the gentleman from Kentucky, [Mr. BECK,] to add to the end of the section the following:

Or said distilled spirits shall be sold and removed from the premises according to law.

Mr. BECK. Mr. Chairman, my object in moving that amendment was this, and I think it will strike the committee as being a proper one: Distillers do not object to being held responsible in the manner which this bill seeks to hold them, so long as the whisky remains in their possession, so long as it is under their control and remains unsold; but there are provisions in this bill—and if they are stricken out this amendment will fall—permitting distilled spirits to be removed from the bonded warehouses for rectification, for exportation, for scientific purposes, and for other purposes, by substituting other bonds. Now, it does seem to me that while the distiller should be held responsible with his distillery, his real estate, and everything connected with the distillery, so long as the whisky remains in his possession, yet as soon as he sells it and it passes out of his hands and out of his distillery, then neither he nor his property ought to be bound for any frauds which may afterward be committed in reference to that whisky. He has to sell in order to realize the tax he pays to the Government. He sells in the open market to the highest bidder. He should be responsible

so long as the property remains in his possession and upon his premises; but when removed and it becomes the property of the purchaser, then the distiller and his property ought to be relieved. That is the object of my amendment. The committee can very well see that a distiller, when he has sold his whisky, in good faith removed it according to law and it has been carried to New York for export, for rectification, or any other purpose, and fraud begins there. Under this bill he would have his distillery and other property held responsible until the tax was paid. He ought to be relieved from responsibility as soon as it passes out of his warehouse and beyond his control, and the purchaser has given other bonds.

Mr. JUDD. I rise for the purpose of opposing the amendment, and indicating a substitute which I think should be adopted.

Mr. ALLISON. Let me suggest this is not the place for the gentleman's amendment. The committee have provided for this in another part of the bill.

Mr. JUDD. I want to amend by inserting after the word "thereof," in the sixth line, the words "before the distilled spirits leave the distillery warehouse."

Mr. ALLISON. That is not in order to the pending amendment.

The CHAIRMAN. The Chair sustains the point of order.

The committee divided on Mr. BECK's amendment; and there were—ayes 29, noes 54; no quorum voting.

Mr. BECK demanded tellers.

Tellers were ordered; and Mr. BECK and Mr. JUDD were appointed.

The committee again divided; and there were—ayes 30, noes 64.

So the amendment was rejected.

Mr. SCHENCK. The committee have instructed me, in order to remove all ambiguity that may be supposed to exist, to move the following:

Insert after the word "thereof," "before removal from the distillery warehouse, except as otherwise provided by this act;" so it will read:

That there shall be levied and collected on all distilled spirits on which the tax prescribed by law has not been paid a tax of fifty cents on each and every proof-gallon, to be paid by the distiller, owner, or any person having possession thereof, before removal from the distillery, warehouse, &c.

Mr. Chairman, the object of that amendment is apparent. I do not believe the amendment is necessary. If gentlemen will look at page 31 and succeeding pages they will find the only exceptional case in which whisky can be removed from the distillery warehouse is amply provided for. But to remove all question about it the committee propose to insert in the first section a provision declaring in express terms that the tax is to be paid at the distillery warehouse, except in such cases as may be otherwise provided for in this act.

Mr. JUDD. I move to amend the amendment by striking out the words "except as otherwise provided by this act." Adopt my amendment, Mr. Chairman, and the amendment proposed by the chairman [Mr. SCHENCK] will be in the exact language of the amendment proposed by me as a substitute when the gentleman from Kentucky [Mr. BECK] had the floor. It presents to the committee the direct question whether distilled spirits shall pay the tax at the place of manufacture, and before any removal for any purpose, or whether the commodity shall be allowed to start on its errand of dodging the law and avoiding taxation under the delusive expectation that when once in motion dishonest officials will even reach it. If the chairman of the committee [Mr. SCHENCK] will detail to this committee the evidence the Committee of Ways and Means has accumulated showing the transportation frauds, there would not be one moment's hesitation in adopting the amendment I propose. In my opinion, Mr. Chairman, the safety of the revenue from this source absolutely demands the prohibition of transportation until the taxes are paid. There is no disguising the fact that the provisions of this bill, as they now stand, restore

practically the enactments which we repealed at the beginning of the session.

Mr. SCHENCK. No approach to it.

Mr. JUDD. The gentleman says, "no approach to it." I answer that under the former law distilled spirits, before they paid the tax, were allowed to be transported to bonded warehouses B, and changed under bond from warehouse to warehouse; and the chairman of the committee well knows, from the evidence before the committee, what frauds were perpetrated on the revenue by this transportation system. Seventy-five out of every one hundred per cent. of the frauds against the revenue occurred in that business of transportation. When once in motion and under the control of the parties, you never see it again. And the records of the Department are full of fictitious, false, forged, and valueless bonds.

Now, then, to be sure in this bill as draughted, bonded warehouses B, under the old law, are called "export warehouses." But under the language of the bill every gallon of distilled spirits that is made in Peoria, Chicago, or anywhere else can be transported without having to pay the tax to any part of the United States where there is a port of entry, and the Secretary of the Treasury may establish an export warehouse. The moment you take out the spirits and set it on wheels the experience of last year shows that it is beyond the reach of law. Neither the fact nor the effect of this is changed by saying that it must be declared that it is set in motion for exportation. It is in motion and forged bonds and straw bail are no guaranties that it will ever reach a foreign clime.

Take, for instance, a lot of spirits at Detroit, which is a port of entry. If there is any distillation there all taxes are avoided by storing it in export warehouses and then exporting it across to St. Clair, in Canada; next you hear of it it is in Portland, Maine, on its way by vessels to be landed at New York. It escapes just as the Dubuque whisky did, becomes lost in the mazes of the network of transportation, paying no tax whatever. Now, you say it is only for purposes of export. That sounds very well; but under the pretense of exportation every gallon escapes paying tax. Now, I am not prepared for that. I desire no exception in favor of spirits. Let it pay the internal revenue tax the same as other manufactures.

In addition to this "change of base" in distilled spirits the bill allows it to be taken from the warehouse of the distillery to any other warehouse for redistillation. And here you find the little joker hiding in a new place. This bill provides for its return to the manufacturer's warehouse. It goes out "distilled spirits," and it comes back water, perhaps, or may be good corn juice is turned into molasses rum. Who knows or can tell what changes it takes on? And can you guard against this by bond and penalty? I think not. At any rate if you get your tax before it moves you have no necessity for such enactments. It is no answer to say you will destroy the export business. Let this manufactured article like all other manufactured articles that have paid an internal revenue tax, when complete evidence of its actual exportation is furnished, be entitled to have that tax refunded. The chances for fraud are too great to authorize us to try again the experiment of "transportation in bond" for any purpose whatsoever.

[Here the hammer fell.]

Mr. MAYNARD. If I understand the amendment to the amendment I am opposed to it. The only interest that I have as an immediate representative on the subject of distillation relates to some very small manufacturers, making whisky by what are known as copper stills at the rate of perhaps not more than fifty barrels a year. So far as they are concerned I do not desire to exempt them from any imposition that is proposed to be placed on this business generally. I simply desire that they should have the privilege of manufacturing on precisely the same terms as those who manufacture in larger quantity. Therefore I

desire that they shall have an opportunity of paying their tax directly as they manufacture the liquor, and I trust the exception proposed to be stricken out will be permitted to remain. I yield the remainder of my time to the chairman of the committee.

Mr. SCHENCK. I rise to oppose the amendment. There is no question but that frauds have prevailed in all the different States in the manufacture and disposal of whisky. The gentleman is mistaken as to where the greatest amount of fraud is to be found. I believe that far more whisky has escaped the payment of tax at the distillery by not getting into the distillery warehouse, but by being spirited away, smuggled off, than from any other cause. He is altogether wrong in supposing that this bill "under the pretext," as he says—that was not a very good word to use in reference to the committee—

Mr. JUDD. I used the words without any intention of imputing anything to the committee.

Mr. SCHENCK. I supposed he did not mean to impute any purpose of the kind to the committee. He is entirely mistaken, however, as to the effect of the bill. It is not a revival of the old warehouse "B" system. You could carry distilled spirits from the distillery to warehouse "B" and there pay the tax and take it out and put it into market, and not only that, but from warehouse to warehouse. Now, what does this bill propose? That under no circumstances shall spirits be more than once removed in bond, and that under stringent regulations, defining the route by which it is to go, the conveyance by which it is to be carried, and the means by which it is to be transported, and various other regulations are thrown about it. Next to that, it can only go from the distillery warehouse to the export warehouse, and when it goes to the export warehouse it is to be actually exported from the country. There are only three other instances in which it can leave the distillery warehouse without payment. One is for redistillation into alcohol, which is to be exported; another is to go into medical preparations and compounds that are to be exported; and the other is to go to scientific institutions, for the preservation of objects of natural science; all these being guarded in such a manner as to prevent the possibility of those frauds, which are easy under the present law.

Now then, if the gentleman's amendment prevails, what does it mean, and what will be the effect? Simply that you shall strike down the whole export trade of the country, and the question is whether this House is prepared to do that. We are sending abroad now some four or five million gallons of alcohol—it has run up now to above four millions—and two million gallons of rum spirits. This has been gradually increasing. Up to 1867 there never had been more than three million gallons carried abroad in any one year. But within the last two years it has been increasing—to say nothing of any frauds that may have been committed, swelling the apparent quantity carried abroad—until the actual exportations of these spirits have been contributing some five million dollars or more toward paying our debts abroad, with a probability of a greater increase. The Committee of Ways and Means have desired, while they closed every avenue as much as legislation perhaps possibly can close it against fraud, at the same time not to strike down this interest in the country. If the gentleman's motion prevails, then every gallon of whisky must pay the tax at the distillery, and there can be no export trade whatever from this country in spirits, because, the tax being paid, we cannot compete with the production of alcohol and rum abroad.

[Here the hammer fell.]

Mr. JUDD. I withdraw the amendment.

Mr. LOGAN. I renew it. It is well known to the committee that on this point I reserved the right to differ from them. I will commence by saying that the exportation of whisky is a thing unknown. Hence there is no necessity



for an export warehouse for whisky. That is the simplest proposition in the world.

Mr. LYNCH. Do I understand the gentleman to say that there is no such thing as the exportation of distilled spirits to be provided for in this bill?

Mr. LOGAN. I said whisky, sir.

Mr. LYNCH. That is distilled spirits.

Mr. LOGAN. Well, I understand that whisky is distilled spirits, if you will allow me.

Mr. LYNCH. I want to inform the gentleman that not only alcohol—

Mr. LOGAN. The gentleman cannot give me any information on the subject except what he can find in the reports in reference to exportations, and I can find it there as well as he can. I assert here that there is no such thing known as the exportation of whisky, unless it is smuggled. Then if there is not there is no necessity for providing that you may export distilled spirits. Why not provide that you may export alcohol and rum, the only two articles of distilled spirits that are ever exported?

Now, I desire to state my reasons for this amendment. If the tax is paid at the distillery, then if a man wants to export alcohol or rum, let him buy his whisky with the tax paid on it, redistill it, export it, and bring forward proof that it has actually reached the foreign port of delivery, which will satisfy the Secretary of the Treasury, and he can get the tax refunded to him. Then you will get all the tax on the whisky in this country, and you can get it in no other way. One gentleman has remarked that that would interfere with exportation. I say it would not. I have an amendment already prepared to this bill which I propose to offer when we reach that portion of the bill which relates to exportation, providing for the exportation of alcohol and rum in such a manner that it can be legitimately exported and still have the tax on whisky collected. I propose to alter the provisions of the bill so that we may get some revenue from this article.

Let me put a case. Suppose we provide, as this bill provides, for the withdrawal of whisky from bonded warehouses for redistillation into alcohol. That whisky goes to New York. What is to prevent it from being changed in its course on the way, the export stamp torn off, and that whisky put upon the market? And how are you to detect it? If you provide for the transportation in this country of whisky in bond, you have not provided properly against enormous frauds that have been and may be committed against the Government—from three to four million gallons of alcohol and rum. Now, if the Government should pay for that three or four million gallons entirely out of the Treasury they would make money by it, provided you collect all tax on distilled spirits before leaving the distillery warehouse for any purpose.

If you require all the tax to be paid at the distillery, then whenever whisky comes from the rectifier it will be understood that the tax has been paid prior to rectification, as is a mere pretense now. If it is transported without paying tax to be exported under whatever name you please to call it, you will only have a repetition of many of the frauds heretofore committed.

We do not want to see these frauds perpetrated as heretofore. I propose no hardship upon these distillers. They passed a resolution in their committee declaring "that this transportation should not be allowed, if we would prevent fraud." We should not be in favor of making a law less stringent on this question than the men engaged in distilling have asked us to do. I take it this is generous beyond that which would be ordinarily deemed generosity.

If you want to collect your tax, you must provide for its collection in the manner I have proposed. I have another amendment which has been agreed to by the committee, and which I propose at the proper time to offer as an amendment of the committee, providing that all this swarm of officers shall be stricken

off, and that collectors and assessors shall not pass from one district to another as they have been permitted to do heretofore, to exercise doubtful authority—

[Here the hammer fell.]

Mr. BUTLER. I think I may speak on this question with as little feeling as any gentleman, for the reason that I do not know of a single distiller in my district. I agree with the gentleman from Illinois [Mr. LOGAN] that whisky is not exported as an article of export; but rum is exported, and that alcohol is exported.

Mr. LOGAN. Certainly,

Mr. BUTLER. And the single question is whether we propose to break up the export trade.

Mr. LOGAN. I do not.

Mr. BUTLER. I do not know what the gentleman's amendment will be. I hope he does propose to sustain the export trade, and I have no doubt he thinks he does. But if you provide for this tax to be paid at the distillery there is an end of the export trade. You have almost killed it now by your special taxes on the manufacture. In order to make any spirits for export, the manufacturer must pay all these taxes, the tax on the still, on the distillery, and four dollars a barrel besides. They must pay about sixteen or eighteen cents a gallon before it can be exported, even under this bill. Now, this renders the export trade exceedingly difficult to be carried on. If you put any other restriction upon it it is gone forever.

Now, the gentleman says that we had better pay the value of the whisky or the rum exported than have any such thing as an export trade in the article. I might agree that if the mere value of the rum exported were the only consideration the gentleman would, perhaps, be correct. But the rum is absolutely necessary for many different foreign trades of the United States. Cut off the export trade in rum and alcohol and you kill your Mediterranean trade; you kill most of the trade on the Eastern continent. So necessary is rum to the trade with Africa that some years ago, when I was aiding in prosecuting a slaver, where it was claimed that the voyage was an honest voyage, we produced testimony to show that it could not be an honest voyage to Africa because no rum was on board ship, and that, therefore, it must be a slave voyage.

Mr. PRICE. Does the gentleman mean to say that no voyage to Africa can be an honest voyage unless the ship carries out rum and brings back negroes?

Mr. BUTLER. No, sir. The fact is that slavers do not take out rum, while the honest traders do, bringing back palm oil, ivory, &c. Some gentleman says let them take out gold. They cannot trade with gold because gold dust is one of the things they bring back from Africa. They cannot make a profitable trade with that country without using rum. If the House chooses to break down that trade, be it so.

Mr. FARNSWORTH. I suppose that the same vessel that takes out the rum takes out also missionaries?

Mr. BUTLER. Very likely; and if you cut off the trade with Africa you may cut off the carrying out of missionaries. But this is a diversion from the question which I am discussing. This is a very vital question to the interests of navigation in this country. We have already struck blow after blow at the foreign trade of the United States. If you want to give it another blow, I cannot object. If the country can stand it, we of New England can; but one thing is certain: no country has ever yet prospered without a foreign trade, and this country cannot do so.

Now, sir, I have examined this bill carefully, because my district and my State have an interest in the export trade. The bill is guarded carefully, and although the ingenuity of fraud is almost infinite, I can see no way in which any great harm can happen to the revenue by allowing this transportation for export only; because the leak heretofore has arisen from the fact that whisky could be taken out

from the bonded warehouse for other purposes than export. Under this bill it can be taken out for only one purpose, that is, for export. When it once gets the export stamp upon it and goes into the export warehouse, it cannot be removed thence under the provisions of this bill, except to go out of the country.

Mr. LOGAN. It can be taken out for redistillation.

The CHAIRMAN. Debate is exhausted.

Mr. FARNSWORTH. I withdraw my amendment.

Mr. ALLISON. I renew the amendment. Mr. Chairman, when this bill was prepared the Committee of Ways and Means, of course, did not know what would be the amount of the tax, that being a question for the determination of the House. The Committee of the Whole having now fixed the tax at fifty cents per gallon the question to be determined is whether or not western distillers can afford to pay the tax at the still and transport their product to market. For myself I am rather inclined to believe they can do so; and the only object I have in renewing the amendment of the gentleman from Illinois [Mr. FARNSWORTH] is to suggest that this subject be for the present passed over until we reach the question of bonded warehouses. We must have bonded warehouses at the distillery, and it may be we shall decide to have bonded warehouses for other purposes. My own impression is that we ought not to have bonded warehouses for redistillation, but we may conclude to have them for exportation. When that question shall be reached, if it should be found that sufficient safeguards cannot be provided, we can then arrange the matter. The total amount of export is not very large, and I will say with reference to the plan of this bill that in my judgment it entirely differs from any bonded warehouse system which we have hitherto adopted.

A man who bonds his goods must give a bond in double the amount of the tax, and that bond is never released until the tax is paid or the whisky is exported by proper certificate. I wish to call the gentleman's attention to the fact that the system of bonded warehouses here proposed is the precise system now adopted in the custom-house; and this very day an importer of brandy or of any distilled spirits can receive them in New York and transport them in bond, in casks or boxes, to Chicago or any other western city. I have never heard of any frauds in that system of transportation. Without paying duty they can now transport brandy and wine imported from abroad in bond from New York to the interior. A bond is given for the payment of the duty. Nothing is more common, and the gentleman knows it, than the transportation of these articles in bond from the Atlantic seaports to the great interior cities. I want the gentleman to examine this system carefully. I am not certain I will not move to strike it out if there is any great fraud to be perpetrated under it.

Mr. LOGAN. Foreign liquors pay a duty of two dollars and a half to three dollars per gallon, and we have reduced the tax on distilled spirits to fifty cents per gallon. We thus leave a great difference between the duty on the foreign liquors and the tax on distilled spirits manufactured here.

Mr. ALLISON. Undoubtedly we have assimilated our tariff laws and our internal-tax laws. Having put a tax of two dollars on whisky, we placed a duty of \$2 50 on foreign spirits. We can reduce that when we come to consider the tariff.

[Here the hammer fell.]

Mr. SCHENCK. There seems to be, Mr. Chairman, almost an infatuation on some subjects connected with whisky. I do not wonder a good many spectators stalk about and a good many spirits are abroad, because a good deal of the spirit of the country has been abroad without being held to a proper restriction. But so far as this matter of bonded warehouses is concerned, let me tell gentlemen that which is proposed in this bill is nothing like

the present bonded warehouse system. What was a great source of fraud upon the bonded warehouses B before, or under the present law, was the removal of liquor for the purpose of rectification and not putting it back, or putting back something different, or making that a cover for various kinds of fraud. There is no allowance of removal for rectifying at all under this bill.

Mr. LOGAN. I ask whether or not, in the removal of spirits in bond heretofore, they did not defraud the Government by triplicate permits of collectors?

Mr. SCHENCK. Yes, sir; and if the gentleman will be patient I will come to that if I have time in my five minutes. I say there is no removal for rectifying; and no man can rectify unless he takes whisky tax paid.

How is it in regard to duplicate and triplicate bonds? All that is distinctly guarded against in this bill. If gentlemen will look at section fifty-two and the four or five following sections they will see how the committee have provided against fraud. You can remove it, but when once removed bonds are to be taken in triplicate. Then every person is held responsible along the route from the distillery warehouse to the exportation warehouse. It is all named in the bill. It is a perfect guard, and has no likeness to anything contained in the present law.

Now, what is the present law in regard to other matters? The other day the cities of Cincinnati, Chicago, and perhaps other points at the West, were thrown open so as to have removed to them from the sea board all sorts of goods, wares, and merchandise, including foreign liquors of every kind, with next to no guards thrown around them, the tax to be paid when they reached a point in the interior, which is made for that purpose a port of entry. On the way, before the duty is paid, they are liable to all these frauds, tenfold more than are now possible under the transportation of distilled spirits at home. Thus, while you encourage almost as it were every sort of looseness in reference to foreign goods you propose to break down entirely all that relates to the exportation of a portion of the products of our own country.

Now, sir, I am perfectly willing that the Committee of the Whole shall settle this question as they please, only I want them to understand what they are settling. If the amendment which is proposed prevails, then there can be no more exportation of alcohol or rum from this country. It puts an end to it entirely. That is the question gentlemen are to meet. I do not care whether it goes from Boston or New York, or whether there is any interest in the interior of the country. Let it go from whatever quarter it may, it is just so much contributed toward turning the balance of trade in our favor and helping us pay our foreign debt. I therefore think it expedient, and I voted in the committee to sustain the idea that while we were throwing every guard around the Government to secure its revenue from this source, it would be unwise to break down a trade which was so much to the interest of the people of the country.

[Here the hammer fell.]

Mr. FARNSWORTH. I ask my colleague to withdraw the amendment.

Mr. LOGAN. I withdraw it.

Mr. FARNSWORTH. I renew it. I desire to say that if the bill is not now so framed as to provide for a drawback for export it certainly can be so framed. I desire to say, further, that we are legislating now for the protection of the revenues of the Government. I do not understand this legislation to be in the interests of distillers; it is not for the purpose of promoting the manufacture of whisky; but we say to these men, "You may manufacture it, but you must pay." We are legislating now for the purpose of securing to the Government this tax. We are hedging these men about in every possible manner, as though we were legislating against scoundrels and knaves. We are not, then, in their interest, and it is

no great hardship, it seems to me, to require these men, if they wish to export, to agree to pay the tax in the first instance the same as if they were manufacturing anything else, and when they prove it give them a drawback. Secure the Government its revenue and cut off all this machinery and all opportunity for fraud by taking the spirits from the first warehouse.

Mr. BUTLER. The difficulty with the drawback is, men export a great deal of whisky and never pay any tax. They want the Government to pay the drawback.

Mr. FARNSWORTH. Mr. Chairman, I do not see how that can be done under this bill. Gentlemen say that we can collect under this bill all the tax on whisky. If you collect all the tax before it is removed from the distillery I do not see how they can export whisky that has not paid the tax. But the tax will not be collected by a long shot if you allow them to remove the whisky from the still. There is where the fraud comes in every time. I am in favor of commerce, but we are not legislating here in the interest of commerce or of whisky. It is not for the purpose of promoting commerce, but of collecting the tax on whisky that we are legislating. Then let us tax it before they remove it. If they can prove that they have paid the tax when they want to export the liquor give them a drawback. By putting the tax so low now that they can pay it there will be no pretense that manufacturers cannot afford to pay it, and let him wait a little while if he is going to export his liquor as the manufacturers of any other article do.

Mr. INGERSOLL. How long will the Government retain the tax in its vaults before it allows the drawback?

Mr. FARNSWORTH. Until the man moves his whisky, until he puts it on board ship and starts it for a foreign port.

Mr. INGERSOLL. That will not do. You must wait until you know it has reached its destination.

Mr. FARNSWORTH. Very well; let the gentleman who framed the bill put it in shape. I do not care if it takes twelve months. If a man wants to export whisky let him pay the tax on it, as every other manufacturer does before he moves his goods.

Mr. PILE. I rise to oppose the amendment; and I avail myself of the opportunity of correcting a misstatement made by the chairman of the Committee of Ways and Means—made wholly unintentionally, of course. I understood him to say that under the bill which passed some ten days or two weeks ago, goods, wares, or merchandise, including distilled spirits, could be transported from the sea-board ports of entry to the interior ports of entry without restriction or any bond or guarantee that the Government should not be defrauded of the duties on these goods. Distilled spirits are especially excepted from that bill, and the transportation of all goods is to be under proper bonds. I have the bill in my hand as it passed the House, and the language is, "that any goods, wares, or merchandise, other than distilled spirits."

Mr. SCHENCK. Was not that put in during the progress of the bill through the House?

Mr. PILE. It was.

Mr. SCHENCK. It certainly was not in the original bill.

Mr. ALLISON. I was speaking of the law as it exists to-day, and not of any bill that has passed the House.

Mr. PILE. I was correcting a statement made by the chairman of the committee. I wish to say in addition that as the law exists to-day all goods, wares, and merchandise of every character, including distilled spirits and all kinds of imported liquors can be transported from any sea-board port of entry—New York, Boston, or any other sea-board port—to St. Louis, Cincinnati, or Chicago, without the payment of duties, upon the owner, agent, or consignee giving a bond to the custom-house officer at such Atlantic port of entry for the payment of the duties when the goods arrive, and under this system of transportation the

experience of the Government is that there is no danger of fraud. I have seen no revenue officer, either in Washington or elsewhere, who claims that the transportation of goods in this way under bonds has resulted in frauds. Now, then, if we can transport imported goods, including distilled spirits, from an Atlantic port of entry to an interior port of delivery, and there require the payment of the duties on arrival, I do not see why we cannot, under the stringent provisions of this bill, transport distilled spirits from any interior portion of the country to the sea-board for the purpose of exportation.

Mr. COVODE. I heard the chairman of the Committee of Ways and Means, as well as the gentleman from Missouri, say that under the bill lately passed, foreign spirits could be transported in bond. That is a mistake. That was stricken out, and the bill relates to other merchandise, not spirits.

Mr. PILE. I was now speaking of the law as it exists at present, and not of the bill that passed the House some days ago. We are transporting from New York to St. Louis every week imported wines and brandies paying the duties when we withdraw them at the warehouse at St. Louis under the bond given in New York. And while it may be true, as stated by the gentleman from Illinois, that we are not legislating specifically in the interest of commerce in this bill, yet when our commerce has been driven from the seas by the war and by our unfriendly and narrow-minded legislation on the subject of commerce, we ought not in this bill to strike an additional blow that will crush out and extirpate \$4,000,000 of foreign trade, thus increasing the balance of trade against us, to take gold out of the country and send gold up and Government securities down. It is the blindest policy of legislation ever adopted in any country.

[Here the hammer fell.]

Mr. FARNSWORTH. I withdraw the amendment.

Mr. SHELLABARGER. I renew it. Mr. Chairman, with my imperfect knowledge in regard to matters of this sort I would not feel justified in saying a word about it were it not that a very large interest in my district, which has come to me personally since I returned to my seat in the House, has implored me to pay some attention to this matter now under consideration. The representations that are brought to me by very intelligent and very largely experienced men engaged in this traffic, and also my own personal observation on this subject, compel me to conclude that this whole plan of permitting whisky to be removed in any shape, or under any possible provisions of law, from the place of distillation, is to leave open the most dangerous avenues and means of fraud from which the Government is now suffering so much.

My friend here, [Mr. SCHENCK,] who has, perhaps, bestowed more labor upon this subject, and who probably understands it better than any other man in the country, will admit that it is impossible for any ingenuity or any skill to completely provide against the means of fraud that are necessarily furnished by any bill which, like this, embraces in it permission for transporting throughout the continent, and without having paid the tax, all the distilled spirits made in the country. The very nature of the case excludes the conclusion that the laws can restrain these frauds when we keep in mind the ingenuity of fraud and the corruptibility of the instruments which the Government is compelled to employ in enforcing the law. That old trinity of "Ls" which says, "Love laughs at locks," has already, in the Government's experience in failure to defeat these frauds, been duplicated in another which says, "Liquor laughs at laws." The chairman of the committee assures us that his bill contains the most stringent provisions and requires ample bonds before any removal, that a particular route shall be taken in going to the warehouse, and all that. I do not maintain that his bill is not stringent, or is not the best

that can be made; but I say that whenever you permit the distilled spirits to go off on wheels, and travel across the country, you thereby necessarily enable the distiller, in collusion with the corrupted officer of the Government whom he combines with, to avoid the tax, and no law can prevent the fraud. What are bonds or oaths or revenue inspectors worth now under your laws? What are custom-house bonds and oaths ever worth? As you increase these bonds and oaths and watchers for fraud, you increase the frauds.

That is my answer to my friend's argument; not that his bill is not the best that can be devised, but that none can be devised that will prevent these frauds if you let the whisky get out of the place where it is manufactured without first paying the tax. That is my first suggestion.

My next suggestion is that in the very nature of the case the transportation of whisky across this country and to the sea-board under the pretense that it is for exportation, when it cannot be exported in the form of whisky, is on its very face exceedingly suggestive of meditated fraud. My distinguished friend from Illinois [Mr. LOGAN] says what everybody knows, that men do not transport whisky across the ocean, because he thereby transports a barrel of worthless water in each two barrels of whisky. But then it costs more to transport it from Illinois or even Ohio to New York by land than it does to transport it across the ocean. Then who expects that whisky, one half water, will be transported as whisky to New York, there to have its water taken out by turning it into alcohol at New York, and then to be thence transported as alcohol? The bill is in this absurd upon its face, as it seems to me, because it provides for the transportation of whisky, half water, across the country for exportation.

Mr. SCHENCK. "Distilled spirits."

Mr. SHELLABARGER. That embraces whisky. I say that whisky can be transported under the provisions of this bill, because, by the third section and others, it is expressly shown that whisky is included in the words "distilled spirits." If the language of the bill is wrong, and the committee do not mean to permit the "whisky" of the country to be transported in bond, then let the bill be amended so as to provide that nothing shall be transported in bond except alcohol, and that will not only prevent the escape of whisky from taxation but will also give to the West, where most of this production is made, the change of the whisky into that which alone is exported, namely, into alcohol.

Mr. LOGAN. I do not want to detain the committee, but to correct a remark of the gentleman from Massachusetts, who said that my theory was wrong, that wherever whisky was transported there would be allowed drawback without paying any tax. Now, by paying the tax at the distillery it would cover all taxes. Now, in order that the committee may understand what I mean, I will ask the Clerk to read, as a part of my remarks, some sections which I shall propose as amendments to the transportation provisions of this bill when we reach them.

The Clerk read as follows:

SEC. — *And be it further enacted*, That from and after the date at which this act shall take effect there shall be an allowance of drawback on all rum and alcohol, on which any internal tax shall hereafter be paid, equal in amount to the tax so paid thereon and no more, when exported in good faith. The payment of said drawback to be made only when the evidence shall be furnished to the entire satisfaction of the Secretary of the Treasury by such person or persons who shall claim allowance of drawback, that such tax has been paid, and the said rum or alcohol so exported, landed, and delivered to the consignee or consignees at the foreign port to which it was exported—to be proved by the sworn testimony of responsible persons where exported from and exported to—the same to be paid by the warrant of the Secretary of the Treasury on the Treasurer of the United States, out of any money arising from internal tax on distilled spirits not otherwise appropriated: *Provided, however*, That no claim for drawback shall be allowed on either of the said articles which shall have been exported as aforesaid prior to the time at which this act shall take effect.

SEC. — *And be it further enacted*, That if any person or persons shall fraudulently claim or seek to obtain

an allowance of drawback on any article or articles aforesaid, on which no internal tax shall have been paid, or shall fraudulently claim any greater allowance or drawback than the tax actually paid thereon as aforesaid, such person or persons shall forfeit and pay to the Government of the United States triple the amount wrongfully or fraudulently sought to be obtained; and on conviction thereof shall be imprisoned in the penitentiary for a period not less than one nor more than ten years.

Mr. LOGAN. I merely desired to have that proposition read, that the House might understand that in proposing to provide for the collection of the tax at the distillery I do not propose to destroy the export trade, as some gentlemen seem to apprehend. If other gentlemen think they can devise means of accomplishing more effectually the object I desire to attain let them present their suggestions to that end. This is all I desire to say.

The CHAIRMAN. Debate is exhausted upon the amendment and the amendment to the amendment.

Mr. INGERSOLL. I desire to inquire whether the chairman of the Committee of Ways and Means proposes to consent that this question shall be passed over until we reach that portion of the bill specifically devoted to this subject.

Mr. SCHENCK. I will, at the suggestion of my colleague on the committee, the gentleman from Iowa, [Mr. ALLISON], ask that by unanimous consent the vote on the amendment proposed by the committee and the amendment to that amendment be reserved until we reach the portions of the bill relating to that subject.

There was no objection.

Mr. ROBINSON. I move to amend the pending section by striking out in the nineteenth, twentieth, and twenty-first lines the words "and on the lot or tract of land whereon the said distillery is situated, together with any building thereon." My reason for making this proposition is that I think severity of law is not wisdom of law. There are in the existing law provisions by which I believe men are now suffering imprisonment because some other men without their knowledge were engaged in distilling on their premises. Were it not for the existence of that unwise severity in the existing law, I should doubt whether I understood the provision of this bill or whether it is understood by the Committee of Ways and Means.

Mr. SCHENCK. We understand it perfectly well.

Mr. ROBINSON. The gentleman does me the credit of saying that I understand it perfectly well.

Mr. SCHENCK. I did not say any such thing.

Mr. ROBINSON. Perhaps I say too much for myself; and as I do not desire to bandy compliments I will go on with my argument.

I understand that this tax upon the liquor is, by the provision of this section, to be a first lien upon the land on which the distillery is situated. Now, suppose that my friend, the chairman of the Committee of Ways and Means, owns a comfortable house, with grounds and outbuildings, worth, in the aggregate, \$20,000, and that his servants, during his absence, have been carrying on a distillery, the house and lot are liable to the payment of the tax, which may run up in a very few days to \$20,000. In addition to that, if a widow or orphan should hold a mortgage on the property, (though I hope my friend keeps his property clear of mortgages,) that mortgage will be cut out. I say this is not wisdom of legislation. It is a part of that unwisely severe legislation which, without any disrespect to the committee, I propose to endeavor to remove by amendments wherever I may find it. For this reason I have moved this amendment.

Mr. ALLISON. I oppose the amendment.

Mr. SCHENCK. The gentleman from New York is very much afraid of some injury being done to persons who own the land upon which distilleries are located. If he had taken the pains to turn to section seven, he would have found that no one can own a distillery under

this law unless he is himself the owner of the land, or unless he produces the written consent of the owner of the fee for the occupation of the premises. So his sympathies are all thrown away on a case which can never exist.

As to the difficulty of those who lease property, let me say one of the greatest troubles with these distilleries, and especially in the gentleman's own district, has been, you can never find out who is the owner of the property upon which a distillery is located. You cannot put your finger upon the owner of the property. He seems to be a myth. So you are bandied from one to the other. Very much of the trouble, I will repeat, is in this fact of the inability to learn who is the owner of the property upon which these distilleries are located. We provide now that the business shall not be carried on without the written consent of the person who owns the property. This will prevent some enormous frauds which have been committed in the United States, and, without intending to be discourteous to the gentleman from Brooklyn, I will say that the most enormous frauds have been found in his own district.

Mr. ROBINSON. One single observation.

If the chairman of the Committee of Ways and Means bases his action on the ground he has stated, that the distillery shall only be run upon the written consent of the owner of the property, and thus to hold responsible those who engage in illicit distillation with the knowledge of the owner of the property, I do not know I will object to it. But so far as the remark goes which he has made in reference to my district I will say there are many districts worse than that; and any time my friend is ready I will break a lance with him on that point. His own district is not entirely clear.

Mr. SCHENCK. The police officers are the only ones who should break up these fraudulent practices.

Now, Mr. Chairman, I desire to stop this debate. There has been indulgence enough in the discussion of this first section of the bill, and the House will not complain if I ask unanimous consent to stop further debate on this section.

There was no objection; and it was ordered accordingly.

The question was taken on Mr. ROBINSON's amendment; and it was rejected.

Mr. INGERSOLL. I move an amendment to the first section. After the word "and" insert "at that rate for;" so it will read:

And the tax on such spirits shall be collected on the whole number of gauge or wine gallons when below proof, and shall be increased in proportion for any greater strength than the strength of proof-spirit as defined in this act; and at that rate for any fractional part of a gallon in excess of the number of gallons in a cask or package, shall be taxed as a gallon.

Mr. SCHENCK. I hope that will not be agreed to.

Mr. INGERSOLL. I hope it will.

The amendment was rejected.

Mr. JOHNSON. I move to add the following:

Insert after the word "gallons," in the fifth line, these words: "except grape brandy, which shall pay a tax of twenty-five cents per gallon."

I wish to say a few words in explanation of that amendment.

Mr. SCHENCK. I do not object if we can have five minutes for reply.

There was no objection, and it was ordered accordingly.

Mr. JOHNSON. Mr. Chairman, I desire to state that as the law stands at the present time the tax upon grape brandy distilled in this country pays half the tax that is imposed upon whisky. The tax now is two dollars per gallon upon whisky and one dollar upon grape brandy. The tax is now reduced from two dollars to fifty cents upon whisky, and the tax upon grape brandy ought to be reduced to twenty-five cents. Adding the sixteen and a quarter cents of other taxes will bring the tax on whisky up to sixty-six and a quarter cents per gallon. That under this bill would make the tax upon grape brandy



nearly as high as it is now. Let me state my reason for this amendment. In Ohio, Michigan, Missouri, and Illinois, but especially in California, we have a great number of vineyards. In California we have hundreds of thousands of acres recently planted with grape-cuttings, and young vineyards are growing up, not yet bearing clusters of grapes, and unless discrimination is made in favor of this production our farmers will have to plow up their vineyards.

Now let me ask the chairman of the Committee of Ways and Means if it is not proper and right that that discrimination should be made? We are to-day taxing the people of the United States, every man, woman, and child, one dollar each per annum for foreign brandies and wines. Is it not better we should discriminate a little in favor of our own farmers who are raising grapes, so that they may produce brandy and wine in this country, and thus save \$30,000,000 in gold, more than the whole annual product of the mines of California? In four or five years from this time we may be able to compete with the world in the manufacture of this wine and brandy. I appeal to gentlemen to reflect for one moment on the condition of this country. I ask if thirty or forty million dollars in gold is not something to be saved? My amendment is simply that grape brandy shall pay only twenty-five cents a gallon.

Mr. MAYNARD. What is the market price of your brandy?

Mr. JOHNSON. The market price ranges from two dollars and a half to seven dollars per gallon, and we pay that for our French brandies, while our California brandy is equally as good and will take the place of the French brandy, and entirely break down that commerce which has drained us of more of our treasure than any other commodity imported into this country.

[Here the hammer fell.]

Mr. SCHENCK. It is no inadvertence on the part of the committee. They left out the discrimination in favor of grape brandy on purpose. Now, other distilled spirits pay two dollars and grape brandy pays one dollar. We supposed that the tax being put down, particularly as low as the committee have now put it, fifty cents, grape brandy could as well pay it as any other. In principle, perhaps, there is no particular distinction between that which is made from corn and that which is made from fruit. All spirits should be treated alike. There is one argument, perhaps, in favor of building up the productions of our own country. That appeal has been made from my own constituents, because we make a great deal in the Miami valley, which I represent, particularly about Cincinnati. But I think it is better to have all distilled spirits put on the same footing. There is a duty on foreign brandy now of \$2 50 a gallon. With the tax on domestic brandy at fifty cents there is still a protection of two dollars on the domestic brandy. Now, with domestic brandy selling at from two dollars and a half to seven dollars per gallon, twenty-five cents would be a very low tax. But the \$2 50 is the price in gold, which is forty per cent. more when reduced to currency, making a very large protection of three or four dollars on every gallon of that brandy produced in the United States. I hope the amendment will not prevail.

[Here the hammer fell.]

Mr. HIGBY. Is debate closed?

The CHAIRMAN. It is.

Mr. HIGBY. May I not offer an amendment and make remarks upon it?

The CHAIRMAN. The gentleman can offer it, but he can make no remarks.

The question being taken on the amendment of Mr. JOHNSON, it was disagreed to—ayes twenty-three, noes not counted.

Mr. HIGBY. I offer the following amendment as a new section:

SEC. —. *And be it further enacted*, That there shall be levied, collected, and paid on brandy made from grapes, thirty cents per gallon; and if any person shall knowingly manufacture, compound, put up, sell or dispose of, or cause to be manufactured, compounded,

put up, sold or disposed of, or aid or assist therein, any fluid as or for or under or with the name of brandy made from grapes which shall not be really such, he shall, on conviction thereof, be punished for each offense by a fine not exceeding \$1,000, and by imprisonment not exceeding one year, or both said punishments, in the discretion of the court; and any such simulated or compounded fluid as aforesaid shall be forfeited to the United States.

#### ENROLLED BILLS SIGNED.

At this point the committee rose informally, and the Speaker having resumed the chair,

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 822) granting a pension to Hampton Thompson;

An act (S. 216) to amend an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon;" and

Joint resolution (H. R. 264) to provide for the sale of the site of Fort Covington, in the State of Maryland.

The Committee of the Whole on the state of the Union then resumed the consideration of the

#### INTERNAL TAX BILL.

Mr. HIGBY. I wish to make some remarks on my amendment.

The CHAIRMAN. Debate is closed on the section.

Mr. HIGBY. This is a new section.

The CHAIRMAN. It is regarded as an amendment to the first section, and all debate has been closed upon that.

Mr. HIGBY. Well, it was a fraud upon us, shutting off debate, and nothing else.

The question was taken on Mr. HIGBY's amendment; and it was disagreed to.

The Clerk then read the second section, as follows:

SEC. 2. *And be it further enacted*, That proof-spirit shall be held and taken to be that alcoholic liquor which contains one half its volume of alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten-thousandths at sixty degrees Fahrenheit; and the Commissioner of Internal Revenue, for the prevention and detection of frauds by distillers of spirits, is hereby authorized to adopt, procure, and prescribe for use, at the expense of the United States, such hydrometers, saccharometers, weighing, and gauging instruments, meters, or other means for ascertaining the quantity, gravity, and producing capacity of any mash, wort, or beer used or to be used in the production of distilled spirits, and the strength and quantity of spirits subject to tax, as he may deem necessary; and he may prescribe rules and regulations to secure a uniform and correct system of inspection, weighing, and gauging of spirits. And in all sales of spirits hereafter made, where not otherwise specially agreed, a gallon shall be taken to be a gallon of proof-spirit, according to the foregoing standard set forth and declared for the inspection and gauging of spirits throughout the United States.

Mr. BUTLER. In line sixteen, I move to strike out the word "and" before "gauging," and to insert after "gauging" the words "and marking;" so that it will read, "and he may prescribe rules and regulations to secure a uniform and correct system of inspection, weighing, gauging, and marking of spirits."

The amendment was agreed to.

Mr. BECK. I move to add to the section the words, "and officers of the United States shall not make special agreements." I understand that where whisky is seized and confiscated it is a common custom, both in New York and Philadelphia, for the United States officers, by special agreement, to sell the whisky which is fifty per cent. above proof, by the wine gallon, so that the purchaser gets a gallon and a half of proof spirits and the Government is cheated. I understand that that is done every day by special agreements.

Mr. LOGAN. I am in favor of that amendment.

Mr. ALLISON. I suggest that it would be better to strike out the words "where not otherwise specially agreed." Those words are in the existing law, but it does not seem to me that they ought to be here.

Mr. BECK. I withdraw my amendment, and

the committee can offer any amendment they please.

Mr. MUNGEN. I move to strike out in lines seventeen and eighteen the words "where not otherwise specially agreed."

The amendment was agreed to.

The Clerk then read the third section, as follows:

SEC. 3. *And be it further enacted*, That distilled spirits, spirits, alcohol and alcoholic spirit, within the true intent and meaning of this act is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation of grain or starch or sugar, including all dilutions and mixtures of this substance; and the tax shall attach to this substance as soon as it is in existence as such, whether it be subsequently separated as pure or impure spirit, or immediately, or at any subsequent time, transferred into any other substance, either in the process of original production or by any subsequent process.

Mr. ALLISON. I move to add to that section what I send to the Clerk's desk.

The Clerk read as follows:

Add to section three the following:

But this act shall not apply to the manufacture of vinegar where the wash is formed by adding alcoholic vapor to the vinegar ferment without the production of distilled spirits in any form by means of any process of condensation of alcoholic vapor into liquid form, before the union of such vapor with the vinegar ferment. And every person manufacturing or intending to manufacture vinegar, by any process, for sale shall furnish to the assessor of the proper district a plan and description of his premises used or intended to be used for such manufacture as required of distillers by this act; which plan and description shall be kept in the manner therein required; and such premises and every part thereof shall at all times be open to the inspection and examination of internal revenue officers as provided for in cases of distilleries. And the presence of any worm condensing room, or other apparatus for the condensation of alcoholic vapor into distilled spirits shall be evidence that such business is being carried on in violation of this act; and the manufacturer, and all materials in and about said premises, and the lot or tract of land on which the same is situated shall be forfeited to the United States; and any person who shall violate any of the provisions of this section shall, on conviction, be fined not less \$500 nor more than \$5,000, and imprisoned not less than six months nor more than two years.

Mr. ALLISON. I desire to call the attention of the committee to the effect of the amendment I have proposed. Gentlemen will see that by this section three we describe alcoholic spirit to be that spirit generated and eliminated from the mash, wort, or wash of the grain. Therefore, if that section stands as it now is, it will be impossible for any person to manufacture vinegar unless he manufactures it from distilled spirits that have paid the tax. Under existing law the internal revenue officers have decided that vinegar cannot be made except from tax-paid spirit; while nearly every court in the United States that has spoken upon the subject has decided that vinegar may be manufactured from a certain class of spirits, or from wash or wort, without the payment of a tax upon distilled spirits. A species of low wine is made from which vinegar is made, and wherever the question has been raised the courts have decided that under the existing law that can lawfully be done.

Mr. TRIMBLE, of Kentucky. Will the gentleman allow me to ask a question?

Mr. ALLISON. I have no time for questions. I wish to explain this section. It is a very important one, and I want gentlemen to understand it.

Mr. TRIMBLE, of Kentucky. It was with that view that I proposed to ask a question.

Mr. ALLISON. The Commissioner of Internal Revenue has decided that vinegar manufacturers cannot work under existing law, without they pay the tax on distilled spirits. Now, the effect of that is that to-day in Wisconsin and in Illinois, where the courts have decided in favor of these vinegar manufacturers, they are at work everywhere; while in the State of Iowa, where this question has not come before the courts, honest men engaged in the manufacture of vinegar are obliged to stop with large amounts of capital tied up. Now, I want this House to decide distinctly, by an unequivocal provision of law, that vinegar either can or cannot be manufactured from wash or wort or grain. I care very little personally which rule is adopted. I want no evasion, so that

men in one State should have the monopoly of the manufacture of vinegar, while in other States, those who have invested a large amount of capital in the business, cannot use it in the manufacture of this very necessary article. I think the provision I have sent up is very carefully guarded, so that in no possible case can any fraud be committed upon the revenue, or if there be any chance, let it be amended so that no fraud can be committed.

Now, if this amendment is not adopted, I will propose another amendment to attach a provision to this section which shall provide that under no circumstances shall vinegar be manufactured from grain or any other preparation of grain; so there shall be no uncertainty about the matter, but all shall be treated alike. [Here the hammer fell.]

Mr. PRICE. I think the policy of very questionable expediency of opening the door to the free manufacture of vinegar. I am of the opinion, from information received from parties who have seen the operations of this system, that while the inspector is there they will make vinegar; when the inspector has gone away they will make whisky. For that reason I am opposed to opening this door.

The same necessity will not exist under this law as did under the old law. I know that it is claimed that they could not afford to buy whisky that has honestly paid the tax in order to make vinegar of it. I have no doubt that is so. But if we reduce the tax to fifty cents per gallon, one fourth of what it was before, they can afford to buy whisky to make vinegar of, if they desire to do so. For those two reasons I am opposed to that section or any other section or proviso which looks in that direction. I do not propose to open any door or window by which these men will be able to steal from the revenues of the country any of the tax which legitimately and properly belongs to it. I hope, therefore, that neither the amendment of my colleague [Mr. ALLISON] nor anything of a similar character will prevail.

Mr. SCHENCK. I move *pro forma* to amend the amendment by striking out the last sentence of the proposed new section. I desire simply to say that here is a distinct issue made. I agree with my colleague on the committee—for this is not an amendment of the committee, but his own proposition—as to the importance of having the law settled. The bill proposes to settle it by not permitting these distillers of whisky-vinegar to escape. The amendment now offered is a direct contradiction of the matter contained in the third section, and if adopted will be equivalent to a repeal of that section.

Now, what is the mode of proceeding in the manufacture of vinegar, which is sought by this amendment to be protected? A man sets up his distillery to convert fermented mash into vapor. When it reaches a certain point of disengaged alcoholic spirit in the shape of vapor it is proposed to transfer it to a wash composed of a little old vinegar, a little yeast, and a great deal of rain-water, converting it by means of this alcohol, amounting to about five per cent. of proof whisky, into vinegar. If the gentleman's amendment prevails the whole provision of the third section is defeated. Whether the amendment or the proposition of the committee prevails, the law in either case will be settled, and the difficulty to which the gentleman has adverted will be remedied. If the provision of the bill be sustained the law will be settled as the Commissioner of Internal Revenue has settled it by his construction. If the amendment should prevail the law will be settled as the courts have technically settled it in some of the States.

Now, what equity is there in allowing vinegar-makers this advantage? The whole process, to simplify it, is this: you have at one end of the line your corn, at the other end whisky. As you are converting your corn or your mash into whisky, and first make it into vapor, the gentleman proposes that you shall stop there and conduct that vapor into a wash, thus converting the wash into vinegar. What

would be the consequence of permitting distilleries to be set up to carry on this business? Why, sir, they would continue to practice all over the country, as they have practiced heretofore, their frauds, by having condensing apparatus concealed and converting the spirits from vapor into whisky. The gentleman seeks to guard against this. He first opens the door to the mischief and then seeks to shut out the mischief. Suppose he could succeed in shutting out the mischief after he had once opened the door, what then? Is there any equity in allowing this advantage to the vinegar-maker? The vinegar-maker can buy whisky, tax paid, and dilute it, bringing it to a point of dilution from which he may convert it into vinegar.

But it is proposed to begin at the other end and manufacture it as by the process of making whisky up to a certain point, there stopping and converting it into vinegar. We would thus let the vinegar manufacturer have an advantage over all other manufacturers. Everybody knows that a very large proportion of all the alcoholic spirit manufactured is used in the arts—used, for instance, in the manufacture of a silk hat, used in burnishing a pencil or the handle of a pen-holder—used in ten thousand different modes. But it is proposed to give to the vinegar manufacturer an advantage over all others. Other manufacturers are compelled to obtain the whisky tax paid, and then redistill or dilute it, as the case may be, to use it for their purposes; but the vinegar manufacturer is to be permitted to carry on the manufacture to a certain point toward whisky, and there to stop, paying no tax, but using the product thus obtained, thereby enjoying a benefit not enjoyed by any other manufacturers.

Now, it is not much under the law, as you propose to fix the tax at fifty cents. The twentieth part of fifty cents will cover the spirit intended for the manufacture of vinegar, and that will be one guard upon the vinegar manufacture. We propose spirit shall be regarded as such the moment it is disengaged by the powers of distillation, and at that moment the tax shall attach. We propose to get rid of the subterfuges now resorted to; that is, the catching it at some particular time and manufacturing it without paying a tax. The question is distinctly drawn.

The amendment of my friend from Iowa is a repeal of the third section, and he might as well put it in that form. The great virtue is in the strict definition. We escape in that way all possibility of the whisky-escaping tax.

The CHAIRMAN. (Mr. CULLOM in the chair.) The hour of half past four having arrived the tax bill will be laid aside, and the gentleman from Maine is entitled to the floor. Such was the order of the House before going into committee.

#### FINANCE.

Mr. BLAINE. The fact that the bonds of the United States are exempt from State and municipal taxation has created a wide-spread discontent among the people, and the belief prevails quite generally that if this exemption could be removed the local burdens of the taxpayer would be immediately and essentially lightened. Many persons assert this belief from a spirit of mischievous demagogism, and many do so from sincere and conscientious conviction. To the latter class I would beg to submit some facts and suggestions which may greatly modify, if not entirely change their conclusions.

The total gold-bearing debt of the United States, the conversion of seven-thirties completed, amounts to a little more than twenty-one hundred million dollars; of this sum total something over two hundred million dollars draw but five per cent. interest, a rate not sufficiently high to provoke hostility or suggest the necessity of taxation. Indeed it may be safely said that there never has been any popular dissatisfaction with regard to the non-taxation of the five per cents., it being agreed by common consent that such a rate of interest was not unreasonable on a loan negotiated at such a time.

The agitation may, therefore, be regarded as substantially confined to the six per cent. gold-bearing bonds, which amount to the large aggregate of nineteen hundred million dollars. Many people honestly, but thoughtlessly, believe that if this class of bonds could be taxed by local authority the whole vast volume represented by them would at once be added to the lists of the assessor. It is my purpose to show very briefly that this conclusion is totally unfounded and erroneous, and that if the right of local taxation existed in its fullest and amplest extent, but a minor fraction of the total amount of bonds could by any possibility be subjected to any more local tax than they already pay.

The entire amount of these bonds, as I have stated, is nineteen hundred million dollars; and of this total, by the best and most careful estimates attainable, at least six hundred and fifty million are now held in Europe. This amount could not, therefore, be reached by any system of local taxation, however extended, thorough, and searching. Deducting the amount thus held abroad we find the amount held at home is reduced to twelve hundred and fifty million dollars.

But of this twelve hundred and fifty millions more than one third, or to speak with accuracy, about four hundred and twenty-five millions, are held by the national banks, and no form of property in the whole United States pays so large a tax, both local and general, as these banks. The stock, the depositories, and the deposits which these four hundred and twenty-five million of bonds represent pay full local tax at the highest rate, beside a national tax averaging about two and a half per cent. Were the power of local taxation made specific and absolute on these bonds, they could not yield a dollar more than is now realized in that direction. It thus follows that the twelve hundred and fifty million of bonds in this country, presumptively escaping local taxation, must be reduced by the amount represented by the banks, and hence we find the aggregate falls to eight hundred and twenty-five millions.

The reduction, however, goes still further, for it must be remembered that the savings-banks of this country have invested their deposits in these bonds to the amount of one hundred and seventy-five millions. In some States by local law the deposits of savings-banks are exempt from taxation, as an incentive to thrift and economy. In other States, where these deposits are taxed, as in Connecticut, it has been held by judicial decision that the fact of their investment in United States bonds does not exempt them from taxation. Hence these one hundred and seventy-five millions, thus invested in savings-bank deposits, are either locally taxable, or, if exempt, it is by State law and not by virtue of the general exemption of the bonds. It thus follows that the eight hundred and twenty-five millions must be further reduced by this sum of one hundred and seventy-five millions, leaving but six hundred and fifty millions not already embraced within the scope of local taxation.

But there is a still further reduction of thirty millions held by the Life insurance companies and held on precisely the same terms as the deposits of savings-banks—that is, either taxed locally, or, if exempt, deriving the exemption from the local law. The surplus earnings and reserves of these life insurance companies invested to the extent of thirty millions in United States bonds are just as open to taxation when invested in that form as though they were in State or railroad securities. Deducting these thirty millions we find the untaxed bonds reduced to six hundred and twenty millions.

And still there is another large reduction; for the fire and marine insurance companies and the annuity and trust companies and other corporations which cannot readily be classed, hold in the aggregate over one hundred and twenty-five millions of bonds, and these are held on precisely the same basis as those held by the savings-bank and the life insurance com-

panies. These numerous corporations have their capital stock, their reserves and their surplus earnings invested in Government bonds to the extent named, and they are in this form just as open to taxation and are actually taxed just as much as though they were invested in any other form of security. Making the deduction of this one hundred and twenty-five millions we find remaining but four hundred and ninety-five millions of the six per cent. gold-bearing bonds that are not already practically subjected to local taxation. Allowing for the possibility that one hundred millions of the five per cents are held instead of six per cents in all the channels of investment I have named, and it follows that at the outside figure there are to-day in the whole country less than six hundred millions of Government sixes, not fully subjected to the power of local taxation. And these six hundred millions are rapidly growing less as the various corporate institutions I have named continue to invest their funds more and more in the bonds. These institutions desire a security that is of steady value, not liable to great fluctuation, and at all times convertible into money; and hence they seek Government bonds in preference to any other form of investment. The high premium on the bonds induces individuals to part with them, and hence they are readily transferred to corporate ownership, where they become in effect at once liable to local taxation and are no longer obnoxious to the charge of evading or escaping their just share of municipal burden. In the hands of individuals the bonds may be concealed, but in the possession of corporations concealment is necessarily impossible.

If these statistical statements needed any verification it would be supplied by an examination of the income returns recently made under oath and published in all the large cities of the country, disclosing the fact that the amount of bonds held by the wealthy men of the country has been continually growing less, just as they have been absorbed by foreign purchase and by corporate investment. The correctness of these income returns in reference to the investment in bonds will be accepted even by the incredulous and the uncharitable when it is remembered that the interest of those making them was to exaggerate rather than depreciate the respective amounts held by them. Instead, then, of nineteen hundred millions of these bonds running free of taxation it is clear that less than six hundred millions are open to that charge—less than one third of the whole amount. The remainder, largely more than two thirds of the whole, are either held abroad, where no local taxation can reach them, or they are held at home in such form as subjects them to local taxation.

And now let us suppose that we were in possession of the full power to tax by local authority these six hundred millions of bonds presumptively owned by individuals! Would we realize anything from it? On its face the prospect might be fair and inviting, but in practice it would assuredly prove delusive and deceptive. The trouble would be that the holders of the bonds could not be found. No form of property is so easily concealed, none so readily transferred back and forth, none so difficult to trace to actual ownership. We have hundreds of millions of State bonds, city bonds, and railroad securities in this country, and yet every one knows that it is only an infinitesimal proportion of this vast investment that is ever represented on the books of assessors and tax collectors. As a pertinent illustration, I might cite the case of the bonds of my own State, of which there are over five millions in existence to-day, largely held as a favorite investment by the citizens of Maine. Of this whole sum I am safe in saying that scarcely a dollar is found on the lists of any assessor in the State. And yet the facility for concealing ownership in national bonds is far greater than in any other form of security, and the proportion in the hands of individuals that would escape the assessment

of local taxes may be inferred with reasonable certainty from the analogies I have suggested, and which are familiar to all who have given the least attention to the subject. Indeed, I venture to assert with confidence that if the power of local taxation of these bonds were fully accorded to-day, the tax lists of our cities and towns would not be increased on an average one per cent. Many of those who to-day may be ambitious of parading their bonds when protected by what is deemed an offensive exemption would suddenly have none when the power of taxation applied to them. Indeed, the utter failure to realize anything from this source, if the power to test it were granted, would in the end create more dissatisfaction than that exemption, which, in theory, is offensive, but in practice is absolutely of no consequence whatever.

But it will be asked, "Why don't you tax the bonds by national authority?" Granted it will be urged that the power of local taxation would be nugatory and valueless, "that affords all the stronger reason for taxing the bonds by direct congressional enactment." In answer to this I have only to say that a tax levied directly upon the coupon is simply an abatement of interest, and that result can be reached in a better and more satisfactory and more honorable way. The determination manifested by this Congress and by the great Republican convention at Chicago to maintain the national faith has already worked a large appreciation in the value of the bonds, and with the strengthening of our credit, which results from an honest and high-toned policy, we will speedily be able to fund our debt on a lower scale of interest, running down to five, four and a half, and ultimately to four per cent. per annum. Should we proceed, however, in violation of good faith and of the uniform practice of civilized nations, to hold back part of the stipulated interest instead of effecting an honorable exchange of bonds to the mutual advantage of the Government and the public creditor, we should only punish ourselves, produce calamitous results in the business world, and permanently injure our national fame.

To withhold one per cent. of the interest under the plea of a national tax this year might be followed by withholding two per cent. next year and three per cent. the year ensuing. To enter upon such a policy would produce alarm at home and wide-spread distrust abroad, for every man holding a bond would have to count his rate of interest not on what was stipulated in the contract, but on what might be the will and caprice of Congress in its annual withholding of a portion of the interest under the pretense of a tax. Under such a policy our bonds would be returned upon us from Europe with panic-like rapidity, and the drain upon our specie resources would produce an immediate and disastrous crisis in monetary circles. If even one half our bonds held in Europe were suddenly sent home it would drain us of two hundred and fifty millions of specie, and the financial distress throughout the length and breadth of the land would be beyond the power of calculation or imagination. And yet that is the precise result involved if we should follow the policy advocated by those who urge us to tax the coupon and withhold one or two per cent. of the interest. Let us reject such counsels, and adhere to the steady, straightforward course dictated alike by good policy and good faith. And let us never forget that in the language of the Chicago platform, "the best policy to diminish our burden of debt is to so improve our credit that capitalists will seek to loan us money at lower rates of interest than we now pay, and must continue to pay, so long as repudiation, either partial or total, open or covert, is threatened or suspected."

#### MESSAGE FROM THE SENATE.

The committee informally rose; and a message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that that body had agreed to the amendments of the House to Senate bill No. 206, to amend an

act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central-Pacific railroad, in California, to Portland, in Oregon."

It further announced that the Senate had passed a bill (S. No. 538) in addition to an act to regulate the times and manner of holding elections for Senators to Congress, in which the concurrence of the House was requested.

The committee resumed its session.

The CHAIRMAN. The hour of five o'clock having arrived the committee will take a recess until half past seven o'clock p. m.

#### EVENING SESSION.

At half past seven o'clock p. m. the Committee of the Whole on the state of the Union resumed its session, Mr. BLAINE in the chair.

The CHAIRMAN stated the pending question was the amendment to the amendment to the third section of the internal tax bill.

Mr. SCHENCK. I withdraw the amendment to the amendment.

The question then recurred on the following amendment moved by Mr. ALLISON:

Add to section three the following:

But this act shall not apply to the manufacture of vinegar where the wash is formed by adding alcoholic vapor to the vinegar ferment without the production of distilled spirits in any form by means of any process of condensation of alcoholic vapor into liquid form, before the union of such vapor with the vinegar ferment. And every person manufacturing or intending to manufacture vinegar, by any process, for sale shall furnish to the assessor of the proper district a plan and description of his premises used or intended to be used for such manufacture as required of distillers by this act; which plan and description shall be kept in the manner therein required; and such premises and every part thereof shall at all times be open to the inspection and examination of internal revenue officers as provided for in cases of distilleries. And the presence of any worm condensing room, or other apparatus for the condensation of alcoholic vapor into distilled spirits, shall be evidence that such business is being carried on in violation of this act; and the manufacturer, and all materials in and about said premises, and the lot or tract of land on which the same is situated, shall be forfeited to the United States; and any person who shall violate any of the provisions of this section shall, on conviction, be fined not less than \$500 nor more than \$5,000, and imprisoned not less than six months nor more than two years.

The amendment was rejected.

Mr. ALLISON. I offer the following amendment:

And no mash, wort, or wash, fit for distillation or the production of spirits or alcohol, shall be made or fermented in any building or on any premises other than a distillery duly authorized according to law; and no mash, wort, or wash so made and fermented shall be sold or removed from any distillery before being distilled, and no person other than an authorized distiller shall by distillation, or by any other process, separate the alcoholic spirits from any fermented mash, wort, or wash, and no person shall use spirits or alcohol, or any vapor of alcoholic spirits, in manufacturing vinegar or any other article, or in any process of manufacture whatever, unless the spirits or alcohol so used shall have been produced in an authorized distillery and the tax thereon paid, or shall have been lawfully imported into the United States and the duties thereon paid. Any person who shall violate any of the provisions of this section shall be fined for every offense not less than \$500 nor more than \$5,000, and imprisoned for not less than six months nor more than two years.

Mr. Chairman, I do not know that any provision of that section is required. I only want to make it certain so every manufacturer can understand what he is about and what he is doing. I think as the section stands it is very difficult for ordinary persons to understand it. I know but three or four gentlemen who thoroughly comprehend it as it now stands.

The amendment was agreed to.

The Clerk read as follows:

Sec. 4. And be it further enacted, That every person having in his possession or custody, or under his control, any still or distilling apparatus set up, shall register the same with the assistant assessor of the division in which said still or distilling apparatus shall be, by filing with him or duplicate statements, in writing, subscribed by such person, setting forth the particular place where such still or distilling apparatus is set up, the kind of still and its cubic contents, the owner thereof, his place of residence, and the purpose for which said still or distilling apparatus has been or is intended to be used; one of which statements shall be retained and preserved by the assistant assessor, and the other transmitted to the assessor of the district. Stills and distilling apparatus now set up shall be so registered within sixty days from the time this act takes effect, and those hereafter set up shall be so registered immedi-



ately upon their being set up. Any still or distilling apparatus not so registered, together with all personal property in the possession or custody or under the control of such person and found in the building, or in any yard or inclosure connected with the building in which the same shall be set up, shall be forfeited. And any person having in his possession or custody, or under his control, any still or distilling apparatus set up which is not so registered, shall pay a penalty of \$500, and on conviction shall be fined not less than \$100 nor more than \$1,000, and imprisoned for not less than one month nor more than two years.

Mr. SCHENCK. I desire to ask how the amendment to the third section was adopted.

The CHAIRMAN. The Chair stated very distinctly that if there was no objection it would be considered as adopted.

Mr. SCHENCK. It was so quickly disposed of that—

The CHAIRMAN. The Chair was under the impression that it came from the Committee of Ways and Means.

Mr. SCHENCK. No, sir.

Mr. ALLISON. I would like to know the gentleman's objection to it.

Mr. SCHENCK. My objection is that it is entirely unnecessary. However, let it go now, and take the vote upon it again hereafter.

The Clerk read as follows:

SEC. 5. *And be it further enacted*, That every person engaged in, or intending to be engaged in, the business of a distiller or rectifier, shall give notice in writing, subscribed by him, to the assessor of the district within which such business is to be carried on, stating his name and place of residence, and if a company or firm the name and place of residence of each member thereof, the place where said business is to be carried on, and whether of distilling or rectifying. And if such business be carried on in a city, the residence and place of business shall be indicated by the name of the street and number of the building. In case of a distiller the notice shall also state the kind of stills, and the cubic contents thereof, the number and kind of boilers, the number of mash-tubs and fermenting-tubs, and the cubic contents of each tub, the number of receiving cisterns, and the cubic contents of each cistern, together with a particular description of the lot or tract of land on which the distillery is situated, with the size and description of the buildings thereon, and of what material constructed. The notice shall also state the number of hours in which the distiller will ferment each tub of mash or beer, the estimated quantity of distilled spirits which the apparatus is capable of distilling every twenty-four hours, and the names and residence of every person interested or to be interested in the business, and that said distillery and the premises connected therewith are not within six hundred feet of any premises authorized to be used for rectifying or refining distilled spirits by any process. In case of a rectifier, the notice shall state the precise location of the premises where such business is to be carried on, the name and residence of every person interested or to be interested in the business, by what process the applicant intends to rectify, purify, or refine distilled spirits, the kind and cubic contents of any still used or to be used for such purpose, and the estimated quantity of spirits which can be rectified, purified, or refined every twenty-four hours in such establishment, and that said rectifying establishment is not within six hundred feet of the premises of any distillery registered for the distillation of spirits. In case of any change in the location, form, capacity, ownership, agency, superintendency, or in the persons interested in the business of such distillery or rectifying establishment, or in the time of fermenting the mash or beer, notice thereof in writing shall be given to the said assessor or to the assistant assessor of the division within twenty-four hours of said change. And any assistant assessor receiving such notice shall immediately transmit the same to the assessor of the district. Every notice required by this section shall be in such form and shall contain such additional particulars as the Commissioner of Internal Revenue may from time to time prescribe. Any person failing or refusing to give such notice shall pay a penalty of \$1,000, and on conviction shall be fined not less than \$100 nor more than \$2,000, and any person giving a false or fraudulent notice shall, on conviction, in addition to such penalty or fine, be imprisoned not less than six months nor more than two years.

Mr. BECK. I move to strike out the word "will," in line twenty, and insert in lieu of it the words "usually takes to;" so that it will read, "the number of hours in which the distiller usually takes to ferment each tub of mash or beer." It is impossible to tell how long it will take to ferment. I know it varies in my district from three days and a half to five days, depending upon the weather and other causes. You should not punish a man who cannot help himself. He should not be held responsible for the failure to ferment within the time, when the weather or a thousand other contingencies may prevent the fermentation.

Mr. SCHENCK. When I first read the form of expression contained in other legisla-

tion it struck me somewhat in the same way. We called a council of distillers on the subject and found that this was just the language they used. They have twenty-four-hour, forty-eight-hour, and seventy-two-hour beer. Although there may be a little difference occasioned by the temperature, yet they classify the beer in that way, and every distiller will tell in regard to a particular kind of beer what time he wants for his mode of distillation, so that the bill is in fact drawn in conformity with the notions of the distillers themselves. The amendment would make it very vague even as to the rules of the distillers themselves.

Mr. BECK. They should not be punished for failing to do what is inevitable. The time varies in extreme cold or in extreme warm weather. A thunder-storm will sometimes so affect it that it will not ferment in a very long time. If the committee, however, think that the word "will" leaves margin enough, I will not press the amendment.

Mr. ALLISON. I think it does.

Mr. SCHENCK. Permit me to say that our object is to charge upon the capacity among other things, and if we leave an uncertainty about this we run the risk of not getting the capacity taxed. The distillers themselves have their rule on the subject, and whatever time it takes to ferment they designate their beer accordingly, as twenty-four, forty-eight, or seventy-two hour beer.

Mr. BECK. I withdraw the amendment. I only desired to call attention to the subject.

The next section was read, as follows:

SEC. 5. *And be it further enacted*, That every distiller shall, on filing his notice of intention to continue or commence business with the assessor before proceeding with such business, make and execute a bond in form prescribed by the Commissioner of Internal Revenue, with at least two sureties, to be approved by the assessor of the district. The penal sum of said bond shall be not less than double the amount of tax on the spirits that can be distilled in his distillery during a period of fifteen days; but, in no case shall such bond be for a less sum than \$10,000. The condition of the bond shall be that the principal shall faithfully comply with all the provisions of this act in relation to the duties and business of distillers, and will pay all penalties incurred or fines imposed on him for a violation of any of the said provisions; that he will not suffer the lot or tract of land on which the distillery stands, or any part thereof, or any of the distilling apparatus, to be incumbered by mortgage, judgment, or other lien during the time in which he shall carry on said business. The assessor may refuse to approve said bond when, in his judgment, the situation of the distillery is such as would enable the distiller to defraud the United States; and in case of such refusal, the distiller may appeal to the Commissioner of Internal Revenue, whose decision in the matter shall be final. A new bond shall be required in case of the death, insolvency, or removal of either of the sureties, and may be required in any other contingency, at the discretion of the assessor or Commissioner of Internal Revenue. Any person failing or refusing to give the bond herebefore required, or giving any false, forged, or fraudulent bond, shall forfeit the distillery, distilling apparatus, and all real estate and premises connected therewith, and on conviction shall be fined not less than \$500, nor more than \$5,000, and imprisoned not less than six months, nor more than two years.

Mr. STEWART. I move to strike out all after the word "business," in line nineteen, down to and including the word "final," in line twenty-four, as follows:

The assessor may refuse to approve said bond when, in his judgment, the situation of the distillery is such as would enable the distiller to defraud the United States; and in case of such refusal, the distiller may appeal to the Commissioner of Internal Revenue, whose decision in the matter shall be final.

I offer the amendment for the purpose of learning from the chairman of the Committee of Ways and Means what this paragraph refers to. The gentleman has already provided that no distillery shall be situated within six hundred feet of a rectifying establishment. Now, the construction may be given to this, it may be implied, that the Commissioner of Internal Revenue has power to allow a distillery to be within six hundred feet of a rectifying establishment. I ask for information, and I hope the chairman will give it to me.

Mr. SCHENCK. That clause is copied from the existing law upon the subject, and is intended, I suppose, for greater security; so that even if it should be in the vicinity of some

other establishment, or so situated as to afford some peculiar opportunities, in the opinion of the assessor, of fraud, he shall compel the party to take his case to the Commissioner of Internal Revenue for him to give judgment upon it before he shall be permitted to establish a distillery. It will work no hardship, because it is precedent to the establishment of the distillery.

Mr. STEWART. I only supposed it might be implied that it is within the province of the Commissioner to say that a distillery may be within six hundred feet of a rectifying establishment.

Mr. SCHENCK. No; the provision is absolute about that, and cannot be controlled by the judgment of the Commissioner. This is a mere provision for greater security, so that if there should be any contingency which seemed to look to fraudulent arrangements the assessor might require the judgment of the Commissioner upon it before the distillery should be established. The law is positive that a distillery shall not be within six hundred feet of a rectifying establishment.

Mr. STEWART. I did not know but that the power might be implied from the language used. I withdraw the amendment.

The Clerk proceeded with the reading of the bill, as follows:

SEC. 7. *And be it further enacted*, That no bond of a distiller shall be approved unless he is the owner in fee, unincumbered by any mortgage, judgment, or other lien, of the lot or tract of land on which the distillery is situated, or unless he files with the assessor, in connection with his notice, the written consent of the owner of the fee, and of any mortgage, judgment creditor, or other person having a lien thereon, duly acknowledged, that the premises may be used for the purpose of distilling spirits, subject to the provisions of this act, and expressly stipulating that the lien of the United States for taxes and penalties shall have priority of such mortgage, judgment, or other incumbrance, and that in case of the forfeiture of the distillery premises, or any part thereof, the title of the same shall vest in the United States discharged from any such mortgage, judgment, or other incumbrance. In any case where the owner of a distillery, or distilling apparatus, erected prior to the passage of this act, has an estate for a term of years only, in the lot or tract of land on which the distillery is situated, the lease or other evidence of title to which shall have been duly recorded prior to the passage of this act, the value of such lot or tract of land, together with the building and distilling apparatus, shall be appraised in the manner to be prescribed by the Commissioner of Internal Revenue; and the assessor is hereby authorized to accept, in lieu of the said written consent of the owner of the fee, the bond of said distiller with not less than two sureties, who shall be residents of the collection district or county, or an adjoining county in the same State in which the distillery is situated, and shall be the owners of unincumbered real estate in said district or county, or adjoining county, equal to such appraised value. The penal sum of said bond shall be equal to the appraised value of said lot or tract of land, together with the buildings and distilling apparatus, and conditioned that in case the distillery, distilling apparatus, or any part thereof, shall, by final judgment, be forfeited for the violation of any of the provisions of this act, the obligors will pay the amount stated in said bond. Said bond shall be in such form as the Commissioner of Internal Revenue shall prescribe.

SEC. 8. *And be it further enacted*, That every distiller, and every person intending to engage in the business of a distiller, shall, previous to the approval of his bond, cause to be made, under the direction of the assessor of the district, an accurate plan and description, in triplicate, of the distillery and distilling apparatus, distinctly showing the location of every still, boiler, doubler, worm-tub, and receiving cistern, the course and construction of all fixed pipes used or to be used in the distillery, and of every branch thereof, and of every cock or joint thereof, and of every valve therein, together with every place, vessel, tub, or utensil from and to which any such pipe shall lead, or with which it communicates. Such plan and description shall also show the number and location and cubic contents of every still, mash-tub, and fermenting-tub, together with the cubic contents of every receiving cistern, and the color of each fixed pipe, as required in this act. One copy of said plan and description shall be kept displayed in some conspicuous place in the distillery; two copies shall be furnished to the assessor of the district, one of which shall be kept by him and the other transmitted to the Commissioner of Internal Revenue. The accuracy of every such plan and description shall be verified by the assessor, the draughtsman, and the distiller; and no alteration shall be made in such distillery without the consent, in writing, of the assessor, which alteration shall be shown on the original or by a supplemental plan and description, and a reference thereto noted on the original, as the assessor may direct; and any supplemental plan and description shall be executed and preserved in the same manner as the original.

During the reading of the eighth section.

Mr. INGERSOLL said: I desire to make the point of order that when the Clerk has finished reading one section it is not proper for him to commence the reading of the next section without making any pause.

The CHAIRMAN. The gentleman is entirely out of order. It is not in order to interrupt the reading.

The Clerk concluded the reading of the section.

The CHAIRMAN. The Chair will call the attention of the committee to the fact that every section begins with the distinct words "And be it further enacted," the reading of which is a proclamation on the part of the Clerk that a new section has been reached. The Chair cannot instruct the Clerk to wait at the close of each section for gentlemen to offer amendments. It is not usual in committee.

Mr. INGERSOLL. I make the point of order that the Clerk ought to stop at the end of each section instead of reading right along in a monotonous tone. That is not reading the bill by sections.

The CHAIRMAN. The Chair overrules the point of order. The Clerk has read the bill, as is usual with the clerks of the House, very distinctly, and each section is prefaced with the words "And be it further enacted," which is notice to gentlemen that a new section has been reached. Does the gentleman appeal?

Mr. INGERSOLL. I do; and I want to say to the Committee of Ways and Means—

The CHAIRMAN. No debate is in order. Mr. FARNSWORTH. Will the Chair state what the question of order is on which the appeal is taken?

The CHAIRMAN. The Chair is really at a loss to know what the point of order is, although he has consented to entertain the appeal. The point of order seems to be that the Clerk should adopt a new mode of reading in the House, which is rather an amendment to the rules than a point of order.

Mr. GARFIELD. I would like to inquire whether this is a parliamentary point at all?

Mr. INGERSOLL. I appeal from that decision of the Chair.

The CHAIRMAN. An appeal being taken from the decision of the Chair, the question is, Shall the decision of the Chair stand as the judgment of the committee?

The question was taken; and upon a division there were—ayes 37, noes 4; no quorum voting.

Mr. INGERSOLL. I call for tellers.

Mr. FARNSWORTH. It seems to me there is no such thing as a point of order pending.

Mr. GARFIELD. I rise to a point of order. The Chair is not authorized to appoint tellers without they have been called for by the requisite number—one fifth of a quorum.

The CHAIRMAN. The Chair is authorized to appoint tellers when no quorum votes. But the Chair is of opinion that the point of order of the gentleman from Illinois [Mr. INGERSOLL] is no point of order at all.

Mr. INGERSOLL. That is a difference of opinion between the Chair and myself.

The CHAIRMAN. The Chair will decline to entertain any further proceedings under the point of order.

Mr. INGERSOLL. I desire to offer an amendment to section six of the bill.

The CHAIRMAN. That section having been passed, it requires unanimous consent to turn back to it for the purpose of amending it.

Mr. INGERSOLL. Well, I ask unanimous consent.

Objection was made by several members.

Mr. BECK. Does it require unanimous consent to offer any amendment to section six at this time?

The CHAIRMAN. It does.

Mr. BECK. I could state my reasons why I want to offer an amendment.

The CHAIRMAN. That is objected to, and is not in order.

Mr. ROBINSON. I desire to offer an amendment to section seven of this bill.

The CHAIRMAN. That requires unanimous consent, the section having been passed.

Objection was made by several members.

Mr. ROBINSON. Then I insist upon the count being made and declared upon the appeal of the gentleman from Illinois, [Mr. INGERSOLL.]

The CHAIRMAN. The Chair has declined to entertain any further proceedings under that point of order or appeal.

Mr. CHANLER. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. CHANLER. Owing to the confusion in the Hall at the time the gentleman from Illinois [Mr. INGERSOLL] was on the floor, the gentleman from Kentucky, [Mr. BECK,] who had arisen for the purpose of offering an amendment, was cut off by a misunderstanding on that account.

The CHAIRMAN. The Chair submitted to the Committee of the Whole whether, under the circumstances, the gentleman from Kentucky should be allowed to offer his amendment.

Mr. KNOTT. I desire to make a statement in reference to this matter.

The CHAIRMAN. There being objection to the amendment, there is nothing before the committee.

Mr. CHANLER. I appeal from the decision of the Chair.

The CHAIRMAN. What decision of the Chair does the gentleman appeal from?

Mr. CHANLER. The decision in reference to the amendment of the gentleman from Kentucky, [Mr. BECK.]

The CHAIRMAN. The Chair asked unanimous consent for the gentleman from Kentucky to offer his amendment, and objection was made. The Chair has made no decision from which an appeal can be taken.

Mr. TRIMBLE, of Kentucky. I hope gentlemen will consent to go back to the sixth section for the purpose of amendment. There is no disposition on the part of any one to break up the committee; but we want to offer some amendments in good faith.

The CHAIRMAN. The Chair will again ask if unanimous consent will be given to allow the gentleman from Kentucky to move an amendment to section six of this bill.

Objection was again made by several members.

Mr. CHANLER. I move that the committee now rise.

The question was taken; and upon a division there were—ayes 14, noes 47; no quorum voting.

Mr. CHANLER. I call for tellers.

Mr. BROOMALL. Does it require a quorum to decide the question upon the motion that the committee rise?

The CHAIRMAN. It does not; but the discovery of the absence of a quorum arrests the transaction of business.

Mr. WILSON, of Iowa. I ask that the roll be called.

The CHAIRMAN. The Chair will first appoint tellers upon the motion that the committee now rise.

Mr. CHANLER and Mr. BROOMALL were appointed tellers.

The committee again divided; and the tellers reported that there were—ayes 13, noes 55.

The CHAIRMAN. No quorum having voted, the Chair will, under the rule, direct the Clerk to call the roll.

The roll was called; and the following members failed to answer to their names:

Messrs. Adams, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnes, Barnum, Beaman, Beatty, Benjamin, Benton, Bingham, Boyer, Broomfield, Brooks, Buckland, Burr, Butler, Cuke, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cornell, Covode, Cullom, Dawes, Delano, Dodge, Donnelly, Eckley, Eggleston, Eldridge, Ferriss, Ferry, Fields, Finney, Fox, Glossbrenner, Gravely, Griswold, Haight, Halsey, Harding, Hill, Hopkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburt, Humphrey, Hunter, Johnson, Jones, Judd, Kelley, Kelsey, Kerr, Kitchen, Ladin, William Lawrence, Lincoln, Loan, Loughridge, Lynch, Mallory, Marshall, Marvin, McCullough, McKee, Morrell, Morrissey, Mungen, Newcomb, Nicholson, Nunn, Paine, Perham, Phelps, Plants, Polaud, Polsley, Randall, Ross, Sawyer,

Selye, Shanks, Sitgreaves, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stone, Taffe, Taylor, Thomas, John Trimble, Van Aernam, Van Auken, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Welker, William Williams, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward.

The committee then rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union having had under consideration the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, had found itself without a quorum; that he had directed the roll to be called, and reported the absentees to the House.

Mr. SCHENCK. I move a call of the House.

Mr. FARNSWORTH. Has not a quorum answered?

The SPEAKER. A quorum has not answered.

Mr. ALLISON. I think that by the time the absentees shall have been called a quorum will be present.

The motion of Mr. SCHENCK was agreed to.

The SPEAKER directed the roll to be called, when the following-named members failed to answer to their names:

Messrs. Adams, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnes, Barnum, Beaman, Benjamin, Benton, Bingham, Boyer, Broomfield, Brooks, Burr, Butler, Cuke, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Covode, Cullom, Dawes, Dodge, Donnelly, Eckley, Eldridge, Ferry, Fields, Finney, Fox, Glossbrenner, Gravely, Griswold, Halsey, Hill, Hopkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburt, Humphrey, Hunter, Johnson, Jones, Kelley, Kelsey, Kerr, Kitchen, Ladin, William Lawrence, Lincoln, Loan, Loughridge, Mallory, Marshall, Marvin, McCullough, McKee, Morrell, Morrissey, Newcomb, Nunn, Paine, Perham, Phelps, Poland, Randall, Ross, Selye, Shanks, Sitgreaves, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stone, Taffe, Thomas, John Trimble, Van Aernam, Van Auken, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Welker, William Williams, Stephen F. Wilson, Wood, Woodbridge, and Woodward.

Mr. PRUYN. I move to dispense with further proceedings under the call.

Several MEMBERS. There is no quorum present.

Mr. SCHENCK. I should like to know, if we dispense with further proceedings under the call, what the temper of the members will be as to going on with the bill without calling for a division and again breaking up the committee. If a division is to be insisted upon when gentlemen have been voted down by those who are here we might as well, perhaps, go through with this call. I should be glad to have further proceedings under the call dispensed with if we could get along with our business in committee; but it seems to be difficult to get gentlemen to stay here and consent to be bound by the vote of a majority of the committee in attendance.

Mr. INGERSOLL. There will be no objection if consent be given to go back to section six. The proposition which I desire to submit will not occupy five minutes.

Mr. MULLINS. I cannot consent to that. The motion of Mr. PRUYN was not agreed to.

The SPEAKER. The doors will now be closed, and the Clerk will call the names of absentees that excuses may be presented.

Mr. MUNGEN. Is it in order to move that the House now adjourn?

The SPEAKER. It is.

Mr. MUNGEN. I make that motion.

The motion was not agreed to.

The Clerk proceeded to call the names of absentees.

GEORGE M. ADAMS.

Mr. KNOTT. My colleague, Mr. ADAMS, is detained at his home by sickness.

The SPEAKER. If there be no objection Mr. ADAMS will be excused.

There was no objection.

SAMUEL M. ARNELL. No excuse offered.

DELOS R. ASHLEY. No excuse offered.

JAMES M. ASHLEY.  
Mr. BOUTWELL. I desire to state that Mr. ASHLEY, of Ohio, has been called home by the serious illness of a child.

The SPEAKER. Mr. ASHLEY has leave of absence, and his name will be omitted from the warrant which may be issued for absentees.

SAMUEL B. AXTELL. No excuse offered.  
ALEXANDER H. BAILEY. No excuse offered.  
JOHN D. BALDWIN. No excuse offered.  
NATHANIEL P. BANKS. No excuse offered.  
DEMAS BARNES. No excuse offered.  
WILLIAM H. BARNUM. No excuse offered.  
FERNANDO C. BEAMAN.

Mr. BLAIR. My colleague, Mr. BEAMAN, is sick and not able to be here.

The SPEAKER. If there is no objection, Mr. BEAMAN will be excused.

There was no objection.

JOHN F. BENJAMIN. No excuse offered.  
JACOB BENTON. No excuse offered.  
JOHN A. BINGHAM. No excuse offered.  
BENJAMIN M. BOYER. No excuse offered.  
HENRY P. H. BROMWELL. No excuse offered.  
JAMES BROOKS. No excuse offered.  
BENJAMIN F. BUTLER. No excuse offered.  
ALBERT J. BURR.

Mr. RAUM. Mr. BURR is absent by leave of the House.

The SPEAKER. That is correct, and his name will be excluded from the warrant.

HENRY L. CAKE. No excuse offered.  
Mr. FARNSWORTH. Mr. Speaker, Mr. BROMWELL had leave of absence for ten days. Whether that leave has expired or not I do not know.

The SPEAKER. He will be regarded as having leave of absence.

JOHN C. CHURCHILL.  
Mr. POMEROY. Mr. CHURCHILL has leave of absence.

The SPEAKER. His name will be excluded from the warrant.

READER W. CLARKE.

The SPEAKER. Mr. CLARKE, of Ohio, is absent on leave.

SIDNEY CLARKE. No excuse offered.  
AMASA COBB. No excuse offered.  
BURTON C. COOK.

Mr. JUDD. Mr. COOK is in ill health, and he requested me to ask the House to grant him leave of absence. I forgot it yesterday, and ask it now.

The SPEAKER. It cannot be granted now.  
Mr. JUDD. I move that he be excused.  
The motion was agreed to.

JOHN COVODE. No excuse offered.  
SHELBY M. CULLOM. No excuse offered.  
HENRY L. DAWES. No excuse offered.  
IGNATIUS DONNELLY. No excuse offered.  
GRENVILLE M. DODGE.

The SPEAKER. The gentleman from Iowa has indefinite leave of absence.

Mr. WASHBURN, of Massachusetts. Mr. COVODE is at the door, and I move that he be allowed to come in.

The SPEAKER. The doors are closed by order of the House, and he cannot be admitted at this time.

EPHRAIM R. ECKLEY. No excuse offered.  
CHARLES A. ELDRIDGE. No excuse offered.  
THOMAS W. FERRY. No excuse offered.  
WILLIAM C. FIELDS. No excuse offered.  
DARWIN A. FINNEY. No excuse offered.  
JOHN FOX. No excuse offered.  
ADAM J. GLOSSBRENNER.

Mr. GETZ. Mr. GLOSSBRENNER is absent by leave of the House.

The SPEAKER. His name will not be included in the warrant.

JOSEPH J. GRAVELY. No excuse offered.  
JOHN A. GRISWOLD. No excuse offered.  
GEORGE A. HALSEY. No excuse offered.  
JOHN HILL. No excuse offered.  
BENJAMIN F. HOPKINS. No excuse offered.  
JULIUS HOTCHKISS. No excuse offered.  
ASAHEL W. HUBBARD. No excuse offered.  
RICHARD D. HUBBARD. No excuse offered.  
CALVIN T. HULBURD. No excuse offered.  
JAMES M. HUMPEREY. No excuse offered.

MORTON C. HUNTER.

Mr. WASHBURN, of Indiana. Mr. HUNTER is absent by leave of the House.

JAMES A. JOHNSON. No excuse offered.  
THOMAS L. JONES. No excuse offered.  
WILLIAM D. KELLEY.

Mr. MERCUR. Mr. KELLEY was obliged to leave the House by illness, and I move that he be excused.

The motion was agreed to.

WILLIAM H. KELSEY. No excuse offered.  
MICHAEL C. KERR. No excuse offered.  
BETHUEL M. KITCHEN.

Mr. HUBBARD, of West Virginia. Mr. KITCHEN is absent on leave.

The SPEAKER. His name will be excluded from the warrant.

ADDISON H. LAFLIN.

Mr. FERRISS. Mr. LAFLIN is absent on leave.

WILLIAM LAWRENCE.

Mr. BUCKLAND. Mr. LAWRENCE is absent on leave.

WILLIAM S. LINCOLN. No excuse offered.  
BENJAMIN F. LOAN. No excuse offered.  
WILLIAM LOUGHRIDGE.

Mr. HIGBY. I think Mr. LOUGHRIDGE is absent on leave.

The SPEAKER. He was in the House to-day.

Mr. HIGBY. I will not be positive.  
SAMUEL S. MARSHALL.

Mr. VAN TRUMP. Mr. MARSHALL is absent by leave of the House.

JAMES M. MARVIN. No excuse offered.  
HIRAM McCULLOUGH.

Mr. ARCHER. He is absent by leave of the House.

SAMUEL MCKEE. No excuse offered.  
DANIEL J. MORRELL. No excuse offered.  
JOHN MORRISSEY. No excuse offered.

DAVID A. NUNN. No excuse offered.  
HALBERT E. PAINE.

Mr. SAWYER. Mr. PAINE is absent on account of ill health. I move that he be excused.

The motion was agreed to.

SIDNEY PERHAM.

Mr. PETERS. Mr. PERHAM is absent by leave of the House.

CHARLES E. PHELPS. No excuse offered.  
LUKE P. POLAND. No excuse offered.  
SAMUEL J. RANDALL.

Mr. O'NEILL. Mr. RANDALL is at home in Philadelphia on a matter of very great importance. I move that he be excused.

The motion was agreed to.

LEWIS W. ROSS. No excuse offered.  
LEWIS SELYE. No excuse offered.  
JOHN P. C. SHANKS. No excuse offered.

HENRY H. STARKWEATHER.  
Mr. TWICHELL. Mr. STARKWEATHER was in the committee this forenoon, but he is quite sick, and said he was unable to be present this evening. I move that he be excused.

The motion was agreed to.

AARON F. STEVENS. No excuse offered.  
THADDEUS STEVENS.

Mr. SPALDING. I move that Mr. STEVENS be excused.

The motion was agreed to.

FREDERICK STONE.

Mr. ARCHER. My colleague, Mr. STONE, has leave of absence until Thursday morning.

JOHN TAFFE. No excuse offered.  
FRANCIS THOMAS.

Mr. ROBINSON. I move that Mr. THOMAS be excused.

The motion was agreed to.

JOHN TRIMBLE.

Mr. MAYNARD. My colleague, Mr. TRIMBLE, informed me on Saturday night that he was required to go home by his affairs, and requested that I would ask leave of absence for him. I am not confident that I have fulfilled the commission he assigned me by asking leave. If he has not leave, it is my fault, and not his own. I move that he be excused.

The motion was agreed to.

HENRY VAN AERNAM.

Mr. POMEROY. I think Mr. VAN AERNAM has leave of absence.

The SPEAKER. The gentleman is correct.  
DANIEL M. VAN AUKEN. No excuse offered.  
BURT VAN HORN.

The SPEAKER. Mr. VAN HORN is absent on leave.

ROBERT T. VAN HORN.  
Mr. ANDERSON. My colleague, Mr. VAN HORN, is sick. I move that he be excused.

The motion was agreed to.

CHARLES H. VAN WYCK.  
Mr. KETCHAM. My colleague, Mr. VAN WYCK, is absent on account of sickness. I move that he be excused.

The motion was agreed to.

HAMILTON WARD. No excuse offered.  
CADWALADER C. WASHBURN. No excuse offered.

ELIHU B. WASHBURNE.

Mr. BLAINE. I move that Mr. WASHBURNE be excused. He was granted leave of absence from evening sessions some time since on account of the state of his health.

The motion was agreed to.

MARTIN WELKER. No excuse offered.  
WILLIAM WILLIAMS. No excuse offered.

STEPHEN F. WILSON.  
Mr. MERCUR. I think my colleague, Mr. WILSON, has leave of absence.

The SPEAKER. The Chair is under the impression that the gentleman is correct, though it is some time since the leave was granted.

FERNANDO WOOD.  
Mr. TABER. My colleague, Mr. WOOD, is absent from the House on account of ill health. I move that he be excused.

The motion was agreed to.

Mr. PRUYN. I understand that there are members enough in attendance outside the doors to make up a quorum, and I suggest that further proceedings in the call be dispensed with.

The SPEAKER. The call of the absentees will be completed in a moment.

FREDERICK E. WOODBRIDGE. No excuse offered.

GEORGE W. WOODWARD. No excuse offered.

The SPEAKER. The Chair will state to the House that there are members enough outside the doors to make up a quorum, if admitted.

Mr. TROWBRIDGE. I move that further proceedings in the call be dispensed with.

The motion was agreed to; and further proceedings in the call were dispensed with, and the doors were reopened.

Mr. SCHENCK. I submit the following resolution:

*Resolved*, That all further proceedings under the call be dispensed with; and that the Clerk be directed to make out a full list of the absentees, noting opposite their names those who are absent by leave of the House, or who have been excused, and to publish the same conspicuously in two newspapers of this city other than the Daily Globe.

The SPEAKER. That requires unanimous consent.

Mr. ROBINSON and others objected.

Mr. SCHENCK. Well, I will withdraw it now. I offered it with a view of drawing the attention of the country to the record, so that it may be known who are here and who are not.

Mr. PRUYN. The Globe publishes all that information, without any such resolution as that.

CORRECTION OF THE JOURNAL.

Mr. COBURN. I rise to a question of privilege. I am recorded in the Journal, and also in the Globe, as voting in the affirmative yesterday on the question of referring the resolution of the gentleman from Iowa [Mr. LOUGHRIDGE] upon the subject of funding the public debt. I voted in the negative.

The SPEAKER. The Journal will be corrected accordingly.



## INTERNAL TAX BILL.

Mr. FARNSWORTH. I call for the regular order of business.

The SPEAKER. The regular order of business, under the order of the House, is the consideration of the tax bill in Committee of the Whole.

Accordingly the House, pursuant to order, resumed the consideration in Committee of the Whole (Mr. BLAINE in the chair) of House bill No. 1284, to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

Mr. INGERSOLL. I ask unanimous consent to offer an amendment to section six of this bill.

Objection was made by several members.

The CHAIRMAN. Objection being made to going back to sections which have been passed, the Clerk will resume the reading of the bill.

Mr. ROBINSON. I would suggest that the Clerk announce the number of the section when a new section is reached.

The CHAIRMAN. The number of the section forms no part of the bill. The Clerk reads very distinctly, and reads at the beginning of every section the enacting words, "And be it further enacted."

Mr. ROBINSON. We will all acknowledge that the Clerk reads very distinctly. But still I would suggest that the Clerk commence the reading of the section by its number.

The CHAIRMAN. The Clerk will resume the reading of the bill.

The Clerk read as follows:

SEC. 9. *And be it further enacted*, That immediately after the passage of this act every assessor shall proceed, at the expense of the distiller, with the aid of some competent and skillful person, to be designated by the Commissioner of Internal Revenue, to make survey of each distillery registered or intended to be registered for the production of spirits in his district, to estimate and determine its true producing capacity, and in like manner shall estimate and determine the capacity of any such distillery as may hereafter be so registered in said district, a written report of which shall be made in triplicate, signed by the assessor and the person aiding in making the same, one copy of which shall be furnished to the distiller, one retained by the assessor, and the other immediately transmitted to the Commissioner of Internal Revenue. If the Commissioner of Internal Revenue shall at any time be satisfied that such report of the capacity of a distillery is in any respect incorrect or needs revision, he shall direct the assessor to make in like manner another survey of said distillery; the report of said survey shall be executed in triplicate and deposited as hereinbefore provided. And, in like manner, and under like restrictions and provisions, there shall be ascertained, recorded, and reported the capacity of every establishment now existing, or that may be hereafter commenced, for redistilling distilled spirits.

Mr. BOUTWELL. I move to amend the first clause of this section by striking out the words "at the expense of the distiller." My reasons for this amendment are twofold; in the first place, I think the Government should pay all these expenses, and my second and chief reason is that I dislike the relation which is likely to be created by the payment of money by a distiller to a public officer. This is a small matter, but for one I prefer that the Government should pay the expenses of this inspection.

Mr. SCHENCK. There should be some provision for the payment of the expense of inspection. I would therefore suggest to the gentleman to modify his amendment so as to strike out the word "distiller" and insert the words "United States."

Mr. BOUTWELL. I accept the suggestion, and modify my amendment accordingly.

The amendment, as modified, was agreed to.

Mr. ROBINSON. I move to further amend this section by striking out after the words "United States," just inserted, the words "with the aid of some competent and skillful person, to be designated by the Commissioner of Internal Revenue." I make that proposition because there is no provision made for the person to be called in, unless in some subsequent part of the bill which I have not yet seen; and it would be difficult for the Commissioner to designate some person who is not an officer.

If my amendment should prevail, then the assessor or the assistant assessor, who is the proper person, could make this inspection.

Mr. SCHENCK. I think it very necessary that some skillful person should be employed, even at some expense, so that this service should be correctly performed.

Mr. ROBINSON. If this is not amended in some way there will be infinite confusion.

The amendment of Mr. ROBINSON was not agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 10. *And be it further enacted*, That after the passage of this act it shall not be lawful for any assessor to assess a special tax upon any distiller, or for the collector to collect the same, or for any distiller who has heretofore paid a special tax as such to continue the business of distilling, until such distiller shall have given the bond required by this act, and shall have complied with the provisions of law having reference to the registration and survey of distilleries, and having reference to the arrangement and construction of distilleries and the premises connected therewith, in manner and as required by this act; nor shall it be lawful for any assessor of internal revenue to assess, or for any collector to collect, any special tax for distilling on any premises distant less than six hundred feet from any premises authorized to be used for rectifying, nor shall any assessor assess or collector collect any special tax for rectifying distilled spirits on any premises distant less than six hundred feet from any authorized distillery. Where ever, at the date of the passage of this act, any rectifying establishment shall exist within six hundred feet of any distillery, the machinery, tools, implements, and apparatus for carrying on the business of rectifying and of distilling, respectively, shall be appraised in such manner as the Commissioner of Internal Revenue may prescribe, and the assessor shall immediately notify the distiller or rectifier having the least amount invested in machinery, tools, implements, and apparatus that his business of distilling or rectifying, as the case may be, must be discontinued at such place within thirty days; and if any distiller or rectifier shall fail to discontinue such business on the premises within thirty days after the receipt of such notice, he shall be liable to all penalties, forfeitures, and punishments incurred for carrying on the business of a distiller or rectifier without having paid the special tax required by law. In all cases where a distillery and rectifying establishment, distant the one from the other less than six hundred feet, are occupied by the same person, said person shall have the right to elect which business shall be discontinued at that place; and if any premises used for distilling be distant less than six hundred feet from any premises used for rectifying, but in a different collection district, it shall be the duty of the assessors of both of the adjoining districts immediately on the passage of this act to report the fact to the Commissioner of Internal Revenue, who shall require the appraisal herein provided for, and shall direct which business shall be discontinued, and shall notify the assessor of the district in which such premises are situated in order that the same may be discontinued as hereinbefore provided. In all cases where rectifying or distilling shall be discontinued under the provisions of this section, and the time for which the special tax for rectifying or distilling was paid remains unexpired, the Secretary of the Treasury is hereby authorized to refund out of any money in the Treasury not otherwise appropriated, on requisition of the Commissioner of Internal Revenue, a proportionate part of any sum originally paid for special tax therefor, which shall be in such ratio to the whole sum paid as the unexpired time for which special tax was paid shall bear to the whole term for which the same was paid. Any collector or assessor of internal revenue who shall fail to perform any duty imposed by this section, or shall assess or collect any special tax in violation of its provisions, shall be liable to a penalty of \$5,000 for each offense.

Mr. BUTLER. I move to amend this section, so far as it provides for the distance between distilling and rectifying establishments, by striking out "six hundred feet" and inserting "two hundred feet." I will state my reason for that amendment.

I am well aware that the distance "six hundred feet" was prescribed to prevent fraud; and if mere distance would do it, and that were all, I would not move my amendment. But the Committee of the Whole, I think, will see that great loss might accrue to individuals without any proportionate gain to the Government. This section provides that where there are two or more distilleries, or two rectifying establishments or a distillery and one or more rectifying establishments, within six hundred feet of each other, then those which are worth least shall be given up and abandoned in favor of the larger one at the cost of the owner. That, of course, crowds out the small men to the benefit of the large ones. Perhaps that is wise enough if you are going to crowd out either.

Let me suppose a case. There is a street upon which there are three rectifying estab-

lishments and one distillery within five or six hundred feet. There may be good-will attached to these establishments. But this section, as it now stands, would crowd out the small establishments, and leave the whole of the good-will and business in the hands of the larger one; all for the purpose of getting these establishments a few feet further apart.

Now, it will be a great deal easier to prevent a man from carrying his whisky six hundred feet than it will be to destroy the business of two or three men on the opposite side of the same street, for instance. This section provides that the distiller or rectifier, having the least amount invested in machinery, tools, &c., shall give up his business, lose his machinery, and surrender his good-will to the one having a larger amount invested. I do not think there is gain enough in saving frauds by the distance to compensate for the loss to the individual.

I think two hundred feet between these establishments will be ample space to allow the revenue officer to pass. We ought to have the space wide enough for that, to see that no harm is done, and that will save the harm in a degree. I think the Committee of Ways and Means will agree with me that in view of the great difficulties, the great losses, and the great wrongs that will result from this section as it now stands, it will be better to have it amended by reducing this distance from six hundred feet to two hundred feet, or in some other manner which will give relief.

Mr. SCHENCK. I am well aware that this is a pretty hard rule to be enforced; but it is one of those very important rules without the enforcement of which and provision for which in the law I very much doubt whether we will make our law effective in all respects. The gentleman from Massachusetts [Mr. BUTLER] says those establishments ought to be far enough apart to permit revenue officers to pass between them. Sir, they need to be a little further apart than that. We have discovered that pipes have been laid under buildings, under streets, &c., in order to connect establishments of this kind. And one great means of security against such attempts at fraud is to get those buildings reasonably far apart. I was myself of the opinion they should be twelve hundred feet apart to break up all possibility of connection. The committee settled upon six hundred feet. After an examination of a great many practices which prevailed I am satisfied with that distance. I hope it will not be made less.

A provision has also been made where they are near together. I can state in behalf of the committee, while we have been appealed to most earnestly and urgently from some of the principal cities to make a provision of this kind, that while we require those hereafter to be erected to be six hundred feet apart, it is only reasonable we should let those who have gone into business to stand as they now are. That is, we shall permit those who have for the last four or five years, in nine cases out of ten, and I may say ninety out of a hundred, defrauded the Treasury, to go on, and let this only apply to those who are to go into business hereafter.

Mr. BUTLER. If that is necessary, why not make the principal distiller who takes the business take the rest within six hundred feet?

Mr. SCHENCK. We have not the power.

Mr. BUTLER. Then do not license him.

Mr. SCHENCK. We have not the power to make one man take another man's property.

Mr. PRUYN. The reasoning of the chairman of the Committee of Ways and Means is based on what has passed away. All these things were done when the tax was two dollars per gallon on whisky, and now it is proposed in this bill to reduce the tax to fifty cents a gallon. The chairman's reasoning is confined to another condition of things than those provided for in this bill. All these evasions were resorted to when the tax was fixed at two dollars a gallon. Now, sir, I hold this provision to be most extraordinary. Here is a man who has acquired his property in the regular way. He has

paid for it and owns it. This provision says that he shall not use it, and yet provides no just compensation whatever. There is no State of the Union which would appropriate private property without compensation. The Constitution of the United States prohibits the taking of private property for public use without compensation. Yet, sir, you take this property, sweep it away from the man who owns it, and provide no compensation whatever. It strikes me that the proposition of the gentleman from Massachusetts [Mr. BUTLER] is fair, that the larger one should be put to the election whether he will go on with the business and buy the smaller one out or permit the smaller one to buy him out. I am not prepared at this moment to offer an amendment that will meet this case; but I hope the committee will pass over this section so an amendment can be prepared. The principle enunciated by the gentleman from Massachusetts is unquestionably the right one. We should not deprive any man of the use of his property without making him just compensation therefor. But, as I have said, I am not prepared with the proper amendment. I move, therefore, that this section be passed over for the present.

Mr. LOGAN. If gentlemen had examined this section they would not have deemed it was necessary to amend it. What is the reason for any law? What is the reason for this? Now, sir, there is abundance of evidence to show that rectifying establishments, many of them, near distilleries, use pipes in connection with the cisterns of the distillery, in connection with the mash-tubs or the receiving cisterns, so as to run the whisky from the distillery into the rectifying establishment. Then it is rectified in the rectifying establishment; and under this and the old law whenever whisky is rectified it goes upon the market as tax paid, the tax being compelled to be paid before it is rectified. Yet the gentlemen say this is a hardship. Sir, it is no hardship. Honest men in this business ask that it shall be done. I have a document here from which I have already read, the proceedings of the distillers' convention, at which the rectifiers of every State of the Union were represented. It was composed of the best men in the business from the different cities and States. Now, these men representing the distilling interest passed a resolution recommending that no license should be granted to any distillery upon the same premises with a rectifying establishment, or within six hundred feet of any premises used for rectifying. That is what the rectifiers themselves say we should do in order to prevent fraud. If they can stand it I do not think we should complain.

Mr. PRUYN. Does the gentleman mean to assert that gentlemen engaged in any business have a right to ask this to be done—to ask us to annihilate the rights of private property?

Mr. LOGAN. No, sir; I do not say they have a right to ask Congress to do any more than any other citizens have a right to ask. But they held a convention and passed resolutions determining for themselves what they thought would be necessary to protect them against the frauds of these illicit distillers. But outside of that, I put this to the House, not as an argument, but to show that there is a kind of anxiety here to do more for these men than they ask to be done for them. Now, I tell gentlemen if you put your rectifying establishment within two hundred feet of your distillery all you have to do in the city is to attach a common hose and connect the rectifying establishment and the distillery together over the tops of the houses and with a syphon draw out every particle of whisky from the tanks. It can be done in the night. I yield to the gentleman from New York.

Mr. GRISWOLD. For the benefit of my friend, I will give him the evidence of one of the largest rectifiers and distillers in my own State. His name is Tracey. When the business was conducted in a legitimate way he paid into the Government Treasury over five hundred thousand dollars in nine months as tax on whisky manufactured by him. His evi-

dence before the committee was that although this would work hardship to him from the fact that he would have to abandon expensive buildings which he had erected for the purpose, still he was convinced of the necessity of this provision, and he was willing to submit to the law rather than to have the committee abandon it.

Mr. PRUYN. I would like to say a word in answer to that.

The CHAIRMAN. Debate is exhausted. Mr. BUTLER. I withdraw the amendment, and move to add "fifty," a formal amendment, so as to allow debate. I am not convinced even by my friend from Illinois, [Mr. LOGAN,] or my friend from New York, [Mr. GRISWOLD,] still less by the resolution of the large distillers in the whisky convention. I understand now where this proposition comes from. It comes from the large distillers and rectifiers, who propose to crush out the little ones. Precisely that and nothing more.

Mr. LOGAN. Allow me a question. This does not prevent distillers from being close together, nor the rectifying establishments being close together, but prevents the distilleries being close to the rectifying establishments. So, therefore, it cannot be crushing out the little ones.

Mr. BUTLER. I understand it perfectly. The gentleman has not made it any clearer. If there be any rectifying establishment within six hundred feet of any distillery then the one that is less in amount—and the rectifying establishments are always the largest—has a right to crush out the other without paying any damages, compensation, or giving him any relief whatever. Now, I say it is unjust, unfair, and unchristian for us to legislate to destroy one man's property for the benefit of another without compensation. I call the attention of the committee to the fact that if you give a license to a large rectifier, which, by the terms of the law, takes away the property of the smaller one, you should make him take the property at a valuation of his neighbor that he is going to crush out. My friend from Ohio says that cannot be done. Let us see. What can you say to the large establishment? You can say, "Sir, you shall not have your license, which crowds out your neighbor from his business, unless you take all the distillery establishments within six hundred feet." Is not that right? Mr. Tracey, mentioned to us, I have no doubt would like to have all the small distillers wiped out. The large rectifiers are the very men who want to crush out the small ones. That is part of the game. Now, then, the least I desire is, if you are going to kill these small men for the benefit of the large ones, let the large men pay for the property they destroy. I, for one, will not stand in this committee without raising my voice against taking one man's property for the benefit of another without compensation.

Mr. ALLISON. I cannot see the difference in effect between the proposition—

Mr. FARNSWORTH. Debate is exhausted on the amendment, I believe.

The CHAIRMAN. It is not. The gentleman from Iowa is replying to an amendment of the gentleman from Massachusetts.

Mr. BUTLER. I withdraw the last amendment.

Mr. ALLISON. I object to the gentleman's withdrawing it. Mr. Chairman, I see no difference in principle between the proposition made by the gentleman from Massachusetts [Mr. BUTLER] and the proposition of the Committee of Ways and Means. He is willing that the distillery and the rectifying establishment shall be separated two hundred feet from each other, but not six hundred feet. Now, I should like to know what difference there is between his proposition and that of the committee except in degree?

Mr. BUTLER. The gentleman does not mean to misrepresent me?

Mr. ALLISON. Certainly not.

Mr. BUTLER. I put it at two hundred feet for the purpose of calling attention to the sub-

ject and asking time to prepare an amendment to cover the case.

Mr. ALLISON. Now, we have had before the Committee of Ways and Means a great many persons in reference to this very proposition, and one gentleman who is a very large distiller and rectifier in the city of New York, having his two establishments in juxtaposition, came before us and said that he wanted us to strike out the proposition that the distiller should be required to own the property in fee on which his distillery is erected, and he also objected to this six hundred feet proposition, because he said he had invested \$50,000 in an alcohol distillery which would be destroyed if this law went into operation. But he made his principal argument against the sixth section of the bill, which requires that every distiller shall own in fee the property on which his distillery is located; and he said, "If you allow that provision to remain in the bill I care not a fig about the other proposition in regard to rectifying establishments, because the effect of that section will be to drive the business of distillation out of the great cities where land is dear into the country where land is cheap." And he said, "If this proposition in the sixth section prevails my distillery and rectifying house must go out of the city of New York, because I cannot afford to invest the amount of money necessary to carry on business there where real estate is worth so much." I believe, sir, it is the wish of all those who desire to see the tax collected that the business of distillation shall be driven out of the great cities where all the frauds are committed. It is no hardship on the rectifier to be compelled to remove his rectifying house six hundred feet from a distillery, but all the evidence is that frauds have been committed by means of pipes extending from the cistern-room of the distillery into the rectifying establishment, underground and in various ways, so that the distilled spirits never reach the distillery warehouse at all, but go from the receiving cistern into the rectifying establishment, and thence to the market.

Mr. INGERSOLL. Will the gentleman allow me to ask him one question?

Mr. ALLISON. I will.

Mr. INGERSOLL. Have you any evidence that any fraud has been committed by collusion between a distillery and a rectifying establishment when separated two hundred feet?

Mr. ALLISON. I do not know that we have any evidence of it when separated two hundred feet or one hundred and ninety-nine feet or one hundred and ninety-nine and a half feet. But we require that these distilleries and rectifying establishments shall not be on the same square, in the same block of buildings, but that they shall be separated by a street or avenue.

[Here the hammer fell.]

Mr. EGGLESTON. I move to amend the amendment so as to make the distance seven hundred feet. Now, I have noticed the argument of the distinguished gentleman from Massachusetts, [Mr. BUTLER,] and I really cannot see why it is that he should oppose the proposition to require that there shall be this distance between a distillery and a rectifying establishment and be in favor of two hundred feet.

Mr. BUTLER. I have said three times that I am not in favor of it.

Mr. EGGLESTON. Well, he is certainly opposed to six hundred feet. It is well known to every gentleman here who looks the subject honestly and squarely in the face that the business of making whisky, if the tax is paid to the Government upon it, must be driven from the cities. Talk about making whisky in the city of New York or Boston, bringing your corn from the country where it is produced at ten and twelve cents a bushel, and competing with the men who make it there in the corn-fields! It is useless for gentlemen to argue with me that it can be done honestly and the tax paid to the Government, for I know it can-

not be done. Take Chicago as a criterion. It costs about seven cents a gallon to take the corn from Chicago to the city of New York before making it into whisky, while you can transport the whisky at about three cents a gallon. The difference in the cost of making the whisky in the West and the cost of making it in the city of New York, or any of our eastern cities, is about four cents per gallon. You cannot make whisky in a legitimate way in New York, Boston, or any of your eastern cities and compete with those who make it in the West. If the tax is honestly paid this business must be carried on not where ground is reckoned by the foot or the hundred feet, but where it is reckoned by the acre. In the West you do not find the distilleries in the large cities, but outside, near the large corn-growing sections. It is there that whisky can be made cheaply; and when the business is honestly carried on those who desire whisky in New York, Boston, &c., must send out there to get it. The more protection you can by legislation throw around this branch of business the better it will be, and the more taxes will be collected.

[Here the hammer fell.]

Mr. PRUYN. Mr. Chairman, I entered upon this discussion supposing the question at issue to be that indicated in the remarks of the gentleman from Massachusetts, [Mr. BUTLER,] not as to the particular distance which it may be proper should exist between the distillery and the rectifying establishment, but whether, when the two establishments are situated within a given distance of each other, the smaller should be sacrificed to the greater. That is the question involved here, and the gentleman from Iowa [Mr. ALLISON] has, it seems to me, been battling a shadow. I do not make any point as to the proper distance, whether it be two hundred or five hundred or one thousand feet; but the question is whether when one man owns a property—

Mr. LOGAN. I would like the gentleman to explain to the House, if he can, at what time this thing of putting the rectifying establishment close to the distillery began, whether it did not begin within a year or two, about the same time these frauds commenced?

Mr. PRUYN. I know nothing about that; it is not the question involved here at all. The question of distance is a minor question.

Mr. ALLISON. The gentleman says I have been "battling a shadow." Why does he not propose a substantial amendment embracing his point?

Mr. PRUYN. The question really presented here, and that which I propose to discuss, is this: if there are two establishments near to each other, one worth \$10,000 and the other worth \$9,000, shall the man owning the \$9,000 establishment be required to close it up and sacrifice his property, while the man owning the \$10,000 establishment is permitted to go on with his business? Is this just or right? The gentleman from Massachusetts [Mr. BUTLER] has put distinctly to the House the question whether the license to the party owning the \$10,000 establishment cannot and ought not to be conditioned on his paying for the \$9,000 property. I hold that there is no moral right, no right under the established principles of our Government, by which the property of a man may be sacrificed for public purposes without compensation being made either by the Government or by the other party involved in the matter.

Mr. WILSON, of Iowa. I wish to understand the gentleman's position, and therefore I would like to ask him this question: does he deny the power of Congress to provide by law that no license shall be issued to a rectifier whose establishment is within six hundred feet of a distillery?

Mr. PRUYN. That is not the point at all.

Mr. WILSON, of Iowa. It is precisely the point.

Mr. PRUYN. The question which we have to look at is not as to the extent of an arbitrary

and unqualified power, but as to what is right and just. I ask the gentleman whether he would like his property to be sacrificed to the interests of anybody without one dollar being paid for it?

Mr. WILSON, of Iowa. I submit that that is an evasion of my question, not an answer to it. If we may declare by law that no license shall be issued to a rectifier whose establishment is within six hundred feet of a distillery, we may provide directly that rectifying establishments and distilleries shall not be within six hundred feet of each other.

Mr. PRUYN. It is an established principle of this Government, recognized everywhere, that private property shall not be taken for public purposes without just compensation. The provision of the pending section contemplates the taking of private property, either for promoting the public interests in this respect, or for that which would in this view be more objectionable, to promote the interests of the person owning the larger of two adjacent establishments.

[Here the hammer fell.]

Mr. EGGLESTON. I withdraw my amendment.

Mr. PILE. I renew the amendment for the purpose of calling the attention of the gentleman from New York [Mr. PRUYN] and the gentleman from Massachusetts [Mr. BUTLER] to what their proposition involves. They say that where a rectifying establishment and a distillery are within less than six hundred feet of each other the owner of the rectifying establishment should be compelled to buy out the distillery, if the latter is worth less than the rectifying establishment.

Mr. PRUYN. If he wants a license.

Mr. PILE. Now, why should he be compelled to buy it when he cannot use it in his own name? I want to know whether there is any more authority in law and justice for compelling one man to buy property which he cannot use than for compelling the other man to remove his property? There may be hardship either way. But when the property of one man happens to be worth five dollars less than another piece of property adjoining, though he may have five times more property in other localities and in other branches of business, is it right to compel the man owning the more valuable property, though the difference is only five dollars, to buy out a property which he cannot use, which is worthless to him?

Mr. PRUYN. The gentleman is supposing, in the very case he puts, that this unjust legislation is to take effect.

Mr. PILE. There is as much injustice one way as the other.

Mr. PRUYN. Then do not legislate in that way.

Mr. PILE. If the gentleman's argument proves anything, it proves too much.

Mr. PRUYN. Not at all. I say do not do injustice to either party.

Mr. PILE. I wish, while upon the floor, to answer the gentleman from Illinois, [Mr. INGERSOLL,] who asks whether there has been a single case of fraud where the distillery and the rectifying establishment have been within two hundred feet of each other. I wish to say that, in the city of St. Louis, a hidden pipe was discovered running from a large distillery to a large rectifying establishment nearly four hundred feet distant. By digging in the night under the wall of a house a pipe was discovered running through the middle of a cellar wall. The parties implicated, including one man who is a Government officer, have been indicted.

Mr. INGERSOLL. This question, involving the right of the citizen to his property, is of too great importance to be passed upon hastily. Now, sir, let me illustrate the operation of the provision contained in this section. Neither the distilling nor the rectification of whisky is a new business in this country, both having been carried on years ago all over the United States, although not so extensively as within the last

five or ten years. Now, let me suppose a case the parallel of which can be found in any town where distilling is carried on to any considerable extent. On one lot there is a distillery valued at \$75,000. On another lot, within three hundred feet of that distillery, is a rectifying establishment worth \$50,000. Both have been in operation ten years. They were not established to aid each other in defrauding the Government of its revenue. Both were established to do a legitimate business, (we have recognized the whisky business as legitimate by licensing it and collecting revenue from it.) By this bill it is proposed that a valuation of the two establishments shall be made, and that if the distillery shall be found to be worth more than the rectifying establishment the latter shall be confiscated. You do confiscate it if you deprive the owner of the use of his property for the purpose for which it was erected.

Mr. LOGAN. He can remove it.

Mr. INGERSOLL. He cannot.

Mr. LOGAN. Why so?

Mr. INGERSOLL. He cannot remove it without expense. It is possible, I confess, to remove it; but you confiscate his property when you make him suffer \$10,000 damages. I ask whether this is not taking private property for public use without compensation?

Mr. LOGAN. What is the remedy?

Mr. INGERSOLL. I am not here to propose a remedy. If you will let the section pass over for the present we will prepare an amendment. We ought to protect the rectifier who has been doing an honest business. We ought certainly to stop a moment before we confiscate property worth perhaps \$100,000 without any compensation therefor.

Mr. WILSON, of Iowa. I ask the gentleman where he gets the power for the regulations provided for rectifiers for the last three years or more?

Mr. INGERSOLL. I say that a man who carries on a fraudulent rectifying establishment is not entitled to any rights; but I propose when an honest man has invested money in this business, and has carried it on without any suspicion being attached to him, that his property shall not be confiscated without compensation.

[Here the hammer fell.]

Mr. PILE, by unanimous consent, withdrew his amendment.

Mr. SCHENCK. I move to make it eight hundred feet.

Mr. Chairman, let us see what all this storm means. It is provided no rectifying establishment or distillery shall be within less than six hundred feet of one another. Gentlemen do not object to that. They would keep these rectifiers and distillers far apart, or some distance apart. That settles the principle so far. What next? It may be there are now existing some within that distance. They propose not to permit the election between those so situated, but to strike out that sentence. If you strike out that sentence what is the condition of things? Neither of them will be permitted to go on. Is that what is desired? Is that what they propose?

Mr. PRUYN. No, sir.

Mr. SCHENCK. What is done in this bill? Gentlemen admit these establishments must be kept apart from each other, and any one who knows anything about the subject will not fail to admit their proximity is one of the great sources of fraud. There are some existing within this distance. What do we do? We propose a rule of election. The Government might refuse to permit either of them to go on. The Government might propose one of them might pay a special license and go on with the business, but that would be a greater hardship than if a bill of this kind passed. What is proposed? If there are one or more within the limited distance, there shall be a rule of election made, so the least damage shall be done. That is the whole of it. Gentlemen concede everything if they say they must be kept apart, but when they are within the limited distance



they will not allow the Government to adopt any rule of election. It is a practical rule by which the least amount of damage to property is done.

Mr. PRUYN. You do not pay the sufferer.

Mr. SCHENCK. Pay the sufferer for what? These gentlemen talk about confiscating property! There is no confiscation of private property for public use. There is no property taken for the Government. There is no confiscation of property at all. As I have said, the Government could refuse to license either of these. It does not go to that extent. It does not propose such a hardship as that. As it cannot permit with safety the remaining of two or three so near each other it adopts the rule of election. It does not take anything from anybody. It refuses to concede the privilege of going on with the business under these dangerous circumstances, as it has the perfect right to do. It fixes a rule of election as to which one shall remove, so that the least possible loss shall inure to any one. That is the whole of this case.

Mr. MCCORMICK. I move to amend in line fifty-four, after the word "revenue," by inserting the words "an amount equal to the damage sustained by such person as shall be ascertained by a board of three freeholders appointed for that purpose."

The CHAIRMAN. That must be suspended until the amendment of the gentleman from Massachusetts is disposed of.

Mr. BUTLER. I propose to withdraw the one already offered and submit this instead, which I think will be what the gentleman from Missouri [Mr. MCCORMICK] desires, and will meet the difficulty. After the word "days," in line twenty-nine, I move to insert the following:

And the person assuming the business thereby shall, before he is licensed, pay or satisfy the person discontinuing the business for his losses so occasioned by taking his property at the appraisement.

This amendment, it seems to me, is most clearly right. Here are two men standing side by side, and you say to one of them, "You must discontinue your business because the other one is going to take it under the law." Now, I agree that you have the power to do this, the power to abrogate every contract in the United States. You have power to take every man's property in the United States. It is not a question of power, but it is a question how shall you exercise that power. Justly or unjustly? Having the power, then, we come to two men side by side and say to one of them "Sir, you stop your business and give it to this other man." Why? Because he wants it, and can make a profit out of it, and has more property than you. Now, when you say that to him, all I desire is that you shall also say to the other man, "You shall not do that unless you take the property of your neighbor thus destroyed, have it appraised with all the machinery, tools, and fixtures, together with the good will, and pay for it."

Mr. PRUYN rose.

The CHAIRMAN. Does the gentleman rise to oppose the amendment?

Mr. PRUYN. I will either oppose the amendment or move to amend it by inserting one half the amount.

Mr. LOGAN. I object to the gentleman speaking. I rise to oppose the amendment.

The CHAIRMAN. The gentleman from Illinois is recognized, having risen to oppose the amendment.

Mr. PRUYN. I will go on then and make my remarks, and if I am out of order the Chair will rule me out.

Mr. LOGAN. The gentleman has been advocating it all the time.

Mr. PRUYN. There is no rule which requires me to say in advance what position I may take.

The CHAIRMAN. The gentleman who rises to oppose an amendment has precedence to one who rises to concur in it.

Mr. PRUYN. I simply wish to know, then,

if, after the gentleman closes his argument, I can move to amend?

The CHAIRMAN. The gentleman can then move an amendment, and the Chair will recognize him.

Mr. LOGAN. I am sorry to cause any feeling on the part of the gentleman. I will say to the gentleman from Massachusetts [Mr. BUTLER] that the allusion on his part to the fact that he is not governed by these large distillery conventions, and has not been seven months preparing these amendments, may be very kind toward the committee. I do not say it is not; but I will say this: that so far as the time is concerned, although I have been with the committee but very little for the last three months, I do not think that any committee ever worked harder in this House than this committee have done during this session. These constant flings at their seven months' labor may be well enough, perhaps; but the fact remains that the committee have done the best they could, and that is all anybody can ask.

But to the point. So far as the crushing out of these small distilleries is concerned the gentleman mistakes the purpose and meaning of this section of the bill. It certainly does not crush out the small men. The gentleman argues as though one distiller would crush out another, or one rectifier another. The provision is that the distillery shall not be within six hundred feet of the rectifying establishment, or *vice versa*. The distilleries may be together and the rectifying establishments may be together. A dozen of either kind may be together, but one of the rectifying establishments shall not be close to a distillery. If the gentleman had examined this question as thoroughly as the Committee of Ways and Means has he certainly would not have felt so exasperated about the rights of these individuals. Why, sir, it is the first time I ever heard that men who have persistently and constantly defrauded the Government for two years are injured in their rights when you merely require them to move their machinery away so that frauds cannot be perpetrated.

Mr. BUTLER. You do not require them to do it. You only require one of them to do it.

Mr. LOGAN. Yes, sir; and the one that can move the most easily. That seems to be fair.

Mr. STEWART. Will the gentleman let me ask him a question?

Mr. LOGAN. Oh, yes.

Mr. STEWART. I wish to know what, on investigation, the Committee of Ways and Means find to be the fact as to the ownership of distilleries and rectifying establishments, and whether it is not generally the case that they are owned by the same persons?

Mr. LOGAN. The same parties almost always. In nine cases out of ten the man who owns the distillery owns the rectifying establishment.

Mr. BUTLER. That does not apply to this case.

Mr. LOGAN. It does; and they are put near each other especially for fraudulent purposes, as the evidence shows: I will give you an instance, and I could name the man. In New York city there was a very large distiller who had a rectifying establishment close to his distillery. The rectifying establishment was in the name of another party. He distilled, I believe, six thousand gallons a day, or some very large amount. Every morning he returned two thousand gallons. Well, how was it? A pipe leading through the wall of the house into his receiving-cistern filled the tube of the rectifying establishment, which held four thousand gallons; and thus every night the Government was defrauded out of \$8,000 by the distillery being near the rectifying establishment. After a while it was detected, and the man who had the rectifying establishment was charged by the distiller—because he wanted to get rid of the charge of fraud against himself—with stealing the whisky. And the rectifier sold out to the

other man, and left the city or disappeared. Now, this statement was made to me by the distiller himself, and I could give his name if necessary. The evidence showed the facts, and he admitted them, and said it was true. Now, if such frauds can be perpetrated on the Government by the proximity of the rectifying establishment to the distillery, I ask gentlemen if they are not ready to resort to any means that are legal means in order to protect the revenues of the country, and to protect the Government against these frauds?

[Here the hammer fell.]

The CHAIRMAN. The Chair will have the rule read which was enforced just now.

Mr. PRUYN. Oh, I do not question the correctness of the ruling of the Chair.

The CHAIRMAN. The rule will be read for the information of the committee generally.

The Clerk read as follows:

"Where debate is closed by order of the House, any member shall be allowed, in committee, five minutes to explain any amendment he may offer, after which any member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate on the amendment; but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to the amendment."

Mr. PRUYN. I move to amend the amendment by inserting after the words which relate to pecuniary damages the words "three fourths of the amount;" and I wish to speak to that proposition.

Mr. Chairman, I have frequently in conversation with members of this House and in private circles admitted the great ability of the chairman of the Committee of Ways and Means, and the facility he possesses in placing before this House, in the strongest and clearest manner, his views on any subject which he presents to it. On this occasion he has attempted to elude the great principle involved in this discussion, but I want to hold him to it and make him respond to it. Now, sir, in the fifth of the amendments to the Constitution of the United States there is this provision: "Nor shall private property be taken for public uses without just compensation." Now, whether we actually take possession of the property, or say to the man that he shall not use it for the purpose for which it is designed, no matter which, he suffers a damage for which the Constitution intended he should be compensated. The case mentioned here of a Mr. Travis, one of the most highly respectable and honorable men engaged in the distillation and rectifying of spirits, is not the case now before us. As I understand it, Mr. Travis owned both establishments, and he was put to his election whether he would use the one or the other, and he chose the greater establishment.

But here, it strikes me, is a clear case where a man's property is virtually taken away from him for the public good—for that is the declared object of this provision—for the benefit of the public Treasury, and to secure the collection of the largest amount of revenue from this business. For that purpose you take away from the owner of the smaller establishment the benefit to be derived from his business, in a measure confiscating it, and let the larger owner use his property as he pleases, without compensating the former in any way. I hold that a measure of this kind is unconstitutional, arbitrary, and unnecessary. I say nothing about this matter of two hundred feet or five hundred feet or a thousand feet; I do not care anything about that. Let the Committee of Ways and Means settle that matter as they please. But I beg them not to invade private rights in a manner not warranted by the Constitution.

Mr. FARNSWORTH. Mr. Chairman—

Mr. MULLINS. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MULLINS. The rule emphatically states that whoever addresses the Chair first shall be entitled to the floor. Now, I rose to speak in opposition to the amendment of the gentleman from New York, [Mr. PRUYN.]

The CHAIRMAN. The Chair was ad-

dressed simultaneously by the gentleman from Tennessee [Mr. MULLINS] and the gentleman from Illinois, [Mr. FARNSWORTH,] and happened to recognize the gentleman from Illinois as entitled to the floor to oppose the amendment of the gentleman from New York, [Mr. PRUYN.] The Chair will endeavor to assign the floor to the gentleman from Tennessee at some future time.

Mr. FARNSWORTH. I desire to oppose the amendment of the gentleman from New York. If I could, I would move to strike out all but the first sentence of this section. It seems to me we can dispense with all this machinery and detail in regard to who shall buy out the other, by simply refusing to license either party, where there are two establishments within six hundred feet of each other. I think we can compromise upon that without attempting to provide how A shall buy out B or B shall buy out A.

Mr. PRUYN. I think the act will be held to be unconstitutional if we pass it. I withdraw my amendment to the amendment.

The question recurred upon the amendment of Mr. BUTLER, to strike out "six hundred feet" and insert "two hundred feet."

Mr. BUTLER. I will withdraw that amendment for the purpose of allowing the gentleman from Ohio [Mr. SCHENCK] to offer an amendment.

Mr. SCHENCK. I move to amend this section by striking out the following:

Authorized to be used for rectifying, nor shall any assessor assess or collector collect any special tax for rectifying distilled spirits on any premises distant less than six hundred feet from any authorized distillery. Wherever, at the date of the passage of this act, any rectifying establishment shall exist within six hundred feet of any distillery, the machinery, tools, implements, and apparatus for carrying on the business of rectifying and of distilling, respectively, shall be appraised in such manner as the Commissioner of Internal Revenue may prescribe, and the assessor shall immediately notify the distiller or rectifier, having the least amount invested in machinery, tools, implements, and apparatus, that his business of distilling or rectifying, as the case may be, must be discontinued at such place within thirty days; and if any distiller or rectifier shall fail to discontinue such business on the premises within thirty days after the receipt of such notice, he shall be liable to all penalties, forfeitures, and punishments incurred for carrying on the business of a distiller or rectifier without having paid the special tax required by law.

And inserting in lieu thereof the following:

Used for rectifying. Nor shall any assessor assess or collector collect any special tax for rectifying distilled spirits on any premises distant less than six hundred feet from any distillery, when the distillery and rectifying establishment are occupied and used by different persons. But.

Mr. PRUYN. That will exempt them from all tax.

Mr. SCHENCK. No; this section will continue, after the amendment, as follows:

But in all cases where a distillery and rectifying establishment, distant the one from the other less than six hundred feet, are occupied by the same person, said person shall have a right to elect which business shall be discontinued at that place, &c.

My object by this amendment is to establish no principle of election between two persons, but to leave them to work out the difficulty between themselves; so that neither of them shall be permitted, by special tax or license, to distill or rectify while the establishments are so situated. Of course, if either of them should rectify or distill without a special tax or license, he would be subject to all the penalties for illicit distillation or illicit rectifying. I propose this amendment now, intending to withdraw it when I shall have made an explanation. If it shall be the pleasure of the Committee of the Whole to make the change proposed by the gentleman from Massachusetts, [Mr. BUTLER,] I shall then offer a complete modification of the section. I prefer, however, that the section shall stand as it is. I believe that the rule of election which it proposes is not a bad one; I believe it is not, in its operation, an unjust one; and, stupid as I may be, I cannot for my life see how it in any way takes private property for public uses. We do not propose to take anybody's property. We simply propose that where there are two establishments which cannot both be licensed

a rule of election shall be established by which one may be licensed. But we take nothing from either. Where a choice must be made we decline to give to one the advantage of carrying on the business. That is the whole of it.

One word further. It has been frequently said that this section proposes a discrimination in favor of the large rectifiers and the large distillers as against those engaged in the business in a smaller way—the poor men. Well, sir, they are none of them entitled to any particular sympathy.

Mr. INGERSOLL. They have rights of property.

Mr. SCHENCK. Yes; and we do not propose to interfere with their rights of property. Notwithstanding all the gentleman's knowledge of the law, I insist on that. But when gentlemen talk about the section having been put in its present form because these large operators had the ear of the Committee of Ways and Means, I say once for all, for myself and the committee, that we scorn all such insinuations as unfit to be replied to. The committee has in this, as in other things, attempted to do its duty according to the best information it could obtain; and neither big distillers nor little distillers, big rectifiers nor little rectifiers, have had the ear or the influence of the committee or been favored in one way or another. We have tried to keep them all in subordination to the law, so far as we could frame provisions for that purpose. I give notice that I shall not reply hereafter to any such mean insinuations, for I consider them unworthy to be replied to.

[Here the hammer fell.]

Mr. BUTLER. Does the gentleman from Ohio [Mr. SCHENCK] withdraw his amendment or let it stand?

Mr. SCHENCK. I withdraw it that a vote may be taken on the other proposition. If that be adopted, I shall propose a modification of the whole section. As I have already said, I prefer the section as reported by the committee. If that should not receive the approval of the Committee of the Whole, I shall then offer an amendment taking away any election between these parties, leaving them to determine between themselves which of them shall go on.

Mr. BUTLER. Can the gentleman from Ohio withdraw his amendment after I have taken the floor for the purpose of discussing it?

The CHAIRMAN. It cannot be withdrawn if objection is made.

Mr. SCHENCK. I do not desire to prevent the gentleman from discussing it, and I will not withdraw the amendment at present.

Mr. BUTLER. Mr. Chairman, I did not oppose this amendment of the gentleman from Ohio before, because I was willing that there should be no election made by law in favor of one man and against another; and I thought the gentleman from Ohio had come to the conclusion to settle this matter in that way, so that in the case of two men, doing business side by side, equally good or equally bad, Congress should not legislate the establishment of one out of existence for the benefit of the other. I think that a fair proposition; and I trust we shall have a vote on the gentleman's amendment.

Mr. Chairman, I sat here yesterday with great patience during the half hour's lecture which the gentleman from Ohio administered to the majority of the House. We took that lecture with good nature. We recognize the right of the chairman of the Committee of Ways and Means to scold us. But now he proposes to commence again, and talks about "mean insinuations." Why, sir, I never said a word about the large rectifiers until their resolutions were produced here by the committee in justification of the provisions of their bill. The resolutions of a convention of the large rectifiers were produced here as a justification of fixing the distance at six hundred feet; and it happened that that convention and the Committee on Ways and Means got exactly together—as to the proper distance—to a foot; ay, to an inch; ay, to a quarter of an inch.

That seemed to be a little difficult to do. It can happen only once in six hundred times at least. It did happen, however. These large distillers and these large rectifiers in their convention agreed with our friends on the Committee of Ways and Means precisely. That, of course, was entirely accidental. I never thought of it until they produced it here. They show where they got their system. I am willing to let the distance be twelve hundred feet if they will allow fair play, the little and big to stand as equals before the law, a principle for which I have been fighting for the last five years.

[Here the hammer fell.]

Mr. LOGAN. I wish to ask the gentleman from Massachusetts a question.

The CHAIRMAN. The gentleman's time has expired.

Mr. RAUM. I wish at the proper time to move a proviso.

Mr. BOUTWELL. I understand the gentleman from Ohio does not persist in the amendment which he proposes. My colleague withdraws his amendment to the amendment.

Mr. FARNSWORTH. I object to the withdrawal of the amendment of the gentleman from Ohio.

Mr. BOUTWELL. Then I move to strike out the last word.

Mr. Chairman, my object is to say to the committee, it seems to me, on the whole, if it be necessary to establish a rule that there should not be a distillery and rectifying establishment within six hundred feet of each other, and I assume that to be so on the evidence submitted to us, I think it wise not to undertake to decide by law who shall have the business. It is clear we may say by law when a distillery and a rectifying establishment are found within six hundred feet of each other, owned and kept by the same persons, that they shall not be licensed, but I doubt the wisdom of saying the property of one of these persons shall go to the benefit of the other; that he shall have no benefit of it and the other shall go on. Leave them to settle the matter for themselves. They will agree the distillery shall have the place of the rectifying establishment, or the rectifying establishment shall have the place of the distillery. If not, somebody else will do the business and pay the Government the revenue to be derived from this tax. I think it is entirely safe to say when they are within six hundred feet of each other they shall not be licensed. I understand the gentleman from Ohio has withdrawn his amendment.

Mr. FARNSWORTH. I objected to its being withdrawn.

Mr. SCHENCK. I am willing to take the amendment, if I cannot get the bill.

Mr. BOUTWELL. With all deference to the gentleman I think the amendment is best. I withdraw my *pro forma* amendment.

Mr. RAUM. I move the following:

Strike out the word "but" and insert:  
And in all cases where the owners of the distillery and rectifying establishments thus situated shall join in an application for the assessment of a special tax on one of such establishments, then it shall be lawful for the proper assessor to assess the same, and it shall be lawful in such case for such establishment to be operated under the provisions of this act; and.

The amendment was rejected.

Mr. HARDING. I move the following amendment to the amendment of the gentleman from Ohio:

*Provided*, This act shall not be taken to prohibit the producing of alcohol in a distillery by primary continuous distillation.

The CHAIRMAN. That amendment is not in order at this point.

Mr. PAINE. I move an amendment to the amendment to come in at that portion of the amendment of the gentleman from Ohio which is copied from the section and which forbids an assessor to assess and a collector to collect, &c.:

Nor shall the processes of distillation and rectification be both carried on within a distance of six hundred feet.

The amendment was agreed to.

Mr. INGERSOLL moved that the committee rise.

The motion was disagreed to.

Mr. ROBINSON. I move the following, to come in before the word "but:"

And any person who shall make any pipe or hose for any distillery over six hundred feet long shall be guilty of a "high misdemeanor."

[Laughter.]

I think, Mr. Chairman, that the appropriateness of this amendment will be quite evident to the committee. The chairman of the Committee of Ways and Means has said that they can connect by pipes and hose and run them under the street or over the tops of the houses, and so conduct away the liquor from the distillery into the rectifying establishment. If the distance is six hundred feet you should make it a misdemeanor, a penal offense, for anybody to make hose that length. Therefore I move the amendment. If it is done by an officer of the United States, being a misdemeanor, it would be an impeachable offense; and as our managers seem to be continuing on in that line it might give them something to do by prosecuting these transgressors.

Mr. MÜNGEN. Any objection to making two hose of three hundred feet each?

Mr. ROBINSON. I will not occupy the time any longer. The thing is so evident that I have no doubt it will be adopted.

Mr. MÜLLINS. I rise to oppose the amendment. The gentleman from New York, it seems, does not confine his amendment strictly to these persons engaged in distilling, but to those who make hose six hundred feet or more in length. Now, he might get his town burned up and himself in it if such a proposition should prevail. Therefore I shall vote against it for humanity's sake. Now, one word upon the question that has agitated the committee pretty much the entire night. Gentlemen claiming to be learned in the law—I do not pretend to be one of that class; I claim, however, to understand what is common sense and common law—say you cannot prohibit these distilleries and rectifiers within a definite limit without an infringement of vested rights. I ask these gentlemen who hold in their pockets licenses to practice law whether or not it is not a privilege which we give to the distiller or rectifier to carry on their business? You have got the privilege sanctioned by the Government of the United States. It is the privilege you are creating. But you say if it is prohibited within a less distance than six hundred feet then it is trenching on vested rights, and you have no right to confiscate the property. I ask the gentleman from Massachusetts, who makes that argument, whether he has not said things here which are directly at issue with it. He has declared that the whisky ring is in open violation of law, and at war with the body-politic of the United States. Then if we capture it, have we not a right to confiscate it?

It looks to me as if, notwithstanding the desperate fight we have had with the rebels, the hardest fight we have got after all is with this whisky ring. But we expect to lick them. For one I believe the committee has given us a bill that will hold water. [Laughter.] I believe furthermore that we shall have these distillers tight, and that we shall get about nine tenths of every gallon of whisky that is distilled. But I will warrant I know who will get the balance. It will be the party that we have got to meet this fall. Nevertheless, we will brand the packages "U. S. & Co.," for they belong to us.

The proposition of the committee that parties shall not receive a license whose establishments are within six hundred feet, puts a quietus to them. We have the right to refuse a license in such cases. They derive their privileges from us, and we infringe no man's rights by this provision. You may say this is nonsense. But you grant these licenses and make them pay the tax on them. So you grant licenses to build big powder-houses. Even the town corporations require slaughter-pens to move out, to say nothing of the Govern-

ment of the United States. If, then, the corporation of a little town can move slaughter-pens away—

[Here the hammer fell.]

Mr. ROBINSON. Inasmuch as I made my motion for the benefit of the gentleman from Tennessee, I withdraw it.

Mr. MÜLLINS. I return my most hearty thanks to the gentleman. [Laughter.]

The question was then taken on Mr. SCHENCK's amendment, and it was agreed to.

Mr. SCHENCK. I propose now to follow up the amendment just adopted, by inserting the words "and used" after "occupied" in the twenty-sixth line; so that the clause will read:

In all cases where a distillery and rectifying establishment, distant the one from the other less than six hundred feet, are occupied and used by the same person, said person shall have the right to elect which business shall be discontinued at that place.

The amendment was agreed to.

Mr. SCHENCK. I move now to strike out all after the word "place," in line thirty-eight, down to and including the word "provided," in line forty-eight, as follows:

And if any premises used for distilling be distant less than six hundred feet from any premises used for rectifying, but in a different collection district, it shall be the duty of the assessors of both of the adjoining districts immediately on the passage of this act to report the fact to the Commissioner of Internal Revenue, who shall require the appraisement herein provided for, and shall direct which business shall be discontinued, and shall notify the assessor of the district in which such premises are situated in order that the same may be discontinued as hereinbefore provided.

The amendment was agreed to.

Mr. MÜNGEN. I move to add to the section the following proviso:

Provided, That the offices of assessor and assistant or deputy assessors, collector and assistant or deputy collectors, in each and every collection district of the United States be, and the same are hereby, abolished; and that the duties now devolving upon said officers may be discharged by the officers who, by the different States, are or may be appointed or elected and authorized to return the amount of taxable property, and to collect and receive the ordinary taxes.

Mr. INGERSOLL. I make the point of order that that proviso is not germane.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HARDING. I offer the following to come in at the end of the section:

Provided, That this act shall not be deemed to prohibit the producing of alcohol in a distillery by primary continuous distillation.

Mr. MÜNGEN. I rise to a point of order. Only three or four gentlemen on the other side have a right to say anything about this bill, and I object to anybody else saying a word.

The CHAIRMAN. The Chair has no objection to the gentleman entertaining that opinion.

Mr. LOGAN. What is the matter with the gentleman from Ohio?

Mr. MÜNGEN. I have been trying all day to get in my amendment, and I think it very strange that a proviso stating who shall collect the revenue is not germane to a bill to provide for the more efficient collection of the revenue tax.

Mr. GARFIELD. I raise the point of order that the amendment offered by the gentleman from Illinois [Mr. HARDING] is not germane to the bill.

The CHAIRMAN. The Chair overrules the point of order. The amendment seems to be germane and appropriate.

Mr. INGERSOLL. And it ought to be adopted.

Mr. HARDING. Mr. Chairman, I would like the distinguished members of the Committee of Ways and Means to inform me whether by the provisions of this bill, and of the section now under consideration, the privilege heretofore accorded by the law to distillers, of running up by continuous process to the production of alcohol, is permitted, or whether it is designed by this limitation to compel the great distilleries of the West that produce alcohol entirely to stop short of that mark and remove the spirit away into other establishments and there redistill it into alcohol? That

is my question. I desire to get information on that point.

Now, sir, I will say to the House, in explanation of this amendment, that heretofore a great contest has prevailed in relation to this privilege. Those who manufacture alcohol by secondary distillation are compelled to buy their distilled spirits, which is usually manufactured in the West, where grain is cheap, take it to New York, and there redistill it, producing alcohol. That is one mode of producing alcohol. Another mode is in the great distilleries of the West to continue the process of distillation, beginning with the grain or molasses, and running it on in the same establishment and producing alcohol by one continuous process, which is much cheaper and more profitable. It condenses eight or ten barrels into one; and yet the capacity of the distillery, if you produce alcohol in this way, is just as easily ascertained as if you only produced proof-spirits. I know that the Commissioner, who had this subject under consideration, made a report in favor of those who were compelled to purchase their spirits, and I know that the Commissioner of Internal Revenue informed me that if we allowed the distilleries to produce alcohol the secondary establishments would be compelled to suspend business.

Mr. LOGAN. Will my colleague [Mr. HARDING] allow me to ask him a question?

Mr. HARDING. Certainly.

Mr. LOGAN. Can you run spirits up to the degree of alcohol in a common still or distillery where you have not the alcohol column?

Mr. HARDING. I can answer the gentleman that such is the process of producing the article in Peoria.

Mr. LOGAN. Outside of alcohol establishments?

Mr. HARDING. By the machinery they use in their distilleries.

Mr. LOGAN. I guess not; I do not think the gentleman from Peoria [Mr. INGERSOLL] will say that.

Mr. INGERSOLL. I am not a practical distiller; but I know they run it up very high. And with an alcohol column they can distill their high wines into alcohol in the same building.

Mr. HIGBY. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union, pursuant to the order of the House, had had under consideration the Union generally, and particularly the special order, being House bill No. 1284, to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, and had come to no resolution thereon.

#### LEAVE OF ABSENCE.

Mr. ARCHER asked and obtained leave of absence for three days.

Mr. MAYNARD asked and obtained indefinite leave of absence for his colleague, [Mr. TRIMBLE.]

Mr. HIGBY. I move that the House now adjourn.

The motion was agreed to; and accordingly (at ten o'clock and twenty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ELIOT: The petition of Old Dominion Steamship Company and others, praying for certain amendments in the laws relating to pilotage of steamers.

By Mr. KELLEY: The petition of Thomas Sinclair and others, lithographers, of Philadelphia, Pennsylvania, complaining that the productive interests of the country are suffering and its industry paralyzed for want of efficient protection against the cheaper labor and capital of foreign countries, and praying that Con-



gress will resume consideration of the tariff bill which failed in the House of Representatives March, 1867, for want of time, and enact it into a law at the earliest practicable moment.

Also, the petition of J. H. Tingley and 41 others, carpet manufacturers, of Philadelphia, Pennsylvania, complaining of the depression of industry and praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of workers in Inquirer Paper Mills, and machinists of Philadelphia, complaining of the depression of industry and praying for additional protective duties.

Also, a memorial of William Sellers & Co., and others, machinists, of Philadelphia, Pennsylvania, complaining of the inadequacy of customs duties to protect the industry of the country against the cheaper labor and capital of foreign countries, and praying for the reconsideration and passage of the general tariff bill which failed in the Thirty-Ninth Congress.

Also, a memorial of Richard Norris & Sons, locomotive builders, and others, manufacturers and working men of Philadelphia, Pennsylvania, representing that the productive interests of the country are suffering and its industry paralyzed for want of sufficient protection against the cheaper labor and capital of foreign countries, &c., and praying that Congress will resume consideration of the tariff bill which failed in the House of Representatives March, 1867, and enact it into a law at the earliest practicable moment.

By Mr. MÜNGEN: The petition of P. Beeler and 5 others, tobaccoists, of St. Mary's, Ohio, relative to tax on tobacco.

By Mr. STEVENS, of Pennsylvania: The petition of William Blair, of Ohio, a soldier of the war of 1812, for a pension.

By Mr. WELKER: The petition of Charles D. Welsh, Charles M. Goaters, Charles H. Cragin, Riley A. Shinn, and Charles T. Peck, a committee on behalf of the city of Georgetown, asking authority by act of Congress for said city to subscribe the sum of \$300,000 to build a railroad for said city to connect the Alexandria, Loudoun, and Hampshire railroad, and to levy a tax for that purpose.

#### IN SENATE.

WEDNESDAY, June 24, 1868.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a resolution adopted at a meeting of the Soldiers' and Sailors' Union of Washington city, in favor of the passage of the bill making eight hours a legal day's work; which was ordered to lie on the table.

He also presented a letter in the nature of a memorial from S. N. Goodall, in favor of putting the Indian department under the control of the Freedmen's Bureau; which was referred to the Committee on Indian Affairs.

Mr. WILSON presented a petition of Captain James Kelly, asking pay as captain in the United States Army from July 1, 1864, to September 16, 1867; which was referred to the Committee on Claims.

He also presented a petition of citizens of Philadelphia, Pennsylvania, praying that pensions be granted to the soldiers and sailors and the widows of soldiers and sailors of the war of 1812; which was referred to the Committee on Pensions.

Mr. FERRY. I present a petition from the president and faculty of Yale College, stating that they have learned with regret that the Legislature of California has recently passed an act conveying away to certain individuals a large tract of the most interesting portion of the Yosemite valley. They believe that the statute of California is in violation of the plighted faith of that State in accepting this grant from the United States, and they earnestly and respectfully protest against the rati-

fication and confirmation by Congress of any conveyance of any part of the Yosemite valley in the State of California to individuals. As similar papers are before the Committee on Private Land Claims, I move the reference of the petition to that committee.

The motion was agreed to.

Mr. FERRY presented a petition of citizens of Montgomery county, Pennsylvania, praying that pensions be granted to the soldiers and sailors and the widows of soldiers and sailors of the war of 1812; which was referred to the Committee on Pensions.

Mr. WILLEY. I offer the memorial of sundry citizens, merchants and manufacturers and business men of Wheeling, West Virginia, in reference to the bridging of the Ohio river. The memorialists state that while they do not object to the building of bridges across this important navigable thoroughfare, they pray that they may be built in such manner as will not obstruct the navigation. Congress having assumed this stream to be what it is, a national highway, they claim that the erection of piers in the river, with spaces of not more than three hundred feet between them, is an unnecessary obstruction, and they pray that it may be imperative upon all parties building bridges across the Ohio river to construct them so that there shall not be less than five hundred feet clear water way. They earnestly pray that Congress will take that matter into consideration. I believe such memorials go to the Committee on Post Offices and Post Roads; I move the reference of this to the same committee.

The motion was agreed to.

Mr. WILLEY presented the petition of Susana Gray, praying compensation for property destroyed by United States troops in Alexandria county, Virginia; which was referred to the Committee on Claims.

Mr. PATTERSON, of Tennessee. I present the petition of Rehuna Brown, a resident of the county of McMinn, State of Tennessee, widow of Henry Brown, deceased, late a private in company K, tenth regiment Tennessee cavalry, praying Congress to grant her a pension to begin about the 1st of January, A. D. 1864, the date of her husband's death in the military prison at Richmond, Virginia, of small-pox, contracted while in the service of the United States as a soldier. I move this petition, with the accompanying papers, be referred to the Committee on Pensions.

The motion was agreed to.

Mr. HENDRICKS. I present a communication addressed to myself from Judge J. Morrison, one of the most eminent lawyers of the State of Indiana, together with an abstract of the case and a full record of the cause relative to the confiscation in the United States district court in the State of Indiana of \$109,000 of bonds of the State of Indiana, confiscated upon the ground that Mr. Samuel Miller, the owner of them, a citizen of the State of Virginia, was engaged in the rebellion. The record shows that the cause was heard, and the confiscation had and the bonds sold; that afterward, and after the close of the war, Mr. Miller having an opportunity to go to the State of Indiana and be heard, the cause was reviewed before the judges of the district court and circuit court of the United States. The cause was reviewed and full evidence heard, and it was established that there was no ground for the confiscation, and upon that rehearing the moiety, being about forty thousand dollars, which would have gone to the informer, was by the court decreed to go to Mr. Miller upon the ground that the decree ought not to stand. The moiety going to the Government of the United States having been paid into the Treasury by the clerk in the mean time, was beyond the control of the court, but as the court has now set aside the decree so far as it had the power to do so, Mr. Miller appeals to Congress to grant him a return of his money. I ask the attention of the Committee on Claims to the subject, to which committee I move its reference.

The PRESIDENT *pro tempore*. It will be so referred.

Mr. HENDRICKS. It is suggested by the Senator from West Virginia [Mr. WILLEY] that that ought to go to the Committee on the Judiciary. I am not sure but that it ought to go there, and I will make that motion at his suggestion.

The PRESIDENT *pro tempore*. The reference will be so changed, no objection being made.

Mr. JOHNSON. I present the memorial of the committee of the Ladies' Mount Vernon Association of the Union. They state that several years ago, during the war, they took possession of the property, made it their own; have endeavored to preserve it upon considerations which will suggest themselves to every man who recollects that it is the resting-place of Washington; that their funds are now exhausted; that the revenue they derived at the commencement of their trust was from the passage money that was received from a boat which was used for the purpose of carrying persons to that sacred place; that that boat was taken possession of by the Government during the war, so that that source of revenue was of course lost to them; that they are now without funds; that the extent of the loss consequent upon the Government's taking possession of the boat is about nine thousand dollars, and they pray Congress to allow them that amount. I move the reference of the memorial to the Committee on Claims, and that it be printed.

The motion was agreed to.

Mr. SUMNER. I present the petition of J. W. L. Barnes, chairman of the Workingmen's State central committee of Massachusetts, setting forth at length what is regarded as a misappropriation of public lands, and especially protesting against the recent treaty with the Osage Indians. I had at first proposed to present this petition in executive session, but considering that this subject has already been called to the attention of the Senate in legislative session, and that the petition relates not only to the treaty with the Osage Indians but also to the general subject of public lands, I present it in open session, and move its reference to the Committee on Indian Affairs.

The motion was agreed to.

Mr. MORELL, of Maine. I have several remonstrances of a similar character which I was holding for an executive session; but inasmuch as the subject has been brought up in open session, I present the petition of Abraham Ross and one hundred and ten others, citizens residing on the Osage reserve, praying that the pending treaty may be rejected; also a protest of Hon. N. B. Blanton and others, of the same purport; also a protest of Alexander Ryett. These memorials all protest against the ratification of the pending Osage treaty. I move that they be referred to the Committee on Indian Affairs.

The motion was agreed to.

Mr. POMEROY. I had a large number of petitions of similar character, and had them referred in executive session. I do not know that there is any importance in it, but petitions of the same character sent to me I had referred to the committee in executive session.

#### REPORTS OF COMMITTEES.

Mr. EDMUNDS. I am instructed by the Committee on the Judiciary, to whom was referred the bill (S. No. 402) for the removal of causes in certain cases from the State courts to the United States courts, to report it with an amendment.

I am also instructed by the same committee, to whom was referred the bill (S. No. 275) to amend an act entitled "An act further to provide for the collection of duties on imports," approved March 2, 1833, to report the same adversely, it having been provided for in the bill I have just now reported; and I move that this last bill be indefinitely postponed, so as to get it off the Calendar.

The motion was agreed to.

Mr. HOWE, from the Committee on Ap-

propositions, to whom was referred the bill (H. R. No. 1068) to provide for certain claims against the Department of Agriculture, reported it with amendments.

#### BILLS INTRODUCED.

Mr. CONNESS. I move that the Senate proceed to the consideration of the bill (H. R. No. 365) constituting eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States.

The PRESIDENT *pro tempore*. It requires unanimous consent to take up the bill at this time. Is there any objection?

Mr. FESSENDEN. I object.

Mr. CONNESS. Then I call for a vote on my motion.

The PRESIDENT *pro tempore*. The motion is not in order until the morning business is through with.

Mr. CONNESS. If there be any more morning business, of course I will give way.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 562) relating to the Freedmen's Bureau and providing for its discontinuance; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. FESSENDEN submitted an amendment intended to be proposed to the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes; which was referred to the Committee on Appropriations.

Mr. ROSS submitted an amendment intended to be proposed to the bill (S. No. 256) relating to the Central Branch Union Pacific Railroad Company; which was ordered to be printed.

#### PAPERS WITHDRAWN.

On motion of Mr. HOWE it was—

Ordered, That Matthias Harris have leave to withdraw his petition from the files of the Senate.

#### EIGHT-HOUR LABOR SYSTEM.

Mr. CONNESS. Now, sir, I move to take up for consideration House bill No. 365.

The motion was agreed to; and the bill (H. R. No. 365) constituting eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States was considered as in Committee of the Whole.

Mr. SHERMAN. I wish to offer an amendment. I am drawing it up.

Mr. HARLAN. While the Senator is preparing his amendment, I ask the unanimous consent of the Senate to take up a joint resolution (S. R. No. 107) in relation to the Maquoketa river, in the State of Iowa, reported by the Senator from Indiana [Mr. HENDRICKS] from the Committee on the Judiciary. I am sure no Senator will have any objection to it.

Mr. CONNESS. I presume the preparation of the amendment will only occupy a moment.

Mr. SHERMAN. I am now prepared to offer it.

Mr. HARLAN. I withdraw my motion.

Mr. SHERMAN. My amendment is to insert in line six, after the words "United States," the following words:

And unless otherwise provided by law the rate of wages paid by the United States shall be the current rate for the same labor for the same time at the place of employment.

I have no objection to this bill provided the cost of labor is not increased to the United States beyond that paid by private establishments. That, I believe, is the law now.

Mr. CONNESS. Let the bill be read as it is proposed to be amended.

The Chief Clerk read as follows:

That eight hours shall constitute a day's work for all laborers, workmen, and mechanics now employed, or who may be hereafter employed, by or on behalf of the Government of the United States, and unless otherwise provided by law the rate of wages paid by the United States shall be the current rate for the same labor for the same time at the place of employment; and that all acts and parts of acts inconsistent with this act be, and the same are hereby, repealed.

Mr. CONNESS. I hope this amendment will not be adopted. The passage of the bill with this amendment would amount to nothing. Practically, the loss to the Government by the passage of the bill without the amendment will be nothing. For six months in the year men employed by the Government of the United States do not labor more than eight hours now. It would simply be a reduction of two hours' labor during the warm season of the year, and every man who labors knows very well, by experience, that he can perform as much labor in eight hours as he can in ten, taking the average of the season through. There can be no doubt of that. He comes to his labor each day with renewed vigor in consequence of the lesser number of hours that he has spent in delving at his employment. As I have stated on another occasion in the Senate, I know by actual experience that when I worked at a mechanical employment, and worked by the piece, as it is termed, being paid for the amount of work I did, I never was so well satisfied with the amount of work I did, nor the quality of it, as when I worked about eight hours a day; and that, I think, will be the experience of every intelligent mechanic and working man.

I do not wish to extend discussion upon this measure, unless it shall come from other quarters; but I hope this amendment will not be adopted by the Senate. It is but a very small boon that the working men of America ask from the Congress of the United States, namely: that the example be set by the Government of reducing the number of hours of labor. I know that the passage of this bill cannot control in the labor of the country; but the example to be set by the Government, by the passage of this bill, is due to the laboring men of the country, in my opinion. I know that labor in the main, like every other commodity, must depend upon the demand and supply. But, sir, I for one will be glad, a thousand times glad, when the industry of the country shall become accommodated to a reduced number of hours in the performance of labor. After forty or fifty years of such advance in the production of the world's fabrics by the great improvements that have been made by inventions, and the application of steam as a power, by which the capital of the world has been aggregated and increased many fold, I think it is time that the bones and muscles of the country were promised a small percentage of cessation and rest from labor as a consequence of that great increase in the productive industries of the country. I shall only be astonished, Mr. President, if any Senator shall rise in his place and oppose setting the example by the passage of this act.

Mr. SHERMAN. Mr. President, I have no objection to a law that fixes the number of hours for a day's labor, because I do not believe it will control the higher law of supply and demand; and all that I seek by this amendment is to announce the principle that privileges should not be conferred on a man simply because he works for the Government. I believe in equal rights. I think a certain amount of labor should command a certain price and a fair price; but I know of no reason why because a man works for the Government he should have higher pay for the same labor than when he works for anybody else. That is the principle of my amendment. I have no doubt private individuals would reduce the rate of wages if their employes worked a less number of hours, unless there was great demand for that particular work, when the price of wages would rise. If by law the number of hours of daily labor was fixed at eight in all the States of the Union, undoubtedly the price of eight hours' work would be less than the price of ten hours' work. All I desire is, if the United States Government chooses to take the lead in making eight hours a day's work, that it shall not be compelled to pay for that eight hours' work more than any private individual would pay. To vote against this amendment would be to declare that a laborer for the United States is a privileged character, is enti-

led to higher wages than he would be if he worked for an individual. There is no justice in this, no righteousness in it, and it seems to me that any Senator who votes to pay more for work done for the Government than would be paid if the same work was done for an individual votes to make a discrimination in favor of the Government employes, which would be unjust, improper, and unpopular. My own impression is that our laws ought rather to be framed to dissuade people from seeking employment under the Government, and certainly no discrimination should be made in favor of the employes in the Government dock-yards or navy-yards that does not extend to private ship-yards; and this effort to give privileges and special privileges to those who are working for the Government is wrong in itself, impolitic, and unjust. It will tend, of course, largely to increase the expenditures of the Government, because it will make Government employment desirable, and men will seek it.

There is no reason in the world why, with this amendment, the bill should not pass, and with the amendment I have no objection whatever to it. If only the same rule, the same law which prevails in regard to private transactions, is allowed to prevail in regard to the Government, I have no objection to the bill, for then the same amount of work done for the United States will bear the same price as if done for an individual, no more and no less. I am for special privileges to none and equality to all; no discrimination in favor of a man because he works for the United States, and no discrimination against him. If eight hours are regarded as enough for a day's labor, be it so. I have never seen the time since I arrived at manhood when eight hours a day covered the period of my labor, and I do not think that most of those who are here have passed through their lives on the eight-hour rule with any success in life. A man to succeed in anything he undertakes must generally work more than eight hours a day. But still, if eight hours be deemed a fair day's labor, let it be so; but there is no reason why the United States should pay more for that labor than any individual would.

Mr. HENDRICKS. Mr. President, I have supported this measure because in very large numbers the working men of the United States have petitioned Congress for it. The extent of this law, the field of its operation, is not very large. Of course it only reaches to those who are employed by the Government of the United States; but, as is suggested by the Senator from California, it may be very valuable as an example. Its influence on the private employments of the country may be beneficial to the laboring classes. My opinion is that eight hours of labor, faithfully applied, are quite sufficient, and that the health of the laborer and the general interests of society will be promoted by this reform.

I do not think the amendment proposed by the Senator from Ohio is necessarily connected with this proposition. There may be reasons why the wages of those employed by the Government should not be regulated by the wages paid by private employers in the particular locality. Take the city of Washington, for example. Private employment here is very limited; enterprise is very limited; and if you would say that the laborer for the Government should have no more than the man who works for a private citizen perhaps you would fix an unfortunate standard. It may be so in other localities; and in other localities the employe of the Government may not have as uniform and steady employment as those who work in the shops of private individuals. Therefore it may be proper that the wages should be different. At any rate, it is not necessary as an accompaniment of this bill, and therefore I shall vote against the amendment.

Mr. MORTON. Mr. President, as I understand the amendment proposed by the Senator from Ohio, I am not in favor of it. I think it virtually defeats the object of this bill.

Mr. CONNESS. Of course it does.

Mr. MORTON. It proposes to adjust the rate of wages according to the length of time during which labor is performed. Now, as the eight-hour rule is not generally adopted in this country, and only in a very few places, it will require an immediate reduction of the rate of wages at our national workshops and places of employment to the amount paid for eight hours, or, in other words, it will reduce the amount of wages paid one fifth. The effect of it would be to bring down the rate of wages, because the time for labor is shortened that much.

I intend to vote for this bill; and I will state briefly my reason for so doing. I think it is a good way to try the experiment which is now being discussed throughout the United States, and has been for some time. In the first place, the fundamental proposition on which this proposal is based is, that in regular mechanical employments men will perform as much labor in eight hours per day as they will in ten hours. It is claimed that the rest, and the intellectual vigor and freshness imparted to operatives, will enable them to perform as much labor in eight hours as in ten. That is an experiment which can be very well tested in the Government workshops; for instance, in the navy-yards and arsenals. If it shall turn out that there will be substantially as much labor performed in eight hours as in ten then the question is decided in favor of the eight-hour system, and it ought to be adopted, because the country gets as much labor in the shorter time, and therefore can afford to pay just the same price for it. If the Government gets as much labor performed in eight hours as in ten the Government can afford to pay just the same price.

But, Mr. President, there are two or three other questions connected with this. If it shall turn out upon experiment that there is not as much labor performed in eight hours as in ten, that the amount of labor performed falls off twenty per cent., then the next question that comes up is this: can employers, manufacturers, and other persons who employ labor regularly afford to pay as much for labor when twenty per cent. of that labor is withdrawn as they can pay for it at this time? Can they afford to pay as much for eighty per cent. as they can for a hundred per cent. and compete with the world in our manufactures? Take the manufacturers and ship-builders, all those who are carrying on extensive employments, or even the smaller employers, the farming community, for example, can they afford to pay as much for eight hours' labor as they can for ten, and compete successfully with foreign competition, and get along prosperously? If they cannot, the question is decided against the eight-hour system, except upon another hypothesis; and what is that? That the laboring men can afford to lose twenty per cent. of their wages on account of laboring two hours less during the day. If they can afford to take twenty per cent. off their wages and have enough left to support their families and live upon comfortably, to educate their children and do as well as they are doing now, then the question is settled in favor of the eight-hour system.

These several questions are all connected with each other, but the first question, and one the settlement of which will perhaps settle all the rest, is this: whether it is true, as argued, that as much labor will be performed in eight hours as in ten if the eight-hour system shall become the regular system. Is there enough gained to the operatives; is there additional vigor imparted to them and additional industry which will bring about the performance of as much labor in eight hours as in ten? If that is determined affirmatively by the experiment in the Government work-shops, it goes very far to settle the whole question. But, sir, it cannot be settled, and the experiment cannot be made, if the wages in the very beginning are reduced twenty per cent., which would be the practical effect of the amendment of the Senator from Ohio, because, as I under-

stand his amendment, it proposes that the wages shall be reduced, as the hours are in point of time, to those paid by private persons in similar employment.

Mr. STEWART. The amendment of the Senator from Ohio certainly, on no theory, would be right, and I think on a moment's reflection the Senator himself will see that, because I believe it is admitted on all hands that men will do more work per hour if they work eight hours than they will if they work ten hours a day.

Mr. FESSENDEN. Who admits it?

Mr. STEWART. If not admitted, I think it is a self-evident proposition. I think it is one of those axioms that require very little demonstration. I say a man will do more per hour who is only required to work eight hours a day than will a man who is required to work ten hours. The less number of hours a man works the more he can do in the hours that he does work. That, I believe, will be taken as true. This being so, it would not be fair to say that when we reduce the number of hours' work from ten hours to eight hours per day the wages shall be reduced *pro rata*. That would be saying that an hour of the ten hours' was as good as an hour of the eight hours. That would not be fair, because the theory is that men can do more per hour if they only work eight hours than if they work ten, so that eight hours' labor becomes equivalent to ten hours' labor. Certainly, if a man only works a single hour a day, he can do more in that hour, make greater exertions, than if he had to work every hour in the day. So to adjust the wages *pro rata* according to the number of hours would not be fair.

I do not agree with the Senator from Indiana in saying that the only question involved in this is the amount of labor. I think there are a good many other questions.

Mr. MORTON. I did not intend to say that. I said that if the first question was decided in the affirmative it would settle the point that the eight-hour system should be adopted. I said that if it turned out on experiment that as much labor was performed in the Government workshops in a day of eight hours as there is now in ten that would settle the question in favor of the eight-hour system.

Mr. STEWART. But the converse of that proposition, I maintain, would not necessarily be true, and I do not suppose the Senator wished to be so understood. The system would not necessarily be rejected if there was not as much work done in the eight hours, because there might be other good results flowing from it.

Mr. MORTON. Certainly.

Mr. STEWART. There might be greater comfort given to the workman; there might be an improvement in the condition of society; and if there should be an approximate amount of labor, something near the same amount as now, the other good results might be sufficient to justify the adoption of the reform.

I have no idea but that taking the term of years through which men labor, an individual will, in the course of his life, accomplish more with eight hours a day than he will with ten hours a day labor. I think he will live longer, so that in the course of his natural life he will do more work if he works eight hours a day regularly than he will if he works ten hours. If you put the value of men on the amount of labor they can do in the course of their natural lives I think men will be more valuable who work eight hours a day than if they work ten hours a day. I think they will accomplish more in the course of their natural lives; they will not wear out so soon, and if there is any object in prolonging human life and increasing the aggregate of human happiness the argument would be in favor of this bill.

Mr. CONKLING. Will the Senator allow me to make a suggestion?

Mr. STEWART. Certainly.

Mr. CONKLING. The Senator presents this matter in view of the statistics of mortality, as to the effect of prolonged labor upon

human life, and struck as I am with that aspect of the case, I feel a little alarmed for myself, and for a good many others around me; and I beg to inquire of the Senator whether the bill cannot be amended in some way to embrace the members of the Senate, and put them on an eight hour allowance, which I hope will prolong their lives; because if it is true, as the Senator says, that ten hours labor tends to abbreviate human existence, I should prepare myself to bid farewell to almost all the gentlemen I see around me.

Mr. STEWART. I do not think that is material, because, from the indications in the Senator's State, and others, there is a greater supply of material for Senators than for labor, and by working up gentlemen here we may reduce the supply so as to correspond with the demand. The supply of Senators far exceeds the demand.

Mr. COLE. Mr. President, I know too well the importance of time to spend more than a moment in discussing this question. A few weeks ago I had the honor to present to the Senate a very long petition signed by the mechanics and laboring men of California, asking for the passage of some law of this sort. It was got up by some twenty or thirty separate laboring associations, and I believe that no people in the world are better able to judge of the necessity or propriety of a measure of this kind than the laboring classes within that State. There are, indeed, comparatively but few of the people of the world who perform manual labor, not enough in proportion to the whole. I have a great admiration for that king of Prussia who requires each of his sons to learn some trade, and to follow during his youth some mechanical pursuit. If all those who are able to perform manual or mechanical labor were to devote some small portion of their time to that pursuit there would be no necessity for people working more than two or three hours a day.

I suppose the operation of this bill will be to bring all mechanical labor down to the eight-hour system. I presume that is to be the result of it if we pass it. I believe that eight hours' labor in the mechanical pursuits, and in all other branches of labor, is quite sufficient; that the residue of the time not devoted to sleep would well be devoted to the improvement of the mind and social faculties; and all American citizens should be enabled to devote some portion of their time to the cultivation of the intellect. Our Republic stands upon the intelligence of the people; it has no other foundation; and unless the people are provided by law with some protection against the requirement which is now put upon them by the exorbitant demands of capitalists, they will not be so well prepared to perform the duties of American citizenship. I am therefore very anxious for the passage of this bill.

The fact is that in this age of machinery an immense amount of labor is performed in a very short time. I believe in Great Britain the labor of one hundred and fifty or two hundred millions is performed through the agency of machinery, while the persons engaged in directing that machinery number but very few millions. We take advantage of these advances that have been made in the invention and use of machinery. At the present time, by the use of machinery, the farmers of our country who formerly devoted their winters to threshing out their crops are able to perform that work in a day or two, and the consequence is that their sons are enabled to attend the public schools, and thus to improve themselves the better to perform the duties of citizenship. It seems to me every argument is in favor of this bill. I am decidedly in favor of its passage.

Mr. WILSON. I shall vote against the amendment submitted by the Senator from Ohio, for the reason that I wish to give the eight-hour labor movement a fair trial. I think the Government of the United States, employing a few hundred mechanics and laborers, can afford to try this experiment, and I shall vote to try the experiment. During the past few years much has been said and written on the



subject of the hours of labor. I think the discussions have been conducive to the interests of the toiling men of the country. In nearly all departments of industry the hours of labor are less than they were forty years ago. During this same period the prices of labor have been increased, and the condition of the laboring men of the country improved. Reared upon a farm until I came to the age of manhood, I was accustomed to work at least thirteen hours a day. After attaining the age of twenty-one I entered a mechanic's shop and worked more than fifteen hours a day. It is true I might have made the hours of labor less if I had chosen; but it was the custom to work more hours then than now, and I was anxious to work as many hours and to accomplish as much as others, or as my strength would permit. Within one generation the hours of labor have been diminished, both where men worked by the piece or by the day, on the farms or in the workshops, to the advantage, in my opinion, of all concerned.

I have heard much and read much of what has been said and written on the subject of the hours of labor. I have not been convinced that toiling men can accomplish as much work in eight hours as in ten hours, or that they will receive as much compensation for eight hours of labor as for ten hours. It may not be for the permanent interests of those who have nothing but their labor to sell to lessen the hours of toil from ten hours to eight hours. If it is not, they will feel it and discover it quite as soon as any other portion of the people, and they can readily abandon an experiment that has failed. It may be for the material, intellectual, and moral interests of the masses of the people whose lot it is to toil for their subsistence to reduce the hours of labor, and if the reduction of the hours of labor will be conducive to the interests of laboring men and laboring women that reduction will be a source of gratification to every benevolent heart and generous mind.

In this matter of manual labor I look only to the rights and interests of labor. In this country and in this age, as in other countries and in other ages, capital needs no champion; it will take care of itself, and will secure, if not the lion's share, at least its full share of profits in all departments of industry. On general principles I am not anxious to stimulate labor in our country. The departments of productive industry are open to all, and offer incentives to toil. We are made for something higher and better in this country than to pile up annually \$1,000,000,000. What we want to grow in this Christian land of achieved free institutions is a strong healthy race of men and women with cultivated heads and hearts and consciences. Whatever tends to dignify manual labor or to lighten its burdens, to increase its rewards or enlarge its knowledge, should receive our sympathies and command our support. Animated by these sentiments I shall vote against the amendment and for the bill as it came from the Representatives of the people.

Mr. MORRILL, of Vermont. Mr. President, I am under no stress of weather to define my position, but I am at liberty to speak of this bill and say of it just what I think about it. I am not in any hurry to try any experiments. This is called an experiment, and it certainly is an experiment, so far as we are concerned. I have entire confidence in the intelligence and the education of the working men of this country to understand why this bill is introduced, and I do not mean any reflection upon anybody, for there has been considerable said in various parts of the country in relation to the subject, but it is introduced for the purpose of obtaining votes somehow and somewhere.

Sir, I believe it is a degradation of the working men of this country to deprive them of the privilege of making contracts to work for just whatever sum and for whatever time they please. There are some men who would be greatly distressed and injured if this bill should

pass and it should become the habit and custom of the country. It is absurd to suppose that a man can earn as much in eight hours as he can in any larger number of hours; that is to say, if he is a man of average strength. If he is a broken down man of course he cannot labor the full number of hours; but if he is a man of average strength he can earn more in a larger number of hours than in eight hours.

Mr. CONNESS. How do you know that? Mr. MORRILL, of Vermont. I know that of my own experience, Mr. President. I sprung from the laboring classes. I have labored myself never less than twelve hours in all my life since I was fifteen years of age, and most of the time much more than that. I believe in leaving the people of this country at perfect liberty to make any contracts they please; and as I was observing, if this should become the rule and custom of the country, a man with a large family, who was compelled to work all of his time that his strength would permit, would be unable to support his family, because he could not obtain employment so as to work more than eight hours in the day; for whenever he happened to be employed with other hands he would be compelled to leave off and be discharged at the same moment that other men left off and were discharged.

I am also opposed to this bill for the reason suggested by the Senator from Ohio. It is already a great evil that men are seeking after governmental employment in preference to remaining at home in their ordinary and common avocations; and I say to you, Mr. President, that those people who are left at home, who are compelled to work a larger number of hours for the same price, will look with no favor upon a project of this kind which is to create and establish a favored few who obtain the Government employment.

It is said that the same amount of labor can be performed in eight hours as in ten. Look at the fact. Here are parties engaged with machinery that cannot be driven and is not driven beyond a certain rate of speed. Will the parties who are engaged with such machinery be able to produce any more by working a less number of hours per day when that machinery revolves or moves at the same rate of speed that it did before? Let us illustrate this. Take farming. Here is a man who drives his team in the field, follows the plow; can he make his horses or his oxen move over the same amount of ground in eight hours that he could in ten? It is absurd to suppose so. Take the establishment where there is one gang of hands that goes on and works through the day time, and another through the night, alternating; is it not obvious that the employers will be compelled to increase the number of hands for such an establishment as that to the amount of fifty per cent. in order to have three gangs of hands to fill up all the time? Certainly it is. But after all if this bill should pass it would result in the end in a reduction of the amount of wages, and I trust it will not pass.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio.

Mr. BUCKALEW. Mr. President, I intend to vote against this amendment, and I desire to say a word upon it.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. CONNESS. I hope we shall go on and get a vote on this measure, which will be in a very short time.

Mr. EDMUNDS. It will lead to debate.

Mr. CONNESS. Oh, no; it will not.

Mr. BUCKALEW. I desire to express the same hope. I have no doubt we shall get to a vote in a short time; while if it goes over now it will perhaps take an hour or two on some other day.

The PRESIDENT *pro tempore*. The unfinished business can be passed over informally, if there be no objection.

Mr. FESSENDEN. I object.

Mr. CONNESS. That being the case, I move to postpone the business now before the Senate for half an hour.

Mr. EDMUNDS. That requires a two-thirds vote.

Mr. CONNESS. Very well; we shall get it. I hope the honorable chairman of the Committee on Appropriations will consent to that, because we shall get a vote in that time on this measure.

Mr. MORRILL, of Maine. If a vote could be taken on this measure without debate I should not feel authorized to interpose.

Mr. CONNESS. There will be very little further debate.

Mr. MORRILL, of Maine. But at the same time I shall not feel authorized to give my own consent, if I have any control over the question, that the bill now before the Senate, which has been two days before the Senate, and which certainly ought to be pressed to an early vote, shall give place to any bill unless it be one of very marked and peculiar character.

Mr. CONNESS. If the Senator will permit me, I will say to him that this is a bill of a very marked character, and I hope he will consent to the postponement.

Mr. NYE. We can pass it in fifteen minutes.

Mr. CONNESS. Certainly we can.

The PRESIDENT *pro tempore*. The question is on postponing the order of the day for thirty minutes.

Mr. CONNESS. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. POMEROY. I suppose the Senator is aware that if the bill is postponed for half an hour, or an hour, it does not come up of necessity at the end of that time. It can be brought up then by a vote.

Mr. CONNESS. Everybody knows that the Senate will take up the appropriation bill then. I hope the Senator will not occupy time on that question.

Mr. POMEROY. I know it will be taken up, but it is not like laying it aside informally by unanimous consent.

Mr. MORRILL, of Maine. I do not want any misunderstanding about it. I do not want this appropriation bill to lose its place so that I shall be compelled to struggle with any other bill.

Mr. CONNESS. There is no other bill that will antagonize it.

Mr. MORRILL, of Maine. While I have charge of this bill, I think it is my duty to present it squarely to the Senate. If the Senate say they will take up some other bill in preference to this, then of course I shall submit my individual judgment to theirs. If the motion is to postpone this bill for thirty minutes, and it comes up at the end of that time, I can understand that proposition. If it is simply to postpone this bill and take up the other bill—

Mr. CONNESS. There is no proposition to go on with any other bill than the appropriation bill when this shall be done with—

Mr. MORRILL, of Maine. "When this shall be done with!"

Mr. CONNESS. It will not occupy more than half an hour, certainly.

Mr. MORRILL, of Maine. That is very problematical.

Mr. CONNESS. Give us half an hour on it.

Mr. EDMUNDS. The Senator from Maine, I think, would have his bill up at the end of thirty minutes, provided we lay it over in that way; because I do not agree with the Senator from Kansas that this bill that we are now speaking of would be the unfinished business of yesterday, and would therefore override the special order.

Mr. CONNESS. Not at all.

Mr. EDMUNDS. We are making the appropriation bill a special order for a particular hour to-day. That is exactly the form in which we always put special orders, that is, to postpone to an hour certain. That, of course, requires a two-thirds vote; and when that hour comes, the unfinished business of yesterday not being before the Senate, of course, as the Chair

ruled two or three days ago on just such a question, the bill will come up, but it requires two thirds to make it the special order.

The PRESIDENT *pro tempore*. All these questions are under the control of the Senate.

Mr. SHERMAN. At this period of the session we ought not to defer any longer the appropriation bills. There are several appropriation bills that ought to be passed; and I myself will vote with the Senator from Maine against everything until those bills are disposed of. At any rate, all business of minor importance should give way to them; and this measure has been here a long time, and is not so very important as the Senator from California imagines, nor is it so easily disposed of. I hope we shall go on with the regular appropriation bill. There are many amendments pending to it, and I have many myself to offer, and we might as well go on with it. This other matter will lead to general debate and is of very little importance; and I think we ought not to postpone the great business of the session—the appropriation bills—which must be acted on and should not be crowded off. And allow me to say that this habit of getting up some bill in the morning hour, when everything is taken up as a matter of course, and then crowding off the regular business by beseeching and begging, &c., so hard to resist in the Senate, I think ought not to be carried any further. We ought to go on with the regular, legitimate legislative business, and this eight-hour bill can be taken up at some other time.

Mr. CONNESS. I desire briefly to say that it is the fault of my honorable friend from Ohio more than of any other Senator that this bill has been before us so long. At the last session of Congress a similar bill was referred to the committee of which he is the able chairman; but no word has ever come from that committee in relation to it. This is another bill that has passed the House of Representatives in the mean time, and I hope that we shall dispose of it this morning. There is no danger of its leading to any extended debate now. There is no danger that the Senate will not resume the consideration of the appropriation bill as soon as we vote on this measure, and I hope the honorable chairman of the Committee on Appropriations will consent to let this measure be disposed of.

Mr. MORRILL, of Maine. I do not think it is quite the thing to appeal to me to exercise a personal judgment on this question. While I have the charge of the appropriation bill it is my duty to keep it in its order before the Senate. If the Senate choose to lay it aside and take up some other bill which ought to have precedence of it for the time being, I am entirely content with their judgment. Further than that, I do not think I ought to exercise a personal judgment about it.

Mr. NYE. We are all with the Senator; but let us vote on this bill. We have nothing to do but to take the vote on it. Nobody proposes to talk on it.

The PRESIDENT *pro tempore*. The question is on postponing the order of the day for thirty minutes, on which question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 24, nays 15; as follows:

YEAS—Messrs. Buckalew, Cameron, Chandler, Cole, Conness, Cragin, Harlan, Hendricks, Howard, Johnson, McCreery, McDonald, Morgan, Morton, Nye, Patterson of Tennessee, Pomeroy, Ramsey, Stewart, Thayer, Wade, Willey, Wilson, and Yates—24.

NAYS—Messrs. Cattell, Conkling, Corbett, Davis, Dixon, Edmunds, Ferry, Fessenden, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Sherman, Sumner, Trumbull, and Williams—15.

ABSENT—Messrs. Anthony, Bayard, Doolittle, Drake, Fowler, Frelinghuysen, Grimes, Henderson, Howe, Norton, Rice, Ross, Saulsbury, Sprague, Tipton, Van Winkle, and Vickers—17.

The PRESIDENT *pro tempore*. On this question the yeas are 24, and the nays 15. So the order of the day is postponed.

Mr. EDMUNDS. I rise to a question of order; and that is, that it requires a two-thirds vote to postpone a bill to a particular hour by the rule.

The PRESIDENT *pro tempore*. To make a bill a special order requires a two-thirds vote; but this is not a motion to make it a special order. The Chair does not think it comes within that rule.

Mr. BUCKALEW. I think if this bill passes at all, it ought to pass without being incumbered by the amendment proposed by the Senator from Ohio. Several things are to be considered in this connection. There is very frequently a great difference between skilled and common labor in the labor-markets of the country. It is often very important that the Government should employ labor of the highest degree of skill and pay unusual rates. Under the amendment of the Senator from Ohio, however, it would be impossible for the Government officers to employ any person in any particular trade or employment at rates above the common average in the labor market.

Again, the Senator forgets that we have laws fixing the rate of compensation for particular Government labor here at the seat of Government, and in other parts of the country. As to the employment of other laborers the rates are unfixed. The operation of his amendment, therefore, when it comes to be applied practically, may be found to nullify the proposed law, or to embarrass the Government in the transaction of public business.

We have never heard any complaints, so far as I know, that labor is unduly paid by the Government; that it is inordinately paid; that the rates of compensation allowed by Government officers to those employed by them ought to be reduced, either generally in the country or at particular points; and I take it for granted that upon this question we can rely upon our own agents that they will not pay larger rates than are proper to secure that labor which is necessary in the public service. I see no necessity, therefore, for loading down this bill with a condition or a limitation upon our public officers, which will be found, in practice, extremely inconvenient and operative against the public interests.

There is another point in this same connection. It is very often necessary that particular work to be done by the Government should be done in great haste. A vessel is to be fitted out for some public service in foreign waters, and it may be necessary to pay a little above the ordinary rates in order to secure the work being done promptly and efficiently. Why should you incumber now your public officers with a limitation which may prevent them in an emergency, and when temporary labor is needed, from paying above the ordinary market rate, when by your limitation you prevent them from obtaining the skilled labor at the particular city or place where your public business is to be transacted.

Upon these considerations, in my judgment, it is perfectly clear that if we pass this bill at all we ought not to incumber and embarrass it with the amendment of the Senator from Ohio.

Mr. FESSENDEN. The Senator from California [Mr. CONNESS] expressed some doubt whether a Senator could be found with courage enough to oppose this bill. I rather think in spite of that that I shall say a word or two against it. I have seen a bloodier hour than this upon questions of this sort; so that I am not particularly alarmed so far as that is concerned.

Mr. President, the question here is a very simple one so far as persons in the Government employ are concerned. It is whether we shall pay them one fifth more than persons doing the same kind of labor in private employ receive. That is all there is in it. Is the Senator from Pennsylvania aware that there is a law which requires the Government to pay the highest rate of wages that is paid by private establishments for the same kind of labor? If so, what is the danger arising from the amendment of the Senator from Ohio? It simply says that if you choose to cut down the time of labor in the Government works you shall proportionately cut down the pay; so that those employed by the Government shall not receive

more, in fact, than laborers doing the same kind of work in private employ receive for their labor. That is all the question that arises on the proposed amendment of the Senator from Ohio.

What propriety is there in their receiving more? Whether labor is too high or too low I do not know. Usually the law of demand and supply regulates all those matters. There are as good men, skilled laborers, let me tell the Senator from Pennsylvania, out of the navy-yards and the Government work-shops as there are in them; so there is no danger of the Government failing to get skilled labor, if persons desire to go there, because they get the same pay there, and generally under greater advantages. It is known that all laborers prefer to work for the Government, and why? Because their pay is sure and regular; they consider it an advantage, and thence comes the rush to get into Government employment. In addition to that you now propose to give one fifth more for the same kind of labor to persons who work for the Government than is given to persons who work for private individuals. That is precisely the effect of it; and I suggest to gentlemen who make such a cry about economy that they take this matter into consideration, because it will amount to a very large sum of money; how much I cannot tell, because I have not calculated it; but enough to offset all the sheets of paper, and all the newspapers, and all the penknives, and all the little matters of that description of which we have heard so much.

But gentlemen, when they come to a matter which is supposed to affect politics, do not stop to consider how it is to affect the finances of the Government, or how it is to affect the Treasury. I do not make any distinction between parties on that account, for I see on both sides of this Chamber gentlemen representing different parties, running in the same direction, each trying to see which will get ahead of the other.

The Senator from California [Mr. COLE] has advanced or elaborated an argument which would have struck me with some force had it not been for what I see before me. He says that it is absolutely necessary for the development, physically and intellectually, of the laborers of the country that we cut down the time of employment to eight hours a day; that ten hours a day are too much for anybody to work and have time left for the ordinary improvement which we desire all our people to attain. Now, sir, as a general principle, I believe that experience has proved that intellectual development had better be left to the individual. Give the facilities for obtaining information which our system has given, in those certainly which were the free States of the Union for a long period of time, and leave to the individual to do something for himself. Leave the question of improvement to competition, that competition which arises from the nature of our institutions, and you obtain far more than you do by attempting to legislate men into intellectuality. Why, sir, it struck me very singularly how the rule worked. Here is my friend from Massachusetts, [Mr. WILSON.] He is on the same footing of argument, that men want time for improvement; eight hours is enough to labor. He tells us in the same breath that he worked thirteen hours a day in the field and fifteen hours in the work-shop. My honorable friend from California [Mr. CONNESS] also spoke of his experience in labor. What a specimen of dwarfs we have here arising from too much labor in these two honorable Senators! Men working thirteen or fifteen hours a day have by their own exertions, from their own manhood, and their own talent, and their own power, won their way to the Senate of the United States, and are here the peers of the ablest; and certainly they do not exhibit any very striking indications of great suffering in a physical point of view. My friend from Massachusetts especially does not look as if he had lost either blood or muscle by the labor that he has performed. And yet this argument is gravely advanced in this country, where we

know what men do by their own exertions, that we must legislate men from ten hours down to eight in order to give an opportunity for physical and intellectual development; and we are told that our people are injured in this country by too much work! Another argument is that we have such great improvements in machinery and power derived from various natural sources that we do not need so many hours labor on the part of men. I suppose pretty soon we shall get it along down so that we shall not need any muscular labor at all; machinery will do everything! I suppose next we shall come down to six hours a day. But I should like to know whether machinery will ever be so improved as to operate to reverse the rule of nature so that a man cannot do so much in ten hours as he can in eight! I did not know that that was the operation of machinery. That is imputing to machinery a new and singular power that I never before heard of. I did not know that while it lessened labor or increased power it at the same time dwarfed the individual man who directed it!

In my judgment, all this argument, as well as the argument that arises from the desire to make an experiment, amounts to very little. I have not heard of anybody that demanded this except the men working in the Government employ. They think themselves snug in their places, and therefore it is very convenient for them, getting the same wages that people get outside for ten hours' work, to have their time contracted to eight. There are a few thousand—I do not know how many—in the Government employ in the different navy-yards and arsenals. But how does that number compare with the immense number of mechanics and working men throughout the country; and how, to elaborate a little the idea stated by my friend from Vermont, will all the other mechanics in the country feel when they look on and see that those who are in the Government employ are a favored class by the legislation of Congress, and are receiving as much for eight hours' labor as they can receive for ten? Let me tell gentlemen that I do not think this will amount to much in the way of gaining popularity.

Now, sir, I object to this principally on account of the principle involved. I am opposed utterly to the idea of regulating hours of labor by law. The thing has been proposed in several State Legislatures, and I have not heard of any that have adopted it.

Mr. CONNESS. Several have.

Mr. FESSENDEN. I do not know but that there may be one or two such instances.

Mr. EDMUNDS. In those cases the State laws permit special contracts for a longer time.

Mr. FESSENDEN. But you see the way we are placed is this: it is no question of special contract how much they shall be paid, letting every man contract for himself; but the question is whether we shall raise the wages of the laborers in Government employ one fifth, because that is the effect of it, by cutting of one fifth of the labor and leaving the wages the same. That is the question, so that we do not stand upon any equality with legislation of the kind that is suggested. But all these attempts to regulate labor by legislation, providing by law how much or how little a man shall work, go upon a false principle. They have a tendency to bring all men to a level, a stupid man upon a level with a smart and capable one. Why not leave men to make their own bargains, and make the best they can of their own powers, physical and intellectual? This is of the same nature with those societies that have been formed in different places, more especially in Great Britain, to regulate the time and the pay of labor. What is the effect? It reduces men precisely to the point where they are all alike; the smart, capable, intelligent man can get no more and do no more than the stupid and lazy one; and when my friend from Indiana [Mr. MORTON] talks about trying an experiment, let me ask him if he supposes that the men in the navy-yards, sure of the same pay for eight hours a day that they now get for ten hours,

will go to work to try his experiment and see if they cannot do as much in eight hours as they do in ten? He goes upon the assumption that the moment you pass the law and fix the time of labor at eight hours a day then all the men who work the eight hours will try his experiment to ascertain if they cannot do as much for the Government in eight hours as they could in ten. Do you suppose they will work any harder than they do now? Do you suppose they will be any more laborious? My honorable friend from California [Mr. CONNESS] says that when he worked by the piece he found that he could do as much in eight hours as he could in ten, accomplish as much. Put your laborers in the navy-yards and arsenals to work by the piece, and they will try the same experiment and see how much they can do, and as a general rule, I reckon, they will be glad to work two more hours if they get more pay for doing so. They do not work by the piece as a general rule, unless perhaps to some extent in the armories, but by the day, and they get the same pay whether they do much or little work. What chance is there, then, to try the experiment that my honorable friend from Indiana speaks of? None at all that I can perceive.

Sir, the whole thing, where it has been tried, so far as my reading and observation go, anywhere, has had only the effect to prevent that competition which is of so much importance and consequence to all people in all countries by way of improvement, and more especially in a country like ours.

I oppose it, therefore, upon principle, and because I believe that no good can come of it, and much evil probably will. The moment we have passed this bill there becomes an excitement throughout the country upon the same subject between employer and employed, and the evil example will go forth from this place. Let men make their contracts as they please; let this matter be regulated by that great regulator, demand and supply; and so long as it continues to be, those who are smart, capable, and intelligent, who make themselves skilled workmen, will receive the rewards of their labor, and those who have less capacity and less industry will not be on a level with them, but will receive an adequate reward for their labor.

Is there anything in mechanical labor that should give it the advantage in legislation over all other labor? How many hours a day do our agriculturists work, as a general rule? Do they confine themselves on their own farms to eight hours a day? How many hours do professional men work, and is their labor less exhausting than mechanical labor? Is the labor that we perform in our offices less exhaustive? And yet nobody thinks of providing hours by law for labor of that description. I do not see many men about me who have been injured by such work. Perhaps my honorable friend from Nevada, [Mr. NIXE]—he points to himself—may have hurt himself in that way; but when we hear him speak here, as he does with eloquence and wit so frequently, and with a voice that certainly seems to possess power, we are not apt to suspect that any very serious injury has been done him by the labor he has performed, nor do I see anybody else here that suffers from that cause.

Mr. STEWART. Is that any reason why we should not legislate for the laborer?

Mr. FESSENDEN. The honorable Senator from Nevada [Mr. STEWART] is an exception to all general rules. He knows, because he knows. He talks about axioms and things that other people have a difficulty of understanding in fact or in logic. Things strike his mind, appear to him at once, which other people have to labor to attain a knowledge of. That is an advantage he has over us; he certainly has a great advantage over me physically as well as mentally; but I do not think I was ever hurt much by the work I have done.

Now, Mr. President, I regard this thing, in plain language, as a humbug. That is my habit of looking at it. I say it with no disrespect to

gentlemen who differ from me, but I think it is a mere sham in itself, a matter that had better be let alone, better be left to regulate itself, and it will regulate itself well. Nobody is hurt in this country by work. It is a country where men, if they are disposed to labor at all, can get along by labor. There are facilities afforded to labor of all kinds, mechanical, agricultural, intellectual; anything that a man chooses to do he can do, and his labor is rewarded. Why, sir, what do we hear every day of different sections of this country except the great demand for labor, the want of labor, the readiness with which men stand to pay for labor if they can have it? Is there any need, therefore, of our regulating and providing how much or how little a man shall receive, according to law? I see no such necessity, and I shall, therefore, vote for the amendment, and whether the amendment prevails or not I shall vote against the bill.

Mr. FERRY. Mr. President, I do not like to let this bill go to a vote without expressing as briefly as possible the reasons which control my action upon it. I shall vote for the amendment of the Senator from Ohio, because if any such bill as this is to pass it is just to the Government that the amendment should prevail.

The bill, in its application to the Government and those employed by the Government, is not like some of the laws which have been adopted by some of the States on the same subject, as the laws adopted by some of the States, my own State among the number, provide for the duration of eight hours as constituting a day's work, unless the parties shall otherwise agree. The present bill is a declaration of a bonus by the Government of the United States of twenty per cent. to its employés. But if what is termed the eight-hour rule is to be applied in the relations between the Government and its employés, it seems to me essential that the amendment proposed by the Senator from Ohio should prevail.

Sir, I must say that from the beginning of this agitation upon the subject of an eight-hour law my opinions have been very similar to those of the Senator from Maine, [Mr. FESSENDEN.] In this country the agitation for an eight-hour law did not begin with the industrious laborer; it began with clamorous demagogues in search of votes. And, sir, as a principle, instead of being a benefit to the American working man it is striking a deadly blow at his rights; for if I were a day laborer, as the laboring man is commonly termed, either working at agricultural or mechanical pursuits, or an operative in a factory, I never would consent that the Government under which I live should interfere either with my rates of wages or with my hours of labor. And sooner or later the working men of this country will awaken, if they have not already awakened, to the danger of permitting such legislation to be considered a part of the right-ful operation of Government. Reverse the law which you are attempting to make, and instead of by legislation making eight hours the rule of a day's labor legislate that sixteen hours shall be the rule of a day's labor, and the working men of this country would clearly see the manner in which Government was exceeding its just bounds and limitations.

Sir, believing that any such interference with the relations between capital and labor in a free Government can work only the evil, believing that such legislation as this is an ignoring of the experience of six hundred years, and carrying us back to the days of sumptuary laws and of interference between capital and labor which had been witnessed in the older countries of Europe, I do not desire, for one, to see such experiments revived at the present day in this country.

I have no doubt that under the practical operation of our system of Government the relations of capital to labor will adjust themselves in accordance with the law of supply and demand equitably and best for the permanent prosperity of all parties. Neither have



I any doubt that governmental interference, either Federal or State, can work only evil.

Allusion has been made to the practical working of these laws in the States where they have been established. I know of such practical operation only in my own State. There the law, framed as I have said to be dependent upon the agreement between the parties, has been in operation now for something more than a year, and the law is simply waste paper so far as affecting the relations between the employer and the employé, because both employer and employé have found out by experience that they can make their bargains better for themselves than the Government can make them for them. For a little time the law operated evil in introducing discord between the employer and the employé; but fortunately the influence of our system, the law of supply and demand, the impulse of self-interest on the part of the laborer himself, soon overrode the law and left it where it is to-day, a piece of waste paper, a simple monument of folly in legislation. And the same clamorous demagogues who started originally the demand that in this free country Government should undertake to regulate the relations of capital and labor now insist that the liberty of the parties to contract shall be taken away from them by the action of Government, insist that the failure of the eight-hour law is owing to the fact that we have left to capital and labor the poor privilege of making their own agreements. Fortunately, I am not aware that the people of any State have yet come to the conclusion that in a republican government it is best for us to say that men shall not make their own bargains, but that Legislatures shall make their bargains for them; and without that principle involved in your bills, which shall deny to employer and employed the right of making their own contracts, your eight-hour laws will forever remain waste paper upon your statute-books, the source of discontent and disagreement between capital and labor.

Because, then, the effort which is made here is one which is avowedly to influence legislation by example throughout the United States, I do feel as if in the Senate of the United States, at least, there might be one last refuge for the exercise of common sense upon a subject like this.

Mr. SHERMAN. I call for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. DOOLITTLE. I should like to hear the amendment read.

The amendment was read, being to insert after the words "United States," in line six, these words:

And unless otherwise provided by law the rate of wages paid by the United States shall be the current rate for the same labor for the same time at the place of employment.

The question being taken by yeas and nays, resulted—yeas 16, nays 21; as follows:

YEAS—Messrs. Buckalew, Corbett, Davis, Edmunds, Ferry, Fessenden, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Ross, Sherman, Sumner, Van Winkle, and Williams—16.

NAYS—Messrs. Buckalew, Cole, Conkling, Connors, Cragin, Dixon, Doolittle, Harlan, Hendricks, Johnson, McCreery, McDonald, Morton, Nye, Patterson of Tennessee, Pomeroy, Ramsey, Stewart, Tipton, Wade, and Wilson—21.

ABSENT—Messrs. Anthony, Bayard, Cameron, Chandler, Drake, Fowler, Frelinghuysen, Grimes, Henderson, Howe, Norton, Rice, Saulsbury, Sprague, Thayer, Trumbull, Vickers, Willey, and Yates—19.

So the amendment was rejected.

The bill was reported to the Senate without amendment.

Mr. BUCKALEW. I desire to inquire whether the time assigned for this bill has expired?

The PRESIDENT *pro tempore*. The time fixed has expired.

Mr. CONNESS. Let us take the question.

Mr. BUCKALEW. I should like to make one remark before I vote for this bill.

Mr. MORRILL, of Maine. I call for the order of the day.

Mr. CONNESS. I appeal to the Senator

from Pennsylvania to withhold his remarks at present. I, too, wish to speak; but let us have a vote on this bill.

Mr. BUCKALEW. Then I will simply say that if I had time, and the Senate would listen to me, I think I could make an answer to the remarks of the Senator from Connecticut. I think they do great injustice to those who vote for this bill.

The bill was ordered to a third reading, and was read the third time.

Mr. EDMUNDS. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 11; as follows:

YEAS—Messrs. Buckalew, Chandler, Cole, Connors, Cragin, Dixon, Doolittle, Fowler, Harlan, Hendricks, Howard, McCreery, McDonald, Morton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Ross, Stewart, Thayer, Tipton, Wade, Williams, Wilson, and Yates—26.

NAYS—Messrs. Corbett, Davis, Edmunds, Ferry, Fessenden, Morgan, Morrill of Vermont, Pomeroy, Sherman, Sumner, and Van Winkle—11.

ABSENT—Messrs. Anthony, Bayard, Cameron, Cattell, Conkling, Drake, Frelinghuysen, Grimes, Henderson, Howe, Johnson, Morrill of Maine, Norton, Rice, Saulsbury, Sprague, Trumbull, Vickers, and Willey—19.

So the bill was passed.

The title of the bill was read.

Mr. SHERMAN. The title of the bill ought to be changed, it seems to me, to read: A bill to give to Government employes twenty-five per cent. more wages than employes in private establishments receive.

Mr. CONNESS. That is an eccentricity of the honorable Senator from Ohio. The bill has a very good title as it stands.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 1059) to relieve from disabilities certain persons in States lately in rebellion; and it was signed by the President *pro tempore*.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is House bill No. 605.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

The reading of the bill was continued from the point reached yesterday, and the amendments reported by the Committee on Appropriations were acted on in their order as reached in the reading of the bill.

The first amendment reached was in line seven hundred and sixteen, to strike out "four" and insert "seven," and to strike out "\$7,200" and insert "\$12,600," so as to appropriate \$12,600 for seven clerks of class four in the War Department, instead of \$7,200 for four.

The amendment was agreed to.

The next amendment was after line seven hundred and nineteen, under the head "War Department," to insert:

For four clerks of class three, \$6,400.

The amendment was agreed to.

The next amendment was under the head "War Department," to strike out "six," in line seven hundred and twenty-three, and insert "eight;" and in the same line to strike out "\$7,200" and insert "\$9,600;" so as to make the clause read:

For three clerks of class two, \$4,200; eight clerks of class one, \$9,600; one messenger, \$1,000; one assistant, at \$840; one laborer, at \$720; two assistant messengers, at \$840 each, \$1,680.

The amendment was agreed to.

The next amendment was in line seven hundred and thirty, to strike out "one clerk" and insert "three clerks;" in the same line to strike out "\$1,800" and insert "\$5,400;" in line seven hundred and thirty-one, to strike out "one clerk" and insert "nine clerks;" in line seven hundred and thirty-two to strike out

"\$1,600" and insert "\$14,400;" so as to make the clause read:

Office of Adjutant General:

For three clerks of class four, \$5,400; nine clerks of class three, \$14,400; twenty-seven clerks of class two, \$37,800.

The amendment was agreed to.

The next amendment was under the head "Office of Adjutant General," in line seven hundred and thirty-five to strike out "twenty-six" and insert "forty," and to strike out "\$31,200" and insert "\$48,000."

Mr. WILSON. I move to amend the amendment by striking out "forty" and inserting "sixty," and by increasing the appropriation from \$48,000 to \$72,000. The number of clerks of the first class in this Department is now one hundred and twenty, and I propose to reduce it one half.

Mr. MORRILL, of Maine. These are temporary clerks, and will be provided for by a provision to be offered by the chairman of the Committee on Finance.

Mr. WILSON. This is in the Adjutant General's department of the War Department.

Mr. MORRILL, of Maine. We have appropriated for all the clerks that are provided for by law as permanent clerks. When we come to the question of providing for temporary clerks the Senator's motion will be in order.

Mr. WILSON. Very well; I withdraw the amendment to the amendment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Appropriations.

The amendment was agreed to.

The next amendment was in line seven hundred and forty-two, to strike out "four" and insert "nineteen," and to strike out "\$6,400" and insert "\$30,400;" so as to appropriate \$30,400 for nineteen clerks of class three in the office of the Quartermaster General.

The amendment was agreed to.

The next amendment was in line seven hundred and forty-four, to strike out "seven" and insert "forty-two," and to strike out "\$9,800" and insert "\$58,800;" so as to appropriate \$58,800 for forty-two clerks of class two in the office of the Quartermaster General.

The amendment was agreed to.

The next amendment was in line seven hundred and seventy-seven, to strike out "four" and insert "fourteen," and to strike out "\$5,600" and insert "\$19,600;" so as to appropriate \$19,600 for fourteen clerks of class two in the office of the Commissary General.

Mr. POMEROY. I wish to inquire whether this amendment adds more clerks?

Mr. MORRILL, of Maine. No; it is only providing for clerks in this office in conformity to the existing law.

Mr. POMEROY. I see that the House of Representatives have only provided for four, and our committee propose fourteen. The House must have had some knowledge on the subject different from the knowledge of the Senator from Maine.

Mr. MORRILL, of Maine. We provided according to the estimates, and according to the statutes authorizing these clerks. On a former occasion they were authorized during the continuance of the war.

The amendment was agreed to.

Mr. MORRILL, of Maine. In line seven hundred and seventy the word "each" should be inserted after "dollars."

The PRESIDENT *pro tempore*. That amendment will be made unless it is objected to. The reading will proceed.

The next amendment was in line seven hundred and seventy-nine, to strike out "eight" and insert "twenty-four," and to strike out "\$9,600" and insert "\$28,800;" so as to appropriate \$28,800 for twenty-four clerks of class one in the office of the Commissary General.

The amendment was agreed to.

The next amendment was in line seven hundred and eighty-five, to strike out "one clerk"

and insert "two clerks," and to strike out "\$1,800" and insert "\$3,800;" in line seven hundred and eighty-six, to strike out "one clerk" and insert "two clerks;" in line seven hundred and eighty-seven, to strike out "\$1,600" and insert "\$3,200;" in line seven hundred and eighty-eight, to strike out "two" and insert "four;" and to strike out "\$2,800" and insert "\$5,600;" in line seven hundred and eighty-nine, to strike out "four" and insert "twenty-five;" and in line seven hundred and ninety, to strike out "\$4,800" and insert "\$80,000;" so as to make the clause read:

Office of the Surgeon General:  
For two clerks of class four, \$3,600; for two clerks of class three, \$3,200; for four clerks of class two, \$5,600; for twenty-five clerks of class one, \$30,000; for one messenger, \$1,000; one laborer, \$720.

The amendment was agreed to.

The next amendment was in line seven hundred and ninety-four, to strike out "three" and insert "four," and to strike out "\$5,400" and insert "\$7,200;" in line seven hundred and ninety-six, to strike out "four" and insert "five;" in line seven hundred and ninety-seven, to strike out "\$5,600" and insert "\$7,000;" in line seven hundred and ninety-eight, to strike out "three" and insert "five," and to strike out "\$3,600" and insert "\$6,000;" so as to make the clause read:

Office of the Chief Engineer:  
For four clerks of class four, \$7,200; for four clerks of class three, \$6,400; for five clerks of class two, \$7,000; for five clerks of class one, \$6,000; for two messengers, at \$1,000 each, \$2,000; and one laborer, \$720.

The amendment was agreed to.

The next amendment was in line eight hundred and three, to strike out "one clerk" and insert "four clerks," and to strike out "\$1,800" and insert "\$7,200;" in line eight hundred and five, to strike out "four" and insert "eight;" in line eight hundred and six, to strike out "\$5,600" and insert "\$11,200;" in line eight hundred and seven, to strike out "seven" and insert "twenty;" in line eight hundred and eight, to strike out "\$8,400" and insert "\$24,000;" and after "dollars," in line eight hundred and nine, to insert "two laborers at \$720 each, \$1,440;" so as to make the clause read:

Office of Chief of Ordnance:  
For four clerks of class four, \$7,200; for one clerk of class three, \$1,600; for eight clerks of class two, \$11,200; for twenty clerks of class one, \$24,000; one messenger, \$1,000; two laborers, at \$720 each, \$1,440.

Mr. MORRILL, of Vermont. I move to strike out the clause commencing with line eight hundred and three, on page 33, and ending at line eight hundred and eleven, on page 34, and to insert in lieu of the provision there made the words which I send to the Chair. I merely desire to say that my proposition reduces the number of clerks from thirty-three to twenty-five, and reduces the amount of expense nearly four thousand dollars. It is more acceptable to the Chief of Ordnance to have the clerks in his office classified in the manner I propose, as I have a letter from him showing, and I believe it is satisfactory to the chairman of the Committee on Appropriations.

Mr. MORRILL, of Maine. The Senator proposes to strike out all in regard to the ordnance office.

Mr. MORRILL, of Vermont. Yes, sir, and to insert in lieu of it what I have sent to the Chair, and I ask that it be read.

The Chief Clerk read the words proposed to be inserted, as follows:

For chief clerk, \$2,000.  
For six clerks of class four, \$10,800.  
For six clerks of class three, \$9,600.  
For eight clerks of class two, \$11,200.  
For four clerks of class one, \$4,800.  
For one messenger, \$1,000.  
For three laborers, at \$720 each, \$2,160.

Mr. MORRILL, of Maine. This proposition may add to the efficiency of the force of that bureau, and if the honorable Senator from Vermont is satisfied of that fact, I shall not complain; but the effect of it is, I believe, simply to change the grade of the clerks, to transfer them from lower to higher grades.

Mr. MORRILL, of Vermont. It gives the

bureau one chief clerk and cuts off a large number of clerks of class one, so as to have but twenty-five clerks in all, and the chief of the bureau prefers that to the arrangement in the bill.

Mr. MORRILL, of Maine. But then you increase the grades.

Mr. MORRILL, of Vermont. But there is an actual saving of near four thousand dollars.

Mr. SHERMAN. The Senator from Vermont proposes to provide an officer for whom there is no authority of law. There is no chief clerk in this office now. I ask if the amendment comes from a committee?

Mr. MORRILL, of Vermont. It does not.

Mr. MORRILL, of Maine. Does it not come from the Committee on Military Affairs?

Mr. MORRILL, of Vermont. No, sir; I merely introduce it on my own motion based upon a letter of the Chief of Ordnance, General Dyer.

Mr. SHERMAN. It is against the rule.

Mr. MORRILL, of Maine. I think, under the circumstances, I ought to invoke the rule.

Mr. FESSENDEN. Does the rule apply to a reduction of appropriations? Is it not confined to an increase?

Mr. SHERMAN. This is an increase.

Mr. MORRILL, of Vermont. No; it is a reduction.

Mr. FESSENDEN. There is no rule against it.

The PRESIDENT *pro tempore*. The rule does not apply unless the amendment increases the appropriation.

Mr. SHERMAN. It changes the existing law, and is not reported by a committee.

The PRESIDENT *pro tempore*. If it increased the appropriation the proposition would not be in order, but the Chair understands that it does not. It is an amendment to an amendment without increasing the amount appropriated. It is, therefore, in order.

Mr. SHERMAN. I am rather surprised that my friend from Vermont should propose this amendment. It raises nearly all the clerks in the bureau of ordnance one grade. It provides for one chief clerk and for six clerks of class four in lieu of four clerks of that class allowed by the Committee on Appropriations, and instead of twenty clerks of class one it proposes only three or four, allowing more of the higher grades. That raises the question we have had so much difficulty about, as to the grade of these employés. Their grade is now fixed by law, and this is not the time to increase it. This application has been made from nearly every bureau in the Treasury Department, and, if it is done in the Ordnance Bureau, complaint will be made, and we shall be compelled again to go over the subject of the grades of the officers in the Treasury Department. We have laid all these applications aside for this session, on the principle that we would not at this time attempt to reorganize the various bureaus.

Mr. TRUMBULL. Has it not already been done in the Treasury Department?

Mr. SHERMAN. Not at all.

Mr. TRUMBULL. This bill does it in some of the bureaus of that Department.

Mr. SHERMAN. The Senator is mistaken about that.

Mr. TRUMBULL. There are various changes made by the committee throughout this bill in the parts of it relating to the Treasury Department.

Mr. MORRILL, of Maine. Only putting in what was left out.

Mr. TRUMBULL. I see in the office of the Secretary of the Treasury eleven clerks of class four provided for instead of five, and so on throughout there is quite an increase of the number and an increase of the aggregate amount appropriated.

Mr. MORRILL, of Maine. Perhaps I had better state to the Senate precisely how that is. The House of Representatives framed this bill on the basis of the peace establishment anterior to the war, and left out all the clerks

who were denominated war clerks created in 1862, 1863, 1864, and 1865, and who were expected to continue during the exigency caused by the war. The Committee on Appropriations of the Senate having the whole subject before them, the attention of the Departments having been called to it by the action of the other House, came to the conclusion that, in the particulars indicated by the amendments they have reported to this bill, it was not safe to leave out this year those clerks who were appointed for that exigency. So following the appropriations of last year, and following the law authorizing the employment of these clerks during that exigency, we have increased the appropriations to cover those particular clerks appropriated for last year, and also provided for by the statute to which I have referred.

There has been no attempt in this bill to classify any of these Departments; in fact, the Committee on Appropriations have stentily resisted it, and I am inclined to think that the Senator from Vermont will do well not to press his amendment, because it is a classification of one bureau in the War Department for reasons which would apply perhaps to all the Departments. It is simply raising these persons to a higher degree and a larger pay without imposing on them any additional duties.

Mr. MORRILL, of Vermont. I am rather surprised, I confess, at the opposition to this amendment. Here is a plain proposition reducing the number of clerks in this bureau from thirty-three to twenty-five, and reducing the absolute amount of expenditure nearly four thousand dollars. What harm, pray, could arise if this practice should be introduced and cover all the Departments? I would be glad to see it done. If we can reduce the force, and reduce the expenditure at the same time, who is to be harmed? Is not the Government benefited? If these officers, as I have no doubt is the case, could make their Departments more efficient by employing men of a different grade, why should we not grant them the authority, and cut off from the lower end? I am perfectly willing.

Mr. SHERMAN. The result would be that next session we should have an application from this same Department for more clerical force, or they would assign temporary clerks to it. I warn the Senator from Vermont that if he opens the door in the Bureau of Ordnance for this kind of reform, as he calls it, he might as well take up the whole subject and open it. As to the Treasury Department, we have a bill here carefully prepared, which does in every bureau of that Department precisely what he proposes now to do as to the Bureau of Ordnance, which proposes to nominally reduce the number and increase the salary by promoting the clerks a grade.

Mr. MORRILL, of Vermont. And reduce the whole expense.

Mr. SHERMAN. It reduces the whole expense nominally; but that, I take it, will be covered up by temporary clerks, and in other ways.

Mr. MORRILL, of Vermont. I have no idea that there will be an application next year for any increase of service. I have merely proposed to change the proposition offered by the Committee on Appropriations. They propose four clerks of class four; I propose six. They propose one clerk of class three; I propose six. They propose eight clerks of class two; I propose the same. They propose twenty clerks of class one; I propose four.

Mr. SHERMAN. In other words the amendment promotes them.

Mr. MORRILL, of Maine. I have here a table carefully prepared by the chief clerk of the War Department for the use of the committee, showing precisely what was desirable in this office, and we made the bill conform to it. It will be seen by this table that this bureau has its fair proportion of the higher classes of clerks, and I think it would hardly be fair to the other bureaus to allow this increase of the higher clerkships to be made here. It will certainly lead to a similar appli-

cation from the other Departments, and I do not believe it will add one particle to the efficiency of the force.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont to the amendment of the Committee on Appropriations.

The amendment to the amendment was rejected.

The amendment of the committee was agreed to.

The next amendment was in line eight hundred and fifty-two; after the word "general" to insert "corner of F and Fifteenth streets," and in line eight hundred and fifty-five, to strike out "twelve" and insert "fifteen;" so as to make the clause read:

Building occupied by Paymaster General, corner of F and Fifteenth streets:  
For superintendent, watchmen, rent, fuel, lights, and miscellaneous items, \$15,000.

The amendment was agreed to.

The next amendment was in line eight hundred and seventy-two, to strike out "six" and insert "four;" after "dollars," in line eight hundred and seventy-five, to insert "four clerks of the first class, \$4,800;" so as to make the clause read:

For compensation of the Assistant Secretary of the Navy, \$3,500; chief clerk, \$2,200; one fourth-class clerk, (also as disbursing clerk), \$2,000; four clerks of the fourth class, \$7,400; five clerks of the third class, \$8,000; three clerks of the second class, \$4,200; four clerks of the first class, \$4,800; one messenger, \$1,000; one assistant messenger, \$840; two laborers, \$1,440.

The amendment was agreed to.

The next amendment was in line eight hundred and eighty-three, to strike out "third," before "class," and insert "fourth;" in the same line to strike out "\$1,600" and insert "\$1,800;" after "dollars," in line eight hundred and eighty-four, to insert "two clerks of the third class, \$3,200;" in line eight hundred and eighty-five, to strike out "three clerks" and insert "one clerk;" and in line eight hundred and eighty-six, to strike out "\$4,200" and insert "\$1,400;" so as to make the clause read:

For compensation of the chief of the Bureau of Yards and Docks, \$3,500; for civil engineer, \$2,000; chief clerk, \$1,800; one clerk of the fourth class, \$1,800; two clerks of the third class, \$3,200; one clerk of the second class, \$1,400; one clerk of the first class, \$1,200; one draughtsman, \$1,400; one messenger, \$700; two laborers, \$1,440.

The amendment was agreed to.

The next amendment was after "dollars," in line eight hundred and ninety-four, to insert "one clerk of the fourth class, \$1,800;" in line eight hundred and ninety-six, to strike out "second" before "class" and insert "third;" in the same line to strike out "\$2,800" and insert "\$3,200;" in line eight hundred and ninety-seven, to strike out "one clerk" and insert "three clerks," and in the same line to strike out "\$1,200" and insert "\$3,600;" so as to make the clause read:

For the compensation of the chief of the Bureau of Equipment and Recruiting, \$3,500; chief clerk, \$1,800; one clerk of the fourth class, \$1,800; two clerks of the third class, \$3,200; three clerks of the first class, \$3,600; one messenger, \$1,000.

The amendment was agreed to.

The next amendment was in line nine hundred and two, to strike out "second" before "class" and insert "third," and in line nine hundred and three to strike out "\$1,400" and insert "\$1,600;" so as to make the clause read:

For the compensation of the chief of the Bureau of Navigation, \$3,500; chief clerk, \$1,800; one clerk of the third class, \$1,600; one clerk of the first class, \$1,200; one messenger, \$1,000.

The amendment was agreed to.

The next amendment was after "dollars," in line nine hundred and thirty-one, to insert "one clerk of the fourth class, \$1,800; three clerks of the third class, \$4,800;" in line nine hundred and thirty-three, to strike out "four" and insert "six;" in line nine hundred and thirty-four, to strike out "\$5,600" and insert "\$7,200;" in line nine hundred and thirty-five, to strike out "one clerk" and insert "three clerks;" and in the same line to strike

out "\$1,200" and insert "\$3,600;" so as to make the clause read:

For compensation of the chief of the Bureau of Provisions and Clothing, \$3,500; chief clerk, \$1,800; one clerk of the fourth class, \$1,800; three clerks of the third class, \$4,800; six clerks of the second class, \$7,200; three clerks of the first class, \$3,600; one messenger, \$1,000; one laborer, \$725.

The amendment was agreed to.

The next amendment was in lines nine hundred and forty-two and nine hundred and forty-three, to strike out "two clerks of the second class, \$2,800," and to insert "one clerk of the fourth class, \$1,800; one clerk of the third class, \$1,600;" and after dollars, in line nine hundred and forty-three, to insert "one laborer, \$720;" so as to make the clause read:

For compensation of the chief of the bureau of medicine and surgery, \$3,500; one clerk of the fourth class, \$1,800; one clerk of the third class, \$1,600; one messenger, \$1,000; one laborer, \$720.

The amendment was agreed to.

The next amendment was in line ten hundred and forty-one, to strike out "Fifth" before "Auditor" and insert "First;" and in the same line, after the word "Department," to insert "and revised and certified by the First Comptroller according to law;" so as to make the clause read:

Agricultural statistics:  
For collecting statistics and material for annual report, \$10,000: *Provided*, That hereafter the accounts of the Agricultural Department shall be audited by the First Auditor of the Treasury Department, and revised and certified by the First Comptroller according to law.

The amendment was agreed to.

The next amendment was in line ten hundred and forty-eight, to increase the appropriation "for purchases for library, laboratory, and museum" for the Department of Agriculture from \$3,000 to \$5,000.

The amendment was agreed to.

The next amendment was to insert, after line ten hundred and sixty-seven:

Department of Education:  
For compensation of commissioner of education, \$4,000; chief clerk, \$2,000; one clerk of class four, \$1,200; and one clerk of class three, \$1,600.  
For stationery, blank books, freight, express charges, library, miscellaneous items, and extra clerical help, \$10,600; in all, \$20,000.

The amendment was agreed to.

The next amendment was in line ten hundred and ninety-four, to increase the appropriation "for wages of workmen and adjusters" at the branch mint at San Francisco from \$150,000 to \$191,000.

The amendment was agreed to.

The next amendment was in the appropriation for the San Francisco branch mint, to strike out "\$80,000," in line ten hundred and ninety-six, and insert "in addition to available profits, \$69,000," and to strike out the following proviso in lines ten hundred and ninety-seven, ten hundred and ninety-eight, ten hundred and ninety-nine, and eleven hundred:

*Provided*, That hereafter all the "available profits" of the United States Mint and branches shall be covered into the Treasury, to be expended only by a specific appropriation.

So as to make the clause read:

For incidental and contingent expenses, repairs, and wastage, in addition to available profits, \$69,000.

The next amendment was in line eleven hundred and forty-five, to increase the appropriation "for salaries of the clerks and messengers in the office of Assistant Treasurer at Boston" from \$15,000 to \$25,000.

The amendment was agreed to.

The next amendment was in line eleven hundred and forty-eight, to increase the appropriation "for salaries of clerks, messengers, and watchmen in the office of the Assistant Treasurer at New York" from \$60,000 to \$126,000.

Mr. SHERMAN. The Committee on Finance direct me to move to amend the amendment by making the amount \$157,120, which is the estimate.

The amendment to the amendment was agreed to; and the amendment, as amended, was agreed to.

The next amendment was in line eleven

hundred and fifty-one, to increase the appropriation "for salaries of clerks, messengers, and watchmen in the office of the Assistant Treasurer at Philadelphia" from \$15,000 to \$24,885.

The amendment was agreed to.

The next amendment was in line eleven hundred and fifty-four, to strike out "six" and insert "ten;" and in line eleven hundred and fifty-five, after the word "thousand" to insert "five hundred and sixty;" so that the clause will read:

For salaries of clerks, messengers, and watchmen in the office of the Assistant Treasurer at St. Louis, \$10,560.

The amendment was agreed to.

The next amendment was in line eleven hundred and fifty-seven, to strike out "six" and to insert "nine;" and in line eleven hundred and fifty-eight, after the word "thousand" to insert "six hundred;" so that the clause will read:

For salaries of clerks, porter, and watchmen in the office of the Assistant Treasurer at New Orleans, \$9,600.

The amendment was agreed to.

The next amendment was in line eleven hundred and sixty, to strike out "five" and to insert "six;" and in line eleven hundred and sixty-one, after the word "thousand" to insert "nine hundred;" so that the clause will read:

For compensation to stamp clerk, cashier, and clerk in the office of the Assistant Treasurer at San Francisco, \$6,900.

The amendment was agreed to.

The next amendment was in line eleven hundred and sixty-four, to insert "eight hundred" before the word "dollars;" so that the clause will read:

For compensation of the depository at Santa Fe, and the clerk, watchman, and porter in his office, \$4,800.

The amendment was agreed to.

The next amendment was in line eleven hundred and sixty-eight, to strike out "three" and to insert "five;" and also to strike out "five hundred" and to insert "nine hundred and forty;" so that the clause will read:

For salaries of clerks in the office of the depository at Louisville, \$5,940.

The amendment was agreed to.

The next amendment was in line eleven hundred and seventy-one, to insert "six hundred" before the word "dollars;" so that the clause will read:

For salaries of clerks in the office of the depository at Chicago, \$2,600.

The amendment was agreed to.

The next amendment was in line eleven hundred and seventy-three, to strike out "two" and insert "three" before "thousand;" so that the clause will read:

For salaries of clerks and watchmen in the office of the depository at Pittsburg, \$3,400.

The amendment was agreed to.

The next amendment was in line eleven hundred and seventy-six, to strike out "three" and insert "seven," and also to insert after the word "thousand" the words "six hundred;" so that the clause will read:

For salaries of clerks and messengers in the office of the depository at Baltimore, \$7,600.

The amendment was agreed to.

The next amendment was in line eleven hundred and seventy-nine, to strike out "eight" and to insert "ten," and after the word "thousand" to insert the words "two hundred;" so that the clause will read:

For salaries of clerks in the office of the depository at Cincinnati, \$10,200.

Mr. SHERMAN. I am directed by the Committee on Finance to move to insert "\$14,850" instead of the appropriation made in that clause.

Mr. MORRILL, of Maine. I desire to say that the appropriation now is precisely in harmony with the provisions of the law. There was an estimate submitted for \$4,000 additional, but there was no evidence which authorized the Committee on Appropriations to allow it. If the Senator has information on that subject I should like to hear it.



Mr. SHERMAN. I have a letter in my hand from the Secretary, in which he desires this amount, on account of the large increased character of the business, for the employment of some additional clerical force in the city of Cincinnati, and the Committee on Finance concluded to allow it, after examination.

Mr. MORRILL, of Maine. If the Committee on Finance have examined the question so as to be satisfied that that additional force is necessary I submit it to the Senate without opposition.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio to the amendment of the committee, to strike out "\$10,200" and insert "\$14,850."

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The next amendment was to add at the end of the bill the following section:

Sec. 2. And be it further enacted, That the provisions of section ten of an act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes, approved March 2, 1867, be, and they are hereby, extended to one additional newspaper in the District of Columbia from the date of the approval of said act, the same to be selected by the Clerk of the House of Representatives.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The amendments reported by the Committee on Appropriations are now gone through with, with the exception of the amendment which was passed over on page 18, from line four hundred and thirty-one to line four hundred and thirty-eight, in relation to the clerks of the First Auditor of the Treasury, which will now be read.

Mr. SHERMAN. Let that be passed over for the present. I have quite a number of amendments to offer from the Committee on Finance.

The PRESIDENT *pro tempore*. The amendment will be passed over if there be no objection.

Mr. MORRILL, of Maine. I have some other amendments that I desire to offer. On page 36, line eight hundred and eighty, I move to strike out the words "chief of the Bureau of Yards and Docks, \$3,500 for." That officer receives compensation as an officer of the Navy, and this appropriation is not necessary.

The amendment was agreed to.

Mr. MORRILL, of Maine. On page 37, line eight hundred and ninety-two, I move to strike out the words "chief of the Bureau of Equipment and Recruiting, \$3,500."

The amendment was agreed to.

Mr. MORRILL, of Maine. On page 37, line nine hundred, I move to strike out the words, "chief of the Bureau of Navigation, \$3,500."

Mr. WILLIAMS. Why do you strike those out?

Mr. MORRILL, of Maine. Because they are officers of the Navy and get their pay in that way.

The amendment was agreed to.

Mr. MORRILL, of Maine. On page 38, line nine hundred and six, I move to strike out the words, "chief of the Bureau of Ordnance, \$3,500."

Mr. COLE. I suggest to the Senator that by these amendments he leaves each clause to read, "for compensation of the chief clerk," &c., without specifying the bureau.

Mr. MORRILL, of Maine. The words "of the Bureau of Ordnance" should also be inserted in line nine hundred and seven, after the words "chief clerk." I add that to my amendment.

The amendment was agreed to.

Mr. MORRILL, of Maine. I ask to have a similar amendment made in the clauses relating to the Bureaus of Yards and Docks, Equipment and Recruiting, and Navigation, by inserting the title of the bureau after the words "chief clerk."

The PRESIDENT *pro tempore*. That amendment will be made.

Mr. MORRILL, of Maine. On page 38,

line nine hundred and twenty-two, I move to strike out the words, "chief of the Bureau of Steam Engineering, \$3,500," and to insert after the words "chief clerk," in line nine hundred and twenty-three, the words "of the Bureau of Construction and Repair."

The amendment was agreed to.

Mr. MORRILL, of Maine. On page 38, line nine hundred and twenty-two, I move to strike out the words, "chief of the Bureau of Steam Engineering, \$3,500," and to insert after the words "chief clerk," in line nine hundred and twenty-three, the words "of the Bureau of Steam Engineering."

The amendment was agreed to.

Mr. MORRILL, of Maine. On page 38, line nine hundred and twenty-nine, I move to strike out the words "chief of the Bureau of Provisions and Clothing, \$3,500," and after the words "chief clerk," in line nine hundred and thirty-one to insert "of the Bureau of Provisions and Clothing."

The amendment was agreed to.

Mr. MORRILL, of Maine. On page 3, line fifty-two, in the clause "one special policeman, \$864," I move to strike out "\$864" and to insert "\$1,000."

The amendment was agreed to.

Mr. MORRILL, of Maine. On page twenty, line four hundred and seventy-nine, I move to strike out "four" where it first occurs, and to insert "five."

Mr. SHERMAN. I have an amendment to that clause.

Mr. MORRILL, of Maine. Will it cover that?

Mr. SHERMAN. Yes, sir.

Mr. MORRILL, of Maine. Very well; then I withdraw my amendment.

Mr. SHERMAN. I am directed by the Committee on Finance to report quite a number of amendments to this bill, and I will commence on page 20. In line four hundred and seventy-seven I move to strike out "seven" and insert "nine;" in line four hundred and seventy-nine I move to strike out "twenty-four" and insert "forty;" in line four hundred and eighty I move to strike out the words "four of them transferred from Third Auditor's office;" in line four hundred and eighty-one I move to strike out "thirty" and insert "thirty-seven;" in lines four hundred and eighty-three and four hundred and eighty-four I move to strike out the words in parenthesis "including additional to two clerks of class three transferred to class four;" and at the end of the clause I move to strike out "\$191,060" and to insert "\$229,160;" so that the clause, if thus amended, will read:

For compensation of the Auditor of the Treasury, for the Post Office Department, chief clerk, nine clerks of class four, (additional to one clerk of class four as disbursing clerk,) forty clerks of class three, sixty-four clerks of class two, thirty-seven clerks of class one, one messenger, one assistant messenger, and eleven laborers, employed in his office, in all \$229,160.

Mr. POMEROY. Has that amendment been before the Committee on Appropriations?

Mr. SHERMAN. Yes, sir. An amendment covering much broader ground has been referred to the Committee on Appropriations, and I have consulted with the chairman of that committee about it; but instead of offering the amendment in broad terms, as I proposed to do, I will take it up in detail, changing and modifying the bill so as to meet the case. The amendments I shall offer are not quite so extensive as the Finance Committee reported. This identical matter has been submitted to the Committee on Appropriations.

Mr. POMEROY. If the rule has been complied with, I have no objection.

Mr. MORRILL, of Maine. We had notice of the amendment, and considered it.

Mr. SHERMAN. If any Senator desires an explanation of this amendment, I have here a long letter from the Auditor of the Treasury for the Post Office Department, which can be read. The Committee on Finance have examined it carefully. This amendment continues the present force.

Mr. POMEROY. I was about to inquire

whether it provided for any increase of the present force?

Mr. SHERMAN. No, sir.

Mr. POMEROY. There has been before the Committee on Post Offices and Post Roads an application for some officer there to be paid an additional salary, who should have charge of the foreign mails.

Mr. SHERMAN. This has nothing to do with that. That relates to the Post Office Department; this is in regard to the Auditor in the Treasury Department.

Mr. MORRILL, of Maine. The amendment does not provide for any additional force. It simply makes a provision that the Committee on Appropriations did not feel that they had any authority to make without its coming from the Committee on Finance.

Mr. POMEROY. While this clause provides for the office of an Auditor of the Treasury, he is the Auditor who audits the accounts of the Post Office Department.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment offered by the Senator from Ohio.

The amendment was agreed to.

Mr. SHERMAN. On page 23, line five hundred and forty-two, I move to strike out "six" and to insert "eight," before "million," so that the clause will read:

For salaries and expenses of collectors, assessors, assistant assessors, revenue agents, inspectors, and superintendents of exports and drawbacks, together with the expense of carrying into effect the various provisions of the several acts providing internal revenue, excepting items otherwise estimated for, \$8,000,000.

Mr. TRUMBULL. That is quite an important amendment. I should like to hear an explanation of it.

Mr. SHERMAN. I will explain it. The present expenditures of the Internal Revenue Bureau are something over nine million dollars. The estimates for this year were \$9,000,000; but the Committee on Appropriations of the House of Representatives, without having any official information on the subject, went upon the supposition that the reduction of the revenue would, as a matter of course, reduce the expenditures. Careful examinations have been had on this subject, and I will read what is said by Mr. Rollins in regard to it. Senators will observe that this item covers the salaries and expenses of collectors, assessors, and the army of officials employed by the Internal Revenue Bureau. Mr. Rollins says:

"The amount actually drawn from the Treasury thus far during the present fiscal year to meet the expense of assessing and collecting the revenue has been at the rate of about nine million dollars per annum. Should the changes which I understand the Committee of Ways and Means to favor be incorporated into the statute, I cannot think that the reduction of expenditures would be more than \$800,000. The receipts last year were, in round numbers, \$265,000,000, and the estimated receipts under the proposed changes are somewhere about one hundred and sixty million dollars, making a reduction of some forty per cent.; but it will be at once apparent that the expenses of assessment and collection cannot be reduced in the same ratio. Assessors and collectors are paid a salary of \$1,500 per annum, and, in addition to this, a commission decreasing as the collections of the several districts increase. It is presumed that there will be no reduction in the salaries paid to these officers, and, as the rate of commissions decreases with an increase of the amount collected, a diminution of collections cannot result in a corresponding diminution of commissions. The amount paid for rent of offices cannot be materially reduced, and many other incidental expenses will be as great when small amounts are collected as now. In some of the city districts there can be under the proposed changes a reduction in the number of assistant assessors, but in a large portion of the country at present there is but one assistant assessor for a county, and in some cases one of these officers attends to two or three counties. Of course, so long as taxes are to be collected from distillers and brewers, or in fact so long as taxes of any kind are to be collected, an assistant assessor cannot effectually supervise much more territory than he does at present."

It is understood to be the intention of the Committee of Ways and Means to recommend the imposition of a light tax upon sales upon many of the manufacturers whose products are exempted from the excise tax to which they have heretofore been subject, and it is evident that the expense of assessing a tax of one tenth or one half of one per cent. will be as great as that of assessing a tax of five per cent. While the amount of work to be performed by revenue officers will somewhat diminish, I cannot think the reduction of expenses can safely be estimated at more than \$800,000."

In addition to that the new tax bill now pending in the House of Representatives, which will pass in some form, will largely increase the machinery for collecting the tax on whisky and tobacco, and will, no doubt, add to the product of the tax. The estimate of Mr. Rollins is that the amount of the expenditures will be at least \$8,200,000. The Committee on Finance concluded to appropriate \$8,000,000. I have a letter also from the Secretary of the Treasury, stating that if only \$6,000,000 were appropriated undoubtedly the amount would be exhausted by next winter, and a deficiency would have to be called for. I see no object in the world, as the mere amount of the appropriation cannot limit the amount of expenditures, in cutting down the amount in this way. We might as well make an appropriation sufficient to cover the expenditures. As the expenditures are regulated by law and the amount of the salaries, and the commissions and the expenses of the offices are fixed by law, there can be no object in cutting down the mere aggregate of appropriation.

Mr. TRUMBULL. Does not a portion of the \$8,000,000 go to pay special agents and others appointed *ad libitum*?

Mr. SHERMAN. Yes, sir; it does.

Mr. TRUMBULL. Then it is not fixed by law, because the Secretary of the Treasury may appoint as many agents as he pleases and pay them what he pleases.

Mr. SHERMAN. There are probably three or four hundred officers whose pay is not fixed by law. I think the pay of some of those special agents is fixed by law. At any rate, the whole thing is regulated by law. The law in that case authorizes the Secretary of the Treasury to make certain allowances, and they all come out of this fund.

Mr. TRUMBULL. The more we appropriate the more of these persons may be employed. My understanding is that there is no limitation upon this authority. The Senate passed a bill some months ago, I think, limiting the number of special agents to be employed in the Departments, and regulating the subject; but it has never passed the other House, and has not become a law. My understanding is that the Secretary is exercising the authority, either with or without law, to appoint special agents and fix their compensation, and that we have these agents all over the United States. Now, if we appropriate \$8,000,000 instead of \$6,000,000, we know that the pressure will be very great to get these places, and very likely a great many more will be appointed than would be if a less amount was appropriated.

Mr. SHERMAN. That does not follow at all. This is a fund set apart for the payment of the compensation of collectors and assessors and all expenses of the internal revenue. If Congress has been unwise in allowing the appointment of special agents to too great a number, Congress should change that law; but as a matter of course that will not affect the amount to be appropriated. The Committee on Finance took a business view of the subject. My own impression is that the expense of collecting the revenue will come to about nine millions probably next year, as this year, and a deficiency will be called for; but it is utterly idle to cut down the appropriation from nine to six millions without any reason. Experience has shown that \$9,000,000 is required to carry on that service.

Mr. MORRILL, of Maine. The estimates for this year are \$9,000,000. The appropriation last year was \$6,000,000. The House of Representatives, in presenting the bill to the Senate, followed the appropriation of last year. The Senator from Ohio perhaps knows, but I do not, whether the \$6,000,000 last year was found to be adequate for that service.

Mr. SHERMAN. No, sir; there was a deficiency.

Mr. MORRILL, of Maine. I do not think there has been any deficiency this year; and unless there was a surplus from a former year, it would appear that the inference which the

House drew from the fact that \$6,000,000 was appropriated last year for this service without any application for a deficiency bill this year was justified. The Committee on Appropriations had no information on this subject except a letter from the Commissioner of Internal Revenue, such as has been read by the chairman of the Committee on Finance. I rise only, to say, therefore, in justification of the action of the Committee on Appropriations, that finding that the appropriation last year was \$6,000,000, and that no deficiency was asked for this year, and not being apprised that the services of this Department for this year are any larger than those of last year, we very readily accepted the proposition from the House, and took it this year at what it was last year.

Then there is another consideration about it which I submit to the Senator from Ohio, and that is, that we are to meet together again in December, and if it should be found then that this fund of \$6,000,000 is running short an application for an increase can then be made.

Mr. SHERMAN. The report of the Commissioner of Internal Revenue shows that the expense last year was a little over nine million dollars. For the current year now running on I have already read the statement of the Commissioner, that the expenditures are on the basis of about nine million dollars. It is not worth while for us to appropriate much less. We propose to appropriate \$8,000,000; and, indeed, I have no doubt that a deficiency will be called for, even with that sum. It is scarcely worth while to make appropriations with a view to deficiency bills. We had better appropriate at once what is sufficient. Let me say here that there is no country in the world where the same amount of internal revenue and excise is collected at so cheap a rate as in this country. The entire expense of collecting our internal revenue is less than four per cent.—between three and four per cent. In England it is over six per cent. A great deal of misapprehension exists in the public mind in regard to the expense of collecting our internal revenue. The expense of collecting the internal revenue is a little less *pro rata* than the expense of collecting customs, although the great body of them is collected in the single port of New York, the entire expense being about nine million dollars for collecting about two hundred and sixty-five million dollars of internal revenue, and the expense of collecting customs being about the same—nine million dollars—for collecting a much smaller sum in gold. I merely make that observation in passing to show that this sum is not at all out of the way.

Mr. POMEROY. There are districts where the expense does not exceed one per cent.

Mr. SHERMAN. That may be; but I am taking the whole country together.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Ohio.

The amendment was agreed to.

Mr. SHERMAN. On page 23, line five hundred and fifty-four, I move to strike out the word "ten" and insert "one hundred." It is evidently a mistake.

Mr. MORRILL, of Maine. I think that is so.

The PRESIDENT *pro tempore*. Let the amendment be reported.

Mr. MORRILL, of Maine. I should like to state first how that happened. This is the appropriation for the contingent fund for the Treasury Department. Heretofore the contingent fund has been divided between the Treasury proper and the heads of the various bureaus. Now they are all put under the head of the Department, and I think very properly so; and the estimate was \$136,200. We struck out the appropriation for the bureaus, and gave the entire sum to the head of the Department for distribution among the bureaus, holding him responsible instead of the heads of the bureaus.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. The amendment is on page 23, line five hundred and fifty-four, to strike out "ten" and insert "one hundred" before the word "thousand."

Mr. CONNESS. How will it read then?

The CHIEF CLERK. The clause, if amended, will read as follows:

For incidental and contingent expenses of the Treasury Department:

In the office of the Secretary of the Treasury and the several bureaus, including copying, labor, binding, sealing ships' registers, translating foreign languages, advertising, and extra clerk hire for preparing and collecting information to be laid before Congress, and for miscellaneous items, \$100,000.

Mr. CONNESS. And the bill now reads "\$10,000?"

Mr. TRUMBULL. Yes.

Mr. SHERMAN. The Senator must not suppose that this is an increase. Formerly we used to appropriate for the contingent expenses of each bureau; but here they are all put together. It is probably a less amount than is usually appropriated.

Mr. MORRILL, of Maine. It is something like \$36,200 less.

The amendment was agreed to.

Mr. SHERMAN. On page 23, after line five hundred and fifty-seven, I move to insert the following:

For temporary clerks in the Treasury Department, \$150,000: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to classify the clerks according to the character of their services.

Mr. TRUMBULL. Is not that an increase?

Mr. SHERMAN. No, sir; it is a little less than it was. I will explain the matter to the Senate so that they will understand it. The ordinary appropriation for temporary clerks and for the extra allowance to officers is \$210,000. We had a good deal of controversy here two or three times about this item, especially the extra allowance to officers and employes. Early this session a bill was introduced and referred to the Committee on Finance reorganizing the Treasury Department, which would absorb this item, and which provided for a redistribution of the employes of the Treasury Department; but the Committee on Finance, after some consideration, concluded that now was not a favorable time for the reorganization of the Treasury Department. That bill generally increased the compensation of the employes. It will, however, be necessary for the present to keep up an appropriation for temporary clerks. Every one of these clerks is now employed. They are divided among the different bureaus. The great body of them, I believe, are now in the Second Auditor's office and the other Auditors' offices. They are all now employed, and probably a greater number than this appropriation provides for would be required. It is necessary to keep up this appropriation. I have here letters without number that I could read to the Senate upon it. I have a letter from the Secretary of the Treasury stating that he cannot get along without these clerks; and I have no doubt of the fact. The Committee on Appropriations examined it, and I believe they are satisfied of the fact. I have nothing further to say in regard to it. It is a matter of which every Senator can judge as well as I.

It must be remembered that the Treasury Department are now discharging duties growing out of the war. The House Committee on Appropriations cut down this bill upon the basis of expenditures before the war. That might possibly be correct as to some of the Departments, but it is not as to the Treasury Department. The great mass of accounts that sprang up during the war are now going through the different offices there. It is necessary to preserve and continue the war force until those claims are disposed of. In my judgment, without additional clerical force beyond what was fixed as the regular force before the war, it is impossible to carry on the operations of the Treasury Department.

Mr. TRUMBULL. I do not suppose it is of any avail to try to resist an appropriation for anything that is asked for by the Treasury Department. This is an old acquaintance under

a new name. We used to call this extra compensation to the clerks. Now it is called \$175,000 for the employment of temporary clerks. One hundred and seventy-five thousand dollars is a very considerable sum; and that is to be placed at the discretion of the Secretary of the Treasury to employ such clerks as he pleases, and for such purposes as he pleases; and the reason given for it by the Senator from Ohio is that this bill is framed on the basis of the business which was done in this Department before the war.

But if you will look through the bill you will find that he has been increasing the clerks at the rate of a score at a time all along through the bill, upon the ground that the House of Representatives had made a mistake in framing the bill, and had framed it on the old peace establishment when there was not near as much business in the Treasury Department as there is now. A very few moments ago the number of clerks was increased very largely in some of the bureaus of the Treasury Department; and we find by looking at the bill all along through it amendments increasing the number of clerks. I have right before me now, on page 17, an increase of six clerks of class four; that is the highest class of clerks, I believe, they have in the Departments, an increase from five to eleven by this bill. But that was not sufficient. It was sufficient to carry all these increases without objection in the Senate, to state that this bill had been framed under a misapprehension. Then after getting through with all those they come in with a small sum of \$175,000 for temporary clerks; and the reason for that is the same as in the other cases, that this bill has been framed on the basis of the business done in the Department before the war. As I said when I rose, I have no other object than simply to call attention to it; I do not suppose it will be of any use to attempt to defeat it.

Mr. MORRILL, of Maine. Perhaps I ought to say a word in explanation for the benefit of the Senator from Illinois, if of nobody else. I once stated, but I suppose it escaped the attention of the Senator from Illinois, although my remarks were called out by his inquiry, that the Committee on Appropriations on the part of the House seemed to have based this bill upon the clerical force authorized anterior to the war. There was an additional clerical force which was authorized during the war that was left out. The representations to the Committee on Appropriations on the part of the Senate from the several Departments were that the service would suffer by leaving out this last class of clerks, the clerks who were called war clerks, and who had been provided for by the statutes in the years 1863, 1864, and 1865; that in many of the bureaus there was still a necessity for continuing these clerks. We had the information from each of the bureaus in the Treasury, in the War, and in the Navy Department, and addressed ourselves to the absolute necessity in those several bureaus for a longer continuance of this class of clerks. The apparent increase of clerks to which the Senator refers here is not, in fact, an increase of clerks. It is simply a continuance of the clerks provided for by law heretofore, as I have stated. Therefore, all the amendments which have been presented to the Senate by the Committee on Appropriations on the part of the Senate have been to supply clerks absolutely provided for by law heretofore, and the necessity for the continuance of whom became obvious to the committee upon as careful an examination as they were able to give to the subject.

Now, it is said that outside of the clerks which were authorized anterior to the war, and outside of what I have denominated the war clerks, there is a large number of clerks called temporary clerks. How many? The committee had no precise information on that subject. They were provided for by an appropriation of \$210,000 last year, and by former appropriations for the supply of temporary clerks in the several Departments, at the discretion of the heads of the Departments, up,

of course, to the amount of the appropriation. That was a subject that the Committee on Appropriations did not think belonged to them, and therefore we sent all those applications for temporary clerks, and the appropriations necessary for temporary clerks, to the Committee on Finance, whose duty we believed it to be—or at any rate we did not think the duty devolved on us—to inquire what the service absolutely demanded in regard to the temporary clerks. Contenting ourselves to follow the provisions of the law and the service as indicated by the statutes, we turned over to the Committee on Finance the applications from the Treasury Department, from the War Department, &c., for the continuance of temporary clerks. Now, the Senator from Ohio, having examined that subject, comes here and moves for an appropriation of \$150,000.

Mr. TRUMBULL. One hundred and seventy-five thousand dollars.

Mr. MORRILL, of Maine. One hundred and fifty thousand dollars I believe his proposition is.

Mr. SHERMAN. One hundred and fifty thousand dollars is the amount.

Mr. MORRILL, of Maine. In lieu of \$210,000 appropriated last year, telling you that a certain portion of this temporary force is still necessary. The Committee on Appropriations had the same information and examined it to some extent. I will state a single case. Take the case of the Second Comptroller, whose duties are not less than they were during the war, but are greater.

Mr. TRUMBULL. Have we not given him an additional number of clerks at this session of Congress?

Mr. MORRILL, of Maine. No, sir; we have not. I will state exactly how that is, and I will take that case to illustrate the whole service and the action of the committee in regard to it. Here is the Second Comptroller, whose duties are greater than they were during any part of the war, who is himself a laborious and very meritorious officer, as everybody knows who knows anything about his office. The committee on the part of the House cut him down to the condition of that office before the war. That was absolutely without justification, of course. The committee on the part of the Senate have increased that force, giving to him the additional clerks which were authorized by what I have denominated the statutes increasing the war clerical force. But he had forty-three clerks in his bureau whom he had been employing, and who were not provided for either by the permanent acts anterior to the war or by the statutes denominated war statutes; and having given him that, as by reference to page 18 of the bill it will be seen the committee on the part of the Senate did, there were still forty-three clerks in his bureau whom he had employed last year, and whom we became perfectly satisfied were necessary to the execution of the work in his bureau; and yet there was no law which justified the Committee on Appropriations in providing for those forty-three clerks. That is precisely what I understand the Senator from Ohio, as chairman of the Committee on Finance, whose business it is to speak for that Department, to be attempting to provide for by this amendment; and to that extent, of course, he has the approval, so far as I understand, of the Committee on Appropriations.

I have no means of knowing, beyond the facts I have stated, to what extent the temporary force of the several Departments in the employment of clerks ought to go. But to the extent of the forty-three clerks in the Second Comptroller's office, I am thoroughly satisfied, from examination into the affairs of that bureau and the force they have already there, and the force that is required now to keep up that bureau, that that provision for forty-three temporary clerks ought to be made.

While I am up, I wish to make one remark in regard to the proviso in this amendment of the Senator from Ohio. I see it is provided that the Secretary of the Treasury shall be

authorized to classify the clerks. If that relates to the temporary clerks contemplated to be employed by this appropriation, I do not see the necessity of it. If it contemplates a classification of the entire force of the Department, then I should be strenuously opposed to it.

Mr. SHERMAN. Oh, no; it does not.

Mr. MORRILL, of Maine. I suppose it does not; but if it relates to the temporary clerks I do not see why it should be necessary to classify them. Of course, whenever they are employed, they will be put to discharge the duties for which they are capable and will be paid the compensation attached to that grade. Unless it is with a view of fixing the salaries, I hardly see why it can be necessary.

Mr. CONNESS. Mr. President, these matters involving the employment of clerks in the Treasury Department and expenditures there seem to be mysterious at least. The more we hear them discussed the less we know about them. The honorable chairman of the Committee on Appropriations does not appear to give us much information. The most material sources of expenditure there he tells us he knows nothing about; and it is but a guess of money to fit an anticipated service, or state of service at best. Outside of and over the door of that great granite building the word "mystery" should be written. There is no exact information touching the performances there, nor do the facts appear to be ascertainable. I had expected great things from the senior Senator from Maine, [Mr. FESSENDEN,] who once presided there, and during whose presidency, so to speak, of that institution, I supposed all was right, and undoubtedly it was. But at the beginning of this session, I think, he introduced a bill here for the reorganization of the Treasury Department. It was either at the beginning of this or the last session, I forget now which, it is so long ago.

Mr. FESSENDEN. This session.

Mr. CONNESS. And he promised, and the press promised upon the presentation of that bill, that what was unascertainable heretofore would, in the future, be ascertainable; what was impossible to be known would be made possible; and that the service would be so organized that great public benefit would grow from the reformation, and a great decrease in public expenditure be the result. I have waited patiently, and if it were not presuming I should have from time to time called to ascertain where that bill had gone, what had become of it—the bill to reorganize the Treasury Department, introduced by the honorable Senator from Maine. I do not know where it is now. I do not know that we shall ever hear of it again; but we do hear of these \$150,000 appropriations to meet additional clerical service, demands for twenty, thirty, forty, and fifty clerks here, and as many there, and hundreds of thousands of dollars for contingent funds.

My friend, the honorable Senator from Illinois, with all the perspicacity known to be possessed by him, from time to time endeavors to reflect light upon this mysterious question; but I do not know that he has made any progress. I have heard him until, I will not say I have tired, because I always listen to him with pleasure, but as soon as he comes up on this subject, he develops other Senators who fly to the defense, and session after session of Congress passes, and we have the same order of things, the same matters under, as he has stated, a little different name, are reintroduced here.

I think, if I am not mistaken, that the bill to reorganize the Treasury Department went to the Committee on Finance. Perhaps the chairman of that committee can tell us something about it; why it has not been reported here; why we have not to-day the advantage of all the experience of the Senator from Maine upon this subject; and why it has not taken the form of law. I hope that we shall hear from that bill and know something about it; so that the generous chairman of the Committee on Appropriations, who comes forward here and adds to the appropriation for the Treasury Department, I have no doubt, as he is informed in a



reasonable way, but makes them plethoric, full, big, and fair in proportions, shall have work remitted to him in future, and be able to rise and tell us with some exactness how many clerks there are in this bill, what their grades and classes, what their exact compensation; so that we may vote sums of money demanded by the public service upon ascertained data. I think we had better have a general inquiry as to what has become of the reform bill. I wonder, indeed, that the honorable Senator who gave it his labor and produced it has not looked after it and piloted it through the mazes of senatorial action. These are inquiries that I should like to have answered. Then our friend from Illinois might be spared the labor that he gives to this subject of finance from time to time, and I do not know that it would not lead generally to better humor all over, as well as better government. I should really like, in earnest, to know what has become of the great reform bill.

Mr. SHERMAN. I should really like to know how to reply to the Senator from California; but I believe I will not enter into any extended discussion of this subject. He asks what has become of a bill referred to the Committee on Finance. I have stated that that bill—a very excellent bill—is before the Committee on Finance, and has been carefully considered by that committee; but it proposes to increase the compensation of nearly all the employés of the Treasury Department, in order to make it more efficient, and the Committee on Finance were not disposed to do that at the present session of Congress. They did not wish to increase the expenditures of the Treasury or of any other Department. They thought it was better to postpone the reorganization of this Department until the clerical force could be reduced. That is a sufficient answer to that. In fact, I believe the Senator from Maine is satisfied with our course; or if not satisfied, at least he did not express his dissatisfaction.

Now, Mr. President, the Senator from California no doubt would desire to cast some reproach on the Secretary of the Treasury in finding fault on this subject. I do not think that is right. Whether we like the Secretary of the Treasury or not, he has to administer a great Department of the Government, and I believe he administers it honestly, as he conceives. He has no more force now than has been employed for years. In order to satisfy the Senator that we have pretty full information on the subject, I ask the Senator now to listen while a letter is read from the Secretary of the Treasury on this very point; but I doubt very much whether he will listen to it. I ask that the communication which I send to the desk be read, and then I will add some further statements.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The communication will be read, if there be no objection.

The Chief Clerk read as follows:

TREASURY DEPARTMENT, March 31, 1868.

SIR: Respectfully referring to my letter of the 23th ultimo, I have the honor to submit herewith the result of the reexamination of the estimates for the support of the Treasury Department during the ensuing fiscal year, which are now under consideration by the Senate Committee on Appropriations in connection with the pending legislative, executive, and judicial appropriation bill, and also by the Finance Committee.

The Department is ignorant of the basis from which the calculations of the bill as it now stands, were made. Our estimates were carefully prepared, and while I have caused them to be reduced somewhat in amount, still a sense of duty in the discharge of the vast and important trusts devolved by law upon this Department restrains me from advising such reductions as are comprised in the present bill. No one appreciates more sensibly than the Secretary the necessity for economy in the public expenditures, passing as all do in review before him; no one will endeavor more earnestly to promote this end; but to accomplish it he should be provided with proper means.

There are several considerations which should not be lost sight of in examining the expenditures of the Treasury Department, and especially in attempting to reduce them, now that the rebellion has ceased, to the amount of the expenditures prior to its commencement in 1861.

Reduction upon such a scale is hopeless for many years to come, until we can dispense with the internal revenue system, not in existence before the war,

the annual collections of which in a single year exceeded three hundred and ten million dollars, and must hereafter continue to be large; until our receipts from customs are reduced to \$64,000,000 collected under specific rates of duty as in 1860, instead of \$170,000,000 at ad valorem rates as at present; until our public debt of \$2,500,000,000, including our currency circulation, is paid off, the accounts of expenditures which gave rise to it adjusted, and the current business growing out of it terminated. So long must the expenses of this Department in nearly every branch of its operations remain at about their present standard, reduced, of course, from time to time as accumulated business is by degrees disposed of. The fact is that the accumulations of the war are not yet cleared away notwithstanding our best efforts to this end. In several of the accounting offices especially, the time of a great number of clerks has been diverted from this accumulated business to the settlement of bounty claims which pressed upon the Department under the acts passed since the war, but to carry which into effect no additional force was provided until within a few weeks.

It should be remembered, as stated in my former letter, that all public accounts are settled by law at the Treasury Department and every dollar of public receipts or expenditures thus passes through it, involving every branch of the Government. Hence the business is increased or diminished by changes in the business of every other executive branch, but not in the same ratio. Local activity in either the State, War, Navy, Post Office, or Interior Departments may not perhaps extend to any other of those Departments; it does extend, however, to the Treasury, and a slight general activity in all these other Departments produces a comparatively surprising activity at the Treasury Department, where all centre for supplies and to which all account. It will therefore be understood that the activity of every branch of the Government during the rebellion, especially the unparalleled activity of the War and Navy Departments, increased enormously the business of this Department, and while it may be possible to bring back at present some of the other Departments to a comparative peace footing, yet permanent results remain with us, in paying their debts, and settling their bills, which many years will hardly alter.

It seems almost impracticable to determine now what should be the exact permanent force of the Department.

The most correct conclusion arrived at is embodied in the bill now before Congress for the reorganization of the Treasury to which I refer respectfully to refer. In the meantime for the numbers of officers, clerks, &c., and their salaries, I have been unable to reduce to any very considerable degree our regular estimates. My own idea is that we had better employ to-day the largest force that can be of advantage on the back work of the war, because the longer its completion is put off the more unproductive will be its results and the weaker the accountability of public debtors. Hence I cannot recommend so unwise an economy in my judgment, as a decrease in the accounting force of the Department, or, in fact, of any branch of it at present, for all are intimately connected. The persons employed are usefully and, in my judgment, necessarily employed. A reduction of their number does not lessen the expenses of the Department in the end; it simply spreads them out over a longer period, and the result will inevitably be that the delay will finally cost more than the apparent, but fictitious momentary saving.

To these general remarks I desire to add that I consider it of vital importance to the successful working of our independent Treasury system that the salaries of the officers intrusted with large amounts of public money, exposed in cities—where all are located—to peculiar temptation, should not be diminished.

If called upon to point out the most serious evil at present threatening this system, I should be obliged to answer "the meager compensation of competent and responsible officers." It is the old story. Private enterprise offers superior compensation, and we lose many of our best men because we cannot pay them adequately. We have now a case of defalcation in the courts which probably would not have occurred had an adequate salary have been paid by the United States. If the appropriation for additional compensation under the sub-Treasury system is limited to its present reduced amount by the bill now before you, the important office of the United States Assistant Treasurer at New York city will be so crippled thereby that we shall be unable to continue its business safely or properly.

I inclose an additional section to the bill continuing for three years the temporary positions created for the period during the rebellion and for one year thereafter. Besides these, which were established by specific provisions of law, there are employés paid from appropriations which have for the last few years been made in gross amounts for additional clerk hire throughout the entire Department.

The force paid from these appropriations is used to strengthen any particular branch of the business where additional assistance is required, and of necessity varies from time to time. In my judgment, it cannot yet be dispensed with.

The estimate for the contingent expenses of the Department shows an apparent increase over last year; there is, however, an actual decrease, from the fact that no appropriations are asked for the respective bureaus as heretofore, but the Department itself will take charge of these expenditures, thereby reducing the aggregate expenses, as has been the case in the expenditures for stationery since they were merged under one head.

The items in regard to fuel, labor, lights, and miscellaneous items for the Treasury buildings are necessarily increased on account of the early completion, furnishing, fitting up, and care of the north wing of

the Treasury building, and five rented buildings for the use of the Department. For the details in regard to the bureaus, I respectfully refer to the reports from the heads of those bureaus, herewith transmitted, and should the committee desire any further detailed explanation the Department will promptly respond.

I beg to call particular attention to the items for administering the internal revenue laws.

I transmit herewith a communication under date of the 28th instant from the Director of the Mint objecting to the proviso contained on page 41 of the bill, lines one thousand and two to one thousand and five inclusive, to which your attention is respectfully called. As the deductions of profits referred to in this proviso are now paid into the Treasury and appropriated for the incidental expenses of the Mint or branch mint, and are subsequently drawn out on the usual requisitions, and the accounts rendered are subject to the supervision of the accounting officers of the Treasury, I am of the opinion that the legislation proposed in the provision referred to is unnecessary, and will be embarrassing to the operations of the Mint. I also transmit a copy of a letter of the Director of the Mint, inclosing a communication from the superintendent of the branch mint in San Francisco, together with a statement exhibiting the amount of wastage upon gold and silver deposits, and the receipts and expenditures of the branch mint from its first organization until the present time.

The estimates for the branch mint at San Francisco and for the assay office in New York are not greater at the present time than for previous years, and I see no good reason for reducing the annual appropriations as proposed in the House bill, and I therefore respectfully recommend, in order that the operations of these institutions for the current year may not be embarrassed, that the usual appropriation be allowed.

I have been thus earnest in stating the case, because if the bill passes in its present condition I am convinced that the Treasury Department cannot perform the duties devolved upon it by law during the coming year.

With the hope that the views herein expressed and the requests herewith submitted will meet with the approbation of the committee, I have the honor to be, very respectfully, your obedient servant.

HUGH McCULLOCH,  
Secretary of the Treasury.

HON. JOHN SHERMAN,  
Chairman Senate Finance Committee.

Mr. SHERMAN. The Senate will see from that letter that this matter has been pretty thoroughly inquired into; and I will state to him in addition to that, that we have corresponded with every head of bureau in the Treasury Department who are, not like the Secretary of the Treasury, political opponents of ours, but nearly all of them political friends, and therefore, according to the logic of my friend from California, he would believe them much more readily. The voluminous communications of the First Comptroller, the Second Comptroller, the Commissioner of Customs, the six Auditors, and the Register of the Treasury, are now upon the table covering every point. In every case where we could find the slightest reason for a reduction of their estimates, we have reduced them; and if the Senator will look at the bill, he will see that in some cases we have reduced the amounts. In regard to this very item, \$210,000 were appropriated last year, of which \$60,000 were for the purpose of increasing temporarily the pay of certain employés. That was adopted after a long debate. The Committee on Finance concluded to drop that and only appropriate \$150,000 necessary to pay for temporary clerks only; and in regard to that item the Secretary of the Treasury, in a letter dated June 8, says:

"If these items are omitted, we shall be obliged to discharge one hundred and fifty clerks on or about the 1st day of July, to the serious injury of the public service."

Senators may ask where these one hundred and fifty clerks are employed. They are distributed, according to the exigencies of the service, among the various bureaus. Forty-two clerks, I believe, are assigned to the Second Auditor, and so they are sent from place to place through the different bureaus. They are probably now made specially necessary on account of the large amount of work to be done on military bounties. I have no doubt that after a while they may be dispensed with.

A word now in regard to the bill referred to by the Secretary of the Treasury. That increases largely the compensation of the officers of the Treasury Department. We did not think the present a wise time to commence the reorganization of this Department, and therefore we withheld the bill. If we had reported

that bill it would have largely increased the pay to these same employes.

Mr. TRUMBULL. It did not increase the aggregate. Did it not diminish the number?

Mr. SHERMAN. Perhaps not, for the officers named, but it would have increased the aggregate. At any rate, we thought the unquestionable effect would be to increase the expenses of the Treasury Department at present, and we did not feel disposed to report it. It raised the pay of all the employes, all the clerks, and all the officers of the Treasury Department, I think without exception.

Mr. FESSENDEN. Oh, no; that is a great mistake.

Mr. SHERMAN. It is very common to say that a particular plan to reorganize a Department will decrease the aggregate expense while it is increasing the pay. That always involves an absurdity, because if the number of employes under the new organization is found not to be sufficient to do the work they always ask for an increase, and the result is an increased expenditure. That will be the case in regard to that bill. At any rate that bill is now pending before the Committee on Finance. We concluded not to act upon it at this session, simply because it does raise the pay of the employes. In lieu of that we have provided by another amendment for an increase of the pay of the Comptrollers and Auditors to a limited amount.

Mr. CONNESS. I was not aware that the measure introduced by the honorable Senator from Maine [Mr. FESSENDEN] increased the compensation of all the officers in the Treasury. On the contrary, I understood that it was to be a great reform, that although it did put up a few salaries of men deserving increased compensation, it so organized the labor of the Department that the sum total would be less than is now paid, and would be brought to an ascertained amount. That is what I understood. However, the honorable Senator from Ohio has had it in his charge for a great many months and ought to know.

Mr. FESSENDEN. The Senator from Ohio is entirely mistaken in saying that it increases the pay of all the employes. It increases the pay of comparatively a very small number of them.

Mr. CONNESS. That of course I leave to be adjusted between the author of the bill and the chairman of the Committee on Finance. I supposed that the passage of the bill would be a great public advantage. If it makes too great an advance in the salaries of the employes of the Treasury the Committee on Finance have the privilege of cutting those down and reporting the bill to us.

But, Mr. President, I rose more to say that the honorable Senator was not authorized by anything I had said to describe me as simply wishing to make an attack on the Secretary of the Treasury; and I take it he only did it to give himself an opportunity to spring to that official's defense. I certainly made no attack upon him. I did not name him. I said we were considering unascertained appropriations; that there was inexactness about them, and that was confessed; that I had just listened to a speech from the honorable Senator who has this bill in charge who said he could not state anything about it under certain heads. Now, sir, I do not think—and I wish to say that while I am up—that the Secretary of the Treasury is one of the worst of men—far from it. I do not think that he is the best fitted for that office in this country by far. But I never have assailed that officer to any extent; certainly never as much as I felt like doing, and felt that he deserved. I have been of the opinion that that practice here is not very well timed, and that it perhaps had better not be followed; that it produces no great public good. My own opinion is that those engaged in carrying on great Departments of the Government ought to have the confidence of the people; and when I have felt from time to time like criticising the head of the Treasury Department I have restrained myself by considerations of this

character. But there was nothing said by me that should induce the honorable chairman of the Committee on Finance to spring to the Secretary's defense. I think that had better be left to others to do.

I am not among those, as suggested by the Senator from Ohio, who doubt the truth of statements made by political opponents. I believe there are as honorable and truthful men ranking among my opponents, politically, as there are on the side that I am on; but I have not a very high opinion of the kind of politics that I understand to be those of the Secretary of the Treasury. As I understand him, he took office and began as a Republican, and as I understand him now he is not a Democrat. If I were called upon to describe him I should describe him, and I think the country would agree with me, as a bad Republican merely, so bad that he has lost his standing with the party that gave him office, and yet holds on to the office.

Mr. HOWE. Uncurrent.

Mr. CONNESS. Yes, uncurrent; and yet he has held on to the office. It has been said of persons who get high offices particularly that few die and none resign. In my opinion that officer, when he was unable longer to cooperate as a member of the great Union party of the country, through whom he had acquired his high place, should have in honor laid down his office. There was only one consideration, perhaps, that could have induced him honorably to keep it, and that was a conviction that his keeping it was necessary to the safety and honor of the country. Nobody would agree with him if he were to give that reason; and that could not be the reason why he has held it. I have no opinion, in point of fact, of the politics of those gentlemen who have continued in office and at the head of Departments under this Administration who acquired their power by professing one class of opinions and then held it by continually violating those opinions.

So much for politics. The honorable Senator, if I have consumed time upon the subject, is responsible for it, for I did not talk of politics when up before. I simply desired to aid my friend from Illinois, who always has an eye to these matters, and who has given a good deal of labor to endeavoring to correct abuses in the Treasury Department. Guided by his experience and instructed by it, I certainly shall not intrude myself upon the Senate much, nor attempt to accomplish much public good; for all his efforts thus far, I think, have been vain, or nearly so. However, I hope he will not grow weary of well doing, but will keep on in the right way and direction.

Mr. MORRILL, of Maine. Mr. President—

The PRESIDING OFFICER. The Chair will remind Senators that the question is on the amendment moved by the Senator from Ohio.

Mr. MORRILL, of Maine. I am well aware of that. I do not rise to continue the debate, but simply to express my admiration of the manner in which the honorable Senator from California comes to the rescue of, or to back up, the Senator from Illinois. If he had not sat down with the statement that that was his object, nobody could misunderstand the course of his remarks so as to suppose that he could have had any desire or purpose to enlighten the Senate upon the subject-matter before it, for he has made no attempt at that.

The Senator, on rising to reply to some remarks that I had submitted to the Senate, had the grace to say that he had received no light at all from the chairman of the Committee on Appropriations. That, I have no doubt, is altogether my fault. I was in hopes that the honorable Senator himself would be luminous on this subject and would give the Senate some light. If the Senate really have received any light upon the question as to whether an increase of the clerical force of the several Departments is really necessary to the service of the country or not from the remarks of the honorable Senator I shall be very glad.

The Senator, in a sort of facetious way, undertakes to tell the Senate of the United States that the "generous" chairman of the Committee on Appropriations has lent himself to the purposes of the Treasury Department. He does not say that in words; but that is the substance of it; that out of good nature, out of an abundance of generosity, the chairman of the Committee on Appropriations is willing to lend himself to the purposes of the Secretary of the Treasury to deplete the Treasury of the United States; to take away its money; that I am willing to make this bill plethoric; that that has been the office and the function I have performed; that I come here with a bill which he would facetiously tell the Senate of the United States I wished to impose upon the country, to take money out of the Treasury; and my honorable friend, with an abundance of good nature, seems to enjoy exhibiting me to the country in that light. Sir, I do not know but that the Senate will get that impression. I do not know but that I have done something or said something which justifies the impression that the chairman of the Committee on Appropriations has really been disposed to make this bill plethoric, redundant, overflowing with money from the Treasury of the United States; and I do not know but that the Senate of the United States will believe that my associates upon the Committee on Appropriations have lent themselves to that purpose.

But I would say to the honorable Senator that all such allusions as that, whether in good nature or otherwise, are a gratuity which he ought not to feel that I can afford he should indulge in; and however he is entertained by it, it is a cheap kind of entertainment which I do not fancy. He may. When he knows more about the duties of the Committee on Appropriations he will have less to say about it; and when he understands more of its duties he will be in a better condition to enlighten the Senate upon the particular subject before the Senate on this proposition. I do not know a great deal about it, but I presume I know more about the clerks and the clerical force of the Treasury Department than the honorable Senator does, or will know on that subject, unless he addresses himself particularly to it. I do not say this, of course, out of any disrespect to him or to charge him with any want of general information; but I say it simply that having attended to my particular duty in fixing the appropriations for this branch of the service I am not to be told by that Senator, either in a general or special way, that I cannot enlighten him upon that subject, and that, therefore, I have no information on the subject myself!

Mr. President, I undertake to say that the Committee on Appropriations have made this appropriation bill as it came from the committee in conformity to the law; we have provided for the service demanded by the law; and when the Senator from California undertakes to criticise our report he had better examine and see where the short-coming is. If he says we are depleting the Treasury, let him look at the bill and see where we propose to draw a dollar out of the Treasury not authorized by the statutes of the United States. I undertake to say to that Senator and to the Senate that the bill as it came from the committee authorizes nothing for the Treasury Department or any other Department of the Government, except what is not only justified but demanded by the public service.

Mr. TRUMBULL. This amendment that we are discussing did not come from the Committee on Appropriations.

Mr. MORRILL, of Maine. No, sir; and I had tried to make a distinction between the labors of the Committee on Appropriations and the labors which we deemed belonged to the Committee on Finance; but I could not enlighten my honorable friend from California on that subject; and so I succeeded in getting the compliment of a willingness to deplete the Treasury, out of a generosity which in this respect the honorable Senator knows as well as anybody would not be public virtue by any

means. Sir, is it an immaterial matter that a Senator of the United States, chairman of the Committee on Appropriations, feels that it is an act of generosity that he may draw millions out of the Treasury; and does the Senator think he pays me a compliment when he says that of my generosity I make a bill plethoric of millions from the Treasury? I do not understand the compliment in that way. It is a left-handed compliment.

Now, sir, all I did say, and all I meant to say on that subject, was that the Committee on Appropriations made this appropriation bill in conformity to the statutes. We provided for the service according to the law, and where we found no law to authorize it we turned it over to the Committee on Finance, which is the organ of the Treasury Department, to provide for that temporary service which lies outside of the law; and that is what the chairman of that committee is attempting to do now. How far he ought to go I said I did not know, because it was not a subject which we had investigated; but I do know this—I suppose we all know who are tolerably well informed in regard to the public service—that outside of the clerks provided and specifically authorized by statutes we have been for several years authorizing, by appropriating a general sum—\$300,000 in 1866, \$210,000 last year—the employment of temporary clerks upon the idea that they might not be wanted more than a year. Last year, probably, it was hoped that \$210,000 would employ all the temporary clerks necessary, and that this year we should not want any; but the Senator from Ohio, who has charge particularly of matters of finance, who is the organ of that Department, tells you that now they want a portion of the temporary force continued to the extent that will be allowed by an appropriation of \$150,000. I wish to make the distinction that on this precise question I do not undertake to instruct the Senate; and if my honorable friend from California is not instructed on the subject I am not at fault about that. I did not undertake to instruct him, but I did undertake to tell him what we had done; and when he says to me and the Senate that I shed no light on this subject, if that is what he means, I take no offense.

I said when up before that I did know, in regard to the Second Comptroller's office, that there was a force now actually employed there to the extent of forty-three clerks, which we had not undertaken to provide for. Those clerks were paid last year out of what is called a lapsed fund, and it is exhausted, as I am told. Now, whether the Senate of the United States think that those forty-three clerks can be dispensed with from the Second Comptroller's office, is a question for them to judge. The Secretary of the Treasury says no. The chairman of the Committee on Finance, whose duty it is to know whether it is so or not, thinks you cannot afford it; the public service will suffer if it is done. I have no more right to express any other opinions than any other gentleman whose duty it is not to inquire into that subject.

Mr. CONNESS. Mr. President, but for the fear that it would spoil a very excellent speech that we have heard from the honorable Senator from Maine, I should have corrected him some time ago by stating that he has totally misunderstood what I intended to say; and certainly I must think that he did not listen with care to what I did say. I understood him to confess that in regard to these temporary clerks he knew nothing and could state nothing; and that I think was about how I put it. But the honorable Senator holds me responsible for representing to the Senate and the country that he is an extravagant organ of the Committee on Appropriations. Now, sir, I do not believe that. I did not say that. I could not have said it.

As to my knowledge of this subject I do not profess a great deal. What I knew on it I stated. If that was little, the honorable Senator might have been content to have let that

pass without making it appear to be so infinitesimally small. But, sir, it is a good and a happy conclusion that I have arrived at, that with the honorable chairman at the head of that committee, in all that relates to his legitimate duties always well informed, there is not so much necessity for myself and others being particularly and exactly informed; but the honorable Senator should have had no blame for restating here what he said himself, that of certain matters comprehended by this bill and the pending amendment he did not know anything, or did not know much. That was what I understood from him.

I desired also to do what I have done, call attention to the attempt to reform this whole service with a view of having it kept in mind and brought up at an early day; and with what I said I am entirely content.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio.

Mr. TRUMBULL. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. I will state in a word what this amendment is, as I have called for the yeas and nays upon it.

It is a proposition to appropriate \$150,000 to be expended by the Secretary of the Treasury, in his discretion, in employing what are called temporary clerks, which he is to classify in his discretion, and that means, I suppose, that he is to pay them according to different classes, as he shall judge they deserve. A similar appropriation, under a different name, has been made for several years. I think, from what I have been informed to-day, the appropriation was \$210,000 last year; and before that it was some three hundred thousand dollars, which was distributed by the Secretary of the Treasury among the clerks of the Department, in part by increasing their salaries and giving to such as he thought proper an increased compensation. We once had here a report from the officers of the Department as to how it was distributed. Now, I think it is about time that we stopped appropriating money at the rate of \$150,000 at a time, to be placed in the hands of any officer of this Government, to be used in his discretion in this way.

I know but little about the clerks in these Departments, but little of the necessity for the number that are employed; but it has come to my knowledge within a few days, in a single instance, that a clerk has applied to me, stating that the work in the particular branch of the Department where he was engaged was falling off, and he was very much afraid that he would be discharged because there was no work to do, and he wanted me to interfere in his behalf if I could, to try and have him put somewhere where he would be retained. I know very little about these clerks; it is very seldom that I make any recommendations in any of the Departments. I presume that the case I have just mentioned is not a single one, but that there are many other like cases. Indeed, I have heard it said to-day privately—

Mr. PATTERSON, of New Hampshire, I should like to ask a question.

Mr. TRUMBULL. Very well.

Mr. PATTERSON, of New Hampshire. I want to ask the gentleman if this \$150,000 will be sufficient? I ask the question for this reason: the Committee on Retrenchment had occasion to call upon the Register of the Treasury to know how many additional appointments had been made in his Department since he entered upon its duties; and we found that there had been thirteen gentlemen and one hundred and seventeen ladies, their pay involving an expenditure of \$9,100 per month, which would be \$109,200 per year under that gentleman alone, simply in the Register's office. I wish to suggest to the Senator that if the other bureaus have increased in the same proportion, this appropriation ought to be a million instead of \$150,000.

Mr. TRUMBULL. I should like to ask a question now of the Senator from New Hamp-

shire; and that is whether there was any authority of law already existing for the appointment of those additional number of more than one hundred ladies and thirteen gentlemen in that office.

Mr. PATTERSON, of New Hampshire. I would prefer to refer that question to the chairman of the Committee on the Judiciary.

Mr. TRUMBULL. The chairman of the Committee on the Judiciary does not have jurisdiction of the Treasury Department by any means. He has been very unsuccessful, as the Senator from California has said, in trying to check any of these abuses, if there are abuses.

Mr. PATTERSON, of New Hampshire. I should say that I understand that the gentleman himself who holds the office is illegally in his place.

Mr. TRUMBULL. I was about to state that I had heard it said privately on the floor of the Senate since this debate commenced that the head of one of the bureaus or divisions in the Treasury Department had stated not very long ago that he had more clerks than he knew what to do with.

Mr. MORRILL, of Vermont. He probably said that to some one who applied for a place.

Mr. TRUMBULL. I do not know whether anybody applied to get a new clerk. I have not been in the habit of applying for new clerks. I think it not unlikely that if Senators would speak out there would be evidence that that is the condition of things in some of the divisions or bureaus of the Treasury Department. I happen to know of one case of the clerk who came to me, who was apprehensive because the business had fallen off that he would lose his place. I do not propose to take up time in regard to this matter. I wish to record my vote against appropriations of this kind.

Mr. FESSENDEN. I think this question is a very simple one. I wish the Senate to understand it, and then of course they will do as they please about it.

For several years during the war, by acts of Congress, we went on increasing the force in the Treasury Department. In addition to that for some years past we have been in the habit, on the recommendation of the Secretary of the Treasury, of giving a certain amount to be used for the employment of temporary clerks. It began under Mr. Chase, and has been continued since. The matter has been discussed here, I think, every year, and every year the necessity of the thing has been made apparent.

There are at this moment in the Treasury Department—not all here, but some at the sub-Treasurer's office in New York, and some, I suppose, in other offices where they are actually needed—one hundred and fifty or one hundred and sixty temporary clerks, most of whom are absolutely essential to the transaction of the business of the Department. If you refuse to appropriate this \$150,000 of course the employment of those clerks must stop; a very considerable number of whom the various Assistant Treasurers at New York have severally said are absolutely essential to the conduct of business in that office must be dispensed with. So to a less extent in Philadelphia, and so in the Treasury Department proper here. You must either provide by law for the employment of these clerks, and thus make them legal, or you must appropriate money to allow them to be employed temporarily, and leave it to the Secretary of the Treasury to expend that money, or you must dismiss the clerks.

Mr. TRUMBULL. This appropriation does not contemplate paying clerks at New York or Philadelphia.

Mr. FESSENDEN. Yes, it does.

Mr. TRUMBULL. It comes in under "incidental and contingent expenses of the Treasury Department."

Mr. FESSENDEN. Very well; that is part of the Treasury Department.

Mr. TRUMBULL. There are other appropriations for them.

Mr. HOWE. They are appropriated for separately.



Mr. FESSENDEN. Many of them are, and many are not. They are scattered all over wherever clerks are needed for the business of the Treasury Department, as I understand. Is not that so?

Mr. SHERMAN. This appropriation is for additional clerical force in the Treasury Department, but I suppose they might be assigned to duty elsewhere.

Mr. FESSENDEN. I know that additional force was called for in the sub-Treasurer's office in New York, and the persons employed were paid out of this fund at one time. Whether it is so now or not I do not know, but I presume it to be so. At any rate, here we have it; they are employed, and they are, as the Secretary of the Treasury says, necessarily employed. There is no law authorizing their employment permanently. Then what will you do? You must either dismiss them altogether or make an appropriation to pay them. The Senate can decide whether it will take the responsibility of saying that these one hundred and fifty or one hundred and sixty clerks shall be dismissed. If the Senate refuse to make the appropriation, of course they will take the responsibility of whether the business of the Department is done or not. So far as I am concerned, I do not care a sixpence how the Senate decide it. I have always voted for the appropriation because I knew its necessity.

A word now in reference to a bill which has been alluded to that I brought in and had referred to the Committee on Finance. It was a bill reorganizing the Treasury Department. It makes the aggregate amount of salaries paid somewhat more than they are now, but \$200,000 less than they are now with the twenty per cent. added, which we gave last year, and which we are called upon to give again. Undoubtedly the salaries ought to be raised, or we ought to give some percentage to a considerable portion of the clerks. That bill gets rid of this twenty per cent. business by reorganizing the Department, raising a portion of the salaries, and transferring men from one class into another. I know as well as I know anything that a considerable portion of the men in that Department are paid much less than they ought to receive, while a very considerable proportion get all that they earn, and perhaps more too. I think, for instance, that the first and second class clerks who have families cannot support their families with what they get, but I think that young men, those who have no families, can get along very well with \$1,200, and ought not to have any more. But whether any distinction can be made or not it is for Congress to decide. I stated at the time I offered that bill that I thought some of the salaries provided for in it were too high. I did not draft the bill. It was drafted at the Treasury Department. I looked it over and I approved its general scope, and I stated when I had it referred to the Committee on Finance that I considered some of the salaries too high, but that could be corrected. The general idea of the bill is a good one.

Now, sir, with reference to the fact stated by the honorable Senator from New Hampshire, it is undoubtedly true that in the Register's office there has been a very large recent increase of force. What is the reason of it? The reason is that there is a very large arrear of business, business which must be disposed of. The office is getting behindhand on the coupons and other things that come in there. That office has now more work to do than it has people to do it with, but it cannot provide room for those needed in order to do it. It is not a mere appointment of people without wanting them; they are needed. They will not be needed for a long period of time. Probably a year or less than a year will bring up this arrear of business, so that a large portion of them can be dispensed with, but at the present time they are absolutely needed on account of the condition of the work of that office.

Gentlemen argue as if the Secretary of the Treasury had some personal interest in this matter. What inducement has the Secretary

of the Treasury to ask for a larger force than he needs and for the appropriation of more money than he can expend with advantage to the Government? Does he spend it on his own person? Can he withdraw it or use it for any other purpose than that for which it is appropriated? What does he want it for? Does he want to gain the reputation of being a very extravagant man in the administration of the Department? Granting that he is as faulty as the honorable Senator from Illinois thinks he is, what inducement in the world has he to employ more people there than he has work for I should like to know. Why does he want to swell the number of clerks in the Department? Why does he want money appropriated for the purpose of paying these extra clerks if he has not got business for them to do? He comes here and says, "I want so many clerks," and he tells you the reason why he wants them; and the Senator from Illinois, without knowing a thing of what is done there, says this is astonishing! I do not pretend to know much about it; but I know what was needed at one time when I was there, and I presume the same thing is needed now.

If we do not choose to put into the Secretary's hands \$150,000 for temporary clerks, let the business stop, or else pass a law providing how many clerks shall be employed and make the necessary appropriation; but that has not been thought to be wise, because when you pass such a law they become permanent, and you have to pass another law to get rid of them, but when you simply provide from year to year temporarily for them the moment they are not needed their services can be dispensed with. That is the reason this appropriation has been made in this form from time to time.

The Senator asks, why put \$150,000 in the Secretary's hands to increase the pay of clerks? If the Senator had troubled himself to know what he was talking about, he would know that the amendment did not do any such thing.

Mr. TRUMBULL. This provision is that he may classify them in his discretion.

Mr. FESSENDEN. Classify them, but not pay them extra. Does not the Senator understand the difference between classifying and paying extra?

Mr. SHERMAN. The same provision has been in the law for eight years.

Mr. FESSENDEN. We have made the provision for years in the same language, and last year there was in the appropriation a clause authorizing a part of the money to be used for increasing the compensation of clerks; but that is struck off this year, and \$60,000 of the appropriation is struck off with it. I believe it would be wise to keep in that provision still; but the Committee on Finance think it best to leave it off, and of course I yield to their decision. Last year the appropriation was \$210,000, and in that appropriation it was provided that the Secretary was to use the money for two purposes; in the first place, to employ extra clerks, and in the next place to raise the pay of certain clerks. This year an appropriation of \$150,000 is proposed instead of \$210,000, and the only way in which the money can be used is to hire extra clerks. It is also provided that the Secretary may classify them; that he may put one into the fourth class, another into the third, another into the second, and another into the first. That is very proper, for he wants different kinds of men for different work. He wants some men for some work that cannot be performed by men who would suffer themselves to be employed for \$1,200. That is a matter of discretion with him. Will you leave no discretion with the Secretary of the Treasury?

The question is a very simple one, and it is for the Senate to decide. At this period of the session I suppose you must do either one of two things: either give this money or dismiss the men, and take the responsibility of having the business of the Department so far interrupted. If any Senator thinks it is best to have it interrupted, and that without this provision there are clerks enough, in the face

of the recommendation of the Secretary of the Treasury, and in the face of the action of the Committee on Finance, who have examined it, he can do so. But I really do think, with all respect to the honorable Senator from Illinois, that when the Secretary of the Treasury tells you they are necessary, and when the Committee on Finance have examined the matter and tell you this provision is necessary, it is quite as good as the proof which the Senator adduces on his side, to wit, that somebody, a clerk, came to him and told him that in his particular place the business was falling off and he was afraid he would lose his office. There is one of his proofs against the Secretary of the Treasury and the Committee on Finance! Another is, that somebody around the Senate here says that in one of the bureaux, I do not know which, the business is not so great as it used to be. Is that enough to make out a case? I appeal to my honorable friend as a judge whether he will admit such sort of evidence as going to prove anything in any court except the Senate. I apprehend we may with safety do what is recommended by the Committee on Finance after they have examined the subject.

Mr. RAMSEY. I move that the Senate do now adjourn. It is half past four o'clock, and there is no probability of getting a vote to-night.

Mr. TRUMBULL. I hope the Senator will withdraw that motion for a moment. I wish to correct a statement of the Senator from Maine in regard to these clerks.

Mr. RAMSEY. Very well; I withdraw the motion.

Mr. TRUMBULL. Mr. President, the Senator from Maine [Mr. FESSENDEN] seems to suppose that there is a necessity for clerks in Philadelphia and in New York, and he urges that as one of the reasons why this appropriation should pass. There are some things we can know without being in the Treasury Department, and if he had looked at this bill he would have found that it came from the House of Representatives with this clause:

For salaries of clerks, messengers, and watchmen in the office of the Assistant Treasurer at New York, \$60,000.

There is a nice little sum, but that was not half enough, and in the Senate our Committee on Appropriations proposed to raise that \$60,000 which was in the House bill to \$126,000, more than double what the House proposed, for the benefit of the Assistant Treasurer's office in New York; and I believe the amount was still further increased on the suggestion of the Committee on Finance. Now \$150,000 more is proposed to be added, and one of the reasons given is that more clerks may be wanted at New York.

Mr. FESSENDEN. I wish to show the Senator that he does not understand it at all. My colleague explained it once to him, and told him that all the appropriations to which he now refers were made to meet the service provided for by law. The House of Representatives have gone back to the time before the war, and our committee have brought it up. This \$150,000 is for extra clerks in those very offices, as well as in the Department here. What I stated is perfectly correct.

Mr. TRUMBULL. I supposed this increase was for clerks that were not provided for by law, but I was showing that the bill provided \$126,000 for clerks at New York, something of a sum; and that this \$150,000 might by possibility not be necessary there. As the House had started with \$60,000, and the Senate had given \$126,000, I supposed it was possible that would answer the purpose.

But the Senator from Maine says that as faulty as the Secretary of the Treasury may be supposed to be by the Senator from Illinois, what object has he in employing more clerks than are necessary? The Senator from Illinois had not said a word about the Secretary of the Treasury being faulty. I have no difference with the Secretary of the Treasury. It is the appropriation about which I am speaking. It

is possible, Mr. President, that a Secretary of the Treasury, I do not say the Secretary of the Treasury, but it is possible that a Secretary of the Treasury may have favorites as well as other men. It is possible he may have human frailties as well as other men, and that there may be favorite persons around him that he would like to give employment to, and whose salaries he would like to increase.

But the Senator from Maine wants to know if the Senator from Illinois does not know the difference between classifying clerks and paying them extra. I supposed that by classifying these clerks he meant paying one \$1,800 and another \$1,200, and that is done under the name of classification. It is possible that a person less pure, having fewer human frailties than the present Secretary of the Treasury has, might go into that office and might desire that a favorite person should be so classified as to get \$1,800, when another clerk just as good practically was so classified as to get only \$1,200. I can conceive that that would be possible with other persons than the Secretary of the Treasury.

Mr. RAMSEY. I hope the Senator from Illinois will now give way. He has made a sufficient explanation.

Mr. TRUMBULL. I give way to the Senator from Minnesota.

Mr. RAMSEY. I renew my motion to adjourn.

Mr. SHERMAN. I hope the Senator will allow us to finish this amendment. Let us take the vote, because I want to be absent to-morrow at one o'clock.

Mr. RAMSEY. I will withdraw the motion if there is a possibility of a vote immediately; otherwise not.

The PRESIDING OFFICER. The Senator from Minnesota withdraws his motion.

Mr. SHERMAN. I desire to submit a privileged motion. I move that when the Senate adjourns to-day it adjourn to meet at two o'clock to-morrow; Senators understand the reason.

The PRESIDING OFFICER. The motion can be entertained if there be no objection.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio, upon which the yeas and nays have been ordered.

Mr. CATTELL. I only want a single minute to say that, as a member of the Finance Committee, I felt it my duty personally to call at the Treasury Department in regard to this item now under consideration; that my information was obtained from Mr. Hartley, the Assistant Secretary, at a personal interview, and that he brought into my presence several of the heads of bureaus and divisions, and satisfied me conclusively that this sum was absolutely necessary to the working of the Treasury Department. Upon that information, thus obtained on my own personal application to the Department, I voted in the Finance Committee in favor of reporting this amendment, and I shall vote for it now.

Mr. CONKLING. I shall vote against this amendment, and I shall do it with full consciousness of the futility of doing so. The Treasury Department having made this requisition, I take it for granted, for the purpose of this remark, that it is to be answered by the Senate, and I rise for the purpose of saying that if it shall be adopted we shall have some cause of consolation, I think, in the fact it is not \$210,000, and that it does not involve all the latitude of discretion which last year and the year before was committed to the Secretary of the Treasury.

And now I want to make one single remark, to which I ask the attention of Senators. Last year the language of the act, as it appears in the estimates, was:

"And provided further, That the Secretary may award such additional compensation to officers and clerks as in his judgment may be deemed just and may be required by the public service."

And opposite that is the item of \$210,000. Now, what do Senators suppose was done with

that \$210,000? I am told by a member of the other House, who received his information from the Treasury Department itself in explanation of another thing, that about one hundred and ten or one hundred and twenty thousand dollars was devoted to the pay of temporary clerks, and that the rest of this money was distributed upon the direction of the Secretary of the Treasury, \$1,000 or \$1,500 being given in every instance to the head of a bureau, all of whom I am told received it except one, and these additions thus conferred by the favor of the Secretary ranged from one thousand to fifteen hundred dollars. In that way about sixty percent. of the money having been devoted to the employment of temporary clerks the financial officer of the Government managed to get rid of the residue. That residue, in charity to the Treasury, is not included in this amendment, and when it prevails we may console ourselves by remembering that here is a clear gain of sixty or seventy or eighty thousand dollars, looking to the past, whichever the precise amount may be. I shall vote against it.

Mr. RAMSEY. I move that the Senate do now adjourn.

Mr. CAMERON. Before that motion is put, I wish the Senator from Minnesota to allow me to make a motion.

Mr. RAMSEY. I withdraw the motion.

Mr. CAMERON. Just a moment. I wish to move a reconsideration of the vote which adjourned the Senate until two o'clock to-morrow.

The PRESIDENT *pro tempore*. It is moved that the vote by which the Senate agreed to meet to-morrow at two o'clock be reconsidered.

Mr. SPRAGUE. I hope not.

Mr. CONNESS called for the yeas and nays; and they were ordered.

Mr. CAMERON. I desire to say that I can see no good reason for adjourning until two o'clock to-morrow different from any other day. I am perfectly willing, if Senators think it wise, that we shall meet every evening at six o'clock and sit the whole night to do so. I think in warm weather it would be better; but I do not think we should adjourn till a late hour to-morrow for a special object, because some of us have been invited to a wedding; let me speak out plainly; I was trying to find some other word. It is hardly fair that the Senate of the United States, so near the termination of the session, should adjourn to go to a wedding like a parcel of young boys. We are old men, or ought to be. It was supposed when this body was provided for that it would contain aged, prudent, and wise men. I am very young myself; but there are many old men here, and I think all the old men at least would be better employed in attending to their duties here than in going to a wedding to-morrow.

Besides, there is no particular reason why this body should adjourn to go to the wedding of anybody, and, as is suggested to me by the Senator from California, [Mr. CONNESS,] it never has been done in the history of the Senate. I do not think there is any special reason why we should go to the wedding of the Senator who is to be married to-morrow. He is not the first man who was married, and I trust he is not the last who will be. Let us come here at our regular hour and perform our duties as we ought to do. If any of the Senators have a special desire to go to this wedding let them go, and those of us who remain here will attend to our duties as well as we can. I hope we shall reconsider the vote.

Mr. TRUMBULL. I move that the Senate adjourn.

Mr. CONNESS. On that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 13; as follows:

YEAS—Messrs. Bayard, Cole, Conkling, Corbett, Davis, Dixon, Doolittle, Fessenden, Fowler, Hendricks, Howe, McCreery, Morgan, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Ross, Sherman, Sprague, Trumbull, Van Winkle, Williams, and Yates—23.

NAYS—Messrs. Cameron, Conness, Cragin Fre-

linghuysen, Harlan, McDonald, Pomeroy, Stewart, Sumner, Thayer, Tipton, Wade, and Wilson—13.  
ABSENT—Messrs. Anthony, Buckalew, Cattell, Chandler, Drake, Edmunds, Ferry, Grimes, Henderson, Howard, Johnson, Morrill of Maine, Morrill of Vermont, Morton, Norton, Nye, Rice, Saulsbury, Vickers, and Wiley—20.

So the motion was agreed to.

The PRESIDENT *pro tempore*. The Senate stands adjourned until to-morrow at two o'clock.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 24, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### IMPRISONMENT OF WARREN AND COSTELLO.

The SPEAKER laid before the House, by unanimous consent, the following message from the President of the United States:

To the House of Representatives:

I transmit a report from the Secretary of State, in answer to a resolution of the House of Representatives of the 15th instant, upon the subject of Messrs. Warren and Costello, who have been convicted and sentenced to penal imprisonment in Great Britain.

ANDREW JOHNSON.

WASHINGTON, June 23, 1868.

The message and accompanying report were referred to the Committee on Foreign Affairs, and ordered to be printed.

### DIMINUTION OF THE ARMY.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a statement of the estimated diminution of the Army by various causes up to January 1, 1869, and to July 1 of the same year; which was referred to the Committee on Military Affairs, and ordered to be printed.

### RECONSTRUCTION EXPENSES.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a communication from the Paymaster General, submitting estimates of the amount required for deficiencies in the appropriations for the execution of the reconstruction acts for the balance of the present fiscal year, with an estimate for the next fiscal year; which was referred to the Committee on Appropriations, and ordered to be printed.

### ARKANSAS MEMBERS.

Mr. SCOFIELD. I rise to submit a privileged report from the Committee of Elections. The committee have carefully examined the credentials—

Mr. BROOKS. I rise to a question of order. On the 15th of this month the House adopted the following resolution:

"Resolved, That after the report of the tax bill by the Committee of Ways and Means in pursuance of the order just passed, no other business shall be in order but the consideration of the bill so reported by said committee, except reports from the Committee on Enrolled Bills."

In giving construction to that order, the Speaker said:

"This resolution only excepts the reports of the Committee on Enrolled Bills. There are two cases beside, arising under the Constitution of the United States, which the House cannot exclude. One is the veto of the President of the United States."

"The other case is where a member claims the right to be sworn in from any State where there has been legislation."

The SPEAKER. The Chair will correct the gentleman right at this point. The reporter of the Globe did not hear correctly what the Speaker said. The Chair has here, in a corrected form, the correct statement of what he said, as follows:

"The other case is where a member claims the right to be sworn in from any State in regard to which there has been recent legislation."

Those are the words which the Speaker used, as the House will remember.

Mr. BROOKS. And the Speaker goes on to say:

"The question may be referred to a committee; it may be postponed, but it must come before the House."

The matter has been referred to the committee, and the House is *functus officio* on that subject for the present. The committee has the custody of the case of the so-called members from Arkansas; and under the resolution of the House it is not in order for the committee to report. Only the Committee on Enrolled Bills can report during the pendency of the tax bill.

The SPEAKER. The Chair overrules the point of order raised by the gentleman from New York upon the ground stated in the remarks which the gentleman has read from the Globe, and which were, at least, tacitly assented to by the House, and also, upon an additional ground, which the Chair will state. There are two classes of questions of privilege which cannot, in the opinion of the Chair, be set aside by any resolution of the House. The first are messages from the President of the United States returning bills with his objections to the House in which they originated. The Constitution requires that those objections shall be entered upon the Journal, and that the House shall proceed to the consideration of the same. That is the imperative requirement of the Constitution. The second class of questions of privilege are those relating to election cases; and the reason these are questions of the highest privilege except veto messages of the President is that the most imperative duty which can devolve upon a legislative body is to ascertain who are its members. All those who are really entitled to seats upon this floor as members have the right to vote upon every proposition coming before the House. It is upon this ground that all Presiding Officers, during the whole history of the Government, have recognized reports from the Committee of Elections as questions of the highest privilege, which can be presented at any time when there is no other business before the House. When such reports are presented they are subject to the control of the House, which can, of course, lay them upon the table, recommit them, or postpone them. But the right to present reports from the Committee of Elections upon the cases of persons claiming to be entitled to seats as members and to vote on all propositions is a right that no rule or resolution of this House can set aside.

Mr. BROOKS. I do not dispute the right of the Committee of Elections under ordinary circumstances to present, as a question of privilege, a report on an election case. But the point I make is that the House has, by unanimous consent, changed the order of business, and ordered that during the pendency of the tax bill no reports from committees shall be in order except reports from the Committee on Enrolled Bills; and it is this point to which I wish to call the attention of the Chair.

The SPEAKER. The Chair, for the reasons he has already stated, overrules the point of order. It is of course within the power of the House to lay upon the table, recommit, or postpone the report of the Committee of Elections; but if these gentlemen, whose cases the committee now report upon, are really entitled to seats on this floor, they have the right to vote to-day.

Mr. BROOKS. Would it be in order for me to make a motion to reconsider the vote by which the cases of these so-called members from Arkansas were referred to the Committee of Elections?

The SPEAKER. It would not be, while the gentleman from Pennsylvania [Mr. SCOFIELD] is on the floor.

Mr. BROOKS. Is not that a privileged motion which I have the right to make?

The SPEAKER. Not while the gentleman from Pennsylvania is on the floor, unless he yields for that purpose.

Mr. SCOFIELD. I do not yield.

The SPEAKER. Unless the motion to reconsider was laid on the table yesterday, the right to make the motion to reconsider will accrue whenever any gentleman can obtain the floor to make it.

Mr. SCOFIELD. The Committee of Elec-

tions have carefully examined the credentials of Logan H. Roots, James Hinds, and Thomas Boles. They find the credentials in proper form and signed by the proper certifying officers, and have unanimously instructed me to report the following resolution, on which I demand the previous question:

*Resolved*, That the oath of office be now administered by the Speaker to Hon. Logan H. Roots, Hon. James Hinds, and Hon. Thomas Boles, Representatives-elect of the State of Arkansas.

Mr. BROOKS. I now move to reconsider the vote by which these credentials were referred to the Committee of Elections.

Mr. SCOFIELD. I move that the motion to reconsider be laid on the table.

Mr. BROOKS. I do not yield the floor.

The SPEAKER. The motion to reconsider is not debatable while the call of the previous question is pending. The rule on page 163 of the Digest, which applies more particularly to bills, but covers this same point, will be read by the Clerk.

The Clerk read as follows:

"It is in order, even pending the demand of the previous question on the passage of a bill, to move a reconsideration of the order of engrossment. But of course, if moved at such a time, it is not debatable."

The SPEAKER. After the bill has been engrossed, when the question is on the passage, it is still in order, if the previous question is moved on the passage, to move to reconsider the engrossment, which is to be taken before its passage, and as the Digest says, it is not debatable.

Mr. BROOKS. I bow to the decision of the Speaker. Let me say to the gentleman from Pennsylvania, what I wish is this: in behalf of forty-five Democratic members of this House, I wish to say we have prepared a protest against the admission of the Arkansas members, a respectful protest, and we throw ourselves upon the courtesy of the House and ask that it may be received and spread upon the Journal.

Mr. SCOFIELD. The gentleman can submit it whenever he has an opportunity under the rules, but I will yield nothing at this time. I move to lay the gentleman's motion on the table, and demand the previous question.

Mr. BROOKS. Let me suggest that when forty odd members of the House have prepared a respectful protest and wish to present it, the gentleman avoided from his parliamentary experience, well knows it cannot be, in this way. It can be presented in a variety of ways, and it will go before the public and be read by the public. It cannot be suppressed.

Mr. SCOFIELD. Whenever it is in order for the gentleman to present his protest I have nothing to say.

Mr. BROOKS. I withdraw the motion.

The previous question was seconded on the resolution, and the main question ordered.

Mr. KERR, Mr. BROOKS, and Mr. WOODWARD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 102, nays 27, not voting 60; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Bailey, Baldwin, Beatty, Benton, Blaine, Blair, Boutwell, Broomall, Buckland, Butler, Sidney Clarke, Cobb, Coburn, Cornell, Covode, Cullom, Dixon, Driggs, Eckley, Eggleston, Ela, Eliot, Ferriss, Ferry, Fields, Garfield, Griswold, Harding, Hawkins, Higby, Hill, Hooper, Chester D. Hubbard, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Koontz, George V. Lawrence, Logan, Loughbridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercier, Miller, Moorhead, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Peters, Pike, Pile, Plants, Poland, Polsley, Pomeroy, Price, Robertson, Schenck, Scofield, Shanks, Shellabarger, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Windom, and Woodbridge—102.

NAYS—Messrs. Adams, Beck, Boyer, Brooks, Chanler, Getz, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Kerr, Knott, McCormick, Niblack, Nicholson, Phelps, Robinson, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Trump, Thomas Williams, and Woodward—27.

NOT VOTING—Messrs. Archer, James M. Ashley,

Axtell, Baker, Banks, Barnes, Barnum, Beaman, Benjamin, Bingham, Bromwell, Burr, Cake, Cary, Churchill, Reader W. Clarke, Cook, Dawes, Delano, Dodge, Donnelly, Eldridge, Farnsworth, Finney, Fox, Glossbrenner, Gravely, Halsey, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Hunter, Jones, Kitchen, Laffin, William Lawrence, Lincoln, Loan, Marshall, McCullough, McKee, Moore, Morrell, Morrissey, Mungen, Xunn, Perham, Pruyn, Randall, Raum, Ross, Sawyer, Selye, John Trimble, Van Aernam, Van Aiken, Burt Van Horn, Robert T. Van Horn, Stephen F. Wilson, and Wood—60.

So the resolution was adopted.

During the vote,

Mr. GETZ stated that his colleague, Mr. GLOSSBRENNER, was paired with Mr. CAKE.

The vote was then announced as above recorded.

Mr. SCOFIELD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SCOFIELD. The Arkansas members are now present, and I move that they be sworn in.

Mr. BROOKS. Before that is done I do not avail myself of the parliamentary opportunity to again offer the protest to their admission, because I believe it is the understanding on the other side of the House, after the members are sworn in, opportunity will be afforded to me to present it.

A MEMBER. I object.

Mr. SCOFIELD. I have no objection to the gentleman presenting his protest after we get through with this, that is if it is a respectful protest, as I presume it is.

Mr. LOGAN H. ROOTS, Mr. JAMES HINDS, and Mr. THOMAS BOLES then presented themselves, and were duly qualified.

The SPEAKER. The gentleman from Ohio is entitled to the floor on the tax bill.

Mr. KERR. I wish to submit a resolution.

Mr. SCHENCK. I am willing to yield for ten minutes while the House is filling up.

Mr. KERR. I wish to present a resolution which will give rise to no debate.

Mr. SCHENCK. I desire to say in regard to the protest that I have no objection to its being introduced if the gentleman presenting it will say that it is in no way disrespectful to the House or disparaging to its action.

Mr. BROOKS. The best authority I can give for that is the signature of forty members of the House.

Mr. SCHENCK. The gentleman will understand me. I am unwilling to have the special order put out of the way for anything. Therefore I cannot yield for the gentleman to offer a protest if it requires a division of the House or will occasion debate. If it is a proper paper to be presented I have no objection to its being introduced, ordered to be printed, and brought up at any time hereafter as the will of the House may determine.

Mr. BROOKS. It would lead to no division because it is a mere protest, calling for no action on the part of the House. It is signed by every Democratic member, and I will add that it contains no personal allusion to any member, and so far as I am able to judge, it is not disrespectful to the majority of the House.

Mr. SCHENCK. Let it be entered on the Journal and printed.

Several MEMBERS. Let it be read.

Mr. SCHENCK. Gentlemen around me desire to have it read.

Several members objected.

Mr. SCHENCK. Let it be printed in the Globe to-morrow, and we will then see what it is. I do not wish to stop the course of the regular order for the purpose of reading a long paper.

Mr. INGERSOLL. The gentleman says it will not require more than ten minutes to read it. I ask to have it read.

Several members objected.

Mr. KELSEY. I call for the regular order.

The SPEAKER. If the regular order is insisted upon the House will immediately resolve itself into Committee of the Whole on the special order.



Mr. KELSEY. I withdraw the call to allow the gentleman from Indiana [Mr. KERR] to introduce a resolution.

Mr. HARDING. I renew the demand for the regular order.

The SPEAKER. The Chair understands that the protest is received, and will be entered on the Journal and printed in the Globe;

#### ARKANSAS MEMBERS—PROTEST.

The recognized presence of three persons on the floor of this House from the State of Arkansas, sent here by military force acting under a brigadier general of the Army, but nevertheless claiming to be members of this Congress, and to share with us, the Representatives from free States, in the imposition of taxes and customs and other laws upon our people, makes it our imperative duty in this, the first case, to remonstrate most solemnly, and to protest as solemnly, against this perilous and destructive innovation upon the principles and practices of our hitherto constitutional self-government. The so-called reconstruction acts which created the military government in Arkansas and like governments in other southern States to share with us in the legislative power of the northern and western free people we have every reason to believe have been held to be unconstitutional by the Supreme Court of the United States, the public declaration of which fact was avoided only by the extraordinary and strange device of this Congress in snatching jurisdiction from the court in the McCord case when such a public decision was about to be made.

Of the three great branches of the Government it seems, then, that after the Executive vetoed these acts as unconstitutional, the judiciary adjudicated them to be so, while a Congress, the creation of but twenty-seven of the thirty-seventy States of the Union, overrides these equal and coordinate branches of that Government, first by voting down the vetoes, next by nullifying the judgments of the court! In an era of profound peace, when not an armed man rises against the Government from the Potomac to the Rio Grande, there, in ten States, our American historical way of creating the organic law has been utterly subverted by the bayonet. Ever since the Declaration of Independence, with scarcely an exception, and even amid the battles of the Revolution, conventions have been convoked through, and constitutions created by, the electors of the States, the only authorized depositories of the sovereign power of every State without exterior dictation or domination, as well under the old confederation as under the existing Federal Constitution. The hardest and harshest test-act required from 1766 to the peace of 1783 was an abjuration oath of allegiance to George III, while some of the now so-called bayonet-made constitutions from the South propose absurd and cruel tests, absurd as in Arkansas, where is interwoven in the organic law a mere party test between the Radical reconstructionists and the Democratic conservatives, such as would exclude from voting, if living there, the thousands and tens of thousands and hundreds of thousands of Democrats in the free States, (art. 8, sec. 4,) or cruel, as in Alabama, where no white man can vote who will not forever forswear his own race and color, and perjure himself by swearing in defiance of the law of God that the negro is his equal and forever to be his equal at the ballot-box, in the jury-box, with the cartridge-box; in the school, in the college, in house and home, and by the fireside; in short, in every way, everywhere, (art. 7, sec. 4.)

Now in these and the other southern States in the midst of war President Lincoln, in his proclamation, December 8, 1863, offered amnesty and pardon to rebels then in arms, if they would lay down their arms and take an oath of fidelity, while now, not a Union man in Arkansas or Alabama can vote unless in the first place he swears allegiance to the majesty of this Congress, and in the next swears off his Americanism and Africanizes himself. Hitherto constitutions with us have been the outgrowth of popular life, springing from the exuberance of our enterprise and energy in the settlement of the forests or prairies of our country; but here, before us now, are nine constitutions, with one if not three more yet to come from Texas, which have all been imposed upon the people by five military satraps or pentarchs, in a manner never before known under our law, but borrowed at best from imperial Roman military colonization, or from the worst precedents of the French revolution. France is then recorded to have had five constitutions in three years, so frequently made and so frequently changed that they were ironically classed by the French people with the periodical literature of the day. Louisiana, a colony of that France, has had four constitutions in four years, and a constitution there has now become periodical literature, as in France, in the agonies and throes of the great revolution. Laws, mere statute laws, which can never be created by conventions, are appended, more or less, to all these constitutions, and bayonet created, one-branch governments, with no Executive, no senate, no house of representatives, no judiciary have ordained irreparable, irreversible laws in the very organism of the State, such as cannot be thus created by the Executive, the senate, and the house of representatives of legitimate governments when acting in union and all combined. All this has been done, without regard to preceding constitutions or precedents, or to the common law of the States or the law of nations.

The military, which, under legitimate institutions, can only be used in time of peace to conserve or preserve the State, have here been used to destroy States. The General of the Army, who represents the sword, and only the sword of the Republic, has been exalted by acts of Congress above the constitutional Commander-in-Chief of the Army and Navy, in

order to execute these military decrees, and as the surer way to root out every vestige left of constitutional law or liberty. The same General of the Army, in order to prolong or perpetuate his military domination North and West as well as South, has been selected in party convention at Chicago to head the electoral vote for the Presidency in ten of our States which are as much under his feet as Turkey is under the Sultan or Poland under the Czar of Russia. But, as if only to add insult to the injury of this military outrage upon popular government in these ten States, either by act of Congress or by these Congress-soldier-made State constitutions, at least two hundred and fifty thousand whites have been disfranchised, while seven hundred and fifty thousand negroes, inexperienced in all law making, and more ignorant than our children, have been enfranchised in their stead, and have thus been created absolute masters and sovereigns over the whole white population of the South.

Because of all this, and in opposition to all this, we, Representatives of the people from the free States, in behalf of our constituents and of thousands and tens of thousands of others who would be here represented if the popular power without could now constitutionally act here within, earnestly and solemnly protest against this violence upon our Constitution and upon our people, and do hereby counsel and advise all friends of popular government to submit to this force and fraud only until at the ballot-box, operating through the elections, this great wrong can be put right. There is no law in the land supreme over the constitutional law. There is no government but constitutional government; and hence all bayonet-made, all Congress-imposed constitutions are of no weight, authority, or sanction, save that enforced by arms, an element of power unknown to Americans in peace, and never recognized but as it acts in and under the supreme civil law, the Constitution, and the statutes enacted in pursuance thereof. We protest, then, in behalf of the free people of the North and the West, against the right of this military oligarchy established in Arkansas or elsewhere in the now reenslaved States of the South to impose upon us, through Congress, taxes or customs or other laws to maintain this oligarchy or its Freedmen's Bureau. We protest against going into the now proposed copartnership of military dictators and negroes in the administration of this Government. We demand, in the name of the fathers of the Constitution and for the sake of posterity, not its reconstruction, but the restoration of that sacred instrument which has been to us all a pillar of fire from 1787 on to its present overthrow; and in all solemnity, before God and man, under a full sense of the responsibility of all we utter, we do hereby affix our names to this protest against the admission of these three persons claiming to be members of Congress from Arkansas.

JAMES BROOKS,  
JAMES B. BECK,  
P. VAN TRUMP,  
CHAS. A. ELDRIDGE,  
SAMUEL J. RANDALL,  
W. MÜNCHEN,  
STEPHEN TABER,  
ASA P. GROVER,  
L. S. TRIMBLE,  
GEORGE M. ADAMS,  
A. J. GLOSSBERNER,  
STEVENSON ARCHER,  
JOHN A. NICHOLSON,  
JOHN MORRISSEY,  
THOS. LAURENS JONES,  
W. E. NIBLACK,  
JULIUS HOTCHKISS,  
WM. H. BARNUM,  
JOHN W. CHANLER,  
S. B. AXTELL,  
S. S. MARSHALL,  
S. S. HOLMAN,  
CHARLES HAIGHT,  
CHARLES SITGREAVES,  
J. PROCTOR KNOTT,  
J. S. GOLLADAY,  
J. M. HUMPHREY,  
FERNANDO WOOD,  
J. LAWRENCE GETZ,  
F. STONE,  
M. C. KERR,  
JOHN FOX,  
JAMES A. JOHNSON,  
JOHN V. L. PRUYN,  
W. B. ROBINSON,  
B. M. BOYER,  
GEO. W. WOODWARD,  
CHAS. E. PHELPS,  
A. G. BURR,  
D. M. VAN AUKEN,  
J. R. MCCORMICK,  
DEMAS BARNES,  
JAMES M. CAVANAUGH,  
LEWIS W. ROSS,  
H. McCULLOCH.

#### INTERNAL TAX BILL.

The House, under the order heretofore made, resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

The pending question was on the amendment of Mr. HARDING, to add, at the end of section ten, the following:

*Provided, That this act shall not be deemed to*

prohibit the producing of alcohol in a distillery by primary continuous distillation.

Mr. GARFIELD. This proposition is an old acquaintance in this House. It was offered by the gentleman from Illinois [Mr. HARDING] at the first session of the Thirty-Ninth Congress, and was rejected. It was offered in the second session of the Thirty-Ninth Congress, and after full debate, the gentleman from Illinois speaking in its favor, it was rejected without a division. So that this is the third time that this proposition has been brought before the House, and I hope it will be rejected as before, without a division.

Mr. PAINE. I move to strike out the last word of the amendment.

Mr. SCHENCK. Before the gentleman proceeds, I ask the gentleman from Illinois [Mr. HARDING] whether he will not be as well satisfied to offer that amendment at the end of section eleven, where it more properly belongs.

Mr. HARDING was understood to decline.

Mr. PAINE. It is not sufficient for me that the gentleman from Ohio should inform the House that to him this is an old acquaintance. It does not satisfy me to be told that under some former state of the law the Committee of Ways and Means, or even this whole House, rejected it. He must do more than that to convince me that the amendment of the gentleman from Illinois [Mr. HARDING] ought to be rejected. He must give me some reason for rejecting the amendment. He has not done it, and I undertake to say that he cannot do it. It may be true that under the law as it formerly stood there was good reason for refusing to the distillers the right by continuous distillation in their own distilleries to bring up distilled spirits to the grade of alcohol. But under the provisions of this bill, under the law as it will stand if this bill passes, the gentleman can find no reason upon which to base his opposition to this amendment, and the chairman of the Committee of Ways and Means will not say to this House that there is in this bill any objection to this amendment, or anything in conflict with it. Nor can any member of the committee give to this House any reason, founded on facts of the case under this bill, why this amendment should not be adopted. Common sense requires that distillers should have the right, if they see fit and are able, to carry the spirits up to the grade of alcohol in one continuous process of distillation. They will pay all the tax in that case which they will be required to pay in any other case; and no one has so far given, I think no one can give, any good reason why distilled spirits should be necessarily and always withdrawn from the distillery and be rectified at some other place.

Now, sir, I have no especial interest in this matter; no constituent of mine has any to my knowledge; but I am not satisfied to be told that this amendment is an old acquaintance of the gentleman from Ohio. My recollection of the history of this matter is moreover very different from that of the gentleman from Ohio. My recollection is entirely in accordance with that of the gentleman from Illinois, [Mr. HARDING,] who moved this amendment, that this House inserted this provision in the bill, but I know not what became of it in the Senate. But if it is true, if it ever has been true, that in any state of the law, under any regulations that were in force for the collection of the tax, that this would have embarrassed that collection, there is, so far as I can see, no objection as the bill now stands, as the law will stand if this bill is passed; and I call upon the chairman of the Committee of Ways and Means to inform the House whether, in the law as it will stand when his bill is enacted, there is to be found any reason why this amendment should not be ingrafted upon it? I yield him the remainder of my time, to enable him to inform the House on this subject.

Mr. SCHENCK. In answer to that appeal I will state precisely what my understanding is. By the eleventh section of this bill it is provided, substantially as in the present law, that no other business than distilling shall be

carried on within a distillery with the exception of the manufacture of saleratus and the grinding of grain into meal. I understand that it is claimed at the Department that to double over, to redistill by successive and continuous distillation, is really the carrying on of a second business in the distillery, and on that ground they have decided that it cannot be done. I do not myself, I confess, see any objection to this redistillation, provided nothing is produced but alcohol. But if there be in this process anything equivalent to the rectification of whisky, there will be an escape then from the special tax the rectifier has to pay. Our object is to get a special tax from the distiller on every barrel he produces of proof-whisky, and then from the rectifier a further special tax for rectification.

Mr. INGERSOLL. I desire to inquire of the chairman of the Committee of Ways and Means—

Mr. SCHENCK. As this thing appears to me, it is only a process of continuous distillation, equivalent to redistillation, so as to prevent the production of alcohol in the ordinary distilleries of the country.

Mr. HARDING. I desire to ask the gentleman—

Mr. SCHENCK. I do not think there is any rectification in it.

Mr. HARDING. No rectification is contemplated. It is primary distillation and only a degree of spirits.

[Here the hammer fell.]

Mr. GARFIELD. I rise to oppose the amendment of the gentleman from Wisconsin, [Mr. PAINE.]

Mr. HARDING. If the gentleman will yield to me a moment, I will say that although I made the motion it was withdrawn on the suggestion of the committee that they would insert the words "continuous distillation." Those words were inserted, and the bill went to the Senate. What was done there I do not know. But I have always understood that since that bill was passed in all the large distilleries of the West they have been running high wines up to the alcohol point.

Mr. GARFIELD. I did not say nor think that the mere fact that this proposition had been twice rejected would be of itself sufficient to secure its rejection again, as the gentleman from Wisconsin [Mr. PAINE] seemed to suppose. But I did think it ought to give this committee pause before they make a change of this sort. Before coming into this House this morning I read over very carefully the entire debate on this subject when it was formerly under consideration. That was in my mind, as I stated to the chairman of the Committee of Ways and Means, [Mr. SCHENCK,] for I recollected distinctly the debate in Committee of the Whole. It is recorded upon the page of the Globe before me that the amendment of Mr. Farquhar was rejected, and that was the end of it. The argument in that case is very well stated in the speech of Mr. CONKLING, a passage from which I will read:

"Now, sir, the proposition of the committee in this regard was, after a careful investigation by the subcommittee, in conjunction with the Government officers, that this process, called in parliamentary language 'continuous distillation'—called again in another phrase 'repeated doublings'—is a process which passes the comprehension of detectives, which eludes any mode of detection which we could apply, and enables those men not only to distill and redistill but to distill afresh, and make in place of one quantity of liquor repeated quantities, only one quantity being taxed. That was the proposition, and to meet it this provision was adopted."

Now, on that argument, still further enforced by other members, the amendment was rejected. Now, let me state in brief the objection to this amendment.

In the first place liquor is run through and converted into raw spirits, or high wines. Now, if they may take this liquor, after it has once gone through the process of distillation, which subjects it to the Government tax—if without paying the tax it may be put back and run through again, and then put back and run through again and again, and made into per-

fect alcohol, or something a little short of perfect alcohol—into how many kinds of liquor I do not know, into what other marketable commodities I cannot tell—it seems to me that we allow a process in every particular as dangerous as the process of rectification would be in the very still-house itself.

It is on that ground that the Committee of Ways and Means have for two years steadily resisted allowing this process, and now that committee very properly say that a rectifying establishment shall be at least six hundred feet away from the distillery, and yet it is proposed to put into this bill a proposition which allows just as dangerous a process as rectification to be performed in the very still-house itself. I hope the amendment will be rejected.

The CHAIRMAN. Debate is exhausted.

Mr. PAINE. I withdraw my amendment to the amendment.

Mr. INGERSOLL. I renew the amendment. There is nothing in the least dangerous about this proposition. I wish to call the attention of the committee to some of the facts about the manufacture of high wines in the West. By this bill "proof-spirit" is required to be of the specific gravity of about nine tenths of that of pure water. A gallon of high wines, wine measure, of that specific gravity, is made the standard gallon for the purposes of taxation. For illustration, we will suppose that the specific gravity of alcohol is about eight tenths of that of water. The specific gravity of "proof-spirit" is about nine tenths of that of water. A distiller in Peoria, a thousand miles from New York, the great market, distills high wines with the purpose of sending it to that market. To reduce the cost of transportation is a very material question with him. Now, if he fills a barrel which holds forty gallons, wine measure, with "proof" whisky, he has but forty gallons. If he fills that barrel with whisky, which is of the specific gravity of alcohol, he has put about sixty "proof" gallons in the forty-gallon barrel, and he can thus save the transportation on a half barrel, or twenty gallons. But he has to pay the tax precisely as though there were only one and a half barrels of the "proof" gallon. There is no evasion of the payment of any tax, and it is impossible that there should be.

But the advantage to the western distiller is this: he can condense fifteen bushels of corn into one barrel instead of ten bushels. Fifteen bushels of grain will make sixty "proof" gallons; if he be allowed to distill by any process of distillation "continuous" or otherwise to the specific gravity of alcohol, he can thus put into one forty-gallon cask that which is equivalent to sixty "proof" gallons.

Mr. GARFIELD. The gentleman does not take into consideration the loss by waste.

Mr. INGERSOLL. There is no loss by waste except the mere evaporation.

Mr. GARFIELD. There is the waste in doubling.

Mr. INGERSOLL. There is no more waste in "doubling" at that distillery than in removing it to the alcohol distillery and there redistilling it into alcohol. There must be a waste somewhere; and is it intended by this bill to make the manufacturer pay tax on that which is necessarily wasted in evaporation and necessary waste in the honest manufacture of alcohol? I hope not.

Now, sir, there is not a single distillery in the West that does not distill its wines as high above "proof" as it is possible; so that in a barrel holding forty gallons "wine measure" there can be shipped to New York what is equivalent to fifty-five or sixty gallons of "proof" whisky, and there is no more danger of fraud when the distiller is allowed to run the whisky as high above "proof" as possible than when he runs it exactly to the "proof" point. Let me read one section of the bill, and I shall be done:

SEC. 2. And be it further enacted, That proof-spirit shall be held and taken to be that alcoholic liquor which contains one half its volume of alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten thousandths at sixty degrees Fahren-

heit; and the Commissioner of Internal Revenue, for the prevention and detection of frauds by distillers of spirits, is hereby authorized to adopt, procure, and prescribe for use, at the expense of the United States, such hydrometers, saccharometers, weighing and gauging instruments, meters, or other means for ascertaining the quantity, gravity, and producing capacity of any mash, wort, or beer used or to be used in the production of distilled spirits, and the strength and quantity of spirits subject to tax, as he may deem necessary; and he may prescribe rules and regulations to secure a uniform and correct system of inspection, weighing, and gauging of spirits. And in all sales of spirits hereafter made, where not otherwise specially agreed, a gallon shall be taken to be a gallon of proof-spirit, according to the foregoing standard set forth and declared for the inspection and gauging of spirits throughout the United States.

Now, that is all there is about it; and there is no more chance of fraud in allowing them to "run up" their wines above "proof" than to compel them to ship one and a half barrels when they could ship over the railroad one barrel containing the same number of "proof" gallons at a saving of an immense amount to western manufacturers in the cost of transportation from Peoria to New York.

[Here the hammer fell.]

Mr. LOGAN. Mr. Chairman, I desire to state one objection to this, and to say that the gentleman from Illinois is mistaken in his premises. There is nothing in this bill to prevent a man having an alcohol column in his distillery provided he is bound by the rate of tax on spirits prior to its becoming alcohol, and the Government does not lose the decrease or its return. The Government loses this difference, and that is the disadvantage of this system. The tax being reduced to fifty cents on the proof-spirits, when you redistill that into alcohol you have to return less than when it was redistilled into alcohol. This bill provides that the Government shall receive the tax on the difference between the proof-spirits and after its redistillation into alcohol. By the adoption of this amendment the Government will lose the tax upon the difference in the redistillation into alcohol after its return.

Now, sir, so far as the distillation into alcohol is concerned at the distillery, there is no objection to that. Alcohol cannot be made in the common stills. The gentleman from Illinois knows that, for there are a great many distilleries in Peoria. He knows that alcohol cannot be made in common stills. There is no objection to it provided the Government is to obtain the tax upon the decrease in the quantity between the proof-spirit and after it has been redistilled into alcohol. I myself have no objection to the distillation of alcohol in a distillery provided the tax is paid to the Government on the spirit before it is redistilled into alcohol. I want the tax put upon the proof gallon of distilled spirits.

Mr. BROOMALL. That is what I am for.

Mr. LOGAN. That will not be the result by the adoption of this amendment. The Government will lose the tax upon the difference between the proof gallon and the alcohol.

[Here the hammer fell.]

Mr. INGERSOLL. I withdraw the amendment to the amendment.

The question then recurred on Mr. HARDING's amendment, and it was rejected.

No further amendment being offered, the Clerk read as follows:

SEC. 11. And be it further enacted, That no person shall use any still, boiler, or other vessel for the purpose of distilling in any dwelling-house, nor in any shed, yard, or inclosure connected with any dwelling-house, nor on board of any vessel or boat, nor in any building or on any premises where beer, lager beer, ale, porter, or other fermented liquors, vinegar or other are manufactured or produced, or where sugars or sirups are refined, or where liquors of any description are retailed, or where any other business is carried on; and every person who shall use any still, boiler, or other vessel for the purpose of distilling as aforesaid, in any building or other premises where the above specified articles are manufactured, produced, refined, or retailed, or other business is carried on, or on board of any vessel or boat, or in any dwelling-house, or other place as aforesaid, or shall aid or assist therein, or who shall cause or procure the same to be done, or shall, on conviction, be fined \$1,000, and imprisoned for not less than six months nor more than two years, in the discretion of the court: *Provided*, That saleratus may be manufactured, or meal or flour ground from grain in any building or on any premises where spirits are distilled; but such meal

or flour only to be used for distillation on the premises.

Mr. INGERSOLL. I move to strike out "meal or flour," and insert "grain of all kinds."

The CHAIRMAN. Gentlemen must send up their amendments in writing.

Mr. INGERSOLL. I withdraw the amendment.

Mr. KOONTZ. I move the following amendments:

In line five, strike out the words "or on any premises."

In line nine, strike out the words "or where any other business is carried on;"

In lines eleven and twelve, strike out the words "or other premises;" and

In line thirteen, strike out the words "or other business is carried on."

Mr. Chairman, this section absolutely prohibits any person from carrying on any other business on the premises if he is engaged in distilling. The word "premises" is rather a comprehensive term, and may embrace a tract of land of two or three hundred acres, as well as a lot in a town or city; and if this section is enacted into law a person engaged in farming will be prohibited from carrying on a distillery. It often happens in the rural districts that a man may be engaged in carrying on a saw-mill or grist-mill or a store on the premises. Now, he must either dispense with this other business or be prohibited from carrying on the business of distillation. I think that would be unfair. I do not think we have a right to prohibit a person who by his industry and energy has built up several kinds of business from carrying them on.

Mr. SCHENCK. I may say of this amendment as my colleague [Mr. GARFIELD] did of another this morning, and with more reason, that it is an old acquaintance. An attempt has been made uniformly whenever an internal tax bill has been up to amend it so as to allow the distiller to carry on any other business in and about his distillery; but it has been found absolutely essential for protection against frauds on the revenue that these men should be confined strictly to their business on the premises selected for that business. And such is the law now, even to the very use of the word that the gentleman particularly objected to. The present law is that no person shall use any still, boiler, or other vessel for the purpose of distilling in any building or on any premises where other operations are carried on. The exceptions have already been stated. The reason why this exception alone should be allowed, even if there be any reason for excluding everything else, must be obvious. Just as you multiply occupations and businesses in and about the distillery you offer an opportunity for fraud. As to the hardship on the farmer who at the same time owns a distillery, that exists only in fancy, I think; because he does not carry on his farming operations in the building or on the premises pertaining to the distillery building. He can have a fence around it, separate it from the rest of his farm, and he ought to do so. The premises of course will be construed in the law to mean just that portion of real estate which immediately appertains to or is connected with the building.

Mr. KOONTZ. After the explanation given by the chairman of the committee I withdraw the amendment.

Mr. MULLINS. I move to amend by inserting in line nine, after the word "on," the following:

Except the making or repairing of such cooper's ware as may be necessary to the barreling of spirits or for mash or beer tubs, flake or cooling tubs: *Provided*, The same be done in a separate building.

I make this motion for this reason: there are a great many little distillers in my section who find it exceedingly inconvenient to import their barrels. They have in their manufacturing establishments cooper's ware, or it may be adjacent to the still-house. It is a great expense and inconvenience to be obliged to transport barrels. I offer this amendment, and would like to hear from the chairman of the committee on the subject.

Mr. SCHENCK. I understand the Department has never interfered with the repair or keeping in order of cooperage, as an incidental business. The reason why we make one exception in this section in regard to the grinding of grain to be used only for distillation on the premises, is that there have been some instances where the revenue officers have decided that that is a different business, while in other districts they have decided that it is incidental to the distillery, and not a separate business. We have put this exception in because there has been objection to carrying on the business of grinding. But I think no objection has ever been made to the repairing of barrels, which has been treated as a business incident to distillation.

Mr. MULLINS. After the explanation given by the chairman of the committee I withdraw the amendment.

Mr. INGERSOLL. I desire to make an inquiry. It is well known that the business of feeding hogs and cattle is sometimes carried on quite extensively on the same premises. Now, I want to know if that business is to be interfered with under the provisions of this bill.

Mr. SCHENCK. Not at all. We even recognize it as a part of the distillery business, in another section.

Mr. INGERSOLL. All right.

The Clerk read the next section, as follows:

SEC. 12. *And be it further enacted*, That there shall be assessed and collected monthly, in the same manner as other taxes are assessed and collected, on every registered distillery having an aggregate capacity for mashing and fermenting one hundred bushels of grain or less in twenty-four hours, five dollars per day; and three dollars per day for every hundred bushels of such capacity in excess of one hundred bushels in twenty-four hours. But any distiller who shall stop work, as provided by this act, shall not be compelled to pay on any distillery more than two dollars per day during the time the work shall be so suspended in his distillery.

Mr. KNOTT. Mr. Chairman, I move to strike out "five dollars" and "three dollars," where they occur in the sixth line, and insert "one dollar." It seems to me, sir, that all Federal legislation in relation to taxing whisky for several years past, whether designedly so or not, has been in the interest of those who are to command an extensive capital, and against the laboring masses of limited means. Previous to the enactment of our stringent and complicated excise laws upon this subject large numbers of our farmers who raised a surplus of grain for which they had no remunerative or convenient market manufactured it into whisky in small distilleries on their own premises. They were, as a general thing, honest working men, of moderate means, without either the skill, inducement, or inclination to concoct those villainous compounds which are now known as whisky, and the consequence was their production was a genuine, honest, pure, unadulterated liquor. Such I know were the men who gave to Kentucky whisky its world-wide reputation. But the imposition of the enormous taxes we have had for several years past, and a dread of the numberless pitfalls with which our excise laws abound, have driven all this class of whisky manufacturers out of the business, and the production of whisky has been for the most part handed over to immense moneyed monopolies in the large cities and towns, who, instead of old-fashioned, honest, country-made copper whisky, give us a nauseous steamed slop or a poisonous concoction of cocculus Indicus, strychnine, and dog-leg tobacco, compared with which, I had almost said, aqua fortis would be an innocent and wholesome beverage.

Now, sir, with the tax at fifty cents a gallon, and the distiller only required to pay it as he sells his whisky, we will have our old-fashioned country still-houses going again. They can compete, and compete successfully, with these plethoric moneyed monopolies of the cities, and we will hear no more of whisky frauds, of subterranean pipes, no more of hose extending from the still-house over the roofs of the intervening buildings to the rectifying shops. The people will get good whisky and the Government will get its revenue. But

impose this tax of five dollars a day upon them, whether their distilleries are capable of running out a hundred bushels of mash or not, and you will keep them out the business as you have driven them out, and continue it in the hands of monopolists, for, sir, the farmer cannot pay this tax of \$150 each month in addition to the other direct and indirect taxes imposed upon the production of whisky in this bill. Now, sir, take my word for it, the farmers all over the country who would like to make their surplus grain into whisky will want to know why this discrimination is made between them and all other manufacturers in the country. And they will especially want to know why it is that the small distiller is required to pay five dollars a day on every hundred bushels of mash he is capable of running out while his wealthier neighbor is only required to pay three dollars on each alternate hundred bushels. And, sir, they will demand an answer. If we are legislating for the interests of the wealthy capitalists this section is right, but if we have in view the interests of the laboring masses then we will adopt this amendment, or, what I would prefer, strike out the section altogether.

Mr. MYERS. I rise to oppose the amendment, and I do it chiefly because I desire to support the principle contained in the section as it is. I would have no objection to reduce the amount, but I am opposed to reducing it to one dollar. We received last year \$13,500,000 from the whisky tax, when at the rate of two dollars a gallon we should have received at least \$100,000,000. The causes which the public generally believed led to this were first the inefficient conduct or bad conduct of the officers appointed by the Administration, and secondly the high rate of the tax. I believe both of those causes tended to produce the result, and I voted with a majority of the committee to reduce the tax to fifty cents a gallon in order that we might test what effect a reduction would have. But one of the chief reasons why we do not raise the amount we should have done from the tax on whisky, as I take it, was the improper mode of collecting this tax. I believe if we were to assess and collect the tax according to the fermenting capacity of the distillery, that, as was said yesterday by my venerable colleague, [Mr. STEVENS,] we would be able to collect at least three fourths of the tax.

Mr. ALLISON. What does the gentleman mean by the fermenting capacity of the distillery?

Mr. MYERS. The capacity of the mash tubs in connection with the number of hours necessary for fermentation. If you would secure the proper collection of the tax, then test this new method first. I favor this section because it contains that principle to some extent. And I take it that if we take this step toward the principle of the fermenting capacity of the distillery we will receive a large amount of money from this tax. And if we find next year that the tax has not been fully and properly collected we can then adopt the entire principle of the fermenting capacity of the distillery and collect the tax in that way. That will simplify the law, obviate the expense of meters and stamps, and do away with a large majority of the officers employed under the present system.

Mr. BROOMALL. I move to amend the amendment of the gentleman from Kentucky [Mr. KNOTT] by striking out "one dollar," where it first occurs, and inserting "two dollars;" and also by striking out "one dollar" where it last occurs, and inserting "six dollars;" that is, in each case doubling the amount reported by the Committee of Ways and Means. I have very great reluctance to vote for any bill decreasing the tax upon whisky. Nothing but being assured by the Committee of Ways and Means that the present tax cannot be collected induced me to remain quiet while the tax of two dollars per gallon was reduced to fifty cents per gallon. And nothing but the promise of the Committee of Ways and Means that at least a considerable portion of that



decrease should be made up by special taxes rendered the action of the Committee of the Whole at all palatable, at least to myself.

Now, when we come to these special taxes which are said to be intended to make up a very considerable part of this loss, we find that this five dollars per day, as proposed by the Committee of Ways and Means, amounts to but one cent and a quarter per gallon—a mere paltry increase, almost nothing at all. Now, the increase which I propose by my amendment will make up but a very small portion of the loss which we will sustain by the reduction of the tax from two dollars to fifty cents per gallon.

I am told that the present tax of two dollars per gallon cannot be collected. Why, then, should we not put a material part of the difference between two dollars per gallon and fifty cents per gallon in a shape in which it is said the tax can be collected? I am very loth to consent to the proposition that any tax which the great body of the community believe to be just and proper, as the great body of the community do believe with respect to the tax imposed by law as it now stands upon whisky; I am very loth to believe that this Government cannot collect all of that tax, every dollar of it. I believe that by the proper selection of the proper kind of officers the present tax upon whisky can be collected, and under an Executive who would look to the fitness of men, rather than to the use that could be made of them in politics, I believe the proper kind of officers would be appointed. If we cannot collect a tax justified by all the thinking men of the community, all who are not interested in producing whisky—if we cannot do that, then I should be compelled to believe our Government a failure.

Mr. BECK. I desire to oppose the amendment to the amendment, and for this reason: that it bears unequally upon the distillers of the country. For instance, very many of the small distillers of the country would be very injuriously affected by this amendment. There have been comparatively no frauds in the collection of the tax from the small distilleries; the frauds have been in connection with exportation, redistillation, &c. The tax has been collected from the makers of genuine whisky, and especially the small distilleries everywhere. One of these small distilleries will make perhaps a barrel a day; that is a fair average of the small distilleries throughout Kentucky, Tennessee, &c. They do not make whisky to be exported or rectified or redistilled, but for home consumption. One barrel per day on the average is as much as they can make. Their product is altogether different from the high wines or crude spirits made in large steam distilleries, which never improve by time, and which are only fit for use after rectification, redistillation, or other process.

A man who mashes one hundred bushels a day can make, say three hundred gallons, and distilleries run on the average eight months in the year. The man who makes a barrel a day will make about two hundred barrels in eight months. That will be eight thousand gallons, while the man who makes eight barrels a day from one hundred bushels of grain will make sixteen hundred barrels in eight months, or sixty-four thousand gallons. And under this per diem tax which you propose the man who runs one hundred bushels a day, making eight barrels, pays about a cent and a half a gallon in this way, while the man who makes one barrel per day pays over twelve cents a gallon. This is class legislation for the benefit of the large distilleries in which most of the frauds are committed. There is no justice in such legislation. Let each man pay in proportion to what he makes, and then they will all be on an equality. But the section, as it now stands, will ruin the only men who have paid the tax honestly, as the returns show. None of their whisky has gone into the market without the tax being paid.

I hope the amendment of my colleague will prevail, the object of which is to bring the tax

down to that point where you will not crush out the smaller distillers. When the distillery mashes more than one hundred bushels per day the disproportion becomes still greater. But the truth is that while high wines are now sold all over the West for less than the tax, the distilleries, in my district at least, large and small, who have always paid the tax honestly, as the returns of the collector will show, are selling their product at fair remunerative prices. This per diem tax is oppressive on them all. The amendment of my colleague, [Mr. KNOTT,] fixing the tax at one dollar per hundred bushels, is as much as ought to be imposed in this form.

[Here the hammer fell.]

#### ENROLLED BILL SIGNED.

At this point the committee rose informally; and the Speaker having resumed the chair,

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 1059) to relieve from disabilities certain persons in States lately in rebellion; when the Speaker signed the same.

The Committee of the Whole on the state of the Union then resumed the consideration of the

#### INTERNAL TAX BILL.

Mr. KOONTZ. I withdraw my amendment.

Mr. SCHENCK. I renew the amendment. If there is to be any change made in this taxation of the capacity, the capacity to be dependent on the quantity of grain mashed and fermented in the distillery, I would rather see it raised than lowered. It is a very small tax that is proposed, five dollars upon a hundred bushels of grain mashed and fermented, every bushel of grain producing throughout the United States an average of twelve quarts or three gallons, is but an addition of a cent and two thirds to the tax per gallon. I know that in Kentucky, and where they make the best whisky, the distillers produce only from eight to ten, perhaps about nine quarts to the bushel; but then some of the large distilleries of the West run up to sixteen and sixteen and a half; sometimes, it is said, they have gone even higher than that. Throughout the United States twelve quarts to the bushel is but a fair and rather a small average.

Now, a cent and two thirds added to the fifty cents by this tax upon capacity will certainly not burden the distiller very much, while it furnishes to the Government a tax easy of collection, a sure tax, and so far a sure increase of the revenue. So far as, in the confusion here, I was able to understand the argument of the gentleman from Kentucky, [Mr. BECK,] who has just taken his seat, he complains that this tax operates as a discrimination in favor of the large establishments. Perhaps, to some small extent, it does. His remedy, if I understood him, would be to put the tax upon each bushel; but it must be readily seen that it would be a very unfortunate mode of taxation to impose the tax, bushel by bushel, and collect it without a general classification of the capacity of distilleries with reference to the quantity of bushels they use per day.

We have thought that five dollars a day upon every distillery mashing daily one hundred bushels of grain or less is by no means an onerous tax in any case; that even the smallest distiller, for the sake of running his establishment under the protection of law, honestly accounting for the tax on whatever he produces, might well afford to pay, in addition to other taxes now made so much lighter than they have been, five dollars a day. Where more than one hundred bushels of grain is mashed daily we propose to increase the per diem tax—not exactly in the same ratio, though, perhaps, the same ratio would be better—at the rate of five dollars per day for each additional one hundred bushels of grain; which, I think, ought to be amended so as to say “each additional one hundred bushels or fractional part of one hundred bushels.” This would obviate all dispute on that point.

I will not insist on the adoption of the amendment of the gentleman from Pennsylvania [Mr. BROOMALL,] proposing to increase this tax to ten dollars, because this is a part of the system presented by the committee; but I repeat, that if there is to be any change, I hope this capacity tax will be increased rather than reduced.

Mr. MULLINS. Mr. Chairman, I rise to oppose the amendment, and I desire to call the attention of the chairman of the Committee of Ways and Means to the operation of this proposition. In the district of country which I have the honor to represent the capacity of three fourths of the distilleries will not average, I think, over twenty gallons per day. According to the system of taxation proposed in this bill no distillery is to be permitted to run without paying five dollars per day direct tax to the Government. Now, on the small distilleries, whose production averages about twenty gallons per day this per diem tax would amount to about twenty-five cents per gallon; while as to establishments distilling daily one hundred bushels or three hundred gallons, this per diem tax will be but a trifle on each gallon. I trust that some arrangement will be devised to relieve these small distilleries; for they, in my section of the country, are the distilleries to which the Government must look for its revenue. In the district which I represent there is more distillation of spirits than in perhaps any other portion of the State of Tennessee. In my district is manufactured the liquor known as the “Lincoln liquor.” It is from Lincoln county. They have small and rather indifferent means of transportation for their grain to market. Therefore they are compelled to redistill their corn into spirits for transportation. If this tax of five dollars a day can be done away with on these small distilleries, then it will be a great convenience for them, and it will induce these small distilleries to keep up the manufacture and thus add revenue to the Government; otherwise it will drive them to the wall. The grain, too, will be lost to a great extent, and the Government will be deprived of the amount of revenue which otherwise it would receive. If these small distilleries can be relieved I shall be glad of it. I have stated what I have to bring to the mind of the chairman of the Committee of Ways and Means to bear on this subject. I look to him as the leader on this bill, and I am bound to stand by him as far as consistency will allow me.

The question was taken on Mr. BROOMALL'S amendment to the amendment; and it was rejected.

Mr. KOONTZ. I move to strike out the words “or less.”

The CHAIRMAN. That it is not in order.

Mr. MAYNARD. I wish to move an amendment, and ask the chairman to observe the terms of the amendment pending. As the bill now reads it provides:

That there shall be assessed and collected monthly, in the same manner as other taxes are assessed and collected, on every registered distillery having an aggregate capacity for mashing and fermenting one hundred bushels of grain or less in twenty-four hours, five dollars per day.

The gentleman from Kentucky moves to strike out five dollars a day and to insert one dollar a day. I propose to amend his amendment by striking out “one hundred” and inserting “twenty,” so the effect will be to keep the tax as it now is.

The CHAIRMAN. The Chair would hardly rule that to be in order to the pending amendment. The gentleman can indicate his amendment and move it hereafter.

Mr. MAYNARD. If this amendment is voted on, and the bill stands as it is, then we have one result. If it fails, then my amendment would have a different result. Both must stand together.

The CHAIRMAN. That would be a good argument for the committee. The Chair rules the amendment is not in order.

Mr. O'NEILL. For the purpose of saying a few words I move to strike out “five,” and

insert "two;" so it will read "two dollars a day."

Mr. Chairman, I conceive the section as reported by the Committee of Ways and Means will meet this case very well; and I think, having reduced the tax to fifty cents, which I favored, and with this section proposing to levy it to some extent by capacity, we will at last get to the right principle of collecting it, and thereby secure such a revenue from whisky as we have never had under the operations of the present law.

I believe I understand the reasons which have operated with the committee in favor of this section. We have the statistics of the collection of the tax on whisky while it was at sixty cents per gallon. With the tax at fifty cents, and with its collection by capacity, I think we will receive about the same amount of money as we did two or three years ago when the tax was at sixty cents. I hope the amount may be greater in the aggregate than it has been in former years, and although favoring the low tax, yet I am not entirely persuaded of the results to be accomplished. We are making an experiment based upon the suggestions of officials and individuals all over the country, but at last its success depends upon the fidelity of the officer and the determination of the citizen engaged in making whisky to contribute his share of the taxation imposed only that the Government may be able to meet punctually all obligations to creditors.

I am of opinion that we could do away with much of the machinery even of this bill, and of much expense, by enlarging the principle of capacity, as suggested so often by my colleague from the third district, [Mr. MYERS,] and as now for the first time incorporated in a tax bill by a Committee of Ways and Means. My idea of levying a tax upon capacity differs in this respect from my colleague and the committee. I would, by a fair and just calculation of the number of gallons that could be made during a year, assess the full amount of the tax that should be paid, to be collected at convenient periods, so that the distiller should not be unnecessarily distressed in the payment of the tax, and then let him make or not make the number of gallons which, according to the capacity, his establishment could produce. Thus the Government would have a certain tax, and the distiller, in effect, would have what might be considered a license, the manufacturer of a large number of gallons having no advantage over his neighbor of more limited means. I hope the amendment of the gentleman from Kentucky will not prevail, and the section will pass as reported by the Committee of Ways and Means. I now withdraw my amendments.

Mr. BOUTWELL. I rise to oppose the amendment, and for the purpose of saying that if it shall not prevail I propose to offer an amendment making the minimum twenty bushels instead of one hundred, and charging two dollars a day for a distillery of the capacity of twenty bushels or less, and adding two dollars per day for every twenty bushels increase of capacity. That would enable the small distilleries to work on the same footing as the large ones, and would increase the revenue very materially over what it would be under the proposition submitted by the committee.

Mr. GARFIELD. I had written an amendment proposing three cents per bushel per day for every additional bushel.

Mr. BOUTWELL. That would make it too difficult to ascertain the exact number of bushels. You can reckon by twenty bushels easily enough. This tax is to be levied beforehand.

Mr. SCHENCK. I think a proposition like that of the gentleman from Massachusetts, might very properly be accepted.

Mr. BECK. I withdraw my amendment, and move as a substitute to strike out of the pending section the following:

Having an aggregate capacity for mashing and fermenting one hundred bushels of grain or less in

twenty-four hours, five dollars per day; and three dollars per day for every hundred bushels of such capacity in excess of one hundred bushels in twenty-four hours.

And to insert instead the following:

One cent on the registered number of bushels which can be mashed and fermented therein in twenty-four hours, as shown by the registration required to be made by this act.

This will equalize it, because each man has to register the number of bushels.

Mr. BOUTWELL. I rise to oppose the amendment, and ask for a vote.

The amendment was disagreed to—ayes 31, noes 67.

Mr. BOUTWELL. I now move to amend the section by striking out "one hundred" wherever it occurs and inserting "twenty;" and by striking out "five" and "three" in line six, and inserting "two" in each instance; so that the section, as amended, will read as follows:

That there shall be assessed and collected monthly, in the same manner as other taxes are assessed and collected, on every registered distillery having an aggregate capacity for mashing any fermenting twenty bushels of grain or less in twenty-four hours, two dollars per day; and two dollars per day for every twenty bushels of such capacity in excess of twenty bushels in twenty-four hours.

Mr. ALLISON. I suggest to the gentleman an amendment to the amendment; so that it will read: "one hundred bushels of grain or less, or sixty gallons of molasses or less."

Mr. BOUTWELL. I decline to accept the amendment.

The amendment of Mr. BOUTWELL was agreed to.

Mr. INGERSOLL. I move to strike out in line ten the words "more than two dollars," and insert the words "any sum," so that it will read:

But any distiller who shall stop work, as provided by this act, shall not be compelled to pay on any distillery any sum per day during the time the work shall be so suspended in his distillery.

Under the provision of this bill a distiller is required to pay a special tax for one year. Now, suppose on the 1st of January the distiller makes his application for what we call a license, although gentlemen may take exception to the word and call it a special tax. He pays a license or special tax of say \$1,000 for the privilege of running his distillery one year. He runs the distillery for three months, and finds that every gallon he has produced he has been compelled to sell at a loss of five or ten cents, and that he is losing from one to two hundred dollars a day. He wants to stop running his distillery, but you propose to collect from him for the remaining nine months two dollars a day. Now, is there any equity, is there any justice in this proposition? Is there any propriety in it? Do you not know that every day a large distillery stands idle it wastes rapidly, that it deteriorates in value at the rate of twenty, thirty, or fifty dollars a day, and that it is a dead expense on the owner's hands to keep it in reasonable repair when it is idle? Now, you propose that he shall pay a tax to the Government of two dollars a day for the privilege of allowing the distillery to remain idle. I say it is not fair, and that my amendment ought to be adopted.

Mr. SCHENCK. I hope it will be voted down.

The question was taken on Mr. INGERSOLL's amendment; and there were—ayes 30, noes 52; no quorum voting.

The CHAIRMAN. Does the gentleman insist on a further count?

Mr. INGERSOLL. Not if the chairman of the Committee of Ways and Means will let us have a vote in the House.

Mr. SCHENCK. No, sir.

Mr. INGERSOLL. Well, I cannot see the propriety of this tax.

Mr. HOLMAN. I insist on a further count unless gentlemen will let us have a vote in the House.

The CHAIRMAN ordered tellers; and appointed Mr. HOLMAN and Mr. BROOMALL.

The CHAIRMAN. The Chair would advise the committee that by the admission of the

Arkansas members, a quorum has been raised to ninety-eight members.

The committee divided; and the tellers reported—ayes 42, noes 60.

So the amendment was rejected.

Mr. MUNGEN. For the purpose of perfecting the bill, I move to strike out section twelve, if it is in order.

The CHAIRMAN. That is not in order until all amendments looking to the perfection of the section shall have been disposed of.

Mr. MUNGEN. Then I move to strike out the last line. I am opposed to the capacity measurement. In order to ascertain the capacity for production of a distillery the following are some of the points to be examined:

1. The size of the fermenting cisterns. It is well known in practical and scientific distillation that fermentation is more rapid in large cisterns than in small ones. Professor Ure, in his work on chemistry, page 588, says:

"Fermentation proceeds with more uniformity and success in the large tuns of the distiller than in the experimental apparatus of the chemist, because the heat generated in the former case maintains the action."

Therefore, in estimating the capacities of small and large distilleries this fact must be taken into consideration.

2. The situation of the fermenting tuns must also enter into the calculation. Fermenting cisterns situated in a room so constructed that the distiller can keep it at an even temperature the whole year, or nearly so, the fermentation will be uniform, and the product will not vary to any considerable extent. This is a very important feature in the construction of a distillery, and in a properly constructed distillery is looked after with great care.

3. The quantity of steam necessary to run the distillery, and whether or not the boilers are capable of supplying the required amount. This is a most difficult matter, as any mechanic will testify, and in fact can only be truthfully ascertained by actual experiment. If the distiller is to divide his time between mashing and distilling he loses half of his time; and any law making provision for this will leave a wide margin for fraud, as it must leave it to human agency to decide the fact, which means favoritism and corruption.

4. The still, its capacity, construction, proportions, and form, must be carefully considered, and the effect of any variation in proportions, construction, capacity, and form, be thoroughly understood, in order to arrive at a just estimate of the amount of the spirits it is capable of producing. The large number of different kinds of stills, and of the same kind of stills, with different attachments which tend to hasten or retard the process, must all be noted. Take, for instance, our form of still, the "American still," with three chambers, and we have for instance, one doubler, or two doublers, or one doubler and copper pans, (called the German attachment,) or two doublers and copper pans, or a doubler with a half worm in it, each variation changing, to a greater or less extent, the quantity capable of being produced.

5. The proportions of the still must also be carefully considered; and the following question asked of the estimator of capacities would probably give him a deal of trouble to answer, while it would be of the greatest importance to the distiller: What is the best proportions to be observed in the construction of a still, height of staves, diameter, and relative proportions of each chamber? This is a question every still-maker in the country would like to have answered, as no two agree. There are many stills of fifteen hundred cubic feet contents that will not produce more than half as much as one of only one thousand cubic feet. If the steam is the same in both, the difference must arise in the construction; and while the difference exists, still manufacturers are frequently unable to account for it.

6. Another objection and a very serious one is the length of time the distiller claims for fermentation. Before the tax it averaged four

to five days, and there are many who allow their beer to ferment that length of time now, while others run seventy-two, fifty, forty-eight, and even twenty-four hour beer. How is this to be determined? On what basis are you to make your estimates? Whatever else about distillation can be regulated and controlled by legislation, this is one that cannot be fixed or any uniform rule established. Natural forces are at work which depend upon a thousand conditions not possible for man to control.

There are many other objections which I will not mention in detail, but all have their effect in regulating the capacity of a distillery.

1. A sufficient supply of water—a very serious difficulty at times.

2. The relative length of time required to perform similar acts in different distilleries of same capacity. For instance, one may be able to charge his still in ten minutes; another it would take forty-five minutes.

3. The mill capacity of the distiller must also be considered.

4. What provision will there be made for breakages, stoppages, &c. It matters not what it may be it opens the door for fraud and corruption.

Again, suppose a distillery has fermenting capacity of say one thousand bushels, which, of course, must be calculated on the three-day fermentation basis. He will, therefore, if working honestly, consume one thousand bushels of grain in three days and obtain a yield of over four thousand gallons. If, however, he uses the same capacity and mashes one thousand bushels each day and obtains three gallons per bushel (or even four gallons, as has been shown can be done by sulphurous acid) he would then be enabled to obtain from the same fermenting capacity three times more than the estimating inspector could fairly estimate the distillery at. If a limit as to time of fermentation was placed by law on distillers it would then require three times as many revenue officers as we now have under the complicated and impractical regulations of the revenue department.

Mr. SCHENCK. I agree with the argument of my colleague, but it relates to another matter, the capacity of stills. This relates to the capacity to ferment and must. I hope the amendment will not be adopted.

Mr. MUGEN. I withdraw the amendment.

Mr. SCHENCK. I offer the following verbal amendment to remove any ambiguity: In lines nine and ten, strike out the words "not be compelled to pay on any distillery more than," and insert in lieu thereof "pay only."

The amendment was agreed to.

Mr. SCHENCK. I ask the unanimous consent of the committee that all debate be closed on this section.

Mr. INGERSOLL. I wish to offer another amendment before that is done.

Mr. SCHENCK. Then I will ask unanimous consent that all debate be stopped on the sections of the bill down to and including section forty three on page 52. That will leave the sections open for amendment. We never shall get through with the bill in this way. That will leave open all questions about export warehouses.

Mr. INGERSOLL. I object.

Mr. SCHENCK. Then I move that the committee rise for that purpose.

The motion was agreed to.

The committee accordingly rose; and Mr. POMEROY having taken the chair as Speaker *pro tempore*, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had, pursuant to the order of the House, had under consideration the Union generally, and particularly the special order, being House bill No. 1284, to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, and had come to no resolution thereon.

Mr. SCHENCK. I move that all debate in Committee of the Whole on the state of the Union shall cease in one minute upon all the

sections of the tax bill down to and including section forty-three. That will leave what relates to the export warehouses open for further consideration.

Mr. HARDING. I desire to ask the gentleman from Ohio whether that limitation will apply to the provision which I endeavored to have inserted in the bill. By reference to the law I find that I am sustained and the distinguished chairman of the committee is mistaken. I refer him to the law.

Mr. SCHENCK. The action which I propose will simply cut off debate; it will not prevent the offering of any amendments.

Mr. HOLMAN. I rise to a point of order. I submit that by the rules of the House we cannot close debate except upon the pending section of the bill.

The SPEAKER *pro tempore*, (Mr. POMEROY.) The Chair holds that it is in order for the House to terminate debate upon one section or more, as it may choose.

The motion of Mr. SCHENCK was agreed to.

Mr. SCHENCK. I move that the rules be suspended, and that the House again resolve itself into Committee of the Whole on the state of the Union, and resume the consideration of the internal tax bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

The CHAIRMAN. By order of the House all debate upon the sections down to and including section forty-three will terminate in one minute.

Mr. INGERSOLL. I move to amend by striking out in the last sentence of section twelve the words "two dollars" and inserting in lieu thereof the words "one dollar;" so that the sentence will read:

But any distiller who shall stop work, as provided by this act, shall not be compelled to pay on any distillery more than one dollar per day during the time the work shall be so suspended in his distillery.

The amendment was not agreed to; there being—ayes 38, noes 66.

The next section was read, as follows:

SEC. 13. *And be it further enacted*, That any person who shall manufacture any still, boiler, or other vessel to be used for the purpose of distilling, shall, before the same is removed from the place of manufacture, notify in writing the assessor of the district in which such still, boiler, or other vessel is to be used or set up, by whom it is to be used, its capacity, and the time when the same is to be removed from the place of manufacture; and no such still, boiler, or other vessel shall be set up without the permit in writing of the said assessor for that purpose; and any person who shall set up any such still, boiler, or other vessel, without first obtaining a permit from the said assessor of the district in which such still, boiler, or other vessel is intended to be used, or who shall fail to give such notice, shall pay in either case the sum of \$500, and shall forfeit the distilling apparatus thus removed or set up in violation of law.

Mr. McCORMICK. I move to amend by striking out the section just read.

The amendment was not agreed to.

No further amendment was offered.

The next section was read as follows:

SEC. 14. *And be it further enacted*, That every distiller shall provide, at his own expense, a warehouse, to be situated on and to constitute a part of his distillery premises, to be used only for the storage of distilled spirits of his own manufacture, but no dwelling-house shall be used for such purpose, and no door, window, or other opening shall be made or permitted in the walls of such warehouse leading into the distillery or into any other room or building; and such warehouse, when approved by the Commissioner of Internal Revenue, on report of the collector, is hereby declared to be a bonded warehouse of the United States, to be known as a distillery warehouse, and shall be under the direction and control of the collector of the district, and in charge of an internal revenue storekeeper assigned thereto by the Commissioner of Internal Revenue; and the tax on the spirits stored in such warehouse shall be paid before removal from such warehouse, unless removed in pursuance of law.

Mr. LOGAN. I move to amend by striking out at the end of the section the word "law" and inserting the words "this act."

Mr. SCHENCK. I hope that amendment will be agreed to.

The amendment was agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 15. *And be it further enacted*, That the owner, agent, or superintendent of any distillery established as hereinbefore provided, shall erect, in a room or building to be provided and used for that purpose, and for no other, and to be constructed in the manner to be prescribed by the Commissioner of Internal Revenue, two or more receiving cisterns, each to be at least of sufficient capacity to hold all the spirits distilled during the day of twenty-four hours, into which shall be conveyed all the spirits produced in said distillery; and each of such cisterns shall be so constructed as to leave an open space of at least three feet between the top thereof and the floor or roof above, and of not less than eighteen inches between the bottom thereof and the floor below, and shall be so situated that the officer can pass around the same, and shall be connected with the outlet of the worm or condenser by suitable pipes or other apparatus so constructed as always to be exposed to the view of the officer, and so connected and constructed as to prevent the abstraction of spirits while passing from the outlet of the worm or condenser to the receiving cisterns; such cisterns and the room in which they are contained shall be in charge of and under the lock and seal of the internal revenue gauger designated for that duty; and on the third day after the spirits are conveyed into such cisterns the same shall be drawn off into casks or other packages, under the supervision of such gauger in the presence of the storekeeper, and shall be immediately inspected, gauged, proved, and the casks or packages marked, as herein provided by law, and be removed directly to the distillery warehouse; and on special application to the assessor or assistant assessor by the owner, agent, or superintendent of any distillery, the spirits may be drawn off from the said cisterns under the supervision of the gauger at any time previous to the third day. All locks and seals required by law shall be provided by the Commissioner of Internal Revenue, at the expense of the owner of the distillery or warehouse; and the keys shall be in charge of the collector or such gauger as he may designate.

No amendment was offered.

The next section was read, as follows:

SEC. 16. *And be it further enacted*, That the door of the furnace of every still or boiler used in any distillery shall be so constructed that it may be securely fastened and locked. The fermenting tubs shall be so placed as to be easily accessible to any revenue officer, and each tub shall have distinctly painted thereon in oil colors its cubic contents in gallons and the number of the tub. There shall be a clear space of not less than one foot around every wood-still, and not less than two feet around every doubler and worm-tank. The doubler, or doubler and worm-tanks, shall be elevated not less than one foot from the floor; and every fixed pipe to be used by the distiller, except for the conveyance of water, or of spent mash or beer only, shall be so fixed and placed as to be capable of being examined by the officer for the whole of its length or course, and shall be painted, and kept painted, as follows, that is to say: every pipe for the conveyance of mash or beer shall be painted of a red color; every pipe for the conveyance of low wines back into the still or doubler shall be painted blue; every pipe for the conveyance of spirits shall be painted black; and every pipe for the conveyance of water shall be painted white. If any fixed pipe shall be used by any distiller which shall not be painted or kept painted as herein directed, or which shall be painted otherwise than as herein directed, he shall forfeit the sum of \$1,000. No assessor shall approve the bond of any distiller until all the requirements of the law and all regulations made by the Commissioner of Internal Revenue in relation to distilleries, in pursuance thereof, shall have been complied with. Any assessor who shall violate the provisions of this section shall forfeit and pay \$2,000, and shall be dismissed from office.

No amendment was offered.

The next section was read, as follows:

SEC. 17. *And be it further enacted*, That every person engaged in distilling or rectifying spirits, and every wholesale liquor dealer and compounder of liquors, and every keeper of a warehouse for distilled spirits, shall place and keep conspicuously on the outside of his distillery, rectifying establishment, place of business, or warehouse, a sign, in plain and legible letters, not less than three inches in length, painted in oil colors or gilded, and of a proper and proportionate width, the name or firm of the distiller, rectifier, wholesale dealer, compounder, or warehouse keeper, with the words: "Registered distillery," "rectifier of spirits," "wholesale liquor dealer," "compounder of liquors," or "warehouse for distilled spirits," as the case may be; and no fence or wall of a height greater than five feet shall be erected or maintained around the premises of any distillery, nor shall the gate or door of such fence or wall be kept locked or otherwise fastened, so as to prevent easy and immediate access to said distillery; and every distiller shall furnish to the assessor of the district as many keys of the doors of the distillery as may be required by the assessor, from time to time, for any revenue officer or other person who may be authorized to make survey or inspections of the premises or of the contents thereof; and said distillery shall be kept always accessible to any officer or other person having any such key. Any person who shall violate any of the provisions of this section by negligence or refusal, or otherwise, shall



pay a penalty of \$500. Any person not having paid the special tax, as required by law, who shall put up the sign required by this section, or any sign indicating that he may lawfully carry on the business of a distiller, rectifier, wholesale liquor dealer, keeper of a warehouse for distilled spirits, or compounder of liquors, shall forfeit and pay \$1,000, and, on conviction, shall be imprisoned not less than one month nor more than six months; and any person who shall work in any distillery, rectifying establishment, warehouse, wholesale liquor store, or in the store of any compounder of liquors, on which no sign shall be placed and kept as hereinbefore provided, and any person who shall knowingly carry or convey any distilled spirits to or from any such distillery, rectifying establishment, warehouse, or store, or who shall knowingly carry and deliver any grain, molasses, or other raw material to any distillery on which such sign shall not be placed and kept, shall forfeit all horses, carts, drays, wagons, or other vehicle or animal used in the carrying or conveying of such property as aforesaid, and on conviction shall be fined not less than \$100 nor more than \$1,000, and imprisoned not less than one month nor more than six months.

Mr. BECK. I move to amend by striking out in the section just read the following:

And no fence or wall of a height greater than five feet shall be erected or maintained around the premises of any distillery, nor shall the gate or door of such fence or wall be kept locked or otherwise fastened, so as to prevent easy and immediate access to said distillery.

The amendment was not agreed to.

Mr. BARNES. I move to amend by striking out at the end of the pending section the following:

And any person who shall work in any distillery, rectifying establishment, warehouse, wholesale liquor store, or in the store of any compounder of liquors, on which no sign shall be placed and kept as hereinbefore provided, and any person who shall knowingly carry or convey any distilled spirits to or from any such distillery, rectifying establishment, warehouse, or store, or who shall knowingly carry and deliver any grain, molasses, or other raw material to any distillery on which such sign shall not be placed and kept, shall forfeit all horses, carts, drays, wagons, or other vehicle or animal used in the carrying or conveying of such property as aforesaid, and, on conviction, shall be fined not less than \$100 nor more than \$1,000, and imprisoned not less than one month nor more than six months.

The amendment was not agreed to.

No further amendment was offered.

The next section was read, as follows:

Sec. 13. *And be it further enacted*, That every person making or distilling spirits, or owning any still, boiler, or other vessel used for the purpose of distilling spirits, or having such still, boiler, or other vessel so used under his superintendence, either as agent or owner, or using any such still, boiler, or other vessel, shall, from day to day, make or cause to be made, true and exact entry in a book or books, to be kept by him, in such form as the Commissioner of Internal Revenue may prescribe, of the kind of materials, and the quantity in pounds, bushels, or gallons purchased by him for the production of spirits, from whom and when purchased, and by what conveyance delivered at said distillery, together with the amount paid therefor, the kind and quantity of fuel purchased for use in the distillery, and from whom purchased, the amount paid for ice or water for use in the distillery, the repairs placed on said distillery or distilling apparatus, the cost thereof, and by whom and when made; and in another book shall make like entry of the name and residence of each person employed in or about the distillery, and in what capacity employed, the quantity of grain or other material used for the production of spirits, the time of day when any yeast or other composition is put into any mash or beer for the purpose of exciting fermentation, the quantity of mash in each tub, designating the same by the number of the tub, the number of dry inches; that is to say, the number of inches between the top of each tub and the surface of the mash or beer therein at the time of yeasting, the gravity and temperature of the beer at the time of yeasting, and on every day thereafter its gravity and temperature at the hour of twelve meridian; also the time when any fermenting tub is emptied of ripe mash or beer, the number of gallons of spirits distilled, the number of gallons placed in warehouse, and the proof thereof, and the number of gallons sold or removed, with the proof thereof, and the name, place of business, and residence of the person to whom sold; and every fermenting tub shall be emptied at the end of the fermenting period, and shall remain empty for a period of twenty-four hours. On the 1st, 11th, and 21st days of each month, or within five days thereafter, respectively, every distiller shall render to the assistant assessor an account in duplicate, taken from his books, stating the quantity and kind of materials used for the production of spirits each day, and the number of wine gallons and of proof gallons of spirits produced and placed in warehouse. And the distiller or the principal manager of the distillery shall make and subscribe the following oath, to be attached to said return:

"I, ———, distiller, (or principal manager as the case may be,) of the distillery at ———, do solemnly swear that, since the date of the last return of the business of said distillery, dated ——— day of ——— to ——— day of ———, both inclusive, there was produced in said distillery, and withdrawn and placed in warehouse, the number of wine gallons and of proof gallons of spirits, and there were actually mashed and

used in said distillery, and consumed in the distilling of spirits therein, the several quantities of grain, sugar, molasses, and other materials, respectively, hereinbefore specified, and no more."

The said books shall always be kept at the distillery, and be always open to the inspection of any revenue officer, and, when filled up, shall be preserved by the distiller for a period not less than two years thereafter, and whenever required shall be produced for the inspection of any revenue officer. If any false entry shall be made in either of said books, or any entry required to be made therein shall be omitted therefrom, for every such false entry made, or omission, the distiller shall forfeit and pay a penalty of \$1,000. And if any such false entry shall be made, or any entry shall be omitted therefrom with intent to defraud or to conceal from the revenue officers any fact or particular required to be stated and entered in either of said books, or to mislead in reference thereto, or if any distiller or as aforesaid shall omit or refuse to provide either of said books, or shall cancel, obliterate, or destroy any part of either of such books, or any entry therein, with intent to defraud, or shall permit the same to be done, or such books, or either of them, be not produced when required by any revenue officer, the distillery, distilling apparatus, and the lot or tract of land on which it stands, and all personal property of every kind and description on said premises, or used in the business there carried on, shall be forfeited to the United States. And any person making such false entry or omitting to make any entry hereinbefore required to be made, with the intent aforesaid, or who shall cause or procure the same to be done, or who shall fraudulently cancel, obliterate, or destroy any part of said books, or any entry therein, or who shall willfully fail to produce such books or either of them, on conviction, shall be fined not less than \$500 nor more than \$5,000, and imprisoned not less than six months nor more than two years.

No amendment was offered.

The next section was read, as follows:

Sec. 19. *And be it further enacted*, That on the receipt of the distiller's first return in each month, the assessor shall proceed to inquire and determine whether said distiller has accounted in his returns for the preceding month for all the spirits produced by him; and to determine the quantity of spirits thus to be accounted for, the whole quantity of spirits produced from the materials used shall be ascertained: (and forty-five gallons of mash or beer brewed or fermented from grain shall represent not less than one bushel of grain, and seven gallons of mash or beer brewed or fermented from molasses shall represent not less than one gallon of molasses.) In case the return of the distiller shall have been less than the quantity thus ascertained the distiller shall be assessed for such deficiency at the rate of sixty cents for every proof gallon, and the collector shall proceed to collect the same as in cases of other assessments for deficiencies; but in no case shall the quantity of spirits returned by the distiller, together with the quantity so assessed, be for a less quantity of spirits than eighty per cent. of the producing capacity of the distillery.

Mr. INGERSOLL. I move to amend by striking out in the last sentence of the section just read the word "sixty" and inserting "fifty;" so as to read "at the rate of fifty cents for every proof gallon."

The amendment was agreed to.

Mr. BECK. I move to amend by striking out in line eight the words "forty-five" and inserting in lieu thereof "sixty;" so that the clause will read:

And sixty gallons of mash or beer brewed or fermented from grain shall represent not less than one bushel of grain.

The amendment was not agreed to.

No further amendment was offered.

The next section was read, as follows:

Sec. 20. *And be it further enacted*, That the storekeeper assigned to any distillery warehouse shall also have charge of the distillery connected therewith; and, in addition to the duties required of him as a storekeeper in charge of a warehouse, shall keep in a book to be provided for that purpose, and in the manner to be prescribed by the Commissioner of Internal Revenue, a daily account of all the meal and vegetable productions or other substances brought into said distillery, or on said premises, to be used for the purpose of producing spirits, from whom purchased, and when delivered at said distillery, the kind and quantity of all fuel used, and from whom purchased, and of all repairs made on said distillery, and by whom and when made, the names and places of residence of all persons employed in or about the business of the distillery, of the materials put into the mash tub or otherwise used for the production of spirits, the time when any fermenting-tub is emptied of ripe mash or beer, recording the same by the number painted on said tub, and of all spirits drawn off from the receiving cistern, and the time when the same were drawn off. Any distiller or person employed in any distillery who shall use, cause, or permit to be used any material for the purpose of making mash, wort, or beer, or for the production of spirits, or shall remove any spirits in the absence of the storekeeper or person designated to act as said storekeeper, shall forfeit and pay double the amount of taxes on the spirits so produced, distilled, or removed, and, in addition thereto, be liable to a penalty of \$1,000.

No amendment was offered.

The next section was read, as follows:

Sec. 21. *And be it further enacted*, That every distiller, at the hour of twelve meridian, on the third day after that on which his bond shall have been approved by the assessor, shall be deemed to have commenced and thereafter to be continuously engaged in the production of distilled spirits in his distillery, except in the intervals when he shall have suspended work, as hereinafter authorized or provided. Any distiller desiring to suspend work in his distillery may give notice in writing to the assistant assessor of his division, stating when he will stop work; and on the day mentioned in said notice said assistant assessor shall, at the expense of the distiller, proceed to fasten securely the door of every furnace, of every still or boiler in said distillery, by locks and otherwise, and shall adopt such other means as the Commissioner of Internal Revenue shall prescribe to prevent the lighting of any fire in such furnace or under such stills or boilers. The locks and seals, and other materials required for such purpose, shall be furnished to the assessor of the district by the Commissioner of Internal Revenue, to be duly accounted for by said assessor. Such notice by any distiller, and the action taken by the assistant assessor in pursuance thereof, shall be immediately reported to the assessor of the district, and by him transmitted to the Commissioner of Internal Revenue. No distiller, after having given such notice, shall, after the time stated therein, carry on the business of a distiller on said premises until he shall have given another notice in writing to said assessor, stating the time when he will resume work; and at the time so stated for resuming work the assistant assessor shall attend at the distillery to remove said locks and other fastenings; and thereupon, and not before, work may be resumed in said distillery, which fact shall be immediately reported to the assessor of the district, and by him transmitted to the Commissioner of Internal Revenue. Any distiller, after the time fixed in said notice declaring his intention to stop work, who shall carry on the business of a distiller on said premises, or shall have mash, wort, or beer in his distillery, or on any premises connected therewith, or who shall have in his possession or under his control any mash, wort, or beer, with intent to distill the same on said premises, shall incur the forfeitures, and be subject to the same punishment as provided for persons who carry on the business of a distiller without having paid the special tax.

No amendment was offered.

The next section was read, as follows:

Sec. 22. *And be it further enacted*, That all distilled spirits shall be drawn from the receiving cistern into casks or packages, each of not less capacity than twenty gallons, wine measure, and shall be immediately removed into the distillery warehouse, and shall thereupon be gauged and proved by said gauger, who shall mark, by cutting on the cask or package containing such spirits, in a manner to be prescribed by the Commissioner of Internal Revenue, the quantity in wine gallons, and in proof gallons, of the contents of such cask or package, and shall, in presence of the storekeeper of the warehouse, place upon the head of the cask or package an engraved stamp, which shall be signed by the collector of the district and the storekeeper and gauger, and shall have written thereon the number of proof gallons contained therein, the name of the distiller, the date of the receipt in the warehouse, and the serial number of each cask or package, in progressive order, as the same shall be received from the distillery. Such serial number for every distillery shall begin with number one (No. 1) with the first cask or package deposited therein after this act takes effect, and no two or more casks or packages warehoused at the same distillery shall be marked with the same number. The said stamp shall be as follows:

[Distillery warehouse stamp, No. —.]  
Issued by ———, collector, ——— district, State of ———.  
Distillery warehouse of ———, 18—, Cask No. —,  
contents ——— gallons, proof-spirit.

United States Storekeeper.

Attest:

United States Gauger.

And the distiller or owner of all spirits so removed to the distillery warehouse shall enter the same for deposit in such warehouse, under such rules and regulations, not inconsistent herewith, as the Commissioner of Internal Revenue may prescribe; and said entry shall be in triplicate and shall contain the name of the person making the entry, the designation of the warehouse in which the deposit is made, and the date thereof, and shall be in form as follows: [Entry for deposit in distillery warehouse.]

Entry of distilled spirits deposited by ———, in distillery warehouse ———, in the ——— district, State of ———, on the ——— day of ———, A. D. ———.

And the entry shall specify the kind of spirits, the whole number of casks or packages, the marks and serial numbers thereon, the number of gauge or wine gallons and of proof gallons, and the amount of the tax on the spirits contained in them; all of which shall be verified by the oath or affirmation of the distiller or gauger of the same attached to the entry; and the said distiller or owner shall give his bond in duplicate, with one or more sureties satisfactory to the collector of the district, conditioned that the principal named in said bond will pay the tax on the spirits, as specified in the entry, or cause the same to be paid, before removal from said distillery warehouse, and within one year from the date of said bond, unless the same shall be removed by him from said warehouse according to law; and the penal sum of such bond shall not be less than double the amount of the tax on such distilled spirits. One of said entries shall be retained in the office of the collector of the

district, one sent to the storekeeper in charge of the warehouse, to be retained and filed in the warehouse, and one sent with the duplicate of the bond to the Commissioner of Internal Revenue, to be filed in his office.

Mr. SCHENCK. I move to amend by inserting in line thirty-four, after the word "shall," the words "on the 1st, 11th, and 21st days of each month, or within five days thereafter;" so as to make the paragraph read:

And the distiller or owner of all spirits so removed to the distillery warehouse shall, on the 1st, 11th, and 21st days of each month, or within five days thereafter, enter the same for deposit, &c.

The amendment was agreed to.

Mr. COVODE. I move to amend by striking out after the word "warehouse," in line fifty-six, the words "and within one year from the date of said bond."

The amendment was not agreed to.

Mr. MAYNARD. I move to amend by striking out the word "law," in line fifty-eight, and inserting in lieu thereof "the provisions of this act."

The amendment was agreed to.

Mr. MAYNARD. I offer the following amendment providing for the payment of the tax at the distillery without putting the liquor in the warehouse:

After the word "and," in line four, insert "unless the tax thereon be then and there paid and the casks stamped;" so that the section will read:

That all distilled spirits shall be drawn from the receiving cisterns into casks or packages, each of not less capacity than twenty gallons, wine measure, and unless the tax thereon be then and there paid and the casks stamped, shall be immediately removed into the distillery warehouse, &c.

The amendment was not agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 23. *And be it further enacted*, That whenever an order is received from the collector for the removal from any warehouse of any cask or package of distilled spirits, on which the tax has been paid, it shall be the duty of the gauger by whom the same is gauged and inspected, in presence of the storekeeper, before such cask or package has left the warehouse, to place upon the head thereof, in such manner as to cover no portion of any brand or mark prescribed by law already placed thereon, a stamp, on which shall be engraved the number of proof gallons contained in said cask or package, on which the tax has been paid, and which shall be signed by the collector of the district, storekeeper, and gauger, and which shall state the serial number of the cask or package, the name of the person by whom the tax was paid, and the person to whom and the place where it is to be delivered; which stamp shall be as follows:

[Tax-paid stamp, No. —.]  
Received —, 18 —, from —, tax on — gallons  
proof-spirit, case No. —, warehouse at —, for  
delivery to — at —.

Attest: Collector — District, State of —.

United States Storekeeper.

United States Gauger.

Whenever any cask or package of rectified spirits shall be filled for shipment, sale, or delivery on the premises of any rectifier who shall have paid the special tax required by law, it shall be the duty of a United States gauger to gauge and inspect the same and place thereon an engraved stamp, which shall be signed by the collector of the district and the said gauger, and state the date when affixed, which stamp shall be as follows:

[Stamp for rectified spirits, No. —.]  
Issued by —, collector — district, State  
of —, rectifier of spirits in the — district, State  
of —, 18 —.

United States Gauger.

Whenever any cask or package of distilled spirits shall be filled for shipment, sale, or delivery on the premises of any wholesale liquor dealer or compounder, it shall be the duty of the United States gauger to gauge and inspect the same, and place thereon an engraved stamp, signed by the collector of the district and the said gauger, stating the name of the compounder or dealer and the date when affixed, which stamp shall be as follows:

[Wholesale liquor-dealer's stamp, No. —.]  
Issued by —, collector — district, State  
of —, wholesale liquor dealer, of —, — dis-  
trict, State of —, 18 —.

United States Gauger,  
— District, State of —.

All blanks in any of the above forms shall be duly filled in accordance with the facts in each case. And the stamps above designated shall be affixed so as to fasten the same securely to the cask or package and duly canceled, and shall then be immediately covered with a coating of transparent varnish or other

substance, so as to protect them from removal or damage by exposure; and such affixing, cancellation, and covering shall be done in such manner as the Commissioner of Internal Revenue shall by regulation prescribe; but such stamps shall in every case be affixed to a smooth surface of the cask or other package, which surface shall not have been previously painted or covered with any substance.

Mr. SCHENCK. I move to amend by inserting before the word "warehouse," in line three, the word "distillery."

The amendment was agreed to.

Mr. MULLINS. I move to amend by striking out the word "law," in line nine, and inserting in lieu thereof "this act."

The amendment was not agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 24. *And be it further enacted*, That all stamps required for distilled spirits shall be engraved in their several kinds in book form, and shall be issued by the Commissioner of Internal Revenue to any collector, upon his requisition, in such numbers as may be necessary in the several districts. Each stamp shall have an engraved stub attached thereto with a number thereon corresponding with an engraved number on the stamp, and the stub shall not be removed from the book. And there shall be entered on the corresponding stub such memoranda of the contents of every stamp as shall be necessary to preserve a perfect record of the use of such stamp when detached.

No amendment was offered.

The next section was read, as follows:

SEC. 25. *And be it further enacted*, That every stamp for the payment of tax on distilled spirits shall have engraved thereon words and figures representing a decimal number of gallons, and a similar number of gallons shall be engraved on the stub corresponding to such stamp, and between the stamp and the stub and connecting them shall be engraved nine coupons, which, beginning next to the stamp, shall indicate in succession the several numbers of gallons between the number named in the stamp and the decimal number next above. And whenever any collector shall receive the tax on the distilled spirits contained in any cask or package, he shall detach from the book a stamp representing the denominate quantity nearest to the quantity of proof-spirits in such cask or package, as shown by the gauger's return, with such number of the coupons attached thereto as shall be necessary to make up the whole number of proof gallons in said cask or package, and any quantity in addition to the number of full gallons less than one gallon shall be regarded as a full gallon; and all unused coupons shall remain attached to the marginal stub; and no coupon shall have any value or significance whatever when detached from the stamp and stub. And the tax-paid stamps with the coupons may denote such number of gallons, not less than twenty, as the Commissioner of Internal Revenue may deem advisable.

No amendment was offered.

The next section was read, as follows:

SEC. 26. *And be it further enacted*, That the books of tax-paid stamps issued to any collector shall be charged to his account at the full value of the tax on the number of gallons represented on the stamps contained in said books; and every collector shall make a monthly return to the Commissioner of Internal Revenue of all tax-paid stamps issued by him to be affixed to any cask or package containing distilled spirits, on which the tax has been paid, and account for the amount of the tax collected; and when the said collector shall return to the Commissioner of Internal Revenue any book of marginal stubs, which it shall be his duty to do as soon as all the stamps contained in the book, when issued to him from the office of internal revenue, have been used, and shall have accounted for, the tax on the number of gallons represented on the stamps and coupons that were contained in said book, he shall be allowed a commission of half of one per cent. on the amount, in addition to any other commission by law allowed, on all money accounted for by him for tax collected on distilled spirits, which shall be equally divided between the collector receiving the tax and the collector of the district in which the distilled spirits were produced. All stamps relating to distilled spirits other than the tax-paid stamps shall be charged to collectors as representing the value of twenty-five cents for each stamp; and the books containing such stamps may be intrusted by any collector to the gauger of the district, who shall make a daily report to the assessor and collector of all such stamps used by him and for whom used, and from these reports the assessor of the district shall on his monthly list assess the person for whom they were used, and the collector shall thereupon collect the amount due for such stamps at the rate of twenty-five cents for each stamp issued during the month; and when all the stamps contained in any such book shall have been issued the gauger of the district shall return the book to the collector with all the marginal stubs therein.

Mr. SCHENCK. I move to amend by inserting after the word "stamps," in line four, the words "and coupons."

The amendment was agreed to.

Mr. ALLISON. I move to amend by striking out at the end of the first sentence the words "which shall be equally divided between

the collector receiving the tax and the collector of the district in which the distilled spirits were produced."

The amendment was not agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 27. *And be it further enacted*, That any revenue officer who shall affix or cancel, or cause or permit to be affixed or canceled, any stamp relating to distilled spirits required or provided for in this act, in any other manner or in any other place, or who shall issue the same to any other person than as provided by law, or regulation made in pursuance thereof, or who shall knowingly affix or permit to be affixed any such stamp to any cask or package of spirits of which the whole or any part has been distilled, rectified, compounded, removed, or sold, in violation of law, or which has in any manner escaped payment of tax due thereon, shall, for every such offense, be fined not less than \$500 nor more than \$2,000, and be imprisoned for not less than six months nor more than three years.

No amendment was offered.

The next section was read, as follows:

SEC. 28. *And be it further enacted*, That if any distiller shall desire to reduce the producing capacity of his distillery, he shall give notice of such intention in writing to said assessor, stating the quantity of spirits which he desires thereafter to manufacture or produce every twenty-four hours, and thereupon said assessor shall proceed, at the expense of the distiller, to reduce and limit the producing capacity of the distillery to the quantity stated in said notice, by placing upon a sufficient number of the fermenting-tubs close-fitting covers, which shall be securely fastened by nails, seals, and otherwise, and in such manner as to prevent the use of such tubs without removing said covers or breaking said seals, and shall adopt such other precautions as shall be prescribed by the Commissioner of Internal Revenue to reduce the capacity of said distillery. And any person who shall break, injure, or in any manner tamper with any lock, seal, or other fastening applied to any furnace, still, or fermenting-tub, or other vessel, in pursuance of the provisions of this act, or who shall open or attempt to open any door, tub, or other vessel which shall have been locked or sealed, or otherwise closed or fastened as herein provided, or who shall use any furnace, still, or fermenting-tub, or other vessel which shall be locked, sealed, or fastened, shall be deemed guilty of a felony, and, on conviction, shall be fined not less than \$1,000, nor more than \$5,000, and imprisoned for not less than one year, nor more than three years.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 29. *And be it further enacted*, That whenever any officer shall require that the water contained in any worm-tub in a distillery, at any time when the still shall not be at work, shall be drawn off, and the tub and worm cleaned, the water shall forthwith be drawn off and the tub and worm cleaned by the distiller or his workmen accordingly; and the water shall be kept and continued out of such worm-tub for the space of two hours, or until the officer has finished his examination thereof; and for any refusal or neglect to comply with the requisition of the officer in this behalf, or the provision in this clause contained, the distiller shall forfeit the sum of \$1,000, and it shall be lawful for the officer to draw off such water, or any portion of it, and to keep the same drawn off for so long a time as he shall think necessary.

Mr. INGERSOLL. I move to strike out that section; and I desire to ask unanimous consent to say a word in explanation.

The CHAIRMAN. Debate is not in order. Mr. INGERSOLL. Is it not in order to ask unanimous consent?

The CHAIRMAN. Unanimous consent cannot do away with the order of the House that debate shall terminate on these sections.

Mr. INGERSOLL. The committee, by unanimous consent, may do so in effect. I only ask to make a brief explanation.

Mr. MULLINS. I object.

Mr. INGERSOLL. I should like the chairman of the Committee of Ways and Means to give one good reason why this should be retained.

The committee divided; and there were—ayes 15, noes 76; no quorum voting.

Tellers were ordered; and Mr. ALLISON and Mr. INGERSOLL were appointed.

Mr. INGERSOLL. Will gentlemen allow me to have a vote in the House?

Mr. SCHENCK. I cannot agree to that.

The committee again divided; and the tellers reported—ayes 20, noes 90.

So the amendment was rejected.

No further amendment being offered, the Clerk read the next section, as follows:

SEC. 30. *And be it further enacted*, That it shall be lawful for any revenue officer, at all times, as well by night as by day, to enter into any distillery, or building, or place, used for the business of distilling, or

in connection therewith, for storage or other purposes, and to examine, gauge, measure, and take an account of every still or other vessel or utensil of any kind, and of all low wines, and of the quantity and gravity of all mash, wort, or beer, and of all yeast, or other compositions for exciting or producing fermentation in any mash or beer, and of all spirits and of all materials for making or distilling spirits, which shall be in any such distillery or premises, or in the possession of the distiller; and if any revenue officer, or any person called by him to his aid, shall be hindered, obstructed, or prevented, by any distiller or by any workman or other person acting for such distiller or in his employ, from entering into any such distillery, or building, or place, as aforesaid; or if any such officer shall be by the distiller, or his workman, or any person in his employ, prevented or hindered from, or opposed, or obstructed, or molested in the performance of his duty under this act, in any respect, the distiller shall forfeit the sum of \$1,000. If any officer, having demanded admittance into a distillery or premises of a distiller, and having declared his name and office, shall not be admitted into such distillery or premises by the distiller or other person having charge of the same, it shall be lawful for such officer, at all times, as well by night as by day, to break open by force any of the doors or windows, or to break through any of the walls of such distillery or premises necessary to be broken open or through, to enable him to enter the said distillery or premises; and the distiller shall forfeit the sum of \$1,000.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 31. *And be it further enacted*, That on the demand of any revenue officer, every distiller, rectifier, or compounder of spirits shall furnish strong, safe, and convenient ladders of sufficient length to enable the officer to examine and gauge any vessel or utensil in such distillery or premises; and shall, at all times when required, supply all assistance, lights, ladders, tools, staging, or other things necessary for inspecting the premises, stock, tools, and apparatus belonging to such person, and shall open all doors, and open for examination all boxes, packages, and all casks, barrels, and other vessels not under the control of a revenue officer in charge, under a penalty of \$500 for every refusal or neglect so to do.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 32. *And be it further enacted*, That it shall be lawful for any revenue officer, and any person acting in his aid, to break up the ground on any part of the distillery or premises of a distiller, rectifier, or compounder of liquors, or any ground adjoining or near to such distillery or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and upon finding any such pipe or conveyance leading therefrom or thereto, he may break up any ground, house, wall, or other place through or into which such pipe or other conveyance shall lead, and break or cut away such pipe or other conveyance, and turn any cock, or examine whether such pipe or other conveyance may convey or conceal any mash, wort, or beer, or other liquor which may be used for distillation of low wines or spirits from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 33. *And be it further enacted*, That no malt, corn, grain, or other material shall be mashed, nor any wash, wort, or beer brewed or made, nor any still used by a distiller at any time between the hour of eleven in the afternoon of any Saturday and the hour of one in the forenoon of the next succeeding Monday; and any person who shall violate the provisions of this section shall be liable to a penalty of \$1,000.

Mr. INGERSOLL. Mr. Chairman, I move to strike out section thirty-three. This section requires that every distillery shall stop two days out of every seven. It is an absolute prohibition on the large distilleries. Not one can run under it. What is known as a two-thousand-bushel house will feed four thousand head of hogs and five hundred head of cattle. Can they afford to "fast" two sevenths of the time? An establishment of this kind cannot stop a single day without the loss of about one thousand dollars. This is the madness of legislation.

The committee divided; and there were—ayes 20, noes 90.

So the amendment was rejected.

Mr. INGERSOLL. I move to add—

*Provided*, During the same period no mash shall be allowed to ferment.

[Laughter.]

The amendment was rejected.

No further amendment being offered, the Clerk read the next section, as follows:

SEC. 34. *And be it further enacted*, That all distilled spirits found elsewhere than in a distillery or distillery warehouse, not having been removed therefrom according to law, shall be forfeited to the United States. And in case of the seizure of any dis-

tilled spirits found elsewhere than in a distillery, distillery warehouse, or other warehouse for distilled spirits authorized by law, or in the store or place of business of a rectifier, or of a wholesale liquor dealer, or of a compounder of liquors, or in transit from any one of said places; and in case of the seizure of any distilled spirits found in any one of the places aforesaid, or in transit therefrom, which shall not have been received into or sent out therefrom in conformity to law, or in regard to which any of the entries required by law to be made in the books of the owner of such spirits or of the storekeeper, wholesale dealer, rectifier, or compounder, have not been made at the time or in the manner required, or in respect to which the owner or person having possession, control, or charge of said spirits shall have omitted to do any act required to be done, or shall have done or committed any act prohibited in regard to said spirits, the burden of proof shall be upon the claimant of said spirits to show that no fraud has been committed, and that all the requirements of the law in relation to the payment of the tax have been complied with. And every person who shall remove or shall aid or abet in the removal of any distilled spirits from a distillery to a place other than the distillery warehouse as provided by law, or who shall conceal or aid in the concealment of any spirits so removed, or who shall remove or shall aid or abet in the removal of any distilled spirits from any distillery warehouse, or other warehouse for distilled spirits authorized by law, in any manner other than as is provided by law, or who shall conceal, or aid in the concealment of any spirits so removed, shall be liable to a penalty of double the tax imposed on such distilled spirits so removed or concealed, and shall, on conviction, be fined not less than \$200 nor more than \$5,000 and imprisoned not less than three months nor more than three years.

Mr. LOGAN. I move to strike out the word "law" and insert "provisions of this act."

Mr. HOOPER, of Massachusetts. I hope that will not be adopted.

The amendment was rejected.

No further amendment being offered, the Clerk read the next section, as follows:

SEC. 35. *And be it further enacted*, That no person shall remove any distilled spirits at any other time than after sun-rising and before sun-setting, in any cask or package containing more than ten gallons from any premises or building in which the same may have been distilled, redistilled, rectified, compounded, manufactured, or stored, and every person who shall violate this provision shall be liable to a penalty of \$100 for each cask, barrel, or package of spirits so removed; and said spirits, together with any vessel containing the same, and any horse, cart, boat, or other conveyance used in the removal thereof, shall be forfeited to the United States.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 36. *And be it further enacted*, That any person who shall add or cause to be added any ingredient or substance to any distilled spirits, before the tax imposed by law shall have been paid thereon, for the purpose of creating a fictitious proof, shall, on conviction, be fined not less than \$100 nor more than \$1,000 for each cask or package so adulterated, and imprisoned not less than three months nor more than two years, and every such cask or package, with its contents, shall be forfeited to the United States.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 37. *And be it further enacted*, That any person who shall evade or attempt to evade the payment of the tax on any distilled spirits, in any manner whatever, shall forfeit and pay double the amount of the tax so evaded or attempted to be evaded; and any person who shall change or alter any stamp, mark, or brand on any cask or package containing distilled spirits, or who shall put into any cask or package spirits of greater strength than is indicated by the inspection mark thereon, or who shall fraudulently use any cask or package having any inspection mark or stamp thereon for the purpose of selling other spirits or spirits of quantity or quality different from the spirits previously inspected therein, shall forfeit and pay the sum of \$200 for every cask or package on which the stamp or mark is so changed or altered, or which is so fraudulently used, and, on conviction, shall be fined for each such offense not less than \$100 nor more than \$1,000, and imprisoned not less than one month nor more than one year.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 38. *And be it further enacted*, That any person who shall knowingly use any false weights or measures in ascertaining, weighing, or measuring the quantities of grain, meal, or vegetable materials, molasses, beer, or other substances to be used for distillation, or who shall destroy, break, injure, or tamper with any lock or seal which may be placed on any cistern-room or building, by the duly authorized officers of the revenue, or shall open said lock or seal, or the door to such cistern-room or building, or shall in any manner gain access to the contents therein in the absence of the proper officer, shall, on conviction, be fined not less than \$500 nor more than \$5,000 and imprisoned not less than one year nor more than three years; and any person who shall use any molasses, beer, or other substance, whether fermented on the premises or elsewhere, for the purpose of producing spirits, before an account for the same shall have been registered in the proper record book provided for that purpose, shall forfeit and pay the sum of \$1,000 for each and every offense so committed.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 39. *And be it further enacted*, That it shall be lawful for any internal revenue officer to seize and detain any cask or package containing, or supposed to contain, distilled spirits, when such officer has reason to believe the tax imposed by law upon the same has not been paid, or that the same is being removed in violation of law; and every such cask or package may be held by such officer at a safe place until it shall be determined whether the property so seized is liable by law to be proceeded against for forfeiture; but such summary detention shall not continue in any case longer than forty-eight hours, without process of law or intervention of the officer to whom such seizure is to be reported.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 40. *And be it further enacted*, That no distillery seized for any violation of law shall be released to the claimant or any intervening party before judgment, except in case of a distillery for which the special tax has been paid, and which has a registered producing capacity of one hundred and fifty proof gallons or more per day, on showing by sufficient affidavits that there are hogs or other live stock, not less than fifty head in number, depending for their feed on the products of said distillery which would suffer injury if the business of such distillery is stopped; such distillery in that case may be released to the claimant, or any other intervening party, at the discretion of the court, on a bond to be given and approved in open court with two or more sureties for the full appraised value of all the property seized, which value shall be ascertained by three competent appraisers to be designated and appointed by the court. In case of the seizure of and judgment of forfeiture against any distillery used or fit for use in the production of distilled spirits having a registered producing capacity of less than one hundred and fifty gallons per day, or of any distillery for the non-payment of the special tax, the still, stills, doubler, worm, worm-tub, and all mash-tubs and fermenting tubs shall be so destroyed as to prevent the use of the same or any part thereof for the purpose of distilling; and the materials shall be sold as in case of other forfeited property.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 41. *And be it further enacted*, That it shall be the duty of every person who empties or draws off, or causes to be emptied or drawn off, any distilled spirits from a cask or package bearing any mark, brand, or stamp required by law, at the time of emptying such cask or package, to efface and obliterate said mark, stamp, or brand. Any such cask or package from which said mark, brand, and stamp, is not so effaced and obliterated, as herein required, shall be forfeited to the United States, and may be seized by any officer of internal revenue wherever found. Any railroad company or other transportation company, or person, who shall receive or transport, or have in possession with intent to transport, or with intent to cause or procure to be transported, any such empty cask or package, or any part thereof, having thereon any brand, mark, or stamp, required by law to be placed on any cask or package containing distilled spirits, shall forfeit \$300 for each such cask or package, or any part thereof, so received or transported, or had in possession with the intent aforesaid; and any boat, railroad car, cart, dray, wagon, or other vehicle, and all horses or other animals used in carrying or transporting the same, shall be forfeited to the United States. Any person who shall fail or neglect to efface and obliterate said mark, stamp, or brand, at the time of emptying such cask or package, or who shall receive any such cask or package, or any part thereof, with the intent aforesaid, or who shall transport the same, or knowingly aid or assist therein, or who shall remove any stamp provided by this act from any cask or package containing or which had contained distilled spirits, without defacing and destroying the same at the time of such removal, or who shall aid or assist therein, or who shall have in his possession any such stamp so removed, as aforesaid, or have in his possession any canceled stamp or any stamp which has been used, or which purports to have been used, upon any cask or package of distilled spirits, shall be deemed guilty of a felony, and, on conviction, shall be fined not less than \$500 nor more than \$10,000, and imprisoned not less than one year nor more than five years.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 42. *And be it further enacted*, That any person who shall carry on the business of a distiller, rectifier, compounder of liquors, wholesale liquor dealer, retail liquor dealer or manufacturer of stills, without having paid the special tax, as required by law, or who shall carry on the business of a distiller or rectifier without having given bond as required by law, or who shall engage in or carry on the business of a distiller, with intent to defraud the United States of the tax on the spirits distilled by him, or any part thereof, shall, for every such offense, be fined not less than \$1,000 nor more than \$5,000, and imprisoned not less than six months nor more than two years. And all distilled spirits or wines, and all stills or other apparatus fitted or intended to be used for the distillation or rectification of spirits, or for the compounding of liquors, owned by such person, wherever found, and all distilled spirits or wines and personal property found in the distillery or rectifying establishment or in the store or other place of business of the compounder, or in any building, room, yard, or inclosure connected therewith, and used with or constituting a part of the premises; and



all the right, title, and interest of such person in the lot or tract of land on which such distillery is situated, and all right, title, and interest therein of every person who knowingly has suffered or permitted the business of a distiller to be there carried on, or has connived at the same; and all personal property owned by or in possession of any person who has permitted or suffered any building, yard, or inclosure, or any part thereof to be used for purposes of ingress or egress to or from such distillery, which shall be found in any such building, yard, or inclosure, and all the right, title, and interest of every person in any premises used for ingress or egress to or from such distillery, who has knowingly suffered or permitted such premises to be used for such ingress or egress, shall be forfeited to the United States.

No amendment being offered, the Clerk read as follows:

SEC. 43. *And be it further enacted*, That every rectifier, wholesale liquor dealer, and compounder of liquors, shall provide himself with a book, to be prepared and kept in such form as shall be prescribed by the Commissioner of Internal Revenue, and shall, on the same day on which he receives any spirits, and before he shall draw off any part thereof, or add water or anything thereto, or in any respect alter the same, enter in such book, and in the proper columns respectively prepared for the purpose, the date when, the name of the person or firm from whom, and the place whence the spirits were received, when and by whom distilled, rectified or compounded, and where and by whom inspected, and, if in the original package, the serial number of each package, the number of wine gallons and proof gallons, the kind of spirit, and the number and kind of adhesive stamps thereon; and every such rectifier, compounder, and wholesale dealer, shall, at the time of sending out of his stock or possession any spirits, and before the same shall be removed from his premises, enter in like manner, in the said book, the day when, and the name and place of business of the person or firm to whom such spirits are to be sent, the quantity and the kind or quality of such spirits, and the strength thereof; and also the number of gallons and fractions of a gallon at proof; and, if in the original packages in which they were received, he shall enter the name of the distiller, and the serial number of the package. And every such book shall be at all times kept in some public or open place on the premises of such rectifier, wholesale dealer, or compounder of liquors, respectively, for inspection; and any revenue officer may make an examination of such book and take an abstract therefrom; and every such book, when it has been filled up as aforesaid, shall be preserved by such rectifier, wholesale liquor dealer, or compounder of liquors, for a period not less than two years; and during such time it shall be produced by him to every revenue officer demanding the same; and if any rectifier, wholesale dealer, or compounder of liquors shall refuse or neglect to provide such book or to make entries therein as aforesaid, or shall cancel, alter, obliterate, or destroy any part of such book, or any entry therein, or make any false entry therein, or hinder or obstruct any revenue officer from examining such book or making any entry therein, or taking any abstract therefrom; or if such book shall not be preserved or not produced by any rectifier or wholesale dealer or compounder, as hereinbefore directed, he shall pay a penalty of \$100, and, on conviction, shall be fined not less than \$100 nor more than \$5,000, and imprisoned not less than three months nor more than three years.

No amendment being offered, the Clerk read as follows:

SEC. 44. *And be it further enacted*, That it shall not be lawful for any rectifier of distilled spirits, compounder of liquors, liquor dealer, wholesale or retail liquor dealer, to purchase or receive any distilled spirits in quantities greater than twenty gallons from any person other than an authorized rectifier of distilled spirits, compounder of liquors, distiller, or wholesale liquor dealer. Any person violating this section shall forfeit and pay \$1,000. *Provided*, That this shall not be held to apply to judicial sales, nor to sales at public auction made by an auctioneer who has paid a special tax as such.

No amendment being offered, the Clerk read as follows:

SEC. 45. *And be it further enacted*, That all distilled spirits drawn from any cask or other package and placed in any other cask or package containing not less than ten gallons, and intended for sale, shall be again inspected and gauged, and the cask or package into which it is so transferred shall be marked or branded, and such marking or branding shall distinctly indicate the name of the gauger, the time and place of inspection, the proof of the spirits, the particular name of such spirits as known to the trade, together with the name and place of business of the dealer, rectifier, or compounder, as the case may be; and in all cases, except where such spirits have been rectified or compounded, the name also of the distiller, and the distillery where such spirits were produced, and the serial number of the original package; and the absence of such mark or brand shall be taken and held as sufficient cause and evidence for the forfeiture of such unmarked packages of spirits.

No amendment being offered, the Clerk read as follows:

SEC. 46. *And be it further enacted*, That on all wines, liquors, or compounds known or denominated as wine, not made from grapes grown in the United States, but made in imitation of sparkling wine or champagne, and on all liquors not made from grapes, currants, rhubarb, or berries grown in the United

States, but produced by being rectified or mixed with distilled spirits or by the infusion of any matter in spirits, to be sold as wine or by any other name, there shall be levied and paid a tax of six dollars per dozen bottles, each bottle containing more than one pint and not more than one quart; or three dollars per dozen bottles, each bottle containing not more than one pint. And any person manufacturing, compounding, or putting up such wines, shall, without previous demand, make return, under oath or affirmation, to the assistant assessor, on the 1st and 15th days of each and every month, or within five days thereafter, of the entire amount of such wines manufactured or put up during the first fifteen days of the month, and the residue of the month, respectively; and the tax herein imposed shall be payable at the time such return is made. And in case such manufacturer shall neglect or refuse to make such return within the time specified, the assessor shall proceed to ascertain the amount of tax due as provided in other cases of a refusal or neglect to make returns, and shall assess the tax, and add a penalty of fifty per cent. to the amount; which said tax, and also said penalty shall be collected in the manner provided for the collection of tax on monthly and other lists. Any person who shall fraudulently evade or attempt to evade the payment of the tax herein imposed shall, on conviction, be fined not less than \$500, nor more than \$5,000, and imprisoned not less than six months nor more than two years.

Mr. BUTLER. I move to amend in line twelve, after the word "pint," by inserting the words "and at the same rate in any quantity of such merchandise however the same may be put up, or whatever be the package."

Mr. SCHENCK. I have no objection to that.

The amendment was agreed to.

Mr. LOGAN. I offer as an amendment what I send to the Chair.

The Clerk read as follows:

SEC. —. *And be it further enacted*, That the Secretary of the Treasury, on the recommendation of the Commissioner of Internal Revenue, shall appoint one officer for each United States judicial district, to be called a supervisor of internal revenue on distilled spirits and tobacco, whose duty it shall be to reside in such district, and keep his office at some convenient place therein, to be designated by the Commissioner, and who shall receive in compensation for his services such salary as the Commissioner of Internal Revenue may deem just and reasonable, not exceeding \$2,500 per annum, and shall be paid his necessary traveling expenses when absent from his office on official business. It shall be the duty of every supervisor of internal revenue on distilled spirits and tobacco, under the direction of the Commissioner, to see that all laws and regulations relating to the collection of internal taxes upon distilled spirits and tobacco are faithfully executed and complied with; to aid in the prevention, detection, and punishment of any frauds in relation thereto, and to examine into the efficiency and conduct of all officers of internal revenue within his district; and for such purposes he shall have power to examine all persons, books, papers, accounts, and premises, and to administer oaths, and to summon any person to produce books and papers, or to appear and testify under oath before him, and to compel a compliance with such summons in the same manner as assessors do. It shall be the duty of every supervisor of internal revenue, as aforesaid, to report in writing to the Commissioner of Internal Revenue any neglect of duty, incompetency, delinquency, or malfeasance in office of any internal revenue officer within his district, of which he may obtain knowledge, with a statement of all the facts in each case, and any evidence sustaining the same; and he shall have power to transfer any inspector, gauger, or storekeeper from one distillery, or other place of duty, to another, or from one collection district to another within his district; and may, by notice in writing, suspend from duty any such inspector, gauger, or storekeeper, and in case of suspension shall immediately notify the collector of the proper district and the Commissioner of Internal Revenue, and within three days thereafter make report of his action, and his reasons therefor, in writing, to said Commissioner, who shall thereupon take such further action in the case as he may deem proper.

SEC. —. *And be it further enacted*, That from and after the passage of this act, no general or special agent, by whatever name or designation he may be known, of the Treasury Department in connection with the internal revenue, except as provided for in this act, shall be appointed, commissioned, employed, or continued in office, and that the term of office or employment of all such general or special agents now authorized as aforesaid under employment at the time of the passage of this act shall expire ten days after this act shall take effect.

SEC. —. *And be it further enacted*, That from and after the passage of this act no assessor or collector shall be authorized to enter any other district than the one for which he has been appointed for the purpose of exercising any authority except as expressly provided for by this act.

Mr. LOGAN. Mr. Chairman, if the House will give me their attention for a moment, I will explain the reasons for these sections as they have been understood by the committee. The first of these sections is taken from the bill as originally reported, but under their instructions the committee did not feel that they had

authority to put it in this bill, as it includes this new officer. But these three sections are thought by the committee to be proper, and hence they agreed to report them as an amendment.

The first section provides for a superintendent or supervising agent, who is to take the place of all these roving officers that are holding commissions now and traveling all over the country. We thought it would be right and proper to put one such officer in each United States judicial district, and not allow him to have any power to seize property or anything of that kind, but simply a supervisory control, to examine books and papers and take evidence and report to the Commissioner of Internal Revenue, so as to be an aid in the prevention of frauds, and in holding the local officers to their duty. That is the object of the first section.

We have provided for the abolition of inspectors. There are to be no inspectors under this law. We dispense with all the agents that are now appointed, sometimes called special agents, sometimes general agents, and sometimes inspectors. There are fifteen hundred of them now appointed at from four to six dollars a day, with their expenses. We wipe out all those officers, and say that after ten days from the time this bill takes effect they shall go out of commission and their places are to be supplied by this one man in each United States judicial district who shall have supervisory control.

That is the intention of the three sections, and nothing more. It is simply to do away with all these men who are traveling over the country and supply their places with one officer in each United States judicial district. The committee think this a proper amendment, and I hope it will be adopted.

The amendment was agreed to.

Mr. MULLINS. I offer the following amendment, which meets the approval of the chairman of the Committee of Ways and Means:

In line nineteen, after the word "respectively," insert "except when the wine is manufactured and put up or used exclusively by the family of the person manufacturing the same."

Mr. SCHENCK. There is no objection to that.

The amendment was agreed to.

The Clerk read the next section, as follows:

SEC. 47. *And be it further enacted*, That there shall be appointed by the Secretary of the Treasury in any district such number of internal revenue storekeepers as may be necessary, the compensation of each of whom shall be five dollars per day, one or more of whom shall be assigned by the Commissioner of Internal Revenue to every bonded warehouse established by law; and no such storekeeper shall be engaged in any other business while in the service of the United States. Every storekeeper shall take an oath faithfully to perform the duties of his office, and shall give a bond, to be approved by the Commissioner of Internal Revenue, for the faithful discharge of his duties, in such form and for such amount as the Commissioner may prescribe. Every storekeeper shall have charge of the warehouse to which he may be assigned, under the direction of the collector controlling the same, which warehouse shall be in the joint custody of such storekeeper and the proprietor thereof, and kept securely locked, and shall at no time be unlocked and opened, or remain open, unless in the presence of such storekeeper or other person who may be designated to act for him as hereinafter provided; and no articles shall be received in or delivered from such warehouse except on an order or permit addressed to the storekeeper and signed by the collector having control of the warehouse. Every storekeeper shall keep a warehouse book, which shall at all times be open to the examination of any revenue officer, in which he shall enter an account of all articles deposited in the warehouse to which he is assigned, indicating in each case the date of the deposit, by whom manufactured or produced, the number and description of the packages and contents, the quantities therein, the marks and serial numbers thereon, and by whom gauged, inspected, or weighed, and if distilled spirits, the number of gauge or wine gallons and of proof gallons; and before delivering any article from the warehouse, he shall enter in said book the date of the permit or order of the collector for the delivery of such articles, the number and description of the packages, the marks and serial numbers thereon, the date of delivery, to whom delivered, and for what purpose, which purpose shall be specified in the permit or order for delivery, and in case of delivery of any distilled spirits the number of gauge or wine gallons, and of proof gallons shall also be stated; and such further particulars shall be entered in the warehouse books as may be prescribed or found necessary for the identification of the packages, to insure the correct delivery thereof

and proper accountability therefor. A daily return shall be furnished by every storekeeper to the collector of the district of all articles received in and delivered from the warehouse during the day preceding that on which the return is made, a copy of which shall be mailed by him at the same time to the Commissioner of Internal Revenue; and each storekeeper shall, on the first Monday of every month, make a report in triplicate of the number of packages of all articles, with the several descriptions thereof respectively, as above provided, which remained in the warehouse at the date of his last report, and of all articles received therein and delivered therefrom during the preceding month, and of all articles remaining therein at the end of said month; one of which reports shall be by him delivered to the assessor of the district, to be recorded and filed in his office; one delivered to the collector having control of the warehouse, to be recorded and filed in his office; and one transmitted to the Commissioner of Internal Revenue, to be recorded and filed in his office. Any internal revenue storekeeper may be transferred by the Commissioner of Internal Revenue from one warehouse to another within the same district. In case of the absence of any internal revenue storekeeper by sickness or from any other cause, the collector having control of the warehouse may designate a person to have temporary charge of such warehouse, who shall, during such absence, perform the duties and receive the pay of the storekeeper for the time he may be so employed; and for any violation of the law he shall be subject to the same punishment as storekeepers. Any storekeeper or other person in the employment of the United States having charge of a bonded warehouse, who shall remove or allow to be removed any cask or other package therefrom without an order or permit of the collector, or which has not been marked or stamped in the manner required by law, or shall remove or allow to be removed any part of the contents of any cask or package deposited therein, shall be immediately dismissed from office or employment, and, on conviction, be fined not less than \$500, nor more than \$2,000, and imprisoned not less than three months nor more than two years.

Mr. PRICE. I move to amend this section by adding thereto the following:

*Provided*, That no distilled spirits shall be removed from the place of distillation until the tax provided for in this act shall have been paid, anything herein contained to the contrary notwithstanding.

Mr. LOGAN. Will the gentleman withdraw that amendment for a moment, until I have offered one which has been agreed upon by the Committee of Ways and Means?

Mr. PRICE. To accomplish the same purpose?

Mr. LOGAN. No, sir; to accomplish a different purpose, but it is to a preceding part of the section.

Mr. PRICE. Very well; I will withdraw the amendment for that purpose.

Mr. LOGAN. I move to amend the first sentence of this section by inserting after the words "such number of internal revenue storekeepers as may be necessary," the words "who shall be *bona fide* residents of the districts in which they may be appointed." This provision relates to the storekeepers to be appointed by the Secretary of the Treasury.

The amendment was agreed to.

Mr. PRICE. I now renew my amendment.

Mr. SCHENCK. I rise to a point of order. This section relates exclusively to and defines the duties of storekeepers. I think the amendment is not pertinent to this section, though there are many other portions of the bill to which it would be germane. I make the point of order that the proposed amendment is not germane to the section now under consideration.

The CHAIRMAN. The Chair sustains the point of order, and rules that the amendment is not in order.

Mr. KOONTZ. I move to amend this section by inserting after the words "the compensation of each of whom shall be five dollars per day," near the commencement of the section, the words "to be paid by the United States." I understood from the chairman of the Committee of Ways and Means [Mr. SCHENCK] that the intention was to have these storekeepers paid by the United States. But it is not "so nominated in the bond," as I understand this section. I want to have this matter fixed, so that there may be no misunderstanding about it.

The amendment of Mr. KOONTZ was agreed to.

Mr. ROBINSON. I move to amend this section by striking out the following:

Any internal revenue storekeeper may be transferred by the Commissioner of Internal Revenue from one warehouse to another within the same district.

Before making any observations on this amendment I wish to call the attention of the Committee of Ways and Means to an amendment offered by the gentleman from Illinois [Mr. LOGAN] which was adopted a few minutes since. If I understood it correctly, the supervisor provided for by that amendment was authorized to change and alter these storekeepers, and designate where they shall go. Is that so?

Mr. LOGAN. Yes, sir.

Mr. ROBINSON. Then I move to strike out the words I have indicated. If you are going to give the power to do any of these things, then let it be concentrated in one person. By the amendment which you have already adopted you propose to give the supervisor of the judicial district the power to transfer these storekeepers from one place to another at his option. Then by this section you give that same power to the Commissioner of Internal Revenue. And no storekeeper may be able to perform any duty, because he may be kept marching around by this divided allegiance. There is a confusion in the bill. It is not important to me, so far as I am concerned in perfecting this bill, whether the Commissioner of Internal Revenue or the supervisor has this power. But I ask the Committee of Ways and Means to see that this divided duty does not lead to difficulties.

Mr. LOGAN. This is included in this bill, because, under the resolution of instructions to the committee no provision was made for it, and we had to provide for it somewhere in the bill. I would suggest to the gentleman to modify his amendment so as to insert before the words "the Commissioner of Internal Revenue," the words "the supervisor of the judicial district, or;" so that either may give the orders, the Commissioner, of course, being governed by the information he may receive from the supervisor.

Mr. ROBINSON. I am willing to modify my amendment in that way. I merely wanted to submit the suggestion to the Committee of Ways and Means.

The CHAIRMAN. The question is upon the amendment, as modified.

Mr. ROBINSON. But, Mr. Chairman, that amendment would still leave it doubtful. We want something positive in these matters as to who shall have this power. I would still suggest that one or the other of these officers shall have the control of the matter.

Mr. LOGAN. The words I have suggested were in the original bill. The Commissioner can never exercise this power except on the recommendation of the supervisor. In fact he is to report all his acts to the Commissioner, to be supervised by him, as will be seen by reference to the amendment I offered.

Mr. ROBINSON. I think the permission to each under the law is absolute; and any person appointed will deny the authority either of the Commissioner or of the other officer. I do not wish to continue this discussion. But I will say that unless this is amended in some way, you will have no peace and no harmony of action under this bill.

Mr. LOGAN. There is another reason for the modification I have suggested. The supervising agent may have more than one district within his jurisdiction; "a United States judicial circuit or district." This bill leaves it to the two in the same district; but where it is outside of the district the supervisor has the control of it. The changing in the same district will depend upon the recommendation of the supervisor. In fact, under this bill the Commissioner might revoke his action; that is probably the true construction of it; but it does not affect the harmony of the bill.

The amendment, as modified, was then agreed to.

Mr. BARNES. In this section is to be found the following provision:

In case of the absence of any internal revenue storekeeper by sickness or from any other cause, the collector having control of the warehouse may designate a person to have temporary charge of such warehouse, who shall, during such absence, perform the

duties and receive the pay of the storekeeper for the time he may be so employed; and for any violation of the law he shall be subject to the same punishment as storekeepers.

I move to amend this clause by inserting after the words "may designate," the words, "with the consent and approval of the bondsmen of the absent storekeeper." By the section, as it now stands, the appointment of this temporary storekeeper is given to the collector of the district where the storehouse is situated. There is no storekeeper in the districts with which I am acquainted that cannot be made safe at less than \$2,000 a year. The word "ring" has been frequently used in this debate. I would suggest that this section makes a ring in a very few hands—the collector, the assessor, and the storekeeper to be appointed by the collector of the district. I hope my amendment will be adopted.

Mr. LOGAN. Oh, no! we object to that amendment.

Mr. SCHENCK. I oppose the amendment, and ask for a vote.

The question was taken upon the amendment of Mr. BARNES; and upon a division—ayes, twenty-two, noes not counted, it was not agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 48. *And be it further enacted*, That there shall be appointed by the Secretary of the Treasury, in every collection district where the same may be necessary, one or more internal revenue gaugers, who shall each take an oath faithfully to perform his duties, and shall give his bond, with one or more sureties, satisfactory to the Commissioner of Internal Revenue, for the faithful discharge of the duties assigned to him by law or regulations; and the penal sum of said bond shall not be less than \$5,000, and said bond shall be renewed or strengthened as the Commissioner of Internal Revenue may require. The duties of every such gauger shall be performed under the supervision and direction of the collector of the district to which he may be assigned, or of the collector in charge of exports at any port of entry to which he may be assigned. Fees for gauging and inspecting shall be prescribed by the Commissioner of Internal Revenue, to be paid to the collector by the owner or producer of the articles to be gauged and inspected; and said collector shall retain all amounts so received as such fees until the last day of each month, when the aggregate amount of fees so paid that month shall, under regulation to be prescribed by the Commissioner of Internal Revenue, be paid to the gauger performing the duty; but in any city or part of a city within a district where there may be two or more gaugers on duty, the said fees shall be equally divided by the collector among them. In no case, however, shall the aggregate monthly fees of any gauger exceed at the rate of \$3,000 per annum. All necessary labor and expenses attending the gauging of any article shall be furnished and borne by the owner or producer of such articles. Every gauger shall, under such regulations as may be prescribed by the Commissioner of Internal Revenue, make a daily return, in duplicate; one to be delivered to the assessor and the other to the collector of his district, giving a true account, in detail, of all articles gauged and proved or inspected by him, and for whom, and the number and kind of stamps used by him. Any gauger who shall make any false or fraudulent inspection, gauging, or proof shall pay a penalty of \$1,000, and, on conviction, shall be fined not less than \$500 nor more than \$5,000, and imprisoned not less than three months nor more than three years.

Mr. KOONTZ. In the sentence prescribing who shall pay the fees for gauging and inspecting, I move to strike out the words "owner or producer of the articles to be gauged or inspected," and to insert in lieu thereof the words "United States." I think that the fees to be paid these various officers ought in all cases to be paid by the Government. I think it is contrary to sound policy that the officer should be any way responsible or under obligation to the distiller; for that reason I move this amendment. And I think it should be concurred in for the same reason that the storekeepers were provided to be paid by the Government of the United States. I now yield the rest of my time to the gentleman from New York, [Mr. ROBINSON.]

Mr. ROBINSON. I trust this amendment will be adopted. I think that in all cases where a distiller or manufacturer or any person interested against the Government is allowed to pay the officer it is very bad policy. If we employ officers we should pay them a fair and reasonable remuneration for their services. In no case should any officer be paid

by the person who is to pay the tax founded upon the return of that officer. Wherever that is allowed, whether intended or not, it is an invitation to fraud and will always result in fraud.

Mr. SCHENCK. As a general rule, all that can be considered as the compensation or salary of officers, I think myself should be paid by the Government. But this case is different. The fees here are in the nature of costs and expenses attending the preparation of the tax-paid property for the market. It is true we have provided that the law shall continue as it is now; that these fees shall be paid by the owner of the property. But we have provided that those fees shall go to the collector who, under his bond and obligation, takes care of them, and makes distribution of them at the close of each month.

Then there is a further provision that no gauger shall receive more than \$3,000 a year. Gentlemen are aware that the law, as it now stands, is very loose upon this subject. While it permits the Commissioner of Internal Revenue to fix the fees for the gauging and inspection of whisky, oil, and other matters of that kind, the fees are so irregular at different places that we find it so happens that some gaugers are receiving at the rate of \$56,000 a year. We have separated the offices. We have abolished the office of inspector and only retained the office of gauger. Yes, sir, the amount paid in fees for gauging oil was \$63,000. I cannot answer as to whisky. I do not think the whisky inspectors receive in the same proportion. In some instances in Brooklyn and New York, where the business is very large, the allowances for inspection have been very large indeed. I have one recent case in my mind where the fees of one inspector amounted to \$800, an inspector who employs two boys to assist him, and that is only one half of what the law allowed him; but they compromised and he took one half of what the law allowed him. The result is that favorite inspectors have all the business thrown into their hands. And we have a provision, also, correcting this. We provide that the mere fees shall go into the hands of the collector and shall be distributed equally. This prevents the filling of the pocket of one and starving another, if more than one is necessary. And by the limitation that they shall not receive more than \$3,000 a year I think we provide against multiplying these appointments. We have prepared this with great care after having all the facts before us, and I hope it will be permitted to stand.

The question was taken on Mr. KOONTZ's amendment; and it was rejected.

Mr. MULLINS. I wish to move that there be inserted in this section a provision requiring all these officers to take the oath prescribed by the United States, I mean the iron-clad oath. My idea is that all these collectors, inspectors, and assessors should be compelled to take that oath. I do not want this business to go into the hands of men who have tried to break up this Government, and who have met us in dreadful battle. In one place in my county they have appointed a guerrilla.

A MEMBER. A gorilla? [Laughter.]

Mr. MULLINS. I will call him a gorilla if it will please the gentleman. [Renewed laughter.] I want these men all compelled to take the "iron-clad" oath. Perhaps a proviso can be added to this bill to answer my purpose.

Mr. SCHENCK. The general law now requires that all officers shall take that oath.

Mr. MULLINS. If that be so it affords me great relief. I withdraw the amendment.

Mr. JUDD. We have now reached the point when the suspended amendments to the first section were to be acted on.

The CHAIRMAN. The amendments are as follows: The gentleman from Ohio [Mr. SCHENCK] moved the following:

Insert after the word "thereof," "before removal from the distillery warehouse, except as otherwise provided by this act;" so it will read:

That there shall be levied and collected on all distilled spirits on which the tax prescribed by law has

not been paid a tax of fifty cents on each and every proof gallon, to be paid by the distiller, owner, or any person having possession thereof, before removal from the distillery, warehouse, &c.

To that the gentleman from Illinois [Mr. JUDD] moved the following amendment:

Strike out the words "except as otherwise provided by this act."

The amendment to the amendment was agreed to; the amendment, as amended, was adopted.

Mr. BOUTWELL. I do not think the committee understood that amendment.

Mr. JUDD. Yes, we did.

Mr. BOUTWELL. I wish to move an amendment.

The CHAIRMAN. No further amendment is in order to the first section.

The Clerk read the next section in order, as follows:

SEC. 49. And be it further enacted, That the collector of internal revenue at any port of entry in the United States shall have charge of all matters relating to the exportation from said port of articles subject to tax under the laws to provide internal revenue, subject to such regulations, not inconsistent with the provisions of this act, as the Commissioner of Internal Revenue may prescribe; and at any port of entry where there is more than one collector of internal revenue, the said Commissioner shall designate one of said collectors to be collector in charge of exports, whose duty it shall be to have charge of all matters relating to exportations as aforesaid from such port of entry; and at such ports of entry, as the Commissioner of Internal Revenue may deem necessary, there shall be an officer appointed by him to superintend all matters of exportation and drawback, under the direction of the said collector, to be known as superintendent of exports, whose compensation therefor shall be prescribed by the Commissioner of Internal Revenue, but shall not exceed in any case an annual rate of \$2,000, excepting at New York, where the compensation shall not exceed an annual rate of \$3,000. And any books, papers, and documents in the respective ports relating to the drawback of taxes paid under the internal revenue laws shall be delivered to said collector of internal revenue in charge of exports; and any collector of internal revenue, or superintendent of exports and drawbacks, shall have authority to administer such oaths and certify to such papers as may be necessary under any rules and regulations that may be prescribed under the authority herein conferred.

Mr. ALLISON. I move to strike out the foregoing section.

Mr. BOUTWELL. I move to amend the section by adding to it what I send to the Chair.

The Clerk read as follows:

The Commissioner of Internal Revenue shall authorize such distillers as may apply to be so authorized, and as he may deem suitable, distillers of alcohol and spirituous liquors for export. Persons so authorized may distill alcohol and spirituous liquors for export and for the uses specified and authorized in sections fifty-six, fifty-seven, fifty-eight, and fifty-nine of this act, and for no other purpose; and distillers not so authorized shall not distill alcohol or spirituous liquors for export or for the purposes specified in said sections. All provisions of this act relating to the transportation of distilled spirits in bond shall be limited to spirits produced by persons designated as authorized by this section.

Mr. BOUTWELL. The effect of this amendment, with some slight alterations in the bill, will be to limit the manufacture of alcohol and spirituous liquors for exportation or use in the production of chemicals and medicines, and for the preservation of anatomical preparations, to a small number of distilleries to be designated by the Commissioner of Internal Revenue. No spirits except those produced by those persons specially designated can be transported in bond. The duties on all other spirits are to be paid at the distillery warehouse. The effect of this will be to enable the Commissioner of Internal Revenue to put this business of manufacturing for export into the hands of the most responsible persons in the business, in the best collection districts where the officers are faithful in the discharge of their duty. He will be able also to know exactly over what route this spirit is transported from the distilleries producing it to the bonded warehouses at the ports of entry from whence it is to be shipped to foreign countries. The whole of this business does not amount at present to more than four or five million gallons. Therefore the very amount of spirits sent forward by these people, taken in connection with the amount exported, will always be a check upon the business.

If this amendment is adopted I shall follow

it up by a further proposition to amend the bill so that spirits manufactured and transported in bond for exportation and for these other purposes, shall not be withdrawn from the bonded warehouse upon the payment of the tax under any circumstances whatsoever. For it is within my experience in office that when authority was given to send forward in bond spirits for export, thousands and millions of gallons were sent off by distillers for the purpose of getting back the payment of the duties. This same provision I think is contained in the bill of the committee.

Mr. SCHENCK. In the other bill, not in this.

Mr. BOUTWELL. There are two ways in which business can be done, if it is to be done at all. One is to allow every distiller to send forward spirits in bond for export. Another to allow a limited number of distillers, not many, perhaps half a dozen, to do that business. Another is to allow a drawback, which is a system open to all sorts of fraud. Now, then, as between these three ways I think this which I offer is the best, inasmuch as it limits the business of sending in bond to a very small number of distillers to be selected by the Commissioner of Internal Revenue, instead of having every distiller in the country authorized to send forward in bond upon a statement made by him that he intends his spirits for exportation.

Mr. JUDD. It seems to me the amendment offered by the gentleman from Massachusetts has precisely as many virtues in it for the protection of the revenue as the sections we are contending against. The remarkable feature of the amendment is its generous confidence. Now, I am not prepared to delegate to the Commissioner of Internal Revenue, or any other public functionary, the dictation and declaration as to what amount, in what form, and in what manner we shall collect the taxes that belong to the Government. That is the result of this amendment. It places the power in the Commissioner of Internal Revenue to name just as many distilleries for export as in his discretion he sees fit. Now, then, what is there to prevent his naming every distillery in the United States?

Mr. BOUTWELL. I propose that we put in the bill a provision that spirits sent forward in bond for export shall never be withdrawn from the bonded warehouse upon payment of the tax. They just put their spirits into a safe from which it cannot be withdrawn till it goes through the port of entry to a foreign country. They cannot get their spirits out, and no more persons will go into the business than the business can support.

Mr. JUDD. My friend has more confidence in bonds than I have, and in transportation bonds than I have; and toward the close of his first remarks he illustrated how easily, when you provide for transportation in bond for a particular purpose, the effect of the law might be evaded.

I repeat again that the provision, as I understand it, gives power to the Commissioner of Internal Revenue to name every distillery in the United States as a distillery to manufacture alcohol for exportation. Now, then, if, as we believe, in this business of transportation and pretended exportation there is fraud that we are trying to guard against, I have not generous confidence enough to allow this power to the Commissioner of Internal Revenue. I am for determining for ourselves, by legislation, if we can, in what manner distilled spirits shall be handled, in what places and at what point the tax shall be collected. I may be entirely mistaken, but I think I see in this power proposed to be conferred on the Commissioner of Internal Revenue a power which if fraudulently exercised, if improvidently exercised, if unwisely exercised would get rid of the entire effect of the restriction incorporated in the first section of the bill, which requires the tax to be paid at the distillery. That has been determined upon, and I think I see in the practical operation of this amendment a return



to the old system of setting this article in motion without having the tax paid.

Mr. BOUTWELL. I move to amend the amendment by striking out the last word for the purpose of making some remarks in reply to the gentleman from Illinois, [Mr. Judd.] He seems to misunderstand my amendment, and if he will give me his attention I will try to explain it. In the first place, these distillers who are to be authorized to manufacture spirits for exportation are prohibited by the terms of this amendment from manufacturing spirituous liquor for general use. We classify the distillers into two classes. Those who manufacture for consumption in this country are obliged to pay at the distillery warehouse all the taxes levied, as provided in the first section of the bill. Those who manufacture for export are not to manufacture for any other purpose. Therefore the assessor and collector and every officer will know that the product of a distillery so designated is to go forward in bond for export. The product of a distillery not so designated cannot be removed from the distillery warehouse until the taxes are paid. We therefore classify and separate the businesses absolutely.

Now, as to its being a monopoly to be authorized by the Commissioner of Internal Revenue, it amounts to nothing in that respect. To be sure but a small number of persons can live by manufacturing spirits for export, but there will be a sufficient number to enable them to compete with each other and keep the price at a proper rate as compared with the price for home consumption, because these manufacturers come in competition with the producers of spirituous liquors in other countries; and inasmuch as a distillery established at Peoria, for example, to manufacture for export cannot, by any legal process, get the product of the distillery into the general trade of the country, they must sell it for export, and therefore they have to take the price which the market of the world enables them to get. Whenever spirituous liquors are put upon railroads and rivers for exportation there is danger that they may be diverted. But the smaller the number of persons engaged in the manufacture of these spirits who are authorized to transport in bond the less the danger that they will be taken off by the way, and frauds committed upon the Government. The question is whether you will have five or six men in this country authorized to export in bond, or whether you will have two or three hundred of them.

Mr. PRICE. If I understand the force of the amendment of the gentleman from Massachusetts [Mr. Boutwell] it is simply to narrow down the danger, so to speak. His argument admits that it is not safe to allow distillers promiscuously to put their liquors upon the railroads and steamboats of the country in bond, and he proposes to correct the evil by limiting that privilege to a certain number of men to be named and specified by the Commissioner of Internal Revenue.

Now, I do not believe there is any safety in allowing any man to ship a gallon of distilled spirits before the tax upon it has been paid. We have tried this thing for years; it has been guarded by all the ingenuity that could be brought to bear upon the question by those best calculated to advise wisely and well in regard to it; and we have failed signally in every case. The very moment the spirits have left the distillery and been put in transit we have been cheated out of the tax upon it; and I am afraid the men in that business now are of that class who will cheat us every opportunity that is offered. I do not believe there is any security to the Government in collecting this tax unless you compel it to be paid before the spirits leave the distillery. Let the tax be paid at the place where it is manufactured, and then, if it is exported, when it gets to the place of sale get the certificate of the party to whom it is consigned or sold, and when that certificate gets back to this country let the drawback be paid. If it takes three months, very well; if it takes

three years, very well. It is a matter of no importance to me how long it takes. But I do not propose that they shall get the benefit of the drawback until it is established by a certificate that the liquor has gone to a foreign country, never to return. Thousands and thousands of barrels have been shipped for export which never was exported at all, and the tax upon it was never paid, and never will be.

This proposition is only tinkering with the matter without securing any degree of safety. If I ever get the opportunity I shall propose the same amendment that I tried to have considered a few minutes ago, providing that no liquor shall be removed from the place of distillation until the tax has been paid upon it; and when I offer that amendment I will give my reasons for it.

Mr. BOUTWELL. I withdraw the amendment to the amendment.

Mr. PAINE. I renew it. I wish the committee to understand what is the extent of this foreign commerce in distilled spirits and alcohol, for the benefit of which my friend from Massachusetts [Mr. Boutwell] proposes to open wide the door to frauds upon the revenue by the establishment of this system of transportation in bond. I asked the chairman of the Committee of Ways and Means, here in his seat, on yesterday or the day before, what was the amount of this exportation of distilled spirits and alcohol. He informed me that the first cost of the manufacture of the alcohol and rum exported did not exceed \$5,000,000. The gentleman from Massachusetts [Mr. Boutwell] tells us that the amount exported and used in manufacturing cosmetics, &c., does not, in the aggregate, exceed five million gallons. The gentleman remarks that he did not include cosmetics in this estimate; so that the exportation amounts to five million gallons.

Now, let us put this export trade at the highest figures, those of the chairman of the Committee of Ways and Means. We will say that the cost of the manufacture of the distilled spirits and alcohol exported is \$5,000,000; that it actually costs the parties who export it that amount. If that be so, then I take it it would be a very liberal allowance if we say of those engaged in this export trade that they make a net profit of twenty per cent. on this cost of \$5,000,000; that would be a net profit of \$1,000,000. Now, let us see what we lose in order to enable these exporters to realize \$1,000,000 on this trade. In the first place the internal tax on spirits, the first cost of which is \$5,000,000, will be not less than \$7,500,000, for the tax per gallon under this bill is over fifty cents, while the cost is less than thirty-five cents.

In the first place this tax of \$7,500,000 is not paid to the Government. The exporters take the commodity free of that tax. It will be safe to say, Mr. Chairman, that by adopting this system of transportation in bond we furnish opportunities for frauds upon the Treasury to an equal or greater amount. I therefore believe that besides remitting the \$7,500,000 of taxes, we shall incur an actual loss of at least \$7,500,000 through frauds on the Treasury, in transportation in bond through the United States for the pretended purpose of exportation. So that the Government will actually lose, I think, not less than \$7,500,000 in order to enable the gentleman's friends to realize a profit of \$1,000,000.

Now, if there can be no export trade in distilled spirits for the benefit of these exporters, without involving the United States Government in this serious loss, then I am opposed to the existence of any such export trade. I say frankly that I am willing to crush it—nay, it must be our duty to crush it—if it cannot be carried on except at such an immense expense to the people of the country. Unless some other plan can be devised, unless the system of drawbacks which has been proposed by my friend from Illinois, [Mr. Logan,] or some other system, will obviate this great loss to the Government, I am in favor of abolishing alto-

gether this export trade in distilled spirits. Sir, it is at best but mere bagatelle. It is utterly insignificant! It is not worth while for us to expend our efforts to preserve it if it involves an annual loss to the country of millions of dollars.

Now, sir, let the plan which has been suggested by the gentleman from Illinois be fully explained, and if it proves to be one by which we can allow this export trade in distilled spirits to live without costing the Government of the United States \$7,500,000 or \$10,000,000 or \$15,000,000 annually, then let it live; if not, let it disappear.

Mr. ALLISON. Mr. Chairman, I desire to say a word in relation to the amendment proposed by the gentleman from Massachusetts, [Mr. Boutwell.] But before doing so, I wish to reply briefly to my friend from Wisconsin, [Mr. Paine.] I cannot see how it is possible that the Government can lose anything by the exportation of any article.

Mr. BOUTWELL. If the gentleman will yield one moment I desire to say that, at the suggestion of some gentlemen around me, I have modified my amendment so that there shall be no discretionary power vested in the Commissioner, but that whoever applies for authority to manufacture, especially for exportation, according to the provisions of the law, shall be authorized to do so.

Mr. ALLISON. Mr. Chairman, the amount of distilled spirits in this country paying the tax must necessarily be measured by the consumption. Therefore, if we export five million gallons or ten million gallons it cannot affect the amount of money that goes into the Treasury, because whatever amount is necessary for consumption in this country will either pay the tax or evade it by some fraudulent means. But I want to call the attention of the gentleman from Massachusetts who offered this amendment to a proposition which I think is absolutely conclusive upon this question. By the provisions which we have already inserted in this bill we are about to impose, indirectly, special taxes which will amount to about fourteen cents per gallon on all distilled spirits manufactured in this country, and this indirect taxation cannot be in any manner evaded even by those who desire to export distilled spirits.

Now, I submit to the gentleman, whether there will be any spirits exported when there is an indirect taxation of fourteen cents per gallon on spirits. I believe that by this indirect tax we shall actually cut off most of the exportation of distilled spirits. One of these methods of taxation was adopted to-day, on the motion of the gentleman from Massachusetts, [Mr. Boutwell,] and I should have opposed it if I had fully understood the proposition. That amendment imposes a tax of two dollars for every twenty bushels of grain mashed, amounting to about three and one third cents per gallon—a much higher tax than was proposed by the committee. Then we propose to impose a tax of four dollars on each barrel, making ten cents more per gallon.

But there is another difficulty in the proposition of the gentleman from Massachusetts. The Supreme Court has decided that the Government cannot authorize any special persons or class of persons to carry on a business. The Court held if we adopt any principle here we must let every man who desires to manufacture spirits for exportation do so. If we license one man we must license every other man in the United States to manufacture spirits for exportation. We reasoned in a circle and fell back upon the proposition in the bill to allow the distillers to ship the goods in bond to the ports of entry for exportation. So I see no advantage in the proposition of the gentleman from Massachusetts over the proposition now contained in the printed bill before the House.

The CHAIRMAN. The hour of half past four o'clock p. m. having arrived, under the order of the House the committee will take a recess until half past seven o'clock p. m.

## EVENING SESSION.

At half past seven o'clock p. m. the Committee of the Whole was called to order by the chairman, Mr. POMEROY, and resumed the consideration of House bill No. 1284, to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

The pending question was on Mr. BOUTWELL'S amendment to the forty-ninth section, which was read, as follows:

The Commissioner of Internal Revenue shall authorize such distillers as may apply to be so authorized, and as he may deem suitable, distillers of alcohol and spirituous liquors for export. Persons so authorized may distill alcohol and spirituous liquors for export and for the uses specified and authorized in sections fifty-six, fifty-seven, fifty-eight, and fifty-nine of this act, and for no other purpose; and distillers not so authorized shall not distill alcohol or spirituous liquors for export or for the purposes specified in said sections. All provisions of this act relating to the transportation of distilled spirits in bond shall be limited to spirits produced by persons designated or authorized by this section.

Mr. LOGAN. I move the following amendment in the nature of a substitute for the pending amendment:

SEC. —. And be it further enacted, That from and after the date at which this act shall take effect there shall be an allowance of drawback on all rum and alcohol on which any internal tax shall hereafter be paid, equal in amount to the tax so paid thereon and no more, when exported in good faith. The payment of said drawback to be made only when the evidence shall be furnished to the entire satisfaction of the Secretary of the Treasury by such person or persons who shall claim allowance of drawback that such tax has been paid, and the said rum or alcohol so exported—landed, and delivered to the consignee or consignees at the foreign port to which it was exported, to be proved by the sworn testimony of responsible persons where exported from and exported to—the same to be paid by the warrant of the Secretary of the Treasury on the Treasurer of the United States, out of any money arising from internal tax on distilled spirits not otherwise appropriated: *Provided, however,* That no claim for drawback shall be allowed on either of the said articles which shall have been exported as aforesaid prior to the time at which this act shall take effect.

SEC. —. And be it further enacted, That if any person or persons shall fraudulently claim or seek to obtain an allowance of drawback on any article or articles aforesaid on which no internal tax shall have been paid, or shall fraudulently claim any greater allowance or drawback than the tax actually paid thereon as aforesaid, such person or persons shall forfeit and pay to the Government of the United States triple the amount wrongfully or fraudulently sought to be obtained; and on conviction thereof shall be imprisoned in the penitentiary for a period not less than one nor more than ten years.

Mr. SHANKS. There is no quorum present.

Mr. LOGAN. I prefer not to submit my remarks until the chairman of the Ways and Means Committee is present.

Mr. JUDD. We amended the first section this morning, and if the amendment of my colleague be adopted it will lead to striking out five or six sections, and it is therefore desirable the chairman should be present.

Mr. WILSON, of Iowa. If the vote be taken on the amendment it will develop the absence of a quorum.

The committee divided on the amendment; and there were—ayes 13, noes 17; no quorum voting.

The CHAIRMAN, in obedience to the rules, ordered the roll to be called, and the following members failed to answer to their names:

Messrs. Adams, Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Banks, Barnes, Barnum, Beaman, Beatty, Benjamin, Benton, Bingham, Blair, Boles, Boyer, Bromwell, Brooks, Buckland, Burr, Butler, Cake, Cary, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cornell, Covode, Cullom, Dawes, Delano, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Farnsworth, Ferry, Fields, Finney, Fox, Garfield, Glossbrenner, Golladay, Gravely, Haight, Halsey, Harding, Hawkins, Hinds, Hill, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Johnson, Jones, Julian, Kelley, Kerr, Ketcham, Kitchen, Knott, Laffin, William Lawrence, Lincoln, Loan, Loughridge, Lynch, Mallory, Marshall, McCarthy, McCullough, McKee, Mercer, Morrell, Morrissey, Mungen, Myers, Newcomb, Nicholson, Nunn, Orth, Perham, Phelps, Pike, Pile, Pomeroy, Pruyn, Randall, Raum, Robertson, Robinson, Root, Ross, Sawyer, Schenck, Scofield, Selye, Shellabarger, Sitgreaves, Aaron F. Stevens, Thaddeus Stevens, Stokes, Stone, Taffe, Taylor, John Trimble, Lawrence S. Trimble, Upson, Van Aernam, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Trump, Van Wyck,

Ward, Elihu B. Washburne, Welker, Thomas Williams, William Williams, John T. Wilson, Stephen F. Wilson, Wood, and Woodward.

The committee then rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had, pursuant to the order of the House, had under consideration the Union generally, and particularly the special order, being House bill No. 1284, to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, and finding itself without a quorum had directed the roll to be called and the names of the absentees to be reported to the House.

Mr. HOLMAN. Mr. Speaker, is it in order now to move, as proposed by the chairman of the Committee of Ways and Means last evening, that the list of absentees be published in two daily papers besides the Globe? [Laughter.]

The SPEAKER. That will require unanimous consent; no quorum being present.

Mr. GRISWOLD. Is it in order for me to explain why the chairman of the committee is not present?

The SPEAKER. It would be by unanimous consent.

Mr. BOUTWELL. I object.

Mr. GRISWOLD. He is within the building, but ill.

Mr. ALLISON. I move a call of the House.

The motion was agreed to.

The roll was accordingly called; and the following members failed to answer to their names:

Messrs. Adams, Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Barnes, Barnum, Beaman, Beatty, Benjamin, Benton, Bingham, Boles, Boyer, Bromwell, Brooks, Buckland, Burr, Butler, Cake, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cornell, Covode, Cullom, Dawes, Delano, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Ferry, Fields, Finney, Fox, Glossbrenner, Gravely, Haight, Halsey, Harding, Hill, Hinds, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Jones, Kelley, Kitchen, Knott, Laffin, William Lawrence, Lincoln, Loan, Lynch, Mallory, Marshall, McCarthy, McCullough, McKee, Mercer, Morrell, Morrissey, Mungen, Myers, Newcomb, Nicholson, Nunn, Perham, Phelps, Pike, Pruyn, Randall, Raum, Robinson, Root, Ross, Sawyer, Selye, Shellabarger, Sitgreaves, Aaron F. Stevens, Thaddeus Stevens, Stokes, Stone, Taffe, Taylor, John Trimble, Lawrence S. Trimble, Upson, Van Aernam, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Trump, Ward, Elihu B. Washburne, Thomas Williams, John T. Wilson, Stephen F. Wilson, Wood, and Woodward.

The SPEAKER. Only eighty members have answered to their names. The Doorkeeper will close the doors, and the Clerk will call the roll of absentees for excuses.

The Clerk accordingly called the roll for excuses.

GEORGE M. ADAMS.

Mr. GROVER. Mr. ADAMS left the House to-day sick. He is not able to leave his lodgings to-night. I move that he be excused.

The motion was agreed to.

GEORGE W. ANDERSON. No excuse offered.

STEVENSON ARCHER.

The SPEAKER. Mr. ARCHER has leave of absence.

SAMUEL M. ARNELL.

Mr. MAYNARD. My colleague desires me to state that the state of his health is such as to render it utterly impossible for him to be out at night. I move that he be excused.

The motion was agreed to.

DELOS R. ASHLEY. No excuse offered.

JAMES M. ASHLEY.

The SPEAKER. Mr. ASHLEY has leave of absence.

SAMUEL B. AXTELL. No excuse offered.

JOHN D. BALDWIN. No excuse offered.

DEMAS BARNES. No excuse offered.

WILLIAM H. BARNUM.

Mr. HOTCHKISS. Mr. BARNUM is sick, and has been so for some months. He has leave of absence.

FERNANDO C. BEAMAN.

Mr. TROWBRIDGE. Mr. BEAMAN was ex-

cused last night on account of sickness. He is still sick, and I move that he be excused. The motion was agreed to.

JOHN BEATTY. No excuse offered.

JOHN F. BENJAMIN. No excuse offered.

JACOB BENTON. No excuse offered.

JOHN A. BINGHAM. No excuse offered.

THOMAS BOLES. No excuse offered.

BENJAMIN BOYER. No excuse offered.

HENRY P. H. BROMWELL.

Mr. BROOMALL. Mr. BROMWELL has leave of absence.

JAMES BROOKS. No excuse offered.

HENRY L. CAKE.

The SPEAKER. The Chair thinks Mr. CAKE has leave of absence.

JOHN C. CHURCHILL.

Mr. STEWART. Mr. CHURCHILL has leave of absence.

READER W. CLARKE.

The SPEAKER. Mr. CLARKE has leave of absence on account of general debility.

SIDNEY CLARKE. No excuse offered.

AMASA COBB. No excuse offered.

BURTON C. COOK.

Mr. JUDD. Mr. COOK has leave of absence.

THOMAS CORNELL. No excuse offered.

JOHN COVODE. No excuse offered.

SHELBY M. CULLOM. No excuse offered.

HENRY L. DAWES.

Mr. BROOMALL. Mr. DAWES has leave of absence.

GRENVILLE M. DODGE.

The SPEAKER. Mr. DODGE has leave of absence.

IGNATIUS DONNELLY. No excuse offered.

JOHN F. DRIGGS. No excuse offered.

EPHRAIM R. ECKLEY. No excuse offered.

BENJAMIN EGLESTON. No excuse offered.

CHARLES A. ELDRIDGE. No excuse offered.

THOMAS W. FERRY. No excuse offered.

WILLIAM C. FIELDS.

Mr. KELSEY. My colleague, Mr. FIELDS, has leave of absence.

DARWIN A. FINNEY.

Mr. BROOMALL. Mr. FINNEY has been absent a long time on account of illness. I move that he be excused.

The SPEAKER. He has been absent during the entire session on account of sickness. He will be regarded as excused.

ADAM J. GLOSSBRENNER.

Mr. GETZ. Mr. GLOSSBRENNER is absent by the leave of the House.

JOSEPH J. GRAVELY. No excuse offered.

CHARLES HAIGHT. No excuse offered.

GEORGE A. HALSEY. No excuse offered.

ABNER C. HARDING. No excuse offered.

JOHN HILL. No excuse offered.

JAMES HINDS. No excuse offered.

BENJAMIN F. HOPKINS.

Mr. PAINE. I believe Mr. HOPKINS has leave of absence.

The SPEAKER. The Chair does not remember.

Mr. PAINE. I do not remember, but I have a very strong impression that he has.

The SPEAKER. He is certainly not within a thousand miles of the city. The Chair thinks he has leave of absence, and he will be regarded as excused.

ASAHIEL W. HUBBARD.

Mr. WILSON, of Iowa. My colleague, Mr. HUBBARD, is unwell, and has leave of absence.

RICHARD D. HUBBARD.

Mr. STARKWEATHER. My colleague, Mr. HUBBARD, has leave of absence.

CALVIN T. HULBURD. No excuse offered.

JAMES M. HUMPHREY. No excuse offered.

MORTON C. HUNTER.

Mr. WASHBURN, of Indiana. My colleague, Mr. HUNTER, has leave of absence.

THOMAS L. JONES. No excuse offered.

WILLIAM D. KELLEY.

Mr. BROOMALL. I move that Mr. KELLEY

be excused. On account of the condition of his health he is not fit to be here.

The motion was agreed to.

BETHUEL M. KITCHEN.

Mr. HUBBARD, of West Virginia. Mr. KITCHEN is absent by leave of the House.

J. PROCTER KNOTT. No excuse offered.

Mr. INGERSOLL. Is it not in order to move that all gentlemen have leave of absence for to-night?

The SPEAKER. Each case must be treated individually, unless the call shall be dispensed with.

Mr. INGERSOLL. I doubt if there will be a quorum here to-night.

ADDISON H. LAFLIN.

Mr. FERRISS. Mr. LAFLIN is absent by leave of the House.

WILLIAM LAWRENCE.

Mr. WELKER. My colleague, Mr. LAWRENCE, is absent on leave.

WILLIAM S. LINCOLN.

The SPEAKER. The gentleman from New York, Mr. LINCOLN, stated to the Chair this afternoon that he was called home on important business. The Speaker intended to ask leave of absence for him, but he was not in the chair this afternoon at any time when he could do so.

Mr. FARNSWORTH. I move that he be excused.

The motion was agreed to.

BENJAMIN F. LOAN. No excuse offered.

JOHN LYNCH.

Mr. PETERS. My colleague, Mr. LYNCH, was called to New York on very important business. I move that he be excused.

The motion was agreed to.

RUFUS MALLORY. No excuse offered.

SAMUEL S. MARSHALL. No excuse offered.

DENNIS MCCARTHY.

Mr. STEWART. My colleague, Mr. MCCARTHY, was called away this afternoon. He intended to ask leave of absence.

The SPEAKER. The Chair had his name on his list, and intended to ask leave of absence for him. He will be excused if there is no objection.

No objection was made.

HIRAM McCULLOUGH.

The SPEAKER. The gentleman from Maryland, Mr. McCULLOUGH, has leave of absence.

SAMUEL McKEE.

Mr. MOORE. The gentleman from Kentucky, Mr. McKEE, is sick and unable to be here. I move that he be excused.

The motion was agreed to.

ULYSSES MERCUR. No excuse offered.

DANIEL J. MORRELL. No excuse offered.

JOHN MORRISSEY. No excuse offered.

WILLIAM MÜNGEN. No excuse offered.

LEONARD MYERS.

Mr. O'NEILL. My colleague, Mr. MYERS, is temporarily indisposed. [Laughter.] He expects to be here during the evening. I ask that he be excused.

Mr. INGERSOLL. I object.

Mr. O'NEILL. He is now outside the Hall, waiting to come in.

The question was taken on the motion to excuse Mr. MYERS; and it was not agreed to.

CARMAN A. NEWCOMB. No excuse offered.

JOHN A. NICHOLSON. No excuse offered.

DAVID A. NUNN.

Mr. MULLINS. My colleague, Mr. NUNN, is absent by leave of the House.

SIDNEY PERHAM.

Mr. PETERS. My colleague, Mr. PERHAM, is absent by leave of the House.

CHARLES E. PHELPS. No excuse offered.

WILLIAM A. PILE. No excuse offered.

JOHN V. L. PRUYN.

The SPEAKER. The Chair was requested by the gentleman from New York, Mr. PRUYN, to state that the condition of his health is such that it is almost impossible for him to be here

at evening sessions. If there is no objection he will be excused.

No objection was made.

SAMUEL J. RANDALL.

Mr. O'NEILL. My colleague, Mr. RANDALL, is absent for the same reason as last night, when he was excused. He is detained on important personal business, and I hope the House will excuse him.

No objection was made.

GREEN B. RAUM. No excuse offered.

WILLIAM E. ROBINSON.

Mr. STEWART. My colleague, Mr. ROBINSON, has been in bad health for some months past. He requested me this afternoon to ask that he be excused this evening, if he should not be here.

No objection was made.

LOGAN H. ROOTS. No excuse offered.

LEWIS W. ROSS. No excuse offered.

PHILETUS SAWYER. No excuse offered.

LEWIS SELYE.

Mr. VAN WYCK. My colleague, Mr. SELYE, has not been very well for some days past. I ask that he be excused.

No objection was made.

SAMUEL SHELLABARGER.

Mr. BROOMALL. I move that Mr. SHELLABARGER be excused on account of the condition of his health. He was here last night, but he is not fit to be here.

The SPEAKER. The gentleman from Ohio, Mr. SHELLABARGER, and the gentleman from Pennsylvania, Mr. STEVENS, will be excused, if there is no objection.

No objection was made.

AARON F. STEVENS. No excuse offered.

WILLIAM B. STOKES. No excuse offered.

FREDERICK STONE.

The SPEAKER. The Chair thinks the gentleman from Maryland, Mr. STONE, is absent on leave.

CALEB N. TAYLOR. No excuse offered.

JOHN TRIMBLE.

Mr. MAYNARD. My colleague, Mr. TRIMBLE, is absent on leave.

LAWRENCE S. TRIMBLE. No excuse offered.

CHARLES UPSON. No excuse offered.

HENRY VAN AERNAM. No excuse offered.

DANIEL M. VAN AUKEN. No excuse offered.

BURT VAN HORN.

Mr. VAN WYCK. My colleague, Mr. VAN HORN, of New York, has leave of absence.

The SPEAKER. His name will be excluded from the warrant.

ROBERT T. VAN HORN.

Mr. MCCORMICK. My colleague, Mr. VAN HORN, of Missouri, is sick.

The SPEAKER. If there be no objection, Mr. VAN HORN, of Missouri, will be excused. There was no objection.

PHILADELPH VAN TRUMP. No excuse offered.

HAMILTON WARD. No excuse offered.

ELIHU B. WASHBURN.

Mr. WASHBURN, of Wisconsin. I move that Mr. ELIHU B. WASHBURN be excused on account of the condition of his health.

The SPEAKER. If there be no objection Mr. WASHBURN, of Illinois, will be excused. There was no objection.

THOMAS WILLIAMS. No excuse offered.

JOHN T. WILSON. No excuse offered.

STEPHEN F. WILSON.

Mr. BROOMALL. It was stated last night that my colleague, Mr. WILSON, was absent on leave. I do not know whether such is the fact.

The SPEAKER. The Chair thinks it is the fact. The gentleman is certainly not in the city. His name will be omitted from the warrant.

FERNANDO WOOD.

Mr. STEWART. I believe my colleague, Mr. WOOD, has leave of absence. I know he was obliged to leave the city on account of sickness.

GEORGE W. WOODWARD.

Mr. GETZ. My colleague, Judge Wood-

WARD, is not at all well, and I hope he will be excused.

The SPEAKER. If there be no objection, the name of Mr. WOODWARD will be omitted from the warrant.

There was no objection.

Mr. SCOTFIELD. I move that the gentleman from Ohio, Mr. BINGHAM, be excused. I came from his room a short time ago. He told me he was not well, and did not feel able to come up. He desired me to ask that he be excused.

The SPEAKER. If there be no objection, the gentleman from Ohio [Mr. BINGHAM] will be excused.

There was no objection.

Mr. INGERSOLL. Is it in order to move that those members who are reported absent, but who are now within the lobby, be admitted?

The SPEAKER. As the call is now operating, the House has ordered those gentlemen to be brought in by the Sergeant-at-Arms. The Speaker has just signed the warrant, and the Sergeant-at-Arms is now about to execute the order of the House.

Mr. WELKER. I have just come from the room of my colleague, Mr. DELANO, who stated to me that he was not able to be here to-night. I move that he be excused.

Mr. INGERSOLL. I hope that no more excuses of this kind will be offered. They will give this capital a bad reputation for healthfulness throughout the country. [Laughter.]

The SPEAKER. If there be no objection, Mr. DELANO will be excused.

There was no objection.

The Sergeant-at-Arms appeared and reported that, in accordance with the order of the House, he had arrested and brought to the bar of the House Mr. BENTON, Mr. CORNELL, Mr. CULLOM, Mr. ECKLEY, Mr. NEWCOMB, Mr. MYERS, Mr. SAWYER, Mr. STEVENS of New Hampshire, Mr. BEATTY, Mr. MERCUR, and Mr. HUMPHREY.

The SPEAKER. Mr. BENTON, you have been absent without the leave of the House; what excuse have you to render for your absence?

Mr. BENTON. I came as soon as I could. I arrived here at a few minutes to eight o'clock, and thought I was in time, but found the doors closed.

Several MEMBERS. The hour of meeting is half past seven.

Mr. BROOMALL. I move that the gentlemen who are now at the bar of the House under arrest be discharged on the payment of the usual fees.

Mr. ORTH. Five dollars each, and the usual fees.

Mr. BROOMALL. Oh, no!

The SPEAKER. The motion does not preclude any member in arrest from having a separate vote on his case.

Mr. SCHENCK. Is it not proper to exclude from the motion those who were reported to be so ill as to be unable to be present, and yet are here now?

The SPEAKER. Sometimes gentlemen who are ill and so reported by their colleagues do attend night sessions. The gentleman from Ohio [Mr. SCHENCK] was reported to be ill, and yet is now present in the Hall. [Laughter.]

Mr. TWICHELL. I move those who are still outside and cannot get in also be discharged.

The SPEAKER. That cannot be done at present, and not until they are brought to the bar of the House.

Mr. BROOMALL's motion was agreed to, and the members named were accordingly discharged.

The Sergeant-at-Arms again appeared and reported that, in further obedience to the order of the House, he had arrested and brought to the bar of the House Mr. JONES, Mr. RAUM, Mr. UPSON, Mr. BARNES, and Mr. NICHOLSON.

Mr. BROOMALL. I move that they be discharged on the payment of the usual fees.



The SPEAKER. Either of the members at the bar has the right to ask for a separate vote on his case.

Mr. BROOMALL's motion was agreed to.

The SPEAKER. A quorum is now present. Mr. ALLISON moved that all further proceedings under the call be dispensed with.

The motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. McCORMICK. I move that my colleague [Mr. NEWCOMB] be excused from attendance upon the sittings of the House this evening. He is not well, and wishes to retire to his room.

The motion was agreed to.

Mr. HILL and Mr. FIELDS were granted indefinite leave of absence.

#### ARMY REGISTER.

Mr. LAFILIN, from the Committee on Printing, reported the following resolution:

*Resolved*, That five thousand copies of the Army Register be printed for the use of the House.

The resolution was adopted.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that that body had passed a bill (H. R. No. 365) constituting eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States.

#### INTERNAL TAX BILL.

Mr. ALLISON. I call for the regular order of business.

The House, under the order heretofore made, resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

The CHAIRMAN stated the pending question was on Mr. LOGAN's amendment to the amendment of Mr. BOUTWELL to the forty-ninth section.

Mr. LOGAN. I modify my amendment so it will read as follows:

Sec. —. *And be it further enacted*, That from and after the date at which this act shall take effect there shall be an allowance of drawback on all rum and alcohol on which internal taxes shall hereafter be paid, equal in amount to the taxes so paid thereon and no more, when exported in good faith. The payment of said drawback to be made only when the evidence shall be furnished to the entire satisfaction of the Secretary of the Treasury by such person or persons who shall claim allowance of drawback, that such tax has been paid, and the said rum or alcohol so exported—landed, and delivered to the consignee or consignees at the foreign port to which it was exported, to be proved by the sworn testimony of responsible persons where exported from and exported to—the same to be paid by the warrant of the Secretary of the Treasury on the Treasurer of the United States out of any money arising from internal tax on distilled spirits not otherwise appropriated: *Provided, however*, That no claim for drawback shall be allowed on either of the said articles which shall have been exported as aforesaid prior to the time at which this act shall take effect.

Sec. —. *And be it further enacted*, That if any person or persons shall fraudulently claim or seek to obtain an allowance of drawback on any article or articles aforesaid, on which no internal tax shall have been paid, or shall fraudulently claim any greater allowance or drawback than the tax actually paid thereon as aforesaid, such person or persons shall forfeit and pay to the Government of the United States triple the amount wrongfully or fraudulently sought to be obtained; and on conviction thereof shall be imprisoned in the penitentiary for a period not less than one nor more than ten years.

Mr. Chairman, I hope the committee will give me its attention while I explain my reasons for offering this amendment. Under the provisions of the bill, inasmuch as we have provided that the tax shall be paid at the distillery warehouse, that presupposes that we will provide some way for the exportation of such articles of distilled spirits as are exported. There being nothing of the character exported save rum and alcohol, I thought, rather than to allow the taking from bond for redistillation and exportation, in order to guard against many of the frauds that have been perpetrated

by means of the provisions of the existing law, that the best mode we could adopt would be to provide for the payment of all taxes at the distillery warehouse when the spirits should leave it for any purpose whatever, and then provide a drawback for the amount of taxes that may be paid upon all exported distilled spirits, which would be all the alcohol and rum that is exported from this country.

I think the exportation of rum and alcohol is well guarded. This amendment provides that when either of the articles is exported from this country to a foreign port, before the drawback shall be allowed or paid on the warrant of the Secretary of the Treasury the evidence shall be furnished of the payment of the tax from responsible witnesses under oath residing at the place where the exportation takes place, and also at the place where the article lands after it is in the hands of the consignee.

Mr. WILSON, of Iowa. I desire to ask the gentleman whether or not he intends to include in the provision relating to drawbacks such alcohol as may be used in the manufacture of medicine and cosmetics which may be exported from the country.

Mr. LOGAN. The amendment includes all alcohol that is exported. That is my intention.

Mr. WILSON, of Iowa. After it has been used in the manufacture of medicine or cosmetics, is the provision broad enough to include that? I think it ought to.

Mr. LOGAN. No, sir, it does not; but I would have no objection to any gentleman proposing such an amendment. The section I propose to amend has no reference whatever to anything of that kind. It is easy to provide for a drawback on cosmetics and articles of that kind. But I think it is necessary to establish the principle whether we will allow exportation in this way or under the amendment of the gentleman from Massachusetts, [Mr. BOUTWELL.] I desire for a moment to give my reasons for objecting to the proposition of the gentleman from Massachusetts. He proposes to export these articles by giving to a few distillers an exclusive license for that express purpose. There are many objections to that, which I have not time now to allude to. But the greatest objection is this: that from all parts of the country it would allow the transportation in bond for the purpose of exportation; and, as we all know, we have been attempting here to provide against the frauds that have occurred under this transportation system. If we permit the transportation from West to East or from the East to the West in bond, without first having the taxes paid, we only provide for the starting of the alcohol or spirits; and after you have started it from the distillery warehouse, and it has proceeded a short distance locked up in a car, no one having any knowledge of what is in the car except the agent himself, it has only to be left at some way-station and started on some other route, taken from the car, stripped of the stamp, and put on the market. This has been done so often, and we have so much evidence of the fact, that I do think we will not be doing justice to the country unless we provide some protection against this manner of perpetrating frauds. It is the easiest and simplest thing in the world to perpetrate frauds, provided persons are desirous of doing so under the transportation laws. You may ship three hundred barrels of whisky to-day on one certificate; by having a triplicate and shipping on different railroads you return the one certificate. I speak of the old law, but it may be done under any law where there is collusion between the collector and the man who transports the goods. These frauds have been perpetrated to such an extent that I have become convinced that the only way in which we can prevent them is to allow drawbacks in this manner.

[Here the hammer fell.]

Mr. SCHENCK. Mr. Chairman, my purpose in rising is to call the attention of the House to the fact that we are at a turning point in this bill as it regards the system which is

to be adopted in reference to distilled spirits either to be exported or under any circumstances removed from the distillery warehouse. My colleague upon the committee [Mr. LOGAN] proposes to abolish entirely the whole export system through a warehouse surrounded by proper guards in the law, and to allow no exportation except of distilled spirits which shall have first regularly paid the tax at the distillery, and then, so as not to break down the export business altogether, to introduce what we have been for a number of years trying to get rid of as itself an opening to great opportunities of fraud, a system of drawback, so that the tax paid may be returned to the exporter.

Now, sir, I desire to call the attention of the committee to this whole subject of the transportation of liquors in bond. The present law is exceedingly loose upon that subject. The present law authorizes, with few or no guards, very insufficient guards and regulations, liquors to be taken in bond without payment of tax from the distillery to what is called warehouse "B," and to be transported from warehouse to warehouse, from district to district, and from one extreme part of the United States to another, almost without limitation as to the number of transfers, thus opening the door to enormous frauds, which frauds have been in numberless instances shamefully committed, evading payment of the tax and injuring the revenue of the country.

So great the evil grew to be that the Committee of Ways and Means introduced into this House in January last, as one of the first expedients, while they should be engaged in revising the law, a stoppage, for the time being, of all removals of whisky, without the payment of tax, from bonded warehouses. That was passed almost unanimously through the House, and afterward passed the Senate, and is now upon the statute-book. But what did all that mean? Some construe it to have properly meant an intention to break up the whole bonded-warehouse system, as incapable of reform. Others, and I among them, understood it to be a temporary expedient by which this loose system could be broken up and entirely interrupted until some revision of the law should take place by which reform could be accomplished. Now, if the object be to utterly destroy everything like the removal of liquors in bond under any circumstances, the course is plain for this House, and some such provision as that proposed by my colleague on the committee ought to be adopted. If, on the other hand, it is not to be destroyed, but to be regulated, then I think we have accomplished it pretty effectually in the bill which is before the House.

Now, then, what is to be the result of all this? I claim that there is a general outcry against the whole bonded system, founded upon actual abuses which have been committed, which is running into the mistake of destruction instead of reform, and that it is a thing perfectly capable of revision and reform, restraint and regulation, under such circumstances as will make it an efficient help to the revenue of the country, and at the same time aid the general business of the country. If you do not permit, under any circumstances—and that seems to be your present conclusion—distilled spirits to be removed, say from the West to the East, without payment of the tax in advance, how will it operate? Here is a western man, a trader or distiller, a manufacturer, who has on hand \$10,000 worth of whisky, say ten thousand barrels, or ten thousand gallons, to bring it within more probable limits. It cost him twenty cents to produce it, which is \$2,000. He cannot put it upon the market without adding to the \$2,000 in value \$5,000 more of tax, rating the tax at fifty cents. I predict that under these circumstances the trade will be driven to the East, and it will not be a year before the western interest will be clamoring for some provision by which they shall not be called upon to advance twice and a half the

value of their production in order to get it to market.

[Here the hammer fell.]

Mr. LOGAN. I will withdraw my amendment to the amendment, in order to give some gentleman who desires to be heard an opportunity to renew it.

Mr. HOOPER, of Massachusetts. I renew the amendment to the amendment, and yield my time to the chairman of the Committee of Ways and Means, [Mr. SCHENCK.]

Mr. SCHENCK. My colleague upon the Committee of Ways and Means [Mr. HOOPER, of Massachusetts] gives me his time, which enables me to finish what I desired to say. I say that I have no doubt the effect of this proposition will be that the western trader or distiller, finding that he cannot afford the amount of capital that he can employ and handle and advance twice and a half the price of his product in order to get it to market, will be compelled to sell out at a disadvantage to some one who can afford to lay out so much money, to some one who is a capitalist and comes from the East to speculate in those spirits, and who will expect in return to drive him down to the lowest possible living price for the article which he produces. Thus the whole will operate to the benefit of the capitalist rather than to the man who produces the article. Such will be the effect of the proposition that eventually, and probably within twelve months from this time, if we pass a law under this impulse which now seems to prevail, to break up everything like transportation in bond, we will have the whole West clamoring for a renewal of the bonded system. The man who has to advance \$5,000 in order to get \$2,000 worth of his product to market must lay out of the interest of his money until he gets that to market, must be subjected to all the losses and incidental expenses, until finally, when he does succeed in making a disposition and sale of his property, these incidental expenses will pretty much eat up the original cost of the article, or at least that proportion of the amount for which it sold which was likely to be profit.

Now, meeting this question, and seeing the determination not to have any removal generally of spirits in bond without the prepayment of the tax, the committee have sought to provide at least a system by which the export trade of the country might be kept up by a good and complete machinery of bonded transportation, upon which subsequently might be ingrafted, if thought proper, by future legislation, some restoration of that which I think will be demanded particularly by the western part of the country. We have provided that at least distilled spirits may go forward from the distillery warehouse, under careful restrictions, where they are actually intended for exportation and are really exported. We have made an exception in favor of those manufactured compounds into the production of which spirits mainly enter, in order that we may save that much toward our foreign trade.

And here I will remark in passing that, among other houses, there is a single house in New York city which exports some four hundred and twenty thousand dollars' worth annually even of what may be considered the insignificant article of cosmetics, getting their distilled spirits in this country without the payment of a tax, because it goes abroad, being able to compete with the French and other manufacturers so as to push their goods out of the market. So in regard to the distillation of alcohol, the production of rum and all forms of distilled spirits in which that article goes abroad to any extent; we compete with all Europe in our redistilled spirits, in our alcohol used extensively in the arts, used for the production of that brandy by mixture which they send back to us and pay a high duty upon. We crowd out the alcohol of Europe; and that trade is continually increasing.

Now, I think my colleague on the committee [Mr. LOGAN] is mistaken. I know how strong his opposition is to anything like the transportation of spirits in bond. I think gentle-

men are generally mistaken who suppose that the system of transportation provided for in this bill is the present system at all. It is surrounded by such guards, such restrictions in respect to removal from one place to another, a single removal, the route to be selected, the guards along the route, the bonds under which it is to be done, the forms to be observed, that it seems to me it is impossible by any human calculation or ingenuity to make such frauds possible as are now committed.

[Here the hammer fell.]

Mr. HOOPER, of Massachusetts. I withdraw my amendment to the amendment.

Mr. LOGAN. I renew the amendment to the amendment. I desire to occupy the attention of the committee for a few moments; and I hope the chairman of the committee will not think that my opposition to this bonded system is actuated by anything except a desire to arrive at that which is right. But I wish to call the attention of the committee to one of the arguments presented by the chairman. If this bill is designed to provide for exportation only, very well. Then I ask the chairman to tell me why he uses all through the bill the words "distilled spirits?" "Distilled spirits" includes whisky; it includes crude spirits; it includes high wines and alcohol and rum. This bill, then, allows the transportation in bond of whisky, alcohol, high wines, crude spirits, and rum. Now, sir, I want the committee to understand that we do not export any of these articles, except alcohol and rum; and when you provide for transporting for export that which is never exported you hold out to the country an inducement that is a false inducement. I do not mean any intentionally false inducement. Gentlemen say "the provision can be easily changed." I understand that, and I propose to change it.

It is said that the West will be howling here next session for transportation in bond. You have already provided in this bill for the transportation in bond of any kind of distilled spirits for exportation. Then, again, spirits may be taken out of the warehouse for redistillation. Now, if this is not the old law over again, except that there are a few additional guards, I do not understand the matter.

Mr. SCHENCK. It only goes from the distillery.

Mr. LOGAN. I understand that. You allow it to be taken out of the distillery warehouse for redistillation. There is one chance for fraud by stealing the whisky. Then you allow it to be returned. There is another chance for fraud on that trip. Then you allow the liquor to be transported to New York, Philadelphia, or Boston—for what? For exportation. There is another chance for fraud. Thus, by the provisions of this bill, you allow the liquor to go all over the country. Now, I propose to adopt what seems to me fair dealing with the country. I propose that we shall permit rum and alcohol to be exported, because these are all of this class of articles that ever are exported. If we intend to allow only the transportation in bond of that which is to be exported, and want to deal fairly with the country, let us say so in this bill. It is useless to tell the western people that they can transport in bond for exportation. They will understand perfectly well that they can export just as they have done heretofore; and so will everybody else. But how was it that your whisky got on the market when it was transported from Peoria, from Dubuque, from Chicago, and from everywhere else to New York. How was it? Why, some of it was transported perhaps for exportation, some for one thing and some for another; some perhaps to be used in the preparation of cosmetics. Yet that liquor got on the market, and the Government lost the tax, just as it will if you provide by this bill for transportation in bond. We have now in bond some twenty-five million gallons of whisky, the tax on which under the present law is \$50,000,000. Under the reduction of tax proposed in this bill the tax would amount to \$12,500,000.

Now, I propose that drawbacks shall be paid on that only which is exported and nothing else; and I say that if the Government were to pay \$5,000,000 on this whisky, and then throw it into the canal down here or into the river, not a gallon being exported, the Government would make money by the operation. The Government has, during the last twelve months, lost over one hundred million dollars by transportation bonds and bonded warehouses. This is well known to gentlemen of the House. We ought to have realized the tax on at least one hundred million gallons, which would have been \$200,000,000. How much have we realized? Fourteen million dollars. It is said that the two-dollar tax cannot be collected. But why has it not been collected? Because the whisky got on the market by virtue of fraudulent transportation bonds, by virtue of bonded warehouses, by virtue of transportation from one part of the country to another. If you want to reenact the same scenes and deprive the Government of \$100,000,000—for out of this you will not get more than forty or fifty million dollars—if you want to deprive the Government of this revenue reenact the old bonded warehouse system, call it by what name you please, and you will have the same frauds you have had for the last eighteen months.

[Here the hammer fell.]

Mr. ALLISON. I rise to oppose the amendment, and I wish to call the attention of the gentleman from Illinois to a defect in his amendment.

Mr. LOGAN. If the gentleman will allow me, I wish to state that I have two amendments, one I think at the suggestion of the gentleman from Iowa. I will read them, and will, if gentlemen desire, let them go with my substitute. Add to the first section of my amendment:

*Provided, also,* That a deduction of five per cent. shall be made from the amount of drawback herein allowed.

Then, again, insert before the word "provided" the following:

And in like manner a drawback shall be allowed upon all alcohol and rum used in the manufacture of medical preparations, compositions, perfumery, cosmetics, cordials, and liquors, under such rules and regulations as the Commissioner of Internal Revenue shall prescribe.

Mr. ALLISON. Does the gentleman modify the substitute as he suggests by those two amendments?

Mr. LOGAN. I do not. I merely wish to show the amendments of the substitute that have been suggested to me.

The CHAIRMAN. The pending proposition is the substitute moved by the gentleman from Illinois. Does the gentleman withdraw it?

Mr. LOGAN. I do not. I am willing to modify it so as to make it more effective if possible.

The CHAIRMAN. It cannot be modified unless it is withdrawn.

Mr. ALLISON. I am opposed to the amendment of the gentleman from Illinois. I have a proposition, which I will hereafter move, providing this drawback shall not exceed fifty cents per gallon. He has the extraordinary proposition here that we shall refund upon any kind of exported spirits all the taxes paid thereon. I should like to see any man who can tell what the taxes are that under this amendment will be refunded.

Mr. Chairman, I believe we all agree upon the general proposition that some method should be ascertained whereby we can protect the interest of those who in good faith are the exporters of distilled spirits. But I wish to say to my friend from Illinois, [Mr. LOGAN,] when he attacks the principles of this bill and proposes to substitute his drawback system in my judgment he opens the flood-gates of fraud. He seems to ignore in his entire argument that we have provided a stamp for distilled spirits by which it will be impossible to transport them unless they have paid the tax except on a designated line of transportation to a port of entry. Any detention or diversion from this line would at once render them liable to seizure for want of the tax-paid stamp; no one would

buy them for consumption because they could not be put upon the market. My friend ought also to know, when he charges the committee with perpetrating a deception upon this House—

Mr. LOGAN. I beg the gentleman's pardon, I have not charged anything of the kind.

Mr. ALLISON. I understood him to say that the words "distilled spirits," used in this bill, are a deception. I know, and I presume most of the members of this House know, that alcohol is distilled spirits, and everything that contains the element of alcohol, when it comes from the processes of distillation known in the markets of the world. I say when we use the words "distilled spirits" we use the exact and proper words. I agree with my friend that we should adopt some means by which these frauds should be prevented. In my judgment his proposition is not the true method, and if we cannot transport distilled spirits from Chicago, Peoria, and Dubuque to New York without reopening the flood-gates of fraud, then every gallon should pay the tax at the distillery warehouse, without any exception or limitation whatever, and let our exportations of this article entirely cease. It is a small business compared with the interest at stake in this question of collecting the tax on distilled spirits.

Mr. WILSON, of Iowa. I desire to ask my colleague a question.

Mr. ALLISON. I will yield if you will make it short.

Mr. WILSON, of Iowa. Do I understand by this bill that spirits may be transported in bond for any other purpose than exportation and use in the manufacture of medicine and other articles?

Mr. ALLISON. I know very well what my colleague proposes to follow with that question. There is no proposition here to allow transportation in bond except for exportation to foreign countries and for the manufacture of cosmetics, perfumery, cordials, &c., which shall afterward be exported, and when we come to that I shall move to strike it out. It opens the door for the perpetration of the worst species of fraud that can be perpetrated in this article of distilled spirits. I have been informed that one house in New York has exported six thousand barrels of brandy to the Mediterranean coast, which was little else than water, under the protection of the one hundred and sixty-eighth section of the present law, which is to some extent retracted in this bill. This brandy was almost valueless when it arrived at the foreign port, and doubtless represented six thousand barrels of distilled spirits put on the market in this country without the payment of any tax whatever.

[Here the hammer fell.]

The CHAIRMAN. Debate is exhausted on the amendment to the amendment. Does the gentleman from Illinois desire to modify it before the vote is taken?

Mr. LOGAN. No, sir.

Mr. INGERSOLL. I ask my colleague to withdraw it and let me renew it.

Mr. LOGAN. I will modify it, at the suggestion of several gentlemen, by inserting after the word "thereon" the words "not exceeding fifty cents per gallon on each gallon of proof-spirits," and by striking out the words "and no more;" so that it will read as follows:

That from and after the date at which this act shall take effect there shall be an allowance of drawback on all rum and alcohol, on which any internal taxes shall hereafter be paid, equal in amount to the tax so paid thereon, not exceeding fifty cents per gallon on each gallon of proof-spirits, when exported in good faith.

Mr. INGERSOLL. Is it in order to move an amendment?

The CHAIRMAN. It is not.

The question being taken on the amendment, as modified, there were—ayes 48, noes 45; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. LOGAN and ALLISON.

The committee divided; and the tellers reported—ayes 52, noes 46.

So the amendment of Mr. LOGAN was agreed to.

The question recurred on the amendment of Mr. BOUTWELL as amended.

Mr. BROOMALL. I move to insert at the end of the first section the following additional proviso:

And provided further, That the whole amount of drawback allowed shall not exceed the entire amount of tax collected.

I am afraid the drawback will exceed the entire tax.

Mr. LOGAN. I hope it will not be adopted.

The amendment to the amendment was disagreed to.

Mr. INGERSOLL. I am opposed to the principle embodied in the pending proposition; but if we must pass it I desire this amendment to be added to the section:

And provided further, That there shall be allowed and paid to the exporter, in addition to the drawback, interest on the amount of the drawback at the rate of six per cent. per annum for the time the tax shall be held by the Government.

If the proposition of my colleague [Mr. LOGAN] is to prevail I hope this amendment will become a part of the section for the benefit of this interest. From the legislation that we have had here to-day it would seem to me to be the intention to break down the manufacture of distilled spirits in this country altogether, including the exportation of alcohol to foreign countries, and to transfer the production of distilled spirits to Canada, allowing Canadian smugglers to supply this country with that article. Under the thirty-third section of this bill, which was not stricken out on my motion to-day, as it ought to have been, I maintain that no house that distills five hundred bushels of grain a day can continue to do business. The thirty-third section provides that the distillery shall remain idle two days out of the seven.

Mr. SCHENCK. Oh, no.

Mr. INGERSOLL. It provides that the distillery shall go out of blast at eleven o'clock on Saturday forenoon.

Mr. PRICE. Oh, no; on Saturday night.

Mr. SCHENCK. One hour before midnight.

Mr. INGERSOLL. Let me see; I have the section here. The gentleman is right; it is not quite so bad as I thought it was. It says at eleven o'clock in the afternoon. That is rather a queer way to state it. However, it requires the distillery to cease operations for one whole day, from Saturday till Monday. Now, a distillery that is distilling fifteen hundred or two thousand bushels a day will feed four or five thousand hogs and five hundred head of cattle, and it is not expected to go out of blast from November until the following May. You require that the cattle and hogs shall "fast" one day out of seven. [Laughter.]

Mr. PRICE. Will the gentleman allow me to ask him a question?

Mr. INGERSOLL. I cannot be interrupted.

Mr. PRICE. I would like to know if the hogs could not eat something else that day? [Laughter.]

Mr. INGERSOLL. Well, I suppose they could if they could get it. It is not, however, worth while to waste words on a question so trifling. You have retained that provision, and now you propose to kill the export trade altogether. You put on a heavy special tax, and all sorts of taxes, as though the United States was the only country that produces alcohol on the face of the whole earth, whereas we have to compete with English, and more especially with German manufacturers. During the war we actually imported alcohol for home use from Germany, and we shall do it again if this bill shall ever become a law. If you intend that the distillers in this country shall export alcohol, where are they going to find a market? Not in England, not in France, not in Germany; for under the burdens and impositions of this bill those countries, notwithstanding the high price of raw materials, can make alcohol much cheaper than we can. Germany can, and probably will, furnish us all our alcohol if you pass these provisions into the law.

You are destroying an interest which might be rendered profitable to the people of this country and put millions of dollars into your Treasury.

Why, Mr. Chairman, if we did not get one dollar of tax out of the exportation of alcohol it would be well to encourage it. When we cannot export our corn or grain with profit on account of its distance from the sea-board and its great cost of transportation, you can distill it into alcohol; and a package which would only carry four bushels of grain in bulk will carry to market, put into alcohol, what would be equivalent to twenty bushels of grain. Then it goes into the markets of the world in foreign countries and pays our debts, and pays for goods which we wish in exchange for it. But by this bill you put such expensive restrictions and burdens upon the export trade that you cannot export one single gallon out of the country under this law at a profit to the exporter or manufacturer.

[Here the hammer fell.]

Mr. SCHENCK. Mr. Chairman, I wish I felt able this evening to talk more to my own satisfaction in regard to this matter. I shall oppose the amendment offered by the gentleman from Illinois [Mr. INGERSOLL] because it relates to an extension of the drawback system, and I think the whole drawback system a mistake.

Mr. INGERSOLL. I said so, sir.

Mr. SCHENCK. I know you did. There is a question now distinctly made between the provisions of this bill and the amendment offered in several sections by the gentleman from Illinois, [Mr. LOGAN,] and I confess, without any feeling about the matter at all, I prefer to stand by the bill. I believe it is a more complete, well-digested system, and will accomplish more good and give more safety than that which is proposed in lieu of it. I impeach no gentleman's purposes either upon one side or upon the other, but I say this, that in my opinion the outcry against a bonded system of any kind, against the removal of spirits at any time anywhere, has been carried so far, occasioned as it was by the enormous frauds committed, that gentlemen have run into an infatuation almost, as it appears to me, on this subject, and are not for reforming now, but for utterly destroying a system to which I think they will hereafter come back to a certain extent if they should now destroy it.

This drawback system is one that has been as open to frauds as any other. I believe the records and statistics of the custom-house, in regard to all instances where drawbacks have been allowed of taxes paid upon manufactures and goods, will show that they have contrived by false oaths and otherwise to draw back more taxes than have ever been paid on those goods. And it was rather a significant vote of the Committee of the Whole a few moments ago on the amendment to prevent paying out of the Treasury more money for drawback than these parties have paid into the Treasury for taxes. Now, this has been sought to be limited by keeping back five per cent. for the expenses incident to the system. That, however, has been abandoned entirely by the proposition made by the gentleman from Illinois, [Mr. Judd.]

Now, what is it that the bill proposes? So far as the removal from distillery warehouses without the prepayment of the tax is concerned we have given up the removal of liquors which are to be consumed or used in the United States. As I said before, I think it not impossible that at least the western interest will hereafter be found calling for the restoration of the bonded-warehouse system in some degree and in some respects, for reasons which I have assigned. But all that is given up by this bill. What is sought to be saved by the carefully prepared section in regard to removal at all? Why, that there may be removal for actual transportation, that there may be removal for redistillation, to go back again into the distillery warehouse, the redistillation to be in the district. This is so that alcohol may be sent abroad; and so in regard to other compounds,



manufactures of the country, of which distilled spirits is the principal component part.

The gentleman from Illinois [Mr. LOGAN] complains that we use the term "distilled spirits" in the bill; and he wants to know why that term is used. Simply because this is an act in relation to "taxes on distilled spirits." I do not know that I can answer the gentleman in any other way than a Dutch friend of mine answered a like question. He said to a neighbor of his, "Mein herr, can you tell for what I calls my little poy Hans?" His neighbor replied, "Well, no; I really don't know." "Well, the reason I calls my little poy Hans is because his name is Hans." [Laughter.] We call this "distilled spirits" because it is distilled spirits; because that is the generic term which embraces all articles of the kind, including rum, alcohol, crude whisky, and everything of the kind. Now, it may be that, departing from the language used in all the rest of the bill, you might use the words "alcohol and rum." And if it is more pleasing to the gentleman to confine this transportation for exportation provided for in this section to the specific articles alcohol and rum I do not know that I would oppose it, although it would be a departure from the general generic term used throughout the bill. I know, as well as the gentleman from Illinois [Mr. LOGAN] does, that crude whisky is rarely exported. It is only after it is redistilled and converted into alcohol that it is found profitable to export it. I know that so far as crude spirits are concerned they are not transported except in the shape of rum.

[Here the hammer fell.]

Mr. INGERSOLL. I withdraw the amendment to the amendment.

Mr. EGGLESTON. I renew it. The difficulty—and there is really not much difference between the views of the majority and the views of the minority of the Committee of Ways and Means upon this question—the difficulty is this: one party proposes that ardent spirits or distilled spirits, including everything else of the kind, shall be transported in bond throughout this country.

Mr. SCHENCK. Only for exportation; not throughout the country.

Mr. EGGLESTON. From the place where it is manufactured to some export warehouse; and that will take in the entire length and breadth of the country. Now, I am opposed to that for the reason that it cannot be done without frauds being committed. It is said that the people of the West will have a chance to send their goods to New York or Philadelphia or New Orleans for exportation; and that thus they will have an equal chance with dealers on the sea-board. But, Mr. Chairman, why should we want to export distilled spirits at all? I ask my good temperance brethren here, whether the object is to build up a foreign trade in this article? Are they willing to go on the stump and say that while this article has so bad an effect upon the people of this country they want to have it manufactured in large quantities to be sent abroad? I know that the object of spreading our trade over the world is to build up the interests of this country; but I throw out this hint for the benefit of those whom it may concern. If, however, you are to send distilled spirits abroad, I say let it go from the seaports, and let the duty be paid there, and let the drawback be paid there, if there is to be a drawback.

But, sir, I am opposed to drawbacks. I want this bill put in such a form that there shall be no transportation of this article in bond, and that there shall be no drawback when the article goes to a foreign country. Thus we shall have a home market for the article. I say to my brethren of the West that we can gain nothing by transporting this article in bond. Alcohol has never been shipped in any great quantities from the West to the East for exportation. I venture to say that in the district of the honorable chairman of the Committee of Ways and Means there is

not one distiller who sends whisky to the sea-board for exportation. There are one or two establishments in Cincinnati that send whisky to the East for that purpose, but they do not export it. It is sold to New York speculators and jobbers, and they do the exporting. I know that there are parties in New York who, since this great cheating in whisky has been going on, have been buying illicitly-distilled whisky and getting the drawbacks upon it; and they have in this way been rolling up their wealth by millions. I could in this connection mention some names. The money has been made by, in the first place, stealing the whisky or buying it for a mere song, and, in the second place, getting the drawbacks upon it. As I have already remarked, I think we had better make a clean sweep in this matter. We want no bonded whisky. What we want is that every distiller, when he moves the whisky from the bonded warehouse in his vicinity, shall pay down the money. Let the tax be paid, and then let the party take the whisky where he pleases. But let us not reinaugurate this bonded-warehouse system.

I yield the remainder of my time to the gentleman from Illinois, [Mr. INGERSOLL.]

Mr. INGERSOLL. Mr. Chairman, I wish to say, in reply to the gentleman from Ohio, [Mr. EGGLESTON,] that such restrictions as he proposes to put upon this trade would kill it entirely. And how would we derive money from whisky if none were made in this country? I desire to make a further statement. In Chicago or Peoria an alcohol establishment will make one hundred barrels of alcohol in a day.

Mr. EGGLESTON. How much have they made?

Mr. INGERSOLL. They have made that quantity, and they can make a great deal more. An alcohol house which produces one hundred barrels a day will, at the end of three months, have produced nine thousand barrels, making, at the rate of sixty gallons to the barrel, five hundred and forty thousand gallons, upon which a tax of fifty cents a proof gallon would make about three hundred thousand dollars. The cost of production is \$540,000 more, making a total of \$840,000. Now, suppose that the manufacturer exports this alcohol. Six months will be required for the receipt of the evidence that the alcohol has reached the port to which it was shipped. The manufacturer makes his application for the drawback; and it is reasonable to suppose that he will not get it within less than from six to nine months from the time he commences the production of the alcohol. So that a capital of \$840,000 will be required to produce nine thousand barrels of alcohol for the export trade; and the manufacturer must be deprived of the use of this amount of capital for from six to nine months. It is evident that under such conditions the business must be abandoned in this country.

[Here the hammer fell.]

Mr. JUDD. Mr. Chairman, it is very desirable that this committee should take its reckoning and ascertain where they are, so that no side issue which does not really belong to the question shall be allowed to divert their attention from the real issue. Now, this committee in its morning session adopted an amendment to the first section of the bill declaring that distilled spirits should not be removed from the distillery warehouse until the tax was paid thereon, and there was hardly a vote against the proposition; at any rate there was no contest upon the question at that time. Whether this was occasioned by a belief that the subsequent sections of the bill would neutralize the amendment so adopted I do not know. My object, Mr. Chairman, has been to get a direct vote and settle the question whether we are again to establish for any purpose the business of the transportation of distilled spirits in bond. This proposition was declared to be in opposition to the business of exporting distilled spirits, and that by it a branch of trade would be destroyed. Although not believing

in this proposition, I was willing to join in any proper legislation or any amendment that would obviate this supposed hardship.

The gentlemen who believe in protecting the exporting interest in this country, and think it would be destroyed by the regulation adopted, made very great complaint; and to remedy that complaint my friend from Massachusetts [Mr. BOUTWELL] offered an amendment that he thought would accomplish the object and at the same time afford protection against the frauds perpetrated in transportation. Following in the wake of this supposed necessity, and to obviate the objections urged by the gentlemen who were afraid of destroying the export trade, my colleague [Mr. LOGAN] introduced this drawback system, so that by removing this objection the principle might be maintained of collecting revenue at the place of manufacture, not because he believed there was not a possibility of perpetrating fraud under it; not because it was a perfect system, but because he desired to adhere to the principle that the Government could not get revenue without collecting the tax on distilled spirits at the distilleries. I say, then, that there is no issue as to the fraudulent nature of action under the drawback system but that does not reach the real issue presented here; the drawback is only incidental to the other question. I do not care whether there is a drawback law passed or not. My object is to collect the tax at the place where the article is manufactured.

Mr. SCHENCK. That is in the bill.

Mr. JUDD. In the original bill; so I understand. I do not desire that the gentleman should make any side issues with me. The question of alleged frauds in all drawback systems must not be allowed to keep from view the real question of where tax shall be collected; but in this bill there is permission under which all distilled spirits manufactured at all the distilleries in the United States, every gallon of it, can go to a port of entry without paying a dollar of tax; that is, if the parties comply with the provisions in this bill, claiming that it is for exportation. You get it there under the claim that it is for exportation, and leave it in the hands of such officers as have dealt in distilled spirits heretofore.

Mr. SCHENCK. Will the gentleman permit me to say that he states what is not in the bill. The provision is that it shall only go to the warehouse when intended for exportation, and it prevents fraud in preventing it going out for any other purpose than exportation. It has to be exported within a given time or else it will be forfeited.

Mr. JUDD. I hope this does not come out of my time. I repeat my statement, the chairman's statement to the contrary notwithstanding, that every gallon of distilled spirits made in distillation in the country may, under these provisions of the bill, be transported from the warehouse at the distillery to any port of entry in the United States, thus subjecting it to the contingencies and frauds connected with inland transportation. It is these contingencies that I would guard against by collecting the tax before it starts.

Mr. SCHENCK. In bond.

Mr. JUDD. Why, the gentleman has in his committee-room counterfeit, forged, fictitious, false, and fraudulent bonds given under the old law to secure safe transportation and the revenue that are not worth the paper they are written upon. While your restrictions in this bill are stronger and additional security is given, the opportunity is left.

Mr. INGERSOLL rose.

Mr. JUDD. I cannot yield now. I cannot submit to further interruptions. I will repeat again that the distilled spirits manufactured in the West can be all moved to New York if the claim is set up that it is for exportation. The gentleman provides by his bill that it shall go abroad, but that will depend, first, upon whether it ever gets there; and second, upon what officers you have to execute the law. If they are anything like the officers we have had

then it will not go abroad, if there is any profit in keeping it here.

[Here the hammer fell.]

Mr. GARFIELD. Mr. Chairman, I desire to say a word on one feature of the amendment presented by the gentleman from Illinois. There are manifestly two evils to be avoided if possible in regulating the tax on distilled spirits. The Committee of Ways and Means desire to avoid if possible the evil of having whisky escape the tax fraudulently while in bond, and they have done away with, as I understand, the system of transporting in bond, except in two cases, one when it is entered in a bonded warehouse for exportation, and the other for redistillation or for manufacture into cosmetics, cordials, &c. I understand it is now the purpose of the committee to cut off the second of these, and thus allow transportation in bond for the purpose of exportation alone. Now, the gentleman from Illinois [Mr. LOGAN] proposes an amendment to avoid the danger of transporting in bond, and in his amendment he introduces a system which I regard as far more dangerous than the transportation in bond permitted in the bill. He proposes to apply to exported spirits the drawback system, which never before has been put into a whisky bill.

In order to illustrate the danger attending the drawback system, should it be applied to spirits, I will state a case recently brought to my attention. A ship bound for a foreign port was lying at the wharf not far from a bonded warehouse containing a large quantity of proof-spirits entered in bond for export. Barrels of spirits are taken out and rolled on the deck of the ship. It takes several days to load them. During the night they are dropped off on to a scow, run ashore to be sold as free whisky, and their places supplied by barrels of water. Now, if the drawback system were in operation these same barrels of spirits might be put back into the bonded warehouse, and the next day rolled out again and put on board ship. In that way the same spirits might be used half a dozen times in making up one cargo, and every time the Government would pay the money out of the Treasury as a drawback. Now, it is bad enough that the Government should be defrauded out of the tax itself, but it is far worse for us to pay the money out as a drawback when there never has been any tax paid, and especially to pay it over and over again. One danger is that by fraud we may fail to get money into the Treasury; the other is that we shall take money out of the Treasury to pay rascals for the frauds they commit. I prefer the least of necessary evils.

[Here the hammer fell.]

Mr. COVODE. I desire to state a fact to show how shipping in bond gives an opportunity to parties to perpetrate frauds on the Government. My attention was called to a case by a gentleman connected with the customs for many years, Mr. Guthrie, who investigated several cases where shipments were made. In one instance a shipment was made to Melbourne, Australia, of forty thousand gallons of whisky on which the parties had secured a drawback at New York. On sending over and examining it he found it was made up of fourteen per cent. of spirits, and the balance of what is called "truck." When it got to Australia they would not pay the duty on it. Now, we should adopt the policy which is best calculated to stop these frauds, whether by shipping in bond or under the drawback system.

The CHAIRMAN. Debate is exhausted on the amendment, and it is withdrawn.

Mr. BUTLER. I renew the amendment. I want to say a few words here in order to be set right by somebody or to set somebody right, as the case may be. Now, I aver that there has not been anything like a drawback on distilled spirits as such for five years, and therefore all the stories about the immense sums the Government has been swindled out of by drawbacks on whisky are myths.

Mr. SCHENCK. There never has been any drawback on whisky.

Mr. BUTLER. Never has been any drawback at all; so says the gentleman from Ohio. I have, then, got some good by speaking, for I thereby find out, on running back through these tax bills, it turns out that there never was any drawback. So my friend from Pennsylvania [Mr. COVODE] has been misled.

Mr. COVODE. I did not say drawback, but bond.

Mr. INGERSOLL. I did not say any such thing.

Mr. BUTLER. I have not said you did. But gentlemen here have said that millions upon millions are made out of drawbacks. Now, gentlemen, I am going to talk a few minutes, if you will keep quiet.

Now, I agree that the drawback system may have its disadvantages; because when you provide for such a system whisky that has not paid the tax may be exported and the drawback received, and you depend only upon the honesty of the consular or other officer abroad to establish what has been exported. Water may be exported, and when it gets abroad and the consular officers certifies that so many barrels of whisky have been received the water receives the drawback from the Government. There is, therefore, a great chance for fraud. It would be for the benefit of our rum distillers at the East to have the drawback system adopted, if it were honestly administered; and it would be quite as much for our benefit, provided it was dishonestly administered—yes, a little more; because we always do a thing, when we intend to do it, with a great deal of energy and success. Now, what I desire is simply to save the export trade in some form. When we come to the fifty-second section, and settle the question as to what shall be exported, I propose to ask the committee to adopt, instead of distilled spirits, alcohol and rum, so that nothing but alcohol and rum can be exported or transported in bond. Whenever any unpaid whisky is found on board the cars for transportation there will be no excuse that it is to be exported. This provision will diminish the chance of whisky being transported as alcohol. Now, rum is pretty much all made on the sea-board, because it is made from molasses, and is the distinctive name of the distillation of saccharine matter coming from the cane, and being made almost entirely on the sea-board there is but very little transportation during which it can be stolen in getting it on board ship; so that you will have another guarantee. And as almost the entire export trade is in alcohol and rum, I think all this difficulty may be relieved by the simple amendment of putting "alcohol and rum" instead of "distilled spirits," and we can meet exactly what my friend from Illinois [Mr. LOGAN] desires—for his desire and mine is the same I am certain in this matter—and meet what the committee desire, and save as many chances of fraud as under any other provision.

[Here the hammer fell.]

Mr. SCHENCK. I think, following up the idea of the gentleman from Massachusetts, [Mr. BUTLER,] that this will be better understood if gentlemen, instead of taking declarations broadly made of what the bill proposes to do and what it does do, will just look forward a few lines and see what is in the bill itself. Now, the forty-ninth section which we are now considering I think ought to be stricken out entirely, not because it is not needed, but because it is just a transfer from the general bill we have prepared, and is the same now in the law, and if we take it out of this bill it remains as a general section in the law unreppealed and unaffected by this legislation. But the next section, section fifty, is an answer to a great deal that has been said here. Let me read it, for it is short:

That the Commissioner of Internal Revenue is hereby authorized to establish and designate at any port of entry in the United States bonded warehouses for the storage of distilled spirits—

Well, suppose you make it "alcohol and rum"—

in bond, intended for exportation. Suitable buildings shall be selected for such warehouses, which shall not be of less capacity than sufficient to store five thousand barrels of distilled spirits—

Or "alcohol and rum"—

and shall have no opening into or connecting them with any other building, nor be within six hundred feet of any distillery or rectifying establishment, and shall be known as export bonded warehouses, and used exclusively for the storage of distilled spirits in bond—

Now, see what comes next—what is said not to be in the bill—

and no distilled spirits shall be withdrawn or removed from such warehouses except on an order or permit from the collector in charge of exports for immediate transfer to the vessel by which they are to be exported to a foreign country, as hereinafter provided.

Mr. JUDD. Will the gentleman allow me a word?

Mr. SCHENCK. The gentleman would not let me interrupt him to set him right; however, I will yield to him.

Mr. JUDD. If the gentleman intends to apply his remark to me, and convey the impression that I stated that provision was not in the bill, he misunderstood me. I simply stated that from the place of manufacture, the distillery, every gallon could go to the export bonded warehouse.

Mr. SCHENCK. That is if the distiller is willing either to actually take it abroad or let it be forfeited. I do not suppose any fool is going to take his whisky and throw it away. Then gentlemen say that it can be all taken there and then smuggled out in some way. How? It is to be carried on board the vessel under regulations hereinafter provided. If gentlemen will go forward to sections fifty-one, fifty-two, and fifty-three, they will find what guards and restrictions are thrown around this matter, so that no human ingenuity, it would seem, would be sufficient to get this liquor away in any other manner. And when you come to add to that the stamp system, by which, if a barrel puts its nose outside the warehouse without having the cross and earmarks it is subject to be seized, you have additional guarantees you never had before. The truth is the difficulty heretofore has been, principally, the removal from bonded warehouses for purposes of rectification. This bill closes down upon all that. There is not a scintilla, not a particle of this bill, not a word in the bill which, in the slightest degree, authorizes the removal of a gallon of distilled spirits from a bonded warehouse for purposes of rectification. If a man wants to follow the business of rectifying he must buy the tax-paid whisky in the market.

Now, submitting the question whether we shall stand by the bill, subject to the suggestion made by the gentleman from Massachusetts, [Mr. BUTLER,] to remove an apparent difficulty or sweep it out of the way and go into a system of drawbacks hitherto untried in this country so far as whisky is concerned, but tried in regard to other matters so far as to find all manner of frauds in it, I am willing that the vote shall be taken. And as we have discussed this question fully, I propose to stop all debate on this whisky matter down to the special taxes provided for in section sixty-five.

Mr. O'NEILL. Before the gentleman takes his seat I would like to ask him, for the purpose of information, how these sections of the bill reported by the Committee of Ways and Means will affect the act of January, 1868, "to prevent frauds in the collection of the tax on distilled spirits?"

Mr. SCHENCK. By repealing it so far as it is inconsistent with the provisions of this bill should it become a law.

Mr. O'NEILL. That act was passed to prevent frauds. This section, I understand, sets forth the manner in which this withdrawal from export warehouses can be made.

Mr. SCHENCK. That act was passed to shut down on frauds which have been committed and which will continue to be committed

if you continue the present system. "I now ask unanimous consent to close debate on this section and the succeeding sections down to section sixty-five.

Mr. BARNES. I object.

Mr. SCHENCK. I move, then, that the committee rise for the purpose of terminating debate.

The motion was agreed to.

The committee accordingly rose; and Mr. POMEROY having taken the chair as Speaker *pro tempore*, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had, pursuant to the order of the House, had under consideration the Union generally, and particularly the special order, being House bill No. 1284, to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, and had come to no resolution thereon.

Mr. SCHENCK. I now move that the rules be suspended, and the House resolve itself into Committee of the Whole on the special order. Pending that motion I move that when the consideration of this bill shall again be resumed in Committee of the Whole all debate shall terminate in ten minutes upon the pending section and all amendments thereto, and upon all the succeeding sections down to and including section sixty-four.

Mr. LOGAN. Oh, no; I hope not.

Mr. HOLMAN. I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman will state his point of order.

Mr. HOLMAN. My point of order is, that it is not competent, under the rules of the House, to direct that all debate shall terminate upon any section but the one now pending.

The SPEAKER *pro tempore*. The Clerk will read the proviso of the sixtieth rule which relates to that subject.

The Clerk read as follows:

"Provided further, That the House may, by a vote of a majority of the members present, at any time after the five-minutes debate has taken place upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph, or at their election upon the pending amendments only."

Mr. BLAINE. I ask that the Clerk also read Rule 104.

The Clerk read as follows:

"The House may at any time, by a vote of a majority of the members present, suspend the rules and orders for the purpose of going into the Committee of the Whole House on the state of the Union; and also for providing for the discharge of the Committee of the Whole House, and the Committee of the Whole House on the state of the Union—from the further consideration of any bill referred to it, after acting without debate on all amendments pending and that may be offered."

The SPEAKER *pro tempore*. There is no doubt that it is in the power of the House to take action as indicated in Rule 104; but the Chair rules that where a bill is under consideration in the Committee of the Whole it must be read by sections, and that as each section is read it is competent for any member to move an amendment thereto, which may be discussed for five minutes in favor of the proposition and five minutes against it, when debate may be closed. The Chair, therefore, sustains the point of order.

Mr. SCHENCK. In view of that decision, which overrules the decision previously made to-day, I move that all debate upon the section under consideration, and the amendments thereto, cease in five minutes after the House shall again resolve itself into the Committee of the Whole.

Mr. BARNES. Say twenty minutes. There has been no debate on this side of the House.

The motion of Mr. SCHENCK was agreed to; there being—ayes sixty-seven, noes not counted.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union, and resume the consideration of the internal tax bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union,

(Mr. BLAINE in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

The CHAIRMAN. By order of the House all debate on the pending section and the amendments thereto will terminate in five minutes.

Mr. BARNES. Mr. Chairman, it seems to me that this House by its action this afternoon has adequately provided for the remission of almost all duties upon distilled spirits; and now it is proposed to pay back upon the exportation of the article a specific sum of fifty cents per gallon. I am rather inclined to think that we had better allow the hoofs and horns to go with the hide, and abandon any effort to collect taxes from this article. In a section which was passed this afternoon, it is provided that in case of the disability of an inspector of a bonded warehouse, where lies the germ of the collection of the tax upon this article, the warehouse shall be placed within the control of the collector of the district. I undertake to say that any intelligent gentleman who has considered this matter is fully aware that this provision points directly to such a collusion within that district as will make it impossible to collect under this bill any larger percentage of tax than has been collected under the existing law. As to the percentage of tax that has been collected upon spirits within the last year we are without positive information. The Commissioner of Internal Revenue in his report, at the opening of this session, stated that there had been manufactured in the previous year between forty-two and forty-five million gallons of distilled spirits. The chairman of the Committee of Ways and Means, in introducing this bill, informed the House that at seventy-five cents per gallon the Government would realize between sixty and seventy million dollars, which would indicate a production of about ninety million gallons. Which of these two high authorities is correct I am unable to say. There is a wide discrepancy between the two statements. But we do know that with the tax nominally at two dollars a gallon spirits has been selling on the average at about one dollar and forty cents per gallon, and that the Government has during the past year received less than \$20,000,000 from this source, while it has paid over a hundred millions to the rascals who have been accessory to the evasions of the law. The provision in this bill to which I have referred furnishes the loophole through which the law will still be evaded.

Again, sir, the provision with reference to the bonds to be given by inspectors is such as to render it impossible to get an honest inspector of those distilleries. It is provided that the bondsmen shall be responsible for the acts of the second appointed agent. What responsible man in the United States is going to become a bondsman for John Doe, although the latter may be his own brother, if in case of sickness or disability Richard Roe may be appointed to the place, the bondsmen being made responsible for his actions? Such a provision necessarily puts the revenues under the control of irresponsible men. I undertake to say that, however the system may be braced up and guarded in other respects, the Government cannot, if this provision be retained, collect twenty-five per cent. of the taxes to which it is rightfully entitled. But I do undertake to say that when the Government binds itself to pay back a specific sum of fifty cents, and does not put against it the cost of collecting the sum of fifty cents, it is assuming the guardianship of the money of the people which it has no right to ask. The law, as it will appear, is an absurdity. It is defective. If we collect forty-nine cents and pay back fifty cents the Government will be the loser to that extent, and will be wronged in that proportion.

[Here the hammer fell.]

The CHAIRMAN. Debate on this section is exhausted.

The question was taken on Mr. INGERSOLL'S amendment; and it was rejected.

Mr. HOOPER, of Massachusetts. I move to insert after the word "appropriated" the words "and no drawback shall be allowed when the amount allowed for drawback in any year has exceeded the amount of tax on distilled spirits received during that fiscal year;" so it will read:

The payment of said drawback to be made only when the evidence shall be furnished to the entire satisfaction of the Secretary of the Treasury by such person or persons who shall claim allowance of drawback that such tax has been paid, and the said rum or alcohol so exported, landed and delivered to the consignee or consignees at the foreign port to which it was exported, to be proved by the sworn testimony of responsible persons where exported from and exported to, the same to be paid by the warrant of the Secretary of the Treasury on the Treasurer of the United States out of any money arising from internal tax on distilled spirits not otherwise appropriated; and no drawback shall be allowed when the amount allowed for drawback in any year has exceeded the amount of tax on distilled spirits received during the fiscal year.

The amendment was rejected.

The committee then divided on Mr. LOGAN'S amendment; and there were—ayes 38, noes 52; no quorum voting.

Mr. LOGAN. I do not ask for a further count.

So the amendment was rejected.

Mr. LOGAN. I move to strike out the forty-ninth section.

Mr. SCHENCK. I hope that will be done. The motion was agreed to.

The Clerk read the next section, as follows:

SEC. 50. And be it further enacted, That the Commissioner of Internal Revenue is hereby authorized to establish and designate at any port of entry in the United States bonded warehouses for the storage of distilled spirits in bond, intended for exportation. Suitable buildings shall be selected for such warehouses, which shall not be of less capacity than sufficient to store five thousand barrels of distilled spirits, and shall have no opening into or connecting them with any other building, nor be within six hundred feet of any distillery or rectifying establishment, and shall be known as export bonded warehouses, and used exclusively for the storage of distilled spirits in bond; and no distilled spirits shall be withdrawn or removed from such warehouses except on an order or permit from the collector in charge of exports for immediate transfer to the vessel by which they are to be exported to a foreign country, as hereinafter provided.

Mr. PRICE. I move to add the following:

Provided, That no distilled spirits shall be removed from the place of distillation until the taxes provided for in this act shall be paid, anything contained in any law to the contrary notwithstanding.

Mr. Chairman, I have been endeavoring for the last three hours to get in that amendment. I was told it was unnecessary, because the fourteenth section provided for it. In reading that section I find it concludes in these words:

And the tax on the spirits stored in such warehouse shall be paid before removal from such warehouse, unless removed in pursuance of law.

My amendment provides it shall be paid before it leaves the warehouse, anything contained in this law or any other to the contrary notwithstanding. In other words, it is not to leave the distillery until it has paid the tax. That is the whole of it.

Mr. SCHENCK. I hope that amendment will not be adopted. If the House intends to sustain the provision to export spirits and to manufacture spirits into uses for exportation this will not do, because those are the only exceptions in this bill. The general provision is already adopted in the very first section that the tax which is to be paid is to be paid at the distillery, and the tax must be paid on everything except that to be exported. But by an amendment of that sort the gentleman would remove all possibility of exporting alcohol or rum, or any other form of spirits, directly, without prepayment of tax at the distillery. We have already voted down that provision when accompanied with drawbacks. Now the gentleman proposes to revive it without even the drawback.

Mr. PRICE. Yes, that is my object, as I stated once before explicitly.

The CHAIRMAN. Debate is exhausted on the amendment.

The question being taken on the amendment



of Mr. PRICE, there were—ayes 23, noes 45; no quorum voting.

Mr. PRICE. The committee will rise, I suppose, pretty soon. I look upon this as a vital proposition.

Mr. SCHENCK. There is no quorum present, and if the gentleman insists upon a division I will move that the committee rise.

Mr. PRICE. I insist upon it.

Mr. SCHENCK. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had, pursuant to the order of the House, had under consideration the Union generally, and particularly the special order, being House bill No. 1284, to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, and had come to no resolution thereon.

#### EXPENDITURES FOR 1866.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with the standing order of the House of December 30, 1791, and the act of August 26, 1842, the amount of receipts and expenditures of the United States for the fiscal year ending June 30, 1866; which was laid on the table, and ordered to be printed.

#### INDIAN AFFAIRS IN NEW MEXICO.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a communication from S. F. Tappan, relative to Indian affairs in New Mexico, the removal of the Navajoes, Apaches, &c.; which was referred to the Committee on Indian Affairs.

#### CHARLES C. M'CRARY.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report of the Adjutant General, relative to the claim of Charles C. McCrary; which was referred to the Committee of Claims.

#### PAY OF ARKANSAS MEMBERS.

The SPEAKER. The Chair desires to state that he has informed the Sergeant-at-Arms that the pay of the members from Arkansas should commence from the date of their election, which was the 13th of March, which election has been held by the House to be legal, the Representatives being sworn in as having been chosen at that election. The delegates however desire the same rule applied to them as was applied to the members from Tennessee; they ask to be allowed pay for the whole Congress. If there is no objection, the subject will be referred to the Committee on the Judiciary.

No objection being made the matter was so referred.

#### BITUMINOUS COAL.

Mr. MOORHEAD, by unanimous consent, presented a memorial of owners of bituminous coal mines in the United States, against any reduction of the duty on coal; which was ordered to be printed, and referred to the Committee of Ways and Means.

#### THE FISHERIES.

Mr. BUTLER, by unanimous consent, introduced a joint resolution (H. R. No. 308) relative to the fisheries; which was read a first and second time, and referred to the Committee on Naval Affairs.

And then, on motion of Mr. SCHENCK, (at ten o'clock and twenty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. HOLMAN: The petition of Jacob Rief and 70 others, citizens of Lawrenceburg,

Indiana, against an increase of the tax on cigars.

Also, the petition of C. H. W. Werneke and 21 others, citizens of Lawrenceburg, Indiana, against an increase of the tax on cigars.

By Mr. KELLEY: The petition of 158 workers in Fairmount Iron Works, Philadelphia, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 50 workers in the iron and steel works of Morris, Wheeler & Co., Philadelphia, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of Alfred Sherratt and 41 others, workingmen of Philadelphia, Pennsylvania, praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of 61 workers in the machine works of Thomas Wood, Philadelphia, Pennsylvania, praying for additional protective duties.

Also, the petition of 105 workers in chemicals in Philadelphia, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 25 workers in Wetherill white lead works, West Philadelphia, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 74 workers in Flat Rock paper-mills, Manayunk, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 40 workingmen in Carr's steel frame manufactory in the city of Philadelphia, Pennsylvania, praying for such increase of protective duties as will relieve their distress, secure a home market for the products of their industry, and aid them in their unequal contest with the underpaid labor of Europe.

Also, the petition of Thomas Shaw and 61 others, workers in iron and steel, Philadelphia, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of John Robinson and 46 others, workers in the manufacture of cotton and woolen goods at Manayunk, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 51 operatives in paper-mills at Manayunk, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of E. H. Radcliffe and 41 others, workingmen in Philadelphia, Pennsylvania, praying for additional protective duties.

Also, the petitions of 547 workers in manufactures of iron and steel in Philadelphia, Pennsylvania, complaining of the depression of industry, and praying for such additional protective duties as will relieve their distress and aid them in their unequal contest with the underpaid labor of Europe.

By Mr. McCLURG: A memorial and claim of Captain G. W. Short.

By Mr. MYERS: The petition of S. A. Clark and others, carpet-weavers of Philadelphia, Pennsylvania, complaining of the depression of industry, and praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of Annabell Evans, widow of Morris Evans, late an employé in the quartermaster's department, who, while acting as a mounted guard at Fairfax station, Virginia, was captured by the rebels, and died a prisoner at Andersonville, Georgia, of inhuman treatment.

#### IN SENATE.

THURSDAY, June 25, 1866.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. EDMUNDS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, transmitting a communication from Samuel F. Tappan, one of the Indian peace commissioners, in relation to Indian affairs in the Territory of New Mexico, the removal of the Navajoes, Apaches, Utes, &c.; which was referred to the Committee on Indian Affairs.

#### PETITIONS AND MEMORIALS.

Mr. YATES presented the petition of Nancy A. Stocks for an increase of pension; which was referred to the Committee on Pensions.

Mr. WILLIAMS presented a memorial of Lloyd Brooks, John F. Noble, and James V. Bumford, administrators of the estate of George C. Bumford, praying compensation for property lost in the fall of 1855 by reason of the war between the United States and the Indians in Walla Walla valley, Territory of Washington; which was referred to the Committee on Claims.

Mr. DAVIS presented additional papers in relation to the claim of Joseph Wilson, for compensation for horses and mules captured by the rebels in consequence, as is alleged, of the refusal of the pickets to allow him to pass within our lines on the outposts of Washington, in July, 1864; which were referred to the Committee on Claims.

Mr. THAYER presented a petition of citizens of Philadelphia, Pennsylvania, praying that pensions be granted to the soldiers and sailors and the widows of soldiers and sailors of the war of 1812; which was referred to the Committee on Pensions.

#### REPORTS OF COMMITTEES.

Mr. HOWE, from the Committee on Claims, to whom was referred the bill (H. R. No. 433) for the relief of Palemon John, reported it without amendment.

He, also from the same committee, to whom was referred the petition of John O'Dwyer, late captain Veteran Reserve corps, praying to be allowed three months' pay proper, asked to be discharged from its further consideration; which was agreed to.

Mr. WILLEY, from the Committee on Claims, to whom was referred the bill (H. R. No. 445) for the relief of Timothy Lyden, of Parkersburg, West Virginia, reported it without amendment.

He also, from the same committee, to whom was referred the petition of E. Lockwood, agent for Charles Rosefield, praying that the claim of Charles Rosefield be referred to the Committee on Claims, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Jeremiah Getty, of Sears county, Minnesota, asking to be paid for certain property destroyed by United States troops in that State in the winter of 1864-65, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Benjamin W. Curtis, praying compensation for property taken and used by the United States Army; the petition of Mary Riggles praying compensation for pecuniary loss sustained by her in the death of her son, who was killed by the horses of a Government wagon on the 18th of January, 1863, asked to be discharged from their further consideration; which was agreed to.

Mr. WILLEY. I am also instructed by the

same committee to report back the petition of late officers in the volunteer service praying that all officers of volunteers below the rank of brigadier general who were in service on the 3d day of March, 1865, and who were honorably discharged after April 9, 1865, may be allowed the three months' pay proper. I desire to attract the attention of the chairman of the Committee on Military Affairs to this petition. It seems that it was referred to that committee and reported by them back to the Senate, and that committee was discharged from its consideration and it was sent to the Committee on Claims. Evidently it is not a subject proper for the consideration of the Committee on Claims. It proposes to incorporate a new principle into a general law. There is no special claim on the face of it; it is a question of principle whether the law should be amended in a certain particular so as to reach a class of officers everywhere, without specifying any one in particular. I therefore ask leave, being so instructed by the Committee on Claims, to report it back to the Senate, and move that it be referred again to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, reported it with amendments.

Mr. FRELINGHUYSEN, from the Committee on Claims, to whom was referred the bill (H. R. No. 1129) for the relief of the widow and children of Colonel James A. Mulligan, deceased, reported it without amendment, and submitted a report; which was ordered to be printed.

#### WAGON-ROADS IN DAKOTA TERRITORY.

Mr. FERRY. The Committee on Territories, to whom was recommitted the bill (H. R. No. 650) to amend the act of 3d March, 1865, providing for the construction of certain wagon-roads in Dakota Territory, have instructed me to report it back without amendment, with a recommendation that it pass. I desire to place the bill on its passage now. I think it will create no discussion when I make a brief statement in regard to it.

Mr. EDMUNDS. What is it?

Mr. FERRY. The same bill that was before us some time ago.

The PRESIDENT *pro tempore*. The Senator from Connecticut asks the unanimous consent of the Senate to consider the bill just reported by him.

Mr. EDMUNDS. Let it be read for information.

The Chief Clerk read the bill, as follows:

*Be it enacted, &c.,* That the unexpended balance of an appropriation made March 3, 1865, for the construction of certain wagon-roads in the Territory of Dakota, or so much thereof as may be necessary, be, and the same is hereby, applied to the completion of the bridge over the Dakota river, on the line of the Government road leading from Sioux City, in the State of Iowa, to the mouth of the Cheyenne river, in Dakota Territory.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the bill?

Mr. EDMUNDS. I think it had better lie over. That bill has been passed once with an amendment.

Mr. FERRY. If the Senator will listen to me for one moment, I think he will withdraw his objection.

Mr. RAMSEY. The bill was passed, and sent to the House, and was then brought back here again on the motion of the Senator from Connecticut.

Mr. FERRY. The bill was reported some time ago, and an amendment was made to it, on the motion of the Senator from Vermont, based upon a communication from the Secretary of the Interior, stating the expense of the projected bridge. Upon the bill going to the House it was ascertained that the Secretary of the Interior had made a mistake as to the bridge which was contemplated in this bill.

Mr. EDMUNDS. Let the bill lie over until to-morrow, and I will look into it, and then I shall have no objection to it, probably.

The PRESIDENT *pro tempore*. The bill will go over, objection being made to its consideration.

#### LOSSES OF SUPPLIES.

Mr. THAYER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved,* That the Secretary of War be directed to inform the Senate what amount of Government supplies, in quantity and value, in the quartermaster and commissary departments, have been lost in transit by the sinking of, or by other injury to steamboats on the Missouri river, below Omaha, Nebraska, during the years 1866, 1867, and 1868.

#### REMOVAL OF CAUSES FROM STATE COURTS.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of the bill (S. No. 402) providing for the removal of certain causes from the State courts to the United States courts, and for other purposes—a bill of a good deal of consequence practically that I hope may be taken up and passed.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDENT *pro tempore*. The Committee on the Judiciary have reported the bill with an amendment in the nature of a substitute, and the substitute only will be read unless the reading of the original bill is called for by some Senator.

The Chief Clerk read the amendment of the committee, which was to strike out all of the bill after the enacting clause and to insert in lieu thereof the following:

That whenever any civil or criminal suit (whether commenced before or after the passage of this act) may be pending in any court of any State against any person, in which suit such person shall intend to make any defense based upon the authority of any law of the United States, or upon the authority of any department of the Government thereof, or upon the authority of any officer acting under any such law or department, or upon any right exercised under, or title held in behalf of the United States, such person may, at any time before the final trial in such suit, in person or by his attorney, file a petition in such suit, stating the fact of such intention to make defense as aforesaid, and the general tenor thereof, verified by affidavit, and praying for the removal of such suit for trial into the circuit court of the United States for the district in which such suit may be pending; and thereupon, upon the offering by or in behalf of such person of sufficient surety for his filing in such circuit court at its then existing term, or on the first day of its next term, copies of the process and pleadings in such suit, and also for his appearing in such court and entering special bail in such suit, if special bail was originally given therein, it shall be the duty of such State court to accept the surety and proceed no further with such suit, and the bail that shall have been originally taken shall be discharged. And such copies being filed, as aforesaid, in such circuit court, the suit shall proceed therein in all things as provided in and subject to all the provisions of section five of the act of Congress approved March 3, A. D. 1833, entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases." And if any such State court shall neglect or refuse to carry out the provisions of this act, every such suit may be removed to such circuit court by writ of *certiorari* issued out of such circuit court, in the manner provided by the third section of the act of Congress approved March 2, A. D. 1833, entitled "An act further to provide for the collection of duties on imports."

Sec. 2. *And be it further enacted,* That the provisions of said fifth section of said first-mentioned act, relating to appeals and writs of error from such State court, shall apply and extend to all cases tried in such State court in which a defense shall have been set up or relied upon based upon any of the matters mentioned in the preceding section of this act. And any suit described in the preceding section of this act, and in which final judgment shall be rendered in the circuit court of the United States, may be carried by writ of error to the Supreme Court without regard to the amount in controversy.

Sec. 3. *And be it further enacted,* That if any officer under the United States shall be unlawfully impeded or hindered in the performance of his official duty, or shall be unlawfully assaulted or beaten, or shall have his property unlawfully taken, injured, or destroyed while engaged in the performance of his official duty, he shall be entitled to sue therefor in the circuit court of the United States in the district in which such cause of action shall have arisen, or in which the defendant in such action shall reside or may be found: *Provided,* That the damages claimed therefor in good faith shall be \$500 or upward.

Sec. 4. *And be it further enacted,* That if any person shall willfully and unlawfully impede, hinder, assault, or beat any officer under the United States, or shall willfully and unlawfully injure or destroy the property of any such officer, every such person so offend-

ing shall, on conviction thereof, be punished by a fine not exceeding \$5,000, and by imprisonment not exceeding five years; and if the death of any such officer shall happen from any such assault or battery the person guilty of such assault or battery shall be deemed and held guilty of murder, and shall, on conviction thereof, suffer death.

Mr. DAVIS. The bill and the amendment are important, and I move that the bill lie on the table for the present, so that members of the Senate may have an opportunity of making a careful examination of the amendment, and may know exactly what it is.

Mr. EDMUNDS. I appeal to my friend from Kentucky not to make that motion. I will assure him that there is practically nothing new in this bill, which merely consolidates the prior acts, except this: that it enables the United States officers to remove internal revenue cases, and marshals to remove cases in which they are sued, in regard to which the present laws are defective. That practically covers all the change in the law that is really made, although on the face of it this bill applies to all officers of the United States, for the purpose of consolidating into one the statutes in relation to removals. With this explanation I hope my friend will permit the bill to be considered now.

Mr. DAVIS. I ask the honorable Senator from Vermont to consent that the bill shall go over until to-morrow that we may have an opportunity of looking into it.

The PRESIDENT *pro tempore*. The pending motion is to lay the bill on the table, and it is not debatable.

Mr. DAVIS. No; I do not move to lay it on the table; I simply move to postpone it.

Mr. MORRILL, of Maine. If the Senator will withdraw that motion I will make a motion that perhaps the Senate will agree to, and that is to postpone all prior orders and proceed to the consideration of the unfinished business of yesterday, being House bill No. 605.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine.

The motion was agreed to.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, the pending question being on the amendment of Mr. SHERMAN, from the Committee on Finance, to insert after line five hundred and fifty-seven the following clause:

For temporary clerks in the Treasury Department, \$150,000: *Provided,* That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to classify the clerks according to the character of their services.

Mr. SHERMAN. I do not know that the Senate desire any further information; but I have taken pains to ascertain where these temporary clerks are assigned; and I have the written statement of the different officers among whose bureaus they are assigned that they are necessary to the public service. The general debate that occurred yesterday might, perhaps, mislead Senators, and cause them to suppose that these officers are not necessary. They are necessary. There are sixty-three of these temporary clerks in the Second Auditor's office. I presume they are all engaged on the bounty business. There are twenty-three employed in the Second Comptroller's office; four in the First Comptroller's office; fifteen in the Third Auditor's office; thirteen in the Fifth Auditor's office; twenty-five in the Sixth Auditor's office; five in the Solicitor's office; and forty-six in the Secretary's office. The total appropriation now provided for temporary clerks is \$100,000 more than we have allowed. We have only allowed \$150,000 instead of \$250,000, the amount of the two items on the subject in the bill of last year. I am satisfied now, after examination, that to discharge any of these clerks at present would be a serious embarrassment to the public business. I do not wish to enlarge on this matter, because I

feel not the slightest interest in it. If the Senate thinks the Treasury Department can get along without these officers they will vote down the amendment, but they will do it in the face of the statement of the heads of bureaus that they are necessary.

Mr. HOWE. I presume the Senate has no disposition to vote down any appropriation that is necessary to the conduct of that Department or in any other Department of the Government; but it has seemed to me very strange that we could not be made to understand more clearly than I have been able to understand how it is that this additional force is still necessary. Outside of the Second and Third Auditor's offices, I cannot conceive why there should be the slightest pretext for anything like a temporary force. I can understand that there may be accumulations of business in the Second and Third Auditor's offices growing out of the war, left over from the war, which it may be advisable to dispose of by the employment of temporary help, rather than by increasing the number of regular clerks; but it will be remembered that the business in those two bureaus must have reached its maximum several years ago; that is to say, the number of accounts and claims on file awaiting examination, I think, cannot be greater this year than it was two years ago or three years ago. The Senator from Ohio shakes his head. If he has any information to the contrary I should be glad to hear it.

Mr. SHERMAN. I will state to the Senator that the information I get is that the great mass of the quartermasters' and paymasters' accounts and others growing out of the war have been settled in the first instance in the War Department in the offices of the Quartermaster General and Paymaster General, but they are still pending before the accounting officers of the Treasury. Scarcely any of the great accounts in that branch of the service have yet been settled. A large number of quartermasters' and paymasters' accounts are suspended; the items are being reexamined and ascertained.

Mr. HOWE. My statement is this—and I wish the Senator to speak to that—that the number of accounts and claims awaiting settlement in the Second and Third Auditor's offices must have been as great three years ago as it is to-day.

Mr. SHERMAN. I will state that last year the number of clerks provided for in the appropriation bill was larger than we provide for now. Even this temporary force is decreased to the extent of \$60,000.

Mr. HOWE. I understand all that, but the regular force in the Second and Third Auditor's offices, I think the Senator must agree, is more than sufficient to attend to the current business, to dispose of the claims and accounts that arise from the annual transactions of the officers who account to those bureaus. I assume that it must be more than adequate for that purpose, because it was adjusted upon the necessities of the war season when we had an Army and a Navy upon a war footing. Then we attempted to fit up the force in these two bureaus to meet that exigency. That exigency has already passed, and yet the force of these two bureaus is undiminished. My understanding has been that although they have not cleared off these accumulations in their offices yet they are every month reducing them. But outside of those two bureaus I wish the Senator from Ohio, or any one else who understands the subject, would explain to us what extra occasion there is or can be in any other of these bureaus for help. There is the regular business. Whatever they have to do this year they must have to do next year, as it seems to me. There are no accumulations of business left over from the war. They are attending to the annual and regular transactions belonging to their respective bureaus. So it seems to me; and the help necessary to dispose of that business should be provided for by law; and it seems to me they should be regular clerks.

Mr. SHERMAN. Will the Senator allow

me to read a letter from the Second Auditor on this subject?

Mr. HOWE. Certainly.

Mr. SHERMAN. Sixty-two of these clerks are employed in the Second Auditor's office. The Senate will remember that last year we appropriated \$210,000 for this item, and at this session we appropriated for forty more clerks, which made the aggregate there, as the Senator from Maine [Mr. MORRILL] has it, \$256,000 appropriated for the present year, the year that is now running on. Now, here is what the Second Auditor says in regard to the business in his office; the great bulk of it is there:

SECOND AUDITOR'S OFFICE.

TREASURY DEPARTMENT, February 27, 1868.

To the Secretary of the Treasury:

SIR: In reply to your communication of the 25th instant, calling my attention to the legislative, executive, and judicial appropriation bill making appropriations for the fiscal year ending 30th June, 1869, and suggesting—

The Senate will see that we endeavored to reduce in all these bureaus—

"first, that if it be possible to make any reduction in the estimates of this bureau prepared last summer, such reduction be made; and secondly, that if, on the contrary, this office is not adequately provided for by said bill, and my increased appropriation is necessary beyond the estimates of last summer, that the items and the reasons for the same may be given," I have the honor to state:

First, That it is not possible to make any reduction of the estimates already presented consistently with the proper transaction of the business of the office.

Second, That on the contrary the office is not adequately provided for by the bill now before the Senate Committee on Appropriations, for the reason that the increase of the business of the office has been such as to necessitate an increase of force very considerably beyond that which was contemplated at the time the estimates were made. Already thirty-three clerks have been added to the number for which provision is made by law and for which the estimate was made. To accommodate this increased force several additional rooms in Winder's building and a separate house on Eighteenth street have been obtained and occupied, involving arrangements for the interior management of the office which have rendered a partial reorganization of the same indispensable to the prompt and successful conduct of business. An additional estimate is therefore appended embracing the force now actually employed, with fresh changes in the grades of the clerkships, as are necessary to equalize the salaries of the various heads of divisions.

Very respectfully,

E. B. FRENCH,

Auditor.

In conformity to this letter, and partly upon this letter, we proposed to legalize the appointment of forty clerks.

Mr. HOWE. In the pending bill?

Mr. SHERMAN. In an independent bill for this current year. Now we are appropriating for the next year, and we have taken off the appropriations for the current year \$100,000 in the face of the statements made by these officers that the present force is not too great. If the Senate think that we should go further, and take away all these temporary clerks, they can do so.

Mr. HOWE. The Second Auditor in that communication, as I understand it, is explaining the necessity, not for an additional force, but for continuing the force allowed him already.

Mr. SHERMAN. We now reduce it.

Mr. HOWE. By this bill?

Mr. SHERMAN. Yes, sir; by this bill, and by this very amendment that is pending. Last year we appropriated on this letter for the current year ending the 1st of July next, \$256,000—the precise amount can be given by my friend from Maine, [Mr. MORRILL]—first \$210,000, and then afterward an appropriation for extra clerks.

Mr. HOWE. Appropriated it for help in that bureau?

Mr. SHERMAN. No; for this general item; and now the appropriations this year for the Second Auditor's office are less in this bill than they were last year.

Mr. HOWE. I understand the statement read here this morning to say that some sixty of these temporary clerks are employed in the bureau of the Second Auditor. I wish to call the attention of the Senate to what the Official Register says about this. The Official Register does not say that a single temporary clerk is employed there. The last Official Register gives

the force in the Second Auditor's office as I will give it to you now.

Mr. SHERMAN. I do not know whether the temporary clerks are entered on the Register.

Mr. HOWE. It contains all the help there is employed in the Department.

Mr. SHERMAN. I do not think they are entered.

Mr. FESSENDEN. I do not think the Senator will find the temporary clerks there.

Mr. HOWE. You will find clerks put down both as "temporary" and as "additional." Quite a number are put down as "additional" in the Secretary's office, and clerks are put down as "temporary" in other bureaus. But the Official Register gives the force in the office of the Second Auditor like this: six fourth-class clerks, and you have six fourth-class clerks in the bill; fifty-five third-class clerks, and you have fifty-four third-class clerks in the bill; one hundred and nine second-class clerks, and you have one hundred and eight second-class clerks in the bill; two hundred and nine first-class clerks, and you have two hundred and twelve first-class clerks in the bill. That is the force in the Second Auditor's office, as stated in the Official Register. There are, in addition to that, messengers and laborers.

But I agree that there may be a propriety for extra help in two bureaus, the Second and Third Auditor's. I believe there are no temporary clerks stated to be employed in the Third Auditor's office in the Register.

Mr. SHERMAN. I read the official statement that I just received this morning, showing the number precisely in each of these offices. The Senator was not present, perhaps, but I read an official statement showing the number of clerks employed and paid out of this fund.

Mr. HOWE. I am calling the Senator's attention to the discrepancy between the official statement read this morning and the official statement contained in the Official Register.

Mr. SHERMAN. In the Blue Book?

Mr. HOWE. Yes, sir.

Mr. SHERMAN. I do not know whether the Blue Book contains the temporary clerks.

Mr. EDMUNDS. The Blue Book never contains the temporary clerks. It only contains the four classes provided for by law.

Mr. HOWE. The Senator says that with the book in his hand, and he must be right.

Mr. EDMUNDS. Here it is; you can look at it.

Mr. HOWE. I am much obliged to the Senator for letting me look it up. I say there are none in the Second Auditor's office, and none in the Third Auditor's office.

Mr. EDMUNDS. In the Blue Book.

Mr. HOWE. You say there are none anywhere. I say there are none in the Blue Book in these offices. That is what I am insisting upon.

Mr. EDMUNDS. And that is what I am insisting upon.

Mr. HOWE. But I understand the Senator from Vermont to insist that in the Blue Book there are none anywhere in the Treasury Department.

Mr. EDMUNDS. I am only speaking of the point under consideration.

Mr. HOWE. Then we shall not have any dispute about that, for that is the point I make, and I make it against the statement of the Senator from Ohio, who gives us an official statement fresh from the Mint. I cannot reconcile the discrepancy. I do not know which is authentic, which is issued by "old Dr. Jacob Townsend," and which is not. [Laughter.] There are the two statements. I do not know that the fact recited here yesterday by the Senator from New Hampshire [Mr. PATTERSON] tends to explain this discrepancy. Here you have a statement that sixty odd of these temporary clerks are employed in the Second Auditor's office, and there you have a statement that not one is employed in the Second Auditor's office.

Mr. EDMUNDS. Oh, no; not that statement.



Mr. HOWE. Well, sir, you have a statement of the force employed in the Second Auditor's office, and there are no temporary clerks mentioned there.

Mr. EDMUNDS. But if my friend will permit me, I suggest to him that the Blue Book is the register of the regular employés under the law of the Government. The statute gives the Secretary of the Treasury the authority, whenever the exigencies of the public service require it, to employ additional force. They do not appear in the Official Register as the regular employés of the Department at all. There is the difference.

Mr. HOWE. I understood you to say something like that some time ago, but when you passed the book over into my hands you withdrew that statement, and you rested your declaration upon the proposition that there was no such force in the Second or Third Auditor's office.

Mr. EDMUNDS. That was all that was required for that purpose.

Mr. HOWE. We had the same purpose under consideration then that we have now. I say there are both additional and temporary clerks enumerated therein that Blue Book that the Senator has in his hand.

Mr. EDMUNDS. Where else except in the Treasurer's office do you find any there?

Mr. HOWE. I did not know there were any in the Treasurer's office. There are in the Secretary's office, and there are in some other offices; I cannot now specify them. But I now call attention to the Register's office. In that book the force is stated at five fourth-class clerks, thirteen third-class clerks, nineteen second-class clerks, and five first-class clerks in the Register's office. The Senator from New Hampshire [Mr. PATTERSON] produced another official statement last night to the effect, I think, that thirteen male clerks and over one hundred—I believe one hundred and seventeen—female clerks had been employed in the Register's office since October last. That was read here in the hearing of the chairman of the Committee on Finance. Nobody disputed it; so I did not. The only explanation I heard of it was that the Register had probably been dismissing a large number of clerks and employing them in their places.

Mr. FESSENDEN. The Senator did not hear the explanation I made.

Mr. HOWE. No; I did not hear the explanation of the Senator, and I am very sorry that I did not. If it is capable of explanation I have no doubt the Senator explained it, or tried to do so. The explanation which I did hear, however, did not seem satisfactory to me, because that very statement contained the number of clerks who had been dismissed and who had died, and they were less than a dozen.

Mr. FESSENDEN. The explanation is simply this: there is a very large arrearage of business in the Register's office, particularly in relation to coupons. Those coupons all have to be examined and all have to be registered. There are some millions of them behindhand now. It is very important that they should be examined at the time the coupons are paid, that the work should be brought up, because, after two or three years mistakes in those matters cannot be corrected. Therefore it was thought advisable to employ an additional force, particularly of women, to do that work, in order to bring up the work that was so largely in arrear, and it is absolutely required by the public interests. With that view a large number of persons were employed. As soon as the work is brought up, of course the force will be reduced; but it is absolutely indispensable that that work should be brought up. I happened to meet the Register this morning and mentioned the subject to him. He told me that if there was any office-room where they could be accommodated, he deemed the work so very important (and I have no doubt he is correct about it) that he should like to employ one hundred more, in order to bring it up as soon as possible; that the public safety with regard to all those matters absolutely required

that the work should be brought up as speedily as possible, so that they might examine the coupons day by day.

Mr. HOWE. Mr. President, that explanation is plausible, and may be absolutely correct. I would not question its correctness at all but for two considerations: first, I suppose it is known to the Senator that that business of counting the coupons and all kindred businesses are not provided for under this bill at all, but come out of the regular appropriation made annually for the expenses of the loan business.

Mr. FESSENDEN. With reference to this, it came in incidentally on the statement of the Senator from New Hampshire, and I gave the explanation afterward. They are not paid out of this \$150,000.

Mr. HOWE. And secondly, that expense is not paid out of this appropriation of \$150,000, not paid out of these appropriations for clerks in any of these bureaus. That is chargeable to the appropriation made for defraying the expenses of the loan branch; I forget what they call it, but probably that is it. That appropriation last year, I believe, was \$2,000,000. I wish the chairman of the Committee on Appropriations would correct me if I am wrong. The appropriation for defraying the expenses of the loan department was \$2,000,000 last year.

Mr. MORRILL, of Maine. Two million dollars.

Mr. HOWE. I think it was the same the year before. I never have understood that they had reported a surplus. I believe they pretend to have spent the whole appropriation right along, and they wanted the same appropriation this year, \$2,000,000, but I think it is reduced in the bill to \$1,500,000. About that business this ought to be remembered, that your printing was pretty much concluded; you had got out the maximum of your notes and your bonds, and you wanted some new bonds printed, and some new notes for the purpose of transfer and to replace loss and damage, but that printing could not amount to anything like the printing which we had to provide for during the war. The counting of your coupons could not have required any more help this year than the year before, and I do not understand how it is that this accumulation happens. Having \$2,000,000, all they asked for the year before, and having spent it, and having only \$2,000,000 the present year to spend, I do not see why the work for the year before must not necessarily have been done, and why the work of this year charged upon the appropriation of the current year, \$2,000,000, should have been any more than the business of the year. So I think the Register is mistaken in supposing that this large increase of women was made necessary—a discovery detected for himself for the first time—to bring up the business that ought to have been done the year before, and that failed of being done the year before.

Mr. EDMUNDS. Will my friend from Wisconsin permit me to make a suggestion?

Mr. HOWE. Certainly.

Mr. EDMUNDS. I wish to assure my friend from Wisconsin about this coupon business, that the investigations with which I have been charged into the state of certain affairs in the Treasury have enabled me to know that, as a matter of fact, for more than a year past, there have been more than four million coupons—I mean four million distinct pieces of paper—in arrears in the bureau of the Register's office that counts and arranges the coupons and compares them with the register of bonds in the books, to see that there are not duplicates, &c. Of course it must be obvious to my friend from Wisconsin, as to everybody else, that the proper administration of the business would require that they should be kept up by some proper means or other. I am not now speaking as to whether people have done their duty; but the business ought to be kept up. Mr. Moore, the gentleman in charge of that particular branch, has told me, in the course of my investigations, over and over

again—and I have seen myself the great pile of coupons there—that he needed more force in order to get up and to have the coupons compared and labeled, and put into the proper book, so as to secure the Government for the purposes for which this counting is needed at all from the loss that might otherwise occur. That is the fact; and in some way we ought to provide that it shall be done.

Mr. HOWE. Agreed.

Mr. SHERMAN. Now let us have the vote.

Mr. HOWE. The Senator from Ohio wants the vote immediately now, but he cannot get it until I have returned my thanks to the Senator from Vermont for putting into this case one fact.

Mr. SHERMAN. The reason I called for the vote was that this discussion has nothing to do with the point.

Mr. HOWE. My friend shall have the vote in due time; but I am obliged to the Senator from Vermont for putting into the case a fact. It is this fact, that the business in the Register's office was in arrear; that there were four million pieces of paper uncounted. Mr. President, I am thrown back, then, on this conclusion: that if you want the business of that office done, you must get it done in some other way than by appropriating money for it, because you have appropriated the money for counting these pieces of paper every year; \$2,000,000 the current year, \$2,000,000 the year before, and all they ask the present year is \$2,000,000; that, they say, is sufficient to do the work, and they have had it right along, and the work is not done. Now, you must do something else besides appropriating money; you cannot get it done in that way. So that this fact, important and solemn as it is, does not go to justify the making of these great appropriations for help, because it does seem to establish to my mind the conclusion that the work done is not at all proportioned to the money appropriated.

But, sir, I did not mean to ransack the whole Treasury Department when I got up. The main thing I wished to say when I took the floor was this: that by this time the head of the Treasury Department should be able to tell us how much help he wanted in each of these bureaus to perform the regular annual recurring business of the bureau, and that by this time he should be able to tell us in what bureaus there was an accumulation, an arrearage of business, and how much help he needed to close that out. Where those accumulations are I say give him all the help he may want to do the work; but I think I have evidence now that this extra help is employed not where those accumulations are, but where those accumulations are not. I want to see the necessities of each Department ascertained, measured by law, and provided for by law. I protest that it is wrong to put a large sum of money into the hands of any single individual to be appropriated and disposed of just as that individual chooses, even if the individual be the most honest man there is in the world. It is an irresponsible authority that you propose by this amendment to place once more in the hands of the Secretary to dispose of \$150,000 just as he pleases. The pretext is that it is needed for help; but getting it into his hands, he may appropriate it for help honestly; but suppose he should not? If he be not an honest man, he has authority to put it all into the hands of one man or divide it among a dozen; he can pay \$1,000 a year or \$100 a year or \$20,000 a year, as he pleases. That is what he can do, I think.

Mr. FESSENDEN. The law provides the salaries.

Mr. HOWE. The law does not provide for the appointment of any one of these men. This is so much, \$150,000 in a gross sum, put into his hands to employ help, temporary clerks.

Mr. FESSENDEN. And the law provides what those clerks shall receive, according to their classification.

Mr. HOWE. The law provides that in each of these bureaus a certain number of clerks ranking as class four shall have \$1,800 salary, and a certain number ranked as class three shall have \$1,600; and when it has gone through with the four classes the law is silent and has said all it has got to say. If the Senator from Maine will examine the statute he will find that it does not meet his expectations at all. I think this money—this suggestion may be called a suspicion, but I think the Senate will confirm me in this much of suspicion—this \$150,000 will be, a part of it, appropriated to increasing the compensation—

Mr. FESSENDEN. Not at all; it cannot be.

Mr. HOWE. The Senator says it will not be done.

Mr. FESSENDEN. It was done in the last law, but cannot be now.

Mr. HOWE. I will take the Senator's guarantee on that point, but I had supposed it would be appropriated in that way, and I hope that he will not give any bonds or make any positive assurance that it shall not be. The Senator's opinion on that point does not change my judgment as to the necessity of regulating the disposition of these large sums of money wherever you put them into the hands of any man, be he honest or otherwise.

The question being taken by yeas and nays, resulted—yeas 27, nays 14; as follows:

YEAS—Messrs. Buckalew, Cattell, Cole, Corbett, Cragin, Davis, Doolittle, Edmunds, Fessenden, Frelinghuysen, Harlan, Johnson, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of Tennessee, Ramsey, Ross, Sherman, Sumner, Van Winkle, Vickers, Wade, Williams, Wilson, and Yates—27.

NAYS—Messrs. Bayard, Cameron, Chandler, Conkling, Connors, Drake, Ferry, Howe, McCreery, Nye, Patterson of New Hampshire, Stewart, Tipton, and Trumbull—14.

ABSENT—Messrs. Anthony, Dixon, Fowler, Grimes, Henderson, Hendricks, Howard, Morton, Norton, Pomeroy, Rice, Saulsbury, Sprague, Thayer, and Willey—15.

So the amendment was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 286) granting a pension to John Q. A. Keck, late a private in the third Missouri cavalry; and the bill (H. R. No. 347) to amend "An act to divide the State of Illinois into two judicial circuits," approved February 13, 1855.

#### BILL INTRODUCED.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 568) to provide for the erection of a building for a post office and the United States courts in the city of New York; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 385) constituting eight hours a day's work for all laborers, workingmen, and mechanics employed by or on behalf of the Government of the United States; and it was thereupon signed by the President *pro tempore* of the Senate.

#### SOUTHERN STATES—VETO.

The message further announced that the President of the United States having returned with his objections the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress, to the House of Representatives, in which it originated, the House had, in conformity with the Constitution, proceeded to reconsider the bill, and having passed the same by a two-thirds vote, the objections of the President to the contrary notwithstanding, transmitted it, with the President's objections, to the Senate.

Mr. SHERMAN. I now offer the first of

the series of amendments of the Committee on Finance, which the Secretary has in printed form.

Mr. TRUMBULL. Before proceeding with the Senator's amendments, as the bill will manifestly take time, and the veto which has just come from the other House is in reference to a bill that it is very important should become a law at once if at all, as all the States embraced in that bill are being delayed, I move that the pending bill be laid aside informally, and that we take up the veto message and vote upon it.

The PRESIDENT *pro tempore*. The present bill will be laid aside informally if there be no objection. No objection being made, it is laid aside.

Mr. TRUMBULL. I ask to have the message read.

The message of the President was read, as follows:

#### To the House of Representatives:

In returning to the House of Representatives, in which it originated, a bill entitled "An act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida, to representation in Congress," I do not deem it necessary to state at length the reasons which constrain me to withhold my approval. I will not, therefore, undertake, at this time, to reopen the discussion upon the grave constitutional questions involved in the act of March 2, 1867, and the acts supplementary thereto, in pursuance of which it is claimed, in the preamble to this bill, these States have framed and adopted constitutions of State government. Nor will I repeat the objections contained in my message of the 20th instant, returning without my signature the bill to admit to representation the State of Arkansas, and which are equally applicable to the pending measure.

Like the act recently passed in reference to Arkansas, this bill supersedes the plain and simple mode prescribed by the Constitution for the admission to seats in the respective Houses of Senators and Representatives from the several States. It assumes authority over six States of the Union which has never been delegated to Congress, or is even warranted by previous unconstitutional legislation upon the subject of restoration. It imposes conditions which are in derogation of the equal rights of the States, and is founded upon a theory which is subversive of the fundamental principles of the Government. In the case of Alabama it violates the plighted faith of Congress by forcing upon that State a constitution which was rejected by the people, according to the express terms of an act of Congress requiring that a majority of the registered electors should vote upon the question of its ratification.

For these objections, and many others that might be presented, I cannot approve this bill, and therefore return it for the action of Congress required in such cases by the Federal Constitution.

ANDREW JOHNSON.

WASHINGTON, D. C., June 25, 1868.

The PRESIDENT *pro tempore*. The question is on the passage of the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress, the objections of the President to the contrary notwithstanding.

Mr. DAVIS. Mr. President, I rise to say but a word on the veto message that has just been read. I am unwilling that the Senate shall take the vote on the bill to which it expresses the dissent of the President without declaring my hearty approval of it and my admiration of the wise, patriotic, and courageous statesman in this his last effort to stay the factious frenzy of Congress. With a calm but dauntless spirit he has kept his oath, to the best of his ability to preserve, protect, and defend the Constitution of his country; and his many messages to Congress remonstrating against its infraction are of unsurpassed ability. No American statesman has demonstrated a stronger,

truer, or more steady devotion to his country, the great principles of the Constitution, and the Union of the States and the liberties of the people under it. No man possessed of so much patronage ever administered it with less of purpose for party or personal ends or more singly for the good of his country or passed freer from stain through all the temptations of power. His presidential career has been a continued struggle, calm and intrepid, to perform the duties of his great office amid unexampled difficulties, perils, and opposition; and not he, but others, are responsible for any failure.

His career, from the humblest origin through every gradation to the highest office, with much wise, able, and stern competition at every step, all of which he overcame, his great natural abilities, and a courage that never quailed in the presence of any trials or dangers, mark him strongly and distinctly as one of nature's great men. At the dawn of the rebellion he stood alone in the Senate the solitary representative of true allegiance to his country and her Constitution from the South, and the burning and tremendous denunciation of the inflamed mind and passion of eleven States burst upon him, but it moved him not. He was elected to the second office, and soon Providence and the Constitution devolved upon him the first. The party which elected him formed bold, unpatriotic and selfish schemes of ambition, and invited him to lead them. Still true to his country and her Constitution, the people and their liberties, he broke away from his party and the dazzling lure which they had held up to him, and has striven with steady, patriotic heroism to defeat their mad projects by opposing to them all the power with which he was invested. For this they turned upon him with a relentless fury that has no parallel. He has not been sustained by the country as he should have been. His official career will soon close, but impartial history will write his life and services to be the noblest of the day; and it will be among the grand annals of mankind.

The PRESIDENT *pro tempore*. The question is on the passage of the bill notwithstanding the objections of the President of the United States.

The question being taken by yeas and nays, resulted—yeas 35, nays 8; as follows:

YEAS—Messrs. Cameron, Cattell, Chandler, Cole, Conkling, Connors, Corbett, Cragin, Drake, Ferry, Frelinghuysen, Harlan, Howard, Howe, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Ramsey, Ross, Sherman, Sprague, Stewart, Sumner, Thayer, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—35.

NAYS—Messrs. Bayard, Buckalew, Davis, Doolittle, Johnson, McCreery, Patterson of Tennessee, and Vickers—8.

ABSENT—Messrs. Anthony, Dixon, Edmunds, Fessenden, Fowler, Grimes, Henderson, Hendricks, Norton, Pomeroy, Rice, Saulsbury, and Tipton—13.

The PRESIDENT *pro tempore*. On this question the yeas are 35 and the nays are 8. Two thirds of the members present having voted in the affirmative, the bill is passed notwithstanding the objections of the President.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The PRESIDENT *pro tempore*. The amendment of the Senator from Ohio to House bill No. 605 will be read.

The Chief Clerk read as follows:

Insert as a new section:

SEC. —. And be it further enacted, That all acts or parts of acts authorizing the publication of the debates in Congress are hereby repealed from and after the 4th day of March next, and the joint Committee on Printing is hereby authorized and required to invite proposals for the publication of the actual proceedings and debates in Congress, upon a plan and specifications to be previously published by them, and shall also ascertain the cost of such publication by the Superintendent of Public Printing, and shall report as soon as practicable such proposals and estimate of cost, together with a bill to provide for the publication of the debates and proceedings of Congress.

Mr. SHERMAN. I ought to state to the Senate that this is in pursuance of an act passed March 2, 1867, which gives the two years' notice required by law to discontinue the arrangement relative to the publication of the Globe. After that notice was given it would

seem to have become the duty of the Committee on Printing to make provision for the publication of the debates; and I have conferred with the Senator from Rhode Island [Mr. ANTHONY] on the subject. It is thought best to repeal all the laws relative to the publication, but we had not sufficient information to enable us to determine whether the work could be done cheaper or better by making a new arrangement with the Globe office, or by advertising for bids, or by printing the debates at the Public Printing Office. So the Committee on Finance concluded to report this section, which repeals all acts on the subject from and after the 4th of March next, and leaves to the Committee on Printing to report at the next session of Congress a plan for publishing the debates after that time, and we shall have the next session to consider and act on their plan.

Mr. MORRILL, of Maine. I suggest whether it is worth while to repeal these laws about the publication of the Globe until we have made some other arrangement absolutely for the publication of the debates.

Mr. SHERMAN. It is much better to do it. The present arrangement expires on the 4th of March, 1869, and it is important that the whole matter be swept away, so that the Committee on Printing shall have an open door to make the best arrangement they can.

Mr. MORRILL, of Maine. I have no information on the subject.

Mr. TRUMBULL. This is an amendment which I have not had an opportunity to read. It appears to consist of several sections changing entirely the mode of the publication of the proceedings of Congress.

Mr. SHERMAN. Only one section.

Mr. TRUMBULL. There are several sections printed here together, but perhaps the other sections are separate amendments.

Mr. SHERMAN. Yes, sir; I propose to offer them separately.

Mr. TRUMBULL. I suppose it is not material whether the provision be in one section or in several sections. I saw that the amendment as printed had several sections in it, and I presumed they all related to this subject; but it seems that this matter is embraced in one section, by which the publication of the proceedings of Congress is to be changed from the mode that has been practiced for the last forty years.

Mr. SHERMAN. Not necessarily.

Mr. TRUMBULL. "Not necessarily changed!" The provision is "that all acts and parts of acts authorizing the publication of the debates in Congress are hereby repealed." I should think that would necessarily change it.

Mr. SHERMAN. It is agreed, I believe, generally, and there is very little doubt, that the present rates are too high, that the present contract is unnecessarily burdensome to the public, and that we can make a better contract even with the publishers of the Globe. The Committee on Finance thought, therefore, we had better avail ourselves of the notice given last year, the law requiring it to be a two-years' notice to discontinue the present arrangement. Certainly we can make a better one, even with the publishers of the Globe; but I think, myself, from the examination I have given the subject, that the Globe had better be published at the Government Printing Office; but that is a matter on which I have not sufficient information to make any proposition now. By this amendment the whole matter is referred to the proper tribunal, the joint Committee on Printing, who will have the next session of Congress to perfect a plan.

Mr. TRUMBULL. It was because I had not sufficient information, and I did not suppose the Senate had, that I was about to interpose an objection to the passage of such an important provision as this upon an appropriation bill. In the first place, it is very objectionable to introduce legislation on an appropriation bill, as we are often told by the Senator having charge of such bills. Here is a propo-

sition introduced and sprung upon the Senate without any consideration or any opportunity to examine it, when a bill is under consideration which has passed one House and is here soon to be put upon its passage.

The Senator from Ohio tells us that he does not know that this amendment will work any change; he does not know whether the work can be done more cheaply at the Government Printing Office or not. Let me submit to him if it would not be advisable to make those inquiries and ascertain the facts before we repeal all the laws we have upon the subject. It seems to me it is starting out in the wrong way to begin by an absolute repeal of all existing laws for the publication of the debates of Congress, and that the better way would be to authorize the joint Committee on Printing to ascertain whether a more advantageous arrangement can be made for the publication of the debates, and not commence by repealing the laws and rely upon making some arrangement hereafter.

I am a little surprised that the Committee on Appropriations make no objection to general legislation upon this bill, because if this practice obtains I have in my charge, I think, as many as twenty bills that the Committee on the Judiciary have agreed to, and we should be very glad to have them passed, and I know of no place so good to put them in as this appropriation bill of my friend from Maine. They are all bills which ought to be passed, as the committee think. They have the sanction of the Committee on the Judiciary, and if the Senator from Maine consents to have this general legislation go on the bill we can make an omnibus bill that will do for all the legislation that all the committees have in charge.

Mr. EDMUNDS. We have just had one omnibus bill.

Mr. TRUMBULL. That was an omnibus bill, so called, but still the subjects of that bill had some analogy to each other.

Mr. EDMUNDS. Not much.

Mr. SHERMAN. The Senator from Illinois has a charming way of making appeals to the Senate, but it sometimes requires a little patience to listen to him. According to the general run of the logic of the Senate it would appear that the Committee on Finance are in some way or other taking a snap judgment against somebody, that we are doing something that is terribly wrong, that we are springing something on the Senate. The Senator did not know the facts, or he would not have made such a declaration. A law passed on the 2d of March, 1867, provides as follows:

"That the notice required by the fourth section of the act entitled 'An act to pay in part for publishing the debates in Congress, and for other purposes,' approved July 4, 1864, is hereby given that Congress will, in two years from the close of the present Congress, abrogate the provisions of the first and second sections of said act."

Here is the notice required by the law, which abrogates the main portions of the arrangement on the 4th day of March next. The result of this repeal or modification of the contract is that on the 4th of March next there will be no provision of law by which the Globe can be published, and yet in this bill there are appropriations for the publication of the Globe during the whole of the next fiscal year.

Mr. TRUMBULL. Will the Senator refer me to the statute giving this notice?

Mr. SHERMAN. It is section eleven of the deficiency appropriation bill of last year.

Mr. TRUMBULL. What is the act to which that refers?

Mr. SHERMAN. It refers to an act approved July 4, 1864. There is no contract between the publishers of the Globe and the United States; the whole arrangement is under provisions of law. Such was the condition of affairs. Here was an appropriation covering the whole of the next fiscal year. The result would be that if Congress should be convened at any time before the first Monday of December, 1869, there would be no provision for the publication of the Globe. Important elements of the contract with the Globe publishers would

have been repealed, and yet, under this bill, appropriations would continue for the publication of the Globe.

Under these circumstances, after full consultation with the Committee on Printing and the Committee on Appropriations, the Committee on Finance undertook to provide for the publication of the debates of Congress. Instead of this being now sprung upon the Senate, it will be seen by looking at the printed amendment that the Committee on Finance reported it on the 2d of June and had it sent to the Committee on Appropriations. The Committee on Finance reported it after careful consideration; it has been considered by the Committee on Appropriations; and now, carrying out this notice of nearly a month, I have offered the amendment. There is nothing very remarkable about it. This is the appropriate place for it. I will say to the Senator from Illinois that every particle of legislation in regard to the Congressional Globe is in an appropriation bill, except the single case of a law reported by the Senator from Rhode Island, [Mr. ANTHONY,] which is referred to in the section giving the notice. The appropriations are in the appropriation bills, and all the laws and limitations upon the publication of the Globe are in the appropriation bills. This is the proper place for this provision. It comes up in the regular manner, and nobody is taken by surprise. It is not sprung upon anybody; it is done after full deliberation.

All agree that we can make a better bargain for the publication of the Globe, and we can correct some abuses that have grown out of its publication. We can decrease largely the expenditure of public money for the publication of the debates of Congress. The question was, whether we should make a new contract with the publishers of the Globe, or whether we should invite bids to carry on the work on the same plan heretofore adopted, or whether it should be done at the Government Printing Office. This was a matter which the Committee on Finance did not undertake to decide. They undertook, however, to report this section repealing all laws authorizing the publication of the Globe from and after the 4th of March next, and leaving the subject of the manner of publishing the debates after that time to be settled hereafter on the report of the proper joint committee of the two Houses. That is all there is in the amendment. If we had undertaken to decide, as my friend from Rhode Island wished us to do, that it was better to publish the debates at the Government Printing Office, that might have been a cause of complaint; the Senator from Illinois might have said "the Committee on Finance do not know anything about printing, and we ought to have some better authority in regard to the subject of printing." The result was that we did not undertake to decide that question, but we simply provide that the appropriations made in this bill shall not be paid under the existing contract with the publishers of the Globe after the 4th of March next, and that all laws providing for the publication of the debates in the Globe shall cease at that time, and that the Committee on Printing shall devise some better mode of publishing them. I am now prepared to say that many propositions will be submitted from men perfectly competent to do the same work at a largely reduced expenditure, and I have no doubt that the publishers of the Globe themselves will submit bids, when called for under the operation of this amendment, largely reducing the price they now receive; but the probability is, in my opinion, that the committee will find that we can do the whole work better at the Government Printing Office.

Mr. TRUMBULL. Mr. President, the Senator from Ohio is slightly mistaken as to the effect of the action of Congress a year ago, if it took place a year ago. I do not remember the precise date of the act to which he referred; but it was at the last Congress, I think.

Mr. SHERMAN. March 2, 1867.

Mr. TRUMBULL. The Senator is mistaken



as to the effect of the action which took place at that time. The law under which the debates of Congress are published in the Globe required that two years' notice should be given before it should be abrogated, and all that Congress undertook to do in the appropriation act to which the Senator refers was to give that notice. It did not abrogate the contract with the Globe at all. We had an existing contract made under a law passed in 1864 which could not be abrogated except upon two years' notice, and the act of March 2, 1867, gave the notice by declaring—

"That the notice required by the fourth section of the act entitled 'An act to pay in part for publishing the debates in Congress, and for other purposes,' approved July 4, 1864, is hereby given that Congress will, in two years from the close of the present Congress, abrogate the provisions of the first and second sections of said act."

Now, two years from the close of the Thirty-Ninth Congress in 1867 would be the 2d of March, 1869. Congress gave notice that they would then abrogate the contract. Now, then, the question is, shall we proceed now to abrogate it? We could not abrogate it without giving this notice. The object of the notice was to place ourselves in such a position that if we thought proper we could make some other arrangement. All that we have done is to give this two years' notice; we have done nothing more; so that the publishers of the Globe should not be taken by surprise by our action. It seems to me if the Senator would strike out the first three lines of his proposed amendment, so as not to repeal these laws at this time, it will be in our power to repeal them if we desire to do so.

Mr. EDMUNDS. How would it read then?

Mr. TRUMBULL. It would read as follows:

That the joint Committee on Printing is hereby authorized and required to invite proposals for the publication of the actual proceedings and debates in Congress, upon a plan and specifications to be previously published by them, and shall also ascertain the cost of such publication by the Superintendent of Public Printing, and shall report as soon as practicable such proposals and estimate of cost, together with a bill to provide for the publication of the debates and proceedings of Congress.

If we did that it would be in accordance with our notice, but at this time to repeal absolutely these laws it seems to me is striking in the dark.

Mr. SHERMAN. The Senator will see that this repeal does not take effect until after the 4th of March.

Mr. TRUMBULL. But it takes effect at that time.

Mr. SHERMAN. Certainly, peremptorily.

Mr. TRUMBULL. You may not want to repeal them. That is the very thing I object to. You repeal them before you get your information. What possible objection can the Senator from Ohio have to leaving out the first three lines of his proposed amendment and directing this committee to make these inquiries? We have got to act upon it.

Mr. SHERMAN. I have said to the Senator that we have already ascertained, and it is an undisputed fact, that the Government may in several ways do better than the present contract with the publishers of the Globe themselves. That is ascertained and agreed to. We debated the whole subject a year ago. Congress would have abrogated the arrangement then, on the day of the passage of this notice, but for the fact that two years' notice was required, and finally the Senator from Maine [Mr. FESSENDEN] came to the conclusion that we could not abrogate it until after giving the notice, and he drew the section, I believe, and it was finally passed.

Mr. TRUMBULL. According to the Senator's own amendment, other legislation will be necessary before we can provide for publishing the proceedings of Congress. That is one fact. When you adopt that other necessary legislation, why not then repeal existing laws? Why repeal existing laws now to take effect in futuro? We have got to legislate on the subject. The Senator from Ohio says he has the information already; but his amend-

ment provides for obtaining that information, because the committee is required to ascertain the cost of this work. We are not prepared to decide to-day, the Senator from Ohio is not prepared to decide to-day, whether it will be best to have the proceedings of Congress published at the Government Printing Office or to let the work out by contract. He wants information on that subject, and has provided in this amendment for obtaining it. Now, the present mode of publishing the proceedings of Congress is in force, and is bound to be in force until March, 1869. Between this time and March, 1869, the Senator from Ohio contemplates arranging some other system for publishing these proceedings. Why do you want to repeal at this time the provision relative to the existing mode of publication? What object is there in it? It may turn out that the present mode of publication is the very best we can get. Will it not be time enough to decide that when we get these other proposals? I move to amend the amendment by striking out after the word "that," in the first line, these words:

All acts or parts of acts authorizing the publication of the debates of Congress are hereby repealed from and after the 4th day of March next and the.

So that the section will simply require the joint Committee on Printing to ascertain the facts and report them to Congress, and then when we receive their report we can adopt such system as is thought to be best.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

Mr. MORTON. Mr. President, I am glad that this amendment is brought forward. If we are to have a Government Printing Office at all it seems to me that we should there publish the debates and proceedings of Congress. Would it not be as proper and as profitable to do this part of the public printing in the Government Printing Office as any other part, such as the printing of bills and the ordinary printing that we must have done? If there is any propriety in keeping a Government Printing Office at all, there is a propriety in having this printing done at that office. If it is better to have the debates and the proceedings of Congress printed by contract, it would certainly be better for the same reason to abolish the Government Printing Office altogether.

Now, sir, if I understand our printing system, it is a very loose one and a very remarkable one. A large part of the printing consists of the debates and proceeding of Congress. That we have done by contract. Then we have bills, reports, and matters of that sort printed at the Government Printing Office. That is a second establishment. Then we have a large printing establishment in the Treasury Department, and a very expensive one. That is a third establishment. I am told that there is also a printing establishment in the Interior Department, and that the printing of the Interior Department is a separate business from any of the printing that I have mentioned. I do not know whether the printing of the War Department is performed in the Government Printing Office or not. Can the chairman of the Committee on Appropriations inform me?

Mr. MORRILL, of Maine. That is done at the Government Printing Office.

Mr. MORTON. But the printing of the Interior Department is not, as I am informed; it is performed by an establishment in the Interior Department itself. Here are four distinct ways of having the public printing done. Now, Mr. President, if we have a public printing office at all, let us have all the public printing done there, and let that printing establishment be revised and reorganized so that the printing can be done cheaply and well. I believe that we can have all the Government printing done by contract, even at one third of the present cost. The system is loose. It is badly managed. We have three or four ways of printing where we should have but one. Let us do it all in the Government Printing Office; make it an establishment adequate for that purpose; see that it is well managed; or

else let us dispense with that establishment and have it done by contract under such regulations that the money of the Government shall not be squandered. If my information is correct the whole thing could not be worse managed than it is now.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Illinois to the amendment of the Senator from Ohio.

The amendment to the amendment was rejected.

The amendment was agreed to.

Mr. SHERMAN. I now offer from the Committee on Finance the amendment that is printed as a third section. The second printed amendment has been superseded.

The Chief Clerk read the amendment, as follows:

SEC. —. *And be it further enacted*, That section ten of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, shall not be so construed as to authorize the publication of any advertisements, notices, proposals, laws, or proclamations by the newspapers in the District of Columbia, selected in accordance with the law, unless such advertisements, notices, proposals, laws, or proclamations are delivered by the proper head of a Department to such newspaper for publication in accordance with law, and the rates of compensation for such printing shall not exceed the rates paid for similar printing under existing law.

Mr. SHERMAN. I move to amend the amendment by inserting after the word "unless," in the ninth line, the words "such publication is deemed necessary by the proper head of a Department, nor unless."

Mr. EDMUNDS. I would not put that in. It is bad enough already.

Mr. SHERMAN. I will explain it presently. I desire, also, to add a clause at the end of the amendment which the Clerk can read.

The PRESIDENT *pro tempore*. The amendment will be read as it is proposed to be amended.

The Chief Clerk read as follows:

SEC. —. *And be it further enacted*, That section ten of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, shall not be so construed as to authorize the publication of any advertisements, notices, proposals, laws, or proclamations by the newspapers in the District of Columbia, selected in accordance with the law unless such publication is deemed necessary by the proper head of a Department, nor unless such advertisements, notices, proposals, laws, or proclamations are delivered by the proper head of a Department to such newspaper for publication in accordance with law, and the rates of compensation for such printing shall not exceed the rates paid for similar printing under existing law. And no advertisement whatever in any newspaper published in the District of Columbia shall be paid for by any disbursing officer, and if paid shall not be allowed by any accounting officer unless published in pursuance of the several acts named in this section.

Mr. SHERMAN. I will explain the proposition in a few words. This bill contains several items making appropriations for advertising in newspapers. Under an act which was passed in 1866 provision was made for publishing in two newspapers in the District of Columbia all the Department advertisements. By a subsequent amendatory act in 1867 it was provided that all advertisements ordered by any head of a Department shall be published in those two newspapers. Two newspapers were selected in accordance with the law, the Daily Chronicle and the Evening Star, of this city. They claim the right to publish as Government advertisements all the advertisements published by the Government in any part of the United States. Thus, in the papers I have before me, there are advertisements of sod to be put on a fort in New Mexico; provisions to be supplied in Utah; post routes in Arizona; and a multitude of advertisements of that kind which certainly ought not to be published in Washington.

Mr. JOHNSON. Are they now published here?

Mr. SHERMAN. Yes, sir. These accounts have been presented to the First Comptroller for adjudication, and he has ruled against them, ruled them out, and said it could not have been the intention of Congress to pro-

vide for such a class of advertisements being published in the city of Washington.

Another clause of that second act provides for the publication of the laws. By general law the laws are published at a very low rate in two papers selected in each of the States; but by this law these two newspapers selected for the District of Columbia were authorized to publish the laws at not exceeding the rates paid by private individuals for advertisements. The result is, that in one case that was presented, one of the publishers of these city papers here charged the Government \$1,500 for advertising postal routes in certain States, when the rate fixed by law as to other papers was \$315. The Comptroller, when the case was brought before him, decided that it could not have been the intention of Congress to provide for the publication of all advertisements ordered by any head of a Department in Washington; nor could it have been the intention of Congress to provide for one rate of compensation for the publication in the States and for a rate several times as large in this city. These accounts are now suspended, and it will be necessary for Congress to pass on the subject.

Mr. JOHNSON. Does this correct that practice?

Mr. SHERMAN. Yes, sir. The amendment has been carefully prepared with that view. It leaves these two papers to publish the advertisements, and requires the Departments to give them all the advertisements that are published at not higher than the rates now provided for by law; but it provides that no advertisements shall be published by them unless they are furnished to them by the proper head of Department.

Mr. TRUMBULL. Do I understand the Senator from Ohio to say it requires the head of a Department to give them all the advertisements?

Mr. SHERMAN. No, sir; it does not require the head of a Department to give them any advertisements. It does not authorize them to publish any, unless furnished by the head of a Department, and it prohibits the Government advertisements in any other papers in this District except the two designated by law. I do not know whether I have made myself understood; but that is the object of the amendment.

Mr. CONNESS. Right at this point, if the Senator will permit me before he takes his seat, I wish to suggest to him that the proposed amendment to the amendment goes further than that. It confers the discretion upon the heads of the proper Departments to withhold what advertisements they please. What is to hinder them from withholding all advertisements under that discretion, so construing it? That it would be an illegitimate construction I have no doubt; but with political feeling such as exists, what is to hinder them from exercising that discretion in a most damaging manner to a paper that they do not like?

Mr. SHERMAN. The Senator from California will see that we have provided that the two papers which have been selected shall publish all the advertisements that are authorized to be published here.

Mr. CONNESS. I understand that.

Mr. SHERMAN. And then we leave to the heads of the Departments to say what advertisements shall be published. Somebody must decide that question. For instance, not to enlarge on this matter, I can read several advertisements that I have here which every man—

Mr. CONNESS. I understand that. I do not wish to charge the Treasury with the publication of unnecessary advertisements; but why not provide, in proper language, that that class of publications shall not be made, without leaving the discretion in the heads of the Departments to withhold what advertisements they may think fit.

Mr. SHERMAN. Who is to decide what are necessary to be published?

Mr. CONNESS. Let it be decided by the language of the law.

Mr. MORRILL, of Maine. If the Senator will allow me, I will suggest that I do not think it is a matter of discretion now. By law certain transactions are required to be advertised absolutely, beyond the discretion of anybody. For instance, proposals for stationery and for supplies of all kinds in the Departments are required to be advertised. That is not a matter of discretion; but the question is, how advertised? In what papers? By the act referred to in this amendment they are required to be advertised in two particular papers; so that I submit to the Senator from California there is no margin of discretion whatever, so far as that goes. The law requires certain advertisements to be made. Then it directs that they shall be published in these papers absolutely. Now, the Senator from Ohio says that in addition to those advertisements these papers have a practice of advertising for proposals which are not authorized by law to be made in these papers, but which are not forbidden, and which are advertised in different parts of the country; and in addition to that, they are in the habit of advertising proposals which are not submitted to them at all by the heads of Departments. That is what I understand him to say; and this amendment is to correct that abuse. If I am right in supposing that it is not a matter of discretion with the heads of Departments whether they will publish what is required to be published in these two papers, then it is clear that this proposition would not give these heads of Departments the discretion which the Senator from California supposes.

Mr. CONNESS. I think the incorporation of the words proposed by the Senator from Ohio as an amendment to the amendment will give that discretion; but I have already said that I did not think it could be legitimately so construed.

Mr. EDMUNDS. Mr. President, the difficulty in this case appears to have arisen out of the act of March 2, 1867. Prior to that, in the act referred to in that act, the only advertisements that were permitted to be published in the city of Washington were those that by pre-existing laws were required to be published in this city. The act of 1866 declared:

"That all advertising, notices, and proposals for contracts for the Post Office Department, and all advertising, notices, and proposals for contracts for all the Executive Departments of the Government, required by law to be published in the city of Washington, shall hereafter be advertised by publication in the two daily newspapers in the city of Washington having the largest circulation, and in no others."

You will see that by the act of 1866 the Washington papers were only authorized to publish those notices that the law relating to that class of notices required to be published here. What those were I do not know; but we can obviously enough see that there are certain notices that ought to be published here and a great many others that ought not which would be perfectly useless here. Then when we come to the act of 1867, referring to this act of 1866 that I have read, the phraseology was changed, which led to this abuse, and was adopted in this form, the tenth section of the act of March 2, 1867, referred to in the amendment proposed by the Senator from Ohio:

"That all advertisements, notices, and proposals for contracts for all the Executive Departments of the Government, and the laws passed by Congress and executive proclamations and treaties, shall hereafter be advertised by publication in the two daily papers published in the District of Columbia now selected under the act of the first session of the Thirty-Ninth Congress making appropriations for the service of the Post Office Department," &c.

Thus it will be seen that the abuse we are speaking of grew up under the act of 1867, which seemed to declare on the face of it, referring to the two papers indicated by the act of 1866 as having the largest circulation, that there should be published therein every advertisement, every law, every publication, taking the terms of it, so that these papers claimed that if, as is said by the Senator

from Ohio, there is an advertisement for beef to supply the Army down in Arizona, they had the right to take it and publish it, when every body knows there is no beef fit to eat to be had in Washington, and no use of advertising for it here.

The difficulty, if there is any, about this amendment which is to correct this abuse, is that it is not stringent enough. It ought to be so confined as only to cover the class of cases that is referred to by the Senator from California and enacted in the act of 1866; that is to say, that class of cases where the existing law requires a publication positively in this city, and that in all others they shall not publish. I do not think the amendment goes quite far enough. There ought to be added to it a provision something like this: to insert after the word "proclamations," in the eighth line of the amendment, "and being required by law to be published in the District of Columbia," and then you will restore it to where it stood under the act of 1866, to which the Senator from California has alluded.

Mr. SHERMAN. I have no objection to carry out the purpose. All we desired was to give to the newspapers selected by the Clerk of the House and by the law the publication of whatever has to be published in this District; but not to authorize or require by law the publication in this city of all the advertisements published throughout the United States. In order to show Senators the character of this business, I hold in my hand an advertisement for the sale of some stuff in Santa Fé published in this city. Here is a whole page of advertisements of mail routes, &c., in the far western Territories.

Mr. TRUMBULL. I should like to inquire how they get those advertisements? Did the Departments furnish them to the papers here?

Mr. SHERMAN. No; they get them from the western papers.

Mr. TRUMBULL. Copy them out?

Mr. SHERMAN. I suppose so. I do not know where they get them; I did not inquire into that; but they get them and publish them, and present their bills, but the Comptrollers and the accounting officers hesitate about them. They have overruled them thus far; but the law is doubtful. I think the amendment as I have prepared it will accomplish the purpose that we all desire.

Mr. FESSENDEN. If they play such tricks as that I think we ought to select some other papers.

Mr. SHERMAN. They will all do it.

Mr. EDMUNDS. I wish to move to amend the amendment of the Senator from Ohio by inserting after the word "proclamations," in line ten, the words "and being required by law to be published in the District of Columbia." That carries us back to the foundation referred to in the act of 1866, to which the Senator from California has alluded; so that it will not permit the head of a Department to have anything published here except what the law already requires.

Mr. CONNESS. Nor prohibit it.

Mr. EDMUNDS. It would prohibit it; but it only authorizes the head of a Department to deliver to these papers such advertisements as the law requires to be printed here. By looking at the act of 1866 it will be seen that it refers to existing legislation of various kinds, the details of which I am not familiar with, as fixing that which is to be published, and another class were to be published elsewhere. The act of 1867 intended undoubtedly to follow the act of 1866; but from the looseness of its phraseology it covered all classes of advertisements, and in its terms it certainly authorizes the publication here of everything. Now, if we limit the amendment of the Senator from Ohio, in what the heads of Departments shall deliver to them, to those advertisements that the law requires to be published in this District, just as the act of 1866, which is the foundation of all this, requires to be done, we shall be perfectly safe.

Mr. SHERMAN. The difficulty is that there are some advertisements not required by law to be published in the District, but which may properly be published here. For instance, advertisements for mail routes in Maryland might properly be published here, but the law does not require it.

Mr. EDMUNDS. There is not half so much reason for publishing them here as in Baltimore.

Mr. SHERMAN. You have got to leave it after all to the head of the Department. No head of a Department would abuse this discretion. The Clerk of the House selects the papers. No head of a Department will abuse the privilege that is conferred upon him, it seems to me, to publish advertisements unless they are really needed; but I doubt whether we ought to confine it so stringently that the head of a Department cannot publish in this District an advertisement unless the law requires it to be published here. There are cases where the law does not say where the advertisement shall be published.

Mr. TRUMBULL. Is not that reasoning in a circle? Does not the law of 1867 require it to be published here? Is not that the very claim you have got here?

Mr. SHERMAN. No, sir.

Mr. TRUMBULL. I understood that what these newspapers contended for was the right to publish in this District everything. That is what they claim.

Mr. SHERMAN. All we say is that they shall not publish in this District advertisements that are not furnished to them by the proper head of a Department.

Mr. TRUMBULL. That would accomplish it; but I was speaking of the amendment of the Senator from Vermont.

Mr. EDMUNDS. My amendment is additional to that. It still leaves it to the head of the Department, but declares that he shall not deliver anything, even in his discretion, to these newspapers, unless he delivers such notices as the law requires to be published here.

Mr. TRUMBULL. You do not propose to strike out the other?

Mr. EDMUNDS. Oh, no; by no means; it is merely an addition to it.

Mr. MORRILL, of Maine. I ask the attention of the Senator from Ohio to a proposition I will make in lieu of the amendment he proposes. In lieu of what is proposed to be inserted by the Senator from Ohio, I suggest to insert after the word "law," in the ninth line, these words, "and required to be published in the District of Columbia, nor;" so that it will read:

Shall not be so construed as to authorize the publication of any advertisements, notices, proposals, laws, or proclamations by the newspapers in the District of Columbia, selected in accordance with the law and required to be published in the District of Columbia, nor unless such advertisements, &c.

Mr. EDMUNDS. That is exactly the same thing that I proposed to insert after "proclamations" in the next line. It comes to the same result.

Mr. MORRILL, of Maine. I do not know but that it has the same effect; but it avoids the construction that arises from the language of the proposition of the Senator from Ohio, which seems to make it depend upon the discretion of the head of the Department.

Mr. EDMUNDS. That will not quite reach it, because so far as it relates to these newspapers selected in accordance with law the law merely requires the selection to be made from the two having the largest circulation. All that that relates to is merely that the selection must be made of the two newspapers having the largest circulation.

Mr. MORRILL, of Maine. The Senator is mistaken on that point.

Mr. EDMUNDS. Not at all. Here it is in the Post Office appropriation bill of 1866: "shall hereafter be advertised by publication in the two daily newspapers in the city of Washington having the largest circulation, and in no others."

Mr. MORRILL, of Maine. But the law of 1867 gives it to the Clerk of the House of Representatives.

Mr. EDMUNDS. Very well; but it only declares that the Clerk of the House of Representatives is to decide which papers have the largest circulation. That is all. He is the deciding officer. That being so, all that we wish to do now is to limit the advertisements that shall be put into those two papers and exclude all other papers from the advertisements. To do that the Senator from Ohio proposes that the head of the Department shall be the deciding officer, to decide what shall be put into those papers. The objection to his amendment is that it still leaves to the discretion of the head of the Department to insert advertisements that have no place here at all. I propose to correct that by adding in the tenth line, after the word "proclamations," the words "and being required by law to be published in the District of Columbia," not in any particular paper, but published here.

Mr. MORRILL, of Maine. Then the Senator and myself reach the same point precisely, except that I offer my proposition in lieu of the proposition of the Senator from Ohio, and the Senator from Vermont offers his in addition to the proposition of the Senator from Ohio, which I think will lead to a complication.

Mr. EDMUNDS. It will not do, as suggested by the Senator from Illinois, to have it read "required by law to be published in the District of Columbia," because the newspaper proprietors contend that by the act of 1867 they are entitled to all these advertisements now.

Mr. SHERMAN. I will call the Senators to order for a moment, because there is now an amendment to the amendment pending. Let that be adopted, and then I shall have no objection to either of the others.

Mr. EDMUNDS. There is no amendment pending except yours, which is an amendment to the bill, and I propose to amend that.

Mr. SHERMAN. I have offered an amendment to that amendment, which has not been voted upon, to insert certain words in line nine, and also to add some words to the section. That amendment to the amendment has not been acted on, and until that is disposed of all these other propositions are out of order.

Mr. EDMUNDS. Very well. Then we are all out of order. Let us hear what the pending amendment is.

The CHIEF CLERK. It is proposed to amend the amendment by inserting in line nine, after the word "unless," the words "such publication is deemed necessary by the proper head of a Department, nor unless;" so that the section will read:

That section ten of an act, &c., shall not be so construed as to authorize the publication of any advertisements, notices, proposals, laws, or proclamations by the newspapers in the District of Columbia selected in accordance with the law, unless such publication is deemed necessary by the proper head of a Department, nor unless such advertisements, notices, proposals, laws, or proclamations are delivered by the proper head of a Department to such newspaper, &c.

The PRESIDENT *pro tempore* put the question on the amendment to the amendment, and declared it rejected.

Mr. SHERMAN. I think there is some misunderstanding. There is no objection certainly to the amendment to the latter part of the section.

Mr. EDMUNDS. I have an objection to your amendment to the amendment, for the reason that it leaves an absolute discretion in the head of a Department to decide what he will have published here. I think the law ought to fix that as it does now, and therefore I think the amendment of the Senator will defeat the object he has in view himself.

Mr. SHERMAN. Very well; I will let the gentlemen try and see if they can fix it up any better.

Mr. MORRILL, of Maine. Now, I move to insert after the word "law," in the ninth line of the amendment, the words "and re-

quired to be published in the District of Columbia, nor;" so that it will read:

That section ten, &c., shall not be so construed as to authorize the publication of any advertisements, notices, proposals, laws, or proclamations by the newspapers in the District of Columbia selected in accordance with the law, and required to be published in the District of Columbia, nor unless such advertisements, notices, proposals, laws, or proclamations are delivered by the proper head of a Department, &c.

That excludes all proclamations and other notices not required to be published in this District.

Mr. EDMUNDS. That seems to reach precisely the point my amendment did. I do not see any objection to that.

Mr. SHERMAN. I do not know but that it will accomplish the object. Senators will see. The only doubt I have about it is that it does not say, "required by law."

Mr. MORRILL, of Maine. I think it does.

Mr. SHERMAN. No; those words are not in it.

Mr. MORRILL, of Maine. I modify my amendment so as to make it read "and required by law to be published in the District of Columbia, nor."

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine, as modified, to the amendment of the Senator from Ohio.

The amendment to the amendment was agreed to.

Mr. SHERMAN. I believe nobody objected to the insertion of the words that I offered, to come in at the end of the section. I ask that those words be read, and the question put on them.

The Chief Clerk read the proposed amendment to the amendment, which was to add at the end of the section the following words:

And no advertisement whatever in any newspaper published in the District of Columbia shall be paid for by any disbursing officer, and if paid, shall not be allowed by any accounting officer, unless published in pursuance of the several acts named in this section.

Mr. SHERMAN. I will merely state that the Executive Departments in some cases are publishing in papers not selected according to law, the *Intelligencer* and other papers, and they are making claims for advertisements, and are daily inserting them. This is for the purpose of cutting off that, so that the publication will only be in the two papers selected according to law.

The amendment to the amendment was agreed to.

Mr. CAMERON. Although this section pretty well guards the interests of the public, I think it requires something more—

Mr. CONNESS. Let the section as amended be read.

Mr. CAMERON. I have no objection to that, and then I shall probably say a word or two on the subject.

The PRESIDENT *pro tempore*. It will be read as amended.

The Chief Clerk read the amendment as amended, as follows:

Sec. —. And be it further enacted, That section ten of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, shall not be so construed as to authorize the publication of any advertisements, notices, proposals, laws, or proclamations by the newspapers in the District of Columbia, selected in accordance with the law, and required by law to be published in the District of Columbia, nor unless such advertisements, notices, proposals, laws, or proclamations are delivered by the proper head of a Department to such newspaper for publication in accordance with law, and the rates of compensation for such printing shall not exceed the rates paid for similar printing under existing law. And no advertisement whatever published in the District of Columbia shall be paid for by any disbursing officer, and if paid, shall not be allowed by any accounting officer unless published in pursuance of the several acts named in this section.

Mr. CAMERON. I am afraid that this section is not yet sufficiently guarded, and I should like some of the gentlemen learned in the law who so often give us the benefit of their advice here, to draw an amendment repealing the law of last year. I understand that the Government



has paid to two newspapers something like \$40,000 apiece, \$80,000 in all.

Mr. SHERMAN. What papers?

Mr. CAMERON. The Chronicle and the Evening Star of this city have been paid, or will be paid, for the printing of last year, under the section which we passed last year, that amount. The greater part of that advertising was for the purchase and sale of articles so far beyond the circulation of these papers that none of them could ever reach the people who were interested. For instance, there were fifteen hundred or two thousand dollars paid for an advertisement as to the publication of mail contracts in the Territory of Arizona. There was a large sum of money paid for an advertisement asking proposals for a fort somewhere down in New Mexico. I think there were half a dozen mules, or something like that, to be bought in Idaho, and they were advertised here; and in some cases these advertisements were published here a day or two before the sale or purchase was to be made at these remote places. This is an abuse which would shock the community if they knew it; but nobody seems to know anything about it. We hardly know it ourselves. We passed a law last year which we thought was going to prevent the heads of Departments from doing wrong, and we gave the power of selecting the printers to the Clerk of the House of Representatives—a man who had plenty to do besides attending to this duty, which he did not understand very well, I think, from the manner in which it has been done. I do not know exactly how we shall get along with this proposition, for these people are very artful, as they have proved by their conduct last year. I should like to have this tenth section of the law of last year repealed altogether. I ask my friend, the Senator from Vermont, to frame a provision repealing that section in such words that no comptroller who is a lawyer or anybody else can get over it.

Mr. EDMUNDS. I should want time to do that.

The PRESIDENT *pro tempore*. The question is on the amendment, as amended.

Mr. TRUMBULL. Will it be competent to amend the amendment afterward?

The PRESIDENT *pro tempore*. It will be when we get into the Senate.

Mr. TRUMBULL. I think nothing will be accomplished by the amendment of the Senator from Maine, which has been adopted, to the amendment of the Senator from Ohio, and for this reason: as I understand it, the law of 1867, referred to by the Senator from Vermont, as construed by the newspapers and according to the terms of the law itself, requires every advertisement to be published here in the District of Columbia. The abuse which we wish to correct is this: a newspaper published in the District of Columbia seeing an advertisement in a Santa Fé paper by a quartermaster for lumber to build barracks, copies it into his paper in the District, and then brings his bill to the Treasury Department for payment; and a controversy has arisen there, the Treasury refusing to pay, and the newspaper proprietor insisting that he is entitled to pay. That is the evil. Now, you propose to remove this evil of publication in the city of Washington of an advertisement in reference to a local matter in Arizona or New Mexico or California or elsewhere. All agree that ought to be corrected. The Senator from Maine proposes to correct it by declaring that nothing shall be published in the District of Columbia except what is required by law to be published here. That is reasoning in a circle. You come right around to the same place.

Mr. MORRILL, of Maine. Will the Senator read the act of 1867 to which he refers?

Mr. TRUMBULL. It is the tenth section of the civil appropriation bill, as follows:

"That all advertisements, notices, and proposals for contracts for all the Executive Departments of the Government, and the laws passed by Congress, and executive proclamations and treaties shall hereafter be advertised by publication in the two daily papers published in the District of Columbia now selected under the act of the first session of the Thirty-Ninth Congress."

That requires in so many words all these publications to be made in the two newspapers published in the District of Columbia which have been selected by the Clerk of the House of Representatives, as the newspaper men insist, and well they may insist on it under the terms of the act, although evidently that was not the meaning of Congress. It is proposed to correct that. I submit you correct nothing when you simply say that nothing shall be published here except what by law is required to be published here. That is the very thing in dispute; and I submit that some other amendment is necessary.

Mr. SHERMAN. I had an amendment to guard against that very difficulty.

Mr. TRUMBULL. I know that amendment would have guarded it; but that has been stricken out.

Mr. EDMUNDS. I suggest that this section be passed over informally for the time being, and that we go on with other parts of the bill, and in the mean time we can fix this.

The PRESIDING OFFICER, (Mr. HARLAN in the chair.) That course will be pursued, if there be no objection.

Mr. SHERMAN. I have another amendment that I desire to offer from the Committee on Finance. It is to insert as an additional section the following:

SEC. —. And be it further enacted, That from and after the 30th day of June, 1868, the annual salaries of the Comptrollers of the Treasury and the Commissioner of Customs shall be \$1,500 each; of the Solicitor, the Auditors, the Register, and the supervising architect of the Treasury, \$4,000 each; and the additional amount necessary to pay the increase of salaries provided for by this section be, and the same is hereby, appropriated.

Mr. President, here is a proposition to increase to some extent the salaries of nine officers. From the temper of the Senate yesterday I suppose it will be very difficult to get them to agree to it; but the circumstances are peculiar; and nothing but peculiar circumstances would have induced us to report the section. This increases their salaries but slightly.

Mr. SUMNER. What is the increase?

Mr. SHERMAN. About one thousand dollars each. They have been allowed out of the fund which we have had so much talk about, by the Secretary of the Treasury, for two or three years, about one thousand dollars extra. I desire to say that the salary of the First Comptroller, the most important officer in the Treasury Department, was fixed in 1799 at \$3,500, when a clerk got but \$800, and it stands there yet. So with the First Auditor; he got \$3,000 then, and he stands there yet. These Auditors and Comptrollers are the most responsible officers of the Treasury Department. Upon their integrity and fidelity depend the entire safety of the Treasury Department. They pass in a month more accounts than the Court of Claims will in three years, and decide causes as important to the Government as the Supreme Court decide in a whole year; and yet their pay stands as it was in 1799. The present First Comptroller, who is a man distinguished for ability, says he cannot live on the salary. The Second Comptroller, Mr. Brodhead, is a gentleman of great distinction; and he is also paid \$3,000 or \$3,500. These other officers, the heads of bureaus, the Auditors are paid now \$3,000; and they include among them, as we all know, men of great ability and high character.

The Committee on Finance were not prepared to take up the bill referred to yesterday, for the reorganization of the Treasury Department, although we expect to do so early at the next session. We thought it would be very difficult to get action on such a bill at this session; but the Committee on Finance unanimously recommended that this relief should be given to these officers, as we have cut off all opportunity, which the Secretary of the Treasury has had under previous laws, to make an additional allowance to them. That power is now cut off, and they are left to their salaries.

I trust, under the circumstances, the Senate

will unanimously agree to this slight increase. It will not operate very long, because probably at the next session of Congress we shall be able to act on the bill reorganizing the Treasury Department; but for this coming year it will raise the Comptrollers from \$3,500 to \$4,500, and I think that is too little; I would rather say \$5,000; and it raises the Auditors from \$3,000 up to \$4,000. The Senate can do as they please on the subject.

Mr. CAMERON. I trust we shall not agree to this amendment. I am satisfied that this is not the time to raise salaries. Not one of these gentlemen would give up his office because his salary was not increased, and I verily believe that if all of them did give up their offices we could get just as good men to put in their places for the present salaries. Why, sir, we have taken off \$100,000,000 from our tax laws, and we are now going on almost daily increasing some item of expenditure or other. I doubt whether the Committee on Finance themselves can tell how much increase is provided in this bill by the additional number of clerks allowed, so far as we have gone.

Mr. SHERMAN. This bill is a great diminution upon the appropriations of last year. However, the Committee on Appropriations have it in charge.

Mr. CAMERON. That may be, and it ought to be a diminution. Some three or four or five hundred clerks ought to be dismissed in place of increasing the number. When we had an army of a million men in the field, with vast accounts growing out of that immense army, it was necessary, probably, that our clerical force should be very large; but now, in time of peace, it is not necessary that we should have so many of these people; and certainly at this time when taxation is oppressing everybody, and when the town is swarming with men seeking to get places we should not increase salaries. Why, sir, there is not a day that I am not called upon before I get my breakfast by somebody who wants a place here at the present rates; and yet we are asked to increase the pay of these officers. It is this constant increase of pay every day that swells the number of office-hunters in the country. I think the most unfortunate class in the world are the people who are induced to come to Washington to get a scanty living from the Government; and I would give them no more encouragement. A man had better work at home at a couple of dollars a day in a workshop than come here and take one of these places. The most of them are taught idleness; they are taught extravagance; and every one of them will tell you he is not getting enough pay. My impression is that they would be a great deal better off at home. I for one will not vote for any increase of salaries. After awhile, when we get our debt and taxes reduced, it may be wise to do so; it may not be necessary, but it may be proper then to increase some salaries; but I cannot vote for any such proposition now.

Mr. MORRILL, of Vermont. I believe I am troubled with about as great a stringency of economy as anybody, but I am in favor of the proposition to increase the salaries of these men. I believe that any one of them would command in the business of the country nearly double the salary he gets from the Government. I am not in favor of that kind of economy that would save the cheese parings and give away the cheese. I know that the First Comptroller, as the Senator from Ohio has suggested, has charge of the most important business of the Government. I believe he is worth to-day more than half a million dollars to the Government. He is as good a Republican as my friend from Pennsylvania.

Mr. NYE. Who is he?

Mr. MORRILL, of Vermont. R. W. Taylor. We have not had a man since the days of Whittelsey that is worth as much money to the Government as this First Comptroller; and I would be willing to pay him as much as any man under the Government. I think he is worth the whole increase that is proposed to all the rest, rather than that we should be com-

pelled to get along without him; and I say to my friend from Pennsylvania, that unless his salary is raised he will leave the service of the Government. He is a man of large family, and he cannot support them here on his present salary; and it is unreasonable that we should ask him to do so.

Mr. CORBETT obtained the floor.

Mr. CAMERON. This is the old argument, that men in office could do a great deal better out of it.

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Pennsylvania?

Mr. CAMERON. I beg pardon; I did not observe that the Senator from Oregon had obtained the floor.

Mr. CORBETT. I give way to the Senator from Pennsylvania.

Mr. CAMERON. I am much obliged to the Senator. I merely desire to say that the argument of the Senator from Vermont is the common one always given when you say a word against an increase of salaries. It is said that the men holding these offices can do a great deal better in private life. Then I say let them go into private life. There are plenty of people who will come here and perform the duties just as well probably as they now do. I mean to say nothing against the ability or high capacity of the First Comptroller. I think all that is said on that subject is correct; but there are plenty of men just as good. An old proverb says that "there are as good fish in the sea as ever were caught;" and I am sure there are always good men willing to go into office. According to the Senator's argument, you might go through the whole list of officers here and raise their salaries. I dare say there are men holding \$1,200 clerkships who are fitted to perform the duties of these places; and probably there are men getting large salaries who are not fit for their places; but that does not prove to my mind that you ought to increase salaries. I think that the salaries in our Government are as high as they ought to be. I believe we spend a great deal too much money because we have sympathy for individuals. Because a particular incumbent of an office is a gentlemanly and courteous man, and we meet him in our social circles, we are apt to be willing to increase his salary because we like him, or because we are pleased by some attentions that we receive from him or those around him. I do not pretend that I am not susceptible to all these feelings myself; but I am unwilling to increase salaries this year.

I believe there ought to be an entire change in the Treasury Department. I think there ought to be an overhauling and a systematizing there, so as to make the establishment better for the Government and better for the persons employed. I think we could save money enough there to perhaps give some officers higher salaries; but it would be done by reducing the number of people employed and inaugurating a better system. The other day we had a debate about a commissioner of statistics, and we were told that the person employed in the Treasury Department in that service was entirely unfit for his place. I was told so by some gentleman of this body. We were also told that a man must be kept in the State Department to perform the same duties because he had some capacity in gathering up statistics, and the other man, whose special business it was to attend to that subject, was not fit to do it. That is not the way to legislate. I thank the Senator from Oregon for his courtesy.

Mr. CORBETT. Mr. President, I have had some little transactions with the First Comptroller, Mr. Taylor, and in my opinion he is not one of those particularly courteous men who cater to Senators or Congressmen. He is a man who attends to his duties faithfully, I believe, and I think he is a very valuable officer. I admire him the more from the fact that I presented a claim to him, and notwithstanding he rejected the claim I was struck by his ability and the manner in which he

examined these things. I believe, as the Senator from Vermont says, that he is a very capable, thorough officer. He watches vigilantly the interests of the Government. I believe he is better worth \$5,000 a year than any other man that you could place in that position would be half that amount. He is thoroughly acquainted with the business of the office. There is a very large business to be transacted there. Very large claims are coming constantly before him. It seems to me that to give him a salary that will merely keep his family and not allow him to lay up anything for a rainy day is very unjust. I think his services are worth as much as the services of any Senator here.

I shall support this amendment of the Senator from Ohio, to raise the salaries of these Comptrollers and Auditors who pass upon large claims and judge of them. I think they should receive a salary that would place them above any influences that might tempt them to swerve from their duty in judging of claims, and acting upon them independently. We know, and have heard it said, that influences are brought to bear upon officials to force through claims that are illegitimate and improper; and we should place these men in such a position that they cannot be tempted. I do not believe that Mr. Taylor is one of the kind who can be tempted, but I believe that he should be paid a salary commensurate with his services, and commensurate with the large amount of business he performs and the large amount of claims he is constantly passing upon. I simply desired to add my testimony, knowing something of Mr. Taylor, and having seen something of him.

Mr. NYE. I am myself in favor of paying pretty good salaries; but it seems to me that the reason the honorable Senator from Oregon renders for raising the salary of this man is a very strange one, that he presented a claim to him and he rejected it.

Mr. CORBETT. Yes, sir; I thought the prices were pretty high, and he rejected it.

Mr. NYE. It is very queer that the honorable Senator would present a claim that he did not think was right, and go for raising the salary of the officer that rejected it.

Mr. CORBETT. It did not belong to me.

Mr. NYE. But, sir; I rose for the purpose of saying a single word. I see there is a general willingness here to raise the salaries of these officers of the Treasury; and I do not know but that it is right; but in looking around these Departments last year, as I made a little effort to do, I found many men that have more labor to perform than these Comptrollers who get far less salary, and any effort to raise their salary heretofore has been a failure. Now, I propose to test the fairness of the Senate by proposing to put other Departments on a footing with the Treasury Department, if it is in order. If there is a man in any of the Departments of this Government who works more hours than any other, and has the most important labor to perform in a very important branch of the public service, it is the Commissioner of the General Land Office. His salary is \$3,000 a year, and his labors are far more severe than those of the Secretary of the Interior, as the present presiding officer [Mr. HARRIS] will understand. He decides all that great branch of business. The public land interests of this country are certainly as large as any comptrollership is, where he is bounded by his room. I think his salary is altogether too low. Any gentleman who goes into that office and discharges its duties faithfully ought to have more than \$3,000 a year. In the Treasury Department they have clerks that get more than that. The Senator from Maine will correct me if I am wrong.

Mr. FESSENDEN. I do not know of any.

Mr. NYE. About three thousand dollars.

Mr. FESSENDEN. No, sir.

Mr. NYE. I ask the Senator from Maine how much they do get.

Mr. FESSENDEN. No clerk probably except the chief clerk of a bureau gets \$2,000;

but there are in the office of the Register book-keepers who get \$2,500 or \$2,600.

Mr. NYE. Well, sir, there is a book-keeper who gets in the neighborhood of three thousand dollars; and with the twenty per cent. we have been in the habit of giving it is more than that.

Mr. MORRILL, of Vermont. And they are picked away at once and taken to New York, where they get \$5,000, \$6,000, and some of them \$10,000.

Mr. NYE. My friend from Vermont has an apprehension that there is danger of the Government losing some of these Comptrollers. Let me tell him that he need have no such fear; they will stay. I have never known one to quit here who got good pay. I am not finding fault with paying this salary to these Comptrollers; perhaps it is right; but I insist upon it that the Treasury Department is not the only Department of this Government; and if the committee who have it in charge are going about to do justice, as I have no doubt the Senator from Ohio intends to do, I can find them cases more deserving, men with as large families, and who work more hours a day than any of these Comptrollers, who are getting but little over half what they propose to give these Comptrollers. The Secretary of the Treasury, I believe, gets \$8,000, and now it is proposed to give \$4,500 or \$5,000 to clerks merely; they are called Comptrollers, because they are at the head of that kind of clerkship. I repeat that I do not know that it is too much, but while we are attempting to do justice to these deserving men, I hope we shall have an amendment giving the Commissioner of the General Land Office as much certainly as some of the clerks of the Treasury Department.

Mr. SHERMAN. The Senator from Nevada and his colleague desire to put in the Commissioner of the General Land Office. I appreciate the services of Mr. Wilson, who is an able and excellent officer; but in the first place the matter ought to be referred to a committee. The increase of these salaries was referred to the Committee on Finance, and after consideration we took these officers and made the increase. Officers in the same Department with the same rank have a great deal more salary now. The Treasurer gets \$6,500; the Comptroller of the Currency gets \$5,000. The heads of bureaus in the War Department get \$7,000. If this proposition had been considered by the Committee on Public Lands, I should have no objection to it.

Mr. NYE. The Committee on Public Lands are certainly as capable as the committee to which this matter has been referred to judge of this subject, and having examined into it—

Mr. SHERMAN. If the Committee on Public Lands report this proposition I have not the slightest objection to it.

Mr. NYE. I ask the honorable Senator from Ohio if it is necessary to go through the formal presentation of it to the committee to see whether it is proper to raise this salary, when the Senator knows and every Senator knows that it should be raised. I do not like to pick out one Department and make its officers princes and keep the others all poor.

Mr. CONNESS. I wish to inquire whether an amendment to the amendment is now in order?

The PRESIDING OFFICER. In the impression of the Chair, it is in order.

Mr. CONNESS. Then I move to insert after the word "Treasury," in the sixth line of the amendment of the Committee on Finance, the words "and the Commissioner of the General Land Office." The chairman of the Finance Committee will accept that, I suppose.

Mr. STEWART. I hope that will be done, and I will say—

Mr. CONNESS. It is done now, sir.

The PRESIDING OFFICER. Does the Senator from Ohio accept this amendment?

Mr. SHERMAN. No, sir; but I am willing to let the sense of the Senate be taken upon it; if it is in order.

Mr. CONKLING. I wish to make an inquiry of the Chair, whether notice was given of this amendment so as to bring it within the rule; and I will state the reason why I make the inquiry. This may be a meritorious case; but there are a great many other meritorious cases; and if without giving any notice, without the amendment being reported by the Committee on Public Lands, this officer is to be added, then with great propriety we may look about and see what other officers ought to be included; and it is rather invidious to establish that way of accomplishing the result. If notice has been given, I do not object; but if it has not been given, and we are to accept this amendment, then there are various officers who ought to be thought of.

The PRESIDING OFFICER. The Chair has no knowledge that any notice was given to the Committee on Appropriations.

Mr. CONNESS. I hope the Senator will not make that objection; but that if there be any other case as meritorious as this he will propose it.

Mr. CONKLING. Whether there be others as meritorious as this I am not prepared to say, because we have a rule providing that this particular legislation shall not be reached in this way. Of course, therefore, Senators are not prepared, upon a suggestion being made, to say what other meritorious cases there are. I repeat, I do not wish to object to this case in particular; but if we have a rule I think we ought to adhere to it.

Mr. CONNESS. Then I ask for a vote of the Senate upon it.

Mr. CONKLING. Not if it is not in order, I suppose.

Mr. CONNESS. I did not understand the Senator to insist on the point of order.

Mr. STEWART. If the point of order is insisted on I will move that this amendment be postponed until to-morrow, and I give notice that I shall then offer it.

Mr. MORRILL, of Maine. I think I must insist on the point of order.

Mr. STEWART. Then I move that the whole amendment go over until to-morrow.

Mr. MORRILL, of Maine. That is hardly necessary, because the whole question will be open when the bill comes into the Senate.

Mr. SHERMAN. There are other appropriation bills, where it can be moved.

Mr. CONNESS. I wish to give notice now that to-morrow I will offer this amendment to this bill, as proposed to-day.

Mr. CONKLING. I made the suggestion that I did merely by way of suggestion, not meaning to insist upon it against the wish of even a single Senator who thinks it is important to take the sense of the Senate on this question. I now withdraw the point of order; but in withdrawing it I wish to say again that I think while we have this rule we ought to adhere to it, and that these officers ought not to be dependent upon the friendly diligence of some Senator who may have in mind a particular case, and who from a sense of justice may rise and suggest that when that same Senator, if his attention had been turned in another direction, very likely would be able to remember a number of other persons equally meritorious. The Senator from Nevada [Mr. STEWART] says he offered this proposition originally rather by way of illustration. I suppose that to be the case, and I have no doubt the illustration is a true one. I have no doubt the case is one of merit. I only say that it establishes a capricious rule that these officers are to be advanced in their salaries dependent on whether some Senator who has personal knowledge of them is able on the spur of the moment to think of them or not. That is a lottery which I think the rules intended to provide against.

Mr. CONNESS. I renew the amendment.

Mr. MORRILL, of Maine. I shall be obliged to invoke the rule, and I will say to Senators who have an interest in this matter that when the bill comes into the Senate they can give

me the notice and make a motion to amend it then, and that will answer their purpose.

The PRESIDING OFFICER. (Mr. HARLAN in the chair.) The question of order having been raised, the Chair is of the opinion that it is well taken.

Mr. CONNESS. Well, Mr. President, I now renew the notice that to-morrow I shall offer this amendment.

Mr. MORRILL, of Maine. I suggest to the Senator from Ohio to add at the end of his amendment the words "for the fiscal year ending June 30, 1869," so that the salary provided for shall be for that year.

Mr. SHERMAN. That will be proper enough, although this being an appropriation bill for that year the preliminary words of the bill would cover it. I wish now to add to the amendment "and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated." These formal words have been omitted, and they ought to be inserted.

The PRESIDING OFFICER. The amendment will be so modified. The question is on the amendment of the Senator from Ohio.

Mr. CHANDLER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 23, nays 10; as follows:

YEAS—Messrs. Bayard, Cattell, Conness, Corbett, Davis, Drake, Edmunds, Fessenden, Frelinghuysen, Harlan, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Ramsey, Ross, Sherman, Sumner, Van Winkle, Vickers, Wiley, and Williams—23.

NAYS—Messrs. Cameron, Chandler, Conkling, Cragin, McCreery, Stewart, Thayer, Tipton, Trumbull, and Yates—10.

ABSENT—Messrs. Anthony, Buckalew, Cole, Dixon, Doolittle, Ferry, Fowler, Grimes, Henderson, Hendricks, Howard, Howe, Johnson, Morton, Norton, Nye, Patterson of Tennessee, Pomeroy, Rice, Saulsbury, Sprague, Wade, and Wilson—23.

So the amendment was agreed to.

Mr. SHERMAN. I now offer from the Committee on Finance the following amendment as a new section:

*And be it further enacted*, That each night watchman at the Treasury Department shall, from the 1st day of July, 1868, receive a compensation of \$900 per annum; and an amount sufficient to pay said increased compensation for the fiscal year ending June 30, 1869, is hereby appropriated.

I will state that there are twelve night watchmen in the Treasury Department, every one of whom is a wounded soldier.

Mr. SUMNER. What is the pay now?

Mr. SHERMAN. Seven hundred and twenty dollars a year. This gives them the same pay allowed to other watchmen—much less than our watchmen in this building. I trust the amendment will be adopted. The provision was agreed to last year.

Mr. CHANDLER. I should like to add a proviso that all other watchmen in the Departments shall receive the same compensation.

Mr. SHERMAN. I believe they do.

Mr. CHANDLER. I move to amend the amendment in the way I have indicated.

Mr. SHERMAN. I object to that amendment, because I do not know precisely how many it would affect.

Mr. CHANDLER. I am opposed to raising the pay in one Department and leaving the same class of officers in other Departments at a lower compensation. Let us have them all alike. I shall to-morrow propose an increase of the salary of all men in the same grade in all the Departments, where the salaries of any have been raised.

Mr. SHERMAN. I do not know even that there are night watchmen in the other Departments.

Mr. CHANDLER. Then my amendment can do no harm.

Mr. SHERMAN. It would not be wise to legislate in that loose way. If the Senator from Michigan had seen these men performing this duty every night in the year, watching over hundreds of millions of property, he would not deny to them \$2 50 a day, \$900 a year. We agreed to this last year, but it has been dropped off now in some way. I do not know how. The salary of \$720 is totally inadequate. Every one of these twelve men

is a soldier, and a wounded soldier, and they are all faithfully serving the Government.

Mr. CAMERON. I shall certainly vote to add the \$200 to the night watchmen after we have given \$1,000 additional to each of the Comptrollers; and I give notice now that to-morrow I shall offer an amendment to this bill providing for paying the women in the Treasury Department the same compensation that is paid to men for the same service.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan to the amendment of the Senator from Ohio.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. SHERMAN. I have but one more amendment to offer, and then I shall relieve the Senate. It is in regard to the pay of the Assistant Treasurer at Charleston. I move on page 46, line eleven hundred and thirty-two, to strike out all after "Charleston" and insert "and after the 30th of June, 1868, the annual salary of the Assistant Treasurer at Charleston shall be \$4,000, and that amount is hereby appropriated—\$22,000;" so as to make the clause read:

For salaries of the Assistant Treasurer of the United States at New York, Boston, Charleston, and St. Louis, namely: for the Assistant Treasurer at New York, \$8,000; those at Boston and St. Louis, each, \$5,000, and the one at Charleston, \$4,000; and after the 30th of June, 1868, the annual salary of the Assistant Treasurer at Charleston shall be \$4,000; and that amount is hereby appropriated—\$22,000.

This proposes to raise the pay of the Assistant Treasurer at Charleston from \$2,500 to \$4,000 a year on the ground of the vastly increased business. He now disburses \$7,500,000 a year. His pay was fixed under the old *régime* at Charleston when the business was small. The papers are quite voluminous which I have received from the Department, showing the necessity of this increase. It simply puts this officer on the same grade with other officers in that Department who perform the same character of service, no more, no less. If the Senate want any further information on the subject the petition of this officer can be read. The proposition is simply to raise his pay from \$2,500 to \$4,000.

Mr. MORRILL, of Maine. How does that conform with the salaries of similar officers at other points?

Mr. FESSENDEN. It is less than the pay of the sub-Treasurer at St. Louis and at Boston.

Mr. SHERMAN. It is less than is paid to any other officer who disburses that much money.

Mr. FESSENDEN. The sub-Treasurer at Philadelphia gets \$5,000, I think. This officer is the great disbursing officer for the South.

The amendment was agreed to.

Mr. EDMUNDS. I wish now to call up the amendment of the Senator from Ohio in regard to the Government advertising, which was passed by informally.

The PRESIDENT *pro tempore*. That amendment will be regarded as now before the Senate.

Mr. EDMUNDS. I move to amend the amendment by striking out after its enacting clause and inserting:

That all advertisements, notices, and proposals for contracts, executive proclamations, treaties, and laws, required by law to be published in the District of Columbia, shall be published only in the two papers selected under the act approved May 18, 1866, entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th day of June, 1867, and for other purposes," and only when the same shall be delivered to such papers by the proper head of a Department for publication; and all of section ten of the act approved March 2, 1867, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," preceding the proviso thereof, is hereby repealed, and no advertising whatever in any newspaper published in the District of Columbia



shall be paid for by any disbursing officer, and if paid shall not be allowed by any accounting officer, unless published in pursuance of law.

That, in effect, repeals the enacting part of the tenth section of the act of March 2, 1867, out of which this difficulty grows. It refers to the same selection of newspapers, and confines it to these advertisements in the District of Columbia that the law requires to be published here. I feel quite sure that it will cover the whole case.

Mr. SHERMAN. The only modification I want to make is in the last clause. I would change the words "in pursuance of law" to "in pursuance of this act," because the power to publish advertisements in the *Intelligencer* and other newspapers is claimed under various old laws.

Mr. EDMUNDS. I have not the slightest objection to that modification. I would have put it in that form, but I thought the language I proposed was more acceptable to the Senator. It is much better, I think, to say "under this act," and I so modify my amendment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont to the amendment of the Senator from Ohio.

The amendment to the amendment was adopted, and the amendment, as amended, was agreed to.

Mr. FRELINGHUYSEN. I propose an amendment on page 36, an amendment which I am directed by the Committee on Naval Affairs to move: in the eight hundred and seventieth line, after the word "dollars," I move to insert "of solicitor and naval judge advocate general, \$3,500." The object of this amendment is merely to continue that office. By an act of 2d of March, 1865, the office of solicitor and naval judge advocate was created "to continue during the rebellion and for one year thereafter," and it has been continued every year by means of the appropriation, and unless this appropriation is made that office will expire. This is for no increase of salary, but merely to continue the same office in existence. The Committee on Naval Affairs of the House of Representatives were unanimous in their recommendation of the passage of a bill making the office permanent. The Committee on Naval Affairs of the Senate recommend that it be continued for this year with unanimity. The Secretary of the Navy recommends that it be continued. I have his letter here. I have also a letter in my possession from General Grant; he considers the office of importance, and that it ought to be continued. This officer has to examine the returns of about a thousand cases from naval courts of inquiry and courts-martial every year. He has to examine contracts and claims. He is a gentleman of ability, excellent character, familiar with the business; and the Secretary of the Navy states that instead of this office being an increase of the expenses of the Government it will cost much more to have the business attended to by persons who are not paid by a salary than if this office is continued. The probability is that by another year, under a new organization of the Attorney General's department, some arrangement will be made by which this office can be dispensed with or come under the charge of that Department in some way; but I think it very clear that it ought to be continued for this year, and such is the opinion of the Naval Committees of the House of Representatives and of the Senate and of the Secretary of the Navy and of the General, and the facts clearly show that it ought to be so.

Mr. STEWART. I wish to put my notice in form: after the word "Treasury," in the section inserted on the motion of the Senator from Ohio, I propose to insert the words "Commissioner of the General Land Office." I ask that that be referred to the Committee on Appropriations.

The PRESIDING OFFICER. That can be done by unanimous consent. No objection being made the proposed amendment will be

so referred. The question is on the amendment of the Senator from New Jersey.

Mr. MORRILL, of Maine. I inquire of the Senator from New Jersey whether he moves this by instructions from the Committee on Naval Affairs?

Mr. FRELINGHUYSEN. Yes, sir; I offer it by the unanimous recommendation of the Committee on Naval Affairs.

Mr. MORRILL, of Maine. Then the Senator is in possession of all the facts, I suppose. This office was created during the war, to continue for two years after the war, I think, and that was the reason he was not appropriated for in the House of Representatives, and the reason he was not appropriated for by the Senate Committee on Appropriations.

Mr. WILLIAMS. I should like to inquire if this amendment has been referred to the Committee on Appropriations?

Mr. MORRILL, of Maine. We had notice that an amendment would be moved to this effect.

Mr. WILLIAMS. What does the rule amount to that has been adopted here requiring these matters to be considered by the Committee on Appropriations if it suffices for a Senator to stand up in his place and say that he intends to do a certain thing at a certain time? I had supposed that the rule would operate to give us the benefit of the judgment of the Committee on Appropriations, superadded to the judgment of the committee by whom the amendment was proposed. I only speak for the sake of ascertaining what the rule is to be. If nothing is to be done except simply to give notice that such an amendment will be moved, I do not think the Committee on Appropriations have any opportunity afforded them to pass on the merits of the amendment.

Mr. MORRILL, of Maine. The rule requires, as I understand it, that no motion shall be in order to amend an appropriation bill unless that subject-matter has one day before been referred to the Committee on Appropriations, to give them an opportunity to see the relation it has to the general bill. That is the object I suppose. Sometimes it appears that an appropriation has been omitted from the appropriation bill which is provided for by law; and in such a case, if notice is given to the Committee on Appropriations of the proposed amendment, we examine it, and if we find that the law authorizes that appropriation we make it in conformity with the proposition; but if we find, as in this case, that it provides for a new service, or for the continuance of an old service, whether that service is necessary or not, which question belongs to some particular committee, as in this case the Committee on Naval Affairs, we leave them to examine it, and we do not examine it because it belongs to them. And hence they present it, as the Senator from New Jersey from that committee has presented this case here today. The Committee on Appropriations felt that their duty was performed in this case when they had examined the proposed amendment in committee and found there was no law for it, or, in other words, found that the law justifying this appropriation had expired, and so we contented ourselves with leaving it in the hands of the Committee on Naval Affairs.

Mr. CONNESS. I shall not vote for this amendment, because I do not think this office ought to be longer continued. It was created in March, 1865, just before the war had closed; when the number of ships in the Navy of the United States had reached nearly six hundred or thereabouts. There was some reason then perhaps for an office of this kind, and some reason for the continuance of the office while the surplus ships of the Navy were being sold, which work is now all done; but I cannot understand why the office is necessary now. I suppose, of course, the committee believe there is sufficient necessity for it, or else they would not have recommended it; but I have not heard reasons given sufficient for the main-

tenance of an attorney in that office longer. As for the recommendation of the Secretary of the Navy or that head, I do not know whether I would give much for it or not. I do not know how far it would go with other Senators.

I suppose that the Secretary of the Navy has sufficient knowledge of law himself to do all the legal business of the Department that remains now to be done. I am replied to by a Senator behind me that "he has not any." I incline to that opinion myself, and I kept that in view when I said that he had a sufficient knowledge of law for all the legal purpose necessary to the Department. It seems that we are asked to continue this office for a year longer just because we have had it for three years. That is not a good reason. I think we can just as well dispense with this attorney as continue him at a salary. I am not sure that we could not dispense with the head of the Department. I think we could. I remember an occasion when President Lincoln lived, and I failed to be able to get the attention of the head of this Department to important business, I went to see the President on the subject. I seriously stated our case, and he replied to me that there was a real live man in that Department, and asked me if I knew Fox. I told him no, I did not, and it ended by his giving me a note to Fox. I never had any trouble in doing business at the Navy Department while Mr. Fox was there. He was better than all the nominal heads of Department in creation, and all the attorneys, such as they employ, thrown in. I incline to think that we can do without one attorney there.

Mr. FRELINGHUYSEN. Mr. President, the Senator from California says that he does not know what necessity there is for continuing this office. It is not to be expected that every Senator will know all the details of the business of the various committees; and I supposed the very object of having committees was that they might examine as to the necessity of these questions and supply that want of information which individual Senators necessarily are subjected to. I stated in the hearing of the Senator from California that the Committee on Naval Affairs of the House were unanimously in favor of a law to make the office permanent; that the Committee on Naval Affairs of the Senate were unanimous in recommending that this office be continued this year; that the Secretary of the Navy was of the same opinion, and thought it would be a saving of a good deal of money to the Government to have it continued rather than to employ counsel for particular cases; that the General of the Army, being somewhat conversant with the affairs of the Navy as well as of the Army, was of the same opinion. Secretary Stanton is of the same opinion. This amount of authority ought to have some influence in forming the judgment of the Senate; but if authority is not enough, I also stated that there were a thousand cases in a year coming up from naval courts of inquiry and courts-martial which were examined by this solicitor; that questions of prize were examined by him; that questions of claims and contracts passed under his examination; and that his time was consequently fully occupied and well occupied in the interest of the Government.

Mr. WILLIAMS. I should like to inquire who made the examination into these contracts and claims before this office was created prior to the year 1865?

Mr. FRELINGHUYSEN. I suppose the Senator is as well informed on that subject as I am. I do not suppose that prior to 1865 there was one contract made where there are twenty made now; and perhaps it may have been by comparing the expense of this office with the expense which the Department was put to prior to 1865 that the Secretary of the Navy is enabled to certify here that the expenses are lessened by having a salaried officer rather than employing counsel in given cases. I trust that the amendment will be adopted.

Mr. SUMNER. Mr. President, I can reply

partly to the inquiry of the Senator from Oregon. It is within my knowledge that before the creation of this office it was the habit of the Navy Department to employ counsel and pay them fees. The Senate will see at once that that was hardly an economical proceeding; that the fees of counsel in individual cases, if there were many of them, would be much more than a reasonable salary. I think it was that uneconomical proceeding which finally led to the creation of this office. I believe the office since it has been created has been found to be useful, and I have understood that there is still a great deal of business at the Department for this officer, and which, if he is not continued there, must devolve upon some paid counsel.

Mr. SHERMAN. I will offer an amendment to carry out the purpose of the Senator from New Jersey, to insert at the close of the paragraph proposed to be amended, in lieu of his amendment, these words:

For Solicitor and Naval Judge Advocate General, \$3,000: *Provided*, Said office shall expire with the fiscal year ending June 30, 1869.

If we make appropriation for one year we continue the office by the practice of the Government, and next year it will be considered a permanent office. If the Senate think it can be dispensed with at the end of the year, let us say so. The continuation of the appropriation will continue the office.

Mr. DRAKE. I object to the amendment of the Senator from Ohio. I do not know why we should a year in advance of the period fixed in this amendment, and when there is to be an intervening session of Congress, undertake to determine that this office shall cease on the 30th day of June, 1869. I do not understand this seeming opposition to the appropriation for this office, an office, manifestly upon the statement made here, that conduces to a saving of the public money. Why there should be such an anxiety among Senators to abolish it and get rid of it I cannot comprehend. It seems to me to be a very good exemplification of the penny-wise and pound foolish policy. I hope that the amendment of the Senator from Ohio will not be adopted, but that we shall leave that question to the next session to be determined.

Mr. FRELINGHUYSEN. I will only add to what the Senator from Missouri has said, that I do not see any propriety in reducing the compensation of this officer when the Senator from Ohio has just been introducing a bill to increase the salaries of others.

Mr. SHERMAN. I did not know I reduced it. Mr. FRELINGHUYSEN. Three thousand five hundred dollars is the salary fixed by law.

Mr. SHERMAN. I did not mean to decrease the amount, I meant to put the amount the same. I intended to take the Senator at his word; he said the office was only needed for a year longer.

Mr. FRELINGHUYSEN. This office was created by an act of 2d March, 1865, to continue during the rebellion and for one year thereafter, so that the office is only continued alive by the appropriation; and there is no necessity for putting in an affirmative provision that it shall not exist next year, because we may want it to exist next year the same as we do this year. It depends on what arrangement is made in reference to the Attorney General's department. I think, therefore, we had better leave it under the existing laws.

Mr. CONKLING. Allow me to say to the Senator from New Jersey that I think he will find that under the practice of the Government (if there is anything in the suggestion that making the appropriation without the restriction will make the office permanent) that result has occurred already. As I understand, two years at least since the office expired by law appropriations have been made without the proviso. Therefore if the effect of the amendment offered by the Senator from New Jersey would be to perpetuate the office that effect has already been produced by previous appropriations such as he proposes.

Mr. TRUMBULL. The Senator from New York will allow me to inquire of him in that connection what will be the effect of appropriating \$150,000 year by year for temporary clerks. Will that make them permanent, too?

Mr. CONKLING. No, sir; and I do not suppose this appropriation makes this office permanent. I only suggested that if it were so, that the simple act of appropriating petrified the office, that effect would have been produced already, because for two years at least, according to my recollection, just such an appropriation has been made. I do not wish to be understood as saying that I think it would have that effect, or would have had the effect if it had been offered a year or two years ago.

Mr. COLE. As a member of the Committee on Appropriations perhaps I ought to act with the committee in this matter; but it is certainly my opinion that the solicitor of the Navy Department is a useful officer to the Government, and that his services have resulted in saving large sums to the Government. If he is a faithful officer there can be no question but that his advice to the Secretary of the Navy is useful in many cases; and I believe the present incumbent—a person, by the way, with whom I have no acquaintance, whom I only know by sight—is a faithful officer, and I cannot but regard his position as one of great utility and saving to the Government. I believe to continue the office will be an act of economy and not of waste.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio to the amendment.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from New Jersey.

The amendment was agreed to.

Mr. FESSENDEN. I have an amendment that I wish to propose.

Mr. CONNESS. I would like to know if the Senator will give way for a motion to adjourn? It is half past five.

Mr. FESSENDEN. My amendment will only take a minute.

Mr. TRUMBULL. Other committees have amendments.

Mr. FESSENDEN. If there shall be any debate about this I will give way to a motion to adjourn.

Mr. HARLAN. Will the Senator from Maine allow me to offer an amendment, to have it referred to the Committee on Appropriations?

Mr. FESSENDEN. If the Senator cannot wait until I get through with this I will yield. [Laughter.] On page 32 I move to amend the seven hundred and fifty-eighth line by striking out "three" and inserting "four," and the seven hundred and sixtieth line by striking out "two" and inserting "one." The effect is to transfer one clerk from class three to class four in the office of the Paymaster General. I have a letter here addressed to the chairman of the Committee on Appropriations requesting that that be done. There is a very considerable reduction of force in that office; it has been reduced two clerks in class three, two in class two, and four in class one, and four messengers, by the consent of the Paymaster General; but he requests that there may be one other clerk of class four. His reason is that one clerk in the office has charge of a room, and ought to be put upon the same level with others having the same duty to perform. I presume there is no objection to it.

The amendment was agreed to.

Mr. FESSENDEN. The amount of the appropriation should now be changed. In line seven hundred and fifty-eight "\$5,400" should be changed to "\$7,200," and in line seven hundred and sixty "\$3,200" should be changed to "\$1,600." I move that amendment.

The amendment was agreed to.

Mr. SUMNER. I now move to correct the

text of the bill in pursuance of the vote of the Senate the day before yesterday, by inserting in line three hundred and forty-seven, page 15, after the words "Secretary of State," the words, "Second Assistant Secretary of State, examiner of claims." I do this under direction of the Committee on Foreign Relations. I will say nothing about it, for the whole matter has been discussed fully.

Mr. MORRILL, of Maine. That makes it conform to our vote of the other day.

Mr. SUMNER. Yes, sir.

The motion was agreed to.

Mr. SUMNER. At the same time the chairman of the committee will take notice that there must be an amendment in line three hundred and fifty-one, as to the sum appropriated, by adding the salaries of those two officers. One is \$3,000 and the other \$3,500.

The PRESIDENT *pro tempore*. The amendment will be reported now.

Mr. SUMNER. In line three hundred and fifty-one "\$57,880" should read "\$63,880." I move that amendment.

Mr. MORRILL, of Maine. Adding \$6,500.

The amendment was agreed to.

Mr. CAMERON. I desire to offer an amendment from the Committee on Agriculture. On page 44, line ten hundred and sixty-seven, I move to strike out the word "five" and insert "twelve;" so as to make the clause read:

For grading, forming roads and walks, and improving the grounds, \$12,000.

My amendment raises from \$5,000 to \$12,000 the appropriation for improving the grounds around the new Agricultural Department building. It is a new building, as the Senate is aware. This appropriation is for the preparation of the grounds, draining, paving, and making necessary improvements. It will only be required once, for the improvements will be permanent when made. It is necessary to have this sum at present.

I am willing to save money, and I propose to strike out "five," on page 43, line ten hundred and fifty-five. There is an appropriation there of \$25,000 for seeds, and I think it is larger than necessary; I am perfectly willing to take \$20,000.

The PRESIDENT *pro tempore*. The question is on the first amendment of the Senator, in line ten hundred and sixty-seven.

The amendment was agreed to.

Mr. CAMERON. Now I move to strike out "five," so as to reduce the appropriation for seeds, in line ten hundred and fifty-five, from \$25,000 to \$20,000.

The amendment was agreed to.

Mr. STEWART. On page 54, after line thirteen hundred and ten, I move to insert:

And that the district attorney for Nevada shall receive a salary for extra services of \$200 per annum; and the Secretary of the Treasury is hereby authorized to audit and pay out of any moneys in the Treasury not otherwise appropriated of salaries of the present incumbent and his predecessor, R. M. Clark, at the rate of \$200 per annum for their services.

I am directed to offer this amendment by the Judiciary Committee. By an omission in the law the usual \$200 salary is not allowed to the district attorney for Nevada.

Mr. MORRILL, of Maine. I think there is some mistake about this. My recollection is that this district attorney now gets all the compensation that other district attorneys get. There is a uniform compensation for all the district attorneys of the United States except in California.

Mr. STEWART. No; he does not get any salary whatever. I can state the precise situation of the case. In California, by a special law, the district attorney is allowed double fees and \$500 salary. In Oregon the district attorney has double fees and the usual salary of \$200, the same as the district attorneys get generally. In Nevada double fees are allowed, but the salary has been left off entirely, so that the district attorney gets no salary. I have a letter in my hand from the Secretary of the Treasury

explaining that the law did not allow the usual salary.

Mr. MORRILL, of Maine. I will ask the Senator whether it is not true that this officer gets double fees in lieu of salary?

Mr. STEWART. No, not in lieu.

Mr. MORRILL, of Maine. Does he not get double fees?

Mr. STEWART. Double fees? Yes, and double fees are allowed in Oregon and California. The double fees were allowed for a different reason altogether. The district attorney in California has not only double fees but \$500 salary.

Mr. MORRILL, of Maine. The Committee on Appropriations examined the matter and came to the conclusion that there was no occasion for an interposition in this case, because with the double fees that are authorized this officer, so far as we had any information on the subject, was quite as well compensated as the generality of this class of officers. I think it is true, as the Senator says, that in regard to California there is in addition to the double fees a salary—

Mr. STEWART. Not only that, but more than double the usual salary.

Mr. MORRILL, of Maine. That may be; but in this instance there is no evidence that the Legislature intended to give the double fees and the salary too. It will be seen that this proposition allows the retaining of double fees, and superadds to them a salary not prospective alone, but prospective and retroactive and going back how far?

Mr. STEWART. About three years.

Mr. MORRILL, of Maine. It covers up all the life of the State and the life of the Territory together, I believe.

Mr. STEWART. No; it simply applies to the present district attorney and his predecessor.

Mr. MORRILL, of Maine. It is for the Senate to say. The committee hardly thought an equitable case was made out.

Mr. STEWART. I will state that this is a very poor office, and we have had a great deal of trouble to get anybody to take it and hold it. It has been vacant half the time. There are some important duties for which it is necessary to have an officer there.

Mr. TRUMBULL. This amendment was examined by the Committee on the Judiciary and the facts ascertained.

The amendment was agreed to.

Mr. HARLAN. I desire to submit an amendment to this bill, which I ask to have referred to the Committee on Appropriations.

The PRESIDENT *pro tempore*. It will be so referred.

Mr. RAMSEY. I am instructed by the Committee on Post Offices and Post Roads to amend the bill as follows:

In lines nine hundred and eighty-nine, nine hundred and ninety, nine hundred and ninety-one, and nine hundred and ninety-two, strike out "eleven clerks of class four, \$19,800; forty-nine clerks of class three, \$78,400;" and insert "fourteen clerks of class four, \$25,200; forty-six clerks of class three, \$73,600."

In lines nine hundred and ninety-three, nine hundred and ninety-four, and nine hundred and ninety-five, strike out "twenty-three clerks of class one, \$26,600; fifty female clerks at \$900 each, \$45,000;" and insert "fifty-five clerks of class one, \$36,000; sixty-one female clerks at \$900 each, \$54,900."

Strike out the following clause, contained in lines one thousand and two, one thousand and three, and one thousand and four, namely: "For twenty-five clerks in dead-letter office, under act of January 21, 1862, \$20,000."

This amendment relates to the classification of the clerks in the Post Office Department. It transfers three clerks from class three to class four; it increases the expense of clerk hire in the Post Office Department about six hundred dollars. I have a communication from the Second Assistant Postmaster General on this subject, which I will read:

POST OFFICE DEPARTMENT,  
CONTRACT OFFICE,  
WASHINGTON, June 22, 1868.

SIR: The following table shows the number of clerks of the fourth and lower classes now employed in the Post Office Department, and the number provided for by the amendments to the bill making appropriations for the legislative, executive, and

judicial expenses of the Government for the year ending June 30, 1869, submitted with my note of the 20th instant:

Classes.	Paid out of the regular appropriation.	Paid out of appropriations for temporary clerks.	Total number now employed.	Number provided for by proposed amendments.
Fourth.....	11	-	11	14
Third.....	49	-	49	46
Second.....	45	-	45	45
First.....	23	32	55	55
Female.....	50	11	61	61
Temporary.....	-	14	14	-
			235	221

The amendments provide for the same number of clerks now employed, transferring to the fourth class three third-class clerks who are heads of divisions, and leaving fourteen temporary clerks dependent upon such appropriation as may be made "for temporary clerks."

Very respectfully, &c.,

GEORGE W. McLELLAN,

Second Assistant Postmaster General.

HON. ALEXANDER RAMSEY, Chairman Committee on Post Offices and Post Roads, Senate United States.

The business of the Post Office Department is divided into fourteen divisions. There are eleven clerks of the fourth class presiding over eleven of those divisions. The Department wish three clerks of class three promoted to class four, so as to have fourteen clerks of class four to preside over the fourteen divisions. This arrangement only increases the expense \$600.

Mr. MORRILL, of Maine. There are twenty-five clerks in the dead-letter office discharging certain duties who are regarded as temporary clerks, but who are now to be incorporated into the system by these provisions. I only wish the Senate to understand it; I make no objection.

The amendment was agreed to.

Mr. CONNESS. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, June 25, 1868.

The House met at twelve o'clock m. Prayer by Rev. JAMES BALLOCH, of Baltimore.

The Journal of yesterday was read and approved.

### NEW YORK POST OFFICE.

The SPEAKER laid before the House a communication from the supervising architect of the Treasury Department, in reply to report of architects of the post office at New York; which was ordered to be printed, and referred to the Committee on the Post Office and Post Roads.

### ORDER OF BUSINESS.

Mr. SCHENCK. Before demanding the regular order of business, I am appealed to by half a dozen gentlemen to allow some matters to be disposed of which will not require division or discussion. I will yield for that purpose.

### ISSUE OF ARMS TO THE MILITIA.

Mr. PAINE. I ask unanimous consent to introduce a bill to provide for the issue of arms for the use of the militia, that it may be referred to the Committee on the Militia.

Mr. ELDRIDGE. Let us hear the bill read first.

Mr. PAINE. As I do not desire to detain the House, I will withdraw the bill.

### ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to take from the Speaker's table sundry bills and joint resolutions from the Senate that they may be referred to the Committee on Commerce, with the understanding that they shall not be brought back by motions to reconsider.

There was no objection.

### HARBORS IN CALIFORNIA.

Accordingly a joint resolution (S. R. No. 46) in relation to certain harbors on the coast of California was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

### COASTING TRADE.

A bill (S. No. 266) to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

EZRA CARTER, JR.

A bill (S. No. 353) to authorize the accounting officers of the Treasury to adjust the accounts of Ezra Carter, jr., late collector of customs at Portland, Maine, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

### REFUNDING OF DUTIES.

A bill (S. No. 448) to refund duties erroneously exacted in certain cases was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

D. H. M'DONALD.

A bill (S. No. 361) for the relief of D. H. McDonald, late acting United States consul at Cape Town, Cape of Good Hope, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

### CAMBRIDGE, MARYLAND, A PORT OF DELIVERY.

A bill (S. No. 533) to establish Cambridge, in the State of Maryland, a port of delivery, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

### COLLECTION DISTRICT IN OREGON.

An act (S. No. 153) to establish a collection district in the State of Oregon was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

### FRAUDS ON THE REVENUE.

A bill (S. No. 442) to amend section one of an act to prevent and punish frauds upon the revenue, and for other purposes, approved March 3, 1863, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

THOMAS W. WARD.

A bill (S. No. 542) for the relief of Thomas W. Ward, late collector of customs, district of Corpus Christi, Texas, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

### BRIG HIGHLAND MARY.

A joint resolution (S. R. No. 113) authorizing the Secretary of the Treasury to issue an American register to the British-built brig Highland Mary was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

### BARK AUG. GUARDIEN.

A joint resolution (S. R. No. 36) authorizing the Secretary of the Treasury to issue an American register to the bark Aug. Gardien was taken from the Speaker's table, and read a first and second time.

Mr. HUMPHREY. I desire that that joint resolution shall be put on its passage. It has been examined by the Committee on Commerce of the Senate and found to be correct.

The SPEAKER. The Clerk will report the joint resolution.

The joint resolution was read. It proposes to authorize the Secretary of the Treasury to issue an American register to the bark Aug. Gardien, of the port of New York, the same being a French-built vessel, but now owned by American citizens.

Mr. WASHBURNE, of Illinois. I will let the joint resolution be passed provided I may



make a motion to reconsider so that the Committee on Commerce may look into the matter.

Mr. SCOTFIELD. I object to the passage of the bill. You refused to have a similar bill passed for the benefit of my constituents.

The bill was referred to the Committee on Commerce.

#### REGISTERING OF VESSELS.

A bill (S. No. 505) to amend section five of an act entitled "An act concerning the registering and recording of ships or vessels," approved December 31, 1792, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

#### HOSPITAL MARINE SURGEONS.

Senate bill No. 204, to provide for the appointment of the supervising surgeons of the marine hospitals of the United States, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

Mr. WASHBURN, of Illinois, moved to reconsider the various votes by which bills were referred to the Committee on Commerce; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### AMERICAN CITIZENS IMPRISONED ABROAD.

Mr. VAN WYCK, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the President of the United States be requested to inform this House whether any American citizen have been arrested, tried, convicted, or imprisoned in Great Britain for words spoken and acts done in this country; whether any American citizens have been by Great Britain denied their rights as such, or otherwise treated as English subjects; whether American citizens have been denied the privilege of mixed juries; whether American citizens thus treated are now confined in English prisons; and what he has done to secure the release of any such persons, and why they have not been released.

#### COIN CONTRACTS.

Mr. LOGAN. I ask consent that Senate bill No. 180, relating to contracts payable in coin, may be taken from the Speaker's table and referred to the Committee of Ways and Means.

Mr. COBB. I object.

W. SHERWOOD AND D. W. MARTINDALE.

Mr. JOHNSON, by unanimous consent, introduced a bill (H. R. No. 1311) for the relief of Walter Sherwood and David W. Martindale; which was read a first and second time, and referred to the Committee of Claims.

#### ADDITIONAL ADJUTANTS GENERAL.

Mr. JOHNSON, by unanimous consent, also introduced a bill (H. R. No. 1312) to add to the service three adjutants general; which was read a first and second time, and referred to the Committee on Military Affairs.

#### INDIAN POLICY, ETC.

Mr. JULIAN, by unanimous consent, presented the petition of John B. Wolf, in behalf of white settlers in Colorado and Dakota Territories, praying for the abolition of military posts and other reforms in the Indian policy of the United States; which was referred to the Committee on Indian Affairs, and ordered to be printed.

#### ETHAN A. SAWYER.

Mr. STOKES, by unanimous consent, introduced a joint resolution (H. R. No. 309) for the relief of Ethan A. Sawyer, of Jefferson county, Tennessee; which was read a first and second time, and referred to the Committee on Military Affairs.

#### LEAVE OF ABSENCE.

Mr. MOORE asked and obtained leave of absence for four days.

#### J. Q. A. KECK.

Mr. BENJAMIN. I ask unanimous consent to have taken from the Speaker's table the Senate amendment to the bill of the House No. 286, granting a pension to John Q. A.

Keck, late a private in the third Missouri cavalry.

No objection was made.

The amendment of the Senate was to insert after the words "pension-roll" the words "and to pay him a pension of fifteen dollars per month."

The amendment was concurred in.

Mr. BENJAMIN moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JOHN MURPHY.

Mr. HAIGHT. I ask unanimous consent to present the petition of John Murphy, for leave to apply for extension of letters-patent, for reference to the Committee on Patents.

Mr. COBB. I object.

The SPEAKER. The petition can be handed to the Journal clerk and referred under the rule.

#### MRS. SARAH HACKLEMAN.

Mr. HOLMAN. I trust there will be no objection at all to the consideration at this time of a bill referred to last Friday week, when the subject of pensions was being considered. It is well known that there are seven widows of brigadier generals who fell in battle; six of them have been pensioned at the rate of fifty dollars per month. Mrs. Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman, who fell on the field of battle at Corinth, has not been so pensioned. I ask that she may be placed on the same footing with the widows of other brigadier generals who fell in actual battle. Mrs. Hackleman lives in my district; she is the mother of three daughters, one of whom is an invalid, and this pension is necessary for their support. I state facts that will be attested by every gentleman from Indiana on this floor. I hope there will be no objection to this bill.

Mr. BENJAMIN. I have no objection to the introduction and reference of this bill.

Mr. HOLMAN. Let the bill be read.

The bill was read at length. The first section directs the Secretary of the Interior to place on the pension-roll the name of Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman, for a pension at the rate of fifty dollars a month, from the 3d day of October, 1862, on which day General Hackleman fell mortally wounded at the battle of Corinth. The second section discontinues the pension heretofore allowed to Sarah Hackleman under the general law, and provides that the sum already received by her shall be deducted from the pension hereby granted, which shall be subject to the provisions of the general pension laws.

The SPEAKER. If there is no objection, the bill will be considered as before the House.

Mr. VAN AERNAM. I object.

Mr. HOLMAN. I trust the gentleman from New York [Mr. VAN AERNAM] will withdraw the objection. The facts of this case are well known to every member from Indiana.

The SPEAKER. Does the gentleman from New York [Mr. VAN AERNAM] insist on his objection?

Mr. VAN AERNAM. I do. I desire that the bill may be referred.

Mr. BLAINE. Let it be referred, then, with leave to the committee to report at any time.

Mr. HOLMAN. That will be satisfactory if the bill cannot be passed now.

There being no objection, the bill (H. R. No. 1313) granting a pension to Mrs. Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman, was read a first and second time, and referred to the Committee on Invalid Pensions, with leave to report at any time.

#### SCHOOL SITE, BURLINGTON, IOWA.

Mr. WILSON, of Iowa. I ask unanimous consent that the bill (S. No. 469) entitled "An act confirming the title to a tract of land in Burlington, Iowa," be taken from the Speaker's table for consideration at the present time.

The SPEAKER. The bill will be read for information.

The bill, which was read, provides that all of the title of the United States in and to a certain tract of land in the city of Burlington, Des Moines county, in the State of Iowa, described as being west of lot No. 978 in said city, south of Valley street, west of Boundary street, and north of Market street, and which was originally reserved from sale by the United States and dedicated to public burial purposes, be confirmed to and vested in the Independent School District of said city, to be forever dedicated to and used by that school district for public school purposes, and for no other use or purpose whatever.

Mr. WILSON, of Iowa. All that this bill proposes is to authorize the use of this tract of land for a high school.

Mr. WASHBURN, of Illinois. I do not see why we should provide for a high school at Burlington any more than at any other place.

Mr. WILSON, of Iowa. I will explain the matter in a few words.

Mr. WASHBURN, of Illinois. Let the bill be referred to the Committee on Private Land Claims.

Mr. WILSON, of Iowa. I will ask, then, that the committee have leave to report the bill at any time.

The SPEAKER. The Chair will state that the Committee on Private Land Claims will probably be called soon after the tax bill has been disposed of.

Mr. WILSON, of Iowa. My reason for desiring that the committee be authorized to report at any time is that until this bill shall be passed the erection of the high school building will be suspended.

The SPEAKER. The Committee on Private Land Claims will be called very soon.

Mr. WILSON, of Iowa. Very well.

The bill was read a first and second time, and referred to the Committee on Private Land Claims.

#### REFERENCE OF BILLS, ETC.

Mr. UPSON. I move to reconsider the various votes by which bills, &c., have been referred this morning; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JUDICIAL DISTRICTS IN ILLINOIS.

Mr. RAUM. I ask unanimous consent that the bill (H. R. No. 347) entitled "An act to amend an act to divide the State of Illinois into two judicial districts," approved February 13, 1855, be taken from the Speaker's table, that we may concur in the amendments of the Senate; which will occupy but a moment.

The SPEAKER. The amendments will be read for information, after which objection can be made.

The Clerk read as follows:

First amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That in addition to the terms of the district court of the United States for the southern district of Illinois, now required by law to be held at the city of Springfield, terms of said court shall hereafter be held at the city of Cairo, in said State, commencing on the first Mondays of March and October in each year.

Second amendment:

Amend the bill so as to read as follows:

An act for holding terms of the district courts of the United States for the southern district of Illinois, at the city of Cairo in said State.

Mr. WASHBURN, of Illinois. I would like my colleague [Mr. RAUM] to explain, if he can, the necessity for this additional expense of holding courts at Cairo.

Mr. RAUM. I can do so very readily. This bill, after a reference to the committee in this House, was passed here, and being sent to the Senate was referred to the Judiciary Committee there, on whose recommendation it appears these amendments were adopted. The bill simply provides for two additional terms of the district court to be held at Cairo. My colleague well knows there is a large commerce at Cairo. Five or six thousand steamboats land there every year, and a large amount

of litigation necessarily results, most of which must go through the United States courts; and holding the United States courts at Cairo to be a convenience for the people of that section.

Mr. CULLOM. The district judge in the southern district of Illinois states in a letter that this is necessary.

Mr. WASHBURN, of Illinois. Judge Treat is the party most interested, and his opinion has great weight with me.

The amendments of the Senate were concurred in.

Mr. RAUM moved to reconsider the vote by which the Senate amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. KERR was granted leave of absence for four days, and Mr. MUNGEN for one day.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I ask unanimous consent to make an explanation in regard to the condition of the tax bill.

There was no objection, and it was ordered accordingly.

Mr. SCHENCK. Mr. Speaker, I desire to notify the House we have now reached in committee page 61 and section fifty of the internal tax bill, that is within three or four of one half the number of sections and one half of the pages of the bill. It may be considered we are more than half through the bill, because we have disposed of the question of whisky in a great degree, so far as the tax upon it is concerned, and that is known to give rise to more debate in this House than anything else. I merely desire on public grounds, which every one will understand, this bill should be finished in the present week. I hope we will finish it to-morrow. We can hardly get through with it to-night. I desire to give notice, in order to finish it Friday or Saturday. I propose to press it with all the vigor I can; and in this connection to say one of the great obstacles in the progress of the bill is the want of a quorum in Committee of the Whole, and especially is that the case in the evening. Last night we were without a quorum and had to have a call of the House. It was so the night before, and the same thing may occur to-night. If so, I suppose it will be my duty to drive the call of the House through. I hope there will be no objection to that.

I appeal now earnestly and most respectfully to all the gentlemen round the Hall to come up and help us to keep a quorum. Especially do I make that appeal to the gentlemen on this side of the House. There has been no factions opposition whatever to the bill, nothing but fair treatment so far as the Democratic side of the House is concerned. It is true they have sustained amendments not in accordance with the views of the committee, but after they have been offered and voted on there has been no disposition manifested to defeat the bill. I do not know there is any intention on the part of any one of that kind; and in reference to attendance, I may especially say to our friends on this side it is not only proper for them to come here considering what may be their sense of duty, but it is only fair to us who are in regular attendance. My friend from Iowa, [Mr. PRICE,] who is looking so serious, is always here. I think it their duty to the "workers" to attend. My condition last night was such that I ought to have been at home, and I am little better this morning. I was surprised last night to find mine was not a single case. It would seem an epidemic prevailed from the number of members who were reported to be detained from the House last evening by illness. I hope with this favorable weather there will be a better sanitary condition.

Mr. PRICE. I suggest we meet at eleven o'clock in the morning.

Mr. BOUTWELLE. I object.

Mr. SCHENCK. I move that all debate on the pending section be closed in ten minutes after its consideration shall be resumed.

The motion was agreed to.

The House, under the order heretofore made, resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

The pending question was on the amendment of Mr. PRICE, to add at the end of section fifty the following:

*Provided, No distilled spirits shall be removed from the place of distillation until the tax provided for in this act shall have been paid, anything contained in this and in any law to the contrary notwithstanding.*

Mr. PRICE. I will modify the amendment by striking out the words "place of distillation," and inserting "distillery warehouse;" so that it will read "No distilled spirits shall be removed from the distillery warehouse."

Mr. SCHENCK. That is an amendment in the first degree. I now—

The CHAIRMAN. The House was dividing and tellers were about to be ordered for lack of a quorum. Nothing is in order until that is settled.

Mr. SCHENCK. There was no decision declared.

The CHAIRMAN. There has been a vote by voice and by raising. Nothing can arrest the decision of the House. The Chair appoints as tellers Messrs. PRICE, and HOOPER of Massachusetts.

The committee divided; and the tellers reported—ayes 68, noes 38.

So the amendment was agreed to.

Mr. SCHENCK. I now move to amend the section as amended by striking out all after the word "country," in the sixteenth line. I had supposed, as a matter of course, that no decision had been made last evening at the adjournment and that the committee would go on this morning with an opportunity for some explanation of the amendment. I take this opportunity, however, to make the amendment which I have offered, which by including two or three words at the end of the section as it stood will strike out the amendment which has just been agreed to.

Now, I desire to say to the committee, with no feeling on this subject in behalf of the bill or the system which it proposes, that by the amendment offered by the gentleman from Iowa, [Mr. PRICE,] and which is now renewed conversely by myself, the whole question is brought up whether we shall abandon and crush out the export trade altogether or in any degree and under any regulation retain it. It has already been agreed in Committee of the Whole that so far as the removal of spirits from the distillery warehouse for the purpose of consumption in the United States is concerned, it must always be taxed, then and there, so that there is nothing whatever to prevent that. Then comes the question, shall it be removed for any other purpose whatever without the prepayment of the tax? The bill provides that it may go directly to an export warehouse to be sent immediately on board of a vessel to go abroad. The bill provides that it may be used in the manufacture of certain compounds, of which alcohol is the principal component part, for the purpose of actual transportation. The bill also provides that being redistilled into alcohol to meet the growing demand abroad it may be exported. Making these exceptions, and providing as we have fully and sufficiently against abuse in carrying out these objects, the bill requires prepayment of the tax upon all spirits used in the country taken from the distillery warehouse for consumption in the United States. That saves the export trade.

Now, the position taken by the gentleman from Iowa [Mr. PRICE] and those who agree with him puts an end to all export trade whatever. The committee decided last night not to convert the export trade into a system by which, instead of going without prepayment of tax, these articles might be sent abroad

and a drawback allowed. That question being settled, the gentleman now proposes to put an end to the export trade, requiring the repayment of tax and not allowing any drawback. All I have to say is that every one conversant with the subject knows perfectly well that I put it as a proposition really before the committee when I say it is a proposition to crush out and put an end to the exportation of alcoholic spirits entirely from this country. What we carry abroad, as has been explained before and as is now provided for by amendment to this bill, is only alcohol and rum. Alcoholic spirits in those two forms does go abroad, to an amount of nearly five million dollars a year, to Hamburg, Smyrna, and some other ports of the Mediterranean, and the trade is increasing.

Mr. LOGAN. You mean gallons; it is more than that in dollars.

Mr. SCHENCK. It is more than that in dollars. The statistics of the last two years show it to be very considerably and rapidly increasing, although it had not been very material up to 1867, when it first came up to about three million dollars. Now, believing as I do, that we can, and that the bill provides for enabling us to do so, carry out a system of export trade without at the same time endangering the collection of the tax justly due upon that which is consumed in the country, the bill was so framed, and it is for the House to determine which side they will take on this subject; which horn of the dilemma; to give up exports entirely, because they believe that there can be no sort of protection, no security given by law, which I utterly disbelieve, or else allow the bill to stand as it is.

[Here the hammer fell.]

Mr. PRICE. Mr. Chairman, the House will remember that last night we proposed to guard this drawback principle, so that no drawback should be allowed unless the parties could prove that the liquor had paid the tax at the port whence it was shipped, and also that it had been delivered and received at the place that it was consigned to, so as, if possible, to avoid frauds in the matter. The chairman of the Committee of Ways and Means opposed that measure, and it was defeated; so that as the question stands before the committee to-day we can only export, without the payment of the tax, all liquors that the manufacturers say are for exportation, and we must take their word for it. It is no secret to this House, and it is no secret to the country, that ever since this tax was levied upon distilled spirits we have been cheated from the beginning to the end. At the last session of Congress, when the Committee of Ways and Means came in with their system of locks and bars and bolts, they told us confidently—and I have no doubt they believed it—that they had adopted a system by which the distillers could not cheat the Government out of its revenue; but you see that they have cheated it out of four fifths of all that was due us. And now, in my judgment, and in the judgment of two thirds of the House, as the vote this morning demonstrates, the only way left is to close up all the side doors and to compel the manufacturer of distilled spirits to pay the tax on it before it leaves the place of distillation.

Now, suppose for the sake of the argument that the chairman of the Committee of Ways and Means makes, that it does kill the export traffic. I need not say to gentlemen of this House or to the country, who have watched the progress of this matter, that where we make one dollar by the export trade in alcohol we lose, by being defrauded of the tax on distilled spirits, more than ten dollars; or, as a friend near me suggests, more than \$100. So that even if we should kill the export trade we will have saved nine dollars if not ninety-nine dollars where we lose one. That is the plainest proposition in the world, and I am only surprised that a gentleman of the sagacity and research of the chairman of the Committee of Ways and Means should advocate for a moment any system by which the distillers should be allowed to defraud the Government out of the tax due

the Government. They have been doing it for years; they are doing it to-day while we are talking about it, and they will continue to do it so long as there is any loop-hole left out of which they can make their escape. I yield now to the gentleman from Wisconsin, [Mr. PAINE.]

Mr. PAINE. With the permission of the gentleman from Iowa I desire to say a word to the committee, not for the purpose of arguing upon this amendment, upon which I have already said all I desire to say, but for the purpose of addressing a word or two more particularly to those who entertain the same opinion as the gentleman from Iowa entertains and as I entertain respecting this amendment. I believe that the amendment of the gentleman from Iowa ought to pass, and I exceedingly desire that it shall pass. I desire that it should stand; I believe it ought to stand. I am opposed to the amendment of the gentleman from Ohio, [Mr. SCHENCK.] But I wish the Committee of the Whole to understand this: we must now finally decide it. It is for the interest of every single gentleman on this floor to have this question finally decided now. If the amendment of the gentleman from Iowa [Mr. PRICE] is allowed to stand, then there must needs be a very extensive modification of subsequent portions of this bill. If the House, after having made these numerous and material modifications of the bill, shall finally, when the amendment of the gentleman from Iowa is presented to the House and the yeas and nays are called, as they will be called, if the House shall then vote down that amendment it will involve the consideration of a large number of amendments to the bill, leading, in my opinion, to a serious complication of action on this bill. It is, therefore, very important to us that this question should be decided now; it is of the utmost importance. I would very much rather encounter an adverse decision than postpone the question.

The CHAIRMAN. No further debate is in order on this section. By the order of the House all debate upon this section and all amendments thereto was to terminate in ten minutes after its consideration was resumed, and the ten minutes have expired. The question is upon the amendment of the gentleman from Ohio, [Mr. SCHENCK.]

The amendment was to strike out the following words:

As hereinafter provided. But no distilled spirits shall be removed from the distillery warehouse until the tax provided by this act shall have been paid, anything contained in any law to the contrary notwithstanding.

Mr. FARNSWORTH. I rise to a point of order; that this amendment is not in order, because it proposes to strike out what the Committee of the Whole have inserted.

The CHAIRMAN. The Chair overrules the point of order on two grounds; in the first place the point of order is made too late; and in the second place the amendment is in order, because it includes not only what has been inserted, but a portion of the original section.

The question was then taken upon the amendment of Mr. SCHENCK, and it was not agreed to; there being upon a division—ayes 24, noes 77.

Mr. ALLISON. I would inquire of the Chair if the words "alcohol and rum" have been substituted for the words "distilled spirits," in the first part of this section?

The CHAIRMAN. They have not.

Mr. ALLISON. Then I move to amend the section in that way.

Mr. JUDD. I object, unless some reason is given for it.

The amendment of Mr. ALLISON was then agreed to.

Mr. RAUM. I now move to amend this section by striking out all after the first word "that," down to and including the word "but" in the amendment adopted on motion of the gentleman from Iowa, [Mr. PRICE,] so that the section will then read:

And be it further enacted, That no distilled spirits shall be removed from the distillery warehouse until

the tax provided by this act shall have been paid, anything contained in any law to the contrary notwithstanding.

The amendment of Mr. RAUM was not agreed to; there being, upon a division—ayes three, noes not counted.

No further amendment was offered to section fifty.

Section fifty-one was then read, as follows:

SEC. 51. And be it further enacted, That the warehouses established and designated in accordance with the preceding section shall be under the direction and control of the collector of internal revenue at the port where such warehouse is located, who may have charge of all matters relating to the exportation of articles subject to tax under the laws to provide internal revenue, and such warehouses shall be in charge of an internal revenue storekeeper assigned thereto by the Commissioner of Internal Revenue; and the collector so designated is hereby charged with the duties connected with the entry for warehousing, bonding, and custody of all distilled spirits of domestic production transported to such port of entry from any other district, and connected with the exportation of all distilled spirits of domestic production from such port of entry; and such warehousing and custody thereof shall be subject to all the provisions of law and to all the regulations hereinafter provided, and such further regulations, not inconsistent therewith, as may be established by the Commissioner of Internal Revenue.

Mr. BUTLER. I move to strike out this section for the reason that it has now become useless. The adoption of the amendment of the gentleman from Iowa, [Mr. PRICE,] by which the Committee of the Whole has determined that all the taxes on whisky shall be collected at the distillery warehouse, has rendered unnecessary all the provisions of this bill in relation to the export trade. That amendment was adopted upon the express ground that the export trade should be killed.

Mr. PRICE. I did not say that the export trade should be killed; but that if my amendment did kill it, let it go.

Mr. BUTLER. Exactly; if it did kill it, let it go; I am willing to admit the correction. That is to say, that at all hazards there shall be no regard shown to the export trade of this country, either in regard to this matter or any other. We of the Atlantic coast have stood here and seen you strike down our shipping by a vote of 85 to 45. You have now adopted an amendment which strikes down one of the very largest items of the export trade.

Mr. WASHBURN, of Illinois. What does the gentleman mean when he says "You strike down our shipping trade?" One of his own colleagues voted against that bill.

Mr. BUTLER. I mean whoever voted against it; and I observed that most of the votes on that division came from the West. Be it so. I can only say that the head can live as long as the legs and body under any legislation that you choose to put upon it. But I do not see why we should stay here hour after hour and day after day to perfect a section which every man in this House having any intelligence upon this subject knows can be of no earthly use, for under the provisions already adopted there can be no more export of spirits. The question you have determined is not how many gallons of spirits can be exported; that may not be so important, but it is important to consider how much that export trade brings back, how much it tends toward settling your balance of trade with Europe and abroad, how it affects your commerce and the revenue from your external trade. You get one hundred and fifty to one hundred and eighty million dollars in gold every year from your external trade or export; and you propose to strike a large portion of that down under an insane hope of getting something out of whisky. You propose to strike down that which is certain for that which is uncertain in the most uncertain future, depending upon the honesty of the officers appointed by Andrew Johnson; and if there is on earth anything more uncertain than that, I should like to know what it is. That is the only hope you have, for which you propose to kill your foreign trade. That is what you are doing, and I want it fully and distinctly understood by the House.

Great Britain gives a bounty on her foreign export trade in spirits; and she has had some

reputation for commercial and national sagacity in legislation; and we here, when we have been able to collect an external and internal revenue from whisky of only \$13,000,000, strike down to-day by a single vote an export trade which during the last year brought you mediately and immediately more than half that amount, as can be demonstrated by statistics. The question is whether you are not throwing away the substance while you grasp at the shadow; whether you are not killing the goose that laid the golden egg, in some insane hope of finding a mass of gold in her crop. It seems to me there is just about that much wisdom in this proceeding by which you kill your export trade.

Mr. ALLISON. I do not rise to oppose particularly the amendment of the gentleman from Massachusetts. I think that if the amendment just adopted by the committee, in relation to the payment of the tax, is to stand, this section may as well be struck out. Now, there are several subsequent sections, all of which are affected by the proposition made by my colleague, [Mr. PRICE,] which has been adopted by the committee. If that amendment should be agreed to by the House these subsequent sections will be of no utility; but if the proposition should be voted down so as to allow export at all, then these subsequent sections should be retained. Now, what I propose is, that these several sections be now stricken from the bill *pro forma*; and when we consider the bill in the House this can be reinserted if the amendment of my colleague be retained. I yield to my colleague, [Mr. WILSON, of Iowa.]

Mr. WILSON, of Iowa. I desire to understand from my colleague [Mr. ALLISON] whether the committee is opposed to incorporating in this bill any system of drawbacks, and if not, whether it would not be wiser for the committee to propose some system of drawbacks than to ask the House now to strike out all these provisions?

Mr. ALLISON. I do not know what the committee may propose. For myself I look upon this system of drawbacks as opening a wider door to fraud than anything else contained in this bill. I am, therefore, opposed to any system of drawbacks. Now, we have only the alternative of striking out these sections or allowing them to remain. The Committee of the Whole decided against drawbacks, and has now decided against any exportation at all. I am not finding fault with that decision; I only want a vote of the House on these propositions.

Mr. GARFIELD. I suggest that we informally pass over all these sections with the condition that they may be amended or struck out in the House, in conformity to the action which may finally be taken on the amendment of the gentleman from Iowa.

Mr. SCHENCK. I cannot consent to the proposition of my colleague, which will keep these sections open for discussion and amendment in the House.

The CHAIRMAN. If the gentleman objects there is no use of stating the reasons, because unanimous consent is necessary.

Mr. SCHENCK. If we have these sections open to amendment and discussion in the House we shall have this whole scene over again.

The CHAIRMAN. Unless by unanimous consent, the bill must be proceeded with, section by section.

Mr. JUDD. I move to insert "bonded" in the first line preceding the word "warehouse;" and I do that, Mr. Chairman, for the purpose of referring a little to the remarks of the honorable gentleman from Massachusetts, [Mr. BUTLER,] who alluded to the position this question has assumed before the House. He seems to say and charge it upon the West that we desire to destroy this business of exportation. On that point he is entirely mistaken. We only desire it regulated in such manner that it shall not be the means of defrauding the Government out of its revenue. And when he tells us this proposition will substantially take \$180,000,000 out of the Treasury of revenue derived from exports, he exaggerates entirely



the importance of the question of distilled spirits in the economy of exportation.

Now, Mr. Chairman, let me say that it is for those who favor the exportation of alcohol to devise a method, after the internal tax has been paid, where the property has been really used in business or for the purposes of exportation, so they can get their money back. Last night those of us who desired to carry out the proposition of the gentleman from Iowa [Mr. PRICE] tried to get over the point of the destruction of that business by introducing a system of drawbacks, and nearly all the gentlemen in favor of this system of exportation fought it, and it was defeated by their votes. If, then, the amendment of the gentleman from Iowa operates harshly in regard to this thing, it is the fault of the gentlemen who last night refused to accept any amendment which entitled them to receive back any portion of the tax after the distilled spirits have actually been exported.

My object is to meet this question fairly. There is no necessity for these sections of the bill if the amendment of the gentleman from Iowa is adopted. From what I have seen they are only a portion of the machinery. I would trust the question of machinery to the chairman, as to have discussion in the House after the principle has been established.

Now, sir, if gentlemen who believe with us and are in favor of the amendment of the gentleman from Iowa, desire in good faith to export distilled spirits, let them prepare such a system as will return the tax after the article is exported in good faith, and I will vote for it. We tried to do it last night, but it was not satisfactory. If they will do it I will vote for it. We of the West are not for striking down any portion of the industrial interests of this country. We have as large a stake in this country as the gentleman from Massachusetts, and we are for giving free scope and encouragement to the business and commerce of the country. When he insinuates we struck it down—

Mr. BUTLER. I did not insinuate it—I said it.

Mr. JUDD. When he says we struck down the export trade, he presents us in an attitude before the House and country I, for one, will not submit to it if I can help it.

[Here the hammer fell.]

Mr. SCHENCK. Mr. Chairman, I have no doubt the speech of my friend from Illinois was made in all seriousness, but it is about as funny a thing as I have ever listened to. Here are two systems. I was disposed to stand up in favor of the system of transportation and exportation, sufficiently guarded, as I think, but on the other side it was thought safer and better that distilled spirits, in every form and for every purpose, must have the tax prepaid at the distillery. The gentleman says they have prevailed over us, and now they want us to fix up the machinery for them. Now, a system of drawbacks was offered last night. I think about drawbacks as these gentlemen do about transportation in bond. Having carried their point, that distilled spirits intended for exportation must have the tax prepaid, it seems to me they should go further and renew their proposition of drawbacks, or in some way operate the bill on their plan. Therefore it is an amusing proposition, really, as presented by the gentleman from Illinois, that it becomes our bounden duty to furnish the machinery for their plan.

I desire now to say that I was perhaps not clearly understood when up before, when I objected to the proposition made by my colleague, [Mr. GARFIELD.] He proposed that these sections, four or five of which are of no use now upon the decision made by the committee, should be kept open for amendment. That I objected to. I was about to suggest that if the committee will adopt that proposition the Committee of Ways and Means have no amendment to offer. But I prefer the proposition made by my colleague on the committee for saving time, that by unanimous consent we withdraw these sections or pass

them over with the understanding—of which, however, I have not much hope from what I have seen—that if the plan proposed by the gentleman from Iowa and others, to be established by his amendment, prevails, then these sections shall be stricken out; but if it does not prevail, then these sections may be voted on as they stand in the bill. It will save a great deal of time.

Mr. JUDD. I withdraw my amendment.

The CHAIRMAN. The Chair knows of no way in which the object can be reached except by considering the sections as stricken out.

Mr. LOGAN. I renew the amendment of my colleague. I desire to say a word on this question. It probably will be the last time I shall trouble the committee with any discussion of this point. I offered an amendment last night which was voted down. I had no opportunity to reply to the chairman of the committee or to the gentleman from Massachusetts. I take this occasion to say now that in my judgment fair treatment of all propositions is the best policy if we desire to come to a rational understanding. It will not do to undertake to change gentlemen's opinions in reference to collecting the tax on whisky at the distillery by shaking a quart cup at them. Nor will it do for the gentleman from Massachusetts to undertake to change gentlemen's opinions about the propriety of arranging a drawback by offering an amendment saying it shall not amount to more than all the revenues of the Government. That may be a very good way of discussing a question, but it has very little argument in it.

Now, I propose to answer the statement of the gentleman from Ohio [Mr. GARFIELD] last night, while fighting my proposition. It was so remarkable and so perfectly absurd that I take this occasion to answer it. My proposition was that the drawback system should only be allowed on the number of gallons exported, and that they should only have a return of fifty cents after evidence taken at the port of exportation and of arrival, and submitted to the entire satisfaction of the Secretary of the Treasury. The gentleman said that was opening a wider door for fraud than by any other system. Now let us see. Our exportation of rum and alcohol amounts to from three to five million gallons. Now, will any man say to a sensible body of people that there is a greater door open to fraud where there are only four or five million gallons exported than there is where you provide for the transportation of all distilled spirits from Maine to California, amounting to a hundred million gallons? I ask gentlemen to reflect a moment and tell me if there is likely to be more fraud in the exportation of five million gallons than in the transportation of one hundred million?

Mr. HOOPER, of Massachusetts. If the gentleman will allow me, I will admit there is more chance for fraud in reference to one hundred million gallons than in reference to five million; but I believe if this drawback system is adopted your exportation would amount to from twenty to fifty million gallons within a year or two.

Mr. LOGAN. Very well; then to satisfy the gentleman we will limit it. There was never yet exported more than five million gallons from the country, but we can limit it and provide some way by which the door shall be closed. But do not let gentlemen, because they have wedded themselves to a particular section of a bill, because it is their own child and is like themselves in feature, perhaps, when anybody else offers a proposition here, undertake to laugh it down. Now, sir, I say that if gentlemen strike these provisions out of the bill, and are not willing to provide any other means, I will introduce a proposition that will provide means for the saving of the export trade. I will introduce the same proposition that I did before, and the committee may guard it as well as they have a mind to. You may reduce your export to \$5,000,000, as the gentleman suggests, and then if you have to pay drawback on every gallon when there shall not

be one exported you will make \$30,000,000 by it rather than to have transportation all over this country.

[Here the hammer fell.]

Mr. LOGAN. Will gentlemen of the committee allow me to give them the quantity of exports in 1866? From grain, five hundred and three thousand one hundred and ninety-six gallons; from molasses, one million nine hundred and ninety-three thousand three hundred and thirty-four gallons. A little over two million gallons were exported from this country in 1866.

Mr. FARNSWORTH. I am opposed to the amendment. It seems to me that the argument presented here by the Committee of Ways and Means and the gentleman from Massachusetts, [Mr. BUTLER,] that if drawback is allowed it will open the door for immense frauds, is a confession of weakness. It certainly is a confession that the machinery presented by this bill for the collection of the tax upon whisky is very imperfect. If it is so imperfect that you are not sure that you will collect the tax on whisky I ask gentlemen what sort of assurance we may have, if you allow exportation without payment of tax, that whisky will not go upon the market through the same leaks and imperfections. It may be, if gentlemen cannot prepare a bill that makes the machinery perfect enough to insure the collection of this tax, that they have not ingenuity enough to provide for the payment of drawback, and to secure the Government against frauds. But it seems to me that it would not tax the ingenuity of a man much to do it, and I believe the gentleman from Ohio can provide a section which shall insure the Government, by requiring proof that the whisky which it is sought to export has paid a tax before the money is refunded. If a man manufactures whisky at the distillery for the purpose of exporting it he pays the tax there, and it is easy to trace that whisky to the seaport and to the foreign port, and to prove its identity.

Mr. ALLISON. That is just what we do in this bill.

Mr. FARNSWORTH. Very well; that is all we ask. Let the tax be paid at the distillery, and if your machinery is so perfect that you can trace that identical whisky, where is the chance to commit frauds on the Government by drawback?

Mr. HARDING. Suppose it is transported in bond to the rectifying establishment where it is made into alcohol, how can the gentleman say how many other barrels of illicitly distilled whisky are mingled with it in the production of alcohol, which alcohol goes out without any new imposition of tax? If you will make alcohol by continuous distillation at the distillery, and brand it there as tax-paid, you can identify it at the port of exportation as easily as you could a horse, and you cannot do it in any other way.

Mr. FARNSWORTH. I was arguing on the supposition that this bill provides sufficient machinery to secure the collection of the tax at the distillery warehouse. If the bill is not sufficient for that purpose, it is good for nothing. If it is sufficient for that purpose, then it is sufficient to guard the Government against frauds by drawback. You certainly can trace the article anywhere and everywhere after it has paid the tax. If the machinery of this bill is not sufficient, if it is so imperfect that it does not insure the collection of the tax on whisky, then the Government is equally as liable to be defrauded as if you allowed exportation without the payment of the tax. So if you take either horn of the dilemma we are equally at sea, and equally liable to be defrauded. Now, I suppose the Committee of Ways and Means, by proposing a reduction of the tax to fifty cents per gallon, and by the contrivances proposed by them and by this Committee of the Whole to secure the collection of this tax, have acted upon the presumption that the Government will be able to secure the whole or nearly the whole of it.

Mr. ALLISON. I now ask that, in order

to save time, sections fifty-one, fifty-two, fifty-three, and fifty-five be stricken out.

Mr. BOUTWELL. I move to amend that motion by inserting what I send to the Clerk's desk in place of the sections proposed to be stricken out.

The CHAIRMAN. Strictly speaking only section fifty-one is now under consideration. The gentleman can move what he proposes as a substitute for that section, and the question upon striking out the other sections can be determined when those sections shall have been reached.

Mr. BOUTWELL. Very well; then I offer what I have sent to the Clerk's desk as a substitute for section fifty-one.

The substitute was read, as follows:

*And be it further enacted,* That a drawback shall be allowed upon alcohol and rum exported to foreign countries, on which taxes have been paid under the provisions of this act, of which proof shall be furnished by the person exporting the same, under such rules and regulations as the Commissioner of Internal Revenue may prescribe. Before any drawback shall be paid the exporter claiming drawback shall furnish satisfactory proof that the articles exported have been landed in a foreign country and sold, or consigned for sale in such country; and the Commissioner of Internal Revenue shall prescribe such rules and regulations as may be necessary to secure the Treasury of the United States against fraud. The drawback allowed shall include all the taxes levied and paid upon the alcohol and rum exported, not, however, exceeding sixty cents per gallon of proof-spirits.

Mr. BOUTWELL. I will add to my substitute the following from a proposition read by the gentleman from Illinois [Mr. LOGAN] the other day:

*Provided, however,* That no claim for drawback shall be allowed on either of the said articles which shall have been exported as aforesaid prior to the time at which this act shall take effect.

Sec. — *And be it further enacted,* That if any person or persons shall fraudulently claim or seek to obtain an allowance of drawback on any article or articles aforesaid, on which an internal tax shall have been paid, or shall fraudulently claim any greater allowance or drawback than the tax actually paid thereon as aforesaid, such person or persons shall forfeit and pay to the Government of the United States triple the amount wrongfully or fraudulently sought to be obtained; and on conviction thereof shall be imprisoned in the penitentiary for a period not less than one year nor more than ten years.

Mr. BOUTWELL. Upon the suggestion of members of the Committee of Ways and Means, I will modify my amendment so that the rules and regulations in regard to this drawback shall be prescribed by the Secretary of the Treasury and not by the Commissioner of Internal Revenue; perhaps that would be better. Now, I wish to say a few words to the Committee of the Whole in reference to this proposition. As is very well known, I am in favor of a system of transportation in bonds. I proposed a plan of my own which did not meet the approbation of the Committee of the Whole. I next sustained, as well as I was able, the proposition of the Committee of Ways and Means for a system of transportation in bond. But the judgment of the Committee of the Whole seems to be that there shall be no such transportation in bond, but that the taxes upon all distilled spirits shall be paid before the article is removed from the distillery warehouses. I am unwilling that the export trade in distilled spirits shall be broken up; not because the trade itself is of such importance to the country as because of the fact that it is connected with a large trade in domestic products, cotton goods of various kinds, as a leading article of export to the coast of Africa, to South America, to the Indian ocean, and to other parts of the world. The abolition of this trade is not limited to the five millions of export commerce in whisky and alcohol and rum; but it is quadrupled, perhaps multiplied tenfold, or soon will be, in connection with other trade which cannot be successfully carried on, if this be abolished.

Although I think the drawback system the least desirable of the three propositions which have been presented to the committee, I still cannot consent, after ascertaining the judgment of the committee, that this branch of trade shall be abolished without making one more effort for its continuance under a drawback system pretty carefully guarded, as I

believe it is, in the amendment I have submitted.

Mr. BECK. Mr. Chairman, I desire to oppose the amendment. The drawback of sixty cents now proposed is certainly too high, if any drawback at all should be allowed, which I very much doubt. In my judgment, if we allow any drawback at all it should be a very small one. By other provisions in this bill we have cut off all right of removal of distilled spirits from the West to the markets of the East, where it is to be sold for home consumption. The manufacturers of the West can store their whisky only in the distillery warehouse, which must be upon the same lot as the distillery. Our Kentucky manufacturer, who never redistills, rectifies, or exports must keep his whisky on hand in the distillery warehouse at an immense expense for insurance, &c. He is never allowed to remove it until the tax has been paid. What we insist upon is that no other person shall be allowed, under pretense of export or anything else, to remove whisky until the tax is paid. Let every manufacturer or dealer be put on the same footing. Under pretense of exporting it whisky is sent across the river from Buffalo or Black Rock, from Detroit to Windsor, from Maine to Nova Scotia, from Brownsville to Matamoras; it is dodged about from one place to another under pretense of export until it gets back and floods the whole country, and heavy drawbacks are claimed on it. More frauds are committed in this way than in any other form. In this way the revenue is defrauded, while the honest manufacturer is debarred from getting his whisky to market. He must store it in the distillery warehouse, as I said, in the custody of the Government officers until the tax is paid. He cannot even transport to a fire-proof warehouse, which may be within a short distance of his establishment, without subjecting himself to the severest penalties.

But the exporter can carry whisky all over the country with the amplest opportunity to fraud, and he subjects himself to no penalty except the forfeiture of his bond, which may be worthless; while the distiller is punished by fine, imprisonment, seizure, and confiscation of all his property if he is guilty of any fraud, or even neglects in the smallest details, even to the failure to paint pipes, guess at the capacity of his mash-tubs, or in the slightest particular violate a law that none but a lawyer can understand. Why this severity on the distiller and this leniency to the fraudulent pretended exporter who has partners in his fraud all along the lines? This whole system ought to be made harmonious. If gentlemen desire to impose such stringent requirements upon the manufacturers of whisky to be consumed in this country, let everybody else be subjected to similar requirements. Every gallon of whisky that gets into the market fraudulently under pretense of export is just that much stolen from the Government—that much stolen from the honest manufacturer who has to pay the tax or keep his whisky in the distillery warehouse. Hence the amendment of the gentleman from Iowa seemed to me to cover the difficulty; and this amendment proposing to allow a drawback ought not to be adopted unless the amount of the drawback be reduced from sixty to ten, fifteen, or twenty cents at the utmost, and I think it had better be stricken out altogether.

Mr. BOUTWELL. I wish merely to state my reason for putting the drawback at sixty cents. The committee knows very well that the specific tax per gallon has been fixed at fifty cents. The tax of four dollars per barrel or ten cents a gallon increases the tax to sixty cents; and the additional tax upon the capacity of the distillery amounts to three cents more per gallon, making in all sixty-three cents tax. I have limited the drawback to sixty cents, three cents less than the tax actually paid. Hence, I think, there can be in this respect no ground of complaint. I wish only to add that the drawback is limited to alcohol and rum.

I yield the remainder of my time to the gentleman from New York, [Mr. GRISWOLD.]

Mr. GRISWOLD. I desire merely to say that in view of the striking out of every other provision calculated to preserve this export trade of the country, I for one trust the amendment submitted by my friend from Massachusetts will be adopted. I regard it as he does, as the most objectionable of the three plans which have been submitted to the House; but for one I am prepared to adopt almost any plan within the range of reason and propriety rather than strike down any material export interest that now exists in this country. I am one of those who will regard a business of that kind, a business now important and which promises in the future to become enlarged; but, sir, I am not one of those who believe we are at liberty in legislating for any of the great interests of the country to strike down any other interest. Inasmuch as this committee has indicated a determination they will accept no other amendment, I trust the amendment of the gentleman from Massachusetts will be adopted.

Mr. HARDING. I move to strike out the last word.

Mr. Chairman, there is no provision in this bill for the payment of tax on alcohol. This provides that the tax on alcohol shall be returned as drawback on exportation. The presumption is, I suppose, under the bill as amended, that all alcohol is made out of spirits that have paid the tax. But, sir, that is not susceptible of proof except in the case of alcohol which is produced by continuous distillation. There we may have identification. Alcohol may be made out of distilled spirits that have not paid any tax, and yet when the alcohol is exported the Government will be compelled to pay these parties—not refund, for they did not pay anything—the amount of the tax that would be levied upon it. When you permit a man to take distilled spirits from the distillery and to transport them in bond, as this bill provides, to a place where they can be rectified and manufactured into alcohol, when it comes to be exported, in the nature of things, it cannot be identified.

Mr. LOGAN. The bill, as amended, provides that all distilled spirits shall pay tax prior to removal from the distillery. Alcohol, therefore, must be made out of tax-paid whisky.

Mr. HARDING. Not necessarily. The great frauds perpetrated are perpetrated in this way: we know there are many small distilleries in garrets and cellars. These people distill alcohol out of whisky that has never paid any tax.

Mr. LOGAN. You cannot make alcohol in a rectifying establishment. Rectifying is only running it through charcoal.

Mr. HARDING. When alcohol is made out of whisky that is manufactured illicitly in this way, how is it to be identified? Only by affidavits, except in the case of alcohol from continuous distillation.

[Here the hammer fell.]

ENROLLED BILL.

The committee informally rose; and Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill H. R. No. 865, constituting eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States; when the Speaker signed the same.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. MOORE, one of his Secretaries.

INTERNAL TAX BILL—AGAIN.

Mr. HARDING. I withdraw the amendment.

Mr. MOORHEAD. I move to strike out "sixty" and insert "fifty" in the amendment. Mr. Chairman, I am in favor of drawbacks. I am not in favor of destroying this export trade; but I do not think there should be a premium upon that foreign trade. I therefore

move to strike out sixty cents and insert fifty cents, the amount of the tax.

Mr. BOUTWELL. There is more than ten cents of special taxes.

Mr. MOORHEAD. I understand that. We propose to refund the tax, and that is fifty cents; and I do not think the special taxes ought to be refunded. I am a member of the Committee of Ways and Means, and I have not said a word on this subject, as I could not support the chairman in the view he took. The amendment of the gentleman from Iowa [Mr. PRICE] has been adopted, however, and I am glad of it. I think it is a good amendment. It seems to be impossible to transport whisky from the distilleries to the sea-board in bond without the perpetration of frauds. The whole country knows it. I agree in this bill there are guards and checks thrown around this transportation not before in existence; but, sir, we know they will do us as they have done heretofore, get their whisky to market without paying any tax. I was opposed in committee to this transportation of whisky in bond, and also to these bonded warehouses, and I hope they will be entirely abolished. I am in favor of a drawback of fifty cents upon exported whisky, and I hope the amendment will prevail.

Mr. BENTON. I rise to oppose the amendment. I think there has been an exaggeration of the importance of this export trade. But still it would probably be bad policy to undertake to prohibit it, and if we are not disposed to prohibit it, we should not impose such clogs upon it as to discourage exportation. It certainly seems to me a tax of fifteen cents would have that effect. Now, as has been said by the gentleman from Massachusetts, a drawback of sixty cents would fall short of covering the amount paid on the gallon by at least from three to five cents. Now, while I think this export business of alcohol and rum is not to be specially favored in this country, still, under the present circumstances of our national indebtedness and the necessity of fostering and encouraging our manufacturing resources, I think we should not prohibit it. Therefore I am opposed to fixing the amount of the drawback at such a rate as will amount to a tax of from thirteen to fifteen cents on the gallon. It seems to me if we allow any at all, such guards and restrictions should be imposed as to prevent all frauds and all impositions upon the officers of the Government, so as to secure an honest administration of the law. I think we should allow such a sum as will approximate very nearly to the amount of the tax paid.

The question was taken on the amendment of Mr. MOORHEAD, and there were—ayes 48, noes 52.

Mr. RAUM. I demand tellers.

Tellers were ordered; and the Chair appointed Messrs. MOORHEAD, and STEVENS of New Hampshire.

The committee divided; and the tellers were unable to agree as to the count.

The Chair ordered other tellers; and appointed Messrs. CULLOM, and WASHBURN of Indiana.

The committee again divided; and the tellers reported—ayes 62, noes 42.

So the amendment was agreed to.

Mr. SCHENCK. I desire unanimous consent of the committee to stop debate on this section. I understand the amendment of the gentleman from Massachusetts [Mr. BOUTWELL] to be a substitute for sections fifty-one, fifty-two, fifty-three, and fifty-five.

Mr. BOUTWELL. I think the Chair stated it as a substitute for the fifty-first section.

The CHAIRMAN. It could be regarded as a substitute for the sections that have not been read only by unanimous consent.

Mr. SCHENCK. I ask unanimous consent that debate may cease on the pending section.

No objection being made, debate on the pending section was closed.

The question being taken on the amendment of Mr. BOUTWELL as a substitute for section fifty-one, it was agreed to.

Mr. SCHENCK. I now move to strike out sections fifty-two and fifty-three.

The motion was agreed to; and the sections were accordingly stricken out, as follows:

SEC. 52. *And be it further enacted*, That distilled spirits may be removed in bond, without payment of the tax, from a distillery warehouse, to be transported directly to an export bonded warehouse for the storage of distilled spirits, established at a port of entry as hereinbefore provided, on application of the distiller or owner of such spirits to the collector of internal revenue of the district from which such transportation is to be made, and under such rules and regulations, and after making such entries and executing such bonds and giving such other additional security, as may be prescribed by law and by regulations of the Commissioner of Internal Revenue, and after being inspected, gauged, proved, and marked, as provided by this act. The entry to withdraw for transportation shall be made in triplicate, and shall designate the name of the distiller or owner applying for the transportation, the name of the place to which it is to be transported, with the name of the consignee or agent at such place, and a full designation of the whole route by which it is to be transported, whether by water, by railroad, or otherwise, and shall be in form as follows:

[Transportation entry to export warehouse.]  
Entry of distilled spirits to be withdrawn, by — from the bonded warehouse of —, in district —, State of —, for transportation to —, by —, via —, consigned to —.

And the entry shall specify the whole number of casks or packages, the marks and serial numbers thereon, the number of gauge or wine gallons and of proof gallons, and the amount of the tax on such distilled spirits, all of which shall be verified by the oath or affirmation of the distiller or owner of the spirits, who shall give his bond, executed in duplicate, with one or more sureties satisfactory to said collector, conditioned that the principal named in said bond will transport the distilled spirits as specified to the port of entry named, and that said spirits shall be entered on or before arrival there, and shall be deposited in the export bonded warehouse; also, that he will export the said spirits beyond the jurisdiction of the United States within six months from the date of said bond, or cause the same to be so exported; and the penal sum of said bond shall not be less than double the amount of the tax on such spirits. One of the entries shall be filed in the office of the collector, one shall be transmitted by said collector, with the bill of lading, to the collector in charge of exports at the port of entry to which the spirits are to be transported, and one, together with the duplicate of the bond, to the Commissioner of Internal Revenue, to be filed in his office. The removal from the warehouse of such distilled spirits for transportation shall be only after receiving the order or permit for the same, signed by the collector and addressed to the storekeeper, and after each cask or package has been distinctly marked or branded, at the expense of the distiller or owner, as follows: "Bonded in —, district of —, for transportation to the port of —, in the State of —." (Inserting, in each case, the number of the district and name of the State whence, and the name of the port and State to which the same is to be transported.) The bills of lading for such transportation shall be not less than three in number, and shall contain the name of the owner or his agent, with the name of the collector in charge of exports as joint consignees at the port of entry to which the same is to be transported, with a full statement of the whole route by which it is to be transported, and shall specify the marks and numbers on the casks or packages, and the name of the distiller of said spirits; two of said bills of lading shall be delivered to the collector of the district whence the spirits are transported, one of which shall be filed in his office, and the other transmitted by him, with the transportation entry, to the collector in charge of exports at the port of entry to which the spirits are to be transported. Every master of a vessel, conductor of a railroad car, and person in charge of any other bond by any route shall exhibit, on application of any officer of internal revenue, a manifest particularizing the casks or packages, a manifest particularizing the casks or packages of distilled spirits so transported; and any distilled spirits transported under bond from one district to another shall be liable to seizure and forfeiture if found elsewhere than in regular transit on the route as prescribed in the entry for transportation of the same, or if, after arrival at the port of entry to which it was destined, it has not been entered for deposit in the warehouse as prescribed by law and regulation. Every collector shall report weekly, to the Commissioner of Internal Revenue, all entries made of distilled spirits, for transportation in bond from their respective districts during the week, and of distilled spirits transported into such district from other districts.

SEC. 53. *And be it further enacted*, That before the arrival of any distilled spirits, transported in bond as aforesaid, at the port of entry to which it was destined, or immediately on its arrival, the owner or agent named in the bill of lading as one of the consignees shall enter the same for deposit in the warehouse; and said entry shall be in triplicate, and shall contain the name of the person applying to make the deposit, the designation of the export bonded warehouse in which the deposit is to be made, the district and State whence it was transported, with the date of the transportation entry, and the conveyance by which it arrived, or is to arrive, in form, as follows:

[Entry for deposit in export bonded warehouse.]  
Entry of distilled spirits to be deposited by — in export bonded warehouse —, which was

withdrawn for transportation by — from — warehouse in the — district, State of —, on the — day of —, A. D. —, for transportation to —.

And the entry shall specify the whole number of casks or packages, with the marks and serial numbers thereon, the number of gauge or wine gallons, and of proof gallons, and the amount of the tax on the distilled spirits contained in them, as stated in the transportation entry, all of which shall be verified by the oath or affirmation of said owner or agent, which shall be attached to the entry, and be in form as follows:

I, —, do solemnly swear that the distilled spirits described in this entry are the identical spirits described in the transportation entry made by —, in — district, State of —, on the — day of —, A. D. —; and that said spirits are the same in quantity, quality, value, and package, unavoidable waste and damage excepted, as at the time of said entry for transportation.

The said spirits, after being entered, shall, on arrival at the port of entry, be unladen from the vessel, railroad car, or other conveyance by which they were brought, under the supervision of an officer of internal revenue designated by said collector in charge of exports, who shall also supervise the transfer or conveyance of the same to such export bonded warehouse as the collector may by written order designate; and, after being gauged and inspected by a United States gauger designated by said collector, shall be deposited in such warehouse and a return shall be immediately made by the gauger to said collector of such gauging and inspecting, and the tax shall be paid on any difference in the number of proof gallons as shown by the return of the gauger and the number of proof gallons stated in the entry to withdraw the distilled spirits for transportation, after deducting therefrom the allowance for actual loss by leakage, to be established, ascertained, and proved under such rules and regulations as the Commissioner of Internal Revenue may prescribe. One entry for deposit in the warehouse shall be retained in the office of said collector, one shall be transmitted to the collector of the district whence the transportation was made, and one sent to the Commissioner of Internal Revenue, to be recorded and filed in his office.

The Clerk read as follows:

SEC. 54. *And be it further enacted*, That any distilled spirits may, on payment of the tax thereon, be withdrawn from warehouse on application to the collector of the district in charge of such warehouse, on making a withdrawal entry, in duplicate, and in form as follows:

[Entry for withdrawal of distilled spirits from warehouse. Tax paid.]

Entry of distilled spirits to be withdrawn, on payment of the tax, from — warehouse by —, deposited on the — day of —, A. D. —, by —, in said warehouse.

If withdrawn by any other person than the person who made the deposit, the authority for so doing shall be attached to the entry signed by the person who made the deposit, and be in form as follows:

I authorize — to withdraw from warehouse — the distilled spirits described in this entry.

And the entry shall specify the whole number of casks or packages, with the marks and serial numbers thereon, the number of gauge or wine gallons, and of proof gallons, and the amount of the tax on the distilled spirits contained in them; all of which shall be verified by the oath or affirmation of the person making such entry; and on payment of the tax the collector shall issue his order to the storekeeper in charge of the warehouse for the delivery. One of said entries shall be filed in the office of the collector, and the other transmitted by him to the Commissioner of Internal Revenue.

No amendment being offered, the Clerk read as follows:

SEC. 55. *And be it further enacted*, That distilled spirits may be withdrawn for immediate export, without payment of the tax, from any warehouse at a port of entry where a collector has been designated by the Commissioner of Internal Revenue, to have charge of all matters relating to the exportation of articles subject to tax under the laws to provide internal revenue, on application of the owner thereof to the said collector, and under such rules and regulations, and after making such entries, and executing such bonds, and giving such other additional security, as may be prescribed by law and by the Commissioner of Internal Revenue. The entry for such exportation shall be in triplicate, and shall contain the name of the person applying to export, the name of the distiller, and of the district in which the spirits were distilled, the date of transportation from that district, and the name of the vessel by which, and the name of the port to which, they are to be exported; and the form of the entry shall be as follows:

[Entry for export of distilled spirits.]  
Entry of spirits distilled by —, in — district, State of —, and transported thence on the — day of —, A. D. —, to be withdrawn from — warehouse by —, for immediate export by him on board the —, whereof — is master, bound to —.

And the entry shall specify the whole number of casks or packages, the marks and serial numbers thereon, the quality or kind of spirits as known in commerce, the number of gauge or wine gallons and of proof gallons, and amount of the tax on such distilled spirits; all of which shall be verified by the oath or affirmation of the owner of the spirits, and that they are truly intended to be exported to the port of —, and not to be reloaded within the limits of the United States; and said owner shall give his bond executed in duplicate, with one or more sure-



ties satisfactory to said collector, conditioned that the principal named in said bond will export the distilled spirits as specified in said entry to the port of —, and that the same shall not be landed within the jurisdiction of the United States. The penal sum named in said bond shall be equal to not less than double the amount of the tax on such spirits. For the discharge of any such export bond the same time shall be allowed, and the same certificates of landing and other evidence shall be required as is or may be provided and required for imported merchandise exported from the United States, that the said spirits have been landed at the port named, or at any other port beyond the jurisdiction of the United States, or upon satisfactory evidence that the spirits have been lost after shipment. One bill of lading, duly signed by the master of the vessel, shall, when shipped, be deposited with said collector, to be filed at his office with the entry, retained by him; one of said entries shall be sent to the collector of customs at said port of entry, and when the shipment is completed the other entry shall be transmitted, with the duplicate of the bond, to the Commissioner of Internal Revenue, to be recorded and filed in his office. The removal of such distilled spirits from the warehouse for exportation shall be only after the receipt of an order or permit signed by the collector in charge of exports and directed to the storekeeper of the warehouse, and after each cask or package shall have been distinctly marked or branded, at the expense of the owner, as follows: "U. S. export warehouse; for export." Before shipment the casks or packages shall be inspected and gauged alongside of or on the vessel by an internal revenue gauger, designated by said collector in charge of exports, under such rules and regulations as the Commissioner of Internal Revenue may prescribe; and on application of the said collector in charge of exports it shall be the duty of the surveyor of the port to designate and direct one of the custom-house inspectors to superintend such shipment. The gauger, as aforesaid, shall make a full return of such inspecting and gauging, certifying thereon that the shipment has been made, in his presence, on board the vessel named in the entry for export, which return shall be indorsed by said custom-house inspector, certifying that the casks or packages have been shipped under his supervision on board said vessel; and the said inspector shall make a similar certificate to the surveyor of the port indorsed on, or to be attached to, the entry in possession of the custom-house.

Mr. SCHENCK. I move to strike out that section.

The motion was agreed to.

The Clerk read as follows:

SEC. 56. *And be it further enacted*, That distilled spirits may be withdrawn from any bonded warehouse other than an export warehouse for the purpose of being redistilled into alcohol within the city, town, or district in which such warehouse is situated, on application of the distiller or owner of such spirits to the collector of internal revenue of the district in which they are stored, under such rules and regulations, and after making such entries and executing such bonds, and giving such other additional security as may be prescribed by law and by regulations of the Commissioner of Internal Revenue. The entry to withdraw for redistillation shall be made in duplicate, and shall designate the name of the distiller or owner applying for the redistillation, the name of the distiller and of the district in which it was distilled, the distillery in which it is to be redistilled, and by whom, and shall be in form as follows:

[Entry to withdraw for redistillation.]

Entry of spirits distilled by —, in — district, State of —, to be withdrawn from the distillery warehouse by —, for redistillation into alcohol by —, at — distillery, and to be returned thereafter to the said warehouse.

And the entry shall specify the whole number of casks or packages, the marks or serial numbers thereon, the number of gauge or wine gallons and of proof gallons, and the amount of the tax on such distilled spirits, all of which shall be verified by the distiller or owner of the spirits, who shall give his bond, with one or more sureties satisfactory to said collector, conditioned that the principal named in said bond will return the said spirits, and enter the same after redistillation into alcohol for deposit in the warehouse from which it was withdrawn, within thirty days from the date of said bond, and will pay the tax on any quantity of proof gallons so returned less than the number of proof gallons stated in the entry to withdraw the distilled spirits from the warehouse; and the penal sum of said bond shall be not less than double the amount of the tax on such spirits. One of the entries shall be retained and filed in the office of the said collector, and the other transmitted to the Commissioner of Internal Revenue, to be filed in his office. The removal from the warehouse of such distilled spirits, for redistillation, shall be only after receiving the order or permit for the same, signed by the collector and addressed to the storekeeper, and after each cask or package has been regauged and inspected, and distinctly marked or branded at the expense of the distiller or owner, as follows: "United States warehouse for redistillation."

Mr. ALLISON. I move to strike out that section. It is the same subject.

The motion was agreed to.

The Clerk read the next section, as follows:

SEC. 57. *And be it further enacted*, That within thirty days from the date of the bond given for the withdrawal from warehouse of any distilled spirits

for redistillation, the alcohol redistilled therefrom shall be entered for warehousing by the distiller or owner thereof, and deposited in the same warehouse from which it was withdrawn; and the entry for warehousing shall be made in duplicate, and shall designate the name of the distiller or owner, the warehouse in which it is to be deposited, and the date of its withdrawal from said warehouse, and shall be in form as follows:

[Entry of alcohol for warehousing.]

Entry of alcohol for warehousing by —, in — warehouse, —, State of —, redistilled from spirits withdrawn by me from said warehouse on the — day of —, A. D. —.

And the entry shall specify the whole number of casks or packages, the marks or serial numbers thereon, the number of gauge or wine gallons and of proof gallons, and the amount of the tax on such alcohol. The said alcohol, after being gauged and inspected by a United States gauger designated by said collector, shall be deposited in such warehouse; and each cask or package shall be branded or marked "alcohol," and with the name of the distiller thereof, and serial numbers placed thereon; and a return shall be immediately made by the gauger to said collector of such gauging and inspecting, and the tax shall be paid on any difference in the number of proof gallons, as shown by the return of the gauger, and the number of proof gallons as stated in the entry to withdraw the distilled spirits for redistillation. The distiller or owner of any alcohol so deposited in the warehouse shall give his bond, with one or more sureties satisfactory to the said collector, conditioned that the principal named in said bond will, within six months from the date of said entry, withdraw the alcohol specified in the entry for consumption or sale, and pay the tax thereon; and the penal sum of such bond shall be not less than double the tax on such alcohol. One of the entries shall be retained and filed in the office of said collector, and the other transmitted to the Commissioner of Internal Revenue, to be filed in his office. Alcohol deposited in any United States bonded warehouse may be withdrawn on the payment of the tax, or for transportation in bond, without the payment of the tax, to an export bonded warehouse established and designated at a port of entry, and for export, in the same manner and on the same conditions, and the execution of such entries and bonds in all respects as provided for in the case of other distilled spirits.

Mr. ALLISON. I move to strike out that section.

The motion was agreed to.

The Clerk read the next section, as follows:

SEC. 58. *And be it further enacted*, That the Commissioner of Internal Revenue be, and he is hereby, authorized to grant permits to curators or principal officers of incorporated or chartered scientific institutions to withdraw alcohol in specified quantities from bond, without payment of the internal revenue tax on the same, or on the spirits from which the alcohol has been distilled, for the sole and exclusive purpose of preserving specimens of anatomy, physiology, or of natural history, belonging to said institutions: *Provided*, That the said curators or other officers, on applying for such permit, shall file a bond for double the amount of tax on the alcohol to be withdrawn, with two good and sufficient sureties, who shall not be officers of the institution making application, said bonds and sureties to be approved by the Commissioner of Internal Revenue, and conditioned that the whole quantity of alcohol so withdrawn from bond shall be used for the purpose above specified, and for no other; and that the curators, or other officers, shall comply with such other requirements and regulations as the Commissioner of Internal Revenue may prescribe. And if any alcohol so obtained shall be used or allowed to be used by any curator or other officer of said institution for any purpose other than that above specified, then the said curators, officers, and sureties shall pay the tax on the whole amount of alcohol withdrawn from bond, together with a like amount as a penalty in addition thereto.

Mr. BUTLER. That section should be stricken out. It provides for putting alcohol in bond, and taking it out without payment of tax. I move that it be stricken out.

Mr. ALLISON. I think it ought to be stricken out.

The motion was agreed to.

The Clerk read as follows:

SEC. 59. *And be it further enacted*, That at any port of entry bonded warehouses may be established, to be known as bonded manufacturing warehouses, in which medicines, medical preparations, compositions, perfumery, and cosmetics, and cordials or liqueurs, composed in part of alcohol or other distilled spirits, may be manufactured for export exclusively, under such rules and regulations as the Commissioner of Internal Revenue may prescribe; and no building, or part of a building, shall be designated for such warehouse which has openings connecting it with other buildings or other rooms in the same building, or which shall be within six hundred feet of any distillery or rectifying establishment, nor unless recommended by the collector of the district and the collector having charge of exports at such port of entry, and approved by the Commissioner of Internal Revenue; and such warehouses shall be used for manufacturing the articles aforesaid for export, and for no other purpose, and shall be under the direction and control of said collector, and in charge of an internal revenue storekeeper assigned thereto by the

Commissioner of Internal Revenue, who shall keep a record of the distilled spirits received and how used, and of the delivery of any articles from the warehouse, and make such reports as required of storekeepers in other bonded warehouses; and no article manufactured therein shall be removed from such warehouse except on an order or permit from the collector in charge of exports at such port of entry for immediate transfer to the vessel by which it is to be exported to a foreign country as hereinafter provided. Any materials imported into the United States may, under such rules as now exist, or as may hereafter be prescribed for the removal of imported goods into United States bonded warehouses, be removed in original packages from on shipboard or from bonded warehouses in which the same may be, into the bonded manufacturing warehouse in which such manufacture may be carried on, for the purpose of being used in such manufacture, without payment of duties thereon. No articles so removed shall be used except in the manufacture of any of the above enumerated articles; and it shall be the duty of the internal revenue storekeeper in charge of such bonded manufacturing warehouse to personally see that said articles are used in such manufacture, and his certificate of such articles having been so used shall be taken by the collector of customs of the district in which such warehouse may be situated, in cancellation of any bonds given for the payment of duties on such imported articles.

SEC. 60. *And be it further enacted*, That alcohol or other distilled spirits required for use in the manufacture of medicine, medical preparations, perfumery, cosmetics, and cordials or liqueurs, composed in part of such spirits, may be removed from bonded warehouse without payment of the tax, to be transferred directly to a bonded manufacturing warehouse in the collection district, to be used in manufacturing the articles aforesaid, on application of the manufacturer having such warehouse to the collector in charge of exports at such port of entry, and under such rules and regulations, and after making such entries, and executing such bonds, and giving such other additional security as may be prescribed by law and by the Commissioner of Internal Revenue. The entry for such removal and transfer shall be in duplicate, and shall contain the name of the person applying therefor, the kind of spirits, and the name of the distiller and of the district in which it was distilled, and designate the warehouse to which it is to be removed; and the form of the entry shall be as follows:

[Entry of distilled spirits for manufacture in bond.]

Entry of —, to be withdrawn from bonded warehouse in the — district, State of —, by —, to be manufactured by me for export from the port of —, to my bonded manufacturing warehouse in —.

And the entry shall specify the whole number of casks or packages, the marks and serial numbers thereon, the number of gauge or wine gallons and of proof gallons, and the amount of the tax on such distilled spirits; all of which shall be verified by the oath or affirmation of the distiller or owner of said spirits, also by the oath or affirmation of the person making such entry, who shall give his bond executed in duplicate, with one or more sureties satisfactory to said collector, conditioned that the principal named in said bond will transfer the spirits specified in the entry to his bonded manufacturing warehouse, and, after using the same for manufacturing any of the articles allowed by law, will enter for export all such articles in which said spirits have been used, and export the same to some foreign port, and that such articles shall not be landed or consumed within the jurisdiction of the United States. The penal sum named in said bond shall be equal to not less than double the amount of the tax on such spirits. The removal of such distilled spirits from the bonded warehouse shall be only after the receipt of an order or permit signed by the collector in charge of exports, and directed to the storekeeper of such warehouse, and after each cask or package shall have been gauged and inspected, and shall have been distinctly marked or branded, at the expense of the person making the entry, as follows: "For removal to bonded manufacturing warehouse of —." One of said entries, with the duplicate of the bond, shall be transmitted by said collector to the Commissioner of Internal Revenue, to be filed in his office, and the other entry and bond shall be retained and preserved in the office of said collector.

SEC. 61. *And be it further enacted*, That medicines, medical preparations, perfumery, cosmetics, and cordials or liqueurs composed in part of alcohol or other distilled spirits and manufactured in bonded manufacturing warehouses as hereinbefore provided, shall be withdrawn from such warehouses for immediate export, without payment of tax and without having stamps affixed thereto, on application by the manufacturer to the collector in charge of exports, and under such rules and regulations, and after making such entries and executing such bonds and giving such other additional security as may be prescribed by law and by the Commissioner of Internal Revenue. The entry for such exportation shall be in triplicate, and shall specify the name of the article to be exported, the number of packages, and the estimated quantity in proof gallons of distilled spirits consumed in the manufacture of the article to be exported and the amount of the tax on such spirits; and in all other respects, so far as applicable, the same forms shall be observed and the same proceedings had as provided for in regard to the export of distilled spirits; and the proof required of landing the same beyond the jurisdiction of the United States shall be the same as in the case of distilled spirits exported.

Mr. ALLISON. I move to strike out those three sections.

The motion was agreed to.

The Clerk read the next section, as follows:

Sec. 62. *And be it further enacted*, That all distilled spirits in any bonded warehouse shall within one hundred days after the passage of this act be withdrawn from such warehouse, and the tax paid on the same; and the casks of packages containing said spirits shall be marked and stamped and be subject in all respects to the same requirements as if manufactured after the passage of this act. And any distilled spirits remaining in any bonded warehouse for a period of more than one hundred days after the passage of this act shall be forfeited to the United States.

Mr. SCHENCK. I move to amend that section by striking out the word "tax" in line four and inserting "taxes." I offer that amendment because I am instructed by the Committee of Ways and Means, when we reach section sixty-five, to move to add a provision that whisky in bond shall pay four dollars a barrel as a special tax as well as whisky in the distillery.

The amendment was agreed to.

Mr. O'NEILL. I move to strike out the section. I do not see why the very hard condition proposed in this section should be put upon those who have whisky in bond. There are many persons in this country, in all the cities on the sea-board, who have invested their money in whisky legitimately, either for the purpose of home consumption or for exportation. I cannot imagine why the committee should insist upon putting these hard terms on men who, perhaps to the extent of hundreds of thousands of dollars, in single instances have invested in whisky, and who have a right in fair business transactions to a profit on their investment at the time when according to their own notions they should sell. I undertake to say that the payment of this tax at the expiration of one hundred days by some of these gentlemen would amount to so large a sum that their entire capital in this trade might be swept away. Why, look at it. Compare it with the bonded system in the customs department of the Government. Look how the Government protects the merchants who import goods from foreign countries. It does not make a sweeping law, saying to them, "In a hundred days you shall withdraw your goods for consumption, or if you do not you shall forfeit them, and thus lose every dollar you have invested in them." I think, sir, that we ought to give the manufacturer of whisky, or the purchaser of whisky to sell again, the legitimate business man, who has used his capital for the purpose of making money by it, the same chances that we give under the laws to the importer of foreign goods. We allow him to-day the privilege of putting his goods in a bonded warehouse for one year without exacting from him any penalty, giving him the right to withdraw them at any time within that year for consumption at home, to sell them in the home market, and then, after that period has expired, he has the further period of two years to withdraw them, at an advance to be paid by him of ten per cent. upon the duties, and if for exportation only, no advance upon their withdrawal.

But here it is proposed to every one who is doing business legitimately, simply because it is in whisky, that unless he take it out of bond within one hundred days, thus throwing millions of gallons upon a falling market, perhaps, that the extreme penalty of forfeiture shall be suffered. The severity of such an enactment would drive good men out of our community and would stifle enterprise. We would have bankruptcy all around us; and the citizen who feels that he has a right to embark in such occupation as he pleases would at once complain that instead of being protected in his operations by just and fair laws he is made the victim of such demands as must inevitably lead to his destruction and utter ruin.

I do not mean to espouse the cause of the manufacturer or trader in whisky especially. The duty of Congress is not confined to imposing severe laws upon one class of business men only. To be sure we should not hesitate to provide for taxation, but let us be careful in our efforts not to oppress our constituents so

far as to injure their investments, although they may be made in whisky. That it should bear a large portion of our burdens I believe, but legitimate transactions should be fostered, and the exactions of the law should be so enforced as to bring about their cheerful observance by every one. We can afford to defend the upright dealer in whatever line of business he may be; and even if we are persuaded that great frauds have been committed in the whisky traffic, yet we can all of us bring to our minds many of our constituents who, in a series of years, have been engaged in making and selling that article, and have never been known to deprive the Government of one dollar of taxes. It is difficult to bind bad men by even the most stringent laws; and so we have the greater reason for legislating for the benefit of the honest, who, at last, have to pay the penalty, in one way or another, of the shortcomings and frauds of the dishonest.

Now, sir, I do not care to stand here as the special defender of the whisky sellers, either small or great; but I do stand here as the defender of the legitimate business men of the country. I am always ready to vote for what I believe to be right. I desire, if possible, to increase the revenues of the Government, but in seeking that object I am not willing to do an act of injustice. I hope the section will be stricken out.

Mr. FARNSWORTH. I move that the committee rise, so that the House may act on the veto message of the President on the "omnibus" reconstruction bill.

Mr. SCHENCK. I hope the committee will not rise till we have gone through with the provisions relating to special taxes.

Mr. FARNSWORTH. There are many very good reasons why that veto message should be acted on now.

On the motion of Mr. FARNSWORTH, there were—ayes 43, noes 46.

Mr. FARNSWORTH. I call for tellers.

Tellers were ordered; and Messrs. FARNSWORTH and FOLEY were appointed.

The committee divided; and the tellers reported—ayes 53, noes 36.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had, pursuant to the order of the House, had under consideration the Union generally, and particularly the special order, being House bill No. 1284, to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, and had come to no resolution thereon.

#### ENROLLED BILLS.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 236) granting a pension to John Q. A. Keck, late a private in the third Missouri cavalry; and

An act (H. R. No. 847) for holding terms of the district court of the United States for the southern district of Illinois, at the city of Cairo, in said State.

#### REPRESENTATION OF SOUTHERN STATES.

The SPEAKER laid before the House a message from the President of the United States, which was read, as follows:

*To the House of Representatives:*

In returning to the House of Representatives, in which it originated, a bill entitled "An act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress," I do not deem it necessary to state at length the reasons which constrain me to withhold my approval. I will not, therefore, undertake, at this time, to reopen the discussion upon the grave constitutional questions involved in the act of March 2, 1867, and the

acts supplementary thereto, in pursuance of which it is claimed, in the preamble to this bill, these States have framed and adopted constitutions of State government. Nor will I repeat the objections contained in my message of the 20th instant, returning without my signature the bill to admit to representation the State of Arkansas, and which are equally applicable to the pending measure.

Like the act recently passed in reference to Arkansas, this bill supersedes the plain and simple mode prescribed by the Constitution for the admission to seats in the respective Houses of Senators and Representatives from the several States. It assumes authority over six States of the Union which has never been delegated to Congress, or is even warranted by previous unconstitutional legislation upon the subject of restoration. It imposes conditions which are in derogation of the equal rights of the States, and is founded upon a theory which is subversive of the fundamental principles of the Government. In the case of Alabama it violates the plighted faith of Congress by forcing upon that State a constitution which was rejected by the people, according to the express terms of an act of Congress requiring that a majority of the registered electors should vote upon the question of its ratification.

For these objections, and many others that might be presented, I cannot approve this bill, and therefore return it for the action of Congress required in such cases by the Federal Constitution.

ANDREW JOHNSON.

WASHINGTON, D. C., June 25, 1868.

Mr. FARNSWORTH. I call for the previous question.

The SPEAKER. The question is, Will the House, on reconsideration, agree to the passage of this bill notwithstanding the objections of the President?

Mr. STEVENS, of Pennsylvania. I call for the previous question.

Mr. ROBINSON. Would it be in order now to move that this message be printed, and that it lie over for consideration on a future day?

The SPEAKER. It would be if the previous question should not be sustained.

Mr. ROBINSON. I tried to get the Speaker's eye to make that motion.

The SPEAKER. But the gentleman from Illinois [Mr. FARNSWORTH] addressed the Chair before the gentleman from New York, [Mr. ROBINSON.] The gentleman from Pennsylvania, [Mr. STEVENS,] however, having had charge of the bill in its previous stages, was, by the usage, entitled to be recognized.

Mr. ROBINSON. I hope the previous question will not be seconded.

Mr. STEVENS, of Pennsylvania. For the information of the gentleman from New York, [Mr. ROBINSON,] I will simply say that there is not a word of news in this whole message. [Laughter.]

Mr. ELDRIDGE. If the gentleman from Pennsylvania wants "news," had he not better have read telegrams from various parts of the country showing the results of recent elections? [Laughter.]

The previous question was seconded; there being—ayes 75, noes 26.

The main question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, agree to the passage of this bill notwithstanding the objections of the President? On this question the vote, by the requirement of the Constitution, must be taken by yeas and nays.

The question was taken; and there were—yeas 108, nays 31, not voting 55; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Bailey, Baldwin, Beaman, Beatty, Benjamin, Benton, Blaine, Blair, Boles, Boutwell, Broomall, Buckland, Butler, Sidney Clark, Cobb, Coburn, Cornell, Corvode, Cullom, Delano, Dixon, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Garfield, Gravelly, Griswold, Halsey, Harding, Hawkins, Higby, Hinds, Hooper, Chester D. Hubbard, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketchum, Koontz, George V. Lawrence, William Lawrence, Lincoln, Logan, Loughridge,

Marvin, Maynard, McClurg, McKee, Mercier, Moore, Moorhead, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Pike, Pile, Plants, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Windom, and the Speaker—108.

**YAYS**—Messrs. Adams, Axtell, Barnes, Beck, Brooks, Cary, Chanler, Eldridge, Getz, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Jones, Kerr, Knott, Marshall, McCormick, McCullough, Niblack, Nicholson, Phelps, Pruyn, Robinson, Sitgreaves, Taber, Lawrence S. Trimble, Van Auken, and Woodward—31.

**NOT VOTING**—Messrs. Archer, James M. Ashley, Baker, Banks, Barnum, Bingham, Boyer, Bromwell, Burr, Cake, Churchhill, Reader W. Clarke, Cook, Dawes, Dodge, Donnelly, Fields, Finney, Fox, Glossbrenner, Hill, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Hunter, Johnson, Kitchen, Latin, Loan, Lynch, Mallory, McCarthy, Miller, Morrell, Morrissey, Mungen, Nunn, Perham, Peters, Randall, Roots, Ross, Selye, Stone, Taffo, John Trimble, Burt Van Horn, Robert T. Van Horn, Van Trump, Elihu B. Washburne, Thomas Williams, Stephen F. Wilson, Wood, and Woodbridge—55.

During the roll-call,

Mr. GETZ said: On this question my colleague, Mr. GLOSSBRENNER, is paired with Mr. CAKE and Mr. MORRELL.

The roll-call having been concluded,

**THE SPEAKER.** On the question, Will the House, on reconsideration, agree to the passage of the bill to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress, notwithstanding the objections of the President?—the yeas are 108, and the nays are 31. Two thirds having voted in the affirmative, the bill has again passed the House, and will be transmitted with the objections of the President to the Senate for similar reconsideration.

#### PROTEST OF DEMOCRATIC MEMBERS.

Mr. BUTLER. I ask unanimous consent to submit the following resolution:

*Resolved*, That twenty thousand copies of the protest of the Democratic members of the House against the admission of the Representatives from Arkansas be printed for the use of the House.

Mr. ELDRIDGE. I hope the gentleman will say fifty thousand copies.

Mr. BUTLER. Agreed; I have no objection to that.

Mr. ROBINSON. Say one hundred thousand.

**THE SPEAKER.** Is there objection to the reception of the resolution as modified, to be referred under the law to the Committee on Printing?

No objection was made; and the resolution, as modified, was received and referred under the law.

Mr. ELDRIDGE. I hope the committee will report it back at once, if they can.

#### TEST OF LIFE-SAVING APPARATUS.

**THE SPEAKER.** The Chair has received the following communication, which he will lay before the House for the information of members:

WASHINGTON, D. C., June 25, 1868.

To Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives:

Having come here for the sole purpose of giving an exhibition before the honorable members of Congress to prove the benefits of the life-saving apparatus of the National Life-Saving and Ship-balling Company, to take place Friday the 26th instant at six o'clock p. m., Hon. Gideon Welles, Secretary of the United States Navy, has kindly furnished me with a United States steamer, which will be in readiness at the foot of Seventh street wharf to convey such members of both Houses as wish to participate in this exhibition.

Trusting to have the honor of proving before your honorable body the great benefits of this life-saving apparatus, I have the honor to remain, most respectfully, your obedient servant.

M. L. ROSSVALLY,  
General agent National Life-Saving and Ship-balling Company.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I now insist upon the regular order of business.

The House, under the order heretofore made, accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr.

BLAINE in the chair,) and resumed the consideration of the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

The pending question was upon the motion of Mr. O'NEILL, to strike out the following section:

SEC. 62. *And be it further enacted*, That all distilled spirits in any bonded warehouse shall within one hundred days after the passage of this act be withdrawn from such warehouse, and the tax paid on the same; and the casks or packages containing said spirits shall be marked and stamped and be subject in all respects to the same requirements as if manufactured after the passage of this act. And any distilled spirits remaining in any bonded warehouse for a period of more than one hundred days after the passage of this act shall be forfeited to the United States.

Mr. O'NEILL. I will withdraw my motion to strike out this section, and move instead to strike out all after the enacting clause and insert in lieu thereof the following:

That all distilled spirits in any bonded warehouse shall, on and after the passage of this act, pay, in addition to the tax unpaid upon the same, one per cent. a month upon the amount of the said tax while remaining in any bonded warehouse as aforesaid.

Mr. SCHENCK. I hope that amendment will not be adopted. Whisky now in bond is that which has paid no tax. The tax at present is two dollars per gallon. It has been in bond for various periods of time; some of it for but a few months, probably, but some of it for years, during all of which time the United States has been playing the part of the warehouse-keeper for the owner. I have always thought there ought to have been some limit—there was none originally made, I suppose—to the time during which whisky can be left in bond, because it is generally presumed to be an article that grows better with age, unlike some of us here, I suppose. But the proposition now is to leave it in bond for an indefinite time, upon the condition that there is paid upon it what is called a tax, but which in fact will be storage fees, at the rate of one per cent. a month. Now, I am afraid the whisky will leak, by some means or other, just about as much as the one per cent. would amount to. Even if it did not leak, I would object to the United States becoming for an indefinite time the warehouse-keeper for the owners of this whisky. The system being now changed, and the tax reduced from two dollars to fifty cents per gallon, the Committee of Ways and Means have thought it but wise to make provision requiring that within a given time all this whisky shall be taken out of bond, and the tax paid upon it; the time being limited to one hundred days, which is perhaps not too short a time for the purpose, with the condition that at the end of that time it should be forfeited.

Mr. KELLEY. I move *pro forma* to amend the amendment by striking out the last word, for the purpose of saying that if the amendment of my colleague [Mr. O'NEILL] does not prevail I will move to extend the time for the removal of whisky now in bond from one hundred days, as now proposed, to six months.

There is a special trade connected with whisky which deserves the consideration of this House. The general business of raw whisky for alcohol is one trade, and the manufacture of fine whiskies for the table and general use is another. These provisions of this section aims specially, though undesignedly, at the latter class of goods. The tax of fifty cents adds one hundred and fifty per cent. to the cost of western whisky, and one hundred per cent. to the cost of that produced in the eastern States, and if demanded immediately will absorb the capital that would otherwise be employed in production. Whisky gains in quality and value with age. Whisky three, four, or five years old is another thing than new whisky as to price in the market. That carefully distilled from grain, either Bourbon or Monongahela, is bringing in our market today from seven to twelve dollars a gallon where its age is well established.

Now, are we ready to declare that no man not worth millions of dollars who can embark

fifty per cent. of more of his commercial capital in Government tax shall be able to hold whiskey for ripening? I am sure no interest of the country can be subserved by such action as that. There is no reason why a man who may deposit his whisky one day after this law goes into effect shall have one year on which to pay the tax, while another man who deposits it the day before shall on pain of forfeiture pay his tax within one hundred days. The provision embodied in this section will compel every man who has a large stock of fine whisky in bond who is not a millionaire and able to add to his investment hundreds of thousands of dollars by paying the tax to throw his stock upon the market. This pressure is to be applied all over the country. It will produce panic. It will compel the sacrifice of that which has been adding to the wealth of its owners and the country by the improvement imparted to it by the lapse of time during which its owner has been losing interest and paying the expense of storage. When the war came on there were stocks of fine whisky in the country ten or fifteen years old which were bringing from five to seven dollars a gallon. That class of whisky competed for supremacy among epicures and *bon vivants* with French brandy and was beginning to be an article of exportation to England and France. The high tax interrupted the growth of that export trade. And now by the provisions of this section all such stock in bond is to be thrown upon market, and men who are endeavoring to build up a great trade are to be sacrificed.

Now, sir, I am not here to ask any special privileges for distilled spirits that other industries do not enjoy, and when we make other industries pay a tax of one hundred and fifty per cent. upon the cost of production, and when we require those engaged in them to embark three fifths of their capital in Government taxes, other industries will be upon the same level with this, and may ask to hold stock in bond. There is no analogy between this and any other interest except tobacco, which, as a luxury, is also heavily taxed.

[Here the hammer fell.]

Mr. MULLINS. I rise to oppose the amendment on the same ground advocated by the chairman of the committee. It is evident to every gentleman who has heard the able argument of the gentleman from Pennsylvania who preceded me that it must come to this and nothing more. I give all credit to what he has said about the quality and value of whisky being increased by its age. I speak from theory, and not from practice. I have not such an experimental knowledge on the subject as some others. Now, the gentleman from Pennsylvania desires this whisky to remain in bond at the expense of the United States, while its value is being increased to the owner. Every one of us is interested in the revenue that is to accrue from this tax, and I believe that it ought to be paid promptly so the Government shall get the benefit of it in order to as rapidly as possible extinguish our great national debt. The gentleman's theory is, however, that it should be kept in bond as long as possible, at the expense of the Government, for the benefit of the owners. I am against it. He reverses the argument. He says this is for the poor men. It is not so. It is the rich who hoard up liquor. They keep it for weeks and months in the bonded warehouses at the expense of the Government. They have their liquor locked up and make the Government keep it for them. I am opposed to it. I think it is nothing but class legislation. It is the bowing of the law to the rich. It is hoarding up this liquor at the expense of the Government. I say let it go upon the market and let us have the tax upon it. The Government needs all this tax to pay the public debt, and it ought to have it.

[Here the hammer fell.]

Mr. COVODE. My colleague [Mr. KELLEY] withdraws his amendment, and I renew it for the purpose of giving my views on this subject. As I stated a few days ago, I live in a district



where there are now one million nine hundred thousand gallons of whisky in bond, as reported to me by the collector of the district. Now, the effect of compelling these distillers to pay this tax on that quantity in one hundred days will be to put them at the mercy of capitalists who furnish them money. They have already exhausted their ability to borrow money to keep their distilleries running, and now to compel them to pay this tax would force them to put their whisky into market or to accept whatever conditions the bankers and moneyed men of the country require of them for the purpose of raising the money to pay this vast amount. It will require \$1,000,000 in that district in which there is to-day a banking capital of only \$50,000. They will have to go into the eastern market and get the money on such terms as they can, or put their whisky in the market at once, which must unquestionably depress the price and cause a great loss to the owners.

Mr. INGERSOLL. I rise to oppose the amendment. Mr. Chairman, what is the necessity of legislating in regard to when this particular article shall be put on the market any more than as to when corn or flour or any other article of trade or commerce shall be put on the market? Why not leave it subject to the laws of trade? If you have twenty-five million gallons of spirits in the warehouses, let it be taken out whenever there is a demand for it. If you undertake to legislate as to when it shall be put on the market, why not legislate to fix the price, and at such a price that shall be remunerative to the owner. Whenever the price will justify its sale the owner will sell it without any requirement of law. He will gladly pay the Government tax whenever he can sell it at a profit. The owners of these twenty-five million gallons would have taken them out of bond at any time since the tax of two dollars per gallon was imposed if they could have sold them at the cost even of production above the tax. There is not a gallon of whisky in New York made from grain that has not cost fifty cents a gallon to make it. Some of it has been manufactured, perhaps, two years ago, and has been held by the owner at a cost of not less than ten dollars a barrel in addition to the original cost. Now, you propose to place them at a great disadvantage with those who make whisky to-day. Old high wine is no better for manufacturing purposes or redistillation than new. But you allow a distiller to make whisky at a tax of fifty cents, and he may redistill it or do what he pleases with it, while those who happen to be so unfortunate as to have made it two years ago and held it till now at a cost of nine or ten dollars a barrel by insurance, leakage, and storage, you compel to pay four dollars a barrel in addition and take it out of bond in one hundred days or you will forfeit it to the Government. There are twenty-five million gallons now in bond that are required to pay this tax in one hundred days or suffer confiscation by this bill. Now, why not leave it in bond until there is a demand for it? If there is a demand for it you will get your tax as fast as it is taken out without breaking faith with the manufacturer and bankrupting him beside. Leave it to be called for when there is a demand for its consumption. Then it will be brought out perhaps in thirty, sixty, or ninety days, or six or twelve months, just as it is required for trade, commerce, or consumption. That is the way this should stand, and in no other way.

Mr. MAYNARD. The gentleman from Pennsylvania withdraws the amendment and I renew it. I desire to say that I prefer the bill as it comes from the committee. I think it ought to pass in this shape, and for these reasons: I take it there is in the country now little or no whisky or spirits exported that have honestly paid the tax. All that is outside of the warehouses, or the greater portion of it, has been illicitly distilled. How much of it there is I will not undertake to say. The best information we have is that there are about twenty-five million gallons in bond. The annual pro-

duce of the country is not far from ninety million gallons, and the amount now in bond is hardly the consumption of one hundred days. Those who are familiar with the manufacture of spirits, I presume, will bear me testimony that there will be very little liquor manufactured between now and the 1st of November, the summer season of the year not being favorable to this business. The one hundred days allowed by this bill will have elapsed by that time. The liquor that is now in bond will supply the demand of the country during that period, and when the fall distillation commences the supply on hand will have gone out of the warehouses, the Government will have received the tax upon it, and we shall be ready to open new books and commence again. There is a great deal of force, it seems to me, in what has fallen from several gentlemen in respect to the burden that already exists upon the liquor that is in bonded warehouses, enough, as I think, to counterbalance the per-bushel tax and per-barrel tax which is specially imposed by the present bill as it comes from the committee. I do not think, therefore, that it is giving whisky in bond an undue advantage to allow it to be taken out by a payment per gallon the same as we require upon whisky that is now made, and that is a policy which will insure the tax on all that liquor which has been accumulating.

[Here the hammer fell.]

Mr. EGGLESTON. I rise to oppose the amendment. I am decidedly in favor of the amendment proposed by the gentleman from Pennsylvania [Mr. KELLEY] to extend the time for paying the duty on this whisky in bond to six months. I do not wish to be factious about this matter; but I know that if the Committee of Ways and Means will look at this subject as it really is, they will be in favor of that amendment.

Now, my friend from Illinois [Mr. INGERSOLL] asks why should we not let the laws of trade regulate this subject the same as corn and other articles? I will tell him why. We have, as a Government, held out inducements to certain parties to pile up their products, their manufactures in bonded warehouses. By law we have held out those inducements, and they have so done. We have now reached a point where we are about to disband and disorganize those warehouses and tell them to take their stock away. We say by this bill that they must take it away in one hundred days. Well, we ask in justice to these parties that you give them at least six months. And why? Why, as the gentleman has well said, if you throw whisky on the market faster than the market will take it, you will glut the market and break it down so that there will be, as there has been heretofore, no sale whatever; but if you let it go out gradually it will all work off and the Government will get the money. Now, what does the Government lose by this? It may be said that the Government is paying to keep up the bonded warehouses; but is not the owner of the whisky paying for storage and insurance? Does he not have to stand more than the Government stands?

Now, I want to tell gentlemen how it will operate in my city. One fifth of all this whisky, according to the report of the internal revenue department, is in the city of Cincinnati. About five million gallons, a little over one hundred thousand barrels, is in bond there. I tell the committee that the distillers do not own the whisky. The men who made the whisky own very little of the whisky that is in bond in that city. There are small rectifiers who have bought their one, two, and three hundred barrels. There are alcohol dealers who have bought it; there are druggists who have it; it has gone through various shapes and trades; and there are commission merchants who have advanced money upon it. I say we should give them a chance to pay the money to the Government and take this liquor away. Suppose, at the end of the one hundred days, these men cannot pay the money, what is the result? You are then to put the officers of the law upon them and put

the whisky upon the market and sell it at what it will bring. What will the Government make by that process? But if you give these men six months then they will come out all right, and the Government will get the money without breaking down these parties. But otherwise you not only will not get the money, but you will break down these parties and outrage the feelings of the community where this tax is to be paid. All the whisky which is in bond now belonging to distillers is just that portion which they were unable to smuggle.

Mr. LOGAN. I must confess I am a little surprised to see the favor which this proposition apparently receives. My friend from Philadelphia, [Mr. KELLEY], who offered this amendment, has submitted an argument upon it, which I have read in a letter which has been sent here.

Now, if gentlemen will examine the statistics they will find this to be the fact: within the last eight months—after the passage of the bill by Congress to prevent the taking any more of this whisky out of bond without the payment of the tax—the majority of the whisky of the United States has been purchased for from fifteen to thirty cents per gallon, the greater portion of it at not more than eighteen cents per gallon, by large whisky speculators, and that whisky is now in bond. It has been held in bond waiting for the tax upon it to be reduced. And now the very moment you reduce the tax to fifty cents per gallon gentlemen get up here and asked that they be allowed six months to take it out of bond, so that they may be enabled to speculate more largely in it.

Now, I am opposed to any such proposition. If these men could afford to pay the tax of two dollars per gallon at once, they certainly can afford to pay the tax of fifty cents per gallon in a hundred days. If you ever expect to have the time commence when you can collect the revenue from this whisky you must have some time fixed when this whisky shall be taken out of bond, so as to let the new stock of whisky come forward. It is said that this is not fair, because the distiller who now makes whisky can put it in bond and keep it there a year. But the distillers are now to commence under the new law at fifty cents a gallon tax. These other men were under the old law at two dollars a gallon tax. Suppose a man owed you \$400,000, and the debt was now due. He comes to you and says: "I am not able to pay this \$400,000; great frauds have been committed upon the country, and you must reduce this debt." Well, you agree to reduce it to \$100,000, just one quarter of the debt, and then agree to take his note for that \$100,000 at one hundred days. Just as soon as you have reduced his debt three fourths, he asks you to extend the time to six months, just because you reduced his debt so much. That is the proposition of the gentleman from Philadelphia [Mr. KELLEY] and the gentleman from Cincinnati, [Mr. EGGLESTON.] After you have reduced the tax three fourths, then they ask you to extend the time in which that one fourth is to be paid. There is not a man with this whisky in bond who can have the impudence to come here and ask any such thing.

[Here the hammer fell.]

Mr. BECK. I advocate the view of this subject taken by the gentleman from Pennsylvania, [Mr. KELLEY], though I would extend the time longer than he suggests. Much of this whisky, in fact all of the whisky that is made for home consumption and to be drunk without rectification or redistillation, has to be kept from one to two years before it is fit to be drunk. And the men who have been making that grade of whisky heretofore have been making it with the assurance, if not with the agreement, that if they placed it in the hands of the Government, allowed the Government collectors to take it and lock it up in their bonded warehouses and hold the keys, that this whisky should be allowed to remain, subject to the tax, until they could make a sale of it. And if the Government can get its tax before the manufacturer gets his money as it does now,

that seems to be all the Government has a right to ask. That liquor has been so put into bonded warehouses, and held by the Government so that the distiller cannot touch it. There are now twenty-five million gallons of whisky in bond. It has been agreed that this shall be allowed to remain in the hands of the Government. Yet now it is proposed to require that this whisky shall be forced upon the market within one hundred days after the passage of this bill. The distillers of my district and that adjoining, represented by Colonel Jones, have in bond three million four hundred thousand gallons, the tax on which would be \$1,700,000, and they are to be forced to put this upon the market in one hundred days. If that is done our distillers will have to stop business and go to work to raise money to take their whisky out of bond, or let it be confiscated and sold for whatever the speculator will give. Is this fair treatment on the part of the Government?

"But," it is said, "we have reduced the tax, and it can now be paid much easier." Not at all. Now the purchaser pays the tax. The important point to the manufacturer is that there shall be stability in the price. You now propose to compel the manufacturer to force on the market whisky made within the last six months, and which has been held back because purchasers have refused to buy, in expectation of the passage of this very bill making a reduction in the tax. If the manufacturers be now compelled to sacrifice this whisky within the next hundred days, the speculators will hold back till that time, and buy it all up at their own prices, to the ruin of the distiller. Why should not the owners of whisky be allowed as much time as the owners of imported goods when placed in bond. The Government, at any rate, gets its money as soon as the article is sold. Why should we kill the goose that lays the golden egg? I concur in the statement made a few moments ago by the gentleman from Pennsylvania, [Mr. KELLEY,] that this interest, from which the Government expects to raise its largest revenue, ought to be fostered and encouraged, instead of being crushed out by hostile legislation.

[Here the hammer fell.]

Mr. ALLISON. I desire to state briefly the reason for the insertion of this section. Every gentleman must have observed that we have entirely changed, so far as this bill may take effect, the law in relation to the production of distilled spirits. We do this at the precise period of time when no distillery in this country can run. At this time grain is commanding such a price in the market as to prevent any honest distiller from commencing operations at this season of the year. No legitimate distiller will undertake the business of manufacturing whisky until the new crop comes in, because at the present price of grain whisky cannot be manufactured so as to compete with distilled spirits that have been already manufactured. There is very little whisky now on the market; and nearly all of that which is on the market is illicitly-distilled whisky. The amount of whisky now in bond is twenty-five million gallons, and this, it is estimated, is about what is necessary for the consumption within the one hundred days following the passage of this bill.

Mr. PILE. I desire to ask the gentleman from Iowa [Mr. ALLISON] whether he is not aware that since this bill has been agreed upon by the committee, fixing ninety days as the time for the removal of whisky from bonded warehouses, and fixing the tax at sixty cents, whisky in bond has increased in price at the rate of from eight to ten cents per gallon?

Mr. ALLISON. I believe that is the fact.

Mr. INGERSOLL. I would like to know the authority for that statement.

Mr. PILE. I know it is the fact in my own city.

Mr. ALLISON. Now, sir, we propose in this bill to fix one hundred days as the time within which this whisky must be taken out of bond. Possibly this time might be extended

or shortened to some extent; but we need to get rid, at some early period, of the present system of bonded warehouses; and especially should we get rid of the system, now that we have adopted a principle whereby the tax on every gallon of whisky is to be collected at the distillery warehouse. Gentlemen say that a distiller can keep his whisky in bond a year under this bill. That is true; but he is in a very different position from the man who has whisky in bond in the city of New York. My friend from Illinois, [Mr. INGERSOLL,] who represents a large distilling district, must remember that there are men having four, five, or ten million gallons of distilled spirits in bond in the city of New York, and they occupy a very different position from those who have their distilleries and distillery warehouses at Peoria, Dubuque, or other cities of the West. This whisky now in bond will be required at once for consumption in the country; and I believe it will be to the interest of every man who has whisky in bond, except those who are holding it for the additional value which it is to obtain from age, to bring it on the market, because the moment this new tax system goes into operation, most of our distilleries will resume the manufacture of distilled spirits.

[Here the hammer fell.]

Mr. O'NEILL. I withdraw the amendment.

Mr. KELLEY. I renew it. Mr. Chairman, the gentleman from Illinois [Mr. LOGAN] closed his remarks by substantially expressing his surprise that anybody should assume to know anything about the commercial affairs of this country which he does not know, or should have considered any facts he has not specially considered. I have the vanity to assume that I do know a little more about the particular question before us than he does, and to know that the whisky of which I speak, that is in bond, has not been bought by speculators, although it may be true that persons may have attempted, and perhaps successfully, to speculate by purchasing new whisky in bond. I know one warehouse in the district of my friend from Alleghany, [Mr. MOORHEAD,] the owners of which have given bonds to the Government to the extent of \$1,500,000 on whisky of their own distilling. I know, too, that that firm has in two years paid the Government over two million dollars, and that the whisky in bond belonging to it is much of it three or four years old, and that as an offset to the loss of interest and cost of storage, it has more than doubled in commercial value. They hold the fact that it is in bond as a certificate of its purity, age, and consequent value. It adds to its commercial value, as it shows it has not been doctored, but went there directly from the still of a well-known distiller of fine whisky. I ask gentlemen whether they are willing to sacrifice the men who are legitimately engaged in trade because the gentleman from Illinois asserts that others are taking advantage of the contingencies and seeking to profit by them? The Government will get from day to day the tax on the whisky demanded for consumption. These men have been paying tens of thousands, hundreds of thousands, and millions of dollars tax on this article of whisky, and indeed have paid all the tax that has been collected. The illicit distiller or dealer in whisky sought the concealment of night and got his goods off his hands as quickly as he could. His dealings have been surreptitious, while the honest dealer has sent his goods into bond. They are in the bonded warehouses. Yet, sir, this provision and the argument of the gentleman from Illinois are calculated to hurt the honest distiller whom we have already ruined by failing to collect the tax from the illicit distillers who were underselling him.

Mr. INGERSOLL. Will the gentleman yield me a minute?

Mr. KELLEY. I have but five minutes, and cannot yield twenty per cent. of the time allowed me.

The provision I am striving to amend affects those whom we have almost ruined because

they were disposed to pay the tax while the scoundrels all round them have been permitted to sell their whisky without paying any tax. It provides that within one hundred days they must gather up one hundred and fifty per cent. upon the prime cost of the whisky. What I propose, the extension of this time to six months, is a commercial necessity. If gentlemen will traverse the block from Dock to Front and Walnut to Spruce streets, Philadelphia, they will see warehouses containing several millions of capital embarked in these fine old whiskies, and there is no reason why the Government should compel their owners to sacrifice them and prostrate the general market.

[Here the hammer fell.]

Mr. SCHENCK. I move that debate be closed on this section by unanimous consent.

Mr. INGERSOLL. I want five minutes.

Mr. STEVENS, of Pennsylvania. I have an amendment which I will offer at the proper time, and if there be no objection I will have the Clerk read it.

Mr. SCHENCK. I do not object.

Mr. STEVENS, of Pennsylvania. It is a substitute for section sixty-two.

The Clerk read as follows:

That one half of all distilled spirits now on hand in bonded warehouses shall be withdrawn within one hundred days after the passage of this act, and thereafter one half of the remainder within sixty days, and the balance within sixty days more: *Provided*, That this act shall work no remission of tax on distilled spirits already manufactured.

Mr. STEVENS, of Pennsylvania. I would like to offer that amendment and make a few remarks.

The CHAIRMAN. The amendment is not now in order.

Mr. STEVENS, of Pennsylvania. Mr. Chairman, I am told that certain distillers and others have on hand an amount of whisky that would pay a tax, if collected, of \$80,000,000. Now, to collect it in one hundred days and to compel them to raise the money in that time would be a great burden. It would distress those engaged in the business seriously. It is a legitimate trade with them, and I think they should have more time. If we provide they shall pay so much in one hundred days, and then so much in sixty days, it will be a great relief to them and will be no injury to the Government. I have added a proviso because I am not quite sure but that the effect of the passage of this act will be to repeal the uncollected tax. I incline to think it will, though I give no opinion, for I presume the committee have examined it. But I have added the proviso to save any difficulty about that. I would like to be able to offer this amendment and see whether it meets the approbation of the House.

The CHAIRMAN. The amendment will be entertained at the proper time. By unanimous consent it will be considered pending.

Mr. PRUYN. I suggest to the gentleman from Pennsylvania that from the reading of the last clause I understand it to say that it shall not take effect upon spirits already distilled. Does he intend to collect the two-dollar tax on that?

Mr. STEVENS, of Pennsylvania. No, sir; if there is any tax now assessed on anything which has been removed from the distillery the passage of this act before its collection I fear will be a remission of the whole of that tax. I give no positive opinion about it, however. I have added the proviso by way of precaution.

Mr. INGERSOLL. I move to amend the section by inserting the following:

*Provided*, That the days in which the market price in New York during that time shall be less than one dollar per proof gallon, including the tax, shall not be counted in the one hundred days.

If that amendment is adopted it will prevent any considerable loss, beyond the mere cost of the production of the distilled spirits to the owner. Suppose that the price in New York is only eighty cents, the tax included. Fifty cents of that goes to the Government, leaving thirty to be returned to the manufacturer. Now, I affirm here that there is not a gallon of whisky in New York which was made out of corn that

cost less than fifty cents a gallon without the tax; and when you add a tax of fifty cents that makes it cost one dollar. Now, if you want to do justice and at the same time collect your revenue, do not force a sacrifice upon the owners of these spirits; and if you do not want to, then count only the days to make up the one hundred when the market price shall be at least one dollar a proof gallon, which amounts perhaps to the mere cost, including the tax.

But I have other objections to this section. I am in favor of the original proposition to strike out this section. It has no business in the bill. I desire to call the attention of the committee to the fact that when every gallon of the twenty-five millions now in bond was manufactured it was made under the express authority of Congress that it should remain in bonded warehouses just as long as the maker of it should please to leave it; that it should only be withdrawn from bond at his option. Had the maker supposed that within a year after the passage of that act you would have declared that unless they should pay the tax in one hundred days after the passage of this bill their spirits should be forfeited and confiscated to the Government, do you believe they would have made a gallon? No, sir; instead of there being now twenty-five million gallons there would not have been a gallon in bond at this time. Sir, it is downright robbery on the part of Congress to declare a forfeiture of twenty-five million gallons of spirits unless the tax shall be paid within one hundred days. It is bad faith, it is in violation of every principle of right and justice. On the part of an individual it would so be considered. Perhaps it can be justified by some when the Congress of the United States does it, but not by me. It will not stand the test of common justice between man and man.

The question being taken on the amendment of Mr. KELLEY, to strike out "one hundred days" and insert "six months," there were—ayes 51, noes 49.

Mr. SHELLABARGER. I demand tellers. Tellers were ordered; and the Chair appointed Messrs. KELLEY and JUD.

The committee divided; and the tellers reported—ayes 53, noes 48.

So the amendment was agreed to.

The question was then taken on Mr. O'NEILL's amendment, and it was disagreed to.

Mr. STEWART. I move to amend the section by adding to it the following:

And may be sold or disposed of for the benefit of the same in such manner as shall be prescribed by the Commissioner of Internal Revenue under the direction of the Secretary of the Treasury.

Mr. INGERSOLL. I move to amend the amendment by striking out the word "may" and inserting "shall."

Mr. STEWART. I accept that as a modification.

Mr. INGERSOLL. Very well; but I object to the amendment. It is a vicious amendment.

The question was taken on the amendment; and there were—ayes 49, noes 11; no quorum voting.

Mr. INGERSOLL demanded tellers.

Tellers were ordered; and Messrs. INGERSOLL and STEWART were appointed.

The committee divided; and the tellers reported—ayes 62, noes 86.

So the amendment was agreed to.

The question recurred on the amendment proposed by Mr. STEVENS, of Pennsylvania.

Mr. ROBINSON. I make a point of order on that amendment. We have just adopted a clause that the time shall be six months.

The CHAIRMAN. The Chair overrules the point of order. This is a substitute for the section.

The question was taken; and the amendment was disagreed to—ayes fifteen, noes not counted.

#### MESSAGE FROM THE SENATE.

At this point the committee rose informally, and the Speaker having resumed the chair,

a message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate having proceeded in pursuance of the Constitution to reconsider the bill entitled "An act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress," returned to the House of Representatives by the President of the United States with his objections, and sent by the House of Representatives to the Senate with the message of the President returning the bill, have resolved that the bill do pass, two thirds of the Senate agreeing to pass the same.

The Committee of the Whole on the state of the Union then resumed the consideration of the  
INTERNAL TAX BILL.

Mr. KELLEY. In order to make the second clause of the section conform to the amendment which has been adopted, I move to strike out the words "one hundred days" in line nine, and insert "six months."

The amendment was agreed to.

Mr. INGERSOLL. I move to add to the section, as amended, the following:

*Provided*, That it shall be sold at public sale and to the highest bidder for cash, and all overplus arising from such sale shall be paid to the owner.

Mr. SCHENCK. I move to amend the amendment by adding the words:

But no such sale of distilled spirits shall be made for less than the taxes.

Mr. INGERSOLL. I agree to that. I accept it as a modification of my amendment.

The CHAIRMAN. The amendment, as modified, will be regarded as agreed to if there be no objection. The Chair hears none; and the Clerk will read the next section.

The Clerk read as follows:

SEC. 63. *And be it further enacted*, That any person owning, or having in his possession, any distilled spirits intended for sale, exceeding in quantity fifty gallons, and not in a bonded warehouse at the time when this act takes effect, shall immediately make a return, under oath, to the collector of the district wherein such spirits may be held, stating the number and kind of packages, together with the marks and brands thereon and the place where the same are stored, together with the quantity of spirits, as nearly as the owner can determine the same. Upon the receipt of such return the collector, being first satisfied that the tax on said spirits has been paid, shall immediately cause the same to be gauged and proved by an internal revenue gauger, who shall mark, by cutting, the contents and proof on each cask or package containing five wine gallons or more, and shall affix and cancel an engraved stamp thereon, which stamp shall be as follows:

[Stamp for stock on hand. No. —.]

Issued by ———, Collector

of ——— district, State of ———.  
Distilled spirits. Tax paid prior to (here engrave the date when this act takes effect.) ——— proof gallons. Gauged ———, 18—.

—, Gauger.  
All distilled spirits owned or held by any person, as aforesaid, shall be included in the same return, and the gauging shall be continuous until all the spirits owned or held by such person are gauged and stamped, as aforesaid, and a report thereof in duplicate shall immediately be made by the gauger to the collector and assessor of the district, showing the number of packages, contents, and proof of each package gauged and stamped; and one of said reports shall be transmitted by the collector to the Commissioner of Internal Revenue. No such spirits shall be gauged or stamped in any cistern or other stationary vessel. Any person owning, or having in possession, such spirits and refusing or neglecting to make such return shall forfeit the same; and all distilled spirits found, after thirty days from the time this act takes effect, in any cask or package containing more than five gallons, without having thereon each mark and stamp required therefor by this act, shall be forfeited to the United States. Any person who shall gauge, mark, or stamp any cask or package of distilled spirits under the provisions of this section, or who shall cause or procure the same to be done, knowing that the same were manufactured or removed from warehouse subsequent to the taking effect of this act, or that the taxes thereon have not been paid, shall, on conviction, be fined not less than \$500 nor more than \$5,000, and imprisoned not less than six months nor more than three years. All stamps required by this section shall be prepared, issued, and affixed upon casks and packages and canceled in the same manner as provided for other stamps for distilled spirits in this act, and shall be charged at the rate of twenty-five cents for each stamp.

Mr. SCHENCK. I rise to a question of order. The Chair did not know that we were objecting to the amendment of the gentleman from Illinois [Mr. INGERSOLL] to the last section.

The CHAIRMAN. The Chair understood the chairman of the Committee of Ways and Means to assent to the amendment with the modification.

Mr. SCHENCK. Not at all. I wanted to make the amendment not quite so bad as it was, but I tried to get a vote on it.

Mr. INGERSOLL. I make the point of order that we have passed that section.

The CHAIRMAN. It has been the uniform habit of this Chair—of the Speaker, carried into the Committee of the Whole—that where a misunderstanding has occurred—and the chairman of the Committee of Ways and Means states that that is the case now—the Chair will go back and take the vote over again. That is the uniform practice of the House and of the Committee of the Whole, and therefore, the Chair not having heard the call for a division, now takes cognizance of it, and will order a division.

Mr. SCHENCK. Then I hope the amendment will be voted down.

Mr. RAUM. I wish to offer an amendment to the amendment, to come in immediately before it.

The CHAIRMAN. The Chair cannot entertain an amendment to the amendment. He goes back only on this point to correct a misunderstanding.

Mr. INGERSOLL. I suppose as we have gone back and as there was no debate on this proposition, that debate is now in order?

The CHAIRMAN. It is not; the Chair goes back merely for the purpose of a division.

Mr. INGERSOLL. I ask leave to modify my amendment so as to read, "the overplus beyond the taxes and costs."

Mr. MULLINS. I object.

The question was then taken upon the amendment; and it was not agreed to, there being upon a division—ayes 14, noes 92.

Mr. RAUM. I ask consent to offer another amendment to section sixty-two.

Mr. ALLISON. I object.

The Committee of the Whole then resumed the consideration of section sixty-three.

Mr. BOUTWELL. I wish to call the attention of the Committee of Ways and Means to this section on this point; there seems to be no provision in it for getting a tax on spirits that may be in bottles or vessels of any sort holding less than five gallons. It seems to me that opens the way for the disposition of an immense quantity of whisky which may be on hand on which the tax has not been paid.

Mr. ALLISON. The gentleman is mistaken.

Mr. BOUTWELL. If the committee have considered the point that is enough.

Mr. ALLISON. The committee have considered it fully, and I do not think there is any necessity for any further provision.

No amendment was offered to section sixty-three.

The next section was read, as follows:

SEC. 64. *And be it further enacted*, That all distilled spirits sold by order of court, or under process of distraint, shall be sold subject to tax; and the purchaser shall immediately, and before he takes possession of said spirits, pay the tax thereon. And any distilled spirits condemned before the passage of this act, and in the possession of the United States, shall be sold as herein provided. And if any tax-paid stamps are affixed to any cask or package so condemned, such stamps shall be obliterated and destroyed by the collector or marshal after forfeiture and before such sale.

No amendment was offered.

Mr. SCHENCK. I ask that the next section, relating to special taxes on distilled spirits, be read by paragraphs for amendment.

No objection was made.

The first paragraph of section sixty-five was then read, as follows:

SEC. 65. *And be it further enacted*, That the following special taxes shall be, and are hereby, imposed, that is to say:

Distillers producing fifty barrels, or less, of distilled spirits, counting forty gallons of proof-spirits to the barrel, within the year, shall pay \$200, and if producing more than fifty barrels shall pay in addition four dollars for each such barrel produced in excess of fifty barrels. And monthly returns of the number of barrels of spirits, as before described, distilled by him, shall be made by each distiller in the same manner as monthly returns of sales are made. Every



person who produces distilled spirits, or who brews or makes mash, wort, or wash for distillation or for the production of spirits, or who by any process of vaporization separates alcoholic spirits from any fermented substance, or who, making or keeping mash, wort, or wash, has also in his possession or use a still, shall be regarded as a distiller. *Provided*, That no tax shall be imposed for any still, stills, or other apparatus used by druggists and chemists for the recovery of alcohol for pharmaceutical and chemical or scientific purposes which has been used in those processes.

Mr. SCHENCK. I move to amend the paragraph just read by inserting just before the proviso the following:

*Provided*, That a like tax of four dollars on each barrel, containing forty gallons of proof-spirits to the barrel, shall be assessed and collected from the owner of any distilled spirits which may be in any bonded warehouse at the date of the taking effect of this act, to be paid whenever the same shall be withdrawn from such warehouse under the provisions of the sixty-second section of this act.

I will explain in a few words the object of this amendment, which I have offered in pursuance of the instructions of the Committee of Ways and Means. There is a special tax provided in this paragraph upon distillers distilling fifty barrels a year or less of \$200, and four dollars per barrel on each barrel additional. This special tax amounts to ten cents a gallon, and is in addition to the direct tax of fifty cents. Then there is the capacity tax, which will be some three and one third cents per gallon, and the tax on sales, which, of course, cannot now be estimated. We supposed it would not be unfair, and so the committee have decided to add at least as much as this special tax on whisky in bond in order to make the tax uniform so far as regards the distiller and the owner of the bonded whisky. The distiller who manufactures hereafter is not to be charged the two dollars per gallon that distillers heretofore have been charged, but only fifty cents per gallon. The tax on whisky now in bond is also brought down to fifty cents per gallon. And we propose to put the same special tax of four dollars per barrel on that whisky that is proposed to be put on whisky hereafter distilled.

Mr. PAINE. I send to the Clerk's desk to be read a communication relating to this subject which I have received from the firm of Armour, Plankinton & Co., who are beef and pork merchants of the city of Milwaukee. They also have a house in Chicago and another in New York. It seems that they have on hand about five thousand barrels of whisky in bonded warehouses. Now, I have no knowledge as to the particulars which they set forth except what I derive from this letter. But I can assure this committee that these gentlemen are among the very first business men of Wisconsin. They are not distillers or dealers in whisky, but beef and pork packers. I invite the attention of gentlemen to the facts and figures they give. By their statement it would seem that the expense incurred in storing and keeping this whisky, together with the loss in wastage, amounts usually to about sixteen cents per gallon, just about the amount of the additional tax laid by this bill over and above the direct tax of fifty cents per gallon. I ask the Clerk to read the letter.

The Clerk read as follows:

OFFICE OF ARMOUR, PLANKINTON & CO.,  
129 BROAD STREET,  
NEW YORK, June 24, 1868.

DEAR SIR: We have noticed in the public journals a movement on foot to make a special tax on spirits now in bond of ten cents per gallon, and wish to call your attention to a few facts showing the injustice of such a special tax. We have held from necessity about eighteen months some five thousand barrels of whisky on commission at an expense as follows, namely:

Storage and labor eighteen months, 20@20c.....	\$3 80
Insurance, 1 bbl. average 55 gal., at 4c.....	\$22 for
eighteen months, 24 per cent. per annum.....	82
Cooperage, 60c. per bbl., interest 7 per cent on	
\$22.....	2 91
Leakage and evaporation at 4 gal. per bbl. at	
40c.....	1 60

Making a total cost per bbl. of \$9 13 or over sixteen cents per gallon. In view of these expenses incurred through lack of "Government protection" we think this special tax very unjust, and would thank you to give it attention when brought up.

Yours, with respect,  
ARMOUR, PLANKINTON & CO.  
Hon. H. E. PAINE, Washington.

40TH CONG. 2D SESS.—No. 219.

The CHAIRMAN. Debate is exhausted.

Mr. BOUTWELL. I move to amend the amendment by inserting after the word "barrel," where it occurs the second time, the words "and an additional tax of three and one third cents per gallon;" so that the proviso will read:

*Provided*, That a like tax of four dollars on each barrel containing forty gallons of proof-spirits to the barrel and an additional tax of three and one third cents per gallon shall be assessed and collected from the owner of any distilled spirits which may be in any bonded warehouse at the date of the taking effect of this act.

The CHAIRMAN. Does the gentleman from Ohio [Mr. SCHENCK] accept this as a modification of his amendment?

Mr. SCHENCK. Certainly not.

Mr. BOUTWELL. Mr. Chairman, I wish to explain to the committee what I understand to be the reason for this additional tax. I have fixed the additional tax at three and one third cents per gallon, which corresponds exactly with the amount of tax now levied in this bill upon distilled spirits according to the capacity of the distillery; that is to say the taxes altogether if this paragraph should be adopted, will amount to sixty-three and one third cents per gallon upon spirits to be hereafter distilled.

Now, there are certain spirits held in bond, some having been so held one year, some two, some three years, decreasing in quantity while thus stored, but increasing rapidly in value. The letter which has been read upon the suggestion of the gentleman from Wisconsin [Mr. PAINE] does not bear at all upon this question. In spite of the storage, the leakage, the wastage, spirits kept in bond increase in value. It will be seen that if this tax be omitted those who have spirits in bond derive an advantage from the policy of the Government in not taxing old spirits in a sum corresponding to the tax to be hereafter imposed upon new spirits. For example, spirits waste, according to the statement of that letter, at the rate of eight gallons to the barrel in eighteen months; in fact, by evaporation alone, about one gallon and a half in a year. These spirits when taken out of bond will be regauged, so that a barrel of spirits which when it went into bond contained forty gallons, having been reduced to thirty-five gallons by evaporation, will pay a duty of sixty-three and one third cents per gallon upon the thirty-five gallons only, while the men who hereafter manufacture new spirits will be obliged to pay the tax upon the new spirits at the rate of forty gallons to the barrel, thus paying tax upon five gallons more in each barrel than the man who has held his spirits two, three, or five years in a bonded warehouse, because the latter escapes the tax on the amount which has been lost by wastage, leakage, and everything of that kind; while the value of the spirits has increased not in proportion to the loss in measurement and the expenses of keeping it from year to year, but in a much greater proportion in consequence of the increasing age of the spirits. New spirits are worth at the present time, minus the tax, only thirty cents, the cost of manufacture, while old spirits which have been in bond two, three, or five years, are worth from three to seven dollars a gallon over and above the tax.

Mr. SCHENCK. Mr. Chairman, I did hope that we should derive some tax within a hundred days from the large amount of whisky now in bond; but it has been the pleasure of the House to decide that we shall not get anything from this source until next winter. But, although I think a great deal has been gained to the holders, owners, dealers, or distillers who have whisky in bond, by the extension of the time to six months, still I believe it would be a hardship to exact from them to the letter all the taxes which may be calculated under the bill now proposed. The special tax at four dollars a barrel of forty gallons amounts, as I have already stated, to just ten cents on the gallon. The tax the gentleman proposes also to add may be estimated at about three and a half cents. It will be more on some whisky

and less on other whisky. Supposing whisky on the average brings twelve quarts or three gallons to the bushel and a tax of two dollars, every twenty bushels of mash would be equivalent of course to a tax of two dollars on every sixty gallons. I agree with the gentleman in that calculation; but when the committee looked over the whole ground they recollected there is now little regular distilling. It will not recommence, except slightly, at this season. The heat of summer is most unfavorable to distilling, and as distilling is not likely to come into competition with the man who has whisky in bond until late in the fall or the winter there is not much advantage in the holder of whisky in bond over the distiller in this matter of competition. Looking over the ground the committee came to the conclusion while fifty cents was not a proper charge upon this whisky in bond, being what is the charge on whisky taken from the distillery warehouse, yet there ought not to be, in all fairness, added to that any more than ten cents, which will bring it up to whisky in bond. If this additional tax be extended to whisky in bond as an equivalent for the special taxes imposed on the distiller is to be based on any principle at all, as I think it is, that principle is, if you did not impose it, it would give the advantage to the dealer in whisky in bond, and give him the control of the market.

[Here the hammer fell.]

Mr. BOUTWELL's amendment to the amendment was rejected.

Mr. SCHENCK's amendment was agreed to.

Mr. HOLMAN. I move to strike out the clause as amended.

Mr. BOUTWELL. I wish to move an amendment to perfect the clause.

The CHAIRMAN. That is first in order.

Mr. BOUTWELL. In line seven, after the word "barrels," I move to insert as follows:

And the amount of said tax upon alcohol and rum shall be allowed as drawback when said articles are exported; this drawback to be in addition to the drawback of fifty cents per gallon in this act otherwise allowed; and the Secretary of the Treasury is hereby authorized to prescribe such rules and regulations as may be necessary to carry the provision into effect.

Mr. Chairman, it will be recollected that the previous amendment in reference to drawback, which the committee adopted, limited it to fifty cents, the amount of direct tax. This paragraph imposes an additional tax of ten cents a gallon on distillation of whisky. The amendment I have offered will allow drawback on alcohol and rum to the amount imposed by this section, to wit: ten cents per gallon in addition to that allowed by the previous section. The effect of this is to give sixty cents, while the aggregate paid is sixty-three and one third, which makes a difference against the exporter of three and one third cents. If the amendment is not adopted I think the action of the committee is equivalent to the abolition of the export trade altogether, for the export trade cannot stand a differential duty of thirteen and one third cents per gallon. I will say this is but an indirect way of enacting an inhibition of exportation. To impose a tax of sixty-three and one third cents and grant a drawback of only fifty cents is equivalent to a tax against exportation of thirteen and one third cents per gallon. I think the committee ought to deal fairly with this question. Either we should provide a drawback which allows this business to be carried on, or we should say distinctly that on grounds of public policy we will abolish exportation of this article altogether. I will say, so far as my experience of this business extends, that a drawback of fifty cents, with a tax of sixty-three and one third cents, is an abolition of the export trade of this article. Therefore I hope my amendment will be agreed to.

Mr. PRICE. This is the same proposition that we have had before us this morning once before, and which we have voted down. I do not suppose it is necessary to make much of an argument in reference to the proposition, because the question has been fully and fairly

discussed once to-day, fairly considered, and fairly defeated. If I understand the vote of the committee, it is clearly in favor of making this discrimination, so that distilled spirits exported shall receive a drawback of fifty cents a gallon, and no more. So the committee have declared by a large majority, and I am rather surprised to find the gentleman from Massachusetts bringing up this defeated proposition. If a proposition is to be argued over again every three hours in the day, it will take some time to go through this bill. The best way to get it through, in that case, would be to take the bill out of committee, call the previous question on it, and pass it. Our object is to make the bill better, not worse; and I am clearly of the opinion that the gentleman's amendment will make it worse. Therefore I shall vote against it.

Mr. BUTLER. I move to amend the amendment *pro forma* by striking out the last word. I am sorry to trouble the committee on this subject again, and I would not do so except that this is a matter of the very gravest consequence. Unless the amendment can be passed your export trade will be very much injured, ay, I may say, destroyed. There can be no such thing as the exporting of spirits with a drawback of fifty cents against a tax of sixty-three cents and a tax on the sales besides. It is not a mere question how many gallons of spirits are exported, because that would be but a bagatelle in comparison, perhaps, with the whole amount manufactured; but it is of great consequence whether the article shall be made and shipped by our merchants to foreign countries, there to meet other merchants on their own ground.

Let me state a single fact which is capable of demonstration by anybody who will look into the matter. While England puts a very heavy duty on spirits, she allows the exporter an advantage of two pence per gallon to enable him to compete with the Dutch merchants in India, while we are putting on now fifteen per cent. Our own merchants can but struggle now with the English trade. Our trade has been falling off largely, but we hope by superior energy to compete with them unless you load us down. We take our spirits in assorted cargoes to the East Indies or Africa. Now, strike out spirits and we are not able to compete because we have not what is known as an assorted cargo. It is no small matter. We bring back gold and put it into your Treasury by the customs duties paid on the goods which are brought in the return cargoes. They are considerably more in amount than the whole value of the spirits we export. It is said that if you keep the amount down you will substantially stop fraud; but let me say to you if frauds can only be perpetrated by perjury and by sending out water men will carry water at fifty cents a gallon just as quick as they will at sixty.

[Here the hammer fell.]

Mr. SHELLABARGER. Mr. Chairman, I have no views to submit in regard to the merits of the amendment of the gentleman from Massachusetts except what may grow out of the constitutional proposition to which he has appealed in its support. But I do want to say a word in regard to that question of law, the application of which, if the apparent view of the gentleman be adopted by the House, will not be confined to the proposition now before the committee, and which, if adopted by the House as a rule for our action on this bill, or any other internal revenue bill, I think would be very unfortunate and wholly inadmissible. The gentleman says if the committee refuse to allow an additional drawback, so as to make the drawback substantially equal to the internal tax, we shall thereby, and by a mere indirection, virtually levy a tax upon exports equal to the difference between the internal tax and the drawback, and shall in that way violate the constitutional prohibition which forbids the taxation of exports. It seems to me this cannot be the law, and that constitutional consideration surely ought not to affect the vote upon

his amendment. The proposition will result in this: that you could impose no internal revenue tax upon any commodity which might enter into our exports unless you also allowed a drawback just equal to the revenue tax, lest thereby you were taxing exports and violating the Constitution. Take for an illustration the article of tobacco. Suppose we allow no drawback upon it, it might be said with exactly the same propriety that because you impose a tax upon tobacco you are evading the Constitution and taxing its exportation. Now, the truth is, as it seems to me, that the allowance of drawback, instead of being a prohibition of exportation or tax upon exportation, is really a bonus offered to exportation to the amount in this case of fifty cents per gallon. We might impose a tax of sixty cents, or any other internal tax that we choose, on this article, and leave it there. Instead of doing that we propose to encourage exportation by allowing a drawback of fifty cents per gallon as an invitation to export. What the Constitution prohibits is the levying of a tax on exports as such, and because they are such. It forbids the selection of "articles" about to be exported from any State, and the taxing of them because they are exported, thus taxing them as a class as distinguished from the other productions of the State. The argument of my friend surely has no weight, for if it has it would result in prohibiting all internal tax on any article which might be exported; because the tax might so enhance its cost as to render the exportation unprofitable. In regard to the merits of the amendment, except as affected by this legal point, I did not desire to say anything.

Mr. BUTLER. I withdraw the amendment to the amendment.

Mr. BOUTWELL. I renew it, merely for the purpose of saying that I meant the committee should understand that the reasons which lie at the foundation of the constitutional rule that there shall be no export tax imposed, apply also in this case and probably in every other. As regards cigars, the Committee of Ways and Means have made provision for export without payment of tax.

I now withdraw the amendment to the amendment, and ask for a vote on my amendment.

The question was put on Mr. BOUTWELL'S amendment; and there were—ayes 51, noes 50. Mr. MAYNARD demanded tellers.

Tellers were ordered; and Messrs. PRICE and BOUTWELL were appointed.

The committee divided; and the tellers reported—ayes 39, noes 59.

So the amendment was rejected.

The CHAIRMAN. The hour of half past four o'clock p. m. having arrived, under the order of the House the committee will take a recess until half past seven o'clock p. m.

#### EVENING SESSION.

The hour of half-past seven o'clock p. m. having arrived, the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) resumed the consideration of the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

Mr. SCHENCK. I suggest that the Clerk read down to the end of the sixty-fifth section. It will then all be open to amendment instead of only the paragraph.

The CHAIRMAN. The Chair has no objection, and that course will be pursued.

The Clerk resumed and concluded the reading of the sixty-fifth section, as follows:

Rectifiers of distilled spirits rectifying, purifying, or refining two hundred barrels or less of distilled spirits, counting forty gallons of proof-spirits to the barrel, within the year, shall each pay \$200, and fifty cents for each such barrel produced in excess of two hundred barrels. And monthly returns of the quantity and proof of all the spirits purchased and of the number of barrels of spirits, as before described, rectified, purified, or refined by him, shall be made by each rectifier in the same manner as monthly returns of sales are made. Every person who rectifies, purifies, or refines distilled spirits or wines by any process, and every wholesale or retail liquor

dealer or compounder of liquors who has in his possession any still or leach-tub, or who shall keep any other apparatus for the purpose of refining in any manner distilled spirits, shall be regarded as a rectifier.

Compounders of liquors shall each pay twenty-five dollars. Every person who, without rectifying, purifying, or refining distilled spirits, shall, by mixing such spirits, wine, or other liquor, with any materials, manufacture any spurious imitation, or compound liquors, for sale under the name of whisky, brandy, gin, rum, wine, spirits, cordials, or wine biters, or any other name, shall be regarded as a compounder of liquors.

Retail liquor dealers whose annual sales do not exceed \$2,500 shall each pay twenty-five dollars; if exceeding \$2,500 and not exceeding \$5,000 shall each pay fifty dollars; if exceeding \$5,000 and not exceeding \$10,000 shall each pay \$100; if exceeding \$10,000 and not exceeding \$20,000 shall each pay \$200; and if exceeding \$20,000 shall each pay \$100. Every person who sells or offers for sale distilled spirits, wines, or malt liquors, in less quantities than one quart at a time, or in any quantity to be drunk at the place or on the premises where they are sold, shall be regarded as a retail liquor dealer. And any peddler who sells or offers for sale distilled spirits, fermented liquors, or wines shall pay \$1,000, in addition to his special tax as a peddler, the special tax of a wholesale or retail liquor dealer according to the amount of his sales.

Wholesale liquor dealers shall each pay \$100, and, in addition, shall pay thirty dollars for every \$1,000 of sales in excess of \$2,000. Every person who sells or offers for sale distilled spirits, wines, or malt liquors in quantity of not less than one quart at one time, and not to be drunk at the place or on the premises where the sale is made, shall be regarded as a wholesale liquor dealer. But no distiller or brewer who has paid his special tax as such, and who sells only distilled spirits or malt liquors of his own production in the original casks or packages in which they are placed for the purpose of affixing the tax stamps, shall be required to pay the special tax of a wholesale dealer.

Manufacturers of stills shall each pay fifty dollars, and twenty dollars for each still or worm for distilling made by him. Any person who manufactures any still or worm to be used in distilling shall be deemed a manufacturer of stills.

Dealers in leaf tobacco whose annual sales do not exceed \$10,000 shall each pay twenty-five dollars; and if their annual sales exceed \$10,000 shall pay in addition two dollars for every \$1,000 in excess of \$10,000. Every person shall be regarded as a dealer in leaf tobacco whose business it is, for himself or on commission, to sell or offer for sale leaf tobacco. And payment of a special tax as wholesale dealer, tobaccoist, manufacturer of cigars, or manufacturer of tobacco, shall not exempt any person dealing in leaf tobacco from the payment of the special tax therefor hereby required. But no farmer or planter shall be required to pay a special tax as a dealer in leaf tobacco for selling tobacco of his own production, or tobacco received by him as rent from tenants who have produced the same on his land.

Dealers in tobacco whose annual sales do not exceed \$1,000 shall each pay five dollars, and when their annual sales exceed \$1,000 shall pay in addition two dollars for each \$1,000 in excess of \$1,000. Every person whose business it is to sell or offer for sale manufactured tobacco, snuff, or cigars, shall be regarded as a dealer in tobacco. And any retail dealer or keeper of a hotel, inn, tavern, or eating-house, who sells tobacco, snuff, or cigars, shall pay in addition to his special tax the special tax as a dealer in tobacco.

Manufacturers of tobacco shall pay ten dollars, and in addition thereto, where the amount of the penal sum of the bond of such manufacturer required by this act to be given shall exceed the sum of \$5,000, two dollars in for each \$1,000 excess of \$5,000 of such penal sum. Every person whose business it is to manufacture tobacco or snuff for himself, or who shall employ others to manufacture tobacco or snuff, whether such manufacture shall be by cutting, pressing, grinding, crushing, or rubbing of any leaf or raw tobacco, or otherwise preparing raw or leaf tobacco or manufactured or partially manufactured tobacco or snuff, or the putting up for use or consumption of scraps, waste, clippings, stems, or deposits of tobacco, resulting from any process of handling tobacco, shall be regarded as a manufacturer of tobacco. But no manufacturer of tobacco shall be required to pay the special tax as a dealer in tobacco for selling the products of his own manufacture.

Manufacturers of cigars, whose annual sales shall not exceed \$5,000 shall each pay ten dollars; and when their annual sales exceed \$5,000 shall pay, in addition, two dollars for each \$1,000 in excess of \$5,000. Every person whose business it is to make or manufacture cigars for himself, or who shall employ others to make or manufacture cigars, shall be regarded as a manufacturer of cigars. No special tax receipt shall be issued to any manufacturer of cigars until he shall have given the bond required by law. Every person whose business it is to make cigars for others, either for pay, upon commission, on shares, or otherwise, from material furnished by others, shall be regarded as a cigar-maker. Every cigar-maker shall cause his name and residence to be registered, without previous demand, with the assistant assessor of the division in which such cigar-maker shall be employed; and any manufacturer of cigars employing any cigar-maker who shall have neglected or refused to make such registry shall, on conviction, be fined five dollars for each day that such cigar-maker so offending by neglect or refusal to register shall be employed by him.

Mr. KOONTZ. I move to amend the first

paragraph by striking out the word "fifty," in line three, and inserting "twenty-five;" by striking out the word "two," in line five, and inserting "one;" by striking out the word "fifty," in line six, and inserting "twenty-five;" and by striking out "fifty," in line seven, and inserting "twenty-five;" so that the paragraph will read:

Distillers producing twenty-five barrels or less of distilled spirits, counting forty gallons of proof-spirits to the barrel, within the year, shall each pay \$100, and if producing more than twenty-five barrels shall pay in addition four dollars for each such barrel produced in excess of twenty-five barrels.

Mr. Chairman, I will say, first, that the amendment which I propose will make no difference whatever to the Government in the amount of revenue that will be produced. It will be observed that \$200 on fifty barrels makes exactly four dollars per barrel. Now, to make each distiller who distills twenty-five barrels pay \$100, and then pay four dollars in excess of twenty-five barrels, will, when it reaches fifty barrels, realize for the Government the amount fixed by the provisions of this section. It will yield precisely the same revenue, and it will give a better chance to the small distillers than they would have under the section as it now stands. Now, under the unjust and oppressive legislation of the last two years, many of the small distilleries have been compelled to stop. The consequence is that it has worked very serious injury to a number of men who have invested their capital in small distilleries. It has driven the business from the country to the cities, where fraud can be practiced with more security. It has caused men who were engaged in an honest business to stop. I make this motion for the protection of the small distillers, and at the same time it must be manifest to every gentleman that it will produce just as much revenue as the section now stands.

Mr. SCHENCK. I hope that amendment will not be made. It was originally proposed that distillers should be assessed a much larger tax, of \$1,000 upon two hundred barrels and less. But after consultation and consideration, in order to accommodate the demand and expectation of those representing the smaller distillers, we came down to fifty barrels. I really think we have got about low enough. I know there are small distilleries in the country; and I know it is the policy in every other country than ours, as far as practicable, to confine the business of distilleries to a few persons. I believe they have gone so far in England as to bring it down to eight persons. We do not expect anything of the kind in this country. I believe my friend from Pennsylvania [Mr. KOONTZ] has about twenty-six distillers, more or less, in his district.

Mr. KOONTZ. Thirty-odd.

Mr. SCHENCK. Thirty-odd in his own district. Surely there ought not to be any attempt on the part of the Legislature of the country to encourage and increase the number of these small distillers. We have by this standard put it down to a point so low that a fifty-barrel distillery, or less than one quarter of a barrel per day, is provided for. I doubt very much whether we ought to put it any lower than that. I hope the amendment will not prevail.

The question was taken on the amendment of Mr. KOONTZ, and it was not agreed to; there being upon a division—ayes eight, noes not counted.

Mr. STEWART. I move to strike out the paragraph relating to retail liquor dealers.

The paragraph was as follows:

Retail liquor dealers whose annual sales do not exceed \$2,500 shall each pay twenty-five dollars; if exceeding \$2,500 and not exceeding \$5,000 shall each pay fifty dollars; if exceeding \$5,000 and not exceeding \$10,000 shall each pay \$100; if exceeding \$10,000 and not exceeding \$20,000 shall each pay \$200; and if exceeding \$20,000 shall each pay \$1,000. Every person who sells or offers for sale distilled spirits, wines, or malt liquors, in less quantities than one quart at a time, or in any quantity, to be drank at the place or on the premises where they are sold, shall be regarded as a retail liquor dealer. And any peddler who sells or offers for sale distilled spirits, fermented liquors, or wines, shall pay in addition to his special tax as a peddler the special tax of a wholesale or retail liquor dealer, according to the amount of his sales.

Mr. STEWART. The reason I have for moving to strike out this paragraph is simply this: dealers of liquors who sell to the amount of \$25,000 a year now pay a tax of twenty-five dollars; dealers who sell more than \$25,000 a year are regarded as wholesale dealers, and charged a different tax. Now, it strikes me that this class of business ought not to be wiped out of existence by special legislation. Yet if this tax is adopted by this House it will reduce the number of retail dealers one-half. They now have to pay not only this twenty-five dollar tax, but they have to pay a tax on their rentals, amounting in the aggregate to a very large sum. Now, I thought, and I think it was so understood by the House, that this bill was to refer specially to distilled spirits. It is well known that retail dealers in liquors do not deal and retail out whisky coming from the still, but they do deal in whisky worth from five to ten dollars a gallon—that is, the most of them do; ninety-nine out of every hundred. In any event, it strikes me that the committee will see at once that if my motion to strike out is not agreed to this paragraph should be amended so as not to be as burdensome as it will be in its present form. I think it should be stricken out and the law allowed to stand in this respect as it now is. There is nothing to be gained by this provision this year even if it should be adopted. The retail dealers have already taken out their licenses, which run from the 1st of May this year to the 1st of May next year.

Mr. SCHENCK. Under the existing law retail liquor dealers and wholesale liquor dealers are divided by a line indicated by the amount of sales. That is, every man selling less than \$25,000 a year is styled a retail liquor dealer; every man selling more than \$25,000 a year is styled a wholesale liquor dealer. The committee, for reasons which I think will be obvious to every one, have abandoned that arbitrary division between wholesale and retail liquor dealers. We now define a retail liquor dealer to be any man who sells in quantities less than a quart, or who sells liquor to be drank on the premises, following the much more sensible definition found in the statutes of most of the States. And we have defined a wholesale liquor dealer to be any one who sells in quantities above a quart, as, for instance, by the bottle or case of bottles, or by the gallon or barrel or otherwise, and who does not sell liquor to be drank at the place where sold. This, I say, is the distinction adopted in the statutes of most of the States, and it is founded in reason. The man who sells by the case, by the demijohn, by the barrel, not to be drank at the place where sold, sells upon a different principle and with a different degree of profit upon his sales from the man who sells by the drink. The man who sells liquor in larger quantities, not to be drank where it is sold, is treated as a wholesale dealer, whatever may be the amount of his sales, and is charged upon those sales three per cent. The man who sells by the drink makes a very much larger profit. While the man who sells by the gallon, demijohn, or barrel makes a profit of ten, fifteen, or twenty per cent. upon his stock, the retailer who sells by the drink makes from one hundred to four hundred per cent.

Mr. STEWART. But all these retail dealers are taxed by the local authorities, and taxed very heavily.

Mr. SCHENCK. I know they are; and we propose also to tax them. Yet, notwithstanding all that, the retail liquor dealer will pay under this bill one per cent., or between one and two per cent., while the wholesale liquor dealer will pay three per cent. We have fixed what is considered to be a high rate of tax, but I think not too high.

Mr. CARY. Are druggists who sell liquors as medicines embraced in this bill?

Mr. SCHENCK. This has nothing to do with them.

Mr. CARY. They often sell by the pint.

Mr. SCHENCK. There is a provision for that.

Mr. CARY. That is what I wanted to know.

Mr. MAYNARD. I move to amend the pending paragraph by striking out the first sentence, as follows:

Retail liquor dealers whose annual sales do not exceed \$2,500 shall each pay twenty-five dollars; if exceeding \$2,500 and not exceeding \$5,000, shall each pay fifty dollars; if exceeding \$5,000 and not exceeding \$10,000, shall each pay \$100; if exceeding \$10,000 and not exceeding \$20,000, shall each pay \$200; and if exceeding \$20,000, shall each pay \$1,000.

And inserting in lieu thereof the following:

Retail liquor dealers whose annual sales do not exceed \$500, shall each pay twenty dollars; if exceeding \$500 and not exceeding \$1,250, shall each pay fifty dollars; if exceeding \$1,250 and not exceeding \$2,500, shall each pay \$100; if exceeding \$2,500 and not exceeding \$5,000, shall each pay \$200, and forty dollars for each additional \$1,000 on all sales in excess of \$5,000.

Mr. Chairman, I ask the attention of the committee to this amendment, which I offer in good faith, and which I hope will commend itself to the judgment of the House. The bill as reported by the Committee of Ways and Means taxes retail dealers; and retail dealers, as the House will have observed from the remarks of the chairman of the committee, are those who sell liquor by the small to be drank at the place where sold. They are taxed by the bill one per cent. upon the amount of their sales. Wholesale dealers, it will be seen, are taxed two and a half per cent.; considerably more. I presume that every member of the House is aware that no traffic is so profitable; certainly no traffic in spirits is so profitable as the retail liquor traffic. No other class of persons are so ready and willing to pay a tax. Whatever other evils attach to the business, certainly it is not a kind of traffic that makes the dealer penurious or close-fisted. Every gentleman who was connected with the Army during the war will bear witness that the license to traffic in spirits was one for which men would give almost any price; and the profit made from that traffic was very great. I see no justice in taxing the wholesale dealer two or three times as much as we tax the retail dealer. It is reversing the true policy. The retail dealer can afford to pay a larger percentage. His profits are immensely larger than those of the wholesale dealer, and I think we ought to take this into consideration in our policy of taxation.

The gentleman from New York says this is a thing that can bear taxation. There are things which in the language of legislation will bear taxation. The policy of the law is to collect the tax, not in one body at the tail of the worm, as under the present law, two dollars a gallon and no more, but to carry the tax along and to collect a little from the man who makes the still, a special tax on the distiller, a special tax on the number of bushels of grain which represent the capacity of the still, and then a tax of fifty cents at the tail of the worm, besides a tax upon the retail dealers and the wholesale dealers. As was properly stated by the chairman of the committee the aggregate of the tax on whisky as it comes to the consumer would be a little under a dollar a gallon. Now, sir, it seems to me the tax we have reported in the bill, of one per cent. on retailing spirits, is entirely incommensurate with the other taxes in the bill. I hope, therefore, my amendment will be adopted. The amendment, as I have offered it, commences with a small tax on those who deal to the extent of \$500 a year. This will embrace those who expect to carry on the business for a short time, such as at places of amusement, or at watering places, where the traffic will be carried on only for a few months. For that class of persons I thought it proper to commence at \$500. I graduate it up to the large hotels in the cities and towns, where the traffic amounts to thousands in the course of a year. I hope the gentleman will accept my amendment.

Mr. ELDRIDGE. What will the amendment add to the aggregate tax on whisky per gallon?

Mr. MAYNARD. The gentleman can make the calculation. It is a mere matter of arithmetic which his mind can work out for him.

Mr. ELDRIDGE. I did not think the gen-



tleman would offer an amendment without making the calculation.

Mr. MAYNARD. It is three per cent. on the amount of sales.

Mr. ALLISON. Mr. Chairman, I desire to say, in reply to the gentleman from Tennessee, that this was considered over and over again in the committee, and I believe every member of the committee, except my friend from Tennessee, came to the conclusion that the amount in the paragraph is all we can procure from this class of persons. I hope, therefore, the amendment will be voted down.

Mr. MAYNARD. I must be permitted to say, as "the secrets of our prison house" have been exposed, that my recollection is different.

Mr. PRICE. Let me ask my colleague a question. The estimate of the tax under this bill is one dollar a gallon upon whisky. This proposes a tax of one per cent. One per cent. of a dollar is one cent. Now, I ask whether they cannot bear a tax of four per cent?

[Here the hammer fell.]

The amendment was rejected.

Mr. CARY. In the fifty-fifth line, after the words "malt liquors," I move to insert "except druggists and apothecaries;" so it will read:

Every person who sells or offers for sale distilled spirits, wines, or malt liquors, except druggists and apothecaries, in less quantities than one quart at a time, or in any quantity to be drank at the place or on the premises where they are sold, shall be regarded as a retail liquor dealer.

Mr. Chairman, this amendment is so manifestly proper that I will not consume the time of the committee in debating it.

Mr. SCHENCK. By the general law, which is not interfered with, this has already been provided for. If the gentleman will look at it, he will find it provides that no apothecary shall be required to pay, in addition, the special tax as a retail dealer in liquor in consequence of selling alcohol, or selling or dispensing, on the prescription of a physician wines and spirits official in the United States or other national pharmacopœias, in quantities not exceeding half a pint at any one time, and not exceeding in the aggregate cost value thereof the sum of \$300 in any one year. There is the provision saving their right to sell for medicinal purposes. It remains in the general law.

Mr. CARY. I suppose it does remain in the general law. This is a new law, and they are not excepted, and I want them to be excepted.

Mr. SCHENCK. This act does not interfere in the slightest degree with the general law in regard to special taxes.

Mr. ELDRIDGE. I rise to oppose the amendment. I understand the proposition of the gentleman from Ohio to be to authorize apothecaries and druggists to sell spirits in cases where other retail dealers may not, without the same obligations and duties, or the same taxation. Now, I know there are a great many people who have an immense amount of confidence in these apothecaries and druggists. But I tell you those are the places where all these hypocrites, all these men who desire to be considered on the sick list, go to drink under cover. They go and take their drams at these apothecary shops. They are men who never want to pay much. They are never willing to go to a place where liquor is sold in the regular way; but they sneak into the apothecary shops or drug stores, and there get a treat out of a friend without paying a cent.

Now, if there is any class that ought to pay the tax on what they sell it is these apothecaries who allow their friends to sponge their drinks out of them. I am decidedly in favor of taxing them to the highest degree. And I am confirmed in this opinion by my friend from Missouri, [Mr. ANDERSON,] who holds his seat here for a short time with us. And this, perhaps, is the last counsel he will give us. [Laughter.]

Mr. WILSON, of Iowa. What amendment is the gentleman opposing?

Mr. ELDRIDGE. I am opposing the amend-

ment of the gentleman from Ohio, [Mr. CARY.] I knew my friend would rise on this occasion, for I suppose I have included him in the remarks I have made. [Laughter.] I am opposed to all this kind of discrimination. Let everybody who sells liquor pay according to the quantity he sells, whether he sells as apothecary to those men who will not drink at any other place, or whether he sells to that honest class of people who drink whenever they are dry at the first place they come to.

The amendment of Mr. CARY was rejected.

Mr. INGERSOLL. I move to strike out all after the word "dollars," in line fifty-eight, to the end of the paragraph. I believe, Mr. Chairman, that the Government can be robbed of hundreds of thousands, and perhaps millions, by these perambulating distributors of distilled spirits roving under a special tax. Now, if this provision is stricken out it will result in a large saving to the revenue. Invite the attention of the Committee of Ways and Means to what extent the revenues can be defrauded under this provision. I shall leave it to the committee to propose a provision in the place of this one that shall more certainly protect the revenue. If you wish to collect the tax on distilled spirits you must confine the sale of it to known and permanent places of business.

Mr. SCHENCK. Mr. Chairman, the committee might have provided, and did once draft, a bill providing that no peddler should sell.

Mr. INGERSOLL. That is just what ought to be now, if not by direct prohibition, it ought and could be done by imposing so heavy a tax upon such persons that it would amount to a prohibition. However, I only made the motion in order to call the attention of the committee to the subject and then leave it with them.

Mr. SCHENCK. But there is a little difficulty in the way. The Supreme Court of the United States has decided that you cannot prohibit a man from doing a business in anything. But you can put a tax upon it. Therefore we fell back upon that decision, and provided if they do sell that they shall be charged like other wholesale and retail dealers, and that charge is, as has been indicated in reference to retail dealers, higher, and for wholesale dealers three per cent. on everything they sell.

Mr. INGERSOLL. I offered the amendment to hear what the chairman of the committee could offer. A very high tax will probably accomplish the object. I now withdraw the amendment.

The question was taken on Mr. STEWART'S motion, to strike out the whole paragraph in relation to retail dealers, and it was disagreed to.

Mr. STEWART. I move to insert after the word "sales," in line forty-five, the words "of distilled spirits manufactured in the United States;" so that it will read:

Retail liquor dealers whose annual sales of distilled spirits manufactured in the United States do not exceed, &c.

It has been stated in this debate that this tax is intended to affect whisky distilled in this country. The chairman of the Committee of Ways and Means stated in his opening speech that that was the object of all these taxes. Now, the object being to increase the tax on distilled spirits manufactured here, why do you make these dealers pay on spirits which are imported into this country?

Mr. ALLISON. We cannot distinguish.

Mr. STEWART. Why do you make your provision so narrow as it is? It will be the means of wiping out of existence hundreds of thousands of small taverns throughout the country. I do not suppose it is the intention of the House to pass a prohibitory law. We are not here to legislate for temperance or for intemperance, but for the purpose of raising revenue.

Mr. MAYNARD. Does the gentleman think we ought to discriminate in favor of foreign producers and against our own producers?

Mr. STEWART. The foreign production

pays a tax by way of impost, yielding a very large revenue to the country. Brandy is now selling at ten and twenty dollars a gallon that used to sell at two, three, and four dollars a gallon. The object of my amendment is to carry out the intention avowed by the chairman of the Committee of Ways and Means, to fix a tax upon distilled spirits manufactured here, and he referred to this very paragraph, as well as to the tax on wholesale dealers, as being for that purpose. I say you are inconsistent unless you adopt my amendment.

Mr. SCHENCK. I do not see the inconsistency that the gentleman speaks of. I did say that if you put one per cent. on sales or three per cent. on sales of wholesale dealers of liquor it would be that much added to the tax on domestic spirits, but I did not say that the same amount put on the sales of foreign spirits might not also be in the same proportion a tax on them.

Mr. STEWART. Allow me to ask what proportion of distilled spirits is sold by retail dealers?

Mr. SCHENCK. We cannot tell.

Mr. STEWART. It is very small, indeed.

Mr. SCHENCK. Oh, no. Whatever it is there is a percentage upon it, and so of wholesale dealers. Whatever they sell there is a percentage upon it, and you can calculate the percentage whether on the foreign or domestic, for it is the same on both. Now, the law has never made a distinction in taxing dealers, trades, businesses, between dealing in that which is foreign and dealing in that which is domestic. For instance, in the present law a wholesale dealer is defined in this way:

Every person shall be regarded as a wholesale dealer whose business it is for himself or on commission to sell or offer to sell any goods, wares, or merchandise of foreign or domestic production, &c.

Here we charge it upon dealers in spirits and we do not make any distinction between foreign and domestic spirits, and if we should it would be a premium of so much in favor of the foreign. It is true that foreign liquors pay a duty. So do all foreign goods; and yet we charge a dealer in foreign goods the same as dealers in domestic goods. And another difficulty would be that if you put your tax upon your wholesale or retail dealer on the domestic production alone, and thus give a large premium to the foreign production, you would find that every one would be drinking foreign liquors.

Mr. STEWART. They have to pay a twenty-five dollar license tax besides.

The amendment of Mr. STEWART was not agreed to.

Mr. STEWART. I now move to amend this paragraph so that it will read as follows:

Retail liquor dealers whose annual sales do not exceed \$7,500 shall each pay twenty-five dollars; if exceeding \$7,500 and not exceeding \$10,000 shall each pay fifty dollars; if exceeding \$10,000 and not exceeding \$15,000 shall each pay \$100; if exceeding \$15,000 and not exceeding \$25,000 shall each pay \$200; and in addition shall pay twenty-five dollars per \$1,000 of sales in excess of \$25,000, &c.

I offer this amendment because I represent New York city in part. Probably the committee are not aware that so far as our local tax upon this kind of business is concerned it amounts to \$250. That is the local tax for the city and county of New York, Kings county, and Richmond county. Now, if you impose this additional tax upon retail liquor dealers in the city of New York, the result will be, as I said before, to drive one half of them out of business. I do not stand here as the special advocate of these retail liquor dealers. I am neither a strict temperance man, nor am I a man in favor of the use of spirits as a beverage. But I think it is our duty here to pass a law under which they can live. I do not suppose it is the duty of this House, no matter how much members may be in favor of temperance, to pass a prohibitory liquor law. If the amendment I have proposed be adopted, you will be doing justly and fairly by this class of persons. I do not know a State in this Union where there is not a local tax on taverns.

Mr. PRICE. I desire to correct the gentle-

man; there is one State where there is no such local tax.

Mr. STEWART. What State?

Mr. PRICE. The State of Iowa.

Mr. STEWART. Well, there ought to be such a law there. A retail liquor dealer, under this provision, will have to pay a tax of twenty-five dollars if his annual sales are \$2,500 or less; fifty dollars if they are more than \$2,500 and less than \$5,000; \$100 if they are more than \$5,000 and less than \$10,000; \$200 if more than \$10,000 and less than \$20,000; and \$1,000 if more than \$20,000. If a man sells \$20,100 a year you impose a tax upon him of \$1,000. Now, that is unjust and unfair. Under the present law the license tax of twenty-five dollars a year has realized a very large sum. If you adopt this provision you will not realize one half the amount that you now realize, because you will drive these men out of business. I do not stand here to uphold this business; that is not my object. But I am here to legislate for the purpose of securing as much revenue for the Government as possible.

Mr. SCHENCK. Do you get your \$250 tax in New York?

Mr. STEWART. A great many of them have been driven out of the business. The same license tax is imposed upon the large hotels, such as the Metropolitan, the St. Nicholas, and the like, that is imposed upon the corner groceries.

Mr. SCHENCK. We discriminate.

Mr. STEWART. Yes; but you do not discriminate far enough. I hope my amendment will be adopted.

Mr. SCHENCK. The argument of the gentleman from New York [Mr. STEWART] is, that because his State has been very hard on these retail liquor dealers therefore we should be very easy on them. I do not agree to that.

The question was then taken upon the amendment of Mr. STEWART, and it was not agreed to; there being, upon a division—ayes six, noes not counted.

Mr. GETZ. I move to insert after the paragraph relating to wholesale liquor dealers the following:

And any brewer who has paid his special tax as such, being the owner and occupant of the premises on which the vaults for the storage of lager beer of his own manufacture are constructed, may erect thereon and brew lager beer for his own wholesale sales without being required to pay an additional special tax upon the same.

Mr. SCHENCK. I rise to a question of order. I submit that this amendment is not in order. It proposes to regulate the rights and privileges of brewers, a matter which is already provided for in the general law, and which is not connected with the pending provision. The brewer is only mentioned here in order to show that the special tax upon the liquor dealer is not intended to extend to him. We do not propose by this bill to regulate brewers.

The CHAIRMAN. The Chair sustains the point of order.

Mr. GETZ. I wish to say, in answer to the point of order raised by the gentleman from Ohio—

The CHAIRMAN. The Chair sustains the point of order, and points of order are not debatable. The Chair rules out the amendment.

Mr. GETZ. I wish to give the Chair my reasons for supposing this amendment to be in order. This section relates to brewers as well as to distillers. It relates to the special tax upon brewers as well as the special tax upon distillers.

The CHAIRMAN. If the gentleman will read the title of the bill he will see that the subjects which it embraces are extremely limited, and intentionally so.

Mr. GETZ. I am aware of that; but this section relates to brewers as well as distillers.

The CHAIRMAN. The Chair rules the amendment out of order.

Mr. INGERSOLL. I move to amend by

adding after the word "dollars," in line sixty-five, the following:

*Provided*, That all sales of distilled spirits in bond for export shall not be included in the account of sales upon which the special tax shall be assessed.

So that the first clause of the paragraph will read as follows:

Wholesale liquor dealers shall each pay \$100, and in addition, shall pay thirty dollars for every \$1,000 of sales in excess of \$2,000: *Provided*, That all sales of distilled spirits in bond for export shall not be included in the account of sales upon which the special tax shall be assessed.

Mr. Chairman, the wholesale liquor dealer may act at the same time as the commission merchant of the distiller. An alcohol distiller may be also a distiller of high wines, carrying on two distilleries and manufacturing both articles, with the ultimate view of exportation. The facilities for sale may be enjoyed to a greater degree by the wholesale dealer, who perhaps has his agents in foreign countries, and into whose hands the manufacturer of alcohol puts his alcohol for the purpose of negotiating foreign sales. Now, by my amendment I propose to provide that such sales shall not be taxed. By this bill it is proposed to tax them thirty dollars on every \$1,000, no matter though the alcohol may be sold for export. That is a burden upon the export trade which it is not able to bear. It is not worth while, perhaps, to discuss this question at any great length, for there seems to be a determination here that no export trade shall be carried on from the United States.

The amendment was not agreed to.

Mr. ROBINSON. I desire to move an amendment somewhat similar to that which was proposed by my colleague, [Mr. STEWART.] I move to amend, so that in the paragraph commencing at line forty-five the amount of sales of liquor dealers upon which tax is imposed shall be doubled, so as to make the amount of tax upon sales one half that proposed in the paragraph. I was sorry that the amendment of my colleague was voted down with so much unanimity. The provisions of this bill, as he has remarked, amount almost to prohibition, and will result not in increasing our revenue from this service, but in reducing it. It seems to me from the manner in which taxes are piled upon the liquor traffic that it is to a certain extent an Ishmael, against whom every man's hand is raised, though I do not know whether it is considered as raising its hand against every man. It seems to me that we might almost as well adopt a provision that no man shall be concerned in the sale of liquor. I do not desire to occupy time, but I beg the House to lighten to some extent the burdens upon this trade. The object of the committee seems to be to tax it in every way. In addition to all other taxes the men engaged in this business have to pay their regular tax on their incomes. We have piled tax upon tax, precedent upon precedent, line upon line, and buried it under tax so deep it can never survive.

The amendment was rejected.

Mr. STEWART. I move to strike out the following:

And any retail dealer or keeper of a hotel, inn, tavern, or eating-house, who sells tobacco, snuff, or cigars, shall pay, in addition to this special tax, the special tax as dealer in tobacco.

Mr. Chairman, the law now is that retail dealers, keepers of hotels, inns, and taverns selling tobacco, cigars, and snuff are exempted. When the first bill was reported I made the same motion I now make, to strike out these words. That amendment was reserved for a vote in the House. It fell, of course, with the bill. In this new bill they have added retail dealers. This will apply to every confectioner, every apothecary, every small store throughout the country where they may sell cigars, snuff, or tobacco. There is not one of them which will not have to pay this tax, although they may not sell more than twenty-five or thirty dollars' worth of cigars and tobacco. I think it is unjust and unfair to impose burdens upon this class of business. I

presume, Mr. Chairman, it was overlooked by the committee, and I now call their attention to it. It applies to every little retail dealer throughout the country, places where they do not sell liquor, but where they keep cigars, tobacco, and snuff for the convenience of their customers. I hope the amendment will be agreed to.

The committee divided; and there were—ayes 12, noes 88.

So the amendment was rejected.

Mr. WOODWARD. I move to add the following proviso:

*Provided*, That when the manufacturers of, or dealers in tobacco, snuff, or cigars shall have paid the taxes imposed by this act, they shall have the right to sell the same in parcels, by sample or otherwise, in all the States of the Union subject only to the payment of such State taxes or licenses as are imposed by the laws of the respective States upon their own citizens who are engaged in the same trade or business.

Mr. Chairman, if my amendment is understood by the ruling power in this House there will be no objection to it. The effect of that amendment will be to give the dealers in tobacco, snuff, and cigars in one State a right to sell them in another State subject to no other tax than that which the dealers in that State are subject to. The equity and justice of that provision will occur to every fair mind. I may say, for the information of gentlemen, if they do not know it now, in many States there is a sort of "fencing out" legislation practiced. Dealers from other States are forbidden to come there and sell their wares by the small. We have such laws in Pennsylvania. Dealers of one part of Pennsylvania are forbidden to come in other parts. Dealers from other States are excluded. This article of cigars and tobacco is easily transported; and, in point of fact, is often sold in another State from that in which it has been raised or manufactured. We produce some in our own State, and we want to go into other States to sell it subject to no other taxes than those which dealers in the other States may be subjected to. We wish to be able to go to any State in the Union and there have the same rights in disposing of this article as the citizens of that State. That is the object and purpose of the amendment.

Mr. MULLINS. I shall be glad to understand the proposition of the gentleman from Pennsylvania in the way he represents it. It astonishes me, Mr. Chairman, that an argument of such a character should come from the quarter it does; for, sir, the Constitution lays down the doctrine that there shall be no restriction upon the trade between the States. That is the right guaranteed in the Constitution. Tobacco may go into any State without paying the tax, except as provided in the general law. I do not see why it should not be taxed just as any other tobacco or snuff or cigars, or in whatever shape they may manufacture it. That course of trade is laid down by laws a little higher than the one that it is proposed now to pass, and being a little higher how are you going to get over it? It is indirectly coming up and saying there is a constitutional barrier in the way. I have always understood that the Democratic party was the most strenuous in regard to constitutional powers. Now, I do not accuse them of trying to get around this in any way, but they seem to ignore it, and they cannot do it my presence without my holding them up to their own standard. Therefore I cannot see the propriety of the amendment, and I shall oppose it.

The amendment of Mr. WOODWARD was disagreed to.

Mr. CARY. I move to strike out the words "retail dealer or;" so that it will read:

And any keeper of a hotel, inn, tavern, or eating-house, who sells tobacco, snuff, or cigars, shall pay, in addition to his special tax, the special tax as a dealer in tobacco.

It seems to me that in little country places where we have small groceries and confectionery shops and they keep a little tobacco and snuff for sale they ought not to be required to pay this tobacco tax.

Mr. UPSON. Not five dollars?

Mr. CARY. No, sir; not anything. They only keep it for accommodation and not as matter of profit. I see a propriety in requiring keepers of taverns or eating-houses to pay the tax, because it is a legitimate part of their business. But these little groceries should not be required to pay a license for selling a little snuff and plug tobacco. It is an unnecessary tax upon them.

Mr. SCHENCK. Mr. Chairman, I have heard from the "Cross-roads" lately, and the answer was "Bascom is willing." [Laughter.] The amendment was disagreed to.

Mr. HOLMAN. I move to amend in the first line of the paragraph by inserting after the word "sales" the words "exceed five hundred dollars and," so that it will read:

Dealers in tobacco, whose annual sales exceed \$500 and do not exceed \$1,000, shall each pay five dollars.

It seems to me there is great force in the argument suggested by the gentleman from Ohio, [Mr. CARY,] that in these small communities where for the mere conveniences of their customers the shops keep a small amount of tobacco, cigars, and snuff, it is really a very great hardship to require them to pay a tax of five dollars. The effect of it will be to prevent in many communities where these articles are matters of almost absolute necessity the keeping of it on hand for sale at all. It seems to me the tax should not be imposed so as to work a petty annoyance to the whole community. I suggest therefore an exemption of \$500 shall be made. It is well enough to impose the tax where the sales exceed \$500 a year.

Mr. SCHENCK. If the gentleman had only read a few lines lower he would have found a definition of dealers in tobacco and snuff to be "every person whose business it is to sell or offer for sale manufactured tobacco, snuff, or cigars." I think every man whose business it is to sell these articles should pay five dollars. The amendment was disagreed to.

Mr. ROBINSON. I move to insert after the words "eating-house" the words "who has paid a special tax as such shall not be required to pay additional tax for selling." The object of this is that the retail dealer or tavern keeper or keeper of an eating-house who, in addition to having paid the tax on any or all of these, as the law provides, shall not be required to pay this additional tax. The amendment would be nearly the same if we had proposed to insert one word in the clause, so that it will read "any retail dealer or keeper of a hotel, inn, tavern, or eating-house, who sells tobacco, snuff, or cigars, shall not pay, in addition to his special tax the special tax as a dealer in tobacco." Now, sir, there are a great many tavern and eating-house keepers where the profits on all the cigars sold during the year would not amount to the tax imposed by this section of the bill. I hope the amendment will prevail.

The amendment was disagreed to.

Mr. PRICE. I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

At the end of line seventy-five, on page 87, insert: But the payment of any special tax imposed by this act shall not be held or construed to exempt any person carrying on any trade, business, or profession from any penalty or punishment therefor provided by the laws of any State; nor to authorize the commencement or continuance of any such trade, business, or profession contrary to the laws of any State, or in places prohibited by municipal law; nor shall the payment of any such tax be held or construed to prohibit or prevent any State from placing a duty or tax on the same trade, business, or profession for State or other purposes.

Mr. PRICE. The only object of that amendment is to prevent a conflict between the act of Congress and the acts of the Legislatures of some of the States which have legislated on this question; and I offer it with the assent of the Committee of Ways and Means.

Mr. SCHENCK. Oh, no. I mean to raise a question of order on it.

Mr. PRICE. I supposed I offered it with

the consent of the committee, but it appears that I do not. I will say, then, that it is just as the Committee of Ways and Means reported it in the original bill.

Mr. SCHENCK. I rise to a question of order. The amendment is general legislation on the subject of special taxes, all of which is now provided for in section seventy-seven of the act of 1866, which is now in force and is not repealed by this bill. The only difference is that it is better expressed in the amendment of the gentleman, and he got it out of our general bill which he helped to lay aside.

Mr. PRICE. I give the gentleman credit for having put it in very good shape, and I want to adopt it here.

Mr. SCHENCK. It is general legislation, and is to be found now in section seventy-seven of the act of 1866.

Mr. PRICE. This will be an act passed subsequent to that, and it will be held in some States that this law repeals the other, and therefore I want this passed so as to "make assurance doubly sure."

The CHAIRMAN. The Chair overrules the point of order for two reasons: it is made too late, and the Chair regards the amendment as germane to the bill.

The question was put on the amendment; and there were—ayes 51, noes 49.

So the amendment was agreed to.

Mr. SCHENCK. I desire now to know whether it is in order to move any general sections?

The CHAIRMAN. The gentleman from Ohio will observe that, in the first place, he allowed the amendment to be offered and read at the Clerk's desk, and the gentleman from Iowa [Mr. PRICE] to consume half of his five minutes in its defense, before the point of order was made; and, in the next place, that the amendment proposes merely to exclude a certain conclusion which might otherwise be derived from this act, and it must, therefore, be entirely pertinent and in order at this time.

Mr. COBURN. I move to insert after the word "sales," in line ninety-five, the words "whose annual sales exceed \$100 and." The object of that amendment is to provide that all persons who may sell tobacco in amounts less than \$100 a year shall not have to pay the five-dollar tax. There are many dealers throughout the country whose exclusive business is not to sell tobacco, but who keep and sell tobacco merely for the accommodation of their customers, and to compel a man who sells only a small amount to pay a tax of five dollars seems to me to be a very small business.

The amendment was agreed to.

Mr. MYERS. I move on page 88, line one hundred and two, after the words "eating-house," insert the words "whose annual sales of tobacco, snuff, and cigars exceed \$500." The amendment last adopted does not, in any way, conflict with this. This provides if these dealers are to be charged a special tax for dealing in tobacco that they shall make sales amounting to at least some considerable sum before they shall be accounted dealers in tobacco. I will modify my amendment so as to fix the amount of annual sales at \$100.

Mr. PILE. This amendment is not necessary; it is provided for elsewhere in the bill.

Mr. MYERS. If that is the case, I will withdraw my amendment.

Mr. HOLMAN. I move to amend this section by striking out the first paragraph, which has been amended to read as follows:

Distillers producing fifty barrels or less of distilled spirits, counting forty gallons of proof-spirits to the barrel, within the year, shall each pay \$200; and if producing more than fifty barrels shall pay in addition four dollars for each such barrel produced in excess of fifty barrels. And monthly returns of the number of barrels of spirits, as before described, distilled by him, shall be made by each distiller in the same manner as monthly returns of sales are made. Every person who produces distilled spirits or who brews or makes mash, wort, or wash for distillation or for the production of spirits, or who by any process of vaporization separates alcoholic spirit from any fermented substance, or who, making or keeping mash, wort, or wash, has also in his possession or use

a still, shall be regarded as a distiller: *Provided*, That a like tax of four dollars on each barrel, counting forty gallons of proof-spirits to the barrel, shall be assessed and collected from the owner of any distilled spirits which may be in any bonded warehouse at the date of the taking effect of this act, to be paid whenever the same shall be withdrawn from such warehouse under the provisions of the sixty-second section of this act: *And provided*, That no tax shall be imposed for any still, stills, or other apparatus used by druggists and chemists for the recovery of alcohol for pharmaceutical and chemical or scientific purposes which has been used in those processes.

The amendment of Mr. HOLMAN was not agreed to.

No further amendment was offered.

The next section was read, as follows:

#### *Tobacco and snuff.*

SEC. 66. *And be it further enacted*, That upon tobacco and snuff which shall be manufactured and sold, or removed for consumption or use, there shall be assessed and collected the following taxes:

On snuff, manufactured of tobacco or any substitute for tobacco, ground, dry, damp, pickled, scented, or otherwise, of all descriptions, when prepared for use, a tax of thirty-two cents per pound. And snuff-flour, when sold or removed for use or consumption, shall be taxed as snuff, and shall be put up in packages and stamped in the same manner as snuff.

On all chewing tobacco, fine-cut, plug, or twist; on all tobacco twisted by hand or reduced from leaf into a condition to be consumed or otherwise prepared, without the use of any machine or instrument and without being pressed or sweetened; and on all other kinds of manufactured tobacco, not herein otherwise provided for, a tax of thirty-two cents per pound.

On all smoking tobacco exclusively of stems or of leaf, with all the stems in and so sold, the leaf not having been previously stripped, butted, or rolled, and from which no part of the stems have been separated by sifting, stripping, dressing, or in any other manner, either before, during, or after the process of manufacturing; on all fine-cut shorts, the refuse of fine-cut chewing tobacco which has passed through a riddle of thirty-six meshes to the square inch by process of sifting; and on all refuse scraps and sweepings of tobacco, a tax of sixteen cents per pound.

Mr. GARFIELD. I move to amend this section by inserting in the first paragraph the word "or" between the words "dry" and "damp;" so as to make the provision conform to the present law in that respect.

Mr. LOGAN. It is exactly right now.

Mr. GARFIELD. I have made the motion. That is the way it is in the present law.

The amendment of Mr. GARFIELD was not agreed to.

Mr. MYERS. I move to strike out the last two paragraphs, relating to chewing tobacco and smoking tobacco, and to insert in lieu thereof the words "on all chewing and all smoking tobacco, a tax of twenty-four cents per pound." The rates fixed by this bill on these two kinds of tobacco, and, if I may use the expression, on the different species of the same kind, are thirty-two cents and sixteen cents per pound; just as last year we had different rates of taxes for different kinds of cigars and cigars of different values. When I offered an amendment last year to tax all cigars at the rate of five dollars per thousand great objection was made to it, and a sliding scale was advocated. But the amendment was adopted, and now the whole country agrees that that plan is best. Now, if we fix the rate of tax at sixteen cents per pound on all fine-cut shorts or refuse tobacco, that will allow a large amount of tobacco such as killikinnick, Lynchburg, &c., to come in under this head. Cigars are now taxed five dollars per thousand. It takes twenty pounds of tobacco to make a thousand cigars, so that the tax is about twenty-five cents per pound. The material of which cigars are now made can avoid this tax of twenty-five cents per pound by being cut up into refuse smoking tobacco, which it is proposed to tax only sixteen cents per pound. Now, I think the tax on the higher grades of tobacco should be reduced, and the tax on the lower grades raised, so as to make the two alike.

Mr. ALLISON. I hope the tax on smoking tobacco will not be raised eight cents per pound, as proposed by this amendment.

The amendment of Mr. MYERS was not agreed to.

Mr. GRAVELLY. I move to amend the clause imposing a tax on chewing tobacco by



striking out "thirty-two cents" and inserting "ten cents." I think as great frauds are being practiced in the collection of the revenue from the tax on tobacco as on whisky. And the very reason for which the Committee of Ways and Means changed or reduced the tax on whisky from two dollars to fifty cents will, in my opinion, operate for the reduction of the tax on tobacco from its present rate of forty cents to the rate of ten cents, as proposed by my amendment. The tax on tobacco is higher in proportion to its actual value, previous to the imposition of the tax, than the tax on any other article upon which a revenue tax is now levied. I am, and have been, acquainted with the original value of tobacco; and I know that from five to ten cents per pound was all that it could be sold for in market. For the last two or three years the tax has been forty cents per pound, or five hundred per cent., at least, upon the original value of the article. In my opinion there are a great many frauds practiced in the southern States, especially in Virginia, in Maryland, in Kentucky, and, to some extent, in Missouri, in consequence of the enormous tax now imposed upon tobacco. The very same motive for practicing fraud which has been furnished by the whisky tax is afforded by the tax on tobacco. My humble opinion is that if the tax were fixed at ten cents per pound we should, with the present arrangements for the collection of the tax, derive from tobacco more than double the amount of revenue that will be collected if the tax be retained at thirty-two cents.

Mr. PHELPS. I move to amend the amendment by inserting "sixteen" instead of "ten." Mr. Chairman, the attempt to discriminate between the various grades of chewing or smoking tobacco has been proved by experience to be impracticable. I agree thoroughly with the gentleman from Missouri [Mr. GRAVELY] in the opinion that with the present high rate of tax on tobacco, we cannot prevent the frauds in the collection of the revenue. From the great facility with which tobacco can be grown almost every person in every State of the Union can be his own producer of this article, and to a great extent his own manufacturer. Hence the frauds upon the revenue with reference to this article cannot be successfully prevented without a material reduction in the amount of the tax heretofore levied. There is scarcely a State in this Union in which the article of tobacco cannot be raised. There is scarcely a farmer in the country, scarcely the owner of a lot in a city, who cannot, without great labor, raise enough of this article for the consumption of himself and his family. It is idle to attempt by any machinery, however complicated or elaborate, to prevent the frauds which must be practiced if we undertake to collect an inordinate and excessive tax upon this article. Because of the difficulty of distinguishing between the various grades of this article and because of the facility with which it can be raised, I have thought it proper to offer this amendment to the amendment.

On the amendment to the amendment there were—ayes 39, noes 64.

Mr. PHELPS. I call for tellers.

Tellers were not ordered.

So the amendment to the amendment was not agreed to.

The question recurring on the amendment of Mr. GRAVELY, it was not agreed to.

Mr. CARY. I move to amend by striking out in the last line of the section the word "sixteen" and inserting in lieu thereof the word "twelve." Mr. Chairman, we are all anxious that the Government shall derive as much revenue as possible from these luxuries, tobacco and whisky; but we must be careful lest by excessive taxation we defeat the purpose we have in view. Now, sir, you can buy a hoghead of tobacco, such as is used for the manufacture of smoking tobacco, for forty dollars; that is, at the rate of four cents a pound, a hoghead containing a thousand pounds. By this bill, as reported, the tax upon that forty dollars is \$160, the profits of the manufacturer

being ten dollars at most. What is the effect of this enormous taxation, a taxation so much disproportioned to the cost of production? A man who is in the habit of smoking his pipe, instead of buying a cheap manufactured article and paying twenty-one cents a pound for it will buy the best quality of leaf tobacco for ten cents a pound, and, rubbing it up in his hands, put it in his pipe and smoke it, thereby depriving the Government of the tax. This is now the practice to a very great extent in the West. Grocers in the country buy the leaf tobacco instead of the manufactured tobacco, thus getting a better article; which they can sell at one fourth of the price of the manufactured article. Thus the Government loses its revenue from this source altogether. Even if this tax be fixed at twelve cents, as proposed in my amendment, that would be \$120 on tobacco costing forty dollars, which would be excessive. I think, however, the article can stand this, but no more. I hope the committee will consider this matter, and not adopt such legislation as must defeat the object we have in view, the raising of revenue from smoking tobacco.

For similar reasons I am in favor of making the tax on chewing tobacco twenty-four cents. By insisting upon too high a tax we shall only defeat its collection, as we have done in the case of whisky. My conviction is (and I will take this occasion to express it) that even a tax of fifty cents on whisky is excessive; that with a tax of twenty cents the Government would derive far more revenue.

Mr. SCHENCK. Mr. Chairman, under the present law there are different classes of tobacco for the purpose of taxation, at forty cents, thirty cents, and fifteen cents. When the committee turned their attention to this subject they had before them, at various times, representatives from almost every city and town in the country where tobacco is manufactured, and the representatives of almost every house engaged in the manufacture of tobacco. When they first came before the committee they thought it was better to have two classes than three. They proposed originally the tax should be eight and sixteen cents; afterward, however, on consideration of the whole matter with the committee and with different tobacco interests, they settled down on sixteen and thirty-two, which the committee recommend in the bill reported to the House. The reason the committee recommend sixteen and thirty-two instead of ten, thirteen, and sixteen is that in small packages of from one ounce to sixteen ounces of smoking, fine-cut, and chewing tobacco there is convenience in having the multiple in figures. This division into ounces for the purpose of taxation meets with the general approval of the whole tobacco trade, inasmuch as we have agreed to the system of the collection of tax by stamps. On one ounce it is one cent, on two ounces two cents, and so on, thus showing the advantage of the multiple system making a correspondence between the number of ounces and the number of cents tax. This is the reason which controlled the committee. It is only lately, a great many tobacco men having settled down upon sixteen and thirty-two, have begun to cast around to see whether they could not get some one to move it down lower.

Mr. CARY's amendment was rejected.

No further amendment being offered, the Clerk read as follows:

SEC. 67. And be it further enacted, That from and after the passage of this act all manufactured tobacco shall be put up and prepared by the manufacturer for sale, or removal for sale or consumption, in packages of the following description, and in no other manner:

All snuff in packages of one, two, four, eight, and sixteen ounces, except yellow snuff, which may, at the option of the manufacturer, be put up in bladders not exceeding ten pounds each.

All fine-cut chewing tobacco, and all other kinds of tobacco not otherwise provided for, in packages of one half, one, two, four, eight, and sixteen ounces, except that fine-cut chewing tobacco may, at the option of the manufacturer, be put up in wooden packages of ten, twenty, forty, and sixty pounds each.

All smoking tobacco, all fine-cut shorts which can be passed through a riddle of thirty-six meshes to

the square inch, and all refuse scraps and sweepings of tobacco, in packages of two, four, eight, and sixteen ounces each.

All cavendish, plug, and twist tobacco in wooden packages not exceeding two hundred pounds net weight.

And every such wooden package shall have printed or marked thereon the manufacturer's name and place of manufacture, and the registered number of the manufactory, and the gross weight, the tare, and the net weight of the tobacco in each package: *Provided*, That these limitations and descriptions of packages shall not apply to tobacco and snuff transported in bond for exportation and actually exported.

Mr. O'NEILL. I move to strike out the following:

Except yellow snuff, which may, at the option of the manufacturer, be put up in bladders not exceeding ten pounds each.

Mr. Chairman, I do this because it is a radical change in the law. As I understand, Scotch or dried snuff is now packed in kegs. It has been packed in kegs for years beyond the memory of living man. Now, why the committee should seek to confine the manufacturers of snuff and tobacco to these small packages I cannot see. It cannot be for the benefit of the Government. It cannot increase the amount of taxes. It can do nothing but create great inconvenience to the manufacturers of snuff, and subjecting them to great expense and loss. I also understand, while you reduce the packages, you are increasing the price of snuff to consumers some four or five cents a pound, whereas if it is continued to be packed in kegs, as now, you have it in such shape as to make it cheaper. I speak from information I have received from gentlemen who represent a firm which has paid a tax of \$80,000 in five months, or about one hundred and fifty thousand dollars in one year. I wish to know why this firm, in whose behalf I speak, having been in business almost a century, following the business of their ancestors, reputable and honest, should not be permitted to pack snuff as they have always packed it? The gentleman asks me why they did not come before the committee. I do not know. I suppose they did not imagine the committee would recommend such a change as this. Why, sir, it will take days to stamp these small packages, and there will be unavoidable and endless mistakes, and the honest manufacturer may be branded as seeking to defraud the Government out of this tax without any intention of so doing. I do not see the necessity of this clause, and I hope it will be stricken out.

Mr. SCHENCK. I do not think there will be the least inclination on the part of the committee to strike that clause out. We have had before us tobacco manufacturers, and, if we are not mistaken, this very firm that the gentleman represents.

Mr. O'NEILL. I did not say I represented this firm or any other. I spoke from information obtained from this firm as given me, and I believed them to be intelligent men who should be heard here.

Mr. SCHENCK. These persons can only be heard in the committee-room or through the gentleman, or some other member on this floor. Now, sir, the snuff manufacturers came before the committee, and they all represented the great convenience in preventing fraud if we would apply this rule of small packages of different sizes for snuff. We had the manufacturers of yellow snuff before us. I recollect particularly one from New Jersey. They agreed on all hands that while the other kinds might be put up in a different way the Scotch snuff should be put up in bladders. So a compromise was made in the committee, and this section was prepared according to the representations made by them of that which they could submit to.

Mr. O'NEILL. I move to strike out the last word, for the purpose of replying to the chairman of the committee. I have in my hand a protest against this change in the law coming from these same people. Now, I cannot say that they are less intelligent than the manufacturers from New York referred to. They did not appear before the committee; that is very likely. I do not know why. Perhaps they did not dream of any such change in

the law by the committee. But I do not care from what manufactories these gentlemen appeared before the committee. I speak for almost the first manufacturers of Scotch snuff in the country, who have always had their snuff packed in kegs or bladders, and to make this change would be very inconvenient. I hope the amendment will prevail. I withdraw the *pro forma* amendment.

The amendment was disagreed to.

Mr. ROBINSON. I move to strike out the latter part of the paragraph, as follows:

Except that fine-cut chewing tobacco may, at the option of the manufacturer, be put up in wooden packages of ten, twenty, forty, and sixty pounds each.

Also, by inserting the word "only" after the word "ounces;" so that the paragraph will read:

All fine-cut chewing tobacco, and all other kinds of tobacco not otherwise provided for, in packages of one half, one, two, four, eight, and sixteen ounces only.

Mr. Chairman, during the week past a very intelligent committee of gentlemen connected with the manufacture of tobacco have been here, and they have drawn up a memorial or statement, a copy of which has been sent to each member, and one of which I hold in my hand. Now, sir, if you allow fine-cut chewing tobacco to be put up in packages of from ten to sixty pounds in the way here provided the wholesale dealer will send them to the retail dealer, the retail dealer will open them and put them up again, and you never will be able to tell what is paid and what is not paid. The consequence will be that never one pound that is mixed in the large package will pay a cent of tax. The representatives of three of the largest manufacturers in New York have been here and declared that if you pass this law containing the words which I propose now to strike out, you will not and cannot collect the tax on tobacco. They say that they are willing to comply with the law as you have provided it up to this time, making it up in packages of half an ounce, two, four, eight, and sixteen ounces, and they say that no dishonest tobacco under that law can well get into the market. These men say that while dishonest men have been making large amounts of money during the last year, they have not made a penny of profit on their entire business. They come here and beg that if you intend to collect a tax on these kinds of chewing tobacco you will strike out the words I have designated. I do not know how they got in there, or by what influence. No matter how wise the Committee of Ways and Means may be, they cannot fathom the designs of the men who come here and make these representations. And this clause was got in by some influence—if there was any used with the committee—intending to defraud the Government of the tax on this kind of tobacco.

[Here the hammer fell.]

Mr. ALLISON. I hope the amendment proposed by the gentleman from New York will not prevail. The whole subject was fully considered, not only by the Committee of Ways and Means, but by these tobacco manufacturers, when they were here before us two or three months ago; and the very gentlemen named by the gentleman from New York all at one time yielded their assent to this provision which we have in the bill. I know that they protest against it now; but I think that under no consideration should it be stricken out.

The question was taken on Mr. ROBINSON'S amendment; and it was disagreed to.

Mr. MYERS. I offer the following amendment:

On line fifteen, page 92, after the word "each" insert "or in bundles or packages containing three and six dozen of the smaller packages herein provided for."

Mr. Chairman, I should like to have the attention of the House for five minutes. I have aided to perfect this bill as far as I could; but I do not believe that it is the best thing to hurry through the bill and put questions without scarcely hearing gentlemen through.

The proposition of the gentleman from New York [Mr. ROBINSON] was a correct one, and, failing in that, this is the next best thing. Three of the largest manufacturers in the United States—who are entitled to a hearing because they pay one ninth of all the tax paid in the United States on this article—protest against this section; and if it cannot be amended as was proposed by the gentleman from New York [Mr. ROBINSON] this is the next best thing. Let me state the proposition as briefly as I can.

Mr. Chairman, this section as it now stands provides that this chewing tobacco may be put up in packages of ten, twenty, forty, and sixty pounds each. Very well; you put up a package of sixty pounds and there is but one stamp upon it. You can take from that what you like and it goes into the market in small packages upon which nothing is paid, while these manufacturers who sell what is generally known as tin foil tobacco in packages of seven eighths of an ounce, two ounces and so on, have to put a stamp on each. The section as it now stands opens large avenues to fraud. In all this trade which has sprung up the tobacco which is so widely known throughout the United States as "century" and "solace" is put up in fractional parts of an ounce, and at least, if this wrong is to be perpetrated, do these manufacturers at least the justice of allowing them to put on stamps on a package of three dozen or six dozen as they are now allowed by law to do. I hope that this amendment will be agreed to, and that, if possible, the committee will return to their senses on this subject.

Mr. SCHENCK. The committee will try to return to their senses on this subject, and I begin by asking the gentleman whether he knows such manufacturers as Bucknor, McCamman & Co., McDowell, Dohan & Tait?

Mr. MYERS. Yes, sir; but the gentleman may as well address his speech to the Chair, and I will answer him when I obtain the floor.

Mr. SCHENCK. Very well. These tobacco men by scores came here during the past winter. They wrangled and disagreed among themselves. At length we said to them: "Gentlemen, you differ so much in regard to what will affect your interests one way or the other, that you had better come to some compromise or common conclusion, and if we can agree with you we will adapt our legislation accordingly." They came to us afterward with "resolutions of the tobacco trade amendatory to the present internal revenue law, adopted in convention at Washington, January 29 and 30, 1868." They sat here two days. They signed all the resolutions, so that there might be no mistake about the matter. In these resolutions they distinctly agreed that packages of snuff, &c., should be put up separately, with a stamp on each package. They compromised among themselves, and afterward before the committee, by agreeing to some of these larger packages. I myself was in favor of small packages all round, although that arrangement was said to be against the western interests. But a compromise was finally arrived at between the representatives of the trade from all parts of the Union; and that compromise was assented to by the committee. I intend to stick to that compromise, and I intend to hold the gentleman's constituents to it. I have here the signatures of all those men, because, fortunately, they attached their signatures to their resolutions. These signatures embrace the names of delegates from all the different cities. The provision contained in this bill is precisely in accordance with that which was finally settled upon; and this idea of little packages with a wrapper outside to afford an opportunity for fraud, is a new thing that we never heard of until within the last two or three weeks.

The CHAIRMAN. Debate is exhausted.

Mr. BROOKS. I move to amend the amendment, so as to say "one quarter of an ounce." In reply to the gentleman from Ohio, I will say that, while what he states is correct, it is not the less true that all the small package manufacturers of tobacco desire what the gen-

tleman from Pennsylvania [Mr. MYERS] has proposed. There is an immense trade in this small package tobacco—tobacco in one half and one quarter ounce packages; and this bill is in point of fact destructive to that trade. It will root it out. It will destroy in many of our cities the business of a large number of manufacturers, who in good faith pay immense amounts of revenue to the Government on tobacco. While what the gentleman from Ohio has stated is true, it is also true that these persons thus interested, have appeared before the Committee of Ways and Means and represented their interests, and they are now here earnestly claiming from this House the protection of a large trade. The appeal which they make is the appeal of the small package men, to be permitted to live as well as the large package men; the appeal of the retailers or dealers in tin-foil packages to be permitted to exist along with the other manufacturers of tobacco.

Mr. ALLISON. I desire to say only one word in reference to this proposition. The small package men did complain that we were injuring their business, because they put up packages of a little less than an ounce, and yet more than a half ounce; and these small packages were sold at retail for ten cents a package, so that they were compelled to pay the tax upon a full ounce. Now, to accommodate these gentlemen, we have reduced the tax from forty cents a pound to thirty-two cents, so that they can certainly make more profit now by selling these little packages to the retail consumer at ten cents a package, than they could before when the tax was forty cents per pound. They can now put up these packages just as they please.

Mr. BROOKS. Why not serve them all alike? Why not give fair play to both the big packages and the little packages?

The amendment of Mr. MYERS was not agreed to.

Mr. MYERS. In order that I may say a word or two further, I move to amend by striking out the last word of the paragraph. Mr. Chairman, the names quoted by my friend, the distinguished chairman of the Committee of Ways and Means, are names of highly respectable firms in Philadelphia and elsewhere. But the gentleman did not read that to which they affixed their names. Of course he could not, in his five minutes, read this long paper. But I will thank him to show me where in their resolutions, these men ask for a provision that "fine-cut chewing tobacco may, at the option of the manufacturer, be put up in wooden packages of ten, twenty, forty, and sixty pounds each."

Mr. SCHENCK. I did not say there was any such thing in those resolutions.

Mr. MYERS. Very well; then the resolutions contain no such thing. Does the paper to which the gentleman has referred say anything about packages of forty pounds each?

Mr. SCHENCK. I did not say that any such thing was in the paper. I say that these men came before the Committee of Ways and Means, as every member of the committee will testify, and, after wrangling a day and a half before the committee, made a compromise.

Mr. MYERS. Then I understand the gentleman. Now, sir, those gentlemen, I take it, did not want to interfere with those who sell tobacco in smaller packages. They desired, if they chose, to sell in larger packages; but they did not wish to interfere with those who sell in smaller packages. Now, if these larger packages are permitted at once an avenue to fraud is opened; and while the honest man will pay his taxes honestly, the dishonest man will take advantage of this avenue to fraud by putting sixty pounds in a large barrel and selling it out without any stamps. If this is allowed then those men who sell in tin-foil packages should be put upon the same footing.

Mr. SCHENCK. I will refer the gentleman from Pennsylvania to one paragraph of the resolutions of these tobacco manufacturers.

They recommend, among other things, the following provision:

SEC. 6. All smoking tobacco shall be put up in two, four, eight, and sixteen ounce packages only. But fine-cut chewing tobacco shall be put up only in packages of one half, one, two, four, eight, and sixteen ounces; or of five, ten, twenty, forty, sixty, and eighty pounds each. All packages weighing ten pounds or more shall be of wood.

Then after they had made their compromise, and after they came before the committee, a question arose between these men and the western men about those packages. It resulted in the eastern men getting so far the better of western men that the latter yielded, and agreed to bring the wooden packages down to four pounds according to the provision of the present law.

Mr. MYERS. That is a sufficient explanation; but I say that the amendment ought to be agreed to in order to favor these other men, that they may put one stamp on their three dozen and six dozen packages as they formerly did, and not lose, as they will have to do under the provision of the bill, one eighth of an ounce on every package they sell. I withdraw the amendment.

Mr. GARFIELD. I move to amend by striking out in line fourteen the words "twenty, forty, and sixty;" so as to make the paragraph read:

All fine-cut chewing tobacco, and all other kinds of tobacco not otherwise provided for, in packages of one half, one, two, four, eight, and sixteen ounces, except that fine-cut chewing tobacco may, at the option of the manufacturer, be put up in wooden packages of ten pounds each.

I desire for a moment the attention of the committee, and particularly of the chairman of the Committee of Ways and Means. I am well aware that when antagonistic interests are represented it is sometimes of great consequence to the Committee of Ways and Means to get the opposing interests to compromise and concede something for the sake of harmony. But this House ought to have something to say in reference to the safety of the revenue under any proposed bill. And I raise the question whether, in the opinion of the chairman of the Committee of Ways and Means and in the opinion of the House, it is possible to prevent a very large amount of fraud when we allow a barrel holding sixty pounds of tobacco to go out into trade with the revenue protected only by a paper stamp put somewhere on the head or staves. Suppose the barrel thus stamped is sent to the retailer's shop, and the manufacturer, being in collusion with the retailer, comes by night when the barrel is half exhausted and puts in thirty pounds, which has never paid the tax, may he not do this again and again and again? It seems to me there is no possibility of preventing this kind of fraud so long as a wooden package of the size of a barrel is allowed to be put into market with no other evidence of the payment of the tax than a paper stamp. Of course so large a package can be opened without the destruction of the stamp, and even if the stamp were canceled by tearing, the barrel could still be filled fraudulently in the manner I have already indicated. It should also be remembered that fine-cut chewing tobacco can be manufactured in garrets and out-of-the-way places, and the retail dealer would find many small manufacturers who could keep the barrel filled.

I am opposed, therefore, to these large wooden packages. It seems to me, whatever parties are concerned in this interest the House ought to be concerned in inquiring what doors the provision opens to fraud.

This bill requires snuff to be put up in packages of not more than ten pounds; why not have the same rule in regard to chewing tobacco? Why not put it up in packages of ten pounds with a stamp on each package? With such a provision there would be little opportunity for fraud. The stamp must necessarily be destroyed in opening the package; and the business of refilling such packages would be too small to warrant the risk incurred in practicing the fraud. But when you have a whole barrel of sixty pounds you afford as great

facility for fraud as rascals could ask for, and in corresponding degree you increase the temptation.

I ask the chairman whether the point I have made is not a meritorious one which the House ought to carefully consider. I have therefore moved to strike out these three amounts, twenty, forty, and sixty, so that a stamp shall certainly cover the package and be destroyed in opening it.

[Here the hammer fell.]

Mr. LOGAN. I think I can explain to the gentleman's satisfaction. The gentleman has been on the Committee of Ways and Means for a couple of years, and has some knowledge of matters of this kind; but I do not think he has read the bill to a good purpose. He says after you have this package stamped you may open it and fill it up a dozen times with tobacco without breaking the stamp. I will be much obliged to him if he will tell me where he will get the tobacco not stamped with which to fill it?

Mr. GARFIELD. I think there is a time, indeed, from experience on the Committee of Ways and Means, I know there is a time, when the tobacco is not in the package.

Mr. LOGAN. A man in a little store would hardly go to the manufacturer to have his barrel filled without its being stamped. It is impossible to open it without breaking the stamp. It is stamped at the manufactory, and when it goes behind the counter it goes with a stamp. You cannot break the package without breaking the stamp. That is a simple proposition. The gentleman is representing about three establishments in the United States. There are three establishments in the United States which put up tobacco in tin-foil, and they desire to do so hereafter and to wipe out the western manufacturers who put it up in boxes. Here are the Messrs. Lorillard, who pay \$1,000,000 taxes. They have the most extensive establishment in the United States. They agreed to the proposition, but they now come here and get some one to defeat it before the House so as to strike down the western manufacturer. I am astonished, therefore, to see a western man take their side. They wish to advance their interest to the destruction of the western tobacco manufacturers. Now, sir, we do not interfere with gentlemen putting up tobacco in tin-foil. Let them sell as much as they can of it, but do not let them interfere with those who cannot do it.

I will explain a little further. If the gentleman is anxious to have all tobacco put up in tin foil what is to be the result? Is it not as easy to take plug tobacco behind the counter, tear the package, and fill it up again? Is it not as easy to do that as to open a box of fine-cut chewing tobacco? He does not say a word about plug tobacco. They are all stamped alike. The question is that these three men wish to get the whole business of the country, and we propose they shall not do it; that they shall not wipe out the western manufacturers.

[Here the hammer fell.]

Mr. GARFIELD. I move an amendment to the amendment.

Mr. LOGAN. Then we shall have 'it all night, for I shall move another.

Mr. GARFIELD. I desire the attention of the committee.

Mr. MULLINS. The gentleman has spoken once.

The CHAIRMAN. The gentleman has the right to move an amendment to the amendment.

Mr. PILE. Has he the right to make another speech?

The CHAIRMAN. He has.

Mr. GARFIELD. I move to strike out the last word:

Mr. Chairman, I rose to move an amendment which I believed to be meritorious, and the only answer the gentleman from Illinois [Mr. LOGAN] has given is this: that in order to refill a barrel bearing the United States revenue stamp, the manufacturer must break some other packages of tobacco also bearing a revenue stamp, and therefore there is no such

opportunity for fraud I suggested. Now, it seems to me not a very great stretch of imagination to suppose that there is a time in the process of manufacturing tobacco where it has not yet been put into packages, and hence has not paid the tax; and at that time the manufacturer might, if he is a rascal, take some of it out of his shop by night and fill up the retailer's half empty barrel on which a stamp has been placed, and thus directly defraud the Treasury out of the tax on all the amount thus put in. This was the suggestion I made to the committee in support of my amendment. I have heard no remark from the gentleman nor anybody else which seems to me an adequate answer to that suggestion.

Now, another thing in regard to which I beg the indulgence of the committee for a moment. I most strenuously deprecate the practice of charging a man on this floor the moment he speaks on any subject, with representing somebody's special interest. I offered my amendment and made my remarks, I believe, in good temper—certainly with very good intentions—and with the kind attention of the committee. The gentleman immediately referred to me as representing some three houses in New York, which houses I have never before heard of. I desire to inform that gentleman that I represent no house in New York or elsewhere. This Committee of the Whole House ought to have something to say on the practical working of a proposed law, and when we express opinion, I, for one, do not intend to submit to be told that I am a partisan of some special interest in this country. That does not seem to me to be the way to argue a question before this House. Nor do I think it necessary to turn to gentlemen in the course of debate and say if they had read the bill they would have known something about it; or if they had read a little further, and come down to plug tobacco, then they would know something. I do not pretend to know a great deal. I do not know that I ever set myself up for being very wise. But I did declare before the committee, a few minutes ago, that I thought here was an opportunity for frauds being perpetrated upon the Government. I said so then, and I say so now, and to my dull capacity, no answer has been made thus far to the objection that I have indicated. If any gentleman will answer it I shall be glad to listen. If the chairman of the committee will answer it I will gladly hear him. If, however, he does not desire to answer it I have nothing more to say. But I take it we are here as gentlemen and friends, each working for the same purpose, and if any member offers a proposition nothing but that proposition ought to be spoken to in this House. The very essence of honorable debate is that it shall be impersonal. For my part, I do not intend to engage in any personalities here. I think the point I made in my amendment was well taken, and has not been answered. I hope the committee will strike out the three words "twenty," "forty," and "sixty."

Mr. LOGAN. I am certainly very much astonished at the manner and tone of the remarks of the gentleman from Ohio. If there is anything in the world that I am incapable of it would be an intended offense toward a gentleman. I certainly did not accuse him of being the attorney of anybody. I certainly said nothing that ought to have caused him to be so sensitive. I said there were about three firms manufacturing this kind of tobacco. I did not mean that the gentleman was identified with them, and he did not, or could not have so understood it, unless he was desirous of misunderstanding what I said. Now, so far as dull comprehension is concerned I am not responsible for that. If the gentleman could not understand what I said, it certainly is not my misfortune. I intended no offense to the gentleman, nor did I expect to see him become so heated and exasperated. There is no necessity for that. I have the kindest feeling toward him, I am sure, and always have had. But occasionally he gets a little hot toward me for



some reason or other; but I never inquire the reason. So far as regards the gentleman's not intending to submit to such things, I never have made any remark to him that would have offended the most sensitive person in this House, unless he desired to become offended. This is all I have to say in reference to that matter.

Then, sir, I repeat what I said before; without intending to say that the gentleman represents anybody—if he prefers that term I will say he represents nobody—there are only about three houses that are represented. But then I will take it he represents nobody. If I can understand myself, my intention is to try and do what is best for the whole country, and when there are hundreds and hundreds of manufacturers who would be injured by adopting the gentleman's amendment, and but three firms in the United States who would be benefited by it, I think there is something in what I have said. Now, so far as frauds are concerned, frauds may be committed no matter how we fix the law, but frauds are as easily committed in plug tobacco put up in boxes as in this kind of tobacco, and it does seem to me that the objection should be taken in reference to plug as well as to fine-cut. And when I saw an objection taken in regard to fine-cut, which affects the interests of the manufacturers of the whole West, I thought I was justified in saying that the advocacy of this proposition was only the advocacy of the interests of these three firms, and that was all I meant by it, and that is all I have got to say on the subject.

Mr. GARFIELD. I withdraw the amendment to the amendment.

Mr. GRISWOLD. I renew it. I do not propose to differ at all from the decision arrived at by the Committee of Ways and Means; but I cannot consent to have the idea put forward that the interest intended to be reached and protected by the amendment offered by my friend from Ohio [Mr. GARFIELD] is utterly unworthy of consideration. I desire to ask the gentleman from Illinois [Mr. LOGAN] if he does not know that the parties claiming this protection, claiming that large packages should be applicable to both, or that small packages should be applicable to both, are not as insignificant as he would represent?

Mr. LOGAN. I do not say they are insignificant. I know they are large manufacturers.

Mr. GRISWOLD. I simply desire to say that these three firms whose interests are affected by this discrimination between different classes or sections of manufacturers pay one tenth of the whole amount of revenue that is collected from tobacco in this country. I maintain that it is perfectly right and proper for some one upon this floor to represent so large an interest as that; and if I had not been a member of the Committee of Ways and Means, and had not agreed with the committee in its decision, I myself would have offered the very amendment which the gentleman from Ohio has offered and spoken in behalf of these men who come here and simply ask this House to put them upon the same footing as others, either give them the right to use large packages, or else take that right from those who have it.

Mr. JUDD. Mr. Chairman, I desire to say a few words upon this question, and I do not see any occasion for any particular heat or excitement. It is exceedingly natural that any dealers which have a particular mode of business by which they make a large amount of money, and the effect of which if the law were arranged as they desire would give them a monopoly of the trade, should seek to have the tax bill framed in accordance with their interests. I do not complain of those gentlemen for seeking this benefit or advantage, but I should complain, and I think with justice, if this House should assent to any such wishes at the cost of destroying the business of all other manufacturers who do their business in a different mode. The gentleman from New York [Mr. GRISWOLD] says that these gentlemen only want the same privileges that other manufacturers have. Why, Mr. Chairman, all man-

ufacturers are by this bill placed upon exactly the same footing. They have, precisely the same privileges under this bill. They can put their tobacco up in two, four, eight, or sixteen ounce packages, or they can put it up in ten, twenty, forty, or sixty pound kegs. All stand on an equality.

Mr. GRISWOLD. Has it ever occurred to the gentleman how many more stamps it takes on these small packages than on a ten-pound package?

Mr. JUDD. Yes, sir, it has; and the man who puts his tobacco up in these small packages and goes to the additional expense of these small packages intends to make his profit by such proceeding. He does not do it for the benefit of the Government. The revenue to the Government, the amount paid upon the tobacco, is precisely the same whether it is put up in small or large packages, and when a manufacturer selects the small package mode of doing business he intends to make his profit by it. If he did not he could put it into forty-pound kegs and use but one stamp. It is not for the benefit of the Government, but for the interest of his own trade. The gentleman from Ohio [Mr. GARFIELD] says how easy it is to refill large packages. Sir, I know that. How easy it is to refill whisky barrels. If a man is desirous of defrauding the Government of revenue, how easy it is to refill any large package. The same objection applies to every other kind of goods, wares, and merchandise that are contained in large packages; it is not particularly incident to tobacco any more than it is to any other large parcel or thing that the Government desires to impose an excise upon.

The question then arises, what is best for the business of the country, and what will protect best in every direction the revenues of the Government, and at the same time conform to all the various interests of business in the different parts of the country and not any particular class alone? Suppose that tobacco manufacturers in Chicago, St. Louis, Cincinnati, and all over the West have a particular mode of packing their merchandise. Now, is it right that because tobaccoists in the city of New York have a different mode of doing their business, therefore the tax laws of these United States shall be made so as to fit the business of the city of New York at the expense of all the western States? Is there any right principle involved in that? It seems to me there is not.

I now ask the Clerk to read, as a part of my remarks, a letter which I received from some of my constituents. I will indorse the character of the gentleman who writes it, and who is engaged in this business. I ask to have it read simply because I want this committee to understand this conflict of interest, so far as the business is concerned, and there is in reality nothing that to any extent involves the interest of the Government in the collection of its revenue. And I ask to have this letter read as presenting this conflict of interest better than I can do it, and I ask the attention of the House to the letter. There is another reason why I feel authorized to ask the attention of the House to this letter. There has been placed upon my desk, and upon the desk of every other member here, a printed circular urging the views of these eastern manufacturers and attacking the mode of doing business in the West.

The Clerk read as follows:

CHICAGO, June 15, 1868.

HON. N. B. JUDD, M. C.

DEAR SIR: We have just learned of an effort now being made by New York capitalists to secure an amendment to the new tax bill for tobacco, which we believe and can prove would work to the destruction of our interests and our business, and we hasten to ask your attention and influence in opposition to their efforts.

We refer to the attempt to have the proposed bill altered to preclude the packing of fine-cut tobacco in kegs of ten, twenty, and thirty pounds each, and necessitate its putting up in one ounce foil packages only. And first, we will say that this provision was argued before the Committee of Ways and Means by these parties while we were in convention at Washington in January last, at which time our arguments prevailed, as is shown by the bill as reported by the

committee. To rename these arguments briefly, we will say:

First. The present system of packing fine-cut in bulk has grown from experience, and as the trade increases so fast does the sale of foil packages decrease.

Second. Tobacco is fresher, is more easily kept sweet, can be moistened by the retailer, and can be sold cheaper, as less labor is expended in its manufacture.

Third. The present high esteem in which western fine-cut is held is the result of these advantages.

Against the proposed amendment we urge, First. It requires an immense and unnecessary change in our manufacturing facilities.

Second. Our fine-cut tobacco is by a peculiar process of cultivation and curing deprived of certain vegetable and chemical constituents, which are able to preserve it from "musting" in warm weather. It was first introduced by western manufacturers in the bright-colored and delicate-flavored cut which in a fair business competition has driven out all the old, dark, rank cuts of the eastern manufacturers.

To illustrate its advantage we would speak of the superiority of Havana tobacco, containing only two per cent. of nicotine—the poisonous and deleterious principle of tobacco—over the western growth of seed-leaf, containing over fourteen per cent. of nicotine; so our western fine-cuts, containing so much less of this deleterious principle, are in greater favor than the heavy, fat, dark cuts of the East. And it was in those same eastern cuts that tobacco earned its reputation of harmfulness and unhealthiness.

The absence of these makes our fine-cuts more perishable, and our experience—and we assert the same of all our neighbors—has shown us that we cannot put up these tobaccos in foil, except in the cold months, without its spoiling, unless we soak the tobacco with unpleasant and deleterious drugs. A careful comparison of figures at our convention indicated that less than an hundredth part of our western fine-cut was put in foil during the last year, a very sure indication, *prima facie* that such a style is unadapted to our goods.

Third. We see no reason why the Government cannot be protected without this feature.

By the proposed law a check is put upon those entering our business with the purpose of defrauding by larger bonds.

So, also, by the small-package system in smoking tobaccos, which can be made without skill, and which form the chief work of the dishonest, this opportunity is denied them. But fine-cut manufacture requires peculiar skill, and cannot be taken up by every one; hence needs no more especial protection than does the plug manufacture, which is allowed in bulk boxes.

Fourth. The proposed change would necessitate immense purchases of tin-foil, which is handled by only one or two houses in New York, and whose stock could be bought up entirely by New York capitalists to prevent our supplies coming until their goods should flood our country and, by necessity, supplant our trade.

We believe this move is being urged by a New York ring for their own profit and aggrandizement, under the specious claim of giving increased protection to the revenue.

We learn that they have sent a Government agent over the country, who, on his return, asserts that he has the assent of Chicago, Detroit, Toledo, and other western cities to the amendment. Yet we have never seen him, nor has any of our neighbors, and we are a unit in asking protection against this attempt to drive us out of our trade. Concerning the general provisions of the proposed law, we can only express our approbation. We have already asked a reduction of tax on the leaf smoking tobacco—the poor man's only harmless luxury—and trust our petition, already presented and referred, will be answered.

In conclusion, we ask your assistance in this measure, and trust the passage of the bill will, while it favors none, prove the protection of the honest manufacturer and the destruction of the hopes of all dishonest cutters.

Accept our warm wishes for your health; and believe us, yours, very respectfully.

Mr. JUDD. After the various manufacturers have assembled in convention, and by compromise agreed upon the form and mode of doing business under the revenue laws, and when that mode has met the views of the Committee of Ways and Means so that they have reported their bill in accordance with such arrangement, is it good faith for a portion of those same manufacturers so agreeing to come to this House and ask to have that agreement violated, the work of the committee overruled, all for the special benefit of their trade and not in the interest of the Government? I cannot believe for one moment that this House will sanction such an attempt.

Mr. GRISWOLD. I withdraw my amendment to the amendment.

Mr. PILE. I renew it, for the purpose of saying that the adoption of the proposition to strike out that portion of this provision which relates to twenty, forty, and sixty-pound packages will have the effect, until new factories are established and until the process of manufacture can be changed in the West, to transfer this manufacture from the West and Southwest,

where tobacco is raised, to those cities where these establishments are now located which put up tobacco exclusively in small packages. I repeat, what has already been well said, that there is no more danger of fraud in connection with these small packages of fine-cut chewing tobacco than there is in plug tobacco. And barrels of whisky that have been stamped and branded can be as easily refilled or supplied as barrels of smoking tobacco. I hope there will not be such an unjust provision put in the law as will wipe out all manufactories of tobacco in the West, for the present at least, and transfer all that business to these large cities of the East.

Mr. GARFIELD. Will the gentleman allow me to ask him a question?

Mr. PILE. Certainly.

Mr. GARFIELD. I understood the gentleman to say that there is no difference in the opportunities for fraud between fine-cut tobacco and plug tobacco. I would ask him if there is not this difference: plug tobacco is manufactured in large screw presses, by the use of costly processes, while fine-cut tobacco is manufactured in a small way. In the one case, where such large establishments are concerned, a fraud can easily be detected; in the other it cannot. I think there is a difference.

Mr. PILE. It is easy for the manufacturer of plug tobacco to enter into collusion with the dealer. The manufacturer can send small quantities of plug tobacco to the retail dealer to fill up and replenish a half-empty box as easily as a barrel of fine-cut tobacco can be filled and replenished. I can see no difference between the two, so far as the opportunities for fraud are concerned.

[Here the hammer fell.]

Mr. SCHENCK. I desire to ask consent that the debate on this section be closed. But before doing so, as I have been so specially referred to by my colleague, [Mr. GARFIELD,] I desire to make a remark in reply. I thought that our fury had been exhausted upon whisky; it generally rises upon that; but it seems that smoke and fire can come from tobacco as well. I see no necessity at all for any feeling in this matter. I will content myself with stating what the facts are; I have before stated them in part. All the different interests of tobacco in the United States, being well represented from the different establishments large and small, and the different cities, met together in January. Among the questions about which they were very much divided was this of putting up tobacco in small packages or in large wooden packages. The western interest generally, and I believe I may say universally, with the exception of a firm in Detroit, preferred to be allowed to go on and use the large packages. The eastern interest desired that the law should be so changed as to require the use of small packages. I myself believed then, and I believe yet, that there would be somewhat greater security to the Government in the production and collection of its revenue, if the packages were all small. And I believe the time will come when we shall come to the use of the small packages, and when they will be as anxious for that rule in the West as in the East. This matter has been carried to such a point abroad, in other countries, that they have got to the production of very small packages, much smaller than in this country.

But the trade in this country does not seem to be generally prepared for that plan; they have different modes of putting up tobacco. I have thought it expedient and wise legislation to do the best we could to secure the revenue of the country, and at the same time, as far as practicable, to do it without shocking the trade too much by changing the modes of doing the business. Therefore, after consideration and examination, I yielded my preferences to the opinions of the committee, and came to the conclusion that at this time it would be well to make a few large packages permissible in order to satisfy the trade in that direction, while in the general we required the use of small packages. Now, there is a new scheme set up of

which we have heard nothing until the last few days. It is now said that the eastern men will be injured unless they are allowed to put up a great number of small packages inside of an exterior wrapper, and have a single stamp put upon the outside wrapper instead of having a stamp upon each separate package.

Now, as I said before, I think there would be more opportunities for fraud in connection with the large wooden packages than in connection with the small packages. But I think the plan proposed by this other proposition would be capable of still greater abuse. All things considered, therefore, trying to accommodate my views to what seems to be a generally fair conclusion, embracing a concordance of the greatest number of opinions, I have come to the conclusion to stand by this bill just as it is upon this subject, and just as it was agreed upon by general consent all around at the time it was made. I now ask that all debate upon this section and the amendments thereto be closed.

No objection was made; and debate was accordingly closed.

The question was then taken upon the amendment of Mr. GARFIELD, and it was not agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 68. *And be it further enacted*, That every person before commencing, or, if already commenced, before continuing the manufacture of tobacco or snuff, shall, in addition to a compliance with all other provisions of law, furnish, without previous demand therefor, to the assessor or assistant assessor of the district where the manufacture is to be carried on, a statement, in duplicate, subscribed under oath or affirmation, accurately setting forth the place, and if in a city, the street and number of the street where the manufacture is to be carried on; the number of cutting-machines, presses, snuff-mills, hand-mills, or other machines; the name, kind, and quality of the article manufactured or proposed to be manufactured; and if the same shall be manufactured for, or to be sold and delivered to, any other person, as agent, or under a special contract, the name and residence and business or occupation of the person for whom the said article is to be manufactured, or to whom it is to be delivered; and shall give a bond in conformity with the provisions of this act, to be approved by the collector of the district, in the sum of \$2,000, with an addition to said sum of \$3,000 for each cutting-machine kept for use, of \$1,000 for each screw-press kept for use in making plug or pressed tobacco, of \$5,000 for each hydraulic press kept for use, of \$1,000 for each snuff-mill kept for use, and of \$1,000 for each hand-mill, or other mill or machine, kept for the grinding, cutting, or crushing of tobacco; that he will not engage in any attempt, by himself or by collusion with others, to defraud the Government of any tax on his manufactures; that he will render truly and correctly all the returns, statements, and inventories prescribed by law or regulations; that whenever he shall add to the number of cutting-machines, presses, snuff-mills, hand-mills, or other mills or machines, as aforesaid, he will immediately give notice thereof to the collector of the district; that he will stamp, in accordance with law, all tobacco and snuff manufactured by him before he offers the same or any part thereof for sale, and before he removes any part thereof from the place of manufacture; that he will not knowingly sell, purchase, expose, or receive for sale any manufactured tobacco or snuff which has not been stamped as required by law; and that he will comply with all the requirements of law relating to the manufacture of tobacco or snuff. And the sum of the said bond may be increased from time to time, and additional sureties required by the collector, under the instructions of the Commissioner of Internal Revenue. And every manufacturer shall obtain a certificate from the collector of the district, who is hereby authorized and directed to issue the same, setting forth the kind and number of machines, presses, snuff-mills, hand-mills, or other mills and machines, as aforesaid, for which the bond has been given; which certificate shall be posted in a conspicuous place within the manufactory. And any tobacco manufacturer who shall neglect or refuse to obtain such certificate, or to keep the same posted as hereinbefore provided, shall, on conviction, be fined not less than \$100 nor more than \$500. And any person manufacturing tobacco or snuff of any description without first giving bond as herein required, shall, on conviction, be fined not less than \$1,000 nor more than \$5,000, and imprisoned for not less than one year nor more than five years. And the working or preparation of any leaf tobacco or tobacco stems, scraps, clippings, or waste, by sifting, twisting, screening, tying, or any other process shall be deemed manufacturing.

Mr. O'NEILL. I move to strike out the following:

That he will stamp, in accordance with law, all tobacco and snuff manufactured by him before he offers the same or any part thereof for sale, and before he removes any part thereof from the place of manufacture.

Mr. Chairman, I do not offer this amendment with any view of permitting anybody to

manufacture goods and not to stamp them. I know one manufacturer whose manufactory is miles away from his store-house. I know that he pays a large amount to the collector of internal revenue in a neighboring State, while his snuff is brought in barrels to his store in Philadelphia. Now, sir, I will repeat that I have no idea of permitting any goods to go unstamped; but for the convenience of the manufacturers in any part of the country, situated as this one is, I ask why we should oblige them to stamp their goods in the State or other locality where they are made, thus paying a tax, and then to have them brought to their warehouses to be broken up to be put into these smaller packages and restamped? I also would like the chairman of the committee [Mr. SCHENCK] to inform me how it will be possible to put upon these small packages of two, four, six, and eight ounces the Government stamp and then the name of the manufacturer and other labels required by the provisions of this bill. It seems to me they would be literally covered with stamps and all kinds of devices.

Mr. SCHENCK. There did not seem to be any difficulty with the manufacturers when they were here. Stamps can be engraved small enough for the smaller packages. The great difficulty is to prevent the tobacco being carried about unstamped. When it is so carried we make it *prima facie* evidence it has not paid any tax. I do not think we ought to change the general rule for a single case.

The amendment was disagreed to.

Mr. MYERS. I move to strike out "offers the same or any part thereof for sale."

This does not call upon him to pay the tax until he sells the tobacco.

Mr. SCHENCK. This is put upon the same ground as the tax on whisky.

The amendment was disagreed to.

No further amendment being offered, the Clerk read the next section, as follows:

SEC. 69. *And be it further enacted*, That within thirty days after the passage of this act every manufacturer of tobacco and snuff shall place and keep on the side or end of the building within which his business is carried on, so that it can be distinctly seen, a sign with letters thereon, not less than three inches in length, painted in oil colors or gilded, giving his full name and business. Any person neglecting to comply with the requirements of this section shall, on conviction, be fined not less than \$100 nor more than \$500.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 70. *And be it further enacted*, That it shall be the duty of every assistant assessor to keep a record, in a book or books to be provided for the purpose, to be open to the inspection of any person, of the name and residence of every person engaged in the manufacture of tobacco or snuff in his division, the place where such manufacture is carried on, and the number of the manufactory; and the assistant assessor shall enter in said record, under the name of each manufacturer, a copy of every inventory required by this act to be made by such manufacturer, and an abstract of his monthly returns; and each assessor shall keep a similar record for the district, and shall cause the several manufactories of tobacco or snuff in his district to be numbered consecutively, which numbers shall not thereafter be changed.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 71. *And be it further enacted*, That every person, now or hereafter engaged in the manufacture of tobacco or snuff, shall make and deliver to the assistant assessor of the division a true inventory, in such form as shall be prescribed by the Commissioner of Internal Revenue, of the quantity of each of the different kinds of tobacco, snuff, flour, snuff, stems, scraps, clippings, waste, tin-foil, licorice, sugar, gum, and other materials held or owned by him on the 1st day of January of each year, setting forth what portion of said goods and materials, and what kinds, were manufactured or produced by him, and what was purchased from others; which inventory shall be verified by his oath or affirmation; and the assistant assessor shall make personal examination of the stock sufficient to satisfy himself as to the correctness of the inventory, and shall verify the fact of such examination by oath or affirmation taken before the assessor, to be indorsed on or affixed to the inventory; and every such person shall keep a book or books, the forms of which shall be prescribed by the Commissioner of Internal Revenue, and enter therein daily an accurate account of all the articles aforesaid purchased by him, the quantity of tobacco, snuff, and snuff-flour, stems, scraps, clippings, waste, tin-foil, licorice, sugar, gum, and other materials, of whatever description, whether manufactured, (and if plug tobacco the number of net pounds of lumps made in the lump-room, and the number of packages and pounds produced in the

press-room each day,) sold, consumed, or removed for consumption or sale, or removed from the place of manufacture in bond, and to what district; and shall, on or before the tenth day of each and every month, furnish to the assistant assessor of the division a true and accurate abstract from such book of all such purchases, sales, and removals, made during the month next preceding, which abstract shall be verified by his oath or affirmation; and in case of refusal or willful neglect to deliver the inventory, or keep the account, or furnish the abstract aforesaid, he shall, on conviction, be fined not less than \$500 nor more than \$5,000, and imprisoned not less than six months nor more than three years. And it shall be the duty of any dealer in leaf tobacco, or in any material used in manufacturing tobacco or snuff, on demand of any officer of internal revenue to render a true and correct statement, verified by oath or affirmation, of the quantity and amount of such leaf tobacco or materials sold or delivered to any person named in such demand; and in case of refusal or neglect to render such statement, or if there is cause to believe such statement to be incorrect or fraudulent, the assessor shall make an examination of persons, books, and papers, in the same manner as provided in this act in relation to frauds and evasions.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 72. *And be it further enacted*, That the Commissioner of Internal Revenue shall cause to be prepared suitable and special revenue stamps for payment of the tax on tobacco and snuff, which stamps shall indicate the weight and class of the article on which payment is to be made, and stamps when used on any wooden package shall be canceled by sinking a portion of the same into the wood with a steel die; also, such warehouse stamps as are required by this act, which stamps shall be furnished to the collectors of internal revenue requiring the same, who shall each keep at all times a supply equal in amount to three months' sales thereof, and shall sell the same only to the manufacturers of tobacco and snuff in their respective districts who have given bonds as required by law, to owners or consignees of tobacco or snuff, upon the requisition of the proper customs-house officer having the custody of such tobacco or snuff, and to persons required by law to affix the same to tobacco or snuff on hand on the 1st day of January, A. D. 1869; and every collector shall keep an account of the number, amount, and denominate values of stamps sold by him to each manufacturer, and to other persons above described.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 73. *And be it further enacted*, That every manufacturer of tobacco or snuff shall, in addition to all other requirements of this act relating to tobacco, securely affix, by pasting on each package containing tobacco or snuff manufactured by or for him, a label on which shall be printed, together with the manufacturer's name and the number of his manufactory, and the district and State in which it is situated, these words:

"Notice.—The manufacturer of this tobacco has complied with all requirements of law. Every person is cautioned, under the penalties of law, not to use this package for tobacco again."

Any manufacturer of tobacco who shall neglect to affix such label to any package containing tobacco made by or for him, or sold or offered for sale by or for him; or any person who shall remove any such label so affixed from any such package, shall, on conviction, be fined fifty dollars for each package in respect to which such offense shall be committed.

Mr. WILSON, of Iowa. I move before the words "securely affix" to insert "print on each package or."

The amendment was agreed to.

No further amendment being offered, the Clerk read the next section, as follows:

SEC. 74. *And be it further enacted*, That any manufacturer of tobacco or snuff who shall remove otherwise than as provided by law, or sell any tobacco or snuff without the proper stamps denoting the tax thereon, or without having paid the special tax, or given bond as required by law, or who shall make false or fraudulent entries of manufactures or sales of tobacco or snuff, or who shall make false or fraudulent entries of the purchase or sales of leaf tobacco, tobacco stems, or other material, or who shall affix any false, forged, fraudulent, spurious, or counterfeit stamp, or imitation of any stamp required by this act, to any box or package containing any tobacco or snuff, shall, in addition to the penalties elsewhere provided in this act for such offenses, forfeit to the United States all the raw material and manufactured or partly manufactured tobacco and snuff, and all machinery, tools, implements, apparatus, fixtures, boxes, and barrels, and all other materials which shall be found in the possession of such person, in the manufactory of such person, or elsewhere.

No amendment being offered, the Clerk read as follows:

SEC. 75. *And be it further enacted*, That the absence of the proper stamp on any package of manufactured tobacco or snuff shall be evidence to all persons that the tax has not been paid thereon, and shall be *prima facie* evidence of the non payment thereof. And such tobacco or snuff shall be forfeited to the United States.

No amendment being offered, the Clerk read as follows:

SEC. 76. *And be it further enacted*, That any person

who shall remove from any manufactory, or from any place where tobacco or snuff is made, any manufactured tobacco or snuff without the same being put up in proper packages, or without the proper stamp for the amount of tax thereon being affixed and canceled, as required by law; or, if intended for export, without the proper warehouse stamp being affixed; or shall use, sell, or offer for sale, or have in possession, except in the manufactory or in a bonded warehouse, any manufactured tobacco or snuff, without proper stamps being affixed and canceled; or shall sell, or offer for sale, for consumption in the United States, or use, or have in possession, except in the manufactory or in a bonded warehouse, any manufactured tobacco or snuff on which only the warehouse stamp marking the same for export has been affixed, shall, on conviction thereof, for each such offense, respectively, be fined not less than \$1,000 nor more than \$5,000, and be imprisoned not less than six months nor more than two years. And any person who shall affix to any package containing tobacco or snuff any false, forged, fraudulent, spurious, or counterfeit stamp, or a stamp which has been before used, shall be deemed guilty of a felony, and, on conviction, shall be fined not less than \$1,000 nor more than \$5,000, and imprisoned not less than two years nor more than five years.

No amendment being offered, the Clerk read as follows:

SEC. 77. *And be it further enacted*, That whenever any stamped box, bag, vessel, wrapper, or envelope of any kind, containing tobacco or snuff, shall be emptied, the stamped portion thereof shall be destroyed by the person in whose hands the same may be. And any person who shall willfully neglect or refuse so to do shall, for each such offense, on conviction, be fined fifty dollars, and imprisoned not less than ten days nor more than six months. And any person who shall sell or give away, or who shall buy or accept from another, any such empty stamped box, bag, vessel, wrapper, or envelope of any kind, or the stamped portion thereof, shall, for each such offense, on conviction, be fined \$100 and imprisoned for not less than twenty days and not more than one year. And any manufacturer or other person who shall put tobacco or snuff into any such box, bag, vessel, wrapper, or envelope, the same having been either emptied or partially emptied, shall, for each such offense, on conviction, be fined not less than \$100 nor more than \$500, and imprisoned for not less than one nor more than three years.

Mr. MYERS. I would like to know whether class B warehouses are abolished in this bill?

Mr. SCHENCK. Entirely.

Mr. ROBINSON. I suggest to the Committee of Ways and Means that in all these cases the language is, shall be fined so much for a small offense and imprisoned. It does not seem to me right. I think it should be "fined or imprisoned." I make this suggestion.

Mr. ALLISON. It is that way now.

No amendment being offered, the Clerk read as follows:

SEC. 78. *And be it further enacted*, That every manufacturer of plug tobacco shall provide at his own expense a warehouse suitable for the storage of plug tobacco of his own manufacture only; or he may provide a secure room in a suitable building, to be used as such warehouse; but no dwelling-house shall be used for such purpose, and no door, window, or other opening shall be made or permitted in the walls thereof leading into any other room or building used for any other purpose, or into the manufactory where such tobacco is manufactured; and after a bond has been given, as hereinafter provided, such warehouse or room, when approved by the Commissioner of Internal Revenue, on report of the collector, is hereby declared to be a bonded warehouse of the United States, and shall be under the control of the collector of the district and in the custody of an internal revenue storekeeper designated for that purpose by the Commissioner of Internal Revenue, and shall be kept locked at all times except when such officer shall be present; and the stamps required by law on the plug tobacco stored in such warehouse shall be affixed, and such of said stamps as are for the payment of taxes shall be duly canceled before removal from such warehouse. And the owner of such warehouse shall execute a bond to the United States, with two or more sureties, to be approved by the collector and assessor, which bond shall be in such form and contain such conditions as shall be prescribed by the Commissioner of Internal Revenue; and the penal sum of such bond shall not be less than \$5,000, nor less than double the amount of tax on the tobacco stored therein; and said bond may be increased or renewed from time to time in regard either to the amount thereof or the sureties as the collector, assessor, or the Commissioner of Internal Revenue may require; and such bonded warehouse shall be under such further regulations as the Commissioner of Internal Revenue may prescribe.

Mr. CARY. I move to strike out the word "shall," in the second line, and insert "may." It does seem to me a hardship to require every little manufacturer of tobacco in the country to provide a bonded warehouse and pay for a storekeeper.

Mr. MAYNARD. He does not pay for a storekeeper.

Mr. CARY. Yes, sir; he does. He has to have one. He has to give a bond of \$5,000.

Mr. SCHENCK. That objection was made to us, and after hearing it was considered that there was some reason in it, so we agreed with the gentlemen who came before us to alter the phraseology so as to make it "or he may provide a secure room in a suitable building to be used as such warehouse." That seemed to be satisfactory.

Mr. CARY. There are a great many small manufacturers who are not worth \$5,000 who have \$5,000 worth of tobacco on hand or more, and yet you require them all to have a bonded warehouse or a store room, and to give a bond. It seems to me this will have the effect to break up all the small manufacturers of tobacco and throw the business into the hands of monopolists. I do not see the necessity for bonded warehouses for tobacco at all except for export. They cannot move it from the factory until a stamp is put on it. They are under bond not to do it. Any man is liable to the penitentiary who takes it out of the factory before it is stamped. Where is the necessity of taking tobacco to a bonded warehouse to-day, and then after putting on the tax taking it right out again, perhaps in an hour, upon an order for it? And yet they must go through that farce of putting it into the warehouse and taking it out again. Every man is under fear of the penitentiary if he takes it from the factory before the tax is paid. I do not see that it can be guarded any further. Mr. Chairman, I will withdraw my amendment, and move to strike out the whole section.

The amendment was disagreed to.

The Clerk read as follows:

SEC. 79. *And be it further enacted*, That the Commissioner of Internal Revenue, upon the execution of such bonds as he may prescribe, may designate and establish, at any port of entry in the United States, bonded warehouses for the storage of manufactured tobacco and snuff, in bond, intended for exportation, selecting suitable buildings for such purpose, to be recommended by the collector in charge of exports at such port, to be known as export bonded warehouses, and used exclusively for the storage of manufactured tobacco and snuff in bond. Every such warehouse shall be under the control of the collector of internal revenue in charge of exports at the port where such warehouse is located, and shall be in charge of the internal revenue storekeeper assigned there by the Commissioner of Internal Revenue. No manufactured tobacco or snuff shall be withdrawn or removed from any bonded warehouse without an order or permit from the collector in charge of exports at such port, which shall be issued only for the immediate transfer to a vessel by which such tobacco or snuff is to be exported to a foreign country, as hereinafter provided, or after the tax has been paid thereon. And such warehouse shall be under such further regulations as the Commissioner of Internal Revenue may prescribe.

No amendment being offered, the Clerk read as follows:

SEC. 80. *And be it further enacted*, That manufactured tobacco and snuff may be removed in bond from the warehouse of the manufactory, without payment of the tax, to be transported directly to an export bonded warehouse for the storage of manufactured tobacco or snuff established at a port of entry as hereinafter provided; and the deposit in and withdrawal from any bonded warehouse, the transportation and the exportation of manufactured tobacco and snuff shall be made under such rules and regulations and after making such entries and executing such bonds and giving such other additional security as may be prescribed by the Commissioner of Internal Revenue, which shall in all respects, so far as applicable, conform to the provisions of law and regulations relating to distilled spirits to be deposited in or withdrawn from bonded warehouse or transported or exported. All tobacco and snuff intended for export, before being removed from the manufacturer's warehouse, shall have affixed to each package an engraved stamp indicative of such intention, to be provided and furnished to the several collectors, as in the case of other stamps, and to be charged to them and accounted for in the same manner; and for the expense attending the providing and affixing such stamps, twenty-five cents for each package so stamped shall be paid to the collector on making the entry for such transportation; but the provisions of this section shall not limit the time for tobacco or snuff to remain in bond.

No amendment was offered, and the Clerk read the next section, as follows:

SEC. 81. *And be it further enacted*, That in all cases where tobacco or snuff of any description is manufactured, in whole or in part, upon commission or shares, or where the material from which any such articles are made, or are to be made, is furnished by one person and made or manufactured by another, or where the material is furnished or sold by one person



with an understanding or agreement with another that the manufactured article is to be received in payment therefor, or for any part thereof, the stamps required by law shall be fixed by the actual maker or manufacturer before the article passes from the place of making or manufacturing. And in case of fraud on the part of either of said persons in respect to said manufacture, or of any collusion on their part with intent to defraud the revenue, such material and manufactured articles shall be forfeited to the United States; and each person to such fraud or collusion shall be deemed guilty of a misdemeanor, and, on conviction, be fined not less than \$100 nor more than \$5,000, and imprisoned for not less than six months nor more than three years.

No amendment being offered, the next section was read, as follows:

SEC. 82. *And be it further enacted*, That every dealer in leaf tobacco shall enter daily, in a book kept for that purpose, under such regulations as the Commissioner of Internal Revenue may prescribe, the number of hogsheds, cases, and pounds of leaf tobacco purchased by him, and of whom purchased, and the number of hogsheds, cases, or pounds sold by him, with the name and residence, in each instance, of the person to whom sold, and if shipped, to whom shipped and to what district. Such book shall be kept at his place of business, and shall be open at all hours to the inspection of any assessor, collector, or other revenue officer; and any dealer in leaf tobacco who shall neglect or refuse to keep such book shall be liable to a penalty of not less than \$500, and on conviction thereof shall be fined not less than \$100 nor more than \$5,000, and imprisoned not less than six months nor more than two years.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 83. *And be it further enacted*, That from and after the passage of this act, and until the 1st day of October, 1868, all manufactured tobacco and snuff (not including cigars) imported from foreign countries, shall be placed by the owner, importer, or consignee thereof in a bonded warehouse of the United States at the place of importation, in the same manner and under rules as provided for warehousing goods imported into the United States, and shall not be withdrawn from such warehouse, nor be entered for consumption or transportation in the United States prior to the said 1st day of October, 1868. All manufactured tobacco and snuff (not including cigars) imported from foreign countries, after the passage of this act, shall, in addition to the import duties imposed on the same, pay the tax prescribed in this act for like kinds of tobacco and snuff manufactured in the United States, and have the same stamps respectively affixed. Such stamps shall be affixed and canceled on all such articles so imported by the owner or importer thereof, while such articles are in the custody of the proper custom-house officers, and such articles shall not pass out of the custody of such officers until the stamps have been affixed and canceled. Such tobacco and snuff shall be put up in packages, as prescribed in this act for like articles manufactured in the United States before such stamps are affixed; and the owner or importer of such tobacco and snuff shall be liable to all the penal provisions of this act, prescribed for manufacturers of tobacco and snuff manufactured in the United States. Where it shall be necessary to take any of such articles, so imported, to any place for the purpose of repacking, affixing, and canceling such stamps, other than the public stores of the United States, the collector of customs of the port where such articles shall be entered shall designate a bonded warehouse to which such articles shall be taken, under the control of such customs officer as such collector may direct. And any officer of customs who shall permit any such articles to pass out of his custody or control without compliance by the owner or importer thereof with the provisions of this section relating thereto, shall be deemed guilty of a misdemeanor, and shall, on conviction, be fined not less than \$1,000, nor more than \$5,000, and imprisoned not less than six months nor more than three years.

No amendment was offered, and the Clerk read the next section, as follows:

SEC. 84. *And be it further enacted*, That from and after the passage of this act it shall be the duty of every dealer in manufactured tobacco, having on hand more than twenty pounds, and every dealer in snuff having on hand more than ten pounds, to immediately make a true and correct inventory of the amount of such tobacco and snuff respectively, under oath or affirmation, and to deposit such inventory with the assistant assessor of the proper division, who shall immediately return the same to the assessor of the district, who shall immediately thereafter make an abstract of the several inventories filed in his office, and transmit such abstract to the Commissioner of Internal Revenue, and a like inventory and return shall be made on the first day of every month thereafter, and a like abstract of inventories shall be transmitted while any such dealer has tobacco or snuff remaining on hand manufactured in the United States, or imported prior to the passage of this act, and not stamped. After the 1st day of January, 1869, all smoking, fine-cut chewing tobacco, or snuff, and after the 1st day of July, 1869, all other manufactured tobacco of every description, shall be taken and deemed as having been manufactured after the passage of this act, and shall not be sold or offered for sale unless put up in packages and stamped as prescribed by this act; and any person who shall sell or offer for sale after the 1st day of January, 1869, any smoking, fine-cut chewing tobacco, or snuff, and after the 1st day of July, 1869, any other manufactured tobacco not so put up in packages and stamped,

shall, on conviction, be fined not less than \$500 nor more than \$5,000, and imprisoned not less than six months nor more than two years.

No amendment was offered, and the next section was read, as follows:

SEC. 85. *And be it further enacted*, That any person who shall, after the passage of this act, sell, or offer for sale, any manufactured tobacco or snuff, representing the same to have been manufactured and the tax paid thereon prior to the passage of this act, when the same was not so manufactured, and the tax not so paid, shall be liable to a penalty of \$500 for each offense, and shall be deemed guilty of a misdemeanor, and on conviction shall be fined not less than \$500 nor more than \$5,000, and shall be imprisoned not less than six months nor more than two years.

No amendment was offered, and the Clerk read the next section, as follows:

SEC. 86. *And be it further enacted*, That all manufactured tobacco and snuff, manufactured prior to the passage of this act, and held in bond at the time of its passage, may be sold for consumption in the original packages, with the proper stamps for the amount of tax thereon affixed and canceled as required by law; and any person who shall, after the passage of this act, offer for sale any tobacco or snuff, in packages of a different size from those limited and prescribed by this act, representing the same to have been held in bond at the time of the passage of this act, when the same was not so held in bond, shall, on conviction, be fined fifty dollars for each package in respect to which such offense shall be committed: *Provided*, That after the 1st day of January, A. D. 1869, no such tobacco or snuff shall be sold or removed for sale or consumption from any bonded warehouse unless put up in packages and stamped as provided by this act.

No amendment was offered, and the next section was read, as follows:

#### Cigars.

SEC. 87. *And be it further enacted*, That upon cigars which shall be manufactured and sold, or removed for consumption or use, there shall be assessed and collected the following taxes, to be paid by the manufacturer thereof:

On cigarettes, cigars, and cheroots of all descriptions, made of tobacco or any substitute therefor, five dollars per thousand. And the Commissioner of Internal Revenue may prescribe such regulations for the inspection of cigars, cheroots, and cigarettes, and the collection of the tax thereon, as shall, in his judgment, be most effective for the prevention of frauds in the payment of such tax.

No amendment was offered, and the Clerk read the next section, as follows:

SEC. 88. *And be it further enacted*, That every person before commencing, or, if already commenced, before continuing, the manufacture of cigars, shall furnish, without previous demand therefor, to the assistant assessor of the division a statement in duplicate, subscribed under oath or affirmation, accurately setting forth the place, and, if in a city, the street and number of the street, where the manufacture is to be carried on; and if the same shall be manufactured for, or to be sold and delivered to, any other person, the name and residence and business or occupation of the person for whom the cigars are to be manufactured or to whom they are to be delivered; and shall give a bond in conformity with the provisions of this act, in such penal sum as the assessor of the district may require, not less than \$1,000, with an addition of \$100 for each person proposed to be employed by him in making cigars, conditioned that he will not employ any person to manufacture cigars who has not been duly registered as a cigar-maker; that he will not engage in any attempt to defraud the Government of any tax on his manufactures; that he will render truly and correctly all the returns, statements, and inventories prescribed; that whenever he shall add to the number of cigar-makers employed by him he will immediately give notice thereof to the collector of the district; that he will stamp, in accordance with law, all cigars manufactured by him before he offers the same or any part thereof for sale, and before he removes any part thereof from the place of manufacture; that he will not knowingly sell, purchase, expose, or receive for sale any cigars which have not been stamped as required by law; and that he will comply with all the requirements of law relating to the manufacture of cigars. The sum of said bond may be increased from time to time, and additional sureties required, at the discretion of the assessor, or under the instructions of the Commissioner of Internal Revenue. Every cigar manufacturer shall obtain from the collector of the district, who is hereby required to issue the same, a certificate setting forth the number of cigar-makers for which the bond has been given, which certificate shall be posted in a conspicuous place within the manufactory; and any cigar manufacturer who shall neglect or refuse to obtain such certificate, or to keep the same posted as hereinbefore provided, shall, on conviction, be fined \$100. Any person manufacturing cigars of any description without first giving bond as herein required shall, on conviction, be fined not less than \$100 nor more than \$5,000, and imprisoned not less than three months nor more than five years. Cigarettes and cheroots shall be held to be cigars under the meaning of this act.

Mr. MYERS. On page 112, lines fourteen and fifteen, I move to strike out " \$1,000" and insert " \$200;" so that the clause will read:

And shall give a bond in conformity with the pro-

visions of this act in such penal sum as the assessor of the district may require, not less than \$200, with an addition of \$100 for each person proposed to be employed by him, &c.

I will detain the committee but a moment. This refers to cigar manufacturers, and there are a large number of such manufacturers throughout the country, and a large number in my own district, who are poor men. They can scarcely give the bond now required by law of \$100 for themselves and \$100 for each employed; and if you increase it in this manner, instead of increasing the revenue you will only open up avenues to fraud; they will make cigars in out-of-the-way places, and will not give bonds at all. You call them "manufacturers," and suppose they are rich men, but many of them are poor men, and cannot give such a bond as this. I hope the amendment will be adopted.

The amendment was disagreed to.

Mr. HOLMAN. I move to strike out " \$1,000" and insert " \$500." I will only say that for very small manufacturers the amount named in the section is certainly too large.

Mr. SCHENCK. I will agree that that amendment may be adopted, to be voted on in the House.

The amendment was agreed to.

No amendment was offered.

The next section was read, as follows:

SEC. 89. *And be it further enacted*, That within thirty days after the passage of this act every cigar manufacturer shall place and keep on the side or end of the building within which his business is carried on, so that it can be distinctly seen, a sign, with letters thereon not less than three inches in length, painted in oil colors or gilded, giving his full name and business. Any person neglecting to comply with the requirements of this section shall, on conviction, be fined not less than \$100, nor more than \$500.

No amendment was offered.

The next section was read, as follows:

SEC. 90. *And be it further enacted*, That it shall be the duty of every assistant assessor to keep a record, in a book to be provided for the purpose, to be open to the inspection of any person, of the name and residence of every person engaged in the manufacture of cigars in his division, the place where such manufacture is carried on, and the number of the manufactory, together with the names and residences of every cigar-maker employed in his division; and the assistant assessor shall enter in said record, under the name of each manufacturer, an abstract of his inventories and monthly returns; and each assessor shall keep a similar record for the district, and shall cause the several manufactories of cigars in the district to be numbered consecutively, which number shall not thereafter be changed.

No amendment was offered.

The next section was read, as follows:

SEC. 91. *And be it further enacted*, That from and after the passage of this act all cigars shall be packed in boxes, not before used for that purpose, containing not more, respectively, than twenty-five, fifty, one hundred, two hundred and fifty, or five hundred cigars each; and any person who shall sell or offer for sale, or deliver or offer to deliver, any cigars in any other form than in new boxes as above described, or who shall pack in any box any cigars in excess of the number provided by law to be put in each box respectively, or who shall falsely brand any box, or who shall affix a stamp on any box denoting a less amount of tax than that required by law, shall, upon conviction for any of the above described offenses, be fined for each such offense respectively not less than \$100 nor more than \$1,000, and be imprisoned not less than six months nor more than two years.

Mr. STEVENS, of New Hampshire. I move to amend this section by inserting after the words "from and after the passage of this act all cigars shall be packed" the words "by the manufacturer." This section provides that all cigars shall be packed up in certain numbers in boxes not before used for that purpose. It also provides that no person shall sell or offer for sale, or shall deliver or offer to deliver, any cigars in any other form than in new boxes. I am at a loss how, under that provision, the selling of cigars by retail, by the single cigar, can be carried on. And I would move to further amend the section by inserting the words "cigar manufacturer" in lieu of the word "person" before the words "who shall sell or offer for sale." I think my amendment will obviate a difficulty that may arise under this section as it now stands.

Mr. SCHENCK. I have no objection to those amendments.

The amendments of Mr. STEVENS, of New Hampshire, were then agreed to.

Mr. HUBBARD, of West Virginia. I move to further amend this section by inserting after the words "all cigars shall be packed by the manufacturer in boxes" the words "or bundles;" also to strike out the words "not before used for that purpose."

Mr. SCHENCK. That will destroy our whole system of stamps.

Mr. HUBBARD, of West Virginia. It is asserted by cigar-makers that bundles can be stamped just as well as boxes. I think it will be an unnecessary burden to require all cigars to be put in boxes. I hope my amendment will be adopted.

The amendment of Mr. HUBBARD, of West Virginia, was not agreed to.

Mr. HIGBY. I would suggest to the Committee of Ways and Means that the amendment which has been adopted on the motion of the gentleman from New Hampshire [Mr. STEVENS] will open a wide door to frauds. His amendment forbids any cigar manufacturer to offer any cigars for sale except they are put up in boxes, as required by this section. But this provision can be evaded by permitting any other person than a manufacturer to do so; the manufacturer could employ a person to do so and thus evade the intention of the law. It seems to me that this change is a very bad one. I think the section as reported by the Committee of Ways and Means was better than it is now as amended.

Mr. ROBINSON. We can vote down the amendment in the House.

Mr. HIGBY. I desired to call the attention of the Committee of Ways and Means to the effect of the amendment.

The CHAIRMAN. Any gentleman can call for a separate vote on that amendment when this bill comes up in the House.

Mr. HUBBARD, of West Virginia. I hope the chairman of the Committee of Ways and Means [Mr. SCHENCK] will consent that the committee now rise, so that we may have an opportunity to examine this section more thoroughly between this time and to-morrow, when the bill is taken up again.

Mr. SCHENCK. I will consent that this section shall be considered still open to amendment to-morrow, when there is a fuller attendance in the committee.

Mr. HUBBARD, of West Virginia. That will do, if that consent can be given.

The CHAIRMAN. If no objection is made, this section will be regarded as open to amendment hereafter.

No objection was made.

No further amendment was offered to the section.

The next section was read, as follows:

SEC. 92. *And be it further enacted*, That every person now or hereafter engaged in the manufacture of cigars, shall make and deliver to the assistant assessor of the division a true inventory, in form prescribed by the Commissioner of Internal Revenue, of the quantity of leaf tobacco, cigars, stems, scraps, clippings, and waste, and the number of cigar boxes and the capacity of each box, held or owned by him on the 1st day of January of each year, or at the time of commencing and at the time of concluding business, if before or after the 1st of January, setting forth what portion of said goods, and what kinds, were manufactured or produced by him, and what were purchased from others, which inventory shall be verified by his oath or affirmation indorsed on said inventory; and the assistant assessor shall make personal examination of the stock sufficient to satisfy himself as to the correctness of the inventory, and shall verify the fact of such examination by oath or affirmation taken before the assessor, also to be indorsed on the inventory; and every such person shall enter daily in a book, the form of which shall be prescribed by the Commissioner of Internal Revenue, an accurate account of all the articles aforesaid purchased by him, the quantity of leaf tobacco, cigars, stems, or cigar boxes, of whatever description, manufactured, sold, consumed, or removed for consumption or sale, or removed from the place of manufacture; and shall, on or before the tenth day of each and every month, furnish to the assistant assessor of the division a true and accurate abstract from such book of all such purchases, sales, and removals made during the month next preceding, which abstract shall be verified by his oath or affirmation; and in case of refusal or willful neglect to deliver the inventory, or keep the account, or furnish the abstract aforesaid, he shall, on conviction, be fined not less than \$500 nor more than \$5,000, and imprisoned not less than six months nor more than three years. It shall be the duty of any dealer in leaf tobacco or material

used in manufacturing cigars, on demand of any officer of internal revenue authorized by law, to render to such officer a true and correct statement, verified by oath or affirmation, of the quantity and amount of such leaf tobacco or materials sold or delivered to any person or persons named in such demand; and in case of refusal or neglect to render such statement, or if there is cause to believe such statement to be incorrect or fraudulent, the assessor shall make an examination of persons, books, and papers in the same manner as provided in this act in relation to frauds and evasions.

No amendment was offered.

The next section was read, as follows:

SEC. 93. *And be it further enacted*, That the Commissioner of Internal Revenue shall cause to be prepared, for payment of the tax upon cigars, suitable stamps denoting the tax thereon; and all cigars shall be packed in quantities of twenty-five, fifty, one hundred, two hundred and fifty, and five hundred, and all such stamps shall be furnished to collectors requiring the same, who shall, if there be any cigar manufacturers within their respective districts, keep on hand at all times a supply equal in amount to two months' sales thereof, and shall sell the same only to the cigar manufacturers who have given bonds and paid the special tax, as required by law, in their districts respectively, and to importers of cigars who are required to affix the same to imported cigars in the custody of customs officers and to persons required by law to affix the same to cigars on hand on the 1st day of January, A. D. 1899; and every collector shall keep an account of the number, amount, and denominations of the stamps sold by him to each cigar manufacturer, and to other persons above described: *Provided*, That from and after the passage of this act, the duty on cigars imported into the United States from foreign countries shall be two dollars per pound, and twenty-five per cent. *ad valorem*.

Mr. MYERS. I will not interrupt the committee now, if this section can be reserved for amendment hereafter.

The CHAIRMAN. If there is no objection the gentleman from Pennsylvania [Mr. MYERS] will have the privilege of moving hereafter an amendment to this section.

There was no objection.

Mr. MAYNARD. I want to reserve a question of order upon the proviso at the end of the section just read.

The CHAIRMAN. On what ground?

Mr. MAYNARD. That the proviso is not germane.

The CHAIRMAN. The gentleman will see at once that as the bill was referred to the Committee of the Whole without any point of order being reserved, and as it is now being read for amendment, it is too late to raise any point of that kind.

Mr. MAYNARD. The bill has never been read through.

The CHAIRMAN. But the first reading was waived in consequence of the length of the bill, it having been printed and every gentleman being presumed to have read it.

Mr. STEWART. The bill was on our desks only a few hours before we went into Committee of the Whole upon it.

The CHAIRMAN. But the first reading, on which points of order could have been raised upon anything in the bill, was dispensed with, and the right to raise points of order was not reserved.

The next section was read, as follows:

SEC. 94. *And be it further enacted*, That every manufacturer of cigars shall securely affix, by pasting on each box containing cigars manufactured by or for him, a label on which shall be printed, together with the manufacturer's name, the number of his manufactory, and the district and State in which it is situated, these words:

NOTICE.—The manufacturer of the cigars herein contained has complied with all the requirements of law. Every person is cautioned under the penalties of law not to use this box for cigars again.

Any manufacturer of cigars who shall neglect to affix such label to any box containing cigars made by or for him, or sold or offered for sale by or for him, or any person who shall remove any such label so affixed from any such box, shall, upon conviction thereof, be fined fifty dollars for each box in respect to which such offense shall be committed.

No amendment was offered.

The next section was read, as follows:

SEC. 95. *And be it further enacted*, That all cigars which shall be removed from any manufactory or place where cigars are made without the same being packed in boxes, as required by this act, or without the proper stamp thereon denoting the tax, or without burning into each box with a branding iron the number of the cigars contained therein, and the name of the manufacturer, and the number of the district and the State, or without the stamp denoting the tax thereon being properly affixed and canceled, or which shall be sold or offered for sale not properly

boxed and stamped, shall be forfeited to the United States. And any person who shall commit any of the above-described offenses shall, on conviction, be fined for each such offense, respectively, not less than \$100 nor more than \$1,000, and imprisoned not less than six months nor more than two years. And any person who shall pack cigars in any box bearing a false or fraudulent or counterfeit stamp, or who shall remove, or cause to be removed, any stamp denoting the tax on cigars from any box, with intent to use the same, or who shall use, or permit any other person to use, any stamp so removed, or who shall receive, buy, sell, give away, or have in his possession any stamp so removed, or who shall make any other fraudulent use of any stamp or stamped box intended for cigars, or who shall remove from the place of manufacture any cigars not properly taxed and stamped as required by law, shall be deemed guilty of a felony, and, on conviction, shall be fined not less than \$100 nor more than \$1,000, and imprisoned not less than six months nor more than three years.

No amendment was offered.

The next section was read as follows:

SEC. 96. *And be it further enacted*, That the absence of the proper revenue stamp on any box of cigars sold or offered for sale, or kept for sale, shall be notice to all persons that the tax has not been paid thereon, and shall be conclusive evidence of the non-payment thereof; and such cigars shall be forfeited to the United States.

No amendment was offered.

The next section was read, as follows:

SEC. 97. *And be it further enacted*, That in all cases where cigars of any description are manufactured, in whole or in part, upon commission or shares, or where the material is furnished by one party and manufactured by another, or where the material is furnished or sold by one party with an understanding or agreement with another that the cigars are to be received in payment therefor, or for any part thereof, the stamps required by law shall be affixed by the actual maker before the cigars are removed from the place of manufacturing. And in case of fraud on the part of either of said parties in respect to said manufacture, or of any collusion on their part with intent to defraud the revenue, such material and cigars shall be forfeited to the United States, and every person engaged in such fraud or collusion shall, on conviction, be fined not less than \$100 nor more than \$5,000, and imprisoned for not less than six months nor more than three years.

No amendment was offered.

The next section was read, as follows:

SEC. 98. *And be it further enacted*, That any manufacturer of cigars, who shall remove or sell any cigars without payment of the special tax as a cigar manufacturer, or without having given bond as such, or without the proper stamps denoting the tax thereon, or who shall make false or fraudulent entries of manufactures or sales of any cigars, or who shall make false or fraudulent entries of the purchase or sales of leaf tobacco, tobacco stems, or other material used in the manufacture of cigars, or who shall affix any false, forged, spurious, fraudulent, or counterfeit stamp, or imitation of any stamp, required by law to any box containing any cigars, shall, in addition to the penalties elsewhere provided in this act for such offenses, forfeit to the United States all raw material and manufactured or partly manufactured tobacco and cigars, and all machinery, tools, implements, apparatus, fixtures, boxes, barrels, and all other materials, which shall be found in the possession of such person, or in his manufactory, and used in his business as such manufacturer, together with his estate or interest in the building or factory and the lot or tract of ground on which such building or factory is located, and all appurtenances thereunto belonging.

No amendment was offered.

The next section was read, as follows:

SEC. 99. *And be it further enacted*, That all cigars imported from foreign countries after the passage of this act shall, in addition to the import duties imposed on the same, pay the tax prescribed in this act for cigars manufactured in the United States, and have the same stamps affixed. Such stamps shall be affixed and canceled by the owner or importer of cigars while they are in the custody of the proper custom-house officers; and such cigars shall not pass out of the custody of such officers until the stamps have been so affixed and canceled; but shall be put up in boxes containing quantities as prescribed in this act for cigars manufactured in the United States before such stamps are affixed. And the owner or importer of such cigars shall be liable to all the penal provisions of this act prescribed for manufacturers of cigars manufactured in the United States. Where it shall be necessary to take any of such cigars, so imported, to any place for the purpose of affixing and canceling such stamps, other than the public stores of the United States, the collector of customs of the port where such cigars shall be entered shall designate a bonded warehouse to which they shall be taken, under the control of such customs officer as such collector may direct. And any officer of customs who shall permit any such cigars to pass out of his custody or control without compliance by the owner or importer thereof with the provisions of this section relating thereto shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined not less than \$1,000 nor more than \$5,000, and imprisoned not less than six months nor more than three years.

No amendment was offered.

The next section was read, as follows:

SEC. 100. *And be it further enacted*, That from and after the passage of this act it shall be the duty of every dealer in cigars, either of foreign or domestic manufacture, having on hand more than five thousand thereof, imported or manufactured, or purporting or claimed to have been imported or manufactured, prior to the passage of this act, to immediately make a true and correct inventory of the quantity of such cigars in his possession, under oath or affirmation, and to deposit such inventory with the assistant assessor of the proper division, who shall immediately return the same to the assessor of the district, who shall immediately thereafter make an abstract of the several such inventories filed in his office, and transmit the same to the Commissioner of Internal Revenue; and a like inventory and return shall be made on the first day of every month thereafter, and a like abstract of inventories shall be transmitted, while any such dealer has any such cigars remaining on hand, until the 1st day of January, 1869. After the 1st day of January, 1869, all cigars of every description shall be taken to have been either manufactured or imported after the passage of this act, and shall be stamped accordingly; and any person who shall sell, or offer for sale, after the 1st day of January, 1869, any imported cigars, or cigars purporting or claimed to have been imported, not so put up in packages and stamped by this act, shall, on conviction thereof, be fined not less than \$500 nor more than \$5,000, and imprisoned not less than six months nor more than two years.

Mr. MYERS. I desire to move an amendment to this section, but I will not press it now if I can have the privilege of offering it to-morrow.

The CHAIRMAN. If there be no objection the gentleman will have the right to offer to-morrow an amendment to this section.

Mr. SCHENCK. Let it be offered now.

Mr. MYERS. I move to amend as follows:

Strike out in section one hundred the following clause:

After the 1st day of January, 1869, all cigars of every description shall be taken to have been either manufactured or imported after the passage of this act, and shall be stamped accordingly.

Strike out in line twenty-five the word "so."

Insert after the words "Commissioner of Internal Revenue" the following:

And upon such inventory and return the inspector shall at once make examination to ascertain and shall report to the collector whether such return and inventory are correct, and if found to be so shall thereupon affix to the packages provided for in section ninety-three of this act, in which such imported or manufactured cigars shall be placed, a special stamp.

This amendment is designed to prevent the collection of tax twice upon the same cigars. The section provides that there shall be an account taken of the cigars which are on hand, and under the clause which I propose to strike out, they will be required after January 1, 1869, to pay tax when they have already paid it once. The amendment is designed to avoid that.

Mr. MULLINS. If the cigars are kept on hand that long they ought to be taxed again. The amendment was not agreed to.

The next section was read, as follows:

SEC. 101. *And be it further enacted*, That any person who shall, after the passage of this act, sell, or offer for sale, any cigars, representing the same to have been manufactured and the tax paid thereon prior to the passage of this act, when the same was not so manufactured and the tax not so paid, shall be liable to a penalty of \$500 for each offense, and shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than \$500 nor more than \$5,000, and shall be imprisoned not less than six months nor more than three years.

No amendment was offered.

The next section was read, as follows:

SEC. 102. *And be it further enacted*, That if any distiller, rectifier, wholesale liquor dealer, compounder of liquors, or manufacturer of tobacco or cigars, shall knowingly and willfully omit, neglect, or refuse to do or cause to be done any of the things required by law in the carrying on or conducting of his business, or shall do anything by this act prohibited, if there be no specific penalty or punishment imposed by any other section of this act for the neglecting, omitting, or refusing to do, or for the doing or causing to be done the thing required or prohibited, he shall pay a penalty of \$1,000; and if the person so offending be a distiller, rectifier, wholesale liquor dealer, or compounder of liquors, all distilled spirits or liquors owned by him, or in which he has any interest as owner, and if he be a manufacturer of tobacco or cigars, all tobacco or cigars found in his manufactory shall be forfeited to the United States.

No amendment was offered.

The next section was read as follows:

SEC. 103. *And be it further enacted*, That any internal revenue officer who shall be or become interested, directly, or indirectly, in the manufacture of tobacco, snuff, or cigars, or in the production, rectification, or redistillation of distilled spirits, shall be dismissed from office; and any such officer who shall become so

interested in any such manufacture or production, rectification, or redistillation, shall, on conviction, be fined not less than \$500 nor more than \$5,000.

No amendment was offered.

The next section was read, as follows:

SEC. 104. *And be it further enacted*, That if any officer or agent appointed and acting under the authority of any revenue law of the United States shall be guilty of any extortion or willful oppression, under color of law; or shall knowingly demand other or greater sums than shall be authorized by law; or shall receive any fee, compensation, or reward, for the performance of any duty except as by law prescribed; or shall willfully neglect to perform any of the duties enjoined on him by law; or shall conspire or collude with any other person to defraud the United States; or shall make opportunity for any person to defraud the United States; or shall do, or omit to do, any act with intent to enable any other person to defraud the United States; or shall negligently or designedly permit any violation of the law by any other person; or shall make or sign any false entry in any book, or make or sign any false certificate or return in any case where he is by law or regulation required to make any entry, certificate, or return; or having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States under any revenue law of the United States, shall fail to report, in writing, such knowledge or information to his next superior officer, and to the Commissioner of Internal Revenue; or shall demand or accept or attempt to collect, directly or indirectly, as payment or gift or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law, except as expressly authorized by law so to do, he shall be dismissed from office, and shall be held to be guilty of a misdemeanor, and shall, on conviction, be fined not less than \$1,000 nor more than \$5,000, and imprisoned not less than six months nor more than three years. And one half of the fine so imposed shall be for the use of the United States, and the other half for the use of the informer, who shall be ascertained by the judgment of the court; and the said court shall also render judgment against the said assessor or assistant assessor for the amount of damages sustained in favor of the party injured, to be collected by execution.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 105. *And be it further enacted*, That any person who shall simulate or falsely or fraudulently execute or sign any bond, permit, entry, or other document, required by the provisions of this act, or by any regulation made in pursuance thereof, or who shall procure the same to be falsely or fraudulently executed; or who shall advise, aid in, or connive at the execution thereof, shall, on conviction, be imprisoned for a term not less than one year nor more than five years; and the property to which such false or fraudulent instrument relates shall be forfeited.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 106. *And be it further enacted*, That every collector having charge of any warehouse in which distilled spirits, tobacco, or other articles, are stored in bond, shall render a monthly account of all such articles to the Commissioner of Internal Revenue, which account shall be examined and adjusted, monthly, by him, so as to exhibit a true statement of the liability and responsibility of every such collector on such account. In adjusting such account the collector shall be charged with all the articles which may have been deposited or received under the provisions of law in any warehouse in his district and under his control, and shall be credited with all such articles shown to have been removed therefrom according to law, including transfers to other collectors and to his successor in office, and also whatever allowances may have been made in accordance with law to any owner of such goods or articles for leakage or other losses.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 107. *And be it further enacted*, That in all cases arising under the internal revenue laws where, instead of commencing or proceeding with a suit in court, it may appear to the Commissioner of Internal Revenue to be for the interest of the United States to compromise the same, he is empowered and authorized to make such compromise, with the advice and consent of the solicitor of internal revenue, whose opinion in the case, with the reasons therefor, shall be given in writing and delivered to the Commissioner; and in every case where a compromise is made, there shall be placed on file in the office of the Commissioner, the opinion of the solicitor, together with a statement of the amount of tax assessed, the amount of additional tax or penalty imposed by law in consequence of the neglect or delinquency of the person against whom the tax is assessed, and the amount actually paid in accordance with the terms of the compromise; but no such compromise shall be made of any case after a suit or proceeding in court has been commenced, without the recommendation also of the district attorney for the judicial district in which the suit or proceeding is pending, or of such other counsel as may be employed to conduct or prosecute the same on the part of the United States: *Provided*, That it shall be lawful for the court, at any stage of such suit or criminal proceedings, to continue the same for good cause shown on motion of the district attorney.

Mr. HOLMAN. I have an additional sec-

tion I want to move to come in after the one hundred and seventh.

Mr. SCHENCK. I want to get past the provision on tobacco and cigars, and will consent the gentleman shall offer that to-morrow.

Mr. PIKE. I move the following:

*And be it further enacted*, That upon all interest arising from bonds of the United States there shall be levied, collected, and paid a duty of ten per cent. on the amount of said interest, and the Treasurer of the United States and such subordinate officers as shall be charged with the payment of interest shall assess and collect the duty hereby levied.

Mr. SCHENCK. I make the point of order that is not germane.

Mr. PIKE. It is.

The CHAIRMAN. The Chair sustains the point of order.

Mr. PIKE. I appeal from the decision of the Chair.

Mr. HOLMAN. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union, pursuant to the order of the House, had had under consideration the Union generally, and particularly the special order, being House bill No. 1284, to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, and had come to no resolution thereon.

#### LEAVE OF ABSENCE.

Mr. ARCHER asked and obtained leave of absence until the 30th instant.

Mr. HIGBY. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at eleven o'clock and fifteen minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Dr. Robert Lebby, of Charleston, South Carolina, for relief from disabilities, indorsed by General R. R. Scott, General Canby, Collector Mackey, &c.

By Mr. HALSEY: The petition of Bedell & Co. and others, asking Congress to relieve refined petroleum from taxation.

By Mr. JULIAN: The petition of Anthony Bowen, praying increase of compensation for services rendered the Government, as set forth in petition and accompanying papers.

By Mr. ROBINSON: The petition of citizens of Brooklyn, New York, and others, for an appropriation to remove obstructions at Hell Gate, in the harbor of New York.

By Mr. STIGREAVES: The petition of P. F. Cole, of Warren county, New Jersey, asking the pay and allowance of a second lieutenant of infantry, &c.

By Mr. TROWBRIDGE: The application of Moses F. Carlton, late lieutenant of the fourth Michigan infantry, for pay as a lieutenant from the time of his appointment as such.

By Mr. WASHBURN, of Massachusetts: A remonstrance of 1,600 legal voters of New England, New York, New Jersey, and Pennsylvania, against the extension of Howe's sewing-machine patent, and they wish to be heard before the Committee on Patents of the House of Representatives on the subject.

#### IN SENATE.

FRIDAY, June 26, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### ELECTION IN ARKANSAS.

The PRESIDENT *pro tempore* laid before the Senate a report of the General of the Army, communicating, in compliance with a resolution



of the Senate of May 29, 1868, further information regarding the late election in Arkansas; which was ordered to lie on the table.

#### REVISION OF THE LAWS.

The PRESIDENT *pro tempore* laid before the Senate the following report of the commissioners appointed under the act of June 27, 1866, to provide for the revision and consolidation of the statute laws of the United States; which was read:

The undersigned, commissioners appointed under the act of June 27, 1866, "to provide for the revision and consolidation of the statute laws of the United States," respectfully report to the Senate:

That they began their labors by an examination of the methods adopted in revisions of a similar character, and afterward framed a provisional scheme for the work in hand. They arranged the contents of the Statutes-at-Large, so far as it could be done provisionally, under titles, and proceeded to revise these titles separately. It became apparent that they were so connected that very few of them could be considered safely ascertained and completed until the body of connected titles should be revised. They have, therefore, pursued the necessary course, and have prepared a considerable amount of material upon the various connected titles.

In doing this work they have found it indispensable to recast every statute from which they take any provision. Where several statutes relating to the same subject modify each other it has been impossible to state their united effect without writing a new statute. To retain the language of the fragments in force would commonly be to misstate the intention of the whole. The care necessary in this process requires greater time than a revision after the method of compilation would have done.

The few specimens which they have printed have been offered merely as examples of the method adopted by them, and not as indicating the amount of work done. They have hoped that by means of a reference of these to appropriate committees they might ascertain whether that method was deemed by Congress to be in accordance with the act by which they are authorized.

The commissioners have been obliged to expend a considerable part of their labor in learning the art; and they believe that their experience must enable them, as it already does, to work with increasing rapidity. But they are still unable to answer the second inquiry put to them in the resolution of the Senate with definiteness. They do not believe, however, that with any amount of industry and ability the revision of the permanent and general statutes of the United States can be correctly done within the period limited by the act of June 27. They can only say that they are giving their best endeavors to accomplish the work without delay and with strict correctness.

WILLIAM JOHNSTON,  
CHARLES P. JAMES.

The commissioners herewith submit three reports:

1. The laws relating to patents.
2. The laws relating to the Army.
3. The laws relating to public printing.

Mr. TRUMBULL. I move that that report be printed, and that the accompanying communications, which are specimens of the work, be referred to the Committee on the Judiciary. They all ought to go to one committee to see as to the mode of doing this work.

The motion was agreed to.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented a petition of mechanics, citizens of Salem, praying relief for the African export trade of distilled spirits; which was ordered to lie on the table.

Mr. MORGAN presented the memorial of James Travers, praying for a pension; which was referred to the Committee on Pensions.

Mr. DRAKE presented a memorial of W. R. Laughlin and Solomon Markham, delegates appointed by the settlers on the Osage and Cherokee lands, remonstrating against the ratification of the Osage treaty; which was referred to the Committee on Indian Affairs.

Mr. CATTELL. I present a resolution of the mayor and common council of Jersey City, New Jersey, asking the passage of the bill now pending before Congress to promote the efficiency of the American commercial marine, to establish a national marine school for the orphans of soldiers and sailors killed in battle or deceased in the service of the United States, and others, and to make additional provision for disabled veterans of the naval service. I move its reference to the Committee on Military Affairs.

It was so referred.

Mr. CATTELL presented a memorial of producers, dealers in, and consumers of articles required in dyeing and tanning, praying for the imposition of a specific duty on sumac

imported from foreign countries; which was referred to the Committee on Finance.

Mr. VICKERS presented a petition of citizens of Philadelphia, Pennsylvania, praying that pensions be granted to the soldiers and sailors and the widows of soldiers and sailors of the war of 1812; which was ordered to lie on the table.

Mr. VAN WINKLE presented a petition of citizens of Philadelphia, Pennsylvania, praying that pensions be granted the soldiers and sailors and the widows of soldiers and sailors of the war of 1812; which was ordered to lie on the table.

Mr. CONNESS. I present an extended petition sent by telegraph from California, and signed by a great number of the most prominent citizens of that State, connected with its industries, which reads thus:

"We, the undersigned, representatives of the interests of California and of the leading vineyards, do respectfully petition you to use every effort in your official capacity to have the duty on grape brandy reduced in proportion to the reduction on other spirits, or if possible entirely removed. We believe the life of this great and growing vineyard interest demands such action on the part of Congress."

I move that this petition be referred to the Committee on Finance, to whom the bill will go when it comes from the House of Representatives.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the bill (H. R. No. 1035) authorizing the Manufacturers' National Bank of New York to change its location, reported adversely thereon, and moved that it be indefinitely postponed; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 1282) authorizing certain banks named therein to change their names, reported adversely thereon, and moved that it be indefinitely postponed; which was agreed to.

Mr. FRELINGHUYSEN, from the Committee on Claims, to whom was referred the joint resolution (S. R. No. 9) in favor of A. W. Walker, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee to whom was referred the petition of Henry Newell, submitted an adverse report; which was ordered to be printed.

Mr. MORRILL, of Vermont, from the Committee on Claims, to whom was referred the petition of Clara Moore, submitted an adverse report; which was ordered to be printed.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 1205) to further amend the postal laws, reported it with amendments.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a letter of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate of the 5th of April, 1867, information in relation to the employment of Louis V. Bogy in the Department of the Interior, submitted a report, accompanied by the following resolution:

*Resolved*, That the appointment by the Secretary of the Interior of Louis V. Bogy as special agent, under the circumstances and for the purposes stated in his communication to the Senate of the 8th of April, 1867, and as explained in the letter to the Committee on the Judiciary of the 18th of April, 1867, was improper and unauthorized.

The report and resolution were ordered to be printed.

Mr. HOWE, from the Committee on Claims, to whom was referred the bill (S. No. 379) for the relief of Thomas Wolfe, of Macoupin county, Illinois, reported adversely, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the petition of Mrs. J. M. Hockaday, praying compensation for property destroyed by the Mormons in 1856, asked to be discharged from its further consideration; which was agreed to.

#### LOIS CLARK.

Mr. EDMUNDS. I am instructed by the Committee on Pensions, to whom was referred the petition of Lois Clark, daughter of Abraham Lawrence, deceased, a soldier of the revolutionary war, praying to be allowed the pension due her father, to report a bill granting her relief. I ask unanimous consent that it may be considered at this time. It was accidentally laid aside in the committee-room, and has lost its place. It was presented very early.

By unanimous consent, the bill (S. No. 569) granting relief to Lois Clark was read three times, and passed. It provides for the payment to Lois Clark, of Milton, Vermont, of the sum of \$757 due to her father, Abraham Lawrence, a soldier of the Revolution, being his pension from the 4th of March, 1831, to the day of his death, June 18, 1837.

#### BILLS INTRODUCED.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 570) for a grant of land and granting the right of way over the public lands to the Denver Pacific Railway and Telegraph Company, and for other purposes; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. YATES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 571) to provide for the more economical administration of the government of the several Territories of the United States, and for other purposes; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

Mr. SPRAGUE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 572) to incorporate the Island City Harbor Company; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 573) to provide for a life-boat to be stationed on Narragansett beach, Rhode Island; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. CONNESS. I ask leave to present an amendment for the purpose of having it printed, which I propose to offer to House bill No. 768 when it is considered. It is a bill concerning the rights of American citizens in foreign States. I move that the amendment be printed.

The motion was agreed to.

#### SIOUX INDIANS.

Mr. RAMSEY. I move that the Senate proceed to the consideration of Senate bill No. 478.

The motion was agreed to; and the bill (S. No. 478) to amend an act entitled "An act for the removal of the Sisseton, Waupeton, Medawakonton, and Waupukute bands of Sioux or Dakota Indians, and for the disposition of their lands in Minnesota and Dakota," approved March 3, 1863, was considered as in Committee of the Whole. It proposes to amend the first section of the act of March 3, 1863, so as to read:

That the President is authorized, and hereby directed, to assign to and set apart for the Sisseton, Waupeton, Medawakonton, and Waupukute bands of Sioux Indians, a tract or tracts of unoccupied lands, outside of the limits of any State, sufficient in extent to enable him to assign to each member of said bands, or either of them who are willing to adopt the pursuit of agriculture, eighty acres of good agricultural lands, the same to be well adapted to agricultural purposes.

Mr. THAYER. I desire to inquire of the Senator from Minnesota where these Indians now are.

Mr. RAMSEY. This is a very simple matter, which can readily be explained. The bill makes no appropriation of money or of lands. After the Sioux massacre of 1862, the reservation belonging to the Sioux Indians in Minnesota and their annuities were confiscated by the Government; but the Government, considering that there was still some care to be be-

stowed upon them, authorized the sale of the reservation, and the distribution of the proceeds of that sale from time to time among these Indians. If it is desired, I can read the various sections of the law of 1863, but I presume that is not necessary. It provided that the President should locate these Indians upon a tract, using the word "tract" in the singular, outside of the borders of any State. In pursuance of that authority, the most mischievous of these people, those who were kept in prison for some time at Davenport, a thousand or so of them, those who had been convicted by a court-martial of violence upon the white settlers in Minnesota, were removed to a reservation at the mouth of the Niobrara. The proceeds of the sale of their old reservation, under the construction which the Indian department gives to this law, are distributed entirely among those Indians; and yet they are but a small fraction and the least deserving fraction of the Indians who formerly were entitled to the reservation in Minnesota and to its proceeds. There were four bands, the Waupetons, Medawakontons, Waupekutes, and Sissetons. The Waupekutes and Medawakontons were the mischief makers, the bloody Indians who were sent down to the mouth of the Niobrara; the others are up in the Territory of Dakota, and by a treaty which the Government made with those Indians in the spring of 1867 they were entitled to a reservation, and to some other advantages to be provided for them by the Government. But not one cent from that time to this has ever been given to them; they are without the least help; and the Indian department is unable to give them any assistance whatever. The Indian department hold that their power for the benefit of these bands is exhausted by the distribution which they make to the Indians at the mouth of the Niobrara; but there are only one thousand there, and there are four thousand Sissetons and Waupetons in Dakota, and recognizing the fact that they are entitled in equity to an equal participation this bill is introduced. There is an accumulation of about fifty thousand dollars, probably, realized from the sale of their old reservation, and with the assistance of one half or two thirds of that, to which they would be properly entitled, the Government can do them a benefit and help to open their farms on the reservation. The Senate will recollect that some time ago it agreed to an appropriation of \$20,000 for the relief of these Indians, in consideration of their great necessity and destitution; but that has not been heard from since it went to the House of Representatives, some two months since, and these Indians are entirely without help, and the Indian Bureau is without the ability to help them.

Mr. MORRILL, of Maine. Does this bill come before the Committee on Indian Affairs?

Mr. RAMSEY. It is recommended by the Committee on Indian Affairs unanimously.

Mr. THAYER. The Senator from Minnesota has failed to answer my question.

Mr. RAMSEY. What was the question?

Mr. THAYER. I will put it in this shape: does the bill relate to those Indians who are now located at the mouth of the Niobrara, in Nebraska?

Mr. RAMSEY. Certainly it relates to them; and it relates to those in Dakota.

Mr. THAYER. I ask to have the bill read again.

The bill was read.

Mr. RAMSEY. The only modification is that it introduces the words "tract or tracts" instead of the singular "tract." The first section of the act of 1863 provides that the President shall locate these Indians on a tract of land outside of the borders of any State. The whole object of this bill is to reproduce that first section with this change, using "tract or tracts," so as to justify the Indian Bureau in relieving the Indians who are located upon the reservation in the Territory of Dakota. There is no other way of relieving them.

Mr. THAYER. It does not result in removing the Indians from Nebraska?

Mr. RAMSEY. Not at all. You can have them, and more of them if you desire them there.

Mr. THAYER. I want to say to my friend from Minnesota, who represents that these Indians were the worst of those who removed from Minnesota, that since they have come into our jurisdiction they are peaceable, quiet Indians, and we have no disposition to have them removed.

Mr. RAMSEY. I am glad to know that you are so pleased with them. We can send you another installment. [Laughter.]

Mr. THAYER. We treat them kindly and civilize them.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

STEPHEN G. MONTANO.

Mr. SUMNER. I move that the Senate proceed to the consideration of Senate bill No. 553.

Mr. CONNESS. What is it about?

Mr. SUMNER. It is entitled "A bill to pay Stephen G. Montano, a citizen of Peru, an unpaid balance of money awarded to him by the mixed commission authorized by the convention of January 12, 1863, between the United States and Peru." It grows out of a judgment of a California court.

Mr. CONNESS. It is not to pay for a British ship?

Mr. SUMNER. Oh, no; you are not against this.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Treasury to pay to Stephen G. Montano, a citizen of Peru, or his legal representatives, the sum of \$27,800 43 in coin, with interest in coin from the 11th of July, 1864, to the time of payment, the same being an unpaid balance of money due to him from the United States under a decree of the mixed commission authorized by the convention of January 12, 1863, between the United States and Peru, for the settlement of pending claims of citizens of either country against the other.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PORTAGE LAKE SHIP-CANAL.

Mr. CHANDLER. I move that the Senate proceed to the consideration of Senate bill No. 398.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 398) to establish the right of way of the Portage Lake and Lake Superior ship-canal, and to provide for the extension and completion of the same.

The PRESIDENT *pro tempore*. The Committee on Public Lands have reported the bill with an amendment in the nature of a substitute. The amendment only will be read, unless the reading of the original bill is called for by some Senator.

The Chief Clerk read the amendment, which was to strike out all of the bill after the enacting clause and to insert the following in lieu thereof:

That the Portage Lake and Lake Superior Ship-Canal Company, a company organized under the laws of the State of Michigan, be, and hereby is, authorized to construct a breakwater in Keweenaw bay, Lake Superior, not exceeding two thousand feet in width, on the bank of said bay, and a ship-canal from the most eligible point in said bay to Portage lake, which canal shall be at least one hundred feet in width, and not less than thirteen feet in depth: *Provided*, The said canal company shall also remove the rocks in Portage lake, so as to secure free and unobstructed navigation, with thirteen feet water in the channel of said lake, through to the head thereof, and the right of way through said lake is hereby granted to said company, not exceeding six hundred feet in width. And the Secretary of War shall designate an engineer of the Army who shall examine the obstructions in said lake, and report the same to said Secretary, with maps thereof, and shall report to said Secretary when the work contemplated in this section shall be completed in a permanent manner. And said engineer shall also ascertain whether any money has been expended to aid the navigation into Portage lake, in the route of said ship-canal; by whom expended, if any has been expended, the amount expended; and after deduct-

ing the reimbursements received, if any, by persons so expending said money for the purpose aforesaid, shall report the balance to the said Secretary of War, if any balance is found, and shall establish the time in which the sum so found shall be paid; and the grants contained in this act shall be subject to the payment of said money so actually expended.

SEC. 2. *And be it further enacted*, That there is hereby granted to the State of Michigan for the use and benefit of the Portage Lake and Lake Superior Ship-Canal Company, to aid in the construction of the work provided for in the first section of this act, in accordance with the act of the Legislature of the State of Michigan in relation thereto, two hundred thousand acres of public land, to be selected from the odd-numbered sections in the Marquette land district, in the upper peninsula of Michigan, subject to sale or preemption, and which have been surveyed, but to which no preemption or homestead rights have attached, and which have not been reserved in any grant heretofore made by Congress nor otherwise disposed of. Said lands may be selected by said company at any time, and patents to issue therefor as hereinafter provided: *And provided further*, That said canal shall be and remain a public highway for the use of the Government of the United States, free from toll or charge upon the vessels of said Government, or upon vessels employed by said Government in the transportation of any property or troops of the United States.

SEC. 3. *And be it further enacted*, That the aforesaid company shall forthwith establish the route of said canal and the plan of said breakwater, and file plans or a plat thereof in the office of the War Department, and shall obtain the approval of the same by the Secretary of War, and all the expenses incurred in carrying out the provisions of this act shall be borne by said company.

SEC. 4. *And be it further enacted*, That if said breakwater and ship-canal shall not be completed according to the plans so approved by the Secretary of War, and said obstructions removed within five years from the passage of this act, the lands hereby granted shall revert to the United States: *Provided*, That whenever said breakwater and ship-canal shall be completed according to the provisions of this act, and said obstructions shall be removed, and said Secretary of War shall certify to the same patents for the lands herein granted shall be issued to the said company.

Mr. HENDRICKS. I move to amend the amendment in section two, line thirteen, by inserting after the words "disposed of," the words "and which are not known upon the maps or reports of the public surveys as mineral."

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill extending the Portage Lake and Lake Superior ship-canal to Keweenaw bay, providing for the right of way, and making a grant of land to aid in the continuance of said extension."

WAGON-ROADS IN DAKOTA TERRITORY.

Mr. FERRY. I move that the Senate proceed to the consideration of House bill No. 650, reported by me yesterday from the Committee on Territories and then laid over for examination.

The motion was agreed to; and the bill (H. R. No. 650) to amend act of 3d March, 1865, providing for the construction of certain wagon-roads in Dakota Territory was considered as in Committee of the Whole.

Mr. FERRY. I move to amend the bill so as to limit the amount appropriated to the sum of \$6,500, which is the estimate for the expense of the bridge now made by the Department of the Interior in a letter which I have from that Department in my hand. The amendment is in line three, after the word "that," to insert "so much of;" and in line six, to strike out the words "or so much thereof as may be necessary" and insert "as shall not exceed the sum of \$6,500;" so as to make the bill read:

That so much of the unexpended balance of an appropriation made March 3, 1865, for the construction of certain wagon roads in the Territory of Dakota, as shall not exceed the sum of \$6,500, be, and the same is hereby, applied to the completion of the bridge over the Dakota river, on the line of the Government road leading from Sioux City, in the State of Iowa, to the mouth of the Cheyenne river, in Dakota Territory.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

#### MAQUOKETA RIVER.

Mr. HARLAN. I move to take up for consideration Senate resolution No. 107.

The motion was agreed to; and the joint resolution (S. R. No. 107) in relation to the Maquoketa river, in the State of Iowa, was considered as in Committee of the Whole. It proposes to give the assent of Congress to the construction of bridges across the Maquoketa river, in the State of Iowa, with or without draws, as may be provided by the laws of the State of Iowa.

The joint resolution was reported to the Senate.

Mr. MORRILL, of Maine. I ask the Senator from Iowa whether that is a navigable river?

Mr. HARLAN. It is not a navigable stream; it is a small mill stream.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time, and passed.

#### REMOVAL OF CAUSES FROM STATE COURTS.

Mr. EDMUNDS. I move to take up the bill reported by me the other day from the Committee on the Judiciary for the removal of causes in certain cases from the State courts to the United States courts.

Mr. HENDRICKS. That bill ought not to be taken up now. It is a bill that will attract a good deal of attention and a good deal of discussion. I think it ought to be discussed, and it is impossible for me to discuss it to-day, for I am scarcely able to be here.

Mr. EDMUNDS. It will be absolutely impossible to discuss the bill properly until it is taken up; but do I understand my friend to say that he is unwell to-day?

Mr. HENDRICKS. Yes, sir.

Mr. EDMUNDS. I withdraw the motion if my friend is not able to discuss the bill now.

#### CENTER MARKET.

Mr. CORBETT. I move to take up Senate bill No. 394, which was reported from the Committee on the District of Columbia in February last. It is a bill which provides for the removal of Center market upon Pennsylvania avenue.

The motion was agreed to; and the bill (S. No. 394) to provide for the removal of the Center market, in the city of Washington, and for the erection of a market building in a more suitable locality, was read the second time, and considered as in Committee of the Whole. It authorizes the Commissioner of Public Buildings to cause to be removed within twelve months all the buildings, sheds, and tenements of every description now located on the Government reservation on Pennsylvania avenue, between Seventh and Ninth streets west, and occupied as a city market, or for other purposes, and to cause the reservation to be inclosed and preserved in the same manner as other reservations now under his charge. The materials of the present market building are to be turned over to the mayor of the city of Washington for such public purposes as may be deemed proper under the direction of the corporate authorities of the city; and they are to enter upon and occupy, as a permanent site for a market-house, all of that portion of the public reservation, or so much thereof as may be necessary, bounded as follows: commencing one hundred feet south of the southeast corner of block three hundred and fifty, as marked on the plat of the city of Washington; thence west five hundred and eleven feet and four inches to a point one hundred feet south of the southwest corner of block three hundred and twenty-four; thence south one hundred and seventy feet along the east side of Twelfth street west; thence east five hundred and eleven feet four inches to a point on the west side of Tenth street west; thence north one hundred and seventy feet to the place of beginning. For the purpose of erecting such

market-house it is to be lawful for the said corporation to create a debt, in such form as may be found most expedient, not exceeding the sum of \$200,000, at a rate of interest not exceeding six per cent. per annum, notwithstanding any restriction in the charter of the city or existing laws to the contrary; but the Government of the United States in no event whatever is to be liable for the principal or interest upon any such loan; and the entire revenue of the building after paying contingent expenses and interest on the loan is to be appropriated to the payment of the money borrowed for that purpose. No more than \$220,000 are to be expended in building the market-house, nor are any contracts to be entered into which involve a larger expenditure for its completion. The corporation are to have the right to hold and use the property so long as the building to be erected thereon shall be maintained as a market-house, and no longer.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. MORRILL, of Maine. I move that the Senate take up the unfinished business of yesterday.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

Mr. MORGAN. I am instructed by the joint Committee on the Library to offer two or three amendments. The first is on page 11, line two hundred and fifty-four, to increase the appropriation "for the Botanical Garden, grading, draining, for procuring manure, tools, fuel, and repairs, and purchasing trees and shrubs, under the direction of the Library Committee of Congress," from \$3,300 to \$5,400. The amendment was agreed to.

Mr. MORGAN. I am instructed by the same committee to offer another amendment on the same page, in lines two hundred and fifty-seven and two hundred and fifty-eight to strike out \$7,374 96 and insert \$11,296 as the appropriation "for pay of superintendent and assistants in the Botanic Garden and Green-house, under the direction of the Library Committee of Congress."

The amendment was agreed to.

Mr. MORGAN. I am also instructed to offer the following amendment, to come in at the end of line two hundred and fifty-eight, on page 11:

For the expenses of exchanging public documents for the publications of foreign Governments, as provided for by resolution approved March 2, 1867, \$1,500.

The amendment was agreed to.

Mr. MORGAN. I now offer the following amendment, to come in as an additional section:

*And be it further enacted, That no statuary, paintings, or other articles, the property of private individuals, shall hereafter be allowed to be exhibited in the Rotunda or any other portion of the Capitol building.*

Mr. SUMNER. That is a very good amendment.

The amendment was agreed to.

Mr. TRUMBULL. I move to strike out the proviso on page 12, lines two hundred and sixty-nine, two hundred and seventy, and two hundred and seventy-one, as follows:

*Provided, That no judgment of said court for any sum exceeding \$5,000, shall be paid out of this appropriation.*

Mr. President, it will be seen that by this proviso the judgments of the Court of Claims for which an appropriation is made are not to be paid in case they exceed \$5,000. The effect of that, of course, would be to bring all those cases to Congress, and we might as well dispense with the Court of Claims altogether. There is no reason why a judgment for \$6,000 should not be paid as well as one for \$5,000. An appeal lies to the Supreme Court in every case over three thousand dollars at any rate.

It seems to me that such a provision as this would destroy the value of the court, and it would hardly be worth while to continue the court if such a limitation were put upon the bill.

Mr. MORRILL, of Maine. I do not agree with the views of the Senator.

Mr. SHERMAN. I suggest to the Senator from Illinois whether, if that proviso is stricken out, the amount of the appropriation is not totally inadequate?

Mr. TRUMBULL. It is; and I intend to make a suggestion about that in a moment.

Mr. SHERMAN. I agree with the Senator entirely. It is in regard to these other claims that we want the judgment of the Court of Claims; but no claimant will commence a suit in that court if his claim is for more than \$5,000, if he cannot get a judgment paid. It seems to me it would be ridiculous to keep up the Court of Claims merely to decide on claims less than \$5,000.

Mr. TRUMBULL. Of course it would. It would be better to repeal the law creating the court, if this proviso is to prevail.

The amendment was agreed to.

Mr. TRUMBULL. I now call attention to the amount appropriated by this bill for the Court of Claims:

For payment of judgments which may be rendered by the court in favor of claimants, \$100,000.

There was appropriated last year \$700,000. I understand that only about five hundred thousand of that \$700,000 have been used. The judgments of the court which have been paid only amounted to about five hundred thousand dollars. There are, however, a number of cases pending in the Supreme Court of the United States on appeal from the Court of Claims, and I am informed that if one half of them should be sustained by the court it would exhaust the past appropriation, so that there would be left only this appropriation of \$100,000 to meet the judgments of the next fiscal year. The estimate made by the court as necessary to meet its judgments was \$500,000. That estimate, I understand, on inquiry, is made up by an examination of the cases pending in the court and their character, and as to what might probably be recovered in those cases. Their estimate is \$500,000. I think that amount should be put in the bill, and I will move that the word "one," in line two hundred and sixty-eight, be stricken out and "five" inserted. It would seem to me a very expensive thing to keep up a Court of Claims which costs, I suppose, \$50,000 annually to adjudicate on claims only to the amount of \$100,000.

Mr. FESSENDEN. I should like to inquire of my friend from Illinois if it is not dangerous to appropriate so much money and leave it to the discretion of the Court of Claims; whether we ought not to specify what particular cases they shall decide? It looks to me to be a little dangerous to leave so great a discretion. Is there not danger of great fraud and abuse? The Senator proposes to leave \$500,000 to the discretion of this Court of Claims without specifying how it is to be applied, and in what particular cases!

Mr. TRUMBULL. The Senator from Maine undoubtedly would like to compare the proceedings of the Court of Claims, where cases are tried and counsel employed, where the Government employs attorneys to defend it, and where the judgments are rendered after an investigation and the examination of witnesses, with the placing of \$500,000 in the hands of some officer of the Government alone to distribute as he thought proper. The court only gives judgment on cases that are brought before it, and has no discretion. I believe, to give the money to favorites or distribute it in any particular way to increase the salary of anybody. However, I have no interest in it more than anybody else.

Mr. FESSENDEN. I merely wished to suggest to my friend, in his care, these matters for his consideration. Of course I do not want to interfere with any business which comes



from the Committee on the Judiciary. They have probably looked into this matter; but yet, as no money can be drawn from the Treasury except in pursuance of law to meet particular subjects appropriated for, I did not know but that my friend might consider it dangerous. I thought, therefore, I would suggest it to him, in order that he might perceive and carefully consider the danger of leaving \$500,000 to the Court of Claims—the danger of favoritism. No one knows how that court may decide in a particular case.

Mr. TRUMBULL. An appeal can be taken to the Supreme Court in all cases now, I believe.

Mr. FESSENDEN. If my friend is satisfied I am. I do not wish to raise a question about it.

Mr. MORRILL, of Maine. This is a proposition to increase the appropriation; and I do not understand the Senator to make it from any committee.

Mr. TRUMBULL. No, sir; and if there is any objection to it I do not propose to make it at all. I suggest it for the consideration of the committee. I should think it was one of those things which ought to be corrected.

Mr. MORRILL, of Maine. It cannot properly be moved unless it comes from a committee.

Mr. TRUMBULL. I have some other amendments to offer if the Senator objects to this.

Mr. MORRILL, of Maine. I think I shall raise the question under the rule on this proposition. I object to it.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. TRUMBULL. I understand the Senator from Maine to object to it as not coming within the rule. It is based on an estimate; but having offered the amendment to-day, and the Senator having received notice of it, I may, perhaps, renew it if the bill should be continued until to-morrow. I now move to amend the bill by inserting on page 29, after line six hundred and ninety-six, the following:

For services of the clerk of the district court of the northern district of Mississippi, as keeper of the records and files of the land office at Pontotoc, Mississippi, from June 4, 1867, to June 4, 1868, \$500; and it is hereby made the duty of said clerk, on the passage of this act, to transfer the records and files aforesaid to the register of the land office at Jackson, Mississippi; and the nineteenth section of the act of March 3, 1853, entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1854," be, and the same is hereby, repeated.

The amendment was agreed to.

Mr. TRUMBULL. I offer another amendment, to insert on page 9, after line two hundred and three, the following:

To enable the Secretary of the Senate and Clerk of the House of Representatives to purchase, for the use of the Senate and House of Representatives, ten thousand copies of Paschal's Annotated Constitution of the United States, \$15,000.

Mr. President, I will state to the Senate, what perhaps everybody knows already, that Mr. Paschal has prepared a publication of the Constitution of the United States with annotations, referring to all the decisions which have been made construing the different provisions of the Constitution. It is prepared with a great deal of care and contains a vast deal of material. The only objection that I know of to the work—I presume the book has been placed in the hands of most Senators—is that it is published in very fine type, too small. If it were published in type of the same size as that used in the publication of our statutes it would make a volume as large as the volume of Statutes which I hold in my hand. That was one objection which some members of the Judiciary Committee had to purchasing any copies of it. The copies of Hickey's Constitution, which is a very valuable work, are becoming exhausted; and there is no book of more value to members of Congress and the public than the Constitution of the United States with these notes and references to every decision that has ever been made involving a construction of the Constitution. I shall take up no time in speaking of the work. It is very highly commended

by those who have examined it, and on consultation with Mr. Paschal it is found that we can purchase ten thousand copies of it, to be placed in the hands of members of the Senate and members of the House of Representatives, and purchased through the Secretary and Clerk of the two Houses, for the sum of \$15,000. That is \$1 50 a volume; and the committee instructed me to recommend the purchase of it.

Mr. HOWARD. I ask that the amendment offered by the Senator from Illinois be again reported.

The Chief Clerk read the amendment.

Mr. MORRILL, of Maine. I should like to inquire of the Senator from Illinois whether this is recommended by the Judiciary Committee?

Mr. TRUMBULL. Yes, sir; and notice was served long ago on the Committee on Appropriations.

Mr. MORRILL, of Maine. I remember that. Mr. TRUMBULL. The Committee on the Judiciary recommend that this appropriation be made.

Mr. HOWARD. Mr. President, I do not wish to throw any unnecessary obstacle in the way of this amendment, if it be a proper one; but I cannot myself see the propriety of appropriating \$15,000 to purchase ten thousand copies of Mr. Paschal's work. I have looked at the book myself, rather cursorily, to be sure, and I am satisfied that the author has bestowed great labor upon it; but whether it is worth while for Congress to patronize to that extent the book enterprise of a private individual is another question entirely. I would not refuse my aid to furnish any necessary law book to members of the Senate or members of the House of Representatives; but I cannot see the propriety of Congress embarking in such an enterprise as this. I do not think it will pay in the end. I differ in this, perhaps, from the view taken of it by my honorable friend from Illinois. I should like to have some further explanation on the subject. I do not need Mr. Paschal's book myself particularly, although it may be a convenient manual on the Constitution. I can get along without it.

Mr. MORRILL, of Vermont. If we do need it, it is just such a book as each Senator and Representative may very well put his hand in his pocket and pay for. I trust we shall pass no appropriation for books of this kind or any other kind at this session of Congress.

Mr. WILLIAMS. I should, of course, defer to the judgment of the Judiciary Committee upon any question of law; but this appears to be a question involving an appropriation of money for the purchase of a certain book. I think that complaints are justly made against Congress for appropriations of this description. I know that if I need a book of this kind I can purchase one for my own use; and I presume that is true as to every other member of Congress; and all the information that may be derived from this book can be obtained from books to which all the members of Congress have access in the law library; and so far as information is concerned that we need here for the transaction of our official duties we have an ample opportunity to consult the libraries that are placed our disposal.

I should be glad to some extent to patronize this enterprise. I have looked at the book, and regard it as a valuable contribution to the law literature of the day; but I do not think that Congress ought, for the mere convenience of its own members, to appropriate \$15,000 for the purchase of this book. It is simply, as it seems to me, taking so much money and putting it into our pockets; for there is not, in my humble opinion, any necessity that each member should be furnished with this book. It consists, as I understand, of a compilation of the decisions that have been made by the different courts in construing the Constitution of the United States, very valuable, no doubt, for reference; but it will, of course, be found in the libraries of Congress, and that ought to be sufficient, it seems to me, for our use.

Mr. FRELINGHUYSEN. I suppose we

should all agree with the conclusion arrived at by the Senator from Vermont and the Senator from Oregon if the view presented by them was the true view of the subject. If this was a proposition to appropriate \$15,000 for our own accommodation, convenience, and profit, I trust that every Senator would vote against this amendment. But that is not the way the subject strikes my mind. We certainly do not want ten thousand copies for our own accommodation. One copy for each Senator would be all that is necessary in that point of view. The object of this amendment is to furnish the Senators and Representatives with a limited number of this valuable book, in order that they may place it in societies and in the hands of here and there an individual perhaps among their constituents, so that the people of this country may become better informed not only with the Constitution, but with that vast amount of law which has accumulated explanatory of the Constitution. That is the great object of the amendment, and I think that it would be of incalculable value at this time in the southern States as well as in the other States that there should be a limited number of these books distributed. This is a Government resting on the Constitution, and nothing can be more important than that the people should understand its principles.

Another view and object of this amendment, doubtless, is to encourage and measurably, perhaps, compensate for the arduous labor which has been bestowed upon the work; but that is a subordinate view of the subject; the main object of this amendment is to place this book in the hands of clubs and societies, so that the people may be informed as to the Constitution.

As to the book itself, from what examination I have given to it it seems to me to be of the highest order; and the very fact that it is in such a compact form, the print so fine that it can be afforded cheap, was made an objection in the committee, but it is not a book which you want to read through continuously from beginning to end. It is principally wanted for reference, and its very compact form is an advantage that it possesses.

This is no new proposition. I am informed that Congress has from time to time voted fifty thousand copies of Hickey's Constitution, and I really think that this is a great deal better thing than that, inasmuch as it contains the decisions of the Supreme Court, and is much more elaborate. I trust the amendment will be adopted.

Mr. HOWE. Mr. President, I should be sorry to see this appropriation made. My estimate of the value of the book, I think, is not below that of the Senator from New Jersey; but I think the Senator from New Jersey will agree with me that its value consists mainly in its adaptability to the wants of the legal profession and to members of legislative bodies. The annotations are very concise; they suggest to a lawyer, to a professional mind, where the interpretations and adjudications upon particular points may be found; but I think the Senator from New Jersey told the truth when he said it was not intended for general reading. I think it is a book which you would scarcely expect a man to take up and read, any more than you would expect him to take up and read a dictionary. It is valuable to the lawyer; it is valuable to the statesman; it is convenient for reference, I think. I thought so, and I bought it, and I think I got the worth of my money; and I think any other lawyer, or any other statesman, who will buy it will be satisfied with his bargain; but I think if the Legislature were to appropriate the money to buy ten thousand copies, and distribute them, it would make a bad investment. We could apply the money in a great many ways to better advantage than that.

Mr. DRAKE. Mr. President, I have two objections to this amendment. One is that the price to be paid for these books, if the amendment should be adopted, is a very exorbitant one. I am satisfied that the price to be paid is three

times the cost of the manufacture of the book. The result of the amendment, if it is adopted, is to put some ten thousand dollars of clear profit into the pockets of the proprietors of the work, whether the annotator or some book firm that has engaged in the publication of it.

The second objection I have to it is to any such thing being done at the expense of the Government of the United States. I think that such enterprises should stand upon their own footing and upon their own merit, and not be ckd out this way from the Treasury of the nation; and I call upon those Senators who have been so accustomed to talk about the condition of the public Treasury and about economy to look here and say what public good is to come from the expenditure of \$15,000 to buy ten thousand copies of this book. We should, under that arrangement, probably be entitled to forty or fifty copies apiece, and what should we do with them? Send them to that number of individuals in our respective States. Where is the public benefit that is derived from a transaction of that kind? I do not see it; and least of all do I see any necessity for paying \$1 50 a copy for a book that does not cost fifty cents a copy to manufacture.

Mr. CONKLING. Mr. President, this proposed appropriation comes, it seems, from the Committee on the Judiciary. I was not aware that such an amendment had been recommended by that committee. I was present in the committee on two or three occasions when the proposition was considered, and when various amendments with regard to it were submitted, none of which commanded the approval of a majority of the committee; and I was not aware that it had been brought up afterward, and a recommendation made; it must have been when I was absent. Being a member of the committee from which it comes, I wish to express my dissent to the amendment.

I should be very glad to see the gentleman who has compiled this book, evidently with a great deal of labor, receive from some source a recompense and a profit for his work; but I see no principle upon which he ought to receive it from us. If the book is to be bought upon the theory that it is valuable to the members of the two Houses, then it is a discrimination, I submit, wholly arbitrary between this book and many others more indispensable, which we are compelled to resort to the public library to look at, or else to buy, unless we do without them altogether. During my service in Congress I have purchased a great many books which I found indispensable. I have done so this winter. I could enumerate them if it were worth while, and Senators would see that they are much more useful and much more indispensable than this book. Therefore I say, if the idea is to furnish to each Senator and member of the House of Representatives facilities for information, it would be better to appropriate a sum of money and allow each member from that sum to help himself to the books which his convenience and exigencies most require.

But if the idea suggested by the honorable Senator from New Jersey is the true one, that it is to be purchased for popular distribution, then I submit that this proposition is indefensible. Why? Because although the book may be excellent there are a great many other most excellent books which it would be well to distribute, but which nobody proposes to buy at public expense. For example, we have never distributed the Scriptures, and yet we cannot shut our eyes to the fact that large portions of this country are greatly in need of the Scriptures, the Old Testament and the New, and possibly portions of the country which have representatives here to speak for them. I do not venture to speak for them, as I have no personal knowledge of any region so benighted. There are many other books which would be very useful, but we do not buy them. We confine our book distribution to books made here and the departmental books, and I have long thought that there was a fair field for criticism and discussion there. Suffice it to say, how-

ever, that we have not gone beyond that. Here is a proposition to accept the work of a gentleman who makes what is considered a valuable work, a law book, and purchase it in considerable quantities for distribution. The compilation of the Constitution and of matters cognate to the Constitution, referred to by the Senator from New Jersey, made by Hickey, is a peculiar case. It is not like this. We know something of the history of that. I think that is an excellent book, and I wish very much we could have a reprint of it. I found with great difficulty this winter one copy of it in an odd store, and I paid an odd price to get it. It is out of print, I understand. That, however, was a peculiar case.

But now, Mr. President, I wish to make this suggestion to the Senate, which I consider, beyond the mere expenditure of the money, the unwholesome feature of this case: once establish that applications of this sort are to be entertained and to succeed on account of the merits or the pertinacity of the person or the sympathy which may be enlisted for him, and every sort of book-maker comes here. It is not only Lanman's Dictionary of Congress, which has eventually been dispensed with, I believe, but the author of every sort of book, however remote it may be, if it relates to any subject commanding the respect of Congress, comes here asking that he be assisted; and if authors are to be assisted, why not artists? Why not men excellent in the fine arts as well as in law or in literature?

I submit, sir, that the whole thing is beyond any province which we can fairly assume; and therefore, without criticising this book at all, without denying that it would be valuable to members of Congress and to others, I shall vote against this appropriation, and I hope it will not prevail either for its own sake or for the example it will set.

Mr. HENDRICKS. Mr. President, if this were a new question I suppose I should oppose the buying of any books; but this is a matter too well settled now for any member of Congress to raise a question about it. A number of years ago a large number of copies of a Digest of the Constitution was purchased by Congress for distribution—Hickey's Constitution, I think it was called—and a few years since Lanman's Dictionary of Congress was bought, being a book giving the biographies of members. Then we publish at the Government Printing Office matter by the ton, and by the hundreds of tons, I suppose. This is a good book; a very valuable work. It is a very limited view of the case to suggest that members want it for their own use. I suppose no Senator really thinks anything of that sort when he makes the suggestion. There is no such purpose as that, of course. It is for the same purpose that we order tons of worthless matter to be printed and published and sent out among the people. Here is in a succinct form a great deal of information. Ten thousand copies will cost \$15,000, while we print books costing much more which are really not worth the space they occupy in our libraries, which are never opened after they go away. This is a useful book, and I prefer in buying or publishing books to take care, so far as possible, that they shall be useful. This book presents in a succinct form, well arranged, all the authorities on the Constitution of the United States. When there is so much controversy in Congress and elsewhere in regard to the proper construction of the Constitution it seems to me it is well enough to throw out among the people in such a form as this some information of it. It is very much better than to be printing reports of explorations and reports of boundary surveys containing exhibitions of birds and insects and creeping things that cost enormous sums of money, and that are only useful to amuse the children of the people at their homes. Here is a useful book, and I think it is proper that we should aid in its publication and distribution.

Mr. EDMUNDS. As one member of the Judiciary Committee, I wish to oppose, as far

as my vote and influence, if I have any, go, this amendment. I do not think this is the time when we can indulge in luxuries, or, if you please to call them so, useful necessities of this description. The book is a good book, and there are a thousand other good books, and it would be a very fine thing if everybody had it; but I feel very sure that my constituents do not want to pay taxes for the purpose of having another copy of the Constitution sent into Vermont. We have a good many copies of it there already, and have had for a great many years; and also of the decisions that have been made upon it. When the whole country is groaning under taxation, and when every additional dollar in an appropriation bill is an additional burden upon the people, whom my friend from Indiana loves so well, I think it is high time that we should pause in this matter of book-making, and endeavor to bring up the balances of arrearages that now exist in the revenue before we enter upon schemes of this kind. The fact that we have, unwisely or otherwise, hitherto indulged in the luxury of printing and publishing and buying books for the people, such as have been named, is no argument in favor of this proposition. Undoubtedly there have been great abuses of that kind, and this will be another, under existing circumstances, in my opinion. I am very sorry, indeed, that my friend from Illinois has offered the proposition.

Mr. FESSENDEN. When I first came to the Senate it was the fashion to publish everything that originated under any action of Congress in the way of exploring expeditions, boundary surveys, Pacific railroad surveys, and all such matters, and the expense was very enormous, and the benefit, in my judgment, comparatively slight. It was also the fashion occasionally to purchase other books manufactured out of Congress and not under the direction of any officer of the Government, but that was not carried to any very great extent. Hickey's Constitution is the only instance I recollect of a book purchased by Congress in large numbers, and that was stopped soon after I came to the Senate; it was thought that that had gone far enough. I am not aware of any instance of the kind since that time, except in the case of Lanman's Dictionary, and I suppose the peculiar reason for purchasing that was that it contained something about ourselves that it was thought important to communicate to everybody, as far as possible. I cannot give any other reason for it. But, sir, I was not in favor of any of those propositions; and the effort has been of late years, instead of buying other people's books, because we published too many of our own, as suggested by the honorable Senator from Indiana, to see if we could not cut down the number. His argument seems to be that because we waste a great deal of money publishing books that we get up ourselves, and which are of no value, therefore we should spend an additional sum in buying books got up by other people. The argument does not strike me as a sound one. If we publish so many useless books ourselves, as we unquestionably do, I think it is rather an argument why we should attempt in some way to reform that abuse instead of adding another abuse to it. The publication of large books of surveys with plates was stopped some time ago; and we have been endeavoring to reduce our expenses in that way, but there is still room for improvement in other particulars.

I belong to that illiberal class of persons who think that the matter of the education of people is not a subject that comes exactly within the regulation of the General Government; that the subject of education had better be left to the States; that it would be better taken care of there; that when we take it into our own hands the result will be a slackening somewhat of the efforts made on the part of the States to educate their people, and we shall be imposing upon the Government a great additional burden rather to the injury of education than for its benefit. The proposition to have an educational bureau with a Commis-

sioner of Education at its head did not commend itself to my mind, and did not meet my approval or my support. Congress, however, decided upon it, and it is done. I hope the experiment will prove beneficial in its results; but I doubt very much whether it will do any good. I think it will be more likely to produce evil than good. That is my opinion about it.

Now, sir, I really hope we shall not again begin the system of buying books. This may or may not be a good book; I know nothing about it. From what I know of the author I should think it probably was a good book, because I regard him as an able man. But, sir, that is no reason in my judgment why Congress should again begin this business of buying books that are compiled by individuals to be distributed among the people. What will ten or fifteen thousand dollars spent in this way for books to be distributed by Congress do toward the education of the people? We shall send them perhaps to a few libraries that are perfectly able to buy one apiece themselves, or to individuals, or school districts that are able to purchase them for a dollar and a half or two dollars. It will go a very short distance, and produce comparatively but very little good. I have seen very little good arising from the distribution of books by Congress; and even if good might arise from it I dislike entirely the system. It is a bad plan to spend public money for the purchase of books to be distributed by members of Congress. It only leads to expense, creates an additional burden on the Treasury, and I do not think the good derived from it is at all adequate to compensate for the evil that arises from establishing or encouraging any such system.

We had before the Committee on the Library a similar application for the purchase of a book compiled for the use of schools principally, something in the nature of a law book, by a gentleman in New York. He wanted Congress to purchase one copy for every school district in the United States, and offered them at a very low rate, hardly exceeding, if it was up to the cost of the manufacture of the book itself. I was opposed to the proposition, however, and so were the committee. I do not know that they reported upon it; but it met with no favor; and it met with no favor for the reason I have stated, that we thought the system was a bad one, and Congress ought not again to begin in a course of action which had once been abandoned as not only useless comparatively in itself, but as a bad practice. In this case, then, however well I may think of the author, I really hope the Senate will not begin again to purchase books for distribution.

Mr. CONNESS. Mr. President, I suppose that enough has been said on this subject. There appears to be a majority of opinion, I should judge by what I have heard, against the purchase of this book. I am glad that that is the case. I am not in favor of the investment, nor have I been in favor of the purchase of other books that have been authorized by Congress. The Senator from Maine tells us that he supported the purchase of Lanman's Dictionary because it told the country something about him.

Mr. FESSENDEN. I believe the Senator misrepresents me. I said I could not see any other reason for buying it; but I was not in favor of it.

Mr. CONNESS. I beg the Senator's pardon.

Mr. FESSENDEN. I was referring probably to the Senator himself and others who supported it.

Mr. CONNESS. It happened to be my part also to oppose that publication, for I really did not believe it could say anything about me that would be of any service to anybody, and least of all perhaps to myself. [Laughter.] I am sorry that I misunderstood the Senator, but I am glad to find that we agreed on that proposition. I hope, sir, that we shall not invest in the purchase of this book, however useful it may be, that we may simply add it to our libraries and have a few to distribute. I think that while we are cutting down needed appro-

priations of public money for many branches of the public service we ought not to make this investment. I disagree a little with the Senator from Maine in one respect; and that is this: where the Congress of the United States order work to be done, investigations to be made, contributions, if you please, of knowledge for public purposes, I think an investment of public money for the publication of the ascertained facts is a part of the work and necessary to be done and a good expenditure or investment of public money.

Mr. TRUMBULL. This seems to be treated as if it was a new principle and embarking in the purchase of books. If it would suit the Senators from California and Maine and New York any better we could change this amendment so as to direct ten thousand copies of this work to be printed, as we do every day here on the motion of any member, almost of anything that is sent here.

Mr. CONKLING. You cannot do that without buying the copyright.

Mr. TRUMBULL. We could buy the copyright; that would cost but little; and that was one of the propositions suggested in the Judiciary Committee. There were two members of the Judiciary Committee opposed to this amendment; I was aware of that; but a majority of the committee were always in favor of procuring in some form for the use of Congress a republication of the Constitution. Those two members of the committee expressed their dissatisfaction there, and have done it here today. If the Senate do not think it proper to have a republication of the Constitution of course they will vote down this amendment and they would vote down the proposition in the other form. The committee have carefully considered the matter, a majority of them knowing that Hickey's Constitution was out of the market, difficult to obtain. They regard that as a very valuable book; I find it so; and regarding this as still more so with its references and annotations, a useful book to all public men, and it being supposed that to republish it would be more expensive than to purchase copies of the book already published, the committee recommended the proposition in this form. I care nothing about it more than any other Senator. I thought it was a proper purchase to make, and a useful book for the benefit of the Senate.

Mr. YATES. Mr. President, I am considering how I shall vote on this matter. I have heard so many speeches that I think it not improper to submit my own views to the Senate. I think there is a medium view to be taken of this subject of printing books. I think that the Congress of the United States should not become a publishing house to publish all good books for circulation and for the benefit of the people. On the other hand, I think that Congress should use a wise discretion, and should be, to some extent, a patron of authors, and, if the Senator from New York pleases, of the fine arts. I do not see why a republican Government should not patronize authors and the fine arts as much as a monarchy or any other Government, especially if there is as much ability with Congress as there is with crowned heads and aristocracies.

Mr. FESSENDEN. We have made appropriations for the fine arts; to Vinnie Ream, for instance.

Mr. YATES. Yes, sir; and very properly, I think. I hope the Senator himself will be satisfied in the course of time that that was a judicious appropriation, and I believe he will be if he does not prejudice the case before a fair experiment has been made. If he is as liberal and generous to the young, the aspiring, and the deserving as he ought to be, and as I believe the real merit of that artist justifies, I think he will not regret that appropriation.

But, sir, I was about to say that I believe Congress should exercise a wise discretion in the matter. I have never heard of complaints on the part of the people that Congress published too much and expended too much for information circulated among the people. So

far as I am concerned, I know of nothing that gives the people so much gratification as to receive public documents from members of Congress upon important questions which affect their interests and their welfare. The discretion which ought to be used is this, I think: it should be to patronize authors and the arts. For instance, if a valuable work will not sustain itself, if it will not pay for itself, and the country must lose the benefit of that work unless some aid is given to it by Government, whether it be a monarchy or a republic, in that case it is the duty of Government to lend its aid in order to secure to the people the benefit of a good production.

I very well remember that Hickey's Constitution was received throughout the country as a valuable book, and was so prized, not only by professional men, but by the people. It was a good book to circulate. It conveyed to the firesides of the people a knowledge of the Constitution upon which the Government is based. This book, as I understand it, is to some extent to supersede Hickey's Digest of the Constitution. I am not very much inclined to vote for the publication of this book, because I see it is a small book, and it might have been laid upon the desk of every Senator, so that he could have examined it and investigated it, and seen whether it was proper for publication or not. [Laughter.]

Mr. EDMUNDS. The Judiciary Committee only received copies.

Mr. YATES. I am told they were confined entirely to the members of the Judiciary Committee, and we must take their word that the book is a good one. But, sir, the subject-matter is a proper one. I presume the book is one which will not sustain itself to be sold in the market. It is of that character, and contains that kind of information which is useful to professional men; and whatever is useful to professional men is useful to the public.

Mr. CONNESS. Oh, no.

Mr. YATES. As a general rule, every book that is useful to the professional man is also useful to the people, whether they understand it or not. It is necessary that those classes should have the information, and thus impart the benefit of it to the community.

Mr. FESSENDEN. Why not circulate Chitty or Blackstone for the same reason?

Mr. YATES. I do not propose to circulate Chitty's Pleadings or Blackstone or Story's Commentaries on the Constitution; but I repeat, I am in favor of a liberal publication by Congress of all important works, and I say to the Senator from Indiana [Mr. HENDRICKS] that I am willing to make publications of explorations and surveys; for I think if my friend from Vermont would read a little more of the great West—

Mr. EDMUNDS. I do not find that in the Constitution.

Mr. YATES. I mean the other Senator from Vermont—he would not oppose the admission of Colorado into the Union. [Laughter.]

Mr. MORRILL, of Vermont. I suggest to the Senator from Illinois that he divide this work, and have half of it for geography. I am sure that we need as much information on the subject of geography—certainly I do—as in respect to the Constitution. [Laughter.]

Mr. YATES. I was about to say that whatever information is important to the country should be published by Congress with a liberal hand. But, sir, I do not propose to continue the debate. I think that this work is a proper subject of publication. We need such a work throughout the country, and I shall vote for this amendment with great pleasure.

Mr. MORTON. It occurs to me, Mr. President, that there is a very broad distinction between the publication of documents by Congress, reports of scientific explorations made in pursuance of laws of Congress in regard to our own Territories and minerals, explorations made by our Navy, and other information which would not be given to the world except through the action of Congress, and the purchase of a work of this character. I believe



the general character of our documents is such as I have stated. Some of these documents perhaps are not valuable, are not published perhaps with very much discretion; but still there is a very broad distinction between the publication of documents of that character at the public expense and the purchase of books of a general character applicable as well to a State Legislature as to Congress, to the lawyer in his office and the private student as to a Senator.

Such is the character of this book. It is a good book, and could be studied with profit by everybody, but it does not pertain peculiarly to Congress. It contains information that everybody ought to have; that members of the Senate ought to possess in order to enable them to discharge their duties well. But, sir, there are thousands of books, as was suggested by the Senator from Vermont, works on geography, works of science of various kinds, that it would be important for us to possess and to understand; but should we purchase at public expense books of that kind because we need them and because we ought to know what they contain? If so, we should be furnished with libraries at the public expense. In my opinion the purchase of books of this kind cannot be justified.

The Senator from Illinois says that this book will not sustain itself if Congress does not help it. Then, like other books, it will go out of print. There are thousands of good books that fail; but books of real value, as a general thing, sustain themselves in this country; they are profitable. So many copies of them are sold that it is wholly unnecessary for the Government to come in and aid the publisher or author. If we need this book we ought to buy it at our own expense, just as we would buy a work on geography or geology or mineralogy.

The Senator from Illinois [Mr. TRUMBULL] says that we ought to republish the Constitution. Sir, there is another book that the members of this Senate need about as badly as they do the Constitution, and that is the New Testament. I have seen a recent publication of Commentaries on the New Testament, said to be in a very compact and excellent form, and novel in its character. We, individually, need that book as much as we do this, and there would be just as much propriety in buying it at the expense of the Government as there would be in buying this book, especially at this time; but who would think of doing that?

Mr. President, let us set the example of retrenchment in every reasonable form. I do not mean to retrench expenses where they are necessary, to adopt the penny-wise and pound-foolish system of economy; but where there are expenses that are not legitimate in their character, and can be well and properly dispensed with, we ought to dispense with them. This is only \$15,000; but we have no right to expend it in this direction.

Something was said about supporting the fine arts. Well, sir, there are two ways of doing that. The appropriation that we have made of \$10,000 for a work of art may turn out to be valuable hereafter. At the present time, I believe, it is generally the subject of ridicule.

Mr. President, I am utterly opposed to this amendment. If we need this book let us buy it, as we would any other book that is important to us; and let the people buy it, as probably a great many of them will do; but the idea of our purchasing ten thousand copies of a new work on the Constitution containing commentaries, notes, and references to authorities on that subject, it seems to me, is entirely improper.

Mr. STEWART. Mr. President, the remarks of the Senator from Indiana [Mr. MORTON] induce me to suggest some reasons, which, if he will reflect upon, I think he will agree to, why this appropriation should pass. He says there is no more reason for buying this work than for buying the New Testament; and he tries to show us that is out of our line altogether. Now, I recollect that we passed a bill a year or two ago for the codification of the

statutes, which is a precisely analogous work to this, and we received a communication from the codifiers this morning. Suppose some private individual had codified the statutes thoroughly, just as we find the decisions on the Constitution codified and arranged in this work, and offered it to us at fifty per cent. or ten per cent. less than the usual cost, would it not be legitimate for us to buy it? It is just as important to us to have the practice of the Government under the Constitution, and the decisions upon the Constitution before us in a convenient shape as it is to have the statutes codified.

This work has been done, well done, better done than a commission would have done it; and the question now is, after it has been done, a work which we ourselves would have ordered, whether we shall purchase some copies of it.

If it were an original question, after Hickey's Constitution and Digest had gone out of print, and much new matter of construction of the Constitution had come up and needed arrangement, and there had been a proposition to appoint three gentlemen to codify and arrange the authorities and decisions, I think it would meet with the approbation of the Senate. I think it is quite as important as the codification of the laws. It is just as important for us to know what have been the decisions of the different departments on the Constitution as it is to have the statutes codified and arranged. It is a work of great labor; and it has been admirably done by a gentleman of great ability, better than a commission would have done it; and the question now is whether we shall give this work some encouragement by purchasing a few copies. It is a work that will not obtain the circulation that it ought to obtain without some appropriation from Congress. It is more useful for members of Congress than for any one else. It ought to be circulated in the libraries. It is of great importance that the people should know what the Constitution is and how it has been regarded by different departments of the Government, and how its provisions have been construed. Inasmuch as this work, which we would have authorized in the beginning, has been accomplished by the private enterprise of an eminent man, it seems to me it does not fall under the same head as ordinary publications. That was my opinion when the subject was before the Committee on the Judiciary, and I think so still. I think there is a distinction between it and other published works which do not relate so materially to the carrying on of the Government. To understand the construction of the Constitution every department of the Government must have some knowledge. Let us have some means of obtaining knowledge in carrying on these different departments. We need it for practical use as much as we do the statutes, and it is quite as important. If we had made this codification it would have cost us ten times as much as it will to get it in the way that is now proposed.

Mr. PATTERSON, of New Hampshire. Until the gentleman from Nevada made his remarks on this amendment, I could not understand why it was brought here from the Judiciary Committee, and I am not able to see now why they should have selected this particular book rather than half a dozen other books. We have a small epitome or digest of Story's Commentaries on the Constitution. Then there is Sheppard's small work upon the Constitution, and Wilson's, and some half a dozen other books just like this.

Mr. STEWART. None of those books are like this.

Mr. PATTERSON, of New Hampshire. Perhaps the covers are of a different color.

Mr. STEWART. No; the contents are not alike.

Mr. PATTERSON, of New Hampshire. They are on the same subject, and the only question is as to which is the best on the same subject. A majority of the committee have decided that this was the proper book for us to select and publish at the expense of the Government. It looks to me as though it was a

matter of injustice to others who have written on this subject, for it gives a sort of monopoly to this particular book. It gives an advantage certainly to this author which those who have charge of the publication of Story's Work or Sheppard's Work or Wilson's Work will not have, because it comes with the approbation of the Government.

Then, again, I see no reason why this book should be published and sent abroad at the expense of the Government any more than the statutes should be. Why should not Congress on the same principle publish the entire body of our statutes and send them out into every school district of the country?

Mr. MORTON. Or Helper's Book.

Mr. PATTERSON, of New Hampshire. Or Helper's Book. I am inclined to think that would be more help to the country than this will be. I am surprised that my friend from Indiana [Mr. HENDRICKS] should urge this matter, because about a year and a half ago I believe the Constitution was left in almost every village of the West in a famous tour that was made, and Indiana was especially favored in that circulation. [Laughter.]

Mr. MORRILL, of Maine. And the flag.

Mr. PATTERSON, of New Hampshire. Yes, sir; and the flag also, and I am not aware that there is even a picture of the flag in this book. [Laughter.]

Mr. HENDRICKS. Does the Senator indorse that view of the Constitution?

Mr. PATTERSON, of New Hampshire. No; I think it is a spurious edition; but many of the people of the West have been indoctrinated in that view of the Constitution, and it might be better, perhaps, to give them a better edition of the work.

Mr. President, the principle upon which we have published the agricultural reports and the reports of our exploring expeditions is a very different one. The material which enters into the agricultural report is collected by the Government itself, and cannot be collected by any individual or society, and that material is digested and put into the form of a book, and then sent all over the country for the advantage of the agricultural interests of the country. So these great exploring expeditions are always accompanied by men of science who collect the materials of science; those materials are taken and digested and put into form by some men of science; and then circulated at the public expense, simply because no individual, and no number of individuals, could collect that material or circulate it at their own expense. Every interest of science is advanced by that circulation, and the whole country is benefited. But there is no earthly reason why this book should be sent abroad at the public expense any more than fifty others. Why should not the United States Senate pass an amendment to this bill that the Government should publish some of the editions of the spelling-book, Webster's, for instance, or Worcester's edition of the spelling book, because it is better than any other spelling-book which has ever been published, and, therefore, send it forth at the public expense? I am entirely opposed to this thing. We publish too many books at the public expense.

Mr. MORRILL, of Maine. I do not feel very strongly about this matter any way, and I hardly know that I should feel called upon to say anything in regard to it, if it were not moved as it is by the Senator from Illinois, who admonished me yesterday that I was in danger of appearing neglectful, to say the least, to the Senate and to my duties to this bill by allowing amendments to be made without an attempt to resist them.

But I do not rise in that spirit even now to resist this, simply because the Senator from Illinois has offered it, or because it is an amendment to the appropriation bill; for I do not conceive it to be my duty to stand here with a bludgeon to strike at every thing because it is proposed upon an appropriation bill. But, sir, I doubt somewhat whether this proposition fulfills any of the conditions that have been

required in the purchasing of books, or making publications of books for distribution. The Senator from Illinois puts it upon the only ground which could address itself to the Senate; and that is that this work is useful for us in the discharge of our duties. I am aware that copies of books have sometimes been purchased by both branches for the use of individual members; but I believe not to this extent. Here it is proposed to purchase ten thousand copies, and that would imply a distribution of the work. Certainly if it is to be limited to the uses of individual members, this number is much too large. I hardly think it will be found, on careful examination, that this book, although one of decided merit, commends itself so strongly that we can say that it is absolutely a matter of necessity to us, the members of the Senate and House of Representatives, to enable us properly to discharge the duties of our offices. It does not strike me that even that argument is particularly forcible.

The ground upon which the other Senator from Illinois [Mr. YATES] puts it, I hardly think is tenable. Certainly we have never heretofore established any precedent of that sort, that it is proper for the Congress of the United States to purchase books published outside of Congress for popular distribution. That, I think, would be establishing a precedent not to be favored by Congress, and certainly I think it would not be tolerated by the people. Then I suggest to my honorable friend that, valuable as this book may be, it addresses itself not to the popular heart, not to the popular judgment. It furnishes a kind of information most useful to certain classes, and not to the people at large. It is most useful to professional men, lawyers particularly, and statesmen in a general way. The idea of publishing such a book as that to meet a popular demand, as stated by the Senator from Illinois, would not be precisely what I think the people would expect. But, sir, I am opposed entirely to the idea of purchasing the books of any author for popular distribution. I do not believe it is warranted by any precedent; nor can I understand how it can be warranted in the nature of our Government on principle.

The only other ground upon which we distributed publications to the people in the shape of books is, that they are either official or officially connected with us, or officially or politically connected with the transactions of the Government; such as exploring expeditions. We have published many books on the explorations of the country; but those stand upon entirely different grounds. They are connected with the transactions of the Government, and it may very well be supposed that the people take a deep interest in the transactions of the Government; but it must be remembered that all those publications have been on a very limited scale. So, I repeat, to say all that I design to say, that I do not believe this proposition fulfills any of the three conditions upon which it is possible to conceive that under any circumstances it is proper to publish books for distribution.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Illinois from the Committee on the Judiciary.

Mr. MORRILL, of Vermont. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 13, nays 21; as follows:

YEAS—Messrs. Cole, Frelighuysen, Harlan, Hendricks, Johnson, Nye, Stewart, Sumner, Trumbull, Van Winkle, Wade, Wiley, and Yates—13.

NAYS—Messrs. Bayard, Cattell, Conkling, Cragin, Davis, Doxittle, Drake, Edmunds, Ferry, Fessenden, Howard, Howe, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Ross, Tipton, Vickers, and Williams—21.

ABSENT—Messrs. Anthony, Buckalew, Cameron, Chandler, Conness, Corbett, Dixon, Fowler, Grimes, Henderson, McDonald, Norton, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Rice, Saulsbury, Sherman, Sprague, Thayer, and Wilson—22.

So the amendment was rejected.

Mr. FESSENDEN. I ask leave to lay on the table an amendment which I propose to

offer, to be referred to the Committee on Appropriations.

The PRESIDENT *pro tempore*. It will be so referred.

Mr. TRUMBULL. I have another amendment to offer. Before doing so, I wish to state that I received from the Attorney General *ad interim*, a communication so late last evening that I have not had time to give notice to the Committee on Appropriations of the amendments which he asks to have made to this bill in reference to the Attorney General's office; and if the Senator from Maine, the chairman of the Committee on Appropriations, considers it his duty to object to them, of course they cannot be considered. I will state what they are. The Senator from Maine, it will be observed, has taken pains in the other Departments of the Government, particularly in the Treasury Department, to correct the bill which he says was framed upon the basis of the business in those Departments before the war, by putting in the number of clerks that now exist there; but in the Attorney General's office he has omitted to do that. The number of clerks has been reduced, and the amount of money appropriated for the contingent expenses of the Department, for wood, fuel, labor, &c., has also been reduced. I have a communication from the Attorney General *ad interim*, stating that the office cannot get along with the force which is allowed to it by the bill, and that there will be a necessity for employing special counsel, and that the \$5,000 for fuel and other expenses will be insufficient, and recommending that those appropriations be increased; and I will offer those amendments unless the Senator from Maine, having the bill in charge, objects for the want of notice. If he does, they cannot be offered. One proposition would be—I will make it in form so that the Senator from Maine can understand it—to add two clerks of class one; and another would be to increase the sum of \$5,000 for fuel, labor, furniture, stationery, and miscellaneous items to \$9,000. This is recommended by the Attorney General. I will make that motion if the Senator does not raise the question of order. If he does, the amendment cannot be offered.

The PRESIDENT *pro tempore*. The amendment will be received, if there be no objection.

Mr. MORRILL, of Maine. I desire to say a word about that. All the clerks in that Department that were estimated for but two are in the bill.

Mr. TRUMBULL. Yes; and the Attorney General says that those two which are omitted are necessary; and he also says that this \$5,000 appropriation is insufficient.

Mr. MORRILL, of Maine. The committee had but one rule, of course, about it.

Mr. TRUMBULL. It seems that they dropped these clerks out, and have also reduced the estimate. I have no interest in it, I wish to say, at all. This letter was addressed to me, I suppose, because I was chairman of the Committee on the Judiciary, stating these facts. Perhaps I had better have it read.

Mr. MORRILL, of Maine. Where does the Senator find the sum for contingent expenses reduced?

Mr. TRUMBULL. The sum recommended, as is stated in this communication from the Attorney General, was \$9,000, and it is \$5,000 in the bill.

Mr. MORRILL, of Maine. But the Senate committee did not reduce it. The Senate committee took it as it came from the House.

Mr. TRUMBULL. The Senate committee took upon itself to correct the House bill in reference to the other Departments, but has not done so in reference to this Department.

Mr. MORRILL, of Maine. The Senate committee acted upon this principle: Where there was a discretion, and the House had exercised it, the Senate committee did not undertake to exercise a discretion against the House committee, unless upon evidence furnished by the Department which satisfied them that the House had not exercised a sound discretion. Our attention was not called to this item to which

the Senator now addresses my attention. I do not think we had any information on that subject. If the Attorney General had communicated to the Committee on Appropriations what he has communicated to the Judiciary Committee I do not doubt that we should have entertained the proposition and considered it. Under these circumstances, whether I ought to enforce the rule as against the Senator I hardly know. It is not a rule for my personal privilege. Any Senator can object who thinks that the case requires objection. To show that the committee did not act without proper information on the subject, I hold in my hand a communication from the Attorney General's office on this subject, in which may be found these words:

"The clerical force allowed for the next fiscal year is sufficient for the ordinary routine work of the Department, but would be insufficient should any calls be made upon it similar to the calls for pardon reports by Congress during the present year."

This is the information we had from that Department under date of March 16, 1868.

Mr. TRUMBULL. But the Senator will see that the bill does not allow the force that has existed; it strikes out two clerks.

Mr. MORRILL, of Maine. This communication has special reference to this bill; it says "the clerical force allowed."

Mr. TRUMBULL. Not allowed by the bill, but by law, I suppose, is what is meant.

Mr. MORRILL, of Maine. No, sir, allowed by the bill as it passed the House; and it further says in regard to the Attorney General's office:

"The sum allowed for contingent expenses, namely, for fuel, labor, &c., \$5,000, may suffice with the most rigid economy."

That is what the committee ought to enforce, I submit. I think we are right, and therefore I feel obliged to invoke the rule on this amendment.

The PRESIDENT *pro tempore*. The amendment cannot be received except by unanimous consent, without notice being given.

Mr. CATTELL. I move to amend the bill on page 44, line one thousand and eighty-one, as per memorandum that I send to the Clerk.

The Chief Clerk read the amendment, which was on page 44, line one thousand and eighty-one, to strike out the word "six" before "thousand," and after "thousand" to strike out the words "five hundred," and at the end of the clause to insert the following proviso:

*Provided*, That from and after the 1st day of July, 1868, the annual compensation of the weighing clerk shall be \$2,500, and the compensation of the calculating, accounting, and warrant clerks shall be \$2,000 each.

So that the clause will read:

Mint at Philadelphia:

For salaries of the Director, treasurer, assayer, melter and refiner, chief coiner and engraver, assistant assayer, and seven clerks, \$59,000: *Provided*, That from and after the 1st day of July, 1868, the annual compensation of the weighing clerk shall be \$2,500, and the compensation of the calculating, accounting, and warrant clerks shall be \$2,000 each.

Mr. TRUMBULL. I will take the opportunity, while that amendment is under consideration, to say a word about the amendment which I proposed and which the Senator from Maine considered it his duty to object to. On looking at the paper which he read, I find it purports to be a letter from the chief clerk, Mr. Pleasants, to the Attorney General. The letter to which I referred is from the Attorney General; and it will be seen, if the Senator will look a little more carefully at the letter which he himself had, that it refers to the Assistant Attorney General for information upon the subject; so that there is no contradiction at all between the letter of the Attorney General and any other letter that the Attorney General has written, as there is but the one letter, and that is simply a letter from a clerk. I do not know that I properly discharge my duty in the matter without having the Attorney General's letter read, because he goes at some length in this communication into the facts to show the absolute necessity to the Government of increasing these appropriations. He states that he is there *ad interim* merely, and that a

new officer will soon come in, and that it will involve a very large expense to the Government in the employment of special counsel to carry on its business unless some appropriation is made. I wish the Senate, and the Senator from Maine, who objects to my amendments being considered, to understand the facts in case we should hereafter have any controversy about it.

Mr. MORRILL, of Maine. I will state another fact for the information of the Senator from Illinois. I understand that letter to be from the chief clerk, but the chief clerk represents the office, and that communication was sent to us by the Attorney General himself, and I have the letter in my hand, in which he communicates that letter as stating the needs of his office.

The PRESIDENT *pro tempore*. The amendment of the Senator from Illinois being objected to, the question is on the amendment of the Senator from New Jersey, [Mr. CATTELL.]

Mr. MORRILL, of Maine. I should like to have it explained, so that we may know precisely what it means.

Mr. CATTELL. The amendment which I offer is an advance in the salary of some of the clerks holding responsible positions in the Mint at Philadelphia. The salaries of these clerks have not been advanced since the year 1854. They are there on precisely the same salaries that they were at that time, while in almost all the governmental departments, as is well known, the salaries have been increased. The salaries of these clerks now are \$1,500 per annum, and they are obliged to give bond and hold very responsible positions, the weigh clerk having sometimes from five to eight million dollars of bullion in his charge, and passing through his hands in a single year \$69,000,000 of bullion. The compensation paid to these gentlemen, who are under bond and who have such responsible positions, is less than that of a third-class clerk in any of the Departments in Washington. The advance in these salaries is recommended by the assistant treasurer of the Mint at Philadelphia, Mr. McKibbin, indorsed by the Director of the Mint, Mr. Linderman, in a letter which I hold in my hand, and warmly indorsed by the Secretary of the Treasury himself, Mr. McCulloch. These letters may be read, if any Senator desires to hear them.

Mr. MORRILL, of Maine. Are you instructed to move the amendment by a committee?

Mr. CATTELL. No, sir. My attention was called to this subject too late to have it included in the Finance Committee's report. It was spoken of in the Committee on Finance, and met with no objection there, but was too late to be included in their report. The chairman of the Committee on Appropriations will remember that I called his attention to the subject. I gave him the notification required.

Mr. MORRILL, of Maine. Yes; that was all right.

Mr. CATTELL. I exhibited the papers to him, and we talked the subject over, and my belief at that time was that I had made an impression on his generosity.

Mr. MORRILL, of Maine. Decidedly, as a matter of generosity, I have no doubt you established the case; but if you have not the recommendation of a committee, I submit whether you are not out of order. You can move it at some other stage, having obtained their consent. I hope the Senator will allow it to pass over now.

Mr. CATTELL. Very well.

Mr. WILLIAMS. If that matter is dropped for the present, I offer the following amendment, to come in at the end of line five hundred and fifty-five, on page 23:

But the Special Commissioner of the Revenue shall, under the direction of the Secretary of the Treasury, act as superintendent of the division in the office of said Secretary created by the thirteenth section of the act approved July 27, 1863, entitled "An act to protect the revenue, and for other purposes," and called the Bureau of Statistics; and the Secretary of the Treasury may appoint one division clerk, at the same salary as a head of division, in the office

of the Commissioner of Internal Revenue, who shall act as deputy to the said Special Commissioner of the Revenue in respect to the said bureau, and exercise in his absence all powers belonging to him as such superintendent, except the franking privilege; and the office of director of the Bureau of Statistics is hereby abolished.

I will make a brief explanation, at the suggestion of the chairman of the Committee on Appropriations. This amendment proposes to abolish the office of the Bureau of Statistics and to transfer the duties of that bureau to the Special Commissioner of Revenue, and it provides that the Secretary of the Treasury may designate one clerk with the salary of a head of a division to act as chief clerk of this bureau, under the direction of the Special Commissioner of the Revenue. Some time ago this subject was referred to the Committee on Retrenchment and examined by that committee, and they instructed me as a member of the committee to report this measure as a bill to the Senate. Afterward it was referred to the Committee on Finance, and I am also instructed by that committee to report it as an amendment to the appropriation bill, and recommend that it be passed. According to the judgment of both of those committees it will save expense to the Government and tend to facilitate the transaction of that business in a more satisfactory manner to the country.

The amendment was agreed to.

Mr. STEWART. I wish to offer an amendment in addition to the amendment offered by the Senator from Ohio [Mr. SHERMAN] yesterday, and which was adopted. I move to insert after the word "Treasury," in the sixth line of that amendment, the words "and the Commissioner of the General Land Office."

Mr. MORRILL, of Maine. That is not now in order, I take it.

Mr. STEWART. This is the amendment that was spoken of last night.

The PRESIDING OFFICER, (Mr. FRELINGHUYSEN in the chair.) The amendment is not in order at present. It will be in order after the bill shall have been reported to the Senate.

Mr. HARLAN. I desire to know on what ground the proposition is ruled out. I had a similar amendment to offer.

Mr. MORRILL, of Maine. You can move it in the Senate. That amendment has been acted upon in committee.

Mr. HARLAN. It is an amendment to an amendment, which amendment has been acted on heretofore.

Mr. MORRILL, of Maine. The amendment of the Senator from Ohio having been adopted in committee, it can only be amended in the Senate.

The PRESIDING OFFICER. The amendment offered by the Senator from Nevada will be in order when the bill comes into the Senate.

Mr. RAMSEY. I should like to inquire of the chairman of the Committee on Appropriations whether I am in order now in moving to increase the salary of the Assistant Postmasters General from \$3,500 to \$4,500, making it equal to that of the Comptrollers of the Treasury? It would come in properly on page 41, line nine hundred and eighty-four.

Mr. MORRILL, of Maine. That can be offered in the Senate perhaps. Let the bill be reported to the Senate.

Mr. RAMSEY. Very well.

The bill was reported to the Senate as amended.

Mr. RAMSEY. Now I move to amend the bill on page 41, line nine hundred and eighty-four, by striking out "three" and inserting "four," and in the same line striking out "ten" before "thousand" and inserting "fourteen;" so that it will read, "Three Assistant Postmasters General at \$4,500 each, \$14,500."

The PRESIDING OFFICER. The first question will be on concurring in the amendments made as in Committee of the Whole. Shall they be taken in gross or separately?

Mr. HARLAN. I desire to have a separate vote on the amendment of the Committee on Finance relating to the increase of the salaries

of the Comptrollers and Auditors of the Treasury, in order that I may move to amend it hereafter.

The PRESIDING OFFICER. That amendment will be excepted. If no other amendment be excepted the question is on concurring in the other amendments made as in Committee of the Whole.

The amendments were concurred in.

The PRESIDING OFFICER. The question now is on concurring in the excepted amendment.

Mr. WILSON. I should like to have that amendment read.

The Chief Clerk read the amendment, which was to insert as an additional section the following:

Sec. —. And be it further enacted, That from and after the 30th day of June, 1868, the annual salaries of the Comptrollers of the Treasury and the Commissioner of Customs shall be \$4,500 each; of the Solicitor, the Auditors, the Register, and the supervising architect of the Treasury, \$4,000 each, and the additional amount necessary to pay the increase of salaries provided for by this section be, and the same is hereby, appropriated.

Mr. STEWART. I now move to amend that amendment by inserting after the word "Treasury," in the sixth line, the words "and the Commissioner of the General Land Office."

Mr. MORRILL, of Maine. How much does that give him?

Mr. STEWART. Four thousand dollars.

Mr. HARLAN. The salary of the Commissioner of the General Land Office is now \$3,000, and if the amendment proposed by the Senator from Nevada should be adopted it will put it on the same basis with the salaries of the Auditors of the Treasury. They are now, as I understand, \$3,000 each. Formerly the General Land Office was a part of the Treasury Department, was a bureau in the Treasury Department, and when the salary of the Auditors was fixed the salary of the Commissioner of the General Land Office was fixed, many years ago; I suppose more than half a century since. If it is proper to increase the salary of the Auditors on account of the increased business and the change in the value of money, it certainly is equally proper to increase the salary of the Commissioner of the General Land Office.

Mr. THAYER. I desire to add that if the salary of any officer is to be increased the salary of the Commissioner of the General Land Office ought to be. In my judgment there is no department of this Government managed with greater efficiency and greater thoroughness, and none in which the business is discharged more satisfactorily than the Land Office. I think the Commissioner is one of the most thorough, efficient, and accomplished officers under the Government.

Mr. RAMSEY. I say ditto to all that the Senator from Nebraska has said; but in addition to that, I think at the same time when the salaries of the Auditors and Comptrollers of the Treasury are raised the salaries of the three Assistant Postmasters General ought also to be raised. They are gentlemen of high character, and their duties are laborious and constantly increasing. No other Department of the Government is so steadily growing as the Post Office Department. Then, again, it is a Department that brings into the Treasury all that it costs to the Government, and therefore there is no impropriety whatever in giving to these officers the same compensation that is granted to officers of similar grade in other Departments.

Mr. THAYER. I agree with the Senator, and will cheerfully vote for that proposition.

Mr. CONNESS. The question of adding to the salaries of the Assistant Postmasters General is not now before the Senate. When that comes before the Senate of course we shall consider it. I do not understand the propriety of an argument on that which may convince the Senate that they ought not to vote for the amendment now proposed. I wish each to stand upon its own merits.

Now, sir, I desire to say in addition to what



has been said in regard to the Land Office, a few words, not to put the proposed increase of salary to the Commissioner upon the efficient manner merely in which that officer performs his duties, but the many hours required to perform them in. It is a fact that the Commissioner of the Land Office is employed an average of from twelve to fifteen hours every day of his life in performing his public duties. The business of that office has so increased that it is impossible to perform it in the hours ordinarily allotted to business. I happen to live in the vicinity of that gentleman, and I have often tried to communicate with him from my house in the morning shortly after eight o'clock; but I have never yet been able to do so; he had gone to the office, and was engaged in his arduous duties. He remains there until a late hour in the evening, and then carries to his house work belonging to his public duties, which he performs in the hours of the night. Whatever indisposition there may be—and I now address myself to my friend from Massachusetts, [Mr. WILSON,] with whom I generally agree, and do agree upon the main proposition that he has in view, that is, against the increase of salaries—whatever indisposition there may be, it is a matter of the slightest possible justice to concede this increase to the officer in question. I hope that there will be no opposition to it. If there be an increase due or rightfully belonging to any officer in this Government, it ought to be conceded to the Commissioner of the General Land Office. If another officer shall succeed the present gentleman he cannot in any way perform the public duties without giving an equal amount of his time to their performance. I speak of what I know when I speak on this subject.

Mr. FESSENDEN. Mr. President, I have no doubt that the Commissioner of the General Land Office is a very valuable officer and has a very important office; and I have no doubt either that his salary ought to be increased.

Mr. CONNESS. Then the Senator will vote for it.

Mr. FESSENDEN. Perhaps so; perhaps not. The Senator will hear what more I have to say on this subject. There are also other officers in the several Departments whose salaries ought to be increased if you increase these.

Although I was decidedly of opinion that the amendment offered by the honorable Senator from Ohio with regard to the Comptrollers and Auditors in the Treasury Department ought to be adopted, yet I saw at the time it was offered that it would lead to motions to put on a great many other officers whose salaries ought also to be increased. There is no doubt that those salaries are too low. But I wish to call the attention of Senators to the question whether this mode of doing a thing by halves or by quarters or by tenth parts is a wise one. If the Committee on Finance thought that this matter in the Treasury Department ought to be rearranged, I think they should have reported their bill, or else let the whole subject alone. A great deal has been said about the twenty per cent. extra compensation. Now you see what is coming. The honorable Senator from Nevada very justly moves to amend by inserting the Commissioner of the General Land Office. Why not on the same principle insert also the Commissioner of Pensions. He works as hard, as long, and has as important an office.

Mr. CONNESS. I think it ought to be done.

Mr. FESSENDEN. Very well. Why not, then, raise the officer who is over them all and who works as much as any of them, the Assistant Secretary of the Interior, who is a valuable, accomplished, and very laborious officer. His office is of higher grade than those of the heads of bureaus; and why should he be left at \$3,000 when you raise the salaries of the heads of bureaus to \$4,000? My opinion always has been that the Assistant Secretaries should certainly have one half of what is paid to the Sec-

retaries. A few years ago we raised the salaries of two or three of the Assistant Secretaries to \$4,000; but there was so much trouble about it that after a good deal of difficulty a committee of conference fixed all of them, I think—I do not know that I am right about that, but my impression is all of them—at \$3,500. They certainly did some of them.

Mr. SPRAGUE. That is right.

Mr. FESSENDEN. All of them, I believe, at \$3,500. I think that was it. There was a compromise by which they were fixed at \$3,500. Now, if you raise the salaries of the Comptrollers in the Treasury Department to \$4,500 and of the Auditors to \$4,000, why not put the Assistant Secretaries in the Treasury Department at \$4,500 also? They are certainly of a higher rank. But if you do that, the other Assistant Secretaries in the other Departments will say, "Why not put our salaries at \$4,500?" Then, perhaps, it will be as well to fix them at \$4,000 and submit to the apparent anomaly of having the two Comptrollers, who are very important officers, to be sure, at \$4,500. But you see you have got to go through. Then come the Assistant Postmasters General, who are very valuable officers. One of them told me some time ago, when the other matter was under discussion, that so long as others were left at \$3,000 they were content to have theirs left at \$3,000, although it was rather hard to get along on it; but if you meant to raise the others in the other Departments they would not be content unless you raised theirs also. I suppose they have \$3,500 now, and the same rule would apply to them.

Then again, look at it still further. After you have done this with reference to these heads of bureaus and Assistant Secretaries, come in their order all the clerks in the Departments clear down to the lowest, and the messengers, and especially those in the lower grades. They turn around and say to you, "Is this just? Here you have taken the men who have the highest salaries;" for that is all they look at; they do not look at the comparative nature of the services or the positions; and I think really it is getting to be pretty strongly argued by members of Congress; I think I have heard it intimated in this Chamber that it was very unjust that you should give a Secretary, the head of a Department, \$8,000, and not give a clerk \$8,000, just as much. Why? Because he works just as many hours and as hard. That is getting to be the idea, the leveling principle that every man in our Government should stand on exactly the same basis. But whether that would be the case or not, if you raise these heads of bureaus and Assistant Secretaries, which ought to be done, from \$3,000 or \$3,500, as the case may be, up to \$4,000 and \$4,500, what will you do with the argument that here are numerous clerks in the Departments serving for \$1,200, who have families to support, and cannot live on it; and so all the way up and down. All these things you have got to meet when you once begin with any particular officers to raise their salaries, however necessary it may be.

Therefore, looking at that matter, I came to the conclusion some time ago that you must do one of two things in order to avoid the difficulties arising from these hard times; you must either in all the Departments put a fund into the hands of the head of the Department to apply it, according to his best discretion, to the clerks who deserve it, who ought to have more, and who could not live on their salaries, in order to retain the services of those men, and trust to that for a few years to tide over this time of paper money until things get back to somewhere near their original position, or else you must go to work at once and reform and reorganize the several Departments and put them on a proper basis. We tried the first plan in the Treasury Department, and it gave so much dissatisfaction and created so much talk and so much denunciation of one kind and another that it became very unpopular, although in the Treasury Department I know that the fund was applied on the principles on

which it was given, because I recommended it myself, and I recommended it for the purpose of applying it to keep valuable clerks that could not be kept in any other way; but at once it raised the cry in Congress, "Here you are raising these men who receive the higher salaries, and you ought to raise all." That plan has now gone out of date. Gentlemen do not like that. Very well; then the other thing to be done was to reorganize all of these Departments, and put them on a proper basis and fix the salaries accordingly. That has this difficulty about it: that when you have once fixed them, if we should return to specie payments, and they should be found too high, it will be pretty difficult to reduce them; and that was the reason why the other system was adopted as a temporary expedient.

Now, I wish to warn gentlemen that they have got to carry this thing through if they begin it in this way. I voted for the motion of the honorable Senator from Ohio. Why? I voted for it because the Comptrollers and Auditors ought to have more pay. They have been receiving more pay in the Treasury Department, because up to this year the Secretary of the Treasury had a fund in his hands by which he was enabled to increase their pay; and I know that was the only thing that enabled Mr. Taylor, who is spoken of, to stay. He said he would leave the Department once or twice because of the inadequacy of his salary, and his inability to support his family on the amount that he received; and I agree perfectly with what has been said by gentlemen, that unless we are very lucky we shall lose a great deal of money when he goes out of that particular bureau. But this increase being begun with these gentlemen, you have got, in common justice, to carry it through. You must increase the salaries of your Assistant Secretaries accordingly, and you must increase the salaries of the men who hold the same relative positions, and whom it costs just as much to live, in the other Departments as you do in the Treasury Department. It is no more than right. Perhaps they should not all receive exactly the same; but an increase should be made relatively.

Therefore I cannot, in common justice, after this vote has been passed with reference to the Comptrollers and Auditors—they hold very important offices, to be sure, and are very valuable officers—refuse to vote for the proposition of the Senator from Nevada, and I shall make a similar proposition myself, if nobody else does. I should not have made it if this proposition had not come from the Committee on Finance, to increase the salary of the Assistant Secretaries of the Treasury Department. If nobody else makes that motion I shall make it, because I think it no more than justice. If we increase the salary of the Commissioner of the General Land Office, we ought to increase at the same time the salary of the Commissioner of Pensions and of the Assistant Secretary in the Department of the Interior. They are just as valuable and laborious officers as he is, and you cannot make that improper distinction between them. Therefore, sir, having begun it, let us carry it through.

Mr. STEWART. I do not think it is economy to starve men holding these very important offices, or pay them less than will secure good services. Now, as to the Commissioner of the General Land Office, whether we have the present incumbent or another we never should have a man there that could not earn at least \$4,000 a year. It is really one of the most important bureaus in the whole Government, and it affects the interests of the people at large quite as materially as any other. The Commissioner must be a good land lawyer, and in our system, as we are extending it over the mining regions, it involves the necessity for continued investigation of that new subject of law, and requires a man who is not only a good lawyer, but is willing to work constantly; and \$4,000 is the least possible figure that ought to be offered to a competent person.

The present incumbent is competent. When he shall go out you certainly cannot get a competent person to take the office at \$3,000 with its additional labors. The labors are now more complicated and much increased over what they were formerly. That office being a striking example of this insufficiency of pay, and knowing something about the duties of the office, I have offered this amendment.

I concur with the Senator from Maine that other officers who are equally meritorious, if there are such, and I presume there are several of them, ought to be relieved. I think it should be done in every case where it is manifestly just; but we ought not to put this off on that account. They can be put on some other bill, and let this bill go through with this amendment.

Mr. FESSENDEN. There is just as much justice in putting them on here as there is for putting on this case.

Mr. STEWART. There may be.

Mr. HARLAN. I do not wish to be misapprehended here. I advocate the Senator's amendment; but I gave notice last evening that I would move to-day to amend the bill so as to put the Commissioner of Pensions and the Commissioner of Indian Affairs on the same basis. There is, as the Senator from Maine has justly observed, the same reason for it.

Mr. FESSENDEN. Why not include the Assistant Secretary also?

Mr. HARLAN. I have an amendment to increase his salary to the same as is here allowed to the Comptrollers, \$4,500. Mr. President, the salary of the Commissioner of Pensions (although that is not now strictly in order) was fixed, I suppose, at the same time that the salary of the Comptrollers was fixed, when the disbursements from that bureau amounted to but a few thousand dollars a year. They now amount to more than thirty millions annually. The office has increased from a dozen or so of clerks to three or four hundred clerks. If there is any propriety in increasing the pay of any of these officers there is a propriety in increasing the pay of the Commissioner of Pensions; and I intend to make that motion, if this amendment should carry, and I think it ought to carry, if the amendment of the committee is to prevail.

The Senator from Maine said he was not in favor of doing things by piece-meal. That is the reason, I suppose, that the Senator from Nevada has offered his amendment. It will be my reason for offering the amendment that I propose to offer. If the pay of the heads of bureaus in any one of the Departments is to be increased because the present salary is insufficient, then the pay of the heads of bureaus in other Departments, where the labor is equally great, and where the salary is insufficient, ought to be increased. I am of the opinion personally that this is the better way to add the twenty per cent., to give to those whose labors justify the increase. I have no doubt that the pay of some of the clerks ought to be increased; but I do not believe that it ought to be increased in that mode, by adding a per cent. to the whole. As I have observed in the Senate heretofore, I believe that that pay should be given which will command the services required. The same rule should be established in regard to the performance of labor for the Government that is established in employing people to do labor for private individuals. A sufficient salary should be given to command the services demanded.

While I am on my feet, I may remark in relation to the Commissioner of Pensions, as it will save me the trouble of rising again, that there is a case where the Commissioner did resign and left the office on account of the insufficiency of his pay, and an abler officer and a purer man perhaps has never served the Government. He resigned and left the office and returned to private life, where he can make more money by the performance of less labor. There is at this time no Commissioner of Pensions in existence. The chief clerk at present is performing the duties of that office. I do not know whether the President finds it impos-

sible to get a man fit for the place to take that office at the present pay or not; but it has been vacant for some time.

Perhaps I might make the same remarks with great propriety in relation to the Commissioner of Indian Affairs.

Mr. TIPTON. I have said not one word during the progress of these investigations; but if it is a fact, as the Senator from Iowa has just asserted, that gentlemen receiving such salaries as are received by the commissioners are retiring on account of the inadequacy of the support, I wish to suggest that it is also a fact known to every Senator here that there are thousands of men in all these Departments who are absolutely suffering for want of adequate pay, men who have just as heavy family expenses, who have just as heavy expenses relative to the education of their children, as those gentlemen receiving larger pay, and who are undoubtedly in many cases induced to resign on account of the inadequacy of their support. I trust, therefore, that if we continue to increase the salaries of those who have now the higher grade of pay, it will be with the distinct understanding that we shall not slacken our hands until we have done ample and adequate justice to all the employes of the Government. And if I was satisfied that such was the determination of the Senate, and that an increase could in some proper and legitimate and safe manner be made to the pay of the clerks throughout the Departments generally, I would most heartily indorse all these propositions which seem to be fragmentary and very unsatisfactory in the mode of accomplishing the general result.

In regard to the case of the Commissioner of the General Land Office, I desire to say, and it was especially for the purpose of making a remark on that point that I rose, that having known him for seventeen years very intimately, having served with him for three years in the Land Office many years ago, I should not be doing my duty toward him, I should be stifling all the better feelings of my nature, if I did not aver in the presence of these gentlemen who have so much knowledge on the subject of the efficiency of officers that I believe there is no more efficient officer in connection with the Government in the city of Washington than the Commissioner of the General Land Office. A more laborious man I have never known; and undoubtedly it has been his pride not only to discharge the daily duties devolved upon him, but to make himself a first-rate lawyer; and as a land lawyer I apprehend that he has nothing to ask of any gentleman connected with the Government, or perhaps connected with Congress, in any respect. As to his willingness to work it exceeds almost his ability, if that were possible. Certainly if there is an officer who deserves any advance in his pay it must be the Commissioner of the General Land Office; and I say nothing disparagingly of any other of the gentlemen occupying analogous positions, for my acquaintance with them, and the intricacy of the duties which they perform, is not so great, or perhaps I should say the same in regard to them.

I therefore desire to see the amendment prevail, and I trust we will resolve when we are dealing with this subject by piece-meal that we will also do it in detail, and do justice before we adjourn to all the employes of the Government.

Mr. WILSON. I ask for the yeas and nays on this question.

The yeas and nays were ordered.

Mr. CONKLING. Before voting on this proposition, I wish to submit an observation. The proposition is to pay a number of officers here described \$4,000 a year in lieu of \$3,000, which they now receive. Their compensation as it is as large as that paid in many States to the judges of the highest courts in those States, and my inclination is to believe, if that were the question which I wished to discuss, that the compensation is not now inadequate. I waive that, however, for the purpose of coming to the question whether an amendment of

this sort is wise to correct the evil, if it be true that some of these men are inadequately paid.

The Assistant Postmasters General, for example, stands here now in a predicament in which no addition can be made for them without violating the rules of the Senate, because no notice of such an amendment has been given; and the same thing is true with regard to a number of officers of similar grade. Therefore, to justify this amendment entirely, I submit that we must find in it an enumeration of those persons in whose case especially this hardship exists. Is that true, Mr. President, of this amendment? The way to determine its truth is to take particular officers, and not to consider all these persons together. I will take now the case of the Register of the Treasury, and I refer only to what the public prints have said, and therefore not to what is known in executive session, when I state that recently the incumbent of this office evinced a very great disposition to obtain it and hold it. It was a marked instance of activity and enterprise in the acquisition of office. Indeed, I believe I shall not trench upon executive secrets if I say that the departmental history of the Government furnishes but few examples of such agility, of such dexterity, in obtaining office and a commission to office as were exhibited in this case, because the public knows that after the newspapers of the city recorded a motion to reconsider his confirmation a commission was obtained and carried through its various stages and lodged in the hands of the person of whom I am speaking, and he took an oath to enter upon the discharge of the duties of the office, so as, if possible, to close the door against any challenge of his right to hold the office.

This occurred, I think, about two months ago. The Senator from Vermont [Mr. EDMUNDS] perhaps will remember more accurately than I do when it was. I think it was not more than two months ago; and now, after the lapse of that brief interval, at the commencement of which this gentleman was so ready and so eager to obtain this office, at a compensation then fixed by law, we propose to add \$1,000 to him. Upon what principle? Will any Senator say that there is danger of his resigning because by turning to the quiet paths of private life he can make more money in some other way? Will any Senator, without disparaging him, tell the Senate that \$3,000 a year is not a compensation full and ample for his services, no matter in what direction they are devoted? Why, then, should he be put higher, why should he be singled out and placed upon a roll on which the Commissioner of the Land Office, the First, Second, and Third Assistant Postmasters General, and others whom I might mention do not appear, and to be decorated—

Mr. WILSON. He must have a great deal of work to do, it appears, because he appoints a great many clerks.

Mr. CONKLING. I know a statement has been read here that this gentleman found cast upon him among the first of his duties the necessity of appointing, I believe, thirteen men and one hundred and seventeen women as clerks at an expense, as I understood the Senator from New Hampshire to state, amounting to \$100,000 a year, and that sum to be paid out of the money appropriated to defray the expenses of loans. I do not know but that just as it stands is satisfactory to persons who know more about it than I do; but persons outside of this Chamber who think they know a great deal about it, and who have spent time investigating it, are greatly dissatisfied, without being I think partisans in the matter.

Now, Mr. President, this amendment involves one ingredient to which I wish to call attention. The other day in Committee of the Whole the Senate imported into this bill the provision which had expired giving a large sum of money to the Secretary of the Treasury with which to pay temporary clerks. Seeing that it was to be adopted, as everybody saw, I consoled myself, and audibly expressed the consolation that I felt that the amendment then proposed had

omitted a part of the phraseology employed a year ago in a similar amendment; it had dropped that part of the phraseology which gave a large sum of money to the Secretary with which, at his option, to increase the salaries of officers and clerks. I do not suppose it was intended as a strategic movement; but if it was, I congratulate the Senator who thought of it upon the dexterity with which this has been done; he divided to conquer—that was the idea—to give it to the Senate in installments; first, to have the Senate vote the amount of money necessary to pay the temporary clerks, with the idea that sixty or eighty thousand dollars was to be omitted; and then in place of adopting the old language, and giving that sum to the Secretary to dispense among the heads of bureaus and clerks, under another form to increase the appropriation for salaries, so that now we come back to where we were last year, and the same inequality is to be preserved. The heads of bureaus in the Treasury Department are to be paid an increased salary by direct appropriation, and then the residue of the sum as it was fixed last year is to be lodged in the hands of the Secretary with which to employ temporary clerks. I cannot think that this is right; I cannot see that it is defensible upon the merits as to those men who are here; I cannot say that it is defensible in respect to the invidious distinction that it establishes; and I cannot see that it is right in its graduation of the amounts, when you remember the differences in prices existing now and existing at the time when the appropriation bill was passed which provided for it last year.

I have heard it said by Senators here that living is very expensive in Washington. Certainly it is; living is very expensive everywhere. It is expensive in the city of New York; expensive in the city of Albany; expensive in the city of Buffalo, and in other cities in which judges reside who perform large services, and do not receive, many of them, a salary as great as this. It seems to me, Mr. President, that this cannot be defended; and the way to avoid the injustice of excluding other persons on the one hand or of loading the bill with many on the other is, I submit, to vote down this amendment, and leave the law where it now is.

The honorable Senator from Iowa spoke of the Commissioner of Pensions. I agree with him entirely that he was a very pure and competent man, but I did not understand, although I once had a talk with him on the subject, that he resigned exclusively or chiefly on account of the inadequacy of his pay. The Senator, however, may have better information on that point than I have. The Commissioner of Patents also resigned some time ago. Did he resign on account of the inadequacy of the pay, I should like to inquire?

Mr. HARLAN. I am not able to give positive information; but I think in the latter case the officer resigned because of some misunderstanding between him and the head of the Department.

Mr. FESSENDEN. But his salary is higher, is it not?

Mr. HARLAN. Yes; his salary is \$4,500 a year. I will say for the information of the Senator from New York, that I know that the late Commissioner of Patents remained in office at the request of the head of the Department for some time after he had expressed a desire, for private reasons, to retire.

Mr. CONKLING. I do not mean to question the Senator's statement: on the contrary, I agree that that gentleman was a valuable officer, and that his retirement was to be deplored. It has been said—and I was going to remark on that point—that the salary of the Commissioner of Patents is \$4,500. So it is; and in my opinion it is a most exorbitant and unreasonable salary for any services that have been rendered in that office for a long time. I knew the late Commissioner of Patents very well; I served with him in the House of Representatives; and I have no hesitation in saying that any individual, or any Government which paid to him

\$4,500 for any services which he rendered, or was capable of rendering, paid a salary utterly exorbitant, I might say ludicrously out of proportion to the services. And so by going through the tariff of salaries I presume we can find many instances of hardship where salaries are too low, and many instances such as I conceive this one that I have spoken of last to be, in which the salary is too high; and when we have bills reorganizing the Departments, as I hope we shall, Senators who are competent to do it will, I hope, adjust this more to their own and the public satisfaction, but for the time being I hope we shall not enter on the course we do when we adopt an amendment like this.

Mr. HARLAN. I hope the Senate will not adopt the Senator's advice at least in one particular. He requests that this amendment be voted down, and then that the committee's amendment be voted down. It seems to me it would be but doing justice to the mover of this to put this amendment on; if the other is right this is right, and let them stand together.

Mr. CONKLING. I beg the Senator's pardon. There may be an amendment pending which had escaped my attention. I did not understand that the amendment with reference to the Commissioner of the General Land Office was pending; I spoke of the amendment reported to the Senate from the Committee of the Whole, the amendment which was adopted upon the motion of the honorable chairman of the Committee on Finance.

Mr. HARLAN. And to that is now pending an amendment to put the Commissioner of the General Land Office in the same category with the Auditors of the Treasury.

Mr. CONKLING. Then I am very glad to concur with my friend that if the amendment is to be adopted that officer ought to be added to it. I think it would be grossly unjust to exclude him. My proposition is to vote down the entire amendment.

Mr. SHERMAN. I have a few words to say in regard to these officers, but not in regard to the particular case pointed out by the Senator from New York. If in the opinion of the Senate or of any Senator the present Register of the Treasury is not a good officer and ought not to have this increase of salary extended to him, I have not the slightest disposition to include his case. My own impression is that the present incumbent is a good officer, and is attending to his duties faithfully and honestly and very vigilantly; but at the same time I do not wish to embarrass this proposition by the fact that, as it stands, he will be a beneficiary under it. He has never applied for an increase of salary, never alluded to it any way, directly or indirectly, so far as I know, to any member of the committee. This effort has been made chiefly for the benefit of the Comptrollers and Auditors, and we confine the amendment simply to that class of officers who are the heads of bureaus in the Treasury Department; but I should be perfectly willing, if any Senator has any doubt about it, to confine it solely to the Comptrollers and Auditors. I will state now the reason why we did not extend it to the Assistant Secretary of the Treasury and to the Assistant Secretaries of the various Departments.

These Assistant Secretaries do not perform judicial duties. Their functions, although their name is quite high sounding, are far less important than those of the Comptrollers and Auditors.

Mr. HARLAN. Allow me to say to the Senator that he errs greatly as to the duties assigned to the Assistant Secretary of the Interior.

Mr. SHERMAN. I am not speaking of him.

Mr. HARLAN. His duties require him to supervise, to some extent, the Commissioner of the General Land Office and the Commissioner of Pensions.

Mr. SHERMAN. I am speaking of the Assistant Secretaries of the Treasury and the Assistant Postmasters General. Senators will remember that the Comptrollers and Auditors are really judges. They actually have at times

to resist the decisions of the respective Houses of Congress until the mandate comes to them in the form of a law. They resist even the action of the executive authorities. The Comptroller has frequently resisted the decisions of the Secretary of the Treasury himself. They are independent judicial officers to protect the Treasury, without whose official sanction no money can be drawn from the Treasury even upon the requisition of other officers. They are officers of a judicial character, performing important judicial functions, and therefore they are older in grade and higher in rank than an Assistant Secretary of the Treasury or of any Department.

It is only recently that the heads of Departments have had Assistant Secretaries. They are new officers. Legally, they are nothing but chief clerks of the Secretary or head of the Department. The character of duties imposed on them is not the same as on these other officers. True, if there is a vacancy in the office of head of the Department, they may temporarily fill that office; but while they are discharging their ordinary duties, their office is simply that of a deputy or a leading chief clerk of the Secretary or head of Department, while the Comptrollers and Auditors have to perform higher functions, independent functions imposed on them by law, often in antagonism even to the head of the Department. We have in the Treasury Department six Auditors. None of them are selected with a view to politics; and so with the three Comptrollers; and yet it happens that these officers agree in political opinion with a majority of the Senate, all of them, I believe, though there may perhaps be one or two exceptions. They were most of them appointed years ago, during Mr. Lincoln's administration. They are admitted to be able and excellent officers. There are Mr. Taylor and Mr. Brodhead and Mr. Sargent; and the Auditors are all men of capacity and ability.

It must be remembered that these officers have for the last three years by law received a higher salary than the annual compensation fixed by the old acts; that is to say, authority has been conferred upon the Secretary of the Treasury for three years to make them an additional allowance, and that has been done. They have actually been drawing \$4,500 and \$4,000 a year, precisely the amount that we now propose to give them by law, so that this proposition is not to increase their salaries as to them, but is simply to provide in a different mode what they have received for the last three years. We have the personal statement of these officers that their salary is totally inadequate for the support of themselves and their families living here in a plain, homely style; and we all know the fact that upon \$3,000 a year a man occupying their position would have great difficulty in making the ends meet. Now, is it necessary for the United States of America, in the present condition of affairs, to starve out these officers who guard the Treasury of the nation, who perform the highest judicial functions, whose duties every day are of the highest importance, and reduce their salaries? This is not a proposition for an increase of salaries. It is a proposition to continue the pay that for three years has been given to them with your knowledge and by the sanction of law.

I submit to Senators whether under these circumstances you ought to embarrass a proposition of this kind, which has been examined by one of your committees, and made known more than a month ago to the Committee on Appropriations, by adding to it other provisions. Suppose it is true that the Commissioner of the General Land Office, and the Assistant Postmasters General, and the Commissioner of Pensions receive too low a salary? By the rule of the Senate you cannot provide for them in this bill without giving the requisite notice. If it is necessary to provide for them, notice can now be given, and the increase can be voted on the miscellaneous appropriation bill, or any of the other appropriation bills that are



coming up; but the officers whose cases are covered by this amendment have been provided for, according to our rules, by an amendment carefully considered, and an amendment which appeals to the good sense of every Senator.

There is one other consideration that I desire to suggest. There is already a great jealousy and a great feeling naturally in the Treasury Department on account of the inequality of the salaries in that Department. The officers created by recent laws receive higher salaries than those whose offices date longer back. For instance, the Treasurer of the United States, General Spinner, an officer of the highest character, gets \$6,500 a year. Can any man say that General Spinner's duties are any more important than those of the First Comptroller of the Treasury, whose signature is required on every paper?

Mr. FESSENDEN. Let me say to the Senator, with regard to the Treasurer, that his salary was fixed on an entirely different principle; and that is, his personal responsibility for money, which is very large, for which he gives very heavy bond, and it was thought his salary should be somewhat in proportion to that.

Mr. SHERMAN. The Senator must not understand me as complaining of the amount paid to General Spinner, because I think his services are worth to the United States much more than his salary.

Mr. CHANDLER. Allow me to suggest that the Treasurer of the United States gives a bond in the amount of \$5,000,000.

Mr. SHERMAN. Then I will waive that case. I have no doubt General Spinner earns his salary. But take the case of the Comptroller of the Currency: there is an officer with no pecuniary responsibility, who gives no bond. He is a man of unquestioned ability, who has risen from a subordinate place in the Department until he occupies his present position with conceded ability. His salary is \$5,000. The Commissioner of Internal Revenue has a salary of \$6,000. Here are the Commissioner of Internal Revenue and the Comptroller of the Currency, neither of whom performs anything like the responsible duties of either of the Comptrollers proper of the Treasury, getting a much larger salary. Is it not something to a man of pride and feeling that those whose accounts he must supervise, who cannot draw any money from the Treasury until their judgment and their action is passed upon by him, should receive a higher salary than he does himself? Is that right? Does it not tend to create that want of *esprit du corps*, that sense of wounded honor, which every member of the Senate would feel under similar circumstances? Would I be willing to perform at a lower salary higher duties? Would I be willing that a man should perform subordinate duties to me, and that I should supervise and control his conduct, and yet he receive a greater salary than I? If so, it must be an admission on my part that I am unfit to receive the salary proportioned to the duties I perform. That is this case.

Go into the other Departments, and you find that the heads of bureaus in the War Department now receive under law \$7,105 a year, and yet every account passed upon by the Quartermaster General, the Paymaster General, the Commissary General, and the Surgeon General must pass under the supervision of these accounting officers of the Treasury Department. These bureau officers are in that sense subordinate, because the accounting officers perform judicial functions over them, finally act on what they do, and yet these bureau officers in the War Department receive nearly twice the compensation of the First Comptroller. The reason is this: the first office created in the Treasury Department after that of the Secretary of the Treasury was the Comptroller of the Treasury. The very name imports the character of the office. The second officers are Auditors. These are independent judicial officers. They were created a long time back. The office of Comptroller was created in 1799, and the pay was then fixed at

\$3,500 a year, and there it stands yet. It has been filled by Elisha Whittlesey, and by some of the ablest and best men this country has ever produced. The salary was established seventy years ago on a gold standard, at \$3,500, the same amount that you now pay to R. W. Taylor, when money has not half the purchasable value it had when the salary was fixed. So with the Auditors; the salary of an Auditor was fixed fifty years ago, in 1817, at \$3,000. It was then higher than the salary of all the other officers around them; but now new offices have been created, new wants have been supplied, new salaries have been fixed by law, and in accordance with the liberal spirit of the times, the changed value of money, and the expanded wealth of the country, Congress has given more liberal salaries; and now, when these old and faithful officers, performing the highest functions in this Government, come here and ask to be put upon something like a footing of equality with those who perform even minor duties in their own Department, is it worth while to tell them that their pay will keep body and soul together? Is it right to say that the First Comptroller of the Treasury ought not to receive as much as the Comptroller of the Currency? One controls the whole Treasury, passes upon every account, directly or indirectly; the other controls the currency of sixteen hundred banks. The Commissioner of Internal Revenue collects between two and three hundred millions of money a year. It is a very important office; but the Comptroller of the Treasury has to pass upon the accounts for every dollar thus collected, besides all the other money brought into the Treasury from customs and other sources.

It seemed to me for these reasons, when this matter came up before the Committee on Finance, that this was one of those plain, palpable cases of injustice where, while we did not want to enter upon any general indiscriminate increase of salaries, provision must be made for the Auditors and Comptrollers. As I said before, if, in the opinion of Senators, the Register (who, I concede, is an officer of no more importance than the head of a bureau in any other Department) and the Solicitor of the Treasury ought not to be included among the Auditors and the Comptrollers, strike them off. I do not appear here to plead for the interests of any particular officer; but I do say that as to the accounting officers you ought to do justice to them, even if you are not able now to do justice to other meritorious officers of the Government. As soon as we come back to specie payments and lower prices, as soon as we settle down upon the peace basis, I have no doubt the whole civil list will be revised, and these officers will be scaled according to the nature of their services; but in the mean time we ought not to lower the compensation paid to these high officers; and as we have now taken away from the Secretary of the Treasury the power to give them \$1,000 a year extra, which has been allowed by Secretary Chase, and Secretary Fessenden, and Secretary McCulloch, which enabled the Secretaries to equalize the salaries to some extent, we ought not to reduce their pay to the injustice and detriment of high officers of the Government, whose responsibility and integrity no man can question or deny.

I know from men, who would not speak a falsehood, that in regard to some of these officers they will not be able to continue in the discharge of their duties unless they have something like a compensation sufficient to maintain them with manly and reasonable independence. Some of these men have large families. You cannot always compare the exercise of duties by these officers with the performance of mere clerical duties, because there are obligations resting on these officers that do not rest on clerks and others. It may not be very pleasant, but it is true that official station brings with it obligations, and the higher that station the stronger those obligations are. It may cost no more to feed with bread a Comptroller of the Treasury than it does the

poorest clerk; but still there are obligations resting upon him, from the nature of his office, his social duty, his social position, which imposes upon him an expenditure that is not demanded of others. And, sir, unless you are blind to a fact which we know exists at all times and in all ages and among all conditions of men in every form of government, there is a distinction made in salaries as to the character of employment, the nature of the service, the responsibility and the intelligence required for the discharge of the duties. No man is fit to be Comptroller or Auditor who could not in private life, in private business, get a larger salary than even the amount you now propose to give.

With these considerations I shall leave the matter entirely to the Senate.

Mr. CONNESS. Mr. President, the object of the speech made by the honorable Senator who has just taken his seat is to show the Senate that it should vote to continue, as he describes it, the salary to the Comptroller and Auditors of the Treasury, to now put in the form of a regular salary the amount they have been heretofore receiving in the shape of salary and annual allowance in addition thereto; and also to convince the Senate that, in order that that may be done the pending amendment should not be adopted.

I listened with some attention to the honorable Senator, and I indorse in the most thorough manner everything that he said of the Comptrollers of the Treasury and the justice of allowing them the salary proposed. If my friend were equally candid and equally generous and equally informed (as he may be) in regard to the duties performed by the Commissioner of the General Land Office, I undertake to say that he would not have made the speech that he has with the purpose of defeating the pending amendment. He has described to us the judicial character of the functions performed by the Comptrollers of the Treasury. I agree with him that they are of the most important character. I know how earnestly the honorable Senator from Ohio has spoken and feels on this question.

I repeat again that I agree with him, but that he does great injustice to the pending proposition without, perhaps, intending to do so. There are no duties performed by the Comptrollers of the Treasury that transcend in importance the duties performed by the Commissioner of the General Land Office. His is essentially both a judicial and an administrative position. There is not a preëmption claim belonging to a citizen in this broad land that is not passed upon by that officer. There is not a claim for a grant of land but that the piles and heaps of papers are passed upon by him and examined and decided. Millions upon millions of dollars worth of property are determined by that officer constantly and continuously; and I think that there is not a Senator in Congress, nor a member of the other House, who would acquaint himself with the duties that officer performs and the manner in which they are performed and the length of time required in their performance, who would not agree at once to compensate him fairly and enable him to live as a gentleman should.

But the honorable Senator from Ohio deprecates the adoption of this pending amendment lest it should affect the amendment he proposed and which was adopted in committee. I regret to see this. I know that it is not in any spirit of defending the officers that belong to the Treasury Department, but it is because the honorable Senator from Ohio, chairman of the Finance Committee, is so well informed touching the duties of the officers of the Treasury Department, with which he is so intimately connected.

I might appeal to my friend, the Senator from Indiana, [Mr. HENDRICKS,] touching the character of the duties and functions performed by the Commissioner of the General Land Office. I think that it is due to all the officers that we should courageously determine which of them should have an increase of salary, and

give it to them. There was a proposition pending here a while ago that might have been adopted to buy \$15,000 worth of books, which perhaps would never have counted the people or the Government the weight of a straw, which would make the entire compensation that is spoken of for these officers if it had obtained. We vote ten or fifteen thousand dollars away here in many ways, and we refuse to give to the occupants of important offices upon which the true and honest administration of public affairs, the public revenue and public means depend, and, indeed, by which the public credit is sustained, a fair compensation for their services. Now, sir, I am not afraid, for one, to vote such a compensation upon any or all occasions, and I hope to have the vote of the honorable Senator from Ohio in behalf of the pending amendment, and I shall be glad then to vote for his amendment; but I am not willing to make "fish of one and flesh of another." I think that it is time that we dealt with even-handed justice toward the officers engaged in conducting the great business affairs of the country and the Government.

Mr. CHANDLER. I am of opinion that great injustice is being done by the amendment put on this bill from the Committee on Finance. I find that the Assistant Secretary of the Treasury, who signs all Treasury warrants and whose duties are certainly next to those of the Secretary, receives \$3,500 a year; and yet you put his subordinates over him in point of salary. You put his subordinates at \$4,500 and leave him at \$3,500. And, sir, this morning I suppose I have been approached by twenty, it may be thirty, perhaps forty of the heads of bureaus in the other Departments of the Government, a very large number, and they all claim that their duties are as great as those whose salaries have been advanced, some of them greater. It is perfectly evident to me that we must either kill the proposition of the Committee on Finance or go into a general advancement of salaries from the head down and equalize them. If you raise the salaries of these subordinate officers to \$4,500 there is no reason whatever why their chief should remain at \$3,500. I have before me a proposition to raise the salary of the Assistant Secretary of the Treasury, designated to sign Treasury warrants to \$5,000 a year. It ought to be. If his subordinates are raised to \$4,500, of course his salary should be \$5,000. I suppose it is not in order for me now to move that his salary be made \$5,000; but I simply state the fact that this thing must either be stopped or be carried out.

I have finally come to the conclusion that there is only one remedy for all of this proposed extravagance, and that is to reduce the salaries of Senators to \$3,000, and then claim that no man is entitled to more salary than a Senator. Do that, and we shall be able to stop it; and I shall move to-morrow, if this bill is not passed to-night, that the salaries of members of Congress be reduced to \$3,000, and that that sum be the limit of any subordinate's pay. Then, sir, I hope we shall be able to stop this extravagance.

Mr. RAMSEY. What will you do with the President's salary of \$25,000?

Mr. CHANDLER. I would cut off his extras. The President really receives \$56,000 instead of \$25,000. There is no other way but for us to cut down our own salaries, and then we shall stop this eternal clamor for advance of salaries. We have either got to stop the advance proposed by the Committee on Finance, or else advance every grade, provide that the female clerks, as my friend from Pennsylvania [Mr. CAMERON] proposed, shall receive the same pay as men who perform the same service, and that all other clerks be advanced in proportion with those who have been advanced. Carry it out through all the bureaus and Departments, and I think perhaps five, ten, or fifteen million of dollars will accomplish it.

Mr. STEWART. Will the Senator allow me to make a suggestion?

Mr. CHANDLER. Certainly.

Mr. STEWART. I would suggest that in bringing in a proposition for the reduction of the salaries of members of the Senate, the Senator enlarge the proposition a little and provide for equalizing the incomes of Senators. [Laughter.] We will all vote for it. [Laughter.]

Mr. RAMSEY. Make a common fund of the surplus income. [Laughter.]

Mr. CHANDLER. I understand that my friend from Nevada has the largest of any one here from his gold mines, and he would probably suffer the most. But, sir, this thing has got to be stopped, or else we may as well abandon all restrictions and raise all salaries in the ratio already applied to some by the amendment you have adopted.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment, upon which the yeas and nays have been ordered.

Mr. CHANDLER. I have voted against all advancement, but I shall vote for including in this section all that are offered.

The question being taken by yeas and nays, resulted—yeas 26, nays 9; as follows:

YEAS—Messrs. Chandler, Conness, Corbett, Davis, Doolittle, Drake, Frelinghuysen, Harlan, Hendricks, Howard, Johnson, McDonald, Morrill of Vermont, Nye, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Vickers, Willey, Williams, and Yates—26.

NAYS—Messrs. Cole, Cragin, Edmunds, Ferry, McCreery, Morgan, Morrill of Maine, Patterson of New Hampshire, and Wilson—9.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cameron, Cattell, Conkling, Dixon, Fessenden, Fowler, Grimes, Henderson, Howe, Morton, Norton, Patterson of Tennessee, Pomeroy, Rice, Saulsbury, Sprague, Van Winkle, and Wade—21.

So the amendment to the amendment was agreed to.

Mr. WILSON. I propose to amend this amendment by striking out in the fifth and sixth lines the words "of the Solicitor, the Register, and the supervising architect of the Treasury."

Mr. SHERMAN. You had better leave in the supervising architect.

Mr. WILSON. Very well; I will make the motion simply to strike out the Solicitor and the Register.

Mr. SUMNER. Why not strike out the Register alone? Why not take the vote on that proposition by itself.

Mr. WILSON. We may as well vote on both. The Senator who moved this amendment told us that certain officers named in it, the Auditors and Comptrollers, had judicial functions. Certainly the Register of the Treasury has not; neither has the Solicitor; and I think they ought to be stricken out at any rate.

Mr. SHERMAN. I will make no objection to the motion.

Mr. HENDRICKS. Does the Senator from Massachusetts propose to disallow the Solicitor of the Treasury the same compensation given to the other persons? There is no question that he ought to have as much as the Comptrollers, in my opinion. He must be a man of education in the law; he ought to be a very able lawyer, and I believe the present Solicitor is. The office of Solicitor of the Treasury, in my judgment, is a more important office than that of the Attorney General. He has more to do with the law business of the Government. It has become now a great law office, in which the management of the law suits of the Government in all the courts of the United States is prepared and controlled. If there is any officer in the Treasury who ought to be discriminated favorably upon it is the Solicitor.

I am not satisfied that there ought to be an increase of any of these compensations at this time; the people are not making any more money than they used to do; but if there is an increase the Solicitor of the Treasury ought to enjoy it. Three fourths of the business that is transacted by the Auditors is routine, passes as a matter of course; the examinations are made in the proper Department before the papers go to them. Allowances are made by the Secretaries. The responsibility of the

decision in most of the contested or doubtful cases is upon the Secretary of the particular Department with which the claim is connected. Take an important claim connected with the quartermaster's department; the Quartermaster General decides upon it, and then the Secretary of War decides upon it, and mainly the labors of the Auditors and Comptrollers are routine. There is not this difference that is talked about between these officers. I merely rose to say one word for the Solicitor of the Treasury. I think that is one of the most important offices of the Government.

Mr. CRAGIN. I should like to suggest to the Senator from Indiana one way in which the Solicitor of the Treasury has been in the habit of having an increase of salary heretofore. In a case in the custom-house at Boston, in the settlement of a claim there, the collector and naval officer I think paid over to Mr. Jordan \$4,000, which he accepted, whether for services or otherwise I do not know, but he certainly accepted it.

Mr. HENDRICKS. The present Solicitor? Mr. CRAGIN. The present Solicitor.

Mr. HENDRICKS. I do not choose to vote in regard to fixing permanently the salaries of the officers of this country on any rumor to the prejudice of a particular officer. The question is what is the grade of the office, what compensation a lawyer who is able to take charge of that bureau ought to have. He has the most important causes to superintend. I never heard anything against the present Solicitor.

Mr. CRAGIN. I will state that the fact I mentioned is stated in a report of a committee of the House of Representatives, and Mr. Jordan himself has admitted it over and over again.

Mr. HENDRICKS. Let there be higher authority than a report of a secret committee of the House of Representatives. I do not consider any man's good name damaged much by that.

Mr. CRAGIN. The testimony of Mr. Jordan, as reported, shows the fact.

Mr. HENDRICKS. What he said I dare say would be all right, but I do not speak for him personally. I know but very little about him personally; but I know that the causes which are being tried in the courts below are well prepared in the Department. I have had occasion to meet some of them.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts [Mr. WILSON] to the amendment made as in Committee of the Whole.

Mr. CONNESS called for the yeas and nays, and they were ordered.

Mr. MORRILL, of Maine. I understood the Senator who moved the original proposition, and argued its necessity, to agree to the motion of the Senator from Massachusetts, to strike out the Solicitor and Register, and I suppose therefore the Senate will not object to that motion.

Mr. EDMUNDS. I ask to have the question divided, so as to take the vote separately, first on the Solicitor and then on the Register.

The PRESIDENT *pro tempore*. A division of the question is called for. The question being divided, the first vote is on the motion to strike out "the Solicitor."

The question being taken by yeas and nays, resulted—yeas 19, nays 22; as follows:

YEAS—Messrs. Cattell, Conkling, Conness, Cragin, Edmunds, Ferry, Frelinghuysen, Howard, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Sherman, Stewart, Sumner, Wade, and Wilson—19.

NAYS—Messrs. Chandler, Cole, Corbett, Davis, Doolittle, Drake, Fessenden, Harlan, Hendricks, Johnson, McDonald, Ramsey, Ross, Sprague, Tipton, Trumbull, Van Winkle, Vickers, Willey, Williams, and Yates—22.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cameron, Dixon, Fowler, Grimes, Henderson, Howe, Morton, Norton, Patterson of Tennessee, Pomeroy, Rice, and Saulsbury—15.

So the first branch of the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on striking out "the Register."

The question being taken by yeas and nays, resulted—yeas 19, nays 21; as follows:

YEAS—Messrs. Cattell, Conkling, Cragin, Davis, Edmunds, Ferry, Frelinghuysen, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Sherman, Stewart, Sumner, Thayer, Wade, and Wilson—19.

NAYS—Messrs. Chandler, Conness, Corbett, Doolittle, Drake, Fessenden, Harlan, Hendricks, Howard, Johnson, McDonald, Ramsey, Ross, Sprague, Tipton, Trumbull, Van Winkle, Vickers, Willey, Williams, and Yates—21.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cameron, Cole, Dixon, Fowler, Grimes, Henderson, Howe, Morton, Norton, Patterson of Tennessee, Pomeroy, Rice, and Saulsbury—16.

So the second branch of the amendment to the amendment was rejected.

Mr. HARLAN. I move to add the following words after "Commissioner of General Land Office" in the amendment as it stands:

The Commissioner of Pensions and the Commissioner of Indian Affairs.

Mr. WILSON. I ask for the yeas and nays on that.

The yeas and nays were ordered.

Mr. HENDRICKS. Can there be a separation of the proposition?

The PRESIDENT *pro tempore*. I suppose so.

Mr. HENDRICKS. I call for a division of the question. I think the office of Commissioner of Indian Affairs is a very important one. The other is merely clerical; anybody can decide whether disability accrued because of service or not.

The PRESIDENT *pro tempore*. The question being divided, the first vote is on inserting "the Commissioner of Pensions."

The question being taken by yeas and nays, resulted—yeas 21, nays 19; as follows:

YEAS—Messrs. Chandler, Corbett, Doolittle, Drake, Fessenden, Harlan, Howard, Johnson, McDonald, Nye, Patterson of New Hampshire, Ramsey, Sprague, Stewart, Tipton, Trumbull, Van Winkle, Vickers, Willey, Williams, and Yates—21.

NAYS—Messrs. Cattell, Cole, Conkling, Conness, Cragin, Davis, Edmunds, Ferry, Frelinghuysen, Hendricks, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Sherman, Sumner, Thayer, Wade, and Wilson—19.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cameron, Dixon, Fowler, Grimes, Henderson, Howe, Morton, Norton, Patterson of Tennessee, Pomeroy, Rice, and Saulsbury—16.

So the first branch of the amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the second clause of the amendment, to insert "the Commissioner of Indian Affairs."

The question being taken by yeas and nays, resulted—yeas 20, nays 20; as follows:

YEAS—Messrs. Chandler, Cole, Conkling, Doolittle, Drake, Harlan, Hendricks, Howard, McDonald, Nye, Ramsey, Ross, Sprague, Tipton, Trumbull, Van Winkle, Vickers, Willey, Williams, and Yates—20.

NAYS—Messrs. Cattell, Conkling, Conness, Cragin, Davis, Edmunds, Ferry, Fessenden, Frelinghuysen, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Sherman, Stewart, Sumner, Thayer, Wade, and Wilson—20.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cameron, Dixon, Fowler, Grimes, Henderson, Howe, Johnson, Morton, Norton, Patterson of Tennessee, Pomeroy, Rice, and Saulsbury—16.

So the second clause of the amendment to the amendment was rejected.

Mr. WILLIAMS. I move to amend the amendment by inserting just preceding the amendment proposed by the Senator from Iowa the words "the Assistant Secretary of the Interior."

Mr. MORRILL, of Maine. I would like to have the Senator state on what authority he moves that.

Mr. WILLIAMS. I propose this amendment upon the same authority the other amendments have had for their support. They were propositions made by individual members of the Senate.

Mr. MORRILL, of Maine. They were instructed to move those by committees, and notice was given. The Senator's motion is not in accordance with the rule, I submit.

Mr. CONKLING. Neither were the others; they were not referred to our committee.

Mr. MORRILL, of Maine. Yes, they were laid on the table yesterday and referred to our committee.

Mr. FESSENDEN. I wish to inquire whether the rule applies in such cases as this. This is not an amendment to the original bill, but an amendment to an amendment. I do not understand that the rule covers an amendment to an amendment. It only covers an amendment proposed to an appropriation bill. This is an amendment to an amendment. I raise that question.

Mr. TRUMBULL. Upon that point I hope the Chair will allow me to make a suggestion. It seems to me that the Senator from Maine must be correct, because you never can anticipate the amendments that may be necessary to an amendment. We can anticipate what amendments we desire to offer to an appropriation bill; but when an amendment is made to it it brings up a new question, and it seems to me it is in order to offer an amendment to that amendment without giving notice.

Mr. MORRILL, of Maine. Whatever the Senator's theory may be the fact does not justify his inference in this case, because the amendment here has offered no new light, I take it, to any of the propositions—

Mr. TRUMBULL. Certainly it is.

Mr. MORRILL, of Maine. I cannot conceive that it has. It has not changed the character of the service at all.

Mr. TRUMBULL. I have voted for three or four amendments to the amendment that I never would have voted for as independent propositions. I merely voted for them as amendments to the original amendment.

Mr. FESSENDEN. I should like to have the rule read.

The Chief Clerk read the last clause of the thirtieth rule, as follows:

"All amendments to general appropriation bills reported from committees of the Senate, proposing new items of appropriation, shall, one day before they are offered, be referred to the Committee on Appropriations."

Mr. FESSENDEN. Our rule has been that no amendment should be received to an appropriation bill increasing the appropriations unless it was offered from a committee; but that rule was never held to apply to an amendment to an amendment. If a committee offered an amendment, which brought the case within the rule, it was always held to be in order for a Senator to move an amendment to that amendment, because it was no part of the bill.

Mr. EDMUNDS. What would the rule amount to if you could get around it all the time in that way?

Mr. FESSENDEN. Then make your rule so that we cannot get around it.

Mr. EDMUNDS. That seems impossible.

Mr. FESSENDEN. The ruling has always been that where a committee offered an amendment, an amendment might be offered by anybody to that amendment increasing the amount or doing anything else. Now, we have a rule that an amendment must be referred to the Committee on Appropriations a day beforehand. When that has been done, and the amendment is offered in the Senate, why cannot anybody offer an amendment to that amendment, which then for the first time comes before the Senate?

The PRESIDENT *pro tempore*. The Chair is of opinion that an amendment to an amendment does not come within the provision of the rule. Any Senator may offer an amendment to an amendment without submitting it to the Committee on Appropriations.

Mr. CONNESS. If it increases the amount of appropriation. Is that the decision?

The PRESIDENT *pro tempore*. In the opinion of the Chair, that does not make any difference in the case of an amendment to an amendment.

Mr. SHERMAN. There is one view of this matter which I wish to present to the Senate. Each name inserted here increases the appropriation, because the section as I offered it makes an appropriation to pay the increase of salary. This is a very important rule; and if you allow this proceeding it upsets the whole rule. Amendments of a legislative character

are offered to an appropriation bill. Under this construction what, then, is to prevent any Senator from moving to hitch on to such an amendment a provision appropriating \$1,000,000? When you add a new name to the list in this amendment you increase the appropriation, and in fact make a new additional appropriation. The Senate will see at once that if it is decided that an amendment to an amendment does not come within the spirit of our rules, as a matter of course it will be the easiest thing in the world for us to upset this whole rule. Suppose, for instance, the Committee on Appropriations should report an amendment appropriating \$100,000 for the Agricultural Department, and then the Senator from Illinois, without authority from any committee, should move as an amendment to that amendment an appropriation of \$500,000 for the increase of the judiciary fund. That would be perfectly proper according to his doctrine, but by it this whole rule would be defeated.

Mr. TRUMBULL. I do not know that there is any question before the Senate. If there is I should like to reply to the Senator from Ohio.

The PRESIDENT *pro tempore*. There is nothing before the Senate unless the amendment.

Mr. MORRILL, of Maine. I appeal, and wish to say a word on that question.

Mr. SHERMAN. The Chair has not decided it, as I understand.

Mr. TRUMBULL. The Chair has decided—

The PRESIDENT *pro tempore*. The Chair has intimated the opinion that an amendment to an amendment does not come within the rule relating to amendments being referred to the Committee on Appropriations. The question had better be settled.

Mr. SHERMAN. With perfect respect, I take an appeal from the decision of the Chair, because it virtually upsets the rule.

Mr. TRUMBULL. Then I suppose it is in order to reply to the Senator from Ohio.

The PRESIDENT *pro tempore*. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. TRUMBULL. This is a new rule; and it is the first time we have ever had a practical application of it to any extent. We have always been able to get along very well without such a rule. The Senator from Ohio, after adopting a new rule, is for giving it an application that would prevent the Senate from amending an amendment. It would be like the previous question here in the Senate. An amendment is intended to be proposed by some Senator, and he sends it quietly to the Committee on Appropriations. Neither the Senator from Ohio nor myself have ever heard of it. It comes into the Senate here for the first time, and we are to take that precisely as it is presented, and we cannot move to amend it; that is to say, we are to take the sum as proposed.

Mr. SHERMAN. This point of order is made upon the old rule. The objection now made does not come under the new rule. The objection now made is that the amendment of the Senator from Oregon does not come from any standing committee. That is the objection of the Senator from Maine, and it is an objection made under the old rule.

Mr. TRUMBULL. We have been discussing it with regard to the point whether it came within the new rule. Now, if the Senator puts his appeal upon some other ground, it is a change of front.

Mr. MORRILL, of Maine. I stated distinctly at first that that was the ground I put it on, though I did not get an opportunity to state it very fully.

Mr. TRUMBULL. The principle would be the same, I suppose; but the ground upon which it was argued by the Senator from Ohio, I understood, was that the proposition was not in order under the new rule. But suppose you take it under the old rule, was it ever the understanding in the Senate that if an amendment was moved by a committee a Senator could not



move an amendment to it? That was never my understanding. I never knew of such a rule. This is the first time that it was attempted to be applied; and to give to the new rule the construction contended for by the Senator from Ohio virtually amounts to having none, is to having the previous question, which the Senate has never agreed to and I hope never will.

Mr. CONKLING. Will the Senator allow me to make a suggestion to him on that point? It seems to me it does not amount to the previous question. An amendment, notice having been given, and it being in order, is under consideration. Anybody may move to amend that amendment, so that his amendment does not amount to a further proposition to appropriate; but the moment he offers an amendment of that particular kind, the rule takes hold of it. If a Senator gives notice of an amendment to increase a salary, when his amendment comes up I may move to increase it still more, or I may move to reduce it, because that is all germane; but when I come to propose as an independent proposition to give some other man an increased salary, to put in some further appropriation, but putting it in the parliamentary form of an amendment to his amendment, then I submit that the spirit of the rule attaches to it, and ought to attach to it if the rule is to mean anything, just as much as it would if I waited till he sat down and proposed the same words in an independent amendment.

Mr. TRUMBULL. That is a refinement upon the rule that I think cannot be sustained. The Senator from New York admits that if notice of an amendment is given to increase the appropriation, it would be competent, when that amendment came up, for a member of the Senate to move to change that particular sum, to reduce it or to increase it, but he cannot move to amend it in any other respect. That is not the meaning of the rule that he may amend it in one way and not in another.

Mr. CONKLING. The Senator hardly does me justice in saying that I contend that we cannot amend it in any other respect. I do not say that. I only suggest to him that when he comes to move to amend it in the particular respect of proposing a new and independent appropriation, then it falls not only within the spirit, but as I submit to him, within the letter of the rule.

Mr. TRUMBULL. The precise point is here: the Senator from Ohio originally moves to increase the salary of the Comptrollers of the Treasury. I understood the Senator from New York to admit that it would be competent for the Senator from Oregon to move to increase the salary of the Comptrollers still more. Then the Senator from Ohio proposes to increase that appropriation, but he insists that we cannot move to add to it the Assistant Secretary of the Treasury or any other officer. I should like to know why not? What principle is in that if we can increase the same?

Mr. SHERMAN. I should like to ask my friend a question. Suppose, in pursuance of notice, an amendment is offered in the regular way to appropriate \$100,000 for the improvement of the harbor of Chicago. That is an amendment of which due notice has been given. Suppose, as an amendment to that amendment, some one should propose an appropriation of \$500,000 for the improvement of the harbor of Milwaukee. There is an amendment to an amendment, but it is an amendment proposing an increased appropriation. Is not that within the rule?

Mr. CONKLING. Allow me to suggest that it proposes not merely, as the Senator from Ohio says, an increase of the appropriation, but, in the language of the rule, a new item of appropriation. That is the point, a new item of appropriation.

Mr. TRUMBULL. But it is an amendment to an amendment, and not an amendment to the bill.

Mr. SHERMAN. This is precisely that case. Here is an amendment that has been carefully considered, that has gone through all

the forms required, appropriating so much money to pay certain designated officers, and now here is an amendment to it to pay another designated officer not named in the amendment another additional sum. It seems to me that unless we intend to upset the rules which have been established to promote the convenience of business, we must hold that this is not in order.

Mr. EDMUNDS. This is a question of a great deal of practical importance, and I hope Senators will give it sufficient attention to decide it according to the real merit that it may have, because the decision now made will stand as the construction of the rule for all other cases. The particular item upon which we are now engaged is not of so much practical consequence, but of course this settles the meaning of the rule, and if the meaning of the rule be settled in the manner that the Chair indicates his construction is, it is equivalent to a repeal of the rule, because that construction permits the rule to be overborne indirectly, when directly the rule absolutely prohibits the increase of the amount appropriated in an appropriation bill unless you go through with certain forms. If there was any value in having this rule—and we have had it now for eighteen years as a necessary rule in this body—that this taking of money out of the Treasury to pay for particular items of appropriation should always be considered first in a committee, so that there might be a careful investigation of the proofs and grounds on which the appropriation should go, then I say that it is of a great deal of consequence that we should adhere to that spirit, and that is certainly the spirit and object and groundwork of the rule.

Now, it is claimed by the Senator from Illinois, that inasmuch as he can by the form of proceeding, not the substance of proceeding, but by the mere form of proceeding, evade the letter of the rule in the strictest and most technical parliamentary sense, that gives him the right to swing around the substance and defeat it entirely. That I deny. In every sense except the mere technical one I am speaking of, in every sense that we should act on in construing a statute, the term amendment to an appropriation bill or to any other bill includes the whole series of amendments, an amendment to an amendment, and an amendment to that, if parliamentary usage would permit you to go as far. They all belong to the bill, but in different degrees; each is the link in the chain that connects the remotest one to the bill. So that in any general and fair sense of the use of language an amendment to an amendment is just as much a proposed amendment to a bill as the first amendment is. The mere technical difference is purely the form of coming at it.

The question is whether the Senate is determined, in order to adhere to what appears to be a literal form in that narrow sense, to overthrow the whole substance of the provision of this rule. I do not think there is a Senator who hears me who is a lawyer or a judge, if this were a statute and he were on the bench, would not feel bound to declare that an amendment to an amendment in this narrow and verbal sense in which we are now speaking of it was in substance and reality an amendment proposed to the principal thing. If there is any such person, I venture to say that his salary ought to be reduced, instead of increased, on the first appropriation bill that shall come up.

One of the first rules of construction in all civilized courts is that you shall not adhere to the letter to the injury of the substance, that you are to look through the mere shell of phraseology to the real purpose and design of this statute of your body, as it is one, in order to reach its true construction. This purpose and design was to prevent the attaching to appropriation bills of new items of expenditure, increasing the price or cost to the people, until those proposals should have been subjected to the careful and rigid scrutiny of a committee. That was the object, and yet

gentlemen coolly propose, by a literal construction, to take the very heart out of this rule. It cannot be fairly done, and I hope the Senate, independent of what their wishes may be as to this particular amendment, will so vote as to give this rule some life in the future.

Mr. FESSENDEN. I am so much alarmed as to my salary being cut down for disagreeing with the honorable Senator from Vermont that I am going to say a word or two.

Mr. EDMUNDS. You are not a judge; I spoke about a judge.

Mr. FESSENDEN. You said "lawyer or judge." I used to be a lawyer, and therefore I may come, perhaps, within the description.

I raised this question for the sake of having it settled by the Senate, and I have been thinking of it before. The old rule was that an amendment increasing an appropriation could only be moved in a certain way, among others, by permission or direction of a committee of the Senate. If I remember rightly, under that rule, when such a motion was made by a committee it was then at the mercy of the Senate, and anybody might offer an amendment to that putting on an additional appropriation if he saw fit. I may be wrong in my recollection; but that is my recollection of the practice. If the practice is otherwise, my argument fails. The Chief Clerk undoubtedly will know better than most of us whether I am right or not in that particular.

Now, here comes another clause, and that is that no such amendment shall be offered unless it has been submitted to the Committee on Appropriations a day beforehand. That apparently stands in precisely the same position, and would be subject to the same rules of practice that the other is. And yet I cannot help seeing that the effect of it, if carried to that extent, is substantially to defeat the rule, and that the better construction would be that any amendment to an amendment of that nature proposing to increase appropriations or to make new items of appropriation ought not to be allowed, because the result of it would be, as Senators can readily see, to destroy the operation of the rule, and I do not see any difficulty that would come practically from following the rule; for if Senators desire to put anything of that sort in they ought to give notice of it beforehand.

Still I revert to that original position that if we follow the analogy of the former practice of the Senate under the old rule, any amendment may be proposed to an amendment to a bill; and when you come to look at the philosophy of the thing it may be proper. A bill is before the Senate; it is printed and laid on the table, and every Senator can examine it. If he desires to make an amendment to it, he ought to know it in season, and the rule provides that he shall put that amendment in proper shape and have it referred to the Committee on Appropriations. But the Senate is not bound to take notice of all the amendments thus presented. They are not printed; they go directly to the Committee on Appropriations; nobody knows anything about them; and then they come in here in the ordinary way. Senators do not have the same notice of them that they have of the original bill. Therefore the reasoning would not seem to apply to them. Still I see what the effect would be of the construction which I think, in analogy to the old rule, the Chair has correctly put on this rule, and that is, that any amendment may be offered to an amendment. If the Senate choose to correct that, and say that under this new rule it shall not be allowed, I shall have no regrets about it, because the rule will then be made absolute.

Mr. WILLIAMS. I did not suppose when I proposed this amendment that it was strictly in accordance with the rule; but I expected that its justice would commend itself so to the Senate that no objection would be made, for the very palpable reason that the Commissioner of the General Land Office has had his salary raised, and the Commissioner of Pensions has

had his salary raised to \$4,000; and now here is the Assistant Secretary of the Interior, who has for a long time acted as Secretary of the Interior, who is practically the law officer of that Department, whose business it is to review all litigated questions in reference to land titles and other questions of that description, and to finally decide them, and he is left to get on with a salary of \$3,500. It seems to me to be a very singular state of affairs. I supposed that the same reason which justified increasing the salary of the Commissioner of Pensions would justify an increase of this salary, and I did not suppose any objection would be made. The propositions that have been made here, I have no doubt, though I am not advised as to all, have been simply made by certain members of the committee applying to other members of the committee for consent to propose those amendments, and they have been proposed as coming from the committee, when perhaps in point of fact they had never been considered by any committee, either by the committee proposing them or by the Committee on Appropriations, and in that way have been brought before the Senate and have been considered and adopted. If it be decided to be out of order I have nothing further to say.

The *PRESIDENT pro tempore*. The question is whether the decision of the Chair shall stand as the judgment of the Senate.

Mr. SUMNER. I do not know that I can add to the discussion; but without undertaking to express any opinion on what the old rule was, or the old practice, it does seem to me that the new rule we have established, if it is to be preserved, requires an interpretation that shall exclude such a motion as that which is now made, except according to the notice required by the rule. I do not doubt that a proposition may be made on an amendment which shall be germane to it, which shall be kindred to it, which shall be essentially associated with that special amendment. For instance, a condition may be annexed, or it may be reduced; but to add another distinct proposition relating to another distinct subject-matter it seems to me entirely nullifies the new rule. If you can add to the first amendment a second amendment to increase the salary of another officer, why may you not go through the whole Government and add a proposition to increase the salary of the President of the United States or of the Chief Justice? By the same argument that you can add a proposition to increase the salary of one other officer you may add a proposition that shall increase the salaries of all the officers of the Government. It seems to me, therefore, that we cannot preserve the rule which we have at last established without excluding the proposed amendment.

The *PRESIDENT pro tempore*. The question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

The question being put, the decision of the Chair was overruled.

The *PRESIDENT pro tempore*. The amendment offered by the Senator from Oregon is out of order under the construction of the Senate. The question is on the amendment made as in Committee of the Whole as amended, to add as a new section:

*And be it further enacted*, That from and after the 30th day of June, 1893, the annual salaries of the Comptrollers of the Treasury and the Commissioner of Customs shall be \$4,500 each; of the Solicitor, the Auditors, the Register, and the supervising architect of the Treasury, the Commissioner of the General Land Office, and the Commissioner of Pensions \$4,000 each; and the additional amount necessary to pay the increase of salaries provided for by this section be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. EDMUNDS. I have voted against these other amendments to this amendment, not because I had any special ground to distinguish against gentlemen whose salaries it was proposed to increase—I presume some of them ought to be increased—but because I am opposed to any increase at this time. That is the reason why I have voted "no" upon several amendments that have been offered adding to this list of officers, and I shall vote against this

amendment, and I hope the Senate will not adopt it.

A great deal of truth has been stated by the Senator from Ohio as to the necessities of these gentlemen. That is a truth that he could assert as to the necessities of every Senator who hears me who has not a fortune, whose expenditures necessarily exceed his official income and salary, for the same reason that was told by some gentleman in debate, that even in this republican and democratic country there are certain expenses that belong to official station somewhat proportioned to the dignity of that station, family expenses, social expenses, official expenses, and "begging expenses," it is suggested. You are expected to subscribe to every good work, and a great many that are not good; and you have to do it. So, although our salaries are somewhat higher than those of these Comptrollers, it is just as true of us that we are pinched in order to make the ends meet on our salaries at the end of the year. It cannot be done. We are obliged, those of us who are lawyers, to resort to our professional occupations during the vacation, and during odd hours of the session of the Senate to run into the Supreme Court and earn \$100, and do whatever we honorably and properly can in order to eke out that sum which it is necessary that persons in our position should expend for public and private objects.

All this is true undoubtedly of these Comptrollers, but the question is whether we can lift them at this time out of the position in which they are placed and leave the poor low grade of clerks—and when I speak of low grade, I of course am speaking of their official grade—who only get nine, ten, twelve, fourteen, or sixteen hundred dollars a year in the slough of despond, while we are elevating these others. They are pinched in the same way. Their expenditures are not as large, to be sure, but they have only a third of the money to pay them with. We are all in need of an increase of salary, or else we ought all to be able to make a dollar that we receive worth more in wheat and corn and wine and oil than it is now. That is the truth about it.

Can we, before we have settled our finances, before we have adjusted our taxation, before we have taken any of those great reformatory and revisory steps that always must follow after a period of disturbance and distress, such as this war has brought about, enter upon this special method of elevating particular salaries to particular officers? They must bear the griefs they have as the rest of us do, for the time being, until we shall be able to adjust all these salaries upon some proper substantial basis.

These are the reasons briefly why I feel obliged to vote against this amendment as I voted against the particular ones that were offered to it.

Mr. CHANDLER. There is not a consul of the United States, I believe, who is not asking for an increase of salary because he has all the dignity of the United States to sustain and nearly all the charities. A consul with \$1,500 a year has to maintain his flag and the dignity of the United States and contribute to all the charities; and I believe there is not a single consul of the United States who is not to-day demanding an increase of salary because his necessary expenses in supporting the dignity of this great Government are so great that his pay is utterly incompetent to support him.

Now, sir, I find that the dignity of the United States has to be sustained by every one of these officers whose salaries have been raised; but I find also that there is not a subordinate, no matter whether his salary be \$600 as a watchman or he be an Assistant Secretary, who does not equally have the whole dignity of the United States upon his shoulders. If it is necessary that every employé of this Government should sustain the dignity of the United States let us increase them all, and let us enable every one of them to sustain the dignity of the United States. It will be pretty costly; but after all dignity must be sustained; we cannot allow the dignity of this great Government to

fail for the sake of a few hundred or a few thousand dollars which is simply required by each and every subordinate.

Sir, I speak from actual knowledge—my friend from Maine, the chairman of the Committee on Appropriations, will bear me out—that there is not a consul of the United States anywhere from the Mosquito Islands to London who does not demand an increase of salary, and show us that it is absolutely necessary to sustain the dignity of the flag and the dignity of this great Government that his salary should be increased.

This is all right, I suppose; but if we commence the increase of salaries, let us go through and increase them all; let us have the dignity sustained; let the women in the Departments be paid enough to sustain the dignity of the United States; let the consuls of the United States who are scattered over the broad globe have money enough to sustain its dignity. Let us have dignity by all means; and let there be no lack.

But, sir, enough of this. We have commenced here and now an initiatory step. If this increase of salary is sustained in the Senate, then, sir, you must increase every salary from the highest to the lowest, and next year \$10,000,000 will not pay for this initiatory step. You have inaugurated a system that, if carried out, will involve millions, and it must be carried out. I have here before me, and shall propose it now, a proposition coming from the Treasury Department to increase other salaries of a higher grade. You have insulted men here by raising their subordinates over them, actually insulted them. You have raised the salaries of subordinates over that of their principals. The dignity of the United States cannot be maintained if you raise the salary of a subordinate over that of his principal. You must maintain dignity. Here you have raised the salaries of your subordinates over that of an Assistant Secretary. You lose your dignity at once. It cannot be done.

Mr. NYE. I should like to know from the honorable Senator from Michigan if he did not vote for the additions. I noticed that he voted for them, and the question arises in my mind whether he has not helped to sustain the dignity by his votes.

Mr. CHANDLER. I propose to put them all on; you want part; I want them all on; I gave notice that I would vote for them all on the ground that if you raise one you must raise all. I voted for every one after I gave that notice. If you are going to sustain the dignity I want to sustain the whole dignity, and not a little part of it. I want them all raised if you raise any, and I expect the Senate to raise them all. And now, sir, I wish to move to put in at the place where my friend from Iowa put in his amendment—

The *PRESIDENT pro tempore*. The question pending is on the amendment as amended.

Mr. CHANDLER. It is in order, I believe, to amend the amendment.

Mr. DRAKE. It has just been decided that you cannot do it.

Mr. CHANDLER. I wish to put in "that the Assistant Secretary of the Treasury shall receive a salary of \$5,000 per annum." I move that as an amendment to the amendment, and after that I have twenty or thirty others which I wish to put in likewise.

Mr. MORRILL, of Maine. I will ask the Senator whether he has given any notice of that?

Mr. CHANDLER. No, sir; it is an amendment to an amendment.

Mr. MORRILL, of Maine. That has been ruled out of order.

The *PRESIDENT pro tempore*. It is not in order.

Mr. CHANDLER. It ought to be if it is not; and if this is not entertained, I shall vote against the whole section.

Mr. EDMUNDS. I ask for the yeas and nays on the amendment as amended.

The yeas and nays were ordered.

Mr. HOWE. I have not said anything about

this matter, and would not if you had not obliged me to say yea or nay—

Mr. RAMSEY. I should like to appeal to the Senator from Wisconsin to know whether he will not yield to a motion to adjourn or for an executive session.

Mr. HOWE. In one moment.

Mr. MORRILL, of Maine. We can finish this bill in a short time now.

Mr. HOWE. I will yield to a motion to adjourn in a moment.

Mr. EDMUNDS. Oh, no; let us go right on with the bill.

Mr. HOWE. Well, I will yield any way in a moment, whatever comes.

Mr. President, I am going to vote against this amendment; and yet I subscribe to the truth of almost every word that was urged by the Senator from Ohio some time since. I believe that we are not paying these officers an adequate salary. I believe we are not paying a single Government employé in the city of Washington, who does the duty which the law imposes upon him, anything like an honest salary. I believe that real suffering grows out of these meager salaries, and to relieve that suffering I would be willing to vote for an increase of this compensation.

But when Senators enlarge here upon the impossibility of supporting a family on a salary of \$3,000 it astounds me that it does not occur to them that the difficulty of supporting a family on \$1,800 or \$1,200 must be very much greater. The House of Representatives, I am told, a short time since agreed to continue an appropriation or an increase of twenty percent. to the present salaries of the clerks in these Departments, and sent to this body a bill for that purpose, but the next day they recalled it, and it is said that no such proposition as that will receive the assent of this Congress. Taking it for granted that that is so, I cannot myself see the propriety of raising \$3,500 to \$4,500, and \$3,000 to \$4,000, and leaving \$1,200 and \$1,400 to be just so many dollars. I do not believe that it is honest or just. There are men holding \$1,200 clerkships in the city of Washington who take to the daily discharge of their daily duty as much integrity, as much character, and as much capacity as you find at the heads of many of these bureaus. Now, Mr. President, I think that Congress must afford relief in some way to these necessitous. I should be glad to see it done at this session; at the next session I believe it will be done; but when you shall offer me an opportunity to vote to relieve the necessities of all these employés I am ready for it, and will vote for it. Until you give me such an opportunity I cannot vote to relieve the necessities of any of them, or if I do it must not be the least necessitous ones that I will vote to relieve, but I will ask that it be the most necessitous, those who receive the lowest salaries.

Mr. FRELINGHUYSEN. I intend to vote in favor of this amendment, and for this reason: I believe the committee who have examined this subject know a great deal more about it than the rest of the Senate, and they have unanimously recommended it, and the responsibility is with them. We have been told by one of the members of that committee that most valuable talent to the Government would be lost unless this increase of salary was made. I do not see the logic of the argument which has been made here, that men who get \$1,200 or \$1,800 are any worse off because we do justice in this emergency to a few of the officers.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment as amended, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 24, nays 13; as follows:

YEAS—Messrs. Cattell, Conness, Corbett, Davis, Doolittle, Drake, Fessenden, Frelinghuysen, Harlan, Hendricks, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Ramsey, Ross, Sherman, Stewart, Sumner, Tipton, Van Winkle, Vickers, and Willey—24.

NAYS—Messrs. Chandler, Cole, Conkling, Cragin,

Edmunds, Howe, McCreery, Patterson of New Hampshire, Trumbull, Wade, Williams, Wilson, and Yates—13.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cameron, Dixon, Ferry, Fowler, Grimes, Henderson, Howard, Johnson, Morton, Norton, Patterson of Tennessee, Pomeroy, Rice, Saulsbury, Sprague, and Thayer—19.

So the amendment, as amended, was concurred in.

Mr. RAMSEY. I desire to submit an amendment, of which I give notice now according to the rules, and desire to have printed and referred to the Committee on Appropriations.

The PRESIDENT *pro tempore*. It will be so referred and printed.

Mr. MORRILL, of Maine. I desire to call the attention of the Senate to an amendment that ought to have been made in Committee of the Whole, on page 18, which for the time was informally passed over. I ask the unanimous consent of the Senate to have that amendment concurred in.

Mr. EDMUNDS. What is it?

The PRESIDENT *pro tempore*. It will be reported.

The Chief Clerk read the amendment, which was on page 18, line four hundred and thirty-one, to strike out "two" and to insert "four;" in line four hundred and thirty-two, to strike out "five" and to insert "six;" and in line four hundred and thirty-seven to strike out "five" and insert "nine;" so that the clause will read:

For First Auditor of the Treasury, chief clerk, four clerks of class four, eight clerks of class three, six clerks of class two, five clerks of class one; also, two clerks of class three, four clerks of class two, and eight clerks of class one, (transferred from the offices of the Third Auditor and the Solicitor) one messenger and one assistant messenger, and one laborer, in all \$59,360.

Mr. MORRILL, of Maine. This clause was passed over on the suggestion of the Senator from Ohio, [Mr. SHERMAN,] that he desired to offer an amendment to it; but I believe he afterward put his amendment somewhere else, so that it becomes necessary to act on this amendment reported by the Committee on Appropriations.

The amendment was agreed to.

Mr. CORBETT. I desire to offer an amendment to House bill No. 818, the miscellaneous appropriation bill, which I ask to have referred to the Committee on Appropriations.

Mr. CHANDLER. I desire to submit an amendment to this bill which I intend to offer.

Mr. SPRAGUE. I desire also to give notice of an amendment I intend to offer to the miscellaneous appropriation bill.

Mr. PATTERSON, of New Hampshire. I offer an amendment to the miscellaneous appropriation bill, to be referred to the Committee on Appropriations.

The PRESIDENT *pro tempore*. The amendment will be referred to the Committee on Appropriations.

Mr. SHERMAN. These notices are not in order until we pass the bill before us.

Mr. CATTELL. I desire to offer an amendment to the pending bill. The Clerk has the amendment, and I ask that it be read.

The Chief Clerk read the amendment, which was on page 44, line one thousand and eighty-one, to strike out "six" and insert "nine;" and in the same line, after the word "thousands" to strike out "five hundred," and at the end of the line to insert:

*Provided*, That from and after the 1st day of July, 1868, the annual compensation of the weighing clerk shall be \$2,500, and the compensation of the calculating, accounting, and warrant clerks shall be \$2,000 each.

So that the clause will read:

Mint at Philadelphia:

For salaries of the Director, treasurer, assayer, melter and refiner, chief coiner and engraver, assistant assayer, and seven clerks, \$39,000: *Provided*, That from and after the 1st day of July, 1868, the annual compensation of the weighing clerk shall be \$2,500, and the compensation of the calculating, accounting, and warrant clerks shall be \$2,000 each.

Mr. CHANDLER. I move that the Senate do now adjourn.

Mr. MORRILL, of Maine. I hope not. We can finish this bill in a few minutes. It has

now been before the Senate for four days, and ought to be disposed of.

The PRESIDENT *pro tempore*. Before putting that motion the Chair will lay before the Senate certain communications.

Mr. CHANDLER. Very well.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of War, transmitting, in compliance with a resolution of the 27th ultimo, a copy of the report of Inspector General Marcy, made in 1864, on the condition of the department of Arkansas and the Indian territory; which was referred to the Committee on Military Affairs and the Militia.

He also laid before the Senate a letter of the Secretary of War, recommending that so much of section thirteen of an act entitled "An act to increase and fix the military peace establishment of the United States," approved July 28, 1866, as provides that no vacancies occurring in the quartermaster's department in the grades of major and captain shall be filled until the number of majors is reduced to twelve and the number of captains to thirty, be repealed; which was referred to the Committee on Military Affairs and the Militia.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1313) granting an increase of pension to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman; and

A joint resolution (H. R. No. 225) respecting national banks in liquidation.

The message also announced that the House had passed the following joint resolutions of the Senate:

A joint resolution (S. R. No. 129) donating certain captured ordnance for the completion of a monument to the memory of the late Major General John Sedgwick; and

A joint resolution (S. R. No. 143) for the relief of George W. Doty, a commander in the United States Navy on the retired list.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 236) granting a pension to John Q. A. Keck, late private in the third Missouri cavalry;

A bill (H. R. No. 347) for holding terms of the district court of the United States for the southern district of Illinois at the city of Cairo, in said State;

A joint resolution (S. R. No. 129) donating certain captured ordnance for the completion of a monument to the memory of the late Major General John Sedgwick; and

A joint resolution (S. R. No. 143) for the relief of George W. Doty, a commander in the United States Navy on the retired list.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 1313) granting an increase of pension to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman, was read twice by its title, and referred to the Committee on Pensions; and the joint resolution (H. R. No. 225) respecting national banks in liquidation, was read twice by its title, and referred to the Committee on Finance.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate resumed the consideration of the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

The PRESIDENT *pro tempore*. It is moved and seconded that the Senate do now adjourn.

Mr. CATTELL. I have the floor, and did not yield to the motion to adjourn. I offered



an amendment, and while the amendment was being read the Chair introduced these matters, I holding the floor; and I have not yielded it to allow a motion to adjourn to be made.

Mr. CHANDLER. It was after my motion to adjourn that the Chair laid those matters before the Senate. I had the floor.

The PRESIDENT *pro tempore*. The Senator from Michigan had the floor, I believe.

Mr. CATTELL. It was during the reading of my amendment, I submit to the Chair.

The PRESIDENT *pro tempore*. The amendment had been read. The question is on the adjournment.

The question being put, there were, on a division—ayes 9, noes 19.

The PRESIDENT *pro tempore*. There is no quorum voting.

Mr. EDMUNDS. That does not make any difference on a motion to adjourn; the motion is lost.

Mr. TRUMBULL. But you cannot do any business.

Mr. WILSON. We had better have the yeas and nays on the motion.

Mr. MORRILL, of Maine. Nineteen and nine constitute a quorum.

The PRESIDENT *pro tempore*. It takes twenty-nine now to make a quorum.

Mr. MORRILL, of Maine. Then I ask for the yeas and nays on the motion.

The yeas and nays were ordered; and being taken, resulted—yeas 6, nays 25; as follows:

YEAS—Messrs. Cole, McCreery, Sprague, Tipton, Trumbull, and Wilson—6.

NAYS—Messrs. Cattell, Conkling, Conness, Corbett, Cragin, Davis, Doolittle, Edmunds, Frelinghuysen, Harlan, Howe, McDonald, Morgan, Morrill of Maine, Patterson of New Hampshire, Ross, Sherman, Stewart, Thayer, Van Winkle, Vickers, Wade, Williams, Wilson, and Yates—25.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cameron, Chandler, Dixon, Drake, Ferry, Fessenden, Fowler, Grimes, Henderson, Hendricks, Howard, Johnson, Morrill of Vermont, Morton, Norton, Nye, Patterson of Tennessee, Pomeroy, Ramsey, Rice, Saulsbury, and Sumner—25.

So the Senate refused to adjourn.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from New Jersey.

Mr. CATTELL. I desire to make a very brief statement in regard to the amendment which I have proposed, which is to increase the salaries of the principal clerks in the Mint at Philadelphia, those who are charged with the responsible duty of having charge of the bullion and passing millions of dollars through their hands. Their salary has not been changed since 1854, and when a revision was made of the salaries of the officers in the Mint these gentlemen were in some way overlooked. They are now under heavy bonds, and yet they are upon salaries of \$1,500 each, less than that of a third-class clerk in the Departments in the city of Washington. This advance of their salary is recommended by the Treasurer, Mr. McKibbin, at Philadelphia, by the Director, Mr. Linderman, and also by the Secretary of the Treasury in a very warm letter on the subject. One of these clerks, the weigh clerk, for instance, informs me that he passes through his hands in the course of a year from thirty to fifty million dollars, reaching one year \$69,000,000 of bullion, and that he frequently has in charge under his own key five, six, seven, or eight million dollars of treasure. All of the gentlemen connected with the Mint speak of these as being highly responsible positions, and of the incumbents, who have filled them for years, as being of the highest character both as to ability and as to integrity.

This proposition has been submitted to the Committee on Finance, and upon examination has been recommended by that committee. It has also been submitted to the Committee on Appropriations, and I believe has met with some success even with that committee; at any rate with its chairman. I believe that this advance upon these salaries is justly due to honest, faithful, competent officers, filling high positions of trust and responsibility upon salaries, as I have already observed, really below that of a third-class clerk in the city of Wash-

ington. Having said this much, I submit it to the Senate.

Mr. McCREERY. I move that the Senate now proceed to the consideration of executive business.

Several SENATORS. Let us pass this bill first.

Mr. McCREERY. Very well; I withdraw the motion for the present.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Jersey.

Mr. TRUMBULL. Is that within the rule, I should like to know?

Mr. CATTELL. Certainly it is. If the Senator had done me the honor to listen to my remarks he would have learned that it had been through all its stages.

The question being put, there were, on a division—ayes fourteen.

Mr. TRUMBULL. That is not a majority of a quorum; the amendment is lost.

The PRESIDENT *pro tempore*. Those in the negative will rise.

Six Senators rose.

The PRESIDENT *pro tempore*. There is no quorum voting.

Mr. CRAGIN. There is one little amendment that I wish to offer—

The PRESIDENT *pro tempore*. There is an amendment pending, and there is no quorum to decide it.

Mr. CATTELL. I ask for the yeas and nays on my amendment. I hope Senators will vote; and I trust they will agree to this amendment. I think it is but an act of justice.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 11; as follows:

YEAS—Messrs. Cattell, Cole, Corbett, Davis, Doolittle, Frelinghuysen, McDonald, Morrill of Maine, Ross, Sherman, Stewart, Van Winkle, Vickers, Williams, and Yates—15.

NAYS—Messrs. Conkling, Conness, Cragin, Edmunds, Harlan, McCreery, Morgan, Patterson of New Hampshire, Trumbull, Wade, and Wilson—11.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cameron, Chandler, Dixon, Drake, Ferry, Fessenden, Fowler, Grimes, Henderson, Hendricks, Howard, Howe, Johnson, Morrill of Vermont, Morton, Norton, Nye, Patterson of Tennessee, Pomeroy, Ramsey, Rice, Saulsbury, Sprague, Sumner, Thayer, Tipton, and Willey—30.

The PRESIDENT *pro tempore*. There is no quorum voting.

Mr. MORRILL, of Maine. I should like to have the absentees called, and I make that motion.

The motion was agreed to.

Mr. CONKLING. I rise to a question of order, and I ask for the reading of the sixteenth rule.

The Chief Clerk read it, as follows:

"16. When the yeas and nays shall be called for by one fifth of the Senators present, each Senator called upon shall, unless for special reasons he be excused by the Senate, declare openly and without debate his assent or dissent to the question. In taking the yeas and nays and upon a call of the Senate the names of the Senators shall be called alphabetically."

Mr. CONKLING. I see the Senator from Minnesota [Mr. RAMSEY] in his seat. I beg to inquire of him whether he voted on the call? His name does not appear.

Mr. RAMSEY. I respectfully inform the Senator from New York that I was not in my seat at the time the roll was called.

Mr. CONKLING. But some time before the announcement was made the Senator was in his seat.

Mr. RAMSEY. I was in conversation with a Senator, and did not observe that my name was called.

Mr. CONKLING. Nevertheless, I submit we are entitled to have the Senator vote, as we are trying to get a quorum.

Mr. DOOLITTLE. This is all out of order. As a quorum is not present, we must adjourn or send for the absentees.

Mr. MORRILL, of Maine. I believe my motion is in order to call the absentees.

The PRESIDENT *pro tempore*. The motion of the Senator from Maine is in order. Less than a quorum can compel the attendance of the absent members.

Mr. MORRILL, of Maine. I merely ask

that they be called. I do not ask that they be notified to attend, but that the list of those who have not voted shall be called by the Secretary, that it may be seen who are absent.

The PRESIDENT *pro tempore*. They will be called.

The Chief Clerk proceeded to call the names of the absentees, as follows:

Mr. ANTHONY, Mr. BAYARD, Mr. BUCKALEW, Mr. CAMERON, Mr. CHANDLER, Mr. DIXON, Mr. DRAKE, Mr. FERRY, Mr. FESSENDEN, Mr. FOWLER, Mr. GRIMES, Mr. HENDERSON, Mr. HENDRICKS, Mr. HOWARD, Mr. HOWE—

Mr. MORRILL, of Maine. Mr. HOWE is present.

The CHIEF CLERK, (continuing.) Mr. MORRILL of Vermont, Mr. MORTON, Mr. NORTON, Mr. NYE, Mr. PATTERSON of Tennessee, Mr. POMEROY, Mr. RAMSEY—

Mr. RAMSEY. Here.

The CHIEF CLERK, (continuing.) Mr. RICE, Mr. SAULSBURY, Mr. SUMNER, Mr. THAYER, Mr. TIPTON—

Mr. TIPTON. Here.

The CHIEF CLERK, (continuing.) Mr. WILLEY.

Mr. VAN WINKLE. I desire to state that my colleague [Mr. WILLEY] has gone home very unwell.

Mr. HOWE. Is not my vote recorded?

The PRESIDENT *pro tempore*. It is not.

Mr. HOWE. I voted in the negative.

Mr. SHERMAN. The Senator from Minnesota and the Senator from Nebraska, with the Senator from Wisconsin, make a quorum.

Mr. MORRILL, of Maine. I move that the names of the Senator from Minnesota and the Senator from Nebraska be called.

Mr. EDMUNDS. It does not need any motion. You have a right to insist upon it.

Mr. TRUMBULL. Called for what purpose?

Mr. EDMUNDS. To vote.

Mr. TRUMBULL. They cannot vote after the result is declared. There is an express rule forbidding it. I object to it. They have no right to vote.

Mr. EDMUNDS. All you have to do is to call the yeas and nays over again.

Mr. TRUMBULL. You have no right to call the yeas and nays over again. I object to that. The question is decided, and you cannot decide it twice except by a motion to reconsider.

Mr. MORRILL, of Maine. Then I will submit another motion, and see what the Senator says to that. I move that the Sergeant-at-Arms be directed to notify absent members to attend the meeting of the Senate. I feel justified in making this motion because I notice that by a systematic effort certain Senators left the Senate obviously for the purpose of breaking up a quorum when this call began.

Mr. SHERMAN. I do not think that motion is necessary. The rule is imperative and plain. If the want of a quorum is disclosed the vote fails, and then as soon as a quorum is got together the roll is again called, without an ordering of the yeas and nays, and the vote is taken again.

Mr. EDMUNDS. Certainly; there is no doubt of that.

Mr. SHERMAN. And I ask now that the roll be called again.

Mr. MORRILL of Maine. If that is in order I withdraw my motion for the present.

The PRESIDENT *pro tempore*. Regularly the roll should be called to ascertain whether there is a quorum.

Mr. EDMUNDS. It now appears that there is a quorum present.

Mr. TRUMBULL. It has not been made to appear yet.

The PRESIDENT *pro tempore*. The roll may be called again on the same question. I see no impropriety in that, although I never knew it to be done before.

Mr. TRUMBULL. I suppose when it is ascertained that we have got a quorum that must be done.

Mr. CONKLING. That is ascertained now.

Mr. TRUMBULL. If the Chair is satisfied that a quorum is present, very well.

The PRESIDENT *pro tempore*. I suppose the proper way to test that would be to call the roll and find out. The Chair is of opinion that there is a quorum present. The roll may be called again on the amendment of the Senator from New Jersey, if there is no objection to it. I see no objection.

The question being again taken by yeas and nays, resulted—yeas 16, nays 15; as follows:

YEAS—Messrs. Cattell, Cole, Corbett, Davis, Doolittle, Frelinghuysen, McDonald, Morrill of Maine, Ramsey, Ross, Sherman, Stewart, Van Winkle, Vickers, Williams, and Yates—16.

NAYS—Messrs. Conkling, Connors, Cragin, Edmunds, Harlan, Howe, McCreery, Morgan, Patterson of New Hampshire, Sprague, Thayer, Tipton, Trumbull, Wade, and Wilson—15.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cameron, Chandler, Dixon, Drake, Ferry, Fessenden, Fowler, Grimes, Henderson, Hendricks, Howard, Johnson, Morrill of Vermont, Morton, Norton, Nye, Patterson of Tennessee, Pomeroy, Rice, Saulsbury, Sumner, and Willey—25.

So the amendment was agreed to.

Mr. ROSS. I wish to offer two amendments. Notice of them has been given, and I am instructed by the Committee on Printing to report them. The first is on page 9, at the end of line two hundred and seven, to insert:

*Provided*, That the foreman of binding in the Government Printing Office be paid the same salary now allowed to the foreman of printing.

Mr. CONKLING. What is the salary of the foreman of printing?

Mr. ROSS. The salary of the foreman of printing is now \$1,800. The foreman of binding receives \$1,500, and performs the same labor and the same responsibility, and ought to have the same pay.

Mr. CONKLING. I suggest to the Senator who moves this, if it is in order—I do not know whether notice has been given—that he change the phraseology and specify the sum. I think it is an unfortunate way of legislation to make the salary the same as some other salary.

Mr. ROSS. I will accept the modification.

Mr. MORRILL, of Maine. It had better be put distinctly, so as to state the sum to be paid.

The amendment was modified to read:

*Provided*, That the salary of the foreman of binding in the Government Printing Office shall hereafter be \$1,800 per annum.

The amendment was agreed to.

Mr. ROSS. On page 3, after line sixty-two, I move to insert:

*Provided*, That \$20,000 of the appropriations heretofore made and unexpended "for purchase of one complete set of the Congressional Globe and Appendix for each Senator and Representative who have not already received them," may be applied for the payment of the Congressional Globe and Appendix for the fiscal year, ending June 30, 1868.

Mr. MORRILL, of Maine. That comes from the Committee on Printing, and I know nothing about it except what is gathered from a copy of a letter which I have received and ask the Clerk to read.

The Chief Clerk read as follows:

CONGRESSIONAL GLOBE OFFICE,  
WASHINGTON, June 12, 1868.

DEAR SIR: In consequence of no appropriations whatever being made to meet the accounts of this office for reporting and printing the debates of the Senate for the additional session (sittings of March, July, and November, 1867,) and for the copies of the Congressional Globe and Appendix for Senators for the same session, a deficiency has been created—a deficiency which may, however, be in large part met and provided for without additional appropriation, and in this way, namely: by authorizing a transfer of a portion of an unexpended balance of appropriations heretofore made to pay for complete sets of the Congressional Globe and Appendix for new Senators. [Not more than fifty per cent. of the appropriations made for that specific purpose have ever been required.]

The unexpended balance referred to amounts to \$27,293 84; of which sum \$20,400 may be transferred to meet the deficiency existing in the sum requisite to pay for the Congressional Globe and Appendix for Senators for the current session, which work has been completed to the extent of more than the three thousand pages limit, and delivered to Mr. DeFrees, the Congressional Printer, and for which we hold his receipts.

We would suggest that, providing such a transfer as we have indicated be made, a very suitable point in the bill now pending (H. R. No. 605) would be immediately after line sixty-two—as lines sixty-one

and sixty-two contain a proposition to pay for that particular branch of the work for the ensuing sessions.

The deficiency which exists in the appropriations for reporting and printing in the Daily Globe we shall take measures to have provided for in the deficiency bill now framing by the appropriate committee of the House of Representatives.

Trusting that our suggestion may be favorably considered by yourself and your honorable committee, we remain, very respectfully,

F. & J. RIVES & GEORGE A. BAILEY.

Reporters and Printers of the Debates of Congress.  
Hon. Lot M. MORRILL, Chairman of Committee on Appropriations, United States Senate.

Mr. MORRILL, of Maine. The committee did not adopt that suggestion, for reasons obvious enough on the reading of the letter. The committee had no such information as justified them in adopting it; and supposing that if it was offered by the Committee on Printing in the Senate they would be able to communicate such intelligence to the Senate as would enable the Senate to act intelligently on the subject, we left it to them. Whether they have done so or not, it is for the Senate to judge. I would suggest, however, that as these persons say themselves that they have a further appropriation to put upon the deficiency bill which is now being matured in the other House, much damage will not be likely to accrue to them if this amendment be withdrawn. This, evidently, is a deficiency, if anything.

Mr. EDMUNDS. They say it is in their own letter.

Mr. MORRILL, of Maine. A deficiency growing out of increased service occasioned by the extra sessions last year.

Mr. CRAGIN. Perhaps I can shed some light on this subject, and this may not be a deficiency except in mere form. Our former Secretary drew the money appropriated for this purpose. When the present Secretary was elected by the Senate the moneys on hand in the charge of Colonel Forney were restored to the Treasury. Among those moneys, to my certain knowledge, was a portion of the amount appropriated for this purpose.

Mr. EDMUNDS. Restored to the credit of the appropriation?

Mr. CRAGIN. Restored to the credit of the Secretary. When his accounts are settled I suppose the money will be handed over again.

Mr. EDMUNDS. The money is provided for the object, whether it be in the Secretary's hands or in the Treasury.

Mr. ROSS. Acting on the suggestion of the chairman of the Committee on Appropriations, I withdraw the amendment.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. RAMSEY. In page 41, line nine hundred and eighty-four, I move to strike out "three" and insert "ten." The object of this amendment is to increase the salaries of the Assistant Postmasters General to the same amount that has been bestowed on the Comptrollers of the Treasury. It is obviously correct. The duties are equally honorable and responsible, and there is no reason why there should be a discrimination.

Mr. MORRILL, of Maine. I must raise a question of order.

The PRESIDENT *pro tempore*. Has notice been given to the Committee on Appropriations?

Mr. RAMSEY. I did give notice a few moments ago.

Mr. MORRILL, of Maine. That will not do. It is not in order.

The PRESIDENT *pro tempore*. The amendment is not in order.

Mr. RAMSEY. For that reason I desired the Senate to adjourn until to-morrow, so that it might be in order if it would gratify the chairman of the Committee on Appropriation.

Mr. MORRILL, of Maine. I thought I saw that plainly by the movements in that region.

Mr. CRAGIN. I have a short amendment. It will take but a few moments. On page 4, line eighty-three, I move to strike out "five" and insert "ten." This is an appropriation

for additional laborers and messengers for the Senate.

Mr. MORRILL, of Maine. The same rule applies to that.

Mr. CRAGIN. The rule as I understand it is that you cannot introduce new matter.

Mr. MORRILL, of Maine. This is an increase. I raise the question of order.

Mr. CRAGIN. I supposed you could increase or diminish an appropriation in the bill.

Mr. MORRILL, of Maine. You can diminish, but not increase.

The PRESIDENT *pro tempore*. The amendment is not in order.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

#### EXECUTIVE SESSION.

Mr. WILSON. I move to take up the bill establishing rules and articles for the government of the Army of the United States. It is a very important bill, and I want an hour or two to-morrow for the purpose of considering it.

Mr. McCREERY. I move that the Senate proceed to the consideration of executive business.

Mr. WILSON. I hope I shall be allowed to have Senate bill No. 529 first taken up.

The PRESIDENT *pro tempore*. If there be no objection the Chair will put the question on the motion of the Senator from Massachusetts. The motion was agreed to.

The PRESIDENT *pro tempore*. The question now is on the motion of the Senator from Kentucky.

The motion was agreed to; and the Senate proceeded to the consideration of executive business; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, June 26, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BRYNOR.

The Journal of yesterday was read and approved.

#### EXCUSED FROM COMMITTEE SERVICE.

Mr. PAINE. Mr. Speaker, I find it impracticable to attend, as one of the representatives of the House, the national shooting festival at New York, and ask, therefore, to be excused. It was ordered accordingly.

The SPEAKER appointed Mr. WASHBURN, of Wisconsin, to fill the vacancy.

RICHARD WILLARD.

On motion of Mr. POLAND, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of Richard Willard, for reference to the Treasury Department.

#### ISSUE OF ARMS TO MILITIA.

Mr. PAINE, by unanimous consent, introduced a bill (H. R. No. 1342) to provide for the issue of arms for the use of the militia; which was read the first and second time, referred to the Committee on the Militia, and ordered to be printed.

#### ADMISSION OF STATES.

Mr. SCOFIELD submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Clerk of the House of Representatives be directed to present to the Secretary of State the act entitled, "An act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress, together with the certificates of the Clerk of the House of Representatives and Secretary of the Senate, showing that the said act was passed by the vote of two thirds of both Houses of Congress, after the objections of the President thereto had been received, and after the reconsideration of said act by both Houses in accordance with the Constitution.

Mr. SCOFIELD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## BRAZIL MAIL STEAMSHIP COMPANY.

On motion of Mr. NICHOLSON, by unanimous consent, the Committee on Appropriations were discharged from the consideration of the letter of the Secretary of the Treasury, transmitting a statement of the sums paid without protest on the vessels of the United States and Brazil Mail Steamship Company at the port of New York, amounting to \$7,611 10, and the same was referred to the Committee on Commerce.

## SARAH HACKLEMAN.

Mr. VAN AERNAM, from the Committee on Invalid Pensions, authorized to report at any time the bill (H. R. No. 1313) granting a pension to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman, reported back the same with an amendment.

The bill directs the Secretary of the Interior to place on the pension-roll the name of the widow of General Hackleman, with a pension at the rate of fifty dollars per month from the 3d day of October, 1862, when he fell mortally wounded at the battle of Corinth.

Section two directs that the pension heretofore allowed to the said widow shall be deducted from the pension hereby granted, and that this pension shall be subject to the provisions of the general pension law.

The amendment was to add to the first section the words "to continue during widowhood."

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. BENJAMIN the title of the bill was amended so as to read, "A bill granting an increase of pension."

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## LEONIDAS SMITH.

Mr. WASHBURN, of Indiana, from the Committee on Military Affairs, by unanimous consent, made a report in the matter of the memorial of Leonidas Smith, for relief; which was ordered to be printed, and recommitted to the committee.

## COURT OF CLAIMS.

Mr. HINDS. I ask unanimous consent to introduce a joint resolution (H. R. No. 310) limiting the jurisdiction of the Court of Claims to the loyal citizens of the State of Arkansas, and ask its present consideration.

Mr. BOUTWELL. I object.

Mr. BROOKS. I would like to have it reported.

The joint resolution was reported. It extends the provisions of the act of July 4, 1864, entitled "An act to limit the jurisdiction of the Court of Claims" to the loyal citizens of the State of Arkansas.

The joint resolution was read a first and second time, and referred to the Committee on the Judiciary.

## PAY OF ASSISTANT LIBRARIAN.

Mr. BLAINE, from the Committee on Appropriations, by unanimous consent, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That for the present Congress, commencing therewith, the Clerk is directed to pay from the contingent fund of the House to the Assistant Librarian in charge of the Hall Library, the difference between his present pay and the pay of the file, printing, and engrossing clerk.

Mr. BLAINE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## GEORGE W. DOTY.

Mr. PIKE. I ask unanimous consent to take from the Speaker's table Senate joint resolution No. 143, for the relief of George W. Doty, a

commander in the United States Navy, on the retired list.

The resolution was accordingly taken up and read a first and second time. It places the name of Mr. Doty on the Navy Register as commander from the 16th of July, 1862, with the pay of such rank, to date from his commission.

Mr. PIKE. This is merely to correct a mistake in a previous bill.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. PIKE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. UPSON. I move to reconsider the various votes this morning, and to lay the motion to reconsider on the table. That will include the votes of reference.

The latter motion was agreed to.

## SETH LEA.

Mr. HAWKINS. I ask unanimous consent to report from the Committee on Military Affairs a bill (H. R. No. 1315) for the relief of Seth Lea.

The bill was reported. It directs the Secretary of the Interior to place the name of Seth Lea, of Knox county, Tennessee, on the roll of invalid pensions at the rate of a full pension now allowed by law to a second lieutenant, said pension to commence on the 5th of April, 1865, and to continue for his natural life.

Mr. STEVENS, of New Hampshire. I call for the reading of the report.

Mr. BENJAMIN. I object, unless the bill is referred to the Committee on Invalid Pensions.

Mr. HAWKINS. It is a unanimous report from the Committee on Military Affairs.

Mr. MAYNARD. I am perfectly willing that the bill shall be referred to the Committee on Invalid Pensions, provided that the committee may have leave to report it back at any time. I ask unanimous consent that it may be so disposed of.

There was no objection; and the bill was read a first and second time, and referred to the Committee on Invalid Pensions, with leave to report it back at any time.

## NATIONAL BANKS IN LIQUIDATION.

Mr. BARNES, by unanimous consent, from the Committee on Banking and Currency, reported back, with the recommendation that it do pass, the joint resolution (H. R. No. 225) respecting national banks in liquidation.

The joint resolution was read. It proposes to direct the Comptroller of the Currency to publish a detailed statement of the assets, liabilities, and general condition of all national banks in the hands of receivers, or which may be in liquidation on the first Monday of January, April, July, and October of each year, in one paper in the city of Washington, District of Columbia, and in one paper in the place where said bank may be located, as provided for the publication of other returns in section thirty-four of an act to provide a national currency, approved June 3, 1864. It also provides that after such provision shall first have been made for refunding to the United States all deficiencies as provided for in section fifty of the same act, the Comptroller of Currency shall make ratable dividends of the assets of said banks to the creditors thereof once in each calendar month, if such dividend shall be equal to ten per cent. of its indebtedness, and once in three months, if such dividend shall be equal to five per cent. of its indebtedness.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BARNES moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## CHEROKEE NEUTRAL LANDS.

Mr. CLARK, of Kansas. Mr. Speaker, I ask unanimous consent to present to the House the following preamble and resolutions adopted at a mass meeting of the settlers on the "Cherokee neutral lands," Cherokee county, Kansas, held at Centralia, on the 11th day of June, 1868. The sentiments expressed in these resolutions are not only unanimously indorsed by the settlers on the Cherokee neutral lands, by the settlers on the Osage Indian lands, the Shawnee Absentee lands, the Pottawatomie Indian lands, the Blackfeet lands, but by a vast majority of the people of my State. This House will bear me witness that I have struggled here continually for the protection of these settlers, and that I have protested against the pernicious policy which the Senate has pursued in refusing to afford this portion of my constituents that relief to which they are justly entitled. I deeply sympathize with the views expressed in these resolutions.

The preamble and resolutions are as follows:

Whereas we, the settlers on the "Cherokee neutral lands," citizens of Cherokee county, Kansas, having occupied these lands under the conviction that the Government would soon extinguish the Indian title to the same, and throw them open for legal settlement under the just and equitable laws of preemption and homestead, now existing; and whereas the settlement of said lands by the hardy pioneer has been made under circumstances of unusual hardships and privation, owing to the devastation of Missouri and Northern Kansas by the recent war, causing supplies to be transported long distances and procured at high prices; and whereas we are now in danger of having our hard-earned homes transferred to the hands of a railroad corporation, with no security that we will be remunerated, under the pretext of favoring the railroad interest: Therefore,

*Resolved*, That we believe we are fully entitled, so soon as the Indian title to the land is extinguished, to the benefit of the preemption and homestead laws; and we believe those laws will protect us in our rights, any treaty by the Senate to the contrary notwithstanding.

*Resolved*, That, as the preemption and homestead laws are the most important parts in the policy of the Government in relation to the public lands, the homestead law, in particular, having been pledged by the party now in power to the hardy pioneer, it being one of the principal planks in the platform that carried that party into power, we demand it as our right, and call on the voters throughout the Union to sustain us at the polls.

*Resolved*, That we view with alarm the recent and changed policy of the Government in extinguishing Indian titles to lands only to transfer them into the hands of railroad and speculating companies, thus converting the pioneer into a serf at the mercy of a soulless corporation.

*Resolved*, That in the name of twenty-five thousand men, women, and children now living on the "neutral lands"—loyal citizens of the United States—we do protest against the sale of any part of this tract to any other than actual settlers.

*Resolved*, That we give notice to all railroad and land-monopolizing companies that, having settled these lands in the full faith that our Government would act with us as the laws already in force would warrant, we will not tamely be driven from our homes or be made to pay an exorbitant price for the same.

*Resolved*, That the men in Congress who have stood up for the rights of the self-sacrificing and hardy pioneer of the West deserve our warmest thanks, and we hope their noble efforts may be crowned with success and our Government spared the shame of dealing falsely with its citizens.

*Resolved*, That all papers that advocate a "home for the homeless" on the public domain are solicited to give these resolutions a place in their columns.

J. F. FITZER, Chairman.

W. S. HUSTON, Secretary.

The resolutions were referred to the Committee on Indian Affairs.

## TREATIES WITH INDIAN TRIBES.

Mr. JULIAN. I ask unanimous consent to introduce a joint resolution concerning treaties hereafter made between the United States and the Indian tribes for action at this time. I ask that it be read.

The Clerk read the joint resolution, as follows:

Whereas sundry treaties between the United States and different Indian tribes have heretofore been concluded, by virtue of which large bodies of land have been transferred to individuals and corporations in contravention of the spirit and policy of the preemption and homestead laws of the United States; and whereas the lands now known as Indian reservations, on the extinguishment of the Indian title thereto, should become the property of the United States and a part of the public domain thereof, and cannot rightfully be disposed of otherwise: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That in any treaty which may hereafter be con-



cluded between the United States and any Indian tribe, by which the title of such tribe to their lands shall be divested, the same shall be conveyed directly to the United States, and shall thenceforward be subject to the authority of Congress in the same manner as all other public lands.

Mr. TAFTE. I object to the consideration of the resolution.

#### MONUMENT TO GENERAL SEDGWICK.

Mr. GARFIELD. I ask unanimous consent to take from the Speaker's table the joint resolution (S. R. No. 129) donating certain captured ordnance for the completion of a monument to the memory of the late Major General John Sedgwick, with a view to put it upon its passage.

Mr. BROOKS. I shall object to taking from the Speaker's table any Senate bills that succeed the gold contracts bill; but as this precedes that bill I do not object.

The joint resolution, which was read, requires the Secretary of War to place in charge of Major General H. G. Wright, Major General Frank Wheaton, Major General George W. Getty, and Major General Truman Seymour, three bronze cannon, captured by the sixth Army corps in battle, for the construction of a statue of the late Major General John Sedgwick, to be placed on a monument erected to his memory by the sixth corps of the army of the Potomac.

No objection being made, the joint resolution was taken from the Speaker's table, read a first, second, and third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SOLDIERS HONORABLY DISCHARGED

Mr. BOLES, by unanimous consent, introduced a bill (H. R. No. 1816) for the relief of soldiers honorably discharged from the service of the United States; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. UPSON moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REMOVAL OF A SUIT.

Mr. BOLES, by unanimous consent, also introduced a joint resolution (H. R. No. 811) to remove a suit from the circuit court of Franklin county, Arkansas, to the circuit court of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. UPSON moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ALEXANDER'S SAW BAYONET.

Mr. PHELPS. I ask unanimous consent to submit the following resolution for consideration at this time:

*Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of adopting for use in the infantry regiments of the United States Army Colonel F. W. Alexander's saw bayonet, patented in 1864, and to report by bill or otherwise.*

Mr. UPSON. I object.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I now insist upon the regular order of business.

The House, under the order heretofore made, accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

The CHAIRMAN. The pending question is on an appeal from a decision of the Chair. The Chair ruled out of order an amendment moved by the gentleman from Maine, [Mr. PIKE,] to insert after section one hundred and

seven the additional section which will be read by the Clerk.

The Clerk read as follows:

SEC. —. *And be it further enacted, That upon all interest arising from bonds of the United States there shall be levied, collected, and paid a duty of ten percent, on the amount of such interest, and the Treasurer of the United States, and such subordinate officers as shall be charged with the payment of said interest shall assess and collect the duty hereby levied.*

Mr. PIKE. Before the Chair again submits the question to the committee, I desire to explain that I made an appeal from the decision of the Chair, not for the purpose of antagonizing the Chair upon a question of order, but as the only way of getting this proposition before the Committee of the Whole. At this stage of the session there is no way of presenting this matter, either in Committee of the Whole or in the House, unless in connection with this bill. It was for that reason that I appeal from the decision of the Chair.

Mr. SCHENCK. After having assisted in getting the general bill out of the way.

The CHAIRMAN. The Chair will state the grounds of his decision. A few days ago the House had under consideration in Committee of the Whole a general tax bill. After proceeding with its consideration for some time the House suspended further action upon the general bill and instructed the Committee of Ways and Means to bring in a specific bill relating to distilled spirits, tobacco, and banks. The Committee of Ways and Means, in pursuance of those instructions, prepared and reported a bill bearing this specific title: "A bill to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks." That bill was referred to the Committee of the Whole on the state of the Union, with precisely the same restrictions and limitations as those under which the Committee of Ways and Means acted in preparing the bill. The Chair rules that the Committee of the Whole on the state of the Union is no more competent to enlarge legislation embraced in this bill than was the Committee of Ways and Means in preparing it originally. On that ground the Chair rules the amendment of the gentleman from Maine [Mr. PIKE] to be out of order. From that decision an appeal is taken; and the question is, "Shall the decision of the Chair stand as the judgment of this committee?"

Mr. UPSON. I move that the appeal be laid on the table.

The CHAIRMAN. That motion is not in order, as the Committee of the Whole has no table. The Chair will further state, that while this amendment would of course be in order in connection with a general tax bill, if this provision be decided to be in order, then any amendment whatever, throughout the whole domain of taxation, would also be in order upon this bill, and it would be impossible to limit it to the objects for which it was prepared.

The question was taken upon sustaining the decision of the Chair; and upon a division there were—ayes 98, noes 21.

Before the result of the vote was announced, Mr. HOLMAN. I call for tellers.

Tellers were not ordered.

So the decision of the Chair was sustained.

The CHAIRMAN. There were two or three amendments reserved last night, the first being that of the gentleman from West Virginia [Mr. HUBBARD] to section ninety-one.

Mr. HUBBARD, of West Virginia. I move to amend section ninety-one by inserting after the word "boxes," in line three, the words "or packages;" so as to read:

That from and after the passage of this act all cigars shall be packed by the manufacturers in boxes or packages not before used for that purpose, &c.

By the adoption of this amendment this bill will correspond in this respect with the law as it now stands, under which the cigar manufacturer has the privilege of packing his cigars in boxes or packages. Thus the cigar manufacturer will have the same privilege allowed to manufacturers of tobacco and snuff under the present bill, under which they can pack their tobacco and snuff in packages.

I am advised by the assessor of cigars in the district which I represent that if such an amendment as I propose be adopted there will be no more opportunity for fraud than the manufacturer will have under the bill as it now stands. Common cigars sold, before the war, at from two dollars to two dollars and fifty cents per thousand, and if there were no internal taxes upon the article, would sell now at three and a half or four dollars per thousand. The manufacturers believe that if they be required to pack these cigars in boxes the effect will be simply to add a very considerable percentage to the price; and they regard the requirement as altogether unnecessary. I trust that the amendment may be adopted, so that the manufacturers of cigars may have the same privilege allowed by this bill to manufacturers of tobacco and snuff, and may pack their cigars in boxes or packages at their option.

Mr. SCHENCK. Mr. Chairman, this is simply a proposition to break up the whole provision in regard to the tax on cigars. We propose to collect the tax by means of stamps on the boxes. The gentleman proposes to allow cigars to be sold in bundles or packages, with no limitations as to what the packages are to be or how the stamps are to be affixed. This is one of the subjects upon which we had the cigar makers, tobaccoists, &c., before us; and it was agreed all round that in order to collect the tax by stamps—the system which they all wanted—it would be necessary to define what should be a box, how much a box should contain, and everything else necessary for the security of the revenue. I hope the amendment will not be adopted.

The amendment was not agreed to.

The CHAIRMAN. The next amendment in order is that reserved by the gentleman from Iowa, [Mr. PRICE.]

Mr. PRICE. I move to amend section ninety-three by striking out the following proviso:

*Provided, That from and after the passage of this act the duty on all cigars imported into the United States from foreign countries shall be two dollars per pound and twenty-five per cent. ad valorem.*

The effect of this proviso is to reduce the tariff on imported cigars. By striking out this proviso, as my amendment proposes, we shall leave the tariff on foreign cigars just what it is now. I am opposed to reducing the tariff upon imported cigars; I propose to leave it as it now is; so that if foreign cigars are imported into this country they shall pay the duty imposed by the existing law.

Mr. SCHENCK. Mr. Chairman, my only desire is the House shall know what is proposed and then submit it. The tax on domestic cigars is five dollars a thousand and on foreign cigars three dollars per pound and fifty per cent. *ad valorem*. Cigars at the time of importation weigh only twelve pounds. They run down to eight or nine when they are dry, and up to fourteen when very green. At fourteen it would be forty-two dollars in gold or \$58 80 in currency. Fifty per cent. *ad valorem* or \$42 40 in gold, the average price in Cuba, is twenty dollars in gold or \$26 26 in currency. Thus cigars coming from Cuba pay \$84 80, and from that down to seventy-six dollars. Now, sir, what has been the consequence? The tariff is so high that it has defeated itself. Instead of being a protection to the domestic manufacturer, it has stimulated smuggling in all variety of cunning to get imported cigars into the country without paying duty. It has in a great degree injured and interfered with the domestic trade. In the interest of the home manufacture I think it better to adopt the provision of the bill. If the committee think differently, they will refuse to adopt this provision.

Mr. MYERS. I rise to a point of order. This portion of the paragraph which it is proposed to strike out I hold not to be in order, as it is not germane to this bill. This is a tax bill, and that provision is in relation to the tariff.

The CHAIRMAN. It was not reserved

when the bill was sent to the Committee of the Whole; and the committee is not competent to decide out of order anything sent to it.

Mr. MYERS. When this section was reserved the point of order was also reserved.

The CHAIRMAN. At no time since the bill was committed to the Committee of the Whole could the point have been well taken. It should have been reserved when the bill was committed to the Committee of the Whole.

Mr. WASHBURN, of Massachusetts. I move to amend the text of the proviso by making the specific tax \$2 50 instead of two dollars. Mr. Chairman, whatever may be said in regard to the propriety of including a tariff item in an internal tax bill, I wish to call the attention of the Committee of the Whole to the facts. In the first place, as the tariff now stands, and as it has stood for several years, the tax duty upon imported cigars is three dollars a pound and fifty per cent. *ad valorem*, and upon imported leaf tobacco it is thirty-five cents a pound. That being the case the manufacturers in this country have imported more leaf tobacco during the last year, and under this tariff we have manufactured more tobacco of our own raising than imported tobacco than at any previous day.

Now, I supposed if there was no other question upon which the manufacturers were more agreed it was upon this subject of the tariff. It seems the committee reduced it nearly one half, from three dollars to two dollars, and from fifty per cent. *ad valorem* to twenty-five per cent. *ad valorem*. The effect will be, with a tariff of thirty-five cents upon leaf tobacco, to destroy this manufacturing interest in this country.

I now submit to the committee while it may be proper to reduce it to some extent, still they have reduced it to such an extent that it will destroy the manufacture of cigars in this country. I therefore hope my amendment will be adopted. That makes it \$2 50 per pound and twenty-five per cent. *ad valorem*.

We are told imported cigars cost \$84 40. When you put the duty on leaf tobacco cigars manufactured here of the same quality cost seventy-five to eighty dollars. With the reduction of the duty on imported cigars as proposed by the committee it will destroy the domestic manufacture. I submit, sir, whether this tariff item, which has nothing to do with this tax bill, should be deferred to the consideration of the general tariff bill. We will only have to wait three or four months. I hope if insisted on that my amendment will be adopted.

Mr. ALLISON. I rise to oppose the amendment, and I do so in the interest of the revenue. Every gentleman on this floor knows very well that to-day there are as many imported cigars smoked in this country as at any former period, probably more. Yet the statistics of the Department show that we import only a very few million cigars. The internal tax by this bill on imported cigars is five dollars a thousand, making really an increase upon the import duty to that extent. We compel every cigar importer, in addition to the present import duties, hereafter to pay five dollars. In other words, he must pay on his imported cigars just as much as the home manufacturer pays. Now, take the five dollars and add it to the present duty. The tariff to-day is \$83 40, (fifty-six dollars in gold,) with five dollars currency added upon every thousand cigars imported, estimating an average cost of forty dollars per thousand, the average cost of production in Cuba is forty dollars a thousand; so that to-day we have an import duty of two hundred per cent. on cigars. Now, what is the effect? The effect is that nearly all the cigars that come into the country are smuggled in the interest of the cigar manufacturers of this country. I suggest that this duty should be reduced. I do not wish to discourage the manufacturer here.

Now, what reduction do we propose in this bill? A reduction so that the tariff duty on imported cigars shall be one hundred per cent. or more on the cost of those articles. Is not

that enough? They pay thirty-five cents a pound for imported tobacco. That is only seven dollars on each thousand cigars, estimating twenty pounds of tobacco to the one thousand cigars. Add to that the five dollars tax, and the producer makes cigars from imported tobacco at a cost of twelve dollars a thousand, to which should be added some fifteen or twenty dollars for the labor of manufacturing, making the entire cost from forty to fifty dollars a thousand upon an average cigar made in this country from Havana tobacco.

Mr. WASHBURN, of Massachusetts. Instead of forty or fifty dollars, the manufacturers say they cost them over seventy dollars a thousand.

Mr. ALLISON. I ask my friend to tell me what it costs to manufacture a thousand cigars?

Mr. WASHBURN, of Massachusetts. The labor on the best cigars costs twenty-two dollars a thousand.

Mr. ALLISON. Very well; I will take the gentleman's own figures. The labor twenty-two dollars and the tobacco seven dollars make twenty-nine dollars, to which should be added the original cost of the tobacco and the internal tax. Now, we give one hundred per cent. protection, and I submit that is enough.

[Here the hammer fell.]

Mr. WASHBURN, of Massachusetts. I withdraw the amendment.

Mr. KELLEY. I renew it. There is such a thing, Mr. Chairman, as value in stability in legislation, and the proposition now before the House illustrates the want of stability in our legislation—at least on the subject of cigars and tobacco. It is too late now, I suppose, to make the point of order that this provision is improperly here in an internal tax bill. That it belongs to a bill of another class is palpable. As it is not legitimately in this bill, it would, in my judgment, be but proper for the committee to withdraw it. There is another bill, I understand, pending before the committee now in which it would be proper to present it.

Sir, the provisions of the tariff law, which it is proposed thus irregularly to modify, will, if maintained, break up the importation of high-priced cigars and establish their manufacture in this country. The chairman of the committee, in his opening address on the presentation of the original bill, said that the importation of high-priced cigars through the custom-house had almost ceased; but he did not state what he might have done, that the importation of the tobacco of which they are made has very largely increased, and that the hands that formerly made them in Havana are now making them in our cities. Thus the house of Fuguet & Sons, of Philadelphia, formerly among the largest importers of fine cigars into this country, are now large manufacturers of fine cigars. When Congress broke up their business as importers of cigars they took to importing the finest leaf, and imported also large numbers of Havana cigar-makers from that city, and they are now, I might almost say, by compulsion of Congress, very large importers of leaf and large manufacturers of the finest Havana cigars; so that those who make them are consumers of our cereals, our other taxable productions, and of foreign goods that have paid duties at an American custom-house. If the clause is not withdrawn or stricken out, I ask that the amendment of the gentleman from Massachusetts [Mr. WASHBURN] may be adopted, and that we shall not drive these recently imported citizens back to their native land, to manufacture goods for our consumption. We are deriving in internal taxes and customs revenue more from fine Spanish cigars to-day than we were under the old system. I would ask the gentleman from Massachusetts what is his precise amendment?

Mr. WASHBURN, of Massachusetts. To add fifty cents to the two dollars.

Mr. KELLEY. That is as I believed it to be. I understand the gentleman from Iowa, [Mr. ALLISON,] who represents the Committee of Ways and Means, to say that so far as

he is concerned he will consent to that amendment, which he had not understood.

Mr. PRICE. I wish to ask the gentleman a question. I am very glad he has made the argument which he has. I would ask him whether under the present law we are not importing not only the raw material from Cuba to this country to be manufactured, but also bringing the operatives and makers of cigars? And I would ask him further, whether his object would not be better accomplished by the adoption of my motion to strike out the provision and let the law stand as it is?

Mr. KELLEY. I began by stating that I thought this provision was improperly here and ought to be stricken out; but as a matter of compromise I would take the amendment of the gentleman from Massachusetts, [Mr. WASHBURN.] I think the provision ought to be stricken out, or that the committee ought to withdraw it. But as it is too late to make a motion to strike out and the committee is indisposed to withdraw it, I accept the amendment of the gentleman from Massachusetts as a compromise. The tariff, as it stands, has introduced into the country a new branch of industry, and will give fine American cigars the world over the high reputation that the choice brands of Havana's have hitherto enjoyed. I now withdraw the amendment to the amendment.

[Here the hammer fell.]

Mr. MYERS. I renew it. The amendment I had desired to see adopted is one making it \$2 50 per pound and fifty cents *ad valorem*. That, I think, is what it ought to be. I never would have consented to pass this section, hurrying through as we did last night, without making the point of order that a tariff clause had nothing to do with the bill, but for the fact that I understood we should return to it. The chairman of the Committee of Ways and Means makes a new argument against the tariff. He says that we are already getting a large number of these imported cigars. I do not want them to come in and compete with our own industry. I want no tariff that will allow that. Let those who wish to smoke imported cigars pay a little higher. From every part of the country we are flooded with petitions to protect this industry. I propose to do it, and I believe this House, if it understands the question, will do it. Now, I have the figures here in answer to the figures of the chairman of the Committee of Ways and Means:

*Cost of pure Havana tobacco made in the United States into cigars.*

Wrappers, six pounds, at \$3 50.....	\$21 00
Fillers, fourteen pounds, at \$1 40.....	19 60

Average cost of making.....	40 00
Packing and shading.....	20 00
Ten boxes with trimming.....	5 00
Stripping stems.....	2 50
Tax.....	1 00
	5 00

Say..... \$74 10

Same grade of cigars cost in Havana.....	\$20 00
Eleven pounds to finished cigar per thousand, (there being a waste of nine pounds, one third stems,) at two dollars duty.....	\$22 00
Twenty-five per cent. <i>ad valorem</i> .....	5 00

27 00

Freight and insurance.....	1 00
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48 00

Premium on gold.....	19 20
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67 20

Tax now added.....	5 00
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\$76 20

So that you can import one thousand Havana cigars for two dollars less than you can make up the same grade of tobacco here, and as where the wrappers are of Connecticut seed-leaf, Pennsylvania or Ohio tobacco the cost is but \$9 50 less per thousand, you will have the fine grade Havanas, with their great prestige, imported at only seventy-five cents more per hundred than a commoner grade of American cigars. Certainly this is sufficient protection. To obtain this protection I last night reserved the

right to amend this section when the House would be fuller and better able to give the subject attention. I still believe my point of order well taken, that a tariff clause is not germane to a tax bill; but if a reduction of duty is insisted on at least let us not go below the amendment which I have just renewed, that this duty on foreign cigars shall be \$2 50 per thousand and twenty-five per cent. *ad valorem*. When the addition of the five-dollar tax is considered this will still reduce the duty \$4 50 per thousand on imported cigars. Certainly this is enough, and I hope the House will so consider it.

I hope that the committee will not adhere blindly to every proposition that is contained in this bill. That committee comes in here from year to year with additional legislation, acknowledging by so doing that they have made mistakes. If nothing better can be obtained, I hope this amendment will become the law.

The CHAIRMAN. The Chair desires to state to the gentleman from Pennsylvania [Mr. MYERS] that that gentleman is under a misapprehension in regard to the point of order. The gentleman from Pennsylvania is minuted upon the Clerk's record as having reserved the right to move an amendment to this section. The gentleman has no right on any parliamentary point, because the point could not be made in Committee of the Whole, not having been reserved at the time the bill was referred to the Committee of the Whole.

Mr. MAYNARD. Upon that point the Chair will recollect that I arose in my place last night and announced that I would reserve the right to make a point of order on this proposition. The Chair intimated that the right to make such a point must be first reserved in the House. It would, perhaps, have been time enough to make that decision when the point was made. I merely said that I would reserve the right to make it.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MYERS] has made the point, and the Chair has ruled upon it.

Mr. MAYNARD. I rise to oppose the amendment, and also to oppose the entire proviso of this section. It is due to myself to say that I was not aware that this proviso was in this bill until I saw it in print. I shall add very little to what has been said upon the subject of the duty on cigars. The principal objection which I shall now urge is, that in my opinion this is a provision which has no business in this bill.

Mr. ALLISON. Will the gentleman yield to me for a question?

Mr. MAYNARD. Undoubtedly.

Mr. ALLISON. Do we not by this very bill add five dollars per thousand to the duty on imported cigars, and by this very section?

Mr. MAYNARD. I do not so understand it.

Mr. ALLISON. I understand it so perfectly.

Mr. MAYNARD. I do not understand that to be the effect of it. But even if it is, as I was remarking by way of apology, this particular feature of it had escaped my attention, and I was not aware it was in the bill until I saw a printed copy of it. Now, I object to its being here as a part of this bill, proposed as it was under the restricted and limited instructions of the House, which instructions would exclude it, and which provision the Chair informs us would be ruled out of order had that point been made at the proper time. But I am opposed to introducing such a provision into an internal tax bill under any circumstances. Duties on imports and internal taxes should be kept separate and distinct as well in the enactment and passage of the law as in the administration of the law. As the gentleman from Pennsylvania [Mr. WOODWARD] observed a few minutes ago, the Committee of Ways and Means have officially announced in the House their intention to ask leave to introduce a tariff bill, and to invoke action upon it. I trust that permission will be granted by the House, that the Committee of Ways and Means will act under it, and that the subject of the tariff will come up, and that before this session closes.

At that time this subject of the duty on cigars can be considered. That will be the time and that the place for considering this subject. If the present duty is too high, then reduce it. Arguments on the one side or the other will be pertinent at that time, and will be germane to such a bill. But they are neither pertinent nor germane to this bill, which is one relating to the internal taxes of the country.

I am reminded that in the bill reported by my colleague on the Committee of Ways and Means, [Mr. MOORHEAD,] it is proposed to reduce the present duty on cigars below what it now is. On investigation and examination it may be found proper to concur in the action so recommended. But my objection is that such a provision is utterly out of place here in this bill; that it is a stranger and an outlaw; that it has no business here, and that it ought not to be entertained in connection with this bill. I hope, therefore, that the Committee of the Whole will concur in the motion of the gentleman from Iowa, [Mr. PRICE,] to strike out this proviso, and we can incorporate it in the tariff bill when it comes up for consideration.

Mr. O'NEILL. Technically as a parliamentary point I do not care whether this provision remains in the bill or not. If I thought we could make a change in the tariff in this respect I would say let us do it here and now, without regard to the question of order which was raised. I am very anxious that not only upon manufactured tobacco, but upon every other article which can be made in this country by our own people, there should be a tariff high enough to protect American industry, and I do not care in what kind of a bill we get it. By striking out this proposition of the Committee of Ways and Means to reduce the duty from three dollars per pound and fifty cents *ad valorem* to two dollars per pound and twenty-five cents *ad valorem*, we are thus far protecting the men and women who are toiling in cigar manufactories against foreign competition and capital. Although I am in favor of striking out these few lines, I am not even in favor of the amendment offered by my friend from Massachusetts [Mr. WASHBURN] unless I find we cannot succeed in keeping in force the existing duty. I have become convinced that the Thirty-Ninth Congress did right in not reducing the tariff upon cigars, and it is only necessary to know to be convinced of that fact that now there is invested in many of our districts a vast amount of money, giving work to hundreds of people in making up tobacco into various shapes, and especially into cigars, who heretofore could find very little to do, and whose occupation was almost gone. Why? For the reason so plainly indicated in the remarks of my colleague, [Mr. KELLEY,] that the men who imported cigars see they can use their capital to more advantage in Philadelphia by importing it in the leaf and manufacturing it where it is consumed. I do not mean to be understood as intimating that Philadelphia is the only locality in this country where American cigars are made or where American tobacco is manufactured, but I want to say that in our city the manufacture of cigars is carried on by such firms as the one mentioned by my colleague, employing hundreds and thousands of men and women, and even children. Then do not let us diminish their work by legislating as proposed by the Committee of Ways and Means. I am in favor of the duty remaining just as it is. I am sure those who consume foreign tobacco made up before importation will not complain of Congress for trying at least to encourage the industrious among our own citizens. Many of the smokers of imported cigars will, if by our cherishing home industry we can improve the growth of American tobacco by encouraging the planter and farmer, after awhile use it as it comes from our own soil, and already are enjoying American cigars made of foreign tobacco in American workshops.

To come to the practical point, why should we seek to reduce the duty? We are Represent-

atives in an American Congress. We are endeavoring to uphold and stimulate the industries of our country. We are endeavoring, or we should be, to encourage every branch of manufacturing which can by any possibility be carried on by our own people. I represent a district in which the manufacture of cigars is carried on to a very great extent, greater, perhaps, than in many other districts in Pennsylvania; among my constituents in that are hundreds and thousands of people who are in some cases working for men who have heretofore imported cigars very largely in making what is called the American article, which I believe will, in a few years, comparatively drive out of the market all other kinds. I believe that most of us are learning to smoke American cigars; and even those who think the imported are better, will at last, if we do not legislate unwisely, come to believe that we can grow tobacco here excelling much of the foreign tobacco. I would prefer the striking out of the paragraph which would reduce the duty and leave it as in the present law, to voting for the amendment of the gentleman from Massachusetts, [Mr. WASHBURN,] but will vote for his amendment if I can do no better. In other words, I would prefer the duty at three dollars per pound and fifty per cent. *ad valorem*, than at \$2 50 per pound and twenty-five per cent. *ad valorem*.

[Here the hammer fell.]

Mr. MOORHEAD. I rise to oppose the amendment *pro forma*. I desire to have this item and two or three similar items stricken out of this bill, for the reason that they properly belong to a tariff bill, not to this bill, and have no business here.

Now, sir, I know that it is very common and very proper for members of a committee to support the action of the committee in the House. I have endeavored to do so generally, so far as I could do so with propriety. In this case I feel that I am entirely released from any obligation to support this item, for when it was introduced in the committee I told my colleagues that it was not germane; that we had no right under the rules of the House to introduce a tariff provision into an internal revenue bill; and that I would make objection to the provision whenever the bill should be reported to the House, knowing that the Speaker would rule it out. But I happened to be absent when the bill was reported. It appears that the bill is now in such a position that the provision cannot be ruled out on a point of order. But it is very easy for the Committee of the Whole to get out of the difficulty by striking out the provision; and as it does not properly belong in the bill, as it is an overturning of our whole system of legislation, mingling together two incongruous subjects, I hope the committee will strike it out. And just at this point I would appeal to the chairman of the committee, who is so well versed in matters of this kind, to give us his opinion whether this proviso legitimately belongs in this bill or not.

Mr. SCHENCK. It does legitimately belong there, because the majority of the committee agreed to put it there, and reported it to the House to take its fortune with the rest of the bill; and though I, as well as my colleague, [Mr. MOORHEAD,] voted against it, I supposed (for I may as well define my own position now) there was no impropriety on my part in expressing the views of the committee, and I undertook to be the committee's organ. I find, sir, however loyal I may try to be to the committee in presenting its views according to the decision of the majority, so far as the individual members of the committee are concerned, they too often, when in the House, vote according to the particular views they expressed in committee. The consequence is, instead of presenting an undivided front, we are divided, and lose the force we otherwise would have. Since we have become demoralized on this subject, I do not hesitate to confess, if we may divulge the secrets of the committee, whatever may be the case with others,



I thought it should have never gone into the bill. I presented the views, however, of the committee.

Mr. HOOPER, of Massachusetts. If the objection of the gentleman from Massachusetts refers to the internal tax of five dollars being applied to the imported article—

Mr. MOORHEAD. I am just coming to that. The chairman says it is legitimate to this bill because it puts five dollars tax upon imported cigars. My objection is as I have stated it. I do not want a tariff item in an internal tax bill. The sub-committee of the Committee of Ways and Means have acted on this subject and have recommended a reduction of the duty to some extent on these cigars. I hope, therefore, this item, which seems to trouble us and is acknowledged by the best parliamentarians to be out of order in this bill, will be stricken out.

Mr. ALLISON. I only desire to add a word to what I have said before. I do not think gentlemen understand the question involved. My friends from Tennessee and Pennsylvania on the Committee of Ways and Means undertake to carry their point on a technical point. They forget we have imposed a tax of five dollars on imported cigars.

Mr. MOORHEAD. We did not forget it.

Mr. ALLISON. I cannot yield. Why do we put five dollars upon them? Because we have adopted a new system of stamps, and we put the same amount on imported cigars as upon manufactured cigars. Shall we not beside reduce an onerous import duty? Now, I stand here as much as any man in favor of protecting the cigar manufacturers of this country. This provision is to do away with the smuggling of imported cigars. Everybody who knows the A, B, C of tariff questions knows there are more cigars smuggled than pay duty. In 1860 we imported five hundred millions of cigars which paid duty. As many are smoked now as then, but a very small amount of imported cigars pays duty. The result is they come in without paying any duty, and are a serious injury to our domestic manufacture. I am willing to be fair; I am willing to adopt the amendment of the gentleman from Massachusetts of \$2 50 a pound upon imported cigars. I am not surprised the gentleman from Pennsylvania should insist this should go into the tariff bill. He would have a wall around the country and all importations prohibited. The duty now is two hundred per cent, and defeats the object sought to be accomplished. The same quantity of cigars is imported, but they are smuggled and do not pay duty.

Mr. MOORHEAD. The gentleman says this stamp tax is an import duty. I thought he was better informed. He has been on the Committee of Ways and Means for years. I have sat beside him and opposite him, and I am sorry he should come here and expose himself in this way.

[Here the hammer fell.]

The amendment of Mr. WASHBURN, of Massachusetts, was agreed to.

Mr. PRICE called for tellers on his motion to strike out.

Tellers were ordered; and Mr. PRICE and Mr. ALLISON were appointed.

The committee divided; and the tellers reported—ayes 51, noes 52.

So the amendment was rejected.

Mr. HOLMAN. I submit the following amendment:

*And be it further enacted, That there shall be assessed and levied on the interest and interest coupons accruing on all bonds, the interest on which is payable at the Treasury of the United States, an annual tax of sixteen and two thirds per cent., which tax shall be withheld by the proper officer of the Treasury at the time of the payment of such interest or coupons. The tax hereby provided for shall be withheld from the interest which shall become due on and after the 1st day of November, 1868.*

Mr. GARFIELD and Mr. SPALDING raised the point of order that the amendment was not germane to the bill.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HOLMAN. I rise to a point of order. When the original bill was pending I sought an opportunity to offer this proposition, and the chairman of the committee [Mr. SCHENCK] stated that inasmuch as it was desirable to dispose of the section then pending, he would allow me the opportunity of submitting the amendment at a subsequent time. I submit that inasmuch as this is really a continuation of the same bill, I should have permission to offer it now.

The CHAIRMAN. The chairman of the Committee of Ways and Means had no power to make any promise to bind the House. The Chair rules it out of order.

Mr. HOLMAN. I appeal from the decision of the Chair.

The CHAIRMAN. The Chair will not repeat the grounds upon which he made a similar decision this morning.

The question being taken on sustaining the decision of the Chair, it was sustained—ayes 91, noes 16.

Mr. ROBINSON. I move to insert after section one hundred and seven the following as a new section:

*SEC. — . And be it further enacted, That no stamp under the internal revenue law shall be required on any certificate or ticket given by pawnbrokers for the article pledged.*

I believe this is in order. We have got through with the subject of cigars, and we are now proceeding to the consideration of banks.

Mr. BOUTWELL. I raise the point of order that this is not germane.

The CHAIRMAN. The Chair sustains the point of order.

Mr. ROBINSON. It is important that this should pass, and I give notice that I intend to press it at some place. Will it be in order to bring it in after we dispose of the matter of banks?

The CHAIRMAN. It will not be in order at any time.

Mr. MOOREHEAD. Will it be in order to have a vote in the House on striking out that section in relation to cigars?

The CHAIRMAN. It is competent for the House to allow the committee to vote, but not for the committee to allow the House to vote.

The Clerk read as follows:

*Banks and Bankers.*

*SEC. 108. And be it further enacted, That there shall be levied, collected, and paid a tax of one twelfth of one per cent, each month upon the average amount of the deposits of money, other than public money of the United States, subject to payment by check or draft, or represented by certificates of deposit or otherwise, whether payable on demand or at some future day, with any person, bank, association, company, or corporation engaged in the business of banking, and a tax of one fourth of one per cent, each month on the average amount of all deposits of public money in their possession to the credit of the Treasurer or any disbursing officer of the United States; and a tax of one twenty fourth of one per cent, each month, as aforesaid, upon the capital of any bank, association, company, or corporation engaged in the business of banking, and on the capital employed by any person in the business of banking, beyond the average amount invested in United States bonds; and a tax of one sixth of one per cent, each month upon the average amount of circulation issued by any bank, association, corporation, company, or person, including as circulation all certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the vault of the bank, or redeemed and on deposit for said bank. And a true and accurate return of the amount of circulation, of deposit, and of capital, as aforesaid, and of the amount of notes of persons, State banks and State banking associations, and of States, cities, towns, or other municipal corporations, paid out by them for the previous month, shall be made and rendered monthly by each of them to the assessor of the district in which such bank, association corporation, or company may be located, or in which such person has his place of business, with a declaration annexed thereto, verified by the oath or affirmation of such person, or of the president or cashier of such bank, association, corporation, or company, in such form and manner as may be prescribed by the Commissioner of Internal Revenue. And for any refusal or neglect to make or to render such return and pay the tax, any such bank, association, corporation, company, or person so in default shall be subject to and pay a penalty of \$200, besides the additional penalty and forfeitures in other cases provided by law; and in default of such return the several amounts subject to tax shall be estimated by the assessor or assistant assessor on the best information he can obtain. And in the case of banks with branches, each branch shall make a separate return, and the tax shall be assessed on each severally. And*

so much of the forty-first section of the act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, approved June 3, 1864, as imposes a tax on the banks organized under that act, and requires returns to be made to the Treasurer of the United States, be, and is hereby, repealed: *Provided, That the deposits in associations or companies known as provident institutions, savings-banks, savings funds, or savings institutions, having no capital stock and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the association or company, shall be exempt from tax on so much of their deposits as they have invested in securities of the United States, and on all deposits less than \$500 made in the name of any one person; and the returns required to be made by such provident institutions and savings-banks shall be made on the first Monday of January and July of each year, in such form and manner as may be prescribed by the Commissioner of Internal Revenue.*

Mr. POMEROY. I move to strike out the foregoing section, and if the committee shall see fit to do it, I shall move to strike out the next. I will state briefly my reasons for so doing. I wish the committee to consent to take a vote on this motion, so that if it prevails no time need be wasted in amendments. Now, I appeal to the fairness and courtesy of the committee. The Committee of Ways and Means some weeks since presented a bill covering the whole system of internal revenue, based upon two grounds: first, taking the subjects of distilled spirits and tobacco in which great frauds exist, and not only amending the tax upon those articles, but also providing for a new administration of the revenue system by which that tax was to be collected. They further undertook in that bill to readjust and redistribute the whole internal revenue tax. After spending some ten days on that bill the Committee of the Whole decided that it should be laid aside, and ordered the Committee of Ways and Means to report a bill to revise the tax on distilled spirits and tobacco, and also to provide a new administrative plan for collecting it. It appears by the Journal that some time afterward a resolution was by unanimous consent in some manner introduced and passed instructing the committee also to report upon banks, a subject having no more connection with the subject which the House had seriously determined that the Committee of Ways and Means should report this bill upon than it would have been to have referred to them the subject of the tax upon manufacturers or upon brokers or special taxes.

Now, I do not wish to impugn the motives of any person in the matter; but I need not say to any gentleman here that no such resolution as that could have passed, had the House known what was before it, by the unanimous consent of the House. It was entirely foreign to the bill which the House had determined they would act upon at this session. Without going now into the question whether or not the taxes upon banks are such as they ought to be or not, I submit that they are already taxed by law, and that there is no interest in the United States where taxes are more fairly and honestly paid than those of the banks, because there is no opportunity for concealment or for fraud. Every dollar of their circulation is known at the Treasury Department. Every dollar of their Government deposits is known at the Treasury Department. And of their individual deposits sworn statements have to be periodically made. Every dollar of their taxes is being collected. Nobody pretends that any frauds are being perpetrated under the present law. And yet under that resolution the interests of these banks are dragged in here to be revised in a bill the only object of which is to break up the whiskey ring and to prevent tobacco frauds. Now, without going into the subject of what the taxes are or ought to be, I submit to the committee that as an act of courtesy to the committee having charge of these interests in this House, and as an act of courtesy toward the banking interests, this section should be stricken out, and should be considered with the other great industrial interests of the country when we come to consider the special taxes, the manu-

facturers' taxes, the tax on brokers, and other subjects which are cognate to it.

Mr. SCHENCK. I do not understand the gentleman from New York [Mr. POMEROY] as reflecting in any way on the Committee of Ways and Means in this matter.

Mr. POMEROY. I stated distinctly that the Committee of Ways and Means had no thought of any such thing.

Mr. SCHENCK. The Committee of Ways and Means retired with as much equanimity as they could summon for the occasion to reconsider the whole matter of taxes so far as whisky and tobacco were concerned, supposing that their duties were confined to those two subjects of taxation. Two days afterwards, they received unexpectedly a resolution, which we afterward understood passed the House by unanimous consent, instructing them also to consider and report upon banks in connection with the other two subjects. That we did, and the result is before the House. While I am up I will simply say in regard to this section that it is the section just as it was agreed on in Committee of the Whole, with the single exception of an increase in the tax on circulation. The Committee of the Whole had amended the original report of the Committee of Ways and Means by adding three per cent. upon Government deposits, doubling the tax on private deposits, and striking off half of what had been recommended on circulation. The committee restored the tax on circulation, and with that single change reported it back as it had passed the Committee of the Whole to take its chance again. I will only say that while it is for the Committee of the Whole or for the House to determine whether or not they will retain this provision in regard to banks, it is my duty to call attention to the effect of its action.

I have already explained to the House that the laying aside of the other portions of the bill—of the general bill introduced by the Committee of Ways and Means and confining legislation to distilled spirits and tobacco—takes away an advantage of about seventeen million dollars in the estimated revenue that we should have derived from that bill. But if we include banks, that amounts to nearly four million dollars out of the \$17,000,000. If this should remain, the deficiency, comparing our present legislation with the legislation originally proposed by the Committee of Ways and Means, would be a little short of \$12,000,000. If the banks are dropped also, the deficiency then, as compared with that bill, will be about seventeen million dollars. It is for Congress to determine whether they can afford this, or how far it ought to be considered in the determination of the question whether you will or will not strike out those sections in relation to banks. I repeat that this section was put in here simply by order of the House. I am asked what is the difference between the present tax on banks and the estimated tax to be derived should this section be retained in this bill. I have already stated that the increased revenue to be so derived will be nearly four million dollars. That is, taking the tax upon deposits of public moneys, the increased tax upon private deposits, and the increased tax on circulation would make the increased amount to be derived from banks about four million dollars. And there is this further provision to be borne in mind: we include in the internal revenue system the national banks as well as the State banks.

Mr. DELANO. I move to amend this section *pro forma* by striking out the last word. There is no member of this House who has a more sincere respect for the opinion of the chairman of the Committee of Ways and Means [Mr. SCHENCK] than I have, or who listens to what reasons he has to assign for his measures with more desire to understand them. But I want to suggest to him that the reason he has last assigned for this tax upon banks is fallacious and must be unsatisfactory.

Now, it may be true that the action of this House has rendered necessary some other sources of revenue than those that are embraced

in the tax on whisky and tobacco. But I ask the gentleman if that is a sound reason for laying violent hands upon the banking system, and doing that which is equivalent to striking it out of existence? I am therefore somewhat astonished that the gentleman should allude to that action of the House as a reason for this provision in regard to banks, or even as an apology for its introduction.

Mr. SCHENCK. I make no apology for the introduction of this provision. We were ordered to introduce it, and we should not have introduced it without the order of the House.

Mr. DELANO. I know that the Committee of Ways and Means were instructed by an order of the House to tax banks. The committee, however, was not instructed to tax them unreasonably. The resolution relating to that subject was introduced under circumstances alluded to by the honorable gentleman from New York, [Mr. POMEROY:] it was extorted or obtained from the House without the consent of the House.

Mr. INGERSOLL. Allow me to correct the gentleman. That resolution was adopted by the unanimous consent of the House.

Mr. DELANO. I am speaking of things as they are in fact, not as they are in mere name. I mean the substance of things hoped for; and I allude to the evidence of some things not seen. As I understand it, this section provides a tax of one per cent. upon private deposits, a tax of three per cent. on public deposits, a tax of one per cent. upon capital, and a tax of two per cent. upon circulation; the total amount being seven per cent., and amounting to one hundred per cent. more than the present tax. Now, no one who will examine this section will fail to see that the *animus* of it is the destruction of the banking system. If that is the purpose of the House and country, then, gentlemen, lay your hands on the system and destroy it. What you will have afterward it is not for me to predict, for I am not authorized or empowered to prophecy upon this subject. But that is the purpose of the bill. I know it is very popular to attack banks. It is always, therefore, a pleasant recreation for politicians who are seeking notoriety. I know also, what I desire to say here and have gone before the country, that at the present moment the banks pay better for the revenues of the country than capital in any other form. Your banks now pay in the form of taxation, local and national, \$18,338,430 per annum. The entire interest on the amount of bonds which are deposited as security for the circulation of these banks amounts only to about eighteen million dollars. It thus appears that the banks pay a larger sum for taxes than the total amount of interest on all the bonds which they hold as the basis of their circulation. In the State of Ohio the tax upon banks, State and national, upon the average throughout the State, for it varies in different parts of the State, amounts to about six and a half per cent. In the county in which I live it amounts to over six per cent. upon the amount of capital invested in your banks. The banks are therefore at the present day, in the way of contributing to the revenues of the country, the very best property you have. For example, in the State of Ohio—and I presume the case is the same elsewhere—the amount of bonds deposited with the National Government as a security for the circulation becomes a capital for taxation, which is not the case with bonds in the hands of private individuals. Every dollar which you call out and put into your banks in this way makes a source of local taxation and of support to the Government.

[Here the hammer fell.]

Mr. INGERSOLL. Mr. Chairman, if I am not mistaken, on the day on which the original tax bill reported from the Committee of Ways and Means was recommitted, this section on banks had already been acted upon and adopted by the Committee of the Whole.

Mr. PRICE. As it is now?

Mr. INGERSOLL. Nearly as it is now.

Mr. PRICE. Not at all. Where is the provision in regard to taxation of Government deposits?

Mr. INGERSOLL. The three per cent. tax on Government deposits had been adopted.

Mr. PRICE. That is not in this bill.

Mr. INGERSOLL. It is in this bill. This section, as now reported, is very nearly in the same form as the section agreed to by the Committee of the Whole when the original bill was under consideration. The bill was recommitted, gentlemen voting for that motion from various motives. Some undoubtedly supported the motion with the intent to defeat any legislation on the subject. Those largely interested in manufactures, that interest having been relieved from the five per cent., did not wish any new tax bill; they were satisfied with existing legislation. Those who desired that the tax on whisky should remain at two dollars did not want any tax bill which would reduce that tax. Those who did not want to have the bank interest disturbed had no reason to desire any modification of the revenue system. So, acting from various motives, a majority of the House decided to recommit the bill, providing, however, that a revision of the system of taxation of whisky and tobacco should be embraced in a new bill and reported to the House at some subsequent day.

Within two days after the action of the House to which I have referred, I presented, during the morning hour, a resolution giving the Committee of Ways and Means authority to embrace in the bill to be reported the subject of the taxation of banks. This resolution was read at the Clerk's desk in the hearing of the House. It was read a second time, in consequence of a suggestion that the gentleman from Indiana [Mr. JULIAN] had had a similar resolution referred at some prior time during the morning hour. That was discovered to be a mistake; and my resolution having been twice read, and objections asked for, no member objecting, the resolution was adopted unanimously. Owing to the circumstances I have stated, the resolution received more attention from the House than any resolution—causing no debate—which has been adopted during the present session.

In pursuance of that resolution the Committee of Ways and Means took jurisdiction of the subject, and they have reported these sections with the view of increasing the revenues of the Government from the national banks. The question is whether these banks, which can well afford to pay this additional tax, shall contribute four or five million dollars more to the revenues, relieving to that extent the various industries of the country, or whether we shall legislate in the interest of what is now a monopoly, an absolute monopoly, an aristocratic monopoly, that is making more money on its capital, invested on safer and more reliable and remunerative employment than is realized by any like amount of capital in the United States. I say without fear of contradiction that there is no \$300,000,000 invested in any other business in the country with the same security and certainty that it will return a round sum to the investor as this banking capital.

[Here the hammer fell.]

Mr. DELANO. I withdraw my amendment.

Mr. PRUYN. I renew the amendment. Mr. Chairman, I think it does not matter very much from what quarter the resolution referred to emanated; but I am surprised that it came from the gentleman from Illinois, [Mr. INGERSOLL.] He has been appealing to this House to modify the taxation on a great interest which he represents, which modification I admit to be beneficial to the country as well as that particular interest; yet at the same time he turns round and attempts to impose an increased burden on another interest which is now paying fairly and squarely every dollar of taxation imposed on it. That at least is not fair play on the part of the gentleman from Illinois.

Mr. Chairman, one word on the subject of this bank tax. It is proposed to increase

the tax upon deposits, to double the tax upon Government deposits, and to make the banks pay three per cent. As to Government deposits I have nothing to say. It is for the Secretary of the Treasury to make such arrangements as he thinks will be best for the interests of the country. If he thinks he can get three per cent. it is very well. He cannot get four per cent. He cannot manage to get five. If the banks are to pay at the rate the committee recommend it will be impossible for them to pay the tax upon the Government deposits. Therefore, if the Secretary of the Treasury is now getting, as I understand, in certain quarters interest upon Government deposits, the effect of this will be only to reduce the interest.

Now, as to the local banks in New York: in the town in which I live the local tax is from three and a half to four per cent. and the tax for Government and local purposes is from six to eight, and sometimes runs up to ten per cent. The effect of this legislation upon the banks will be to drive them there to reorganize under the general banking law of New York. Some have contemplated this during the past year. They will do better under the general banking law of New York than under the law of Congress. For the reasons assigned by my colleague I hope this provision will be stricken out.

Mr. INGERSOLL. I wish to state there is no law compelling the banks to receive deposits from the Government. It is at their option. If they do not wish to do so they need not.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. I am asked to yield to the gentleman from Ohio, who wishes to correct some figures. I yield if it does not come out of my time.

The CHAIRMAN. It will come out of the gentleman's time.

Mr. BUTLER, of Massachusetts. I move, on page 129, to strike out the words "beyond the average amount invested in United States bonds." Those words in this bill except United States bonds held by the banks as part of their capital from taxation, and allow the banks by investing their capital in United States bonds so far to escape taxation. Therefore I desire, if we can, to meet the question whether we shall begin to tax these United States bonds in the hands of these institutions. I desire to test the sense of the House on this proposition precisely.

Mr. Chairman, we have come now to a place where we can try the question nakedly and alone, how much we have of real meaning when we say we are in favor of taxing bonds.

Mr. PRUYN. They are taxed as part of the capital.

Mr. BUTLER, of Massachusetts. If they are then this will not do any harm. This bill provides taxation only of the capital invested beyond the average amount invested in United States bonds. By striking out these words we allow capital invested in United States bonds to be taxed. When the proposition of the gentleman from Maine was before this House this morning we found ninety-eight members voted against any proposition to tax United States bonds; but I observed they all voted on a side issue, which might not involve the main one. I wish now to make the taxing of United States bonds held by banks the straight issue, bold, direct. I do not mean, if I can help it, to have any doubt what the question is; but it shall go out as the voice of this House whether we are willing or not to tax United States bonds in the hands of banks, for if you will not tax them in the hands of banks you will not tax them anywhere. There are no widows and orphans or savings institutions here now on which to avoid the question—none of that dodge. Plain cold steel, gentlemen; walk up to it. Let us have it understood. Let us plainly ascertain what the majority of the House mean to do on this question. I want gentlemen to understand distinctly what we are about. There is no double meaning here; no shelter. Any gentleman who votes against this amendment votes not to begin here when he has a chance

to tax United States bonds. Any one who votes for this amendment votes to begin to tax United States bonds and relieve the industry of the country of its burdens. Who votes against it, votes to allow the bondholder to hold his bonds without bearing his proportion of the public burden.

Mr. BENTON. I rise not for the purpose of opposing the amendment, but—

Mr. POMEROY. I rise to oppose the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York.

Mr. BENTON. I rise to oppose the amendment of the gentleman from New York, [Mr. POMEROY.]

The CHAIRMAN. That is not pending.

Mr. POMEROY. The committee will recollect when this subject was under discussion in the old bill I was unfortunate in not being able to take part in the discussion, being chairman of the Committee of the Whole. Now, when I took the floor this morning I begged of the committee before proceeding to amend this section, to vote upon the question whether they would entertain the subject of bank taxation in the manner in which it has been brought before the committee, as an addition to this bill in relation to the tax on distilled spirits and tobacco. Now, sir, I impugn the motives of no person connected with the resolution instructing the Committee of Ways and Means. It was properly introduced, and was properly passed; but I say it was done at a time in the morning immediately after the reading of the Journal, when gentlemen were crowding around the desk with resolutions and other matters which they were eager to have introduced, and in the confusion few members knew what the resolution meant. Now, I attack no man's motive. The committee are technically right in reporting this bill. But I submit, as a question of courtesy to the House, whether we should still continue to consider in connection with whisky and tobacco, a subject so highly incongruous as that of the taxation of banks.

Now, sir, I call the attention of the committee to the extent to which the banks are now taxed. There is already a license tax on banks of two dollars per thousand. There is an additional tax of five per cent. on profits. There is a tax on circulation of one per cent. per annum. There is a tax of one half per cent. on deposits. Then there is in addition to all this a tax for the whole band of Department detectives who are constantly traveling over the country examining into the condition of the banks, whose expenses and salaries the banks have to pay. In addition to that there is no interest in the United States which, for local purposes, is taxed as clean and hard as that of banks. Their capital is known in every locality, and the tax which is assessed upon that capital is collected.

Now, I have no reason to believe that the taxes on banks in my locality are any more severe than those of the average of the country banks. Under existing law the tax is over six per cent. on the cash capital in central and western New York. And yet that tax is paid, and there is no pretense of fraud on the part of any of those institutions in the payment of their taxes. Now these banks are dragged into this bill for the purpose of having an additional tax imposed upon them. Under this bill you propose to tax their circulation \$6,000,000, being an increase of \$3,000,000. You propose a tax on individual deposits of \$5,287,794, being an increase of \$2,643,880. You propose to tax Government deposits \$728,750, being an increase of \$607,292. I make this calculation on the basis of the bank returns in April last, at a period of the year when the deposits are ordinarily the lowest. I make the aggregate increase of tax on banks \$6,251,172 over the present tax imposed by the Government.

[Here the hammer fell.]

Mr. BENTON. I move to strike out the last word. As I understand it the objection made to the introduction of the sections in this

bill in reference to banks is that it was not understood by members when the resolution of instruction was passed that this subject was included. But I presume the resolution is to be treated like other resolutions introduced and passed without objection. It is not to be presumed that a resolution of this importance, introduced in the business hours of the House, is to be smuggled through without the notice or attention of this body. I think that would be a pretty extreme presumption for any man to make here. I take it, then, that this subject was properly enough before the Committee of Ways and Means, and that they have properly enough reported this section to the House. I go further, and I take the ground that if there is any interest in this country that can afford to bear its share of the burdens of taxation it is the very interest now under consideration, the banking interest of this country. It has been demonstrated here to my satisfaction, and I believe to the satisfaction of the majority of the House, that larger profits are made in the banking business in this country than in any other business. Gentlemen talk here about the depressed condition of the banks. Why, sir, it has been stated upon this floor over and over again that they make from fifteen to eighteen or twenty per cent. profit annually, and no man has stood up here and introduced any figures or facts or arguments to refute the statements made by those who claim that these enormous profits are made by the banks. I believe that the country banks make much less profit than the city banks, which are favored with large deposits. I think the taxation proposed to be imposed on deposits is too small. It ought to be increased, and, perhaps, the tax on circulation should be diminished, because the country banks are almost entirely deprived of any advantage from deposits, and their circulation is what they have to rely on for their profit, and it is for the accommodation of the people.

[Here the hammer fell.]

Mr. HOLMAN. I trust that upon this section the gentleman from Massachusetts will see the advantage of obtaining a more direct vote than his proposition would indicate. I offer the following amendment:

After the word "bonds," in the eighteenth line, insert the following:

And a tax of sixteen and two thirds per cent. on the interest annually accruing on the bonds of the United States held or deposited by such bank, with the Treasurer of the United States.

Mr. Chairman, this amendment presents the question directly whether the committee intend to impose any tax on bonds held by the national banks or not. Heretofore the Committee of the Whole have decided that the bonds shall not be taxed for any purpose. But the question is now, shall these bonds held by the banks be taxed. The proposition that these banks are overtaxed, so urgently pressed by the friends of the banks is the most remarkable propositions ever submitted to a body of intelligent gentlemen. The banks overtaxed! Here are the banks with near eight hundred million dollars capital, having \$860,000,000 of bonds, \$300,000,000 of circulation, and \$70,000,000 of surplus fund, and gentlemen come forward here with figures to show the large taxes they pay. Certainly they do pay very considerable taxes; but they have near eight hundred million dollars of capital on which those taxes are to be paid. So that when gentlemen talk of the enormous sums paid, they should take into consideration the enormous capital and the unexampled privileges possessed by these banks. They should consider the power of these banks, not only of controlling the entire moneyed affairs of the country, but of reaping unexampled profits. The entire tax proposed by this bill on the circulation of the banks is two per cent.; this, with the amount paid for license for banking, say \$200 a year, and one half of one per cent. on their surplus capital, is the tax they pay. They pay on their individual deposits the small tax of one half of one per cent., but this has no connection with their circulation. They pay these inconsid-



erable taxes while the whole country is laboring under heavy taxation, more on an average than two per cent. without any privileges from the Government. They pay less on their capital than any other business of the country pays, and yet you have graciously and freely given them \$300,000,000 of capital. A small capital of \$60,000,000 excited the apprehensions of Andrew Jackson, but he could scarcely have comprehended the power of \$800,000,000 of united capital. Talk about the excessive taxation of the banks! Their power even in this Congress is illustrated in being able to command such arguments in their defense. Their power is not easily resisted, however virtuous may be the intentions of the gentlemen. Who has not seen the effects of the blandishments of wealth and power? You pay them their six per cent. interest in gold upon their bonds, purchased with paper greatly under par; you keep their bonds safely at the risk of the Government; you give them \$800,000,000 of money and guarantee its solvency—money which they loan to your citizens at from six to fifteen per cent. interest; you have enabled them, after making large dividends annually, to accumulate \$70,000,000 of surplus fund in three years; and now, when, for all these extraordinary bounties, you propose to increase the tax on their circulation from one to two per cent. and impose one per cent. only on their bonds, which is sixteen and two thirds per cent. on the interest, their indignation is actually unbounded. I affirm that there is no interest in this nation that is so lightly taxed, considering the amount of capital involved, as the banks, without reference to the enormous privileges and exemptions which they enjoy under our legislation. The Government, for their \$800,000,000 of bonds, gives these banks \$300,000,000 of currency, actually makes the money for them and pays the salaries of the officers who manage their bureau, and on this they are now paying but one per cent.; and when a proposition is made to increase the taxation to two per cent., the whole financial interests of the country seem to be brought to bear to defeat it.

I trust, Mr. Chairman, that this question will not be dodged. If gentlemen intend in good faith to tax the securities, here is the place to begin to tax them—in the hands of the bankers, persons who of all others are most able to pay taxes, and on whom, in view of the extraordinary benefits you have conferred, you may most justly impose a reasonable tax. I trust the gentleman from Massachusetts will withdraw his amendment so that the question on this proposition may be directly taken. If we strike out the words which the gentleman proposes to strike out, the banks will still pay no tax on their bonds, the tax must be directly imposed or not at all. Those words stricken out, and the banks are still exempt from this taxation. If the voice of the country is heard, these bonds, especially in the hands of the banks will be taxed. If the intelligent convictions of the whole land are to control the action of Congress, these banks will be required to pay a tax, not simply in proportion to their wealth, but in proportion to the enormous bonus which they realize under the remarkable system of legislation which we have heretofore adopted. Capitalists should consider that a free people will not patiently submit either to great inequality of taxation or to extraordinary favoritism in legislation.

[Here the hammer fell.]

Mr. PILE. Mr. Chairman, I would not say a word on this subject, but that I desire to call attention to one effect which I fear this legislation would produce upon the banks, particularly in my own section of the country—a matter which I have not thus far heard mentioned in this debate. I fear that if this additional tax be imposed upon the banks its effect will be to drive money in large amounts to the great cities, rendering the money market more stringent in the interior cities of the West. If this should be the effect, then such legislation will injure instead of benefiting the class of persons whose interests, as I understand the

arguments of gentlemen favoring the proposition, it is intended to advance.

Every person conversant with the method of moving the produce of the West to market knows that the price of that product is affected one, two, and three per cent. by the condition of the money market; that the price of the grain that must be moved to the East is not only regulated by the demand and supply, but is also affected to the extent of one, two, and three per cent. by the amount of money that is on hand to move it, the rate of interest, and the readiness with which money accommodations can be secured. Now, one of the evils, as I understand, of our present financial condition, is that in the great money centers, in the large cities, there is a surplus of capital, while in the West and in the interior there is a stringent money market. If this increased tax upon circulation and deposits will, as I think it will, bear so heavily upon the smaller banks of the West as to promote the still further accumulation of money in the large centers and render the money market more stringent in the West, then the class of persons intended to be benefited—the laborer, the farmer, the producer, whose taxes this proposition is intended to lighten by imposing additional taxes upon the banks—will be subjected to an increased burden by reason of the decreased price which they will get for their products. To this single consideration I wished to call the attention of the committee. I yield the remainder of my time to the gentleman from Iowa, [Mr. PRICE.]

Mr. PRICE. Mr. Chairman, I desire to say only a few words, principally in reply to the gentleman from Massachusetts, [Mr. BUTLER,] who challenges to a cold-steel encounter the advocates of the proposition to strike out this section. He maintains that inasmuch as the banks pay no interest upon their bonds there must be some kind of war instituted to bring them to that point. I would like to know whether the gentleman has ever considered this question: when a corporation puts \$100,000 worth of bonds into the Treasury of the United States, taking out \$90,000 of circulation, and is taxed upon that \$90,000 one per cent. under the old law, or two per cent., as this bill proposes, does not the bank pay a tax on the bonds it puts in there? It holds the circulation in lieu of the bonds, and in that way pays tax upon the bonds. This idea does not seem to have occurred to the gentleman from Massachusetts.

Mr. BUTLER, of Massachusetts. No; it never did.

Mr. PRICE. Well, that is honest. The gentleman says it never has occurred to him. So I was right in my impression. I presume the gentleman will now change his opinion in reference to this matter. The chairman of the Committee of Ways and Means, when interrogated as to the increase of taxation contemplated by this section, stated it at about four million dollars. My friend from New York [Mr. POMEROY] has demonstrated, as I think conclusively, that the amount of increase will be over six million dollars.

[Here the hammer fell.]

The question being taken on Mr. HOLMAN's amendment to the amendment, it was not agreed to.

Mr. BUTLER, of Massachusetts. I withdraw my amendment.

Mr. PIKE. Mr. Chairman, I renew the amendment of the gentleman from Massachusetts, [Mr. BUTLER,] for the purpose of making one or two statements in relation to the taxation of United States bonds. There seems to be a little difficulty about this matter of taxation. When I introduced the proposition this morning it was not in order because of some rule or other; and ninety-eight gentlemen, it seems, either because they were really opposed to it or for the laudable purpose of upholding the rule, concluded to vote against my proposition. It seems now that propositions relating to the banks are in order, because during the morning hour, or at some other time,

a resolution was, in some surreptitious way, adopted instructing the Committee of Ways and Means to embrace this subject in the bill. And yet it is complained that banks ought not to be taxed, even if in order, because the order itself ought not to have been adopted.

But I do not propose to discuss bank taxation just now. I wish to call the attention of the House to a more important matter, and as this House is at least three fourths Republican I desire to remind my party friends of the responsibility of the party legislation that falls upon them. I presented this amendment this morning, and it was based upon the reasons which I beg leave to submit to the House:

SEC. —. *And be it further enacted*, That upon all interest arising from the bonds of the United States there shall be levied, collected, and paid a duty of ten per cent. on the amount of such interest, and the Treasurer of the United States and such subordinate officers as shall be charged with the payment of such interest shall assess and collect the duty hereby levied.

The reasons why I propose this method of taxation are these:

1. It is the English method. We are exceedingly sensitive on this question of bond taxation, and while many demand an unfriendly and an unreasonable rate of taxation as compared with the taxation of other property, there are others who shrink from all taxation as if it were a species of repudiation. For the benefit of such I cite the English example, feeling satisfied that if we keep within the pale of the present English law on the subject we shall not lay ourselves liable to this charge.

The income statute of 5 Victoria is very elaborate, occupying a hundred and twenty pages, with minute details of different subjects of taxations and modes of collection.

Schedule B provides that upon incomes from landed estates—and from this source some of the largest English incomes are derived—there shall be levied "two and a half pence upon every twenty shillings of value."

Schedule C is as follows:

"Upon all profits arising from annuities, dividends, and shares of annuities payable to any person, body politic or corporate, company or society, whether corporate or not corporate, out of any public revenue, there shall be charged yearly for every twenty shillings of the amount thereof the sum of seven pence, without deduction."

During the Crimean war, in 1854, the tax was increased fifty per cent., and in 1855 it was again increased until it got to be sixteen pence on the debt and eleven and a half pence on landed income. After that war it fell back and was again increased last year in order to pay the expenses of the Abyssinian war. During the Napoleon wars the tax was two shillings in the pound or ten per cent. of the amount of interest. The mode of collection is provided in sections twenty-four to twenty-eight inclusive of the same act. Section twenty-four reads as follows:

"The governor and directors of the Bank of England shall be commissioners for executing this act, for the purpose of assessing and charging the duties hereby granted in respect of all annuities, dividends, and shares of annuities payable out of the revenue of the United Kingdom to any persons, corporations, or companies whatsoever, and which shall have been intrusted to said governor and company for payment."

The other sections make similar provisions in case of Bank of Ireland, South Sea Company, East India Company, and commissioners for the reduction of the public debt. The effect of these English statutes is:

1. A larger tax is assessed upon the holders of property in the public debt than upon the holders of landed estates.

2. Every holder of the debt, whether resident in Great Britain or not, is assessed.

3. As a portion of the public debt of England is in terminable annuities, to that extent the principal of the debt is taxed, and that whether the holder resides in Great Britain or abroad. Leon Levi, one of the most eminent of English writers on finance, mentions this speciality of British taxation.

4. As the payment of the interest of the debt is intrusted to the banks of England and Ireland, the East India and the South Sea Com-

panies, and the commissioners for the reduction of the debt, the effect of putting this tax into their hands to assess and collect is nearly the same as it would be in our case to deduct it from the coupons. I have in my amendment followed the idea of the British statute and charged the Treasurer with these duties.

5. Schedule C provides for payment of tax "without deduction." In case of other property it is provided by the statute that income up to a certain amount is not taxed. In our case all incomes under \$1,000 are not taxed. The English limit is somewhat less.

It is evident that my proposition is clearly within the English example. It should be remembered that the larger portion of the English debt is but three per cent., while almost the whole of ours is at six per cent. A tax of ten per cent., as in Pitt's time, on the English holder, would leave him but two and seven tenths for interest, while in our case it would leave five and two fifths—just double.

2. A proposition was made the other day by the gentleman from West Virginia [Mr. HUBBARD] to tax the debt one per cent. and collect by means of the officers of the internal revenue department. It was similar to the tax I proposed in December last and bears a near analogy to the taxation of State bonds under State authority. That proposition failed by a vote of 44 to 52, and, as in a fuller House it would probably share the same fate, instead of renewing it, I propose the English method, which has the advantage of certainty both in assessment and collection.

3. There is no other method of taxation except this I propose or the one rejected by the House. It has been suggested many times that the present bonds may by and by be taken up from the proceeds of new bonds which shall be expressly made taxable by State authority. But this cannot be done. Congress has no authority under the Constitution to issue such bonds, and should they do so, and the bonds be taxed, the Supreme Court would pronounce the tax unconstitutional.

In the case of *Van Allen vs. The Assessors*, 3 Wallace, 585, 1865, the court says:

"It is said Congress possesses no power to confer upon a State authority to be exercised which has been exclusively delegated to that body by the Constitution, and consequently that it cannot confer upon a State the sovereign right of taxation, nor is a State competent to receive a grant of any such power from Congress. We agree to this. But as it respects a subject-matter over which Congress and the States may exercise a concurrent power, but from the exercise of which Congress by reason of its paramount authority may exclude the States, there is no doubt Congress may withhold the exercise of that authority and leave the States free to act. An example of this relation existing between the Federal and State Governments is found in the pilot laws of the States and the health and quarantine laws. The power of taxation under the Constitution, as a general rule, and as has been repeatedly recognized in adjudged cases in this court, is a concurrent power. The qualifications of this rule are the exclusion of the States from the taxation of the means and instruments employed in the exercise of the functions of the Federal Government."

This opinion sets at rest all questions of local taxation of United States bonds, and as our Democratic friends have been in the habit of complaining that Congress in exempting these bonds from taxation has not dealt fairly by the towns and cities in which they are held, I beg them to notice that this opinion was not given by a Republican, nor by any of the recent Democratic converts on that distinguished bench, but by a member of the court whose Democracy has always been of the most unquestionable character, Judge Nelson, of New York.

It was entirely a work of supererogation for Congress to provide that the bonds should not be taxed by State authority, and as the clause in the loan law has caused so much discussion it was a blunder to insert it. The whole effect of it was to declare what the law was, and the result would have been the same had it been left out.

Several objections are made to this taxation.

1. It may be said that if this tax is levied and collected this year another and a larger one may be levied and collected next year. True. And the same thing may be said of every

other tax on the list. The English tax has ranged from seven pence to twenty-four pence in the pound. Ours may do the same. We tax the foreign and domestic holder of our railroad bonds five per cent. on his income and deduct it from the coupon. We have taxed him ten per cent. We have power to tax him twenty. The only assurance the holder of such property can have is in the good sense and honesty of the taxing power.

2. It is said the foreign Governments do not tax their own debts. The statement is entirely incorrect. I have already given the English example. The Governments on the Continent, so far as I have been able to learn, do the same thing. It is not infrequent to see complaints in the English newspapers of the amount of foreign taxation of Government stock held by British subjects. If we allow the property in our bonds to be untaxed we shall be alone among the Governments of the world. I doubt if any other Government, having a well-considered system of taxation, fails to tax this species of property.

3. Many of the holders of the bonds are people of moderate means. True again, but what of it? Our whole system of taxation, whether by means of a tariff or the internal revenue, gathers taxes from such people, and from them mainly. The largest holders of bonds in this country are banks, insurance offices, trust companies, and savings-banks. A considerable amount is held abroad, and the remainder is scattered everywhere. None of the very poor hold bonds, and although our tariff and internal taxation is obnoxious to the objection that it taxes anybody who consumes, whether of food or clothing, no matter how poor he is, this tax is not liable to that objection, because none who are really poor will be affected by it.

4. But it is said we agreed not to tax. That is not so. We not only did not agree not to tax, but we have always taxed. We commenced at one and one-half per cent. and went up to ten, and now have fallen back to five. The difficulty with previous and present taxation is, that we have failed to collect. The method I propose is not only for a reasonable tax, but it insures its collection.

5. If it be alleged that a part of the property is held abroad, and therefore should not be taxed here, I reply that might be a good objection if the attempt were to tax the principal. But it is not. It taxes only the income. If it be said that this distinction is shadowy, I reply that it is the distinction upon which the whole income tax rests, as decided by the Supreme Court in the celebrated carriage case. And while it may well be that we should not tax a bond held abroad any more than a ship owned abroad, we may tax the income if it be in this country, because it is earned under the protection of our laws and comes in its payment within our jurisdiction.

It is to be hoped that while we tax everything else higher in this country than under almost any other Government, we shall not place ourselves in the singular position of being nearly alone among the Governments of the earth in the exemption of the best property in the country from all Government burdens. The fourth of the Chicago resolutions very well says:

"It is due to the labor of the nation that taxation should be equalized and reduced as rapidly as national faith will permit."

If the amendment is adopted, the amount obtained from this source should be between twelve and thirteen million dollars.

Mr. BENTON. I desire to say in reply to the remark made by the gentleman awhile ago, that of those who voted to sustain the decision of the Chair, at least three fourths did so without intending to express any opinion on the gentleman's proposition, but because they believed the decision of the Chair to be correct.

Mr. WASHBURN, of Massachusetts. I desire to move an amendment in order to submit some remarks on this subject.

The CHAIRMAN. The pending amendment is to strike out certain words.

Mr. PIKE. I withdraw the amendment.

Mr. WASHBURN, of Massachusetts. I move to strike out "one fourth of one per cent." Mr. Chairman, I wish to call the attention of the chairman of the Committee of Ways and Means to this amendment. I want to strike out one fourth of one per cent. a month upon Government deposits. It was offered by me and considered in the Committee of the Whole on the state of the Union when this tax bill was up before. I hope it will now be adopted. The position of this question is this: by the internal revenue law you oblige every collector in the country to deposit the money he collects daily with the Government depositories. In order that the House may understand the matter I will state the circumstances in my own district. After we passed the law to which I have referred the collector of my district was bound to make his deposits daily in a United States depository. There was none, however, within twenty miles. He violated the law if he did not deposit his money there daily. That bank came to the conclusion to refuse to become a depository, saying the trouble of doing the business was not compensated for at all. The law provided the collector should make his deposits daily, and the bank was compelled to give him triplicate certificates of deposit, one for himself, one to be sent to Washington, and one to be preserved. All this made great trouble for the bank, and they refused the deposits, saying they were not worth the trouble.

The law, as I have said, provided that he should deposit the money he collected daily. I endeavored to get the bank there made a depository. It was done. The collector deposited daily, and the Treasury called for certificates daily. There was all the trouble of making out all these triplicate certificates. What is the anomaly of our position to-day? At the other end of the Capitol the chairman of the Committee on Finance has submitted a proposition to abolish all tax upon all deposits in banks, and urges it as in the highest interest of the country. Yet, sir, we are here now proposing to increase the tax upon deposits of banks, the deposits of every little bank throughout the country, when every collector is compelled daily to make his deposits in these banks. We are asked to tax the banks three per cent. upon these deposits. They are more trouble than they are worth. The gentleman says they are not obliged to receive them. What is the result? Pass this into law and you will wind up every deposit bank in the country. Then where are we? You have collectors. They make collections daily. What are you going to do with the money?

[Here the hammer fell.]

Mr. LOGAN. Mr. Chairman, I understand the argument of the gentleman from Massachusetts to be this: because the chairman of the Finance Committee of the Senate is against this tax therefore we ought not to pass it. We are here to act upon our own judgment. The chairman of the Committee on Finance has reported a great many bills which have failed to pass the Senate. Because he has reported a bill is no reason why we should adopt it. I think the House will agree to no such principle in our legislation. I see there is upon the Speaker's table one of his bills requiring contracts to be made in gold, making the poor in the country the pioneers in specie payment. I do not think we are bound by that. I am sure I am not. I introduced a proposition to tax deposits of the Government in national banks. I did it for the reason I gave at the time, that the Secretary of the Treasury was depositing Government funds in a few dead banks to enrich them, while the Government was paying them a percentage to bank upon. I stated then and state now, one of his pet banks in this city has had from six to thirty millions of Government money upon deposit for which no interest was paid, while the Government was paying interest at six per cent. upon its collaterals.

A MEMBER. What bank is it?

Mr. LOGAN. Examine his report carefully and you will find what bank it is. I do not wish to say what bank it is. These are facts that anybody can ascertain by examination.

A MEMBER. Give us the name.

Mr. LOGAN. Well, if you want to know, it is Jay Cooke & Co. Now, I say this manner of doing business is not to the advantage or the interest of the people of the country. If the people can make four per cent. in agricultural and mercantile business they are very well satisfied. But the banking interest of the country makes from twelve to eighteen per cent. Then if you undertake to tax the banks you raise a howl against it. I tell gentlemen there are other interests in this country than banking institutions, and you will learn it soon if you undertake to favor the banks to the detriment of the people, who have to pay the taxes. Now, sir, I do not desire to tax the banks out of existence by any means; but I do desire that they shall be taxed at a fair rate, so as to equalize the burden of taxation. Now, as to whether this portion of the bill was brought in fairly under the resolution is not the question before the House; but the question for us to determine is, is it right to tax the banks in this way or is it not? The bill came before the House properly, in my opinion, and if it is unsatisfactory to the House let us amend it until it is satisfactory, and tax this interest as well as others.

One word further. If the gentleman from Massachusetts [Mr. BUTLER] desires this banking provision to remain in the bill and to tax United States bonds also, I say to him I am now ready, and ever have been, to vote for taxing the bonds. I am as willing as he or anybody else to vote for that proposition. I am willing to vote for this amendment if it will secure the object, though I do not think it will. I am willing to vote to make it stronger. I am ready to tax United States bonds. I think this House ought to do it, and unless they do it I think they will make a great mistake. This idea that because contracts are made and money furnished to the Government with the understanding that the bonds should not be taxed is one which has no force in it in my estimation. Let us see. Some people have constitutional objections on this subject. I have none. I think we have a right to tax the bonds, both the interest and the principal, for the purpose of maintaining the Government. Entertaining these views, I am ready to vote to maintain this proposition in the bill, and to go further, if necessary, and vote for an additional proposition for the taxation of bonds.

[Here the hammer fell.]

Mr. KELLEY. I propose to amend the amendment of the gentleman from Massachusetts by inserting "three eighths" in place of "one fourth." Mr. Chairman, I hold in my hand a most instructive public document. It is the answer of the Secretary of the Treasury to my own resolution calling for a statement of the deposits in the banks, the amount per month, and the amount in each bank for seventeen consecutive months. We loaned the deposit banks nearly thirty million dollars throughout the whole period. We now loan them, it is said, an average of not more than \$23,000,000, but we let them have it in such sums that they can invest the bulk of it in gold-bearing bonds, and while holding them draw an average of from eight to ten per cent. currency interest. Now, I propose that they shall pay three eighths instead of one fourth of one per cent. tax on these deposits.

I turn to the report to which I have referred, (Ex. Doc. No. 87,) and take one single bank as an illustration. In the months of November and December, 1866, and January, February, and March, 1867, its deposits of public money amounted in the first month to \$2,806,638 19; in the next month to \$6,155,901; in the next to \$1,685,619 39; in the next to \$2,601,092 26; and in the next to \$2,306,461 24. That bank could have had about two million dollars of this money invested during these five months in six per cent. gold-bearing bonds. Now, I ask whether it would have been a hardship

that it should give to the Government three eighths of one per cent. a month of the interest on its own money, the specific produce of its own funds.

I request gentlemen to turn from month to month in this official statement, and ascertain the average deposit in the First National Bank of Cincinnati, which, I think, ranged from eight hundred thousand to a million dollars through the seventeen months; turn to the First and Fourth National Banks of New York, with deposits ranging, if my memory serves me, at about the same figures. Turn also to the First National Bank of Philadelphia, where I think the undisturbed balance ranged from four to five hundred thousand dollars during all that long period. But why point to special instances when the whole report will well repay scrutiny? It is an official list of the corporate beneficiaries of the Treasury, and abundantly illustrates the justice of my proposition. I propose by imposing a tax of three eighths of one per cent. per month on these deposits to compel the pet banks to give back to the Government some of the largesses that the Secretary of the Treasury is bestowing upon them. He has thus given them millions of dollars in gold. And in the name of justice and the people I demand that we tax these deposits, if gentlemen will not prohibit them by express statute. And let me just here say a word on the question of taxing bonds. Will it be wrong to tax bonds held by banks with the money of the Government? There is not a well-informed capitalist in the country who does not know that Great Britain always taxes investments of this kind, in some instances the principal, and in others the income derived therefrom. There is not an intelligent bondholder in the country that does not feel that while his amassed property is freed from taxation, while it is proposed to make the cigar-maker pay a license for the privilege of following his trade, and the tea, sugar, coffee, molasses, and other essentials of the life of the laborer are taxed, his exemption is arraying the masses of the people against the owners of realized riches, and the labor of the country against its capital. There is not an intelligent bondholder that will not feel relieved when you shall have included his bonds in the taxable property of the country, and have thus given him a guarantee against a popular excitement which might terminate in repudiation or a temporary suspension of the payment of interest and the depreciation of the value of his investments. I would do this, and increase the tax on private deposits also. The banks are to be ruined, say gentlemen. If they are so sorely oppressed why do not some of them in the East, where they most abound, surrender their charters, that the South and the West may get the banking facilities they need? I have not heard of one surrendering its charter. More than fifty per cent. of the banking capital of the country is located in New York and New England, and no one corporation dreads taxation, present or proposed, sufficiently to induce it to yield its charter to escape oppression, or give banking facilities to the South or West, which are suffering from the need of them.

[Here the hammer fell.]

Mr. SCHENCK. The first motion submitted by the gentleman from New York [Mr. POMEROY] being to strike out the whole section subsequent debate upon amendments may or may not result in something, and although it is not the regular order of proceeding, and cannot be done except by unanimous consent, I ask whether the committee will not be willing first to take the question whether this bank section is to stand or not, by having a vote upon the motion of the gentleman from New York, before we consume more time on questions of amendment. I ask unanimous consent that the vote be first taken as a test question.

Mr. INGERSOLL. I object.

Mr. PETERS. I object. If the amendment should not be adopted in the House, then the section could not be perfected.

The CHAIRMAN. It will be open to amend-

ment afterward if it should not be stricken out.

Mr. PETERS. The House may not concur in striking it out.

The CHAIRMAN. If the committee requires to strike it out it will be open to amendments to perfect it.

Mr. INGERSOLL. But if the committee strike it out there is an end of it.

The CHAIRMAN. The Chair understands the object of the chairman of the Committee of Ways and Means to be to get a test vote.

Mr. INGERSOLL. I withdraw the objection.

Mr. PETERS. I insist on the objection.

Mr. O'NEILL. I rise to oppose the amendment offered by my colleague from the fourth district, [Mr. KELLEY,] because, sir, I am in favor of letting the banks alone. I am in favor of keeping the law just as it is to-day, and I am in favor of letting this national banking system remain as it is, for I believe it is the best system that has ever been inaugurated in this country. I am not only opposed to the amendment, but I shall vote to strike out the section, and I hope the Committee of the Whole will not sustain the great increase, over six million dollars, proposed to be made to the now almost ruinous taxation drawn from these institutions. Why, what are we doing here to-day, and what have we been doing for the last year or two relative to banks? It seems to me that Congress wants to destroy this banking system, and all I have to say as to that is that if you will look at the State banks, State bank systems which have gone down, you may trace their destruction in a great degree to inordinate legislation, such as this appears to be, by those who are opposed to the banking interest and to the facilities which it affords.

Now, Mr. Chairman, who are benefited by banks? To be sure there are large investments of capital in banking organizations; that must be. But I can tell you—I suppose it is known, and I do not state it for information, for every gentleman present knows it already, or should know it—there are in this country something like two hundred and thirty thousand stockholders in the national banks. Who compose that large number? Not the great capitalists of the country exclusively, but the less wealthy men, those of moderate means. And I have known within my experience when there has been a financial crisis, and banks were shaking, the poorer men have still, to a great extent, preserved their stock, waiting for the time when the country would become more flourishing, having confidence that their investments would not be lost. It is certainly true that money invested in bank stock has been lost; but it is also true that to this day many of these institutions have stood the shock of monetary revulsions, and that those who owned their stock have found it yielding not only a profit, but have been secured in their investments, when capital placed in individual enterprises has frequently entirely disappeared.

There is invested in banks in this country about four hundred and twenty million dollars, or on an average some eighteen hundred dollars to each stockholder, and yet complaint is made by gentlemen on this floor that we are legislating for the rich to the destruction of the poorer classes of the community. Sir, we are putting upon these banks and upon those who are interested in them what they cannot bear, thus not protecting the property of either poor or rich men.

The chairman of the Committee on Banking and Currency [Mr. POMEROY] says that in his own county the tax now paid by the banks amounts to something like six or seven per cent. on their capital. I understand that in the city of New York the amount of tax, Government, State, and municipal, paid by the banks, is from six to ten per cent., and I know that in the State which I in part represent no city bank gets off with much less than six or eight per cent., while in the rural districts the taxes exacted of them will amount on an average to four or five per cent.



Now, in relation to the taxation of deposits of public moneys, I find, by referring to section forty-five of the act of June 3, 1864, that it is not merely a privilege given such banks as are designated by the Secretary of the Treasury to be depositories of public money to have in their vaults the Government deposits, but certain duties to be performed are imposed upon them as financial agents, and they are obliged to receive at par all the national currency bills, by whatever association issued, which have been paid in to the Government for internal revenue or for loans or stocks.

Why should we double the present tax upon the money deposited by individuals, making it one per cent. per annum instead of one half of one per cent., as now? And why should the circulation be taxed two per cent. per annum when, under the existing laws, the tax is but one per cent.?

The answer to me seems plain. There is a determination, under the plea of more revenue wanted, to distress these institutions, to take from them the means of carrying on a paying business for their stockholders, to put obstacles in the way of their success, and in the end, now that the time for coming to the aid of the Government when temporarily in want of funds has passed, to create distrust in them, to shake confidence in them, and thus bring them to ruin. I say again, let them alone. In general business transactions they are useful. They cannot easily violate the laws under which they are organized, and so long as they are accommodating the people and are carried on legitimately let them alone.

In regard to taxing the interest on Government bonds, that question has not come up regularly to-day. It was not in order when introduced by the gentleman from Maine, [Mr. PIKE.] But still it has been brought into the discussion. Now, wherever we have lawfully a right to tax anything, let us do so if there be necessity for it. But first let us see that we have the authority. Our duty is to carry out in full faith the promises of the Government to its creditors, and not hastily and without proper consideration and reflection to impose a tax where, by common consent and a fair understanding, perhaps, the subscriber to our loans took them in the belief that his coupons or interest were not to be taxed.

[Here the hammer fell.]

Mr. KELLEY. I will withdraw my amendment.

Mr. PETERS. I object to the withdrawal of the amendment; let it be voted upon and disposed of, so that other amendments may be offered.

The question was then taken upon the amendment of Mr. KELLEY, and it was not agreed to.

Mr. WILSON, of Iowa. I move to amend this section by reducing the rates of taxation proposed by it one half in all cases. This bill rests upon a most peculiar theory. It does not rest upon a theory of the Committee of Ways and Means, for it is the result of the action of this House. But the theory of the bill is this: that wherever you find an interest in the hands of men who are disposed to defraud the Government, and who refuse to pay the taxes levied upon them, then you must reduce their rate of taxation. But wherever you find an interest in the hands of men who pay their taxes fully, by whom the Government loses nothing, then you must increase their rate of taxation. You must relieve the scoundrel and put an additional tax upon the honest man. That is the theory upon which this bill is based. For weeks we have had discussions here denouncing the men engaged in the whisky frauds and in the tobacco frauds. And this bill relieves to a great extent those two interests of the taxation heretofore imposed upon them, and proposes to make up a part of the loss resulting thereby by putting a burdensome and ruinous tax upon probably the only interest in the country that pays every farthing of the tax imposed upon it.

Now, suppose this proposed increase of taxation is imposed upon the national banks.

Then the aggregate amount to be collected of those institutions by the local authorities and under Federal legislation will be \$25,000,000 per annum, one twelfth of the entire amount of capital represented by the circulation of the banks, or eight and one third per cent. per annum tax on the entire capital so represented. Now, in addition to that tax of eight and one third per cent. it will cost say three per cent. to meet the expenses of the banks. Then you have eleven and one third per cent. to begin with. I suppose gentlemen will not object to a bank declaring annual dividends of six per cent. If they do that, you have as the amount they must necessarily earn, without taking into account any losses, seventeen and one third per cent. upon their entire capital; that is the amount which by your legislation you compel these banks to earn. Does not every man here know that a system of legislation which drives the banking institutions of the country into a line of business compelling them, without taking account of losses, to earn seventeen and one third per cent. in ordinary times is a system which will bring disaster and ruin upon the whole banking interest of the country? Does any man believe that any banking system, whether national or State, can exist in this country, upon which a burden so onerous as that is placed?

But we are told that some banks are making enormous dividends, and we are also told that these banks are making enormous profits out of Government deposits, and two cases have been cited by the gentleman from Pennsylvania [Mr. KELLEY] in support of that statement. Now, that statement may be true. But does the gentleman from Pennsylvania propose to test the whole system and condemn every bank because the Secretary of the Treasury or somebody else may have made pets of two or three of these institutions in the country? Is the system to go under because an abuse of that kind may be found in the administration of the law?

Mr. KELLEY. Can the Secretary of the Treasury compel a bank to receive Government funds on deposit?

Mr. WILSON, of Iowa. I do not care what he can or cannot do. I am informed that these banks are compelled to receive the Government funds on deposit, when selected for that purpose. But be that as it may, the gentleman from Pennsylvania cited those two cases for the purpose of basing an argument upon them in support of this proposition. I object to having a general system run down by a few isolated cases of wrong that may be found in the administration of the law by the Secretary of the Treasury. Now, I object to this unparalleled legislation on the part of Congress, which must lead in a short time to the utter destruction of the present system of banking in this country. If it is followed up it must necessarily drive the banking business into the hands of private bankers, without there being any organized banking institutions under the laws of the States of the United States.

[Here the hammer fell.]

Mr. PETERS. I have an amendment I desire to offer, and unless some gentleman desires to be heard in opposition to the amendment of the gentleman from Iowa [Mr. WILSON] I hope the vote will be taken upon it.

Mr. WILSON, of Iowa. I withdraw the amendment.

Mr. PETERS. I move to amend section one hundred and eight by inserting, after the clause imposing a tax on deposits, the following:

But no bank shall be obliged to receive the deposits of public moneys.

If I understand the provisions of this section, a tax of three per cent. per annum is imposed on all public moneys deposited in these banks. Now, from my connection, as a director, with a national bank in my State, I know that these deposits are not worth to the bank one per cent. per annum.

Mr. INGERSOLL. To what bank does the gentleman refer?

Mr. PETERS. To the First National Bank

of Bangor, Maine. These deposits are received in dribblets, and are drawn by the Government in large sums, and without notice. If I understand the provision of the present law, it is mandatory upon the bank; it requires any national bank which may be selected as a public depository to receive these deposits. I do not think there can be any objection to my amendment, and, therefore, I will say no more in favor of it.

Mr. INGERSOLL. Will the gentleman allow me to correct a statement he has made?

Mr. PETERS. Yes; if I have made any which needs correction.

Mr. INGERSOLL. I find, upon examination, that the amount of Government deposits in the First National Bank of Bangor run from forty-seven thousand to sixty-one thousand dollars; the lowest point being \$27,000.

Mr. PETERS. I suppose that the gentleman will allow that I know as much about the matter as he does, or any statement he has got.

Mr. INGERSOLL. The Secretary of the Treasury says so.

Mr. PETERS. I do not care who says so; I think I understand what I am saying. As the Government draws these deposits without any notice, sometimes drawing the whole amount of the balance, or even overdrawing it, the matter is not regarded as worth anything to the banks, and the idea that these banks shall be compelled to receive these deposits whether they desire them or not, and be required to pay a high rate of interest upon them, I do not think is of any advantage to them.

Mr. PRUYN. No bank is now compelled to receive these deposits.

Mr. PETERS. There may be a doubt about the construction of the law. My construction is that the banks are compelled to receive these deposits. At least the law is doubtful, and my amendment will make it certain. I ask the Clerk to read section forty-five of the currency act.

The Clerk read as follows:

Sec. 45. All associations under this act, when designated for that purpose by the Secretary of the Treasury, shall be depositories of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositories of public money and financial agents of the Government, as may be required of them. And the Secretary of the Treasury shall require of the associations thus designated satisfactory security, by the deposit of United States bonds and otherwise, for the safe keeping and prompt payment of the public money deposited with them, and for the faithful performance of their duties as financial agents of the Government: *Provided*, That every association which shall be selected and designated as receiver or depository of the public money shall take and receive at par all of the national currency bills, by whatever association issued, which have been paid into the Government for internal revenue, as for loans on stocks.

Mr. SCHENCK. I ask unanimous consent that all further debate on this section be terminated in five minutes.

Mr. INGERSOLL. I wish to state that the figures I gave in reference to the Bangor national bank were for 1866. I find on examination the deposits in 1867 were only \$15,000.

Mr. PETERS. And they were worthless to the bank.

Mr. POMEROY. I wish, before debate is closed, to explain two amendments I have to offer.

Mr. BARNES. Is it intended to close debate on all the subjects of the section?

Mr. SCHENCK. Yes, sir.

Mr. BARNES. Then I object.

Mr. SCHENCK. I move that the committee rise for the purpose of closing debate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union, had, pursuant to the order of the House, had under consideration the Union generally, and particularly the special order, being House bill No. 1284, to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco,

and to amend the tax on banks, and had come to no resolution thereon.

Mr. SCHENCK. I move that the House resolve itself into the Committee of the Whole on the state of the Union, and pending that motion I move that all debate on the pending section of the tax bill be closed in ten minutes after its consideration shall be resumed.

Mr. WASHBURN, of Illinois. Say five minutes.

Mr. SCHENCK. Ten minutes is not too much.

The motion was agreed to.

Mr. GARFIELD. Is it in order to move in the House that the vote in committee shall be first on striking out the section? If that is carried it saves all necessity to debate and vote on amendments to the section.

The SPEAKER. The rules require the first vote shall be on perfecting the section and then on striking out; and as it would be an amendment of the rules it must lie over for one day.

RODERICK R. BUTLER.

Mr. BROOMALL. Before going into committee I move that Mr. BUTLER, of Tennessee, be sworn in. The bill in his case has passed and been signed by the President.

The SPEAKER. The Chair has a copy of the law, and Mr. BUTLER can now present himself and be sworn in.

Mr. RODERICK R. BUTLER, of Tennessee, then appeared and was sworn in, taking, as the law provided, the following oath:

I, Roderick R. Butler, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will faithfully discharge the duties of the office on which I am about to enter: so help me God.

INTERNAL TAX BILL.

Mr. SCHENCK. I now insist upon the regular order of business.

The House, under the order heretofore made, accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

The CHAIRMAN. The gentleman from New York [Mr. POMEROY] is entitled to the floor.

Mr. POMEROY. What I previously stated, Mr. Chairman, was in reference to striking out the section. I wish now to propose for the consideration of the committee one or two amendments which I think ought to be adopted. One is to strike out one fourth and insert one twelfth as the monthly tax on Government deposits, leaving it just as it is under the present law. The whole amount of Government deposits in all the banks, according to the last quarterly statement, is only some twenty-seven million dollars. The amount of individual deposits is \$528,000,000. Now, I will not stop to argue before any body of sensible men the practicability or even the possibility of any country bank in the United States buying fifty-two bonds at 114 or 115 to deposit as security, and then receiving deposits of money from the Government at three per cent. payable on call.

My next amendment is to strike out one sixth and insert one twelfth as the tax on circulation, leaving it the same as the law now stands. Now, what is the effect of this section as it stands? It is a deadly blow at the country banks and in the interest of the city banks, which hold the great mass of the deposits, and which have been making the largest dividends that have been made during the last three or four years. You ask the country banks to pay two per cent. on their circulation. The whole amount of circulation, according to the last quarterly statement, was \$295,000,000. The amount of deposits was almost six hundred million. Now, I propose to leave the tax on the circulation standing where it is. If the

Committee of Ways and Means want to hold this tax on deposits they may hold it. The effect of it will be to increase the tax on the banks \$2,643,000. I ask, in behalf of the small banks scattered through the country, that this House shall pause and consider before the tax of two per cent. is placed on their circulation.

[Here the hammer fell.]

Mr. BROOMALL. I am not prepared to say that the banks in the large cities would not bear an increased tax, but I am certain the banks in the country will not. According to the best calculation that can be made, the national, State, and local taxes upon these banks amount already to full six per cent. on their entire capital. An increase of tax upon the country banks will lead to the extension of an evil to which I wish to call the attention of the committee. It is already pressing hard upon the interest of the customers of the country banks. It is this: by the law as it now stands banks are allowed to pay interest upon deposits. Now, as money is worth more in the cities than the people of the country can afford to give for it, the result is, in order to keep up their present dividends, the country banks are obliged to loan to the city banks at such rate as they can get moneys that should go to the benefit of their country customers. Now, I want to have this evil broken up altogether by abolishing the law which allows any bank to pay interest on deposits.

One word with reference to the national deposits. I can corroborate the statement of the gentleman from Maine [Mr. PETERS] as to the profit on these deposits in the country banks. The First National Bank of Chester, Pennsylvania, was at one time a Government depository. After about a year's experience, in which no interest was paid on those deposits at all, instead of three per cent., as is now proposed, that bank was compelled to give up the Government deposits, because they were worth nothing to it. How much more would this be the case if a tax of three per cent. is put upon them? You would destroy all the public depositories in the country, and force all the receivers of public moneys to take their moneys to the great cities. It is a measure in the interest of the great cities and against the country, and I do not wonder that my colleague from the city of Philadelphia who first spoke [Mr. KELLER] should favor it. But for the very reason that he should be in favor of it, I, as the Representative of a country constituency, will oppose it. I want to keep the money where it belongs, in the banks of the neighborhood, for the benefit of the country customers of the banks, and not compel them, for the purpose of relieving themselves of this enormous load, to carry it all to the great cities.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. Mr. Chairman, I simply desire to say that if this section is not stricken out there will be an amendment offered which will be the present banking law, taxing as it now stands, with the proposition of the gentleman from Maine [Mr. PIKE] to tax the interest on the bonds ten per cent. added.

The CHAIRMAN. Debate is now closed on the section by order of the House.

The question was first on the amendment of Mr. PETERS; and being put, the amendment was agreed to.

The question recurred on striking out the clause as amended, as follows:

And a tax of one fourth of one per cent. each month on the average amount of all deposits of public money in their possession to the credit of the Treasurer or any disbursing officer of the United States, but no bank shall be obliged to receive deposits of public moneys.

The question was put; and there were—ayes 58, noes 48.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Messrs. POMEROY and INGERSOLL were appointed.

The committee divided; and the tellers reported—ayes 50, noes 60.

So the amendment was rejected.

MESSAGE FROM THE SENATE.

At this point the committee rose informally; and the Speaker having resumed the chair, a message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed the bill (H. R. No. 650) to amend the act of 3d March, 1865, providing for the construction of certain wagon-roads in Dakota Territory, with amendments, in which he was directed to ask the concurrence of the House.

The message further announced that the Senate had passed bills and a joint resolution of the following titles; in which he was directed to ask the concurrence of the House:

A bill (S. No. 553) to pay Stephen G. Montana, a citizen of Peru, an unpaid balance of money awarded to him by the mixed commission authorized by the convention of January 12, 1863, between the United States and Peru;

A bill (S. No. 478) to amend an act entitled "An act for the removal of the Sisseton, Warpeton, Medawakonton, and Warpeku bands of Sioux or Dakota Indians, and for the disposition of their lands in Minnesota and Dakota," approved March 3, 1863;

A bill (S. No. 394) to provide for the removal of the Center market, in the city of Washington, and for the erection of a market building in a more suitable locality;

A bill (S. No. 569) granting relief to Lois Clark;

A bill (S. No. 398) extending the Portage lake and Lake Superior ship-canal to Keweenaw bay, providing for the right of way, and making a grant of lands to aid in the continuance of said extension; and

A joint resolution (S. R. No. 107) in relation to the Maquokita river, in the State of Iowa.

The message further announced that the Senate had indefinitely postponed bills of the House of the following titles:

A bill (H. R. No. 1282) authorizing certain banks named therein to change their names; and

A bill (H. R. No. 1035) authorizing the Manufacturer's National Bank of New York to change its location.

ENROLLED JOINT RESOLUTIONS.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolutions of the following titles; when the Speaker signed the same:

Joint resolution (S. R. No. 129) donating certain captured ordnance for the completion of a monument to the memory of the late Major General John Sedgwick; and

Joint resolution (S. R. No. 143) for the relief of George W. Doty, a commander in the United States Navy on the retired list.

INTERNAL TAX BILL.

The Committee of the Whole on the state of the Union (Mr. BLAINE in the chair) then resumed the consideration of the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

The pending section was section one hundred and eight, in relation to the tax on banks.

Mr. RAUM. I move to amend this section by inserting the words "exceeding \$25,000" before the words "of all deposits of public money;" so that portion of the section will read:

A tax of one fourth of one per cent. each month on the average amount exceeding \$25,000 of all deposits of public money in their possession to the credit of the Treasurer or any disbursing officer of the United States.

The question was taken upon the amendment of Mr. RAUM; and, upon a division, there were—ayes 51, noes 50.

Before the result of the vote was announced, Mr. BARNES called for tellers.

Tellers were ordered; and Mr. BARNES and Mr. RAUM were appointed.

The committee again divided; and the tellers reported that there were—ayes seventy-two, noes not counted.

So the amendment was agreed to.

The question recurred upon the amendment of Mr. POMEROY, to strike out "one sixth" and insert "one twelfth" in the clause relating to the tax on circulation; so that portion of the section would read:

And a tax of one twelfth of one per cent, each month upon the average amount of circulation issued by any bank, association, corporation, company, or person.

The question was taken upon the amendment; and it was agreed to upon a division—ayes 62, noes 44.

Mr. HOLMAN. I move to amend this section by inserting after the clause relating to a tax upon circulation the following:

And a tax of sixteen and two thirds per cent, on the interest and interest coupons accruing on all bonds issued by the United States and held by such bank, and deposited with the Treasurer of the United States to secure the circulation of such bank and deposits.

Mr. POLAND. I rise to a point of order, that this amendment is not germane to the section under consideration.

The CHAIRMAN. The Chair overrules the point of order, and does so because this section relating to banks, an amendment proposing a tax upon the bonds held by banks, is germane and in order.

Mr. MAYNARD. The gentleman from Indiana [Mr. HOLMAN] will better accomplish his purpose by making the proposed tax twenty-five or thirty-three and a third per cent.

Mr. HOLMAN. If the gentleman is in favor of such a tax he can move it.

The question was taken upon the amendment of Mr. HOLMAN; and, upon a division, there were—ayes 49, noes 63.

Before the result of the vote was announced Mr. HOLMAN called for tellers.

Tellers were ordered; and Mr. WILSON, of Iowa, and Mr. HOLMAN were appointed.

The committee again divided; and the tellers reported that there were—ayes 55, noes 62.

So the amendment was not agreed to.

Mr. SCHENCK. The gentleman from Pennsylvania, [Mr. MORRELL,] who is not now in his seat, desired to have an amendment offered. I move, therefore, for him, to amend this section by adding to the clause relating to the tax on circulation the following:

*Provided*, That this shall not apply to any person, bank, association, company, or corporation which is in liquidation, and which has not issued any notes for circulation for a period of more than one year.

Mr. MAYNARD. I move to amend the amendment by striking out "one year" and inserting "two years."

The question was taken upon the amendment to the amendment; and it was not agreed to.

The question was then taken upon the amendment of Mr. SCHENCK; and, upon a division, there were—ayes 42, noes 43; no quorum voting.

Tellers were ordered; and Mr. GRISWOLD and Mr. MAYNARD were appointed.

The committee again divided; and the tellers reported that there were—ayes 64, noes 36.

So the amendment was agreed to.

Mr. BENJAMIN. I move to amend this section by striking out all after the enacting clause, and inserting in lieu thereof the following:

That there shall be levied, collected, and paid a tax of one fourth of one per cent, each month on the average amount of all deposits of public money in the possession of any bank, association, or person to the credit of the Treasurer or any collector or disbursing officer of the United States; which said bank, association, or person is within fifty miles of the Treasury or any Assistant Treasurer of the United States.

The amendment was not agreed to.

Mr. BUTLER, of Massachusetts. I now renew the amendment I offered some time since, to strike out of the clause relating to the tax on capital the words "beyond the average amount invested in United States bonds."

The question was taken upon the amendment of Mr. BUTLER, of Massachusetts; and, upon a division, there were—ayes 43, noes 58.

Before the result was announced,

Mr. BUTLER, of Massachusetts, called for tellers.

Tellers were ordered; and Mr. BUTLER, of

Massachusetts, and Mr. SCHENCK were appointed.

The committee again divided; and the tellers reported that there were—ayes 47, noes 54.

So the amendment was not agreed to.

Mr. BARNES. I move to amend this section by adding to it the following:

*Provided further*, That no public funds belonging to the United States shall be deposited in any bank where the treasury or assistant treasury exists within five miles of the collection office where such moneys are received, or for a longer period than seven days when the treasury or assistant treasury exists more than five miles and less than fifty miles from the place of collection.

The question was taken upon the amendment of Mr. BARNES; and, upon a division, there were—ayes 50, noes 49.

Before the result was announced, Mr. INGERSOLL called for tellers.

The question was taken upon ordering tellers; and there were twelve in the affirmative.

So (the affirmative not being one fifth of a quorum) tellers were not ordered.

The amendment was accordingly agreed to.

The question recurred upon the motion to strike out the section, as amended.

Mr. SCHENCK. As we are spending a great deal of time on these amendments, I ask that the vote be now taken upon the motion to strike out the entire section, of course reserving the right to move amendments afterward, if the motion to strike out should not be agreed to.

The question was taken upon the motion to strike out the section as amended; and, upon a division, there were—ayes 56, noes 56.

Mr. KELSEY called for tellers.

Tellers were ordered; and Mr. LOGAN and Mr. POMEROY were appointed.

The committee again divided; and the tellers reported that there were—ayes 66, noes 53.

So the motion to strike out the section was agreed to.

The next section was read, as follows:

SEC. 109. *And be it further enacted*, That every national banking association, State bank, or State banking association, corporation, company, or person engaged in the business of banking, shall pay a tax of ten per cent, on the amount of notes of any person, State bank, or State banking association, or of any State, town, city, or other municipal corporation, used for circulation and paid out by them, and such tax shall be assessed and paid in such manner as shall be prescribed by law, and by the Commissioner of Internal Revenue: *Provided*, That this section shall not apply to banks, persons, or institutions which are in liquidation and which have not issued any notes for circulation for a period of more than one year.

Mr. SCHENCK. I move to amend by striking out this section. It is simply a reenactment of the present law, and is not necessary to be inserted now that the preceding section has been struck out.

The amendment was agreed to.

The next section was read, as follows:

SEC. 110. *And be it further enacted*, That when any tax is imposed, and the mode or time of assessment or collection is not provided for, the same shall be established by regulation of the Commissioner of Internal Revenue; and the Commissioner is authorized to make all such regulations, not otherwise provided for, as may become necessary by reason of any change of law in relation to internal revenue made by this act.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to move to amend by inserting the following as a new section:

*And be it further enacted*, That in every case where it becomes necessary to ascertain the amount of annual or monthly sales made by any person on whom a special tax is imposed by this act to ascertain the excess of such sales above a given amount, such amounts and excesses shall be ascertained and returned under such regulations and in such form as shall be prescribed by the Commissioner of Internal Revenue; and in any case where the amount of the tax has been increased by this act above the amount before paid by any person in that behalf, such person, except retail dealers, shall be again assessed and pay the amount of such increase from the taking effect of this act; and in any case where the amount of sales or receipts has been understated or underestimated by any person, such person shall be again assessed for such deficiency, and shall be required to pay the same, with any penalty or penalties that may by law have accrued or be chargeable thereon.

Mr. ROBINSON. I rise to a point of order. Is that amendment germane to the bill?

The CHAIRMAN. It is. It refers to spe-

cial taxes "imposed by this act," and is therefore in order.

The amendment was agreed to.

Mr. BENJAMIN. I move to amend by inserting the following as an additional section:

*And be it further enacted*. That there shall be levied, collected, and paid a tax of one fourth of one per cent, each month on the average amount of all deposits of public money in their possession above the sum of \$25,000 to the credit of the Treasurer or any disbursing officer of the United States in any bank or banking association.

On the amendment there were—ayes 49, noes 63.

Mr. BENJAMIN. I call for tellers.

Tellers were not ordered.

So the amendment was not agreed to.

The next section was read, as follows:

SEC. 111. *And be it further enacted*, That where not otherwise distinctly expressed, or manifestly incompatible with the intent thereof, the word "person," as used in this act, shall be construed to mean and include a firm, partnership, association, company, or corporation, as well as a natural person; and words of the masculine gender, as applied to persons, to mean and include the feminine gender; and the singular number to mean and include the plural number; and the word "State" to mean and include a Territory and District of Columbia; and the word "county" to mean and include parish, district, or other equivalent territorial subdivision of a State.

No amendment was offered.

The next section was read, as follows:

SEC. 112. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed: *Provided*, That all the provisions of said acts shall be in force for levying and collecting all taxes properly assessed or liable to be assessed, or accruing under the provisions of former acts, the right to which has already accrued, or which may hereafter accrue, under said acts, and for maintaining and continuing liens, fines, penalties, and forfeitures incurred under and by virtue thereof. And for carrying out and completing all proceedings which have been already commenced or that may be commenced to enforce such fines, penalties, and forfeitures or criminal proceedings under said acts, and for the punishment of crimes of which any party shall be or has been found guilty: *And provided further*, That no office created by the said acts and continued by this act shall be vacated by reason of any provisions herein contained, but the officers heretofore appointed shall continue to hold the said offices without reappointment until their successors, or other officers to perform their duties, respectively, shall be appointed as provided in this act: *And provided further*, That whenever the duty imposed by any existing law shall cease in consequence of any limitation therein contained before the respective provisions of this act shall take effect, the same duty or tax shall be, and is hereby, continued until such provisions of this act shall take effect; and where any act is hereby repealed, no duty or tax imposed thereby shall be held to cease in consequence of such repeal until the respective corresponding provisions of this act shall take effect.

Mr. SCHENCK. I move that the committee rise and report the bill with the amendments.

Mr. BUTLER, of Massachusetts. I desire to offer an amendment.

The CHAIRMAN. An amendment takes precedence of the motion to rise.

Mr. BUTLER, of Massachusetts. I move to amend by inserting the following as a new section:

*And be it further enacted*, That there shall be levied, collected, and paid a tax of one half of one per cent, per annum upon the average amount of the deposits of money other than public money of the United States subject to check or draft, or represented by certificates of deposit or otherwise, whether payable on demand or at some future day, with any person, bank, association, company, or corporation engaged in the business of banking, and a tax of three per cent, per annum on the average amount of all deposits of public money in their possession to the credit of the United States; and a tax of one half of one per cent, per annum upon the capital of any bank, association, company, or corporation engaged in the business of banking beyond the average amount invested in United States bonds; and a tax of one per cent, per annum upon the average amount of circulation issued by any bank, association, corporation, company, or person, including as circulation all certified checks, and all notes and other obligations calculated or intended to circulate or be used as money, but not including that in the bank or redeemed and on deposit for said bank; and a true and accurate return of the amount of circulation, deposit, and capital, as aforesaid, and of the amount of notes of persons, State banks, and State banking associations, and of States, cities, towns, or other municipal corporations paid out by them during the previous month, shall be made and rendered monthly by each of them to the assessor of the district in which such bank, association, corporation, or company may be located, verified by the oath or affirmation of such person, or of the president or cashier of such bank, association, corporation, or company,



in such form and manner as may be prescribed by the Commissioner of Internal Revenue; and upon all interest arising from the bonds of the United States there shall be levied, collected, and paid a duty of ten per cent. on the amount of such interest; and the Treasurer of the United States, and such subordinate officers as shall be charged with the payment of said interest, shall assess and collect the duty hereby levied. And for any refusal or neglect to make or to render such return and pay the tax any such bank, association, corporation, company, or person so in default shall be subject to and pay a penalty of \$200 besides the additional penalty and forfeitures in other cases provided by law; and in default of such return the several amounts subject to tax shall be estimated by the assessor or assistant assessor on the best information he can obtain. And in the case of banks with branches, each branch shall make a separate return, and the tax shall be assessed on each severally. And so much of the forty-first section of the act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, approved June 3, 1864, as imposes a tax on the banks organized under that act, and requires returns to be made to the Treasurer of the United States, be, and is hereby, repealed: *Provided*, That the deposits in associations or companies known as provident institutions, savings-banks, savings funds, or savings institutions, having no capital stock and doing no other business than receiving deposits, to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the association or company, shall be exempt from tax on so much of their deposits as they have invested in securities of the United States, and on all deposits less than \$500 made in the name of any one person; and the returns required to be made by such provident institutions and savings-banks shall be provided on the first Monday of January and July of each year, in such form and manner as may be prescribed by the Commissioner of Internal Revenue.

Mr. POMEROY. I rise to a point of order, that section one hundred and eight and one hundred and nine having been struck out by the committee there is nothing now in the bill to which this amendment is germane.

The CHAIRMAN. The Chair sustains the point of order. The amendment could not be in order except as an amendment to the section which has just been read—section one hundred and twelve; and it is not germane to that section.

Mr. SCHENCK. I ask unanimous consent that section fifty, relating to export warehouses, be struck out.

Mr. RAUM. That is the section which I moved to strike out the other day; but neither the gentleman from Ohio [Mr. SCHENCK] nor the Committee of the Whole appeared to understand the propriety of the proposition.

The CHAIRMAN. If there be no objection, section fifty will be struck out.

There was no objection.

Mr. BUTLER, of Massachusetts. I desire to know whether my amendment is not in order, being offered as an independent section?

The CHAIRMAN. It is not now in order to go back to amend sections in regard to whisky, tobacco, and cigars, and the tax on banks.

Mr. BUTLER, of Massachusetts. I want to add to the bill an additional section.

The CHAIRMAN. It must be in the nature of an amendment to the last section, although a separate section.

Mr. HOOPER, of Massachusetts. It is not now pertinent to move a tax on United States bonds, as that has been stricken out.

Mr. SCHENCK. I withdraw the amendment to the fiftieth section.

Mr. JENCKES. Is it in order to move in the House an additional section to provide for the collection of the penalties imposed by this bill?

The CHAIRMAN. The Chair cannot decide that, as he is only chairman of the committee.

Mr. BENTON. I move the following as an additional section:

*And be it further enacted*, That where it shall appear to the collector of any district within the United States, upon oath or otherwise, to his satisfaction, that any instrument in writing has not been duly stamped at the time of making or issuing the same, by reason of accident, mistake, inadvertence, or urgent necessity, and without any willful design to defraud the United States of the stamp, or to evade or delay the payment thereof, then and in such case, if such instrument, or if the original be lost a copy thereof duly certified by the officer having charge of any records in which such original is required to be recorded, or, if not recorded, otherwise duly proven to the satisfaction of the collector, shall, within twelve

calendar months after the 1st day of August, 1868, or within twelve calendar months after the making or issuing thereof, be brought to the said collector of revenue to be stamped, and the stamp tax chargeable thereon shall be paid, it shall be lawful for the said collector to remit the penalty aforesaid and to cause such instrument to be duly stamped.

Mr. SCHENCK. I rise to a point of order on that. It is not germane.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SCHENCK. I move that the committee rise and report the bill.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had, pursuant to the order of the House, had under consideration the Union generally, and particularly the special order, being House bill No. 1284, to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, and had directed him to report the same back to the House with sundry amendments.

Mr. SCHENCK took the floor.

Mr. JUDD. I wish the gentleman to yield to me to offer the following amendment:

*SEC. — And be it further enacted*, That from and after the passage of this act sauces, sirups, prepared mustard, jams, and jellies shall be exempt from internal tax.

Mr. SCHENCK. That is not germane.

Objection was made.

Mr. ROBINSON. I hope the gentleman will let me offer the following:

*SEC. — And be it further enacted*, That no stamp under the internal revenue law shall be required on any certificate or ticket given by pawnbroker's for the article pledged.

Mr. SCHENCK. I cannot yield for that amendment.

Mr. HOOPER, of Massachusetts. I offer the following as an additional section:

*SEC. — And be it further enacted*, That on and after the 1st day of October next so much of all acts and parts of acts as imposes an internal revenue tax on "illuminating or other mineral oils," and on the product of the distillation, redistillation, or refining of crude petroleum, or of crude oil produced by a single distillation of coal, shale, peat, asphaltum, or other bituminous substances, together with all the provisions relating to returns, assessment, warehousing, and bonding, and all other provisions providing for determining the quantity of mineral oil distilled to secure the payment of the tax thereon, be, and the same are hereby, repealed.

Mr. SCHENCK. I am willing there shall be a vote on that.

The SPEAKER. Propositions for taxes and changes upon the people must have their first consideration in the Committee of the Whole, but reduction of taxes, it has been held, is in order in the House without reference to the committee.

Mr. UPSON. I make the point of order that the amendment is not germane to the bill.

The SPEAKER. The Chair sustains that point of order.

Mr. ALLISON. I ask consent to go back to page 7, section six, line ten, and strike out "ten" and insert "five;" so that it will read: "but in no case shall such bond be for a less sum than \$5,000." It was the understanding of the committee that that amendment should be offered. It is in relation to the bonds given by distillers.

No objection being made, the amendment was regarded as pending.

Mr. SCHENCK. That is a little amendment that I promised to allow the gentleman from Kentucky in Committee of the Whole to have a vote upon in the House.

Mr. INGERSOLL. I would like to have the same opportunity.

Mr. SCHENCK. The committee gave unanimous consent to the gentleman from Kentucky. Several members objected.

Mr. SCHENCK. Mr. Speaker, I have prepared a section, which, if it be ruled in order, the committee would be very glad to have inserted as an amendment. It relates to the fees of gaugers. We find that they are enormous, running up as high as \$56,000 a year.

I therefore move to add to the bill the following section:

*SEC. — And be it further enacted*, That the fees for gauging oil shall be in all districts where the average amount gauged monthly exceeds five thousand barrels, one cent and a half per barrel; and in districts where the amount gauged is five thousand barrels or less the fee shall be three cents per barrel.

Mr. SPALDING. I object.

The SPEAKER. The Chair does not know whether there is anything in the bill in regard to gauging fees; nor can the Chair tell whether this is a reduction or not.

Mr. SCHENCK. It is a reduction. The fees are enormous.

Mr. BLAINE. They make sometimes \$50,000 a year for doing little or nothing.

The SPEAKER. The Chair is informed by the Clerk that the bill does cover a provision in regard to gauging. The rule will be read on page 185 of the Digest.

The Clerk read as follows:

"No sum or quantum of tax or duty voted by a Committee of the Whole House shall be increased in the House until the motion or proposition for such increase shall be first discussed and voted in a Committee of the Whole House."

The SPEAKER. If this is a reduction it is in order.

Mr. ROBINSON. In some cases this would be an increase.

Mr. BLAINE. It could not by possibility be an increase in any case.

Mr. SCHENCK. A very large reduction.

Mr. ROBINSON. I contend it would be a large increase in some districts where the business is small.

Mr. BLAINE. Unless three cents a barrel is more than one quarter of a cent a gallon it would be no increase.

Mr. GETZ. What is right I believe is always in order. [Laughter.]

The SPEAKER. Not under parliamentary law. [Laughter.]

Mr. FARNSWORTH. I insist there is nothing in the bill on the subject of gauging of oil; it is the gauging of liquors.

Mr. SCHENCK. Very well; then I call the previous question on the bill and amendments. I admit there is nothing in the bill to which the amendment relates.

The SPEAKER. The Chair is informed there is nothing in the bill in regard to the gauging of oil.

Mr. JENCKES. I wish to ask a question.

The SPEAKER. The gentleman from Ohio has resumed his seat after demanding the previous question. It is not in order, therefore, to ask him a question.

The previous question was seconded and the main question ordered.

The Clerk then read the amendments reported from the Committee of the Whole on the state of the Union, and all those upon which no separate votes were called for were regarded as agreed to.

Mr. GARFIELD called for a separate vote on the following amendment:

Page 3, section two, line sixteen, after the word "weighing" insert the words "and marking;" so that the clause will read:

And he may prescribe rules and regulations to secure a uniform and correct system of inspection, weighing, and marking, and gauging of spirits.

The question was taken, and the amendment was agreed to.

Mr. MAYNARD demanded a separate vote on the following amendment:

Add to section three the following:

And no mash, wort, or wash, fit for distillation or the production of spirits or alcohol, shall be made or fermented in any building or on any premises other than a distillery duly authorized according to law; and no mash, wort, or wash so made and fermented shall be sold or removed from any distillery before being distilled, and no person other than an authorized distiller shall by distillation, or by any other process, separate the alcoholic spirits from any fermented mash, wort, or wash, and no person shall use spirits or alcohol, or any vapor of alcoholic spirits, in manufacturing vinegar or any other article, or in any process of manufacture whatever, unless the spirits or alcohol so used shall have been produced in an authorized distillery and the tax thereon paid, or shall have been lawfully imported into the United States and the duties thereon paid. Any person who shall violate any of the provisions of this section

shall be fined for every offense not less than \$500 nor more than \$5,000, and imprisoned for not less than six months nor more than two years.

The question was taken, and the amendment was agreed to.

Mr. INGERSOLL called for a separate vote on the following amendment:

Page 15, section twelve, lines five to eight inclusive, strike out "one hundred bushels of grain or less in twenty-four hours, five dollars per day; and three dollars per day for every hundred bushels of such capacity in excess of one hundred bushels in twenty-four hours," and insert in lieu thereof: "Twenty bushels of grain or less in twenty-four hours, two dollars per day; and two dollars per day for every twenty bushels of such capacity in excess of twenty bushels in twenty-four hours;" so that the section, as amended, will read as follows:

That there shall be assessed and collected monthly, in the same manner as other taxes are assessed and collected, on every registered distillery having an aggregate capacity for mashing and fermenting twenty bushels of grain or less in twenty-four hours, two dollars per day; and two dollars per day for every twenty bushels of such capacity in excess of twenty bushels in twenty-four hours.

The question was taken, and the amendment was agreed to.

Mr. INGERSOLL demanded a separate vote on the following amendment:

Page 87, after line seventy-five, insert the following:

*Provided, That a like tax of four dollars on each barrel, containing forty gallons of proof-spirits to the barrel, shall be assessed and collected from the owner of any distilled spirits which may be in any bonded warehouse at the date of the taking effect of this act, to be paid whenever the same shall be withdrawn from such warehouse under the provisions of the sixty-second section of this act.*

The question was taken, and the amendment was agreed to.

Mr. SCHENCK called for a separate vote on the following amendment:

Page 114, section ninety-two, line two, after the word "packed," insert "by the manufacturer;" and in line five, strike out the word "person" and insert "cigar manufacturer;" so that the section will read: *Sec. 91. And be it further enacted, That from and after the passage of this act all cigars shall be packed by the manufacturer in boxes, not before used for that purpose, containing not more, respectively, than twenty-five, fifty, one hundred, two hundred and fifty, or five hundred cigars each; and any cigar manufacturer who shall sell or offer for sale, or deliver or offer to deliver, any cigars in any other form, &c.*

Mr. SCHENCK. I think it was a mistake to put in those words. The intention is to punish any person who does this.

The question was taken, and the amendment was disagreed to.

Mr. PETERS. I move that the House do now adjourn.

The question was taken, and the House refused to adjourn.

Mr. BUTLER, of Massachusetts, called for a separate vote on the following amendment:

Strike out section one hundred and eight, as follows:

*Sec. 108. And be it further enacted, That there shall be levied, collected, and paid a tax of one twelfth of one per cent, each month upon the average amount of the deposits of money, other than public money of the United States, subject to payment by check or draft, or represented by certificates of deposit or otherwise, whether payable on demand or at some future day, with any person, bank, association, company, or corporation engaged in the business of banking, and a tax of one fourth of one per cent, each month on the average amount of all deposits of public money in their possession to the credit of the Treasurer or any disbursing officer of the United States; and a tax of one twenty fourth of one per cent, each month, as aforesaid, upon the capital of any bank, association, company, or corporation engaged in the business of banking, and on the capital employed by any person in the business of banking, beyond the average amount invested in United States bonds; and a tax of one sixth of one per cent, each month upon the average amount of circulation issued by any bank, association, corporation, company, or person, including as circulation all certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the vault of the bank, or redeemed and on deposit for said bank. And a true and accurate return of the amount of circulation, of deposit, and of capital, as aforesaid, and of the amount of notes of persons, State banks, and State banking associations, and of States, cities, towns, or other municipal corporations, paid out by them for the previous month, shall be made and rendered monthly by each of them to the assessor of the district in which such bank, association, corporation, or company may be located, or in which such person has his place of business, with a declaration annexed thereto, verified by the oath or affirmation of such person, or of the president or cashier of such bank, association, corporation, or*

*company, in such form and manner as may be prescribed by the Commissioner of Internal Revenue. And for any refusal or neglect to make or to render such return and pay the tax any such bank, association, corporation, company, or person so in default shall be subject to and pay a penalty of \$200, besides the additional penalty and forfeitures in other cases provided by law; and in default of such return the several amounts subject to tax shall be estimated by the assessor or assistant assessor on the best information he can obtain. And in the case of banks with branches each branch shall make a separate return, and the tax shall be assessed on each severally. And so much of the forty-first section of the act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, as imposes a tax on the banks organized under that act, and requires returns to be made to the Treasurer of the United States, be, and is hereby, repealed: *Provided, That the deposits in associations or companies known as provident institutions, savings-banks, savings funds, or savings institutions, having no capital stock and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the association or company, shall be exempt from tax on so much of their deposits as they have invested in securities of the United States, and on all deposits less than \$500 made in the name of any one person; and the returns required to be made by such provident institutions and savings-banks shall be made on the first Monday of January and July of each year, in such form and manner as may be prescribed by the Commissioner of Internal Revenue.**

Mr. BUTLER, of Massachusetts. I demand the yeas and nays on that.

The yeas and nays were ordered.

Mr. BLAINE. I rise to make a parliamentary inquiry. If the House refuses to concur in striking out, in what form is the section then presented to the House?

The SPEAKER. It remains as originally reported by the Committee of Ways and Means in the printed bill.

The Clerk commenced the roll-call.

Mr. BUTLER, of Massachusetts. I desire that the rule may be read which prohibits any gentleman from voting on a question in which he is interested, so that gentlemen here who are directors of banks and owners of bank stock shall not vote—

The SPEAKER. The roll-call cannot be interrupted to read a rule or for any other business.

Mr. INGERSOLL. Is not that one of the standing rules of the House?

The SPEAKER. Every member is supposed to understand the rules of the House.

The call of the roll was then completed; and the question was decided in the negative—yeas 57, nays 71, not voting 66; as follows:

YEAS—Messrs. Ames, Arnell, Bailey, Baldwin, Banks, Blair, Calkins, Cornell, Covode, Delano, Dixon, Briggs, Eckley, Eliot, Ferriss, Garfield, Griswold, Halsey, Higby, Hooper, Hotchkiss, Chester D. Hubbard, Jencks, Julian, Kelsey, Ketcham, Marvin, Mercur, Moorhead, Myers, O'Neill, Orth, Paine, Peters, Pike, Platts, Poland, Pomeroy, Price, Pruyn, Robertson, Sawyer, Smith, Spalding, Starkweather, Stewart, Trowbridge, Twichell, Upson, Van Aernam, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Thomas Williams, James E. Wilson, and Stephen F. Wilson—57.

NAYS—Messrs. Adams, Allison, Delos R. Ashley, Axtell, Baker, Barnes, Beatty, Beck, Benjamin, Benton, Bingham, Blaine, Boies, Boutwell, Buckland, Benjamin F. Butler, Roderick R. Butler, Cary, Cobb, Coburn, Cullom, Donnelly, Eggleston, Eli, Eldridge, Farnsworth, Ferry, Getz, Gravely, Grover, Harding, Hawkins, Hinds, Holman, Ingersoll, Johnson, Jones, Judd, Knott, Koontz, George V. Lawrence, William Lawrence, Logan, Longridge, Marshall, Maynard, McClurg, McCormick, McKee, Mullins, Niblack, Phelps, Pike, Polster, Raum, Robinson, Roets, Schenck, Scofield, Shanks, Aaron F. Stevens, Stokes, Taft, Taylor, Thomas, Lawrence S. Trimble, Van Aukon, Ward, Welker, William Williams, and Woodward—71.

NOT VOTING—Messrs. Anderson, Archer, James M. Ashley, Barnum, Beaman, Boyer, Brownell, Brooks, Broomall, Burr, Chandler, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Dawes, Dodge, Fields, Finney, Fox, Glossbrenner, Golladay, Haight, Hill, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Kelley, Kerr, Kitchen, Laffin, Lincoln, Loan, Lynch, Mallory, McCarthy, McCullough, Miller, Moore, Morrell, Morrissey, Mungen, Newcomb, Nicholson, Nunn, Perham, Randall, Ross, Sessy, Shellabarger, Sitgreaves, Thaddeus Stevens, Stone, Taber, John Trimble, Bart Van Horn, Robert T. Van Horn, Van Trump, Elihu B. Washburne, John T. Wilson, Wood, Woodbridge, and Woodward—66.

So the amendment of the Committee of the Whole was not agreed to.

During the call of the roll,

Mr. TROWBRIDGE said: My colleague,

Mr. BEAMAN, is still detained from the House by sickness.

Mr. BUTLER, of Massachusetts, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next amendment from the Committee of the Whole was to strike out section one hundred and nine, as follows:

*Sec. 109. And be it further enacted, That every national banking association, State bank, or State banking association, corporation, company, or person engaged in the business of banking, shall pay a tax of ten per cent, on the amount of notes of any person, State bank, or State banking association, or of any State, town, city, or other municipal corporation, used for circulation and paid out by them, and such tax shall be assessed and paid in such manner as shall be prescribed by law, and by the Commissioner of Internal Revenue: *Provided, That this section shall not apply to banks, persons, or institutions which are in liquidation and which have not issued any notes for circulation for a period of more than one year.**

Mr. SCHENCK. I ask for a separate vote on that amendment; and as section one hundred and eight has not been stricken out I hope this will not be.

The question was then taken; and the amendment reported from the Committee of the Whole was not agreed to.

The last amendment reported from the Committee of the Whole was to insert after section one hundred and ten the following:

*Sec. —. And be it further enacted, That in every case where it becomes necessary to ascertain the amount of annual or monthly sales made by any person on whom a special tax is imposed by this act or to ascertain the excess of such sales above a given amount, such amounts and excesses shall be ascertained and returned under such regulations and in such form as shall be prescribed by the Commissioner of Internal Revenue; and in any case where the amount of the tax has been increased by this act above the amount before paid by any person in that behalf, such person, except retail dealers, shall be again assessed and pay the amount of such increase from the taking effect of this act; and in any case where the amount of sales or receipts has been understated or underestimated by any person, such person shall be again assessed for such deficiency, and shall be required to pay the same, with any penalty or penalties that may by law have accrued or be chargeable thereon.*

Mr. ALLISON. I hope that amendment will be agreed to.

The amendment was agreed to.

Mr. ALLISON. I ask unanimous consent that the section just adopted be transferred to another portion of the bill, where it properly belongs, immediately after section sixty-five, in relation to special taxes.

No objection was made.

The bill, as amended, was then ordered to be engrossed and read a third time.

Mr. SCHENCK. I call the previous question.

The previous question was seconded and the main question ordered.

The bill was then read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. PILE. I move that the House now adjourn.

The motion was agreed to; and accordingly (at five o'clock and fifteen minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BROOMALL: The petition of citizens of Delaware county, Pennsylvania, praying for an appropriation to improve St. Mary's river and St. Mary's falls canal.

Also, the petition of Samuel Gardner, jr., asking the extension of a patent.

By Mr. ELIOT: The petition of M. E. Owens, of Oktobeha county, Mississippi, praying for relief from political disabilities.

By Mr. HOOPER, of Massachusetts: The petition of citizens of Boston interested in the copper and iron mining interest of Lake Superior, for an appropriation to improve the navigation of St. Mary's river and the St. Mary's falls ship-canal.

By Mr. JUDD: Papers in case of James R. Stanley, asking return of commutation money.

By Mr. MYERS: The petition of 72 employés in bookbinderies of Philadelphia, Pennsylvania, representing that the industry of the country is paralyzed for want of efficient protection against the cheaper labor of foreign countries, and the manufacturing population cannot continue to pay prices for provisions even approaching those now realized by agriculturists while exposed to competition with the Old World under the existing tariff; that much of the distress now prevalent and increasing daily would be relieved by the passage of the tariff bill which failed in the House of Representatives March, 1867; and praying that Congress will resume consideration of that measure, and enact it into a law at the earliest practicable moment.

Also, a memorial of 155 citizens and firms of Philadelphia, Pennsylvania, engaged in the manufacture of carpets, leather, chemicals, cotton goods, brass, &c., complaining of the want of efficient protection against the cheaper labor and capital of foreign countries, and praying that Congress will resume consideration of the tariff bill which failed in the House March, 1867, and enact it into a law at the earliest practicable moment.

By Mr. ROBINSON: The petition of citizens of New York against the proposed tax on low-priced cigars, known as cheroots.

By Mr. STOKES: The petition of Lane & Bartlett, for compensation for cotton used in fortifications at Nashville, Tennessee, in 1862.

#### IN SENATE.

SATURDAY, June 27, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, communicating information in relation to the Tabeguache band of Utah Indians; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. STEWART. I hold in my hand a communication from the Second Assistant Postmaster General with reference to a resolution I offered on the 13th instant, calling for information in relation to a contract with Pratt, Arnold, and Walbridge, for carrying the mail on route No. 15703, from Boise City, Idaho, to Humboldt City, Nevada. The whole matter has been adjusted, and I move that the letter be received as an answer to the resolution. There is no occasion for any further response. I move that it lie on the table.

The PRESIDENT *pro tempore*. It will be laid on the table, no objection being made.

#### PETITIONS AND MEMORIALS.

Mr. HOWARD presented the petition of Robert Lebby, M. D., of Charleston, South Carolina, praying a removal of the civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. CONKLING presented a petition of citizens of Steuben county, New York, praying the passage of the bill granting pension to the soldiers of the war of 1812; which was ordered to lie on the table.

Mr. SUMNER. I present a petition, extensively signed by the merchants of Boston—indeed, I recognize nearly every house engaged in foreign commerce—in which they represent that great injury has been done to our commerce and revenue by the prohibition of the export of distilled spirits, and they request that some legislation be immediately taken to grant

the relief needed. I understand that the tax bill, which has already passed the House of Representatives, does not supply the remedy that is asked; and the bill that passed the other day, owing to an amendment made in the Senate, is practically inoperative; indeed, it only applies to a very narrow class of cases. I have seen certain gentlemen who are interested in this matter, and they set forth the great hardship of the existing legislation and the importance of being able to make this export to the coast of Africa, in order to sustain a very important branch of commerce, important on that coast, and which is equally important at home here. A cargo to the coast of Africa has not only New England rum, but various other articles which are contributed by different parts of the country, and all of that commerce is disturbed unless the merchants can have the privilege of this export. I make this statement in order to call the attention of my friend, the Senator from Ohio, [Mr. SHERMAN,] to the subject when he takes the tax bill under consideration, and I move the reference of this petition to the Committee on Finance.

The motion was agreed to.

Mr. YATES. I present the petition of W. W. Thornton, P. W. Barclay, and others, citizens of Cairo, Illinois, praying Congress to pass a general law regulating the construction of bridges over the Ohio and Mississippi rivers, so that they shall not obstruct nor make dangerous the navigation thereof, and remonstrating against railroad bridges across the Mississippi and Ohio rivers with spans of less than five hundred feet. I desire to remark that these petitioners live at the confluence of the Ohio and Mississippi rivers, and are the first business men in that section of the country. They understand the subject about which they talk; and this question of the size and length and span of bridges across the Ohio and Mississippi rivers is becoming one of the utmost importance throughout the Northwest and in the South, in the Gulf States, and the attention of the committee is earnestly requested to the prayer of the petitioners. I move the reference of the petition to the Committee on Post Offices and Post Roads.

The motion was agreed to.

Mr. WILLIAMS presented a petition of citizens of Philadelphia, Pennsylvania, praying that pensions be granted to the soldiers and sailors and the widows of soldiers and sailors of the war of 1812; which was referred to the Committee on Pensions.

#### REPORTS OF COMMITTEES.

Mr. CRAGIN, from the Committee on Naval Affairs, to whom was referred the following petitions and resolutions, asked to be discharged from their further consideration; which was agreed to:

Three petitions of citizens of the United States, praying the passage of a law making eight hours a legal day's work in all Government workshops;

Two resolutions of the Mechanics' State Council of California, in favor of the passage of the bill fixing eight hours as a legal day's work; and

A resolution adopted at a meeting of the Machinists' and Blacksmiths' Union No. 4, of Indiana, asking the passage of the bill making eight hours a day's work for Government employés.

He also, from the same committee, to whom was referred the bill (H. R. No. 1158) for the relief of Commander John L. Davis, reported it without amendment.

Mr. DRAKE. The Committee on Naval Affairs, to whom was referred the petition of Oscar Bullus, commodore on the retired list, have had the same under consideration, and have instructed me to report a bill supplementary to the act to amend certain acts in relation to the Navy, passed March 2, 1867, which will cover his case and that of other officers in like position with himself. A written report accompanies the bill, and I ask that it be printed.

The bill (S. No. 574) supplementary to the act to amend certain acts in relation to the Navy, passed March 2, 1867, was read and passed to a second reading, and the report was ordered to be printed.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 869) prescribing an oath of office to be taken by persons from whom legal disabilities shall have been removed, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 300) to enable admiralty courts to decree salvage to incorporations formed for wrecking or salvage purposes, moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 378) organizing a commission for the examination and decision of claims in the War Department, moved its indefinite postponement; which was agreed to.

Mr. TRUMBULL. The same committee, to whom were referred the petitions of grand and petit jurors of the circuit court of the United States for the circuit and district of Massachusetts, praying for additional compensation to the jurors, have instructed me to report them back, and ask to be discharged from their further consideration.

Mr. SUMNER. May I appeal to the Senator in regard to that last matter? I do it because there have been several petitions that have been presented on that subject. I presented some only a week or a fortnight ago, and I think some at an earlier date in the session. The petition that I presented a short time ago was sustained by the recommendations of both the judges, the marshal, and the district attorney; and it did seem to me on its face to present a hardship. I did not see how the jurors could be expected to go there and perform that service when they did not receive a compensation on which they could live at the ordinary hotels. I ask the Senator from Illinois whether the subject was so fully considered by the committee that they cannot be induced to supply any remedy?

Mr. TRUMBULL. This is no new subject before the Committee on the Judiciary. It has been before the committee, I think, ever since I have been a member of it. The Senator from Massachusetts must be aware that it is not the jurors of Massachusetts alone who are to be affected, but any law on this subject involves a change of compensation to all the jurors throughout the United States. In many of the States it is a matter of convenience for gentlemen to be on the jury in the United States courts, especially to those who like to visit the seat of Government. The courts generally meet about the time the Legislatures assemble in the State capitals. In most of the States there is but one place of holding a United States court, and it is considered rather a favor, in many instances, to be summoned on the United States juries. It is probable that the present pay is too small; I think myself it ought to be more than two dollars a day. I think that an inadequate compensation; but the committee thought that it was not advisable at this time to undertake to change the general law on that subject. The same complaint comes from district attorneys and also from the marshals; but the committee have been against any increase of compensation at this time. A year ago we did undertake to recommend an increase of the salaries of the judges, and that prevailed, and I was in hopes that that would be the end of that controversy; but we find even at the present session that some of the judges are still dissatisfied, although their salaries were raised at that time.

The PRESIDENT *pro tempore*. Reports of committees are still in order.

Mr. MORRILL, of Vermont, from the Committee on Claims, to whom was referred the petition of Hannah Tyndall, Hannah Lewis, and Susan Phipic, praying that the widows and orphans of seamen, marines, sailors, and others, serving in the Navy of the United



States may receive the same benefit as now enjoyed by relatives of soldiers as regards bounty, asked to be discharged from its further consideration, and that it be referred to the Committee on Naval Affairs; which was agreed to.

Mr. WILLEY, from the Committee on Claims, to whom was referred the bill (S. No. 202) for the relief of Captain Phelps Paine, of Illinois, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Joseph Segar, submitted a report, accompanied by a bill (S. No. 575) for the relief of Joseph Segar. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. WILLEY. The same committee, to whom was referred the petition of Robert Gibson, for relief for damages done to his farm by United States troops in 1864 and 1865, have had the same under consideration, and have come to a conclusion to report a bill granting relief to some extent; but the petitioner desires that no report should be made, and asks leave, under these circumstances, to withdraw his papers.

The PRESIDENT *pro tempore*. The Senator moves that the committee be discharged, and that the petitioner have leave to withdraw his papers.

The motion was agreed to.

#### PERSONAL EXPLANATION.

Mr. SHERMAN. In the debate the other day on the proposition to regulate the publication of advertisements in this District, I stated that the Clerk of the House of Representatives was authorized to select, and did select, the two newspapers in which the advertisements were published. The Clerk calls my attention to the fact that in this I not only misunderstood the law, but, perhaps, did injustice to him. I find by reference to the law—and at his request I make the statement—that these papers were selected as the two newspapers in the city of Washington having the largest circulation, as required by law, and he had no part in the selection of these papers except in compliance with the law. I make this statement at his request. I certainly did not wish to do that very excellent officer any injustice.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, in which it requested the concurrence of the Senate.

#### BILLS INTRODUCED.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 576) relating to the district courts of Utah Territory; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. CRAGIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 577) to amend an act entitled "An act to exempt certain manufacturers from internal tax, and for other purposes," approved March 31, 1868; which was read twice by its title, and referred to the Committee on Finance.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 578) to regulate trade between the United States and the British North American provinces, and for other purposes; which was read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 579) to establish a new land district in the State of Nebraska; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

#### WILLIAM HENRY OTIS.

Mr. HENDRICKS. I ask the consent of the Senate to take up Senate bill No. 279, for the relief of Mr. Otis, of Indiana.

Mr. HOWARD. I ask the Senator from Indiana whether it is likely that this bill will occupy much time in discussion?

Mr. HENDRICKS. I think not.

Mr. HOWARD. I am very anxious this morning to call up Senate bill No. 256, relating to the Central Branch Union Pacific Railroad.

Mr. CONNESS. I also desire to give notice that I am very anxious to call up a bill this morning.

Mr. HOWARD. I will make no objection to taking up the bill of the Senator from Indiana, if he assures us that it will consume very little time.

Mr. HENDRICKS. I cannot make any assurance as to what other gentlemen may think of this bill. The Committee on Claims thought it all right, and made a unanimous report in its favor, and I think it is right. That is all I can say.

Mr. HOWARD. Very well.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 279) for the relief of William Henry Otis, the pending question being on concurring in the amendment read as in Committee of the Whole, to strike out all of the bill after the enacting clause and in lieu of the words stricken out to insert the following:

That the Secretary of the Treasury be, and he is hereby, authorized and required to pay, or cause to be paid, to William Henry Otis, of Indianapolis, in the State of Indiana, the sum of \$3,000, in full consideration for growing crop, fencing, and fruit trees destroyed upon, and damages done by the United States troops in and to forty-five and a half acres of land belonging to the said William Henry Otis, known as Camp Burnside, lying and being adjacent to the said city of Indianapolis, while said land was occupied by said troops from the year 1861 to the year 1865.

Mr. HENDRICKS. There is a report accompanying the bill, which will make a better explanation than anything I can say, and therefore I call for its reading.

The PRESIDENT *pro tempore*. The report will be read.

Mr. HENDRICKS. I beg pardon. I had forgotten that the report was read before. It need not be read again.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

The amendment was concurred in.

Mr. CONKLING. I have no recollection of the report having been read before. There was a statement made about this bill, and at the request of the Senator from Illinois it went over. I should like to hear the report read to know how much it involves.

The Chief Clerk commenced the reading of the report of the Committee on Claims, and after having proceeded for some time,

Mr. CONKLING. If this report is being read, as I believe it is, on my motion, I desire to say that I have looked at the bill, and I see that the amount is reduced from over twenty thousand dollars to \$3,000, and as there is some relief in that I do not insist on the further reading of the report. I shall vote against the bill, but inasmuch as about eighteen thousand dollars has been deducted I am willing to waive the reading of the report.

Mr. CAMERON. I should like to know how much we are giving for these damages. What is the sum appropriated?

The CHIEF CLERK. Three thousand dollars.

Mr. HOWARD. The claim was nearly thirty thousand dollars.

Mr. CAMERON. And he got over four thousand dollars rent, I understand.

Mr. HOWARD. The authorities paid him about four thousand dollars for rent.

Mr. CAMERON. I do not see that we ought to pay any more.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. SHERMAN. I ask that the tax bill be taken up, read a first and second time, and referred to the Committee on Finance.

The bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, was read twice by its title.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on Finance.

Mr. SHERMAN. The Committee on Finance have already been considering the bill while it was under consideration in the House. I ask leave of the Senate for the members of the Committee on Finance to sit during the sessions of the Senate.

Leave was granted.

#### ADMISSION OF COLORADO.

Mr. YATES. I move that the Senate proceed to the consideration of Senate bill No. 11.

Mr. CONNESS. What is that?

Mr. YATES. The Colorado bill. We can get a vote upon it now, I think.

Mr. CONNESS. It will be impossible to dispose of that now.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. N. 11) to admit the State of Colorado into the Union, the pending question being on the amendment reported by the Committee on Territories, to add the following as an additional section:

SEC. 4. And be it further enacted, That it shall be the duty of the acting Governor of the Territory of Colorado, as soon as practicable after the passage of this act, by proclamation, to call a general election to choose members of the State Legislature and State officers to fill the places of all whose terms of office shall have expired under said constitution. Said election shall be held, and the legal voters registered under the laws now in force in said Territory. The time for holding said election shall be fixed not more than ninety days after the passage of this act, and the time for the meeting of the Legislature at the capital of the Territory and the installation of the State officers shall be fixed not more than thirty days after said election, by said proclamation. All the officers so elected shall continue in office until the commencement of the next constitutional term of their offices respectively; *Provided*, That before being admitted to representation in Congress, the Legislature so elected and convened shall ratify the amendment to the Constitution of the United States known as the fourteenth article; and also the fundamental conditions herein imposed. And in case said Legislature shall refuse to ratify said amendment and said conditions, this act shall be null and void.

Mr. DAVIS. I move to amend the bill by striking out all after the enacting clause and inserting a substitute, which I ask to have read. I will state that my amendment consists of a proposition to pass an enabling act to authorize the Territories of Montana and Colorado to form constitutions and State governments preparatory to their admission as States into the Union.

The PRESIDENT *pro tempore*. The Chair will state that the amendment of the Committee being to perfect the original bill is first in order. After that the substitute can be proposed. The question now is on agreeing to the amendment of the Committee on Territories.

Mr. HOWE. I ask the Senator from Illinois if he will not consent to amend the amendment so as to provide that this act shall be void either in case the Legislature refuses to ratify the amendment, or in case the Legislature refuses to be admitted or to vote for admission; so as to take the sense of this Legislature that is to be elected upon the question of admission.

Mr. SUMNER. I will suggest to my friend to put that in legislative shape.

Mr. HOWE. I move to insert after the word "conditions," in the last line of the amendment, the words "or shall decide against being admitted into the Union;" so that the clause will read:

And in case said Legislature shall refuse to ratify said amendment and said conditions, or shall decide against being admitted into the Union, this act shall be null and void.

The amendment to the amendment was agreed to.

Mr. FERRY. I desire to propose an amendment, to come in at the end of the fourth section reported by the committee, following immediately, I suppose, the amendment just made. That came in at the end of the fourth section.

Mr. HOWE. Not at the end, but near the end.

Mr. FERRY. I propose to insert at the end of the fourth section reported by the committee the following:

And the said Legislature shall proceed according to law to the election of Senators in Congress, if said Legislature shall decide in favor of the admission of said State.

Mr. RAMSEY. That is all right.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the committee, as amended.

Mr. DAVIS. I will offer an amendment to the amendment. After the word "constitution," at the end of the sixth line, I move to insert the words "and which Legislature shall on assembling proceed to choose two Senators to the Congress of the United States."

Mr. YATES. That is already provided for by an amendment adopted a few minutes ago.

Mr. DAVIS. It must have been adopted while I was out. I withdraw my amendment.

Mr. CONKLING. As I have not been able to see this amendment as it stands, I wish to inquire of the honorable Senator having the measure in charge whether there is any provision, in case the amendment and bill be adopted, by which the people are to be enabled to vote upon the constitution or to amend it if they wish?

Mr. YATES. If the Senator will examine the last section—section four—he will see that it is the duty of the Governor of the Territory by proclamation to call a general election of members of the State Legislature and State officers, and this Legislature, when chosen, is to decide the question whether the State shall be admitted upon the constitution heretofore adopted, and also upon the question of ratifying the constitutional amendment and the conditions attached to this bill. If they decide in favor of the constitutional amendment and those conditions they come in, and if not, this act is null and void.

Mr. CONKLING. It seems, then, Mr. President, that no provision is made for the adoption or rejection of this constitution, or its amendment if the people see fit to amend it. I am aware that there might be a good practical objection, if the bill were in such form as to provide for the admission without the holding of a popular election, to requiring a vote upon the constitution; but I submit to the honorable Senator, as the bill already requires a popular election to choose a Legislature, what is the objection to inserting a provision that at that same election the people shall agree or disagree to this constitution? I know there is a conflict of understanding as to what has happened in the Territory touching the ratification of the constitution. It is asserted on the one hand that a vote was given recently which constructively affirmed in some way the wish of the majority to adopt this constitution and be admitted under it, but that is stoutly denied on the other side. Now, I suggest that to avoid all difficulty, as there is to be an election by the people preceding the admission, the constitution itself ought to be submitted at that election. Why not? It will make no added trouble; and I inquire of the Senator whether any objection occurs to him to submitting the constitution to the popular vote.

Mr. YATES. I will state to the Senator that there seems to be no objection in the Territory on the part of any person or any party to the constitution. The only question is whether the Territory should be admitted as a State. There was some objection on the part of some persons to the members-elect to the Senate taking their seats, but that objection is now obviated by the amendment which has

been offered by the Senator from Connecticut. There is no sort of objection to the constitution, and I believe the Senator himself would agree to it. In all the communications before the committee, and in the various petitions and memorials, there has been no objection whatever to the constitution. By the bill as we have now amended it the whole question is submitted to the Legislature, and they can come in or not as they see proper, adopting the conditions proposed and the constitutional amendment. That is the sum and substance of the amendment we propose.

Mr. CONKLING. Conceding the force of what the Senator says, I beg to make a suggestion to him. I have read this constitution; I have no fault to find with it on its face. It is true, however, that a constitution was formed regularly in the Territory of Colorado, which constitution was rejected by the people. In saying this I state what is a historical fact. A constitution was framed in the Territory by a regularly constituted authority for that purpose, and that constitution was rejected by the popular vote of the Territory. Then another constitution, to wit: this constitution was framed irregularly by a convention informal, if you please—I do not wish to apply too strong a word—a convention not assembled in accordance with the usage and the understanding applicable to such things. Now, the Senator says that nobody in the Territory objects to it. That is a mixed question, a question composed of a great many uncertain elements. All sorts of representations have been made as to the particular questions upon which votes were taken and the particular understandings which prevailed during those elections. I submit to the Senate that if this constitution is satisfactory to the people of the Territory of all parties, and if a popular election is to be held with a view to choosing a Legislature that is to select Senators and to adopt fundamental compacts, it would be very harmless, and I think wise, to include in that election a vote on the constitution. It would be a mere *pro forma* vote, as the Senator supposes; but considering the inception of this constitution, considering the want of regularity in its origin, I think it would round out this proceeding and make it much more complete to allow the popular vote to be taken upon the constitution than to assume that it is satisfactory to the people of the Territory.

As I have said, I would not press the suggestion if it involved the holding of an election for that purpose alone; nor should I be induced to do it if it involved delay; but I beg Senators again to remember that it involves neither. It makes no added trouble. It is nothing but the provision of an additional ballot-box, at which the same electors shall deposit their votes upon this question as well as upon the others, which, at the election already provided for, are to be submitted.

Mr. CAMERON. I desire to say to the Senator from New York that I do not think the amendment of the committee as it is printed provides for a general election. It provides only for an election to fill up vacancies.

Mr. FERRY. But as some of them are State officers it will require a general election.

Mr. CAMERON. It may have been gotten up for that purpose, but if so, it does not meet the object. The provision is:

That it shall be the duty of the acting Governor of the Territory of Colorado as soon as practicable after the passage of this act, by proclamation, to call a general election to choose members of the State Legislature and State officers to fill the places of all whose terms of office shall have expired under said constitution.

I propose to strike out the words "to fill the places of all whose terms of office shall have expired," and then it will be a general election in truth and in fact. It is not now. Under the clause as it stands you would bring together the members of the Legislature that were elected three years ago, if they could be found. Of course some of them will be gone. Some are living in distant States probably. But they will be brought together for a special purpose

under this act. Surely the chairman of the Committee on Territories did not intend to pass a section which would have one meaning to himself and one to the public. Therefore I take it for granted that he will agree with me in striking out the words I have indicated.

Mr. YATES. I see no objection to that.

Mr. NYE. Mr. President, I shall take but a moment in what I have to say, and what I have to say on this subject will be directly in reply to the Senator from New York. This constitution was adopted in Colorado in the manner prescribed by itself; and if this State be admitted it will have been declared to be the fundamental law there for some time past. If the position of the Senator from New York is sustained we are not here admitting a State, but we are passing an enabling act providing that if they will make a constitution or readopt this they can come in. I submit to the Senator that that is trifling with the interests of the people of Colorado. It is not worth while every time they have a general election in that State, this year or any other year, to require them to readopt their constitution. It is adopted.

We have no objection to the amendment proposed by the Senator from Pennsylvania, so as to provide for a general election of all the State officers and members of the Legislature. But I submit that when this State has been hanging here for two years it comes with an ill grace from the friends of this measure now to insist that the constitution shall be referred back to the people. It seems to me entirely useless, and it is applying a rule to the admission of Colorado that has been applied to no other State which has been admitted into this Union, that the people shall readopt their constitution.

Mr. WILSON. I believe one o'clock has arrived.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is regularly before the Senate, being the bill (S. No. 529) establishing rules and articles for the government of the armies of the United States.

Mr. WILSON. If the chairman of the Committee on Territories thinks he can get a vote in a few minutes on the Colorado bill, I will allow the regular order to be passed by informally for that purpose.

The PRESIDENT *pro tempore*. The unfinished business of yesterday will be passed over informally, there being no objection.

Mr. TIPTON. I wish to say in regard to the question raised by the Senator from New York, that indirectly, and indeed for all practical purposes directly, the question of the constitution will be involved in any vote that shall be taken for the election of members of the Legislature. If there are two opinions in the State upon that question those who are in favor of admission with this constitution will vote for members of the Legislature to carry out that view. If there is a party in Colorado opposed to the constitution they will vote for members of the Legislature to carry out their views. Therefore the question in regard to the constitution will be sufficiently brought before the people by any vote which shall be taken in Colorado for the election of members of the Legislature.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania [Mr. CAMERON] to the amendment of the committee.

Mr. CAMERON. I understood the chairman of the Committee on Territories to accept that amendment.

The PRESIDENT *pro tempore*. It cannot be accepted without a vote of the Senate.

Mr. YATES. I make no objection to it.

The amendment to the amendment was agreed to.

Mr. CONKLING. I do not understand precisely how the question is now before the Senate. Is it on the amendment of the committee as amended?

The PRESIDENT *pro tempore*. Yes, sir.

Mr. CONKLING. Then I beg to submit

to the chairman of the committee this amendment, to be inserted after the word "Territory," in the eighth line:

And at said election there shall be submitted the question of the ratification of the constitution proposed by said Territory.

The effect of the amendment will be simply to provide that there shall be an additional ballot-box, into which anybody opposed to this constitution may put his ballot, and those in favor of it may put theirs.

The Senator from Nevada [Mr. NYE] says that I am turning this bill to admit a State into an enabling act. Why, sir, the other day I remember that the Senator from Kansas, [Mr. POMEROY,] when this bill came up, was for having it passed in the morning hour at once, because, he said, it was now nothing but an enabling act; it was not an act to admit a State. I supposed that was the view; that the purpose was to remit the question to the vote of the people. If that is not the view, I submit to the Senator why should we displace the Senators who have been elected; why provide for the election of two new Senators; why provide for displacing the Legislature? We have just stricken out the clause confining the election to the filling of vacancies, so as to provide for a new organization, an election *de novo*. That all goes, I submit, on the theory that this is an enabling act in substance, and assumes that the people are to vote upon the question.

Mr. HOWE. Will the Senator allow me to make a suggestion?

Mr. CONKLING. Certainly.

Mr. HOWE. If I understand the bill, the only difference between it and the bill as the Senator would have it is that as the bill stands the decision of the State is to be taken from the action of a Legislature chosen for the express purpose of deciding this question, passing upon the constitution, and saying whether they will be admitted under it or not; and as he would have the bill it would be a direct vote of the people. That would be, perhaps, the most convenient, but the Legislature is required to be convened for another purpose, and I think it would be safe enough to take the decision of the Legislature on the question.

Mr. CONKLING. Will my honorable friend point out to me the language of the bill upon which he relies, which says that the Legislature shall pass upon that question?

Mr. HOWE. The amendment I had incorporated, which provides that if the Legislature decides against the admission the act shall be void.

Mr. CONKLING. Let us hear that amendment.

The CHIEF CLERK. The amendment referred to was to insert after the word "conditions," in the twenty-third line, the words "or shall decide against being admitted into the Union;" so as to make the clause read:

And in case said Legislature shall refuse to ratify said amendment and said condition, or shall decide against being admitted into the Union, this act shall be null and void.

Mr. CONKLING. I have two suggestions to make in answer to the Senator from Wisconsin. In the first place, it seems to me it is a novelty and an innovation to commit to a Legislature, and to withdraw from the people, the province of passing upon the ratification of a constitution. I think that of itself would be ground broad enough to base my amendment upon.

Mr. NYE. Let me ask the Senator from New York a question. Is it not a novel thing, after a State has adopted a constitution, to call upon them to readopt it, directly or indirectly? I submit that it has never been prescribed by any other State.

Mr. CONKLING. No, Mr. President, I answer the Senator. I think it is not an unusual thing in this case to do precisely what he suggests. I did not intend to go into this debate at any length; but I can give the Senator many reasons why it is not only not unusual, but a very important thing. In the first place, there is a great deal of controversy as

to how this constitution was adopted. It is entirely clear that it was irregular in its inception. The Senator and I do not differ about that. That in itself is enough to distinguish it from ordinary cases.

Mr. NYE. I should like to ask the Senator what irregularity there was about it.

Mr. CONKLING. The irregularity was that it had its origin in a body which had no authority whatever in the ordinary mode to propose a constitution. I will not say, as my honorable friend from Vermont [Mr. MORRILL] did the other day, that it was proposed by a mob; because, although that is a good word, it is a word of various definitions. It was not proposed by a mob in the sense of a turbulent assembly, but it was proposed by an assemblage of men who voluntarily assembled, who assembled of their own motion, in other words, and that warrants me in saying that it was irregular. There can be no doubt about that. But, to go a little further, let me answer the Senator by asking him a question. If this is the ordinary case of a constitution ratified, why is it that we are passing such an act as this? Why do we propose that Senators shall be elected afresh, when this so-called State has elected Senators already? Why do we propose that another Legislature shall be elected, and that we shall submit it to that Legislature, as the Senator from Wisconsin proposes in his amendment?

Mr. NYE. I should like to answer the Senator right there. It is because just such technical objections as the Senator from New York is now urging have kept these people out for more than two years. When this measure was up before my honorable friend on my left [Mr. SUMNER] would not go for it because the word "white" was in the constitution, and away it went back to Colorado to be submitted to the Legislature to strike that out; and now that that is stricken out—

Mr. EDMUNDS. I want to ask my friend from Nevada if he was for passing it with the word "white" in it either? Is that the style of constitution that he approves of?

Mr. NYE. If the honorable Senator from Vermont has ever done me the honor to read the remarks I made on that occasion his answer will be found there. I suppose that I am as orthodox on that question as the honorable Senator from Vermont; but at that time there were not half a dozen black people there, and the enabling act did not require such a provision, and they had complied with the law.

Mr. EDMUNDS. The enabling act did require it.

Mr. NYE. The enabling act did not require it, if my recollection is correct.

Mr. SUMNER. The enabling act requires the constitution to be republican.

Mr. EDMUNDS. It required it to be based on the Declaration of Independence.

Mr. NYE. This is the third time that I have attempted to get a word in edgewise in relation to this bill; and as often as I do there are at least three on me at once to choke me down. I rose for the purpose of answering the Senator from New York, who appealed to me to know why it was we were sending this back. I answer, it is because these technical objections, such as he now raises, have been urged against this bill in every form and in every stage. Now, sir, I desire to repeat what I said the other day: I care not how a constitution is made so be it that the people of a State ratify it, the Senator and everybody else is estopped from calling it irregular. The moment that the people ratify the proceedings of any body of men and adopt it as their constitution the hour for irregularity is past; it is the voice of the people. Michigan was admitted in the same way.

Mr. CONKLING. I wish now to cite against the Senator the Senator himself. He says this act is here because, for three years just such objections as I now make have prevailed in the two Houses of Congress. Then I cite against him the action of Congress for the last three years to validate the objections I make. I

know they have prevailed for three years; and I am free to say I hope they will prevail for three years longer unless they are removed. It is a very easy thing, in phrase, to belittle an objection by calling it technical. It is very easy to baptize an objection or an argument technical; but that does not change its character. Now, let me submit to the Senator from Nevada the question whether these are technical objections. In the first place is the origin of this constitution as I have suggested it to him? In the next place is the votes which have been given *pro* and *con*. In the Territory since—I do not go into them, because we should differ as to what they meant and how they are to be interpreted. In the next place is the fact that Congress has changed this constitution since it was adopted, or since it was argued that it was adopted by anybody, changed it materially and essentially, and now propose conditions with regard to it. Why, sir, these are not technical objections. They are objections which go to the essence of the constitution itself, and they go to prove just as much the propriety of submitting it to the popular vote, as they do of submitting it to the Legislature.

There is another suggestion I wish to make to the honorable Senator from Wisconsin, [Mr. HOWE,] in answer to the suggestion he made to me. By his amendment the Legislature is confined simply to the question whether they are in favor of coming in at this time under this constitution or not. That is not the question that I propose to submit to the people at all. The people might be in favor of coming in, but they might disapprove of this constitution, and vote it down, and take steps to have another constitution with which they would be content; whereas, under the provision of the Senator from Wisconsin, they are not remitted to any remedy. If the Legislature say, "We do not choose to come in under this constitution," what then? That is the only question upon which they have passed. But to the people I propose to submit the simple question of the constitution itself, divested of the question whether they wish to come in or to remain out. It is a very different question. Therefore, as the bill stands, we propose, in the first place, to commit to the Legislature a question which I submit peculiarly and universally in practice and in philosophy belongs to the people themselves; and then, in the second place, we propose to submit that question in such a form that the Legislature is not to pass upon the constitution independently, but simply to pass upon the question whether at this time, and under this constitution, and upon these terms, they are in favor of coming into the Union or not.

Now, Mr. President, in the face of these objections, I cannot hear so far any argument whatever against this suggestion. Confessedly, the objection made by the Senator from Connecticut is removed. Here is to be an election generally, so general that everything in that State is to depend upon it, including the admission of the State and the election of Senators as well as of the officers of the State. Thus a full vote is to be brought out; and now the objection is to allowing the inspectors of election to provide an additional box in which the electors may cast their votes upon this changed and modified constitution.

Mr. HOWARD. I rise to obtain some information from the honorable Senator from New York, if he has no objection. He proposes that in the election contemplated in the bill the electors of the Territory shall pass directly upon the question of ratifying the present Constitution. My first question is, whether it is not an ascertained fact that the majority of the people of that Territory have already passed in the affirmative upon that question?

Mr. CONKLING. No, sir; I answer the Senator just there, if he will allow me.

Mr. HOWARD. If the majority of the people have so voted, what good is likely to result from the resubmission of the same question to the people of the Territory? Was there



any fraud in the first ratification? Was there any just ground of complaint in regard to it? And if there was not, why repeat the same ceremony?

Mr. CONKLING. Now, Mr. President, I deny both propositions submitted by the Senator. Why? He asks me, in the first place, is it not true that this constitution, as an ascertained fact, has been approved by the people? I say no, sir. And for the reason, among others, that the constitution is changed, essentially changed, by the propositions of this bill. Therefore, the people have never passed, and have never had the opportunity to pass, upon the question. I think that is sufficient to dispose of that.

Mr. HOWARD. I have no reference to the terms and conditions contained in this bill which is now before us. I do not regard them as a part of the Constitution about which I made the inquiry. I mean the instrument that was drawn up by the convention, regular or irregular, which was afterward submitted as an instrument to be known as the fundamental law or the constitution of this State to the people of the Territory. Was not that instrument adopted by a majority of the electors?

Mr. CONKLING. No, sir; that was not adopted by a majority of the electors. Now, I beg to tell the Senator why I make that reply that may sound rather bold to him. We are told that there are seventy-five thousand people in this Territory. That is argued strenuously and insisted upon. There were only six thousand people who cast a vote *pro* or *con*. on this constitution. Now, take the ratio of Vermont, where I believe the voters are in the smallest proportion to the whole population; and what proportion of the electors voted upon this constitution, I ask the honorable Senator? Take the ratio as we know it exists in the new Territories, and particularly in the mining Territories, where voters, adult males, will average one to three, and if there are seventy-five thousand people there, or sixty thousand, or fifty thousand, I ask the Senator where he supposes a majority of the electors were, when these six thousand were voting *pro* and *con*. on this constitution? One of the difficult things in this case, one of the troubles to get over, is the fact that these votes have been so small, diminished incessantly for the last four or five years. In 1861, I think was the year, nine thousand six hundred votes were cast; and from that time the vote has decreased, never reaching ten thousand since but once, and then it fell short of the vote cast six years ago. That is a fact which we cannot wink so hard as not to see. It appears on the papers and is conceded on both sides; and therefore I say to the Senator, when he appeals to this vote of six thousand on the constitution he starts a very ugly question, which runs into matters of fact about which there is a controversy. That controversy I want to cure and put an end to by allowing the people now to pass upon their constitution.

Mr. HOWARD. If the Senator will allow me—I do not wish to interrupt him or take up his time—the result of the election to which he refers is stated in a certificate which I hold in my hand, signed by the secretary of the Territory, the auditor of the Territory, and the treasurer of the Territory. For the constitution there were three thousand and twenty-five votes; against it, two thousand eight hundred and seventy; majority in favor of the constitution, one hundred and fifty-five. Now, the question which I put to the honorable Senator is this: whether there was any ground to complain that there was any unfairness in that election; whether all the electors had not a fair opportunity to go to the polls and express their opinions by their votes?

Mr. EDMUNDS. They were under no obligation to do so.

Mr. HOWARD. That does not answer the question. Nor has there ever been any case in which the elector was under an obligation to go to the polls. The act of voting is a voluntary act. It is the presumption of law. I need hardly say this to the honorable Senator

from New York, that those who stay away from an election are held to acquiesce in the result of the election, and to have voted with the majority. This is the principle upon which we acted in regard to Alabama. It is the principle of the common law in reference to corporate elections, whether municipal or private, as the honorable Senator very well knows. Now, why make an objection upon the ground that a portion of the electors stayed away from the polls? They had a right to stay away from the polls.

Mr. CONKLING. With great respect to the honorable Senator, I deny entirely his proposition. As wide as is the East from the West, so broad is the distinction between the case of Alabama and those other cases and this. Why? The elections held in the southern States were under acts of Congress, confessedly under the authority of law; and the Senator well says that but for special legislation to the contrary, those who absented themselves would be held to consent to the acts of those who attended the polls. What is the case here? Was there an election at which any man was bound to attend or else be in default? Not at all; but men who had no right to frame a constitution assumed to do it, and men who had no right to submit it to the people for their ratification assumed to do that; and therefore no obligation rested upon any human being in that Territory to go to the polls upon pain of being held in default if he did not go.

Mr. EDMUNDS. They did go when the constitution was submitted to them under the law, and voted it down.

Mr. CONKLING. And furthermore, as my friend reminds me, when the constitution was submitted under the law, they went to the polls and voted it down, and the only time when they did not vote it down was when it was submitted without authority of law and without any obligation resting upon a single elector to go to the polls, or to have anything taken against him if he refused to go.

Now, Mr. President, to pursue this for one moment, and only a moment—

Mr. YATES. Let us have a vote.

Mr. CONKLING. I shall be through in a moment, although I can tell the Senator that I do not mean to allow this bill to pass in a snatch, for one, if I can help it. When we are considering it, we may as well make it right. There has been considerable trouble about it, and while we are upon it we may as well have it in the best form that we can get it.

The Senator from Michigan asked me what good would come from a second vote. Might I not retort upon him, what harm is to come, when an election is to be held and all the people are to attend to it, from having a ballot-box in which ballots on this point are to be put? If nobody is against this constitution, it is a mere *pro forma* election; but if there be all these clouds hanging over it, then I submit to him it will be of great use to have the thing not only "technically" right, to borrow the expression of the Senator from Nevada, but right in fairness and in fact, as all conceive.

Now, let us look for a moment at the votes cast in this Territory and see whether I am right in what I stated. In 1861 there were nine thousand five hundred and ninety-seven votes cast. In 1862 there were only eight thousand seven hundred and twenty-one votes cast. In 1864, falling still lower, there were seven thousand four hundred and seventy-six votes cast; and when you come to 1866 there were only six thousand nine hundred and ninety-six votes cast; thus, as I say, continually falling off until we get down to 1866; but in 1867 there were nine thousand three hundred and forty-five votes cast.

Mr. President, upon a record like that, and upon an allegation that this Territory has population enough to entitle it to a Representative in Congress—seventy-five or eighty or one hundred thousand—does any Senator wish unnecessarily to put the admission of this State upon a foundation so precarious and so nar-

row as is stated by those six thousand votes only cast upon the question of this constitution, *pro* and *con*.? I admit if, as in the case of Nebraska, it could be said that it was an inclement season of the year, the ground covered with snow, and it would be a great hardship to impose an election upon the people, there would be great force in the objection to doing it; but how can we excuse ourselves; and how, I ask the Senator from Michigan, will the record look, showing that we have provided for an election, showing that we have committed to that election every question but this, and yet have refused, in the face of the hundreds of remonstrances that come here from the Territory, to allow the people once the opportunity, when they are to be present at the election, to cast their ballots upon this question also, as well as upon the others?

My friend from Nebraska [Mr. TRAYER] asks me if I did not mean Alabama in what I said about the inclement season of the year. No, sir; I meant Nebraska. If he will traverse the debate in reference to his own State he will find that Senators said, "Why ask them to vote again? Why impose an election upon them? It is an inclement season of the year, and it will be a great hardship. This is the only necessity for an election; and you ought to commit it to the Legislature." I am distinguishing this case from the case of the State of the honorable Senator by saying that this is no inclement season of the year; and whether so or not we provide for an election; so that there is to be not the feather's weight of hardship, or of expense, or trouble added by providing that that election shall determine also the validity or the rejection of this constitution. That is my point; and I say again, and I think the Senator who has this bill in charge does not disagree with me essentially, that there being no objection to it except one which perhaps might be called sentimental—I mean one residing in sentiment, in the feeling suggested by the honorable Senator from Nevada, that it was putting upon the State in theory an extra condition to which others had not been subjected; I mean sentimental only in that sense—there being no objection to it, I say, except one of feeling in this regard, I submit that it will look very suspicious when this record is made up, that in the face of all these objections, we have submitted every question to the people except this vital question, which throughout has been contested, and which belongs to them, and which in theory we have no right to commit to the Legislature, nor do we commit to the Legislature by the amendment offered by the honorable Senator from Wisconsin.

Mr. MORTON. Mr. President, if the majority of the people in the Territory of Colorado are believed to be in favor of this constitution, I should like to know from the friends of this measure what reasonable objection there can be to submitting it at this election that is provided for? It takes no more time; it does not put the thing off any further; and if they are sure of the result, that the people will vote for this constitution, I ask what objection there is to it? If I occupied the position that some Senators do here, and had been urging this movement, and felt confident that a majority of the people of the Territory were in favor of this constitution, I should certainly be in favor of submitting the question at the election that we are now providing for. There can be no objection to submitting it except the existence of a doubt as to what the wish of the majority of the people of Colorado is. That is the only objection there can be that I can possibly see, the existence of a doubt as to how they will vote on this constitution.

Mr. President, it is not material to the question how this constitution was first framed. It may have been done by an enabling act, or without it. That is not material. It may have been done by a mob, and that may not be important. The important question is whether, after it was framed, it was fairly submitted to the people and fairly ratified. We know that

the constitution of California was formed by a convention that was not called together in pursuance of an act of Congress. Such was the case, I believe, in Michigan, and perhaps in other States. It makes no difference how the constitution is formed; but the material question is whether it has been subsequently ratified by a majority of the people. If it has, that makes it all right.

Now, sir, there is one question that I want to submit, and I think there is something in it. This constitution was ratified three years ago. We are told by the friends of the admission of Colorado that there has been a large immigration to that Territory since. The people who have gone there since have had no opportunity of expressing themselves on the question. Three years is a long time in the life of a Territory.

Mr. NYE. Will the Senator allow me to ask him one question?

Mr. MORTON. Certainly.

Mr. NYE. Has anybody who has gone to the State of Indiana since the adoption of the constitution of that State had the privilege of expressing his sentiments on the question of that constitution?

Mr. MORTON. I do not see that that bears any relevancy to this question. When a constitution is once formed and goes into operation it continues in operation in the State until it shall have been properly changed. But, sir, it is proposed now to force upon this State a constitution ratified, it is said, three years ago, which is a long time in the life of a Territory; and for the purpose of procuring the admission of Colorado we are told that from forty to fifty thousand people have gone there in the last three years; the Territory is growing rapidly in population; and yet this large body of people who have gone there since, have had no opportunity of expressing themselves on this question. There would be propriety from this consideration alone, if there were no other, in again submitting it. If the constitution had got every vote in Colorado in 1865, and a large population has gone there since, it ought to be submitted again in all propriety. Who can deny it? I again ask my friend from Nevada the question, if there is any doubt about a majority of the people being in favor of this constitution why do you hesitate a moment as to submitting it to the people? It makes no more delay than you are already proposing to make.

There is another consideration about this vote. I have the aggregate vote both for and against this constitution in 1865, and I believe it is fifty-eight hundred and ninety-five. How many votes were cast for it in 1865? I am told the majority for the constitution is only three hundred.

Mr. EDMUNDS. One hundred and fifty-five is the exact number.

Mr. MORTON. One hundred and fifty-five; so that the constitution got less than three thousand votes in 1865. Think of it, sir; a constitution being fixed upon a Territory by less than three thousand votes, a fundamental law, especially when we are told that such a large population has gone in there since that time!

I have not a particle of feeling on this subject. I should like to admit Colorado, if she were ready for it; and if the circumstances are proper I prefer to do it. I am not enlisted on either side of this question. But, sir, if things are right, I ask my friend what objection there is to submitting this constitution again, especially when it makes no more delay than you are already providing for by holding another election? Think of it; this constitution, having less than three thousand votes, is now to be imposed upon a Territory which, it is said, contains a population of from seventy-five to one hundred thousand. It does not look well. It looks as if there was something weak about this transaction in some quarter, and it could not stand the test of another election.

Now, Mr. President, one word in regard to

submitting these questions to the Legislature. We are told that if the people do not want this constitution they will elect members of the Legislature who are unfavorable to it. Is not that a very imperfect way of submitting a question of this kind? There are a thousand considerations that enter into the choice of members of the Legislature, and it is not a fair way of submitting the question. We recognize the great principle that when it comes to the forming of a fundamental law it is not to be submitted to a Legislature, and the question is not to be determined by selecting members of the Legislature, but it is to be determined by submitting it to the people themselves.

Let us, then, submit this constitution to all the people of Colorado. Gentlemen say a large addition has been made to the population of that Territory in three years. Three years in a Territory, as I before remarked, are equal, perhaps, to twenty-five years in a State. It was so in California and other Territories; and if gentlemen are right in their statement, the past three years have made a greater change in the ratio of population in Colorado than the next fifteen years will. If this constitution is the choice of the people, they will say so when the election is held that you already provide for.

Besides, Mr. President, notwithstanding the vote on the Arkansas bill, I must be allowed to say that in my opinion the Legislature of a State is not the proper body to ratify and establish fundamental conditions. It is against the theory and the practice in the formation of State governments. In the older States, and in nearly all the new States, we have required the fundamental law of the State to be submitted to the people and not to a Legislature. Here you make important changes in the constitution of Colorado, changes that I agree to, that I am in favor of; but it ceases to be the same instrument, and the people have just as much right in their primary capacity to pass on those changes as upon any provision in the constitution. Now, when that is so easy, when it takes no more time than what you already provide for by this bill, as the bill provides for a general election, why not submit this constitution, together with these fundamental conditions, to the people? There can be but one reason, in my judgment, for not doing it; and that is the expectation that it will be voted down.

Mr. YATES. I hardly understand the last remark of the Senator who has just taken his seat. I can assure that Senator that so far as the committee were concerned the question whether the constitution will be voted up or voted down was not taken into consideration; and I am sure that not one member of the committee acted upon any such ground in the decision to which they came.

A plain statement of facts will sometimes do away with a great deal of mystery and remove apparent difficulties. Congress passed an enabling act in March, 1864. If there was any question as to the population of Colorado it was for Congress to determine it at that time. Whether there was population sufficient in Colorado to justify her admission as a State into the Union was a question decided by Congress at the time that enabling act was passed.

Mr. HENDRICKS. Allow me to make one suggestion to the Senator in regard to the point he is now on. The information that the Senate then had, as is shown by the debates, was the statement made by the chairman of the Committee on Territories at that time, the distinguished Senator now presiding over this body; and as I now recollect, the statement was that the population was then about sixty thousand, and was so rapidly increasing in that Territory that it would very soon be above one hundred thousand. That is my recollection of the statement, and I think the debates will show it. When this bill came up two years ago that same distinguished Senator said to the Senate that he was misinformed in regard to the population; that it was not near as large as he had supposed, and that it had not increased as the

evidences before the committee at that time had induced him to believe it would increase.

Mr. YATES. As I said, that question was passed upon by Congress in the passage of the enabling act in March, 1864. It is true that when submitted to the people the constitution formed by the convention called under that act was rejected, and rejected by a very small majority, rejected by a party vote. I believe the facts will bear me out in that statement. The testimony before the committee—and we have received several petitions on the subject, and a memorial from the territorial Legislature—is that after this rejection all parties came to the conclusion that it would be better to have a State organization, and the chairman of the executive committees of the respective political parties agreed to publish a call for a convention. That convention was held, and adopted a constitution. That constitution thus formed was submitted to the people without any opposition from any quarter whatever, and it was ratified by the popular vote.

This is a plain statement of the facts of the case, and is a complete answer to the argument both of the Senator from Indiana and the Senator from New York, and I ask now what sense or propriety there is in having this constitution submitted for the third time to the people of the Territory, especially when, I repeat, not one single objection from any quarter whatever has come from the Territory against the constitution itself. Why, then, require the people to decide upon that question again? That question is not in issue, I repeat. There were some minor questions, and there was some party opposition, and there was some personal opposition to the Senators who were elected taking their seats; but all difficulty on these points is removed by the amendments we have made; and I think that if we now leave it to the people there through their Legislature to decide in effect whether they will be admitted as a State into the Union upon the constitution as adopted, and ratify the constitutional amendment, and accept the conditions here provided, there can be nothing whatever unfair in it.

The Senator from Indiana makes a grave charge against the adoption of this constitution, that there were only six thousand votes polled, when it is a matter of fact, and a matter of record as, Senators will see, if they will examine the debates which have preceded this debate on this very question, that Kansas was admitted into the Union when only forty-six hundred votes were polled in favor of her constitution.

Mr. EDMUNDS. Is that the general practice?

Mr. YATES. I do not say it is a good general practice; but I do not see why the Senators from the eastern States now, when we propose to admit another Territory as a State into the Union, should adopt a step-mother policy which they did not adopt in the case of Kansas and other Territories.

Mr. MORTON. Allow me to ask my friend from Illinois what objection there is to taking the vote of the people on the constitution at the same time that they are to elect a Legislature? It costs nothing.

Mr. YATES. I will state candidly that I have no sort of objection individually to that proposition; but the committee cannot see the propriety of having the constitution for the third time submitted to the people. The question was not made before the committee; but some of the committee here now cannot see the propriety of having this constitution again submitted to the people. They think it an unnecessary act.

Mr. EDMUNDS. Why should it be submitted to the Legislature again, if not to the people?

Mr. YATES. That question was decided by the committee.

Mr. CONKLING. Why submit it to the Legislature?

Mr. YATES. That is not the question now. The only census we have recourse to with regard to the population in Colorado is one

that was taken in 1860, and according to that census there were in that Territory at that time eighteen thousand male adult inhabitants over the age of twenty-one years. When Vermont was admitted into the Union as a State she had a population of fifty-five thousand; and will any one pretend to say that Vermont at that time contained eighteen thousand adult voters?

Mr. EDMUNDS. Yes; I will.

Mr. YATES. The Senator answers that he will. We have his statement for the fact, but I doubt it. If the population was only fifty-five thousand I doubt whether there were eighteen thousand adult voters in that State. It would not be according to the laws of population, to say the least. Now, in relation to the vote which has been polled in Colorado, let me say that there were nearly ten thousand votes polled in the election of 1867. If we allow a population of only five persons to each voter this would show a population of nearly fifty thousand in Colorado.

Mr. EDMUNDS. What did my friend say just now was the population of Vermont when she was admitted into the Union?

Mr. YATES. Fifty-five thousand.

Mr. EDMUNDS. It was eighty-five thousand four hundred and sixteen by the census of 1790, one year before she was admitted.

Mr. YATES. If we suppose there is a population of five persons to each voter, the population of Colorado in 1867 was fifty thousand. That is not quite so large a population as Ohio had when she was admitted, but larger than Illinois, and much larger than many other States had when they were admitted into the Union. But the response is that these ten thousand voters did not represent fifty thousand people, because most of the emigrants to that Territory were male adults. My answer to that is that in these far-off Territories it is often the case that one fifth of the people do not go to the polls. Especially in mining regions, where there is great interest and excitement, and where the success of an important enterprise depends upon a day's time, men will not throw down their implements which they are using in their business and go to the polls at remote distances; and we have it from the statements of persons there, from the Senator from Nevada, who was in Colorado at the time, that there was a population of at least fifty thousand there then.

But, Mr. President, I have forbore to trouble the Senate, and I shall not now pursue my remarks on this bill, for I wish to obtain a vote upon it. I shall not personally make any strong opposition to the amendment which is suggested; but I have had no conference with the committee on the question, and I see no propriety in it, except to load the bill with useless lumber and to submit to the people a question which has been already decided, and upon which there is now no controversy or difference of opinion among them. I hope, therefore, that as all questions now are decided in the Territory, and the people are almost universally anxious for admission as a State into the Union, the Senate will give us a vote and allow us at once to dispose of the matter. I wish also to remark, that unless the bill is passed now it may fail for want of time in the other House.

Mr. FRELINGHUYSEN. I desire to ask the Senator from Illinois whether I am correct in supposing that he has accepted the amendment offered by the Senator from Wisconsin?

Mr. YATES. That has been decided.

Mr. FRELINGHUYSEN. With the acquiescence of the committee?

Mr. YATES. Not with the acquiescence of the committee, but the committee did not object to it.

Mr. FRELINGHUYSEN. It seems to me that that settles this whole question. It is an amendment not resisted by the committee, which makes this a mere enabling act, and not an act to admit a State. This State, by that amendment, is to have further action before it can be admitted. It is to exercise its will

whether it will come in or not. That is to be exercised by the Legislature, according to the amendment. Then the only question submitted to the Senate is, which is the proper mode for a State to exercise its will in adopting a constitution, by its Legislature or by the people.

Mr. YATES. Will the Senator allow me to say that the first section of the bill declares that "the constitutional State government the people of Colorado have formed be, and the same is hereby, accepted, ratified, and confirmed;" so that constitution is accepted when these conditions are complied with by the Legislature.

Mr. FRELINGHUYSEN. Subject, however, to the exercise of the will of the State through the Legislature according to the amendment. Now it does seem to me there cannot be any question as to which is the proper mode for a State to exercise that will. When legislators are elected, they are elected with some reference to that expression of will; but every legislator when he votes on that question is voting himself in or out of office, and therefore he is not an impartial and unbiassed legislator. It is a question with him "to be or not to be," and the legislators in all probability will have reference to still further offices to be enjoyed in the State. But here an election is to take place where the subject can be directly, without expense or inconvenience submitted to the people, which is the true republican mode of settling this question. I hope the amendment of the Senator from New York will prevail.

Mr. WILSON. Unless the vote can be taken pretty soon I must call for the regular order.

The PRESIDING OFFICER (Mr. POMEROY in the chair.) The question is on the amendment of the Senator from New York to the amendment.

Mr. NYE. Mr. President, I wish to answer a position assumed by the honorable Senator from Indiana, [Mr. MORTON], and I want to ask the Senate a question at the outset. Why do they prescribe a different rule for the admission of Colorado from that which they applied to Nebraska or Nevada? Both of those States came here by the invitation of the Government. Colorado, too, was invited to come, but she did not get in so early. The honorable Senator from New York tells us that when they failed upon the first election the power of the enabling act was spent, and that all proceedings after that were irregular, as not being within the scope or under the direction of that enabling act. That position I entirely deny. If it is true of Colorado it was true of Nebraska, for she did not come by the first invitation. If the power of the enabling act is exhausted upon Colorado it was exhausted upon Nebraska, and she is here without right. Now, sir, what have the people of Colorado done that they should be subjected to a different rule than either of her sisters that were to come in on the same invitation were subjected to? In the name of the citizens of Colorado I protest against it. Mr. President, this opposition is technical and factious, and the honorable Senator from New York seizes upon these technicalities for no other purpose than to keep Colorado out.

Mr. HENDRICKS. Does the Senator from Nevada say that to submit this constitution to the vote of the people will keep Colorado out?

Mr. NYE. No; Mr. President, I hope the honorable Senator from Indiana will keep still a moment, and then he will be able to hear what I say on this subject. I have been this morning two or three times on my feet, and on each occasion at least three Senators at a time have been after me. Now, I beg Senators to let me alone for two minutes.

Mr. HENDRICKS. I disclaim any purpose to interrupt the Senator. I simply wanted to know his view on the point I suggested.

Mr. NYE. I answer the honorable Senator from Indiana now, that this constitution has been submitted to the people, and by them it has been ratified. My friend from Indiana

[Mr. MORTON] says that there was a small vote. Suppose it was a small vote, was that Colorado's fault? No, sir. In obedience to the request of this Government, in obedience to its command, she gave the vote she had for that purpose. My friend from Indiana says that it was so small that it cannot be presumed to be the voice of the people now. My answer to that is threefold. First, the citizens of Colorado were not at all to blame that there were not more inhabitants there when this constitution was adopted; second, she is not to blame that more of her citizens did not vote; third, she is not to blame at all, because she has provided for that very thing, and if gentlemen will read the constitution of Colorado they will find that if the Legislature desires an amendment to the constitution provision is made for it.

But my honorable friend says, why not submit it? I say it is trifling with the people. The real objection to Colorado is that she is not as large as New York or Vermont or Massachusetts or Rhode Island in population. The real objection is that she would have two Senators upon this floor. I hope that no such narrow-mindedness will pervade this Hall, that no such littleness will govern the action of men here. What is the exact location and condition of Colorado at this time? She has adopted this constitution; she desires to live under it; she has elected her Senators and sent them here; they have waited two years and we have kept them out; and now, at the end of two years, it is proposed to send them back with another enabling act. Why should we do it? In the hour of the necessity of the Government you passed an enabling act for Colorado with other Territories; she has responded to that invitation; and now you propose to send her back with another enabling act. Why? If gentlemen are right in supposing that there is not population enough there for a State, why give them another enabling act? Is it to further trifle with the rights and feelings and interests of the citizens of Colorado, so that when they come back here again it will be said by my friend from Indiana [Mr. MORTON] that there were not enough people to make their election an expression of their sentiment, to make it emphatic enough. Suppose the people of Indiana to-morrow should revise their constitution and submit the revised constitution to a popular vote, and there should be one majority in favor of adopting it, would not the honorable Senator hold that that constitution was adopted? Would not the law hold that that constitution was adopted? It is the will of a majority of those who participate in the transaction that governs. There was only one hundred and fifty-five majority, gentlemen say, for this constitution. I submit to you, Mr. President, and to the Senate, that that is as emphatic as though it was one hundred and fifty-five thousand.

The honorable Senator from Indiana, [Mr. HENDRICKS], if he should happen to have one hundred and fifty-five majority for Governor of Indiana this fall, or if he should have a majority of one electoral vote for President, would certainly claim to be elected. I think so; and if anybody attempted to say that he was not elected because his majority was so small that it was not emphatic, I would help to resist that assault upon his rights. One hundred and fifty-five majority, I repeat, for all the purposes of this enabling act, and for the purposes of these people who stand here asking to be admitted, is as good as one hundred and fifty-five thousand; and the honorable Senator from Indiana [Mr. MORTON] is not at liberty to say that the voice of that majority shall not be heeded. The majority is certified by the proper officers of the Territory, and my honorable friend from Indiana is estopped from alleging that it is not enough majority to decide the question. The will of the majority is the great democratic rule to which I always bow with respect. The honorable Senator from Indiana [Mr. HENDRICKS] claims to be a simon-pure Democrat; that is his boast; that makes him conspicuous among his people; makes him a great leader. Now, I want to know if he is



going to deny that a majority of one hundred and fifty-five is good. A majority has spoken, and their will must be obeyed. Let the Senators from New York, Vermont, and Indiana beat the bill, and say to the people of Colorado, "We will not have you, or let you have your constitution as you have adopted it." That is the real point.

Mr. HENDRICKS. Mr. President—

Mr. WILSON. I have been giving way, supposing that a vote would soon be reached.

Mr. EDMUNDS. You cannot get a vote within several hours.

Mr. YATES. I know no one who wishes to speak except the Senator from Vermont [Mr. EDMUNDS] and the Senator from Indiana, [Mr. HENDRICKS,] and I hope while this is pending we may get rid of it.

Mr. DAVIS. I intend to speak.

Mr. HENDRICKS. Mr. President, the Senator from Nevada [Mr. NYE] has said that the opposition to this bill was technical and factious. I do not know, sir, upon what state of facts he is authorized to make that statement. His position, in my judgment, is technical, because the merits of the case are not with him. He stands upon one single proposition, that the Congress of the United States is now bound to admit this State because the enabling act was passed in 1864. That is the technical ground upon which he bases all his argument, and that ground being taken from under his feet he does not stand. Now, how is it in that regard? The enabling act provided for the selection of delegates to a convention; the delegates had their qualifications defined; the qualifications of the voters were defined; the time of the meeting of the convention was fixed. An election of delegates pursuant to that law was held; the convention met; a constitution was agreed upon by the convention; it was submitted to the people, and it was condemned by the people; and beyond that the people of Colorado have not pretended to act under any act of Congress. Then, I ask Senators, in what regard is the Congress of the United States bound by this irregular, most irregular action subsequent to the rejection of the constitution? How was the convention called that framed it? By the chairman of the political parties of the Territory. How were the delegates selected? Not by ballot, not by *viva voce* vote; by no election, but by such irregular mode as is usually adopted in the selection of delegates to a political convention. It had none of the forms, none of the assurances of right which generally accompany elections. Then the convention, thus selected, assembled and agreed upon a constitution and submitted it to the people. And what number of the people of Colorado have said that they wanted this as their form of government? How many of the people of Colorado have indorsed it? Understand from my colleague—at one time I knew accurately, but I do not now recollect—less than three thousand voters have said that this was to be the form of government and a constitution for them. We are told here to-day that there are nearly one hundred thousand people there; and it is a matter of technicality, it is a matter of faction, when any Senator objects that three thousand men cannot decide upon a State constitution and form of government.

Mr. YATES. Will the Senator allow me to make a suggestion? To save all further remarks on that point, I desire to state that the committee will not object to the amendment of the Senator from New York. They do not see the necessity of it, but they do not object to adopting it, and letting the constitution be submitted to the people.

Mr. HENDRICKS. I am very glad the chairman of the committee has now agreed to accept the proposition that far. It is well. If I had to-day to vote as an independent proposition upon an enabling act for this Territory I should not vote for it, because I do not believe there are more than forty thousand people in Colorado to-day. I do not believe there is

evidence before the Senate that there is more than that population; and I do not think it is technical, I do not think it is factious opposition when a Senator here refuses to give the same political power in the legislation of this country to forty thousand people that is given to a million and a half in Indiana. It is not factious when I say that a million and a half of people in the State of Indiana are not to be balanced in this body, where political power is concentrated, by forty thousand people in Colorado. It is of substance I say to the Senator from Nevada, and he cannot get away from the substance by any play upon the position, political or otherwise, of any Senator. I will tell the Senator when a majority is conclusive upon me as a Democrat it is when that majority is expressed according to law.

Mr. HOWE. Allow me to ask the Senator from Indiana if it is any greater hardship for forty thousand people to be allowed to balance Indiana in this body than it is for a million and a half in Indiana to balance three or four millions in New York.

Mr. HENDRICKS. That is the original compact.

Mr. HOWE. I know; but I am speaking of the question of hardship, the equity to which the Senator was addressing his remarks.

Mr. HENDRICKS. The question of hardship and of equity is increased, the wrong is increased as the disproportion is increased. As between the million and a half in Indiana and the three and a quarter millions in the great State of New York the disproportion is not so great as between the little number of forty thousand in Colorado and the million and a half in the State of Indiana.

Mr. HOWE. The difference between the vote of Indiana and New York is greater than the difference between the vote of Colorado and Indiana.

Mr. HENDRICKS. No, sir; by no means. Indiana casts three hundred thousand votes. The highest vote Colorado has ever cast is but ten thousand, and she cannot cast it to-day; she has not cast it since the war. In 1861, when the first current of population set into that Territory, and it was supposed the mining there would be easy and profitable, the population was swollen very much, and she cast a vote of a little above ten thousand.

Mr. HOWE. I believe the population of New York is about four millions.

Mr. CONKLING. And the vote eight hundred thousand.

Mr. HOWE. Certainly the difference between a million and a half and four millions must be greater than between a million and a half and any less number.

Mr. HENDRICKS. I do not understand the Senator's mathematics. What is the difference between ten thousand in Colorado and three hundred thousand in Indiana? It is thirty times. In the Senate of the United States ten thousand voters in Colorado would be equal to three hundred thousand in Indiana, so that one man in Colorado would exercise in the Senate of the United States the power of thirty men in Indiana. As between the State of New York and Indiana, one man in Indiana would have the power of a little more than two in New York.

Mr. HOWE. There is no difference between the Senator from Indiana and myself, except that he is talking about ratios and I am talking about population. I say there is a greater difference between four millions and a million and a half than there is between a million and a half and forty thousand. I am not speaking about proportions or ratios; and if the Senator will stop long enough to subtract he will see that I am right.

Mr. HENDRICKS. I understand that there is a difference of more people between a million and a half and four millions than there is between forty thousand and a million and a half; but I am speaking of the exercise of political power. I do not think that it is technical when I question the right of one man in Colorado to exercise in this body a power equal

to that of thirty men in Indiana. That is of substance.

Mr. NYE. Will the Senator permit me to make a suggestion?

Mr. HENDRICKS. Certainly.

Mr. NYE. I ask how much Indiana is to suffer, if the only question is the difference between sixty thousand population now and one hundred and twenty thousand in Colorado, which would give her a right to a member in Congress? If the population of Colorado, supposing it to be one hundred and twenty thousand, was in the State of Indiana, it would give Indiana another Representative in Congress; but how much is Indiana injured, and how much is New York or Vermont, by the mere matter of the difference between sixty thousand and one hundred and twenty thousand? When they come to have one hundred and twenty thousand the proportion would be fifteen to one; and yet I suppose there would be no power to keep them out then.

Mr. HENDRICKS. The practice of the Government has recognized this proposition, that when a Territory has a population that entitles her to a Representative she may properly be admitted as a State. That has been the usage of the Government. That has been an accepted habit, though departed from sometimes. It is a good rule. I do not know any better rule. When Colorado has one hundred and twenty thousand people she will then have power enough in proportion to her numbers. Quite enough; but as that has been the habit of the Government, I do not object to it; I am satisfied with it; but I do not want one third of the representative basis to have a Representative and two Senators. If you were to throw all the population of Colorado to-day into Indiana it would not give Indiana another Representative. The entire forty thousand in Colorado to-day put into Indiana would not give Indiana another Representative, much less add two Senators to her political power.

Mr. THAYER. I desire to ask the Senator from Indiana one question. He was speaking just now of the majority rule. I desire to inquire if he is in favor of the two-thirds rule?

Mr. HENDRICKS. I have not been discussing the two-thirds rule. I believe that a majority controls in a decision upon a constitution. That is what I am now discussing. I do not see either the logic or the wit of the Senator's question.

Mr. HOWE. The question now has come down to this: whether the population of Colorado is sufficient to warrant Congress in admitting that State into the Union. There are no longer any objections to be urged or suggested on behalf of Colorado. To my thinking, when we have the question of the admission of a State before us there are just two questions to be answered, first, whether the people of the Territory desire to be admitted, and secondly, whether we are willing to admit them.

I had, when this subject first came before us, an honest doubt, from the controversy which had prevailed, upon the question as to whether the people of Colorado desired to be admitted; and I wished the sense of the people, as they stand to-day, to be expressed in some form or other. I was entirely content to take the expression of their representatives, elected for that particular purpose, and such was the provision which I moved myself, and which was adopted by the Senate. Other Senators preferred that you should have the voice of the people themselves spoken upon that question directly, and now the Senator from Illinois, who has charge of this bill, has consented to a modification of it so that you will have the express decision of the people upon that question.

Now the only question left is, are you willing to take Colorado? and there is no objection made to her except that her population is not adequate. Is not adequate to what? The Senator from Indiana says that there is not that population in Colorado which, under the present apportionment, would entitle her to a Representative in the lower House. That is a

fact, I guess. We have not any very positive evidence upon it, but I am not going to dispute that statement. There is no law in the world, either constitutional or statutory, which requires that she should have that number of people or any particular number.

Mr. EDMUNDS. But is it not justice?

Mr. HOWE. There is no justice in it, nor the semblance of justice. There is no sort of equality between the States that now exist; there never has been any; there never has been any settled attempt or purpose to enforce it; there never should have been; and the Constitution never designed that there should be.

Mr. EDMUNDS. Not in the House of Representatives?

Mr. HOWE. Not in the House of Representatives, so far as the question of admission is concerned; but, after they are admitted, the Constitution does declare that representation there shall be in proportion to population, with this qualification, that no matter what may be the population of a State it must at least have one Representative. If it has not more than ten thousand people it must have one Representative in the lower House. That is the language of your Constitution. But it was never intended that you should stand and haggle with the people of a State as to their number when they came here and said they wanted to be admitted unless you had some objection to the character of the people. The makers of the Constitution never intended that you should quarrel about the numbers. That is my judgment, and the Congress of the United States never has made a serious question about it. Wisconsin refused to be admitted after she had a population which entitled her, not to one, but two Representatives in the lower House. You refuse to allow the people of Utah to be represented here to-day, and I suspect they have much more than the population that would entitle them to a Representative in the lower House under the present apportionment. For years you denied to the people of South Carolina and Tennessee representation here, when you knew that they had much more than the population that would entitle them to a Representative. Why did you refuse? Because you thought they were disloyal. You took objection not to their number, but to the character and sentiment and disposition of the people. That was a wise and just proceeding. You cannot urge any such objection to the people of Colorado. The Senator from Indiana, [Mr. HENDRICKS,] who stands here protesting against the admission of Colorado with a small population all sound to the core, has for years clamored in favor of the admission of Representatives from South Carolina and from Virginia and from Georgia, who are all rotten to the core with disloyalty and with treason. Sir, I wish to ask the Senate and the Senator does he not think, will he not agree, that forty thousand people who are loyal and true in their allegiance to the Government and to the Union add more to the strength of the Republic than four millions or ten millions who are disloyal and untrue? When they are disloyal, the more people you have in the State the weaker they make the Republic and the more they endanger it. They do not add strength to it.

Numbers, then, I insist, are not a *sine qua non*. If I resided in Colorado I should want to take the census; I should want to know how many I had to help me support the expenditures of the Government before I consented to be admitted; but standing here and voting to appropriate for the expenses of a territorial government, and not for a State government, I only want to know that the people themselves feel able to defray those expenses. You have an appropriation bill which you passed yesterday appropriating some thirty thousand dollars to maintain a government for Colorado which the people of Colorado tell you they will maintain themselves, and you say you will not let them do it, because there are not enough of them. They know better than you do. Let them try it. They are willing to do it. They

know their own capacity, their own ability. I am willing to trust them. Smaller communities than they have maintained a State government. I must say with all deference to the opinions of others that I do not think it is magnanimous or generous to stand here in front of a loyal and honest people, who simply ask to be allowed to participate in the political power of the Government to the extent of giving two votes in this House and one in the other; and I see Senators recoil from that proposition as if it was a stretch of generosity and magnanimity to which they were altogether unequal. No, sir; it will not make you any poorer if you consent to let them in. I hope the Senate will now agree to the bill.

Mr. DAVIS. Mr. President—

Mr. WILSON. I must call for the regular order.

Mr. HARLAN. I move the postponement of the regular order for the purpose of proceeding with the consideration of the bill for the admission of Colorado. I think it ought to be disposed of.

Mr. WILSON. I have given way for an hour and a half already; but if the Senator from Iowa will withdraw his motion, I will consent to let the regular order be passed over until three o'clock.

Mr. HARLAN. I withdraw the motion for the purpose of passing by the regular order informally; but I am not willing to limit it to three o'clock. I do not wish to make any such bargain.

The PRESIDING OFFICER. The Senator from Kentucky is entitled to the floor.

Mr. DAVIS. Mr. President, the Senate have certainly full power over the subject under consideration. They may dispose of it as they please, and I think they ought to dispose of it upon considerations of justice and sound policy.

In 1864 a general enabling act passed to permit Colorado, Nebraska, and Nevada to form constitutions, with a view to their admission as States into the Union. Colorado had 84,227 population, Nebraska 28,841, and Nevada 6,857, according to the census of 1860, making an aggregate of 69,925 people. That was a very extraordinary proposition. Here were three Territories to become States that in the aggregate, according to the most recent and authentic accounts of population, had but a small fraction over half what was necessary to enable a State to have a single Representative in the House of Representatives. That bill passed.

Mr. THAYER. The Senator from Kentucky does not understand that in 1864 they only had that amount of population, but four years previous.

Mr. DAVIS. I do not assume that position; but, Mr. President, according to my recollection, when Nevada was admitted as a State into the Union there was no authentic information of the amount of population in that State; and so of Nebraska. We know the general fact that these are mining regions, and that the population of mining States is generally nomadic; they do not settle in cities with a view to permanent residence, and they do not settle on farms with a view of living upon them as a general rule and transmitting them to their children. The leading business of the mass of the population is digging for gold, and as more alluring prospects for digging profitably in other sections are held out to the population they move from one locality and one State and one Territory to another. The population, as I am informed by persons who have been among the miners, is, the larger proportion of it, nomadic. They move from location to location, according to the prospects of a remuneration of their labor in the work of mining for gold.

Mr. President, gentlemen who favor the admission of Colorado have attempted to illustrate this case by reference to the original States, and they have brought up the existence of Delaware and Rhode Island and other States. Those States were at the beginning of our sys-

tem of government, and were parties to it. Each of those States was then a nationality, a distinct sovereignty. The thirteen States, though they were so different in size and in numbers and in wealth, had together fought the battles of the Revolution and had established a common independence for all the States. They had done it, not as a consolidated republic, not as a single nationality, but as thirteen independent States and nationalities. They formed a league, the old Articles of Confederation, as distinct and sovereign nationalities, in which each of those States was equal to the other and none greater as a State or as a national corporation than any other. It was then, in that state of things, when the league or confederation had proved insufficient for the purposes for which it was made, and the representatives of those States got together to form a more perfect union and government in fact, and not a mere league or confederation, that they were all invited to go into the work of forming a common government. They all went into it as nationalities, as separate and distinct sovereignties; and of course Rhode Island, Delaware, every State was a party to the Constitution by which the government was formed, and as a compromise for the unequal representation of the States in the House of Representatives they were admitted to equal representation in the Senate as States and as sovereignties.

There is no analogy between those cases and the present. Those cases furnish no argument whatever to illustrate and enforce the justice and sound policy of admitting Colorado as a State into the Union. Sir, no new Territory ought to be admitted as a State into the Union unless justice to the other States and sound and true policy require, it to be done. Here is New York, that had in 1860 three million eight hundred thousand people; here is the State of Pennsylvania, that had about three millions; Ohio, that had two million five hundred thousand; I do not speak with any exactness. Here are those great States, empires of themselves within a vast empire, that have the right but to two Senators in the Senate of the United States. Was it right, when this enabling act passed in 1864, to form three States of these three Territories which had but an aggregate of sixty-nine thousand nine hundred and twenty-five people by the census of 1860, and no doubt by their then actual population did not exceed one hundred thousand, and certainly were far below one hundred and twenty-seven thousand, which is the ratio of population for a single Representative under the last apportionment of Representatives? Was it just to the old and larger States, was it sound policy, that these three Territories with such a figment of population should be admitted as States into the Union, and each of them having a power and a weight in the Senate of the United States equal to the great States whose population is numbered by millions?

Mr. YATES. Will the Senator allow me to state that the population of Ohio when she was admitted in 1802 according to the census of 1800 was forty-five thousand?

Mr. DAVIS. I am much obliged to the honorable Senator for the suggestion. Ohio, it was known, was one of the most fertile of all the northwestern Territories; and at that time there were streams of immigration into that Territory that gave assurance that in a few years her numbers would be swelled largely beyond the ratio of representation at that time. So of all the States in the northwestern Territory.

Mr. YATES. If the Senator will allow me, I wish to make a statement in regard to the population of Colorado which is verified by the facts. During the war, from 1861 to 1865, and I may say until 1866, immigration was driven away from the Territory by Indian disturbances. The Territory is some five or six hundred miles beyond the Missouri river, and between the Missouri river and the Territory there were extensive hostile bands of Indians. The result of the disturbances was that immigration was entirely discontinued. I will say

to the Senator that I believe—because I have seen the population moving westward—that since the war and since these disturbances have terminated population has been pouring into these Territories as fast as it originally did into the Territories of Ohio and Illinois. And now that the railroads are about to be completed, and these Territories are made accessible, in a very few years, beyond any controversy whatever, Colorado will be one of the most populous of the western States. There can be no question about that.

Mr. DAVIS. Mr. President, we all know as a general fact that the mining portion of the country consists mostly of sterile mountains, that its real wealth is the mineral that is embosomed under the surface of the mountains. If it was not for the mines that are found in Colorado, Nevada, and Arizona there would have been comparatively no immigration there. The allurements, the inducements to immigration there are the metals that are found in those countries. We know that there is a traveling host of laborers who dig for metal. They go from one diggings, or one gulch, or one lode, to another; that those laborers are unsettled; they move about as in the olden country the men who tend flocks and herds move about for new and better pasturage. In relation to countries that are purely agricultural, from the possession of a rich and fertile soil and a salubrious climate, the fact is totally different. Who doubted the rapid and teeming population to which Ohio and Indiana and Illinois and the other northwestern States would attain very rapidly after they were admitted as States into the Union? Nobody could; and the event more than verified the prediction, because there was a growth of population, of resources, and wealth in those States that greatly surpassed any imagination. Not so with those mining States; there population is developed only by the development of their mineral wealth, and there is such a vast expanse of mineral country, so many points spread over the whole of the western continent where there are mining operations that are remunerative, that it is impossible for great populations to aggregate suddenly in any particular locality; they are spread over hundreds of thousands and millions of square miles. That is the reason why the population of these new States and Territories has been so slow in its increase. The statistics of votes read by the honorable Senator from New York illustrate the position. In 1864 the vote in Colorado was larger than it was in 1867. There was a gradual and progressive decrease from 1864 to 1865, to 1866, and to 1867; and in 1867 the aggregate vote amounted to only between five and six thousand, if I recollect his figures; and I once was familiar with them myself, and I believe they are about the truth of the case.

The inequality of representation of the States in the Senate was an original, inherent, and necessary objection to our system of government. It could not be framed upon equality of representation in the Senate according to population among the States. The little States rejected that principle wholly, and it was with difficulty that they could be brought in the formation of the Constitution to a proportion of representation in the House of Representatives according to numbers; and the only argument and consideration that brought them to accept that principle was that they should have an equality of representation in the Senate, no State having a less representation than two members of the Senate. Then there was an imperative necessity for adopting that rule of equality. It was impracticable, impossible to frame a union and a constitution of government upon a different principle. But now the state of the case is totally different. The new States come and ask to be admitted as States into the Union; and it is statesmanship and justice both for Congress before they admit new States into the Union to look to their populations, and to look to their relative political power when they are admitted as States into the Union, to the power of the old States,

and especially of the large States. It is philosophy, it is justice, it is common sense to take that view of the subject.

Does not every Senator know, does not every intelligent man in the United States know, that it is a deep cause of dissatisfaction that New England should have six times as much political weight in the Senate as the State of New York, when the aggregate population of the States of New England is about eight hundred thousand less than the population of the State of New York? That is not justice. It is not right, abstractly; but it is a condition of things that circumstances force upon the American people; but the necessity and the force that established that state of things then does not exist now in relation to the new States. Why, sir, when you provided for admitting these three new States into the Union, you gave them three times as much weight in the Senate of the United States as the great State of New York had. Was that statesmanship? Was it justice? Was it not a great wrong? Sir, this inequality in relation to the original States must exist; the same necessity that forced it upon the acceptance of the people at the beginning will continue it; but that, instead of being a reason for accumulating this inequality and injustice, to my mind furnishes a forcible argument why it should not be extended further.

Mr. President, I have no idea that there are fifty thousand people in Colorado to-day. I have inquired among gentlemen who come from that region of the United States, and I am informed by intelligent men who have made inquiry into the matter that the population of Colorado is between forty and fifty thousand; that the population of Montana is between fifty and sixty thousand. Now, let me put a case. Montana has a Delegate in the other House, and that Delegate has introduced an enabling bill that she shall be allowed to form a constitution, with a view to admission into the Union as a State. He tells me that he has not been able to turn a wheel in that House in favor of his bill. I have no doubt myself, from all the information I have, and which I deem reliable, that Montana has a larger population than Colorado. How is it, then, that Colorado shall be brought, irregularly, against the decision of the people, with a small, if not a smaller population, as a State into the Union, and Montana cannot advance one step in that direction?

Mr. President, here is the fact in relation to this Territory of Colorado, as the Senator from Indiana expressed it, in a few lucid words: her people called a convention under the enabling act of 1864; that convention framed a constitution within the time to which the people had been limited and restricted by the terms of the enabling act; and that constitution, when formed, was submitted to the people of Colorado, and a majority of them voted to reject it and not to become a State in the Union. As he stated, the leading men in the Territory who want to be Senators and Representatives in the Congress of the United States, and who wish to be marshals and district attorneys, and to fill all the offices of a new State, get together, and they give the impulse to the people informally to vote upon the same constitution. I believe they did vote on the same constitution that had been previously rejected. An informal and illegal election is held without authority of law. I maintain that the enabling act was exhausted when the people rejected the constitution that had been prepared and submitted to them under its provisions. The law became a dead letter then, and before they could legitimately or properly proceed to the formation of another constitution, or to the adoption of that one, they should have had another enabling act; but they did not choose to submit themselves to that regular mode. They got together informally. All stayed away who chose. There was no legality or binding effect in the movement. Men did not know that it was to be obligatory upon them. They did not know that if they stayed away from the election and

declined to vote on the adoption of that constitution it could be forced upon them, because they saw that it was a proceeding without authority, without the sanction of the law of Congress. They stayed away, many of them. The diminished vote proves it from the time the constitution had been previously submitted to the people. There were no officers of law, responsible to law and to punishment for conducting that election unjustly, irregularly, not according to the law. There was no law to regulate it. The election had no legal sanctions at all; and I maintain that under that irregular, informal, and unconstitutional mode of coming into the Union there is no obligation whatever upon the Senate at this time to admit Colorado as a State.

Mr. President, if gentlemen want to deal justly by these Territories, I have laid upon the Clerk's table an amendment in the form of a substitute. That substitute is an enabling act, authorizing the people, both of Montana and of Colorado, to form constitutions as preliminary to their admission into the Union as States. I ask the honorable Senator from Illinois if Montana has not as much population as Colorado? The bill, as now modified with the consent of the honorable Senator, amounts only to an enabling act. I have taken up the original enabling act of Colorado, and I have taken the enabling act for Montana that has been presented by her Delegate in the House of Representatives, but which he has never been able to move there, and I have combined them into one enabling act, to permit both of these Territories to go fairly, legitimately, according to practice and precedent, before the people of their respective Territories, and submit distinctly and expressly the proposition to the people of both of these Territories to vote for and against becoming States in the Union. There cannot be any objection to the enabling act I offer as it relates to Colorado, because I have adopted it literally as it passed in 1864.

Mr. HENDRICKS. I should like to ask the Senator how he will obviate this objection to his proposition: how does he know that there is a sufficient population in Montana to justify the formation of a State government? There has been no census taken, and the former practice was to take a census before the enabling act was passed.

Mr. DAVIS. I will answer my honorable friend thus: I do not know, and I do not believe there is sufficient population in either of these Territories to admit them as a State into the Union. I believe that no Territory ought to come into the Union as a State with a less population than the ratio that entitles a State in the Union to a Representative. I am as well satisfied in relation to Montana as I am in relation to Colorado, that there is a larger population in Montana than there is in Colorado. My principle, which I have always advocated, would be to exclude them both until both should come here with a population entitling them to a Representative according to the ratio of representation. I believe that is the true principle; and when we connect with that principle the other, that all States are to have an equal representation of two in the Senate, how unjust, numerically, it will be to the old and populous and large States. That Territories, as the honorable Senator from Vermont said a few days ago, that have not yet put off their swaddling clothes, should be putting on their father's hats and pantaloons and stalking into the Senate and House of Representatives as States, is grotesque and ridiculous. If that was the least objection to it I would not make it at all; but it is flagrant and outrageous injustice to the old and larger States.

But, Mr. President, I suppose it will be done. The honorable Senator from Nevada, [Mr. NYE,] in his usual eloquent and impressive style, referred to that great necessity of State and of putting down rebellion and preserving the Government that forced the enabling act to admit these three Territories as States into the Union. No such necessity as



that, according to my comprehension, existed; but there was a great impending party necessity. It was necessary for the party to get two thirds of both Houses. It was necessary that they should have two thirds of both Houses to pass bills over the veto of the President, and to pass outrageous amendments to the Constitution of the United States. It was not the necessity of the nation, of the Government, of the system, but of the party, that forced that enabling act through Congress at that time. And that necessity forced the majority into other acts. It forced them to expel Senator Stockton, a Senator elected in literal conformity to the law of his State, who was reported in favor of by a unanimous vote of the Committee on the Judiciary, with one solitary exception, and that was Mr. Clark.

The same necessity that called up these infant States in their swaddling clothes, that had not yet learned to crawl, much less to erect themselves with the port and the strength of manhood, and brought them as States into the Union, with two representatives here each in the Senate, and that required the expulsion of Senator Stockton for the purposes of party strength and the passage of party measures, in derogation of the rights of the people and in revolution of the Constitution of the United States and its principles, may force, and will force, Colorado sooner or later into the Union. The approaching presidential election will create another party necessity that will bring in Colorado as another State to cast three Radical votes. But if Colorado comes Montana ought to come. If Montana is kept out Colorado ought to be kept out; for their populations are about equal.

I propose, then, to submit an enabling act that amounts to nothing; it commits Congress to nothing; it just authorizes the people to get together and hold their election and elect members of a convention to frame a constitution, and after they have done that work, and presented their constitution with the numbers for and against to the Congress of the United States, it will be the free will, the sovereign will and pleasure of the Congress of the United States, to admit or to reject them. That process would demonstrate clearly and satisfactorily how many people there were in Colorado, and how many in Montana, and whether the people wanted to come in as States or not. The idea that when a Territory was offered a chance to become a State, and rejected it, and rejected it by a much larger positive vote than that which afterward passed it, it can afterward be received as a State under that irregular mode of proceeding, in my judgment ought not to be entertained a moment. When the proper time comes I will ask a vote on my bill, which proposes an enabling act to authorize the people both of Colorado and Montana to vote upon the question of forming constitutions with a view to their admission into the Union as States. I think that it ought to pass, because the question of numbers, and the justice and sound policy of admitting those Territories as States into the Union, would be better shown by proceedings and elections under a new enabling act than we can possibly understand them to be now.

Mr. HARLAN. Mr. President, it has been asserted here with great earnestness that there are but forty or fifty thousand people in the Territory of Colorado, and that has been urged as a substantial reason for not passing this enabling act. I have seen no evidence to justify me in coming to the conclusion that the population is so small. It is said that the last vote that was taken was but about nine thousand; and some Senators estimate five people to the voter, and on that data conclude there are only forty or fifty thousand inhabitants there. Why, sir, those of us who have been brought up on the frontier know that there are always a large number of people in a new community who are not eligible to vote under any of the election laws. In the first place, there is always a large per cent. of the people from other countries, foreign-born people, who can-

not vote usually until after a residence of five years, and many of them reside in the Territory longer than that period before they conform to the requirements of the naturalization laws. Then all of these new communities have local laws requiring a residence of a longer or shorter period of time which excludes a considerable per cent. of their population from the right to vote; in some instances it is six months; in others one year; and in some even longer. So that these facts in connection with the extent of the Territory, justify, as it seems to me, any one acquainted with frontier life in the belief that the population must be much greater than that which has been stated by the Senator [Mr. DAVIS] who has just taken his seat.

It was stated here, I think by the chairman of the Committee on Territories, that he had an estimate made by the Commissioner of the General Land Office, in which that official stated the population to be but little less than one hundred thousand. I would take the judgment of that officer in preference to the loose statements of Senators here which seem to be sustained by no evidence whatever. It is made his duty under our laws to know the condition of the Territories. He has under his control the disposition of the public lands, and now under the recent laws, the disposition of the mines; and in this way he is necessitated to know much more of the condition of the population on the frontiers than it is probable any Senator on this floor would be likely to know. I do not think, therefore, that the statement that the population is small, is a sufficient reason to justify a refusal to pass this bill.

I agree, substantially, with the remarks made by the honorable Senator from Wisconsin, [Mr. HOWE.] It is far more important to ascertain whether the people there are in a condition to sustain a stable government than to ascertain the exact number of the inhabitants. If they are civilized people; if they have local interests in the Territory that will induce them to remain there; if they have sufficient cultivation and intelligence to enact just laws, and capacity to enforce them, so as to secure the safety of life and property, and are willing to sustain the expenses of a State government, why should they be excluded? Senators say because the population of that Territory is not equal to the population of some of the older States. Why, sir, there has never been any rule of population adopted for the admission of States. It has been talked of frequently; it has been mentioned often in debate; but never has a rule been adopted, either in the form of a statute or by custom, requiring a given population before a community should be admitted as a State. Congress has always been controlled, as I suppose, by the reasons to which I have referred. Is there a sufficient population within the limits of that Territory to sustain a State government? Are the people willing to take on themselves the burdens of a State government, and thus release the United States from this unnecessary expense? Have they the capacity and ability to enact and enforce local laws for the security of life, liberty, and property? If all these questions can be answered in the affirmative, then they may be admitted, if the latter reason, disparity of populations, is not to be conclusive, if it is not now imperative on Congress to establish a uniform rule on this subject as a condition for the representation of States in this Chamber. The Senator who has just taken his seat [Mr. DAVIS] has admitted that that is now impossible; that it was impossible in the origin of the Government; that it was necessary then to establish a rule which cannot now be set aside. Then, sir, if it is impossible now to establish uniformity of representation, as measured by population, in this Chamber, why plead that as a reason for the exclusion of the people of Colorado.

But the Senator stated that the people in this Territory were a floating community, were nomadic in their habits, and that their chief interest was mineral. The Senator has doubt-

less been misled by a failure to bring to bear his usual industry in examining this question. That was once supposed to be the great interest in Colorado, and it is a great interest now; but Colorado has the elements of a great agricultural community. I think I risk nothing in saying that there is more fertile agricultural land in the Territory of Colorado than there is in the State of Kentucky. It is true the mode of cultivation will have to be different in some parts of that Territory; it will be necessary, perhaps, to irrigate the land; but, sir, the Territory of Utah, where irrigation is more absolutely necessary than it would be in Colorado, where they do not labor in the mines to any considerable extent; where the production of metal is not a great interest; where their interest is peculiarly and almost exclusively agricultural, is now sustaining, as we all know, a population of between one and two hundred thousand. To those acquainted with the character of the country in Colorado, as are the Commissioner of the General Land Office and the members of the Committee on Territories, it is not questionable that it will become one of the great agricultural States in this country. Why, sir, that soil will produce to-day more bushels of wheat per acre, perhaps, than any land this side of the Missouri river. It will produce as many bushels of wheat per acre as will the fertile valleys in Indiana of corn, and with less cultivation.

But the Senator from Indiana [Mr. MORTON] insists that this amendment proposed by the Senator from New York [Mr. CONKLING] ought to be adopted unless the friends of this measure are afraid to test the question of the acceptability of the constitution to the people. If I should propose that the title of that Senator to a seat in this Chamber should be settled by another election by the Legislature of Indiana, would it be a sufficient answer, if he should object, for me to say, "Does the Senator fear to resubmit the question, lest he might not be elected a second time?" Here action has been had on that precise question by the people of the Territory, and decided in the affirmative, and well they may wish not to have their feelings trifled with. Why, sir, it is an implication, as has been observed heretofore, that fraud has been perpetrated, that the election was not a fair election, if the Senate in this mode set it aside.

But what is the object of resubmitting the question whether this constitution shall be adopted or not? For the purpose, it is said, of ascertaining whether the people of that Territory are willing to live under this particular constitution, as if it were a law like that of the Medes and Persians, to be unchangeable forever. It contains within its own provisions a mode for its own amendment. If hereafter it should prove in any particular to be unsatisfactory to the people of that State they will be competent to change it, and in that mode conform it to their judgment of right and of their interests. Never heretofore has the admission of a State been rejected on a reason so trivial. Why, sir, if not to the same extent, the same reason would apply to the application of the people of every Territory for admission into the Union, for some time must necessarily elapse after an election shall be held for the adoption or rejection of the constitution before action can be had on the admission of the State by the two branches of Congress, and in these new communities the population is constantly changing, and it is not probable that precisely the same result, measured by the same number of votes, would be attained at any two elections, because of such changes.

I do not perceive, therefore, that this objection is a sufficient reason for the adoption of the amendment proposed by the Senator from New York. Besides, I always have a suspicion when amendments are proposed to a bill by the enemies of the bill itself. If a majority of the members of the Senate of the United States are willing to pass this bill, which is now but little more than an enabling

act, I see no reason why they should apply to the enemies of the bill for amendments on points that are purely trivial in their character; for, as was shown by my friend, the Senator from Nebraska, [Mr. Tipton,] the question is submitted in a different mode in the election of the members of the Legislature. The bill now provides that they shall decide when they convene whether the Territory shall be admitted into the Union or not; and if they decide not to be admitted into the Union then this law becomes a nullity; and it is purely immaterial whether the provisions of the constitution are acceptable in all respects to the people or not, if it is to become nugatory and void. But if they decide in favor of admission, and there should be found to be provisions in it, as I have before remarked, that are not acceptable to the people, they will have the power to change them, for the constitution itself provides the mode; and if it did not thus provide a mode for its own amendment, I apprehend no Senator here would contend for a moment that they would not inherently have the right to amend their fundamental law.

If then, Mr. President, there is probably a sufficient population in this Territory to sustain a government; if they are willing to do so; if they probably have the capacity to enact and enforce laws for the protection of life, liberty, and property, to make these reasonably secure, and if they will have the opportunity to amend their constitution in all these minor respects, if they choose to do so, as seems to me to be obvious, what reason is there for refusing to permit them to come into the Union as a State unless it be placed on the ground purely of inequality of representation, as measured by population, in this Chamber?

Mr. FERRY. Will the Senator allow me one word?

Mr. HARLAN. Certainly.

Mr. FERRY. There is now placed upon this constitution one condition which it is not in the power of the people of Colorado to change; so that upon that provision no expression of the will of that people has ever been had.

Mr. HARLAN. That will be had by them in the election of members of the Legislature. If they are not willing to live under the constitution with this clause in it, they will vote for members to represent them who will vote against its adoption.

Mr. EDMUNDS. Will the Senator permit me to ask him a question?

Mr. HARLAN. Certainly.

Mr. EDMUNDS. I wish to ask him if he ever knew or heard of an instance where a question of this kind was submitted to a Legislature instead of to the people when it was going to be submitted at all in the admission of any State before this one?

Mr. HARLAN. Was it not so in the case of Nebraska?

Mr. TIPTON. Yes, sir.

Mr. EDMUNDS. No, sir.

Mr. HARLAN. I understand from the Senator from Nebraska that a similar question was submitted to the Legislature of that State.

Mr. EDMUNDS. Permit me to correct the Senator. It was not submitted to the Legislature of Nebraska whether they would be admitted into the Union or not. It was submitted to them to ratify the perpetual condition we imposed upon them.

Mr. TIPTON. That was the only condition on which we were admitted.

Mr. EDMUNDS. Exactly; but here this proposition is to leave the Legislature to decide yea or nay whether they desire to be admitted into the Union at all; and my question was whether there was ever a case of that kind before.

Mr. HARLAN. This is more technical than real, for if the Legislature of Nebraska had failed to ratify that fundamental condition they were not to be received; they were not to be a member of the Union. It was for the purpose of settling the question whether they were to be admitted that that fundamental condition

was submitted. On its ratification by the Legislature their constitution was declared to have been adopted, and they entitled to representation in this Chamber and in the other branch of Congress. But, sir, as it seems to me, with great respect for the Senator from Vermont, it is a puerile question, to say that delegates may make and ratify a constitution and members of a Legislature may not do so. Who are the delegates in a Territory but the representatives of the people, elected at the polls for a specific purpose, for the purpose of framing and adopting a fundamental law. If you call them members of the Legislature, elect them in the same way, and clothe them with the same power, have you not achieved substantially the same thing; that is, a fair representation of the will of the people?

Mr. DAVIS. Will the honorable Senator permit me to ask him a question?

Mr. HARLAN. Certainly.

Mr. DAVIS. A convention is elected specially to frame a constitution. A Legislature is elected to do no such work, and therefore cannot legitimately make or adopt a constitution.

Mr. HARLAN. Yes, sir; and that is purely a name. You call one a convention, and you call the other a Legislature. Suppose you reverse the names; would it change the substance? Suppose you call one legislative body; that is, a legislative body composed of but one house a Legislature—and I suppose it would be competent for the people of a State to have a Legislature of but one house—then it is in identical form a convention. Does it change the substance to have two houses? Could not the people of a new community call a convention of that form? Could not Congress do so? Could not they provide that members of a convention should be elected to two branches, one to be composed of a certain number of members, and another to be composed of a smaller number of members, and that before a constitution should be adopted it should receive the assent of both of these houses? Why, sir, with great respect, this is a mere play of words. What you desire in the ratification of a constitution to be the fundamental law of a State is to ascertain that it proceeds from the mind of the people themselves; that it is the expression of their will. It has not been usual until recently in this country to submit laws, fundamental or statute, directly to the people for ratification.

Mr. EDMUNDS. Not constitutions?

Mr. HARLAN. Not constitutions. Few, if any, of the constitutions, at least of the old States, that were in force at the organization of this Government, were submitted directly to a vote of the people. I am informed by my friend, the Senator from Missouri, [Mr. Drake,] that not one half of all of them now in force have ever been submitted directly to the people. To say that a people have not power to clothe their delegates with authority to make a fundamental law that will be binding on them without first submitting it to a vote of the people is a new doctrine in this country.

Sir, this is a representative Government. Your laws are made, not by the people, but by representatives of the people. They are adjudicated, not by the people *en masse*, by the people at the polls, but by the representatives of the people on the judicial tribunals. Your laws are enforced, not by the people *en masse*, by their votes, but by their representatives in the executive offices of the State and of the nation. This, therefore, is a representative Republic, and the people may, if they choose, clothe their delegates with authority to settle finally the question of the adoption either of a fundamental or a statute law. With great respect, therefore, I conclude there is nothing in the objection submitted by the Senator from Kentucky.

But, sir, Senators argue as if this Senate was organized for the division of spoils, and not to make laws; that if there are four million people within the limits of the State of New

York and one million in the State of Iowa, New York ought to have four times as much plunder as the people of Iowa, and to secure this should have a corresponding representation. Sir, this is not, although it is frequently asserted to be, a body composed of representatives of States. We do not vote here as representatives of States; we vote as Senators of the United States. Neither the State of New York as a State, nor any other State in this Union, casts a vote as such. Why, sir, how frequently are the two Senators from any one State divided in their votes? Not frequently do the two Senators from Indiana vote on the same side of a great political question, and very frequently do they differ on questions of mere expediency, questions even of local policy; and so with the Senators from each of the other States. The roll of States is never called in this Chamber. That is only done in the other branch of Congress. It is only the Representatives of the people in the other House that are called by States to express their voice in this manner, and then only in a possible case of disagreement in the Electoral Colleges in the selection of a President of the United States. There is nothing, therefore, in this idea of this body being composed of representatives of States.

Sir, we are representatives of the United States, and the moment a Senator-elect walks to that desk, and takes on himself the solemnities of his oath of office, he ceases to be the official representative of a State as such and becomes a legislator for this nation, and is bound under his oath of office to do justice as much to Iowa as the Senators from that State are to do justice to the people of his State.

It is important, however, that these local communities should be represented here in order that we may be well informed as to the local necessities of the people of this great country. It is important that their representatives should be here to inform this body of the necessities of the communities among whom they live, as well as to give the Government the aid of their counsel and advice in the passage of measures pertaining to the general welfare.

Now, sir, in the Territory of Colorado the people of this nation have larger interests as a nation than they have in New York or Kentucky. They have a vast public domain to be disposed of; they have vast mineral interests, and the people of that locality are in immediate contact with independent tribes of people over whom this nation exercises a kind of guardianship, but nevertheless are compelled, by the usages, at least, of the nation, to treat as independent communities. Now, I inquire whether we do not need the advice and counsel of representatives from that community in this Chamber in order that our votes may be intelligently cast in relation to the disposition of that vast public domain stretching from the northern border of Mexico up to the British possessions, covering what in any other country might be carved up into a home for several great and powerful nationalities? Here in this Chamber you have no representative of that vast region. You have delegates in the other House without a voice—legalized lobbyists; nothing more. Sir, we need a representation from these large Territories and from these vast and expanding interests in order that we may enact the necessary laws to develop them in an intelligent and enlightened manner. It is not for the purpose of parceling out goods and chattels that Senators come to this Chamber, I suppose, but for the purpose of lending to the nation their advice and counsel in the management of the vast interests submitted to our control; and in order that this may be done intelligently I submit that it is important at this time that that vast country and that growing community, very soon to be a great agricultural community, shall have a voice in this and the other Chamber.

Mr. CRAGIN. Mr. President, I shall occupy but a very few moments in stating one or two points. I have no objection to the amendment resubmitting this constitution to the people of Colorado. Believing that that

people are anxious for admission into the Union, I feel confident that they will readily adopt the constitution; and believing, as I do, that their population is much larger than it is represented to be in this Chamber, I am anxious that they should have an opportunity to be admitted, and for that reason I shall not oppose the amendment.

As bearing upon two important points in this case, that of population and that of the capacity of this Territory to support a State government, I beg leave to read a passage from the last report of the Commissioner of the General Land Office, made to the Secretary of the Interior. The Commissioner of the General Land Office is the gentleman whose capacity and industry was so largely commented upon in this Chamber yesterday. In his report he says:

"The elements of an agricultural character are as yet variously reported, but unquestioned facts represent enormous yields of cereals from imperfect agricultural enterprise. Sixty bushels of wheat to the acre is a crop well attested in several localities. The mineral wealth of the country is enormous; the yield of gold in 1862 was reported at \$12,000,000. Silver has been mined on Snake river which produces \$600 per ton. Large tracts of bituminous coal are also reported. The population in 1860 was thirty-four thousand two hundred and twenty-seven; in 1863 it was eighty thousand; the present population is a matter of conflicting estimates. It is probably near one hundred thousand. The immigration is rapid. The completion of the Pacific railroad will soon enable it to reach a still higher aggregate. Denver City, Central City, Colorado City, and Nevada City are the principal towns. The public lands undisposed of in Colorado are over sixty-two million eight hundred and fifty thousand acres."

Turning now to the report of the surveyor general, the local officer in that Territory, I read as follows:

"My predecessor in his last report estimated the number of acres of land capable of cultivation in the Territory at four million acres."

I call the attention of the Senator from Kentucky to that fact.

Mr. DAVIS. Will the honorable Senator from New Hampshire tell me how many million acres of land there are in all in the Territory?

Mr. CRAGIN. About one hundred and five thousand square miles.

Mr. DAVIS. Then there are about one hundred times as many acres of land in all as there are acres of arable land?

Mr. CRAGIN. Of course it is well understood that this Territory is largely mountainous; but I am speaking about its agricultural resources. The surveyor general says:

"My predecessor in his last report estimated the number of acres of land capable of cultivation in the Territory at four million acres. It is a fact that all the land that can be irrigated is susceptible of cultivation, and produces well. The mountain streams fall very rapidly, and thus can be carried by irrigating ditches to cover immense quantities of land, and I am led to believe that at least ten million acres of land can be cultivated. The crops last year were good. It was the first year, I am told, that sufficient produce had been raised to supply the demands of the Territory."

Mr. EDMUNDS. Does he give the number of bushels of wheat and corn raised?

Mr. CRAGIN. I think not. He continues:

"The present year farming is being carried on with success, the grasshoppers, the great dread of the farmer, having done but little damage to the crops. Wheat, oats, barley, corn, potatoes, &c., all look well and promise an abundant yield, and I predict that it will be but a few years until this Territory will produce more than enough to supply her wants."

I propose to refer to two other points as showing the population of this Territory. As I stated the other day, in speaking on this question, in 1864, when the enabling act passed, authorizing this Territory to form a State government, the receipts of the Post Office Department for postage in that Territory were \$16,000. The receipts in 1867 were over thirty-two thousand dollars, more than double what they were in 1864. I adduce these figures as evidence of an increase of population.

Mr. EDMUNDS. Was the Army there last year?

Mr. CRAGIN. No, sir. I refer, also, to the receipts of internal revenue. In 1864, at the time the enabling act was passed, the whole amount of internal revenue collected in this

Territory was \$41,781 05. In 1867, last year, the amount of internal revenue tax collected from this Territory was \$151,686, being more than five times what it was at the time of the passage of the enabling act. This also goes to show a large increase of population.

I desire to say to the Senator from Kentucky, who has been telling us that Montana has a population equal to Colorado, that the evidence is the other way. So far as the receipts from postage and the receipts from internal revenue are concerned they are not one fifth as great as those derived from the Territory of Colorado.

I wish to make this point again, and clearly, to the Senate: that in 1864, when Congress passed the enabling act inviting this Territory into the Union, the receipts from postage in that Territory were only \$16,000, and in 1867 they were over thirty-two thousand dollars, more than double—to my mind demonstration conclusive that the population has largely increased. Then there is the further fact, that the internal revenue tax collected last year, when the receipts generally fell off, amounted to \$151,000 as compared with \$41,000 in 1864—a larger amount of receipts for postage, and also for internal revenue, than was collected from several of the States now in this Union and represented in this Chamber. The receipts of one half of all the other Territories in the Union combined did not equal the receipts from Colorado alone.

As I remarked the other day, I am entirely satisfied that there is a population in this Territory of from seventy-five to one hundred thousand. I am entirely satisfied that the resources of this Territory are vast, and rapidly being developed; that the population will increase, and rapidly increase; and I am in favor of the admission of the Territory as a State into the Union. Congress once invited this Territory with two others to come into the Union. The other two have been admitted. There is no reason that prevailed in the case of Nevada or Nebraska which does not equally prevail in the case of Colorado. I believe that the population of this Territory is larger than the population of Nevada to-day, or the population of Nebraska at the time she was admitted. I hope, sir, that Colorado will now be admitted into the Union.

Mr. EDMUNDS. Mr. President, I look upon this as an entirely different question, so far as it relates to this Territory, and as a new question, one over which we have complete jurisdiction, and one in respect to which our decision, and that of the people of that Territory, if they vote to come in, will be final. It cannot be repealed as a law can; if we make a mistake in passing it, there is an end of it.

Mr. POMEROY. I suppose the Senator desires to address the Senate at some length, and if he will give way I will move an executive session.

Mr. EDMUNDS. Yes, sir; I will give way.

Mr. CONNESS. I hope not.

Mr. EDMUNDS. Do not force me to go on at this time.

Mr. CONNESS. The Senator says, "Do not force me to go on at this time." I hope he does not contemplate making a speech on this subject.

Mr. POMEROY. I understand that the Senator from Vermont desires to discuss this matter at some length. He certainly has the right to do so.

Mr. CAMERON. I think we had better adjourn. It is now nearly four o'clock on Saturday afternoon.

Mr. EDMUNDS. I yield for the purpose of an executive session.

Mr. POMEROY. I move that the Senate proceed to the consideration of executive business.

Mr. CONNESS. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. CONNESS. All this day we have wasted.

Mr. EDMUNDS. I object to any debate on this question.

Mr. CONNESS. It is for the Chair to object, not the Senator.

Mr. EDMUNDS. Yes, sir; it is for me to object also.

The Chief Clerk proceeded to call the roll on the motion for an executive session, with the following result:

YEAS—Messrs. Buckalew, Cameron, Cole, Conkling, Corbett, Davis, Drake, Edmunds, Fessenden, Hendricks, Howe, Johnson, McCreery, Morgan, Morrill of Maine, Morton, Patterson of New Hampshire, Pomeroy, Ross, Sprague, Sumner, and Vickers—22.

NAYS—Messrs. Conness, Cragin, Ferry, Frelinghuysen, Harlan, Howard, McDonald, Nye, Ramsey, Stewart, Thayer, Tipton, Trumbull, Wade, Willey, Williams, Wilson, and Yates—18.

ABSENT—Messrs. Anthony, Bayard, Cattell, Chandler, Dixon, Doolittle, Fowler, Grimes, Henderson, Morrill of Vermont, Norton, Patterson of Tennessee, Rice, Saulsbury, Sherman, and Van Winkle—16.

The PRESIDENT *pro tempore*. Before declaring the result of the vote, the Chair will lay before the Senate certain matters now on the table.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of War, inclosing a communication from General Stoneman, commanding the first military district, relative to a proposed election to be held therein, together with the draft of a bill based on the recommendations of said communication; which was referred to the Committee on the Judiciary, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of the Interior, communicating a report of Thomas Murphy, superintendent of Indian affairs, central superintendency, relative to affairs in his superintendency; which was referred to the Committee on Indian Affairs.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1027) to authorize the construction of a bridge over the Black river, in Lorain county, Ohio;

A bill (H. R. No. 1322) for the relief of Major F. F. Stevens, assistant paymaster United States Army;

A bill (H. R. No. 1824) for the relief of Mrs. Mary Harris, of Oregon;

A bill (H. R. No. 1825) for the relief of Benjamin B. French, late Commissioner of Public Buildings;

A joint resolution (H. R. No. 312) relative to the pay of the Assistant Librarian of the House;

A joint resolution (H. R. No. 313) respecting treaties hereafter to be made between the United States and the Indian tribes; and

A joint resolution (H. R. No. 314) for the relief of George D. Blakely, late collector of the second district of Kentucky.

The message also announced that the House had passed the following bills of the Senate:

A bill (S. No. 367) for the relief of Albert Grant;

A bill (S. No. 452) for the relief of Parker Quince;

A bill (S. No. 474) for the relief of Captain Dan. Ellis; and

A bill (S. No. 251) for the relief of Captain Charles N. Goulding, late quartermaster of volunteers.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 367) for the relief of Albert Grant;

A bill (S. R. No. 454) for the relief of Captain Dan. Ellis; and

A bill (S. No. 452) for the relief of Parker Quince.

#### HOUSE BILLS REFERRED.

The following bills and joint resolutions received from the House of Representatives



were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 1027) to authorize the construction of a bridge over the Black river, in Lorain county, Ohio—to the Committee on Post Offices and Post Roads.

A bill (H. R. No. 1322) for the relief of Major F. F. Stevens, assistant paymaster United States Army—to the Committee on Claims.

A bill (H. R. No. 1324) for the relief of Mrs. Mary Harris, of Oregon—to the Committee on Claims.

A bill (H. R. No. 1325) for the relief of Benjamin B. French, late Commissioner of Public Buildings—to the Committee on Public Buildings and Grounds.

A joint resolution (H. R. No. 313) respecting treaties hereafter to be made between the United States and the Indian tribes—to the Committee on Indian Affairs.

A joint resolution (H. R. No. 314) for the relief of George D. Blakey, late collector of the second district of Kentucky—to the Committee on Claims.

#### ASSISTANT LIBRARIAN OF THE HOUSE.

The joint resolution (H. R. No. 312) relative to the pay of the Assistant Librarian of the House was read twice by its title.

Mr. MORRILL, of Maine. I ask the Senate to hear a statement, and by unanimous consent to allow that resolution to pass at the present time. It is to give execution to a resolution of the House.

Mr. EDMUNDS. If we are not going into executive session, I want to go on with my remarks.

Mr. MORRILL, of Maine. Very well; let the resolution lie on the table. I will call it up again.

#### LEAVE OF ABSENCE.

Mr. STEWART. I ask leave of absence for Mr. RICE, of Arkansas. I should like to have the leave of absence extended from the 23d of this month to the 10th of July. He was necessarily called away.

Leave was granted.

#### REPORTS FROM COMMITTEES.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1869, reported it with amendments.

Mr. SPRAGUE, from the Committee on Commerce, to whom was referred the bill (S. No. 573) to provide for a life boat to be stationed on Narragansett beach, Rhode Island, reported it without amendment.

#### AMENDMENT TO APPROPRIATION BILL.

Mr. SPRAGUE submitted an amendment intended to be proposed to the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes; which was referred to the Committee on Appropriations.

#### PRINTING OF A DOCUMENT.

Mr. RAMSEY submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That five thousand additional copies of Executive Document No. 240, H. R. parts one and two, be printed for the use of the Senate.

#### EXHIBITION OF STEAM-PLOW.

Mr. SPRAGUE submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Agriculture inquire into the expediency of procuring the best steam-plow and apparatus for exhibition on grounds of the Department of Agriculture.

#### EXECUTIVE SESSION.

The PRESIDENT *pro tempore*. On the question of going into executive session the yeas are 22, and the nays 18; so the motion is agreed to.

The Senate thereupon proceeded to the consideration of executive business; and, after some time spent therein, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, June 27, 1868.

The House met at twelve o'clock m. Prayer by Rev. A. L. LINDSLEY, of South Salem, New York.

The Journal of yesterday was read and approved.

#### PAY OF ASSISTANT LIBRARIAN.

Mr. BLAINE. A resolution in regard to the pay of the Assistant Librarian in charge of the Hall Library, was passed yesterday, by mistake, as a simple House resolution. I ask unanimous consent that it be considered as a joint resolution, and sent to the Senate for action.

No objection was made; and accordingly, by unanimous consent, the joint resolution (H. R. No. 312) in relation to the pay of the Assistant Librarian of the House was read a first, second, and third time, and passed.

#### PAYMENT OF BOUNTIES.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with the resolutions of the House of Representatives of the 15th and the 22d instant, a report from the Paymaster General as to the number of bounties paid under the act of July 28, 1866, since the 1st of July last; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### OFFICERS IN QUARTERMASTER'S DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, concurring in the recommendation of the Quartermaster General and the General of the Army, relative to majors and captains in the quartermaster's department, for the repeal of the act of July 28, 1866, reducing the number of said officers; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### OBSTRUCTIONS IN DELAWARE RIVER.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a petition from the Board of Marine Underwriters, &c., of Philadelphia, with a report by the chief of engineers, for an appropriation of \$6,000 for the removal of certain obstructions in the Delaware river; which was referred to the Committee on Commerce, and ordered to be printed.

#### LIGHT-HOUSE AT BLACKROCK, CONNECTICUT.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a letter from the Light-House Board, relative to a light-house at Blackrock, Connecticut, recommending its erection; which was referred to the Committee on Commerce, and ordered to be printed.

#### SARAH A. BRIGGS.

Mr. PAINE, by unanimous consent, introduced a bill (H. R. No. 1316) granting a pension to Sarah A. Briggs; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### E. R. CAINE.

Mr. PAINE also, by unanimous consent, introduced a bill (H. R. No. 1317) granting a pension to E. R. Caine; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### LEAVE OF ABSENCE.

Mr. JUDD. I desire to say that I have received a letter from my colleague, [Mr. Cook,] saying that he is too unwell to return at the time he had expected. I ask an extension of his leave of absence for four days.

Leave was granted.

The SPEAKER. The gentleman from New York [Mr. TABER] has been called home by sickness in his family. He desired the Chair to ask indefinite leave of absence for him.

Leave was granted.

The SPEAKER also asked and obtained indefinite leave of absence for Mr. McCORMICK.

#### TREATIES WITH INDIAN TRIBES.

Mr. JULIAN, by unanimous consent, introduced a joint resolution (H. R. No. 313) respecting treaties hereafter to be made between the United States and the Indian tribes; which was read a first and second time.

Mr. JULIAN. I desire that this resolution shall be considered at the present time.

The joint resolution, which was read, recites in the preamble that sundry treaties between the United States and different Indian tribes have heretofore been concluded, by virtue of which large bodies of land have been transferred to individuals and corporations in contravention of the spirit and policy of the pre-emption and homestead laws of the United States; and that the lands now known as Indian reservations, on the extinguishment of the Indian title thereto, should become the property of the United States and a part of the public domain thereof, and cannot rightfully be disposed of otherwise. The joint resolution therefore provides that in any treaty which may hereafter be concluded between the United States and any Indian tribe, by which the title of such tribe to their lands shall be divested, the same shall be conveyed directly to the United States, and shall thenceforward be subject to the authority of Congress in the same manner as all other public lands.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REBECCA J. SHEPPARD.

Mr. MYERS, by unanimous consent, introduced a bill (H. R. No. 1318) authorizing the Secretary of the Treasury to issue a new bond to Rebecca J. Sheppard, of Philadelphia, in place of one destroyed by fire; which was read a first and second time.

Mr. MYERS. I ask the reference of the bill to the Committee of Ways and Means.

Mr. HOLMAN. I think this bill should be referred to the Committee of Claims, that committee having a number of similar cases under consideration. It is proper that some uniform rule should be applied in these cases.

Mr. MYERS. This bill appropriately belongs to the Committee of Ways and Means. It has heretofore been considered by that committee and passed by the House, but the Senate failed to pass it.

Mr. HOLMAN. I will not insist on the reference of the bill to the Committee of Claims, though I think that is the proper reference.

The bill was referred to the Committee of Ways and Means.

Mr. HOLMAN moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CAPTAIN DAN. ELLIS.

Mr. WASHBURN, of Massachusetts, from the same committee, reported back Senate bill No. 474, for the relief of Captain Dan. Ellis, with the recommendation that it be passed.

The bill was read at length. It appropriates the sum of \$3,060 to Captain Dan. Ellis, of Carter county, in the State of Tennessee, in compensation for his services as scout, pilot, and recruiting agent, volunteered in the cause of the Government from 1861 to 1865, during the late war.

The bill was ordered to a third reading; and

it was accordingly read the third time, and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PARKER QUINCE.

Mr. WASHBURN, of Massachusetts, from the same committee, reported back Senate bill No. 452, for the relief of Parker Quince, with the recommendation that it do pass.

The bill was read. It authorizes and directs the Secretary of the Treasury to allow to Parker Quince, in the settlement of his accounts with the Government, \$1,608 97, for his salary as collector of customs for the port of Wilmington, North Carolina, and acting collector of internal revenue from September 13, 1865, to May 14, 1866, in addition to the sums already paid him for salary for that period.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### GOLDSMITH BROTHERS.

Mr. WASHBURN, of Massachusetts, from the same committee, reported back adversely Senate bill No. 151, for the relief of Goldsmith Brothers, of the cities of San Francisco, California, and Portland, Oregon, brokers; and the same was laid on the table.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JAMES HOOPER.

Mr. WASHBURN, of Massachusetts, from the same committee, reported back Senate bill No. 436, for the relief of James Hooper, with the recommendation that it do pass.

The bill was read. It directs the Secretary of the Treasury to pay to James Hooper the sum of \$16,000, being the value of his vessel, the bark General Berry, which was captured and destroyed at sea on the 9th day of July, 1864, while in the military service of the United States, by the rebel steamer Florida.

Mr. HOLMAN. That bill should go to the Committee of the Whole House, as it makes an appropriation. I think it should have its first consideration in Committee of the Whole.

The SPEAKER. The gentleman makes the point of order that this bill, making an appropriation, it must have its first consideration in Committee of the Whole. The Chair sustains the point of order. It will, therefore, be referred to the Committee of the Whole House on the Private Calendar.

#### ALBERT GRANT.

Mr. WASHBURN, of Massachusetts, from the same committee, reported back Senate bill No. 367, for the relief of Albert Grant, with the recommendation that it do pass.

The bill was read. It appropriates \$30,000 to Albert Grant, in full satisfaction of all demands against the United States on account of the construction of buildings numbered twenty-nine, thirty, and thirty-one, at the Norfolk navy-yard, by Albert Grant and H. A. Pierce, who were partners, doing business under the name and style of A. Grant & Co.

Mr. BENJAMIN. That makes an appropriation, and should have its first consideration in the Committee of the Whole House.

The SPEAKER. It does make an appropriation, and if insisted on must go to the Committee of the Whole.

Mr. BUTLER, of Massachusetts. I move that it be referred to the Committee on Appropriations.

Mr. COBB. I do not see why it should be referred to that committee.

Mr. BENJAMIN. I withdraw my point of order.

The SPEAKER. The question is on the third reading of the bill.

Mr. BUTLER, of Massachusetts. I renew the point of order.

Mr. WASHBURN, of Massachusetts. Does not the renewal come too late?

The SPEAKER. The motion to refer to the Committee on Appropriations covered the point of order.

Mr. WASHBURN, of Illinois. Let us have the question stated.

The SPEAKER. The Chair will state the condition of the bill. When it was reported the gentleman from Missouri made the point of order that it contained an appropriation and must have its first consideration in the Committee of the Whole House. The gentleman from Massachusetts moved at the same time that it be referred to the Committee on Appropriations. The gentleman from Missouri then withdrew his point of order, and the gentleman from Massachusetts stated that he intended his motion to cover the point of order. The Chair thereupon entertained the point of order.

Mr. WASHBURN, of Massachusetts. I submit to the House whether these bills should all go to the Committee of the Whole.

Mr. COBB. I rise to a point of order. The gentleman from Massachusetts [Mr. WASHBURN] was on the floor. Of course the gentleman from Missouri [Mr. BENJAMIN] could make his point of order, but the gentleman from Massachusetts [Mr. WASHBURN] did not yield to his colleague to make the motion to refer to the Committee on Appropriations.

The SPEAKER. The Chair overrules the point of order on the ground that when the point of order is made that a bill contains an appropriation it is in order for any member to move its reference to any other committee than the Committee of the Whole. That motion was made by the gentleman from Massachusetts. The only doubt the Chair has is whether that motion to refer to the Committee on Appropriations should not stand instead of the objection to its consideration in the House.

Mr. COBB. I am satisfied with the ruling, but—

The SPEAKER. The Chair will rule that the gentleman from Massachusetts, having made a motion to refer to the Committee on Appropriations, that motion must stand; and if rejected, the point of order comes too late.

Mr. WASHBURN, of Massachusetts. Let me say that the Committee of Claims have no particular interest in this matter. The committee have spent considerable time in examining this bill, which has passed the Senate by the unanimous recommendation of the Committee of Claims there, and have reported it to the House without a dissenting voice. Now, if it is the desire of the House to refer all the bills that the Committee of Claims have reported to the Committee on Appropriations, then I have nothing to do but to submit. But there is no reason why this bill should be referred any more than others that we have examined, and unless there is some special reason given for its reference I trust it will not be referred. I would like to hear my colleague state any reason he may have for its reference.

Mr. BUTLER, of Massachusetts. The reason why I named the Committee on Appropriations was that the bill contains an appropriation of money. I do not desire to make any opposition to it. The Committee on Appropriations can report at any time, whereas the bill might be lost if it is referred to the Committee of the Whole.

Mr. BLAINE. The Committee on Appropriations can report at any time only for reference, not for action.

Mr. WASHBURN, of Illinois. They cannot report private bills at any time.

Mr. WASHBURN, of Massachusetts. I only wish to state that the reason my colleague assigns applies to every bill reported from our committee. I do not know that there is a bill that we report which does not contain a greater

or less amount of appropriation, and he has stated that there is no reason for the reference of this bill except that it contains an appropriation. I do not wish to take up any further time, and therefore I move the previous question.

Mr. BUTLER, of Massachusetts. If my colleague says he has examined this case, and knows it is right, I have so much confidence in him that I withdraw my objection.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ABEDNEGO B. ROWDEN.

Mr. WASHBURN, of Massachusetts, from the same committee, reported a bill (H. R. No. 1319) for the relief of Abednego B. Rowden, late second lieutenant eleventh Tennessee cavalry; which was read a first and second time.

The bill directs that there be paid to the applicant the pay of second lieutenant from August 31, 1863, to December 5, 1864, deducting such sum as may have been paid him in a lower grade of military service for that period, he having performed the service after promotion, but, having been captured in the line of duty and imprisoned, he failed to be mustered in.

Mr. GARFIELD. I would like to ask the gentleman whether the general bill which was reported from the Committee on Military Affairs the other day and printed will not cover this case?

Mr. WASHBURN, of Massachusetts. Well, Mr. Speaker, I do not know. I will state to the House the action of the Committee of Claims on this case, and another which we have like it, and if it is covered by the general bill referred to by the gentleman we shall not ask its passage. It is a case in which an officer of the Army was commissioned to a higher rank, and his commission was sent to him, but before he was mustered in under that commission to the higher rank he was taken prisoner and lay in a rebel prison for several months. He was afterward released and returned to his regiment and was mustered in, dating from the time he returned. Under these circumstances the committee thought it was not fair that because of his misfortune in being taken prisoner he should lose his pay for the rank which he would have filled if he had not been taken prisoner.

Mr. GARFIELD. If the gentleman will allow me, I will state in a few sentences the provisions of the general bill which the Committee on Military Affairs have prepared and are only waiting to be called to report, and the gentleman can see if it covers this case.

Mr. WASHBURN, of Massachusetts. Well, if there is no objection to this bill, let it pass.

Mr. GARFIELD. I will say that there are fifty or sixty of these cases before the Committee on Military Affairs, and we concluded to draw up a general bill very carefully to cover such cases as ought to be covered rather than to pass special bills. We have drawn up a bill to this effect: that a commission shall be considered to have been received when it reached the headquarters of the regiment or corps in which he was serving, and if he was on the duty of the rank to which he was commissioned at the time the commission was received and was captured and taken away he shall be mustered in as of the date when the commission was received at headquarters. I think that perfectly covers these cases, and I hope the gentleman will let this bill lie over until action can be had on the general bill.

Mr. WASHBURN, of Massachusetts. I will ask that the bill be recommitted to the Committee of Claims, with the privilege of reporting it back at any time.

Mr. GARFIELD. I hope that will be done,

and then if our bill does not cover this case the gentleman can report the bill back.

There was no objection; and the bill was recommitted to the Committee of Claims, with leave to report it back at any time.

Mr. HOLMAN. I have a bill of the same character for the relief of Charles C. McCreary. I ask that it be placed on the same footing.

There was no objection, and leave was given to the committee to report the bill at any time.

#### MERCHANT AND ROSECRANZ.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported a bill (H. R. No. 1820) for the relief of L. Merchant & Co. and Peter Rosecranz; which was read a first and second time.

The bill was read. It proposes to direct the Secretary of the Treasury to pay to Leander Merchant, of the firm of L. Merchant & Co., the sum of \$109,412 81 for certain cotton, the property of said firm, taken erroneously and without due authority by agents of the United States, the civil and military authorities at Mobile, Alabama, in the month of April, 1865, shipped to New York, sold by the United States, and the proceeds thereof paid into the Treasury, the charges and expenses of the United States having been deducted therefrom. It proposes further to direct the Secretary of the Treasury to pay Peter Rosecranz the sum of \$39,253 10, the proceeds of the sale of forty-one bales of cotton, the private property of said Rosecranz, taken, sold, and appropriated at the same time and place and in the same manner, the charges and expenses of the United States having likewise been deducted therefrom.

Mr. BENJAMIN. I make the point of order on that bill that it makes an appropriation.

The SPEAKER. The bill contains an appropriation, and must have its first consideration in Committee of the Whole House.

The bill was referred to a Committee of the Whole House, and ordered to be printed.

#### RELIEF OF GOVERNMENT CONTRACTORS.

Mr. WASHBURN of Massachusetts, from the Committee of Claims, also reported back, with a recommendation that the same do pass, Senate bill No. 307, for the relief of certain Government contractors.

The bill was read at length.

Mr. MAYNARD. I raise the point of order that this is an appropriation bill, and must, under the rule, receive its first consideration in Committee of the Whole.

Mr. WASHBURN of Massachusetts. I wish the gentleman would withdraw his point of order for a moment until I can make a statement in regard to this bill.

Mr. MAYNARD. I am perfectly willing that the gentleman should make his statement; but I would suggest to him that he will be merely consuming so much of his morning hour.

Mr. VAN WYCK. I will renew the point of order, no matter what explanation may be made.

Mr. WASHBURN of Massachusetts. The House will understand that if this bill is referred to the Committee of the Whole it will be laid up for this session, as it is not likely that it can be reached.

Mr. VAN WYCK. I think it ought to be laid up for this session; I think that would be the proper disposition of it.

Mr. MAYNARD. There is but little on the Private Calendar, and we can soon dispose of the matters there.

The bill was accordingly referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

#### CHARLES N. GOULDING.

Mr. COBB, from the Committee of Claims, reported back Senate bill No. 251, for the relief of Charles N. Goulding, late quartermaster of volunteers, with a recommendation that the same do pass.

The question was upon ordering the bill to be read a third time.

The bill authorizes the proper accounting

officers of the Treasury to allow and place to the credit of Charles N. Goulding, late captain and assistant quartermaster, in the final settlement of his accounts as such officer, such amounts and sums as he shall satisfactorily prove to have been captured, either in money or vouchers, by the enemy in the month of August, 1862, while on duty in the army of Virginia, under Major General John Pope; provided that no greater amount for losses shall so be passed to his credit than the balance now appearing against him on the books of the Government.

Mr. WASHBURN, of Illinois. I hope the report will be read.

Mr. COBB. There is no report in this case.

Mr. WASHBURN, of Illinois. I hope the gentleman will make some explanation of this bill.

Mr. COBB. I will state for the information of the gentleman from Illinois [Mr. WASHBURN] and of the House, that this gentleman, Charles N. Goulding, was first chief quartermaster under General Rosecrans; then chief quartermaster under General Fremont, and afterward chief quartermaster under General Pope. During the time he was serving in these several capacities he paid out, under competent authority, for the purchase of forage, horses, &c., \$108,162 44, for which he took the proper and necessary vouchers. He had these vouchers with him in his safe on the 22d of August, 1862, at Catlett's Station, Virginia, when the headquarter's train, including the quartermaster himself, his safe, and all the property, public and private, in the safe, was captured by the rebel General Stuart. In the safe, besides the vouchers for the amount I have named, were Government funds to the amount of \$4,844 57. These vouchers were for property for which money was paid, the property having been turned over to other officers, and has been accounted for in their returns.

Mr. WASHBURN, of Illinois. Does this bill include the \$4,000 in money?

Mr. COBB. It was in his safe, and was taken out by the rebel Stuart, as is fully proved by witnesses.

Mr. WASHBURN, of Illinois. Is not that establishing the principle of paying for money captured by the rebels?

Mr. COBB. I do not know that that question was ever raised where proof of the capture was clear and conclusive.

Mr. PAINE. I do not understand that this money was the private property of the officer.

Mr. COBB. By no means; it was Government funds.

Mr. PAINE. Then it does not come under the objection made by the gentleman from Illinois, [Mr. WASHBURN.]

Mr. COBB. These charges are made to the debit of this officer on the books of the Government. In addition to these vouchers there was captured a large amount of Government property, for which this officer was responsible. The Department has allowed for the Government property, but the money and money vouchers cannot be allowed.

Mr. WASHBURN, of Illinois. I am sorry the gentleman from Wisconsin [Mr. COBB] has not put his explanation in the shape of a report to go upon the records of the House. I think in all these cases there should be a written report setting out fully the principle upon which the claims are allowed.

Mr. COBB. I assure the gentleman that the Committee of Claims are not inclined to be very liberal in allowing claims.

Mr. WASHBURN, of Illinois. It is unnecessary for me to say that I have the utmost confidence in the Committee of Claims; but I think the suggestion I make is one worthy of being entertained by that committee.

Mr. COBB. I have no doubt it will be considered by them.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved

that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### GEORGE D. BLAKEY.

Mr. COBB, from the Committee of Claims, reported a joint resolution (H. R. No. 314) for the relief of George D. Blakey, late collector of the second district of Kentucky; which was read a first and second time.

The joint resolution authorizes and directs the Secretary of the Treasury to credit George D. Blakey, late collector of internal revenue for the second district of Kentucky, with such sums of money, not exceeding \$1,445, as shall appear from evidence to be submitted to the proper accounting officers to have been taken by robbery by armed bands of rebel guerrillas from Elias Dunbar and Dory Nell, deputy collectors for Blakey in the counties of Russell and Monroe, in the months of February and April, 1865.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SUSAN CARSON.

Mr. BAKER, by unanimous consent, introduced a bill (H. R. No. 1821) granting a pension to Mrs. Susan Carson; which was read a first and second time, and referred, with the accompanying papers, to the Committee on Invalid Pensions.

#### MAJOR F. F. STEVENS.

Mr. HARDING, from the Committee of Claims, reported a bill (H. R. No. 1822) for the relief of Major F. F. Stevens, assistant paymaster United States Army, Wisconsin volunteers; which was read a first and second time.

The bill provides that the proper accounting officers of the Paymaster General's office and the Treasury Department, in the settlement of the accounts of Major F. F. Stevens, late an assistant paymaster of the United States Army, credit him with \$3,078 63, as of the 1st of April, 1867, that amount of money being in his hands on that day and lost by the burning of the steamer Alabama on the Mississippi river; provided that in the opinion of the accounting officers the allowance should be made.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HARDING moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### WALTER D. PLOWDEN.

Mr. HARDING, from the Committee of Claims, reported a bill (H. R. No. 1823) for the relief of Walter D. Plowden; which was read a first and second time.

The bill directs the proper officers of the War and Treasury Departments to allow and pay to Walter D. Plowden \$1,000 for services as a scout spy, and in consideration of his long confinement in rebel prisons for being a Union man.

Mr. HOLMAN. I suggest that the bill be modified by striking out the words "proper officers of the War and Treasury Departments" and inserting "Secretary of the Treasury."

Mr. HARDING. I have no objection to that. I yield for three minutes to the gentleman from Tennessee.

Mr. HAWKINS. An examination of this case reveals this state of facts: this man went into the Army, not into the service of the United States, but as the servant of an officer, and, after remaining in the service of that officer for some time, and with other officers in the



same capacity, in 1862 he went into one of the hospitals as steward or waiter or in some position of that kind. He never served as a soldier. While about the hospital he was sent once or twice into the rebel lines and brought back contrabands, sometimes one thing and sometimes another. There was no evidence that he was regularly employed as a spy. This is to give him \$1,000, when he was never in the Army as a soldier. He was there as a servant, not as a soldier. It will be unjust to those who did serve as soldiers to make this appropriation, and I hope it will be rejected.

Mr. HARDING. The gentleman is mistaken. His remarks do not apply to this man. There is nothing in reference to this man having been in the hospital. He has reference to some other man.

Mr. HAWKINS. I have reference to this identical man. There was a paper showing his connection with the hospital, but I do not know whether it is there now or not.

Mr. HARDING. We have the testimony of Major General Hunter and of other officers in favor of this man. I ask that the report be read.

The Clerk read as follows:

Mr. HARDING, from the Committee of Claims, to whom was referred the memorial and evidence of Walter D. Plowden, makes the following report:

That claimant, who was born a slave in Washington county, Maryland, emancipated in early life, found his way to the city of New York, and, in 1861, at the breaking out of the rebellion, accompanied the forty-third regiment New York volunteers as servant to Major White, surgeon of the regiment, into South Carolina.

After the discharge and muster out of Major White, with whom he had gained a large experience with the colored people and the troops on the coast, he was employed by Major General Hunter, then in command of the Federal forces at Beaufort and Hilton Head, as a scout and spy, and as a guide in various expeditions from the coast into the interior of the State.

In the spring of 1863 he was sent by night on a secret expedition, with a row-boat and eight colored men, up the Combahee river one hundred and thirty-one miles to the crossing of the Charleston and Savannah railroad, in the vicinity of the Pocotaligo, from which he returned in five days, reporting the condition of the bridges and trussel work, and the strength of the military guard of the enemy at that crossing.

Immediately following, he accompanied the well-known expedition of Colonel Montgomery, thirty-fourth United States colored troops, against Pocotaligo, as a guide, which was successful in the destruction of the railroad bridge and the release from slavery and the service of the enemy of eight hundred colored men and a large amount of property, which were used by the United States Government. Soon thereafter, in May, 1863, he was sent on a third expedition as a scout and spy to the Coosawatchie river, with a boat and five colored men, with orders to cut the telegraph on the Savannah and Charleston railroad at Gardner's Corners, the crossing of the railroad over the Coosawatchie. This bridge was so strongly guarded that after several efforts, by night, to cut the wires, the attempt was abandoned, and the expedition was unsuccessful.

In June following he was sent up the Ashepoo with a boat and eight colored men, and was perfectly successful in setting the bridge of the Savannah and Charleston railroad on fire and burning it up. The rebel guard attacked his little crew in their flight, and they barely made their escape.

In July following he was sent up the Broad river with a boat and eight colored men, making progress by night, and scouting out into the country to the camps of the enemy by day, taking observations of the location and strength of picket posts, and the position of military forts and works of the rebels. He returned with all this information to General Hunter. Immediately thereafter he accompanied General Benham's expedition up the Broad river to Chisholm's Landing, as guide and spy. The force was four gunboats and a brigade of troops, which inflicted serious punishment for two days to the rebels, capturing prisoners and destroying military works and material of war.

After his return from this expedition he was sent ten miles within the rebel lines from the main land at Hilton Head, and returned bringing information to General Saxton, by which he captured the rebel pickets on the next day.

In September following he was sent as foot spy to Bluffton, within the rebel lines, and returned with the information which led to its immediate capture by General Hunter. He accompanied the troops as guide to Bluffton.

In December following he was sent as spy up Stono inlet to Waupo cut for information as to the condition of the rebel ram there building, and which was expected to come out of the inlet very shortly. On this expedition, for want of sufficient force to out-row the rebels, he was captured in his flight from Waupo cut, when he was almost within shot of the Pawnee the Federal man-of-war, to which he hoped to escape, lying at the mouth of the inlet.

He was put into prison at Charleston, January 2, 1864, and closely confined, without food but just suffi-

cient to support life, for more than fifteen months, and was released when General Sherman's army marched into South Carolina.

In this service he invariably reported to General Hunter, General Saxton, General Benham, or General Terry, and received nothing as pay except the necessary outfit of arms and subsistence.

The committee have carefully collected this history from Major General Hunter himself, from General O. O. Howard, and from Chaplain Mansfield French, who was present and had knowledge of the circumstances here detailed.

At the time when this claimant was employed by General Hunter that officer states that he had not in his possession secret service money in order to pay him, and that he is well aware that he never was paid for the important services thus rendered.

Owing to his captivity the claimant lost his health and strength, and now remains broken and almost physically incapacitated from manual labor.

From these considerations, the committee recommend that a bill be passed for his relief, appropriating \$1,000 in compensation for his services as scout and spy in South Carolina during the war for the suppression of the slaveholder's rebellion.

Mr. HARDING. I now ask the Clerk to read the letter of General Hunter.

The Clerk read as follows:

DEAR GENERAL: The bearer, Walter D. Plowden, a colored man from South Carolina, was in my employ as a spy when I commanded during the rebellion in that State. He was sent a number of times within the rebel lines, always bringing valuable information, until he was finally captured and detained as a prisoner. Plowden never received compensation for his services, and is now an applicant to Congress for remuneration. I do not know of any more just claim against the Government; and if you can assist him you will greatly oblige me, and confer a great favor on a very worthy man.

I have the honor to be, very respectfully, your most obedient servant,

D. HUNTER.

Brevet Major General United States Army.

General A. C. HARDING,

United States House of Representatives.

Mr. HARDING. I demand the previous question.

The House divided; and there were—ayes 42, noes 42.

Mr. HOLMAN called for tellers.

Tellers were ordered; and Mr. HOLMAN and Mr. HARDING were appointed.

The House again divided; and there were—ayes 44, noes 51.

So the House refused to second the previous question.

Mr. HOLMAN. I move that the bill be recommitted.

The motion was agreed to.

Mr. HARDING. I move that the report be printed in the Globe.

The motion was agreed to.

Mr. HOLMAN moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. MARY HARRIS.

Mr. HARDING, from the same committee, also reported a bill (H. R. No. 1824) for the relief of Mrs. Mary Harris, of Oregon; which was read a first and second time.

The bill directs the Secretary of the Treasury to pay out of any money not otherwise appropriated the sum of \$786 30 to the applicant, widow of George W. Harris, late of the State of Oregon, in her own right, for supplies furnished and services rendered volunteers in the Oregon Indian war of 1856.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HARDING moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

B. B. FRENCH.

Mr. MERCUR, from the Committee of Claims, reported a bill (H. R. No. 1325) for the relief of B. B. French; which was read a first and second time.

The bill directs the Secretary of the Treasury to pay to B. B. French, late Commissioner of Public Buildings, for service performed from the 2d to the 14th days of March, 1867, inclusive, for which he has not been paid, the sum of eighty-five dollars.

Mr. WASHBURN, of Illinois. Read the report.

Mr. MERCUR. There is a report, but I will state the facts in a word. On the 2d of March, 1867, Congress passed a law abolishing the office of Commissioner of Public Buildings, but no military officer was detailed to take charge of the office until the 14th of March. The Secretary of the Interior requested Mr. French to retain possession of it during that interval, which he did. The Secretary of the Treasury declined paying him for that service. This bill proposes to pay him for those twelve days' service. I demand the previous question.

Mr. MAYNARD. I raise the point of order that this contains an appropriation, and must receive its first consideration in Committee of the Whole.

Mr. HOLMAN. The objection comes too late.

The SPEAKER. The Chair rules that the objection comes too late.

Mr. UPSON. I desire to ask the gentleman what service Mr. French performed.

Mr. MERCUR. He took charge of the records and continued to discharge the duties of the office for twelve days.

Mr. UPSON. I understand the duties were simply nominal.

Mr. MERCUR. He was requested by the Secretary of the Interior to retain possession, and he did, so far as he could, discharge all of the duties during the interval. The sum appropriated is a very small one, a meager pittance only, being the amount which his salary would amount to for so many days.

Mr. MAYNARD. It seems to me if the Chair will consider a moment his ruling, he will find that it prevents any bill from being sent to the Committee of the Whole, because if the point of order must be made before anything is heard on the subject of the bill no objection will be likely to be made. It is only after we have heard a bill explained a little that we must decide whether it should go to the Committee of the Whole.

The SPEAKER. The gentleman renews the point of order. The Chair again overrules it on the ground that the point must be made when bills are reported at the Clerk's desk. After debate has commenced, if it is only one sentence, it is too late. The gentleman from Pennsylvania [Mr. MERCUR] rose to explain the bill, and proceeded some time before the gentleman made the point of order.

Mr. MAYNARD. I hope the previous question will not be sustained.

The previous question was seconded and the main question ordered; and under the operation thereof, the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MERCUR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. MERCUR, from the same committee, reported adversely on the following cases, and the same were laid on the table:

The petition of Howland Hemphill, for relief;

The petition of James Crux, for compensation for property taken and destroyed by the Army of the United States;

The petition of Thomas H. Mules;

The petition of John H. Garges;

House bill No. 709, for the relief of Margaret Ward;

The petition of J. S. Jackson;

The petition of Mary G. Williams, of Cumberland county, Kentucky, praying for compensation for a horse pressed by the United States authorities; and

House joint resolution No. 76, for the relief of Gallus Kirchner.

ANTHONY BUCHER.

Mr. HARDING, from the same committee, reported a bill (H. R. No. 1326) for the relief

of Anthony Bucher; which was read a first and second time.

The SPEAKER. The morning hour has expired.

EXCUSED FROM COMMITTEE SERVICE.

By unanimous consent, Mr. ROBINSON was excused from further service on the Committee on Foreign Affairs and on the Committee on the Expenditures of the Treasury Department.

ANDREW S. CORE.

Mr. MAYNARD, by unanimous consent, from the Committee of Ways and Means, reported back with an amendment the bill (S. No. 522) to authorize the Commissioner of the Revenue to settle the accounts of Andrew S. Core.

The bill was read. It proposes to authorize and direct the Commissioner of the Revenue to settle the accounts of Andrew S. Core, late collector of internal revenue for the second district of Virginia, now West Virginia, upon the principles of justice and equity.

The amendments reported by the Committee of Ways and Means were, in line three to strike out the words "Commissioner of the Revenue is" and insert in lieu thereof the words "proper accounting officers of the Treasury are," and to make a corresponding amendment in the title.

The amendments were agreed to.

Mr. MAYNARD. I will not take time to explain the facts. I will merely say that the Committee of Ways and Means were unanimous in the recommendation that the bill pass.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. MAYNARD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC DEPOSITS IN NATIONAL BANKS.

Mr. KELLEY. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Secretary of the Treasury be directed to report to this House the amount of public money on deposit in national banks at the end of each month from October 31, 1867, specifying the total amount so deposited at the end of each month and the amount in each bank at the same date.

Mr. POMEROY. I object.

TAX ON MANUFACTURES.

Mr. BROOKS, by unanimous consent, introduced a bill (H. R. No. 1327) to amend an act entitled "An act to exempt certain manufactures from internal tax, and for other purposes," approved March 31, 1868; which was read a first and second time, and referred to the Committee of Ways and Means.

PURCHASE OF RUSSIAN AMERICA.

Mr. BANKS. Mr. Speaker, I gave notice to the House some days since that after the tax bill was disposed of I should move to take up the bill appropriating money for the purchase of Russian America. The gentleman from Wisconsin, [Mr. WASHBURN,] one of the minority of the committee opposed to the passage of the bill, has been appointed by the Speaker to some service which requires his absence on Monday, and he desires that that bill may not be taken up until Tuesday; and, with the consent of the House, I should be glad that it may be postponed for his accommodation until Tuesday next.

Mr. WASHBURN, of Wisconsin. The bill is now in Committee of the Whole on the state of the Union, and can only be reached by a vote passing over all the other business which has precedence. It has been said that the enemies of this bill intend to make factious opposition to it, and, if possible, pass it over until the next session of Congress. So far as I know anything on the subject they have no such intention. They desire to meet the question now, and to meet it upon its merits. As was stated by the chairman of the Committee on Foreign Affairs, I expect to be absent for a day or two, and as I understand from him that

he does not intend to call the previous question until those who are opposed to the bill shall have had an opportunity to be heard, I shall make no opposition to the bill coming up on Tuesday or on Wednesday; I would rather say Wednesday.

Mr. WASHBURN, of Illinois. I hope Tuesday will be the day agreed upon, and for this reason: I hope on Monday next to be able to report from the Committee on Appropriations the deficiency bill, and I will ask that it be made the special order for Wednesday next. Therefore I hope it will suit the House to make the Alaska bill the special order for Tuesday.

Mr. PAINE. I desire to ask a question of the gentleman from Massachusetts, [Mr. BANKS.] A proposition was referred to the Committee on Foreign Affairs by the House to consider the claim of the estate of Mr. Perkins, who sold a large quantity of powder, of the value of several hundred thousand dollars, to the Russian Government during the Crimean war, for which no payment was ever made. It was thought the duty of the Government of the United States to look after the claim of a citizen of the United States against, not a citizen of Russia, but the Russian Government. Although I have very little knowledge concerning the case, it seems to me it is but fair that the committee should look into that matter and report upon it to this House, so that we may know whether we are in duty bound in this matter to protect the interest of a citizen of the United States. And I would ask whether it is the purpose of the Committee on Foreign Affairs to present to this House at the same time, or before they present the bill appropriating money for the purchase of Alaska, a report on this claim of a citizen of the United States.

Mr. BANKS. It was the opinion of the Committee on Foreign Affairs that the claim referred to by the gentleman from Wisconsin [Mr. PAINE] could not be offset against the money appropriated under a treaty, which treaty requires the payment of a stipulated sum and in a stipulated manner. And the representatives of the claim have presented to the committee a resolution the passage of which will be satisfactory to them. I think the committee will agree unanimously to report that resolution. I am willing to state, for the satisfaction of the gentleman from Wisconsin, that I will recommend the passage of that resolution; but I cannot agree to make it a part of this question.

Mr. PAINE. What I was most anxious for was a report as to the facts of the case. I do not know that I would vote for such a resolution.

Mr. BANKS. A report of the facts will accompany the resolution.

Mr. WASHBURN, of Wisconsin. I would inquire of the gentleman from Massachusetts [Mr. BANKS] if he intends to call the previous question on the bill soon after it comes up?

Mr. BANKS. I do not; I desire to have the subject fully considered and discussed.

The SPEAKER. As the bill is now in Committee of the Whole on the state of the Union, the previous question cannot be called on it until it has been reported to the House.

Mr. WASHBURN, of Wisconsin. What is the proposition now? To make it the special order for Wednesday or Tuesday?

Mr. BANKS. I ask unanimous consent that it be made the special order for Tuesday next after the morning hour.

Mr. ALLISON. If the river and harbor bill is disposed of before that time.

The SPEAKER. The river and harbor bill will take precedence if not disposed of by that time.

No objection was made; and it was ordered accordingly.

BLACK RIVER BRIDGE, OHIO.

Mr. EGGLESTON. I ask unanimous consent to report back from the Committee on Commerce House bill No. 1027, to authorize the construction of a bridge over Black river,

in Lorain county, Ohio, with a substitute. It is for an unimportant bridge over an unimportant stream in the State of Ohio.

No objection was made; and the bill was received.

The substitute was read. The first section provides that it shall be lawful for the county commissioners of the county of Lorain, State of Ohio, to build a bridge across the Black river, near the village of Black river, at the point where the county road leading east from the village crosses the stream; provided there shall be placed in said bridge a draw of not less than one hundred and forty feet in width, with a center abutment twenty-five feet wide and ten feet above the water line, having a passage on each side of the abutment of not less than fifty-seven feet in width, and so constructed as not to impede the navigation of said river, but to allow the easy passage of vessels through the draw. The second section reserves the right to alter or amend this act so as to prevent or remove all material obstructions to the navigation of the river by the construction of the bridge.

The substitute reported by the committee was agreed to.

The bill, as amended by the adoption of the substitute, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. EGGLESTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTION CONTEST—SWITZLER VS. ANDERSON.

Mr. POLAND. I desire to give notice that on Monday after the morning hour I shall call up the report of the Committee of Elections on the case of Switzler vs. Anderson, from the sixth district of Missouri.

BENEVOLENT INSTITUTIONS IN THE DISTRICT.

Mr. SPALDING. I give notice that at the first opportunity, after the river and harbor bill has been disposed of, I shall endeavor to bring before the House the two bills making appropriations for benevolent institutions in this District.

RIVER AND HARBOR BILL.

Mr. DELANO. I call for the regular order.

The SPEAKER. The regular order is the bill (H. R. No. 1046) making appropriations for the repair, preservation, and completion of certain public works, and for other purposes. The pending question is upon the motion of the gentleman from Ohio, [Mr. DELANO,] to recommit the bill to the Committee on Commerce with instructions to report a substitute.

Mr. DELANO. I have made some slight modifications in my substitute. I ask the Clerk to read it as modified.

The Clerk read as follows:

Strike out all after the enacting clause and insert: That the following amounts of money are hereby appropriated to be expended by the Secretary of War, under the advice of the Bureau of Engineers, for the repair and preservation of certain harbors, for the improvement of certain rivers, and for the protection of existing works of improvement from deterioration, and for such extension of the same and the continuation and completion of works under contract as the safety of commerce at their respective places may demand:

For the improvement of harbors on the northern lakes and for the St. Clair flats, \$500,000.

For the improvement of harbors on the sea-coast, \$150,000.

For the improvement of rivers, \$1,300,000.

For the completion of reports, maps, and diagrams on bridges on the Mississippi river, \$3,000, and for purchase and repair of instruments, \$1,000, and for a survey for deepening the ship-canal at Sault Ste. Marie, \$1,000.

And be it further enacted, That all work done under the authority of this act shall be performed under contract to be made with the Secretary of War, who shall prescribe suitable rules for issuing proposals for materials or labor, having regard to the most effective use of moneys hereby appropriated: *Provided*, That separate proposals and contracts shall be required in all cases when the same can be, in the judgment of the Secretary, judiciously and properly made.

The SPEAKER. The gentleman from Ohio [Mr. DELANO] is entitled to the floor.

Mr. WASHBURN, of Illinois. I ask the gentleman from Ohio to yield to me for five minutes.

Mr. DELANO. I will do so.

Mr. WASHBURN, of Illinois. Mr. Speaker, I desire to make a few remarks upon this bill and the proposition which has been offered by the gentleman from Ohio, [Mr. DELANO,] the more particularly as the remarks of my friend from Massachusetts [Mr. ELIOT] have—I do not say intentionally—tended to prejudice the House in reference to my position on this subject. I do not think I can better state my position than by reading a brief extract from the views which I have heretofore submitted as expressing the reasons of my dissent from the opinions of my colleagues on the committee. Before referring to that document I will say a single word. I do not deny that this bill proposes appropriations for many objects which I think meritorious and worthy the approval of the House. But I am opposed to the measure as a whole; and although it contains items in which my constituents have the greatest possible interest, items of the greatest possible merit, yet rather than consent that those meritorious propositions shall be used to carry through all the riff-raff in this bill, I will vote against the whole bill and take the responsibility before my constituents.

In the statement to which I have already referred I said:

"My first objection is, that there is no money in the Treasury to meet the amount appropriated by the bill, and I am opposed to borrowing money for the purpose of meeting appropriations which are not absolutely required for the public interest. The amount appropriated and assumed by this bill is \$6,150,500. With the reduction of taxes and the robberies of the revenue by whiskey, tobacco, custom-house, and other rings, the receipts of revenue must inevitably fall short of the amounts appropriated by Congress, and the credit of the Government will be ruined, and we will be disgraced as a nation.

Though it is a bad time for the Government to extend this system of improvement of rivers and harbors, I am willing to make reasonable appropriations for continuing operations on works of national importance, and for harbors of refuge for the protection of commerce. Many of the items in the bill are for merely local improvements, and in which commerce has no general interest, and I am opposed to taking money out of the public Treasury for the purpose of benefiting particular localities, and which would be no benefit to the public at large."

I now wish to call attention of the House to what we are entering upon if we pass this bill. I wish the gentleman from Massachusetts [Mr. ELIOT] would tell the House the amount of appropriations which we are committed to by the passage of this bill. The second item in the appropriation is \$40,000 for the improvement of the Wisconsin river. Now, General Warren estimates that to complete the work will cost from two to three million dollars.

But look down a little further. "For improvement of the harbor of Ontonagon, Lake Superior, \$20,000." It will take \$292,000 to complete that work, and we shall have another appropriation to make at the next session, and so on session after session clear through. Then we have "for improvement of Pere Marquette harbor, Michigan, \$20,000." It will take, according to the report of the engineer department, \$385,000 for that.

But I cannot go through with all these items in five minutes. I wish gentlemen to look at the bill, and tell us if they can what they know about them. For instance, here is the harbor of Pere Marquette, in Michigan. Where is Pere Marquette? What interest have the people at large in making an appropriation of \$20,000 for this harbor for a work which is going to cost \$385,000? I believe there is scarcely a settlement at that place. We are appropriating money for a harbor for the benefit of parties interested and in which the public have no general interest at all. Again, where is Muskegon harbor? What do we know about that?

Mr. FERRY. Does the gentleman ask for information?

Mr. WASHBURN, of Illinois. I do.

[Here the hammer fell.]

Mr. ELIOT. I propose to answer the in-

quiries of the gentleman from Illinois as well as I can in the time allotted to me. He wants to know where the harbor of Pere Marquette is. Why, sir, in 1866 he had an appropriation in his bill for the harbor of Marquette, in the State of Michigan.

Mr. EGGLESTON. And voted for it, too.

Mr. ELIOT. And the gentleman last year and the year before voted for an appropriation for that same point.

Mr. WASHBURN, of Illinois. Is the gentleman certain of that?

Mr. ELIOT. Will the gentleman deny it? He will find if he looks at the records that he reported a bill—

Mr. WASHBURN, of Illinois. I want to know whether the gentleman refers to Marquette or Pere Marquette?

Mr. ELIOT. I did not undertake to interrupt the gentleman when he was speaking, and I do not propose to be interrupted myself. I see in that "one-horse" bill which the chairman of the committee [Mr. WASHBURN, of Illinois] has reported no principle upon which it can be justified. If there is no money in the Treasury then let the bill which the committee has reported be laid on the table. If there is no money, and nothing can be appropriated, then let us appropriate nothing. But in reference to the bill which the gentleman himself has reported, after long deliberation, from the minority of the committee, there is no theory upon which it can be defended that will not also justify the appropriations asked for in the bill which the majority of the committee has reported.

The gentleman says we are entering upon a course of large expenditure. Do we not all understand that that must necessarily be so, and that it was so when we first determined upon these works in the Thirty-Sixth Congress? Do not gentlemen understand that the policy of improving rivers and harbors in this country must involve the expenditure of a large amount of money? I say we ought, as one of the natural, proper, and regular expenses of the Government, to appropriate some three million five hundred thousand to four million dollars annually for these works for some years to come. We are met every year with this same opposition.

I agree now that the judgment of the House may as well be ascertained upon this proposition to recommit as to go on and debate the bill item by item. I do not propose to tell the gentleman from Illinois where Pere Marquette harbor is until we come to the discussion of the bill in its regular order.

Mr. WASHBURN, of Illinois. He cannot tell.

Mr. ELIOT. I will tell the gentleman more than he knows; and when we come to the discussion of this appropriation, if I cannot defend it let it be rejected. I do not propose to take the bill up now and undertake in five minutes to defend it item by item.

Mr. FERRY. Will the gentleman allow me to answer the gentleman from Illinois, [Mr. WASHBURN,] and tell him where Pere Marquette is?

Mr. ELIOT. Why, I suppose the gentleman from Illinois really knows; I suppose he knows something. [Laughter.]

Mr. FERRY. I can show him the locality of Pere Marquette, and the necessity for the expenditure.

Mr. ELIOT. Go on, sir, if you will take my time.

Mr. FERRY. I do not wish to take the gentleman's time, but at the proper time I will seek to answer the gentleman, and state to the House not only where Pere Marquette is, but show the necessity for an appropriation in order to keep up the works that have been started by the Government, and prevent the waste of the appropriations already made.

Mr. ELIOT. I believe that there is no appropriation called for here that is not needed by the general interests of commerce. The gentleman from Illinois has always been of the belief that he now is, as I understand from him

in his report, that appropriations ought not to be called for where local interests, and local interests only, are involved. I agree with the gentleman fully, and I will undertake, as far as I may, to satisfy the House on each of the items I have recommended that the general interests of commerce require that the appropriations shall be made. Whether we ought to spend one dollar now or postpone the whole thing is a question for the judgment of the House. In my belief it would be a policy most disastrous to the material interests of the country, and mainly of the West and of the Northwest, to postpone the work which has been commenced under the care and jurisdiction of the engineer department. Sir, I do not think that it can be needful for me to say more at this time on the general question.

Mr. PAINE. I move to amend the substitute by striking out the last word. I wish to reply more particularly to the remarks which have fallen from the lips of my friend from Illinois, [Mr. WASHBURN.] I have in my hand his bill, reported by the minority of the committee. I am opposed to it. I am in favor of the bill now before the House reported by the committee. He tells us that he has within his own district, and in his own State, interests of the greatest magnitude which he would be glad to see fostered if they could be fairly and properly fostered by such a bill as this. But he is unwilling to ask Congress to gratify or benefit his constituents or the people of his State at such an expense to the country at large as would be involved in the other appropriations embraced in the bill of the committee; he is unwilling to saddle upon the country such an enormous expense, even for the purpose of securing for his own constituents and the people of his own State appropriations to which he believes them to be justly entitled. He is not willing that his claims, which he believes to be just, should carry so many claims which he believes to be unjust. Now, I ask the House to look at the bill reported by the minority of the committee, that is to say, by the gentleman from Illinois, and see how he is inclined to sacrifice the interests of his State and district in order to avoid overwhelming the country with the extravagant appropriations made by this bill. The bill contains, among others, twenty-two small appropriations for twenty-two harbors on Lake Michigan. They are cut down, some one half, some three fourths, some four fifths below the appropriations recommended by the proper officers of the engineer department. But when the gentleman comes in with his substitute, with his minority report, he omits twenty of those, notwithstanding they have been reduced one half or two thirds or more, and all of the twenty that he omits lie out of his own State. He puts in the only one that lies in his State, the harbor of Chicago, and he puts it in for the whole amount estimated by the board of engineers. Chicago stands in his bill for an appropriation of \$48,000, the entire amount recommended by the chief of engineers in his first report, the highest amount estimated in any report.

Then, sir, if you turn to the other appropriations for his own State, you will find that he allows for operating dredge-boats on the upper Mississippi river \$36,000; for the improvement of Des Moines rapids \$400,000; for Rock Island rapids \$100,000, and for the purpose of completing the reports, maps, and diagrams for bridges on the Mississippi river, \$6,000. Now, I should like to know what interest of his constituents he has sacrificed for the benefit of the country? The fact is, that while he has cast off all the rest of us, this self-sacrificing gentleman has taken pains, in his substitute, the provisions of which will be practically carried out if the instructions moved by the gentleman from Ohio [Mr. DELANO] prevail, to secure every interest of his constituents, which he professes himself to be so willing and ready to sacrifice for the public good. Sir, I would rather see the virtue of economy exhibited in this House in some other direction and in some other spirit than that which will take away



everything which my constituents and the people of my State need and turn it over to the people of a State so well represented by that distinguished gentleman. I make no complaint of the gentleman for seeking to promote the interests of his constituents and of the people of his State; but I do find fault with him for undertaking to secure for his constituents, and for the people of his State, under the specious guise of a public economy, all that he wants for them, and at the same time strip from us all that we want and which we so imperatively need.

Mr. PILE. The precise question before the House, as I understand it, is the substitution of the proposition of the gentleman from Ohio [Mr. DELANO] for the bill reported from the Committee on Commerce. Now, I am opposed to any such substitution, and I rise to oppose the amendment for the purpose of making a few remarks on the general question.

I wish the House to bear in mind that the question before them is not the adoption of the substitute in whole, or the adoption of this bill in whole. If there are items in this bill which are not meritorious, and for which no appropriation should be made, then as each successive item comes up and the facts are stated it can be retained or stricken out by the House acting on the bill as in Committee of the Whole, according as the merits of each case may seem to require. And if it be true, as the gentleman from Illinois [Mr. WASHBURN] says, that there are some items in that bill for which appropriations ought not to be made, as may be the case, he and other gentlemen can oppose them, and when the facts are stated the House can act upon them. But if the motion of the gentleman from Ohio [Mr. DELANO] is adopted, and this bill is recommitted to the Committee on Commerce with instructions to report a bill in accordance with the substitute he has proposed, the effect will be to confine the committee and the House to the subjects embraced in that substitute when it is brought back into the House. Now, I want to know if the House cannot judge as well of each successive item in this bill as the gentleman from Ohio [Mr. DELANO] or the gentleman from Illinois, [Mr. WASHBURN]?

But I have another objection to this substitute. It proposes to appropriate \$1,300,000 for rivers and for Hell Gate; that is, for all the rivers of the United States; and leaves it discretionary with the Secretary of War where the appropriation shall be expended. Now, we do not know, judging from our experience in the past, who will be Secretary of War in one, two, or three months from this time. Every dollar of that appropriation may be expended upon some single work, in this or that locality, to the injury of public works now in process of completion, and which will be destroyed unless work upon them shall be prosecuted during the coming season. Cannot this House judge where appropriations are needed, and what amounts are required? And is it not far safer to discuss the different items here and make the specific appropriations than to make in a single gross sum an appropriation for all the rivers of the country, leaving it to be expended here or there, its disposition to be affected by the influence and log-rollings that may be brought to bear upon the Secretary of War through the Bureau of Engineers. I think that this House, upon the information furnished by the Committee on Commerce, who have gone over this whole field and understand all the facts, ought to decide upon and designate specific appropriations for each public work, as the necessities of the case may require. We should not make one general appropriation, embracing the whole river improvements of the country, leaving that appropriation to be expended upon one or two works to the exclusion of all others.

I hope, sir, that the motion to recommit will be voted down. The Committee on Commerce have gone over this whole subject, and they have brought in a bill giving the items of appropriation—such a bill as they believe is required

by the country for the completion of works of improvement already in progress, and for the commencement of new ones.

[Here the hammer fell.]

Mr. BAILEY. I move to amend the substitute so that it shall read as follows:

One million dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys not already appropriated, for the preservation of public works commenced, for the improvement of rivers and harbors, and for the performance of contracts heretofore legally made by the Government for such works, which money is to be expended under the direction of the Secretary of War.

Mr. Speaker, I offer this amendment with an earnest hope that the House will adopt it. It seems to me the alternative now presented to us is this: either we must pass this bill with its appropriations to the amount of six millions and more, or we must mutually agree that the whole subject shall be postponed. On this point I fully concur with the gentleman from Massachusetts, [Mr. ELLOR.] I do not believe any other proposition can prevail. If this bill is postponed, my own State must suffer from such a course more, perhaps, than any other State; but unless we are willing thus mutually to give up what we want, we must pass the whole bill. I therefore say that we had better give up the bill. Most assuredly, sir, this House ought not to pass this appropriation of over six million dollars. The money is not in the Treasury. Every penny of every dollar of this \$6,000,000 must be drawn from the productive industry of the country by taxation. In the present circumstances of the country there is absolutely no justification for any appropriation of money except under the plea of absolute necessity.

Sir, I am not opposed to internal improvements; I know how desirable many of these works are; but I submit that that is not the question now to be considered. Other considerations imperatively demand the attention of Congress and of the country. When we shall have reestablished the material prosperity of the land; when we shall have restored the credit of the Government to its normal position, then, and not till then, ought we to undertake works like these. This is no time, Mr. Speaker, to talk about liberality and generosity. There is no liberality, no generosity that wants the element of justice; and will any one tell me that it is at this time just to tax our people to the amount of six or seven millions for the commencement of works of internal improvement? No, sir; it is not just, and the people will never so regard it.

Now, I insist that, as a practical question, we must either pass this bill, embracing appropriations of \$6,000,000, or we must agree to postpone the subject, and merely—

Mr. EGGLESTON. The gentleman will allow me to correct him. The bill does not appropriate \$6,000,000.

Mr. BAILEY. It appropriates over six million dollars.

Mr. EGGLESTON. Only \$4,580,000.

Mr. BAILEY. I have not time to permit myself to be interrupted. I desire to ask members of this House when they intend to begin to practice economy? We are always willing to apply our economical principles to something indefinite, something not immediately before us; but when shall we apply them to an actual case? Here is a case in which we can, without injury to the public interests, save the country at least \$6,000,000. Shall we do it?

[Here the hammer fell.]

Mr. BLAINE. Mr. Speaker, I desire to call attention to a statement made by Governor Seymour in his recent speech at the Cooper Institute in the city of New York. In arraighing the Republican party for extravagance he makes the following declaration, as reported in the New York World, which I hold in my hand:

"Since the war closed in 1865 the Government has spent for its expenses, in addition to its payment on principal or interest of public debt, more than one thousand million dollars. Of this sum there has been nearly eight hundred millions spent on the Army and Navy and for military purposes. This is nearly one third of the national debt. This was spent in time of peace."

The charge thus brought by Governor Seymour is that in the three years that have transpired since the war closed our Army and Navy have cost us eight hundred million dollars, or at the rate of nearly two hundred and seventy millions per annum in time of profound peace. The statement is cunningly made with the evident purpose of misleading the public mind, for while it is quite true that the military and naval expenses since the close of the war have been eight hundred million dollars, it is absolutely untrue that they have been two hundred and seventy millions per annum.

When the war closed by the surrender of Lee on the 9th of April, 1865, the armies of the Union bore the names of nearly a million men on the rolls, and our Navy in its vast and widely-extended duty of blockading three thousand miles of coast, had nearly five hundred vessels in service, with a corresponding number of men. The first result of Grant's magnificent series of victories and final triumph over the rebellion was to muster out these countless hosts which had borne our standard with such glory on the land and on the sea. Months of pay were due to more than half the Army; the well earned closing bounty was due to all, and the sailors, besides their back pay, were to receive millions of prize money honestly their own. The vast and almost incalculable amount needed to be provided for these purposes must be had at once, and thanks to the patriotism and the wealth of our people it was had at once. I have this morning visited the Treasury Department, and by the official statements which I hold in my hand it appears that the disbursements for the Army and Navy for the one hundred and seventy-four days following Grant's closing victory amounted to six hundred and twenty-five million dollars. Hence it will be seen that more than three fourths of the eight hundred millions so triumphantly paraded by Governor Seymour as the War and Navy expenses of the past three years were really disbursed almost in one sum at the close of hostilities as the necessary expenses of mustering out our enormous military and naval forces. To supply this vast sum the current receipts of the Government were consumed, and the people directly advanced five hundred and thirty millions by subscribing that amount to the ever-memorable seven-thirty loan.

Do Governor Seymour and his friends find fault with the expenditure thus incurred in mustering out the Army? Do they begrudge the soldiers their back pay and bounty, and the sailors their hard-earned wages and their prize money? If not, let them cease to attack the Republicans for promptly discharging the honorary debts of the Republic, for thus gladly paying the men who risked their lives to save the life of the nation.

Six hundred and twenty-five millions of Governor Seymour's eight hundred millions being thus expended in mustering out the volunteers, his own figures show that the current and legitimate expense of both Army and Navy for the past three years of peace have been but one hundred and seventy-five million dollars, or a little more than fifty-eight millions per annum for both branches of the service. The Governor's figures thus reduced are not far from the truth, and they show a degree of economy quite unknown in Democratic times. Take the year 1858 for example, in the administration of Mr. Buchanan, and we find that the expenses of the Navy were fourteen millions, and of the Army nearly twenty-six millions—for the two well nigh forty millions—and that was in gold, and with an Army and Navy of less numbers than have been deemed necessary for the security of the public peace during the past three years. Taking the difference in the amount of force and the fact that the expenditures of Mr. Buchanan's administration were in coin and the present expenditure in paper, it will be seen that the result shows strongly in favor of the economy of Army expenses as administered by General Grant. The Army to-day in fact costs much less per regiment in paper than it cost per regiment in gold under the

last Democratic Administration. So much for Governor Seymour's figures.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. I move to amend by reducing the appropriation \$5,000. In the first place I desire to refer to this matter of Pere Marquette, upon which I was so flatly contradicted by my distinguished friend from Massachusetts, [Mr. ELIOT], who said that an appropriation for Pere Marquette was in the last river and harbor bill passed by this House, and that I voted for it. I have that bill before me, and I can find in it no such appropriation; and more than that, I was not in the country when the bill was passed.

Mr. ELIOT. I referred to the bill passed when the gentleman was in the country.

Mr. WASHBURN, of Illinois. Let the gentleman produce the bill.

Mr. ELIOT. Why does the gentleman refer to a bill which he knows is not the bill I referred to?

Mr. WASHBURN, of Illinois. The gentleman wishes to have it understood that the appropriation for Pere Marquette was in a bill for which I voted. Such is not the fact.

Mr. ELIOT. I did not say the gentleman voted for a bill passed when he was on the other side of the Atlantic.

Mr. WASHBURN, of Illinois. I wish to reply to my friend from Wisconsin, [Mr. PAINE.] I was astonished that, in alluding to this matter, he should evince an unfairness which does not belong to his character. Why did he not tell the House that Minnesota and Iowa and other States have just as much interest as the State of Illinois in the improvement of the Des Moines and Rock Island rapids? Why did not the gentleman tell the House that in the bill of the committee there is appropriated \$1,100,000 for those two works? And why did he not tell the House that in the bill proposed by me I cut down those appropriations to \$500,000?

Mr. PAINE. I would simply say, in answer to that remark, that while the gentleman cut them down, he did not serve them as he did the appropriations for harbors on the lakes, for those he cut out altogether.

Mr. WASHBURN, of Illinois. One million dollars have been spent upon that work which is now in progress, and there must be an appropriation to carry it forward, or we shall lose to a great extent what has already been expended. Now, sir, I do not pretend to be indifferent to the interests of my own State; but I believe that my course heretofore has shown that I am as quick to resist an appropriation for my own State as for any other State when I believe the appropriation is not demanded by the public interests.

I wish I had a little more time to refer to the specific appropriations proposed in this bill. Here is one for Pentwater harbor, Michigan. Where is Pentwater (I hope some member from Michigan will tell us) for which we propose to appropriate \$25,000 now, and \$327,000 hereafter? Where is the harbor of Aux Becs Seies, for which we are to appropriate \$10,000 now, and \$146,000 hereafter? Where is Saugatuck harbor, for which we are to appropriate \$30,000 now, and \$212,000 hereafter? Where is St. Mary's river, for which \$20,000 is appropriated, and for which will be required hereafter \$324,000? Sir, I repeat what my friend from New York, [Mr. BAILEY,] said: where are we going to stop? Do gentlemen expect to get this bill through both Houses? I tell them if they do get it through it will meet with a veto from the President, and he will antagonize us before the people, and have the advantage of us.

Mr. EGGLESTON. I ask the gentleman by what authority he says this bill will be vetoed?

Mr. WASHBURN, of Illinois. I have no authority for it, but I believe that such a bill as this ought to be vetoed, and I shall sustain the veto if it is. Look at the third section of this bill, which provides "that the sum of \$450,000 is hereby appropriated toward completing the Louisville and Portland canal."

You assume an indebtedness of \$1,567,000, making \$2,017,000 appropriated. You assume that liability in one fell swoop and no report is before us from the Committee on Commerce, and we have no information on the subject.

Mr. EGGLESTON. There is a full report from the engineer, and the gentleman had it a few minutes ago on his desk.

Mr. WASHBURN, of Illinois. There is no report from the Committee on Commerce in regard to this appropriation of \$2,017,000.

Mr. HUMPHREY. Mr. Speaker, in the few moments allowed me for the discussion of this important question I shall endeavor to answer some of the objections that have been urged against the bill as reported by the majority of the Committee on Commerce; for I assume that the supporters of the substitute offered by the gentleman from Ohio [Mr. DELANO] are opposed to any appropriation whatever for the improvement of our rivers and harbors. The Committee on Commerce has devoted several months to the examination of this subject, availing themselves of the reports of the engineer department and of the opinions and judgments of the Representatives of those sections of the country where the improvements sought to be made are located, and have presented their report—or a majority of that committee—recommending the appropriation of about six million dollars for the continuation and completion mainly of works already commenced, and which they believe to be of national and not local importance. The substitute of the gentleman from Ohio simply makes an appropriation of about two million dollars, leaving the expenditure, both as to amount and locality of the work, entirely in the discretion of the Secretary of War. It is not, I apprehend, expected or intended that the House shall adopt this substitute for the careful and well-considered bill reported by the committee; but it is introduced rather as an indirect, and, I submit, not very fair, way of defeating any appropriation for these works at this session. I hope, therefore, that the House will regard the vote upon this substitute as a test vote as to whether any appropriation shall be made, and I doubt not it will.

Now, Mr. Speaker, what are the objections urged against the bill reported by the committee? The gentleman from Illinois [Mr. WASHBURN] and the gentleman from Ohio [Mr. DELANO] say that there is no money in the Treasury, and that they are opposed to making these appropriations for that reason; that we must wait until the Treasury is replenished. I answer those gentlemen by saying to them and to the country that there is as much money in the Treasury to meet the appropriations made by this bill as those already made by this Congress for the support and perpetuation of the Freedman's Bureau, and other similar political objects. Congress has the power not only to make appropriations but to provide the means wherewith to pay; it has the control of the various expenditures of the Government, subject only to constitutional restrictions. But the opponents of this bill say, let us wait another year, or until a more propitious time. This is a most dangerous argument, and I warn the true friends of river and harbor improvements that if listened to it will inevitably postpone these works for the next ten years, and perhaps overthrow the system of internal improvements by the Government. Will the Treasury be any better supplied next year, or within the next ten years? Will the people be any better able or more willing to pay taxes hereafter than now? Judging from our experience for the past three years, no sane man can doubt that the revenues of the country will diminish rather than increase for many years to come; and if we neglect to make the appropriations for the continuance of these works this year there will not be another dollar appropriated for them during the next ten years, and when the work is again resumed the amount of money required simply to repair the damage and loss occasioned by the suspension will be sufficient to pay the interest upon the whole cost of their com-

pletion without delay. It is a false economy, dangerous to the commercial, agricultural, and manufacturing interests of the whole country; and if this Congress shall refuse to make these necessary appropriations at this session I want the country to understand that the responsibility of such refusal rests with the Radical majority in this House.

Mr. Speaker, the opposition to this bill is not in the interest of economy or of the country, but in the interest and for the benefit of the Radical party. This was not only admitted but boldly avowed by one of the ablest and boldest leaders of that party in this House. Mr. BUTLER, of Massachusetts, in his speech in opposition to this bill last week, said:

"I ask my friends from the Northwest which would they rather do—have these rivers improved this year, and upon the charge of extravagance which will be made against us in the country, have power pass out of our hands, and so prevent future improvements?"

If, therefore, this bill shall be defeated the people will understand by whom and for what purpose it was done.

[Here the hammer fell.]

Mr. PRICE. I move to amend the amendment by striking out the last word. It must be very plain to the House that this whole question lies in a nutshell. The proposition is simply whether we will take up the bill with seventy-three items in it, and consider them one by one, and strike out what are wrong and retain what are proper, or take the bill of the gentleman from Ohio, [Mr. DELANO]—I do not know what to call it; not an "omnibus bill," for it is not worthy to be called by that name, but a bill which appropriates in a lump so much for harbors and so much for rivers without saying where they are. The gentleman's substitute does not even say that the rivers are in the United States of America. It appropriates about two million dollars without saying even that it is to be expended on the continent of America. Is the House prepared for that? I think they are not prepared for it. I think that the common-sense way to manage this matter is to take up the bill as reported from the Committee on Commerce, after having been considered and fully digested by them, and which was reported unanimously, with one exception, and go through it item by item; and if it cannot be shown that each item of appropriation called for by the bill is required, strike it out. We shall know, then, what we are doing. But the substitute, as I said, does not even say that the rivers on which the money is to be expended are in America. It appropriates so much money for rivers. It may be expended on the Amazon; it may go to the Nile or to China. That is an additional reason why I am opposed to it. If we take the substitute we go in the dark with our eyes shut, without knowing where the money is to be appropriated, to what uses it is to be applied, or what improvements are to be made. But the bill reported from the Committee on Commerce is a plain, common-sense business transaction. It is a bill of particulars, and you can take up its seventy-three different items one by one, and if they are all right and proper, pass them; and if they are all wrong, refuse to pass them; or if any of them are wrong, we can strike them out and pass the balance. I undertake to say that there is no other straightforward, matter-of-fact, common-sense, business way of transacting the business except to take the bill as it comes from the Committee on Commerce.

Mr. FERRY. I rise to oppose the amendment. I would not now occupy the attention of the House again upon this subject, for I alluded to these matters sufficiently, as I supposed, when the specific appropriations were severally passed upon and adopted when the bill was up before; but the gentleman from Illinois [Mr. WASHBURN] has not only stepped out of his State, but out of his geographical knowledge, to put the interrogatories, "Where is Manistee harbor?" and "Where is Pere Marquette?" and I should be negligent of my duty if I did not give the gentleman the necessary information. It is not strange that

the gentleman is unable even to pronounce the names of some of the harbors in the bill, not having given attention to the geography of the points proposed to be benefited by the pending measure. If the gentleman had been as much concerned in the wants of the eastern coast of Lake Michigan as the people of that coast are interested in his own State he never would have put the questions I am now called upon to answer. It is not the first time this sort of tactics is employed to prevent a just judgment and defeat a meritorious measure. The gentleman has a wonderful faculty of understanding what he wants to know and feigning ignorance where he does not wish to know. This House will have no difficulty in seeing through the transparent *animus* of this paterfamilias.

To the pending bill reported by the committee the gentleman has offered a substitute, and huris his invective at the equitable distribution of appropriations covered by the bill and presses instead appropriations that upon their face exhibit local unfairness and partiality, and brings to their support violent appeals for the exercise of public economy and dismal forebodings of a depleted Treasury. Suppose, Mr. Speaker, that I reply in the vein of the gentleman, for I do not fear a comparison, and many times like is the very best cure for like. When he puts the inquiry, where is Pere Marquette harbor, with \$20,000 appropriation, I reply where is Rock Island in his substitute with \$100,000 appropriation? To his inquiry, where is Manistee harbor with \$25,000? I retort, where is Des Moines canal in his substitute with \$400,000? And when he says where is Aux Bees Scies—the name he could not utter—with but \$10,000, I answer where is Chicago, with \$48,000 provided for in his substitute, making, as the House will see, \$548,000 proposed in that substitute for three places in the interest of the State which he in part represents, while the three places in the bill which he has by an assumed ignorance attempted to ridicule into insignificance aggregates but \$55,000—a difference against his three points, and in favor of my three, of \$493,000, which I ask him to reconcile with his gloomy fears for an empty Treasury. In that labor, and the investigation of localities of which he professes such ignorance, he will, no doubt, do greater justice to his geography, and, at the same time, I commend him to the study of another invaluable book—a higher source of wisdom—whose injunction he would do well to ponder when he seeks so carefully the interests of Illinois and so carelessly regards those of sister States: "First cast the beam out of thine own eye, then shalt thou see clearly to take the mote out of thy brother's eye."

I would be very glad to take a more comprehensive view of this subject of river and harbor improvements, and show how States not immediately proximate to the points of expenditure are largely concerned in those improvements; how, in fact, citizens of the various States are more or less interested in the opening and improvement of these great public channels of commerce, and how their prosperity is concerned by easy and safe facilities of transportation; but the time allotted me will not permit general observations. I am necessarily confined to the improvements proposed in my own vicinity, and a just defense of these will prove no obstacle to a proper estimate of other sections which other gentlemen, in their turn, will more ably defend. In answer to the remarks of the gentleman from New York, [Mr. HUMPHREY,] that we should exercise a proper economy in the legislation of this country, let me show him how those who are in favor of these appropriations have paid attention to that suggestion by initiating economy at this time and upon this very bill; and to illustrate, let me refer to the items relating to places in my district.

The first recommendation by the Engineer Bureau for the harbor of Grand Haven, where I reside, was for \$75,000. That has been cut

down to \$20,000, a saving of \$55,000 in that one item. In the case of Pentwater the estimate was for \$100,000; that is reduced to \$25,000. At Pere Marquette \$75,000 was estimated, and \$20,000 reported. In the case of Aux Bees Scies, which the gentleman from Illinois [Mr. WASHBURN] was so puzzled to pronounce, the estimate was for \$48,000, and \$10,000 recommended. For Manistee \$60,000 was estimated, and \$25,000 reported. In all, the estimates for my district aggregated \$433,000, and the bill proposes only \$185,000, or a reduction from the original estimates of \$248,000.

Mr. SPALDING. Are all these points on Lake Michigan?

Mr. FERRY. They are. These points are all on the eastern coast of Lake Michigan. Everybody conversant with the commerce of the lakes knows that winds prevail from the westward on that lake; and every one familiar with the subject also knows that the east coast of Lake Michigan is the most dangerous one upon the whole chain of lakes. This brings me to notice the fact that the opinion is so largely shared by the people of Illinois that Chicago, its commercial city, has, through its Board of Trade, passed resolutions recommending appropriations for harbors of refuge along this coast, and those resolutions have been presented to Congress. Citizens of that State and city well know how the safety of their shipping depends upon good harbors along this perilous way. All the western grain-growing States are interested in good and capacious harbors. To move their millions of bushels of cereals with safety, celerity, and cheaply every precaution should be taken by a fostering Government to guard against peril and loss. The value of these products on the sea-board depends in great measure upon these securities. The greater the peril the higher the rates of transportation and insurance, so that the consumers upon our eastern boundaries, and all over the States I might add, are taxed by this lack of foresight to make adequate provision for easy and safe transit.

Until the Thirty-Ninth Congress the Government had failed to make appropriations for this coast of Michigan, much as it was needed. By urgent appeals I succeeded in directing proper attention to the great necessity for good harbors and light-houses there, and Congress made surveys and appropriations. Thirty thousand dollars was appropriated for a large light-house at Big Point au Sable, and to-day it stands a beacon for the guidance of commerce and a monument of the wisdom of the Government.

Carrying out this wise policy Congress also appropriated for the improvement of the two harbors of Manistee and Pere Marquette, and the gentleman from Illinois [Mr. WASHBURN] will now take notice that I place the localities of these harbors for his especial information as well when I state that one is north and the other south of Big Point au Sable. On the direct course from Chicago to the straits it will be readily appreciated how necessary it is that this salient, dangerous point should be guarded by a good light-house and harbors on either side, so that sailing either way vessels failing to weather that point may have a safe harbor of refuge whether bound up or down the lakes.

The bill before the House does not propose appropriations for any new harbor, but alone for those where the Government has already expended money, and for harbors that had already been more or less improved by private means and the enterprise of local citizens. In this, sir, they stand far ahead of Chicago, and it is due the energy and perseverance of citizens who have contributed of their means so liberally for the general good that their laudable efforts should at last be recognized.

I call the attention of the gentleman from Illinois [Mr. WASHBURN] to the fact that within my knowledge and recollection, and I am not an old man, the harbor of Chicago was so poor and shallow that vessels with only seven feet draft could not enter it. By appropriations from the General Government it has now

become one of the best harbors on the lakes, and the people of my district have rejoiced that the Government made liberal provision for that harbor. It is a pleasure for me to support to-day additional appropriations for it, and Michigan will never cease to lend its aid for the perfection of that place of commercial refuge. All that I ask for the harbors in which my people are more immediately concerned is, that appropriations for the improvement be made where private enterprise has made a depth of water of more than seven feet to begin with, that have a greater depth of water than Chicago originally had, and for appropriations to so deepen these harbors on the east coast of Lake Michigan that they may become harbors of safety and refuge to general as well as local commerce. I was surprised at the persistent efforts of the gentleman from Illinois [Mr. WASHBURN] to depreciate the importance of these harbors when all of them pour into the lap of Chicago, the city of his State, millions in value of their products. The harbor of Muskegon is, I may say to him and the country, the greatest lumber manufacturing place of any one point in the world. Its shipments will rise to two hundred million feet. Here, let me add, its citizens, with a liberality unparalleled, have taxed themselves for the worthy purpose of making a good and safe harbor of entrance and refuge. Building two piers with slabs from their busy mills they have by their own toil and money deepened the water of that harbor from seven to twelve feet. Now, they ask that the Government would appreciate their labor and share with them in such further expenditure as will insure a permanent and ample harbor for the vast shipping that seeks ingress and egress at that industrial point. I will not believe that their appeal will be in vain.

Manistee, also, is no insignificant point, as the gentleman [Mr. WASHBURN, of Illinois] would have the country suppose. The same energy and enterprise is apparent there. From a shallow depth the citizens of that thriving place have by their own means increased it to eight feet, and now they, too, justly ask of the Government to come to their rescue in their attempt to make this an excellent harbor. I reiterate it cannot be possible that this appeal be made in vain. So, Mr. Speaker, I might speak of the same laudable efforts made at Pentwater, White River, and Grand Haven. Conversant as I am with what has been done by private means at all these points, and knowing full well what obstacles citizens there have had to encounter, the storms that beat, the disasters they suffer, the losses of property they incur, and life jeopardized and lost, I cannot forbear the expression that if the Government is, in the face of all this, to idly survey their struggles and mock at their appeals by turning them back to their own resources for help, it falls far below its high duty, and justly merits the criticism of an enterprising and faithful people.

Mr. PRICE. I withdraw my amendment.

Mr. MAYNARD. I move to amend the amendment by striking out the last two words. I rise for the purpose of opposing this substitute. I am in favor of the original bill. I think the interests of the country require that we should take it up and act upon it. If it contains any improvident or unnecessary appropriations, strike them out; if any provident and necessary appropriations are omitted, insert them. And I will say to the gentleman that I am perfectly willing to appeal to the people to sustain any legislation that I may think proper and wise to support in their name. I have none of that fear of the frown of my masters which makes me shrink from what I regard as high public duty. I have confidence in the American people, in their sound common sense, and in their ability to see through the thickest as well as the flimsiest disguises, and to discover when public men shirk their duty through unworthy motives as well as when they unwisely or improvidently attempt to perform it. They are far more likely to withhold approval from



the timid, cowering public servant who, through fear of doing wrong does nothing, than from him who goes forward boldly and honestly in the discharge of his duty even though he should fall into occasional errors. Condemnation was reserved for him who hid his own talent in the napkin; and his fear of a hard, exacting master, so far from being accepted as an excuse, was held to aggravate the offense. Gentlemen need not hope to escape censure by abandoning their post and running away. Deserters are always to be shot, and everybody holds that they deserve it. Cowardice is a terrible offense in a public man.

But even if I were opposed to this bill and in favor of recommitting it I should not be willing to recommit it with the instructions proposed here. What is the proposition? To place a sum *in solido*—I have not calculated how many millions—practically and really in the hands of the President of the United States, to be expended under contracts with whom he may please and for whatever works he may see proper. A generous confidence, truly! It is proposed to appropriate \$1,300,000 "for the improvement of rivers." What rivers? In what part of the country? On this point the proposition is expressively silent. It gives not a whisper of information. The money is to be placed in the hands of the President, leaving him to contract with whomsoever he may select, and to expend the money on works anywhere from the Passamaquoddy to the Rio Gila. [A voice. "Perhaps the Tennessee."] The Tennessee river is not named in this proposition; no river is named; but \$1,300,000 is to be turned over to the President to improve the rivers of the United States—Fishing creek or Goose creek or Duck river, perhaps. Now, my friend from Illinois [Mr. WASHBURN] may have that unbounded confidence in the President which his remarks seem to imply when he tells us the President would certainly veto this bill, because it ought to be vetoed, and that he would sustain him in it. The gentleman may possibly be willing to place this sum of money in his hands, to be used during the coming summer in contracts and generally for the good of the public service. I say frankly I am not.

Without any disparagement of the chief Executive, or of any of his subordinates, I declare that I am unwilling to put this sum in the hands of any man to be expended under no other restrictions than those embraced in the proposition of the gentleman from Ohio, [Mr. DELANO.] In my judgment this proposition ought not to be entertained for one moment. It is altogether improvident. It proposes to disburse the public money in a manner which we, as legislators, ought never to tolerate; for it is our duty to designate the specific use to be made of the money which we appropriate. If this bill is not acceptable, then we ought to adopt some other bill. If the appropriations proposed are not wise, then we ought to make such as we think wise. If we believe the commerce, the internal communication of the country, requires nothing in the shape of public improvements, then let us pass no bill. But such a proposition as this I can look upon as nothing short of a monstrosity in legislation. I cannot imagine what public policy, what sense of statesmanship—I will not say what political strategy, what party tactics—would ever put such a sum as this into the hands of the chief Executive to be disposed of as this proposition contemplates.

Mr. DRIGGS. Mr. Speaker, I am opposed to the substitute offered by the gentleman from Illinois, and for reasons which I think of great weight, especially in reference to my own district. Like my colleague, [Mr. FERRY,] I do not propose to interfere in reference to appropriations for districts represented by other gentlemen, presuming that they understand better than I do the necessities of their own localities. Now, when the gentleman inquired a few moments ago where the port of Ontonagon was, I felt that if he had put that question to my friend from Indiana [Mr. COVERN] he

might have had an answer that he would not soon forget. In 1863 I happened to visit that distant point in the State of Michigan, some four or five hundred miles from where I live. I escaped but a few moments taking passage on board the steamer Sunbeam. The honorable gentleman's brother, unfortunately, took passage on that steamer, which was lost on the coast of Ontonagon because there was no place there to escape from the violence of the storm. The steamer sank with all on board. It lay off the coast for some fourteen hours, and might have been saved if there had been a place of refuge. That port is the first point where copper was discovered on Lake Superior. A mass of copper was found there at one time weighing five hundred tons. That was given to the commerce of the world in exchange for money. At no point on that great lake is it so important, not even, perhaps, at Marquette itself, to appropriate the small sum named in this bill. The War Department, without any interference or suggestion from any Representative from the State of Michigan, has recommended these appropriations for a few points in my district in order to keep the improvements in repair. I hope the House will not commit so great an act of injustice as to refuse a sufficient appropriation to keep these works in repair and moderately progressing. I understand the gentleman from Ohio has named a few points in his substitute for which he proposes appropriations.

Mr. DELANO. No, sir.

Mr. DRIGGS. I thought he had; it seems I am mistaken. Now, sir, without opposing any other appropriation, the harbor of Marquette has more commerce in one day than the harbor of Michigan City in a year. And yet I intend to vote for both. I have seen eighty sail waiting to load with iron. The Government has commenced a break-water. I think it proper to commence with a small appropriation, and if every point is as well guarded as this point in my district, no wrong, but great benefit will accrue. I hope the substitute will not pass, but that we shall take up the original bill and consider each appropriation carefully and pass those items that are necessary.

Mr. JUDD. The gentleman withdraws the amendment, and I renew it for the purpose of expressing in a few words my views. I do not yield to my colleague in desire or in zeal for economy in the public expenditure; but there are certain appropriations as necessary to the business of this country and its successful prosecution as nourishment is to the human system. A wise and prudent statesmanship would recognize this, and not by a blind opposition to every thing proposed endanger or cripple the commerce of the country and its safety; nor do I yield to him at all in the strength of my conviction that it is imprudent, impolitic, and unwise in the present condition of our finances for us to enter upon new enterprise or to make any sort of appropriations to begin new or experimental works of public improvement, even though our convictions might be that the public interest would be served by such works. Instead of this bill, I think real statesmanship would require that each appropriation should stand upon its own merits in a separate bill. But I do think, Mr. Speaker, that the amendment offered by the gentleman from Ohio [Mr. DELANO] is vicious in the extreme degree. It not only fails to indicate the individual work to be done, so that the House may judge of its propriety, thus making it an omnibus bill, but also transfers to a single officer supreme control over these millions in their expenditure and application—and I will say to him very frankly that I have tried to satisfy myself that this mode of legislation was not dangerous in order that I might vote for his proposition, but I cannot bring my judgment to the support of his amendment.

Mr. Chairman, the appropriation for the harbor of Chicago is embraced in all the bills; both that of my colleague [Mr. WASHBURN] and that of the committee, and the appropriation is \$48,000. That appropriation is required

for a work that is now actually in progress under contract, and the safety of the commerce and navigation upon the upper lakes absolutely demands the expenditure of that money. It is an appropriation to complete a contract now in the progress of being carried out.

Now, sir, when neither any member of the committee or any member upon the floor of this House doubts for a moment both the propriety and necessity of this expenditure, can I go home to my people and say that I have consented to abandon all control over the application of the moneys that we vote, and without any guarantee that the money will be applied to really proper purposes, but trust entirely to the discretion or interest or prejudices of officials in Washington. I say to you let us discuss each item of appropriation in this bill upon its merits, and reject all that the public necessities do not absolutely require, having in view the principle that no new works are to be entered upon, only the preservation of those now in progress. But I concur with the gentleman from Buffalo [Mr. HUMPHREY] in saying that we must understand here and now whether the Government is to abandon, as some years since it did, the protection of commerce on our western lakes. Why, sir, in 1852, this principle of refusing to make appropriations for necessary work was adopted, and it is within my recollection that all the Government property that was used for Government work upon Lake Michigan was sold at auction, and when appropriations were again made Government was compelled to buy anew all the material and machinery, dredge-boats, and all that kind of machinery which is absolutely necessary to carry on such works. The abandonment of this class of appropriations threw burdens upon the local community that properly belonged to the General Government. My own city, to save its harbor, expended some eighty thousand dollars, which the Government has constantly refused to refund. It is not our harbor, Mr. Speaker, it is the outlet for a large portion of the country and the receiving point for an immense trade, and no man can reasonably say that a local community should bear these burdens.

Now, sir, the commerce and navigation of Lake Michigan are less protected and have had less money appropriated to that end than any similar extent of commerce and navigation within the territory of the United States; and so impressed were our people with that fact that our board of trade instructed me to vote for, and aid and assist in the passage of the appropriation discussed by my friend from Michigan [Mr. FERRY] for the harbors of Lake Michigan, and I tell you that there are no set of men who pay more taxes or who look more carefully at the expenses of the Government than that class of gentlemen I represent; and they have said that it is my duty, in the public interest and in the interest of commerce, to vote for these specific appropriations for harbors of refuge on Lake Michigan. Sir, it is as necessary that these expenditures should be made which are intended to protect and guard the commerce of these lakes and the business of the country as it is that a man should repair his own homestead when it is falling into decay. And how can any man go home and say to his people that he ran the risk of placing this money in the hands of an officer in Washington, and authorizing him to expend it for this work, or for politics, or in any other way that he saw fit? I tell you it is false legislation to trust this discretion to any officer when the legislative power can control the manner in which the expenditures are to be made.

[Here the hammer fell.]

Mr. BARNES. I am very glad to hear expressions in favor of economy from the other side of the House, and I do not care where it comes in; but I do not see the economy of neglecting a private estate or a public estate as is proposed to be done by the amendment now before the House. We have a proposition to emasculate this bill in a manner which

leaves the appropriations to be expended where they may not be wanted, or in insufficient sums where they are distinctly required.

There is an appropriation in this bill of \$300,000 for the improvement of the East river, near the city where I reside. It is estimated that \$15,000,000 of commerce pass through Hell Gate in one day, and in a single day I am informed that seven wrecks have occurred at that point. The amendment does not propose to appropriate any particular sum for this purpose, but a less sum than \$300,000 would be inadequate to protect what might be denominated the majority of the commerce of this country. And the whole amount proposed to be appropriated is entirely inadequate to develop and protect the resources of the commerce of the country. So far as the means of the country to supply the wants here demanded are concerned, I undertake to say that the policy now indicated by the majority of gentlemen on the other side would, in a very few years, leave the country without a commerce; would leave the cereal crops of the country without a market; would allow our piers to rot, our docks to decay, and our vessels to seek foreign ports. We are as competent to-day to invest five, ten, or even twenty million dollars in erecting piers and docks, and in creating harbors for the development of the industry and commerce of this country, as we ever have been. No gentleman who has an estate, however rich he may be, can afford to allow that estate to remain unfenced and untilled. But that is the policy now proposed in emasculating these bills, in cutting down these appropriations, and leaving the country without the requisite means in the way of harbors to afford due protection to ships and to life, to develop commerce and the resources of the country, and to afford markets for our products. Each separate item should be taken up and decided with reference to its own merits. It is not sufficient that an appropriation of so many millions or so many hundreds of thousands of dollars should be made for one class of improvements, and so many hundreds of thousands of dollars to be expended in another section for another class of improvements. This House, when a particular improvement is brought before it, is competent to judge what is required; and the more money that can be appropriated for any specific improvement, such as the good sense of this House will say is a necessity, so much the better for this country.

[Here the hammer fell.]

Mr. JUDD. I withdraw the amendment to the amendment.

Mr. EGGLESTON. I renew it. The question before the House is the recommitment of a certain proposition to the Committee on Commerce with instructions to report a bill that will appropriate \$1,300,000 for the improvement of rivers, \$500,000 for the improvement of lakes, and \$150,000 for the improvement of harbors.

Now, sir, the Committee on Commerce, I think, have been laboring about as hard as committees ordinarily labor, with the exception of the Committee of Ways and Means, for some four or five months past to prepare and bring forward a proper river and harbor bill. They have reported a bill, after getting all the information they could from the engineer department, which bill proposes that certain sums be appropriated for improvements in certain localities throughout the length and breadth of the United States.

A member of the House who has probably given the subject no consideration at all jumps up and says that the best way to deal with it is just to allow the Secretary of War to have a couple of millions of dollars and distribute it wherever he pleases, for the improvement of such harbors and rivers as he may think proper to improve. I ask that gentleman why he did not the other day, when we were considering the internal tax bill, get up here and say that the best way to deal with the subject is to send out certain officers in the country with instruction to exercise their own judgment and collect

so much money in any way they may think best? How much easier that would be than to come here and sweat over that bill night and day for a week. And why not say, instead of making specific appropriations for the several Departments, that the Secretary of the Treasury should have so much money, thirty, forty, or fifty million dollars to carry on his Department as he may deem best? Why not say in regard to the Secretary of War and the Secretary of the Navy that fifty or a hundred million dollars shall be appropriated, with which they may go out and buy such ships as they may need and employ such men as may be required for the Army? In that way the business of legislation in Congress might be dispensed with entirely, and we could leave the whole administration of the affairs of the Government to the heads of the various Departments. I am astonished at a proposition of that kind coming from my intelligent colleague [Mr. DELANO] in regard to a subject of this magnitude.

I do not wish to say anything about the particular items in this bill. When we come to any I think I should speak about I may then say something. But I think we should not recommit this bill with the instructions proposed. If the House should decide to recommit this bill, with instructions to the Committee on Commerce to bring in a bill with just three items in it, \$1,800,000 for rivers, \$500,000 for lake harbors, and \$150,000 for harbors on the ocean, I would inquire how we are to get the money for our respective improvements? My friend from Illinois, [Mr. WASHBURN], who is so well acquainted with this subject, may have a better hold on the Secretary of War than I have; and he may understand better how to deal with the Secretary of War than does the gentleman from New York, [Mr. ROBINSON.] He may stand better with the Secretary of War than my friend from New York, and may get the whole appropriation for the improvement in his locality. Nine hundred thousand dollars is asked for the improvement of Des Moines rapids; and I want to vote for it. Two hundred thousand dollars more is asked for the improvement of Rock Island rapids, and I want to vote for that. What locality would come in next I cannot say.

[Here the hammer fell.]

Mr. PHELPS. Mr. Speaker, representing, as I do, a commercial city on the Atlantic coast, my constituents have very little interest in the bill reported from the Committee on Commerce, and they have no interest at all in the substitute which has been presented by the gentleman from Illinois, [Mr. WASHBURN], as the minority of that committee. The substitute contains appropriations for specific improvements in the western and northwestern waters, but only two items for improvements upon the Atlantic coast. While it proposes to appropriate in the aggregate \$1,657,000, the only appropriations for the Atlantic coast are \$300,000 for removing obstructions in East river, including Hell Gate, and \$50,000 for the preservation and improvement of Boston harbor. Thus it is proposed to appropriate \$1,307,000 exclusively for the western and northwestern sections of the country, and only \$350,000 for the eastern and northwestern portions. Sir, I am opposed to thus taking money out of the pockets of the people of one section of the country and putting that money into the pockets of the people of another section, under whatever pretext that operation may be justified.

One of the subjects to which reference has been made, and which I presume has occupied, to a large extent, the attention of the Committee on Commerce during the present session of Congress, is the depreciation, the decay, and in fact the almost absolute ruin, of the American ship-building and shipping interests. During the short session of last July I had the honor to introduce a resolution, which was referred to the Committee on Commerce, instructing that committee to inquire particularly into the causes which had produced that decline of our ship-building and

shipping interests, what portion of it was owing to defective or injurious legislation, and to what extent it could be remedied by congressional enactment. In connection with this subject it has been repeatedly stated on this floor that so great has been the decline of the interests I have named that there is not at this time a single line of ocean steamers, American built, plying between the port of New York and any foreign port. But in the discussion of this question gentlemen have overlooked the fact that there is one city upon the coast which has supported for the last two years and more two lines of ocean steamers, American built and American registered, supported them in spite of difficulties and discouragements, in spite of injurious legislation, in spite of competition from our own country and other countries; and that city is the one which I have the honor in part to represent on this floor. Yet that city, with its harbor, one of the most important upon the coast, is, by the substitute of the gentleman from Illinois, utterly ignored. Although there has been laid upon the desks of members an estimate from the War Department, calling for an appropriation of \$125,000 for deepening the channel and removing shoals in the harbor of the Patapsco river, not a single cent does the gentleman from Illinois propose to appropriate for that object.

[Here the hammer fell.]

Mr. DELANO. I move that all debate upon the pending proposition be closed in ten minutes.

The motion was agreed to.

Mr. ALLISON. I cannot permit the vote to be taken without saying one word in opposition to the substitute offered by the gentleman from Ohio. I object to it upon principle. I think Congress should determine what improvements should be made; that is, what particular rivers and harbors should be improved. If \$1,000,000, for instance, is to be appropriated for rivers, I know personally that there are two improvements now in progress which will require \$1,000,000 during the next year. I say to the gentleman from Ohio and others who oppose this bill that there can be no expenditure of money so profitable to the great consuming and producing interests of the country as the works to which I allude. I speak of the improvement of the Mississippi river. Now, my friend says he has reduced the appropriation to \$500,000. I ask him of what avail is it to reduce that appropriation when the whole expenditure must in fact be made? I, for one, am not willing to allow it to go to the people of the country that this great work of improving the two rapids on the Mississippi river is to be suspended by a half appropriation. I am not surprised that the gentleman from New York [Mr. BAILEY] should oppose these appropriations. The gentleman did not tell us that the people of the great West are ground to powder by being subsidized by the State of New York, which has a canal system collecting millions of dollars from the honest toil of the West in the shape of tolls. We want other means of communication. We want competing lines, so that we may have a reduction of the rates of fare to the Atlantic ports.

Mr. BAILEY. Did not the State of New York build its own canals?

Mr. ALLISON. They built them on credit, and they are taxing the country to-day to pay the debt, instead of taxing their own people to pay it. Now, what we want is an outlet by the way of the Mississippi river, and one appropriation in this bill for that purpose is \$900,000. I know nothing about numerous other appropriations made here. Some may be just, others unjust; but I cannot consent that the substitute offered by the gentleman from Ohio should prevail, because there is not enough in it. It is false economy and unjust to the people of the country to make these half-way appropriations when we have necessary improvements that must go forward. I yield the remainder of my time to the gentleman from New York.

Mr. ROBINSON. I can say all I have to say in one minute. The proposition in the substitute is to give \$1,800,000 to the western harbors and \$300,000 to the entire Atlantic coast. I trust that substitute will not prevail. I am willing to vote any amount that is necessary for the improvement of western harbors; but to make provision for nearly \$2,000,000 for them, and only \$300,000 for the entire Atlantic coast, seems to me so one-sided that I wonder it is entertained by the House.

One word more. If the entire appropriations made in this bill, as reported by the committee, which are about four million dollars, were expended upon the improvement of the harbor at New York, in removing obstructions from Hell Gate, it would be wisely and well expended and for the benefit of the whole country. If I have any time left I yield it to the gentleman from Tennessee, [Mr. MULLINS.]

The SPEAKER. There is half a minute remaining.

Mr. MULLINS. I can only say in that brief time that I am opposed to the substitute and in favor of the original bill, properly analyzed, and making appropriations as the necessities of the case require. That is economy, and nothing more—to appropriate what the public demand should be done.

[Here the hammer fell.]

Mr. DELANO. The direct question before the House is the comparative merits of the substitute and the original measure. I will, as well as I can in the five minutes allowed me, draw this comparison. I say in advance that I do not regard the substitute as being free from objections, but I do regard it as preferable to the original measure. You can offer nothing of this kind, probably, that would not be objectionable to some.

Now for the comparison, and I want gentlemen to understand me. The original bill introduces a system of internal improvements embracing within its scope some eighty different localities. It inaugurates a theory of internal improvements that will draw from the Treasury annually not less than \$10,000,000, if it be undertaken. It is undoubtedly made to cover so much in order to give it strength, to get into it enough to make votes enough to carry it. It is vicious in itself, even if we were prepared now to enter upon such a system, and embraces within its scope places like Little Sodas, and others that have been exploded long ago, and that ought never to have appropriations from the General Government.

And now, sir, at the close of our war, when the nation, as I have had occasion to say before, groans under the debt contracted to save its life; now, when, as has been said, we are starting out upon a campaign for the election of a President—although that has nothing to do with the question—you propose, when the country is thus embarrassed, to enter on this magnificent scheme of plunder for the benefit of localities. That is the outline of this original bill.

Now, let me illustrate the truth of these remarks. You begin with an appropriation for the improvement of the Wisconsin river, which is a small appropriation now, but you are told by the Bureau of Engineers that it looks to a ship-canal between the Mississippi river and the lakes by the way of the Wisconsin river, and this scheme will lead to immense amounts of annual expenses.

Mr. ELIOT. I would like to ask the gentleman if the appropriation for the Wisconsin river is not in his own substitute?

Mr. DELANO. No, sir.

Mr. ELIOT. It was.

Mr. DELANO. It is not.

Mr. ELIOT. It was, but the gentleman struck it out.

Mr. DELANO. I am not talking of what was, but of what is.

Mr. PILE. May not the Secretary of War include the Wisconsin river?

Mr. DELANO. I cannot be interrupted. I have not time to analyze the original bill

and show what it would lead to. The substitute is predicated upon the policy of preserving the works now in existence and in progress that was adopted during the war. It proposes limited appropriations less than \$2,000,000, about one million eight hundred thousand dollars for that purpose, to take care of places that demand attention now, that in consequence of contracts or of great necessities deserve to be immediately attended to. What are the objections to it? Why, it is said that it will not do to leave the matter to the Secretary of War, who is at the disposal of the President of the United States. It is left to the direction of the Secretary of War, under the advice of the board of engineers; and without any disrespect to the gentleman from Massachusetts, [Mr. ELIOT,] I venture to say that every specific appropriation which he reports in this bill was inserted under the advice of that bureau. It knows best where appropriations ought to be made, and the information on which the original bill was prepared came from that source. I am authorized to say, by gentlemen who were in the House when this policy of preserving our works was first inaugurated, that no appropriations were ever better disposed of or better applied than those that were applied during the war under the same system that I propose now. It is all gammon, if I may use a vulgar term, it is all an appeal to prejudice, to say that it will not answer to leave this at the disposal of the Secretary of War for this single year. I would prefer myself that this whole matter should go over to another and better time, but I prefer the measure that I have introduced to the inauguration of this broad scheme of plunder and of expenditures which will burden this nation, already overburdened by taxation upon taxation.

[Here the hammer fell, the time allowed for debate having expired.]

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed a bill (S. No. 279) for the relief of William Henry Otis, in which the concurrence of the House was requested.

The message also announced that the Senate had passed a bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, with amendments; in which the concurrence of the House was requested.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the amendments of the Senate to the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, be referred to the Committee on Appropriations, and ordered to be printed.

The motion was agreed to.

#### LEAVE OF ABSENCE.

Messrs. BROOMALL and WARD obtained indefinite leave of absence on account of indisposition.

Mr. SCHENCK also obtained indefinite leave of absence.

#### COMMITTEE APPOINTMENTS, ETC.

The SPEAKER announced the following appointments to fill vacancies on committees: On the Committee on Foreign Affairs—Mr. PRUYN.

On the Committee on Expenditures of the Treasury Department—Mr. HINDS.

Mr. PRUYN. In view of my appointment as a member of the Committee on Foreign Affairs, I ask to be excused from further service upon the Committee on the Pacific Railroad.

There being no objection, Mr. PRUYN was excused.

#### ENROLLED BILLS.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills

of the following titles; when the Speaker signed the same:

An act (S. No. 367) for the relief of Albert Grant; and

An act (S. No. 452) for the relief of Parker Quince.

#### RIVER AND HARBOR BILL.

Mr. CAKE. I desire to offer the following resolution:

*Resolved*, That in the opinion of this House the interests of the people at large are not being subserved by the consideration of the river and harbor bill at this time; and that with due deference to the interests of commerce, and in view of a depleted Treasury and a languishing home industry, it should follow the tariff and tax bill into the next session of the Fortieth Congress; and that therefore the further consideration of this bill be postponed until the first Monday in December next.

The SPEAKER. The whole resolution is not in order, but the motion to postpone, with which it concludes, is in order and has priority.

Mr. BALDWIN. I move that the bill and pending amendments be laid on the table.

The SPEAKER. The motion to lay on the table takes precedence of the motion to postpone.

Mr. HUMPHREY. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 27, nays 98, not voting 69; as follows:

YEAS—Messrs. Bailey, Baldwin, Beatty, Benton, Brownell, Cake, Sidney Clarke, Coburn, Delano, Eckley, Ela, Ferriss, Golladay, Koonz, William Lawrence, Marshall, Mercor, Niblack, Orth, Shanks, Sitgreaves, Spalding, Van Auker, Van Wyck, William Williams, John T. Wilson, and Woodward—27.

NAYS—Messrs. Adams, Allison, Anderson, Delos R. Ashley, Axtell, Baker, Banks, Barnes, Beck, Blair, Boles, Boutwell, Buckland, Benjamin F. Butler, Cary, Cobb, Cornell, Cullom, Dixon, Donnelly, Driggs, Eggleston, Eldridge, Eliot, Farnsworth, Ferry, Griswold, Grover, Haight, Halsey, Harding, Hawkins, Higby, Hinds, Holman, Hooper, Hotchkiss, Chester D. Hubbard, Hulburd, Humphrey, Jencks, Johnson, Jones, Judd, Julian, Kelley, Kelsey, Ketchum, Loan, Loughbridge, Lynch, Maynard, McCormick, McKee, Moorhead, Morrill, Mullins, Munger, Myers, Newcomb, O'Neill, Paine, Peters, Phelps, Pike, Pile, Plants, Poland, Poley, Pomeroy, Price, Pruyn, Robertson, Robinson, Sawyer, Scofield, Selye, Shellabarger, Smith, Starkweather, Aaron F. Stevens, Stewart, Stokes, Taffe, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Cadwalader, C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, James F. Wilson, Windom, and Woodbridge—98.

NOT VOTING—Messrs. Ames, Archer, Arnell, James M. Ashley, Barnum, Beaman, Benjamin, Bingham, Blair, Boyer, Brooks, Broomall, Burr, Rodrick R. Butler, Chanler, Churchill, Reader W. Clarke, Cook, Coyode, Dawes, Dodge, Fields, Finney, Fox, Garfield, Getz, Glossbrenner, Gravely, Hill, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Kerr, Kitchen, Knott, Laffin, George V. Lawrence, Lincoln, Logan, Mallory, Marvin, McCarthy, McClurg, McCullough, Miller, Moore, Morrissey, Nicholson, Nunn, Perham, Randall, Raum, Root, Ross, Schenck, Thaddeus Stevens, Stone, Taber, Taylor, John Trimble, Lawrence S. Trimble, Robert T. Van Horn, Ward, Henry D. Washburn, Thomas Williams, Stephen F. Wilson, and Wood—69.

So the motion to lay on the table was not agreed to.

The question recurred upon the motion of Mr. CAKE, to postpone the further consideration of this bill until the first Monday of December next, after the morning hour.

Mr. WARD and Mr. CAKE called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 38, nays 89, not voting 67; as follows:

YEAS—Messrs. Bailey, Baker, Baldwin, Beatty, Benjamin, Benton, Boyer, Brownell, Benjamin F. Butler, Cake, Sidney Clarke, Coburn, Delano, Eckley, Ela, Ferriss, Hulburd, Julian, Koonz, William Lawrence, Marshall, Marvin, Mercor, Niblack, Orth, Shanks, Shellabarger, Sitgreaves, Spalding, Taffe, Van Auker, Van Trump, Van Wyck, Ward, Welker, William Williams, John T. Wilson, and Woodward—38.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Axtell, Banks, Barnes, Beck, Blair, Boles, Boutwell, Buckland, Cary, Cobb, Cornell, Cullom, Dixon, Donnelly, Driggs, Eggleston, Eldridge, Eliot, Farnsworth, Ferry, Garfield, Golladay, Griswold, Grover, Haight, Halsey, Harding, Hawkins, Higby, Hinds, Holman, Hotchkiss, Chester D. Hubbard, Humphrey, Jencks, Johnson, Jones, Judd, Kelley, Loan, Loughbridge, Lynch, Maynard, McClurg, McKee, Moorhead, Morrill, Mullins, Munger, Myers, Newcomb, Paine, Peters, Phelps, Pike, Pile, Plants, Poland, Poley, Pomeroy, Price, Pruyn, Robertson, Robinson, Sawyer, Scofield, Selye, Starkweather, Aaron F. Stevens, Stokes, Thomas, Trow-



bridge, Twichell, Upson, Van Aernam, Burt Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Thomas Williams, James F. Wilson, Windom, and Woodbridge—89.

**NOT VOTING**—Messrs. Adams, Archer, James M. Ashley, Barnum, Beaman, Bingham, Blaine, Brooks, Broomall, Burr, Roderick R. Butler, Chanler, Churchill, Reader W. Clarke, Cook, Covode, Dawes, Dodge, Fields, Finney, Fox, Getz, Glossbrenner, Gravelly, Hill, Hooper, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Kelsey, Kerr, Ketcham, Kitchen, Knott, Laffin, George V. Lawrence, Lincoln, Logan, Mallory, McCarthy, McCormick, McCullough, Miller, Moore, Morrissey, Nicholson, Nunn, O'Neill, Perham, Randall, Raum, Roots, Ross, Schenck, Thaddeus Stevens, Stewart, Stone, Taber, Taylor, John Trimble, Lawrence S. Trimble, Robert T. Van Horn, Henry D. Washburn, Stephen F. Wilson, and Wood—67.

So the motion to postpone was not agreed to.

The question recurred upon the motion of Mr. BAILEY to amend the instructions moved by Mr. DELANO, so as to instruct the committee to report a substitute to read as follows:

One million dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not already appropriated for the preservation of public works commenced for the improvement of rivers and harbors, and for the performance of contracts heretofore legally made by the Government for such works, which money is to be expended under the direction of the Secretary of War.

Mr. STEVENS, of New Hampshire. Is it in order to move an amendment to the amendment?

The SPEAKER. It is.

Mr. STEVENS, of New Hampshire. Then I move to amend the amendment so as to instruct the Committee on Commerce to report back this river and harbor bill amended by striking out all relating to the Louisville and Portland canal, and reducing the respective items of appropriation one half. And now, Mr. Speaker—

The SPEAKER. The House has closed debate.

Mr. STEVENS, of New Hampshire. I merely wish to say that if this motion be adopted I shall ask the House to give unanimous consent that the committee may report the bill at any time.

The amendment of Mr. STEVENS, of New Hampshire, to the amendment of Mr. BAILEY was not agreed to, there being—ayes thirty, noes not counted.

The question recurring on the amendment of Mr. BAILEY, it was not agreed to.

The question then recurred on the motion of Mr. DELANO, to recommit the bill to the Committee on Commerce, with instructions to report the bill with the following amendment:

Strike out all after the enacting clause and insert: That the following amounts of money are hereby appropriated to be expended by the Secretary of War, under the advice of the Bureau of Engineers, for the repair and preservation of certain harbors, for the improvement of certain rivers, and for the protection of existing works of improvement from deterioration, and for such extension of the same and the continuation and completion of works under contract as the safety of commerce at their respective places may demand:

For the improvement of harbors on the northern lakes and for the St. Clair flats, \$500,000.

For the improvement of harbors on the sea-coast, \$150,000.

For the improvement of rivers, \$1,300,000.

For the completion of reports, maps, and diagrams on bridges on the Mississippi river, \$3,000, and for purchase and repair of instruments, \$1,000, and for a survey for deepening the ship-canal at Sault Ste. Marie, \$1,000.

And be it further enacted, That all work done under the authority of this act shall be performed under contract to be made with the Secretary of War, who shall prescribe suitable rules for issuing proposals for materials or labor, having regard to the most effective use of moneys hereby appropriated: *Provided*, That separate proposals and contracts shall be required in all cases when the same can be, in the judgment of the Secretary, judiciously and properly made.

Mr. SHELLABARGER. I wish to inquire whether this question is divisible, so that we may have a separate vote on the question of reference.

The SPEAKER. The motion to recommit with instructions is not divisible.

Mr. DELANO. I call for the yeas and nays on my motion.

The yeas and nays were ordered.

The question was taken; and it was decided

in the negative—yeas 33, nays 103, not voting 58; as follows:

**YEAS**—Messrs. Baker, Beatty, Benjamin, Benton, Boies, Benjamin F. Butler, Cake, Sidney Clarke, Culom, Delano, Eckley, Ela, Farnsworth, Garfield, Hulburd, Ketcham, Koontz, William Lawrence, Marshall, Marvin, Mercer, Niblack, Orth, Sitgreaves, Spaulding, Aaron F. Stevens, Van Trump, Van Wyck, Elihu B. Washburne, Henry D. Washburn, Welker, William Williams, and John T. Wilson—33.

**NAYS**—Messrs. Adams, Allison, Ames, Anderson, Arnell, Delos R. Ashley, Bailey, Banks, Barnes, Beck, Blair, Boutwell, Boyer, Bromwell, Buckland, Cary, Chanler, Cobb, Coburn, Cornell, Dixon, Donnelly, Driggs, Eggleston, Eldridge, Eliot, Ferriss, Ferry, Golladay, Gravelly, Griswold, Grover, Haight, Halsey, Harding, Higby, Hinds, Holman, Hooper, Hotchkiss, Chester D. Hubbard, Humphrey, Jenekes, Johnson, Jones, Judd, Julian, Kelsey, Kitchen, Knott, Loan, Loughbridge, Lynch, Maynard, McClurg, McCormick, McKee, Moorhead, Morrell, Mullins, Mungen, Myers, Newcomb, Paine, Peters, Phelps, Piko, Pile, Plants, Poland, Polsey, Pomeroy, Price, Pruyn, Raum, Robertson, Robinson, Sawyer, Schenck, Scofield, Selye, Shanks, Shellabarger, Smith, Starkweather, Stewart, Stokes, Taffe, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Van Auker, Burt Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, James F. Wilson, Windom, Woodbridge, and Wood—103.

**NOT VOTING**—Messrs. Archer, James M. Ashley, Axtell, Baldwin, Barnum, Beaman, Bingham, Blaine, Brooks, Broomall, Burr, Roderick R. Butler, Churchill, Reader W. Clarke, Cook, Covode, Dawes, Dodge, Fields, Finney, Fox, Getz, Glossbrenner, Hawkins, Hill, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Kelley, Kerr, Laffin, George V. Lawrence, Lincoln, Logan, Mallory, McCarthy, McCullough, Miller, Moore, Morrissey, Nicholson, Nunn, O'Neill, Perham, Randall, Roots, Ross, Thaddeus Stevens, Stone, Taber, Taylor, John Trimble, Lawrence S. Trimble, Robert T. Van Horn, Stephen F. Wilson, and Wood—58.

So the motion to recommit with instructions was not agreed to.

The SPEAKER. The House now resumes the consideration of the bill by paragraphs under the five-minute rule. The pending question is upon the amendment of the gentleman from Ohio [Mr. SPALDING], which will be read.

The Clerk read as follows:

On page 4, after line sixty-four, insert the following:

For increasing the capacity of the ship-canal at Sault Ste. Marie, Michigan, \$50,000.

The amendment was not agreed to.

The Clerk read the following:

For improvement of Erie harbor, Pennsylvania, \$50,000.

Mr. VAN AERNAM. I move to amend by inserting after the paragraph just read "for improvement of harbor at Dunkirk, \$25,000." I offer this amendment with the approbation of the committee. It is to continue a work already in progress at a harbor which is one of the most important on Lake Erie.

Mr. WASHBURN, of Illinois. Do I understand the gentleman to say that this amendment is offered with the approbation of the Committee on Commerce?

Mr. VAN AERNAM. The committee, after consideration, agreed that it should come in.

Mr. WASHBURN, of Illinois. I should like to know when the committee passed upon the subject.

Mr. ELIOT. I can explain this matter. The gentleman from New York [Mr. VAN AERNAM] called the attention of the committee to this question, and a sub-committee having the matter in charge examined the question. My colleague on the committee, the gentleman from Ohio, [Mr. EGLESTON], has in his hands a letter upon which the committee acted in agreeing that the gentleman from New York should have the opportunity to offer this amendment. It is not assented to as a part of the bill; but it has the approbation of the sub-committee; and it was agreed the gentleman should have the opportunity to take the sense of the House upon the amendment.

Mr. WASHBURN, of Illinois. I would like to know when the committee passed upon this question.

Mr. ELIOT. I have not said the committee passed upon this specific item.

Mr. VAN AERNAM. The Committee on Commerce permitted this amendment to be offered after due investigation. This harbor is fifth in commercial importance on Lake Erie, and when the railroads, that are now in

rapid process of construction, are completed, it will be the fourth. I ask the Clerk to read the letter which I send to the desk.

The Clerk read as follows:

UNITED STATES ENGINEER OFFICE.  
DETROIT, May 1, 1888.

DEAR SIR: I am in receipt of yours of 29th ultimo, relative to appropriations for Dunkirk harbor, and hasten to reply. You say your Representative, Hon. H. VAN AERNAM, informed you "there would be no trouble in securing this appropriation had you (meaning me) not recommended that there be none granted." Now, I am quite as much surprised at this piece of erroneous information as the citizens of his district can be. The honorable gentleman has undoubtedly been misinformed, and I regret the mistake exceedingly, as it seems to have placed me undeservedly in a position antagonistic to the interest of your harbor. The facts are these. In my very last annual report, made 15th July last, I recommended an additional appropriation of \$50,000 to be made the present session of Congress for completing this work. That recommendation I have not retracted. The sum we already had, with an additional appropriation of \$50,000, is all I need to complete the harbor upon the plan approved at Washington. I have advocated the completion, and shall continue to do so in all proper manner at my command. It is for your Representative to insist upon what I asked for.

It is possible that the error of your Representative may have arisen from another report I, as well as every other engineer officer, was called upon to make this last winter, namely, "To state the amount each would require to prevent injury to what would be done up to 30th June, 1888, from that time forward to 30th June, 1889, on each work under our charge." Now, in answer to this, I reported that Dunkirk would require nothing to be appropriated for this purpose, as we had more than enough already to prevent this injury. But no one has any right to confound this report and estimate, with my annual reports wherein I claimed \$50,000 to be appropriated the present session for completing Dunkirk harbor.

Very respectfully, your obedient servant,

T. J. CRAIN,

Colonel Brevet Major General Engineers.  
O. S. WINANS, esq., President of the Village of Dunkirk, New York.

Mr. ELIOT. I rise not to oppose this amendment, but to ask consent to make a single statement in regard to it.

Mr. WASHBURN, of Illinois. I object. The question being taken on the amendment of Mr. VAN AERNAM, it was agreed to—ayes sixty-one; noes not counted.

The Clerk read as follows:

For improvement of Olcott harbor, New York, \$20,000.

For improvement of harbor at Charlotte, New York, \$10,000.

For improvement of harbor at Little Sodus, New York, \$10,000.

For improvement of Oswego harbor, New York, \$37,000.

Mr. POMEROY. On behalf of my colleague, [Mr. CHURCHILL], who represents the Oswego district, and who is absent, I move to strike out "\$37,000" and insert "\$60,000." I am told that this is pursuant to the recommendation of the Bureau of Engineers, and is the revised estimate, being the lowest sum that has been named by the Department. I can state in one moment the object of this addition to the appropriation. The Committee on Commerce have reported only a sum sufficient for the purpose of repairing the walls of the harbor at Oswego. The harbor is simply the mouth of the river entering into the lake. Beyond that piers have been built of equal length. There is no extension beyond on the west and none on the east, except sufficient for a light-house to stand on. Now, everybody knows that the winds are mostly from the west. Consequently there is a constant drifting and accumulation of gravel against the bank, which has already filled up the space behind the light-house, crosses it, and is filling up the channel of the river. In reference to that I send to the Clerk's desk to be read the last report of Colonel Blunt.

The Clerk read as follows:

"In my last annual report, and in my letter of April 27, 1867, I have referred to this subject and expressed an opinion favorable to the proposed structure. Since then, with additional experience here, I have become still more convinced of the necessity of the desired extension, not only for the reasons assigned in my communications above referred to, but for two additional ones: First, the proposed pier will serve to arrest the eastward progress of the gravel drift, which now, in crossing the entrance, has a tendency to form a bar there; and second, it will decidedly lessen the risk now run by vessels entering the harbor during a gale, of being driven against the east pier; inasmuch as it will, by making a lee, cause smooth water between the two piers. Two vessels

with valuable cargoes have been sunk this fall at the very entrance, which, it is most probable, would have got in safely had this proposed pier been built."

Mr. POMEROY. The losses last year were twenty times what is asked to continue this extension of the west pier, which is absolutely necessary if the harbor is to be entered with any safety. I have seen there myself in a storm a single vessel come in when people would be out by the thousand watching it with as much anxiety as they would watch a runaway thief on the street.

[Here the hammer fell.]

Mr. ELIOT. I move *pro forma* to strike out "\$60,000" and insert "\$55,000." I do it not only for the purpose of drawing attention to this proposition but to the one previously offered by the gentleman from New York, [Mr. VAN AERNAM.] In point of fact the committee some time ago took, under the direction of the House, the judgment of the Bureau of Engineers as to the lowest amount that could probably be called for at this time in view of the present condition of the works under the charge of that bureau. It so happened that in regard to the place of which the gentleman from New York [Mr. VAN AERNAM.] spoke, the report of the engineer was that nothing was wanted this year, and of course in the bill of the committee there was no appropriation made for that purpose. By subsequent information from the War Department it turned out that they were under a misapprehension, and they satisfied the committee that, instead of no appropriation being proper the one which was called for ought to be made, and it has now been put in the bill.

Now, in regard to this appropriation, I am sorry that it has been brought to the attention of the House, because I do not want to appear in the position of one who admits an appropriation to be enlarged. And I do not propose to assent to it; but I do propose to state what the facts are that influenced the committee in making up this bill and reducing the estimate from the War Department. Gentlemen who will turn to the report will find that \$60,000 was asked for for Oswego, New York; but on examining the reports that were submitted to us from the War Department, and making up estimates from them, we found that the sum of \$12,000, and a further sum of \$25,000, making \$37,000, should be applied, and not \$60,000. The committee accordingly reduced the amount from \$60,000 to that now in the bill—\$37,000. Reports from the engineer department, which were subsequently furnished to the committee, showed that the amount called for, \$60,000, was the lowest sum which, under the circumstances, in view of the wants of the port of Oswego, ought to be appropriated. The gentlemen from New York [Mr. POMEROY] has therefore proposed the amendment, and although I do not assent to it, yet I have stated the facts to the House in order that they may see what the case is, and that the amendment ought, in point of fact, to have been originally \$60,000, and not \$37,000. I withdraw the amendment to the amendment.

The question was taken on Mr. POMEROY'S amendment, and it was agreed to.

Mr. VAN HORN, of New York. I offer the following amendment to come in at the end of line eighty:

For the improvement of the harbor of Wilson, Niagara county, New York, \$10,000.

I will only say a word in favor of that amendment. I had not an opportunity at the proper time to present the amendment before the Committee on Commerce. I have, however, consulted with the committee and with the sub-committee, and all the members of the committee, I believe, except the gentleman from Illinois, [Mr. WASHBURN], have consented to this amendment. I therefore introduce it with the approbation of the committee, and I hope it will be adopted.

Mr. WELKER. I would inquire of the gentleman whether any one has recommended an appropriation to improve this harbor, or whether he makes the application, as I did

mine the other day for a harbor in my district, on his own responsibility?

Mr. VAN HORN, of New York. I will say, in answer to the gentleman, that I introduced a resolution here at the beginning of the session calling on the Secretary of War for information with reference to this harbor, and the propriety of making an appropriation for it, and that there is an answer to that resolution on our files.

Mr. WASHBURN, of Illinois. Will my friend vote for the omnibus bill if his amendment is put in?

Mr. VAN HORN, of New York. What do you mean by the "omnibus bill?"

Mr. WASHBURN, of Illinois. This bill. Mr. VAN HORN, of New York. Certainly I shall vote for it. I am in favor of appropriations for these purposes.

Mr. WELKER. I have not had an opportunity of reading the report the gentleman speaks of, and I want to know whether it recommends such an appropriation as this?

Mr. VAN HORN, of New York. It does; an appropriation of \$50,000.

Mr. WELKER. Then why did not you ask for that?

Mr. VAN HORN, of New York. Because the committee would not give it.

Mr. EGGLESTON. I move to amend the amendment by increasing the amount \$200, for the purpose of saying a word. If this subject had been presented to the sub-committee of the Committee on Commerce, at the time we looked over the other reports, we would have undoubtedly recommended this appropriation to the general committee. I am therefore authorized to say in behalf of the majority of the committee—of all of the committee, save one—that this appropriation should be made. It has been recommended, as has been stated by the gentleman from New York, and I believe it should be made. I shall cheerfully vote for it. I now withdraw the amendment to the amendment.

The question was taken on the amendment proposed by Mr. VAN HORN, of New York, and it was agreed to.

The following was read:

For improvement of Plattsburg harbor, New York, \$10,000.

Mr. GRISWOLD. I move to amend by inserting the following after the paragraph just read:

For improvement of harbor at Whitehall, New York, \$10,000.

I offer that amendment because the harbor at Whitehall is, perhaps, as deserving of consideration in an appropriation bill of this kind as almost any harbor mentioned in the bill. It is at the head of Lake Champlain, through which passes all the commerce between the Canadas and New York which passes along Lake Champlain and the Hudson river; and it will compare in importance with the majority of the harbors included in this bill. It is eminently entitled to consideration, and I hope the amendment will be adopted.

Mr. ELIOT. I rise to oppose the amendment. In doing so I must say that while I have no doubt that all the gentleman has said of the point named in his amendment is correct, yet the Committee on Commerce, after all that was stated by him, did not find that they could with propriety give the appropriation which he calls for. It is one of those cases which have not been so much under the examination of the War Department, and about which such surveys and recommendations have not been made, as to bring it within the rule adopted by the committee. Therefore, although the committee would have been glad to have acknowledged the correctness of what the gentleman has said, yet the case does not come within the rule proscribed, and it has therefore been omitted by them. This appropriation bill would have been doubled at least if the committee had not with all the power they possessed kept it within such limits as seemed to them proper, in view of the imperative demands of the commerce of the country.

Mr. GRISWOLD. Mr. Speaker—

The SPEAKER. Debate is exhausted on the amendment.

The question was then taken on the amendment of Mr. GRISWOLD; and upon a division there were—ayes 41, noes 40; no quorum voting.

Tellers were ordered; and Mr. GRISWOLD and Mr. ELIOT were appointed.

The House again divided; and the tellers reported that there were—ayes 49, noes 49.

The SPEAKER. The Chair votes in the affirmative, and the amendment is accordingly agreed to.

Mr. PILE. I desire to give notice that I shall call for a separate vote on this item.

The SPEAKER. Upon the engrossment of the bill any member can call for a separate vote upon each paragraph or item of the bill.

The next clause was read, as follows:

For improvement of harbor at Burlington, Vermont, \$40,000.

Mr. BAKER. I move to amend by inserting after the clause just read "for improvement of harbor at Alton, Illinois, \$56,000." I will explain briefly the grounds upon which I rest this amendment. I offer it upon its own merits, without any connection or combination whatever with any other appropriations in the bill. I make no question but what it is as meritorious, as just, and as proper as various items of appropriation contained in this bill.

In consequence of obstructions in the Mississippi river a process is going on, and has proceeded already to a very great extent, by which the entire harbor of Alton is being choked up. Major H. C. Long has made a report, under the direction of the Secretary of War, brief extracts from which I will read, and which will indicate the nature of the difficulty. He says:

"Very serious apprehensions are entertained by persons competent to give an opinion in such matters, who have watched the operations of the Mississippi in the vicinity of Alton for several years past, that at any of the annual floods such changes in the current and general course of the river may take place as to entirely prevent steamboats from approaching the landing during ordinary and low-water stages at least two thirds of the year, thus greatly injuring the commerce and consequent prosperity of the city."

"The dry bar A A (referring to a diagram published with the report) is about five thousand feet long by fifteen hundred feet in width, and nearly overlaps the head of the island below. It has been gradually working down stream, and it is feared that a connection will be formed with the island, and the water making its way behind both, the main body of the river and low-water channel will be permanently changed to the Missouri shore, the bar forced over toward Alton, and the city absolutely blockaded."

"This bar (BB) is encroaching rapidly upon the city landing, extending along its front and connecting with the main Illinois shore, until it has monopolized three fourths of the levee, entirely obstructing the low-water harbor for that distance."

These extracts will indicate pretty exactly the state of the harbor. To remedy this difficulty he proposes the following plan:

"The proposed remedy is a stone dike across the head of the slough, near the upper end of Billia's Island—the situation of the proposed dike is shown on the sketch—and a wing-dam or breakwater at the head of the dry bar A A. The exact location of this work to be determined by the United States engineer at the time of constructing them, and also the height which it is necessary to raise them."

"It is believed that the combined action of these structures by throwing the river over against and along the Illinois shore, will give a sufficient depth of water at all seasons of the year, and wash away the sand bar BB below the city, and from the strong and direct current thus produced have a tendency to modify the extensive abrasion going on opposite the mouth of the Missouri."

"At the locality last mentioned the Mississippi is rapidly encroaching on the American bottom, and working its way into a succession of lakes and bayous—old beds of the river—to such an extent that fears are entertained that the river will again pursue its course along the Illinois bluffs, and forsake its present channel in front of St. Louis."

The cost of this dike is estimated at \$112,000. I have offered an amendment asking for just half the amount, assuming that the citizens of Alton will supply the balance. In recommending the appropriation Major Long says:

"I am not aware that Government assistance of this or any other sort has ever been extended to Alton, although for many reasons, arising from her geographical position, she may be entitled to it more

than other cities of greater pretensions, who claim and receive it.

Alton lies on the left bank of the Mississippi river, about twenty-five miles above St. Louis, and three miles above the mouth of the Missouri river. It contains nearly sixteen thousand inhabitants. The importance of the city trade and commerce may be understood by a reference to the report of Messrs. Dobelbower and Frick, the committee appointed by the Board of Trade to procure statistics of the business of Alton for 1867, from which it appears that the business of the city for that period amounted to \$12,673,734, and that the revenue collected and paid to the United States during the year was \$180,000. (See report of committee, Appendix B.)

"While reserving to myself the privilege of a more extended treatment of the subject, and perhaps different opinions relative to the causes operating to produce the results complained of, after careful and comprehensive surveys I have no hesitation in view of the necessity of some determined action, in seconding the wishes of the citizens of Alton, by recommending the dike at the head of Ellis's Island as promising speedy and present relief sufficient for all practical purposes, and as an experiment that will be of value as a precedent in settling the many vexed questions relative to works of this character now agitating the public."

General Warren approves the report of Major Long. I will simply add that this is an improvement similar in principle to the improvements of some harbors upon the shores of our lakes, as for instance that at Oswego, where a pier is constructed for the purpose of deflecting the action of the water and preventing the sand from choking up the harbor. Here in this case a dike is proposed for the purpose of deflecting the action of the water and preventing the sand from blocking up the harbor. In the one case the improvement is made upon the shore of a lake, supplying several thousand miles of navigation; in the other case the proposed improvement is upon a river, also supplying several thousand miles of navigation. The principle appears to be the same with that upon which other appropriations in this bill are made. The case, in my judgment, presents as just a claim as these; and I therefore ask the House to sustain my amendment.

[Here the hammer fell.]

Mr. ELIOT. The gentleman from Illinois [Mr. BAKER] has, I believe, on every proposition which has come before the House voted against this bill. He has voted to lay it on the table and to postpone it. All his votes have indicated a hostility to the bill which certainly does not, in my judgment, warrant that he should anticipate a very favorable reception for the amendment which he offers.

Mr. BAKER. The gentleman will allow me to correct him. I did not vote to lay the bill on the table.

Mr. ELIOT. I thought the gentleman did. Mr. BAKER. I did vote to postpone the bill; I did vote for the substitute of the gentleman from Ohio, [Mr. DELANO;] and I will add that I do not know why the rights or interests of my constituents should be prejudiced because I do not combine with the representatives of other interests on this floor.

Mr. ELIOT. I agree to that, and now as the gentleman has taken up quite enough of my time I will say a word as to the merits of his amendment. There is no such appropriation in this bill as that which the gentleman proposes. According to my recollection, no appropriation of a similar kind has ever been made. The gentleman from Illinois, [Mr. WASHBURNE,] the chairman of the committee, informs me that there was once an appropriation of this character for Dubuque. If that is so, the case must stand alone. The appropriation now proposed is to make a harbor. It is not to improve navigation, but to benefit the town of the gentleman from Illinois, [Mr. BAKER.] That town, it appears, is being injured by the water, and this appropriation is designed to prevent that injury. Now, sir, we do not propose to dig out any harbor in order that after vessels have got into the harbor they shall find sufficiently deep water. That is not the object of this bill. It is to improve harbors and to improve the navigation into harbors. The gentleman from Illinois brought this matter before the committee, and certainly there is no member on this floor whom personally I should be more desirous to accommodate than that gentleman. But for the considera-

tions I have named—the importance of having this bill proceed upon a uniform and consistent principle and the necessity of keeping the appropriations within proper bounds—the gentleman's proposition would, I doubt not, have received more favorable consideration from the committee. But there is nothing in this bill to justify this amendment. It has no such claim to our approval as the appropriations contained in the bill. I hope, therefore, that the House will not adopt it.

Mr. CARY. I move that the House now adjourn.

The motion was agreed to; and the House (at four o'clock and forty minutes p. m.) adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. EGGLESTON: The petition of Andrew Althausen and others, workmen in the manufacture of chemicals at Cincinnati, Ohio, representing that the depression of the manufacturing industry of the country affects disastrously every form of production and business, and must reduce the revenues and endanger the credit of the Government, and praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

By Mr. PETERS: A remonstrance of George Stetson and others, of Bangor, Maine, against a reduction of the tariff on lumber.

Also, the petition of Mahala Jane Robertson, for relief.

By Mr. POLAND: A remonstrance of J. J. Esty and 120 others, of Brattleboro', Vermont, against the extension of Howe's patent on sewing-machines.

#### IN SENATE.

MONDAY, June 29, 1868.

Prayer by Rev. J. V. SCHOFIELD, of St. Louis, Missouri.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of Saturday last was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. HOWARD presented the petition of Dr. Robert Leiby, praying a removal of the civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. SUMNER. I present the petition of Professor Agassiz, of Cambridge, and a large number of others, professors of Harvard University, and also professors of the Institute of Technology in Boston, in which they plead that Congress take steps that the statute of the Legislature of California with regard to the Yosemite valley shall not receive the sanction of Congress. They say that it is inconsistent with the just fulfillment of the purposes of the original grant, and with an honest, patriotic pride; and they respectfully and earnestly protest against the ratification or confirmation by Congress of any conveyance of any part of the Yosemite valley by the State of California to individuals. I believe that this subject is under the consideration of the Committee on Private Land Claims, and I move the reference of this petition to that committee.

The motion was agreed to.

Mr. MORRILL, of Vermont, presented a petition of citizens of Boston, Massachusetts, praying the passage of the House bill to encourage commerce and internal trade by facilitating direct importations; which was referred to the Committee on Finance.

Mr. TRUMBULL presented a petition of citizens of Philadelphia county, Pennsylvania, praying that the survivors of the war of 1812, whether soldiers or sailors, and the surviving widows of any who may have died or who may hereafter die, may be placed upon the pension-roll; which was referred to the Committee on Pensions.

#### REPORTS OF COMMITTEES.

Mr. EDMUNDS. I am instructed by the Committee on the Judiciary, to whom was referred the joint resolution (S. R. No. 139) excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized, to report the same back with an amendment and recommendation that it be adopted. I shall ask the Senate to take it up and consider it to-morrow.

Mr. HOWARD, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 567) relating to the Freedmen's Bureau and providing for its discontinuance, reported it without amendment.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 394) confirming title to Little Rock Island, in the Mississippi river, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 415) to create an additional land district in the Territory of Dakota, to be called the Pembina district, reported adversely thereon.

He also, from the same committee, reported a joint resolution (S. R. No. 152) to extend the time for the completion of the West Wisconsin railroad; which was read, and passed to a second reading.

Mr. NYE, from the Committee on Revolutionary Claims, to whom was referred the petition of Frederick Vincent, administrator of James Le Caze and others, submitted a report, accompanied by a bill (S. No. 580) for the relief of Frederick Vincent, administrator of James Le Caze, surviving partner of Le Caze and Mallet. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. THAYER, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 240) to amend section thirteen of an act entitled "An act to increase and fix the military peace establishment of the United States," reported it without amendment.

Mr. WILLIAMS, from the Committee on Private Land Claims, to whom was referred the bill (H. R. No. 65) for the relief of William McGarahan, reported adversely thereon, and submitted a report; which was ordered to be printed.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 449) to revive and continue in force the act of the 29th of July, 1850, and the act amendatory thereof of the 2d of April, 1852, reported it with an amendment.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 522) to authorize the Commissioner of the Revenue to settle the accounts of Andrew S. Core, with amendments, in which it requested the concurrence of the Senate.

#### FUNDING OF PUBLIC DEBT.

Mr. SHERMAN. I desire to report from the Committee on Finance an amendment to be proposed to the civil or miscellaneous appropriation bill. I wish now to say to the Senate that this amendment, proposed by the unanimous vote of the Committee on Finance to be added to the civil appropriation bill, contains some important provisions in regard to funding the public debt. I submit it now, and ask that it be printed, so that their attention may be called to it.

Mr. EDMUNDS. Does it increase the appropriation?

Mr. SHERMAN. There is no item of appropriation in it.

The proposed amendment was ordered to be printed.

#### INTEREST ON STATE BONDS.

Mr. MORGAN. If there be no further morning business, I ask the Senate to take up Senate joint resolution No. 94. This joint resolution was considered some time since, and



debated, and laid aside at the request of the Senator from Indiana, [Mr. MORRIS.] He has now, I understand, no objection to it, and I ask that it be taken up.

Mr. EDMUNDS. It is very desirable that the bill relating to the removal of causes from the State courts to the United States courts should be taken up and passed to-day, if it is to be passed at all; but I presume this resolution will occupy but a moment.

Mr. MORGAN. It will occupy no time, I think.

Mr. SUMNER. I am very desirous to move an executive session for some fifteen or twenty minutes, in order to act on a certain matter. I have a note from the Department of State in my hands expressing a great interest in a matter which is now pending before the Senate in executive session and inviting immediate action upon it.

Mr. CONNESS. That can afford to wait. There is no need of that.

Mr. MORGAN. I think we had better pass this joint resolution. It will take no time.

Mr. SUMNER. I will not interfere with the Senator.

The motion of Mr. MORGAN was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 94) directing the Secretary of the Treasury, whenever any State shall have been or may be in default for the payment of interest or principal on investments in its stocks or bonds held by the United States in trust, to retain the moneys due to such States from the United States.

The Chief Clerk read the joint resolution.

Mr. HENDRICKS. I do not know that I understand the force of the resolution that is before the Senate. My impression is, however, as I heard it read, that it may, perhaps, affect some of the interests of the State of Indiana, and I should like to have it read again.

The Chief Clerk again read the joint resolution, as follows:

That whenever any State shall have been, or may be, in default of the payment of interest or principal on investments in its stocks or bonds held by the United States in trust, it shall be the duty of the Secretary of the Treasury to retain the whole, or so much thereof as may be necessary, of any moneys due on any account from the United States to such State, and to apply the same to the payment of such principal and interest, or either, or to the reimbursement of any sum of money advanced by the United States on account of such interest.

Mr. HENDRICKS. I hope that resolution will not pass without some further consideration. The Government of the United States holds some of the bonds of the State of Indiana, issued about the year 1836. She has, as I understand, withheld upon these bonds the per cent. which was due to the State of Indiana upon the sales of the public lands within that State. I never knew that it had been proposed before that any other claims the State of Indiana may have upon the Government for advances should be withheld from these bonds. The truth is that the Government of the United States ought to acquiesce in the adjustment of the indebtedness of the State of Indiana made between her and her creditors in 1846. This bill will make it impossible, perhaps, to secure such an adjustment between the State and General Government. I know of no present necessity for the passage of it. I do not know enough about the measure to say very much, but I think it is not called for.

Mr. MORGAN. Mr. President, this joint resolution differs but in one particular from a law that was passed in 1845. Whenever a State does not pay the interest on its bonds in the possession of the General Government, and the Government is indebted to that State for any purpose, the accounting officers now feel authorized to retain, and do in fact retain, the money due by the State to the General Government; but inasmuch as the power to do that has been disputed, they ask for the passage of a measure of this kind. I send to the desk a letter from the Secretary of the Interior explaining the whole matter fully, and ask that it be read.

The PRESIDENT *pro tempore*. The letter will be read if there be no objection.

The Chief Clerk read as follows:

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, D. C., January 27, 1868.

Sir: I have the honor to submit for the consideration of the Finance Committee the accompanying draft of a joint resolution.

It differs but in one particular from a resolution approved March 3, 1845, (Statutes-at-Large, vol. 5, p. 801.) The latter directed the retention by the Secretary of the Treasury of moneys due to a defaulting State on account of the percentage of proceeds of the public lands lying within her limits. This resolution makes it his duty to withhold any moneys due to such State from the United States on any account whatever.

The propriety of the original legislation has never been questioned. Its terms were limited, as at the time of its passage no moneys were due from the General Government to any State, except on account of such proceeds. It was in keeping with the provisions of an act approved September 4, 1841, (St. Id., p. 453) giving to certain States ten per cent. of the net proceeds of the sales of public lands within their respective limits. The fourth section provides that money due to any State on account of such proceeds should be first applied to the payment of any debt due and payable from such State to the United States.

Without such special provision it may be the duty of the Secretary of the Treasury, or of the accounting officers, in adjusting a claim by a State against the United States, to ascertain and withhold the sum due from the former to the latter. To relieve the subject of all doubts, I respectfully suggest, however, that a positive legislative direction in the premises, such as the joint resolution contemplates, should be given.

This Department is the depository of a large amount of overdue State bonds which the United States hold in trust for certain Indian tribes. The annually accruing interest for many years was unpaid by the respective States, but was advanced by Congress from the Treasury.

Very respectfully, your obedient servant,

O. H. BROWNING, Secretary.

Hon. JOHN SHERMAN, Chairman Finance Committee,  
United States Senate.

Mr. POMEROY. I think there must be some mistake in that letter. It speaks of a State receiving ten per cent. on the proceeds of the sales of the public lands. The largest amount ever paid to any State was five per cent. The Clerk either made a mistake in reading the letter, or the Secretary of the Interior made one in writing it.

Mr. MORTON. I think it ought to be provided in this bill that there shall first be an accounting between the United States and the State as to what funds or moneys may have been withheld from the State on account of interest due on its bonds, or as to what money there may be in the Treasury due to the State on account of the sales of public lands. It is my understanding that for a time what was known as the two or three per cent. fund which was due to certain western States through which the national road ran was withheld from the States and applied to the interest of their bonds held by the General Government. Whether there has ever been a formal settlement on the books of the Treasury of those accounts I do not know; but as a matter of justice such deductions should be taken from what the Government owes the States. For example, the Government owes the State of Indiana a large sum on account of advances made during the war, and before the gross amount is deducted from the interest on the State bonds held by the General Government there should be an accounting as to what may have been withheld from the State on account of the sales of the public lands to pay the interest on those bonds. In a little time I will prepare an amendment to that effect, and then I shall make no objection to the passage of the measure.

Mr. MORGAN. This joint resolution was laid aside three months ago for the same purpose.

Mr. EDMUNDS. It is only proposed to be laid aside informally, to be called up again.

Mr. MORGAN. Very well; if it does not lose its place I shall not object.

#### REMOVAL OF CAUSES FROM STATE COURTS.

Mr. EDMUNDS. I ask that this matter be laid aside informally, and the Senate proceed to consider the bill (S. No. 402) for the removal of causes in certain cases from the State courts to the United States courts.

Mr. HENDRICKS. I think that bill ought not to be taken up in the morning hour. It is

not that sort of business which can be disposed of in a few minutes. It is a bill which ought to be fully and carefully considered by the Senate, as it is important in its nature and general in its character. It seems to me that what we have of the morning hour, after disposing of the regular business, ought to be devoted to such bills as excite no discussion. This bill will take up the whole morning hour, and two or three mornings, in my opinion.

Mr. EDMUNDS. I do not want to occupy time on this motion. My friend from Indiana does not mean that the bill shall ever be taken up or ever passed. He is opposed to it. The rest of the committee are in favor of it. It is just like all the bills that are taken up in the morning hour and proceeded with as far as possible. I do not blame the gentleman for defeating it in this way if he can, but I hope the Senate will take it up.

Mr. DAVIS. When the honorable Senator from Vermont proposed to take up this bill a few mornings ago he said, with very distinct emphasis, that there was nothing wrong in it. I have seen no bill before the Senate at this session that has more of wrong in it, in my opinion. If the honorable Senator expects to pass this bill without discussion he is greatly mistaken. It is a bill that ought not to pass for many reasons, and he may expect a stubborn resistance whenever it comes up.

Mr. EDMUNDS. That I am ready for now.

The PRESIDENT *pro tempore*. The question is on taking up the bill for consideration.

The motion was agreed to; there being on a division—ayes 20, noes 9; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 402) for the removal of causes in certain cases from the State courts to the United States courts, the pending question being on the amendment reported by the Committee on the Judiciary as a substitute for the original bill.

Mr. EDMUNDS. Before the question is taken, in printing the amendment reported there is a misprint in the fourth section, which needs to be corrected; and so I move to amend in line three, section four, of the amendment by inserting after the word "States" the words "while in the performance of his official duty;" and in line five, at the beginning of the line, before the word "every," by inserting the same words, "while in the performance of his official duty." These words were in the original report of the bill, but in printing they were accidentally omitted.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment reported by the committee as amended.

Mr. DAVIS. Mr. President, this bill proposes to extend very essentially the jurisdiction of the courts of the United States far beyond the warrant of the Constitution that creates and organizes the jurisdiction of the judicial department of the Government. The bill provides—

That whenever any civil or criminal suit (whether commenced before or after the passage of this act) may be pending in any court of any State against any person, in which suit such person shall intend to make any defense based upon the authority of any law of the United States, or upon the authority of any department of the Government thereof, or upon the authority of any officer acting under any such law or department, or upon any right exercised under, or title held in behalf of the United States, such person may, at any time before the final trial in such suit, in person or by his attorney, file a petition in such suit, &c.—

for the transfer of the case to a Federal court.

Now, Mr. President, so far as the Constitution confers jurisdiction upon any of the courts of the United States, it is already fully invested. The jurisdiction of the courts of the United States is defined by the Constitution in a few simple words, and so far as it is defined and ordained there are existing laws of Congress investing it to its uttermost limit. The measure under consideration proposes far to transcend the limits of the Constitution. It provides that if the defense is based "upon the

authority of any law of the United States" it shall be transferred or may be transferred. That is very proper. There are existing laws of Congress that authorize the transfer of any suit in which the right of the plaintiff or the defense of the defendant results directly or by implication from a law of Congress. It is, therefore, not necessary to pass this bill to give the right to a party to transfer a case to a Federal court, either where his claim or his matter of defense originates under a law of Congress. Therefore, with a view to produce that result, this bill is unnecessary, because it is already fully done by existing laws. But the bill goes on:

Or upon the authority of any department of the Government thereof.

I ask the Senator from Vermont if Congress can pass a law authorizing the transfer of a suit brought in a State court to a Federal court on the ground that the matter of defense rests upon an order or direction by a department of the Government? Why, sir, the position is absurd and unsound in the extreme degree. A Department of the Government authorizes a totally illegal act; it authorizes a subordinate acting under the head of a Department to do an act of trespass or any other wrong to a citizen of the United States without any sanction of Constitution or law whatever; and this bill provides that if an officer of the Government has been proceeding to act under such an illegal order of a Department and is sued for trespass by the party injured, he may set up that he was performing that act under the order and direction of a Department, however illegal and unconstitutional that order of the head of the Department might be, and that state of case authorizes and requires the State court in which such a suit is pending to transfer it at once into the Federal courts.

That is only one class of the wrongful and enormous cases in which this bill would have application. There is another:

Or upon the authority of any officer acting under any such law or Department.

If, then, the head of any Department gives any arbitrary and illegal order to one of his subordinates, however that order may conflict with the Constitution and law, if the subordinate proceeds to do the act by the order and direction of an employé and subordinate in any particular Department, this bill provides that if he is sued for the wrong or the trespass he has done he may come into court and file his petition setting forth that the act was done by order of a subordinate of any Department of the Government, and thereupon the State court is required immediately to order the transfer of the case into the Federal court.

Sir, a more wrongful or enormous measure never was introduced into the Congress of the United States. The honorable gentleman is active in piling up measures of this character. He is exceedingly fertile and indefatigable in presenting them to the consideration of the Senate and urging with all of his accustomed zeal and ability their adoption. He and his friends are now in power; but if the tables should be turned upon them all the punishment that could be asked in reason and justice of him and his friends would be that the dominating party which supersedes his should just turn upon him and execute inexorably the measures and the perverted principles which he is now endeavoring to enforce under the provision of this and other acts of Congress that have heretofore been passed.

The honorable Senator is a lawyer and a constitutional lawyer, and he professes, I suppose, to be guided by the Constitution as the supreme law of the land, and to square the legislation of Congress and his own action by the principles of that instrument. Here, sir, is the provision of the Constitution that defines the jurisdiction of the judicial department:

"The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime juris-

dition; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects."

The latter branch of jurisdiction has been abolished by a special amendment of the Constitution. Now, I ask the honorable Senator for his authority in the Constitution where a head of Department for providing that a man acting under the authority of a head of Department who has committed a trespass against the rights of a citizen without authority of the Constitution or the law may transfer that case from the State courts to a Federal court. For instance, the head of the War Department does an act that is without the sanction of Constitution or law, that is in flagrant violation of both; he presents himself in the position of a simple trespasser or wrongdoer, and he is liable to be sued and to be held to the same responsibility with any other trespasser; but the honorable Senator's measure provides that if the Secretary of War or any other Secretary commits an act thus without the sanction or authority of the Constitution or law, but in violation of both, and he or the person by whom he directs the execution of his order is sued, the party sued upon filing his petition in the State court where the suit is brought shall be entitled to have a transfer of the case into the Federal court. Sir, the Constitution vests jurisdiction in no such case or class of cases in the Federal judiciary.

The honorable Senator, though, proceeds a step further. The Secretary may choose not to become a trespasser in person; he may direct a subordinate officer of his Department to execute his order, and in that aspect it would be a double trespass. The Secretary would be a trespasser and the person by whom his order to do the wrong was executed would be a trespasser also. They would be co-trespassers, and would be liable to a joint suit by the party injured in the State court. The honorable Senator's bill provides that if the case be presented in that form, where the head of a Department authorizes one of his subordinates to do an act in contravention of the Constitution and laws of Congress, which amounts to a naked simple trespass without color of authority, without the sanction even of an unconstitutional law of the United States, if the party thus committing such a flagrant trespass shall be sued in a State court he by filing his petition is entitled to have the case transferred into the Federal court to be tried, in many States, at a great distance from the locality where the trespass was committed and where the parties and all the witnesses to the trespass reside.

The jurisdiction of the courts of the United States as defined by the Constitution cannot be enlarged by an act of Congress. The Supreme Court has settled that principle again and again, and no judicial decision was necessary to settle it. The Supreme Court has original jurisdiction in certain classes of cases, and it has appellate jurisdiction in other classes of cases, and the Supreme Court has decided that an act of Congress cannot increase its appellate jurisdiction. That court has filed decision upon decision establishing the principle that no act of Congress can enlarge the jurisdiction of the Federal courts and take them outside of that jurisdiction that is created and ordained by the Constitution itself. The honorable Senator proposes, then, to create two indefinite, undefined classes of jurisdiction wholly outside of the provision of the Constitution and of that jurisdiction in the Federal courts which is created by the Constitution. There is no principle in the provisions of the Constitution establishing the jurisdiction of the judicial department that authorizes a case of trespass that has originated under the illegal and unconstitutional act of a head of a Department to be transferred to the Federal courts. That is one class of the cases for which the honorable Senator's measure provides; but he is not satis-

fied with that; he goes a bow-shot beyond that limit, and he provides in the next branch of the sentence that where an act is done by anybody under an order of a Department, or of any person acting under an order of a Department, without regard to its legality, without regard to its constitutionality, without regard to the fact whether it is authorized by any law or has any color of authority whatever, though it may be as wanton, as unjust, as violent as a trespass can be, notwithstanding all these features of atrocity and illegality, still the party sued for such a trespass may, upon his petition, compel the transfer of the case from the State to the Federal courts. Sir, the proposition is an atrocity. There is no warrant for the passage of a law with such a provision. There is no warrant for the courts of the United States to take jurisdiction of the cases provided for in the language of this bill which I have been commenting upon.

The fourth section has been mitigated by the amendment suggested by the honorable Senator; but before he proposed that it should be thus modified, it was the most abhorrent attempt to impose a despotic exercise of power without authority of Constitution or law that ever was brought to the contemplation of my mind. I will read it as it was reported:

That if any person shall willfully and unlawfully impede, hinder, assault, or beat any officer under the United States, or shall willfully and unlawfully injure or destroy the property of any such officer, every such person so offending shall, on conviction thereof, be punished by a fine not exceeding \$5,000, and be imprisoned not exceeding five years.

Was there ever such a proposition made in an assembly that professed to be governed by law? Was there ever anything more atrocious than this proposition brought to the contemplation of civilized man before? All the officers of the Government of the United States of every degree or class have this indemnity thrown around them by the provisions of this fourth section as it was reported by the committee. When any man shall unlawfully and willfully impede, hinder, assault, or beat any officer under the United States, or injure or destroy the property of any such officer, he is to be subject to the severe penalties denounced in the section. When a citizen meets with any officer of the Government of the United States and is grossly insulted by him, and he strikes that officer, not in the discharge of the duties of his office, not in his office, not in the place where his duties are to be executed, but anywhere, upon the public highway, at the residence and domicile, if you please, of the insulted man, if that man receives the grossest indignity and personal insult, and he resents it by striking the man who is covered with the panoply which is proposed to be manufactured by this bill, the person insulting him being an officer of the United States, he immediately subjects himself to a penal prosecution that may bring upon him a fine not exceeding \$5,000 and imprisonment not exceeding five years. If that does not create an official oligarchy I do not know what measure would. Take the case of a member of Congress being insulted by one of the guard or other attendants who are doing duty around this Capitol. Stung with the insult he strikes the officer. Then, according to this bill, the officer makes complaint to Judge Carter or some other corrupt judge in the District and institutes a criminal proceeding, and that member of Congress is subject to be arrested and to be tried and have a judgment passed upon him that may subject him to the payment of \$5,000 fine and imprisonment for five years.

Sir, how many officers of the United States are now in being in our vast land? The broad and correct definition of an officer is every man who executes any power or any duty under the Government of the United States; it makes no odds whether he is commissioned or not, or what the class or the creed of his office may be, whenever a man clothed with the panoply of an officer of the United States and of this law commits any trespass upon the property or upon the person of any citizen the citizen

may be sued civilly, and in addition to that may be prosecuted penally and criminally in the courts of the United States and be subject to this punishment. Why, sir, I cannot express my disgust and detestation of a law or proposed law that has any such provision in it. I concede freely that an officer or a gentleman of the Government of the United States in the discharge of his official duties, and in their proper discharge, ought to be protected by the laws; and there are many laws in full force to embrace and protect all such cases. If the laws are defective supply their defects, and make the amount of protection that is given to every officer, without regard to his grade or class, sufficient to secure him in the proper exercise of his legal and constitutional duties. But to clothe a man, who is called an officer, any and everywhere with the protection which this bill gives him, both as to his person and his property, is the most extravagant and absurd and revolting attempt to exercise power that I have ever known.

If I understood the modification which the honorable Senator suggested, it was that this liability to suit and prosecution should apply only where the act done to the officer or to his property was while the officer was in the discharge of his duty. Even in that form the proposition is very objectionable; it destroys all proper proportion between the wrong and the punishment. I will give an example: in the southern States, if you please, a man goes to the polls to vote; there are negro officers of election; a negro officer who is presiding at the election sees this man approach; he knows that he is an anti-Radical, and he orders him away, saying to him, "Get away, you damned rebel; you are not entitled to vote here." The insulted man may strike him; he may spit in his face, or he may simply put himself in an attitude to strike without striking, and he will be held to have committed an assault. The honorable Senator's bill would permit that man to be prosecuted penally and criminally in one of the United States courts, and would allow that court, if it chose, to inflict punishment upon him to the extent of \$5,000 of fine and five years of imprisonment. Does the honorable Senator maintain that between that offense and the amount of punishment that may be inflicted upon the trespasser or the wrongdoer, if in truth there was any wrong done at all, there would be any just proportion? No, sir.

Mr. President, I have been a great admirer of the legal acumen of the honorable Senator from Vermont, of the fertility of his invention in bringing up expedients to punish the rebels, to manacle the rebels, and this measure of his is only another device to impose upon them a grievous and most galling fetter. He anticipates that the coming elections may produce outbursts of passion and conflict, possibly, between the people of the southern States and the negro officers who are to conduct those elections.

The *PRESIDENT pro tempore*. The morning hour having expired, the unfinished business of Saturday is before the Senate, being the bill (S. No. 11) to admit the State of Colorado into the Union.

#### ORDER OF BUSINESS.

Mr. WILSON. The bill to establish rules and articles for the government of the armies of the United States was under consideration, and was laid over informally for the Colorado bill. I desire now to call up that bill; I gave way all day on Saturday.

Mr. HARLAN. I will state to the Senator from Massachusetts that I understand an agreement has been made for a modification of the amendment of the Senator from New York [Mr. CONKLING] to the Colorado bill, which I suppose will be satisfactory all around the Chamber; and if it shall prove to be so, a vote can be had in a very few minutes on that bill. I shall be glad, therefore, if the Senator from Massachusetts and the Senate would consent that we should go on with that bill.

Mr. WILSON. I am willing to give that bill fifteen minutes.

Mr. EDMUNDS. As I have not been any party to the alleged agreement, I do not want to consider myself bound by it until, at least, I know what it is.

Mr. MORRILL, of Maine. I move that all prior orders be postponed, and that the Senate proceed to the consideration of House bill No. 818, which is the bill making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867.

The *PRESIDENT pro tempore*. It is moved that the unfinished business of Saturday and all prior orders be postponed for the purpose of proceeding to the consideration of the bill mentioned by the Senator from Maine.

Mr. RAMSEY. I hope that will not be done. I hope the chairman of the Committee on Appropriations will give us at least fifteen or thirty minutes for the consideration of the Colorado bill.

Mr. MORRILL, of Maine. I would not object to giving fifteen minutes, but I wish to say to the Senate that the appropriation bills, from causes which need not be stated here, are behind; and I am conscious that if they are not pressed and considered in preference to other matters, when the Senate want to adjourn it will be kept here beyond its inclination by the delay of those bills. Here is the miscellaneous appropriation bill, which will occupy some days. The Indian appropriation bill is behind it, and several small bills, and then there is the deficiency bill, which is preparing, and which is to come from the House of Representatives. If these appropriation bills are not put out of the way before the Senator from Ohio, the chairman of the Committee on Finance, comes here with his funding and tax bills, I can see that the Senate is to be very much embarrassed and delayed in its action on these bills. I therefore feel it my duty to apprise the Senate of this condition of things, and to move to take up this bill at the present moment. Of course, if the Senate were ready to vote on the Colorado bill, that would present another question; but I see the Senator from Vermont rises—

Mr. EDMUNDS. I had the floor upon it on Saturday, and have got some reasons why I do not want to vote for the bill, and I expect to give them, if I ever have a chance to do so.

Mr. MORRILL, of Maine. So that I am sure we are not going to vote on the Colorado bill now. We are not going to vote on it to-day in all probability. It is a bill that is to be contested; and I submit to the Senator from Illinois [Mr. YATES] whether, under the circumstances, he will not take an opportunity when he will not be obliged to antagonize it with these appropriation bills, which it is obvious enough must demand the attention of the Senate.

Mr. YATES. I desire to submit to the Senator another view of the case. This bill has been pending all the session. The Committee on Territories have not occupied much of the time; neither has there been a great deal of business before that committee. This bill has to pass the House of Representatives as well as the Senate, and the appropriation bill must pass anyhow. We are nearly through the debate upon it; the Senate is now ready to vote upon it; and I think, as it is the order of the day, that the Senate ought not to postpone it for the consideration of any other bill. I think these are good reasons why it should not be postponed.

The *PRESIDENT pro tempore*. The question is on postponing the order of the day for the purpose of considering the appropriation bill.

The question being put, there were, on a division—ayes 20, noes 18.

Mr. CONNESS and Mr. YATES called for the yeas and nays; and they were ordered.

Mr. TRUMBULL. As the yeas and nays are to be called on this question I trust the Senate will indulge me in saying a word. I have not taken any part in the discussion upon

the Colorado bill, and shall not attempt to enter into any discussion; but I speak merely in reference to the business of the Senate. That bill has been repeatedly before the Senate, and has met with unexpected opposition. It has assumed the shape now rather of an enabling act, and it does seem to me that if we are ever to dispose of that subject at all now is the time to do it. It has been debated at very considerable length. Why not dispose of it in some way, and have a definite vote upon it? I am sure we shall advance the business of the session better in that way, because if it is postponed now it will come up again. Suppose the Senator from Maine takes up his appropriation bill. After that is disposed of there will be another struggle. After the time that has been spent on this bill I am sure it will be economy of time to take it up and finish it. Let us dispose of it definitively. I hope we shall adhere to the order of the day.

Mr. CONKLING. I think the Senator is quite mistaken in supposing that the Colorado bill can be voted upon presently. I have been shown this morning already, in different forms, amendments proposing to commit the ratification or rejection of the constitution to a special election held for that purpose, to take it away from the general election at which a full vote is to be cast. I feel very sure that such an amendment will be resisted, and that provisions in the Colorado bill will be insisted upon which will lead to considerable debate.

Now, one word as to the appropriation bill. The Senator from Illinois [Mr. YATES] suggested that the Colorado bill must go to the House of Representatives. So, I beg to remind him, must the appropriation bill go to the House, because a large number of amendments are reported, which amendments will be the subject of controversy, and will go ultimately to a conference committee, which the Colorado bill is not likely to do.

Again, the Senator says the appropriation bill must pass at all events. Yes, Mr. President; and that, I submit, is precisely the reason why it ought to be taken up now. The appropriation bill must pass at all events, and those who have served in Congress as long as most of the gentlemen around me have know how appropriation bills pass at the last when all legislation is finished except the appropriation bills. They understand the haste and the casual way in which appropriation bills are passed under those circumstances. I hope that we shall take up the appropriation bill now. I wish we could have taken it up before, as we should have been able to do but for casualties which could not be controlled. We have reached now the latest time in the session, looking to what we know is the condition of business, when it can be taken up and deliberately considered, and it seems to me that it is a great mistake to put it aside for other business.

Mr. CONNESS. I do not suppose there is any time worse spent than the time spent in the discussion of the precedence of business here; but I rise, nevertheless, to occupy a minute, and to say that I hope this motion will not obtain. I hope, as said by the Senator from Illinois, that we shall finish something; because otherwise we shall go all over these discussions again. We were all prepared to vote on Saturday as to whether the constitution of Colorado should be submitted to the people of Colorado or not, and all the speeches that might be made in a month could not throw any light on that proposition as to how each Senator had determined to vote; but we did not vote. Of course we have got to submit to discussion; but I hope we shall finish something; and I object now, and hope the appropriation bill will not be taken up. Why take it up? Is this session to close immediately? I think we had better put that idea out of our heads. We must stay here until the public business is done, and well done. There is no demand except the demand of our own convenience to call us hence. I hope, sir, that we shall not procrastinate the consideration of this bill further by putting it aside.



Mr. POMEROY. I hope the Senator from Maine will remember that there can be no hostility to the appropriation bill. From the experience I have had in the Senate I believe it is the poorest economy of the time of the Senate that can possibly be had to consider a bill two or three days and then lay it aside for something else. We ought to have a rule by which the Senate could pursue a measure until it was disposed of one way or the other. If we lay aside the Colorado bill, I doubt whether it will ever be reached again this session. I think we ought to vote upon it. It went over on Saturday on my motion, and I am sorry now that I made the motion. I supposed of course that it would be voted on to-day; otherwise we should have, at least so far as my action is concerned, taken the vote on Saturday. I hope we shall vote to-day on the Colorado bill.

The PRESIDENT *pro tempore*. The question is on postponing the order of the day for the purpose of taking up the appropriation bill, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 21, nays 20; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Cole, Conkling, Davis, Edmunds, Fessenden, Frelinghuysen, Hendricks, Howe, Johnson, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Norton, Sherman, Sumner, Vickers, and Willey—21.

NAYS—Messrs. Chandler, Conness, Cragin, Drako, Ferry, Fowler, Harlan, Howard, Morton, Nye, Pomero, Ramsey, Ross, Stewart, Tipton, Trumbull, Wade, Williams, Wilson, and Yates—20.

ABSENT—Messrs. Bayard, Cattell, Corbett, Dixon, Doollittle, Grimes, Henderson, McDonald, Patterson of New Hampshire, Patterson of Tennessee, Rice, Saulsbury, Sprague, Thayer, and Van Winkle—15.

So the motion was agreed to.

ANDREW S. CORE.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 522) to authorize the Commissioner of the Revenue to settle the accounts of Andrew S. Core. The amendments were in line three to strike out the words "Commissioner of the Revenue is" and to insert in lieu thereof the words "proper accounting officers of the Treasury are;" and also to amend the title of the bill so as to read, "A bill to authorize the proper accounting officers of the Treasury to settle the accounts of Andrew S. Core."

Mr. WILLEY. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

EVENING SESSION.

Mr. WILSON. I move that the Senate hold an evening session this evening to enable me to dispose of a bill that I had up on Saturday, but yielded to the Colorado bill, and which thus lost its place. It is a bill of about one hundred sections and it will take some little time to read it. I should like to have it taken up to-night. I move therefore that we hold a session this evening for that special purpose.

Mr. CONNESS. Fix the hour.

Mr. WILSON. I move that the Senate hold a session commencing at seven o'clock this evening, for the special purpose of considering the bill (S. No. 529) establishing rules and articles for the government of the armies of the United States.

Mr. MORRILL, of Vermont. That is an important measure. I understand the Committee on Finance propose to be in session every evening for some evenings to come, and I presume every member of the committee would like to be here when that bill is disposed of. I hope therefore that the proposition of the Senator from Massachusetts will not prevail.

Mr. WILSON. I have been waiting for three or four weeks to get this bill up. It is a long bill, and it will take an hour to read it. Last Saturday I had the floor and was about to take it up, but yielded to over-persuasion and it lost its place, and the War Department is pressing me to get the bill through.

The PRESIDENT *pro tempore*. The motion can only be entertained by unanimous consent,

as the appropriation bill is regularly before the Senate.

Mr. MORRILL, of Maine. That motion can be made at some other period. I think we had better go on with the appropriation bill.

Mr. WILSON. I should like to have a vote on the motion. I desire to pass the bill to-night. I am compelled to go away to-morrow, and do not intend to be here for ten days.

Mr. TRUMBULL. We cannot dispose of it to-night.

Mr. WILSON. I think we can.

Mr. FERRY. I think the bill can be disposed of this evening. It is merely a revision of the Articles of War. I have read the bill with some care. I think it can be disposed of almost as rapidly as it is read through.

Mr. WILSON. I hope the Senate will consent to meet this evening for this purpose.

Mr. BUCKALEW. Mr. President, there are so many gentlemen on the floor that I am utterly unable to understand what the bill is that the Senator from Massachusetts wants us to consider this evening.

Mr. WILSON. The bill that I desire to take up is a bill establishing rules and articles for the government of the Army of the United States. I will state that the bill was originally framed by two Army officers and Professor Lieber. The bill was then submitted to General Sherman, General Sheridan, and General Augur, who have spent months upon it, and it is, in my judgment, an almost perfect measure. It is a long bill of one hundred and three sections, comprising the Articles of War, which it is very important to have passed at this session. I have been pressed by the Secretary of War to get the bill through. I had the floor on Saturday for that purpose, and very foolishly yielded it to over-persuasion to get another bill through which it was said would take but a few moments. I desire to have a meeting of the Senate this evening for the purpose of getting it through.

The PRESIDENT *pro tempore*. Is there any objection to putting the question on the motion of the Senator from Massachusetts? All this proceeding is out of order.

Mr. BUCKALEW. I desire to make a single remark. I am perfectly willing to vote for a night session if the Senator from Massachusetts is sure that we shall have a reasonably full Senate; but I am afraid that if we order a night session we shall not have a quorum, and those of us who come here will lose our time.

Mr. WILSON. I think we shall have a quorum.

The PRESIDENT *pro tempore*. The question is on the motion for an evening session to-day, commencing at seven o'clock.

Several SENATORS. Half past seven.

The PRESIDENT *pro tempore*. Half past seven o'clock is mentioned. The question is on ordering an evening session, to commence at half past seven o'clock.

The motion was agreed to; there being, on a division—yeas 18, nays 11.

INTEREST DUE BY STATES.

The PRESIDENT *pro tempore*. The appropriation bill is now before the Senate.

Mr. MORGAN. I have the permission of the Senator from Maine having the appropriation bill in charge to take up the joint resolution which was under consideration this morning for the purpose of having a vote upon it. The amendment proposed by the Senator from Indiana [Mr. MORRIS] will not be objected to, and I think the resolution will lead to no further debate whatever.

The PRESIDENT *pro tempore*. The appropriation bill can be passed over informally by unanimous consent. Is there any objection?

Mr. MORRILL, of Maine. I have no objection, if this resolution will lead to no delay.

Mr. MORGAN. It will lead to no delay. There will be no debate upon it.

By unanimous consent, the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 94)

directing the Secretary of the Treasury, whenever any State shall have been or may be in default for the payment of interest or principal on investments in its stocks or bonds held by the United States in trust, to retain the moneys due to such State from the United States.

Mr. MORTON. I move to amend the joint resolution by adding the following proviso:

*Provided*, That there shall be an account rendered in the first instance to the States in default showing the amount of moneys that have been withheld from the States in default on account of sales of public lands, or on any other account.

Mr. MORGAN. There is no objection to that.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. THAYER and Mr. ROSS submitted amendments intended to be proposed to the bill (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1869; which were referred to the Committee on Appropriations.

Mr. MORGAN, Mr. HOWARD, Mr. STEWART, Mr. MORTON, and Mr. RAMSEY submitted amendments intended to be proposed to the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the House had passed a joint resolution (H. R. No. 316) extending the time for the completion of the Northern Pacific railroad.

ENROLLED BILL SIGNED.

The message further announced that the Speaker had signed the enrolled bill (S. No. 251) for the relief of Captain Charles N. Goulding, late quartermaster of volunteers; and it was thereupon signed by the President *pro tempore* of the Senate.

NORTHERN PACIFIC RAILROAD.

Mr. RAMSEY. With the consent of the Senator from Maine, I should like to take up the joint resolution which has just come from the House of Representatives. The Senate has previously passed a precisely similar measure, and it is important that this should be passed now.

Mr. MORRILL, of Maine. What is it?

Mr. RAMSEY. It is a resolution extending the time for the construction of the Northern Pacific railroad two years. We have passed a similar measure here.

Mr. MORRILL, of Maine. Is it the same thing?

Mr. RAMSEY. Yes, sir; but under the rules of the House they could not reach that; and this being resolution day they passed the same measure as a resolution, and it comes here.

The PRESIDENT *pro tempore*. It can only be taken up by unanimous consent. Is there any objection?

Mr. MORRILL, of Maine. If it leads to no debate I will not object.

By unanimous consent, the joint resolution (H. R. No. 316) extending the time for the completion of the Northern Pacific railroad was read twice by its title, and considered as in Committee of the Whole. It provides that section eight of an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget's sound, on the Pacific coast," shall be so amended as to read as follows:

That each and every grant, right, and privilege herein are so made and given to, and accepted by,

said Northern Pacific Railroad Company upon and subject to the following conditions, namely: that the said company shall commence the work on said road within two years from and after the 2d day of July, 1868, and shall complete not less than one hundred miles per year after the second year thereafter, and shall construct, equip, furnish, and complete the whole road by the 4th day of July, A. D. 1877.

Mr. COLE. I should like to inquire if this resolution ties up the large belt of public land extending across the continent that is supposed to be on the line of the road when built up hereafter?

Mr. RAMSEY. I do not know that it does.

Mr. COLE. Has that land been withdrawn from public sale and settlement and pre-emption?

Mr. RAMSEY. This resolution is precisely similar to a measure that we passed the other day in the Senate.

Mr. COLE. Still I should like to know if it operates to that extent, of withholding from public sale and settlement and pre-emption the public land along the line of that road.

Mr. RAMSEY. It does for the time being; for two years.

Mr. COLE. And the road is to be commenced in two years. I think it will work great hardship upon the settlers on the public lands.

Mr. RAMSEY. No very great hardship. I do not know that the settlers complain of it. I think there are a very few on the line of the road.

Mr. COLE. I do not know how it may be along the line of that road.

Mr. MORRILL, of Maine. If there is to be a debate on this resolution I must insist on going on with the appropriation bill.

Mr. COLE. I have nothing further to say on the subject.

Mr. CONKLING. I wish to make one remark by way of filing a *caveat*. I have no objection to this resolution extending the time. I wish, however, to give notice that I shall not hold myself bound to grant a subsidy hereafter that comes and builds an argument upon the fact that we have extended the time in the case of this road. This is just such an extension as took place in 1866 to another road, upon which arguments of great solidity and of very imposing character have been built to show that we should give a large sum to other roads in consequence of that extension. I merely file that *caveat* now.

Mr. HOWARD. The two measures are entirely different from each other.

Mr. MORRILL, of Maine. I call for the regular order.

Mr. RAMSEY. We are ready to take the vote.

Mr. MORRILL, of Maine. I have no objection to taking the vote if it can be done without debate.

Mr. RAMSEY. There will be no further argument about it.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes.

The PRESIDENT *pro tempore*. If there be no objection the amendments reported by the Committee on Appropriations will be acted upon as they are reached in the reading of the bill. No objection being made that course will be taken.

The Chief Clerk proceeded to read the bill. The first amendment of the Committee on Appropriations was in lines ten and eleven, to strike out "\$564,904 32" and to insert "\$1,500,000" in the clause making an appropriation "for necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes."

The amendment was agreed to.

The next amendment was to insert after line thirty-nine the following:

For facilitating communication between the Atlantic and Pacific States by electrical telegraph, \$40,000.

Mr. BUCKALEW. I should like to have some explanation of that word "facilitating." I do not really understand what it means.

Mr. MORRILL, of Maine. That is the language of the law.

Mr. BUCKALEW. Certainly the Government has aided to establish telegraph lines, but I do not understand that it is interested in the corporations or connected with their management.

Mr. MORRILL, of Maine. By the act of June 16, 1860, Congress authorized the Secretary of the Treasury to enter into a contract with this company; in the language of this provision, to make a contract "for facilitating communication between the Atlantic and Pacific States by electrical telegraph." That contract was made by the Secretary of the Treasury—I have it here in my hand—by which the Government stipulated to pay \$40,000 annually for the service of this company. This company was to do all the business of the Government, as will be seen by the contract, and the business of all its Departments, and besides it was to do the telegraphing for the Coast Survey, Smithsonian Institution, and, I am inclined to think, some others. Suffice it to say, that this appropriation is to meet an obligation of the law created by special statute, on which was founded a contract which the committee have examined, and find that it not only justifies and warrants this appropriation, but requires it. The question was raised, I believe, at one time whether this company had performed all its duty in regard to it. I have now the statutes of 1860 before me, which I will read:

"That the Secretary of the Treasury, under the direction of the President of the United States, is hereby authorized and directed to advertise for sealed proposals to be received for sixty days after the passage of this act (and the fulfillment of which shall be guaranteed by responsible parties, as in the case of bids for mail contracts) for the use by the Government of a line or lines of magnetic telegraph to be constructed within two years from the 31st day of July, 1860, from some point or points on the west line of the State of Missouri, by any route or routes which the said contractors may select, (connecting at such point or points by telegraph with the cities of Washington, New Orleans, New York, Charleston, Philadelphia, Boston, and other cities in the Atlantic, southern, and western States,) to the city of San Francisco, in the State of California, for a period of ten years," &c.

That is all I need to say about it to gentlemen who do not remember it. It is not a new question at all. It is one of the annual appropriations required by the statute and by contract, and one of those appropriations which have heretofore been made without controversy so far as I know. On examination the committee are satisfied that there is no doubt about the fact that it is the obligation of the law and the obligation of the contract.

Mr. BUCKALEW. I should like to know when the contract runs out or expires. I should like also to understand why the House of Representatives did not insert this clause in the bill?

Mr. MORRILL, of Maine. That I cannot inform the Senator, except that if he looks through the bill he will see several appropriations that were not provided for by the House. This contract bears date 1861.

Mr. BUCKALEW. Extending until 1871, I suppose.

Mr. MORRILL, of Maine. Yes, sir.

The amendment was agreed to.

The next amendment was to strike out the following clause, from line forty seven to line fifty-four:

For supplying deficiency in the fund for the relief of sick and disabled seamen, \$250,000: *Provided*, That hereafter the Secretary of the Treasury shall communicate at each annual session of Congress a full and complete statement in detail of the amounts collected from seamen, and also the amount expended for sick and disabled seamen, in accordance with the provisions of the act of May 3, 1862.

Mr. FESSENDEN. I should really like to

have some explanation from the committee why they propose to strike out that clause. It is an appropriation that has been made regularly for several years without objection; and it seems that the House of Representatives, with all their desire to economize, thought that ought to be retained.

Mr. MORRILL, of Maine. There was some difference of opinion in the committee as to the propriety of making this appropriation; and the Senator from Wisconsin [Mr. Howe] has some statistics on the subject, which, if he has them present, I should be glad if he would state. I believe they led the committee to the conclusion that the appropriation might as well be left out.

Mr. HOWE. I did not understand that there was any difference of opinion among the members of the committee as to the propriety of making this amendment. I thought the committee was of the opinion—I certainly was myself—that there was no good reason why the Government should undertake to maintain this class of employes any more than any class of hired persons. They are seamen employed in the merchant marine on private account, for the joint benefit of themselves and their employers. They are liable to be taken sick, and they have their whole salary, their wages, to take care of themselves when they are sick. That is all that anybody has who works on a farm, or who works in a factory, or who works in a mechanic shop; and if the Government undertakes to provide for these persons when they are sick, I do not see why, for the same reason, Government should not undertake to provide for every laborer in the United States who is taken sick. It is true this appropriation has been made for a great many years, and, I suppose, has come to be regarded as one of the ordinary appropriations of the Government, but it struck me as one of the abuses in our system of making appropriations.

I took occasion to look into the history of this particular appropriation with some considerable care. I ransacked the statutes in order to trace its history. The first attempt that the Government made to provide for disabled seamen was made in 1798. That was simply an enactment authorizing the collectors to collect of seamen employed in the merchant marine twenty cents a month, which should constitute a fund to be applied to the support of seaman who were sick or disabled. In 1799 it was provided that the moneys collected in any State should be expended in that State, with the exception, however, that that provision was not to apply to the States of New Hampshire, Massachusetts, Rhode Island, or Connecticut. The first appropriation which Congress made for the support of sick and disabled seamen I think was in 1837. In 1802 the twenty cents a month had not only proved sufficient to take care of this class of our seamen, but the fund had accumulated in the Treasury so that \$15,000 were appropriated out of the unexpended fund to build a hospital in Massachusetts. With that \$15,000, as near as I can get at the history of the matter, they bought land and built a hospital, which some thirty years later sold for enough or within a few thousand dollars of enough to build a very large and extensive establishment which I understand they have there now. That was procured without any expense to the Treasury. The foundation for it was obtained from this fund. But in spite of that appropriation the fund still continued to accumulate so that in 1811 Congress appropriated \$50,000 out of the unexpended money to constitute a fund for the support of disabled seamen in the Navy. I never could understand upon what argument that appropriation was justified. There certainly could not be any argument in justification of it except the one that there was a fund piling up for which the merchant service had no use, and Congress undertook to subtract \$50,000 of it, and did, to furnish a foundation for the naval hospital fund.

In 1837 Congress commenced the work of

building hospitals, and that work continued to thrive. For many years marine hospitals seemed to become all at once a favorite instrumentality with those who had secured advantageous town sites and wanted to build up a town. One of their first efforts was to get an appropriation for a marine hospital. They were built where there were town sites or where it was thought there was a good chance to start a town. I cannot ascertain that there was ever a dollar appropriated to build a marine hospital at New York. I understand they have one there; they use one; but how they came by it I do not know. Nor do I understand that there was ever a dollar appropriated to build a hospital in Philadelphia. There never was any money appropriated out of the Treasury to build one at Boston. But large sums of money have been appropriated to build hospitals on the Mississippi river all the way up and down. There is one at Napoleon, in Arkansas, to build which some sixty or seventy thousand dollars have been expended. I came across that in looking over the statutes, and it cost me a great deal of study to ascertain where Napoleon was. I had never seen it, and never heard of anybody that had seen it, and never have yet seen but one man who acknowledged having seen it, and I came across him this morning. I asked him if he ever was there; he said he was. I asked him what sort of a town it was, and he said there was no town; there was nothing there but a marine hospital. Evidently the marine hospital is worth a good many times what all the rest of the town is.

But up to 1837 this twenty cents a month furnished a sufficient fund to take care of the seamen. Then you had no marine hospitals. Now you build them everywhere. This amendment does not propose to make any disposition of those; they are there at the service of the merchant marine, furnishing ample accommodations in the towns where they are found for all the seamen who are likely ever to congregate there. If, however, the twenty cents a month is not enough—and I cannot conceive why it is not enough to-day if it was thirty years ago—it seems to me the remedy is to authorize the collection of a larger sum; but I have no statistics to satisfy me that there is more sickness in the merchant marine to-day than there was then. The marine may be larger; there may be a larger number of men employed; if so, there is a larger revenue, a larger fund collected by the twenty cents a month. But if that percentage is not large enough, it seems to me clearly that the Government should collect more. We have spent several million dollars in the construction of these hospitals, and I think the Government has done already all that it ought to do to support that class of our laboring men. There is no provision of law directing the expenditure of this money; it is appropriated just as the Secretary of the Treasury sees fit to appropriate it. I have no reason to suppose he does not dispose of it as fairly as anybody else would; but I do not think it ought to be appropriated for this purpose any longer.

Mr. FESSENDEN. I suppose the principles upon which this appropriation has been made are very well understood by gentlemen who have considered the subject at all. In the first place, it is supposed to be of very great consequence to the country that the commerce of the country should be sustained in all proper modes. Of course, it is not to be sustained by appropriating money out of the Treasury for that purpose. As a general rule, it sustains itself; but gentlemen know very well that at some periods of our history commerce has been very prosperous and at other periods of our history it has been very much depressed; and according as it is prosperous or depressed, undoubtedly will be the amount received to make up this fund which is applied for the relief of sick and disabled seamen. There is very great difference between the class and kind of men who are employed as seamen and those who are employed in agricultural and in

other pursuits. They are a shiftless class of men, never providing for themselves, as has been known from the very beginning of commerce, spending all they get as they go, having no homes, as a general rule, and no friends, while other men employed in other pursuits have homes and have friends. Owing to the character of the men themselves and the importance of sustaining commerce all nations engaged in commerce have recognized the necessity of making some provision for the care of these men when they are sick and disabled. If no provision is made for them by Government, the result is that they are uncared for and they die; they are left to suffer and perish. This is particularly the case, as I am told by my friend from Indiana, [Mr. MORTON,] on the Mississippi river, and that was the occasion for the erection of hospitals there. There are many men employed on the steamers on that river, and if they get sick they are put on shore, and there is nobody to take of them; they are neglected, and they perish, which is not very much to the credit of any people.

Consequently, as I have said, all commercial people have deemed it necessary to make some provision for the support of this class of men when they have become sick or disabled for the time, in order to take care of them until they may return to their ordinary pursuits. With a view to do this it was thought no more than just to impose upon the wages of seamen a certain taxation, and a law was early passed by which a certain amount is taken from the monthly wages for this very purpose, and it is called in the shipping papers and settlements that are made between the sailors and their employers "hospital money," and it is always calculated by the merchant; when he pays off a seaman he takes so much hospital money, that is twenty cents a month, from the pay that may be due to the seaman, and the merchant pays it over to the Government.

In the early periods of our commerce the practice was to provide, in every principal place, for the care of the seamen, by making a contract at so much per month, or so much per week, with somebody to take care of him. Nobody can be taken care of in that way except on a certificate from the collector of the port. He ascertains the facts and gives a certificate, and on that certificate the sick or disabled seaman is put under the care of the party who has contracted for so much per month or per week to take care of him until he is restored or dies. In the early history of the Government this hospital money accumulated; and gentlemen will bear in mind, undoubtedly, that the early period of our history was an exceedingly prosperous period for our commerce. We have had, as I before remarked, ups and downs in our commerce since; some periods at which it has been extraordinarily prosperous, and a great deal of money, comparatively, was received from this fund, and others in which it fell off and the fund was reduced. As our nation grew greater it was thought advisable to take some portion of this money which had thus accumulated and build hospitals, as other commercial people do. We have naval hospitals as other naval people have, and we also have these marine hospitals for the care of the seamen engaged in the merchant service.

For a long period of time all the expense of taking care of the seamen was paid out of this fund which had been deducted from their own wages, and it seems that at one time Congress having a surplus misappropriated a part of the fund and appropriated it for naval purposes, which was wholly unjustifiable, as the Senator from Wisconsin has said. At a later period we have drawn upon the fund very largely for the erection of marine hospitals. The fund has been in a very good condition generally. Many marine hospitals have been erected in the country; but whether all of them have been erected out of this fund or not I am not able to say. We have undoubtedly erected more than were necessary. More than were necessary were erected on the Mississippi river, and some were

erected upon the lakes. Since I have been here I know it was once rather fashionable for every gentleman who lived at a shipping port to get a hospital for his place. I remember that one was procured by the late Senator Foot for Burlington, in the State of Vermont. That has since been found to be useless, and it has been sold and the money put into the Treasury. So I think with some hospitals on the Mississippi river. I believe there was one at Galena which has never been used to any extent. Whether it has been sold or not I do not know. There was one erected in Iowa, I presume at Dubuque or at Burlington.

Mr. HARLAN. At Burlington.

Mr. FESSENDEN. And that I think has been sold. I remember that the honorable Senator from Iowa [Mr. GRIMES] said it was of no use, and proposed to sell it. Perhaps there are some others which should be sold. But in that manner, and owing to the great falling off of our commerce during the war, this fund has been undoubtedly very much reduced; it has been exhausted, and the condition of things is such that the receipts from it are not sufficient to supply so much money as has been expended for the annual wants of seamen.

The simple question that presents itself to the Senate is this: shall we abandon this policy? Shall we now adopt a line of conduct with regard to our merchant service that no other mercantile nation on the face of the earth does adopt? Shall we say that this class of men, shiftless, improvident as they are, liable to accident, liable to disease, with nobody to take care of them—because the moment they are discharged at the end of a voyage the owner of the vessel has no further interest in them—shall be suffered to go uncared for? Or shall we maintain the system that we have hitherto maintained, and get as much as we can from the wages of the seamen and appropriate it for their benefit. Is it advisable to strike this blow at once at the marine hospitals and at the fund itself, and say that, sick or disabled or not the seamen engaged in our merchant service, in our commerce, external and internal, shall be entirely uncared for at the present time; that we will not meet this deficiency arising from the causes to which I have alluded and to which the honorable Senator himself has alluded; that we will just close our hospitals up, put an end to our contracts where there are contracts, and refuse to follow out the system adopted at the very beginning of our existence as a nation, and let this class of men go uncared for? You could not strike a heavier and more severe blow at the commerce of the country than you would do by adopting any such idea as that, and I hope that this occasion will not now for the first time be seized upon, and these seamen left to all the suffering which would be occasioned by the want of an appropriation of this description.

Mr. MORTON. I think, Mr. President, this is a question of humanity. I believe that humanity demands that there shall be a provision, and ample provision, made for our sailors and for those employed upon our rivers and lakes. The deck hands on steamboats—the river sailors if you please—and those upon the ocean and upon the lakes are notoriously an improvident and reckless class of men. Their habits are such that they do not save money; not perhaps one in twenty-five of them; and when they are taken sick they are put off the boat, and if there is is not some public provision made for them they are left to die. Take, for example, the Mississippi river. There is a great deal of sickness among those who are employed on steamboats, flatboats, and other craft navigating the lower Mississippi river. These men are of a class not taken into private houses. They are a class of men who have few local friends to take care of them. If a sailor is attacked with yellow fever on a steamboat on the Mississippi river he is put off at the first landing. The captain may get some poor man to say that he will



take care of him; but what a chance? What capacity has he got for doing it? There must be provision made for these men or they will be left to die like the brute. I believe it is done by every country, and I think ours should not be the first one to abandon such a humane policy.

I may say, in this connection, that there is a great defect in our system of marine hospitals. They are worse managed than any other class of hospitals. For example, there is no superintendent of these hospitals. I am told that the business of these hospitals is all conducted by a couple of clerks in the Treasury Department, who are neither physicians nor surgeons, but mere clerks, and that there is nobody to manage, to go and inspect, and look after the hospitals.

Mr. FESSENDEN. My friend will allow me to say that a bill has passed the Senate authorizing the appointment of a superintendent of marine hospitals.

Mr. MORTON. I know it has passed the Senate.

Mr. FESSENDEN. It has gone to the House of Representatives, and I am told it will pass there. That will supply that very defect.

Mr. SUMNER. Has such a bill passed during this session?

Mr. CHANDLER. Yes, sir; a few weeks ago.

Mr. MORTON. That is a very important measure.

Mr. SUMNER. It is.

Mr. MORTON. I am told that under the management of these two clerks they have no power, perhaps, to prevent it; they do not know what was necessary. In a certain hospital not very far from this city there was charged for, in the account sent here to be adjusted, enough of a certain article of medicine purchased for the use of that hospital at large prices that would supply all the ordinary practitioners in the United States for one year. I was told so by a very eminent physician who was speaking about this matter. But believing that that difficulty is about to be removed I want to say that on the Ohio and Mississippi rivers marine hospitals can scarcely be too abundant. Why? They may not be full of patients. It is better that there should be no patients than that they should be full. They are required at various points along the Ohio and Mississippi rivers. A bill passed the Senate here by inadvertence the other day to sell the marine hospital at Evansville, Indiana. I am told the hospital has been abandoned in some way. I was written to by the people in Evansville, saying that the hospital ought not to be sold, but ought to be carried on as a marine hospital, that there was great demand for it. Provision was made for the sale of that hospital by a bill that passed the Senate, but was recalled on my motion from the House; and it was to be sold for \$10,100—property that cost the Government more than \$60,000—and which is demanded now for the very purposes for which it was constructed.

It is well known that the policy of those conducting steamboats and every kind of craft, not only on the rivers but on the lakes, is to put their sick off at the earliest moment; they are afraid of contagion on the boat; it may be yellow fever; it may be small-pox; it may be typhoid fever. It is necessary to remove the sick persons for the purpose of keeping the boat healthy, and therefore the demand for having these hospitals at many points on the rivers, lakes, and coast. Some of them may have but few patients, but those few patients are entitled to be taken care of. Humanity belongs to the few as well as to the many; and I deprecate the policy of selling these hospitals, and I hope that the amendment of the committee striking out this appropriation will not pass. I say it is a mere question of humanity.

Mr. JOHNSON. Mr. President, the policy of taking care of seamen has been adopted almost from the beginning of navigation by every commercial nation. We adopted it, I think, in 1798, without any doubt of the power

to do it, under the authority conferred upon Congress to regulate commerce; and it has been continued from that time to the present. The mode of doing it originally, which is still carried out, was to retain a certain proportion of their pay, twenty cents a month, I think, to constitute a fund with which to pay the expenses of the hospitals that might be erected. That fund proved altogether inefficient, I think, in 1815, and from that time to this, appropriations have been annually made as they were needed.

As was stated by the honorable member from Maine, this class of people is a peculiar one. They are reckless; they are subjected to hardships greater than those to which men in other occupations are subjected; and the result of their hardships, being tossed upon the ocean in all weather, subjected to every variety of temperature, and frequently disease in various ways, is that when they are unfit for service on board a ship they are unfit for service on land. They must then die or be supported. We have thought as all other commercial nations have thought, as I have said, that it is policy, and as the honorable member from Indiana says, humanity, to take care of them. It is true, in the beginning we needed few hospitals, but at that time there was comparatively very little commerce. Our inland commerce is now greater than our commerce with other nations. The result is that all our rivers are filled with vessels, filled with seamen; they get sick, particularly those who ply up the Ohio and Mississippi; they get the diseases consequent upon the malaria which is to be found in those sections, and those diseases are more or less contagious. They cannot be kept on board the vessel, because the disease at once spreads and the vessels could not be navigated. They will not be taken care of on the shore generally, for the same reason: the people on the shore are anxious to avoid the spread of the disease. The only way therefore to protect them is to put them in hospitals where they will be the patients of the Government. And there is no class of our citizens to whom we have been more indebted in the past, and to whom we shall be more indebted in the future for the commercial prosperity which has attended the growth of the nation.

The appropriation may be too large; I do not know how that is; but looking over the list of the patients who have from time to time been received at these hospitals, it will be found that for several years the deficit between the amount received from the hospital fund and the amount expended is very great. I think the deficit in New York during the year, the statement of which is before the honorable chairman, is some fifty thousand dollars; I think in Portland, Maine, it is about six thousand dollars, and the same proportion exists in the other hospitals upon the sea-coast, and particularly those in the interior. I trust that the appropriation will remain.

Mr. CHANDLER. Mr. President, the Committee on Commerce has had the subject of marine hospitals under consideration for two or three years. A year ago last winter the committee recommended, and Congress passed a bill, disposing of a large number of these hospitals where there were few patients, and providing for disposing of all where the number of patients did not average twenty. It was likewise discovered that very great abuses did exist in these hospitals, as was stated by my friend from Indiana, and this past winter the committee reported a bill creating an inspector of hospitals. I think the measures that have been adopted within the last two or three years may have reduced the expenditures in these hospitals a considerable extent, and, with the consent of the Committee on Appropriations, I will move to amend this clause by reducing the appropriation from \$250,000 to \$100,000.

Mr. FESSENDEN. I do not think that will be large enough.

Mr. CHANDLER. Then I will say \$125,000.

Mr. MORTON. It will be better to make it \$150,000.

Mr. CHANDLER. Very well; then I will move to make it \$150,000; but of course it will not be expended unless it is needed. I am very sure that the measures adopted within the last two years must have diminished the necessities of expenditures for this purpose to that extent. I move now to perfect the clause by reducing the appropriation from \$250,000 to \$150,000.

Mr. SUMNER. The Senator from Michigan says \$150,000 are needed. Is he sure of that?

Mr. CHANDLER. Yes, sir.

Mr. FESSENDEN. I desire to ask the chairman of the Committee on Appropriations what was the appropriation made last year for this purpose.

Mr. MORRILL, of Maine. Two hundred and fifty thousand dollars.

Mr. FESSENDEN. How much was expended?

Mr. CHANDLER. I do not know that; but I am sure the measures we have introduced lately will reduce the expenses very considerably, and particularly the measure providing for a supervising inspector.

Mr. SUMNER. But that bill has not yet passed.

Mr. CHANDLER. It has passed the Senate, and will pass the other House. If we find that this appropriation is not enough we can appropriate more in another bill.

Mr. MORRILL, of Maine. The committee were of the opinion that the amount now proposed would be ample to meet any deficiency that might be expected from a reasonable administration.

Mr. FESSENDEN. There have been, undoubtedly, improvements made recently, and I have no doubt that the appointment of a superintendent will be of a good deal of value. There has been, as my friend from Indiana suggests, a mismanagement produced by ignorance. I have some little acquaintance with that. We have one hospital in the State of Maine, and the gentleman in charge of it told me at one time that he had received directions in regard to medicines, that he must use such and such medicines, and buy of so-and-so. He said this regulation was absurd. In the first place, many of the medicines he was ordered to buy were not needed; and in many cases other medicines, which he could not buy under the regulations, were absolutely necessary. These regulations were made many years ago, and the clerk in the Treasury Department, at the head of the system, put down regulations: "You must have such and such medicines; so much in quantity and of certain kinds, and those are all you can have." The physician to whom I refer applied to me, and I told him to write an account of the matter to the Department, and to express his views fully, and see if he could not get this changed. He said it was a gross absurdity, and it was only making more expense; that it piled up medicines he could not use, and deprived him of medicines that he absolutely needed for diseases that came under his observation. I submitted his letter to the Department, and he at once had authority to make the necessary changes. I have no doubt that a provision for a responsible superintendent will be of value in reforming the whole system.

Mr. SUMNER. My hesitation now is whether it is advisable to interfere with this clause as it stands in the bill at all. The Senator from Michigan proposes to cut down the appropriation \$100,000. If the Senator could furnish any well-tried calculations to justify such a cutting down, of course that would be in the interest of economy, and I should not hesitate to follow his suggestion; but why will you risk so important a charity as this when you have not the facts that shall guide you?

Mr. CHANDLER. If the Senator will pardon me, I will say that we have disposed of nearly half our marine hospitals, which were a large item of expense. The bill passed a year ago last winter, and they have been sold from time to time. It is a very large diminution of

the expense. Then, again, this superintendent whom we have provided for the appointment of will, we hope and expect, cut off the abuses that from ignorance have crept into the management of these institutions, so that my friend from Maine, [Mr. MORRILL,] who is upon the Committee of Commerce, who has devoted a good deal of time to this subject, is of the opinion, and so am I, that \$100,000 would be enough. I therefore proposed to reduce the appropriation from \$250,000 to \$100,000. I think so yet; but perhaps it would be as well to put in \$150,000, because it will not be expended unless needed.

Mr. SUMNER. I would not give a dollar too much, but I am anxious not to give a dollar too little.

Mr. CHANDLER. It is better to let it go.

Mr. SUMNER. Very well; on the assurance of the Senator I will say nothing further.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Michigan, to strike out \$250,000 and insert \$150,000.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question now recurs on striking out the clause as amended.

Mr. HOWE. I think that is a step in the right direction. I think you have made \$100,000 this morning, and if you agree to the amendment reported by the committee you will make \$150,000 more.

Mr. SUMNER. And hurt the sailors.

Mr. HOWE. You have not hurt a sailor, and you will not hurt a sailor by striking out the appropriation. That there is any interest of humanity subserved by this appropriation I do not believe; and the evidence of that is that humanity did not suffer for almost half a century before you ever made an appropriation of the kind.

Mr. FESSENDEN. How do you know that?

Mr. HOWE. I never knew humanity to suffer in any direction that I did not hear of it.

Mr. FESSENDEN. You did not live in those days.

Mr. HOWE. I lived in a part of those days; I was born before 1846, and you never made an appropriation but once before 1846.

Mr. FESSENDEN. Because there was no deficiency.

Mr. HOWE. Because there was no deficiency, the Senator says; and he is entirely right, and there was no suffering. If you do not make any appropriation this year there still will not be any deficiency. It is a remarkable fact that these appropriations for marine hospitals are always expended. The Senator asked the question just now how much of the last year's appropriation was expended. I did not answer; but I can tell him now that I presume all the appropriation was expended that was made. I presume it was all expended, for tracing those appropriations up to 1865, where I stopped, I noticed this remarkable fact, that there never was a deficiency in the appropriation, and never was any surplus. They made clean work of it all the time.

I was not entirely accurate in my statement as to the origin of these appropriations or as to the date when they commenced. I stated before that they commenced in 1837. They did commence in 1837, because that year Congress suspended the collection of the twenty cents per month from the sailors, and made an appropriation of \$150,000 in lieu of it. It suspended that collection for only one year; and made an appropriation of \$150,000 for one year. The next year the twenty cents were collected and no appropriation was made by Congress, and none was asked for; and none was asked for in 1839, and none was made, and none was asked in 1840, nor in 1841, 1842, 1843, 1844, or 1845, but in 1846—the Senator from Maine can tell me whether that was a year of remarkable depression in the commercial marine—in 1846, while the tax was being collected from the sailors, there was an appropriation of \$25,000 to supply deficiencies in the fund for sick and disabled seamen. The

Senator from Maryland was mistaken in supposing that we had made this appropriation every year since 1815. I cannot find a syllable of an appropriation until 1846, except the one that was made in 1837, and that was made in lieu of the tax which had theretofore and has been since that time collected off the seamen.

Mr. JOHNSON. What I intended to say was that appropriations had been made where ever found necessary. Perhaps there was not a deficit before the time mentioned; but the moment the deficit appeared we made an appropriation to meet it.

Mr. HOWE. My impression is that they made the appropriation a good while before the deficit appeared. In 1847 there was an appropriation of \$12,000 for this same purpose. In 1848 there was an appropriation of \$12,000 for this purpose. In 1849 there was an appropriation of \$15,000 for this purpose. In 1850 you have an appropriation of \$200,000. What was that for? You had been building hospitals from 1837 up to this time in all places where you wanted a town and had not any, and places where you wanted a commerce but had not any, and you had taken no steps to build hospitals where you had a commerce or where you had a town except in the Commonwealth of Massachusetts; I understand they have a hospital at Chelsea. In 1850, I say, you appropriated \$200,000. That was "for a deficiency in the fund to support sick and disabled seamen and for furnishing hospitals at Paducah, Chicago, Natchez, Napoleon, and St. Louis." The appropriation was asked to furnish these five hospitals and to supply deficiencies in the fund to support seamen; they asked \$200,000 and got it, and having got a large sum once to supply this deficiency in 1851 they came here and asked for the same identical sum to supply deficiencies alone, \$200,000, and the appropriation was made. In 1852 they asked for \$100,000 to supply deficiencies, and that was made. In 1853, by some carelessness somewhere that I have never heard an explanation of, or else because it was a year of remarkable activity and prosperity in the commercial marine, there was no appropriation asked for and none made. One would have supposed that the appropriation next year should have been enormous, in 1854. I think it was enormous; but it was not more than it was in 1851; it was just \$200,000. No deficiency asked for though there was no appropriation made the year before; but they took their regular \$200,000, and let by-gones be by-gones. In 1855 they went up to \$250,000. In 1857 they dropped down to \$150,000.

Mr. SUMNER. Was there nothing in 1856?

Mr. HOWE. In 1856 it was \$150,000; in 1857 it was \$150,000; in 1858 it was \$150,000; in 1859 it was \$125,000; in 1860 it was \$175,000; in 1861 it was 200,000; in 1862 it was \$200,000; in 1863 it was \$100,000; in 1864 and 1865 nothing either year.

I asked for an explanation why it was that these seamen had been taken care of from the commencement of our merchant service up to 1846 without any appropriations from the Treasury, except in one year, and the Senator from Maine answers that it is because some years the merchant marine is very prosperous; in others it is unprosperous. He does not define what he means by that. If it is prosperous its prosperity is marked by some evidences. If it is prosperous, I suppose, more seamen are employed in that service; and if there are more seamen employed, they contribute a larger fund, because there are twenty cents every month taken from every sailor. It is impossible, therefore, for me to see how the prosperity or adversity of this branch of service can influence the sufficiency or insufficiency of that fund.

It is admitted that great abuses have heretofore obtained in the disposition of this fund; but it is suggested that those abuses will all be corrected because the Senate has agreed to a bill, and it is predicted the House will agree to a bill, which will do what? Which will provide for the appointment of a superintendent

of marine hospitals. We have had a superintendent of marine hospitals ever since we have had a hospital at all. It will be vesting the same jurisdiction in another officer; that is all. If you know that he will be a more vigilant or a more capable officer than the one who has had this superintendency from the beginning, some of the abuses will be corrected; but I should like to be informed what the evidence is, what the assurance is that he will be either more capable or more honest? The trouble with the past expenditure is, as it will be with the future expenditure, that it is a fund appropriated without any adequate provision made directing the disposition of it, or without any adequate accountability for the manner in which it is appropriated.

I find that at some of these hospitals, a very few of them, and those far from being the most important, there are physicians and matrons and stewards employed. I had a book here containing a list of them. Somebody has appropriated it. I think not more than a dozen of those hospitals have physicians appointed to take charge of the seamen. One of those hospitals is that at Galena. The Secretary of the Treasury, or the collector, or somebody who assumes to direct the disposal of the money, pays a physician at the hospital in Galena \$600 a year to take care of the sick at that hospital. The Secretary of the Treasury reports that there was one sick seaman admitted to that hospital last year; just one. I think the physician got more than he earned. That is only an instance, only an item in the disposition of this fund; and yet I suppose the Senate will believe that if you do not make this appropriation right along that physician and the others will lose their salaries, and, losing their salaries, that seaman or his first cousin who may stop at Galena the next year will not be taken care of.

Sir, what is the justification for this? The Senator from Maine says that it is of national importance that we should have a commerce. I suppose it is if it is a commerce that will take care of itself, but I do not think it is for the national interest to beggar the Government in order to maintain a commerce. A commerce which will not sustain itself I do not think is good property; I am disposed to assign my interest in it right off. I think we have a commerce that will sustain itself.

It is said that these sailors are thriftless, irresponsible; that they will not take care of themselves. Sir, they will never take care of themselves, nor will any class of people take care of themselves as long as you take care of them. Tell them that they must stand up and go alone and take care of themselves, and they will do it. They are not thriftless men, they are capable men; and put them upon their individual responsibility, and they will meet that responsibility like other men. I stand here and repudiate the whole idea that there is any necessity of dandling these sailors and seamen in the lap of the nation. They are as capable of taking care of themselves as other laboring men are, and they are as willing to do it, and they have done it. I am not the man so credulous as to believe that of the thousands you have appropriated to support sick and disabled seamen they have ever been benefited or bettered in their condition to the amount of ten cents on the dollar of what you have appropriated. They were taken care of for almost half a century, I tell you, out of their own pockets, out of the money they provided themselves, and they not only provided the money themselves to take care of themselves, but, as I have already told you, the fund accumulated so that you abstracted from it \$15,000 to build a hospital at Chelsea, and you abstracted from it \$50,000 to constitute a fund to take care of seamen employed in the Navy of the United States. It is idle to tell me that they cannot take care of themselves when they did it for fifty years and furnished a fund out of which the nation stole \$50,000.

I do not believe that any interest of humanity is to be subserved by making this appropriation, nor that any interest of humanity is to

suffer if we refuse to make the appropriation. The reason why we make it this year—I suppose it is to be made—is because it was made last year; for you have seen by the registry I have given you here that when you once find a pretext for putting an appropriation on the statute-book, it is idle to look for pretext to take it off. That cannot be done.

Mr. FESSENDEN. It strikes me that the argument of the Senator from Wisconsin is very singular. He says he believes these men can take care of themselves as well as any other men, because they have done it. How have they done it? They have done it because Congress by its legislation compelled them to do it; that is to say, took the means to do it out of their own money, did not suffer their money to go into their own hands entirely, but took possession of and retained a portion of it for their benefit, going upon the idea which all nations have recognized with regard to this class of men, that they are perfectly incapable of taking care of themselves, because from the nature of their pursuit they are so improvident and careless. Everybody knows that as a general rule a sailor spends all he has made in three days after he gets ashore, and gets in debt to the keeper of the lodging-house where he stays, and is obliged to ship again, no matter how much money he may have had when he landed. All commercial nations have found it absolutely necessary to make provision for taking care of this class of men. Has Congress legislated to take care of those who get sick and disabled in agricultural pursuits? No. Why? Because they can take care of themselves. Their habits of life are different. They are naturally thrifty; they are among friends; they have people who are interested in them. They are a different class of men altogether. They live in communities steadily; they have homes; they are surrounded by all the good influences of the communities in which they live. But what is a sailor? He has no home except on board his vessel; he knocks about all over the world at foreign ports, and from his habits of life is necessarily incapable of taking care of himself. We provide for sick and disabled soldiers. We give them pensions and we furnish hospitals for them. We furnish hospitals for the sick and disabled seamen of the Navy. We take the money from the sailor in the commercial marine, and this is simply an appropriation to supply the deficiency of that fund by providing for the sick and disabled seamen.

The Senator argues that this fund has been wasted, and he points to the hospitals that have been built, and to the fact that the fund was reduced by building half a dozen hospitals up and down the Mississippi river. Who did that? Did the sailors do it? No. Did they ask for it? No. Individuals representing districts asked for it, and Congress did it. Who robbed the fund? Who reduced it? Who brought about the necessity for making this appropriation to take care of sick and disabled seamen, because the fund furnished by their wages is not large enough? Congress by interfering with the fund and devoting it to these purposes.

Mr. HOWE. Let me inform the Senator that Congress never took any of this fund except \$50,000 to constitute a naval fund.

Mr. FESSENDEN. Was nothing taken out for the purpose of building marine hospitals? Did not the Senator just now argue that the fund was reduced for that very reason?

Mr. HOWE. In the first half century \$15,000 was taken to build a hospital at Chelsea.

Mr. FESSENDEN. Did not the Senator in his last remarks point to those hospitals that had been built at particular places and comment upon the fact that this money was appropriated for the purpose of building hospitals?

Mr. HOWE. No, sir; that has come out of the Treasury.

Mr. FESSENDEN. Very well, then, that argument fails.

Mr. HOWE. I did not make it.

Mr. FESSENDEN. I understood the Senator to make it. If that be not the fact, then it turns out that this fund was insufficient for the support of the sailors, and hence an appropriation was made from the Treasury for building those hospitals. Then the Senator's argument fails at each end. If an appropriation was found necessary, it was because enough was not taken from the wages of the sailors to answer the purpose of providing for sick and disabled seamen. That may have arisen from several causes. I suggested that it might come from the fact that commerce was not so prosperous in one year as in another. It might also arise from the fact that a great deal more money was expended on account of a greater degree of sickness in one year than another. Or it may be perhaps that the hospital system is more expensive. Undoubtedly it is where you have a case like that at Galena; and where you have such a case it would undoubtedly be better to provide by the contract system for having the sailors taken care of; but the objection found to the contract system has been this: where you have a contract and the sailors are taken care of at so much a week, it is likely that but very few people can be found who will take care of sailors, and those who do are likely to be a class of people who want to make as much money out of them as they can; and the result is that the sailor is neglected or abused and does not get that which is sufficient for him in the way of food or medicine or care. For that reason in large places where there are likely to be many sick sailors hospitals are built to take care of them. They may in some places cost more than they ought, and the fund may have been reduced in that way.

That is a natural consequence, perhaps, but that is nothing against the system, if the system is founded upon general principles applicable to commerce. If the Senator can find any way to compel merchants who own vessels to take care of sick and disabled seamen after they are discharged, that will be one thing; but there would be no more justice in doing that than there would be in passing a law to compel every farmer to take care of a sick or disabled servant or laborer in his employ; and you do not do that. These men, as I said before, the moment they finish a voyage are discharged; they are thrown on the world; and if they are sick or disabled there is nobody to take care of them. If they are able seamen, they ship again. This provision is a matter that arises from the necessity of the case and from the nature of the business. It is not to support commerce, but it is a matter that arises from commerce, and commerce itself is a necessity to every great people and needs encouragement, and every great people does encourage it in every proper way, not by appropriating money, but by passing laws such as are best calculated to effect the purpose. I really hope that we shall not set the example to the civilized people of the world of being the only commercial nation on the face of the earth that will do nothing for the support of sick and disabled seamen who so much need it.

Mr. HOWE. I only want to add a word. I should like to find some common ground on which the Senator from Maine and myself could stand. I was very much inclined to insist on the idea that these seamen could take care of themselves; but the Senator insists that they cannot and will not. Conceding that he knows more about them than I do, let it be admitted, for the purpose of this argument, that they will not, yet the fact remains that up to 1846 the Government did take care of them by means of moneys collected from their wages. The Senator assumes that that fund proved insufficient. I have not seen the evidence of it, and I think there is evidence to the contrary on the statute-book. But suppose it is not sufficient, is not the true remedy to raise it to twenty-five cents a month or thirty cents or forty cents or fifty, or whatever is necessary to do the business, for the Senator asserts that whatever is not collected from them they spend in a thriftless and idle and dissipated way. Then, in-

stead of appropriating money that hard labor has earned and put into the Treasury, let us take it out of moneys which otherwise, according to his theory and his argument would be expended in dissipation, and without any profit or good to the seamen. I do not think that is necessary. I do not think humanity calls for this appropriation in that point of view. We make it, not in the interests of humanity, not in the interests of necessity, but in the interests of dissipation and thriftlessness.

Mr. MORRILL, of Maine. Since the debate sprung up I have been looking at the hospital returns, and I find for the year 1866 that there were one hundred and sixteen places where funds were collected off the sailors and as many places where they were disbursed. There were eighty places where they were disbursed to sailors in private modes; and there were thirty-six hospitals where sailors were cared for. Upon the rough estimate I have been able to make while the debate has been going on, I find in round numbers \$300,000 expended for the year 1866 for these purposes, for the support of the hospitals and for the support of sailors according to private modes. Then I find in round numbers about one hundred and twenty-five thousand dollars collected from the sailors by the twenty cents a month. That would leave a deficiency of about one hundred and seventy-five thousand dollars for that year. The year 1867, which is the last, I think, does not differ materially, although there are not as many hospitals. Some of the hospitals have been sold. I believe there are twenty-six now, and of course there are more persons supported in private modes. I have not added the figures; but glancing at them I should say that the sum collected and disbursed perhaps was just about the same.

My own recollection on the subject when before the committee on the exhibit presented by the Senator from Wisconsin, was that this thing from small beginnings and from prudent economy had grown up to be somewhat improvident, somewhat largely extended and unthrifty, and that there were extravagant and needless and wasteful expenditure, and that it needed a remedy. Whether the remedy is the one proposed by the Senator from Wisconsin and which the committee propose is for the Senate to consider. I do not believe that the expenditures to the extent that they have been made for the last twenty years in the erection of marine hospitals, a great many of which have been sold as worthless in the last two or three years, should be continued in that way.

I should hope that the reform which has been spoken of by the Senator from Michigan, and which he contemplates will take place under the supervision of the new superintendent who is provided by an act which has passed the Senate, will be all that he expects. Whether it will be or not of course experience alone can test. I am satisfied, however, in any view of it, if Senators think the system ought to prevail and ought to be supported and that this deficiency ought to be provided for and the old policy continued, \$150,000 is enough; and if the new board of supervision understand that Congress is looking into this subject and the appropriation should be reduced so as to require them to understand it, I believe it would be both salutary to the service and to the health of the sailors and everybody connected with it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Appropriations, to strike out the clause as amended.

The amendment was rejected—ayes seven, noes not counted.

The next amendment was after the word "dollars," in line sixty-seven, to insert:

*Provided, That the building shall be completed without any further appropriation by the Government.*

So as to make the clause read:

Toward rebuilding the United States military asylum for disabled soldiers at Fogg, near Augusta, Maine, destroyed by accidental fire, \$25,000: *Pro-*



*vided*, That the building shall be completed without any further appropriation by the Government.

The amendment was agreed to.

The next amendment was in line seventy-five, to strike out "two" and insert "three;" so as to increase the appropriation "for the survey of the Atlantic and Gulf coasts of the United States, including compensation of civilians engaged in the work, and excluding pay and emoluments of officers of the Army and Navy and petty officers and men of the Navy employed in the work," from \$200,000 to \$300,000.

The amendment was agreed to.

The next amendment was in line seventy-eight, to strike out "sixty" and insert "one hundred and thirty;" so as to increase from \$60,000 to \$130,000 the appropriation "for continuing the survey of the western coast of the United States, including compensation of civilians engaged in the work."

The amendment was agreed to.

The next amendment was to strike out lines seventy-nine to eighty-four, in the following words:

For continuing the survey of the South Florida reefs, shoals, keys, and coast, including compensation of civilians engaged in the work, and excluding pay and emoluments of the officers of the Army and Navy, and petty officers and men of the Navy employed in the work, \$25,000.

The amendment was agreed to.

The next amendment was in line one hundred and seventeen, to strike out "one hundred and fifty" and insert "two hundred and eight," so as to increase from \$150,000 to \$208,000 the appropriation "for the necessary repairs and incidental expenses, improving, and refitting light-houses and buildings connected therewith."

The amendment was agreed to.

The next amendment was in line one hundred and twenty-three, to strike out "forty-three" before "keepers," in the following clause:

For salaries of forty-three keepers of light vessels, \$22,300.

The amendment was agreed to.

The next amendment was to insert the following clause in lines one hundred and seventy-four and one hundred and seventy-five:

For a first order light-house at Point Ano Nuevo, California, or vicinity, \$90,000.

The amendment was agreed to.

The next amendment was to insert the following clause as lines one hundred and seventy-nine and one hundred and eighty:

For two buoy and light-house tenders for service on the Atlantic and Gulf coasts, \$80,000.

The amendment was agreed to.

The next amendment was in line one hundred and eighty-three to strike out "four," and insert "one;" so as to reduce from \$4,000 to \$1,000 the appropriation "for enabling the light-house board to experiment with new illuminating apparatus and fog-signals, in addition to former appropriations."

The amendment was agreed to.

The next amendment was to amend the following clause at the close of the appropriations for the revenue-cutter service:

*Provided*, That the six steam revenue-cutters stationed upon the northern and northwestern lakes and their tributaries shall be laid up, and that no more of the money appropriated by this act shall be paid on their account than so much as may be necessary for their safe and proper care and keeping; and that the Secretary of the Treasury be authorized and directed to lay up and withdraw from commission every revenue-cutter off the Atlantic coast, bays, gulfs, and so forth, not actually required and needed for constant service.

So as to make it read:

*Provided*, That the Secretary of the Treasury be authorized and directed to lay up and withdraw from commission the six steam revenue-cutters stationed upon the northern and northwestern lakes and their tributaries, and every revenue-cutter off the Atlantic coast, bays, gulfs, not actually required and needed for constant service.

The amendment was agreed to.

The next amendment was in line two hundred and twenty-five, to strike out "fifty" and insert "one hundred;" so as to make the appro-

priation "for the construction of a custom-house at Portland, Maine, \$100,000."

The amendment was agreed to.

The next amendment was in line two hundred and twenty-eight, to strike out "twenty-five" and insert "fifty;" so as to increase from \$25,000 to \$50,000 the appropriation "for the construction of a building, to be used as custom-house and post office at St. Paul, Minnesota."

The amendment was agreed to.

The next amendment was in line two hundred and thirty-five, to increase the appropriation for the construction of appraisers' stores at Philadelphia from \$25,000 to \$75,000.

The amendment was agreed to.

The next amendment was after line two hundred and forty-six, to insert the following:

For completion of the extension and repairs of the custom-house at Bangor, Maine, \$20,000.

The amendment was agreed to.

The next amendment was after line two hundred and fifty, to insert:

For the completion of the custom-house and post office building at Ogdensburg, New York, \$30,000.

Mr. MORRILL, of Maine. I move to amend the amendment by striking out "thirty" and inserting "forty." It should be \$40,000 to cover the expense. It is authorized by the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The next amendment was to insert after line two hundred and fifty-six the following:

For heating apparatus for custom-houses and other public buildings, \$35,000.

The amendment was agreed to.

The next amendment was after line two hundred and fifty-eight, to insert:

For vaults and safes for depositaries, \$25,000.

The amendment was agreed to.

The next amendment was after line two hundred and sixty-nine, to insert:

For completion of the branch mint building at Carson City, Nevada, fencing the grounds, and for machinery, fixtures, and apparatus, and for putting up the same, \$150,000.

Mr. FESSENDEN. I should like to have some explanation of that amendment. Has there been any money whatever expended for the erection of buildings there?

Mr. MORRILL, of Maine. Yes, sir; \$75,000 last year.

Mr. FESSENDEN. I thought it had been decided not to go on with the erection of mints in that region, but to establish assay offices.

Mr. STEWART. The Secretary has finally concluded to carry out the law authorizing it.

Mr. FESSENDEN. I had the impression that \$75,000 were to be appropriated for the purpose of building an assay office.

Mr. STEWART. There was no appropriation made.

Mr. MORRILL, of Maine. Yes, there was last year.

Mr. STEWART. But it was not used for that purpose. I do not think there was any appropriation last year for an assay office.

Mr. FESSENDEN. I had that impression. I only wanted to have some explanation of the amendment, because I know I was decidedly of the opinion that it was very unwise to provide for any more mints, and that all we needed there was an assay office.

Mr. STEWART. I do not think an assay office would be of any use.

Mr. FESSENDEN. That is all they have in Oregon or Idaho, where I think they need a mint more than in Nevada.

Mr. STEWART. Does the Senator mean to say there is more bullion produced in Idaho than Nevada?

Mr. FESSENDEN. Yes, sir, in Idaho or Montana; and certainly in Oregon.

Mr. STEWART. Oregon, Idaho, and Montana together do not produce as much bullion as Nevada.

Mr. FESSENDEN. I think the Senator is very much mistaken about that.

Mr. STEWART. Nevada produces \$20,000,000; Idaho, \$6,000,000; Montana, \$12,000,000. I do not exactly recollect how much Oregon produces; but I think Nevada really produces more than all of them put together.

Mr. FESSENDEN. I do not see the necessity of having so many mints. The Secretary of the Treasury and the Director of the Mint have recommended that they have in these several places merely assay offices. They answer all the purposes, so far as the people are concerned; while the establishment of large mints in these several States increases the expense very much.

Mr. STEWART. That is not the recommendation of the committee in this case.

Mr. FESSENDEN. Is there an estimate for this?

Mr. MORRILL, of Maine. Yes, sir. There was an appropriation last year of \$100,000; I thought it was \$75,000; and it has been expended. I have here an account of it.

Mr. STEWART. I now have the estimate of J. Ross Browne of the amount of bullion produced in these States.

Mr. FESSENDEN. I concede the correctness of what the Senator says on that point.

Mr. STEWART. It is \$20,000,000 for Nevada, \$12,000,000 for Montana, \$6,000,000 for Idaho, \$1,000,000 for Washington, \$2,000,000 for Oregon, \$2,500,000 for Colorado, \$500,000 in New Mexico, and \$500,000 in Arizona.

Mr. FESSENDEN. Is that the actual yield?

Mr. STEWART. That is estimated to be the actual yield.

Mr. CONKLING. How much for Nevada?

Mr. STEWART. Twenty million dollars; and I will state that in regard to Nevada they can give a more accurate estimate than of the other States and Territories, from the fact that they can take the figures of the shipments to San Francisco by express. There is no guessing about this \$20,000,000. California is put down at \$25,000,000; but probably some of that comes from the States that do business there. I think Nevada produces as much as any State.

Mr. FESSENDEN. I should like to know the facts. If the Government is committed to the policy of establishing a mint at this place, of course I have nothing to say.

Mr. MORRILL, of Maine. I think you will find the Government is thoroughly committed to it, and they have proceeded on that idea and expended \$100,000. I hold the estimates in my hand. I have here the estimate of the supervising architect of the Treasury Department, who estimates the total cost at \$163,302 08, and recommends an appropriation of \$75,000. I have also an estimate of \$100,000 from Mr. Linderman, the Director of the Mint, for the necessary machinery and apparatus. That is included in the estimate of the total cost. So that what was really asked for was \$175,000; but I notice in this estimate in round numbers of \$100,000. It is said that possibly may be a little high, and so the committee concluded to put it at \$150,000, \$25,000 less than was asked for.

Mr. FESSENDEN. If it has been decided to have a mint there, I have nothing to say.

Mr. MORRILL, of Maine. Yes, sir; that is settled.

The amendment was agreed to.

The next amendment was in line three hundred and eighteen, to strike out "ten" and insert "fifteen;" so as to increase the appropriation "for continuing the work on the north front of the Patent Office building, and for improving G street from Seventh to Ninth streets," from ten to fifteen thousand dollars. The amendment was agreed to.

The next amendment was on page 17, line three hundred and eighty-four, to strike out "thirty" and insert "fifty;" so as to make the clause read:

For surveying the public lands in California, at rates not exceeding fifteen dollars per lineal mile for

standard lines, twelve dollars for township, and ten dollars for section lines, \$50,000.

The amendment was agreed to.

The next amendment was in line three hundred and eighty-eight, after the clause appropriating \$25,000 for surveying the public lands in Oregon to insert the following proviso:

*Provided*, That out of this appropriation the Commissioner of the General Land Office may pay a sum not exceeding \$1,000 for surveys of last year.

Mr. POMEROY. I should like to have that explained. I suppose there is some explanation of it.

Mr. MORRILL, of Maine. No explanation except that they exceeded the money appropriated last year.

Mr. POMEROY. The Committee on Public Lands recommended and sent to the Committee on Appropriations an addition to the sum appropriated for surveys in Oregon and Nevada; but I do not know what disposition the committee made of it.

Mr. MORRILL, of Maine. I do not think the committee took any action upon it. This is simply to meet an over expenditure of last year for this purpose.

Mr. POMEROY. I have no objection to that.

The amendment was agreed to.

The Chief Clerk continued the reading of the bill down to the following clause:

For surveying the public lands in Montana Territory, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, \$15,000.

Mr. MORTON. Before that clause is passed I want to call the attention of the committee to an amendment that I propose to it. It is to strike out in line four hundred and three "fifteen" and to insert "twenty-five." I am satisfied from what I know about the public surveys going on in Montana Territory that \$15,000 is too small an appropriation.

Mr. MORRILL, of Maine. Will the Senator be kind enough to call attention to that after the reading of the bill and the amendments of the committee are gone through with?

Mr. MORTON. Very well, sir.

The PRESIDENT *pro tempore*. The reading of the bill will be continued.

The Chief Clerk continued the reading of the bill.

The next amendment was in line four hundred and seven, to strike out "fifteen" and to insert "five;" so as to reduce the appropriation "for surveying the public lands in Utah Territory, at rates not exceeding fifteen dollars per mile for standard lines, twelve dollars for township, and ten dollars for section lines," from \$15,000 to \$5,000.

The amendment was agreed to.

The next amendment was after line four hundred and twenty-three, to strike out the following clause:

For improvement and care of reservation No. 2 and La Fayette square, \$2,000.

Mr. FESSENDEN. I hope that will not be stricken out. It is a very small sum appropriated for a necessary object. The reservation No. 2 is the Smithsonian grounds. La Fayette square is the large square in front of the President's House. There is a certain sum necessary every year in the way of improvement in all these public squares; and for the care of them and keeping them in order. It is a very small sum that is appropriated, and it is a very large reduction from what was asked for, and I hope it will be appropriated. I consulted the Superintendent of the Public Grounds, and he thinks it is absolutely necessary. He must have something for those purposes. They are public squares belonging to the Government, and the Government should take care of them. The sum appropriated here is very small. Something is necessary to be done to keep them in order, to take care of the walks, remove weeds, &c., and \$2,000 for those two large squares strikes me as little as can possibly be got along with. I should like to have some reason for striking out the appropriation.

Mr. MORRILL, of Maine. The Committee

on Appropriations had no special information on the subject; but we thought we would take this course to bring it to the attention of the proper committee of the Senate. It will be seen that there are in this bill four distinct items for taking care of reservations. In the first place, here is an appropriation "for improvement and care of reservation No. 2 and La Fayette square." Then follows an appropriation "for care and improvement of grounds south of the President's House." On the next page is an appropriation "for care of reservations on New York, Massachusetts, Vermont, and Maryland avenues;" and then there is another appropriation "for care of the Circle." Besides these, we pay for six watchmen to take care of the Smithsonian grounds, and in addition we pay \$208,000 a year to police the District, besides having special policemen at every Department and every bureau, at the Capitol, and elsewhere.

It seemed to the committee that having appropriated so much in a general way for policing the city, and then for special policemen, that is, for watchmen in all the Departments and bureaus, these reservations could be placed under the general care, to say the least of it, of the general police. In addition to that, I would say that we pay for some twenty-five laborers who have the care and improvement of these public grounds. It seemed to the Committee on Appropriations, considering this general and particular and special force, in all directions, that there might be no necessity, perhaps, wherever you have a reservation, big or little, of posting a man there to watch it; for that is what it comes to.

I will say to my colleague also, that if these reservations are appropriated for, there is one other that should be added, Franklin square, a recent square nicely fitted up, and which was appropriated for last year. If that is inserted, then it will be seen that for almost every square, in addition to this general force to which I have alluded, there are these special watchmen, whose whole duty, as I understand it, is simply to care, look on, and see that no mischief or injury is done. The idea of the committee was that that duty might well enough be performed by the general police force of the city. My colleague will know best about that.

Mr. FESSENDEN. My colleague will perceive, if he reflects for a moment, that there are two kinds of care. The general police of the city go through these grounds, I suppose, as well as other parts of the city. Then the watchmen are merely to see that persons do not trespass, whether by day or by night, and to take disorderly persons, who are disposed to injure these grounds, into custody. The "care" spoken of in this appropriation is merely to keep the grounds in order. There must be somebody to do it; to take up decayed shrubs and trees, and replace them with new ones, to attend to the general ornamentation of the grounds, the keeping of the walks in order, &c. That must be in charge of some individual to do it. These \$2,000 comprise the pay to the individual employed—I suppose there is one in each—and the additional sum is to be appropriated for the improvement of the grounds themselves. General Michler, who has the superintendence, tells me that about six hundred dollars are paid to the individual, and the rest is spent in ornamentation, and one thing and another of that kind. We have these public grounds in the city of Washington; they belong to us; we have always taken care of them, and made the expenditures for them, and must continue to do so. The sum here appropriated is very much less than what was asked for, and I think is the smallest possible sum that could be appropriated for the service. I think it is necessary. It will not do to leave these squares with the trees, shrubs, and so many things to be taken care of, to take care of themselves. I think the appropriations in this bill are reduced already to their minimum. If we strike out these appropriations altogether the Govern-

ment will lose very much more than these small sums appropriated for this purpose. We must do just as a private person would if he was the owner of one of these reservations, if it was around about his house. We must have some individual to keep the walks in order, and see what is necessary to be done with reference to the trees, shrubs, &c., that are there. I hope the clause will not be stricken out.

The PRESIDENT *pro tempore* put the question on the amendment, and declared that the yeas appeared to have it.

Mr. MORRILL, of Maine. I do not know that I ought to divide the Senate on a matter so small as this. I have brought it to the attention of the Senate, and I do not think I ought to detain the Senate about it. But take the first of these items: "for improvement and care of reservation No. 2 and La Fayette square, \$2,000." They are entirely fenced in.

Mr. FESSENDEN. La Fayette square is the large square in front of the President's House.

Mr. MORRILL, of Maine. I know where it is; but it is all fenced in.

Mr. FESSENDEN. That is very true; but it will not take care of itself. Anybody can go there at any hour he pleases.

Mr. MORRILL, of Maine. But there are no improvements suggested, and none going on there.

Mr. FESSENDEN. Will the walks take care of themselves?

Mr. MORRILL, of Maine. Does it need \$2,000 to hire some gentleman to sit there and watch it?

Mr. FESSENDEN. But it is for two squares. The Smithsonian grounds are very large.

Mr. MORRILL, of Maine. It is "for improvement and care of reservation No. 2."

Mr. FESSENDEN. That is the Smithsonian grounds.

Mr. MORRILL, of Maine. We have six watchmen for that.

Mr. FESSENDEN. You have got watchmen; but nobody to take care of the grounds.

Mr. MORRILL, of Maine. Six watchmen ought to do it.

Mr. FESSENDEN. But the watchmen there do not work upon the grounds. They do not do anything in reference to taking care of the walks or taking care of the shrubs or trees.

Mr. HOWE. Allow me to suggest that you have a distinct appropriation to keep in repair the public grounds.

Mr. FESSENDEN. Not these.

Mr. HOWE. All the public grounds.

Mr. FESSENDEN. Where?

Mr. HOWE. There is a distinct provision for that.

Mr. MORRILL, of Maine. "For repairs and improvement of public buildings and grounds, heretofore under the direction of the Commissioner on Public Buildings."

Mr. FESSENDEN. "To wit;" and then the bill goes on to specify. There is no general appropriation at all. This would leave them all to take care of themselves.

Mr. MORRILL, of Maine. But the proposition which the Committee on Appropriations desired the Committee on Public Buildings and Grounds to consider was whether it was not practicable to dispense with these items, which seemed to be put in to accumulate expenditures.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the committee.

Mr. MORRILL, of Maine. I ask for a division on that question. There are several of these items, and the Committee on Appropriations have struck them all out.

The question being put, there were, on a division—ayes 18, noes 8; no quorum voting.

Mr. MORRILL, of Maine. I ask the Senate to divide again. There is a quorum present.

The question being again put, there were, on a division—ayes 20, noes 9.

So the amendment was agreed to.

The next amendment was on page 18, after

line four hundred and twenty-five, to strike out the following clause:

For care and improvement of grounds south of the President's House, \$1,000.

Mr. FESSENDEN. We may as well strike them all out now, as we have stricken out the other.

The question being put on the amendment, there were on a division—ayes 10, noes 8; no quorum voting.

Mr. MORRILL, of Maine. I shall have to call the yeas and nays unless Senators vote one way or the other. I ask the Senate to divide again.

The PRESIDENT *pro tempore*. The Chair will put the question again.

Mr. ANTHONY. Will the chairman of the committee explain what this amendment is? I do not understand it.

Mr. MORRILL, of Maine. The amendment is to strike out an appropriation of \$1,000 for the care and improvement of the grounds south of the President's House.

Mr. ANTHONY. That is, taking care of the walks, trees, shrubs, &c.

Mr. MORRILL, of Maine. Yes, sir. I stated the case fully a few moments ago. It is one of a class of items here; and having struck out the first one, I supposed that that was the judgment of the Senate, and that they would proceed to strike out the others. They either ought to do that, or else reverse their judgment on the other amendment. There is just as much propriety in one of them as the other.

Mr. FESSENDEN. I should like the gentlemen on this side of the Chamber to understand this question. The clause we struck out was a small appropriation of \$2,000 for taking care of and gradually improving La Fayette square, a large square in front of the President's House, where there are many valuable shrubs, trees, &c.

Mr. DAVIS. If the Senator from Maine will permit me, I will move to reconsider the vote by which that clause was stricken out.

Mr. FESSENDEN. As soon as I have explained it a little further I will do so. It also provided for reservation No 2, which is the Smithsonian grounds, which belong to the Government. The bill appropriated simply for a person or two persons to take care of them and keep the walks clean, trim the trees, look after them, and keep them in order, the sum of \$2,000, a very small appropriation, indeed.

Mr. HOWE. Will the Senator explain for what the twenty-one laborers and a foreman are employed in the public grounds, for which we appropriated \$19,296 in the legislative appropriation bill?

Mr. FESSENDEN. They are employed as laborers under General Michler in the public grounds. There are public grounds about this building where they are continually employed, and other public grounds.

Mr. HOWE. Are they kept on one part of the public grounds? Are they not employed on both these reservations?

Mr. FESSENDEN. They may be at some portions of the time, but I am instructed by the commissioner who has charge of them that he needs one man something above an ordinary common laborer, who has some judgment about grounds, and the improvement and care of the grounds that are thus laid out, to keep them in order. He needs a skilled gardener in each of them continually to look after them. All that is appropriated for that is \$1,000 for each reservation. Then the next clause appropriates \$1,000 for the grounds in front of the President's house, on the lower side immediately surrounding his house. Another person is needed there. In regard to these three I have no doubt whatever of their necessity. On the next page of the bill you will see there is an appropriation "for care of reservations on New York, Massachusetts, Vermont, and Maryland avenues, \$3,000." There are four reservations. They are surrounded by common wooden fences. The superintendent says he needs somebody there continually to

look after those, and \$3,000 are appropriated for the four, and those he wishes to improve as the others have been improved, to set out trees on them, &c. He says that unless you have somebody there to watch them the fences are torn away and burnt; the trees are cut down; and he wants to improve them. We all want that done. They are our public grounds, and gradually we ought to spend some small sum for the sake of beautifying them, and not leave them as dirty, filthy places for all sorts of stuff to be piled up in, to be made an eyesore rather than a place of beauty. He remarked to me that \$3,000 was as small a sum as he thought he could get along with for the purpose of taking care of these four reservations and improving them gradually. I think they ought to be improved. I think he is right about that. I think any other idea is a nigardly and mean one. That is my notion about it, although I do not feel particularly interested in this matter in this city.

Then there is an appropriation for the care of the Circle, where the statue of Washington is. He has got there a one-armed or a one-legged soldier, to whom he gives \$600 a year to look after it, and for the \$400 additional there is some under-draining to be done; so that he needs \$1,000 for the next year for the Circle. That is the exposition of it, and understanding it the Senate, of course, will do what they think best.

Mr. HOWE. Mr. President, I agree with the Senator from Maine that if the Superintendent of Public Property, or whatever he is, is going to improve these four reservations at \$3,000, it is about as little as it could be done on; but I should like to know if the chairman of the Committee on Public Grounds really means to tell the Senate that he wants \$3,000 in order to execute improvements on those reservations!

Mr. FESSENDEN. To execute improvements and to pay the men employed.

Mr. HOWE. Three thousand dollars to be appropriated by the nation to fix up these four public squares!

Mr. FESSENDEN. The Senator is speaking of its being a very small sum. The commissioner's idea is not to do it all at once, but to do it gradually.

Mr. HOWE. To do it gradually! Doing it so gradually as that, you would never perceive that you were making any improvement at all, and so the nation would be a thousand years older than it is to-day, and you never would begin your improvements. Three thousand dollars is wanted to pay men to sit there on the walks, and to keep other folks out, I suppose, under pretense of preventing trespass, or something of that sort; it is not to make improvements.

If the superintendent will tell what improvements he wants to make on these reservations, what fences, what walks are to be made, what trees are to be set out; if he will tell what he wants to do, and with what sum he will do it, I dare say the Committee on Appropriations will agree to pay the money. But that is not what this appropriation is asked for. Why, sir, you have been appropriating \$1,000 a year to take care of that circle ever since you were a child, I suppose. I have not looked back to see how long. But you want \$1,000 this year. Why? Because \$600 is to go to a one-armed soldier and \$400 to do a little more draining. What was done with the \$400 appropriated a year ago, and the \$400 appropriated the year before that? Was there a little more draining done then?

Mr. President, these appropriations are made to take care of individuals. I have not much objection to it. I do not care much what becomes of the public moneys. I am pretty well satisfied that what you do not pay out in these dribblets you pile up into millions and give to some favorite; so that I have no particular objection to this. But I want you to dismiss the idea that you are going to get any public square benefited or beautified by this appropriation. It is not going to come. You

have provided in another bill for a foreman and twenty-one laborers to take care of these grounds, to do the work which the superintendent wants done on them. It is in a proper place, and all the work that he wants done should have been appropriated for there, and all he said he wanted done was appropriated there. These appropriations are really to employ watchmen.

Mr. FESSENDEN. I should like to have the Senator show where it has been done somewhere else.

Mr. HOWE. In the legislative appropriation bill which passed here a few days ago.

Mr. FESSENDEN. I should like to have the Senator point it out.

Mr. HOWE. It is on page 18, commencing at the three hundred and eighth line.

Mr. FESSENDEN. Will the Senator be kind enough to find it and point it out, instead of making a broad assertion?

Mr. HOWE. I am trying to point the Senator to it. I say it is on the thirteenth page, commencing with the three hundred and eighth line, and it reads as follows:

For compensation of a foreman, and twenty-one laborers employed in the public grounds, \$19,296.

That is in the appropriations under the head of "public buildings and grounds." That is all he asked for that purpose then; and I say this money is asked for merely to employ men to watch the grounds which these men cultivate and improve; and it was the opinion of the Committee on Appropriations, that inasmuch as we paid an immense police force here to do the watching, they could watch the property of the United States as well as the property of individuals, and were under as much obligation to do it as we paid them for their services.

Mr. FESSENDEN. Mr. President, my friend from Wisconsin has a wonderful faculty. He knows more about every subject than the men do who are specially employed to ascertain about it, and to do what is necessary. Now, he undertakes to tell General Michler that he has not recommended these things; that he does not need them; that he does not want them; that he has provided for them somewhere else; that he does not know anything about them; and that if he has an idea of stating to me, as chairman of the Committee on Public Buildings and Grounds, that he wants these sums for these specific purposes, it is all a mistake; he does not want them. Now, how does the Senator happen to be so knowing as to what General Michler wants, and what he does not want, directly in the face and eyes of what he says? These appropriations are recommended by him. Does he not understand his business? He devotes himself all the time to it. He is the Superintendent of the Public Grounds, and he says he wants so many men generally under him, ordinary laborers, and a superintendent of laborers. You see them employed about here in taking care of these grounds, and doing the work about here; and he says in addition to that he wants these particular men and particular sums for these particular purposes. Now, what right has the Senator to say he does not want them, or does not recommend them, to say the least of it, and that he does not know what he is about?

I do not pretend to know anything more about this matter than what I am told by the proper officer, who states not only in writing to the committee in making his recommendation in the first place, but states to me in addition, when I asked him for an explanation, just exactly what I have stated to the Senate; and yet the Senator from Wisconsin says it is a mistake; he does not know anything about it; he does not recommend it in fact; it is all a mistake. Where does the Senator get his information? That is all I want to know about it. If it is such an error, so be it. If Senators undertake to say that the Superintendent of Public Grounds meant to include all these items in that appropriation in the general appropriation bill for so many laborers and a foreman that is one thing. If they think that is enough without this, that is one thing, and



Senators can act upon it; but to undertake to tell me that this is all a mistake, and that the Superintendent of Public Grounds does not know what he is saying, does not know what he means, I think is a little beyond the Senator's jurisdiction. We have a right to conclude that he does know what he means. I care nothing about this matter. If the Senate choose to say that these public grounds that have been improved and ornamented shall be left to take care of themselves, so be it. I never go there myself; so I do not care anything about it particularly; but I think it would be a very extraordinary thing to do.

Mr. HOWE. Mr. President, let the Senator from Maine manufacture the speech he wants to reply to, and he will make about as conclusive a reply as any man I ever heard in debate. But if you confine him to replying to a speech he listens to, he either makes a mistake in his reply or he makes terrible mistakes in his statement of the speech to which he is replying. So the first difference between the Senator from Maine and myself is upon a question of fact as to whether I have said any such thing as he has been replying to. I have not undertaken to say that the Superintendent of Public Buildings and Grounds did not know what his business was. I have not assumed to know more than everybody else about this business. I do not think I do really, if you want to put me on the stand. I will tell you what advantage I really have over other folks. I tell nearer what I know than some do, and I do not undertake to say what I do not. I said of the Superintendent, not that he did not want this money—I think it likely he does—I said of the Superintendent not that he had not recommended these appropriations; I said he did not recommend them in that bill when he was called upon to recommend for the force he wanted to cultivate these public grounds. And I did say one thing more, which the Senator did not accuse me of saying, and that was that if you made these appropriations, you must dismiss the idea of having your grounds look any better next year than they do this year at this time.

Mr. FESSENDEN. We want to keep them looking as well. That is the very thing.

Mr. HOWE. They will be kept looking as well, I suppose, by these twenty-one laborers; but "for improvement" is the term implied here; "gradual improvements," the Senator from Maine says, undertaking to interpret the Superintendent. Now, I say that the improvement which is made by these beggarly appropriations will be too gradual. If the Senator means to be understood that the Superintendent of Public Buildings and Grounds is going to improve and beautify these squares with these appropriations, I think he cannot do it; but the Senator really does not say that that is what he proposes to do. If I say they are to pay merely watchmen, or to pay for men who are substituted for the police there, then the argument is: it is not for that, but for improvements. But if I say they cannot improve the grounds with these small appropriations, then the argument is that it is wanted to keep them up to the point they are now.

Mr. President, I have taken altogether too much time in discussing this matter. I really do not care anything about it. It does annoy me a little, in spite of all the experience I have had, to see these little sums of money thrown away. But as I have said before, they will do about as much good to individuals when they are paid to one-armed soldiers, or soldiers with two arms, or men with two arms who never saw the Army, as they will if they are left to accumulate in larger bills and then be thrown away in a bulk; so I am willing that the Senate, if they insist upon it, shall vote this appropriation, but I do insist that we shall not get any better looking grounds.

The amendment was rejected.

Mr. DAVIS. I now move to reconsider the vote striking out the appropriation "for improvement and care of reservation No. 2 and La Fayette square, \$2,000."

Mr. MORRILL, of Maine. All I desire to say is, that having called the attention of the Senate to this general subject, so to speak, embracing these several items, I have done my duty in regard to it. I suppose the Senate will follow its vote on the item, the reconsideration of which is now moved, and if the Senate please I will regard that as a test question. If the Senate is disposed to reconsider that amendment, then I will take it for granted, so far as I am concerned, as the sense of the Senate, that all these amendments proposed by the committee are not desirable.

The motion to reconsider was agreed to, there being on a division—ayes 20, noes 13.

The PRESIDENT *pro tempore*. The question now is on the adoption of the amendment reported by the Committee on Appropriations.

The amendment was rejected.

Mr. SUMNER. I think it will be difficult to get through with this bill to-night. I have already mentioned—

Mr. MORRILL, of Maine. We are very nearly through now with the amendments of the committee. Let us have ten minutes more.

Mr. SUMNER. There will probably be amendments that will lead to discussion. There is occasion for an executive session. I hope, therefore, the Senator will not make any opposition if I move that the Senate proceed to the consideration of executive business.

Mr. MORTON. We can get through in twenty minutes.

Mr. MORRILL, of Maine. If the Senator will withdraw his motion for ten minutes we can dispose of all the amendments of the Committee on Appropriations.

Mr. SUMNER. Very well; I am always accommodating.

The PRESIDENT *pro tempore*. The reading of the bill will be proceeded with.

The next amendment was after line four hundred and thirty-two, to strike out the following clause:

For care of reservations on New York, Massachusetts, Vermont, and Maryland avenues, \$3,000.

The amendment was rejected.

The next amendment was after line four hundred and forty-two, to strike out the following clause:

For care of the Circle, \$1,000.

Mr. HOWARD. I should like an explanation of the chairman of the committee as to the necessity of this appropriation, "for the care of the Circle, \$1,000?"

Mr. MORRILL, of Maine. The same necessity that obtains in the cases that have just been decided as to the care of these other reservations.

Mr. HOWARD. What necessity has there ever existed for any such appropriation as this?

Mr. MORRILL, of Maine. This is the reservation known as the Circle. There is precisely the same necessity for that, I suppose, that there is for the appropriations already made in regard to the others.

Mr. FESSENDEN. I do not think that there is the same reason applicable to that, because it is a very small piece of land. The Superintendent stated to me that there was something necessary for the purpose of underdraining there, and there has been a man stationed there, as he said, a one-armed soldier, and he gave him \$600, and he took care of the ground. It is a very small matter and I should not think it would require \$1,000 to take care of it, or even \$600. If it was in any town except Washington I suppose the mode of taking care of such a small piece of ground as that would be to employ some person living in the neighborhood to look after it and pay him fifty dollars a year or something like that; but here they employ a person to take charge of it. I should think myself that this underdraining and the care of it would not need more than \$500. That is my impression. I think the same reason does not apply to that small Circle that applies to these other pieces of ground that I have spoken of.

Mr. HOWARD. Let me ask the Senator from Maine whether he recommends the reten-

tion of this appropriation; whether he dissents from or concurs in the recommendation of the Committee on Appropriations with regard to this appropriation of \$1,000 for the Circle?

Mr. FESSENDEN. I think if we were to appropriate \$400 it would be enough; but then you would have to dispense with the man who is employed there entirely, and not have a man making it his exclusive business. I think the appropriation might be cut down.

Mr. HOWARD. I move to strike out \$1,000 and insert \$400.

Mr. SUMNER. Say \$500.

Mr. HOWARD. No; \$400.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment, striking out \$1,000 and inserting \$400.

Mr. HOWE. I am embarrassed just this much in voting on that motion: we have been voting down some amendments recommended by the Committee on Appropriations because the specific appropriations which we wished to strike out were recommended by the Superintendent of Public Works. The chairman of the Committee on Public Buildings and Grounds said he did not know anything about them; but the Superintendent recommended them, and he must be understood to know what he wanted. The Senate took that view of it, and because the Superintendent asked for the appropriations they voted down the amendments recommended by the Committee on Appropriations, and voted the appropriations asked for by the Superintendent. Now, the Superintendent asks for this appropriation of \$1,000. We have the same authority for voting this that we had for voting the others. But the chairman of the Committee on Public Buildings "goes back" on the Superintendent on this question, and he tells us that \$400 are enough in Washington, and fifty dollars would be enough anywhere else for this purpose. I believe the Senator from Maine, really, and I think I shall vote with him, although in doing so I must fly in the face and eyes of the principle just settled by the vote of the Senate on a solemn division. Still, I do not think the Senate will care anything about it; and so I guess I will vote for the measure.

Mr. CONKLING. I hope the Senate will not adopt this amendment. The Senator from Maine says there is a one-legged soldier at this Circle, and therefore this proposition at least has one leg to stand upon, and that is one more leg than any of these other appropriations have, as I understand it. After investigating the subject, as we did in committee, we came to the conclusion, and I have seen nothing to change that conclusion, that there is an abundance of force provided for in the other bills to do all this service, and that what the Senate have now been attaching to the bill are so many excrescences, so much of surplus appropriations, which I believe might as well be flung into the Potomac or into the sea. Now, it seems this man has one leg, and \$600 dollars go to him, and the other \$400 is dispersed around this Circle. I understood the Senator from Maine [Mr. FESSENDEN] to say it was to be graded. It is about as large as a leather apron now, and I should think that more grading might perhaps be useful; but at any rate I go for the soldier, and particularly for his one leg, and I am against this clause being stricken out after what the Senate have done.

The amendment to the amendment was rejected; there being on a division—ayes nine, noes not counted.

The amendment of the committee was rejected.

The next amendment was, after line four hundred and fifty-five, to strike out the following clause:

For care, support, and medical treatment of sixty transient paupers, medical and surgical patients, in some proper medical institution in the city of Washington, under a contract to be formed with such institution, \$12,000, or so much thereof as may be necessary.

Mr. MORRILL, of Maine. I desire to make one remark on that amendment. The committee recommend to strike out this clause,

because there is a bill already in the House of Representatives providing for the charities of this District, and this belongs in that bill, and we struck it out for that reason.

Mr. HENDRICKS. Suppose that bill does not pass?

Mr. MORRILL, of Maine. It was concluded it would pass, of course. It is a bill providing for the hospitals and institutions here. There will be no difficulty about that.

Mr. HARLAN. What is the objection to permitting it to stand in this bill as the House placed it in this bill?

Mr. MORRILL, of Maine. What reason was there for dividing them? Why should we act on them by bits? The House departed from the usual course of putting these charities in this bill and thought it best to provide for them by a distinct bill. If that is to be the policy, of course they ought all to go together, I submit, and for that reason the committee thought the charities had better be considered together and not divided, inasmuch as the House had adopted that policy.

Mr. HARLAN. If there is no other reason, I think it wiser to permit this to stand, for if all these charities are put in one bill, and each item should receive some opposition, the bill itself may fail, and this is an item that ought not to be permitted to fail, as it seems to me.

Mr. MORRILL, of Maine. But I hardly presume the Senator supposes that this is more deserving than the hospital for the insane, the lunatic asylum, and a great many other objects which I presume will not fail. I do not understand that there is any controversy about this, but it ought to go with the others.

Mr. HENDRICKS. I think this clause had better remain in this bill; it will be safer. There is no controversy about it, and there may be a controversy in regard to the other bill.

Mr. FESSENDEN. I should like to inquire if this is not the appropriation which has been made for several years to the Providence hospital?

Mr. MORRILL, of Maine. I think this is the Carroll hospital. I am told it is the same thing.

Mr. FESSENDEN. Is it in any other bill?

Mr. MORRILL, of Maine. No, sir; it is in no other bill. But the reason the committee did not choose to consider it in this bill, was that all these charities for this District are proposed to be put into a separate bill now before the House, and we thought if that was so, it was hardly worth while to consider them piecemeal.

Mr. HENDRICKS. I think this had better stay in this bill.

Mr. FESSENDEN. It should go into some bill.

Mr. SUMNER. I move that the Senate now proceed to the consideration of executive business.

Mr. CONKLING and others. Let us finish the amendments to the bill.

Mr. SUMNER. We cannot finish them. I insist on my motion.

The motion was agreed to; there being on a division—yeas 18, nays 15.

#### PRINTING OF AMENDMENTS.

Mr. MORGAN. While the doors are being closed I ask the unanimous consent of the Senate to offer some amendments to the bill (H. R. No. 1100) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels, and for other purposes," which I ask to have printed and referred to the Committee on Commerce.

The PRESIDENT *pro tempore*. That order will be made.

#### BILLS INTRODUCED.

Mr. FOWLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 581) to provide for the election of certain territorial officers by the people; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S.

No. 582) to incorporate the District of Columbia Concrete Stone Company; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. CLINTON LLOYD, Chief Clerk, announced that the Speaker of the House of Representatives had signed the enrolled joint resolution (H. R. No. 316) extending the time for the completion of the Northern Pacific railroad; and it was thereupon signed by the President *pro tempore* of the Senate.

#### EXECUTIVE SESSION.

The Senate thereupon proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

The Senate reassembled at seven and a half o'clock p. m.

#### ARMY RULES AND ARTICLES

On motion of Mr. WILSON, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 529) establishing rules and articles for the government of the armies of the United States.

The bill was read at length.

The first amendment of the Committee on Military Affairs and the Militia, was in article seven, line three, to strike out the word "and."

The PRESIDENT *pro tempore*. This is a mere verbal amendment, and will be considered as made unless there be objection.

The next amendment was in line two, article thirty-seven, to strike out the word "powers" and insert "power."

The PRESIDENT *pro tempore*. This verbal amendment will also be made, unless there be objection.

The next amendment was in article forty-six, line eight, to strike out the word "delivering" and insert "delivery."

The PRESIDENT *pro tempore*. This amendment will also be considered as made without objection.

The next amendment was in article eighty-nine, line eleven, to strike out the word "the" and insert "a."

The PRESIDENT *pro tempore*. This verbal amendment will be made.

The next amendment was in the second section of the bill, after the word "articles" to strike out "of war;" so as to read, "that the rules and articles by which the armies of the United States have heretofore been governed," &c.

The amendment was agreed to.

Mr. WILSON. In lines eight, nine, and ten, of article eight, I move to strike out the words "the provisions of an act establishing rules and articles for the government of the armies of the United States," and to insert the word "law." This is in the oath of the members of a court-martial, requiring them to try the matter before them and administer justice "according to law."

The amendment was agreed to.

Mr. WILSON. In the third line of article twelve I move to strike out the word "common" before "laws;" so as to make it read:

In time of war or public danger military commissions may be constituted, and shall have jurisdiction over all offenses and offenders against the laws of war not cognizable by courts-martial.

The amendment was agreed to.

Mr. WILSON. In article seventeen, line fifteen, after the word "required" I move to insert "by the order constituting the court;" so as to provide in regard to courts of inquiry:

This court shall have the same power to summon witnesses as a court-martial, and to examine them on oath; but they shall not give their opinion on the merits of the case excepting they shall be thereto specially required by the order constituting the court.

The amendment was agreed to.

Mr. JOHNSON. The word "excepting," in the clause last read, ought to be "unless."

Mr. WILSON. Very well.

The PRESIDENT *pro tempore*. That amendment will be made, their being no objection.

Mr. WILSON. In line four of article forty-two, after the word "of," I move to insert "or omission to perform;" so as to read:

Any officer who shall accept money or any other thing by way of bribe or gratification, on mustering any troops, or in signing the muster-rolls thereof, or in consideration of the performance of or omission to perform any other official duty, shall be cashiered.

The amendment was agreed to.

Mr. WILSON. After the word "foreign," in the fifth line of the forty-eighth section, I move to insert the words "or insurrection;" so as to read, "in time of war, civil or foreign, or insurrection."

The amendment was agreed to.

Mr. WILSON. In line six of article fifty-two I move to strike out the words "between the ages of sixteen and," and insert "under the age of." The object is not to have any enlistment in the Army of persons under eighteen years of age. Children sixteen years old ought not to be enlisted.

The amendment was agreed to.

Mr. WILSON. In line eight of the same article I move to strike out "sixteen" and insert "eighteen," to conform to the amendment just made.

The amendment was agreed to.

Mr. WILSON. In article sixty-two, line two, after the word "foreign," I move to insert "or insurrection."

The amendment was agreed to.

Mr. WILSON. In line five of article eighty-five, after the word "President," I move to insert "pursuant to law," so as to read, "which are declared by the President, pursuant to law, to be in a state of insurrection or rebellion."

The amendment was agreed to.

Mr. POMEROY. The Senator from Massachusetts, I think, omitted the insertion of the words "or insurrection" on the twenty-fifth page, in line four, of the sixty-eighth article. I think the words "or insurrection" should be inserted there, after the word "rebellion."

Mr. WILSON. The word "rebellion" is there, and I think that substantially amounts to the same thing. But the words may be put in if the Senator desires. They will not do any harm.

The PRESIDENT *pro tempore*. The amendment will be made if there be no objection.

Mr. POMEROY. On the last line of the twenty-sixth page, in the seventy-sixth article, the word "whatsoever" should be "whomsoever."

Mr. EDMUNDS. It is right as it is.

Mr. POMEROY. "Whomsoever" would be better; it refers to persons, not to things.

Mr. WILSON. The clause reads now:

If any officer or non-commissioned officer commanding a guard shall knowingly suffer any person whatsoever to go forth to fight a duel he shall be punished as a challenger.

I think that had better stand as it is.

Mr. EDMUNDS. It is right.

Mr. POMEROY. If the Senator thinks it is right, I will make no objection.

Mr. WILSON. I offer as an amendment, to come in as a new article, after article one hundred and one:

Any officer in the military service who shall be convicted by court-martial of gambling, shall be cashiered; and any officer having in his possession or being accountable for public funds who shall be convicted by court-martial of gambling or betting, shall be cashiered.

Mr. JOHNSON. What does the honorable member mean by gambling? Does he mean that any officer who, in his mess, bets a quarter or half a dollar, or a dollar, on a game of whist, or any other game of cards, shall be cashiered? It would deprive officers of almost the only pleasure they have in time of peace.

[Laughter.] Besides, there are all sorts of bets. I understand that according to the amendment any officer who bets a dollar upon anything, is to be cashiered.

Mr. WILSON. No, sir; any officer who has the care of funds.

Mr. JOHNSON. I understand that; but they all have the care of funds, more or less.

Mr. WILSON. No; it applies to paymasters and others intrusted with public funds, who shall gamble or bet, and be convicted by a court-martial.

Mr. JOHNSON. Then if he bets at all on anything he is to be dismissed.

Mr. WILSON. By all accounts gambling is a very disastrous thing in the Army. It is carried to a great extent.

Mr. JOHNSON. I have no doubt it is bad out of the Army as well as in the Army; but "gambling" is a very comprehensive term. It may apply to the ordinary and common practice among officers of playing among themselves with small sums as stakes, or of betting upon a horse race, or betting upon a cock fight, which used to be common in the South, and I believe is now, to a certain extent.

Mr. CONNESS. I ask for the reading of the amendment.

Mr. WILSON. It is carefully drawn.

The amendment was read.

Mr. JOHNSON. The first part covers the second.

Mr. WILSON. No; the first part applies to an officer who has not the custody of public funds being convicted of gambling, and the second part relates to the case of an officer intrusted with the public funds being convicted of gambling or betting.

Mr. JOHNSON. That I understand; but what I mean to say is this: every officer who gambles according to the first part of the amendment is to be cashiered, and then the amendment provides that any officer intrusted with public funds who gambles shall be cashiered. He is just as much an officer, whether intrusted with public funds or not, and the first clause of the amendment embraces all officers, whether intrusted with public funds or not. I submit to the chairman of the Military Committee that, although it is very desirable to guard against gambling, in the criminal sense of that term, it would be very hard, by an amendment like this, to prohibit officers of the Army from betting among themselves, particularly in time of peace.

Mr. WILSON. Does the Senator think that paymasters and others intrusted with funds—

Mr. JOHNSON. I do not object to putting the prohibition upon the paymasters.

Mr. NYE. Why not simply say "paymasters?"

Mr. JOHNSON. If it applied only to paymasters it would be a different thing.

Mr. WILSON. I would consent to a modification that no officer intrusted with public funds shall bet or gamble.

Mr. JOHNSON. I shall not object to that.

Mr. CONNESS. I hope that this section will not be amended as now suggested. As I understand the language, it says that any officer convicted by a court-martial of gambling shall be cashiered. A court-martial will not convict any man of betting in the ordinary acceptance of that term.

Mr. JOHNSON. Why not?

Mr. CONNESS. The Senator asks why not. Because courts-martial are presumed to be and are composed of sensible men; and when the offense amounts to that degree of abuse that it will secure the attention of a court-martial and a conviction by a court-martial, the officer is unfit for the service. Gambling has been and is now to some extent, it certainly has been one of the greatest abuses of the Army. It has been a common habit at the western posts, and it constitutes one of the objections to entrance into the Army. The Senator from Connecticut, I understand, wishes to prepare a substitute, and I yield to him for that purpose.

Mr. FERRY. I think this substitute will

obviate the objections and cover the whole ground of both classes of officers, and will also sufficiently define the offense to avoid the objection of the Senator from Maryland:

Any officer in the military service of the United States who shall be convicted by court-martial of gambling for gain, shall be dismissed the service.

Mr. FESSENDEN. What is a man to do who bets half a dollar on a game of whist? Does he gamble for loss?

Mr. FERRY. I suppose he bets for fun.

Mr. FESSENDEN. I should like to have the word "gambling" a little more accurately defined, so that officers may know precisely how far they may go. I think there is difficulty in leaving it without definition. I once heard a gentleman with whom I was riding say that he had not gambled any since he was eighteen years old; and as he was a gentleman with whom I became acquainted in this city, and whom a great many of us know, I was very much surprised, because he had the reputation of "playing high." The next day I happened to meet here in the Senate Chamber a gentleman who was very well acquainted with him, sitting not very far from me, and I remarked to him that I had heard this gentleman say so. Said he, "What, did he tell you he had not gambled since he was eighteen years old?" I said "Yes, he told me so distinctly." "Well," said he "he meant that he had not been into a gambling-house; and in that sense, I suppose what he said was true; but, as for playing cards, I bet fifty dollars a game playing whist with him every night." And yet he did not think he was a gambler.

Mr. NYE. He came out about even, probably.

Mr. FESSENDEN. Now, for the benefit of the Army, I should like to have the offense defined, so that they may know what is gambling, and what is not. All playing of any game for money, risking money, is perhaps in one sense, wrong, because it is dangerous; but I presume there are very few officers in the Army who do not amuse themselves with different kinds of games and small stakes. So undefined is this provision if you pass it, that if one officer finds that another officer whom he does not like is playing cards and making a small wager, he may complain of him, file charges, and a court-martial may be bound to find him guilty, not knowing what "gambling" was within the meaning of the law, and thus create considerable difficulty. Although I should be very glad if any mode could be devised by which the danger and difficulty to which this article refers could be obviated, I think the provision proposed is altogether too general, and may lead to trouble in the Army. I think the definition should be somewhat more accurate than it is.

Mr. FERRY. In the substitute I think the expression "gambling for gain" by the application of plain common sense will distinguish the offense intended to be stopped from ordinary amusements of officers in camp; and any danger such as is suggested by the Senator from Maine is obviated by the language of the proposed substitute that the person charged must be convicted by a court-martial. An officer charged before a court-martial with "gambling for gain" I do not think could possibly be convicted under any circumstances which I can imagine, as courts-martial are constituted for the trial of officers, unless he were actually guilty of what all would agree was gambling so as to be pernicious in its example to his command. If such language as this will not reach the difficulty which now exists I do not know of any that will, and it is seriously true that the practice of gambling for gain is one exceedingly disastrous not only in its example to the command, but disastrous to the officers themselves. I have myself known paymasters that made it a habit when they came to pay off the troops, after having paid the officers to encourage gatherings for the purpose of gambling and win back from them half, three fourths, and frequently the whole of their pay. It does seem as if something ought to be done to reach

this evil. It seems to me that when you leave to the common sense of a court-martial of his brother officers the decision of the question whether the thing was that pernicious gambling for gain which all would agree should be prevented in a well-ordered command, you do avoid any serious risk of the evil consequences of ill-disposed persons preferring frivolous charges against officers who had been merely indulging in a harmless amusement.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Connecticut to the amendment of the Senator from Massachusetts.

Mr. NYE. I do not understand exactly the amendment of the Senator from Connecticut. If a man gambles at all he gambles for one of two purposes. He does not certainly intend to gamble to lose; therefore, if a man wagers anything he wagers it to gain. Suppose an officer should bet upon the result of an election; suppose an officer of the Army should bet that my friend here on my left [Mr. HENDRICKS] would be elected President—

Mr. FERRY. Betting is not in the substitute.

Mr. NYE. Betting has been held to be gambling by courts of the highest authority in the country, and I do not think a distinction can be drawn between gambling and betting. If the honorable Senator wants to define it so as to proscribe certain games that shall be prohibited, that will be very well. But I hardly believe that the Army would hold together unless they had some little amusements. Take a western post where the snow for four or five months in the year ranges from five to twenty feet in depth. Cut off from the world, all by themselves, they play cards. They have not funds enough to make it amount to gambling, probably, in the sense of the term that my friend from Massachusetts would wish to prohibit; but still they gamble. They have got, perhaps, \$500 in cash, and it changes hands five hundred times during the winter. It is a sort of excitement they will have, and they have no other. I do not believe that that is what the Senator from Massachusetts means to prohibit.

I do not see what the substitute offered by the Senator from Connecticut would amount to exactly. "Gambling for gain!" Nobody gambles for anything else. I do not profess to be an expert in the business, [laughter;] and my friend, perhaps, is more expert in it than I am; and he can tell when he ever gambled and did not gamble for gain.

Mr. FERRY. The Senator is making an assumption not to be supposed.

Mr. NYE. The Senator seems to be so familiar with it that he is able to see a distinction between gambling for gain and gambling for loss. If you gamble at all you gamble to gain. There is no doubt about that. No man ever made a bet that did not bet to win if he could. I do not know why this rule should be directed and held against Army officers any more than against officers in civil life here as Senators. In all well-regulated communities they have rules and laws against gambling. They define certain kinds of games and declare them to be illegal, and say they shall not be practiced, and a military officer would fall within such rule the same as a civilian if he practiced them. But I do not believe that it will be possible to carry out this law.

In the next place, it is about as hard work to manage an Army or a Navy as it is a choir of country singers. All sorts of little petty jealousies are got up. Here is a little officer who wants to get another one's place, and he will say "he gambled at Fort Churchill, in Nevada; he bet four shillings; he held a better hand in cards than the Senator from Massachusetts." [Laughter.] Well, sir, it was done harmlessly, nobody injured, the public funds did not suffer. He sleeps on it a month or two until this lingering enmity is aroused, and then he has the officer court-martialed, and it costs the Government two or three or four hundred dollars to try him when he had bet a half dollar; the officer is cashiered, and the little rascal that



has meddled with it is promoted as he knocks the one forward of him out of place. I know how easy these things are got up in the Army and in the Navy.

Mr. CONNESS. Have you ever been in the Army?

Mr. NYE. Yes, sir, I have been. Now, I hope the honorable Senator will give me the advantage of my experience. [Laughter.] I have never seen anything but what the honorable Senator knew more about than everybody else. [Laughter.] But I am glad there is one place I have been where he has not. [Laughter.] I know the enmity and the little cliques that are got up in the Army among officers. You never see them at a post in the West, a post on the frontier or anywhere, but what the lower officers are always quarreling with the higher. Adopt this provision, and they can get up little stories about gambling, and have courts-martial out in a snow drift, and the first thing a man knows he wakes up with his commission taken from him by some little fellow whose word you would not take under oath. I do not propose to submit honorable gentlemen in the Army to that liability to be injured. If the honorable Senator from Massachusetts wants to say that any paymaster of the Army that shall be found gambling at any game while he is acting in that capacity shall be cashiered I will vote for it.

Mr. POMEROY. And quartermasters.

Mr. NYE. Any person of that kind; but to say that every officer of the Army who bets half a dollar on a cock fight or half a dollar or \$100 on a horse race shall be liable to be court-martialed is nonsense. It is establishing a rule for the Army that is established for no other class of society. I do not believe in singling out that class of men who are as honorable men as are to be found in other positions to be dealt with in that way. Therefore, sir, it was that I interposed in behalf of the officers of the Army that they shall not be subjected to the risk that will follow such a provision; and I hope as my friend near me [Mr. HENDRICKS] expects to be commander-in-chief of all the armies he will come to my aid on this important question.

Mr. WILSON. I have no practical knowledge of this matter. I never saw the inside of a gambling-house in my life, and never saw any gambling; but I remember that during all the years of the war the evils of gambling in the Army were manifest. Some officers to whom were intrusted the funds of the Government gambled, lost the money, and were ruined. Other officers in the Army not only gambled with their fellow-officers, but some of them even got so low as to gamble with the common soldiers, and many such persons were tried and dismissed the service during the war.

Mr. FRELINGHUYSEN. Under what law?

Mr. WILSON. I do not know.

Mr. FERRY. If it was gambling with a common soldier, I suppose they were tried for conduct unbecoming an officer and a gentleman.

Mr. WILSON. It is a fact. I have it from generals in the Army, officers high in rank. This very article was written on the suggestion of a major general, an officer high in the Army.

Mr. NYE. He has probably lost.

Mr. WILSON. No, I think not. I do not know how much deference is to be paid to the opinions of chaplains, but I have received several letters during the present session and in past years from chaplains in the Army, saying that one of the most demoralizing things in the Army is gambling. I think, therefore, it would be wise in these new rules and articles to prohibit gambling. I supposed everybody understood what it meant. I am willing to take the amendment offered by the Senator from Connecticut, with the definition he has there given, "gambling for gain." That amendment says nothing about betting. I think we ought, at any rate, to do as much as will let it be understood that we prohibit gambling. As these officers are to be tried by officers I take it that no man will be punished unless he deserves it.

Mr. CONNESS. I do not know that my knowledge extends so far as described by the honorable Senator from Nevada [Mr. NYE] when he was up. According to my own estimate it does not. I do not even pretend to know as much of this subject as the honorable Senator. I think it would be double assurance in me to do so. But, sir, I am not in favor of gambling. I believe it to be one of the most serious vices to which human nature is addicted. The officer who learns it in the Army is unfitted for civil life thereafter, if he should see fit to leave the Army, for the habit once formed is very rarely overcome in life. I think gambling is worse than drunkenness as a habit. I think men will do more evil and wrong who are infatuated with that passion than perhaps under any other to which men are addicted.

I do not care whether we have gentlemen among us who like whist-playing, or who certainly have a high estimation of it, judging from their participation in the debate; but gambling may be done by playing whist, although it is not generally, because it is a long game, and gamblers generally seek shorter games. They want to get at the stakes more readily. But a man who should seek to avoid the law and play whist, and bet fifty dollars on a game, would certainly be engaged in gambling, palpably so. All communities protect themselves against gambling by passing laws against it and treating it as a contraband practice, one against morals and good conduct and order. It is our duty especially to do so, I think, in regard to the Army and Navy. They are public servants. They give their lives to a profession; and the interests of a nation often hang upon the conduct of a comparatively few of them, and perhaps a single one. If they are naval officers, and they acquire the habit of gaming, and then go into civil life and engage in the commercial marine of the country, and carry their habits of gaming there, they are often at their game when their ships go upon the rocks and great injury is done to property and society. I believe that the common practice of gaming ought to be prohibited in the Army; and, as suggested by the Senator from Connecticut, the determination of what constitutes gambling must be left to the courts-martial. They will not certainly take cognizance of an ordinary game at cards, such as all persons, perhaps, or nearly all, certainly very many, engage in; but the habit of gambling, the proneness to bet, make wagers, should be stopped and prohibited, I think. I shall certainly vote for the amendment.

Mr. NYE. Mr. President, I by no means meant to say that the Senator from California knew more about gambling than I did, though I do not gamble. But ever since the world has been formed into society there have been laws and rules prohibiting gambling. There are laws prohibiting gambling in this city; and yet every officer in the city knows that there are gambling-houses here, and men gamble there almost for fabulous sums. My rule is not to pass laws that are not enforced and cannot be enforced, and I most especially object to leaving it to any board or court-martial to determine what gambling is. The effect, if that were done, would be that one board would construe a bet into gambling, however trifling; another board would say that it was not gambling; and the rule meted out to officers for the offense, if offense it be, would be as different as the different boards who sat and pronounced judgment. No, sir; if we are to make gambling a crime especially applicable to the Army, define with great care and precision what shall constitute gambling. Above all other things, sir, I would not leave it to any board of officers with the prejudice incident to nature and to their employment to determine what gambling was; but they should go to the letter of the law and bring their judgment to square with the law itself. No, sir; the theory that because officers are to sit upon officers there is no danger of wrong being done I do not assent to.

Mr. FERRY. The Senator will allow me to suggest that courts-martial have to decide

over and over again what is conduct unbecoming an officer and a gentleman, and what is conduct prejudicial to good order and military discipline.

Mr. NYE. Certainly. Then why not leave it in that way, and say that the court-martial shall have power, as I understand the Senator from Connecticut to say they now have—

Mr. FERRY. Not at all; I was making a parallel.

Mr. NYE. But I understood the Senator to say that officers had been tried to his knowledge.

Mr. FERRY. For gambling with the common soldiers. I never knew an instance of officers being tried for gambling with each other.

Mr. NYE. I suppose they were convicted, if convicted at all, upon the charge of conduct unbecoming an officer, by indulging in too free intercourse with the soldiers over whom he had command.

Mr. FERRY. Conduct prejudicial to good order.

Mr. NYE. I can well see that that would be a good charge, and if I was sitting on a court-martial I think I would convict an officer who would do that. But, sir, that does not answer the objection, or if it does we need no further legislation on the subject. If already officers are allowed to take cognizance of the offense as punishable by court-martial we certainly need no further legislation. And I believe after all, with a full appreciation of the high sense of duty of the honorable Senator from Massachusetts, that he will find that any enactment on the subject will be but waste paper. I know that officers of the Army are men of high sense of honor, and if they find a fellow-officer gambling with either officers or soldiers, in a manner that would affect the discipline or good order of the Army, they would try him of that offense and convict him. Now, I hope that that being the case, as is admitted by men who know far more about these things than I do, the legislation will stand where it is unless whatever is proposed is very clearly defined.

Mr. CONKLING. I should like to hear the amendment read.

Mr. JOHNSON. I suppose the honorable member from Connecticut suggests his amendment as a substitute for the other.

Mr. FERRY. Yes, sir. I understood the Senator from Massachusetts to accept it as a substitute.

Mr. JOHNSON. That renders it, I think, less obnoxious than the original amendment proposed by the honorable member from Massachusetts. But it seems to me it would be a sufficient guard against the dangers which now exist to make the prohibition apply to officers of the Army who are intrusted with public funds. I think it would lead possibly to a great deal of bad feeling if the Army officers may be troubled to defend the crime by prosecutions for having violated the law if it stands even in the way suggested by the honorable member from Connecticut. I think we ought to prohibit any disbursing officer of the Army from gambling at all in any way. The temptation that gambling subjects him to very often leads him to hazard the public funds. Cases have arisen over and over again of loss to the United States consequent upon the gambling of disbursing officers; but in relation to the other officers of the Army they hazard their own money, be it more or be it less; and I do not know that they have been subjected to any injury more than that which attends every other person who plays from time to time for money, whether he be in the civil or military or naval service. I should prefer, therefore, that the prohibition should be limited to officers who are intrusted with public money.

Mr. WILSON. I hope we shall have a vote.

Mr. DAVIS. I would suggest to the honorable chairman of the Committee on Military Affairs that he limit the prohibition to officers who are charged with the custody and disbursement of public money.

Mr. WILSON. I will say to the Senator that I offered to do that, but some Senator objected.

Mr. DAVIS. I think that would be a whole-some provision.

Mr. FERRY. The Senator from Maryland and the Senator from Kentucky both seem to me to overlook the real object of any such article. The real object is not the protection of property; it is the protection of the service from the deleterious consequences of gambling among its officers. That is the object of the article; it is the object of almost all these articles; and it is agreed by all the testimony that we have that this practice is deleterious to the service, and being so, it has been thought advisable to suggest a proposition whereby the practice among the officers of the Army of gambling for gain, which is intelligible to the common sense, as it seems to me, of every one, should be prevented.

Mr. DAVIS. The honorable Senator from Connecticut I think attributes the effect as the cause. I do not think that gaming is the cause, but it is the consequence of a general demoralizing influence in camp life. During the late war one of the most gallant soldiers and colonels in the Kentucky service informed me that he was called to witness the death of one of his most esteemed soldiers, and when he got to it he found the brother of that soldier engaged in a game of cards and not paying the least attention to his dying brother whose immortal soul was about to take its flight to another world. It is the camp that prepares the heart and the mind of men who live in it for such practices as gaming and a devotion to gaming to the extreme extent to which that unfortunate soldier had it. There is nothing but idleness and vacuity in the camp in peace times; at least there is a great amount of it.

Men want to fill up their vacant hours, their idle time; and they do this by a resort to cards, and you cannot devise any legislation that will stop it. It is like drinking, but not so bad. I do not rate this vice as my honorable friend from California does. I have known many gamblers to reform wholly; I have never known but one or two drunkards in my lifetime that did reform. The amount of evil in the world that results from drinking, to my mind, is, without calculation, greater than that which results from gaming, though they are both great vices, and productive, in a greater or less extent, of unmitigated evil. But the idea of having a provision of this kind in the articles of war that cannot be executed, that no man in the Army will have the disposition to execute, is to my mind very idle. I believe that a disbursing officer ought not to be allowed to game, and there ought to be rigorous provisions in the articles of war to prevent officers of that class from gaming.

Bank officers, merchants' clerks, who have access to money, paymasters, quartermasters and other disbursers of the public money ought not to be allowed to game if it is possible to stop it; and I admit the reasonableness of legislation or of an effort to legislate so as to stop it entirely; but when you lay down a general rule that an officer who is charged with gaming, or with gaming with a view to gain, because, as the honorable Senator from Nevada says, all gaming results from avarice and from a desire to win, to gain, there is no other gaming; but when you endeavor to suppress that in the Army by such a provision as is now under consideration, you attempt that which is utterly impossible, and that brings the rules and regulations of the Army rather into contempt than to effect. I do not game. I deem the evil and deleterious influence of both the vices to which I have referred. I would be very glad if they both could be eradicated, not only from the Army but from the world.

Mr. BUCKALEW. I think there is and ought to be a prohibition against gambling in the Army, and I think it should be one against common gambling, and not punish by so severe an infiction as dismissal from the service for a single offense, which may have been com-

mitted thoughtlessly. That seems to me entirely too severe. I am quite willing to vote for a provision which shall strike at those who are addicted to the habit, and who are likely to demoralize others and spread a bad influence in the Army. As the provision now stands, however, a single deviation from high propriety might entail upon an officer the disgrace and injury of a peremptory dismissal from service.

It is idle to say that a court-martial will not convict a man unless the case is very gross. They are to try the officer upon specific charges setting forth specific facts.

If they find them they are bound to return the charges and specifications "found" and report that the officer is guilty. They have no discretion but a peremptory dismissal from the service. I think a law of that kind will not be enforced in many cases, and when it is enforced it will produce, perhaps, inconvenience and hardship in practical cases. I should therefore desire to vote for the provision changed so as to read that the offense shall constitute common gambling. There are blacklegs in the Army, as they are called; there are men who follow the practice of fleecing green people, whose delight it is to seduce the young and the foolish into this habit. I would strike with a severe hand at all these people and even at an officer of merit in other respects who sank down into a common habit of gambling; for the good of the public service I should permit him to be dismissed; but as now proposed this provision seems to be unreasonable and improper.

Mr. FERRY. I think in the suggestion which is made as to the penalty proposed by the substitute, the suggestion of the Senator from Pennsylvania deserves consideration; that possibly the limitation of the penalty to the single punishment of dismissal from the service is improper; and I would therefore modify the proposition by striking out the last words "be dismissed from the service," and substituting in lieu thereof "shall suffer such punishment as a court-martial shall impose, not exceeding dismissal from the service."

Mr. EDMUNDS. That is all right.

The PRESIDENT *pro tempore*. The question is on the amendment as modified.

The amendment, as modified, was agreed to.

Mr. WILSON. I move to amend the bill on page 39, article one hundred and four, line seven, by striking out the word "specific." The proviso to that article reads:

*Provided*, That no regulations or orders shall be made in conflict with the Rules or Articles of War, or with any specific act of Congress.

I think it is proper to say "any act of Congress."

The amendment was agreed to.

Mr. WILSON. I have one other amendment to propose. It is to insert as an additional section the following:

*And be it further enacted*, That section thirty-seven of the act entitled "An act to increase and fix the military peace establishment of the United States," approved July 23, 1866, be, and the same is hereby, repealed.

I will simply say that in the act reorganizing the Army after the war, it was provided that the Secretary of War should prepare rules and regulations for the government of the Army and militia called into the service. These rules have been made. I believe there are over two hundred of them in number. They have not been reported to Congress; and these Articles of War provide that the Secretary of War or the President shall have the power to issue these rules and regulations. The object is to repeal that act requiring these rules and regulations to be submitted to Congress and enacted. It may be desirable to change them, and to change them often, according to the condition and circumstances of the country, and therefore it is proposed to repeal this law, so that these regulations may be issued by the War Department and modified according to their wishes, not inconsistent with the laws of Congress or with these Articles of War.

Mr. EDMUNDS. I doubt the propriety of that. The thirty-seventh section, which the

Senator from Massachusetts proposes to repeal, provides:

"That the Secretary of War be, and he is hereby, directed to have prepared, and to report to Congress, at its next session, a code of regulations for the government of the Army and of the militia in actual service, which shall embrace all necessary orders and forms of a general character for the performance of all duties incumbent on officers and men in the military service, including rules for the government of courts-martial. The existing regulations to remain in force until Congress shall have acted on said report."

Now, if you repeal that section and leave it to customary law, as it was before that act was passed, it reposes in the President of the United States the supreme control of the whole regulations of the Army, aside from these that are called the Articles of War. I am free to say that in the existing condition of things, I am entirely opposed to turning over to the President of the United States the law for the regulation of the Army.

Mr. WILSON. I have simply to say that all the regulations for the government of the Army have always been issued in that way, and this provision was put in the law of 1866 by the persistency of one gentleman. It was a great mistake at the time; and I venture to say that if the regulations are reported here we shall never enact them. It may, perhaps, just at this time be proper to retain that section of the law. I do not wish to press the amendment if Senators are opposed to it. But I will say that the Secretary of War is very desirous to issue the rules and regulations that have been prepared with a great deal of care and labor. I have no idea that if they are sent here we shall ever legislate on the subject.

Mr. JOHNSON. Congress alone has the power to prescribe rules and regulations for the Army—a power which I do not think they can delegate to the Secretary of War or to the President. The rules which have been framed by the officers of the Army may be very objectionable in every way; and I more than doubt whether it is in our power, without a clear abandonment of the constitutional provision, to let the Army be governed by rules and regulations which have never received the supervision of Congress. If the Army has been governed in the past by rules and regulations prescribed by Congress, and will be governed for the future by the Articles of War which we are now about to establish, I do not see any necessity for prescribing other rules, at any rate for the few months that are to intervene between the termination of this session and the commencement of the next. I submit to my friend from Massachusetts that perhaps we have no authority to devolve upon the Secretary of War or the President of the United States the power to prescribe rules and regulations.

Mr. WILSON. Congress gave this power to the President and Secretary of War more than twenty years ago. Congress had legislated on the subject, but on the recommendation of General Scott Congress gave the power to the Secretary of War to issue his orders and modify and change them according to circumstances, and from that time up to the passage of the act in 1866, a period of twenty years, through the Mexican war and through the last war, rules and regulations by the authority of Congress were issued by the War Department and modified and changed according to the needs of the country. However, as I am anxious to get this bill through, I will withdraw the amendment to gratify my friend from Vermont, who, I know, will be exceedingly pleased to have it withdrawn.

The PRESIDENT *pro tempore*. The amendment of the Senator from Massachusetts is withdrawn.

Mr. THAYER. On page 29, article eighty-three, I move to strike out all of the article after the word "rank," at the end of the third line, and to insert the words "according to the dates of their commissions." The words to be stricken out are:

Next after officers of the like grade in said regular forces, notwithstanding the commissions of such

volunteer or militia officers may be older than the commissions of the officers of the regular forces: *Provided*, That this distinction shall not exist when said volunteer or militia officers shall have been in the service of the United States an equal length of time with the said regular officers.

So that the article will read:

ART. 33. Volunteer or militia officers in the military service of the United States shall, when employed in conjunction with the regular forces of the United States, take rank according to the dates of their commissions.

The amendment was agreed to.

MR. FERRY. The eleventh, fifteenth, sixteenth, and thirty-second articles prescribe to a certain extent punishments to be inflicted by the different classes of courts-martial and by the commanding officers of detachments when necessary. I judge by the tenor of the articles that it is intended that no other punishments than those named in the articles shall be inflicted; yet as the articles stand the same liberty of corporal punishment will continue as existed during the late war. I propose to amend these articles, of which an illustration will be the amendment to article fifteen, which provides:

No garrison, regimental, battalion, or detachment court-martial shall have power to try capital cases; nor shall any such court include as a part of its sentence upon any soldier a fine exceeding two months' pay, nor imprisonment, nor put to hard labor any soldier for a longer period than two months.

To that I propose to add:

Nor shall any corporal punishment be imposed by such sentence other than imprisonment or hard labor, or both.

I propose also an amendment in similar language to the eleventh, sixteenth, and thirty-second articles, the principle of all being the same. The object which I have is this: flogging in the Army was abolished years ago; but during the recent war other corporal punishments, in my judgment infinitely worse than flogging, were inflicted upon the soldiers, both by order of detachment commanders and by these inferior courts-martial, and, as I think, invariably almost with an evil effect, such as tying up to the wheels of gun-carriages, hanging up by the thumbs, inclosing in barrels like a pillory, and the like. Those things, in my judgment, should be stopped. I have therefore prepared amendments to each of these articles to accomplish that result; so that, under the Articles of War as now to be adopted, the punishments to be inflicted will be only in capital cases death; in other cases fine or imprisonment or hard labor, or a combination of some of the latter three, which is accomplished by adding to each of these articles the words which I have suggested. The first in order would be the eleventh article to add:

But except in capital cases no corporal punishment shall be imposed by sentence of a general court-martial other than imprisonment, or hard labor, or both.

Punishments not corporal, such as dismissal from service, cashiering, and fine, of course are not affected by the amendment. I move that amendment to the eleventh article, to be added at the end of the article.

MR. WILSON. I hope that the amendment suggested by the Senator from Connecticut will be adopted.

The amendment was agreed to.

MR. FERRY. I now move to add at the end of the fifteenth article the following:

Nor shall any corporal punishment be imposed by such sentence other than imprisonment, or hard labor, or both.

MR. JOHNSON. That is the same thing.

MR. FERRY. Yes, sir; it is all the same applied to these different articles.

The amendment was agreed to.

MR. FERRY. I now move to amend the sixteenth article by inserting after the word "month," in the fourteenth line, the words:

Nor shall any corporal punishment be imposed by such sentence other than imprisonment, or hard labor, or both.

The amendment was agreed to.

MR. FERRY. The next amendment is in the thirty-second article, to insert after the word "discipline," in the sixth line, the words.

Nor shall any corporal punishment be imposed by

such sentence other than imprisonment, or hard labor, or both.

The amendment was agreed to.

MR. BUCKALEW. On page 39, article one hundred and four, I move to strike out what follows the word "Army," in the second line. I do not care about striking out the proviso, and I suppose it will be unnecessary.

The Chief Clerk read the clause proposed to be stricken out, as follows:

And to amend the general regulations for the government of the Army, or make new regulations, as the circumstances of the service may require.

So that the article will read:

The President of the United States shall have power to prescribe the uniform of the Army: *Provided*, That no regulations or orders shall be made in conflict with the Rules and Articles of War, or with any specific act of Congress.

MR. BUCKALEW. This is the same question that was raised by the amendment that was moved by the Senator from Massachusetts and withdrawn. The power is given specifically to Congress in words which are familiar to all the members of the Senate. The power is:

"To make rules for the government and regulation of the land and naval forces."

Obviously, this is a power to be exercised by Congress itself, and not delegated to the Secretary of War, the President, or any other authority whatever. If they require any new rules let them suggest them to Congress, and of course if they are reasonable they can get them enacted in a constitutional law. I think this clause ought to be stricken out.

The amendment was agreed to.

MR. BUCKALEW. I have no amendment in regard to the one hundredth article, but I take it to be a very indefinite and objectionable one. It reads:

All crimes not capital, and all disorders and neglects which officers or soldiers may be guilty of, to the prejudice of good order and military discipline, though not mentioned in these Rules and Articles of War, are to be taken cognizance of by a court-martial, according to the nature and degree of the offense, and are to be punished at the discretion of the court.

I think that is a very remarkable article. It has no reference to the usages of war. There is no reference to the military principles which prevail in the administration of justice in times of war or in military operations. Everything is left indefinite and at the discretion of any court that may be convened. It seems to me this article ought not to be incorporated in the general code, and left to the administration of anybody who happens to hold a commission under the United States, with authority to convene a military court. I move to strike out the article, unless some amendment of it can be suggested.

MR. FERRY. Why, Mr. President, I would inquire of the chairman of the committee if there is any article providing for the cognizance of courts-martial over offenses to the prejudice of good order and military discipline besides this?

MR. EDMUNDS. None at all.

MR. FERRY. It is absolutely necessary in time of war to have this discretion, however dangerous it might be in time of peace.

MR. BUCKALEW. This article also includes mere "neglects." It makes no reference to any military code or military usage. It leaves everything perfectly at the discretion of the tribunal in the case.

MR. FERRY. But there is a military usage as well known as the common law by which courts-martial are guided.

MR. BUCKALEW. But as this article is drawn it does not refer to it.

MR. EDMUNDS. If my friend from Pennsylvania will pardon me, I suggest to him that that very article *in totidem verbis* has been in force for a period of sixty-two years. It is in these very words in the old Articles of War of 1806, being the ninth article there. It has not done any hurt so far.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Pennsylvania to strike out the one hundredth article.

The motion was not agreed to.

MR. DAVIS. I move to strike out the tenth article, which reads in these words:

No officer shall be tried but by a general court-martial, nor by officers of an inferior rank, if, in the judgment of the officer appointing the court, it can be avoided, without detriment to the public service.

Now, sir, I should like to know, under this provision, how the General of the Army or the Lieutenant General of the Army could be tried by court-martial? I suppose if those high officers committed offenses deserving of punishment that they are the most proper of all subjects to receive it, and I think the honorable chairman of the Committee on Military Affairs ought to devise some mode by which a tribunal that would be competent to try both of those officers should be formed.

MR. FERRY. The subject of this article, which has always been in the Articles of War, is to prevent a court being constituted of interested tryers, so that inferior officers shall not try their superior, and convict him, and rise and take his place. There is no difficulty whatever in trying the General of the Army, because in that case it would fall within the concluding clause of the article, whereby an officer may be tried by officers of an inferior rank if it cannot be avoided.

MR. DAVIS. Will the Senator read the provision to which he has just referred that provides for that?

MR. FERRY. The concluding clause of the tenth article provides that a superior officer may be tried by inferiors, where the placing of inferiors upon the court-martial cannot be avoided without detriment to the public service. It is in the article itself.

MR. DAVIS. I did not interpret it as my honorable friend does. It reads:

No officer shall be tried but by a general court-martial, nor by officers of an inferior rank, if, in the judgment of the officer appointing the court, it can be avoided without detriment to the public service.

What does that mean? The language is obscure, I think, in its reading and sense. Suppose, now, the General of the Army was to commit a military offense for which he ought to be subject to a court-martial, who would be the officer that would direct the convening of a court-martial to try him?

MR. FERRY. The President of the United States.

MR. DAVIS. I suppose the President of the United States could direct a court-martial in any case and in every case. I think so because he is the Commander-in-Chief of the Army, and he may do any and every act that a commander-in-chief of the British armies could do, according to my judgment of the Constitution. I do not think it is very well expressed; but if that be the meaning of article ten, that the President may order a court, be it so. I will withdraw that motion; and I ask the honorable Senator's attention to another objection which I take. Article twelve provides for military commissions, and it gives the military commissions more authority than it does the regular courts-martial. Article six provides for courts-martial as follows:

Any general officer commanding an army in the field, or other officer not below the grade of colonel commanding a geographical division, a department, or district, may appoint general courts-martial whenever necessary. But no sentence of any court-martial shall be carried into execution until after the whole proceedings shall have been laid before the officer ordering the same, or his successor in office.

Now, I ask the attention of the honorable Senator to this part of the article:

Neither shall any sentence of a general court-martial in time of peace, extending to the loss of life or the dismissal of an officer, or which shall, either in time of peace or war, respect a general officer, be carried into execution until after the whole proceedings shall have been transmitted to the Judge Advocate General, to be laid before the Secretary of War for the orders of the President of the United States in the case.

Article twelve provides for military commissions, as follows:

In time of war or public danger military commissions may be constituted, and shall have jurisdiction over all offenses and offenders against the common laws of war not cognizable by courts-martial. Such courts shall be appointed in the same manner and by the same authority; shall consist of the like



number of officers with a judge advocate; shall be liable to the same restrictions and challenges, and shall possess the same powers and privileges for regulating their proceedings and compelling the attendance of parties and witnesses at courts-martial. And the sentences of such military commissions may be confirmed and executed by the officer ordering the court or his successor in office, or by a common superior, who shall have power also to pardon or to mitigate such sentences, as provided in the case of courts-martial.

Now, I suppose that a military commission would be authorized to dismiss a general from office by its sentence; a court-martial would not. If it were to deprive an officer of his rank, dismiss him from the service, or sentence him to death, before that sentence could be executed the whole proceeding would have to be sent to the Judge Advocate General, to be laid, through the Secretary of War, before the President for his approval. Such is not the requisition in reference to sentences of military commissions. If they dismiss an officer who is of the grade of general from the Army, the officer who ordered the convening of the military commission would have the power to confirm the sentence without any appeal to the President, or without giving him any opportunity of revising and reversing the sentence. It seems to me there is an incongruity between the two provisions, and that the regular courts-martial would have a better right to have their sentences absolute and unappealable than the military commissions. I think that ought to be corrected.

The *PRESIDENT pro tempore*. The question is on striking out this article.

The amendment was rejected.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. DAVIS. There is one feature in these articles that I do not like. I have not had an opportunity of reading them carefully; and if I had that opportunity, whether I should object to them or not would be a matter of very little moment. But the first article, which regulates the oaths that are to be taken by Army officers, amounts to an absolute proscription of all men who were engaged in the rebel service. I do not think that is very wise justice, although it may be stern justice. I think that the subject of bringing men who were engaged in rebellion into the Army of the United States may be safely left to the appointing power, the President and the Senate; but this form of oath forever proscribes every man who was engaged in the rebel service. I think it is time for the obduracy and the extremity of that feeling to relax. I admit that there are not many of them that I at present would be willing to bring into the military service of the United States; but I know a few in whose fidelity to the Government, if they were brought in, I would trust as soon as I would that of most men. But it seems to me that it is time that a great conquering party were exercising clemency. We have all read of Caesar, one of the greatest men and one of the greatest military commanders that the world has ever produced. Of all his great and noble qualities his clemency was that which commended him most to the consideration and esteem of the Roman people. I think that it looks too proscriptive, too inexorable, too unrelenting to introduce these oaths into the Rules and Articles of War; and I think that everything that could be necessary in the exclusion of men who went into the rebel service might be fully accomplished by leaving the whole subject-matter to the appointing power of the Government. Gentlemen, no doubt, would differ with me. I merely express this sentiment with a view of announcing that which I feel, and for no other purpose.

Mr. BUCKALEW. By the eleventh article it is provided that—

General courts-martial shall have jurisdiction over all military offenses and offenders.

Then by the ninety-seventh article it is provided that—

All officers, soldiers, teamsters, or other persons whomsoever, receiving pay or hire in the service of the United States in connection with the Army, as also all sutlers, traders, Army contractors, and other

followers of the Army, and all citizens voluntarily residing or entering on any of the military and Indian reservations with clearly-defined boundaries, shall be governed by these rules and articles, and shall be subject to be tried by courts-martial or military commissions in like manner with the officers and soldiers in the service of the United States."

There you have a complete claim of jurisdiction conferred in strong general terms. Now, what I desire to call particular attention to is the twelfth article, which reads as follows:

In time of war or public danger—  
which may not be a time of war—

military commissions may be constituted, and shall have jurisdiction over all offenses and offenders against the laws of war not recognizable by courts-martial.

That is a very extraordinary article. I venture to say that nothing like that will be found in the Rules and Articles of War heretofore adopted in this country. The article goes on to say:

Such courts shall be appointed in the same manner and by the same authority; shall consist of the like number of officers, with a judge advocate; shall be liable to the same restrictions and challenges;

with further provisions for the enforcement of the sentences. Now, sir, we are familiar with the system which is provided for by the eleventh and ninth articles. All military offenses and military offenders may be taken possession of by courts-martial, and by the ninety-seventh article we extend that jurisdiction over teamsters and camp-followers, Army contractors, and persons who may be temporarily within military possessions or within camp limits. What, then, is the necessity for the twelfth article?

Mr. WILSON. If the Senator desires to strike out the words "public danger" I have no objection to that; but certainly within the limits of the Army in time of war it is necessary to have some such provision as that, and the Supreme Court have settled the question outside of the limits of the Army in the decision made in the *Indiana case*.

Mr. BUCKALEW. I will move to strike out the words "public danger."

Mr. FERRY. And insert "insurrection" in lieu thereof.

Mr. BUCKALEW. Yes; so as to read "war or insurrection." Insurrection would be war, or might be war.

The *PRESIDENT pro tempore*. The question is on that amendment in article twelve, line one, to strike out the words "public danger" and insert "insurrection;" so as to read: "In time of war or insurrection military commissions may be constituted," &c.

The amendment was agreed to.

Mr. BUCKALEW. That will remove one objection to the article. I suppose it is unnecessary for me to raise the question of these military commissions as distinct from courts-martial, and point out the absence of any necessity which can justify their institution. I have simply called attention to this article with a desire of expressing my view upon it.

Mr. CONKLING. I do not know precisely how far the Senator having this bill in charge means to shut the door. But particularly as a question has been raised upon it, I think it is well to examine this article a little in one or two other respects which I have been thinking of. Now, although "insurrection" is substituted for "public danger"—

Mr. POMEROY. If the Senator wants more time I will move an executive session, and let this bill go over until to-morrow.

Mr. CONKLING. I do not wish much time; and I will remind the Senator that this is the first time I have made a suggestion about this bill, and I intend to make it very brief.

Mr. POMEROY. I only made the suggestion with a view to having an executive session in case the Senator desired time.

Mr. CONKLING. I do not wish to interfere with the bill at all; but I desire to make a single suggestion about this point, which, I think, it is well to think of now. Although "insurrection" has been substituted for the expression "public danger," it will be observed, first, that military commissions are not to be

confined to the theater of war at all, and for this purpose I assume that the provision is that they shall exist only in time of war. That limits them in time; but speaking of space, they may range the realms. There is nothing confining their action to the theater of war, actual or constructive. That is one proposition.

There is another suggestion to which I ask the attention of the chairman of the Committee on Military Affairs. The provision is, that these tribunals shall have jurisdiction over all offenses and offenders against the laws of war not cognizable by courts-martial. It will be absurd that if only those instances of offense were contemplated covered by the eleventh article and the ninety-seventh article, this article would be entirely surplusage. If the Senator from Massachusetts will give me his attention at this moment I shall be obliged to him, because this is a matter which has been very much discussed, and which has led to great disturbance and ill-feeling in the portions of the country with which I am most familiar. I say that there is nothing confining the operation of this article to persons connected with the military service or in the military service. If it were so confined, it would be entirely surplusage, because article eleven and article ninety-seven bring within the jurisdiction of courts-martial every offense known to the Rules and Articles of War committed by a person subject to those articles, so that the Senator will see that it follows that this article is specially leveled at men who in no sense are subject to the Rules and Articles of War; so that standing as it does the section may, and I think should, be construed to mean that in time of war or insurrection a civilian, a private citizen, wholly disconnected with military operations or military obligations, and widely removed from the theater of war, may be tried for an offense committed against these articles, or denounced by the articles before a military commission. If that is the intention of the committee, the design is to take issue with a very powerful current of sentiment and of somewhat enlightened opinion in this country.

Mr. FRELINGHUYSEN. I would ask the Senator from New York whether the difficulty would not be met by adding after "courts-martial" the words, "committed within the theater of war?"

Mr. CONKLING. Yes, sir; I think that would be a very wholesome restriction, if the honorable chairman of the Committee on Military Affairs has no objection to it.

Mr. WILSON. I am willing to accept that. That is what I suppose, according to the decision of the Supreme Court, would be the construction of it.

Mr. EDMUNDS. It would be so construed; but you had better put those words in.

Mr. CONKLING. I think it is very well to put them in; and if they may be put in by consent, I wish to make one other suggestion which will take but a moment. It will be observed, that even with that addition, improving the section very much, as I think it does, there is still room for this criticism: persons within the theater of war so disconnected with military operations that they do not fall within the range of the constitutional provision on that subject, nor within the range of these other articles, are still amenable to trial and punishment before a military commission. That may be right; but let us see what it means before we do it. Here was the case of Clement L. Vallandigham, which would fall, as I understand it, precisely within this article as it stands. Perhaps that case should fall within it; but by parity of reasoning the Senator will see that other cases of a much milder type than that would be, geographically and in point of jurisdiction, so placed that this section would operate upon them. Unless that be absolutely necessary, I think we had better keep off that ground.

Mr. WILSON. The Senator, I think, does not mean to say that we do not need such a provision as that. I think this country would

have had a very hard struggle if we could not have organized military commissions to try offenses.

Mr. CONKLING. I did not mean to go into the discussion, and I do not mean to do it now; but in answer to the Senator I will make one remark. I never could understand the philosophy of many exhibitions that I saw during the war, with discerning men, intelligent men, and lawyers—exhibitions of extreme feeling, of deep disturbance which were made in reference to what were termed arbitrary arrests. I thought that many arrests were made which were denounced as arbitrary that should have been made, and, as the Senator says, we should have been in great difficulty without the power to make them and the exercise of that power; and yet I am free to say here that in time of war or insurrection, and constructively within the theater of war, in my belief the genius of our Government requires us to try offenders before civil tribunals wherever the civil tribunals are open and are free to act. This section impairs the integrity of that idea, because it does mean undoubtedly that albeit civil tribunals are open, a man who might there speedily and effectually be tried may, nevertheless, at the election of his prosecutors, be brought before a military commission and subjected to that species of trial. Now, my suggestion is that some qualifying words which shall reduce the operation of this article within those limits which can be advocated on the ground of necessity would be desirable, and not leave it unrestricted except as the honorable Senator from New Jersey has restricted it by his suggestion, which I think is a very good one as far as it goes, because it may still be said that the design is here to create a special tribunal unknown to the military law in its strict sense, and unknown to the genius of our Government, except so far as necessity in the first instance, and legislation following that, brought it into being.

I say in place of creating such a tribunal not only to try offenses upon which its operation may be necessary, but also to try offenses which are tryable in theory and in actual practice elsewhere, seems to me a mistake; and I will suggest myself, if it be agreeable to the Senator, some restrictive words, or I will leave it to him.

Mr. WILSON. I ask the Senator from New York if he desires to move an amendment?

Mr. CONKLING. I believe the amendment which is pending has not yet been voted upon.

Mr. WILSON. I certainly have no objection to restricting this article within the narrowest limits of necessity, but I think it would be very hard to strike it out.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from New Jersey, to insert after "courts-martial," in line four of the twelfth article, the words "committed within the theater of war."

Mr. CONKLING. I ask the Senator from New Jersey to look at the text of the bill before adopting that phraseology. He will see that the phrase is "all offenses and offenders;" so that he can hardly say "committed within the theater of war," because that would apply to "offenders" as well as "offenses." I suggest to him to vary the phraseology.

Mr. FRELINGHUYSEN. "Committed and being."

Mr. BUCKALEW. Allow me to suggest an amendment in the third line, after the word "offenders"—

The PRESIDENT *pro tempore*. An amendment is pending.

Mr. BUCKALEW. I am suggesting to the Senator from New Jersey to locate it in another place. I suggest to him to insert after the word "offenders," in the third line, "within the theater of military operations, and where the civil tribunals cannot act."

Mr. DAVIS. I, sir, am a worshiper of liberty according to the Constitution and the law. I have been protesting against the jurisdiction of military tribunals over citizens who

are not attached to the Army or to the Navy, for more than five years, and I intend to keep up my protest as long as I have the privilege to make one. Now, the ninety-seventh article reads:

All officers, soldiers, teamsters, or other persons whomsoever receiving pay or hire in the service of the United States, in connection with the Army, as also all sutlers, traders, Army contractors, and other followers of the Army, and all citizens voluntarily residing or entering on any of the military and Indian reservations with clearly defined boundaries, shall be governed by these rules and articles.

That embraces many classes of men who by the express provisions of the Constitution are exempted from the jurisdiction of military tribunals. It covers all sutlers, all Army contractors. An Army contractor may be anywhere in the United States, but if he were within the lines of the Army he would not be subject to trial by a military court at all. That is one of the constitutional liberties of the people of the United States. That instrument provides—

"That no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces," &c.

To give a military tribunal jurisdiction to try any man for any offense, he must be in the naval or military forces. That is the plain and literal meaning of the provision of the Constitution, and its reason is obvious. It was never intended by the framers of the Constitution that mere civilians who had no connection with the Army, no proper responsibility to it, should be deprived of the trial by jury after a presentment or indictment of a grand jury and brought before a military tribunal and tried by the arbitrary proceedings of a court-martial. I know that during the late war many contractors were arrested upon the ground that they had committed frauds upon the United States in their contracts for the Army. They no doubt were culpable and deserved punishment; but they did not merit punishment before military tribunals, because they were exempt from trial by military tribunals by the Constitution of the country. Sir, I never have voted, and I never will vote, for any bill or any provision in any bill that will subject a civilian to trial by a military court or a military tribunal of any kind. This ninety-seventh article does. The purpose or the effect of it is to sanction and confirm those irregular trials during the war. Sir, it is one of the rights of a citizen of the United States who is not in the land or the naval service of the Government, that if he is charged with any offense whatever, any violation of the law, he shall be brought before a civil court and tried by a jury of his peers according to the modes of proceedings under the common law; and because this article violates that article of the Constitution, I am opposed to it.

Mr. THAYER. It seems to me that this article is altogether too comprehensive in its terms, and embraces classes of persons which should not be included in it. For instance, it embraces all Indian reservations, and includes all persons who are on Indian reservations. The military have nothing to do with those reservations, and no control whatever over them. Why should it be made to reach them? I see no reason for the article itself. I certainly am opposed to taking persons who are not in the military service, but are simply connected with it, as civilians in the employment of the quartermasters or commissary departments, and subjecting them to the rules and Articles of War or trial by court-martial and military commission. I should prefer that the whole article should be stricken out unless it is necessary to retain a part of it.

Mr. WILSON. This article has nothing to do with such persons. This article applies to civilians in no way connected with the Army. I should like to know how in Heaven's name we could have maintained the lives, the rights, and the liberties of the people over vast sections of this country where they had no civil courts, or punished murderers or spies and men committing every degree and grade of crime, except by military commissions during the rebellion? This is what it means; and I

am utterly amazed that anybody should suggest here to-night throwing away the power to do a thing of that kind.

Mr. THAYER. The argument of the Senator from Massachusetts applies to a state of war.

Mr. WILSON. This article only applies to a state of war. If the Senator will read the article he will find that it is confined to a time of war or insurrection.

Mr. THAYER. I am speaking of the ninety-seventh article.

Mr. WILSON. We are on the twelfth article.

Mr. THAYER. I was alluding to the ninety-seventh article.

Mr. WILSON. I misunderstood the Senator; I thought he was speaking of the twelfth article.

Mr. THAYER. Not at all; I made no reference to it. Article ninety-seven provides:

All officers, soldiers, teamsters, or other persons whomsoever receiving pay or hire in the service of the United States, in connection with the Army, as also all sutlers, traders, Army contractors, and other followers of the Army, and all citizens voluntarily residing or entering on any of the military and Indian reservations with clearly defined boundaries, shall be governed by these rules and articles, and shall be subject to be tried by courts-martial, or military commissions, in like manner with the officers and soldiers in the service of the United States.

That applies clearly to a state of peace, and embraces classes of persons who were not embraced by the old Articles of War prior to the late war, and whom it was never contemplated to make subject to trial by courts-martial and military commissions. For instance, as I remarked just now, the article includes persons on Indian reservations. The military have nothing to do with the Indians upon the reservations. What control have they over a citizen who goes upon a military reservation, for that is also included? If a citizen goes upon a military reservation and commits an offense is he to be caught up and tried by court-martial or military commission? That is not done even in regard to offenses committed by soldiers in our Army; they are brought in and tried by the United States district courts. I certainly am opposed to embracing that class of persons. I want these rules and articles to relate only to officers and soldiers; and I move to amend that article by striking out all except the following words—

The PRESIDENT *pro tempore*. There is an amendment pending.

Mr. THAYER. Very well, then; I will move it again.

Mr. BUCKALEW. I move to strike out the twelfth article.

Mr. WILSON. I hope not.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Jersey, [Mr. FRELINGHUYSEN.]

The amendment was agreed to.

Mr. BUCKALEW. Now I move to add at the end of that amendment the words "and where the civil tribunals cannot act;" so as to make the article read:

In time of war or insurrection military commissions may be constituted, and shall have jurisdiction over all offenses and offenders against the laws of war not cognizable by courts-martial, committed and being within the theater of war and where the civil tribunals cannot act.

Mr. DRAKE. I feel a great deal of disinclination to enter into any discussion with regard to this bill; but I have seen too much of the condition of things in a time of insurrection to allow this amendment to be adopted without expressing my dissent to it. If this amendment is inserted, in my opinion the article amounts to nothing, and although we may be surrounded and confronted on every side by rebellion, as we were for four years, the military power is shorn of its strength as to everybody who is not in the Army or within the immediate lines of the Army. If the amendment is made, I take it that in the event of another rebellion it would constitute a license for rebels outside of the region of the rebellion to engage in every description of scheme for

the purpose of furthering the rebellion and aiding it with no power in the military of the country to deal with them as rebels and traitors.

My doctrine is that when there is an insurrection in a country aid and comfort may be given to that insurrection from every part of the country, whether from the theater of war or not, and that every man who engages under such circumstances in giving aid and comfort to the rebellion, no matter whereabouts in the country he may be, should be subjected to the military power and brought within the range of its influence and effect; that if there is an insurrection in Virginia, and New York city is filled with traitors plotting and contriving to give aid and comfort to that insurrection, the military power of the Government should be able to put its hand upon them there; that if, what is much more likely to be the case, another rebellion should ever spring up in the Gulf States, and thousands and tens of thousands of men in Kentucky should band together for the purpose of giving aid and comfort to that rebellion, as they did during the late rebellion that we have passed through, the Government should be able to put its military hand upon them there.

Now, sir, for one, I do most earnestly protest against this emasculation of the Government of the United States in its military department by such a provision as this. In the event of another rebellion, what would be the value of the civil tribunals in the suppression of efforts of traitors away from the theater of war to give aid and comfort to that rebellion?

Mr. WILSON. About as much as they were in the late rebellion.

Mr. DRAKE. I was just going to ask how much they were worth during the rebellion through which we have passed? Sir, they were worth just about as much as the court of pie-poudre in England would be. Talk about going before justices of the peace and getting constables to serve their warrants, and going before criminal courts infected, perhaps, with the rebelism and treason that the man had been guilty of who was brought before them! Talk about going before grand juries made up of sympathizers with the rebellion, as they were found all through this country! Send there to punish a rebel! Sir, I protest against this whole thing; and if there is no other way of defeating this amendment at this time I will call for a division of the Senate upon it, if I can get it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania.

Mr. CONKLING. Let us hear it reported.

Mr. BUCKALEW. As the amendment seems to be resisted—I understood it was substantially acceded by the chairman of the Military Committee—

Mr. DRAKE. No; he objected to it.

Mr. BUCKALEW. I was going to observe that if it is to be resisted I shall insist upon dividing the Senate. It is too important a principle.

Mr. CONKLING. Let us hear it read.

The Chief Clerk read the amendment, which was to insert after the provision adopted on the motion of Mr. FRELINGHUYSEN the words "and where the civil tribunals cannot act."

Mr. CONKLING. I think the amendment is located in the wrong place; it ought to come in after the word "shall," in the second line; so that the clause will read:

Military commissions may be constituted, and shall, within the theater of war, &c.

Mr. FRELINGHUYSEN. I think it would come in better there.

Mr. CONKLING. Now, I will make this as a suggestion or substitute for the amendment of the Senator from Pennsylvania, to come in the fourth line after the words "courts-martial:"

But such jurisdiction shall not within the United States attach to any person disconnected with the military service, unless the civil tribunals before which such person would usually be triable shall be interrupted or impeded by war or insurrection.

Mr. BUCKALEW. I have no objection to that.

Mr. DRAKE. May I ask the honorable Senator from New York, with regard to that, if the operation and effect of it is to be this: that in the event of another southern rebellion, or a northern one either, away from the immediate theater of the war, those engaged in raising supplies to send to the rebels, in communicating privately information of the movements of the Government troops to them, or in any other form of treason to their country and Government, are to be turned over to the civil tribunals? Is that the effect of the honorable Senator's amendment?

Mr. EDMUNDS. Treason must be tried by a jury.

Mr. DRAKE. To be tried by a jury of their own fellows in the crime, perhaps.

Mr. CONKLING. No, Mr. President; I do not think that is the effect of the amendment; certainly it is not the intention of the amendment. The design of the amendment is to provide that where there are courts which will act as in the Indiana case, open and ready to be appealed to, an appeal shall be taken to those courts in place of going before a military tribunal in the first instance. To meet the Senator's suggestion I will add to the amendment these further words, "or shall refuse to administer justice;" so that it will read:

Shall be interrupted or impeded by war or insurrection, or shall refuse to administer justice.

Mr. FERRY. If the Senator from New York will allow me, I wish to make a single suggestion. I am satisfied, from an examination of the first clause of article twelve, that an effort has been made here by the Military Committee to accomplish an impossibility, to wit, to define the jurisdiction of military commissions. Although military commissions have been known both in the mother country and in our own country, their jurisdiction has never been defined by statute. They grow out of the exigencies of war. Their jurisdiction is attempted to be defined by the law books written upon the laws of war, but it is necessarily undefined, because necessarily adapted to the circumstances and exigencies which arise during times of war or insurrection. The suggestion which I have to make is this: after these amendments have been voted upon, I propose to strike out all after the word "constituted" in the first clause, and insert "according to the laws and usages of war;" so that the first clause will read:

In time of war or insurrection military commissions may be constituted according to the laws and usages of war.

If you attempt to define it nearer than that you will fail.

Mr. EDMUNDS. It is quite obvious that we cannot get a vote to night. There is less than a quorum here, and there will undoubtedly be a division. This immediate point that is under discussion is one of great importance to have it adjusted with entire propriety to the satisfaction of everybody and of all political parties, so that there shall be no feeling about it. Therefore, I move that the Senate do now adjourn.

Mr. WILSON. I hope the Senator will withdraw the motion for a moment.

Mr. POMEROY. I ask the Senator to withdraw it. I want to have an executive session for ten minutes.

Mr. EDMUNDS. There are only twenty Senators here. That will not do.

Mr. WILSON. I wanted to know of Senators whether they objected to the amendment proposed by the Senator from Connecticut?

Mr. EDMUNDS. That ought to be thought of a little. I am not sure that that will reach the object. There are only twenty Senators here and there will be a division. I make the motion to adjourn.

Mr. POMEROY. If the Senator will withdraw that motion we can have an executive session and accomplish what we want in ten minutes.

Mr. FRELINGHUYSEN. If the amendment suggested by the Senator from Connecticut is acceptable we can pass this bill.

The PRESIDENT *pro tempore*. The question is on the motion to adjourn.

The motion was agreed to; there being on a division—ayes 11, noes 6; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, June 29, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

The SPEAKER. This being Monday, the first business in order is the call of the States and Territories for bills and joint resolutions for reference to their appropriate committees, not to be brought back into the House by a motion to reconsider, commencing with the State of Maine. Under this call, memorials and resolutions of State and territorial Legislatures may be presented.

### RAILROAD SUBSCRIPTION BY GEORGETOWN, D.C.

Mr. WELKER introduced a bill (H. R. No. 1328) to authorize the corporate authorities of Georgetown to subscribe the sum of \$300,000 to build a branch railroad to connect said city with the Alexandria, Loudoun and Hampshire railroad, and to levy a tax therefor; which was read a first and second time, and referred to the Committee for the District of Columbia.

W. R. SILVEY.

Mr. STOKES introduced a bill (H. R. No. 1329) for the relief of the heirs of W. R. Silvey, late of company B, second Tennessee infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM E. BYRD.

Mr. BUTLER, of Tennessee, introduced a bill (H. R. No. 1330) for the relief of William E. Byrd, of Tennessee; which was read a first and second time, and referred to the Committee of Claims.

NANCY COOK.

Mr. BUTLER, of Tennessee, also introduced a bill (H. R. No. 1331) for the relief of Nancy Cook, of Tennessee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

BARBARA STOUT.

Mr. BUTLER, of Tennessee, also introduced a bill (H. R. No. 1332) for the relief of Barbara Stout, of Tennessee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

### POST ROUTE IN TENNESSEE.

Mr. BUTLER, of Tennessee, also introduced a bill (H. R. No. 1333) to establish a post route in Tennessee; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

LIEUTENANT GEORGE A. MILLER.

Mr. BUTLER, of Tennessee, also introduced a bill (H. R. No. 1334) for the relief of Lieutenant George A. Miller, of Tennessee; which was read a first and second time, and referred to the Committee on Military Affairs.

M'HENRY BRAY.

Mr. BUTLER, of Tennessee, also introduced a bill (H. R. No. 1335) for the relief of McHenry Bray, late first lieutenant company I, eighth Tennessee infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

### ARKANSAS AGRICULTURAL COLLEGE.

Mr. HINDS introduced a joint resolution (H. R. No. 315) to extend the provisions of the act in regard to agricultural colleges to the State of Arkansas; which was read a first and second time, and referred to the Committee on the Public Lands.

### STENOGRAPHER FOR UNITED STATES COURT.

Mr. PILE introduced a bill (H. R. No. 1336) to provide for the employment of a stenographic reporter for the district court of



the United States for the eastern district of Missouri; which was read a first and second time, and referred to the Committee on the Judiciary.

MRS. FRANCES T. RICHARDSON.

Mr. TROWBRIDGE introduced a bill (H. R. No. 1337) granting an increase of pension to Frances T. Richardson, widow of the late Major General Israel B. Richardson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### PACIFIC RAILROAD.

Mr. LOUGHRIDGE introduced a bill (H. R. No. 1338) to aid in the construction of a railroad and telegraph line from the Rio Grande to the Pacific ocean; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

#### NEW LAND DISTRICT IN NEBRASKA.

Mr. TAFTE introduced a bill (H. R. No. 1339) to establish a new land district in the State of Nebraska; which was read a first and second time, and referred to the Committee on the Public Lands.

#### MAJOR G. CHAPIN.

Mr. CLEVER introduced a bill (H. R. No. 1340) for the relief of Major G. Chapin, United States Army; which was read a first and second time, and referred to the Committee of Claims.

#### KRYOLITE FREE OF DUTY.

Mr. BINGHAM introduced a joint resolution (H. R. No. 316) to admit kryolite into the United States free of duty; which was read a first and second time, and referred to the Committee of Ways and Means.

#### ORDER OF BUSINESS.

The SPEAKER. The next business in order, during the remainder of the morning hour, is the call of the States for resolutions, commencing with the State of Iowa, where the call rested at the expiration of the morning hour on Monday last.

#### NORTHERN PACIFIC RAILROAD

Mr. PRICE introduced a joint resolution (H. R. No. 317) extending the time for the completion of the Northern Pacific railroad; which was read a first and second time.

Mr. PRICE. I demand the previous question.

The joint resolution was read. It amends section eight of an act entitled "An act granting land to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound on the Pacific coast," so as to read as follows:

That each and every grant, right, and privilege herein are so made and given to and accepted by said Northern Pacific railroad upon and subject to the following conditions, namely: That said company shall commence the work on said road within two years from and after the 2d day of July, 1863, and shall complete not less than one hundred miles per year after the second year thereafter; and shall construct, equip, furnish and complete the whole road by the 4th day of July, A. D. 1877.

Mr. PRICE. May I ask a parliamentary question?

The SPEAKER. The Chair will entertain a parliamentary question.

Mr. PRICE. It is in reference to the business on the Speaker's table. There is on the table a joint resolution which has passed the Senate exactly similar to this, except that this limits the time for the completion of the road to a shorter time by one year. I desire to know whether it is likely we can reach the business on the Speaker's table before the 2d day of July? Because unless the resolution is passed by that time the charter expires.

The SPEAKER. As there is a special order intervening by unanimous consent, and questions of privilege likely to come up, there is some doubt whether that business will be reached.

Mr. WASHBURN, of Wisconsin. I wish to ask the gentleman a question.

Mr. PRICE. I do not know that I can yield.

The SPEAKER. If the point of order is

made no debate can be allowed, or the resolution must go over.

Mr. WASHBURN, of Wisconsin. If the gentleman will not allow a question, I hope the previous question will not be sustained.

The SPEAKER. If there is no objection the question can be entertained.

Mr. WASHBURN, of Wisconsin. I understand this resolution gives this road two years longer time without doing any work whatever. It is now four years, and it has not struck a spade in the soil.

Mr. PRICE. This, in fact, limits the time in place of extending it, and—

Mr. ROBINSON. I object to debate.

Mr. JULIAN. I desire to amend this bill by providing that the lands granted be sold to actual settlers only, in quantities not greater than one hundred and sixty acres, and for a price not exceeding \$2 50 per acre.

Mr. PRICE. I object.

The previous question was seconded—ayes 73, noes 26—and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. PRICE. I demand the previous question on the passage.

The previous question was seconded—ayes 70, noes 28.

Mr. PIKE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 96, nays 33, not voting 65; as follows:

YEAS—Messrs. Allison, Anderson, Archer, Arnell, Delos R. Ashley, Bailey, Baldwin, Barnes, Beck, Benjamin, Benton, Bingham, Blaine, Boles, Bromwell, Buckland, Benjamin F. Butler, Roderick B. Butler, Calk, Churchill, Cornell, Dixon, Donnelly, Eckley, Elia, Eldridge, Farnsworth, Ferry, Golladay, Gravely, Griswold, Grover, Higby, Hinds, Hotchkiss, Chester D. Hubbard, Hulburt, Humphrey, Johnson, Jones, Kelsey, Kerr, Ketcham, George V. Lawrence, Loan, Lynch, Mallory, Marshall, Marvin, Maynard, McClurg, McCormick, McKee, Miller, Moorhead, Mullins, Mungen, Myers, Newcomb, O'Neill, Paine, Perham, Peters, Pile, Plants, Poland, Polesley, Pomeroy, Price, Pruyn, Raum, Robinson, Roots, Sawyer, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taffe, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, William Williams, John T. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Woodward—96.

NAYS—Messrs. Baker, Beatty, Boutwell, Cary, Cobb, Callom, Delano, Eggleston, Ferriss, Garfield, Getz, Haight, Harding, Holman, Jenckes, Julian, William Lawrence, Loughridge, McCarthy, Mercur, Niblack, Orth, Pike, Randall, Scofield, Shellabarger, Sitgreaves, Stewart, Van Auker, Van Wyck, William B. Washburn, Thomas Williams, and James F. Wilson—33.

NOT VOTING—Messrs. Adams, Ames, James M. Ashley, Axtell, Banks, Barnum, Beaman, Blair, Boyer, Brooks, Broomall, Burr, Chanler, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Covode, Dawes, Dodge, Driggs, Eliot, Fields, Finney, Fox, Glossbrenner, Halsey, Hawkins, Hill, Hooper, Hopkins, Asahel H. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Judd, Kelley, Kitchen, Knott, Koontz, Ladin, Lincoln, Logan, McCullough, Moore, Morrell, Morrissey, Nicholson, Nunn, Phelps, Robertson, Ross, Schenck, Selye, Shanks, Stone, Taber, Taylor, John Trimble, Lawrence S. Trimble, Van Trump, Ward, Elihu B. Washburne, Welker, and Wood—65.

So the joint resolution was passed.

Mr. PRICE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILL SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (S. No. 251) for the relief of Captain Charles N. Goulding, late quartermaster of volunteers; when the Speaker signed the same.

#### APPOINTMENTS AND REMOVALS.

Mr. ALLISON. I offer the following preamble and resolutions, upon which I demand the previous question:

Whereas a statement, purporting to be prepared by the Secretary of the Treasury from the official records of this Department, has been published in the National Intelligencer, and also sent to the public through the Associated Press, in which it is stated that in one

hundred and nineteen collection districts removals were made during the year 1867 upon the recommendation of the Commissioner of Internal Revenue, in which districts the average falling off of internal revenue, as compared with the year 1865, was \$160,942 81 per district; and that in the same year, 1867, removals were made in twenty collection districts by the President, without the recommendation of said Commissioner, in which the falling off of revenue is only \$46,470 37 per district; Therefore,

Resolved, That the Secretary of the Treasury be directed to inform this House whether any such statement was prepared by him or by his direction from the official records of his Department, and whether it was published by his direction, and if so, that he be further directed to furnish this House with a copy of the statement so prepared, and of any report made by him to the President in relation to removals and appointments herein referred to.

Resolved, That the Secretary of the Treasury inform this House in what collection districts removals and appointments of assessors and collectors were made, if any, upon the recommendation of the Commissioner of Internal Revenue, during the fiscal year 1867, the names of such officers removed and appointed, with copies of all correspondence or recommendations of said Commissioner relating thereto.

The previous question was seconded and the main question ordered.

Mr. HOLMAN. I call for a division of the question, so as to have a separate vote on the preamble.

The question was taken on the resolutions, and they were agreed to.

The question was then taken on the preamble, and it was adopted.

Mr. ALLISON moved to reconsider the vote by which the preamble and resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TAXATION OF INTEREST ON BONDS.

Mr. COBB. I offer the following resolution, upon which I demand the previous question:

Resolved, That the Committee of Ways and Means be, and they are hereby, instructed to report without unnecessary delay a bill levying a tax of at least ten per cent. on the interest of the bonds of the United States, to be assessed and collected annually by the Secretary of the Treasury and such of his subordinates as may be charged with the duty of paying the interest on the bonded indebtedness of the United States.

Mr. PRICE. I desire to ask the gentleman whether the resolution includes bonds held in foreign countries?

Mr. COBB. It is intended to include all bonds.

Mr. PRICE. It does not so specify.

Mr. ALLISON. Is that a resolution of instruction or of inquiry?

The SPEAKER. It is mandatory in its character.

The question was put on seconding the previous question; and there were—ayes 85, noes 57.

Mr. COBB. I demand tellers.

Tellers were ordered; and Messrs. COBB and PRUYN were appointed.

The House divided; and the tellers reported—ayes 55, noes 57.

So the House refused to second the call for the previous question.

Mr. MILLER. I move to lay the resolution on the table.

Mr. SHANKS and Mr. HOLMAN demanded the yeas and nays.

Mr. GARFIELD. Is it in order to move to refer the resolution to the Committee of Ways and Means?

Mr. MAYNARD. Is it in order to move to amend the resolution so as to make it a resolution of inquiry into the expediency instead of one of instruction?

The SPEAKER. It is not in order either to move to refer or to move to amend the resolution pending the motion to lay it on the table.

Mr. HOLMAN. Is debate in order?

The SPEAKER. It is not, but the Chair is answering parliamentary questions. If the motion to lay on the table shall be voted down, a motion to refer the resolution will be in order.

Mr. MILLER. I withdraw the motion to lay on the table.

Mr. BUTLER, of Massachusetts. I renew it.

Mr. SHANKS and Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 28, nays 107, not voting 59; as follows:

YEAS—Messrs. Arnell, Bailey, Banks, Boutwell, Cake, Churchill, Cornell, Dixon, Briggs, Eckley, Eliot, Harding, Higby, Jenckes, Mallory, Mercer, Miller, Moorhead, Myers, O'Neill, Perham, Plants, Pomeroy, Spalding, Starkweather, Thaddeus Stevens, William B. Washburn, and Woodbridge—28.

NAYS—Messrs. Allison, Anderson, Archer, Delos R. Ashley, Axtell, Baker, Barnes, Beatty, Beck, Benjamin, Benton, Bingham, Blaine, Boies, Boyer, Brownell, Buckland, Roderick R. Butler, Cary, Cobb, Coburn, Covode, Cullom, Donnelly, Eggleston, Ela, Eldridge, Farnsworth, Ferriss, Ferry, Garfield, Getz, Golladay, Gravely, Griswold, Grover, Haight, Hawkins, Hinds, Holman, Hotchkiss, Chester D. Hubbard, Hulburt, Humphrey, Johnson, Jones, Julian, Kerr, Ketchum, Kitchen, George V. Lawrence, William Lawrence, Loan, Loughridge, Lynch, Marvin, Maynard, McCarthy, McClurg, McCormick, McKee, Morrill, Mullins, Munger, Newcomb, Niblack, Orth, Pike, Polley, Pruyn, Randall, Raum, Roots, Ross, Scofield, Shanks, Shellabarger, Sitgreaves, Smith, Aaron F. Stevens, Stewart, Stokes, Stone, Taffe, Taylor, Thomas, Lawrence S. Trimble, Trowbridge, Upson, Van Aernam, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodward—107.

NOT VOTING—Messrs. Adams, Ames, James M. Ashley, Baldwin, Barnum, Beaman, Blair, Brooks, Broomall, Burr, Benjamin F. Butler, Chanler, Reader W. Clarke, Sidney Clarke, Cook, Dawes, Delano, Dodge, Fields, Finney, Fox, Glossbrenner, Halsey, Hill, Hooper, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Judd, Kelley, Kelsey, Knott, Koontz, Ladin, Lincoln, Logan, Marshall, McCullough, Moore, Morrissey, Nicholson, Nunn, Peters, Phelps, Poland, Price, Robertson, Robinson, Schenck, Selye, Taber, John Trimble, Twichell, Ward, Thomas Williams, Windom, and Wood—59.

So the motion to lay the resolution on the table was not agreed to.

Mr. GARFIELD. I move that the resolution be referred to the Committee of Ways and Means; and upon that motion I call the previous question.

Mr. RANDALL. Will the gentleman accept a modification of the resolution, and instruct the committee to report forthwith?

Mr. COBB. To report at any time.

The SPEAKER. By the rules they have a right to report at any time for commitment.

The previous question was then seconded and the main question ordered upon the motion to refer.

Mr. HOLMAN, and Mr. BUTLER of Massachusetts, called for the yeas and nays on the motion to refer.

The yeas and nays were ordered.

Mr. WOODWARD. Is it in order to make a parliamentary inquiry?

The SPEAKER. The Chair will answer a parliamentary inquiry.

Mr. WOODWARD. This is a resolution of instructions.

The SPEAKER. It is.

Mr. WOODWARD. What will be the effect of referring such a resolution to the Committee of Ways and Means?

The SPEAKER. The effect will be to refer it without instructions. By a parity of reasoning, as the gentleman will see, when a bill is introduced appropriating \$100,000 to a person, if it is agreed to by the House it becomes so far a law; but if it is merely referred to a committee it is referred without instructions. This resolution is not more mandatory than a bill would be.

Mr. ALLISON. In what condition will this resolution be if the motion to refer is not agreed to?

The SPEAKER. The House is now acting under the previous question. If the motion to refer is not agreed to the question will then be upon adopting or rejecting the resolution. The previous question does not exhaust itself upon the motion to refer, if that motion is not agreed to.

Mr. ELDRIDGE. I would inquire of the Chair if it is not evidently the object of gentlemen to kill this resolution by referring it?

The SPEAKER. The Chair cannot answer that question.

Mr. ALLISON. The committee can report at any time.

Mr. BUTLER, of Massachusetts. Everybody knows they will not.

Mr. MAYNARD. I move to reconsider the vote by which the main question was ordered; and upon that I call the yeas and nays. That will be a test question.

Mr. ALLISON. It is no test question at all. The question was taken upon ordering the yeas and nays; and there were thirteen in the affirmative.

Mr. MAYNARD. I ask for tellers on ordering the yeas and nays.

The question was taken upon ordering tellers; and there were fourteen in the affirmative.

So (the affirmative not being one fifth of a quorum) tellers were not ordered.

The yeas and nays were not ordered, the affirmative not being one fifth of the last vote.

The question was then taken upon reconsidering the vote by which the main question was ordered; and it was not agreed to.

The question recurred upon the motion of Mr. GARFIELD, to refer the resolution to the Committee of Ways and Means.

The question was taken; and it was decided in the negative—yeas 61, nays 80, not voting 53; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Bailey, Baldwin, Beatty, Bingham, Blaine, Boutwell, Cake, Churchill, Cornell, Delano, Dixon, Briggs, Eckley, Eliot, Ferriss, Garfield, Griswold, Halsey, Higby, Hooper, Hulburt, Jenckes, Ketchum, Loan, Lynch, Mallory, Marvin, Maynard, McCarthy, Mercer, Miller, Moorhead, Myers, O'Neill, Paine, Perham, Peters, Plants, Poland, Pomeroy, Price, Sawyer, Shellabarger, Sitgreaves, Smith, Spalding, Starkweather, Trowbridge, Twichell, Upson, Van Aernam, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—61.

NAYS—Messrs. Adams, Anderson, Archer, Delos R. Ashley, Baker, Barnes, Beck, Benton, Boies, Boyer, Buckland, Benjamin F. Butler, Roderick R. Butler, Cary, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Donnelly, Eggleston, Ela, Eldridge, Farnsworth, Ferry, Getz, Golladay, Gravely, Grover, Haight, Hawkins, Hinds, Holman, Hotchkiss, Chester D. Hubbard, Humphrey, Johnson, Jones, Julian, Kerr, Kitchen, George V. Lawrence, William Lawrence, Logan, Loughridge, Marshall, McClurg, McCormick, McKee, Munger, Newcomb, Niblack, Orth, Pike, Polley, Pruyn, Randall, Raum, Roots, Ross, Scofield, Shanks, Aaron F. Stevens, Stewart, Stokes, Stone, Taylor, Thomas, Lawrence S. Trimble, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Trump, Van Wyck, Henry D. Washburn, Welker, William Williams, John T. Wilson, Windom, and Woodward—80.

NOT VOTING—Messrs. James M. Ashley, Axtell, Banks, Barnum, Beaman, Benjamin, Blair, Broomall, Burr, Brooks, Broomall, Burr, Reader W. Clarke, Cook, Dawes, Dodge, Fields, Finney, Fox, Glossbrenner, Harding, Hill, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Judd, Kelley, Kelsey, Knott, Koontz, Ladin, Lincoln, McCullough, Moore, Morrill, Morrissey, Mullins, Nicholson, Nunn, Phelps, Pile, Robertson, Robinson, Schenck, Selye, Thaddeus Stevens, Taber, Taffe, John Trimble, Ward, and Wood—53.

So the motion to refer the resolution to the Committee of Ways and Means was not agreed to.

The question then recurred on agreeing to the resolution.

Mr. BUTLER, of Massachusetts, and Mr. PIKE called for the yeas and nays.

The yeas and nays were ordered.

Mr. GARFIELD. I would suggest that the tax on these bonds be made one hundred per cent. That will fill our Treasury still more rapidly.

Mr. BUTLER, of Massachusetts. The tax which the resolution proposes is the same that the English Government imposes on its bonds.

Mr. BLAINE. Why not improve on the English example and make the tax fifty per cent., taking one half?

Mr. COBB. I object to debate.

The question was taken on agreeing to the resolution; and it was decided in the affirmative—yeas 92, nays 54, not voting 48; as follows:

YEAS—Messrs. Adams, Archer, Delos R. Ashley, Axtell, Baker, Barnes, Beck, Benjamin, Benton, Bingham, Boies, Boyer, Buckland, Benjamin F. Butler, Roderick R. Butler, Cary, Sidney Clarke, Cobb, Coburn, Cornell, Covode, Cullom, Donnelly, Eggleston, Ela, Eldridge, Farnsworth, Ferriss, Ferry, Getz, Golladay, Gravely, Grover, Haight, Hawkins, Hinds, Holman, Hotchkiss, Chester D. Hubbard, Humphrey, Ingersoll, Johnson, Jones, Julian, Kerr,

George V. Lawrence, William Lawrence, Logan, Loughridge, Marshall, McClurg, McCormick, McKee, Mercer, Mullins, Munger, Newcomb, Niblack, Orth, Phelps, Pike, Polley, Pruyn, Randall, Raum, Robinson, Roots, Ross, Scofield, Shanks, Aaron F. Stevens, Stewart, Stokes, Stone, Taber, Taffe, Taylor, Thomas, Lawrence S. Trimble, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, William Williams, John T. Wilson, Stephen F. Wilson, Windom, and Woodward—92.

NAYS—Messrs. Allison, Ames, Arnell, Bailey, Baldwin, Banks, Beatty, Blaine, Boutwell, Broomall, Cake, Delano, Dixon, Briggs, Eckley, Eliot, Garfield, Griswold, Halsey, Harding, Higby, Hooper, Hulburt, Jenckes, Kelsey, Loan, Lynch, Mallory, Marvin, Maynard, Miller, Moorhead, Myers, O'Neill, Paine, Perham, Plants, Poland, Pomeroy, Price, Sawyer, Shellabarger, Sitgreaves, Smith, Spalding, Starkweather, Trowbridge, Twichell, Upson, Van Aernam, William B. Washburn, Thomas Williams, James F. Wilson, and Woodbridge—54.

NOT VOTING—Messrs. Anderson, James M. Ashley, Barnum, Beaman, Blair, Brooks, Broomall, Burr, Chanler, Churchill, Reader W. Clarke, Cook, Dawes, Dodge, Fields, Finney, Fox, Glossbrenner, Hill, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Judd, Kelley, Ketchum, Kitchen, Knott, Koontz, Ladin, Lincoln, McCarthy, McCullough, Moore, Morrill, Morrissey, Nicholson, Nunn, Peters, Pile, Robertson, Schenck, Selye, Thaddeus Stevens, John Trimble, Van Wyck, Ward, and Wood—48.

So the resolution was agreed to.

Mr. COBB moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

Mr. BINGHAM. I would like to have the resolution reconsidered, that it may be amended so as to provide that the tax on interest arising from the bonds may be in lieu of the income tax, and be the same as the tax on private securities.

Mr. MAYNARD. I call for the yeas and nays on laying on the table the motion to reconsider.

The yeas and nays were not ordered.

Mr. MAYNARD called for tellers.

Tellers were not ordered.

The motion to lay on the table the motion to reconsider was agreed to.

The SPEAKER. The morning hour has expired.

#### RECONSTRUCTION EXPENSES.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, asking a further appropriation of \$5,000 for reconstruction purposes in the third military district, recommended by Major General Meade; which was referred to the Committee on Appropriations, and ordered to be printed.

#### STOIX INDIANS.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, relative to Indian affairs in the central superintendency, and the immediate necessity of an appropriation to carry out treaty stipulations with certain Sioux Indians; which were referred to the Committee on Appropriations.

#### LEAVE OF ABSENCE.

Mr. McKEE was granted leave of absence for ten days after to-morrow.

Mr. VAN WYCK and Mr. PRUYN were granted leave of absence indefinitely.

Mr. ROBINSON was granted leave of absence on account of ill health.

#### EXPORTATION OF RUM.

Mr. BUTLER, of Massachusetts. I desire to offer a joint resolution, to correct a mistake in a bill which passed the House and Senate the other day. The mistake was discovered by the chairman of the Committee on Enrolled Bills. I ask leave to make an explanation. It is a joint resolution (H. R. No. 318) to correct an act entitled "An act for the relief of certain exporters of rum."

The joint resolution was read. It provides that the word "and" where it occurs in said act after the word "export" and before the words "actually contracted for" be changed to "or;" so it will read, when corrected, "intended for export or actually contracted for."

Mr. HOLMAN. That seems to be clerical error.

Mr. ALLISON. I object.

Mr. BUTLER, of Massachusetts. Let me make a statement. I desire, Mr. Speaker, to state exactly what the matter is. There was a bill passed—

Mr. ALLISON. I withdraw my objection. I did not understand it.

Mr. WILSON, of Iowa. I reserve the right to object.

Mr. BUTLER, of Massachusetts. Let me make a statement, and then any one can object who wants to. The bill passed the House and Senate for the relief of merchants who had on hand or contracted for rum for exportation, but in the course of the passage of the bill the "or" got changed to "and." By the change of the word "or" to "and" it requires the rum shall not only have been distilled but contracted for exportation before the 11th of January. That renders the bill nugatory. It is not worth the parchment on which it is written. The mistake was discovered by the chairman of the Committee on Enrolled Bills, [Mr. HOLMAN,] but it was then too late to correct it, except in the way now proposed. It does not open the door to any fraud whatever, but only makes the bill what it was intended to be when it was passed.

Mr. WILSON, of Iowa. It ought to be referred to the Committee of Ways and Means.

Mr. BUTLER, of Massachusetts. I agree to that reference.

The joint resolution was read a first and second time, and referred to the Committee of Ways and Means.

Mr. HOLMAN. I wish to say that the mistake was not in the enrollment of the bill, but occurred before that time.

#### DEFICIENCY APPROPRIATION BILL.

Mr. STEVENS, of Pennsylvania. I report from the Committee on Appropriations a bill (H. R. No. 1341) to supply deficiencies in the appropriations for the fiscal year ending the 30th of June, 1868, and for other purposes, and to move that the bill be made a special order for Thursday next.

Mr. BENJAMIN. If that bill contains any appropriation for extra compensation for clerks in the Departments I must object.

The SPEAKER. The rules in regard to the appropriation bills allow them to include contingencies for carrying on the various Departments of the Government.

Mr. STEVENS, of Pennsylvania. Having said that, sir, let me inform the gentleman it does not include any such appropriation. [Laughter.]

The SPEAKER. The Chair will state for the information of the House that the one hundred and twentieth rule, which authorizes contingencies for carrying on the several Departments of the Government to be inserted in appropriation bills, has been decided, as will be found on page 14 of the Digest, not only permits amendments increasing salaries, but was framed for that purpose. That in the Digest is the historical comment on the rule.

Mr. HOLMAN. I reserve any point of order that may properly be made in Committee of the Whole against any item in the bill.

The bill was read a first and second time, referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made the special order for Thursday next after the morning hour, and from day to day until disposed of.

#### RIVER AND HARBOR BILL.

Mr. ORTH. I call for the regular order.

The House accordingly resumed the regular order, being the bill (H. R. No. 1046) making appropriations for the repair, preservation, and completion of certain public works, and for other purposes. The pending question was on the amendment of Mr. BAKER, to insert the following:

For improvement of harbor of Alton, Illinois, \$68,000.

The SPEAKER. Debate is exhausted on the amendment.

The amendment was disagreed to.

Mr. MAYNARD. In behalf of the delega-

tion from my State I propose to insert the following:

For improvement of the Tennessee river according to the report of the survey made in compliance with the provision of the act of March 2 1867, and the recommendation of the chief of engineers, \$615,000.

I ask the attention of the House while I say a word on this amendment. It is offered by the united delegation from the State of Tennessee, the other portions of the country interested in this amendment not being at present represented. The Tennessee river is the sixth on the North American continent; the fourth within the limits of the United States; and, reckoned with its affluents and confluent, the third in extent of its navigation. It is obstructed at the Muscle shoals in northern Alabama. The portion of the river which lies above these shoals drains eastern Tennessee, a portion of eastern Kentucky, southwestern Virginia, western North Carolina, and the northern part of Georgia. The attention of Congress was early directed to this obstruction in the commerce of that vast and fertile region of country. More than forty years ago, under an act passed the 30th of April, 1824, a survey was made and a report was published by General Bernard, a copy of which I hold in my hand. The report concludes as follows:

"1. Were the Tennessee to be made navigable from Waterloo to Brown's ferry, steamboats throughout the year, or at least eight months out of twelve, would be able to navigate the river from its mouth to the Suck; that is to say, for a distance of more than four hundred miles. During the boating season and by means of improvements at some places, steamboats might ascend as far as Kingston, and even Knoxville, about eighteen miles above the Suck.

"2. Exclusively of the valleys of the Holston and French Broad, the extent of country watered by the Tennessee and tributaries may be reckoned at twenty-four thousand square miles, and its population (census of 1820) at two hundred and eighty thousand inhabitants. The fertility of the soil, which is generally a rich limestone clay, and the healthiness of the climate, insure, in time, to these districts a rapid increase of hardy population.

"3. Cotton, hemp, tobacco, and grain of every kind may be deemed the main articles of cultivation; wine and silk have a fair prospect of succeeding; iron, lead, coal, gypsum, and salt are the minerals found in the valley of the Tennessee and its upper branches, the Holston and French Broad. To this great and rich variety of products which, in the present state of navigation, cannot conveniently find a market, must be added valuable timber of various descriptions, which would become an article of extensive trade.

"4. The transportation of these valuable articles of trade is now made in unwieldy flat-boats, which can descend the stream but at the period of freshets. During the remainder of the year, and more especially for the districts above the Muscle shoals, the access to any market is entirely interdicted; and while the population cannot take advantage of the fluctuation of price in the market their products are exposed during transportation to all the extra expenses, losses, deteriorations, and delays inseparable from a tedious and difficult navigation. Consequently these products are virtually of much less value than they would be should the main obstructions of the river be removed.

"5. A convenient navigation by facilitating the exportation would not only cause an increase of products, but also afford to the inhabitants the means of procuring in exchange the articles raised or manufactured in other sections of country; and these articles, by becoming cheaper on account of a less expensive transportation, would fall to a price accessible to a greater number of consumers. At this time the imports into these districts are chiefly made by wagons coming from Nashville, and even when the Ohio is not navigable, from Baltimore and Philadelphia. Hence it is easy to anticipate how much of the expense of such transportation must add to the original cost of the articles; but in order to be more precise on this point, we beg leave to submit here the statement made in 1826, in the very able report of the commissioners appointed by the States of Tennessee and Alabama to examine the Muscle shoals.

"According to said report the transportation from Nashville to Knoxville amounts to fifty dollars per ton; the same weight might be transported from Florence to Knoxville (were the Muscle shoals improved) for fifteen dollars, to which adding five dollars for toll, would make the whole cost twenty dollars, and consequently produce an economy of thirty dollars per ton. Again, the average freight in steamboat from New Orleans to Florence is stated to be twenty-five dollars per ton, from which we infer that by adding to it the twenty dollars for transportation from Florence to Knoxville, forty-five dollars would be the cost of transportation of a ton from New Orleans to Knoxville; that is to say, five dollars less than the actual cost of transportation in wagon from Nashville to Knoxville. Therefore, were the Tennessee improved, the transportation from New Orleans to Knoxville would cost less than from Nashville to Knoxville.

"6. No section of country is better provided than this with numerous and copious never-failing streams,

as also with abundance of fuel. None possesses more extensive means to associate agricultural with manufacturing industry; and by ceasing to remain landlocked these districts would acquire a cheap and commodious communication not only with the Gulf of Mexico, but also with the States bordering on the Mississippi and Ohio. They would therefore participate in the benefits derived from external and internal commerce, and contribute their share to the national advantages arising from these two great sources of wealth and revenue.

"7. The country between the Shenandoah and the Holston is favorable to the location either of an easy road or of a railroad. The distance from Port Republic, head of navigation on the former stream, to Knoxville, would be about three hundred and sixty miles. In this direction runs one of the routes examined for a national road from Washington to New Orleans. Should this route be adopted, and the Tennessee improved, the Chesapeake would become connected by water with the Gulf of Mexico, with the exception of the above land communication. Such a connection would be highly beneficial to those rich and fertile districts lying between the Shenandoah and the Holston.

"8. By improving the Tennessee, at the Muscle shoals, the northern parts of Alabama will be open to trade with the States situated on the Ohio and tributaries. The articles of such trade will then be brought into fair competition with those of the same kind raised in East Tennessee.

"9. While the improvement contemplated will cause an increase of exports and imports, encourage the production and afford cheapness to the consumer, this section of country will become provided with many articles of necessity and extensive use, whose expense of freight amounts now nearly to prohibition. Among these is salt, which is sold at the price of \$1 36 the bushel; this price would fall one third were it possible to import this article from New Orleans.

"10. Should a safe and commodious navigation be obtained at the Muscle and Colbert's shoals, the value of public and landed properties of North Alabama and East Tennessee would necessarily be raised on account both of increase of trade and facility of exportation.

"11. Finally, the great military advantage which has been pointed out by the board in their reports on a national road from Washington city to New Orleans, in relation to a route through Tennessee, can be with equal force applied to a commodious navigation from Knoxville to the Mississippi. Indeed, through this water communication the States on the Gulf of Mexico might, in case of foreign aggression or internal disturbances, receive a prompt and powerful relief from the hardy and dense population of Tennessee. This consideration will acquire a great weight on reflecting that the black population of those States is daily increasing; and that having on the Gulf no harbor for men-of-war of the first rate, our Navy will be unable to afford to this section of our maritime frontier the same high degree of protection which she can lend to our coast on the Atlantic."

The then President of the United States, Mr. Adams, in his third annual message to Congress, made the following recommendation on that subject:

"All the officers of both corps of engineers, with several other persons duly qualified, have been constantly employed upon these services from the passage of the act of the 30th April, 1824, to this time. Were no other advantage to accrue to the country from their labors than the fund of the topographical knowledge which they have collected and communicated, that alone would have been a profit to the Union more than adequate to all the expenditures which have been devoted to the object; but the appropriations for the repair and continuation of the Cumberland road, for the construction of various other roads, for the removal of obstructions from the rivers and harbors, for the erection of light-houses, beacons, piers, and buoys, and for the completion of canals undertaken by individual associations, but needing the assistance of means and resources more comprehensive than individual enterprise can command, may be considered rather as treasures laid up from the contributions of the present age for the benefit of posterity than as unrequited applications of the accruing revenues of the nation. To such objects of permanent improvement to the condition of the country, of real addition to the wealth as well as to the comfort of the people, by whose authority and resources they have been effected, from three to four million of the annual income of the nation have, by laws enacted at the three first sessions of Congress, been applied without intrenching upon the necessities of the Treasury, without adding a dollar to the taxes or debts of the community; without suspending even the steady and regular discharge of the debts contracted in former days, which, within the same three years, have been diminished by the amount of nearly sixteen million dollars.

Four hundred thousand acres of land were appropriated for this work. It was undertaken and prosecuted with success until a general change took place in the policy of the Government on the subject of internal improvements. Subsequently, during the administration of Mr. Fillmore, \$50,000 were appropriated, to be expended between Knoxville and Chattanooga under the direction of the War Department, and the immediate supervision of a board of commissioners, of whom Governor Brownlow was one. Under this appropriation



much valuable assistance was afforded to the navigation of that portion of the river; and the works then erected remain to this day in attestation of the wise economy which devoted this sum to their prosecution. The last Congress made an appropriation to have this portion of the river resurveyed. That work was done, and a report was submitted to the House in the latter part of March, and was printed on the 30th April, too late to have it considered by the Committee on Commerce so as to be reported in this bill. I ask the attention of the House to a portion of that report, which I send to the Clerk's desk.

The Clerk read as follows:

"The total amount which I recommend to be appropriated for the fiscal year ending June 30, 1869, for the improvement of the Tennessee river, is therefore \$605,000, and for the survey above mentioned, \$10,000.

In addition to the many good reasons given in the appended report for making the improvement at this time, and to those which have been given by the many able men who have reported on this subject during the last forty years, there occurs to me that not only would a work be done which should have been done years ago, but which would have repaid the Government a large interest, but that it would be the means of giving a poverty-stricken community an opportunity to recover from the disastrous effects of a war, and give employment to a large class of deserving people who are said to be out of employment.

I am perfectly confident that if the distinguished soldiers who commanded our armies operating along the line of this river, during the late war, would be called upon to testify in this matter, that it would be found that enough money would have been saved to the quartermaster's department by an improved river, in one campaign, to have trebled paid the expense of doing the work."

Mr. MAYNARD. Mr. Speaker, when it was known that this examination had been made the people in that part of the country revived their former interest in the work. They assembled in conventions and prepared numerous signed petitions to Congress; they have sent delegations here, and are more deeply interested in this improvement than in any other industrial question that has engaged their attention for years. I ask the attention of the House to an extract from one of these petitions:

"Recently a survey and estimate of the cost of removing obstructions and completing the unfinished canal at the Muscle shoals has been made in compliance with an act of Congress, by which it was ascertained that the work on the canal at the Muscle shoals, performed thirty-four years ago, is now in a state of almost perfect preservation, and by reference to the report it may be seen that certain obstructions may be removed, and that said canal may be carried on to completion, and thereby establish for eight months in the year a navigation from the mouth of the river to Knoxville for less than \$800,000, and that the river can be rendered permanently navigable for the entire year has been fully demonstrated by the survey.

"The Tennessee river is among the forty-six principal navigable streams of North America, the sixth in importance. It is, with its tributaries, more than three thousand miles in length, of which eight hundred miles are navigable, and with the improvements we ask for thirteen hundred miles in addition can be rendered navigable. It drains one hundred counties (situated in the eight States of North Carolina, South Carolina, Virginia, Tennessee, Alabama, Mississippi, Georgia, and Kentucky) with an area of fifty-five thousand nine hundred and sixty square miles, which now supports a population of one million seven thousand two hundred and ninety-six, as by census of 1860. It traverses a section unsurpassed in the fertility of its soil, salubrity of its climate, and variety of its agricultural and mineral productions, by those of any other part of the United States. It presents to you in addition to these other reasons why it appeals to you for assistance. It is surrounded in a great measure by a cordon of mountain ranges, the wealth and resources of which are but partially developed. These mountain ranges contain coal fields and beds of iron ore more extensive and as valuable as those of Pennsylvania. The beds of iron ore lie contiguous to the coal, affording ready facilities for producing yearly as much iron as that now produced in the whole United States. Mines of copper upon its tributaries rank third in the production of the United States. Limestone, sandstone, grit stone, and marble exist in quantities and qualities exceeded by no other section. Zinc, lead, salt, and petroleum are found. This river drains a section, almost every acre of which is capable of the highest state of cultivation. Three fourths of the surface is in a state of nature, and covered with large-sized trees of those kinds most used for manufacturing purposes. Its water-powers are not equaled by those of any other portion of the United States, combining advantages for manufacturing equal to any other section of the United States. Its central position; its temperate climate the proximity of the cotton States; the proximity of markets; the superabundance of material; the number, excellence, and mag-

nitude of its water-powers; the fertility of its soil, render it capable of being made the central manufacturing district of the United States. It has advantages for the manufacture of iron not enjoyed by any other portion of the United States. Lying contiguous to many thousand square miles of coal fields, inexhaustible beds of iron ore are found. This coal is remarkably free from sulphur, and every other material entering into the manufacture of iron is abundant, all situated in a region of unbroken forests. While nature has been so lavish in its gifts, it has not granted the boon of cheap water transportation. The Tennessee river, this natural highway to market, is closed by natural obstructions at Muscle shoals. It is impossible to develop the natural resources of this section except by the aid of water transportation. Its wealth lies now almost entirely undeveloped. The Government of the United States is alone authorized to open this river, and the interests of the commerce of the whole country demand your speedy assistance."

The following letter has been addressed to me by the Governor of Alabama:

EXECUTIVE DEPARTMENT,  
STATE OF ALABAMA,  
MONTGOMERY, June 5, 1868.

SIR: I take the liberty of addressing you upon the subject of removing obstructions from the Tennessee river so as to render that stream navigable from its mouth to Knoxville, Tennessee. This is a question of much importance to extensive sections of country, and is of material interest to your immediate constituents. It is taken for granted, of course, that you fully appreciate the importance of this enterprise. But inasmuch as the interest involved is widespread—not being limited, by any means, to the length of the river itself—I hope to be excused for soliciting your active co-operation in its behalf.

The Muscle shoals between Decatur and Florence, Alabama, form the greatest obstacle to the navigation of this stream. Around these shoals a canal was constructed some twenty-five or thirty years ago. But it was never operated practically, except to a limited extent, for the reason, mainly, that the locks of the canal were of such contracted dimensions that only very small boats could pass through them. The canal, however, is in a well preserved condition, and with a proper enlargement of the locks it might easily be made available for navigable purposes.

I presume that formal petitions have been presented to Congress praying an appropriation for the purpose of opening the river to navigation. This could be done with an amount of money which, to the General Government, would be inconsiderable. To that Government alone can we look for the opening of the river. The success of this enterprise would develop, incalculably, the commercial, mineral, agricultural, and other resources of the regions washed by the river, and greatly contribute to the general prosperity of the country. It is therefore earnestly hoped that the necessary appropriation for the purpose will be made by Congress.

Very respectfully, your obedient servant,  
R. M. PATTON,  
Governor of Alabama.

Hon. HORACE MAYNARD, Washington, D. C.

I add a passage from a letter addressed to me by some gentlemen of intelligence living at Kingston, near the confluence of the Tennessee river and the Clinch, one of its largest tributaries:

"This subject is one of the greatest importance to the whole of East Tennessee, and the people are looking anxiously for you to use your utmost endeavors to have the river opened from Knoxville to the Ohio. On this depend the wealth and future prosperity of the entire section, for, as you well know, it will be the only really available means of transportation for the vast amount of coal and iron with which East Tennessee abounds, and if we can succeed in getting the proper appropriations we can then offer such inducements to capitalists and laborers to immigrate that the now nearly uninhabited mountains and valleys of East Tennessee will be filled with thriving manufacturing towns and villages."

I am kindly permitted to use a letter addressed to my excellent friend from Ohio, [Mr. SPALDING:]

CLEVELAND, June 23, 1868.

MY DEAR SIR: Thinking that possibly, amid the many matters requiring your attention on your return to Washington, you might forget to examine the matter which formed the subject of a conversation I had with you at Newark, I have concluded to call your attention to the same by letter. I observe in this morning's paper that the citizens of St. Louis and Cincinnati, through their respective Boards of Trade, have instructed their Representatives to use their influence in obtaining an appropriation to improve the Mississippi and Ohio rivers. I infer from this moment that Congress is about to consider the matter of making internal improvements. Although personally interested in the improvement of the Tennessee river, I would not urge an appropriation for that purpose did I not entertain the opinion, founded on information obtained from my own observations, made during frequent visits to that section since the war, that whatever expense may be necessary to make that river navigable from its mouth to the fork of the Clinch would very soon be returned to the Government.

You will, I think, find on examining the surveys and estimates of those who have made them through the appropriations made last year, that the expense of making the kind of improvements required will be small considering the extent of country and the

number of people to be benefited by it. Because of Muscle shoals and a few other obstructions above, from twelve to fourteen hundred miles of the river, although navigable at almost all seasons of the year, prove of little benefit to the country. The finest iron ore mines and coal fields in the country skirting the shores of this river and its tributaries demand no higher price than the land will bring for agricultural purposes. And although the valley of the Tennessee is as remarkable for agricultural purposes as for its mineral wealth, notwithstanding, for the want of cheap transportation of its product to market, its value and selling price are wonderfully low.

I know of no internal improvement so much needed, nor one that would make as satisfactory returns.

The people to be especially benefited are the loyal East Tennesseans and the northern Alabamians. The people of no other portion of the country suffered as much on account of their loyalty to the Government as these, and there seems to be no better way of recognizing that loyalty or a more substantial way of rewarding them, than by making this improvement.

But I will not occupy your time with a more extended statement. From other sources at your command you will be able to obtain such information as you may desire to enable you to form an opinion.

I remain, truly, yours,  
WILLIAM J. BOARDMAN.  
Hon. R. P. SPALDING, Washington, D. C.

I hope this amendment will prevail.

Mr. ELIOT. I rise to oppose the amendment. The gentleman from Tennessee [Mr. MAYNARD] is correct in saying that in the act of March 2, 1867, there was an order for a survey of the Tennessee river, or else it was in a separate resolution, I am not quite sure which. That survey has been made, and I hold the report in my hand with a letter from the Secretary of War. The report did not come to the Committee on Commerce until after the bill had been prepared. But if it had, it would have been entirely impossible for an appropriation to have been recommended such as is now offered. From the mouth of the Tennessee river at Paducah to Florence, in Alabama, there is a distance of four hundred and thirty-six miles; from Decatur, in Alabama, to Chattanooga, the other bend of the river, is a distance of one hundred and eighty-six miles. That covers the whole length of the river, excepting ninety from Florence to Decatur.

Now, sir, of this appropriation of \$600,000, as I understand it, about four hundred thousand dollars would be wanted on the ninety miles distance between Florence and Decatur for the purpose of constructing a canal, which very possibly it may be right to do one of these days, but which, it seems to the committee, it would not be right to recommend at this time. Now, I have no doubt, from the report which I have and after a conference with the engineers at the War Department, that there ought to be an appropriation made for the purpose of the Tennessee river, and I propose to amend the amendment of the gentleman from Tennessee by substituting for it the following:

To improve the Tennessee river from its mouth to Florence, Alabama, \$15,000.  
To improve the river from Chattanooga, Tennessee, to Decatur, Alabama, \$90,000.

That will give to this river the benefit of all the improvement that is reasonably called for excepting that between Florence and Decatur, which I think ought to be the subject of further examination. I will say that upon conference with the Committee on Commerce my amendment meets with their approval, excepting that of my friend from Illinois, [Mr. WASHBURN:] and I suggest to the gentleman from Tennessee that it will be better for him to accept the amendment which I offer, and withdraw the larger one which he has offered.

Mr. STOKES. I wish to make an appeal to my colleague, [Mr. MAYNARD.] I ask him to accept the amendment offered by the gentleman who has charge of this bill in behalf of the Committee on Commerce. After having canvassed the whole matter I am satisfied that it is for the best interest of the country and for the people upon the line of the river, and I ask my colleague to accept the proposition.

Mr. MAYNARD. There is an old adage down in my country that my friend understands the meaning of, that "half a loaf is better than no bread." I yield to his appeal that I shall accept the modification suggested by the gentleman from Massachusetts, [Mr. ELIOT,]

and I hope in that shape it will be conceded to us.

Mr. MULLINS. I move to amend the amendment by increasing the appropriation \$10,000, and I do it for the purpose of making a few remarks. The people most interested in the improvement of this river are those living above Chattanooga. To be sure it is a densely populated stream from there to its mouth, but that portion of the country that lies adjacent to my district is immediately interested in that obstruction which is known as the Muscle shoals. This river is one of those streams that gives water at all seasons of the year. There is, perhaps, but the fewest number of streams in any portion of the country south that give a greater volume of water than the Tennessee river gives. But until the obstruction known as the Muscle shoals is overcome navigation both above and below cannot be considered as anything like complete. The greatest detriment to the navigation of that stream from its lead to its mouth is known to be the Muscle shoals. That is a point in the stream where it breaks through the spurs of the Cumberland mountains, or an offshoot of the Cumberland mountains. The river is obstructed by many boulders lying there, incalculable in size, so as to make it almost unnavigable at some seasons of the year, while even at the highest tide it is very difficult for a steamboat to go up and down. The main point is a canal around the Muscle shoals. An appropriation was made for that purpose some time ago, and some work was done. But a spirit got into the party, and it became almost ignored by the General Government. However, before that species of political legislation got up, they went on to cut that canal, and they walled it up in part, and I am informed by the gentleman who superintended its survey that the stone work which was done there is as good a character of work as ever was done on the continent. Many of the trees which have grown up on the bank of that canal have lifted up the mason work; but it stands there now, the stones cemented fast together, although lifted up from the base, and a very small amount more will complete the work so that navigation will be open from the mouth of the river to its head. Its heads and its tributaries have already been indicated by my colleague [Mr. MAYNARD] who moved an amendment to this bill. There is no country and no people who have been more necessitated to have an appropriation made for relief, both above and below, than of this section. It lies immediately upon my southern border. I cannot for one moment's time hesitate to return thanks to the gentleman in charge of this bill for even this little amount. It is better than no appropriation at all, of course. At the same time it may go far to keep all hands employed for a time, and relieve them to some extent. But the great burden is the Muscle shoals. You only want to sink the canal a little deeper; it never was sunk deep enough; a little further depth will give ingress and egress.

[Here the hammer fell.]

Mr. MULLINS. I withdraw the amendment to the amendment.

The amendment of Mr. MAYNARD, as modified, was then agreed to.

The Clerk then read as follows:

For improvement of the Upper Mississippi river and removing snags and dredging, \$60,000.

For construction of dam and lock at Little Falls, Minnesota river, \$30,000.

For improvement of the Des Moines rapids, \$900,000.

For improvement of the Rock Island rapids, \$200,000.

For improvement of the mouth of the Mississippi river, \$100,000.

For improvement of the Mississippi, Missouri, and Arkansas rivers, \$135,000.

For improvement of the upper Missouri river, \$60,000.

For improvement of the Illinois river, from its mouth toward La Salle, \$100,000.

For improvement of the Ohio river, \$250,000.

Mr. MOORHEAD. I move to add to the last clause read the following:

Of which a sum not exceeding \$20,000 may be applied, under the discretion of the Secretary of War,

in experimenting upon and testing the value of shifting sluices and other applicability to the said improvement.

This amendment is offered on account of the change in the character of navigation on the Ohio river. Formerly, during low water, by means of wing-dams, the water was thrown into a narrow channel, where a single steamboat could pass through. These wing-dams now prove to be obstructions to a large fleet of coal boats that are required by the manner in which business is now conducted. By the ingenuity of some of our engineers out there a plan has been devised by which these wing-dams can be shifted or sunk when occasion requires, so that boats can run over them. Colonel Roberts, civil engineer in charge of the improvements on the Ohio river, thinks the plan very important and of great value. I do not ask for any increase of the appropriation, but only that a certain portion of it, under the discretion of the Secretary of War, may be used in making these experiments. I hope my amendment will be adopted.

Mr. ELIOT. The gentleman from Pennsylvania [Mr. MOORHEAD] showed an amendment to me, stating that he proposed to offer it, and desiring that I would make no objection to it. It was altered at my instance so as to leave the expenditure of the money for the purpose of making these experiments discretionary with the Secretary of War. I cannot assent to the amendment, for the reason that I do not know enough about the character of the appropriation asked for to be able to say whether the Secretary of War ought to be directed in any way to appropriate a portion of this money in the manner proposed. The estimate from the Department for the improvement of the Ohio river was \$500,000; and the engineers called for the expenditure of \$500,000 during this coming fiscal year. The committee have cut down the expenditure asked for one half, recommending an appropriation of \$250,000. Now, the object of this amendment is to apply a portion of that appropriation to the point named by the gentleman from Pennsylvania, [Mr. MOORHEAD.] It may be all right; I do not know that it is not; but I do not know that it is; and it seems to me that it would be incorporating into the bill a provision different from any now contained in it, if in the case of a general appropriation of this kind the Secretary of War should be directed to apply a specific part of the money to a designated point. But if the matter is left discretionary with him the objection may be obviated.

Mr. MOORHEAD. I modify my amendment so as to make the amount \$18,000. I must say that after the conversation which I had with the gentleman from Massachusetts [Mr. ELIOT] I am very much astonished at the remarks he has just made. If the House has listened to my remarks I think there can be no objection to the proposition that the engineer in charge of this improvement may, under the direction of the Secretary of War, if he deems it advisable, use this money, or any portion of it, in devising a system which we think will be worth millions in the improvement of our western rivers. I, in company with some other gentlemen, examined this matter in the office of Colonel Roberts, the engineer, who told me that he did not know that he could expend the money to make this experiment unless there should be a direction of this kind from the engineer department, or a provision inserted in this bill. I hope that the amendment, as I have modified it, will be adopted.

The amendment was agreed to.

Mr. HINDS. I ask unanimous consent to go back and move an amendment, inserting after line ninety-six the words "provided, that an equal amount be expended in improving each of said rivers;" so that the clause will read—

For improvement of the Mississippi, Missouri, and Arkansas rivers, \$135,000: *Provided*, That an equal amount be expended in improving each of said rivers.

Mr. ELIOT. I cannot consent to go back to allow that amendment to be offered. The matter is now properly left discretionary with the Secretary of War.

The SPEAKER. Line ninety-six having been passed, an amendment to that part of the bill is not in order without unanimous consent; and the gentleman from Massachusetts [Mr. ELIOT] objects.

Mr. HINDS. I ask unanimous consent to have printed in the Globe a memorial from the Legislature of the State of Arkansas on this subject.

The SPEAKER. If there be no objection leave will be granted.

There was no objection.

The memorial is as follows:

*To the Honorable the Senate and House of Representatives in Congress assembled:*

Your memorialists, the constitutional convention of the State of Arkansas, respectfully represent that the Arkansas river, during the season of low water, is so obstructed by snags and sand-bars as to render the navigation difficult and hazardous; but that by the appropriation and proper outlay of a small sum of money the said river, between the points designated, could be rendered navigable during the entire season, and would open a thoroughfare of inland communication to a rich agricultural district, facilitate the transportation of the mails, and afford to the settlements embraced in the country tributary to the Arkansas the speedy development of the various resources of that section of the country, abounding in lumber, agricultural, and mineral wealth, besides affording facilities for reaching the trade and exchange of the Indian country west, and affording to the Government a more speedy access to that region.

Your memorialists, therefore, ask that an appropriation of \$100,000 be made for the improvement of said river. And your memorialists will ever pray.

Mr. NIBLACK. I move to amend by inserting after line one hundred and two the following:

For the improvement of the Wabash river and its navigable tributaries, \$50,000.

Mr. Speaker, after the disposition already manifested by the House, I cannot entertain much hope that it will appropriate a very large amount of money for the improvement of internal rivers; but if any appropriation is to be made for any river I submit that the Wabash is as much entitled to an appropriation as any other river that has been named in the bill. It furnishes the means of transportation for portions of two States, the States of Indiana and Illinois. White river is an important tributary to it, and is also navigable for boats of all classes during a portion of the year. There are some slight obstructions in the Wabash river and its tributaries, which the amount of money I have indicated would partially remove. This is to open up these rivers for the purposes of commerce; and if we are to extend our commerce by opening up our rivers to the ordinary class of vessels, at least, I do submit the Wabash river is as much entitled to the consideration of Congress as any other stream mentioned in this bill, aside from the Ohio and Mississippi. I offer the amendment in good faith, and if we vote for any this one should be adopted.

Mr. ELIOT. I rise to oppose the amendment. It is obvious, Mr. Speaker, we could not pass a bill of this description acceptable to a majority of the House unless on some principle. Now, there has been no examination made, there has been no survey, there have been no estimates, and we should move in the dark as to the character and mode of this proposed improvement; and, sir, there is no mortal man on this floor who has the authority to say how much is wanted and how it could be best carried on. I hope the gentleman from Indiana, who, by the way, has not been friendly to this bill, if he desires there should be a recommendation in favor of it, will have it included in the fourth section of the bill, and have it examined. It would be utterly impossible to adopt the amendment offered by him without destroying the character of the bill. I say without hesitation, if improvements of this description, without recommendation from the War Department, should be put upon the bill by those who are unfriendly to it, I should feel myself constrained to ask the House to postpone it to a future time.

Mr. BROMWELL. I move to strike out "Wabash" and insert "Embarras."

Mr. GARFIELD. That will embarrass the bill. [Laughter.]

Mr. BROMWELL. It is the bill itself which will embarrass the country. [Renewed laughter.] If the public Treasury is now to be poured out upon the little streams in all the byways and places of the country, then the Embarras river should not be neglected. It connects two districts. It flows out of my district into that of my colleague's, [Mr. MARSHALL,] both Radical districts; mine radically Republican and his radically Democratic, and it will make a bond of union between them. [Laughter.] If rivers hardly navigable require improvement how much more the Embarras, which never has been navigable and never will be unless something is done for it. [Renewed laughter.] As it is now a steamboat could barely turn round in the Embarras river, and all the more necessity for improving it. Why not just as well spend our time in digging new rivers as in patching up old bars and making new harbors where there is just barely a pretense of commercial advantage? [Laughter.]

I know it is said that these appropriations are for the benefit of works already begun. The idea of continuing works already begun which are of no public value upon the ground that it is to save money is as bad as a man taking the medicine he has left over after recovering in order not to lose it. [Renewed laughter.] We are spending millions of dollars every year to very little purpose; and now when the country is embarrassed, when we feel the pressure in the West as we have not felt it since 1837, I do think we ought to confine our appropriations to works of the greatest public utility.

Mr. FARNSWORTH. Is the Embarras river a good place for harbors?

Mr. BROMWELL. It is one hundred miles long, and in every crook of it you can dig out a good harbor.

Mr. FARNSWORTH. Are you for the Wabash river improvement?

Mr. BROMWELL. I am for the Wabash, but I do not want the Embarras neglected and overlooked. The amendment is offered upon the principle which moves gentlemen here. It is the best river I have in my district, and I must speak for some. [Laughter.] If the House does not adopt my amendment I hope it will at least strike out all of the others, or at least provide for the improvement of the Embarras river at some future time. It was once declared navigable by the Illinois Legislature, [laughter,] and in order to make that good I feel bound, as a Representative from that State, to call upon the United States to dig it out and put it in a condition for boating. [Laughter.]

Mr. ELIOT. I rise to oppose the amendment, and ask for a vote.

The amendment of Mr. BROMWELL to the amendment of Mr. NIBLACK was disagreed to.

Mr. BENJAMIN. I offer the following amendment to the amendment:

For the improvement of the navigation of Salt river, that the dreary passage up the rapid and turbulent waters of this great national highway may be rendered less grievous to the motley crowd of involuntary exiles, who, about November next, will be seeking "some sequestered spot" where a "white man's Government" may be maintained in its purity, and for whose benefit in carrying out so laudable an enterprise a four years' leave of absence has been unconditionally granted, \$10,000.

Mr. ELIOT. I raise a point of order on that amendment.

The SPEAKER. The Chair sustains it. The amendment is not germane.

The question recurred on the amendment of Mr. NIBLACK; and it was disagreed to—ayes twenty-eight, noes not counted.

Mr. ELIOT. I rise to close debate on the pending section. It seems to me the House has signified its disposition in reference to these appropriations.

Mr. PHELPS. I hope the gentleman will not make that motion at this point.

Mr. ELIOT. It will not cut off amendments; only debate.

Mr. PHELPS. That is the very thing I object to.

Mr. ELIOT. I move that debate on the pending section be closed.

Mr. PHELPS. Will that prevent me from making an explanation of an amendment?

The SPEAKER. If the motion is agreed to it will.

The motion to close debate was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which debate was closed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ROSS. I rise to move an amendment after the one hundredth line.

The SPEAKER. That has been passed; the House is now considering the one hundred and second line.

Mr. ROSS. I ask unanimous consent to offer an amendment which I think will be satisfactory to the House.

Mr. ORTH. I object.

The Clerk resumed the reading of the bill, as follows:

For improvement of the Patapsco river, below Fort McHenry, \$30,000.

Mr. PHELPS. I move to increase the amount to \$75,000. I ask leave to make an explanation.

Mr. SPALDING. I object, unless it shall be open to debate to the whole House.

The amendment of Mr. PHELPS was disagreed to.

The Clerk read as follows:

For improvement of the Susquehanna river, \$10,000.  
For improvement of the Hudson river, New York, \$100,000.

For removing obstructions in East river, including Hell Gate, \$300,000.

For improvement of Westport harbor, Connecticut, \$10,000.

For improvement of Connecticut river, Connecticut, \$20,000.

Mr. HOTCHKISS. I move to increase the last appropriation to \$40,000.

The amendment was disagreed to.

The Clerk read as follows:

For removal of Middle Rock, New Haven, Connecticut, \$15,000.

For improvement of Pawtucket harbor, \$8,000.

For improvement of Plymouth harbor, Massachusetts, \$15,000.

Mr. SPALDING. I move to insert "For improvement of harbors at Cuttyhunk and Tarpaulin Cove, in Massachusetts, \$100,000." There will be no objection to that I presume.

Mr. ELIOT. Certainly there is objection. They are in my district.

The amendment was disagreed to.

The Clerk read as follows:

For construction and preservation of sea-walls at Great Browster Island, \$10,000.

For building walls and improvements at Deer and Lovell's Islands, in Boston harbor, \$10,000.

For preservation and improvement of Boston harbor, \$109,000.

For improvement of Taunton river, Massachusetts, \$13,000.

Mr. EGGLESTON. I offer the following amendment, and I will state that it has been agreed upon by the Committee on Commerce:

At the end of line one hundred and twenty-eight insert the following:

For completion of the breakwater connecting Richmond Island and Cape Elizabeth, Maine, \$20,000.

The amendment was agreed to.

The Clerk read as follows:

For improvement of Saco river, Maine, \$20,000.

Mr. LYNCH. I move to strike out "\$20,000" and insert "\$40,000."

The amendment was disagreed to.

The Clerk then read as follows:

For improvement of Kennebec river, Maine, \$3,000.

Mr. BLAINE. That is the only modest appropriation in the bill.

Mr. ELIOT. If the gentleman is not satisfied, we will strike it out if he wishes it.

The SPEAKER. Does the gentleman make that motion?

Mr. ELIOT. No, sir.

The Clerk read as follows:

For improvement of Penobscot river, Maine, \$30,000.

Mr. ROOTS. I offer the following amendment, to come in after that clause:

For improvement of White river, in Arkansas, \$78,000.

The amendment was disagreed to.

Mr. BLAINE. Would it be in order to go back to the preceding paragraph and move to strike out "\$3,000" and insert "twelve and a half cents?"

The SPEAKER. It is not in order to go back.

Mr. PAINE. I hope unanimous consent will be given to the gentleman to go back for that purpose.

Mr. ELIOT. I object to going back.

Mr. BLAINE. It is very magnanimous on the part of the gentleman from Wisconsin, [Mr. PAINE,] who has got millions in this bill for his State.

Mr. PAINE. The gentleman misunderstands me.

The SPEAKER. No debate is in order.

Mr. McKEE. I offer the following amendment, to come in at the end of the paragraph last read:

For the improvement of the navigation of the Big Sandy river between Kentucky and West Virginia, \$20,000; and for said river above Louisa, \$15,000 additional.

I wish to say that this river runs between two States.

The SPEAKER. No debate is in order.

The amendment was disagreed to.

The Clerk then read as follows:

For improvement of navigation at the "Gut," opposite Bath, Maine, \$16,500.

For improvement of Union river, Maine, \$2,000.

For construction of breakwater at Block island, Rhode Island, \$74,000.

For improvement of Willamette river, Oregon, \$25,000.

For removal of Blossom Rock, in the harbor of San Francisco, \$60,000.

For survey of northwestern lakes, \$75,000.

Mr. WASHBURN, of Illinois. I move to strike out that last paragraph, \$75,000 for survey of northwestern lakes. It is in another bill, the deficiency bill.

Mr. ELIOT. In answer to that I will say that this sum is needed as well as that.

Mr. WASHBURN, of Illinois. Seventy-five thousand dollars is enough.

The SPEAKER. Debate is not in order.

The question was taken on Mr. WASHBURN'S motion, and it was disagreed to.

The Clerk read as follows:

For examination and surveys on western and northwestern rivers, \$125,000.

For examination and surveys on the Atlantic coast, \$30,000.

For examination and surveys on the Pacific coast, \$25,000.

For purchase and repair of instruments, \$5,000.

No further amendments were offered to the first section; and the second section was read, as follows:

Sec. 2. *And be it further enacted*, That the Secretary of War shall apply the sums herein appropriated for other purposes than for examination and survey, by contract, in all cases when, in his judgment, the same can be judiciously and economically so applied: *Provided*, That on the recommendation of the general commanding the corps of engineers, such sums may be otherwise applied so as best to subserve the interests of the Government, having regard to the most economical use of the moneys appropriated, in all cases where the sums required for any specific work shall not exceed \$15,000. And the Secretary of War shall prescribe suitable rules for the issuing of proposals for materials or labor, having regard to the most effective use of moneys appropriated: *Provided*, That separate proposals and contracts shall be required in all cases when the same can be, in the judgment of the Secretary, judiciously and properly made.

No amendment was offered; and the Clerk read as follows:

Sec. 3. *And be it further enacted*, That the sum of \$450,000 is hereby appropriated toward completing the Louisville and Portland canal, in accordance with the plans and estimates made in the report of General Godfrey Weitzel, and that the Government of the United States do hereby assume the payment of the bonds issued for the completion of the said canal and branch, amounting to the sum of \$1,567,000: *Provided*, That all title to and right in said canal and its appurtenances be ceded to and vested in the United States, and that the State of Kentucky shall relinquish all claim to the government of the same; said canal



on and after its completion to be and remain free from all tolls and tribute except so much as shall be necessary to operate the same and keep it in repair, and that all moneys in the hands of the treasurer of the canal company, when transferred, shall be paid into the Treasury of the United States.

Mr. SPALDING. I move to strike out that section. It ought to be stricken out.

Mr. GROVER. Mr. Speaker, the section of the bill under consideration appropriates \$450,000 toward the completion of the Louisville and Portland canal; and provides for the assumption of the payment by the Government of the bonds issued for the completion of said canal, amounting to the sum of \$1,567,000, and a cession on the part of the corporation and the State of Kentucky of said canal and its appurtenances to the United States.

The question is, Should Congress make the appropriation on the terms proposed? Should Congress make the appropriation and a further appropriation hereafter of \$450,000, the estimated cost of completing the enlargement of the canal, the Government will become the owner in its own right of the entire work.

The Louisville and Portland canal was completed in December, 1830, by a company chartered by the State of Kentucky. The Government was a stockholder to the amount of two thousand three hundred and thirty-five shares, costing \$233,500.

In 1831 the Government received five hundred and sixty-seven shares more in lieu of dividends. Between 1831 and 1842 it received \$257,778 in cash from the dividends declared by the company; so that at the end of twelve years the Government received \$24,278 in cash, and five hundred and sixty-seven shares in stock more than it invested in the canal, and was still owner of two thousand nine hundred and two shares in the canal, valued at \$290,200; thus receiving \$547,978 for its original investment in the canal.

From 1842 up to date no dividends have been declared, the net income of the canal up to 1859 being devoted to the purchase of stock owned by private individuals, (said stock being held in trust by the board of directors;) and since 1859 to the enlargement and extension of the canal and to create a sinking fund for paying the bonds which were issued by the company to defray the expenses of said work.

In 1860 this enlargement and extension were begun on plans submitted by Mr. T. R. Scowden, a civil engineer of experience and reputation, and stopped in 1866 for want of funds, after \$1,825,403 23 had been expended for lands and work on the improvement, thus making the cost of the canal, as it stands, \$2,825,403 23.

But in case the Government assumes the payment of the bonded indebtedness of the company it will be upon the following assumptions of payment. The bonded indebtedness of the company is as follows:

370 bonds due in 1871.....	\$370,000
399 bonds due in 1876.....	399,000
398 bonds due in 1881.....	398,000
400 bonds due in 1886.....	400,000
	<hr/>
	\$1,567,000

The five shares of stock are \$100 dollars each. There is on hand, to the credit of the sinking fund, a balance of \$217,453 70; so that no part of the debt of the company so assumed will fall due before 1871, at which time the bonds, amounting to the sum of \$370,000, fall due; \$399,000 fall due in 1876; \$398,000 in 1881; and \$400,000 in 1886. But, by the terms of the third section of the bill under consideration, when the proposed transfer shall be made all moneys in the hands of the treasurer of the canal company shall be paid into the Treasury of the United States, which amount on the 16th December, 1867, equaled the sum of \$217,453 70; and there is no reason to believe that amount has been diminished, or will be, but rather increased during the current years. Accurate tests for a period of more than twenty years establish the fact that navigation over the falls of the Ohio is interrupted by that natural obstruction

nine months and nine days in the year, leaving but two months and twenty-one days during the entire year when the falls of the Ohio can be passed by unobstructed navigation.

Let it be remembered that the Ohio river and its tributaries drain the whole of parts of ten States of the Union, the great granary of the country, the Egypt of the nation, and is one of the most important in a system, giving eighteen thousand miles of navigable water.

The tabular statement annexed, derived from sources believed to be entirely authentic, and mainly from the census of 1860, presents in a condensed form the extent of navigable waters, number of population, and amount of transportation of the fourteen States lying on the banks of the Ohio and Mississippi rivers:

"The States lying on the banks of the Ohio and Mississippi rivers, fourteen in number, had, by the census of 1860, a population of 16,909,494, or more than half the whole population of the United States; and these two rivers have a coast line of 36,098 miles, while the coast of the Atlantic is 2,163 miles, and the Gulf of Mexico 1,764 miles, and of the Pacific 1,343 miles, on a line of 21,354 miles, including bays and indentations.

"These rivers drain an area of 1,785,267 square miles, more than half of the whole 3,601,002 square miles in the United States; and these fourteen States, in 1860, contained 94,402,869 of the 163,110,720 improved acres, and 126,703,393 of the 244,101,818 unimproved acres of the whole United States; and the valuation of property in these fourteen States shows \$3,467,511,274 of the whole valuation of the United States—\$10,077,358,715; showing very conclusively that these fourteen States pay more than half the taxes, work more than half of the improved land, have the majority of the population, and also the majority of the land to develop, of the whole United States.

"By the census of 1860, the whole product of the United States was valued at \$1,900,000,000, while the foreign exports of the domestic produce were only \$373,189,274, or less than one fifth of the whole product, leaving four fifths for exchange in domestic commerce between the States.

"The proportion of the whole product afforded by these fourteen States we speak for may be judged by the returns of their produce, gathered from the census of 1860, and compared with the whole United States, as follows:

	The fourteen States.	The whole United States.
Corn, bushels.....	634,454,375	838,792,740
Wheat, bushels.....	125,930,730	173,104,924
Oats, bushels.....	103,985,461	172,643,185
Tobacco, pounds.....	345,400,759	434,208,461
Sugar, pounds.....	222,636,000	230,982,000
Cotton, pounds.....	1,079,799,600	2,154,820,800
Wool, pounds.....	31,277,839	60,264,913
Hay, tons.....	9,297,743	19,033,896
Butter, pounds.....	259,601,405	459,681,372
Hemp, tons.....	69,470	74,483
Hogs.....	22,225,766	33,512,867
Bituminous coal, bushels.....	3,247,264,425	3,621,923,165
Horses and asses.....	4,604,634	7,400,322
Cattle.....	12,517,392	25,616,019
Sheep.....	11,973,315	22,471,275

It will be perceived that the foregoing statement does not include the salt, the iron and other ores, the timber and lumber which annually float upon the bosoms of these mighty rivers, and the tonnage of which is, perhaps, greater than that of all other articles of transportation combined.

The total tonnage owned in the United States is returned in the census of 1860 at 5,353,868 tons, and the portion belonging to the fourteen States at 996,266 tons; but it is estimated by competent parties that the transportation on the Ohio and Mississippi rivers for the year 1866 equaled 7,905,216 tons, evincing the activity in domestic commerce of these river States, which commerce is yet in its infancy, as daily developments do most certainly show, and demonstrating that from these States has and must come the most of the food supply of the whole nation, and for export including the supply of the gold and silver States now so largely and rapidly developing upon the tributaries of these waters.

By reference to the report on the Louisville and Portland canal, Fortieth Congress, second session, the following summary appears:

"It [the Louisville and Portland canal] is a work designed to obviate the principal obstruction in the navigation of the Ohio river, upon the construction and management of which has been expended, in the various forms of outlay, an aggregate of \$6,500,000, two thirds of which sum have been derived from a tax on the commerce of the West, collected in the form of tolls; and yet for the completion of which Congress is now called upon for \$1,000,000; a work that has been before one or both branches of the national Legislature, in some form or other, nearly every ses-

sion for more than forty years, and yet with reference to which so little appears to be known to-day by intelligent members that legislation, without the special communication of information, would move almost wholly in the dark."

The same report shows that the present rate of hauling freight from the Portland wharf to the Louisville wharf, and *vice versa*, is one dollar per ton. Present rate of passing freight by the Louisville and Portland canal fifty cents per ton; and the supposed rate of passing freight by the canal after its completion and free use except as to the collection of tolls enough to operate it and keep it in good repair, ten cents per ton.

It is the matured judgment of those who are believed to know that the amount of freight transported on the Ohio river in the year 1867, including rafts of timber and lumber, equaled 3,733,420 tons; that the average distance to which said freight was carried was five hundred and sixty-seven miles; to transport which would require thirty-five railroads three hundred miles long, running four heavily-laden trains each day.

It is suggested that the enlargement of the canal upon the basis proposed would reduce the price of freight at least ten cents per hundred pounds upon the Ohio and her tributaries, thereby saving to the people of the United States in one year from freights alone a sum much greater than the cost of completing the entire work of the enlargement of the canal and liquidating the existing debt. Louisville, that great commercial center which I have the honor to represent upon this floor, located, as it is, at the head of this great natural barrier to the navigation of the Ohio, will gain nothing of advantage, but perhaps be loser financially by the proposed enlargement of the canal and transfer of its franchises to the Government of the United States. But, rising above selfish considerations, Louisville does not object; while the great State whose commercial center she is, the whole of the great West and Northwest, as well as the best interests of the entire Union, imperatively demand the adoption of the third section of the bill now before the House for consideration.

During his remarks Mr. GROVER moved *pro forma* to increase the appropriation \$50,000, for the purpose of concluding his speech.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had agreed to the amendments of the House to the bill (S. No. 522) to authorize the Commissioner of the Revenue to settle the accounts of Andrew S. Core.

The message further announced that the Senate had passed the joint resolution (H. R. No. 316) extending the time for the completion of the Northern Pacific railroad.

The message further announced that the Senate had passed a joint resolution (S. R. No. 94) directing the Secretary of the Treasury, whenever any State shall have been or may be in default for the payment of interest or principal on investments in its stocks or bonds held by the United States in trust, to retain moneys due to such State from the United States.

#### LEAVE OF ABSENCE.

Indefinite leave of absence, after Wednesday next, was granted to Mr. HOTCHKISS.

Leave of absence for ten days, after Wednesday next, was granted to Mr. MURGEN.

Leave of absence for ten days, after to-day, was granted to Mr. BROOKS.

#### WAR DEBT OF NEW MEXICO.

Mr. GARFIELD, by unanimous consent, reported back from the Committee on Military Affairs House bill No. 649, to provide for the settlement of the war debt of New Mexico, and moved that the same be referred to the Committee on Appropriations.

The motion was agreed to.

#### INDIAN DEPREDACTIONS IN CALIFORNIA.

Mr. GARFIELD also moved that the Committee on Military Affairs be discharged from

the further consideration of a memorial of the Legislature of the State of California, asking indemnity for property destroyed by Indians, and that the same be referred to the Committee on Indian Affairs.

The motion was agreed to.

ELLA M. GUY.

Mr. GARFIELD also moved that the Committee on Military Affairs be discharged from the further consideration of the petition of Ella M. Guy, praying relief for supplies furnished the United States Army, under the command of Lieutenant General Grant, in 1862, and that the same be referred to the Committee of Claims.

The motion was agreed to.

#### RIVER AND HARBOR BILL.

The House resumed the consideration of the river and harbor bill, the third section being under consideration.

The question was upon the amendment of Mr. GROVER.

Mr. EGGLESTON. I am sorry there has been made a motion to strike out this section in relation to the Louisville and Portland canal. I am also sorry that the motion was made by my colleague, [Mr. SPALDING,] who enjoys one of the finest harbors on the lakes, and made so by Government appropriations. It is now in perfect order. He is from the northern part of the State, while this section relates to an improvement a little further south, and below the boundaries of the State of Ohio. I hope my colleague, after hearing the debate on the subject, will withdraw his motion.

Mr. SPALDING. Does not this section contemplate purchasing a work from a private company?

Mr. EGGLESTON. No, sir; and that shows how much the gentleman knows about the matter.

Mr. SPALDING. Is not this canal the property of a private company?

Mr. EGGLESTON. It is not; and I am glad the gentleman has asked the question. If the gentleman will call for Miscellaneous Document No. 88—my five minutes' time will not allow it to be read—he will find that the Louisville and Portland canal to-day belongs to the United States, except \$500 owned by five individuals, who have that much stock in order to enable them to become directors of the company. In the year 1855 the accounts between the United States and this canal were balanced. By examining the document I have referred to it will be found that the United States have received \$24,278 more than it ever invested there. Then they owned the canal, and it is free and clear, except enough belonging to these five individuals to enable them to manage its affairs. From 1855 down to 1860 these directors managed the canal economically and accumulated some three or four hundred thousand dollars. How was that obtained? By putting a toll upon the commerce of the great Ohio valley fifty cents per ton upon the tonnage that passed through the canal. In 1860 the company had accumulated in the neighborhood of three hundred thousand dollars. Between 1860 and 1860 they frequently came to Congress and asked Congress to do something with the work. Nothing could be done up to 1860. On the 24th of May, 1860, the Congress of the United States passed a resolution which I ask the Clerk to read.

The Clerk read as follows:

*"Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the president and directors of the Louisville and Portland Canal Company be, and they are hereby, authorized, with the revenues and credits of the company, to enlarge the said canal, and to construct a branch canal from a suitable point on the south side of the present canal to a point on the Ohio river, opposite Sand Island, sufficient to pass the largest class of steam vessels navigating the Ohio river: Provided, That nothing herein contained shall authorize said president or directors, directly or indirectly, to use or pledge the faith or credit of the United States for the said enlargement or construction, it being hereby expressly declared that the Government of the United States shall not be in any manner liable for said enlargement or construction: Provided further, That when said canal is enlarged, and its branch canal is*

*constructed, and its cost of said improvement paid for, no more tolls shall be collected than an amount sufficient to keep the canal in repair, and pay, for all necessary superintendence and management."*

Mr. EGGLESTON. In accordance with that resolution the directors of that canal company borrowed \$1,567,000.

[Here the hammer fell.]

Mr. GROVER. I withdraw the amendment to the amendment.

Mr. WASHBURN, of Illinois, obtained the floor.

Mr. EGGLESTON. I hope the gentleman from Illinois will yield to me, that I may conclude my remarks. He can obtain the floor afterward.

Mr. WASHBURN, of Illinois. I yield to the gentleman.

Mr. EGGLESTON. I renew the amendment to the amendment. Mr. Speaker, according to the statement of the gentleman from Kentucky [Mr. GROVER] these bonds will come due in equal amounts in 1871, 1876, 1881, and 1886. By this section of the bill the Government assumes the payment of the bonds. General Weitzel was ordered by the Secretary of War, under a resolution of Congress, to make a survey and ascertain the cost of the enlargement of the canal. General Weitzel reports that it will cost \$900,000 to make the enlargement. The company will be compelled to go on and do this work, if we do not make this appropriation. Now, Mr. Speaker, the five gentlemen who have charge of the canal—

Mr. SPALDING. Do they not own the work?

Mr. EGGLESTON. They do not own the work. The Government owns it.

Mr. SPALDING. They have the control of it.

Mr. EGGLESTON. No, they have not the control of it. The Government can take it out of their hands whenever it may please. With the same propriety the gentleman might say that the Secretary of War owns this Government because he has charge of the War Department.

But, Mr. Speaker, I do not wish to be diverted from my argument. These five individuals have no personal interest in this work. The Government of the United States owns the canal. We propose in this bill that the Government shall take charge of the canal, pay off the indebtedness, and finish the enlargement, so that the largest boats may go through.

Now, sir, I desire for a few minutes the attention of the gentleman from Illinois, [Mr. WASHBURN,] the chairman of the Committee on Commerce. I ask that gentleman why he should oppose the improvement of the canal around the falls at Louisville, when Congress has granted an appropriation to improve the rapids at Des Moines? If, when we made the appropriation for the Des Moines rapids, the appropriation for the Louisville canal had been proposed, I know the gentleman would not have undertaken to oppose the latter appropriation. But when I brought the subject up before the Committee on Commerce it was said, "There has been no survey." So I had to content myself with going before the Department and asking a survey, which, under a resolution of Congress, has now been made. We now come and ask this Congress to do for the Louisville canal just what it did for the canal around the Des Moines rapids. When the canal around the Des Moines rapids is completed the navigation is to be free. Yet, when boats traversing the Ohio river pass through the Louisville canal they must pay a toll of fifty cents per ton. And the chairman of the Committee on Commerce proposes that this state of things shall continue. I know he would not have made such a proposition in the Thirty-Ninth Congress when the appropriation for the Des Moines rapids was asked.

Without going into the figures I undertake to say that three steamboats pass through the canal or over the falls at Louisville for every one that passes around the falls or over the rapids at Des Moines. Yet the gentleman from

Illinois would have us strike out this provision for the Louisville canal. I hope, Mr. Speaker, that it will not be done. I trust we shall not continue to tax the commerce of fifteen States to sustain this work which should be made free by the action of the General Government. I trust we shall not inflict the injustice proposed upon the commerce of the Ohio river.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. Mr. Chairman, I rise to oppose the amendment to the amendment. I am opposed to this section, not because of the "economical streak" which the gentleman says has come over me particularly at this time, but for various other reasons. In the first place, this is a section which has no business in this bill. It has no proper place in a river and harbor bill. It is a matter belonging expressly to the Committee on Roads and Canals, and to that committee the subject should have been referred for examination and for full and elaborate report. If the matter had been referred to that committee it could not have been "log-rolled" with the river and harbor bill which we have now before us.

Now, sir, I am opposed to it, not only because it is not right in this place, but I am opposed to it because it takes from the Treasury \$450,000 and assumes an indebtedness of \$1,567,000, demanding of us here, who represent the people, under a five-minutes debate to add over two million dollars to the burdens of the already oppressed people of this country. Yes, sir, in a five-minutes debate, without any report from the Committee on Commerce, going over this whole subject, we propose to buy this canal from the State of Kentucky and tax our constituents for that purpose in a section of seventeen lines. Why, sir, if this should pass at all it is a subject which should have been most thoroughly considered, most thoroughly and elaborately provided for in a bill by itself, and previously a commission should have been appointed to examine into the whole subject and report to Congress. But, sir, that was not considered necessary. It was supposed if they got it into a bill with seventy-five or eighty other items, in which every section was interested, it would go through, as I presume it will go through this House.

Mr. MUNGEN rose.

Mr. WASHBURN, of Illinois. I cannot yield now.

Mr. Speaker, let me say to my friends on this side of the House—I know my friends on the other side may go for these appropriations—that we are piling up wrath against the day of wrath at the hands of the people. We are responsible for it, and no man on this side of the House who votes for these extravagant appropriations can go home without being called upon to defend himself from votes of this character.

What, sir, is proposed here? Look at the bill before the House. It is to carry on works already begun—at least it is so advocated. What is this here? For a breakwater at Block Island, Rhode Island, \$74,000, a new work entirely, and yet in this haste we of the West are called upon now to initiate these new works in the East. I am willing to go as far as any man in this direction. I am in favor of protecting our commerce and clearing out the rivers where these are national works; but, sir, I am opposed to taking money out of my constituents' pockets for the purpose of building a harbor for lumbermen in the district of my friend from Michigan, [Mr. FERRY.] I am opposed to such appropriations. We have some meritorious works provided for in this bill, and therefore I have voted against laying the bill upon the table, hoping that we may so adjust it as to secure all our votes in its favor.

[Here the hammer fell.]

Mr. GROVER. I withdraw the amendment to the amendment.

Mr. CARY. I renew it.

Mr. Chairman, whatever may be thought of other appropriations in this bill, there can be no improvement more national in its character or more far-reaching in its results than this.

Not those only who live on the borders of the Ohio, which is navigable for over one thousand miles, but those on the upper and lower Mississippi and its tributaries, who require the manufactures of Pittsburg, Cincinnati, and the countless cities and villages on either side of the Ohio—those who use lumber, coal, iron, and salt—those who consume the grains and fruits and vegetables so abundantly produced along this great highway of commerce, require that this obstruction should be removed. The commerce of the Ohio the past year, two thirds of which must pass the falls at Louisville, amounted to \$898,000,000. There are upon this river (without including some large boats which never get above the falls) three hundred and sixty-six steamboats and ninety-one model barges, with a capacity of 183,372 tons. They make an average of eighteen trips per annum, transporting 3,300,696 tons of merchandise. By reason of the limited length of the present locks boats of only eight hundred tons capacity can pass through—by the enlargement of the canal to correspond with the new locks now completed and ready for use boats of a capacity of thirty-two hundred tons will be accommodated. These eight hundred ton boats are now necessarily constructed solely with reference to capacity, and all advantages of models, so as to secure speed, are sacrificed. By the enlargement of the canal the tonnage capacity of the boats may be quadrupled, but with better model their speed, will be greatly increased. Now, from ten to fourteen days are required to make the trip from New Orleans to Cincinnati, when with improved model, which is now sacrificed to pass this obstruction, the trip could be made in eight or nine days.

Again, the expense of running a boat of eight hundred tons capacity is nearly as great as the running of one of thirty-two hundred tons. The officers are the same. The larger boat requires more fuel, an increase in the number of the crew, and a larger supply of stores. The principal difference is in the expense of loading and unloading cargo. All these disadvantages are more than overcome by the increase of speed, and consequent saving of time; so that the freights could be reduced three fourths without diminishing the profits of the steamboat owners. The large boat would have the same margin of profit with freights at twelve and a half cents per hundred pounds as the small boats now have with freights at fifty cents per hundred. When the Ohio river is high, so that large boats can pass the falls without using the canal, the price of carrying cargo from Cincinnati to New Orleans, a distance of fifteen hundred and ninety miles, is only twenty-five cents per hundred pounds, and corresponding rates are charged between other cities using this river as a highway. Let this improvement be completed, and the average freights through the year would be greatly reduced and the commerce greatly enlarged. The East, as well as the West and South, are deeply interested in this enlargement. The price charged for carrying cotton from Memphis to Cincinnati is \$1 50 per bale; complete this work and it could be transported at forty cents. With this reduction in expense immense amounts of this staple would find its way through this channel to its eastern or European market, avoiding the perils of a voyage by sea. Sugar, molasses, and other productions would also be distributed to the points of trade at less expense.

The entire expense of this enlargement, including what has been expended and the appropriation contemplated, will be \$2,017,000.

The section provides that hereafter there shall be no tolls charged except a pittance to operate the locks and keep them in repair; but the value and importance of the enlargement may be seen from a comparison of the tolls if present rates were imposed.

As two thirds of the merchandise transported on this river passes this point, or two million tons per annum, or one million custom-house measure at the present rate of tolls, (fifty cents per ton,) we would realize \$500,000, or twenty-

five per cent. per annum, on the entire cost of the work. It is reasonable to suppose that the commerce would be increased one half, which would, at the same rate, yield \$750,000 per annum, paying the entire cost of the work in three years. With or without tolls this impediment in this great national highway should be at once removed.

Mr. SHANKS. Mr. Chairman, my purpose in taking the floor at this time is not so much to oppose the amendment as to call attention to the latter part of this section where it is proposed to retain the present tax on the commerce of the country of the upper Ohio and its tributaries. I think it is a great wrong done to the people of that vast region watered by the Ohio river. I think it is unjust that while the Government is spending money in all parts of the country, opening rivers, clearing harbors, and making other public improvements with money taken from the public Treasury of the people, that there should still be a tax imposed upon the commerce of the Ohio river. I hope the provision will be stricken out, and that the commerce of that river shall be unrestrained. Strike out all after the word "tribute" in the fourteenth line of third section of the printed bill.

Mr. ELIOT moved that all further debate on the pending section be closed.

The motion was agreed to.

Mr. CARY withdrew his amendment to the amendment.

Mr. WASHBURN, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 44, nays 78, not voting 72; as follows:

YEAS—Messrs. Bailey, Baker, Baldwin, Banks, Beatty, Benton, Boutwell, Brownell, Sidney Clarke, Cobb, Covode, Culiom, Delano, Eln, Farnsworth, Ferriss, Getz, Haight, Halsey, Hinds, Hulburd, Ketcham, George V. Lawrence, William Lawrence, Loughridge, Marvin, Miller, Morrell, Pomeroy, Randall, Ross, Scofield, Smith, Spalding, Starkweather, Aaron F. Stevens, Taffe, Taylor, Thomas, Trowbridge, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, and Stephen F. Wilson—44.

NAYS—Messrs. Adams, Anderson, Archer, Arnell, Delos R. Ashley, Axtell, Barnes, Beak, Boles, Buckland, Koderick R. Butler, Cary, Churchill, Coburn, Dixon, Driggs, Eggleston, Eldridge, Eliot, Ferry, Garfield, Golladay, Grover, Harding, Hawkins, Higby, Holman, Hotchkiss, Chester D. Hubbard, Humphrey, Jencks, Johnson, Jones, Julian, Kerr, Loan, Mallory, Marshall, Maynard, McClure, McCormick, McKee, Moorhead, Mungen, Myers, Newcomb, Niblack, O'Neill, Orth, Paine, Perham, Phelps, Pike, Pile, Plants, Poland, Polesley, Price, Raum Robinson, Sawyer, Shanks, Shellabarger, Stewart, Stokes, Lawrence S. Trimble, Twichell, Unson, Van Aernam, Van Auken, Burt Van Horn, Robert T. Van Horn, Van Trump, Henry D. Washburn, Welker, William Williams, John T. Wilson, and Woodward—78.

NOT VOTING—Messrs. Allison, Ames, James M. Ashley, Barnum, Beaman, Benjamin, Bingham, Blaine, Blair, Boyer, Brooks, Broomall, Burr, Benjamin F. Butler, Cake, Chanier, Reader W. Clarke, Cook, Cornell, Dawes, Dodge, Donnelly, Eckley, Fields, Finney, Fox, Glossbrenner, Gravelly, Griswold, Hill, Hooper, Hopkins, Asabel W. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Judd, Kelley, Kelsey, Kitchen, Knott, Koontz, Laffin, Lincoln, Logan, Lynch, McCarthy, McCullough, Mercer, Moore, Morrissey, Mullins, Nicholson, Nunn, Peters, Pruyn, Robertson, Root, Schenck, Selye, Sitgreaves, Thaddeus Stevens, Stone, Taber, John Trimble, Ward, William D. Washburn, Thomas Williams, James F. Wilson, Windom, Wood, and Woodward—72.

So the motion to strike out the third section was disagreed to.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled the joint resolution (H. R. No. 316) extending the time for the completion of the Northern Pacific railroad; when the Speaker signed the same.

#### RIVER AND HARBOR BILL—AGAIN.

The Clerk then read the fourth and last section of the bill, as follows:

SEC. 4. And be it further enacted, That the Secretary of War is hereby directed to cause examinations or surveys, or both, to be made at the following points, namely: at the harbor of Black Rock, Connecticut; at the entrance of Cuttyhunk harbor, Vineyard sound, in view of the erection of breakwater; at Passaic river, and at Absecon inlet, in New Jersey; at Christiana river, Delaware; at the harbor of

Chester, Pennsylvania; at Waukegan, Illinois; at the Illinois river, from its mouth toward the western terminus of the Illinois and Michigan canal; at the mouth of Menomonee river, dividing the States of Wisconsin and Michigan; at the harbor of Port Washington, in Wisconsin; at the Osage river, Missouri; at Reedy Island and Liston's Tree, in Delaware river and bay; at and above the mouth of Schuylkill river, in view of the removal of bars. And the Secretary of War shall make full report thereof to Congress, with plans and estimates of cost, and with such recommendations in regard thereto as the interests of navigation shall require.

Mr. HINDS. I move to amend by inserting after the word "breakwater," in line six, the words "at Ouachita river, Arkansas."

The amendment was agreed to.

Mr. WASHBURN, of Indiana. I move to insert at the end of line fourteen the words "and at and above the mouth of the Wabash river as far as Lafayette, Indiana."

The amendment was agreed to.

Mr. CORNELL. I move to insert after the word "Jersey," in line seven, the words "at the entrance of Rondout harbor, on the Hudson river, New York."

The amendment was agreed to.

Mr. AXTELL. I move to insert after the word "bars," in line fifteen, the following:

At the mouth of Eel river; and at the port of San Pedro or Wilmington, on the coast of California, with reference to the improvement of said harbors; and at the point near the mouth of the Sacramento river known as the "Hog's back" with reference to removing said bar.

Mr. ELIOT. I hope that amendment will not prevail. I think we have now about as many points in the section as the money appropriated will cover.

Mr. AXTELL. As a member of the Committee on Commerce I hope the gentleman who has charge of this bill will not object to my amendment. I desire to say to him that the Senate has passed a joint resolution, which has been referred to our committee, including these points, together with some others on the coast of California. They are points of very considerable importance, and particularly Wilmington or San Pedro. I regret that my absence in California prevented my meeting with the committee at the time when these points were being considered. At San Pedro the Government ships all its goods to Arizona, and some improvements there would save to the United States a great deal of money now expended on landing goods. The point on Eel river has been recommended by our Legislature as well as San Pedro. My friend from the second district [Mr. HIGBY] presented the resolutions of the State Legislature in relation to both these points. The point on the Sacramento river where it enters into the bay of San Francisco relates to the whole commerce of that great stream, and is constantly needing and receiving from private companies some assistance. We bring down from the mountains such vast amounts of earth by means of our mining that a bar is being formed there that certainly ought to be removed and looked after by the General Government for fear we should lose the navigation of that great river. My amendment asks simply for a survey, and I think it ought not to be objected to. I hope the House will pass favorably upon it.

Mr. ELIOT. I ask a vote on the amendment; and I move that all debate upon this section be closed.

The motion to close debate was agreed to.

The question was then taken on Mr. AXTELL's amendment; and it was agreed to.

Mr. McCORMICK. I move to insert after the word "river," in line thirteen, the words "and at Big Black river."

The amendment was disagreed to.

Mr. LYNCH. I move to amend this section by adding to the first sentence, after the words "removal of bars," the words "at the harbor of Cape Porpoise, Maine."

The amendment was agreed to.

Mr. MILLER. I move to amend this section by inserting at the proper place the following:

And also from the mouth of the Susquehanna river at the Chesapeake bay, to Lake Ontario, in the



State of New York, to ascertain the probabilities of a slack-water navigation between said points for steam-boats, &c.

The question was taken on the amendment of Mr. MILLER; and, upon a division, there were—ayes twelve, noes not counted.

So the amendment was not agreed to.

Mr. SAWYER. I move to amend this section by striking out the words "Menomonee river, dividing the States of Wisconsin and Michigan," and inserting the words "Ocontee river, Wisconsin." The clause in this section, as it now stands, was inserted by mistake. My amendment is merely for the purpose of correcting that mistake.

The amendment of Mr. SAWYER was agreed to.

Mr. ROOTS. I move to insert after the amendment just adopted the following:

At the White river in Arkansas, from its mouth to Batesville, and the Black river from its mouth to Pocahontas, in the same State.

This is for a river eight hundred miles long, and the natural channel of commerce—

Mr. SPALDING. I object to debate.

The SPEAKER. Debate is not in order.

The amendment of Mr. ROOTS was agreed to.

Mr. ARNELL. I move to amend this section by adding to the first sentence the words "to survey the Harpeth shoals, on the Cumberland river, with a view to the improvement of said river."

The question was taken; and upon a division there were—ayes thirty.

Before the result of the vote was announced, Mr. ARNELL called for the yeas and nays.

The question was taken upon ordering the yeas and nays; and, upon a division, there were five in the affirmative.

So (the affirmative not being one fifth of the last vote) the yeas and nays were not ordered.

The amendment of Mr. ARNELL was not agreed to.

Mr. McKEE. I move to amend this section by adding to the first sentence the words "at Big Sandy river, from its mouth to Piketon."

The amendment was not agreed to.

Mr. McCORMICK. I move to amend this section by adding to the amendment adopted on motion of the gentleman from Arkansas [Mr. ROOTS] the words "and to Poplar Bluff, on Black river."

The amendment was agreed to.

Mr. MILLER. I move to amend the bill by adding what I send to the Clerk's desk to be read.

The Clerk read as follows:

Sec. —. And be it further enacted, That the Secretary of War be, and is hereby, authorized and directed to cause a survey to be made from the mouth of the Susquehanna river at the Chesapeake bay to Lake Ontario, in the State of New York, in order to ascertain the practicability of a slack-water navigation for steamboats, &c.

Mr. MILLER. Is this amendment debatable?

The SPEAKER. It is not. After the previous question has been ordered on the last section of a bill, all additional sections are regarded as amendments to that section.

Mr. MILLER. I ask unanimous consent to have a memorial read.

Mr. WASHBURN, of Illinois. I object.

Mr. MILLER. My amendment does not call for any appropriation.

The SPEAKER. No debate is in order.

The amendment of Mr. MILLER was not agreed to.

No further amendment was offered to the bill.

Mr. ELIOT. I call the previous question on the bill as amended.

The previous question was seconded and the main question ordered.

The question was upon the engrossment of the bill.

The SPEAKER. The gentleman from Illinois [Mr. WASHBURN] has reserved the right to demand, under the rule, a separate vote on each item of appropriation contained in the first and third sections of this bill.

Mr. RANDALL. I would ask the gentleman from Massachusetts [Mr. ELIOT] what

amount of money is appropriated by this bill as it now stands?

Mr. ELIOT. As originally reported by the Committee on Commerce, about four million one hundred and thirty thousand dollars.

Mr. RANDALL. How much has been added by the House?

Mr. ELIOT. I have not the aggregate of the figures; I should say from one hundred and fifty to one hundred and seventy thousand dollars.

Mr. WASHBURN, of Illinois. How does the gentleman make out only \$4,000,000?

Mr. RANDALL. Does the gentleman include in his statement the Louisville canal bonds?

Mr. ELIOT. They are not included.

Mr. WASHBURN, of Illinois. That makes the amount over six million dollars.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. POLSLEY.

Leave of absence was granted to Mr. RANDALL for one week after Thursday next.

Indefinite leave of absence was granted to Mr. BINGHAM.

Leave of absence was granted to Mr. HAIGHT for ten days after to-morrow.

Indefinite leave of absence was granted to Mr. ELDRIDGE after Wednesday next.

Indefinite leave of absence was granted to Mr. WOODWARD after Tuesday next.

Indefinite leave of absence was granted to Mr. HUMPHREY after Wednesday next.

Indefinite leave of absence was granted to Mr. KERN after Thursday next.

Mr. NIBLACK. I ask leave of absence after Tuesday next.

Mr. MAYNARD. Will the gentleman from Indiana [Mr. NIBLACK] inform us how long he expects to be absent?

Mr. NIBLACK. That depends very much on circumstances.

Leave was granted.

Mr. TRIMBLE, of Kentucky, asked and obtained indefinite leave of absence after to-day.

Mr. BARNES and Mr. GROVER asked and obtained indefinite leave of absence after Wednesday next.

Mr. BECK asked and obtained indefinite leave of absence after to-morrow.

Mr. TROWBRIDGE. Mr. Speaker, I desire to inquire how far the members now in attendance exceed a quorum?

The SPEAKER. Considerably more than a quorum are in attendance.

Mr. ELDRIDGE. If gentleman on the other side think they cannot get along without us, they had better adjourn over. We want to attend the Democratic convention.

#### ENROLLED BILL SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 522) to authorize the proper accounting officers of the Treasury to settle the accounts of Andrew S. Core.

#### RIVER AND HARBOR BILL.

The SPEAKER. The House resumes the consideration of the river and harbor bill. In accordance with Rule 121, relating specially to bills making appropriations for internal improvements, a separate vote may be demanded on the engrossment of any item. The portions of the bill on which a separate vote is not demanded will be regarded as ordered to be engrossed. The Clerk will report the bill.

The Clerk proceeded to read the bill.

Mr. WASHBURN, of Illinois, called for a separate vote on the engrossment of the following clause:

For improvement of the Wisconsin river, \$40,000.

On a division, there were—ayes 48, noes 42.

Mr. WASHBURN, of Illinois, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 63, nays 60, not voting 71; as follows:

YEAS—Messrs. Adams, Allison, Anderson, Arnell, Delos R. Ashley, Axtell, Banks, Roderick R. Butler, Churchill, Cobb, Cornell, Dixon, Donnelly, Driggs, Eggleston, Eldridge, Eliot, Ferry, Garfield, Harding, Hawkins, Higby, Hinds, Hotchkiss, Humphrey, Ingersoll, Jenckes, Loan, Loughridge, Maynard, McClurg, McKee, Miller, Moorhead, Mullins, Newcomb, Niblack, O'Neill, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Pomeroy, Price, Pruyn, Sawyer, Starkweather, Stewart, Stokes, Lawrence S. Trimble, Twichell, Upson, Van Aernam, Van Auken, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, James F. Wilson, and Windom—63.

NAYS—Messrs. Ames, Archer, Bailey, Baker, Beatty, Benjamin, Benton, Bingham, Boutwell, Brownell, Buckland, Cary, Coburn, Cullom, Delano, Eckley, Ela, Farnsworth, Ferriss, Getz, Golladay, Haight, Holman, Chester D. Hubbard, Hulburd, Jones, Julian, Kelsey, Ketcham, Kitchen, George V. Lawrence, William Lawrence, Mallory, Marshall, Marvin, Mercer, Morrill, Myers, Orth, Randall, Raum, Ross, Scofield, Shanks, Shellabarger, Spalding, Aaron F. Stevens, Taffe, Taylor, Thomas, Van Trump, Van Wyck, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, William Williams, Stephen F. Wilson, Woodbridge, and Woodward—60.

NOT VOTING—Messrs. James M. Ashley, Baldwin, Barnes, Barnum, Beaman, Beck, Blaine, Blair, Boies, Boyer, Brooks, Broomall, Burr, Benjamin F. Butler, Cake, Chanler, Reader W. Clarke, Sidney Clarke, Cook, Covode, Dawes, Dodge, Fields, Finney, Fox, Glessbrenner, Gravely, Griswold, Grover, Halsey, Hill, Hooper, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Johnson, Judd, Kelley, Kerr, Knott, Koontz, Laffin, Lincoln, Logan, Lynch, McCarthy, McCormick, McCullough, Moore, Morrissey, Munger, Nicholson, Nunn, Phelps, Polsley, Robertson, Robinson, Roots, Schenck, Selye, Sitgreaves, Smith, Thaddeus Stevens, Stone, Taber, John Trimble, Trowbridge, Ward, John T. Wilson, and Wood—71.

So the clause was ordered to be engrossed.

Mr. RANDALL. I think that we have wasted money enough to-day. I move that the House adjourn.

Mr. ELIOT. I hope the motion will not be agreed to. We want to pass this bill to-day and get it out of the way.

On the motion there were—ayes 53, noes 54.

Mr. RANDALL. I call for tellers.

Tellers were ordered; and Mr. RANDALL and Mr. ELIOT were appointed.

The House divided; and the tellers reported—ayes 57, noes 62.

So the motion to adjourn was not agreed to.

The Clerk resumed the reading of the bill, and read the following:

For improvement of Marquette harbor, Lake Superior, \$20,000.

Mr. WASHBURN, of Illinois. I call for a separate vote on the engrossment of that clause. It will take \$385,000 to finish that work.

Mr. ELIOT. The work is now under way, and this appropriation is needed.

On a division there were—ayes 54, noes 46.

Mr. WASHBURN, of Illinois, called for the yeas and nays.

The yeas and nays were ordered.

Mr. FARNSWORTH. I move that the House adjourn.

The motion was not agreed to; there being—ayes 58, noes 65.

The question recurred on ordering the engrossment of the clause for the improvement of Marquette harbor, Lake Superior.

The question was taken; and it was decided in the affirmative—yeas 75, nays 49, not voting 70; as follows:

YEAS—Messrs. Adams, Allison, Ames, Anderson, Arnell, Delos R. Ashley, Axtell, Banks, Barnes, Beck, Boies, Buckland, Roderick R. Butler, Churchill, Cobb, Coburn, Cornell, Dixon, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Ferry, Garfield, Grover, Harding, Higby, Hinds, Hotchkiss, Chester D. Hubbard, Humphrey, Ingersoll, Jenckes, Kerr, Loan, Lynch, Maynard, McClurg, McCormick, McKee, Moorhead, Morrill, Mullins, Myers, Newcomb, O'Neill, Paine, Perham, Peters, Poland, Pomeroy, Price, Pruyn, Raum, Robinson, Roots, Sawyer, Scofield, Smith, Spalding, Starkweather, Aaron F. Stevens, Stokes, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, James F. Wilson, and Windom—75.

NAYS—Messrs. Bailey, Baker, Beatty, Benton, Brownell, Benjamin F. Butler, Cake, Cary, Cullom, Delano, Eckley, Ela, Ferriss, Getz, Golladay, Haight, Holman, Hulburd, Johnson, Jones, Julian, Kelsey, Ketcham, Kitchen, George V. Lawrence,

William Lawrence, Loughridge, Marvin, Mercer, Miller, Niblack, Orth, Phelps, Randall, Rens, Shanks, Shellabarger, Taffe, Taylor, Thomas, Lawrence S. Trimble, Van Auker, Van Trump, Elihu B. Washburne, Welker, William Williams, Stephen F. Wilson, and Woodward—49.

NOT VOTING—Messrs. Archer, James M. Ashley, Baldwin, Barnum, Beaman, Benjamin, Bingham, Blaine, Blair, Boutwell, Boyer, Brooks, Broomall, Burr, Chanler, Reader W. Clarke, Sidney Clarke, Cook, Covode, Dawes, Dodge, Eldridge, Fields, Finney, Fox, Glossbrenner, Gravelly, Griswold, Halsey, Hill, Hooper, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Judd, Kelley, Knott, Koonz, Lafin, Lincoln, Logan, Mallory, Marshall, McCarthy, McCullough, Moore, Morrissey, Mungen, Nicholson, Nunn, Pike, Pile, Plants, Polsley, Robertson, Schenck, Selye, Sitgreaves, Thaddeus Stevens, Stewart, Stone, Taber, John Trimble, Van Wyck, Ward, William B. Washburn, John T. Wilson, Wood, and Woodbridge—70.

So the clause was ordered to be engrossed.

Mr. HOLMAN moved that the House do now adjourn.

The House divided; and there were—ayes 60, noes 56.

Mr. JULIAN demanded tellers.

Tellers were ordered; and Mr. JULIAN and Mr. HAIGHT were appointed.

The House again divided; and there were—ayes 67, noes 57.

Mr. PRICE demanded the yeas and nays.

The yeas and nays were not ordered.

The SPEAKER. The Chair will state that this bill will be resumed immediately after the reading of the Journal to-morrow.

So the motion was agreed to; and (at four o'clock and thirty-eight minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. PRUYN: The petition of John Ahern, of Albany, asking indemnity for the loss sustained by him in furnishing certain supplies to the Army in the year 1863.

By Mr. ROBINSON: The petition of John T. Hildreth, of Brooklyn, asking an appropriation to erect a monument in Fort Green, Brooklyn, to the memory of the victims of the Jersey prison ship.

By Mr. STEVENS, of Pennsylvania: The petition of 48 citizens of Columbia, Pennsylvania, setting forth that the productive interests of the country are suffering and its industry paralyzed for want of efficient protection against the cheaper labor and capital of foreign countries, and praying that Congress will resume its consideration of the tariff bill, which passed the Senate and failed in the House March, 1867, and enact it into a law at the earliest practicable moment.

Also, the petition of 47 iron-workers in St. Charles furnace, Columbia, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petitions of 148 iron-workers at Marietta, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 28 workers in Lancaster cotton mills, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 100 nickel miners in Gap mines, Lancaster county, Pennsylvania, praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of W. H. Eagle and 42 others, citizens of Marietta, Lancaster county, Pennsylvania, praying for additional protective duties.

By Mr. VAN AERNAM: The petition of Emily B. Bidwell, widow of Brigadier General Daniel B. Bidwell, for increase of pension.

By Mr. WILSON, of Pennsylvania: The

petitions of Howard Iron Company and Valentine & Co., iron manufacturers in Centre county, Pennsylvania, employing, when in full operation, 260 workmen, 100 of whom are now idle, setting forth that the industry of the country is paralyzed for want of efficient protection against the cheaper capital and labor of foreign countries; that much of the distress now prevalent and daily increasing, would be relieved by the passage of the tariff bill, which failed in the House, March, 1867, and praying Congress to resume consideration of that measure and enact it into a law at the earliest practicable moment.

#### IN SENATE.

TUESDAY, June 30, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### MILITIA FORCE IN TEXAS.

The PRESIDENT *pro tempore* presented resolutions of the constitutional convention of Texas, asking Congress to authorize that convention to organize a militia force in that State to act in conjunction with and under the military commander therein for the protection of the lives and property of the citizens; which were referred to the Committee on Military Affairs and the Militia.

#### SENATOR FROM FLORIDA.

Mr. HOWE. I desire to submit to the Senate a certified copy of an ordinance of the Legislature of Florida ratifying the thirteenth and fourteenth amendments of the Constitution of the United States, and to submit with that the credentials of Hon. T. W. Osborn, a Senator-elect from that State. I ask that the credentials be read, and that the oath of office be administered to the Senator-elect.

The PRESIDENT *pro tempore*. The credentials will be read.

The Chief Clerk read as follows:

EXECUTIVE OFFICE, STATE OF FLORIDA.  
TALLAHASSEE, June 18, 1868.

This is to certify that in accordance with the provisions of the act of Congress entitled "An act to regulate the times and manner of holding elections for Senators in Congress," approved July 25, 1866, the Senate and Assembly of the State of Florida, chosen under and by virtue of the constitution framed in accordance with the reconstruction acts of Congress, did this day convene in joint Assembly and proceeded to elect a Senator in the Congress of the United States to fill the term expiring on the 3d day of March, A. D. 1873.

And I do further certify that Thomas Ward Osborn received a majority of the votes of the said joint Assembly, a majority of all the members elected to both houses being present and voting.

And I do further certify that the said Thomas Ward Osborn has been nine years a citizen of the United States and two years a citizen of the State of Florida, and is a registered voter.

Therefore, by virtue of the authority vested in me, and in pursuance of the requirements of the constitution of the State, I do hereby accredit the said Thomas Ward Osborn, as Senator in the Congress of the United States, to fill the said term expiring on the 3d day of March, A. D. 1873.

In witness whereof, I have hereunto set my hand and affixed the great seal of the State of Florida.

HARRISON REED, Governor.

The PRESIDENT *pro tempore*. If there be no objection, the Senator-elect from Florida will advance to the desk and take the oath.

Mr. FESSENDEN. I am not aware of all the facts with reference to the State of Florida, whether it is in a condition to have a Senator admitted. I will inquire if that matter has been examined into by any committee? There are certain conditions to be complied with. I wish to be informed about it.

Mr. HOWE. I have just laid on the table the evidence that the State had complied with the conditions. The act specified that they should be admitted when they had ratified the fourteenth article. The ordinance of the State ratifying the thirteenth and fourteenth articles I have just laid upon the table.

Mr. FESSENDEN. If the Senator has examined the subject, and is satisfied that everything is right about it, I shall not object.

Mr. HOWE. I have no doubt about it.

Mr. DRAKE. The honorable Senator from Wisconsin says that the ordinance of the State is there ratifying the constitutional amendment. I suggest that we know nothing of the ordinance of a State passed by a State Legislature. I wish to have the ratification of the constitutional amendment, if it exists at all, read.

The PRESIDENT *pro tempore*. It will be read if there be no objection.

The Secretary proceeded to read the paper; but before concluding,

Mr. DRAKE. I do not care to have the whole of that document read through. The point upon which I wished information was that which was involved in the statement of the Senator from Wisconsin, that the ordinance of that State was here. I presume that that is a ratification of the constitutional amendment; but I would rather that the document should be referred to a committee to ascertain and report upon that fact before these Senators are admitted. It may be that the constitutional amendments are there set out correctly; it may be that they are not; but this is too grave a matter to be left to any doubt or uncertainty; and as that investigation could be made in the course of an hour or two, or less perhaps, I move that the credentials of the Senator or Senators elect from Florida, together with the document now purporting to be a ratification of the constitutional amendment, and produced before us, be referred to the Committee on the Judiciary, merely for the purpose of examining whether all the facts exist which entitle these gentlemen to be sworn in. The committee can better examine it than we can in open session.

Mr. FESSENDEN. There is another question whether the ratification has been, according to law, communicated to the Department of State. I believe the Secretary of State is by law required to announce when a sufficient number of States have ratified a constitutional amendment to make it a part of the constitution.

Mr. HOWARD. I do not think that ancient statute applies to the seceding States.

Mr. FESSENDEN. It is a general statute, and must apply to all the States.

Mr. HOWARD. I think the papers had better be referred to the committee.

Mr. FESSENDEN. And I wish the committee to inquire into that fact also.

Mr. HOWARD. I beg also to call the attention of the committee especially to the language in which this ratification is couched. The Constitution requires the Legislatures of the several States to "ratify" an amendment of the Constitution of the United States. I observe that in the present instance the Legislature of Florida have used the word "adopted."

"Resolved by the people of the State of Florida in Senate and Assembly represented, That the following proposed amendments to the Constitution, known as articles thirteen and fourteen, be, and the same are hereby, adopted."

I should rather think upon first blush that would be a sufficient ratification, but still I desire to call the attention of the Judiciary Committee particularly to that language, in order that we may be informed whether that word is a perfect compliance with the constitutional requirement.

Mr. FERRY. The motion now is that the credentials of the Senators-elect, and the ratification of the constitutional amendments, be both referred to the Judiciary Committee. I would suggest to the Senator from Missouri that the credentials lie upon the table, and the ordinance of ratification alone be referred to the Judiciary Committee, as we refused the other day to refer the credentials of the Senators from Arkansas. I move that amendment.

Mr. DRAKE. There is a reason for referring the credentials along with the supposed resolution of ratification. An act of Congress requires that in the election of Senators the two houses of the Legislature of any State shall first vote separately for Senators. That applies to this State as well as every other. Now, the question is presented here whether the Senate will recognize credentials of Senators which do

not show that fact. These credentials, if I heard them read correctly, indicate that the Legislature of Florida, in the first instance, met in joint session for the election of a Senator. I wish that matter to be investigated by the Committee on the Judiciary. I wish it distinctly understood, though, Mr. President, that I do not make this motion for the purpose of interposing any difficulty in way of the admission of Senators from Florida; all that I want is that we should see and know what we are about; that we should know that they are entitled to admission, and as soon as we know that fact admit them. I think it is better that both the credentials and the supposed resolution of ratification go to the Committee on the Judiciary.

Mr. HOWE. Mr. President, I dare say the Senator from Florida, now on the floor and awaiting admission, has no particular objection to having his credentials and this act referred to any committee of the Senate, if the Senate sees fit to do so. I believe that step was not taken in the case of the representatives who appeared here the other day from the State of Arkansas. It is not ordinarily done with credentials which are brought here by the representatives of States. It should not be done except upon some grave doubt as to the propriety of the individuals taking their seats. The Senate will remember that I have not been one of those who have hungered and thirsted for representatives from these southern States. The two Houses have declared solemnly, however, that when they did ratify, not as the Senator from Maine [Mr. FESSENDEN] seemed to suppose when the fourteenth article became a part of the Constitution of the United States, but when these several States by their Legislatures should ratify the fourteenth article, they should be admitted and have the same right to representation that New York or any other State had. I have submitted what I supposed was evidence that the Legislature of Florida had ratified the fourteenth article; I have submitted what I supposed were the credentials of that State attesting the election of the gentleman whose name is borne on the face of the paper. If Senators who have insisted on having this State admitted at once still say they doubt the right of this man to represent the State, or doubt the right of the State to have a representative, I shall give way to that doubt, and in order to solve it shall consent to let these credentials and this act go to a committee; but until a Senator he does doubt the propriety either of one or the other. I think you ought to treat it as a State, and this gentleman as the representative of that State.

Mr. POMEROY. I think the credentials do not show that the Legislature of the State went into joint convention on the first balloting. They show that they went into a joint convention according to the act of Congress, and therefore it could not have been at first. The language of the credential is that under the act of Congress they proceeded in joint convention to elect Senators; and if they proceeded under the act of Congress of course they voted the first day in separate houses. I have no objection to the matter being referred to a committee if we can have an immediate report. I do not want any unfriendliness manifested when any State comes now to be represented under our system and form. I hope this will not be regarded as an unfriendly act; and if it is simply to see that everything is correct I have no objection to its being referred, but I want an early report.

Mr. DRAKE. I expressly stated that it was not unfriendly on my part.

Mr. MORTON. These credentials evidently refer to the joint convention provided by the act of Congress to take place on the second day. Perhaps it was not thought necessary to set forth that they had met in separate houses on the first day and proceeded to vote, but it refers only to the joint convention which declares the election.

Mr. WILSON. They did vote the first day in separate houses, and made no choice.

Mr. MORTON. The credentials make this statement:

"In accordance with the provisions of the act of Congress entitled 'An act to regulate the times and manner of holding elections for Senators in Congress,' approved July 25, 1866, the Senate and Assembly of the State of Florida, chosen under and by virtue of the constitution framed in accordance with the reconstruction acts of Congress, did this day convene in joint Assembly and proceeded to elect a Senator in the Congress of the United States."

Mr. DRAKE. "Proceeded to elect!"

Mr. MORTON. Yes, sir. I suppose they regarded the declaration or election made in the joint convention of the Legislature as the thing to be referred to. It says the election was held in accordance with the act of Congress. It may have been that there was no election the first day; the two houses may not have agreed.

Mr. WILSON. That was the case. They voted separately on the first day, and there was no choice; and they then went into convention the next day.

Mr. MORTON. So that that makes the language perfectly exact and legal in accordance with the act of Congress. If the two houses fail on the first day, then they come together in joint convention, and if a majority of both houses are present they then proceed to elect according to the old manner of holding the election. The language is perfectly correct.

Mr. HOWARD. I do not understand that the act of 1866, relating to the election of Senators to Congress, is applicable to the reconstructed States. All these proceedings which have resulted in elections, so far as there have been elections in the recently rebel States, have been taken under the reconstruction laws, all of which were passed subsequently to the general act of 1866, and it is impossible to give that act a strict application to the state of things existing in those States. These elections are had under the reconstruction acts, and not under the act of 1866, so that I entertain myself no doubt at all as to the right of one of these rebel States to elect their Senators according to their own ideas without any strict reference to the act of 1866. Then the question comes up before the Senate regularly as to the fairness and propriety of the election. We are not bound, and I do not think those States are bound, by the statute of 1866, in reference to the election of Senators. But still I care but very little about the form of the credentials. What concerns me most at the present time is the peculiar form of the ratification which comes before us. The Legislature of Florida do not say that they "ratify" these amendments to the Constitution, but that they "adopt" them. That is not strictly constitutional language, and I wish to have a reference of the papers to the Committee on the Judiciary for the very purpose of calling their attention to the peculiar phraseology of this ratification. If it is all right I shall be quite content to admit the Senators. That is a point of great importance to me.

Mr. SUMNER. I will remind my friend, the Senator from Michigan, that though the Constitution uses the term "ratify," yet common usage does use the term "adopt." We familiarly speak of the "adoption" of the constitutional amendment; and I think we may reasonably conclude that the Legislature of Florida in using the common language meant the constitutional idea. Indeed, I cannot doubt that they have used language which is operative for the purpose; and yet, as a learned Senator has suggested a doubt on the subject, I think it is well worthy of inquiry. I agree with him, therefore, in thinking it better that this document should be referred to the Judiciary Committee for a report. It is the first of a series, and we cannot be too careful in seeing that it is right.

Mr. HOWARD. The language of the Constitution is, that an amendment "when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof," shall become a part of the Constitution. I am not sure by any means but that

the word "adopted" covers the whole ground; but still it is not the constitutional phrase, and I wish the Committee on the Judiciary to look into that particularly. While I am up I will say further that I have observed in the proceedings of some of the other reconstructed States propositions containing similar language; "adopting" the amendment instead of "ratifying" it. Perhaps it is tantamount to "ratify," possibly it is not.

Mr. SUMNER. I think that is the popular term now.

Mr. HOWARD. It is not the constitutional term.

Mr. CONKLING. I wish merely to make a suggestion as to the economy of time. Several Senators prefer a reference of these credentials. The Judiciary Committee meets in the morning to-morrow, and can make a report to-morrow, so that no delay will ensue. I suggest that as half the morning hour has gone already on this subject, it might be agreeable to everybody, as the committee is to meet so soon, to allow the credentials to be referred and reported back, as they will be, promptly.

Mr. TRUMBULL. I have looked at these papers, and I see no earthly object in referring them. We may as well act upon them now as to-morrow.

Mr. CONKLING. We shall save time at least by referring them.

Mr. TRUMBULL. I do not know that we shall. I do not know that the Judiciary Committee can satisfy the Senator from Michigan whether the "adoption" of the constitutional amendment by a Legislature means its "ratification" or not. The credentials are here in due form. I do not see myself why the act of Congress relative to senatorial elections cannot apply to States lately in rebellion as well as to any others. It provides for the election of Senators, and this paper recites that in pursuance of that act of Congress these persons have been elected. We have presented here in an authentic form the evidence of the ratification of the constitutional amendment. Now, what is the Committee on the Judiciary to inquire into? Has anybody suggested anything? The Senator from Michigan has suggested that the "adoption" by the Legislature of Florida of the constitutional amendment may not be a "ratification" of it. If that is the opinion of the Senate, I do not think it can be changed by a report. It seems to me we may as well dispose of this subject now as to refer it. I see nothing in the world to be made by referring these papers. The only object of referring the papers is to inquire into something. There are no facts here to be inquired into which are not perfectly open to the whole country. Everybody knows the condition of Florida and the terms of the act we have recently passed. I think we had better dispose of the question now.

Mr. DRAKE. Mr. President, this is one of those questions in regard to which time is a matter of no consequence. The question is, whether a State has complied with the terms of the act upon which it was to be admitted into the Union again. I am satisfied in my own mind, and should so vote now if called upon, that the resolution which has been presented here, as adopted by the Legislature of Florida, is not a ratification of the constitutional amendment.

Now, sir, I wish to call the attention of the Senate to this fact: the law, as it stands now, requires those resolutions or acts of ratification to be deposited in the office of the Secretary of State; and most strangely and unaccountably he is the individual who is to promulgate the final adoption of the constitutional amendment. The Congress of the United States, according to the law as it stands, has nothing to do with declaring the amendment adopted or ratified by the requisite number of States. He is the individual who is to declare the thing and to authorize its publication as a part of the fundamental law of the land, as any gentleman will find who will consult the statutes on that subject. Now,



sir, suppose that these reconstructed States, instead of using the word "ratify" in their acts or joint resolutions in relation to the constitutional amendment, choose to use the word "adopt," and get their Senators and Representatives in here, and then turn round and say, "We never ratified this thing; we only expressed our adoption of it;" and suppose that the Secretary of State should take sides with them and declare that the constitutional amendment was not ratified by three fourths of the States, what would be the result? We should have their Senators and Representatives in here and the constitutional amendment not ratified.

Mr. FRELINGHUYSEN. I suggest to my friend from Missouri that, in that event, all Congress would have to do would be to pass a law declaring that its declaration that the constitutional amendment was ratified was sufficient, without the Secretary of State doing it.

Mr. DRAKE. That may do very well after the thing is developed; but I am talking about the state of things that exists now; and I say again that, in my opinion, that joint resolution of the two houses of the Legislature of Florida is not a ratification of the constitutional amendment. When the Constitution uses the word "ratify" it uses it in its clear, distinct sense. An "adoption" is not a "ratification" in any definition of the word that we know of in the English language. "To adopt" is "to take or receive as one's own; to select and take, as, to adopt the opinions of another, to adopt a particular mode of husbandry." "To ratify" is "to approve and sanction; to make valid; to confirm; to establish; to settle."

When the Constitution uses the word "ratify," why should we permit this State to use the word "adopt," and to leave the question open afterward whether there is a ratification? Sir, we are bound to see that this constitutional amendment is ratified beyond all question, and we are bound not to admit any Senator into this Chamber from any of these reconstructed States until that State has "ratified" the constitutional amendment, not "adopted" it. It has no business to "adopt" it; all it has to do is to "ratify" what Congress has done, to approve it.

Mr. YATES. I do not think that there is a man in the United States who looks at this thing in the right way, no lexicographer or professor or man of common school education any where, who will not say that an "adoption" of the amendment is a "ratification" of it. I hope the Senate will not pause upon any such question; I will not call it a quibble, for I have too great respect for the Senator from Missouri.

Mr. MORTON. Mr. President, I confess that I am somewhat surprised at this objection. Is the word "ratify" a technical word? Are there not other words in the English language which signify the same thing? Are we after the substance, or are we after a mere technicality? When it is required that these States shall "ratify" an amendment, what does it mean except that they shall agree to it, signify their acquiescence that it shall become a part of the Constitution? Is anything else required? Is anything else meant? Why, sir, if they had said, "we hereby accept this as a part of the Constitution," would not that be equivalent to the word "ratify"?

Mr. DRAKE. That would not be equivalent to "adopt."

Mr. MORTON. If they had said "We will agree to this," would not that be equivalent to the word "ratify"? Would it not convey the same meaning? If they had said, as they do say, "We hereby adopt this," how can they adopt it without agreeing to it? How can they agree to it without ratifying it? They cannot. If they agree to accept it as a part of the Constitution, that is all that is required. Is not that the meaning clearly conveyed by the use of the word "adopt"? As the Senator from Massachusetts has said, that is the popular word. It is used every day in this Senate when we come to speak on that subject. The

question has been made in the Senate within a few weeks past whether the thirteenth article had been "adopted." That is the very word used, and it always conveys the same idea here and elsewhere as if we had said, "Has it been ratified?" Sir, the word "ratify" is not technical. Any language that conveys the idea that the Legislature accepts and agrees to this amendment as a part of the Constitution is sufficient. It would be ridiculous, in my opinion, to send this back to the Legislature of Florida, and say "You have not expressed an acceptance of this article, but you must use the word 'ratify.'"

Mr. HOWE. I said when I was up just now, that since we had agreed to take representatives from the State of Florida, and since we had ascertained that that State has chosen representatives, I thought we ought to receive them unless some Senator should say that he had great doubts as to the propriety of our receiving them at this time. When I made that remark I had heard no such doubt expressed. The Senator from Michigan has since raised a question which he wishes to have examined by the Judiciary Committee. That question is, whether, when the Legislature of Florida say they "adopt" a particular amendment as a part of the Constitution, they do thereby "ratify" that amendment? There seems to me to be so little doubt on that point that I am inclined not to assent to the reference to the Judiciary Committee, but to take the vote of the Senate upon it.

Mr. MORTON, (presenting a dictionary.) Here is a definition of the word.

Mr. DRAKE. I have read the definition from the book.

Mr. MORTON. Very well; I was not aware of it.

Mr. HOWE. The Senator has read the definition of "adopt."

Mr. DRAKE. And "ratify," also.

Mr. HOWE. Well, I do not propose to overrule either of these dictionaries; but I had one suggestion to make, and that is that the Constitution simply requires the Legislature to ratify, and does not require them to say that they ratify. In other words, the Constitution requires that the Legislature shall do something that is a ratification, and does not require them to use that word; and I think the Senator from Indiana was entirely right when he said that if they did anything or said anything which signified their acceptance of a particular proposition as an amendment of the Constitution of the United States that was sufficient; and I am so clear on this point that I think I shall take the vote of the Senate on the question whether they will refer these credentials or whether they will admit the Senators now without saying another word.

Mr. TIPTON. I only desire to say that in "adopting" amendments they adopt them as amendments of the Constitution, and receive them as such.

Mr. FESSENDEN. I hope this matter will go to the committee, simply because there seems to be doubt suggested in the minds of gentlemen. In such a case it is better that the papers should go to the committee. I confess I am somewhat anxious to know whether the ratification has been communicated to the Secretary of State in form. I desire to have the evidence in the proper place.

Mr. HOWE. Does the Senator think that it is necessary that it should be communicated to the Secretary of State?

Mr. FESSENDEN. I think so, under the existing law.

Mr. HOWE. The existing law is that when the Legislature ratifies we shall receive their Senators.

Mr. FESSENDEN. I am speaking of the law which requires the ratification to be communicated to the Secretary of State.

Mr. HOWE. That may, perhaps, be necessary in order to make the amendment a part of the Constitution, but it is not necessary to entitle the gentlemen elected to their seats.

Mr. FESSENDEN. I apprehend that it is

a material point to be looked after by us that this article of amendment shall have become a part of the Constitution of the United States. It was considered so material when we passed the law that it was made a specific provision that they were not to be admitted until enough States had ratified it to make it a part of the Constitution.

Mr. HOWE. No; the Senator is mistaken. Mr. FESSENDEN. It was originally so.

Mr. HOWE. Originally so; but it is not so in the law now.

Mr. FESSENDEN. I say that being regarded of so much importance it was originally so provided. We have since waived that just so far as to say that we will admit a State before that article becomes a part of the Constitution; but still I cling to that as a very important idea, and I wish to secure that particular thing. I have fears that unless this ratification is communicated in proper form, and communicated by the proper authority, it will not be noticed; and I am unwilling that anything should be let slip in relation to that matter. But, sir, the Senate will do as it pleases. For myself, when there are doubts raised about such a matter, and this is the first case that presents itself, I think it is safer to have the report of a committee. They can look at it calmly, and with sufficient time to examine it carefully, which cannot be done in the Senate by a discussion here on the spur of the moment; and as a day is of no sort of consequence, as it can be a matter of no great importance to these gentlemen whether they are sworn in to-day or to-morrow, I think we had better refer these papers.

I have great respect for the chairman of the Committee on the Judiciary, and when he gets up here and says there is no doubt about a thing, I am willing to take that as his opinion; but it is barely possible that in committee, with other lights about him, some further effulgence might be shed upon it, and he might be led to doubt, or at any rate to make a more specific examination. When we make a motion to refer a question to the Judiciary Committee we do not mean to refer it to the chairman alone, but to the committee to have a report; and although his opinion may now be clear, I think nothing can possibly be lost, and some additional feeling of security may be gained by the reference.

Mr. HOWARD. Mr. President—  
Mr. DOOLITTLE. Will the Senator from Michigan give way for a moment? I have received and been requested to present a paper, which I send to the desk, which purports to be a certificate of the Governor of Florida.

The PRESIDENT *pro tempore*. The credentials now sent to the desk by the Senator from Wisconsin will be read, if there be no objection.

Mr. HOWE. By whom is that paper signed?  
The CHIEF CLERK. "David S. Walker, Governor of Florida."

Mr. HOWE. I object to the reading of that paper.

Mr. HOWARD. Mr. President, I was about to say that it might turn out, as has been intimated here, that the point which I suggested respecting the phraseology of the resolution of the Legislature of Florida may be trivial and unfounded. I am not prepared to say that there is any strong ground for expressing a doubt as to the sufficiency of that form of ratification; but still I think the chairman of the Committee on the Judiciary, if he will examine the forms of ratification of the Constitution itself by the thirteen old States, and the forms of the ratification of all the subsequent amendments, will not find a single case in which the word "adopted" is the only word used in the resolution of ratification. It is not possible for me at this moment to say with certainty what the form in all those cases was; but I think he will find that in every case the word "ratify" was used by the Legislatures of the old States when they adopted the Constitution originally, and by the Legislatures of the sev-

eral States in adopting the amendments which were made a year or two afterward. At all events, I think it worth while for that learned committee, that illustrious committee, and I will go further and say that burdened committee, to look into the precedents on this point. We certainly do not wish to commit any mistake or error. The great thing to be secured is this: that the State of Florida shall have ratified, whatever may be the sense of the word "ratify," these two amendments of the Constitution, so that, in respect to her, they shall become a part of the Constitution of the United States. I would not stand upon mere technicalities; I would not quibble about a mere word if it was quite obvious that the word used by the Legislature was tantamount to "ratified." It seems to me that under the circumstances, and in consideration of the question presented by the Senator from Maine, it is quite proper that these papers should be referred, and that we should have a report from that learned committee.

The PRESIDENT *pro tempore*. The Senator from Wisconsin [Mr. DOOLITTLE] presents a paper on this subject and asks that it be read. The reading is objected to, and the question is, Shall the paper be read?

Mr. HENDRICKS. I shall vote to refer the credentials before the body to the Judiciary Committee for the reasons which I gave the other day in favor of referring the Arkansas credentials, and not at all for the reasons that are assigned here this morning. I think Congress has no more power to say that before a State shall be represented in this body after her practical relations to the Union have been recognized she shall ratify or refuse to ratify a proposed amendment to the Constitution, than to say that she shall not be represented at all. If Congress can make this as a condition of representation in regard to a State the relations of which are now recognized by law, then Congress can go through her whole constitution and her code of laws and prescribe the whole system of government for that State. Therefore I shall vote for the reference for other reasons than those that have been suggested.

I do not know whether the word "approve" or "adopt" will supply the place of "ratify." That is a question that I suppose the Senate of the United States is not called upon judicially to decide at this time. Whether the State of Florida by the language used in her resolution has ratified the constitutional amendment is a question upon which I would not give an opinion at this time.

This particular person comes here certified with more particularity than is usual. It is not only certified that he is elected according to the act of Congress, but it is certified that he has been a resident of the State of Florida for two years. How the Governor had official information of the length of this person's residence in this State is not apparent to the Senate. I suppose it is not found upon the records of the Legislature, and perhaps not upon the records of the executive department of the State. There are some institutions of States that keep records of this sort; but perhaps the Governor could not certify in regard to that at all. Why is that? Why is there a certificate that he has been a resident of the State for two years? I suppose it is to exclude the conclusion that he is one of the adventurers that are going down there to govern that country. Is this credential satisfactory? The Constitution simply requires that the party shall be a resident of the State at the time he is elected. This person comes with more than ordinary claims, then, because the certificate is fuller than usual; and I suppose, if we regard the law passed the other day, he is entitled to his seat. The credential shows an election. The question was settled the other day that an election at a time when there was no legal State government as declared by Congress is a good election. Congress declared in the reconstruction acts that there was no valid government down there, that to have a valid government

they must take certain steps, and those steps must be submitted to and approved by Congress, and when Congress approved, then they should have a valid State government. At the time this election took place Congress had not examined the constitution; it was not approved, as I understand. Therefore the question arises whether a State having no legal and valid government can elect Senators?

I believe they had a valid State government; a majority of this body does not hold that opinion; but I understand that in the case of Arkansas the other day this question was settled by the Senate, and that an election at a time when as Congress declared they had no valid State government was a good election, and that a ratification of a constitutional amendment by a Legislature not then recognized as valid and declared by Congress to be invalid was a good ratification of a constitutional amendment; so that these points seem to be settled by the action of the Senate the other day; and really what there is to submit to the Committee on the Judiciary I am not able to see.

These were supposed to be grave questions; but they have been settled by the decision of the Senate. That committee cannot reverse the decision of the Senate. That committee cannot now inquire whether this Senator was elected before the State was in a condition to elect; nor can the committee question that the Legislature at the time was competent to ratify the amendment. But suppose the word "adopt" is not sufficient, why not amend it? Why should Congress not amend it? We amend their constitutions. Why not amend this resolution of adoption and say that it means ratify, and put it through? What is the use of standing upon trifles? Perhaps the word "adopt" means "ratify." Perhaps technical words are not needed in a resolution of this sort. If so, and we want to have the exact word, why not just put it in? We have as much power to do that certainly, to control the action of the Legislature, as we have to modify the action of a constitutional convention that makes a constitution. I do not myself see anything much to refer; but to be consistent with myself on the vote of the other day I shall vote for the reference.

Mr. EDMUNDS. Mr. President, one would almost suppose that the distinguished Senator from Indiana was making a 4th of July oration. I do not mean the 4th of next July; I mean some other July. [Laughter.] All that I rose to say was that for one I do not wish to be put in the position that he has assigned to me as to the legal effect of the Senate's action touching the ratification by the State of Arkansas of the constitutional amendment. He has chosen to state in a very lawyer-like and adroit way a view of the case that pleases him, and has assigned us to that position. I do not wish to go over now, because it is not appropriate, the real and correct legal grounds upon which the ratification by Arkansas has now become as to her valid. They are firm enough, are easily enough understood. They have existed and been practiced upon in one form or another since the Union was formed, year after year. But, as I say, I do not wish to take time for that, but only to declare that I do not choose to occupy the position to which my distinguished friend has assigned me.

Mr. JOHNSON. Mr. President, I suppose the only question practically before the Senate about which there can be any dispute is whether the two amendments to the constitution have been sufficiently ratified by the State of Florida; and that depends, as I suppose, upon the meaning of the word "adoption," as found in their resolution. I rise merely for the purpose of saying that it seems to me that that word is just as effectual as any other word that could have been used to obtain that end. Congress has a right to propose amendments to the Constitution, and the States have a right to reject or ratify them. When the State of Florida, in due form, tells us that her Legislature, by whom the act of adoption is to be made, has adopted them, it appears to me that

so far as that State is concerned, and so far as the United States is concerned, that question is settled.

As to the other question, whatever differences of opinion existed and do now exist between the minority of the Senate and the majority, I suppose it is to be considered as settled that in all we are to do now, at this session at any rate, we are to take for granted that the question is settled that the States are not to be admitted to representation on this floor until they shall antecedently have adopted the constitutional amendment. I bow, as of course I am bound to bow, to the decision of the majority of the Senate on that question, however much I may think there is error in it.

That being the case, we have no right, unless we are to reject our former opinions on the question of power, to keep from the Senate the representatives chosen from this State, provided the State has complied with all the requisitions prescribed by Congress in the acts of reconstruction; and supposing that they have done that so far as the particular provision is concerned, as the constitutional amendments referred to have been ratified, I see no objection to swearing in the member who it has been certified to us has been properly elected.

Mr. DOOLITTLE. Mr. President, I do not rise to discuss this question of reference; but the paper which I sent to the Chair purports to be the credentials of Hon. William Marvin, a Senator-elect from the State of Florida, and as the other credentials were about to be referred to the Committee on the Judiciary, I simply desired to have these referred also at the same time. I ask that the paper which I sent to the Chair may be read, so as to be referred with the other papers to the Committee on the Judiciary. I did not rise to make any argument.

Mr. TRUMBULL. Mr. President, I am for treating this motion to refer just as I would any other. It was not from any haste on my part to have the Senators from Florida admitted that I suggested that there was no object in referring these papers to the committee. We have settled by an act which we passed a few days ago the condition of Florida. We have declared that that State, under a constitution which was submitted to us and examined, was entitled to representation in Congress when she ratified the constitutional amendment known as article fourteen. That act has passed both Houses of Congress and is the law of the land. Now, the State of Florida sends evidence here that she has ratified that constitutional amendment. Does anybody doubt it?

Mr. DRAKE. Yes, I do.

Mr. TRUMBULL. The Senator from Missouri doubts it because the word "ratify" is not used. Now, let me read to him a sentence from the law. By a statute passed in 1818 it was declared—

"That whenever official notice shall have been received at the Department of State that any amendment which heretofore has been, or hereafter may be, proposed to the Constitution of the United States has been adopted according to the provisions of the Constitution, it shall be the duty of the Secretary of State forthwith to cause the said amendment to be published in the said newspapers authorized to promulgate the laws, with his certificate specifying the States by which the same may have been adopted."

Congress, fifty years ago, used the word "adopted," in reference to constitutional amendments; and it was declared in a message from the President of the United States to both Houses of Congress, dated January 8, 1798, that the eleventh amendment which was proposed to the Constitution of the United States had been "adopted by the constitutional number of States;" so that this word "adopted" is no new word in our law; and the only suggestion that I have heard for referring these papers is to ascertain whether, when a Legislature adopts a constitutional amendment, it has ratified it. Even the Senator from Michigan says that he does not know that it is of sufficient importance to raise a doubt upon it.

Mr. DRAKE. I will state to the honorable Senator from Illinois that there is another ground. We do not know, and cannot know

without an examination and comparison, that the constitutional amendments as set out in that joint resolution of the Legislature of Florida are set out in the words in which they were proposed.

Mr. TRUMBULL. I have said that I was for treating this paper like all others. If any member of the Senate will rise in his place and say that he believes this resolution does not recite the fourteenth article, or that what is here set forth differs from it, I am willing to have it referred for the purpose of comparison to satisfy the Senator from Missouri; but unless some Senator suggests something of that kind, and merely imagines that it is possible it is not properly copied, I see no necessity for a reference, even to satisfy my friend from Maine that the Secretary of State should promulgate it. The validity does not depend upon his promulgation; he is only required to give notice when he has received official information of the adoption of a constitutional amendment. But we have passed a law by which we have said to the State of Florida, "You have organized a State government which is entitled to representation in this Congress, and we will receive your representatives when you send them here, and ratify the constitutional amendment which we name the fourteenth article." They send us here the evidence of that fact, and send the members here, and now the Senator from Maine suggests that we shall wait until the Secretary of State proclaims something about it.

Mr. FESSENDEN. No, sir; the Senator will please not misapprehend me. I think it is the duty of the State to communicate the fact to the Secretary of State, and that is the proper evidence that they have adopted or ratified the amendment, so that he may have the evidence before him in order to promulgate the adoption of the constitutional amendment by a sufficient number of States to make it a part of the Constitution. Suppose that hereafter, this not being now done, the State of Florida or any of these other States refuses to communicate the information to him.

Mr. TRUMBULL. That would not alter its validity. It is only a means of preserving the evidence. Whenever the requisite number of States have ratified the constitutional amendment it becomes part of the Constitution; and whenever you can obtain the evidence of that fact in any court the court would recognize it. This is not the only means of establishing it; it is a convenient way of making it known by having it promulgated by the Secretary of State. But would it not be just as valid in any court in Christendom when the evidence was furnished from the action of the State itself that it had ratified the constitutional amendment? Really I see no object in referring these papers. It looks to me as if it were hunting after some objection when the Senator from Missouri suggests that possibly these are not proper copies.

Mr. DRAKE. Mr. President, I do not think the honorable Senator from Illinois has any sort of justification whatever for charging me with hunting after objections to the admission of representatives. We declared by act of Congress that we would admit the Senators from these States when each of these States had ratified the constitutional amendment. The honorable Senator from Illinois said that in this case evidence of the fact was produced in regard to Florida. How does he know that that is evidence of the fact till he has examined it? How can we say that it is a ratification of the constitutional amendment when we have not examined the document to see whether the amendment is there in terms? I want the Committee on the Judiciary to examine this resolution of the two houses of the Florida Legislature, and inform us whether it is a ratification of the constitutional amendment, whether the constitutional amendment is set out there in terms, or whether it is something else that they have ratified.

I protest, Mr. President, against any charge against me of unfriendliness toward the admission of these States. All I want is that the

fundamental condition upon which they were to be admitted, the ratification of that amendment, shall be made to appear to the Senate before they shall rush forward to admit these Senators. Now, sir, if the Senate choose to go it blind in this matter, very well; I have nothing further to say; I have done my duty in calling their attention to it.

Mr. CONNESS. I hope we shall have a vote and see whether the Senate will refer these credentials or not.

Mr. DAVIS. Mr. President, I am somewhat amused at this sudden revival of a seeming attachment to the Constitution by the gentlemen over the way after they have so long forsaken it. It is, however, rather an encouraging and refreshing view of the subject; but I think the gentlemen might as well hold on to the even tenor of their way. Why should they care about the Constitution or elections or forms of return? They may dispense with the whole of them whenever it is their will, and I think they might as well do it now. Why trouble yourselves, gentlemen, about the Constitution and what it prescribes and its forms? Why do you look at the form of a return of a Senator from one of the States of the Union? Why do you ask an election, much less a return? Dispense with the commission and with the return, and, if necessary, dispense with the election, and if the gentlemen who present themselves do not suit you, just select and appoint others for yourselves. You can do all this, and I think it would comport more with what you have done heretofore; it would preserve the harmony of your system of operations and of your programme. I entreat that you shall make no departure whatever from it; do not say another word about the credentials or another word about the elections; but if the gentleman who presents himself suits you, just send him up to be sworn; and if he does not suit you, just drop him for another that suits you better and send him up to be sworn, and have it all your own way.

Mr. STEWART. Is the Senator serious?

Mr. DAVIS. It is serious for you; that is, it is acting out your appropriate part. I am just suggesting what uniformity in your course and policy would require you to do, gentlemen. You have given enough of amusement to the Senate and to the country this morning by talking about elections, and the forms of the Constitution, and the forms of return. I think that farce has been played about long enough.

The PRESIDENT *pro tempore*. The question is on the reading of the paper presented by the Senator from Wisconsin, [Mr. DOOLITTLE.] He asks to have it read, and the reading being objected to it can only be ordered by a vote of the Senate. The question is, Shall the paper offered by the Senator from Wisconsin be read?

The question being taken, there were on a division—ayes 21, noes 8.

The PRESIDENT *pro tempore*. The paper will be read.

The Chief Clerk read as follows:

STATE OF FLORIDA.  
EXECUTIVE DEPARTMENT.

To all to whom these presents may come, greeting:

Know ye, that at a joint meeting of the senate and house of representatives of the State of Florida in General Assembly convened, held at the capitol, in the city of Tallahassee, on the 28th day of November, A. D. 1866, William Marvin was duly elected a Senator in the Congress of the United States for the term of six years from the 4th day of March proximo, 1867. In testimony whereof I have hereunto set my official signature and caused to be affixed the great seal of Florida.

Done at the capitol, in the city of Tallahassee, the 30th day of November, A. D. 1866.

[L. S.] DAVID S. WALKER,  
Governor of Florida.

By the Governor:  
Attest: BENJAMIN F. ALLEN, Secretary of State.

The PRESIDENT *pro tempore*. It is moved that the credentials first read, and the paper purporting to be evidence that the constitutional amendment has been ratified by the Legislature of Florida, be referred to the Committee on the Judiciary. To that motion the Senator

from Connecticut [Mr. FERRY] moves an amendment.

Mr. FERRY. I withdraw the amendment. The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. DOOLITTLE. I move to amend the motion by including in it the credentials just read.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin.

Mr. DOOLITTLE. Senators suggest that they prefer to take the question on each case separately, and that I can make the motion to refer these papers afterward, if the others are referred. To gratify Senators I withdraw the amendment.

The PRESIDENT *pro tempore*. The question is on referring the credentials first offered to the Committee on the Judiciary, with the resolutions of ratification of the Legislature of Florida.

Mr. CONNESS and Mr. STEWART called for the yeas and nays; and they were ordered.

Mr. EDMUNDS. As the yeas and nays are to be taken, I wish in one word to give the reason for my vote. I have, as it now strikes me, no difficulty with the question of terminology—if my friend from Massachusetts [Mr. SUMNER] thinks that is a proper word to use—which has been raised here; but considering the condition that these States have been in, and the fact that there are several other cases more or less analogous to come to us, I think that it is wise, as a mere matter of precaution, although I myself see no objection to these papers, to send them to the committee. The committee meet to-morrow and can report to-morrow; and then everybody will be satisfied, and we shall have a precedent and method of doing business which will not leave us so liable as we are, in doing things in the haste of this method, to go astray. That is my reason for voting to refer, not that I see any difficulty in the case.

The question being taken by yeas and nays, resulted—yeas 16, nays 30; as follows:

YEAS—Messrs. Anthony, Buckalew, Davis, Doolittle, Drake, Edmunds, Fessenden, Hendricks, Howard, Johnson, McCreery, Morrill of Maine, Morrill of Vermont, Norton, Patterson of New Hampshire, and Vickers—16.

NAYS—Messrs. Cameron, Cattell, Chandler, Cole, Conness, Corbett, Cragin, Ferry, Frelinghuysen, Harlan, Howe, McDonald, Morgan, Morton, Nye, Pomerooy, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—30.

ABSENT—Messrs. Bayard, Conkling, Dixon, Fowler, Grimes, Henderson, Patterson of Tennessee, Rice, Saulsbury, and Sprague—10.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Wisconsin, [Mr. HOWE,] that the Senator-elect be permitted to take the oaths.

Mr. DRAKE. I ask for the reading of the supposed resolution of ratification by the Legislature of Florida.

The PRESIDENT *pro tempore*. It will be read if there be no objection.

The Chief Clerk read as follows:

Be it resolved by the people of the State of Florida in Senate and Assembly represented, That the following proposed amendments to the Constitution of the United States, known as articles thirteenth and fourteenth, be, and the same are hereby, adopted:

XIII AMENDMENT.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

SEC. 2. And Congress shall have power to enforce this article by appropriate legislation.

XIV AMENDMENT.

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of its laws.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for



President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

3. No person shall be a Senator or Representative in Congress, or elector of President or Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

4. The validity of the public debt of the United States authorized by law, including debts incurred for the payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

5. Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Passed in the Senate June 9, A. D. 1868.

HORATIO JENKINS, Jr., President.  
WILLIAM LEE APTHORP, Secretary.

Passed by the Assembly, June 9, A. D. 1868.

W. W. MOORE, Speaker.  
WILLIAM FORSYTH BYNUM, Clerk.

Approved, June 11, A. D. 1868.

HARRISON REED, Governor.

#### STATE OF FLORIDA, EXECUTIVE OFFICE.

This is to certify that the foregoing is a true and correct copy of the original resolution, as the same appears on file in this office.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Florida, this 22d day of June, A. D. 1868.

HARRISON REED, Governor.

Mr. DRAKE. I trust now, sir, that the Senate will perceive the propriety of the investigation of this matter by the Judiciary Committee, which I desired should be made. There are no less than six variations between the fourteenth constitutional amendment as set out in that joint resolution and the one that was proposed. And now the question is whether we are to admit this State into the Union with a ratification of the constitutional amendment in any other shape than the exact form in which it was proposed.

In the first place, there are some of those variations that perhaps might not be regarded as material, there are others that are material. In the first section, where the amendment reads that certain persons "are citizens of the United States and of the State wherein they reside," the word "of" is left out before the words "the State." In the last line of that first section, which reads in the original "nor deny to any person within its jurisdiction the equal protection of the laws," the word "its" is substituted for the word "the" before "laws," which I take to be a very material variance not only in language, but in substance. And, sir, how do you know, how does anybody know to-day, that that was not an intentional variation put in there by the Legislature of Florida?

Mr. FRELINGHUYSEN. Read that sentence again?

Mr. DRAKE. Nor shall any State "deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws;" and they have it in their resolution "protection of its laws." Is that the amendment that you proposed to that State to ratify? It is not the amendment; and now you are pressing or rushing into an admission of the Senators and Representatives from that State here when they have not ratified the amendment that you sent to them. "Its laws" may mean one thing, and "the laws," which mean all laws which bear upon that State, may be an entirely different thing.

Again, sir, the third section of the amendment reads in the original "no person shall be a Senator or Representative in Congress, or elector of President and Vice President." In

this it reads "or Vice President." I do not attach great importance to that; but still it is a verbal difference; it is not the amendment that we proposed.

But here, sir, is another change which is material in my judgment. In that same third section the words in the original are, "shall have engaged in insurrection or rebellion against the same or give aid or comfort to the enemies thereof." They have it there "aid and comfort," substituting the word "and," the copulative instead of the disjunctive "or." That I take to be substance.

Again, sir, the fifth variation is the insertion in the fourth section of the particle "the" before the word "payment." I do not attach any importance to that. Again, the substitution of the word "or" for "nor" in that same section where it reads in the original, "But neither the United States nor any State shall assume," &c. There they have substituted the word "or" for "nor." I do not attach great importance to that; but here, Mr. President, are no less than six variations between the amendment they set out in their joint resolution and that which we proposed to them, and two of those variations are matters of substance.

Now, sir, I have done my duty; I have called the attention of the Senate to the fact that the very evidence which they present here to show that they have ratified the constitutional amendment proves that they have not done it, and that they have ratified another thing. Now, if the Senate choose to admit their Senators, let them go ahead and do it as fast as they please; my duty is done.

The PRESIDENT *pro tempore*. It is moved and seconded that the Senator-elect from Florida be permitted to take the oaths with a view to be admitted to his seat.

Mr. DRAKE. I will make one inquiry before I take my seat. That, I presume, necessarily affirms on the part of those who vote to sustain that motion that that State has ratified the constitutional amendment. Is not that so, sir?

The PRESIDENT *pro tempore*. I suppose it is.

Mr. DRAKE. Very well, sir; I call for the yeas and nays upon the question.

The yeas and nays were ordered.

Mr. MORTON. So far as these objections are concerned, these variations that have been pointed out by the Senator from Missouri, they are clearly not of substance in this connection. It was not necessary to set forth these amendments at all. They would have been sufficiently described by saying "the thirteenth and fourteenth amendments." That was all that was necessary, and these verbal differences amount to nothing, because the amendments are fully and completely identified. Although there may be these verbal differences, does anybody doubt but what they are the thirteenth and fourteenth amendments as proposed by Congress? All that is required is, that the amendments ratified shall be pointed out, shall be designated with reasonable certainty—

Mr. CONNESS. Identified.

Mr. MORTON. Identified, to use that word; and are they not identified? The variances themselves are immaterial. They would not be good on a special demurrer in any court. They do not go to the substance. It seems that the Clerk in copying them has used the word "or" where he should have said "nor," and he has put the word "its" where he should have said "the;" but the meaning of the amendments is not changed; and certainly there is no doubt as to what amendments are intended. They describe the amendments as the thirteenth and fourteenth proposed by Congress to be ratified or adopted by the several States. Upon that subject there is no doubt; and these verbal differences in this connection are utterly unimportant.

Mr. HOWARD. I had hoped, sir, that this matter would have been referred to the Committee on the Judiciary, for the purpose of removing any uncertainties which might exist in the papers, and I supported the motion to

refer because it struck me that the form of ratification was, to say the least, unusual, the language not being that of the Constitution, and possibly not embracing what is intended by the Constitution. I raised this doubt for the purpose of eliciting some discussion on the subject. It seems, however, that the Senate, in voting by a very large majority not to refer the papers to the committee, are of opinion that that form of ratification is sufficient, and that the language used by the Legislature of Florida, "adopted," is the equivalent of the word "ratified" in the Constitution itself. So far I have effected one purpose, and that was to ascertain the sense of the Senate upon that point; and that being the sense of the Senate, as appears by a very large majority, I shall now vote to admit the Senator to his seat.

I do not think, however, that the copy of the fourteenth article of amendment, as set out in the paper furnished to the Senate, is the official, authentic copy. It was not necessary, as has been very properly remarked by the Senator from Indiana, that the Legislature of Florida should undertake to furnish a copy *in totidem verbis* of the article. The official and conclusive proof of what the fourteenth amendment of the Constitution is exists in the roll itself engrossed and filed away with the proper Department of the Government. That is the official evidence of what is meant by Congress and by the States ratifying it by "the fourteenth amendment." I therefore look upon these small discrepancies pointed out so ingeniously by the Senator from Missouri as being entirely immaterial, so far as the evidence of what the amendment actually is, is concerned.

Mr. EDMUNDS. The Legislature of Florida, according to this transcript which they send us, did not have the thirteenth and fourteenth articles before them to adopt, unless these articles which they set out are substantially the thirteenth and fourteenth articles.

Mr. HOWARD. Are they not bound to take notice of the fact that the public statutes exist?

Mr. EDMUNDS. Not by any means, when as an independent State they are called upon to give the assent of their will to what then amounts to a compact between the Government of the United States and the State, and an irreversible contract. Suppose the Legislature of Florida had had an entirely and totally different paper, the reverse of this one that we have got before us, before them, and some person who presented it had made that Legislature believe that that was the article they were called upon to see and to know; because the ground upon which we go is that when Congress proposed this article to those States as States the State of Florida was not in condition to receive any such proposal. It had no Legislature; it had no organized government. We set up one three or four days ago, or a week ago, whatever the time was. That body of men having a right to pass as a matter of will and assent upon the question of whether they would agree to this proposal, (because you must remember that by the Constitution of the United States amendments of the Constitution are mere proposals to the States in their sovereign, independent, and political capacity,) they have a text presented to them which differs in a material particular—take that for granted for the moment—from the original proposition that Congress has adopted. They adopt that false and different proposition and send it to the Secretary of State. Will my friend from Michigan or my friend from Indiana maintain that the Secretary of State will be authorized upon such a certificate, under the law as it now stands, to promulgate that that article had been adopted, supposing Florida to be the key-stone, so to speak, the last one of the three fourths? I take it nobody will maintain that proposition; and that is exactly this proposition, provided there is a material and substantial difference between the two documents. I agree that the mistake in the use of the word "the," or the dropping of an article or anything of that kind would make no difference; every lawyer knows

that; but if there is a difference in substance, then you cannot say that the assent of the Legislature of Florida, which she says was given to this, was given to a different thing that she did not have before her. That is the proposition.

The question, then, with me is whether this document that is presented is substantially the fourteenth article. There does not seem to be any special question on the thirteenth. The Legislature of Florida gives notice to the United States as follows by this resolve:

*"Be it resolved by the people of the State of Florida in Senate and Assembly represented, That the following proposed amendments to the Constitution of the United States, known, &c., be, and the same are hereby, adopted."*

They give their assent to that which follows.

Mr. CONNESS. Known as what?

Mr. EDMUNDS. Known as the thirteenth and fourteenth articles; but they say that that which is known as the thirteenth and fourteenth articles, and that to which they agree, is here written; and they say it in good faith. That happened to be a misprint, I suppose, in the copy that they happened to have before them. Now, they assent to that. It turns out that the article Congress proposed is an entirely different thing. Are you to say that by a vote adopting this the Legislature has adopted the other and the different one? She says that that article which is known as article fourteen to which she agrees is here written in the following language. If that language is entirely and substantially different upon a material point, can you say that she has not agreed to this, for which she has voted, and has agreed to another and a different proposal, for which she has not voted? If you can, you must possess powers of legal logic—

Mr. CONKLING. What is the difference?

Mr. EDMUNDS. We are coming to see what the difference is, if there be any. The only material difference—for I do not wish to occupy time about this—is that which is contained in the clause read by the Senator from Missouri last:

*"Nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of its laws."*

That is to say, the laws of that individual State. What kind of a constitutional amendment would that be if Congress should propose it in that form; if we had coolly said to the State of Mississippi, with her black code and her unequal suffrage code, "You shall not deprive any person in the State of Mississippi of the equal protection of your laws;" that is to say, "you shall enforce your laws, just as the laws themselves are required to be enforced, upon all your persons according to their respective conditions;" that is, "you shall put your laws in process of execution there fairly and fully." Then she would be bound by such a constitutional provision to exclude the black man from the suffrage, to exclude him from the witness stand, and to hang him upon the testimony of any one white man who might choose to complain; whereas the United States, in order to overcome that very inequality of State laws, differing one from another as to the equal rights of persons, declared in the fourteenth amendment that the States should not deprive any person within their jurisdiction "of the equal protection of the laws." What laws? The laws of the land which the Constitution of the United States declares to be the acts of Congress made pursuant of it. That is what Florida was not to deprive any person of within her jurisdiction—the civil rights bill, which was carried through this body by the honorable Senator from Illinois. [Mr. TRUMBULL.] Now, Florida agrees, not by any intention, I do not wish to be understood, but as it stands here written in what she brings forward, that she will not deprive anybody within her borders of the protection of her own laws, will give them a fair chance under just such laws as she chooses to enact; and we call that a substantial agreement to what we have proposed, which was that she

should not deny to anybody the protection of the laws of the United States. That is all I wish to say.

Mr. FRELINGHUYSEN. I think the Senator from Vermont bases his whole argument on an assumption and a presumption, when the legal presumption is directly against him. His whole argument is based on the assumption that a true copy of the amendment proposed by Congress was not sent to Florida. The presumption of law is that a true copy was sent.

Mr. EDMUNDS. Where do you get that presumption?

Mr. FRELINGHUYSEN. The presumption of law is universal, and with which my friend is very familiar, that every officer discharges faithfully and correctly his duty unless the contrary is shown. Therefore, the presumption is, that a true and correct copy was sent, and not that an erroneous one was, and that they did have the true amendment before them, and that having it before them they send us their certificate that they have adopted the thirteenth and the fourteenth amendments; and that is enough.

But they go further than that. They recite enough of those two amendments to further identify them than by their numbers. Why, sir, not only every State but every citizen of the United States knows, and is to be presumed to know, as a matter of current history, what this fourteenth amendment is. It is in every newspaper; every person reads it; and when Florida sends us word that she has adopted the fourteenth amendment, and the thirteenth amendment that is enough. Can it be that the fundamental law of a nation rests upon these critical inaccuracies? If you go and look at the amendments which have been adopted—I have never examined them—I venture to say that you can prove that not a single amendment has been adopted correctly to the Constitution, if leaving out the word "the" or substituting "its" for "the" is enough to upset a law. This objection would hardly be sufficient on a special demurrer to an indictment for counterfeiting. There is a principle of law which certainly we can invoke when we are dealing with great national subjects; *de minimis non curat lex*; the law itself will not pay attention to these little insignificant things.

Mr. DOOLITTLE. I desire to say but a word. I shall vote against this motion, but for another reason than that which is satisfactory to the minds of other gentlemen; a reason which is satisfactory to my own.

On the 3d of March, 1845, the State of Florida was admitted into the Union as one of the States of this Union. It has never been out of the Union. An effort was made to take it out of the Union, commencing in 1860; but that effort was overcome, and the State of Florida remained in the Union, and has continued to remain in the Union ever since its first admission on the 3d of March, 1845. My opinion is—I will not argue it, but simply state it—that neither by secession nor rebellion was it possible for the State of Florida to be taken out of the Union, unless that rebellion were consummated as a success and a triumph of arms in the end against the Government. The rebels had no power to cut their way out of the Union by the sword, because we wrested the sword out of their hands and compelled the State to remain in the Union as one of the States of the Union. Further, I hold it to be equally clear that Congress has no power by legislation to put a State out of the Union. Neither secession nor the legislation of Congress can accomplish it. The one is as much against the Constitution as the other.

The Legislature of the State of Florida on the 28th of November, 1866, elected Hon. William Marvin as a Senator for the term commencing on the 4th of March, 1867, to end on the 4th of March, 1873; which is the precise term for which the person who is now proposed to be admitted was elected; and, if I am correct—and the paper which I have presented to the Senate, I think, proves the election of

Mr. Marvin as a Senator occupying this very term—I object to another person being sworn in to take a seat in the Senate in his place. I desired that this question should be referred to the Committee on the Judiciary and passed upon; but the Senate have been unwilling to do that, and therefore I have simply raised the point, without arguing it.

I will conclude by saying that Judge Marvin, who has been elected as a Senator from Florida, is a gentleman of high intelligence and high qualifications for the position. He was before and during the whole rebellion a most devoted friend to the Constitution and the Union, giving no aid, countenance, or comfort in any manner whatever to the rebellion; was himself acting as the judge of the district court of the United States at Key West a portion of the time, and therefore there can be no objection on the score of his not being entirely qualified to take the office or to take the oath of office which is required by law.

Mr. WILLIAMS. I should like to ask the Senator a question. He says that Florida has never been out of the Union. No one pretends that it ever has been out of the Union; but this is a question of representation. I should like to ask him if he holds that Florida, with a confederate State government, was entitled to representation in Congress?

Mr. DOOLITTLE. While Florida was under the control of the confederate arms it would be impossible for Florida to hold an election either for a member of the House or a member of the Senate; but in 1866, almost a year and a half after the war was over, after peace had been proclaimed, and Congress had by law recognized the fact that peace was proclaimed, the Legislature of Florida, the State then being in a peaceful condition, assembled and elected the person to whom I have referred and whose credentials I have presented to the Senate.

Mr. WILLIAMS. I do not understand the Senator to have answered the question which I propounded. He says that it was impossible for Florida during the rebellion while it had a confederate State government to hold an election. It was not physically impossible. Florida could have elected Senators and Representatives under that confederate State government; and the question is, would those Senators and Representatives, if elected, have been entitled at that time to admission into Congress? I should like to have the Senator make, if he pleases, a categorical answer to that question.

Mr. DOOLITTLE. I have given the Senator the answer to the question. It was in Florida precisely as it would be in Oregon if there was an insurrection there. If there was an insurrection raging in Florida you could not hold an election. If there was an insurrection raging in the State of Maine, or if part of the State of Maine was captured, as it once was by British forces, you could not hold an election there. But I do not wish to go into a dialogue or a long discussion.

Mr. HOWE. Will my colleague allow me to ask him a question?

Mr. DOOLITTLE. I have no objection to a question.

Mr. HOWE. The question is, if in fact Florida did not have a Legislature which met annually during the years of the war, which met and passed laws.

Mr. DOOLITTLE. Florida organized a war with the confederate States against the Government of the United States, but in 1866 the war was over. Senators do not come to the point I make at all. There was no war in 1866. Peace had been proclaimed, and Congress by law had recognized the fact that peace was proclaimed. There was no insurrection and no interruption of the law.

Mr. HOWE. I asked permission to put a question to my colleague, and he allowed me to do it. Now I wish he would answer it. The question is, Did not Florida have a Legislature which met annually to pass laws through every year of the war?

Mr. DOOLITTLE. I suppose those adhering to the confederacy elected a Legislature.

Mr. HOWE. And if that Legislature met to pass laws, could not that Legislature choose Senators in spite of the war? Will my colleague answer?

Mr. DOOLITTLE. My colleague is putting a case which of course it is impossible to suppose could exist. The confederate assembly met, making war on the United States. Is it supposable that they could elect or would elect Senators in Congress?

Mr. CONNESS. If they did what?

Mr. DOOLITTLE. But if they did elect Senators in Congress that were against this Government, could not this Senate take care of itself and keep them out? I will ask my colleague if he says that Florida was ever a State out of the Union. I wish he would answer my question categorically. Was Florida ever a State out of this Union?

Mr. HOWE. No.

Mr. DOOLITTLE. I will ask him another question. If under the Constitution Florida was a State in this Union was she not entitled to two Senators in this body?

Mr. HOWE. While she was a State in the Union she was.

Mr. DOOLITTLE. Very well.

Mr. HOWE. But to be a State in the Union, which entitles her to two Senators, it was necessary for her to have a government which could elect the Senators; and I have been trying to get my colleague to say whether during the war she had such a government or not. He says she could not elect because of the war; and the Senator from Oregon says that did not make it physically impossible, and my colleague repeated that it made it impossible. I asked him to confess whether Florida did or did not have a Legislature which met to enact laws? He says yes. I asked if when they met to enact laws they could not have gone through the form of choosing Senators. He seems to think that possibly they might; but he says if they did choose Senators the Senate could take care of itself and reject them. But what right has the Senate to reject them if the Legislature have a right to choose them and do choose them? Can the Senate reject representatives from States which have a right to elect and which do elect?

Mr. DOOLITTLE. I think the Senate has shown that it has the right and the power to keep men out of this body for treason, or to expel them for treason. The Senate certainly has exercised that power to expel or prevent men from coming into this body when they were elected from States that had never been in the rebellion; and it would be most extraordinary if the Senate could not expel or keep out persons from States that were in actual war against the Government of the United States. I admit that when the State was in actual war against the Government of the United States, and the Legislature was at war with us, and their troops were at war, if it were not physically impossible that they should enter into an election of Senators to this body, it would be, in my judgment, morally impossible that they should attempt to do it; and, in the second place, if they did attempt to do it, as a matter of course it would be morally impossible to suppose that the Senate would permit men in arms against the Government to come in here and take places in the Senate.

But, sir, the point I make is this: in 1866, almost two years after the war was closed, after the rebellion was suppressed and Congress by law had admitted the fact that the rebellion was suppressed, the Legislature of Florida peacefully assembled and elected the gentleman whose credentials I have sent to the Chair. They certainly had the right to do it.

Mr. NYE. I suggest to my friend from Wisconsin [Mr. Howe] that he shorten this debate. His colleague's opinions will be found in the last veto message, and therefore it is not worth while to prolong this discussion.

Mr. ANTHONY. I wish to ask, in no captious spirit, a question of the Senator from Wisconsin, [Mr. Doolittle.] I wish to know

the theory upon which he proceeds. I do not know whether he was one of the Senators, almost the entire body, who voted at one time that Florida had not a right to be represented in the Electoral College?

Mr. DOOLITTLE. While the insurrection was going on. It was impossible for Florida to elect electors while a war was going on. So it would be in Rhode Island if there were a rebellion there.

Mr. ANTHONY. I do not understand that Congress resolved that it was impossible for Florida to elect, but that Florida had no right to elect, whether possible or not. If Congress assumed at a certain time that Florida had no right to be represented in the Electoral College—which depends, I take it, upon the same principle as representation in the two Houses of Congress—is not the Congress the power to decide when that disability ceases?

Mr. DOOLITTLE. Before this election in Florida took place Congress had by law recognized the proclamation of the President which proclaimed that the war had ceased and the rebellion was suppressed. Congress by law had recognized that fact before this election took place.

Mr. ANTHONY. But I understand that Congress resolved, and I think my friend from Wisconsin voted with the great body of the Senate—I think the Senator from Kentucky [Mr. Davis] and two others were the only ones who voted in the negative—that Florida had no right under existing circumstances to representation in the Electoral College, and Congress has not yet voted that it has the right to be represented; and I take it that the representation in the Electoral College depends precisely upon the same principle that should govern representation in the two Houses of Congress. Therefore, it seems to me, if Congress has a right to affirm the disability, it depends upon Congress to say when the disability ceases.

Mr. DOOLITTLE. I agree with the Senator that while the war was going on in 1864 Congress passed a joint resolution in which they declared that the electors chosen for President and Vice President in the States where the insurrection was going on should not be counted in the Electoral College. They said substantially that in those insurrectionary States; but it only applied to that single time, and since that time the proclamation of peace and the passage of a law by Congress recognizing the proclamation of peace occurred before this election of Mr. Marvin in Florida.

Mr. ANTHONY. The Senator will allow me to say that he does not meet my question. His argument is that the time had come when Congress ought to declare this disability had ceased; but Congress, I presume, is to judge of that time for itself; and although it may be true that Congress ought to have declared that Florida was entitled to representation before, yet inasmuch as Congress did not so declare, if the first affirmation of disability was valid is it not necessary that Congress should remove that disability before Florida is entitled to representation? I wish to know what is the theory of the Senator upon that point, and I do not ask in any captious spirit.

Mr. DOOLITTLE. I will state to the Senator in a single word that my theory is precisely this: each House has a perfect right to judge of the election, qualifications, and returns of its members; the Senate for itself, the House of Representatives for itself. If a man applies to be admitted here as a Senator this House will judge, and has the right to judge, whether the State which purports to send him was in a condition to elect him or not. Precisely so in relation to a district represented in the House of Representatives. If, for instance, an insurrection is existing in a single congressional district of a State the election in that district may be void, because it is impossible to hold an election. Take the case of the State of my honorable friend from Maine. The British captured one congressional district in that State in 1812. They could not elect a member of Congress at

that time who could be admitted to the House, for they were not in a condition to elect. Suppose they had captured two or three or four districts of the State of Maine, it could not prevent the other districts from electing a member of the House, and the House is to judge whether the election has taken place fairly or unfairly; whether the people have had a fair opportunity to elect and have elected. The House will judge for itself. The Senate will not judge for the House, nor the House for the Senate. That is precisely the true theory, in my judgment.

I did not intend to make a speech nor take up the time of the Senate; but gentlemen have put questions to me on this matter, and I have answered, endeavoring to be as brief as possible. I have no disposition to prolong the debate.

The PRESIDENT *pro tempore*. The question is, Shall the Senator-elect from Florida now be permitted to take the oath with a view to admission to his seat in the Senate of the United States?

Mr. DRAKE. I wish to make another effort to send this supposed resolution of the Legislature of Florida ratifying the constitutional amendment to the Committee on the Judiciary. I do not exactly know whether a motion of that kind is in order at this moment or not.

Mr. EDMUNDS. Certainly it is.

Mr. DRAKE. The Senator from Vermont says "certainly it is." All I want is that we shall delay action upon the credentials of the Senator from Florida until we have a report upon this supposed ratification. That is what I wish to get at; but I do not know exactly how to do it unless it be to make a double motion to lay the credentials of the Senator from Florida on the table and to refer the resolution of the Legislature of Florida to the Judiciary Committee.

Mr. EDMUNDS. A simple motion to refer would take them both there.

Mr. DRAKE. That motion has already been put and negatived.

Mr. EDMUNDS. But after debate you can move to refer again at any time.

Mr. DRAKE. If it is in order, I make that motion, to lay the credentials of the Senator from Florida on the table, and to refer the resolution of the Legislature of Florida to the Judiciary Committee.

The PRESIDENT *pro tempore*. Those are two separate motions.

Mr. DRAKE. There are two separate papers, and we must deal with them, it seems, separately. They are both presented in support of the claim of the gentleman to be admitted as a Senator on the floor. Now, the question is whether I can make a motion that relates to both of the papers or a separate motion for each paper.

The PRESIDENT *pro tempore*. There is no doubt the Senator can move to lay either or both on the table.

Mr. DRAKE. Then, for the purpose of getting at an authoritative expression on the part of the Senate by its Judiciary Committee as to whether this constitutional amendment has been ratified, and with a view to send that resolution of the Legislature of Florida to that committee, I move, in the first instance, to lay the credentials of the Senator from Florida on the table.

Mr. CORBETT. I ask if it would not be in order to move a reconsideration of the vote by which the motion to refer the credentials to the Committee on the Judiciary was negatived?

The PRESIDENT *pro tempore*. Of course that would be in order if any Senator chooses to make the motion.

Mr. CORBETT. Then, if the Senator from Missouri will withdraw his motion, I will move to reconsider that vote.

Mr. DRAKE. I will withdraw it, of course. All I want is to get the matter before the committee.

Mr. CORBETT. I voted against the reference of this question to the Judiciary Committee, but I think the points made by the Senator



from Missouri are well taken, and therefore shall now support his motion to refer to the Judiciary Committee.

My own impression is that perhaps the setting out of the adoption of the thirteenth and fourteenth amendments sufficiently describes them; but certain important errors have crept into the copy of the fourteenth amendment in that resolution, and I desire the opinion of the Judiciary Committee, not only on this case, but for future cases that may arise. I think that errors may be found hereafter in the constitutional amendment as adopted by other States, and as a precedent I desire to have this referred to the Judiciary Committee. I therefore move to reconsider the vote by which the Senate refused to refer the credentials to the Committee on the Judiciary.

Mr. CONNESS. Upon that motion I make the question of order that the motion is not in order, because there is a pending motion that the Senator-elect be admitted to take the oath, which is a motion of superior privilege because first made. And upon that motion, also, I wish to say that it is competent for the Senate to settle this whole question. If there be a majority of the Senate in favor of his taking the oath there is a majority against a reference. I make the question of order.

Mr. HENDRICKS. If the motion to reconsider prevails, then the motion to allow the oath to be administered will go with the credentials to the committee.

Mr. CONNESS. It will not.

Mr. HENDRICKS. The Senator from California is unusually positive. If he decided that alone, it would be settled; but as I think it is competent for the Senate to send to a committee a motion as well as a paper, that motion can go with the paper, and ought to go there. I submit to Senators, although they may be convinced that there is nothing wrong in the credentials, nothing wrong in the ratification of the amendment, that they are all right, there is no delay by this motion. We have spent more time this morning about it than would have been spent in the whole business if it had been referred to the Judiciary Committee. The committee meets to-morrow in the regular course of its business, and I submit, to facilitate the business of the Senate, this motion had better prevail.

Mr. CONNESS. I propose that we proceed in order. I make the question of order and ask the decision of the Chair.

The PRESIDENT *pro tempore*. The Chair understands that. There is a motion pending, the motion of the Senator from Wisconsin, [Mr. Howe,] to permit this gentleman to take the oaths, on which the yeas and nays have been called, and which must be disposed of before another independent motion can be put. One has no precedence over the other.

Mr. ANTHONY. I understood the Senator from Oregon to move to refer that motion to the Committee on the Judiciary. That certainly I presume to be in order.

The PRESIDENT *pro tempore*. The motion of the Senator from Oregon was to reconsider the vote by which the Senate refused to refer the credentials to the Committee on the Judiciary.

Mr. ANTHONY. I move, if that motion is not pending, that this motion be referred to the Committee on the Judiciary. I prefer to have the motion of the Senator from Oregon to reconsider; I think that is the better way to take the sense of the Senate; but if we are put upon parliamentary tactics we will take advantage of them; that is all.

Mr. CONNESS. I make the question of order that when a motion is made which is a privileged question—that is, which has the privilege of being put—it cannot be disposed of by another motion to refer the preceding motion to a committee. If it can then we can do no business at all.

Mr. ANTHONY. I agree to that fully.

Mr. CONNESS. I ask the Chair to decide.

Mr. ANTHONY. I will not interrupt the Chair certainly.

The PRESIDENT *pro tempore*. There is no privileged motion here. Neither of those motions has a privilege over the other.

Mr. CONNESS. I understand that.

The PRESIDENT *pro tempore*. They are entirely independent motions, and the first made must be disposed of first. The question now is, Shall the Senator-elect from Florida be admitted to take the oaths and take his seat? The Senator from Rhode Island moves that that motion be referred to the Committee on the Judiciary. I can hardly think that that is in order, because you never could get a decision in that way. Motion after motion might be put, and the last one would have to go to a committee. I know of no case where motions of that kind have been referred, and I think I can see great difficulty in establishing such a rule.

Mr. DRAKE. I now renew my motion to lay the credentials of the Senator from Florida on the table.

Mr. ANTHONY. Will the Senator withdraw that for a moment? I certainly do not mean to differ from the Chair but with great respect; but I understand that every motion may be, on the demand of the Chair or of any Senator, reduced to writing. Suppose this motion, that the Senator be admitted to take the oath, be reduced to writing; then is it not in order to refer that to the Committee on the Judiciary? I do not desire to make that motion. I much prefer that the other motion made by the Senator from Oregon shall be put, which will fairly test the sense of the Senate. The Senate have decided not to refer this question to the Judiciary Committee. Since that decision there have been other and, it seems to me, pretty important reasons why it should be done brought before the Senate; and I think it would be fair if my friend from California would allow that question to be put. But if he will not allow that to be put, I respectfully submit to the Chair if I have not the right to demand that the motion that is made be reduced to writing, and when reduced to writing, if I have not a right to move that it be referred to the Committee on the Judiciary? That is a course I do not wish to take, because I think the other course the most natural and more in accordance with the good-natured way in which we transact business here.

Mr. CONNESS. My position is this: reducing a motion to writing gives it no extra validity. A motion orally made is substantially the same as if it were reduced to writing, and there is no privilege, by being reduced to writing, existing on the part of the Senator to refer it. It is the privilege of the Senate when a motion is made to vote upon that motion; and the Senator must see that if a majority of this body are in favor of applying the oath, that decides the whole question. Why are not gentlemen content to take that decision and let us vote?

Mr. CORBETT. I am as anxious for the admission of Florida as any other Senator on the floor; and I have no doubt that if the Senator from California will withdraw his objection and allow us to test the question of reconsidering the vote on the motion to refer these papers to the Committee on the Judiciary we shall sooner dispose of the question. If he does not I shall be obliged to vote against the admission of the Senator from Florida until they are referred. It seems to me it is important as a precedent for the future that these papers should be referred to the Committee on the Judiciary, as these errors clearly show that there may be errors hereafter committed in the ratification by other States, and they should be adjudged by the Judiciary Committee. I hope my friend from California will withdraw his objection.

Mr. CONNESS. Why will not the Senator from Oregon permit the question to be taken? If a majority of the Senate refuse to have the oath administered, then his motion can be put. If a majority of the Senate are in favor of administering the oath, certainly they ought to be permitted to do so.

Mr. CORBETT. For the very reason that

there are many Senators here who do not desire to vote against allowing the Senator from Florida to take the oath. I, for one, do not. But I desire to refer this matter to the Judiciary Committee. It can there be examined, and the Senator-elect can be admitted to-morrow. It is merely a form.

Mr. FRELINGHUYSEN. We have occupied so much time on this matter that I hope we shall conclude it now if it takes all day. As to referring it to the Judiciary Committee, there is no reason given for it. When I was up a few minutes ago, I said I had no doubt that if we examined the ratifications by other States there would be found the same inaccuracies. I have examined the ratification of four States, Pennsylvania, New York, Wisconsin, and Michigan, and there are inaccuracies in those four; and I presume if I went on and made the examination I should find like inaccuracies in each certificate.

Mr. EDMUNDS. Material ones?

Mr. FRELINGHUYSEN. Some of them material. The reason that I object to this going to the Judiciary Committee is that I am opposed to the Congress of the United States making their fundamental law to rest upon the accuracy or inaccuracy in these minor particulars of the copy of a resolution. In the ratification of the State of Wisconsin, in one sentence, there are four or five errors.

Mr. EDMUNDS. Point out one or two of them.

Mr. FRELINGHUYSEN. I will read one sentence:

"But whenever the right to vote at any election for electors of President and Vice President."

I ask the Senator from Illinois to be good enough to read from the statutes.

Mr. TRUMBULL. The resolution, as it reads in the statutes, is:

"But when the right to vote at any election for the choice of electors."

The words "the choice of" are left out in the Wisconsin certificate. Then in the statutes it proceeds:

"For President and Vice President of the United States."

Mr. FRELINGHUYSEN. In this it reads "of President and Vice President." The words "of the United States" are left out.

Mr. TRUMBULL. And the word "for," before "President," in the resolution is "of," as it is copied there.

Mr. FRELINGHUYSEN. "Or for United States Representatives in Congress."

Mr. TRUMBULL. Instead of "for United States Representatives in Congress," the act says "Representatives in Congress."

Mr. FRELINGHUYSEN. "Executive or judicial officers."

Mr. TRUMBULL. "Executive and judicial officers of a State."

Mr. FRELINGHUYSEN. And so you might go through all of them.

Mr. EDMUNDS. All those mean precisely the same thing on the face of it.

Mr. FRELINGHUYSEN. In the ratification of the State of Pennsylvania instead of its being "the laws" it is "the law;" and that of the State of New York has two or three inaccuracies.

The PRESIDENT *pro tempore*. The question of order is made and it ought to be decided. The Chair has already stated that in his opinion a motion to refer another motion is not in order. It takes nothing with it in this case. There are many motions that may be made that can be referred because they take some substantial thing along with them to be deliberated upon and decided by the committee. But here is a motion to admit this Senator to take the oath. A motion to refer that motion to a committee takes nothing with it; there is nothing for the committee to consider; and therefore, and because of its inconvenience, the Chair believes it not to be in order; that it would establish a bad rule. If Senators think that is a wrong decision, and probably it may be, they will take an appeal and settle the question.

Mr. DRAKE. Is my motion to lay the matter on the table in order?

The PRESIDENT *pro tempore*. Certainly it is.

Mr. DRAKE. I made that motion some time ago, and a debate for fifteen or twenty minutes has followed upon it. I insist upon my motion to lay the credentials on the table, and on that I ask for the yeas and nays.

The PRESIDENT *pro tempore*. The Senator moves that the credentials be laid on the table with a view to make another motion.

Mr. DRAKE. Yes, sir.

Mr. HOWE. I rise to a question of order. I submit that if the credentials be laid on the table it does not interfere with administering the oath to the Senator-elect, and therefore, as it does not, the motion to administer the oath must take precedence of the motion to lay on the table.

Mr. DRAKE. I take it that is not a correct view of the order in the case.

Mr. MORTON. I suggest that the question now before the Senate is not upon the credentials at all. It is upon the question of admitting this gentleman to a seat.

The PRESIDENT *pro tempore*. The question is on swearing in the Senator.

Mr. DRAKE. I move to postpone that question until to-morrow, and I ask for the yeas and nays on that motion. I do this merely to get at the other question of referring the resolution of the Florida Legislature to the Committee on the Judiciary.

The yeas and nays were ordered.

The Chief Clerk called Mr. ANTHONY's name.

Mr. ANTHONY. I desire to say, as the yeas and nays are called, that I am as much in favor of admitting the Senators from Florida as any member of this body. I desire, however, that when they come in they shall come in correctly, and in such a way that neither we nor they will have any occasion to regret it. I think there is fair ground of presumption that there is some irregularity in the proceedings, although I am inclined to think it will be found, upon investigation, that they are sufficiently regular for them to be admitted as Senators, and if I were obliged to vote on the subject to-day I should vote to admit them; but I prefer that these papers should be referred to the Committee on the Judiciary; and I should prefer that every State now coming in that has been separated from us should have the credentials of its Senators referred to the same committee. I vote yea.

Mr. POMEROY. I was going to say—

The PRESIDENT *pro tempore*. Debate must stop here. The call of the roll has commenced.

Mr. POMEROY. I think it hardly fair for the Senator from Rhode Island to make a speech and then respond to the roll.

Mr. ANTHONY. I do not think my vote ought to count. I think, having spoken, my name should have been called again.

Mr. POMEROY. I was only going to say that I never knew before, where a motion was made to lay on the table and then a motion to postpone, that the motion to postpone took precedence of the motion to lay on the table.

The question being taken by yeas and nays, resulted—yeas 13, nays 31; as follows:

YEAS—Messrs. Anthony, Buckalew, Corbett, Davis, Doolittle, Drake, Edmunds, Fessenden, Hendricks, McCreery, Morrill of Vermont, Norton, and Vickers—13.

NAYS—Messrs. Cameron, Cattell, Chandler, Cole, Conkling, Conness, Cragin, Ferry, Frelinghuysen, Harlan, Howard, Howe, McDonald, Morgan, Morrill of Maine, Morton, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Stewart, Sumner, Thayer, Tipton, Trumbull, Wade, Willey, Williams, Wilson, and Yates—31.

ABSENT—Messrs. Bayard, Dixon, Fowler, Grimes, Henderson, Johnson, Patterson of Tennessee, Rice, Saulsbury, Sherman, Sprague, and Van Winkle—12.

So the motion to postpone was not agreed to.

The PRESIDENT *pro tempore*. The question now is, Shall the Senator from Florida be permitted to take the oaths with a view to take his seat in the Senate of the United States? on which question the yeas and nays have been ordered.

Mr. CORBETT. I desire simply to say that considering the question as having been decided by the Senate, I shall now vote for the admission of the Senator from Florida.

The question being taken by yeas and nays, resulted—yeas 34, nays 6; as follows:

YEAS—Messrs. Cameron, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Cragin, Drake, Ferry, Frelinghuysen, Harlan, Howard, Howe, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Stewart, Sumner, Thayer, Tipton, Trumbull, Wade, Willey, Williams, Wilson, and Yates—34.

NAYS—Messrs. Buckalew, Davis, Doolittle, Johnson, McCreery, and Vickers—6.

ABSENT—Messrs. Anthony, Bayard, Dixon, Edmunds, Fessenden, Fowler, Grimes, Henderson, Hendricks, Norton, Patterson of Tennessee, Rice, Saulsbury, Sherman, Sprague, and Van Winkle—16.

So the motion was agreed to.

The PRESIDENT *pro tempore*. The Senator-elect from Florida will please come forward and receive the oaths.

Mr. OSBORN advanced to the desk of the President *pro tempore*, and the oaths prescribed by the Constitution and the act of July 2, 1862, having been administered to him he took his seat in the Senate.

#### ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday, being the bill (S. No. 529) to establish rules and articles for the government of the armies of the United States, is before the Senate.

Mr. MORRILL, of Maine. I take it it was not the purpose of the Senator from Massachusetts, when he moved for an evening session yesterday, to displace the appropriation bill. I trust, therefore, he will have no objection to allowing this bill to be laid aside.

Mr. WILSON. It was not my purpose to interfere with the appropriation bill, but I believe the debate is now over on this bill, and it will take no time. I think it can be disposed of in a few minutes.

Mr. ANTHONY. I hope both Senators will allow the ordinary morning business to be disposed of.

Mr. MORRILL, of Maine. Allow my bill to come up first, and then I will yield.

The PRESIDENT *pro tempore*. If it be the pleasure of the Senate to go through the morning business, it will be done.

Mr. MORRILL, of Maine. I should like to have the appropriation bill taken up first.

The PRESIDENT *pro tempore*. It is moved that all prior orders be postponed for the purpose of taking up the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes.

The motion was agreed to.

Mr. MORRILL, of Maine. Now I have no objection to the ordinary morning business being disposed of.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 90) to authorize and require the administration of oaths in certain cases, and to punish perjury in connection therewith;

A bill (H. R. No. 293) to regulate and limit the admiralty jurisdiction of the district courts of the United States in certain cases; and

A bill (H. R. No. 568) explanatory of the act entitled "An act declaring the title to land warrants in certain cases."

The message also announced that the House had passed the following resolution, in which it requested the concurrence of the Senate:

*Resolved*, (the Senate concurring.) That the President *pro tempore* of the Senate and the Speaker of the House of Representatives adjourn their respective Houses without day on Wednesday, the 15th of July next, at noon.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled

bill (S. No. 522) to authorize the proper accounting officers of the Treasury to settle the accounts of Andrew S. Core; and it was thereupon signed by the President *pro tempore* of the Senate.

#### PETITIONS AND MEMORIALS.

Mr. SUMNER presented the petition of Margaretta S. Morse, administratrix of the estate of Isaac E. Morse, deceased, praying for compensation for services rendered by Isaac E. Morse as commissioner to New Granada; which was referred to the Committee on Foreign Relations.

Mr. SUMNER. I also offer a petition signed by merchants of Boston, in which they represent that it is now proposed under an act of the Legislature of Massachusetts to build a bridge called the Maverick bridge across the harbor of Boston. They set forth that this would curtail the area of the harbor—already small—for the anchorage of ships; cut off the United States navy-yard and all wharves above the contemplated bridge from open communication with the sea; and in other ways would seriously injure the harbor, and through that would injure the commerce of Boston. On that account they ask that Congress will not give its sanction to the erection of that bridge. I move the reference of this petition to the Committee on Commerce.

The motion was agreed to.

Mr. CAMERON presented a remonstrance of citizens of Pennsylvania, protesting against any action of Congress which would tend toward the reduction of the present duty upon coal, as such action would be disastrous to a large number of citizens of the United States and would benefit none, besides which the United States Treasury would suffer a loss of revenue to the extent of any reduction that was made; which was referred to the Committee on Finance.

He also presented a petition of citizens of Philadelphia, Pennsylvania, praying that pensions be granted to the soldiers and sailors of the war of 1812 and to the widows of such as have died; which was referred to the Committee on Pensions.

#### PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BUCKALEW, it was

*Ordered*, That Chauncey Smith, guardian of the minor children of Presley N. Guthrie, have leave to withdraw his petition from the files of the Senate.

On motion of Mr. HOWE, it was

*Ordered*, That Mrs. C. S. Wilson have leave to withdraw her petition from the files of the Senate, and that it be referred to the Committee on Claims.

On motion of Mr. CORBETT, it was

*Ordered*, That Henry Bailey have leave to withdraw his petition and papers from the files of the Senate.

#### REPORTS OF COMMITTEES.

Mr. STEWART, from the Committee on the Judiciary, to whom was referred the bill (S. No. 564) for the relief of Hulings Cowperthwaite and Enoch H. Vance, and for other purposes, reported it with amendments.

Mr. FESSENDEN, from the Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 1325) for the relief of Benjamin B. French, late Commissioner of Public Buildings, reported it without amendment.

#### SALE OF SURPLUS DOCUMENTS.

Mr. MORGAN. I am instructed by the Committee on the Library to report a joint resolution (S. R. No. 153) authorizing the sale at public auction of certain surplus books and documents now in the custody of the Secretary of the Interior, and recommend its passage, and if there be no objection I ask for its consideration at this time.

The joint resolution was read the first time by its title.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the joint resolution?

Mr. MORRILL, of Maine. I do not like to interpose. If it leads to no debate, I will not

object; but if it does, I shall be compelled to do so.

The PRESIDENT *pro tempore*. No objection being made, the joint resolution will be read through.

The Chief Clerk read the joint resolution, which authorizes the Secretary of the Interior, under the direction of the joint Library Committee of Congress, to sell at public auction such books and documents now in the custody of his department and published by the order of Congress or of any officer or department of the Government as are not needed for distribution under existing laws or to supply deficiencies in the Library of Congress or in the Library of either House, and the net proceeds of such sale are to be deposited in the Treasury of the United States.

Mr. ANTHONY. I should like to have some explanation of this resolution. These documents have been ordered by various resolutions to be distributed; but it has been found, I think, in some cases impracticable to carry the resolutions into effect. The intention of leaving these documents with the Secretary of the Interior was that there might be a fund for supplying new State libraries when new States are organized, and also for supplying other deficiencies; that there should be a supply there in case other depositories should be destroyed. I have not examined this matter.

Mr. MORGAN. The matter has been up once or twice, and was finally referred to a sub-committee of the joint Library Committee, and after a good deal of consideration they concluded to report in favor of this disposition of the books. The Senator from Wisconsin, [Mr. HOWE,] was one member of the sub-committee and a member of the House another. It will be seen that by the language of the resolution they will be under the control of the joint Committee on the Library if the resolution passes.

Mr. ANTHONY. Will the Senator state what books they are and how many there are?

Mr. MORGAN. It is impossible for me to tell what they are. I have not seen them.

Mr. ANTHONY. A great many of them, I believe, are the Annals of Congress, which would bring nothing at all at auction.

Mr. MORRILL, of Maine. I hope the Senator from New York will allow this resolution to go over.

Mr. MORGAN. If it is objected to I must do so.

Mr. ANTHONY. I do not object to it, but before it is passed I should like to understand what it is. A large portion of these documents I presume to be the Annals of Congress, very valuable documents, but which would not bring any more than their value as waste paper at public auction.

Mr. MORRILL, of Maine. I call for the regular order.

Mr. SUMNER. There is another document which I think will be found among them, and that is the second series of the State Papers.

The PRESIDENT *pro tempore*. As this joint resolution is leading to debate, the regular order is called for, and the appropriation bill must be taken up.

#### ARMY REGISTER.

Mr. ANTHONY. I ask the Senator from Maine to allow me to make two or three reports for the printing of documents such as the public convenience requires should be disposed of now, as the type is standing. The Committee on Printing, to whom was referred a resolution to print additional copies of the Army Register, have directed me to report it back without amendment, and recommend its passage, and I ask for its present consideration.

Mr. MORRILL, of Maine. I cannot agree to that.

The PRESIDENT *pro tempore*. Objection being made it cannot be considered.

Mr. ANTHONY. There is no objection to the resolution. The type is standing and the public convenience and public economy will be promoted by disposing of it at once.

Mr. MORRILL, of Maine. If it takes no time I will not object.

Mr. ANTHONY. The Senator from Maine withdraws his objection. He always does; he is so good-natured.

The resolution was considered by unanimous consent, and agreed to, as follows:

*Resolved*, That two thousand copies of the Army Register for 1863 be printed for the use of the Senate.

#### NAVY REGISTER.

Mr. ANTHONY. The same committee, to whom was referred a resolution to print additional copies of the Navy Register, have instructed me to report it back without amendment, and recommend its passage, and I ask for its present consideration.

The resolution was considered by unanimous consent, and agreed to, as follows:

*Resolved*, That one thousand copies of the Navy Register for 1863 be printed for the use of the Senate.

#### TRADE WITH BRITISH PROVINCES.

Mr. ANTHONY. I am instructed by the same committee to report back the following resolution without amendment, and recommend its passage:

*Resolved*, That five thousand additional copies of Executive Document No. 240 H. R., parts one and two, and No. 295 H. R., be printed for the use of the Senate.

I ask for the present consideration of the resolution.

Mr. MORTON. What are those documents?

Mr. RAMSEY. A report on the trade with the British provinces.

The CHIEF CLERK. "A letter from the Secretary of the Treasury, transmitting a supplemental report on trade with the British American provinces."

Mr. ANTHONY. It will only cost sixty-five dollars.

The resolution was considered by unanimous consent, and agreed to.

#### BILL INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 583) in relation to the transportation of United States mails by railroad companies; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

#### HOUSE BILLS REFERRED.

The following bills, received from the House of Representatives, were severally read twice by their titles and referred to the Committee on the Judiciary:

A bill (H. R. No. 90) to authorize and require the administration of oaths in certain cases, and to punish perjury in connection therewith;

A bill (H. R. No. 292) to regulate and limit the admiralty jurisdiction of the district courts of the United States in certain cases; and

A bill (H. R. No. 568) explanatory of the act entitled "An act declaring the title to land warrants in certain cases."

#### FINAL ADJOURNMENT.

The concurrent resolution of the House of Representatives providing for the adjournment *sine die* of the two Houses on the 15th of July, was, on motion of Mr. SUMNER, ordered to lie on the table.

#### PACIFIC RAILROAD.

Mr. HOWARD. I ask leave to lay before the Senate certain papers relating to the Pacific railroad, containing a statement of the amount of bonds issued to the Union Pacific railroad and its branches, with the amount of interest paid upon those bonds to those companies, and interest repaid by the companies to the Government; and I ask that they may be printed for the information of the Senate.

The PRESIDENT *pro tempore*. That order will be made.

#### CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year

ending June 30, 1869, and for other purposes; the pending question being on the amendment reported by the Committee on Appropriations, to strike out the following clause from line four hundred and fifty-six to line four hundred and sixty:

For care, support, and medical treatment of sixty transient paupers, medical and surgical patients, in some proper medical institution in the city of Washington, under a contract to be formed with such institution, \$12,000, or so much thereof as may be necessary.

The PRESIDENT *pro tempore* put the question on the amendment, and declared it to be agreed to.

Mr. HARLAN. I must ask for a division. Mr. MORRILL, of Maine. I hope the Senator will let it go. Provision will be made for it in the other bill, to which I alluded yesterday.

Mr. HARLAN. I shall not insist on the call, with the understanding that the committee will see that it comes in on some other bill.

Mr. MORRILL, of Maine. Certainly; there is not the slightest danger of it.

The PRESIDENT *pro tempore*. The amendment is agreed to. The reading of the bill will be continued.

The reading of the bill was concluded.

The next amendment of the Committee on Appropriations was to insert at the end of the bill:

To enable the Secretary of the Interior to pay for fitting necessary shelving, and for record books furnished or ordered for the office of register of deeds of the District of Columbia, during the period when Edward C. Eddie was such register, \$550.

Mr. HARLAN. I do not know from where that amendment sprang, but under existing laws the register of deeds in the District of Columbia furnishes his own stationery. The law provides that the Secretary of the Interior shall provide him with a suitable room in which to keep the records, but from the foundation of the office up to this time the register has furnished his own books and stationery. I should like, therefore, to know what the reason is for giving this additional pay to the estate of the late incumbent.

Mr. MORRILL, of Maine. This amendment is proposed on the recommendation of the Secretary of the Interior, who represents that this expenditure was made for the purposes indicated in this amendment. A part of the money proposed to be appropriated is to pay for "necessary shelving," which I suppose would be covered by the statement of the Senator that the Department furnish the room.

Mr. HARLAN. I think that part of the proposition is right.

Mr. MORRILL, of Maine. It also includes another item, "and for record books." I presume the stationery would naturally enough be covered by the perquisites of the office, but probably an appropriation is needed for the permanent record books.

Mr. FESSENDEN. I will say to the Senator from Iowa that last year we made, on his recommendation as Secretary of the Interior, an appropriation for this purpose to Mr. Hall, who was register. The money which this appropriation proposes to refund was paid by Mr. Eddie for record books, which remain in the office and are now used there. I trust no objection will be made to the appropriation; it is a very small sum.

The amendment was agreed to.

The next amendment was to add to the bill the following clause:

To enable the Secretary of the Senate to complete the alphabetical list of private claims to the end of the second session of the Thirty-Ninth Congress, and to pay outstanding claims for services rendered in the preparation of said work under a resolution of the Senate of March 16, 1863, \$2,000.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The amendments reported by the Committee on Appropriations are now through with.

Mr. BUCKALEW. On the sixteenth page, in line three hundred and seventy-one, I move to strike out the word "eight" and insert "twelve," and again in the same line to strike out the word "seven" and insert "ten," and



in line three hundred and seventy-two to change the aggregate appropriation from \$25,000 to \$40,000; so as to make the clause read:

For surveying the public lands of Colorado at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and twelve dollars for section lines, \$40,000.

This will make the rates for surveying in that Territory precisely what they are in all the other Territories mentioned in the bill. This amendment it is understood is assented to by the House committee, and I do not know how the error occurred in the amount. I have here an official report from the land department on this subject, but I believe there is no objection to the amendment, and therefore I will not go into the details.

Mr. POMEROY. I do not understand exactly under what rule this amendment is moved.

Mr. BUCKALEW. I submitted it yesterday, and had it referred to the Committee on Appropriations.

Mr. POMEROY. It is not reported on recommendation of any committee.

Mr. BUCKALEW. I gave notice of it yesterday.

Mr. HARLAN. I inquire whether the surveyor general of Colorado has been unable to procure the work at the rates that now stand in the bill. As I understand, the Senator's motion is to increase the price for surveying the public lands in Colorado.

Mr. BUCKALEW. To make it the same as in the other Territories. The surveyor general, who was formerly a citizen of my State, was here and gave a statement and exhibit of the whole case. It is well understood by the House committee at present, but the explanation was not made in time.

Mr. POMEROY. I did not know that an individual Senator, giving notice of it yesterday, brings it within the rule. That was the point I made.

Mr. BUCKALEW. I offered the amendment in writing, and it was referred to the Committee on Appropriations.

Mr. POMEROY. I admit all that; but our former rule was that no amendment of this nature to a general appropriation bill could be moved excepting upon the recommendation of a committee or on an estimate of the head of a Department. Now the rule is amended that all such recommendations shall be referred one day in advance to the Committee on Appropriations; but if this amendment could not have been received under the rule formerly, it cannot now, under the rule as latterly modified.

The PRESIDENT *pro tempore*. Unless the amendment is reported by a committee I suppose it is not in order.

Mr. BUCKALEW. Certainly the first part of the amendment fixing the rates does not come under that rule; it would only affect the latter branch increasing the amount of the appropriation. I supposed that the committee agreed to this amendment—

Mr. POMEROY. I do not insist on the point. If the Committee on Appropriations are for the amendment I will not object; I will waive the rule so far as I am concerned.

Mr. MORRILL, of Maine. I was looking to see on what principle this could be moved; I had not raised the point about the authority to move it. There is a long list of rates fixed for the several Territories. I see that in Nebraska, for the same service, the rates for standard lines are fixed at not exceeding ten dollars; Colorado, for the same service, is fixed at fifteen dollars in the bill. I do not know that the Senator observed that. He will see that Colorado stands five dollars for standard lines higher than Nebraska. I think it is the same as Idaho, the same as Nevada, the same as Arizona. On the township lines it is less.

Mr. BUCKALEW. The Senator will observe that there is a difference between the States and Territories. The rates are less in

the State of Nebraska and the State of Kansas than in the Territories.

Mr. MORRILL, of Maine. I examined this question by myself this morning to see whether there had been any communication from the General Land Office making a complaint of the sum fixed by the committee of the House, for the committee of the Senate followed the committee of the House; and I had not observed before that that office made any complaint of the appropriation for the service as thus fixed. I ought, perhaps, in justice to the Senator from Pennsylvania and to the Senate, to read a communication from the Commissioner of the General Land Office, in which he expresses his solicitude that the sums estimated for in the general estimates should be preserved, all of them. He says:

"This morning I received another bill, No. 818, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, now before the Committee of the Whole House, containing reduced appropriations on account of the surveying service, which, if not restored to the sums estimated by this office as the lowest possible consistent with the exigencies of the prosecution of the public surveys, there will result great impediments in the carrying out of public requirements under sundry laws both in the field and office work in the office of the surveyor general."

On that statement I should say that it will be necessary to raise this appropriation. It is necessary, in the estimation of the Commissioner of the General Land Office, that the sum appropriated for this service should be increased.

Mr. HARLAN. I beg to express the hope that the Commissioner's recommendation may be followed. Without intending to eulogize that officer, I know he has been very careful in the expenditure of the public money, and in making his estimates for expenses, and has always placed them at the lowest figure since the war began which he thought was compatible with the public interests. I think that his estimates ought to be followed.

Mr. BUCKALEW. The surveyor general of this Territory informs us that he is utterly unable to get the work done for the rates proposed in the bill; and if it should not be amended, surveying such as is contemplated in this clause will have to stop until the action of Congress hereafter.

Mr. MORRILL, of Maine. I think under the circumstances I shall not raise the point of order on the Senator from Pennsylvania unless some other Senator deems it advisable. Here seems to be an express recommendation on the part of the Commissioner that this sum should be appropriated, and in quite emphatic language he says the service will suffer if it is not done. Under these circumstances, perhaps, the Senate would think I ought not to object.

Mr. POMEROY. The proposition is to increase the appropriation from \$25,000 to \$40,000.

Mr. MORRILL, of Maine. That is it, and that puts it on the same footing as Nevada and Arizona and Idaho. The Senate will judge for themselves whether they ought or ought not to be about the same.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. FESSENDEN. By direction of the Committee on Public Buildings and Grounds, I have some amendments to offer. I move first, after line three hundred and ten, on page fourteen, to insert

For heating the Rotunda, the old Hall of the House of Representatives, and the offices and stairways connecting therewith, \$15,000.

The amendment was agreed to.

Mr. FESSENDEN. I move this amendment, to come in after line three hundred and twelve, on the same page:

For painting the exterior of the eastern portion of the City Hall, in Washington, \$1,400.

For resetting steps, ealiking cornice, &c., \$750.

For repairing roof, \$100.

For repairs to tin-roof and rain-spouts, \$200.

For sundry brick and carpenters' work, \$350.

For renovating and ventilating court-room, \$400. Provided, The corporate authorities of the city of Washington appropriate and expend a like sum for painting and repairs of the western portion of said building.

Mr. MORRILL, of Maine. I should like to ask the Senator whether he understands that by law, or by usage, or both, the Government of the United States appropriate for the erection and for the repairs of this building. Is that our obligation?

Mr. FESSENDEN. I understand that to be so. The United States paid for building one half, I believe, of the City Hall, and they were to have the occupation of it for their own purposes. They have been in the habit, also, since of paying for the repairs of that part which they occupy. The City Hall is now in very bad condition; it is made of very soft stone; it has not been painted; and it is disintegrating, and it is very much out of repair. So is the roof. I have a letter from the architect of the Capitol extension, who examined it thoroughly, and made the calculations of the amounts necessary, and he states, to use his own expression, that the building is almost in a tumble-down condition. It ought to be repaired. There is no doubt of the necessity, no doubt about the practice, and none of the obligation. I make it dependent, as the city is rather remiss on its appropriating like sums to repair its part. It wants thorough painting outside and renovating in several particulars. The amendment was agreed to.

Mr. FESSENDEN. I offer this amendment, to come in after line four hundred and seventy-six, on page 20:

For continuing the United States twenty-inch water main from its present terminus on north B street on the east side of Delaware avenue to the United States branch twelve-inch main on First street east, \$10,000.

This is a much-needed improvement, as there are great complaints of the scarcity of water in all that portion of this city east of the Capitol during the day, owing to the large quantity used as a motive power at the shops of the navy-yard. By connecting the two mains specified this difficulty will be obviated.

Mr. MORRILL, of Maine. Was this matter considered by the Committee on Public Buildings and Grounds?

Mr. FESSENDEN. Yes, sir. It is absolutely necessary to make this provision.

The amendment was agreed to.

Mr. FESSENDEN. I desire now to offer an amendment that comes from the Committee on Commerce, to come in after line one hundred and seventy-five on page 8:

For a new light-house on Half-Way Rock, on the coast of Maine, \$50,000.

Mr. MORRILL, of Maine. Is that recommended by the Light-House Board?

Mr. FESSENDEN. It is recommended by the board and recommended by the Committee on Commerce.

The amendment was agreed to.

Mr. HOWARD. I offer an amendment to come in at the close of the bill which is recommended by the joint Committee on Ordinance, which was constituted by a vote of the two Houses. I gave notice of my amendment yesterday:

That the sum of \$15,000, or as much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated to defray the expenses of the joint Committee on Ordinance; and that the same shall be drawn from the Treasury upon the order of the Secretary of the Senate as it shall be required; and any portion of the amount hereby appropriated that shall be allowed by the said joint committee to witnesses attending before it, or other persons employed in its service, for per diem travel or other necessary expenses, and paid by the Secretary of the Senate in pursuance of the order of said joint committee, shall be accordingly credited and allowed by the accounting officers of the Treasury Department.

Mr. MORRILL, of Maine. I should like to have the Senator make some explanation of that.

Mr. HOWARD. I will say, then, that this amendment is recommended by the joint Com-

mittee on Ordnance, which was constituted at the first session of the present Congress. The committee have performed a very great amount of labor, and had numerous meetings on the subject referred to them, and called before them a great number of witnesses, whose testimony they have taken, and the amount of documentary proofs which they will in the course of this session be able to submit to Congress is quite large. The expenses of the committee of course have been considerable; and Congress having made no appropriation at all to pay the expenses of the committee for short-hand reporters, and traveling expenses and attendance of witnesses, &c., they have been obliged, through the Sergeant-at-Arms of the Senate, to obtain an advance from one of the banks of this city to the amount at present of between seven and eight thousand dollars, which is justly due to the bank. We suppose that \$15,000 will something more than cover the whole expenses of the committee; but we thought it best to ask for that amount, in order to be sure that we get a sufficiently large appropriation. I think there can be no hesitation about the propriety of the appropriation.

Mr. MORRILL, of Maine. Of course, Congress having authorized a committee, is bound to pay the expenses; and if the Senator will state precisely what that sum is, that should be the sum appropriated.

Mr. HOWARD. It is impossible at present to state the exact amount, because the committee are not yet discharged from their duties. They are still pursuing the inquiries which were referred to them. The amount of expenses which they have already incurred must be somewhere about nine thousand dollars; perhaps even ten thousand dollars; I cannot state with precision. The amount which they have borrowed from a bank in this city is \$7,000, and I think a little upward. That has been paid out to witnesses, clerks, &c., for labor actually performed. I think \$15,000 will fully cover the expenses, and perhaps leave a small balance that will not be drawn.

The amendment was agreed to.

Mr. CORBETT. I desire to offer the following amendment, to come in after line two hundred and forty-two; I report it from the Committee on Commerce:

For the construction of a building to be used as a custom-house and United States court-room and post office at Portland, Oregon, \$50,000.

Mr. MORRILL, of Maine. Will the Senator be good enough to tell us whether that is recommended by the Treasury Department?

Mr. CORBETT. I have inquired at the Treasury about the construction of such a building. I have a communication from the United States district attorney and the grand juries of two sessions of the courts asking for an appropriation for the construction of a court-house in Oregon. They represent that the present room they occupy is totally unfit; that it makes persons sick who are compelled to be there; it has no windows, and is lighted by a skylight. It really is unfit to be occupied for the purpose for which it is used. The post office is a small wooden building with no security for the valuable letters that are constantly being sent from there, and is totally inadequate to the wants of the second commercial city on the Pacific coast. I have here a statement from Mr. Mullett that there is no public building of any kind in that city for custom-house uses. I have also an estimate from him that such a building as we desire will probably cost from eighty to ninety thousand dollars, but \$50,000 will be adequate for the present year to put the building in process of construction and push it forward.

Mr. MORRILL, of Maine. I do not see in the papers submitted by the honorable Senator any recommendation either from the Treasury or the Interior Department.

Mr. CORBETT. The proposed building is to be used for a custom-house, a post office, and a court-room, and I did not think it was

necessary to go to all the various Departments having charge of those matters. I sent to the Interior Department the papers relative to the court-room, and received for answer that they could not make any other provision. Now, a small room is rented there, and they have no power to make better arrangements.

Mr. MORRILL, of Maine. All I can say is that these papers did not authorize the Committee on Appropriations to move this amendment to the bill, and I think I may say to the Senator from Oregon that it is not usual to make appropriations of this kind upon such papers. These papers are simply letters from the district attorney in Oregon, and petitions from the grand jury, and they have been, it seems, in the Department of the Interior; but the misfortune is that the Secretary of the Interior does not send them back with a recommendation, and the Secretary of the Treasury gives us no information on the subject. It will be seen that this building is to combine a court-house and a custom-house. Such appropriations are usually backed by a recommendation from the Department, with plans from the architect showing what the character of the building is, what its probable cost is to be, and what the demand for it is. All these particulars in this case seem to fail.

Mr. CORBETT. I had this proposition referred three or four days ago to the Committee on Commerce, and I did not learn from them that it was necessary to procure such recommendations. If I had I could have done so, no doubt. This is the place where my colleague and myself reside, and he knows the importance of such a building, and how much the interests of the Government and the convenience of citizens suffer by the want of it. It is the largest commercial city on the Pacific coast north of San Francisco, and pretty much all the custom duties collected in the State of Oregon are collected there, and of all the taxes collected in the State not less than one half are collected in Portland.

Mr. MORRILL, of Maine. Suppose the Senator allows this matter to go over until to-morrow.

Mr. CORBETT. I desire a vote on this question.

Mr. WILLIAMS. Will this bill be disposed of to-day?

Mr. SHERMAN. I apprehend not.

Mr. MORRILL, of Maine. There will probably be time for this to-morrow.

Mr. CORBETT. The amendment which the Senator from Ohio intends to offer will lead to a long discussion.

Mr. SHERMAN. The Senator will have a chance afterward, if that amendment is disposed of. I desire—

Mr. WILLIAMS. This amendment proposed by my colleague may be temporarily withdrawn for the purpose of ascertaining if the Department will recommend this appropriation, with the understanding that it is to be renewed before any final action is taken on the bill.

Mr. MORRILL, of Maine. Certainly.

Mr. CORBETT. I withdraw my amendment under those circumstances.

Mr. SHERMAN. I wish now to submit the amendment of which I gave notice yesterday. I am not anxious to press an immediate vote on it, because it is an important one and will excite discussion; but as I have to be absent from the Senate I desire to offer the amendment, and then if the Senate is willing to let other amendments be taken up I shall not object. But I desire to offer the amendment from the Committee on Finance.

The amendment was read. It was to add to the bill the following additional sections:

SEC. —. And be it further enacted, That the Secretary of the Treasury is hereby authorized to issue coupon or registered bonds of the United States in such form and of such denominations as he may prescribe, redeemable in coin at the pleasure of the United States, after twenty, thirty, and forty years, respectively, and bearing the following rates of yearly interest, payable semi-annually in coin, that is to say: the issue of bonds falling due in twenty years shall bear interest at five per cent.; bonds fall-

ing due in thirty years shall bear interest at four and a half per cent.; and bonds falling due in forty years shall bear interest at four per cent.; which said bonds shall be exempt from taxation in any form by or under State, municipal, or local authority, and the same and the interest thereon, and the income therefrom, shall be exempt from the payment of all taxes or duties to the United States, other than such income tax as may be assessed upon other incomes; and the said bonds and the proceeds thereof shall be exclusively used for the redemption, payment, or purchase of, or exchange for, an equal amount of any of the present interest-bearing debt of the United States, other than the existing five per cent. bonds and the three per cent. certificates, and may be issued to an amount, in the aggregate, sufficient to cover the principal of all outstanding or existing obligations as limited herein, and no more, but not to exceed \$700,000,000 shall be of the issue redeemable in twenty years.

SEC. —. And be it further enacted, That there is hereby appropriated out of the duties derived from imported goods the sum of \$135,000,000 annually, which sum during each fiscal year shall be applied to the payment of the interest and to the reduction of the principal of the public debt, in such a manner as may be determined by the Secretary of the Treasury, or as Congress may hereafter direct; and such reduction shall be in lieu of the sinking fund contemplated by the fifth section of the act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February 25, 1862.

SEC. —. And be it further enacted, That the holder of any lawful money of the United States to the amount of \$1,000, or any multiple of \$1,000, may convert the same into bonds for an equal amount, authorized by the first section of this act, under such rules and regulations as the Secretary of the Treasury may prescribe; and any holder of any of the bonds provided for in the first section of this act may present the same to the Treasurer of the United States and demand lawful money of the United States for the principal and accruing interest thereon, and the Treasurer shall redeem the same in lawful money of the United States, unless the amount of United States notes then outstanding shall be equal to \$400,000,000; and such bond shall not be so redeemable after the United States have resumed the payment of coin for their notes.

SEC. —. And be it further enacted, That any contract hereafter made, specifically payable in coin, shall be legal and valid, and may be enforced according to its terms, anything in the several acts relating to United States notes to the contrary notwithstanding.

Mr. HENDRICKS. If the Senator does not wish to make an argument on his amendment, I will ask that it be postponed that I may offer—

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) Does the Senator from Ohio move this as an amendment to the appropriation bill?

Mr. SHERMAN. Yes, sir; but I am willing the Senate shall do as it pleases in regard to having a vote at this time. I want to have it pending.

Mr. MORRILL, of Maine. I propose to raise a question, if not a question of order under the rule to which we have had occasion to refer, under the general principles of legislation that this is not allowable, that it has no reference to the subject of this bill; it is not germane in any sense whatever; does not relate to it in general or particular. This is an appropriation bill strictly, and subjects to have relation to it must be of that character. They must either be matters of appropriation or they must have reference to the subject-matter of appropriation in some way; and a bill which is utterly foreign to such a subject I conceive is obnoxious to the general objection that it is not germane, which, according to all sound principles of legislation, I believe obtains everywhere. This is a matter of general legislation upon a subject entirely distinct from the one we are considering. It has no more relation to it, I conceive, than the bill of the honorable Senator from Massachusetts which was before the Senate last night, which was a bill making rules and regulations for the government of the Army of the United States; and if this bill prevails my honorable friend from Massachusetts may with equal propriety, I submit, propose that bill as a rider; and so you may go on to the end of the session; there is no conceivable measure either of a general or special character which may not properly go upon this bill.

Now, the question I submit, Mr. President, is to the judgment of the Senate, whether they are willing upon a general bill which involves simply a question of appropriation to consider

a matter of general legislation, and so general as to embrace the great subject of the entire funding system of the Government of the United States. Certainly the Senate is not here to perform any such function as that. Certainly the moment it is moved the functions of the Committee on Appropriations are at an end. So far as we have any functions in regard to the recommendation of appropriations for the service of the Government of the United States we stop right here.

The PRESIDING OFFICER, (Mr. POMEROY.) Does the Chair understand the Senator to be discussing a point of order?

Mr. MORRILL, of Maine. Yes, sir; I suppose that is debatable.

The PRESIDING OFFICER. The Chair is unwilling to call the Senator to order; but at the same time such a point of order cannot be discussed unless by unanimous consent. Still if no Senator objects the Chair will not interpose.

Mr. MORRILL, of Maine. Mr. President—

The PRESIDING OFFICER. If the Senator will state his point of order the Chair will decide it.

Mr. MORRILL, of Maine. I make the point of order that this is not admissible because it is not germane to the subject under consideration.

The PRESIDING OFFICER. The Clerk will read the thirtieth rule.

Mr. MORRILL, of Maine. I do not claim that the thirtieth rule has any application. I rest my point on general principles.

The PRESIDING OFFICER. The Chair understands that there is no specific rule of the Senate against this amendment; but the amendment can hardly be said to be germane to the bill, and under common parliamentary law it is not to be considered by the Senate; but there is no special rule of the Senate on the subject. The Senate has never held hitherto that such amendments could not be considered on an appropriation bill. We put on the amendment in reference to banks, I remember, once. The Chair decides that such amendments are not in harmony with parliamentary law and a good system of legislation.

Mr. SUMNER. I would inquire if it has not been the habit of the Chair to submit to the Senate the question whether an amendment was in order or not?

The PRESIDING OFFICER. I was going to do that. While that is the opinion of the Chair, he would not like to decide the question without referring it to the Senate; and if the Senator from Ohio has no objection, the Chair will submit the question to the Senate at this time whether the Senator has the right to move this amendment.

Mr. SHERMAN. That point, then, I suppose becomes debatable?

The PRESIDING OFFICER. A point of order referred to the Senate is debatable.

Mr. SHERMAN. It is admitted that the rules of the Senate do not exclude this amendment. Now, what is the parliamentary law of this Senate? Where is it to be found? Is it to be found in Jefferson's Manual? Is it to be found in the practice of the English Parliament, or in the practice of our House of Representatives? Not at all; it is to be found in the practice of the Senate, as continued from the foundation of the Government to this hour; and down to this hour no amendment to an appropriation bill was ever excluded that had any bearing whatever on the general safety. I can show my friend from Maine innumerable precedents for this. Generally I am opposed, on grounds of policy, to all amendments of a legislative character to appropriation bills. No one has objected to it more strongly than myself; and but for special reasons and strong grounds I would not encumber the appropriation bills with legislative amendments. But so far as the practice is concerned, from the foundation of the Government to this time, there is no doubt that such amendments are in order, and must be decided by the vote of the Senate.

For instance, I find that to the very last civil appropriation bill that was pending in the Senate last year several amendments were attached; one abolishing the office of Commissioner of Public Buildings; another regulating the Light-House Board; another fixing the salary of the general appraiser at New York; another for the pay of the clerk of pardons in the State Department; another authorizing the Clerk of the House of Representatives to select the newspapers for the publication of the laws; another notifying the heads of the executive Departments that they are to publish advertisements only in certain newspapers; another fixing the rate to be paid for publishing the laws; another authorizing the Secretary of the Treasury to sell custom-houses at Alexandria, Norfolk, &c.; another authorizing certain officers to report upon public buildings in New Mexico; another fixing the pay of clerks in the arsenals, and so on.

I take this single instance to show how universal by the judgment of the Senate is the practice of putting legislative amendments of various kinds on appropriation bills. There are times when it becomes absolutely necessary for the Senate to maintain its right to amend the appropriation bills of the House of Representatives by legislative amendments. It ought never to be done unless there is good reason for it; and when we come to debate the question of the necessity of putting on this appropriation bill these provisions relating to the public debt I shall be prepared to discuss that question. So far as the point of order is concerned there is no doubt according to the practice of the Senate. From the foundation of the Government to this time the Senate has always maintained its right to put amendments of a legislative character on appropriation bills; and it is a right which ought never to be surrendered; but it ought to be exercised with care, with caution, and only upon sufficient reason.

So far as the point of order is concerned there can be no doubt what is the parliamentary law of the Senate on such questions. It is not necessary for me to discuss what may be the parliamentary law of the House of Commons. Each legislative House has its own mode of conducting its business. The House of Representatives, by a rule, exclude amendments of a legislative character from the appropriation bills; that is their law. This would not be in order in the House of Representatives, because their rule expressly forbids it; but in the Senate it has never been so, and I trust the Senate will never change its rule merely to avoid a vote upon one amendment. This amendment is in order in accordance with the regular practice of the Senate. As a matter of course it ought not to be put on this bill unless a majority of the Senate are clearly of opinion not only that it is right in itself, but that it is right as an amendment to and as a part of this bill.

Mr. MORTON. Will the Senator state the reasons that induced the Committee on Finance to report it?

Mr. SHERMAN. I do not feel at liberty to do that on the question of order. The rule confines me to the discussion of the question of order, and I do not wish to go beyond that at present.

The PRESIDING OFFICER. The question submitted to the Senate is whether the amendment of the Senator from Ohio is in order and should be received.

Mr. SHERMAN. I have confined the debate solely to that.

Mr. HENDRICKS. I understood the Chair to say that under the rules of the Senate, the amendment was in order.

The PRESIDING OFFICER. The Chair said that under the rules it was not out of order, technically speaking.

Mr. HENDRICKS. I understood the Chair to express the opinion that an amendment of this sort was not consistent with prudent legislation and that, therefore, the Chair would submit to the Senate whether the Senate, in

the exercise of its judgment and discretion, would entertain this as an amendment to this bill. I suggest to the Chair, therefore, that that is the question which ought to be submitted to the Senate, and not the arbitrary question whether the amendment is in order or not in order. I suppose, according to the usage of the Senate, it is a proper question for the Senate to decide whether, in the exercise of its discretion and judgment, it will entertain a proposition not germane to this bill, and that is the question I ask the Chair to submit.

The PRESIDING OFFICER. The question presented to the Senate is purely a question of order. No other question can be submitted.

Mr. CONKLING. Mr. President, the question is whether it is in order, or whether the Senate will hold it to be in order, to take up the financial affairs of the country generally, and put a bill into which provision for them is to be incorporated as a rider upon an appropriation bill. That is a question of order, and I submit with great respect to the Senator from Ohio that that question is not with him for the reasons which he has given to the Senate.

First of all I remark that those instances to which the Senator refers are just as applicable to the House of Representatives as they are here. He will find that over and over again such provisions as he has cited have been put in the House of Representatives upon appropriation bills. Why? First, because they were not objected to; the question of order was not raised; and that was because they were single sections, mere items, propositions which did not belong appropriately upon any separate bill, unless a joint resolution was to be passed for the single purpose of directing the sale of a particular piece of property, which has been the exception when bills were under consideration embracing general subjects. The same thing will be found in the British Parliament. Looking at Cushing, or looking at May, it will be found that appropriation bills continually pass which contain provisions such as the Senator has referred to.

Let me remind him that there is no rule of the House of Representatives against this. The rule of the House to which he refers is that a provision shall not be put into an appropriation bill changing existing laws, and that an appropriation shall not be made for which there is no existing law. That is not the point made here, and I submit to the Senator it has nothing to do with the point made here. The question here is whether the amendment is not wholly foreign, entirely destitute of the elements which make it germane to this bill. Now, I should like to see any rule of the House of Representatives on that subject. I never heard one read there, and never knew one to be enforced. The parliamentary law is enforced there, which requires that subjects moved as amendments shall be cognate and germane to the thing in hand, or else they are out of order. The Senator says we have a right to put upon appropriation bills fresh matter, and that right ought not to be surrendered. Certainly not, and nobody draws that right in question here.

I should like to inquire of the Senator from Ohio or any other Senator familiar with the usage of this body, for the instance in which the Senate has held, the point of order being raised, that any other bill, however remote the subject might be, could be incorporated into an appropriation bill. If there has been such a precedent as that, that precedent is influential in this case. It would be a very extraordinary precedent. There are persons within and without this Chamber waiting with great patience for the consideration of bills which ought to be considered. I have a bill in mind now relating to patents, the want of consideration of which imposes great hardship upon a number of persons. I feel very much interested in it myself; and if this is the order of business in the Senate, I wish to give notice, and to have it referred to the Committee on Appropriations so as to be within the other rule, that on to-mor-



row I will propose that bill extending a patent as an amendment to this appropriation bill; and surely there is no bill pending in the Senate which would not be in order for the same reason.

Now, Mr. President, one word upon the matter of discretion, which, as the Senator from Indiana truly says, is one of the elements of this question. Suppose it were in order, in some sense, to consider a subject not germane to the appropriation bill, ought we to take up a subject great and complex, in itself perhaps the most important subject of legislation, and mingle that with an appropriation bill, and undertake to have it go through as a sort of codicil or addendum to this bill? It seems to me that that line of proceeding would be unworthy of the subject and unworthy of the Senate.

The bill which is proposed as an amendment of course will lead to discussion and investigation and to consideration just as much aloof from the present subject as can possibly be. What is the motive for attaching it to this bill? What do we all know is the motive? If possible to obtain its successful passage through the two Houses as a rider to this bill which must necessarily be passed, when, if it stood alone, it would not be adopted. Is there any motive for it? Certainly there can be none; and therefore I submit that the matter of discretion, assuming that it was strictly in order, is against the motion; but I insist, and shall so vote, that it is entirely out of order, either here or in the House of Representatives, until precedents can be shown establishing that this body has adopted the usage, when the objection was made and the point of order was insisted upon, of taking up subjects distinct by themselves and utterly independent of all matters contained in an appropriation bill, and legislating upon them by way of rider to it.

As I said before, the instances referred to by the Senator of directing the sale of a hospital here, of doing something else there, have occurred in both Houses, occurred by consent, and occurred, perhaps, where objection has been made, though I do not remember it, for the reason that they were within the general scope of the bill. But this proposition is to go beyond all possible intendments of the present bill as to the subjects to which it relates, and take up a matter independent and complex in itself, and ingraft upon this bill, tack upon it, in the language of Colonel Benton, an entirely different subject. I submit that such a practice ought not to prevail, and I hope it will not prevail.

Mr. POMEROY. Mr. President, the appropriation bill being under consideration, the Senator from Ohio moves to amend it by inserting the provisions of the funding bill, and the question whether he is at liberty to do so is before the Senate for decision. I desire now simply to state the question, for I think if it is fairly stated to the Senate it need not be argued. Upon an appropriation bill it is proposed to ingraft legislation entirely foreign to it. Although there is no technical rule of the Senate against it, because the Senate always has the largest liberty and can always exercise the largest discretion, it is a vicious system of legislation and ought not to be indulged in. I should regard it as a most unfortunate precedent for the Senate to set. It never yet has set a precedent of this character, at least not of this magnitude. It frequently on appropriation bills directs how certain sums shall be expended, but a system of funding never was introduced on an appropriation bill, and it is in no way germane to it. It is bad legislation to admit it, and it ought not to be admitted.

Mr. SHERMAN. The statutes are full of precedents on this question, and to those who have been in the Senate for any length of time it is not necessary for me to produce them. I have before me a law passed in 1863, the civil appropriation bill, containing twenty-five different sections, among which is a law regulating the *habeas corpus*, another reorganizing the Signal corps of the Army, and so on. These provisions were in a mere civil bill providing for miscellaneous expenditures. So far as pre-

cedents are concerned, there is no doubt that this amendment is in order. If I felt at liberty to show the importance of acting upon the funding bill, I think I could convince every Senator, or nearly every Senator, that we ought to act upon it at this session.

Mr. POMEROY. I admit the importance of it.

Mr. SHERMAN. Now, I say that my desire is, and I intend to present squarely to the Senate the proposition whether or not they will adjourn this session of Congress without making some provision for the reduction of the burden of the public debt. I do not want to do it on the point of order, because, as a matter of course, unless the Senate are satisfied not only first of the correctness of this proposition, but second, that it ought to be put for reasons that shall be given on an appropriation bill, they will vote against it. If they have doubts about either the merits of the proposition or the propriety of putting it on an appropriation bill, they will vote against it on the final vote; but on the question whether it is in order according to the practice of the Senate, I cannot think that any person who has been here any considerable length of time can doubt for a moment.

The rule in the House of Representatives referred to by the Senator from New York does exclude it there; because no amendment can be put upon an appropriation bill in the House which changes the existing law. Even where new items of appropriation are proposed they cannot be put on an appropriation bill there, because they are in the nature of new legislation. Almost every legislative act changes an existing law, and the House rule forbids that being done on the appropriation bills; but in the Senate we have never practiced upon that. On the contrary, we seek the appropriation bills sometimes, not only to carry convenient amendments, but to assert great principles; and I might go to many instances in the history of this Government where the Senate have attached important legislative provisions to appropriation bills, and have presented them in that way forcibly to the country. I say that if there ever was a case for it this is the one.

The singular spectacle is presented in this country of the United States paying six per cent. interest in gold on over due bonds which we have a right to redeem, while at the same time our notes held by each of us, and which we compel the people of the United States to take, are below the par of anything else issued by the United States, and cannot buy any bond or security issued by the United States, and are now worth in gold but sixty to seventy cents on the dollar. While that condition of affairs stands we are justified in proposing to remedy it, and I think we ought to avail ourselves of every medium to present that question to the House of Representatives, and I am satisfied that this proposition will receive the sanction of the House of Representatives if it is passed here. That is my opinion, but I may be mistaken. As a matter of course, I would not force this proposition on the House of Representatives. If it receives a majority of the votes of the Senate and a majority of the votes of the House of Representatives it becomes the law of the land on this appropriation bill as well as anywhere else. If it should not receive a majority of the House of Representatives, as a matter of course the Senate would not insist on the amendment; but that we ought to present this question and do something to carry out this view I have no doubt.

I feel cramped in attempting to debate a question of this kind on a point of order, and I will not do it. I think the Senate ought to assert its right, its power, its rule, its custom, its law to put on an appropriation bill any amendment of a legislative character. When that right is asserted I am then willing to show that this amendment comes within any rule the Senate may choose to prescribe; that it is in the highest degree important, necessary, vital, and defensible.

Mr. WILLIAMS. Mr. President, I suppose

this is altogether a question of order, and the objection made to the amendment, it appears to me, must fall to the ground unless reference can be made to some rule by which it is excluded. It may be inexpedient to offer such an amendment; but will the Senate decide that a proposed amendment is not in order because in their judgment it is inexpedient to attach it to the pending bill or to adopt it? Suppose the Senate should decide now that this amendment is not in order, what sort of a precedent would that constitute? Is it to be assumed now, for the first time in the history of the legislation of the Senate, that any amendment which does not relate to the matter of appropriation shall not be incorporated into a bill of this description?

I submit that the Senate is not willing at this time to debar itself from that privilege, for it does become absolutely necessary at times to put upon a miscellaneous appropriation bill some provision of law which does not relate to appropriations, and the Senate must be afraid of itself, must be afraid of its own judgment, if it establishes a rule which invariably debars it of the privilege of putting on any such amendment.

I hope that this great question, and it is one of immense magnitude to this country, as it seems to me, will not be decided upon a mere point of order. I do not see how it can be affirmed that this amendment is not in order. If it cannot be so affirmed, then it strikes me to be very unwise for the Senate, without considering the merits of the proposition, or the necessity for it, to refuse to consider it.

Mr. CONKLING. The Senator from Oregon will allow me to make a suggestion. He treats this as if the question were whether this subject, which he styles a great one, shall be considered in connection with this bill or not at all. Will the Senator explain to me why it is, if we are allowed to finish this bill without it, the subject to which he refers cannot then be taken up separately just as well as to be appended to this bill? What is the point about that? I ask for information. I do not understand.

Mr. WILLIAMS. I have reasons for insisting upon adding this amendment to the bill which I suppose it is not proper for me to state to the Senate, as they relate to matters in the other branch of Congress.

Mr. POMEROY. I hope the Senator from Oregon will not think that because Senators vote that this amendment is not in order they are therefore opposed to the funding bill.

Mr. WILLIAMS. It amounts to that.

Mr. SHERMAN. I will state to the Senator from Kansas that there is no other prospect of passing any funding bill.

Mr. POMEROY. I do not know about that. I will not vote to put that measure on the appropriation bill, although I will vote for it on its merits.

Mr. WILLIAMS. I will simply say in reference to that remark that it seems to me a Senator who, with a reasonable conviction on his mind that such a bill as this, which is of this vast importance, ought to pass, votes that it shall not be passed upon a mere matter of form, is sacrificing the interests of the country to a mere matter of form in the Senate; and it seems to me that is not wise or judicious legislation.

Mr. POMEROY. It is no more germane to this bill than a bill for a railroad in Oregon would be or a bill to extend a patent, as the Senator from New York said.

Mr. WILLIAMS. That may be true; but it does not follow that every proposition which is not germane to the bill is not in order. Although I am not familiar with the practice of the Senate, I undertake to say that no precedent for excluding this amendment can be found in the history of the Senate.

Mr. SHERMAN. I will state to the Senator that during the Mexican war a loan bill was attached to an appropriation bill.

Mr. WILLIAMS. I believe this is the first time I have ever undertaken to discuss a ques-

tion of order in the Senate; but the importance of this legislation impels me to insist that upon this mere matter of form the proposition shall not be rejected. I know it is not strictly germane to the subject-matter of the bill; but is that a conclusive objection?

Suppose there had been some omission in the legislation of Congress during the present session, that in the enactment of some law Congress had failed to incorporate into that law the necessary means for its execution, and the miscellaneous appropriation bill was the last bill before Congress, and it was necessary to insert a provision there relative to the execution of that law, not germane to the miscellaneous appropriation bill. Will the Senate deprive itself of the right to make such an amendment, if, in its judgment, there is any necessity for it? If the Senate decides now that this amendment shall not be received because it is not germane to the bill, the Senate decides, unless it is to vary from day to day in its practice upon the question, that hereafter, no matter what may be the exigency or the imperious necessity requiring it, the Senate will not put on a miscellaneous appropriation bill anything that does not touch the matter of the bill.

Mr. CONKLING. I beg to make a suggestion to the Senator there. In the House of Representatives, as the Senator from Ohio says—in the result I agree with him, although we understand the rule differently—there is an express rule standing all the time upon the book that in an appropriation bill such legislation shall not occur as changes existing laws; and yet in just such cases as the Senator now speaks of the House does it continually, as continually as the Senate. Why? Because the rules are always under control, and whenever any such instance as he speaks of arises, the rule is waived for that purpose. There is a rule there, among other things, that, during the last ten days of the session a motion is always in order to suspend all the rules. When, therefore, the last day comes, or the last day or two and something has been omitted that it is necessary to put in a bill, although strictly out of order, the majority do it, having the rules under their control. But the question here is, without any such emergency as that, why we should carry a dispensation of the rule to such an unheard of extent as this. The Senator says he has reasons which he is not at liberty to disclose, and of course I cannot discuss them.

Mr. POMEROY. I suppose it is impossible to get a vote; and after consultation with the Senator from Maine, and with his approval, I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. I hope not till we dispose of this point.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, June 30, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BORTON.

The reading of the Journal of yesterday's proceedings was, by unanimous consent, dispensed with.

### AGRICULTURAL REPORT.

Mr. CAKE, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed for the use of the members of the House of Representatives one hundred and eighty thousand extra copies of the annual report of the Commissioner of Agriculture for the year 1867, and twenty thousand copies for the Commissioner of Agriculture.

### TRADE WITH THE BRITISH PROVINCES.

Mr. CAKE, from the same committee, also reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That two thousand extra copies of the report from the Treasury relative to trade with the British provinces be printed for the use of the House.

### CIVIL SERVICE OF THE UNITED STATES.

Mr. CAKE, from the same committee, also reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That three thousand extra copies of the report of the Committee on Retrenchment in the civil service of the United States be printed for the use of the House.

Mr. CAKE moved to reconsider the votes by which the several resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### LAND OFFICE REPORT FOR 1867.

Mr. HIGBY, by unanimous consent, submitted the following resolution; which was read, and, under the law, referred to the Committee on Printing:

*Resolved*, That there be printed for the use of the members of the House twenty thousand copies of the report of the Commissioner of the General Land Office for the year 1867.

### PUBLIC DEBT, ETC.

Mr. BOUTWELL. Mr. Speaker, I ask unanimous consent to submit a bill which I give notice I will move as a substitute for the bill to be reported from the Committee of Ways and Means under the resolution adopted yesterday in reference to the taxation of interest on United States bonds. The proposed substitute is as follows:

A bill relating to the public debt and the payment of interest thereon.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized to issue bonds, either coupon or registered, upon the faith and credit of the United States, in sums of not less than fifty dollars each, to the amount of \$800,000,000, principal and interest, payable in coin, and upon the following terms and conditions, namely:

*First*. The interest on said bonds shall be at the rate of five and one half per cent. per annum, payable semi-annually.

*Second*. Said bonds shall be issued to citizens of the United States only, and shall be wholly void in the hands of any person not a citizen of the United States, or in the hands of any person who, at the time of receiving any such bonds, had knowledge or good reason to believe that the same had been issued or transferred to any person not a citizen of the United States; and this condition shall be expressed upon every bond issued under the provisions of this section.

*Third*. The bonds hereby authorized shall not be subject to State or local taxation, in any manner, nor by the United States at a rate exceeding one half of one per cent. of the income of the bonds on which such taxes are levied.

*Fourth*. Said bonds shall be made so payable that \$50,000,000 thereof shall become due on the 1st day of January, A. D. 1883, and a like sum of \$50,000,000 shall become due on the 1st day of January of each year thereafter.

*Fifth*. Holders of bonds known as five-twenty bonds may exchange such bonds for the bonds in this section, specified at any time previous to the 1st day of July, A. D. 1869, and applicants for an exchange of bonds may, within the limits prescribed by this act, designate the time when the new bonds issued to them shall be made payable.

*Sec. 2. And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to issue, upon the faith and credit of the United States, coupon bonds, registered or not registered, as may be desired, in sums of not less than \$100 each, to the amount of \$500,000,000, principal and interest payable in coin, and upon the following terms and conditions, namely:

*First*. The interest on said loan shall be at the rate of four per cent., payable semi-annually.

*Second*. The principal and interest may be made payable in the United States, or at Frankfurt or London, at the option of the person to whom the bonds are issued.

*Third*. Said bonds shall be made so payable that \$50,000,000 thereof shall become due on the 1st day of January, A. D. 1890, and a like sum of \$50,000,000 shall become due on the 1st day of January of each year thereafter.

*Fourth*. The bonds by this section authorized shall not be subject to State or local taxation in any manner; nor shall the bonds authorized by this section, or the interest thereon, be subject to taxation or abatement of any kind by the United States. When such bonds are owned by citizens of any foreign country, resident in such foreign country, but in the hands of citizens or residents of the United States, the income of such bonds shall be subject to taxation at the rate prescribed in the first section of this act.

*Fifth*. Holders of bonds known as five-twenty bonds may exchange such bonds for the bonds in this section specified at any time previous to the 1st day of July, A. D. 1869, and applicants for an exchange of bonds may, within the limits prescribed by this act, designate the time when the new bonds issued to them shall be made payable.

*Sec. 3. And be it further enacted*, That the Secretary of the Treasury be, and he hereby is, authorized and directed to use the sum of \$25,000,000 of coin in the

Treasury and not otherwise appropriated in the purchase of five-twenty bonds at the market price as hereinafter provided, the same to be held by the Treasurer of the United States as a sinking fund in accordance with the provisions of the fifth section of an act passed February 25, 1862, entitled "An act to authorize the issue of United States notes and for the redemption or funding thereof, and for funding the floating debt of the United States."

*Sec. 4. And be it further enacted*, That the Secretary of the Treasury, the Treasurer of the United States, and the Attorney General be, and they hereby are, constituted a commission for the purchase of bonds as required in the preceding section. The Secretary of the Treasury shall, from time to time, give public notice for proposals for the sale of said bonds to the United States, and said commissioners may accept such proposals as they deem advantageous to the public interests. The bonds so purchased shall be legibly and indelibly marked, "The property of the Loan Sinking Fund of the United States." The Treasurer shall cause the interest to be paid upon such bonds, and the amount thereof shall in like manner be invested in the bonds of the United States.

*Sec. 5. And be it further enacted*, That the purchases of bonds herein authorized shall be made during the fiscal year commencing July 1, 1868.

*Sec. 6. And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, required to give public notice, whenever the amount of coin in the Treasury, belonging to the United States, exceeds \$20,000,000 in addition to the amount appropriated by the third section of this act, that he will anticipate the payment of interest then first to become due upon the bonds of the United States to an amount as near as may be of the excess over said \$20,000,000; such payments to be subject to a rebate of interest at the rate specified in the bonds.

*Sec. 7. And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, prohibited from making sales of gold for any purpose whatsoever.

The proposed substitute was laid on the table, and ordered to be printed.

### PETER AND ANSON B. NODINE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a report from the Quartermaster General, relative to the claim of Peter and Anson B. Nodine for tolls collected by the United States during its use of their ferry franchise at Charlestown, West Virginia; which were referred to the Committee of Claims.

### INDIAN HOSTILITIES IN CALIFORNIA.

The SPEAKER also laid before the House a communication from the Third Auditor of the Treasury, relative to certain expenses incurred by the State of California in Indian hostilities; which was ordered to be printed, and referred to the Committee on Appropriations.

### JANE M'MURRAY AND HANNAH COOK.

On motion of Mr. MILLER, the Committee on Invalid Pensions was discharged from the consideration of the bill (S. No. 546) for the relief of Jane McMurray, and the bill (S. No. 545) granting a pension to Hannah Cook; and the same were referred to the Committee on Revolutionary Pensions and of the War of 1812.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. PHELPS.

### PROTEST OF DEMOCRATIC MEMBERS.

Mr. ELDRIDGE. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Committee on Printing be directed to report at once on the resolution referred to it providing for printing fifty thousand copies of the protest of Democratic members.

Mr. SCOFIELD. I object.

Mr. ELDRIDGE. I did not suppose there was any good faith intended when the resolution was offered the other day by the gentleman from Massachusetts, [Mr. BUTLER.]

### TRIAL OF E. WHITTLESEY AND OTHERS.

Mr. EGGLESTON, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to transmit to the House a transcript of the records of a military court held at Raleigh, North Carolina, in the summer of 1866, for the trial of E. Whittlesey and others, of which Major General John M. Palmer was president.

## EXPENSES OF COLLECTING REVENUE.

Mr. GETZ. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Committee of Ways and Means are hereby instructed to inquire into the expediency of reducing the present enormous expense of collecting the internal revenue by the abolition of the offices of collectors, assessors, and other agents employed by the internal revenue department, and assessing the amount of direct taxes required to be raised from domestic sources upon the several States in proportion to the taxable population of each, to be collected by the authorities of the same in the same manner that State taxes are now collected, or by such other means as the several State governments may adopt for the purpose herein indicated; and that the said committee make report to the House by bill or otherwise at the next session of Congress.

Mr. LOUGHRIDGE. I object.

Mr. GETZ. It is only for reference. There is to be no action until December next.

Mr. LOUGHRIDGE. I withdraw the objection.

The resolution was agreed to.

## PAY OF A CONTESTANT.

Mr. MAYNARD. I ask unanimous consent to offer the following resolution for reference to the Committee of Elections:

*Resolved*, That there be paid out of the contingent fund of the House to Joseph Powell, contesting the seat of Hon. R. R. BUTLER, a Representative from the first congressional district of Tennessee, in full for his expenses in taking testimony under the direction of the Committee of Elections, the sum of \$2,000.

Mr. WASHBURNE, of Illinois. I object.

## CLOSE OF THE SESSION.

Mr. WASHBURNE, of Illinois. I desire to offer a privileged resolution, that the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses on Wednesday, the 15th of July, at twelve o'clock m.

The SPEAKER. That would require unanimous consent, as the House is acting under the operation of the previous question on the river and harbor bill.

Mr. MAYNARD. I object.

Mr. WASHBURNE, of Illinois. Then I give notice that I will move that resolution as a matter of privilege as soon as the river and harbor bill is disposed of.

## MEMBER-ELECT FROM FLORIDA.

Mr. STEVENS, of Pennsylvania. I present the credentials of Hon. Charles M. Hamilton, Representative-elect from the State of Florida, and I ask that he be sworn in.

Mr. MAYNARD. I move that the credentials take the usual course, and be referred to the Committee of Elections.

The motion was agreed to.

## SOLDIERS' DISCHARGES.

Mr. COVODE, by unanimous consent, introduced a joint resolution (H. R. No. 319) in regard to charges of desertion in cases of soldiers honorably discharged from the service; which was read a first and second time.

The joint resolution provides that in all cases where private soldiers in the late war for the Union served out the term of their enlistment and were honorably discharged from the service it shall be the duty of the Secretary of War, upon the application of the parties, to remove any charges of desertion that may stand upon the rolls against such soldiers where there has not been a conviction for desertion by a court-martial.

The joint resolution was referred to the Committee on Military Affairs.

## EXPENSE OF COLLECTING THE REVENUE.

Mr. MUNGUN. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Secretary of the Treasury be requested to inform this House at the earliest moment he can conveniently do so the actual cost and expense of collecting the internal revenue of the United States each and every year since the revenue law of 1862 was passed by Congress, specifying the amount in the aggregate in each collection district and the total amount collected in each of said years.

Mr. BOUTWELL. I object; all that information is in the reports.

Mr. MUNGUN. The gentleman from Massachusetts is certainly mistaken. There is a

jumbled up kind of statement in regard to cost of collection in the reports to which he refers; but it cannot be ascertained the exact cost of collection in each district.

The SPEAKER. The resolution is not before the House.

## A. R. THOMAS.

Mr. PAINE, by unanimous consent, introduced a bill (H. R. No. 1342) for the relief of A. R. Thomas; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. WASHBURNE, of Illinois, moved to reconsider the various votes of reference; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## RIVER AND HARBOR BILL.

Mr. WASHBURNE, of Illinois. I call for the regular order.

The SPEAKER. The regular order is House bill No. 1046, making appropriations for the repair, preservation, and completion of certain public works, and for other purposes; upon which the previous question has been seconded and the main question ordered. At the time the House adjourned yesterday the bill was being read by clauses for engrossment. The Clerk will resume the reading of the bill by clauses, and if a separate vote is desired upon any item of appropriation it will be indicated.

The Clerk resumed the reading of the bill. The following clause was read:

For improvement of White river harbor, Michigan, \$75,000.

Mr. WASHBURNE, of Illinois. I ask for a separate vote on that item.

Mr. FERRY. I merely wish to state that the Board of Trade of Chicago passed a resolution urging this appropriation.

Mr. WASHBURNE, of Illinois. I object to debate.

The SPEAKER. Debate is not in order.

The question was then taken upon engrossing the clause just read; and upon a division there were—ayes 48, noes 41.

Before the result of the vote was announced, Mr. WASHBURNE, of Illinois, and Mr. HOLMAN called for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 63, nays 48, not voting 83; as follows:

YEAS—Messrs. Anderson, Axtell, Barnes, Churchill, Sidney Clarke, Cobb, Cook, Cornell, Dixon, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Ferry, Garfield, Griswold, Grover, Higby, Hinds, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Hubbard, Humphrey, Jencks, Johnson, Kitchen, Loan, Lynch, Mallory, Maynard, McCarthy, McClurg, McCormick, McKee, Miller, Moore, Moorhead, Morrell, Mullins, Mungen, Newcomb, O'Neill, Paine, Plants, Poland, Pomeroy, Price, Roots, Sawyer, Smith, Starkweather, Aaron F. Stevens, Stokes, Taber, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, and Windom—63.

NAYS—Messrs. Ames, Archer, Bailey, Baker, Baldwin, Banks, Beatty, Boles, Boutwell, Benjamin F. Butler, Coburn, Delano, Eckley, Ela, Eldridge, Ferriss, Golladay, Hill, Holman, Kelsey, Ketcham, Koontz, George V. Lawrence, William Lawrence, Marshall, Marvin, Mercer, Niblack, Perham, Phelps, Polsley, Randall, Scofield, Shellabarger, Sitgreaves, Spalding, Thaddeus Stevens, Stewart, Stone, Taylor, Van Trump, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, Stephen F. Wilson, and Woodward—48.

NOT VOTING—Messrs. Adams, Allison, Arnell, Delos R. Ashley, James M. Ashley, Barnum, Beaman, Beck, Benjamin, Benton, Bingham, Blaine, Blair, Boyer, Brownell, Brooks, Broomall, Buckland, Burr, Roderick R. Butler, Cake, Cary, Chanler, Reader W. Clarke, Covode, Cullom, Dawes, Dodge, Fields, Finney, Fox, Getz, Glessbrough, Gravely, Haight, Halsey, Harding, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Igersoll, Jones, Judd, Julian, Kelley, Kerr, Knott, Laffin, Lincoln, Logan, Loughridge, McCullough, Morrissey, Myers, Nicholson, Nunn, Orth, Peters, Pike, Pile, Pruyn, Raum, Robertson, Robinson, Ross, Schenck, Selye, Shanks, Taffe, Thomas, John Trimble, Lawrence S. Trimble, Van Auker, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William Williams, James F. Wilson, John T. Wilson, Wood, and Woodbridge—83.

So the clause was ordered to be engrossed.

The following clause was read:

For improvement of Pentwater harbor, Michigan, \$25,000.

Mr. WASHBURNE, of Illinois. I ask a separate vote on that clause.

The question was then taken upon ordering the clause just read to be engrossed; and upon a division there were—ayes 28, noes 38; no quorum voting.

Tellers were ordered; and Mr. HOLMAN and Mr. FERRY were appointed.

The House again divided; and the tellers reported that there were—ayes 61, noes 43.

So the clause was ordered to be engrossed.

The following clause was read:

To improve the river from Chattanooga, Tennessee, to Decatur, Alabama, \$90,000.

Mr. WASHBURNE, of Illinois. I ask a separate vote on that clause.

Mr. STEVENS, of Pennsylvania. I would inquire if all the clauses just read by the Clerk are amendments to the bill?

The SPEAKER. Not all; some of them are.

Mr. STEVENS, of Pennsylvania. I move that the bill be laid on the table.

The SPEAKER. That motion is now in order.

Mr. RANDALL and Mr. SPALDING called for the yeas and nays on the motion to lay the bill on the table.

Mr. WASHBURNE, of Illinois. I ask the gentleman from Pennsylvania [Mr. STEVENS] to withdraw his motion until we get further along in the bill.

Mr. STEVENS, of Pennsylvania. It is so big now that it would break down an elephant's back; but I will withdraw for the present the motion to lay the bill on the table.

Mr. PAINE. It is not so large as the appropriation we made for the State of Pennsylvania.

The SPEAKER. No debate is in order. The gentleman from Illinois demands a separate vote on the item which has just been read by the Clerk.

On ordering the clause to be engrossed there were—ayes seventy, noes not counted.

So the clause was ordered to be engrossed.

The following clause was read:

For improvement of the Des Moines rapids, \$900,000.

Mr. GETZ. I ask for a separate vote on that item.

Mr. WASHBURNE, of Illinois. I move to amend the clause by striking out "nine" and inserting "four," so as to make the appropriation \$400,000.

The SPEAKER. An amendment at this stage will require unanimous consent.

Mr. WASHBURNE, of Illinois. I ask unanimous consent.

Mr. PRICE. I object.

Mr. GETZ. I call for the yeas and nays on the engrossment of the clause which has just been read.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 61, not voting 61; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Banks, Benjamin, Boles, Boutwell, Bromwell, Roderick R. Butler, Cake, Cary, Churchill, Cobb, Cook, Cullom, Dixon, Donnelly, Driggs, Eggleston, Eliot, Ferry, Garfield, Gravely, Grover, Higby, Hinds, Hopkins, Hubbard, Humphrey, Ingersoll, Jencks, Ketcham, Loan, Loughridge, Lynch, Mallory, Maynard, McClurg, McKee, Moorhead, Morrell, Mullins, Mungen, Myers, Newcomb, O'Neill, Paine, Pile, Poland, Pomeroy, Price, Pruyn, Ross, Sawyer, Smith, Starkweather, Stewart, Stokes, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, James F. Wilson, Windom, and Woodbridge—72.

NAYS—Messrs. Archer, Bailey, Baker, Baldwin, Barnes, Beatty, Beck, Benton, Buckland, Benjamin F. Butler, Coburn, Cornell, Covode, Delano, Eckley, Ela, Eldridge, Farnsworth, Ferriss, Getz, Golladay, Hawkins, Hill, Holman, Chester D. Hubbard, Johnson, Julian, Kelsey, Kitchen, Koontz, George V. Lawrence, William Lawrence, Marshall, Marvin, McCormick, Mercer, Miller, Moore, Niblack, Nicholson, Orth, Perham, Plants, Randall, Scofield, Shanks, Shellabarger, Sitgreaves, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stone, Taylor, Thomas, Van Auker, Van Trump, Welker, Thomas Williams, William Williams, Stephen F. Wilson, and Woodward—61.

NOT VOTING—Messrs. Adams, Delos R. Ashley, James M. Ashley, Axtell, Barnum, Beaman, Bingham, Blaine, Blair, Boyer, Brooks, Broomall, Burr, Chanler, Reader W. Clarke, Sidney Clarke, Dawes,



Dodge, Fields, Finney, Fox, Glossbrenner, Griswold, Haight, Hulsey, Harding, Hooper, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Jones, Judd, Kelley, Kerr, Knott, Laffin, Lincoln, Logan, McCullough, Morrissey, Nunn, Peters, Phelps, Pike, Polsley, Raum, Robertson, Robinson, Roots, Schenck, Selye, Taber, Taffe, John Trimble, Lawrence S. Trimble, Van Wyck, Ward, William B. Washburn, John T. Wilson, and Wood—61.

So the clause was ordered to be engrossed.

The following clause was read:

For survey of northwestern lakes, \$75,000.

Mr. WASHBURNE, of Illinois. As this appropriation is in another bill, I move to strike it out.

Mr. ELIOT. I will say that this appropriation is wanted in this bill, as I find by examination at the War Department.

The SPEAKER. The motion to strike out is not in order. A separate vote may be asked on ordering the item to be engrossed.

Mr. WASHBURNE, of Illinois. I ask for a separate vote on the engrossment of the clause which has just been read.

The question being taken, it was decided in the affirmative.

So the clause was ordered to be engrossed.

The following was read:

Sec. 3. And be it further enacted, That the sum of \$450,000 is hereby appropriated toward completing the Louisville and Portland canal, in accordance with the plans and estimates made in the report of General Godfrey Weitzel, and that the Government of the United States do hereby assume the payment of the bonds issued for the completion of the said canal and branch, amounting to the sum of \$1,567: Provided, That all title to and right in said canal and its appurtenances be ceded to and vested in the United States, and that the State of Kentucky shall relinquish all claim to the Government of the same; said canal on and after its completion to be and remain free from all tolls and tribute, except so much as shall be necessary to operate the same and keep it in repair, and that all moneys in the hands of the treasurer of the canal company, when transferred, shall be paid into the Treasury of the United States.

Mr. WASHBURNE, of Illinois. I ask a separate vote on this section.

Mr. EGGLESTON. I raise the point of order that this section has already been voted upon by yeas and nays on the motion to strike out.

The SPEAKER. That is very true; but under Rule 121 any member may call for a separate vote on ordering the section to be engrossed.

Mr. SPALDING. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 70, nays 61, not voting 63; as follows:

YEAS—Messrs. Anderson, Arnell, Delos R. Ashley, Axtell, Banks, Barnes, Beck, Boyer, Buckland, Roderick R. Butler, Cary, Churchill, Coburn, Cook, Cornell, Dixon, Donnelly, Driggs, Eggleston, Eliot, Ferry, Golladay, Gravelly, Grover, Higby, Holman, Chester D. Hubbard, Humphrey, Ingersoll, Jenckes, Johnson, Julian, Kerr, George V. Lawrence, Loan, Mallory, Maynard, McClurg, McCormick, McKee, Moorhead, Mullins, Mungen, Myers, Newcomb, Niblack, Nicholson, O'Neill, Orth, Paine, Peters, Pile, Poland, Polsley, Price, Raum, Sawyer, Shanks, Shellabarger, Stokes, Taber, Twichell, Van Aernam, Van Auken, Burt Van Horn, Robert T. Van Horn, Henry D. Washburn, Welker, and Thomas Williams—70.

NAYS—Messrs. Bailey, Baker, Baldwin, Beaman, Beatty, Benjamin, Benton, Blaine, Boles, Boutwell, Bromwell, Benjamin F. Butler, Sidney Clark, Cobb, Covode, Cullom, Delano, Eckley, Ela, Farnsworth, Ferriss, Getz, Hill, Hinds, Hulburd, Kelsey, Ketcham, Koonz, William Lawrence, Loughridge, Marshall, Marvin, Mercer, Miller, Moore, Morrell, Perham, Pike, Pomeroy, Pruyn, Randall, Ross, Scofield, Sitgreaves, Smith, Spalding, Starkweather, Aaron F. Stevens, Stone, Taffe, Taylor, Thomas, Trowbridge, Cadwalader C. Washburn, Elihu B. Washburn, William Williams, James F. Wilson, Stephen F. Wilson, Woodbridge, and Woodward—61.

NOT VOTING—Messrs. Adams, Allison, Ames, Archer, James M. Ashley, Barnum, Bingham, Blair, Brooks, Broomall, Burr, Cake, Chanler, Reader W. Clarke, Daws, Dodge, Eldridge, Fields, Finney, Fox, Garfield, Glossbrenner, Griswold, Haight, Halsey, Harding, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Jones, Judd, Kelley, Kitchen, Knott, Laffin, Lincoln, Logan, Lynch, McCarthy, McCullough, Morrissey, Nunn, Phelps, Robertson, Robinson, Roots, Schenck, Selye, Thaddeus Stevens, Stewart, John Trimble, Lawrence S. Trimble, Upson, Van Trump, Van Wyck, Ward, William B. Washburn, John T. Wilson, Windom, and Wood—63.

So the section was ordered to be engrossed.

The SPEAKER. The question now recurs on the third reading and engrossment of the bill.

Mr. STEVENS, of Pennsylvania. I move that the bill be laid upon the table. We cannot carry over ten hundred millions.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 81, not voting 56; as follows:

YEAS—Messrs. Bailey, Baker, Baldwin, Beatty, Benton, Blaine, Boles, Boutwell, Boyer, Buckland, Benjamin F. Butler, Coburn, Covode, Cullom, Delano, Eckley, Ela, Farnsworth, Ferriss, Getz, Hill, Hulburd, Johnson, Julian, Kelsey, Ketcham, Koonz, George V. Lawrence, William Lawrence, Marshall, Marvin, Mercer, Miller, Morrell, Niblack, Orth, Randall, Ross, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stone, Taffe, Taylor, Trowbridge, Van Auken, Van Trump, Elihu B. Washburn, Welker, William Williams, Stephen F. Wilson, Woodbridge, and Woodward—57.

NAYS—Messrs. Adams, Allison, Ames, Anderson, Archer, Arnell, Delos R. Ashley, Axtell, Banks, Barnes, Beck, Benjamin, Roderick R. Butler, Cary, Churchill, Cobb, Cook, Cornell, Dixon, Donnelly, Driggs, Eggleston, Eliot, Ferry, Garfield, Golladay, Gravelly, Griswold, Grover, Hawkins, Higby, Hinds, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Humphrey, Ingersoll, Jenckes, Jones, Loan, Loughridge, Lynch, Mallory, Maynard, McClurg, McCormick, McKee, Moorhead, Mungen, Myers, Newcomb, Nicholson, O'Neill, Paine, Perham, Peters, Pike, Pile, Poland, Polsley, Pomeroy, Price, Pruyn, Raum, Sawyer, Scofield, Starkweather, Stewart, Stokes, Taber, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, James F. Wilson, and Windom—81.

NOT VOTING—Messrs. James M. Ashley, Barnum, Beaman, Bingham, Blair, Bromwell, Brooks, Broomall, Burr, Cake, Chanler, Reader W. Clarke, Sidney Clark, Daws, Dodge, Eldridge, Fields, Finney, Fox, Glossbrenner, Haight, Halsey, Harding, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Judd, Kelley, Kerr, Kitchen, Knott, Laffin, Lincoln, Logan, McCarthy, McCullough, Moore, Morrissey, Mullins, Nunn, Phelps, Plants, Robertson, Robinson, Roots, Schenck, Selye, Thomas, John Trimble, Lawrence S. Trimble, Van Wyck, Ward, Thomas Williams, John T. Wilson, and Wood—56.

So the bill was not laid upon the table.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ELIOT demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. WASHBURNE, of Illinois. I should like to have the amendments read over again. I want the House and country to listen to the amendments put on after the bill was through.

Mr. ELIOT. I hope the House will understand the gentleman himself voted for the amendments. [Laughter.]

Mr. WASHBURNE, of Illinois. The gentleman from Massachusetts voted for them, but he did not vote with me to lay the bill upon the table. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 80, nays 59, not voting 55; as follows:

YEAS—Messrs. Adams, Allison, Ames, Anderson, Archer, Arnell, Delos R. Ashley, Axtell, Banks, Barnes, Beck, Roderick R. Butler, Cary, Churchill, Cobb, Cook, Cornell, Dixon, Donnelly, Driggs, Eggleston, Eliot, Ferry, Golladay, Griswold, Grover, Harding, Hawkins, Higby, Hinds, Holman, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Hulburd, Humphrey, Ingersoll, Johnson, Jones, Julian, Kerr, Ketcham, Koonz, George V. Lawrence, Loan, Mallory, Marshall, Marvin, McCormick, Mercer, Moore, Mungen, Niblack, Nicholson, Orth, Peters, Phelps, Pike, Plants, Poland, Pomeroy, Price, Pruyn, Randall, Ross, Scofield, Starkweather, Stewart, Stokes, Taber, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, William B. Washburn, and Windom—80.

NAYS—Messrs. Bailey, Baker, Baldwin, Beatty, Benjamin, Benton, Blaine, Boutwell, Boyer, Bromwell, Buckland, Benjamin F. Butler, Cake, Coburn, Covode, Cullom, Delano, Eckley, Farnsworth, Ferriss, Getz, Hill, Ingersoll, Johnson, Julian, Kelsey, Ketcham, Koonz, George V. Lawrence, William Lawrence, Marshall, Marvin, Mercer, Miller, Moore, Morrell, Niblack, Orth, Phelps, Randall, Ross, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stone, Taffe, Taylor, Trowbridge, Van Auken, Van Trump, Elihu B. Washburn, Welker, William Williams, Stephen F. Wilson, and Woodward—59.

NOT VOTING—Messrs. James M. Ashley, Barnum,

Beaman, Bingham, Blair, Boles, Brooks, Broomall, Burr, Chanler, Reader W. Clarke, Sidney Clark, Daws, Dodge, Ela, Eldridge, Fields, Finney, Fox, Garfield, Glossbrenner, Gravelly, Haight, Halsey, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Jones, Judd, Kelley, Kerr, Kitchen, Knott, Laffin, Lincoln, Logan, Lynch, McCarthy, McCullough, Morrissey, Nunn, Raum, Robertson, Schenck, Selye, Thomas, John Trimble, Lawrence S. Trimble, Van Wyck, Ward, Henry D. Washburn, Thomas Williams, James F. Wilson, John T. Wilson, Wood, and Woodbridge—55.

So the bill was passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CLOSE OF THE SESSION.

Mr. WASHBURNE, of Illinois. I rise to a privileged question. I offer the following resolution:

Resolved, (the Senate concurring,) That the President *pro tempore* of the Senate and the Speaker of the House adjourn their respective Houses without day on Wednesday, the 15th day of July next, at noon.

I desire that we should adjourn at the earliest moment, because we shall have neither money nor credit left if we go on in this way.

Mr. KELSEY. I move to amend so that it will read, "Adjourn their respective Houses on the 15th day of July, at noon, until the 15th day of September at noon."

Mr. WASHBURNE, of Illinois. I demand the previous question on the resolution and amendment.

Mr. SPALDING. I move to lay the resolution and amendment on the table.

The motion was disagreed to—yeas thirty-seven, noes not counted.

Mr. GARFIELD. Will the gentleman from Illinois allow an amendment to substitute the 10th for the 15th of July?

Mr. WASHBURNE, of Illinois. Oh, no.

The previous question was seconded and the main question ordered.

The question being on the amendment of Mr. KELSEY, there were—yeas 30, noes 84.

Mr. LOUGHRIDGE. I demand the yeas and nays.

The yeas and nays were refused.

Mr. LOUGHRIDGE. I call for tellers.

Tellers were refused.

So the amendment was disagreed to.

The question recurred on the original resolution.

Mr. HIGBY. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 91, nays 47, not voting 56; as follows:

YEAS—Messrs. Adams, Allison, Archer, Axtell, Baker, Banks, Barnes, Beatty, Beck, Blaine, Boyer, Buckland, Benjamin F. Butler, Roderick R. Butler, Cary, Churchill, Cook, Cornell, Delano, Dixon, Donnelly, Eggleston, Eldridge, Eliot, Ferriss, Garfield, Getz, Golladay, Grover, Harding, Hill, Hinds, Holman, Hotchkiss, Chester D. Hubbard, Hulburd, Humphrey, Ingersoll, Johnson, Jones, Julian, Kerr, Ketcham, Koonz, George V. Lawrence, Loan, Mallory, Marshall, Marvin, McCormick, Mercer, Moore, Mungen, Niblack, Nicholson, Orth, Peters, Phelps, Pike, Plants, Poland, Pomeroy, Price, Pruyn, Randall, Ross, Scofield, Shanks, Shellabarger, Sitgreaves, Smith, Starkweather, Stewart, Stone, Taber, Taffe, Trowbridge, Twichell, Upson, Van Auken, Van Trump, Cadwalader C. Washburn, Elihu B. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, Stephen F. Wilson, Woodbridge, and Woodward—91.

NAYS—Messrs. Ames, Anderson, Arnell, Delos R. Ashley, Bailey, Baldwin, Benjamin, Benton, Boutwell, Cake, Sidney Clark, Coburn, Covode, Cullom, Driggs, Ela, Farnsworth, Ferry, Halsey, Higby, Hopkins, Jenckes, Kelsey, William Lawrence, Loughridge, Lynch, Maynard, McClurg, Miller, Moorhead, Morrell, Mullins, Myers, O'Neill, Paine, Perham, Pile, Raum, Roots, Sawyer, Aaron F. Stevens, Stokes, Taylor, Burt Van Horn, Robert T. Van Horn, Henry D. Washburn, and Thomas Williams—47.

NOT VOTING—Messrs. James M. Ashley, Barnum, Beaman, Bingham, Blair, Boles, Bromwell, Brooks, Broomall, Burr, Chanler, Reader W. Clarke, Cobb, Daws, Dodge, Eckley, Fields, Finney, Fox, Glossbrenner, Gravelly, Griswold, Haight, Hawkins, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Judd, Kelley, Kitchen, Knott, Laffin, Lincoln, Logan, McCarthy, McCullough, McKee, Morrissey, Newcomb, Nunn, Polsley, Robertson, Schenck, Selye, Spalding, Thaddeus Stevens, Thomas, John Trimble, Lawrence S. Trimble, Van Aernam, Van Wyck, Ward, John T. Wilson, Windom, and Wood—56.

So the resolution was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CUSTOM-HOUSE AT PITTSBURG.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a communication from the supervising architect of the Treasury, relative to the condition of the building used by the Government at Pittsburg for a custom-house; which was ordered to be printed, and referred to the Committee on the Post Office and Post Roads.

#### ELECTION CONTEST—SWITZLER VS. ANDERSON.

Mr. POLAND. I desire to say, for a variety of reasons, I have concluded to waive my right to call up to-day the election case of Switzler vs. Anderson, of which I have heretofore given notice, and I now give notice that I will call it up on Wednesday of next week after the morning hour. I yield the floor, therefore, to the chairman of the Committee on Foreign Affairs, who is very anxious to proceed to the consideration of the subject of which he has given notice.

Mr. BANKS. I yield to the gentleman from Indiana.

#### PROTECTION OF AMERICAN CITIZENS.

Mr. NIBLACK, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved, (with the sense of this House,) That the present session of this Congress ought not to adjourn until some more thorough and efficient provision is made by law for the protection of American citizens, both native and adopted, while traveling or temporarily residing abroad.*

#### THE TREATY-MAKING POWER.

Mr. BANKS. Before moving to go into Committee of the Whole on the state of the Union, I yield to the gentleman from Ohio, [Mr. DELANO.]

Mr. DELANO, by unanimous consent, submitted the following resolutions; which were referred to the Committee on Foreign Affairs, and ordered to be printed in the Globe:

*Resolved, That all treaties made by the President and Senate which embrace stipulations on legislative subjects expressly vested in Congress by the Constitution, are in their nature incomplete and imperfect until Congress shall have passed such laws as are necessary to carry such treaties into effect; and that this House is not required, by a just interpretation of the Constitution, to pass laws necessary to the execution of such treaties unless it approves the objects and stipulations therein embraced.*

*Resolved, That a treaty which stipulates for the payment of money undertakes to do that which the treaty-making power cannot do without the aid of legislation, and therefore such a treaty is not the supreme law of the land until the required legislation has been obtained; and members of this House, while deliberating upon propositions for executing such treaty, act on their own judgment and responsibility, and not on the judgment and responsibility of the treaty-making power.*

*Resolved, That foreign Governments are presumed to know that the power to appropriate money is vested in Congress, and that no act of any one part of the Government can be regarded as a law until such act has the sanction of all Departments of the Government required by the Constitution to give it the force of law.*

*Resolved, That the integrity and limits of the territory of this nation cannot be altered or changed except by the will of the nation, given by express grant or implied by acquiescence; and therefore the treaty-making power has no authority under the Constitution to dispose of the nation's territory nor to acquire new territory without obtaining the assent of the nation therefor in one or the other of the forms herein indicated.*

WILLIAM H. HARMAN.

Mr. BANKS. I now yield to the gentleman from West Virginia, [Mr. HUBBARD.]

On motion of Mr. HUBBARD, of West Virginia, by unanimous consent, the bill (S. No. 183) for the relief of William H. Harman was taken from the Speaker's table, read a first and second time, and referred to the Committee of Ways and Means.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ELECTION CONTEST—HOGAN VS. PILE.

Mr. COOK. I desire to give notice that I will call up the contested-election case of Hogan vs. Pile on Wednesday next, or immediately after the case of Switzler vs. Anderson shall be disposed of.

#### REVENUE STAMPS.

Mr. BENTON, by unanimous consent, introduced a joint resolution (H. R. No. 320) in relation to affixing revenue stamps to written instruments; which was read a first and second time, and referred to the Committee of Ways and Means.

#### ORDER OF BUSINESS.

Mr. BANKS resumed the floor.

Mr. TROWBRIDGE. I rise to put a parliamentary question to the Chair. Does the yielding of the gentleman from Vermont [Mr. POLAND] on the question of privilege to the chairman of the Committee on Foreign Affairs deprive us of the morning hour? Before the gentleman proceeds I would like to make that point.

The SPEAKER. If the gentleman makes that point the Chair will have to sustain it.

Mr. BANKS. Unanimous consent was given that the subject of the purchase of Russian America should be considered to-day, and the morning hour was not reserved.

The SPEAKER. The Chair will state that he has examined the Journal, and that the bill was made the special order for to-day after the morning hour, as all special orders have been made for after the morning hour.

Mr. BANKS. If it stands that way on the Journal, of course I do not object.

The SPEAKER. If the gentleman from Michigan insists upon it, the motion to go into Committee of the Whole on the state of the Union is not in order until after the morning hour.

Mr. TROWBRIDGE. I do insist on it.

The SPEAKER. Then the morning hour commences, and reports are in order from the Committee on the Judiciary, which is entitled to another morning hour.

#### ADMINISTRATION OF OATHS, ETC.

Mr. ELDRIDGE, from the Committee on the Judiciary, reported back, with an amendment and with the recommendation that it do pass, the bill (H. R. No. 90) to authorize and require the administration of oaths in certain cases and to punish perjury in connection therewith.

The bill was read. It authorizes the chairman or acting chairman of any standing, select, joint, or other committee of the Senate or House of Representatives of the United States, whose duty or business it shall be by virtue of any law, resolution, or custom in either House to audit or approve any claim, demand, or account against the Government, to be paid out of the contingent or other funds of either House or otherwise, to require the person or officer making the claim or presenting the same to attach his affidavit thereto in writing to the effect that the same is just, due, and unpaid, and in accordance with the law pertaining thereto. It authorizes such chairman or acting chairman to administer all oaths required in connection therewith, and it is made the duty of such chairman or acting chairman to require such affidavits in all cases where he believes, or has reason to believe, that the public interest will be promoted thereby, or where the majority of the committee direct him so to do. The second section provides that any person or officer who shall be guilty of perjury before any such committee in swearing to any such claim shall be liable to the pains, penalties, and disabilities prescribed for the punishment of willful and corrupt perjury.

The amendment reported by the Committee on the Judiciary was to strike out the words "and in accordance with the law pertaining thereto."

Mr. ELDRIDGE. The necessity for this

bill will probably strike the House as rather remarkable. In fact there is now no law authorizing the chairman of any committee to administer an oath to persons applying for payment out of the contingent fund. All this bill does is to authorize the chairman of a committee in his discretion to administer such an oath.

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

The SPEAKER. The Chair would suggest to the gentleman from Wisconsin, [Mr. ELDRIDGE,] that the fact being as he states, it would perhaps be well to refer this subject to the Committee on the Rules, in order that an additional rule may be adopted to remedy the difficulty should the Senate fail to act upon this bill.

Mr. ELDRIDGE. Very well; I will adopt the suggestion of the Chair, and move that the Committee on the Rules be instructed to examine and report upon the subject of the administering of oaths by chairmen of committees of the House to persons claiming pay from the contingent fund of the House.

The motion was agreed to.

#### JURISDICTION IN ADMIRALTY.

Mr. ELDRIDGE. I have been instructed by the Committee on the Judiciary to report adversely upon House bill No. 849, to amend an act entitled "An act extending the jurisdiction of district courts to certain cases upon the lakes and the navigable waters connecting the same," approved February 26, 1845.

The bill was laid on the table.

Mr. ELDRIDGE. I am also instructed by the Committee on the Judiciary to report back House bill No. 293, to regulate and limit the admiralty jurisdiction of the district courts of the United States in certain cases, with an amendment in the form of an additional section, embodying the substance of the bill just laid on the table.

The bill, which was read, provides that the district courts of the United States shall be authorized to possess and exercise the same jurisdiction in matters of contract and tort, arising in, upon, or concerning, steamboats and other vessels of twenty tons burden and upward, enrolled and licensed for the coasting or other trade, and at the time engaged in the business of commerce and navigation between ports and places in different States and Territories upon the lakes and navigable waters connecting said lakes, or upon any of the inland navigable rivers or other waters of the United States, as is now possessed and exercised by the said courts in the cases of the like steamboats and other vessels employed in navigation and commerce upon the high seas or tide-waters within the admiralty and maritime jurisdiction of the United States, and in all suits brought in such courts, in all such matters of contract or tort, the remedies and the forms of process, and the modes of proceedings shall be the same as are or may be used by such courts in cases of admiralty and maritime jurisdiction; and the maritime law of the United States, so far as the same is or may be applicable thereto, shall constitute the rule of decision in such suits, in the same manner, and to the same extent, and with the same equities as it now does in cases of admiralty and maritime jurisdiction, saving, however, to the parties the right of trial by jury of all facts put in issue in such suits where either party shall require it; and saving, also, to the parties the right of a concurrent remedy at the common law where it is competent to give it, and any concurrent remedy which may be given by the State laws, where such steamboat or other vessel is employed in such business of commerce and navigation; provided, that whenever in any such case or controversy any such district court shall first obtain jurisdiction in any litigation over any such steamboat or vessel, such jurisdiction shall be exclu-

sive of the jurisdiction of all State courts in such case.

The amendments of the committee were to strike out "twenty" and insert "ten" before the words "tons burden and upward;" also to add to the bill the following:

SEC. 2. *And be it further enacted*, That the matters of contract mentioned in the foregoing section shall be held to extend to and embrace all cases of contracts for repairs to materials or supplies furnished for steamboats or other vessels of the class therein described, enrolled and licensed in the coasting trade, and employed in the business therein mentioned; and the maritime laws shall extend against such steamboats and vessels for such repairs, materials, and supplies, to be enforced in admiralty, subject to the right of trial by jury and the concurrent remedies provided in the foregoing section.

The question was upon agreeing to the amendments reported from the Committee on the Judiciary.

Mr. WOODWARD. I want to know a little more about this bill. I have listened to the reading of it by the Clerk, and if I understand it—I am told by gentlemen around me that I do not understand it—this bill extends admiralty jurisdiction to every canal-boat on all the canals of this country. I observe that there is a most unskillful jumble in the bill about trial by jury. Now, trial by jury is unknown in admiralty jurisdiction. But how you are going to extend the admiralty jurisdiction of the United States to all the interior waters of the country, carrying with it trial by jury, I do not see very well. Surely that provision does not take away the objection I have to the bill. If I understand this bill—if I do not the gentleman from Wisconsin [Mr. ELDRIDGE] will correct me—this is a proposition to subject all the navigable waters of the United States to the admiralty jurisdiction of the United States.

Mr. ELDRIDGE. I do not think it has that effect. The gentleman evidently misapprehends the scope, meaning, and effect of this bill.

Mr. WOODWARD. Allow me to say that I have only heard the bill read.

Mr. ELDRIDGE. If the gentleman had read the act of 1845 he would find in it all the objections which he suggests to this bill. In my judgment this bill does not extend the admiralty jurisdiction of the courts of the United States at all; it is simply a limitation upon that admiralty jurisdiction. It is intended to explain a discrepancy or a misapprehension which has existed in regard to the act of 1845, and in regard to the jurisdiction conferred by the act of 1787. By the Constitution of the United States and the act of 1787 the admiralty court, in my judgment, possesses all the jurisdiction that is sought to be conferred by this bill. This bill is to explain and to apply the provisions of the act of 1845 to the lakes and the connecting waters of the lakes, as it was intended by that act to apply it.

Mr. WOODWARD. What the gentleman says about my not understanding this bill may be correct, for I never heard it or of it until I heard it read at the Clerk's desk. But I submit that a bill which is so much misunderstood as the gentleman from Wisconsin says this bill is ought to be the subject of more deliberate consideration than he proposes we shall give this bill. It cannot harm any possible interest if the bill be postponed to some future day, that we may have an opportunity to learn what it is, that we may have an opportunity to study its relations to previous laws and the decisions of the Supreme Court upon the admiralty jurisdiction of the United States. If I understand the bill, I regard it as one of most mischievous consequence. I should be sorry to see it passed without proper consideration under the lead of my friend from Wisconsin. This is not the way that this side of the House ought to legislate on important questions. We ought to have an opportunity to consider such questions.

Mr. ELDRIDGE. As the gentleman from Pennsylvania does not see fit to enlighten the House upon the subject of the bill, and admits his inability to do so, I think he ought to have forbore to say that this bill is such a terrible "jumble" as he represents it to be. Now, I

insist that the bill is no "jumble" at all; but the law as it has existed seems to be a good deal jumbled up in the head of the gentleman from Pennsylvania, and he does not seem quite ready to apply the principles of this bill to the law as it now exists. I insist that the law as it stood under the Constitution and the act of 1787 extended the admiralty jurisdiction of the United States to all our navigable waters, rivers, lakes, and everything else. But in the minds of some persons it was supposed to have been limited to those waters where the tide ebbs and flows, corresponding with the doctrine held in England. The act of 1845, while it was intended to extend the jurisdiction of the admiralty courts, was in fact a limitation upon it. The act of 1845 limited that jurisdiction to vessels of twenty tons burden, whereas by the law of 1787 it had been extended to vessels of ten tons burden. The act of 1845 was therefore to that extent a limitation. In addition to this that act limited the jurisdiction to vessels employed in commerce and navigation between ports and places in different States. This bill is intended to do away with what was supposed in that bill to be a limitation by extending the jurisdiction to those boats and vessels which ply between ports of this country and the ports of Canada. I do not apprehend that it will have, as the gentleman from Pennsylvania supposes, any such effect as to extend this jurisdiction to canal-boats.

I yield to the gentleman from Indiana, [Mr. KERR,] who, I think, will satisfy my critical friend from Pennsylvania that this bill is not such a "jumble" as he supposes it to be.

Mr. KERR. Mr. Speaker, I am not sure that I shall be able to satisfy my distinguished friend from Pennsylvania [Mr. WOODWARD] with reference to the provisions of this bill; but I am sure that if he understood it he would not be opposed to it.

I had the honor to introduce the bill, and I desire now to state the reasons for its introduction. Prior to 1851 it was held in this country that the State courts of the Union had jurisdiction in all matters arising upon our inland navigable waters, which, if they had arisen elsewhere, upon tide-water, or perhaps on our great lakes, would have been proper subjects of maritime and admiralty jurisdiction. But in 1851, in the famous case of the *Genesee Chief*, (12 Howard R., 457,) all of the previous decisions limiting the admiralty jurisdiction of the Federal courts to tide-water were overruled by the same court, and the broad doctrine declared that that jurisdiction extends where ever ships float and navigation successfully aids commerce, whether internal or external. That case rose out of a collision between two vessels on Lake Ontario. Its doctrine has been many times affirmed by the same court in subsequent cases. In some cases this jurisdiction has been exercised by Federal courts in the avowed execution of State statutes, and not under any claim of a general common-law power in these courts to such a jurisdiction.

It was not, however, in any of the cases prior to 1866 decided by the Supreme Court that the jurisdiction of the district courts in admiralty and maritime cases arising on our inland rivers was exclusive of the jurisdiction hitherto constantly claimed and exercised by the State courts. On the contrary, it was either not denied or it was in terms conceded that the jurisdiction of the State courts over all such cases was concurrent with that of the district courts of the United States. The State courts along our western rivers have, therefore, continued to exercise uninterrupted, if not unquestioned, jurisdiction in such matters. Being always conveniently accessible to suitors engaged in such commerce, they have afforded more prompt and satisfactory remedies than more remote Federal courts could do.

I cannot persuade myself that the denial of their jurisdiction is not a great public misfortune to the people of the country, whether that denial be legal or illegal. Their jurisdiction has been acquiesced in and approved for more than half a century, and the beneficent results of its

exercise greatly promoted the prosperity and happiness of the people.

But it is now denied and declared never to have had any legal existence. By a sweeping edict of superior judicial power and construction it is absolutely annulled and destroyed. In the cases of the *Moses Taylor*, from California, and *The Hine vs. Trevor*, from Iowa, the Supreme Court of the United States, in December, 1860, decided that—

"1. The admiralty jurisdiction, to which the power of the Federal judiciary is, by the Constitution, declared to extend, is not limited to tide-water, but covers the entire navigable waters of the United States."

"2. The original jurisdiction in admiralty exercised by the district courts, by virtue of the act of 1789, is exclusive not only of other Federal courts, but of the State courts also."

"3. And that, therefore, State statutes, relating to western inland rivers, which attempt to confer upon State courts a remedy for marine torts and marine contracts, by proceedings strictly *in rem*, are void, because they are in conflict with that act of Congress."—4 *Wallace Reports*, pp. 411, 553.

Mr. Chairman, it will be readily seen and fully appreciated by the House to what a radical extent the jurisdiction of the State courts has been divested and that of the Federal courts extended and enlarged by the course of decisions to which I have referred. It will also be seen how important it is to the interests of the people that Congress shall give thought to the duties imposed upon it by these great changes.

But it may be alleged that the power does not exist in Congress to confer jurisdiction upon State courts over cases arising in any part of the country which properly belong to admiralty and maritime jurisdiction. If this were now an original proposition I should feel compelled to deny the existence of any such power. It is not, however; but, on the contrary, is *res adjudicata*, at least in the Federal courts. In this bill it is proposed to recognize and continue by express enactment the concurrent jurisdiction of the State courts over cases of this kind which arise "upon the lakes and navigable waters connecting said lakes, or upon any of the inland navigable rivers or other waters of the United States."

In the case of *The Hine vs. Trevor*, already referred to, the Supreme Court say:

"2. The grant of admiralty powers to the district courts of the United States by the ninth section of the act of September 24, 1789, is coextensive with this grant in the Constitution as to the character of the waters over which it extends."

"3. The act of February 26, 1845, is a limitation of the powers granted by the act of 1789 as regards cases arising upon the lakes and navigable waters connecting said lakes in the following particulars:

"1. It limits the jurisdiction to vessels of twenty tons burden and upwards, enrolled and licensed for the coasting trade, and which are employed in commerce and navigation between ports and places in different States."

"2. It grants a jury trial if either party shall demand it."

Now, I desire to say here to my learned friend from Pennsylvania that the Federal courts have repeatedly held that law valid; that it is competent to give suitors in the Federal courts the right of trial by jury in admiralty cases, and it has been enforced in all the States bordering upon the lakes.

"3. The jurisdiction is not exclusive, but is expressly made concurrent with such remedies as may be given by State laws."

It thus appears that the right of Congress to make jurisdiction in such case concurrent between the Federal and State courts is fully recognized by the Supreme Court, and may, for the purposes of this argument, be considered established. But the act of February 26, 1845, only makes such jurisdiction concurrent where the cases arise out of commerce upon the lakes and their connecting waters. In the case just mentioned that court say:

"The grant of original admiralty jurisdiction by the act of 1789, including, as it does, all cases not covered by the act of 1845, is exclusive, not only of all other Federal courts, but of all State courts."

Now, the very object of this bill is to extend the provisions of the act of 1845 to our inland navigable rivers and other inland navigable waters, as well as to the lakes and their connecting waters; so that the local State courts in the vicinity of our great western water



highways shall retain and continue to exercise jurisdiction in the exceedingly numerous cases which arise out of the commerce carried on upon those streams, which is nearly equal to all the other commerce of the entire country in extent, value, and importance. It is another object of this bill to secure the right of a trial by jury in such cases. This right exists under all the systems of State laws for the regulation of such jurisdiction. But, I admit, the remedies in admiralty, which are derived from the civil and not from the common law, do not allow or include the right of jury trial. This, however, by no means justifies the conclusion that the right ought to be denied in such cases. It is in harmony with our general jurisprudence to allow that great right in all cases. There is nothing in the nature of the cases which arise in connection with our vast inland water commerce to distinguish them in any material respect from the general classes of civil actions which engage the attention of our courts. The extension of admiralty and maritime jurisdiction, by a sort of judicial legislation to all the inland waters of our country on which "vessels float and navigation successfully aids commerce," has entirely destroyed the intrinsic difference between such jurisdiction and the general civil jurisdiction of the courts. The right of trial by jury ought therefore to be secured. This bill does not propose to give that right in cases in admiralty which arise out of the external commerce of the country, and cannot be tried in any State tribunals, but only in Federal courts.

Now, we are in this anomalous condition in this country. Under this and other decisions of the Supreme Court of the United States admiralty jurisdiction of the Federal courts is exclusive of the entire judicial power of the States over every case of this kind, whether it arise upon the gulf or open waters of the world, or upon any of our inland rivers navigable by steamboats, except cases arising on the lakes and their connecting waters. We are in that peculiar condition in which one of these cases may arise upon one of the lakes, and then the jurisdiction of the local State courts is concurrent with that of the Federal courts, and the right of trial by jury is secured; but, if the case arise upon any of our great western rivers, then the jurisdiction of the Federal courts is absolutely exclusive, and the right of trial by jury is denied. This condition ought not to continue a single day. It is injurious to the country, unjust to the people, unequal in its effect upon different sections, and absurd in itself. It arises out of and results from the decisions to which I have referred. It can have no remedy except by congressional legislation. This bill provides a remedy, makes the law equal and just, saves the right of suitors to seek their remedies in the State courts, and secures the right of trial by jury.

The object of this bill, Mr. Speaker, is to carry out the doctrine established in the act of 1845 as to the lakes, and to give to the local tribunals of the States concurrent jurisdiction with the Federal tribunals, to the end that justice may be cheapened and made more convenient and accessible to the people, and so that we may maintain and reestablish the very jurisdiction for which my friend from Pennsylvania is so anxious to have security in his bill. The object of this bill is to continue in operation the well-considered systems of State laws for the regulation of such cases in the State courts, and to suspend the effect of the judicial repeal of them by the Supreme Court.

Mr. ELDRIDGE. My friend from Indiana has made a good speech. I have understood no one has any difficulty about this bill but my distinguished friend from Pennsylvania; and now that it is shown not to be "a jumble," and that the act of 1845 provided for a jury, now that it is relieved of this difficulty, I demand the previous question.

Mr. MUNGEN. For the purpose of information, I desire to ask the gentleman from Wisconsin [Mr. ELDRIDGE] a question touching the effect which this bill will have if passed.

Mr. ELDRIDGE. Certainly. What is the question?

Mr. MUNGEN. Will this bill, if passed, compel litigants to seek redress for trivial wrongs on inland waters in the Federal courts of the different judicial districts of the United States? If two canal-boats collide on any of the "raging canaws" of Ohio or Indiana, and the cook or any other man aboard sustains a slight personal injury, will the cook aforesaid be compelled to go into a Federal court where the costs and expenses of litigation are so enormous to seek for damages? There certainly are modes of redress pointed out and provided for in regard to such wrongs in our different State courts. If this be the intention of the bill, I am opposed to it.

Mr. ELDRIDGE. The gentleman is entirely mistaken. That is the very question which troubled my friend from Pennsylvania.

Mr. MUNGEN. If so, I am glad of it. I only asked for information, not having heard the gentleman's remarks on the bill. With the understanding that its object is to give State courts jurisdiction and lessen the expense of litigation I am for the measure, and will support it with my vote.

Mr. ELDRIDGE. I am only the agent of the committee, and the gentleman must not blame me for insisting, as there are a number of bills to be reported, on the demand for the previous question.

Mr. WOODWARD. I did not intend to invoke any lecture from the gentleman from Wisconsin by simply asking time enough to understand this bill. That is the front of my offending. I have asked this legislative body shall allow one of its members to understand this bill. I do not say I shall vote against it. From hearing it read at the desk it seemed to me to be a bill eminently worthy to be examined; and I think my honorable friend, my testy friend from Wisconsin, should allow us time to understand this bill before being called upon to vote on it.

Mr. ELDRIDGE. This bill has been on the gentleman's file for four months, and he has had ample time to study it and make himself acquainted with it. He did not know or understand the position in which I am placed or he would not get angry and scold me because I cannot yield him further time. He cannot know I am the agent of the committee in reporting this bill, or he would not have accused my friend from Indiana with jumbling up matters in this bill. He says he is not familiar with it, and from what he said I am sure he does not know anything about it.

Mr. BOUTWELL. I object to the gentleman from Wisconsin yielding further.

Mr. ELDRIDGE. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WOODWARD. I demand the yeas and nays.

The yeas and nays were not ordered.

The bill was passed.

Mr. ELDRIDGE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADVERSE REPORT.

Mr. ELDRIDGE, from the same committee, also reported back adversely House bill No. 182, extending the provisions of the act entitled "An act fixing the compensation of bailiffs and criers of the courts for the District of Columbia;" and the same was laid on the table.

#### ACKNOWLEDGMENT OF DEEDS.

Mr. WOODBRIDGE, from the Committee on the Judiciary, reported adversely on the bill (H. R. No. 6) further to provide for the acknowledgment of deeds in the District of Columbia; which was laid on the table.

#### TITLES TO LAND WARRANTS.

Mr. WOODBRIDGE, from the same committee, reported back a bill (H. R. No. 568) explanatory of the act entitled "An act declaring the titles to land warrants in certain cases," with a recommendation that it do pass.

The bill provides that the act referred to, approved June 3, 1858, shall be so construed as to authorize the legal representatives of the deceased claimants to file the proof necessary to perfect the claims.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WOODBRIDGE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PRIZE MONEY.

Mr. WOODBRIDGE, from the same committee, reported back a bill (H. R. No. 501) explanatory of an act entitled "An act to regulate prize proceedings and the distribution of prize money, and for other purposes," approved June 30, 1864; which was ordered to be printed, and recommended to the committee.

Mr. WOODBRIDGE. I desire to enter a motion to reconsider.

The motion to reconsider was entered.

#### COURTS IN IDAHO AND MONTANA.

Mr. CHURCHILL, from the Committee on the Judiciary, reported back a bill (H. R. No. 263) amendatory of the organic act of Idaho, extending jurisdiction of justices of the peace, with an amendment in the nature of a substitute therefor.

The substitute was reported. It provides that the organic act of the Territories of Idaho and Montana, and the acts amending the same, so far as they relate to the jurisdiction of probate courts and of justices of the peace, be amended as follows: the probate courts in said Territories in their respective counties, in addition to their probate jurisdiction, are hereby authorized to hear and determine civil causes wherein the debt or damage does not exceed \$2,000, and also such criminal cases arising under the laws of said Territories as do not require the intervention of a grand jury; provided that said probate courts shall not have jurisdiction in any matter in controversy wherein the title or right to the peaceable possession of land may be in dispute, nor of chancery or divorce cases. And provided further, that in all cases an appeal may be taken from any order, judgment, or decree of said probate courts to the supreme court of the Territory. The judge of each probate court in Montana, when the population shall exceed six thousand, may, if the Legislative Assembly of the territory so authorize, appoint a clerk for said court, who shall hold said office during the session of the court, and shall receive such fees as may be fixed by law. The probate courts in Montana where the Legislative Assembly shall have authorized the appointment of a clerk as herein provided shall be courts of record. Section two provides that justices of the peace in said Territories in actions and proceedings of which they now have jurisdiction by the laws of said Territories, and the acts hereby amended, are authorized to hear and determine matters in controversy wherein the debt or sum claimed shall not exceed the sum of \$300.

Mr. CULLOM. I would inquire if this bill has been considered by the committee?

Mr. CHURCHILL. This substitute was drawn substantially by the chairman of the committee, and is approved by the committee. It extends to the probate courts of these two Territories, and also to the justices of the peace, the same jurisdiction that has been exercised for the last five years by the same courts in the Territory of Colorado, and which has been found to work very beneficially. I call the previous question.

The previous question was seconded and the

main question ordered; and under the operation thereof the substitute was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. CHURCHILL, the title of the bill was amended so as to read, "A bill extending the jurisdiction of probate courts and of justices of the peace in the Territories of Idaho and Montana."

Mr. CHURCHILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MISSOURI JUDICIAL DISTRICTS.

Mr. CHURCHILL, from the same committee, reported back with amendments the bill (H. R. No. 348) to provide for holding terms of the United States district court for the western district of Missouri at St. Joseph in said State.

The bill was read. It proposes to enact that the western district of Missouri, as defined by an act of Congress, approved —, shall be separated into two divisions, as follows: all that part of the district which is included in the counties of Jackson, Ray, Carroll, Chariton, Macon, Sullivan, and Putnam, and all that lies to the north and west thereof, shall compose the western division of the district, and regular terms of the United States district court within and for the western district of Missouri shall be held at St. Joseph, in that division, on the first Mondays of May and November in each year; and adjourned terms of the court, as now authorized by law, may also be held at St. Joseph.

The second section provides that the clerk of the court shall appoint a deputy, whose duty it shall be, in addition to his other duties, to reside at St. Joseph, and to keep an office there, and authorizes and empowers him to do and perform in the name of his principal all acts and things which the clerk can or lawfully may do. And the marshal for the western district of Missouri is required to keep an office in St. Joseph, and in person or by deputy to be ready, at all reasonable times, to execute the process of the court in that division, and to perform all other duties devolving on him as marshal for said district.

The third section provides that all that part of the western district of Missouri which is not included in the western division thereof, as defined by this bill, shall constitute the eastern division of the district, in which terms of the United States district court, as now provided by law, shall be held.

The fourth section provides that all suits not of a local nature, may be brought in that division of the district in which the defendants, or one of them resides, and duplicate writs shall be served upon the other defendants before they shall be required to appear to the suit or other proceeding.

The Committee on the Judiciary reported the following amendments:

Amend the first section by striking out, in lines twelve and thirteen the words "on the first Mondays of May and November in each year," and inserting in lieu thereof the words "on the fourth Monday of May in each year, and at the city of Kansas, in said division, on the 4th day of November in each year;" and add at the end of the section the words "and the city of Kansas."

Fill the blank in the fourth line by inserting "March 3, 1857," and fill the blank in line five by inserting the words "an act to divide the State of Missouri into two judicial districts."

Amend the title by inserting after the words "St. Joseph" the words "and the city of Kansas."

Mr. SPALDING. I would like to know what the necessity is of this measure?

Mr. CHURCHILL. The State of Missouri at the present time is divided into two judicial districts, much the larger proportion of the territory being included in the western district. The terms of the United States district court in that district are now all held at Jefferson City, which is nearly on the eastern limit of the district. The cities of Kansas and St. Joseph, which are near the western limit, have become cities of considerable population and

business, and much the larger portion of the business of the court arises in that portion of the State. The recent decision of the Supreme Court of the United States by which the admiralty jurisdiction of the United States courts has been extended over the rivers has largely increased the necessity felt by the people of those cities for a term of the court to be held there, and it is for the purpose of accommodating that necessity that this bill has been introduced.

Mr. SPALDING. I did not know that it was the policy of our Government to extend Federal courts into every county. Where there are two divisions in a State it is commonly thought to be enough. Now, if business has fallen off at one place, let them transfer the seat of justice to another. I object to increasing the number of district courts in a State above two.

Mr. WASHBURN, of Illinois. I would like to know what the increased expense will be?

Mr. SPALDING. The expense is nothing. I am against the policy of the law.

Mr. CHURCHILL. I will say, in reply to the gentleman from Ohio, that Jefferson City, where the courts are now held, is the capital of the State, and it would be proper that some terms of the court should be held there, while the city of St. Joseph is two hundred miles distant. I demand the previous question.

The previous question was seconded and the main question ordered.

The amendments were severally agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CHURCHILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DISTRICT COURTS OF NEW YORK.

Mr. CHURCHILL, from the same committee, reported back, with an amendment, House bill No. 446, to amend an act entitled "An act to create the eastern judicial district of the State of New York," approved February 25, 1865.

The first section of the bill provides that the section of the act entitled "An act to create the eastern judicial district of the State of New York" shall be amended by striking therefrom the word "Suffolk" and inserting in place thereof the word "Richmond."

The second section provides that any civil action or proceeding arising out of any revenue law of the United States, which may have been instituted or be pending in the circuit court of the United States for the southern district of New York, or in the eastern district of New York, may at any time before final judgment in the district court in which it is pending, or on motion of the district attorney, be transferred to the district court of the same district; and upon the order to that effect being entered in any such cause it shall be the duty of the clerk of the circuit court forthwith to transmit to the district court all the papers, documents, and proceedings in such cause; and upon the entry of any such order the said district court shall have full power and authority to proceed with said cause, and hear and determine the same, and make all orders, take all proceedings, and render all decrees which said circuit court might have made, taken, or rendered had not such cause been transferred as aforesaid; and any such cause instituted or pending in the district court of the United States for the southern district of New York, or in the district court of the United States for the eastern district of New York, may also, in like manner and with like effect, be transferred from such district court to the circuit court for said district; and for all purposes of appeal or writ of error every cause so transferred shall be regarded as a cause originally commenced in the court to which it shall be so transferred.

The third section provides that in order to

facilitate the dispatch of business in the courts of the United States in the port of New York the judge of the southern district of New York shall hereafter reside within the limits of the city of New York; and the judge of the eastern district of New York shall hereafter reside within the limits of the city of Brooklyn; and in addition to the monthly terms of the district courts now required by law to be held in said cities, there shall be held by one of said judges a daily sitting at chambers in the city of New York, except Sundays, holidays, and the summer vacation; and any cause which may or can by law be determined without a jury may be then heard at chambers with like effect as if heard at a regular term of the court. And the marshals of the districts above mentioned shall hereafter, out of the sums allowed for the expenses of the courts in their respective districts, pay quarterly to said judges respectively a sum sufficient to make the yearly compensation of said judges, including the salaries now payable to them by law, equal to the yearly compensation of the judges of the supreme court of the State in and for the city and county of New York; which sums shall be allowed in the accounts of such marshals.

The fourth section provides that whenever it shall appear to any district or circuit court of the United States, upon the last day of any term thereof, that the grand jury of such court have before them business then unfinished but proper to be concluded by such jury, the court may, by order, continue such grand jury and the sittings thereof to the next term of the court; and thereupon the acts and proceedings of the grand jury so continued shall have the same validity and effect as if such grand jury had been originally summoned and sworn for the term to which they have been so continued.

The amendment of the committee was to strike out the portion of the third section authorizing the marshals to pay the judges a certain sum necessary to make their annual compensation equal to the compensation of the judges of the supreme court of the State of New York, and to insert in lieu thereof the following:

The salaries of each of said judges shall be the same as that of the district judge of the district of California, to wit, \$5,000 a year.

The amendment was agreed to.

Mr. STEVENS, of Pennsylvania. I suppose the salary is now fixed twice. I move to strike out one of the clauses.

Mr. CHURCHILL. That is stricken out of the bill.

Mr. SPALDING. I notice from the reading of the bill that it proposes to increase the salary of the district judges in the city of New York.

Mr. WASHBURN, of Illinois. I will ask the gentleman from New York [Mr. CHURCHILL] what is the present salary of those judges?

Mr. CHURCHILL. The salary of the judges of the first and second district is \$4,000. This bill makes it \$5,000.

Mr. WASHBURN, of Illinois. I desire to move to strike out the provision making that increase.

Mr. CHURCHILL. The bill as originally framed proposed to give the district judges in the city of New York the same compensation now paid to the judges of the State of New York residing in the city, \$10,000. But that provision has been struck out, and we propose simply to make the salary of these judges the same as that of the judge of the district of California, which is \$5,000.

Mr. STEVENS, of Pennsylvania. I rose to move to strike out all that part of the bill referring to salary, leaving it as fixed by the present law, \$4,000.

Mr. SPALDING. We raised all these salaries last year.

Mr. CHURCHILL. Mr. Speaker, when the salaries of these judges was fixed two years ago, the salary of the judge of the district of California was fixed at \$5,000; the salary of the judge of the district of Louisiana at \$4,500;

the salary of the judges of the eastern and southern districts of New York at \$4,000. The statistics furnished by the Solicitor of the Treasury, and embodied in the last annual report of the Treasury Department, show that these judges in the city of New York do more than quadruple the work done by the judge in the district of California; and no one, I think, will claim that the expense of living in the city of New York is less than the expense of living in the city of San Francisco. There is evidently no propriety in exacting from the judges in the district of New York quadruple the labor performed by the judges in California, and yet allowing them but four fifths of the pay. The salaries paid to the judges of these two districts, who are men of the highest character for talent and industry, should bear some relation to the salaries paid to other judicial officers in the city of New York; and yet the ward justices in that city are paid at the present time \$6,000 per annum, or more than the judges of the United States residing there, and more than this bill proposes to give them.

Mr. WASHBURNE, of Illinois. I ask the gentleman from New York [Mr. CHURCHILL] to yield to me for a few minutes.

Mr. CHURCHILL. I will do so.

Mr. WASHBURNE, of Illinois. Mr. Speaker, only a year or two ago Congress adjusted the salaries of all these United States judges upon what was deemed a fair, just, and equitable basis.

Mr. SPALDING. Only at the last session of Congress.

Mr. WASHBURNE, of Illinois. Only at the last session we adopted what was intended as a definite settlement of this matter; yet now it is proposed in this special bill to raise the salaries of the district judges in the city of New York. I have no doubt that these two gentlemen, Judge Blatchford and Judge Benedict, are good judges, and perhaps their salaries are not adequate, but I do protest against this special legislation. As the gentleman has spoken in regard to the amount of duty performed by these judges, I undertake to say that the judge of the northern district of Illinois, who gets precisely the same salary as these judges in New York now get, works as many hours as they; and I do not know any reason why a discrimination should be made between them. If these two district judges are to have their salaries raised, I insist that the salaries of other judges who have just as much to do should also be increased.

Mr. CHURCHILL. In answer to what has been said by the gentleman from Illinois, I will inform him that while during the last year eight hundred and seventy-three suits in which the United States was a party were commenced in the southern district of New York, there were only two hundred and eighty-two in the district in Illinois to which the gentleman has referred. This bill, instead of requiring these judges to hold court as it is held by the judges in the State of Illinois, requires that they shall sit daily during the year, with the exception of Sundays and holidays and the summer vacation. The amount of labor of these judges is very great, and it is but fair they should have the inconsiderable increase of salary proposed for them by this bill. I call the previous question.

The previous question was seconded and the main question ordered.

The amendment of Mr. STEVENS, of Pennsylvania, was agreed to; there being on a division—ayes 56, noes 42.

The remaining amendments were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

#### PROTECTION OF GOVERNMENT OFFICERS, ETC.

Mr. BOUTWELL, from the Committee on the Judiciary, reported back House bill No. 1131, regulating judicial proceedings in certain cases for the protection of officers and agents of the Government, and for the better defense

of the Treasury against unlawful claims, with sundry amendments.

The bill was read. The first section provides that all the provisions of section eight of the act of July 28, 1866, entitled "An act to protect the revenue, and for other purposes," and the forms and modes by that section and the twelfth section of the act of March 3, 1863, therein referred to, prescribed for prosecuting suits, withholding executions, and paying judgments against officers of the United States, or other persons engaged in executing the acts relative to captured and abandoned property, shall extend and be applied to all suits and proceedings (except those in behalf of the United States) which have been brought, or may hereafter be brought, against any officer or agent of the Government, civil or military, for acts done during the rebellion while acting by virtue or under color of his office or employment; and every defendant in such suit or proceeding having made full defense thereto, and having notified the Attorney General of the United States to appear and defend the same, shall be entitled to the full benefit and protection provided in said section for officers and agents of the Government engaged in the collection of the public revenue; and any defendant being aggrieved by any order or direction, certificate, ruling, or judgment of any court made or had in any such proceeding, may except thereto and appeal therefrom to the Supreme Court of the United States, and have the questions arising there heard and determined.

The second section provides that no action or suit shall be maintained in any court of the United States, or of any State thereof, in the name or in the behalf or interest of any alien, against the United States, or any person, for or on account of any act done or omitted to be done by such person as an officer or agent of the United States, in the administration of the act of Congress entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States," and approved March 12, 1863, or of the act of Congress entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864, or in virtue or under color of the acts of Congress aforesaid, or any other acts of Congress relative to the said insurrectionary States, or to persons or property therein; and to any action or suit which may have been heretofore, or shall hereafter be, instituted by any lien against the United States, or any such person as aforesaid, on account of any act done or omitted to be done as aforesaid, the defendant may and shall plead or allege in bar thereof that such act was done, or omitted to be done, in the administration of one of the acts of Congress aforesaid, or in virtue or under color thereof, and such plea or allegation shall be, and shall be deemed and adjudged in law to be, a complete and conclusive bar to any such suit or action.

The third and concluding section provides that it is hereby declared to have been the true intent and meaning of the act approved March 12, 1863, entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States," that the remedy given in cases of seizure made under said act, by preferring claim in the Court of Claims, should be exclusive, precluding the owner of any property taken by agents of the Treasury Department as abandoned or captured property in virtue or under color of said act from suit at common law, or any other mode of redress whatever, before any court or tribunal other than said Court of Claims; and in all cases in which suits of trespass, replevin, detinue, or any other form of action may have been brought and are now pending, or shall hereafter be brought against any person for or on account

of private property taken by such person as an officer or agent of the United States, in virtue or under color of the act aforesaid, or the act approved July 2, 1864, entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," the defendant may and shall plead or allege in bar thereof that such act was done or omitted to be done by him as an officer or agent of the United States in the administration of one of the acts of Congress aforesaid, or in virtue or under color thereof, and such plea or allegation shall be, and shall be deemed and adjudged in law to be, a complete and conclusive bar to any such suit or action.

The SPEAKER stated that the morning hour had expired, and the bill went over until to-morrow.

#### LEGISLATIVE APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I am directed by the Committee on Appropriations to report back the amendments of the Senate to the legislative appropriation bill, and to move that they be referred to the Committee of the Whole on the state of the Union, and the report of the committee be ordered to be printed.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I give notice that I expect to-morrow after the morning hour to move to go into committee to take up and act on these amendments. It is a very long bill, and we ought to get it into the hands of a conference committee at the earliest practicable moment.

#### PURCHASE OF ALASKA.

Mr. BANKS. It was my intention, Mr. Speaker, before moving to go into the Committee of the Whole, to move there be an evening session for debate, but on the representation of the minority committee I am induced to forego that purpose.

Mr. ELIOT. I wish to offer an amendment.

The SPEAKER. That will be in order in the committee.

Mr. WASHBURNE, of Illinois. I hope there will be an evening session. If this goes over until to-morrow I shall move to postpone it and take up the amendments of the Senate to the legislative appropriation bill.

The SPEAKER. There are several members not upon the committee who would be willing to speak this evening. The Chair has the names of ten gentlemen who wish to speak on this question.

Mr. BANKS. I move that the committee take a recess from four and a half o'clock until half past seven o'clock p. m.

The motion was agreed to.

Mr. BANKS moved that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. GARFIELD in the chair,) and proceeded to the consideration of the special order, being House bill No. 1096, making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867.

Mr. BANKS addressed the committee for an hour and a half. [His speech will be published in the Appendix.]

At four o'clock and forty-five minutes p. m. the committee took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

At half past seven o'clock p. m. the Speaker took the chair, and stated that in the absence of the chairman of the Committee of the Whole, Mr. GARFIELD, he would ask Mr. ORTH to act in his place.

The House then, under the order of the House, resolved itself into the Committee of the



Whole on the state of the Union, (Mr. ORTH in the chair,) and resumed the consideration of the special order, being House bill No. 1096, making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867.

The CHAIRMAN stated that Mr. LOUGHRIDGE was entitled to the floor.

Mr. LOUGHRIDGE. I move the following amendment in the nature of a substitute:

Whereas the President of the United States, on the 30th of March, 1867, entered into a treaty with the Emperor of Russia, by the terms of which it was stipulated that in consideration of the cession by the Emperor of Russia to the United States of certain territory therein described, the United States should pay to the Emperor of Russia the sum of \$7,200,000 in coin; and whereas it was further stipulated in said treaty that the United States shall accept of such cession, and that certain inhabitants of said territory shall be admitted to the enjoyment of all the rights and immunities of citizens of the United States; and whereas the subjects thus embraced in the stipulations of said treaty are among the subjects which by the Constitution of the United States are submitted to the power of Congress, and over which Congress has exclusive jurisdiction; and it being for such reason necessary that the consent of Congress should be given to the said treaty before the same can have full force and effect; having taken into consideration the said treaty, and approving of the stipulations therein. To the end that the same may be carried into effect: Therefore,

SEC. 1. *Be it enacted*, That the assent of Congress is hereby given to the stipulations of said treaty.

The CHAIRMAN. The Chair will inform the gentleman it was the agreement that no business should be done this evening, but the session should be devoted to debate on the Alaska purchase.

Mr. LOUGHRIDGE. I give notice, then, I will offer it at the proper time.

Mr. PRYUN. Cannot he offer an amendment?

The CHAIRMAN. That is business, and it cannot be done under the order of the House.

Mr. LOUGHRIDGE. Mr. Chairman, in view of the circumstances under which this question is presented to the House it is one of very great importance, and one which demands our most serious consideration, and my great fear is that in the pressure of business it may not receive that careful consideration at our hands that its importance demands. I rise to discuss it fully impressed with my inability to do justice to the subject, and yet I cannot remain silent and feel that I have done my duty as one of the Representatives of the people upon this floor.

I shall leave the question of the physical character of this Territory and its value to others better informed than I am on that question. There is another question involved of far more importance, one before which the question of the value of this territory sinks into utter insignificance, a question a more important than which has never been discussed within these walls. That question, sir, is in relation to the rights, the powers, and the constitutional prerogatives of this House of Representatives as one of the departments of this Government. That question is directly involved in this case, and to that I propose to direct my remarks; and so far as that question is concerned it makes no difference whether this territory is a worthless, frozen waste of eternal ice and snow, or whether it is a fertile, blooming, fruitful garden. Upon this question the chairman of the Committee on Foreign Affairs has said but little in his remarks in favor of this bill, and I say in all candor that I am unable to gather from the report of the committee or from the speech of the chairman what the opinion of the committee or of the chairman is in relation to the extent of the treaty-making power as vested in the President, or in relation to the constitutional rights and prerogatives of the House in connection with treaties.

Did the President, in the purchase of this territory, the execution of an obligation purporting to bind the Government for the amount of the purchase money, and the taking possession of the territory without the consent of Congress, exceed his constitutional powers? If not, let the world understand it. If he did, then by all means we should at once repudiate his unauthorized assumptions of power; other-

wise we will be bound by like acts in the future by adopting these without protest.

An attempt is being made, through the means of the treaty-making power, to concentrate almost all of the power of this Government in the hands of the President, subject only to the advice and consent of the Senate. And this proposition is, if adopted, a long step in that direction. I hesitate not to say, sir, that if, without any explanation, disavowance, or protest, we make this appropriation, we shall, so far as this House can do it, have surrendered practically all the power of the Government into the hands of the treaty-making department, and reduced this House to the position of an involuntary agent of that power with no discretion but to carry out its expressed will. That we are rapidly drifting in that direction it seems to me must be apparent to the most casual observer. By substituting a foreign Government or an Indian tribe in place of this House, on the principle claimed by the Executive, there is nothing within the whole scope of the legislative powers of the Government that cannot be done without the consent or intervention of this House. I defy any gentleman to point out a single act of legislation that cannot be done through and by the treaty-making power, if we admit that power to the extent claimed by the Executive.

Why, sir, but a few months since, through the means of this treaty-making power, eight hundred thousand acres of the most beautiful land on the continent has been transferred to the ownership of a private citizen without the consent of this House or the legislative department of the Government. And still more recently a vast section of our country, containing eight million acres, has been through this same means transferred from the Government to a private corporation, who thus become the absolute owners of this vast territory, equal in extent to the three States of Massachusetts, Connecticut, and Rhode Island—and this not only without the consent but against the protestations of this House—and all this right in the face of the constitutional provision that "Congress shall have power to dispose of the territory belonging to the United States."

It is true this last transaction has not yet received the consent of the Senate, and it may not. This House in its new position as a petitioner or memorialist at the bar of the Senate may have sufficient influence with that body to prevent this consent being given. That this House still has the right of petition left to it is an exceedingly pleasant reflection; and I hope we shall at least insist upon retaining that right. I trust the Committee on Foreign Affairs will never consent to the surrender of the right of the House to petition the Senate in relation to treaties which rob the House of its prerogatives and the people of their rights.

But, sir, whether the Senate consent to this last outrage on the Constitution and the rights of the people or not makes no difference in the force of the illustration afforded by the case. The power is claimed and exercised. And, sir, under this power, if eight million acres of the public domain can be given away, every acre of it can in the same way be disposed of; and the power is not confined to the disposal of the public lands, but by this new legislative power the President, the Senate, and the Indian tribes have complete control over the Treasury of the Government, and can by treaty appropriate money for any purpose, and to an unlimited extent.

To show that this absolute power, exercised through the instrumentality of Indian treaties, was not claimed originally by the Executive, but is the result of gradual encroachment upon the powers of Congress, I refer the House to the first instance of a treaty made by the Government with Indians. On the 7th of August, 1789, the President in a message to Congress said:

"If it should be the judgment of Congress that it would be most expedient to terminate all differences in the southern district, and to lay the foundation for future confidence by an amicable treaty with the Indian tribes in that quarter, I think proper to sug-

gest the consideration of the expediency of instituting a temporary commission for that purpose, to consist of three persons, whose authority shall expire with the occasion."

In consideration of the subject Congress passed an act authorizing the appointing three commissioners and giving them the power to treat with the Indians, and appropriating \$20,000 for the purpose. The President appointed the commissioners and gave them instructions, which were communicated to the House, in which instructions the following language was used:

"You will please to observe that the whole sum that can be constitutionally expended is \$20,000, and that the same cannot be extended."

Why could the commissioners not expend more than \$20,000 constitutionally? Because Congress had not authorized it. Notice the language of President Washington:

"If it should be the judgment of Congress that it would be expedient to negotiate a treaty with the Indians" \* \* \* "to negotiate a treaty with the Indians" \* \* \*

I think proper to suggest, &c.

Here was a direct admission by the President of the power and control of Congress over the Indian question. The commissioners appointed not having effected anything, the House of Representatives, in March of the same year, passed the following resolution:

"Resolved, That provision ought to be made by law for holding a treaty to establish peace between the United States and the Wabash, Miami, and other nations of Indians northwest of the Ohio river; also for regulating trade and intercourse with the Indian tribes and the mode of extinguishing their claim to lands within the United States."

This resolution shows that the House of Representatives then thought that they not only ought to provide by law for holding treaties with Indian tribes, but that Congress had the power to regulate trade and intercourse with the Indians, and to prescribe the mode of extinguishing their claims to lands within the United States. Now, the treaty-making power regulates these matters and takes charge of and disposes of the public lands without any reference to Congress whatever and in defiance of the protests of this House.

Thus we see that this treaty-making power, from being an instrument or agent in the hands of Congress in connection with Indian affairs, as it was originally, has now, by a series of encroachments, come to exercise absolute and unlimited control, not only to regulate Indian affairs, but through them to exercise vast powers of legislation.

I have referred to the matter of Indian treaties for the purpose of showing the necessity of strictly restraining that department within its proper sphere, and for the purpose of illustrating the extent to which it will go if left unchecked. The question now before the House is one connected with a compact with a foreign Government, and is important not only on account of the political question involved, but because it is claimed that our good faith with a foreign Government will be broken in case we refuse to make the appropriation asked.

It is important and truly desirable that all our negotiations with foreign Governments should be so conducted as to preserve the honor and the good faith of the nation untarnished, and to maintain a national reputation for inviolable fidelity. That this should be the reputation and character of our Government I doubt not is the sincere desire of every patriotic American citizen; and to this end, sir, I regard it as of the very first importance that there should be a perfect and settled understanding and agreement between the several coordinate branches of the Government as to the powers and the prerogatives of each in connection with questions involved in negotiations with foreign Powers, so that the action of the different departments may be in harmony. Otherwise we will be continually liable to be involved in difficulties.

Our Government has been in operation eighty-one years, and it would seem reasonable to suppose that by this time questions of the importance of this should have been definitely settled. And yet, sir, from the history of this case, we are forced to recognize the fact that

there is a very wide difference of opinion between the House of Representatives and the executive department as now organized in relation to the extent of the treaty-making power and the jurisdiction of this House, going upon the presumption, as I do, that the House still adheres to the doctrine first declared in 1795, and which it has never yet surrendered by any declaration or act. From the course of the Executive in this case, it is clearly his opinion, and that of his advisers, that Congress has, in no case, any discretion in relation to passing the laws necessary to carry treaties into effect. But that when a treaty is made by the President and ratified by the Senate it is the duty of this House then to recognize it as the supreme law of the land, and to pass all laws necessary to carry it into effect, whatever may be the nature or character of its stipulations and regardless of the views of Congress as to its expediency or its bearing upon the public good. That the President has the power, with the consent of the Senate, to purchase territory from foreign Powers, to any extent, and annex such territory to and make it a part of this Government, and make all its inhabitants citizens of the United States, and to appropriate for such purpose such sums of money as he may see fit; that this may be done by secret treaty, without any authority or consent from Congress, and that after such treaty is consummated Congress has no control whatever over the matter, but must, without question or hesitation, appropriate the money required, and pass all necessary laws to carry the treaty into effect; and there is no limit to the extent of this power—it may extend to the purchase of the whole continent, British America, Mexico, West India Islands, and thus insure the destruction of our Government.

Sir, as one of the Representatives of the people upon this floor I here enter my earnest and solemn protest against this monstrous assumption—this fatal political heresy. If this doctrine is to prevail, then, sir, this House is but a useless appendage to the Government, and for all practical purposes might as well be abolished. Can any gentleman upon this floor go home to his constituents and tell them that he has agreed to the surrender of his rights, his power, and his dignity as a member of this House, and the surrender of the constitutional rights of the people through their Representatives upon this floor, to be heard upon as important questions as are involved in the unlimited extension of the jurisdiction of our Government, and the unlimited increase of our already crushing debt? And yet, sir, this is just what the President now demands at our hands, and I am sorry to say is what will be the result of the action recommended by the majority of the Committee on Foreign Affairs; the passage of this appropriation without any accompanying declaration in relation to the unauthorized acts of the Executive in connection therewith, which will be in law and in fact a tacit admission of his right to exercise the powers he has assumed in this case, and will thus form a precedent for the future.

I hold the true doctrine and the law in relation to the treaty-making power to be that which the House declared in 1795. That while the treaty-making power is vested in the President, by and with the advice and consent of the Senate, and while the House has no agency in making treaties, yet when a treaty contains stipulations in relation to subjects which by the Constitution are submitted to Congress, the treaty must depend for its execution upon laws to be passed by Congress, and that in all such cases it is the prerogative and the duty of Congress to deliberate, to take into view all of the considerations bearing upon the question, and to act upon it according to their judgment of the interests of the Government and the wishes of the people, and either pass the necessary laws and thus give the treaty vitality and effect, or refuse to pass them, as in their opinion the public good requires.

Take the case now before the House: the President, with the advice and consent of the

Senate, made a treaty of purchase with Russia, whereby that Power agreed to transfer to the United States certain territory, in consideration of which territory the United States agrees to pay Russia \$7,200,000 in gold. This treaty was ratified by both Powers and ratifications exchanged. And Congress is now asked to enact a law for the appropriation of the necessary money and to carry the treaty into effect. Now, if the doctrine I have referred to, and to which I object, is correct, and if without any legislation by Congress the treaty is effective, clothed with vitality and the law of the land, then no laws of Congress are necessary, and the treaty itself is a sufficient law for the appropriation of the money. Sir, the application to Congress for the passage of a law for the appropriation of the money and to carry the treaty into effect is a clear and conclusive demonstration of the error and the unsoundness of the doctrine claimed by those who regard this negotiation as perfected and binding without the action of Congress.

The great error of those who deny the necessity of congressional action in any case, and the right of Congress to exercise its discretion in passing laws to carry treaties into effect, is, in regarding the treaty-making power as granted to the President, with the advice of the Senate, as unlimited and absolute in its character. In an absolute monarchy or an empire, where the power of the ruler is unlimited, the treaty-making power, wherever vested, is unlimited; but in a Government like ours, where the powers of the Government are limited and specified by a written constitution, the treaty-making power is necessarily limited by the provisions of such constitution. The Constitution of the Republic defines and delegates the powers of the Government, and expressly provides that "the powers not delegated to the United States by the Constitution are reserved to the States or the people." In such a Government the treaty-making power cannot be absolute. How far and to what subjects it extends depends upon the provisions of the constitution. All we find in the Constitution in relation to treaties is the provision in article two, section two:

"The President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators concur."

And this further provision in article sixth:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution and laws of any State to the contrary notwithstanding."

The Constitution in delegating the powers of Congress specifies the powers granted, while in delegating the treaty-making power it uses only general terms and makes no specifications. Will it be claimed that because the power is given in this general language that therefore the power is unlimited in its extent? This cannot be claimed, for most assuredly it must be admitted that the power is limited by the Constitution at least to this extent, that no law can be made by treaty contrary to the provisions of the Constitution. For instance, a treaty with a foreign nation, which provided that any particular form of religion should be established in this country and supported by the Government, although made with all the forms of law by the President, and ratified and consented to by two thirds of the Senate, would be void, because providing and stipulating for that which is forbidden by the Constitution.

Again, the treaty-making power being delegated in general terms, without any enumeration, if certain powers are specifically granted to another department of the Government, then by a proper rule of construction they would be denied to the treaty-making department, for the simple and apparent reason that in construing the Constitution all its parts must be taken together, and if possible made to harmonize. Among the powers granted to Congress is to establish a uniform rule of naturalization. Therefore, the treaty-making

power could not, without the consent of Congress, make a binding treaty stipulation that the emigrants from any foreign country should upon their arrival here be invested with full rights of citizenship, or make any stipulation by treaty in opposition to the laws of Congress on the subject of naturalization. Another of the powers granted to Congress is that of raising and supporting armies, and standing armies in time of peace being dangerous to the liberties of the people the framers of the Constitution with great care and caution provided in connection with this power that no appropriation of money for the use of an army should be made for more than two years, thus giving the House of Representatives, or the Senate, either of them, the power by refusing to agree to an appropriation to put an end to the Army establishment at the expiration of every term of two years. This power thus delegated to Congress was thus carefully guarded. Could it be claimed that the President, with the consent of the Senate, would have the power to stipulate by treaty with England, for instance, that the United States should maintain a standing army of one hundred thousand men for the security of peace along the borders, and that such stipulation would be binding on the Government of the United States without the consent of Congress? I think not, and only because the Constitution has vested in Congress this important power.

Again, and to come to the question directly involved in the case now before the House, the Constitution vests in Congress the control over the Treasury of the nation, and provides that no money shall be drawn therefrom but in consequence of appropriations made by law, and makes the further unusual provision that all bills for raising revenue shall originate in the House of Representatives, a provision not made as to any other class of laws. Evidently it was the intention of the framers of that instrument, careful as they were to guard well the interests and rights of the people, to throw around the Treasury as many guards as possible, and, therefore, they provided not only that no money should be drawn from the Treasury in consequence of a law passed through both Houses of Congress, but that such law must originate in the House of Representatives, the most numerous body in the Government, and more directly accountable to the people than any other department of the Government.

Now, sir, looking at these provisions of the Constitution, what is the fair and reasonable conclusion? It seems to me there can be no difference of opinion that the intention of the framers of the Constitution was that no money should be taken from the Treasury of the United States but for some object which should first receive the sanction of the judgment of the people's Representatives in this House, and ultimately the sanction of Congress. Now, sir, it is claimed that it is the duty of this House to pass a bill making this appropriation, and that we have nothing to do with the merits or the propriety of the appropriation; and the case is compared with that of the appropriation for the payment of the salaries of officers, which salaries are fixed by law, and yet which cannot be paid without an appropriation, and it is claimed that this House has no more right to refuse an appropriation in the one case than in the other.

I do not admit, sir, unconditionally that the House has no right in any case where the law provides for an expenditure to refuse an appropriation for such expenditure. Where an office is established by the Constitution, such as the President or Supreme Court, I admit the House would have no right to refuse the appropriation that might be fixed by law for the salary of such office, for the simple reason that the Constitution, which is the highest law, by establishing the office requires the payment of the compensation, and expressly provides that they shall receive their compensation. But there may be cases where the House would be justified in refusing to make appropriations for the payment of salaries provided by law, and

I have already referred to one where I think the framers of the Constitution recognized the right of either House so to do; at least it is difficult to imagine any other reason for the provision. I refer to the provision in relation to the standing army, that no appropriation shall be made for more than two years. It was evidently the intention to give either House the power by refusing to consent to an appropriation to put an end to the Army establishment, and this is the view taken of that clause by Mr. Madison and other great statesmen of that day.

But aside from this, sir, the cases are not analogous. In all cases where appropriations are asked for salaries and for other purposes provided by law the propriety and the necessity of the appropriation have already previously been passed upon and assented to by both Houses of Congress. The people's Representatives have, in all such cases, given the assent of their judgment that the public good requires such appropriations. But in this case there has been no provision whatever by law of Congress for the appropriation required; the purpose for which it is to be made has never received the assent of the people's Representatives; they have never decided that the public good required it, or would be enhanced by it, nor that the finances of the country are in such condition as to justify it; and we are told that we have no right now to take into view any of these considerations, but, regardless of our own convictions as to the propriety of the transaction, we must vote the amount of money asked. To-morrow we may have notice of some other treaty entered into by the treaty-making power with some foreign Government providing for some purpose or other an appropriation of a hundred millions, and on the same principle we are bound to foot the bill without question, and thus, by this doctrine, the President and the Senate would have absolute and unlimited control over the Treasury, inasmuch as the amount of money which might be expended by treaty is unlimited and the objects and ways in which it might thus be expended are also unlimited.

I trust, sir, that but few will be found upon this floor willing to consent to a doctrine so dangerous, willing to yield up the authority and prerogatives of this House vested in it by the Constitution of the country, and which it has always heretofore persistently maintained. But there is another question involved in this case in addition to that of the appropriation of the money, and one of equal importance and interest; and that is, as to the power of the President with the advice and consent of the Senate and without the consent of Congress, or of the people of the United States, by treaty to extend the area of our Government, and bring into its jurisdiction foreign countries and foreign peoples. This power I deny. I do not claim that the Constitution has vested this power in Congress in express terms. As I read that instrument it is silent on the subject. Such power is not by that instrument given to any department of the Government in express terms. I do not wish to be understood as denying this power to the Government. By the laws of nations all Governments have the right to add to their domain by purchase and by conquest, and I suppose that our Government has this right, by the laws of nature, the same as the right of self-defense; the right to do what is necessary for its own existence.

Jefferson, I believe, placed the power to purchase Louisiana upon the law of necessity, of self-preservation. Many of our greatest statesmen have placed it upon the clause in the Constitution giving Congress the power to admit new States into the Union. But from whatever source the power is derived, I deny that it belongs to or is vested in the treaty-making department, but that it belongs strictly to Congress. It may doubtless be properly exercised through the agency of the treaty-making department, which in such case acts as the agent of Congress, yet it cannot properly be done without the authority and consent

of Congress, and ought not to be done without that consent previously obtained, as in the Louisiana and the Florida cases it was previously obtained.

Mr. MAYNARD. Does the gentleman from Iowa wish to be understood to assert that the previous assent of Congress was obtained to the acquisition of Louisiana before the treaty was made?

Mr. LOUGHRIDGE. That is my understanding. An appropriation of \$2,000,000 was made before any step was taken by the President. And yet, sir, while the treaty-making department may thus act in the premises, Congress has the power, without the coöperation of the treaty-making department, to enter into the necessary compact, and to consummate the purchase, as was done in the case of the annexation of Texas. Indeed, I apprehend that strictly the term "treaty" as used in the Constitution, where the power to make treaties is given to the President, does not include transactions or negotiations of the kind now under consideration, but that as used there it is limited to questions *inter alios*; that is, to questions between this Government and foreign Powers, which require negotiation to adjust and settle them, and that a single transaction of bargain and sale would not come within its scope. The definition of a treaty as given by Vattel in his treatise on the laws of nations is as follows:

"A treaty, in Latin *foedus*, is a compact made with a view to the public welfare by the superior power, either for perpetuity, or for a considerable time.

"The compacts, which have temporary matters for their object, are called agreements, conventions, and factions. They are accomplished by one single act and not by repeated acts. These compacts are perfected in their execution once for all. Treaties receive a successive execution, whose duration equals that of the treaty."

A single transaction, then, of bargain and sale, which is not continuing, but is perfected at once by its execution, does not come within Vattel's definition of "treaty." The framers of the Constitution I claim used the word in that instrument in this same sense; and this view is strengthened and made apparent from the fact that a clear distinction is taken in the Constitution between, "treaties" and "agreements and compacts." Section ten of article one provides that no State shall enter into any "treaty," while further on in the same section it provides that—

"No State shall, without the consent of Congress, enter into any agreement or compact with a foreign Power."

If all agreements with foreign Powers are *treaties*, then the treaty-making power is not vested exclusively in the President, with the advice of the Senate, for Congress may authorize States to enter into treaties. The only conclusion, then, is that while the power of making treaties is vested exclusively in the President, with the advice of the Senate, yet the term is used in the sense Vattel uses it, as contradistinguished from simple agreements, conventions, and compacts, which consist of a single transaction accomplished by one single act, such as a transaction of bargain and sale. And this view of the Constitution has been sanctioned by all departments of the Government. In the case of the compact between this Government and the republic of Texas, by which that republic ceded all its territory to the United States and became annexed to the United States, as I have before stated, the treaty-making power took no part in the transaction; it was done entirely by the legislative department of the Government. The validity of that transaction has never been questioned, but has been sanctioned by all departments of the Government; whereas, if the compact with the foreign republic of Texas, which was thus entered into, was a treaty in the meaning of that term in the Constitution, then the whole transaction was without authority of law; for if the negotiation was a treaty, in the sense of the Constitution, the jurisdiction of the treaty-making power was exclusive; if not a treaty, then the treaty-making power had no jurisdiction.

Applying the same principles to the case now

under consideration, which is entirely similar in its character, and I claim that a just conclusion is that this case does not come within the jurisdiction of the treaty-making power, but is entirely and properly a matter for the legislative department of the Government; and that, while the negotiation for the purchase was carried on by the treaty-making department, it was done without the authority of Congress previously given, and the whole question as to the propriety of the purchase is as fully open for the consideration and the judgment of the House and of Congress as if no treaty had been entered into; and it is our prerogative, and not only that, but our duty, to examine into the merits of the case, and to confirm or reject the purchase as in our judgment the public good requires.

But we are told that the emperor of Russia has delivered possession of the territory purchased, and that this Government has accepted and taken possession of it, and that for that reason we are estopped from refusing to carry out the contract. I am at a loss to know upon what principle of law this conclusion is arrived at. So far as this Government is concerned, I deny that there has been any legal or authorized taking possession of the territory. The act of the President in assuming to take possession was without authority of law, and was not the act of the Government, of which fact the emperor was presumed to be cognizant. I take it to be a well-settled principle of law that the conductors of all Governments are presumed to know the constitutions and public laws of all other Governments. The emperor of Russia is therefore held to know the provisions of the Constitution, the public laws and proceedings of this Government, and with this knowledge, if he relied upon an incomplete, inchoate negotiation, one not yet consummated, and which, by the Constitution and laws of this Government, required the consent of Congress before it could be carried into effect, and, so relying, made a formal transfer and delivery of the territory, he has placed himself by his own imprudence in a position where he would have no good cause of complaint if Congress, in the exercise of its rightful discretion, should refuse to carry the treaty into effect. In such case the Government of Russia could resume possession of the territory if it desired to do so.

The President, acting without any authority of law, it seems, directed a military officer to take possession of the territory, which direction was complied with in form by such officer. The Russian flag was withdrawn and the flag of the United States substituted. The President might, with as much right and authority, have directed military officers to take possession of Canada or the British possessions.

The act was as unauthorized as it was unnecessary, and deserving of the severest condemnation. And here I desire to direct the attention of the House and the country to the difference in the course of President Jefferson in 1803, in connection with the purchase of Louisiana, and the present Administration in relation to the assumption and exercise of doubtful powers. Although the Louisiana territory, commanding as it did the mouth of the Mississippi, and its acquisition regarded as a pressing necessity, yet with a desire to keep within the bounds of his constitutional powers, Jefferson did not venture to enter into negotiations for its purchase until authorized to do so by Congress, and an appropriation was made by Congress for that purpose.

In this Alaska case the President, without any notice to, or authority from Congress, on his own motion, entered into a treaty for the purchase of a territory, for the acquisition of which by this Government there was at least no immediate or pressing necessity, a territory of but little value as compared with Louisiana. In the Louisiana case, after the treaty was consummated and ratified by the Senate, before attempting to take possession of the territory, Jefferson transmitted a copy of the treaty to Congress for the action of Congress,



in its legislative capacity, suggested to Congress that steps should be taken to take possession of the territory, and awaited the action of Congress. An act was passed authorizing and empowering the President to take possession of the territory, and in obedience to such law of Congress the President afterward formally took possession of the territory.

In this case President Johnson, immediately upon the ratification of the treaty by the Senate, before any appropriation had been made by Congress for the payment of the price stipulated, before Congress had in any way had the matter under consideration, dispatched a brigadier general of the Army, with a vessel and a detachment of soldiers, with orders to take possession of the territory, which orders were formally obeyed. And now the Representatives of the people in Congress are told that in consequence of such unauthorized act on the part of the President they are deprived of any discretion, and are under legal obligation to appropriate the money and pass the laws to carry the treaty into effect, and that if they refuse so to do Russia will have good cause of war.

Sir, if this doctrine is correct, what security have we but that to-morrow, by virtue of some secret treaty, negotiated and ratified in regular form, without the knowledge of this House or the people, some military officer may hoist our flag over the halls of the Montezumas and take possession of Mexico, annex all that territory to the United States, and transform its ignorant and vicious population into citizens of this Republic?

I insist that if such an addition is to be made to our territory and our population that the people of this Government should have some voice in its consummation. It would seem reasonable, sir, that this should be; and the doctrine that would deprive them of this right is certainly unwarranted by anything in the Constitution or laws of the Republic. The necessity of congressional action to give full validity and effect to treaties of purchase and to treaties which include in their stipulations subjects which by the Constitution are granted to Congress has always been recognized from the organization of the Government. It has always been claimed by this House, has been declared by the Supreme Court, and recognized, I think, by every Executive except Washington.

In the case of the treaty of 1795 with Great Britain, which was a treaty of commerce, amity, and navigation, the treaty was duly ratified in October, 1795, and the President promulgated the same and transmitted a copy thereof to the House of Representatives on the 1st of March, 1796, for the information of Congress. On the next day a resolution was offered requesting the President to lay before the House copies of the correspondence relative to the treaty. This resolution raised the question whether Congress had any right in connection with that treaty to deliberate upon the expediency or inexpediency of carrying the treaty into effect, and to act thereon as, in their opinion, the public good required. Those who denied this power to Congress opposed the resolution; those who claimed it advocated the resolution. A debate of great ability followed, lasting three weeks, in which Mr. Madison and Mr. Gallatin took the lead in favor of the power of Congress, when the resolution was passed by a vote of 55 yeas to 36 nays. To that resolution the President responded in a message denying the power claimed by the House, and declining to furnish the correspondence and papers requested. That message of the President was referred to the Committee of the Whole House, and the following resolution was offered:

"Resolved, That it being declared by the second section of the second article of the Constitution 'that the President shall have power, by and with the advice of the Senate, to make treaties, provided two thirds of the Senate present concur,' the House of Representatives do not claim any agency in making treaties; but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress it must depend for

its execution as to such stipulations on a law or laws to be passed by Congress. And it is the constitutional right and duty of the House of Representatives, in all such cases, to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good."

This resolution was advocated by Mr. Madison in a speech of great power, and was passed by a vote of yeas 57, nays 35; and had all the members voted the vote would have been 63 yeas to 36 nays.

Thus at an early day the House of Representatives, by a decisive vote, settled the doctrine, so far as the House is concerned, settled it directly and deliberately, and with a full realization of the importance of the question. In the course of the debate Mr. Livingston, who was in favor of the resolution, remarked, "That it was the most important question that had ever been agitated within the walls of the House." After thus settling the doctrine for itself, the House, on a resolution declaring that laws should be passed to carry the treaty into effect, discussed the merits of the treaty for over two weeks, James Madison, Albert Gallatin, and John Livingston, and others of the most distinguished statesmen of the country opposing the resolution to carry the treaty into effect; and on the final vote the resolution was adopted by but three majority, there being 51 yeas and 48 nays.

In 1803 the United States purchased from France the territory of Louisiana. But in that case the initiatory step was taken by Congress. The matter was discussed in secret session, and was referred to a committee which made a report in favor of the purchase of the territory, stating, among other things in their report, that—

"In the opinion of the committee the possession of that territory was not only required for the convenience of the United States, but would be demanded by their most imperious necessities."

And recommended the adoption of a resolution appropriating \$2,000,000, to be applied, under the discretion of the President, toward the expenses of the negotiation for the purchase of the territory, which resolution was adopted and the money appropriated, and afterward, having thus the express sanction of Congress, President Jefferson entered into negotiations for the purchase of the territory by treaty, which was made and ratified by the Senate; and on the 22d of October, 1803, the President transmitted a copy of the treaty to Congress, "for the purpose (using his own language) of the consideration of Congress in its legislative capacity;" and after a discussion upon the merits of the treaty the usual resolution was adopted by a vote of yeas 90, nays 25, declaring that provision should be made by law for carrying the treaty into effect. Thus, in that case, Congress not only authorized the purchase in advance, but ratified and confirmed it after it was negotiated. And, as I have before stated, after this treaty was made and ratified, President Jefferson declined to take possession of the territory, awaiting the action of Congress in their legislative capacity upon the treaty. And after Congress had resolved to carry the treaty into effect, and passed an act authorizing the President to take possession of the territory, and not until then, did Jefferson presume to exercise that authority.

What a pity, sir, that Jefferson had not lived to this day that he could have learned something of the Constitution of the country and of the power of the President. In the case of the purchase of Florida from Spain the treaty was concluded on the 22d of February, 1819, but was not ratified until February, 1821.

The treaty was then communicated by the President to Congress for the legislative consideration and action necessary to give it effect. The President, in that case, did not assume to take possession of the territory until after the assent of Congress had been given, but awaited that action; and on the 3d of March, 1821, an act was passed by Congress, as in the case of Louisiana, authorizing and empowering the President to take possession of the territory, and by virtue of such authority the President formally took possession of the territory.

The last instance to which I shall refer is the annexation of Texas in 1845. As I have already stated, the treaty-making department took no part in that negotiation whatever; it was consummated by a joint resolution of Congress, approved by the Executive. The question of the power of Congress without the intervention of the treaty-making department, to enter into a compact with a foreign Government, and to negotiate for the annexation of foreign territory, was fully discussed in both branches of Congress, and the joint resolution was passed in the House by a vote of 132 yeas to 76 nays, and in the Senate by a vote of 27 yeas to 25 nays. Thus we have in that case not only the judgment of the House of Representatives in accordance with its previous uniform action, but also the deliberate assent of both of the departments constituting the treaty-making power, the Senate and the President, to the principle that Congress has the power, without the intervention of the treaty-making department, to enter into a compact with a foreign Government for the acquisition and annexation of territory.

I submit, sir, that this action of the Senate and the House of Representatives in Congress assembled, and of the Executive, settles the doctrine which I claim to be correct, that a compact with a foreign Government for the purchase of territory, and which includes no other objects or stipulations, is not strictly a treaty in the meaning of the term as it is used in the Constitution, in article two, section two, where the power to make treaties is given to the President, with the advice of the Senate, but that it is a compact or agreement such as is mentioned in section ten, article one, where a State is forbidden, without the consent of Congress, from entering into an agreement or compact with a foreign Power; and therefore not within the jurisdiction exclusively, if to any extent, of the treaty-making department.

The doctrine which I claim has been settled, so far as this House is concerned, by its own action, and by the unvarying practice of the Government, has received the assent of very nearly all the great statesmen of the country. Jefferson, Clay, Calhoun, Randolph, Madison, Gallatin, and Monroe all held that opinion, and advocated it on all occasions. Calhoun, in his treatise on the Constitution and Government of the United States, speaking of the treaty-making power, says:

"But although the treaty-making power is exclusively vested, and without enumeration or specification, in the Government of the United States, it is nevertheless subject to several important limitations. It is, in the first place, strictly limited to questions *inter alios*; that is, to questions between us and foreign Powers which require negotiation to adjust them. All such clearly appertain to it. But to extend the power beyond these, be the pretext what it may, would be to extend it beyond its allotted sphere, and thus a palpable violation of the Constitution. It is, in the next place, limited by all the provisions of the Constitution which inhibit certain acts from being done by the Government or any of its Departments; of which description there are many. It is also limited by such provisions of the Constitution as direct certain acts to be done in a particular way, and which prohibit the contrary, of which a striking example is to be found in that which declares that 'no money shall be drawn from the Treasury but in consequence of appropriations to be made by law.' This not only imposes an important restriction on the power, but gives to Congress, as the law-making power, and to the House of Representatives as a portion of Congress, the right to withhold appropriations; and thereby an important control over the treaty-making power whenever money is required to carry a treaty into effect; which is usually the case, especially those of much importance."

John Randolph said on this question:

"Where a treaty is made involving matters confided by the Constitution to Congress, the Representatives are as free as the President or the Senate were to consider whether the national interests requires or forbids their giving the forms and force of law to the articles over which they have this power."

And this was quoted and approved by Jefferson in 1795. In a letter to Colonel Monroe, in 1796, Mr. Jefferson used the following language:

"The British treaty has at length been laid before Congress. All America is on tiptoe to see what the House of Representatives will decide on it. We conceive the constitutional doctrine to be that, though the President and Senate have the general power of making treaties, yet when they include in a treaty

matters confided by the Constitution to the three branches of the Legislature an act of legislation will be necessary to confirm these articles, and the House of Representatives, as one branch of the Legislature, are perfectly free to pass the act or to refuse it, judging for themselves whether it is for the good of their constituents to let the treaty go into effect or not."

Again, in volume nine, page 106, of Jefferson's works, he says:

"When money is to be paid, the House of Representatives should be consulted previously to concluding the treaty, or the treaty should be made conditional to the sanction of the House."

Now, sir, in view of this record of the practice of our Government, in view of the provisions of our Constitution, and of the expressed opinions of the greatest statesman of the Republic, it cannot be claimed by any foreign Government engaged in negotiations with us that the law of this country on this question is not settled and well understood; that a negotiation of this kind cannot be made and consummated so as to bind the Government without the consent of Congress, and that until such assent is given such negotiation is without force or effect, and that no act of the executive department not authorized by Congress can make it effective or clothe it with vitality. And I have no hesitation in saying that the unauthorized and unwarranted act of the President in taking possession of this territory was not binding on the Government, and should have no influence in the investigation of the case or its final decision; and to give such unauthorized acts any influence in the case would be setting a dangerous precedent for the future.

I come now to the question as to what action should be taken by the House in relation to this treaty. I, for one, cannot consent to do what the Committee on Foreign Affairs ask, to pass this bill making the appropriation without any accompanying declaration of the opinion of the House as to the regularity and the legality of the acts of the President in relation to the treaty, and as to the rights and prerogatives of the House in such cases. To do this would, in my opinion, as I have before stated, be a tacit admission of the power of the President to do the same acts in the future, and would be establishing a precedent fraught with danger.

I am willing, under the circumstances of this case, to vote for this appropriation, if, by the adoption of a proper preamble to this bill, or by some accompanying resolutions, the House will repudiate the claim of the President to exercise such powers, and assert its constitutional prerogatives and rights in connection with all subjects which, by the Constitution, are submitted to the control of Congress. But, sir, if not accompanied by some such declaration, I shall deem it my duty to oppose this bill. I care not how valuable this territory may be; for it is of far more importance that the constitutional liberties of the people should be preserved than that we should acquire wealth and empire.

Mr. Chairman, we can engage in a reckless career for wealth, power, national aggrandizement, and the unlimited extension of our territory; the temptation is great to do so; the field is inviting. Other republics which have gone before us have set us the example, and we may follow in their footsteps; but, sir, would it not be more wise to legislate with a view to the liberty, the security, and the happiness of the people and the perpetuity of our Government? And it should be remembered that one of the greatest securities for the liberties of the people is in the control given by the Constitution to the House of Representatives over the Treasury of the nation; and that when that security is taken away and the President has unlimited control over the public purse, subject only to the consent of the Senate, one of the strongest safeguards of the people against oppression is broken down.

It has always been a maxim in connection with liberty in this country and in England that all public money is from the pockets of the people, and that it should be expended by none but their representatives. I conjure the

House not to abandon this doctrine now, or surrender up this dearest right of the people. The Constitution has carefully provided a system of checks and balances which are essential to constitutional liberty. The powers of the Government are distributed among the different departments of the Government in such manner that each one is a check upon the other. But, sir, if this unlimited and supreme power is conceded to the treaty-making department, then the Constitution is a mockery and a cheat, the President and the Senate constitute the Government, and the people have nothing to do but to submit to the despotism thus established.

I shall, Mr. Chairman, offer an amendment to the bill, which, if adopted, will remove my objections to it, and it will receive my support; but if that amendment or something substantially the same is not adopted, I shall feel it my duty to vote against the bill.

The debate was continued by Mr. BOYER and Mr. PRUYN. [Their remarks will be published in the Appendix.]

Mr. PRICE obtained the floor.

Mr. WASHBURN, of Wisconsin. It is now getting late, and there are few members present. As this is a question of great importance I would suggest that the committee now rise, with the understanding that the gentleman from Iowa [Mr. PRICE] shall have the floor, after I shall occupy it to-morrow as was agreed upon to-day.

Mr. MAYNARD. If the gentleman from Iowa does not wish to go on, I would like an opportunity to say something.

Mr. JOHNSON. I hope I may be allowed to submit some remarks to-night.

The CHAIRMAN. The order of the House requires that at the close of the morning hour to-morrow, the floor shall be assigned to the gentleman from Wisconsin, [Mr. WASHBURN,] and the floor must next be awarded to some gentleman on the other side.

Mr. HIGBY. I do not know why there should be any objection to permitting the debate to go on to-night with the understanding that the gentleman from Iowa shall hold the floor at the adjournment.

Mr. WASHBURN, of Wisconsin. If the gentleman from California [Mr. JOHNSON] goes on to-night, the gentleman from Iowa [Mr. PRICE] can take his place to-morrow.

Mr. JOHNSON. Certainly; the gentleman from Iowa can take my place to-morrow.

The CHAIRMAN. When the gentleman from Wisconsin has finished his remarks, the Chair will feel obliged to give the floor to some gentleman on the opposite side of the question.

Mr. WASHBURN, of Wisconsin. But if every one assents to the arrangement suggested, I do not see why it should not be carried out?

The CHAIRMAN. Does the gentleman from Iowa [Mr. PRICE] yield his place to the gentleman from California, [Mr. JOHNSON?]

Mr. PRICE. If by unanimous consent it can be agreed that the gentleman from California shall take my place this evening, and that I shall follow the gentleman from Wisconsin to-morrow, I have no objection.

Several MEMBERS. All right.

The CHAIRMAN. The unanimous consent of the committee is asked for the arrangement just stated? Is there any objection?

There was no objection.

Mr. JOHNSON. Mr. Chairman, on account of the deep interest felt by California in the speedy settlement of all questions of difficulty concerning the purchase by our Government of Alaska, I deem it my duty as a Representative to give my views to the House. The interest felt by California in regard to this matter does not proceed from uncertain or chance hope of profit, but comes from a knowledge of the great commercial advantages to accrue from that acquisition, a knowledge obtained by nearly twenty years of intercourse with the little settlements along the borders of that territory. This purchase extends up from the parallel of 54° 40' north latitude to the north-

ern extremity of the continent, embracing many valuable islands, one of which, Kodiak, is large enough for a respectable sized State, and it extends west from the one hundred and forty-first to the one hundred and ninety-third degree west longitude. Within the limits of this purchase there is more of the earth's surface than there is in Norway, Sweden, Denmark, Scotland, Ireland, England, and Wales combined. Yet some gentlemen honestly and conscientiously oppose paying the purchase money. It is estimated that the area of this territory is over five hundred and seventy thousand square miles, and that the length of mainland coast is more than four thousand statute miles. Imperfect as it may be, our Coast Survey shows that this whole extent of water front is "indented by capacious bays and commodious harbors without number, embracing the peninsula of Alaska, one of the most remarkable in the world, fifty miles in breadth and three hundred miles in length, piled with mountains, many volcanic, and some still smoking, penetrated by navigable rivers, one of which is among the largest of the world, studded with islands which stand like sentinels on the coast, and flanked by the narrow Aleutian range which, starting from Alaska, stretches far away to Japan, as if America were extending a friendly hand in trade to Asia." It is estimated that the coast line, including bays and islands, is not less than eleven thousand two hundred miles.

Now, as to the value of all this, for its fisheries, furs, timber, ice, agricultural productions, &c., we are furnished with abundant proof to establish the fact that no waters in the world can yield the toiling fisherman so rich a harvest as he may gather in the waters immediately under that northern coast. Oysters, clams, and crabs are found in abundance; also an odd species of the herring, and also the salmon, the herring, the halibut, the cod, and the whale, until all these fill and thicken the waters. From the lights received upon the subject it is not too much to suppose these the greatest fisheries in the world. The advantages to the country from the opening of these fisheries will be incalculable. It should be borne in mind that the cod fisheries of the Atlantic coast was for a long time one of the chief sources of the development and wealth of the northern States, and was the great school in which we trained our seamen and made efficient our merchant marine. It was always a paying business; it never failed to yield a profit. Yet this Government thought it quite necessary to aid it by subsidies, because it was a school for the training of the adventurous seaman who carried the American flag and American commerce over every sea to the remotest ends of the earth.

The northern Pacific fisheries are probably ten times as extensive as are those on the Atlantic, yet the Atlantic fisheries employ over one hundred thousand tons of shipping and ten thousand men, yielding nearly three millions annually. It is a well-known fact that the Atlantic fisheries are diminishing in yield, and that we must look to some new field in which to restore to us and keep up that great branch of maritime and commercial industry. Last year alone twenty cargoes, making one thousand one hundred and eighty-three tons of dried fish, were brought into San Francisco. Pay this money, give us a government for the country, and next year San Francisco will receive ten times the number of tons received last year. England, as a wise commercial nation, has always paid a great deal of attention to her fisheries, and in our fostering care of our Atlantic fisheries we have only imitated her example. Last year, as may be seen by the inspector's report, London received through Billingsgate one thousand six hundred and sixty-six tons of salmon, worth \$1,069,015. Now, do not be encouraged to hope this House is to receive anything through that "gate." I expect to see the day, however, when Alaska salmon will compete in the London markets with the salmon taken from Welsh waters.

France pays millions a year in bounties to her hardy fishermen. She pays nearly one million yearly in fostering her fisheries in American waters. Canada pays a bounty of four dollars per ton to enable her fishermen to compete with ours, and to train up her young men for the sea, that she may build up and improve her merchant marine. We need no bounty for our Alaska fisheries. Clear away the difficulties, and in three years we can supply the markets of the world with fish. And in addition to this and other advantages, some of which I shall briefly notice, in five years from the organization of government in Alaska San Francisco will enter and clear more tonnage than New York does to-day. But we will by no means rival New York, for her increase will almost be in proportion to ours. The great value of the furs of Alaska, as well as its great abundance, is known to all the world, and needs but a passing notice. It is admitted by all that every animal wearing a fur coat may be found in that country, some of them in great abundance. With that country in our hands, and under a proper government, we may handle the fur trade with other countries as we choose. Is it not something to be masters of this great branch of commerce? In the partial and limited examinations made it has been ascertained that Alaska has deposits of coal, copper, and gold; also forests of the best ship-building timber trees. And if we believe the official reports we have from there, and I do, the climate of that country, particularly Kodiak and Sitka, is not worse, but far better than that portion of Canada lying north and east of Quebec. That being true, it is safe to say that all the hardier grain, such as winter wheat and barley, may be grown in that country, in addition to the numerous hardy vegetables which we know grow and flourish there. A country of such vast extent, with such a variety of valuable productions, should be considered of inestimable value to any government having the least hope of maritime greatness.

Sitka and Kodiak are at present the principal ports of the territory. Sitka is a little nearer to San Francisco by direct line, but not nearer, I suppose, by the track of vessels. It is also more difficult of access and has not so good a harbor; still the harbor is large enough to shelter and protect at anchor eight or ten of the largest vessels. Kodiak is five hundred and fifty miles from Sitka, but nearly in the same latitude, being nearly west of that place. It is possessed of a good harbor, easy of access, deep water, the best of anchorage, and a convenient wharf. Numerous cod-fish banks are found near by; it is also most convenient to the whale fisheries, and is the place from whence San Francisco gets its supply of ice, instead of Sitka, as generally supposed. Although further north, it has a much better climate than Sitka, cattle doing well upon the island without care or attention, grass being in great abundance. Salmon, halibut, and cod-fish are found in abundance around the island. Upon the whole, without going further into details, Kodiak should be the capital at present.

Unless we intend to have a rupture with Russia, and give up the purchase, we should act speedily in this matter and provide a government for that country. The great interests of our Pacific commerce require it. At present there are no custom-houses in the territory, the Treasury Department having an agent at Sitka alone. Vessels clearing at San Francisco for Kodiak are compelled to travel one thousand miles out of their way to report to that agent before going to the place of their destination. There is now nothing to prevent English enterprise, or any other, from sailing up the Strikien river and bartering whisky and fire-arms with the Indians for their valuable furs, which should be poured out through the regular channels of commerce to enrich our country. There is not a light-house on the coast to protect our already important shipping interests there; and without government there is no protection to those that are now settled

in the country; besides, the want of government prevents thousands from going there to settle.

Gentlemen are alarmed when they come to consider the expense of an organized government in Alaska, but they should not be. No military force will be needed, none whatever. Two revenue cutters is all that would ever be needed to keep order in that country. Owing to the peculiar topographical features of the coast, two or three light-houses only would have to be erected. There should at least be two custom-houses, one at Kodiak and one at Sitka. The civil government may be a very cheap one until the country begins to show its importance. A Governor and an Indian agent, who shall be *ex officio* secretary of the Territory; a surveyor general, and a register and receiver; one judge, who shall sit with justices of the peace, and we have a complete system and at little cost. It is objected that the treaty-making power does not go to the extent of obliging us to make the necessary appropriation to carry out this treaty. I think it does. If the question of the purchase of territory was now up for the first time I should say that the Constitution did not justify it. But it is not a new question. It was decided the other way early in the history of our Government in the matter of the Louisiana purchase, and is not now an open question.

The President, with the advice and consent of the Senate, may make treaties of purchase, and in this purchase they have not exceeded their constitutional powers. Now, I understand it to be our sworn duty to make appropriations to carry on the Federal Government because that Government is the object of the Constitution which we are bound to carry out if we can. If this be correct, and I think it will not be denied, then if this purchase is justified by the Constitution it is our sworn duty to carry the provisions of the Constitution to that country for the protection of the people, who have a right to the protection of its provisions. How may this be done? In one way only; that is, by making needful rules and regulations (laws) for the government of that territory under the Constitution. And more, if the reasoning be correct we cannot escape the duty of making this appropriation. Like all other debts constitutionally contracted by the Government, its force on us is a part of the force of the Constitution itself.

I do not desire to argue the question as to whether we must make this appropriation; the national importance of this purchase is so manifestly great that we should first consider its advantages to the Republic, and we will never have to go further. By this purchase our sea-board on the Pacific is made greater than on the Atlantic, and is extended close up to the borders of Asia. The Pacific sea-board, although so extensive, has a much less number of harbors than the Atlantic, being mostly rock-bound, but in nowise dangerous to navigation, and may be protected easier than any similar extent of sea-coast in the world. Pay this money, give us a territorial government, and it will be the opening of a new field of enterprise to our merchant marine, in its vast fisheries and fur trade traffics, which will necessarily bind us more closely with our China and Japan trade, and tend to consolidate in the hands of our merchants and in our commerce the greater portion of the mercantile traffic of that section of Asia and its island dependencies. The great national advantages in giving to the United States the jurisdictional preponderance on an ocean destined to become the great maritime highway of the future, opening to our merchants a certain road to the attainment of the largest proportion of the world's traffic, and placing within our grasp the proud distinction of being the greatest commercial government of the globe, peacefully taking and wearing the palm so long held by England through toil, bloodshed, and the expenditure of countless millions of treasure, is such a victory of peace and statesmanship that we should not hesitate one moment. While I admit the in-

calculable advantages to accrue to the Pacific States from this purchase, I still insist that the benefits will not be local, but extend to the whole Union, creating an incentive, in solid profits, to the marine of the whole country, until darkness shall no longer dwell upon the face of the waters anywhere that an American vessel can float.

It is not a measure for the present alone, but has much to do with the future permanence of our republican Union, and, in a political sense, should be viewed with deepest interest. It removes a foreign flag from the shores of America, and confines to narrower limits one of the great Powers of the earth. It extends our territorial jurisdiction, and greatly lessens the probability of a consolidation of empire and an overthrow of our Republican institutions, a calamity greater than all other evils that might befall us as a people. As a Representative from California I may be pardoned for a particular notice of the advantages to accrue to that State by this acquisition. California is a young State, but is mature in all that constitutes the elements of a rising and prosperous Commonwealth. Minerva-like, she sprung out fully developed from the fertile brains of her own statesmen. As a commercial, agricultural, mechanical, and wealth-producing State, despite disasters from floods and fires, she has attained a greatness which makes the records of her prosperity appear almost fabulous. Experience has developed her channels of prosperity, and she stands today the most notable example in the world of the energy, enterprise, and industry of a people. Scarce nineteen years ago her hills and plains were settled by the best young bloods of our country, when she commenced an existence with all the elements to make her an excelsior State.

With her first life she was possessed of all the advantages of the improvements of the age, and did not have to grow into their use by overcoming the prejudices of the past. We are of the present time, and availing ourselves of the advantages of the day, and as each progressive benefit for the community is developed, we have incorporated it with our daily life, thus lending vitality ever to our young blood and venturesome spirits. Too much honor can never be done the young men of California. Among us are settled young men from every country in Europe. With the liberal spirit of the age and our own institutions we have adopted all that is good to the community from each. Such valuable traits, methods, and means of future benefit as was consonant with our institutions we have wove into the fabric of our social as well as business life, and have thus become more liberal and expansive in our views, more progressive in our exertions. We differ essentially in our manners and customs from other communities which are trammelled by old-fashioned routine and by old traditions, and worse, by old prejudices. We are daring and venturesome. Old fogies would call us daring, extravagant, and, perhaps, reckless, but our course is controlled by rules of progress and commerce which accord with the spirit of the age, and so we make our paths of industry broader, brighter, and more inviting than can be found elsewhere. The wants of the community and the natural impulse of enlarging the sphere of commercial interests—an interest which binds together the States of this Union—rationalizes our progress.

We need no better example to illustrate this than the recent change into our hands of the trade of China via California, which will eventually make San Francisco the center of the commercial world, and place in the lap of her queenly and capacious robes the wealth of Asia, however this may be to the disadvantage of England. This is one of the revolutions resulting from our progress; and does it not reflect equal credit on the commercial enterprise of the great marts of the Atlantic whose interests are so closely interwoven with our own as to be almost identical. Any benefit



accruing to California is a benefit to them in a commercial point of view. We are raising up in our youths, as it were, a new nationality, educated on a scale unknown elsewhere in the Union. The blessings of a free education are not confined to the channels of English knowledge alone, but the French, Spanish, and German classics are taught in our public schools, as also the fine arts, the law, medicine, mechanics, metallurgy, music, and painting, while theology is not neglected. We intend that our posterity shall possess the same vigor, mentally, that a beneficent God has given them physically; for we are blessed with a climate beyond compare and a soil teeming with richness, bearing with astonishing prolificacy all the cereals and fruits of the most temperate as well as tropical climates. Our only anxiety is to afford employment to our greatly increasing population, who will dispute every avenue leading to advancement with our own sons. We cannot confine them to mercantile, mining, or mechanical life entirely; they cannot all become lawyers, doctors, divines, poets, or literary men. We need a new sphere of action for many. We need a mercantile marine of our own, to cover the Pacific with our own fleets, to advance in the art of ship-building, navigation, and commerce abroad by sea.

The waters washing the shores of Alaska are to be the future fields of these new sources of prosperity. The fisheries, the fur trade, the lumber trade, all of which that territory is wealthy in, must become sources for the use of our increasing wealth and the development of new industrial pursuits. We cannot halt in our progress; our taste of greatness is too palatable for us ever willingly to upset the banquet-tables; our motto is onward and upward. Progress cannot retrograde; it must advance, and it is our duty as legislators to lend our aid in its behalf. Give our people the right to avail themselves of these benefits by honorably discharging a debt honorably and fairly incurred, a debt the non-payment of which affects the national repute, and it will not be many months before the realization of what I portray will gratify and gladden the whole country.

We, having the national credit in keeping, should recollect that our capitalists, looking upon the purchase of Alaska as a commercial transaction, view the non-compliance of treaty stipulations as making investments in that territory or in its commerce dangerous; and it is certain that California enterprise cannot have its full flow and energy in that direction until that compliance is had and the treaty honorably fulfilled. The past has been full of experience, sad and otherwise, to our people, and through the trials of fire that we have been subjected to we should take lessons of wisdom in finance, commerce, and, in fact, in statesmanship. While we are glorifying our steam communication with Asia, it is well to reflect that the possession of Alaska is an adjunct to its success and prosperity.

The course of ocean navigation varies on the Pacific owing to the prevalence of the trade winds. Six months in the year it traverses to the south by or near the Sandwich Islands, and the other six months it is by the north, following the course of the Alaska peninsula and the Aleutian group of islands which stretch out, indicating a past connection with the islands of the China and Japan seas. Coal is essential to the use of our Pacific steamers; this is to be found in Alaska. Ship timber is another essential; Alaska abounds therein. So did Maine and so did Washington Territory; but the European Governments, with a keener eye to future need, have for years been supplying themselves from the latter, while we have exhausted the lands of the former to such an extent that the interests of our commercial marine demand at our hands as legislators the repeal of the duties imposed on the importation of lumber from the Canadas. We daily lament the decadence of our ship-building interests; let us cease our lamentations and breathe new life into this great interest by

giving to our artisans and capitalists the opportunity of covering the Pacific and Atlantic oceans, Japan, China, and Yellow seas, with our ships, so that each Asiatic port may be alive with our seamen, filled with our ships, and canopied all over with the American flag, which, if we will it, may majestically wave all other flags from the sea, and beckon a commanding invitation to the wealth of the world to enter and tarry in our ports. These are considerations well worthy of reflection; I do not draw an imaginary future when I make these assertions.

Yet all depends in a great measure on the action of this House in upholding our national credit and honor.

The greatest enterprise of the age, or any age, the Pacific railroad, had to slumber for years from lack of faith in its practicability; who doubts its success and benefits now. It is erroneous to suppose that all those benefits are to accrue to the Pacific States; but while its benefits will be mutual with the whole country those States will be the last to reap the harvest. This may seem illogical, but I hold that the various branches of the Pacific railroad will benefit the whole Union primarily by building up the vast plateau of the Rocky mountains, as it is termed. The land of the red man, the great plains, will be peopled, and cities, towns, villages, and ultimately States will grow, and all this long before it will confer benefits on the Pacific States equal to those received by the western and Atlantic States, through whose ports and over whose lines of railroad must enter and be transported the population of the great basin of the continent, whose growth into civilization will be as rapid and astonishing as that of California.

The benefits of such gigantic enterprises are cooperative in their nature, and are scattered broadcast over the whole land. The late unfortunate civil war in our country has severed ties to localities; change of fortune, the heavy hand of misery, the disruption of family ties, all tend to add stimulus to a change of locality, to emigration to new scenes where life may be begun anew, and hope points to the far West as that land of promise. The Pacific railroad I look upon as the great highway open to such, and as such highway it will carry the people who are to add to our empire, and carry civilization into the desert. We do not for one moment think that every train over those broad, iron roads is to be freighted with men, woman, and children for California, Nevada, Oregon, and Washington Territory. We expect but our share of the emigration, and are not so selfish as to desire its monopoly. It cannot be laid at our door, then, that all those great national works are but for the benefit of our sturdy young State, as many allege. Nor is the vast outlay they cost to be added to our account current with the Government, for it is well known that many look with regretful eyes on the favors bestowed on California, and call that State a "petted and spoiled child, extravagant in her demands and petulant when not gratified," a statement wholly devoid of truth, uttered, I believe, more as an admonition than as a stigma. We are not presumptuous enough to believe that we are much wiser or greater than the people of other States, and therefore we admit it may be well at times to apply the "break" when we are putting on "too much steam." In the acquisition of Alaska we look with an eye to its and to our national importance.

Give us Alaska as a Territory organized under a proper government as one of the Territories of the United States, and right soon we will make California so great that you will all boast when you go abroad that you live under the same Federal jurisdiction that we do. And because of our riches, resources, energy, high civilization, and general prosperity, you will all be proud to tell that you have brothers, cousins, or relatives in that State. And our Speaker, when old and worn out in the public service, will recount with pride and with glee what he saw and heard, his haps and mishaps, as he

flitted two or three years ago across our golden sands. I appeal to honorable members, let us be just, let us be honorable, let us be great as this occasion is great, and do ourselves and our country lasting honor. The value of this purchase to our country can be better understood when we consider the unsurpassed richness of California in all that makes up the greatness of a State. Then, briefly as possible I shall try to show what California is to-day, leaving gentlemen to judge what it may be in the future. California is over seven hundred miles in length, having an average width of about two hundred and twenty-five miles. Within the limits of the State there are about seventy million acres of agricultural land, and about fifteen million acres of grazing lands.

California now produces about thirty million dollars per annum in gold and silver, and it is safe to suppose that this yield will not be materially diminished for fifty years to come. Her yield of grain will be this year about forty million bushels—twenty-three million bushels of wheat and seventeen million bushels of other grain. In ten years we will produce, perhaps, not less than three times this amount. This will give us one hundred and twenty million bushels—more than enough to feed twelve million people. Our crop of wool last year was over ten million pounds, and in ten years from this time it is safe to conclude it will be fifty millions. This will clothe fifteen million people. I do not know what number of gallons of wine we produce, but I do know that we produce the best grapes that are grown in the world, and that in a few years, when our young vineyards have matured, we can supply all the people in the United States with a pure article of as good wines as ever gladdened man's heart or made a soul merry. There is no country on earth where cattle do better than in California, and sheep and hogs multiply faster there than in any other country on the globe. We have fruits of all descriptions, unsurpassed in yield and in delicacy of flavor. Our State is overflowing with corn, wine, and oil, and we must have, we will have, ships to carry these good things abroad. And we must have the furs, fish, and timber from Alaska to increase, diversify, and vitalize our commerce.

We have at this time seven hundred and fifty-six vessels, with an aggregate of one hundred and forty-six thousand seven hundred and eighty-eight tons burden, belonging to the city of San Francisco; but this is not more than one third the tonnage demanded by our commerce. Because of our richness and greatness the Atlantic States have kindly sent the iron horse on his mission to bring away our products, to empty our granaries and our factories and our warehouses of their rich Oriental fabrics. The continued greatness of California does not depend upon this purchase, but I believe it will be worth more to her, in a commercial point of view, than all the gold in all her hills. Then let us vote this appropriation; for an increase in California's commerce is equally beneficial to all parts of the Union.

Give us this appropriation and then a territorial government for Alaska, and the good this will do us, considered with the benefits to accrue from the Pacific railroad and our commerce with China and Japan, will in ten years bring to San Francisco the chief merchants of the world. From every land we will receive orders for our grain, for our woolen goods, for our fish, and our furs. We will cover all the seas with our ships and control the commerce of the nations. Our hills and valleys will afford happy homes for millions who fail in other countries to meet that thrift and prosperity which always follows industry and frugality with us. The industrious of every land are invited to take wealth from our inexhaustible mines, and to make homes upon our fertile lands, where they may joyfully spend their lives with peace and plenty in the cool, refreshing shade of their own vine and fig tree.

With our great future so near at hand as to plainly be seen it is hardly possible that this Alaska purchase, adding so much to our com-

mercial importance as it does, can be rejected; for, as I have already stated, the advancement of California in this particular is the advancement of the whole Union.

The other States of this Union, and the Federal Government which they ordained and established, shall have the history of their greatness written in letters of gold taken from California's mines. California's "corn, wine, and oil" shall soothe the wounds of the afflicted, make joyful the hearts of the oppressed, and drive away hunger from the poor and needy all over our land. Will you yield us this purchase for the benefit of our commerce?

Mr. MAYNARD obtained the floor, but yielded to

Mr. BANKS, who moved that the committee rise.

The motion was agreed to; and the committee accordingly rose, and the Speaker having resumed the chair, Mr. GARFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 1036, making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867, and had come to no resolution thereon.

And then, on motion of Mr. GARFIELD, (at ten o'clock and ten minutes p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. PAINE: The petition of Sarah Briggs, of Delavan, Wisconsin, for increase of pension.

By Mr. STOKES: Additional papers in the case of the claim of J. A. Brents, of Albany, Kentucky.

By Mr. TAYLOR: The petition of Anna W. Spencer, for a pension.

#### IN SENATE.

WEDNESDAY, July 1, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. HARLAN, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, communicating an estimate from the Commissioner of Indian Affairs of appropriation required to pay the damages sustained by settlers in Niobrara township, Nebraska, by reason of locating the Santee Sioux upon lands owned by them, in the year 1866; which, on motion of Mr. HARLAN, was referred to the Committee on Indian Affairs, and ordered to be printed.

#### PETITIONS AND MEMORIALS.

Mr. HARLAN presented a petition of citizens of Philadelphia, Pennsylvania, praying that a pension be allowed to the soldiers and sailors of the war of 1812, and to the widows of those that have died; which was referred to the Committee on Pensions.

He also presented a petition of Thomas J. Brooks and others, employés of commissaries of subsistence, asking to be included in the bill giving twenty per cent. additional compensation to clerks and others; which was referred to the Committee on Appropriations.

He also presented a petition of members of the bar of the District of Columbia, praying an increase of the salary of the judge of the orphans' court of the District; which was referred to the Committee on the Judiciary.

Mr. HOWE presented a petition of Lewis John, for himself and others, members of the Oneida tribe of Indians, praying that they may be granted bounty for services rendered during the war of 1812; which was referred to the Committee on Pensions.

Mr. MORGAN presented a memorial of

Andrew J. Berrian, praying indemnity for damages occasioned to his property in Tennessee during the rebellion by rebel soldiers; which was referred to the Committee on Claims.

Mr. FRELINGHUYSEN. I present the petition and protest of the settlers upon the Cherokee neutral lands in Cherokee county, Kansas, setting forth that the settlers of the Cherokee neutral lands settled there under the conviction that as soon as the Indian titles were extinguished they would have a right to the benefit of the preemption and homestead laws, and that they are now in danger of losing their homes and having them transferred to railroad corporations; that they believe they are entitled, as soon as the Indian titles are extinguished, to the benefit of the preemption and homestead laws, and that in the name of twenty-five thousand men, women, and children now living on these neutral lands they protest against the selling of any of these lands to others than actual settlers. I move the reference of this petition to the Committee on Indian Affairs.

The motion was agreed to.

Mr. YATES presented the petition of Isaac Rutishausen, praying compensation for services rendered as assistant assessor of the eleventh division of the first district of Illinois, the same having been withheld on account of his failure to take the oath of office; which was referred to the Committee on Claims.

Mr. CONKLING. I present the protest of numerous wholesale liquor dealers of the city of New York, protesting against the sections applicable to them in the tax bill now undergoing examination by the Committee on Finance. The protest is long and particular, a very instructive statement, I think, and it contains numerous objections which the memorialists deem conclusive. I move that the memorial be referred to the Committee on Finance.

The motion was agreed to.

Mr. SUMNER. I present the petition of Alexander H. Bullock, Governor of Massachusetts, and a large number of other distinguished citizens of Massachusetts, protesting against any sanction by Congress of a recent act by the Legislature of California giving rights to certain persons in the Yosemite valley, asking that it may be kept sacred to the public in all times. I move the reference of this petition to the Committee on Private Land Claims.

The motion was agreed to.

Mr. THAYER presented a remonstrance of H. Williams and forty-three others, citizens of Neosho Falls, Kansas, against the pending treaty with the Great and Little Osage tribe of Indians, with a prayer for the protection of the settlers and the school interests of Kansas; which was referred to the Committee on Indian Affairs.

He also presented a remonstrance of J. J. W. Fox and others, citizens of Osage county, Kansas, against the pending Osage treaty, together with the objections of the State superintendent of public instruction against said treaty; which was referred to the Committee on Indian Affairs.

Mr. THAYER. I also present the protest of White Hair, principal chief, and nine other chiefs and head men of the Osage nation, against the ratification of the pending Osage treaty, setting forth the threats and inducements held out by the commissioners to secure their signatures to said treaty, and a declaration that the tribe does not want it confirmed. Also, that the rest of the chiefs of the nation are absent on a buffalo hunt, otherwise they would have signed with them. I have been requested to ask that this remonstrance be read to the Senate.

The PRESIDENT *pro tempore*. The remonstrance will be read if there be no objection.

Mr. EDMUNDS. I object. I want to save time.

The PRESIDENT *pro tempore*. The reading of the paper being objected to, it cannot

be read unless by a vote of the Senate. The question is, Shall the paper be read?

The question being put, it was decided in the affirmative; and the Chief Clerk proceeded to read the remonstrance.

Mr. HENDRICKS. I think the reading should be suspended. It seems to relate to executive business, and the paper ought to be presented in executive session.

Mr. CONNESS. I move to lay it on the table, and then it can be read in executive session, where it belongs.

The PRESIDENT *pro tempore*. Our rules say that when a paper is presented and its reading is asked, and the reading is objected to, it cannot be read unless by a vote of the Senate; and when the Senate have voted that it shall be read, I suppose it must be read.

Mr. HENDRICKS. I have no objection to the reading of the paper, but I supposed it related to executive business, and ought to be presented in executive session.

Mr. THAYER. It is a remonstrance against the ratification of the Osage treaty.

The PRESIDENT *pro tempore*. Perhaps it belongs in executive session. That may be an objection. Perhaps it is out of order to offer it in open session, as it relates to a treaty.

Mr. POMEROY. There is no objection to its being read except that it belongs to executive business.

Mr. MORRILL, of Maine. Let it take the same course as the others, and be referred to the committee.

Mr. THAYER. I do not yield to the force of the suggestion that this paper should be presented in executive session. A petition or remonstrance is a public matter, and I think may properly be read. I do not, however, insist upon the reading; but the request was made to me that I should ask for the reading of the paper. I will not ask for its further reading, but simply move that it be referred to the Committee on Indian Affairs.

The motion was agreed to.

#### LAND OFFICE REPORT.

Mr. ANTHONY. The Committee on Printing, to whom were referred two resolutions, one to print ten thousand copies of the report of the Commissioner of the General Land Office, and another from the Committee on Public Lands, for printing thirty thousand copies of the same in various languages, have instructed me to report a resolution as a substitute for them. I should like to have the substitute read, and ask for its present consideration.

Mr. EDMUNDS. Will it lead to debate?

Mr. ANTHONY. It will take but a minute or two.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The substitute reported by the committee will be read.

The Chief Clerk read as follows:

*Resolved*, That five thousand copies be printed for the use of the Senate, and two thousand copies for distribution by the General Land Office, of the report of the Commissioner of the General Land Office for 1867, without the sketches or illustrations, and without the maps, except the connected map of the United States.

*Resolved, further*, That an abridgment of the report of the Commissioner of the General Land Office for 1867, containing such portions of it as may best encourage immigration, shall be prepared by him without sketches or illustrations, and without maps, excepting the connected map of the United States; and that two thousand copies be printed for the use of the General Land Office, and also that two thousand copies in English, three thousand copies in German, and one thousand copies in Swedish, be printed for distribution in Europe, under the direction of the Department of State.

The PRESIDING OFFICER. Is there any objection to the present consideration of the resolution? The Chair hears no objection.

Mr. CONNESS. I desire to make a motion in regard to it.

Mr. EDMUNDS. I think it had better go over.

Mr. CONNESS. I move to refer it to the Committee on Public Lands of this body, and I desire to submit a very few words in regard to it.

The PRESIDING OFFICER. Does the Senator from Vermont object to the consideration of the resolution?

Mr. EDMUNDS. Yes, sir. I want it to go over until to-morrow and be printed. I have no objection to my friend from California making his suggestion.

Mr. CONNESS. There is no objection, I presume, to my making the motion and to disposing of it now.

Mr. EDMUNDS. The trouble is that it will lead to debate.

Mr. CONNESS. Not at all; there will be no debate whatever.

Mr. ANTHONY. I have a word to say; but not to debate it.

The PRESIDING OFFICER. Does the Senator from Vermont object to its present consideration?

Mr. EDMUNDS. No, sir.

Mr. CONNESS. I yield the floor to the chairman of the Committee on Printing first.

Mr. ANTHONY. I prefer to hear what the Senator has to say about it.

Mr. CONNESS. That will be on my motion to refer.

Mr. ANTHONY. Well, Mr. President, this is a resolution from the Committee on Public Lands which was referred to the Committee on Printing, and the Committee on Printing reported a substitute for it, and now it is proposed to refer it back to the Committee on Public Lands. I simply wish the Senate to understand it.

Mr. CONNESS. The condition of the case is this: there is a proposition to print a given number of the report of the Commissioner of the General Land Office with certain maps accompanying that report. Under the standing rules of the Senate the proposition to print an extra number had necessarily to be referred to the Committee on Public Printing. That committee now report in favor of a very restricted publication, in my opinion, not one consistent with the highest public interests. I do not mean in saying that to make any condemnation of the committee at this time. But it is a question necessarily involving high considerations, and I desire, and I do not think the honorable chairman of the Committee on Printing should object to that, that the Committee on Public Lands shall have the consideration of the question. They can probably report to-morrow or the day after, and then we can act upon the report. Therefore, I submit now a motion to refer the matter to the Committee on Public Lands, that they may consider this report.

Mr. STEWART. I should like that suggestion to be carried out. I have some amendments on my table, and I desire to have those amendments considered by the Committee on Public Lands. The resolution was formerly considered by that committee, and I should like to have them consider the amendments. I hope it will be referred to that committee, and they can report it back at an early hour, perhaps to-morrow morning, after consultation.

Mr. ANTHONY. I have no objection to any disposition the Senate chooses to make of this matter. This is a resolution for printing extra copies of a document which is altogether the most expensive document presented to the Senate at this session. The printing of it, according to the resolution of the Committee on Public Lands, would cost from one hundred to one hundred and twenty-five thousand dollars. The Committee on Printing have reported, as the Senator from California justly says, a very restricted resolution, cutting it down, I suppose, at least nine tenths. Now, the proposition of the Senator from California is to refer this economical resolution to the same committee that reported the more expensive one. I have no objection; but I do not want, when it comes up, that the question shall be taken out of the hands of the Committee on Printing and given over to the Committee on Public Lands. I do not want anything done when the Committee on Public Lands are not aware of it.

Mr. CONNESS. That is not my object. My object is to save the time of the Senate. There are a great many facts to be stated which may be considered and collated in the Committee on Public Lands, and we may save much time by that course.

Mr. ANTHONY. If this resolution be referred to the Committee on Public Lands, that committee will of course report in favor of printing some additional copies, and by a rule of the Senate, and by a law of Congress which the Senate cannot suspend, although it very often assumes to do so, that report must go back to the Committee on Printing. When the Committee on Public Lands make their report it must by law go to the Committee on Printing.

Mr. STEWART. Then I will simply ask that that matter lie over until I consult the members of the Committee on Public Lands.

Mr. ANTHONY. No, I do not object to the reference; I only wish the Senate to understand what it means.

Mr. CONNESS. I wish to say to the Senator that the object is not to get an additional number recommended by the Committee on Public Lands, and that committee will probably not take that course, but they will offer, as they would to day, the amendments that they will propose. They desire to have the subject considered; that is all.

Mr. ANTHONY. Very well; let it go.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from California, to refer this report to the Committee on Public Lands.

The motion was agreed to.

#### ORDER OF BUSINESS.

Mr. EDMUNDS. I ask the Senate to proceed to the consideration of Senate joint resolution No. 139, excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized.

Mr. CONNESS. Let us go through the morning business.

Mr. EDMUNDS. The reason why I ask to have this resolution taken up now is that it is a measure of such a nature that I feel quite sure it will require at least ten days—not to make any offensive or unparliamentary remark—at least ten days to pass it, after we shall have once considered it, and therefore it ought to be acted upon one way or the other now. That is all I wish to say.

The PRESIDENT *pro tempore*. The Senator from Vermont asks unanimous consent to consider the resolution indicated by him.

Mr. HENDRICKS. I wish to appeal to the Senator to allow me to call up a bill of some interest, which I have charge of, from the Committee on Naval Affairs.

Mr. DAVIS. I object to taking up the measure indicated by the Senator from Vermont.

The PRESIDENT *pro tempore*. The motion being objected to cannot be entertained at the present time.

Mr. HENDRICKS. I ask the unanimous consent of the Senate to take up Senate bill No. 486.

Mr. CONNESS. I hope we shall go through the morning business first.

The PRESIDENT *pro tempore*. Is there objection to taking up the bill mentioned by the Senator from Indiana?

Mr. EDMUNDS. I object.

The PRESIDENT *pro tempore*. Then it cannot now be taken up.

Mr. FRELINGHUYSEN. I move to take up House bill No. 1129, which is a short bill, and will take but little time. It is for the relief of the widow of Colonel Mulligan. I hope nobody will object.

Mr. EDMUNDS. I feel obliged to object.

The PRESIDENT *pro tempore*. The motion being objected to cannot now be entertained.

Mr. HENDRICKS. I move to suspend all prior orders, and take up the bill to which I referred, Senate bill No. 486.

Mr. EDMUNDS. That is not in order.

The PRESIDENT *pro tempore*. Under our new rules a motion to take up a bill is not in order, except by unanimous consent, during the presentation of morning business.

Mr. HENDRICKS. I am glad of it.

The PRESIDENT *pro tempore*. Reports of committees are in order.

#### REPORTS OF COMMITTEES.

Mr. HARLAN, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 503) for the relief of William B. Todd, reported it without amendment.

Mr. NYE, from the Committee on Territories, to whom was referred the bill (H. R. No. 202) to create the office of surveyor general in the Territory of Utah, and establish a land office in said Territory, and extend the homestead and preemption laws over the same, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

Mr. FRELINGHUYSEN. I move now that the Senate proceed to the consideration of House bill No. 1129.

The PRESIDENT *pro tempore*. It cannot be done, except by unanimous consent, until the morning business is through with.

Mr. CONNESS. I desire to offer a resolution.

The PRESIDENT *pro tempore*. If there be no further reports of committees the presentation of resolutions will be in order.

#### EIGHT-HOUR LAW.

Mr. CONNESS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President be requested to direct the heads of the several Departments of the Government to promulgate the law limiting the hours of labor, recently enacted, with such regulations as will lead to an immediate compliance with the law.

#### ORDER OF BUSINESS.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of Senate joint resolution No. 139, the same that I mentioned before.

The PRESIDENT *pro tempore*. That requires unanimous consent.

Mr. EDMUNDS. Are not resolutions through with?

The PRESIDENT *pro tempore*. I do not know. If there be no further reports of committees the introduction of bills and joint resolutions is in order.

Mr. FRELINGHUYSEN. I move that the Senate proceed to the consideration of House bill No. 1129.

Mr. EDMUNDS. That requires unanimous consent as much as mine did.

The PRESIDENT *pro tempore*. There seems to be no further morning business.

#### DISTRICT BUSINESS.

Mr. HARLAN. I desire to submit a motion. I move that Friday next, after one o'clock, be set apart for the consideration of business pertaining to the District of Columbia.

The motion was agreed to.

#### ORDER OF BUSINESS.

Mr. THAYER. I move that the Senate proceed to the consideration of House bill No. 780, for the relief of Martha M. Jones, administratrix of Samuel T. Jones. I will then yield to any morning business for a few minutes.

The PRESIDENT *pro tempore*. The morning business is not through with.

Mr. THAYER. I ask the Chair to put the motion, and then, if it prevails, I will yield for the morning business.

Mr. EDMUNDS. The motion is not in order.

The PRESIDENT *pro tempore*. Half a dozen Senators on the floor have submitted similar motions. We must go through with the morning business.

Mr. DAVIS. There is a report here from the War Office in response to a resolution of the Senate passed some time since. I move that the report be printed.



The PRESIDENT *pro tempore*. That order will be entered.

Mr. FRELINGHUYSEN. I move that the Senate proceed to the consideration of House bill No. 1129.

Mr. EDMUNDS. Is the morning business through?

The PRESIDENT *pro tempore*. I do not hear of any more. If there is any more it must be attended to, as the morning hour has not expired. The Senator from New Jersey moves that the Senate proceed to the consideration of the bill (H. R. No. 1129) for the relief of the widow and children of James A. Mulligan, deceased.

Mr. EDMUNDS. I hope the Senate will not proceed to the consideration of that bill at this time. I have no objection to the bill. I believe I am in favor of it from the statement that has been made to me; but I wish to call the attention of the Senate to the joint resolution which I have moved to take up, and if the Senate shall choose not to take it up my duty will have been performed, and I shall leave it then; but that is a resolution which is to regulate the counting of the electoral votes from the States lately in rebellion, and to provide that the loyal governments set up by Congress shall be the ones that shall be recognized in that count, not the rebel ones that the President of the United States claims to be the true governments. I hope, therefore, that the Senate will not proceed with this private bill, but will take up the joint resolution I have named, which, if it is to be acted upon at all, must be acted upon now, obviously. That is all I have to say.

Mr. FRELINGHUYSEN. The bill which I have moved to take up will occupy but a very few minutes, and then the Senator from Vermont can proceed with the consideration of the resolution that he has named. There is nothing so pressing about it that we cannot take a few minutes to pass this bill.

Mr. POMEROY. There are a great many private bills that ought to be considered, and we ought to have a day set apart for their consideration. The bill referred to by the Senator from Nebraska, and also the one that the Senator from New Jersey has in charge, are very important, and I should be glad to vote for them both as private bills; but there are several public bills that ought to be considered, and if we cannot proceed with them after one o'clock we ought to proceed with them in the morning hour. I have one in my hand now, and there are several others. I think we should not allow the morning hour to be spent on a private bill at this time, but should have a day set apart when we can consider them all.

Mr. FRELINGHUYSEN. Why, Mr. President, the morning hour belongs to private business.

The PRESIDENT *pro tempore*. The question is on taking up the bill mentioned by the Senator from New Jersey.

The motion was not agreed to; there being on a division—ayes four, noes not counted.

#### EVENING SESSION FOR PRIVATE BILLS.

Mr. EDMUNDS. That being given up, I move that the Senate proceed to the consideration of the joint resolution I have named, a joint resolution (S. R. No. 139) excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized.

The motion was agreed to.

Mr. THAYER. I ask the Senator from Vermont if he will yield to me long enough to enable me to submit a motion with a view of accomplishing a purpose which the Senator from New Jersey and myself and others have in view? I desire to make the suggestion to see if it will meet the approbation of the Senate.

Mr. EDMUNDS. What is the motion?

Mr. THAYER. I will state it: that we have an evening session this evening to consider the bill which I have named, for the relief of Mrs. Jones, and also the bill in favor of Mrs. Mulligan, and other private bills.

Mr. EDMUNDS. If this joint resolution can be laid aside informally for that purpose, I have no objection.

Mr. THAYER. I move, then, that the Senate take a recess to-day until half past seven o'clock this evening, in order to consider the bills which I have named and other private bills.

Mr. FESSENDEN. I suggest to the Senator to fix the time of taking a recess; that the Senate at five o'clock take a recess until half past seven o'clock.

Several SENATORS. Say half past four.

Mr. FESSENDEN. From five o'clock will give us two hours and a half, which I think will be ample.

Mr. THAYER. Very well; I will put my motion in this form: that the Senate take a recess at five o'clock until half past seven o'clock, for the purpose of considering in the evening the bills that I have named and other private bills.

Mr. RAMSEY. Will not the Senator say half past four o'clock? That is a better hour.

Several SENATORS. Oh, no; let it stand as it is.

The PRESIDENT *pro tempore*. It is moved that the Senate take a recess at five o'clock until half past seven o'clock this evening for the purpose of considering private bills.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 263) to extend the jurisdiction of probate courts and of justices of the peace in the Territories of Idaho and Montana;

A bill (H. R. No. 348) to provide for holding terms of the United States district court for the western district of Missouri at St. Joseph and the city of Kansas in said States;

A bill (H. R. No. 446) to amend an act entitled "An act to create the eastern judicial district of the State of New York," approved February 25, 1865; and

A bill (H. R. No. 1046) making appropriations for the repair, preservation, and completion of certain public works, and for other purposes.

#### ELECTORAL VOTES OF LATE REBEL STATES.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 139) excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized. It provides that the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas, respectively, shall not be entitled to representation in the Electoral College for the choice of President or Vice President of the United States, and no electoral votes shall be recognized or counted from any of such States, unless at the time prescribed by law for the choice of electors the people of such States, pursuant to the acts of Congress in that behalf shall have since the 4th day of March, 1867, adopted a constitution of State government under which a State government shall have been organized and shall be in operation, and such State shall have also become entitled to representation in Congress pursuant to the acts of Congress in that behalf.

The Committee on the Judiciary reported the joint resolution with an amendment, to insert after the word "operation," in line fourteen, the following words:

And unless such election of electors shall have been held under the authority of such constitution and government.

The amendment was agreed to.

Mr. TRUMBULL. Mr. President, I regard the joint resolution under consideration as one of very great importance. I think that some legislation on this subject is necessary; but as I did not, in the Committee on the Judiciary,

agree to the joint resolution in the shape it is reported, I think it proper that I should state to the Senate the reason why I did not.

It seems to me eminently fit and proper that some bill should be passed in regard to those States which shall not have been restored to their practical relations to the Union before the adjournment of Congress; but it is a very delicate subject to deal with. In my judgment, no more delicate questions than those involved in this very resolution, taken up in the morning hour, will come before Congress at the present session.

If it should so happen that the result of the presidential election shall depend upon the counting or not counting of votes from the late rebel States, and such a count should be made as to declare the election of a person favorable to the political views of those who make the count, the opposite party will be very likely to charge its opponents with having made a partisan decision. In my judgment, no discretion should be left to the President of the Senate, or to the Senate and House of Representatives in counting the presidential vote; and if a discretion is left to determine from what States votes may be counted and from what States not, this country may again be involved in a civil war on the question of inaugurating a President. It is upon such questions that people go to war. Nearly all the revolutions in the South American States grow out of the election of their presidents.

While I am in favor of a bill which shall state distinctly from what States votes shall not be counted, if there are any such States—such a bill or joint resolution as we passed four years ago, and applicable to the States of Texas, Mississippi, and Virginia, assuming now that neither of those States will have perfected their State organizations in time to be recognized by Congress—I am utterly opposed to any bill which shall leave to the discretion of Congress, when it counts the electoral votes in February next, to count votes from Arkansas or Florida or not as it shall think proper; and yet we have a joint resolution that is proposing that very thing. In my judgment, the State of Arkansas is as much a State of the American Union, with all the rights and privileges of a State, as is the State of New York or the State of Illinois, and it has the same right to vote for President as any other State of this Union. I want no joint resolution or bill of Congress passed which shall put it in the power of the canvassers of the electoral votes to receive a vote from Arkansas or not as they shall please. This resolution, it will be seen, provides:

That the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas, respectively, shall not be entitled to representation in the Electoral College for the choice of President or Vice President of the United States, and no electoral votes shall be received or counted from any of such States, unless, &c.

Why pass a joint resolution that no electoral votes shall be counted from the States of Arkansas and Florida any more than in regard to New Jersey and Illinois, or Vermont and Massachusetts? It is saying, in my judgment, to the people of those States, "Your votes for President may or may not be counted in the next presidential election." It is saying to the rebel element in those States that Congress has some doubt about the stability of the governments which have been inaugurated, and if they can succeed in overturning them, or if they can get up a revolution, no electoral votes shall be counted from those States. I want to regard the action of Congress in recognizing the State governments inaugurated in Arkansas and Florida as a finality, as conclusive and ended, and I do not wish to say to those people that we have any apprehensions that any other governments are to be recognized there. Why, sir, it would be but civil war if any party in Arkansas to-day should undertake to maintain a State government in opposition to that which Congress has recognized as the legitimate government of that State by admitting its Senators and Representatives to seats here. It would

be but revolution. The Supreme Court has decided, all the departments of the Government have decided, that Congress, when it admits Senators and Representatives under a State organization, thereby decides what the proper State organization of a State is. That was decided in the Rhode Island case. There was an attempt to set up two State governments in Rhode Island, and the Supreme Court decided in that case that when the Congress of the United States had admitted Senators and Representatives from one of those State organizations that was conclusive and binding upon all the departments of the Government. Now, we have admitted Senators and Representatives from a portion of these rebel States. We have, therefore, settled it finally and forever that the State organization under which those Senators and Representatives came here is the legitimate organization for the State, and I do not wish to pass a law declaring that the electoral vote from those States shall not be counted unless—what?

"Unless at the time prescribed by law for the choice of electors the people of such States, pursuant to the acts of Congress in that behalf, shall have, since the 4th day of March, 1867, adopted a constitution of State government under which a State government shall have been organized."

Well, sir, have we not decided that already as to Arkansas and Florida? Is it to be left an open question, to be decided again in February next when the vote is counted, whether they have adopted constitutions and State governments? Did we not decide a few days ago that the State of Arkansas has adopted a constitution and State government in accordance with the reconstruction acts, and have we not admitted Senators and Representatives from that State? If we have so decided, why is it to be decided over again, unless it is intended to vest in the President of the Senate or the two Houses of Congress at that time, a revisory power to count or not the electoral vote from that State? I submit that that is a settled matter; that the State of Arkansas has already adopted a constitution of State government since the 4th of March, 1867, under which a State government has been organized and is in operation. But, says this joint resolution further:

"And unless such election of electors shall have been held under the authority of such constitution and government, and such State shall have also become entitled to representation in Congress pursuant to the acts of Congress in that behalf."

Now, sir, these facts all exist and have been settled except one. A constitution has been framed in Arkansas; a government has been organized in Arkansas in conformity to the reconstruction acts, and the State of Arkansas has become entitled to representation in Congress pursuant to the acts of Congress in that behalf. Why do you want to pass upon that again? Is not that all settled? But then there is another clause:

"And unless such election of electors shall have been held under the authority of such constitution and government."

I hardly know the meaning of this clause, for it will be observed that the constitution of a State has nothing to do with the mode of electing the President. A President of the United States is to be elected by electors chosen in the several States in the manner provided by the Legislature, not by the constitution of the State. The Legislature of each State in this Union is created, it is true, under and by authority of the constitution of the State; but when created it is vested with authority to appoint electors of President and Vice President of the United States, not by virtue of the constitution of the State, but by virtue of the Constitution of the United States. The body, the Legislature, being created, the Constitution of the United States devolves this power upon it. The language of the Constitution is:

"That each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress."

And again:

"The electors shall meet in their respective States and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate; the President of the Senate shall in the presence of the Senate and House of Representatives open all the certificates and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed."

Now, what has the Congress of the United States or the President of the Senate to do in canvassing this vote? Simply to open these sealed packages or lists containing the votes of the electors who are appointed in the mode prescribed by the Legislature in each State, and the votes are then counted in the presence of the Senate and House of Representatives, and the person having the largest number of votes, if a majority of the whole, is declared to be elected President of the United States. This is all that the President of the Senate is authorized to do, and all that the Congress of the United States is authorized to do. Each State, through its Legislature, determines the mode of appointing electors of President, and it is competent for any Legislature in any of the States of the Union to appoint the electors without submitting the question to a vote of the people at all. Formerly several of the States appointed their electors in that way; and the State of South Carolina, until a very recent period, down, I think, to the breaking out of the rebellion, always appointed her electors for President and Vice President by the Legislature. It would be competent for any State to do that, and all that is to be done here is to canvass the votes of these electors; that is, to open the packages containing the list of votes given by the electors and count them.

Now, we have a measure providing that no votes shall be counted from certain States. I ask why? I ask the Senator from Vermont why is it necessary to pass an act of Congress declaring that a vote shall be counted or shall not be counted from the State of Arkansas? Is not the State of Arkansas as much a State of this Union as the State of Vermont; and if such a measure as this is to pass, why not include the State of Vermont and the State of Illinois? I am sure the Senator from Vermont regards, as I do, the action of Congress in recognizing the existing State government in Arkansas as the legitimate State government of that State; and I am sure that he would be as ready as I would to exert the whole power of this nation, if it became necessary, to put down any organization hostile to that State government in Arkansas. The State government which has been recognized in that State, and in the State of Florida, is to be maintained and must be maintained at all hazards and at every cost, or else you cannot maintain this Government; and I want no "ifs" and no "unless" about it. I would make no provision for counting the electoral vote of the State of Arkansas different from that which we make in regard to any other State; and that is the objection which I have to this measure. It looks to me like a concession or an admission on our part that there might be some other government established in Arkansas; some other government inaugurated there hostile to the one which has been recognized by the proper authority under the Constitution of the United States.

I am unwilling to make such a concession; I am unwilling to give color even to such a suggestion. I think it is competent and proper to pass a resolution that no vote shall be counted from the State of Texas or the State of Mississippi or the State of Virginia, and why? Because there is no State organization existing in either of these States through

which it is competent for it to vote for President. There is no Legislature existing in either of these States, and can be no Legislature existing in either of them which has authority to provide for the appointment of electors of President and Vice President until Congress shall so determine. Congress has said that the existing organizations in those States are provisional only; that they are without legal authority; that they are acting in subordination to the military power; and until some other State government is inaugurated which is recognized by Congress as having the power and authority of a State government neither of those States can, as a matter of course, vote for President and Vice President; and, therefore, I should be in favor of this joint resolution if it provided that no electoral vote should be counted from either of those States which Congress had not recognized; but as to the States which Congress has recognized, it seems to me invidious to make such a provision; and it looks to me, though I do not suppose the Senator from Vermont intends that, as if it might be construed as vesting some sort of discretion in the Congress of the United States to count or not to count the electoral votes from these States; and I do not want it to have any other discretion in regard to Arkansas than it would have in regard to Vermont. I wish to treat these States all alike; and I think we shall encourage opposition to our reorganization measures if we pass a joint resolution of this character. I move to amend it by striking out in line four of the joint resolution the words "Florida" and "Arkansas."

Mr. DAVIS. I am gratified, Mr. President—

Mr. MORRILL, of Maine. I think the morning hour has expired.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is regularly before the Senate.

Mr. EDMUNDS. I ask the Senator from Maine to let that unfinished business lie over until we can dispose of this joint resolution.

Mr. MORRILL, of Maine. If it would not lead to debate, and we were simply to take the vote, I should not interpose. But the Senator from Vermont knows that it is quite necessary that the bill under consideration should be concluded, and go to the House of Representatives, as there are many amendments that will lead to a conference.

Mr. EDMUNDS. In order to discharge my whole duty, as my friend from Illinois has occupied all the time so far, and the Senator from Kentucky is to aid him, I move that the appropriation bill for the time being be laid aside in order that we may proceed with the consideration of this joint resolution, for the reason, as I have stated, that it is a measure sure to be vetoed; there is no need of disguising it. The President cannot be logical unless he does veto it, and I do not suppose he will veto the appropriation bill. I do not think I shall do my duty unless I make this motion in order that the Senate may determine whether they will dispose of this measure or not.

The PRESIDENT *pro tempore*. It is moved and seconded that the unfinished business be postponed for the purpose of continuing the consideration of Senate joint resolution No. 159.

Mr. MORRILL, of Maine. It seems to me it cannot be good economy of time for the Senate to postpone one of the regular appropriation bills now almost finished to take up a matter in regard to which debate is likely to be so extensive and general as has already been indicated this morning in regard to the measure of the Senator from Vermont. It is for the Senate to say whether they are willing to postpone the appropriation bills involving the appropriation of millions of money to a period when they cannot be thoroughly considered.

Mr. EDMUNDS. My friend knows that I have no disposition to antagonize this against that; but this is a measure that ought to be

considered, and it may as well be considered now as at any other time; because it will take some time to consider it whenever we do it, and it ought to be passed soon so that the other branches of the Government may have an opportunity to consider it. I have said before that we know it will take ten days longer to dispose of this bill after it shall go through this body than it will any of the other bills that are named; and it ought, therefore, to be acted upon at once. If it should not be passed, as my friend from Illinois and my friend from Kentucky seem to have determined, undoubtedly then we shall have disposed of it, and it will not take any more time now than it will hereafter. But I do not wish to occupy time on this question. I merely wish to discharge my duty.

Mr. FRELINGHUYSEN. I should vote to lay aside the appropriation bill and to continue the consideration of the joint resolution of the Senator from Vermont but for this reason: this measure has not been much considered by the Senate; I think that it is an important measure, one requiring the exercise of a good deal of discretion and judgment, and that it will be profitable for it to lie over until to-morrow. I shall, therefore, vote to proceed with the appropriation bill.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont, to postpone the unfinished business for the purpose of continuing the consideration of Senate joint resolution No. 139.

The question being taken by yeas and nays, resulted—yeas 19, nays 20; as follows:

YEAS—Messrs. Anthony, Conness, Corbett, Cragin, Davis, Drake, Edmunds, Harlan, McCreery, McDonald, Osborn, Patterson of New Hampshire, Ramsey, Stewart, Sumner, Thayer, Tipton, Wade, and Williams—19.

NAYS—Messrs. Buckalew, Cole, Conkling, Fessenden, Fowler, Frelinghuysen, Hendricks, Howe, Morgan, Morrill of Maine, Morton, Norton, Patterson of Tennessee, Pomeroy, Ross, Sherman, Trumbull, Vickers, Willey, and Yates—20.

ABSENT—Messrs. Bayard, Cameron, Cattell, Chandler, Dixon, Doolittle, Ferry, Grimes, Henderson, Howard, Johnson, Morrill of Vermont, Nye, Rice, Saulsbury Sprague, Van Winkle, and Wilson—18.

#### HOUSE BILLS REFERRED.

The following bills received from the House of Representatives were severally read twice by their titles, and referred to the Committee on the Judiciary:

A bill (H. R. No. 263) to extend the jurisdiction of probate courts and of justices of the peace in the Territories of Idaho and Montana;

A bill (H. R. No. 348) to provide for holding terms of the United States district court for the western district of Missouri at St. Joseph and the city of Kansas, in said State; and

A bill (H. R. No. 446) to amend an act entitled "An act to create the eastern judicial district of the State of New York," approved February 25, 1865.

The bill (H. R. No. 1046) making appropriations for the repair, preservation, and completion of certain public works, and for other purposes, was read twice by its title, and referred to the Committee on Commerce.

#### CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes.

The PRESIDENT *pro tempore*. Yesterday the Senator from Ohio, [Mr. SHERMAN,] from the Committee on Finance, reported an amendment, which was objected to as not in order. The question before the Senate is whether that amendment is in order.

Mr. SHERMAN. At the request of a number of Senators I have concluded to withdraw the amendment with the understanding that the funding bill shall be taken up as a separate measure immediately after the disposition of this bill; and I now give notice that after this bill is disposed of I shall move to take up the funding bill with a view to offer the amend-

ment which I proposed to this bill as a substitute for that bill, by direction of the Committee on Finance.

Mr. HENDRICKS. That amendment being withdrawn, I move to amend the bill by inserting after line forty-six:

To meet expenses incurred in the prosecution and collection of claims due the United States, \$15,000, to be disbursed under the direction of the Secretary of the Treasury.

Mr. MORRILL, of Maine. On what authority is that moved?

Mr. HENDRICKS. On the recommendation of the head of the Department.

Mr. MORRILL, of Maine. I should like to have the letter read.

Mr. HENDRICKS. I send the letter to the desk to be read.

The Chief Clerk read as follows:

TREASURY DEPARTMENT, June 24, 1868.

SIR: I have the honor herewith to transmit the draft of a clause which it is very desirable to have incorporated in the general appropriation bill for the Executive Departments for the ensuing fiscal year, appropriating \$15,000 to cover expenses of collecting claims due the United States.

There are outstanding many balances due from former disbursing officers, and debts upon failure of conditions in bonds of various sorts, which can be recovered only by expenditures of greater or less amount in costs and compensation of agents necessarily employed. The Department has hitherto experienced considerable embarrassment in regard to this subject, and has been compelled, from time to time, to draw from appropriations which, though in some sense applicable to this object, could be but illy spared from other objects still more properly chargeable to them.

The customs fund has been particularly burdened in this way, and it is indispensable to relieve it as far as possible for the future.

On other accounts, too, a specific and limited appropriation is to be desired for this object, which must continue to be a source of expense for some time to come if the effort now being made to close up the old outstanding balances which have too long cumbered the books of the Treasury is to be sustained.

The Solicitor of the Treasury has expressed his view of the matter in a letter of which a copy is inclosed to you herewith.

I am, sir, very respectfully,

H. McCULLOCH,  
Secretary of the Treasury.

Hon. L. M. MORRILL,  
Chairman Committee on Appropriations, Senate.

The amendment was agreed to.

Mr. ROSS. I offer from the Committee on Printing this amendment, to come in after line sixty-nine, on page 4:

For payment for the Congressional Globe and Appendix, for the fiscal year ending June 30, 1869, \$20,000, to be taken from the appropriation heretofore made and unexpended for the purchase of one complete set of the Congressional Globe and Appendix for each Senator and Representative who has not already received them.

Mr. MORRILL, of Maine. Is that for a deficiency in the publication of two extra sessions?

Mr. ANTHONY. Yes.

Mr. ROSS. In explanation of the amendment I send to the desk a letter which I desire to have read.

The Chief Clerk read the following letter:

CONGRESSIONAL GLOBE OFFICE,  
WASHINGTON, June 12, 1868.

DEAR SIR: In consequence of no appropriations whatever being made to meet the accounts of this office for reporting and printing the debates of the Senate for the additional session (sittings of March, July, and November, 1867), and for the copies of the Congressional Globe and Appendix for Senators for the same session, a deficiency has been created—a deficiency which may, however, be in large part met and provided for without additional appropriation, and in this way, namely: by authorizing a transfer of a portion of an unexpended balance of appropriations heretofore made to pay for complete sets of the Congressional Globe and Appendix for new Senators. [Not more than fifty per cent. of the appropriations made for that specific purpose have ever been required.]

The unexpended balance referred to amounts to \$27,233 84; of which sum \$20,400 may be transferred to meet the deficiency existing in the sum requisite to pay for the Congressional Globe and Appendix for Senators for the current session, which work has been completed to the extent of more than three thousand pages limit, and delivered to Mr. Deffries, the Congressional Printer, and for which we hold his receipts.

We would suggest that, providing such a transfer as we have indicated be made, a very suitable point in the bill now pending (H. R. No. 605) would be immediately after line sixty-two—as lines sixty one and sixty-two contain a proposition to pay for that particular branch of the work for the ensuing sessions.

The deficiency which exists in the appropriations for reporting and printing in the Daily Globe we shall take measures to have provided for in the deficiency bill now framing by the appropriate committee of the House of Representatives.

Trusting that our suggestion may be favorably considered by yourself and your honorable committee, we remain, very respectfully,

F. & J. RIVES & GEORGE A. BAILEY.

Reporters and Printers of the Debates of Congress.

Hon. L. M. MORRILL, Chairman of Committee on Appropriations, United States Senate.

The amendment was agreed to.

Mr. THAYER. I offer the following amendment, to come in on page 16, after line three hundred and seventy-two:

For surveying the boundary line between the State of Nebraska and Territory of Colorado, and that portion of the western boundary of the State of Nebraska embraced between the forty-first and forty-third degrees of latitude, estimated at three hundred and twenty miles, at not exceeding fifteen dollars per mile, \$1,800.

Mr. HARLAN. I move to add the words "to be expended under the direction of the Commissioner of the General Land Office." I have the concurrence of the mover of the amendment in this modification.

The PRESIDENT *pro tempore*. The amendment will be so modified.

Mr. THAYER. I will state that this amendment has the sanction of the Committee on Territories. There is a disputed boundary, and it is not known whether a certain place belongs to the State of Nebraska or to the Territory of Colorado or Dakota.

Mr. MORRILL, of Maine. I wish to know something about this proposition. I see no estimate for it in the estimates submitted to the Department. The Senator says the amendment comes from the Committee on Territories. There ought to be an estimate from the Department. I find an estimate among the regular estimates for surveying the eastern boundary of Colorado, and also for surveying the eastern boundary of Nevada.

Mr. POMEROY. The Committee on Public Lands have recommended that in their amendments.

Mr. MORRILL, of Maine. But I see no estimate for this particular item.

Mr. THAYER. It emanates from the Commissioner of the General Land Office; and I was informed that it was in the estimates, and I had no doubt that it was. It was submitted to the Committee on Territories and approved by them; and I offer it with their sanction. As I said, there is a disputed boundary and there is a long tract of country in regard to which it is not known whether it belongs to Colorado, Nebraska, or Dakota. The people of the town of Julesburg have been in doubt for two years past whether they were in the State of Nebraska or the Territory of Colorado or Dakota, and a great deal of confusion has arisen from this.

Mr. MORRILL, of Maine. All these propositions ought to emanate, I submit, from the Department, and if the Senator knows that it is recommended by the Department I shall make no strenuous objection.

Mr. THAYER. Yes, sir; I stated that before.

The amendment was agreed to.

Mr. POMEROY. I move to amend the bill on the seventeenth page, line three hundred and eighty-eight, by increasing the appropriation for surveys in Oregon from \$28,000 to \$40,000. Forty thousand dollars was the estimate, but the House of Representatives allowed only \$25,000 for surveying in the State of Oregon. The matter was before the Committee on Public Lands, and representations from that State were made of such a pressing character that the Committee on Public Lands thought we ought to come up fully to what was estimated for. We found, in reference to most of the new States, that the immigration and the demands for settlement upon the public lands require surveys. The increased impetus that has been given to settlements upon the public lands require that they should be surveyed. Anybody who has had any experience knows the inconvenience of settlers going in advance



of surveys. They have conflicting claims, conflicting boundaries, conflicting titles. It retards the growth and prosperity of a State not to have it surveyed. The Senators from Oregon, and all the persons I have seen from the Pacific coast, think we should come up fully to the recommendation of the Land Office. This amendment is reported by the Committee on Public Lands, and was printed and referred to the Committee on Appropriations a few days ago.

Mr. MORRILL, of Maine. I will say to the Senator that the appropriation in the bill is in conformity with the estimates of the Department.

Mr. WILLIAMS. I have a letter from the Commissioner recommending this amendment.

Mr. MORRILL, of Maine. Let that be read.

Mr. WILLIAMS. I wish to subjoin a statement to what has already been said by the Senator from Kansas, as to the necessity of this addition to the appropriation. Heretofore the appropriations for the State of Oregon have been rather limited in view of the extent of country to be surveyed; and there is a large proportion of the habitable part of that State now occupied by people that has not been surveyed, and the want of the necessary surveys is an obstruction to the settlement of the State. I can name several valleys of considerable extent there, valleys of fertile land upon which persons have settled, and upon which others are desirous to settle, that have not been surveyed, such as the valley of John Days' river, the Upper Des Chutes valley, the Malherouse valley, the Jordan Creek valley, Wild-horse Creek valley, Goose Lake valley, Lost-river valley, and other valleys of that description have not been surveyed. There is a necessity that they should be surveyed without any considerable delay, so as to enable the people upon the lands there to enter them and obtain a title for their property. I need not say to anybody who has any experience in any of these new States that it tends greatly to retard their improvement to limit the amount of surveys, and there is no real economy in such a course, and it rather has the contrary effect.

Since the estimate was made by the Commissioner of the General Land Office he has written a letter which I will read:

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE, February 7, 1868.

SIR: I have the honor to acknowledge the receipt of your communication of the 4th instant upon the subject of an increase in the estimate of appropriation submitted to Congress by this office for surveying the public lands in Oregon for the next fiscal year.

In reply, I have to say, that at the time the estimates were made this office had in view the exigencies of the surveying service and counteracting influences exerted by the then disturbed condition of the country on account of Indian hostilities.

The estimate now before Congress for the survey of the public lands in Oregon is \$5,000 in excess of the appropriation made for the current fiscal year. Had it not been for the reported dangers in Oregon to surveying parties in places remote from the immediate vicinity of military establishments in Klamath Lake and Surprise valley, much larger estimates would have been presented for the extension of the lines of public surveys, demanded by the provisions of an act granting lands to the State of Oregon for the construction of a military road from Eugene City to the eastern boundary of Oregon.

In the presence of the foregoing impediments to the progress of the public surveys and a due regard to the husbanding national resources, the estimate of the surveyor general of Oregon, amounting to \$55,450, was restricted to the sum of \$25,000.

Representations having since been made to this office of more pacific attitude of Oregon Indians in the region of country demanding early surveys on a larger scale than estimated, I would be willing to recommend to Congress \$40,000 appropriation instead of \$25,000 for the fiscal year ending June 30, 1869.

I have the honor to be, very respectfully, &c.,

JOS. S. WILSON, Commissioner.

Upon the representations that were made to him, inducing him to believe that these Indian hostilities were not such as they had been represented to him to be, he makes the recommendation of an additional appropriation of \$15,000.

Besides the other reasons for adding to this amount I may mention that there is a large tract of land granted for a military road, upon which a vast amount of work and money has

been expended, from the Willamette valley to the eastern part of the State across the Cascade mountains; and it is impossible for the company, notwithstanding they have invested their money, to make use of the lands donated to them, because there are no surveys and there is no money to expend in surveying the lands along the line of that road, and thus the lands are kept out of market. The company cannot sell them because there are no surveys. I think in view of the extent of the State of Oregon and the limited appropriations that have heretofore been made for that State and the prospect that the immigration will rapidly increase, that this is not an extravagant appropriation. Some of the States have \$50,000; Nebraska has \$50,000.

Mr. POMEROY. Forty thousand dollars.

Mr. WILLIAMS. Well, \$40,000. California has \$50,000. Any one who will look upon the map showing the public surveys in the country, will see that a very large proportion of California has already been surveyed, while but a very inconsiderable proportion of the State of Oregon has ever yet been touched by the public surveys. I hope, therefore, that this amendment will be adopted.

The amendment was agreed to.

Mr. MORGAN. I am instructed by the joint Committee on the Library to offer an amendment, to come in after line four hundred and eighty-three, on page 21:

To enable the joint Committee on the Library to pay Mrs. Sarah F. Ames an additional compensation for her marble bust of President Lincoln, \$500.

I will state what the case is. Something like two years since the Committee on the Library made an agreement with Mrs. Ames for a marble bust of President Lincoln for the sum of \$1,500. The bust was to be of life size, and when completed was to be satisfactory to the Committee on the Library. It has been completed, it is satisfactory to the committee, and she has received the compensation of \$1,500; but, instead of its being life size, she made it larger than life, made it the heroic size, at some additional cost; and the committee, after full consideration of the subject, and inasmuch as Mrs. Ames had made a good bust of a great and good man, probably a better bust than any that has yet been produced, concluded to ask for the appropriation upon this bill of the additional sum of \$500. These are the facts in the case.

The amendment was agreed to.

Mr. POMEROY. I move further to amend this bill on the sixteenth page, three hundred and seventy-sixth line, under the head of "surveying the public lands in Nevada," by striking out "twenty" and inserting "fifty," so as to make the appropriation for that purpose \$50,000. That comes up precisely to the estimate of the Department; and the same reasons apply to Nevada, I apprehend, that apply to Oregon. As I said before, I do not desire to argue any of these questions; but the increased demand for public land requires surveys, and any landlord who is able to own an estate is able to survey it if he wants to sell it. We kept back during the war the surveys of the public lands; they were not called for during the war, and therefore they were not surveyed; but since the close of the war a great impetus has been given to immigration and these lands are called for, and they ought to be surveyed. The Committee on Public Lands have recommended this amendment so as to bring up the appropriation to the estimate of the Department.

Mr. BUCKALEW. I should like to understand on what principle the House Committee on Appropriations make up these appropriation bills. It seems to me that they strike blindly and cut down appropriations without any particular reason, send their bills mutilated here to the Senate in the expectation, probably, that we will correct all the mistakes that are made. It seems that one bill after another comes here in the same style, all cut up into fragments. We have to restore the appropriations to the estimates. It is very remarkable.

Mr. MORRILL, of Maine. I might say in explanation of the matter of inquiry, that it has been customary with Appropriation Committees to follow the appropriations of the previous year where they have no better information on the subject. The appropriation of a former year for a particular service has generally been adopted as a proper rule for the current service in the absence of better evidence.

Mr. POMEROY. Do they continue to make an appropriation where all the lands are surveyed because they had done so the previous year?

Mr. MORRILL, of Maine. I think my honorable friend's question perhaps is a little sharper than it sounds. I spoke of the continuance of the service. I suppose the service would end when it was performed.

Mr. POMEROY. I referred to the action of the House, and not of the Senate.

Mr. MORRILL, of Maine. The House probably would not pursue the service after it had ended; but so long as the service continues an appropriation made for one year is generally considered authority for an appropriation for another year. I should say, therefore, that this appropriation follows the appropriation of last year. The House committee having probably no information, as certainly the committee of the Senate had not, except a general estimate here, as to the necessity of any further appropriation being needed, followed the appropriation of last year. I suppose that may account for it. The Senator from Kansas, acting as chairman of the Committee on Public Lands, who moves this amendment, states that which he holds to be somewhat conclusive, that this follows precisely the estimates; and for that reason he desires that it should be accepted by the Senate. But a moment ago, when the estimates did not come quite up to his standard, the estimates went for nothing. If the Senator means, acting as chairman of the Committee on Public Lands, to furnish proof to the Senate, and that proof is to be the estimates, I should like to have him bound by them. But a moment ago he moved to increase the estimates \$15,000, and now he thinks the estimates are quite conclusive. I am not certain that this appropriation of \$50,000 is not needed in this place. It is a pretty large appropriation, however. It will be seen that it increases it \$30,000 over the appropriation of last year.

Mr. STEWART. Allow me one word of explanation.

Mr. MORRILL, of Maine. Very well.

Mr. STEWART. There was never any survey in our State of any consequence until last year; but there had been appropriations; we had no surveyor general's office established, and those appropriations accumulated to some seventy thousand dollars. The surveyor general then undertook to use the money in the most advantageous way by running standard lines and meridian lines to reach the agricultural valleys which were distributed over the State, and he is now in a position to sectionize, to run the section and township lines in those valleys. The Commissioner of the General Land Office estimated \$50,000 for that service, but even that is not as much as could be used to advantage this year, for the reason that the Pacific railroad is progressing much more rapidly than was anticipated; and there will be in the State some two or three hundred miles, perhaps four hundred miles, of that road this year. A line of settlers have gone out along the road, and it is very important that the surveys should be prosecuted. Fifty thousand dollars is as small an amount as ought to be appropriated under all the circumstances; and it will be of more advantage to have it done this year while the force is in the field. We had a good appropriation last year and ran the standard lines and meridian lines, and if we could go on with the work this year it would be a great accommodation to the settlers.

The amendment was agreed to.

Mr. POMEROY. I desire, also, to move

an amendment to the bill on the eighteenth page, in the clause which now reads:

For surveying the eastern boundary of Nevada, estimated four hundred and twenty-five miles, at not exceeding fifteen dollars per mile, \$6,375.

Our information is that that will not pay for the expenses of the survey, and that it cannot be prosecuted at that price. I do not know the fact myself, but that is the representation that has been made to the committee, and I think from the Commissioner of the General Land Office, that that will not pay the expense of running that line.

Mr. STEWART. The Commissioner asks for twenty-five dollars a mile. The cost of this work may be judged from the cost of running other similar lines. The southern line of Oregon is a precisely similar line. The appropriation there was as follows:

"For the survey of the forty-second parallel of north latitude, so far as it constitutes the common boundary between the States of California and Oregon, estimated two hundred and twenty miles, at not exceeding sixty dollars per mile."

That is a very similar line. Then the eastern boundary line of Oregon is entirely similar. Although this line is a short distance further East, it runs through precisely the same kind of country. There the appropriation was:

"For surveying the boundary line between the State of Oregon and the Territory of Idaho, commencing at the northern boundary of the State of Nevada, and running north to its intersection with Snake river, estimated one hundred and sixty miles, not exceeding sixty dollars per mile, \$9,600."

Those are the appropriations made for similar lines. I had a conversation with the Commissioner of the General Land Office on this subject. I thought this work could be done cheaper than that. He took considerable trouble to estimate it, and put it down at the lowest figure at which he thought it could possibly be done, twenty-five dollars a mile. I do not know that you can get anybody to do it for that; but certainly it cannot be done for less than twenty-five dollars per mile. There is no use in making any appropriation at all unless it is as much as twenty-five dollars per mile. I will state that it is important to run this line. We do not ask for an appropriation to run the northern line. We can get along for another year without that; but it is important that the eastern line should be run, because there are settlers on that portion of the line, and they refuse to pay taxes either in Utah or Nevada, because they do not know where they ought to pay them.

Mr. MORRILL, of Maine. Why should it cost any more to run that line than the line in Utah, for instance?

Mr. STEWART. We have not run a boundary line in Utah on either side.

Mr. MORRILL, of Maine. Why should it cost any more than surveying the eastern boundary line of Colorado?

Mr. STEWART. It is a different country altogether. The eastern boundary line of Colorado runs right through a valley where there are grass and water and a level country. This line runs a portion of the way through deserts, and in order to make a survey you have got to carry water on mules for several days' supply. They have got to fix their starting point on the Colorado river. It is a very difficult line to run. For running a precisely similar line sixty dollars a mile was appropriated; but if you will appropriate twenty-five dollars a mile in this case the Department will make the effort to get the line run for that sum. Certainly it cannot be done for less.

Mr. POMEROY. The amendment which I wish to move is to strike out "fifteen," in line four hundred and ten, and to insert "twenty-five;" and also, in the same line, to strike out "six" and to insert "ten;" and also to strike out "three hundred and seventy-five;" so that it will read:

For surveying the eastern boundary of Nevada, estimated at four hundred and twenty-five miles, at not exceeding twenty-five dollars per mile, \$10,000.

Mr. MORRILL, of Maine. Ten thousand six hundred and twenty-five dollars is the estimate.

Mr. POMEROY. I call it exactly four hundred miles. It is estimated to be four hundred and twenty-five miles; but I think it is about four hundred.

Mr. STEWART. Ten thousand six hundred and twenty-five dollars would be the exact sum according to the estimates.

Mr. POMEROY. Very well.

The PRESIDENT *pro tempore*. The amendments will be reported as modified.

The Chief Clerk read the amendments, which was in line four hundred and ten to strike out "fifteen" and insert "twenty-five;" and also to strike out the word "six" and insert "ten;" and in lines four hundred and ten and four hundred and eleven to strike out the words "three hundred and seventy-five" and insert "six hundred and twenty-five;" so that the clause will read:

For surveying the eastern boundary of Nevada, estimated at four hundred and twenty-five miles, at not exceeding twenty-five dollars per mile \$10,625.

Mr. STEWART. That is it.

The amendment was agreed to.

Mr. POMEROY. I have another amendment to offer, and which, as it has not been submitted to the committee, I desire to have passed by unanimous consent. It comes from the State of Florida. The State of Florida was not represented here until yesterday, and the Senator therefore could not send the amendment to the Committee on Appropriations.

Mr. MORRILL, of Maine. Is it estimated for?

Mr. POMEROY. I think none of the States not represented were estimated for; but the Senator who has arrived from Florida makes the statement to the committee, which I knew was true before, that they have some public lands that they want surveyed; that there is now an immigration demand for them; and if the amendment can be received by unanimous consent it is simply to insert in the appropriate place the following:

For surveying public lands in the State of Florida, \$20,000.

I think they ought to have that appropriation to complete their surveys in the State of Florida.

Mr. MORRILL, of Maine. Is there any recommendation from the Department?

Mr. POMEROY. There is no recommendation and no estimate for it, because the State was not represented here until yesterday.

Mr. MORRILL, of Maine. But the Department has been here all the time.

Mr. POMEROY. The Department has not recommended anything or estimated anything since the commencement of the war for any of these States.

Mr. MORRILL, of Maine. Does the Senator understand what the condition of the public lands in that State is?

Mr. POMEROY. Only from representations made to me by gentlemen directly from there.

Mr. MORRILL, of Maine. Under the circumstances I will not raise a question under the rule. I leave it to the Senate to decide.

Mr. POMEROY. I think myself there ought to be a little appropriation for the State of Florida. Of course it will be the pleasure of the Senate to receive it or not under our rules. It is an appropriation of \$20,000 for that State. The public lands there have been neglected during the whole war; there has been no surveying there; many of the old boundaries are being obliterated, and they need, to build up again the waste places and find out what are public lands and what are not, to have a little appropriation for surveys. Twenty thousand dollars is the sum we have recommended. It can be received, of course, only by unanimous consent.

The PRESIDENT *pro tempore*. The question is on this amendment.

Mr. HENDRICKS. I do not recollect what is the condition of the surveys of the State of Florida; but I have no idea that it is important now to make additional appropriations. I do not think the immigration to that State requires it. I think it would be exceedingly

loose legislation to appropriate \$20,000 for surveys there when we are not informed at all of the amount of unsold lands already surveyed. The Senator from Kansas has no information on that question; and I should want to know from the General Land Office what amount of lands are already surveyed in that State and unoccupied. My impression is that there is a very large quantity, and that there is no occasion for this appropriation.

Mr. POMEROY. I said we had no estimate; but it must be evident to every Senator, as it is known to me, that there is a large tract of public lands in Florida. It is evident also to every Senator that for the past few years we have made no appropriation whatever. Now, if the objection is to prevail that because there are lands not occupied in Florida that have been surveyed we should not make this appropriation, that would apply to any of the States. All our States contain some unoccupied lands that have been surveyed. In fact, the public lands of the older States of the South are unoccupied to a great extent. That is not an argument that we should not survey such as have not been surveyed. There are very valuable lands and very attractive lands, I know from the representations made to me, in Florida, that are not settled upon because they are not surveyed. I think we should begin, as these States come back, one after another, where they have got public lands to make a small appropriation for them to continue the system of surveying. I think this amendment ought to commend itself to the Senate; and I hope a vote of the Senate will be had first on the question whether we will receive it. I offer the amendment, and move that we receive this amendment to the appropriation bill appropriating \$20,000 for surveys in Florida.

Mr. EDMUNDS. Let the amendment be reported.

The Chief Clerk read the amendment, which was to insert on page 18, after line four hundred and seven:

For surveying public lands in the State of Florida, \$20,000.

Mr. HENDRICKS. A moment's reflection will satisfy Senators that for the present surveys cannot possibly be had in that State, as the operations in the field cannot be carried on, and there will be but very little delay in waiting until the next session of Congress, when we can have some information on the subject. I am in favor of liberal appropriations to prosecute public surveys; but they ought to be made in those localities where the settlements are extending out into the public lands. I do not believe that is the case in Florida. I do not believe there is any occasion for it there, and I think we ought to have some information from the proper office on the subject. It would take the Commissioner but a few minutes to prepare a letter on the subject. Inasmuch as there is really but very little delay in waiting until the next session, I think this amendment ought not to be adopted without some information on the subject.

Mr. ANTHONY. Is that amendment objected to? Has that gone over?

Mr. POMEROY. One objection cannot carry it over. A vote of the Senate can carry it over.

Mr. ANTHONY. I understood that the Senator from Indiana objected to its reception, and it cannot come in without unanimous consent.

Mr. MORRILL, of Maine. If it is objected to, under the rules it cannot be considered.

The PRESIDENT *pro tempore*. The Chair understood the objection was waived, if there was any objection at all.

Mr. ANTHONY. I only desired to offer another amendment in case this one was disposed of.

Mr. POMEROY. I trust there will be no serious objection to it.

Mr. ANTHONY. I do not make any.

Mr. POMEROY. I think we ought to pass it. The amendment was agreed to.

Mr. POMEROY. I now offer an amendment to come in on the eighteenth page, immediately after the amendment just adopted. I will remark that it is an appropriation which has passed the Senate during the present session, but under a misapprehension was reported against in the House of Representatives. It has passed through the Committee on Public Lands and also the Committee on Appropriations. It is to insert as additional sections the following:

SEC. —. *And be it further enacted*, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$9,908 50, or so much thereof as may be necessary, to pay balance due for the survey of lands embraced in the Osage Indian reservation and the Cherokee neutral lands, in the State of Kansas, under contracts dated respectively August 14 and 16, 1866, the said sum to be returned to the Treasury out of the proceeds of the sale of said lands, as provided by treaties with said Indians.

SEC. —. *And be it further enacted*, That the sum of \$7,775, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay for the balance due for surveying several Indian reservations in Utah Territory, the survey of which was provided for by act of Congress approved May 5, 1864.

SEC. —. *And be it further enacted*, That the sum of \$39,014 63, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not heretofore appropriated, to pay for the survey of the Osage Indian trust lands, ceded to the United States under treaty concluded September 29, 1865, upon a contract made with the General Land Office under date of September 18, 1866, and another contract for another portion of said trust lands, dated May 28, 1867; which survey is according to the provisions of the second article of treaty concluded with said tribe September 29, 1865.

SEC. —. *And be it further enacted*, That there be, and is hereby, appropriated out of any money in the Treasury not otherwise appropriated, the sum of \$3,362 03, to pay the balance due for the survey of the lands embraced in the Omaha and Winnebago Indian reservation in the State of Nebraska, under contract dated August 14, 1866, as provided by a treaty with the Omaha Indians and authorized by act of Congress approved July 28, 1866.

Mr. HARLAN. The exact amount in the first section of the amendment ought to be "\$9,263 85."

Mr. EDMUNDS. Is that money due by the contract?

Mr. HARLAN. Yes, sir; and the work is all done.

Mr. EDMUNDS. By the contract was not the money to be taken out of the proceeds of the sales?

Mr. HARLAN. This comes out of the proceeds of the sales.

Mr. POMEROY. What was the sum mentioned by the Senator from Iowa?

The CHIEF CLERK. Nine thousand two hundred and sixty-three dollars and eighty-five cents.

Mr. POMEROY. How did I report it?

The CHIEF CLERK. Nine thousand nine hundred and eighty dollars and fifty-one cents.

Mr. POMEROY. That modification is correct. I accept it.

Mr. HARLAN. In line seven of the first section of the printed amendment the words "and the Cherokee neutral lands" should be stricken out.

Mr. POMEROY. They may as well be stricken out, because that part has been settled for. If left in, there would be no money appropriated for them, because that contract has been extinguished.

Mr. HARLAN. In line eight of the same section the word "respectively," and also the words "and sixteenth," should be stricken out.

Mr. POMEROY. Those modifications are accepted. They are mere surplusage to the language.

The PRESIDENT *pro tempore*. The question is on the amendment as modified.

Mr. MORRILL, of Maine. I wish to explain to the Senate how this happens, so that they can see that we know something about it. This is a payment of money for the surveys of Indian lands. They were provided for under certain treaties made recently with the Indian tribes for whose benefit in part these surveys were made. By the stipulations of those treaties the Government of the United States engaged to make these surveys for the Indians, and of

course they became obligated to incur the expenses of the surveys at first, but they are all paid out of the sales of the lands, so that it is really an advance payment, as I understand. The correction which the Senator from Iowa has proposed to the first section by which the sum is reduced from \$27,980 50, as it stood originally, to \$9,000, results from the fact that since this estimate was made in the early part of the year the difference between these two sums has been received out of the sale of the lands.

Mr. HARLAN. That is for the survey of the Cherokee neutral lands. That appropriation has been passed as a separate bill.

Mr. MORRILL, of Maine. The land described in this first section?

Mr. HARLAN. Yes, sir; part of the lands were Cherokee neutral lands, and the treaty has been ratified under which money has been paid over, and a sufficient amount has been applied to the payment for the surveys of that part of the land. For the survey of the Osage lands described in the first section the money is now lying in the Treasury; but the First Comptroller holds that it cannot be paid out by him without an appropriation. The proceeds of the sales of the land are actually there. That is not an advance.

Mr. MORRILL, of Maine. So that the proposition is true that it does not make an appropriation to come out, except indirectly, from the Treasury of the United States. The money here appropriated really comes out of the trust funds of the Indians.

Mr. HARLAN. Yes, sir; that is right.

The amendment was agreed to.

Mr. ANTHONY, Mr. POMEROY, and others addressed the Chair.

Mr. POMEROY. I desire to propose another amendment, which is the last one I shall offer.

Mr. ANTHONY. I want to get a chance to offer an amendment while there is some money left in the Treasury; but I do not think I shall get the opportunity. [Laughter.]

Mr. MORRILL, of Maine. We are now disposing of the Indian funds.

Mr. POMEROY. My amendment is to insert as an additional section the following:

*And be it further enacted*, That the Commissioner of the General Land Office is hereby authorized to continue the extension of the geological explorations begun in Nebraska under the provisions of the second section of the deficiency act of Congress, approved March 2, 1867, to other portions of the public lands; and for that purpose the sum of \$10,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated.

I move this amendment at the suggestion of the Commissioner of the General Land Office, and very many other persons who desire to prosecute what they commenced last year.

Mr. FESSENDEN. Does it come from any committee?

Mr. POMEROY. And to continue this geological survey over the other Territories besides Nebraska. I have to say that it does not come from any committee, because it was only put into my hands yesterday, and the committee have not had a meeting on the subject; but the Senator from Wisconsin and other Senators desired that this appropriation should be presented to the Senate. It is an appropriation of only \$10,000 to continue the geological survey. I hold in my hand Miscellaneous Document No. 136, sent to the chairman of the Committee on the Public Lands of the House of Representatives, in which the Interior Department urge and recommend and give very extended reasons why this geological survey should be continued. They speak at considerable length of the importance of the work, and the benefits that have already accrued to the Government from what was done last year; and they desire to have a small appropriation to continue it this year. I shall have discharged my duty by presenting it to the Senate. I know no more about it personally than any other Senator, I suppose; but I have presented it to the Senate, and hope that it may be adopted.

The amendment was agreed to.

Mr. CRAGIN. I desire to offer a couple of

amendments to this bill. On page 14, at the end of line three hundred and ten, I move to insert the following:

*Provided*, That no improvements, alterations, or repairs of the Capitol building shall be made except by direction and under the supervision of the architect of the Capitol extension.

Heretofore certain repairs have been made which have been paid for out of the contingent fund of the Senate and House of Representatives by officers of the different branches, without any direction or supervision of the architect. The design of the amendment is to prevent that, if possible, hereafter.

The amendment was agreed to.

Mr. CRAGIN. I offer the following amendment, to come in at the close of the bill:

For expenses of the trial of the impeachment of Andrew Johnson, President of the United States, \$6,000, or so much thereof as may be necessary, to be paid into the contingent fund of the Senate.

I desire to state that heretofore Congress appropriated \$10,000 to pay the expenses of the impeachment of the President. This amendment proposes \$6,000 more. The entire expense of the impeachment, including witnesses, furniture, printing, and the fees of officers for summoning witnesses will not exceed \$16,000, and will probably fall a little short of that amount; but it is necessary that something more should be appropriated. I make this statement in relation to the expense of the impeachment trial, and hope Senators will hear what I say, that the entire expense will not exceed \$16,000.

Mr. MORRILL, of Maine. Are you instructed by your committee to offer the amendment?

Mr. CRAGIN. It is recommended by the Committee on Contingent Expenses.

Mr. POMEROY. I suppose when the Senator speaks of the entire expense he has reference to the expense to be paid by Congress.

Mr. CRAGIN. I mean the entire expense so far as the Senate is concerned.

The amendment was agreed to.

Mr. CORBETT. I desire to call up the amendment that I offered yesterday. It is to insert on page 11, after line two hundred and forty-two, the following:

For construction of a building to be used as a custom-house and United States court-room and post office, at Portland, Oregon, \$50,000.

I desire to have a letter from the Secretary of the Treasury, addressed to the chairman of the Committee on Commerce, read.

The Chief Clerk read as follows:

TREASURY DEPARTMENT, July 1, 1868.

SIR: In reply to your inquiry as to the necessity of a building for the use of the custom-house, post office, United States courts, and internal revenue officers at Portland, Oregon, I have the honor to say that the commerce of Portland is rapidly increasing—the customs receipts alone for the past year being upward of fifty thousand dollars in gold.

There is great difficulty on that coast in renting safe buildings for Government purposes, and as the papers and documents connected with the customs and other offices, such as registers of vessels, internal revenue cases, &c., are extremely valuable, the interests of the public service demand that provision should be made for their preservation in a fire-proof building.

The necessity for buildings of this character is even greater in that locality than on the Atlantic coast, as on this coast secure and suitable structures can be rented for the purposes mentioned, while in Oregon none can be obtained unless erected by the Government.

In view of these circumstances, therefore, and of the saving that will be effected in the rent now being paid for the insecure and unsuitable buildings at present occupied by the various offices, I recommend the erection at Portland of a substantial fire-proof building of sufficient capacity to accommodate all the civil officers at that port, believing that such a course will promote both the interests of the Government and of the city. I know of no city on the Pacific where the necessity for a building of this character is more pressing.

A suitable building cannot, it is believed by the supervising architect, be erected for less than \$100,000 in gold, but an appropriation of \$50,000 would be ample at present.

Very respectfully,

H. McCULLOCH,

Secretary of the Treasury.  
Hon. Z. CHANDLER, Chairman Committee on Commerce, United States Senate.

Mr. CORBETT. I will state that it is the intention to erect a building containing room sufficient to accommodate the internal revenue



officers at this point. The collector and assessor of the State reside at Portland and have their offices there. I have another letter here from the Postmaster General, in which he states that "it is a matter of very great importance that means should be taken at an early day to furnish a post office adequate to the requirements of the city of Portland and the country to be supplied from it." I also left the papers at the office of the Secretary of the Interior; but Judge Otto, the Assistant Secretary, was obliged to come to the House on some important business, and he stated to the chairman of the Committee on Appropriations that he considered it not only important but absolutely necessary that a court-room should be built at this place.

Mr. WILLIAMS. I hope that this amendment will be adopted. I have made frequent representations to the Departments of the necessity of such a building at Portland, in Oregon, and it has been generally understood that at some convenient time they would recommend an appropriation of this kind; but now the necessity has become so obvious that there seems to be no question anywhere with any Department that the construction of this building is necessary and proper. I will simply add that we have no public buildings in the State of Oregon, not one building of any kind or description that has ever been erected at the expense of the Government. In the city of Portland, where the United States district court is held, the business for that court is rapidly accumulating. The accommodations for the court at this time are exceedingly limited, and it is absolutely necessary for the United States, if possible, to hire another court-room at considerable additional expense, or to construct a building for the purpose of accommodating the court. When you consider the expense that the United States incurs in hiring a post office, hiring a court-room, and hiring the other public buildings that the United States are compelled to hire there, it will be seen that as a matter of economy it will be to the advantage of the Government to construct this building, for the expenses now paid amount to more than the interest on the money that the Government would so expend. I hope therefore that this amendment will be adopted, as I am satisfied it meets the approval of all the Departments.

Mr. MORRILL, of Maine. I suggest a verbal amendment simply in the form of the amendment. It is to insert the word "public" before the word "building;" and also to strike out the words "to be used;" so that it will be "a public building for a custom-house, United States court-room, and post office."

Mr. CORBETT. I accept that modification.

Mr. MORRILL, of Maine. I do not see that there is any reasonable objection to this proposition upon the evidence.

The amendment, as modified, was agreed to.

Mr. STEWART. On page 18, at the end of line four hundred and eleven, I move to insert the words "under the direction of the Commissioner of the General Land Office," to make that clause correspond with the others.

Mr. POMEROY. The effect of that is to require that the surveying of the eastern boundary of Nevada shall be prosecuted under the direction of the Commissioner of the General Land Office. I think that is very proper.

The amendment was agreed to.

Mr. STEWART. On page 18, after line two hundred and ninety-three, I move to insert the following:

Mining:

For collecting statistics of mines and mining, \$5,000.

This amendment is recommended by the Secretary of the Treasury and the Committee on Mines and Mining. It is a less sum than has usually been appropriated; but it is to carry out the plan inaugurated by the Secretary some two or three years ago under which we have the reports from Mr. J. Ross Browne. The Secretary has now appointed a gentleman from New York by the name of Raymond, the editor of the Mining Journal, a scientific man,

a young man of great ability; and the Secretary is desirous of continuing this appropriation for the next year. He sets forth abundant reasons for the appropriation. If any one desires it, his letter can be read.

The amendment was agreed to.

Mr. MORTON. I gave notice some three or four days ago of an amendment that I should offer in line four hundred and three on page 17. That clause makes an appropriation of \$15,000 for the surveys in Montana Territory. I move to amend it by making it \$25,000. I am advised that \$25,000 at least will be required. The surveys there have just begun, and they are very much needed.

Mr. COLE. I will ask what the estimates are?

Mr. MORTON. I do not know.

Mr. COLE. I desire to know whether this is up to the estimates or not.

Mr. MORTON. My information is derived from the surveyor general of the Territory.

The PRESIDENT *pro tempore*. The amendment of the Senator from Indiana will be reported.

The Chief Clerk read the amendment, which was on page 17, line four hundred and three, to strike out "fifteen" and insert "twenty-five;" so that the clause will read:

For surveying the public lands in Montana Territory, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, \$25,000.

Mr. MORRILL, of Maine. I believe that amendment is in harmony with the estimates from the Land Office.

The amendment was agreed to.

Mr. COLE. I have a little amendment to offer, to insert at the end of the bill the following:

To enable the Secretary of the Interior to institute experiments for the planting and growth of forest trees on the treeless plains of the West, the result of which experiments shall be reported to Congress, \$5,000.

I asked leave to offer this amendment in the Senate from the Committee on Appropriations, of which I am a member. I believe it to be a most worthy object, much desired by humanitarians and philanthropic men of our country. A good many have turned their attention to this subject already. Those who have been upon the plains certainly know well the necessity of this proposition. In the settled portions of our own country there has not been much necessity for anything of this sort, but great attention is given to it in the older countries; and in this new country, where population is now going, there is certainly very great necessity that some attention should be given to it. This is a small appropriation asked for the purpose of carrying on some experiments and testing the possibility of growing trees there. I provide in the amendment that it shall be under the Secretary of the Interior; but whether he shall make use of the funds, or the Land Office department, or the Agricultural Department, or some other Department, I know not, nor do I care, so that the experiments are carried out. It is not local in any sense; it is national in its object. I have asked for no amendment so far as California is concerned, nor has any been asked for California; but I believe this would be a wise measure, and I ask the Senate to look upon it in a favorable light.

Mr. YATES. I move to amend the amendment by inserting "Commissioner of Agriculture," instead of "Secretary of the Interior."

Mr. COLE. I left it with the Secretary of the Interior; but I am not particular about that. I am willing that that amendment shall be made.

The PRESIDENT *pro tempore*. That modification will be made.

Mr. MORRILL, of Maine. I hardly think that the Senate ought to adopt this amendment without knowing what it is.

Mr. COLE. I am sure anybody can know very well what it is from the reading of it. There is nothing abstruse in it. It is plain and simple.

Mr. MORRILL, of Maine. I heard the

statement of my honorable friend, but still I am a little in doubt what it means. I will read it for the information of the Senate. I think the Senator will agree with me that it is novel.

Mr. COLE. Certainly it is; it is new.

Mr. MORRILL, of Maine. It reads:

To enable the Secretary of the Interior—

I believe that is now charged to "the Commissioner of Agriculture!"—

to institute experiments for the planting and growth of forest trees on the treeless plains of the West, &c.

I do not know what experiments the honorable Senator refers to. I suppose he means the planting of trees, but how far the honorable Senator thinks it is proper for the General Government to enter upon the undertaking of covering the treeless plains and trackless deserts of the West with forest trees, I do not know. I do not know how much information the honorable Senator has on that subject, as to the practicability of it, but I submit that the undertaking is a novel one, and if it is entered upon I do not see the end of it. I am sure this is one of these experiments, if they are to be regarded as experiments, which belong rather to the local communities than to the Government of the United States.

If it is to be entered upon I agree with the honorable Senator from Illinois that it should be under the care of the Commissioner of Agriculture; but I am sure the Senate will agree with me that it would be enlarging the sphere of his duties very much indeed to charge him with the duty of clothing the western plains with forest trees. If that is entered upon as a policy I hardly know where it will end. The resources of the Government of the United States might be very largely taxed, I can conceive, if it should become the settled policy annually to make appropriations out of the Treasury of the United States to be expended under the direction of the Commissioner of Agriculture. Not even a Newton would be able to accomplish that task on a great scale to cover these treeless plains with forest trees at anything like a reasonable expenditure from the public Treasury.

If it is to end in an experiment only to test the practicability of doing it, and then it is to be turned over to somebody else, I can understand that it might be worth while to do this. Sometimes we have had experiments, I believe, to test the capacity of steamships. We had several propositions before the Committee on Commerce this year to test the capacity of certain new improvements supposed to have some adaptation to steam-engines and to the propelling power of ships upon the seas. There is no end to the experiments which the Government might enter upon if it had the curiosity to do so.

But I submit to my honorable friend whether, as a practical question, this is not so new and so novel and carrying the thing so far out of the ordinary track of the duties of the Commissioner of Agriculture that if once entered upon it will involve the expenditures of the General Government to an amount which the Senator will be very reluctant, I know, from his habits and notions of economy and that strict propriety to which he holds the administration of all the Departments of the Government, to agree to? I submit to him whether he is not opening a door here which would be rather too broad a one for us to enter upon simply as an experiment?

Mr. COLE. Mr. President—

Mr. MORRILL, of Maine. Will the Senator allow me to inquire what committee this comes from?

Mr. COLE. I mentioned it in the Committee on Appropriations, and said there that I would offer it in the Senate.

Mr. MORRILL, of Maine. The Senator does not mean to say that it comes here with the recommendation of that committee?

Mr. COLE. I have stated that I had the permission and consent of the Committee on Appropriations to offer it in the Senate. I mentioned in the committee that I would offer it in the Senate, and there was no dissent.

Mr. MORRILL, of Maine. I think the honorable Senator mentioned the subject in committee, that this was a proposition that he took an interest in, but I did not understand the honorable Senator to invoke the judgment of the committee on the subject of whether it could be offered here as coming from that committee. The proposition offered by the Senator from Kansas [Mr. POMEROY] a few moments ago about the geological surveys was presented by the Senator from Wisconsin [Mr. HOWE] in a similar way, informally, and he was told that it would require, before it could be presented here for consideration, the recommendation of a distinct committee outside of the Committee on Appropriations. I dislike exceedingly to interrupt the progress of the matter in this way.

Mr. COLE. Of course it does not come from the Committee on Appropriations. If it did, it would be in the body of the bill. It comes from myself, under the circumstances I have stated.

I am not at all surprised that the Senator from Maine, who is so much accustomed to the pine forests of that region, does not see the necessity of these experiments, or something of this sort; but those who have been on the treeless plains of the West have often observed this great want in that region.

I cannot state how these experiments are to be carried out. I presume, however, that the Commissioner of Agriculture will expend some portion of this sum, perhaps all of it, in gathering and distributing the seeds of forest trees, which are not gathered unless for some premium, to the people who are settling on the plains. That disposition of the fund would be entirely satisfactory to me, and, I believe, equally satisfactory to Congress.

The chairman of the Committee on Appropriations seems to apprehend that this may open the door for wide and unlimited expense. He asks where it is to end. So far as I am concerned, it will end with the experiments that are made by this appropriation. It is for the purpose of experiments, and nothing else; and this sum is sufficient, I doubt not, to test the practicability of growing trees on those barren plains. There it will end. No further appropriation will ever be asked for, in my judgment. I have no belief that I shall, at any time, ever ask for any other appropriation for this end. It will end, therefore, I take it, with this appropriation, if it is made; and if it is not made I presume it will not end without a further application from some other quarter.

I will state that I do not know who is to expend this money, or who is to use it. I know of no person, indeed, who has any desire to be the guardian or custodian of it, or to expend it. It is to be expended under the direction of some public officer. That the object is a good one I have no question. That it will result in great public good and advantage to the whole nation I do not at all doubt.

Mr. POMEROY. I do not see how the Senator will get his amendment on this bill, but I can see very well how it would be very desirable to have this experiment made.

The PRESIDENT *pro tempore*. The Chair does not understand whether exception is taken to this amendment being in order or not. The Chair does not except to amendments unless an objection is urged by some Senator.

Mr. POMEROY. The Chair will understand when anybody objects. It has not been objected to.

Mr. FESSENDEN. Objection was made by the chairman of the Committee on Appropriations, by the inquiry as to what committee recommended it. No committee recommends it, and there is an end of it.

Mr. POMEROY. I will only add that if this means raising trees on what are known as the sandy plains, that really would be an experiment, although I do not know how it could be prosecuted very well. If it means simply an experiment to raise trees on the prairies,

where grass will grow, that has been tried over and over again with success. There is not the least doubt about it. The only trouble is to meet the expense. The fact that trees will grow where grass and other vegetation grow has been established over and over again. It is not an experiment to grow trees on the prairies; but it may require some experiments to grow them on what is known as the desert, those sandy plains where the sand drifts. I confess I do not know any way to grow trees there; but I suppose there may be some way found out after a while.

Mr. WILLIAMS. I should like to ask the Senator if it would not be necessary to put some man there to take care of these trees while they are growing?

Mr. POMEROY. I apprehend the trouble will be not to take care of them, but to get them to grow first.

Mr. COLE. I doubt not there will be many men ready to take care of them if they are furnished with the seeds.

Mr. POMEROY. If they are paid for it they will take care of them.

Mr. COLE. The people there will feel a great interest in taking care of them themselves.

Mr. POMEROY. I do not see how we can enter on this experiment, not that I do not think it desirable. I would not like to cast a shadow over such an enterprise; but I do not apprehend that we can make any appropriation for it now.

Mr. MORRILL, of Maine. I dislike very much to interfere with my friend from California; but his proposition does not seem to be in order at present.

The PRESIDENT *pro tempore*. Unless it comes from a committee it is not in order on an appropriation bill.

Mr. WILLEY. I offer the following amendment, to come in on page 13, after line three hundred and five:

For expenses of receiving and arranging and taking care of copyright books, charts, and other copyright matter, \$1,800, to be paid out of the Patent Office fund.

This seems to have been inadvertently omitted in the bill, and the attention of the Committee on Patents was called to it by a letter from the Secretary from the Interior. I gave the honorable chairman of the Committee on Appropriations notice of this matter several days ago, and I make this motion at the instance of the Committee on Patents. If it is required, I have here the letter of the Secretary of the Interior, which can be read.

The PRESIDENT *pro tempore*. The reading of the letter not being called for, the question is on the amendment.

Mr. MORRILL, of Maine. I want to have a little information on this subject. I think it is estimated for, and I think it has been appropriated for heretofore; but it was not appropriated for by the House of Representatives, and not being found in the bill the attention of the committee was called to the subject, and we did not have any information which authorized us to infer that it was necessary to appropriate \$1,800 for the specific purpose of taking care of those copyrights. The Committee on Appropriations had no information on that subject, and so referred it to the committee of which the honorable Senator from West Virginia is chairman, that he might present to the Senate some facts to enable it to judge why, in a Department employing so many clerks as are employed there, it should be necessary to appropriate a sum for the specific purpose of taking care of these particular writings.

Mr. WILLEY. About all that the Committee on Patents know about it is contained in the letter which I send to the desk from the Secretary of the Interior.

Mr. MORRILL, of Maine. Let it be read. The Chief Clerk read the following letter:

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, D. C., June 24, 1868.

SIR: My attention has been called to House bill No. 818, entitled "An act making appropriations for sundry civil expenses of the Government for the

year ending June 30, 1869, and for other purposes," and to the omission therefrom of the item for copyright service in charge of the Patent Office, \$1,800, which has been the annual appropriation for that object for years past.

I have the honor to recommend that said omission may be supplied, and to submit herewith for the consideration of your honorable committee a draft of a section for that purpose.

I am, sir, very respectfully, your obedient servant,  
O. H. BROWNING,  
Secretary.

Hon. L. M. MORRILL, Chairman of Committee on Appropriations, United States Senate.

Mr. MORRILL, of Maine. We had that letter before the Committee on Appropriations; but it will be seen that it does not give much information on the subject. We are still left in the dark about the service.

Mr. WILLEY. If the Senator will allow me, I will give him what information I have on the subject.

Mr. MORRILL, of Maine. Certainly.

Mr. WILLEY. That letter refers to the fact that this is the usual appropriation made every year for this purpose. I have only taken occasion to go back two years. I find in 1867 this provision:

"For expenses of receiving, arranging, and taking care of copyright books, charts, and other copyright matter, \$1,800, to be paid out of the Patent Office fund."

I find exactly the same appropriation in 1866:

"For expenses of receiving, arranging, and taking care of copyright books, charts, and other copyright matter, \$1,800, to be paid out of the Patent Office fund."

So that it appears that it has been considered necessary heretofore to make this appropriation for this purpose. On referring to the law it will be seen that as the law formerly stood it was required every year that a certain return should be made originally to the office of the Secretary of State. The old law read as follows:

"And it shall be the duty of the clerk of each district court, at least once in every year, to transmit a certified list of all such records of copyright, including the titles so recorded, and the dates of record, and also all the several copies of books or other works deposited in his office according to this act, to the Secretary of State, to be preserved in his office."

It will be seen there were a great many books of this kind required to be transmitted annually to the Secretary of State. That law was subsequently modified in the act of 1859, as follows:

"That all books, maps, charts, and other publications of every nature whatever, heretofore deposited in the Department of State, according to the laws regulating copyrights, together with all the records of the Department of State in regard to the same, shall be removed to, and be under the control of, the Department of the Interior, which is hereby charged with all the duties connected with the same, and with all matters pertaining to copyright, in the same manner and to the same extent that the Department of State is now charged with the same; and hereafter all such publications of every nature whatever shall, under present laws and regulations, be left with and kept by him."

It seems that it is necessary to have some person to take charge of these copyrights and these books.

Mr. JOHNSON. I think this appropriation ought to be made. I deem it to be quite necessary for the purpose for which it was originally made. The laws require that books, in order to secure a copyright, and other inventions shall be sent to the Patent Office, and there be arranged. It is important to them that they should be preserved, and be preserved in such a way that access can readily be had to them. It is important, also, to the public, that the public may know whether the parties claiming the benefit of a patent for a discovery is entitled to it or not. One of the evidences of title is the fact that the matter has been properly recorded in the office. The expense attending the keeping of these matters is to be paid out of the Patent Office fund, and that is received from the inventors; it does not come out of the public Treasury. The Patent Office more than supports itself; and as this is for the benefit of the patentees themselves, it would seem to be but just even to them, and right as a matter of policy, that there should be some compensation provided for the preservation of all these matters upon which their own titles to their inventions depend.

Mr. HARLAN. I desire to inquire whether this amount is the salary of the clerk who has charge of these books and records.

Mr. WILLEY. This is not an appropriation, let it be understood; it is to authorize this sum to be paid out of the Patent Office fund. Of course it requires the care and attention of some person, some clerk, to take charge of this copyright matter.

Mr. HARLAN. Is this the clerk's salary provided for in this way?

Mr. WILLEY. I do not know.

Mr. HARLAN. I suppose it to be; and if so, there is hardly a doubt that it ought to be passed.

Mr. MORRILL, of Maine. That is the trouble; it does not appear.

Mr. WILLEY. This is not an appropriation, be it remembered. These books and charts and copyrights must be taken care of by some person; and to enable that to be done the person employed must be paid for. The object of passing this is to avoid making a draft upon the Treasury to do it; that the party who performs it shall be paid out of the Patent Office fund. That is the object of the appropriation.

Mr. MORRILL, of Maine. The difficulty which the committee had still remains. The Senator from Iowa raises the point precisely of embarrassment in the case. It does not purport to be an appropriation for a clerk, and the Senator from West Virginia does not understand that it is to pay the salary of a clerk. If it were so, of course it would say so; but the language of the appropriation itself negatives the idea that it is for a clerk. It is for "expenses." Expenses for what? Not for a clerk; but "expenses of receiving, arranging, and taking care of copyright books, charts, and other copyright matter." What are those expenses? They are not the payment of a clerk. What are the expenses incident to receiving books and other copyright matter? The Government provides a building for them, the Patent Office. Of course there is no expense for rent. The Government provides for that out of the general appropriation. The Government employs all the clerks and pays all the clerks that I know of, that are necessary for this or for any other work. The language of the appropriation itself negatives the idea that it can be for any clerical service.

The difficulty in this case is there is not the slightest speculation or the slightest information about it; and my honorable friend from Iowa, who has had charge of that Department, to the satisfaction of the country, I am very glad to say, does not himself know. He seems to think it is for a clerk; but it is not for a clerk. It is so much money, \$1,800, drawn from the Patent Office fund for a class of expense which it is not possible for me to conceive really can exist there. It may be all right; I am not saying it is not; but the Committee on Appropriations on the part of the House having left it out, and there being nothing but the former appropriation on the subject, and no information whatever about it, the Committee on Appropriations turned it over to the Committee on Patents in the hope that that committee would find some item of expenditure which might be charged to the Patent Office fund.

The Senator from West Virginia thinks that he has stated a justification for this appropriation when he says that it is not an appropriation. The honorable Senator moves it on an appropriation bill, and if it is not an appropriation why should it be moved on this bill? The truth is, Mr. President, it does appropriate so much money, and it appropriates it out of the Treasury of the United States; for this money, although called the Patent Office fund, is really in the Treasury of the United States, and not one dollar of it can be taken out except upon a specific appropriation of this character.

Now, I state to the Senator from West Virginia that there does seem to be here an entire absence of all information whatever which authorizes an appropriation for the expenses of receiving, arranging, and taking care of copyright books. I dare say that they have

books of this character, and charts, and copyright matter. There is no doubt about that; but I submit that the clerical force which has charge of it is paid for by the general appropriation bill; the clerks are appropriated for in the general bill; and there is an utter absence here of any item of expense of that Department which justifies, as I submit, the appropriation of one dollar.

Mr. WILLEY. Mr. President, I took it for granted when the Secretary of the Interior thought it necessary to address a letter to one of the committees of the Senate in regard to this matter, calling the attention of the committee to the fact that the usual appropriation in this behalf had been omitted, that that fact alone was sufficient to justify us in the belief that the appropriation was required, was proper to be made. There are a variety of duties to be performed with these records, maps, charts, and books, a copy of all of which that are copyrighted is to be sent to this Department.

Mr. MORRILL, of Maine. Will the Senator allow me to inquire whether he has information that this money is to be expended for the pay of any clerk there?

Mr. WILLEY. I have no direct information how it is to be expended, or in what manner it is to be expended. I suppose that is a matter wholly under the direction and within the discretion of the Secretary of the Interior. As I read to the Senate just now, it is made the duty of the Secretary of the Interior to see that these books, these maps, these charts, these copyrights are received; that they are filed; that they are indorsed; that they are preserved. The language of the law is:

"And it shall be the duty of the clerk of each district court, at least once in every year, to transmit a certified list of all such records of copyright, including the titles so recorded and the dates of record, and also all the several copies of books or other works deposited in his office according to this act to the Secretary of State, to be preserved in his office."

Now they are required to be sent to the Secretary of the Interior. Now, sir, does it require anybody to inform the Senator from Maine that it will need some person to do this? Why, sir, how many books are copyrighted within a year? How many maps; how many charts; how many of these lists are sent from the district courts that are to be filed, that are to be labeled, that are to be used afterward as matter of evidence, as matter of history? They must necessarily be put in order; they must be filed; they must be preserved. There must be an index to them. It is made the duty of the Secretary of the Interior to do this. Any person must see that it will require at least one clerk, if no more, to discharge these duties.

I did not say that this was not an appropriation, but I did say it was not an ordinary appropriation; it was not a draft to be made upon the Treasury which is raised by taxes; but it is to come out of the Patent Office fund. That, in fact, is the point of this whole amendment. It seeks to relieve the general Treasury from the burden of this duty and wishes to pay the expense of doing it out of the Patent Office fund.

I cannot imagine that the Secretary of the Interior would have taken the pains to send a letter here to the committee, asking them to incorporate in the bill the ordinary appropriation, which, it seems; has been appropriated in the appropriation acts for many years past, without any question or objection—I cannot imagine that he would desire an appropriation to be made, to be placed under his control, unless it was for an honest and fair and necessary purpose. Therefore I did not think it necessary to go and inquire whether these duties were discharged by a clerk or by the Secretary of the Interior himself, or by whom they were discharged. Most unquestionably they must be discharged by some subordinate employé in the Department. Whether he is a clerk, or what you may call him, I do not know.

It is a matter of entire indifference to me whether this amendment is inserted or not. At the request of the Secretary of the Interior

I have laid the facts, as he submitted them to me, before the Senate, and the Senate can vote the amendment in or not; it is all alike to me.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from West Virginia.

The question being put, there were on a division—ayes 16, noes 6; no quorum voting.

Mr. RAMSEY. If the Chair will divide the Senate again I think it will disclose the presence of a quorum.

The PRESIDENT *pro tempore*. If Senators will vote, the question can be disposed of.

The question being again put, the amendment was agreed to; there being, on a division—ayes 20, noes 9.

Mr. WILLEY. I offer the following amendment, to come in at the end of the bill as an additional section:

And be it further enacted, That the Commissioner of Patents be authorized to rent such rooms as may be necessary for the speedy and convenient transaction of the business of the office, and to pay for the same out of the patent fund.

I will send to the desk a letter from the Secretary of the Interior, and also a letter from the acting Commissioner of Patents, to be read. I will send the printed copy of the same letters that were sent to the House of Representatives; it will be more easily read. I have the originals here.

The Chief Clerk read the following letters:

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, D. C., April 17, 1868.

SIR: The acting Commissioner of Patents, in a letter dated the 15th instant, has brought to my notice the present state of the business pending before his office, and the absolute necessity which exists for increased accommodation for the examining and clerical force under his control.

Applications for patents have been and are rapidly increasing; the number received during a given time at the present being quadruple the number received during a like period a few years ago, necessitating increased clerical force and corresponding room.

The business of the Patent Office cannot be properly and successfully transacted without increased accommodations in room, and that cannot be had without renting a building contiguous, if possible, to the Department for the use of the Pension Bureau.

I inclose herewith a copy of the acting Commissioner's letter, from which it is obvious that without increased facilities it will be impossible for his office to meet the just expectations of a class of people whose claims are entitled to exemption from the tedious delays to which such an increasing accumulation of business will inevitably and unavoidably subject them.

I earnestly commend the subject to the favorable consideration of Congress, and respectfully request that authority be given to rent a suitable building for the purposes above indicated, and that adequate appropriation may be made therefor.

I have the honor to be, very respectfully, your obedient servant,

O. H. BROWNING, Secretary.

Hon. SCHUYLER COLFAX, Speaker House of Representatives, Washington, D. C.

PATENT OFFICE,  
WASHINGTON, D. C., April 15, 1868.

SIR: Allow me to earnestly invite your attention to the great necessity which now exists for more rooms for the use of this office, and to invoke your assistance in the premises.

It is a fact that while the business of the office has increased gradually since 1861, until it is now nearly fourfold as great as it was then, the number of rooms has been scarcely increased at all. We have now twenty principal examiners, as many first assistant examiners, and a like number of second assistant examiners; and each principal examiner, with his two assistants, with the addition of one and sometimes two clerks, occupies but one room. In this one room the principal examiner conducts his examination of applications for patents, while both his assistants are engaged upon other applications under his supervision.

The models, drawings, and papers of these applications have to be exposed to view in the same room, while the agents, attorneys, and parties are admitted to make their inquiries, explanations, and arguments. Of course, while an argument is being made by a party or attorney before the principal examiner, both his assistants engaged in other work are more or less disturbed by it. They may be in fact engaged in hearing other arguments at the same time. Confusion and loss of time and efficiency must be the consequence.

Still another flagrant evil is the result of the crowded condition of these rooms, which is, that attorneys and parties do see and hear things which do not concern them, and which therefore they ought not to see or hear, and some of them do and will take a dishonorable advantage of the knowledge thus obtained. Thus innocent parties may be injured and scandal entailed upon the office.

From this showing it would follow that at least two rooms ought to be allowed each principal exam-



iner, his assistants and clerks, their models, drawings, and papers.

But two of our examiners at this time have each a room of only half the ordinary size.

The business of this office is constantly and rapidly increasing, and there is a pressing necessity now that the number of examiners should be increased to at least twenty-five of each grade. This increase has been so enormous that examiners are gradually falling in arrears with their work in spite of the most determined efforts to keep it up. This state of things is greatly injurious to inventors and embarrassing to the office.

To give you an idea of this increase I will state that the reports for January, February, and March, 1868, show that the number of applications received during these months averages over two thousand per month. The number in March alone was two thousand three hundred and fifty-two. If we had a few more rooms now I could, by detailing first assistants to act as principal examiners, arrest the increase of arrears until such time as Congress would pass an act to increase the number of examiners.

Other branches of the service in this office are suffering likewise for the want of space. From ten to fifteen more rooms are needed for them. A single room has been occupied for months by ten clerks.

A large fire-proof building has been erected just across G street from the Patent Office building for the especial object, as I am informed, of letting it to this Department or some of its bureaus.

I am informed that some one or other of the bureaus in this department might be removed wholly or in part to such a building as that above mentioned without injury to the public service, and that all that is wanting to effect an arrangement is the money wherewithal to pay the rent.

Now, if this be the state of the case, I hope you will urge upon Congress the expediency of making an appropriation to pay the rent.

Very respectfully,  
A. M. STOUT,  
Acting Commissioner.

Hon. O. H. BROWNING, Secretary of the Interior.

Mr. WILLEY. These papers were referred to the Committee on Patents, and a sub-committee was appointed to confer personally with the Secretary of the Interior and also to make personal examination of the convenience of the Patent Office and to see whether the representations made by the acting Commissioner there were as stated. Accordingly the Senator from Connecticut [Mr. FERRY] and myself made a personal visit to that establishment, had a conference with the acting Commissioner, and visited several of the rooms. We found in some rooms as many as eight and ten clerks in a room of ordinary size, all working together. We found that it was necessary for two sets of examiners to be going on at the same time in the same room as stated by the acting Commissioner. On conferring with the Secretary of the Interior he said that the business of the Patent Office could not be conveniently carried on without more room; that there were too many clerks for health and comfort and convenience and the expeditious performance of duty in many of the rooms; and that the secrecy that ought to be preserved on the part of the examiners could not be maintained; and it was his decided opinion that authority should be granted to some one to rent additional rooms. An effort was made to see if in some of the other bureaus rooms could not be procured, and we found that it could not be. We supposed that perhaps when the Agricultural Bureau was removed that would make sufficient room; but we found on examination that such would not be the fact. The Secretary of the Interior said it would not be; the acting Commissioner said it would not be; and to show you what efforts were being made among the different bureaus to see if accommodations could be procured, I will send to the desk a letter from the Commissioner of the General Land Office and ask that it be read.

The PRESIDENT *pro tempore*. The letter will be read if there be no objection.

The Chief Clerk read as follows:

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE, April 18, 1868.

SIR: I have the honor to acknowledge your reference of communications from Hon. A. M. Stout, acting Commissioner of Patents, in which he makes application for rooms, No. 56, 58, and 60, in this office, for the exclusive use of the draughtmen's division of the Patent Office.

In reply I have to state that those rooms have been for several years past, and are now used and occupied by this office for the division of public lands; and ten clerks engaged in important correspondence, posting returns from district land offices, &c., have their desks, books, files, and papers therein, amounting to more than sixteen hundred volumes of tract-books and abstracts, and twenty thousand homestead cases with accompanying papers.

Book and file cases surround the walls of the rooms occupying every available space, and the records therein are hourly consulted and referred to by the twenty-nine gentlemen composing the division of public lands.

There are no other rooms in this office in which the records and papers mentioned can be placed, and no other place to which the desks of the clerks engaged therein can be transferred.

This office has need of additional room. In the year 1861 the Patent Office took possession of three rooms, and subsequently the Pension Office has taken two rooms which belonged to this office, making it necessary to remove our clerks, files, and cases to inconvenient and inappropriate quarters, notwithstanding the several acts of Congress relating to the homestead, agricultural college, mining, and other landed interests made it necessary that we should greatly increase the capacity of our file-room, as well as to add to our clerical force.

I have, therefore, the honor to report that it will be impossible to comply in this respect with the request of the honorable acting Commissioner of Patents.

With great respect, your obedient servant,

JOS. S. WILSON,  
Commissioner.

Hon. O. H. BROWNING, Secretary of the Interior.

Mr. WILLEY. I learn that there are thirty or forty clerks now in the Pension Office who are working outside the building and cannot be provided with room in it.

Mr. MORRILL, of Maine. I will suggest an amendment. I see that there is no limitation whatever on the power of the Commissioner as to the number of rooms to be hired, or the amount to be paid. The Senator obviously has examined into this matter with his committee, so that he understands the necessities of the Department; and I suggest that the hirings should be by the Commissioner, with the approval of the Committees on Patents of the Senate and the House of Representatives.

I want to say a word further. I am a little surprised—I have no doubt of the accuracy of the information, and it is only because I was not aware of it that I am surprised—at the condition in which the public work seems to be in the office of the Interior Department. I suppose the building was originally designed for the Patent Office; I understand it was. The Interior Department has the possession of it now, and the Patent Office proper is very much crowded; I have no doubt. I understand that a large number of the clerks of that office are now actually in buildings entirely independent of the Patent Office proper; but I had supposed that when the new building was erected for the accommodation of the Commissioner of Agriculture there would be abundant accommodations for the Interior Office proper and the Patent Office.

Now, on this amendment we have this general proposition to consider: how long it will be found to be for the interests of the Government to hire rooms independent of the Government buildings, and at such rates and under such circumstances and charges as may be imposed upon us; or how soon we shall be obliged to encounter the general proposition of making a building for the Interior Department proper. I desire that this amendment shall be made that for the time being whatever is done in the way of renting rooms shall be subject to the approbation of the joint Committee on Patents. I hope there will be no objection to that.

Mr. POMEROY. Why not say "the approval of the Committee of the Senate?" Why say "joint committee?"

Mr. MORRILL, of Maine. I suppose it should be the joint committee.

Mr. POMEROY. I have had my attention called to the fact that more rooms are needed, and I know myself that there are more clerks in a room than can conveniently attend to their business; but whether that will continue so always I do not know. The business has very much increased the last few years. They are doing a great deal more now than they were during the war; but if the Indian department should move out of the Patent Office building; if the Indian department should be put into the hands of the Freedmen's Bureau, there would then be vacant rooms. If the Freedmen's Bureau of the War Department should have charge of Indian matters, as I contem-

plate that perhaps they may, that would do away with the necessity of occupying the rooms that the Indian department now occupies, and they might be used for the accommodation of the clerks of the Patent Office. The Committee on Indian Affairs, however, withhold that measure, and I do not know what disposition may be made of it. If the Bureau of Refugees, Freedmen, and Abandoned Lands, now organized in the War Department, will take charge of the Indian department there might be room enough for all the officers of the Patent Office in the present building. I do not object to this amendment; but I do not see the necessity of joining two committees to say how much rent shall be paid. I should suppose that one committee in connection with the Commissioner of Patents might decide that; but if the Senator thinks it needs two committees to decide that question, I shall make no objection.

The PRESIDENT *pro tempore*. The Senator from Maine proposes to amend the amendment so as to read:

That the Commissioner of Patents be authorized to rent, under the direction of the Committees on Patents of the Senate and House of Representatives, such rooms as may be necessary for the speedy and convenient transaction of the business of the office, and to pay for the same out of the patent fund.

The amendment to the amendment was adopted.

The amendment, as amended, was agreed to.

Mr. HARLAN. I believe I have the consent of the chairman of the Committee on Appropriations to offer the following amendment to aid in the erection of school-houses in the District, outside of the cities of Washington and Georgetown; it is to come in after line four hundred and eighty-nine:

For the purchase of suitable sites for the erection of additional school-houses and for the maintenance of schools in the county of Washington, outside of the limits of the cities of Washington and Georgetown, \$10,000, the same to be expended under the direction of the levy court of the county of Washington, subject to the approval of the Secretary of the Interior.

Mr. MORRILL, of Maine. I would like to ask the Senator whether the Committee on the District of Columbia have considered that question, and what is the necessity of this appropriation?

Mr. HARLAN. It has been considered by the Committee on the District of Columbia and unanimously approved.

Mr. MORRILL, of Maine. The Senator will recollect probably that within the last five years a similar sum has been appropriated to this object.

Mr. HARLAN. I will state to the Senate the necessity for this. It grows out of the destruction of property outside of the limits of the city during the progress of the war. While property inside of the cities was preserved by the presence of the Army it is known to all of us that they overran the plantations outside; fences were destroyed; orchards were destroyed; buildings were torn down. Although the levy court now levy the ultimate tax which they can levy under the law, it does not enable them to erect enough school-houses to accommodate the children.

Mr. EDMUNDS. Why not change the law and make them levy more?

Mr. HARLAN. We intend to do that; but they now need a little help in order to bring them up. The valuation of property has greatly decreased, and the number of poor people living in that part of the District has been greatly augmented. Very many laborers and people engaged in humble employments have settled outside of the corporate limits of Georgetown and Washington in order to find homes at a cheap rent, who are unable to pay any tax. I do not think any Senator, if he were familiar with the condition of the District, would object to furnishing this slight aid. I believe it is the only bounty we have asked for the District for this session.

The amendment was agreed to.

Mr. HARLAN. I offer this as an additional section:

And be it further enacted, That the city of George-

town, the city of Washington, and the levy court of the county of Washington, District of Columbia, be, and they are hereby, authorized to levy and collect a special tax on the taxable property within their respective jurisdictions, for the erection of school-houses and the support of public schools, not exceeding fifty cents on each \$100 for any one year, to be assessed and collected as other taxes.

Mr. MORRILL, of Maine. To what does that apply?

Mr. HARLAN. It increases the maximum amount of tax that may be assessed and collected by the proper authorities, in pursuance of the suggestion of the Senator from Vermont. In the District outside the cities the maximum is now twenty-five cents on the \$100 of assessable property.

Mr. MORRILL, of Maine. To be consistent, I suppose I ought to suggest that this does not seem to be exactly germane to this bill.

Mr. HARLAN. I hope the Senator will not make that objection. I am very anxious that this provision should go through, and I think it is important for the welfare of the citizens of the District that it should be passed. It might fail in any other form.

The amendment was agreed to.

Mr. ANTHONY. I offer in behalf of my colleague, [Mr. SPRAGUE,] who has been called away by pressing business, an amendment which has the sanction of the Committee on Commerce, and which the Committee on Appropriations, I believe, have agreed to, to come in on page 9, after line one hundred and eighty-nine:

For a life-boat to be stationed at the south end of Narragansett beach, Rhode Island, \$2,000.

It is important for the safety of human life.

Mr. MORRILL, of Maine. The Committee on Commerce recommend it?

Mr. ANTHONY. Yes, sir.

The amendment was agreed to.

Mr. ANTHONY. I am also requested by my colleague to offer an amendment of which he gave notice to the Committee on Appropriations, and which has the sanction, I believe, of the Committee on Manufactures. Some time ago I had the honor to offer a proposition, which was accepted by the Senate, raising a commission to make some experiments in regard to the cultivation and cottonization of flax. The result of those experiments, although they did not lead to any process by which flax could be manufactured upon cotton machinery, has been exceedingly satisfactory. Flax has been used for a great many purposes for which it was not used before. It is used for admixture with wool in place of cotton to very great advantage, making a better fabric and a better mixture and better colors. The appropriation for that purpose, which was \$20,000, was not exhausted. Only \$9,500 were used, and the balance has lapsed into the Treasury under the general law. The amendment which I now offer provides that the balance of that appropriation, \$10,500, may be expended under the direction of the Commissioner of Agriculture to test the cultivation and preparation of madder-root in this country. We have the climate, we have the soil, we have every facility for the preparation of this important commodity, which now takes a great deal of money out of the country, except that labor is too high here, and we only require some labor-saving invention, such as American ingenuity has applied to almost every other process of manufacture, and it will enable us to save a large amount of money that we now lose. The amendment is to add to the appropriations in the bill:

For experiments in the cultivation and preparation of the madder-root, \$10,500, to be expended under the direction of the Commissioner of Agriculture.

Mr. COLE. I would like to know, in the first place, if this has the indorsement of any committee; and if so, what committee.

Mr. ANTHONY. The sanction of the Committee on Manufactures, and has been before the Committee on Appropriations.

Mr. COLE. I happen to be a member of the Committee on Manufactures, and there has been no meeting of that committee this session. This is a proposition to experiment

in reference to an agricultural product. I do not know any good reason why there should be an appropriation by the General Government for the purpose of carrying on a mere experiment of this sort.

Mr. ANTHONY. I will correct myself; it was the Committee on Agriculture. I thought it was the Committee on Manufactures. The chairman of the Committee on Agriculture is here.

Mr. COLE. Then, as to the merits of the measure, I understand the Senator from Rhode Island to say that his particular part of the Union is very well adapted to this product. It seems to me, if that is the case, it should be carried on without any appropriation from the General Government. I do not see that it has any more merit than any other proposition for a mere experiment. I do not think, indeed, it has half as much merit as an experiment as some propositions that have been offered to this bill and have not been received.

Mr. CAMERON. Perhaps I can make an explanation that will meet the views of the Senator from California. Some years ago there was an appropriation made of \$20,000 to make experiments in the culture of linen flax, and experiments upon machinery for using flax so as to make it more easily manufactured, to make it more easily produced into cloth, as cotton is. Experiments were made until they expended \$9,500 of the \$20,000, and the balance is, or ought to be, in the Treasury. There is an unexpended balance of \$10,500 of that appropriation; and now it is proposed, and I think very wisely, that the balance of that appropriation shall be used, so far as it may be necessary, to bring the madder-root into proper cultivation in this country.

Madder is a production of India. For long years it was brought entirely from India into France, into Holland, and into England. It is used, as everybody knows, very largely as a dye-stuff in this country. In Holland it is produced upon the dykes and other waste lands. In France, down upon the Rhone, the river which empties into the Mediterranean at Marseilles, all the swamp lands are now occupied in the production of the madder-root; and so valuable has it been to that country that a monument costing hundreds of thousands of dollars has been erected to the laboring man who first introduced it into that country. On the dykes of Holland, where they can produce nothing else, they produce the madder-root. It is believed that in our southern country here, with a climate as favorable as the valley of the Rhone, and a soil part of it as useless and yet as productive as the dykes of Holland, this root can be produced in any quantity. I am not able to give the proper statistics, but some millions of dollars, five or six millions, I think, are expended annually in bringing this dye-stuff to our country. If we can, by an expenditure of five or ten million dollars in experiments, make this one of the products of our own country, we shall be doing a benefit to the country. It has been well said that whoever causes two blades of grass to grow where only one grew before is a public benefactor.

Mr. MORRILL, of Maine. Will the Senator allow me to ask him what this experiment contemplates; whether it is an experiment under the personal supervision of the Commissioner of Agriculture, and on the public grounds?

Mr. CAMERON. No; the expenditure is to be under the direction of the Commissioner of Agriculture in the country.

Mr. MORRILL, of Maine. What particular section of the country is supposed to be adapted to this?

Mr. CAMERON. All the southern States; Virginia and Maryland, and especially North Carolina. It is believed that with their climate on their soil madder can be raised without any difficulty; but some money must be expended so as to induce people to go into the cultivation. The suggestion is made by the Senator from Rhode Island, not now present, [Mr. SPRAGUE,] who is a large manufacturer as we

all know, and in whose intelligence we all have confidence. If he were here he could give the statistics, which would, I am sure, satisfy the Senate of the propriety of this. I only know in general terms that it would be a great benefit to the country to make this one of our annual products, and I trust the appropriation will be made.

Mr. ANTHONY. I will ask to have a letter read from the Commissioner of Agriculture on this subject, and I will say that I think my friend from California does not show his usual generosity, after we have been voting all sorts of things for his section of country, to object to this little appropriation of an unexpended balance we have saved out of previous appropriations.

Mr. COLE. There is no telling where this will end. If we make this appropriation it may result in putting upon us the necessity of sending this madder-root all over the United States. I do not know where it is to end. If it were to end with this appropriation it might probably be less obnoxious.

Mr. ANTHONY. It is an unexpended appropriation, which has lapsed into the Treasury, that was made for experiments in flax two or three years ago. This is only to apply the balance of it.

Mr. COLE. It is a balance of an appropriation which was made for another and very distinct purpose.

Mr. ANTHONY. Certainly.

Mr. COLE. I do not see why it is different from an appropriation out and out from the Treasury. The money has gone into the Treasury, and it seems to me it is just like voting a new appropriation of \$10,500.

Mr. CAMERON. Agriculture in this country has been an experiment from the first settlement of the country, and is still an experiment. We are every year going on to improve. I suppose all the men who are past forty years of age remember that sixty years ago the red clover was not in this country until it was brought from abroad, and nothing has given so much benefit to the agriculture of the country as the introduction of the red clover. Timothy, which makes the great amount of the hay of all the northern States, was brought into this country not more than seventy years ago.

Mr. FESSENDEN. I ask my friend if they were brought here by an appropriation made out of the Treasury by the General Government?

Mr. CAMERON. That is hardly a fair question. Certainly they were not, because seventy years ago the Government's whole revenue was not more than five or six millions a year, and its expenditures were certainly not more than that; but we have become stronger and able to protect interests which have benefited the country every year since then. I do not think the Senator from Maine will vote against this appropriation when we have been doing so much for his fisheries and forests up there.

Mr. FESSENDEN. I only wanted to know whether private interests had not done some of these things?

Mr. CAMERON. Private enterprise in the State of Maine was very much stimulated by appropriations of the General Government in favor of the fisheries, and so I could tell you of other things.

The PRESIDENT *pro tempore*. The letter called for by the Senator from Rhode Island will be read.

The Chief Clerk read as follows:

DEPARTMENT OF AGRICULTURE,  
WASHINGTON, June 24, 1883.

SIR: In answer to yours of the 23d instant relative to the unexpended appropriation for cottonizing flax, and to the feasibility of madder production, I have the honor to observe that the unexpended balance, after the committee's investigations, was \$10,500, which has been covered in the Treasury, and therefore cannot be reached except by an appropriation for the specific purpose.

I would respectfully suggest the importance of a practical experiment, conducted under Government auspices, for the discovery of labor-saving processes of culture, and more economical modes of prepara-

tion of the root for market, points in which are presented the only difficulties which confront the business in this country. Such test is not likely to be undertaken voluntarily by individuals, and can be accomplished by the Government at a slight expense.

Very respectfully, your obedient servant,  
HORACE CAPRON,  
Commissioner.

Hon. WILLIAM SPRAGUE, *United States Senate.*

The amendment was agreed to.

Mr. ANTHONY. I have an amendment to offer now which does not take any money out of the Treasury. I am instructed by the Committee on Printing to offer this amendment as an additional section:

*And be it further enacted,* That all laws and parts of laws that regulate the price of labor in the Government Printing Office be, and the same are hereby, repealed; and it shall be the duty of the Congressional Printer to contract with the persons in that employment at such prices as are for the interest of the Government, and are just to those employed.

There are several laws and regulations that have been inserted from time to time in appropriation bills which regulate the price of labor in the Government Printing Office and create a great deal of embarrassment to the Superintendent in carrying it on. This amendment repeals those laws, and allows him to make contracts just the same as all other heads of Departments do with persons who do work for them.

Mr. WILLIAMS. Does this repeal the eight-hour law?

Mr. ANTHONY. No; it does not affect that.

Mr. FESSENDEN. Do those laws do any more than provide that he shall pay the same price that is paid for the same kind of work outside?

Mr. ANTHONY. There is a law compelling the Congressional Printer to pay the same prices that are paid for similar work in this city. There is a Typographical Society here, composed exclusively of those who are employed, not the employers, and they regulate the price, and a majority of the members of this society are employed in the Government Printing Office. The employment of printers by the Government is so large that they make a majority of all the printers in this city. This society, of which they form a majority, meets and regulates the price, and that becomes the price which private employers pay; and then they carry to the Superintendent a certified copy of the resolution they have passed, and he has to pay the same price under the law, the result of which is that frequently he has to pay twenty or thirty per cent. more than is paid elsewhere. And not only that, but he has to submit to the dictation of this society as to how many apprentices he shall have. The result is to place the whole Government Printing Office under the control of that society, a majority of which is composed of those who are working in the Government Printing Office.

Mr. SHERMAN. I inquire whether, since the eight-hour law has passed, they have not worked under that law and yet received the same wages that they did for ten hours labor?

Mr. ANTHONY. That will be so, of course.

Mr. SHERMAN. Is it not so now?

Mr. ANTHONY. I did not know that that bill had become a law yet; but whenever it becomes a law of course they will receive the same wages for working eight hours that other printers receive for working ten hours. But, Mr. President, this does not interfere with the eight-hour law. I would not have the temerity to stand up against the just principles of political economy that regulate the hours of labor between employers and employed. I should be afraid of my friend from Indiana [Mr. HENDRICKS] if I did. But I think the prices may be left to the parties hiring and the parties hired. I desire that all those employed in the Government Printing Office in this city should have the highest wages that are paid for similar services anywhere; but when you pay them higher wages than are paid elsewhere the result is that it becomes a favor to get into the Government Printing Office, and political influence is constantly used to put in political men instead of good printers.

Mr. MORRILL, of Vermont. I desire to ask the chairman of the Committee on Printing a question, and that is whether the Superintendent of Public Printing has not informed him that since the passage of the eight-hour law he will be compelled to ask for twenty per cent. additional appropriation unless this measure shall pass?

Mr. ANTHONY. I suppose he will have to ask for an additional appropriation anyhow, because even after this proposition passes he is compelled, under the law of Congress, to pay for eight hours' work the same that other people pay for ten hours' work.

Mr. FESSENDEN. The Senator must be mistaken about that, because it was demonstrated the other day by Senators that they would do more work in eight hours than they possibly could do in ten, and have time for great intellectual improvement besides. [Laughter.]

Mr. MORRILL, of Vermont. I understand that the Commissioner of Agriculture, who has contracts for labor, will be compelled to ask for an addition of twenty per cent. to his appropriations.

The amendment was agreed to.

Mr. ANTHONY. There was an amendment offered by the Senator from New Hampshire [Mr. CRAGIN] requiring that any alterations in the Capitol should be done under the direction of the architect of the Capitol extension. I have made two or three attempts since I have been here to save those beautiful works of art, the bronze doors, among the most beautiful things of the kind in existence. Those doors are now placed in the very position that would have been selected if the object had been to place them where they could be least seen, least appreciated, most injured, and to the greatest inconvenience of passers-by. They are in a narrow passage. They face inward instead of the valves being turned outward, as they should be, so as to be exhibited. They collect a crowd around there which impedes the passage from one House to the other; and the fine points of the bronze are continually abraded by persons passing through with umbrellas and canes; and a number of small pieces, such as swords and caps and things that are not very tightly fastened, have been taken off and carried away. It may be said that these doors belong to that part of the Capitol which is under the charge of the House of Representatives, but the Speaker of the House desires that what I propose shall be done; and I did at the last session have the approbation of the chairman of the Committee on Public Buildings to it; but a simple resolution passed by one House can hardly be passed by the other; but if the amendment which I now offer be adopted on this bill I think it will save these doors.

Mr. MORRILL, of Maine. I beg the Senator not to put it on this bill.

Mr. ANTHONY. Allow the amendment to be read. It is perfectly germane to an amendment that has already been adopted. In fact, this amendment is to come in after that.

The PRESIDENT *pro tempore*. The amendment will be read.

The Chief Clerk read the amendment, which was to insert after the amendment adopted on the motion of Mr. CRAGIN—

And the architect of the Capitol extension, under the direction of the Committee on Public Buildings and Grounds of the two Houses of Congress, is hereby authorized and directed to remove the bronze doors in the southern wing of the Capitol temporarily to some position where they will be safe from injury.

Mr. MORRILL, of Maine. I had hoped after the Senator from Ohio [Mr. SHERMAN] this morning withdrew his general proposition for a funding system as an amendment to this bill, the Senate would take notice of that fact, and would not think it proper to make this an omnibus bill for all sorts of legislation. It must be an omnibus bill to some extent for all sorts of appropriations; but I submit that neither now, nor at any time hereafter, ought it to be regarded as a favorable opportunity to put on every species of legislation that can be conceived of from all the committees, to be precipitated upon the other House.

Mr. ANTHONY. Will my friend allow me to remind him that he assented to an amendment to which this is precisely germane? This is only a continuation of the same amendment.

Mr. MORRILL, of Maine. I then made the remark with a loud voice, in the hearing and presence of the honorable Senator from Rhode Island, that I thought it was not germane and ought not to be insisted upon; but I had not the slightest idea that he was going to make that a precedent for an application of this kind. I do not know that I am going to object, for I have not the slightest idea that it would be of any use; but I think hereafter I shall make a most stout resistance, if I have the honor to present another appropriation bill, to everything of this description.

Mr. ANTHONY. I will join the Senator in that.

Mr. MORRILL, of Maine. With that pledge I will sit down.

The amendment was agreed to.

Mr. PATTERSON, of New Hampshire. I am authorized by the Committee on Foreign Relations to offer this amendment as a new section:

*And be it further enacted,* That for the purpose of executing the fourth article of the treaty of Washington, concluded on the 9th day of August, 1842, the Secretary of the Treasury is hereby authorized and directed to pay to the State of Maine for ninety-one thousand one hundred and twenty-five acres of land assigned by said State to settlers under said article, a sum equal to \$1.25 per acre; and to the Commonwealth of Massachusetts for twenty-six thousand one hundred and fifty acres of land a sum equal to \$1.25 per acre: *Provided,* Before said sums are paid the States of Maine and Massachusetts shall agree with the United States that the settlers upon their public lands in the late disputed territory in Maine entitled to be quieted in their possessions, as ascertained by commissions heretofore instituted by said States, shall have been or shall be quieted by a release of the title of the said States.

Mr. MORRILL, of Maine. I must ask the Senator from New Hampshire where that comes from?

Mr. PATTERSON, of New Hampshire. It is not a new subject before the Senate. The amendment is reported from the Committee on Foreign Relations. I presume that answers the question of the Senator from Maine.

Mr. SHERMAN. I think this is an "old stager," and my friend from New Hampshire ought to tell us a little about it. I examined this claim some years ago, if it is the same that I suppose it to be. It is not specially my duty to object, nor am I sufficiently aware of the facts to make any opposition; but I think the Senate ought to understand that this involves between one and two hundred thousand dollars, I do not know precisely how much.

Mr. PATTERSON, of New Hampshire. One hundred and forty-six thousand dollars.

Mr. SHERMAN. I am not now sufficiently familiar with the history of the case to resist the appropriation, but I know it has been often considered heretofore and been rejected.

Mr. PATTERSON, of New Hampshire. This is not precisely the same question which has been before the Senate on former occasions. The bills which have been introduced into the Senate heretofore involved four claims: first, a claim for lands assigned to settlers under the fourth article of the treaty of Washington; second, a claim for the loss of timber upon the territory of Maine during the suspension of State jurisdiction between 1832 and 1839; third, a claim for the correction of an error made at the Treasury in computing the interest on the expenditures made by the State of Maine in defending her territory; and, fourth, a claim for interest upon advances made by Massachusetts in the war of 1812-15. This amendment drops all these claims except the first.

Under the fourth article of the treaty of Washington it was provided that those parties who had come in from the province of New Brunswick and settled upon the territory of Maine, either by grants from the Government of New Brunswick or without any grant simply came in and squatted upon the territory, should be quieted in their possession, and this by the appropriate virtue of the treaty-making power,



but the fee-simple of the territory was in Maine and Massachusetts. Maine and Massachusetts now come forward and simply claim that the United States Government, which took from those two States their territory and gave it to these private parties, shall pay them for the land thus taken from them; and the Congress of the United States has already adjudicated upon this question. There have been, I will say, seven favorable reports made to the House of Representatives and the Senate on this subject. One I remember was made by the present President of the Senate; one by the Senator from Massachusetts, [Mr. SUMNER]; one by the Senator from Wisconsin, [Mr. JOOLITTLE].

Mr. SUMNER. I would remind my friend that the report of the Senator from Wisconsin was a very elaborate document, going into the whole subject.

Mr. PATTERSON, of New Hampshire. There was also one from Mr. Clark, my predecessor. All these reports were favorable. I had this matter under consideration in the House of Representatives, investigated it thoroughly, and am entirely convinced that it is an honest claim and should be allowed.

Mr. FRELINGHUYSEN. I wish to ask the Senator whether it was not provided by that treaty that Massachusetts and Maine should receive \$300,000? What was that for?

Mr. PATTERSON, of New Hampshire. I will say to the Senator from New Jersey that the fourth article of the treaty was not in the first draft of the treaty. It was put in at the suggestion of the commissioners of Massachusetts and Maine; but the \$300,000 clause was in the fifth article of the treaty before the fourth article of the treaty was inserted, and it was simply to pay Massachusetts and Maine for three million acres of land which they lost by the treaty, and which went to New Brunswick. I will say, furthermore, that the United States did not lose that amount of \$300,000, for New Hampshire, Vermont, and New York, all three, received large additions to their territory by this treaty. The United States also received over four million acres of mineral territory between Lake Superior and the Lake of the Woods—between Pégion river on the north and Fond du Lac and St. Louis river on the south—a tract of land vastly more valuable than all that Maine lost; so that the United States was a gainer, though it paid Maine and Massachusetts \$300,000 for assenting to the treaty.

I will say, also, that in 1843, the year after this treaty was ratified, Maine and Massachusetts appointed commissioners to make a survey of the lands possessed by these parties who had come in from New Brunswick, and they came to the United States Treasury and asked that those commissioners should be paid for their services, and they were so paid out of the Treasury of the United States, and thereby the United States Government acknowledged the right of Maine and Massachusetts to this indemnity.

Furthermore, there were two grants of townships, the grant of Eaton and the grant of Plymouth. The parties who held those grants came to Congress and asked that Congress should pay them for the land which individuals had taken under the fourth article of the treaty of Washington, and Congress allowed over forty thousand dollars to the holders of those grants of Eaton and Plymouth.

Again, on the 2d of February, 1802, the agents of the Commonwealth of Massachusetts conveyed to the trustees of Williams College a township of land lying on the conventional line established by the treaty of Washington as the boundary between Maine and New Brunswick. In 1832 the agent of the trustees of the college conveyed the land to one Little. On the 12th of August, 1841, George Watson obtained a grant of a portion of this land from the province of New Brunswick, and was in possession of the premises at the time the treaty was ratified. Little brought a suit in the supreme court of Maine for the recovery of his land. The court decided that as a treaty was the

supreme law it overrode a title derived from the State, and that the tenant could hold his land under the fourth article of said treaty. The court closes its decision in these words: "The demandant must seek compensation for the loss of his lands from the justice of his country."

And Mr. Little came here and was paid for that land. Now, it seems to me a perfectly clear case; it seems to me that Congress has foreclosed this case; that it has already adjudicated this claim.

Mr. WILLIAMS. I ask for information; what did Maine and Massachusetts do?

Mr. PATTERSON, of New Hampshire. They lost the land which was taken from them by parties who came over from New Brunswick under a grant from the government of New Brunswick, or came over and squatted without any grant whatever upon lands that belonged to Maine and Massachusetts during the time this question was in controversy.

Mr. WILLIAMS. And by treaty that land was ceded.

Mr. PATTERSON, of New Hampshire. By force of the treaty it went to the parties who were upon the land.

Mr. FESSENDEN. I can explain the whole matter just as it stands in a very few words. This was a disputed line. We were in constant collision on the border there with Great Britain as to where the true line was. The fact as to where the line was was finally pretty well understood between the parties. Great Britain, however, desired to get a portion of the territory, and her great object was to have facilities for making a railroad between her provinces. She sent over a minister plenipotentiary to settle the question. The contracting powers agreed finally, or tried to agree, that a particular line should be adopted, which was confessedly within the limits of the State of Maine. That was done. A treaty was made with Great Britain called the treaty of Washington. The result of that treaty was to cut off about three million acres belonging to the State of Maine. It also embraced the running of a new line, or rather an agreement that the line claimed by New Hampshire, Vermont, and New York, as their northern boundary, which had always been disputed by Great Britain, should be conceded to be the true line. By that means the Government got an important military position in New York, Rouse's Point, which was unquestionably on British territory; and a little strip of territory, which was also in dispute, was added to New Hampshire and Vermont. On the other hand Great Britain got from Maine about three million acres. For that we received \$300,000, specified I think in the fifth article.

Mr. CONNESS. That is as much as the Indians get for their lands.

Mr. FESSENDEN. We do not trouble ourselves about the price, that was settled; but another article was that by which it was agreed between the high contracting parties, Great Britain and the United States, that the settlers on the public lands in the State of Maine should be quieted in their titles. Lands had been settled by parties from New Brunswick. The result was to take a very considerable number of acres in addition—I suppose it is correctly specified in the amendment—out of the lands belonging to the State of Maine; and they were very fine lands, too, up there in that section of country, perhaps some of the richest lands in Maine, and transfer them to these settlers, who had no title whatever under anybody. They were taken by the agreement between the parties, and our supreme court held that that being a treaty was properly binding upon us. As that was taken from Maine by the Government of the United States, the claim is that it shall be paid for at the rate of \$1 25 an acre, which is the rate paid for public lands. Lands have been sold in that region within a very short period for from two to eight dollars an acre, never less than two dollars. Upon this claim of the State of Maine there have been seven distinct

reports by committees of Congress, four in the Senate and three in the House of Representatives, all favorable, all saying that it was property taken from Maine for the benefit of the Government of the United States, which the United States should pay for. That is the simple case.

Mr. SHERMAN. I raise an objection to this amendment, on the ground that it provides for a private claim within the meaning of the thirtieth rule. It is the same point that has been made before, and on which, according to my recollection, this claim has been previously excluded. The latter clause of the thirtieth rule says:

"No amendment shall be received whose object is to provide for a private claim unless it be to carry out the provisions of an existing law or treaty stipulation."

There are two answers that have been heretofore made to this point: first, that a claim by a State is not a private claim; but that has never been held. It has been held in many cases that a claim by a State as well as by an individual, is a private claim. A private claim is where money is claimed to be due to an individual or a State or a corporation, for past services or for past debts. The second answer has been that it is to carry out a treaty stipulation; but it cannot be saved under that clause, because the fourth article of the treaty referred to expressly, on its face, shows that there was no stipulation for the payment of the money. The Chair will have to look at the treaty in order to determine the question. There was no stipulation in the treaty to pay any sum of money for these lands, or anything of the kind.

The general question arising on the Ashburton treaty I suppose is known. We made a new boundary line, settled a long dispute in which it is claimed that the Government of the United States surrendered up a large amount of land to New Brunswick, but we got compensation in other parts of the country. At any rate it was a settlement by the nation of a disputed boundary line, Great Britain claiming for New Brunswick considerably more than we surrendered, according to my recollection; but I cannot speak positively on that point. The question now is whether this is a claim provided for by a treaty. I say it is not, and therefore it does not come within the rule. The fourth article of the treaty referred to reads:

"All grants of land made by either party, within the limits of the territory which by this treaty falls within the dominions of the other party, shall be held valid, ratified, and confirmed, to the persons in possession under such grants, to the same extent as if such territory had by this treaty fallen within the dominions of the party by whom such grants were made."

It seems the State of Maine had granted land beyond the prescribed boundary to its citizens in New Brunswick, and those grants in New Brunswick were confirmed by Great Britain, while Great Britain had granted lands within the conceded boundary which Maine also confirmed. The two parties confirmed the grants made by each other; and the article further provided:

"And all equitable possessory claims, arising from a possession and improvement of any lot or parcel of land by the person actually in possession, or by those under whom such person claims, for more than six years before the date of this treaty, shall, in like manner, be deemed valid, and be confirmed and quieted by a release to the person entitled thereto, of the title to such lot or parcel of land so described, as best to include the improvements made thereon; and in all other respects the two contracting parties agree to deal upon the most liberal principles of equity with the settlers actually dwelling upon the territory falling to them, respectively, which has heretofore been in dispute between them."

It is manifest that upon this language no claim could be made by any one. If grants had been made in the State of Maine by Great Britain, and the settlers had actually taken possession of the lands granted and occupied them for six years, the grants were approved, ratified, and confirmed, and the Government of the United States guaranteed to treat those settlers under British grants in good faith as it would citizens of the State of Maine; and

*so vice versa* grants had been made by the State of Maine in New Brunswick, citizens of Maine had settled in New Brunswick, and Great Britain guaranteed and recognized and made valid their possessory rights if they had been in possession six years; but no claim, either by the State of Maine or by the State of Massachusetts, or by any individual, could be made against the Government of the United States under this article. Consequently this claim of \$146,000 does not arise out of the execution of a treaty. There is no treaty stipulation in this article that the United States shall pay either to Great Britain or to the State of Maine, or to the settlers upon these lands, or to anybody else, any sum of money, or make any compensation to them directly or indirectly. I am not sufficiently acquainted with the equity of this claim to know much about it, but I know very well that it is a claim which has been here many years. I have a distinct recollection of it myself since 1860. I think it ought to be sent to the Court of Claims, or to the Committee on Claims, and if they shall report in favor of it I shall not have the slightest objection to providing for it in the regular way; but it seems to me it is not right to put a disputed private claim on an appropriation bill.

The PRESIDENT *pro tempore*. This is a question of a good deal of importance, and the Chair will submit the decision of it to the Senate.

Mr. FESSENDEN. The point taken is rather a narrow one; and a similar amendment has been decided several times by the Chair to be in order. It was repeatedly so decided in regard to the claim that was made by individuals under the same clause of the treaty. There is no specific provision in the treaty itself that these lands shall be paid for by the Government; but the language of the rule is general, "to carry out a treaty stipulation." The treaty stipulation provides for taking lands by the Government of the United States belonging to the State of Maine, and conveying them to somebody else without the assent of the State of Maine, and valuable lands. That is done by treaty. The United States take them and convey them to others. Now, is it to be understood that when that was the treaty stipulation, the Government meant to take lands to which they had no title themselves from the owners and transfer those lands to somebody else without paying for them? because that is the idea of the Senator. Because it is not specifically said in this article of the treaty that these lands shall be paid for by the United States, he argues that it is to be presumed that they were not to be paid for, but were to be taken by the United States without the assent of the owners and transferred to somebody else.

As I stated, it has been repeatedly ruled by the Chair that this did specifically come within the provision of the rule, the language "to carry out a treaty stipulation;" and it has been also so ruled by the Senate within my recollection. Once it was ruled the other way, and I think properly ruled the other way on the reason given for it; and that was that it was brought up after twelve o'clock at night and offered on an appropriation bill on the last night of the session, when no explanation whatever could be given of it and there was no time for debate. That was the point made, and on that occasion the Senate refused to hear it on the point of order made. Congress never has decided this claim, but it has decided the principle in two other specific cases. In the case of Mr. Little, where I presented the petition myself, and in the case of the owners of the Eaton and Plymouth grants, so called, Congress gave indemnity to individuals for land taken precisely in the same way. Then comes the question whether they will make the same indemnity to the State, being the owners of the land, that they made to the individual; and it stands precisely upon the same principle. There is not the slightest difference in the world.

Now, we bring ourselves within the first branch of the rule; we have the recommendation of the Committee on Foreign Relations which has settled this question, I believe, three times, and to which it was referred at this very session. It has always gone to the Committee on Foreign Relations in the Senate and to the Committee on Foreign Affairs in the House of Representatives. It was deemed proper to go to that committee because it was under the provisions of a treaty, and all the reports have been made from the Committee on Foreign Affairs in the House and the Committee on Foreign Relations of the Senate. Now, shall it be said that this is not to carry out the provisions of a treaty simply because the treaty does not say in so many words that this land shall be paid for, and merely says that it shall be taken and appropriated? That is hanging on a very slender thread and making a point so nice that nobody, it seems to me, except my very astute friend from Ohio could possibly see it. I am perfectly willing to leave the question to the Senate, and I hope they will not get rid of the equity of the claim by ruling it out on a point of order. If they say we are not to be paid for the land thus taken it is another question.

Mr. SUMNER. The Senator from Ohio, as I understood his argument, did not make any serious objection to the equity of this case. I understood him to found his objection, so far as he ventured upon any, upon a technicality, upon a mere point of form. He says that the proposition as now moved is not in order. Very well; the Senator from Maine who has just taken his seat has answered him completely on one point. He has shown that this is a case arising under a treaty. Who can doubt it? You cannot adopt the contrary conclusion without going into a technicality which it seems to me is entirely out of place on this occasion. Clearly this case does arise under a treaty. But for the treaty it never would arise; but for the treaty it could not have occurred; but for the treaty it could not find a place before Congress. It therefore is ultra technical to say that it does not arise under the provisions of a treaty simply because the terms of that treaty have not in so many words specifically anticipated this precise case. I say that it does arise under the provision of a treaty.

But then there is another objection of the Senator from Ohio which I wish to meet. The Senator from Ohio treats this as a private claim. I object to that point. It is the claim of a State, and I insist that the claim of a State cannot be treated as a private claim. Why, sir, according to the most familiar usage of this body resolutions from the Legislature of a State are treated very differently from those of a public body or from the petition of individuals, however important or eminent the individuals may be. A State in this Chamber has a distinctive character; a State is part of the Government of this Republic; and the claim of a State cannot be excluded from an appropriation bill on any mere technicality as a private claim. It is not a private claim; it is the claim of a State, to be recognized as such, having a distinctive character, and entitled always to respect in this Chamber. I object, therefore, to the point of the Senator from Ohio. I say that this, in the first place, is not a private claim; and in the next place, assuming that it is a private claim, I say that it comes under the provisions of a treaty; and here I stop. I will not go into the equity.

Mr. PATTERSON, of New Hampshire. The Senator from Ohio says that the British Government quieted the titles of those who had gone over from Maine and settled in the territory of New Brunswick, and that the United States agreed to quiet the claims of those who had come over from New Brunswick and settled upon the territory of Maine. That is not quite correct. It will be remembered by Senators that the boundary between Maine and New Brunswick and Canada was the old boundary of Quebec settled in 1763. After the revolutionary war we simply affirmed in 1783 the

boundary of Quebec. There was no dispute as to the boundary until after the war of 1812, when England found it necessary to push her troops up from Halifax to Quebec. English statesmen saw then the advantage of a military road over this line, which belonged to the State of Maine, and when our commissioners were negotiating the treaty of Ghent the British Government made an application to those commissioners for the purchase of this territory; that is, for "such a variation of the line of frontier as may secure a direct communication between Quebec and Halifax." The commissioners replied "that they have no authority to cede any part of the State of Massachusetts even for what the British Government might consider a fair equivalent."

So the matter went on. In all the negotiations it was assumed by the officers of the United States Government, as well as by the diplomats of Great Britain, that neither party had the right to consummate a treaty without the assent of Massachusetts and Maine; and Mr. Webster was the first man who ever intimated that the United States Government by the treaty-making power could cede away any portion of the territory of a State without the assent of that State; and even he thought it so doubtful a case that he asked to have commissioners appointed by Massachusetts and Maine in order to secure their assent to the treaty; and it was only after those commissioners had given their assent to the treaty that the treaty was consummated.

There were seven million acres of land at issue between Great Britain and the United States. The State of Maine lost three million acres, which were given over to New Brunswick, which she did not possess before, so that if people from Maine had gone over and settled on that territory New Brunswick did not lose anything, but she gained three million acres of land, and settlers, too. On the other hand, the State of Maine lost the land which these squatters from New Brunswick had taken away from the States of Maine and Massachusetts without one cent of remuneration. So the cases are not parallel at all.

Furthermore, the commissioners from Massachusetts and Maine, who were the leading men of that day in those two States, never would give their assent to the treaty until this fourth article had been put into the treaty; and I can give you their opinion as to whether Massachusetts and Maine should be indemnified for this lost land. First, I will give you the opinion of Governor Kent, one of the leading men of Maine. He says:

"In reference to the stipulation in the fifth article for the payment to Maine and Massachusetts of the sum of \$300,000, I say, as one of the commissioners of Maine, that I considered that sum as paid for the surrender on the part of the two States of their claim to the land which, by the treaty, fell within the British dominion; and I never regarded it or thought of it as being a compensation for the land, the title to which was to be confirmed or granted under the fourth article."

"I feel impelled to say that I thought at the time, and still think, that Maine is entitled to great consideration on the part of the Union and her sister States for her readiness to sacrifice so much of what she rightly deemed her own for the sake of settling a long-vexed question. It is difficult for any one who was not familiar with the controversy, and with the sensitive and outraged feelings of her citizens, and the deep convictions of their rights, to appreciate the extent of those sacrifices of feelings and property, but having determined to yield that assent, she has faithfully and promptly performed her part of the contract, and assisted the United States to fulfill its obligations."

"It will be observed that the fourth article does not provide that these grants and confirmations shall be made by the States of Maine and Massachusetts, but simply that the United States shall cause them to be confirmed, &c. Now, it was well known that all the land would belong to Maine under the general law of eminent domain, or to Maine and Massachusetts under their special compact. If it had been understood that these States were to make the grants at their own expense, and without any claim for remuneration, it would have been so expressed; and the assent which was given by the commissioners of the two States would have bound them to such a distinct provision."

"Again, the States named could at any time grant or confirm titles to this land without consulting the United States. Why, then, was such a provision inserted in the treaty, so far as the States were concerned, if no obligation was assumed by the United States? They could have made the sacrifice of all

this land if they had thought fit without compensation, without any treaty stipulation."

And Mr. Abbott Lawrence, who is well known to members of the Senate, our former minister to the Court of St. James, also gave his assent to this opinion of Governor Kent. In 1844 the Legislature of Maine authorized its Governor, only two years after the treaty was consummated, to come here and claim indemnity for this land, and the Legislature of Maine in 1845 passed this resolve:

"Resolved, That Maine has a just and equitable claim upon the Government of the United States for full remuneration for her proportion of all lands set off to claimants under the provisions of article four of the treaty of Washington, and the Governor is hereby authorized and requested to present the same to the General Government for adjustment and allowance."

Mr. FESSENDEN. I wish to say simply that in this same fourth article there is a provision that releases shall be given. The United States Government stipulates in this fourth article that releases shall be given for these lands. The Government of the United States could not do it; the only persons who could execute releases were the owners. The State of Maine is the owner, and she wishes remuneration before executing the release.

Mr. PATTERSON, of New Hampshire. And let me say that there are over a thousand persons to-day waiting for these releases. They cannot sell those lands because they have no good title.

Mr. HENDRICKS. I wish to ask the Senator from New Hampshire how this claim comes to be before the Committee on Foreign Relations; whether it was referred to the committee by the Senate?

Mr. PATTERSON, of New Hampshire. Yes, sir; referred to that committee in the Senate and House of Representatives both. It is under a treaty; the treaty of Washington.

Mr. HENDRICKS. In what form was it referred? How did it come to be referred at this session of Congress?

Mr. FESSENDEN. At this session of Congress it was not referred; it was taken before the committee at my request, having been referred there before.

Mr. HENDRICKS. This is a private claim, and should have been considered with a view to a separate bill, if it has merits, by the Committee on Claims. I do not think the Committee on Foreign Relations can *ex officio* take jurisdiction over a particular amendment to a bill because it is a committee taking charge of a piece of business not referred to it specially, and it is out of its jurisdiction and offering an amendment to a bill where it is not at all germane.

Mr. FESSENDEN. I suggest to the Senator that the Committee on Foreign Relations is the only committee in the House of Representatives and the Senate who ever have had charge of this claim. They have always had charge of it by reason of its arising under a treaty. Here is a report made by Mr. DOOLITTLE in the Thirty-Seventh Congress:

"The Committee on Foreign Relations having been instructed by the Senate to inquire what further legislation, if any, is required to carry into effect the fourth article of the treaty with Great Britain of August 9, 1842, submitted the following report."

He submitted a report with a much larger bill than this. It has been always before that committee, and none other.

Mr. PATTERSON, of New Hampshire. I have one by Senator WADE, one by Senator Clark, one by Mr. Rice, of the House of Representatives, and one by myself, all from the Committee on Foreign Affairs.

Mr. CONKLING. The question before the Senate, as I understand, is a point of order, which is about to be decided by Senators, very few of whom, I judge, have read for themselves the rule. I supposed I remembered generally the rule until I heard the argument of the honorable Senator from Massachusetts, and then I supposed that it must be quite different from my recollection in order to bear out the argument which he based upon it. I understood him to reason this question as if it were

to be decided upon the test of whether it arises under a treaty or not. That was quite contrary to my remembrance of the rule, and I have referred to it. I have it here, and I beg to call the attention of Senators to the fact that if it does arise under a treaty, that clothes it with no admissibility under this rule, as I conceive:

"And no amendment shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or a treaty stipulation."

I take it there is no doubt in the minds of a majority of the Senate that this is a private claim. I do not understand the honorable Senator from Maine to deny that. I do not think it can be denied legally, although I understood the Senator from Massachusetts in a certain sense to make a distinction between this and a claim due to an individual. The question, then, is whether it is to carry out the provisions of a treaty stipulation. I should like to know what treaty stipulation there is to be carried out by this appropriation. The argument is that the Government of the United States having made a treaty with Great Britain settling boundaries and other considerations, one effect of that treaty was to divest the State of Maine, or constructively divest it, of its title to certain lands, and that therefore, upon considerations ethical, upon considerations *dehors* the treaty, in a certain sense a claim arises over against the Government of the United States by the State of Maine. That presupposes at once that it is not to carry out a treaty stipulation. The very essence and gravamen of it is that in carrying out a treaty certain hardship is occurred to the State of Maine for which that State asks recompense of the General Government. If there was any treaty stipulation on this subject, certainly no legislation of this sort would be necessary. Therefore I humbly submit that although it arises under a treaty, manifestly it is not "to carry out the provisions of an existing law or a treaty stipulation."

Mr. SHERMAN. If my friend from New York will allow me, I will state that my recollection was that this claim has been heretofore excluded from the appropriation bills upon a point of order; and I am informed now by the Senator from Kansas [Mr. POMEROY] that that is the case. I have not been able to find it in the Journal, but my recollection is so.

Mr. CONKLING. The Senator from Kansas stated to me that while he occupied the chair last year he did exclude this very claim on the point now made.

Mr. FESSENDEN. One word in reply. The language of this clause will satisfy everybody that the amendment is to carry out a treaty stipulation in so many words. What does the Government of the United States agree to do?

"And all equitable possessory claims arising from a possession and improvement of any lot or parcel of land by the person actually in possession or by those under whom such person claims, for more than six years before the date of this treaty, shall in like manner be deemed valid and be confirmed and quieted by a release to the person entitled thereto."

The Government of the United States stipulate that there shall be a quieting of title by a release. That is the treaty stipulation.

Mr. CONKLING. That has been done.

Mr. FESSENDEN. No, sir; that has not been done, because there is nobody that can grant the release but the State of Maine, the owner of the land; and the State of Maine comes here and says, "Pay us the value of this land, which is estimated at \$1 25 an acre, and we will grant these releases," and they cannot be granted without. The treaty cannot be carried out, this stipulation cannot be performed, unless the State of Maine—the owner of the land—executes these releases. They have never been executed, and, as my friend from New Hampshire suggests, to this day these men cannot sell their lands for anything like a good price, because this is a cloud upon their title. This very amendment says that so much money shall be paid to the State of Maine for these lands, but that it shall not be paid until

she has executed releases according to the terms of the treaty. The stipulation of the treaty is directly that a release shall be given. Who is to give it? Of necessity the owners give it, and the United States must oblige the owners or prevail on the owners to do it. The amendment is therefore to carry out a treaty stipulation directly and properly, and for no other purpose, and that brings it directly within the exception of the rule.

Mr. CONKLING. It is very difficult even for the Senator from Maine, with his skill in discussion, to discuss this point of order without referring to the merits of the proposition, and it is difficult to meet what he suggests without referring to the merits of the proposition, which I did not mean to do; but I beg to suggest to him my view of the point which he now presents. The treaty stipulations were between the Government of the United States and the Government of Great Britain. The provision was that releases should be executed quieting these titles, as the Senator says. Now admit, if you please, for the sake of the argument, that nobody could do that except the State of Maine, though that is a question which will be debated when we come to the merits of this proposition. It has been debated by those who have made minority reports on the subject, one of which I hold in my hand. But admitting that the State of Maine was the proper grantor in these quit-claims to be given, I ask the Senator where is the provision in this treaty that the Government of the United States should pay to the State of Maine the sums which are now proposed?

The Senator may say that if Maine was to release this land she ought to have a remedy over against the General Government. Granted; but the treaty is silent on that point, and Mr. ORTH, and three other gentlemen concurring with him in the minority report which I hold in my hand find, as I should fear if I were a friend of the proposition the Senate would find, that article five of the Ashburton treaty gave to the State of Maine her recompense, that a specific \$300,000 was intended, as these four gentlemen find, to pay and liquidate this very equity now asserted. I do not mean to go into that, however. Suffice it to say, for the sake of my point, that the treaty stipulation is that these parties shall be quieted in their titles. That was done in 1842. Now, I ask, where is the treaty stipulation pursuant to which \$1 25 per acre is to be paid by the General Government to the State of Maine for this debatable territory. I do not see any such provision as that, and I do not think the argument of the Senator goes to the purpose.

Mr. PATTERSON, of New Hampshire. Allow me to ask a question. There is a somewhat parallel case to this which has lately come up in the House. We made a treaty with Russia last year by which we agreed to pay \$7,200,000 for Alaska. The question came up in the House whether an appropriation for that should be put upon an appropriation bill or not. The Committee on Appropriations claimed that it belonged properly on that bill. I believe the Committee on Foreign Affairs contested that, because they wanted to manipulate the \$7,200,000, thinking the appropriation might not get through if it went to the Committee on Appropriations; but the Committee on Appropriations claimed that it belonged to them under the rule, and that it should go on the appropriation bill. I want to know if that is not a parallel case to this?

Mr. CONKLING. If my honorable friend will allow me now to turn his illustration upon him, it seems to me it points the precise moral which I seek to enforce here. There was a stipulation between the Government of the United States and the emperor of Russia that a specified sum of money should be paid by the one to the other for a particular purpose. That was of the very essence of the treaty stipulation; and when the House Committee on Appropriations said that it belonged to them they laid their hands upon a rule which declared that a sum of money to be paid under



the requirements of a treaty stipulation came within their province.

Let me, however, to illustrate, put an additional question, growing out of that instance, to the honorable Senator from New Hampshire. Suppose in that treaty Russia had said that she would quiet all titles, as in a certain sense she did say, which her citizens might have, or rights in the fisheries, and suppose interchangeably the United States had said that if any American, squatter or otherwise, asserted any claim there, that should be extinguished, would the honorable Senator say that because that treaty had been consummated, if some citizen came here with a grievance saying, "I am one of those cut off by this treaty stipulation; I am one of those deprived of what I otherwise might have had; and therefore I ask recompense from my superior, from my Government, which has over-slaughed my rights," would the honorable Senator say that an appropriation to ratify such a claim would be in pursuance of a treaty stipulation, controlled and provided for by it, so as to fall within this rule? Certainly he would not say that. What would he say? He would say, "Upon general principles of ethics, upon general principles of good faith between the Government and the citizen, here is a question of recompense arising which ought to be investigated; and if it is true that the Government, in its march toward this treaty, has trodden down the rights of a citizen, the Government will pause and stoop and repair those rights which she has incidentally injured or destroyed." That is what he would say; but he would not say that it was subject to a treaty stipulation, controlled and provided for by it.

Mr. PATTERSON, of New Hampshire. The Senator asks me a question. I would say that the treaty could not be carried out in full until the party by whose authority these grants were to be made good had purchased the right of the party possessing it previously.

Mr. CONKLING. If it is put upon that ground, that runs into a discussion of the merits of this case; and when we come to them I think the Senator will need all his ability and ingenuity to vindicate the propositions, first, that the State of Maine owned this disputed territory, the object of the treaty being to determine whether she did or not; and, second, that the State of Maine as a State, or the people of Maine as a community, had a right to interpose and say, "We arrest the execution of this treaty; it is not completely executed until we release our citizens." I think both of these propositions will need as able a defense as my friend can give.

Mr. PATTERSON, of New Hampshire. And to dispute them successfully will need all the genius my friend from New York possesses. I think the treaty cannot be successfully carried out until the Government pays the State of Maine for private property it took from her for the purpose of consummating the treaty, and it could not have consummated the treaty, could not have secured the assent of the commissioners of Maine and Massachusetts until it had agreed to do that. It is of the very essence of the treaty and of justice itself that this Government should come up and meet the obligation which it laid itself under when it made the treaty.

Mr. DAVIS. I think the view taken of this matter by the Senator from New Hampshire and the Senator from Maine is obviously right. I take it to be a plain proposition whether a treaty stipulation on the part of the United States shall be executed or not; and I think that this appropriation of money is certainly plainly and unquestionably in the course of the execution of the stipulation in the Ashburton treaty. This matter has been up before the Senate repeatedly, and the only doubt upon my mind heretofore was on a very different point. I had no doubt that the territory ceded from the State of Maine to the United States was from 1783 within the limits of the State of Massachusetts; and the doubt in my mind was whether a treaty could be formed at all

between the United States Government and a foreign Government that would deprive a State of any portion of its territory. But when the United States stipulates to make good the title to the ceded country to Great Britain—and this can only be done by procuring the consent of the State of Maine and the consent of the citizens of the State of Maine who owned the land that was ceded—I cannot conceive the least difficulty in assuming the position that an appropriation to pay for that land is an appropriation in execution of a treaty. I do not think there is any room for doubt at all.

I think it is in two senses a proper proposition for appropriation. In the first place, the treaty is the supreme law of the land, and is made so by the Constitution itself. In that sense the treaty is the law of the land; and this being in the course of the execution of the treaty is necessarily in the course of the execution of the law. I do not think there can be any reasonable doubt about the proposition that this is a plain proposition to appropriate money in the execution of a law of the United States, and is not proscribed by the rule of the Senate which is relied upon to have that effect.

Mr. SUMNER. I wish to make one other brief observation. It seems to me that the rule of the Senate should not be extended beyond its natural import and signification. It is a rule in restriction of the business of the Senate and in restriction of the rights of Senators. It should, therefore, be construed literally, so as to restrict as little as possible. Now, I insist, that in the absence of any specific phrase in this rule applicable to a State, the rule cannot be applied to the claim of a State. I insist that the claim of a State, in the view of Congress and of its rules, can be in no sense a private claim. I may be wrong in that; but I cannot see the point otherwise. But, sir, I will say nothing more.

The PRESIDENT *pro tempore*. Is the amendment under the thirtieth rule of the Senate in order?

The question being submitted, it was decided in the affirmative—ayes twenty-five, noes not counted.

The PRESIDENT *pro tempore*. The question now is on agreeing to the amendment.

Mr. BUCKALEW. Mr. President—

Mr. SHERMAN. As the Senator from Pennsylvania desires to speak on the amendment, and I wish to have a short executive session, I will submit the motion.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 910) for the relief of the grantees of Ann D. Durning;

A bill (H. R. No. 1131) regulating judicial proceedings in certain cases for the protection of officers and agents of the Government, and for the better defense of the Treasury against unlawful claims;

A bill (H. R. No. 1344) to confirm certain private land claims in the Territory of New Mexico;

A bill (H. R. No. 1343) to confirm the title to certain land to the Pueblo of Santa Ana, in the Territory of New Mexico; and

A joint resolution (H. R. No. 321) in relation to the erection of a bridge in Boston harbor.

The message also announced that the House had passed the following bills of the Senate:

A bill (S. No. 166) for the relief of the owners of the land within the United States survey No. 3217, in the State of Missouri; and

A bill (S. No. 469) confirming the title to a tract of land in Burlington, Iowa.

#### BILL INTRODUCED.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 584) relating to the finding of indictments in the courts of the United States in the late

rebel States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

#### AMENDMENTS TO APPROPRIATION BILLS.

Mr. FOWLER and Mr. HARLAN submitted amendments intended to be proposed to the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes; which were referred to the Committee on Appropriations.

#### EXECUTIVE SESSION.

Mr. SHERMAN. I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened at five o'clock, and the Senate took a recess till half past seven o'clock p. m.

#### EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, transmitting a copy of a communication from the Commissioner of Indian Affairs, asking an appropriation for the purpose of paying the extra and temporary clerks that are absolutely necessary to carry on the business of the Indian Bureau for the fiscal year ending June 30, 1869; which was referred to the Committee on Appropriations.

He also laid before the Senate a letter from the Secretary of the Interior, transmitting a copy of a communication from the disbursing clerk of that Department, relative to certain reductions from the amounts estimated for in the legislative, executive, and judicial appropriation bill, now pending before Congress; which was referred to the Committee on Appropriations.

#### HOUSE BILLS REFERRED.

The following bills, received from the House of Representatives, were severally read twice by their titles, and referred to the Committee on Private Land Claims:

A bill (H. R. No. 1343) to confirm the title to certain land to the Pueblo of Santa Ana in the Territory of New Mexico;

A bill (H. R. No. 1344) to confirm certain private land claims in the Territory of New Mexico; and

A bill (H. R. No. 910) for the relief of the grantees of Ann D. Durning.

The bill (H. R. No. 1131) regulating judicial proceedings in certain cases for the protection of officers and agents of the Government and for the better defense of the Treasury against unlawful claims was read twice by its title, and referred to the Committee on the Judiciary.

The joint resolution (H. R. No. 321) in relation to the erection of a bridge in Boston harbor was read twice by its title, and referred to the Committee on Commerce.

#### HOUSE ASSISTANT LIBRARIAN.

Mr. MORRILL, of Maine. There is a resolution from the House of Representatives which, on my motion, was laid on the table a few days ago, in regard to the Assistant Librarian of the House. I am desired to ask for the present consideration of it, and I move to take it up.

The motion was agreed to; and the joint resolution (H. R. No. 312) relative to the pay of the Assistant Librarian of the House was considered as in Committee of the Whole. It provides that for the present Congress, commencing therewith, the Clerk is directed to pay from the contingent fund of the House, to the Assistant Librarian in charge of the Hall Library, the difference between his present pay and the pay of the file, printing, and engrossing clerks.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

## COLONEL JAMES A. MULLIGAN.

Mr. FRELINGHUYSEN. I move that the Senate proceed to the consideration of House bill No. 1129.

The motion was agreed to; and the bill (H. R. No. 1129) for the relief of the widow and children of Colonel James A. Mulligan, deceased, was considered as in Committee of the Whole. The preamble to the bill recites that James A. Mulligan, on the 15th of June, 1861, was mustered into the service of the United States as colonel of the twenty-third Illinois infantry, known as the Irish Brigade, marched to the front in July, 1861, and from that time, excepting two months when a prisoner of war, was actively engaged in the military service of the Republic against armed rebels until he fell on the battle-field of Winchester, on the 26th day of July, 1864; that during two years of that military service he was assigned to the command of brigades and divisions, and performed the duties of brigadier and major general, but only received the pay of a colonel; that his widow and children are justly entitled to, and need for their support, the amount of pay which he would have received if he had been commissioned according to his respective commands in the field. In consideration of the premises the bill proposes to direct the Secretary of the Treasury to pay to Marian Mulligan, widow of Colonel James A. Mulligan, the sum of \$5,000, out of the money appropriated for the pay of the Army.

Mr. FRELINGHUYSEN. Mr. President, there is a report accompanying this bill which I do not know that it is necessary to read. I will, however, make a statement in reference to the case.

The report briefly sets forth the facts of the case, and closes without any recommendation, leaving it to the judgment of the Senate whether the bill shall pass. The Committee on Claims took this course, not because they doubted the propriety of the bill, but because they feared that those having other cases might not discriminate them although radically distinguishable from this, and that this might thus be held as a precedent.

The circumstances of the claim are these: Colonel Mulligan was a promising young lawyer of Chicago, of Irish descent. Early in the rebellion he enlisted in the cause of the country and succeeded in raising a regiment, principally of Irishmen, eight hundred strong, and with the colors of the Union and the Irish flag floating together in his ranks he marched out of Chicago. He was given the command of Lexington, in Missouri; and there, with a force of twenty-five hundred men, resisted for a number of days an army of ten thousand rebels commanded by General Price; and he only surrendered when his men were fainting for the want of water and after he had fired his last cartridge. His skill and bravery on that occasion attracted the notice and admiration of the country, and Congress passed a vote of thanks to him and directed "Lexington" to be inscribed on his colors.

Three years after this, in 1864, he fell at Winchester, mortally wounded. His brother-in-law, the brother of his widow, a youth of about twenty years, came to his rescue, and he was shot down. There is an incident connected with General Mulligan's death which is worth recording. As his aids gathered around him to carry him from the field he used these words, "Lay me down and save the flag;" and those words have entered into the melodies of the country.

But in all this I do not know that the case is distinguishable from that of many other officers and soldiers who have bravely fallen before the flaming line of battle and left nothing but a legacy of sorrow and penury to their families. Colonel Mulligan's case is distinguishable from others, however, in this, that early in the rebellion by his enthusiastic adoption of the cause of the country at a most critical period he gave direction to the sentiment of the foreign element of this country, and thereby secured for us many valuable soldiers; and to-day the fact

that those of foreign birth will fight the battles of this country has no insignificant influence on our relations with foreign countries; and I think it is eminently proper and wise that we should pay a tribute to that sentiment by conferring a benefit upon the widow and children of him who is a representative man.

Besides all this, Colonel Mulligan did not perform the duties of a colonel, but for three years he discharged the duties of a brigadier general and of a major general; and the difference between his pay as a colonel and that of brigadier general during the period is \$6,700; and all that is asked is \$5,000. And he stands, too, upon the roll during this whole period as a brigadier general, that commission having been conferred upon him at his death; and I may also observe that he was offered a commission as brigadier general and refused it because of his honorary obligations to his regiment to remain their colonel. Now, sir, that case may safely be made a precedent. If any officer of the Army has discharged the duties of a brigadier general through his whole course, if he stands upon the roll commissioned as a brigadier general, no matter when the commission was given him, and if he was actually tendered such a commission and refused it, let him receive the pay of a brigadier general. There is now and then a case where it is wise to act from our first generous impulses rather than from cold economical calculations; and this is one of those cases. I might go on and say that Colonel Mulligan expended all his property for his country; but as we are only asking the pay of a soldier and not charity, I do not think it necessary to enter into these considerations.

We cannot now by our action reach him; he has nobly done his work and gone to his rest; but we can benefit those who were dearer to him than self by performing an act of generous justice.

Mr. YATES. Mr. President, I do not propose to add anything to what has been so well and so eloquently said by the Senator from New Jersey, but I rise simply to say that General Grant has recommended that this appropriation be made, and to state another fact connected with the biography of Colonel Mulligan. He presented himself at the office of the Governor of Illinois with his regiment, but so many troops offered themselves there that many had to be declined. So anxious, so persistent was he in his desire to enter the service, that he procured letters from Mr. Douglas, he came on to Washington, and got the consent of the President, Mr. Lincoln, to raise his regiment. All that I have to say is that he is one of the noblest men in the memory of the people of Illinois. He was one of the first to enter the service at the head of his Irish regiment, and he afterward commanded a brigade, and then commanded as major general. At the siege of Lexington he rendered service which, as the Senator from New Jersey well remarks, the country remembers with joy and gratitude. I sincerely hope that this bill will pass by a unanimous vote.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## MARTHA M. JONES.

Mr. THAYER. I move to take up House bill No. 780, for the relief of Martha M. Jones, administratrix of Samuel T. Jones.

Mr. WILLEY. That is a bill which comes from the Committee on Patents, and it involves questions of a great deal of interest to the community. I understand from the Senator from Nebraska that he proposes to object to the amendment reported by the Senate Committee on Patents, and to insist on the passage of the bill as it came from the House of Representatives. The report was prepared by the Senator from Connecticut, [Mr. FERRY.] The papers connected with it have been in his hands ever since the report was made. It is a case in which he has expressed to me a good deal of interest. It is a case which he has exam-

ined very thoroughly. Certain facts obtained by myself from the Patent Office since the report was made to the Senate, bearing very materially, as I conceive, on the merits of the case, were placed by me in his hands. He is not here to-night. I understand that he has probably gone home. That is the best information I can get in respect to him. The matter was acted upon in the committee two or three months ago, and I have partially forgotten the facts. I only recollect the case from a very distinct conviction that I had that the report of the committee recommending the amendment proposed was right, and that the bill ought not to pass as it came from the House of Representatives.

I submit to the Senate whether, under these circumstances, when the Senator from Connecticut, having charge of the bill, who has the evidence in his possession, is not here, the bill should be taken up. I can say that the bill involves very considerable interests, either belonging to the persons desiring this action on the part of Congress or to the community at large, for investments have been made in the manufacture of the article patented, and it seems to me but just to the community that the matter should be thoroughly investigated and thoroughly heard before the Senate. This investigation has been particularly made by the Senator from Connecticut. He has the facts in his hands, and the evidence in his possession, and I know not where to procure them. He is not here now, and I submit to the Senate whether, under the circumstances, it is proper to take up for consideration the case in his absence.

Mr. CONNESS. I happened, sir, yesterday, as I do every day, to be seated by the side of the honorable Senator from Connecticut, now absent. He had this bill upon his desk and was very anxious to get it up. I chatted with him in regard to it, and I said to him, "We will take it up, Mr. FERRY, and act upon it while you are absent, just as well as when you are here." He did not develop any feeling, I believe, or any disposition particularly in regard to it, and I hope we shall take up the bill and act on it.

Mr. THAYER. There has been an understanding between the Senator from Connecticut and myself that he would bring up this bill at the very first opportunity. We have spoken daily about it for several days past, and I tried to get the floor yesterday and the day before yesterday for the purpose of bringing up this bill, but failed to do so. To-day was the first time when I succeeded. I had no knowledge of the absence of the Senator from Connecticut to-day when I made the motion for an evening session for the purpose of acting on this bill. I do not know now that he has left the city, but I have observed, my attention being called to it by the chairman of the Committee on Patents, the Senator from West Virginia, or by his asking me if I knew where Mr. FERRY was, that he is not in his seat. If he was about to leave the city for a number of days it certainly was due to myself and to the Senate that he should have notified me if he wanted the bill to be delayed until his return.

Mr. POMEROY. It is so near the close of the session that I think the absence of a Senator is not sufficient reason for delaying the consideration of a bill.

Mr. WILLEY. Whether the Senate take up the bill or not I believe it my duty to submit the case to them, having a distinct and unequivocal conviction that this bill ought not to pass as it came from the House of Representatives. Having submitted the whole matter to the Senator from Connecticut, it being understood that he was to take it in charge, and having placed all the evidence in his possession, I am not prepared in his absence to take it up. After the Committee on Patents, upon investigation, have reported an amendment and suggested their opinion to the Senate, that the bill as it came from the other House ought not to pass, I submit whether it is fair to the Senator from Connecticut, and fair to

the country, that the matter should be investigated here, when it cannot be fully heard.

I know, sir, that I have not merely to encounter the Senate; I could get along well enough with that, humble as I am; but there is a lady in the case, and a very highly intelligent and accomplished lady, too, as every Senator on this floor can, from his personal knowledge, testify, I have no doubt.

I have stated the case to the Senate; I have stated that I am not prepared to investigate the subject at this time. I stand here only with my conviction distinct and unequivocal that when the committee did investigate it I came to the conclusion that the bill as it came from the House of Representatives ought to be amended. The Senator from Connecticut had the papers placed in his hands, and made the report; and after it was made I furnished him with additional evidence which I procured from the Patent Office. Where it is now I know not. With this statement made to the Senate, if they see proper to take up the case in the absence of the Senator from Connecticut, and in the absence of evidence which I tell the Senate I do know has a material bearing on the case, they can do so.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Nebraska, to take up the bill for consideration.

Mr. WILLEY called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 28, nays 4; as follows:

YEAS—Messrs. Anthony, Buckalew, Cole, Conkling, Conness, Corbett, Cragin, Davis, Drake, Edmunds, Fessenden, Fowler, Hendricks, Howe, Johnson, McCreery, McDonald, Morrill of Maine, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Stewart, Thayer, Tipton, Vickers, Williams, and Yates—28.

NAYS—Messrs. Harlan, Morgan, Wade, and Willey—4.

ABSENT—Messrs. Bayard, Cameron, Cattell, Chandler, Dixon, Doolittle, Ferry, Frelinghuysen, Grimes, Henderson, Howard, Morrill of Vermont, Morton, Norton, Osborn, Patterson of Tennessee, Rice, Ross, Saulsbury, Sherman, Sprague, Sumner, Trumbull, Van Winkle, and Wilson—25.

So the motion was agreed to; and the bill (H. R. No. 780) for the relief of Martha M. Jones, administratrix of Samuel T. Jones, deceased, was considered as in Committee of the Whole. The preamble to the bill recites that the Commissioner of Patents did, on the 23d of February, 1866, upon the petition of Martha M. Jones, administratrix of the estate of Samuel T. Jones, deceased, extend for the period of seven years, from the 24th of February, 1866, the letters-patent of the United States granted to Samuel T. Jones on the 24th of February, 1852, for an invention in the manufacture of the white oxide of zinc, for which invention letters-patent had been granted unto him by the Government of Great Britain on the 23d day of July, 1850; and that doubts exist as to the power of the Commissioner to grant the extension after the expiration of fourteen years from the date of the foreign letters-patent. And the bill proceeds to the extension of the letters-patent of the United States for the term of seven years from and after the expiration of fourteen years from the date of the foreign letters-patent to be valid and binding, and the power of the Commissioner to make it is in all respects confirmed, and the letters-patent are hereby declared to be, and to have been, by force of the certificate of extension thereon indorsed, duly extended for the period of seven years from the 23d of July, 1864; but this act is not to operate during the period between the date of the English patent and the date of the original American patent.

The Committee on Patents and the Patent Office proposed to amend the bill by striking out the following words, in lines thirteen, fourteen, and fifteen, "that this act shall not operate during the period between the date of the English patent and the date of the original American patent," and in lieu thereof to insert:

That all persons who enjoyed the lawful use of the invention secured by said patent during the original term thereof may continue to use the same without liability therefor, as if this act had not been passed; and no person shall be held liable for using said invention after the expiration of the original term of the patent and before the approval of this act.

Mr. WILLEY. Now, sir, I shall have to do the best I can. There is a report in the case which I should be glad to have read. It may refresh my recollection.

The Chief Clerk read the following report, made by Mr. FERRY, from the Committee on Patents and the Patent Office:

The Committee on Patents and the Patent Office, to whom was referred the petition of Martha M. Jones, praying for confirmation of a certain patent for an invention in the manufacture of white oxide of zinc, respectfully report:

That the petitioner is the widow and administratrix of Samuel T. Jones, deceased, who was the inventor of a certain process for the manufacture of white oxide of zinc. That the said Samuel T. Jones, in his lifetime, on the 23d day of July, 1850, obtained letters-patent in England for said invention, and afterward, on the 24th day of February, 1852, obtained also letters-patent for the same in the United States, both which patents, according to the laws of the United States, expired on the 23d day of July, 1864. That said Samuel T. Jones died in the year 1853, and no effort was made to obtain an extension of said patent by his administratrix till 1866, when the Commissioner of Patents no longer had jurisdiction of the case, and when the right to use the said invention had fully vested in the public, and was extensively enjoyed by manufacturers and others in different parts of the Union. The reason of the omission of the administratrix to apply for an extension at an earlier period was her ignorance of the existence of the English patent, but the committee are of opinion that her misfortune in this respect does not entitle her to defeat the rights lawfully acquired by those engaged in the manufacture and use of this article after her patent had ceased to exist. The Commissioner of Patents, in 1866, being also in ignorance of the existence of the English patent, granted an extension of the American patent, which extension is utterly void from want of jurisdiction in the Commissioner at the date thereof. Your committee are willing, however, to give validity to the said extension from the expiration of the original patents in such a manner as not to defeat the lawfully acquired right of other parties, and therefore recommend the passage of the House bill, amended by striking out the proviso at the end thereof and inserting in lieu of the same the following:

*Provided*, That all persons who enjoyed the lawful use of the invention secured by said patent during the original term thereof may continue to use the same without liability therefor as if this act had not been passed, and no persons shall be held liable for using said invention after the expiration of the original term of the patent and before the approval of this act.

Mr. WILLEY. If the Senate have paid attention to the report, if they have been able to divest themselves of the fascination that surrounds them, to cut themselves loose from all female influence, they will see that the original bill proposes to render valid and binding that which was invalid and not binding; and not merely to do that. The committee, under the circumstances and under the influence brought to bear upon them, were willing that that should be done, provided that in doing so we did not violate the vested rights of capitalists who had invested their capital in the manufacture of this article between the expiration of the English patent, and the extension of the American patent. Senators, by referring to the law, will find that where a patent is issued abroad, where there is a foreign patent, and there is an American patent taken for the same invention at home, the American patent, it is provided, shall relate back to the date of the issue of the foreign patent, and shall run fourteen years from the date of the foreign patent and not from the date of the American patent. It seems that in this instance, as the report alleges, but as subsequent evidence filed with the Senator from Connecticut goes very far to show cannot by any possibility be the case, this administratrix was ignorant of the fact that there was a foreign patent at the time she applied for an extension of the American patent; and hence the American patent expiring nearly two years after fourteen years from the time of the issue of the foreign patent, the application for the extension was not made by the administratrix until time enough, as provided by law, had elapsed to make the invention public property. The extension was void at the time this extension was made. She got the extension of the American patent two years after the expiration of fourteen years from the date of the foreign patent.

She brought suit to recover a royalty, or applied for an injunction to prevent the infringement of her patent. Meantime it was discovered that there had been a foreign patent

issued, and her counsel became apprehensive that the extension of the American patent was void, and that she must wholly fail; and hence you will see the language of the original bill is to make that valid which in point of fact was supposed to be invalid, the extension having been from the expiration of the American patent instead of from fourteen years after the date of the English patent. To remedy this defect this bill was passed by the House of Representatives; but it comes to the knowledge of the committee of the Senate that capitalists in New Jersey and in other sections of the country who appeared by their counsel before the committee had in the mean time invested largely their capital in the manufacture of this article, and that if this bill passed as it came from the House the result would be that the administratrix of Mr. Jones, under the ratification of this extension, would be coming back on these innocent men for her royalty and for damages for the infringement of the patent. We thought it unjust under the circumstances that she should be allowed to do so, but that men who in this interregnum between the end of fourteen years from the expiration of the foreign patent and the time of the extension of the American patent should be allowed to carry on their business without detriment, and that all manufacture of the article by any person whatsoever during this time should not be held responsible.

Why, sir, what is the result? There was no valid patent; they could not be held responsible without this action of Congress; there was no patent to infringe. But here Congress is applied to to pass a law that relates back behind the time of these supposed infringements and renders men guilty for doing that which was innocent at the time they did it, renders that illegal against which there was no law, declares that they shall be held liable for the infringement of a patent which at the time they invested their capital in the manufacture of this article did not exist, for there was no such valid patent; and it is to remedy that defect that the bill comes from the House of Representatives, and it is to prevent this injustice that the Senate committee recommend the adoption of the amendment.

Now, let us look at this thing. The Senate has got something to decide here; the Senate stands upon its obligations not only to this lady, but upon its obligations to the country. The public interests are involved in this matter. Here is an important article entering largely into the convenience of the country, largely into the manufactures of the country. It enters into the welfare of the people at large. Every man's house, more or less, derives the benefit of it as it enters into the various kinds of paint that are manufactured in the land. The policy of all just Government is against monopolies; but to encourage inventions Congress has seen fit in its wisdom in time past to say that a party, to indemnify himself for the expenses of an invention, to repay himself, shall have a monopoly of it for fourteen years, and Congress by the law heretofore existing has also said that if the inventor shall not by due diligence have realized sufficient out of his improvement to indemnify himself for the value of it and for his expenses in putting it into operation, he may, by showing those facts before the Commissioner of Patents, have an extension for seven years longer.

Mr. HENDRICKS. Will the Senator allow me to ask him a question?

Mr. WILLEY. Yes, sir; as many as you please.

Mr. HENDRICKS. Does it appear from the evidence that the investments were made by the manufacturers whom the committee seek to protect by the amendment after the expiration of the British patent, with a knowledge of that fact, and with a knowledge of the fact that no renewal could be had?

Mr. WILLEY. My recollection, I will say candidly, is that the knowledge of the existence of the British patent never came to the parties who have invested their capital in the



manufacture of this article until since suit was brought.

Mr. HENDRICKS. Then I wish to ask the Senator if it does not appear that they made their investments at a time when they supposed the American patent had not expired, and when they knew that, according to law, if that were the case, she would have a right to a renewal?

Mr. WILLEY. Some of them, I suppose, did so. The difficulty is that I cannot pretend to state the evidence precisely; as I stated to the Senate, the conviction on my mind is distinct and unequivocal, but I have not a memory of the distinct, naked facts as they exist, only of the conclusion to which an examination of the facts at that time brought my mind. During this interval, as I understand, there are some persons who commenced the manufacture of this article; and those most largely engaged in it have, since the expiration of fourteen years from the date of the British patent, very much enlarged their operations and increased their capital, which is tantamount to having commenced the business within that time, to that extent at any rate; but that is aside from the remarks which I proposed to make. I know that anything that I can say here has no effect; but I believe I owe it to the country, as chairman of the Committee on Patents, however hopeless and thankless a task it is, to discharge my duty; and I am going to do it, and I want the facts to go to the country.

Now, sir, what are the facts? It was the duty of the Commissioner under the law, when application was made for the extension of this patent, to inquire first, is it a novel invention; second, is it a useful invention? Granting these two facts—for I suppose it is true that the invention was both novel and useful—then comes the material consideration; in the third place, did the patentee derive from his monopoly, during the fourteen years, adequate compensation to indemnify him for his time and trouble and expense? How could there be any fair investigation of that fact before the Commissioner of Patents, when the party applying for the extension either did not know, or, if she did know, sedulously concealed from the Commissioner, the fact that *pari passu* with the American patent she had a patent existing in Great Britain, and not a cent of account is given for anything realized out of the foreign patent, in order to ascertain whether the party had been indemnified for the invention or not? I went to the records—I wanted to see that fact—and I recollect distinctly that the papers show that not a whisper was made at the time this party was making her application before the Commissioner for the extension of the patent of the existence of the foreign patent, and it is the material inquiry—it is the most material inquiry in all investigations of this character—to see whether the party has had an adequate compensation for the invention, and whether a useful invention may not be enjoyed by the country at large and not by monopolists, who, after having received ample and adequate compensation for a useful invention, may still lay a charge and a royalty on the business of the country at large. Sir, the policy of this country is opposed to it, and so distinctly has this impression been made on the mind of Congress and the country that a few years ago the authority to extend a patent was utterly repealed, and the law now stands that the patentee may enjoy his monopoly for seventeen years, and there shall be no further application for an extension; it shall stop then unless he comes to Congress and shows some grounds, or the estate happens to fall into the hands of an accomplished and fascinating lady.

Now, Mr. President, can Senators say here that this party has not had an adequate compensation for this improvement? Can they tell me what the compensation was at all? Sir, I cannot tell what the compensation was for the American patent, because the Senate has excluded me from access to the evidence

by considering the case now while the evidence is shut up in the desk of an absent Senator, and the Senate is here about to decide on the question and say that this party has not had adequate compensation even at home, when it has not one jot or tittle of evidence on which to base its conclusions, and it is to say that the Commissioner, too, was justified in coming to his conclusion when he had no evidence and no knowledge of the fact that at the time or shortly before this application for extension in this country the party had had, for I do not know how many years, a patent in Great Britain, from which, for aught any Senator can say, for aught I can say, the patentee may have realized hundreds of thousands of dollars, amply sufficient to compensate him. And now, sir, under the fascinating influence of an accomplished lady, the Senate cannot wait a few days until we can get the evidence to see how that fact is; and if it were to wait a month no evidence would come in regard to how much compensation was received from the foreign patent. And after Congress has given the country to understand that it would protect the public interests from monopolies hereafter, to the extent of providing that they shall not run twenty-one years, as heretofore, but only seventeen years, and without any knowledge of how much compensation this estate has received even in this country, to say nothing of the foreign compensation, we are in such hot haste to fasten this monopoly upon the industries and interests of the country that we cannot wait a few days until we can get the evidence and have a fair hearing of the case.

Now, sir, I have said more perhaps than I ought to have said after the indications given by the Senate. Perhaps, under the circumstances, it may have been somewhat presumptuous in me to say what I have said, but I considered it my duty. The Senate considered this matter worthy to be referred to the Committee on Patents, one of its own committees, created by itself, designated for the examination of these questions. The committee have reported; they have, as I think, made a very liberal report; they have agreed to validate that which is acknowledged by the party to be invalid, to extend that which is a nonentity in law at present, and will be so declared by the courts, in all probability, or at least the counsel for the party apprehend that; and all the committee ask is that those who have invested their capital during this interregnum, while this thing was invalid and up to this time, shall not be made responsible in vexatious suits and royalties for the enjoyment of a right which did not belong to the party.

Mr. HENDRICKS. Will the Senator allow me to ask a question? As I have not had an opportunity to investigate the case, I wish to ask the distinguished chairman of the committee whether the question he has just discussed, the question as to the receipt by the patentee of an adequate compensation for his invention, has not been investigated by the Commissioner of Patents and decided upon by him; and whether, also, the Committee on Patents, in reporting favorably to the bill with the amendment, has not conceded that there is a right to a renewal because of the want of a sufficient compensation?

Mr. WILLEY. I will say to the Senator that the committee were somewhat under the same influence that the Senator himself is, [laughter;] and while we were willing to concede to this lady every possible right, while we were willing to give her privileges that did not run directly against and injure other vested rights, I have to say, in answer to the Senator, that his question is well put in regard to the Commissioner of Patents having so decided; but the Senator cannot have forgotten that I stated that when this investigation was made before the Commissioner of Patents there was not a whisper to him, not a word in evidence, not an intimation that this party had also enjoyed a monopoly for the very same invention in Great Britain; and there is not a parti-

cle of evidence to show how much compensation the party received from the monopoly abroad. Now I will ask the Senator this question: whether he can say, if the receipts of the foreign patent had been brought into the account it might not have appeared that the inventor had received an ample compensation? Can he say that it would not appear?

Mr. HENDRICKS. Mr. President, of course not being upon the committee I cannot answer any question of the sort; but I would suggest to the Senator whether the right to the use of the invention in this country ought not to be continued for the benefit of the patentee, provided its use and enjoyment in this country had not resulted in a profit, although the citizens of a foreign country may have used the patent to an extent that made it valuable there?

Mr. WILLEY. I say no, sir. The object, and the only object, in granting this monopoly is to grant indemnity to the party for his invention, to give him an opportunity of using it so long as shall be necessary to enable him to repay himself. It is a contest between the individual monopoly of the inventor and the people at large; and the policy of the law is that when the party has been sufficiently indemnified for the value of his invention and his trouble in putting it into use and operation, then his monopoly ought to cease, and then the country ought to get the benefit of it. That is all that any inventor could ask; and this party comes into the Senate here in the questionable shape of saying that she has not received a due compensation for the invention of her husband, when she gives no account of the compensation that she received abroad, and when there is no intimation that there was an invention abroad. Why, sir, if I had the evidence here I should like to go into the inquiry whether in point of fact there has not been some sharp practice in this matter. My short experience in regard to these applications for the extension of patents and maneuvers of management that have come to my knowledge in relation to them, has made me very suspicious, and has inspired me with a determination to be very careful, so far as I can, to the extent of my humble abilities, that the Senate and the country shall never be imposed upon; but hereafter whenever a lady comes here for an extension of a patent I shall not consider it worthy of examination, and just whatever she asks I will submit to the Senate.

Now, Mr. President, I want to finish the remark I commenced to make a while ago. I said that the Senate had considered it necessary to organize a committee to examine into these questions. This matter was deemed worthy to be referred to the committee. They have examined it, and examined it carefully. On the value of my own examination I place no weight whatever, of course; but Senators know that there are gentlemen on that committee whose opinions are entitled to consideration, especially my colleague on that committee, the Senator from Connecticut, who is an experienced patent lawyer, and who knows more about mechanics, perhaps, than any other member on this floor, and from whom I have received great advantage in the investigations which have come before our committee. This matter has been submitted to that committee. That Senator has made the report. It is a matter of interest to him. If after all this the Senate is to pay no attention whatever to the report of the committee, to give it no weight whatever, and without a jot or tittle of evidence before it, without looking into the record, when it is not possible to produce the evidence before it, if, under all these circumstances, it is disposed to vote down this amendment and pass the bill as it was, I cannot help it; and that is all I have got to say.

Mr. BUCKALEW. Mr. President, as some parties in interest reside in my State I desire to say a word in justification of my vote for this bill. The amendment which the committee have reported, so far as I understand it, is tantamount, if adopted, to a rejection of the bill; no beneficial interest will be taken under

it by the patentee or enjoyed by her. We may as well, therefore, accept the amendment of the committee as a substitute for a direct vote rejecting the bill itself. This being its character it is only worth its value as an argument following the report which has been submitted. I understand the committee differed in opinion; it was not a unanimous report.

Now, Mr. President, what is this bill? It is simply to remove from this case a technical difficulty which has been discovered by lawyers in the course of some judicial investigation. Called to account by the patentee for the use of a valuable—I might say an almost invaluable—invention, they were disposed to resist the claim or to resist it in part, and their counsel in pursuing investigation into the case discovered, unearthed, a foreign patent, which it is supposed interposes a technical legal difficulty, if it be pressed in the courts of law, to the enjoyment of any interest whatever under the renewal of the patent. Now, what is this bill? It is simply to remove that difficulty. It does not seem that the patentee when this renewal was made understood that there was a foreign patent, or that the manufacturers who have used this patent understood it. In fact, I believe the truth is that the foreign patent never was extensively used; no extensive fruits, if any at all, were ever received from it. I understand it was never used in fact abroad.

Now, the Senate of the United States, instead of passing a bill such as it is described to be by the Senator from West Virginia, are just removing out of the hands of the manufacturers who are using this patent a plea in court which is partly technical, has no merit in it, which reaches no substantial point of equity involved between them and the patentee.

That is the whole of this bill. It may be that some consideration should be given to those manufacturers that may have used the patent in ignorance or innocently; and if there was some amendment of that sort—I do not know how it could be drawn—there might be an argument in favor of it.

Mr. CONKLING. That very thing is in the House bill, that it is not to attach to the interval between one date and the other.

Mr. BUCKALEW. But so far as regards the use of the patent hereafter, until 1871, when it will expire by its own limitation, there can be no argument at all, and no appeal to the justice of the Senate—

Mr. CONNESS. Will the Senator permit me before he takes his seat, so as to do it in this connection, to make a statement on one important point?

Mr. BUCKALEW. Certainly.

Mr. CONNESS. And that is the profits resulting to the patentee from the use of the patent in this country. They are within six thousand dollars. Fifty-one or fifty-two hundred dollars is the total amount received, as proven upon the application for an extension.

Mr. WILLEY. Did you get that from the evidence, or from a pamphlet on your table?

Mr. CONNESS. It is taken from the sworn testimony; and the chairman of the committee could have had access to it, and ought to have known it.

Mr. WILLEY. I desire to say to that that I put the whole evidence in the hands of the Senator from Connecticut, and I wanted the Senate to wait till I could get it.

Mr. CONNESS. Then I have to say, with the permission of the Senator from Pennsylvania again, that the Senator from West Virginia, being in ignorance of the fact, ought not to have called my statement in question.

Mr. BUCKALEW. Well, Mr. President, I have endeavored to state what I understand to be the true character of this bill and to show that it is not open to the objections which have been made by the Senator from West Virginia. Now, one word in conclusion, and I shall leave the subject.

We may take for granted, for all the purposes of a vote upon this bill, that the Commissioner of Patents acted properly in extending this patent. There is nothing before us to

show that he acted corruptly, from motives of favoritism or of enmity to any human being. The presumption is that he as a public officer acted in a proper, reasonable, and just manner in extending this patent for a period of seven years; that he had before him the necessary evidence to bring this case within the requirements of the general patent laws. We are by passing this bill, as I said before, doing nothing except removing the legal obstacle which this lady encounters to the enjoyment of her rights under our laws by the unearthing of an unused, valueless foreign patent which was taken out but never followed up by the patentee.

Mr. CORBETT. I merely wish to call the attention of the Senate to the provisions of the amendment reported by the committee. It seems to me that extending the patent with that provision in the bill would probably amount to nothing, because it would place this business entirely in the hands of those companies that are already established, and have large capital, and have been extending their works. Consequently they would have the advantage, and no new concern would enter into the manufacture of this article, and hence the country at large would have to pay more for the article if manufactured by these few establishments. No one being allowed to come in competition without paying a royalty, the result would be to deter any one else from entering into the market in competition with these manufacturers who do not have to pay any royalty.

Mr. THAYER. As the Senator says the amendment will constitute the existing companies monstrous monopolies against the whole world. This is all there is of it; that is all the speech I will make. ["Vote!" "Vote!"]

The amendment was rejected.

Mr. HARLAN. I desire to ask a question for information. Now that this amendment has been rejected, I wish to know whether, if the bill should pass in its present form, the parties entitled to this patent would be able to collect a royalty, as I believe they call it, from the date of the expiration of the first fourteen years up to the present period?

Mr. CONKLING. No, sir; the bill says the contrary. The last clause is:

*Provided, That this act shall not operate between the period of the date of the English patent and the date of the original American patent.*

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### WESTERN PACIFIC RAILROAD.

Mr. CONNESS. I move that the Senate proceed to the consideration of the bill (S. No. 159) relating to the Western Pacific railroad.

Mr. FESSENDEN. That is not a private bill.

Mr. CONNESS. What is it, pray?

Mr. FESSENDEN. This evening was set apart for private claims.

Mr. CONNESS. I was not aware of that fact. I did not know that this evening had been set apart for private claims. ["Certainly."]

The PRESIDENT *pro tempore*. It was so set apart.

Mr. CONNESS. I am the last man to interfere with any such order of the Senate, and I withdraw the motion. The Senate will gratify me at some other time.

#### PRIZE CASES IN FLORIDA.

Mr. HENDRICKS. I move to take up Senate bill No. 486, to facilitate the settlement of certain prize cases in the southern district of Florida.

Mr. HOWE. I think that is not one of the bills the Senate has met to consider this evening.

Mr. HENDRICKS. Yes, sir; it is to settle the rights of certain parties who claim prize money, and to secure it to them. It comes from the Committee on Naval Affairs.

The motion was agreed to; and the bill (S. No. 486) to facilitate the settlement of certain

prize cases in the southern district of Florida was considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury, upon the execution and delivery to him by the administratrix of the estate of James C. Clapp, deceased, late United States marshal for the southern district of Florida, of a proper written release of all claims and demands for, or on account of, all costs, charges, fees, and expenses due, or claimed to be due, to him as marshal or to his estate, in any prize or other cases in that district, to accept from the administratrix the sum of \$50,000 in full satisfaction of all claims and demands of the United States against the estate of James C. Clapp, and against the sureties in his official bond, and that this sum of \$50,000, when paid, together with the sums now on deposit with the Assistant Treasurer in New York to the credit of Clapp and to the credit of the United States district court for the southern district of Florida, shall be deposited with the Assistant United States Treasurer at Washington, subject to the order of the United States district court for the southern district of Florida, for the purpose of meeting decrees of distribution or restitution in the following prize causes pending in that district: Schooner Lucy No. 1, the cargo of the steamer Adela, schooner Alicia and cargo, schooner Isabel and cargo, the steamer James Battle, schooner Diana and cargo, schooner Sea Lion and cargo, the cargo of the steamer Nita, steamer Pearl and cargo, schooner Teresa No. 2, steamer Union, steamer Victor and cargo, and schooner John Williams.

The Secretary of the Navy is to deposit with the Assistant United States Treasurer at Washington, the appraised values of the prize steamers Adela and Nita, condemned in the district court for the southern district of Florida, and taken into the naval service, and, after deducting all proper charges and expenses, a moiety of the same is to be distributed under the decree of the court, according to law, among the captors entitled to share in these prizes, and the remaining moiety is to be subject to the order of the district court.

Mr. JOHNSON. I do not exactly understand the bill. I suppose there is a much larger sum due by the marshal than the amount to be paid by the widow, and the amount is to be taken by way of compromise under the impression that the whole cannot be collected. I hope the honorable member from Indiana will give us some information on the subject.

Mr. HENDRICKS. The printed report which I made to the Senate states the facts. The report is No. 128. The marshal was a defaulter. The sum realized from the sale of these vessels was about two hundred and twenty-four thousand dollars. The money that is still on deposit to his credit is some fifty-odd thousand dollars, and there is another sum of \$19,000 which can be obtained, and there is \$50,000 which the widow is willing to pay out of her own estate, provided her husband's estate can be released, and the bondsman, whose bond is \$20,000, can also be released. These sums will make about one hundred and twenty-four thousand dollars. That is about the amount which can be realized by the Government.

Mr. JOHNSON. What is the value of the estate left by the husband?

Mr. HENDRICKS. The estate is worth nothing but what is on deposit. Great efforts have been made to realize, but nothing more can be had. This is the largest sum that can be realized.

Mr. EDMUNDS. What is the sum that ought to be realized?

Mr. HENDRICKS. Two hundred and twenty-four thousand dollars. To make up the sum of \$124,000 the widow pays \$50,000 out of her own estate in order to relieve her husband's estate and the bondsman.

Mr. JOHNSON. What is the amount of the bond?

Mr. HENDRICKS. Twenty thousand dollars. This is to enable these cases to be adjusted in court; they cannot be otherwise.

Some of the money has to be refunded in two cases where the condemnation by the district court has not been sustained. The sale took place, but the condemnation is not sustained in two cases in the Supreme Court, and there has to be a restitution. The residue of the money will be paid to the captors under the provisions of this bill.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

ALEXANDER J. ATOCHA.

Mr. STEWART. I move that the Senate proceed to the consideration of Senate bill No. 488.

Mr. HOWE. I really thought the Committee on Claims was going to have some chance this evening.

Mr. STEWART. This bill will take but a minute or two. It is a private bill.

The motion was agreed to; and the bill (S. No. 488) to amend an act entitled "An act for the relief of Alexander J. Atocha," approved February 14, 1865, was read the second time, and considered as in Committee of the Whole. It authorizes Alexander J. Atocha, in the prosecution of his claim referred to the Court of Claims by the act of February 14, 1865, to use such portions of the evidence taken in pursuance of the rules and regulations of the commission established under the fifteenth section of the treaty of Guadalupe Hidalgo and laid before the commission as consists: first, of the evidence of persons since deceased; second, of the evidence of persons whose testimony cannot with due diligence be obtained; and also the official letters of the authorities of Mexico on the subject of this claim. And such evidence is to be received by the court, and the court is to give it such weight as in their judgment under all the circumstances it ought to have.

Mr. STEWART. If any explanation is desired I can give it.

The bill was reported to the Senate without amendment.

Mr. EDMUNDS. I should like to have the Senator from Nevada tell us what this case is, and upon what principles of law or justice it proceeds. I remember the investigation that was had about it in the Judiciary Committee, and in which it was my misfortune to differ in opinion from the Senator from Nevada, and, I believe, from the majority of the committee, as to the propriety of entering upon this species of legislation, to declare that evidence which is not legal evidence shall be used in trying to assert a very old claim growing out of the Mexican war, that has been passed upon frequently by the Senate, or once at least, and adversely again by the Court of Claims; and I should be glad to have the Senator from Nevada tell us a little about the bill.

Mr. STEWART. I do not wish to occupy much time; but the Senate will understand this case in a few moments. This bill proposes to amend an act passed February 14, 1865. In order that Senators may understand what that act is, as it is very short I will read it:

"That the Court of Claims be, and the said court is hereby, directed to examine into the claims of Alexander J. Atocha against the Government of Mexico for losses sustained by him by reason of his expulsion from that republic in 1845; and if they shall be of opinion that the said claim was a just one against Mexico, when the treaty of 1848 was ratified, and was embraced by said treaty, they shall then fix and determine the amount of the same; and that the loss or damage so sustained being adjudicated and determined by said court, the same shall be paid to the said Alexander J. Atocha out of any money in the Treasury not otherwise appropriated: *Provided, however,* That the amount so to be paid shall in no event exceed the balance of the \$3,250,000 provided by the fifteenth article of the treaty of Guadalupe Hidalgo for the payment of claims of citizens of the United States against the Government of Mexico, which still remains unapplied to that object."

This act was passed after a very careful consideration and a report by Mr. Foster, which explains the whole case. I will not go into the merits of that case, or review the action of the Senate in passing this act in 1865. If that should become necessary I shall have to

call for the reading of the report made by Mr. Foster, which is a very able and thorough one, reviewing the whole case on its merits. This amendatory act simply provides for using certain evidence before the Court of Claims. The case has not yet been tried before the Court of Claims; and on examination it is ascertained that a large number of the witnesses have died since their testimony was taken before the Mexican commission.

Mr. POMEROY. I want to ask what the claim consists of. What is the claim?

Mr. STEWART. Mr. Atocha was a citizen of the United States, and the Mexican Government expelled him from that country, whereby he lost his property, and in making the treaty of Guadalupe Hidalgo the Government of the United States provided that they would reserve \$3,250,000 for the payment of claims that American citizens had against Mexico.

Mr. EDMUNDS. Will the Senator from Nevada be good enough to read that clause of the treaty?

Mr. STEWART. I do not understand that the United States agreed to indemnify beyond a certain amount.

Mr. HENDRICKS. The Senator will allow me to say this: the Committee on the Judiciary did not go back to the merits of that. The committee simply stood upon the law of 1865, which said Mr. Atocha might prosecute his case in the Court of Claims. Now, in support of that case, the committee say that he may use the evidence which has accumulated before the commission.

Mr. EDMUNDS. Is that any reason for not reading the treaty? [Laughter.]

Mr. STEWART. The United States, to the extent of \$3,250,000, agreed to indemnify those of its citizens who had been injured by Mexico, driven out of that country.

Mr. POMEROY. How does the account stand now? Is there any of that money left?

Mr. STEWART. Yes; there is a balance remaining. The law provides that the amount allowed in the settlement of this claim shall not exceed the amount that was thus provided, the amount of the guarantee in that treaty. This matter was thoroughly investigated at the time of the passage of the bill in 1865. The additional relief now proposed is only to enable the case to be tried at all. Several of the witnesses have since died; some of them are beyond the jurisdiction of the court; and the evidence proposed to be used was taken in pursuance of the rules and regulations of the Department providing for the commission. The evidence was taken with great particularity.

Mr. EDMUNDS. How much is claimed?

Mr. STEWART. The law provides that the amount allowed shall not exceed a certain sum.

Mr. EDMUNDS. How much is claimed by the claimant?

Mr. STEWART. I do not know. I did not investigate that. I do not know anything about the amount of the claim. I understand it is much larger than the amount that can possibly be paid.

Mr. EDMUNDS. Precisely; you are right about that.

Mr. STEWART. But I do not propose to interfere with that. Congress has already passed on that question. The only question now is whether the testimony of witnesses since deceased and those who cannot be procured shall be used to carry out the objects of the act of 1865.

Mr. EDMUNDS. Mr. President, I feel it to be my duty, as one of the minority of the Judiciary Committee, although I believe there is a lady or two in the case, and I trust the Senator from West Virginia will therefore sympathize with me—

Mr. WILLEY. I have no sympathy with you now—none at all. [Laughter.]

Mr. EDMUNDS. To state what this case is. This gentleman, Mr. Atocha, I believe, was a naturalized American citizen. He chose to cast his lot in Mexico. During the internal

troubles in Mexico preceding the Mexican war of 1846-47 he chose to enlist his fortunes on the side of Santa Anna and his faction. The Government in possession of the country expelled Santa Anna and his adherents for resistance to law, as they claimed, and as in point of fact it was. They were the Government *de facto*. They expelled them as belligerents, insurrectionists, disturbers of the peace; for what we should call, if we were not a little tender now-a-days, treason. This gentleman, undoubtedly, in the course of that expulsion suffered injury. Most people who fail in treasonable attempts do. He was expelled.

Then came on the Mexican war with the United States, which resulted in a victory to our arms, as I hope all other wars will. In the treaty of peace we received a certain strip of Mexican territory, and agreed to pay to Mexico a certain sum of money that we did pay. We also agreed that we would indemnify Mexico against the just claims of citizens of the United States existing prior to the conclusion of this treaty of peace, with a proviso that in no event should the amount we should be obliged to pay to the citizens of the United States exceed a certain sum—seven or eight or nine or ten millions; I do not remember the amount. The treaty also provided that in order to ascertain what citizens of the United States had these just claims against Mexico which we had thus assumed a commission should be formed, a special tribunal, to hear, try, and determine upon the merits of these respective claims. That commission was formed. Notice was given and the claimants appeared. Among others appeared this gentleman with his claim.

Mr. POMEROY. What do I understand the Senator to say his name is?

Mr. EDMUNDS. Atocha. This same gentleman.

Mr. POMEROY. He is no American, judging from his name.

Mr. EDMUNDS. He claims to be a naturalized American. This gentleman appeared with his claim. The commission decided, upon the evidence that he presented, that he was not one of the persons embraced within the provision of the treaty or entitled to share in this guaranty payment that the United States had assumed on account of the facts and the circumstances under which he rested in the course of his operations in Mexico. They therefore declined to go into an investigation of the detail, the quantum, or the intrinsic merit of his claim, because they decided against him upon this preliminary and jurisdictional fact; and so he went his ways.

He afterward appealed to Congress, his claim being, as my friend from Nevada properly states, to come out of the balance of the \$3,250,000 that is left unexpended of this guarantee that we gave. He appealed to Congress. Congress sent him to the Court of Claims. The Court of Claims, upon a hearing of his case, decided it against him upon the ground that the decision of this tribunal, to whom the matter was committed, was conclusive, and therefore the Court of Claims declined again to enter into the detailed merits in the abstract.

Mr. STEWART. Oh, no; the Court of Claims has never decided against it.

Mr. EDMUNDS. Bring on the decision and let us see whether it has or not. The decision of the Court of Claims was read in committee when we were considering the case.

Mr. STEWART. You are speaking of another case, the Chorpeneun case.

Mr. EDMUNDS. Not at all. I remember the matter distinctly, unless I am much mistaken, in which the Court of Claims declined—

Mr. STEWART. Oh, no; you are entirely mistaken.

Mr. EDMUNDS. We can settle that question of fact to-morrow when I get the report, in which the Court of Claims declined to entertain his case upon the ground that it had already been determined, and he claimed, therefore, that he was injured by the Court of Claims



not reaching its merits. Then he applied to Congress again; and, as my friend from Nevada states, the then Senator from Connecticut, Mr. Foster, reported a bill which directed the Court of Claims to proceed to consider the case upon its merits, to retry that which the commission had once tried, waiving this question of jurisdiction for the time being, or rather waiving this estoppel from the previous decision, and to retry it upon its merits; to again consider the question as to his relations to the reigning powers in Mexico; and if it turned out that he was one of the persons embraced within the provisions of the treaty upon this retrial to proceed to administer to him that equity which the merits of his case might entitle him to, not exceeding the balance of the \$3,250,000. I am not mistaken about the fact, I venture to assert with a good deal of confidence.

Mr. JOHNSON. I think it is Meade's case.  
Mr. EDMUNDS. No, sir; it is not Meade's case. [To Mr. STEWART.] Have you got Mr. Foster's report?

Mr. STEWART. Yes, sir.  
Mr. EDMUNDS. Let me see it, if you please. [After an examination of the report.] It does not appear from this report whether the case has been submitted to the Court of Claims or not; but this does appear:

"After the board of commissioners had closed their labors, many citizens of the United States whose claims had been rejected petitioned Congress to review the decision of that board, and the Senate of the United States appointed a special committee to sit during the recess of Congress, with the power to send for persons and papers, and with instructions to examine each case and report such as, in their judgment, were entitled to relief.

"That committee, in discharge of the duty assigned them, did investigate every claim which had been presented to the Senate for relief, and in every case, except this of Mr. Atocha, reported definitively. In his case no report was made because of an equal division of that committee upon his title to relief, so that this is the only case which has not received the supervision of the Senate, and it therefore appears to your committee that for this reason, also, the memorialist is entitled to have his claim now investigated and affirmatively decided upon by the Government."

This report does not show; but as I said before, I shall turn out, in my own estimation, to be very much mistaken if I cannot produce to-morrow, or whenever this claim comes up again, if it is not disposed of now, a decision of the Court of Claims on this question in which they have decided what I need not repeat. But it is immaterial to my present purpose to consider whether that is correct or not, because if the Court of Claims decided upon it, it was merely upon the ground that the case having once been decided by the commission they did not feel authorized to reopen it.

When the act passed upon which my friend rests this case it was supposed by Congress, I take it, that they had passed all the relief to which the claimant was entitled; that is to say, they permitted him upon the same principle that they permit other suitors against the Government to appeal to the Court of Claims, and try his case upon the same rules of law, upon the same rules of evidence as to what should be admissible and what not, that other claimants against the Government are required to conform to. Now, it turns out, two years or three, whatever the length of time may be, after this case has been sent to the Court of Claims, that the claimant comes back here for further and additional legislation which is not implied in, or which does not follow as a consequence from that which the Senate did three years ago. They only decided then that he had a sufficient case to entitle him upon the ordinary principles of proof, to try his cause in the ordinary way in the Court of Claims. Now he asks us to provide that the Court of Claims shall decide it upon a new and different principle of evidence, upon different proofs from those which other claimants are obliged to produce; and what is the fact upon which he claims that equity over and above everybody else? He says some of his witnesses are dead. That is a misfortune of the claimant. Who knows but what some of the witnesses on the other side are dead? The course of nature, I take it, operates upon all witnesses alike; and if some of the

claimant's witnesses have died, there is a fair presumption that some of those witnesses whose testimony would countervail that of the claimant are dead, too. Others, it is said, are absent. So may be some of the witnesses on the other side.

Now, it is proposed to supply witnesses to this claimant in order to aid him take \$3,250,000 out of the Treasury, and that upon proof which the bill says may have been filed with this commission. What is the nature of that proof? Who are the witnesses? Who knows their character and credibility now? Who attended to their cross-examination? Who produced them before the commission in order that they might be cross-examined and reexamined in the furtherance of truth? We know not; we are in the dark about all that. It does seem to me, Mr. President, that when this is a question of \$3,250,000 in these times it is worth while to be a little careful how we go out of the ordinary and universal rules of evidence and undertake to supply the absence of proof to a claimant upon the ground that we had before provided that he might go to the Court of Claims, and therefore upon the ground, as his abettors say, that we had agreed to furnish him with all the evidence that would enable him to carry his case through. That does not follow.

Mr. STEWART. Mr. President, I regret that the Senator from Vermont should find it necessary in opposing this bill to make these wild statements, to tell the Senate that there are \$3,250,000 involved in it.

Mr. EDMUNDS. That is what you read.

Mr. STEWART. Three and a quarter millions involved in it!

Mr. EDMUNDS. You say that is the sum left.

Mr. STEWART. No; I do not say anything of the kind.

Mr. EDMUNDS. I understood you to read it so.

Mr. STEWART. I read the act of 1865, the proviso to which is:

"Provided, however, That the amount so to be paid shall not exceed the balance of the \$3,250,000 provided by the fifteenth article of the treaty." &c.

I understand there is only about two hundred thousand dollars, or a little less, left. Three million two hundred and fifty thousand dollars was the whole amount. This claim never has been passed upon by the Court of Claims. I have investigated this claim and know something about it. There is no such sum as \$3,250,000 involved in it. The Congress of the United States gave this matter a very thorough consideration three years ago, and after the speech of the Senator from Vermont I do not know but it might be well to have the former report read. I call for the reading of the report that was made by Mr. Foster, as this is really an important matter.

The PRESIDENT *pro tempore*. The report will be read.

Mr. STEWART. After that is read I shall have some other testimony to present. I think I am abundantly able to show that this is a very meritorious case. Mr. Atocha is now old and poor and helpless.

Mr. EDMUNDS. What has that to do with this case?

Mr. STEWART. The fact that he has been hardly treated by the Government of the United States has something to do with this case.

Mr. EDMUNDS. The fact that he is helpless, if he is, does not help it.

Mr. STEWART. I call for the reading of the report.

The Chief Clerk read the following report submitted by Mr. Foster on the 19th of May, 1864, from the Committee on Foreign Relations:

The Committee on Foreign Relations, to whom was referred the memorial of Alexander J. Atocha, praying that his claims, against Mexico, disallowed by the commissioners under the treaty of Guadalupe Hidalgo, may be investigated, and, if found just, paid by the United States, have considered the subject, and now report:

That said claim has been pending before this body for some ten years past, and has always been regarded with favor by the committees who have acted upon

it. Your committee consider the claim to have substantial merits, and they adopt as their own, with slight alterations, the report of a former committee of this body.

The memorialist was a citizen of the United States residing in Mexico. On the 24th of February, 1845, he received from that Government an order "to leave the city of Mexico within the period of eight days for Vera Cruz, in order to depart from the republic."

It appears that the memorialist at the time protested, through Mr. Shannon, the American minister, against this order as a violation of the treaty of April 5, 1841, between the United States and Mexico, and notifying the latter Government that he would hold it responsible for the losses he might sustain by reason thereof.

Forced by this order to retire from the Mexican territory within the period of eight days, the memorialist alleges that he sustained great pecuniary loss; and that he filed his claim specifying such loss, with the vouchers sustaining the same, before the board of commissioners appointed under the treaty of Guadalupe Hidalgo, which he alleges was unjustly rejected by that board, and he therefore petitions Congress for redress.

Believing that it would be dangerous to go behind the decision of the commissioners, unless it should appear that they had erred in the law applied to the case, your committee have examined with care the grounds assigned for an adverse decision in this case, and are satisfied that the commissioners erred in the law upon which they predicated their decision.

The commissioners assume, in their opinion, that the loss of the memorialist, by reason of his expulsion from Mexico, is established by the proofs filed by him, and decide against the validity of his claim exclusively upon the assumption that the order of expulsion was legal and proper, because, as they assume, of the complicity of the memorialist with Santa Anna in his resistance to the Government *de facto* in their efforts to depose him as the president of the republic.

The commissioners assume that the connection of the memorialist with the political movements of Santa Anna is established—first, by the fact that he remained there with Santa Anna until he was forced to abandon the Government and leave the Mexican territory; and secondly, because Mr. Shannon, the American minister, did not reply to a communication of the secretary for foreign affairs of Mexico, in which that officer, in acknowledging the receipt of the protest of the memorialist against the order of expulsion, says that Mr. Atocha "was one of the principal agents who wrought against the Government, as is notorious, and as its excellency, Mr. Shannon himself, well knows."

The error of the first of these assumptions of fact by the commissioners is now established by the certificate of the officer having charge of the archives of the Mexican Government, which states that Mr. Atocha does not appear to have had any connection with the movements of Santa Anna; and by the letter of Santa Anna himself, who, on the part of Mexico, made the treaty of Guadalupe Hidalgo, stating emphatically that Mr. Atocha never had any political connection with him, and that he remained with him by his invitation, because "in those times of disorder and insubordination, he could not separate himself from him without imminent risk."

The error of the second assumption of fact by the commissioners is established by the letter of our minister, Mr. Shannon, in which he expresses the conviction that the memorialist was not in any manner connected with the political movements of Santa Anna, and that he did not reply to the communication of the Mexican minister for foreign affairs, not because he knew the correctness of his charge against Mr. Atocha, but because the memorialist had left the country before the receipt of that communication, &c.

But, for the purpose of the argument, assume, contrary to the fact, that the commissioners were right in saying that Mr. Atocha was connected with the political movements of Santa Anna, will it follow that the Government of Mexico was authorized to issue the order of expulsion against Atocha? The solution of this question will depend upon the construction of the treaty of 1831 between the United States and Mexico.

The twenty-sixth article of that treaty was intended to provide for the protection of the citizens of the two nations in the event of war between them, and the stipulation is: "That if war should break out between the two contracting parties there should be allowed the term of six months to the merchants residing on the coast, and one year to those residing in the interior of the States and Territories of each other, respectively, to arrange their business, dispose of their effects, or transport them wheresoever they may please, giving them a safe conduct to protect them to the port they may designate. Those citizens who may be established in the States and territories aforesaid, exercising any other occupation or trade, shall be permitted to remain in the uninterrupted enjoyment of their liberty and property so long as they conduct themselves peaceably, and do not commit any offense against the laws; and their goods and effects, of whatever class and condition they may be, shall not be subject to any embargo or sequestration whatever, nor to any charge nor tax other than may be established upon similar goods and effects belonging to the citizens of the State in which they reside, respectively; nor shall the debts between individuals, nor moneys in the public funds, or in public or private banks, nor shares in companies be confiscated, embargoed, or detained."

During the late war with Mexico many citizens of the United States, who were residing as merchants in the territory of that republic at the time war was declared to exist between the two countries, were summarily expelled in disregard of this stipulation of the treaty of 1831, and most of the claims presented

to and allowed by the board of commissioners, appointed under the treaty of 1848, were for damages consequent upon such violation of the treaty of 1831.

The fourteenth article of the treaty of 1831 was designed to secure to the citizens of the two republics, respectively, protection to their persons and property in time of peace; and, after stipulating for such protection, the two Governments contract and agree "that the citizens of either party shall enjoy, in every respect, the same rights and privileges, either in prosecuting or defending their rights of person or of property, as the citizens of the country where the cause of action may be tried."

At the date of the order of expulsion of Mr. Atocha, Mexico and the United States were at peace with each other, and it necessarily follows, in the opinion of your committee, that for any offense with which he may have been charged, Mr. Atocha was entitled, under this article of the treaty, to be tried, and to have afforded to him all the means of a fair trial which are provided for in that article.

It seems to your committee to be also very clear that the Mexican Government, under this treaty stipulation, possessed no other or greater power to punish a citizen of the United States domiciled within her territory than she possessed to punish one of her own citizens for a similar offense; and they are advised that the Mexican Government did not possess, under the constitution and laws of that republic, the power to expel a Mexican citizen without trial for any offense. Indeed, the minister for foreign affairs who issued the order of expulsion against Mr. Atocha, in response to the letter of the American minister which had inclosed the protest of Mr. Atocha against the legality of the order, and his notice of intention to claim damages for the losses which it would occasion him, says, "that his Government is authorized by the laws and constitution of the republic to expel from its limits non-naturalized foreigners pernicious to the country."

For the reasons assigned, your committee are of opinion that the expulsion of Mr. Atocha from the Mexican territory was a violation of the stipulations of the fourteenth article of the treaty of 1831, and consequently that he should have been awarded by the board of the commissioners organized under the treaty of Guadalupe Hidalgo such damages as he could show were sustained by him in consequence of that expulsion.

Your committee are advised that of the \$250,000 stipulated by the fifteenth article of the treaty of Guadalupe Hidalgo to be appropriated to the payment of claims of citizens of the United States against Mexico, the sum of about a quarter of a million dollars still remains in the Treasury, and consequently to that extent the fund set apart for that purpose still exists to indemnify Mr. Atocha, if he can establish his claim by satisfactory proof.

Your committee have not deemed it their duty to investigate the quantum of indemnity to which Mr. Atocha may be entitled. And it being conceded that he was and is a citizen of the United States, they have confined themselves to the inquiry whether his claim was intended to be provided for by the treaty of Guadalupe Hidalgo, and the affirmative of this question is, in their opinion, clearly demonstrated by the papers and proofs in the case.

Among the papers filed by Mr. Atocha your committee find the instructions of Santa Anna, then the president of the republic of Mexico, to the minister of his Government, charged with the negotiation of the treaty, directing him to have the name of Mr. Atocha inserted in the treaty as one whose claim was to be paid under its provisions, and they find other and repeated recognitions of its justice as against Mexico, from the obligations of which that Government claims to be released, solely because of the release by the United States, in that treaty, of all claims of its citizens against Mexico. We find that Mr. Almonte, the accredited minister of that republic to this Government, was instructed to see that this claim, "the most just of any which had been presented," should be paid from the fund which Mexico had provided by the sale of a part of her territory for the liquidation of claims of citizens of the United States against her.

With the presentation of another view of this subject, your committee will close this report.

After the board of commissioners had closed their labors, many citizens of the United States whose claims had been rejected petitioned Congress to review the decision of that board, and the Senate of the United States appointed a special committee to sit during the recess of Congress, with the power to send for persons and papers, and with instructions to examine each case and report such as, in their judgment, were entitled to relief.

That committee, in discharge of the duty assigned them, did investigate every claim which had been presented to the Senate for relief, and in every case, except this of Mr. Atocha, reported definitively. In his case no report was made because of an equal division of that committee upon his title to relief, so that this is the only case which has not received the supervision of the Senate, and it therefore appears to your committee that for this reason, also, the memorialist is entitled to have his claim now investigated, and affirmatively decided upon by the Government.

Your committee, in accordance with these views, have prepared, and submit herewith, a bill for the relief of the memorialist, which directs that his claim shall be investigated by the Court of Claims, and providing for the payment of such amount as shall be found due him, provided that the amount so paid shall not exceed the balance of the fund provided by the treaty of Guadalupe Hidalgo which remains unapplied to the objects of that treaty.

Mr. STEWART. I desire to have the printed letters which I send to the desk read. I have the originals here.

Mr. HOWE. I appeal to the Senator to allow this case to go over.

Mr. STEWART. Let us hear something about the case first.

Mr. CONKLING. Let us adjourn.

Mr. STEWART. I will not give way to an adjournment until those letters are read. I ask to have them read as a part of my speech.

Mr. HOWE. I really supposed that this evening session was voted for the purpose of passing upon some claims from the Committee on Claims, and my table is covered with them; cases which will lead to no debate and afford a great deal of relief; but this case will evidently occupy the evening, and not be settled then. I wish the Senator would allow it to go over.

Mr. STEWART. Let us have a few minutes longer. Let us have those letters read. I ask Senators to listen to them.

The PRESIDENT *pro tempore*. The paper will be read if there be no objection.

The CHIEF CLERK. This paper is headed:

"Connection of Mr. A. J. Atocha with the treaty of Guadalupe Hidalgo, by which California and New Mexico were acquired. Letters of Hon. Thomas H. Benton, James Buchanan, and Robert J. Walker."

Several SENATORS. We do not want those letters read.

Mr. STEWART. If we can have a vote on the bill I do not wish to debate it any further.

Mr. EDMUNDS. I have something to say upon it.

Mr. BUCKALEW. I desire to propose an amendment. I move to strike out the second division. I ask the Clerk to read it.

The CHIEF CLERK. It is proposed to strike out all of the bill after the word "deceased," in line ten, in the following words:

Second. Of the evidence of persons whose testimony cannot with due diligence be obtained, and also the official letters of the authorities of Mexico on the subject of this claim. And such evidence shall be received by the court, and the court shall give it such weight as in their judgment, under all the circumstances, it ought to have.

Mr. BUCKALEW. What I desire is to so amend the bill as to permit the use of this evidence where the witnesses are dead, and in the next place to permit the official documents before that commission to be used; but as to living witnesses I would not break down the rules of evidence, and in this case I think there is a particular reason. I do not know how the fact may be, but I suspect that those papers were *ex parte*; they were mere affidavits not taken with cross-examination; no representative of the Government of the United States or of the Government of Mexico being there.

Mr. STEWART. Yes, they were. They were taken under the rules which I hold in my hand, which requires the American consul to act for the United States, and they were to be taken before him, and he was to require evidence of the character and standing of the parties. They were taken in pursuance of the rules of the Department.

Mr. BUCKALEW. I do not know how that fact may be. They may have been taken before the American consul, and yet there may have been no cross-examination, no legal examination of witnesses; but, at all events, in a claim of such magnitude as this I think we ought to require the claimant, where witnesses are not living, to examine them as all other parties in courts of justice are required to examine witnesses, whether in our own or foreign countries.

Mr. NYE. I should like to ask the Senator from Pennsylvania whether, after all, when this evidence is submitted, the court is not the proper judge of its proper weight? I do not understand this bill as authorizing it to be evidence.

Mr. EDMUNDS. Certainly it does.

Mr. BUCKALEW. If you remove all the rules of evidence and allow the court to admit the parties to go before them and make their own statements, they might judge what they were worth.

Mr. NYE. Not at all. I understand the scope of this bill to be very different.

Mr. BUCKALEW. This bill is to relax the laws of evidence.

Mr. NYE. I do not so understand.

Mr. BUCKALEW. I desire by my amendment to relax them only in cases of witnesses who are now dead and who cannot be called, and in case of official documents having sanction by having been before that commission; but I think it is a shocking proposition to allow a party to read papers informally taken before a consul or before any other authority where the witnesses are now living.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania.

Mr. BUCKALEW. I want to strike out the second clause, and ending before the reference to the public documents.

Mr. STEWART. I should like to have it reported, so that I can understand what the amendment is.

The CHIEF CLERK. It is proposed to amend the bill by striking out the word "first" in line nine, and also by striking out in lines ten and eleven the words "second, of the evidence of persons whose testimony cannot, with due diligence, be obtained;" so that the bill will read:

That Alexander J. Atocha shall be, and is hereby, authorized, in the prosecution of his claim referred to the Court of Claims by the act to which this is an amendment, to use such portions of the evidence taken in pursuance of the rules and regulations of the commission established under the fifteenth section of the treaty of Guadalupe Hidalgo and laid before said commission as consists of the evidence of persons since deceased, and also the official letters of the authorities of Mexico on the subject of this claim, &c.

The amendment was agreed to.

Mr. EDMUNDS. I move to amend further by inserting after the word "Mexico," in the twelfth line, the words "which shall have been obtained pursuant to the said treaty and the rules and regulations of said commission;" so that it will read:

And also the official letters of the authorities of Mexico which shall have been obtained pursuant to the said treaty and the rules and regulations of said commission on the subject of this claim.

The treaty provides that application may be made to the Mexican Government for these official documents first. Then comes a proviso:

"Provided, That no such application shall be made by or at the instance of any claimant unless the facts which it is expected to prove by such books, records, or documents shall have been stated under oath or affirmation."

The object of that was, as the Senate will at once perceive, to enable the commission and the authorities of the United States who had got to pay this money to know the class of documentary evidence that was to be obtained, so that they could send out and get corresponding documentary evidence which might rebut it, or explain it, and so have notice of the nature of the evidence that was to be obtained. Now, then, if this man has obtained any official letters from Santa Anna, who made this very treaty, you understand, and was his friend—he was expelled with Santa Anna—which were not obtained upon notice such as the treaty provided, he ought not to be permitted to use them; but if he wants them now he should give notice in some way, so that the solicitor of the United States could send out and see that a full copy was obtained, and copies of any other documents which would throw light on it. I am sure my friend from Nevada will not object to that.

Mr. STEWART. I do not know about that.

Mr. JOHNSON. Let it go.

The amendment was agreed to.

Mr. EDMUNDS. Now, I wish to say a word or two more on the subject of the merits of this case. I want to ask Senators to reflect for a moment upon this, whether they believe that if what is contained in this present bill had been attached to the bill that was reported in 1865 it would have passed then. It appeared that previous committees of the Senate had been divided about it; and the ground upon which the bill of 1865 passed at all was that the very tribunal that all parties had agreed upon to try this cause had merely made

an error of law, and had decided the cause wrong, because the law was different from what they supposed it to be. Would the Senate, if the language of this bill had been used, have revived this cause twenty years after the commissioners, fairly selected, having no interest, hearing this party upon his own proof, *ex parte* papers and arguments, had decided that he did not come within the treaty? I wish to ask this Senate if they would have passed this bill of 1865 with such an amendment as this, or declaring that he might try that question over again and every other question, and that they would permit him to use such testimony as he had taken *ex parte* before that commission who had decided against him, when no such privilege was extended to the United States?

I understand my friend from Indiana [Mr. HENDRICKS] to agree with me that in his judgment the decision of the commission, under the treaty of Guadalupe Hidalgo, and that the committee of 1865 were wrong in deciding that that commission made a mistake; but he holds himself bound by the act of 1865 as foreclosing that question, so that by the law of 1865 it is to be taken that the decision of that commission was wrong. The act of 1865 does not declare that the decision of that commission was wrong by any means. It merely sends the case to the Court of Claims, after twenty years, to try it over again. Evidently, the act of 1865 passed as strong as it could be made for the benefit of this claimant consistent with the sense of Congress; and the same facts existed two years ago that exist now. Having therefore got this relief, so to speak, piecemeal, having got Congress to consent that upon the regular provision of proof he might go to the Court of Claims, he then turns around two years afterward, after that is partly forgotten, and says, "Now permit me to use the proof that the law does not permit any claimant in any court in the world to use," upon a claim, I beg Senators to understand that in the judgment of my friend from Indiana, and with proper modesty I may say my own, and I do not know but all the members of the committee agreed as to that—

Mr. STEWART. No!

Mr. EDMUNDS. In the judgment of my honorable friend from Indiana and of myself, the decision made twenty years ago was rightly made. If we are to review all the decisions which have been made against claimants by commissions that the Government has appointed to decide their cases, after twenty years, upon the ground that you can get a majority one day upon a hasty argument in the evening to decide that they had made a mistake in law, when the same persons might the next day decide otherwise, and then, in addition to that, declare that evidence which no court in the world receives shall be sufficient proof for him, it seems to me it is making a raid upon the Treasury that is a little too strong.

Mr. STEWART. The Senator from Vermont asks whether the Senate would have passed the bill in the form now suggested at the time they passed the original bill. I suppose the Senate intended at that time that the case should be heard before the court. I suppose they expected that this claimant would be heard; and if they had known that there was a technical obstacle in the way to prevent the case being heard I suppose they would have removed it at that time.

The Senator talks about legal proof. The testimony proposed to be admitted was taken according to the rules of the commission and with great particularity. The American consul in Mexico appeared for the United States. The parties were required to furnish evidence of their character and standing before him; but the testimony was not taken in a litigated case. If it had been taken in a litigated case under the rules of evidence, if the parties have since deceased, the evidence might be used. It has been taken in this case by depositions, and where the parties have died it might be used. It has been taken with about equal

particularity. It is following the principle by which you use the testimony of witnesses since deceased in legal proceedings in many instances where you would not use it if they were living. It is following the well-known analogies of the law, and it is carrying out the idea of the act of 1865. That act is worth nothing without this. Several of the important witnesses, whose depositions have been carefully taken, are dead; and I think, as the bill is now amended, the chances are ninety-nine in a hundred that it will be impossible, in the revolutions in Mexico, to find the other witnesses who are living in order to obtain their testimony. Mr. Atocha is a cripple. He is sick and poor, and very likely it will be out of his power at this time to get the testimony of the witnesses whose testimony has been once taken. The amendment of the Senator from Pennsylvania has probably placed it out of his power, if the bill passes; but certainly allowing the testimony of witnesses since deceased to be used is following nothing but the analogies of the law. It is perfectly in harmony with the spirit of the act of 1865 when it was passed.

Mr. DRAKE. So far as the remarks of the honorable Senator from Vermont would influence the mind of the Senate, when he declares that this evidence which it is sought to be allowed to be used is such as no court would allow to be used, perfectly *ex parte* in its character, I beg leave very respectfully to correct him. The law of the United States as it has stood on the statute-book, I think ever since 1789, authorizes depositions in every civil case pending in any United States court to be taken without notice to the opposite party where the place at which the depositions are to be taken is more than one hundred miles distant from the place where he resides.

Mr. EDMUNDS. If this evidence is admissible now, what is the use of this bill?

Mr. DRAKE. The simple ground of its inadmissibility is, that it was not taken in the pending case. But, sir, in a United States court to-day, if the United States sues an individual, that individual may go to the furthest end of the nation and take the deposition of a witness there, without giving notice to the United States at all, and have that deposition, taken *ex parte*, and having no higher character than a mere affidavit, read on the trial of the case in virtue of the law of the United States regulating the matter; and that is just the character of the testimony which it is sought to give this man the benefit of in the case of witnesses who have died or whose testimony cannot now be procured; and yet the honorable Senator from Vermont says that that is to let in testimony in this case such as no court in the land would let in in any case. I beg leave to state that the Senator is mistaken in his facts.

Mr. EDMUNDS. My friend from Missouri confesses that this testimony would not be admissible in any court. He admits that; and yet he turns with the air of Paul to one of the youngest of the disciples, and tells me that I am mistaken in saying that no court in the world would admit this testimony. It is the very fact that no court in the world will admit it that makes it necessary for this claimant not only to carry a law through that gives this court jurisdiction, but to require it to decide without evidence, or upon such evidence as the claimant pleases to produce. That is the fact about it; while it does not give any such privilege to the United States. The United States is to find its evidence the best way it can. If the United States has taken any testimony that is on file anywhere, the Judiciary Committee, in its supreme wisdom, inasmuch as this man is a cripple, I suppose, as it is said, concluded it was best to debar the United States from having the same privilege that the claimant had. They only provided that this "new wrinkle" of law that my friend from Missouri is so fond of should be used for the benefit of the claimant and nobody else. If that is the kind of legislation to pay away the people's money, then I am opposed to it; that is all.

My friend from Nevada says that this gentleman is poor. I do not know but that he is; I take it for granted. He says he is a cripple. I dare say he is. There are many poor men and many cripples in the country, Mr. President, who have to pay taxes, and whose hard-earned dollars have got to pay just such claims as this. I am in favor of leaving the money, until a case is made out on the ordinary proofs, in the hands of the poor men whose sweat has to produce it, rather than to have them pay it out for the benefit of this claim.

Mr. HENDRICKS. On investigation of this case before the Committee on the Judiciary I agreed with the Senator from Vermont that the report of the committee in 1865 did not establish a case. I was not satisfied that there was a claim due this man Atocha; but I think that question was settled by Congress in 1865, that it was such a claim as ought to be heard in the Court of Claims.

The only question now presented to Congress is, whether we will allow some evidence already produced to be read which cannot be read under the existing law. This evidence, as it is now guarded in the bill, it seems to me will not endanger the interests and rights of the Government. I am willing to vote for the bill as it is now framed, although I think, as the case now stands, the Court of Claims will decide against the claim unless a different case is made out from that which was made before the committee when Senator Foster made his report.

I do not exactly feel as the Senator from Vermont does on this subject. I do not feel that this is paying money out by the Government of the United States. We agreed with Mexico in the treaty for the payment of certain moneys and reserved three million dollars and more to pay the claims of citizens of the United States against the Government of Mexico. We retained the money in our own hands. The question is whether we will pay this claim, if the Court of Claims should so find, not out of money due the United States exactly, but out of moneys retained by the Government according to the terms of the treaty.

Mr. EDMUNDS. Do you contend that if we do not pay this to the claimant we shall have to pay it to Mexico?

Mr. HENDRICKS. That is a question that need not be settled now.

Mr. EDMUNDS. I ask my friend for his opinion, because we considered that in the committee, I remember, in connection with the treaty.

Mr. HENDRICKS. It stands just thus: the Government of the United States agreed to pay Mexico \$10,000,000, as I now recollect, for certain considerations; but in the treaty the Government of the United States retained \$3,250,000, and became herself the paymaster to her own citizens of claims against the Government of Mexico. The money she retained was not her own, but money that she had agreed in other provisions of the treaty to pay to Mexico. She was the trustee to both Governments for the payment of the claimants who were citizens of the United States against the Government of Mexico. Suppose there had been no claims presented against the Government of Mexico at all, and no portion of that \$3,250,000 had been paid out by the United States upon claims against Mexico, I ask the Senator from Vermont would we have retained that?

Mr. EDMUNDS. Yes; we should have retained it, clearly.

Mr. HENDRICKS. I am not sure that we ought.

Mr. EDMUNDS. Let me read the treaty, and you will agree with me.

Mr. HENDRICKS. In a moment. I do not care much if Atocha gets something out of that money. I think it is really a question between him and Mexico, whether we, as trustee under that treaty, shall pay this claim to Atocha for a wrong which he claims the Government of Mexico did him, he being a citizen of the United States. I do not care if the



Court of Claims shall take a liberal view of the case. If Santa Anna, in the exercise of powers as a dictator, banished Atocha from the City of Mexico upon charges not tried by any court, but heard by himself, and thus destroyed his estate and his interests, I do not care if Atocha does get some advantage, so far as the law will give it to him, and does get some portion of this money. I do not think the United States are so much interested in it. He was banished; banished without the decision of a court; banished under the command of a dictator. He was a citizen of the United States when he was banished. He said he had done no wrong. Still, I do not think that the report of the committee made out a case under the treaty. It did not at the time I investigated it.

Mr. COLE. Will the Senator from Indiana give way for a motion to adjourn?

Mr. HENDRICKS. No, no; my speech is not of that sort.

Mr. COLE. We cannot get through with this bill to-night.

Mr. HENDRICKS. I am just through.

Mr. CORBETT. I should like to know how long was this man a citizen of the United States?

Mr. HENDRICKS. I do not care if he was only a citizen for five minutes and a quarter. He was as much a citizen as it was possible for him to be.

Mr. CORBETT. I should like to know whether there is any evidence to substantiate that he was a citizen of the United States, and whether after he left the United States he did not become a citizen of Mexico?

Mr. HENDRICKS. I understand that all the evidence the Committee on the Judiciary had on the subject was the report made by Mr. Foster to the Senate in 1865, which goes upon the ground that Atocha being a citizen of the United States, but transacting commercial business in the city of Mexico, according to the comity between the two countries and according to treaty stipulations, he was banished by the decree of the dictator and his estates destroyed.

Mr. EDMUNDS. Now, shall I read the treaty?

Mr. HENDRICKS. Yes, sir.

Mr. EDMUNDS. I will read that part of the treaty just to show whether this \$3,250,000 is money retained which otherwise would be due to Mexico, or whether it is money of the United States:

"ART. XII. In consideration of the extension acquired by the boundaries of the United States, as defined in the fifth article of the present treaty, the Government of the United States engages to pay to that of the Mexican republic the sum of \$15,000,000."

"ART. XIV. The United States do further more discharge the Mexican republic from all claims of citizens of the United States not heretofore decided against the Mexican Government which may have arisen previously to the date of the signature of this treaty: which discharge shall be final and perpetual, whether the said claims be rejected or be allowed by the board of commissioners provided for in the following article, and whatever shall be the total amount of those allowed."

"ART. XV. The United States, exonerating Mexico from all demands on account of the claims of their citizens mentioned in the preceding article, and considering them entirely and forever canceled, whatever their amount may be, undertake to make satisfaction for the same, to an amount not exceeding \$3,250,000. To ascertain the validity and amount of those claims a board of commissioners shall be established by the Government of the United States, whose awards shall be final and conclusive."

Then it goes on further as to what principles the board shall be guided by.

Mr. HENDRICKS. I think there is some other provision of the treaty which bears on this subject, which I do not at present recollect?

Mr. EDMUNDS. No, sir; here is the treaty.

Mr. FRELINGHUYSEN. We held this money for that purpose.

Mr. DRAKE. Will the honorable Senator from Indiana allow me a word?

Mr. HENDRICKS. Certainly.

Mr. DRAKE. Mr. President, my friend from Indiana was rather quicker in getting the

floor after the close of the remarks of the Senator from Vermont than I was, and, by his courtesy, I am permitted to say a few words in reply to the remarks of the Senator from Vermont. The Senator from Vermont seemed to think that he had settled that matter very conclusively; but I take leave to differ from him on that point. It seems that the United States is here a mere trustee, and when the evidence was taken before that commission the United States was represented, and the depositions were taken there with a representative of the United States present.

Mr. EDMUNDS. Where is the evidence of that?

Mr. DRAKE. You stated it, or the Senator from Nevada.

Mr. EDMUNDS. You misunderstood him.

Mr. DRAKE. I understood that the consul there represented the Government of the United States.

Mr. EDMUNDS. No; he was the magistrate before whom depositions were to be taken.

Mr. STEWART. By the rules established by the United States, the United State required the evidence to be taken before its consul.

Mr. DRAKE. Very well. Now the matter stands just in this way: under this treaty the evidence was taken in the manner stated. The presentation of that claim before that commission was in effect a suit against this trust fund in the hands of the United States.

Mr. EDMUNDS. It was no trust fund.

Mr. DRAKE. If it was not a trust fund, I think it was a suit against the United States for claims against Mexico.

Mr. EDMUNDS. That is it.

Mr. DRAKE. Now, sir, what is the claim of Atocha in the Court of Claims but just a reproduction of that same suit against the United States in the Court of Claims after it had been before another forum? So that it is in effect just exactly what the Senator from Vermont specified as if it were in this suit, for it is about the same subject-matter, though it is in a different forum and the parties are different. It is Atocha against the United States. In the other it was Atocha against this money that the Mexican Government put there to have paid to citizens of the United States.

Mr. EDMUNDS. Will the Senator permit me to ask him a question?

Mr. DRAKE. Certainly.

Mr. EDMUNDS. I wish he would tell the Senate what he thinks of that clause of the treaty under which this man filed his claim which declares that the decision of that tribunal shall be final and conclusive upon him.

Mr. DRAKE. That is a totally different question from that upon which I am at issue with the Senator from Vermont. I am not going into the merits of the case. The Senator from Vermont affirmed before the Senate squarely that we were going to let in by this bill such evidence as no court in the country would let in. I take issue with him. I say that it is a litigation here about the same subject-matter concerning which the depositions were taken before.

Mr. EDMUNDS. Then what is the use of this bill?

Mr. DRAKE. Because, under the rules of evidence that they have, it cannot be admitted without legislation.

Mr. EDMUNDS. Then by law it is not admissible.

Mr. DRAKE. By the present law it is not admissible; but we want to make a law by which it shall be admissible.

Mr. EDMUNDS. If it is not admissible by law, would a court admit it; and if a court would not admit it, is not my assertion correct?

Mr. DRAKE. It is an extremely ingenious resort which the Senator from Vermont makes. My position is that the evidence was taken about the subject-matter, and in a case in effect, not in form, against the same parties; and that being the case, why should we not let

the man have the benefit of the evidence he has taken in the former phase of the case, when the witnesses are now dead and their testimony cannot be obtained?

Mr. EDMUNDS. Why not let the United States have the same privilege?

Mr. DAVIS. Mr. President, by the treaty of Guadalupe Hidalgo the United States acquired a vast mineral country from Mexico. It has resulted in almost untold millions of dollars to our country. A part of the consideration, indeed most of the consideration of that vast purchase, was \$15,000,000. Citizens of the United States had claims against the Government of Mexico, and it was stipulated in one of the articles of the treaty that of that \$15,000,000, \$3,250,000 should be reserved in the hands of the United States to satisfy the claims which the citizens of the United States had against Mexico. Those claims might have amounted to five or ten millions, or any sum above \$3,250,000; but the effect of that treaty was that those claims, whatever they amounted to, should be satisfied by \$3,250,000. Many of the claims had been presented against the Mexican Government and liquidated and paid. It has left a balance yet unappropriated of about five hundred thousand dollars. It is said that this claim of Atocha amounts to two or three million dollars. If it should amount to the whole of that sum, \$3,000,000, by the terms of the treaty, he cannot receive more than the residue of the \$3,250,000 that is now in the possession of the Government of the United States for the satisfaction of such claims.

The Government of the United States presents itself in this position to its own citizens and to Mexico: whatever be the amount of the valid claims which the people of the United States have against Mexico they are to be satisfied, so far as Mexico is bound to pay them, by \$3,250,000. This claim, it is said, amounts to two or three millions. If it does amount to that, the uttermost cent that Atocha can have of claim against the Treasury of the United States or Mexico is the residue of that fund of \$3,250,000, after deducting the amount that has been paid to other claimants; and that is stated to be about \$500,000.

I was on the Committee on Foreign Relations, three or four years ago, when this subject was considered. I examined the claim twice, and I came deliberately to the conclusion that it was a claim founded in justice. Mr. Atocha was a Spaniard by birth. He came to the United States and resided a while in New Orleans, and was there naturalized. He then went to Mexico for the purposes of trade and commerce. While he was there he was charged with being complicated with some faction, and was banished by the ruling authorities of Mexico summarily and immediately from the territory of Mexico. The Committee on Foreign Relations, of which Mr. Foster was then a member, examined the subject, and I examined the case twice afterward as carefully as I could, and concurred with him in all of his conclusions in the report that he made as to the facts and the law. The committee became thoroughly satisfied that Mr. Atocha had not been complicated in the political intrigues for which he was banished, but was entirely innocent of such a charge. The committee also examined the treaty of 1831 between Mexico and the United States, which stipulated mutually that the citizens of the respective countries should not be banished from the other until they were allowed six months for the purpose of prosecuting and winding up their business and leaving the country without loss. I am satisfied that this claim is one of merit, that Atocha, a citizen of the United States, whom I saw here repeatedly for three or four years, was not implicated in any political intrigue in Mexico, and that the pretext upon which he was banished was assumed and had no foundation in fact. I am perfectly satisfied, as was Mr. Foster, who was one of the most accurate lawyers and one of the most careful committee-men that I ever served with in this body, that he was banished by the ruling authorities of

Mexico in flagrant violation of the express articles of the treaty of 1831.

The committee did not pretend to ascertain the amount of his claim. They referred the ascertainment of its amount to the Treasury officers. They merely decided, in each case, that he had a just claim for some amount against Mexico, which the United States, under the treaty of Guadalupe Hidalgo, and by the reservation of \$3,250,000, was responsible to pay to the extent of that \$3,250,000 so far as it had not been appropriated; and they merely reported a bill to have it settled upon proper principles, and I think with the guards thrown about the present bill it ought unquestionably to pass.

Mr. CONKLING. Trusting in the sense of justice of the Senate, I move that we now adjourn.

Mr. HENDRICKS. I had not yielded the floor, and I want to make a single remark before I do. The Senator from Missouri asked me to yield to him for a moment, and I did so, and then I yielded to the Senator from Kentucky. I wish merely to say—

Mr. CONKLING. I think a Senator who becomes so prodigal with the floor, and squanders it as the Senator from Indiana has, should not be allowed to retain it.

Mr. HENDRICKS. I cannot resist an appeal of that sort.

The PRESIDENT *pro tempore*. The Chair understands that when a Senator yields the floor he yields it for good.

Mr. HENDRICKS. At this time of night that is a good rule; but I want to make a personal remark before the Senator from New York submits his motion.

Mr. CONKLING. Very well.

Mr. HENDRICKS. I stated in response to the Senator from Vermont that I thought this \$3,250,000 was reserved, under the terms of the treaty, from the ten or fifteen millions that were to be paid. I think I was mistaken in that. I must have had my memory impressed with the reading of some other treaty. I find that this obligation of the Government of the United States to our own citizens to the extent of \$3,250,000 was in addition to the \$15,000,000.

Mr. CONKLING. Now, Mr. President, the Senator having apologized for his position in this matter, I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, July 1, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

On motion of Mr. ORTH, by unanimous consent, the reading of yesterday's Journal was dispensed with.

### CLERKS' EXTRA COMPENSATION.

Mr. WASHBURN, of Indiana. I present the petition of fifteen hundred and fifty-six clerks for extra compensation for the year ending the 30th of June, 1868.

Mr. TROWBRIDGE. Cannot that be referred under the rules?

The SPEAKER. It can.

Mr. TROWBRIDGE. Then let it take that course.

Mr. WASHBURN, of Indiana. I will refer it under the rules.

### FUNDING BILL.

Mr. BLAINE. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Committee of Ways and Means be directed to inquire into the expediency of reporting, without unnecessary delay, a funding bill providing for the consolidation of all the bonded indebtedness of the United States into five per cent. bonds, payable at the option of the Government after ten years; or four and a half per cent., payable at the option of the Government after thirty years; or into four per cent. bonds, in the form of interminable annuities, the holders of outstanding bonds to have their choice of these three forms of securities.

Mr. POMEROY. I object.

### REPRESENTATIVE FROM FLORIDA.

Mr. SCOFIELD. I am directed by the

Committee of Elections to report the following resolution:

*Resolved*, That Charles M. Hamilton is entitled to a seat in this House as a Representative from the State of Florida.

The committee finds his credentials are in due form, and we have a certificate that the State has adopted the fourteenth constitutional amendment.

Mr. MAYNARD. Has there been any question of his personal fitness and qualification?

Mr. SCOFIELD. None. It is all right.

The resolution was adopted.

Mr. SCOFIELD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### PROTECTION OF GOVERNMENT OFFICERS, ETC.

Mr. WASHBURN, of Wisconsin. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of House bill No. 1131, regulating judicial proceedings in certain cases, for the protection of officers and agents of the Government, and for the better defense of the Treasury against unlawful claims, reported back yesterday from the Committee on the Judiciary by the gentleman from Massachusetts [Mr. BOUTWELL] with amendments.

First amendment of the committee:

Add to the second section the following proviso: *Provided*, That this section shall not be construed so as to deprive aliens who are citizens or subjects of any Government which accords to citizens of the United States the right to prosecute claims against such Government in its courts, of the privilege of prosecuting claims against the United States in the Court of Claims as now provided by law.

The amendment was agreed to.

Second and third amendments:

Insert after the word "allegation," in sections two and three, the words "if the fact be sustained by the proof."

The amendments were severally agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### ADVERSE REPORTS.

Mr. ORTH, from the Committee on Private Land Claims, reported adversely on the following cases, and the same were laid on the table:

The memorial of Thomas H. Dowling;  
The claim of heirs of Philip Revantho;  
The petition of the New York Central College to have a certain tract of land confirmed to it for the education of colored youths;  
A bill (H. R. No. 399) for the relief of David A. Miller; and  
A bill (H. R. No. 433) for the relief of the heirs of Simeon Castro and their assignees.

### LAND IN BURLINGTON, IOWA.

Mr. ORTH, from the same committee, reported back a bill (S. No. 469) confirming the title to a tract of land in Burlington, Iowa, with a recommendation that it do pass.

The bill provides that the title of the United States to a certain tract of land in the city of Burlington, Iowa, which was reserved from sale by the United States and dedicated to public burial purposes, be confirmed and vested in the independent school district of said city, to be forever dedicated and used for public school purposes, and for no other use or purpose whatever.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. ORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### PUEBLO OF SANTA ANNA.

Mr. ORTH, from the same committee, reported a bill (H. R. No. 1343) to confirm the title to certain land to the pueblo of Santa Anna, in the Territory of New Mexico; which was read a first and second time.

The bill confirms the title of certain lands lying upon the Jernez or Santa Anna rivers, not exceeding four square leagues in extent, provided that the confirmation shall only be construed as a relinquishment on the part of the United States, and shall not affect any adverse right, should any such exist.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

On motion of Mr. ORTH, the report of the committee accompanying the above bill was ordered to be printed.

### SWEARING IN OF A MEMBER.

CHARLES M. HAMILTON, a member-elect from the State of Florida, appeared and was duly qualified as a member of the House of Representatives by taking the oath prescribed by law.

### LAND CLAIMS IN NEW MEXICO.

Mr. ORTH, from the same committee, reported a bill (H. R. No. 1344) to confirm certain private land claims in the Territory of New Mexico; which was read a first and second time.

The bill confirms the claim to certain private lands, numbered 41, 42, 44, 46, and 47, in the Territory of New Mexico, provided that such confirmation shall only be construed as a quit-claim or relinquishment of all title or claim on the part of the United States to the same, and shall not affect the adverse rights of any person or persons to the same, or any part or parcel thereof. Sections two and three provide for the survey of the lands and the issue of patents therefor.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ORTH moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

### CHARLES MAY.

Mr. BAILEY, from the same committee, reported back the bill (H. R. No. 1109) for the relief of Charles May, of Milwaukee, Wisconsin, accompanied by the following resolution:

*Resolved*, That the Committee on Private Land Claims, to whom was referred House bill No. 1109, for the relief of Charles May, and the memorial accompanying the same, may defer their report thereon until the next session of this Congress, and in the mean time that the said bill and memorial be, and the same is hereby, referred to the Commissioner of the General Land Office, with directions to ascertain the facts upon which the claim of said May is based, and any other facts properly connected therewith, and that he report the same at the next session of said Congress.

The resolution was adopted.

The bill was then recommitted to the Committee on Private Land Claims.

### LAND CLAIM IN MISSOURI.

Mr. BAILEY, from the same committee, reported back, with the recommendation that it do pass, the bill (S. No. 166) for the relief of the owners of the land within United States survey No. 3217, in the State of Missouri.

The bill was read. By its terms the United States release, grant, relinquish, convey, and confirm in fee-simple and in full property to the legal representatives of Ann O. Camp and Antoine Reihle all the right, title, and interest of the United States in and to all of the land within United States survey No. 3217, in townships forty-four and forty-five, north of the base line in ranges six and seven, east of the principal meridian line in the State of Mis-

souri, being the same land that was surveyed by the United States for Madame Camp and Antoine Reihle's representatives, containing two thousand nine hundred and five arpents, fifty-six perches and forty feet, which is equal to two thousand four hundred and seventy-one acres and seventy-six hundredths of an acre; provided that nothing in the bill shall abridge, divest, impair, injure, or prejudice any adverse right, title, or interest of any person or persons in or to any portion or part of the land.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. BAILEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ANN D. DURING.

Mr. LOUGHRIDGE, from the same committee, reported back, with the recommendation that it do pass, the bill (H. R. No. 910) for the relief of the grantees of Ann D. Durning.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LOUGHRIDGE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LAND CLAIMS IN NEW MEXICO.

Mr. LOUGHRIDGE, from the same committee, reported a bill (H. R. No. 1348) to confirm certain private land claims in the Territory of New Mexico; which was read a first and second time.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LOUGHRIDGE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### WILLIAM A. DUNN.

Mr. BUTLER, of Tennessee, by unanimous consent, introduced a bill (H. R. No. 1846) for the relief of William A. Dunn, of Virginia; which was read a first and second time, and referred to the Committee of Claims.

#### LUCINDA PANGLE.

Mr. BUTLER, of Tennessee, by unanimous consent, also introduced a bill (H. R. No. 1347) for the relief of Lucinda Pangle; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### COLONEL S. K. N. PATTON.

Mr. BUTLER, of Tennessee, by unanimous consent, also introduced a bill (H. R. No. 1848) for the relief of S. K. N. Patton, late colonel of the eighth Tennessee cavalry; which was read a first and second time, and referred to the Committee on Military Affairs.

#### GABRIEL CERRE AND SOPHIA BOLAYE.

Mr. LOUGHRIDGE, from the Committee on Private Land Claims, reported back, with a recommendation that the same do pass, House bill No. 1204, to confirm certain private land claims in the State of Missouri.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, provides that the claims of the legal representatives of Gabriel Cerre and Sophia Bolaye, falling within the exterior boundaries of the commons of Carondelet, the former entered as No. 60 for four hundred arpents, and the latter as No. 279 for one hundred and fifty arpents, in the first class of decisions of the board of land commissioners under the acts of Congress of 9th July, 1832, and 2d March, 1833, for the adjustment of private land claims in Missouri, which claims were confirmed by act of Congress July 4, 1836, subject to location elsewhere than in place in case of conflict, are hereby confirmed in place subject to any valid adverse rights, if such

exist, and patents for said claims shall be issued accordingly.

Mr. NEWCOMB. This bill involves the title to land in the State of Missouri to the value of several hundred thousand dollars. It was introduced and referred to the Committee on Private Land Claims without my knowledge, and I was not aware that any such bill was before the House until the committee was prepared to report upon it. I am not prepared to say, however, that the passage of this bill would work any wrong or injury to any party. But inasmuch as this land lies in my district and is very valuable, and the title is in dispute and has been for a great many years, I would ask that the further consideration of this bill be postponed until the first Tuesday in December next, after the morning hour, so that we may have an opportunity to examine the facts in the case and be able to act more intelligently than we can now.

Mr. PILE. I desire to state only that this bill was brought to me by General Bent during the morning hour call for bills and joint resolutions. Not seeing in his seat my colleague who represents that district, [Mr. NEWCOMB,] I introduced the bill and had it referred. I have no knowledge of the facts in the case. I omitted, as I ought not to have done, to inform my colleague of the nature of the bill. I hope it will be postponed at his request until it can be examined.

Mr. LOUGHRIDGE. The Committee on Private Land Claims examined this bill very carefully, and were satisfied that it was correct; but if the gentleman who introduced it here desires it to be postponed, of course the committee will not object.

Mr. NEWCOMB. I move that the further consideration of this bill be postponed until the first Tuesday in December next, after the morning hour.

The motion to postpone was agreed to.

#### PRIVATE LAND CLAIMS IN CALIFORNIA.

Mr. STONE, from the Committee on Private Land Claims, reported back, with a substitute, House bill No. 1206, to restore to certain parties their rights under the laws and treaties of the United States.

The substitute, which was read, provides that each and every person claiming land in California by virtue of any right or title derived from the Spanish or Mexican authorities, and whose claim has not been adjudicated by the commission created by act of Congress approved March 3, 1851, and record evidence of which claim is found in the Spanish or Mexican archives now in the custody of the United States surveyor general for the State of California, shall within one year after the date of this act present his petition in writing for the same to the United States district court for the district in which the land claimed is situated, with such documentary evidence and testimony of witnesses as the said claimant relies upon in support of such claim; and thereupon the same proceedings shall be had in said district court, in relation to the hearing and decision of said claim in all respects, as though it had been presented to and decided adversely to said claim by the commission created by the act of March 3, 1851, except that no transcript of the report or proceedings of said commission shall be presented to the said district court, and the survey of any grant which may be confirmed under this act shall be subject to the provisions of the act of June 14, 1860; provided, however, that from the decision therein, both on the title and on the survey and location, appeal may be taken to the Supreme Court of the United States within six months after such decision has been rendered, and that the same proceedings for the hearing and decision thereof shall be had, and the judgment of the district court shall have the same effect as is provided by the act hereinbefore referred to; and provided further that such confirmation shall not affect the rights of third parties, but shall establish simply the title of the claimant as between him and the United States.

Mr. STONE. I ask that the report accompanying the bill be read.

The Clerk read the report, as follows:

Your committee, to whom was referred House bill No. 1206, have had the same under consideration, and find the facts to be these:

That the United States solemnly promised by their treaty with Mexico to protect the rights of private property; that no man's land should be taken from him if he had a title which the Mexican laws held to be good.

This provision of the treaty merely embodied in the form of an express stipulation what had always been recognized as international law.

In 1851, a commission was created by act of Congress to investigate these Mexican land titles, with power to confirm the genuine and reject the spurious claims, and reserving both to the claimant and to the Government the right to appeal, first to the district court, and thence to the Supreme Court of the United States. All claims were to be presented within two years after the date of the act; and by subsequent acts this time was extended two years more.

This law operated with some severity upon the owners of sound and honest titles, but it was made necessary by the enormous number of false and fraudulent claims which were set up to the most valuable lands in California.

When the commission began their labors the records of the former Government were not known to exist in any completeness, had not been collected or examined, and were not resorted to or relied upon as evidence. Whoever could produce a title-paper, and prove its proper execution by parole evidence, had his claim confirmed. Record evidence was not required.

This rule opened wide the door to forgery and perjury. Title-papers were antedated or forged, and men found to swear them genuine.

At length the Attorney General, alarmed at the number of alleged frauds, caused the archives of the former Government to be collected and carefully examined, and, to the surprise of everybody, these were found to be entire and reliable. The means of testing the validity of any claim was now at hand, and from that day to this the courts have subjected all claims coming before them to this test.

As late as 1864 the Supreme Court said: "It has been held by this court, in a long and unbroken line of adjudications, that where there is no archive evidence, and its absence is unaccounted for, and there has been no such possession as raises an equity in behalf of the party," \* \* \* "the claim must be rejected. We feel no disposition to relax the rule."

Such is now the law. But all this was settled after the time had gone by when claims could be presented or heard, and after meritorious and just claims had been rejected or withdrawn on account of the enforcement of the title-paper rule.

The limitation clause of the statute cut these claimants off and denied them a hearing under the new and true rule of evidence established by the Supreme Court consequent upon the discovery of the archives.

This bill extends the limitation-clause of the statute one year, and gives claimants who have archive evidence of title a hearing; and it is all that it gives them. This they ask; and it is all they ask.

The facts in a single case will make this whole matter plain.

In 1837, Juan Miranda, a Mexican soldier, accepted a provisional grant of a then outlying ranch in California, and on this ranch lived with his large family until 1845, when he died. The year before his death he perfected his title to the ranch, and all the papers were duly recorded in the archives of the Mexican Government, and there they are to-day. His title to the land was as good as the laws of that country could give to any man.

His family continued to live upon the ranch till after the conquest of the country. Meanwhile Miranda's title-paper was lost.

A certain Ortega, son-in-law of Miranda, aware of this loss, procured title-papers to this same ranch in his own name, and dated them back to 1840.

The heirs of Miranda sold their title to Valentine; Ortega sold his to White; and the purchasers presented their respective claims to the land commission for confirmation.

The Ortega title was confirmed, for it had the title-paper, while the other had none.

In fact, so complete was the fraud that the adverse claimant himself was deceived, and withdrew his claim. The district court was also deceived, and confirmed the decree of the land commission in favor of Ortega.

Meanwhile new facts came to light, through the efforts of the Attorney General, and the case was carried up to the Supreme Court.

There it was broadly challenged as a cheat and a forgery. The judgment of the court below was set aside, and the record remitted for further proceedings in the district court.

Judge Hoffman took up the case *ab initio*, patiently examined all the facts, and, in an opinion of great ability, exposed the utter fraud of the Ortega title.

In 1864 the case came again to the Supreme Court, and the judgment of the district court was affirmed.

Thus, after twelve years of hot litigation, was this spurious title swept away.

The United States never pretended to have any title to this ranch. The Supreme Court distinctly said: "It is clear from the evidence in this case that, as against the United States, either Ortega or Miranda has a just claim to a confirmation of his title to the tract in dispute. But whether Ortega was landlord and Miranda his tenant, or which of the claimants has attempted to overreach the other, are questions in which the Government has no interest." And, again, in the same opinion the court



said: \* \* \* "The Government surely has no right to claim that the land shall be considered as part of the public domain." So it is seen that the Ortega title was a cheat, and that the United States did not even pretend to have any title. The title to this ranch was clearly in Miranda. No one will now stand up to deny it. If, therefore, Valentine, who holds it, be not protected in his possession, the default will not only shock all sense of natural justice, but break the faith pledged by our treaty with Mexico and violate the public law of the world.

Your committee think, therefore, that the relief asked for by this bill should be granted.

It is the interest of all parties that these few outstanding claims should be disposed of, and not left to cloud the possessions of those who may have settled upon any portion of the lands. If these claims, or any of them, are good, the faith of the nation is pledged by treaty to confirm them; if they are bad, it will be so shown on the hearing, and they will be rejected. The time has gone by when any but meritorious titles can be confirmed by the courts. But so long as these outstanding claims exist there is no security that legislative relief will not be given sooner or later, and a feeling of doubt and uncertainty must continue.

Mr. JOHNSON. I ask the gentleman from Maryland [Mr. STONE] to yield to me.

Mr. STONE. I yield five minutes to the gentleman from California, [Mr. JOHNSON.]

Mr. JOHNSON. I desire to offer an amendment.

Mr. STONE. I yield to allow the amendment to be read.

Mr. JOHNSON. The amendment which I desire to offer is to add the following proviso:

*Provided, That all persons who, previous to the passage of this act, have acquired any valid right or title to any of the lands embraced within the provisions of this act, under the preemption or homestead laws or otherwise, shall be protected in their right.*

Mr. Speaker, I had no idea that this bill was coming up to-day; otherwise, I should have been prepared to discuss it. But even if I had come before the House much better prepared than I am, it would not have availed me, because I am limited to five minutes' time. I admit, Mr. Speaker, that those owning Mexican land claims in California who did not present their claims to the land commissioners should be protected in their claims, because we agreed in our treaty with Mexico that we would protect such claims. But, Mr. Speaker, while I admit the justice of allowing these gentlemen to prove their claims, I also recognize the rights of the settlers upon these lands in the State of California, which seven or eight years ago became vacant and were declared public lands by this Government, and were taken up by actual settlers, the Government of the United States extending the public surveys over these lands. Every acre or nearly every acre covered by every one of these grants has been taken up by preëmptors and settlers. Nine tenths of all the land covered by these grants have been entered by settlers, and patents have been issued by the Government of the United States. I say that these settlers have equities as well as the grant holders. And let me say right here that if Congress intends to hold out false inducements to the hard-fisted yeomanry of this country to go upon the public domain and open up farms, and then by legislation turn them out and give their homes to speculators, this Congress had better be disbanded. I say that the passage of such an act as this would be an outrage upon the rights of the people in the State of California. There are, perhaps, fifteen thousand farmers who would be turned out of house and home by the passage of this act unless my amendment is allowed to prevail. I hope that this House will never commit such an outrage upon the rights of settlers.

I admit, Mr. Speaker, that if we were creating a new claim here the settler could not be interfered with, and that this amendment would be useless. But we are reestablishing an old claim, one that existed long prior to the entry and patent of these lands. I hope that the House will allow this amendment to be adopted. It is proper and just; and it is law, if there is any virtue in acts of Congress heretofore passed. Seven or eight different congressional enactments have been made to induce settlers to go upon those lands. By, I believe, eight different acts of Congress these lands have been declared

to be public lands; and, in addition to this, the act of 1862 required the actual settlers to pay for the survey. The settlers whom this bill is to turn out of house and home have spent hundreds of thousands of dollars in surveying the public lands covered by these grants. Is it right, after charging a man twenty-five, thirty, forty, or fifty dollars, or may be one hundred dollars, for the survey of the land because it happened to be covered by an old grant which had run out of date, is it right to make him pay this and then \$1 25 per acre, and after he has got his patent and spent some twenty-five or thirty thousand dollars—I have known cases where men have spent hundreds of thousands of dollars in beautifying their places—is it right, after all this, to turn him out of house and home; after, as I said before, the Government of the United States publishing that this was public land and could be taken up by actual settlers?

I appeal to the House to let the amendment be adopted for the protection of the actual settlers. While I do this, I admit the equity of this class of grant holders in the bill. If, because of the laches of parties in not presenting their claim according to the law they have lost their claims, then they should ask the liberty of taking other public land elsewhere instead of this. That would be just and proper; but it would not be just and proper, on the contrary, to turn all these settlers adrift after they have expended thirty or forty million dollars in improving their ranches.

The SPEAKER. The gentleman's time has expired.

Mr. MULLINS. I ask for a minute.

Mr. STONE. I yield to the gentleman for one minute.

Mr. MULLINS. I rise for the purpose of opposing this amendment. Taking the ground advocated by the gentleman who urges the amendment, taking his argument yesterday that treaties were solemn—and he maintained that doctrine urgently and defiantly almost, holding it over us *in terrorem*—the gentleman's position is untenable. Here is a treaty between the United States and Mexico, solemnly ratified, which guarantees the rights of these parties who have these grants from the Mexican Government. Now the gentleman comes in and says that because we have the power these claimants shall be denied all the rights they were guaranteed under the treaty.

The SPEAKER. The gentleman's one minute has expired.

Mr. JOHNSON. I only want half a minute.

Mr. HIGBY. I yield half a minute to my colleague.

Mr. JOHNSON. In regard to the treaties the gentleman speaks about I know he speaks of them because he has no knowledge of the meaning of those treaties. We agreed to protect these individuals in their rights, whatever they may be; but they are inchoate. There is a grant of land of three leagues within an exterior limit of thirty leagues; it is to be located; it is nothing; it is an inchoate title; it is an inchoate equity, to be protected and brought about by the legislation of this Government. This Government said, "Present your claim within five years, and you shall have your rights; after that, if you do not, you shall have none."

Mr. MULLINS. The report is against you.

Mr. JOHNSON. It is based upon a false state of facts.

Mr. STONE. I yield now to the gentleman's colleague, [Mr. HIGBY.]

Mr. HIGBY. Mr. Speaker, as early as 1863, in the Legislature of the State of California, this question came up; Congress was taking action on the subject; the Legislature memorialized Congress to take no further action; there was an investigation there, and it turned out between Ortega and Miranda there was supposed to be a title, but by some management between them they did not procure a title, and the statute of limitation expired before Ortega, if he had any, perfected his title. I know all about this transaction. In some of

the cases there were stipulations. Some of the parties on the land are not only under the title of the United States but of one of these parties by a deed. I verify what my colleague has said. There are settlements of the finest character upon these lands, which are of the best quality. There is a town of two or three thousand inhabitants upon them, a well built, substantial town; there is property to the value of millions upon this tract, the title to which this act proposes to revive in one individual. I do not speak for my constituency, for I have no constituents where this land lies, but I speak on previous knowledge of this subject. Pass this bill, and it steps in with this title of one individual and deprives men of title which they have from the United States. This is the simple state of the fact.

Mr. STONE. I yield to the gentleman from Indiana.

Mr. ORTH. I am opposed to the amendment offered by the gentleman from California in the shape of a proviso to this bill. That proviso seems to recognize rights acquired under the homestead or preemption laws of the United States upon the lands embraced within this Miranda grant.

Now, Mr. Speaker, as I understand this matter, it is exceedingly plain and simple, not only so far as the treaty rights of the Miranda claim are concerned, but so far as the adjudication of these rights are concerned in by the Supreme Court of the United States. By the treaty under which we acquired California we solemnly agreed with that republic to protect her citizens in the enjoyment of all rights of property which they had under the republic of Mexico. Prior to that treaty Miranda, a citizen of the republic of Mexico, in 1867 accepted a grant under the land laws of Mexico, filed his petition, had a survey made, and was placed in possession of the lands. Thus matters stood at the time of the acquisition of California by this Government. After the acquisition of California, I think in 1855, the United States Congress passed a law providing for a commission to examine all titles in California arising under that treaty. A Mr. Ortega, who, I believe, was a son-in-law of Miranda, the latter having died in the meantime, got up a forged title to the claim to this property. While Miranda's claim was pending before this commission, and before the court in California, Ortega came in as a counter claimant, and so specious was the fraud which he had perpetrated upon the interest of Miranda, that even the commission and the court were deceived, and it was not till afterward, by the vigilance of the Attorney General of the United States, the fraud was discovered, and Ortega was driven out of court with his fraudulent claim. In the mean time, however, the statute of limitations provided for in the act of 1865 expired, and Miranda was left without any right to prosecute his claim under the provisions of said act; and the claim now rests upon its original right under the treaty.

The SPEAKER. The morning hour has expired, and the bill goes over till to-morrow in the morning hour.

#### DEPUTY COLLECTORS.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, suggesting an amendment to the pending appropriation bill allowing deputy collectors to receive pay for actual service performed; which was ordered to be printed, and referred to the Committee on Appropriations.

#### EXPENDITURES OF PEACE COMMISSIONS.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with House resolution of the 22d ultimo, vouchers on file relative to the expenditures made by the peace commission acting under the act of July 20, 1867, relative to certain hostile Indians.

On motion of Mr. COBB, the communication was referred to the Committee of Claims.

## NIOBRARA TOWNSHIP.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting an estimate of appropriations to pay demands sustained by settlers in Niobrara township, Nebraska, by reason of locating Santee Sioux Indians on their lands in 1866; which was ordered to be printed, and referred to the Committee on Appropriations.

## LEAVE OF ABSENCE.

Leave of absence for one week was granted to Messrs. NICHOLSON, BOYER, and ARCHER; and indefinite leave of absence to Messrs. CARY, KETCHAM, and FERRISS.

## TARIFF BILL.

Mr. BANKS. Before moving to go into the Committee of the Whole, I will yield to the gentleman from Pennsylvania.

Mr. MOORHEAD, by unanimous consent, reported from the Committee on Ways and Means a bill (H. R. No. 1345) to increase the revenue from duties on imports and tending to equalize exports and imports; which was read a first and second time, and ordered to be printed, and referred to the Committee of the Whole on the state of the Union.

Mr. MOORHEAD. I move that it be made the special order for Friday next after the morning hour, and from day to day until disposed of.

The SPEAKER. That motion requires unanimous consent.

Mr. MARSHALL. I object.

Mr. MOORHEAD. I then give notice that after the Alaska matter is disposed of I shall move to lay aside all other business in order to reach this bill.

Mr. KOONTZ. I hope the gentleman from Illinois will withdraw his objection.

Mr. MARSHALL. No, sir; I cannot.

## BRIDGE IN BOSTON HARBOR.

Mr. BANKS. I yield for a moment to the gentleman from Illinois, [Mr. Cook.]

Mr. COOK, by unanimous consent, from the Committee on Roads and Canals, reported a joint resolution (H. R. No. 321) in relation to the erection of a bridge in Boston harbor; which was read a first and second time.

The joint resolution provides that the Secretary of the Navy shall detail two competent and impartial officers of the Navy, and the Secretary of War shall detail a competent and impartial officer of the engineer corps, who shall compose a commission whose duty it shall be to make a careful examination of the harbor of Boston and shall report to Congress at its next session in what manner the commerce of said harbor and the interests of the United States in the navy-yard at Charlestown will be affected by the construction of a bridge over the water between the main land in the city of Boston and East Boston, in the manner provided in an act of the Legislature of the State of Massachusetts entitled "An act to incorporate the Maverick Bridge Company," and no bridge is to be erected by the said company across the said water until the assent of Congress shall be given thereto.

Mr. COOK. I will explain the resolution in a minute or two.

Mr. BANKS. I reserve the right to claim the floor if the debate goes too far.

Mr. COOK. A bill giving the assent of Congress to the erection of a bridge across Boston harbor under the charter granted to the Maverick Bridge Company by the Legislature of Massachusetts was referred to the Committee on Roads and Canals. On examining the question, the committee found that in the opinion of the Secretary of the Navy, the chief of the engineer corps, and the officers attached to the Coast Survey connected with the harbor of Boston, this bridge would be a very great injury to the commerce of the harbor, and also would injure the interests of the United States in the navy-yard at Charlestown. Under that charter granted by the Legislature of Massachusetts the committee believe that this bridge may be erected, unless Congress shall interfere,

and the Secretary of the Navy has addressed a communication to the committee asking for this action.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COOK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BANKS, by unanimous consent, presented resolutions of citizens of Charlestown, Massachusetts, protesting against the erection of the bridge; which were referred to the Committee on Roads and Canals, and ordered to be printed.

## LEAVE OF ABSENCE.

Mr. NEWCOMB asked and obtained indefinite leave of absence after to-day.

## THE SUTRO TUNNEL.

Mr. ASHLEY, of Nevada, by unanimous consent, presented communications from the Secretary of the Treasury and the Secretary of the Interior concerning the bill (H. R. No. 1153) asking aid for the construction of the Sutro tunnel; which were ordered to be printed with the report of the Committee on Mines and Mining accompanying the bill.

## ORDER OF BUSINESS.

Mr. WASHBURN, of Illinois. I desire to give notice that to-morrow, if the Alaska bill shall not be disposed of, I shall move to postpone it for the purpose of taking up the appropriation bills.

Mr. BANKS. Till what time?

Mr. WASHBURN, of Illinois. Until next week.

Mr. BLAINE. I understand that the chairman of the Committee on Foreign Affairs [Mr. Banks] does not object to that.

Mr. BANKS. With the understanding that it shall preserve its place as a special order I will not object; but I would like to have the consent of the House that the vote on the bill shall be taken on Thursday of next week, after the reading of the Journal, without debate.

Mr. WASHBURN, of Illinois. Let that be the understanding.

Mr. WASHBURN, of Wisconsin. Do I understand that when the bill comes up to be voted on the resolutions reported by the minority of the committee will first be voted on?

The SPEAKER. That is a question for the chairman of the Committee of the Whole on the state of the Union, and not for the Speaker.

Mr. BANKS. There will be no objection to voting on any proposition that properly belongs to the subject.

Mr. BLAINE. Is it understood that to-morrow the House will go into Committee of the Whole on the deficiency bill?

Mr. BANKS. Yes, sir.

Mr. WASHBURN, of Illinois. On the deficiency bill, and the amendments of the Senate to the legislative appropriation bill.

The SPEAKER. The understanding is that the vote will be taken on the Alaska bill and amendments in Committee of the Whole on Thursday of next week, after the morning hour.

Mr. WASHBURN, of Illinois. I hope it will be the general understanding that if there are any members who desire to speak to-night the Committee of the Whole shall be authorized to take a recess from half past four to half past seven this evening, the session of to-night to be for debate only on the Alaska bill.

No objection was made.

## LEAVE OF ABSENCE.

Mr. VAN TRUMP asked and obtained leave of absence for six days.

Mr. TABER asked and obtained leave of absence from Thursday of this week until Tuesday evening of next week.

The SPEAKER. The Chair desires to state to the House that so many members have obtained indefinite leave of absence that unless

some of them return it may be difficult to obtain a working quorum after the Fourth of July.

Mr. WASHBURN, of Illinois. I give notice that for the present I will object to any more indefinite leaves of absence being granted.

## FREEDMEN'S AFFAIRS.

Mr. ARNELL, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the Secretary of War be, and is hereby, directed to communicate to this House the reports of Major General Carlin for the past six months relative to the condition of freedmen's affairs in the States of Tennessee and Kentucky.

## PURCHASE OF ALASKA.

Mr. WASHBURN, of Wisconsin. I now insist upon the regular order.

Mr. BANKS. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. GARFIELD in the chair,) and resumed the consideration of the special order, being House bill No. 1096, making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867.

The CHAIRMAN. The gentleman from Wisconsin [Mr. WASHBURN] is entitled to the floor.

Mr. MAYNARD. It will be recollected that when the committee rose last night I had the floor. My purpose was to address the committee on the same side upon which two gentlemen had previously addressed the committee. I prefer, however, that the gentleman from Wisconsin, [Mr. WASHBURN], who represents the views of the minority of the Committee on Foreign Affairs, or the gentleman from Iowa [Mr. PRICE] shall first address the committee.

The CHAIRMAN. By unanimous consent the House on yesterday ordered that when the consideration of this subject was resumed by the Committee of the Whole to-day the gentleman from Wisconsin [Mr. WASHBURN] should be entitled to the floor.

Mr. PRICE. And unanimous consent was also given that I should take the floor at the conclusion of the remarks of the gentleman from Wisconsin.

The CHAIRMAN. The gentleman is correct.

Mr. MAYNARD. I understand that I hold the floor from last night, and I do not know that it can be taken from me without my consent.

The CHAIRMAN. The House by unanimous consent yesterday ordered that the gentleman from Wisconsin [Mr. WASHBURN] should be entitled to the floor this morning, and the Chair will be compelled to carry out that order, notwithstanding the gentleman from Tennessee [Mr. MAYNARD] had the floor when the committee rose last night.

Mr. WASHBURN, of Wisconsin, then addressed the Committee of the Whole for two hours. [See Appendix.]

At the expiration of the second hour,

The CHAIRMAN said: The second hour of the time allowed to the gentleman has expired.

Mr. ORTH. I understood the extension of time to the gentleman to be indefinite.

The CHAIRMAN. The Chair construes the extension of time, under repeated decisions of the House, to be for one hour unless a shorter time is named.

Mr. WASHBURN, of Wisconsin. I have been speaking with the understanding that my time was extended indefinitely. There are certain points in the speech of the gentleman from Massachusetts [Mr. BANKS] that I must answer.

The CHAIRMAN. The rule explicitly states that an indefinite extension of time shall be construed to mean not more than one hour.

Mr. RAUM. I move that the gentleman's time be extended thirty minutes.

The CHAIRMAN. That requires unanimous consent.

Mr. STEVENS, of Pennsylvania. I think somebody else ought to have a chance to talk ten minutes. I object to any further extension of time.

The CHAIRMAN. Objection is made. The gentleman from Iowa [Mr. PRICE] is entitled to the floor.

Mr. MYERS. I ask that the gentleman's time be extended fifteen minutes.

Mr. HIGBY. I object. The result of this practice of extending the time of gentlemen is to crowd out many others who desire to be heard.

The CHAIRMAN. Objection is made, and the gentleman from Iowa [Mr. PRICE] will proceed.

Mr. CULLOM. Could not the gentleman from Iowa yield to the gentleman from Wisconsin a few minutes.

Mr. WASHBURN, of Wisconsin. I only want ten minutes.

Mr. PRICE. I have already agreed to yield portions of my time to three or four gentlemen.

Mr. HIGBY. I will withdraw my objection so far as to allow the gentleman to speak ten minutes longer.

Mr. MALLORY. I renew the objection.

The CHAIRMAN. Objection is made to granting any more time to the gentleman from Wisconsin. The gentleman from Iowa will accordingly proceed or surrender the floor.

Mr. PRICE. I yield to my colleague [Mr. LOUGHRIDGE] to move an amendment to this bill.

Mr. LOUGHRIDGE. I move to amend this bill by inserting before the section it now contains the following preamble and section:

Whereas the President of the United States, on the 30th of March, 1867, entered into a treaty with the Emperor of Russia, by that act of which it was stipulated that in consideration of the cession by the Emperor of Russia to the United States of certain territory therein described the United States should pay to the Emperor of Russia the sum of \$7,200,000 in coin; and whereas it was further stipulated in said treaty that the United States shall accept of such cession, and that certain inhabitants of said territory shall be admitted to the enjoyment of all the rights and immunities of citizens of the United States; and whereas the subjects thus embraced in the stipulations of said treaty are among the subjects which by the Constitution of the United States are submitted to the power of Congress, and over which Congress has exclusive jurisdiction; and it being for such reason necessary that the consent of Congress should be given to the said treaty before the same can have full force and effect, having taken into consideration the said treaty, and approving of the stipulations therein, to the end that the same may be carried into effect: Therefore,

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the assent of Congress is hereby given to the stipulations of said treaty.*

Mr. PRICE. I now yield to the gentleman from Massachusetts [Mr. ELIOT] to offer an amendment.

Mr. ELIOT. I move to amend this bill by adding to it the following:

*Provided, That no purchase in behalf of the United States of foreign territory shall be hereafter made until after provision by law for its payment. And it is hereby declared that all powers vested by the Constitution in the President and Senate to enter into treaties with foreign Governments do not include the power to complete the purchase of foreign territory before the necessary appropriations shall be made therefor by act of Congress.*

Mr. BANKS. I rise to a point of order.

Mr. ELIOT. I hope the gentleman will not object to this provision being incorporated in the bill as reported by the committee.

Mr. BANKS. I must object to the amendment of my colleague, [Mr. ELIOT.] It is not germane to the bill. The bill before the committee is to carry into effect a treaty, while the proposition of my colleague is general legislation, as is also the proposed amendment of the gentleman from Iowa, [Mr. LOUGHRIDGE.]

The CHAIRMAN. The Chair overrules the point of order. The treaty is not interfered with, so far as the amendment offered by the gentleman from Massachusetts [Mr. ELIOT] is concerned. That amendment is in the nature of a declaration of opinion by this House in regard to the subjects of treaties. If it went so far as to make it conditional that the treaty

should not be carried out unless something else was done, then the Chair would consider it out of order.

Mr. PRICE. If there be no objection, I will now yield to the gentleman from Wisconsin [Mr. WASHBURN] for five minutes; but I do not want it to come out of my time.

The CHAIRMAN. That requires unanimous consent.

Mr. MALLORY. I object.

Mr. PRICE. I now yield a few minutes of my time to the gentleman from Ohio, [Mr. MUNGEN.]

Mr. MUNGEN. In order to relieve the apprehensions of the gentleman from Wisconsin, [Mr. WASHBURN,] as well as others who may honestly, perhaps, think as he does on the subject of this appropriation, I am authorized by gentlemen abundantly able to fulfill it, to make the following proposition, provided such an arrangement can be legally effected, of which I have but little, if any, doubt. The proposal is:

That a company of gentlemen will, within twenty days from and after the date when Congress assents to the proposition, pay into the Treasury of the United States the sum of \$10,000,000 in gold for the territory of Alaska; these gentlemen taking the fee simple therefor and leaving the right of eminent domain in the Government of the United States.

Gentlemen cannot, on pecuniary grounds, object to this proposition, for it leaves a clear net profit of \$2,800,000 in gold in the Treasury of the United States, growing out of and the direct result of this treaty. The gentleman from Wisconsin [Mr. WASHBURN] says in proof of the worthlessness, sterility, barrenness, and humidity of Alaska, that he brings "official reports" to sustain him. Does the gentleman claim that Campbell's poem, "The Pleasures of Hope," written, beautiful as it is, by an Englishman, who never saw Alaska, nor, so far as I know, even the continent of America, except to visit the little village of Wyoming, in Pennsylvania, a poem clearly and evidently the mere creature of his imagination, is an official report? He quoted largely from that some time since against this bill. Many more of his authorities and references are of a character entitled to no more credit in a scientific or geographic point of view than is "The Pleasures of Hope," yet he says he relies on official reports. If I am not mistaken, the same authority in the same poem speaks of tigers and other tropical animals infesting the shores of Lake Erie.

Without stopping to discuss the treaty-making power from a constitutional point of view, it is enough to say that by the Constitution the treaty-making power was vested in the Executive by and with the advice and consent of the Senate. Under the beautiful principle of checks and balances recognized in our system of government, where each department exists independent of the other, so far as its peculiar functions are concerned, yet all are so blended as to work in perfect harmony and accord, the treaty-making power was, by the wisdom of our forefathers, placed where it is. As one sworn to support that Constitution I recognize the right of the Senate and the Executive to make treaties with foreign Powers on all proper subjects. This Alaska matter is one of the subjects intrusted entirely by the Constitution to the Executive and the Senate as I understand the subject; as much so as the appointment of a minister or a consul to a foreign port or country. As well might we propose to withhold pay of our minister to the Court of St. Petersburg or St. James, who was appointed and sent there by the Executive and the Senate, as to withhold an appropriation to carry out a treaty so important as this one.

But my proposition completely answers nine tenths of the objections to this treaty made by the opponents of the measure.

How was it with California when our Government obtained it from Mexico? We were told by men who, like the gentleman referred to by the gentleman from Wisconsin, [Mr.

WASHBURN,] went up the coast last spring; they stopped in the little bays and inlets, looked at the hills and shores, and never touched land in each hundred miles of their voyage; they then said of California that it was worthless; no arable land; could not sustain a population, and all other objections similar to those now urged by the gentleman from Wisconsin against Alaska. Why, Mr. Chairman, when a vessel engaged in the Coast Survey, the Active, was in Humboldt bay in 1852, or about that time, the officers could not get to see the sun sufficiently to take an observation for two weeks. This can be proved from the records of the Coast Survey, and by the testimony of gentlemen now in this Capitol. We were told that the whole of California was worthless, barren, sterile, rocky, humid, and utterly useless, just what gentlemen now say about Alaska; and more than this, these gentlemen now use the very arguments then used by those who were opposed to California.

By accepting this treaty we cage the British lion on the Pacific coast; we cripple that great and grasping monopoly, the Hudson's Bay Company, who, as long as we have been a Government and a nation, have monopolized almost exclusively the fur trade of North America, enriching themselves and the British Government at the expense of what ought, and justly does, belong to the American people.

But it is said there are no fish in the seas off the Alaska coast. The man who makes that statement hazards a great deal as it regards his credibility. If that were so, why would New Bedford and other Atlantic towns and cities send out their whaling expeditions?

California sends out her millions of treasure in "bright and shining gold" each year; her exports of wool are enough annually to clothe her inhabitants five times. When the Active was engaged in the Coast Survey potatoes cost from fifty cents to a dollar and a half per pound; the flour was all brought from Chili, and everything else upon which men subsist was very costly. Now that same California feeds a large portion of the population of the Pacific coast and islands. The same is true of Oregon and Washington Territory, although their resources are not nearly so fully developed. So it will be with Alaska.

Some gentlemen are extremely economical on everything except negro bureaus and military despotisms over the southern States. They can establish free schools for the juvenile Africans of the South to the exclusion of the poor starving white orphans. They build a college here to educate "the colored cuss from Africa," but they cannot give a few dollars for the territory which, with its gigantic forests, its rich mineral resources, its inexhaustible fisheries, and beds of hard (not soft, as claimed by the opponents of this bill,) coal will furnish homes and occupation, competence and wealth for millions of our people for ages to come.

The climate of Great Britain is as humid as that of Alaska. In California, at times, they do not see the sun for days, yet vegetation keeps up, the cattle are fat, the grape yields its juice, the mine yields its gold or silver or quicksilver, the forest its treasures, and the coast, the rivers and lakes their finny contributions. So it will be with Alaska under the rule of the hardy and energetic people who, from our own more densely populated States, will seek its shores and valleys and make them their homes.

The Russian diplomats are far-seeing and shrewd. They know, as does every man who is a close observer of history, that the muscles of the British lion are weakening, his growl or roar is not so terrific as formerly; that the Government of that country is on the wane. Russia would be our firm ally to-day in a war with England. It cost England an immense sacrifice to retain her foothold in India, even against the Sikhs unaided by any foreign Power. What would have been the result had the Russian bear stepped in and laid his paw on India at that time? Answer is unnecessary. England's star has passed its zenith. Russia will one



day, and that at no distant period, control England's Asiatic possessions. When that happens, as a natural consequence the United States will take possession of the Bahamas and all the British West India islands; and Canada will fall into our lap like a ripe apple.

In this connection it may not be improper to conjecture that Spain, and its present as well as former possessions on this continent, must be ours; and the two great Powers on earth will be Russia and the United States. Napoleon Bonaparte said that the world must all be republican or Cossack; and there may a time come when the bear and the eagle may have a conflict. I hope not soon, however.

In conclusion, let me say that the proposal to purchase the fee-simple of Alaska for \$10,000,000 in gold is not a joke. Some of the wealthiest men in the United States stand ready to make good my proposition. Thanking the honorable gentleman from Iowa [Mr. PRICE] for courtesy in yielding a portion of his time to me I now take my seat, hoping that this Congress will not fail to carry out in good faith the terms of this treaty.

Mr. PRICE next addressed the committee. [See Appendix.]

At the conclusion of his remarks,

Mr. PRICE said: I will yield ten minutes of my time to the gentleman from Minnesota, [Mr. DONNELLY,] and the remainder of my time to the gentleman from Ohio, [Mr. SHELLABARGER.]

Mr. BANKS. I desire to state that after the gentleman from Minnesota [Mr. DONNELLY] has concluded his remarks I will ask that the committee rise, in order to extend this afternoon session to five o'clock. I understand the gentleman from Pennsylvania [Mr. STEVENS] desires to speak this afternoon.

Mr. DONNELLY. Mr. Chairman, if we consider this question in a limited and narrow sense there will be found no little force in the objections made against this bill.

There was not, at the time the purchase of Alaska was made, nor is there now, any pressing necessity for it. The time was not ripe for the acquisition of the territory in question, nor was the financial condition of the country such as to justify the expenditure of any considerable sum of money for that purpose. For one, I should not have initiated any such proceeding.

The question now, however, is of a different character. It is not, "Shall we seek this purchase?" but, "Shall we reject it, having been sought and now brought before us for acceptance?"

I give no attention to the question already discussed here at considerable length as to the control possessed by this House over the treaty-making power of the President and the Senate. Practically, it is of little consequence. It is very evident that where a treaty is made involving the payment of any sum of money by the United States an appropriation will be necessary to draw that money from the Treasury; and that appropriation can only be made by the vote of this House concurring with the vote of the Senate and the approval of the President. The vote of this House must be determined by the individual judgment of its members, and there is no treaty-making power that can control or coerce that judgment. We are for ourselves the ultimate judges of the propriety of such an appropriation. Practically, therefore, the power to give or refuse is in our hands.

This result was no doubt contemplated by the framers of the Constitution. While it was known that the action of the President and Senate would necessarily have great moral weight and influence with the House, it was foreseen that a corrupt President and Senate might plunge the nation into enormous debt, under color of the treaty-making power, and that in such a contingency nothing could save the nation but the negative possessed by the House of Representatives.

I have said that in a narrow and limited sense the objections against this bill have considerable force. But there is a broader light

in which the question should be viewed, and in that light I propose briefly to consider it.

I shall vote for this bill, Mr. Chairman, because I consider it one of the necessary steps in the expansion of our institutions and nationality over the entire domain of the North American continent. From both North and South the territory and the peoples of the continent gravitate inevitably toward us, drawn by our steadily increasing greatness, the benignity of our institutions, and the individual prosperity manifest everywhere through all our broad expanse.

Our form of government is adapted to civilized man everywhere. It rests upon principles of justice and humanity as broad as our race, and which receive everywhere the sanction of the human heart. We have found the vitality of our institutions powerful enough to maintain itself undiminished amid the heat of the tropics, and through all the rigors of our northern winters. There is no reason why those institutions should not extend on the one hand to that thread of land which ties together the northern and the southern continents; and on the other hand to the extremest limits of human habitation under the frozen constellations of the North.

By itself this acquisition will be comparatively not of the highest advantage to us. It is true that the influence of the gulf stream of the Pacific extends far up the western coast, modifying the climate in the same manner that the climate of a similar region upon the western coast of Europe is modified by the gulf stream of the Atlantic; and there is no reason why, in course of time, a population may not exist along the shores and among the islands of Alaska as hardy, as enterprising, as civilized, and as progressive as that which now inhabits Scotland, Norway, or Sweden.

But the great significance this purchase possesses is found in the fact that it points the way to the acquisition by the United States of that great and most valuable region, Western British America, which may be fairly esteemed the largest and finest region of agricultural lands now left unsettled on the continent. The valley of the Saskatchewan will yet sustain a population as dense as that of northern Germany. With our great nation on the south of this region, and our new acquisition of Alaska resting upon its northern boundary, British dominion will be inevitably pressed out of western British America. It will disappear between the upper and the nether mill-stones. These jaws of the nation will swallow it up.

When the traces of the great rebellion shall have passed away; when the debt incurred in its suppression shall have been extinguished, or shall have been dwarfed into insignificance compared with the vastness of our population and the magnitude of our wealth; when our institutions shall have been purified from every taint of the old and cruel past, and shall be sublimated and refined into the very perfection of human justice and Christian benevolence, and when our nationality shall have expanded until it fades out beneath the fire of the tropics on the one hand, or disappears along the margin of the eternal snows on the other, we shall present to the world the aspect of a nation greater, mightier, wiser, and happier than any ever known to man in the whole tide of time; a nation that by the mere power of its moral influence shall compel justice and destroy injustice in all the lands of the earth.

We need "ample room and verge enough" for this majestic development. Nothing less than a continent can suffice as the basis and foundation for that nation in whose destiny is involved the destiny of mankind. Let us build broad and wide those foundations; let them abut only on the everlasting seas.

I cannot but believe, as nothing exists at random in this world, and everything is controlled by the all-fashioning hand of God, that this continent was foredoomed from the creation of the earth for this mighty nation. We have shaken off the sole obstacle to our perpetuity, the institution of slavery, and it is

difficult for the mind of man to conceive any reason why our Government should not endure for uncounted ages. With universal education, universal suffrage, amnesty, that shall follow swift upon the footsteps of repentance, and prosperity coequal with the justice and benevolence of our institutions, we can look forward to a future which the mind can contemplate with the highest delight.

Great as we are, we are yet in the day of small things. Our forty million people will in two years, by the construction of the Pacific railroad, be brought face to face with the four hundred millions of the Chinese empire and with the other vast populations of India and Japan. Our own ratio of growth is moving forward with accelerated rapidity. Each day adds new enlightenment to the people of our own country and of Europe. In our own land the result is increased energy, industry, and enterprise; in Europe the result is increased agitation, increased demand for popular rights, and increased migration to our own shores.

Let us, then, not put aside this acquisition. Our flag now floats over it. That flag should never recede. Let us take this territory for its present worth—its soil, its harbors, its fisheries, its forests; not overrating them and yet not underrating them; and remembering always that the natural tendency of the mind is to undervalue all unknown lands, and to view them, as did the poet, as—

"Antres vast or deserts idle,  
Rough quarries, rocks, or hills whose tops touch heaven."

But, beyond all the present importance of this region, let its future consequence be recognized. The entire Pacific coast of the North American continent fronting Japan, China, and India should belong to the nation whose capital is here, whose commercial centers will be found at New York and San Francisco, and whose destiny it is to grasp the commerce of all the seas and sway the sceptre of the world.

Let us, then, while perfecting our institutions, not refuse to expand our boundaries.

The Committee of the Whole rose informally.

THE SPEAKER. The Speaker has taken the chair informally, knowing the desire of the gentleman from Massachusetts [Mr. BANKS] to have the afternoon session extended so as to allow the gentleman from Ohio [Mr. SHELLABARGER] and the gentleman from Pennsylvania [Mr. STEVENS] time to submit some remarks upon this subject.

Mr. BANKS. I ask unanimous consent that the afternoon session be extended till five o'clock.

There was no objection.

The Committee of the Whole resumed its session.

Mr. SHELLABARGER addressed the committee. [See Appendix.]

Mr. MAYNARD obtained the floor and said: I now yield to the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. STEVENS, of Pennsylvania. I shall not attempt to make a speech on this subject, for the learned gentleman from Massachusetts has as completely exhausted the subject as if he had had it under a moral exhausted receiver.

The inquiry generally is, What is the use of this purchase, large as it is? We do not want it for the production of grain or grasses. I will say a single word as to its valuable utility.

At the early stages of our country the Atlantic coast, from the Gulf of Mexico to the Gulf of the St. Lawrence, swarmed with all kinds of fish and living things that inhabit the ocean, from the whale to the herring. They furnished the food and the wealth of the hardy and adventurous people of that region. A very large proportion of all these animals have either become extinct or gone for refuge to safer seas. The whale has betaken himself to the high latitudes of the Pacific ocean between Puget's sound and Behring straits and the mouth of Amour river, and his captors must follow in order to pursue their accustomed

avocations. Our hardy whalersmen are obliged to double the Cape and make their years of abode in these inhospitable regions, where their own country does not own a foot of soil beyond the forty-ninth degree of latitude. The English possessions projecting from Canada come in and make a peninsula between the United States and Russia. It cuts the continent almost to the Atlantic ocean.

Now, neither on Vancouver's Island, so shamefully surrendered, and nowhere between that and the north pole have the United States any right of possession, or any privilege of catching or curing fish. This inconvenience is so great, and still growing greater, that our people would soon find that they would willingly give the sum mentioned in the treaty for the mere license. What are the advantages of this new purchase? It extends from a short distance above the Canada line nearly to the north pole, and from sea to sea. It contains land enough to make twelve States as large as Virginia. Nor is it that bleak and barren soil which its high latitude would seem to indicate. The warm breezes from the surface of the Pacific ocean and from a thousand boiling springs so modify its climate as to make it remarkably comfortable. It possesses at least a hundred islands well covered with nutritious grass, so also is most of the fast land. To furnish food for all our fishermen it is only found necessary to turn loose a few meat-producing animals. This would save the transportation of supplies from Nantucket and New Providence. This would give us the exclusive right to take and procure fish in all that region. It is known that our whalers and other navigators are apt to have their boats and other craft stove and cast away in that distant region. Now we cannot get a stick of timber to repair them without sailing down the coast to the mouth of the Columbia river.

Now, it is known the islands of this archipelago as well as the main lands contain abundance of the toughest kind of ship timber. As to treaties for the license to fish, you know how difficult it is to produce them and how likely they are to embroil nations. We barely escaped war with England on account of one of them. Our treaty with her allowed us to take and procure fish within three leagues of the shore. England contended that the line should follow the indentations of the ocean. America contended that the line should be run from headland to headland, and give to us jurisdiction of all the interior space. That question is now happily settled, mainly by the retreat of the sea animals which gave it value. But the amount of animal life, such as whale, salmon, herring, and other fish conveyed to us by this treaty is almost incredible. It is the great storehouse whence annually descend herring and other fish to supply the South.

But the mere material advantages furnished are not all the chief benefits of this purchase. The vastness of the nation is very often the strength of the nation. What glory did Rome acquire by being able to fix her boundary beyond the *ultima Thule*? But the glory of a nation is the strength of the nation.

As to the treaty-making power, it struck me that the learned gentleman of the Committee on Foreign Affairs conceded more to the opponents of the bill than I am willing to do. If I understood him rightly he admitted that Congress had the right to consult and be consulted in the formation of treaties. This, it seems to me, is directly repugnant to the Constitution. It gives to the President and Senate the sole power to make treaties, and when made declares them the supreme law. If Congress had to be consulted before a treaty was complete then the provisions of the Constitution would be partly thwarted. I know that treaties had been formed which, contrary to the Constitution, had embraced subjects not within the treaty-making power, which I hold to be null and void. If the subject-matter be within the treaty-making power, then I hold when a treaty is once complete that no other department can alter it in no one particular. If the treaty provides that

any other branch of the Government is to do an act which it refuses to do that does not annul the treaty. It stands as a supreme obligation like a national bond repudiated by the obligor. I know this is not precisely the theory of the Government, but I am giving my own opinion, of no value but to myself.

Mr. MAYNARD resumed the floor.

Mr. CULLOM. I do not suppose the gentleman wishes to proceed for the few minutes that are left before five o'clock.

Mr. BANKS. I ask unanimous consent that the committee now take a recess till half past seven o'clock.

No objection was made; and accordingly (at four o'clock and forty-five minutes, p. m.) the committee took a recess till half past seven p. m.

#### EVENING SESSION.

At half past seven o'clock p. m. the Speaker took the chair.

#### ENROLLED BILLS.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 166) for the relief of owners of the land within the United States survey No. 3217, in the State of Missouri; and

An act (S. No. 469) confirming the title to a tract of land in Burlington, Iowa.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that the Senate had passed, without amendment, a bill (H. R. No. 780) for the relief of Martha M. Jones, administratrix of Samuel T. Jones.

#### PURCHASE OF ALASKA.

The House, then, pursuant to order, resolved itself into the Committee of the Whole on the state of the Union, (Mr. GARFIELD in the chair,) and resumed the consideration of the special order, being House bill No. 1096, making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867, Mr. MAYNARD being entitled to the floor.

Mr. WASHBURN, of Wisconsin. Mr. Chairman, as I was cut off in the midst of my speech this afternoon, I ask permission to publish a few additional remarks.

No objection being made, permission was granted.

Mr. WASHBURN, of Wisconsin. I also desire to speak five minutes this evening, but as what I should say relates particularly to observations that fell from the chairman of the committee, [Mr. BANKS,] who is not here, and as he probably will be present by and by, I ask my friend from New York, [Mr. FERRIS,] who is to speak this evening, to say for me what I would say myself.

Mr. MAYNARD then addressed the committee. [See Appendix.]

Mr. MYERS. Mr. Chairman, we are about to determine a question which must have an important bearing on our future history. The treaty-making power—the President and Senate—has, so far as it can, acquired what is known as Russian America or Alaska, an empire on the American continent, yet undeveloped it is true, but immense in its resources and extent, and it remains for the House of Representatives to approve or condemn the purchase. No one doubts that our appropriation of the purchase-money is needed to perfect the agreement. With this the possession will be an accomplished fact. Without it, to say the least, there will be difficulty in the public mind, and if Russia shall withdraw and assume authority over this territory or sell it to another Power, still greater doubt as to which would have been the better course.

I will not for a moment admit that the action of the President and Senate binds us to complete any purchase of territory whatever. If the treaty-making power extended thus far we should be required to accept a country although

inhabited by millions of slaves, or thousands of miles distant, though its religion were inclosed in the Koran or its people dwelt at the feet of polygamy and barbarism. If Alaska could be thus acquired, why not China or Japan? To state the proposition that the House of Representatives need not be consulted in such an event is its own best refutation. It is unnecessary to trouble the committee with precedents. The House of Representatives asserted its right in this regard, even against the protest of Washington, as early as 1794 in relation to the British treaty, and has in no instances that I am aware of surrendered this right. Nor is the objection solely that a grant of money must be made by law before the treaty can be carried to its perfect consummation. It is for the people through their Representatives to say whether from locality or for any cause an acquisition of territory is subversive in their opinion of the interests or principles of the Government.

Whether we choose to concur in and perfect this purchase is an entirely different matter. For one, I am in favor of so doing, and in committee agreed to the report of its distinguished chairman, [Mr. BANKS,] except as to this stronger assertion than his of our own power. That the treaty is with a nation which has been our constant friend, sympathizing in our struggle for the preservation of the Union is, I confess, not without its due influence; and when it is remembered that a year has passed, and months of possession since the treaty without protest on the part of this House, that adds much to the other considerations in favor of the appropriation.

Mr. Chairman, the acquisition of Alaska has encountered in this House an opposition of the bitterest description. An open one, however, which deserves to be met with like distinctness. Its coast is represented as dreary and inhospitable beyond belief; its interior is scarcely known, or where known uninviting and valueless; the purchase itself utterly uncalled for and reprehensible. Ridicule, the most powerful of weapons, is launched from able tongues to drive away the American flag which now floats above it. Finally, the demand is that Russia be requested to repossess this domain and relieve us from its incumbrance.

When, after the treaty of Guadalupe Hidalgo, a similar measure was proposed, an able statesman who had not favored the Mexican war, Mr. Vinton, said:

"That this country (California and New Mexico) would never be surrendered to Mexico might be put down as a fixed fact. It was just as certain as that Georgia would never be given back to the King of England."

I do not believe Alaska will be given up. I will notice directly the statements on which this opposition is founded. They will be shown often incorrect, and generally insufficient to overbalance the benefits of the treaty. But for the present I choose to treat the subject in an aspect which overshadows all others. The possession of Alaska is a question of power.

The North American continent for a long time was held by England, Spain, and France. The former, which, contrary to its early instincts of aggrandizement and naval science, turned away from its shores the "world-seeking Genoese," made haste to repair the error, and in less than five years afterward the Venetian Cabots from Labrador to Florida gave her the outlines of a new empire. For three centuries three or four European Powers, with varying fortunes, acquired and divided North America. Then came the war of the Revolution and its conquest from Great Britain, and very soon the United States began to discuss territorial questions and make assertions of doctrine in regard to them. Those assertions have been constant, until the American doctrine is unmistakable. We have kept aloof from the desire for foreign territory; we have steadily refused to acquire new territory here simply by conquest; Mexico was ours by the force of arms, and we restored it; but we have just as steadily endeavored to remove the interference which monarchical institutions in North Amer-

ica cannot fail to produce. Thus Florida was acquired by treaty from Spain, and Texas, its nominal exchange, came to us inevitably. Thus France bade adieu to our continent in ceding Louisiana, nor could the armed legions of the third Napoleon prevail over the sentiment of North American nationality, which ended in the warning fate of Maximilian. But two European States now share with us the continent, for the Central American governments are to the manner born and republican. England has above us a vast domain from Labrador to west of the Rocky mountains, from the Arctic ocean to the foot of Canada; Russia, which, thanks to Peter the Great, discovered that Asia and America were less than fifty miles apart, holds the Northwestern Pacific slope to the Northern sea, and Behring straits, the key to the Eastern empire.

We are offered this northwestern continent for \$7,200,000 in gold. Much more than the sum named has lain idle and without interest in the Treasury for years, and will no doubt for years yet to come, while such an outlay would return it to us with increase. Shall we refuse to appropriate the amount? What then? Why, I think I hear our opponents say, Russia will resume its sway and matters stand as heretofore. Perhaps so, for a little time, but more probably not. The Czar consented to this sale at our own request. Our fishing trade with these Russian possessions was so valuable that the Legislature of Washington Territory, in January, 1866, petitioned our Government to obtain from Russia the privilege "to visit the ports and harbors of its possessions to the end that fuel, water, and provisions may be easily obtained, together with the privilege of curing fish and repairing vessels" there, stating that "abundance of codfish, halibut, and salmon, of excellent quality, have been found along the shores of the Russian possessions." More than this, the charter was about to expire in June, 1867, by which Russia had ceded its rights over the territory to a Russian-American company, which had in turn ceded them to the Hudson's Bay Company. The latter was endeavoring to get a twenty-five years' renewal of the charter. But at this appropriate time our California Senators endeavored to secure this exclusive privilege for an American fur trading company. Our Pacific coast had already known the value of Alaska, its furs, fisheries, and game; its ice supplied the California market and its timber was needed for our vessels. How naturally the purchase came about. Russia had enough contiguous land and had always intrusted the government of this to others, while we wanted what to us is almost contiguous.

The learned gentleman from Ohio [Mr. SHELLABARGER] says "that country is strong which is compact," and intimates that as British Columbia, with a frontage of five degrees on the ocean, intervenes between us and Alaska it would conflict with the American doctrine to hold the latter. Just the reverse, sir. We do wish to be compact. The American sentiment is that we should have had British Columbia and Vancouver's Island. In this we failed. But next to that we hold that by no act of ours shall a foreign State have its compactness and strength increased on our continent. The gentleman will not tell me it is more difficult to sail three hundred miles from our northern boundary to Alaska than from New York to San Francisco. You need not cross British domain in the former case nor Mexican in the latter. Reject Alaska and there is scarcely a doubt that Russia, having once determined to part with it, would sell to England, and still less doubt that England to-morrow would seize the chance of taking it off our hands.

Mr. Chairman, I wonder what the American people would say to such a result! If such must come I will not be responsible for it. The British empire, covering us on the north from ocean to ocean, would develop a formidable rival on the Pacific to that commerce and trade which now can be ours alone. The

British North American possessions, now almost land-locked on the west, hold out little promise to their settlers and Anglo-Saxon enterprise finds no incentive to exertion. Give it this new outlet and you build up a permanent, because prosperous, rival, which holding half the continent can never be dislodged. The people of the United States are in no haste, but they look forward surely to the day when the starry flag, which they have followed alike in storm and in sunshine, shall cover the continent. That day will come in its own good time. Let us not retard it as we did in settling the Oregon boundary. No consolidation of foreign empire must be allowed between these seas. The possessions of Russia here would have continued an equipoise to England. She has now determined to confine her dominion beyond the Pacific. England never voluntarily contracted her possessions. Rest assured Alaska, if not ours, will be transferred to Great Britain. The nation which struggled so hard for Vancouver and her present Pacific boundary, and which still insists on having the little island of San Juan, will never let such an opportunity slip. Canada, as matters now stand, might become ours some day, could her people learn to be American; but never in such an event.

Ah, says my colleague, on the Foreign Affairs Committee, from Wisconsin, [General WASHBURN,] "the place is worthless." He does not wish it at any price. The climate is frightful, the furs few, and the mineral deposits are not proved to his satisfaction. Well, my friend is not original—and he knows I do not use the word offensively—in the rôle of a croaker. We had them every time new territory was added to our domain; and the files of the Congressional Globe are very ugly reminders of the fact. When we acquired Louisiana by the treaty of Paris, a croaker of that day called it "a dreary and barren wilderness." Yet this fertile province was divided into rich States of the Union, and its noble stream which, with the tributaries, forms an outlet for the productions of the mighty West, has a value world-wide, for the possession of which the armies of freedom and slavery rededicated its very water now forever dedicated to liberty.

California was called an ill-starred purchase and bad bargain; yet this same California, laden with wealth, its cereals and fruits unsurpassed, its vines bidding fair to rival those of France and Italy, came to us in less than three years a free young State, forming the first barrier on the southwest against the extension of slavery which led us to its conquest. The \$2,000,000,000 in gold it has added to the wealth of the world sinks into insignificance beside its geographical advantages and their development, of which no doubt the pursuit of that wealth was the instrument.

But, says my friend, Alaska is in a bleak and northern region. Perhaps there is no commoner error than that latitude is the controlling element of temperature. I do not pretend to be a climatologist; but it is well known that the southwest equatorial winds and thermal currents of the ocean produce on land what are known as isothermal lines; and the great hot currents which, lessened in intensity, flow against the shores of Britain and Norway, are but different directions of those which lave the coast of Alaska. Western Europe, like western America, is milder in the same latitudes than on the east. If this be not so, I hope my friend will explain why London, nearly eleven degrees latitude north of New York, is eight degrees warmer. Let me illustrate by the eastern hemisphere: Peking, on the western border of Asia, at forty degrees north latitude, has winters very nearly as severe as at St. Petersburg, in sixty degrees. My doubting colleague says facts are worth a thousand theories. So be it. It is a geographical fact that in many cold climates, like Canada, severe winters refresh the earth; and when the snow is removed the fertility of the soil is so great that vegetation is luxuriant and rapid,

making their brief summers yield richer abundance than in more tropical climates.

If, however, the argument of latitude is to prevail, did it ever enter the gentleman's mind to wonder what England wanted with the barren, bleak, dismal soil of her possessions east of Alaska, or why she tried during the Crimean war to capture Sitka. Has he ever been to the beautiful city of Quebec—strange it should have been built in so inhospitable a region—eleven degrees south of Sitka, it is true, but twenty degrees colder. What barbarians to be sure!

Then go to the fashionable and elegant metropolis of Russia itself, one degree fifty-six minutes north of the parallel of Sitka, and fifteen degrees colder. Certainly one must die there of frost! And then, sir, remember that in 1845 the United States were convulsed with an insane desire. We were actually going to war with England to obtain the strip of ground between forty-nine and fifty-four degrees forty minutes. Yes, "fifty-four forty or fight" was the cry; and what for? Simply to adjoin this terrible land from which my colleague shrinks with a coldness beyond that of the climate he depicts—a territory for which we had under Van Buren and Polk twice offered five millions and been refused.

Mr. WILLIAMS, of Pennsylvania. Will my colleague furnish the proof and evidence of that statement? I would be glad to see the evidence of it.

Mr. MYERS. The Congressional Library is as open to my colleague as it is to me, and if the information is not there the archives of the State Department are as open to him as to me. If the gentleman looks to the files of the State Department he will find the evidence.

Mr. BANKS. What is the fact that is denied?

Mr. MYERS. The former offers of this Government for Alaska. But whether it be so or not the gentleman will not deny that this nation were about to go to war with Great Britain to obtain the country adjoining Alaska up to 54° 40'.

Mr. BANKS. If the gentleman from Pennsylvania will allow me, I will say that this Government has three times contemplated the purchase of Russian-America from the Russian Government; and twice it has made the offer of \$5,000,000, which has each time been refused.

Mr. WILLIAMS, of Pennsylvania. Has the chairman of the Committee on Foreign Relations [Mr. BANKS] furnished to the House and the country any evidence to this effect?

Mr. BANKS. I have not. But I understand that to be the fact, and I make the statement on my responsibility. Once during Mr. Polk's administration the matter was discussed, but terminated without any formal offer or refusal. The offer, however, was made twice, once in Mr. Van Buren's administration, and once in Mr. Buchanan's administration.

Mr. FERRISS. I suppose the committee rely upon the authority furnished by the executive department. In Executive Document No. 177, a document furnishing the evidence in answer to a resolution of the House upon this subject, it is stated that Russia had twice offered this territory to the United States. But there is not one particle of evidence in that document that I can find that the Government of the United States ever applied to the Government of Russia for this territory.

Mr. MYERS. This is a matter which has very little to do with my argument. If my good friend from New York [Mr. FERRISS] will only be persuaded by the rest of the evidence that is contained in that document I will drop this point, for it is of very little importance. I only referred to what I believed to be a fact. It will not do to quote the document for one purpose and then throw it aside. Let him take it as evidence in regard to the riches of the country, its timber, minerals, and fisheries, and I am content.

It is a fact that Britain, Norway, Sweden, Siberia, and all the Russias produce gold, even



though my colleague confines that metal to the South. It is needless, therefore, to speak of other ores, or remind him that Behring and Cook saw copper and iron in Alaska, finding them in common use as knives and arrow-heads; or that his favorite voyager, La Perouse, reported copper and coal; and that Meares saw malleable lumps of copper sometimes weighing a pound. It is as useless, too, to remind him that gold is traced all the way on either side along the ranges of the Rocky mountains, as that Captain Cook, in noticing the mildness of the climates, says "cattle might exist in Oonalaska all the year round without housing." And this reminds me of my friend's partiality for poetry. Campbell never knew how cruel a thing he did for Wisconsin when, taking a poet's muse, he wrote:

"The wolf's long howl from Oonalaska's shores."

Unfortunately for my colleague (Campbell's fame is too safe to suffer) there are no wolves at Oonalaska. Captain Cook, Meares, and Cox state this most positively.

Some little idea of the value of the fur trade may be gleaned from the fact that as early as 1828 to 1833 the Hudson's Bay Company exported \$1,000,000 worth a year, and the annual imports thence to England alone, from 1861 to 1865, averaged a half million skins, not to speak of the fur trade across Behring strait to Russia and China. It is strange that the falling off in the fur trade which my colleague notices is confined to Alaska, about which we know so little and he so much. As to the inhabitants, there are but seventy-five thousand all told, and were they the barbarians he represents, the number is too insignificant to prove a solid objection to the treaty.

A final word in regard to the alleged inhospitable coast. The Atlantic coast might have furnished my colleague ample statistics of storms. Labrador could have supplied him with mist, and Newfoundland with fog; but comparisons are odious—I commend him to the voyage of the Ossipee last October. When she took our flag to Sitka the air and climate were delicious as our own in the same month, and all the way from Victoria to Sitka, over eight hundred miles, except a very few resorts to the ocean, she sailed on the placid straits which, running miles inward parallel with the sea at the base of mountains whose sides were skirted with green pines, continue at slight intervals for eleven hundred miles. Their depths are like unto the sea, of which they are in fact a part, and the vista is represented both then and in November, on the return trip, as charming. It is not a marvel that our southwestern coast asked for this purchase, nor that California should send even to Kodiak, seven hundred miles above Sitka, for her ice.

With the fisheries which this acquisition will call into being and protect, a hardy trained race of seamen will fit themselves to sail the ships which soon must dot the Pacific between us and Asia, exchanging the wonders of either shore, and be ready to man our vessels of war should the emergency arise. That trade is now beyond a question. American civilization has done what olden Europe failed to accomplish. It has unlocked the seclusion of China, as it is gradually doing with Japan, until its population leaps the barrier of centuries to come to our nearest border, and even to-day China chooses America to lead her to the outer world. As the Occident thus clasps the Orient and helps it shake off the custom of ages, the world will become more luminous by the contact, even as space is forgotten in the telegraphic sympathy which thrills the old and new in the same moment. These bonds must be cemented. Alaska must be ours, and remembering that we hold our heritage in trust for posterity let no man disdain to picture the day, distant though it may be, when over the continent of North America, from ocean to ocean, from the Arctic to the Antilles, the canopy of freedom shall cover one people, one country, and one destiny.

Mr. FERRISS. Before proceeding with what I intend to say upon this subject, I desire

to call the attention of the chairman of the Committee on Foreign Affairs to a statement which he has made, and ask him if he is positive that the Russian fleet appeared in the harbor of San Francisco or New York before Vicksburg was taken and before the battle of Gettysburg was fought? I will ask the gentleman if he is positive of that fact?

Mr. BANKS. I do not speak positively about it.

Mr. FERRISS. By referring to the Associated Press report, as printed in the Chronicle this morning, the gentleman is reported as saying:

"And I am in a great mind to say, in addition, that when the Russian Government was, by its fleet, in the harbor of San Francisco, and was, by its fleet, in the harbor of New York, even then it was never intended that General Grant should go successfully through the campaign at Vicksburg, and the officers associated with him in the defense of the country were denied promotion, and were visited with censure because they would not take from him the command of the army at Vicksburg."

Now, I am credibly informed that at that time no Russian fleet had appeared in our harbors, and that it was some months after the fall of Vicksburg before any Russian fleet appeared in American waters.

Mr. BANKS. I have not read the report of my remarks to which the gentleman refers, and cannot state whether it is accurate or not. But it was not my intention to couple the two incidents together in any way, and I do not think the remarks I really did make will bear out any such assumption. I am not able to say at what precise moment the Russian fleet appeared in the harbor of San Francisco or the harbor of New York. But I know very well the truth of the other statement I made. The only reference I intended to make to the appearance of the Russian fleet in our waters was that they appeared in our harbors in 1863, at a time when the Governments of France and England were contemplating a recognition of the independence of the southern confederacy.

Mr. FERRISS. The statement was distinctly made, as I understood, that it was not intended that Grant should capture Vicksburg when that fleet appeared in the American waters.

Mr. BANKS. I did not mean to be understood as coupling the two events together as having any dependence or connection; and I do not think my reported remarks will bear any such interpretation.

Mr. FERRISS. Mr. Chairman, at four o'clock on the morning of March 30, 1867, a treaty was signed in this city by Mr. Seward, Secretary of State, on the part of the United States, and Mr. Stoeckl, the Russian minister, on the part of Russia, by which, for a money consideration to be paid by the United States, all that part of the Russian possessions on the American continent and the islands adjacent thereto, were to be transferred to and become a part of the territory of the United States. It matters not that history does not yet inform us whether this so-called treaty was the culminating act of a social evening extended far into the night, it was a fitting hour, the darkest of the night, for such a deed. And now, the Senate having given its consent by the majority required to consummate a treaty, we are instructed that the instrument thus executed is the supreme law of the land, that possession of the territory has been formally transferred to us, and we are directed to appropriate the modest little sum of \$7,200,000 in gold to pay the stipulated purchase price.

Sir, I have perused with care and much interest the array of facts and lengthy argument presented to the Senate by the learned Senator from Massachusetts [Mr. SUMNER] when the treaty was before that body for its consideration and action, and without regarding what might have been urged against it, I confess to very great surprise that two thirds of that learned body could be found to give their consent to the purchase, and as the question then presented was one of expediency or policy only, the probability that this House will refuse the aid necessary to carry the treaty into effect and give it in reality the force of a

law is very much diminished by two considerations, which did not apply to the Senate. The one is the impression that prevails with some of the members of this House that the Executive has not exceeded the powers delegated to him by the Constitution; that the contract for the purchase of Alaska has been duly ratified and is now clothed in all the habiliments of a legal and authorized treaty, and has become, by the very letter of the Constitution, a part of the supreme law of the land; and the other is formal possession of the territory has been taken by United States officers, commissioned and authorized by the President for that purpose, and it would be acting in bad faith toward a friendly nation to repudiate the purchase at this late day.

Sir, I utterly repudiate the idea that we have no discretion in acting upon this subject; that we are mere automata impelled in but one direction by the wires of diplomacy. This House has never surrendered the right expressly given to it by the Constitution, and to it alone, to originate bills for the raising of revenue and the right to grant or refuse appropriations, and it has never assented to or acknowledged the right of any other branch of or power in the Government alone and without the concurrence of this House to make a binding contract or agreement for the payment of millions of the people's money. While on former occasions, after asserting the right to grant or refuse the aid necessary to carry into effect the money articles of certain treaties which met their approval, the people's representatives have granted such aid, it is to be hoped that in the case before us we shall not only assert that right but in such an explicit and emphatic manner refuse the required appropriation, that in the future all treaties providing for the payment of money will be made contingent upon an appropriation to be made by Congress. If there is a conflict of opinion or right between the Executive and this House let it be settled now. There cannot possibly be a more fitting occasion. The people of this country do not want these Russian possessions. If submitted to them they would reject the treaty by a majority of millions. Alaska, with the Aleutian islands, is an inhospitable, wretched, and God-forsaken region, worth nothing, but a positive injury and incumbrance as a colony of the United States.

Since the attention of the House has been called to the treaty it has several times been the subject of remarks in Committee of the Whole.

The gentleman from Ohio [Mr. SPALDING] asserted the right of the House to grant or refuse the aid necessary to carry the treaty into effect, and maintained that position by a very able argument, but at the same time expressed himself in favor of the treaty.

On the 22d of March last the gentleman from Wisconsin [Mr. PAINE] discussed with marked ability, and at great length, the treaty-making power, and produced an array of authorities which alone ought to be decisive of the right of this House to deal with this treaty. The true construction of this power in its extent and limitation is of so much importance, that I shall venture to occupy a portion of my hour in its consideration with a view of giving to it such a construction as shall be reasonable, and at the same time reconcilable with all other provisions of the Constitution.

A portion of the second paragraph of section two, article two, of the Constitution which relates to the powers of the President is as follows:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur."

Here we have the grant and the entire grant of this power. It is deeply to be regretted that its necessary limits were not expressly defined. They are not; and strangely enough the debates upon the adoption of the Constitution throw no light upon the subject. It is very easy to perceive how an Executive, anxious to wield an unlimited authority, could claim with some

show of reason under this grant standing alone, rights and powers which would absorb all the powers of the Government and every department thereof. The word treaty signifies an agreement, league, or contract. This agreement, league, or contract is to be entered into by the President with the concurrence of two thirds of the Senators present. With whom it may be made, and the subject-matter of such agreement, league, or contract, are not mentioned. Where is the limit? Under this power thus conferred the President has entered into an agreement or contract for the purchase of these Russian possessions. He and those who put the same construction upon this power that he does, claim that this contract is fully executed, is binding and obligatory upon the United States Government, upon all the departments and every officer and subject thereof, notwithstanding it contains a provision in the sixth article—

"That the United States shall pay at the Treasury in Washington within ten months after the exchange of the ratifications of this convention"—a period now passed—

"to the diplomatic representative or other agent of his majesty the emperor of all the Russias duly authorized to receive the same, \$7,200,000 in gold."

In 1776, when the British treaty, generally known as the Jay treaty, which required legislative aid to carry it into full effect, was under discussion, the House of Representatives, after a most learned and exhaustive debate, adopted the following resolution:

"Resolved, That it being declared by the second section of the second article of the Constitution that the President shall have power, by and with the advice of the Senate, to make treaties, provided two thirds of the Senate present shall concur, the House of Representatives do not claim any agency in making treaties; but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress it must depend for its execution as to such stipulations on a law or laws to be passed by Congress. And it is the constitutional right and duty of the House of Representatives in all such cases to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good."

This resolution was adopted by a vote of 57 to 35. This House, then, at that early day, by a very decided vote, declared that when a treaty stipulated regulations such as the money article of this Russian treaty, it must depend for its execution as to such stipulations on a law or laws to be passed by Congress. And now I undertake to say that this right thus claimed has never been relinquished by any subsequent Congress, but repeatedly reasserted and reaffirmed. For a long time afterward it seems to have been conceded to be the true construction of the Constitution in that regard.

Seven years afterward, when we acquired Louisiana, by far the most valuable of all our territorial acquisitions, the law-making power was called in, and it was conceded to be indispensable to carry into effect the treaty by which we obtained that territory. When that treaty was submitted to the House and a resolution requesting of the President information in relation to the cession by Spain to France and the title acquired by the United States was under discussion, Mr. Randolph, though opposing the resolution, said:

"I hold in the highest veneration the principle established in the case of the British treaty and the men by whom it was established, that in all matters requiring legislative aid it was the right and duty of this House to deliberate, and upon such deliberation to afford or refuse that aid as in their judgment the public good might require."

Mr. Smilie, another member, remarked:

"That a subject of this nature had been brought before the House in the first session of the Fourth Congress. He thought it proper to refer to the proceedings on that occasion to learn the sentiments entertained at that day. At that day it had been argued by certain gentlemen that the right of passing or not passing the necessary laws for carrying a treaty into effect did not belong to that House, but that they were under an absolute obligation to pass them, that they had no discretion on the subject. This was a doctrine which he did not believe true. He then believed that they possessed the right, and still entertained the same opinion."

Indeed, upon that occasion the doctrine, though frequently asserted, does not seem to have been seriously questioned, and the aid

asked for was granted. This aid was asked in a message from Mr. Jefferson, then President of the United States, and it is well to note the language of that message, as also that of a special message on the same subject, not only to ascertain the views of Mr. Jefferson of the treaty-making power, but to learn how far away from the original land-marks of the Constitution we have drifted, and to be warned of the alarming progress already made in the centralization and consolidation of the powers of the Government.

Negotiations for the cession of the Territory of Louisiana by France to the United States had been perfected, and a treaty to that effect, so far as the President alone with the consent of the Senate could execute the same, had been entered into, as also a treaty with a friendly tribe of Indians by which territory was acquired, when Mr. Jefferson by proclamation convened Congress October 17, 1803, an earlier day than was otherwise contemplated, but for the great interests involved in those negotiations. In his message to that Congress he says:

"The enlightened Government of France saw with just discernment the importance to both nations of such liberal arrangements as might best and permanently promote the peace, interests, and friendship of both; and the property and sovereignty of all Louisiana, which had been restored to them, has, on certain conditions, been transferred to the United States by certain instruments bearing date the 30th of April last. When these shall have received the constitutional sanction of the Senate they will without delay be communicated to the Representatives for the exercise of their functions as to those conditions which are within the powers vested by the Constitution in Congress."

"With the wisdom of Congress it will rest to take those ulterior measures which may be necessary for the immediate occupation and temporary government of the country; for its incorporation into our Union; for rendering the change of government a blessing to our newly-adopted brethren; for securing to them the rights of conscience and of property; for confirming to the Indian inhabitants their occupancy and self-government; establishing friendly and commercial relations with them, and for ascertaining the geography of the country acquired. Such materials for your information relative to its affairs in general as the short space of time has permitted me to collect will be laid before you when the subject shall be in a state for your consideration."

"Another important acquisition of territory has also been made since the last session of Congress. The friendly tribe of Kaskaskia Indians, with which we have never had a difference, reduced by the wars and wants of savagelife to a few individuals, unable to defend themselves against the neighboring tribes, has transferred its country to the United States, reserving only for its members what is sufficient to maintain them in an agricultural way. The considerations stipulated are, that we shall extend to them our patronage and protection, and give them certain annual aids, in money, in implements of agriculture, and other articles of their choice. This country, among the most fertile within our limits, extending along the Mississippi from the mouth of the Illinois to and up the Ohio, though not so necessary as a barrier since the acquisition of the other bank, may yet be well worthy of being laid open to immediate settlement, as its inhabitants may descend with rapidity in support of the lower country should future circumstances expose that to foreign enterprise. As the stipulations in this treatise also involve matters within the competence of both Houses only, it will be laid before Congress as soon as the Senate shall have advised its ratification."

"Should the acquisition of Louisiana be constitutionally confirmed and carried into effect a sum of nearly thirteen million dollars will then be added to our public debt, most of which is payable after fifteen years; before which term the present existing debts will all be discharged by the established operation of the sinking fund."

Five days later Mr. Jefferson sent to the Senate and House of Representatives a brief message upon the same subject, the first paragraph of which is as follows:

"In my communication to you of the 17th instant I informed you that conventions had been entered into with the Government of France for the cession of Louisiana to the United States. These, with the advice and consent of the Senate, having now been ratified, and my ratification exchanged for that of the first consul of France in due form, they are communicated to you for consideration in your legislative capacity. You will observe that some important conditions cannot be carried into execution but with the aid of the Legislature; and that time presses a decision on them without delay."

In the acquisition of territory Mr. Jefferson not only recognizes the right of Congress to act, but avers the necessity of action. Of the Louisiana purchase he says:

"When these shall have received the constitutional action of the Senate they will without delay

be communicated to the Representatives for the exercise of their functions as to those conditions which are within the powers vested by the Constitution in Congress."

Of the Indian treaty the language is still more explicit. He says:

"The stipulations in this treaty involve matters within the competence of both Houses only."

It is generally known that Mr. Jefferson doubted whether there was any power under the Constitution in any or all of the departments of the Government to acquire foreign territory. He expressed this opinion in a letter to Mr. Breckenridge, dated August 12, 1803, in which he also writes:

"This treaty [the Louisiana purchase] must of course be laid before both Houses, because both have important functions to exercise respecting it. They, I presume, will see their duty to their country in ratifying and paying for it, so as to secure a good which would otherwise probably be never again in their power."

It is impossible to conceive of a more explicit recognition of the right in Congress to grant or refuse the aid necessary to carry a treaty into effect which involves the payment of money. And this recognition is in striking contrast with the views of to-day, as evidenced in the action of the President in regard to the Alaska purchase, and his message to Congress in which it is referred to. The whole subject is disposed of in eight lines. Mr. Johnson says:

"It will hardly be necessary to call the attention of Congress to the subject of providing for the payment to Russia of the sum stipulated in the treaty for the cession of Alaska. Possession having been formally delivered to our commissioner, the territory remains for the present in care of a military force, awaiting such civil organization as shall be directed by Congress."

In the acquisition of territory Mr. Jefferson thought the concurrent action of both Houses of Congress necessary. Mr. Johnson would have us understand that the treaty was complete and in full force as a law, that Congress had no discretionary powers, but must make provision for the payment of the purchase price.

For a third time, in 1816, when the commercial treaty with Great Britain was under discussion in the House of Representatives, the right to grant or refuse such legislation as was indispensable to carry out the treaty stipulations was most emphatically asserted.

Again, in 1820, after the Spanish Government had neglected to comply with the stipulations of a treaty settling the boundary line between Louisiana and the Mexican territory, Mr. Clay, then Speaker of the House of Representatives, introduced the following resolutions in the House:

"Resolved, That the Constitution of the United States vests in Congress the power to dispose of the territory belonging to them, and that no treaty purporting to alienate any portion thereof is valid without the concurrence of Congress."

"Resolved, That the equivalent proposed to be given by Spain to the United States in the treaty concluded between them on the 22d of February, 1819, for that part of Louisiana lying west of the Sabine was inadequate; and that it would be inexpedient to make a transfer thereof to any foreign Power or to renew the aforesaid treaty."

These resolutions were discussed at length, and although no action appears to have been taken upon them beyond the debate, there is no doubt of the opinion of the House. Every speaker alleged or admitted in express language the right of this House to deliberate and act as its judgment might dictate upon all such stipulations in treaties as applied to any subject enumerated among the powers of Congress. Mr. Clay said:

"The Constitution of the United States has not defined the precise limits of that power, because, from the nature of it, they could not be prescribed. It appears to me, however, that no safe American statesman will assign to it a boundless scope. I presume, for example, that it will not be contended that in a Government which is itself limited there is a functionary without limit. The first great bound to the power in question, I apprehend, is that no treaty can constitutionally transcend the very objects and purposes of the Government itself. I think, also, wherever there are specified grants of powers to Congress, they limit and control, or, I would rather say, modify the exercise of the general grant of the treaty-making power, upon a principle which is familiar to every one."

currency of this House be not necessary in the cases asserted, if there be no restrictions upon the power I am considering it may draw to itself and absorb the whole of the powers of the Government. To contract alliances, to stipulate for raising troops to be employed in a common war about to be waged, to grant subsidies, even to introduce foreign troops within the bosom of the country, are not unfrequent instances of the exercise of this power; and if in all such cases the honor and faith of the nation are committed, by the exclusive act of the President and Senate, the melancholy duty alone might be left to Congress of recording the ruin of the Republic."

Mr. Lowndes, who followed Mr. Clay in opposition to the resolutions, said—

"He was willing to admit that, in relation to those stipulations which apply to subjects such as are among the enumerated powers of Congress, the sanction of the representative body to them was necessary."

Mr. Archer, of Virginia, said:

"In contemplating this question, the attention could not fail to be attracted to the extravagance of the pretensions of the treaty-making power. In point of extent the power claimed to cover all the objects which fall within the scope of international legislation. The claim was not only to exclude Congress from all participation of control over subjects specifically committed to its control by the Constitution, but to bind it to an undeliberating ministerial execution of the stipulations of the President and Senate in relation to these same subjects whenever they might require the intervention of Legislative details, and a resort to municipal authority for execution. The admission of the treaty-making power, therefore, in the absolute, unrestricted character it assumed to wear, would be a violation of the whole consistency of the Constitution."

Mr. Trimble said:

"It was not necessary for him to prove that this House could rightfully and properly refuse to carry into effect a treaty which, in its judgment, would be ruinous to the country. The first resolution asserts this right. He had just promised not to discuss it, but he would never yield it so long as he was a member of this body."

Mr. Anderson said:

"But while he had no doubt of the right of the House to act in this case, in which, if the treaty were made, they would be called on to make the appropriation to fulfill it, he strenuously contended that no case had been made out to justify our interference."

These are all the opinions expressed in the debate upon Mr. Clay's resolutions. I have been thus explicit in referring to them from the extraordinary statement contained in the report of the honorable chairman of the Committee on Foreign Affairs, who reports the bill under discussion. In that report the honorable gentleman says:

"The Senate of the United States ratified the treaty a second time, and passed such laws as were necessary to give it effect by sweeping majorities against vigorous opposition. Representatives and Senators holding themselves bound by the act of the Government to perform the acts required for the execution of the treaty."

The conclusion arrived at by the honorable gentleman from the facts in that case is no less remarkable. He says:

"It is impossible to cite a stronger recognition of the obligation resting upon the law-making power to execute a treaty made according to the forms of the Constitution with a foreign nation than that which the treaty of 1819 with Spain presents, and no case so well illustrates the principles by which Congress has been governed in international questions of this character."

A remarkable conclusion, indeed, if it is to be regarded as a case in any manner recognizing any obligation as resting upon the law-making power to make an appropriation for the purchase of foreign territory. It is true that the next Congress, at its first session, granted such affirmative legislation as was asked for, not by reason of any imperative obligation to do so, but in pursuance of its deliberative judgment. I have examined the debates carefully, and I now undertake to say that no member of the House of Representatives on that occasion expressed any other opinion than such as I have quoted, as expressed in the debate upon Mr. Clay's resolutions, and I do not see how the honorable gentleman can justify himself in the assertion that Representatives hold themselves bound by the act of the Government to perform the acts required for the execution of the treaty.

The debates upon the Jay treaty, and again in 1816, were by far the ablest and most exhaustive. Extensive quotations from these debates have already been made by other gentlemen; I

have therefore only alluded to them. It will be seen from the action taken upon all of these occasions that this House has never surrendered to the treaty-making power any of the prerogatives expressly confided to it by the Constitution; and we are not without judicial authority upon the same question. In the case of *Foster vs. Milson*, (2 Peters,) Chief Justice Marshall said:

"Our Constitution declares a treaty to be the law of the land. It is consequently to be regarded in courts of justice as equivalent to an act of the Legislature, whenever it operates of itself, without the aid of any legislative provision, but when the terms of the stipulation import a contract; when either of the parties engages to perform a particular act, the treaty addresses itself to the political not the judicial department, and the Legislature must execute the contract before it can become a rule for the court."

This covers the whole ground contended for. Indeed, I do not see how so broad a proposition as that stated by Mr. Marshall, "that when the terms of the stipulation import a contract the Legislature must execute the contract before it becomes a rule for the court," can be maintained. I understand a treaty to be a contract or agreement and nothing else. This judicial construction would subject all treaties to the action of Congress. The Constitution has conferred upon Congress certain specified powers, and unless the treaty relates to some subject enumerated among those specified powers Congress has nothing to do with it. If it does Congress must act affirmatively before the treaty is binding. This rule must prevail upon the long established and universally admitted principle that a general must yield to a special grant of power, both contained in one instrument.

Now, does it follow that a treaty which executes itself becomes *per se* a part of the supreme law of the land? Suppose the President, by and with the consent of the Senate, should enter into a treaty with Great Britain to cede to the latter Power the State of Maine in exchange for Upper Canada, what would become of our obligation to guaranty to the State of Maine a republican form of government, to say nothing of the many constitutional obligations we are under to the citizens of that State as citizens of the United States? Yet such a treaty would execute itself. Legislative aid would not be necessary to carry it into effect. I am sure, in such a case, my friend, the chairman of the Committee on Foreign Affairs, who recently upon this floor so ably and eloquently vindicated the rights of American citizenship, would not turn his back upon the gallant sons of the pine-tree State who were being bartered away like cattle in the stock-yards.

Mr. MAYNARD. If the gentleman will allow me, I would like to ask him a question. Suppose we should become involved in a war with Great Britain, and after carrying it on for a while with various fortune, a treaty of peace should be negotiated upon the basis of *uti possidetis*, including Canada on our side and Maine on the other, does the gentleman hold that such a treaty would or would not be obligatory?

Mr. FERRISS. If the gentleman will listen to my remarks as I continue them, he will find that I meet the question which he puts.

Mr. MAYNARD. I ask the gentleman's pardon. I did not wish to anticipate the gentleman's argument; but I was anxious to understand exactly what ground he takes on this question.

Mr. RAUM. If it will not embarrass the gentleman from New York, [Mr. FERRISS,] I would like to propound to him an inquiry. Assuming that where the President and the Senate enter into a treaty which requires for its execution an appropriation of money, the House of Representatives may refuse to make the appropriation, I would like to know by what principle the House should be controlled in refusing to appropriate the money?

Mr. FERRISS. Mr. Chairman, it should be governed by the same principles by which it is governed in its deliberations upon any subject coming legitimately before it. The Constitution of the United States has expressly

given to this House of Representatives the control of the purse-strings of the nation. No money can be paid out of the Treasury except in pursuance of appropriations to be made by law. When the treaty-making power transcends its functions, as I say it has done in this case, and the authorities I have cited confirm my position, the treaty is not obligatory upon this House, and we can give the necessary aid or not, just as we see fit. I will add that if in such a case as that the House grants the aid, then the contract, having received the sanction of all the departments of the Government before which it can come, would probably be a treaty.

Mr. RAUM. One further inquiry: conceding, as I have already said, that an appropriation is necessary to execute the treaty, is it not the argument of the gentleman, and has it not been the argument of other gentlemen here to-day, that the only reason which can be assigned why the House of Representatives shall not make the appropriation to execute this treaty is that the President and the Senate have made a bad trade?

Mr. FERRISS. Perhaps so.

Mr. RAUM. In other words, when we have made a bad trade the gentleman would not ratify it, and when we have made a good trade he would ratify it.

Mr. FERRISS. Certainly. I would exercise my judgment just as I would in the case of a bill passed by the Senate and sent to this House for consideration. When the Senate has passed a bill and sent it to this House, we are not bound by its action; we can pass it or reject it, as we may deem best. I would act on the same principle in this case.

It is by no means clear that the Constitution contemplated the acquisition of foreign territory. Indeed, it was held by Mr. Jefferson, as has been already stated, that there was no power under the Constitution to acquire such territory. The practice has been to make such acquisitions by treaty, Congress giving the affirmative aid necessary to carry out the treaty. And I do not question that when such aid is granted, it is to be regarded by all the nations of the earth as a valid treaty.

Mr. MAYNARD. Does the gentleman understand that the Jay treaty was one that required legislation to give it effect?

Mr. FERRISS. I understand that it did require legislative aid. Precisely what that legislative aid was I am not prepared to say.

Mr. WILLIAMS, of Pennsylvania. If the gentleman will allow me I will state that it did involve the assumption on the part of the United States in that way of sundry debts owing to citizens of Great Britain not recoverable in the courts, and therefore indirectly involved the appropriation of money.

Mr. MAYNARD. The point of my inquiry was whether the objection growing out of that treaty and that debate did not go to the general treaty-making power; whether it was limited, as some gentlemen wish to limit it now, to those treaties which provide for the payment of money?

Mr. FERRISS. If limited to that it is sufficiently pertinent to the present case.

Mr. CHURCHILL. I ask the gentleman whether in the case of the Webster-Ashburton treaty certain territories of his own district, upon which is Fort Montgomery, were not ceded by the Government of Great Britain to the United States, and certain other claims of territory belonging to us in the East and West were not ceded to Great Britain; and whether that treaty did not become effective without legislation?

Mr. FERRISS. I will answer the gentleman, that treaty assumed to make certain what before was uncertain. That treaty assumed the line agreed upon was the true line between the Government of the United States and the Government of Great Britain. It was not settled upon the principle we were ceding territories, but upon the supposition that we were determining the true line between the two territories. It was settled as difficulties between farmers



are settled. A line is surveyed, and one party may insist that he has lost several feet of his land, but the law steps in and decides it to the true line. It was not for the purpose of ceding the lands the treaty was made, but to determine the true line between the two nations.

Mr. CHURCHILL. Mr. Chairman, one further question. I desire to ask, in reference to his answer, whether it is not conceded now, and whether it has not always been conceded, Fort Montgomery is north of the forth-fifth parallel of north latitude, and therefore not within the territory to which we had any claim.

Mr. FERRISS. The people of the United States claimed our line was somewhere else from where it is now. I do not know myself where the old line was.

Sir, a power to alienate territory would be subversive of the objects of the Government, and might very easily effect a dissolution of the Union. It exists nowhere. While there is no express prohibition in the Constitution against it, that instrument never contemplated the transfer of a foot of our territory to any foreign Power. The provision that "Congress shall have power to dispose of and make all needful rules and regulations respecting the territory and other property of the United States" has been generally supposed to relate to disposing of the land in fee or otherwise to individuals, dividing the territory, and forming territorial governments, and not to a transfer to a foreign sovereignty. Territory might be wrested from us in a disastrous war, and in no other way can we be deprived of a single foot of our national domain.

The treaty-making power, then, is not without limits. I would define it as follows:

1. A treaty can only be made by the President with some potentate, State, or sovereignty.
2. Its stipulations must not destroy or do violence to the constitutional rights, privileges, or immunities of any of the United States or any of the citizens thereof.
3. If its stipulations or conditions relate to any subject, special power or control over which is committed by the Constitution to any other department or power in the Government, then the concurrent action of such other department or power is indispensable to give validity to such treaty.

Judged by that standard let us see how this Russian treaty will appear. Among the powers specially conferred upon Congress by the Constitution is the power "to establish a uniform rule of naturalization." The third article of the treaty is as follows:

"The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory they, with the exception of the uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may from time to time adopt in regard to aboriginal tribes of that country."

Here is a class of persons whose qualifications for citizenship I may have occasion to notice hereafter, made citizens without the intervention of the naturalization laws. Every Irishman or German who lands upon our shores must remain five years, then, having two years previously declared his intention to become a citizen, take the oath of allegiance to the United States, abjure all allegiance to his former sovereign, and, more than that, prove by competent testimony that he is a man of good moral character and well disposed toward the institutions and Government of the United States. Nothing like this is required of the Siberian malefactors and other residents of Alaska. The wisdom of the Executive and State Department combined has discovered a convenient and easy way to set aside this little rule of naturalization contained in the Constitution, and by the "exchange of the ratifications of a convention" alone, clothe this class of persons, without regard to character or qualification, and who can neither speak our language or understand our form of Govern-

ment, with all the rights of American citizenship. If there was no other objection to the treaty this article alone should condemn it, and this House ought not to commit itself to any act which recognizes citizenship created in that manner.

The Constitution further provides that "all bills for the raising of revenue shall originate in the House of Representatives," and that "no money shall be drawn from the Treasury but in consequence of appropriations made by law." How, then, can it be said that the House has no discretion in making the appropriation to pay for this territory? We are asked for money; we are a portion of the law-making power; a law must be passed before the money can be paid; and yet we have no discretion. The naked proposition exposes its absurdity. If the rule claimed by the President prevails he may, with the consent of the Senate, buy any and all the territory he chooses and overwhelm the nation with indebtedness. Whether the sum is ten millions or a thousand millions it is all the same; the nation is bound and there is no remedy. Such cannot be the true construction of the treaty-making power.

The power to refuse the appropriation being conceded, ought it to be exercised. The Emperor of Russia has no right to complain if we refuse the aid called for. He has an experienced and intelligent representative in this city—the same who negotiated this treaty, and who has resided in this country for twenty-eight years. No sovereign of Europe has a more shrewd or able diplomat in this country. He is learned in our laws and language, and it is no disparagement to the members of this House to say that he understands our Constitution as well as any member here.

It is more than probable that the possession of Alaska was surrendered to the United States for the express purpose of urging its surrender as a reason why the purchase money should be paid. Such reason cannot operate with me. While I should regret any act that would disturb our amicable relations with the Czar of Russia, who was our firmest and fastest friend during all the dark days of our recent bloody conflict, I cannot believe he would regard so plain an exercise of our discretionary power as a just cause of complaint. If he did I could only regret it. My first duty is to my own country, and that I propose to discharge without consulting the feelings of any foreign potentate, whoever he may be.

In a speech delivered before the Soldiers' and Sailors Union in January last, a Senator from Indiana [Mr. MORTON] remarked:

"The purchase of Alaska from Russia can be justified on high political considerations and the future commercial importance of owning the northwestern part of the continent. But it is not easy to see the necessity for spending \$7,500,000 in gold for the purchase of St. Thomas, a small West India island, which may be said to be the very birthplace of the yellow fever, and is frequently made desolate by earthquakes and hurricanes."

What the high political considerations are that justify this purchase the Senator does not inform us. We are left entirely to conjecture. Are we to enter upon a career of filibustering? Is that country on the one side, and Washington Territory on the other, to be the upper and nether millstones by which the British possessions are to be crushed out? Sir, that process of acquiring territory, to say nothing of the morality of the method, would prove far more expensive than negotiation and purchase, and might possibly result in disaster. We want no more wars, least of all with that nation most powerful on the ocean, and with which we have the most complicated and extensive commercial relations.

Of what possible commercial importance can this territory be to us? The islands can never be made a stopping place for vessels passing across the Pacific ocean from one continent to the other. The track of steamers to China and Japan is now a thousand miles south of them, and although it might not materially lengthen the distance to touch at Oonalaska, there are climatic reasons which prevent it. The per-

petual fogs in which these regions are enveloped render regular navigation by ocean steamers highly dangerous and utterly impracticable. In an elaborate article in the New York Herald of April 29, 1867, favoring the purchase, it is spoken of as a country "far removed from the ordinary routes of commerce;" and unless there is some value and importance pertaining to the territory itself, the ordinary routes of commerce will not be changed.

The next question to consider is, has this country any intrinsic value, excepting for purposes of fortification or defense, or possessed of mineral value, and then only to a limited extent? No country on this earth has yet been found of the least possible worth or importance unless it was capable of profitable agricultural improvement. Alaska is not, nor are the Aleutian Islands. We are told the climate is far milder than in the same latitude on the Atlantic coast; that the thermal currents of the Pacific bathe its shores and soften the rigor of its Arctic locality; that its isothermal line stretched across the continent runs well down into the middle and eastern States. I am not disposed to question these statements, and will not now stop to discuss the theory deducible from such phenomena. One fact is worth a dozen theories, and we have in the documents furnished to the committee abundance of evidence as to the true character of this country. No more reliable authority can be found than that furnished by the Russian Government itself. In a memorandum descriptive of the Russian imperial system of Russian America, division of property, &c., transmitted by Mr. Clay, our minister at St. Petersburg, to Mr. Seward, I find the following passages relating to the Aleutian Islands:

"Upon these three last islands there never existed any Russian settlement; the intercourse of Russians with those tribes was wholly confined to the limits of retail trade, for which purpose vessels of the Russian-American Company were but occasionally sent thither, and, therefore, neither the imperial Government nor the company ever had any influence upon the mode of division of lands between said natives, who, to the present time, use such lands in perfect freedom, without any foreign interference or restrictions. Exactly in the same way (owing to the character of the object which was constantly pursued by the agents of the company) neither the Government nor the company had any interest to interfere with the distribution of lands between the inhabitants of the Aleutian Islands. All these islands, the boundaries of which are fixed by nature itself, are held and used by the Aleuts by right of prescription, never interrupted by any foreign violation or interference. The division of lands between the Aleutian settlements was established at a time anterior to the Russian occupation, and continues to be inviolably preserved according to usages prevalent of all antiquity among the natives. Neither the imperial Government, by the authority conferred to the Russian-American Company, nor the agents of the company, by the strength of imperial grants, ever interfered with the internal division of lands between the indigenous Aleuts, and if the local administration occasionally undertook the examination of their mutual claims it exceptionally happened in cases of misunderstanding and contests between the natives themselves, and never otherwise than upon application of the interested parties and persons, when the local Toyunns, or elders of villages, had failed to satisfy the respective claims of parties by their own authority.

"The native population of each separate island is so very insignificant that the inhabitants of any one could not meet with the slightest cause of collision of interests in the use of lands; in addition to this, the soil itself being perfectly barren, and unfit either for agricultural or grazing purposes, there was no reason why the natives should endeavor to extend the limits of their lands; if they value their grounds it is exclusively on account of streams abounding in fish, or of coast sites, designated by the local name of *Liya*, (*Layda*): for the Aleuts, being neither agriculturists nor cattle breeders, live exclusively upon fish and shell fishes thrown ashore by the tide, so that the welfare of the natives is measured by the abundance of sea fruits supplied by the tide, and the prosperity of Aleutian settlements is calculated by the richness of the *Liya*, exactly in the same way as the prosperity of continental settlements is chiefly calculated by the productiveness of the ground.

There was even less ground for the enactment of any particular regulations in view of immigrant settlers. Who can ever have a mind to settle in that atmosphere, where permanent fogs and dampness of atmosphere and want of solar heat and light, leaving out of the question anything like agriculture, make it impossible to provide even a sufficient supply of hay for cattle, and where man, from want of bread, salt, and meat, is forced to escape scurvy must constantly live upon fish, berries, shell-fish, sea cabbages, and other products of the sea, soaking them profusely with the grease of sea beasts. The Aleutian Islands may attract transient traders, but no permanent settlers; to inhabit them one must be an Aleute, and if

it were not for the sea surrounding the islands this country, owing to its unfavorable climatic conditions and the sterility of its ground, would have never been inhabited at all; and, therefore, the American Government will have, as the Russian imperial Government had, to protect the local natives against arbitrary taking of possession and violence, not in the interior of the islands, but from sea, because unsparing foreigners, prompted by avaricious hope of easy temporary gain, will, before all, endeavor to take advantage of the local population, which, being scarce, and rather fond of strong drink, will not long resist temptation, and shall perish, together with all those branches of trade for which islanders alone are fit, and particularly the Aleutics, these ancient, permanent, and practiced inhabitants of the ocean."

In another part of the same document is the following passage relating to the main land and its inhabitants:

"Such is, in general features, the character of the Russian-American continent. From all what we said it clearly appears, that in this region no attempts were ever made, and no necessity ever occurred, to introduce any system of land-ownership; the country occupied by savages is too vast; they use to camp in certain fit places, generally marked by mountains, rivers, and streams, each having its name, but no fixed boundaries whatever, and their migrations are guided by wild instinct and unbounded will. All this region has neither past nor present, and it may be confidently said of the future that it is far and impenetrable. Every attempt of civilizing that country will stumble against unconquerable obstacles; the complete absence of local topography, the wild character of the savages, and no less wild character of nature; but, above all, the rigor and inconsistency of climate. To achieve any good results for the future of that country, by means of conquest and violence, would hardly be possible; to drive the savages further into the interior of the American continent, however difficult, would be possible; but this plan will be connected with irrecoverable money and material losses; the more so, that a civilized population will never be attracted to that country; there can be expected speculators, but no permanent settlers; there can be expected no civilized population, no permanent industry, but rather spoilers of the natives, and depredatory working out of the riches as well on the surface as in the womb of the earth. Such system can devastate, but not organize the country."

This, sir, is Russian authority, furnished at a time and under circumstances when it was to their interest to make favorable representations of the climate and character of the country. It is not only reliable, but ought to be conclusive. We are not, however, left to this authority alone. Behring, Cook, and Pelouse, all early navigators, and representing three different nationalities, use the most disparaging terms in describing the country and climate. Von Langsdorff, an intelligent Russian traveler, who visited the country in the early part of the present century, calls the few inhabitants who are not Indians, "Siberian criminals, malefactors, and adventurers," and designates the country as "this miserable part of the world." The following extracts from Executive Document No. 177 ought, some of them, relating to climate and productions, and others to the character of the inhabitants, are chiefly from the reports of the officers accompanying the expedition sent out by our Government in 1867 to explore these Russian possessions:

"We had no observations for twenty-three days."  
 "Not a single tree grows upon this [Oonalaska] or the adjacent islands."  
 "To remove these people, [Indians,] or to interfere with their dead, would cause an exceedingly bad feeling, particularly as they are already suspicious of us, and do not like the change of flags."  
 "I hope I may be pardoned for suggesting that the greatest care should be exercised in the selection of officers for this coast with minute and special instructions for their guidance in the treatment of Indians in this and the eastern portion of our territory. They are a warlike people, possessing all the suspicion and treachery of a savage race, and are capable of destroying a free and profitable trade for many years on the coast of Sitka and our eastern possessions to the British line."

"I determined to proceed at once to Chilcote, mouth of Chilcote river, held by the most powerful tribe, and perhaps the most warlike and troublesome on the coast."

"These Indians [up Chatham sound] from the earliest navigators have been known as a treacherous and quarrelsome people."

"Next morning entered Prince Frederick's sound, and proceeded to the island of Kake, the residence of a tribe well known for their ferocity and thieving propensities. It was this tribe that murdered Mr. Eby."

"For many days and nights they watched in vain for sun, moon, and stars, which led us almost to believe that neither ever had been, or would be seen."

"Whisky, for which the natives will sell everything

they possess, even wife and children, must be strictly prohibited, the possession of which will cause murders of the whites, and hence an Indian war."

"The whole coast to Sitka, and far northward, exhibits one uniform topography and similar climatic conditions, being rainy and foggy, and the growth is nearly or quite the same throughout."

"Unfortunately, this vast region of islands and continental coast is not bordered at the bases of these lofty-timbered ranges with sloping or level bottoms; but is gashed with precipitous and inaccessible gorges, the peaks for the most part being capped with snow, which, melting in summer, together with the continual rains, make every rockless footstep a sphagnum miry morass. Altitude passes for naught here: even the mountains are miry to their tops."

"No reliance can be placed on any of them [grasses] for hay, and winter feeding as in such a climate no haying is possible."

"All that is worthy of the name of timber here [Kodiak] is the Sitka spruce."

"There are no trees of any size whatever upon any of the Aleutian Islands."

The enormous amount of rainfall along a sea-board essentially cloudy throughout the year has its normal effect upon the class of vegetation that will succeed in ripening under such conditions of climate. The whole extent of country subject to these rains is covered with sphagnum from one to two feet in depth, and even on the steepest hillsides this carpet is saturated with water, and renders progress through it very slow and difficult, especially when there is a heavy growth of wood and underbrush. At Fort Simpson, the Stakene, Chilkahl, Kodiak, Oonalaska, and the islands westward, this morass exists to the summits or snow line of the mountains. In no part of the country, except on two or three mountain sides on Chatham strait, between the eastern entrance of Peril strait and the mouth of the Chilkahl, have we seen herbage or trees destroyed by fire, as is so universally resorted to in Washington and Oregon, both by the natives and by the settlers. At our different stations we attempted to obtain the temperature of the earth three feet below the surface, but never penetrated a foot before the hole was filled with water."

"Tobenkoff (1848) gives a dark picture of the appearance and climate of Prince William's sound, calling it desolate, gloomy, and deserted; surrounded by rocks and pine forests, mountains covered with eternal snow, and enveloped in perpetual fog, or invisible with drizzling rain. Rain falls sometimes for a whole month, and there are not more than sixty or ninety sunny days in the year. During the months of July and August the thermometer showed 59° on fair days and 40° on rainy days. The frost in winter is very severe but of short duration, for the south winds change it suddenly to thaw and rain."

"At Sitka, fruit trees were introduced in the Governor's garden, and special attention devoted to their culture, but they have not borne fruit except a few small specimens that never matured."

"None of the cereals are cultivated, and it is very doubtful if they would succeed."

"The great desideratum of the Pacific coast is coal, and we had been led to suppose that some of the reported deposits in Alaska were really coal; but the specimens from the Island of Unga, given to me by the Governor of the Russian colonies, are nothing more than lignite, thickly marked with iron pyrites. Moreover, at the worked out-crop in Coal Harbor it exists in veins of rarely more than a foot in thickness. This coal has been faithfully tried on the Russian steamers, and, after very many experiments, has been abandoned, and recourse had to the Nanaimo coals from Vancouver's Island. The navigators and engineers of the Russian steamers inform me that it is very light, burns with great rapidity, and leaves very much ash and clinker. The same general remarks apply to the coal obtained from English harbor, at the entrance to Cook's inlet, and first found and reported by Portlock."

"Two or three years since some of the sub-tribes, twenty or thirty miles west of the Stakene, captured the English trading schooner Royal Charlie, murdered her crew, and plundered and scuttled the vessel."

The foregoing extracts furnish some idea of the character of the country and the people we are to acquire by this Russian treaty. It is alleged that the precious metals and copper have been discovered; but there is no reliable authority that either can be found in sufficient quantity to be of any value as a production of the country. The furs of this region are reported as of great value, and the fur trade profitable. Statistics show that the whole value of the entire annual catch of furs does not now amount to two per cent. of the purchase price we pay for the country, counting the cost of capture nothing, and the extermination of the fur-bearing animals has only been prevented by the most stringent laws which a despotic Power only could enforce. In our hands the fur-bearing animals will quickly vanish. That extensive fishing banks exist in these northern seas is quite certain; but what exclusive title do we get to them? They are said to be far out at sea, and no where within three marine leagues of the islands or main shore. The

products of the country are sometimes spoken of as "fine," "large," "excellent," &c., but as these are comparative terms little idea can be formed of the quality or size of the thing spoken of, and frequently when size or quality is given the product proves insignificant. For instance, potatoes are cultivated by the Aleutians at Oonalaska, after removing the sphagnum from the soil; and Bishop Veniaminoff says that "the potato yields from four to seven fold and attains 'great size,' from three to ten making a pound weight." Think of it, ye farmers of New England and the Middle States, but ten potatoes to weigh a pound! Surely, Alaska is not the country of which it is said "potatoes they grow small over there."

In latitude 55° south of Sitka, "ground ice" as it is called, is found at any time of the year six or eight feet below the surface. It is evident, therefore, that successful agriculture can never be carried on in this region. That it will never be populated by an enterprising people is equally certain. Government, for special purposes, might force into existence a few sickly settlements, but they would no more compare with the flourishing towns that are springing into existence all over the rich prairies of the West than the sickly shrubs of the Conservatory in front of this Capitol can compare with the luxuriant growth of the tropics. We have already a territory sufficiently extensive to sustain a population of hundreds of millions. Texas, no more densely populated than Massachusetts is to-day, would contain all the inhabitants of the United States. The Territories of Colorado, Dakota, Nebraska, New Mexico, Washington, and Utah would sustain one hundred and sixty millions of people, with no more to the square mile than Massachusetts now averages.

Why, then, was this territory purchased? Commercially and geographically it bears the same relation to the western shores of North America that Greenland does to the eastern. It can be of no more service, nor can it be of any more importance in the navigation of the Pacific than Greenland has been in the navigation of the Atlantic. Nobody asked for it, and nobody wanted it. With all due respect to the committee who report this bill, the mystery attending this session has not been dispelled, nor have the motives of the parties presenting it to the Government been satisfactorily explained. The New York Herald says this territory is the spontaneous offer of the emperor, and entirely unexpected and unsolicited on the part of the United States, and that it is the second time it has been tendered to us. This is quite probable. Russia has had it long enough to know its utter worthlessness. The correspondence furnished us throws no light whatever upon the subject, and gives no clue to the reasons which prompted the negotiations. It consists of three very brief notes and one telegram of nine words. The substance of this correspondence may be summed up thus:

Mr. Seward says, I will give you so much. Stoeckl says, done! Stoeckl says, emperor says done! Gortschakoff telegraphs, "Treaty ratified." The Roman general wrote, *veni, vidi, vici*; but it is doubtful whether this negotiation, for brevity, has ever been equaled in diplomatic or political correspondence, with one exception, which is found in a pertinent use of the sententious word "stick." That there was other correspondence is more than probable—correspondence which must be withheld for reasons of public policy. It is not easy, then, to divine the motives which prompted the purchase of Alaska, a barren, unproductive region, covered with ice and snow, or shrouded in perpetual fogs and storms, embracing an area, nearly one third of which is within the Arctic circle, of three hundred and ninety-four thousand square miles, with a coast line, including bays and islands, of more than eleven thousand miles; with a population estimated at seventy-five thousand, about ten thousand of whom are Siberian malefactors, half-breeds, Kodiaks, Aleuts, and a very few Russians,

not one of whom can speak our language, who, by the terms of this treaty, are made citizens of the United States, and the balance composed entirely of Indians.

If this purchase involved only its first cost of \$7,200,000 in gold, equal to about thirty thousand dollars in gold to every congressional district in the Union, it might be borne. But, sir, that is a mere bagatelle to the prospective expense which must be incurred. First of all a territorial government must be organized. The telegraphic wires were still hot with dispatches sent to the Secretary of State, (not instigated, of course, by anybody in the interest of the State Department,) congratulating him upon the making of this treaty, an achievement more successful than was his great effort at writing down the rebellion, when a memorial from the mayor and councils of Sitka, a little hamlet, chiefly of log houses or huts, containing not more than five hundred inhabitants of all ages, sexes, and nations, exclusive of Indians in the vicinity, was sent to the Senate, praying for a territorial government.

It is not likely that Robert J. Walker, for whose talents I entertain the highest respect, the venerable statesman of two generations, who, in January last, wrote a letter of nine columns in the *Chronicle* favoring the purchase of Alaska and St. Thomas, claiming originality of the "fifty-four forty or fight" doctrine, an absurd claim most effectually squelched in the Senate by the late Thomas H. Benton, and who characterizes the opponents of this Alaska swindle as the fossil remains of a party now nearly extinct, had anything to do with the getting up of this memorial. His business was that of a paid attorney, pursuing a legitimate calling. And the press of this city in devoting their columns to the advocacy of this swindle for the purpose of influencing this House, were pursuing the vocation of the tradesman vending his wares for a consideration had and received. It was that class of persons who hang around this Capitol waiting, Micawber like, for something to turn up; that class of persons so inimitably described by Neil in his *Charcoal Sketches* in the person of Peter Brush. Peter was a politician, and soliloquizing said: "I love my country and I want an office. I don't care what, so it is fat and easy. I have a genius for governing—for telling people what to do and looking at 'em do it. I want to take care of my country, and I want my country to take care of me."

These are the men who want a territorial government. Be patient, gentlemen, you will not have to wait long. The bill has already been introduced in the Senate. It provides for a Governor, secretary, judge, and marshal, several offices, all "fat and easy." These are not all the offices; more Peter Brushes are wanted. Sixty-five thousand Indians must be provided for. Indian treaties come next in order. These, of course, will be necessary to extinguish the Indian title to the Arcadian bowers and Elysian fields so eloquently described by the gentleman from Massachusetts. A few more millions for that purpose is of no account. The flag must wave

"On Behring's rocks, on Greenland's isles;"

and the eagle mingle his scream with

"The wolf's long howl from Onalaska's shore."

Then follow Indian agencies. I think I see Peter's eyes glisten at the thought of writing himself down Indian agent. These are the "fat places," which, for leeching the Treasury and defrauding the Government, are not equaled by anything outside of the whisky ring. And as these Indians are the most warlike and treacherous of any on the continent, a few soldiers, say a couple of regiments, will be wanted to keep them quiet. It will not require more than two or three millions a year to maintain the soldiers, excepting in time of war, which quite likely will be all the time. And the Navy, too, that must be represented, for, in imitating the man who bought all the land that joined his farm to keep his neighbor's pigs from annoying him, we have doubled our coast

line and acquired innumerable bays, inlets, and harbors—nice places for smugglers and contraband traders. A few revenue cutters and some cruisers must be employed to look after those little matters—add a few more millions; "manifest destiny" says we must have the whole continent; never mind the expense.

Mr. WILLIAMS, of Pennsylvania. Has the gentleman thought of the probable cost of the coast survey of that immense coast?

Mr. FERRISS. It did not occur to me, but ought not to be omitted.

The great American idea of expansion must be carried out. Custom-houses and customs officers must be created; the latter salaried, of course, for the only trade likely to be carried on will be an illicit traffic in whisky and tobacco, and even Peter Brush would not take the place and rely upon his fees. One thing more I must not omit. A country teeming with vegetation, burdened with all the agricultural products of the earth, rich in the precious ores and the baser metals, and withal glittering in diamonds, as the eloquent chairman of the Committee on Foreign Affairs charitably testifies, must have her rivers and harbors in suitable condition to receive the navies of the world, and a few more thousands for the Stakkeen and the Yukon must adorn the next appropriation bill for the improvement of rivers and harbors.

Mr. Chairman, I implore the members of this House to remember that the nation is groaning under a debt of more than two thousand five hundred million dollars; that the acquisition of these Russian possessions involves an expense of ten million dollars in currency, now called for with an enormous prospective cost and outlay for their government and protection perhaps equal to the interest on fifty millions more, that we do not need the Territory, and then determine whether they will heap this additional burden upon their constituents. It is a responsibility I do not crave and shall not take. Is there a man on this floor who for a single moment believes his constituents would vote to tax themselves \$80,000 in gold to pay their share of the money?

Gentlemen talk about the honor of the nation being involved, and good faith to a friendly Power requiring the carrying out of this treaty. This is the argument that is expected to win, the sentimental argument cunningly provided and made to hand by the manipulators of the negotiations. The boldness with which this treaty was sought to be forced upon this House has no parallel in our history. For the first time possession was surrendered and taken of the possessions acquired before provision was made by legislation for carrying into effect those provisions that required legislative aid.

It was a trick of diplomacy, and I hope no one here will be deceived by any such shallow device. Over and over again this House has asserted its right to grant or refuse aid like that now called for, and when do we propose to exercise that right? Pay this money, and tomorrow a treaty for the purchase of St. Thomas and St. John's, another for St. Croix, and still another for Greenland will be thrust in our faces and money asked for. We hold the purse strings of the nation; we are the depositaries of its treasure, and responsible for its disbursement. We cannot shake off that responsibility if we would. It will not do to shrink behind the treaty-making power; the people will drag us out from our hiding-place and demand an account of our stewardship.

Mr. Chairman, I am sure the eloquent gentleman from Massachusetts drew upon his imagination when he said new and unexplored countries were always detried and disparaged. The vivid picture he drew of the mines of wealth and the unlimited productions and the genial climate of Alaska reminded me of the glowing accounts of the boundless riches of this country recorded by its discoverers. In justice, however, to the honorable gentleman, I must say the Spaniard's picture of the wealth and magnificence of the Montezumas was dimmed by the gold and silver and precious

stones and diamonds of Alaska. Let us not deceive ourselves. Alaska is an inhospitable region. It adds nothing to our power, nothing to our wealth. I am not one of those who believe our country is finished and ought to be inclosed. I believe in expansion and extension, not by reaching out to the extremity of the continent and taking under our protecting care and absorbing into our body-politic the most inharmonious, and if not the weakest, the most dangerous element to be found, but in that legitimate expansion required by an increased population or demanded by the exigencies of commerce.

Mr. PETERS. Mr. Chairman, I shall discuss the question of a confirmation of the treaty of Alaska very briefly. I shall not pretend to bring into the discussion anything elaborate, learned, or very new; but in my own way, I wish to state a few simple and plain propositions, which have led me to the conviction that I ought to vote against this appropriation. Such was my first belief about it, and the more I have seen, heard, or read upon the subject-matter the more impressed have I been toward such a conclusion.

My starting point is that the territory is intrinsically and virtually valueless. Of course time and opportunity do not now fall to me to elucidate this proposition in all its various considerations. I know poetry can throw a charm about even frozen Alaska; that the imagination can create beauties for any land; and that the zeal and eloquence of the distinguished chairman of the Foreign Relations Committee [Mr. BANKS] has invested this theme on this occasion with an uncommon interest, which I fear may give the cause he advocates more favor than it honestly deserves. But to come down from all the stilts of romance, poetry, eloquence, and imagination, upon that plane where our calm judgments and common sense should guide us, I believe that all the evidence upon the subject proves the proposition of Alaska's worthlessness to be true. Of course I would not deny that her cod fisheries, if she has them, would be somewhat valuable; but it seems doubtful if fish can find sun enough to be cured on her shores, and if even that is so, my friend from Wisconsin [Mr. WASHBURN] shows pretty conclusively that in existing treaties we had that right already. It does seem to me that the very general and indefinite manner in which the other side meet this issue is a very strong confession on their part that but little can be said or discovered to satisfy the American people that these wild regions are worth annexing to the United States.

In support of the proposition of the utter worthlessness of this territory there are several general tests of a most important and convincing character. Conclusive proof of it is that Russia would sell her territory. If she would sell it at all, she would probably have given it away. If it was not valuable to her, it will never prove of any value to us. Russia is not a Power to surrender a foothold upon earth unless it should be an actual and annoying burden to her. Her history for all time shows that she has been seeking always to aggrandize her territorial power. This very day and hour is she pushing her triumphant armies into Central Asia for the acquisition of new dominions to her widely-spread territories.

The fact of the want of population in Alaska is another conclusive argument upon the proposition maintained. She has five hundred and seventy thousand square miles of area; eleven thousand miles of coast line, including bays and harbors; and besides her Indians only about nine thousand of all other inhabitants. It has taken toward a century of the rule of Russia to have got into that country even as much as this; so that we shall pay over seven hundred dollars for our acquired sovereignty over each and every civilized and half-civilized creature in that land. Why has not Alaska a larger population? If what is said in her behalf was not founded in mere imagination, she would, instead of this little people, have



had population enough to constitute her an empire.

The want of a demand for the annexation of this country in an expression of the popular will is an argument against it. The people of our country have a belief about this Arctic region which cannot be easily removed. Where are your petitions and your public demonstrations in behalf of an acceptance of Alaska? Where are any indications or movements among your mercantile classes, in your Boards of Trade, and other kindred organizations, which are always so quick and keen in all matters of population, wealth, and trade? The press of our country is against this purchase or annexation. The proposition has met with ridicule and opposition in most of the public papers except where there has been some special interest or motive for a contrary course. While our countrymen have been anxious for acquisitions of territory, and have been willing almost to declare and carry on war for such a prize, who has heard any popular voice or expression in all the length and breadth of our country in behalf of Alaska? Why does not an American population pour itself in upon her? Where are the adventurers and speculators and men of enterprise who strike for a new country to make the first fortunes and obtain the first foothold there? Where are the classes of men who build up a city in the western States and Territories almost in a day? How many of them have followed our flag to Alaska? They will never go, Mr. Chairman. Instead of an Alaskan enthusiasm and fever among the American masses the country was struck with wonder and amazement at the proposition of such an acquisition of worthless territory. The treaty was hastily confirmed, and next to no time was taken for its consideration. If it was a new question with Senators now my belief is that its fate would be a different one. It was born just ahead of a brood of births between us and Denmark and other countries, every one of which will die still-born. The sense of the country will not allow such extraordinary consummation.

Further, it is a conclusive objection to this treaty, Mr. Chairman, that Alaska is not contiguous to any portion of our domain, but is separated from us by a great region of country belonging to Great Britain; and that the population we shall get have neither language nor mode of life like any of the different inhabitants of the United States. This objection needs no more than its naked statement to be most clearly seen and forcibly felt.

But, Mr. Chairman, Alaska, if ours, will be an enormous annual care and expense to us. I have no time to dilate upon this, but as an *indicia* in this respect let me read what I a moment ago cut from a morning newspaper. Such reminders as this will not be uncommon:

"SAN FRANCISCO, 24th.

"United States flagship *Pensacola*, proceeded to Victoria, Vancouver's Island, from San Francisco, Wednesday. The admiral will confer with the commander of the United States steamer *Jamestown*, now lying in Esquimault harbor, on affairs of Alaska, the disposition of the Indians, and whether their attitude toward the new white population makes it necessary for the presence of war vessels on that coast, and even whether a fort or two is necessary for the safety of the traders."

Two of the canons of Jefferson's code of life might well be invoked in the consideration of the question before us: "Never spend your money before you have it." We certainly have no millions now for such an investment. "Never buy what you do not want because it is cheap; it will be dear to you." If these seven millions we pay now should be cheap even, the future millions to be expended would certainly make the purchase dear to us.

Mr. Chairman, I have very briefly given my reasons why we should not receive Alaska as a part of the United States. But have we the political, ay, moral right to refuse to make the desired appropriation? I have no doubt of it, not a particle, not a scintilla of doubt. It needs no learning or book exploration to appreciate it beyond a common sense reading of the Constitution of our country. It is as

plain as the plainest illustration can make it. The President and Senate cannot complete a treaty, which necessarily and primarily calls for an appropriation of money, without the assent of the Representatives of the people. Bear in mind, this so-called treaty settled no controversy; established no disputed line; created no alliance; is the incident, accident, or adjunct of nothing else; but is a naked agreement for the purchase of country; a pure call for an appropriation, nothing else. What is called a "treaty" is strictly and merely an agreement to appropriate, or that this House shall appropriate, a sum of money. Now, if the treaty-making power can buy they can sell. If they can buy land for money, they can buy money for land. If they can buy a part of a country, they can buy the whole of a country; if they can sell a part, they can sell the whole of our country, and this, too, against the wishes of a people as protected and expressed in the popular representatives. Are we ready to accept such an interpretation?

There is no pretense that the Senate committed any wrong. They did what they could to make a treaty, but it was of such a nature that it was incipient or conditional only, and could never become complete till its approval by ourselves. This duty we must perform upon our own responsibility, and in good faith to our country and constituents, without regard to anything which has been done by anybody else. Russia could know, should know, was presumed to know, and did know, that the attempted treaty was incomplete, and she can find no fault, whatever the result of this deliberation may be. The President has prematurely taken possession of the country attempted to be ceded, hoping the appropriation would be made. In this Russia took with him the risk of the result. May it not have been done as a moral force to compel us to make the appropriation?

But Russia is a friendly Power, it is said, and it would be impolitic to offend her. If she is friendly, then she will never have an idea of any hostile resorts on account of the acts of Andrew Johnson notoriously unauthorized, and assented to by herself. It would be the last way she should show her spirit of regard for us, to attempt to impose this cession of territory upon an unwilling people. Better refuse an acceptance of the territory and pay Russia any damage which it has occasioned her for our protectorate of Alaska during a year, and flying our flag over that distant possession. There may be some inconvenience in our dispossession of Russian authority for a time, but all those evils had better be borne, and anyhow reasonably compensated, than allow this opportunity to go by for a practical assertion on the part of this House of Representatives of a doctrine, which, if surrendered, may at some day destroy the liberties of the people.

Mr. MULLINS. Mr. Chairman, I rise for the purpose of making a few remarks touching one of the powers granted in the Constitution of the United States, and I do that for the purpose more particularly of assigning the reason for the action I am by the laws and by my oath required to take in the case which presents itself for our consideration when it comes to a final vote upon it. I perhaps, stand in an attitude in this case I seldom stood in in any case which has presented itself for my consideration since I have been a member of this House, or when I occupied civil circles of life. My position is that of a conservative character, a word I do not admire, but I have no other term to express the position I occupy.

A few brief remarks before I enter upon the discussion of what is implied in the term treaty will suffice me.

But a few remarks preceding that of taking up the constitutional provisions. The argument made in advocacy of the majority report, I believe, with due respect to the committee and to those who advocate the idea of the richness of that country, to be most exaggerated. I could, if time allowed and I could be

indulged in a reply, show that they are something after the tales of Gulliver. And, by the by, they are nothing more than what has been detailed to me by men who lived a few years gone by in regard to the country that I live in myself. But the occasion will not bear me out in drawing the parallel between the extravagant notions of men who lived in North Carolina sixty, seventy, and eighty years ago in regard to the richness of Tennessee described by the people who lived in North Carolina, or at least by some who had been upon the frontier and had got but a faint view of the country of Tennessee. They went back and told wonderful tales of its richness. Those tales were not in reality more extravagant than the tales told in reference to the richness of this Alaska country.

Then on the other side it is argued that of all the sterile portions of God's green earth, of the most huge capers of nature in its wildest and most frantic rage, this has been thrown up and made a barren, bleak waste upon which the wild boar of the forest could not feast. Even the wolf, it is said, is not to be found there. Well, for gentlemen to say it is too poor to support wolves is a little too much. Neither a white man nor an Indian has ever put his foot where the wild dog has never been; for if the wild dog cannot live there no human being can live there, no animal can live there. I cannot give in to that idea. I think it is not so barren, so sterile as all that. I think God, when he made this mighty globe of ours, destined Alaska for a divine, an infinite, a wise purpose, and that it should be a blessing.

Mr. HIGBY. Will the gentleman yield?

Mr. MULLINS. Not one moment. I know the gentleman is with me, but I do not want two speeches combined in one.

Mr. HIGBY. I only want to ask a question.

Mr. MULLINS. I have not time. I will answer the gentleman with pleasure when I have leisure. I have no speech written out so that I can just refer to the point where I left off by stopping to answer inquiries, as those who have spoken before have done.

Thus you see I do not agree with these extravagant ideas of the richness of this country, that if you dig a hole there at night, as was said of Tennessee, when you go back next morning it is six inches deep in oil; and if you plant corn you raise ten bushels to the acre, as was said of Middle Tennessee, but if you do not plant any you raise five. I do not believe that of Alaska, neither do I believe that the growth there is as tall and as splendid and as lasting as they say it is. That is not the case in the geological sense of the word. I mean by the geological expression to apply it to all that surrounds the earth and the consequent laws of nature that govern it. It is not found in the history of our country and of this globe to be the fact that the lasting timber is found in that cold region. It is not according to the nature of things that it should be so. But that there is timber there I do not doubt, and enough for all purposes necessary for the use of civilized man in this country.

Now, I occupy this medium ground, and as to my absolute decision about this matter, I shall not be controlled by the richness of this country, nor its sterility, but by its geographical position and the facts involved in this case. In regard to this treaty and all that has been said about it by the parties that have spoken on both sides of the question, there is in all the arguments one basis from which they have never been able to wrench loose; and I am very glad to find that that is so; and that is this, that where treaties are made with the contingencies attached thereto, to complete them by payment is the action of the House. All the lawyers that have pleaded on the case, every lawgiver and every writer of law investigating this case and arguing upon it, comes down to one fixed basis, and that is that its substantial and fixed ratification has to be done by the action of the House.

I will say here that I expect to cast my vote for the payment of the money to consummate

this treaty. And now a few words in regard to what I conceive to be the treaty-making power as set forth in the Constitution, and what the term treaty means. I do not pretend to give its national sense in all its ramifications, but upon what general principle does the word treaty stand? How did it originate? You never find the term used by any Power until belligerent Powers began on earth. It grew out of warfare between contending powers. And when the term is made to cover all civil actions and civil contracts, it is a stretch of the term as we find it in this Constitution. In my opinion, it is a stretch of the term to make it cover all national negotiations. When you go back to Vattel and Bouvier you find that the word treaty relates to questions growing out of the conflicts of different nations one with the other. It is the settling by negotiation between the belligerent Powers of a principle that was contended for on the battle-field, and that not being legitimately settled, or settled by the sword or war-making power, it then assumes somewhat of a peaceful form. The principle contended for is to be settled; a state of quiet exists and they agree upon the parties that shall settle the difference between them.

The treaty has been spoken of here in relation to our northern boundary between the State of Maine and the British Power. What was that? It was to settle a definite dividing line between two Powers. It grew out of our original revolutionary war. The dividing line was not definitely settled, and the two Powers agreed to have gentlemen come forward with their instruments, both the compass and the solar compass, and determine the line, and they agreed upon the line and it was settled. That grew out of the power of conquest, out of our victories in the revolutionary war. And now the word "treaty" is made to cover every solitary species of action that grows up between the governments of different Powers when they come to negotiate in a civil capacity. It is nothing more than negotiation. I say this for this purpose, and nothing else, to determine by this House and lay the basis down that this is a republican Government. The very first article that presents itself to our view in the Constitution declares that all legislative powers are vested in the Congress of the United States, and in case a treaty requires legislative action it hinges back upon the Congress of the United States. It means nothing more nor less than this, that we, as a republican people, have a written Constitution, and that word "treaty" comes up and is recognized in it as one of its articles. We must understand that when that term is used it is intended to be used in all civil negotiations, not with a high hand and with a power that is not to be checked by the people in Congress assembled. If a treaty was to be concluded finally by the President and the Senate, if that idea was fully indorsed, then I would say, farewell to American liberty.

The Constitution in that sense would be understood to carry with it a power that overrides its own positive terms. To understand this thing distinctly we must take the Constitution as it stands as a whole, not wrenching one section and one paragraph from another, but coupling it all together according to the character and nature of the Government under which we live. In the very heading of the Constitution we find this declaration:

"We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

This is carried out in its details, and more particularly and positively in asserting the grand fundamental fixed principle that all legislative powers are given to the Congress of the United States. And when you come to the treaty-making power here, unless you take it in its context with a full sense of the bearing of the other powers in the Constitution, great harm may be done. The argument made here, that a treaty, when

made by the President and two thirds of the Senate is binding and conclusive upon us, and that we have no power to resist it, precludes the idea of this being a threefold Government, with executive, judicial, and legislative departments.

This is the threefold political power that is guaranteed in this fundamental organization of our Government; and if these two powers have the supreme right to make treaties, where is the third power? What is the third power here for? The very article itself that gives the power to the Senate and the President to make treaties is absolutely concluded in the fact, and with common reasoning upon it. And why? Why it rests on this fact:

"This Constitution and the laws of the United States which shall be made in pursuance thereof"—

In pursuance of this instrument, that means—"and all treaties made, and which shall be made under the authority of the United States, shall be the supreme law of the land."

Under the authority of the United States! Does that exclude Congress? The President and the Senate having the supreme power to make treaties does that exclude the right of Congress to determine whether they shall be final or not? If it does, you have got no such power as Congress to sit in judgment upon the case.

This is where the people come up by their Representatives, for whom we have pledged by oath to stand by, protect, and defend, and guaranty to them this right that they have bequeathed to us, only in trust for them.

Then what next? It is here declared to be the law made in pursuance thereof. Taking this view, the Congress of the United States must pass upon it. I have not time to detail several other passages in this Constitution that fully bear out this idea.

What, now, do I mean? I mean that of all the Governments upon the face of the civilized globe those that are republics should be most jealous of their rights. For here the enemies of the Republic can crawl through the treaty-making power and fasten upon the body-politic by acquiring territory. And if it is agreed that Congress is bound by any treaty to acquire territory, you certainly must allow the other side of the case. The territory can be sold, you may graft the powers of the people on it, and then you are at the end of your row, save when they elect Representatives and send them to this House. That is all your chance.

Now, why should this treaty be ratified? We, as the people of the United States, a grand and powerful nation, placed above any and all others, carrying in our wake the Bible, with all its benign influences and intrinsic rights to every clime, kingdom, and country where the American flag floats in grandeur amid the proud hurrahs of all republics; we carry it with us. And what is the march and tread of this empire of our Republic? It is, as I have believed before, Heaven's greatest and best gift that has come down from the shocks and battles of the fifteenth, sixteenth, seventeenth, eighteenth, and nineteenth centuries. She lifts her towering head amid the wreck of empires, and she rides above the storms of all the future ages that are crumbling to the dust. She comes as a giant strong from the chambers of the East, and she lifts her towering head and looks westward for empire.

Can you stop this Anglo-Saxon race? They say they ought to be stopped. Why? Alaska is poor and barren. Nevertheless she is going out to the West, and if there is a little country lying out there, and there is a small bit of land intervening between it and the continent of America, upon the broad sheet of water that rolls up on the Pacific tides, shall we not make it blossom as the rose? Shall we not make her a rock of shelter amid the storm?

We will do it. And why? Because if we cannot have the benefit of that people they will have the benefit of us. And why? Because this great and gigantic Power, which holds in its fist of monarchy one quarter of the land of the civilized world, has seen fit to recognize

that Alaska is upon the continent of America, and to say to us, "Of all the people in the world I would rather you would have it."

We struck hands then in friendly alliance with this mighty monarch, who, during the last few years, has, as with the arm of a Vulcan, smitten the chains off more than thirty millions of bondmen and set them free to love and revere the hand that has given them their personal freedom and the right to worship God as their consciences may dictate. We love that country, for she is standing a little in the wake of us who claim to be republicans.

Russia has seen fit to rely upon Congress for the payment of this debt. Doubtless she recognized all the powers of our Constitution; but she recognized also the magnanimity of the House of Representatives, in whom is vested the control of all disbursements of money. She knew that we would not be wanting in respect for the pledges of our good faith made by the Senate. I think that possibly the Senate acted in haste. The principle which I adopt is that treaties, so-called, when made in time of peace, are simply negotiations—affairs of bargain and sale. There is no belligerency existing between this country and Russia; there has never been, and I trust there never will be.

When our nation was in peril, when a mighty rebellion was drenching this land in blood, what did we see? We saw the French lion roaring over here in Mexico, seeking a permanent foothold on this continent. No sooner was that done than Russia remembered the Crimean war, in which England and France rolled up their combined powers upon her. In that struggle my sympathies were with Russia. Though my ancestors came from England, though I speak her language, though I love her on account of the ties of blood and religion, though I admire her because she spreads the light of the Gospel wherever her influence extends, yet I feel still more warmly toward Russia, because when the fate of our Government was trembling in the balance, when she saw our people animated in the fearful struggle, by a thought that rises above the imagination of empires, and will yet, I trust, illuminate the pathway of that monarchical Power to a better form of government, Russia, seeing the French in Mexico battling for a stronghold, sent her fleets into our western waters. From that hour France was smitten as were the lions when Daniel was cast into their midst. She had politically the lock-jaw, and soon there was a "skedaddling." [Laughter.]

When the fiendish men of the South were endeavoring by means of garments, poisoned with the seeds of yellow fever and small-pox, to introduce these contagious diseases among the people of the North, (God help the men who could do such an act!) at the time when the rebellion was endeavoring to sustain itself by such diabolical expedients, Russia came to us with her sympathy and succor. Russia now offers us a portion of her territory lying in North America, five hundred and seventy thousand square miles, about one fifth of this continent. Shall we buy it? If it is nothing more nor less than what its enemies say, it is worth that. If it is what its friends say we cannot weigh its value; we have not scales and balances only in the imagination of the human mind to measure its grandeur. But I do not give entire credit to all that is said in its favor.

As this is the condition of things, and I find it so, I wish it distinctly understood I vote for this appropriation of money, because the American nation in its mighty march onward will have it. I want it peacefully if we can; never forcibly if it can be avoided.

Mr. HIGBY obtained the floor, but yielded to Mr. MAYNARD, who moved that the committee rise.

The motion was agreed to; and the committee accordingly rose, and Mr. MAYNARD as Speaker *pro tempore* having taken the chair, Mr. GARFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under

consideration, being House bill No. 1096, making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867, and had come to no resolution thereon.

And then, on motion of Mr. GARFIELD (at ten o'clock and ten minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. NICHOLSON: The petition of Mrs. M. J. Hutton, widow of John C. Hutton, private in third Delaware infantry, for a pension.

By Mr. STOKES: The petition of Joseph Anderson, of Tennessee, for compensation for lumber taken for the use of the Government.

#### IN SENATE.

THURSDAY, July 2, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of James Ross, praying that pensions be granted to the soldiers of the war of 1812; which was ordered to lie on the table.

Mr. MORGAN presented a petition of citizens of Connecticut and New York, praying an appropriation for the removal of obstructions which impede the navigation of the East river entrance to New York harbor at Hell Gate, and the removal of rocks in the harbor known as "Battery," "Diamond," and "Coenties" reefs; which was referred to the Committee on Commerce.

Mr. TRUMBULL presented a petition of William Cornell Jewitt, praying an appropriation of \$7,200,000 for the purchase of Alaska, as a proper appreciation of the life-long services of Hon. William H. Seward; which was referred to the Committee on Foreign Relations.

Mr. HARLAN presented the petition of Mrs. Fannie Kelley, of Kansas, praying compensation for Indian spoils and for injuries resulting from her captivity among the Indians, having been captured July 12, 1864, west of Fort Laramie, and for compensation for services rendered to the United States; which was referred to the Committee on Indian Affairs.

He also presented the memorial of Benjamin Severson, in behalf of property holders in the city of Washington, in relation to the Washington canal; which was referred to the Committee of the District of Columbia, and ordered to be printed.

#### REPORTS OF COMMITTEES.

Mr. HOWARD, from the Committee on Claims, to whom was referred the opinion of the Court of Claims in the case of George Ashley, administrator of George Holgate, deceased, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Minerva Lewis, administratrix of Ezekiel Lewis, deceased, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of M. N. Radovich, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Black Beaver, a Delaware Indian, submitted a report; which was ordered to be printed, and he asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Mary C. Lane, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of James Narcon,

submitted an adverse report; which was ordered to be printed.

Mr. DRAKE, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 941) to amend certain acts in relation to the Navy and Marine corps, reported it with amendments.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 583) in relation to the transportation of United States mails by railroad companies, reported it without amendment.

Mr. MORGAN, from the Committee on Commerce, to whom was referred the bill (S. No. 563) for the preservation of the harbors of the United States against encroachment, reported it with amendments.

Mr. COLE, from the Committee on Claims, to whom was referred the bill (H. R. No. 1080) for the relief of Edward B. Allen, reported adversely thereon.

Mr. FRELINGHUYSEN, from the Committee on Claims, to whom was referred the joint resolution (S. R. No. 78) for the relief of the Columbia Turnpike Company, for use and occupation of their road during the late rebellion, reported adversely thereon.

Mr. DAVIS, from the Committee on Claims, to whom was referred the memorial of Captain H. Clay Wood, submitted an adverse report.

Mr. HARLAN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 582) to incorporate the District of Columbia Concrete Stone Company, reported it with an amendment.

Mr. PATTERSON, of New Hampshire, from the joint select Committee on Retrenchment, reported a bill (S. No. 587) to provide for retrenchment and greater efficiency in the diplomatic and consular service of the United States, and submitted a report thereon. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. CORBETT, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 192) to incorporate the Potomac Navigation and Transportation Company of the District of Columbia, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 236) in addition to an act entitled "An act to incorporate the Washington, Georgetown, and Alexandria Steam Packet Company, reported it without amendment.

Mr. HOWE, from the Committee on Claims, to whom was referred the bill (H. R. No. 236) for the relief of Martha E. King, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

#### JAPANESE STUDENTS AT NAVAL ACADEMY.

Mr. FRELINGHUYSEN. The Committee on Naval Affairs have directed me to report a joint resolution to admit certain persons to the Naval Academy, and recommend its passage, and I ask for its present consideration.

The PRESIDENT *pro tempore*. The Senator from New Jersey asks the unanimous consent of the Senate to consider the joint resolution reported by him at this time.

Mr. TRUMBULL. Let it be read at length for information.

The Chief Clerk read the joint resolution, which authorizes the Secretary of the Navy to receive for instruction at the Naval Academy at Annapolis not exceeding six persons, to be designated by the Government of the empire of Japan; but no expense is thereby to accrue to the United States, and the Secretary of the Navy may in the case of these persons modify or dispense with any provisions of the rules and regulations of the Academy which circumstances may, in his opinion, render necessary or desirable.

By unanimous consent the joint resolution (S. R. No. 154) was read twice by its title, and considered as in Committee of the Whole.

Mr. FRELINGHUYSEN. This resolution

is unanimously recommended by the Committee on Naval Affairs, and has been submitted to the Navy Department, and does not meet with any objection there. In fact, the resolution has been drawn up in accordance with their views. The circumstances of the case are about these: in the literary institutions at New Brunswick, New Jersey, there are now some six Japanese youths, who read and speak our language, and who have adopted the principles of our religion, and are intelligent young men. The Japanese Government desires that they shall have the benefit of such instruction as can be had in our Naval Academy and cannot be obtained elsewhere. It seems to me, as I hear the subject somewhat discussed about me, that this is in perfect accordance with the true policy, and with the duty of this Government. It is a policy which we have already adopted, to establish friendly intercourse with the Japanese. We have sent agents there. We have received them in this Chamber, and it is our true policy, because by establishing a friendly intercourse with this nation, while we benefit them we secure to ourselves a material wealth which cannot be estimated. It is our duty, because we are placed in a position where we can benefit the rest of mankind. We have civilization and the arts and Christianity and civil liberty to give to them, and we ought to cultivate our intercourse with them.

There is another idea. This is the most opportune time in the world to establish this intercourse. This nation, at a great price, has just destroyed that miserable dogma that civil liberty is the prerogative of the white man alone. We have established the fact that it belongs to all mankind; and now by establishing intercourse with these nations in Asia we can give them the benefit of the blessings that we enjoy; and with this railroad running across the continent, and the ferry across the Pacific, we shall be shedding light on that nation that has been living in a twilight existence for centuries. This resolution meets the approval of the Naval Committee, of the Navy Department, and I know it will of the country.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1845) to amend an act entitled "An act to confirm certain private land claims in the Territory of New Mexico;" and

A joint resolution (H. R. No. 818) to correct an act entitled "An act for the relief of certain exporters of rum."

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 166) for the relief of the owners of the land within the United States survey No. 3217, in the State of Missouri; and

A bill (S. No. 469) confirming the title to a tract of land in Burlington, Iowa.

#### BILLS INTRODUCED.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 585) fixing the time for the next meeting of Congress; which was read twice by its title.

Mr. SUMNER called for the reading of the bill at length; and it was read, as follows:

*Be it enacted, &c.*, That after the adjournment of the present session the next meeting of Congress shall be on the third Monday in November next instead of the first Monday in December, 1868, as now provided by law.

Mr. EDMUNDS. I ask that the bill go on the Calendar; it does not need any reference; and I move that it be printed.

The motion was agreed to.



Mr. YATES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 586) for the relief of Amos Sanford, of Prairie City, Illinois; which was read twice by its title, and referred to the Committee on Claims.

SENATOR FROM FLORIDA.

Mr. HOWARD. I rise to a privileged question. I present the credentials of Hon. A. S. Welch, one of the Senators recently elected by the Legislature of Florida a Senator in the Senate of the United States. I move that he be sworn in, and that the credentials be read. The Secretary read the credentials, as follows:

STATE OF FLORIDA.  
EXECUTIVE OFFICE, TALLAHASSEE.

This is to certify that, in accordance with the provisions of the act of Congress entitled "An act to regulate the times and manner of holding elections for Senators in Congress," approved July 25, 1866, the senate and assembly of the State of Florida, chosen under and by virtue of the constitution framed in accordance with the reconstruction acts of Congress, did this day convene in joint assembly and proceeded to elect a Senator in the Congress of the United States to fill the term expiring on the 3d day of March, A. D. 1869.

And I do further certify that Adonijah Strong Welch received a majority of the votes of the said joint assembly, a majority of all the members elected to both houses being present and voting.

And I do further certify that the said Adonijah Strong Welch has been nine years a citizen of the United States and two years a citizen of the State of Florida, and is a registered voter.

Therefore, by virtue of the authority vested in me, and in pursuance of the requirements of the constitution of the State, I do hereby accredit the said Adonijah Strong Welch as Senator in the Congress of the United States, to fill the said term expiring on the 3d day of March, A. D. 1869.

In witness whereof, I have hereunto set my hand and affixed the great seal of the State of Florida, this 17th day of June, A. D. 1868.

HARRISON REED,  
Governor.

The PRESIDENT *pro tempore*. It is moved and seconded that the Senator-elect from Florida be permitted to take the oaths.

The motion was agreed to.

The oaths prescribed by the Constitution and laws were administered to Mr. WELCH, and he took his seat in the Senate.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, communicating correspondence in relation to the destitute condition of the Osage Indians in Kansas; which was referred to the Committee on Indian Affairs.

BRIDGE OVER BLACK RIVER.

Mr. RAMSEY. The Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 1027) to authorize the construction of a bridge over the Black river, in Lorain county, Ohio, have instructed me to report it back without amendment and recommend its passage.

Mr. SHERMAN. I ask the Senate to consider that bill at this time. It is a mere local matter, and I am sure there will be no objection to it. It is a matter of necessity, as the bridge is now being constructed. It is necessary that Congress should give its assent, as it is part of a navigable stream.

By unanimous consent the bill was considered as in Committee of the Whole. It provides that it shall be lawful for the county commissioners of the county of Lorain, in the State of Ohio, to build a bridge across the Black river, near the village of Black River, in that county, at the point where the county road leading east from the village crosses the stream; but there is to be placed in the bridge a draw of not less than one hundred and forty feet in width, with a center abutment not to exceed twenty-five feet wide and ten feet above the water-line, leaving a passage on each side of the abutment of not less than fifty-seven feet in width, and so constructed as not to impede the navigation of the river, and allow the easy passage of vessels through the bridge.

Mr. HOWE. I wish to ask the Senator from Ohio if that is wholly within the jurisdiction of Ohio?

Mr. SHERMAN. Oh, yes. It is a mere local matter. The county commissioners were building the bridge without being aware that it was necessary to have the assent of Congress. I suppose there is no objection to it.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

WEST WISCONSIN RAILROAD.

Mr. HOWE. I move to take up Senate joint resolution No. 152, which has been reported from the Committee on Public Lands.

The motion was agreed to; and the joint resolution (S. R. No. 152) to extend the time for the completion of the West Wisconsin railroad was read the second time, and considered as in Committee of the Whole. It proposes to further extend the time fixed and limited by an act entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," approved May 5, 1864, for the completion of the railroad from Tomah, in the county of Monroe, to St. Croix river or lake, between townships twenty-five and thirty-one, for a period of three years to the West Wisconsin Railroad Company, a corporation established by the laws of the State of Wisconsin, and which, by the laws of that State, is entitled to the land grant made in the second section of the act of May 5, 1864; but if the railway company shall not have completed the railroad from Tomah to Black River Falls on or before the expiration of one year from the passage of the resolution it is to be null and void.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

WESTERN PACIFIC RAILROAD.

Mr. CONNESS. I now move to take up for consideration Senate bill No. 159.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill, (S. No. 159) relating to the Western Pacific railroad, the pending question being on the amendment of Mr. MORRILL, of Vermont, to the amendment reported by the Committee on the Pacific Railroad, which was to strike out in lines thirty, thirty-one, thirty-two, and thirty-three of the committee's amendment the words "and the United States shall pay to said company, their successors or assigns, such sum as may be reasonably due for such use and occupation thereof."

Mr. CONNESS. When this amendment was offered by my friend, the Senator from Vermont, it was discussed to some extent. The only real objection I saw to it was that in case the company built important structures there they ought to be compensated if the United States required them. I apprehend that if the Government at any time should do damage to private property they would be willing to pay, and I propose to withdraw any opposition I made to the amendment and let it be made.

The amendment to the amendment was agreed to.

Mr. MORRILL, of Vermont. I have no further objection to the bill myself. If the Senators from California are in favor of this bill, I do not know that other Senators should object. But it seems to me there ought to be some provision by which other railroads coming into California at that point might connect. I understand that there is one railroad that will now, if this bill passes, have the entire monopoly of all opportunities of connecting with San Francisco.

Mr. CONNESS. Not at all.

Mr. MORRILL, of Vermont. There is another question that arises, whether giving possession to this company we do not thereby oust the settlers and become liable to damages to those parties? There are claimants to this island who claim it in fee; and if we authorize this company to take possession of it, it seems to me we may perhaps be liable for some damages to the parties who may thereby be ousted. I am not sure that that is

so; but I think it is a question that ought to be investigated.

Mr. CONNESS. It has been investigated thoroughly.

Mr. COLE. I wish to move an amendment or two to the amendment of the committee. I move to strike out in the eighteenth and nineteenth lines the words "as not being required in time of peace for military purposes."

Mr. CONNESS. I have consulted with my colleague touching this amendment, and have no objection to its being made.

The amendment to the amendment was agreed to.

Mr. COLE. I move further to amend the amendment by inserting before the word "the," in the sixteenth line, the words "the chief of engineers and."

Mr. CONNESS. I hope this amendment will not be made. It is already provided that the only privilege that the company shall be entitled to under this bill shall be such as shall be designated by the General of the Army and the Secretary of War, who will, of course, exercise their judgment after considering the opinions of the engineers on this whole subject. Such a provision as is now proposed has never been introduced in any bill of this kind. The consent of the Secretary of War is all that is generally imposed; but in this case the consent and approval of the General of the Army is added. I hope, therefore, this amendment will not be adopted.

Mr. COLE. The amendment that I propose is offered in view of the fact that the chief of engineers has made a report in reference to this subject, which has been printed, and is upon the tables of Senators, and his report is to the effect that the island is needed for the defense of the city and harbor of San Francisco. There are some points in this report that are very strong. Whether the whole island is needed is questionable. If, however, it should be determined to be necessary for the defense of the harbor, or if that fact has already been determined, it certainly should foreclose any further or other disposition of this island. That a part of it at all events is necessary for the protection of the harbor and city no one acquainted with the locality can for a moment question. This amendment is offered in order to give the chief of engineers of the Army a voice in determining the question as to whether this island shall, all of it, or what portion of it, be retained for the defense of the harbor. That is the reason why I propose the amendment I have offered.

Mr. NYE. I think the amendment offered by the honorable Senator from California is a slight and indignity offered to the superior officers. Of course when this permission is obtained of the General of the Army and Secretary of War, they will consult their proper subaltern officers, among whom is the chief engineer of the Army, and they will use all the means in their power to ascertain whether it is proper to allow any of this island to be used, and if any, how much? Therefore I think it would be an indignity to superior officers to put upon a commission with them one entirely their inferior, and an officer, as the Senate will observe, always subject to their command and control, and one whose advice would be very likely to be taken. I trust the bill will not be lumbered up by such an amendment. It must be perfectly apparent to the most casual observer that the chief engineer would be consulted before all other officers. I have read the report of the engineer submitted here, a report which I venture to say upon a review he would not again attach his name to. I hope the honorable Senator will not embarrass the bill by urging this amendment, when a moment's reflection will convince him that of course the very man whom he proposes to make one of this board would be consulted.

I trust we shall reach a vote upon this bill. It is important that this great work should have a convenient terminus on the Pacific. This is not a question for California or the western

end of this road alone; it is a question that concerns the entire commerce of the country; it is a question that concerns every individual who may travel upon the road; and if the Senate will give me their attention for one minute I will show why. Every train of cars that makes the round trip between San Francisco and Stockton will have to travel fifty-seven miles increased distance but for this facility, and each passenger will have to pay fare for going round by San José to come into the city of San Francisco. Give the authority provided by this bill, and that distance will be saved; therefore it interests New England just as much as it does California. It shortens the charge on every ton of freight that crosses from the Pacific ocean to the Atlantic by saving twenty-two and a half miles in distance, making in that item alone untold thousands a year to the consumers of this country; and within the coming decade there will be an aggregate saving in freights alone of untold millions to the consumers of this country.

In addition to all this, it gives a convenient landing where any ship that comes from China or any port will find water sufficient to unload from its hold on to the very cars that are to transport the products it bears across the continent.

I hope, therefore, that this bill will meet with no opposition. The Senate will bear in mind that no title is granted. It is a simple easement by consent of the War Department and the commanding general to use no more of this island, but as much of it as they will allow; and the company, in order to make it available, must incur a very large outlay, which will increase the value of the island, the title to which still remains in the hands of the Government. Let Senators remember that if the island is worth millions now, as it is said, its value will be quadrupled when the company have expended upon it from one to two million dollars to put it in a condition for them to use it. Instead of decreasing the value of the property this will enhance it fourfold. I hope the Senate will now let us vote on this question.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from California [Mr. COLE] to the amendment of the committee.

Mr. MORTON. I hope, Mr. President, the amendment proposed by the Senator from California will be adopted. What is the objection now to having the chief of engineers incorporated in this bill and to require his opinion as to what is demanded, as well as that of the General of the Army? It is certainly no disrespect to the General of the Army to require the opinion of the chief of engineers. It may be another difficulty, however, in the way of this railroad company seizing this island, and it seems that every obstacle which is placed in the way of the railroad company taking possession of this island is to be objected to. I have no interest in this matter one way or the other except as I am opposed to the policy of giving away the most valuable property belonging to the United States to railroad companies. I do not see the necessity of doing this when they have got to San Francisco. In the future development of that city, which I think can now hardly be estimated, this island may be of very great value to the defense of the city, may be of great value to the Government for many purposes beside that of mere wharves. The Government has use for land and for property there aside from the mere defense of the city in time of war. Do we not know that? And yet we do that which is equivalent to giving the title to it.

My friend from Nevada says that it is a mere easement; but, Mr. President, it is a mere easement under circumstances that amount to a title except in the case of war. We allow the company to go there and build their depots and machine-shops and the houses necessary for their employés. They propose to expend thousands, it may be millions, of dollars upon the island. When they have done this they

will have political influence enough and power enough, in view of the money they have expended, to prevent the Government from taking possession of it except, perhaps, under the most necessary or trying circumstances. I regard it, and it must be regarded, although it is put in very smoothly here, as the granting away of this island. That is what it amounts to, and you cannot make anything else of it. It results in that.

Mr. President, I have had occasion to admire the adroitness with which this bill has been drawn. It gives to the company the use of this whole island except upon a certain negative condition; and what is that? Except so much as may within one year from this time "be designated by the General of the Army of the United States, with the approval of the Secretary of War, as not being required in time of peace for military purposes." It is put in the negative, very adroitly put in; and whatever is necessary in time of peace for military purposes is reserved. That is very little; all the rest they are at liberty to build upon, to cut up, to improve in any way that meets their approbation; and we give them the right to do this on all except that which is necessary for military purposes in time of peace. When war is threatened, and you propose to take possession of the rest of the island, you find it covered with depots and railroad tracks and mechanic shops and other valuable and costly improvements, and they will say, "You must not disturb these things; this is the terminus of the great Pacific railroad; consequently the Government must look somewhere else to find a point of defense." We know what will be the effect of that just as well as if it were done. I am advised by those who know more about this than I do a good deal, that this island is now worth perhaps \$1,000,000.

Mr. FESSENDEN. Five millions.

Mr. MORTON. It is worth a large sum, and we are to-day in substance giving it to a railroad company. We are giving it away in aid of a corporation that now has as much land as will make three or four such States as the State of Indiana. We are never done giving. There ought to be some limitation to this policy. There is no use of a great hue and cry about the Osage treaty and the Cherokee neutral lands, and all that, when the Government is continually, upon one pretense and another, glossed over in one way and another, giving away its most valuable property.

I think the amendment of the Senator from California ought to be adopted. Let us have the opinion of the chief of engineers as well as that of the General of the Army, making it his duty, as it is peculiarly within his province, and not that of the General of the Army, to examine and report as to how much of this island is necessary to the country. Why, Mr. President, there is covered up in this—and I know that in saying this I am giving offense to some of my friends—

Mr. CONNESS. I should think so.

Mr. MORTON. It does not make any difference in the matter of duty.

Mr. CONNESS. You will have a reply to it.

Mr. MORTON. Mr. President, as a general observation, whatever part of the island is necessary for the defense of the city of San Francisco in time of war is, or ought to be, necessary in time of peace; the Government should have possession of it, should put it in a position of defense; but here we only reserve so much as is necessary in time of peace, when there is no danger.

Mr. CONNESS. Why, Mr. President, I will have to correct the Senator—

Mr. MORTON. I will submit to correction.

Mr. CONNESS. The language which seems to him so objectionable has already been stricken out. The Senator does not appear to have known of it.

Mr. MORTON. I think I did know it. The bill reads:

As may, within one year from the time this act shall take effect, be designated by the General of the Army of the United States, with the approval of the

Secretary of War, as not being required in time of peace for military purposes; which privilege shall, however, be suspended whenever the United States shall be engaged in war or in imminent danger thereof, and notice of such determination shall be given to said company, its successors or assigns, by the Secretary of War.

The substantial thing is there yet; that is, that this company shall have all of this island except that which is necessary for military purposes in times of peace, with the privilege on the part of the Government of doing—what? Of resuming possession of the rest when it is necessary in time of war! Why, Mr. President, that gives the Government no privilege at all. The Government has that right now with regard to every inch of soil in this country. It can take possession of my homestead, or of yours, if it is necessary, in time of war or in time of imminent danger, just as well as it can take possession of the rest of this island. Did not we all know that? Therefore, reserving to the Government the right to resume possession of this in time of war or danger amounts to nothing. It is a little bit of a humbug put into the bill for the purpose of making it pass. Every Senator knows that the Government can take possession of the whole of the island if it needs it in time of war. It can take possession of any other property in time of war that it needs.

Mr. NYE. Will the honorable Senator allow me to ask him a question?

Mr. MORTON. Certainly.

Mr. NYE. That being the case, the honorable Senator assuming that it may become necessary in time of war, I ask whether he thinks it best to stop all progress in peace in view of that emergency? I know very well that the Senator's home or mine can be taken, but would it be sound policy to have the Government occupy it now for fear such an emergency might arise?

Mr. MORTON. Mr. President, if it is necessary for the Government to occupy it now to prepare for defense in time of war, they have a right to take it. They have a right to take your homestead or mine in time of profound peace by paying its value.

Mr. NYE. So they have a right to take the city of San Francisco and claim that it is necessary to defend the harbor.

Mr. MORTON. And hence I say that the reservation in this bill is a mere humbug. It amounts to nothing. It would appear as if the Government was reserving something out of the grant, when it is reserving nothing at all. But there is even a limitation upon that right which would not exist if they were taking ordinary private property, because they have to give notice of it. The provision is that upon giving notice the Government may resume possession.

Mr. President, the Government can take your homestead or mine without giving us a day's notice if they deem it necessary. The substance of this bill, it being adroitly drawn, is to give to this railroad company the great body of this island; we give them the right to use it forever, except—

Mr. HOWARD. The Senator from Indiana will allow me to say one word. I drew the amendment reported by the committee with my own hand without consultation with any member of the committee or any human being. When he says it is adroitly drawn, thereby implying that it is dishonest, and has as an object something which is not expressed on the face of it, let me say, with all respect to that honorable Senator, he is grossly mistaken, and does gross injustice to myself personally, a thing which I apprehend he would not be knowingly willing to do. No, sir; all that is granted by the amendment of the committee under discussion is the simple privilege to this company to occupy and use so much of this island as is not necessary for military purposes in time of peace according to the judgment of the General of the Army and of the Secretary of War. If there is a certain portion of the island which is not necessary for military structures in time of peace, why may it not be used for other purposes in which the

country has a great interest, as is the case here? Sir, there is nothing concealed.

Mr. MORTON. Mr. President, I yielded for an explanation, not for a speech.

Mr. HOWARD. I shall take occasion to reply to the Senator's speech.

Mr. CONNESS. So shall I.

Mr. MORTON. I did not know that my friend from Michigan drew the bill. I made no imputation against him as an honorable Senator, or anybody else here. I did not think of such a thing.

Mr. CONNESS. Then I most respectfully ask the Senator to whom he did desire to ascribe bad motives in this connection?

Mr. MORTON. Now, Mr. President, let me say that this thing will not win. I did not intend to ascribe bad motives to any Senator on this floor; but I was speaking on the bill itself. Whether the individual who introduced this bill meant this or not I do not know, nor do I propose to inquire. I speak of the effect of the bill, and the effect of it is not to be evaded by making it a personal matter. I intended nothing personal about it, and certainly I shall not be diverted from my purpose by any allusions of that kind. I observe at the conclusion of the amendment of the committee these words:

And the United States shall pay to said company, their successors or assigns, such sum as may be reasonably due for such use and occupation thereof.

Has that clause been stricken out?

Mr. CONNESS. That has been stricken out.

Mr. MORTON. Well, Mr. President, I am only surprised that it has been. It expressly provided that we should give in substance this island to the railroad company, and then if we had occasion hereafter to use it ourselves we should pay them for it. This clause has been stricken out; but it leaves it on the footing simply of other private property. If the Government takes my land for military purposes it is required to pay me for it, and as this bill stands, if the Government should ever take possession of a part of this island that may be used for railroad purposes, the Government can be called upon to pay for it, and they will in the absence of a provision declaring that the Government shall have the use of it without pay. If it is intended that the Government shall have the right to resume possession of this island and use it without pay, it should be so provided in the bill. But it is left just in that position where it will be on the footing of other property that may be taken for the public use. There is a provision that "in case of such suspension of said privilege, it shall be the right of the United States to take possession of the part of said island subject to said privilege, together with all buildings and other fixtures erected thereon by said company, and to occupy and use the same for military purposes during the war."

Our right is to be confined forever hereafter "during the war." We may require this island for hospital purposes, for quarantine purposes; we may require it for arsenals, or may require it for various purposes as a nation for which the Government requires property in other parts of the United States, but we are not to have it from this company except during war.

Mr. NYE. If the Senator will not regard it as an interruption, I desire to suggest that before reaching this island there are three others in the bay, one, the Island of Alcatraz, on which the Government is constructing works of defense.

The PRESIDENT *pro tempore*. The morning hour having expired, the Chair must call up the unfinished business of yesterday, which is Senate bill No. 488.

Mr. NYE. I hope we shall be allowed to get a vote on this bill.

Mr. CONNESS. I appeal to the honorable Senator from Maine, [Mr. MORRILL.] This bill has been up now for the fourth time, and I wish very much to get a vote upon it. It is essential that the company know where they

are to have their western terminus. We are near the end of this session. They want to begin their operations, and I hope we shall be allowed to come to a vote upon this measure this morning. I would not ordinarily make this appeal, but I hope the Senator from Maine will see its importance, and will allow us to go on with the further consideration of this bill at this time.

Mr. MORRILL, of Maine. Of course, if I were to consult my own personal feelings and wishes, I should be very glad to acquiesce in the suggestion of the Senator from California, [Mr. CONNESS;] but I am admonished by the Senator from Vermont, [Mr. EDMUNDS,] whose bill was pushed aside yesterday by the appropriation bill, that he will insist, if I yield to this request, that his bill shall take its place. I should be very glad to yield as a personal consideration, but I think the Senator from California will see that, having insisted that the appropriation bill should go on yesterday against the Senator from Vermont, he ought not to appeal to me as a personal consideration to yield to him now. Still, if the Senate were ready to take the vote on this railroad bill, I would not object to the appropriation bill being laid aside informally; but if it is to lead to discussion, I am not in a condition to yield.

Mr. CONNESS. I reply to the honorable Senator that I have begged for a vote on this bill a great many times, and I have not made this discussion. The honorable Senator from Indiana has seen fit, in pursuance of his duty, I doubt not, this morning to make statements which, if he were better informed, I know he would not have made. I understand that Senator's character too well to ascribe any other disposition to him; but he mistakes the objects and purposes and intents of this measure. Nevertheless, if we can get a vote, I am perfectly willing to waive all debate on my part.

Mr. MORTON. I yielded the floor because the morning hour had ended, and not for speeches, for I had not quite concluded my remarks. There was one other thing I wanted to say.

Mr. MORRILL, of Maine. In the present stage of the appropriation bill, and in view of the position I was obliged to assume yesterday against the bill presented by the Senator from Vermont of a strong public character, while I have no personal wish on the subject myself, I think I ought to present to the Senate the question in this case. If this bill is to be debated, I ought to submit to the Senate the question whether it will now postpone the appropriation bill and go on with this bill with the understanding that there is to be a long debate on it. I would not, however, object to the appropriation bill being laid aside informally simply to take a vote on this bill.

Mr. CONKLING. Allow me to make a suggestion to the honorable Senator from Maine. The difference between this and the case of the Senator from Vermont is this: the Senator from Vermont called up a bill which had just been reported from a committee, which was new matter; it was the first time it had been considered; but this bill has been before the Senate a great many times; it has been discussed until I think everybody understands it. I believe it is the first time I have made such a request of the honorable chairman of the Committee on Appropriations, but I really hope that he will allow this bill to be proceeded with informally for the present, and if we cannot soon take a vote on it we can then resume the consideration of the appropriation bill; but if we can vote on this, let us have it disposed of one way or the other. There is certainly no similarity between this and the case of the Senator from Vermont. The Senator from Vermont will have an opportunity again, whereas this bill has been taken up and laid down until everybody is tired of it.

The PRESIDENT *pro tempore*. It is proposed to lay aside the order of the day informally for the purpose of continuing the

consideration of the bill which has been under consideration during the morning hour. Is there any objection?

Mr. EDMUNDS. I do not wish to have it go on the statement of the Senator from New York that this bill under the circumstances is entitled to preference in the consideration of the Senate over the one to which I had the honor to ask their attention yesterday. That was a measure of great public consequence, either for good or for evil—there will be a difference of opinion as to that—and one which we all know perfectly well it will require a good while to pass. The Senate decided that they would not consider it, but would this. Now, I make no objection to the Senate going on and considering these railroad bills as long as they please; I only wish to call their attention to the fact that if they prefer to occupy the time, when a veto is impending over a public measure, in considering bills that we can pass on the last day of the session and have them approved, to the exclusion of such measures of a public character as I have named, they have a perfect right to do so, and it is not my province to complain. I make no objection.

The PRESIDENT *pro tempore*. Is there any objection to passing by the order of the day informally? No objection being made, the question is on the amendment of the Senator from California [Mr. COLE] to the amendment of the Committee on the Pacific Railroad to the bill (S. No. 159) relating to the Western Pacific railroad.

Mr. MORRILL, of Maine. I wish to have a distinct understanding about this. The regular order is passed over informally, I understand, with the right to resume it provided this bill leads to discussion.

Mr. CONNESS. It certainly must lead to some discussion. I will not debate it if I can avoid doing so, I am sure.

Mr. JOHNSON. I hope the Senator from Maine will allow twenty minutes for this bill.

Mr. MORRILL, of Maine. Very well; say twenty minutes.

Mr. MORTON. I had just one further remark to make in regard to this bill, and that is that the pretended reservations in the bill in favor of the United States amount to nothing. The Government has all the rights which it pretends to reserve in regard to any and all real estate, and if it had made an absolute and unconditional grant of this island to this railroad company it would still have every right in regard to it, in time of war or danger, for military purposes that it is pretended to reserve on the face of the bill. These reservations are simply deceptive in their character. They amount simply to that right which the Government has as to all real estate, whether conveyed absolutely or not.

Mr. President, it is within the province directly of the chief of engineers to determine this question that is here said to be reserved, the value and the extent of the island needed for military purposes. Why, therefore, the objection to leaving it to him? As was said by the Senator from Maine, there is a report now from an engineer made on this subject. I am told that it was adverse to this claim, and for one I should like to hear that report read.

Mr. HARLAN. Mr. President, I am very much surprised at the position taken by the honorable Senator from Indiana, [Mr. MORTON,] for I know how devotedly he labors to promote the public welfare, and that all he says and does in this Chamber is controlled by his conviction of public duty; but if the Senator from Maryland [Mr. JOHNSON] was right a few days since in the discussion of this question, if the completion of this great railroad is to revolutionize the trade of the world, if the people of the whole United States and the trading part of all civilized nations are interested in shortening this line, should this bill pass it secures a line for the western end of this road about one hundred miles shorter, as I have been led to believe, than the old line. If, therefore, this railroad company were averse to the construction of this branch road mak-



ing their terminus at this island, it would be the duty of Congress, in my opinion, to modify their charter, as we have a right to do, and compel them to reduce the length of route, because it diminishes the tax on freight across this continent to that extent; this shortening of the line would enable the trade passing from ocean to ocean to reach deep water at a point that much nearer.

But, Mr. President, there is another reason why Congress ought to compel this company to put the terminus of this road at this island, or some other such place. At this point the terminus of the road will be at deep water, where ocean-going steamers and other ships can float up to the depots of the company and put off and take on freight directly from the cars. If we are left to the old line all the freight that crosses the continent on this road will be compelled to go through the corporation of San Francisco, and be subject to the expenses of handling and cartage incident to the transportation through a great commercial city. Everybody knows the great tax this will necessarily involve, not only to private freight but to the freight of the Government. Why, sir, in the shipment of ordnance and other munitions of war it seems to me it is our duty to secure such a line of transportation as will enable it to be done with the least handling and least cost.

This project, beyond doubt, will shorten the line very materially and enable the company to put the terminus of the road at deep water, where all this freight can be received and re-shipped without this handling and cartage.

We believe the Government has a title to the island. It therefore has a right to permit this company to build its road to the island. It will involve a considerable expense to the company; but the incidental advantage to the whole community, it seems to me, ought to induce Congress to compel them to build the road to the spot indicated and put their terminus there for the reasons I have stated, and I can see no reason whatever to the contrary. It diminishes the tax on trade—on the immense freight for the Government as well as for private individuals—across the continent. There is not a single fact stated by the Senator from Indiana, as it seems to me, that ought to weigh to the amount of a feather against these great public reasons.

Mr. FESSENDEN. I should like very much to hear the report read which is on the table.

Mr. COLE. I feel it obligatory on me to correct the statements of the Senator from Iowa, [Mr. HARLAN.] They are certainly very erroneous in the particular of the distances. He says that this will shorten the distance to reach deep water at San Francisco one hundred miles. That is certainly a very egregious error. It will shorten the distance a mile or two and no more. The water in front of the main land opposite San Francisco is not deep out for a mile or two, and will be built out eventually to within a mile or two of this island.

This is a question as to whether this island is necessary for the defense of the city and harbor of San Francisco. That is the point in which I consider it. It does not make so much difference in point of distance as to whether the road terminates on some portion of the island or upon the main land. Nor does it make so much difference whether they reach this point on the bay or whether they go around to San Francisco. Even that could not make a difference of one hundred miles nor forty miles nor thirty miles. This is all a mistake about the distance to be saved.

Mr. HARLAN. I have only this to say: I judge in the first place by the maps that are on file in the Interior Department, which it became my official duty to examine carefully at one time, and I have only stated the judgment I arrived at from an examination of those maps, and that is verified by a statement of the Senator's colleague. He confirms my judgment in the matter, and says it will at least shorten the line one hundred miles. But the

Senator's remark reminds me of another fact. This railroad will be compelled to connect with a private railroad if it goes on the old line and has no terminus of its own at the ocean; and the freight across this continent, therefore, would be saved the taxation of that private corporation; but if they are permitted to build this branch road at their own expense and make their terminus at deep water, thus evading that possible taxation by that private corporation, as well as the expense of shipping everything through the corporation of San Francisco.

Mr. COLE. There is certainly nothing in the way of building the road to the shore of the mainland and out into deep water opposite San Francisco, in case they choose to stop there, rather than to go to this island. However, I am quite willing that this company shall have their depot and place of transshipment upon the island of Yerba Buena; but the statements made in reference to the great advantage that it will be to the Pacific railroad cannot be sustained by the fact, as any one will see who will take occasion to look at the maps of the country. To be sure, if they were to follow the original law of the Pacific and Western and San José railroad and go by San José, it would increase the distance perhaps some thirty-seven miles; but that is much further than there is any necessity for any railroad going to reach the city of San Francisco. San José, which is the present terminus of the Pacific railroad, is far out of the way. Unquestionably a Pacific railroad will be built, and this railroad will build this line down to the city of Oakland, which is opposite San Francisco, and out into the bay, and perhaps upon this island; and I am quite willing that they shall provide it does not interfere with the harbor and city of San Francisco. But I do not see how it will save any distance more than about two miles at the utmost by stopping upon this island or by stopping short of the island. I only make this statement for the purpose of correcting the statement made by the Senator from Iowa.

Mr. STEWART. I should like to ask what is the distance from San Francisco to the main land there?

Mr. COLE. It is some six or seven miles, if my recollection serves me, and to the end of a road now built much less.

Mr. STEWART. I mean to the island, actually built. Is it not over ten miles?

Mr. COLE. The distance from San Francisco to this island is less than two miles, and the distance from the island to the main land is about three or four miles. But wharves are already built away out into the bay toward the island, and railroad cars are now running out upon those wharves, and that they will eventually reach the island I have no question. This company will have the privilege of reaching the main land and the island in this way, and will not be interfered with at all. There is nothing in the laws of California to prevent them from pursuing such a course. They can pursue any course they choose in reference to the location of their road.

Mr. CONNESS. I am a little astonished at some of the statements of my colleague. It must be known to him that the Western Pacific Railroad Company located the route of its road via San José to San Francisco, and that the distance between San Francisco and San José is fifty miles; and that the line is shortened, and very largely shortened, by the proposed route. But my colleague raises a new issue, one not referred to by the honorable Senator from Iowa, namely: that there is but a short distance gained should the depot be made on the Oakland side of San Francisco bay, or at the island of Yerba Buena. He is technically right in that; but that has not been raised heretofore. He tells us in the same breath that there is a railroad now pointing to Yerba Buena Island, and that it will eventually reach there, and this company can undoubtedly go there. I suppose they can if they buy that railroad and wait until that railroad shall have reached the island; but it is

my colleague's statement simply that they will reach the island. They have no right to reach it without the permission that this bill proposes to give; and I confess I am astonished that my colleague should offer opposition to the location at deep tide-water of the terminus of this great trans-continental road. I do not wish to extend the discussion.

Mr. HENDRICKS. I rose at the same time with the Senator from Maine to call for the reading of the report in this case.

The PRESIDENT *pro tempore*. The report will be read.

The Chief Clerk proceeded to read, as follows:

"Report by George H. Elliot, G. H. Mendell, and B. S. Alexander, officers of engineers, to General A. A. Humphreys, chief of engineers, of an examination of Yerba Buena Island, showing its importance as a military defense to the harbor of San Francisco."

Mr. HENDRICKS. That is not the report I called for. I wish to hear the report of the committee that reported the bill.

Mr. CONNESS. The bill was referred to the Committee on the Pacific Railroad, I will say to the honorable Senator, and reported with an amendment as bills generally are, without any accompanying printed report.

Mr. HENDRICKS. No statement of the character of this island, its extent, location, and value?

Mr. CONNESS. No, sir; but the committee very fully examined that matter.

Mr. HENDRICKS. I must say, in view of the character of this bill, that the committee ask us to take a good deal on faith. Here is an island about which most of the Senators do not know very much—perhaps an island of one hundred acres, or five hundred acres. I have no information on that subject. Its exact location, how it is to be approached, what it is worth, what its peculiar features are, and in what regard it is important to individuals or to the country, these are questions upon which we have no statement from the committee asking us to give support to this bill. I submit that is asking a good deal of the confidence of the Senate.

Mr. HOWE. If the Senator will give way and allow that report, which is in the hands of the Secretary—

Mr. CONNESS. It is a very lengthy one.

Mr. HOWE. Its reading was called for by the Senator from Maine, and I thought if that was read it would explain it.

Mr. MORTON. It may be very important, too.

Mr. CONNESS. I have not the slightest objection, if the Senate want it read. I have read it.

Mr. HENDRICKS. The report to which the Senator from Wisconsin refers is from the military officers. It has to do only with the military features of the question. Now, sir, some time ago, during the session, there was laid upon our tables a remonstrance of some citizen of California, setting up a private right in his own favor. I do not know whether the claim made by that person to the island, or a portion of it, has been considered by the committee or not; but it was proper that it should have been considered before we came to vote upon the bill. I agree in very much that my colleague has said about it. Perhaps there is a statement of the question which will remove the objections to the bill. But this is said to be a very large grant that is being made to this road. Some gentlemen have said to me that it was very difficult to estimate the value of this island. They place it at millions of dollars. One gentleman went so far as to say that it was the most valuable piece of ground in the world in view of the future of this country.

Mr. HOWE. Will the Senator from Indiana give way while I call his attention, and the attention of the Senate, to what seems to me to be the point of the case? I think it will shorten the debate.

Mr. HENDRICKS. I am always more glad to hear the Senator from Wisconsin than myself.

Mr. HOWE. The Senator misunderstands me. I do not rise for the purpose of discussing the bill. I rise for the purpose of calling his attention and that of the Senate to the point in the bill as it is presented to me now, and it is this: it is of no consequence what the intrinsic value of the island is, whether it is \$100,000 or \$100,000,000; it is not worth anything to the United States for the purposes of sale, simply because as I understand—I have not the evidence, because that paper is not read, and I have not read it—but I understand the military authorities say that we must have it for military purposes in case of war. Therefore, in time of peace it is not worth anything to us. We cannot sell it, and we do not want to occupy it. If we do, and the War Office says so, then the company take no privileges. That being the situation of the island, the bill says that the railway company may have the privilege of occupying so much of it as the War Office does not want. Occupy it how long? Until the War Office says, "War is at hand, or is imminent;" and when they say that, then this privilege of occupying by the railroad company is gone, and we take possession of it with all the fixtures upon it, and occupy it for our purposes. Now, if it is worth \$100,000,000 it is of no more consequence to us, since we will not sell it. If we were in a condition to sell it, then I should want to sell it to this company, or whoever would give most for it; but if we cannot sell it, and do not want to use it, why not let this railroad company use it? That is the point, as it strikes me, in the bill.

Mr. HENDRICKS. I do not construe this grant as the Senator from Wisconsin does. I do not think it is an occupancy at will. I think it is an agreement on the part of the Government that if the railroad company shall take possession of this island and improve it by the erection of such structures as are necessary in connection with the road that that occupancy shall be perpetually subject to just one thing: that if war shall come during the war the Government may resume the occupancy; but in resuming the occupancy the Government becomes the tenant of the railroad company, and is to pay the railroad company for the use of its improvements.

Mr. STEWART. That is stricken out.

Mr. HENDRICKS. Very well. Then without paying rent the Government has the right to resume the possession pending the war. There is no provision on the subject of rent, I believe. That would raise a question simply whether the Government would be bound under the circumstances to pay rent or not without an express contract on the subject. But the provision is, that the Government may resume the possession during the war, to be returned of course to the company at the close of the war; so that as between the Government and the company it is a grant perpetual, amounting to a grant in fee. As neither is supposed to have a life, both being perpetual, that is the effect of it.

Mr. HOWE. I ask the attention of the Senator to the language of the bill, and see if it is not simply this: if it grants anything more than the privilege to the company to occupy this island when we do not want to occupy it?

Mr. HENDRICKS. It means much more than that. It means just this, that the Government says to this company, "You may go and take possession of that island, and you may improve it, and you may occupy it subject to the will of the Government in case of war." It is not a tenancy at will. It is an agreement to a continued occupancy.

Mr. CONNESS. If my friend will permit me, the Senator from Maine on my right [Mr. FESSENDEN] has got some amendments touching this very point which he will offer, and which will be entirely acceptable.

Mr. HENDRICKS. I am very much gratified that the Senator says that it will all be acceptable and satisfactory then. I do not know, but if it is so with him it ought to be with all other wise men, but some of us are so

stupid perhaps as not to be able to see it. I want to know something about it before a grant of this sort is made; and I think the demand made by Senators who wish to know something about it is but reasonable. I think the committee ought to have accompanied this bill with an elaborate report, giving us all the facts. If this is to result in a shorter line between San Francisco and the Missouri river we should have been informed how it was proposed to be done, so that we should know something about it. If it is to be a mere gratuity because Congress can make it, let us know that. I think the Senate has not been called upon to vote for so important a bill as this upon so little information since I came into the body. We are literally without information except so far as it is furnished from the War Department, and that report is adverse to this occupancy, as I understand. That report takes the ground that the entire island—I have not read it, and perhaps I ought not to refer to it—may become important for military purposes for the ordinary defense of the coast.

Mr. HOWARD. If the Senator will look into the bill he will discover that if the Secretary of War and the General of the Army are of the opinion that the whole of the island is requisite for military purposes then this bill will have no effect at all; then it will all be retained still for military purposes. The company ask only so much of the island as those officers shall determine is not necessary for warlike purposes in time of peace.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from California [Mr. COLE] to the amendment.

Mr. FESSENDEN. What is the amendment to the amendment?

The PRESIDENT *pro tempore*. It is in line sixteen, after the word "by," to insert "the chief of engineers and;" so as it will read, "be designated by the chief of engineers and the General of the Army of the United States, with the approval of the Secretary of War."

Mr. CONNESS. My only objection to that is that the chief of engineers is a subordinate to the General of the Army and to the Secretary of War, and therefore I do not want that amendment inserted.

Mr. HOWARD. I hope that amendment will not prevail. I do not wish to spend time about it, but it is perfectly obvious that the course that will be pursued in regard to this will be that the Secretary of War and the General of the Army will direct an engineer to make out a report in regard to this island, and they will base their judgment upon the information which they will thus derive from a subordinate officer. It is not expected that they will go in person and inspect the island and survey it personally. I do not think it worth while to leave such a power as this to a subordinate officer. No part of the island would be subjected to this privilege under this bill if the engineer who has already decided against it should be put upon the board, because his vote would balance that of the General of the Army, and no action could be taken upon it at all. It would utterly defeat it.

Mr. COLE. As a general proposition it is true the chief of engineers is subordinate to the General of the Army and the Secretary of War; but he is not subordinate to those officers in his particular sphere. If we give him a voice in this matter equal with them he will have as much voice in it as they will have, and as he is the proper officer to determine this question I insist upon the amendment.

Mr. HOWARD. One word more. Is it possible that the honorable Senator from California can desire the engineer to constitute one of the judges of this case when he has already predetermined the question against the company and come to the conclusion that no part of the island can be spared for this purpose? He is not a fit person to judge in such a case.

Mr. HENDRICKS. The suggestion of the Senator from Michigan induces me to ask him

whether the engineer is of the opinion that this entire island is important for the military defenses in that locality?

Mr. FESSENDEN. I will state to the Senator that if he will have the report read—

Mr. CONNESS. It is very long.

Mr. FESSENDEN. I will not call for it; but I will state that when this matter was suggested a commission was appointed of military men of the engineer department to make a survey and report to the engineer office. They made, as they say, a careful survey, which is set out, and they report their own judgment that it is not best to have anything done with it; that it is all needed for military purposes, and that this grant will interfere with those purposes. That is their opinion; whether right or wrong I am not engineer enough to say.

But one thing that they say struck me with a good deal of force, and I should like to have some gentleman explain it. They say that the navigation there on the other side of this island, I suppose, as near as I can get at it, is now difficult on account of the force of the current; that vessels, especially sailing vessels, meet with great difficulty at times on account of the force of the current in going up to the city, I suppose, and that the effect of building this causeway and bridge will be seriously to increase the force of that current and thus seriously impede navigation. They consider that of so much importance that they make it as one of their principal objections. In case this grant is made, I suppose it will be necessary to build solid for a very considerable distance where the water flows, and probably an open bridge for some distance—I do not know how far; but, at any rate, the engineers say that the effect of that construction there will be seriously to affect navigation on account of the inevitable effect which will be produced by increasing the force of the current. I know nothing about it except what I see by that report; and I meant to inquire, before we got through, of some gentlemen learned in these matters how they will answer that argument, because it struck me as an argument of some consequence, for there is a great deal of navigation there.

Mr. CONNESS. It does not affect this amendment.

Mr. FESSENDEN. I know it does not affect this amendment, but it affects the main question.

Mr. MORTON. It is somewhat remarkable that the only information which the Senate has on this subject is a report of engineers of the War Department, who have reported against the measure, and this bill is to be forced through here right in the face of that report. It is objected that the report is too long to be read; but the Senate is called upon to vote away this island in the face of an uncontradicted report made by a board of engineers. That is all there is of it.

Mr. HOWARD. The Senate is to vote away no part of the island.

Mr. MORTON. That is a difference of opinion.

Mr. HOWARD. Neither title nor privilege. It will depend entirely upon the judgment of the General of the Army and the Secretary of War whether the company shall have a particle of this island.

The amendment to the amendment was rejected—ayes six, noes not counted.

Mr. FESSENDEN. I move to amend the amendment by inserting after the word "be," at the end of the nineteenth line, the words "terminable at the pleasure of Congress, or may be;" so that it will read:

Which privilege shall, however, be terminable at the pleasure of Congress, or may be suspended whenever the United States shall be engaged in war, &c.

Mr. CONNESS. There is no objection to that.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move further to amend the bill by inserting after the word "as," at the end of line forty-one, the words "to authorize or grant any subsidy or land for any road

built under this act, or;" so that the proviso will read:

*Provided, however,* That nothing herein contained shall be so construed as to authorize or grant any subsidy or land for any road built under this act, or to increase the subsidies in bonds beyond that accruing under existing lines of location and laws heretofore passed providing for the construction of the Pacific railroad.

Mr. CONNESS. When this amendment was shown to me before it did not occur to me that it excluded a subsidy of land. The bill as it stands was intended to exclude a subsidy of bonds. In the first place, there is very little land on the route of this road, and it is hardly worth while to exclude the amount of land to which they are entitled. It will be remembered that the company at their own expense, without any subsidy in bonds, will build an extent of at least thirty-five miles of road over a very high range of mountains. I think, with the disposition to give lands for the construction of roads which are great public improvements, and with the fact which my colleague very well knows, and I presume will affirm, that there are very few public lands on the route of the road proposed, it is not well to exclude the small quantity of lands that may be granted there. Therefore, I move to amend the amendment of the Senator from Maine so as to strike out the words "or lands." They are to build over a high mountain range, the most difficult work that can be imagined, without a dollar of bonds of any kind whatever. I hope the Senator from Maine will accept that modification. It is but reasonable and just that they should have these lands when they propose to shorten a great public highway.

Mr. FESSENDEN. I cannot consent to that.

Mr. CONNESS. Then, sir, if it be in order, I move to amend the amendment by striking out the words "or lands."

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Maine, as amended.

The amendment, as amended, was agreed to.

Mr. ANTHONY. I suggest to the Senator from Maine whether the previous amendment offered by him would not read better if he were to say "and may be suspended" instead of "or may be suspended;" so that it may be terminable at the pleasure of Congress, and may be suspended whenever the United States shall be engaged in war, &c.

Mr. FESSENDEN. I accept that modification, to substitute "and" for "or." I do not think it will make any difference.

The PRESIDENT *pro tempore*. That modification will be made.

Mr. FESSENDEN. I think there ought to be an amendment to this bill before it is passed providing that any causeway or bridge that is erected from the mainland to this island shall be erected under the supervision of the engineer department, so that they may see that it is built in such a way as not to seriously impede navigation.

Mr. NYE. I suggest to the Senator from Maine that there are laws regulating that subject now. Neither this company nor any other company would have a right to build a structure in the harbor of San Francisco that would obstruct in any way the navigation of the harbor. It would not be allowed by existing laws.

Mr. FESSENDEN. It does not obstruct the navigation in that sense.

Mr. NYE. The apprehension, as I understand it, the Senator from Maine has is that they would change the channel by filling up so as to make obstructions at some other point.

Mr. FESSENDEN. Increase the force of the current.

Mr. NYE. The company will undoubtedly take care of that.

Mr. FESSENDEN. I should rather not leave it to them myself.

Mr. NYE. Do you mean that it shall be constructed under the supervision of a Government engineer?

Mr. FESSENDEN. Yes, sir; one of our own engineers.

Mr. NYE. A Government engineer might make a structure that would cost \$20,000,000.

Mr. FESSENDEN. I confine myself merely to that point, that it shall be so constructed as not to impede or obstruct navigation. I can draw the amendment in a very few moments.

Mr. COLE. In pursuance of the suggestion of the Senator from Maine I think an amendment of this sort might with propriety be adopted: to insert after line thirty-five the words "but so as not to impede the water-way."

Mr. NYE. Only skiffs or flat-boats run through this channel. The Senator from California knows that no ships come through of any size.

Mr. COLE. I am not speaking of the navigation, but the current, the tide.

Mr. FESSENDEN. The point is that it affects the current on the other side by making an obstruction here.

Mr. NYE. That is hypothetical entirely.

Mr. FESSENDEN. It is so said by the engineers.

Mr. NYE. I understand that is assumed, but from my information I do not think there is anything in it.

Mr. NYE. Scientific men, engineers, would be likely to know.

Mr. COLE. I offer this amendment: to insert after line thirty-five the words "but so as not to impede the water-way to the injury of the harbor of San Francisco."

Mr. FESSENDEN. I do not think that that will reach the point that I have been speaking of.

Mr. COLE. If that is not sufficient I am willing to agree to any modification that will make it so. I do not know what suggestion the Senator from Maine would make. The tides set up back of the island and flow daily to and fro. There is an ebb and flow of the tide on this side of the island where this causeway will be built across. ["Question!" "Question!"]

Mr. FESSENDEN. I think that amendment will not answer the purpose. Gentlemen are very anxious for the question. They continue calling "question, question" when we are trying to get this bill into a shape in which it will be satisfactory to the rest of us. If they will let the "question" alone for a few minutes I think we may come to some conclusion, but if they keep calling "question" I will give it up. It is of no more interest to me than anybody else, but I should like to have it safe, for I really think that the city of San Francisco is destined to be one of the greatest cities on the globe at some future time, and I think it of very great importance that we should not pass any bill that may seriously affect the navigation of its bay.

Mr. CONNESS. I agree entirely in what has been said by the honorable Senator. I think he ought to concede that we have a very deep interest in preserving that harbor. Why, sir, if an obstruction should be made there injurious to the harbor, it would be removed at once; they would not be permitted to go on.

Mr. COLE. In the report of the board of engineers, which has been submitted in connection with this bill, a careful and scientific calculation has been made to determine the effect which it would have upon the harbor of San Francisco proper if the channel between the island and the eastern shore of the bay were to be closed up by a solid causeway. This calculation shows that the currents in front of the city where vessels lie at anchor would be very much increased. Those of us who reside there know that those currents are now so great as to often make it exceedingly difficult to reach the wharves by the vessels navigating the upper river as well as those which come in from the ocean; so that if this tide were to be increased materially by turning the current that passes now east of the island into the narrow and deeper channel in front of the city it might work, and would unquestionably work,

very great damage to the city of San Francisco.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from California.

Mr. MORTON called for the yeas and nays; and they were ordered.

Mr. ANTHONY. Before the vote is taken, I understand the Senator from Maine is preparing a substitute, and I wish to see which amendment I shall vote for. I shall vote for the stronger of the two.

Mr. FESSENDEN. I ask my friend from California whether this proviso, added to the end of the bill, will not answer better?

*Provided,* That no work shall be constructed by the said company between the mainland and said island which will, in the judgment of the War Department, injuriously affect the navigation in the harbor of San Francisco.

Mr. COLE. That will not cover the case, for this reason: that side of the island is scarcely navigated at all. It is not the navigation, but the water currents that are to be protected, the tide that ebbs and flows east of the island into the bay twice a day.

Mr. FESSENDEN. Does not anything which affects the currents, which increases the force of the currents, injuriously affect navigation?

Mr. JOHNSON. Of course it does.

Mr. FESSENDEN. I thought this was general enough:

*Provided,* That no work shall be constructed by the said company between the mainland and said island which will, in the judgment of the War Department, injuriously affect navigation in the harbor of San Francisco.

Several SENATORS. That covers it.

Mr. COLE. I am not sure that that is sufficient. With that construction, however, I shall not object to it; but if it relates to the navigation east of the island—

Mr. FESSENDEN. It does not say "the navigation between the island and the mainland," but "in the harbor."

The PRESIDENT *pro tempore*. Does the Senator from California withdraw his amendment?

Mr. COLE. Yes, sir; I withdraw it.

The PRESIDENT *pro tempore*. This question, then, is on the amendment offered by the Senator from Maine.

The amendment was agreed to.

Mr. HENDRICKS. I desire to make one inquiry. I wish to inquire what is the purpose of so much of this bill as follows line thirty-three? It does not seem to be a part of the amendment reported by the committee. It seems to be a part of the bill. It provides for the right to construct another road from this island to the town of Stockton. I should like the chairman of the committee to inform us what is the purpose of that part of the bill?

Mr. HOWARD. I was not able to hear what the honorable Senator said.

Mr. HENDRICKS. I inquire of the chairman of the committee what is the purpose of so much of the bill as follows line thirty-three? It does not seem to be a part of the amendment.

Mr. CONNESS. I can answer the honorable Senator. It authorizes the Western Pacific Railroad Company, this corporation organized under the laws of the State of California, to locate a road and to take from the public land such earth, stone, timber, &c., as is usually allowed in the construction of a road, and such other grants and privileges as are given for the construction of the Pacific railroad with the exception of the subsidy in bonds, which is specially provided against.

Mr. HENDRICKS. What lands of the United States, then, does this road pass through?

Mr. CONNESS. If the Senator is aware of the topography of that country he will know that it passes from this island through what is called the Contra Costa range of mountains, a very high mountain range, to Stockton, or near there, which is on the plain in the valley, a distance of thirty-five or forty miles—a route of very difficult construction, indeed, and such



as the Pacific railroad on its main line receives \$48,000 per mile in bonds for constructing.

Mr. HENDRICKS. My objection to the language used in this part of the bill is that it seems to authorize the construction of a railroad in a State; to give to a corporation of a State a power to locate and make and build a road in a particular direction and upon a particular route.

Mr. CONNESS. My friend will permit me to say that it is precisely the language of the original Pacific railroad bill, and the same right precisely that is given in that bill to construct the Central Pacific railroad.

Mr. HENDRICKS. The suggestion of the Senator may be an answer, and it may not be. I have not time to make a comparison of the language; but I understood the policy of the Pacific railroad grant to be to allow the corporations of the States where that road ran through a State to construct it. Congress did not undertake to organize companies or to empower companies in a State, but to give companies under the authority of the State subsidies to enable them to carry out the work which the State authorized. This provision undertakes to clothe the company with authority to build a road in the State of California. Can Congress do that work? Can Congress authorize a railroad company of the State of California to build a railroad from the city of San Francisco to the city of Stockton, whether that railroad is to go over high mountains or along deep valleys?

Mr. CONNESS. Why, Mr. President, I will answer my friend again. The Congress of the United States authorized the Folsom and Placerville Railroad Company to do just that thing. It authorized the Copperopolis and Stockton Railroad Company to do just that thing. It was passed upon by both Houses of Congress in those cases, and no question was made in regard to it.

Mr. HENDRICKS. I know that Congress has in many cases granted lands to States for the benefit of railroad companies organized under the authority of the States; but I did not know that Congress had undertaken by any bill already passed to authorize the construction of railroads within the limits of States, and I do not think Congress possesses that power.

Mr. HOWARD. If the honorable Senator will look at the first Pacific railroad charter he will discover that Congress has done the same thing in the State of Kansas, and companies are now operating under that clause.

Mr. HENDRICKS. That was referred to the State. The corporation was organized by the State. Congress merely said to the company, "We will give you subsidies, if, under the authority of the State, you construct the road." That was the legal effect of it.

Mr. POMEROY. The company was authorized to build according to its charters.

Mr. HENDRICKS. But it was chartered by the State, so that the company referred to by the Senator from Michigan got its authority from the State.

Mr. NYE. This company is chartered by California.

Mr. POMEROY. The State of Kansas conferred the right to construct a railroad along a particular route.

Mr. HENDRICKS. As the Senator from Kansas says, the State of Kansas conferred the authority to construct a railroad along a particular route, and then Congress said to that company, "If you will construct that road, we will aid you in that enterprise by the subsidies that we propose." But here is a naked proposition that Congress will clothe the company of a State with authority to build a road not authorized by the laws of the State, for anything that appears here. It is an entering wedge to a new system. It is a power under which we may construct a road from Washington city to New York, under which we may construct a railroad from this city to the city of St. Louis, and so on. It involves propositions of a gigantic nature.

Mr. POMEROY. I suppose they have a right by their charter to go there.

Mr. CONKLING. It is authorized.

Mr. HENDRICKS. If it is authorized, Congress need not use language which attempts to authorize it. That Congress may authorize them to go over the public lands, to go over special reservations, is not questioned by me. That does not seem to be the purpose of this provision. The purpose of this provision seems to be to clothe the company with authority to construct a railway.

Mr. FRELINGHUYSEN. I should like to know from those who are familiar with this bill whether it is understood that the Government of the United States, when they take possession on the termination or suspension of this privilege, have a right to take possession of any works and structures on the island, and if they are to do it without making compensation therefor?

Mr. HOWARD. I refer the honorable Senator, in answer to his question, to the bill itself, in which it is declared that the United States shall be authorized—

To take possession of the part of said island subject to said privilege, together with all buildings and other fixtures erected thereon by said company, and to occupy and use the same for military purposes during the war.

That answers part of the honorable Senator's question. The remaining part of his question, whether it is expected by the advocates of the bill that the Government shall pay the company anything for that use or occupation—

Mr. FRELINGHUYSEN. Whether the Government are to pay for the works and structures?

Mr. HOWARD. Not at all.

Mr. FRELINGHUYSEN. It seems to me that ought to be expressed.

Mr. HOWARD. It was expressed in the bill itself as I reported it to the Senate, but the Senate have seen fit to strike out that part of it. For instance, the words "and the United States shall pay to said company, their successors or assigns, such sum as may be reasonably due for such use and occupation thereof," have been stricken out.

Mr. FRELINGHUYSEN. It was expressed that the United States should pay?

Mr. HOWARD. Yes, sir.

Mr. FRELINGHUYSEN. And that has been stricken out?

Mr. HOWARD. Yes, sir.

Mr. FRELINGHUYSEN. If it has been stricken out on the ground that it is understood the United States is not to pay, I think that ought to be expressed. If this company are to put up structures there, and the Government of the United States takes possession of the island, it ought to be expressed that the Government is not to pay for those structures.

Mr. COLE. There is no question, I believe, before the Senate at present. I therefore move to amend the bill by inserting as an additional proviso the following:

And provided further, That this act shall not impair the rights or claims of persons in possession of the island of Yerba Buena at the time of the military occupation thereof, or who have been ousted therefrom by military force, nor the assignees or grantees of such persons: but such rights and claims shall be ascertained and liquidated according to the laws of California.

Mr. HOWARD. I hope that amendment will not be adopted.

Mr. COLE. The facts, so far as this amendment is concerned, are, that there were persons in possession of this island, living there with their farm-houses and improvements, who had been there for many years. I think their occupation began before the acquisition of the country by the United States. They were in quiet and peaceful possession of their homes upon the island until about a year ago, or perhaps until the year 1866, at which time, after the war had ended, the military authorities took possession of the island and ousted these parties. This was done by the strong arm of military force, and without any adjudication of their rights. These persons were in possession

of this property by as much right as other citizens in San Francisco held the property that they occupied; for it will be remembered that this island is within the boundaries of the city of San Francisco. Other persons upon the main land in the city of San Francisco regard themselves as justly entitled to the property they were in possession of, and which has been granted to them by the local authorities and by Congress. This possession of the island, dating back prior to the occupation of the country by the United States, gives these parties a right superior to that which was acquired by the United States by the proclamation of the President in 1850 or 1851, which declared this to be a military reservation.

To be brief, these persons are entitled to this little meed of protection which is sought for them at this time. They only ask such protection as is awarded them by the laws of California. There the laws provide that if a railroad company need any private property, even a possessory claim, for the purposes of building their railroad or improvements, they can go to one of the district courts and ask that a commission be appointed for the purpose of assessing the value of this occupation, this possessory right. These persons only ask this privilege. We know that it is not asking much for them, because a powerful railroad company always have more influence with courts and commissioners than humble individuals. But these parties are entitled to this protection.

I know it has been stated that this island is a rocky island. There are rocks upon it; but there is also good land upon it. These persons were there before the military occupation, with their dwellings and their out-houses, and they had their orchards, their cattle, and other stock. They were living there as quietly and peaceably as any people were living in any other portion of the State. I do not charge that there was any motive for the use of military force to get these persons out of possession, springing from the railroad company, because I do not know that that is the case, and I do not believe that that is the case. I believe that the military thought they had a right to this property, and took it in the manner they did for military purposes. But these people have been ousted; they have been driven from their homes; they have been forced to abandon their works there, their wharves, their quarries, and their fields; and if this company is to come in and take possession of this island, or any portion of it, it should pay these parties the little value that will be attached by a commission, under the laws of California, to their possession and improvements. I hope, therefore, that the Senate will acquiesce in this amendment. It is only an act of justice to parties who have been overridden by the military authorities, and whose rights have not been properly respected.

Mr. CONNESS. I should be very sorry to see such an amendment adopted as the one my colleague has proposed. In the first place, those parties never had any right to go there at any time. They were contestants against the title of the United States to the island. Like the other contestants against the title to the point known as Black Point—

Mr. COLE. I ask my colleague if there was ever any question as to their right, or any contest between them and any department of the Government prior to the year 1866, or when the military department took possession?

Mr. CONNESS. There was nothing to hinder any person from going upon this island any more than there was from going upon Angel island, or going upon Black Point reservation, or going upon the Presidio reservation, all of which belonged to the Government, at or near San Francisco; but parties acquired no right by going there. It was a military reservation; and my colleague knows very well what I am now going to say, that there was a legal case made up against the Government of the United States entitled "Grisar vs. McDowell," McDowell being the commander of

the military department when he took possession, as he had a right to do, and was instructed to do by the Government, and removed those occupants, so called, or claimants.

Mr. COLE. That was not at this island at all. It was another piece of property in a different place and under somewhat different circumstances.

Mr. CONNESS. I hope my colleague will allow me to make a connected statement.

Mr. COLE. Excuse me for interrupting you.

Mr. CONNESS. Of course it was in regard to another piece of land; but it stood upon precisely the same principles. The case of *Grisar vs. McDowell*, in which my colleague, I believe, was a counsel against the Government, was tried and determined by the Supreme Court here this year, and determined in favor of the United States. The legal question involved was that the squatting parties denied the legality of the reservation made; but that has been settled by the highest court in our country. The possession claimed of this island was precisely upon the same terms and the same ground, except that the parties claiming this island went upon it and undertook to occupy it when it was a reservation, and the parties who claimed in the case of *Black Point*, or the case of *Grisar vs. McDowell*, were parties who were assignees of those who had occupied. That is the only difference. Otherwise, the cases are precisely the same.

Mr. President, the chairman of our committee [Mr. HOWARD] examined this claim of title fully, and those parties have no title. They came here and alleged a title, and then offered it for sale. Some speculative persons, perhaps, undertook to make a bargain with them. But after it has been alleged and stated here, and nobody questions it, that the Government has not only a title to this island, but requires it for military purposes, are you going now to adopt a provision of law which shall recognize a title unexamined, or in fact condemned? Why, sir, it is not to be thought of for a single moment.

Mr. HOWARD. In regard to the amendment of the honorable Senator from California [Mr. COLE] I have a word to say. This island was reserved for military purposes on the 12th of October, 1866, by proclamation of the President of the United States, after a careful examination of the claims which had been put forth to the island on the part of private individuals. The matter seems to have been referred to the district attorney of the northern district of California to investigate those titles. The result was he came to the conclusion that there was no ground in law whatever for the claims which have been referred to. Thereupon the President of the United States issued this proclamation, or this order:

EXECUTIVE MANSION,  
WASHINGTON CITY, October 12, 1866.

Whereas the island of Yerba Buena, in the bay of San Francisco, is needed for defensive purposes, and has been surveyed by the Government, and batteries projected and planned for its occupation, the within application is approved and referred to the Secretary of the Interior, with directions to except and reserve the island of Yerba Buena, in the bay of San Francisco, from relinquishment and grant to the city of San Francisco, California, authorized by the act of Congress, approved July 1, 1864, and to designate the said island as so excepted and reserved; and it is ordered that the said island be retained by the United States for military uses.

ANDREW JOHNSON.

Mr. MORTON. It occurs to me, if that is worth anything at all, it is a good answer to this bill, the whole of it.

Mr. COLE. The Senator from Michigan states that this island was reserved in 1866.

Mr. CONNESS. Eighteen hundred and fifty-six.

Mr. COLE. Eighteen hundred and sixty-six by Andrew Johnson. These persons have been in possession there, as I reiterate, for many years, and their possession antedates any attempt to make it a military reservation. The reservation of it for military uses was as much a violation of the rights of these persons as if the same power had been exercised in refer-

ence to a piece of land in the heart of the city of San Francisco, if you please, on Montgomery or Clay streets; but if this reservation had been made within the city of San Francisco, would it be alleged here by my colleague or the Senator from Michigan that the persons whose lands and valuable improvements were thus taken in that city were not entitled to any compensation for their improvements and lands which they had occupied for fifteen or twenty years, and upon which they had placed valuable improvements? Is that the position taken? If it is it is one from which I most earnestly dissent.

Mr. HOWARD. If the Senator will allow me, he is speaking of improvements made by those settlers. I beg him to state, if he is able to do so, what those improvements are.

Mr. COLE. I have already stated what those improvements were. They consist of farm houses, out-houses, orchards, wharves, quarries, and other things too numerous to mention—valuable improvements which I have myself seen, and which anybody can see any day from the ferry-boat that passes from San Francisco to Oakland. These persons are, in my judgment, clearly entitled to some consideration.

I am aware of the decision which has been made in the Supreme Court touching a case somewhat similar. It was an action brought by a person by the name of *Grisar* against General McDowell for ousting him from his residence on a military reservation in San Francisco. The question as to whether *Grisar* was entitled to compensation for disturbance in his possession is one not now to be discussed. But this consideration must not, I think, go for naught with Senators: that these persons had been upon that island from some time prior to the acquisition of the country by the United States down to the year 1866, with the supposition that they were entitled to their possessions, and with as much ground for that belief as other citizens in San Francisco had.

I know there is a disposition on the part of some Senators and members of Congress to treat "squatters," as they are termed, or settlers, with great disrespect, and as if they were not entitled to any regard from the Government. That is not my opinion. The public lands are the lands of the people of the United States, and by law persons are entitled to go and settle upon them, and notwithstanding one adverse decision or opinion of an Attorney General, I believe they are entitled to protection. Those persons, if any, upon the public lands are entitled to some protection. If their lands are to be taken for a public use, or a quasi public use, their rights ought to be regarded.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from California.

Mr. COLE called for the yeas and nays, and they were ordered.

The Chief Clerk proceeded to call the roll.

Mr. ANTHONY, (who had voted in the affirmative.) I beg to say that I did not entirely comprehend the latter clause of the amendment. I voted yea; but I will change my vote and vote nay. I am willing to vote for the amendment without the last clause. I think the last clauses imposes obligations upon the Government that we ought not to assume.

The result was announced—yeas 11, nays 26; as follows:

YEAS—Messrs. Buckalew, Cole, Edmunds, Fowler, Hendricks, McCrory, Morton, Ross, Vickers, Wade, and Willey—11.

NAYS—Messrs. Anthony, Chandler, Conkling, Conness, Cragin, Davis, Drake, Fessenden, Frelinghuysen, Harlan, Howard, Johnson, McDonald, Morgan, Nye, Osborn, Patterson of New Hampshire, Ramsey, Stewart, Sumner, Thayer, Tipton, Trumbull, Welch, Williams, and Yates—26.

ABSENT—Messrs. Bayard, Cameron, Cattell, Corbett, Dixon, Doolittle, Ferry, Grimes, Henderson, Howe, Morrill of Maine, Morrill of Vermont, Norton, Patterson of Tennessee, Pomeroy, Rice, Saulsbury, Sherman, Sprague, Van Winkle, and Wilson—21.

So the amendment was rejected.

Mr. HENDRICKS. I suppose it is hardly worth while to offer any amendments to this

bill; but I will move in the thirty-fourth line to insert after the word "authorized" the words "if its charter so authorizes;" so as to read:

The said Western Pacific Railroad Company are also hereby authorized, if its charter so authorizes, to locate and construct a road, &c.

Mr. STEWART. I think there is no objection to that.

Mr. CONNESS. There is not the slightest objection to it.

Mr. HENDRICKS. Gentlemen accept this. They think this one amendment may be made.

The amendment was agreed to.

Mr. FRELINGHUYSEN. I understand the effect of this license is that the Government retain the title to the island; that they grant a privilege which they may suspend or determine at pleasure, and that they may take possession of this part of the island at pleasure during war, and then transfer it back again to the use of the company. I think there ought to be a provision in the bill that if they suspend or determine this privilege, and the structures or erections remain, the Government are not to pay for them; or if the Government take possession of the island for a time, returning it to the company, the Government shall not pay for the use and occupation during that period; and to that end I offer the following amendment, to come in at the end of the bill:

And provided further, That on the determination or suspension of the privilege hereby granted, and on the United States taking possession of that part of the island to which such privilege applies, the Government of the United States shall not be required to make compensation for any structures or erections remaining thereon, or for the use or occupation of said island or structures.

Mr. CONNESS. I have simply to say that I do not think such an amendment as this was ever before offered in such a case. We have passed a score of acts giving the right given in this bill to occupy parts of military reservations, but no such conditions were ever imposed as have already been imposed by this bill, and by the amendments offered.

Mr. FRELINGHUYSEN. I ask the Senator from California, so that we may understand it, whether his idea is that the Government is to pay for structures or erections that may remain, or are to pay for such temporary use and occupation of the island as they may make? If the idea is not that they are to pay, there is no objection to providing that they shall not pay; but if they are to pay I certainly will not vote for the bill.

Mr. CONNESS. I have nothing to say.

Mr. MORTON. I have something to say, as my friend stops short. I submit now that the objection made by the Senator from California is a fair illustration of the iniquity of this bill. It is simply to give the company the use of this island, it is said, we to resume it when we need it; we to hold the title; but in the meantime they have costly structures there, as they will have, depots, machine-shops, railroad tracks, houses for employes to live in. War comes on, and we want it; but, says the Senator, we must now pay for those things that we find there, and which are in the way.

Mr. CONNESS. The Senator says nothing of that kind, and the honorable Senator from Indiana is not authorized to put that language in my mouth.

Mr. MORTON. Well, Mr. President, the opposition to this amendment says that distinctly, if it means anything. If they do not mean that, why oppose the amendment?

Mr. CONNESS. Why, Mr. President, have I no right to oppose an amendment unless such language as the Senator chooses shall be mine? That is it, is it?

Mr. MORTON. I speak of the effect of opposing this amendment.

Mr. CONNESS. Ah!

Mr. MORTON. I say it means that, or it means nothing. If Senators do not mean that the Government shall pay for the machine shops, and for the depots, and for the structures that may be there in case of war and we

have to take possession of the island, let this amendment be adopted. Sir, in this way this little donation, this insignificant little affair may cost us several million dollars in case it becomes necessary for us to resume the possession of the island. Is not that manifest to everybody? I do not expect that this amendment will prevail; but the thing is so plain that it cannot be avoided, nor can it be explained away. It is intended to be left in that position; this amendment is to be voted down; so that if we have to take possession of it, as this board of engineers say we ought to keep it in the first place, then we have got to pay this railroad company for their improvements. That is all there is of it.

Mr. CONNESS. No, Mr. President, I did not say, nor do I care whether it is voted up or voted down; but I protest and give notice to my friend from Indiana now, in all conscience and good nature, that he is not authorized to attribute to me language that I have not used, nor motives that do not exist in me; nor do I think it is right for him to denounce as iniquitous a measure that has been sustained and supported by a large majority of this body. I think that is going a little too far. I beg the honorable Senator's pardon for saying that much; but it so seems to me.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Jersey.

Mr. MORTON and Mr. ANTHONY called for the yeas and nays; and they were ordered.

Mr. HARLAN. I wish to say one word in relation to this amendment. I supposed when the Pacific railroad bill was enacted into a law in 1862, and when the Government undertook to grant lands and subsidies, supposed to be worth one or two hundred million dollars, that the nation had some interest in the construction of this work; but even at that time learned and able Senators on this floor placed barriers and embarrassments around the bill which prevented any one of the four companies charged with the construction of this work from moving an inch for two years. I need not name now what they were. Every Senator who is conversant with that legislation probably will remember it as vividly as I do. And now, when it is proposed to give this railroad and the United States a terminus where produce and freight can be shipped and unshipped without the embarrassment of unnecessary taxation and unnecessary expense of handling, able and honorable Senators here are disposed to embarrass it by clogging the bill with unusual provisions. Does not every Senator know that if private property is taken for the public use the Constitution provides that the owners shall be compensated therefor; and why should we place in a bill here a provision that these private individuals shall not be paid for the private property they place on the public lands, and in that way render it impracticable for the company to put the terminus of the road where the nation and the trading world demand that it should be put?

All that is granted here is merely the right to use the land on which to build their railroad track and railroad depots; and Senators want to place barriers in the way of proceeding to construct that work that will frighten men from building the work where it is needed by the nation and by the world. It does seem to me that if a majority of the Senate are not enemies to the construction of this work where it ought to be constructed, they ought not to place these unnecessary barriers in the way. We grant \$480,000 a mile in bonds; that is, the use of them, the loan of them, to enable this company to build its road over the public land; we grant them the land, the right of way, and then grant them the right to condemn private property and pay for it at its appraised value.

Mr. CONKLING. I wish the Senator would allow me to make a suggestion? Beyond what he says of the inequity that strikes me as remarkable about this amendment is this: these erections may be made very expensive, as we know they are to be, and the time may come

at once when they are taken possession of by the Government before any use whatever has accrued to the grantees. Would it not be very monstrous in that case to provide that, however early the taking possession might be, it should be without any sort of compensation, and without an application of the constitutional provision to which the Senator refers?

Mr. DAVIS. The remarks of the honorable Senator from Iowa induce me to believe that the interpretation given by the Senator from Indiana who last addressed the Senate on the subject is about right. This railroad company is asking for a great privilege, to make one of its termini upon this island, and to have the liberty to erect its necessary buildings upon it. It is entirely in the option of the Government to impose any conditions they may please upon this temporary use of this island by the railroad company. The conditions that this amendment propose are not unreasonable. They are just; they are proper. Let them be distinctly named to the corporation; and if the corporation does not choose to accept the use of the island upon these conditions let them decline it. It is no great privilege to the Government to have the terminus of this railroad located and its buildings erected on this island. It is for the benefit of the corporation; and if the island should be required at any future time or in any future exigency of the country or the Government for the purposes of defense and fortification, let the company place the island just as they found it. It is not for the benefit of the country; it is for the benefit of the corporation that these various buildings, machine-shops, depots, and everything of that kind are to be built. If they are not willing to accept the grant upon those terms for the temporary use of the island let them decline it, and let them hunt another location.

I say it is absurd, it is monstrous, it is impudent for the company to ask the use of the island and to erect such buildings as it chooses and require the Government to pay millions, if you please, or whatever may be the sum of the cost of those buildings when they are to be removed. Sir, there is a sovereign right that the Government has to give or withhold the use of this island from this corporation. The idea that if this island is required at any future time for the necessary important military defense of San Francisco or of the country, the Government should be required, when appropriating the island to that use, to pay millions and millions to this company for the purpose of removing any structures that it may choose to build upon the island is impudent to the last degree. Instead of being unjust, it is liberal in the highest degree for the Government to extend to this company the use of this island, and to say to it, "When it is to be resumed by the Government for any purpose, it must be put back in the same position as when the company found it, without charging upon the Government a large sum of money to remove buildings that the company may put upon it. Unless this amendment or something equivalent to it is attached as a condition to this temporary use of the island by the corporation, I, for one, will vote against the bill."

Mr. HOWE. I feel called upon by the present aspect of the question to apologize to the Senator from Indiana [Mr. HENDRICKS] for some remarks I made to him in the opening of this debate. I put the point to him rather strongly that this bill, as it stood, was simply a permission to this railway company to occupy our land there while we did not want it, with the right in us to take it back and use it ourselves when we did want it. I would not have said that to him if I did not think that it was what the bill meant. So it had been interpreted to me by an honorable Senator.

Mr. CONNESS. That is precisely what it meant.

Mr. HOWE. So I understood the Senator from California to say was the true meaning of it when I made the statement to the Senator from Indiana; and as such I was willing to vote for it; but—

Mr. NYE. Let us see if we cannot get through with this bill. I want to know if this amendment prevents our removing the structures from off the island?

Mr. FRELINGHUYSEN. Not at all.

Mr. NYE. Then provide for that, that we may have the right to remove the structures, and I think there will be no objection to the amendment.

Mr. HOWE. That is perfectly fair.

Mr. CONNESS. Will the Senator permit me to say one word?

Mr. HOWE. Certainly.

Mr. CONNESS. I said, having charge of the bill here, feeling somewhat concerned in it, as I do, that I did not care whether this amendment was voted up or voted down. The Senator, as he states the case, states precisely my understanding of it. If this bill were not to provide a great public convenience I should not be its advocate.

Mr. HOWE. With that understanding the Senator from Nevada says he is perfectly willing that the amendment should be adopted.

Mr. NYE. With the understanding that we can remove the structures at any time; that the Government shall not hold the structures, and not pay for them.

Mr. CONNESS and Mr. STEWART. Never mind that; let it go.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Jersey, on which the yeas and nays have been ordered.

Several SENATORS. Withdraw the call.

Mr. CONNESS. I did not call for the yeas and nays.

The PRESIDENT *pro tempore*. The call for the yeas and nays can be withdrawn by unanimous consent. The Chair hears no objection.

The amendment was agreed to.

Mr. COLE. At the suggestion of two or three Senators I offer an amendment to insert as an additional proviso the following:

*And provided further*, That this act shall not impair the rights or claims of persons in possession of the Island of Yerba Buena at the time of the late military occupation thereof.

The objection, it seems, to a provision similar to this, which was discussed a few minutes ago, was to that which was added to it. This is a provision very nearly the same as that which is contained in all the Pacific railroad bills. I think there can be no objection to this.

Mr. CONNESS. I have not the slightest objection to it. I had objection to the other provision connected with it.

Mr. COLE. I incorporated in the former amendment a provision in reference to the laws of California, because, as I then stated, the laws of California provide an easy way by which rights of this character can be ascertained and determined.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. HENDRICKS. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. HENDRICKS. Before the vote is taken I wish to make just one remark. It is now proposed to pass this bill without information as to the extent of this island, as to its value, as to its connection with the coast, with the statement of one of the California Senators, who lives in the city of San Francisco, that there is no difficulty on the part of this company in reaching deep water without occupying this island. In view of an adverse report by the Engineer Bureau of the War Department, when Congress is officially informed by the War Department that no such structures ought to be allowed upon the island, that the necessity of it for military purposes in making a proper defense of that great harbor on the Pacific coast forbids this use, we propose to give to this rich corporation an island of immense value; of



what value the Senate is not now informed, but of great value: because I say that this occupancy, so far as it shall extend, amounts to a gift. In the face of this report, in the face of the statement that an approach to deep water can be conveniently had by this company, and that there is no absolute necessity for this appropriation of the island in order that this company may enjoy its franchises already granted, we propose to pass this bill.

Mr. President, I think the Senate should hesitate before doing it. The most important harbor next to New York that we have, the most important island perhaps that we possess, the most important piece of ground owned by the Government, perhaps, is to be turned over to a corporation that has had given to it in bonds and in lands a greater gift, of larger value than perhaps has ever been given by any Government in the world—a corporation whose stock has now, as I understand, run up to a very large premium; and this is to be given in the face of the report of the War Department that it ought not to be done in view of the proper defense of a great harbor.

Mr. HOWARD. I regret that the honorable Senator from Indiana should take such a view as he does of the effect and operation of this bill. He speaks of it as a measure giving to a rich corporation this almost invaluable island, holding out to the world the idea that the company are by virtue of this bill to have the whole of the island. Certainly, if the Senator has read the bill, as I have no doubt he has, he can have drawn no such inference from its language. The direct contrary is true. They do not hold the title to the extent of a pepper-corn of this island.

Mr. HENDRICKS. I said so far as this island would become occupied under this bill, it was equivalent to a grant.

Mr. HOWARD. Very well; I am glad to hear that modification of the Senator's remarks.

Mr. HENDRICKS. It is no modification. It is just what I said before.

Mr. HOWARD. I certainly understood it in a different sense at the time the Senator was addressing the Senate. The bill is, according to its terms and on its very face, a mere license to use such portion of this island as the proper military authorities may esteem unnecessary for military purposes in time of peace. Sir, is that giving away this important island? Is it making a large donation to a rich company? I will not characterize the remarks of the honorable Senator from Indiana, because I think him incapable of willfully and perversely misstating the contents and meaning of a bill which is before us for discussion. I therefore hope we shall come to a vote.

The PRESIDENT *pro tempore*. The question is on the passage of the bill, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 28, nays 8; as follows:

YEAS—Messrs. Chandler, Conkling, Connors, Corbett, Davis, Drake, Fowler, Harlan, Howard, Howe, Johnson, McCreery, McDonald, Morgan, Morrill of Maine, Nye, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Ross, Stewart, Sumner, Thayer, Tipton, Wade, Williams, and Yates—28.

NAYS—Messrs. Anthony, Edmunds, Hendricks, Morrill of Vermont, Morton, Trumbull, Vickers, and Wiley—8.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Cattell, Cole, Cragin, Dixon, Doolittle, Ferry, Fessenden, Frelinghuysen, Grimes, Henderson, Norton, Pomeroy, Rice, Saulsbury, Sherman, Sprague, Van Winkle, Welch, and Wilson—22.

So the bill was passed.

Mr. CONNESS. I desire to correct a verbal error in the bill which has just been passed, so as to make sense of an amendment made on the motion of the honorable Senator from Maine. It now reads, "That nothing herein contained shall be so construed as to authorize or grant any subsidy for any road built under this act, or to increase the subsidies in bonds accruing;" &c. The object was to prevent a subsidy in bonds, and I desire to insert the words, "in bonds" after "subsidy."

Mr. EDMUNDS. How much land do they get by this?

Mr. CONNESS. I suppose about five or ten thousand acres.

The PRESIDING OFFICER, (Mr. POMEROY.) The amendment may be made by unanimous consent. The Chair hears no objection, and the bill will be so amended.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 1345) to amend an act entitled "An act to confirm certain private land claims in the Territory of New Mexico," was read twice by its title, and referred to the Committee on Private Land Claims.

#### EXPORTERS OF RUM.

The joint resolution (H. R. No. 318) to correct an act entitled "An act for relief of certain exporters of rum," was read twice by its title.

Mr. MORGAN. I move to put that joint resolution on its passage.

The PRESIDENT *pro tempore*. It requires unanimous consent.

Mr. EDMUNDS. Let us hear it read for information.

Mr. SUMNER. It is merely to correct an error.

The Chief Clerk read the joint resolution, which provides that the word "and," where it occurs in the act to which it is amendatory after the word "export" and before the words "actually contracted," be changed to "or," so that the corrected act shall read, "intended for export or actually contracted for."

Mr. SUMNER. That was the original language of the bill, and it carries out the intention. I hope there will be no question about it.

Mr. EDMUNDS. I object to its consideration.

Mr. SUMNER. I hope not. It is very important that this correction should take place. The bill has passed, and here is a mistake, and there are only sixty days within which these exportations can be made, and the time is running out now. I hope the Senator will withdraw his opposition.

Mr. COLE. I should like to hear the joint resolution read again.

The Chief Clerk read the joint resolution.

Mr. SUMNER. There can be no objection to it. It carries out the original idea of the bill.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the joint resolution?

Mr. EDMUNDS. I object.

The PRESIDENT *pro tempore*. Objection being made, it must go over.

Mr. EDMUNDS subsequently said. A little while ago I objected to the present consideration of a joint resolution to correct an act of a certain name. I am assured by the Senator from New York, [Mr. MORGAN,] who reported the original bill, that this correction is right. I do not see it in that light myself; but I defer to his superior judgment and withdraw the objection that I made to its present consideration.

Mr. SUMNER. I hope the joint resolution will be put on its passage.

By unanimous consent, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### BILL INTRODUCED.

Mr. JOHNSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 588) for the relief of the Mount Vernon Ladies' Association of the Union; which was read twice by its title, and referred to the Committee on Claims.

#### ALEXANDER J. ATOTCHA.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is now before the Senate, being the bill (S. No. 488) to amend an act entitled "An act for the relief of Alexander J. Atotcha," approved February 14, 1865. This is a private bill that was left unfinished last evening.

Mr. CONNESS. I move to lay that over, to postpone it.

Mr. CONKLING. That is not necessary. That bill is not the unfinished business.

Mr. MORRILL, of Maine. I thought the Chair called up the unfinished business of yesterday.

Mr. BUCKALEW. I suggest that that bill be passed over informally, and that we take up the appropriation bill.

The PRESIDENT *pro tempore*. It will be passed over informally if there be no objection. The Chair hears no objection.

#### EVENING SESSION FOR PRIVATE BILLS.

Mr. CONNESS. I ask the Senator from Maine to permit me to make a motion that the Senate take a recess at five o'clock until half past seven o'clock this evening.

Mr. ANTHONY. For what purpose?

Mr. CONNESS. To consider private bills.

Mr. FESSENDEN. There should be a specification of the purpose, for considering private bills.

Mr. CONNESS. That is the object. I have none at present myself, but I know other Senators have, and they are crowding us at all times, and we cannot get along with public bills of great consequence unless we get them out of the way.

Mr. FESSENDEN. If it is understood that nothing but private bills shall be considered, I do not know that I have any objection.

Mr. CONNESS. That will be the understanding.

Mr. MORRILL, of Maine. I should like to know whether the appropriation bill was the order of the day and the unfinished business?

Mr. CONNESS. I understand it to be now before the Senate.

Mr. MORRILL, of Maine. If it was not, then I was exercised for two hours on that subject without any particular reason.

Mr. CONNESS. The motion now is that a recess be taken for the purpose of considering private bills this evening.

Mr. HOWE. A large number of private bills have been reported to-day from the Committee on Claims which will not be ready for consideration this evening.

Mr. CONNESS. There are others that may be considered, and then they will be out of your way.

Mr. HOWE. Very well; all right.

The PRESIDENT *pro tempore*. The question is on taking a recess from five o'clock until half past seven o'clock to consider private bills.

The motion was agreed to.

Mr. FRELINGHUYSEN subsequently said: I move to reconsider the vote by which the Senate agreed to take a recess from five o'clock to half past seven this evening. It is entirely too hot to sit here to-night.

Mr. RAMSEY. The thermometer is now 87° in the Hall, and will probably be 90° before we get through.

The motion to reconsider was agreed to; and the question recurring on the motion for a recess, it was not agreed to.

#### CIVIL APPROPRIATION BILL.

Mr. MORRILL, of Maine. Now, if the appropriation bill is not the order of the day, I suggest—

The PRESIDENT *pro tempore*. The appropriation bill will be taken up, if there be no objection, and the other bill postponed. The Chair hears no objection.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Hampshire, [Mr. PATTERSON,] which has been read and debated.

Mr. CONKLING. Let us have the yeas and nays upon it.

The yeas and nays were ordered.

Mr. MORTON. I should like to have the amendment reported.

The PRESIDENT *pro tempore*. It is the amendment paying for lands in Maine and Massachusetts. It was discussed at length yesterday.

The Secretary proceeded to call the roll, and Mr. ANTHONY answered to his name.

Mr. BUCKALEW. I desire to know if that is the amendment relating to the claim of Maine and Massachusetts?

The PRESIDENT *pro tempore*. This is the amendment.

Mr. BUCKALEW. I had the floor assigned to me upon that question when the bill went over yesterday.

The PRESIDENT *pro tempore*. I believe the Senator from Pennsylvania had the floor when the Senate took a recess yesterday. If there be no objection, the Senator will proceed.

Mr. MORTON. I should like to hear the amendment reported.

The Chief Clerk read the amendment, which was to insert, as an additional section, the following:

*And be it further enacted*, That for the purpose of executing the fourth article of the treaty of Washington, concluded on the 9th day of August, 1842, the Secretary of the Treasury is hereby authorized and directed to pay to the State of Maine, for ninety-one thousand, one hundred and twenty-five acres of land assigned by said State to settlers under said article, a sum equal to \$1 25 per acre; and to the Commonwealth of Massachusetts, for twenty-six thousand one hundred and fifty acres of land, a sum equal to \$1 25 per acre: *Provided*, Before said sums are paid the States of Maine and Massachusetts shall agree with the United States that the settlers upon their public lands in the late disputed territory in Maine entitled to be quieted in their possessions, as ascertained by commission heretofore instituted by said States, shall have been or shall be quieted by a release of the title of the said States.

Mr. BUCKALEW. Mr. President, this is a claim which has been before the Senate on several occasions, commencing, I think, in the Thirty-Fourth Congress. I will very briefly call the attention of the Senate to the history of this claim, or the leading points in it, and then I propose to submit an amendment.

On the 3d of March, 1857, Mr. Iverson, from the Committee on Claims; moved an amendment to an appropriation bill relating to this demand. That was ruled to be not in order, and was not entertained.

On the 14th of July, 1860, a similar amendment was moved by Mr. Simmons, from the Committee on Claims, to the bill making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1861. It was decided by the Senate not to be in order—yeas 22, nays 26.

On the 25th of February, 1861, Mr. Simmons again moved the amendment to the bill making appropriations for sundry civil expenses of the Government for the year ending June 30, 1862. It was again decided by the Senate not to be in order—yeas 16, nays 23.

On the 3d of March, 1863, a similar amendment was moved by Mr. DOOLITTLE, from the Committee on Foreign Relations, to the bill making appropriations for sundry civil expenses of the Government for the year ending June 30, 1864. It was determined in the negative—yeas 14, nays 24.

This is the history of this claim in the Senate, with the exception of two bills, to which I will now refer. On the 4th of March, 1864, Mr. DOOLITTLE, from the Committee on Foreign Relations, reported a bill (S. No. 156) to carry into effect the fourth article of the treaty of Washington concluded between the United States and Great Britain on the 9th of August, 1842. There was no action on that bill.

On the 11th of January, 1866, Mr. MORRILL introduced a bill (S. No. 68) to carry into effect the fourth article of the treaty of Washington concluded between Great Britain and the United States on the 9th of August, 1842; which was referred to the Committee on Foreign Relations, reported on the 13th of March, 1866, and passed the Senate on the 21st of March, the same month.

The present amendment is substantially similar to the former amendments to which I have

referred and the bills to which I have also made reference. It provides for the payment to the States of Maine and Massachusetts of the claims of settlers to lands on the disputed territory. I believe the amount of money to be paid, at the rate of \$1 25 per acre, the Government price of public land, will amount to something like one hundred and forty or one hundred and sixty thousand dollars. The amount of land is a little over ninety thousand acres. By elaborate reports which have heretofore been made to the two Houses of Congress it appears that there are several claims held by the State of Maine, or preferred by her upon the attention of Congress, all connected with this treaty of Washington, and all of them, with a single exception, falling under the terms of the fourth article, or alleged to fall under the terms of that article. These claims have all been contested. They are now quite old, and in my judgment they deserve more of investigation than they can possibly receive when presented in the manner in which this claim is presented, as an amendment to a general appropriation bill.

But, sir, for the purpose of quieting all further controversy on the subject of these claims of the State of Maine, I would be willing to waive objection to the present appropriation if I could be perfectly secure against any further demand by that State, or by the State of Massachusetts, which formerly had jurisdiction over this country, and in behalf of whom there is some allegation of claim made. I propose, therefore, as an additional proviso to the amendment that which I send to the Chair.

The PRESIDENT *pro tempore*. The amendment to the amendment will be read.

The Chief Clerk read as follows:

*And provided further*, That the appropriation hereby made shall be held to conclude and extinguish all asserted claims of said States of Maine and Massachusetts, and of all settlers, owners, and claimants against the United States under the fourth article of said treaty of Washington, or in relation to depredations upon the lands or territory mentioned in said article, or to interest upon expenditures incurred by the State of Maine in defending the same prior to the negotiation of said treaty.

Mr. BUCKALEW. I will state as briefly as I can the nature of the claims which are thus preferred as they are set forth in House report No. 119, Thirty-Eighth Congress, first session, a report made by Mr. John H. Rice, from the State of Maine, a very elaborate and interesting report, exposing in full all the demands made on behalf of his State. In the first place, there are demands made for depredations committed in this disputed territory between 1832 and 1839, at a time when the State of Maine did not assert her jurisdiction over the territory, as it is alleged, upon the request of the Government of the United States. British subjects came into the territory during those seven years and cut off a considerable quantity of timber from the lands. It is alleged that the loss was incurred by the owners of the lands because the State of Maine did not protect them, and that her default in protecting them was in consequence of a request made to the State authorities by the President of the United States. The amount of the damages so claimed on behalf of individuals is very large; it has never been ascertained; and the claim is now so old in date that no intelligent investigation of the subject can ever be had. But it is a claim gravely proposed in a congressional report, and as it relates to the same subject-matter as this amendment I propose to conclude it and to avoid all discussion hereafter by naming it in the amendment which I have proposed.

Again, sir, the State of Maine, under another article of the treaty besides the fourth, was allowed her expenses incurred in attempting to defend her title to this disputed territory. Her account for outlays was, under an act of Congress, audited and settled at the Treasury Department, and she was paid the whole amount which she had expended. She was also under a special act of Congress paid all interest which she had paid upon loans to raise money to

meet those expenses; but she claims, or has claimed, that in the calculation of interest at the Treasury Department on her expenditure she was not allowed as much as she ought to have been. The accounting officers of the Treasury settled her accounts according to the usual rule, according to the legal rule upon which accounts were adjusted in that Department in the absence of particular directions from Congress. The State was paid the principal of all her expenditures, and was paid the amount of interest upon the loans which she had made in order to meet those expenditures, but she was not allowed interest upon the interest which she had paid, or upon the principal which she had paid, and she insists that the calculation shall be made according to the principle which obtains in the settlement of accounts between individuals; that is, that a payment to her shall be first applied to the interest, and afterward, if there be any balance, it shall be applied to the principal. Instead of that she was simply paid the amount of her expenditures as a principal sum and the amount of interest which she had paid on her loans as a principal sum also; and the accounting officers of the Treasury did not allow her an additional amount which she would have received of the principle which obtains pretty generally, I believe, now in the settlement of private accounts had been adopted. That is also a claim of hers under the treaty of Washington.

I am disposed, therefore, in voting this very considerable amount of money in this somewhat irregular manner, overruling former decisions of the Senate upon the question of order, and taking this claim as valid without particular investigation or debate, to make sure at least that we are completely done with claims under the fourth article of the treaty of Washington and under any part of that treaty, so far as the State of Maine and the settlers upon her lands in this disputed territory are concerned.

Mr. FESSENDEN. Let the Senator confine his amendment to claims under the fourth article of the treaty. The amendment goes much further than the fourth article.

Mr. BUCKALEW. The amendment applies not only to matters that arise under the fourth article, but the claims of the State of Maine, which is founded upon a distinct article of the treaty. The Senator, I understand, desires me to exclude the latter clause.

Mr. FESSENDEN. I ask the Senator if he would be willing, as this claim is made under the fourth article of the treaty, to confine his amendment to all claims arising under the fourth article of the treaty?

Mr. BUCKALEW. If the Senator moves an amendment of that kind the Senate may decide the point.

Mr. FESSENDEN. The idea upon which the honorable Senator founds his amendment is one, I think, that it is hardly just to apply to any bill; and if he will just bring his mind to consider it for a moment, I think he cannot avoid coming to that conclusion; and that is, that if the State has a claim here to be considered upon its own merits the Senate are willing to allow that claim, provided the State will give up all other claims which it may have against the Government upon other grounds. I ask the Senator whether that is consistent with his idea of justice and right. I ask any Senator whether it is consistent with the idea of justice and right. We make here a specific claim arising under the fourth article of the treaty; the Senator's amendment is substantially, "We will pay that claim provided you will receive it in full of all claims arising not only under that fourth article, but under any other article of the treaty." Is that just as a principle?

The Senator says that considering how it comes up, that it is a matter here upon an appropriation bill, it is a sort of bargain. Sir, it is on an appropriation bill; but is there any want of time to consider it? When it has been brought forward heretofore it has been at a late period of the session, sometimes on the last

night, when there was not time to consider it, and when I myself, although in favor of the claim, could not say that I thought it came fairly before the Senate. Now, here it comes fairly before the Senate, and is as well and as thoroughly considered as if it was in a bill by itself. We are not deficient in reports of committees; we have half a dozen of them; and we are not deficient in time to explain and understand the whole matter. But the Senator says, "Inasmuch as it comes up on an appropriation bill, therefore we will impose upon you this condition: if you by any possibility have any other claim arising under that treaty or any part of it you must give us a receipt in full for that, or we will not grant you this relief." That is it substantially. Is that just? Would the honorable Senator, if he was sitting as judge, decide upon a proposition of that kind? I apprehend not; it therefore is not fair.

Now, sir, what are those other claims? One of them is a claim that does not arise under this treaty; and that is the claim for depredations, as it is called, upon the lands. There is no claim that I can perceive, or that has ever been made, arising under any article of the treaty for those depredations. I will state in what that claim is founded. The Government of the Province of New Brunswick undertook to send men there to cut off timber. It was a disputed territory. They claimed it; it turned out not to be theirs, any part of it in reality; but they sent on persons to cut off and strip the timber from those lands. The State of Maine raised a military force and sent that military force on under the land agent to protect that property. There was danger of a collision on the border that might lead to difficulty with the British Government. We did not ask any aid of the Government of the United States to protect us, but took our protection into our own hands. But the Government of the United States did interfere, and they sent down the commanding general of the army, General Scott, to interpose on behalf of the United States and the State government. The United States Government through him ordered the troops of Maine off and took possession of the territory themselves, and did not defend it or attempt to defend it, in consequence of which the timber was all stripped off the land. That is the simple statement.

There was an agreement made at the time that both parties should suspend operations, under the direction of the commanding general of the army; and what was the result? Maine held loyalty to the bargain; but the Province of New Brunswick, in between thirty and forty days, stripped off the timber. Maine has made a claim against the General Government, founded upon that interference, for the loss of the timber; but it has nothing to do with the treaty. I am very much afraid, from what I have witnessed in this Hall in regard to claims, that we never shall get anything in regard to it; but, nevertheless, I ask the Senator from Pennsylvania if it is the fair thing to say that you will not grant this under the treaty, however honest it may be, unless Maine gives up that claim? Is that a kind of legislation that he thinks would be exactly a fair mode of dealing with the State? Here is one claim; we ask you to settle it upon its merits; and what has that to do with the other, which has nothing to do with the treaty?

There is another claim that arises under the treaty, but it arises under a separate article of the treaty, under article five. What is it? By that treaty the Government of the United States were to reimburse Maine for her expenses in defending that territory. It did, after a long time, reimburse the actual expenses and interest, but, in calculating the interest, it calculated it in the old fashion, applying all the payments it made from time to time to the principal instead of to the interest that was due.

Mr. BUCKALEW. The interest was not provided by treaty. The provision of the treaty was simply that Maine should be repaid her

expenses. Subsequently Congress passed an act that she might obtain interest.

Mr. FESSENDEN. Yes, sir; Congress passed an act to pay interest, and it passed an act to pay interest as a consequence of the provision of the treaty to reimburse Maine. Maine borrowed money, for which it paid interest, in order to carry on that service. Maine claims that that interest, under the fifth article, shall be calculated in the ordinary way, as has been done in the case of Maryland and other States. The Senator says to Maine, "You must give up that; you must not be heard on that claim at all, although it was allowed to Maryland in a similar account and has been allowed in other cases." Perhaps we shall never get that, but ought we to give it up? Ought we to be called upon in consequence of making this claim, if this is seen to be just, to give up the other, too? Those are questions perfectly distinct in their character from the matter under consideration.

It being a fact that we have made two several and distinct claims not connected with this one, having no reference to it in any way, it is proposed to put here an amendment by which we shall be called upon to give up those claims, one of which may be considered as arising under the fifth article, and the other having no reference to the treaty; that we shall not have this claim, however just and right it may be, unless we give a receipt in full for claims which are not connected with it. Is that fair? One would think that my honorable friend in moving this amendment was rather operating as retained counsel to see what he can do best for his client than acting as a legislator to decide between the United States and a State upon principles of justice and equity. I know that is not according to his nature, and I think he must see at once that the excuse he makes for offering it is not a valid excuse when there is so much opportunity as there is here to consider this claim upon its merits. I move to amend the amendment of the Senator from Pennsylvania by striking out all of it after the reference to the fourth article of the treaty.

Mr. BUCKALEW. I rise to say a word in opposition to the amendment suggested by the Senator from Maine. The claim of interest and the claim for depredations upon the disputed territory, and the claim provided for in the amendment itself indemnifying settlers, all came here to Congress together. They have been pressed at one and the same time. They are combined together in reports which have been made to the two Houses, have been considered together by committees which have investigated the general subject of the claims of the State of Maine. I do not connect them together for the first time by my amendment. I take the claims of the State of Maine as they have been introduced here by her agents and her representatives in the two Houses; and when I discover that upon the present occasion a single one of these claims is singled out and an appropriation to cover it is asked for I simply recall the omitted items of demand and propose to include them in the action of the Senate, so that we shall make an end, that we shall terminate questions of controversy between that State and the Government of the United States in reference to—what? The general subject-matter to which the treaty of Washington related, the disputed territory claimed to be within the boundaries of the State of Maine, but which was divided by that treaty.

The Senate will remember that the Government of the United States agreed to pay to the States of Maine and Massachusetts by that treaty the sum of \$300,000, and expressly in consideration of the assent of those States to the line established by the treaty. That was the leading and controlling consideration upon which the payment of that money was provided for. Another reason was assigned to popularize the treaty, suggesting that the Government of the United States received acquisitions of territory and posts on the line of the State of New York, and upon the line of Vermont.

I believe, also; but that was the leading, that was the main consideration for the payment of that amount of money to those States. Now, sir, I venture to say that when that treaty was negotiated, and when it was ratified by the Senate of the United States, none of these claims that are pressed on our attention from the State of Maine were considered or thought of.

It will be remembered that the commissioners representing the two States of Maine and Massachusetts hesitated in giving their assent to the treaty when being negotiated by Mr. Webster and Lord Ashburton. Finally they proposed to submit the question to the Senate; they propose to be bound by the judgment of the Senate upon the question whether those States would agree to the treaty, or should assent to its terms. The Senate proceeding to ratify the treaty, the States of Maine and Massachusetts acquiesced in it, and it went into effect and became the fundamental law of the land; and these States received the amount of \$300,000 for their assent to the line established by the treaty, so far as they were concerned, and to the general provisions so far as they would affect those States which were contained in that treaty. Then here come up three or four claims which have been brought into Congress and pressed upon the attention of both Houses. They are still pending and undetermined. What I desire now is that in voting money to these States upon claims which are doubtful, upon claims in regard to which exactly opposite opinions can honestly be held by members of Congress, we shall determine the whole subject which was sent here and which has heretofore been considered in the two Houses—all relating to this disputed territory, claims of property or of right in the disputed territory, and to the expenditures of the State for its protection at a certain period of time when we were upon the verge of hostility with Great Britain in reference to this very dispute.

And now, sir, what is the claim of interest, which is the main thing to be debated under the present motion to strike out the latter clause of my amendment. By one of the articles of the treaty of Washington of August 9, 1842, it was made the duty of the United States to indemnify Maine for her expenses incurred in protecting and defending the territory which had been in dispute with Great Britain. Under this article, the expenses of that State for troops, civil posse, and otherwise were audited at the Treasury, and as the amounts so audited were reported from time to time, appropriations were made for them by Congress and they were paid. Finally, on the 8d of March, 1861, an act was passed through the two Houses of Congress providing that so far as Maine had been obliged to pay interest in borrowing money to defend her territory, the amount so paid should be refunded to her. This has been done. She could not claim that interest under the treaty. She was obliged to come to Congress to obtain the passage of an act here to allow her interest on her expenditures.

Mr. MORRILL, of Maine. Will the honorable Senator allow me a word?

Mr. BUCKALEW. Certainly.

Mr. MORRILL, of Maine. The honorable Senator says that Congress agreed to pay her the interest, which has been done. That is precisely the point. The proposition is that it was done in a particular way, which was not doing it in the way in which it was meant by the act that it should be done.

Mr. BUCKALEW. That is a criticism upon words. The amount of interest which she had paid out was repaid to her.

Mr. MORRILL, of Maine. Not according to the rule established by legislation with reference to the payment of interest to States.

Mr. BUCKALEW. The Senator is struggling over a difficulty about words. I will state it precisely if he will wait a moment. The amount of interest which the State of Maine had paid upon her loans negotiated for the purpose of meeting the expenditures of defend-



ing this territory was repaid to her; but she was not allowed interest upon that interest at the Treasury. Of course she could not obtain that under the act of Congress which was passed for her relief. What, then, is the nature of this claim for interest? It was not covered by the treaty of Washington; nothing was covered but the principal sum of her expenditures. She received them. Then she appealed to Congress, and a law was passed authorizing the payment to her of the amount of the interest which she had paid upon her loans, and that has been paid to her; every dollar of it. Now, what is the present claim? That Congress, by another act or joint resolution, shall authorize the accounting officers of the Treasury to calculate interest upon the interest which she paid, shall take the principal sum and the interest originally paid into one account, and shall allow her an original amount of interest upon a particular mode of calculation, such as it is said was authorized in a former case of a claim by the State of Maryland a great while ago, the only precedent in our history which the researches of gentlemen have enabled them to bring forward as justifying such an allowance.

Mr. MORRILL, of Maine. The same rule was applied in the case of Georgia.

Mr. BUCKALEW. I am alluding to the only one mentioned in this report. How much was the amount of that? In 1864 the amount was \$211,547; the additional interest desired by that State to June 1, 1864, was \$211,547 48, to which would be added now the interest for four years more upon a principal sum of \$180,792 22 making a present claim of over a quarter of a million dollars. Is not this a little remarkable? Here an outlay originally made by the State of Maine for her own interests in protecting her own territory, asserting her own title, vindicating her own boundary, not instigated by the Government of the United States, in fact incurred under discouragement from the State Department and the President, made on her own account, was generously refunded to her by the treaty of Washington; and afterward upon an appeal to Congress the interest which she had paid upon loans to make that unauthorized outlay—I mean unauthorized so far as the Government of the United States was concerned—was also paid to her; and yet here is a claim accumulating rapidly in amount and now swollen up to \$250,000, or about that amount of interest as it would be calculated according to the statement in this report.

The Senator from Maine [Mr. FESSENDEN] says that I appear desirous to act otherwise than as a judge. I suppose the gentlemen who represent the State of Maine in the two Houses of Congress, on a question of this sort, are to be taken as representing their own State; representing it particularly; prepared to vindicate its interests, and, so far as possible, to make good the claim which has been preferred in its behalf. All that I am desirous of doing is to secure to the Government of the United States so much of security and of immunity against doubtful, contested, and State demands as I can, when this subject is brought before me and I am obliged to vote upon it. I did not bring it here. It is brought here by the State, and I regard the present amendment as a compromise. I am willing to take it in that point of view. Although I am not satisfied that these claims, made on behalf of the State of Maine, are good and valid, that we are bound in point of law, in point of moral obligation, to pay them; yet, as it is a contested matter and as different opinions prevail, and as a generous course on the part of the Government in a case of dispute with one of the States is wisdom and policy in the main, I am agreed to compromise these several claims which have been pressed upon our attention by paying this large amount of money, provided this will make an end of it.

I am willing to do what a man in private business often does in his difficulties with his neighbors; where there are differences of opinion. Where there are matters of contest, the parties meet together and each side gives up

some of its pretensions, and getting to a common ground conclude all dispute and difficulty. That is for peace and good neighborhood; and in the long run men who act in this manner are to be reckoned as wise and prudent in their day and generation. In that way I would act now in Congress. This State presenting these three or four claims through her representatives; through committees that have been inspired by her arguments and her reasoning, is now to be treated; and all the matters in dispute which are introduced here ought to be concluded at one time.

Now, what is the result? I might have gone over this record and shown several other bills that Congress has passed paying money on claims of Massachusetts and Maine. I paid several thousand dollars a few years ago to quiet two townships in Maine. There have been appropriations for war expenses of 1812 at different times by Congress. There has been no disposition to deal harshly or to deal unjustly with these States, and particularly the State of Maine. But what will be the result if you do not adopt this amendment of mine? The inevitable result will be that those interested in the State of Maine in these claims will continue to press them on the attention of their representatives, and we shall have bills hereafter introduced for their payment. The argument pressed upon one will be persisted in after perhaps repeated defeats. We see that claims grow stronger by the lapse of time. The very claim covered by the present amendment of the Senator from New Hampshire has been ruled out of order several times, and was rejected upon one occasion. The excuse is that it came up at the end of a session when there was no time to fully consider it. I think that objection applies here. This ought to be brought up by itself and voted upon by itself, and ought not to be put on an appropriation bill.

What I desire is that we shall be done with this whole subject of claims from the State of Maine with reference to lands disputed about, and in regard to which the boundary treaty of 1842 was made, and that in paying this sum of money now we shall have in part consideration for it peace for the future, security against renewed demands, against future debates and the consumption of public time to the injury of the interests of the people and States. I should like a settlement. I am unwilling to vote this money on any other principle.

Mr. FESSENDEN. All I want to say in reply to the Senator from Pennsylvania is that his whole argument goes to the extent it did before, and that is that he understands himself as making a compromise. I do not ask the Senator to make any compromise of a doubtful claim. I ask the Senate to pass a claim which is not doubtful in my judgment, and which has been reported favorably upon over and over and over again, so that I do not agree to his idea. He may vote so if he pleases, but the question is whether we are entitled to this particular specific claim, and the Senator's amendment that we shall not have it if we are entitled to it unless we give up all other claims that we may have not only arising under this treaty but outside of it, is not fair. They are terms not imposed on anybody. The Senator seems to talk as if he never heard of a claim being before Congress before, as if this were a new thing. Why, sir, they are here every day, of one sort and another. All I ask now is to confine the amendment of the Senator to the article under which we make the claim, the fourth article, and I hope the Senator will be willing to do that.

The PRESIDING OFFICER, (Mr. POMEROY.) The Chair understands the Senator from Maine to propose to amend the amendment of the Senator from Pennsylvania by striking out the words—

Or in relation to depredations upon the lands or territory mentioned in said article, or to interest upon expenditures incurred by the State of Maine in defending the same prior to the negotiation of said treaty.

Mr. FESSENDEN. Yes, sir.

The PRESIDING OFFICER. That is not in order strictly, but if there be no objection the Chair will entertain the motion to strike out.

The motion to strike out was agreed to; there being, on a division—ayes 21, noes 9.

The question recurred on the amendment of Mr. BUCKALEW, as modified, to add to the amendment of Mr. PATTERSON, of New Hampshire, this proviso:

And provided further, That the appropriation hereby made shall be held to conclude and extinguish all asserted claims of said States of Maine and Massachusetts, and of all settlers, owners, and claimants against the United States under the fourth article of said treaty of Washington.

Mr. FESSENDEN. I do not see what right the State of Maine has to make any such agreement, or why it is just to conclude the claims private persons may have against the United States.

Mr. SUMNER. I think the amendment is entirely out of place and had better be voted down, and let us come to a vote on the original proposition.

Mr. BUCKALEW. I can answer the proposition of the Senator from Maine. This claim is made on behalf of settlers, citizens of that State, under the treaty.

Mr. FESSENDEN. Not at all. It is not made on behalf of settlers, but simply made to enable the Government of the United States to give releases to certain settlers that they agreed to give releases to. Now, the Senator offers an amendment that if you give releases to these settlers, or enable the United States to do it, it shall be in full for all claims not only of the State of Maine under that article of the treaty, but of all private persons, whatever may be the nature of their claims. Those words ought to be stricken out, and if that were done I should have no objection to the proposition.

Mr. BUCKALEW. The Senator does not understand me. What I mean is that the State of Maine makes this demand in the interest of her settlers; she herself may make any adjustment she pleases with them; but at the same time as the claim is made on behalf of them, it is perfectly proper to conclude the whole subject. The claim is made under the fourth article of the treaty, and I understood from the Senator's former argument that he was willing to conclude the whole subject under that particular article.

Mr. FESSENDEN. So I am, so far as the State of Maine is concerned. Any claim that the State of Maine may have under the article I am perfectly willing to conclude; but if a private individual has a claim against the United States under that article or any other, I am not willing to conclude that; and it is not right to do it. Therefore, if the Senator will strike out these words I have no objection that the State of Maine shall be entirely concluded as to all her claims under the article. I move to strike out these words.

Mr. EDMUNDS. That is not in order.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Pennsylvania to the amendment.

Mr. BUCKALEW. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. ANTHONY. On this question I have paired with the Senator from Indiana, [Mr. MORTON,] who was obliged to leave on account of sickness. I am in favor of the appropriation and he against it.

Mr. EDMUNDS. I have paired with the Senator from Maryland, [Mr. JOHNSON.] I am opposed to the amendment offered by the Senator from New Hampshire and in favor of this amendment. I do not feel at liberty to vote for this amendment because I do not know which way the Senator from Maryland would vote if he were here.

The question being taken by yeas and nays, resulted—yeas 13, nays 22; as follows:

YEAS—Messrs. Buckalew, Chandler, Conkling, Davis, Frelinghuysen, Hendricks, Howard, Howe, McGee, Sherman, Trumbull, Van Winkle, and Vickers—13.

NAYS—Messrs. Cattell, Conness, Cragin, Fessenden, Fowler, Harlan, McDonald, Morgan, Morrill of Maine, Nye, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Stewart, Sumner, Tipton, Willey, Williams, and Yates—22.

ABSENT—Messrs. Anthony, Bayard, Cameron, Cole, Corbett, Dixon, Doolittle, Drake, Edmunds, Ferry, Grimes, Henderson, Johnson, Morrill of Vermont, Morton, Norton, Rice, Saulsbury, Sprague, Thayer, Wade, Welch, and Wilson—23.

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment proposed by the Senator from New Hampshire, [Mr. PATTERSON,] from the Committee on Foreign Relations.

The amendment was agreed to.

Mr. YATES. I move to amend the bill by inserting after line four hundred and eighty-nine:

That the Secretary of the Interior in his discretion is authorized to expend the appropriation heretofore made for the purpose of erecting a penitentiary for the Territory of Colorado on the site belonging to and owned and provided for the purpose by said Territory.

I am directed by the Committee on Territories to report this amendment.

Mr. EDMUNDS. Has it been referred to the Committee on Appropriations?

Mr. YATES. It does not make any appropriation. I will state that an appropriation of \$40,000 was made to build a penitentiary in Colorado Territory, and the site was to be fixed under the direction of the Secretary of the Interior. The difficulty which I wish to obviate is this: the title to a grant on which it is to be built is in the Territory, and the Secretary of the Interior does not wish to expend the money without some instructions, inasmuch as the title to the ground is in the Territory. I presume there is no objection whatever to the amendment. It does not propose to make any new appropriation whatever, but simply that the Secretary of the Interior may, in his discretion, apply the money already appropriated.

Mr. MORRILL, of Maine. This would be an authority to the Secretary of the Interior to erect a prison on a different tract of land from that authorized by a previous appropriation?

Mr. HARLAN. I understand the difficulty which the Senator from Illinois seeks to obviate to be this: now by a general law no head of a Department can expend money in the erection of public buildings until the title shall have been shown to be clear and in the United States; but in making the conveyance of the site for the penitentiary the conveyance was made to the Territory of Colorado? So the Senator from Maine will see that there is a technical difficulty.

Mr. MORRILL, of Maine. This, then, is to authorize him to erect the building for which the appropriation was made, upon a different tract of land.

Mr. HARLAN. No, it is the same tract of land as I understand, but the land was conveyed to the Territory instead of being conveyed to the United States of America.

Mr. MORRILL, of Maine. And the former appropriation only authorized it to be erected on land belonging to the United States.

Mr. HARLAN. That is a general provision of law.

Mr. MORRILL, of Maine. And this proposes to authorize him to expend this money on land belonging to the Territory?

Mr. YATES. The Territorial Legislature fixed the site.

Mr. MORRILL, of Maine. The object of my inquiry was to learn whether it was an item of appropriation, or simply a direction of an appropriation already made.

Mr. CRAGIN. I will state that at the last session of Congress the Committee on Territories reported a bill authorizing the Territories to erect penitentiaries at an expense not exceeding \$40,000, to be taken out of the internal revenue taxes raised in the Territory.

Mr. EDMUNDS. When was that act passed?

Mr. CRAGIN. At the last session of the

Thirty-Ninth Congress. I reported it from the Committee on Territories.

Mr. EDMUNDS. I ask the Senator from New Hampshire to refer to the statute.

Mr. CRAGIN. Here is the book, [handing it to Mr. EDMUNDS.]

Mr. EDMUNDS. The act of 22d January, 1867, I see, appropriates of the revenues of that Territory that amount of money for that purpose. That being so, I do not see that there is any objection to the amendment.

The amendment was agreed to.

Mr. HARLAN. I offer this amendment as a new section:

*And be it further enacted, That the Assistant Secretary of the Interior shall be entitled to receive a sum equal to the difference between his salary as such and that of the Secretary of the Interior for and during the period he has heretofore acted pursuant to law as such Secretary during the absence from the seat of Government or illness of such Secretary, and such sum is hereby appropriated out of any money not otherwise appropriated.*

Mr. MORRILL, of Maine. I should like to inquire of the Senator who offers this amendment whether he understands that to be usual; whether there is any precedent for it; whether it is customary for the subordinates, when performing the duties of the head of the Department in such cases of sickness or absence, to receive the higher compensation.

Mr. HARLAN. Similar provision was made for the Assistant Secretary of another Department during this session, and it has been made, I think, frequently heretofore.

Mr. MORRILL, of Maine. Is this amendment moved by a committee?

Mr. HARLAN. The Committee on the District of Columbia.

Mr. EDMUNDS. Has it been referred to the Committee on Appropriations?

Mr. MORRILL, of Maine. Yes, sir; notice was sent to us.

Mr. EDMUNDS. Does notice do under the rule?

Mr. MORRILL, of Maine. I understand the rule to require that it should be referred.

Mr. EDMUNDS. Presented in the Senate and referred to the committee.

Mr. MORRILL, of Maine. I understand that was done.

Mr. HARLAN. It was presented and referred yesterday to the Committee on Appropriations.

Mr. SHERMAN. I have no objection to allowing Mr. Otto the pay of Secretary of the Interior during the time his chief has been employed as Attorney General. There is justice in that; but to adopt the general principle stated in the amendment would lead to innumerable claims. For instance, the Secretary of State has been occasionally absent at Auburn for a few days at a time. Is the Assistant Secretary to receive his pay during his temporary absence? In a case where an Assistant Secretary really does the business of the office and discharges its responsibilities, his chief being employed in the discharge of the duties of another department, I would not object to paying him the higher salary during that time, and the Government would lose nothing by that arrangement. I should be willing to give Mr. Otto the difference in pay during the time his chief has been acting as Attorney General.

Mr. FESSENDEN. How is it when the head of a Department is absent for several weeks because of sickness?

Mr. SHERMAN. The difference in pay has never been given so far as I know, and I do not think it ought to be done.

Mr. HOWE. You have, I guess, at least as many as half a dozen statutes on the book declaring that such payments as this shall not be made. If Congress is willing to pay an Assistant Secretary for acting in the place of the principal, it ought to be a general rule. If you put this provision in here, you will have a separate bill in every case where the head of a Department is absent for a short time and his assistant performs his duty. That is unnecessary legislation, even if it is just.

Mr. FOWLER. I want to know if the meaning of this is that the Assistant Secretary of the Interior shall have the same pay as the Secretary. When he is serving as Secretary I should like to know who is discharging his duties as Assistant Secretary. I thought he was placed there for the purpose of discharging the duties of the Secretary when the Secretary should be absent.

Mr. HARLAN. At this session we passed a bill on an amendment to some law giving the heirs of a chief clerk in the State Department the pay of Secretary of State during the period he served as Secretary of State. Such bills have been passed here repeatedly giving an Assistant Secretary the pay of Secretary during the time he acted as such on account of absence from the city or on account of sickness of the Secretary. I do not want to press this if it is not a proper thing to be done; and if those who are conversant with the custom of the Government in relation to such questions will say that it has not been done repeatedly in relation to other Departments I shall withdraw the amendment.

Mr. FESSENDEN. I believe the case of Mr. Dickens was an old matter, and for peculiar reasons. It arose before there were laws on the subject. There are now statutes on the subject, and that case cannot properly be cited as a precedent.

Mr. SHERMAN. The Senator from Iowa can see the distinction I make. The United States appropriate money, \$8,000 a year for the pay of the Attorney General, and \$8,000 for a Secretary of the Interior. While the Secretary is performing the duties of Attorney General according to law by assignment, important responsibilities are necessarily thrown upon his assistant, and I am willing to pay him for that time, because then the United States lose nothing; they pay only two officers of the higher grade, whereas if you extended the rule further and allowed for a temporary absence, as a matter of course the United States would be paying two officers for performing the same work, and that principle is forbidden by law. There is an express provision in a general law which declares that no officer shall receive the pay of his chief when there is no vacancy in the office, because as a matter of course that would involve two salaries for the same office. I do not know of any case where that has been granted.

Mr. HARLAN. I will accept the modification of the amendment suggested by the Senator from Ohio, to make it read that he shall receive the difference in pay between that of Assistant Secretary and Secretary during the time the Secretary has acted or may act as Attorney General.

Mr. EDMUNDS. I hope that will not be put on an appropriation bill, because if that is a true principle it ought to be applied to the other Departments, where the thing is happening constantly, and therefore it ought not to be put on this bill. In the next place, I doubt greatly the propriety of it at all. The fact is that when an Assistant Secretary performs the duties of Secretary he does not do any more work than he did perform, and he has the honor of being acting Secretary of the Interior, or of State, or whatever it may be. I am not speaking of this particular gentleman; I have no doubt he is as solid as anybody is; from what I know of him I have no doubt he is; but I speak of all of them. They do not wear themselves out any more than they did before; they get the pay they had before, and some clerk performs the duties they did before; and there is no need of paying them extra.

Mr. HARLAN. Judging from the expressions that have been made here, there is no use in urging the amendment, and I withdraw it.

Mr. PATTERSON, of Tennessee. I offer this amendment, to be inserted after line two hundred and twenty-five, on page 10:

To enable the Secretary of the Treasury to enlarge the lot in the city of Nashville for the erection of a custom-house, \$25,000.

It is proper for me to state that in offering

this amendment I do so under the instruction of the Committee on Commerce, and that the appropriation meets the approbation of the Treasury Department. It is simply to enlarge the lot of ground at Nashville for the site of the custom-house.

Mr. MORRILL, of Maine. I will state to the Senate what this is. In 1856 Congress appropriated \$20,000 to purchase a lot of land in the city of Nashville for the erection of a public building in that city, and the act limited the size of the building. The Secretary of the Treasury now communicates to the Committee on Commerce that the lot of land which was authorized to be purchased is not large enough for the erection of a suitable building, that there ought to be additional land procured for that purpose. The supervising architect has sent to the Committee on Commerce a plan of the building which is in harmony with the custom-houses that are being built now, and have been for the last six or eight years in the country generally, whereby it becomes necessary to acquire additional land. As I understand the matter, the Committee on Commerce recommend that the Secretary of the Treasury be authorized to acquire additional land for that purpose, and this appropriation is made to enable him to do it.

Mr. POMEROY. Land for what? To erect a building on?

Mr. MORRILL, of Maine. A custom-house, court-house, and post office.

Mr. EDMUNDS. How much land have they now?

Mr. MORRILL, of Maine. One hundred feet by fifty perhaps; and the plan of the building is one hundred and twenty feet.

Mr. POMEROY. They want \$25,000 for more land?

Mr. MORRILL, of Maine. Yes, sir.

Mr. EDMUNDS. What is the amount of receipts from imports at that port?

Mr. MORRILL, of Maine. I do not know. What I mean to say about it is that heretofore an appropriation of \$20,000 was made to buy land for the erection of a public building in the city of Nashville, and that is found now to be inadequate; there is not land enough on which to erect such a building as is recommended by the supervising architect and by the Treasury Department.

Mr. EDMUNDS. My inquiry was what was the amount of yearly receipts from customs at that port?

Mr. MORRILL, of Maine. I do not know. Very likely the Committee on Commerce may know.

Mr. FOWLER. I do not wish to take up the time of the Senate in discussing this \$25,000 appropriation for the purchase of land for the site of a building for a custom-house in the city of Nashville, when there never has been one dollar of money expended in the State of Tennessee by this Government for any public building whatever. In 1860 a lot was purchased by the Government, which is there now; it is too small for the purpose of erecting this building. Instead of being worth \$20,000 now, that lot is worth \$100,000. We add a certain quantity of land so as to make the lot large enough to erect a building suitable for the purpose. We need a custom-house, a post office, and a court-room, as in other cities. It is certainly a very small amount, much smaller than has been expended in any city of the same size in any State of the Union. I am very well aware that the citizens there will have to make up some of the money needed to secure land enough to build a suitable building upon.

I do not recollect the amount of receipts from customs, but the internal revenue of that district is very large, and previous to 1860 the receipts from customs were considerable; at the present time they are small, and have been since 1860. Of course the customs ought now to increase very rapidly. I could make a statement of the size of the buildings constructed in other cities of the Union, and also of the prices for which they were erected, if it were

necessary, but I do not think it is necessary to go into such statistics for the purpose of making clear the propriety of this little appropriation of \$25,000 to be expended in the State of Tennessee.

Mr. POMEROY. I would not like to oppose anything that ought to be done; but if this is for the purpose of an internal revenue office or post office it ought to be so stated. I understand it to be for a custom-house.

Mr. FOWLER. All the officers of the Government there are to be in this custom-house building, I understand.

Mr. POMEROY. The Senator represents they have large internal revenue receipts, and need a post office, but he fails to tell us in regard to the receipts from any commerce that passes through the custom-house. I am willing to give to these States any reasonable appropriation for anything that we are in the habit of appropriating for in any State; but I never thought of asking for an appropriation for my own State for the purpose of building post offices or an internal revenue office, although I presume they would be very acceptable and desirable. States which are so situated that do not have much commerce cannot expect to have custom-houses. I would not call this a "custom-house;" call it some other name.

Mr. CHANDLER. It is well known that in Cleveland, Detroit, Chicago, Milwaukee, and other cities, buildings were erected for custom-houses, post offices, and court-houses, and all the Government offices. This amendment simply authorizes the extension of the size of the lot at Nashville to enable them to rent a building relatively of the same size as in these other cities.

Mr. PATTERSON, of Tennessee. If my friend from Kansas would look to the law of 1856, authorizing the erection of this custom-house at Nashville he would see that the building at Nashville is not only intended for a custom-house, but for the use of the courts of the United States, and the post offices and other offices connected with the Government of the United States.

The amendment was agreed to.

Mr. CAMERON. I move to amend the bill by inserting an appropriation of \$25,000 for a post office building in the city of Harrisburg, Pennsylvania. I believe there is now no town of that magnitude in the United States that has not such a building erected by the Government. The post office at Harrisburg yields a large revenue to the Government, and the safety of the mails and the dignity of the Government require that there should be such a building there.

The PRESIDENT *pro tempore*. Is the amendment reported from a committee of this body?

Mr. CAMERON. Well, Mr. President, it ought to have been reported before. [Laughter.] I suppose if the chairman of the Committee on Appropriations will "accept service" now that will do.

The PRESIDENT *pro tempore*. The amendment can be entertained by unanimous consent. Is there any objection to the amendment?

Mr. MORRILL, of Maine. It is not in order?

Mr. POMEROY. I did not understand what the amendment was.

Mr. CAMERON. The amendment is to appropriate the sum of \$25,000 for the erection of a post office in the city of Harrisburg, Pennsylvania, on condition that such a building as the Secretary of the Treasury shall direct to be erected shall not cost more than that sum, because if it does cost more I pledge myself that the people of Harrisburg will make up the additional sum.

Mr. POMEROY. It would be a pretty good precedent to set, because I want to move a similar appropriation when this amendment is adopted.

The PRESIDENT *pro tempore*. The amendment will be reported.

Mr. FESSENDEN. It was objected to.

The PRESIDENT *pro tempore*. The amendment has been renewed.

Mr. MORRILL, of Maine. The objection having been made once, it was hardly necessary to renew it.

Mr. CAMERON. It is not exactly the same proposition, because I have added a condition that the money shall be appropriated on condition that the people of Harrisburg shall pay the additional sum which the Secretary of the Treasury shall say is necessary to erect a proper building.

Mr. MORRILL, of Maine. I suppose the Senator is hardly serious in urging this proposition. There is no instance where the Government has built a post office by itself. In large seaports, and perhaps in some other places where a custom-house has been necessary, provision has been made for a custom-house building that should also contain accommodations for the post office and the United States courts. There is no instance, I believe, where an appropriation has been made for building a post office by itself; and by law the Post Office Department is authorized to provide all necessary accommodations for post offices. I must enforce the rule on the Senator.

Mr. CAMERON. I do not think the chairman will do that when he comes to look at the case. When we have a United States court at Harrisburg we are perfectly willing that it shall have rooms in this building without charge. Just think of it, at the seat of government of what is admitted to be next to the greatest State in the Union we have no place for the post office there unless it is by the sufferance of the people who own the buildings.

Mr. MORRILL, of Maine. That is the case everywhere.

Mr. CAMERON. No; it is not the case at Portland, in Maine.

Mr. MORRILL, of Maine. It is the case in my own city.

Mr. CAMERON. We have provided in this very bill for such a building at Portland, in Oregon.

Mr. MORRILL, of Maine. My own city is parallel precisely to the honorable Senator's case as to being the seat of government, though not parallel in greatness as regards the comparative importance of States; and I should hardly think of moving the same thing for Augusta.

Mr. CAMERON. This is the difference between the cases: the post office in the town which is the seat of government of the State of Maine I think gives no surplus, or very little, while at Harrisburg it is a very large one. The Harrisburg office is the most profitable post office to the Government in the State of Pennsylvania, outside of Philadelphia, and Philadelphia is the most profitable in the Union, not excepting New York.

Mr. FESSENDEN. I believe this is all out of order. The question of order has been raised, and it is not debatable.

The PRESIDENT *pro tempore*. It was so feebly raised that the Chair did not know whether it was intended to be insisted on or not. [Laughter.] In the mean time gentlemen go on to argue it. I suppose they waive the point of order when they go on to argue the question. Points of order should be made promptly *in limine*; and when gentlemen proceed to argue the merits of a proposition it is to be presumed they waive points of order.

Mr. CAMERON. Now, it depends entirely on the chairman of the Committee on Appropriations whether he will insist on his rule or whether I shall have my amendment put on the bill.

Mr. ANTHONY. I suggest to the Senator from Pennsylvania that he can readily remove the only objection the Senator from Maine makes to the proposition. The Senator from Maine says that no post office buildings are constructed unless there is a custom-house in the same building. If the Senator from Pennsylvania will consent that there shall be a custom-house in this building I suppose the Senator from Maine will withdraw his objection?



Mr. CAMERON. Certainly.

The PRESIDENT *pro tempore*. If a question of order is made the amendment cannot be received.

Mr. MORRILL, of Maine. If I understand the Chair so to rule, I have a motion to make.

The PRESIDENT *pro tempore*. The Chair so rules, of course.

Mr. MORRILL, of Maine. I call the attention of the Senate to the ninth page of the bill, line two hundred and six:

For repairs and outfits, \$15,000.

The estimate was \$170,000; and I am told that \$15,000 is a misprint; it should be \$150,000.

Mr. EDMUNDS. "Repairs and outfits" of what?

Mr. MORRILL, of Maine. It is in regard to the revenue-cutter service. I move to make the appropriation \$150,000 instead of \$15,000.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The amendments made as in Committee of the Whole were concurred in.

Mr. HOWE. I wish to renew a motion to amend made by the Committee on Appropriations, to strike out the appropriation for marine hospitals, and I wish to add to what I said the other day on that subject a few remarks made by the Secretary of the Treasury in his report submitted in 1865; one page is all I wish to read:

"The working of the marine hospital system as at present constituted is not altogether satisfactory. The erection and repair of numerous expensive buildings, and the support of the establishments necessarily connected with their operations, have entailed upon the Government a yearly expense far beyond the amount contributed by the seamen, which has been met by large annual appropriations by Congress.

"The act of July 16, 1798, by which the system was created, and the rate of contribution fixed at twenty cents per month, confined the action of the Government to the simple expenditure, for the benefit of the seamen, of the amounts thus contributed by themselves, and contemplated laying no burden on the public Treasury. If it is deemed advisable to continue any system of relief, under control of the Government, it is respectfully suggested that the original intent of the law should be carried into effect and the fund made self-sustaining. With this view it will be necessary to increase the fund and to make a material reduction in the expenses.

"Experience has shown, and former Secretaries have at various times and with entire unanimity represented to Congress, that the system of public marine hospitals, maintained and managed by the Government, is the least economical method that has been devised for the administration of this fund, and affords the least comparative benefit to the seamen. The expenses of these establishments are large, independently of the number of seamen received in them. When the patients are numerous the average rate of expense per man is not unreasonable; but where they are few, as at most of the public institutions, the expense *per capita* is very largely in excess of the cost of maintaining them under contract at private, State, or municipal institutions, where they would be better accommodated at an expense exactly proportioned to the services rendered.

"Mention may be made, in illustration, of one of these public hospitals, which is maintained at an annual expense of upward of four thousand dollars, and which accommodates an average of less than a single patient, at a daily cost *per capita* of more than \$14 50; while quite as satisfactory relief can be had under contract for about one dollar per day.

There are, moreover, several hospital buildings, erected at great cost, now lying idle, out of repair, and not available for their intended use. Some of these have never been occupied, and one, at least, is situated at a point remote from any port, and where relief is never demanded. Others now occupied are in a condition requiring large and immediate outlay to preserve them.

"In view of these facts, it is strongly recommended that authority be conferred by law upon this Department to sell such hospitals as experience has shown are not needed, retaining only those situated at important ports, where, by the course of commerce, demands for relief are likely to be most frequent and pressing, and where contracts on favorable terms cannot be procured with private or municipal institutions. The proceeds should either be returned into the Treasury, in repayment of their cost, or invested for the benefit of the hospital fund.

"In favor of the contract system it may be remarked that it is in operation most successfully at New York, where demands for relief are far the heaviest, at Baltimore, Philadelphia, St. Louis, Louisville, and Cincinnati; and it is believed that quite as advantageous and satisfactory arrangements might be made at other ports where Government hospitals

are now located. Even at ports where it may be deemed best to retain the ownership of the hospital buildings it might be advisable to lease them to private or municipal hospitals, which would gladly receive the seamen on favorable terms. Such an arrangement was formerly in force at Charleston, South Carolina, much to the advantage of the patients and the fund.

"Should these suggestions be adopted, and at the same time the rate of contribution fixed at thirty cents a month, instead of twenty, as at present, the proceeds of the tax, thoroughly collected and economically administered, would be ample to meet every demand which a judicious discrimination in affording relief would make upon them; and the seamen would receive far more substantial and efficient benefit than under the present system."

Mr. President, I showed the Senate the other day that up to 1846 there never had been a dollar contributed by the nation to this fund but once, and that was in lieu of the twenty-cents tax. That took place in 1837. I showed that repeatedly since 1846 Congress had omitted all appropriations. I showed that when they first commenced making appropriations they commenced appropriating twelve or fifteen thousand dollars per annum, the highest being \$25,000, until one year they appropriated \$200,000 in aid of this fund and to furnish five different hospitals. Putting the two subjects together, the appropriation was \$200,000. I now produce the testimony of the Secretary of the Treasury, who says that if you will take ten cents more a month, that is to say \$1 20 a year, from the men who are employed in this service, and add it to the fund, the sailors can be taken better care of with that fund than they are with the money which you appropriate; and the only argument alleged, as I remember, the other day in favor of this appropriation was that the wages of the seamen—for they get wages—were spent so thriftlessly and shiftlessly for purposes of dissipation that they would not save anything to take care of themselves; so that this \$1 20 a year which the Secretary proposes to take out of their wages is money which confessedly, if it is not taken, will be squandered in dissipation. Take that ten cents away, says the Secretary, and you can save to your Treasury \$150,000 a year. Now I ask the Senate to make that substitute, to refuse this appropriation, and then put that clause in the bill; and I want the yeas and nays on that proposition.

The yeas and nays were ordered.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. The amendment is to strike out from lines forty-seven to fifty-four the following clause:

For supplying deficiency in the fund for the relief of sick and disabled seamen, \$150,000: *Provided*, That hereafter the Secretary of the Treasury shall communicate at each annual session of Congress a full and complete statement in detail of the amounts collected from seamen, and also the amount expended for sick and disabled seamen, in accordance with the provisions of the act of May 3, 1802.

Mr. FESSENDEN. The report from which the Senator read was the first report, I believe, that was made by the present Secretary of the Treasury. The Senator is not disposed to place much reliance on the opinions of the present Secretary of the Treasury, but with these he is disposed to agree.

Mr. HOWE. The Senator is entirely right. I did not read that to strengthen myself, but I put it to influence the conviction of the Senator. I never knew him to differ with the Secretary of the Treasury when he asked an appropriation, and I hoped he would follow him when he discouraged one.

Mr. FESSENDEN. He does not discourage that appropriation now. He suggests a change of the system. I do not think he knew at that time anything about it. I know precisely how that was got up; he sent a clerk of his Department, who was officiating as librarian, I forget his name, to look at the hospitals around the country, and he made an examination and gave his opinions when he came back, and upon the opinions of that clerk the Secretary founded his report. The suggestion made has a good deal of plausibility in it; but if we are going to change the system it must be done as a whole. You cannot do it by diminishing the

fund at once, which is absolutely necessary under the present system. If the system is to be changed it cannot be changed now by striking out a necessary appropriation, because it is a matter that must be done by degrees. If you omit to make the needed appropriation either they go on and there is a deficiency to be made up, or else you must shut up some of these hospitals, turn the men out of doors, and that without making a new arrangement for a contract system of some kind or other.

I am of opinion, as I stated the other day, that we have too many of these hospitals. We have them at some places where neither the present demands for supporting sick and disabled sailors nor the prospective demands are such as to justify the erection of a building. A great many buildings have been erected, more especially up and down the Mississippi river, more I think than are necessary there. Some have been sold; considerable reforms have already taken place; Congress has authorized the sale in several places of hospitals that were not needed and where the expense of keeping them up was necessarily very great comparatively in consequence of there not being sufficient demand to justify the erection and keeping up of a building. Probably the reason a marine hospital has not been built at the city of New York is that the city of New York has so many sailors that no one hospital we should be likely to erect could hold all who ought to be accommodated. At any rate, they have not begun the system there; for what reason I do not know. Perhaps it was unwise to change the old system, but I am myself of a different opinion, and I have been always of a different opinion. I do not think it operates well in all cases to leave these men to the tender mercies of contractors; but where you have a large extent of sea-coast and a great deal of navigation it is better to have a hospital, and have it properly cared for and properly managed. We want more or less of them, how many I do not know.

If the Senator desires to correct the evil it must be done systematically. You must examine, in the first place, and see how many hospitals can be dispensed with and sold, and how many it is necessary to retain; because there are some places where they are necessary for these purposes, and others where they are not. Take the hospital that is erected in my city. It cost with the furniture, probably about sixty thousand dollars. The Senator says "sell it for a town hospital." It is a little out of the city, though on the harbor. It is in the town of Westbrook. The town of Westbrook has no need of it, nor has the city of Portland. The city of Portland has ample accommodations for all its poor. It would not be good for any purpose. It would not bring \$10,000. It would only bring what the materials would sell for when taken down. It is the only marine hospital for about three hundred miles of sea-coast. Will you shut up that hospital at once without making another arrangement.

I say, then, that if my friend wishes to arrive at a proper conclusion—and I have no sort of objection to its being tried—there should be an examination made to see what number of different hospitals can be dispensed with, which of them ought to be sold, and then provision should be made by law to exact more of the sailors, if you mean to meet it in that way; but at present you have no law on that subject, and it is not very likely that you can get a law through at this session of Congress. This sum is necessary for the succeeding year; you cannot begin a reform of this kind by simply saying that money which is absolutely needed for the system as it exists shall not be appropriated and then leave everything to chance afterward to make it up. That is no way to begin, because it is an important system and we have got to take care of these people in some way or other.

If, therefore, the Senator wishes to substitute the contract system, entirely sweep out all these hospitals, let us have a well-digested plan for that purpose, and not begin by striking out this appropriation which, in the exist-

ing state of things, is absolutely necessary to the support of the seamen. That is what I object to. I will, if I remain in Congress long enough, go with the Senator to examine this system thoroughly, and if there are errors in it that ought to be corrected, to correct them, dispose of the hospitals we do not need, substitute the contract system where it will be more advantageous; but to strike out at once an appropriation that is absolutely necessary for the system as it exists, is, in my judgment, not wise legislation, and is not the right end to begin at, because there is nothing provided to make up for what is absolutely necessary.

Mr. DRAKE. I want to make a suggestion to the honorable Senator from Wisconsin about this matter which, perhaps, may have some weight with him: I think the principal objection which has existed to these hospitals has grown out of the want of efficient superintendence of them. They have been very much more expensive heretofore than there was any necessity for, the custom-house officers having the matter put into their hands of providing for them without understanding that business. To remedy that difficulty the Senate has passed at the last session a bill authorizing the appointment of a supervising surgeon, whose duty it shall be to examine the condition of all these hospitals, to supervise the operations of them, and the supplies for them. I would suggest to the honorable Senator from Wisconsin whether it would not be wiser, in regard to this matter, to wait until such an officer as that has had the subject in hand long enough to investigate the condition of them and to put us in the right track for remedying any objections that may have existed heretofore to the system.

Mr. COLE. I have no objection to any more economical disposition that can be made of sailors who have become disabled or sick in the service, but this proposed rejection of the appropriation will be followed, as I see, by no provision whatever for them. These hospitals are established, I believe, by particular laws, and it appears to me the proper way to effect a remedy would be by reorganizing the system, modifying the laws, and not by withholding an appropriation. There is one of these establishments at San Francisco, a very large marine hospital, established by the General Government. It has been in use a long time, and has generally been well filled with patients. If the amendment of the Senator from Wisconsin should prevail, it seems to me it must necessarily result in closing it up, and of course in great distress to the inmates of the hospital. I presume the appropriation of \$150,000 may be sufficient. I am willing to agree to that reduction which has been made, but I am opposed to striking out the appropriation entirely.

Mr. HOWE. Now, I call attention to the fact that here are the Senator from Maine, the Senator from California, and the Senator from Missouri, insisting upon this appropriation of \$150,000, and insisting upon it simply because you have got so many hospitals to take care of, and not because you have got so many seamen to take care of. The Secretary of the Treasury says that you can take care of the seamen without any money from the national Treasury if you will add ten cents a month out of the funds of the seamen.

The Senator from Maine says here is a system and you are in danger of disturbing the system by suddenly cutting off this appropriation; that the true way to effect a reform is to see how many hospitals you can dispense with, and then when you have dispensed with these see how much money you want out of the Treasury. Mr. President, in answer to that, I call his attention and that of the Senate to the fact that more than half a dozen times since 1846, when you made your first appropriation to this fund, you have made no appropriation at all. You did not make any appropriation in 1865, not a dollar to this fund, and the seamen did not suffer; at least if they did, we did not hear of it.

And yet it is suggested that if you do not

make this appropriation while you are investigating the system the seamen will suffer. No, sir; let the hospitals stand; let the seamen occupy them if those who contract to take care of them think they can take care of them there the cheapest. All I propose to do is to withhold this appropriation which you have demonstrated over and over again is not necessary, and then to add to the seamen's fund ten cents a month more than you now collect from it. That, the Secretary says, will take care of them, and take better care of them than has been taken of them heretofore. Then you can make up your minds at your leisure whether your hospitals are necessary or not. My amendment has nothing to do with them; it will not destroy them; it will not dissipate them; it leaves them where they are.

Mr. COLE. The estimates are based on some information which the Department has on the subject.

Mr. HOWE. The Secretary of the Treasury has nothing to do with the estimates. His board submit the sum they want, and they ask \$200,000 this year because they had it before.

Mr. COLE. I presume they are able to give good reasons why the appropriation should be made.

The question being taken by yeas and nays, resulted—yeas 11, nays 20; as follows:

YEAS—Messrs. Buckalew, Cameron, Conkling, Conness, Edmunds, Howe, McCreery, Trumbull, Wade, Williams, and Yates—11.

NAYS—Messrs. Anthony, Chandler, Cole, Gragin, Drake, Fessenden, Fowler, Frelinghuysen, Harlan, McDonald, Morgan, Morrill of Maine, Osborn, Patterson of New Hampshire, Ramsey, Ross, Stewart, Sumner, Vickers, and Welch—20.

ABSENT—Messrs. Bayard, Cattell, Corbett, Davis, Dixon, Doolittle, Ferry, Grimes, Henderson, Hendricks, Howard, Johnson, Morrill of Vermont, Morton, Norton, Nye, Patterson of Tennessee, Pomeroy, Rice, Salisbury, Sherman, Sprague, Thayer, Tipton, Van Winkle, Willey, and Wilson—27.

So the amendment was rejected.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed the bill (S. No. 347) to confirm the title of Ethan Ray Clarke and Samuel Ward Clarke to certain lands in the State of Florida, claimed under a grant from the Spanish Government.

The message also announced that the House had passed a bill (H. R. No. 1206) to restore to certain parties their rights under the laws and treaties of the United States; in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 411) for the relief of Almira Wyeth;

A bill (H. R. No. 523) granting a pension to James S. Todd;

A bill (H. R. No. 671) granting a pension to the widow of Henry Keneday;

A bill (H. R. No. 775) granting a pension to Rebecca Jane Kinsel;

A bill (H. R. No. 780) for the relief of Martha M. Jones, administratrix of Samuel T. Jones;

A bill (H. R. No. 1129) for the relief of the widow and children of Colonel James A. Mulligan, deceased; and

A joint resolution (H. R. No. 312) relative to the pay of the Assistant Librarian of the House.

#### PENSION BILLS.

The message also announced that the House had disagreed to the amendments of the Senate to the following bills:

A bill (H. R. No. 373) to place the name of Mahala A. Straight upon the pension-roll of the United States;

A bill (H. R. No. 456) granting a pension to the minor children of Pleasant Stoops;

A bill (H. R. No. 518) granting a pension to George F. Gorham, late a private in company B, twenty-ninth regiment Massachusetts volunteer infantry;

A bill (H. R. No. 522) granting a pension to W. W. Cunningham;

A bill (H. R. No. 525) granting a pension to Jeremiah T. Hallett;

A bill (H. R. No. 661) granting a pension to the widow and minor children of William Craft;

A bill (H. R. No. 662) granting a pension to the widow and minor children of George R. Waters;

A bill (H. R. No. 663) granting a pension to Cyrus K. Wood, the legal representative of Cyrus D. Wood;

A bill (H. R. No. 664) granting a pension to the minor children of Charles Gouler;

A bill (H. R. No. 666) granting a pension to Henry H. Hunter;

A bill (H. R. No. 669) granting a pension to the widow and minor children of Myron Wilklow;

A bill (H. R. No. 670) granting a pension to the widow and children of Andrew Holman;

A bill (H. R. No. 521) to place the name of Solomon Zachman on the pension-roll;

A bill (H. R. No. 673) granting a pension to the widow and minor children of John S. Phelps;

A bill (H. R. No. 672) granting a pension to the widow and minor children of Charles W. Wilcox;

A bill (H. R. No. 676) granting a pension to Thomas Connolly;

A bill (H. R. No. 677) granting a pension to the minor children of James Heatherly;

A bill (H. R. No. 770) granting a pension to John H. Finlay;

A bill (H. R. No. 675) granting a pension to the widow and minor children of Cornelius L. Rice;

A bill (H. R. No. 771) granting a pension to John L. Lay;

A bill (H. R. No. 773) granting a pension to William H. McDonald; and

A bill (H. R. No. 825) granting a pension to John W. Hughes;

And asked a conference on the disagreeing votes of the two Houses on the bills, and appointed Mr. SIDNEY PERHAM of Maine, Mr. J. F. BENJAMIN of Missouri, and Mr. G. F. MILLER of Pennsylvania, managers at the conference on its part.

On motion of Mr. VAN WINKLE, the Senate proceeded to consider the message received from the House of Representatives informing the Senate of its disagreement to the amendments of the Senate to the bills of the House last named.

On motion of Mr. VAN WINKLE, it was

*Resolved*, That the Senate insist upon its amendments to the said last-named bills, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses on the said bills.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. VAN WINKLE, Mr. TRUMBULL, and Mr. EDMUNDS.

#### BILL RECOMMITTED.

On motion of Mr. STEWART, the bill (S. No. 349) granting aid in the construction of a railroad from the town of Vallejo to Humboldt bay, in the State of California, was recommitted to the Committee on Public Lands.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 1206) to restore to certain parties their rights under the laws and treaties of the United States was read twice by its title, and referred to the Committee on the Judiciary.

#### ELECTORAL VOTES OF LATE REBEL STATES.

Mr. EDMUNDS. I move that the Senate proceed to consider Senate joint resolution No. 139, relating to the counting of electoral votes.

Mr. SUMNER. I wish to remind my friend

that to-morrow at one o'clock has been set apart for the business of the District of Columbia.

Mr. EDMUNDS. I cannot help that. We will do the best we can. This is business of the District of Columbia.

The motion was agreed to.

Mr. CONKLING. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, July 2, 1868.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The reading of yesterday's Journal was, by unanimous consent, dispensed with.

### TAX ON INTEREST OF BONDS.

Mr. HOOPER, of Massachusetts, from the Committee of Ways and Means, reported a bill (H. R. No. 1350) to authorize internal tax on the interest of bonds and other securities of the United States; which was read a first and second time.

The bill and report were read *in extenso*, as follows:

A bill to authorize an internal tax on the interest of the bonds and other securities of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the passage of this act there shall be levied, collected, and paid a tax of ten per cent. on the amount of interest hereafter due and payable on all the bonds and other securities of the United States. To secure the collection of said tax, the amount of interest hereafter paid on any bonds or other securities of the United States, bearing interest at six per cent., shall be at the rate of only five and four tenths per cent., and bearing interest at the rate of five per cent. shall be at the rate of only four and five tenths per cent.; and if bearing interest at the rate of three per cent. shall be at the rate of only two and seven tenths per cent. per annum. No higher rate of interest than is herein prescribed shall be paid on any bond or other security of the United States now outstanding, or authorized to be issued, all conditions of any such bond or other security, and all laws and parts of laws to the contrary notwithstanding.

The Committee of Ways and Means, to whom was referred the resolution of the House, instructing them to report without unnecessary delay a bill levying a tax of at least ten per cent. on the interest of the bonds of the United States, to be collected by the Secretary of the Treasury and such of his subordinates as may be charged with the duty of paying the interest on the bonded debt of the United States, have had the same under consideration, and beg leave to submit the following report and bill:

The Committee of Ways and Means are opposed to the proposition embraced in this resolution, and report the bill only in obedience to the positive order of the House. In the argument made in the House in favor of the resolution the English income tax law was referred to and quoted. There is a law corresponding to that law on the statute-books of this country, imposing a tax on incomes of five per cent., while the English law is less than three per cent. But your committee have been unable to find in the statute-books of England or any other civilized country a law that could be regarded in any way as a precedent for the bill the House have instructed the committee to report, which, if enacted, will be simply a law providing for the payment of a rate of interest on the Government debt ten per cent. less than was agreed for, ten per cent. less than is stated in the bonds, and ten per cent. less than was pledged to be paid by the solemn enactment of Congress when the money was required to carry on a war which threatened the life of the nation. The evil effects resulting to a nation, whether her national credit is guarded and protected, or whether by legislation of the character now proposed the confidence of all other civilized nations is forfeited, may not be felt or appreciated in time of peace; but the committee desire to call attention to the consequences that would follow the passage of a bill of the character now submitted, in case we should ever hereafter have occasion to use our credit for the purpose of providing means either to sustain ourselves at home or to defend ourselves in any collision with a foreign Power.

The committee repeat that in reporting the bill they act in obedience to the positive directions of the House, and contrary to their own best judgment. They reserve to themselves their rights, as members of the House, to oppose in every possible way the adoption of a measure which they regard as hostile to the public interest and injurious to the national character.

Mr. HOOPER, of Massachusetts, moved that the bill and report be referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

The motion was agreed to.

Mr. HOOPER, of Massachusetts. I move

to reconsider the vote by which the bill was referred; and also move that the motion to reconsider be laid on the table.

Mr. WASHBURN, of Indiana. I demand the yeas and nays on the latter motion.

The SPEAKER. It cannot be brought back into the House by a motion to reconsider except by unanimous consent, as it is a bill which must have its first consideration in the Committee of the Whole on the state of the Union.

Mr. HOOPER, of Massachusetts. I withdraw my motion.

### EXPORTERS OF RUM.

Mr. HOOPER, of Massachusetts, from the same committee, also reported back House joint resolution No. 318, to correct an act entitled "An act for the relief of certain exporters of rum," with the recommendation that it do pass.

The resolution provides that the word "and," where it occurs in said act after the word "export" and before the words "actually contracted," be changed into "or;" so the corrected act shall read, "intended for export or actually contracted for."

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOOPER, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### INTEREST ON THE PUBLIC DEBT.

Mr. BUTLER, of Massachusetts. I ask consent to introduce a bill to equalize taxation and reduce the interest on the public debt, for reference to the Committee of Ways and Means.

Mr. RANDALL. Let the bill be reported.

Mr. BUTLER, of Massachusetts. I only desire to have it referred.

Mr. RANDALL. I want to hear what it is.

The SPEAKER. The gentleman from Indiana [Mr. ORTH] demands the regular order, which excludes all business but that which is privileged. This, therefore, cannot be considered unless the gentleman withdraws his demand.

Mr. ORTH. I am willing myself to do so, but there are gentlemen around me who insist upon the regular order.

The SPEAKER. The bill is, then, not before the House.

### DIVISION OF TEXAS.

Mr. STEVENS, of Pennsylvania. The Committee on Reconstruction, who have been some time considering the matter, have come to a unanimous agreement to report back the bill which was sent to them for perfection (H. R. No. 1203) to provide for the erection of not more than two additional States out of the territory of the State of Texas, and for other purposes, with one amendment.

Mr. BOUTWELL. Does the gentleman expect to put it on its passage to-day?

Mr. STEVENS, of Pennsylvania. That was the intention.

Mr. BOUTWELL. I hope that will not be done. I did not expect it would be disposed of to-day.

Mr. STEVENS, of Pennsylvania. What day would suit the gentleman better? If the gentleman will fix a day I am willing it should be done.

Mr. BOUTWELL. I do not know about the state of business before the House. Let the bill be printed and recommitted.

Mr. STEVENS, of Pennsylvania. I have received letters and telegrams from the convention. They are very anxious we should act upon the bill so that they may act. I will consent, however, to have it printed and recommitted, and I will consult the gentleman when to call it up.

Mr. WILSON, of Iowa. Is this a subject upon which the committee can report at any time?

The SPEAKER. It is.

Mr. BECK. Will not the gentleman agree to fix Wednesday next, when Mr. BINGHAM and Mr. BROOKS will be here?

Mr. STEVENS, of Pennsylvania. I will not fix any time now, because it might not suit my friends.

Mr. BECK. I desire it should not come up before those gentlemen are here.

The bill was ordered to be printed, and recommitted to the committee.

### PRIVATE LAND CLAIMS IN CALIFORNIA.

The SPEAKER. The morning hour has now commenced, and the House resumes the consideration of House bill No. 1206, to restore to certain parties their rights under the laws and treaties of the United States, pending at the expiration of the morning hour yesterday, on which the gentleman from Maryland [Mr. STONE] is entitled to the floor.

Mr. STONE. I yield to the chairman of the Committee on Private Land Claims.

Mr. ORTH. When the morning hour expired yesterday I was opposing the adoption of the proviso to this bill offered by the gentleman from California, [Mr. JOHNSON.] I will now say to that gentleman that if he will offer his amendment as a substitute for the proviso now attached to the original bill I will withdraw my opposition.

Mr. JOHNSON. I will do so. I move to strike out all after the words "provided further," in the substitute, as follows:

That such confirmation shall not affect the rights of third parties, but shall establish simply the title of the claimant as between him and the United States.

And to insert in lieu thereof the following:

That all persons who, previous to the passage of this act, have acquired any valid right or title to any of the lands embraced within the provisions of this act under the preemption or homestead laws, or otherwise, shall be protected in their rights.

That amendment will make the bill as it was originally.

Mr. ORTH. I am willing a vote should be taken on the adoption of the amendment.

The amendment was agreed to.

Mr. ORTH. Before resuming my seat I desire to say that this bill enables parties to go into our own courts of justice and test their rights under the treaty of Guadalupe Hidalgo, and also whatever rights they may have acquired under the homestead and preemption laws of the United States. The bill was thoroughly considered not only by the Committee on Private Land Claims, but by the Committee on the Public Lands, and is unanimously reported to this House.

Mr. STONE. In the absence of the gentleman from Pennsylvania, [Mr. WOODWARD,] who left the city yesterday, it has fallen to my lot to give a brief explanation to the House of this bill, and in order to understand it thoroughly it is necessary to refer back to the treaty made between the United States and Mexico. By that treaty the United States agreed to respect all Mexican or Spanish titles, and for the purpose of ascertaining the public lands in the State of California they appointed a land commission, and required landholders, or those who held grants from Spain or Mexico, to exhibit to this land commission the evidence of their titles, and the commission was to decide upon the validity of those titles granted to the parties on appeal, first to the district court, and then to the Supreme Court of the United States. The commission commenced and continued its session, but by the act only two years were allowed the parties to present their claims and have them adjudicated upon. After a while the act was further extended for two years, making four years in all. That time has expired, and it has been found by examination that there are a variety of claimants in California who claim titles under the Mexican and Spanish Governments, who, owing to the short time allowed by the original act of 1851, have not yet had an opportunity to have their claims presented and adjudicated upon. The sole object of this bill is to extend the time one year longer. This is no new bill. It enunciates no new princi-



ple. It merely extends the provisions of the act of 1851 for one year from the passage of this bill. There is not a line or a letter in the bill that establishes any new principle whatever, or any principle different from what has been established by the acts of 1851 and 1860, and that principle was simply to distinguish and discriminate between what were public lands in the State of California and what were private lands. These parties only ask to be allowed to go into the courts and establish as between themselves and the United States whether they hold a valid grant under the Mexican or Spanish Government? There has been a variety of claims presented, which, owing to the expiration of the act of 1851, could not be adjudicated.

Some objections were made yesterday to this bill by some of the gentlemen from California; but those objections have now been obviated by the adoption of the proviso offered by the gentleman from California, [Mr. JOHNSON.] I will state that this bill has been thoroughly examined by two committees of this House, and they have reported unanimously in its favor. The committee that I represent supposed and believed that the proviso that they had incorporated in the bill accomplished the very object contemplated by the gentleman from California, [Mr. JOHNSON,] and also by his colleague, [Mr. HIGBY.] This bill interferes with no vested rights whatever. It disturbs no man's possessions. It disturbs no man's rights. It merely gives to citizens of the United States the right to go into the courts and establish their title by existing law. What possible objection there can be to the bill I cannot see. I will state that if there is any settler upon the land who has any valid title, by the very terms of the bill he is protected, and the court has to settle that question. It is, in fact, only a bill to open the doors of the Supreme Court of the United States to our own citizens where they have been closed by the lapse of time under the original act as against the United States and nobody else. This bill does not attempt to settle conflicting claims between private individuals. It does not touch or trench on any man's rights. It simply says to the citizens of California, if you have any valid grant derived from the Mexican or Spanish Government that you can prove beyond a doubt before the courts the doors of the courts shall be open to you. The time prescribed by the original act was too short for a State of the magnitude of California. It was found absolutely necessary once before to extend the time to allow all the persons in interest to go into the courts.

Mr. BOUTWELL. I would like three or five minutes upon this matter before the question is taken.

Mr. STONE. I would yield to the gentleman with great pleasure, but I have had a great many applications for the floor, and I have had to decline them. I am merely the organ of the committee, and time is pressing. I must therefore decline.

Mr. BOUTWELL. I will venture to state to the House that this bill ought not to pass.

Mr. WASHBURN, of Illinois. Has the previous question been seconded?

The SPEAKER. It has not.

Mr. WASHBURN, of Illinois. Cannot there be some discussion on a matter of this kind?

The SPEAKER. The Chair cannot answer that question.

Mr. HIGBY. I wish to correct one statement of the gentleman from Maryland, [Mr. STONE,] if he will allow me.

Mr. STONE. I will yield.

Mr. HIGBY. The gentleman from Maryland stated that this proviso was satisfactory to all the members from California. He was mistaken in reference to myself. I have not said decidedly that I was not in favor of this bill with the proviso, nor have I said that I was in favor of it. I have no right to debate this question, because the gentleman from Maryland has not yielded to me for that purpose.

Mr. BOUTWELL. There are various points in this proviso to which I understand the gentlemen from California have assented, to which I wish to call their attention, because, in my judgment, it will not accomplish what they think it will accomplish. All the squatters on these lands, if the Mexican titles should be upheld, will be driven out in defiance of this proviso and of the homestead and preemption laws of the United States.

Mr. STONE. I have not distinctly heard what was said by the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. BOUTWELL. If the gentleman from Maryland will give me his attention I will say that my point is this: that the proviso which has been here introduced will not accomplish, I think, what the person who proposed it [Mr. JOHNSON] intends to have accomplished by it. If a person has settled upon land claimed under a Mexican grant, the title to which may hereafter be established in the courts of the United States under this bill, then he will not be upon these lands under the preemption laws of the United States, but he will be upon lands to which the United States had no title when he entered upon them, and therefore he cannot avail himself of the preemption laws of the United States, but will be subject entirely to the will of the person who may prevail in the court. But I have a more serious objection, which is this: that by a general law we ought not to open these questions of land titles in California under grants from Mexico. By the law of 1851 a commission was established for the examination of these claims. Parties had a right to appeal.

Mr. STONE. I must resume the floor.

Mr. BOUTWELL. Very well; I hope the House is satisfied that this bill ought not to pass.

Mr. STONE. I cannot understand the force of the objection of the gentleman from Massachusetts, [Mr. BOUTWELL.] The United States by a treaty, in accordance with the law of nations, bound themselves to respect all Mexican and Spanish land grants. The commission which the United States created was merely the mode by which the evidence of these grants was brought to the knowledge of the Government. The Government, by these solemn treaty stipulations with Mexico, pledged itself that it would respect all Mexican and Spanish grants that existed at the time of the date of that treaty and the cession of California to the United States. That is all that this bill asks. All that this bill asks is an opportunity for the citizens of California to show that they do hold valid grants. That is the whole object of the bill.

As I have before said, this bill does not decide any right at all, but simply presents the broad question of allowing the citizens of California to go into court and show their rights under these grants. It strikes me, with all due deference to the gentleman, that it would be a most outrageous breach of faith on the part of the Government toward those who hold these valid Mexican grants to deny them an opportunity to prove them in the only mode known to the law, in the courts of the United States. I now call the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

The question was then taken upon ordering the bill to be engrossed and read a third time; and upon a division there were—ayes 50, noes 25; no quorum voting.

Tellers were ordered; and Mr. STONE and Mr. BOUTWELL were appointed.

The House again divided; and the tellers reported that there were—ayes 66, noes 36.

So the bill was ordered to be engrossed and read the third time; and being engrossed, it was accordingly read the third time.

The question being on the passage of the bill, Mr. WINDOM called for the yeas and nays. The yeas and nays were not ordered.

Mr. WINDOM called for tellers.

Tellers were not ordered.

The bill was passed.

Mr. STONE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ORTH obtained the floor, but yielded to Mr. BLAIR, who asked unanimous consent to report from the Committee on Foreign Affairs a bill for the relief of Nott & Co.

Mr. STEVENS, of Pennsylvania. I object.

Mr. BLAIR. I hope the gentleman from Pennsylvania will withdraw that objection. The bill will occupy but a moment.

The SPEAKER. The Clerk will read the bill, after which there will be an opportunity for objection.

The bill, which was read, directs the Secretary of State to examine the claim of Nott & Co., American merchants doing business in China, against the Chinese Government for losses of coin sustained in 1847 by the capture and robbery of the vessel called the *Neva*; and if in the opinion of the Secretary of State the claim ought to be paid he is authorized and instructed to pay the same, with the rate of interest allowed on other claims, from the time of such loss, out of any funds received from the Chinese Government under the treaty of 1858 for the payment of losses sustained by American citizens; and that the amount be paid to Nott & Co., or the surviving copartner or copartners, or any person duly authorized to be their agent or attorney. The second section provides that the decision of the Secretary of State as to the right of the claimants to be paid, as to the amount to be paid, and as to the parties entitled to receive the same, shall be final and conclusive.

Mr. STEVENS, of Pennsylvania. I do not see anything in this bill that goes to show that there has been any settlement or liquidation with the Chinese Government by which it appears that that Government has in its hands money of ours to pay this claim. I cannot consent to the consideration of the bill at this time.

The SPEAKER. Objection being made, the bill cannot now be reported.

#### LEAVE OF ABSENCE.

Leave of absence was granted to Mr. STOKES till next Tuesday, and to Mr. ADAMS for one week.

#### E. R. AND S. W. CLARKE.

Mr. ORTH. Mr. Speaker, the Committee on Private Land Claims has but one more bill before it, the bill (S. No. 347) to confirm the title of Ethan Ray Clarke and Samuel Ward Clarke to certain land in the State of Florida claimed under a grant from the Spanish Government. This matter was by the committee referred for investigation to a member of the committee, the gentleman from Vermont, [Mr. WOODBRIDGE.] I received a note from that gentleman this morning, stating that in consequence of serious illness in his family he is obliged to go home. He left the papers in my hands, but the report is not yet finished. I ask unanimous consent of the House that this bill may be reported on some day next week during the morning hour.

Mr. BUTLER, of Massachusetts. I object.

Mr. BENJAMIN. I also object. "Sufficient unto the day is the evil thereof."

Mr. ORTH. Then, Mr. Speaker, at the suggestion of the gentleman from Vermont, [Mr. POLAND,] who when a member of the Senate examined this bill, I report the bill now, and ask its passage at this time. In connection with the bill, I report the petition of the Messrs. Clarke, which I ask the Clerk to read.

The Clerk partly read the petition, when

Mr. ORTH said: It is unnecessary for the Clerk to read that document further.

Mr. BUTLER, of Massachusetts. I insist that the reading shall be concluded.

The SPEAKER. The gentleman cannot insist on that. The gentleman from Indiana [Mr. ORTH] is entitled to the floor.

Mr. BUTLER, of Massachusetts. The gentleman presented the petition as part of the

report of the committee. I desire to hear the remainder of it read; and I do not think any gentleman has the right to interfere with the reading.

The SPEAKER. The gentleman from Massachusetts can no more insist upon the reading of the entire petition than he can demand that the gentleman from Indiana [Mr. ORTH] shall finish an hour's speech after he has commenced speaking.

Mr. BUTLER, of Massachusetts. Can the reading be stopped in the midst?

The SPEAKER. The floor is in the possession of the gentleman from Indiana, who can control how his time shall be occupied. The bill will be read.

The bill provides that the title of Ethan Ray Clarke and Samuel Ward Clarke to a tract of land five miles square on Black creek, south of St. Mary's river, in the State of Florida, and bounded as follows: upon one side by the St. Mary's river, and upon the other side by vacant lands, being the same lands to which an exclusive right to take the timber was granted by the Spanish Government to John Underwood, and upon which he erected a saw-mill in 1805, and which was kept up and continued for many years, shall be confirmed: provided, that nothing herein contained shall operate to the prejudice of any claim which may be set up to said land by reason of any previous sale thereof; nor shall this act in any way prejudice any claimant under the said John Underwood, or any person deriving title or claim thereto under said Underwood, his heirs or assigns, or of any person or persons who may be entitled to preemption rights under any existing laws of the United States.

Mr. WASHBURNE, of Illinois. I should like to have the report read or to have some explanation made.

Mr. ORTH. I will attend to that.

Mr. WASHBURNE, of Illinois. If the gentleman from Indiana had seen as much as I have in reference to the confirmation of these private land claims, such as the Houmas claim—

Mr. ORTH. I do not yield. I know what I am reporting here this morning as well as the gentleman. Mr. Speaker, this is a bill arising under the treaty of Florida. It has been before the Senate, and has been very thoroughly examined by the Committee on Private Land Claims in the Senate at the time my neighbor, the gentleman from Vermont, [Mr. POLAND,] was a member of the committee. I yield to the gentleman from Vermont, who is more familiar with the facts than I am.

Mr. WASHBURN, of Indiana. How much land does this embrace?

Mr. ORTH. Something over forty sections.

Mr. POLAND. The gentleman from Indiana is making a most unexpected demand upon me. All I can say is that while I was a member of the other branch of Congress this was before the Committee on Private Land Claims, of which Judge Harris was chairman and I was a member, and we gave the case a very full and careful consideration. It was unanimously reported by the committee of the Senate, and it passed the Senate, and only failed to pass the House by some disarrangement of the papers, the division of them between two committees. It seems that one year ago a bill of this same character was examined by the committee of the House and passed by the House; it was really passed by both Houses.

Mr. BUTLER, of Massachusetts. I ask the gentleman from Vermont whether there was not a bill passed in this Congress many years ago for the purpose of having these men go before the United States court in Florida, giving them full power to test their right there? They have never done so. The petition, which was not read, sets forth the facts. It shows these parties have never been before the courts; but they come here for us to legislate away the rights of other parties in that land, which were never tried before the courts, without giving us a chance to hear the report read or the petition

read upon which it is founded. If men's rights can be taken away in that way let it be understood. I tried to get the petition read. They got relief to go to the courts, but they refused to go to the courts, and now come here for a new bill. The bill was asked to be put off because it had not been fully considered.

Mr. POLAND. I do not know whether the gentleman is addressing his inquiry to me or to the chairman of the committee. As I understand it, these petitioners came to Congress in 1856 applying for the passage of a law like the one now reported, and it was passed in one House, but while pending in the other Mr. Yulee, a gentleman of whom we have all heard something—Mr. Yulee, in the interest of some adverse petitioners, not in the interest of these petitioners or their rights, but of those setting up an adverse interest—had a bill passed giving the privilege to the parties to go into the courts. I do not know these parties were called upon to commence litigation in the courts of Florida more than it was incumbent upon those who were represented by Mr. Yulee. There is as much ground to say the title of these parties is foreclosed in consequence of their failure to go into the courts of Florida as—

Mr. STEVENS, of Pennsylvania. Who is the occupant of the land?

Mr. POLAND. I understand these parties are in possession.

Mr. STEVENS, of Pennsylvania. Then what do they want anything for unless somebody brings an adverse claim? If they are not in possession, why not bring a suit to get possession?

Mr. BUTLER, of Massachusetts. When they have got an act of Congress allowing them to do so.

Mr. POLAND. I understand these persons have been in possession of the land all the while, but by the treaty these Florida titles required confirmation, and it is for that purpose, in order to remove a cloud upon their title, that this bill is introduced. Being in possession they could not commence a litigation, and nobody could commence a litigation against them.

Mr. STEVENS, of Pennsylvania. There is somewhere an act of Congress providing that where anybody occupies lands claimed by two parties either party may bring a suit to test his title.

Mr. ORTH. This is a case arising under the treaty of Florida, by which the United States agreed to confirm titles to all persons who held grants under the Spanish Government prior to that treaty, and it confirms them in their grants.

Mr. STEVENS, of Pennsylvania. I inquire whether that *ipse dixit* of the treaty is not a confirmation, requiring nothing more?

Mr. ORTH. I can only answer that by stating that the practice of the Government has been invariably the other way. In all cases where lands have been owned by individuals prior to the cession of any particular territory, Congress has provided for the confirmation of the titles by special act. This applies not only to lands in Florida, Louisiana, and Missouri, but in California and New Mexico. Time and again have acts of Congress been passed confirmatory of these titles. The practice, as I have learned during this session of Congress, has been about this: after a territory has been ceded to the American Government, we have required of the original owners of any portion of it the surrender of their title-papers that they might be recorded among the archives of this Government. Then upon the surrender of such title-papers an act was passed in the case of California for the establishment of land commissioners, and in the case of New Mexico for the establishment of the office of surveyor general in that Territory, and the duty in each case was to collect the titles which the parties had to the lands in controversy, and upon the report of the Commissioner of the General Land Office, in pursuance of the act of Congress, a confirmation

of title was made and a patent issued. That is all that is asked for in the present case, as I understand it. I therefore call the previous question.

Mr. BUTLER, of Massachusetts. Will the gentleman yield to me a moment?

Mr. ORTH. Yes, sir.

Mr. BUTLER, of Massachusetts. I desire to say that the petition in this case sets forth in these words:

"That a bill was passed by said Congress [that is, in 1859] referring the matter to the district court of the United States for the southern district of Florida for determination; and that no action was had on this act up to this date."

Now, this Congress has passed an enabling act to allow these parties to go into court and litigate their titles. They slept upon them from 1859 to 1861, and then, after being interrupted by the rebellion, they slept upon them from 1865 to 1868. Now, why should we, without any knowledge of the matter, legislate the title into one man and out of another?

Mr. ORTH. We do not do that.

Mr. STEVENS, of Pennsylvania. Does the treaty specify any mode by which we can confirm these titles?

Mr. BUTLER, of Massachusetts. I do not know that it does.

Mr. STEVENS, of Pennsylvania. I understood that it provided it by act of Congress.

Mr. ORTH. No, not by any mode; but we have confirmed them by act of Congress.

Mr. BUTLER, of Massachusetts. The case stands in this way: here is a treaty some fifty years old or upward, and here is an attempt to establish rights under it after there has been an act of Congress allowing them to come into the courts. Now it is said that this case was examined by a committee of the Senate; that it was passed through the Senate, then that it came to this House and was referred to the Committee on the Judiciary, and they did not see fit to report it.

Mr. ORTH. That is so.

Mr. BUTLER, of Massachusetts. That being so, I think this bill should go to the Committee on the Judiciary for the purpose of having this question examined, because we have no report on this question.

Mr. ORTH. Oh yes; here is a report.

Mr. BUTLER, of Massachusetts. No report that has been read.

Mr. ORTH. But then there is a report.

Mr. POLAND. It seems to me that the argument that is put forth by my friend from Massachusetts [Mr. BUTLER] is entirely fallacious, and instead of being a reason why the bill should not pass it is the very reason why it should pass. These petitioners and the persons under whom they claim have been in possession of these lands for a great number of years. I do not understand that there is any law by which they can sue a man who sets up some claim to the lands, they being in possession. But for the purpose of removing any cloud upon their title they wanted the usual congressional confirmation. They came here to Congress for it and obtained it in the Senate. Thereupon Mr. Yulee, who was then a member of Congress and who represented some adverse interests, procured the passage of a law by which persons setting up an adverse claim might go into the courts of Florida and have the title settled. They have never seen fit to do so in this long lapse of time.

Mr. ORTH. I yield for a moment to the gentleman from Massachusetts, [Mr. BANKS.]

Mr. BANKS. I do not know the merits of this precise claim. If it has the approval of the committee of this House, and has passed the Senate, I can believe that upon the facts it is equitable and just. But there is a question of public policy on which I wish to say a word. Where private rights have been claimed under a treaty, and the courts have not been able to award them under the treaty, or where the parties have been in possession and their claim has been resisted, it has been the uniform practice of the Govern-

ment to pass acts of Congress to meet the facts so far as they were just in those cases.

Mr. STEVENS, of Pennsylvania. I would ask whether where one party claims and another party claims against him they have ever come to Congress to have the question settled?

Mr. BANKS. Under the treaty of 1803 acts of Congress of this character have been passed up to 1867, settling the principles of interpretation by which the treaty was to be adjudicated. Under the treaty of 1818 there have been, and there must be, acts of legislation enabling parties to maintain themselves in possession or enabling the courts to decide the claims of parties under that treaty. This I judge to be a case of that sort.

Mr. STEVENS, of Pennsylvania. Then pass a general law.

Mr. ORTH. I merely wish to say that this bill reserves the rights of these adverse claimants. It provides that this act shall not in any way prejudice the rights of any claimants under Underwood, or of any person or persons who may be entitled to preemption rights under the existing laws of the United States. I demand the previous question.

The question was put on seconding the demand for the previous question; and there were—ayes 59, noes 21; no quorum voting.

Tellers were ordered; and Messrs. ORTH, and BUTLER of Massachusetts, were appointed.

The House divided; and the tellers reported—ayes seventy-two, noes not counted.

So the previous question was seconded.

The main question was then ordered to be put.

The bill was ordered to a third reading; and it was accordingly read the third time.

The question was put on the passage of the bill; and there were—ayes 55, noes 24; no quorum voting.

Tellers were ordered; and Messrs. ORTH, and WASHBURN of Illinois, were appointed.

The House divided; and the tellers reported—ayes 75, noes 29.

So the bill was passed.

Mr. ORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. WELKER and Mr. BUCKLAND asked and obtained leave of absence until Tuesday next.

Mr. MARSHALL and Mr. JOHNSON asked and obtained leave of absence for one week.

Mr. WASHBURN, of Illinois. I would like to know how many leaves of absence have been granted.

The SPEAKER. Five this morning and seven yesterday.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed a bill (S. No. 486) to facilitate the settlement of certain prize cases in the southern district of Florida, in which the concurrence of the House was requested.

The message further announced that the Senate had passed, without amendment, the joint resolution (H. R. No. 312) relating to the pay of the Assistant Librarian of the House, and the bill (H. R. No. 1129) for the relief of the widow and children of Colonel James A. Mulligan, deceased.

#### ENROLLED BILLS SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 780) for the relief of Martha N. Jones, administratrix of Samuel T. Jones.

#### ABELARD GUTHRIE.

Mr. WINDOM asked and obtained leave to

withdraw from the files of the House, leaving copies, the papers of Abelard Guthrie, in the case of the Wyandotte claim.

#### IRON-CLADS.

Mr. PILE, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the Secretary of the Navy be directed to communicate to the House the report of Captain James B. Eades on the iron-clads of Europe and of this country.

#### CLERKS, ETC., OF INTERIOR DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a letter from the disbursing clerk of his Department, relative to certain reductions from the amount estimated as necessary for clerks and watchmen in that Department; which was referred to the Committee on Appropriations.

#### TEMPORARY CLERKS IN INDIAN BUREAU.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Interior, transmitting a communication from the Commissioner on Indian Affairs, asking for an appropriation of \$29,600 for extra and temporary clerks in the Indian Bureau, for the year ending June 30, 1869; which was referred to the Committee on Appropriations.

#### GEORGE ABBOTT.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting papers in the case of George Abbott, late provost marshal of the twelfth district of Illinois, to be relieved from certain responsibility for bounty money; which was referred to the Committee of Claims.

#### RIGGS, BASS, AND PILKENTON.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting a report by the Adjutant General respecting the claims of J. B. Riggs, William Bass, and William Pilkenton; which was referred to the Committee on Military Affairs.

#### DESTITUTE OSAGE INDIANS.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, relative to the destitute condition of the Osage Indians in Kansas; which was referred to the Committee on Appropriations.

The SPEAKER. The Chair has not asked that those communications be printed, as it is so late in the session. Should any of these communications be of such a character as to justify their printing, the committees to which they have been referred can ask it.

#### WASHINGTON AND GEORGETOWN RAILROAD.

The SPEAKER, by unanimous consent, also laid before the House a communication from the president of the Washington and Georgetown Railroad Company, transmitting, in compliance with the act of incorporation, his annual report for the year ending January 1, 1868; which was referred to the Committee for the District of Columbia, and ordered to be printed.

#### ORDER OF BUSINESS.

Mr. PERHAM. There are some twenty or more House bills granting pensions, to which the Senate have made amendments. Those bills are now on the Speaker's table. It is too late in the session for them to be referred to the Committee on Invalid Pensions with any hope that the committee will get an opportunity to report upon them. The committee have informally examined those amendments, and have instructed me to ask that amendments to certain bills be agreed to, and that other amendments be not agreed to, but that a committee of conference be asked. No debate will be required, and I ask unanimous consent

that those Senate amendments be acted upon at this time.

No objection was made.

#### ALMIRA WYETH.

The amendment of the Senate to the bill (H. R. No. 411) for the relief of Almira Wyeth was then taken from the Speaker's table.

The amendment was to strike out all of the bill after the enacting clause, in these words:

That the name of Almira Wyeth, widow of James M. Wyeth, late a private in company I, seventy-fifth regiment Illinois volunteers, be placed on the pension-roll in pursuance of existing law in such cases, commencing on the 5th day of March, 1863.

And in lieu thereof insert:

That the Secretary of the Interior is hereby authorized and directed to place the name of Almira Wyeth, widow of James M. Wyeth, late a private in company I, seventy-fifth regiment Illinois volunteers, on the pension-roll, and allow and pay her a pension at the rate of eight dollars per month, from the 5th day of March, 1863, to continue during her widowhood.

The amendment was agreed to.

#### JAMES S. TODD.

The amendment of the Senate to the bill (H. R. No. 523) granting a pension to James S. Todd was taken from the Speaker's table.

The amendment was to add to the bill the following:

And to allow and pay him a pension at the rate of eight dollars per month, to commence from the passage of this act, and to continue during his natural life.

The amendment was agreed to.

#### ELIZABETH KANEDAY.

The amendment of the Senate to the bill (H. R. No. 671) granting a pension to the widow of Henry Kaneday was taken from the Speaker's table.

The amendment was to make the bill read as follows:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Kaneday, the widow of Henry Kaneday, late a private in company I, fifteenth regiment Iowa infantry, and to pay her a pension at the rate of eight dollars per month, commencing May 5, 1862.

The amendment was agreed to.

#### REBECCA JANE KINSEL.

The amendments of the Senate to the bill (H. R. No. 775) granting a pension to the widow and minor children of Erastus Kinsel were taken from the Speaker's table.

The amendments were to strike out all after the enacting clause and insert in lieu thereof the following:

That the Secretary of the Interior is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Rebecca Jane Kinsel, the only child under sixteen years of age of Erastus Kinsel, late a private in company A, one hundred and twenty-fifth regiment Pennsylvania volunteers, and to pay her a pension at the rate of eight dollars per month, commencing April 7, 1863, and to continue until she attains the age of sixteen years.

Also to amend the title so as to read, "A bill granting a pension to Rebecca Jane Kinsel."

The amendments were agreed to.

Mr. PERHAM. As to the other pension bills on the Speaker's table the Committee on Invalid Pensions recommend non-concurrence in the amendments of the Senate.

#### JEREMIAH T. HALLETT.

The amendment of the Senate to the bill (H. R. No. 525) granting a pension to Jeremiah T. Hallett was taken from the Speaker's table.

The amendment was to insert after the word "infantry" the words "and to allow and pay him a pension at the rate of twenty-five dollars per month;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jeremiah T. Hallett, late a member of company I, first United States infantry, and to allow and pay him a pension at the rate of twenty-five dollars per month, commencing March 10, 1864.

The amendment was non-concurred in.



## MAHALA A. STRAIGHT.

The amendments of the Senate to the bill (H. R. No. 373) to place the name of Mahala A. Straight upon the pension-roll of the United States were taken from the Speaker's table.

The amendments were to strike out "A" after "Mahala;" and insert "M;" to insert after the word "deceased" the words "late a private in company E, one hundred and twenty-ninth regiment Illinois volunteers;" to insert after the words "United States" the words "and to pay her a pension at the rate of eight dollars per month, to commence on the 5th day of September, in the year 1862, and to continue during her widowhood;" also to amend the title by striking out "A" after "Mahala" and inserting "M."

The amendments were non-concurred in.

## JOHN W. HUGHES.

The amendment of the Senate to the bill (H. R. No. 825) granting a pension to John W. Hughes was taken from the Speaker's table.

The amendment was to insert after the word "volunteers," in line seven, the words "and to pay him a pension at the rate of fifteen dollars per month."

The amendment was non-concurred in.

## WILLIAM H. McDONALD.

The amendment of the Senate to the bill (H. R. No. 773) granting a pension to William H. McDonald was taken from the Speaker's table.

The amendment was to insert after the word "volunteers," in line seven, the words "and to pay him a pension at the rate of fifteen dollars per month."

The amendment was non-concurred in.

## JOHN D. LAY.

The amendment of the Senate to the bill (H. R. No. 771) granting a pension to John D. Lay was taken from the Speaker's table.

The amendment was to insert after the word "Missouri," in line six, the words "and to pay him a pension at the rate of fifteen dollars per month."

The amendment was non-concurred in.

## JOHN H. FINLAY.

The amendments of the Senate to the bill (H. R. No. 770) granting a pension to John H. Finlay were taken from the Speaker's table.

The amendments were to strike out in line seven, the word "commencing" and insert the words "and to pay him a pension at the rate of eight dollars per month from;" and to add at the end of the bill the words "until June 5, 1866, and thereafter at the rate of fifteen dollars per month."

The amendments were non-concurred in.

## THOMAS CONNOLLY.

The amendment of the Senate to the bill (H. R. No. 676) granting a pension to Thomas Connolly was taken from the Speaker's table.

The amendment was to add at the end of the bill the words "and to pay him a pension at the rate of fifteen dollars per month, commencing on the 30th day of June, 1865."

The amendment was non-concurred in.

## HENRY H. HUNTER.

The amendments of the Senate to the bill (H. R. No. 666) granting a pension to Henry H. Hunter were taken from the Speaker's table.

The amendments were to strike out in line seven the word "and;" and in line eight, after the word "cavalry," to insert the words "and to pay him a pension at the rate of fifteen dollars a month."

The amendments were non-concurred in.

## W. W. CUNNINGHAM.

The amendment of the Senate to the bill (H. R. No. 522) granting a pension to W. W. Cunningham was taken from the Speaker's table.

The amendment was to insert in line six, after the word "roll," the words "and to allow and pay him a pension at the rate of fifteen dollars per month."

The amendment was non-concurred in.

## GEORGE F. GORHAM.

The amendments of the Senate to the bill (H. R. No. 518) granting a pension to George F. Gorham, late a private in company B, twenty-ninth regiment Massachusetts volunteer infantry were taken from the Speaker's table.

The amendments were as follows:

In section one strike out in lines seven, eight, and nine, the words "paid the same amount of pension allowed in similar cases, subject to the provisions and limitations of the general pension laws," and insert "allowed and paid a pension at the rate of twenty-five dollars per month."

In section two, line second, strike out the words "and his father, John J. Gorham, appointed guardian;" and also strike out the word "said" and insert "his," in the fourth line.

The amendments were non-concurred in.

## MINOR CHILDREN OF PLEASANT STOOPS.

The amendment of the Senate to the bill (H. R. No. 456) granting a pension to the minor children of Pleasant Stoops was taken from the Speaker's table.

The amendments were to insert in line five the names of "David Henry Stoops, Pleasant Stoops, and Sturges Stoops;" in line six to strike out the word "minor" before "children," and after the word "children" to insert "under sixteen years of age;" and in line eight, after the word "infantry," to insert "and to pay to them or their legally-authorized guardian or guardians a pension of eight dollars per month;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and instructed to place upon the pension-roll the names of David Henry Stoops, Pleasant Stoops, and Sturges Stoops, the children, under sixteen years of age, of Pleasant Stoops, late a member of company F, eighteenth regiment of United States infantry, and to pay to them or their legally-authorized guardian or guardians a pension of eight dollars per month, to date from the day of his death, subject to the provisions and limitations of the pension laws.

The amendments were non-concurred in.

## SOLOMON ZACHMAN.

The amendments of the Senate to the bill (H. R. No. 521) to place the name of Solomon Zachman on the pension-roll were taken from the Speaker's table.

The amendments were to insert in line six after the word "roll" the words "and to pay him;" in line seven to strike out the words "commencing on" and to insert the word "from;" in lines eight and nine to strike out the words "subject to the limitations and requirements of the pension laws," and to insert "to the 6th day of June, 1866, and thereafter at the rate of fifteen dollars per month during his natural life;" so that the bill will read:

That the Secretary of the Interior be authorized and directed to place the name of Solomon Zachman, of Marion county, Ohio, formerly a member of company D, eighty-second Ohio volunteers, on the pension-roll, and to pay him at the rate of eight dollars per month, from the 30th day of May, 1864, to the 6th day of June, 1866, and thereafter at the rate of fifteen dollars per month during his natural life.

The amendments were non-concurred in.

## HEIRS OF WILLIAM CRAFT.

The amendments of the Senate to the bill (H. R. No. 661) granting a pension to the widow and minor children of William Craft were taken from the Speaker's table.

The amendments were to strike out in line five the word "the" and to insert "Susan F. Craft;" and also to strike out the words "and minor children" and to insert "and the child under sixteen years of age;" in line six to strike out the words "the late;" in line seven to strike out the letter "H" and to insert "D;" and in line eight, after the word "regiment," to insert "and to pay her a pension at the rate of ten dollars per month;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the names of Susan F. Craft, widow, and the child under sixteen years of age of William Craft, late of company D, eighty-second Pennsylvania regiment, and to pay her a pension at the rate of ten dollars per month, subject to the provisions and limitations of the pension laws, to commence April 6, 1865.

The amendments were non-concurred in.

## HEIRS OF GEORGE R. WATERS.

The amendments of the Senate to the bill (H. R. No. 662) granting a pension to the widow and minor children of George B. Waters were taken from the Speaker's table.

The amendments were to insert in line six the name of "Mary Waters," and also to insert the words "the three," and to strike out the word "minor," before "children," and after the word "children" to insert the words "under sixteen years of age;" in line eight to strike out the word "fiftieth" and insert "fifteenth," and also to strike out the word "engineers" and to insert the words "volunteers, and to pay her a pension at the rate of fourteen dollars per month;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Mary Waters, the widow, and the three children under sixteen years of age, of George R. Waters, late a member of the fifteenth regiment New York volunteers, and to pay her a pension at the rate of fourteen dollars per month, commencing November 17, 1864.

The amendments were non-concurred in.

## MINOR CHILDREN OF CHARLES GOULER.

The amendments of the Senate to the bill (H. R. No. 664) granting a pension to the minor children of Charles Gouler were taken from the Speaker's table.

The amendments were to strike out in section one, line six, the words "the minor" before "children," and to insert "Willie, Ellen, and Tellis Gouler," and after the word "children" to insert "under sixteen years of age;" in line eight, after the word "volunteers," to insert "and to pay them a pension at the rate of eight dollars per month;" and in line ten to insert "to continue until they severally attain the age of sixteen years;" so that the first section will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Willie, Ellen, and Tellis Gouler, children under sixteen years of age of Charles Gouler, late a private in company B, ninth New Hampshire volunteers, and to pay them a pension at the rate of eight dollars per month, commencing April 18, 1866, to continue until they severally attain the age of sixteen years.

Also, to amend the title of the bill so as to read, "A bill granting a pension to the children of Charles Gouler."

The amendments were non-concurred in.

## CYRUS K. WOOD.

The amendments of the Senate to the bill (H. R. No. 663) granting a pension to Cyrus K. Wood, the legal representative of Cyrus D. Wood, were taken from the Speaker's table.

The amendments were to strike out in line four the words "pay to Cyrus K. Wood, of Auburn, Maine, father and legal representative of;" and to insert the words "place on the pension-roll the name of;" and in line seven, after the word "infantry," to insert the words "and to pay to him a pension at the rate of;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Cyrus D. Wood, late of company H, tenth regiment of Maine volunteer infantry, and to pay to him a pension at the rate of eight dollars per month from the 8th day of May, 1863, to the 6th day of June, 1866; and twenty-five dollars per month from said 6th day of June, 1866, to the 8th day of April, 1867.

The amendments were non-concurred in.

## HEIRS OF MYRON WILKLOW.

The amendments of the Senate to the bill (H. R. No. 669) granting a pension to the widow and minor children of Myron Wilklow were taken from the Speaker's table.

The amendments were to insert in line six the name "Sarah A. Wilklow;" and also to strike out the word "minor" and insert "Almira, Emma, and Mary Wilklow;" in line seven, after the word "children," to insert "under sixteen years of age;" and in line nine, after the word "volunteers," to insert the words "and to pay her a pension of fourteen dollars per month;" so that the bill will read:

That the Secretary of the Interior be, and he is

hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Sarah A. Wilklow, the widow, and Almira, Emma, and Mary Wilklow, children under sixteen years of age, of Myron Wilklow, late a member of company B, forty-seventh Ohio volunteers, and to pay her a pension of fourteen dollars per month, commencing June 2, 1865.

The amendments were non-concurred in.

#### HEIRS OF ANDREW HOLMAN.

The amendments of the Senate to the bill (H. R. No. 670) granting a pension to the widow and children of Andrew Holman were taken from the Speaker's table.

The amendments were to insert in line six the name "Kezia Holman," and also to strike out the word "minor" and insert the word "three;" in line seven, after the word "children," to insert the words "under sixteen years of age;" and in line nine, after the word "infantry," to insert the words "and to pay her a pension at the rate of fourteen dollars per month; so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Kezia Holman, the widow, and the three children under sixteen years of age, of Andrew Holman, late a private in company G, twenty-ninth regiment of Ohio volunteer infantry, and to pay her a pension at the rate of fourteen dollars per month, commencing March 26, 1865.

The amendments were non-concurred in.

#### HEIRS OF CHARLES W. WILCOX.

The amendments of the Senate to the bill (H. R. No. 672) granting a pension to the widow and minor children of Charles W. Wilcox were taken from the Speaker's table.

The amendments were to insert in line six the name of "Martha J. Wilcox," and also to strike out the word "minor," and insert "James W., Clarinda I., Ira E., and Charles E. Wilcox;" in line seven, after the word "children," to insert "under sixteen years of age;" and in line nine, after the word "volunteers," to insert "and to pay her a pension at the rate of sixteen dollars per month; so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Martha J. Wilcox, the widow, and James W., Clarinda I., Ira E., and Charles E. Wilcox, children under sixteen years of age, of Charles W. Wilcox, late of company B, ninety-seventh Illinois volunteers, and to pay to her a pension at the rate of sixteen dollars per month, commencing March 16, 1863.

The amendments were non-concurred in.

#### HEIRS OF JOHN S. PHELPS.

The amendments of the Senate to the bill (H. R. No. 673) granting a pension to the widow and minor children of John S. Phelps were taken from the Speaker's table.

The amendments were to insert in line six the name "Saffrona C. Phelps;" and also to strike out the word "minor" and insert "Caleb S. Phelps;" in line seven to strike out the word "children" and insert "child under sixteen years of age;" in line eight to insert the word "second" before "lieutenant;" in line nine, after the word "volunteer," to insert "and to pay her a pension at the rate of fifteen dollars per month for herself during widowhood, and two dollars per month for the said child until he shall attain the age of sixteen years;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Saffrona C. Phelps, the widow, and Caleb S. Phelps, child under sixteen years of age of John S. Phelps, late a second lieutenant in the thirty-fifth regiment of Kentucky mounted infantry, and to pay her a pension at the rate of fifteen dollars per month for herself during widowhood, and two dollars per month for the said child until he shall attain the age of sixteen years, commencing July 23, 1863.

The amendments were non-concurred in.

#### HEIRS OF CORNELIUS L. RICE.

The amendments of the Senate to the bill (H. R. No. 675) granting a pension to the widow and minor children of Cornelius L. Rice were taken from the Speaker's table.

The amendments were to insert in line six the name of "Elizabeth Rice;" and also to

strike out the words "minor children" and insert the words "William T. S. Rice, the child under sixteen years of age;" and in line nine, after the word "volunteers," to insert the words "and to pay her a pension of ten dollars per month;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Elizabeth Rice, the widow, and William T. S. Rice, the child under sixteen years of age, of Cornelius L. Rice, late a member of company B, ninety-first regiment Pennsylvania volunteers, and to pay her a pension of ten dollars per month, commencing December 4, 1866.

Also, to amend the title so as to read: "A bill granting a pension to the widow and minor child of Cornelius L. Rice."

The amendments were non-concurred in.

#### MINOR CHILDREN OF JAMES HEATHERLY.

The amendments of the Senate to the bill (H. R. No. 677) granting a pension to the minor children of James Heatherly were taken from the Speaker's table.

The amendments were to insert in line six the names of "Joseph, Sarah, Loami, Francis, and James Heatherly;" in line seven to strike out the word "minor" before the word "children;" and after the word "children" to insert the words "under sixteen years of age;" in line nine, after the word "volunteers," to insert "and to pay them a pension at the rate of eight dollars per month;" in lines ten and eleven, to strike out the words "December 19, 1866," and insert "January 24, 1865, and to continue until they severally attain the age of sixteen years;" so that the bill will read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Joseph, Sarah, Loami, Francis, and James Heatherly, the children under sixteen years of age of James Heatherly, late of company B, eleventh West Virginia volunteers, and to pay them a pension at the rate of eight dollars per month, commencing January 24, 1865, and to continue until they severally attain the age of sixteen years.

The amendments were non-concurred in.

Mr. PERHAM. I move the appointment of a committee of conference on the disagreeing votes of the two Houses on the pension bills just acted on by the House.

The motion was agreed to.

#### ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I rise for the purpose of moving that the House resolve itself into Committee of the Whole on the state of the Union upon the Senate amendments to the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869. Before making that motion I desire to move that when the House shall resolve itself into Committee of the Whole, all general debate shall terminate in twenty minutes, leaving only the five-minutes debate *pro* and *con*. on amendments.

Mr. BANKS. Without making any objection to the motion of the gentleman from Illinois, I wish to give notice, that on next Tuesday, after the morning hour, I shall move that the House resolve itself into Committee of the Whole on the state of the Union upon the Alaska bill, the vote having been ordered to be taken on Thursday.

The SPEAKER. If there is no objection, the Chair will regard the Alaska bill as postponed in Committee of the Whole until next Tuesday morning after the morning hour, that bill now having priority by unanimous consent.

There was no objection.

Mr. STEVENS, of Pennsylvania. I wish to understand what is now the order of business in Committee of the Whole?

The SPEAKER. The first business in order in Committee of the Whole is the deficiency bill.

Mr. STEVENS, of Pennsylvania. Does the gentleman from Illinois propose to take up that bill?

Mr. WASHBURNE, of Illinois. No, sir; I

desire to have considered first the amendments to the legislative appropriation bill, as it is desirable the bill should go to a committee of conference as early as possible.

Mr. SPALDING. Are there not two small appropriation bills pending in Committee of the Whole?

The SPEAKER. There are; but they are not general appropriation bills, which have priority in Committee of the Whole over all other business.

Mr. SPALDING. But I had an understanding with the chairman of the Committee on Appropriations that he would give way to allow those bills to be taken up.

The SPEAKER. No understanding can change the order of business in Committee of the Whole unless it is the understanding of the committee itself or of the House.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The SPEAKER. The question is on the motion of the gentleman from Illinois, that when the House shall resolve itself into Committee of the Whole all general debate upon the Senate amendments to the legislative, executive, and judicial appropriation bill terminate in twenty minutes.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union upon the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and proceeded to the consideration of the Senate amendments to the bill, (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

Mr. SPALDING. I move that this bill be laid aside. My object is to have the committee take up two bills making appropriations for benevolent institutions in this District.

The motion was not agreed to.

Mr. BLAINE. We have entered, Mr. Chairman, upon a new fiscal year, and the last appropriation bill to provide for its expenditures has been reported and is now before the House. The occasion seems a fit one for a brief survey of our financial situation and for a pertinent answer to the many misrepresentations so industriously set afloat in regard to governmental expenditures. A very labored attempt has been made throughout the country by certain parties and partisans to create the impression that the expenditures of this Congress are on a scale of heedless and reckless extravagance. I propose to show that such is not the fact, but that, on the contrary, the expenditures are made with far more regard to economy than distinguished the last Democratic administration that was in power in this country. The question is one of figures and not of argument, and hence I proceed at once to the figures.

It is important at the outset, to a clear understanding and clear comparison of Government expenditures at the present time and the period immediately preceding the war, to distinguish between those expenditures which were the inevitable consequence of the rebellion, and therefore unavoidable, and those which may be to a certain extent controlled by the discretion and the fidelity of Congress. Of those expenditures, which are the direct outgrowth of the rebellion, I count the interest on the war debt and the pensions and bounties to soldiers and sailors. These are expenditures which are not discretionary but are imperatively demanded, unless the nation is prepared on the one hand to defraud its creditors, or on the other to turn its back on the brave men who risked everything that the Republic might survive.

The annual interest on the public debt amounts to one hundred and twenty-nine mil-

lion six hundred and seventy-eight thousand seventy-eight dollars and fifty cents. The pension-roll for the year will be thirty million three hundred and fifty thousand dollars, and the bounties due and payable will require about thirty million dollars. These three items, which are not discretionary, amount to the large aggregate of nearly one hundred and ninety million dollars, well nigh two thirds of our total outlay for the fiscal year upon which we have just entered. The fact that so large a proportion of our expenditure is the result of the war, and is unavoidable unless we repudiate our obligations to our public creditors and our heroic soldiers, cannot be too often repeated or too thoroughly impressed on the public mind; for it is idle to denounce these expenditures as extravagant unless we are prepared to withhold them; and whoever proposes to withhold them proposes thereby to put the nation at the same time under the doubly disgraceful stigma of repudiation and ingratitude. If the Democratic party choose to assume that position it is welcome to all the glory of it.

For the ordinary expenditures of Government for the fiscal year which has just begun the appropriations are as follows:

Executive, legislative, and judicial, embracing all Department salaries and expenses.....	\$17,480,000 00
For the Army.....	33,081,013 10
For the Navy.....	17,500,000 00
West Point Military Academy.....	302,000 00
Consular and diplomatic service.....	1,206,434 00
Post Office Department.....	2,500,000 00
Indian bureau, treaties, &c.....	2,500,000 00
Rivers and harbors.....	4,700,000 00
Collecting the revenue.....	9,969,000 00
Sundry civil expenditures connected with the various Departments.....	6,020,000 00
Miscellaneous expenses of all kinds, including cost of certain public buildings throughout the country, expenses of reconstruction, expense of closing up Freedmen's Bureau, &c.....	9,000,000 00
Deficiencies of various kinds in the different appropriations.....	2,560,000 00
Making a total of.....	\$108,818,447 10

I differ in some items from the recent statement of the honorable chairman of Ways and Means, for I think he included in the expenses of this year a deficiency of thirteen million dollars resulting from the Indian war of 1867; which amount was appropriated and spent last year and has no proper connection whatever with the expenditures of the current fiscal year. And he also includes, incorrectly I think, some twenty-four million appropriations overlapping from the year which has closed to the present. I say incorrectly, because this amount will be offset by a similar amount which overlaps from this year to the next, about the same amount going over each year, and this from necessity owing to the mode of disbursement. I have also made the amount for bounties ten millions less than the chairman estimates, because a large proportion which he includes in this year will necessarily be paid in the ensuing year, when it is hoped the whole matter will be closed, the last soldier honorably paid off, and the Treasury relieved from further obligation in that direction.

Adding together these ordinary expenditures, as I have above, the sum total is found to be one hundred and six million eight hundred and eighteen thousand four hundred and forty-seven dollars. If Congress can be accused of extravagance, the accusation must be made good on these figures, or else abandoned, for the other expenditures, as I have already repeated, lie without the pale of congressional discretion or control. A clear estimate of the character of these expenditures may be gathered by comparing them with the outlays incurred under the last Democratic administration. For example, in 1857-58 the same class of expenses in Buchanan's administration were over seventy million dollars in gold, whereas the one hundred and six million eight hundred and eighteen thousand four hundred and forty-seven dollars above named are in paper. It must be observed, moreover, that in 1857-58 the population of this country was under thirty millions, whereas to-day it is well nigh forty millions. Adding forty per cent. premium on

gold, to bring the expenditures of the two eras to the same standard, and we find the outlays of Buchanan were at the rate of over ninety-eight millions in paper to-day. To this add one third for increase of population, and we find the Buchanan expenditures, adjusted to the scale of to-day, would amount to one hundred and thirty million dollars for the same items that we are paying less than one hundred and seven millions. And in this calculation I have said nothing about the increased military and naval force of the present day, which adds immensely to the account in favor of present economy.

This calculation, stated in these general terms, is far more striking and suggestive when you come to examine details. The Army, for instance, cost during the four years of Buchanan's administration, by the official statement of the Treasury Department, which I hold in my hand, the large aggregate of \$86,307,575 55, making an average of well nigh twenty-two millions each year in gold. And at that time the Army consisted in all of nineteen regiments; so that each regiment cost considerably over a million each year in gold. The Army at present contains sixty regiments, and yet the whole appropriation asked for by General Grant amounts to little more than thirty-three millions, a trifle more than half a million per regiment each year in paper. In other words, the Army under the peace establishment of a Democratic administration immediately preceding the war cost per regiment largely more in gold than the Army now costs per regiment in paper under the peace establishment as administered by General Grant. The same scale of expenditure indulged in under the administration of Buchanan would make our present Army cost over seventy millions in gold or a hundred millions in paper; and until the latter figure is exceeded the Democratic partisans of Buchanan can have no ground to charge that Army expenses are extravagant. When we look at the actual amount spent for legitimate Army expenses, we see good ground for the high compliment bestowed by President Johnson when, a few months since, he publicly proclaimed "General Grant's judicious economy as the direct cause of saving many millions to the Treasury." With General Grant's election to the Presidency and the final pacification of the southern States, our Army will at once be reduced and the expenditures of the War Department will be brought to a point so inconsiderable as no longer to be felt as a burden to the tax-payer.

The comparison in regard to naval expenditures at the two periods I have named, are equally suggestive and striking. For the four years of Buchanan's administration the Navy, by the official records, cost fifty-two million six hundred and forty-five thousand nine hundred and ninety-eight dollars and eighty-nine cents—showing an average of more than thirteen millions per annum in gold coin. With a much larger Navy, and with the disadvantage of paper money and high prices, our appropriations this year are a trifle under eighteen millions. Taking the difference in the size of the Navy at the two periods and the disparity between gold and paper and we should be authorized, if we followed the Buchanan standard of expenditure, in appropriating well nigh forty millions for the year's service. These facts are certainly suggestive and instructive.

In our Post Office expenditures, as compared with those of the Democratic regime, the difference is, if anything, more striking than in the relative expenses of the Army and Navy. Besides using up all the postal receipts, the Post Office Department for the three last years of Buchanan's administration made drafts on the Treasury to the amount of over five millions a year, in one year running up to nearly seven millions. During the whole time the Republicans have been in power, the drafts on the Treasury for the support of the postal service have not averaged two million dollars per annum, and with this moderate expenditure we have been enabled to carry on the immense mail service in

the interior of the continent and to the shores of the Pacific, through all our remote Territories and sparsely peopled sections, and have also been able to maintain a superb line of mail steamers from San Francisco to Hong Kong and from New York to Rio Janeiro, none of which extraordinary enterprises and expenditures were levied on the Department during Buchanan's administration.

These comparisons might be quite indefinitely continued, exhibiting in each item the same result, and demonstrating with mathematical certainty that when we take into account the vast increase of population and the rapid and unprecedented development of our country during the time the Republican party has been in power, and when we take into further account the fact that we have been all the while subjected as a necessity of the war to the disadvantage of high prices resulting from paper money; taking, I say, these facts into account, I assert and defy contradiction that large as our expenditures have necessarily been they have yet been on a scale of economy and fidelity quite unknown during the last Democratic administration that afflicted the country. And I assert further, and I call both political friend and foe to the witness stand in support of my declaration, that whenever and wherever General Grant has been able to control governmental expenditure, economy, integrity, fidelity, and rigid retrenchment and reduction have been the unvarying result.

Consider further, Mr. Chairman, that while the Republican party has been providing the means for these expenditures, they have been at the same time effecting immense reductions in the public debt and continually and largely reducing taxation. Within the three years that have elapsed since the war closed and the Army was mustered out, we have reduced the public debt between two and three hundred million dollars, and at each session of Congress, while this reduction of the debt was going on, we have taken off millions upon millions of taxation from the productive industry of the nation. At the first session of the Thirty-Ninth Congress, the first that convened after the close of the war, taxes were removed that had the preceding year yielded a revenue of sixty million dollars, and at the second session of the same Congress forty-one millions more of taxes were promptly repealed. The Fortieth Congress has not been behind the Thirty-Ninth in this respect, for we have already repealed taxes that last year gave us a revenue of ninety millions. And to-day the taxes of the Federal Government are so wisely adjusted, and collected from such few sources that no man feels them burdensome, oppressive, or exacting. Demagogues may misrepresent and partisans may assail, but the people know and feel that to-day the taxes levied by the Federal Government are not an oppression to the individual and not a hinderance to the development of the industrial resources of the land.

The history of the Republican party, Mr. Chairman, is indeed a proud record. Inheriting a bankrupt Treasury, a dishonored credit, and a gigantic rebellion from the traitorous Administration which preceded their advent to power in 1861, the Republicans heroically and successfully grappled with and conquered all these obstacles to the life and progress of the nation. They replenished the Treasury; they redeemed our credit; they subdued the mightiest rebellion that ever confronted civil power since Governments were instituted among men; they struck the shackles from four millions of human beings, and gave them every civil right under the Constitution and laws. And while accomplishing these herculean tasks, the Republican party administered the Government so wisely that prosperity has been all the time abroad in the land; great business enterprises have been undertaken and successfully prosecuted; factories have been built; the forest subdued; farms brought under cultivation; navigable rivers improved; thousands of miles of railway constructed; the continent spanned by telegraph wires; the two oceans well nigh



connected by a road of iron; the emigrant protected on the remotest frontier; Territories carved out of the wilderness domain; and new States of promise and power added to the national Union.

What other party in the history of this country ever confronted such difficulties? What other party ever gained such victories? But great as its achievements have been, its work is not yet finished. Out of the fierce conflicts of the recent past, conflicts indeed still raging, order and harmony, conciliation and friendship, are yet to be evoked; not, indeed, by unwise concession and timid compromise, but by that firm policy which is based on Right, and under the leadership of one, who, so terribly earnest in war, is yet to-day the embodiment of peace, the conservator of public justice, the hope of the loyal millions!

The CHAIRMAN. All general debate is now closed.

Mr. RANDALL. I want to say that there is no truth in the remark of the gentleman from Maine [Mr. BLAINE] that the Republican party put down the rebellion. Had not the Democrats shouldered their muskets and gone into the ranks the rebellion would never have been put down.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. RANDALL] is not in order.

Mr. WASHBURN, of Illinois. I move *pro forma* to amend the first amendment of the Senate, my object being to say that the Senate has made two hundred and twenty-seven amendments to this bill. The Committee on Appropriations recommend concurrence in about fifty of the amendments and non-concurrence in the remainder, so that they may go to a committee of conference for adjustment. I withdraw my *pro forma* amendment.

The amendments of the Senate were read.

First amendment:

On page 3, after the word "dollars," in line forty-four, insert, "clerk to Committee on Appropriations, \$3,220."

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Second amendment:

On page 3, in line fifty-two, strike out "\$864" and insert "\$1,000;" so that the clause will read: One special policeman, \$1,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Third amendment:

In the paragraph for the compensation of the clerks, &c., of the Senate, make the total \$100,920 80, instead of \$98,704.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Fourth amendment:

Strike out "twenty-five" and insert "ten;" so the paragraph will read:

For contingent expenses of the Senate, namely; For stationery, \$10,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Fifth amendment:

Strike out the words "For newspapers, \$5,000," and in lieu thereof insert the following: For newspapers and stationery for seventy-four Senators, to the amount of \$125 each, \$9,250.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Sixth amendment:

Strike out "second" and insert "third," so the paragraph will read:

For reporting and printing the proceedings in the Daily Globe for the third session of the Fortieth Congress, \$15,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Seventh and eighth amendments:

Strike out "three thousand" and insert "fifteen hundred," and strike out "fifteen" and insert "ten;" so the paragraph will read:

For paying the publishers of the Congressional Globe and Appendix, according to the number of

copies taken, one cent for every five pages exceeding fifteen hundred, including the indexes and the laws of the United States, \$10,000.

The Committee on Appropriations recommend concurrence.

The amendments were concurred in.

Ninth amendment:

Strike out "\$3,500" and insert "\$1,000;" so the paragraph will read:

For packing boxes for Senators, \$1,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Tenth amendment:

Strike out "\$11,520" and insert "\$6,520;" so the paragraph under the head of the House of Representatives will read:

Twelve messengers during the session, at the rate of \$1,440 per annum, \$6,520.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Eleventh amendment:

Strike out the following:

Capitol police:

For the Capitol police, \$64,000.

And in lieu thereof insert:

For one captain, \$2,088; two lieutenants, at \$1,800 each, \$3,600; thirty privates, at \$1,584 each, \$47,520; twelve watchmen, at \$1,000 each, \$12,000; one superintendent in the crypt, \$1,440; uniforms, \$4,600; contingent expenses, \$500; making in all, \$71,748; one half to be paid into the contingent fund of the Senate, and the other half into the contingent fund of the House of Representatives.

The Committee on Appropriations recommend non-concurrence.

Mr. COBB. I move to concur in the amendment of the Senate with an amendment. I move to strike out the words "one superintendent in the crypt, \$1,440," and to insert in lieu thereof the following:

For thirteen watchmen, including the superintendent in the crypt, at \$1,400 each, \$18,200.

Mr. WASHBURN, of Illinois. Let this be non-concurred in by the House, and let it go to a committee of conference, and they will have control of the whole matter. I think it likely his amendment is a good one. The section was non-concurred in to be sent to the committee of conference, in order that it may be made more perfect.

Mr. COBB. I hope, then, that the gentleman from Illinois will give my amendment his attention.

Mr. WASHBURN, of Illinois. I do not know that I will be on the committee of conference. I have no doubt it will be made more satisfactory in the committee of conference.

The amendment to the amendment was rejected.

The Senate amendment was non-concurred in.

Twelfth amendment:

Strike out "three thousand" and insert "fifteen hundred;" so the paragraph will read:

For paying the publishers of the Congressional Globe and Appendix, according to the number of copies taken, one cent for every five pages exceeding fifteen hundred, including the indexes and the laws of the United States, \$9,500.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Thirteenth amendment:

Strike out "fifty" and insert "forty-two;" so that it will read:

For folding documents, including materials, \$42,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Fourteenth amendment:

Strike out "twelve" and insert "five;" so that it will read:

For laborers, \$5,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Fifteenth amendment:

Strike out "seventy" and insert "fifty;" so that it will read:

For miscellaneous items, \$50,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Sixteenth amendment:

Strike out the following:

For newspapers, \$12,500.

And insert in lieu thereof the following:

For stationery and newspapers for two hundred and fifty members and delegates, to the amount of \$125 each, \$31,250.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Seventeenth amendment:

Strike out "\$16,000" and insert "\$6,720;" so that it will read:

For twenty-five pages and three temporary mail boys, \$6,720.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Eighteenth amendment:

Strike out "thirty" and insert "fifteen;" so that it will read:

For stationery \$15,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Nineteenth amendment:

After the word "dollars" insert the following:

*Provided*, That the salary of the foreman of binding in the Government Printing Office shall hereafter be \$1,800 per annum.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Twentieth and twenty-first amendments:

Strike out "four" and insert "three;" strike out "\$3,456" and insert "\$2,592;" so that it will read:

For three laborers, at \$864 each, \$2,592.

The Committee on Appropriations recommend concurrence.

The amendments were concurred in.

Twenty-second and twenty-third amendments:

Strike out "two" and insert "three;" strike out "\$2,880" and insert "\$1,320;" so that it will read:

For three assistant librarians, at \$1,440 each, \$4,320.

The Committee on Appropriations recommend concurrence.

The amendments were concurred in.

Twenty-fourth and twenty-fifth amendments:

Strike out "three" and insert "five;" strike out "three" and insert "four;" so that it will read:

For Botanic Garden, grading, draining, procuring manure, tools, fuel, and repairs, and purchasing trees and shrubs, under the direction of the Library Committee of Congress, \$5,400.

The committee recommend concurrence.

The amendments were concurred in.

Twenty-sixth and twenty-seventh amendments:

Strike out "seven" and insert "eleven;" strike out "\$374 96" and insert "\$296;" so that it will read:

For pay of superintendent and assistants in Botanic Garden and Greenhouses, under the direction of the Library Committee of Congress, \$11,296.

The Committee on Appropriations recommend concurrence.

The amendments were concurred in.

Twenty-eighth amendment:

Insert the following:

For the expenses of exchanging public documents for the publications of foreign Governments, as provided by resolution approved March 2, 1867, \$1,500.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Twenty-ninth amendment:

Strike out the following proviso:

*Provided*, That no judgment of said court for any sum exceeding \$5,000 shall be paid out of this appropriation.

The Committee on Appropriations recommend concurrence.

Mr. WASHBURN, of Illinois. I hope the committee will not concur in that amendment of the Senate. The House inserted this proviso, and if it is stricken out some judgment will take the whole amount of the \$100,000 appropriated for these judgments in the Court of Claims, and there will be no money left for small claimants.

Mr. BUTLER, of Massachusetts. Mr. Chairman, it falls to my lot to represent the Committee on Appropriations on this question.

The Committee on Appropriations thought that when a claimant had been through the Court of Claims, established his loyalty, established the justice of his claim, and got a judgment, it would not be right then to say that he should not have that judgment paid, whatever might be the size of the judgment. The justice of a judgment does not depend upon its size, and if we undertake to restrict payments to \$5,000, there is no reason why we should not restrict it to \$3,000, \$2,000, or \$1,000. We must leave it to the court, if we leave anything to them, to say what shall be the amount of the judgment, and after that judgment has been found by the court which we have established then it is not right and proper that a claimant who has struggled through and established the justice of his claim should be shut off. The Committee on Appropriations, therefore, recommend that the amendment shall be concurred in, and whoever shall vote for concurrence will vote in accordance with the unanimous report of the committee of the Senate, the action of the Senate and the report of the Committee on Appropriations—I will not say how nearly unanimous, because I am not allowed to say it.

Mr. PETERS. I would ask the gentleman whether the sum appropriated was not presumed by the committee to be sufficient to cover large and small judgments?

Mr. BUTLER, of Massachusetts. That is what we meant to do, sir.

Mr. SPALDING. I merely wish to remark that if we limit the sum to be paid out of this appropriation to \$5,000 we virtually limit the jurisdiction of the Court of Claims to \$5,000. No member of this committee wishes to do that. We do not expect to cut down the jurisdiction of the Court of Claims to \$5,000. And if not, why should we limit the payments of money which they adjudicate to be due to within that sum? It seemed to the majority of the Committee on Appropriations that there was no propriety in it at all, and we therefore recommend concurrence in the amendment of the Senate.

Mr. WASHBURNE, of Illinois. I move to amend the amendment by striking out the last word, for the purpose of calling the attention of the committee to the facts of the case. The Committee on Appropriations and the House of Representatives originally agreed to this proposition unanimously. They appropriated \$100,000 for the payment of judgments of the Court of Claims, and the effect of this provision was to say that the \$100,000 should not be gobbled up by any one man who had a great judgment, but should be divided among men who had smaller judgments, under \$5,000. I think it is just and right and proper that we should non-concur in the amendment of the Senate.

Mr. INGERSOLL. I rise to oppose the amendment. This proposition strikes me as simply a stay-law in favor of the United States. It is a confession that the United States is not able to pay its just judgments or its creditors, provided we owe them over \$5,000 each. A creditor who presses his demands through this court to judgment can have his money provided the Government does not owe him over \$5,000, but not otherwise. By this arbitrary rule the small creditor will have his pay, while the man who credited the Government to the extent of twenty, fifty, or one hundred thousand dollars, perhaps with his all, shall have nothing. Is there any justice in this? Is there any honor in it? Is there any equity in it? Is there any common sense in it? I cannot see that there is, and I shall vote to concur with the Senate amendment in striking out this proviso.

Mr. WASHBURNE, of Illinois. I withdraw my amendment.

Mr. STEVENS, of Pennsylvania. I renew the amendment to the amendment, for the purpose of saying that I cannot see what anybody can expect to gain by striking out this proviso: that is, if we mean to pay our debts. If we do not mean to pay our debts, but pro-

pose to go upon the stealing principle, it may be possible that we can commit petty larceny and get along in that way for some years. When this court of claims was originally established, Congress provided that the judgments of that court should be reported to Congress, who made appropriations or not to satisfy those judgments as they chose. But that was found to be a very bad plan. Congress then passed a law making the findings of the Court of Claims conclusive. And now Congress every year makes appropriations, not extravagant, of what is supposed may be necessary to satisfy the judgments of the Court of Claims against the United States. This year we have put the amount very low, at \$100,000. Now, what is the use of a Court of Claims, or of providing by law that the findings of that court shall be conclusive, if the amount is to be frittered away, and \$5,000 paid to one, and \$5,000 to another, &c., the judgment of the court still standing, to run for twenty years it may be? I can see no kind of judgment—I will not use a harder term than that—I can see no kind of judgment in such conduct. The Court of Claims find judgments, and find them conclusively. Instead of asking the claimants to wait until Congress meets at another session, we put into the hands of the Treasurer a certain amount to be paid to them after they have gone through all the expense of collecting in vacation time. Is there anything but what is decent and proper in that? Is there anything but what is just in it? I cannot possibly see why this two-penny system should be adopted. It reminds me of a man I once heard of, about whom it was said that if he owed a dollar he would not pay it all at once, but in ten installments; that he would pay ten cents at one time, and then ride seven miles the next day to pay another ten cents, and so on, because he did not want to pay out too much at once. This is very much like the practice of that old uncle of mine, old uncle Abel. I hope, therefore, that no such system as this will be adopted, but that we will pay what we owe.

Mr. BUTLER, of Massachusetts. I wish to add a single further suggestion which has occurred to me, and to which I do not see the answer. The House some three years ago adopted an amendment to an appropriation bill, in which the Senate concurred, to the effect that no judgment of the Court of Claims should be paid until it was revised by the Secretary of the Treasury. Thereupon the Supreme Court insisted that they would not entertain any appeal from the Court of Claims, because there was a restriction upon the judgment of the court, and they did not intend to adjudicate upon cases of appeal which, when they had given their final judgment, somebody else was to revise; and they dismissed all appeals upon that ground at that time. It therefore became necessary, at the very next session, to repeal that law. And I am not at all certain but what we are going to get into a similar difficulty by putting this restriction upon the judgment of the Court of Claims.

Mr. LOAN. I desire to ask the gentleman if the Committee on Appropriations have so far investigated this matter as to satisfy themselves that \$100,000 will be sufficient to pay all the judgments of the Court of Claims during the coming year?

Mr. BUTLER, of Massachusetts. Yes, sir; this is expected to be enough, with the balance that still remains from former appropriations.

Mr. STEVENS, of Pennsylvania. I withdraw the amendment to the amendment.

Mr. KELSEY. I move to strike out \$5,000 and insert \$4,000. There is a peculiar propriety in placing funds at the disposal of this Court of Claims to pay the small creditors of the Government who establish their claims in that court. But Congress has never been willing to give that court unlimited jurisdiction of funds to pay all the large judgments that may be obtained there.

Mr. STEVENS, of Pennsylvania. Let me say that so far as the jurisdiction of the court goes Congress has now authorized—it does

not every year appropriate the money—the placing in the Treasury of the funds necessary to pay the judgments of the court when rendered.

Mr. KELSEY. We by this bill authorize the placing the sum of \$100,000 for this purpose—

Mr. STEVENS, of Pennsylvania. I do not refer to this bill, but to a former law.

Mr. KELSEY. We authorize the appropriation of \$100,000 for the purpose of paying these creditors whose claims are not large; and there is this reason for it: the man who has been put to the expense of establishing his claim, and has obtained a judgment in the Court of Claims for \$5,000 or less, has been put to all the expense that he can bear in obtaining his claim from the Government. Not so with the man whose claim reaches hundreds of thousands of dollars; and this court has jurisdiction of claims to an unlimited amount. But I suppose that the House, in passing the bill in its original form, intended to say that while they were willing that these small judgments should be paid when rendered by the court, they were not willing to give the court the control of the funds to pay these large judgments until Congress had reviewed and passed upon that question. That was the law but a few years ago, when all judgments of that court had to be reported to this House that appropriations might be made, if Congress saw fit, for their payment. I think that that is the proper course to be pursued now with respect to these large judgments. But such a rule would operate oppressively upon the men who obtain small judgments against the Government. For these reasons, Mr. Chairman, I think we ought to adhere to the bill as originally passed by the House, that being the best shape in which we can put this matter for protecting the interests both of the Government and of the suitors in the court.

Mr. ROSS. I rise to oppose the amendment of the gentleman from New York, [Mr. KELSEY.] I think the Senate has evinced good sense in striking out this provision. When we have established a court for the purpose of passing upon these claims there appears to be a propriety in having its judgments carried out. If the court is unworthy of our confidence it should be abolished and some better tribunal established. I know of no reason why a person having a large claim against the Government is not entitled to have that claim paid as well as a man having a small claim. I think there is a propriety in leaving this matter with the court and paying the judgments which they render. But I can see very well that this does not suit the theory of my colleague, [Mr. WASHBURNE, of Illinois.] His theory is to hoard all the Government funds, and convert them into gold for the purpose of paying the bondholders, while the people who have debts due from the Government may wait. If men have furnished supplies to the Government during the progress of the war to put down the rebellion, and have been kept out of their money for four or five years, the gentleman's theory—and I suppose that of his candidate—is to say to such men, "Stand back, you who have claims against the Government; we have got to convert all our means into gold for the purpose of paying the bondholders, and in the mean time we will draw in the currency; we will subject to financial pressure the poor people of the country; we will hoard our gold as much as we can, that we may turn it into the hands of the bankers and the bondholders." That appears to be the theory of my colleague. All the honest claims of men who have been knocking at the doors of Congress for years receive uniformly the opposition of my colleague; but whenever there is anything that favors the bondholders or the bankers, whenever there is anything that tends to withdraw the people's money from circulation and to impair their ability to pay the onerous taxes which are bearing them down, my colleague is for it. I am very sorry that he is running his presidential candidate into this groove. I hope that when the 4th of July

shall have passed by we shall have a candidate to whom the people can look for help in this time of emergency.

Mr. KELSEY. I withdraw my amendment.  
Mr. WASHBURN, of Illinois. I renew the amendment. I simply wish to say in reply to my colleague [Mr. Koss] that I do not propose to enter into the question which he has discussed. My position is sustained by my constituents, while his constituents, I believe, have thrown him overboard. [Laughter.] I withdraw the amendment.

On concurring in the amendment of the Senate, there were—ayes 26, noes 23; no quorum voting.

The CHAIRMAN, under the rules, ordered tellers; and appointed Mr. WASHBURN, of Illinois, and Mr. BUTLER, of Massachusetts, of the committee divided; and the tellers reported—ayes fifty-two, noes not counted.

So the amendment was concurred in.

Thirtieth amendment:

On page 13 strike out the following:

For compensation to the Private Secretary, assistant secretary, short-hand writer, clerk of pardons, three clerks of fourth class, steward, and messenger of the President of the United States, \$18,800.

And insert in lieu thereof the following:

For compensation to the Private Secretary, one clerk of class four, steward, and messenger of the President of the United States, eight \$5,200: *Provided*, That so much of the fourth section of the act of July 23, 1863, making appropriation for legislative, executive, and judicial expenses of the Government for the year ending June 30, 1867, as authorizes the President of the United States to appoint an assistant secretary, a short-hand writer, a clerk of pardons, and two clerks of the fourth class is hereby repealed.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Thirty-first amendment:

Strike out "\$353" and insert "\$720;" so the paragraph will read:

For compensation to the laborer in charge of the water-closets in the Capitol, \$720.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Thirty-second amendment:

Strike out "\$16,080" and insert "\$19,296;" so the paragraph will read as follows:

For compensation of a foreman and twenty-one laborers employed in the public grounds, \$19,296.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Thirty-third amendment:

Strike out "nine" and insert "eight;" so the paragraph will read:

For compensation of two watchmen at the President's House, \$1,800.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Thirty-fourth amendment:

Strike out "\$720" and insert "\$1,000;" so the paragraph will read:

For compensation of the doorkeeper at the President's House, \$1,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Thirty-fifth amendment:

Strike out the following:

For compensation of assistant doorkeeper at the President's House, \$720.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Thirty-sixth amendment:

Strike out the following:

For compensation of one night watchman at the public stables and carpenter's shops south of the Capitol, \$1,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Thirty-seventh amendment:

Strike out "\$3,600" and insert "\$5,000;" so the paragraph will read:

For compensation of five watchmen in reservation No. 2, \$5,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Thirty-eighth amendment:

Strike out "five," and insert "seven;" so the paragraph will read:

For compensation of draw-keepers at the Potomac bridge, and for fuel, oil, and lamps, \$7,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Thirty-ninth amendment:

Strike out "\$720" and insert "\$864;" so the paragraph will read:

For compensation of furnace-keeper under the old Hall of the House of Representatives, \$864.

The Committee on Appropriations recommend non-concurrence.

Mr. FARNSWORTH. I understand the furnace-keeper under the House of Representatives does not get as much pay as the one under the Senate. I should like to know how that is. Our employes should receive as much as the employes of the Senate.

Mr. WASHBURN, of Illinois. We recommend non-concurrence in order to inquire in relation to the compensation of the employes of the two Houses.

Mr. STEVENS, of Pennsylvania. We have a deficiency appropriation bill, which is the proper place for equalizing all those salaries.

The amendment was non-concurred in.

Fortieth amendment:

Insert: "and Supreme Court room;" so the paragraph will read:

For compensation of the person in charge of the heating apparatus of the Library of Congress and Supreme Court room, \$1,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Forty-first amendment:

Insert: "Second Assistant Secretary of State and examiner of claims;" so it will read:

Department of State:  
For compensation of the Secretary of State, Second Assistant Secretary of State, and examiner of claims, &c.

The Committee on Appropriations recommend concurrence.

Mr. FARNSWORTH. Does this authorize a Second Assistant Secretary of State?

Mr. WASHBURN, of Illinois. The Committee on Appropriations refused to appropriate for this officer and this examiner of claims, but the Senate put it in. The committee did not think there was any necessity for this officer.

The amendment was non-concurred in.

Forty-second and forty-third amendments:

Strike out "\$57,350" and insert "\$63,880," as the appropriation for the compensation of the employes of the State Department.

The Committee on Appropriations recommend concurrence.

The amendments were concurred in.

Forty-fourth amendment:

Add the following:

*Provided*, That the third section of the act of August 18, 1856, entitled "An act to amend an act entitled 'An act requiring foreign regulations of commerce to be laid annually before Congress,' approved August 16, 1842, and for other purposes," be, and the same is hereby, repealed.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Forty-fifth amendment:

Under the head of "Treasury Department" strike out "five" and insert "eleven;" so it will read, "eleven clerks of class four."

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Forty-sixth amendment:

Strike out "eleven" and insert "twelve;" so that it will read, "twelve clerks of class three."

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Forty-seventh amendment:

Strike out "six" and insert "fourteen;" so that it will read, "fourteen clerks of class two."

The committee recommend non-concurrence.  
The amendment was non-concurred in.

Forty-eighth amendment:

Strike out "six" and insert "fifteen;" so that it will read, "fifteen clerks of class one."

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Forty-ninth amendment:

Strike out "\$66,004" and insert "\$100,008."

The committee recommend non-concurrence.  
The amendment was non-concurred in.

Fiftieth amendment:

After the word "dollars" insert "for one chief clerk, \$2,000."

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Fifty-first amendment:

Strike out the words "declared to continue" and insert "continued;" so that it will read, "is hereby continued in force until July 1, 1869."

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Mr. WASHBURN, of Illinois. The next amendments from fifty-two to sixty-six, inclusive, are all of the same character; and the Committee on Appropriations recommend non-concurrence. I hope there will be no objection to acting upon them in gross, according to the recommendation of the committee. They relate to the increase of clerks.

No objection being made, the following amendments, in which the Committee on Appropriations recommended non-concurrence, were considered in gross:

Fifty-second amendment:

Insert "six clerks of class four."

Fifty-third amendment:

Strike out the words "in all, \$32,940," and insert the words "and for temporary clerks \$9,000, in all, \$52,700."

Fifty-fourth amendment:

Strike out "seven" and insert "twelve;" so as to read, "twelve clerks of class four."

Fifty-fifth amendment:

Strike out "fourteen" and insert "twenty;" so as to read, "twenty clerks of class three."

Fifty-sixth amendment:

Strike out "fifteen" and insert "twenty-eight;" so as to read, "twenty-eight clerks of class two."

Fifty-seventh amendment:

Strike out "six" and insert "twenty-one;" so as to read, "twenty-one clerks of class one."

Fifty-eighth amendment:

Insert "twelve copyists."

Fifty-ninth amendment:

Strike out "\$71,470" and insert "\$137,000."

Sixtieth amendment:

Insert "three clerks of class four."

Sixty-first amendment:

Strike out "four" and insert "six;" so as to read, "six clerks of class three."

Sixty-second amendment:

Strike out "seven" and insert "nine;" so as to read, "nine clerks of class two."

Sixty-third amendment:

Strike out "\$31,320" and insert "\$42,700."

Sixty-fourth amendment:

Strike out "two" and insert "four;" so as to read, "four clerks of class four."

Sixty-fifth amendment:

Strike out "five" and insert "six;" so as to read, "six clerks of class two."

Sixty-sixth amendment:

Strike out "\$5,360" and insert "\$9,360."

In accordance with the recommendation of the Committee on Appropriations, the foregoing amendments were non-concurred in.

Sixty-seventh amendment:

Strike out the following:

And the clause of the act of March 14, 1864, authorizing fifteen clerks of class three, fifty clerks of class two, and one hundred and forty clerks of class one, in the office of the Second Auditor of the Treasury, is hereby continued in force until the 30th day of June, 1869, and no longer.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.



## Sixty-eighth amendment:

Insert the following:

Also one clerk of class four, four clerks of class two, four clerks of class one, one copyist, and two laborers, to be employed as a temporary force.

The committee recommend non-concurrence: The amendment was non-concurred in.

Mr. WASHBURN, of Illinois. The amendments from seventy to seventy-eight are all of a like character, and I hope they will be acted upon in gross.

Mr. BLAINE. I desire to say that I hope the amendment No. 70 will be allowed to remain. There is an increase of expenses in the money-order office of the Post Office Department, and in the last year there has been a net revenue to the Government of \$53,753. Money orders were given last year to the amount of \$15,500,000. The number of money orders were eight thousand. Now, there is great necessity for an increase of clerks in consequence of the large amount of business done in that branch, especially as that branch will pay for itself and a great deal more.

Mr. SPALDING. I ask to have these amendments considered in their order.

Mr. BLAINE. I move to concur in amendment No. 70.

The CHAIRMAN. The committee have not reached that yet.

## Sixty-ninth amendment:

Strike out "\$49,920" and insert "\$64,220."

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

## Seventieth amendment:

In line four hundred and eighty-seven strike out the word "seven" and insert in lieu thereof "nine," so that the clause will read:

For compensation of the Auditor of the Treasury, for the Post Office Department, chief clerk, nine clerks of class four, (additional to one clerk of class four as disbursing clerk.)

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

## Seventy-first amendment:

In line four hundred and eighty-nine strike out "twenty-four" and insert "forty," so that the clause will read:

Forty clerks of class three.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

## Seventy-second amendment:

Strike out the words "four of them transferred from Third Auditor's office."

The Committee on Appropriations recommend non-concurrence.

Mr. MAYNARD. I dislike this mode of legislation. It cannot be that all these amendments are wrong. There ought to be some discrimination exercised. This mode of proceeding simply throws the whole legislation on matters of this kind into the hands of a committee of conference. That is the practical effect of it. It does seem to me that the Committee on Appropriations might be able to give us a reason why we should reject an amendment, or why we should not reject it. But a wholesale proceeding of this kind, and to bolster it up by telling us that the committee of conference can fix it, is a mode of disposing of it which I do not think is either very wise or very safe.

Mr. BUTLER, of Massachusetts. I will state to the committee, for the satisfaction of the gentleman, exactly why many of these amendments were non-concurred in, while some of them, perhaps, would have been concurred in. They all refer to the number of clerks to be employed in the various branches of the Departments, and in order that the committee of conference might have the whole subject under their control so that they could allow some clerks to go in here and some to come out there and endeavor to arrange it for the best of the public service, after full discussion the committee unanimously came to the conclusion that it was best to non-concur in all, so that these matters could be arranged

between the House and the Senate; otherwise the committee of conference would find themselves tied up by a concurrence in this amendment and a non-concurrence in others, and the necessary clerical force in the several Departments could not be adjusted. That is why we recommend what appears to be this wholesale non-concurrence which has attracted the attention of the gentleman from Tennessee.

Mr. BLAINE. I move to amend the amendment by striking out the last word, and I do it for the purpose of saying a word in answer to the very sensible question of the gentleman from Tennessee, [Mr. MAYNARD,] as I think, in reference to this particular paragraph, I can give a more specific answer than was given by my friend from Massachusetts, [Mr. BUTLER.] The Senate amended the paragraph in the manner that has been read, and the Committee on Appropriations non-concurred in their amendments in gross. I received from the Sixth Auditor of the Treasury some inquiries about this matter, and I gave him some memoranda, and this morning he addressed me a note, to be laid before the committee, in which he says:

"From the tenor of your note to Mr. McGrew I fear there is still some misconception in reference to the Senate amendments relating to this office. We have asked for no increase of force, but simply that those clerks, twenty-six in number, that have been transferred from other offices and assigned to duty here, should be placed permanently upon our roll. So far from being an extra charge on the Treasury it is a positive reduction of expense to the extent of the whole twenty-six clerks, the business upon which they are engaged, the money-order system, producing a net income more than sufficient to defray the whole charge. In reference to this point, I beg to refer to the accompanying statement of Mr. Lynch, the very able clerk in charge of that branch."

## The following is the statement of Mr. Lynch:

Whole number of orders issued in 1868.....	803,846
Whole number of orders issued in 1866.....	243,709
Increase.....	560,137
Amount received for orders issued in 1868.....	\$15,555,327 74
Amount received for orders issued in 1866.....	3,977,259 28
Increase.....	\$11,578,068 46
Amount fees received in 1868.....	\$117,784 98
Amount fees received in 1866.....	85,799 98
Increase.....	\$31,985 00
Amount of expenses allowed in 1868.....	\$63,940 47
Amount of expenses allowed in 1866.....	28,664 27
Increase.....	\$35,276 20
Net revenue accrued in 1868.....	\$53,844 51
Net revenue accrued in 1866.....	90 82
Increase.....	\$53,753 69

So that this office a great deal more than pays for the salaries of the clerks necessary to carry it on, and all they wish is that the House shall concur with the Senate in making these clerks a part of their permanent working force.

Mr. SPALDING. I cannot for the life of me see the force of the argument of the gentleman from Maine, [Mr. BLAINE.] Because the money-order service brings in a slight revenue into the postal department therefore you must increase the number of clerks.

Mr. BLAINE. Not at all; no increase is asked for.

Mr. SPALDING. That is the argument. Now there is an increase of deficiencies in other branches of the Post Office Department, and therefore this increase of revenue should go to make up for that deficiency as far as it goes. The only reason why these clerks are to be made permanent in this Auditor's office of the Post Office Department is that there is some additional profit, from year to year, as the business increases, upon the postal-order system; that is the whole argument. Now, if there be anything in that argument, then we must increase the number of clerks from day to day, from month to month, and from year to year, as the money increases that is received in the money-order branch of the service.

Mr. ROSS. So as to use it up.

Mr. SPALDING. So as to consume it all;

that is the idea. Now, I see no earthly necessity for taking this amendment out of the ordinary course. Let it go with the rest to a committee of conference, to see if there is any necessity for this increase. That is the course we have decided to pursue in regard to the other bureaus of the Treasury, and I see no reason for any different course being pursued here. I withdraw the amendment to the amendment.

Mr. BLAINE. I move to amend the amendment by striking out the last three words. I desire to say that the money-order system was put in operation without any clerical force to carry it out. They borrowed clerks from other bureaus. The system was an experiment; it was entered upon with a great deal of distrust. Being an experiment no permanent provision was made for it. It has grown to be a success. But up to this time it has been carried on with a sort of borrowed force, so to speak. This proposition is to provide the requisite force to carry on the system, as it has proved to be absolutely a source of revenue to the Government. It is merely proposed to provide the necessary clerks—and if the business continues to increase in future probably more will be necessary hereafter—to be paid out of the receipts of the bureau. Now, I care nothing at all whether the amendment of the Senate be concurred in or whether it be sent to the committee of conference. But as the gentleman from Ohio [Mr. SPALDING] has so captiously explained my motion, I did desire that the grounds upon which I made it should be distinctly understood.

Mr. PAINE. I would inquire of the gentleman if these borrowed clerks are paid under some other appropriation? If they are from some other bureau it is not impossible that in some other part of the bill there is an appropriation to cover them.

Mr. BLAINE. We have cut down enormously in some other parts of the bill.

Mr. PAINE. If the gentleman informs me that the appropriation for these clerks has been cut out from its proper place, so that they will not be paid upon the rolls of the bureau to which they properly belong, then there may be some propriety in making an appropriation for them in this place. But if it be true that they still stand on the rolls of the bureaus to which they properly belong, then it would hardly be proper for us to double the appropriation for their payment.

[Here the hammer fell.]

Mr. BLAINE. I withdraw the amendment to the amendment.

Mr. MAYNARD. I move to amend the amendment of the Senate, so as to increase the number of clerks by one. In my opinion the clerical force at present in the several Departments is numerically too great, but the clerical ability is not too great. If we had fewer in number of men, and more ability and capacity than a great many of them possess, and would pay them accordingly, my opinion is that the clerical service in the several Departments would be much better, and would be more efficiently performed than it is now. The condition in which this bill is presented leaves us no alternative but to accept the amendment of the Senate or to reject it as recommended by the Committee on Appropriations, and when the bill goes to a committee of conference let them dispose of it as they may think best under all the circumstances. As, however, we have frequently heretofore had the subject of clerical compensation before us when there was no opportunity to debate it, I take this occasion to say that I think it would be more just to the employes of the Government, as well as more conducive to the efficiency of the public service, if the number of clerks were reduced and their compensation increased. We should thereby get more work for the same amount of money, and the employes in the several Departments would be much better compensated than they are now. I yield to the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. FARNSWORTH. I desire to say that, so far as the Departments generally are concerned, I concur in what the gentleman from Tennessee [Mr. MAYNARD] has just said. Probably numerically there is a larger force in the different Departments, with the exception of the Post Office Department, than is necessary. While the business of the other Departments has diminished since the close of the war the business of the Post Office Department has been largely increased, as every gentleman must know, by the reopening of mail service in the insurgent States, the appointment of additional postmasters, the keeping of accounts with their various offices, the establishment of new mail routes, &c. The force of clerks in that Department has not been increased in proportion to the increased labor thrown upon the Department, and is not at the present time sufficient for the performance of that labor. As regards the other Departments—the War, the Navy, the Treasury, the State Department, &c.—what the gentleman from Tennessee has said is undoubtedly true.

Mr. MAYNARD. I withdraw my amendment to the amendment.

The amendment of the Senate was non-concurred in.

#### Seventy-second amendment:

Strike out in line four hundred and ninety, after the words "sixty-four clerks of class two," the words "four of them transferred from Third Auditor's office."

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

#### Seventy-third amendment:

In line four hundred and ninety-one strike out "thirty" and insert "seven;" so as to read, "seven clerks of class one."

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

#### Seventy-fourth amendment:

Strike out in lines four hundred and ninety-four and four hundred and ninety-five the words "including additional to two clerks of class three transferred to class four."

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

#### Seventy-fifth amendment:

Strike out in lines four hundred and ninety-five and four hundred and ninety-six the words "\$191,000" and insert in lieu thereof "\$229,160;" so as to read "\$229,160."

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

#### Seventy-sixth amendment:

In line fifty-four strike out "six" and insert "eight;" so as to make the paragraph read as follows:

For salaries and expenses of collectors, assessors, assistant assessors, revenue agents, inspectors, and superintendents of exports and drawbacks, together with the expense of carrying into effect the various provisions of the several acts providing internal revenue, excepting items otherwise estimated for, \$33,000,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

#### Seventy-seventh amendment:

In line five hundred and fifty-eight strike out "one" and insert "two;" so that the paragraph will read as follows:

For detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same, in cases where such expenses are not otherwise provided for by law, \$290,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

#### Seventy-eighth amendment:

In line five hundred and sixty-seven, strike out "ten" and insert "one hundred;" so that the paragraph will read as follows:

In the office of the Secretary of the Treasury and the several bureaus, including copying, labor, binding, sealing ships' registers, translating foreign languages, advertising, and extra clerk hire for preparing and collecting information to be laid before Congress, and for miscellaneous items, \$100,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

#### Seventy-ninth amendment:

After the word "dollars," in line five hundred and sixty-seven, add the following:

But the Special Commissioner of the Revenue shall, under the direction of the Secretary of the Treasury, act as superintendent of the division in the office of said Secretary, created by the thirteenth section of the act approved July 20, 1866, entitled "An act to protect the revenue, and for other purposes," and called the Bureau of Statistics; and the Secretary of the Treasury may appoint one division clerk at the same salary as the head of division in the office of the Commissioner of Internal Revenue, who shall act as deputy to the said Special Commissioner of the Revenue in respect to said bureau, and exercise in his absence all power belonging to him as such superintendent, except the franking privilege, and the office of director of the Bureau of Statistics is hereby abolished.

The Committee on Appropriations recommend concurrence, with an amendment adding the words "after the 1st of January, 1869."

The amendment to the amendment was agreed to.

Mr. BLAINE. The committee agreed to report another amendment to the amendment of the Senate. It has been omitted by mistake. It was to add near the beginning of the amendment, after the words "but the Special Commissioner of the Revenue shall," the words "after the 1st of January, 1869." I move that amendment.

The amendment of Mr. BLAINE was agreed to.

The Senate amendment, as amended, was concurred in.

#### Eightieth amendment:

Insert the following:

For temporary clerks in the Treasury Department, \$150,000: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to classify the clerks according to the character of their services.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

#### Eighty-first amendment:

Insert "private land claims and surveys;" so the paragraph will read:

General Land Office:

For Commissioner of the General Land Office, recorder, chief clerk, three principal clerks of public lands, private land claims, and surveys, three clerks of class four, twenty-three clerks of class three, forty clerks of class two, forty clerks of class one, draughtsman, assistant draughtsman, two messengers, three assistant messengers, two packers, seven laborers, and eight watchmen employed in his office, in all, \$178,200.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

#### Eighty-second and eighty-third amendments:

Strike out "twenty" and insert "forty;" and strike out "thirty-four" and insert "fifty-eight;" so the clause will read as follows:

For compensation of additional clerks in the General Land Office under the act of March 3, 1855: For one principal clerk as director, one clerk of class three, four clerks of class two, forty clerks of class one, and two laborers, \$58,640.

The Committee on Appropriations recommend non-concurrence.

The amendments were severally non-concurred in.

On the recommendation of the Committee on Appropriations the committee non-concurred in the following amendments from the eighty-fourth to the ninety-ninth, both inclusive:

Strike out "\$2,500" and insert "\$6,300;" so the paragraph will read:

Surveyors general and their clerks:

For compensation of the surveyor general of Minnesota, \$2,000, and the clerks in his office, \$6,300.

Strike out "\$4,000" and insert "\$6,300;" so it will read:

For surveyor general of Kansas, \$2,000, and the clerks in his office, \$6,300.

Strike out "\$4,500" and insert "\$11,000;" so it will read:

For surveyor general of California and Arizona, \$3,000, and for clerks in his office, \$11,000.

Insert "and two," and "and seventy-two cents;" so it will then read as follows:

For surveyor general of Nevada, \$2,502 72, and the clerks in his office, \$14,000.

Strike out "\$1,000" and insert "\$6,300;" so it will then read as follows:

For surveyor general of Nebraska and Iowa, \$2,000, and the clerks in his office, \$6,300.

Strike out "three" and insert "four;" so it will read:

For surveyor general of Montana, \$3,000, and for the clerks in his office, \$4,000.

#### One hundredth amendment:

Insert the following:

For services of the clerk of the district court of the northern district of Mississippi, as keeper of the records and files of the land office at Pontotoc, Mississippi, from June 4, 1866, to June 4, 1868, \$500; and it is hereby made the duty of said clerk, on the passage of this act, to transfer the records and files aforesaid to the register of the land office at Jackson, Mississippi; and the nineteenth section of the act of March 3, 1853, entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1854," be, and the same is hereby, repealed.

The Committee on appropriations recommend concurrence.

The amendment was concurred in.

By unanimous consent the amendments one hundred and one to one hundred and forty-three, inclusive, were considered in gross, the Committee on Appropriations recommending non-concurrence.

#### One hundred and first amendment:

Strike out "four" and insert "seven;" so as to read, "seven clerks of class four;" also, strike out "\$7,200" and insert "\$12,600."

#### One hundred and second amendment:

Insert:

For four clerks of class three, \$6,400.

#### One hundred and third amendment:

Strike out "six" and insert "eight;" so as to read: "Eight clerks of class one."

#### One hundred and fourth amendment:

Strike out "\$7,200" and insert "\$9,600."

#### One hundred and fifth amendment:

Strike out "one" and insert "three;" so as to read:

Three clerks of class four.

#### One hundred and sixth amendment:

Strike out "\$1,800" and insert "\$5,400."

#### One hundred and seventh amendment:

Strike out "one" and insert "nine;" so as to read: Nine clerks of class three.

#### One hundred and eighth amendment:

Strike out "\$1,600" and insert "\$14,400."

#### One hundred and ninth amendment:

Strike out "twenty-six" and insert "forty;" so as to read:

Forty clerks of class one.

#### One hundred and tenth amendment:

Strike out "\$31,200" and insert "\$48,000."

One hundred and eleventh and one hundred and twelfth amendments:

Strike out "four" and insert "nineteen;" strike out "\$6,400" and insert "\$30,400;" so as to read:

For nineteen clerks of class three, \$30,400.

One hundred and thirteenth and one hundred and fourteenth amendments:

Strike out "seven" and insert "forty-two;" strike out "\$9,800" and insert "\$53,800;" so as to read:

For forty-two clerks of class two, \$53,800.

#### One hundred and fifteenth amendment:

Strike out "three" and insert "four;" strike out "\$5,400" and insert "\$7,200;" so as to read:

For four clerks of class four, \$7,200.

#### One hundred and sixteenth amendment:

Strike out "two" and insert "one;" strike out "\$3,200" and insert "\$1,600;" so as to read:

For one clerk of class three, \$1,600.

#### One hundred and seventeenth amendment:

Insert the word "each;" so as to read:

For thirty clerks of class one, at \$1,200 each, \$36,000.

One hundred and eighteenth and one hundred and nineteenth amendments:

Strike out "four" and insert "fourteen;" strike out "\$5,600" and insert "\$19,600."

One hundred and twentieth and one hundred and twenty-first amendments:

Strike out "eight" and insert "twenty-four;" strike out "\$9,600" and insert "\$28,800;" so as to read:

For twenty-four clerks of class one, \$28,800.

One hundred and twenty-second to one hundred and twenty-ninth amendments, inclusive:

Strike out "one" and insert "two;" strike out "\$1,800" and insert "\$3,600;" strike out "one" and insert "two;" strike out "\$1,600" and insert "\$3,200;"

strike out "two" and insert "four;" strike out "\$2,800" and insert "\$5,600;" strike out "four" and insert "twenty-five;" strike out "\$4,800" and insert "\$30,000;" so that the paragraph will read as follows:

Office of the Surgeon General:

For two clerks of class four, \$3,600; for two clerks

of class three, \$3,200; for four clerks of class two, \$5,600; for twenty-five clerks of class one, \$30,000.

One hundred and thirtieth to one hundred and thirty-sixth amendments, inclusive:

Strike out "three" and insert "four;" strike out "\$5,000" and insert "\$7,000;" strike out "four" and insert "two;" strike out "four" and insert "five;" strike out "\$5,600" and insert "\$7,000;" strike out "three" and insert "five;" strike out "\$3,600" and insert "\$6,000;" so that the paragraph will read as follows:

Office of Chief Engineer:

For four clerks of class four, \$7,200; for four clerks of class three, \$6,400; for five clerks of class two, \$7,000; for five clerks of class one, \$6,000.

One hundred and thirty-seventh to one hundred and forty-third amendments, inclusive:

Strike out "one" and insert "four;" strike out "\$1,800" and insert "\$7,200;" strike out "four" and insert "eight;" strike out "\$5,600" and insert "\$11,200;" strike out "seven" and insert "twenty;" strike out "\$3,400" and insert "\$24,000;" strike out "two laborers at \$720 each, \$1,440;" so that the paragraph will read as follows:

Office of Chief of Ordnance:

For four clerks of class four, \$7,200; for one clerk of class three, \$1,600; for eight clerks of class two, \$11,200; for twenty clerks of class one, \$24,000; one messenger, \$1,000.

The foregoing amendments, from one hundred and one to one hundred and forty-three, inclusive, were non-concurred in, in accordance with the recommendation of the Committee on Appropriations.

One hundred and forty-fourth amendment:

Insert after the words "building occupied by Paymaster General" the words "corner of F and Fifteenth streets."

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

One hundred and forty-fifth amendment:

Strike out "\$12,000" and insert "\$15,000;" so as to read:

For superintendent, watchmen, rent, fuel, lights, and miscellaneous items, \$15,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

One hundred and forty-sixth amendment:

Insert Solicitor and Naval Judge Advocate General, \$3,500.

The Committee on Appropriations recommend concurrence.

Mr. WASHBURN, of Illinois. I hope the committee will not concur in that amendment. It is a departure from the rule which the committee has acted on in every other case, and I desire for a moment or two to call attention to the facts. On the 2d of March, 1865, we passed an act authorizing the President to appoint, by and with the advice and consent of the Senate, for service during the rebellion and one year afterward, an officer in the Navy Department to be called the Solicitor and Naval Judge Advocate General, at an annual salary of \$3,500. This was passed before the close of the rebellion, on the 2d of March, 1865, for the purpose of continuing the office for one year. It expired one year after the close of the rebellion. At the last Congress we continued this office by making an appropriation of \$3,500 for the salary of the solicitor. When the Committee on Appropriations came to consider the matter this session they found that there was no such office; that it had expired by its own limitation, and they very properly refused to make an appropriation.

The bill went to the Senate, and the Senate put in this amendment to pay a man whose office has expired for another fiscal year, the year ending June 30, 1869. Now, sir, I hope the committee will not depart from the rule which it has adhered to in all these cases. Where we found that clerks had been appointed to continue one year after the rebellion, we refused to make appropriations for the reason that there were no such officers to be paid; and I object to continuing an office for which there is no law, and for which I contend there is no necessity. I recollect very well when this office was established, and I have the debate here. It was put upon the ground that it was only required during the rebellion, and nobody asked for it for any longer period of time than one year after the rebellion.

Now, sir, it is said that there is very great necessity for this office. I never knew an instance in which a man wanted an office, when gentlemen could not devise reasons enough why the office should be established and could not show that there was very great necessity for it. I believe the gentleman who holds this position, Mr. Bolles, is an extreme Radical and agrees with me in politics. He is an able lawyer and an honest man, and if we are to have an officer of this kind, I should be very glad to vote to have him receive the appointment. But believing such an office not to be necessary, knowing that it was created for a specific purpose, and that it was stated in the debate that its continuance would not be asked for more than a year after the rebellion, I do hope the House will refuse to concur in the amendment of the Senate, and that we will not at this time commence inaugurating new and useless offices.

Mr. FARNSWORTH. I would ask my colleague whether he thinks it possible to get rid of an office after it has once been ingrafted on the Treasury?

Mr. WASHBURN, of Illinois. That will depend on the committee. I hope we shall refuse to concur in the amendment of the Senate and exclude it from this bill.

Mr. BUTLER, of Massachusetts. It becomes my duty once again to represent the Committee on Appropriations in the Committee of the Whole upon this bill. The Committee on Appropriations, with singular unanimity, voted to concur in this amendment. The Committee on Naval Affairs, both of this House and of the Senate, have unanimously concurred in a resolution to continue this office because of its necessity, and it is only because they have not had an opportunity to report, that that resolution has not been before you.

I hold in my hand a letter from the Secretary of the Navy, who says:

"The law which created the office, authorized it 'during the rebellion and one year thereafter,' but the services of a solicitor, or proper law officer for this Department, and I may say for the other Departments, also, are so obvious that I trust it may not be dispensed with. Important questions, some of them requiring laborious legal investigation, are constantly arising, and if there be not a solicitor to give them attention, special counsel must be employed, whose fees in the aggregate would exceed the salary of the solicitor."

I hold in my hand a letter from the Secretary of War who says:

"I concur with the Secretary of the Navy in the opinion that the discontinuance of the office of Solicitor and Naval Judge Advocate General, would be prejudicial to the interests of the public and of the naval service."

I hold in my hand a letter from General Grant, addressed to my colleague on the committee, [Mr. WASHBURN, of Illinois,] in which he says:

"General Bolles is brother-in-law of General Dix, our able minister to France. He is a gentleman whom I can vouch for."

"As to the matter of business he wishes to speak about I can say, that in my opinion, the office which he holds in the Navy is of the same importance as the office of Judge Advocate General in the Army."

Now, sir, we have this state of facts: every gentleman knowing this office concurs in the necessity for the office; every gentleman concurs in the ability, propriety of conduct, and legal attainments of the one who holds the office. I am only sorry that my colleague on the Committee on Appropriations [Mr. WASHBURN, of Illinois,] has seen proper to introduce this officer to the House as a good Radical, because I am afraid that was a bid on his part to catch some Democratic votes against him. He is a brother-in-law of General Dix. And while I have no doubt he is—

Mr. WASHBURN, of Illinois. Was not that a bid to catch votes for him?

Mr. BUTLER, of Massachusetts. It is a little antidote to a great deal of poison attempted to be put in this case. There are over a thousand cases of court-martial in the Navy; and this gentleman is the only man in the Navy Department with legal attainments to supply the same want that creates a necessity for the Judge Advocate General of the Army.

Mr. ROSS. Is this for past services, or for services hereafter to be performed?

Mr. BUTLER, of Massachusetts. For services to be performed from the 1st day of July (yesterday) until the 30th of June, 1869. The proposition is simply to give him \$3,500 a year to carry on this office during the coming fiscal year. My friend from Illinois [Mr. FARNSWORTH] asks if we can ever get rid of any of these officers. The Committee on Appropriations have cut off some hundred of them in this very bill, and they are still at the work. We propose where we find a good and necessary officer to keep him, and where we find one that is not necessary to get rid of him.

Mr. FARNSWORTH. Does the gentleman from Massachusetts, [Mr. BUTLER,] with the gentleman from Illinois, [Mr. WASHBURN,] admit that this office is no longer legally in existence?

Mr. BUTLER, of Massachusetts. By no means.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. I move to amend the amendment by striking out the last word. I yield assent to a great deal the gentleman from Massachusetts [Mr. BUTLER] has said in regard to this solicitor of the Navy; but I cannot assent to the suggestion that he has said anything which should induce this Committee of the Whole to keep this item of appropriation in here. I object to this way of perpetuating officers without law. If the gentleman is in favor of this principle, why did he strike out these thousands of clerks with their little salaries of twelve, fifteen, or eighteen hundred dollars a year?

Mr. BUTLER, of Massachusetts. They were not wanted.

Mr. WASHBURN, of Illinois. Neither is this man wanted. We never had such an officer in the Navy Department before 1865, and I undertake to say that this office was created at that time merely to give this man a place. We had a solicitor in the War Department, and we discarded him as being utterly unnecessary, and there is no solicitor whatever in the War Department to day. Now, I object to this thing, after the proposition is got through the House, upon the ground that this was got through the House in 1865; I object to coming in at this time and continuing this officer a year longer in this way. If we are to have a solicitor of the Navy Department, then let the Committee on Naval Affairs, who my colleague on the Committee of Appropriations [Mr. BUTLER, of Massachusetts] says recommends this matter, bring in a bill to create the office and to define the duties of the office and fix the salary; and not let them call upon us every time Congress meets here to make an appropriation for the compensation of this man. Mr. Rice, of Massachusetts, who was then chairman of the Committee on Naval Affairs of this House, and who engineered the proposition through the House at that time, made some remarks which I ask my colleague on the Committee of Appropriations [Mr. BUTLER, of Massachusetts] to listen to as I read them. Mr. Rice then said:

"It will require a year to finish the business which will have accrued in the Department. We desire that he shall continue no longer than his services are necessary."

In the same debate the gentleman from Ohio [Mr. SPALDING] said:

"When this subject first came before the Committee on Naval Affairs I was opposed to it *in toto*. On consultation with the Secretary of the Navy I found that he was compelled to pay out four times the amount to attorneys; and I was willing to agree to it if the office was made temporary. It is only to continue during the rebellion and on year afterward, and to pay the officer \$3,500, instead of attorneys four times that amount."

Mr. SPALDING. I ascertain now that it will cost four times as much as the salary of this officer to employ attorneys.

Mr. WASHBURN, of Illinois. Now, Mr. Chairman, I do not know what authority my friend from Ohio [Mr. SPALDING] has for making that statement. I do not know what duty this solicitor of the Navy Department has to discharge. I do not know that he has any



duty that cannot be discharged as it was discharged prior to March 2, 1865, by an intelligent and competent clerk of the Navy Department. I withdraw my amendment.

Mr. TWICHELL. I renew the amendment. Mr. Chairman, it is well known that the Committee on Appropriations have struck out every amendment they could possibly strike out in this bill. This amendment they could not agree to strike out; and I am very glad that they did not. The Senate has adopted this amendment, the Committee on Appropriations have recommended concurrence, and I trust that the House will concur. The Senate has inserted an appropriation of \$3,500 for the salary of this officer; and by the adoption of this amendment we shall undoubtedly save to the Government ten times the amount; I know the important duties which this officer performs. The Secretary of the Navy, as well as the Secretary of War, and the General of the Army, testify to the value and importance of his services; and if the gentleman from Illinois has no confidence in any of these officers it is time that he had confidence in somebody.

Mr. WASHBURNE, of Illinois. I desire to say that I have a great deal of confidence in all these men; but neither the opinions of the General of the Army nor the opinions of any other man can influence me to vote against my judgment in this House.

Mr. TWICHELL. I withdraw the amendment to the amendment.

Mr. FARNSWORTH. I move to amend by striking out the last word. Mr. Chairman, I am opposed to this amendment of the Senate; and I would oppose it, if for no other reason, because it is an attempt to revive by legislation in an appropriation bill an office which is no longer in existence. If the Committee on Appropriations of this House had reported this bill with such a provision in it, it would have been, on a point of order, struck out as independent legislation providing for an office not in existence.

Mr. TWICHELL. Let me say to the gentleman that the Secretary of the Navy, in making his estimates, has estimated for the salary of this very officer.

Mr. FARNSWORTH. The Secretary of the Navy does not create offices by the estimates which he makes. The Secretary of the Navy and the Secretary of the Treasury estimate for all conceivable allowances and officers that they have ever had.

Mr. STEVENS, of Pennsylvania. The gentleman will permit me to say that the rules provide that anything is in order which is necessary to carry on any Department of the Government.

Mr. FARNSWORTH. Mr. Chairman, there is no kind of doubt that any provision contemplating the creation of a new office would be ruled out of order as independent legislation. Therefore the House could not have put it in. The Senate, having different rules, has legislated a new office into this bill, an office which has expired by limitation of time. We are constantly being asked by the Senate to concur in this kind of independent legislation. As my colleague [Mr. WASHBURNE, of Illinois] has well said, if this officer is necessary why not let the Committee on Naval Affairs report a bill providing for the continuance of the office?

Mr. TWICHELL. The gentleman will permit me to say that this subject has been before the Committee on Naval Affairs, and they unanimously recommend making this office permanent.

Mr. FARNSWORTH. Why, then, do they not report a bill to that effect? No such office as this is now in existence. We propose now to provide for the pay of this officer, thereby reviving the office and continuing it for another year.

Mr. TWICHELL. Let me ask the gentleman one question: is there any law providing for the continuance of the Naval School at Annapolis? Do we not continue it by merely making the regular appropriations from year to year?

Mr. FARNSWORTH. Certainly; there is a law continuing that school. There is a law establishing a naval school, but the law limits this to one year after the rebellion. I ask the gentleman whether the rebellion has not expired?

Mr. TWICHELL. Not yet, so far as the importance of retaining this officer is concerned.

Mr. FARNSWORTH. If that is so, if gentlemen are really of the opinion that the rebellion is not yet over, I cannot hope to convince them. For myself I will not vote to concur in the amendment of the Senate creating this office. I withdraw my amendment to the amendment.

The committee divided; and there were—ayes 30, noes 49; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Mr. WASHBURNE of Illinois, and Mr. TWICHELL.

The committee again divided; and the tellers reported—ayes 30, noes 52; no quorum voting.

The Clerk proceeded to call the roll, and the following members failed to answer to their names:

Messrs. Adams, Allison, Archer, James M. Ashley, Baldwin, Barnes, Barnum, Beaman, Bingham, Boyer, Brownwell, Brooks, Broomall, Buckland, Burr, Roderick R. Butler, Cake, Cary, Chanler, Reader W. Clarke, Covode, Dawes, Delano, Dodge, Eggleston, Eldridge, Ferriss, Fields, Finney, Fox, Glosbrenner, Golladay, Gravelly, Haight, Hamilton, Harding, Hill, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Johnson, Jones, Julian, Kelley, Kerr, Knott, Ladin, Lincoln, McCullough, McKee, Morrell, Morrissey, Mungen, Newcomb, Niblack, Nicholson, Nunn, Peters, Phelps, Pile, Polsley, Prayn, Robinson, Root, Schenck, Seofield, Selye, Stokes, Taffe, Thomas, John Trimble, Lawrence S. Trimble, Upson, Van Akenman, Robert T. Van Horn, Van Trump, Van Wyck, Ward, Cadwalader C. Washburn, Thomas Williams, John T. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward.

The committee rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union, having under consideration the amendments of the Senate to the legislative appropriation, and finding itself without a quorum, had caused the roll to be called and directed him to report the names of the absentees to the House.

#### ENROLLED BILLS AND RESOLUTIONS SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 1129) for the relief of the widow and children of Colonel James A. Mulligan, deceased;

An act (H. R. No. 411) for the relief of Almira Wyeth;

An act (H. R. No. 775) granting a pension to the widow and minor children of Erastus Kinsel;

An act (H. R. No. 671) granting a pension to the widow of Henry Kaneday;

An act (H. R. No. 523) granting a pension to James S. Todd; and

Joint resolution (H. R. No. 312) relative to the pay of the Assistant Librarian of the House.

#### LEGISLATIVE APPROPRIATION BILL—AGAIN.

The SPEAKER. There are one hundred and eight members present, and the committee will resume its session.

The committee resumed its session.

Mr. WASHBURNE, of Illinois. I will say to the gentleman from Massachusetts [Mr. TWICHELL] that there will be a vote in the House on this amendment.

Mr. TWICHELL. Very well.

The amendment was non-concurred in, only twenty-five members voting in favor thereof.

One hundred and forty-seventh amendment:

Strike out under the head of "Navy Department" "six" and insert "four," so it will read, "four clerks of the fourth class, \$7,200."

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

One hundred and forty-eighth amendment: Insert under the same head "four clerks of the first class, \$4,800."

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

One hundred and forty-ninth to one hundred and eighty-seventh amendment, inclusive. By unanimous consent the above amendments, in which the Committee on Appropriations recommended non-concurrence, were considered in gross and non-concurred in.

One hundred and eighty-eighth amendment: Strike out "fifth" and insert "first," so as to read, "First Auditor of the Treasury Department."

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

One hundred and eighty-ninth amendment:

Insert: And revised and certified by the First Comptroller according to law.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

One hundred and ninetieth amendment:

Strike out "three" and insert "five," so as to read, "for purchase for library, laboratory, and museum, \$5,000."

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

One hundred and ninety-first amendment:

Strike out "five," so as to read, "for purchase of new and valuable seeds and labor in putting them up, \$20,000."

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

One hundred and ninety-second amendment:

Strike out "five" and insert "twelve," so as to read, "for grading, forming roads and walks, and improving the grounds, \$12,000."

The Committee on Appropriations recommended non-concurrence.

Mr. TROWBRIDGE. The reason for the reduction of the amount appropriated for seeds by the Senate from \$20,000 to \$5,000 is that they proposed to transfer that appropriation and add a little more to the present appropriation upon which the vote is now to be taken, namely, "For grading, forming roads and walks, and improving the grounds, \$12,000." The Senate struck out the greater part of the other appropriation for seeds with the expectation of transferring it to this. I therefore hope the amendment of the Senate to increase this appropriation will be concurred in. It only increases the appropriation a very little. It was with that view that I assented to the reduction in the other case. Otherwise I would have opposed it.

Mr. WASHBURNE, of Illinois. I think the gentleman had better leave this to the committee of conference to adjust.

Mr. TROWBRIDGE. I would prefer to concur in the amendment.

The amendment was concurred in.

One hundred and ninety-third amendment:

Insert the following: Department of Education: For compensation of Commissioner of Education, \$4,000; chief clerk, \$2,000; one clerk of class four \$1,800, and one clerk of class three, \$1,600. For stationery, blank books, freight, express charges library, miscellaneous items, and extra clerical help, \$10,600, in all \$20,000.

The Committee on Appropriations recommended non-concurrence.

Mr. SPALDING. I move concurrence.

Mr. RANDALL. This is a perfect waste.

Mr. SPALDING. I believe we ought to concur in this. I yield the floor to my colleague.

Mr. GARFIELD. I am exceedingly sorry to hear that the majority of the committee have recommended non-concurrence in this amendment. The Department of Education was established in March, 1867. An exceedingly small amount of money was required to carry it on. I am not as well informed as to what it has accomplished as I would be glad to be and as I presume some other gentlemen

here would also like to be, but I am perfectly certain that no one appropriation of the amount of money provided for in the law creating that Department could be applied more advantageously than for the purpose indicated in that act. If any gentleman will look into it, I believe he will find that no act involving no larger amount of money than was involved in that has met with a more favorable response throughout the country and throughout the civilized world than the act of the last Congress establishing this Department. The Government of Great Britain has undertaken within the last eight months to establish a department of education. The moment suffrage was extended to eight hundred thousand Englishmen that moment every thinking man in the kingdom recognized the necessity of immediately providing for a more comprehensive and thorough system of education throughout Great Britain to make suffrage intelligent. A bill was introduced almost the first day of the present session of Parliament to establish a department of education, making the head of it one of the advisers of the queen, to have a seat in the cabinet as one of the regular ministers of the Crown. That bill has been advocated by some of the very best minds in England, and although it is postponed for the present there can be no doubt of its ultimate adoption.

I hope it will not be considered improper if I ask to have the following letter from John Bright read. It was addressed to the United States consul at Sheffield, and was recently sent to me.

The Clerk read as follows:

ROCHDALE, January 4, 1868.

DEAR SIR: I write to thank you for sending me a copy of General GARFIELD'S speech on education. I have read it with much interest.

The Department now to be constituted at Washington will doubtless prepare statistics which will inform the world of what is doing in the United States on the education question; and the volume it will publish will have a great effect in this country, and, indeed, in all civilized countries.

You will have observed the increased interest in education shown in England since the extension of the suffrage. I hope some great and good measure may be passed at an early period.

I am, very truly, yours,

JOHN BRIGHT.

GEORGE J. ABBOT, esq., United States Consul, Sheffield.

Mr. GARFIELD. I only introduce this letter to show the importance attached to this subject by our friends in Europe. The statistics given in the preliminary report of the Commissioner of Education are an earnest of what the Department may accomplish if continued and vigorously administered.

It will be remembered that General Grant, in his report as Secretary of War *ad interim*, recommended that that part of the Bureau of Freedmen's Affairs that referred to education should not perish with the bureau, but should be transferred to the Department of Education, and that a clause of the bill for the temporary continuance of the bureau, which is now in the hands of the President for his signature, carries out that recommendation. I ask gentlemen what they are going to do with it—if they are going to abandon all further efforts to aid the freedmen and the States of the South?

[Here the hammer fell.]

Mr. RANDALL. I move to amend the amendment of the Senate by striking out "\$20,000" and inserting "\$10,000."

There never was any occasion, whatever, in my humble judgment, for the establishment of this Department of Education; and I am glad to see that the Committee on Appropriations recommend a non-concurrence in the extravagant appropriation of the Senate. There is no analogy between Great Britain and this country in connection with the manner and modes of education. England is a centralized Power, and the question belongs directly to Parliament, whereas in this country the system of education is exclusively controlled by the States and paid for within the States by the people, and there is no justification whatever for this extravagant appropriation. We were told when this bureau was established that it would not cost over five or six thousand dollars.

Mr. GARFIELD. The gentleman is mistaken. The original bill itself provided for \$13,500.

Mr. RANDALL. Well, \$13,500; I accept the correction, and here we have an appropriation asked for of \$20,000.

Mr. WASHBURN, of Illinois. Thirty thousand dollars.

Mr. RANDALL. No, \$20,000. Now, let us cut off this appropriation before this incubus is fastened on the Government. The education of our children is best left to the States, and I hope the amendment of the Senate will not be concurred in.

Mr. DONNELLY. I oppose the amendment to the amendment. I think I may say that, in the judgment of every gentleman of this House, the interest of education is the most vital and the most precious involved in our institutions, because our institutions rest upon the theory that the people are intelligent enough to judge of the questions submitted to them for their suffrages, and upon that intelligent judgment rests the very life of the nation. This is an acknowledged fact.

Now, Mr. Chairman, we have in the last few years extended to the people of the South lately in a condition of slavery the right of suffrage. We have given that right of suffrage to an immense number of men. We find, if the reports that are published in the papers are to be believed, that a large number of those men just snatched from a condition of slavery are now found voting upon the side of the very men who made rebellion against this Government, and who made that rebellion to keep them in slavery. If the reports in the newspapers are true, in one State thirty thousand men have so voted. Mr. Chairman, if such be the fact, this general suffrage will prove a calamity to the country.

Mr. RANDALL. Let me ask the gentleman if this appropriation will educate a single one of those thirty thousand men to whom he refers, in the State of Mississippi, I presume?

Mr. DONNELLY. I will come to that in a moment.

Mr. FARNSWORTH. It will not educate anybody.

Mr. DONNELLY. I say this state of things will be a calamity, if the ignorance of these men is to furnish a weapon and an instrument to endanger the life of this country. We cannot send suffrage to these people unless we send education to accompany it. And how can we do that? Our system of Government does not permit us to undertake directly the education of the people of the State of Mississippi. But if we have here in this capital of the country an institution which is, as it were, an eye watching the condition of that whole country, in an educational point of view, we shall have reached a great end. We can thus stimulate education there. Nay, more, if education falls short in any of these States, that fact is brought to our notice, and to the notice of the people of the entire country; and the public opinion of the entire country is turned upon the section so defaulting. We ask here for an appropriation of \$20,000. Compare that with some other items of appropriation in this bill. We appropriate \$40,000—double the amount here asked—for the purpose of publishing the laws of Congress in the States and Territories of the United States. We appropriate \$42,000 for the Capitol grounds and for the Botanical Gardens. We appropriated \$32,000 for the Congressional Library. It is true, these are all valuable interests, interests that I would not oppose. But how do they compare for a moment with this great, this gigantic interest which will reach over this whole country; and upon which I say the very life of this nation may depend. For where the destinies of this country rest upon the suffrages of an ignorant and unenlightened horde, the safety of this country has ceased, and its institutions are in daily peril.

One more point, and I have done. This Department has been in operation but one year. Why this attempt to massacre it in its very

cradle? Why not give it an opportunity to manifest what it can do?

[Here the hammer fell.]

Mr. RANDALL. I withdraw my amendment to the amendment.

Mr. POMEROY. I renew the amendment to the amendment for the purpose of saying what I can to aid the Committee on Appropriations to get rid of this excrescence that has grown up on this appropriation bill. There is not to-day, and there never has been, any more reason for having a Department of Education in the city of Washington, than there is for having here a department of music, or a department of architecture, or a department of religion, or anything else of the kind that might be named.

The gentleman from Minnesota [Mr. DONNELLY] says that we want an eye here. Well, sir, this is but a glass eye; it has no sight in it; it has no power; it cannot inspect the system of education anywhere in the United States. This Department cannot appoint a superintendent or a teacher anywhere, nor can it recommend a school-book and carry it into any school. It cannot do anything, except to sit here and draw the salaries of its employés and compile such statistics as the State superintendents of schools may see fit to send them without any requirement of law whatever. The reason I want to strike this out now is that it is only a year old. By the time it gets to be three years old it will want at least \$100,000 a year; and how much it may want when it comes to be of full age I do not know. Sir, the sooner we turn from this system of legislating upon everything that does not concern us, and devote our attention to those things which we should attend to, the better for the people and the Government. This is a barnacle that has grown on the ship of State, and the quicker we scrape it off the better for the Government and the people.

Mr. PHELPS. It appears to me, Mr. Chairman, that much of the opposition to this Department of Education arises from a misunderstanding of the object and purposes for which it was created; and in my judgment this misunderstanding is largely due to the title which has, I think, unfortunately been given it. I think there ought never to have been an attempt to create what is called a "Department" for the purposes contemplated by the act of Congress which established this institution. If the powers and duties which are devolved by law upon the Commissioner of Education, at the head of the so-called Department of Education, had been devolved upon a clerk in the Interior Department, or if even an officer designated a Commissioner of Education had been provided for, with the same powers and duties contemplated by the law heretofore enacted, without any attempt to create a separate Department of the Government for that purpose, I think a great part of the objection and the clamor to which this institution has been subjected would have been obviated. For my part I am not to be imposed upon by mere names. I have examined carefully and repeatedly the act of Congress which established this Department, and I have not been able to find in it anything which is not in my judgment perfectly consistent with the Constitution, and entirely in accordance with the spirit and purposes of a Government such as ours.

Mr. RANDALL. I would like to ask the gentleman where this Department is located?

Mr. PHELPS. Where all the other Departments are located—at the seat of Government, where it ought to be located.

Mr. RANDALL. In which one of the public buildings?

Mr. PHELPS. If the gentleman had taken the trouble to find out, he would not ask me such a question.

Mr. RANDALL. I have not been able to find out.

Mr. PHELPS. I presume the gentleman has not taken the trouble to inquire.

Mr. RANDALL. Yes, sir, I have; and

because I have not been able to find out I make the inquiry now.

Mr. PHELPS. I cannot give the gentleman any more of my time. It is easy enough for him to ascertain where this Department is located. With regard to the fruits accruing from this institution, it certainly could not be expected that in the short period of time which has elapsed since the inauguration of this Department it could have sprung to full fruition. Time must be consumed in breaking the ground and sowing the seed before the harvest can be reaped.

Some unfavorable intimations have been made as to the qualifications of the gentleman who has been assigned to the control of this Department. When this subject was heretofore under consideration in the House, I took occasion to call attention to the character of this gentleman, and to the high and unquestionable testimony with regard to his qualifications. I had read here an extract from Kent's Commentaries, in which Chancellor Kent himself, a quarter of a century ago, spoke in terms of the highest commendation with respect to the educational labors of the gentleman who has been assigned by the President to the control of this Department. From the time when he was thus favorably noticed by Chancellor Kent in the fourth edition of his Commentaries to the present moment, this gentleman has been undeviatingly devoting himself to the cause of education, both in this country and abroad.

[Here the hammer fell.]

Mr. POMEROY. I withdraw the amendment to the amendment.

Mr. SPALDING. I move to amend the amendment by striking out the last word. Mr. Chairman, I believe this matter of encouraging education is not a new thing with Congress. If I am correctly informed, it has been the habit of Congress from the earliest days of our Government to make liberal contributions for promoting education in the States and Territories. I know that in my own noble State we are greatly indebted to the munificence of Congress for our system of common-school education. In every township one section of land was appropriated by Congress for school purposes; and the sale of those sections has given to us the greater portion of our common-school fund. I understand that at this moment the young State of Minnesota has a more prosperous common-school fund than any other State in the Union, not excepting old Connecticut; and this has arisen from the liberal donations of public lands by Congress. All the new States have received donations of lands from Congress for the promotion of common-school education. But where will you go to ascertain what has become of these donations, what they have amounted to, what their situation is in each of the States? I ask this question for the purpose of telling you that this is one of the purposes for which this bureau of education was created here in Washington, that the gentleman at the head of it might form a report of the statistics of education in the different States of the Union, and lay that report from time to time before Congress, so that the people of the States might be benefited by it.

I understand the gentleman now at the head of the bureau, who is one of the best instructors in America, confessedly one who has greater experience and capability than any other man who can be named in connection with this subject—I understand he has been diligently employed in gathering this information from the States and Territories and is preparing to lay it before the people of the United States, so they may have the benefit of it. This is one great object in creating the bureau of education. I want to inquire what is Congress coming to? Gentleman say we must wash our hands of the charities in the District of Columbia, not a dollar to go for benevolent purposes. And now when the Senate has appropriated a small pittance of \$20,000, under a law enacted twelve months ago, and a law which has found favor throughout the civilized world, where we are commended for it, we

are now so niggardly we propose to strike out that appropriation of \$20,000, and say there shall no longer be this bureau of education to foster a great interest of the country. I deprecate the policy which would strike down this appropriation as I would deprecate the policy which ties our hands against administering to the charities of the District of Columbia.

Mr. STEVENS, of Pennsylvania. I was somewhat taken by surprise this morning to find the friends of the different schemes have agreed on a scheme with which to carry out this Department of Education. It passed the very night Congress adjourned last year. It had been defeated by my casting vote; but my learned friend from Minnesota [Mr. DONNELLY] came and asked me to withdraw it. I did so. I did not think it was to be taken up and passed immediately. It was passed, and a man about whom I could speak that which would place him in a different position from that which he now occupies, was appointed instantly to this place. When we came here not a dollar had been appropriated to pay him. They asked for a deficiency to pay him; this House refused to pay a dollar for the purpose. They refused to consent to an appropriation for the next fiscal year. I like to hear education eulogized. I have sometimes taken pride in advocating it; but whoever thought of educating the people at the top rung? Whoever, sir, thought of educating the negroes to vote by teaching them Greek and Latin. My friends here are preparing them for freedom by giving them, not a common-school education, but by giving them a high scientific polish. Gentlemen, study your "Hildreth" and your arithmetic a little more, and say how long it took you to get educated. The services of the bureau of education will be lost so far as the negroes are concerned.

What is the bureau of education? It is the gathering up of these facts by a worn-out man, who embodies them in his report. We are told the speech of the gentleman from Ohio [Mr. GARFIELD] on this subject was much applauded. I have no doubt it was. It was a great speech, but wherein would that help the mass of the people in teaching them how to govern the nation? We have before the House two bills for common-school purposes. I thought we had agreed to that. One of them repeals this educational bureau and substitutes common schools in this District in its place. These common schools would be of some use. We now pay for a portion of the education of the people of this District. We pay a part and the people of the District pay the balance. I ask seriously, do you advocate this measure merely for the purpose of making a glorious speech on the subject of education, or do you make it for the purpose of fitting freemen for the ballot-box? I think no one can doubt what the answer to that should be. I should be ashamed to vote against educating the people. I would track them from the lowest man or boy who could be taught to read and write upward until the sciences would become germane to their condition. But I would be ashamed to begin at the top and establish a school like Oxford or Cambridge, or like the bureau of education, as one of the samples of the efforts of this nation on the subject of education.

[Here the hammer fell.]

Mr. SPALDING. I withdraw the amendment to the amendment.

Mr. MAYNARD. I move to amend by adding one dollar. I do not know, if I were disposed, that I could say anything about the gentleman at the head of this Department that is not known to the members of the House or to the country. It is proper, however, to say that what I do know of him is to his credit, and that I know nothing to his discredit. I rose, however, not for the purpose of general discussion, but for the purpose of suggesting a thought in connection with the condition of education in that part of the country that we are now engaged in politically reconstructing. One of the measures going hand in hand with political construction is educational reconstruction. In

my own State—as some of my colleagues know, for they were parties concerned—the inauguration of an improved school system was one of the first things that met them when the Government was reorganized after the close of the war. They are aware how much they lacked of information respecting the state, not of the higher schools, as the gentleman from Pennsylvania [Mr. STEVENS] says, but of the lower, the primary, the rudimentary schools; how much they needed of the sort of information, to collect and disseminate which I understand to be one of the principal objects of this Department of Education. It seems to me, in view of the condition of affairs in that whole region of country where the establishment of a system of common education to reach all classes of society is a very important part of the processes that are now going on, we need especially, if we ever did, some central agency by which the experience and the results of systems in other parts of the country, where common education has been more highly organized, might be collected. We need it especially and peculiarly, and in that point of view, leaving out every other aspect of the question, it seems to me that this very inconsiderable appropriation of \$20,000 might be permitted to stand.

Mr. WASHBURN, of Illinois, moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being the amendments of the Senate to the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, and come to no resolution thereon.

Mr. WASHBURN, of Illinois. I move that when the House shall again resolve itself into Committee of the Whole on the state of the Union upon the special order, all debate upon the pending paragraph and the amendments thereto terminate in fifteen minutes.

The motion was agreed to.

Mr. WASHBURN, of Illinois. I move that the rules be suspended, and that the House again resolve itself into Committee of the Whole on the state of the Union upon the amendments of the Senate to the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of the amendments of the Senate to the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

Mr. FARNSWORTH. Mr. Chairman, I have failed yet to hear any gentleman tell the committee what it is proposed to accomplish by having this Bureau of Education. The gentleman from Minnesota [Mr. DONNELLY] talked about the danger to our institutions without it. How the safety of the country is to depend upon it he did not tell us. He spoke of the Commissioner of Agriculture and of the importance of that Department of the Government. He spoke of the importance of educating the freedmen so that they might vote intelligently. But how he proposes that the Commissioner of Education, located in some office in Washington—over a restaurant on the avenue, as I believe he holds his office now—is going to educate the freedmen in Mississippi and South Carolina to vote he failed to tell us.

Mr. DONNELLY. I simply desire to say that the gentleman from Tennessee [Mr. MAYNARD] has fully answered that question in stating that this institution was necessary to collect information called for by those freedmen.



Mr. FARNSWORTH. We have had a speech from the gentleman from Tennessee, but he did not tell us precisely how this was to be done. The collecting of statistics and publishing them in a book is not going to educate the freedmen. You cannot send out education as the Commissioner of Agriculture does seeds, done up in parcels. You cannot put it up in that way. Education must start from the root, from the home, with the primer and the spelling-book. Education must be patronized by the States, by the establishment of schools, colleges, and institutions of learning. They must be the custodians of the education of the children of this country and of the children of a more advanced age, the freedmen. A Department of Education located here in Washington cannot be the custodian of education; nor can such a department, it seems to me, be of any sort of advantage to the country. You might as well have a department of commerce, a department of mechanics, a department of the Christian religion, or a department of shoe-making; for it is quite as important that the soles of our feet be well protected as that our souls be cultivated; it is quite as important that the understandings which we tread on should be good as the understanding with which we legislate; and you might just as well, it seems to me, have departments of all these different subjects as a department of education here in the city of Washington. It would do as much good. Now, I would like some gentleman to tell us the ways and means, the particular manner in which the Commissioner of Education is going to educate the freedmen how to vote, and the poor children ~~out~~ in the district of the gentleman from Ohio [Mr. GARFIELD] how to read their Bibles? Perhaps the gentleman can tell us.

Mr. GARFIELD. The gentleman from Illinois [Mr. FARNSWORTH] has given an illustration just before he asked his question that seems to me very striking. He says he would like to know whether we need a department to improve the understanding upon which we tread. Now, I do not know but that we need just such a department as that.

Mr. FARNSWORTH. As I do not make speeches for the purpose of getting the opinion of John Bright or of spreading them in the Globe the gentleman will excuse me.

Mr. GARFIELD. Well, I will excuse the gentleman of course.

Mr. SPALDING. We have no department of grammar here yet.

Mr. PIKE. The reporters fix up all that.

Mr. GARFIELD. Now, to be serious about this matter, I want gentlemen to understand that when the ordinance of 1787 was passed it was one of the fundamental conditions that of every township of land ceded to the United States one sixteenth was to be set apart forever as sacred to the purposes of education.

Mr. STEVENS, of Pennsylvania. Was not that for the education of the common people and not of the nabobs of the country?

Mr. GARFIELD. One township at least in every State was set apart for establishing universities, and there were universities established. Gentlemen of this Congress will understand that not all Congresses have been unable to see any importance in fostering the interests of education.

Now, Mr. Chairman, I desire to say one other thing in regard to this bill. It is not claimed that we should take any control of education in the States. It is not claimed, as the gentleman from Pennsylvania [Mr. STEVENS] would indicate, that we advocate the study of Latin and Greek to teach the negroes how to vote. But it is claimed that there are seventeen States in this Union that, until a very recent period, had no system of education. The States of the South, with perhaps two or three exceptions, never had a system of education. And next to the love these people just released from slavery have for liberty itself is their love of knowing how to read and write—for entering into the fields of knowledge. They have asked to be educated more earnestly than they have

asked any other boon since they obtained freedom. I have in my possession a letter from a man who is nominated for commissioner of common schools in one of these States begging that this department of education may give his State all possible aid and counsel in organizing a system of common schools.

And all through the southern States they want, not teachers merely, but they want to know what the best systems of education are in the various States of this Union, and it is precisely that kind of information which the Department is furnishing, and was established to furnish. We are sending out one hundred and sixty thousand tons weight of agricultural reports every year, and gentlemen send them to their constituents, loading the mails with them, to teach the people better how to sow and hoe and reap. Will you not expend the small amount appropriated by this bill for this Department, in telling the people of this country how best to educate their children and how best to fit them for the high duties of citizens? I shall feel that a wound has been inflicted on the honor of America if this Department shall be stricken down just when it is beginning to live. It was established at the request of the teachers of the country—a body of men who are silently but certainly molding the destinies of the future generations. Shall their modest request for national recognition once granted be so soon denied? I am unwilling to believe that this House will strike down this Department.

[Here the hammer fell.]

The committee rose informally; and the Speaker resumed the chair to receive

#### A MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed, without amendment, a bill and joint resolution of the House of the following titles:

A bill (H. R. No. 1077) to authorize the construction of a bridge over Black river, in Lorain county, Ohio; and

A joint resolution (H. R. No. 318) to correct an act entitled "An act for the relief of certain exporters of rum."

The message further announced that the Senate had passed a bill and joint resolutions of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 159) relating to the western Pacific railroad;

A joint resolution (S. R. No. 152) to extend the time for the completion of the west Wisconsin railroad; and

A joint resolution (S. R. No. 154) to admit certain persons to the Naval Academy.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The Committee of the Whole resumed its session.

The amendment of the Senate in relation to the Department of Education was under consideration.

Mr. WASHBURN, of Illinois. I desire to show to the Committee of the Whole that the Senate have put in this amendment which we are asked to agree to \$4,300 more than was estimated for.

Mr. MAYNARD. I suppose they were satisfied that not enough had been estimated for.

Mr. WELKER. I do not propose to discuss the general question of education in this country in the few remarks I propose to make in reference to the amendment of the Senate. I agree with gentlemen who have already made remarks on this subject, as to the great importance of the educational interests of this country. But I do not concede that the establishment of this Department of Education is to furnish the means by which and through which the people of the different States of this Union are to be educated. But I will not discuss this question now. I wish to make a few remarks in relation to the efficiency of this Department of Education, since this Congress created that department of the General Government. Since I have been in Congress I have been connected with the Committee for

the District of Columbia. I have taken a great deal of interest in the cause of education in this District. And my venerable friend from Pennsylvania [Mr. STEVENS] has been chairman of a committee on the subject of a system of common schools for this District. A year ago, in conjunction with a colleague, I introduced a resolution calling on this Department of Education for certain statistical information connected with the educational interests of this District, from which I expected, as I have no doubt the chairman of the Committee on Public Schools for this District expected, to gain a great deal of information in reference to what plan of education should be adopted in this District. That resolution was passed a year ago; but I have never heard a word by way of report in answer to it.

Mr. GARFIELD. That report has been set up in type for several weeks past.

Mr. WELKER. It may be set up in type; but I have never heard of it, though the resolution was passed a year ago. Now, if this Department is to control the educational interests of this great country, it seems to me that if there was any efficiency in it it could have answered those inquiries in regard to this District within a year after the resolution was adopted.

Mr. GARFIELD. Did not the resolution require the Department to make a complete census of this whole District, which has been done very completely and thoroughly?

Mr. WELKER. It was to furnish a census of the District, together with such other information as would enable us to get up a system of common schools for this District.

Mr. STEVENS, of Pennsylvania. We have three other census bureaus now.

Mr. WELKER. No report has been made. I speak of this to show the efficiency of this Department.

Mr. PIKE. I think there is a minute or two left of the time allowed for debate on this proposition. I wish to remind the Committee of the Whole of the argument of the senior member from Ohio, [Mr. SPALDING,] which is the most plausible I have heard.

Mr. SPALDING. Does the gentleman call me the senior member?

Mr. PIKE. I think the gentleman is older than the gentleman from Ohio [Mr. WELKER] who has just spoken. The gentleman referred to the system of land grants for the support of common schools. Now, I have no doubt the State systems of common schools have worked well. But is it worth while to spend \$20,000 a year on this Department of Education, besides the expenditure necessary for paper and printing, in order to ascertain that fact, when the records of the various States will exhibit the facts to any gentleman or any association that desires them, and will send for them through the proper channels?

[Here the hammer fell.]

The amendment of the Senate was non-concurred in.

One hundred and ninety-fourth amendment:

In lines eleven hundred and forty-three and eleven hundred and forty-four strike out "\$6,500" and insert "\$9,000;" so as to make the clause read:

For salaries of the director, treasurer, assayer, melter and refiner, chief coinier and engraver, assistant assayer, and seven clerks, \$39,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

One hundred and ninety-fifth amendment;

Add after the word "dollars," in line eleven hundred and forty-four, the following:

Provided, That from and after the 1st day of July, 1868, the annual compensation of the weighing clerk shall be \$2,500, and the compensation of the calculating, accounting, and warrant clerks shall be \$2,000 each.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

One hundred and ninety-sixth amendment:

Strike out "\$150,000" and insert "\$191,000;" so as to make lines eleven hundred and sixty and eleven hundred and sixty-one read as follows:

For wages of workmen and adjusters, \$191,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

One hundred and ninety-seventh amendment:

Amend so as to make lines eleven hundred and sixty-two, eleven hundred and sixty-three, and eleven hundred and sixty-four read as follows:

For incidental and contingent expenses, repairs and wastage, in addition to available profits, \$69,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

One hundred and ninety-eighth amendment:

Add after the word "dollars," in line eleven hundred and sixty-four, the following:

Provided, That hereafter all the "available profits" of the United States Mint and branches shall be covered into the Treasury, to be expended only by a specific appropriation.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

One hundred and ninety-ninth amendment:

Add after the word "dollars," in line eleven hundred and ninety-nine, the following:

And after the 30th of June, 1868, the annual salary of the Assistant Treasurer at Charleston shall be \$1,000, and that amount is hereby appropriated, \$22,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Two hundredth amendment:

After the word "dollars," in line twelve hundred and three, strike out "\$20,500."

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Mr. WASHBURN, of Illinois. I ask unanimous consent that amendments numbered two hundred and one to two hundred and twenty-one, inclusive, in all of which the committee recommend non-concurrence, be non-concurred in without reading.

The CHAIRMAN. If there be no objection that will be done.

There was no objection; and amendments two hundred and one to two hundred and twenty-one, inclusive, were non-concurred in.

Two hundred and twenty-second amendment:

Add after the word "dollars," in line thirteen hundred and forty-eight, the following:

And that the district attorney for Nevada shall receive a salary for extra services of \$200 per annum, and the Secretary of the Treasury is hereby authorized to audit and pay out of any moneys in the Treasury not otherwise appropriated, the salaries of the present incumbent and his predecessor, R. M. Clark, at the rate of \$200 per annum for their services.

The Committee on Appropriations recommend non-concurrence.

Mr. ASHLEY, of Nevada. Mr. Chairman, in consequence of an oversight—the district attorney of Nevada has heretofore received a salary less than that received by all the other district attorneys of the United States. This amendment of the Senate is designed—

Mr. WASHBURN, of Illinois. I will state, if the gentleman will permit me to interrupt him, that the committee had some doubt about this subject, and hence recommended non-concurrence. I have since consulted with the gentleman from Nevada, [Mr. ASHLEY,] as well as one of the Senators from that State; and I now think this amendment is right. I have conferred with the committee, who are now in favor of concurrence.

The amendment was concurred in.

Two hundred and twenty-third amendment.

Add the following as an additional section:

SEC. 2. And be it further enacted, That the provisions of section ten of an act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes, approved March 2, 1867, be, and they are hereby, extended to one additional newspaper in the District of Columbia from the date of the approval of said act, the same to be selected by the Clerk of the House of Representatives.

The Committee on Appropriations recommend concurrence.

Mr. FARNSWORTH. It is strange, it seems to me, that the Committee on Appropriations

should have recommended a concurrence in this amendment.

Mr. WASHBURN, of Illinois. The committee first recommended a non-concurrence, but the committee had a meeting this morning, and I do not know what they did.

The CHAIRMAN. It is in the printed report non-concurrence; but in the amended report the committee recommend a concurrence.

Mr. STEVENS, of Pennsylvania. It was alleged a mistake had been made, and on examination it was found to be true, and this morning it was corrected.

Mr. FARNSWORTH. The law now provides advertisements shall be published in two papers selected, I think, by the Clerk of the House.

Mr. STEVENS, of Pennsylvania. Two papers having the largest circulation in the District.

Mr. FARNSWORTH. Does not this refer to advertisements from the Departments?

Mr. STEVENS, of Pennsylvania. I am speaking of another section after this.

Mr. FARNSWORTH. If I am right, this is the same section which the Committee on the Post Office and Post Roads reported a bill to amend, which passed this House unanimously, cutting off a portion of the advertisements which are being published now, as well as the different advertisements from the Executive Departments, in two papers in the District of Columbia, the Chronicle and Star, a morning and evening paper. They publish under this law every conceivable advertisement, from the sale of quartermasters' stores in Nevada—

Mr. SPALDING. That is all remedied.

Mr. FARNSWORTH. The evil of publishing in three papers instead of two is not remedied. Why is it necessary to publish in three papers in the city of Washington instead of two?

Mr. SPALDING. Because they are Republican papers.

Mr. FARNSWORTH. Then I understand the object is to give it to the National Intelligencer, or some other Democratic newspaper.

Mr. SPALDING. No, sir.

Mr. FARNSWORTH. They are published in two Republican papers. Do you want them published in three?

Mr. SPALDING. Certainly.

Mr. STEVENS, of Pennsylvania. Does the gentleman from Illinois call the "Star" a Republican paper?

Mr. FARNSWORTH. Certainly. This is adding fifteen or twenty thousand dollars to the expense.

Mr. BLAINE. Taking this and a following section and it takes off a large amount.

Mr. FARNSWORTH. Why not cut off the third paper in the District of Columbia.

Mr. BLAINE. The gentleman cannot ask for too much reform in one day.

Mr. FARNSWORTH. This is saving at the spigot and letting it run at the bung-hole.

Mr. STEVENS, of Pennsylvania. Do not let us starve the Republican papers before next December.

The amendment was non-concurred in.

Two hundred and twenty-fourth amendment:

Add the following as an additional section:

SEC. —. And be it further enacted, That all acts or parts of acts authorizing the publication of the debates in Congress are hereby repealed from and after the fourth day of March next, and the joint Committee on Printing is hereby authorized and required to invite proposals for the publication of the actual proceedings and debates in Congress, upon a plan and specifications to be previously published by them, and shall also ascertain the cost of such publication by the Superintendent of Public Printing, and shall report as soon as practicable such proposals and estimate of cost, together with a bill to provide for the publication of the debates and proceedings of Congress.

The CHAIRMAN. The committee make no recommendation in regard to this amendment.

Mr. PHELPS. I would be in favor of the proposition embodied in the first four lines of the Senate amendment, because I am in favor of stopping altogether *verbatim* reports of the

debates which take place in both Houses of Congress. I have always thought, sir, the system was a vicious one and an extravagant one, bad in itself and bad in its consequences; but I am opposed to the proposition to transfer away the reporting of the debates of Congress from the hands in which it has been heretofore reposed to those of the Superintendent of Public Printing.

I have heard no reason alleged, either in point of utility or economy, that should induce us to consent to any such change. I shall freely vote for a proposition to entirely dispense with the *verbatim* reports of the debates; but I am opposed to any proposition to transfer the business from the hands of those to whom it is already confided, and who have done it generally so well.

Mr. BLAINE. I desire to say that I am authorized by the proprietors of the Globe to say that so far as they are concerned they would like to have this amendment adopted.

Mr. GARFIELD. I move the following amendment:

Strike out all after the word "next," in line four, as follows:

And the joint Committee on Printing is hereby authorized and required to invite proposals for the publication of the actual proceedings and debates in Congress, upon a plan and specifications to be previously published by them, and shall also ascertain the cost of such publication by the Superintendent of Public Printing, and shall report as soon as practicable such proposals and estimates of cost, together with a bill to provide for the publication of the debates and proceedings of Congress.

And insert in lieu thereof the following:

And hereafter no publication of the debates in Congress shall be paid for out of the Treasury of the United States.

Mr. WASHBURN, of Illinois. And keep the people in ignorance?

Mr. GARFIELD. I do not make this proposition because the committee are unwilling to give the people \$20,000 worth of information on the subject of general education, though I might make a comparison of the value of these two appropriations to the people, and might truthfully say that they will learn far less from the Globe than they would from what might be given them by the Department of Education. It is not for that reason, however, that I make this motion. I make it in good faith. I have had lying in my desk for a number of months a proposition touching this subject which I desired some time to submit to the consideration of the House. I believe the newspaper enterprise in this country would publish at their own expense just as good a report of what is said in this House and in the Senate as the people care to read. I believe, moreover, if the Congressional Globe were abolished it would make the debates in this House far more valuable. We would have far less talk for the sake of talk, far less essay writing and essay publishing than is now done. We would save an immense expenditure to the Government, and our debates would be real, legitimate debates. Now our whole system has, in a great measure, reduced congressional debating to essay writing and essay reading, and if any man shall hereafter have the curiosity and patience to wade through the vast masses of these printed volumes and find here and there scattered valuable thoughts; it will only be as the geologist finds coprolites embedded in the strata of the earth. I trust we shall hereafter agree that there shall be no publication of our debates at the cost of the Government. The same thing that I propose is done in England. That Government does not pay for printing the debates in Parliament.

Mr. BLAINE. And never did.

Mr. GARFIELD. And never paid for them, and yet they have very full reports made by the London Times and collected in the volumes of Hansard. I make this suggestion for the consideration of the House. It may not be impossible that we place a much higher value on what we say here than the people do. The Journal of the House shows all resolutions and bills, and our votes on all questions. I think it quite doubtful if the people willingly pay \$500,000 a year for our arguments.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. I move to close debate on the pending amendment.

Mr. STEVENS, of Pennsylvania. Allow me to say a word?

Mr. WASHBURN, of Illinois. I do not withdraw the motion.

The motion was disagreed to.

Mr. STEVENS, of Pennsylvania. I merely rise to inquire of my friend from Ohio [Mr. GARFIELD] whether his latter speech was not the tail end cut off from the bureau of education, [laughter;] and whether he did not intend to have added, after he got the bureau of education pretty well established, that no child should read a newspaper or that no debate in Congress should ever be published so that it could be read, unless it were in Greek or Latin? [Laughter.]

Mr. BLAINE. I desire to say a word.

The CHAIRMAN. Debate is exhausted on the amendment to the amendment.

Mr. GARFIELD. I withdraw it to allow the gentleman to renew it.

Mr. BLAINE. I renew it. The gentleman from Ohio brings up the English practice. If he wants to bring in a proposition here by which a few gentlemen who occupy front seats or who have accidentally or otherwise a more favorable position, shall have their speeches reported, while Mr. Smith or Mr. Jones are never noticed in the reports anywhere at all; if he wants that kind of a system introduced I do not think he will find a majority here in favor of it. But I desire to say this—and I say it after some degree of examination—that there is no representative assembly in the world that begins to compare for the accuracy and value of its reports of its proceedings with the American Congress. There is no single thing connected with the American Congress that stamps responsibility so much as that everything a man says and every motion he makes goes into the permanent record of the official Globe. I say that if you should abandon that you will have removed one of the strongest possible chains of responsibility connecting the Representative with the constituents, and which is worth three times what it costs, that every man shall be held to account for what he says here to-day, to-morrow, and for the remainder of his public life.

Mr. GARFIELD. The papers will give us all the reports necessary.

Mr. BLAINE. You have that now. If you abolish the Congressional Globe, you will get no more from the Associated Press than you get now. You will get precisely what you get now and not a particle more.

Mr. DONNELLY. I desire to offer an amendment, to come in at the end of the amendment of the Senate.

The CHAIRMAN. That is not now in order. The question is on the amendment to the amendment offered by the gentleman from Ohio, [Mr. GARFIELD.]

Mr. FARNSWORTH. I hope that will be voted down.

The question was taken on Mr. GARFIELD's amendment; and it was disagreed to.

Mr. DONNELLY. I now move to add to the amendment of the Senate the following:

And from and after the 4th day of March, 1869, unless it be previously otherwise ordered by Congress, the proceedings and debates of the two Houses shall be published daily at the Congressional Printing Office, the reports thereof being furnished by reporters provided by each House for itself, in such manner and under such regulations as it may prescribe.

Mr. WASHBURN, of Illinois. I rise to a question of order. I submit that that amendment is not in order. It proposes to change existing law.

Mr. DONNELLY. The amendment is germane to the amendment of the Senate. It provides for the very contingency contemplated by the Senate amendment.

The CHAIRMAN. The Chair overrules the point of order made by the gentleman from Illinois. The amendment is germane to the Senate amendment.

Mr. DONNELLY. The amendment pro-

posed by the Senate provides for doing away with the existing system of publishing the debates by the proprietors of the Globe. It furthermore provides that the joint Committee on Printing shall invite bids and shall report a proposition to Congress. It does not, however, provide for the contingency which very probably will arise, that Congress, before the 4th of March next, may not have agreed upon any system of reporting, so that when we come here in the following December, we shall have dismissed the proprietors of the Globe from their task and provided no other means for publishing the debates.

Mr. BLAINE. Allow me to correct the gentleman. If there is anything done, it will be done by the Globe.

Mr. DONNELLY. The provision of the Senate is, that all acts and parts of acts authorizing the publication of the debates of Congress shall be repealed from and after the 4th day of March next. And we are told by the gentleman from Maine [Mr. BLAINE] that the proprietors of the Globe do not desire to continue to publish these debates.

Mr. BLAINE. I beg pardon; I did not say any such thing.

Mr. DONNELLY. Then I misunderstood the gentleman.

Mr. BLAINE. All I said was that the proprietors of the Globe desired to have this amendment agreed to by the House. I have no doubt they do desire to continue to publish the debates of Congress; but they are willing to take their chance, under a new contract, in competition with all others.

Mr. DONNELLY. That is to say, the Senate amendment proposes to dismiss the proprietors of the Globe, and they desire to be dismissed.

Mr. BLAINE. I do not say that.

Mr. DONNELLY. What their wishes are is of no moment to us. We should provide for any contingency that may arise, and not be left at the mercy of the Globe proprietors. My proposition is that in the event that no new arrangement is made by Congress the debates shall be published in the Congressional Printing Office until otherwise ordered.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. I move that the committee now rise for the purpose of closing debate.

Mr. MAYNARD. I desire to say something on this proposition.

Mr. WASHBURN, of Illinois. I will move that debate be closed in three minutes; and I will give that time to the gentleman from Tennessee, [Mr. MAYNARD.]

Mr. PHELPS. I desire two or three minutes' time.

Mr. WASHBURN, of Illinois. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being the amendments of the Senate to House bill No. 605, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, and had come to no resolution thereon.

#### ENROLLED BILL SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 347) to confirm the title of Ethan Ray Clarke and Samuel Ward Clarke to certain lands in the State of Florida, claimed under a grant from the Spanish Government.

#### LEAVE OF ABSENCE.

Mr. SITGREAVES asked and obtained leave of absence for ten days.

#### ORDER OF BUSINESS.

Mr. WASHBURN, of Illinois. I move

that when the House again resolve itself into Committee of the Whole on the Senate amendments to the legislative appropriation bill, all debate upon the pending amendment and all amendments thereto shall terminate in three minutes.

Mr. ROSS. I move that the House do now adjourn.

The question was taken on the motion to adjourn; and upon a division there were—ayes 43, noes 30.

Before the result was announced,

Mr. WASHBURN, of Illinois, called for tellers.

The question was taken upon ordering tellers; and there were twenty-two in the affirmative.

So (the affirmative being one fifth of a quorum) tellers were ordered.

Mr. WASHBURN, of Illinois. Before the tellers are appointed and take their places I desire to suggest that we can probably get through these amendments in ten minutes more. Then I shall ask that the House meet at eleven o'clock to-morrow, in order to take up the deficiency bill, so that if we can possibly get through it we need have no session on Saturday.

Mr. HIGBY. Why not make that proposition now, and then adjourn.

Mr. WASHBURN, of Illinois. I suggest that we finish this bill to-night, meet to-morrow at eleven o'clock, and take up and go through with the deficiency bill, and then adjourn over to Monday.

Mr. WASHBURN, of Indiana. I object. I do not want to finish this bill to-night.

Mr. BLAINE. I hope the gentleman will withdraw his objection.

The SPEAKER. The pending question is on the motion to adjourn.

Mr. ROSS. I withdraw that motion.

Mr. WASHBURN, of Indiana. I will withdraw the objection to meeting to-morrow at eleven o'clock if we can adjourn now. I do not want to go any further with the legislative bill to-night.

Mr. WASHBURN, of Illinois. The gentleman from Indiana [Mr. WASHBURN] objects to my whole proposition, to go through with this legislative bill to-night, meet to-morrow at eleven o'clock, and take up and go through with the deficiency bill, and then adjourn over to Monday. I understand, however, that he does not object to the last part of my proposition; and as there seems to be an indisposition to continue longer in session this afternoon, I will ask unanimous consent that the House meet to-morrow at eleven o'clock, finish this bill, take up and go through with the deficiency bill, and then we can adjourn over until Monday.

The SPEAKER. It requires unanimous consent to change the hour of meeting.

No objection was made.

#### PRINTING TARIFF BILL.

Mr. MILLER, by unanimous consent, submitted the following resolution; which was referred under the law to the Committee on Printing:

*Resolved*, That one thousand extra copies of the tariff bill be printed for the use of the House.

#### LEAVE OF ABSENCE.

Mr. DRIGGS asked and obtained leave of absence till Monday next.

#### RAILROAD, ETC., IN CALIFORNIA.

Mr. ANDERSON. I ask that the bill (H. R. No. 1016) granting lands to the State of California for the construction of a railroad and telegraph line from Vallejo to Humboldt bay be ordered to be printed.

The SPEAKER. If there be no objection the order will be made.

There was no objection.

#### ORDER OF BUSINESS.

Mr. WASHBURN, of Massachusetts. I rise to a question of order with reference to the action just taken by the House in regard to business to-morrow. I wish to know whether the morning hour can be dispensed with?



The SPEAKER. It can, by unanimous consent.

Mr. WASHBURN, of Massachusetts. I object to dispensing with the morning hour to-morrow.

The SPEAKER. The gentleman from Massachusetts objects to the morning hour to-morrow being dispensed with. If that objection be insisted on, the House cannot go into Committee of the Whole till after the morning hour. All these appropriation bills are made special orders after the morning hour.

Mr. WASHBURN, of Illinois. It was a part of my proposition that the House should meet at eleven o'clock, and at once go into Committee of the Whole on the deficiency bill.

The SPEAKER. The gentleman modified his proposition to meet the views of the gentleman from Indiana, [Mr. WASHBURN;] and the Chair stated that the hour of meeting to-morrow morning would be eleven o'clock.

Mr. WASHBURN, of Massachusetts. I am willing that the House shall meet at eleven o'clock; but to-morrow being private bill day, I am not willing to give up the morning hour.

Mr. BLAINE. Is not that objection entirely too late?

The SPEAKER. The Chair thinks it is not, because in putting to the House the proposition of the gentleman from Illinois the Chair did not state that if it were adopted the morning hour would be dispensed with.

Mr. BLAINE. Well, at any rate, we gain an hour by meeting at eleven o'clock. I move the House now adjourn.

The motion was agreed to; and the House (at five o'clock p. m.) adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BANKS: A memorial from William Cornell Jewett, urging payment for Alaska as a national measure to protect the national honor, and as a people's appreciation—without regard to party—of the life-long public services of Hon. W. H. Seward, and his foresight in acquiring territory near American Pacific possessions, destined to surpass the Old and New World in civilization, commerce, and cities.

By Mr. FERRY: The petition signed by over 10,000 of the business citizens of New York city, respectfully asking for speedy action in the passage of the bill and the appropriation for the construction of the building for the new post office and United States courts in that city, and recommending the adoption of the report of the Committee on the Post Office and Post Roads, submitted to the honorable House of Representatives June 16, 1868.

By Mr. JUDD: The petition of Z. M. Hall, asking the refunding of tonnage tax paid in error.

By Mr. MOORE: The petition of Thomas Stanger and 47 others, glass-workers in Glassboro, New Jersey, complaining of the depression of industry, and praying for such additional protective duties as will revive manufactures and restore prosperity to the country.

By Mr. PAINE: The petition of James Hinds, for enactment of a law for distribution of arms to militia.

#### IN SENATE.

FRIDAY, July 3, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. POMEROY, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### ADJOURNMENT FOR FOURTH OF JULY.

Mr. JOHNSON. Mr. President, to-morrow being the anniversary of the birth of the nation, I move that when the Senate adjourns to-day it adjourn to meet on Monday at twelve o'clock.

Mr. FESSENDEN. I take it that motion

ought not to be put until there are more members present.

Mr. JOHNSON. We always adjourn over the Fourth of July.

Mr. MORRILL, of Maine. Not always. I remember that Congress met together on the last Fourth, and I think we were in session all day.

Mr. JOHNSON. Let the motion lie over for the time being.

The PRESIDENT *pro tempore*. The Chair understands the motion to be withdrawn.

#### PETITIONS AND MEMORIALS.

Mr. WELCH presented a memorial of the Board of Trade of Jacksonville, Florida, praying an appropriation for the purpose of opening the mouth of the St. John's river, Florida; which was referred to the Committee on Commerce.

Mr. YATES presented a petition of citizens of Philadelphia, Pennsylvania, praying that pensions be granted the soldiers and sailors and the widows of soldiers and sailors of the war of 1812; which was referred to the Committee on Pensions.

Mr. SUMNER presented the memorial of William Cornell Jewett, protesting against that portion of the report of the Committee on Retrenchment proposing to rank the mission to Austria second class, and that to Belgium and that to Holland as first class; which was ordered to lie on the table.

Mr. BUCKALEW presented petitions of journeymen cigar-makers and manufacturers of cigars of the first and second congressional districts of Pennsylvania, praying that a tax of five dollars per thousand be imposed on domestic cigars, and that the tariff on imported cigars may remain unchanged; which were referred to the Committee on Finance.

Mr. CRAGIN presented the memorial of Junius Boyle, commodore United States Navy on the retired list, praying to be restored to the active list; which was referred to the Committee on Naval Affairs.

Mr. SHERMAN presented the memorial of Z. Jackson, of Colorado, in relation to the charges on freight on the Union Pacific railroad, eastern division; which was referred to the Committee on the Pacific Railroad.

Mr. McCREERY presented a memorial of citizens of Louisville, Kentucky, protesting against the prohibition of the export of distilled spirits; which was referred to the Committee on Finance.

#### PEONAGE IN NEW MEXICO.

The PRESIDENT *pro tempore* laid before the Senate a proclamation of the acting Governor of the Territory of New Mexico, in relation to holding peons in bondage and involuntary servitude in violation of the laws; which was referred to the Committee on Territories.

#### REPORTS OF COMMITTEES.

Mr. HARLAN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 532) to incorporate the Uniontown and Washington City Railroad Company in the District of Columbia, reported it with amendments.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, reported a bill (S. No. 589) to establish certain post roads; which was read, and passed to a second reading.

Mr. HOWARD. I am directed by the Committee on the Pacific Railroad, to whom was referred the bill (S. No. 78) granting lands to aid in the construction of a railroad and telegraph line from the city of Lawrence, in the State of Kansas, to the boundary line between the United States and Mexico, in the direction of the city of Guayamas, on the Gulf of California, to report it with amendments. In connection with that bill I ask the Senate to receive and order to be printed a copy of a bill now pending in the congress of Mexico for the construction of a railroad through that republic, so as to connect with the line mentioned in the bill which I have just reported. I move

that it be printed for the information of the Senate:

The motion was agreed to.

#### FUNDING AND TAX BILLS.

Mr. SHERMAN. I am directed by the Committee on Finance to report back the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, with amendments. The amendments will, of course, be printed; and now, in order to fix the order of business, I submit the following order:

Ordered, That on Monday next at one o'clock Senate bill No. 207, and also House bill No. 1284, shall be the special orders, and continue as such from day to day until they are disposed of.

Mr. CONNESS. I understand one of those to be the tax bill. What is the other?

Mr. SHERMAN. The funding bill. It is to make the funding bill and the tax bill special orders. I desire to do it so as not to have any struggle about the order of business.

The motion was agreed to.

Mr. SHERMAN. In order to facilitate business, I ask the Senate to allow me to take up for a moment Senate bill No. 207, with a view to have the amendment that I offered the other day to the civil appropriation bill printed as an amendment to that bill, as Senators may want copies of it. I ask that Senate bill No. 207 be taken up for a moment.

The motion was agreed to; and the Senate proceeded to consider the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States.

Mr. SHERMAN. I withdraw the substitute that I offered to the bill, and offer the following in lieu of it, which I ask to have printed:

That the Secretary of the Treasury is hereby authorized to issue coupon or registered bonds of the United States in such form and of such denominations as he may prescribe, redeemable in coin at the pleasure of the United States, after twenty, thirty, and forty years, respectively, and bearing the following rates of yearly interest, payable semi-annually in coin, that is to say: the issue of bonds falling due in twenty years shall bear interest at five per cent.; bonds falling due in thirty years shall bear interest at four and a half per cent.; and bonds falling due in forty years shall bear interest at four per cent., which said bonds shall be exempt from taxation in any form by or under State, municipal, or local authority, and the same and the interest thereon, and the income therefrom, shall be exempt from the payment of all taxes or duties to the United States, other than such income tax as may be assessed upon other incomes; and the said bonds and the proceeds thereof shall be exclusively used for the redemption, payment, or purchase of, or exchange for, an equal amount of any of the present interest-bearing debt of the United States, other than the existing five per cent. bonds and the three per cent. certificates, and may be issued to an amount, in the aggregate, sufficient to cover the principal of all outstanding or existing obligations as limited herein, and no more, but not to exceed \$700,000,000, shall be of the issue redeemable in twenty years.

SEC. — And be it further enacted, That there is hereby appropriated out of the duties derived from imported goods the sum of \$135,000,000 annually, which sum, during each fiscal year, shall be applied to the payment of the interest and to the reduction of the principal of the public debt, in such a manner as may be determined by the Secretary of the Treasury, or as Congress may hereafter direct; and such reduction shall be in lieu of the sinking fund contemplated by the fifth section of the act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February 25, 1862.

SEC. — And be it further enacted, That the holder of any lawful money of the United States, to the amount of \$1,000, or any multiple of \$1,000, may convert the same into bonds for an equal amount, authorized by the first section of this act, under such rules and regulations as the Secretary of the Treasury may prescribe; and any holder of any of the bonds provided for in the first section of this act may present the same to the Treasurer of the United States and demand lawful money of the United States for the principal and accruing interest thereon, and the Treasurer shall redeem the same in lawful money of the United States, unless the amount of United States notes then outstanding shall be equal to \$400,000,000; and such bond shall not be so redeemable after the United States have resumed the payment of coin for their notes.

SEC. — And be it further enacted, That any contract hereafter made specifically payable in coin shall be legal and valid, and may be enforced according to its terms, anything in the several acts relating to United States notes to the contrary notwithstanding.

The amendment was ordered to be printed.

## DIPLOMATIC AND CONSULAR SERVICE.

Mr. PATTERSON, of New Hampshire, from the joint select Committee on Retrenchment, submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That four thousand extra copies of the report of the Committee on Retrenchment upon the diplomatic and consular service of the United States be printed for the use of the Senate.

JOHN SEDGWICK.

Mr. COLE. I move that the Senate proceed to the consideration of House joint resolution No. 96.

The motion was agreed to; and the joint resolution (H. R. No. 96) for the relief of John Sedgwick, collector of internal revenue third district California, was considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to pay to John Sedgwick, collector of internal revenue for the third district of California, the sum of \$3,500, or so much thereof as the proper accounting officer shall, from satisfactory vouchers, determine necessary to secure him a salary of that amount for the fiscal year ending June 30, 1864, in addition to the amount he necessarily paid out, in currency, in the discharge of his official duties for that year.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

## AMERICAN STEAM LINE TO EUROPE.

Mr. POMEROY. I move that the Senate proceed to the consideration of House bill No. 939.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 939) to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports.

The Chief Clerk proceeded to read the bill. At the conclusion of the reading of the fourth section,

Mr. CONNESS. At this point I desire to say that I should like to have that bill laid over at least for a day. It was reported by the Committee on Post Offices and Post Roads when I did not happen to be present. Perhaps that is my own fault, though when I am able I am generally at my post.

Mr. POMEROY. If the Senator will allow the reading of the bill to be concluded, then, if he desires it, it may go over.

Mr. CONNESS. It is scarcely worth while to consume any more time with it if we desire it laid over for examination. It presents at least a very complicated scheme of putting an American line of ships upon the Atlantic ocean. There is no man in the Union more in favor of having our mails carried in our own ships than I am; but this is a peculiar measure, and I want an opportunity to consider it before it is further acted upon. I move that it be postponed until to-morrow.

Mr. POMEROY. If the Senator will withdraw his motion and let the bill be read, it is all I ask to-day.

Mr. CONNESS. Very well; I will do that.

Mr. RAMSEY. There is but a section or two more to read.

Mr. MORGAN. I think the Senator from California is right. I do not think it is worth while to spend the time of the Senate in reading this bill now. I move that its further reading be dispensed with, and that it be postponed.

Mr. POMEROY. I hope the bill will be read through.

The reading of the bill was concluded.

Mr. POMEROY. Now, if the Senator from New York or the Senator from California wishes to look further into it, I am willing that the bill shall lie over, and I move to postpone its further consideration.

The motion was agreed to.

## BRIDGE IN BOSTON HARBOR.

Mr. MORRILL, of Maine. The Committee on Commerce, to whom was referred the joint resolution (H. R. No. 321) in relation to the

erection of a bridge in Boston harbor, have directed me to report it back and ask for its present consideration.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It is a direction to the Secretary of the Navy to detail two competent and impartial officers of the Navy, and the Secretary of War to detail a competent and impartial officer of the engineer corps, who shall compose a commission, whose duty it shall be to make careful examination of the harbor of Boston, and to report to Congress, at its next session, in what manner the commerce of that harbor and the interests of the United States in the navy-yard at Charlestown will be affected by the construction of a bridge over the water between the main land in the city of Boston and East Boston in the manner provided in an act of the Legislature of the State of Massachusetts entitled "An act to incorporate the Maverick Bridge Company;" and it provides that no bridge shall be erected by that company across that water until the assent of Congress shall be given thereto.

Mr. SUMNER. The Senator from Maine reported that resolution, I understand.

Mr. MORRILL, of Maine. Yes, sir.

Mr. SUMNER. A suggestion was made to me by a party in interest that there should be two commissioners appointed by the War Department as well as two by the Navy Department. By the resolution there are to be two from the Navy Department and only one from the War Department. It was thought by this gentleman that the interests of all concerned would be better consulted if there were two from each Department. I should like to submit that suggestion for the consideration of my friend.

Mr. MORRILL, of Maine. I think if the Senator reflects he will see that there can be no importance attached to that for this reason: that there are no adverse interests represented by possibility on this commission. The commission is to represent the War Department and the Navy Department. They can have but one interest, which is the general interest of the Government, and they are of course, in presumption of law, entirely disinterested; and then it is the examination of a general fact with reference to the interests of the Government and the interests of commerce.

Mr. SUMNER. I will not make any motion against the desires of my friend.

Mr. MORRILL, of Maine. I hope not.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

## TAX COMMISSIONERS IN ARKANSAS.

Mr. STEWART. I desire to call up Senate bill No. 564. It is in reference to the direct tax commissioners in Arkansas.

The motion was agreed to; and the bill (S. No. 564) for the relief of Hulings Cowperthwaite and Enoch H. Vance, and for other purposes, was considered as in Committee of the Whole.

The Committee on the Judiciary proposed to amend the bill by striking out all after the enacting clause, in these words:

That all the acts and proceedings of the said Hulings Cowperthwaite, and the said Enoch H. Vance, as such tax commissioners for the State of Arkansas, and all acts and proceedings done by them or either of them under color of authority under said act of June 7, 1862, or acts amendatory thereof, or of their assessments as such tax commissioners, are hereby ratified, confirmed, and legalized, and shall have the same force and effect, and be valid in all respects and for all and every purposes, as if said acts and proceedings had been done and performed by a board of three commissioners properly appointed and constituted and acting in conjunction as contemplated by said act.

And in lieu thereof inserting:

That the acts and proceedings which have been had or performed by any two of the tax commissioners in and for the State of Arkansas, shall have the same force and effect as if had and performed by all three of said commissioners.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. STEWART. I should like to have the preamble stricken out. I do not know whether that comes after the passage of the bill or not.

The PRESIDENT *pro tempore*. That motion is now in order.

Mr. STEWART. I move, then, to strike out the preamble, in these words:

Whereas Hulings Cowperthwaite and Enoch H. Vance, direct tax commissioners for the State of Arkansas, under the act of June 7, 1862, acted as such tax commissioners from January 1, 1865, until May 25, 1865, without the presence or concurrence of a third commissioner as contemplated by said act, and the Government of the United States recognized their acts as such commissioners during said period: Therefore.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

On motion of Mr. STEWART, the title of the bill was amended so as to read: "A bill concerning the tax commissioners of the State of Arkansas."

## JUDGES OF WASHINGTON TERRITORY.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of Senate bill No. 487.

The motion was agreed to; and the bill (S. No. 487) to disapprove an act of the Legislative Assembly of Washington Territory redistricting the Territory and reassigning the judges thereto was read the second time, and considered as in Committee of the Whole. It proposes to disapprove the act of the Legislative Assembly of the Territory of Washington, approved January 25, 1868, entitled "An act defining the several judicial districts of the Territory and assigning the judges thereto."

Mr. DAVIS. I should like the Senator from Oregon to give some reason why that measure of the territorial Legislature should be disapproved, why we should pass this bill?

Mr. WILLIAMS. I supposed the honorable Senator was informed on that subject, as the bill has been considered and reported by the Committee on Territories, of which he is a member; but perhaps he was absent at the time. I will simply state that the Legislative Assembly of Washington Territory have passed an act by which they have put pretty much all the Territory into one judicial district with the design to legislate so far as practicable the other judges out of office. It is entirely inconvenient to the people and unjust to the other judges. It was produced by some feeling of personal heat or political prejudice, or something of that kind, and the act of the Legislature ought to be disapproved.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

## ADJOURNMENT FOR FOURTH OF JULY.

Mr. JOHNSON. I renew the motion I offered a few minutes ago, that when the Senate adjourns to-day it adjourn to meet on Monday next, to-morrow being the anniversary of our independence.

Mr. EDMUNDS. I hope that motion will not be agreed to at this time. There is important business on the Calendar which, if not finished to-day, I shall ask the Senate to sit to-morrow and finish. At a later stage in the proceedings possibly I should have no objection; but now I hope the motion will not be agreed to.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion of the Senator from Maryland.

Mr. EDMUNDS. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. EDMUNDS. Before this vote is taken, I wish to appeal to my political friends, to ask them not to adopt this motion at this time. We are coming near to the end of the session. There is important legislation of a political character on the table, which is to be considered to-day, I hope, which may not be finished. There are many other bills that ought to be considered to-day or to-morrow, in charge of my friend from Iowa, [Mr. HARRIS.] On

Monday the tax bill and the funding bill will be upon our tables, and we shall be crowded with those. I think we have legislation before us of a character which will justify us in sitting on the Fourth of July to consider it, and dispose of it, if it be necessary. When we have reached near the end of this day's proceedings we can then determine whether it is wise to adjourn over to-morrow or not. Congress has frequently sat on the Fourth of July, and I do not think it will injure us to sit on the same day that a convention of Democrats is to meet in the city of New York. If the Fourth of July is good for one purpose it is for the other.

Mr. POMEROY. If there was not a special order for Monday I should be willing to adjourn over. It is possible that we may complete the business which it is desirable to complete to-day, so that we can adjourn over to-morrow; but as we have a special order for Monday, which will take until the last of the next week, and there are, as the Senator from Vermont has observed, very important measures that ought to be completed to-day or to-morrow, I cannot, at this time, vote to adjourn over. I may be able to do so in the course of the day. If we are to complete our legislation any time this summer, and adjourn before the election, I think we ought to commence our legislation and stick to it day after day until it is completed. There is nothing like completing a subject when we have once begun it. Last year the Fourth of July was a national holiday as much as this year, but we met and held a session.

Mr. JOHNSON. We adjourned directly.

Mr. POMEROY. We held a short session. Congress came together on that day. It was the beginning of the session. If the measure to which the Senator from Vermont has alluded can be got through to-day, there may be good reasons for adjourning over; but I cannot vote for it now.

Mr. ANTHONY. I suggest to the Senator who submitted this motion to let it lie over until toward the close of the day, and then probably we shall be able to come to a unanimous result upon it. I am satisfied we shall not do anything to-morrow if we do meet. We have met on several Fourths of July since I have been here, but never accomplished anything by it.

Mr. JOHNSON. We sat but once.

Mr. ANTHONY. Yes, sir. I have been here three times, I think, on the Fourth of July. I recollect that on one occasion a Senator not now in the body said we should not do any business, and we did not. He objected to everything that was brought forward. I recollect that at another time we met and adjourned without doing anything; and in all probability it would be so to-morrow. But I suggest that we allow this motion to lie over until the close of the day, and then take a vote upon it.

Several SENATORS. Let us dispose of it now.

Mr. MORRILL, of Maine. I hope the Senate will allow this motion to remain to a later period of the day. I think this is akin to a proposition to begin the Fourth of July now. If the Senate holds it under consideration with a view to the consideration to-day of an important measure that is before it, I have no doubt we can finish that bill; but if it is settled now that we are going to take a holiday to-morrow it will begin now.

Mr. CONNESS. I am very sorry to hear the Senator from Maine intimate here that our friends, the New England Senators, would begin the holiday now if this motion should be agreed to. I presume he means them, because he is best acquainted with their habits.

Mr. MORRILL, of Maine. Certainly; as well as the others.

Mr. CONNESS. Senators from our part of the country, where the people are of more steady habits, intend to work this day out, even if this motion should be agreed to, to the end. Now, sir, I am in favor of making to-morrow a holiday,\* and I am very sorry to find my friend from Vermont protesting against this holiday above all others—the Fourth of July.

If we should meet here to-morrow we should do no business. We adjourned one session on the Fourth of July, but it was a day of adjournment, which was a kind of holiday. We certainly should not do any business if we met to-morrow, and I hope we shall adjourn over.

Mr. FRELINGHUYSEN. I think it important to the nation that this day should forever be honored, and that it is becoming the Congress of the United States to honor it by adjourning over, even if the result is that we are obliged to stay here one or two days longer in summer. I expect to be detained here myself, and the only reason why I want to adjourn over is because I think we ought not to treat this day as we do all others on the calendar.

The PRESIDENT *pro tempore*. The question is on the motion that when the Senate adjourns to-day it be to meet on Monday next.

The question being taken by yeas and nays, resulted—yeas 26, nays 10; as follows:

YEAS—Messrs. Buckalew, Chandler, Conness, Corbett, Cragin, Davis, Drake, Fowler, Frelinghuysen, Hendricks, Howe, Johnson, McCreery, McDonald, Morgan, Osborn, Patterson of New Hampshire, Ramsey, Ross, Tipton, Van Winkle, Vickers, Wade, Welch, Wiley, and Yates—26.

NAYS—Messrs. Anthony, Cole, Conkling, Edmunds, Harlan, Morrill of Maine, Morrill of Vermont, Morton, Pomeroy, and Williams—10.

ABSENT—Messrs. Bayard, Cameron, Cattell, Dixon, Doolittle, Ferry, Fessenden, Grimes, Henderson, Howard, Norton, Nye, Patterson of Tennessee, Rice, Saulsbury, Sherman, Sprague, Stewart, Sumner, Thayer, Trumbull, and Wilson—22.

So the motion was agreed to.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating correspondence relative to an alleged practice of the Danish authorities to banish convicts to this country; which was referred to the Committee on Foreign Relations, and ordered to be printed.

#### BILL INTRODUCED.

Mr. CRAGIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 590) to establish the assimilated rank of the staff officers of the Navy; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

#### PACIFIC RAILROAD REPORTS.

Mr. HOWARD submitted the following resolution; which was considered and agreed to:

*Resolved*, That the Secretary of the Treasury be requested to communicate to the Senate the annual reports of the Union Pacific Railroad Company and the several railroad companies connected therewith, setting forth as required by the twentieth section of the act of 1862:

1. The names of the stockholders and their places of residence, so far as the same can be ascertained.
2. The names and residences of the directors and all other officers of the company.
3. The amount of stock subscribed and the amount thereof actually paid in.
4. A description of the lines of the road surveyed, of the lines thereof fixed upon for the construction of the road, and cost of such surveys.
5. The amount received from passengers on the road.
6. Amount received for freight thereon.
7. A statement of the expenses on said road and its fixtures.
8. A statement of the indebtedness of said company, setting forth the various kinds thereof.

#### MEDICAL AND SURGICAL HISTORY OF THE WAR.

Mr. CONKLING submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be directed to inform the Senate of the condition of the appropriation made by an act entitled "An act making appropriations for sundry civil expenses," &c., approved July 28, 1866, for five thousand copies of the first volume of the Medical and Surgical History of the War, and for five thousand copies of the Medical Statistics of the Provost Marshal General's Bureau, and how much of said appropriation remains unexpended, how much has been expended, and for what purpose, together with the dates and particulars of the expenditures.

#### MISSISSIPPI RIVER IMPROVEMENT.

Mr. RAMSEY. I move that the Senate proceed to the consideration of House bill No. 554. It is a short bill, and will take but a few moments.

The motion was agreed to; and the bill (H. R. No. 554) making a grant of land to the State

of Minnesota to aid in the improvement of the navigation of the Mississippi was considered as in Committee of the Whole. It proposes to grant to the State of Minnesota, for the purpose of aiding that State in constructing and completing a lock and dam at Meeker's island, (so called,) in the Mississippi river, in that State, and thereby facilitating the navigation of the Mississippi river between the Falls of St. Anthony and the mouth of the Minnesota river, two hundred thousand acres of public lands, to be selected in alternate odd numbered sections by an agent to be appointed by the Governor of the State, subject to the approval of the Secretary of the Interior. The lands granted are to be selected from the public lands lying within the limits of the State of Minnesota, not more than one section to be selected in any one township; and the selections are not to be made from any lands containing mines of gold, silver, cinnabar, or copper, nor from any lands to which rights of preemption or homestead have attached. The lands granted are to be subject to the disposal of the Legislature of the State of Minnesota for the purposes mentioned, and no other; and the lock and dam shall be and remain forever a public highway, free from any toll or charge of any kind whatever; and the Legislature is to have power to pass all needful rules and regulations that may be necessary to fully carry out the purposes of the act.

The work is to be done under the direction of the engineer department of the United States according to the plan and estimates submitted by Major General Warren; and if the lock and dam are not constructed within two years from and after the date of the acceptance and disposition of the grant by the Legislature of the State the lands granted are to revert to the United States.

At any time after the selection of the lands, and subsequent to the completion of the lock and dam, the lands granted are to be open for settlement by actual settlers upon paying to the State of Minnesota a price not exceeding \$1 25 per acre for the same, which shall be paid by the State to the company who may construct the lock and dam. If at any time prior to the completion of the lock and dam the Government of the United States shall make an appropriation in money sufficient to construct the lock and dam, the grant of lands made by the bill is to revert to the United States. The bill is to have no effect on lands already granted for railroad purposes.

The Committee on Public Lands proposed to amend the bill by adding as a new section:

SEC. 6. *And be it further enacted*, That there be, and hereby is, granted to the State of Minnesota, the further quantity of one hundred thousand acres of public lands, subject to the same restrictions as to selection and sale as are hereinbefore named, the proceeds whereof shall be used in making such improvements in the Mississippi river at the Falls of St. Anthony as may be deemed necessary by the Legislature of said State to protect and secure the existing navigation immediately above said falls.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I should like to hear some explanation of this bill. I find that Minnesota has received more lands than any other State or Territory in the Union. I do not know but that this is all as it ought to be and a proper donation of public lands; but still I should like to have it explained so that the Senate may understand it. I find that we have already given Minnesota seven million seven hundred and eighty-two thousand four hundred and three acres of land—more than to any other State. I have no doubt the chairman of the Committee on Post Offices and Post Roads [Mr. RAMSEY] will make it all plain and clear, and I should like to hear from him.

Mr. RAMSEY. The Senator from Vermont rather flatters me; but, Mr. President, this is a bill that comes from the Committee on Public Lands, and not from the Committee on Post Offices and Post Roads, and I have no doubt the chairman of that committee [Mr. POMEROY] will be able to explain what I shall leave unexplained in regard to this bill.



The proposition contained in the bill is a very simple one. The bill was passed by the House of Representatives after thorough consideration, and was well understood there. It almost explains itself. It is an appropriation of two hundred thousand acres of public land, to be selected by sections, one section in each township, and not more than one to a township, so that it avoids the objection of accumulating a great quantity of lands in a body to the exclusion of settlers upon any township of the State. It scatters the selections all over the State.

The improvement for the benefit of which this appropriation of land is made was estimated for by General Warren, known to all the members of the Senate, an officer of the engineer corps of the United States, who was detailed by the Secretary of War under an appropriation made, I think, in July, 1866, for the survey of the Mississippi river. He recommends, with a view of carrying the complete navigation from St. Paul to the mouth of the Minnesota river as far up as the Falls of St. Anthony, that a lock and dam be constructed at what is called Meeker's Island, half way between the mouth of the Minnesota river and the Falls of St. Anthony, and he estimates the cost of that work, in a report bearing date April 8, 1868, at \$226,000. It would properly fall within the province of Congress to make a money appropriation for this work; but inasmuch as the liberality of Congress is taxed pretty largely in that way, it was thought advisable to ask the General Government simply to give us lands within our own State. We thought we would not encroach upon the Treasury of the nation to that extent, but would ask the General Government to let us make selections of public lands within our own limits. We thought that in this very unobjectionable form we should be able to get a measure passed providing means for executing this work which otherwise the nation might be under some obligation to do out of the money of its own Treasury. The lands, as Senators will perceive, are to be sold to actual settlers upon the completion of the work.

It is true, Mr. President, that a large body of lands have been appropriated to the State of Minnesota for railroad purposes; but the people of the State have no very direct or immediate interest in them and very little in any way until those roads are completed. That is coming to pass, though slowly. We have probably four or five hundred miles of railroad now completed in the State of Minnesota, the area of which, as the Senator from Vermont will recollect, is as large as that of the two great States of Pennsylvania and New York, so that an appropriation of seven million acres, although seemingly a very large amount of land, is nothing when you consider the great territory upon which these roads are to be constructed. At any rate those grants are in no larger proportion than the grants which have been given to other States of the West. It is a matter of very little consideration, when you take into view the immense amount of country that is to be accommodated by these railroads.

But, sir, not to consume the time of the Senate, I will State briefly that the work for which this bill provides has been estimated for by the engineers of the United States, and it is to be constructed under the charge of those engineers, so as to guard you against any possibility of a waste of the fund. It is a work essential to the improvement of that river, one of the great rivers of the country. The Falls of St. Anthony furnish an immense water-power. The people, not only of Minnesota, but of the whole valley of the Mississippi, are interested in their preservation, and in the completion of the navigation up to the very falls. The falls are utilized almost to their full extent at this time. Lumber is sawed there and shipped to the States below us; flour is being ground there; woolen goods are being manufactured, and the water-power is applied to many other pursuits.

I trust the Senate will not have any difficulty in passing the bill as it came from the House of Representatives with the amendment of the Committee on Public Lands.

Mr. MORRILL, of Vermont. I do not expect to retard the passage of the bill; but I would suggest to the Senator from Minnesota that if he has anything else he wants to pass now is a capital time. I think he could pass a bill granting a million acres as well as three hundred thousand. I observe that this bill, as it came from the House of Representatives, made a grant of two hundred thousand acres of land, and our Committee on Public Lands have added another hundred thousand acres.

Mr. POMEROY. Not for the same work.

Mr. MORRILL, of Vermont. But for a different work, and that I have not heard explained.

Mr. RAMSEY. That is to prevent the recession of the Falls of St. Anthony. I have here a letter from General Warren, giving a full explanation on that point. Unless the Falls of St. Anthony are saved by some work of this kind, they will recede and be lost to us entirely. I will read the letter of General Warren:

WASHINGTON, D. C., June 27, 1868.

SIR: I have the honor to acknowledge the receipt of your letter of the 26th instant, expressing the solicitude felt in regard to the breaking away of the rocks and recession of the Falls of St. Anthony, and asking my views concerning the formation of the falls, the danger of their destruction by successive floods, and the injury to navigation above the falls that would result from their destruction.

A brief description of the structure of the rocks at the Falls of St. Anthony is as follows:

The rock forming the bed of the river at and just above the falls is a stratum of hard magnesian limestone, having a well-marked jointed structure, so as to readily separate into large blocks from fifteen to thirty feet square. Immediately in contact with limestone, beneath it, is a layer of clay at about three feet in thickness, nearly or quite impervious to water.

Beneath this clay stratum is a very soft silicious sand rock, easily worn away by the water, and extending downward an unascertained depth, into which the water washes deep holes below the falls. The hard capping rock is thus being undermined, especially in flood stages, and falling off in large blocks, which are subsequently broken up into smaller pieces and carried away by the current.

This is the case with nearly all our waterfalls, but the receding action is much more rapid at the Falls of St. Anthony than at any other existing fall with which I am acquainted.

It is obvious to an observer that at a distant period the falls were at Fort Snelling, the present junction of the Minnesota river, and that they have receded to their present position in the manner before described a distance of about seven miles.

Did this same formation of rock extend indefinitely above the present falls along the river the continued recession might only be considered as endangering the dams and mills in their present location and not to concern the question of navigation. And, as a consequence, the prevention of this wearing away by the water might be considered a mere local interest, and to be provided for by those specially concerned.

But it so happens that the stratum of hard magnesian limestone thins out and rises entirely above the surface of the river a few hundred feet above the present crest of the falls, and further on the soft sand rock alone is to be found in the bed of the river, so that when the action of the stream has destroyed all that remains of the hard layer but a few days will be necessary to lower the bed and produce a continuous rapid far above, not merely destroying the present water-power, but a long reach of navigable channel.

The Water-Power Company at Minneapolis expended in 1866 between thirty and forty thousand dollars in an unavailing attempt to stop this wearing away. The undertaking is a difficult and expensive one, and it is but fair that the protection and extension of the river navigation should lend its aid to that of the Water-Power Company in effecting a common object.

The danger which threatens the destruction of the Falls of St. Anthony requires prompt attention.

The present condition of the falls is further exhibited by the annexed diagram.

On this diagram the banks of the river are represented in green, the water blue, the soft sand-rock yellow, the magnesian limestone brown, and the clay bed pink.

The section is constructed to cut the dam at the point furthest up the stream, from which point the dam inclines downward toward each shore. This apex of the dam is at the upper end of the magnesian limestone, above which the bed of the river is twenty feet deep.

The water is represented falling over the lower edge of the magnesian limestone in two places, four hundred feet apart; the lower one is at the place where the crest of the falls was in 1866, at which time the Minneapolis Water-Power Company put in the apron below the falls to protect them from further wear; the upper place is where the crest of the

falls was left after the flood of July, 1867, four hundred feet having been washed away in one flood, notwithstanding the attempt to prevent it. One more like freshet would probably destroy the falls, for only one thousand feet of the magnesian limestone remains, and its thickness diminishes as the recession goes on; it was eighteen feet thick at the crest in 1866, and at the present position of the crest of the falls it is about eight feet thick; hence the present pressing emergency.

Very respectfully, your obedient servant,

G. K. WARREN,  
Brevet Major General United States Army,  
Major of Engineers.

His Excellency Hon. WILLIAM R. MARSHALL, Governor of Minnesota.

Surely nothing need be added to show the importance of prompt action to preserve this great water-power.

Mr. POMEROY. I am glad the Senator from Vermont has called the attention of the Senate to this bill, because it is novel in its character in some respects. It is not exactly in harmony with the general class of bills which have been passed by this body disposing of the public lands. The bills we have passed heretofore with which I have had anything to do, have only given alternate sections, and we have doubled the price of the remaining sections reserved by the Government, so that really the grant was not a donation. I know that the Senator can show that on paper the grants to Minnesota are some seven million acres. That would be the extent of the grants if none of the lands were occupied; but practically, and, in fact, portions of the lands are occupied by settlers, so that perhaps the real grant would only be about half that much.

But, sir, I was saying that this is different from the other grants, because here we propose to allow the State to take one or two sections in each township where there are public lands, without doubling the price of the other lands. In that respect it introduces a new feature, and I wanted particularly to call the attention of the Senate to it. I will state in a word how the committee justified it.

We have been in the habit of making appropriations of money to improve the Mississippi river year by year in some places. The engineer reports, and the committee have evidence, that the Falls of St. Anthony are about to be destroyed. The river has worked back so far that it is believed by the citizens there that one freshet will destroy the falls, so that the water-power and the navigation of eighty miles above will be ruined. They came to Congress wanting some appropriation of money to aid in protecting the Falls of St. Anthony. Now, in the first place, it is difficult to pass a bill making an appropriation of money; and, in the second place, an appropriation of land of this character will answer every purpose, because it will give the State a credit and facility by which she can raise the money with which to improve and save the falls.

There are two grants in the bill now. The first is what was in the bill as it was passed by the House of Representatives, to enable the State to extend a canal up to the foot of the falls for the benefit of the lumber interest there. All the citizens on the line of the river below are interested in getting lumber from this section of the country from the immense mills there located. That water-power is an immense power, and is used in preparing lumber for market, and without the canal being built they are unable to run the mills at this time on account of the falls receding year by year, breaking off. The formation is a blue limestone placed over sandstone, and the sandstone wears out under and then the limestone falls, and the falls recede from year to year, until they are now nearly to the head of the rapids.

To obviate the necessity of a donation of money to improve the navigation of the Mississippi river, the committee were induced to report this bill. I want the Senate to understand what it is, and then they can pass it or not.

Mr. MORRILL, of Vermont. May I ask my friend from Kansas whether he does not think, as the chairman of the Committee on Public Lands, he is setting a very bad prece-

dent? Will not other States having public lands be sure to quote this as a precedent, and come here and ask appropriations of land for the improvement of rivers and falls and various other things?

Mr. POMEROY. That matter was a good deal considered by the committee. In the first place, there are no other States that we know of that have got any St. Anthony's Falls to protect and save. There are other States that have rivers the navigation of which they would be glad to have aided; but this is peculiarly important, not simply to Minnesota, but to the whole region of country below, and we thought it very desirable to save the Falls of St. Anthony. I do not want to take up time this morning. I merely desired to have the Senate understand exactly what the bill is.

Mr. HENDRICKS. I was not present when this bill was considered by the Committee on Public Lands, but I am glad that they reported in its favor, and especially am I glad that they reported the amendment. The destruction of the Falls of St. Anthony would be one of the greatest losses to the northwestern country, not only a loss of the most remarkable water-power perhaps to be found in all that region, but probably the destruction of the navigation of that portion of the river above the falls, so that I think if there be any national work to which we can appropriate a small portion of the public lands this bill provides for such a work.

Mr. FESSENDEN. I wish simply to say that if it is established that this is a great improvement I shall have no hesitation in voting for this bill. That being taken for granted, as I understand it is, one thing is very certain, that either money would be appropriated out of the Treasury to accomplish it or lands must be given. As it is very certain that the only way in which the whole country can have any benefit from the public lands is by appropriating them to national works, I am very glad to see it take that turn, and I should be glad to get some small share of the public lands for other parts of the country in that way. I think it would be a very great improvement on the present system of disposing of them. They will be sure to go for local purposes entirely unless they are used in this way.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

#### ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The morning-hour having expired the unfinished business of yesterday is regularly before the Senate, being the joint resolution (S. R. No. 139) excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized.

Mr. HARLAN. I think, under the rules of the Senate, there is a prior special order. If I remember the rules correctly, when two special orders conflict, the one assigned first is to take priority.

Mr. EDMUNDS. The unfinished business of the preceding day always overrides special orders.

The PRESIDENT *pro tempore*. The unfinished business overrides any special order.

Mr. HARLAN. I ask then that that joint resolution be passed over informally for the purpose of taking up some district bills.

Mr. EDMUNDS. I cannot consent to that. This is a measure of great importance, if there is any value at all in it, and if not it ought to be disposed of adversely. After the fate it has had I cannot consent to have it postponed.

Mr. HARLAN. Then I move that it be postponed for the purpose of proceeding with the consideration of bills pertaining to the District of Columbia.

Mr. EDMUNDS. I hope that will not be done.

Mr. HARLAN called for the yeas and nays, and they were ordered.

Mr. EDMUNDS. I merely wish to call the attention of the Senate to what the question is, and to state to the Senate that if they postpone this measure, with a view to proceed to the consideration of local business of the District of Columbia, I shall take it as an evidence that the Senate do not desire to consider it and shall give it up. That is all I have to say.

Mr. HARLAN. I do not wish to have the question put with any such understanding. It is probable that I shall vote for the measure of the Senator from Vermont when it comes to be considered; at least I do not wish to pledge myself by an adverse vote to continuing its consideration now, to vote against it on its merits; but I hope this question will not be decided by any such consideration.

Congress has exclusive jurisdiction of the District of Columbia. It is the only legislative body that can make laws for the people of this District. It has been usual heretofore to assign several days during each session of Congress for the consideration of District business. During this session, a protracted session, the Senate has seen proper not to give this committee a single day thus far, and although a day was assigned heretofore, an important bill was permitted to press the consideration of District business from the attention of the Senate; and if the measure in charge of the Senator from Vermont should now supersede the District business, I should hardly have a hope that we could dispose of that business during this session. If the Senate will sustain its previous action on this subject, this day having been formally assigned for District business, I will pledge myself to be as economical of time as possible, and only call up bills which are quite important, and which I think will not elicit very much discussion, and I shall hope to get through with them in the course of an hour and a half or two hours at the outside.

Mr. EDMUNDS. It will take no more time to finish this measure now than it will on any other day; and if the Senator supposes that the District of Columbia business can never be considered unless it is considered now, the same may be said of the measure which is regularly under consideration. It will be crowded off, as the Senator from Ohio has given me notice that he will be obliged to insist on Monday upon the consideration of the tax bill and the other bills of that nature. If this measure is to be considered at all it must be considered now.

Mr. COLE. It seems to me the business of the District of Columbia ought to take its place quite at the foot of the Calendar of the business of Congress. It cannot be of so much importance as the business which relates to the whole country. It certainly should not be permitted to take precedence of a measure with regard to the votes of the Electoral College, on which may depend the election of President and Vice President.

Mr. CORBETT. I believe that the District business has been really at the foot of the list through the entire session. One day was set apart for that business, but our chairman gave way in order that another very important bill might be disposed of. This day again has been formally set apart, and I think that by going on with it we can dispose of that business very promptly, and elicit but little discussion. I think it ought to be done. I desire to give my support to the measure of the Senator from Vermont as I understand it, but I am still very anxious that we shall dispose of some of the District of Columbia business, which has been accumulating on our hands, and which it is very important should be disposed of. I hope the Senate will sustain that committee in having this day, which was set apart for its business.

Mr. SUMNER. I am very sorry, on this question of the order of business, to be obliged to vote against considering the measure of the Senator from Vermont; but as a member of the Committee on the District of Columbia I united with my colleagues there in an instruction to our chairman to move the Senate for a

day this week in order to act upon the pressing business already reported by that committee. The Senate will bear in mind that the committee has not had a day during the present session, or at least for a long time.

Mr. EDMUNDS. It has had a great many bills passed.

Mr. SUMNER. It has had some few bills passed, but there is a great deal of urgent business that has not been attended to, and the Senate cannot forget that Congress has exclusive jurisdiction of the District of Columbia, and that, therefore, it has thrown upon it peculiar responsibilities. Under these circumstances, I do not think the Senator from Iowa ought to lose the precedence that he has gained for the business of his committee by having this day set apart expressly for its consideration three or four days ago.

Mr. EDMUNDS. He has not obtained any precedence. When that day was set apart every Senator present understood that, by the rules, if there was any unfinished business of yesterday it would be the first business in order to-day at one o'clock, standing first on the list of the special orders. We have made this same order a dozen times this season, and the unfinished business of the day before has been considered.

Mr. HARLAN. The spirit of the rule will not sustain the Senator from Vermont in insisting on taking up his bill. It will be remembered by the Senate that it was called up at the moment of adjournment last evening. It is not, therefore, in point of fact, the unfinished business. It was not before the Senate and being considered when the Senate adjourned. It was called up by the Senator with his usual adroitness, to which I take no exception, just at the last moment in the expiring hours of the session of yesterday.

Mr. SUMNER. In order to oust the District business.

Mr. HARLAN. I will not say for the purpose of ousting that business, for I suppose the Senator would have done the same thing if any other business had been assigned for to-day; but I wish to call attention to the fact that the spirit of the rule of the Senate will not sustain the position of the Senator from Vermont.

Mr. EDMUNDS. The Senator forgets that this measure was under consideration before, and was once crowded out, and therefore it was perfectly just to get it on the Calendar again as soon as possible.

Mr. HARLAN. That can be said of a dozen bills.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa.

The question being taken by yeas and nays, resulted—yeas 22, nays 10; as follows:

YEAS—Messrs. Buckalew, Conness, Corbett, Davis, Fowler, Harlan, Hendricks, Howe, Johnson, McCreery, McDonald, Morgan, Osborn, Patterson of New Hampshire, Ramsey, Sumner, Tipton, Van Winkle, Vickers, Welch, Willey, and Yates—22.

NAYS—Messrs. Anthony, Cole, Conkling, Cragin, Drake, Edmunds, Fessenden, Frelinghuysen, Morrill of Maine, Morrill of Vermont, Morton, Ross, Sherman, Stewart, Wade, and Williams—10.

ABSENT—Messrs. Bayard, Cameron, Cattell, Chandler, Dixon, Doolittle, Ferry, Grimes, Henderson, Howard, Norton, Nye, Patterson of Tennessee, Pomeroy, Rice, Saulsbury, Sprague, Thayer, Trumbull, and Wilson—20.

So the motion of Mr. HARLAN was agreed to.

Mr. EDMUNDS. In pursuance of what I stated, I take this as an evidence of the disposition of the Senate not to consider the joint resolution, and I give notice that I shall not again ask the Senate to take it up.

#### FIRST PRESBYTERIAN CHURCH.

Mr. HARLAN. I move that the Senate proceed to the consideration of House bill No. 502.

The motion was agreed to; and the bill (H. R. No. 502) to incorporate the congregation of the First Presbyterian Church, of Washington, was considered as in Committee of the Whole. The bill proposes to create Francis H. Smith, N. P. Chipman, Otis C. Wight, A. D. Robin-

son, Zenas C. Robbins, and their associates, who are now or may hereafter become members of the congregation of the First Presbyterian Church of Washington, in the District of Columbia, under the rules, regulations, or by-laws of the same, a body-corporate under the name of "The Congregation of the First Presbyterian Church of Washington," with perpetual succession, who are to exercise and enjoy all such powers as are usually vested in corporations, and as may be necessary or incident to sustaining religious worship, Sabbath schools, missionary, and charitable enterprises in the District of Columbia, and no others. The corporation is to be exempt from any taxes to be assessed upon its corporate property under the authority of Congress or of the city or county of Washington; but the value of all property so exempt is not to exceed \$200,000.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### CONNECTICUT AVENUE AND PARK RAILWAY

Mr. HARLAN. I move that the Senate proceed to the consideration of House bill No. 420.

The motion was agreed to; and the bill (H. R. No. 420) to incorporate the Connecticut Avenue and Park Railway Company in the District of Columbia was considered as in Committee of the Whole. By the bill Augustus B. Stoughton, John Little, John L. Kidwell, George H. Plant, Le Roy Tuttle, G. W. Hopkins, R. M. Hall, and their associates and assigns, are to be created a body-corporate, under the name of the Connecticut Avenue and Park Railway Company, with authority to construct and lay down a single or double-track railway, with the necessary switches and turnouts, in the city of Washington, through and along the following avenues, streets, and highways: commencing at the intersection of Seventeenth street west and Pennsylvania avenue, along the west side of Seventeenth street to its intersection with H street north, thence along Seventeenth street west to its intersection with Connecticut avenue, thence along Connecticut avenue to Boundary street; also, from the intersection of Boundary street and Connecticut avenue along the county road from such intersection, thence on any road opened, or which may hereafter be opened, west of the Fourteenth street road, to within or through the proposed public park, or to the county line of Washington county, with the right to run public carriages thereon drawn by horse-power, receiving therefor a rate of fare not exceeding six cents a passenger for any distance on said road. Should a majority of stockholders so elect, the road, after reaching the intersection of Boundary street and Connecticut avenue, instead of continuing from that intersection up the county road now opened, may be constructed along Boundary street in the direction of Meridian Hill to any county road opened, or which may hereafter be opened, west of Sixteenth street west, and thence along that county road by the most practicable route to the terminus near, at, in, or through the proposed park, as before provided.

Mr. MORTON. I suggest to the chairman of the committee the propriety of so amending this bill as to require the gauge of this road to be the same with that of the road on Pennsylvania avenue and other roads in the city. It is important to the people of the city for this reason, that they are now having their carriages constructed with a view to make them fit the track, run upon the track of the other roads. That is a matter of great convenience to the people. This bill allows the gauge of this road to be between four and six feet, and it would enable the company so to vary their gauge, even but very little, as to prevent the use of their track by the carriages, wagons, and vehicles of the city. These railroad tracks ought to be of uniform width, so that the people can have their carriages and wagons made to fit them.

Mr. HARLAN. I have no objection to that amendment.

Mr. MORTON. I therefore move to so amend the bill as to provide that the gauge shall be the same with that of the street railroad on Pennsylvania avenue. I suppose that will accomplish the purpose.

The CHIEF CLERK. It is proposed to amend the bill in section three, line thirteen, by striking out the words "Baltimore and Ohio railroad," and inserting "Washington and Georgetown railroad;" so that the clause will read:

And the carriages shall not be less than six feet in width, the gauge to correspond with that of the Washington and Georgetown railroad.

Mr. HENDRICKS. It seems to me the railroad company would make that provision anyhow in constructing the road, and it is unnecessary to send the bill back to the House if that is all the amendment that is necessary in the bill.

Mr. MORTON. Those other words were put in there for some purpose. They ought not to be in the bill.

Mr. HENDRICKS. Some of the citizens of this District have spoken to me about this bill. They want to build the road this fall, and if the bill is amended it will go back to the House of Representatives, and it may not, perhaps, be reached there. That is the only objection I can see to the amendment.

Mr. SHERMAN. I can state to the Senator from Indiana [Mr. MORTON] that all the street railroads built now are built upon what is called the uniform gauge. The two roads that are built here have the same gauge, as I happen to know, as I drive over them very often, and wagons are generally built upon that gauge.

Mr. MORTON. This bill provides that it may be between four and six feet.

Mr. SHERMAN. I have no doubt that, as a matter of convenience in transporting their cars from the depot to the railroad, they will have the same gauge. I do not think the amendment necessary, and as it may embarrass the bill, I hope the Senator will withdraw it.

Mr. HENDRICKS. The only objection I have to it is that it may possibly defeat the bill in the House.

Mr. ANTHONY. I do not believe there is any doubt that such an amendment will be concurred in by the House, and the question being raised, it might be an object to the company to make this road of a different gauge for the very purpose of keeping the street free from carriages.

Mr. HARLAN. If the Senator will allow me, I think the gauge of the Georgetown and Washington railroad is required to be the same as that of the Baltimore railroad, and this bill requires the gauge of this road to be the same as the Baltimore road. That can be ascertained by looking at the law; and in order that the Senator from Indiana may have an opportunity to look at the charter of the Washington and Georgetown railroad to see if that is not so, I will ask that the bill be passed over informally.

Mr. MORTON. I will say to the Senator from Iowa that it would be safe in either case with this amendment.

Mr. HARLAN. I have no personal objection to the amendment. I think the House will pass it.

Mr. MORTON. I think so. I think the amendment is right.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

WILLIAM B. TODD.

Mr. HARLAN. I move that the Senate proceed to the consideration of the bill (H. R. No. 503) for the relief William B. Todd.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which proposes to refund to William B. Todd, of the city of Washington, the

sum of \$319, for money paid by him to the United States, on the 27th of June, 1856, for certain land in the city of Washington, being the south half of lot No. 15, in square No. 636, which had been before sold and the United States paid therefor.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### WASHINGTON TARGET ASSOCIATION.

Mr. HARLAN. I move that the Senate take up House bill No. 344.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 344) to incorporate the "Washington Target-shooting Association" in the District of Columbia. It proposes to incorporate and make a body corporate of Charles Kloman, Frederick Huegler, Charles Ebel, John H. Stailey, Adolf Cluss, G. Dill, Gustav Hartig, B. Henze, John Kessel, Casper Kneessi, E. L. Schmidt, Richard Wallach, M. Michler, Lewis Clephane, and A. C. Richards, of Washington city, in the District of Columbia, and their associates and successors, by the name of the "Washington Target-shooting Association," for the purpose of establishing and maintaining, in the District of Columbia, a "park" designated and named the "Washington Schuetzen Park," the object of which shall be moral and social, and to acquire proficiency and skill as marksmen. The capital stock of the corporation is not to exceed \$100,000, and the stock is to be divided into shares of twenty five dollars each.

Mr. MORRILL, of Maine. I suggest to the chairman of the committee whether there should not be some limitation on the amount of property authorized to be held by this corporation. The bill authorizes them to hold personal and real estate.

Mr. HARLAN. I have no objection to such an amendment.

Mr. MORRILL, of Maine. There should be a limitation providing that it should not exceed a certain sum.

Mr. HARLAN. I have no objection to such an amendment, if the Senator will suggest it.

Mr. MORRILL, of Maine. I have not the slightest idea what the amount ought to be. Perhaps the Senator himself is more familiar with those institutions, and can tell.

Mr. HARLAN. I will state to the Senator that I understand the whole purpose of the bill is to enable an association of gentlemen in this city to secure a deed for a piece of land that they may hold in common on which they have erected shooting galleries on the edge of the city.

Mr. MORRILL, of Maine. Would \$10,000 be sufficient?

Mr. HARLAN. I think not. I think the Senator had better put it at \$50,000. Land is very valuable in that part of the District. I think the land cost perhaps twenty or thirty thousand dollars.

Mr. POMEROY. I suppose it is not exempted from taxation or anything of that kind?

Mr. HARLAN. No, sir.

Mr. MORRILL, of Maine. I only suggest that there should be a limitation.

Mr. POMEROY. Put it at \$50,000.

The PRESIDENT *pro tempore*. It is moved to amend the bill by limiting it to \$50,000.

Mr. POMEROY. "Not to exceed \$50,000."

The CHIEF CLERK. The amendment is to insert at the end of section four the following proviso:

*Provided*, That the amount of real property or estate to be held or owned by said association shall not exceed in value \$50,000.

The amendment was agreed to.

Mr. MORTON. I did not listen attentively to the reading of the bill. I will inquire of the chairman whether there is a special limitation in the bill that the property to be purchased by this company shall be held only for this purpose?

Mr. HARLAN. I think so.



Mr. MORTON. They have not a general right to buy real estate?

Mr. HARLAN. I think it is specifically limited to this object.

Mr. MORTON. I should like to hear that part of the bill read again.

The Chief Clerk read as follows:

SEC. 4. *And be it further enacted*, That the said corporation shall have full power to make and prescribe such by-laws, rules, and regulations as they may deem needful and proper for the management of the stock, property, estate, and effects of the corporation, not inconsistent with the laws in force in the District of Columbia, to have and use a common seal; with the privilege of altering the same at pleasure; to purchase, take, and hold, by deed or otherwise, any property, real, personal, or mixed, and the same or any part thereof to dispose of at pleasure, and to execute such deed or deeds or other conveyances as may be necessary therefor; to issue stock, and make all suitable and necessary regulations for the purchase, sale, and transfer of the same; to borrow money; to impose fines upon the members, and collect the same as other small debts are collected; to expel members, &c.

Mr. MORTON. Is there nothing specifying the purpose for which they may purchase and hold real estate? Is it a general permission?

Mr. HARLAN. In the first part of the bill the object of the corporation is specifically set forth, as I think, and I suppose they would not have any more powers than those that are directly conferred in the bill itself.

Mr. MORTON. I believe it has been held that the definition in such a bill of the general character of a corporation does not limit and control the power to hold real estate, if that is general in its character.

Mr. HARLAN. I have no objection to any limitation that the Senator may think necessary.

Mr. MORTON. Such a charter as that might be converted into a speculation. I offer an amendment such as I have suggested, and ask the Clerk to prepare it.

The CHIEF CLERK. It is proposed to amend the bill by adding after the proviso just adopted the following:

*And provided further*, That the real estate and personal property of the said association shall be held for the purposes, and no other, expressed in the first section of this act.

Mr. CONKLING. I beg to suggest to the Senator that, as the bill uses the expression "property real, personal, or mixed," he had better say "the said property." He does not wish to exclude what may be called mixed property, but to provide that all property shall be held for this purpose.

The PRESIDENT *pro tempore*. If so changed, the bill would not probably read well. The first proviso would read contrary to the other. If there be no objection, however, the other proviso will be amended so as to read, "property, real, personal, or mixed." The Chair hears no objection. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendments were concurred in. The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had, on the 25th of June, 1868, approved and signed the following bills:

An act (S. No. 426) for the relief of Thomas Crossley;

An act (S. No. 184) granting a pension to Mrs. Ann Corcoran;

An act (S. No. 450) relative to filing reports of railroad companies;

An act (S. No. 425) granting a pension to George Bennett;

An act (S. No. 280) granting a pension to Michael Hennessy, of Platte county, Missouri;

An act (S. No. 164) to provide for appeals from the Court of Claims, and for other purposes;

An act (S. No. 377) to change the times of

holding the district and circuit courts of the United States in the several districts in the State of Tennessee;

An act (S. No. 216) to amend an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon;" and

A joint resolution (S. R. No. 184) authorizing a change of mail service between Fort Abercrombie and Helena.

The message also announced that the bill (S. No. 534) relating to contested elections in the city of Washington, District of Columbia, having been presented to the President of the United States on the 16th of June, 1868, and not having been approved by him or returned to the Senate, in which it originated, within ten days, (Sundays excepted,) had become a law under the Constitution of the United States.

#### REGISTER OF DEEDS IN THE DISTRICT.

Mr. HARLAN. I move that the Senate proceed to the consideration of the bill (S. No. 491) to provide for the appointment of register of deeds in the District of Columbia, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that from and after its passage the appointment of register of deeds for the District of Columbia shall be vested in the supreme court of the District, and the register so appointed, from time to time, is to hold the office during the pleasure of the court, and qualify and perform all the duties of the office as provided by law, and receive as compensation for his services such sum as may be fixed by the court, not exceeding the rate of \$3,000 per annum, exclusive of the necessary expenses of the office. It is to be the duty of the register to employ, from time to time, subject to the approval of the court, a sufficient number of copyists to enable him to keep up the current records and indexes of the office with necessary and reasonable promptness, and, as the fees and income of the office will justify, to copy such of the records as have become defaced or obliterated, and to index the same. The copyists are to receive such compensation for services rendered by them, either by the piece or by the day, as the court may determine, not exceeding five cents per hundred words for copying, and not exceeding twelve cents per hundred words for indexing, or not exceeding three dollars per day for each faithful day's work of eight hours' duration to each of the copyists; but the salary of the register, compensation of copyists, cost of blanks, blank books, stationery, fuel, light, office rent, and all other necessary expenses of the office, are not in any case to exceed the aggregate fees and emoluments as provided by law.

It is also to be the duty of the register of deeds to receive all the fees and emoluments of the office, and to deposit them from day to day with the clerk of the supreme court of the District of Columbia, taking his receipt therefor. It is to be the duty of the clerk to give bond with approved security in such sum as the court may determine, to receive, receipt for, safely keep, and to pay out those funds, on orders to be drawn by the register of deeds, accompanied by vouchers approved by the chief justice of the supreme court of the District of Columbia, for the salary of the register, compensation of copyists, and other necessary expenses of the office, and at the close of each calendar year to pay over any surplus that may be in his hands to the treasurers of the city of Washington, of the city of Georgetown, and of the levy court of the county of Washington respectively, to be added to the school funds of the cities and county, and to be used for the support of schools, in proportion to the number of children to be benefited thereby in each of the corporations, the award to be made by the supreme court; but the clerk is authorized to retain for his services two per cent, per annum

for all moneys received and properly accounted for under the act.

The filing of all instruments for record since the decease of ———, late register, and under the superintendence of ——— Flood, and so noted by him, are to be valid, to all intents and purposes, as though filed by an actual incumbent of the office of register of deeds for the District of Columbia.

Mr. HARLAN. I move to amend the bill by inserting the following to come in as section one:

That from and after the passage of this act the style of the register of deeds of the District of Columbia shall be "recorder of deeds of the District of Columbia."

The amendment was agreed to.

Mr. HARLAN. I move to strike out in line three of the printed bill, after the word "that," the words "from and after the passage of this act." They are mere surplusage.

The amendment was agreed to.

Mr. HARLAN. In line four I move to strike out "register" and to insert "recorder," and to make the same change wherever the word occurs throughout the bill.

The amendment was agreed to.

Mr. HARLAN. I now move to strike out the fourth section of the bill, in the following words:

SEC. 4. *And be it further enacted*, That the filing of all instruments for record since the decease of ——— late register, and under the superintendence of ——— Flood, and so noted by him, shall be valid to all intents and purposes the same as though filed by an actual incumbent of the office of register of deeds for the District of Columbia.

And to insert in lieu thereof the following sections:

*And be it further enacted*, That the legal fees for the services of said recorder of deeds shall be as follows, that is to say: for filing, recording, and indexing, or for making a certified copy of any instrument containing two hundred words or less, fifty cents, and fifteen cents for each additional one hundred words, to be collected at the time of filing and when the copy is made; for each certificate and seal, twenty-five cents; for searching records extending back two years or less next preceding current date, twenty-five cents, and five cents for each additional year, to be paid by the party for whom the search may be made; for recording a town plat, three cents for each lot such plat may contain; for recording a plat of survey five cents for each course such survey may contain; for filing and indexing any paper required by law to be filed in his office, fifteen cents; for each examination of title by the party or his attorney, fifty cents; for taking any acknowledgment, fifty cents.

*And be it further enacted*, That all deeds of conveyance, leases, powers of attorney, and other written instruments required by law to be filed and recorded, and all copies of instruments and records and certificates authorized by law, filed, recorded, made and certified by William G. Flood as acting register of deeds for said city since the death of Edward C. Eddie, late register, and which may be filed, recorded, made, and certified by the said William G. Flood up to the date or the appointment of a recorder of deeds under the provisions of this act, shall, and are hereby, declared to be legally performed, the same as if the said William G. Flood had been appointed and qualified as register; and the said William G. Flood is hereby declared to be entitled to all the legal fees and emoluments of said office for his said services which have hitherto been allowed the register of deeds, and which have accrued, or may accrue, during said period.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

On motion of Mr. HARLAN, the title of the bill was amended so as to read: "A bill to provide for the appointment of a recorder of deeds in the District of Columbia, and for other purposes."

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1279) in relation to additional bounties and for other purposes; and

A bill (H. R. No. 550) providing for the sale of a portion of the Fort Gratiot military reservation in St. Clair county, in the State of Michigan.

## ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 347) to confirm the title of Ethan Ray Clarke and Samuel Ward Clarke to certain lands in the State of Florida, claimed under a grant from the Spanish Government;

A bill (H. R. No. 1027) to authorize the construction of a bridge over the Black river, in Lorain county, Ohio; and

A joint resolution (H. R. No. 318) to correct an act entitled "An act for the relief of certain exporters of rum."

## PROPERTY OF MARRIED WOMEN.

Mr. HARLAN. I move that the Senate proceed to the consideration of the bill (S. No. 177) regulating the rights of property of married women in the District of Columbia.

The motion was agreed to; and the bill was considered by the Senate as in Committee of the Whole. It provides that in the District of Columbia the right of any married woman to any property, personal or real, belonging to her at the time of marriage or acquired during marriage in any other way than by gift or conveyance from her husband to the prejudice of his subsisting creditors, shall be as absolute as if she were *feme sole*; but in the conveyance of realty her husband is to join her in the deed and if he refuse to do so, the supreme court of the District of Columbia is to have power, in its discretion upon her petition, to appoint a trustee to make the conveyance. If she die intestate, her personality is to vest in her husband; and if she die intestate, leaving minor children, her husband is to have an estate by the curtesy in her realty.

Mr. HENDRICKS. I should like to inquire of the gentlemen of the committee presenting this bill what change it makes in the existing law? It is rather important legislation.

Mr. HARLAN. It merely enables a married woman to hold a separate estate in the District of Columbia. That was the purpose of the bill.

Mr. HENDRICKS. Can anybody disturb her in her ownership of real estate in the District now?

Mr. HARLAN. I think so. I think her husband can control it.

Mr. HENDRICKS. Without her joining in the deed?

Mr. HARLAN. He might not be able to convey it without her joining in it; but he would be able to control it. If the Senator wishes to examine the bill, I will ask to have it passed over and take up another.

Mr. HENDRICKS. I do not care about that. The general feature and purpose of making married women secure in their separate property, I sympathize with; but this bill did not strike me as being very carefully drawn.

Mr. HARLAN. I will state to the honorable Senator that the bill was drawn by some member of the Senate, and referred to the Committee on the District of Columbia, and submitted by the committee to a member of that committee, Judge PATTERSON, of Tennessee, and he had it in his hands for some time, examined it very carefully, and reported that there could be no objection to its passage.

Mr. HENDRICKS. There is one rather extraordinary provision, I think, in the bill; and that is, that if the husband declines to join in the conveyance necessary to pass the title the wife may apply to the court, and the court shall appoint a trustee for that purpose. I do not know whether I am willing to go quite that far to get up a lawsuit between husband and wife about her separate property whenever she wants to sell, and he does not agree that it is best to do so. I do not know whether that would be wise or not. I think that is a new provision in the legislation of the country.

Mr. HARLAN. If the Senator will oblige me by examining the bill carefully, I will ask

to have it passed over for that purpose. I move that it be laid aside informally.

Mr. TRUMBULL. I hope the bill will not be laid aside so as to lose its position here. I think it is a bill that ought to pass in this District.

Mr. HARLAN. I will call it up again, if the Senator will allow me, as soon as we act on another bill. I wish to give the Senator from Indiana an opportunity to look at it.

Mr. TRUMBULL. I wish to state that there have personally come to my knowledge one or two cases in the District of Columbia where married women had some little property which reckless husbands were dissipating and disposing of. I think it is the general tendency in all the States of late years to secure to married women their separate property, and to allow them to control it. I think there ought to be such a law in the District of Columbia. As to the particular provision which the Senator from Indiana refers to, authorizing a married woman to convey her real estate and requiring the husband to join in the deed, and if he refuses to do so allowing her to apply to the court for the purpose of protecting the sale, I see no objection to that. I think in some of the States married women are allowed to convey their real estate without the husband joining in the deed, and this is only an additional protection. It would only be in extreme cases that it would be necessary to apply to the court. There would be but very few such cases. I should be willing myself to vote for a law allowing a married woman absolutely to convey her estate without the husband joining in it.

Mr. MORTON. I should like to inquire of the Senator from Illinois what necessity there is for requiring the husband to join, provided, if he refuses to join, the wife can compel him to do so? Why not provide that her own conveyance shall be sufficient? For my part, I should oppose that whole provision. I do not know of any State where a married woman can convey her real estate without the consent of her husband, or compel him to consent if he refuses, or have some other trustee appointed by a court. I think it is entirely new. I never heard of such a provision, and I do not believe it is for the benefit of married women at all. I am opposed to it.

Mr. TRUMBULL. I do not know but that I should be willing, as I said, to vote for a bill that would allow a married woman absolutely to convey her property, without her husband joining; but the Senator from Indiana is certainly aware that as the law now stands a court of chancery would interfere to protect a married woman in property belonging to her, which the husband was squandering. You can imagine such a case.

Mr. MORTON. That is not the case I put.

Mr. TRUMBULL. The case that the Senator put was this: he was making an objection to calling upon the court to compel the husband to join. He can imagine a case, and so can I, where a court would compel a sale of the property of the wife to support the wife and children, and compel the husband to assent to it, or convey the title without his assent.

Mr. MORTON. That may be in the power of a court of chancery. But the protection of the property of married women is one thing. We have statutes in nearly every State to do that. We have very ample provisions in the laws of Indiana for the protection of the property of married women, and to prevent their husbands from squandering that property; but we have no provision, and I never heard of any in any State, that authorizes a married woman, upon her own will and judgment, to go and sell her real estate against the wishes of her husband. I think that would be a very unsafe provision.

The PRESIDENT *pro tempore*. The bill is in Committee of the Whole and open for amendment.

Mr. HENDRICKS. I move to strike out the provision that creates the estate by curtesy.

Mr. TRUMBULL. There is no such provision in the bill.

Mr. HENDRICKS. Yes, sir; there is. I ask the Clerk to read the last part of the bill.

Mr. HARLAN. The Senator from Indiana is right. That is in the bill.

Mr. TRUMBULL. I did not so understand it.

The CHIEF CLERK. It is proposed to strike out at the end of the bill the following clause:

And that if she die intestate, leaving minor children, her husband shall have an estate by the curtesy in her realty.

Mr. HENDRICKS. I think we have been advancing in the law beyond the estate by the curtesy.

Mr. HARLAN. I have no objection to the amendment.

Mr. HENDRICKS. When the wife dies owning real estate the law ought to give to her husband such part in that real estate in fee as he ought to enjoy, but if she dies leaving children there is no propriety in his having the whole of the estate for life, which is the curtesy. If, according to the laws of some of the States, he should have the fee as against the children of the one third, and they of the two thirds, that ought to be provided for; but the estate by curtesy is one that ought not to exist, in my opinion. It is being abandoned very rapidly in the States.

Mr. TRUMBULL. Let me suggest to the Senator from Indiana, suppose there are no children living; would he deprive the husband of the curtesy?

Mr. HENDRICKS. Then he should have the whole of it.

Mr. TRUMBULL. There may have been children who have deceased before the wife?

Mr. HENDRICKS. Then the husband should be the heir.

Mr. WILLIAMS. I will ask the Senator from Iowa who has charge of this bill if married women in this District can bring suits without the consent or concurrence of their husbands?

Mr. HARLAN. I think not. I think the doctrine of the common law prevails in this District.

Mr. WILLIAMS. If that be so I think this bill would be objectionable. If the law does not allow a married woman to bring a suit to protect or recover any personal or real property without joining her husband, then to invest the property of the wife absolutely, as though she was a *feme sole*, would put the property where it could not be protected by litigation, it seems to me. According to the provisions of this bill, all property that she acquires, personal or real, is to be as absolute in her as if she were a *feme sole*.

Mr. TRUMBULL. That would allow her to sue. That would carry the other rights with it. If it is as absolute as if she were a *feme sole*, of course she would have the same right to protect it in court as a *feme sole*. The courts would so construe it.

Mr. WILLIAMS. I think that altogether doubtful. If the law provides in this District as it does in many of the States, that the wife shall bring suits by joining her husband with her, this provision would not by intentment repeal that act.

Mr. TRUMBULL. Undoubtedly it would. There was the same law in my State.

Mr. HENDRICKS. If the Senator from Oregon will permit me, I will move that this bill be referred to the Committee on the Judiciary. I think it should be considered by that committee.

Mr. HARLAN. I have no objection to that. The motion was agreed to.

## HOUSE BILLS REFERRED.

The following bills received from the House of Representatives were severally read twice by their titles, and referred to the Committee on Military Affairs and the Militia:

A bill (H. R. No. 1279) in relation to additional bounties and for other purposes; and  
A bill (H. R. No. 550) providing for the

sale of a portion of the Fort Gratiot military reservation in St. Clair county, in the State of Michigan.

#### NATIONAL HOTEL COMPANY.

Mr. HARLAN. I move to discharge the Committee on the District of Columbia from the further consideration of the bill (H. R. No. 366) to incorporate the National Hotel Company of Washington city.

The PRESIDENT *pro tempore*. The committee will be discharged, if there be no objection.

Mr. HARLAN. I now move that the Senate proceed to the consideration of the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 366) to incorporate the National Hotel Company of Washington city. George H. Calvert, R. C. Weightman, James C. McGuire, Zeph. English, George H. Calvert, jr., and Charles B. Calvert, their associates, successors, and assigns, are to be created a body corporate and politic by the name of the National Hotel Company, in the city of Washington, in the District of Columbia, and by that name they are to be capable of taking, holding, managing, improving, purchasing, leasing, for the sole purpose of erecting and maintaining a hotel, real and personal estate within the city of Washington, not exceeding \$500,000 in value. The capital stock is to be not less than \$227,000 in shares of \$500 each.

Mr. POMEROY. I have no objection to incorporating a hotel in Washington, but there ought to be some provision in the bill as to what kind of a hotel the corporators are to keep. While the Senate are considering this bill, if we could make an amendment by which we could have a first-class hotel of character and standing, and make it obligatory on this corporation to keep it so that gentlemen could stop at it, I should be very glad to support the bill. [Laughter.] I do not think there is any object in incorporating a hotel company to run a hotel as the hotels here are now managed. I would not retard the progress of the bill if any importance is attached to it; but I do not believe there is any object in incorporating a hotel company in Washington if they are to keep a hotel like the hotels at which I have been obliged to stop here. [Laughter.]

Mr. HARLAN. I should like to inquire if the Senator thinks it will make it any worse to have it incorporated?

Mr. POMEROY. I would provide to make it better. It is to make it better that we incorporate it.

Mr. HARLAN. It is to be hoped that it will have that effect. We will try, if the Senate consent.

Mr. EDMUNDS. I hope the Senator from Kansas will withdraw his opposition to this bill. It is of the utmost importance unquestionably that it should pass. I am surprised that any Senator, particularly a Republican, should stand up here, when this day has been devoted to the business of the District of Columbia and its suffering interests, that have been delayed so long by Congress not paying the attention to them that they deserve, and endeavor to clog legislation by objecting to a hotel bill. What is to be done, I should be glad to know, if the public interests are to be neglected in this way? It is true, some distant sections of the country that are a good ways off can be passed by in the hot weather; but if a hotel in Washington appeals to us, I am sure we ought not to have any opposition from any quarter. I hope the Senator will withdraw his objection.

Mr. WILLEY. With the permission of the honorable Senator from Vermont, I should like to inquire if there are any ladies concerned in it. [Laughter.]

Mr. EDMUNDS. As all the ladies have obtained the precedence in the Senator's committee, I dare say there will be ladies in the hotel; certainly if he is a boarder there. [Laughter.]

The bill was reported to the Senate without amendment.

Mr. MORTON. We certainly very much need a first class hotel in this city. The only objection I see to this is, that the capital stock provided is certainly not large enough to construct such a hotel and furnish it.

Mr. CONKLING. How much is it?

Mr. MORTON. Five hundred thousand dollars, I think.

Mr. EDMUNDS. Is there any provision that it shall be free from taxation?

Mr. MORTON. No; I believe not.

Mr. EDMUNDS. There ought to be! [Laughter.]

The bill was ordered to a third reading, read the third time, and passed.

#### WITHDRAWAL OF PAPERS.

Mr. EDMUNDS. I ask unanimous consent to withdraw the papers in a pension case of Mrs. Kirby Smith. The reason why I ask it in this form is the fact that her petition was reported on during the last Congress adversely, and I learn from a letter which I hold in my hand from Governor Lane, of Indiana, who was the chairman of the Pension Committee at that time, that it was not intended to make an adverse report. As the rules require in such cases unanimous consent, I ask that consent, that Mrs. Smith may have leave to withdraw her papers.

The PRESIDENT *pro tempore*. The Senator from Vermont asks unanimous consent to withdraw the papers mentioned by him. Is there any objection. No objection being made, leave is granted to withdraw the papers.

#### CORPORATIONS IN THE DISTRICT.

Mr. HARLAN. I now move that the Senate take up Senate bill No. 102.

The motion was agreed to.

The PRESIDENT *pro tempore*. This bill has heretofore been under consideration and has been read through. The question is on the passage of the bill.

Mr. EDMUNDS. What is the bill? Let us hear the title of it.

The CHIEF CLERK. A bill (S. No. 102) providing for the formation of corporations, and regulating the same in the District of Columbia.

Mr. EDMUNDS. That is a matter of public interest. It ought to be read.

Mr. HARLAN. It has been read and discussed for several hours, and I permitted it to go over at the request of the Senator from Maryland, [Mr. JOHNSON], who desired to look through it a little further; but I have since seen him at his desk and asked him if he had any objection to it, and he said he did not know that he had.

Mr. CONKLING. Is it not true, however, that in the mean time we have incorporated severally, one by one, everything that can be incorporated under this bill? A man cannot shoot at a mark here unless he is incorporated. He cannot drink lager beer unless he is incorporated. He cannot go to church unless he is incorporated. He cannot keep a hotel unless he is incorporated, nor sell ice nor meat, [laughter,] and my impression is that we have covered the ground so thick with special corporations that there will not be anything left for this bill to operate upon. I should hate to see the Senate make blank a motion, if the Senate has done so.

Mr. HARLAN. The Senate has acted on House bills only. We have Senate bills providing for corporations to act on still; but I shall not ask the Senate to consider any except those which are specially excluded from this bill, if the bill should be passed.

The PRESIDENT *pro tempore*. The question is on the passage of the bill.

Mr. HARLAN called for the yeas and nays, and they were ordered.

Mr. WILLIAMS. I perceive that this is a very bulky bill and must necessarily contain a great many provisions. I do not remember anything about the contents of this bill, and I dislike very much to be called upon to vote for

or against a bill of this description in utter ignorance of its contents. I believe a long time ago there was a bill of this description pending before the Senate, and various and sundry objections were made to it. How those objections were disposed of I cannot now remember. But to take up a bill consisting of thirty or forty pages and pass it without examination or discussion, it seems to me is proceeding with considerable rashness, to say the least of it; and I should like to know if it is absolutely necessary that this bill should pass at this time. I do not know that it is not all right; but I dislike to take the responsibility of voting for or against it without some knowledge. I understand this to be a general incorporation law for the District. I believe in the necessity of such a law; but there may be provisions incorporated in the bill that would be very prejudicial to the public as well as to private interests. If the Senator from Iowa has carefully examined this bill, and knows it to be entirely free from all objections, and is satisfied with it, and his committee are satisfied with it, of course I should have so much confidence in their judgment that I should not make any opposition.

Mr. HARLAN. I am very sorry to be compelled to say that I cannot meet the Senator's requirement. I know it is not free from all objections, because several Senators did object to several provisions contained in it when it was under consideration before; but I do think it is free from all reasonable and substantial objection. The bill was drawn up at the request of the Committee on the District of Columbia by the Senator from West Virginia, [Mr. WILLEY], who spent a very considerable time in preparing the bill. It was then carefully considered by the Committee on the District of Columbia, and matured as fully as we could mature it. When read in the Senate some months since various provisions were objected to, and there was an attempt made to obviate as far as practicable the objections presented, and various amendments were then adopted. The bill was then read the third time, and at the request of the Senator from Maryland [Mr. JOHNSON] I consented that it should go over at that time to give him additional opportunity to scrutinize it. As I before remarked, I conversed with him on the subject afterward, and he said he had no objection to my calling up the bill at any time; that he did not know that he had any objections to the passage of the bill. It excludes from its provisions, I may say, corporations for internal improvements and for churches, and covers the other ground, I believe, that is usually embraced in the general incorporation laws of the States, and nothing more.

I may, perhaps, be pardoned for saying, also, that I believe in every State of the Union—at least in the eastern and northern and western States—there are general incorporation laws for the safety of the people. There is an objection there to special charters, and consequently in most of the constitutions of the western States they have a provision prohibiting the Legislature from granting special charters, so as to avoid monopolies; and the committee have acted under that general idea which seems to prevail throughout the country. I think that this bill is as free from objection as similar laws usually are. At all events, it contains a provision that Congress may at any time modify or repeal it, or repeal any articles of agreement made under it.

Mr. MORRILL, of Vermont. May I ask the Senator from Iowa whether this bill now contains a provision that will allow an incorporated company here to do business outside of the district, in States, elsewhere?

Mr. HARLAN. I think the Senator from West Virginia can answer that question.

Mr. EDMUNDS. It does contain it. I remember it in the reading of the bill.

Mr. WILLEY. There was an amendment incorporated in the bill which was designed



to meet that objection at the instance of the Senator from Vermont; I do not recollect distinctly its terms. It was not the intention of the bill that it should have such operation; but if the Senate will take it up now I will suggest an amendment in the first clause of the bill. The objection may be obviated by inserting in the third line of the first section, after the word "corporations," where it now reads "corporations may be formed under this act," the words "whose operations shall be confined exclusively to the District of Columbia."

Mr. MORRILL, of Vermont. That would be better.

Mr. POMEROY. I suppose the amendment may be made by unanimous consent.

Mr. PATTERSON, of New Hampshire. I hope this bill will be considered at this time and for this reason, and I say it with some little feeling upon the subject. It has been my fortune, good or ill, as the case may be, to be upon the Committee on the District of Columbia in the House of Representatives and in the Senate, and I know what is known very well in the Senate here, that legislation which respects the District is anything but agreeable to the Senate or to the House of Representatives. Gentlemen are anxious to get on with the legislation that pertains to the whole country; and when they are asked for a day to legislate specially for the District, it is given grudgingly and generally with a great deal of opposition; so much of it that it has become offensive to the members of the committee even to ask for a day, and rather offensive to be on the committee because the legislation which pertains to the District is looked upon as rather irksome and disagreeable. In this case the object of the committee was to frame a bill by which to cover this general work of incorporating, the gentleman from New York says, every man who goes to church and every woman who makes a batch of butter or cheese.

Mr. EDMUNDS. Permit me to ask a question: then why do you take our time in passing all these private corporation bills instead of passing this general one?

Mr. PATTERSON, of New Hampshire. Because they are excluded from this bill; and I will say that there are enough left—

Mr. EDMUNDS. Why should they be excluded? If there ought to be a corporation bill at all, if these corporations ought to be founded, why should they not be founded under general law?

Mr. PATTERSON, of New Hampshire. I will say that the Senator from West Virginia had this subject particularly in hand, and I am not so familiar with it as he is; but it was thought by the committee, and especially by the Senator from West Virginia, that you could not very well include everything in this bill.

Mr. EDMUNDS. Why have you specially excluded corporations, as my friend from New York described it, for shooting at a mark? Is there anything so dangerous in rifle-practice as to make it require the special interposition of Congress, while a banking corporation or a railroad corporation or a mining corporation can be incorporated under a general law?

Mr. PATTERSON, of New Hampshire. Very likely some one thought the mark might be objectionable; he would get a living mark rather than a dead one. Perhaps that was the reason the Senator from West Virginia excluded that; I do not know. But what I want is that we shall pass a general law that will obviate this constant work on the subject of incorporations, so that we may not be called upon every twenty-four hours to pass an act which shall incorporate something or somebody. Let us do something that will cover the work, and have it out of the way.

Mr. EDMUNDS. But we have passed corporation bills on every conceivable subject almost already.

Mr. PATTERSON, of New Hampshire. If the Senator thinks so it is because his imagin-

ation is not so fertile as that of the people of this District.

Mr. EDMUNDS. Will the Senator please point out to us what class of corporations are within this bill if all those we have acted on already to-day are excluded from the bill? I ask really and seriously for information.

Mr. PATTERSON, of New Hampshire. Banks—

Mr. HARLAN. I can answer the Senator's question.

Mr. EDMUNDS. You do not allow banks to be incorporated under this general bill.

Mr. HARLAN. The bills we have passed are House bills; and there have only been two cases where the companies could be incorporated under this general bill; one the shooting company, and the other the hotel company.

Mr. WILLEY. Nearly all these bills we have passed would be embraced within the general operations of this bill; but then this bill is not a law, and it is very doubtful whether it can become a law at this session. These companies are urgent that they should have bills passed, especially House bills already acted on in the other branch of Congress, on which the action of the Senate would be final, and thus they can have a law at the present session. But, Mr. President, allow me to make this remark to show the necessity of some such bill: you have passed five or six corporation bills to-day; the majority of them were printed on one sheet. Here is a general corporation law, containing thirty or forty pages, I believe upward of fifty sections, if I remember correctly. And why are there so many sections in a general corporation law? They are as necessary to the perfection of every individual corporation bill as they are to the perfection of a general corporation law, because there is no special private corporation whose operation and regulation should not be as strict and as guarded as the provisions of the general corporation law. We have passed bills to-day that make no provision for the stock subscribed, that make no provision for the amount that shall be paid in, how it shall be paid in, when it shall be paid in, how the directors shall be appointed, what shall be their qualifications, nor in regard to the mode of their operations, all of which ought to be in these bills to make them perfect and secure in their operation both to the stockholders and to the community. The great advantage of a general corporation law, if it be properly drawn, is that it collects together as applicable to each individual corporation that shall organize under its general rules and regulations that ought to apply to every corporation.

It was objected when this bill was up before, by the Senator from New York, that it embraced too wide a scope. It is very easy to strike out just so much of the first section as includes within its operation matters to be incorporated as is deemed objectionable. I do not myself think it is too wide in its operation; I should be glad to have it passed as it is; but if that be the only objection—and that seemed to be the only objection remaining to the bill at the time it was dropped before—it may be very easily remedied by running the pen through just so much of the first section as describes the objects to be incorporated as may be objectionable to Senators.

There was a section included in the bill that destroyed my interest in it pretty much. Every individual incorporator under that bill is made responsible, besides his stock, personally to the extent of the stock subscribed by him. I did not think there would be many corporations organized under it, and therefore I lost my interest in the bill to a very great extent; but it is here, and if gentlemen see proper to organize under it let them do it.

Mr. MORTON. Mr. President, there have been a good many corporation acts passed, but the work is not done; there will be more to come in the future than we have had in the past. There is just as much necessity for a general incorporating act now as there ever has been. The time of Congress has been occupied a

good deal since I have been here in passing little acts of incorporation for various purposes in this District, all of which ought to have been disposed of under a general act of incorporation and save the time of Congress. If this bill authorizes the creation of incorporations which will have power to do business in New York, Indiana, and all over the country, that part of it ought to be stricken out. We have no use for incorporations of that kind in the District of Columbia and we do not want to create corporations by the General Government having any such powers. Whatever may be necessary for this District should be provided for; not to enable companies to go abroad and do business all over the country under the guise of an act of Congress. We have no use for incorporations of that character.

And now, Mr. President, while I am speaking on this subject, allow me again to call the attention of the Senate to the importance of making some general provision by which a large part of the business presented here for the District can be done either by the city councils or in some other way. We are troubled here with business from day to day that can be better done by a board of county commissioners, and that is transacted by county commissioners in my State and yours, and every other State.

Mr. FRELINGHUYSEN. I ask the Senator why he does not introduce such a bill? I have heard him state that before, and I agree with him entirely; and I think as he is impressed with that idea, if he would introduce a bill appointing a commission it would pass Congress.

Mr. MORTON. There are several very good reasons why I have not introduced such a bill. I again call the attention of the committee to the superior importance of making some provision of that kind. The other day we were called upon to pass a bill here to provide for the inspection of hay and straw in this District, which was a mere police regulation, and ought to have been provided for by the city councils or local authorities here. The time of Congress is taken up, costing the nation heavily and putting the national business back to enact laws which belong to a board of county commissioners or township trustees, a batch of business of which we can know nothing, and we cannot do it properly for the want of local knowledge.

Mr. President, the government of this District is costing the nation heavily by taking up the time of Congress; and I respectfully submit to the able Senators on this committee that they can serve this District better and the country better by bringing in a bill making provision for some sort of local government here. This business that we are called upon to transact can be done better by a board of county commissioners, or by two or three persons appointed by the city councils, than it can possibly be done by the Senate. And yet it costs the nation hundreds of thousands of dollars to govern the District in regard to matters that ought to be disposed of by the local authorities here. Sir, it has got to be a great nuisance, it has got to be a great abuse; and I do hope that those whose business it is to look after the affairs of this District will endeavor to report some sort of a bill that will relieve Congress from these onerous and these petty duties.

Mr. CONKLING. I wish to call attention to one or two matters in this bill. This is a bill which provides, in the first place, for the incorporation of persons for any purpose whatever, with certain exceptions. Those exceptions are contained in this clause:

But this act shall not be construed to authorize the incorporation of a bank of circulation, or of a company for the construction of any work of internal improvement, or of any church or religious denomination, or of any company, the object or one of the objects of which may be to purchase lands and resell the same for profit.

Anything else within the whole range of human transactions is within the purview of this bill. It was amended somewhat, I remem-

ber, for the purpose of narrowing its scope; but as it stands, despite the amendment adopted, I think, on the suggestion of the Senator from Vermont, [Mr. MORRILL,] it permits the creation of incorporations which practically are to operate anywhere and everywhere. Under that section there must be something in the nature of a home office, something which would answer the idea of an object within this District; but unless I am mistaken the bill provides in so many words that meetings of stockholders may be held anywhere, and that stockholders may call a meeting anywhere, and that a small number of directors shall be a quorum to transact business, and a small proportion of stockholders a quorum of stockholders to transact business. Thus it is a bill which is to be used as an implement in the hands of men anywhere, who, under the laws of their respective States, could not operate. The laws on this head in the States have been greatly extended already, in all the States so far as I know.

I wish to make only one remark upon the bill before I take leave of it. It seems to me that step by step we are advancing a great way in the direction of absorbing the powers which belong to the States which ought to remain there. We hear of bills to create an insurance department; we have an educational department; we have a bank department; and we hear of various other bills to which I might refer, the purpose of which is to absorb one after another, not only matters pertaining to the States, but matters of detail pertaining, I might almost say, to the police of the States.

I think this bill is obnoxious in that respect, and therefore I shall vote against it; and my belief is that it ought not to be passed without a review in the light of amendments which were made, and made quite hastily according to my recollection in the Senate, at least to say that they are congruous and harmonize together.

The PRESIDENT *pro tempore*. The amendment proposed by the Senator from West Virginia [Mr. WILLEY] may be made by unanimous consent. The Chair hears no objection, and it is made. The question is on the passage of the bill.

The question being taken by yeas and nays, resulted—yeas 24, nays 6; as follows:

YEAS—Messrs. Anthony, Chandler, Corbett, Cragin, Fowler, Frelinghuysen, Harlan, Hendricks, Howard, Howe, Morrill of Maine, Morton, Osborn, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sumner, Vickers, Wade, Welch, Willey, Williams, and Yates—24.

NAYS—Messrs. Cole, Edmunds, McCreery, Morgan, Morrill of Vermont, and Trumbull—6.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Cattell, Conkling, Conness, Davis, Dixon, Doxitt, Drake, Ferry, Fessenden, Grimes, Henderson, Johnson, McDonald, Norton, Nye, Patterson of Tennessee, Rice, Saulsbury, Sherman, Sprague, Stewart, Thayer, Tipton, Van Winkle, and Wilson—28.

So the bill was passed.

#### ALEXANDRIA STEAM-PACKET COMPANY.

Mr. HARLAN. I move that the Senate proceed to the consideration of Senate bill No. 236.

The motion was agreed to; and the bill (S. No. 236) in addition to the act entitled "An act to incorporate the Washington, Alexandria, and Georgetown Steam-packet Company," was considered as in Committee of the Whole. It proposes to again extend and continue in effect for a further period of twenty years, commencing January 1, 1869, the act entitled "An act to incorporate the Washington, Georgetown and Alexandria Steam-packet Company," approved 3d March, 1829, and extended by the act in addition thereto, approved 26th February, 1849, Congress reserving the right to modify or repeal.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### POTOMAC NAVIGATION COMPANY.

Mr. HARLAN. I move to take up Senate bill No. 192.

The motion was agreed to; and the bill (S. No. 192) to incorporate the Potomac Navigation

and Transportation Company of the District of Columbia was considered as in Committee of the Whole. By its provisions George W. Riggs, Matthew G. Emery, Fitzhugh Coyle, Ward H. Lamont, Moses Kelly, Henry D. Cooke, Samuel A. Peugh, Riley A. Shinn, Esau Pickrell, and George Hill, jun., and their associates and assigns, are to be created a body corporate and politic, under the name, style, and title of the Potomac Navigation and Transportation Company.

The first amendment of the Committee on the District of Columbia was, in line four of section one, to strike out from the list of incorporators the name of "Moses Kelly" and insert that of "George H. Plant."

Mr. HENDRICKS. What is that for?

Mr. HARLAN. I do not know how that occurred. Some one asked that it be done; but, perhaps, it would be better not to strike out Mr. Kelly's name and simply insert Mr. Plant's.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) Does the Senator from Iowa so modify the amendment?

Mr. HARLAN. Yes, sir.

The amendment, as amended, was agreed to.

The next amendment was after the word "Washington," in line twelve of section two, to insert "to receive subscriptions, at which time and place a subscription book shall first be opened to the public, and;" and after the word "purpose," in line fourteen, to insert "thereafter;" so as to make the section read:

SEC. 2. *And be it further enacted*, That the capital stock of said company shall not be less than \$500,000 nor more than \$2,000,000, to be divided into shares of \$100 each; and whenever an amount not less than one thousand shares of said stock shall have been subscribed in good faith, and ten per cent. paid thereon to some person duly designated to receive the same, it shall be the duty of the aforesaid persons, or a majority of them, by public notice of at least twenty days, in one or more of the daily papers published in the city of Washington, to call a meeting of the stockholders at some suitable place in the city of Washington, to receive subscriptions, at which time and place a subscription book shall first be opened to the public, and for the purpose thereafter of electing not less than seven directors for said corporation, each of whom shall be a stockholder, and at least four of the number shall be residents of the District of Columbia; and at such election each share of capital stock shall entitle the holder thereof to one vote. The aforesaid, or any four of them, shall act as inspectors of said election, and shall certify, under the names of the directors thus chosen, and shall also notify the said directors of their election, and of the time and place of holding the first meeting of said directors; at which meeting the aforesaid persons shall deliver to said directors the books of subscription to the stock of said company, together with the amount paid thereon, after deducting all the expenses incident to said organization. The meetings of the stockholders of said corporation for the election of directors and for the transaction of other business shall be held annually, and at such other times and upon such notice as may be prescribed in the by-laws. The directors elected as hereinbefore provided shall hold their offices for one year, and until others are elected to fill their places; and a majority of said directors shall constitute a quorum for the transaction of business.

Mr. CORBETT. I propose to amend the amendment in line thirteen by striking out the words "first be opened," and insert "have previously been kept open;" and in line fourteen, after the word "public," by inserting "ten days;" and after the word "purpose," striking out "thereafter;" so as to read "to receive subscriptions, at which time and place a subscription book shall have been previously kept open to the public ten days," &c.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment was in section three, line ten, to strike out the word "may" and insert "shall;" in line eleven, after the word "pay," to insert "five per cent. at the time of subscription upon;" in line thirteen to strike out "at such time" and insert "they may make other assessments;" after the word "proper," in line fourteen, to insert "not exceeding ten per cent. for any one assessment, of which assessment there shall be given at least thirty days' notice;" so as to make the section read:

SEC. 3. *And be it further enacted*, That the directors of said corporation shall, at their first meeting, elect from their own number a president and vice

president; they may also, from time to time, appoint a treasurer and secretary, together with such other officers, agents, and employees as they may deem necessary, each of whom shall hold office or position only during the pleasure of said directors. The directors shall also have power to fill vacancies in the board that may be caused by the death, removal, or resignation of any of its members. They shall also require the subscribers to the capital stock to pay five per cent. at the time of subscription upon the amount by them respectively subscribed; they may make other assessments in such manner and in such installments as they may deem proper, not exceeding ten per cent. for any one assessment, of which assessment there shall be given at least thirty days' notice, &c.

The amendment was agreed to.

The next amendment was in section three, line nineteen, to strike out "reasonable" before "notice" and insert "such;" and in lines twenty, twenty-one, twenty-two, twenty-three, and twenty-six, to strike out the words "may forfeit said stock and all previous payments thereon for the use of said corporation, under such general regulations as may be adopted in the by-laws of said corporation, or may sue for and collect the same in any court of competent jurisdiction;" and in lieu thereof to insert:

May proceed to sell at auction so much of said stock as will satisfy said assessments and cost of the sale of the same, of which sale ten days' notice shall be given in two of the principal papers in Washington city.

The amendment was agreed to.

Mr. MORTON. I call the attention of the friends of the bill to the fact that in order to perfect the bill there must be some clause in it stating the purpose of the corporation and what powers it shall have. There is no designation of the purpose of the corporation except that which is contained in the name "The Potomac Navigation and Transportation Company of the District of Columbia;" nor is there any statement as to the powers this corporation shall have. I will read all there is on that subject which, upon its face, only appears to be incidental to something else that is not stated in the bill:

SEC. 4. *And be it further enacted*, That said corporation is hereby authorized to purchase and hold lands, and may locate and construct wharves, docks, and railways into the Potomac river and in front of Mason's Island, so called, as may be necessary for the objects of said company.

Now, what are "the objects of said company?" They are not stated. Is it to be a company to run a steamboat line from Washington to Richmond, Virginia, or to Norfolk or to New York? That is not stated. It seems they may purchase and hold lands and construct wharves necessary for the objects of the corporation, but the objects are not stated and no powers are conferred.

Mr. HARLAN. That is a serious defect in the bill which escaped my attention. If the Senator has no amendments prepared, I ask that it be postponed.

Mr. MORTON. It is obviously imperfect. Mr. HARLAN. It is an oversight. I move to lay the bill aside.

The motion was agreed to.

Mr. HARLAN. I shall not ask the Senate to consider any further District bills to-day.

#### MATTHEW LOW.

Mr. SUMNER. I move that the Senate proceed to the consideration of Senate bill No. 535.

The motion was agreed to; and the bill (S. No. 535) to reward the services of Matthew Low, of Nassau, New Providence, was read the second time and considered as in Committee of the Whole. It provides for the payment to Matthew Low, of Nassau, on the British island of New Providence, in the West Indies, or his legal representatives, of \$2,000, in recognition of his services in carrying to the commander of the United States gunboat Tioga, the important information on which he acted in intercepting and capturing the blockade-runner Granite City on the 22d of March, 1863, near the port of Nassau.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### NEXT MEETING OF CONGRESS.

Mr. EDMUNDS. I move to take up the bill I introduced a day or two ago respecting

the next meeting of Congress. I do not remember the number of it.

Mr. COLE. I hope the Senator will call up Senate joint resolution No. 139, relative to the electoral votes of the late rebel States.

Mr. EDMUNDS. I assure the Senator that it will be perfectly useless to take that up at this time. Gentlemen wish to be heard on it. The minority, if there be a minority, have a right to be heard upon it fairly; and the Senator from Kentucky [Mr. DAVIS] had the floor upon it the other day when it went over at the end of the morning hour. As a matter of honor to him, the Senate having decided that they would postpone the measure until to-morrow by their vote, I do not think it would be right toward that Senator to insist upon taking it up now.

I take a very deep interest in the measure the Senator from California names; I believe it essential to the peace of the country; but the Senate has chosen to attend to corporations rather than that, and I acquiesce with satisfaction, because I can bear it as long as the rest can. So I think we had better take up the bill relating to the next meeting of Congress, which has some relation, as the Senator from California will readily perceive, to these subjects, and provide for an earlier meeting of the regular session than the one that is now provided for by law.

Mr. COLE. I have but a word to say in relation to what has been said by the Senator from Vermont. I agree that the measure to which I referred is one of the greatest possible importance, and may be the means of saving us from difficulties that we can hardly anticipate at present. I do not know what arrangement exists between him and the Senator from Kentucky; but if there is such an understanding that the Senator from Kentucky is to discuss the measure before it passes, of course I would not urge it against his rights.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont.

Mr. BUCKALEW. I suggest there are a number of bills we can pass this afternoon which are not objected to, and that we ought not to take up a bill of a general character which will lead to debate. Half a dozen members sought the floor for the purpose of calling up bills, and I have no doubt we can go on with various fragments of matter for some time to come. This is a bill of a general nature in regard to the meeting of Congress.

Mr. ROSS. As the bill of the Senator from Vermont will undoubtedly lead to discussion, and I have a little bill here that I think can be passed in five minutes, I ask him to let it come up.

Mr. EDMUNDS. I perceive that the temper of the Senate is not to attend to any matters of general interest to-day, and I withdraw my motion.

#### BRIDGE AT FORT LEAVENWORTH.

Mr. ROSS. I move that the Senate proceed to the consideration of Senate bill No. 355.

The motion was agreed to; and the bill (S. No. 355) authorizing the construction of a bridge across the Missouri river upon the military reservation at Fort Leavenworth, Kansas, was considered as in Committee of the Whole.

The Committee on Military Affairs and the Militia proposed several amendments to the bill.

The first amendment was in section one, line six, after the word "upon," to insert "or near;" so as to make the section read:

That it shall be lawful for the Kansas and Missouri Bridge Company, a corporation having authority from the State of Kansas, to build a railroad, transit, and wagon bridge across the Missouri river upon or near the military reservation of Fort Leavenworth, and that when constructed all trains of all roads terminating at the Missouri river at or near the location of said bridge, shall be allowed to cross said bridge for a reasonable compensation to be paid to the owners thereof. And in case of any litigation arising from any obstruction, or alleged obstruction to the free navigation of said river, the cause may be tried before the district court of the United States

of any State in which any portion of said obstruction or bridge touches.

The amendment was agreed to.

The next amendment was in lines two to five of section two, to strike out the following words:

May, at the option of the company building the same, be built with a draw-bridge with a pivot or other form of draw, or with unbroken or continuous spans.

The amendment was agreed to.

The next amendment was after the word "length," in line nine of section two, to insert "in the clear."

The amendment was agreed to.

The next amendment was to strike out all of the second section after the word "river," in line ten, as follows:

And the main span shall be over the main channel of the river, and shall not be less than three hundred feet in length: And provided, also, That if said bridge shall be constructed as a draw-bridge, the same shall be constructed as a pivot draw-bridge, with a draw over the main channel of the river at an accessible and navigable point, and with spans of not less than one hundred and sixty feet in length in the clear on each side of the central or pivot pier of the draw, and the next adjoining spans in the draw shall not be less than two hundred and fifty feet in length; and said spans shall not be less than thirty feet above low-water mark, and not less than ten feet above extreme high-water mark, measuring to the bottom chord of the bridge, and the piers of said bridge shall be parallel to the current of the river: And provided, also, That said draw shall be opened promptly upon reasonable signal for the passage of boats whose construction shall not be such as to admit of their passage under the permanent spans of said bridge, except when trains are passing over the same, but in no case shall unnecessary delay occur in opening the said draw during or after the passage of trains.

The amendment was agreed to.

The second section, as amended, reads:

SEC. 2. And be it further enacted, That any bridge built under the provisions of this act shall not be in any case of less elevation than fifty feet above extreme high-water mark, as understood at the point of location, to the bottom chord of the bridge, nor shall the spans be of less than two hundred and fifty feet in length, in the clear, and the piers of said bridge shall be parallel with the current of the river.

The next amendment was to strike out of section three the following words:

That all railroads and wagon-roads leading to said bridge from either side of the river shall have the right of way through said Fort Leavenworth military reservation one hundred feet in width, with the right to use stone and timber and earth.

And in lieu thereof to insert:

For the use of all railroads leading to said bridge, from either side of the river, there is hereby granted a right of way through said Fort Leavenworth military reservation not exceeding three hundred feet in width.

The amendment was agreed to.

The next amendment was to insert at the close of the fourth section these words:

And that said bridge company shall have the right to take from said reservation, at such places as shall be designated by the Secretary of War, all stone, timber, and earth necessary to use in the construction of said bridge.

The amendment was agreed to.

Mr. RAMSEY. I have not had an opportunity of looking at the bill; and I desire to inquire of the Senator who has charge of it what the length of span is, and if it is a bridge with continuous spans or a draw-bridge.

Mr. ROSS. The bill specifies that the span shall not be less than two hundred and fifty feet in length in the clear.

Mr. RAMSEY. The main span should be over the main channel of the river at low-water mark.

Mr. ROSS. I think the bill is sufficiently explicit.

Mr. SHERMAN. I think so important a bill as one providing for bridging the Missouri river at Fort Leavenworth on the Government reservation ought to be referred to the Committee on Post Offices and Post Roads.

Mr. RAMSEY. I see that the bill as originally drawn provided that the main span should be over the main channel, but that has been stricken out. I move to reinsert that provision.

Mr. ROSS. If it is stricken out, I think that is a mistake in printing the bill.

The PRESIDENT *pro tempore*. The amendment suggested by the Senator from Minnesota is not now in order.

Mr. RAMSEY. I wish to invite the attention of Senators interested in the navigation of the Missouri river to this bill. In regard to the other rivers I believe the smallest span we allow is three hundred feet. Gentlemen who know more about the navigation of the Missouri river than I do may know whether two hundred and fifty feet there is enough. The general impression now is that the spans should be rather larger, instead of less than they have been heretofore. Instead of three hundred feet it is contended that there should be five hundred feet span. There is some doubt about that, but there is no doubt about the ability to build an economical span of three hundred feet. I doubt myself whether we ought to allow this departure from the rule, and I call the attention of Senators interested in the navigation of the Missouri river to it. I do not think there is any necessity for a two hundred and fifty feet span. I think with reasonable economy a bridge of three hundred feet span might be built.

Mr. ROSS. This bill provides for a bridge with a span of two hundred and fifty feet. There is no necessity on that river for a longer span, which would of course be more expensive. The commerce of that river is not like the commerce of the Ohio river, and it will be accommodated by a span of two hundred and fifty feet.

Mr. POMEROY. The spans of the bridges on the Missouri river should be of uniform length. There is a law providing for bridging the same river at Kansas City just below, where the span is two hundred and fifty feet, and also at St. Charles, which is the same. This bill is copied from those bills. All the bridges authorized on the Missouri river have a span of two hundred and fifty feet, or rather the provision is that the span shall not be less than two hundred and fifty feet. This bill was not before the committee of which I am a member, but was reported from the Committee on Military Affairs, but in that respect, so far as it relates to the span, it makes the same provision precisely as there is in regard to the Kansas City bridge, and other bridges on the same river. I do not know any reason why there should be a larger span at this place than below it on the same river.

Besides, this is not to be a pivot bridge. The one at Kansas City is authorized to be a pivot bridge, where there is to be a draw. This is to be a suspension bridge, high up, so that it is to be fifty feet above high-water mark. If it was a draw-bridge there might be some reason for requiring the span to be larger, because there is often delay in opening and shutting draws; and there are difficulties in that regard which require boats sometimes to have more sea room, as they call it; but I think as this is to be a suspension bridge, and as the span is exactly in accordance with the span provided by law for other bridges to be built on the same river, it is right as it is.

Mr. RAMSEY. I had no desire except to call the attention of those particularly interested in the navigation of the Missouri river. My attention having been called specially to the subject of bridges, from my connection with the Committee on Post Offices and Post Roads, I desire to suggest an amendment or two that ought to be inserted.

Mr. POMEROY. We ought to insert a provision that Congress may alter or amend the act.

Mr. RAMSEY. I was about to call the attention of that final clause which we inserted in the act of July 25, 1866, which provides for bridging the Mississippi river. The thirteenth section of that act declares—

"That the right to alter or amend this act so as to prevent or remove all material obstructions to the navigation of said river by the construction of bridges is hereby expressly reserved."

I move that clause as an amendment to the bill.

Mr. POMEROY. I think that amendment ought to be inserted.

The amendment was agreed to.



Mr. RAMSEY. I ask whether the amendment I suggested before has been made, requiring the main span of the bridge to be over the main channel of the river.

Mr. POMEROY. I think that should be inserted if it is not in the bill. Of course, they will have sense enough to make the main span over the main channel.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The Chair is informed these words were stricken out. They can be inserted when the bill comes into the Senate.

Mr. MORRILL, of Vermont. I do not like to interrupt the progress of this bill; but I noticed one provision as it was read that seemed to me a little extraordinary, and which I would like to have explained. There is a provision for a right of way for all roads that may center at this bridge coming through the military reservation. It seems to me that that is a very loose way of granting a right of way, without expressing any points of the compass from which they are to come even, simply to say that a road starting from anywhere, if it only ends at this bridge, shall have the right of way three hundred feet. It is much more than what is necessary for a single road. It seems to me that that is a very loose kind of expression in defining a right of way. I merely call attention to this. It seems to me that all bills granting the privilege of building bridges ought to be committed to the same committee, ought to emanate from one committee, that they may be uniform, and that they may be carefully guarded in all respects.

Mr. RAMSEY. I will say to the Senator that this very provision is one in the interest of navigation, and one that on a little reflection I think he will see there is no ground of objection to. It is rather an advantage in the bill. It prevents a multiplication of bridges on the river, which of course is to be deplored. If all the other railroads desiring to cross in that vicinity are brought to this one bridge, it supercedes the necessity of multiplying bridges on the river within a short distance, and it is rather an advantage than otherwise. I really think the Senator on reflection will approve of this provision of the bill; otherwise we might have two or three bridges within a few miles.

Mr. MORRILL, of Vermont. But the Senator from Minnesota will see that three hundred feet is more than is necessary for the right of roadway, and that is to be granted to any road coming from any quarter if it only barely ends where this bridge is. I certainly never have heard of any grant of a right of way like that.

Mr. POMEROY. The reason why I suppose it was given to any road was that if the exclusive right of way was given to one particular road, that company might prevent any other company from enjoying it without paying an enormous price. They might prevent another company desiring to cross the river and make a connection from having the right of way. I apprehend the object of the committee in providing for giving it to any company was to prevent any one company having a monopoly.

Mr. MORRILL, of Vermont. That would be sufficiently guarded by giving them all the right to cross at this bridge without giving the right of way clear through the reservation.

Mr. POMEROY. That provision is accounted for by the fact that there are at least two or three companies that have charters with rights to cross the Missouri river and cross this reservation, but there will probably be only one road. No one of them has built yet, and it is not known certainly which company will build, and this is arranged so that whichever company builds will have the right of way over this bridge. I think there will be but one road built.

Mr. FESSENDEN. Why do you want a right of way more than one hundred feet wide?

Mr. MORRILL, of Vermont. It might be subject to very great abuse. Unquestionably there will be a town established near this bridge, and very likely one on each side of the river. If there should be a town established

on each side of the bridge, then it would be in the power of any parties who obtained the right to build a road to get three hundred feet of this land, use as much of it as they wanted to build their road, and the rest of it for any other purpose.

Mr. POMEROY. Allow me to state to the Senator that on both sides of the Missouri river there is a military reservation, so that there can be no town built. Only one company will build a road, and it is not known yet which company will build; and hence the provision is that any company shall have the right of way.

Mr. TRUMBULL. I notice by the reading of the bill that three hundred feet are not granted to each company, but to all these railroads together.

Mr. MORRILL, of Vermont. I thought it was for each one.

Mr. TRUMBULL. No; it is for all the roads together. If the Clerk will read it it will be seen that that is so.

The Chief Clerk read the following clause:

That for the use of all railroads leading to said bridge, from either side of the river, there shall be granted a right of way through said Fort Leavenworth military reservation not exceeding three hundred feet in width.

Mr. FESSENDEN. I think it would be well to put in a proviso that no one railroad shall have more than one hundred feet. That is the widest grant I have ever known, and it is all that is necessary.

Mr. HENDRICKS. There is no railroad that needs three hundred feet; ordinarily, they need about thirty or forty feet.

Mr. POMEROY. This is a bridge to accommodate a wagon-road as well as the railroad.

Mr. FESSENDEN. What does any railroad or wagon-road want with more than six rods in width?

Mr. POMEROY. You cannot make a wagon-road right alongside of a railroad. It is not safe to bring them together, within a hundred feet. There should be a wider space than is simply sufficient for a railroad track, because there will be immense droves of stock passing on the wagon-road.

Mr. FESSENDEN. As it reads, several roads might combine, and if only one road were built that might take the three hundred feet.

Mr. POMEROY. The provision is for the railroads and a wagon-road, that together they may have three hundred feet, and I think they ought to have it.

Mr. FESSENDEN. Is this a bill for anything more than a railroad bridge?

Mr. POMEROY. It is a railroad bridge and a wagon-road bridge.

Mr. HENDRICKS. Does it say "for a railroad and wagon-road"?

Mr. POMEROY. I think it does, but it can be read. A width of one hundred feet would be enough probably where there were no bluffs, no large excavations, and no embankments; but on one side of the river there is a bluff, and there will have to be a deep excavation, and on the other side a very heavy embankment. They have to go into the bottom and build a bridge fifty feet above low water. In that way there must be an immense embankment to approach the river and get high enough. That is the reason why it has to be quite wide.

The reservation is on both sides of the river. I have thought it almost impossible to build a suspension bridge there; but as this bill allows nothing but a suspension bridge, and as the companies must approach the bridge by an embankment fifty or sixty feet high running for a great distance, I do not think it could be got within one hundred feet if it could be within two hundred.

Mr. FESSENDEN. Why not amend the provision of which I am speaking by saying that three hundred feet shall be the aggregate for all the roads?

Mr. ROSS. It is contemplated that there may be more than one road using this same right of way, and the design is to include all

Mr. HENDRICKS. If the proposition is that they may all together have three hundred feet it is, perhaps, not objectionable.

Mr. FESSENDEN. The way it reads now I think it may be construed that each road may have three hundred feet.

Mr. TRUMBULL. To make that clear I move to strike out the word "all" where it now occurs in the section and insert after the word "exceeding" the words "for them all."

Mr. FESSENDEN. What objection is there to a proviso declaring that if only one road is built it shall have only one hundred and fifty feet?

Mr. POMEROY. The embankment would have to be as wide for one road as for two. The Committee on Military Affairs having required a suspension bridge, having thought it inexpedient to allow a pivot bridge, the embankment to approach it will have to be very high, and will require, I am sure, not less than three hundred feet for a base.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Illinois.

Mr. TRUMBULL. I have modified the amendment slightly, so as to make it more specific. I propose to modify it so that if amended the section shall read:

That for the use of railroads leading to said bridge from either side of the river there is hereby granted a right of way through said Fort Leavenworth military reservation not exceeding for all of said roads three hundred feet in width.

Mr. POMEROY. That is right, I think.

The amendment was agreed to.

Mr. MORRILL, of Vermont. The Senator from Kansas of course is acquainted with the locality, and I desire to ask him whether this right of way would interfere with anything that ought to be reserved on the part of the United States in the military reservation? This giving them a right of way through the military reservation might empower the railroads to go across that reservation where it would subject the Government of the United States to great inconvenience. I think the rights of the United States in that reservation ought to be preserved. Whether they would be if the bill should pass as it is I am not sure.

Mr. POMEROY. The bill was referred first to the War Department, then sent out to the authorities at Fort Leavenworth, and put in its present shape according to their recommendations.

Mr. TRUMBULL. I see that there is a provision in the bill that it is not to interfere with the improvements.

Mr. POMEROY. It is not to interfere with any buildings or improvements.

The bill was reported to the Senate, as amended, and the amendments were concurred in.

Mr. RAMSEY. I move to amend the bill by inserting after the word "river," in line ten of section two, the words:

And the main span shall be over the main channel of the river at low water.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CHARLES B. TANNER.

Mr. FRELINGHUYSEN. There is a little bill I desire to take up, House bill No. 1069; it is to pay a soldier \$150. I move to take it up.

The motion was agreed to; and the bill (H. R. No. 1069) for the relief of Charles B. Tanner, late a first lieutenant sixty-ninth Pennsylvania volunteers, was considered as in Committee of the Whole. It proposes to appropriate \$144 92, to be paid to Charles B. Tanner, late first lieutenant and aid in the first brigade, second division, second Army corps, to cover a period of service from November 8 to December 15, 1864, inclusive, at which time he actually performed duty and was regularly commissioned in the sixty-ninth regiment Pennsylvania volunteers, but was not mustered in.

The bill was reported to the Senate, ordered

to a third reading, read the third time, and passed.

#### MINNESOTA STATE UNIVERSITY.

Mr. HENDRICKS. I move to take up Senate bill No. 555, reported from the Committee on Public Lands. It is a bill that involves simply the construction of two statutes. The committee gave a good deal of attention to it, and came to what they deemed the right conclusion.

The motion was agreed to; and the bill (S. No. 555) authorizing the allowance of the claim of the State of Minnesota to lands for the support of a State university was read the second time, and considered as in Committee of the Whole. It is a direction to the Commissioner of the General Land Office, in adjusting the claim of the State of Minnesota to lands for the support of a State university, to approve and certify selections of land, made by the Governor of that State, to the full amount of seventy-two sections, mentioned in the act of Congress approved February 26, 1857, without taking into the account the lands that were reserved at the time of the admission of the State into the Union and donated to that State by the act of Congress approved March 2, 1861.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### BENJAMIN B. FRENCH.

Mr. FESSENDEN. I wish to take up a little bill on the table, as that seems to be the fashion. The bill has already passed the House. It is a bill for the relief of B. B. French. I move to take it up.

The motion was agreed to; and the bill (H. R. No. 1325) for the relief of Benjamin B. French, late Commissioner of Public Buildings, was considered as in Committee of the Whole. It provides for paying to Benjamin B. French, late Commissioner of Public Buildings, for service performed from the 2d to the 14th day of March, 1867, inclusive, for which he has not been heretofore paid, the sum of eighty-five dollars.

Mr. HOWARD. I should like to have some explanation of that little bill from the Senator from Maine. How does it happen that eighty-five dollars is due to Mr. French as a balance? He has got rather rich out of the public employments he has held, I understand.

Mr. FESSENDEN. The explanation is simply this: after he ceased to be Commissioner of Public Buildings, on account of the passage of a law abolishing the office, it was deemed necessary that he should remain there until the officer designated to take charge of the place could take possession, and he stayed there at the particular request of the Secretary of the Interior to take care of the books, papers, &c. This is to allow him the same rate that he had before he received a salary, for the time he thus stayed.

Mr. HOWARD. Does he say that he could not very well afford to do that little duty without additional compensation?

Mr. FESSENDEN. We know that men generally accept pay for what they do.

Mr. HOWARD. I asked the Senator if Mr. French had expressed any wish on the subject?

Mr. FESSENDEN. I have not had any conversation with Mr. French. I have reported the bill from the testimony before the committee that he performed the service at the request of the Secretary of the Interior, and that the service was valuable and necessary.

Mr. HOWARD. I suppose that is all the information we can get.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### PRIVATE BILLS.

Mr. TRUMBULL. I move that the Senate adjourn.

Mr. HOWE. I wish the Senator would withdraw that motion, and allow me to have a few little private claims passed. We can administer a good deal of relief now.

Mr. TRUMBULL. I submit to my friend from Wisconsin whether we ought not to adjourn? The hour is late, and the Senate is very thin.

Mr. HOWE. I know there is a thin Senate, but the business which I have in hand to-day I can do just as well where there are two or three met together. [Laughter.]

Mr. TRUMBULL. Does the Senator from Wisconsin think it best to go on with this business? If he insists on it, I shall withdraw the motion; but I fear that after he gets his business through some other business will be taken up that perhaps ought not to be passed.

Mr. HOWE. I should be very much obliged to the Senator if he would withdraw the motion.

Mr. TRUMBULL. Very well.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The motion to adjourn is withdrawn.

#### TIMOTHY LYDEN.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 445.

The motion was agreed to; and the bill (H. R. No. 445) for the relief of Timothy Lyden, of Parkersburg, West Virginia, was considered as in Committee of the Whole. It provides for the payment to Timothy Lyden of \$302, in compensation of services rendered in the quartermaster's department, and for a period of captivity in rebel prisons.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### ROBERT FORD.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 550.

The motion was agreed to; and the bill (S. No. 550) for the relief of Robert Ford was read the second time, and considered as in Committee of the Whole. It proposes to appropriate \$814 to Robert Ford, in full payment for his time and services as a teamster in the quartermaster's department of the Army, from May 1, 1862, to August 1, 1864.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### PALEMON JOHN.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 433.

The motion was agreed to; and the bill (H. R. No. 433) for the relief of Palemon John was considered as in Committee of the Whole. It proposes to instruct the Commissioner of Internal Revenue to allow Palemon John a credit for the sum of \$769 37, for that amount of revenue stamps lost or stolen from the mails while the same were in transit to the Commissioner from Palemon John, late revenue stamp agent.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

Mr. BUCKALEW afterwards said: I desire to enter a motion to reconsider a bill passed a short time since, House bill No. 433. I do not know but that it is all right; I want to look at the papers.

The PRESIDENT *pro tempore*. The motion to reconsider will be entered.

#### SALLY C. NORTHROP.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 722, for the relief of Sally C. Northrop.

The motion was agreed to.

Mr. HARLAN. That is a land-warrant case. I am inclined to think that it is an old case that has been rejected heretofore. I think it better that the Senator would let that go over.

Mr. HOWE. If the Senator wishes to examine it, I move to postpone it.

The motion was agreed to.

#### CLAIMS AGAINST AGRICULTURAL DEPARTMENT.

Mr. HOWE. I move that the Senate pro-

ceed to the consideration of House bill No. 1068.

The motion was agreed to; and the bill (H. R. No. 1068) to provide for certain claims against the Department of Agriculture was considered as in Committee of the Whole.

The Committee on Claims proposed to amend the bill by striking out all after the enacting clause, in these words:

That there is hereby appropriated the sum of \$47,000 out of the Treasury of the United States, from which shall be paid such indebtedness and claims against the Department of Agriculture contracted prior to the 1st day of July, 1867, and included in the report of the Committee of Claims herewith, as shall be submitted to the Fifth Auditor of the Treasury, with sufficient evidence, under oath, as to the origin and validity of the same, respectively, and decided by the Fifth Auditor and the final accounting officer of the Treasury to be due to the respective claimants according to the rules of law and equity.

And in lieu thereof inserting:

That the proper accounting officers of the Treasury be authorized to audit the claims included in the schedule following, to wit: W. L. Ellison, \$1 50; C. C. Anderson, \$7 50; M. W. Beverage, \$150; W. B. Berry, \$6 47; J. H. Bourne, \$33; John Bell, \$22; J. Brewer, \$35; E. Baker, \$7 41; L. Bogges, \$1 50; J. A. Blake, \$4; Baltimore Journal of Commerce and Price Current, \$15; George Brown, \$1 13; L. C. Campbell, \$250; G. L. Carrow, \$85; Crut & Campbell, \$20; Carr, Yates & Wiswell, \$63 25; F. W. Christern, \$2; H. L. Chapin, \$6 50; Craiger & Clever, \$5; Collins & Alderson & Co., \$11 733 11; William B. Dana, \$5; R. P. Eaton & Co., \$1 50; Espey & Burdloff, \$92; Samuel S. Foss, \$2; Fisher & Schaeffer, \$10 90; Nathaniel B. Fugitt, \$364 41; Fowler & Co., \$153 29; Z. D. Gilman, \$22; William Hacker, \$6 799 40; Hovey & Co., \$0 83; International Exchange, (J. Mudie, agent), \$2; Irving & Willey, \$397 35; Journal of Commerce, \$17; A. J. Joice & Co., \$48 13; Aug. Jordan, \$25; J. Knox, \$15 50; J. M. Kuester, \$2; J. F. Lubbo & Co., \$391 05; Linton & Co., \$45; A. M. Lawza, \$6 in gold; D. T. Moore, \$3; Pascal Morris, \$13 223 60; J. Markritter, \$10; W. B. Moses, \$316 65; Myers & McGahn, \$25 25; J. W. Martin, \$86 98; E. Matlack, \$0 25; Munn & Co., \$3; National Intelligence, \$16; Plant & Brother, \$2; Z. Pratt, \$10; Philips & Solomon, \$15; F. & J. Rives, \$5; William Smith, \$6; John Saul, \$45 65; H. A. Swasey & Co., \$3; Schaeffer & Karadi, \$67 70; W. B. Smith & Co., \$4; E. W. Stewart, \$60; E. Slade, \$30; Stevens Brothers, (London), \$58 20; Sibley & Guy, \$44 97; J. Turner, \$1; R. O. Thompson, \$15; Charles S. Taft, \$128 47; J. E. Tilton & Co., \$3; Andreux, Villmorin & Co., \$12 70; T. B. Winner, \$1 50; William Wood & Co., \$29; J. B. Ward, \$35 38; G. E. Woodward, \$2 50; Samuel Wagner, \$2; J. F. Wright, \$1; A. H. Young, \$48 17; Paschall Morris, \$20; A. S. Yorke, \$65 20; Stevens & Brother, (London magazine), \$80; James Sheehy, \$6 50; R. O. Thompson, \$80; W. C. Lodge, \$35; James S. Lippencott, \$428; J. F. Walfinger, \$47 50; Samuel Rixgwalt, \$194; William H. Gardner, \$20; G. Hubart Bates, \$37 50; William W. Bates, \$204; H. D. Dunn, \$232; K. A. Willard, \$192; N. B. Cloud, \$28; S. F. Baird, \$20; H. F. French, \$149 50; C. W. Howard, \$67 50; John White, \$15 56; Henry A. Dreer, \$163 75; Israel S. Diehl, \$900; and to allow so much of the same as shall appear upon due proof under oath to be due and unpaid for goods delivered and services rendered to the Department of Agriculture upon contracts made by the Commissioner prior to the 1st day of July, 1867, for the payment of the same, \$40,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 2. And be it further enacted, That if any Commissioner or other officer of the Department of Agriculture shall hereafter, in the name of the United States, or in the name of said Department, contract for any goods or services for the use thereof beyond the amount of money appropriated and remaining in his or their hands unexpended at the time of such contract, the officer so offending shall be deemed guilty of a misdemeanor in office, and upon conviction thereof shall be punished by fine not exceeding \$5,000, or by imprisonment not exceeding two years, or both, at the discretion of the court.

Mr. HENDRICKS. That appears to be a combination of a bill of particulars and a criminal code. I think the chairman of the Committee on Claims ought to explain that. If we stand by the criminal provisions we had better strike out the bill of particulars. If we stand by the bill of particulars we had better strike out the criminal provisions.

Mr. HOWE. I think we had better take them both.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed for a third reading, and the bill to be read a third time. The bill was read the third time, and passed.

Mr. HENDRICKS. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, July 3, 1868.

The House met at twelve o'clock m. Prayer by Bishop E. S. JAMES, of the Methodist Episcopal church.

The reading of yesterday's Journal was, by unanimous consent, dispensed with.

## COLONEL F. W. ALEXANDER'S SAW BAYONET.

Mr. PHELPS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the select joint Committee on Ordnance be instructed to inquire into the expediency of adopting for use in the infantry regiments of the United States Army Colonel F. W. Alexander's saw bayonet, patented in 1864, and to report by bill or otherwise.

## WASHINGTON IRON WORKS.

Mr. LAWRENCE, of Pennsylvania, by unanimous consent, introduced a bill (H. R. No. 1858) to aid the building of a rolling-mill and nail factory in the city of Washington, to be named the Washington Iron Works; which was read a first and second time, and referred to the Committee for the District of Columbia.

## REPORT ON MANUFACTURES.

Mr. MOORE, by unanimous consent, submitted the following resolution; which was read, and, under the law, referred to the Committee on Printing:

*Resolved*, That there be printed for the use of the members of the House three thousand extra copies of the report of the Committee on Manufactures.

## WASHINGTON CANAL.

Mr. MOORE also, by unanimous consent, presented a memorial in behalf of the property holders of Washington in relation to the Washington canal; which was referred to the Committee for the District of Columbia.

## ADJOURNMENT OVER.

Mr. JUDD. It was the understanding and order of the House yesterday that when we adjourn to-day it be to meet on Monday next.

The SPEAKER. That was the order.

## ENROLLED BILL AND JOINT RESOLUTION SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 1027) to authorize the construction of a bridge over the Black river, in Lorain county, Ohio; and

Joint resolution (H. R. No. 313) to correct an act entitled "An act for the relief of certain exporters of rum."

## HOT SPRINGS, ARKANSAS.

Mr. HINDS, by unanimous consent, presented a memorial of the constitutional convention of the State of Arkansas, for the public sale of the Hot Springs reservation, in said State; which was referred to the Committee on the Public Lands.

Mr. UPSON moved to reconsider the votes just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ADJOURNMENT.

Mr. O'NEILL. In view of the slimness of attendance, and with no possibility of getting a quorum, I move this House do now adjourn.

Mr. WASHBURN, of Indiana. I ask the gentleman to yield to me.

Mr. O'NEILL. I will, if the gentleman will renew my motion.

Mr. WASHBURN, of Indiana. I will.

Mr. WASHBURN, of Illinois. I hope we will not adjourn.

## ADDITIONAL BOUNTIES

Mr. WASHBURN, of Indiana. I call up the motion to reconsider the vote by which the House recommitted House bill No. 1279, in relation to additional bounties, and for other purposes.

The motion was agreed to.

Mr. WASHBURN, of Indiana. I now move that the bill be put on its passage.

The first section provides that when a soldier's discharge states that he is discharged by reason of "expiration of term of service," he shall be held to have completed the full term of his enlistment and entitled to bounty accordingly.

The second section provides that the prohibition of bounty in the fourteenth section of the act of July 28, 1866, to any soldier who shall have bartered, sold, assigned, transferred, loaned, exchanged, or given away his final discharge papers, or any interest in the bounty provided by this or any other act of Congress, shall not apply in cases when the full amount of bounty has been advanced by States, counties, or towns, to the soldiers or to their families.

The third and concluding section provides that the widow, minor children, or parents, in the order named, of any soldier who shall have died, after being honorably discharged from the military service of the United States shall be entitled to receive the additional bounty to which such soldier would be entitled if living, under the provisions of the twelfth and thirteenth sections of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," approved July 28, 1866, and the said provisions of said act shall be so construed.

Mr. WASHBURN, of Indiana. This has the unanimous support of the Military Committee. The object is to cure some of the defects of interpretation by the Second Auditor.

Mr. STEVENS, of Pennsylvania. I cannot see any reason why the purchaser should have the advantage of this. I am willing he should have refunded what he has advanced, but the balance should go to the soldier.

Mr. WASHBURN, of Indiana. This does not refer to the purchasers, but only to the States which have advanced the full bounty.

Mr. STEVENS, of Pennsylvania. But the State according to this bill does not get the difference.

Mr. WASHBURN, of Indiana. The State or the county gets the whole amount.

Mr. STEVENS, of Pennsylvania. I desire to amend by adding "but the State which has advanced the bounty shall receive the same."

Mr. WASHBURN, of Indiana. I am willing to have the bill amended so that the State or county which has advanced the bounty shall receive it.

Mr. STEVENS, of Pennsylvania. Say "the State, county, or party."

Mr. WASHBURN, of Indiana. No, I cannot consent to include the "party." I do not want to make such transfers legal. I am willing to amend so as to say "the State, county, or town advancing the same," but I do not wish to have the bill so framed that fraudulent transfers made by parties shall be legalized.

Mr. STEVENS, of Pennsylvania. It seems to me that as the bill now stands these parties will not be excluded.

Mr. WASHBURN, of Indiana. They are already excluded by law.

Mr. GARFIELD. I desire to state that the committee were unwilling to make any change that would enable men who have been buying up soldiers' claims to draw any part of this money. We desired to cover only cases in which a State or some corporate body, such as a county or township, has advanced the money to the soldier as a matter of favor to him. We propose that in such cases there shall be paid back what has actually been advanced.

Mr. STEVENS, of Pennsylvania. But according to the bill, if the party that advanced the bounty is a State or county the transfer to a third person is legalized.

Mr. WASHBURN, of Indiana. The amendment corrects that now.

The question being taken on the motion to reconsider the vote by which the bill was recommitted to the committee, it was agreed to.

Mr. WASHBURN, of Indiana. I now withdraw the motion to recommit.

The SPEAKER. The bill is now before the House. The Clerk will read the amendment proposed by the gentleman from Indiana, [Mr. WASHBURN.]

The CLERK. Add at the end of section two the following:

But a State, county, or town advancing the same shall be entitled to it.

Mr. COBURN. I would inquire whether there is any provision in the bill for cases where soldiers have lost their discharge papers?

Mr. WASHBURN, of Indiana. We provided for that by previous legislation. Where discharge papers have been lost the soldier can get his pay by applying to the proper auditor and making proof of loss.

Mr. COBB. I ask the gentleman from Indiana to allow me to offer an amendment.

Mr. WASHBURN, of Indiana. I will allow it to be reported.

Mr. COBB. I move to amend the bill by adding to it the following new section:

SEC. 4. And be it further enacted, That the third section of an act of Congress entitled "An act to increase the pay of the privates in the regular Army and in the volunteer service of the United States, and for other purposes," approved August 6, 1861, be, and the same is hereby, construed to mean that every private of volunteers entitled under and by virtue of the proclamations of the President and the general orders of the War Department, Nos. 15 and 25, dated respectively May 4 and May 25, 1861, issued in accordance therewith, prior to July 22, 1861, the date of the passage of the act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," shall be entitled to and be paid the allowance of \$100 provided by said general orders in all cases where said privates were honorably discharged or mustered out of service by competent authority.

Mr. WASHBURN, of Indiana. I cannot yield to allow that amendment.

Mr. COBB. I wish to state that I will on the first opportunity report the amendment I have just offered in the shape of a bill from the Committee of Claims, to whom it is now referred, and ask that it be put on its passage. I desire to present, in this connection, extracts from General Orders Nos. 15 and 25:

"Every volunteer non-commissioned officer, private, musician, and artificer, who enters the service of the United States under this plan, shall be paid at the rate of fifty cents, and if a cavalry volunteer, twenty-five cents additional in lieu of forage, for every twenty miles of travel from his home to the place of muster—the distance to be measured by the shortest usually traveled route—and when honorably discharged, an allowance, at the same rate, from the place of his discharge to his home, and, in addition thereto, the sum of \$100."

"Every volunteer non-commissioned officer, private, musician, and artificer, who enters the service of the United States under this plan, shall be paid at the rate of fifty cents in lieu of subsistence, and if a cavalry volunteer, twenty-five cents additional in lieu of forage, for every twenty miles of travel from his place of enrollment to the place of muster—the distance to be measured by the shortest usually traveled route—and when honorably discharged, an allowance, at the same rate, from the place of his discharge to his place of enrollment, and, in addition thereto, the sum of \$100."

Mr. WASHBURN, of Indiana. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to, and the bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Indiana, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ORDER OF BUSINESS.

The SPEAKER. The regular order in the morning hour is the bill reported from the Committee of Claims pending at the close of the morning hour yesterday, on which the gentleman from Massachusetts [Mr. WASHBURN] is entitled to the floor.

Mr. WASHBURN, of Massachusetts. I have been appealed to by the Committee on Appropriations, who desire to go on with their business now.

Mr. WASHBURN, of Indiana. I agreed



to move to adjourn when the gentleman from Pennsylvania [Mr. O'NEILL] yielded the floor to me.

The SPEAKER. The gentleman from Massachusetts has the floor.

Mr. WASHBURN, of Massachusetts. I suggest that as the Committee of Claims are entitled to a morning hour to-day, the Committee on Appropriations, by unanimous consent, go on to-day, and that the Committee of Claims have a morning hour on Tuesday next.

Mr. TROWBRIDGE. I object, unless a regular morning hour is granted to committees for public business.

Mr. BLAINE. Give the Committee of Claims an extra morning hour by unanimous consent.

Mr. STEVENS, of Pennsylvania. Will that postpone the debate on the Alaska bill?

The SPEAKER. It will for one day.

Mr. STEVENS, of Pennsylvania. I object.

ANTHONY BUCHER.

The House resumed the consideration of the bill (H. R. No. 1326) for the relief of Anthony Bucher, reported on Friday last from the Committee of Claims by Mr. HARDING.

The bill was read. It authorizes the Secretary of the Treasury to investigate, and if, in his opinion, it shall appear proper, issue to Anthony Bucher a Treasury note for fifty dollars to supply such a note as shall appear to have been destroyed by fire, and belonging to him, in the summer of 1867.

Mr. MAYNARD. This little bill involves a principle that I do not think has been settled by this House, and I do not think the House ought to settle it at this time and in this way. The principle is that when money of the Government is lost by destruction or otherwise it shall be reimbursed by the issuance to the party of the same amount. If, for example, I lose a hundred dollar greenback and show that it was burnt, and bring the case here, the Government is to make my loss good. It is an important principle, and one that I am not prepared to sanction. I think Government money ought to stand on the same footing as any other money. If a man loses his money it is his own loss.

Mr. WASHBURN, of Massachusetts. The committee do not propose to put it on any other footing. It is put on the same footing as the money of the banks of the country. I will explain to the House the peculiarity of this case, and then the House will do as they see fit in regard to passing the bill. It seems that this man, who was serving in the Army, sent home to his wife in a letter a fifty dollar greenback and three five dollar greenbacks. She put the money in an envelope and secreted it in the straw bed. Some little time subsequently, while the wife of the soldier was in the garden, the daughter in emptying the straw bed set the bed on fire.

ORDER OF BUSINESS.

Mr. WASHBURN, of Illinois. I will say to my friend from Massachusetts [Mr. WASHBURN] that I think, by consent, we can now make an arrangement by which the gentleman can get his morning hour on Tuesday. The gentleman from Michigan [Mr. TROWBRIDGE] desires the passage of a bill, to be reported by the gentleman from Ohio [Mr. GARFIELD] from the Committee on Military Affairs, and to which I think there will be no objection. If that bill can be passed the gentleman from Massachusetts can then have a morning hour on Tuesday for his committee. And I suggest that we then go into Committee of the Whole on the state of the Union on the appropriation bills, with the understanding that no quorum shall be necessary, and that whenever an amendment is adopted by a majority of those voting it shall go to the House, and when it is rejected, let it stand the same as it would if there was a quorum voting, and with this further understanding that the amendments shall not be voted upon until we shall have a quorum on Monday or Tuesday.

The SPEAKER. The Chair understands the proposition simply to be to finish the bills in Committee of the Whole and report them to the House; and the Chair will state to the House that any member can have a separate vote in the House on any amendment.

Mr. STEVENS, of Pennsylvania. It goes further than that. It interferes with the call of committees on Tuesday next. Now, there are some of us who are on committees which are behind others, and which will be postponed in such a way as to throw us entirely out. I cannot agree to such an arrangement.

Mr. MILLER. Will not the proposed arrangement interfere with the call of other committees?

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] objects to the arrangement.

Mr. MAYNARD. I understand the suggestion to be that there shall be an extra morning hour on Tuesday.

Mr. WASHBURN, of Illinois. No; there is to be no extra morning hour. The gentleman from Michigan [Mr. TROWBRIDGE] will have accomplished his object if the bill is reported by the gentleman from Ohio [Mr. GARFIELD] and passed.

The SPEAKER. The Chair would suggest to the House, if they will indulge the Chair, that it will avoid any conflict about committees not being called if they will give the morning hour of Monday to the Committee of Claims. That will not interfere with the call of any other committee whatever.

Mr. WASHBURN, of Indiana. Let them have a morning hour after the regular morning hour on Monday, and I will not object.

Mr. WASHBURN, of Illinois. I will modify my suggestion in that way.

The SPEAKER. That will not interfere with the call of any other committee, and the Committee of Claims will have an hour after the morning hour of Monday. The Chair hears no objection to the proposition of the gentleman from Illinois, [Mr. WASHBURN,] as modified.

FORT GRATIOT RESERVE, MICHIGAN.

Mr. GARFIELD, from the Committee on Military Affairs, reported back, with the recommendation that the same do pass, House bill No. 550, providing for the sale of a portion of the Fort Gratiot military reservation in St. Clair county, in the State of Michigan.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. The first section authorizes the Secretary of War to sell, at such times as he may deem most advantageous to the interests of the Government, and in such manner as hereinafter provided, all that portion of the military reservation known as Fort Gratiot, in St. Clair county, in the State of Michigan, which lies south of a line running due west from the south end of the Grand Trunk railroad wharf, on the St. Clair river, until it intersects the road known as the Lexington road, and all that portion which lies west of said Lexington road.

The second section provides that all that portion of the above described lands which lies east of a line running due south from the point of intersection with the Lexington road, mentioned in the foregoing section of this act, shall be divided into blocks and lots of convenient size for building purposes, with public streets conforming as near as may be, without detriment to the interests of the Government or the State, to the public streets of the city of Port Huron, adjoining such ground, and sold by lots at public auction at the city of Port Huron to the highest bidder, public notice of such sale having first been given for thirty days by advertisement in all the papers published in the city of Port Huron, and in at least two papers published in the city of Detroit, Michigan. A plat of this division, made in accordance with the laws of the State of Michigan, shall be filed with the proper officer of the city of Port Huron. The remaining portion of the

military reservation, for the sale of which provision is made in the first section of this act, shall be sold at public auction at the city of Port Huron, after due notice as prescribed in this section, at such times and in such parcels as may be deemed most advantageous to the interests of the Government by the Secretary of War.

The third section provides that the proceeds arising from the sale herein provided for, after paying the attendant expenses, shall be paid into the Treasury of the United States in the same manner as the proceeds from the sale of other public lands.

Mr. GARFIELD. I would call the attention of gentlemen to the following memorial, which gives all the reasons for the passage of this bill:

*To the Congress of the United States:*

The mayor and common council of the city of Port Huron respectfully memorialize your honorable body to pass an act authorizing the sale of all that portion of the Fort Gratiot military reserve not absolutely required for military purposes, for the following reasons:

The reserve now consists of more than six hundred acres of land, stretching from the St. Clair river on the east to the Black river on the west, its southern boundary bordering the most densely settled portion of our city, entirely checking its growth to the north. The entire reserve is now included in our city limits. Not one twentieth part of it ever was or probably ever will be used, in any manner, for military purposes. The remaining portion lies unfenced, uncultivated, and unprotected, an open common, which was once covered with a beautiful growth of timber, but which, in consequence of the many depredations which have been continually committed on it for years, is now in a wretched state of dilapidation, thickly strewn with dead, fallen, and decaying timber and stumps and a thick growth of underbrush and brambles, a pasture for large herds of hogs and cattle and a haunt for vile characters who daily and nightly infest it, committing their depredations, outrages, and crimes without fear of punishment; our State courts being entirely powerless in the matter, neither the city nor State governments having any jurisdiction whatever over it, and the tribunals of the United States being inaccessible, no court, marshal, or district attorney being nearer than Detroit, a distance of more than sixty miles. Cases of robbery, assault with intent to kill, and many other grave crimes have been committed on the reserve, and the parties escaped before any proper authority could be reached for their arrest; and whenever any of these cases have been tried it has been at an expense to the United States ten times as great as though they had been tried in our local courts.

Our only railroad depot and a flourishing village are located immediately adjoining the northern boundary of the reserve, and large numbers of people are hourly passing over it, to and from our city. The extent of the reserve is so great that the troops stationed on it cannot prevent depredations being committed; there is not more than one soldier to every ten acres. Each of the different post commanders which have been stationed here has complained that the attempt to prevent depredations on so large a territory, surrounded by so dense a population, was imposing too heavy a burden on the small garrison stationed here. The British Government have disposed of their military reserve on the Canadian shore opposite the reserve here. The river bank on the south half of the reserve is being very rapidly washed away by the force of the current; very many rods have disappeared in the last few years; the amount washed away is each year rapidly increasing. If this is permitted to continue it will soon endanger the northern portion of our city. The Government now owns to the north of the military reserve, at the head of the St. Clair river, a reserve known as the light-house reserve, consisting of about one hundred and fifty acres, with a front on the river and lake of about three quarters of a mile, over which the military authorities exercise control and which would be available in case of hostilities. It is hardly to be presumed that in case of hostilities with the British Government we would station troops on the Canadian frontier to act on the defensive. The only object of a military reserve would be to prevent by the use of artillery the navigation of the river by the enemy. The portion asked for in this memorial would not be required and is not favorably located for this purpose. After disposing of all that portion of the reserve which we ask for, the Government would have left, including the light-house reserve, more than two hundred acres of land, with a front on the river of more than a mile, and that, too, just where it would be required, directly at the head of the river, at a point where the rapidity of the current renders navigation difficult, and where the river is considerably narrower than at any other point on the whole Canadian frontier.

The only reason we have ever heard assigned for retaining by the Government so much unoccupied territory was to prevent the troops coming directly in contact with the citizens. After disposing of the south half of the reserve there would still be left a distance of about half a mile between the post and the city, a distance several times as great as that now between the post and the village to the north of it. Not a single regular soldier was stationed at this post for fourteen years previous to the close of the war. In our judgment no greater necessity exists for them now than then, and we expect to see the post abandoned again when our Army is reduced to

a strictly peace footing. From the foregoing it will be seen that the reserve is much greater in extent than ever was or ever will be required for military purposes; that for many years it was entirely abandoned; that the southern and western portion is entirely valueless to the Government; that it is a burden on the military authorities; that it is rapidly being destroyed by the forces of the current; that the Government will not and the people cannot protect it; that in its present dilapidated condition it is a nuisance to both the Government and the people here; that it entirely obstructs the growth of our city in that direction; that it encourages a large amount of crime which we are powerless to prevent; that the Government would suffer nothing, and both it and the people here be greatly benefited by its sale.

The above memorial was adopted December 16, 1867. In witness whereof we have hereunto set our hands and caused the seal of the city to be affixed.

[L. S.] JOHN JOHNSTON, Mayor.  
ALBERT DIXON, Clerk.

Mr. TROWBRIDGE. I desire to suggest an amendment to the second section of this bill. This bill was drafted by me, and at the time I did not know the exact officer with whom this plat should be filed. I have since ascertained the proper officer, and therefore I move to amend section two by striking out the words "proper officer of the city of Port Huron" and inserting in lieu thereof the words "register of deeds of St. Clair county, Michigan."

Mr. GARFIELD. There is no objection to that amendment.

The amendment of Mr. TROWBRIDGE was agreed to.

Mr. WASHBURN, of Illinois. I desire to move an amendment to the last section, to strike out the words "after paying the attendant expenses;" so that all the proceeds of this sale may be paid into the Treasury, and all the expenses may be paid here.

Mr. GARFIELD. I have no objection.

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TROWBRIDGE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REMOVAL OF POLITICAL DISABILITIES.

Mr. PAINE. The gentleman from Massachusetts [Mr. BOWWELL] was instructed by the Committee on Reconstruction to report a bill from that committee. He is not now present, and on his behalf I ask unanimous consent to report the bill, and to have the bill and accompanying report printed, and the bill recommitted to the committee.

No objection was made; and the bill (H. R. No. 1853) for the removal of certain disabilities from the persons therein named was read a first and second time, and, with the accompanying report, ordered to be printed, and recommitted.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, with sundry amendments, in which the consent of the House was requested.

#### CIVIL APPROPRIATION BILL.

Mr. WASHBURN, of Illinois. I move that the amendments of the Senate to the civil appropriation bill, just reported from the Senate, be referred to the Committee on Appropriations, and ordered to be printed.

The motion was agreed to.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURN, of Illinois. I move that when the House again resolves itself into Committee of the Whole on the Senate amendments to the legislative appropriation bill, all debate upon the pending amendment, and all amendments thereto shall terminate in three minutes.

The motion was agreed to.

Mr. WASHBURN, of Illinois. I now

move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union upon the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. JUDY in the chair,) and resumed the consideration of the Senate amendments to the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

The pending amendment of the Senate was to add to the bill the following:

SEC. —. *And be it further enacted*, That all acts or parts of acts authorizing the publication of the debates in Congress are hereby repealed from and after the 4th day of March next, and the joint Committee on Printing is hereby authorized and required to invite proposals for the publication of the actual proceedings and debates in Congress, upon a plan and specifications to be previously published by them, and shall also ascertain the cost of such publication by the Superintendent of Public Printing, and shall report as soon as practicable such proposals and estimate of cost, together with a bill to provide for the publication of the debates and proceedings of Congress.

The pending question was upon the amendment of Mr. DONNELLY, to add to the amendment of the Senate the following:

And from and after the 4th day of March, 1869, unless it be previously otherwise ordered by Congress, the proceedings and debates of the two Houses shall be published daily at the Congressional Printing Office, the reports thereof being furnished by reporters provided by each House for itself, in such manner and under such regulations as it may prescribe.

The CHAIRMAN. All debate upon the pending amendment of the Senate, by order of the House, will close in three minutes.

Mr. MOORHEAD. I wish to state that when I reported, by order of the Committee of Ways and Means, a tariff bill a few days ago, I gave notice that when the House should go into Committee of the Whole I would move to lay aside other bills for the purpose of taking up that bill. But as the House is very thin this morning, I will defer that motion until Monday, giving notice that on Monday, when we go into Committee of the Whole, I will make that motion.

Mr. WASHBURN, of Illinois. I am glad that the gentleman from Pennsylvania [Mr. MOORHEAD] has given that notice, in order that on Monday we may have a full House, and that that vote may be considered a test question as to whether or not the House will consider the tariff bill at this session.

Mr. STEVENS, of Pennsylvania. That can hardly be considered as a test question. I am in favor of the tariff bill, but I shall vote against postponing in Committee of the Whole all other bills, unless we shall by that time have disposed of certain bills which are now pending.

Mr. MOORHEAD. I merely give the notice.

Mr. MAYNARD. Mr. Chairman, I do not propose to repeat anything that I have heretofore said on the subject of reporting our debates. I hope this amendment of the Senate will be adopted. To the proposition of the gentleman from Minnesota [Mr. DONNELLY] I have no special objection, though I do not attach as much importance to it, perhaps, as he does. I hope the Senate amendment will be adopted for two reasons. I think it important that the mode of publishing the debates be so far changed that the reports, instead of being laid on our desks at noon, when it is very inconvenient for us to take them up and examine them, shall be furnished at such an hour in the morning that they may be laid on our tables at breakfast.

I understand (and my information is such that I have not felt at liberty to disregard it) that the amount at present paid for reporting and publishing our debates is much greater than would be necessary under a different arrangement for reporting and publishing them in as accurate and creditable a manner as at

present. For this reason I think that in pursuance of the legislation adopted at the last Congress we ought to suspend the present mode of publishing the debates and let the matter be reexamined by appropriate committees of the two Houses, aided by the report of the Superintendent of Public Printing, so that when another arrangement for publishing the debates shall be adopted the House and the country may understand that it is based upon the best attainable terms, and that the impression which has so largely prevailed shall no longer have anything to rest upon. I understand that the gentleman from Maine, [Mr. BLAINE,] who has championed the present publishers, is perfectly willing that the matter shall take that direction, and that the amendment of the Senate shall be concurred in.

Mr. BLAINE. I do not know that I am the special champion of anybody except the truth.

Mr. MAYNARD. I did not say that the gentleman was the "champion" of these publishers; I said he had championed them.

Mr. BLAINE. There is no necessity for any debate upon the matter, because the publishers of the Globe want this amendment of the Senate adopted.

Mr. GARFIELD. The amendment simply leaves open to future action the question what we shall do about the Globe.

Mr. DONNELLY's amendment to the amendment of the Senate was not agreed to.

The amendment of the Senate was concurred in.

Two hundred and twenty-fifth amendment:

Add the following as a new section:

SEC. —. *And be it further enacted*, That all advertisements, notices, proposals for contracts, executive proclamations, treaties, and laws, required by law to be published in the District of Columbia, shall be published only in the two papers selected under the act approved May 18, 1866, entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th day of June, 1867, and for other purposes," but only when the same shall be delivered to such papers by the proper head of a Department for publication, and all of section two of the act approved March 2, 1867, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," preceding the proviso thereof, is hereby repealed, and no advertisement whatever in newspapers published in the District of Columbia shall be paid for by any disbursing officer, and if paid shall not be allowed by any accounting officer unless published in pursuance of this act.

The Committee on Appropriations recommend concurrence with the following amendment:

Strike out all of said Senate amendment after the word "under," in line five, as follows:

The act approved May 18, 1866, entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th day of June, 1867, and for other purposes," but only when the same shall be delivered to such papers by the proper head of a Department for publication, and all of section two of the act approved March 2, 1867, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," preceding the proviso thereof is hereby repealed, and no advertisement whatever in newspapers published in the District of Columbia shall be paid for by any disbursing officer, and if paid shall not be allowed by any accounting officer unless published in pursuance of this act.

And in lieu thereof insert the following:

Three papers authorized by law; and no publication appertaining to any one State, district, or Territory shall be transferred or paid for in any other State, district, or Territory; and the act approved May 18, 1866, entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th day of June, 1867, and for other purposes," and all of section two of the act approved March 2, 1867, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," shall continue in force.

Mr. PHELPS. What is the effect of that amendment? Is it not to monopolize the advertisements in this District in three instead of in two Republican papers?

Mr. BLAINE. I do not think the gentleman understands the amendment. The proposition to add another paper was voted down yesterday.

Mr. PHELPS. I ask whether this does not add another paper to the two Republican papers now monopolizing the public printing in this District?

Mr. BLAINE. It does not.

Mr. PHELPS. What is it, then?

Mr. BLAINE. I understand the proposition to add a third paper was voted down by the House. Now the Committee on Appropriations recommend a non-concurrence in the two hundred and twenty-fifth amendment, because it leaves to the heads of Departments to say whether they will give out any advertisements or not. If you pass that you might as well say it shall not give out any, for they will give none to the Republican papers here. The amendment of the committee provides all advertisements not proper to be published in the District of Columbia shall not be published here, but that all legitimate advertisements shall be given to the two papers authorized by law. That is the whole of it.

The amendment to the amendment was agreed to.

The Senate amendment, as amended, was concurred in.

Two hundred and twenty-sixth amendment:

SEC. — *And be it further enacted*, That from and after the 30th day of June, 1868, the annual salaries of the Comptrollers of the Treasury and the Commissioner of Customs shall be \$4,500 each; of the Solicitor, the Auditors, the Register, and the supervising architect of the Treasury, the Commissioner of the Land Office, and the Commissioner of Pensions, \$4,000 each, and the additional amount necessary to pay the increase of salaries provided for by this section be, and the same is hereby, appropriated out of any moneys in the Treasury not otherwise appropriated.

The Committee on Appropriations recommend non-concurrence.

Mr. GARFIELD. I ask the gentleman whether the committee designs to refuse this increase of salary to the First Comptroller of the Treasury?

Mr. WASHBURNE, of Illinois. The committee have no desire on the subject. They recommend non-concurrence so the matter can go to the committee of conference and the meritorious cases provided for.

Mr. GARFIELD. All I wish to say is this, and the gentleman will certainly agree with me: there is no officer receiving the same amount of pay in the whole Government of the United States so valuable as the gentleman who is now the First Comptroller of the Treasury, who, I believe, saves to the Government more than any other man in it. He is receiving now a salary entirely insufficient for a man of his ability and the importance of the place he holds. It was fixed at the foundation of the Government, and if any man can show me any officer of the United States Government whose services are worth more than the services of Robert W. Taylor, in his present position, I shall be surprised. I do not say all these salaries ought to stand as fixed in the Senate bill, but I should be unwilling to give any vote that would refuse this proposed increase to the First Comptroller of the Treasury.

Mr. WASHBURNE, of Illinois. The gentleman from Ohio cannot say anything in the way of compliment of the First Comptroller of the Treasury to which I will not agree. If this is non-concurred in, and goes to the committee of conference, they will give it due consideration.

Mr. GARFIELD. With that expression of his kindly disposition, I will not trench further upon the time of the House.

Mr. CULLOM. I desire to say if the salaries of any of these gentlemen as heads of bureaus are increased I want that of the Commissioner of Agriculture increased also.

Mr. GARFIELD. I only speak of that one that I particularly know about.

Mr. PIKE. I hope you will not commit the absurdity of raising the salaries of subordinates and having that of the Assistant Secretary of the Treasury to remain where it is.

Mr. PAINE. The gentleman from Illinois [Mr. CULLOM] asked if the First Comptroller of the Treasury was from the district of my friend from Ohio, [Mr. GARFIELD,] and he answered that he was. Now, though he is not, however, from my district or from my State, I happen to know that the salary of the First Comptroller is to-day what it was established

in gold at the foundation of the Government, namely, \$3,500. The Treasurer of the United States receives, I believe, something like eight thousand dollars, and the Comptroller of the Currency about six thousand dollars. Many officers of the United States receive very much higher salaries than this officer whose services are worth more to the Government than any one officer in the Treasury Department except the Secretary of the Treasury.

Mr. PIKE. Why any more than those of the Assistant Secretary of the Treasury?

Mr. PAINE. It is not possible for me to stop to answer that, but for any man who understands the duties of the Comptroller, who knows that he is, as it were, an independent officer of this Government, to ask me why his services are more important than those of the Assistant Secretary of the Treasury seems to me very strange. Now, I trust Congress will not adjourn without giving this officer a salary which will enable him to continue in office, for I know his present salary renders it utterly impossible for him to remain there.

The question being taken on the amendment, it was non-concurred in.

Two hundred and twenty-seventh amendment:

Insert the following as an additional section:

SEC. — *And be it further enacted*, That each night watchman at the Treasury Department shall, from the 1st day of July, 1868, receive a compensation of \$900 per annum, and an amount sufficient to pay said increased compensation for the fiscal year ending June 30, 1869, is hereby appropriated.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Two hundred and twenty-eighth and last amendment:

Insert the following as an additional section:

SEC. — *And be it further enacted*, That no statuary, paintings, or other articles, the property of private individuals, shall hereafter be allowed to be exhibited in the Rotunda or any other portion of the Capitol buildings.

The Committee on Appropriations recommend concurrence.

Mr. GARFIELD. Does the committee propose to allow no article of private property in the Rotunda? For instance, a gentleman with a cane in his hand?

Mr. WASHBURNE, of Illinois. Oh, no; it says "to be exhibited."

Mr. GARFIELD. I think the language is too broad.

Mr. WASHBURNE, of Illinois. I hope to satisfy gentlemen on this subject by adding the following as an amendment:

And it shall be the duty of the superintendent in charge of the public buildings to remove all such statues, paintings, and other articles, being the property of private individuals now in the Capitol.

Mr. MAYNARD. I do not exactly agree with this amendment of the Senate in the shape in which it stands. I think another limitation to it would make it right. I do not believe we ought to reject everything simply because it is individual property. There may be articles of individual property that we would desire or be perfectly willing to have exhibited there. The restriction I suggest would be to reject everything that is put there as an advertisement or in the nature of an advertisement.

Mr. BLAINE. How could you tell?

Mr. MAYNARD. Those who administer the law must have some judgment.

Mr. BLAINE. I suppose the Commissioner of Public Buildings, General Michler, has just as good taste as anybody, but everybody comes there with pictures that they want to exhibit, and the place looks like an old second-hand picture shop. Now, if you do not put it down absolutely, by a prohibition, you will always have the place cluttered up with unseemly articles. We do not want anything of the sort on exhibition.

Mr. MAYNARD. I agree with the gentleman entirely. We have the place cluttered up with objects put there as specimens of some trade, calling, or pursuit, making it an advertising shop. But there may be a work of art, picture, or statue that is private property, to be sure, but which the public would desire to see.

Mr. BLAINE. If it is proper to be exhibited in the Capitol it is proper for the Government to secure it, and the Government can buy it.

The amendment to the amendment was agreed to.

Mr. MAYNARD. I move to amend the amendment of the Senate by inserting after the word "exhibited," in line three, the words "as an advertisement or as a specimen of art or skill."

Mr. BLAINE. I hope we shall not adopt that.

The amendment to the amendment was disagreed to.

Mr. KELSEY. I move to amend the amendment of the Senate by inserting after the words "allowed to be exhibited," the words "or made;" so that it will read:

That no statuary, paintings, or other articles, the property of private individuals, shall hereafter be allowed to be exhibited or made in the Rotunda or any other portion of the Capitol building, &c.

I offer that amendment for this purpose. I understand that there is an individual employed in making statuary in some of the rooms of this Capitol, who, during the war, went to South Carolina and tendered his services to the rebels to aid in casting bronze cannon. I understand that he occupies some rooms down here in the Capitol, and has them free of rent, and is employed on work that is exhibited in the Capitol. My amendment is intended to reach him.

Mr. STEVENS, of Pennsylvania. Let it say so then.

Mr. KELSEY. That is precisely what I mean.

Mr. STEVENS, of Pennsylvania. Then name him.

Mr. KELSEY. I used this language because it is the shortest way in which I could reach the object at which I aimed, and I have endeavored to state that object so that nobody can misunderstand what I mean by it.

Mr. STEVENS, of Pennsylvania. If the gentleman will name the person I think I will go with him; but it seems to me to be a continuation of an attack which I mean to comment a little upon hereafter upon another person whose work is nearly finished.

Mr. KELSEY. I desire to say to the gentleman that I am aiming at no other person. I have named the person that I strike at, and I have used this language because I suppose it is more appropriate language to use in a bill than to name an individual.

Mr. STEVENS, of Pennsylvania. Will the gentleman put in the name? I believe it is Clark Mills. Let him insert the name of Clark Mills.

Mr. BLAINE. I hope we shall not put this in. The amendment of the Senate is well enough as it stands.

The question was taken on Mr. KELSEY's amendment to the amendment, and it was disagreed to.

The amendment of the Senate, as amended, was then concurred in.

Mr. STEVENS, of Pennsylvania. I move that the amendments of the Senate be laid aside, to be reported to the House, and that the deficiency bill be taken up.

The motion was agreed to.

#### DEFICIENCY BILL.

The committee accordingly proceeded to the consideration of the bill (H. R. No. 1341) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes.

By unanimous consent the first reading of the bill was dispensed with, and the Clerk proceeded to read it by paragraphs for amendment.

Mr. BLAINE. I offer the following amendment, to which there will be no objection, to come in at the end of line twenty:

A sufficient sum is hereby appropriated to pay the official reporters of the Globe in each House the amounts which the Comptroller of the Treasury may



find severally due to them for services during the sessions of the Fortieth Congress, under the eighteenth section of an act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, approved July 28, 1866.

The amendment was agreed to.

Mr. HUBBARD, of West Virginia. I move to amend this bill by inserting after the paragraph relating to the Pension Bureau the following:

Census Office:

For the purpose of paying the amount due to certain United States marshals and other assistants for services rendered in taking the eighth census in the year 1860, in the State of West Virginia, \$5,376 09: *Provided*, That no part of the sum hereby appropriated shall be paid on account of any claimant who participated in the late rebellion, or gave to it any aid or comfort.

This is the amount ascertained at the Department to be due.

Mr. BLAINE. I personally investigated this matter myself, and I know it to be entirely correct.

The amendment was agreed to.

The following clause was read:

For casual repairs of the Patent Office building, to complete pavement on the south wing, \$8,000.

Mr. KELSEY. I move to amend by inserting after the words "pavement on" the words "the lower floor of;" so that it will read:

For casual repairs of the Patent Office building, to complete pavement on the lower floor of the south wing, \$8,000.

I desire to have this amendment made so as to require the lower floor to be repaired instead of the one above it. The lower floor is very much out of repair, as every gentleman knows. The amendment was agreed to.

The following clause was read:

Capitol Building:

For the payment of outstanding liabilities incurred by the late Commissioner of Public Buildings for materials furnished and labor done in repairing the old portion of the Capitol building prior to and during the fiscal year ending June 30, 1867, \$5,484 22: *Provided*, That no part of the sum hereby appropriated shall be paid until the said accounts shall have been fully examined and approved by the proper accounting officers of the Treasury.

Mr. KELSEY. I move to amend by inserting after the paragraph just read the following:

To pay Samuel Gardiner for services as electrician in lighting the Dome for the months of June, July, August, and September, 1866, \$400.

I send to the Clerk's desk and ask to have read a letter from the late Commissioner of Public Buildings.

The Clerk read as follows:

37 EAST CAPITOL STREET, March 17, 1868.

DEAR SIR: Mr. Samuel Gardiner, who put up the electrical lighting apparatus at the Capitol, (the admiration, and justly so, of all who witness it) was employed by me to take care of it during the months of June, July, August, and September, 1866. There being no appropriation out of which to pay him, I promised him that as soon as an appropriation should be made he should receive his pay, at the rate of \$100 per month.

When I left the office of commissioner Mr. Gardiner had not been paid, but I supposed he had been before this time, having long since certified his account. I now find that he has not.

He did his duty faithfully, and is as honest, honorable, and upright a man as lives, and is entitled to his pay, and I hope you will aid him all you can in getting it.

Very respectfully and truly, yours,

B. B. FRENCH,

Late Commissioner of Public Buildings,  
Brevet Brigadier General NATHANIEL MICHLER, in  
charge of Public Buildings, &c.

Mr. STEVENS, of Pennsylvania. I suppose, strictly speaking, this amendment is not in order.

Mr. KELSEY. I do not see but what it is in order.

Mr. WASHBURNE, of Illinois. I raise the point of order that this proposed amendment is not for a deficiency.

The CHAIRMAN, (Mr. WILSON, of Iowa.) The Chair thinks it is too late to raise the point of order.

The question was taken upon the amendment of Mr. KELSEY, but before the result was announced.

Mr. KELSEY called for tellers.

Tellers were ordered; and Mr. WASHBURNE, of Illinois, and Mr. KELSEY were appointed.

The committee divided; and the tellers reported that there were—ayes 29, noes 32.

The CHAIRMAN. A majority voting against the amendment, it is rejected.

Mr. KELSEY. No quorum has voted.

Mr. STEVENS, of Pennsylvania. It was the general understanding by the House that the majority in the Committee of the Whole should decide questions without regard to whether there is a quorum present or not; but that a vote should be had in the House on every proposition submitted in Committee of the Whole, whether adopted or rejected by the committee.

The CHAIRMAN. The Chair understands that before going into Committee of the Whole the House ordered, by unanimous consent, that the Committee of the Whole should not be broken up by reason of a quorum not being present.

Mr. KELSEY. I have heard of no such understanding or general consent, and I object to it.

Mr. HIGBY. I ask to have read what was the understanding of the House. My understanding is that even where an amendment is voted down in Committee of the Whole it shall still be voted upon in the House.

Mr. PIKE. I hope the gentleman from New York [Mr. KELSEY] will be allowed to have a vote on his amendment in the House. I understand that is all he wants.

Mr. KELSEY. That is not all I want. I do not ask for a vote in the House. I insist that the rules shall be observed here in Committee of the Whole.

The CHAIRMAN. The Chair is informed that the agreement in the House was that a majority vote in Committee of the Whole should decide all questions, whether there be a quorum voting or not. Upon that understanding the Chair decides that the amendment of the gentleman from New York is lost.

Mr. KELSEY. I appeal from that decision. Mr. STEVENS, of Pennsylvania. I shall certainly appeal from that decision, for my understanding was that there should be a vote in the House on every amendment offered in Committee of the Whole, whether adopted by the committee or not.

Mr. KELSEY. I insist that the roll shall be called. There was no quorum voting on the last vote.

The CHAIRMAN. The Clerk will report from the manuscript of the reporters the agreement which the House made by unanimous consent.

Mr. KELSEY. I make the point that the agreement referred to did not apply to this bill.

The CHAIRMAN. The Clerk will report the agreement made by the House.

The Clerk read as follows:

"Mr. WASHBURNE, of Illinois." \* \* \* \* \* "I suggest that we go into Committee of the Whole on the state of the Union on the appropriation bills, with the understanding that no quorum shall be necessary, and that whenever an amendment is adopted by a majority of those voting it shall go to the House, and where it is rejected let it stand the same as it would if there was a quorum voting."

Mr. KELSEY. The appropriation bill referred to was the legislative, executive, and judicial bill.

The CHAIRMAN. The gentleman from New York will suspend. This agreement, made in the House, stands as the order of the House, by which this committee is to be guided. The present occupant of the Chair was not in the House when the agreement was made; but he feels bound to enforce it as the order of the House. Therefore the Chair has decided that the amendment offered by the gentleman from New York is not agreed to, a majority of those present having voted against it. And the Chair refuses to entertain the appeal from that decision, because the committee has no power to reverse the order of the House.

Mr. WASHBURNE, of Indiana. I move that the committee rise. If the understanding was such as is now stated it was not so understood by a great many of us.

The motion of Mr. WASHBURNE, of Indiana, was not agreed to.

The following paragraph was read:

Treasury Department:

For temporary clerks in the Treasury Department: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to classify the clerks authorized according to the character of their service, \$20,000.

Mr. KELSEY. I move to amend by striking out the proviso in the paragraph just read.

The amendment was not agreed to; there being on a division—ayes 5, noes 40.

Mr. KELSEY. No quorum has voted.

The following paragraph was read:

To complete the building used for court-house and post office at Springfield, Illinois, \$30,000.

Mr. COBURN. I move to amend by adding after the paragraph just read the following:

That the sum of \$3,500 be appropriated for repairs and improvements in the building erected for the post office and United States courts at Indianapolis, Indiana; to be expended under the direction of the clerk of the district court of the United States of said State.

Mr. STEVENS, of Pennsylvania. I hope this amendment will not be adopted. We have already made an appropriation—certainly once, and I am not sure but twice—for this same purpose.

Mr. WASHBURNE, of Illinois. I will state to the gentleman from Indiana [Mr. COBURN] that in one of our appropriation bills there is a general appropriation for everything of this kind.

Mr. COBURN. If that will cover the repairs contemplated in the amendment I withdraw it.

Mr. WASHBURNE, of Illinois. It covers everything of the kind.

Mr. COBURN. I withdraw the amendment.

Mr. HOPKINS. I move to amend by inserting after the paragraph last read the following:

For constructing the United States court-house and post office at Madison, Wisconsin, \$50,000.

I understand that the recollection of the committee is that this amendment was adopted in the committee, but by some oversight it has been omitted. I understand the committee are entirely satisfied of the necessity of the appropriation.

Mr. WASHBURNE, of Illinois. I did not understand that the amount was \$50,000. The matter, I believe, was before the committee; but I do not know whether it was definitely passed upon. I should have been opposed to it in committee as I am opposed to it now, but the House has overruled me again and again on all these questions.

Mr. BLAINE. My recollection is that the committee passed on it favorably. I know it was the intention of the committee to include it. The committee divided; and there were—ayes 27, noes 15.

Mr. STEVENS, of Pennsylvania, demanded tellers.

Tellers were not ordered.

So the amendment was agreed to.

Mr. RAUM. I submit the following amendment:

Add the following as a new paragraph:

For work on the public building now being erected at Cairo, Illinois, to be used as a post office, custom-house, and court-house of the United States, \$10,000.

Mr. Chairman, the Secretary of the Treasury has recommended an appropriation of \$100,000 for this work, \$50,000 in the present bill and \$50,000 in the bill which has passed the House. An amendment covering an appropriation of \$49,000 was adopted by the House in a bill passed some time ago. I believe that some of the committee has consented this sum shall come in, while I regard it not as much as should be appropriated. Rather than have a fight I have consented this small sum shall be appropriated.

The amendment was agreed to.

The Clerk read as follows:

For necessary repairs of the roof, and alterations in the building used for custom-house and post office in Chicago, Illinois, \$20,000: *And it is hereby provided*, That the commission appointed by the joint resolution of Congress "to procure a site for a building to accommodate the post office and United States courts in New York city," approved January 22, 1867, is hereby continued.

Mr. FARNSWORTH. The right to object to any item not in order was reserved upon this bill by the gentleman from Indiana, [Mr. HOLMAN,] and the Speaker expressly stated that gave the right to any gentleman to make the point. I make the point that this proviso is not in order. I believe this commission has expired. I do not know what the effect will be; but I think it will do no harm to strike out the proviso.

Mr. WASHBURNE, of Illinois. We may lose the benefit of the commission. The commission can do no harm.

Mr. FARNSWORTH. We do not lose the labor of the committee.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

Soldiers' bounties:

To facilitate the payment of soldiers' bounties under act of July 28, 1866, as follows:

For fuel and gas, \$700.

For carpentering, \$2,000.

For fitting house, cases, &c., \$500.

For rent, \$1,200.

For fifty chairs, \$300.

For one messenger, three laborers, and two night watchmen, \$4,000.

Mr. PRICE. What are these for? I cannot exactly see what they are for.

Mr. WASHBURNE, of Illinois. I will tell the gentleman. The chairman of the committee, who took charge of this bill, has a communication from the War Department on the subject. This is for extra room for fifty or one hundred clerks.

Mr. PRICE. Why did you not say so?

Mr. WASHBURNE, of Illinois. We cannot put all the explanations into the bill.

The Clerk read as follows:

City of Washington:

To enable the chief engineer of the Army to reimburse to the corporation of the city of Washington for expenses incurred in improving the property of the General Government in said city, under provisions of act of May 5, 1854, and in accordance with the recommendation of the Secretary of War, in book of estimates of appropriations, pages 244 and 245, \$296,943 88: *Provided*, That section fifteen of an act entitled "An act to incorporate the city of Washington and to repeal all acts heretofore passed for that purpose," approved May 15, 1820, and section three of an act approved May 5, 1864, entitled "An act to amend an act to incorporate the inhabitants of the city of Washington, passed May 15, 1820," are hereby repealed; and no improvements of the streets, alleys, avenues, or other property of the United States, in the city of Washington, shall hereafter be made until an appropriation shall have been made therefor; and such appropriation, when made, shall be expended under the direction of the chief engineer of the Army.

Mr. MAYNARD. I make the point of order that the proviso is general legislation, and not in order to this bill.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WASHBURNE, of Illinois. Now, Mr. Chairman, one word. The Committee on Appropriations put in this appropriation on condition—

Mr. INGERSOLL. I raise a point of order. I understand the gentleman from Tennessee made the point of order that this was not germane, being independent legislation, and it was sustained by the Chair. Now, my colleague proposes to argue the question.

Mr. WASHBURNE, of Illinois. Well, then, I move to strike out the whole of the paragraph. The Committee on Appropriations only put in this amendment for the purpose of stopping this fraud and swindle upon the Government which has been carried on so long in the city of Washington.

Mr. MAYNARD. Mr. Chairman, I shall not be deterred by any threats of this kind. If this legislation is right it ought to pass. The Committee on Appropriations has put into this bill legislation in regard to affairs in this District, which properly comes within the province of the Committee for the District of Columbia. Now, the spirit with which we legislate for the capital of our country, the point of all others that is the object of observation of foreigners who come here, is certainly not a very enlarged or liberal one. We legislate for more people here than live in some of the small States. How much time and atten-

tion we give to their affairs gentlemen know as well as I do. If it is right they should have this sum of money let us appropriate it. If it is right that these walls should be rebuilt let the Committee for the District of Columbia examine them and report an appropriation. I dislike this sort of legislation, saying, "We will give so much money if you will give up a part of your charter."

Mr. STEVENS, of Pennsylvania. I do not know what the gentleman means by talking about this belonging to the Committee for the District of Columbia. From the commencement of this work there has never been a dollar appropriated for it, except what has been reported by the Committee on Appropriations. We have already given \$4,000,000 to be squandered upon it, and one half of the money has been stolen.

Mr. WASHBURNE, of Illinois. More than that.

Mr. STEVENS, of Pennsylvania. Now we want to put a stop to this.

Mr. MAYNARD. I am not speaking of the merits or demerits of this appropriation, whether it is right or wrong. What I did speak about was the principle of granting these appropriations upon condition that the law should be changed, and the rights of the people under their charter should be limited by this amendment. If the appropriation is right, let us pass it; if it is wrong, strike it out. But let the Committee for the District of Columbia adjust the question of the charter of this city.

Mr. STEVENS, of Pennsylvania. The Committee for the District of Columbia has no more to do with this than the man in the moon. We have voted appropriations to the amount of \$4,000,000 for this work. Three times we have finished and stopped it, and three times we have added \$110,000 at the close of the year in a deficiency bill. We thought we would try now and put in something effectual, saying that they should not go on next year. And now it seems it is the old game over again. I shall go for striking out the whole of it.

Mr. INGERSOLL. I move to strike out the last word. I apprehend that the gentleman from Pennsylvania does not understand the position of my honorable friend from Tennessee [Mr. MAYNARD] with regard to this proposition. The gentleman from Tennessee objects to this independent legislation as not belonging to the Committee on Appropriations and not being proper in an appropriation bill. Now, no one can dispute the correctness of that position. The gentleman from Tennessee does not insist that the appropriation proper shall come from the Committee for the District of Columbia, nor has any one else ever contended that it was the province of the Committee for the District of Columbia to report such an appropriation. We all agree that it is the province of the Committee on Appropriations. But what have the Committee on Appropriations done? In this deficiency bill they have reported an appropriation of a sum of money, under the estimate of the War Department, in virtue of a section of the law which this bill now proposes to repeal. What we object to is that in this bill, in carrying out the recommendation of the War Department, you propose to repeal an existing statute.

A MEMBER. It ought to be done.

Mr. INGERSOLL. Well, if it ought to be done, it should be done in a proper way; and so it is held by the rule and by your chairman. Now, in regard to there having been immense sums of money squandered and stolen in prosecuting this work I have my doubts. The appropriations for the District of Columbia have been miserly within the last six or seven years. You have done but very little toward sustaining the dignity of the Government at your national capital. You have appropriated but a trifling sum in the past half dozen years.

Mr. WASHBURNE, of Illinois. How much?

Mr. INGERSOLL. Not half as much as you ought to have appropriated. You have not appropriated a single dollar by virtue of a single appropriation bill that you have ever

reported to the House that has not been warranted and authorized by law and based upon some existing statute which has been passed by Congress. Now, what is the law? This appropriation is made in virtue of a statute which simply declares that the Government of the United States shall pay for improvements made by the city authorities lying contiguous to the property belonging to the Government of the United States.

Mr. STEVENS, of Pennsylvania. The gentleman and I do not understand this matter alike. We certainly had this claim settled and audited, and I thought we had appropriated the amount added.

Mr. INGERSOLL. That I do not complain of. I say the amount is satisfactory, but I do not desire that it shall be coupled with a proposition to repeal the law which authorizes these improvements to be made.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. One word in regard to this matter. I think I am safe in saying that the Committee on Appropriations never would have reported in favor of paying this amount unless coupled with the condition that this law of May 5, 1864, should be repealed. It is one of the laws passed during the rebellion, without any particular regard to what we were doing. Now, what is it? I will read it:

"That in all cases in which the streets, avenues, or alleys of said city pass through or by any of the property of the United States the Commissioner of the Public Buildings shall pay to the duly authorized officer of the corporation the just proportion of the expenses incurred in improving said avenue, street, or alley which the said property bears to the whole cost thereof, to be ascertained in the same manner as the same is apportioned among the individual proprietors of the property improved thereby."

Under that law, without reserving to ourselves any right of control over these contracts, the city government went on and has brought in a bill of \$296,000 for the Government to pay.

Mr. INGERSOLL. How many years has that been accumulating?

Mr. WASHBURNE, of Illinois. The estimate was sent in here in December last.

Mr. INGERSOLL. It is for deficiencies running over from year to year.

Mr. WASHBURNE, of Illinois. Only a very short time, as the gentleman will see by looking at the estimates which I have here.

Mr. DELANO. I suggest to the gentleman that the Thirty-Ninth Congress settled a balance for this sort of business with the city of Washington.

Mr. WASHBURNE, of Illinois. The gentleman is right, and we had hoped when that was done that we would have had no more of these bills. But when this Congress met an estimate for a deficiency where you had made no appropriation to carry on this work, of \$296,000, was brought in, which we are to pay out of the pockets of our constituents. Well, sir, there were some considerations which induced the Committee on Appropriations to recommend that the sum in the bill, \$296,000, should be appropriated, provided we could repeal this law altogether, and could provide further that no more work shall be done unless a contract is made and the money appropriated for it. Does my friend and colleague [Mr. INGERSOLL] object to that? Why does he oppose this proviso? Why will he stand in the way of this reform? Why will he not let us provide here in this bill, while we pay this outstanding claim, that hereafter we will not permit the corporations of Washington and Georgetown to go forward and mulct us out of two, three, or five hundred thousand dollars more?

Mr. INGERSOLL. I withdraw my amendment to the amendment.

Mr. DELANO. I renew it. The proviso attached to this appropriation ought to be preserved if the appropriation is preserved. The section of law under which the Government can be made responsible for claims of this sort on the part of the corporation of this city is one that ought to be repealed. I know, from

having examined these claims before, that we are liable to be imposed upon by false accounts and false estimates. The present law charges the city with its portion of the expense according to the relative value of the property benefited by the improvements. In the Thirty-Ninth Congress we settled up all the old claims of this sort against the Government and in favor of the corporation, and supposed that we were done with them. But it was found that under the law as it now stands these claims continue to multiply and be pressed upon the Government to an unreasonable extent. I therefore favor striking this all out, or else to retain this proviso to guard the United States against the impositions which it constantly suffers under the present arrangement. I think a careful examination of this subject by any candid man will convince him that we should either preserve all this part of the bill as printed or strike it all out.

Mr. INGERSOLL. I want the Committee of the Whole to understand this case, and then they can do just what they think to be right. Originally the Government of the United States received as a bounty, a bonus, a gratuity, from the proprietors of the real estate here a certain number of lots, from the sale of which was derived \$1,000,000 at least. That \$1,000,000 was appropriated by the Government—

Mr. DELANO. Allow me to say that I have been over that whole subject, and I know that the Government has fully accounted for all that amount four or five times over.

Mr. INGERSOLL. I did not say the Government had not accounted for it. I was merely stating what the Government had received. And it never has spent one fourth of that sum in beautifying and adorning this city, except where the city has paid out an equal amount for the same purpose. Under the present law, which it is proposed to repeal by the proviso in this bill, what are the rights of the Government? Here are Jackson square, Lincoln square, the Circle, and other squares and public avenues over which the city has no control whatever, no municipal authority. The present law provides that when the city authorities make a public improvement, such as constructing a sewer, paving a street, or making a permanent public improvement of any kind passing by any of the Government reservations or grounds, the Government shall pay its *pro rata* share, the same as a citizen does in reference to his property. If the Government has been swindled under such an arrangement, so have the citizens here been swindled. And if the citizens have been swindled, then they have swindled themselves, for these improvements have been ordered by those they have themselves elected. Now, the truth is that where the Government has paid a dollar for these improvements the city has paid five dollars. The Government has not been called upon to pay one dollar, except in the case of improvements passing by the Government reservations and public grounds. Now, it is proposed to repeal this law. If you do so what will be the result? The city proposes to make a sewer on Virginia avenue, for instance. When the work reaches a Government reservation it must be stopped.

Mr. WASHBURNE, of Illinois. They can come to Congress and get an appropriation.

Mr. INGERSOLL. Yes, sir; the work must be stopped until an appropriation for it is obtained from Congress. And so it will be with every other improvement, no matter how important and necessary it may be, or how trivial it may be, if it should pass by any Government reservation or public ground. The Government is now bound by law and in equity to pay its *pro rata* share of any improvement by which its property is benefited. But if the present law shall be repealed, then there must be a special act of Congress before any such improvement can be made by the city. Now, that is as much as to say that you cannot trust the administration of the city in this respect, so far as Government property is concerned, although at the same time, to the same extent and with the like authority, the administration

of the city is exercised in regard to its own tax-payers. Repeal the present law, and you will have a hundred special bills before Congress for these improvements. Let the law remain as it now is, and you will have no such trouble in regard to these things.

[Here the hammer fell.]

Mr. DELANO. I withdraw my amendment.

Mr. STEVENS, of Pennsylvania. I renew the amendment. I think we had better agree to let this section stand as it is. Let this city be repaid what it has expended; and let there be an examination hereafter of this whole matter by some appropriate committee before we make any more appropriations. I withdraw the amendment.

On the motion to strike out the paragraph there were—ayes 43, noes 19.

The CHAIRMAN. The motion to strike out the paragraph is agreed to.

Mr. INGERSOLL. Has a quorum voted?

The CHAIRMAN. The Chair has already passed on that question.

Mr. INGERSOLL. I call for tellers.

The CHAIRMAN. The question, then, is on ordering tellers.

Mr. INGERSOLL. I make this point of order: when it appears that no quorum has voted, is it not the duty of the Chair to appoint tellers?

The CHAIRMAN. The Chair has already passed upon that question.

Tellers were not ordered.

Mr. INGERSOLL. I rise to a point of order. I desire to know in what respect the rule has been changed, so that when the committee is found without a quorum it can go on and do business?

The CHAIRMAN. By the order of the House all questions arising in Committee of the Whole in the consideration of this bill are to be determined by a majority vote of those present.

Mr. INGERSOLL. Well, sir, I shall ask for a separate vote in the House on this amendment.

The following paragraph was read:

For the survey of northern and northwestern lakes, \$75,000.

Mr. WASHBURNE, of Illinois. I move to amend by striking out the paragraph just read. The same appropriation has already been made in the river and harbor bill.

The amendment was agreed to.

The Clerk read the following:

Reconstruction:

For deficiency under the reconstruction acts for the several military districts for the fiscal year ending June 30, 1865:

For the first district, \$6,000.  
For the second district, \$127,898 25.  
For the fourth district, \$53,200.  
For the fifth district, \$45,000.

For the following amounts, estimated as necessary in carrying out the reconstruction acts from and after the 30th day of June, 1865:

For the first district, \$93,000.  
For the second district, \$15,000.  
For the third district, \$15,000.  
For the fourth district, \$75,000.  
For the fifth district, \$3,000.

Mr. PHELPS. I desire to put a question to the chairman of the Committee on Appropriations.

The CHAIRMAN. Does the gentleman move an amendment?

Mr. PHELPS. No, sir; I simply wish to make an inquiry. I wish to know whether the chairman of the committee is able to furnish at this time statistics showing the total amount appropriated for reconstruction since the passage of the act of March 2, 1867, including the items now incorporated in this bill as deficiencies?

The CHAIRMAN. There is no amendment pending. Unless the gentleman moves an amendment debate is not in order.

Mr. PHELPS. I move, then, to amend by striking out the last word of the paragraph last read. I do it for the purpose, if possible, of eliciting from the chairman the information I have thought we ought to have. I do not think the House ought to be called upon, or this committee, to vote these additional items

in the nature of deficiencies without at least some explanation from the gentleman who has charge of the bill of the purpose for which these items are required, and why the amounts appropriated have failed to be sufficient. For that reason I have asked the question.

Mr. STEVENS, of Pennsylvania. I would like to answer the gentleman, but it would take too long.

The amendment was disagreed to.

The Clerk read as follows:

For additional labor cleaning the center building of the Capitol, repairing the Washington statue on the east grounds of the Capitol, cleaning and repairing columns in the building, laying a new brick pavement on the west front, and repairing fountains, \$1,500.

Mr. INGERSOLL. I move to strike that out. According to the theory laid down by the committee this work should be done at the expense of the city, never mind who owns the property. It seems to be the rule acted upon by the Committee on Appropriations, that the city should pay all the expenses of the Government in the city of Washington. My amendment, therefore, is in accordance with the views of the committee.

Mr. KELSEY. There is another reason it should be stricken out; it is in another bill.

Mr. STEVENS, of Pennsylvania. We want the city, not the District, to pay for its own work.

Mr. MILLER. Let me ask a question. Does the city of Washington want to pay for this?

Mr. INGERSOLL. This is on the same line as the previous action of the committee.

The amendment was disagreed to.

The Clerk read as follows:

And it is hereby provided, That hereafter no contract shall be entered into for the erection, repair, or furnishing of any public building, or for any public improvement whatever, which shall involve the expenditure of a larger sum of money than the amount in the Treasury appropriated for the specific purpose, and no person shall be employed by any Department of the Government unless an amount of money shall have been previously appropriated sufficient to pay all such persons. And if any officer of the Government shall contract for the erection, repair, or furnishing of any public building, or for any public improvement which shall involve a larger amount than the specific sum appropriated for such purpose, or shall employ any persons in any Department of the Government unless an appropriation sufficient to pay all such persons shall have been previously made, such officer shall be deemed guilty of a misdemeanor, and upon conviction thereof by a court of competent jurisdiction shall be punished by imprisonment not less than six months nor more than two years, and shall pay a fine of \$2,000, and shall thereafter be deemed incapable of holding any office of trust or profit under the Government of the United States.

Mr. SPALDING. I wish to move an additional section.

Mr. POLAND. I make the point of order that the provision just read is not in order.

Mr. WASHBURNE, of Illinois. The point of order comes too late.

The CHAIRMAN. It is not too late; the gentleman rose in time.

Mr. POLAND. I understand this to be general legislation, and not only general legislation but penal legislation; but I would not object if the section was not so loosely drawn as to be a dangerous one.

Mr. WASHBURNE, of Illinois. I hope my friend from Vermont, whom we all know to be an excellent lawyer, will move an amendment. This is an evil which should be remedied.

Mr. POLAND. Introduce a bill and refer it to my committee.

Mr. WASHBURNE, of Illinois. I will make a bargain; if he will withdraw the point of order and prepare a section, I will let him offer it in the House.

Mr. MAYNARD. Bargaining in legislation has a bad sound.

Mr. WASHBURNE, of Illinois. It has not a bad sound that we should try to prevent frauds.

The CHAIRMAN. The Chair sustains the point of order, and rules the provision out, as being general legislation.

Mr. SPALDING. I move to amend by offering the following as an additional section:

SEC. —. And be it further enacted, That the following sums be, and the same are hereby, appropriated



out of any moneys in the Treasury not otherwise appropriated, for the benefit of the several benevolent institutions and charitable societies in the District of Columbia in full for deficiencies in the fiscal year just ended, and for the purposes herein specified for the fiscal year ending June 30, 1869, namely:

Government Hospital for the Insane:  
For the support, clothing, medical and moral treatment of the insane of the Army and Navy and revenue-cutter service, and of the indigent insane of the District of Columbia in the Government Hospital for the Insane, including \$500 for books and stationery and incidental expenses, \$90,500.

For finishing, furnishing, lighting, and heating the unfinished part of the east wing of the main hospital edifice, \$7,000.

For the purchase, by the Secretary of the Interior, for the agricultural purposes of the institution, one hundred and forty-eight acres, more or less, of land lying directly east of the present grounds of the hospital, and separated from them by the public road, \$23,000.

Columbia Institution for the Deaf and Dumb:  
For the support of the institution, in addition to the existing appropriation, to meet the increased expense of maintaining pupils whose admission was authorized by an act of Congress approved March 2, 1867, \$5,000.

For continuing the work upon the buildings of the institution, in accordance with plans heretofore submitted to Congress, \$48,000.

For the support of the institution, including \$1,000 for books and illustrative apparatus, \$25,000.

For the proper inclosure, improvement, and enlargement of the grounds of the institution, in accordance with plans heretofore submitted to Congress, \$5,600.

*Provided*, That hereafter the United States shall be represented in the board of trustees of said Institution for the Deaf and Dumb by three trustees, to be appointed at the beginning of each Congress, as follows: one Senator in Congress, to be appointed by the President of the Senate, and two Representatives to be appointed by the Speaker of the House of Representatives: *And provided further*, That no part of the real or personal property now held or hereafter to be acquired by said last-named institution shall at any time be sold, aliened, or conveyed away, or in any manner used, except for the purposes of said deaf and dumb institution, without the express assent of the Congress of the United States, first had and obtained through an act of Congress duly passed and approved: *And provided further*, That so much of the act of February 16, 1837, as allows the payment of \$150 per annum for the maintenance of each pupil admitted from the District of Columbia and from the Army and Navy be, and the same is hereby, repealed.

Columbia Hospital for Women and Lying-in Asylum:

For the purchase of land and erecting buildings to take the place of the premises now used, to be expended under the direction of the Secretary of the Interior, \$50,000.

For the support of the asylum, over and above the probable amount which will be received from independent or pay patients, \$15,000.

For the compensation of the Providence Hospital, in Washington city, District of Columbia, \$30,000.

For the National Soldiers' and Sailors' Orphans' Home, in the city of Washington, District of Columbia, \$10,000.

Mr. WASHBURNE, of Illinois. I make the point of order that these appropriations are the subject of two other separate appropriation bills of which the gentleman from Ohio [Mr. SPALDING] has given notice. They do not belong to this bill, and the gentleman has a right to go into the Committee of the Whole upon those bills, and as we have closed debate it is unjust, unfair, and unparliamentary to consider these matters now.

Mr. SPALDING. Mr. Chairman, the objection that it is unjust, unfair, and unparliamentary to offer this amendment comes with an ill grace from the gentleman from Illinois. I introduced, by direction of the Committee on Appropriations, in February last two small bills appropriating money for benevolent institutions in the District of Columbia, and by reason of objections interposed by the gentleman from Illinois they have been delayed till this moment. I am afraid they will not come in at all, hence I avail myself of this opportunity to wash my hands of this whole matter. I am in favor of carrying out these appropriations for the District of Columbia, and I appeal to gentlemen to support me in my endeavor to get these appropriations passed.

Mr. WASHBURNE, of Illinois. I just made a suggestion to my friend to move to lay aside the other business in Committee of the Whole, and take up his two bills in committee after this bill is disposed of.

Mr. SPALDING. If that is the understanding I will withdraw the amendment.

Mr. WASHBURNE, of Illinois. I made that suggestion to the gentleman before he offered his amendment.

Mr. SPALDING. I will agree to that.

Mr. BLAINE. I offer the following amendment, to come in after line three hundred and forty-eight:

For supply of deficiency in payment for material for gates for Judiciary Square Hospital, \$868.

The Surgeon General has written a letter on this subject in which he says there is that amount due, and the special appropriation being exhausted and the accounts of the disbursing officer being closed it will be impossible to pay the contractor except by special appropriation.

Mr. GARFIELD. I hope that appropriation will be allowed. The communication from the Surgeon General came to me, as chairman of the Committee on Military Affairs, yesterday a little too late to offer the amendment in the proper place. So I put the matter in the hands of the gentleman from Maine, [Mr. BLAINE.] The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I agreed to allow the gentleman from Ohio [Mr. LAWRENCE] to go back to page 4 and insert an amendment.

Mr. MAYNARD. I reserve an objection until I hear the amendment read.

Mr. LAWRENCE, of Ohio. I move to insert at the end of line seventy-four the following:

*Provided*, That nothing herein shall be construed to ratify, confirm, or recognize the validity of any treaty.

Mr. MAYNARD. I do not see that that has any applicability here, or that there is any necessity for it. I object, therefore, to going back.

Mr. LAWRENCE, of Ohio. I hope the gentleman will allow me to be heard.

Mr. STEVENS, of Pennsylvania. I move to amend by adding, as a new section, what I send to the Chair.

The Clerk read as follows:

SEC. — *And be it further enacted*, That there shall be allowed and paid, to the same classes of officers and other persons in the civil service of the United States Government at Washington embraced in the joint resolution of Congress entitled "Joint resolution giving additional compensation to certain employees in the civil service of the Government at Washington," passed February 28, 1867, an additional compensation on their respective salaries as fixed by law, or where no salary is fixed by law, upon their pay respectively, from and after the 30th day of June, 1867, to the 30th day of June, 1868; including, also, such persons as have been employed in any capacity in any of the Departments, and the watchmen on the Dome of the Capitol and in the Capitol grounds, the inspector of marble and the foreman of mechanics at work on the Capitol extension and the watchmen in said extension, whether inside or out, and to the employees of the jail; and to include not only those now in service, but those who have at any time during said year been in service, as follows:

To all those whose annual compensation does not exceed \$1,400 an increase of fifteen per cent. upon the amount of their compensation.

To all those whose annual compensation does not exceed \$1,600, but does exceed \$1,400, an increase of twelve and a half per cent. thereupon.

To all those whose annual compensation does not exceed \$1,800, but does exceed \$1,600, an increase of ten per cent. thereupon.

And a sufficient sum to pay the same is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. STEVENS, of Pennsylvania. Mr. Chairman, I shall not occupy my five minutes. A word will be sufficient. Some time ago we passed a bill giving twenty per cent. additional compensation to all whose salaries are under \$2,500; but a scare-crow—I think that is the name—a scare-crow came on here from New York and coursed over the ground one night, and next day the friends of the bill scattered like the antelopes of the mountains, scared to death; the bill was defeated, and the scare-crow went back to New York triumphant. [Laughter.] Now, this amendment contains less than one third the amount that was appropriated by that bill, and we can surely afford to give this small pittance to these men. I have heard it said that a good many of them are married. I saw a list of the unhappy men who are married, [laughter;] and more than three fourths of those who will be benefited by this amendment have that misfortune. I hope the amendment will be adopted.

Mr. POLAND. I move to amend the amendment by inserting the words "the members of the Metropolitan police."

Mr. BLAINE. That is right.

Mr. INGERSOLL. Yes, that is right. They are the poorest paid men in the city of Washington or in the employ of the Government.

Mr. POLAND. The Metropolitan police only receive ninety dollars a month, making \$1,080 a year. Their original pay was sixty dollars a month. We passed an act two years ago giving them thirty dollars a month in addition, but it was to be paid by the cities of Washington and Georgetown. They are paid only sixty dollars a month by the General Government, and thirty dollars a month by the citizens of Washington and Georgetown, making ninety dollars a month. My proposition seems to meet with such general favor that I will not occupy further time in advocating it.

Mr. MULLINS. While this is being done, I notify the committee that at the proper time I will move to amend the amendment by inserting a proposition that there shall be paid back to each tax-payer to the United States twenty per cent. of what he has paid since the time to which this amendment goes back. You propose to run your hands into the pockets of the hard-laboring people, who labor fourteen hours a day, and take from what little wealth they may have accumulated this twenty per cent., to be given to those who are laboring under contracts only eight and nine hours a day. I cannot see the justice of the proposition unless you intend to pay back twenty per cent. to the tax-payers who are doing all within their power to extinguish this debt which is hanging on the body politic like a nightmare. You propose to deplete the Treasury this much and to stop this much from being used in the extinguishment of the public debt for the purpose of putting twenty per cent. in the pockets of men who are laboring under positive contracts. Sir, if they are not receiving the amount due to them, in the name of God pass a law to increase their contracts. But they were legitimately entitled to make contracts by law, and they have seen fit to make contracts with the Government, and if they are not satisfied let them go out of office. I can find ten men to one to fill their places. The country to-day is coming here from every quarter asking for offices; and if these men cannot live at the present rates let us see if we cannot get men from another quarter equally as good, if not better, for the same or a less price. Propositions have been made to me by men competent to fill any offices to fill these offices at a much less rate than that at which they are now filled. And now you propose to take this out of the pockets of the people of the country who make their living by night, who work from twelve to fourteen hours a day.

Mr. SPALDING. I would like to ask the gentleman if he is willing to relinquish the additional \$2,000 a year which we put into an appropriation bill for his benefit and mine for the benefit of the tax-payers of the country?

Mr. MULLINS. You did it yourself. I was not here to stop it.

[Here the hammer fell.]

The question was then taken upon the amendment of Mr. POLAND, to include in the amendment of Mr. STEVENS, of Pennsylvania, the members of the Metropolitan police; and upon a division there were ayes 14, noes 29.

Before the result was announced,

Mr. POLAND called for tellers.

The question was taken upon ordering tellers; and there were six in the affirmative.

So (the affirmative not being one fifth of a quorum) tellers were not ordered.

The CHAIRMAN. The amendment of the gentleman from Vermont [Mr. POLAND] is not agreed to.

The question recurred upon the amendment of Mr. STEVENS, of Pennsylvania.

Mr. BENJAMIN. I move to amend the amendment by striking out the last word. I had supposed that this proposition for increase of salaries had been set at rest by the action of the House heretofore upon a similar proposition. But it has come up to-day in a modified form. In the few minutes allowed me

under the rule I cannot say all upon this subject I would like to say.

Mr. Chairman, this Congress upon its organization promised the people that the expenses of the Government should be curtailed, and at least a portion of the burdens they had so patiently borne should be removed. For that purpose, and with these objects in view, the joint select Committee on Retrenchment was raised. Among the subjects committed to its charge was the investigation of this very matter of the pay of the clerks in the Departments. I will not say with the chairman of the Committee of Ways and Means [Mr. SCHENCK] and the gentleman from Massachusetts, of the Committee on Commerce, [Mr. ELIOT,] that we have worked night and day, in season and out of season. But I will say we have given it every attention its importance demands, and have found that many of these places are nothing but sinecures, that many of the incumbents in other places are utterly worthless to the Government, and as a whole the persons for whose benefit this amendment is intended are better paid than persons performing similar service in any city in the United States. I make the assertion here that nowhere can it be shown that so large an amount of money is paid for so small an amount of work. Not only is the salary as large or larger, but these clerks never work but six hours a day, and oftener but four, against ten and twelve hours in other places. Not only so, but most of them are granted furloughs from one to two months each year without any abatement of salary for their absence from duty.

Early in the session the Committee on Retrenchment introduced into the House a resolution calling on the Departments for information as to the cost of this twenty per cent. for the year ending July last. In answer to the inquiry the following figures were furnished:

War Department.....	\$345,402 62
Navy Department.....	47,015 77
Treasury Department.....	647,334 67
Post Office Department.....	55,508 01
Interior Department.....	124,212 63
Patent Office Department.....	31,203 02
State Department.....	17,386 60
Agriculture Department.....	20,079 01
Executive Mansion, Coast Survey, navy-yard, Observatory, Arsenal, city post office, public buildings, Bureau of Freedmen, Capitol and Treasury extension, Attorney General, estimated...	50,000 00
Total.....	\$1,318,142 33

Nearly one million and a half dollars, Mr. Chairman, of the hard earnings of the people taken from the Treasury and distributed as a gratuity. I will not say where the bulk of it will finally go, for every gentleman on this floor well knows. Ask the proprietors of the jewelry stores, the billiard saloons, the places of amusement and debauchery, if they feel any interest in the passage of this amendment.

This amendment proposes to go out and hunt up every worthless drone who has been expelled from the Department for incompetency during the year and give him an additional twenty per cent. But, worse than that, several persons have been detected in criminal practices within the year and dismissed. Some of them are now either in jail or held to bail to answer for the crimes they have committed. Lest there might be a few dollars of the people's money left in your Treasury this amendment calls up all such; and you manifest your benevolence by visiting the prisoner and ministering to him in his afflictions.

Mr. Chairman, these are but items of the cases in which you are doing injustice to the people in passing this amendment. If you pass it, never again attempt a defense of your extravagance before the people. Discharge your Retrenchment Committee, and give loose rein to every cormorant who seeks entrance to your Treasury.

Mr. STEVENS, of Pennsylvania. The gentleman from Missouri [Mr. BENJAMIN] certainly cannot have heard my amendment read, or he would not make the objection he does to it. And I would ask the gentleman from Ten-

nessee [Mr. MULLINS] if it was not too delicate a matter, and I will ask any gentleman here to state how he justifies receiving \$5,000 a year, in some cases for months before he was elected? I have heard of no scruples of conscience from any one about that.

Mr. MULLINS. I will answer the gentleman. I take it by virtue of the law which you yourselves passed, and which I never asked you to pass. I do not ask for any more than the law gives me.

Mr. STEVENS, of Pennsylvania. So the gentleman would take advantage of an unjust law, while he would begrudge a pittance to these poor people who have large families to support.

Mr. BENJAMIN. I withdraw my amendment to the amendment.

Mr. ELA. I move to amend the amendment by adding the following:

And to all persons in the employment of the Government of the United States in the city of Washington whose compensation is below the sum of \$1,200 per year there shall be paid extra compensation at the rate of twenty per cent. thereupon.

Mr. Chairman, it seems to me that if there is any class of persons entitled to an increased rate of pay under the provisions of the proposed measure it is those who are compelled to labor, not six hours a day, but ten hours a day, or more. The gentleman from Pennsylvania [Mr. STEVENS] proposes to exclude from the benefits of his proposition the employes of the Government Printing Office; and for that reason I protest against the adoption of his amendment. I desire that they shall be included.

Mr. STEVENS, of Pennsylvania. Let me say to the gentleman that I find upon inquiry that the Superintendent of Public Printing has the right at any time to add to the pay of the employes of the Government Printing Office, and that their compensation has already been raised.

Mr. ELA. There is a law expressly prohibiting the Public Printer from paying to the employes of the Government Printing Office more than is paid in printing offices outside. He is restricted in that way. Now, I repeat that if there is any class of persons entitled to the additional compensation of ten, fifteen, or twenty per cent., it is those who are engaged in the Government Printing Office, and also those Government employes generally whose compensation is less than \$1,200 a year. The persons employed in the Government Printing Office work three or four hours a day longer than those engaged in the Departments. The men who receive less than \$1,200 a year have families to maintain as well as those who get higher pay, and I protest against any legislation from the benefits of which they shall be excluded. I undertake to say that the employes of the Government Printing Office are generally competent to go into the Departments and take clerkships and perform the duties of those clerkships as well as they are performed by the present incumbents.

Mr. BENJAMIN. Does not the gentleman know that the pay of the employes of the Government Printing Office is not fixed by law, but is left to the discretion of the Superintendent of Public Printing, and that he has already raised their compensation thirty-three and a third per cent. higher than that which is paid for the like work anywhere else in the United States?

Mr. ELA. I know that the Superintendent of Public Printing is, as I have stated, restricted by the limitations of law as to the amount which he shall pay. In addition to that, the employment of these printers will not average more than ten months in the year, if it averages nine; and when they are out of employment their pay is at once cut off. If they are absent from their work a single day a deduction is made from their pay; and if they are not in attendance at the sound of the whistle they lose a quarter of a day's pay. With the clerks in the Departments the case is different. They are absent for weeks and months at a time, and no deduction from their pay is made. I protest against this proposition for increased

pay unless it shall include those who work more hours per day and receive less pay than those now included in the amendment.

Mr. ELA's amendment to the amendment was not agreed to.

Mr. STEVENS, of Pennsylvania. I desire simply to say that the gentleman from New Hampshire [Mr. ELA] altogether misunderstands my proposition. Under it those who receive the lowest rate of pay, (whatever it may be,) less than \$1,400, will receive fifteen per cent. additional.

Mr. GARFIELD. I desire to move to strike out all that part of the amendment which proposes to give this increase of pay to persons not now in the public service. If the pending proposition should in its present form become a law it will give this additional allowance to every person who has been discharged from office, no matter for what cause, though it may have been a misdemeanor or a crime. The persons now out of the public service whom this amendment proposes to pay are scattered all over the United States, so that it will be almost impossible in many cases to discover where they are and how much they are entitled to receive. Besides that, as I have already suggested, this proposition will pay them without regard to their deserts or the cause by which their connection with the public service has terminated. The amendment, if I am not mistaken as to its scope, is one which no gentleman, when he properly understands it, can support. A provision of this objectionable nature was the chief thing that caused the reconsideration and rejection of the bill on this subject heretofore passed.

Mr. WASHBURN, of Illinois. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. Wilson, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being the amendments of the Senate to House bill No. 605, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, and had directed him to report the same back to the House recommending concurrence in some, non-concurrence in others, and concurrence in some with amendments.

Also, that the committee had under consideration House bill No. 1841, making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes, and had come to no resolution thereon.

#### LEAVE OF ABSENCE.

Mr. DIXON was granted leave of absence until Thursday; Mr. GERZ until Tuesday; and Mr. VAN AUKEN for one week.

#### DEFICIENCY APPROPRIATION BILL.

Mr. WASHBURN, of Illinois. I now move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union upon the special order. And pending that motion I move that all general debate upon the pending section be closed in two minutes after its consideration shall be resumed by the committee.

Mr. INGERSOLL. Say ten minutes.

Mr. WASHBURN, of Illinois. I will say five.

Mr. MAYNARD. I did not contemplate that we would be called upon to vote on this question of twenty per cent. in committee, and that it should be decided without a quorum. I thought the only amendments under consideration were the Senate amendments to the legislative, &c., appropriation bill. I desire to withdraw unanimous consent to any arrangement heretofore adopted.

The SPEAKER. It was adopted by unanimous consent; and the Chair knows no way to rescind the order except by unanimous consent.

Mr. WASHBURNE, of Illinois. I object.  
Mr. MAYNARD. Does the Chair decide we can go on and legislate on all matters without a quorum.

Mr. BLAINE. The committee does not legislate.

The SPEAKER. The Committee of the Whole does not legislate any more than the Committee of Ways and Means.

Mr. MAYNARD. I understand that less than a quorum can do no business.

The SPEAKER. That was decided before the House went into committee on this bill by unanimous consent, and it can only be rescinded by unanimous consent.

Mr. WASHBURNE, of Illinois. I object.  
Mr. MAYNARD moved that the House do now adjourn.

The motion was disagreed to.

#### CESSION OF LAND TO THE UNITED STATES.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy, relative to the cession to the United States of a tract of land near New London, on the Thames, &c.; which was referred to the Committee on Appropriations, and ordered to be printed.

#### DEFICIENCY APPROPRIATION BILL—AGAIN.

The motion to close debate was then agreed to. The question recurred upon the motion to suspend the rules for the purpose of going into Committee of the Whole.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of the bill (H. R. No. 1841) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes.

The pending question was on the amendment to the amendment, to add the words "and to include only those now in service."

The question being taken on the amendment to the amendment, there were—ayes 30, noes 28.

Mr. WASHBURN, of Indiana, demanded tellers.

Tellers were refused.

So the amendment to the amendment was agreed to.

Mr. LOUGHRIDGE. I move to amend by adding the following:

To each private soldier who served in the Army in the war against the rebellion, and who was honorably discharged, twenty per cent. on the amount paid such soldier for such service.

Mr. WASHBURNE, of Illinois. That is all right.

The amendment was agreed to.

Mr. INGERSOLL. I move to add the following:

And that the members of the Metropolitan police shall receive ten per cent. on the amount of their present compensation.

I desire to state to the committee that the Metropolitan police—

The CHAIRMAN. Debate is exhausted by order of the House.

Mr. INGERSOLL. I understood that five minutes were allowed.

The amendment was disagreed to—ayes 20, noes 38.

Mr. ELA. I move to add the following:

Including persons employed in the Government Printing Office.

The amendment was disagreed to—ayes nine, noes not counted.

Mr. MULLINS. I move the amendment that I notified the House of a few moments ago, to add the following:

Resolved, That the Treasurer be, and he is hereby, required to refund to each person, firm, or party twenty per cent. of the amount of taxes for public revenue which have been paid by the same to the United States revenue collectors from the 30th day of June, 1857, to the 30th day of June, 1868.

The question being taken on the amendment there were—ayes 20, noes 9.

Mr. WASHBURN, of Indiana, demanded tellers.

Tellers were refused.

So the amendment was agreed to.

Mr. BENJAMIN. I offer the following amendment:

Also, that all pensions to the widows of soldiers who perished during the war for the suppression of the rebellion be increased twenty per cent.

The amendment was agreed to.

Mr. ELA. I move the following amendment, to come in previous to the last paragraph:

Provided, That the above additional compensation be paid out of the appropriations made for members of Congress until their compensation is reduced twenty per cent.

The amendment was agreed to.

Mr. GETZ. I move to amend that last amendment by striking out "twenty" and inserting "fifty." Twenty per cent. would not be enough to pay the compensation.

The CHAIRMAN. That is not in order.

The question recurred on the amendment of Mr. STEVENS, of Pennsylvania, as amended, and it was disagreed to.

Mr. WASHBURNE, of Illinois. Does the gentleman from Ohio ask now that the committee lay aside this bill and take up his two appropriation bills?

Mr. SPALDING. No, sir; I shall not ask it.

Mr. WASHBURNE, of Illinois. I move that the committee rise and report the bill to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 1841, making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes, had made sundry amendments thereto, and had directed him to report the bill and amendments to the House.

Mr. STEVENS, of Pennsylvania. I now offer the amendment in relation to extra compensation in the form in which I originally offered it in the Committee of the Whole.

Mr. WASHBURNE, of Illinois. I desire to reserve a point of order on the amendment.

The SPEAKER. The Chair would state that if it is the same amendment that the gentleman offered in Committee of the Whole, and has been considered by the Committee of the Whole, it is in order to offer it in the House.

Mr. WASHBURNE, of Illinois. It was rejected by the Committee of the Whole.

The SPEAKER. That may be; but if it was considered in Committee of the Whole it is in order to offer it in the House.

Mr. STEVENS, of Pennsylvania. I move to postpone the further consideration of this bill, and also of the amendments of the Senate to the legislative, &c., appropriation bill, until Monday next after the morning hour.

The motion was agreed to.

#### IMPEACHMENT INVESTIGATION.

Mr. BUTLER, of Massachusetts. I rise to a privileged question. I submit a report from the committee of investigation relative to the impeachment of the President, that it may be printed. I shall not ask any action on it until there is a fuller House, and I do not care to have it read. I move that the report be recommended and ordered to be printed.

The motion was agreed to.

#### MESSAGE FROM THE PRESIDENT.

A message from the President, in writing, was communicated by Mr. MOORE, his Private Secretary, who also informed the House that the President had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 365) constituting eight hours a day's work for all laborers, workmen, and mechanics employed on behalf of the Government of the United States;

An act (H. R. No. 867) for the relief of

Jonathan Jessup, postmaster at York, Pennsylvania;

An act (H. R. No. 764) for the relief of certain exporters of rum;

An act (H. R. No. 1120) to authorize the Secretary of the Treasury to change the names of certain vessels;

Joint resolution (H. R. No. 295) to authorize the Secretary of the Treasury to remit the duties on certain articles contributed to the National Association of American Sharpshooters;

Joint resolution (H. R. No. 268) for the relief of Robert Lindsay;

Joint resolution (H. R. No. 246) directing the Secretary of State to present to George Wright, master of the British brig J. & G. Wright, a gold chronometer, in appreciation of his personal services in saving the lives of three American seamen wrecked at sea on board of the American schooner Lizzie F. Choate, of Massachusetts;

An act (H. R. No. 1218) appropriating money to sustain the Indian commission and carry out treaties made thereby;

An act (H. R. No. 828) for the relief of Captain William McKean;

An act (H. R. No. 829) granting a pension to Mrs. Susan Ten Eyck Williamson;

Joint resolution (H. R. No. 262) authorizing certain distilled spirits to be turned over to the Surgeon General for the use of the Army hospitals;

An act (H. R. No. 823) granting a pension to George W. Locker;

An act (H. R. No. 826) granting a pension to Michael Mellen;

An act (H. R. No. 827) granting a pension to Ann Wilson;

An act (H. R. No. 258) for the relief of Mary B. Craig;

An act (H. R. No. 280) to grant a pension to Margaret Huston;

An act (H. R. No. 454) granting a pension to John Kelley;

An act (H. R. No. 455) granting a pension to David Van Nordstrand;

An act (H. R. No. 516) for the relief of the widow and minor children of Benjamin B. Naylor, late a pilot on the gunboat Patapsco;

An act (H. R. No. 517) granting a pension to Cornelia K. Schmidt, widow of Adam Schmidt, deceased, late a private in company A, thirty-seventh Ohio volunteers;

An act (H. R. No. 776) granting a pension to Jephaniah Knapp, of Luzerne county, Pennsylvania;

An act (H. R. No. 824) granting a pension to Annie Vaughn;

An act (H. R. No. 774) granting a pension to Amos Witham;

An act (H. R. No. 519) granting a pension to Eliza J. Renard, widow of W. K. Renard, deceased, late a private in tenth Ohio volunteers of war of 1861;

An act (H. R. No. 524) granting a pension to Austin M. Partridge;

An act (H. R. No. 520) to place the name of Josephine K. Bugher on the pension-roll;

An act (H. R. No. 665) granting a pension to Susan V. Berg;

An act (H. R. No. 526) increasing the pension of Susan B. Mitchell;

An act (H. R. No. 669) granting a pension to Sarah E. Pickell;

An act (H. R. No. 667) granting a pension to Mary Graham;

An act (H. R. No. 152) for the relief of the widow and children of Henry E. Morse;

An act (H. R. No. 246) to grant a pension to Milton Anderson;

Joint resolution (H. R. No. 264) to provide for the sale of the site of Fort Covington, in the State of Maryland;

An act (H. R. No. 257) for the relief of James L. Dickerson;

An act (H. R. No. 822) granting a pension to Hampton Thomson;

Joint resolution (H. R. No. 266) to authorize the enlargement of the Hygeia Hotel, at Fortress Monroe, Virginia;



An act (H. R. No. 668) granting a pension to Elizabeth Butler, widow of Cyrus Butler;

An act (H. R. No. 769) granting a pension to David Howe;

An act (H. R. No. 772) granting a pension to Robert McCrory;

Joint resolution (H. R. No. 294) donating to the Washington City Orphan Asylum the iron railing taken from the old Hall of the House of Representatives;

Joint resolution (H. R. No. 216) to authorize the Secretary of War to place at the disposal of the Lincoln Monument Association damaged and captured ordnance;

An act (H. R. No. 176) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864;

An act (H. R. No. 861) relating to the Supreme Court of the United States;

An act (H. R. No. 538) to extend the boundaries of the collection district of Philadelphia, so as to include the whole consolidated city of Philadelphia;

An act (H. R. No. 196) to reestablish the boundaries of the collection districts of Michigan, and to change the names of the collection districts of Michilimackinac and Port Huron;

An act (H. R. No. 1059) to relieve from disabilities certain persons in States lately in rebellion; and

Joint resolution (H. R. No. 316) extending the time for the completion of the Northern Pacific railroad.

#### LEAVE OF ABSENCE.

Leave of absence for four days was granted to Mr. ROBERTSON.

#### ARMS FOR THE MILITIA.

Mr. PAINE, by unanimous consent, from the Committee on Reconstruction, reported a bill (H. R. No. 1355) to provide for the issue of arms for the use of the militia; which was read a first and second time.

The bill, which was read, authorizes and requires the Secretary of War to deliver to the Governor of each State and Territory represented in the Congress of the United States, at the seat of government of such State or Territory for the use of the militia thereof, as many serviceable Springfield rifled muskets, of caliber fifty-eight, with accouterments and equipments, and serviceable field-pieces, with carriages, caissons, equipments, and implements, as the Governor of such State or Territory shall require for the use of the loyal militia therein, not exceeding two thousand rifled muskets, with accouterments and equipments, and two field-pieces, with carriages, caissons, equipments, and implements, for each congressional district and Territory so represented, upon the certificate of the Governor showing to the satisfaction of the General of the Army that the regiments and companies for which such ordnance and ordnance stores are required are duly organized of loyal citizens of such State or Territory under the laws thereof; and the ordnance and ordnance stores shall thereafter remain the property of the United States, subject to the control of Congress.

Mr. PAINE. I demand the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PAINE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CONVICT IMMIGRANTS.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

I transmit to Congress a copy of a dispatch from the United States consul at Elsinore, and of an in-

struction from the Secretary of State to the United States minister at Copenhagen, relative to an alleged practice of the Danish authorities to banish convicts to this country. The expediency of making it a penal offense to bring such persons to the United States is submitted to your consideration.

ANDREW JOHNSON.

WASHINGTON, June 29, 1868.

Mr. WILSON, of Iowa. I move that the message and the accompanying papers be referred to the Committee on the Judiciary and printed.

The motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed, without amendment, bills and joint resolutions of the House of the following titles:

A bill (H. R. No. 502) to incorporate the congregation of the First Presbyterian Church of Washington;

A bill (H. R. No. 503) for the relief of William B. Todd;

A joint resolution (H. R. No. 96) for the relief of John Sedgwick, collector of internal revenue, third district of California; and

A joint resolution (H. R. No. 321) in relation to the erection of a bridge in Boston harbor.

The message further announced that the Senate had passed, with amendments in which the concurrence of the House was requested, House bills of the following titles:

A bill (H. R. No. 420) to incorporate the Connecticut Avenue and Park Railway Company in the District of Columbia; and

A bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river.

The message further announced that the Senate insisted upon its amendments to the following House bills, and agreed to the conference asked by the House upon the disagreeing votes of the two Houses upon the same:

A bill (H. R. No. 373) to place the name of Mahala A. Straight upon the pension-roll of the United States;

A bill (H. R. No. 456) granting a pension to the minor children of Pleasant Stoops;

A bill (H. R. No. 518) granting a pension to George F. Gorham, late a private in company B, twenty-ninth regiment Massachusetts volunteer infantry;

A bill (H. R. No. 521) to place the name of Solomon Zachman on the pension-roll;

A bill (H. R. No. 522) granting a pension to W. W. Cunningham;

A bill (H. R. No. 525) granting a pension to Jeremiah T. Hallett;

A bill (H. R. No. 661) granting a pension to the widow and minor children of William Craft;

A bill (H. R. No. 662) granting a pension to the widow and minor children of George R. Waters;

A bill (H. R. No. 663) granting a pension to Cyrus K. Wood, the legal representative of Cyrus D. Wood;

A bill (H. R. No. 664) granting a pension to the minor children of Charles Gouler;

A bill (H. R. No. 666) granting a pension to Henry H. Hunter;

A bill (H. R. No. 669) granting a pension to the widow and minor children of Myron Wilklow;

A bill (H. R. No. 670) granting a pension to the widow and children of Andrew Holman;

A bill (H. R. No. 672) granting a pension to the widow and minor children of Charles W. Wilcox;

A bill (H. R. No. 673) granting a pension to the widow and minor children of John S. Phelps;

A bill (H. R. No. 675) granting a pension to the widow and minor children of Cornelius L. Rice;

A bill (H. R. No. 676) granting a pension to Thomas Connolly;

A bill (H. R. No. 677) granting a pension to the minor children of James Heatherly;

A bill (H. R. No. 770) granting a pension to John H. Finlay;

A bill (H. R. No. 771) granting a pension to John H. Lay;

A bill (H. R. No. 773) granting a pension to William H. McDonald; and

A bill (H. R. No. 825) granting a pension to John W. Hughes;

And that the Senate had appointed as the conferees upon the part of the Senate Mr. VAN WINKLE of West Virginia, Mr. TRUMBULL of Illinois, and Mr. EDMUNDS of Vermont.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested, namely:

A bill (S. No. 487) to disapprove an act of the Legislative Assembly of Washington Territory redistricting the Territory and reassigning the judges thereto; and

A bill (S. No. 564) concerning the tax commissioners for the State of Arkansas.

#### ENCOURAGEMENT OF IMMIGRATION.

Mr. CULLOM. I ask unanimous consent to report back from the Committee on Foreign Affairs two bills which have been referred to that committee, with a substitute, which I ask to have printed and recommitted.

The SPEAKER. The gentleman cannot report a substitute for two bills. He can report a substitute for one bill, and report back the other bill and move that it be laid on the table.

Mr. CULLOM. Very well; I will do that. I report back, from the Committee on Foreign Affairs, House bill No. 1139, to establish, under the direction of the Secretary of State, agencies in Great Britain, Germany, Sweden, and Norway for the promotion of emigration to the United States, with a substitute, which I ask to have printed and recommitted.

The SPEAKER. This can be regarded as an original bill.

Mr. CULLOM. Very well; I report it, and ask that it be printed and recommitted.

The bill (H. R. No. 1355) for the encouragement of immigration was read a first and second time, ordered to be printed, and recommitted.

Mr. CULLOM. I move that the Committee on Foreign Affairs be discharged from the further consideration of House bill No. 1139, of which I have just given the title, and also House bill No. 1145, to establish an unpaid emigration agency at Liverpool, Glasgow, and Dublin, in Great Britain and Ireland, and that the same be laid on the table.

The motion was agreed to.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. SHELLABARGER, on account of ill health.

#### REGISTERING, ETC., OF SHIPS OR VESSELS.

Mr. WASHBURN, of Illinois, by unanimous consent, reported back from the Committee on Commerce, with the recommendation that the same do pass, Senate bill No. 505, to amend section five of an act entitled "An act concerning the registering and recording of ships or vessels," approved December 31, 1792.

The question was upon ordering the bill to be read a third time.

Mr. SPALDING. Will the gentleman explain the object of this bill?

Mr. WASHBURN, of Illinois. It proposes to change a provision of the present law which requires all the owners of a vessel to make oath every time the vessel is transferred. That provision has been a dead letter for some years past, but has been revived lately, and is deemed the cause of unnecessary trouble.

The bill was then read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BARK AUG. GUARDIAN.

Mr. WASHBURN, of Illinois. I ask unanimous consent to report back from the

Committee on Commerce, for action at this time, Senate joint resolution No. 36, authorizing the Secretary of the Treasury to issue an American register to the bark Aug. Guardian.

Mr. MAYNARD. I move that the House now adjourn.

The question was taken; and upon a division there were—ayes 46, noes 25.

So the motion was agreed to; and accordingly (at two o'clock and ten minutes p. m.) the House adjourned till Monday next.

#### PETITION.

The following petition was presented under the rule, and referred to the appropriate committee:

By Mr. O'NEILL: The petition of Catharine Skinner, for a pension.

#### IN SENATE.

MONDAY, July 6, 1868.

Prayer by Rev. A. D. GILLETTE, D. D.

On motion of Mr. MORTON, and by unanimous consent, the reading of the Journal of Friday last was dispensed with.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the 16th ultimo, information in relation to prohibiting Oneida Indians from cutting and removing timber from the common lands of the tribe; which, on motion of Mr. POMEROY, was referred to the Committee on Indian Affairs, and ordered to be printed.

#### FOURTEENTH CONSTITUTIONAL AMENDMENT.

The PRESIDENT *pro tempore* laid before the Senate resolutions of the Legislature of North Carolina, ratifying the amendment to the Constitution of the United States proposed to the several States by joint resolution of the two Houses of Congress passed on the 13th day of June, 1866, to be designated article fourteen of amendments to the Constitution of the United States; which was ordered to lie on the table, and be printed.

#### PETITIONS AND MEMORIALS.

Mr. CONKLING presented a petition of citizens of Steuben county, New York, praying the passage of the House bill granting pensions to the soldiers of the war of 1812; which was ordered to lie on the table, the bill having been reported.

Mr. POMEROY. I have received a petition, very numerously signed, asking for a mail route from Waterville, the terminus of the Union Pacific railway, central branch, by way of Salina, Sharpe's, and Creek county, to Wichita, Kansas. I believe we have passed a post route bill this session; I should have been exceedingly gratified to have got this route upon the bill; but as it is, I move that the petition be referred to the Committee on Post Offices and Post Roads, that it may receive the attention in the next bill that comes from the committee.

The motion was agreed to.

Mr. FRELINGHUYSEN presented a memorial of citizens of New Jersey, protesting against the ratification or confirmation by Congress of any conveyance of any part of the Yosemite valley by the State of California to individuals; which was referred to the Committee on Private Land Claims.

Mr. MORRILL, of Maine, presented the petition of John Bulfinch, praying compensation for the use by the Government of his schooner Wings of the Morning and damages sustained by the explosion of the Government warehouse in Mobile in May, 1865; which was referred to the Committee on Claims.

Mr. CATFELL presented a petition of citizens of New Jersey, praying the adoption of measures for the reduction of taxes; which was referred to the Committee on Finance.

#### REPORTS OF COMMITTEES.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill

(H. R. No. 202) to create the office of surveyor general in the Territory of Utah, and establish a land office in said Territory, and extend the homestead and preemption laws over the same, reported it with amendments.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of O. N. Cutler, submitted a report, accompanied by a bill (S. No. 591) for the relief of O. N. Cutler. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 588) for the relief of the Mount Vernon Ladies' Association of the Union, reported it without amendment and without any recommendation.

Mr. HOWARD, from the Committee on the Pacific Railroad, to whom was referred the bill (S. No. 570) for a grant of land, and granting the right of way over the public lands to the Denver Pacific Railway and Telegraph Company, and for other purposes, reported it with amendments.

Mr. MORRILL, of Vermont, from the Committee on Claims, to whom was referred the petition of John Potts, submitted a report, accompanied by a bill (S. No. 595) for the relief of John Potts. The bill was read and passed to a second reading, and the report was ordered to be printed.

#### BILLS INTRODUCED.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 592) relating to the Commissioner of Patents; which was read twice by its title, referred to the Committee on Patents and the Patent Office, and ordered to be printed.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 593) in addition to the acts concerning naturalization; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. MORRILL, of Vermont, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 594) for the relief of L. Merchant & Co. and Peter Rosecrantz; which was read twice by its title, and referred to the Committee on Claims.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 505) to amend section five of an act entitled "An act concerning the registering and recording of ships or vessels," approved December 31, 1792.

#### OATH OF OFFICE.

Mr. TRUMBULL. I move to take up for consideration House bill No. 869.

The motion was agreed to; and the bill (H. R. No. 869) prescribing an oath of office to be taken by persons from whom legal disabilities shall have been removed was considered as in Committee of the Whole. It provides that whenever any person, who has participated in the late rebellion, and from whom all legal disabilities arising therefrom has been removed by act of Congress by a vote of two thirds of each House, has been or shall be elected or appointed to any office or place of trust in or under the Government of the United States, he shall, before entering upon the duties thereof, take and subscribe the following oath or affirmation, and no other:

"I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

The Committee on the Judiciary proposed two amendments to the bill. The first amendment was in line five, to strike out the word "has" and insert "have."

Mr. TRUMBULL. That is merely a verbal amendment.

The PRESIDENT *pro tempore*. The amendment will be considered as agreed to, unless objection be made.

The next amendment was after the word "thereof," in line nine, to insert the words "instead of the oath prescribed by the act of July 2, 1862."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. SUMNER. I should like to inquire of the Senator from Illinois if I understand the operation of the amendment proposed. It is not to alter the bill substantially as it comes from the other House.

Mr. TRUMBULL. No, sir; to make it more definite. One is grammatical, to strike out the word "has" and insert "have"; and the other is to insert a provision that the oath prescribed shall be in lieu of the oath required by the act of July 2, 1862.

Mr. SUMNER. That I understand is the effect of the bill as it comes from the House of Representatives, is it not?

Mr. TRUMBULL. I suppose it was intended to be that.

Mr. SUMNER. The language being "he shall before entering upon the duties thereof take and subscribe the following oath or affirmation, and no other." That is the language of the House bill, and now it is proposed to insert "instead of the oath prescribed by the act of July 2, 1862."

Mr. TRUMBULL. To make it a little more specific.

Mr. SUMNER. I simply wished to understand it.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

#### TERRITORY OF NEW MEXICO.

Mr. YATES. I move that the Senate proceed to the consideration of Senate bill No. 417.

The motion was agreed to; and the bill (S. No. 417) to amend an act entitled "An act proposing to the State of Texas the establishment of her northern and western boundaries, the relinquishment by said State of all territory claimed by her exterior to said boundaries, and of all her claims upon the United States, and to establish a territorial government for New Mexico," was read the second time, and considered as in Committee of the Whole. The act referred to is to be amended so as to provide:

Every bill which shall have passed the council and house of representatives of said Territory shall, before it becomes a law, be presented to the Governor of the Territory; if he approve he shall sign it, but if he do not approve it, he shall return it with his objections to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house it shall become a law, the Governor's objections to the contrary notwithstanding. But in such cases the votes of both houses shall be determined by yeas and nays, and entered upon the journal of each house respectively. And if the Governor shall not return any bill presented to him for approval, after its passage by both houses of the Legislature, within three days, (Sundays excepted), after such presentation, the same shall become a law in like manner as if the Governor had approved it: *Provided, however*, That the Assembly shall not have adjourned sine die during the three days prescribed as above, in which case it shall not become a law.

The bill further provides that the secretary of the Territory of New Mexico shall hereafter be *ex officio* superintendent of public buildings and grounds, and shall have control and management of all public buildings now erected, in progress of erection, or to be hereafter erected, and of all grounds pertaining thereto; and he is to be under the direction of the Secretary of the Interior, who shall establish such rules in relation to these public buildings and grounds as in his judgment he may devise, and for his services as such superintendent the secretary is to receive an annual salary of \$1,000. It is to be the duty of the secretary of the Territory, upon the convening of the Legislature thereof, to administer the oath of office to the members-elect of the two houses and the officers thereof when chosen;

and no other person shall be competent to administer the oath, save in the absence of the secretary; in which case any one member of either house may administer the oath to the presiding officer elect, and he shall administer the same to the members and other officers. The annual salary of the secretary of the Territory is to be \$3,000 per annum from and after the 1st day of February, 1867.

The bill was reported to the Senate without amendment.

Mr. HARLAN. I see from the reading of the bill that the salary of the secretary of the Territory is to be increased and redete back a year or so. I inquire the object of that? Is there any necessity for it?

Mr. YATES. Only that that officer has been in office that long; that is all.

Mr. HARLAN. What is the salary of the secretary now?

Mr. YATES. The salary is \$2,000.

Mr. HARLAN. I move to amend the bill so as to make the increase of salary to take effect from and after the passage of this act.

Mr. YATES. I accept the amendment.

The CHIEF CLERK. It is proposed to amend the bill in section two, line eleven, by inserting after the word "dollars" the words "to take effect from and after the passage of this act."

The amendment was agreed to.

Mr. TRUMBULL. I understand that this bill increases the salary of the secretary of the Territory of New Mexico \$1,000. Am I right?

Mr. YATES. One thousand dollars is added for his services as superintendent of public buildings and grounds.

Mr. TRUMBULL. It takes that much from some other officers?

Mr. YATES. No; it gives him \$1,000 as superintendent of public buildings and grounds.

Mr. TRUMBULL. I am not informed in regard to the bill, but if you increase the salary of one of these secretaries to \$3,000 the Senate may as well understand they will all be after the same thing. I do not wish to interpose any objection to it more than call attention to it. I leave the subject to the Committee on Finance and the Committee on Appropriations, who usually look after those matters.

Mr. YATES. I see that there is a mistake in the printing of the bill. In the twenty-first line of the second section the word "three" is printed by mistake for "two." I move to amend it by striking out "three" and inserting "two;" so as to make the proviso read:

*Provided*, That the annual salary of the secretary of said Territory shall be \$2,000 per annum from and after the 1st day of February, 1867.

The amendment was agreed to.

Mr. POMEROY. I see that the bill makes provision in reference to the veto power of the Governor? Is that a new provision? How does it change the existing law?

Mr. YATES. The veto power of the Governor of New Mexico is now unqualified. He can veto any law passed by the territorial Legislature, and it cannot be repassed over his head by a two-thirds vote. This enables a two-thirds vote to pass a bill over his veto.

Mr. POMEROY. It changes the organic act, then, in that respect.

Mr. YATES. Yes, to conform to what our Constitution is, and what the constitution of Kansas is.

Mr. POMEROY. I do not know what were the reasons which influenced Congress when in passing the organic act for the Territory of New Mexico it provided that the Governor might veto a bill and there should be no remedy in the Legislature. If there were good reasons for it formerly, and those reasons do not exist now, it may be very well to make this change; but I do not understand how the fact is.

Mr. YATES. Under the law as it now stands the veto power of the Governor is absolute.

Mr. POMEROY. I understand that, but I say there must have been some reason for it at the time the law was passed, and I want to know whether that reason exists to-day.

Mr. YATES. I will state, for the information of the Senator, that the Legislature has

passed a great many laws which have not gone into force because of the Governor's veto. The object of this bill is to regulate the veto power and to allow the representatives of the people in the territorial Legislature to overrule a veto by a two-thirds vote.

Mr. POMEROY. It may be right. The only question I had was why it was not put so in the beginning? Why New Mexico was made an exception to all other Territories? If the Senator and his committee agree that the change should be made I will not oppose it.

Mr. RAMSEY. The organic acts of the Territories differ; they are not alike in this respect. Some territorial Governors had an absolute veto previously to the organization of New Mexico, and the committee have endeavored to make the veto power uniform throughout the Territories, to make it in all cases a qualified instead of an absolute veto.

Mr. HENDRICKS. I think some little explanation ought to be given of this bill. I suppose my attention was called to it heretofore, but I perceive that it was reported in March last, and other things have excluded it from my mind. I should like to have some explanation of the bill from the chairman of the committee.

Mr. YATES. I have already said that under the law as it now is the Governor of the Territory of New Mexico has an unqualified veto power, without any limitation whatever. The object of the first section of this bill is to provide that the territorial Legislature, by a two-thirds vote, may overrule his veto. The other section is that the Secretary of the Treasury shall have the supervision of the public buildings and grounds.

Mr. HENDRICKS. If that is all I see no objection to it.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### MISSISSIPPI RIVER IMPROVEMENT.

Mr. POMEROY. I ask the unanimous consent of the Senate to enter a motion to reconsider the vote by which the bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi was passed on Friday. It is a bill granting some two or three hundred thousand acres of land in the State of Minnesota to improve the Falls of St. Anthony. I do not know but that it is right; but I have been told this morning that the falls are owned by private individuals, and the bill ought not to pass. I wish to enter a motion to reconsider in order that I may have an opportunity to examine and look into it.

The PRESIDENT *pro tempore*. The motion will be entered.

Mr. POMEROY. I will call it up for consideration at some future time.

Mr. RAMSEY. I hope the Senator will do it shortly; within a few days.

Mr. POMEROY. The information which I have received only came to me this morning. I did not know it before. I desire to examine the bill before it goes out of our hands.

Mr. RAMSEY. It is true that the falls in a measure are private property; but the navigation of the river above the falls, which has been much damaged by them, is public property; and the injury to that navigation is what the people there complain of.

Mr. POMEROY. I will inquire of the Chair if the bill to which I refer has gone to the other House?

The PRESIDENT *pro tempore*. The Chair is informed that it has.

Mr. POMEROY. Then I move that the Secretary be directed to request the return of the bill from the House of Representatives.

The motion was agreed to.

#### LADIES' MOUNT VERNON ASSOCIATION.

Mr. JOHNSON. The Committee on Claims presented to the Senate to-day a report without expressing any opinion on the question which the bill presents. It is a bill providing compensation upon certain grounds for the

Ladies' Mount Vernon Association. Their memorial I presented to the Senate some three or four weeks ago. It states the whole case, and presents one, as I think, that will command the favor of the Senate. It is shortly this: they were incorporated for the purpose of securing the tomb of Washington. They were comparatively without funds after having paid the purchase-money for the place. The only source of revenue they had was what they received from the passengers, who from day to day went from this city in a steamer under the control of the association, yielding them several thousand dollars, and with that they were enabled to keep the premises in repair. The United States, during the war, having occasion for the use of the steamer, took possession of it, and they lost, therefore, that source and the only source of revenue they had. They are now utterly destitute of all means with which to preserve the house and the tomb of Washington. Their memorial was presented to the House of Representatives, and a bill identical with the one upon your table was reported by the appropriate committee, and was passed by a very large majority, but the yeas and nays being called it turned out that there was not a quorum, and upon that ground, and that ground alone, it was defeated. The friends of the bill there are exceedingly anxious that the Senate should act upon it, if the Senate shall see fit to act upon a measure like this at once, there being no doubt that it will forthwith receive the sanction of the House of Representatives; and I am sure that every member of the Senate will instinctively be ready to do anything that shows the veneration in which we all hold the remains of Washington, and everything connected with the place where, for so many years, he resided, and where amid the tears of the nation he died. I move, therefore, that the Senate take up that bill.

The motion was agreed to; and the bill (S. No. 588) for the relief of the Mount Vernon Ladies' Association of the Union was considered as in Committee of the Whole. It proposes to appropriate \$7,000 for the relief of the association.

Mr. MORRILL, of Vermont. Mr. President, I do not know why we should pass this bill. Unless Congress is going to take possession of Mount Vernon and take care of it I do not see why we should make this appropriation. I should be quite willing that Congress should do it in order to rescue it from the disgrace of such care as it has had for the last few years. I understand it is in a very dilapidated condition; but this appropriation is to keep a certain family housed therein, and to contribute to their support.

So far as the equities of the case are concerned any party that suffered damage during the war, any watering establishment that did not receive as much patronage during the war as it would have done if there had been no war, would have the same right and the same claim to come to Congress for a further compensation.

I have been informed—I know not with what truth—that the party who has charge of this Mount Vernon establishment is a regular secessionist, one of the fiercest of the tribe, of the feminine gender. I do not know whether it is true or not, but I have so understood. So far as my sympathies are concerned I am free to say that I have none in favor of the appropriation. I do not think that the matter is well managed, or will be by the parties who now have it in charge.

Mr. CONKLING. I hope the Senator who moves the bill will give us some statement or explanation in regard to it.

Mr. JOHNSON. I did.

Mr. CONKLING. It is a round appropriation of \$7,000 for the benefit of this association. I know that the Senator did say something about it; but I should like to know what has been done a little more specifically with the money, and how it is that its returns, heretofore understood to yield so much, have fallen short.

Mr. JOHNSON. I gave the only explanation that I thought necessary to be given;



but the honorable member, although always attentive to everything that happens in the Senate, was not within the sound of my voice. The Mount Vernon Association, as I understand, was incorporated for the purpose of purchasing, after the Government had refused to take it upon the terms which were insisted upon by the former proprietor, the Mount Vernon property. In the absence of some care, it was certain that the whole place of Washington would soon be in a dilapidated condition, and one, should it occur, disgraceful to the country. As to what are the sympathies of these ladies I know nothing, nor do I care. They are ladies of education, and devoted to the memory of Washington. Whether they sympathized or did not sympathize with the South in the late rebellion is a matter I know nothing about, and I have never heard it suggested except by my friend from Vermont.

But however that may be, they have taken charge of the property. After appropriating all the money they could raise to the payment for the property, they had nothing with which to keep the place in repair except what they derived from the use of a steambot that plied regularly between Washington and Mount Vernon. That gave them one, two, or three thousand dollars a year; and with that they were able to keep the property more or less in repair. The Government, however, found it necessary to take possession of the steamer; and they held it, I believe, until the war terminated. The effect was to deprive them of their only resource. The consequence has been—not from any fault of theirs, not because they have appropriated whatever has been received to their own personal uses, but because of the inadequacy of the means—that the house of Washington and the tomb of Washington are more or less in a state of dilapidation. No American with a heart in his bosom—and thank God we all have American hearts—would for a moment bear the thought that a place like that, consecrated in the memories not only of his own countrymen, but of the world, should be in any danger even for a moment of going to ruin. The object of this appropriation is to enable them to prevent that which would be a catastrophe of which the nation would be ashamed should it occur.

If there is any doubt that the money will be properly appropriated to the purpose for which, as I understand it is needed, I will move to amend the bill by providing that it be applied to the repair and preservation of the property. With such a provision as that I suppose there would be no objection to the passage of the bill. My friend from Vermont is perfectly willing to give this, or even a larger sum in order to preserve the property; but how much is to be given? These ladies from moneys advanced in every part of the country have paid I do not know how many thousands of dollars for the purchase of the property; I think it was nearly one hundred thousand dollars. Is it proposed to return that? I suppose not. Is it supposed that the property will be better taken care of by any agent who might be employed by the Government than it will be by these ladies whose hearts are so obviously in the work? I should suppose not.

The fact is, it ought to be in the care of woman and not of man. It is her sympathies which more especially will cling around the memory of him who stands peerless in the world's esteem. It is but a poor trifle that is needed. Shall we not place it in their hands to be applied for the purpose for which they ask it? What is it? Seven thousand dollars. What are we appropriating for the Army which owes its first reputation to the valor and the counsels of him whose remains now rest in the tomb at which hundreds and thousands of people are daily shedding their tears? We appropriate to the Freedmen's Bureau—an appropriation of which I do not complain—not \$7,000, but hundreds of thousands; and that appropriation is made, or will be necessary, because of an act which we have passed at this session—of that, I repeat, I do not complain.

It may be necessary. Congress deems it to be necessary. It is supposed to be called for by the wants of a peculiar class. But while we are doing that, shall we be more than niggard when we are called upon to aid woman in preserving the tomb of Washington?

I move to amend the bill by adding the words, which I stated just now, for the preservation and repair of the property.

Mr. FRELINGHUYSEN. I suggest to the Senator from Maryland to add the words "under the direction of the Committee on the District of Columbia" to his amendment.

Mr. JOHNSON. I have no objection to that; but the committee will not be here.

Mr. FRELINGHUYSEN. They can give direction about it.

Mr. JOHNSON. I do not think it necessary at all.

Mr. MORRILL, of Vermont. Mr. President, it was not the \$7,000 that I begrudged; but it was the slovenly and disloyal manner in which this whole business has been conducted to which I objected. In the first place, a very large price was obtained for this property; I believe something like a thousand dollars an acre, when it was worth less than a single hundred dollars; and I do not understand, as the Senator from Maryland does, that we even now have the tomb; that the tomb and about two acres of land were excepted from the purchase. So far as that is concerned we have no charge of it whatever. I have not been there for many years; but I learn that the buildings are in great need of repair, and that only a very small number of the rooms are open to the inspection of visitors. The library, for instance, is not to be seen by visitors who go there, and only three or four of the rooms are allowed to be open to be seen by visitors, and all the remainder of the building is occupied by the family that pretends to have it in charge. I desire to have this thing investigated. Instead of placing this money under the control of the Committee on the District of Columbia I prefer to have the bill referred to that committee, and have them make an examination and see whether we ought to vote anything at all, and if they report anything, then see in whose charge it ought to be confided. I move that the bill be referred to the Committee on the District of Columbia.

Mr. TRUMBULL. Mr. President, I presume there is no difference of opinion in this body, nor indeed in the nation, as to the esteem in which the memory of Washington is held; nor do I suppose there is any difference of opinion as to the propriety of holding sacred the grounds where he lived and died and was buried. But there is in the country some dissatisfaction in regard to the management of this Mount Vernon Association. I was spoken to yesterday by a lady who has had something to do with raising funds for the purchase of this property, and learned from her that there had been no meeting of the officers of the association for a long time. She herself was in correspondence with some of the vice regents who were inquiring of her as to the condition of things at Mount Vernon and what was being done, and although she did not herself know the facts personally she had understood that persons had been supported at Mount Vernon who had been living upon this fund and who had been actively sympathizing with the rebellion; and the officers who ought to know, so far as she was informed or could ascertain, did not know the way in which this fund was being managed.

While I should be willing to vote for this proposition, if this donation be needed, or anything that might be reasonable and proper to preserve this property, I think from what I have heard that some inquiry should be made before this appropriation passes. I like the suggestion of the Senator from Vermont, to let this bill be referred to the Committee on the District of Columbia, or some committee, to ascertain what the facts are. It is due to the officers of the association itself, because there is a widespread belief among many persons who have

taken part in raising this fund, and who have desired to aid in every way they could to preserve this property, to improve and ornament it, that the affairs of the association have not been properly managed. If this impression is untrue, it is due to those in charge that it should be corrected. That there is such an impression among those friendly to the association I am certain.

Under these circumstances I think the Senator from Maryland himself will see the propriety of having the bill referred and an inquiry made, so that it may be known how the affairs of this association are managed. There is no report showing the condition of things, so far as I am informed, and so far as others, who have taken some pains to try to inform themselves, know. The Senator from Maryland may be better posted. He may be able to state more specifically than I am advised, or those persons who ought to know are advised, in regard to this matter. I hope the bill will be referred and an inquiry made, for the reports that have obtained credence in the country among the friends of this association are very damaging to the association itself.

Mr. HENDRICKS. There seems to be no difference of opinion as to the necessity of making a small appropriation to preserve this property. The only question that is raised is as to the propriety of placing the money in the hands of the association itself. If there be objection well founded to the management of the property I should not wish to see the money placed in the control of persons who are mismanaging it; but I could not vote for the proposition of the Senator from New Jersey. I do not think a committee of the legislative department, of the appropriating department, ought to be in the possession of an executive power controlling the use of money appropriated. I do not think Congress ought to control appropriations after they are once made. I suggest to the Senator that the military officer who, under existing law, has charge of the public buildings in the District of Columbia shall have charge of this appropriation. I will cheerfully vote for it if he will accept that amendment.

Mr. FRELINGHUYSEN. I accept that amendment—"the Secretary of War."

Mr. HENDRICKS. I do not know who it is. It is the person who is Commissioner of Public Buildings.

Mr. SHERMAN. "The officer in charge of the public buildings and grounds."

Mr. HENDRICKS. That is the motion, that the officer in charge of the public buildings and grounds shall have charge of this appropriation.

Mr. JOHNSON. I have no objection to that, so far as I am concerned, that it shall be under the military officer who has charge of the public buildings and grounds.

The PRESIDENT *pro tempore*. The question is on referring the bill to the Committee on the District of Columbia.

Mr. FRELINGHUYSEN. I hope that will not be done. As the bill is now amended I do not see any propriety in referring it. That fund is not ours. We, the Government, contributed nothing toward it. We have no control or supervision of it, no management of it; and if this bill is now referred to a committee of Congress it precludes action for a year, or until another session of Congress and another season roll around. I think that there are values in this world for us to look after which do not appertain to railroads, or to public lands, or to revenue, or to iron-clads, but which appertain to a great national sentiment, which the people will approve of our attending to. It is a great thing for a nation to have a commanding spirit, a great man who was a good man, and the people of this country go by thousands to the grave of Washington, and they are profited by it and the country is benefited by it. There is not a place on earth where there are more sacred associations connected with Christian patriotism than at Mount Vernon; and I hope that without delaying this

subject, postponing it, referring it to committees, having it now under the charge of the Secretary of War, or of some other officer, so that there is no question but that it may be properly appropriated, this appropriation may be made. Why, it is very little that we do. The people have bought the property; we have done nothing; and this is the first appropriation, I believe, that we have been called upon to make.

Mr. JOHNSON. The first.

Mr. SUMNER. Mr. President, the Senator from New Jersey reminds us that the people go by thousands on pilgrimages to Mount Vernon. That is true; and they bring back by thousands one report, that this property needs supervision, that the house needs repair, that generally more money should be spent there in order to keep the place in order. That is the report, I believe, that is brought back by all these pilgrims. It seems to me that is enough to justify our action. We did not originally give the money by which this purchase was made; nor have we contributed at all to keep these ladies in the supervision of the place. Let us not, then, undertake to play the critics. Finding, however, that there is need for something to be done there, it seems to me proper and becoming that Congress at this moment should step in and supply the means. The sum proposed is not considerable. It is what I think for the purpose we may all be content to appropriate. I hope, therefore, it will not be done.

Mr. Tipton. Mr. President—

Mr. SHERMAN. I call for the special order.

The President *pro tempore*. The morning morning hour having expired—

Mr. SUMNER. I think we can have a vote on this bill now.

The President *pro tempore*. The special order is the tax bill.

Mr. SUMNER and others. Let us vote on this bill.

Mr. SHERMAN. There cannot be a vote now; there will be further debate.

The President *pro tempore*. If this bill is continued, the question is on referring it to the Committee on the District of Columbia.

Mr. HARLAN. I think if it is to be referred it ought to go to the Committee on Public Buildings and Grounds. It is a more appropriate committee than the Committee on the District of Columbia.

Mr. SHERMAN. Postponing this bill until to-morrow will do no hurt. I prefer to go on with the tax bill.

#### EVENING SESSIONS.

The President *pro tempore*. House bill No. 1284 is the special order.

Mr. SHERMAN. To expedite our progress on the special order, I submit this motion:

Ordered, That during the pendency of the tax and funding bills the Senate will, unless otherwise ordered, take a recess at five o'clock p. m. until half past seven p. m.

Mr. SUMNER. I ask the Senator from Ohio whether he thinks it advisable to provide for that in advance?

Mr. SHERMAN. This enables us to have an evening session.

Mr. SUMNER. The Senate will bear in mind that the measures we are about to consider are such as will probably require the best attention of the Senate. If the Senate sits from twelve o'clock until five engaged in real work it will hardly be in a condition to come back at half past seven and continue the same class of work.

Mr. SHERMAN. I am perfectly indifferent myself; but I think it will expedite business to have the Senate keep the power to have an evening session. The order can be changed; if on account of the heat or any other cause a night session should be found to be not advisable we can dispense with it by an adjournment. I think we had better adopt the order.

Mr. BUCKALEW. I am perfectly willing to vote for night sessions and serve at night sessions, after the day of adjournment shall have been fixed, when the necessity for them

shall be entirely manifest; but with the present weather upon us I think it is unnecessarily exhausting to the Senate for us now to have night sessions. I am not quite sure that there is an absolute necessity for it. Probably if we sit at night during this week and next week we shall work so hard as not to feel like having night sessions when they shall be absolutely necessary.

Mr. CONNESS. I move to amend the motion. As I understand the motion, it is an order for a recess from five to half past seven o'clock to consider the tax bill.

Mr. EDMUNDS. No; during the pendency of the tax and funding bills.

Mr. CONNESS. I move to amend so that the evening session shall be provided for, but given to other business; and I hope the Senator from Ohio will consent to that. It must be known to the Senator from Ohio and to the Senate that there are a great many pending bills of great importance; and while perhaps they are not of equal importance with the tax bill, they certainly are of transcendent consequence, and we ought to have some portion of the time to give attention to them. If we work here all day upon the tax and funding bills, the two special orders, which I am willing to do until they are disposed of, I think that will be giving time enough to them, while in the evening we may come here to attend to other business. If you exclude other business, you necessarily defeat a great deal of it; because if you drive much of the other business up to the end of the session, it may occur to the President to exercise that constitutional control that he is ever given to, and either put bills in his pocket or veto them just before the end of the session. I might refer now to many bills, which I do not wish to do, that are of sufficient importance, to say the least, to merit our attention at an early day, and I hope the evening sessions will be devoted to them; I therefore move that amendment.

The President *pro tempore*. The Senator from California moves that the order be so amended as to embrace other business to be considered at evening sessions.

Mr. CONNESS. That the evening sessions shall be devoted to general business.

Mr. SUMNER. I hope I shall be excused if I come back to my original suggestion. It seems to me we had better let each day take care of itself. At five o'clock in the afternoon, if we feel disposed to come in the evening, we can take a recess; if not, we can adjourn. It seems to me that we had better wait until the hour comes each afternoon and then determine what course we shall take.

Mr. SHERMAN. My friend from Massachusetts will allow me to suggest that the motion to take a recess is not strictly in order except by unanimous consent; but this motion that I have submitted is in the usual form, and a recess will be taken unless a majority of the Senate desire to adjourn. If so, a motion to adjourn at any time is in order, and of course that dispenses for that evening with the evening session. We have the whole matter then within our control, so that a majority of the Senate can determine whether they will sit in the evening or not. I trust this order, which is in the usual form at this period of the session, will be adopted.

Mr. MORTON. It will be very inconvenient, if not impossible, for some of us to attend evening sessions, and I beg leave to suggest that so far as I have any opinion in regard to them there is nothing gained by them; and I think that the legislation performed at evening sessions might be of a somewhat dangerous character. If you have a quorum you will scarcely have anything more; you cannot get a full attendance of the Senate at night. I understand the House of Representatives have been holding evening sessions for some time past, and I understand they have had great difficulty in getting a quorum.

Mr. CONKLING. No more in the evening than in the day.

Mr. MORTON. The Senate can do as much

work as they can do well between twelve o'clock and the time for adjournment for dinner. If you throw the evening sessions open to bills of every kind, a good many bills will be likely to slip through here at night that ought not to be passed at all.

Mr. POMEROY. I think there is a good deal of force in what the Senator from California says, that we must either not do our business if we intend to have an early adjournment or we must devote some special time to it. It is simply a question of neglecting to do the public business, or else we have got to have some evening or some day devoted to something besides the tax bill. I remember to have seen some members of the Senate together recently somewhere, and no two of them agreed on a single proposition in reference to the funding bill. If no two members of the Senate do agree in regard to the provisions of the funding bill now, it cannot be passed speedily; it must remain here day by day and week by week if it is going to be pressed to a successful vote; and if that be so, we ought at least to have now and then a day, or an evening at any rate, for other business. There are reports of committees of conference on very important measures that will excite some debate, and may require time for their consideration.

Mr. CONKLING. Allow me to make a suggestion to the Senator from Kansas. He wants some evening when general business shall be considered. After the tax bill shall have been passed, with such amendments as may be made by the Senate, it must necessarily go back to the House of Representatives, and there, inevitably, will be a considerable interval during which pressing legislative matters of a general character may be taken up. I doubt whether additional time would be gained for general legislation by intermingling it now with the tax bill.

Mr. POMEROY. This order embraces the funding bill as well as the tax bill, and I do not think the funding bill will be disposed of in a week. If the Senator from Ohio will strike out so much of the order as relates to the funding bill I will vote for it.

Mr. SHERMAN. Both bills are now the special order; and this question is only a question as to whether we shall have night sessions.

Mr. POMEROY. I do not think a special order can be made to cover two or three separate bills.

Mr. SHERMAN. It has been done.

Mr. POMEROY. Perhaps it can be done if nobody objects. A special order can be made of any one bill only by a two-thirds vote, but we have had no two-thirds vote on that question yet.

Mr. CONNESS. There is a bill before the Senate, reported from the Committee on Foreign Relations, that I deem of great consequence, and which I wish to have action upon at an early day—I mean the bill for the protection of American citizens abroad. If the order proposed by the Senator from Ohio shall obtain it will be equivalent to the defeat of that bill, and, I may say, of many others. I have waited with patience, and proper patience, for the honorable chairman of the Committee on Foreign Relations to call up that bill, or to propose to appoint it as a special order for a particular time, which, however, he has not seen fit to do. Until some time should pass, it occurred to me that it would be improper for me to call it up, and therefore I have desisted; but I shall feel obligated to call the attention of the Senate to that bill, and seek to get a vote upon it at an early day if it shall not be called up and pressed on the attention of this body by the honorable chairman to whom I refer. Now, sir, the adoption of the order proposed by the Senator from Ohio will be a prohibition of that and of other business.

Mr. SHERMAN. The Senator from California certainly does not want to misunderstand the proposition.

Mr. CONNESS. I would not, of course.

Mr. SHERMAN. This resolution has nothing to do with the business that shall be transacted. These two bills are made the special order by a previous order, and this simply provides a mode by which the Senate may hold evening sessions if it is desirable. Without the adoption of this resolution any Senator might object to a motion for a recess, and thus prevent an evening session; but with this resolution the Senate in the evening may if it chooses lay aside for the time being the tax bill and take up the bill the Senator refers to.

Mr. CONNESS. Then I desire to ask my friend from Ohio whether he would feel it incumbent on him to oppose such a course on the part of the Senate?

Mr. SHERMAN. That has nothing to do with the question, but I will answer with entire frankness that, so far as I am individually concerned, I shall oppose considering anything else until the tax bill is disposed of.

Mr. CONNESS. Then the Senator announces that if this order be made he will insist, with his great influence in the Senate in the position in which he is placed, upon occupying the whole time, day and night, until these two bills are through with. It is to that that I am opposed, and I hope the Senate will not order it. I would prefer the suggestion of the Senator from Massachusetts, that we go on considering the two bills in charge of the honorable Senator from Ohio and leave it to be determined by the Senate on each day whether we shall continue the consideration of those bills or take up other bills to be specially named, as well as the establishment of an evening session; but I shall not vote to now order evening sessions to be occupied exclusively, in addition to the day sessions, by these two bills.

Mr. FESSENDEN. Mr. President, it has now got to be the 6th day of July. The House of Representatives has sent us a resolution providing for an adjournment on the 15th. I suppose we desire to adjourn some time during this month; and from my experience in the Senate I am induced to say that if we intend to adjourn at any time during this month we must now put the control of the business of the Senate into the hands of those who have charge of the bills which must be passed before we adjourn, and not allow the wishes of Senators as to individual bills, which are not of such pressing importance, that is not such as of necessity require to be passed at this particular session, to interfere with it.

The Senator from Vermont [Mr. EDMUNDS] presented to us the other day a bill which he considered, and which a great many considered of importance to be passed at once, if passed at all, as possibly it might be vetoed; but the Senate seemed to think that it was not of any consequence compared to a few matters of incorporation of very important companies here in the District of Columbia, and two or three things of that sort, and passed it over, so that the time for it has perhaps gone by. I do not think such a course of legislation will possibly bring us to a close of this session within any reasonable time.

Now, sir, we have before us a bill of one hundred and thirty pages with reference to the internal revenue. Everybody concedes that it must be passed. What process has it to go through? We must act on it here, and it will necessarily elicit very considerable debate. Then it must go back to the House of Representatives with the amendments we make, and be considered there. Then it must go before a committee of conference, and be considered there before it is finally closed. Senators will see that if this process is to be gone through with this bill, and we are to get away at any time within six months, there is only one thing for us to do, and that is to take up the bill at once and consider it, and stick to it until it has been done. That has been the course pursued when we have had bills of that description before us heretofore. We cannot take it up one day and then allow something else to interpose, and other questions to be brought

up continually, and hope to get through and get away from here in any reasonable season.

In addition to that there is the funding bill, which the Senate has made a special order, and which will necessarily elicit some debate, but it is not a long bill, and can be disposed of probably in a comparatively short time. What more have we? We have yet unfinished several of the most important appropriation bills. Two, at least, I think, have not yet been reported to the Senate, the deficiency bill and the Indian bill.

Mr. MORRILL, of Maine. The Indian bill has been reported but not acted upon.

Mr. FESSENDEN. There are other appropriation bills yet to come to us from the other House. Then there are appropriation bills that we have passed which will take up a considerable time yet before they are finished, on account of the amendments between the two Houses.

Now, let me say to the Senate that, if they design to get through at all, they must take up those bills which must necessarily be disposed of before we adjourn, and stick to them until they are passed, and then, if there is any time left in which we can take up other matters, take them up. It is the only way we can possibly expect to get through business in any reasonable time and get away.

As to evening sessions, I will not object to the motion of the honorable gentleman from Ohio, because it leaves it in the power of the Senate to control the matter by an adjournment at any time; but we know from our experience how very severe it is in this extremely hot weather to work here all day and then come and work here all the evening with the heat from the gas above coming down upon us. You will hardly get a quorum here, and if you devote the evening to general business, which is not of this pressing importance in which everybody is interested, the result is that you will probably get through a great deal of bad legislation, or of legislation in a very bad shape, because nobody except those who feel particularly interested in it will be here. Of all times in the world to take up general legislation under such circumstances that it cannot be known beforehand by Senators what will be taken up the evening is the worst time to expect good legislation. You ought to have something before the Senate in which all are interested, which will bring a quorum of Senators here to attend to it.

I hope, therefore, that if we are to consider the matter of evening sessions at all, it will be left at present, while this extreme heat lasts, at this period of the session, within our own control, and that when we have an evening session it will be devoted to that kind of business which will bring enough of the Senate here to secure proper and reasonable and safe consideration. But, sir, at present, though I am perfectly willing to agree to it for the sake of these bills which are of so much importance, it will be difficult to hold an evening session, because we all know that we are to expect nothing but very hot weather from now until the end of the session, and that in the last days of the session we must necessarily hold evening sessions, and sometimes perhaps sit all night, as we have done frequently—I have been here once in my life forty-two hours without sleep, day and night successively—I do not want to do it again during my legislative career.

If we go straight along with these absolutely essential bills and attend to them until they are disposed of, we may have some chance of getting through in a reasonable time and in a reasonable manner, and preserve our health; but if we are to devote evening sessions to general business, we shall not only have a great deal of poor legislation, but wear ourselves out. I hope nothing of that kind will be done. I am therefore in favor of the motion of the Senator from Ohio.

Mr. SUMNER. I will make one more suggestion. It does not seem to me that the Senate can attend to more than one important

matter at a time. It cannot be driving two good horses abreast. It may, I know, take up some small matters, but it can attend to only one important bill at the same time. Now, the Senator from Ohio moves his tax bill. It seems to me we should proceed with that to the end, and then take up another important bill, occupying ourselves in the morning hour, or, should we have an evening session, in the evening session with such other less important matter as we may then attend to.

And this brings me to the allusion of the Senator from California. He seemed to complain that I, as chairman of the Committee on Foreign Relations, had not asked the attention of the Senate to the bill reported from that committee some few days ago. I doubt not that the Senator from California has kept the run of the business of the Senate much better than I; and yet sitting in my seat all the time I have not known any moment when that bill could properly have been moved. It is an important bill, calculated to invite discussion, which ought to be discussed. When the time comes I shall have great pleasure in meeting, and in endeavoring to explain it to the Senate. I do not think it expedient, however, to mix that measure with the tax bill. Let us finish the tax bill; and then, if the Senate are disposed, they may proceed with the bill to which the Senator from California refers.

Let me add, also, that the Senator from California knows well that there is another matter in executive session in which he is much interested, in which I am interested, and on which I think we ought to secure the attention of the Senate before an adjournment. That matter was reported some time ago, long before the bill to which he now calls attention. I should like to appeal to that Senator to unite with me in an effort to obtain an executive session either in the forenoon or in the evening, and the earlier the better, in order to consider that matter. I do not name it in public because it belongs to our executive business. The Senator will understand what it is.

Mr. CONNESS. I only wish to say that one of the objects I have in view in moving and voting against the entire monopoly of our time by any two bills is to consider just such subjects as that to which the Senator alludes. The argument made by the Senator from Maine amounts to this, as I understand it, that we shall take up the tax bill, the funding bill, the appropriation bills, and give all the time to them, and then adjourn. That is practically what it amounts to. I am prepared to stay here until all the essential legislation is done; but I do hope that pending the consideration of those bills we shall allow the evenings to remain free and unoccupied, so that we may select them for the business to which the Senator last referred, or other important business now pending in this body.

The Senator understands as well as any Senator here that a chairman, being charged with the conduct of business, has devolved on him the special duty of pressing it upon the attention of the body of which he is a member, and that the committee who authorize him to make a report will always stand by him in securing such attention; and he cannot by any smooth words pass off on an humble member of the Senate like myself the responsibility for delay in the important matters to which reference has been made. It is his business and his responsibility if they be neglected. I stand here ready to sustain him with my vote in securing the attention of the Senate to this and all other bills that he has in charge if he will but do his part in pressing them on the attention of the Senate.

Mr. ANTHONY. Mr. President, this is the motion that is always made at this period of the session by the Senator who has charge of the financial bills before us, whether bills of appropriation or bills for raising money; and it is always agreed to. The only question is whether we shall make a motion every day that an evening session shall be held if we desire it, or whether we shall make a motion



every day that we shall omit the evening session if we desire to do that. Certainly the latter is much preferable. The business that it is conceded by all must be passed should be in the control of the Senator who has charge of it; and I hope we shall agree to his proposition.

Mr. HOWE. Mr. President, I agree that this motion is made every session, and, perhaps, agreed to every session, and I guess it will be this session; but I should rather be excused from agreeing to it myself. This bill, I suppose, will be passed in some shape. If my own wishes were to be consulted, however, I think I would rather adjourn to-day than pass the first section of the bill, at all events; but I suppose that it will be passed. I submit, however, that there is no sort of necessity that it should be passed between this and the 15th of July; nor is there any sort of necessity that we should adjourn by the 15th or the 30th of July, or by the 30th of August. The public will not suffer, so far as I know, if we stay here a month and a half, unless we pass this bill in the mean time. I think we have until December next to complete the business of this session. It is uncomfortable staying here, I admit. Our health may require us to get away as soon as we can; but in my judgment we shall legislate more profitably both to the public and to ourselves individually if we do not try to do two days' work in one. There is time enough to do all that there is to be done, I think, and yet do but a single day's work in a single day. I never could understand when our time is unlimited the philosophy of waiting until the hot weather comes, when it troubles an able-bodied man to breathe at all, and then to crowd on all the steam of which you are capable, running clear up to eighty pounds. It is suggested to me that the House of Representatives makes us do it. I do not think the House does any such thing. We cannot charge that on the House; we do it voluntarily. We find this business here, and we fix a day ahead when we think we would like to go home, and then we work with reference to going home, and not so much with reference to doing the business. It is perfectly right that the Committee on Finance should control the time of the Senate; that the business recommended by that committee should have preference here until it is disposed of; but I do not think it is within the province of that committee or any other to say how many hours in the day we shall work. If it does belong to them I do not insist upon the eight-hour rule, but I am rather inclined to protest against the sixteen-hour rule. I think we should control our time. If at any time the chairman of the Committee on Finance thinks we can economize labor and strength by holding an evening session, let him say so, and I have no doubt the Senate will be willing to do it. If any subject comes up which it is important should be passed upon a particular day, he can not only make us sit during the day and during the evening, but during the night to dispose of that particular subject; but when we are working on bills which may be passed any time during the session I hope the chairman of the Committee on Finance will work us as easy as he consistently can. I will work as long as he says.

Mr. WILLIAMS. I have only one remark to make, and that is that, in my judgment, it is not advisable to hold evening sessions for the transaction of business unless we know beforehand what business is to be transacted. I think that notice in some way ought to be given during the day time as to the business to be done at night.

Mr. CONNESS. Allow me to make a suggestion. If the Senator will move to amend the original order, so as to let the Senate each day appoint the business that shall be done during that evening, I will withdraw the amendment.

Mr. WILLIAMS. I made this remark simply by way of opposition to the amendment of the Senator from California, because some of the members will be unable to be here on account

of physical disability, if not from other causes, every evening, commencing work at ten o'clock in the morning, and unless there is some business of importance before the Senate in the evening they may not esteem it necessary to be present. I think that if the order is left to stand as it is proposed by the Senator from Ohio a special motion can be made, if it be desirable that some evening be set apart for the discussion of a bill, for instance the bill suggested by the Senator from California. He can make his motion at any time that a certain evening be set apart for the discussion of that bill, and then we shall know that the bill is coming up and those interested can come here and attend to it.

Mr. CONNESS. I understand it will require then a two-thirds vote of the Senate to set aside the special order now proposed by the order of the Senator from Ohio. That is the difficulty, and therefore I am opposed to his order.

Mr. SHERMAN. We have already spent some forty minutes on this matter, and I think we ought to come to a vote on it. A majority of the Senate can at any time postpone a special order; it does not require a two-thirds vote.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from California to the order proposed by the Senator from Ohio. Both the amendment and the order will be read.

The Chief Clerk read the order of Mr. SHERMAN, as follows:

*Ordered*, That during the pendency of the tax and funding bills the Senate will, unless otherwise ordered, take a recess at five o'clock p. m. until seven and a half o'clock p. m.

The amendment of Mr. CONNESS was to add, "and that the evening sessions thus ordered shall be devoted to the consideration of other general business on the Senate Calendar."

The amendment was rejected.

The question recurring on the order proposed by Mr. SHERMAN,

Mr. CONNESS called for the yeas and nays; and they were ordered.

Mr. POMEROY. I have no objection to that order if the funding bill is stricken out. The funding bill is a Senate bill, while the tax bill is a House bill. I have no objection to sitting at night for the tax bill, but to attach to the House bill a funding bill, and say they must both be stuck together and kept together, and be the order of the Senate until they are both completed, is an unheard of thing.

The question being taken by yeas and nays, resulted—yeas 22, nays 16; as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Cole, Conkling, Corbett, Cragin, Edmunds, Fessenden, Frelinghuysen, Harlan, Hendricks, Howard, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Osborn, Sherman, Tipton, Willey, and Williams—22.

NAYS—Messrs. Buckalew, Conness, Davis, Fowler, Howe, McCreery, McDonald, Morton, Pomeroy, Ramsey, Ross, Sumner, Trumbull, Wade, Welch, and Yates—16.

ABSENT—Messrs. Bayard, Cameron, Dixon, Doolittle, Drake, Ferry, Grimes, Henderson, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Rice, Saulsbury, Sprague, Stewart, Thayer, Van Winkle, Vickers, and Wilson—20.

So the order was agreed to.

#### INTERNAL TAXES.

Mr. SHERMAN. It will expedite the consideration of the tax bill if the Senate will dispose of the amendments reported by the Committee on Finance as they are reached in the reading of the bill in its order.

The PRESIDENT *pro tempore*. That course will be taken if there be no objection. The bill (H. R. No. 1284) to change and more effectually secure the collection of internal tax on distilled spirits and tobacco, and to amend the tax on banks, is before the Senate as in Committee of the Whole, and will be read.

The first section of the bill was read, as follows:

*Be it enacted*, &c., That there shall be levied and collected on all distilled spirits on which the tax prescribed by law has not been paid, a tax of fifty cents on each and every proof gallon, to be paid by the distiller, owner, or person having possession thereof before removal from distillery warehouse; and the tax on such spirits shall be collected on the whole

number of gauge or wine gallons when below proof, and shall be increased in proportion for any greater strength than the strength of proof-spirit as defined in this act; and any fractional part of a gallon in excess of the number of gallons in a cask or package, shall be taxed as a gallon. Every proprietor or possessor of a still, distillery, or distilling apparatus, and every person in any manner interested in the use of any such still, distillery, or distilling apparatus, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom and the tax shall be a first lien on the spirits distilled, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, and on the lot or tract of land whereon the said distillery is situated, together with any building thereon, from the time said spirits are distilled until the said tax shall be paid.

The Committee on Finance proposed to amend the section by adding the following proviso:

*Provided*, That the tax on brandy made from grapes shall be the same and no higher than that upon other distilled spirits.

Mr. COLE. I hope that will be passed over for the present.

Mr. SHERMAN. There are so many amendments that I think we had better act on them as we go on regularly. This is a very simple question, and might as well be determined now as any other time. The question presented is simply whether brandy, which now pays one dollar tax, shall pay fifty cents or one dollar.

Mr. COLE. I move to amend the amendment so as to make the tax on brandy made from grapes one half what it is on other spirits, twenty-five cents a gallon. Under the law as it now stands the tax upon brandy manufactured out of grapes is but half that upon other brandies. There is a good reason for this; a reason that has been recognized by Congress, I believe, upon the passage of every one of the tax bills that have been acted on heretofore. To those who are acquainted with the business of making wine and grape brandy the reasons will be very obvious; but perhaps not to those who are unacquainted with that business.

This brandy is manufactured out of the refuse substance that is left after the wine is manufactured; and if there is this heavy tax, this tax out of proportion put upon it, it must necessarily result in destroying or breaking up this manufacture of brandy; and it will result in so much loss to the country. Unless this description of brandy has some advantage of this sort, it cannot come in competition with brandy that is made in the other forms. This has been determined frequently before. There is no doubt about the truth of what I say. The substance out of which this is manufactured is called the lees or the pumice, as it were, of the grapes, after the wine has been pressed from them. This brandy is used afterward to some extent in perfecting the wines. It is necessary in the vineyards for this use. If this tax is put upon it, it will to a great degree hamper this product. I have received an earnest letter from one of the most distinguished citizens of California, a member of the State Senate, which I will ask the Clerk to read, bearing immediately on this subject; and I will state further that I have received several communications on the subject. The vine-growers of California are very much alarmed lest there should be no discrimination made on their behalf, as has been the case heretofore.

The Chief Clerk read as follows:

LOS ANGELES, CALIFORNIA,  
June 12, 1868.

DEAR SIR: Telegraphic reports from Congress that it is intended to reduce the tax on whisky to sixty cents per gallon, and nothing being said of grape brandy, have filled the vine-growers of the State, and particularly the people of this southern section of the country, with alarm that there is no one in Congress to attend to their interests.

If the tax on whisky is reduced to sixty cents the tax on grape brandy ought to be abolished altogether or the vine-growing interest of the country will decline instead of becoming one of the important branches of our agriculture.

I have been solicited on all sides by the friends of vine-culture, who are becoming a most influential class, to call your immediate attention to the grape brandy interest, and that you will defend it faithfully in Congress, and that you will unite with you in that defense all the representation from the Pacific slope.

Very truly yours,  
PHINEAS BANNING.  
Hon. CORNELIUS COLE, Washington city.

Mr. COLE. I am not prepared now to go into a full explanation of this subject. I do not think it worth while. I wish the chairman of the committee could have consented to let it go over until I could have come into possession of all the facts. I was not aware it was coming up at this time, and I have not the data before me that I wish I had and that I could have if the subject were postponed. I hope, however, the Senate will agree to this rule that has prevailed heretofore to exempt this description of brandy from the tax that is imposed upon other brandies and whisky.

Mr. MORRILL, of Vermont. The Senate should be put in possession of the facts in relation to this case before they are called upon to vote. The present duty, the lowest duty upon brandy, is three dollars per gallon. The present internal tax on brandy is one dollar per gallon. By this bill it will be reduced from one dollar to fifty cents; the precise amount that we levy upon the rawest kind of whisky. The brandy made from grapes, as I understand, is a very excellent article, and sells for a greatly increased price above that of whisky. It is a favor to have it placed upon the same level with whisky, a favor which the Committee on Finance were very ready to concede; but after this article has been protected by a duty on foreign importations to the extent of three dollars per gallon, to ask anything more on the part of Congress it seems to me would be asking too much.

I know that my fascinating friend on my right [Mr. CONNESS] will present this case as one of peculiar hardship to California; but I think it is a very great favor that we allow this article to be taxed no more than the corn whisky made in the western States. I trust, therefore, that the amendment proposed by the Senator from California will not be assented to.

Mr. CONNESS. Mr. President, we ought to acknowledge with becoming thankfulness the boon that this Committee on Finance, and especially my friend from Vermont, have granted us in not proposing a special additional tax upon brandy made in the United States from grapes. We are to thank the great organ of home manufactures, my honorable friend from Vermont, the originator of all tariffs—at least the children think so—in this country, because he has not seen fit to tax out of existence one of the greatest growing interests in the American Republic.

I was only surprised, Mr. President, coming to earnest considerations, at the ground upon which my friend puts his action upon this subject. Three dollars per gallon is imposed upon foreign brandies by our tariff, and therefore it is a favor to the home manufacturers and growers of brandy made from grapes that a special additional tax over and above that which is imposed upon corn whisky is not imposed upon the home-made brandy, for, says the Senator, brandy made from grapes is excellent! Well, now, I ask my honorable friend if there is any brandy in the world not made from grapes?

Mr. MORRILL, of Vermont. Yes, from apples and peaches.

Mr. CONNESS. Well, Mr. President, there is a liquor nick-named brandy, but it is more properly called apple-jack when made from apples, and it ought to have such a designation applied to it according to the fruit from which it was extracted. But, Mr. President, there is no pretense by anybody who has any information on the subject that brandy is manufactured from anything else than grapes. Why, sir, the brandies that we get from Europe are made from the vines grown in France and Germany and Italy, or else they are base concoctions made up for us in imitation of those brandies. But, sir, there are no new brandies sent here for sale. A brandy made from grapes, within five or ten years after its manufacture, is not fit for human consumption, and it is not consumed. The brandy upon which three dollars per gallon is imposed of duty at our ports is worth when it comes into the market for sale and for my friend's consumption eight, twelve, or fifteen dollars

per gallon. It is of the vintage of 1800 or 1815, and so on down to within ten years of the present time; no other class of brandy can find sale in an American market or in any market. I desire to correct gentlemen in their statements, in their impression in this regard. The distillation from grapes is when distilled and for a long time thereafter, utterly unfit for consumption, that until it gets years and years of preservation, and is toned down by the evaporation of the alcohol from it; and during those years it has to be kept at the cost of interest upon the money. Besides, a vineyard to produce it must be planted many years in advance of a crop; and although they begin to get some few grapes from vines planted in the third and fourth year in California, there is no crop of grapes from any vineyard there or elsewhere in less than eight, ten, twelve, or twenty years. Yet during all that time interest has to be paid upon the money by which those vineyards, extensive vineyards, have been planted and are cultivated and sustained.

Again, let me tell Senators that in California, the only country that possesses advantages that rival France and Italy and Germany in the production of the grape, we have peculiar difficulties to contend with. We have there no timber to make our casks from; at least none yet. We import them at immense prices. Though we have great natural advantages by reason of our climate and soil, we are under disadvantages in every other respect in the high price of labor; in the time necessary in bringing forward the vineyards; in the years necessary to put brandy in the market and make it fit for sale and consumption; we are borne down by the high rates of interest, and very few of our wine-makers—very few of those who begin to plant their vineyards reap the result of their crops; their vineyards pass, like many other costly investments, into other hands, and finally those who buy a vineyard already growing a crop, bringing new capital into connection with its products, eventually if you do not tax them out of existence, may make a business that is worthy of their attention.

Mr. President, after the question was fully discussed here a year ago and the reasons given *pro* and *con*., a section was agreed upon as at least a reasonable concession to the great growing interest that we are endeavoring to represent. It is found on page 477 of the Statutes-at-Large for 1865 and 1867, section twelve of the act of March 2, 1867:

"That there shall be levied, collected, paid on brandy made from grapes one dollar per gallon; and if any person shall knowingly manufacture, compound, put up, sell, or dispose of, or cause to be manufactured," &c.

And then follows the penalty to be imposed for attempts at making a bogus or factitious or simulated article. That was agreed to; and there has not been a complaint made through the internal revenue authorities that it has led in any respect during the year of its existence to one single attempted fraud.

Now, my honorable friend from Vermont and the Committee on Finance seem to think that as they are reducing the tax on spirits produced from the cereals, it is a great favor to us engaged in the production of brandy. Why, Mr. President, the cases are entirely different. The man who engages in making spirits from grain goes into the market and brings his grain, and in a given number of days it is transferred into spirits, and passes from his hands into the market for sale. The country yields its annual grain crop. But it takes years and years to produce a crop from grapes on a vineyard capable of producing a crop. In the State of California at this time there are probably not less than twenty million vines planted, and yet the product of the vineyards there is still inconsiderable; but within ten or fifteen years to come the interests of this country will be promoted by that crop to a greater extent than, perhaps, in connection with any single article produced in the United States. We send now, for either real or simulated brandies, to Europe millions of

our gold annually, which we shall then be enabled, if we do not crush this interest out of existence, to keep within our own hands, dealing with our own people and enriching ourselves.

Mr. President, I do not deem it possible that it should be necessary to say anything further in regard to this question. When receiving the other day telegrams from various sections of my State, and presenting them here with the wish that they should be referred to the Committee on Finance, I supposed that that committee would take this matter into generous consideration. I supposed that the fostering hand that has brought American manufactures and products up to a competing condition with those of other nations of the world would not be denied to us in connection with this interest. But, Mr. President, I confess my surprise, particularly at my friend who sits at my left hand, [Mr. MORRILL, of Vermont,] that he turns away from this interest, that he fails to investigate and ascertain its exact condition, that he denies its demands, and that he who has been known so proudly through the country as the one who favored and conducted the productive interests of this country to their present condition of success by a reasonable protection, denies that need of protection to us and to this interest that we represent here.

But, Mr. President, it is not to the generosity of Senators that I would appeal, but to their sense of justice, to remind them that that country lying on the broad shores of the Pacific is not our country, but it is their country; its products are their products; its advance is their advance; its success becomes their success, and its glory their glory. They must not forget, Mr. President, as I have taken the opportunity to remind them on more than one occasion, that the Government of this great continent is carried on upon one side of it while some of its greatest and grandest works are being carried on upon the other side, thousands and thousands of miles from where that Government is conducted. We cannot expect, Mr. President, that honorable Senators and legislators here will enter exactly and familiarly into the consideration of the details of the interests of that great region; but we ought to expect and have a right to expect, and we do receive from many Senators, I confess, acknowledge with great gratification, that considerate regard from time to time to which we are entitled.

I hope, Mr. President, that the Senate will vote for the adoption of the amendment offered by my colleague. It is asking nothing new; it is maintaining what has been conceded heretofore. It is in behalf of one of the greatest growing interests of America. And, sir, I do not know how I shall return to the sunny land where this great interest is being carried on after having been voted down upon a proposition so simple and embracing so much natural justice. I trust, therefore, for the favorable vote of the Senate upon this amendment.

Mr. SHERMAN. The Senator from California [Mr. CONNESS] evinces a great deal of spirit in this matter which I think the figures hardly justify, in behalf of California. The Committee on Finance, finding that there was some doubt whether or not this bill reduced the tax on brandies, proposed to put on this proviso. If the Senator will look at the law he will find that brandy being taxed specifically at one dollar the first section of this bill might be held not to reduce that tax; and the committee in order to give brandy the benefit of the reduction which this bill extends to other spirits placed it at fifty cents, also. Now the Senator speaks as if this was a matter in which California alone was interested. So far as the production of brandy from grapes is concerned Ohio has the same interest as California.

Mr. CONNESS. Not at all.

Mr. SHERMAN. The Senator will be very much surprised when I tell him that California does not yield us one twelfth part of the amount that is received from this single article of brandy. Brandy is not only made from grapes; brandy

is the distillation of fruits; whisky is the distillation of grain. Brandy yielded us last year altogether in the United States of America \$855,075 47. How much of that came from California? One would suppose that no State in the Union was producing any brandy but California. The fact is that the amount received from California was \$67,819, while the little State of New Jersey makes apple-jack and peach brandy which yielded us a revenue of \$289,595.

Now, Mr. President, this item is an important one in our revenue, amounting to nearly a million dollars, and we cannot afford to surrender it upon a mere talk about the growing vines of California. We must get some revenue from it, and there is no reason in the world why brandy distilled from grapes ought not to pay as much revenue as brandy distilled from apples or from peaches or from any other fruit. No discrimination ought to be made. Indeed, there is no reason that any man can give for making any discrimination between spirits produced whether from fruit or from grain. They are all a convenient subject of taxation, and every nation has a right to get from spirits distilled from grain or from fruits any amount of tax that can fairly be levied on them. Then brandy from grapes is the most valuable of all distillation, worth several times per gallon what any other distillation from any other substance whatever is. Our Ohio brandy sells for from five to ten dollars a gallon.

Mr. CONNESS. I ask the Senator at this point at what age that is after its distillation? I want him to be exact about these things.

Mr. SHERMAN. It is very good brandy in three years, and whisky is not good under that time. No white man, or black man either, ought to drink whisky until it is three years old, although a great many do, because they cannot afford to wait. When brandy is three years old it is worth at least three or four times as much as whisky, because it is more valuable, it is finer in every way, it is a more valuable article of commerce. It is perfectly idle for the Senator from California to ask us to surrender \$850,000 of revenue merely to encourage the people of California in growing grapes when the highest product we have received from them on this tax is \$67,000. I have no doubt that the advantages of California as a grape-growing State will not be affected in the slightest degree by this tax. They ought to be satisfied with the reduction of one half the tax now imposed by law. So far as I know, the other States which will contribute a much larger sum than California to this tax make no complaint. They ask to be put on a footing of perfect equality, and there is no reason in the world why we should surrender this revenue. I appeal to Senators, therefore, and ask them to remember that they cannot yield to the appeal now made by the Senator from California without applying the same rule to all the other States, and without surrendering a revenue which yields in the aggregate under the present law about a million dollars, which probably at fifty cents a gallon will yield us not less than \$500,000.

Mr. CONNESS. I wish to add a few words at this time to remind the Senate of the material errors in the statement of the honorable Senator from Ohio. He holds California responsible, and judges its grape-growing and brandy-producing capacities for the ten years of its existence as a producer of those commodities—

Mr. SHERMAN. Only one year.

Mr. CONNESS. The Senator does not understand me.

Mr. SHERMAN. I spoke of only one year, 1867, last year, which was the largest product of California.

Mr. CONNESS. I have not made myself understood by the Senator. I remind the Senator that the present population of California were nearly ten years in that State before they practically discovered the value of that country and its climate for these purposes; so that its productiveness had a beginning at a

period only ten years past. Hence it is a growing interest there, not an established interest. When it becomes an established interest it will not ask relief from taxation.

But the honorable Senator does the State of California injustice in this regard: he compares the tax derived from grapes to the total tax produced from double the amount imposed upon spirits from all other sources except grain.

Mr. SHERMAN. Peaches, apples, and grapes.

Mr. CONNESS. Peaches, apples, and grapes included. I have heard the honorable Senator before this speak of the superior advantages of Ohio as a grape-growing country and of the value of the crop produced there. We have known as well, or nearly as well, as the honorable Senator of the advance made in producing wines and brandies from grapes in the State of Ohio before we began. Not to know of the history and advance made by the celebrated Longworth, now deceased, would be to argue one's self unknown. But, sir, I remind the Senator that for all Ohio has done in that regard, and for all it is capable of doing, we will exceed it, he keeping his heavy hand off, a thousandfold.

The difference, too, will be shown here, Mr. President: the wines and brandies produced in the State of Ohio, and in New Jersey, and in Michigan, or wherever they are grown on this side of the Rocky mountains, are only those produced from indigenous grapes; grapes not superior in their qualities; from a few kinds native to this soil and severe climate, while in California we have transferred to our soil every known quality of grapes on the face of the earth; and where I have my residence in that State, at an elevation from the sea of twenty-five hundred feet, the choicest grapes of Europe grow and prosper in the most wonderful manner without any attempt at preserving them from the effects of climate or frosts.

Let me not be replied to on this point by saying, "these natural advantages are enough." Not so, sir. The production of this interest must be encouraged there as the production of silk must be encouraged there, because it is the natural home for both products. It is where American enterprise and intelligence applied to those two great products can be carried on with great success to completion.

But, Mr. President, it is not my intention to occupy too much of the time of this body on this question. I only regret the view taken of it by the members of the Committee on Finance, and will close by saying that I know if they would transfer themselves to our side of this continent for a while they would return here abandoning all such notions as they have now on this subject.

Mr. STEWART. I think the Senator from Ohio has not stated this case quite fairly, and consequently I must call his attention to the facts. The amount received from brandy in California was \$67,819 13; and that all comes from grapes. They manufacture from nothing else that I am aware of.

Mr. SHERMAN. Do not they make any apple-jack?

Mr. STEWART. No; I never heard that they did. Ohio is the other grape-growing State. Ohio and California are the only two States that manufacture from grapes to any extent worth noticing at all. The whole amount received from Ohio from this manufacture from grapes, apples, and peaches—they are counted together, I suppose, and it is impossible to distinguish them, and they manufacture a little apple-jack there—is \$11,905 50; so that it is safe to say that the whole amount of revenue derived from grape brandy in the United States cannot exceed \$100,000. This amendment refers to brandy made from grapes. The amendment of the Senator from California refers to brandy made from grapes.

It was stated further by the Senator from Ohio and others that there was no special reason why this interest should be favored; it is a very small interest, and will make very little

difference to the revenue. I have a special reason. Last year I had occasion, while canvassing California, to travel through the great grape-growing region. The country is prolific in the production of the article, but the people engaged in it are poor. It takes a great deal of time to cultivate the vines and bring them to maturity. It is a new interest. They do not understand the manufacture of wines. The manufacture of wine and brandy from grapes, I will state, is dependent the one upon the other. It is impossible to make wine unless you save the refuse, so to speak, that is not used for the purpose of making wine, and work it into brandy. The wine interest is an important interest. What little they can make on the manufacture of brandy will enable them to go on. I believe if you do not relieve this interest you will seriously injure the whole enterprise. If they understood it as they do in Europe perhaps it might be otherwise. There are some experienced persons there struggling to get along, and it is a magnificent country for the purpose, and it is going to be a great interest. Reducing the tax one half will make very little difference. You only lose three or four thousand dollars in Ohio. I think if you encourage the production in California you will eventually make it one of the great interests of the country. I was in Sonoma last year, where the principal manufactories are. They have to wait several years, and they had great quantities in casks there which they were unable to bring into market on account of the competition, and several of the leading men there have actually been broken up. Colonel Haraszthy, who has done more to develop the grape interest than any other man, who has been in Europe several times, and spent his time and substance in promoting the manufacture of wine and brandy in California, has been broken up, which has been a great drawback upon the grape interest in that section. He was the leading man engaged in it.

In view of the importance of the interest, if it is allowed to prosper, I think it but reasonable that this reduction should be made. The whole of that coast from Mexico up to Oregon is suitable for the culture of grapes. It stands upon a different principle from the manufacture of brandy from peaches. You do not manufacture wine from peaches. There is no other interest depending upon it, no interest to be fostered. If we can raise our own wine in this country, it will be a very important item. It is stated by men who profess to understand it that the Pacific coast west of the Sierra Nevada mountains is capable of producing more grapes and more wines, if the interest can be cultivated, than all Europe put together. Some of the best judges from Europe so regard it. But they have to wait very long for their returns, and there are a class of men who have gone into it, many of them Germans and foreigners, who are poor and who have hard work to struggle along. They have come to this country to try to cultivate this interest, and I feel a great deal of sympathy for their efforts, having been among them and seen them, and I could not say less than this to the Senate in their behalf. I do not think it is well to say that the whole revenue derived from brandy is dependent upon this one item, which is so small in the aggregate.

Mr. MORRILL, of Vermont. I doubt not the Senate are perfectly willing to be just and even generous in the arrangement of the tax upon the brandy made in California or made anywhere else from grapes; and I only use the language "made from grapes" because that is the language of the law. But I desire that the Senate may understand precisely what they have done and what it is proposed to do. I am not unwilling to be placed in the attitude of a friend to American manufactures or to American productions of any kind; and I am proud when I hear it stated that the number of vines in California has increased from ten millions in 1864 to twenty millions in 1868. I am willing to concede that the brandy made there is a very pure and excellent article, not



of the highest flavor, but still an article recommended generally by physicians.

Now, what are the facts? In 1861 we only imposed a duty on foreign brandy of one dollar per gallon. As we imposed the internal taxes upon spirits and brandy made here at home we gradually increased it up to the sum of three dollars per gallon. I am not to be told that I am not a friend of encouraging home manufactures when the protection that we give home-made brandy is \$2 50 a gallon after we have subjected it to the tax proposed by this bill. If we could do without the revenue I should be perfectly willing to reduce the duties upon foreign brandy one half. It is only for the purpose of revenue that they ought to be kept up to the extravagant figure of three dollars a gallon. But while they are so kept up, so small is the quantity produced in all the land that it is a direct bonus of nearly two dollars a gallon for every gallon that is made in this country.

I am not willing to go further than that. It is a sorry pittance, I know, that my friends from California claim. They ask that we shall not only reduce it from one dollar a gallon to fifty cents, but that we shall split peas, and reduce it to twenty-five cents a gallon. If there is any claim for that in respect to this article, why should there not be a claim in respect to peach brandy or apple brandy? Either of the articles is worth very much more than whisky, and they all have to be kept to a very considerable age before they are suitable to sell. The idea that brandy has to be kept from 1800 or 1805 or 1815 to the present moment before it is fit for use I will say is a very mistaken idea. I have been informed by some of the largest keepers of wine and brandy that no liquor really improves for more than ten years, and it must be a liquor of extraordinary body to do even that. It must be something like Madeira wine, or brandy, or something of that character, that will improve after it is more than three or four years of age.

Mr. CONNESS. What does the Senator mean by "body?"

Mr. MORRILL, of Vermont. Alcoholic strength. Now, Mr. President, I have no interest in this matter. We make no brandy or any liquor of any kind in my State. All I desire is to be just and even generous on this subject. I merely desire that the Senate should understand what the facts are in the case.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question is on the amendment moved by the Senator from California.

Mr. HENDRICKS. Let it be read.

The CHIEF CLERK. The Committee on Finance report the following proviso to the first section of the bill:

*Provided*, That the tax on brandy made from grapes shall be the same and no higher than that upon other distilled spirits.

It is proposed to amend the proviso so as to make the tax on brandy made from grapes one half the tax upon other distilled spirits.

Mr. SHERMAN. There is one other fact in regard to this matter that I ought to state to the Senate. We have removed all restrictions from the distillation of brandy that are so burdensome to the whisky distiller. We put no tax at all upon wine made in California or elsewhere, so that the only tax on the production of the grape is this fifty cent tax on brandy. But that is not all. We have relieved them, as you will see by the next section, from all the restrictions and requirements as to the distillation of whisky. They would be very burdensome to the small distillers of brandy from peaches and grapes; and the next section provides:

And the Commissioner of Internal Revenue is hereby authorized, with the approval of the Secretary of the Treasury, to exempt distillers of brandy from apples, peaches, or grapes, exclusively, from such of the provisions of this act relating to the manufacture of spirits as in his judgment may seem expedient.

This is copied from the existing law. The Commissioner, by general regulations, relieves

them from all the requirements about keeping books and all special taxes and all stipulations of that kind, which would be embarrassing to small distillers of brandy. So that the only tax that will be left upon the distillation of brandy from grapes is the fifty cent tax. It seems to me under these circumstances we ought to make no discrimination and keep up no discrimination.

Mr. DAVIS. I desire to offer an amendment to the amendment.

The PRESIDING OFFICER. The pending amendment is an amendment to an amendment.

Mr. DAVIS. Then I suggest to the honorable Senator who proposed the amendment to add the words "or other domestic fruits" after the word "grapes."

Mr. SHERMAN. That is not in order now.

Mr. DAVIS. I merely suggest it to the Senator who moved the amendment.

Mr. COLE. I cannot accept the amendment suggested by the Senator from Kentucky. I wish to call the attention of the chairman of the committee and of Senators to the fact that brandy manufactured from grapes in the manner suggested is very different from brandy manufactured from peaches or apples. Brandy manufactured from peaches and apples includes the whole product from that fruit, all that can be made out of it. It is not so with this brandy manufactured from grapes. First, the wine is pressed out, and from the residue, the lees, the substance which otherwise would be thrown away, the brandy is manufactured. Each owner of a vineyard has this substance upon his hands after he has manufactured or pressed out his wine, and unless he is encouraged to make this further use of it by getting the brandy out of this refuse substance it will be thrown away, and in that way of course the Government will be injured, because this product, which would pay if the amendment to the amendment is adopted twenty-five cents on the gallon, would afford some revenue; whereas if it is thrown away, as it was formerly, there will be nothing from it. As it is now, the small vineyards cannot use it unless they can take it to some larger owner of a vineyard who has a distillery, and who will buy it of them, or perhaps manufacture it for them. It is not every little vineyard that can afford the machinery and apparatus to get the brandy out of this refuse substance. Senators, therefore, must see that it occupies a different ground from brandy which is manufactured from apples or peaches.

I will add but one word more. There has been no fraud perpetrated under this law. There is no complaint from any quarter on that score. This brandy has paid its tax honestly and fairly, and will do it, wherever it is imposed, or whatever amount may be imposed. The fact is that the internal revenue districts of California have been better administered than those in other portions of the Union. I made a statement some time ago which I will repeat now, that the tax upon spirits in the first district of California, which comprises San Francisco and this wine-growing region, was nearly as great as the entire tax from whisky in the ten districts of New York, including the cities of New York and Brooklyn. This ought to be sufficient to convince Senators that there are no frauds perpetrated there at all events, and that the tax is well collected in that portion of the Union. I hope the same rule that prevailed under the old law will be allowed to exist under this, and that the amendment to the amendment will be adopted.

Mr. DAVIS. There are two reasons to my mind why the tax on brandy made from grapes ought to be more, or at least equally as much, as the tax upon brandy made from apples or other fruits, one of which was stated by the honorable Senator who has just taken his seat. After the wine is expressed from the grape there is a refuse from which, as the honorable Senator says, the matter of brandy is extracted. He says if the brandy is taxed this refuse will be thrown away, and therefore

lost. He further made the remark that the brandy which is made from peaches and apples is the aggregate value of the raw article. That is true. The fruit that can first be used in the manufacture of wine, and from the refuse of which brandy can also be made, is certainly capable of sustaining a higher tax than where the entire fruit is consumed in the manufacture of brandy. Therefore, the honorable Senator's reason is against his conclusion, and strongly supports the conclusion that brandy made from the grape ought at least to pay as high a tax, and I think a higher tax, if any discrimination is made, than brandy made from apples or peaches.

There is another reason why the tax upon brandy made from the grape ought to be larger. It is the most valuable. It commands a higher price in the market. Brandy made from the apple I presume, and I think such is the fact, does not command half the price that brandy made from the grape does. There are apple orchards all over the mountain regions of the United States, and the man who owns an apple orchard erects a shed and gets a small still and he manufactures brandy from his own orchard or from the orchards of his neighbors. This is a manufacture that is very extensive in the mountainous portions of the United States. To be sure, when you get so far south that it is too warm for the apple tree to flourish, there is no apple brandy manufactured; but in the whole chain of the Alleghanies and the spurs of the Alleghanies there are in the aggregate a very large amount of apple orchards, and the fruit is mostly applied to the distillation of apple brandy. A great many inhabitants in the mountain regions of the country have no other sources of revenue than this distillation into brandy, and from the brandy, the result of their distillation, they derive all the revenue that they make at all. Others, of course, have smaller branches of other industries combined with it, and make profits from other sources besides the distillation of apples. But the amount of brandy distilled from apples, which is the exclusive revenue of very many men, in the aggregate amounts to a great deal. I do not think that the brandy distilled from apples especially, and also from peaches, ought to be taxed fifty cents. I think the honorable Senator from California would add to the strength of his proposition if he would adopt my suggestion. If he does not, I shall vote against his amendment.

Mr. CONNESS. I submit to the honorable Senator from Kentucky that he can offer that proposition as an amendment after this has been voted upon.

Mr. DAVIS. I would rather put it in company with the proposition to tax brandy made from grapes. I think the whole family, as they are all brandies, might move along harmoniously together.

Mr. BUCKALEW. I suppose we can discuss the amendment of the Senator from Kentucky when it is offered. At present we have simply an amendment proposed to make a discrimination similar to that which is in the existing law. By our present internal tax law, while the duty on spirits generally is fixed at two dollars a gallon, that on brandy made from grapes is fixed at one dollar, being one half the former amount. Now, when the general level of spirit duties is to be brought down from two dollars to fifty cents, the Senator from California proposes that the duty on grape brandy shall be brought down from one dollar to twenty-five cents, being a corresponding decrease in the existing duty to that which is provided for spirits in general. In the first place this discrimination is not a novelty. It is not a new and extraordinary thing proposed for the first time by the Senator from California. He proposes to continue in the new law the principle which is already in existence in the present law. His amendment is not obnoxious to the charge that it is to overturn any settled principle in our revenue system or to introduce any novelty in our enactments. Another consideration has occurred to me.

We impose no tax upon wine produced in this country from grapes. Our native wines are as yet exempt from the direct pressure of our financial burdens. Our financiers have not proposed to us to resort to that object for raising means to meet the burdens of the Government. Domestic wines are exempt, while you impose very heavy duties, such as the public necessities demand, upon all wines imported from abroad. Now, sir, this production of grape brandy is connected with the production of domestic wines. It is a part of the general production from vineyards, and it seems to me that if there is any good reason for exempting our domestic wines from taxation, necessarily there must be good reason for treating the production of brandy from grapes at least with indulgence.

Mr. President, no sooner does a new interest spring up in the country, no sooner does it commence to exhibit itself, and to show that it has merit and promise, than gentlemen who have charge of our revenue system begin to consider it as an interesting object of taxation. The Committee on Finance, casting their eyes abroad over the productions of the country, have discovered this new production, and it seems not only to have attracted their attention, but also to have inspired their ingenuity—if I may so express myself—in argument, in order to bring it under this proposed fifty-cent tax. They say that the duty is, in fact, under the proposed bill less than under the existing law. That is very true. The present duty is one dollar. They propose to make it fifty cents; and they tell us that this is a boon to the vineyard men, and to the manufacturers of wine and brandy from grapes. It is very true that the duty is reduced in amount one half, but this question of duties upon spirits is a relative one. You are to consider all your duties together. You are to consider how one article can command a market in competition with other articles; how one form of alcoholic spirits can get into the market, and can command the market in competition with other forms of production.

Now, then, you observe that the case as to the production of brandy from grapes is entirely changed. When you lower the general spirit duties from two dollars to fifty cents you have a new field, you have a new question; and to apply the reasoning which we have heard here, that you are favoring this particular interest because you reduce its burden one half, seems to me absurd or inconsequential, in view of the fact that you reduce other spirit duties four times. It is a relative question, and you are to take into view all the facts which pertain to it.

Mr. MORRILL, of Vermont. Will the Senator from Pennsylvania permit me to suggest to him that the only article that comes in competition with this grape brandy is an imported article, the duties upon which remain at three dollars a gallon.

Mr. BUCKALEW. I do not understand it so. I understand that there is a competition in the markets of the country and in the consumption of the country between different domestic spirits, a thing I considered so manifest that no gentleman would question it.

One other remark and I will leave this amendment to its fortunes. During several years past I have been much interested in reading accounts from California, in agricultural papers of the eastern States, of the cultivation of vineyards and generally of the development, new and astonishing, of agricultural interests in that State. I shall not, however, recite reminiscences of my reading. I will sum up what I have to say in a few words. I have obtained the impression that California affords one of the most eligible locations for vineyards in the world, and that by treating the vineyard interest in that State indulgently by our legislation in Congress we can greatly promote its development and success, and may secure a very valuable production not only for domestic consumption but also to enter into the general commerce of the world. Vines are now being

planted there by the million. Of course those vineyards are new; they are not yet fully grown; they are not yet felt in the commerce of the country; they do not yield very large and astonishing results in our returns of taxation; but I am entirely convinced that if we permit those interests connected with vineyard cultivation in California to have free course, to grow up, we will reap in our revenue, directly and indirectly, hereafter, very great advantage, and we will get a valuable article for exportation abroad.

Sir, instead of looking with disfavor upon the growth of vineyards in California, or seeking to tax them or their productions severely, I would regard them kindly and bear very lightly upon them. I would enable them, if I could, to spring up and to grow into a great national interest. I agree entirely, so far as my information enables me to form an opinion, with the arguments which have been made by the Senators from California on this subject, and I shall, with great cheerfulness, vote for the amendment which they propose.

Mr. FOWLER. I wish to make one remark in this connection. From the reports that I have got from California and from Senators from the Pacific coast, it is very evident that that country is well qualified for the production of grapes, and of course for the manufacture of wine and brandy. The mere tax of fifty cents a gallon on the production of brandy amounts to nothing, as they are already protected by a duty of three dollars a gallon on the imported article. Here is a bounty of two dollars and fifty cents a gallon upon the production of brandy made from grapes in the State of California. Besides, this tax really amounts to nothing. Last year I understand it was only \$11,000 in California.

Mr. SHERMAN. Sixty-seven thousand dollars in California.

Mr. STEWART. And \$11,000 in Ohio.

Mr. FOWLER. It does not amount to much, at any rate. If it were necessary to protect this production to any greater extent than it is already protected, we had better remit the entire tax. That would be little more than reducing it to twenty-five cents. I do not know how much it would be necessary to pay in order to protect this reduction if \$2 50 a gallon is not sufficient. To what extent can we go? The argument of the Senator from Pennsylvania would show that we ought to encourage this branch of industry. If this is not a sufficient encouragement, pray how many more dollars would be required in addition? Remember that it has been stated that the foreign article is the only article that enters into competition with brandy made from grapes in this country. If whisky or spirits competed with it, of course the whole thing should be taken into consideration; but this is a specific article and it has a protection larger than almost any other in this country. Again, it is the only possible duty which you can get from the article. If you do not get this tax, you will get none at all. If it be true, as has been stated, and I have no doubt it is, that this brandy is made from the refuse after the manufacture of wine, I see no reason why it should not pay a tax of fifty cents a gallon, whereas in apple and peach brandy the whole fruit is entirely lost as soon as the brandy is made from it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California, [Mr. COLE.]

Mr. CONNESS. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. CONNESS. I desire to say one word before the vote is taken, and that is to the Senator from Tennessee. In California, where this interest is known and understood, I want to acquaint him with what the practice is touching the relative tax imposed upon different classes of property in our local State legislation. It is well known, and I need not state it here, that California in the production of the cereals is equal if not superior, according to

its area, to any other State in the Union, and the agricultural or grain-growing interest in that State may predominate in the legislation of the State when it pleases; but it sustains a statute in that State exempting vineyards until they are five years old from all taxation whatever, so universal is the opinion of the necessity, to use a common phrase, of "letting up" on this interest in which so much is invested and which takes such a length of time to mature. If the opinion of that State does that, certainly the relative taxation imposed of last year may be kept up here.

The question being taken by yeas and nays, resulted—yeas 11, nays 24; as follows:

YEAS—Messrs. Buckalew, Chandler, Cole, Conness, Hendricks, Howard, McCreery, Morton, Stewart, Sumner, and Williams—11.

NAYS—Messrs. Anthony, Cattell, Conkling, Cragin, Davis, Edmunds, Fessenden, Fowler, Frelighuysen, Harlan, Howe, Johnson, McDonald, Morgan, Morrill of Vermont, Osborn, Patterson of New Hampshire, Pomeroy, Ross, Sherman, Tipton, Van Winkle, Welch, and Yates—24.

ABSENT—Messrs. Bayard, Cameron, Corbett, Dixon, Doolittle, Drake, Ferry, Grimes, Henderson, Morrill of Maine, Norton, Nye, Patterson of Tennessee, Ramsey, Rice, Saulsbury, Sprague, Thayer, Trumbull, Vickers, Wade, Willey, and Wilson—23.

So the amendment to the amendment was rejected.

The amendment of the committee was agreed to.

The Chief Clerk continued the reading of the bill, as follows;

SEC. 2. And be it further enacted, That proof-spirit shall be held and taken to be that alcoholic liquor which contains one half of its volume of alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten thousandths at sixty degrees Fahrenheit; and the Commissioner of Internal Revenue, for the prevention and detection of frauds by distillers of spirits, is hereby authorized to adopt, procure, and prescribe for use, at the expense of the United States, such hydrometers, saccharometers, weighing and gauging instruments, meters, or other means for ascertaining the quantity, gravity, and producing capacity of any mash, wort, or beer used or to be used in the production of distilled spirits, and the strength and quantity of spirits subject to tax, as he may deem necessary; and he may prescribe rules and regulations to secure a uniform and correct system of inspection, weighing, marking, and gauging of spirits. And in all sales of spirits hereafter made a gallon shall be taken to be a gallon of proof-spirit, according to the foregoing standard set forth and declared for the inspection and gauging of spirits throughout the United States.

The committee reported two amendments to this section. The first was, in line eight, to strike out the word "procure," and after the word "use," in the same line, to strike out the words "at the expense of the United States."

The amendment was agreed to.

The next amendment was to add at the end of the section the following:

And the Commissioner of Internal Revenue is hereby authorized, with the approval of the Secretary of the Treasury, to exempt distillers of brandy from apples, peaches, or grapes, exclusively, from such of the provisions of this act relating to the manufacture of spirits as, in his judgment, may seem expedient.

Mr. HOWARD. I think the phraseology of this amendment is rather peculiar, and may lead to misunderstanding. I should like the chairman of the committee to explain it. It seems to me it gives the Secretary of the Treasury a discretionary authority even to remit entirely the tax upon these articles.

Mr. SHERMAN. I will say to the Senator from Michigan it is copied from the old law, and is intended simply for this purpose. This bill provides for a great number of reports and a great amount of stringent legislation to guard against frauds in the distillation of grain. These are not applicable to the little distilleries where fruit is distilled into brandy. This provision is the same as that contained in the old law. It always has been a part of the law. It simply authorizes the Commissioner of Internal Revenue, by general regulation, with the approval of the Secretary of the Treasury, to relieve distillers of brandy from apples, peaches, or grapes, from such of the provisions of this act relating to the manufacture of spirits, that is the mode and manner of making the accounts &c., as in his judgment may seem expedient.

Mr. HOWARD. Is it simply to relieve them from some of the details of the legislation?

Mr. SHERMAN. That is all.

Mr. HOWARD. It does not authorize the Secretary to remit the tax?

Mr. SHERMAN. No, sir; not at all.

Mr. ANTHONY. It does not intend to do it; but does it not do it?

Mr. SHERMAN. No, sir.

Mr. HOWARD. I suggest to the chairman to alter the phraseology so as to make it plain and specific.

Mr. SHERMAN. The proof of the pudding is in the eating of it. This provision has always been in the law, and it has never interfered with the collection of the tax.

Mr. HOWARD. If the chairman is satisfied that it is sufficiently explicit I have nothing further to say.

Mr. MORRILL, of Vermont. I suggest to the chairman of the Committee on Finance whether the word "relating" might not be changed to "regulating?"

Mr. SHERMAN. These are the same words that are in the old law.

Mr. MORRILL, of Vermont. I know they are; but would not "regulating" be a better chosen word?

Mr. SHERMAN. The language is here "relating to the manufacture of spirits." You cannot make anything else out of it.

The PRESIDING OFFICER. The question is on the amendment of the committee.

The amendment was agreed to.

The Committee on Finance reported an amendment, to insert as section three the following:

SEC. 3. *And be it further enacted*, That whenever the Commissioner of Internal Revenue shall adopt and prescribe for use any meter, meters, or meter sales it shall be the duty of every owner, agent, or superintendent of a distillery to make application to the collector of his district for such meter, meters, or meter sales to be used in his distillery, and the same shall be furnished and attached to the distillery at the expense of the distiller, whose duty it shall be to furnish all the pipes, materials, labor, and facilities necessary to complete such attachment in accordance with the regulations of the Commissioner of Internal Revenue, who is hereby further authorized to order and require such changes of or additions to distilling apparatus, connecting pipes, pumps, or cisterns, or any machinery connected with or used in or on the distillery premises, or may require to be put on any of the stills, tubs, cisterns, pipes, or other vessels such fastenings, locks, or seals as he may deem necessary.

Mr. HENDRICKS. I wish to ask the chairman of the committee whether this contemplates a meter beside that already established?

Mr. SHERMAN. No, sir. I will say to the Senator that this section is in accordance with the existing law. The House undertook in the second section of this bill to require the United States at its own expense to furnish meters to distilleries; but very many of the distilleries have already furnished themselves with meters in accordance with the regulations of the law.

Mr. HENDRICKS. The only reason why I made the inquiry was that I supposed, under the present regulations, distillers had already gone to this expense, and that this contemplated an abandonment of that and the adoption of some other plan.

Mr. SHERMAN. On the contrary, it contemplates going on with the present system.

Mr. HENDRICKS. Then I have no objection to it.

The amendment was agreed to.

The Chief Clerk read the third section of the House bill, now become section four, as follows:

*And be it further enacted*, That distilled spirits, spirits, alcohol, and alcoholic spirit, within the true intent and meaning of this act, is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation of grain, or starch, or sugar, including all dilutions and mixtures of this substance; and the tax which shall attach to this substance as soon as it is in existence as such, whether it be subsequently separated as pure or impure spirit, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production or by any subsequent process; and no mash, wort, or wash fit for distillation or the production of spirits or alcohol shall be made or fermented in any building or on any premises other than a distillery duly authorized according to law; and

no such mash, wort, or wash so made and fermented shall be sold or removed from any distillery before being distilled; and no person other than an authorized distiller shall by distillation, or by any other process, separate the alcoholic spirits from any fermented mash, wort, or wash; and no person shall use spirits or alcohol or any vapor of alcoholic spirits in manufacturing vinegar or any other article, or in any process of manufacture whatever, unless the spirits or alcohol so used shall have been produced in an authorized distillery and the tax thereon paid, or shall have been lawfully imported into the United States and the duties thereon paid. Any person who shall violate any of the provisions of this section shall be fined, for every offense, not less than \$500 nor more than \$5,000, and imprisoned for not less than six months nor more than two years.

The Committee on Finance reported an amendment, in line seven to strike out the word "which."

The amendment was agreed to.

The next amendment was to insert at the end of the section the following proviso:

*Provided*, That nothing in this section shall be construed as imposing any additional tax on fermented liquors, or any regulations respecting the manufacture thereof, other than those elsewhere provided for.

The amendment was agreed to.

The Chief Clerk read the next section, as follows:

SEC. [4] 5. *And be it further enacted*, That every person having in his possession or custody, or under his control, any still or distilling apparatus set up, shall register the same with the assistant assessor of the division in which said still or distilling apparatus shall be, by filing with him duplicate statements, in writing, subscribed by such person, setting forth the particular place where such still or distilling apparatus is set up, the kind of still and its cubic contents, the owner thereof, his place of residence, and the purpose for which said still or distilling apparatus has been or is intended to be used; one of which statements shall be retained and preserved by the assistant assessor, and the other transmitted to the assessor of the district. Stills and distilling apparatus now set up shall be so registered within sixty days from the time this act takes effect, and those hereafter set up shall be so registered immediately upon their being set up. Any still or distilling apparatus not so registered, together with all personal property in the possession, or custody, or under the control of such person and found in the building, or in any yard or inclosure connected with the building, in which the same shall be set up, shall be forfeited. And any person having in his possession or custody, or under his control, any still or distilling apparatus set up which is not so registered, shall pay a penalty of \$500, and on conviction shall be fined not less than \$100 nor more than \$1,000, and imprisoned for not less than one month nor more than two years.

No amendment being reported to this section, the Chief Clerk read the next section, as follows:

SEC. [5] 6. *And be it further enacted*, That every person engaged in, or intending to be engaged in, the business of a distiller or rectifier, shall give notice in writing, subscribed by him, to the assessor of the district within which such business is to be carried on, stating his name and place of residence, and if a company or firm, the name and place of residence of each member thereof, the place where said business is to be carried on, and whether of distilling or rectifying. And if such business be carried on in a city, the residence and place of business shall be indicated by the name of the street and number of the building. In case of a distiller the notice shall also state the kind of stills, and the cubic contents thereof, the number and kind of boilers, the number of mash-tubs and fermenting-tubs, and the cubic contents of each tub, the number of receiving cisterns, and the cubic contents of each cistern, together with a particular description of the lot or tract of land on which the distillery is situated, with the size and description of the buildings thereon, and of what material constructed. The notice shall also state the number of hours in which the distiller will ferment each tub of mash or beer, the estimated quantity of distilled spirits which the apparatus is capable of distilling every twenty-four hours, and the names and residence of every person interested or to be interested in the business, and that said distillery and the premises connected therewith are not within six hundred feet of any premises authorized to be used for rectifying or refining distilled spirits by any process. In case of a rectifier, the notice shall state the precise location of the premises where such business is to be carried on, the name and residence of every person interested or to be interested in the business, by what process the applicant intends to rectify, purify, or refine distilled spirits, the kind and cubic contents of any still used or to be used for such purpose, and the estimated quantity of spirits which can be rectified, purified, or refined every twenty-four hours in such establishment, and that said rectifying establishment is not within six hundred feet of the premises of any distillery registered for the distillation of spirits. In case of any change in the location, form, capacity, ownership, agency, superintendency, or in the persons interested in the business of such distillery or rectifying establishment, or in the time of fermenting the mash or beer, notice thereof, in writing, shall be given to the said assessor or to the assistant assessor of the division within twenty-four hours of said change. And any assistant assessor

receiving such notice shall immediately transmit the same to the assessor of the district. Every notice required by this section shall be in such form and shall contain such additional particulars as the Commissioner of Internal Revenue may from time to time prescribe. Any person failing or refusing to give such notice shall pay a penalty of \$1,000, and on conviction shall be fined not less than \$100 nor more than \$2,000, and any person giving a false or fraudulent notice shall, on conviction, in addition to such penalty or fine, be imprisoned not less than six months nor more than two years.

No amendment being reported to this section, the Chief Clerk read the next section, as follows:

SEC. [6] 7. *And be it further enacted*, That every distiller shall, on filing his notice of intention to continue or commence business, with the assessor before proceeding with such business, make and execute a bond in form prescribed by the Commissioner of Internal Revenue, with at least two sureties, to be approved by the assessor of the district. The penal sum of said bond shall not be less than double the amount of tax on the spirits that can be distilled in his distillery during a period of fifteen days; but in no case shall such bond be for a less sum than \$5,000. The condition of the bond shall be that the principal shall faithfully comply with all the provisions of this act in relation to the duties and business of distillers, and will pay all penalties incurred or fines imposed on him for a violation of any of the said provisions; that he will not suffer the lot or tract of land on which the distillery stands, or any part thereof, or any of the distilling apparatus, to be incumbered by mortgage, judgment, or other lien during the time in which he shall carry on said business. The assessor may refuse to approve said bond when, in his judgment, the situation of the distillery is such as would enable the distiller to defraud the United States; and in case of such refusal, the distiller may appeal to the Commissioner of Internal Revenue, whose decision in the matter shall be final. A new bond shall be required in case of the death, insolvency, or removal of either of the sureties, and may be required in any other contingency, at the discretion of the assessor or Commissioner of Internal Revenue. Any person failing or refusing to give the bond hereinbefore required, or giving any false, forged, or fraudulent bond, shall forfeit the distillery, distilling apparatus, and all real estate and premises connected therewith, and on conviction shall be fined not less than \$500, nor more than \$5,000, and imprisoned not less than six months nor more than two years.

The committee reported two amendments to this section. The first was in line twenty-four, to strike out "shall" and insert "may;" and in line twenty-six to strike out the words "may be required;" so as to read:

A new bond may be required in case of the death, insolvency, or removal of either of the sureties, and in any other contingency, at the discretion, &c.

The amendment was agreed to.

The next amendment was in line twenty-nine, after the word "required" to insert the words "or to renew the same."

The amendment was agreed to.

The Chief Clerk read the next section, as follows:

SEC. [7] 8. *And be it further enacted*, That no bond of a distiller shall be approved unless he is the owner in fee, unincumbered by any mortgage, judgment, or other lien, of the lot or tract of land on which the distillery is situated, or unless he files with the assessor in connection with his notice, the written consent of the owner of the fee, and of any mortgage, judgment creditor, or other person having a lien thereon, duly acknowledged, that the premises may be used for the purpose of distilling spirits, subject to the provisions of this act, and expressly stipulating that the lien of the United States for taxes and penalties shall have priority of such mortgage, judgment, or other incumbrance, and that in case of the forfeiture of the distillery premises, or any part thereof, the title of the same shall vest in the United States discharged from any such mortgage, judgment, or other incumbrance. In any case where the owner of a distillery or distilling apparatus, erected prior to the passage of this act, has an estate for a term of years only in the lot or tract of land on which the distillery is situated, the lease or other evidence of title to which shall have been duly recorded prior to the passage of this act, the value of such lot or tract of land, together with the building and distilling apparatus, shall be appraised in the manner to be prescribed by the Commissioner of Internal Revenue; and the assessor is hereby authorized to except, in lieu of the said written consent of the owner of the fee, the bond of said distiller with not less than two sureties, who shall be residents of the collection district or county, or an adjoining county in the same State, in which the distillery is situated, and shall be the owners of unincumbered real estate in said district or county, or adjoining county, equal to such appraised value. The penal sum of said bond shall be equal to the appraised value of said lot or tract of land, together with the buildings and distilling apparatus, and conditioned that in case the distiller, distilling apparatus, or any part thereof, shall, by final judgment, be forfeited for the violation of any of the provisions of this act, the obligors will pay the amount stated in said bond. Said bond shall be in such form as the Commissioner of Internal Revenue shall prescribe.



The committee reported an amendment to this section in line twenty-five, to strike out the word "except" and to insert "accept."

The amendment was agreed to.

The Chief Clerk read the following sections, to which no amendments were proposed:

Sec. [8] 9. *And be it further enacted*, That every distiller and every person intending to engage in the business of a distiller shall, previous to the approval of his bond, cause to be made, under the direction of the assessor of the district, an accurate plan and description, in triplicate, of the distillery and distilling apparatus, distinctly showing the location of every still, boiler, doubler, worm-tub, and receiving cistern, the course and construction of all fixed pipes used or to be used in the distillery, and of every branch thereof, and of every cock, or joint thereof, and of every valve therein, together with every place, vessel, tub, or utensil from and to which any such pipe shall lead, or with which it communicates. Such plan and description shall also show the number and location of every cubic contents of every still, mash-tub, and fermenting-tub, together with the cubic contents of every receiving cistern, and the color of each fixed pipe, as required in this act. One copy of said plan and description shall be kept displayed in some conspicuous place in the distillery; two copies shall be furnished to the assessor of the district, one of which shall be kept by him and the other transmitted to the Commissioner of Internal Revenue. The accuracy of every such plan and description shall be verified by the assessor, the draughtsman, and the distiller; and no alteration shall be made in such distillery without the consent, in writing, of the assessor, which alteration shall be shown on the original or by a supplemental plan and description, and a reference thereto noted on the original, as the assessor may direct; and any supplemental plan and description shall be executed and preserved in the same manner as the original.

Sec. [9] 10. *And be it further enacted*, That immediately after the passage of this act every assessor shall proceed, at the expense of the United States, with the aid of some competent and skillful person, to be designated by the Commissioner of Internal Revenue, to make survey of each distillery registered or intended to be registered for the production of spirits in his district to estimate and determine its true producing capacity, and in like manner shall estimate and determine the capacity of any such distillery as may hereafter be so registered in said district, a written report of which shall be made in triplicate, signed by the assessor and the person aiding in making the same, one copy of which shall be furnished to the distiller, one retained by the assessor, and the other immediately transmitted to the Commissioner of Internal Revenue. If the Commissioner of Internal Revenue shall at any time be satisfied that such report of the capacity of a distillery is in any respect incorrect or needs revision, he shall direct the assessor to make in like manner another survey of said distillery; the report of said survey shall be executed in triplicate and deposited as hereinbefore provided. And, in like manner and under like restrictions and provisions, there shall be ascertained, recorded, and reported the capacity of every establishment now existing, or that may be hereafter commenced, for redistilling distilled spirits.

Sec. [10] 11. *And be it further enacted*, That after the passage of this act it shall not be lawful for any assessor to assess a special tax upon any distiller, or for the collector to collect the same, or for any distiller who has heretofore paid a special tax as such to continue the business of distilling until such distiller shall have given the bond required by this act, and shall have complied with the provisions of law having reference to the registration and survey of distilleries, and having reference to the arrangement and construction of distilleries, and the premises connected therewith, in manner and as required by this act; nor shall it be lawful for any assessor of internal revenue to assess, or for any collector to collect, any special tax for distilling on any premises distant less than six hundred feet from any premises used for rectifying, nor shall any assessor assess or collector collect any special tax for rectifying distilled spirits on any premises distant less than six hundred feet from any distillery when the distillery and rectifying establishments are occupied and used by different persons; nor shall the processes of distillation and rectification both be carried on within the distance of six hundred feet. In all cases where a distillery and rectifying establishment, distant from the one from the other less than six hundred feet are occupied and used by the same person said person shall have the right to elect which business shall be discontinued at that place. In all cases where rectifying or distilling shall be discontinued under the provisions of this section, and the time for which the special tax for rectifying or distilling was paid remains unexpired, the Secretary of the Treasury is hereby authorized to refund out of any money in the Treasury not otherwise appropriated, on requisition of the Commissioner of Internal Revenue, a proportionate part of any sum originally paid for special tax therefor, which shall be in such ratio to the whole sum paid as the unexpired time for which special tax was paid shall bear to the whole term for which the same was paid. Any collector or assessor of internal revenue who shall fail to perform any duty imposed by this section, or shall assess or collect any special tax in violation of its provisions, shall be liable to a penalty of \$5,000 for each offense.

Sec. [11] 12. *And be it further enacted*, That no person shall use any still, boiler, or other vessel for the purpose of distilling in any dwelling-house, nor in any shed, yard, or inclosure connected with any dwelling-house, nor on board of any vessel or boat, nor in any

building or on any premises where beer, lager beer, ale, porter, or other fermented liquors, vinegar or other are manufactured or produced, or where sugars or sirups are refined, or where liquors of any description are retailed, or where any other business is carried on; and every person who shall use any still, boiler, or other vessel for the purpose of distilling, as aforesaid, in any building or other premises where the above specified articles are manufactured, produced, refined, or retailed, or other business is carried on, or on board of any vessel or boat, or in any dwelling-house or other place, as aforesaid, or shall aid or assist therein, or who shall cause or procure the same to be done, shall, on conviction, be fined \$1,000, and imprisoned for not less than six months nor more than two years, in the discretion of the court: *Provided*, That saleratus may be manufactured, or meal or flour ground from grain in any building or on any premises where spirits are distilled; but such meal or flour only to be used for distillation on the premises.

Mr. CORBETT. Are these provisions to be disposed of as we go along?

The PRESIDING OFFICER. That is the order of the Senate.

Mr. CORBETT. It seems to me that this is a very singular provision:

That saleratus may be manufactured, or meal or flour ground from grain in any building or on any premises where spirits are distilled; but such meal or flour only to be used for distillation on the premises.

Mr. SHERMAN. As soon as the amendments of the committee are disposed of, the whole bill will be open to amendment, and the Senator can then move to amend that provision of the bill, although that provision is a necessary part of any tax bill because they must grind their grain at the distillery. Still, it will all be open to amendment at another stage.

The PRESIDING OFFICER. The reading of the bill will be proceeded with.

The Chief Clerk read the next section, as follows:

Sec. [12] 13. *And be it further enacted*, That there shall be assessed and collected monthly, in the same manner as other taxes are assessed and collected, on every registered distillery having an aggregate capacity for mashing and fermenting twenty bushels of grain or less, or sixty gallons of molasses or less, in twenty-four hours, two dollars per day; and two dollars per day for every twenty bushels of grain or sixty gallons of molasses of said capacity in excess of twenty bushels of grain or sixty gallons of molasses in twenty-four hours. But any distiller who shall stop work, as provided by this act, shall pay only two dollars per day during the time the work shall be so suspended in his distillery.

The Committee on Finance reported several amendments to this section. The first was in lines two, three, and four, to strike out the words "in the same manner as other taxes are assessed and collected, on every registered distillery having," and to insert "from every authorized distiller whose distillery has."

The amendment was agreed to.

The next amendment was in line seven, after "hours" to insert "a tax of;" and after "day" to insert "Sundays excepted;" and in line eight to insert the words "a tax of" before "two."

The amendment was agreed to.

The next amendment was in line twelve, to strike out "stop" and to insert "suspend."

The amendment was agreed to.

The Chief Clerk read the next section, as follows:

Sec. [13] 14. *And be it further enacted*, That any person who shall manufacture any still, boiler, or other vessel, to be used for the purpose of distilling, shall, before the same is removed from the place of manufacture, notify in writing the assessor of the district in which such still, boiler, or other vessel is to be used or set up, by whom it is to be used, its capacity, and the time when the same is to be removed from the place of manufacture; and no such still, boiler, or other vessel shall be set up without the permit in writing of the said assessor for that purpose; and any person who shall set up any such still, boiler, or other vessel, without first obtaining a permit from the said assessor of the district in which such still, boiler, or other vessel is intended to be used, or who shall fail to give such notice, shall pay in either case the sum of \$500, and shall forfeit the distilling apparatus thus removed or set up in violation of law.

No amendment being proposed to this section, the next was read, as follows:

Sec. [14] 15. *And be it further enacted*, That every distiller shall provide at his own expense a warehouse to be situated on and to constitute a part of his distillery premises, to be used only for the storage of distilled spirits, of his own manufacture, but no

dwelling-house shall be used for such purpose, and no door, window, or other opening shall be made or permitted in the walls of such warehouse leading into the distillery or into any other room or building; and such warehouse, when approved by the Commissioner of Internal Revenue, on report of the collector, is hereby declared to be a bonded warehouse of the United States, to be known as a distillery warehouse, and shall be under the direction and control of the collector of the district, and in charge of an internal revenue forekeeper assigned thereto by the Commissioner of Internal Revenue; and the tax on the spirits stored in such warehouse shall be paid before removal from such warehouse, unless removed in pursuance of this act.

The committee reported an amendment to this section, to strike out the last words, "unless removed in pursuance of this act."

The amendment was agreed to.

Mr. HENDRICKS. I wished to inquire of the chairman, while the twelfth section was being read, as to the adoption in this bill of the policy of having extraordinary taxes. Why not in one sum fix the tax by the gallon? Here is a tax in this twelfth section by the day.

Mr. SHERMAN. I will state that this came from the House, and we have modified it only in language. The purpose of this section, so far as I know, is to discriminate against very small distilleries, so as not to encourage the distillation of spirits except in distilleries where the distillation amounts to the aggregate here stated. It is not large. If I had my way in a tax bill I would at least quadruple the minimum of this bill; but the committee did not see proper to amend it as fixed by the House. As a matter of course, if a little distillery with a capacity of mashing only ten bushels of grain should be started, it would have to pay two dollars a day. To that extent it would be a discrimination against the very small distilleries.

Mr. HENDRICKS. It would cost that man more than another?

Mr. SHERMAN. The purpose is to discourage, by this language, the very small distilleries. I will say to the Senator that I do not think there are any distilleries in Indiana or Ohio that have not the capacity of mashing twenty bushels a day. I think it would make it more effective if it were a tax upon distilleries having less than a capacity of mashing one hundred bushels of grain a day. Then it would probably discourage the distillation of small distilleries.

Mr. HENDRICKS. I supposed the tax was evaded more frequently by large establishments than by small ones.

Mr. SHERMAN. Large establishments have evaded the tax in removal from bonded warehouse for transportation or for rectifying. The Senator will see that this bill is framed on the idea that no liquor shall be removed from the place of distillation for any purpose except after the payment of the tax.

Mr. TRUMBULL. Do I understand that it is not to be removed for the purpose of exportation without paying tax?

Mr. SHERMAN. It is not to be removed for any purpose without payment of tax, but there is a provision that in case of exportation in a certain way a drawback shall be paid.

Mr. TRUMBULL. And it must be exported in order to get that drawback?

Mr. SHERMAN. Yes, sir; it must be on ship board and cleared for exportation, and then the drawback is paid on the delivery of a bond to secure the *bona fide* exportation. The Senator will find some fifty pages further on the machinery by which whisky may be exported. There is no provision by which whisky can be got out of the distillery warehouse except upon payment of the tax on the basis of this act.

Mr. TRUMBULL. That is very objectionable, I know, to many of the distillers in my State. I have received many letters in regard to it and have sent some of them to the committee.

Mr. SHERMAN. I know that; but that principle is adopted in framing the bill, and as a matter of course if that principle is abandoned the whole bill will have to be reframed. The whole theory of this bill and the striking difference between this and the present system is that under this bill no whisky of any kind can

be removed from the distillery warehouse without payment of the tax, and the guards and machinery provided are with a view to detect and take possession immediately of distilled spirits, put them in warehouse, and keep them till the tax is paid.

Mr. TRUMBULL. I suppose the committee have considered the objections that are made by manufacturers of whisky in the West, where it is chiefly manufactured, to this system of requiring the tax to be paid there when the market is not there, and the advantage that it gives to other portions of the country.

Mr. SHERMAN. As a matter of course we have considered them fully. If the Senator wants to raise the question at any time, I am prepared to discuss it at length; but I am satisfied, and I think the whole country is satisfied, and every officer of the Government is satisfied, that it is utterly impossible to collect the tax on spirits unless that tax is levied at the place of distillation. That may be said to be an axiom upon which we have based the whole bill. If that axiom is overthrown, as a matter of course the bill entirely fails. I do not choose to go into the discussion unless required to do so.

Section fifteen, now sixteen, was next read, as follows:

*And be it further enacted, That the owner, agent, or superintendent of any distillery established as hereinbefore provided, shall erect in a room or building to be provided and used for that purpose, and for no other, and to be constructed in the manner to be prescribed by the Commissioner of Internal Revenue, two or more receiving cisterns, each to be at least of sufficient capacity to hold all the spirits distilled during the day of twenty-four hours, into which shall be conveyed all the spirits produced in said distillery; and each of such cisterns shall be so constructed as to leave an open space of at least three feet between the top thereof and the floor or roof above, and of not less than eighteen inches between the bottom thereof and the floor below, and shall be so situated that the officer can pass around the same, and shall be connected with the outlet of the worm or condenser by suitable pipes or other apparatus so constructed as always to be exposed to the view of the officer, and so connected and constructed as to prevent the abstraction of spirits while passing from the outlet of the worm or condenser to the receiving cisterns; such cisterns and the room in which they are contained shall be in charge of and under the lock and seal of the internal revenue gauger designated for that duty; and on the third day after the spirits are conveyed into such cisterns the same shall be drawn off into casks or other packages, under the supervision of such gauger in the presence of the storekeeper; and shall be immediately inspected, gauged, proved, and the casks or packages marked, as herein provided by law, and be removed directly to the distillery warehouse; and on special application to the assessor or assistant assessor by the owner, agent, or superintendent of any distillery, the spirits may be drawn off from the said cisterns under the supervision of the gauger at any time previous to the third day. All locks and seals required by law shall be provided by the Commissioner of Internal Revenue, at the expense of the owner of the distillery or warehouse; and the keys shall be in charge of the collector or such gauger as he may designate.*

The Committee on Finance proposed to amend the section by striking out the words "or other packages" after "casks" in line twenty-four.

The amendment was agreed to.

The next amendment was to strike out in lines twenty-five, twenty-six, and twenty-seven the words "and shall be immediately inspected, gauged, proved, and the casks or packages marked as herein provided by law."

The amendment was agreed to.

Section sixteen, now seventeen, was read as follows:

*And be it further enacted, That the door of the furnace of every still or boiler used in any distillery shall be so constructed that it may be securely fastened and locked. The fermenting tubs shall be so placed as to be easily accessible to any revenue officer, and each tub shall have distinctly painted thereon in oil colors its cubic contents in gallons, and the number of the tub. There shall be a clear space of not less than one foot around every wood still, and not less than two feet around every doubler and worm tank. The doubler, or doubler and worm tanks, shall be elevated not less than one foot from the floor; and every fixed pipe to be used by the distiller, except for the conveyance of water, or of spent mash or beer only, shall be so fixed and placed as to be capable of being examined by the officer for the whole of its length of course, and shall be painted, and kept painted, as follows, that is to say: Every pipe for the conveyance of mash or beer shall be painted of a red color; every pipe for the conveyance of low wines back into the still or doubler shall be painted blue; every pipe for the conveyance of*

*spirits shall be painted black; and every pipe for the conveyance of water shall be painted white. If any fixed pipe shall be used by any distiller which shall not be painted or kept painted as herein directed, or which shall be painted otherwise than as herein directed, he shall forfeit the sum of \$1,000. No assessor shall approve the bond of any distiller until all the requirements of the law and all regulations made by the Commissioner of Internal Revenue in relation to distilleries, in pursuance thereof, shall have been complied with. Any assessor who shall violate the provisions of this section shall forfeit and pay \$2,000, and shall be dismissed from office.*

The Committee on Finance proposed to amend this section by striking out the words "or doubler," after "doubler," in line ten.

The amendment was agreed to.

The next section, seventeen, now eighteen, was read, as follows:

*SEC. 18. And be it further enacted, That every person engaged in distilling or rectifying spirits, and every wholesale liquor dealer and compounder of liquors, and every keeper of a warehouse for distilled spirits, shall place and keep conspicuously on the outside of his distillery, rectifying establishment, place of business, or warehouse, a sign, in plain and legible letters, not less than three inches in length, painted in oil colors or gilded, and of a proper and proportionate width, the name or firm of the distiller, rectifier, wholesale dealer, compounder, or warehouse-keeper, with the words: "Registered distillery," "rectifier of spirits," "wholesale liquor dealer," "compounder of liquors," or "warehouse for distilled spirits," as the case may be; and no fence or wall of a height greater than five feet shall be erected or maintained around the premises of any distillery, nor shall the gate or door of such fence or wall be kept locked or otherwise fastened, so as to prevent easy and immediate access to said distillery; and every distillery shall furnish the assessor of the district with as many keys of the doors of the distillery as may be required by the assessor, from time to time, for any revenue officer or other person who may be authorized to make survey or inspections of the premises or of the contents thereof; and said distillery shall be kept always accessible to any officer or other person having any such key. Any person who shall violate any of the provisions of this section by negligence or refusal, or otherwise, shall pay a penalty of \$500. Any person not having paid the special tax, as required by law, who shall put up the sign required by this section, or any sign indicating that he may lawfully carry on the business of a distiller, rectifier, wholesale liquor dealer, keeper of a warehouse for distilled spirits, or compounder of liquors, shall forfeit and pay \$1,000, and, on conviction, shall be imprisoned not less than one month nor more than six months; and any person who shall work in any distillery, rectifying establishment, warehouse, wholesale liquor store, or in the store of any compounder of liquors, on which no sign shall be placed and kept as hereinbefore provided, and any person who shall knowingly carry or convey any distilled spirits to or from any such distillery, rectifying establishment, warehouse, or store, or who shall knowingly carry and deliver any grain, molasses, or other raw material to any distillery on which such sign shall not be placed and kept, shall forfeit all his horses, carts, drays, wagons, or other vehicle or animal used in carrying or conveying such property aforesaid, and, on conviction, shall be fined not less than \$100 nor more than \$1,000, and imprisoned not less than one month nor more than six months.*

The Committee on Finance proposed several amendments to this section. The first was after the words "compounder of liquors," in line three, to strike out "and every keeper of a warehouse for distilled spirits."

The amendment was agreed to.

The next amendment was in line six to insert "or" before the words "place of business," and after "business" to strike out "or warehouse."

The amendment was agreed to.

The next amendment was to insert the word "or" before "compounder," in line ten, and after "compounder" to strike out "or warehouse keeper."

The amendment was agreed to.

The next amendment was before "compounder of liquors," in line twelve, to insert "or," and after "liquors" to strike out "or warehouse for distilled spirits."

The amendment was agreed to.

The next amendment was in lines fifteen and sixteen to strike out the words "nor shall the gate or door of such fence or wall be kept locked or otherwise fastened."

The amendment was agreed to.

The next amendment was in line eighteen to strike out "distillery" and insert "distiller."

The amendment was agreed to.

The next amendment was in line nineteen before the word "doors" to insert "gates and."

The amendment was agreed to.

The next amendment was before the word "provisions," in line twenty-six, to insert the word "foregoing."

The amendment was agreed to.

The next amendment was after the words "liquor dealers," in line thirty-one, to strike out "keeper of a warehouse for distilled spirits;" and in line thirty-six to strike out "warehouse."

The amendment was agreed to.

The next amendment was before the word "carry," in line forty-one, to insert "knowingly receive at or."

The amendment was agreed to.

The next amendment was in line forty-seven, to strike out "and" before "imprisoned," and insert "or be."

The amendment was agreed to.

The next section was read as follows:

*SEC. 18. And be it further enacted, That every person making or distilling spirits, or owning any still, boiler, or other vessel used for the purpose of distilling spirits, or having such still, boiler, or other vessel so used under his superintendence, either as agent or owner, or using any such still, boiler, or other vessel, shall, from day to day, make, or cause to be made, true and exact entry in a book or books, to be kept by him, in such form as the Commissioner of Internal Revenue may prescribe, of the kind of materials, and the quantity in pounds, bushels, or gallons purchased by him for the production of spirits, from whom and when purchased, and by what conveyance delivered at said distillery, together with the amount paid therefor, the kind and quantity of fuel purchased for use in the distillery, and from whom purchased, the amount paid for ice or water for use in the distillery, the repairs placed on said distillery or distilling apparatus, the cost thereof, and by whom and when made; and in another book shall make like entry of the name and residence of each person employed in or about the distillery, and in what capacity employed, the quantity of grain or other material used for the production of spirits, the time of day when any yeast or other composition is put into any mash or beer for the purpose of exciting fermentation, the quantity of mash in each tub, designating the same by the number of the tub, the number of dry inches, that is to say, the number of inches between the top of each tub and the surface of the mash or beer therein at the time of yeasting, the gravity and temperature of the beer at the time of yeasting, and on every day thereafter its gravity and temperature at the hour of twelve meridian; also the time when any fermenting tub is emptied of ripe mash or beer, the number of gallons of spirits distilled, the number of gallons placed in warehouse, and the proof thereof, and the number of gallons sold or removed, with the proof thereof, and the name, place of business, and residence of the person to whom sold; and every fermenting tub shall be emptied at the end of the fermenting period, and shall remain empty for a period of twenty-four hours. On the 1st, 11th, and 22d days of each month, or within five days thereafter, respectively, every distillery shall render to the assistant assessor an account in duplicate, taken from his books, stating the quantity and kind of materials used for the production of spirits each day, and the number of wine gallons and of proof gallons of spirits produced and placed in warehouse. And the distiller or the principal manager of the distillery shall make and subscribe the following oath, to be attached to said return:*

*"I, ———, distiller, (or principal manager as the case may be,) of the distillery at ———, do solemnly swear that, since the date of the last return of the business of said distillery, dated ——— day of ——— to ——— day of ———, both inclusive, there was produced in said distillery, and withdrawn and placed in warehouse, the number of wine gallons and proof gallons of spirits, and there were actually mashed and used in said distillery, and consumed in the distilling of spirits therein, the several quantities of grain, sugar, molasses, and other materials, respectively, hereinbefore specified, and no more."*

*These said books shall always be kept at the distillery, and be always open to the inspection of any revenue officer, and, when filled up, shall be preserved by the distiller for a period not less than two years thereafter, and whenever required shall be produced for the inspection of any revenue officer. If any false entry shall be made in either of said books, or any entry required to be made therein shall be omitted therefrom, for every such false entry made, or omission, the distiller shall forfeit and pay a penalty of \$1,000. And if any such false entry shall be made, or any entry shall be omitted therefrom with intent to defraud or to conceal from the revenue officers any fact or particular required to be stated and entered in either of said books, or to mislead in reference thereto, or if any distiller as aforesaid shall omit or refuse to provide either of said books, or shall cancel, obliterate, or destroy any part of either of such books, or any entry therein, with intent to defraud, or either of them, the same to be done, or such books, or either of them, be not produced when required by any revenue officer, the distillery, distilling apparatus, and the lot or tract of land on which it stands, and all personal property of every kind and description on said premises, or used in the business there carried on, shall be forfeited to the United States. And any person making such false entry or omitting to make any entry hereinbefore required to be made, with the intent aforesaid, or who shall cause or procure the same to be done, or*

who shall fraudulently cancel, obliterate, or destroy any part of said books, or any entry therein, or who shall willfully fail to produce such books or either of them, on conviction, shall be fined not less than \$500 nor more than \$5,000, and imprisoned not less than six months nor more than two years.

The Committee on Finance proposed to amend this section by striking out after the word "and," in line seventeen, the words "in another book shall make like entry," and after the word "employed," in line twenty, to insert "and in another book shall make like entry."

The amendment was agreed to.

The next amendment was in line thirty, before the word "gravity," to insert "quantity."

The amendment was agreed to.

The next amendment was in line forty, to strike out "distillery," and insert "distiller."

The amendment was agreed to.

The next amendment was in line sixty, after the word "inspection," to insert "and examination."

The amendment was agreed to.

The next amendment was in line eighty, to strike out the word "or" between "premises" and "used."

The amendment was agreed to.

The next section was read as follows:

SEC. [19] 20. *And be it further enacted*, That on the receipt of the distiller's first return in each month the assessor shall proceed to inquire and determine whether said distiller has accounted in his returns for the preceding month for all the spirits produced by him; and to determine the quantity of spirits thus to be accounted for, the whole quantity of spirits produced from the materials used shall be ascertained; and forty-five gallons of mash or beer brewed or fermented from grain shall represent not less than one bushel of grain, and seven gallons of mash or beer brewed or fermented from molasses shall represent not less than one gallon of molasses. In case the return of the distiller shall have been less than the quantity thus ascertained, the distiller shall be assessed for such deficiency at the rate of fifty cents for every proof gallon, and the collector shall proceed to collect the same as in cases of other assessments for deficiencies; but in no case shall the quantity of spirits returned by the distiller, together with the quantity so assessed, be for a less quantity of spirits than eighty per cent. of the producing capacity of the distillery.

The Committee on Finance proposed to amend the section by striking out the words "proceed to" before "inquire" in line three.

The amendment was agreed to.

The next amendment was after the word "ascertained," in line seven, to insert "by reckoning not less than twelve quarts of proof-spirits for every bushel of grain used, nor less than seven tenths of one proof gallon of spirits for every gallon of molasses used."

The amendment was agreed to.

The next amendment was after the word "gallon," in line eighteen, to insert "and four dollars for every cask of forty proof gallons."

The amendment was agreed to.

The next amendment was after the word "distillery," at the end of the section to insert "as estimated and determined by the provisions of this act."

The amendment was agreed to.

Section twenty of the House bill, now become section twenty-one, was read, as follows:

SEC. [20] 21. *And be it further enacted*, That the storekeeper assigned to any distillery warehouse shall also have charge of the distillery connected therewith; and, in addition to the duties required of him as a storekeeper in charge of a warehouse, shall keep in a book to be provided for that purpose, and in the manner to be prescribed by the Commissioner of Internal Revenue, a daily account of all the meal and vegetable productions or other substances brought into said distillery, or on said premises, to be used for the purpose of producing spirits, from whom purchased, and when delivered at said distillery, the kind and quantity of all fuel used, and from whom purchased, and of all repairs made on said distillery, and by whom and when made, the names and places of residence of all persons employed in or about the business of the distillery, of the materials put into the mash-tub or otherwise used for the production of spirits, the time when any fermenting tub is emptied of ripe mash or beer, recording the same by the number painted on said tub, and of all spirits drawn off from the receiving cistern, and the time when the same were drawn off. Any distiller or person employed in any distillery who shall use, cause, or permit to be used any material for the purpose of making mash, wort, or beer, or for the production of spirits, or shall remove any spirits in the absence of the storekeeper, or person designated to act as said storekeeper, shall forfeit and pay double the amount

of taxes on the spirits so produced, distilled, or removed, and, in addition thereto, be liable to a penalty of \$1,000.

It was proposed to amend this section by striking out the words "the business of" before "the distillery," in line fifteen.

The amendment was agreed to.

Section twenty-one of the House bill, now section twenty-two, was next read, as follows:

SEC. [21] 22. *And be it further enacted*, That every distiller, at the hour of twelve meridian, on the third day after that on which his bond shall have been approved by the assessor, shall be deemed to have commenced and thereafter to be continuously engaged in the production of distilled spirits in his distillery, except in the intervals when he shall have suspended work, as hereinafter authorized or provided. Any distiller desiring to suspend work in his distillery may give notice in writing to the assistant assessor of his division, stating when he will stop work; and on the day mentioned in said notice said assistant assessor shall, at the expense of the distiller, proceed to fasten securely the door of every furnace of every still or boiler in said distillery, by locks and otherwise, and shall adopt such other means as the Commissioner of Internal Revenue shall prescribe to prevent the lighting of any fire in such furnace or under such stills or boilers. The locks and seals, and other materials required for such purpose shall be furnished to the assessor of the district by the Commissioner of Internal Revenue, to be duly accounted for by said assessor. Such notice by any distiller, and the action taken by the assistant assessor in pursuance thereof, shall be immediately reported to the assessor of the district, and by him transmitted to the Commissioner of Internal Revenue. No distiller, after having given such notice, shall, after the time stated therein, carry on the business of a distiller on said premises until he shall have given another notice in writing to said assessor, stating the time when he will resume work; and at the time so stated for resuming work the assistant assessor shall attend at the distillery to remove said locks and other fastenings; and thereupon, and not before, work may be resumed in said distillery, which fact shall be immediately reported to the assessor of the district, and by him transmitted to the Commissioner of Internal Revenue. Any distiller, after the time fixed in said notice declaring his intention to stop work, who shall carry on the business of a distiller on said premises, or shall have mash, wort, or beer in his distillery, or on any premises connected therewith, or who shall have in his possession or under his control any mash, wort, or beer, with intent to distill the same on said premises, shall incur the forfeitures, and be subject to the same punishment as provided for persons who carry on the business of a distiller without having paid the special tax.

It was proposed to amend this section by striking out "stop" and insert "suspend" before "work" in line ten and in line thirty-five respectively.

The amendment was agreed to.

The next section was read, as follows:

SEC. 23. *And be it further enacted*, That all distilled spirits shall be drawn from the receiving cisterns into casks or packages, each of not less capacity than twenty gallons, wine measure, and shall be immediately removed into the distillery warehouse, and shall thereupon be gauged and proved by an internal revenue gauger, who shall mark, by cutting on the cask or package containing such spirits, in a manner to be prescribed by the Commissioner of Internal Revenue, the quantity in wine gallons, and in proof gallons, of the contents of such cask or package, and shall, in presence of the storekeeper of the warehouse, place upon the head of the cask or package an engraved stamp, which shall be signed by the collector of the district and the storekeeper and gauger, and shall have written thereon the number of proof gallons contained therein, the name of the distiller, the date of the receipt in the warehouse, and the serial number of each cask or package, in progressive order, as the same shall be received from the distillery. Such serial number for every distillery shall begin with number one (No. 1) with the first cask or package deposited therein after this act takes effect, and no two or more casks or packages warehoused at the same distillery shall be marked with the same number. The said stamp shall be as follows:

[Distillery warehouse stamp No. —.]  
Issued by —, Collector, — District, State of —,  
Distillery warehouse of —, 15—. Cask No. —,  
contents — gallons proof-spirit.

United States Storekeeper.

Attest: —,  
United States Gauger.

And the distiller or owner of all spirits so removed to the distillery warehouse shall on the 1st, 11th, and 21st days of each month, or within five days thereafter, enter the same for deposit in such warehouse, under such rules and regulations not inconsistent herewith, as the Commissioner of Internal Revenue may prescribe; and said entry shall be in triplicate and shall contain the name of the person making the entry, the designation of the warehouse in which the deposit is made, and the date thereof, and shall be in form as follows:

[Entry for deposit in distillery warehouse.]  
Entry of distilled spirits deposited by —, in  
distillery warehouse —, in the — district, State  
of —, on the — day of —, A. D. —.

And the entry shall specify the kind of spirits, the whole number of casks or packages, the marks and serial numbers thereon, the number of gauge or wine gallons and of proof gallons, and the amount of the tax on the spirits contained in them; all of which shall be verified by the oath or affirmation of the distiller or owner of the same attached to the entry; and the said distiller or owner shall give his bond in duplicate, with one or more sureties satisfactory to the collector of the district, conditioned that the principal named in said bond will pay the tax on the spirits, as specified in the entry, or cause the same to be paid before removal from said distillery warehouse, and within one year from the date of said bond, unless the same shall be removed by him from said warehouse according to the provisions of this act; and the penal sum of such bond shall not be less than double the amount of the tax on such distilled spirits. One of said entries shall be retained in the office of the collector of the district, one sent to the storekeeper in charge of the warehouse, to be retained and filed in the warehouse, and one sent with the duplicate of the bond to the Commissioner of Internal Revenue, to be filed in his office.

The Committee on Finance proposed to amend the section by striking out the words "or package" after "cask," and "or packages" after "casks," wherever they occur.

The amendment was agreed to.

It was also proposed in lines fifty-nine and sixty to strike out the words "unless the same shall be removed by him from said warehouse according to the provisions of this act."

The amendment was agreed to.

The next amendment was to insert at this point as section twenty-four, the following:

SEC. 24. *And be it further enacted*, That any distilled spirits may, on payment of the tax thereon, be withdrawn from warehouse on application to the collector of the district in charge of such warehouse, on making a withdrawal entry, in duplicate, and in form as follows:

[Entry for withdrawal of distilled spirits from warehouse. Tax paid.]

Entry of distilled spirits to be withdrawn, on payment of the tax, from — warehouse by —, deposited on the — day of —, A. D. —, by —, in said warehouse.

And the entry shall specify the whole number of casks or packages, with the marks and serial numbers thereon, the number of gauge or wine gallons, and of proof gallons, and the amount of the tax on the distilled spirits contained in them; all of which shall be verified by the oath or affirmation of the person making such entry; and on payment of the tax the collector shall issue his order to the storekeeper in charge of the warehouse for the delivery. One of said entries shall be filed in the office of the collector, and the other transmitted by him to the Commissioner of Internal Revenue.

The amendment was agreed to.

Section twenty-three of the House bill, now section twenty-five, was next read as follows:

SEC. 25. *And be it further enacted*, That whenever an order is received from the collector for the removal from any distillery warehouse of any cask or package of distilled spirits, on which tax has been paid, it shall be the duty of the gauger by whom the same is gauged and inspected, in presence of the storekeeper, before such cask or package has left the warehouse, to place upon the head thereof, in such manner as to cover no portion of any brand or mark prescribed by law already placed thereon, a stamp, on which shall be engraved the number of proof gallons contained in said cask or package, on which the tax has been paid, and which shall be signed by the collector of the district, storekeeper, and gauger, and which shall state the serial number of the cask or package, the name of the person by whom the tax was paid, and the person to whom and the place where it is to be delivered; which stamp shall be as follows:

[Tax-paid stamp No. —.]  
Received —, 18—, from —, tax on — gallons proof-spirit, cask No. —, warehouse at —, for delivery to — at —.  
Attest: Collector — District, State of —.  
United States Storekeeper.  
United States Gauger.

Whenever any cask or package of rectified spirits shall be filled for shipment, sale, or delivery, on the premises of any rectifier, who shall have paid the special tax required by law, it shall be the duty of a United States gauger to gauge and inspect the same and place thereon an engraved stamp, which shall be signed by the collector of the district and the said gauger, and state the date when affixed, which stamp shall be as follows:

[Stamp for rectified spirits No. —.]  
Issued by —, collector — district, State of —, rectifier of spirits in the — district, State of —, 13—.

U. S. Gauger.  
Whenever any cask or package of distilled spirits shall be filled for shipment, sale, or delivery, on the premises of any wholesale liquor dealer or com-



pounder, it shall be the duty of a United States gauger to gauge and inspect the same, and place thereon an engraved stamp, signed by the collector of the district and the said gauger, stating the name of the compounder or dealer and the date when affixed, which stamp shall be as follows:

[Wholesale liquor dealer's stamp No. —.]  
Issued by —, collector —, District, State of —,  
—, wholesale liquor dealer, of —, —, district, State of —, —, 18—.

— U. S. Gauger.  
— District, State of —.

All blanks in any of the above forms shall be duly filled in accordance with the facts in each case. And the stamps above designated shall be affixed so as to fasten the same securely to the cask or package and duly canceled, and shall then be immediately covered with a coating of transparent varnish or other substance, so as to protect them from removal or damage by exposure; and such affixing, cancellation, and covering shall be done in such manner as the Commissioner of Internal Revenue shall by regulation prescribe; but such stamps shall in every case be affixed to a smooth surface of the cask or other package, which surface shall not have been previously painted or covered with any substance.

The Committee on Finance proposed to amend the section by striking out the words "or package" after "cask" wherever those words occur.

The amendment was agreed to.

The committee also proposed to amend the section by inserting after line twenty-seven the following:

And at the time of affixing the tax-paid stamp or stamps, the gauger shall, in the presence of the storekeeper, cut or burn upon each cask the name of the distiller, the district, the date of the payment of the tax, the number of proof gallons, and the number of the stamp, which burning shall be erased when such cask is emptied, by cutting or burning a canceling line across such marks or brands, which branding and cancellation shall be done under such rules and regulations as the Commissioner of Internal Revenue may prescribe.

Mr. VAN WINKLE. I move to amend the amendment by inserting "cutting or" before "burning." It now provides for cutting or burning, but provides for erasing only one.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The twenty-fourth section, now twenty-six, was read, as follows:

SEC. 26. *And be it further enacted*, That all stamps required for distilled spirits shall be engraved in their several kinds in book form, and shall be issued by the Commissioner of Internal Revenue to any collector, upon his requisition, in such numbers as may be necessary in the several districts. Each stamp shall have an engraved stub attached thereto with a number thereon corresponding with an engraved number on the stamp, and the stub shall not be removed from the book. And there shall be entered on the corresponding stub such memoranda of the contents of every stamp as shall be necessary to preserve a perfect record of the use of such stamp when detached.

Section [twenty-five] twenty-seven was next read, as follows:

SEC. 27. *And be it further enacted*, That every stamp for the payment of tax on distilled spirits shall have engraved thereon words and figures representing a decimal number of gallons, and a similar number of gallons shall be engraved on the stub corresponding to such stamp, and between the stamp and the stub and connecting them shall be engraved nine coupons, which, beginning next to the stamp, shall indicate in succession the several numbers of gallons between the number named in the stamp and the decimal number next above. And whenever any collector shall receive the tax on the distilled spirits contained in any cask or package, he shall detach from the book a stamp representing the denominate quantity nearest to the quantity of proof-spirits in such cask or package, as shown by the gauger's return, with such number of the coupons attached thereto as shall be necessary to make up the whole number of proof gallons in said cask or package, and any quantity in addition to the number of full gallons less than one gallon shall be regarded as a full gallon; and all unused coupons shall remain attached to the marginal stub; and no coupon shall have any value or significance whatever when detached from the stamp and stub. And the tax-paid stamps with the coupons may denote such number of gallons, not less than twenty, as the Commissioner of Internal Revenue may deem advisable.

It was proposed to amend the section by striking out the words "or package" after "cask" wherever they occurred.

The amendment was agreed to.

Section [twenty-six] twenty-eight was next read, as follows:

SEC. [26] 28. *And be it further enacted*, That the books of tax-paid stamps issued to any collector

shall be charged to his account at the full value of the tax on the number of gallons represented on the stamps and coupons contained in said books; and every collector shall make a monthly return to the Commissioner of Internal Revenue of all tax-paid stamps issued by him to be affixed to any cask or package containing distilled spirits on which the tax has been paid, and account for the amount of the tax collected; and when the said collector shall return to the Commissioner of Internal Revenue any book of marginal stubs, which it shall be his duty to do as soon as all the stamps contained in the book, when issued to him from the office of internal revenue, have been used, and shall have accounted for the tax on the number of gallons represented on the stamps and coupons that were contained in said book, he shall be allowed a commission of half of one per cent. on the amount, in addition to any other commission by law allowed, on all money accounted for by him for tax collected on distilled spirits, which shall be equally divided between the collector receiving the tax and the collector of the district in which the distilled spirits were produced. All stamps relating to distilled spirits other than the tax-paid stamps shall be charged to collectors as representing the value of twenty-five cents for each stamp; and the books containing such stamps may be intrusted by any collector to the gauger of the district, who shall make a daily report to the assessor and collector of all such stamps used by him and for whom used, and from these reports the assessor of the district shall on his monthly list assess the person for whom they were used, and the collector shall thereupon collect the amount due for such stamps at the rate of twenty-five cents for each stamp issued during the month; and when all the stamps contained in any such book shall have been issued the gauger of the district shall return the book to the collector with all the marginal stubs therein.

It was proposed to amend this section by inserting after the word "amount," in line seventeen, the words "of the tax on spirits distilled after the passage of this act."

Mr. SHERMAN. I merely wish to call the attention of the Senate to the fact that this amendment changes the commission allowed to collectors and assessors.

The amendment was agreed to.

The next amendment was in line twenty-one, to strike out "collector" and insert "assessor."

The amendment was agreed to.

Section [twenty-seven] twenty-nine was next read, as follows:

SEC. [27] 29. *And be it further enacted*, That any revenue officer who shall affix or cancel, or cause or permit to be affixed or canceled, any stamp relating to distilled spirits required or provided for in this act in any other manner or in any other place, or who shall issue the same to any other person than as provided by law or regulation made in pursuance thereof, or who shall knowingly affix or permit to be affixed any such stamp to any cask or package of spirits of which the whole or any part has been distilled, rectified, compounded, removed, or sold, in violation of law, or which has in any manner escaped payment of tax due thereon, shall, for every such offense, be fined not less than \$500 nor more than \$3,000, and be imprisoned for not less than six months nor more than three years.

THE PRESIDING OFFICER. (Mr. POMEROY.) The words "or package" will be stricken out after "casks," in line eight, to conform to previous amendments.

The following sections were read, to which no amendment was reported:

SEC. [28] 30. *And be it further enacted*, That if any distiller shall desire to reduce the producing capacity of his distillery, he shall give notice of such intention in writing to said assessor, stating the quantity of spirits which he desires thereafter to manufacture or produce every twenty-four hours, and thereupon said assessor shall proceed, at the expense of the distiller, to reduce and limit the producing capacity of the distillery to the quantity stated in said notice, by placing upon a sufficient number of the fermenting tubs close-fitting covers, which shall be securely fastened by nails, seals, and otherwise, and in such manner as to prevent the use of such tubs without removing said covers or breaking said seals, and shall adopt such other precautions as shall be prescribed by the Commissioner of Internal Revenue to reduce the capacity of said distillery. And any person who shall break, injure, or in any manner tamper with any lock, seal, or other fastening applied to any furnace, still, or fermenting-tub, or other vessel, in pursuance of the provisions of this act, or who shall open or attempt to open any door, tub, or other vessel which shall have been locked or sealed, or otherwise closed or fastened as herein provided, or who shall use any furnace, still, or fermenting tub, or other vessel which shall be so locked, sealed or fastened, shall be deemed guilty of a felony, and, on conviction, shall be fined not less than \$1,000 nor more than \$5,000, and imprisoned for not less than one year, nor more than three years.

SEC. [29] 31. *And be it further enacted*, That whenever any officer shall require that the water contained in any worm-tub in a distillery, at any time when the still shall not be at work, shall be drawn off, and the tub and worm cleansed, the watershall forthwith be drawn off and the tub and worm cleansed by the distiller or his workmen accordingly; and the water shall be kept and continued out of such worm-tub

for the space of two hours, or until the officer has finished his examination thereof; and for any refusal or neglect to comply with the requisition of the officer in this behalf, or the provision in this clause contained, the distiller shall forfeit the sum of \$1,000, and it shall be lawful for the officer to draw off such water, or any portion of it, and to keep the same drawn off for so long a time as he shall think necessary.

SEC. [30] 32. *And be it further enacted*, That it shall be lawful for any revenue officer, at all times, as well by night as by day, to enter into any distillery or building or place used for the business of distilling, or in connection therewith, for storage or other purposes, and to examine, gauge, measure, and take an account of every still or other vessel or utensil of any kind, and of all low wines, and of the quality and gravity of all mash, wort, or beer, and of all yeast, or other compositions for exciting or producing fermentation in any mash or beer, and of all spirits and of all materials for making or distilling spirits, which shall be in any such distillery or premises, or in the possession of the distiller; and if any revenue officer or any person called by him to his aid, shall be hindered, obstructed, or prevented by any distiller, or by any workman or other person acting for such distiller or in his employ, from entering into any such distillery or building or place as aforesaid; or if any such officer shall be by the distiller or his workman or any person in his employ, prevented or hindered from or opposed or obstructed or molested in the performance of his duty under this act, in any respect, the distiller shall forfeit the sum of \$1,000. If any officer, having demanded admittance into a distillery or premises of a distillery, and having declared his name and office, shall not be admitted into any such distillery or premises by the distiller or other person having charge of the same, it shall be lawful for such officer, at all times, as well by night as by day, to break open by force any of the doors or windows, or to break through any of the walls of such distillery or premises necessary to be broken open or through, to enable him to enter the said distillery or premises; and the distiller shall forfeit the sum of \$1,000.

SEC. [31] 33. *And be it further enacted*, That, on the demand of any revenue officer, every distiller, rectifier, or compounder of spirits shall furnish strong, safe, and convenient ladders of sufficient length to enable the officer to examine and gauge any vessel or utensil in such distillery or premises; and shall, at all times when required, supply all assistance, lights, ladders, tools, staging, or other things necessary for inspecting the premises, stock, tools, and apparatus belonging to such person, and shall open all doors, and open for examination all boxes, packages, and all casks, barrels, and other vessels not under the control of a revenue officer in charge, under a penalty of \$500 for every refusal or neglect so to do.

SEC. [32] 34. *And be it further enacted*, That it shall be lawful for any revenue officer, and any person acting in his aid, to break up the ground on any part of the distillery or premises of a distiller, rectifier, or compounder of liquors, or any ground adjoining or near to such distillery or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and upon finding any such pipe or conveyance leading therefrom or thereto, he may break up any ground, house, wall, or other place through or into which such pipe or other conveyance shall lead, and break or cut away such pipe or other conveyance, and turn any cock, or examine whether such pipe or other conveyance may convey or conceal any mash, wort, or beer, or other liquor which may be used for distillation of low wines or spirits from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

SEC. [33] 35. *And be it further enacted*, That no malt, corn, grain, or other material shall be mashed, nor any wash, wort, or beer brewed or made, nor any still used by a distiller at any time between the hour of eleven in the afternoon of any Saturday and the hour of one in the forenoon of the next succeeding Monday; and any person who shall violate the provisions of this section shall be liable to a penalty of \$1,000.

Section [thirty-four] thirty-six was next read, as follows:

SEC. [34] 36. *And be it further enacted*, That all distilled spirits found elsewhere than in a distillery or distillery warehouse, not having been removed therefrom according to law, shall be forfeited to the United States. And in case of the seizure of any distilled spirits found elsewhere than in a distillery, distillery warehouse, or other warehouse for distilled spirits authorized by law, or in the store or place of business of a rectifier, or of a wholesale liquor dealer, or of a compounder of liquors, or in transit from any one of said places; and in case of the seizure of any distilled spirits found in any one of the places aforesaid, or in transit therefrom, which shall not have been received into or sent out therefrom in conformity to law, or in regard to which any of the entries required by law to be made in the books of the owner of such spirits or of the storekeeper, wholesale dealer, rectifier, or compounder, have not been made at the time or in the manner required, or in respect to which the owner or person having possession, control, or charge of said spirits shall have omitted to do any act required to be done, or shall have done or committed any act prohibited in regard to said spirits, the burden of proof shall be upon the claimant of said spirits to show that no fraud has been committed, and that all the requirements of the law in relation to the payment of the tax have been complied with. And every person who shall remove, or shall aid or abet in the removal of any distilled spirits from a distillery to a place other than the dis-

tillery warehouse as provided by law, or who shall conceal or aid in the concealment of any spirits so removed, or who shall remove or shall aid or abet in the removal of any distilled spirits from any distillery warehouse, or other warehouse for distilled spirits authorized by law, in any manner other than as is provided by law, or who shall conceal, or aid in the concealment of any spirits so removed, shall be liable to a penalty of double the tax imposed on such distilled spirits so removed or concealed, and shall, on conviction, be fined not less than \$200 nor more than \$5,000, and imprisoned not less than three months nor more than three years.

The amendment proposed to this section was in line twenty-six, to strike out the words "from a distillery," and insert "on which the tax has not been paid."

The amendment was agreed to.

The following sections were read, to which no amendment was proposed:

SEC. [35] 37. *And be it further enacted*, That no person shall remove any distilled spirits at any other time than after sun-rising and before sun-setting, in any cask or package containing more than ten gallons from any premises or building in which the same may have been distilled, redistilled, rectified, compounded, manufactured, or stored, and every person who shall violate this provision shall be liable to a penalty of \$100 for each cask, barrel, or package of spirits so removed; and said spirits, together with any vessel containing the same, and any horse, cart, boat, or other conveyance used in the removal thereof, shall be forfeited to the United States.

SEC. [36] 38. *And be it further enacted*, That any person who shall add or cause to be added any ingredient or substance to any distilled spirits before the tax imposed by law shall have been paid thereon, for the purpose of creating a fictitious proof, shall, on conviction, be fined not less than \$100 nor more than \$1,000 for each cask or package so adulterated, and imprisoned not less than three months nor more than two years, and every such cask or package, with its contents, shall be forfeited to the United States.

SEC. [37] 39. *And be it further enacted*, That any person who shall evade or attempt to evade the payment of the tax on any distilled spirits, in any manner whatever, shall forfeit and pay double the amount of the tax so evaded or attempted to be evaded; and any person who shall change or alter any stamp, mark, or brand on any cask or package containing distilled spirits, or who shall put into any cask or package spirits of greater strength than is indicated by the inspection mark thereon, or who shall fraudulently use any cask or package having any inspection mark or stamp thereon for the purpose of selling other spirits or spirits of quantity or quality different from the spirits previously inspected therein, shall forfeit and pay the sum of \$200 for every cask or package on which the stamp or mark is so changed or altered or which is so fraudulently used, and, on conviction, shall be fined for each such offense not less than \$100 nor more than \$1,000, and imprisoned not less than one month nor more than one year.

SEC. [38] 40. *And be it further enacted*, That any person who shall knowingly use any false weights or measures in ascertaining, weighing, or measuring the quantities of grain, meal, or vegetable materials, molasses, beer, or other substances to be used for distillation, or who shall destroy, break, injure, or tamper with any lock or seal which may be placed on any cistern-room or building, by the duly authorized officers of the revenue, or shall open said lock or seal, or the door to such cistern-room or building, or shall in any manner gain access to the contents therein in the absence of the proper officer, shall, on conviction, be fined not less than \$500 nor more than \$5,000, and imprisoned not less than one year nor more than three years; and any person who shall use any molasses, beer, or other substance, whether fermented on the premises or elsewhere, for the purpose of producing spirits, before an account for the same shall have been registered in the proper record book provided for that purpose, shall forfeit and pay the sum of \$1,000 for each and every offense so committed.

SEC. [39] 41. *And be it further enacted*, That it shall be lawful for any internal revenue officer to seize and detain any cask or package containing, or supposed to contain, distilled spirits when such officer has reason to believe the tax imposed by law upon the same has not been paid, or that the same is being removed in violation of law; and every such cask or package may be held by such officer at a safe place until it shall be determined whether the property so seized is liable by law to be proceeded against for forfeiture; but such summary detention shall not continue in any case longer than forty-eight hours without process of law or intervention of the officer to whom such seizure is to be reported.

SEC. [40] 42. *And be it further enacted*, That no distillery seized for any violation of law shall be released to the claimant or any intervening party before judgment, except in case of a distillery for which the special tax has been paid, and which has a registered producing capacity of one hundred and fifty proof gallons or more per day, on showing by sufficient affidavits that there are hogs or other live stock, not less than fifty head in number, depending for their feed on the products of said distillery which would suffer injury if the business of such distillery is stopped; such distillery in that case may be released to the claimant, or any other intervening party, at the discretion of the court, on a bond to be given and approved in open court with two or more sureties for the full appraised value of all the property seized,

which value shall be ascertained by three competent appraisers to be designated and appointed by the court. In case of the seizure of and judgment of forfeiture against any distillery used or fit for use in the production of distilled spirits having a registered producing capacity of less than one hundred and fifty gallons per day, or of any distillery for the non-payment of the special tax, the still, stills, doubler, worm, worm-tub, and all mash-tubs and fermenting-tubs shall be so destroyed as to prevent the use of the same or any part thereof for the purpose of distilling; and the materials shall be sold as in case of other forfeited property.

SEC. [41] 43. *And be it further enacted*, That it shall be the duty of every person who empties or draws off, or causes to be emptied or drawn off, any distilled spirits from a cask or package bearing any mark, brand, or stamp required by law, at the time of emptying such cask or package, to efface, and obliterate said mark, stamp, or brand. Any such cask or package from which said mark, brand, and stamp, is not so effaced and obliterated, as herein required, shall be forfeited to the United States, and may be seized by any officer of internal revenue wherever found. Any railroad company or other transportation company, or person, who shall receive or transport, or have in possession with intent to transport, or with intent to cause or procure to be transported, any such empty cask or package, or any part thereof, having thereon any brand, mark, or stamp, required by law to be placed on any cask or package containing distilled spirits, shall forfeit \$300 for each such cask or package, or any part thereof, so received or transported, or had in possession with the intent aforesaid; and any boat, railroad car, cart, drag, wagon, or other vehicle, and all horses or other animals used in carrying or transporting the same, shall be forfeited to the United States. Any person who shall fail or neglect to efface and obliterate said mark, stamp, or brand, at the time of emptying such cask or package, or who shall receive any such cask or package, or any part thereof, with the intent aforesaid, or who shall transport the same, or knowingly aid or assist therein, or who shall remove any stamp provided by this act from any cask or package containing or which had contained distilled spirits, without defacing and destroying the same at the time of such removal, or who shall aid or assist therein, or who shall have in his possession any such stamp so removed, as aforesaid, or have in his possession any canceled stamp or any stamp which has been used, or which purports to have been used, upon any cask or package of distilled spirits, shall be deemed guilty of felony, and, on conviction, shall be fined not less than \$500 nor more than \$10,000, and imprisoned not less than one year nor more than five years.

SEC. [42] 44. *And be it further enacted*, That any person who shall carry on the business of a distiller, rectifier, compounder of liquors, wholesale liquor dealer, retail liquor dealer, or manufacturer of stills, without having paid the special tax, as required by law, or who shall carry on the business of a distiller or rectifier without having given bond as required by law, or who shall engage in or carry on the business of a distiller, with intent to defraud the United States of the tax on the spirits distilled by him, or any part thereof, shall, for every such offense, be fined not less than \$1,000 nor more than \$5,000, and imprisoned not less than six months nor more than two years. And all distilled spirits or wines, and all stills or other apparatus fit, or intended to be used, for the distillation or rectification of spirits or for the compounding of liquors, owned by such person, wherever found, and all distilled spirits or wines and personal property found in the distillery or rectifying establishment, or in the store or other place of business of the compounder, or in any building, room, yard, or inclosure connected therewith, and used with or constituting a part of the premises; and all the right, title, and interest of such person in the lot or tract of land on which such distillery is situated, and all right, title, and interest therein of every person who knowingly has suffered or permitted the business of a distiller to be there carried on, or has connived at the same; and all personal property owned by or in possession of any person who has permitted or suffered any building, yard, or inclosure, or any part thereof, to be used for purposes of ingress or egress to or from such distillery, which shall be found in any such building, yard, or inclosure, and all the right, title, and interest of every person in any premises used for ingress or egress to or from such distillery, who has knowingly suffered or permitted such premises to be used for such ingress or egress, shall be forfeited to the United States.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 39) authorizing the Commissioner of Internal Revenue to adjust the accounts of Mark Howard;

A bill (H. R. No. 1326) for the relief of Anthony Bucher;

A bill (H. R. No. 1354) to provide for the issue of arms for the use of the militia;

A joint resolution (H. R. No. 305) in respect to the construction of bridges over the Ohio river;

A joint resolution (H. R. No. 325) relative to the pay of the chief clerk in the office of the Sergeant-at-Arms of the House;

A joint resolution (H. R. No. 323) in relation to surveys and examinations of rivers and harbors; and

A joint resolution (H. R. No. 324) to extend the time for the completion of the West Wisconsin railroad.

The message also returned to the Senate in compliance with its request the bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river, with the amendment of the Senate thereto.

The message further announced that the House had agreed to some and disagreed to other amendments of the Senate to the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th June, 1869, and agreed to other amendments of the Senate with amendments; asked a conference on the disagreeing votes of the two Houses on the said bill, and appointed Mr. ELIHU B. WASHBURN of Illinois, Mr. COLUMBUS DELANO of Ohio, and Mr. CHARLES E. PHELPS, of Maryland, managers at the same on its part.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 505) to amend section five of an act entitled "An act concerning the registering and recording of ships or vessels," approved December 31, 1792;

A bill (H. R. No. 502) to incorporate the congregation of the First Presbyterian Church of Washington;

A bill (H. R. No. 503) for the relief of William B. Todd;

A joint resolution (H. R. No. 96) for the relief of John Sedgwick, collector of internal revenue, third district of California; and

A joint resolution (H. R. No. 321) in relation to the erection of a bridge in Boston harbor.

#### EXECUTIVE BUSINESS.

Mr. FESSENDEN. I should like to have a short executive session, and I suggest to the honorable Senator from Ohio whether it would not be as well to stop here.

Mr. SHERMAN. I have no objection.

Mr. SUMNER. Before that question is put I should like to understand from the Senator from Ohio whether he proposes an evening session.

Mr. SHERMAN. Yes, sir. I desire to continue the reading of the tax bill, and the consideration of the amendments of the committee.

The PRESIDENT *pro tempore*. Before putting the question on the motion of the Senator from Ohio, the Chair will present some House bills for reference.

#### HOUSE BILLS REFERRED.

The following bills received from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 39) authorizing the Commissioner of Internal Revenue to adjust the accounts of Mark Howard—to the Committee on Finance.

A bill (H. R. No. 1326) for the relief of Anthony Bucher—to the Committee on Claims.

A bill (H. R. No. 1354) to provide for the issue of arms for the use of the militia—to the Committee on Military Affairs and the Militia.

A joint resolution (H. R. No. 305) in respect to the construction of bridges over the Ohio river—to the Committee on Post Offices and Post Roads.

A joint resolution (H. R. No. 323) in relation to surveys and examinations of rivers and harbors—to the Committee on Commerce.

A joint resolution (H. R. No. 325) relative to the pay of the chief clerk in the office of the Sergeant-at-Arms of the House—to the Committee on Appropriations.

## WEST WISCONSIN RAILROAD.

The joint resolution (H. R. No. 324) to extend the time for the completion of the West Wisconsin railroad was read twice by its title.

Mr. HOWE. The Senate passed a joint resolution, of which this is a copy, the other day upon the recommendation of the Committee on Public Lands, and I see no necessity for sending it to a committee. I hope it will be passed now.

Mr. POMEROY. I think we may as well pass it at once.

Mr. FESSENDEN. I should like to have the Senator state whether it is precisely the same resolution that we passed the other day.

Mr. HOWE. I have read it, and I think it is precisely the same, word for word. I was told so by a member of the other House, and such is my recollection. I have not compared it, but I will compare it if the Senate will pass it now, and if I find it not to be the same I will move a reconsideration.

The joint resolution was considered as in Committee of the Whole, reported to the Senate, ordered to a third reading, read the third time, and passed.

## LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1869, disagreed to by the House, and the amendments of the House of Representatives to other amendments of the Senate; and,

On motion by Mr. MORRILL, of Maine,

*Resolved*, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and disagree to the amendments of the House to other amendments of the Senate thereto, and agree to the conference asked by the House on the disagreeing votes of the two houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. MORRILL of Maine, Mr. HOWE, and Mr. HENDRICKS, managers on the part of the Senate.

## EXECUTIVE SESSION.

On motion of Mr. FESSENDEN, the Senate proceeded to the consideration of executive business, and after some time spent therein, the doors were reopened, and the Senate, at five o'clock p. m., took a recess till half past seven.

## EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 453) increasing the pension of Nancy Weeks, widow of Francis Weeks, a soldier of the war of 1812.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 869) prescribing an oath of office to be taken by persons from whom legal disabilities shall have been removed, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a joint resolution (H. R. No. 326) for the relief of Henry B. St. Marie, and a bill (H. R. No. 396) for the relief of Samuel Tibbetts; in which it requested the concurrence of the Senate.

## OATH OF OFFICE.

Mr. TRUMBULL. I ask the consent of the Senate to concur in the amendment of the House to the bill in regard to the oath of office. It merely leaves out the words "and no other." I think there will be no objection to concurring in it.

The Senate proceeded to consider the amendment of the House of Representatives to the amendment of the Senate to the bill (H. R. No. 869) prescribing an oath of office to be

taken by persons from whom legal disabilities shall have been removed; and the House amendment was concurred in.

## INTERNAL TAXES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

The PRESIDENT *pro tempore*. The reading of the bill will be continued.

The Chief Clerk resumed the reading of the bill, as follows:

SEC. [43] 45. *And be it further enacted*, That every rectifier, wholesale liquor dealer, and compounder of liquors, shall provide himself with a book, to be prepared and kept in such form as shall be prescribed by the Commissioner of Internal Revenue, and shall, on the same day on which he receives any spirits, and before he shall draw off any part thereof, or add water or anything thereto, or in any respect alter the same, enter in such book, and in the proper columns respectively prepared for the purpose, the date when, the name of the person or firm from whom and the place whence the spirits were received, when and by whom distilled, rectified, or compounded, and when and by whom inspected, and, if in the original package, the serial number of each package, the number of wine gallons and proof gallons, the kind of spirit, and the number and kind of adhesive stamps thereon; and every such rectifier, compounder, and wholesale dealer, shall, at the time of sending out of his stock or possession any spirits, and before the same shall be removed from his premises, enter, in like manner, in the said book, the day when, and the name and place of business of the person or firm to whom such spirits are to be sent, the quantity and the kind or quality of such spirits, and the strength thereof; and also the number of gallons and fractions of a gallon at proof; and if in the original packages in which they were received, he shall enter the name of the distiller, and the serial number of the package. And every such book shall be at all times kept in some public or open place on the premises of such rectifier, wholesale dealer, or compounder of liquors, respectively, for inspection; and any revenue officer may make an examination of such book and take an abstract therefrom; and every such book, when it has been filled up as aforesaid, shall be preserved by such rectifier, wholesale liquor dealer, or compounder of liquors, for a period not less than two years; and during such time it shall be produced by him to every revenue officer demanding the same; and if any rectifier, wholesale dealer, or compounder of liquors, shall refuse or neglect to provide such book or to make entries therein as aforesaid, or shall cancel, alter, obliterate, or destroy any part of such book, or any entry therein, or make any false entry therein, or hinder or obstruct any revenue officer from examining such book or making any entry therein, or taking any abstract therefrom; or if such book shall not be preserved or not produced by any rectifier, or wholesale dealer, or compounder, as hereinbefore directed, he shall pay a penalty of \$100, and on conviction shall be fined not less than \$100 nor more than \$5,000, and imprisoned not less than three months nor more than three years.

The Committee on Finance reported two amendments to this section. The first was in line ten, after the word "received," to strike out the words "when and."

The amendment was agreed to.

The next amendment was in line twenty-two, after the word "spirits" to strike out the words "and the strength thereof."

The amendment was agreed to.

The Chief Clerk read the following sections, to which no amendment had been reported:

SEC. [44] 46. *And be it further enacted*, That it shall not be lawful for any rectifier of distilled spirits, compounder of liquors, liquor dealer, wholesale or retail liquor dealer to purchase or receive any distilled spirits in quantities greater than twenty gallons from any person other than an authorized rectifier of distilled spirits, compounder of liquors, distiller, or wholesale liquor dealer. Any person violating this section shall forfeit and pay \$1,000. *Provided*, That this shall not be held to apply to judicial sales, nor to sales at public auction made by an auctioneer who has paid a special tax as such.

SEC. [45] 47. *And be it further enacted*, That all distilled spirits drawn from any cask or other package and placed in any other cask or package containing not less than ten gallons, and intended for sale, shall be again inspected and gauged, and the cask or package into which it is so transferred shall be marked or branded, and such marking or branding shall distinctly indicate the name of the gauger, the time and place of inspection, the proof of the spirits, the particular name of such spirits as known to the trade, together with the name and place of business of the dealer, rectifier, or compounder, as the case may be; and in all cases, except where such spirits have been rectified or compounded, the name also of the distiller, and the distillery where such spirits were produced, and the serial number of the original package; and the absence of such mark or brand shall be taken and held as sufficient cause and evidence for the forfeiture of such unmarked packages of spirits.

The Chief Clerk read section [forty-six] forty-eight, as follows:

SEC. [46] 48. *And be it further enacted*, That on all wines, liquors, or compounds known or denominated as wine, not made from grapes grown in the United States, but made in imitation of sparkling wine or champagne, and on all liquors not made from grapes, currants, rhubarb, or berries grown in the United States, but produced by being rectified or mixed with distilled spirits, or by the infusion of any matter in spirits, to be sold as wine or by any other name, there shall be levied and paid a tax of six dollars per dozen bottles, each bottle containing more than one pint and not more than one quart; or three dollars per dozen bottles, each bottle containing not more than one pint, and at the same rate for any quantity of such merchandise, however the same may be put up or whatever be the package. And any person manufacturing, compounding, or putting up such wines, shall, without previous demand, make return, under oath or affirmation, to the assistant assessor, on the 1st and 15th day of each and every month, or within five days thereafter, of the entire amount of such wine manufactured or put up during the first fifteen days of the month, and the residue of the month, respectively, except when the wines so manufactured or put up are used exclusively by the family of the person manufacturing the same; and the tax herein imposed shall be payable at the time such return is made. And in case such manufacturer shall neglect or refuse to make such return within the time specified, the assessor shall proceed to ascertain the amount of tax due as provided in other cases of a refusal or neglect to make returns, and shall assess the tax, and add a penalty of fifty per cent. to the amount; which said tax, and also said penalty shall be collected in the manner provided for the collection of tax on monthly and other lists. Any person who shall fraudulently evade or attempt to evade the payment of the tax herein imposed shall, on conviction, be fined not less than \$500, nor more than \$5,000, and imprisoned not less than six months nor more than two years.

The Committee on Finance reported an amendment to this section, in line two, after the word "wine," to insert "and made in imitation of sparkling wine or champagne, but;" and in line four, after the word "United States," to strike out the words, "but made in imitation of sparkling wine or champagne."

The amendment was agreed to.

The Chief Clerk read section [forty-seven] forty-nine, as follows:

SEC. [47] 49. *And be it further enacted*, That the Secretary of the Treasury, on the recommendation of the Commissioner of Internal Revenue, shall appoint one officer for each United States judicial district, to be called a supervisor of internal revenue on distilled spirits and tobacco, whose duty it shall be to reside in such district, and keep his office at some convenient place therein to be designated by the Commissioner, and who shall receive, in compensation for his services, such salary as the Commissioner of Internal Revenue may deem just and reasonable, not exceeding \$2,500 per annum, and shall be paid his necessary traveling expenses when absent from his office on official business. It shall be the duty of every supervisor of internal revenue on distilled spirits and tobacco, under the direction of the Commissioner, to see that all laws and regulations relating to the collection of internal taxes upon distilled spirits and tobacco are faithfully executed and complied with; to aid in the prevention, detection, and punishment of any frauds in relation thereto, and to examine into the efficiency and conduct of all officers of internal revenue within his district; and for such purposes he shall have power to examine all persons, books, papers, accounts, and premises, and to administer oaths and to summon any person to produce books and papers, or to appear and testify under oath before him, and to compel a compliance with such summons in the same manner as assessors may do. It shall be the duty of every supervisor of internal revenue as aforesaid to report in writing to the Commissioner of Internal Revenue any neglect of duty, incompetency, delinquency, or malfeasance in office of any internal revenue officer within his district of which he may obtain knowledge, with a statement of all the facts in each case, and any evidence sustaining the same; and he shall have power to transfer any inspector, gauger, or storekeeper from one distillery or other place of duty to another, or from one collection district to another, within his district, and may, by notice in writing, suspend from duty any such inspector, gauger, or storekeeper, and in case of suspension shall immediately notify the collector of the proper district and the Commissioner of Internal Revenue, and within three days thereafter make report of his action, and his reasons therefor, in writing, to said Commissioner, who shall thereupon take such further action as he may deem proper.

The Committee on Finance reported several amendments to this section. The first was in line three, after the word "revenue," to strike out "shall" and insert "may;" and after the word "appoint," to strike out the words "one officer for each United States judicial district" and to insert "not exceeding twenty officers."

The amendment was agreed to.

The next amendment was in line five, to strike out the word "a" before "supervisor;" and also to add the letter "s" to supervisor;



and after the word "revenue" to strike out the words "on distilled spirits and tobacco."

The amendment was agreed to.

The next amendment was in line seven, to strike out the word "such" before "district" and to insert "a designated territorial."

The amendment was agreed to.

The next amendment was in line nine, after the word "receive," to insert "in addition to expenses necessarily incurred by him."

The amendment was agreed to.

The next amendment was in lines twelve and thirteen, to strike out "two thousand five hundred" and to insert "three thousand" before "dollars."

The amendment was agreed to.

The next amendment was in line thirteen, after the words "per annum," to strike out the words "and shall be paid his necessary traveling expenses when absent from his office on official business."

The amendment was agreed to.

The next amendment was in line sixteen, to strike out the words "on distilled spirits and tobacco;" and in line nineteen, to strike out the words "upon distilled spirits and tobacco."

The amendment was agreed to.

The section, as thus amended, reads as follows:

SEC. [47] 49. *And be it further enacted*, That the Secretary of the Treasury, on the recommendation of the Commissioner of Internal Revenue, may appoint not exceeding twenty officers, to be called supervisors of internal revenue, whose duty it shall be to reside in a designated territorial district, and keep his office at some convenient place therein to be designated by the Commissioner, and who shall receive, in addition to expenses necessarily incurred by him, in compensation for his services, such salary as the Commissioner of Internal Revenue may deem just and reasonable, not exceeding \$3,000 per annum. It shall be the duty of every supervisor of internal revenue, under the direction of the Commissioner, to see that all laws and regulations relating to the collection of internal taxes are faithfully executed and complied with; to aid in the prevention, detection, and punishment of any frauds in relation thereto, and to examine into the efficiency and conduct of all officers of internal revenue within his district, &c.

The Chief Clerk read section [forty-eight] fifty, as follows:

SEC. [48] 50. *And be it further enacted*, That from and after the passage of this act no general or special agent, by whatever name or designation he may be known, of the Treasury Department in connection with the internal revenue, except as provided for in this act, shall be appointed, commissioned, employed, or continued in office, and that the term of office or employment of all such general or special agents now authorized as aforesaid under employment at the time of the passage of this act shall expire ten days after this act shall take effect.

The committee reported amendments to this section. The first was to insert after the enacting clause, and before the word "that," the following clause:

That the Commissioner of Internal Revenue shall have power, whenever in his judgment the necessities of the service may require, to employ competent persons, not exceeding fifty in number at any one time, whose term of service shall continue at the pleasure of the Commissioner of Internal Revenue, who shall perform such duties and at such places as may be required of them by the Commissioner of Internal Revenue, at a rate of compensation to be determined by the said Commissioner before the commencement of his employment.

Mr. TRUMBULL. It seems to me that is giving a very great discretion to the Commissioner, to fix the compensation as he pleases and appoint men to perform such duties as he pleases. It strikes me as very loose legislation.

Mr. SHERMAN. If the Senator will look at the context he will see that it limits discretion. Under the present law, the Secretary of the Treasury has power to appoint special agents, general agents, &c., of various denominations, and inspectors. About three hundred altogether are employed. The House of Representatives, by section forty-eight, repealed all this authority and provided that the offices of all these persons should terminate within ten days after the taking effect of this act. We have left that provision, but in lieu of these general and special agents and inspectors of revenue, no longer necessary under this bill, we have provided for the smallest possible number acting on the best information we could get from the Commissioner of Internal Revenue to perform

the duties devolved on him. They are the agents, the employes, the right-hand men of the Commissioner of Internal Revenue to perform the duties that are now being performed by special agents. They will be sent off unknown to any one, sent off to collectors or assessors who are under suspicion, and may be called upon to discharge very important functions. As a matter of course, their compensation cannot very well be fixed, because they may be employed but a few days or a week or a month. No commission issues to them. Indeed, we cannot under the Constitution authorize a commission to issue to them upon an appointment made by the Commissioner of Internal Revenue, because he is not the head of a Department. They are simply temporary employes of the Commissioner of Internal Revenue.

Mr. EDMUNDS. Do they have power to make seizures?

Mr. SHERMAN. They have the same power that special agents have.

Mr. EDMUNDS. Is that a power to make seizures?

Mr. SHERMAN. Upon the direction of the Commissioner of Internal Revenue. They have no independent power. They can only do what he tells them. He says, "Go to such a place to examine the books," and they have a right to do it. They are simply his employes, and the nature and character of their power are such as may be delegated to them by him from time to time. We considered this, after the most mature reflection, as an indispensable provision, especially if we repeal the authority for the whole army of special agents. The preceding section provided for sixty supervisors of internal revenue, one for each judicial district. We have reduced the number to twenty, and we have instead given him fifty persons to be employed at his pleasure to perform such duties as he may designate from time to time.

Mr. TRUMBULL. One of the great abuses under the present system has been the unlimited discretion in regard to special agents. The country has been filled with them. The Senate passed a bill early in the session cutting off this power to appoint special agents and send them all over the country to perform such duties as the Secretary of the Treasury might designate, and with such pay as he might designate. It is one of the great abuses of the Government, and an effort has been made at this session of the Senate to correct it. We passed a bill upon that subject. I am not objecting to the number of these employes. Fifty may be necessary. I am not sufficiently advised in regard to that. I am sorry that such a power has to be granted at all; but the committee having found that it is necessary I have nothing to say about that. But it is certainly very objectionable to vest the Commissioner of Internal Revenue with authority "to employ competent persons, not exceeding fifty in number at any one time, whose term of service shall continue at the pleasure of the Commissioner of Internal Revenue, who shall perform such duties and at such places as may be required of them by the Commissioner of Internal Revenue, at a rate of compensation to be determined by the said Commissioner." It authorizes the Commissioner of Internal Revenue to pay any sum that he thinks proper, and assign any duties that he thinks proper to these officers. The Senator from Vermont [Mr. EDMUNDS] asked if they could make seizures. I suppose so. You make by this provision the Commissioner of Internal Revenue a legislator; he may devolve upon them any duties he thinks proper, and then pay any sum that he thinks proper. I do think there should be some limit to this, not exceeding so much a day, or not exceeding so much a year. We should have some limitation upon it, and not allow this officer to pay what he pleases, and assign what duties he pleases. I think the duties ought to be specified. It is a species of legislation that is very objectionable.

I can see from the framing of this bill that it is an attempt on the part of the Committee

on Finance to get around the Constitution. Instead of appointing these persons as officers, requiring them to perform specific duties regulated by law, and to be responsible to somebody, they are called "employes," in order really to vest the appointment in the hands of the Commissioner of Internal Revenue. Perhaps it is better for that officer to do it; but I think there should be some limit as to the amount here, and I hope the committee will agree upon some sum. I would rather agree that they should not be paid exceeding twenty dollars a day than to have it in this loose way.

Mr. MORGAN. Mr. President, there is, to be sure, a discretionary power given to the Commissioner to make these appointments and fix the salary; but the Senator from Illinois will bear in mind that the number is reduced from two hundred and fifty to seventy. The present number is about two hundred and fifty, all told, of various officers.

Mr. TRUMBULL. The Senator from New York is aware that that has been a subject of vast complaint. In my State, at Chicago, I have been told that there have been a dozen of these special agents at one time.

Mr. MORGAN. The Committee on Finance have reduced the number from two hundred and fifty down to seventy, all told, fifty special agents and twenty supervisors, a great reduction that I should think would be entirely satisfactory.

Mr. TRUMBULL. I am not complaining of the reduction, but I am complaining that there is no limit as to what these men are to be paid or what they are to do.

Mr. MORRILL, of Vermont. It is true that these officers have been employed and there has been great abuse in regard to them; but simply because there has been great abuse it does not follow that we can wholly dispense with such officers. The number is so reduced by our bill that the Department will be compelled to employ such as are of use, or else the revenue service must vastly suffer. This number does not give one to a district; and it sometimes happens, for instance when a distillery is seized, or a tobacco warehouse, that it takes two or three of these men to attend to it. The services of some of these men are worth very much more in one case than in another. It may require an expert in one case whose services cannot be procured short of the rate of five or six thousand dollars a year for a short time, and in another case a man that might not be worth more than four dollars, or two or three dollars a day would answer the purpose. It is merely supplying a sufficient number of employes so that the actual business of the office shall not be crippled. I believe that we really ought to enlarge and give a greater number. All I can say in relation to the Commissioner of Internal Revenue is that it ought to be within his power to nominate these men and control them. He knows more about the business on which they are to be sent than anybody else. Sometimes he has to send men from this city who are acquainted with the accounts of parties whose returns have been made. Sometimes they have to be taken to New York or Chicago. There is such a wide diversity of duties devolving upon these officers that we must leave something to the discretion of the Commissioner of Internal Revenue.

Mr. EDMUNDS. There is no doubt, Mr. President, that it is necessary in the enforcement of the intended revenue laws to have officers who shall possess powers of a somewhat indefinite description, revisory, supervisory, the powers of spies, if one may use an offensive word, powers of performing secret service, and of making instantaneous seizures when they discover what it is necessary to do. "Detectives" is a softer word that the chairman of the committee suggests, and I adopt it. But I want to ask the chairman of the committee and the rest of the Senators whether this is going to effect such an object? I put it to him as a question of law, can the Commissioner of Internal Revenue be authorized under our Constitution to "employ," as this term is, or

appoint, whatever you call it, a person who shall have any power to interfere with the liberty or property of any citizen? It appears to me that in a government of laws no person can have the legal power to interfere with your property or mine, with your liberty or mine, unless he be an officer of the law; and I am quite sure the Constitution intended that when it provided that the President should commission all officers of the United States, and when it took great pains to prescribe a method by which all officers of the United States should be appointed; that is to say, by the President, by and with the advice and consent of the Senate, by the courts of law, or by the heads of Departments. They, by the Constitution, are made the fountains of appointment of all the officers of the United States.

If I am right in assuming (because it does not appear to me to be necessary to go into an argument to demonstrate that to a lawyer) that no person can interfere with the liberty or the property of another in this country unless he does it as an appointed officer of the law, executing the public will framed into a statutory enactment against that very person, thereby being the minister of that "due process of law" of which *Magna Charta* spoke, and of which all modern constitutions speak, then, I say, it is manifest that we cannot in this indirect method, by styling these persons employes of the Commissioner of Internal Revenue instead of officers, inferior officers, appointed by the head of a Department, infuse into them any other power than that mere observatory, ex-work power that the common laborer has about your grounds, not an officer at all. It appears to me, and I think the committee will agree, that these persons ought to have the power of officers of the law, power to put the whole forces of the law in operation in an instant, to arrest a man, to apply for a warrant, to execute it, to seize his distillery, to do all those things that it is unnecessary, and I do not want to occupy time to enumerate; so that, while I believe it is necessary to have these persons, I think we ought to adopt the same plan of providing for their appointment that we did for the special agents for this and for the customs service in the bill the Senator from Illinois has alluded to as having passed this body, and that is to provide that the head of a Department shall appoint them upon the nomination or designation of the Commissioner of Internal Revenue. The theory of that is that you are thus enabled to have the Commissioner of Internal Revenue, who is from his position better able to select these agents, designate them to the Secretary of the Treasury; and the Secretary being the head of a Department will be authorized by the Constitution to clothe them with that power of representing the forces of the law which will make them enabled to carry it into execution. I will suggest, therefore, although I will not move it against the wish of the committee, that it should be put into some such shape as that it would be sure to stand fire.

Mr. SHERMAN. Rather than divide the Senate about a matter of this kind I prefer that it should go over. We have carefully considered this matter, and wish to invest the Commissioner of Internal Revenue with this power, and to hold him responsible for its exercise. But as I said, rather than divide the Senate, I prefer to have this section passed by and go on with the bill if that be the pleasure of the Senate, although I prefer of course that the Senate should agree to the section as it stands.

Mr. EDMUNDS. Do you maintain that you can give them any official power?

Mr. SHERMAN. I can go into an argument to show that we have the right to vest in a subordinate power power to employ temporary agents; but I do not wish to go into that because we have not a quorum here.

Mr. MORRILL, of Vermont. I call the attention of my colleague to this fact, that we only put on these persons such duties as may be required by the Commissioner of Internal Revenue. Is it to be supposed that duties will

be put upon them that they are unable to perform?

Mr. EDMUNDS. I asked the chairman of the committee if it was understood that these persons were to have, as they ought to have, power to seize property which they found violating the law, and I understood the chairman to answer with that frankness which is characteristic of him, and that knowledge of business to which we all bow, that they should, as it is essential that they should. If, on the other hand, they are to be employed in such things as they can perform as mere detectives or spies, without the power to arrest and to seize, then it is a great deal of flourish for a very small amount of success, as it appears to me. Every detective, in the ordinary sense in which we understand that term, is, when you come to take off his overcoat, an officer of the law, with the badge of the police upon his breast, clothed by the law with power to exercise all the executive functions that a marshal or sheriff or constable has; and that is just the way with the present special agents, because they are appointed by a tribunal that the Constitution reposes that power to appoint in. This is my reply to my friend and colleague.

Mr. SHERMAN. I ask that this section be passed by informally.

The PRESIDENT *pro tempore*. It will be passed over informally, if there be no objection.

Mr. BUCKALEW. I was going to remark that, in my judgment, the section throws on the Commissioner of Internal Revenue power to appoint officers to hold during his pleasure. There is no check upon him. It also gives him power to fix their compensation without any check whatever. It authorizes him to assign to them any official duties that he pleases without any check or regulation whatever.

Mr. SHERMAN. Let it go over.

Mr. BUCKALEW. I will not pursue the matter now.

Mr. SHERMAN. I think I can show that we can give him the power to employ persons to perform duties by law vested in him; but let it pass now.

Mr. EDMUNDS. That is a very abstract proposition. The question is whether he has power to name a person to make a seizure of the Senator's property or mine.

The PRESIDENT *pro tempore*. The Clerk will proceed with the reading of the bill, passing this section for the present.

The CHIEF CLERK. In line thirteen of the section the committee propose to insert the words "and no district inspectors;" and in line sixteen, after the word "agents," to insert "or inspectors."

Mr. BUCKALEW. I suggest that this whole section belongs together.

Mr. SHERMAN. Yes; because if we do not adopt the first part, as a matter of course we shall have to keep the special agents.

The PRESIDENT *pro tempore*. The whole section will be passed over.

The Chief Clerk read the next section, as follows:

SEC. 49. *And be it further enacted*, That from and after the passage of this act no assessor or collector shall be authorized to enter any other district than the one for which he has been appointed for the purpose of exercising any authority, except as expressly provided for by this act.

The Committee on Finance proposed to strike out the section.

The amendment was agreed to.

The Chief Clerk read the next section, as follows:

SEC. [50] 51. *And be it further enacted*, That there shall be appointed by the Secretary of the Treasury in any district such number of internal revenue storekeepers as may be necessary, who shall be *bona fide* residents of the district in which they may be appointed, the compensation of each of whom shall be five dollars per day, to be paid by the United States, one or more of whom shall be assigned by the Commissioner of Internal Revenue to every bonded warehouse established by law; and no such storekeeper shall be engaged in any other business while in the service of the United States. Every storekeeper shall take an oath faithfully to perform the duties of his office, and shall give a bond, to be approved by the Commissioner of Internal Revenue, for the faithful discharge of his duties, in such form

and for such amount as the Commissioner may prescribe. Every storekeeper shall have charge of the warehouse to which he may be assigned, under the direction of the collector controlling the same, which warehouse shall be in the joint custody of such storekeeper and the proprietor thereof, and kept securely locked, and shall at no time be unlocked and opened or remain open unless in the presence of such storekeeper or other person who may be designated to act for him as hereinafter provided; and no articles shall be received in or delivered from such warehouse except on an order or permit addressed to the storekeeper and signed by the collector having control of the warehouse. Every storekeeper shall keep a warehouse-book, which shall at all times be open to the examination of any revenue officer, in which he shall enter an account of all articles deposited in the warehouse to which he is assigned, indicating in each case the date of the deposit, by whom manufactured or produced, the number and description of the packages and contents, the quantities therein, the marks and serial numbers thereon, and by whom gauged, inspected, or weighed, and, if distilled spirits, the number of gauge or wine gallons and of proof gallons; and before delivering any article from the warehouse he shall enter in said book the date of the permit or order of the collector for the delivery of such articles, the number and description of the packages, the marks and serial numbers thereon, the date of delivery, to whom delivered, and for what purpose, which purpose shall be specified in the permit or order for delivery; and in case of delivery of any distilled spirits, the number of gauge or wine gallons, and of proof gallons, shall also be stated; and such further particulars shall be entered in the warehouse-books as may be prescribed or found necessary for the identification of the packages, to insure the correct delivery thereof and proper accountability therefor. A daily return shall be furnished by every storekeeper to the collector of the district of all articles received in and delivered from the warehouse during the day preceding that on which the return is made, a copy of which shall be mailed by him at the same time to the Commissioner of Internal Revenue; and each storekeeper shall, on the first Monday of every month, make a report in triplicate of the number of packages of all articles, with the several descriptions thereof respectively, as above provided, which remained in the warehouse at the date of his last report, and of all articles received therein and delivered therefrom during the preceding month, and of all articles remaining therein at the end of said month; one of which reports shall be by him delivered to the assessor of the district, to be recorded and filed in his office; one delivered to the collector having control of the warehouse, to be recorded and filed in his office; and one transmitted to the Commissioner of Internal Revenue, to be recorded and filed in his office. Any internal revenue storekeeper may be transferred by the supervisor of the district commissioner of internal revenue from one warehouse to another within the same district. In case of the absence of any internal revenue storekeeper by sickness or from any other cause, the collector having control of the warehouse may designate a person to have temporary charge of such warehouse, who shall, during such absence, perform the duties and receive the pay of the storekeeper for the time he may be so employed; and for any violation of the law he shall be subject to the same punishment as storekeepers. Any storekeeper or other person in the employment of the United States having charge of a bonded warehouse who shall remove or allow to be removed any cask or other package therefrom without an order or permit of the collector, or which has not been marked or stamped in the manner required by law, or shall remove or allow to be removed any part of the contents of any cask or package deposited therein, shall be immediately dismissed from office or employment, and, on conviction, be fined not less than \$500 nor more than \$2,000, and imprisoned not less than three months nor more than two years.

The Committee on Finance reported several amendments to this section. The first was in line two, after the word "Treasury," to strike out the words "in any district."

The amendment was agreed to.

The next amendment was in line four, after the word "necessary," to strike out the words "who shall be *bona fide* residents of the district in which they may be appointed."

The amendment was agreed to.

The next amendment was in line six, after the words "shall be," to insert "determined by the Commissioner of Internal Revenue not exceeding."

The amendment was agreed to.

The next amendment was in line nine, to strike out the word "bonded," and to insert "distillery" before "warehouse."

The amendment was agreed to.

The next amendment was in line twelve, after the words "United States," to insert "without the written permission of the Commissioner of Internal Revenue."

The amendment was agreed to.

The next amendment was in line sixty-nine, to insert the word "or" before "Commis-

sioner;" and in line seventy, to strike out the words "another within the same district" and to insert "any other;" so that the clause will read:

Any internal revenue storekeeper may be transferred by the supervisor of the district or Commissioner of Internal Revenue from one warehouse to any other.

The amendment was agreed to.

Mr. HOWE. I wish to ask the chairman of the committee if it is supposed to be necessary to have more than one of these storekeepers to a single warehouse.

Mr. SHERMAN. No, sir.

Mr. HOWE. The bill provides for "one or more" being assigned to every warehouse.

Mr. SHERMAN. The Senator will see that we have provided that these storekeepers may be ordered from one district to another, and it may be possible that sometimes experienced storekeepers who have proved themselves faithful and good and shown themselves worthy may be sent to a distillery in another district and temporarily employed there.

Mr. HOWE. The section reads, "one or more of whom shall be assigned by the Commissioner of Internal Revenue to every distillery warehouse."

Mr. SHERMAN. We have left it so that in certain cases two storekeepers may be assigned to some of the great distilleries. It may be necessary, and they may be transferred from one to another. The whole matter is left to the Commissioner of Internal Revenue and to the supervisor of internal revenue of the district.

Mr. HOWE. It seems to me that if that should be necessary in any case, the section would have to be changed considerably, but then I may be mistaken about it. It provides for returns to be made by every storekeeper, so that if there are two storekeepers to a single warehouse there would be duplicate returns, each one would have to make his own report from time to time.

Mr. SHERMAN. Such a case as that would rarely occur. It would only occur in a great distillery where one might be sent to supervise or watch over another. Probably the case would very rarely occur; but we have allowed for the possibility of such a case: where a storekeeper may be under suspicion, another storekeeper may be sent there temporarily to discharge the duties.

Mr. HOWE. That is provided for by transfer, not by duplication.

The PRESIDENT *pro tempore*. The reading of the bill will proceed.

The Chief Clerk read the next section, as follows:

SEC. 51. *And be it further enacted*, That there shall be appointed by the Secretary of the Treasury, in every collection district where the same may be necessary, one or more internal revenue gaugers, who shall each take an oath faithfully to perform his duties, and shall give his bond, with one or more sureties, satisfactory to the Commissioner of Internal Revenue, for the faithful discharge of the duties assigned to him by law or regulations; and the penal sum of said bond shall not be less than \$5,000, and said bond shall be renewed or strengthened as the Commissioner of Internal Revenue may require. The duties of every such gauger shall be performed under the supervision and direction of the collector of the district to which he may be assigned, or of the collector in charge of exports at any port of entry to which he may be assigned. Fees for gauging and inspecting shall be prescribed by the Commissioner of Internal Revenue, to be paid to the collector by the owner or producer of the articles to be gauged and inspected; and said collector shall retain all amounts so received as such fees until the last day of each month, when the aggregate amount of fees so paid that month shall, under regulations to be prescribed by the Commissioner of Internal Revenue, be paid to the gauger performing the duty; but in any city or part of a city within a district where there may be two or more gaugers on duty, the said fees shall be equally divided by the collector among them. In no case, however, shall the aggregate monthly fees of any gauger exceed at the rate of \$3,000 per annum. All necessary labor and expense attending the gauging of any article shall be furnished and borne by the owner or producer of such articles. Every gauger shall, under such regulations as may be prescribed by the Commissioner of Internal Revenue, make a daily return, in duplicate; one to be delivered to the assessor and the other to the collector of his district, giving a true account, in detail, of all articles gauged and proved or inspected by him, and for whom, and the number and kind of stamps used by

him. Any gauger who shall make any false or fraudulent inspection, gauging, or proof, shall pay a penalty of \$1,000, and on conviction, shall be fined not less than \$500 nor more than \$5,000, and imprisoned not less than three months nor more than three years.

The Committee on Finance proposed to amend this section by inserting in line twenty-two, after the word "gauger," the words "or gaugers."

The amendment was agreed to.

The next amendment was after the word "duty," in line twenty-three, to strike out the following clause:

But in any city or part of a city within a district where there may be two or more gaugers on duty, the said fees shall be equally divided by the collector among them.

The amendment was agreed to.

The next amendment was in line twenty-nine, to strike out the words "furnished and" before the word "borne."

The amendment was agreed to.

The Committee on Finance reported an amendment, to strike out sections fifty-two, fifty-three, and fifty-four of the House bill, in the following words:

SEC. 52. *And be it further enacted*, That the Commissioner of Internal Revenue is hereby authorized to establish and designate at any port of entry in the United States bonded warehouses for the storage of distilled spirits in bond intended for exportation. Suitable buildings shall be selected for such warehouses, which shall not be of less capacity than sufficient to store five thousand barrels of distilled spirits, and shall have no opening into or connecting them with any other building, nor be within six hundred feet of any distillery or rectifying establishment, and shall be known as export bonded warehouses, and used exclusively for the storage of distilled spirits in bond; and no distilled spirits shall be withdrawn or removed from such warehouses except on an order or permit from the collector in charge of exports for immediate transfer to the vessel by which they are to be exported to a foreign country, as hereinafter provided; but no distilled spirit shall be removed from the distillery warehouse until the tax provided for in this act shall have been paid, anything contained in any law to the contrary notwithstanding.

SEC. 53. *And be it further enacted*, That a drawback shall be allowed upon alcohol and rum exported to foreign countries on which taxes have been paid under the provisions of this act, of which proof shall be furnished by the person exporting the same, under such rules and regulations as the Secretary of the Treasury may prescribe. Before any drawback shall be paid the exporter claiming drawback shall furnish satisfactory proof that the articles exported have been landed in a foreign country and sold, or consigned for sale in such country, and the Secretary of the Treasury shall prescribe such rules and regulations as may be necessary to secure the Treasury of the United States against frauds. The drawback allowed shall include all the taxes levied and paid upon the alcohol or rum exported, not, however, exceeding fifty cents per gallon proof-spirit: *Provided, however*, That no claim for drawback shall be allowed on either of the said articles which shall have been exported as aforesaid prior to the time at which this act shall take effect; and that if any person or persons shall fraudulently claim or seek to obtain an allowance of drawback on any article or articles aforesaid on which no internal tax shall have been paid, or shall fraudulently claim any greater allowance or drawback than the tax actually paid thereon as aforesaid, such person or persons shall forfeit and pay to the Government of the United States triple the amount wrongfully and fraudulently sought to be obtained, and on conviction thereof shall be imprisoned in the penitentiary for a period not less than one year nor more than ten years.

SEC. 54. *And be it further enacted*, That any distilled spirits may, on payment of the tax thereon, be withdrawn from warehouse on application to the collector of the district in charge of such warehouse, on making a withdrawal entry, in duplicate and in form as follows:

[Entry for withdrawal of distilled spirits from warehouse. Tax paid.]

Entry of distilled spirits to be withdrawn on payment of the tax from — warehouse by —, deposited on the — day of —, A. D., by —, in said warehouse.

If withdrawn by any other than the person who made the deposit, the authority for so doing shall be attached to the entry signed by the person who made the deposit, and be in form as follows:

I authorize — to withdraw from warehouse — the distilled spirits described in this entry.

And the entry shall specify the whole number of casks or packages, with the marks and serial numbers thereon, the number of gauge or wine gallons, and of proof gallons, and the amount of the tax on the distilled spirits contained in them: all of which shall be verified by the oath or affirmation of the person making such entry; and on payment of the tax the collector shall issue his order to the storekeeper in charge of the warehouse for the delivery. One of said entries shall be filed in the office of the collector, and the other transmitted by him to the Commissioner of Internal Revenue.

And to insert in lieu thereof the following:

SEC. 53. *And be it further enacted*, That a drawback shall be allowed upon alcohol and rum exported to foreign countries on which taxes have been paid under the provisions of this act when exported as herein provided for. The drawback allowed shall include the taxes levied and paid upon the alcohol or rum exported, not, however, exceeding sixty cents per gallon proof-spirit, and shall be paid when having been placed on shipboard, the vessel has actually cleared on her voyage, and the proper bonds have been executed and filed as hereinafter required; and the Secretary of the Treasury shall prescribe such rules and regulations in relation thereto as may be necessary to secure the Treasury of the United States against frauds. And if any person shall fraudulently claim or seek to obtain an allowance of drawback on any alcohol and rum on which no internal tax shall have been paid, or shall fraudulently claim any greater allowance of drawback than the tax actually paid thereon, such person shall forfeit and pay to the Government of the United States triple the amount wrongfully and fraudulently sought to be obtained, and on conviction shall be imprisoned not less than one year nor more than ten years. And any owner, agent, or master of any vessel who shall knowingly aid or abet in the fraudulent collection or fraudulent attempt to collect any drawback upon rum or alcohol, or shall knowingly aid or permit any fraudulent change in the spirits shipped, shall, on conviction, be fined \$5,000 and imprisoned not less than one year, and the ship or vessel on board of which such shipment was made, or pretended to be made, shall be forfeited to the United States, whether a conviction of the master or owner be had or otherwise, and proceedings may be had in admiralty by libel for such forfeiture.

SEC. 54. *And be it further enacted*, That alcohol and rum may be exported with the privilege of drawback, in quantities not less than two thousand gallons, and in packages containing not less than thirty gallons each, on application of the owner thereof to the collector in charge of exports at any port of entry, and under such rules and regulations, and after making such entries, and executing such bonds, and giving such other additional security as may be prescribed by law and by the Commissioner of Internal Revenue. The entry for such exportation shall be in triplicate, and shall contain the name of the person applying to export, the name of the distiller, and of the district in which the spirits were distilled, and the name of the vessel by which, and the name of the port to which, they are to be exported; and the form of the entry shall be as follows:

[Export entry of distilled spirits entitled to drawback.]

Entry of spirits distilled by —, in — district, State of —, to be exported by —, in the —, whereof — is master, bound to —.

And the entry shall specify the whole number of casks or packages, the marks and serial numbers thereon, the quality or kind of spirits as known in commerce, the number of gauge or wine gallons and of proof gallons; and amount of the tax on such spirits shall be verified by the oath or affirmation of the owner of the spirits, and that the tax has been paid thereon, and that they are truly intended to be exported to the port of —, and not to be relanded within the limits of the United States; and said owner shall give his bond, executed in duplicate, with one or more sureties satisfactory to said collector, conditioned that the principal named in said bond will export the spirits as specified in said entry to the port of —, and that the same shall not be landed within the jurisdiction of the United States. The penal sum named in said bond shall be equal to not less than double the amount of the drawback on such spirits. For the discharge of any such export bond the same shall be allowed, and the same certificates of landing and other evidence shall be required as is or may be provided and required for imported merchandise exported from the United States, that the said spirits have been landed at the port named, or at any other port, beyond the jurisdiction of the United States. One bill of lading, duly signed by the master of the vessel, shall be deposited with said collector, to be filed at his office with the entry, retained by him; one of said entries shall be sent to the collector of customs at said port of entry, and when the shipment is completed the other entry shall be transmitted, with the duplicate of the bond, to the Commissioner of Internal Revenue, to be recorded and filed in his office. The lading on board said vessel shall be only after the receipt of an order or permit signed by the collector in charge of exports and directed to the internal revenue gauger, and after each cask or package shall have been distinctly marked or branded by said gauger, as follows: "For export from U. S. A." The casks or packages shall be inspected and gauged alongside of or on the vessel by the internal revenue gauger, designated by said collector in charge of exports, under such rules and regulations as the Commissioner of Internal Revenue may prescribe; and on application of the said collector in charge of exports, it shall be the duty of the surveyor of the port to designate and direct one of the custom-house inspectors to superintend such shipment. The gauger, as aforesaid, shall make a full return of such inspecting and gauging, certifying thereon that the shipment has been made, in his presence, on board the vessel named in the entry for export, which return shall be indorsed by said custom-house inspector, certifying that the casks or packages have been shipped under his supervision on board said vessel; and the said inspector shall make a similar certificate to the surveyor of the port, indorsed on, or to be attached to, the entry in the possession of the custom-house: *Provided, however*, That no claim for drawback shall be allowed on either of the said articles which shall have been exported



as aforesaid prior to the time at which this act shall take effect.

Mr. BUCKALEW. It seems to me the penalty in the first of these sections is rather severe. "The ship or vessel on board of which such shipment was made, or pretended to be made, shall be forfeited to the United States, whether a conviction of the master or owner be had or otherwise, and proceedings may be had in admiralty by libel for such forfeiture." This is a forfeiture of the entire vessel in consequence of the misconduct of a mere agent, without default of the owner of the ship. I am told this is the present provision in our customs laws. Whether found in them or not, it seems to me a very unreasonable provision of law. The owner may not be at the port; he may confide his vessel to an agent in perfect good faith, and that agent, by his own misconduct and fraud, may induce an entire forfeiture of the vessel of the owner. I think it is a shocking provision—grossly unjust.

Mr. SHERMAN. This, as the Senator says, is substantially copied from the present law in regard to exported merchandise, and the forfeiture is only in cases of fraud.

Mr. MORRILL, of Vermont. Only where the owner shall "knowingly aid or abet."

Mr. SHERMAN. The language is "and the ship or vessel on board which such shipment"—that refers to the previous provision. "Any owner, agent, or master of any vessel, who shall knowingly aid or abet in the fraudulent collection or fraudulent attempt to collect any drawback upon rum or alcohol, or shall knowingly aid and permit any fraudulent change in the spirits so shipped"—in such cases where there is a palpable fraud by the owner, agent, or master of the vessel, it is to be forfeited. That is the present law in cases of fraud against the customs. It seems to me a less penalty than that ought not to be enforced.

Mr. BUCKALEW. It would be all right where the owner himself committed fraud, but this applies to cases where the agent does it, and he can do it at another port.

Mr. SHERMAN. Under the law of common carriers the owner of a vessel is liable for want of care, negligence, and so on, and may lose his whole vessel by the want of care or negligence of the master. The law of common carriers, as we all know, is extremely severe. This is no more severe than that. Where an owner intrusts his vessel to a master or agent employed by him, and that agent or master is guilty of a palpable fraud knowingly, the provision is that the vessel shall be forfeited. The same provision is made in cases of smuggling, and the same rule applies to all common carriers and to exporting goods in bond now. It is not a new principle at all, and my impression is that the clause is copied from the customs law.

Mr. BUCKALEW. I only wished to draw attention to it.

Mr. HOWE. I see the amount of drawback is limited to sixty cents. Why is that?

Mr. SHERMAN. The whole amount of tax levied on whisky by this bill amounts to about sixty-five cents.

Mr. HOWE. How is that?

Mr. SHERMAN. There is a special tax of four dollars on every cask of forty gallons. That is levied monthly, so that the actual tax levied by this bill directly on spirits is sixty cents, and in addition to that there are other taxes that bring the amount to about sixty-five cents.

Mr. JOHNSON. Not sixty-five cents in addition?

Mr. SHERMAN. No; about sixty-five cents altogether. We allow a drawback of sixty cents. Under the present drawback system five per cent. is always deducted.

Mr. SUMNER. The drawback is not quite enough, rather than too much.

Mr. SHERMAN. We think it is just about right. It is a little less than the tax.

Mr. JOHNSON. A part is always reserved. The amendment was agreed to.

The next section was read as follows:

SEC. 55. And be it further enacted, That all distilled spirits in any bonded warehouse shall, within six months after the passage of this act, be withdrawn from such warehouse, and the tax paid on the same; and the casks or packages containing said spirits shall be marked and stamped, and be subject, in all respects, to the same requirements as if manufactured after the passage of this act. And any distilled spirits remaining in any bonded warehouse for a period of more than six months after the passage of this act shall be forfeited to the United States, and shall be sold or disposed of for the benefit of the same in such manner as shall be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury.

The Committee on Finance propose to amend this section by striking out the word "six" and inserting "twelve" before "months" in lines two and nine respectively.

The amendment was agreed to.

Mr. BUCKALEW. I suppose the committee have considered this subject carefully; I have not. I have been told by men from my State that this entire section is very objectionable. They allege that abroad liquors are allowed to remain in store an indefinite length of time under legal custody; and the effect of limiting the time here to six months or a year will be to interfere very seriously with certain manufacturers of fine spirits, what are called fine whiskies, for instance, where their value depends on the lapse of several years. The manufacturers of that article, above all others, ought to be encouraged; and if there be no very strong reason looking to the interests of the revenue for a limitation of six or twelve months, I think the time should be left indefinite. At all events, it should be made longer. Manufacturers in Pennsylvania and Kentucky of what are called fine whiskies, men of capital and of character also, who desire to hold in store for a number of years the very fine article which they manufacture, in my judgment ought to be permitted to do so. Frauds are not to be expected from these men; they are to be expected from the hasty operators in the cities and at other points who desire to manufacture in haste, and to dispose of the spirits in haste also, and realize returns; adventurers in the trade; men without solid capital; men who intend to conduct their business upon the absence of honest principles. Why should a manufacturer of what are called fine whiskies in western Pennsylvania and at other points be obliged to pay tax upon his whisky which he desires to hold in store, and will hold in store at all events years before he sells it?

Unless, as I said before, there is some very strong reason looking to the interests of the revenue, I think these persons ought not to be obliged to pay the tax within that limited time. It discourages the production of fine whisky. It presses upon the very class of producers who are entitled to favor and indulgence and who will treat the Government honestly, who, above all others, will pay the tax. Here you oblige them to pay it years before they desire to sell the article, force them to throw it upon the market at an unseasonable time. You embarrass and oppress them in their business; and, as far as I can understand, you do not advance the interests of the Government at all while you disturb the traffic in this article. The tendency of it, it seems to me, is very questionable; and I should like to have some explanation of the proposed limitation. The committee, as I said before, doubtless have considered this subject better than I have. I merely state the impressions on my mind.

Mr. SHERMAN. We certainly did consider this matter very fully, and made this change after hearing all who came before us. If the Senator will look at this section he will see that it does not relate to distilled spirits in a distillery warehouse; it simply applies to the stock on hand. We are about to change from one system to another. By this bill we abolish what is called the bonded-warehouse system; but we have now on hand twenty-five million gallons of whisky. Hereafter there will be no bonded warehouses in which whisky can be stored. It must be stored hereafter at

the distillery warehouse; it cannot be taken from that until the tax is paid. The House of Representatives first proposed to give three months within which to pay the tax on all the stored whisky on hand in the United States. It was complained that this would be ruinous in many cases, requiring them to pay the tax before it could get to market. They asked for more time. The House, after considerable hesitation, gave them six months; that is, supposing the act takes effect on the 1st of August, it would give them until the 1st of February to pay the tax. The same parties, however, came to us, and said that six months would not be sufficient to absorb the whisky on hand, that for reasons with which we were perfectly familiar, on account of the passage of the law of last January, great quantities of whisky were in store, and they could not get a market for that large amount in six months. They complained, also, that new whisky which would be distilled would take the place of old whisky for a great variety of purposes, and the old whisky now in store would not be absorbed in the market in six months. Hence they wanted more time. So, after full consideration, we agreed to give them twelve months, which I believe is as much as any of them asked. We place the article on the same footing that we do the newly distilled spirits.

I have no doubt that we shall have more trouble in getting the assent of the House of Representatives to this extension of time for taking spirits out of bond than to any other amendment that is proposed. My own opinion is that the amendment is just, that twelve months is about a reasonable time within which a market must be found for the whisky, or, if not, the owners must take it and pay the tax on it and keep it in store themselves. We cannot continue the present bonded-warehouse system longer than one year for their benefit. It is said they have to pay their money and hold on to their whisky so much the longer; but why do they hold on to it? Simply because by holding on to it they enhance the price. In one year whisky doubles in value, in three years it trebles, and I suppose my friend from Maryland [Mr. JOHNSON] and my friend from Pennsylvania [Mr. BUCKALEW] know that in ten years whisky which originally cost twenty-five cents a gallon is worth five dollars a gallon. Those who own it make their profit by holding on, and they ought not to ask the Government of the United States to hold it in store at our risk and our expense and they get all the profit. As a matter of course, if we hold it in store for them we ought to share with them the profit of holding it; we ought to increase the tax according to the length of time it is held; but that is not proposed. I believe we have been very liberal to the holders of the stock on hand by giving them twelve months in which to pay the reduced tax of fifty cents a gallon. I believe there is no complaint in this regard. Indeed, if the House of Representatives assent to this amendment, it will be as much as they can expect, and I think as much as they do expect.

Mr. DAVIS. In two collection districts in Kentucky there are now upward of forty thousand barrels of whisky in bonded warehouses. The honorable Senator from Ohio has very frankly narrated the ground of complaint which the holders of that whisky made against the time allowed by the bill as it was passed by the House of Representatives. The twelve months now proposed is certainly much more advantageous to them than the six months would be, but it operates hardly upon them in this point of view: it forces them to bring a large stock of whisky upon the market, and flood the market, and will not enable them to make the more deliberate and more profitable disposition of the stock on hand which a still further extension of time would do. If the honorable chairman would consent to divide the time in which this tax shall be paid, so as to provide that one half shall be paid within twelve months, and one half within two years from the time the act goes into operation, I have no

doubt it would be satisfactory to the distillers and to the holders of this liquor in my State.

The honorable Senator is partly right and partly wrong in another view which he takes of the subject. He says the value of the stock and its price increases as it becomes old. That is true, but not in anything like in proportion to the time of its age. The truth is that fine Bourbon whisky becomes nearly as good at the end of two years as it does afterward. It does improve afterward by age, but it is in a much slower ratio than it does in the first two years. If that time was given to the distillers to pay one moiety of the tax their liquor would have reached its highest perfection at the end of two years, and they would have that time within which to dispose of their stocks on hand, and they could do it without such a sacrifice as would necessarily ensue from bringing so large an amount of whisky into the market of the country at once. Nine tenths of the whisky that is distilled in Kentucky is distilled in the two districts to which I have referred, and I know from having conferred with those who hold the stocks within the last two weeks that the amount on hand now is between forty and fifty thousand barrels. If the honorable Senator's views of his duty as chairman of the Committee on Finance, and of the interests of the Government in collecting this tax, would permit him to allow twelve months within which to pay the first moiety of the tax, and an additional twelve months for the second moiety, it would be entirely satisfactory to the distillers, and I submit the proposition to his just consideration.

Mr. MORRILL, of Vermont. The Senator from Kentucky will bear in mind that a very large portion of this whisky in bond has been already in bond for some time. Twelve months more is to elapse, and thus before the article can reach the consumer very nearly two years will have elapsed. There is another advantage to the whisky in bond, that the party holding it is assessed for nearly the amount that it will gauge at the time of the payment of the tax, and a barrel of whisky that is put in at forty gallons in one year will shrink four gallons, and in two years eight gallons. Thus the party having whisky in bond has a very great advantage; and if there is any question about it at all, it really is whether it ought not to be taxed a little more, for those having it in bond will not be required to pay anything like as much as those selling green whisky.

The PRESIDENT *pro tempore*. The reading of the bill will be continued.

Section fifty-six, to which no amendment was reported, was read as follows:

SEC. 56. *And be it further enacted*, That any person owning, or having in his possession, any distilled spirits intended for sale, exceeding in quantity fifty gallons, and not in a bonded warehouse at the time when this act takes effect, shall immediately make a return, under oath, to the collector of the district wherein such spirits may be held, stating the number and kind of packages, together with the marks and brands thereon, and the place where the same are stored, together with the quantity of spirits, as nearly as the owner can determine the same. Upon the receipt of such return the collector, being first satisfied that the tax on said spirits has been paid, shall immediately cause the same to be gauged and proved by an internal revenue gauger, who shall mark, by cutting, the contents and proof on each cask or package containing five wine gallons or more, and shall affix and cancel an engraved stamp thereon, which stamp shall be as follows:

(Stamp for stock on hand, No.—)  
Issued by ———, Collector  
of ——— district, State of ———.  
Distilled spirits. Tax paid prior to (here engrave the date when this act takes effect.) ——— proof gallons. Gauged ———, 18—, Gauger.

All distilled spirits owned or held by any person, as aforesaid, shall be included in the same return, and the gauging shall be continuous until all the spirits owned or held by such person are gauged and stamped, as aforesaid, and a report thereof in duplicate shall immediately be made by the gauger to the collector and assessor of the district, showing the number of packages, contents, and proof of each package gauged and stamped, and one of said reports shall be transmitted by the collector to the Commissioner of Internal Revenue. No such spirits shall be gauged or stamped in any cistern or other stationary vessel. Any person owning or having in possession such spirits and refusing or neglecting to make such return shall forfeit the same; and all distilled

spirits found, after thirty days from the time this act takes effect, in any cask or package containing more than five gallons, without having thereon each mark and stamp required therefor by this act, shall be forfeited to the United States. Any person who shall gauge, mark, or stamp any cask or package of distilled spirits under the provisions of this section, or who shall cause or procure the same to be done, knowing that the same were manufactured or removed from warehouse subsequent to the taking effect of this act, or that the taxes thereon have not been paid, shall, on conviction, be fined not less than \$500 nor more than \$5,000, and imprisoned not less than six months nor more than three years. All stamps required by this section shall be prepared, issued, and affixed upon casks and packages, and canceled in the same manner as provided for other stamps for distilled spirits in this act, and shall be charged at the rate of twenty-five cents for each stamp.

Section fifty-seven was read, as follows:

SEC. 57. *And be it further enacted*, That all distilled spirits sold by order of court, or under process of distraint, shall be sold subject to tax; and the purchaser shall immediately, and before he takes possession of said spirits, pay the tax thereon. And any distilled spirits condemned before the passage of this act, and in the possession of the United States, shall be sold as herein provided. And if any tax-paid stamps are affixed to any cask or package so condemned, such stamps shall be obliterated and destroyed by the collector or marshal after forfeiture and before such sale.

The Committee on Finance proposed to amend the section by inserting between the words "spirits" and "sold," in line two, the words "forfeited to the United States."

The amendment was agreed to.

Section fifty-eight was read by clauses, as follows:

SEC. 58. *And be it further enacted*, That the following special taxes shall be, and are hereby, imposed, that is to say:

Distillers producing fifty barrels, or less, of distilled spirits, counting forty gallons of proof-spirits to the barrel, within the year, shall each pay \$200, and if producing more than fifty barrels shall pay in addition four dollars for each such barrel produced in excess of fifty barrels. And monthly returns of the number of barrels of spirits, as before described, distilled by him, shall be made by each distiller in the same manner as monthly returns of sales are made. Every person who produces distilled spirits, or who brews or makes mash, wort, or wash for distillation or for the production of spirits, or who by any process of vaporization separates alcoholic spirit from any fermented substance, or who, making or keeping mash, wort, or wash, has also in his possession or use a still, shall be regarded as a distiller: *Provided*, That a like tax of four dollars on each barrel, counting forty gallons of proof-spirits to the barrel, shall be assessed and collected from the owner of any distilled spirits which may be in any bonded warehouse at the date of the taking effect of this act, to be paid whenever the same shall be withdrawn from such warehouse, under the provisions of the sixty-second section of this act: *Provided*, That no tax shall be imposed for any still, stills, or other apparatus used by druggists and chemists for the recovery of alcohol for pharmaceutical and chemical or scientific purposes which has been used in those processes.

The Committee on Finance proposed to amend this clause by striking out "fifty," in line three, and inserting "one hundred;" by striking out "two," in line four, and inserting "four;" by striking out "fifty," in line six and line eight, respectively, and inserting "one hundred;" so as to read:

Distillers producing one hundred barrels or less of distilled spirits, counting forty gallons of proof-spirits to the barrel, within the year, shall each pay \$400, and if producing more than one hundred barrels shall pay in addition four dollars for each such barrel produced in excess of one hundred barrels.

Mr. SHERMAN. I do not like in a thin Senate of this kind to submit an amendment, but there is one that I think ought to be adopted, and if it be necessary I will ask that it lie over. The minimum tax here is \$400 on distilleries producing one hundred barrels or less. My opinion is that it ought to be raised to two hundred and fifty barrels, and make the minimum tax \$1,000 on a distillery producing two hundred and fifty barrels. I hope the Senate will agree to that, because the tax as it is in the section is too small.

Mr. DAVIS. Allow me to inform the honorable Senator that the smaller distilleries make the best liquor.

Mr. SHERMAN. It must be a very small distillery that will not make more than two hundred and fifty barrels a year.

Mr. DAVIS. The distilleries that make about three hundred barrels a year produce the best whisky.

Mr. SHERMAN. And that is the very kind

I desire to reach. I think if the minimum is two hundred and fifty barrels it will not distress any distillery. I propose to strike out "one" and insert "two," and I think on the statement of the Senator from Kentucky the Senate ought to agree to this proposition; and then I propose to double the special tax by striking out "four" and inserting "eight;" so as to make the clause read:

Distilleries producing two hundred barrels or less of distilled spirits, counting forty gallons of proof-spirits to the barrel, within the year, shall each pay \$800, &c.

Mr. BUCKALEW. The amendment of the committee is much more severe on small establishments than the bill from the House. The amendment now proposed by the Senator from Ohio is to make it still more severe than the committee have proposed to make it. I can indorse what is stated by the Senator from Kentucky, that in the country, the rural districts, the small distilleries are those in which the very best article is produced, and they are ordinarily establishments where no frauds are committed; at least I think they are extremely rare there. It may be somewhat different in the cities; but in the cities, I dare say, our revenue officers, if they execute the law at all, will root out all small establishments. They cannot be maintained there for other reasons. Large establishments would be the rule in the cities, and comparatively small ones in the country has.

One objection which has been felt among the people to our former system on this subject was that these well known and reputable establishments were struck at by the law. The general objection and opinion among the people was that the law was in some way drafted so as to blot out of existence, in districts and in sections where no frauds were committed, the small establishments, which made a good article, which were honestly conducted, and which were not offensive to public opinion, and encouraged or at least permitted illicit, fraudulent distillation in cities. I think the House bill in this particular section is better than anything which has been proposed either by the committee or by the Senator from Ohio.

Mr. SHERMAN. Rather than divide the Senate now I will withdraw my amendment and reserve it to offer in my discretion in the Senate. Let it stand with the report of the committee.

The amendment of the Committee on Finance was agreed to.

The committee also proposed to amend the section by inserting the word "fit" after "wash" in line thirteen.

The amendment was agreed to.

The next clause of section fifty-eight was read, as follows:

Rectifiers of distilled spirits, rectifying, purifying, or refining two hundred barrels or less of distilled spirits, counting forty gallons of proof-spirits to the barrel, within the year, shall each pay \$200, and fifty cents for each such barrel produced in excess of two hundred barrels. And monthly returns of the quantity and proof of all the spirits purchased and of the number of barrels of spirits as before described, rectified, purified, or refined by him, shall be made by each rectifier in the same manner as monthly returns of sales are made. Every person who rectifies, purifies, or refines distilled spirits or wines by any process, and every wholesale or retail liquor dealer or compounder of liquors who has in his possession any still or leach-tub, or who shall keep any other apparatus for the purpose of refining in any manner distilled spirits, shall be regarded as a rectifier.

The Committee on Finance proposed to amend this clause by inserting before the word "fifty," in line thirty-two, the words "shall pay," and by striking out the word "such" before "barrel," in line thirty-three, and after "barrel" inserting "of like capacity."

The amendment was agreed to.

The next clause, to which no amendment was proposed, was read, as follows:

Compounders of liquors shall each pay twenty-five dollars. Every person who, without rectifying, purifying, or refining distilled spirits, shall, by mixing such spirits, wine, or other liquor with any materials, manufacture any spurious, imitation, or compound liquors, for sale under the name of whisky, brandy, gin, rum, wine, spirits, cordials, or wine bitters, or

any other name, shall be regarded as a compounder of liquors.

The Committee on Finance proposed to strike out the following clause, from lines fifty-three to seventy:

Retail liquor dealers whose annual sales do not exceed \$2,500 shall each pay twenty-five dollars; if exceeding \$2,500 and not exceeding \$5,000, shall pay each fifty dollars; if exceeding \$5,000 and not exceeding \$10,000, shall each pay \$100; if exceeding \$10,000 and not exceeding \$20,000, shall each pay \$200; and if exceeding \$20,000, shall each pay \$1,000. Every person who sells or offers for sale distilled spirits, wines, or malt liquors in less quantities than one quart at a time, or in any quantity to be drunk at the place, or on the premises where they are sold shall be regarded as a retail liquor dealer. And any peddler who sells or offers for sale distilled spirits, fermented liquors, or wines shall pay in addition to his special tax as a peddler the special tax of a wholesale or retail liquor dealer, according to the amount of his sales.

And in lieu thereof to insert:

Retail liquor dealers shall each pay twenty-five dollars. Every person who sells or offers for sale distilled spirits, wines, or malt liquors, in less quantities than one quart at one time, or in any quantity to be drunk at the place or on the premises where they are sold, and whose annual sales, including all sales of other merchandise, do not exceed \$25,000, shall be regarded as a retail liquor dealer. Any peddler or auctioneer who sells or offers for sale distilled spirits, fermented liquors, or wines, shall pay, in addition to his special tax as a peddler or auctioneer, the special tax as a wholesale or retail liquor dealer, according to the amount of his sales.

Mr. SHERMAN. I will state in regard to that amendment that we have simply left the law imposing a special tax on retail liquor dealers as it now stands. We think it would be very unjust, when these people have paid their special tax according to law, to come back on them and reassess a higher tax upon a different principle. It would be unjust and wrong.

Mr. EDMUNDS. Can you not provide for doing it after their time is out?

Mr. SHERMAN. The present law is enough. We can amend it next year if necessary.

The amendment was agreed to.

The Committee on Finance proposed to strike out the following clause:

Wholesale liquor dealers shall each pay \$100, and in addition, shall pay thirty dollars for every \$1,000 of sales in excess of \$2,000. Every person who sells, or offers for sale, distilled spirits, wines, or malt liquors in quantity of not less than one quart at one time, and not to be drunk at the place or on the premises where the sale is made, shall be regarded as a wholesale liquor dealer. But no distiller or brewer, who has paid his special tax as such, and who sells only distilled spirits or malt liquors of his own production in the original casks or packages in which they are placed for the purpose of affixing the tax stamps, shall be required to pay the special tax of a wholesale dealer.

And in lieu thereof to insert:

Wholesale liquor dealers, whose annual sales do not exceed \$50,000, shall pay \$100, and if exceeding \$50,000 shall each pay in addition one dollar for every \$1,000 in excess of \$50,000. Every person who sells or offers for sale distilled spirits, wines, or malt liquors in quantity of not less than one quart at a time, and not to be drunk at the place or on the premises where the sale is made, shall be regarded as a wholesale liquor dealer. But no distiller or brewer, who has paid his special tax as such, and who sells only distilled spirits or malt liquors of his own production, at the place of manufacture, in the original casks or packages in which they are placed for the purpose of affixing the tax stamps, shall be required to pay the special tax of a wholesale dealer.

Mr. MORRILL, of Vermont. I move to amend the amendment by striking out "fifty" and inserting "twenty-five" in each place; so as to make the clause read:

Wholesale liquor dealers whose annual sales do not exceed \$25,000 shall pay \$100, and if exceeding \$25,000 shall each pay in addition one dollar for every \$1,000 in excess of \$25,000, &c.

The amendment was agreed to.

The amendment, as amended, was agreed to.

The following clauses of the section, to which no amendment was proposed, were read:

But the payment of any special tax imposed by this act shall not be held or construed to exempt any person carrying on any trade, business, or profession from any penalty or punishment therefor provided by the laws of any State; nor to authorize the commencement or continuance of any such trade, business, or profession, contrary to the laws of any State, or in places prohibited by municipal law; nor shall the payment of any such tax be held or construed to prohibit or prevent any State from placing a duty or tax on the same trade, business, or profession for State or other purposes.

Manufacturers of stills shall each pay fifty dollars,

and twenty dollars for each still or worm for distilling made by him. Any person who manufactures any still or worm to be used in distilling shall be deemed a manufacturer of stills.

Tobacco, snuff, and cigars:

Dealers in leaf tobacco, whose annual sales do not exceed \$10,000, shall each pay twenty-five dollars; and if their annual sales exceed \$10,000, shall pay in addition two dollars for every \$1,000 in excess of \$10,000. Every person shall be regarded as a dealer in leaf tobacco whose business it is for himself or on commission to sell or offer for sale leaf tobacco. And payment of a special tax as wholesale dealer, tobaccoist, manufacturer of cigars, or manufacturer of tobacco, shall not exempt any person dealing in leaf tobacco from the payment of the special tax therefor hereby required. But no farmer or planter shall be required to pay a special tax as a dealer in leaf tobacco for selling tobacco of his own production, or tobacco received by him as rent from tenants who have produced the same on his land.

Dealers in tobacco, whose annual sales exceed \$100 and do not exceed \$1,000, shall each pay five dollars, and when their annual sales exceed \$1,000 shall pay in addition two dollars for each \$1,000 in excess of \$1,000. Every person whose business it is to sell or offer for sale manufactured tobacco, snuff, or cigars, shall be regarded as a dealer in tobacco. And any retail dealer or keeper of a hotel, inn, tavern, or eating-house, who sells tobacco, snuff, or cigars, shall pay, in addition to his special tax, the special tax as a dealer in tobacco.

In the last clause the Committee on Finance proposed to insert the word "drinking" before "or eating-house."

The amendment was agreed to.

The remaining clauses of the section, to which no amendment was proposed, were read, as follows:

Manufacturers of tobacco shall each pay ten dollars, and in addition thereto, where the amount of the penal sum of the bond of such manufacturer required by this act to be given shall exceed the sum of \$5,000, two dollars for each \$1,000 in excess of \$5,000 of such penal sum. Every person whose business it is to manufacture tobacco or snuff for himself, or who shall employ others to manufacture tobacco or snuff, whether such manufacture shall be by cutting, pressing, grinding, crushing, or rubbing of any leaf or raw tobacco, or otherwise preparing raw or leaf tobacco, or manufactured or partially manufactured tobacco or snuff, or the putting up for use or consumption of scraps, waste, clippings, stems, or deposits of tobacco, resulting from any process of handling tobacco, shall be regarded as a manufacturer of tobacco. But no manufacturer of tobacco shall be required to pay the special tax as a dealer in tobacco for selling the products of his own manufacture.

Manufacturers of cigars, whose annual sales shall not exceed \$5,000, shall each pay ten dollars, and when their annual sales exceed \$5,000, shall pay in addition two dollars for each \$1,000 in excess of \$5,000. Every person whose business it is to make or manufacture cigars for himself, or who shall employ others to make or manufacture cigars, shall be regarded as a manufacturer of cigars. No special tax receipt shall be issued to any manufacturer of cigars until he shall have given the bond required by law. Every person whose business it is to make cigars for others, either for pay, upon commission, on shares, or otherwise, from material furnished by others, shall be regarded as a cigar-maker. Every cigar-maker shall cause his name and residence to be registered, without previous demand, with the assistant assessor of the division in which such cigar-maker shall be employed; and any manufacturer of cigars employing any cigar-maker who shall have neglected or refused to make such registry shall, on conviction, be fined five dollars for each day that such cigar-maker so offending by neglect or refusal to register shall be employed by him.

Section fifty-nine, to which no amendment was reported, was read as follows:

Sec. 59. *And be it further enacted*, That in every case where it becomes necessary to ascertain the amount of annual or monthly sales made by any person on whom a special tax is imposed by this act, or to ascertain the excess of such sales above a given amount, such amounts and excesses shall be ascertained and returned under such regulations and in such form as shall be prescribed by the Commissioner of Internal Revenue; and in any case where the amount of the tax has been increased by this act above the amount before paid by any person in that behalf, such person, except retail dealers, shall be again assessed and pay the amount of such increase from the taking effect of this act; and in any case where the amount of sales or receipts has been understated or underestimated by any person, such person shall be again assessed for such deficiency, and shall be required to pay the same with any penalty or penalties that may by law have accrued or be chargeable thereon.

Section sixty, to which no amendment was reported, was read, as follows:

Sec. 60. *And be it further enacted*, That upon tobacco and snuff which shall be manufactured and sold, or removed for consumption or use, there shall be assessed and collected the following taxes:

On snuff, manufactured of tobacco or any substitute for tobacco, ground, dry, damp, pickled, scented, or otherwise, of all descriptions, when prepared for use, a tax of thirty-two cents per pound. And snuff-flour, when sold or removed for use or consumption,

shall be taxed as snuff, and shall be put up in packages and stamped in the same manner as snuff.

On all chewing tobacco, fine-cut, plug, or twist; on all tobacco twisted by hand, or reduced from leaf into a condition to be consumed, or otherwise prepared, without the use of any machine or instrument, and without being pressed or sweetened; and on all other kinds of manufactured tobacco, not herein otherwise provided for, a tax of thirty-two cents per pound.

On all smoking tobacco exclusively of stems, or of leaf, with all the stems in and so sold, the leaf not having been previously stripped, butted, or rolled, and from which no part of the stems have been separated by sifting, stripping, dressing, or in any other manner, either before, during, or after the process of manufacturing; on all fine-cut shorts, the refuse of fine-cut chewing tobacco, which has passed through a riddle of thirty-six meshes to the square inch by process of sifting; and on all refuse scraps and sweeping of tobacco, a tax of sixteen cents per pound.

Mr. McCREERY. I move to amend the sixtieth section by adding this proviso:

*Provided*, That snuff made of the stems of tobacco shall be taxed five cents a pound.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The amendment of the Senator from Kentucky will be more proper after the amendments of the Committee on Finance shall have been disposed of. The Senate is now acting upon the amendments reported by the Committee on Finance as they are reached in their order.

Mr. McCREERY. Very well; I shall offer it at the proper time.

Section sixty-one was read, as follows:

Sec. 61. *And be it further enacted*, That from and after the passage of this act all manufactured tobacco shall be put up and prepared by the manufacturer for sale, or removal for sale or consumption, in packages of the following description, and in no other manner:

All snuff in packages of one, two, four, eight, and sixteen ounces, except yellow snuff, which may, at the option of the manufacturer, be put up in bladders not exceeding ten pounds each.

All fine-cut chewing tobacco, and all other kinds of tobacco not otherwise provided for, in packages of one half, one, two, four, eight, and sixteen ounces, except that fine-cut chewing tobacco may, at the option of the manufacturer, be put up in wooden packages of ten, twenty, forty, and sixty pounds each.

All smoking tobacco, all fine-cut shorts which can be passed through a riddle of thirty-six meshes to the square inch, and all refuse scraps and sweepings of tobacco, in packages of two, four, eight, and sixteen ounces each.

All cavendish, plug, and twist tobacco in wooden packages not exceeding two hundred pounds net weight.

And every such wooden package shall have printed or marked thereon the manufacturer's name and place of manufacture, and the registered number of the manufactory, and the gross weight, the tare, and the net weight of the tobacco in each package: *Provided*, That these limitations and descriptions of packages shall not apply to tobacco and snuff transported in bond for exportation and actually exported.

The Committee on Finance proposed to amend this section by striking out the word "of" after the word "packages" in all instances, and inserting "containing."

The amendment was agreed to.

The committee also proposed, after the word "bladders," in line eight, to insert "containing," and after "each," in line nine, to insert "or in jars containing not exceeding twenty pounds."

The amendment was agreed to.

The next amendment was after the word "thereon," in line twenty-four, to strike out "the manufacturer's name and place of manufacture, and."

The amendment was agreed to.

Section sixty-two was read, as follows:

Sec. 62. *And be it further enacted*, That every person before commencing, or, if already commenced, before continuing the manufacture of tobacco or snuff, shall, in addition to a compliance with all other provisions of law, furnish, without previous demand therefor, to the assessor or assistant assessor of the district where the manufacture is to be carried on, a statement, in duplicate, subscribed under oath or affirmation, accurately setting forth the place, and if in a city the street and number of the street, where the manufacture is to be carried on; the number of cutting-machines, presses, snuff-mills, hand-mills, or other machines; the name, kind, and quality of the article manufactured or proposed to be manufactured; and, if the same shall be manufactured for, or to be sold and delivered to, any other person, as agent, or under a special contract, the name and residence and business or occupation of the person for whom the said article is to be manufactured, or to whom it is to be delivered; and shall give a bond in conformity with the provisions of this



act, to be approved by the collector of the district, in the sum of \$2,000, with an addition to said sum of \$3,000 for each cutting-machine kept for use, of \$1,000 for each screw-press kept for use in making plug or pressed tobacco, of \$5,000 for each hydraulic press kept for use, of \$1,000 for each snuff-mill kept for use, and of \$1,000 for each hand-mill or other mill or machine kept for the grinding, cutting, or crushing of tobacco; that he will not engage in any attempt, by himself or by collusion with others, to defraud the Government of any tax on his manufactures; that he will render truly and correctly all the returns, statements, and inventories prescribed by law or regulations; that whenever he shall add to the number of cutting-machines, presses, snuff-mills, hand-mills, or other mills or machines, as aforesaid, he will immediately give notice thereof to the collector of the district; that he will stamp, in accordance with law, all tobacco and snuff manufactured by him before he offers the same or any part thereof for sale, and before he removes any part thereof from the place of manufacture; that he will not knowingly sell, purchase, expose or receive for sale any manufactured tobacco or snuff which has not been stamped as required by law; and that he will comply with all the requirements of law relating to the manufacture of tobacco or snuff. And the sum of the said bond may be increased from time to time, and additional sureties required by the collector, under the instructions of the Commissioner of Internal Revenue. And every manufacturer shall obtain a certificate from the collector of the district, who is hereby authorized and directed to issue the same, setting forth the kind and number of machines, presses, snuff-mills, hand-mills, or other mills and machines, as aforesaid, for which the bond has been given, which certificate shall be posted in a conspicuous place within the manufactory. And any tobacco manufacturer who shall neglect or refuse to obtain such certificate, or to keep the same posted as hereinbefore provided, shall, on conviction, be fined not less than \$100 nor more than \$500. And any person manufacturing tobacco or snuff of any description without first giving bond as herein required, shall, on conviction, be fined not less than \$1,000 nor more than \$5,000, and imprisoned for not less than one year nor more than five years. And the working or preparation of any leaf tobacco, or tobacco stems, scraps, clippings, or waste, by sifting, twisting, screening, tying, or any other process shall be deemed manufacturing.

The Committee on Finance proposed to amend this section by inserting "hydraulic or hand" before "screw-press," in line twenty-three; by striking out "press" after "hydraulic," in line twenty-four, and inserting "pump;" and by inserting before "presses," in line thirty-three, the word "pumps, hydraulic, or hand."

The amendment was agreed to.

The next amendment was before the word "removes," in line thirty-eight, to strike out "offers the same or any part thereof for sale, and before he."

The amendment was agreed to.

The next amendment was in line sixty-three, to strike out "tying" after "screening."

The amendment was agreed to.

Sections sixty-three, sixty four, and sixty-five, to which no amendment was reported, were read as follows:

SEC. 63. *And be it further enacted*, That within thirty days after the passage of this act every manufacturer of tobacco and snuff shall place and keep on the side or end of the building within which his business is carried on, so that it can be distinctly seen, a sign with letters thereon, not less than three inches in length, painted in oil colors or gilded, giving his full name and business. Any person neglecting to comply with the requirements of this section shall on conviction be fined not less than \$100 nor more than \$500.

SEC. 64. *And be it further enacted*, That it shall be the duty of every assistant assessor to keep a record, in a book or books to be provided for the purpose, to be open to the inspection of any person, of the name and residence of every person engaged in the manufacture of tobacco or snuff in his division, the place where such manufacture is carried on, and the number of the manufactory; and the assistant assessor shall enter in said record, under the name of each manufacturer, a copy of every inventory required by this act to be made by such manufacturer, and an abstract of his monthly returns; and each assessor shall keep a similar record for the district, and shall cause the several manufactories of tobacco or snuff in his district to be numbered consecutively, which numbers shall not thereafter be changed.

SEC. 65. *And be it further enacted*, That every person, now or hereafter engaged in the manufacture of tobacco or snuff, shall make and deliver to the assistant assessor of the division a true inventory, in such form as shall be prescribed by the Commissioner of Internal Revenue, of the quantity of each of the different kinds of tobacco, snuff-flour, snuff, stems, scraps, clippings, waste, tin-foil, licorice, sugar, gum, and other materials held or owned by him on the 1st day of January of each year, or at the time of commencing and at the time of concluding business, if before or after the 1st day of January, setting forth what portion of said goods and materials, and what kinds, were manufactured or produced by him, and what was purchased from others; which inventory shall be verified by his oath or affirmation; and the

assistant assessor shall make personal examination of the stock sufficient to satisfy himself as to the correctness of the inventory, and shall verify the fact of such examination by oath or affirmation taken before the assessor, to be indorsed on or affixed to the inventory; and every such person shall keep a book or books, the forms of which shall be prescribed by the Commissioner of Internal Revenue, and enter therein daily an accurate account of all the articles aforesaid purchased by him, the quantity of tobacco, snuff, and snuff-flour, stems, scraps, clippings, waste, tin-foil, licorice, sugar, gum, and other materials, of whatever description, whether manufactured, (and if plug tobacco the number of net pounds of lumps made in the lump-room, and the number of packages and pounds produced in the press-room each day,) sold, consumed, or removed for consumption or sale, or removed from the place of manufacture in bond, and to which district; and shall, on or before the tenth day of each and every month, furnish to the assistant assessor of the division a true and accurate abstract from such book of all such purchases, sales, and removals, made during the month next preceding, which abstract shall be verified by his oath or affirmation; and in case of refusal or willful neglect to deliver the inventory, or keep the account, or furnish the abstract aforesaid, he shall, on conviction, be fined not less than \$500 nor more than \$5,000, and imprisoned not less than six months nor more than three years. And it shall be the duty of any dealer in leaf tobacco, or in any material used in manufacturing tobacco or snuff, on demand of any officer of internal revenue to render a true and correct statement, verified by oath or affirmation, of the quantity and amount of such leaf tobacco or materials sold or delivered to any person named in such demand; and in case of refusal or neglect to render such statement, or if there is cause to believe such statement to be incorrect or fraudulent, the assessor shall make an examination of persons, books, and papers, in the same manner as provided in this act in relation to frauds and evasions.

Section sixty-six was read, as follows:

SEC. 66. *And be it further enacted*, That the Commissioner of Internal Revenue shall cause to be prepared suitable and special revenue stamps for payment of the tax on tobacco and snuff, which stamps shall indicate the weight and class of the article on which payment is to be made, and stamps when used on any wooden package shall be canceled by sinking a portion of the same into the wood with a steel die; also, such warehouse stamps as are required by this act, which stamps shall be furnished to the collectors of internal revenue requiring the same, who shall each keep at all times a supply equal in amount to three months' sales thereof, and shall sell the same only to the manufacturers of tobacco and snuff in their respective districts who have given bonds as required by law, to owners or consignees of tobacco or snuff, upon the requisition of the proper custom-house officer having the custody of such tobacco or snuff, and to persons required by law to affix the same to tobacco or snuff on hand on the 1st day of January, A. D. 1869; and every collector shall keep an account of the number, amount and denominations of stamps sold by him to each manufacturer, and to other persons above described.

The Committee on Finance proposed to amend the section by inserting after the word "made," in line five, the words "and shall be affixed and canceled in the mode prescribed by the Commissioner of Internal Revenue."

The amendment was agreed to.

Mr. CORBETT. I desire to inquire whether that is to be a paper stamp that is to be affixed, or whether it is to be printed with a stencil, or cut in with some kind of a steel stamp. I suppose it is intended to be a paper stamp, is it not?

Mr. SHERMAN. A paper stamp. I had specimens here this afternoon.

Mr. CORBETT. But those were stamps for whisky.

Mr. SHERMAN. These are similar—something like the present tobacco stamp.

Section sixty-seven was read, as follows:

SEC. 67. *And be it further enacted*, That every manufacturer of tobacco or snuff shall, in addition to all other requirements of this act relating to tobacco, print on each package or securely affix, by pasting on each package containing tobacco or snuff manufactured by or for him, a label, on which shall be printed, together with the manufacturer's name and the number of his manufactory, and the district and State in which it is situated, these words:

"NOTICE.—The manufacturer of this tobacco has complied with all requirements of law. Every person is cautioned, under the penalties of law, not to use this package for tobacco again."

Any manufacturer of tobacco who shall neglect to affix such label to any package containing tobacco made by or for him, or sold or offered for sale by or for him, or any person who shall remove any such label so affixed from any such package, shall, on conviction, be fined fifty dollars for each package in respect to which such offense shall be committed.

The Committee on Finance proposed to amend the section by inserting the words "print on or" before "affix," in line fourteen. The amendment was agreed to.

Sections sixty-eight, sixty-nine, seventy, and seventy-one, to which no amendment was reported, were read as follows:

SEC. 68. *And be it further enacted*, That any manufacturer of tobacco or snuff who shall remove otherwise than as provided by law, or sell any tobacco or snuff without the proper stamps denoting the tax thereon, or without having paid the special tax, or given bond as required by law, or who shall make false or fraudulent entries of manufactures or sales of tobacco or snuff, or who shall make false or fraudulent entries of the purchase or sales of leaf tobacco, tobacco stems, or other material, or who shall affix any false, forged, fraudulent, spurious, or counterfeit stamp, or imitation of any stamp required by this act, to any box or package containing any tobacco or snuff, shall, in addition to the penalties elsewhere provided in this act for such offenses, forfeit to the United States all the raw material and manufactured or partly manufactured tobacco and snuff, and all machinery, tools, implements, apparatus, fixtures, boxes and barrels, and all other materials which shall be found in the possession of such person, in the manufactory of such person, or elsewhere.

SEC. 69. *And be it further enacted*, That the absence of the proper stamp on any package of manufactured tobacco or snuff shall be notice to all persons that the tax has not been paid thereon, and shall be *prima facie* evidence of the non-payment thereof. And such tobacco or snuff shall be forfeited to the United States.

SEC. 70. *And be it further enacted*, That any person who shall remove from any manufactory, or from any place where tobacco or snuff is made, any manufactured tobacco or snuff without the same being put up in proper packages, or without the proper stamp for the amount thereon being affixed and canceled, as required by law; or, if intended for export, without the proper warehouse stamp being affixed; or shall use, sell, or offer for sale, or have in possession, except in the manufactory, or in a bonded warehouse, any manufactured tobacco or snuff, without proper stamps being affixed and canceled; or shall sell, or offer for sale, for consumption in the United States, or use, or have in possession, except in the manufactory or in a bonded warehouse, any manufactured tobacco or snuff on which only the warehouse stamp marking the same for export has been affixed, shall on conviction thereof for each such offense, respectively, be fined not less than \$1,000 nor more than \$5,000, and be imprisoned not less than six months nor more than two years. And any person who shall affix to any package containing tobacco or snuff any false, forged, fraudulent, spurious, or counterfeit stamp, or a stamp which has been before used, shall be deemed guilty of a felony, and on conviction shall be fined not less than \$1,000 nor more than \$5,000, and imprisoned not less than two years nor more than five years.

SEC. 71. *And be it further enacted*, That whenever any stamped box, bag, vessel, wrapper, or envelope of any kind, containing tobacco or snuff, shall be emptied, the stamped portion thereof shall be destroyed by the person in whose hands the same may be. And any person who shall willfully neglect or refuse so to do shall, for each such offense, on conviction, be fined fifty dollars, and imprisoned not less than ten days nor more than six months. And any person who shall sell or give away, or who shall buy or accept from another, any such empty stamped box, bag, vessel, wrapper, or envelope of any kind, or the stamped portion thereof, shall, for each such offense, on conviction, be fined \$100, and imprisoned for not less than twenty days and not more than one year. And any manufacturer or other person who shall put tobacco or snuff into any such box, bag, vessel, wrapper, or envelope, the same having been either emptied or partially emptied, shall, for each such offense, on conviction, be fined not less than \$100 nor more than \$500, and imprisoned for not less than one nor more than three years.

The Committee on Finance proposed to amend the bill by striking out section seventy-two, in the following words:

SEC. 72. *And be it further enacted*, That every manufacturer of plug tobacco shall provide at his own expense a warehouse suitable for the storage of plug tobacco of his own manufacture only; or he may provide a secure room in a suitable building, to be used as such warehouse; but no dwelling-house shall be used for such purpose, and no door, window, or other opening shall be made or permitted in the walls thereof leading into any other room or building used for any other purpose, or into the manufactory where such tobacco is manufactured; and after a bond has been given, as hereinafter provided, such warehouse or room, when approved by the Commissioner of Internal Revenue, on report of the collector, is hereby declared to be a bonded warehouse of the United States, and shall be under the control of the collector of the district and in the custody of an internal revenue storekeeper designated for that purpose by the Commissioner of Internal Revenue, and shall be kept locked at all times except when such officer shall be present; and the stamps required by law on the plug tobacco stored in such warehouse shall be affixed, and such of said stamps as are for the payment of taxes shall be duly canceled before removal from such warehouse. And the owner of such warehouse shall execute a bond to the United States, with two or more sureties, to be approved by the collector and assessor, which bond shall be in such form and contain such conditions as shall be prescribed by the Commissioner of Internal Revenue; and the penal sum of such bond shall not be less than \$5,000 nor less than double the amount of tax on the tobacco stored therein; and said bond may be increased or renewed from time to time in regard either to the amount

thereof or the sureties as the collector, assessor, or the Commissioner of Internal Revenue may require; and such bonded warehouse shall be under such further regulations as the Commissioner of Internal Revenue may prescribe.

The amendment was agreed to.

Section [seventy-three] seventy-two was read, as follows:

SEC. [73] 72. *And be it further enacted*, That the Commissioner of Internal Revenue, upon the execution of such bonds as he may prescribe, may designate and establish, at any port of entry in the United States, bonded warehouses for the storage of manufactured tobacco and snuff, in bond, intended for exportation, selecting suitable buildings for such purpose, to be recommended by the collector in charge of exports at such port, to be known as export bonded warehouses, and used exclusively for the storage of manufactured tobacco and snuff in bond. Every such warehouse shall be under the control of the collector of internal revenue in charge of exports at the port where such warehouse is located, and shall be in charge of an internal revenue storekeeper assigned thereto by the Commissioner of Internal Revenue. No manufactured tobacco or snuff shall be withdrawn or removed from any bonded warehouse without an order or permit from the collector in charge of exports at such port, which shall be issued only for the immediate transfer to a vessel by which such tobacco or snuff is to be exported to a foreign country, as hereinafter provided, or after the tax has been paid thereon. And such warehouse shall be under such further regulations as the Commissioner of Internal Revenue may prescribe.

The Committee on Finance proposed to amend the section by adding to it the following proviso:

*Provided*, That any manufactured tobacco and snuff may be withdrawn once, and no more, from an export bonded warehouse for transportation to any other port of entry in the United States where an export bonded warehouse for the storage of manufactured tobacco and snuff may have been established, and such manufactured tobacco and snuff so withdrawn shall, on its arrival at the second port of entry be immediately warehoused in an export bonded warehouse for the storage of manufactured tobacco and snuff, from which it shall be withdrawn only as provided by law.

The amendment was agreed to.

Section [seventy-four] seventy-three was read as follows:

SEC. [74] 73. *And be it further enacted*, That manufactured tobacco and snuff may be removed in bond from the warehouse of the manufacturer without payment of the tax, to be transported directly to an export bonded warehouse for the storage of manufactured tobacco or snuff established at a port of entry as hereinbefore provided; and the deposit in and withdrawal from any bonded warehouse, the transportation and the exportation of manufactured tobacco and snuff, shall be made under such rules and regulations, and after making such entries and executing such bonds and giving such other additional security as may be prescribed by the Commissioner of Internal Revenue, which shall, in all respects, so far as applicable, conform to the provisions of law and regulations relating to distilled spirits to be deposited in or withdrawn from bonded warehouse or transported or exported. All tobacco and snuff intended for export, before being removed from the manufacturer's warehouse, shall have affixed to each package an engraved stamp indicative of such intention, to be provided and furnished to the several collectors, as in the case of other stamps, and to be charged to them and accounted for in the same manner; and for the expense attending the providing and affixing such stamps, twenty-five cents for each package so stamped shall be paid to the collector on making the entry for such transportation; but the provisions of this section shall not limit the time for tobacco or snuff to remain in bond.

The Committee on Finance proposed to amend the section by striking out before "the manufacturer," in line three, the words "the warehouse of."

The amendment was agreed to.

Section [seventy-five] seventy-four was read, as follows:

SEC. [75] 74. *And be it further enacted*, That in all cases where tobacco or snuff of any description is manufactured, in whole or in part, upon commission or shares, or where the material from which any such articles are made, or are to be made, is furnished by one person and made or manufactured by another, or where the material is furnished or sold by one person with an understanding or agreement with another that the manufactured article is to be received in payment therefor or for any part thereof, the stamps required by law shall be fixed by the actual maker or manufacturer before the article passes from the place of making or manufacturing. And in case of fraud on the part of either of said persons in respect to said manufacture, or of any collusion on their part with intent to defraud the revenue, such material and manufactured articles shall be forfeited to the United States; and each person to such fraud or collusion shall be deemed guilty of a misdemeanor, and, on conviction, be fined not less than \$100 nor more than \$5,000 and imprisoned for not less than six months nor more than three years.

The Committee on Finance proposed to

amend the section by striking out "person," in the sixteenth line, and inserting "party."

The amendment was agreed to.

The following sections, to which no amendment was proposed, were read:

SEC. [76] 75. *And be it further enacted*, That every dealer in leaf tobacco shall enter daily in a book kept for that purpose, under such regulations as the Commissioner of Internal Revenue may prescribe, the number of hogheads, cases, and pounds of leaf tobacco purchased by him, and of whom purchased, and the number of hogheads, cases, or pounds sold by him, with the name and residence, in each instance, of the person to whom sold, and if shipped, to whom shipped, and to what district. Such book shall be kept at his place of business, and shall be open at all hours to the inspection of any assessor, collector, or other revenue officer; and any dealer in leaf tobacco who shall neglect or refuse to keep such book shall be liable to a penalty of not less than \$500, and on conviction thereof shall be fined not less than \$100 nor more than \$5,000, and imprisoned not less than six months nor more than two years.

SEC. [77] 76. *And be it further enacted*, That from and after the passage of this act, and until the 1st day of October, 1868, all manufactured tobacco and snuff (not including cigars) imported from foreign countries, shall be placed by the owner, importer, or consignee thereof in a bonded warehouse of the United States at the place of importation, in the same manner and under rules as provided for warehousing goods imported into the United States, and shall not be withdrawn from such warehouse, nor be entered for consumption or transportation in the United States prior to the said 1st day of October, 1868. All manufactured tobacco and snuff (not including cigars) imported from foreign countries, after the passage of this act, shall, in addition to the import duties imposed on the same, pay the tax prescribed in this act for like kinds of tobacco and snuff manufactured in the United States, and have the same stamps respectively affixed. Such stamps shall be affixed and canceled on all such articles so imported by the owner or importer thereof while such articles are in the custody of the proper custom-house officers, and such articles shall not pass out of the custody of such officers until the stamps have been affixed and canceled. Such tobacco and snuff shall be put up in packages, as prescribed in this act for like articles manufactured in the United States before such stamps are affixed; and the owner or importer of such tobacco and snuff shall be liable to all the penal provisions of this act, prescribed for manufacturers of tobacco and snuff manufactured in the United States. Where it shall be necessary to take any of such articles, so imported, to any place for the purpose of repacking, affixing, and canceling such stamps, other than the public stores of the United States, the collector of customs of the port where such articles shall be entered shall designate a bonded warehouse to which such articles shall be taken, under the control of such customs officer as such collector may direct. And any officer of customs who shall permit any such articles to pass out of his custody or control without compliance by the owner or importer thereof with the provisions of this section relating thereto, shall be deemed guilty of a misdemeanor, and shall, on conviction, be fined not less than \$1,000, nor more than \$5,000, and imprisoned not less than six months nor more than three years.

Section [seventy-eight] seventy-seven was read, as follows:

SEC. [78] 77. *And be it further enacted*, That from and after the passage of this act it shall be the duty of every dealer in manufactured tobacco, having on hand more than twenty pounds, and every dealer in snuff having on hand more than ten pounds, to immediately make a true and correct inventory of the amount of such tobacco and snuff, respectively, under oath or affirmation, and to deposit such inventory with the assistant assessor of the proper division, who shall immediately return the same to the assessor of the district, who shall immediately thereafter make an abstract of the several inventories filed in his office, and transmit such abstract to the Commissioner of Internal Revenue, and a like inventory and return shall be made on the first day of every month thereafter, and a like abstract of inventories shall be transmitted while any such dealer has tobacco or snuff remaining on hand manufactured in the United States, or imported prior to the passage of this act, and not stamped. After the 1st day of January, 1869, all smoking, fine-cut chewing tobacco, or snuff, and after the 1st day of July, 1869, all other manufactured tobacco of every description shall be taken and deemed as having been manufactured after the passage of this act, and shall not be sold or offered for sale unless put up in packages and stamped as prescribed by this act; and any person who shall sell, or offer for sale, after the 1st day of January, 1869, any smoking, fine-cut chewing tobacco, or snuff, and after the 1st day of July, 1869, any other manufactured tobacco not so put up in packages and stamped, shall, on conviction, be fined not less than \$500 nor more than \$5,000, and imprisoned not less than six months nor more than two years.

The Committee on Finance proposed to amend the section by inserting after the word "act," in line twenty-five, the words "except at retail by retail dealers from wooden packages stamped as provided for in this act."

The amendment was agreed to.

The following sections, to which no amendment was reported, were read:

SEC. [79] 78. *And be it further enacted*, That any

person who shall, after the passage of this act, sell, or offer for sale, any manufactured tobacco or snuff, representing the same to have been manufactured and the tax paid thereon prior to the passage of this act, when the same was not so manufactured, and the tax not so paid, shall be liable to a penalty of \$500 for each offense, and shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than \$500 nor more than \$5,000, and shall be imprisoned not less than six months nor more than two years.

SEC. [80] 79. *And be it further enacted*, That all manufactured tobacco and snuff, manufactured prior to the passage of this act, and held in bond at the time of its passage, may be sold for consumption in the original packages, with the proper stamps for the amount of the tax thereon affixed and canceled as required by law; and any person who shall, after the passage of this act, offer for sale any tobacco or snuff, in packages of a different size from those limited and prescribed by this act, representing the same to have been held in bond at the time of the passage of this act, when the same was not so held in bond, shall, on conviction, be fined fifty dollars for each package in respect to which such offense shall be committed; *Provided*, That after the 1st day of January, A. D. 1869, no such tobacco or snuff shall be sold or removed for sale or consumption from any bonded warehouse unless put up in packages and stamped as provided by this act.

Mr. SHERMAN. The Secretary must be very tired; we have got along very well; and I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

Monday, July 6, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Friday last was read and approved.

The SPEAKER. This being Monday the first business in order is the call of the States and Territories for bills and joint resolutions for reference to the appropriate committees, not to be brought back into the House by a motion to reconsider, commencing with the State of Maine; during which call resolutions and memorials of State and territorial Legislatures are in order.

### PRINCE EDWARD'S ISLAND.

Mr. BUTLER, of Massachusetts, introduced a joint resolution (H. R. No. 322) relative to Prince Edward's Island; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

### DISTRICT COURT FOR DISTRICT OF COLUMBIA.

Mr. MILLER introduced a bill (H. R. No. 1356) in relation to the service of the filing of a bill in equity in the district court of the United States for the District of Columbia; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

### IMPROVEMENTS IN WASHINGTON CITY.

Mr. UPSON introduced a bill (H. R. No. 1357) making an appropriation to reimburse the city of Washington for expenses incurred in improving the property of the General Government in said city; which was read a first and second time, and referred to the Committee on Appropriations.

### BACK PAY AND BOUNTY OF FORMER SLAVES.

Mr. HINDS introduced a bill (H. R. No. 1358) providing for the payment of like back pay and bounty to persons marked "slave" upon the rolls as to other soldiers; which was read a first and second time, and referred to the Committee on Military Affairs.

### LANDS IN DUBUQUE, IOWA.

Mr. ALLISON introduced a bill (H. R. No. 1359) approving the sale of certain lands in the city of Dubuque by said city; which was read a first and second time, and referred to the Committee on the Public Lands.

### IOWA SOUTHERN RAILWAY COMPANY.

Mr. LOUGHRIDGE introduced a bill (H. R. No. 1360) granting lands to the Iowa Southern Railway Company; which was read a first and second time, and referred to the Committee on the Public Lands.

### MAIL ROUTES IN NEBRASKA.

Mr. TAFFE introduced a bill (H. R. No. 1361) to establish certain mail routes in the

State of Nebraska; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### CHARITIES IN THE DISTRICT.

Mr. WASHBURN, of Illinois, introduced a bill (H. R. No. 1362) to establish a commission of charities for the District of Columbia; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

#### ENROLLED BILLS AND JOINT RESOLUTIONS.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 502) to incorporate the congregation of the First Presbyterian Church of Washington;

An act (H. R. No. 503) for the relief of William B. Todd;

Joint resolution (H. R. No. 321) in relation to the erection of a bridge in Boston harbor; and

Joint resolution (H. R. No. 96) for the relief of John Sedgwick, collector of internal revenue, third district, California.

#### EMILY B. BIDWELL

Mr. VAN HORN, of New York, introduced a bill (H. R. No. 1363) granting a pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### ORDER OF BUSINESS.

The SPEAKER. The next business in order during the morning hour is the call of States for resolutions, commencing with the State of Wisconsin, where the call was arrested at the expiration of the morning hour on last Monday.

#### PURCHASES AT PHILADELPHIA NAVY-YARD.

Mr. PAINE. On behalf of the gentleman from Pennsylvania, [Mr. KELLEY,] I submit the following resolution:

*Resolved*, That the Committee on Naval Affairs be directed to inquire into the regularity and legality of the purchase of planing and riveting machines, Cameron pumps, and tools and machinery generally, by Theodore Zeller, engineer at the navy-yard at Philadelphia.

The resolution was adopted.

Mr. KELLEY moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CHEROKEE NEUTRAL LANDS IN KANSAS.

Mr. PAINE. I desire to offer another resolution—a joint resolution for the protection of settlers on the Cherokee neutral lands in Kansas.

The SPEAKER. The gentleman, having introduced one resolution, cannot introduce another without unanimous consent. The joint resolution will be read for information, after which there will be an opportunity for objection.

The Clerk read as follows:

Whereas in the treaty between the United States and the Cherokee nation of Indians, made July 19, 1864, proclaimed August 11, 1866, there is a provision purporting to authorize a sale by the Secretary of the Interior of the Cherokee neutral lands in Kansas, but which reserves from sale lands having improvements of the value of fifty dollars, not being mineral and occupied by any person for agricultural purposes, and which gives to occupants the right to purchase one hundred and sixty acres each of said lands, under and by virtue of which about eight hundred families are provided for; and whereas between August 11, 1866, and June 6, 1868, about twenty-seven hundred additional families have settled on said Cherokee neutral lands, each family occupying one hundred and sixty acres, on which improvements have been made at an average cost of about five hundred and ten dollars, beside expenditures for living of \$150 for each family, said settlement and improvements being made without objection from any source and on the faith that the settlers would be protected in their right to acquire title to said lands as other settlers on the public lands; and whereas on the 30th day of August, 1866, a contract was made by and between James Harlan, Secretary of the Interior, and the American Emigrant Company for the sale of cer-

tain portions of said lands, which contract has been assigned by said company to James F. Joy, said contract and assignment being on file in the Department of the Interior; and whereas a supplemental treaty between the United States and said Cherokee nation was made April 27, 1868, ratified June 6, and proclaimed June 10, 1868, all without any knowledge thereof by any of the persons occupying said lands, and which ratifies said contract with the American Emigrant Company and the assignment thereof to said Joy with certain modifications provided in said supplemental treaty, but which makes no provision for the protection of the persons or families who have settled upon and improved said lands, but purports to ratify a sale of said lands including the improvements thereon: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*. That in all cases where any person, prior to June 10, 1868, shall have settled on any tract of land of one hundred and sixty acres or less, in the body of lands known as the Cherokee neutral lands, and shall have made improvements thereon of the value of fifty dollars, and occupied such tract for agricultural purposes, such person, his heirs or assigns, so occupying any such tract of land shall, after due proof made in such manner as may be prescribed by the Secretary of the Interior, be entitled to enter and receive a patent for the lands so occupied on paying \$1 25 an acre within one year, in such manner as the Secretary of the Interior may prescribe. And the money so to be paid for said lands shall be paid over to said Cherokee Indians.

Mr. MAYNARD. Mr. Speaker, before objecting I ask what is proposed to be done with that resolution?

Mr. PAINE. The State of Wisconsin being called, I offered that resolution at the suggestion of several gentlemen.

Mr. VAN HORN, of Missouri. I object to the gentleman's offering the resolution.

The SPEAKER. The resolution cannot be received, objection being made, the gentleman having already offered one resolution.

#### SURVEYS OF RIVERS AND HARBORS.

Mr. SAWYER, at the request of Mr. ELIOT, introduced a joint resolution (H. R. No. 323) in relation to the surveys and examinations of rivers and harbors; which was read a first and second time.

The joint resolution provides that the Secretary of War shall cause to be prepared and submitted to Congress, in connection with the reports of the examinations and surveys of rivers and harbors hereafter made by order of Congress, full statements of the existing facts tending to show to what extent the general commerce of the country will be promoted by the several works of improvement contemplated by such examinations and surveys, to the end that public moneys shall not be applied except where such improvements shall tend to subserve the general commercial and navigating interests of the United States.

Mr. SAWYER demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LOCK-UP SAFETY VALVES.

Mr. SAWYER also submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be directed to inquire into the expediency of repealing the provisions of law requiring the use of lock-up safety valves in vessels propelled by steam; and they are authorized to report by bill or joint resolution at any time.

#### WEST WISCONSIN RAILROAD.

Mr. HOPKINS introduced a joint resolution (H. R. No. 324) to extend the time for the completion of the West Wisconsin railroad; which was read a first and second time.

The joint resolution provides that the time fixed and limited by an act entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," approved May 5, 1864, for the completion of the railroad from Tomah, in the county of

Monroe, to Saint Croix river or lake, between townships twenty-five and thirty-one, be further extended for a period of three years to the West Wisconsin Railroad Company, a corporation established by the laws of Wisconsin, and which, by the laws of that State, is entitled to the land grant made in the second section of that act; provided that if said railway company shall not have completed said railroad from Tomah to Black River Falls on or before the expiration of one year from the passage of this resolution this act shall be null and void.

Mr. WASHBURN, of Illinois. Is it proposed to put this resolution upon its passage, or is it for reference?

The SPEAKER. It is proposed to put it on its passage.

Mr. HOPKINS. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOPKINS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ANTHRACITE COAL FOR THE NAVY.

Mr. HOPKINS, at the request of Mr. PRICE, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Navy be, and is hereby, instructed to inform this House of the price paid and to be paid under contracts recently made by the Government for anthracite coal for the use of the Navy at New York and at Philadelphia, and whether anthracite coal has been furnished or is to be furnished to the ports of Norfolk, Washington, or other southern ports from New York, and if so, why.

#### EQUALIZATION OF TAXES, ETC.

Mr. DONNELLY introduced a bill (H. R. No. 1368) to equalize the taxes and reduce the interest on the public debt; which was read a first and second time.

The bill provides that upon all gains, profits, and incomes arising from the bonds and other interest-bearing securities of the United States, payable to any person, State; municipality, body politic or corporate, company or society, whether corporate or not corporate, out of the Treasury of the United States, there shall be charged yearly as a tax for every \$100 thereof ten dollars, and for a lesser sum in the same proportion. Said tax shall be assessed and collected by the Treasurer or other disbursing officers of the United States charged with paying any of the interest upon the debt of the United States, in the same currency in which said interest is paid; and said tax shall be instead of all other taxes assessed or levied as taxes upon income from any of the interest-bearing securities of the United States.

Mr. DONNELLY. I demand the previous question.

Mr. BOUTWELL. I ask the gentleman to yield for an amendment.

Mr. DONNELLY. I will allow it to be read for information.

Mr. BOUTWELL. I move to strike out all after the enacting clause and insert what I send to the Chair.

Mr. SPALDING. I object.

The question being put on seconding the previous question on the engrossment of the bill there were—ayes twenty-one.

Mr. DONNELLY. I demand tellers.

Tellers were ordered; and the Chair appointed Messrs. DONNELLY and GARFIELD.

The House divided; and the tellers reported—ayes twenty-one.

Mr. DONNELLY. I demand the yeas and nays.

Mr. GARFIELD. I rise to debate the bill. The SPEAKER. Debate arising, the bill goes over.

#### CHIEF CLERK OF SERGEANT-AT-ARMS.

Mr. WINDOM offered a joint resolution (H. R. No. 325) relative to the pay of the chief



clerk in the office of the Sergeant-at-Arms of the House; which was read a first and second time.

The resolution directs the Clerk to pay from the contingent fund of the House to the chief clerk in the office of the Sergeant-at-Arms the difference between his present pay and the amount voted him by a resolution of the House passed June 25, 1866, thereby fixing the salary of the said chief clerk at \$2,500 per annum.

Mr. WINDOM. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WINDOM moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

LEWIS P. BUCKLEY.

Mr. WINDOM. At the request of the gentleman from Ohio [Mr. SPALDING] I offer the following resolution:

*Resolved*, That the Clerk of this House be instructed to pay from the contingent fund to the widow or legal representative of Colonel Lewis P. Buckley, late assistant doorkeeper of this House, one month's extra pay to aid in payment of expense of his funeral.

Mr. WASHBURN, of Illinois. Let that go to the Committee on Accounts.

Mr. SPALDING. He died in poverty, and this is to pay his funeral expenses.

Mr. WASHBURN, of Illinois. That can be done by letting it go to the Committee on Accounts.

Mr. SPALDING. I withdraw the resolution if the gentleman insists upon sending it to the Committee on Accounts.

Mr. WASHBURN, of Illinois. Let it be passed, then.

The resolution was agreed to.

Mr. SPALDING moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. BLAINE.

JOSEPH POWELL.

Mr. HIGBY. I ask unanimous consent to offer the following resolution for reference to the Committee of Elections:

*Resolved*, That there be paid out of the contingent fund of the House to Joseph Powell, contesting the seat of Hon. R. R. BUTLER, a Representative from the first congressional district of Tennessee, in full for expenses in taking testimony under the direction of the Committee of Elections, the sum of \$2,000.

The resolution was referred to the Committee of Elections.

BRIDGES OVER THE OHIO RIVER.

Mr. HIGBY. I ask the consent of the House to offer the following joint resolution for action at this time:

Joint resolution relative to bridges across the Ohio river.

*Be it resolved* by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this resolution it shall not be lawful to construct nor to complete any bridge across the Ohio river without providing for the full and free navigation of said river by one main span across the channel of at least five hundred feet of clear water way between the piers. The center of said span shall be at least fifty feet above high-water mark at the place where said bridge is located.

Mr. GARFIELD. I object to the introduction of the resolution for action without discussion.

Mr. HIGBY. I supposed that I was entitled to introduce it.

The SPEAKER. The gentleman has offered one resolution, and he cannot offer a second except by unanimous consent. The rule is specific that a member can offer only one resolution.

PAY OF MEMBERS OF CONGRESS.

Mr. HUBBARD, of West Virginia. I offer

the following resolution, upon which I demand the previous question:

*Resolved*, That the Committee on Appropriations be directed to report back for present action the joint resolution fixing the compensation of members of Congress, referred to that committee on the 20th of January last.

The question was put on seconding the previous question; and only fourteen voted in the affirmative.

Mr. HUBBARD, of West Virginia, called for tellers.

Tellers were not ordered.

The House refused to second the demand for the previous question.

Mr. SPALDING. We will report the resolution back at any time. I did not know we had it.

Mr. PILE. I rise to debate the resolution.

The SPEAKER. Debate arising, the resolution goes over under the rules.

Mr. HUBBARD, of West Virginia. Let it go. We will have another chance next Monday. Get ready.

REMOVALS AND APPOINTMENTS.

The call of the States and Territories for resolutions having been completed, the next business in order was the consideration of resolutions lying over under the rule, the first of which was the following resolution, introduced by Mr. MULLINS on the 1st of June last:

*Resolved*, That the Secretary of the Treasury be, and he is hereby, required to furnish to this House information as to how many removals of clerks and other employes of said Department have been made since the 1st day of January, 1868, and for what cause; also, how many persons have been appointed to office or employed in the Treasury Department since the 1st day of January, 1868, and by whom the removals and appointments were made, and the names of those removed and those appointed or employed; also, the reasons for the same, and by whom said reasons have been furnished, if any.

Mr. PILE. We have all that information now. I move to lay the resolution upon the table.

Mr. MAYNARD. I move that the resolution be referred to the joint select Committee on Retrenchment.

Mr. MULLINS. I agree to that motion.

Mr. PILE. I withdraw the motion to lay on the table.

Mr. MAYNARD's motion was then agreed to.

MILITARY TRIALS, ETC.

The next business in order was the consideration of the following preamble and resolution, introduced on the 25th of May last by Mr. SINGREAVES:

Whereas by an act of Congress approved March 2, 1867, it was enacted "That all acts, proclamations, and orders of the President of the United States, or acts done by his authority or approval, after the 4th of March, A. D. 1861, and before the 1st day of July, A. D. 1866, respecting martial law, military trials by courts-martial or military commissions, or the arrest, imprisonment, and trial of persons charged with participation in the late rebellion against the United States, as aids or abettors thereof, was guilty of any disloyal practices in aid thereof, or of any violation of the laws or usages of war, or of affording aid and comfort to rebels against the authority of the United States, and all proceedings and acts done or had by courts-martial or military commissions, or arrest or imprisonment made in the premises by any person by the authority of the orders and proclamations of the President, made as aforesaid, or in aid thereof, are hereby approved in all respects, legalized and made valid, to the same extent and with the same effect as if said orders and proclamations had been issued and made, and said arrests, imprisonments, proceedings, and acts had been done under the previous express authority and direction of the Congress of the United States, and in pursuance of a law thereof previously enacted, and expressly authorizing and directing the same to be done. And no civil court of the United States, or of any State, or of the District of Columbia, or of any district or Territory of the United States, shall have or take jurisdiction of, or in any manner reverse any of the proceedings had or acts done as aforesaid; nor shall any person be held to answer in any of said courts for any act done or omitted to be done in pursuance or in aid of any said proclamations or orders, or by authority or with the approval of the President, within the period aforesaid, and respecting any of the matters aforesaid; and all officers and other persons in the service of the United States, or who acted in aid thereof, acting in the premises, shall be held *prima facie* to have been authorized by the President, and all acts and parts of acts heretofore passed inconsistent with the provisions of this act are hereby repealed;" and whereas it is alleged that citizens of the United States were arrested and imprisoned between the 4th day of March, A. D. 1861, and the 1st day of July, A. D. 1866, under the alleged authority of the aforesaid acts and

proclamations and orders, and afterward discharged without trial either in the civil or military courts; and whereas it is alleged that many citizens so arrested and imprisoned then were, and ever have been, loyal to the Constitution and the Union, and were unjustly arrested and imprisoned, but by reason of said discharge without trial and the aforesaid recited act they cannot establish their innocence, and their characters are tainted with the suspicion of treason; and whereas it is reasonable and just that for every wrong there should be a remedy provided by law: Therefore,

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of reporting a joint resolution authorizing the appointment of commissioners or courts of inquiry duly authorized to inquire into and report the causes of said arrest and imprisonment of a citizen in every case where such citizen shall demand such inquiry by petition, verified by the oath or affirmation of the petitioner.

Mr. ALLISON. I move that the resolution be referred to the Committee on the Judiciary. The motion was agreed to.

W. D. CHIPLEY AND OTHERS.

The next business in order was the following preamble and resolution, introduced by Mr. BECK on the 1st of June, and laid over under the rule:

Whereas it is asserted by William D. Chipley and others, citizens and residents of Columbus, Georgia, that they have been arrested and imprisoned without cause by order of General George G. Meade, commanding the third military district, and that the cause of their arrest and imprisonment has been withheld and refused, as shown by the following letter:

OFFICE OF BLOUNT & CHIPLEY,  
COTTON FACTORS, GROCERIES,  
AND COMMISSION MERCHANTS,  
COLUMBUS, GEORGIA, May 18, 1868.

DEAR SIR: I may be presuming in troubling you with the facts which I will herein relate, and if so, can only offer our utter want of representation as my apology. And yet it may be that you will think that such outrages concern every citizen of the country, whether he lives North or South. As long as such acts can be committed with impunity no man can feel safe. It will not do for one to expect his character to protect him from such attacks, for virtue is the favorite target of such marksmen. On the 9th day of March ten white citizens of this place and three colored were arrested by order of one Captain Mills, commanding this post, and placed in confinement at the court-house, where they were detained under guard until dusk on the evening of the 13th ultimo. At the expiration of that time we were released under bond, the amount and conditions of which are fully stated in the printed slips which I inclose. From these clippings you will find that I was numbered among the prisoners. Were I writing to a stranger it might be prudent and proper to offer some testimonial of character; but you have known me from my earliest youth, and on that fact I rest my case. My companions in this arrest, as far as my personal knowledge goes, are as far above the suspicion of any implication in crime as any citizen in this or any other community. What I want is to arrive at the cause of my arrest. During the arrest, nor upon our release under bond, could we obtain any information concerning the evidence which led to our incarceration. It was entirely *ex parte*, and no clue to its character or the names of our accusers has been given us. If you consider it proper, I would like for you to offer a resolution calling for the facts in the case.

Regretting the circumstances which force me to trouble you in this matter, I remain, sir, yours, very truly,

W. D. CHIPLEY.

Hon. JAMES BECK, Washington.

In stating that we were arrested by order of Captain Mills, commanding post, I should have added his statement, that he was acting under orders from his superiors.

W. D. C.

Therefore,  
*Resolved*, That the Secretary of War be, and he is hereby, instructed to report forthwith to the House upon what charge or charges, and by what authority, General George G. Meade, commander of the third military district, embracing the States of Georgia, Alabama, and Florida, arrested and imprisoned William R. Bedell, Christopher C. Bedell, James W. Barber, Alva C. Roper, William L. Cash, William D. Chipley, Robert A. Ennis, Elisha J. Kirksey, Thomas W. Grimes, Wash H. Stephens, John Wells, (colored,) John Stephen, (colored,) and James McHenry, (colored,) citizens and residents of Columbus, Georgia, on or about the 9th day of April, 1868, and why he required said persons to execute to him the following bond: namely:

Georgia, Muscogee County:

Know all men by these presents, that we, whose names are hereunder signed, are held and bound unto General George G. Meade, or his successor in office, in the penal sum of \$50,000, for the payment whereof well and truly to be made to the said General George G. Meade, or his successor in office, we hereby bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Witness our hands and seals this 10th day of April, 1868.  
The condition of the above obligation is such that, whereas, General George G. Meade has arrested and confined William R. Bedell, Christopher C. Bedell, James W. Barber, Alva C. Roper, William L. Cash, William D. Chipley, Robert A. Ennis, Elisha J.

Kirksey, Thomas W. Grimes, Wade H. Stephens, John Wells, (colored,) John Stapler, (colored,) and James McHenry, (colored,) who have been released by order of General George G. Meade, on condition that they would each give security in the sum of \$2,500 that they would each report and appear before the military authorities of the United States, at such time and place as the commanding officer of the third military district may direct. Now, then, if any of the said parties, so released, shall fail to appear and report to the military authorities of the United States, at such time and place as the commanding officer of the third military district may direct, and the parties to this bond shall pay the sum of \$2,500 for each and every one of said persons so released who may fail to appear and report as aforesaid, then this bond to be null and void; else, to remain in full force and virtue.

Witnessed by

R. J. MOSES,  
Notary Public.

Mr. BUTLER, of Massachusetts. As this resolution relates to the same subject as the one just referred, I move that it also be referred to the Committee on the Judiciary.

The motion was agreed to.

#### RIGHTS OF AMERICAN CITIZENS ABROAD.

The next business in order was the following preamble and resolution, submitted by Mr. VAN WYCK on the 17th of June, and laid on the table for future debate:

Whereas foreign nations should not be allowed to raise the question whether American citizenship was acquired by birth or adoption, the rights of citizenship being the same to all citizens; and whereas this Republic has pledged its faith to persons of all nations that residence, renunciation of former allegiance, and compliance with our laws make them citizens here, and the honor of the nation is pledged that such promise be redeemed, no matter whence came the citizen or how powerful the nation that denies it; and whereas Great Britain has, in defiance of the law of nations, a portion of her own history, and the results of the war of 1812, lately established in her courts the dogma once a subject always a subject, and has in repeated instances refused to recognize the rights of American citizens by denying them the privilege of mixed juries, treating as subjects of her realm many of our citizens who had periled life in defense of this Government during the war of the rebellion, in some cases arresting and imprisoning for words spoken in this country: Therefore,

Resolved, That the President of the United States immediately demand from any foreign country who may have imprisoned American citizens for words spoken in this country acknowledgment as complete and ample as was made by this Government in apology for the arrest of Mason and Slidell; and if such apology is denied he report the fact to Congress for its action; also, that he demand reparation in all cases where American citizens have been treated as subjects of a foreign Power. And that to all such persons now imprisoned the rights herein claimed shall be granted; and that he report to this House what he has done, if anything to secure such rights and redress the wrongs above set forth.

Mr. BUTLER, of Massachusetts. The gentleman from New York [Mr. VAN WYCK] is not now present. I move that the resolution be laid on the table for the present.

The motion was agreed to.

#### BRIDGES OVER THE OHIO.

The next business in order was the consideration of a joint resolution (H. R. No 305) in respect to the construction of bridges over the Ohio and Mississippi rivers, introduced by Mr. RAUM, on the 22d of June.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution, which was read, provides that hereafter all bridges to be constructed and in process of construction over the Ohio and Mississippi rivers shall be made with unbroken and continuous spans; and that the span of any such bridge covering the main channel of the river shall be five hundred feet in length in the clear.

Mr. RAUM. I move to amend the joint resolution by striking out all after the resolving clause and inserting in lieu thereof the following:

That from and after the passage of this resolution all bridges to be constructed, and now in process of construction over the Ohio river, shall be made with unbroken and continuous span, and shall not be of less elevation than fifty feet above extreme high water as understood at the point of location, measuring for such elevation to the lowest part of such bridge at the center of the span; nor shall the span of any such bridges covering the main channel of said river be less than five hundred feet in length in the clear, and the piers of said bridges shall be parallel with the current of the river: *Provided*, That nothing contained in the foregoing resolution shall be construed to apply to the bridge in process of construction over the Ohio river at the falls of said river.

I suppose this subject has been examined by nearly all the members of the House. The great importance of securing the navigation of the Ohio river, and, in fact, of all our western rivers, is a question to which we should all direct our attention. While I would be glad to offer some observations in reference to the importance of passing this resolution now, still as there are but a few minutes of the morning hour left, I will move the previous question.

Mr. SCHENCK. Will the gentleman allow me to move to amend this resolution by inserting the words "Mississippi and Missouri?" so that it may apply to all those three rivers.

Mr. RAUM. I would prefer to have the Ohio river stand upon its own merits.

Mr. SCHENCK. On its own bottom, I suppose.

Mr. RAUM. Yes; I want to see the question tested on the Ohio river alone.

Mr. DELANO. Why did the gentleman make his resolution originally apply to the Mississippi and Ohio rivers?

Mr. RAUM. I drafted this resolution originally for the Ohio river alone. At the solicitation of some of my friends I inserted the word "Mississippi." Finding, however, that that would raise considerable opposition, I have offered this substitute.

Mr. SCHENCK. I did not suggest my amendment out of any opposition to the joint resolution.

Mr. RAUM. I call the previous question on the substitute.

The SPEAKER. The Chair will state that this joint resolution having been reached during the morning hour on Monday, if the previous question is ordered it will be disposed of to-day. If the previous question is not seconded, it will go over until Monday next at the expiration of this morning hour.

Mr. SCHENCK. If the previous question shall be voted down, I suppose the joint resolution will be amendable?

The SPEAKER. It will.

Mr. MOORHEAD. This resolution conforms to a report which I understand has been agreed upon by the Committee on the Post Office and Post Roads.

Mr. PILE. Will the gentleman yield to me for two minutes?

Mr. RAUM. I will yield to the gentleman for two minutes.

Mr. PILE. I desire to say that it is not necessary, and it would be a great injury to the commerce of the Missouri river to apply this restriction to it. I hope it will not be done for the reason the fleets of barges cannot be towed up the Missouri river. The current of the river is so strong that it is difficult for a heavily laden boat to stem the current. Unless a slack-water navigation should be established on the Missouri river (which is not contemplated, and never will be done) there is no necessity for a provision requiring bridges across that river to be five hundred feet span, for the simple reason that no fleets of barges requiring such a span can ever navigate that river. Nor is there any necessity for such a provision with regard to the Mississippi river above the city of Keokuk. The fleets of barges navigating the river above that point can readily pass through a span of three hundred or three hundred and fifty feet. I think, however, there is an urgent necessity for a provision of this kind with reference to the Ohio river, and also with reference to the Mississippi river at and below the city of Keokuk. I hope the gentleman from Illinois [Mr. RAUM] will yield for an amendment making the provisions of the resolution applicable to the Mississippi river at and below the city of Keokuk.

Mr. RAUM. I prefer not to yield for that amendment. I wish the Ohio river to stand on its own merits. I demand the previous question on the substitute.

On seconding the previous question there were—ayes 35, noes 20; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. RAUM and Mr. GARFIELD.

Mr. PILE. I desire to ask a parliamentary question. If the previous question be sustained, cannot the resolution be afterward amended by unanimous consent so as to apply to the Mississippi river at and below the city of Keokuk?

The SPEAKER. If the previous question should be sustained, it will exhaust itself upon the substitute. The question will then be upon ordering the joint resolution to be engrossed and read the third time; and it will then be open for amendment, unless the House should order the previous question.

The House divided; and the tellers reported—ayes sixty-four, noes not counted.

So the previous question was seconded.

The main question was ordered, which was upon agreeing to the substitute.

The substitute was agreed to.

Mr. SCHENCK. I have a proposition which I do not know to be pertinent, but I ask that it may be read for information.

Mr. RAUM. I do not yield for that. I call for the previous question.

On seconding the previous question, there were—ayes 46, noes 31; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. PRICE and Mr. STONE.

The House divided; and the tellers reported—ayes 71, noes 33.

So the previous question was seconded.

The main question was ordered; and under the operation thereof the joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. GARFIELD. I call for the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 80, nays 23, not voting 92; as follows:

YEAS—Messrs. Anderson, Arnell, Bailey, Banks, Beatty, Benjamin, Blair, Boles, Bromwell, Calk, Cobb, Coburn, Culom, Dawes, Driggs, Eliot, Farnsworth, Ferry, Halsey, Hamilton, Hawkins, Higby, Hinds, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Julian, Kelley, Kelsey, Kitchen, Koontz, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercer, Miller, Moore, Moorhead, Mullins, Nunn, O'Neill, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Price, Raum, Roots, Schenck, Shanks, Smith, Spalding, Aaron F. Stevens, Stokes, Taylor, Thomas, Trowbridge, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Thomas Williams, William Williams, and Woodbridge—80.

NAYS—Messrs. Allison, Ames, James M. Ashley, Baker, Baldwin, Boutwell, Benjamin F. Butler, Sidney Clarke, Delano, Donnelly, Garfield, Hooper, Hubbard, Jenckes, Judd, Orth, Pomeroy, Sawyer, Stewart, Stone, William B. Washburn, James F. Wilson, and Windom—23.

NOT VOTING—Messrs. Adams, Archer, Delos R. Ashley, Axtell, Barnes, Barnum, Beaman, Beck, Benton, Bingham, Blaine, Boyer, Brooks, Broomall, Buckland, Burr, Roderick R. Butler, Cary, Chanter, Churchill, Reader W. Clarke, Cook, Cornell, Covode, Dixon, Dodge, Eckley, Eggleston, Eldridge, Ferriss, Fields, Finney, Fox, Geitz, Glossbrenner, Golladay, Gravelly, Griswold, Grover, Haight, Harding, Hill, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Johnson, Jones, Kerr, Ketcham, Knott, Lufin, Lincoln, Marshall, McCormick, McCullough, McKee, Morrell, Morrissey, Mungen, Myers, Newcomb, Niblack, Nicholson, Phelps, Polley, Pruyn, Raudall, Robertson, Robinson, Ross, Scofield, Selye, Shellabarger, Sitgreaves, Starkweather, Thaddeus Stevens, Taber, Taffe, John Trimble, Lawrence S. Trimble, Van Aernam, Van Aiken, Van Trump, Van Wyck, Ward, Welker, John T. Wilson, Stephen F. Wilson, Wood, and Woodward—92.

So the joint resolution was passed.

Mr. RAUM moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The title was amended so as to read as follows: "A joint resolution in reference to the construction of bridges over the Ohio river."

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. BURCH, one of its clerks, requesting the return of House bill No. 554, making a grant of land to the State of Minnesota to aid in the

improvement of the navigation of the Mississippi river, which passed the Senate July 3, with an amendment.

It also announced that the Senate had passed without amendment bills of the House of the following titles:

A bill (H. R. No. 445) for the relief of Timothy Lyden, of Parkersburg, West Virginia; A bill (H. R. No. 1069) for the relief of Charles B. Tanner, late first lieutenant sixty-ninth Pennsylvania volunteers; and

A bill (H. R. No. 1325) for the relief of Benjamin B. French, late Commissioner of Public Buildings.

It also announced that the Senate had passed bills of the House of the following titles, with amendments, in which the concurrence of the House was requested:

A bill (H. R. No. 1068) to provide for certain claims against the Department of Agriculture; and

A bill (H. R. No. 869) prescribing an oath of office to be taken by persons from whom legal disabilities shall have been removed.

It also announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 102) providing for the formation of corporations, and regulating the same in the District of Columbia;

A bill (S. No. 355) authorizing the construction of a bridge across the Missouri river, upon the military reservation at Fort Leavenworth, Kansas;

A bill (S. No. 550) for the relief of Robert Ford;

A bill (S. No. 491) to provide for the appointment of a recorder of deeds in the District of Columbia;

A bill (S. No. 535) to reward the services of Matthew Low, of Nassau, New Providence;

A bill (S. No. 555) authorizing the allowance of the claim of the State of Minnesota to lands for the support of a State university; and

A bill (S. No. 236) in addition to the act entitled "An act to incorporate the Washington, Alexandria, and Georgetown Steam-Packet Company.

It also announced that a message had been received from the President of the United States, that he had, on the 25th of June, 1868, approved and signed the following bills:

An act (S. No. 426) for the relief of Thomas Crossley;

An act (S. No. 184) granting a pension to Mrs. Ann Corcoran;

An act (S. No. 450) relative to filing reports of railroad companies;

An act (S. No. 425) granting a pension to George Bennett;

An act (S. No. 280) granting a pension to Michael Hennessy, of Platte county, Missouri;

An act (S. No. 164) to provide for appeals from the Court of Claims, and for other purposes;

An act (S. No. 377) to change the times of holding the district and circuit courts of the United States in the several districts in the State of Tennessee;

An act (S. No. 216) to amend an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad in California, to Portland, in Oregon; and

A joint resolution (S. R. No. 134) authorizing a change of mail service between Fort Abercrombie and Helena.

The message also announced that the bill (S. No. 534) relating to contested elections in the city of Washington, District of Columbia, having been presented to the President of the United States on the 16th of June, 1868, and not having been approved by him or returned to the Senate, in which it originated, within ten days, (Sundays excepted,) had become a law under the Constitution of the United States.

#### AMENDMENT TO THE CONSTITUTION.

The SPEAKER laid before the House a letter from the Governor of North Carolina, in-

closing the ratification by the State Legislature of the fourteenth amendment to the Constitution of the United States; which was referred to the Committee on Reconstruction, and ordered to be printed.

#### UNIVERSITY OF WISCONSIN.

The SPEAKER also laid before the House a memorial of the board of regents of the University of Wisconsin, in relation to the official position of the military officer detailed for military instruction at said university; which was referred to the Committee on Military Affairs.

#### CREDENTIALS OF NORTH CAROLINA MEMBERS.

Mr. PAINE. I rise to a question of privilege. I have here the credentials of five of the members-elect from the State of North Carolina, to wit: John R. French, of the first district; Oliver H. Dockey, of the third; John T. Dewesse, of the fourth; Nathaniel Boyden, of the sixth; and Alexander H. Jones, of the seventh. I send them to the Clerk's desk, and move that they be referred to the Committee of Elections.

The credentials were accordingly referred to the Committee of Elections.

#### GRANT OF LAND TO MINNESOTA.

The SPEAKER. The Senate have asked for the return of the Senate amendments to House bill No. 554, making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river.

No objection being made, the amendments were returned to the Senate.

#### REMOVAL OF LEGAL DISABILITIES.

Mr. DAWES. I ask unanimous consent to take from the Speaker's table a bill which has just come from the Senate (H. R. No. 869) to prescribe an oath of office to be taken by persons from whom legal disabilities shall have been removed, for the purpose of moving to concur in the amendments of the Senate with an amendment.

No objection being made, the amendments of the Senate were taken up for consideration and were reported as follows:

In line three strike out "has" and insert "have." In line seven, after the word "thereon," insert the words "instead of the oath prescribed by the act of July 2, 1862."

Mr. DAWES. I move that the House concur in the amendments with an amendment striking out the words "and no other," because there are general officers to whom a prescribed oath is necessary after all.

The amendments of the Senate, as amended, were concurred in.

Mr. DAWES moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TREATY WITH THE CHOCTAWS.

Mr. WINDOM, from the Committee on Indian Affairs, reported back a bill (H. R. No. 1195) to carry into effect certain treaty stipulations with the Choctaw nation or tribe of Indians; which was ordered to be printed with the accompanying report, and recommitted to the committee.

#### RESUMPTION OF SPECIE PAYMENTS.

Mr. LYNCH, by unanimous consent, from the Committee on Banking and Currency, reported a bill (H. R. No. 1364) to provide for a gradual resumption of specie payments; which was read a first and second time.

Mr. LYNCH. I move that the bill be printed, postponed, and made the special order for the second Tuesday in December next.

Mr. BUTLER, of Massachusetts, objected, but subsequently withdrew his objection; and the bill was ordered to be printed, postponed, and made the special order for the second Tuesday in December next.

Mr. LYNCH moved to reconsider the vote by which the bill was postponed and made the special order; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ANTHONY BUCHER.

Mr. MAYNARD. I demand the regular order.

The SPEAKER. The morning hour has now commenced, and the Committee of Claims, according to the order of the House, is entitled to this morning hour.

The House resumed the consideration of the bill (H. R. No. 1326) for the relief of Anthony Bucher, reported from the Committee of Claims by Mr. HARDING, and pending at the expiration of the last morning hour.

The bill was read. It authorizes the Secretary of the Treasury to investigate, and if, in his opinion, it shall appear proper, issue to Anthony Bucher a Treasury note for fifty dollars, to supply such a note as shall appear to have been destroyed by fire, and belonging to him, in the summer of 1867.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question being put on the passage of the bill, there were—ayes 36, noes 16; no quorum voting.

Mr. WASHBURN, of Massachusetts. Mr. Speaker, there are not more than one or two gentlemen, I apprehend, who will vote against this bill if they understand it. In this case the fact that the remains of the bills were identified is not disputed. But in transporting them to Washington the remains of the fifty-dollar bill became so much broken up that when they got to the Department the officers there could identify the three five dollar bills, so that they issued three to take the places of those destroyed, but could only identify parts of the fifty-dollar bill, and not enough to authorize them to issue a new bill in place of it. The committee examined all the evidence in the case. The bill belonged to the wife of a poor soldier, and had been sent home by him while in the service. The evidence shows that the bill was identified by witnesses after the fire, but in transportation it got so broken up that the Department did not see fit to issue a new bill. Under the circumstances we report that fifty dollars be allowed in this case. In no case has the committee reported favorably on such a claim where they had not evidence that the bill destroyed had been identified. Under these circumstances no person can object to allowing relief.

The bill was passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### H. D. M'KINNEY.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported back, with the recommendation that it do not pass, the bill (S. No. 476) for the relief of H. D. McKinney; and the same was laid on the table.

#### ADVERSE REPORTS.

Mr. WASHBURN, of Massachusetts, from the same committee, reported adversely on the petition of Mary E. Low; and the same was laid on the table.

Mr. MERCUR, from the same committee, reported adversely on the petitions of R. E. Fennell, of Frankfort, Kentucky, and T. W. Campbell; and the same were laid on the table.

#### MARK HOWARD.

Mr. MERCUR, from the same committee, reported back with an amendment in the nature of a substitute the bill (H. R. No. 89) authorizing the Commissioner of Internal Revenue to settle and adjust the accounts of Mark Howard, as collector of internal revenue, first district of Connecticut.

The substitute was read, as follows:

That the Commissioner of Internal Revenue be, and is hereby, authorized and directed to adjust and settle the accounts of Mark Howard as collector of the first revenue district of Connecticut, in conformity with the revenue laws in force at the time he was collector of said district.

The substitute was agreed to.



The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MERCUR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAY OF VOLUNTEERS.

Mr. COBB, from the same committee, reported back, with the recommendation that it do pass, the joint resolution (H. R. No. 299) for the relief of certain honorably discharged soldiers of the volunteer forces of the Union Army.

The joint resolution was read. It provides that the third section of an act of Congress entitled "An act to increase the pay of the privates in the regular Army and in the volunteer service of the United States, and for other purposes," approved August 6, 1861, shall be construed to mean that every private of volunteers entitled under and by virtue of the proclamations of the President and the General Orders of the War Department, Nos. 15 and 25, dated respectively May 4 and May 25, 1861, issued in accordance therewith, prior to July 22, 1861, the date of the passage of the act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," shall be entitled to, and be paid, the allowance of \$100 provided by said general orders in all cases where said privates were honorably discharged or mustered out of service by competent authority.

Mr. WASHBURN, of Massachusetts. I did not expect that my colleague on the committee would report that bill to-day. It is not a private bill. I hope he will withdraw it until the committee is called for public bills.

Mr. COBB. I understood that this morning hour was given to the Committee of Claims without reservation or restriction.

The SPEAKER. The morning hour of Friday, to which the Committee of Claims was entitled for reports of a private nature, was postponed until to-day. The Committee of Claims were entitled to two morning hours for private business, one of them being the morning hour of Friday last, and it was postponed until to-day.

Mr. GARFIELD. I hope that bill will be referred to the Committee on Military Affairs.

Mr. COBB. I ask unanimous consent to have the bill considered at this time.

Mr. GARFIELD. I move that the bill be referred to the Committee on Military Affairs.

The SPEAKER. The gentleman must waive his objection to the present consideration of this bill, in order that it may be before the House to be referred.

Mr. GARFIELD. I object to the present consideration of this bill.

Mr. COBB. Then I give notice that on all proper occasions I will press this bill upon the consideration of the House. I think the Committee on Military Affairs might see that this is a simple act of justice, carrying out the proclamations of the President of the United States, and the orders of the War Department made in strict pursuance of those proclamations. But the objection being made, that act of justice must be foregone for the present.

Mr. GARFIELD. I do not know what the bill is; but it seems to me that it should go to the Committee on Military Affairs.

Mr. COBB. In reply to that I will say that I offered this as an amendment to the bounty bill which was reported from the Committee on Military Affairs. The gentleman from Ohio [Mr. GARFIELD] suggested that if I would have it and the papers accompanying it printed in the Globe the Committee on Military Affairs would have an opportunity to examine it, and would be ready to pronounce upon it.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN,

one of its Clerks, announced that the Senate had passed a bill, in which the concurrence of the House was requested, of the following title:

A bill (S. No. 417) to amend an act entitled "An act proposing to the State of Texas the establishment of her northern and western boundaries, the relinquishment by the said State of all territory claimed by her exterior to said boundaries, and of all her claims upon the United States, and to establish a territorial government for New Mexico."

#### CAPTAIN THOMAS W. MILLER.

Mr. COBB, from the Committee of Claims, reported a bill (H. R. No. 1865) for the relief of Captain Thomas W. Miller; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read at length, directs the Secretary of the Treasury to pay to Captain Thomas W. Miller, late captain and acting aid to Brigadier General L. Cutler, late of the Army of the Potomac, the sum of \$529 88, in full for military services from the 13th of May to the 7th of August, 1863, inclusive, and for private horse killed in action at the battle of Gettysburg.

Mr. COBB. I call the previous question.

Mr. BENJAMIN. Let the report be read.

The report was read.

Mr. BENJAMIN. I have no objection to this bill, except the portion of it that provides for the payment of the horse. I believe the Government has not yet entered upon the policy of paying for all the horses killed or lost during the war, and which belonged to private parties. I think we should hesitate before making this an isolated case.

Mr. COBB. I cannot yield for discussion now. I insist upon the call for the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### N. A. SHUTTLEWORTH.

Mr. COBB, from the Committee of Claims, also reported back, with a recommendation that the same do pass, House bill No. 284, for the relief of N. A. Shuttleworth, of Harrison county, West Virginia.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read at length, directs the Secretary of the Treasury to pay to N. A. Shuttleworth, of Harrison county, West Virginia, late captain of third regiment of Virginia volunteers, the sum of \$550 65, to reimburse him for the same amount paid by him for the transportation of recruits in 1861.

Mr. COBB. I call the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### HEIRS OF JAMES S. PORTER.

Mr. COBB, from the Committee of Claims, also reported back, with a recommendation that the same do pass, House bill No. 255, for the relief of the heirs of James S. Porter, late of Hancock county, West Virginia.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read at length, directs the Secretary of the Treasury to pay to the heirs of James S. Porter, late of Hancock

county, West Virginia, the sum of \$895 70, to reimburse them for a like amount of money paid by James S. Porter, in equipping company I, of the first regiment Virginia volunteers, three months' service.

Mr. BLAIR. Is there a report in this case?

Mr. COBB. There is a report.

Mr. BLAIR. I ask that the report be read.

The report was read.

Mr. PRICE. I desire to ask the gentleman from Wisconsin [Mr. COBB] a single question. I presume the State of West Virginia has never paid this account; but has it not paid parties who have made advances of money of a similar character?

Mr. COBB. I am not well enough informed on that point to answer the gentleman. I presume the gentleman from West Virginia [Mr. HUBBARD] can answer the inquiry.

Mr. HUBBARD, of West Virginia. To the best of my knowledge the State of West Virginia has not paid accounts of this kind; that is, claims for this particular three months' service.

Mr. COBB. This is precisely the same kind of disbursements for which a number of the loyal States (my own State and that of the gentleman from Iowa among the number) were reimbursed by the Federal Government.

Mr. PRICE. Yes, but with this difference: my own State, and I presume that of the gentleman from Wisconsin, had settled with the parties who advanced money, and then came to the General Government for reimbursement of those payments. That was the reason I asked why the State of West Virginia had not settled with parties having claims of this character?

Mr. COBB. The only answer to that question is to be found in the anomalous condition of things in West Virginia at the time these claims accrued.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### J. M. WRIGHT AND OTHERS.

Mr. STOKES, from the Committee of Claims, reported adversely upon the petition of J. M. Wright and others, praying reimbursement to the representatives of Brigadier General George Wright, United States Army, for \$6,500 in Government bonds, alleged to have been lost by shipwreck; which was laid on the table.

#### KENTUCKY UNIVERSITY.

Mr. STOKES also, from the Committee of Claims, reported adversely upon the claim of the Kentucky University at Lexington, Kentucky, for reimbursement for the destruction by fire of the medical college attached to the university, while used by the United States as a hospital; which was laid on the table.

#### MRS. SARAH HUTCHINS

Mr. STOKES also, from the Committee of Claims, reported adversely upon the claim of Mrs. Sarah Hutchins, for reimbursement for property destroyed by the United States Army.

#### ENROLLED BILL SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (S. No. 505) to amend section five of an act entitled "An act concerning the registering and recording of ships or vessels," approved December 31, 1792; when the Speaker signed the same.

#### CAPTAIN A. G. OLIVER.

Mr. STOKES, from the Committee of Claims, reported a bill (H. R. No. 1866) for the relief of Captain A. G. Oliver; which was read a first and second time.

The bill authorizes and directs the Secretary of the Treasury to pay to Captain A. G. Oliver,

out of any moneys in the Treasury not otherwise appropriated, the sum of \$2,010, the amount of Government funds stolen from him the 13th of May, 1864.

Mr. BENJAMIN. I make the point of order that this bill, being an appropriation bill, must be referred to the Committee of the Whole on the state of the Union.

Mr. STOKES. I ask the gentleman from Missouri [Mr. BENJAMIN] to withdraw that point for a moment and let the report be read. A number of cases of a similar character to this have been acted upon favorably by this House during the present Congress.

Mr. BENJAMIN. We have no proper opportunity to examine, amend, or debate these bills in the House; and I think they should go to the Committee of the Whole in accordance with the rule.

THE SPEAKER. The point of order necessarily refers the bill to the Committee of the Whole on the state of the Union. It will, with the report, be ordered to be printed.

SAMUEL TIBBETTS.

Mr. STOKES, from the same committee, reported back House bill No. 396, for the relief of Samuel Tibbetts, with the recommendation that it do not pass.

The bill authorizes and directs the Secretary of the Treasury to pay out of any money in the Treasury not otherwise appropriated the sum of \$200, being for money paid by Mr. Tibbetts for the entry of land on which he had before entered a land warrant, and which land warrant before the patent issued had been lost by the officers of the land office.

Mr. BENJAMIN. I should like to have some explanation of that bill.

Mr. STOKES. I will explain it in a few moments. Mr. Tibbetts first entered a land warrant upon a certain portion of land, one hundred and sixty acres, but he was afterward informed by the Commissioner of the General Land Office that the land warrant was defective. He then purchased two land warrants for eighty acres each and entered one hundred and sixty acres with them. The duplicate certificate he furnished, and it is in possession of the House. The original certificate was never returned to the Commissioner of the General Land Office. Consequently, when he was called upon to issue a patent for the land he could not do it because the original certificate had not been returned. Tibbetts sold the land to Smith; but Smith, on applying for the grant, was informed that the grant could not be made until \$200 were paid. Smith paid \$200. Tibbetts refunded \$200, and he was recommended to come to Congress for relief. It is a plain case, and the committee have therefore reported a bill for his relief.

Mr. BENJAMIN. It is a plain case, I think, that the bill ought not to pass. He has the right to the land warrants under the law, and he has his remedy in recovering them.

Mr. STOKES. I will reply to the gentleman from Missouri, that if Mr. Tibbetts had lost the land warrants he could then have gone and obtained new ones. But, sir, he never lost the land warrants. He entered them at the land office. The agent at the land office himself proves that Tibbetts did enter the land with two land warrants, but that by some mishap the certificate was never returned to the General Land Office. The Commissioner, therefore, declared that under the law he cannot do otherwise than take the \$200. If Tibbetts had lost the land warrants then there is no doubt he would have his remedy.

Mr. BENJAMIN. Does the gentleman say that these land warrants have been lost?

Mr. STOKES. No, sir; they were entered upon the land at the time, two land warrants for eighty acres each, but the certificate was never returned to the Commissioner of the General Land Office. For that reason he cannot obtain relief at any other place than Congress.

Mr. BENJAMIN. The general law provides a remedy for all these things.

Mr. STOKES. I had the law and examined it carefully; and, sir, the Commissioner of the General Land Office agrees he cannot get relief except from Congress.

Mr. DELANO. I hope this bill will not pass without further explanation.

Mr. STOKES. I think it is a perfectly clear case. In the first place Mr. Tibbetts entered one hundred and sixty acres of land with a land warrant, but the Commissioner of the General Land Office informed him there was some defect about the land warrant. He then purchased two land warrants of eighty acres each, and entered them at the Des Moines land office. He received his certificate, but the original certificate was never returned to the General Land Office. Tibbetts sold to Smith, but when Smith came to apply for a patent the Commissioner told him it could not be given until the return of the original certificate.

Mr. DELANO. Are the land warrants still in existence, or have they been canceled?

Mr. STOKES. They were entered at the Land Office.

Mr. WASHBURN, of Illinois. Is there any controversy between the parties?

Mr. STOKES. No, sir.

Mr. DELANO. If the land warrants are not canceled are they still in existence?

Mr. STOKES. The duplicate certificates of entry will prevent their ever being entered upon any other land. This man is entitled to relief; and I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time; and passed.

HENRY B. ST. MARIE.

Mr. STOKES, from the same committee, reported a joint resolution (H. R. No. 326) for the relief of Henry B. St. Marie; which was read a first and second time.

The joint resolution directs the Secretary of State to pay out of the civil service fund of his Department the sum of \$10,000 to Henry B. St. Marie, for services and information on the arrest of John H. Surratt in the kingdom of Italy, charged with the crime of conspiracy and murder.

Mr. STOKES. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STOKES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GEORGE KAISER.

Mr. STOKES, from the same committee, reported a bill (H. R. No. 1367) for the relief of George Kaiser; which was read a first and second time.

The bill directs the Secretary of the Treasury to pay to the applicant \$181.50 for labor and material furnished in building a hospital at Parkersburg, West Virginia, in 1861.

Mr. STOKES. I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STOKES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHARLES C. O'NEILL.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported adversely on the bill (H. R. No. 477) for the relief of

Charles C. O'Neill; which was laid on the table.

JAMES HOOPER.

Mr. WASHBURN, of Massachusetts, from the same committee, moved to take up from the Private Calendar the bill (S. No. 436) for the relief of James Hooper.

The motion was agreed to.

The bill was read. It directs the Secretary of the Treasury to pay to James Hooper the sum of \$16,000, being the value of his vessel, the bark General Berry, which was captured and destroyed at sea on the 9th day of July, 1864, while in the military service of the United States, by the rebel steamer Florida.

Mr. WASHBURN, of Massachusetts. I wish to say that this claim was before the Committee of Claims of the last Congress, received a very thorough examination by the chairman, [Mr. DELANO,] was reported by the committee, and passed the House almost unanimously, but for want of time it did not pass the Senate. The bill which comes before the House now has passed the Senate, has been before the Committee of Claims, and has been passed upon by them.

Mr. WASHBURN, of Illinois. I would like to have enunciated the principle upon which these claims are to be paid.

Mr. WASHBURN, of Massachusetts. The law provides that when a vessel in the Government employ has been destroyed by the enemy the Government shall pay for it. In this case the vessel went from New York to Fortress Monroe and was attacked by the Florida and destroyed. It was not supposed at the time that there was any danger. Provision was made in the contract by which the vessel was chartered that war risks only from Fortress Monroe up the James river should be taken by the Government. When the parties saw that, they demurred, and said they understood the Government was to take the war risk all the way. The quartermaster said there was no war risk to Fortress Monroe, and never was; but if there was any difficulty he supposed the Government would settle it. The party accordingly accepted the contract, and it was entered upon the charter in that way. But being entered in that way the settlement of the claim was refused. This is the only instance of the kind. In regard to all other vessels that passed from New York to Fortress Monroe a settlement was made on the ground that there were war risks given.

Mr. DELANO. I desire to ask the gentleman whether the officers who rejected the account did not say that they did it on technical grounds, admitting that the claim was a meritorious one and recommending legislation on the subject?

Mr. WASHBURN, of Massachusetts. Yes, sir, they recommended the passage of a bill to meet the case. I demand the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be read a third time, and was accordingly read the third time, and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CAPTURE OF JEFFERSON DAVIS.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported back the bill (H. R. No. 1277) to provide for the distribution of the reward offered by the President of the United States for the capture of Jefferson Davis.

Mr. UPSON. That bill makes an appropriation, and I think it should be referred to a Committee of the Whole House.

THE SPEAKER. If the gentleman makes that point, the Clerk will read the bill in full, and the Chair will see if it contains an appropriation.

Mr. UPSON. I do. I desire to have the matter debated somewhat.

The Clerk proceeded to read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the reward of \$100,000 offered for the capture of Jefferson Davis by the President of the United States in his proclamation of May 2, 1865, shall be paid as follows: to James H. Wilson, of the State of Illinois, late major general of volunteers, \$3,000; to Benjamin D. Pritchard, of the State of Michigan, late lieutenant colonel of the fourth Michigan cavalry, \$3,000; to Henry Harnden, of the State of Wisconsin, late lieutenant colonel of the first Wisconsin cavalry, \$3,000; to Joseph A. O. Yeoman, of the State of Iowa, late captain of the first Ohio cavalry, \$3,000; and to the following officers, non-commissioned officers, and privates, in proportion to the monthly pay proper to which they were respectively entitled by law in the grades which they held at the time of said capture—

Mr. WASHBURN, of Massachusetts. I suggest that it is not necessary to read all the names. There are some two or three hundred of them.

The SPEAKER. The bill contains an appropriation. The third section provides "that the sum of \$100,000 is hereby appropriated to carry this act into effect." It must receive its first consideration in Committee of the Whole.

Mr. WASHBURN, of Massachusetts. Well, if the gentleman from Michigan [Mr. Urson] wishes to make that motion and take the responsibility of defeating the bill, the Committee of Claims have no feeling about it. I simply wish to state that the committee acted upon this bill at the last Congress and were unanimous in their report, and the committee of this Congress are also unanimous in their report. It is a question that we have had a good deal of trouble about, and we should like to have the House dispose of it. But if the House sees fit to reject the bill, or if the gentleman from Michigan—who is as much interested as any member of the House—wishes to move to lay it on the table or to send it to the Committee of the Whole on the Private Calendar or to destroy it in any manner, I am perfectly willing he should do so.

Mr. UPSON. My object is to have the matter fairly understood by the House and debated.

The SPEAKER. The Chair would state that the bill is not before the House. The point of order made by the gentleman from Michigan [Mr. Urson] has referred the bill to the Committee of the Whole on the Private Calendar.

Mr. WASHBURNE, of Illinois. I move to suspend the rules for the purpose of considering the bill in the House. I think it ought to pass.

Mr. WASHBURN, of Massachusetts. I am willing to allow the gentleman from Michigan [Mr. Urson] time to discuss the bill.

Mr. UPSON. Well, but the gentleman's time is limited, and my colleagues desire to be heard on this question as well as myself.

The question was put on the motion to suspend the rules, and there were—ayes 50, noes 19; no quorum voting.

Mr. WASHBURN, of Massachusetts. I hope gentlemen will allow the bill to come before the House, and if they are not satisfied with it let it be voted down.

Mr. WASHBURNE, of Illinois. I call for tellers on the motion to suspend the rules.

Tellers were ordered; and Messrs. WASHBURNE, of Illinois, and URSON were appointed.

The House divided; and the tellers reported—ayes 71, noes 28.

Before the result was announced,

Mr. BLAIR called for the yeas and nays on suspending the rules.

The yeas and nays were ordered.

The question was again taken; and it was decided in the affirmative—yeas 81, nays 20, not voting 94; as follows:

YEAS—Messrs. Allison, Ames, Delos R. Ashley, Bailey, Baker, Baldwin, Banks, Beatty, Benton, Boies, Boutwell, Bromwell, Calk, Churchill, Sidney Clarke, Cobb, Cullison, Dawes, Delano, Donnelly, Eliot, Farnsworth, Griswold, Hamilton, Hawkins, Higby, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hubbard, Hunter, Ingersoll, Jencks, Judd, Julian, Kelley, Kelsey, Kitcher, Kootz, George V. Lawrence, Logan, Loughridge, Lynch, Marvin, McCarthy, Mercer, Miller, Moor-

head, Myers, Nunn, O'Neill, Paine, Perham, Peters, Pile, Plants, Poland, Pomeroy, Price, Rann, Roots, Sawyer, Schenck, Shanks, Smith, Stewart, Stokes, Taffé, Taylor, Thomas, Twichell, Burt Van Horn, Robert T. Van Horn, Cadwalader, C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, William Williams, James F. Wilson, and Windsor—81.

NAYS—Messrs. Anderson, Benjamin, Blair, Benjamin F. Butler, Briggs, Ela, Ferry, Grover, William Lawrence, Loan, Mallory, Maynard, McClurg, Moore, Mullins, Orth, Spalding, Stone, Trowbridge, and Upson—20.

NOT VOTING—Messrs. Adams, Archer, Arnell, James M. Ashley, Axtell, Barnes, Barnum, Beaman, Beck, Bingham, Blaine, Boyer, Brooks, Broomall, Buckland, Burr, Roderick R. Butler, Cary, Chanler, Reader W. Clarke, Coburn, Cook, Cornell, Covode, Dixon, Dodge, Eckley, Eggleston, Eldridge, Ferriss, Fields, Finney, Fox, Garfield, Getz, Glossbrenner, Golladay, Gravelly, Haight, Halsey, Harding, Hill, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. D. Hubbard, Humphrey, Johnson, Jones, Kerr, Ketcham, Knott, Ladin, Lincoln, Marshall, McCormick, McCullough, McKee, Morrell, Morrissey, Mung, Newcomb, Niblack, Nicholson, Phelps, Pike, Polsley, Pruyn, Randall, Robertson, Robinson, Ross, Seofield, Selye, Shellabarger, Sitereaves, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Taber, John Trimble, Lawrence S. Trimble, Van Aernam, Van Auken, Van Trump, Van Wyck, Ward, Welker, Thomas Williams, John T. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—94.

So (two thirds voting in the affirmative) the rules were suspended and the bill was before the House.

The SPEAKER. The morning hour has expired, and the bill goes over until the next morning hour for private bills.

#### IRON-CLADS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy, transmitting, in compliance with House resolution of the 2d instant, the report of Captain James B. Eads on the iron-clads of Europe and this country; which was referred to the Committee on Military Affairs, and ordered to be printed.

Mr. PILE submitted the following resolution; which was referred to the Committee on Printing, under the law:

*Resolved,* That there be printed for the use of the House three thousand copies of the report and drawings of Captain James B. Eads on the iron-clads of Europe and this country, and five hundred copies for the use of the Navy Department.

#### MRS. NANCY WEEKS.

The SPEAKER. There is a single pension bill on the Speaker's table, for the relief of the widow of a revolutionary soldier. The Chair would ask unanimous consent to have the Senate amendments to that bill disposed of at this time.

The amendments of the Senate to House bill No. 453, increasing the pension of Nancy Weeks, widow of Francis Weeks, were then taken from the Speaker's table.

Mr. LOGAN. I move that the amendments of the Senate be concurred in.

Mr. MAYNARD. I do not like to suspend the case of the old lady, but I think—

The SPEAKER. The Chair will withdraw the request he made to have this bill considered now, not desiring to take up the time of the House. The Chair supposed there would be no objection to it, the Committee on Revolutionary Pensions being in favor of it.

Mr. MAYNARD. I withdraw the point I was going to make.

The amendments of the Senate were then concurred in.

Mr. LOAN moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I call for the regular order.

The SPEAKER. The next business in order is the consideration of the report of the Committee of the Whole upon the Senate amendments to the legislative, executive, and judicial appropriation bill, and upon the deficiency appropriation bill.

Mr. STEVENS, of Pennsylvania. On account of the special request of some gentle-

men who are absent, I would rather not take up the deficiency appropriation bill now.

The SPEAKER. The deficiency bill will not come up until after the Senate amendments to the legislative and executive appropriation bill have been disposed of.

Mr. STEVENS, of Pennsylvania. Let the deficiency bill go over till next Thursday or Friday.

Mr. WASHBURNE, of Illinois. I take it the House will concur in the action of the Committee of the Whole upon the Senate amendments to the legislative appropriation bill.

Mr. MOORHEAD. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole upon the tariff bill.

Mr. WASHBURNE, of Illinois. I believe I have the floor. I insist upon the regular order.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The SPEAKER. The first business in order is the consideration of the report of the Committee of the Whole upon the amendments of the Senate to House bill No. 605, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869. The Committee of the Whole recommend concurrence in some of the Senate amendments, non-concurrence in others, and concurrence in some with amendments.

Mr. WASHBURNE, of Illinois. I move that the action of the Committee of the Whole be concurred in; and upon that motion I call for the previous question.

The previous question was seconded and the main question ordered.

The question was upon concurring in the action of the Committee of the Whole.

Mr. STEVENS, of Pennsylvania. Upon that question I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and there were twelve in the affirmative.

So (one fifth not voting in the affirmative) the yeas and nays were not ordered.

The report of the Committee of the Whole was then concurred in.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote just taken; and I also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois. I move that a committee of conference be asked upon the disagreeing votes of the two Houses on this bill.

The motion was agreed to.

#### REPRESENTATIVES FROM NORTH CAROLINA.

Mr. DAWES. The Committee of Elections, to whom were referred the credentials of Hon. John R. French, claiming to be elected a representative from the first congressional district of North Carolina; Hon. John T. Deweese, claiming to be elected a representative from the fourth district of North Carolina, and Hon. Alexander H. Jones, claiming to be elected a representative from the seventh district of North Carolina, have instructed me to report that they find the credentials in due form of law; that nothing has appeared before the committee touching the qualifications of these gentlemen to hold the offices which they claim; and the committee report a recommendation that they be sworn in.

The report of the committee was agreed to.

Mr. DAWES moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Messrs. JOHN R. FRENCH, JOHN T. DEWEESE and ALEXANDER H. JONES presented themselves at the Speaker's desk, and were duly qualified by taking the oath prescribed by law.

#### RESTRICTIONS ON AMERICAN COMMERCE.

Mr. KELLEY, by unanimous consent, sub-



mitted the following resolution; which was read, considered, and agreed to :

*Resolved*, that the President be requested to instruct the minister of the United States to the Sublime Porte to urge on the Government of the Sultan the abolition of all restrictions and charges upon the passage of vessels of war and commerce through the Straits of the Dardanelles and Bosphorus to the Black Sea, and to endeavor to procure the perfect freedom of navigation through those straits to all classes of vessels.

#### SOLDIERS' BOUNTIES.

Mr. SHANKS, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and, on motion of Mr. GARFIELD, referred to the Committee on Military Affairs:

Whereas a large number of soldiers entered the service for the term of three years and were mustered out with their regiments by general orders on account of expiration of their term of service, the muster-out taking place a few days short of the three full years, and the pay department rules that under existing laws such persons are not entitled to the \$100 additional bounty; and whereas there are stoppages of the payment of additional bounty in many cases for the reason that at some time during their service entries of desertion appear on the rolls against the applicant though there has been no trial or conviction and the soldier has faithfully served out his time and received an honorable discharge; and whereas the act of Congress of February 21, 1868, does not allow the heirs of discharged soldiers the additional bounty if the soldier died prior to the act of July 28, 1868; and whereas soldiers enlisting in 1861 and subsequently, who were discharged before serving two years on account of disabilities contracted in the service, received no original bounty and are not now entitled to additional bounty; and whereas soldiers who enlisted in 1861, 1862, and 1863 for three years, and served over two years, and were discharged to accept promotion, having received the original bounty are now not entitled to any additional bounty; Therefore

*Be it resolved*, That the Committee on Military Affairs be hereby instructed to investigate these several above-named subjects of alleged inequalities of the law touching bounties, and if corrections are necessary to the full and equal disposition of justice to all concerned, to report to this House for its action by bill or otherwise.

Mr. LAWRENCE, of Ohio. I ask unanimous consent to offer a joint resolution.

Mr. VAN HORN, of Missouri. I object.

#### VACANCIES IN EXECUTIVE DEPARTMENTS.

Mr. BOUTWELL, by unanimous consent, from the Committee on the Judiciary, reported back with an amendment in the form of a substitute, a bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Department.

The substitute was read. It provides in the first section that in case of the death, resignation, absence or sickness of the head of any Executive Department of the Government, the first or sole assistant thereof shall, unless otherwise directed by the President of the United States as subsequently provided, perform the duties of such head until a successor be appointed or such absence or sickness shall cease.

The second section provides that in case of the death, resignation, absence, or sickness of the chief of any bureau, or of any officer thereof whose appointment is not in the head of an executive Department, the deputy of such chief or of such officer, or if there be no deputy, then the chief clerk of such bureau, shall, unless otherwise directed by the President of the United States as subsequently provided, perform the duties of such chief or of such officer until a successor be appointed or such absence or sickness shall cease.

The third section provides that in case of the cases before mentioned it shall be lawful for the President of the United States, in his discretion, to authorize and direct the head of any other executive Department, or other officer in either of those Departments, whose appointment is, by and with the advice and consent of the Senate, vested in the President, to perform the duties of the vacant office until the appointment of a successor, or until the sickness or absence of the incumbent shall cease. But nothing in this act is to authorize such supplying of a vacancy for a longer period than ten days when such vacancy shall have been occasioned by death or resignation; and the officer so performing the duties of the office

temporarily vacant is not to be entitled to extra compensation therefor.

The fourth section provides for the repeal of all laws inconsistent with the provisions of this act and of all acts heretofore passed on the subject of temporarily supplying vacancies in the Executive Departments, or which empower the President to authorize any person or persons to perform the duties of the head of any executive Department or of any officer in either of the Departments in case of vacancy therein or inability of such head of a Department or officer to discharge the duties of his office.

Mr. BOUTWELL. Mr. Speaker, this bill was reported by order of the Judiciary Committee. It relates to appointments by the President *ad interim*, and limits those appointments to ten days, but provides, whenever there is a vacancy in the secretaryship of any of the Departments or in the headship of any of the bureaus by operation of law, that then the person next in office shall take charge and perform the duties; in case of the Secretary, the Assistant Secretary, or in case of the head of a bureau, the chief clerk. The power of the President to appoint a person *ad interim* is limited to ten days. If he desires to fill the vacancy he can send in the name to the Senate. The bill we propose as a substitute for the Senate bill applies to the bureaus in the various Departments the principle which in the Senate bill is applied to the Departments. This is a fair statement of the purport of the bill; and I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the substitute was adopted.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CIVIL APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois, from the Committee on Appropriations, reported back the amendments of the Senate to House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes, with a report; which were referred to the Committee of the Whole on the state of the Union, made the special order for to-morrow after the morning hour, and the report ordered to be printed.

#### DEFICIENCY APPROPRIATION BILL.

Mr. STEVENS, of Pennsylvania. I am not well, and before leaving the House I desire to make some arrangement in reference to the deficiency appropriation bill. I move that its further consideration be postponed until Friday next. There are two amendments which I wish to offer. One is the appropriation for payments to the city of Washington, which was stricken out because of an obnoxious provision. I propose to offer that appropriation again and another amendment, and then let the bill be postponed until Friday next.

Mr. WASHBURNE, of Illinois. I do not think we ought to postpone the deficiency appropriation bill. It can be taken up and acted on at an earlier day, and we ought to get these appropriation bills before committees of conference as soon as possible. If we do it this week we will be ready to adjourn at the end of next week.

One word further. We may as well settle another matter here. There were points of order made on two provisos. One was made by my colleague [Mr. INGERSOLL] in regard to the appropriation to pay for improvements in the city of Washington. I understand he is willing to withdraw his objection so that the proviso shall stand.

Mr. INGERSOLL. I do so in view of the fact that those to whom the money is due are very much in need of it.

The SPEAKER. If there is no objection it will be considered as pending with the proviso which was ruled out in Committee of the Whole.

Mr. MAYNARD. I object.

Mr. WASHBURNE, of Illinois. Then I ask that the gentleman from Pennsylvania [Mr. STEVENS] may take up the bill in order that I may move to suspend the rules for the purpose of adding that proviso to the bill.

Mr. MOORHEAD. I cannot yield for that.

Mr. STEVENS, of Pennsylvania. I hope the gentleman will not object. I have consulted the city authorities, and they agree to what I have now stated.

Mr. WASHBURNE, of Illinois. I will give notice, then, as the gentleman from Pennsylvania [Mr. MOORHEAD] declines to yield, that I shall, as soon as an opportunity offers, move to suspend the rules in order to have that proviso added.

Mr. STEVENS, of Pennsylvania. I hope it will be agreed to after my colleague has made his motion.

Mr. MOORHEAD. I move that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union, with a view of laying aside everything that has precedence of the tariff bill.

Mr. FARNSWORTH. How many bills are there preceding the tariff bill?

The SPEAKER. The Chair has not counted them. Gentlemen can see for themselves by reference to the Calendar.

The question being put on the motion of Mr. MOORHEAD, there were—ayes 56, noes 33; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. MOORHEAD, and WILSON of Iowa.

The House divided; and the tellers reported—ayes 65, noes 36.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of business on the Calendar of the Committee of the Whole.

#### MEETING OF CONGRESS.

The CHAIRMAN. The first business on the Calendar of the Committee of the Whole is the bill (H. R. No. 81) in regard to the meeting of Congress.

Mr. MOORHEAD. I move to lay aside that bill for the purpose of reaching the tariff bill.

The question being put on the motion of Mr. MOORHEAD, there were—ayes 52, noes 27; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. MOORHEAD, and WASHBURNE of Illinois.

The committee divided; and the tellers reported—ayes 65, noes 22; no quorum voting.

Under the rule the roll was then called, and the following members failed to answer to their names:

Messrs. Adams, Archer, Arnell, James M. Ashley, Axtell, Baldwin, Barnes, Barnum, Bauman, Beck, Bingham, Blaine, Boyer, Brouwell, Brooks, Broomall, Buckland, Burr, Roderick R. Butler, Cary, Chandler, Reader W. Clarke, Cook, Cornell, Covode, Dixon, Dodge, Eckley, Eggleston, Eldridge, Ferriss, Fields, Finney, Fox, Getz, Glossbrenner, Golladay, Gravely, Haight, Halsey, Harding, Hawkins, Hill, Holman, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Jones, Kerr, Ketcham, Knott, Laffin, Lincoln, Marshall, McCormick, McCullough, McKee, Morrell, Morrissey, Mungen, Myers, Newcomb, Niblack, Nicholson, Nunn, Phelps, Polesey, Pruyn, Randall, Robertson, Robinson, Ross, Scofield, Seelye, Shellabarger, Sitgreaves, Starkweather, Stokes, Taber, Thomas, John Trimble, Lawrence S. Trimble, Van Aernam, Van Aiken, Van Trump, Van Wyck, Ward, Welker, John T. Wilson, Stephen F. Wilson, Wood, and Woodward.

The committee then rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union having had under consideration House bill No. 81, in regard to the meeting of Congress, and finding itself without a quorum, had directed the roll to be called and the names of the absentees to be reported to the House.

The SPEAKER. One hundred and one members having answered to their names, being one more than a quorum, the committee will resume its session without further question.

The Committee of the Whole on the state of the Union accordingly resumed its session, (Mr. DAWES in the chair.)

The CHAIRMAN stated that the pending question was on the motion to lay aside the bill (H. R. No. 81) in regard to the meeting of Congress.

The tellers, Mr. WASHBURNE, of Illinois, and Mr. MOORHEAD, resumed their places.

The committee again divided; and the tellers reported—ayes 61, noes 35; no quorum voting.

Mr. MOORHEAD. As there appears to be a difficulty in getting a quorum, and as the day is very hot, I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill (H. R. No. 81) in regard to the meeting of Congress, and had come to no resolution thereon.

#### DEFICIENCY BILL.

Mr. WASHBURNE, of Illinois. I now move to suspend the rules so as to make it in order for me to offer two amendments to the deficiency bill. The first amendment is in regard to payment for the improvement of streets in Washington, with a proviso repealing the law on that subject; and the second amendment is a proviso which was objected to on Friday by the gentleman from Vermont, [Mr. POLAND.] The proviso, which has been modified so as to be satisfactory to the gentleman from Vermont, is for the purpose of putting an end to this practice of Government officers entering into contracts for public buildings without authority of law.

Mr. MOORHEAD. I object. We have not been able to get a quorum to-day to do other business, and I object to going on with this business.

Mr. STEVENS, of Pennsylvania. Let these amendments come in so as to be pending and then we will adjourn.

Mr. MOORHEAD. I want to have the tariff bill pending.

The SPEAKER. That could not be pending in the House.

Mr. MOORHEAD. Well, I withdraw the objection.

The question was taken on Mr. WASHBURNE'S motion, and there were ayes 67, noes 11; no quorum voting.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. BENJAMIN. I move that the House do now adjourn.

The question was taken and there were—ayes 36, noes 51.

So the House refused to adjourn.

The question was then taken on Mr. WASHBURNE'S motion; and there were yeas 97, nays 9, not voting 92; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baker, Beatty, Benjamin, Benton, Blair, Boies, Boutwell, Benjamin F. Butler, Calkins, Churchill, Sidney Clarke, Coburn, Cullom, Dawes, Delano, Deweese, Donnelly, Driggs, Ella Eliot, Farnsworth, Ferry, French, Garfield, Griswold, Halsey, Hamilton, Hawkins, Higby, Hinds, Hooper, Hopkins, Hubbard, Hunter, Ingersoll, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kelsey, Kitchen, Koonce, George V. Lawrence, William Lawrence, Loan, Loughridge, Lynch, McCarthy, McClurg, Mercer, Miller, Moore, Moorhead, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Pomerooy, Price, Raum, Roots, Sawyer, Schenck, Shanks, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Taffa, Taylor, Thomas, Trowbridge, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Cadywalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, William Williams, James F. Wilson, and Woodbridge—97.

NAYS—Messrs. Cobb, Grover, Chester D. Hubbard, Mallory, Marvin, Maynard, Mullins, Stone, and Windom—9.

NOT VOTING—Messrs. Adams, Archer, Arnell, Atwell, Baldwin, Banks, Barnes, Barnum, Beaman, Beck, Bingham, Blaine, Boyer, Brownell, Brooks, Broomall, Buckland, Burr, Roderick R. Butler, Cary, Chanler, Reader W. Clarke, Cook, Cornell, Covady, Dixon, Dodge, Eckley, Eggleston, Eldridge, Ferriss, Fields, Finney, Fox, Getz, Glossbrenner, Golladay,

Gravely, Haight, Harding, Hill, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Johnson, Thomas L. Jones, Kerr, Ketcham, Knott, Ladin, Lincoln, Logan, Marshall, McCormick, McCullough, McKee, Morrell, Morrissey, Munger, Myers, Newcomb, Niblack, Nicholson, Nunn, Phelps, Polsey, Pruyn, R. M. Hall, Robertson, Robinson, Ross, Scotland, Selvy, Shellabarger, Sigreaves, Starkweather, Taber, John Trimble, Lawrence S. Trinkle, Van Aernam, Van Auken, Van Trump, Van Wyck, Ward, Welker, Thomas Williams, John T. Wilson, Stephen F. Wilson, Wood, and Woodward—92.

So (two thirds voting in favor thereof) the rules were suspended and the amendments were received as pending before the House.

Mr. O'NEILL stated, during the roll-call, that Mr. MYERS was detained at home by indisposition.

Mr. STEVENS, of Pennsylvania. I now move to postpone the further consideration of the bill and amendments until Thursday next after the Alaska bill shall be disposed of.

Mr. WASHBURNE, of Illinois. I ask that the two amendments which have just been entertained under a suspension of the rules may be considered adopted.

Mr. COBB. Oh, no; they have not even been read.

Mr. STEVENS, of Pennsylvania. I have no objection to those two amendments being considered as adopted.

The SPEAKER. If there is no objection, they will be so considered.

Mr. MULLINS. I object.

The SPEAKER. The amendments are pending.

Mr. STEVENS, of Pennsylvania. I insist on my motion to postpone.

The motion was agreed to.

Mr. SCHENCK. I move that the House now adjourn.

Mr. FERRY. I hope the gentleman will withdraw that motion, to allow me to submit a preamble and resolution, which will give rise to no debate.

Mr. SCHENCK. I will withdraw the motion to adjourn.

#### OTTOWAS AND CHIPPEWAS OF MICHIGAN.

Mr. FERRY submitted the following preamble and resolution; which were read, considered, and adopted:

Whereas under a treaty made between the United States and the Ottawa and Chippewa Indians of Michigan, concluded July 31, 1855, certain public lands therein described were withdrawn from sale for the benefit of said Indians, and five years granted in which to make selections by the persons entitled thereto; with the further term of five years within which all such lands unappropriated or unselected were then subject to entry, by Indians only, in the usual manner and rate per acre as other adjacent public lands, and that at the expiration of said ten years all lands thus remaining unappropriated or unselected became disposable in the same manner as other public lands of the United States; and whereas, in consequence of the non-payment of stipulated annuities by the Government to said Indians, they were deprived of means to avail themselves of rights now unavailable by limitation; and whereas other citizens, accepting the termination of the period within which such lands were reserved, and by the express terms of said treaty believing that they were then to be subject to entry as other public lands purchased, and under preemption and homestead, entered more or less of said lands; and whereas the reservation of such a tract of valuable and accessible land for over twelve years having greatly retarded settlement, obstructed communication, and materially arrested the industrial growth of that region of the State; Therefore, to finally adjust and equitably distribute rights and interests involved and fully restore to market the remainder of such reservations as lie within the fourth congressional district of said State.

Be it resolved, That the Committee on the Public Lands are hereby instructed to examine into the expediency of submitting a plan for such final adjustment upon the following basis, to wit: that the Commissioner of the General Land Office be authorized to issue patents for all lands appropriated for or selected by Indians under said treaty and for other purchases by regular entry, and to confirm to settlers all such lands to which bona fide preemption or homestead rights have attached up to this date, and the then residue of such reservations to be offered at public sale, of which due notice be given, and thereafter at private entry, but in no case sold at a less minimum than \$2 50 per acre, the proceeds thereof to be disposed of as follows: one half to be equitably distributed to the Indian claimants under said treaty, within said district, and the other half to be appropriated toward the construction of a lake-shore railroad traversing and extending along the shore of said congressional district in the lower peninsula, and that the committee report by bill or otherwise.

#### NIGHT SESSION FOR PENSION BILLS.

Mr. MILLER. I ask unanimous consent for the consideration of the following resolution at this time:

Resolved, That there be a session of this House on Wednesday evening next, to consider reports from the Committee on Invalid Pensions.

The SPEAKER. The Chair will inform the gentleman that the Committee of Elections have notified the House that they intend to call up two contested-election cases from Missouri on Wednesday next.

Mr. MILLER. I will change the time to Thursday evening next.

Mr. WASHBURNE, of Illinois. Let the resolution provide that the business of that session shall be limited to the consideration of pension bills.

Mr. MILLER. Very well; I modify my resolution so as to provide for a session on Thursday evening next, to be confined to the consideration of reports from the Committee on Invalid Pensions.

The resolution, as modified, was then agreed to by unanimous consent.

#### CIVIL SERVICE BILL.

Mr. JENCKES. I ask unanimous consent that it be ordered that the civil service bill shall be taken up for consideration immediately after the House shall have disposed of the appropriation bills which have just been postponed.

Mr. COBB and Mr. KELSEY objected.

Mr. JENCKES. I move that the rules be suspended, and that it be ordered that the civil service bill be taken up for consideration as soon as the pending appropriations bills shall have been disposed of.

Mr. WASHBURNE, of Illinois. I hope the gentleman will include in his motion all the appropriation bills. I am in favor of the civil service bill, but I do not want it to antagonize with the appropriation bills.

Mr. JENCKES. I do not intend that it shall. I will modify my motion in accordance with the suggestion of the gentleman from Illinois, [Mr. WASHBURNE.]

The SPEAKER. The Chair begs leave to state that it will be difficult to tell when the bill will be reached.

Mr. COBB. There are some of us who are opposed at any and at all times to taking up bills out of their regular order.

Mr. SCHENCK. I would ask the gentleman from Rhode Island [Mr. JENCKES] to except the tax bill, also, should it come back from the Senate before the appropriation bills are all disposed of.

Mr. JENCKES. I will agree to that. I move that the rules be suspended, and that the civil service bill be assigned for consideration in the House as soon as the appropriation bills shall have been disposed of, and also the tax bill, should it come back from the Senate before the appropriation bills have been disposed of.

The SPEAKER. The Chair cannot tell when the bill will be reached. However, the House has heard the motion of the gentleman, and it is for members to decide.

The question was then taken upon the motion to suspend the rules; and upon a division there were—ayes 51, noes 38; no quorum voting.

Mr. JENCKES. I call for the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

Mr. INGERSOLL. I move that the House now adjourn.

The question was taken upon the motion to adjourn; and upon a division there were—ayes 51, noes 36.

So the motion was agreed to; and accordingly (at four o'clock p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CLARKE, of Kansas: A memorial of W. R. Laughlin, for himself and on

behalf of settlers on the Cherokee neutral lands in Kansas, praying that they may be protected in the right to acquire a title to the lands they occupy under the preëmption laws of the United States.

By Mr. GROVER: The petition of Patrick Cody, of Louisville, Kentucky, for pension.

By Mr. LAWRENCE, of Pennsylvania: The petition of citizens of French descent, for the adoption of the postal system for the transmission of money from the United States to France.

By Mr. LOGAN: Petitions for pensions from John Hines, private company H, twenty-sixth Illinois volunteers; Joseph Fiedler, sergeant major Thielman's battalion Illinois cavalry; Andrew J. Cornelison, private company G, fifty-sixth Illinois volunteers; Edmund H. Winters, private company A, thirty-first Illinois volunteers.

Also, additional papers in the case of Thomas Mason, petitioner for pension.

Also, petition for passage of a bill granting invalid pensions withheld from March 3, 1865, to June 6, 1866.

Also, the petitions of J. C. Bradley, of Alabama, and George Alcorn, of Mississippi, asking for removal of political disabilities.

By Mr. SAWYER: A resolution of the Board of Regents of the State University of Wisconsin, relating to officers of the United States Army detailed for military instruction in the universities and colleges of the different States.

#### IN SENATE.

TUESDAY, July 7, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 396) for the relief of Samuel Tibbetts was read twice by its title, and referred to the Committee on Public Lands.

The joint resolution (H. R. No. 326) for the relief of Henry B. St. Marie was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### PETITIONS AND MEMORIALS.

Mr. MORGAN presented a memorial of citizens of New York, protesting against the ratification or confirmation by Congress of any conveyance of any part of the Yosemite valley by the State of California to individuals; which was referred to the Committee on Private Land Claims.

Mr. HOWE. I present the petition of the board of regents of the University of Wisconsin, asking for a change of the law so that officers in the Army detailed for the purpose of military instruction in the colleges and universities in different parts of the country may be allowed, when on that service, the same pay as when on military duty. I move the reference of this petition to the Committee on Military Affairs and the Militia; and I take occasion to say that I wish that committee would attend to the subject, for I think the prayer of the petition is eminently just.

The motion was agreed to.

Mr. SUMNER presented a petition of persons, former slaves of William D. V. Downing, of Louisiana, praying for aid to relieve him from the deprivations of extreme poverty; which was referred to the Committee on Claims.

#### REPORTS OF COMMITTEES.

Mr. STEWART, from the Committee on Public Lands, to whom was referred the bill (S. No. 444) granting lands to the State of Nevada to aid in the construction of a railroad and telegraph line from the Central Pacific railroad to the Colorado river, reported it without amendment.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of Mrs. L. T. Potter, submitted a report, accompanied by a bill (S. No. 596) for the relief of Mrs. L. T. Potter.

The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the petition of Rebecca C. Meeker, submitted a report, accompanied by a bill (S. No. 597) granting a pension to Rebecca C. Meeker. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Mary Scott, submitted a report, accompanied by a bill (S. No. 598) for the relief of Mary Scott. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1813) granting an increase of pension to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman, moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 527) for the relief of the widow of Colonel T. B. Ransom, and mother of the late brevet Major General T. E. G. Ransom, moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom were referred the following petitions, asked to be discharged from their further consideration; which was agreed to:

The petition of John H. Finlay;

The petition of Brevet Lieutenant A. Liebschutz;

The petition of Washington J. F. Martin; and The petition of Mrs. Rehuma Brown.

He also, from the same committee, to whom were referred the petition of Lewis John and the petition of Barney Carney, asked to be discharged from their further consideration, and that they be referred to the Committee on Military Affairs and the Militia; which was agreed to.

He also, from the same committee, to whom were referred the petition of Elizabeth S. Lathrop and the petition of Louisa J. Simpson, reported adversely, and moved their indefinite postponement; which was agreed to.

Mr. MORGAN, from the Committee on Commerce, to whom was referred the bill (H. R. No. 1119) for the registration or enrollment of certain foreign vessels, reported it without amendment.

#### BILL RECOMMITTED.

On motion of Mr. DRAKE, the bill (H. R. No. 941) to amend certain acts in relation to the Navy and Marine corps was recommitted to the Committee on Naval Affairs.

#### BILLS INTRODUCED.

Mr. ROSS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 599) granting a pension to Mary Pearce; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 155) regulating representation in the Electoral College; which was read twice by its title, and ordered to be printed.

#### AMENDMENTS TO APPROPRIATION BILLS.

Mr. FESSENDEN submitted an amendment intended to be proposed to the bill (H. R. No. 1341) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes; which was referred to the Committee on Appropriations.

He also submitted an amendment intended to be proposed to the bill (H. R. No. 1046) making appropriations for the repair, preservation, and completion of certain public works; which was referred to the Committee on Appropriations.

#### SETTLEMENT OF ENGINEERS' ACCOUNTS.

Mr. WILSON. I ask the unanimous consent of the Senate to take up House joint reso-

lution No. 154, and put it on its passage. It is a small matter, but a very important one.

Mr. EDMUNDS. Let it be read for information.

The PRESIDENT *pro tempore*. The title of the joint resolution will be read.

The CHIEF CLERK. "A joint resolution (H. R. No. 154) in relation to the settlement of the accounts of certain officers and agents who have disbursed public moneys under the direction of the chief of engineers."

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the joint resolution?

Mr. EDMUNDS. I object until I can hear it read, as I asked for information.

The PRESIDENT *pro tempore*. It will be read through.

The Chief Clerk read the joint resolution. It directs the Secretary of the Treasury in the settlement of the accounts of Captain George W. Cullum, Captain James B. McPherson, Captain Charles E. Blunt, and Lieutenant John C. Palfrey, of the corps of engineers, to allow to the credit of Captain Cullum the amount receipted for to him by Charles H. Bigelow; to the credit of Captain James B. McPherson and Captain C. E. Blunt the amounts receipted for to them respectively by Abiel W. Tinkham; and to the credit of Lieutenant John C. Palfrey the amount receipted for to him by John J. Lee; and to the credit of John J. Lee the amount receipted for to him by L. H. Eaton; but Charles H. Bigelow, Abiel W. Tinkham, John J. Lee, and L. H. Eaton are each to be held to the same accountability to the United States for the amounts transferred to them, respectively, at the time of transfer, and for advances made to them from the Treasury, as was at the time of transfer required by law and regulations from officers of the corps of engineers. This authority is to have no further application than to such accounts as have been already examined and approved by the chief of engineers, and are found to contain a full and satisfactory accounting for all the public money which came into their hands, namely: C. H. Bigelow, \$38,351 74; J. J. Lee, \$8,508 95; A. W. Tinkham, \$12,910 13; L. H. Eaton, \$90 85, all of which money has been expended upon the fortifications of the States of Massachusetts, New Hampshire, and Maine.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### DISTRICT JUDGES IN CIRCUIT COURTS.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of Senate bill No. 449.

The motion was agreed to; and the bill (S. No. 449) to revive and continue in force the act of the 29th of July, 1850, and the act amendatory thereof of the 2d of April, 1852, was considered as in Committee of the Whole.

The Committee on the Judiciary reported the bill, with an amendment to strike out all after the enacting clause, in the following words:

That the act of Congress entitled "An act to provide for holding of the courts of the United States in case of sickness or other disability of the judges of the district court," passed July 29, 1850, and an act amendatory of the same, passed April 2, 1852, be, and the same are hereby revived, and to continue in full force and effect from and after this.

And to insert in lieu thereof the following:

That the act of Congress entitled "An act to provide for holding the courts of the United States in case of the sickness or other disability of the judges of the district courts," passed July 29, 1850, except the fifth section thereof, and an act amendatory of the same, passed April 2, 1852, be, and the same are hereby declared to be in full force and effect.

Mr. TRUMBULL. As the bill refers to former acts without setting them out I will state what it is. It is a bill that authorizes the justices of the Supreme Court under certain circumstances to call in judges of district courts from other districts. There is a question in the minds of some whether the passage



of a law a year ago regulating the salaries of judges of the United States courts and repealing so much of the former acts recited in this bill as authorized pay to the district judges who were called in out of their districts did not repeal the rest of the law and take away the power of the justices of the Supreme Court to call in judges from the other districts. The object of this bill is simply to declare that that power exists, but to repeal specifically that clause which authorized extra compensation. That is all there is of it.

Mr. WILLIAMS. I will inquire if there was a law providing extra compensation for a district judge when he performed circuit court duties which this bill proposes to repeal?

Mr. TRUMBULL. There was such a law formerly, but that law was repealed a year ago when we increased the salaries of the district judges. We then repealed expressly the law that authorized any extra compensation to be made to a district judge who performed services out of his district.

Mr. FESSENDEN. I will inquire of my friend whether there was any law authorizing extra compensation? Was it anything more than the actual expenses?

Mr. TRUMBULL. That is extra compensation. That was the form of the law, compensation in the way of expenses.

Mr. FESSENDEN. If they were called into another district they were paid the actual expenses incurred in the performance of that duty.

Mr. TRUMBULL. Their expenses were allowed them, about ten dollars a day or something like that, ordinarily; but a year ago we added to the salaries of the district judges, increasing most of them from \$2,000 to \$3,500, and when that increase of salary was made, the law authorizing the payment of expenses, if you please to put it in that form, to judges called out of their districts, was repealed expressly; and now when a judge performs duty outside of his district his expenses are not paid by the United States. But some of the justices of the Supreme Court had doubts whether the authority to call a judge out of his district was not also repealed by implication when we repealed that portion of the law allowing him his expenses. In order to make that certain, about which I do not think there is now any uncertainty, but others think differently, this bill is introduced by which so much of the law as authorizes a judge of a district court to be called out of his district under certain circumstances is declared to be in full force. That is all there is of this bill.

Mr. JOHNSON. The bill is rendered necessary by a doubt entertained by the judge for the circuit embracing the State of New York, Mr. Justice Nelson. He is of the opinion, and he has been acting upon the correctness of that opinion, that he cannot now call any judge out of the particular district in which he may be holding a circuit court, to discharge the duties of a judge within the district of New York. The original authority was given in terms, and it provided that the judge who was so called was to be paid his expenses, I think not to exceed ten dollars a day. That being repealed, Mr. Justice Nelson supposed that the authority to call upon a judge to perform such duty was also repealed. Whether he is right or wrong in that opinion—I concur with the chairman of our committee that he is in error—is immaterial. He honestly thinks such is the effect of the law which we have passed, and the result is, the business of New York is suffering very much. That will be corrected by the bill proposed by the Judiciary Committee.

Mr. WILLIAMS. I think this bill ought to be amended so as to provide that when district judges are requested to go out of their districts to hold a circuit court, and they go in compliance with that request, they shall have their necessary expenses paid, notwithstanding the alleged increase of salaries. The district judge of the State of Oregon, for two successive years, has been to San Francisco, and

held the circuit court there, in the absence of Judge Field, spending some two or three months at a time in holding that circuit court, at very great expense to him. He is only paid, I believe, \$3,500 in greenbacks for his services, in consequence of which he is unable to defray the necessary expenses of this journey and of this service in San Francisco and his other expenses. I have made an ineffectual effort here to have his salary increased as it ought to be. It will be remembered that the expenses of traveling and other expenses on the Pacific coast are much larger than they are here, because there a dollar in greenbacks only counts as seventy cents, and if a man pays his expenses at a hotel in greenbacks, the money that he receives from the Government, he is compelled to discount every dollar thirty cents on the dollar. In this way it is impossible for that district judge to meet his necessary expenses, particularly when he performs these circuit court duties.

It has been necessary, I suppose, Judge Field being absent here in Washington attending the Supreme Court, and unable to attend the circuit court in San Francisco, for the convenience of suitors and for all the public interests involved, that the district judge of Oregon should attend to that court, and he has performed a large amount of business in that capacity at that court. He is compelled to pay his traveling expenses, going a distance of some seven or eight hundred miles. He is compelled, while he is in San Francisco for three or four months, to pay hotel and other expenses, which are very heavy. To require him to perform these duties and at the same time deny that he shall have his expenses paid, it seems to me is doing an act of injustice. If additional duties are imposed upon a district judge, if he is required to hold a circuit court, and perform the duties of a circuit judge, I do not see any reason why he should not at least have his expenses paid. I move to amend the amendment reported by the Committee on the Judiciary by adding:

*Provided, The district judge of Oregon shall be allowed his traveling and other reasonable expenses in attending the circuit court of the United States in California.*

Mr. COLE. I have been acquainted with the case to which the Senator from Oregon has made allusion, and concur with him in the opinion that it is but right and just that the district judge who comes from Oregon down to San Francisco to hold the circuit court should be paid his reasonable expenses. His salary is but very small at best, payable in greenbacks. I believe it is but \$3,000 a year; and it certainly is putting upon him a very great and unreasonable burden to require him to go that great distance, nearly a thousand miles, to hold a court without any extra compensation. Several of the most reputable lawyers of San Francisco have communicated with me by letter on this subject, realizing the great hardship that it is upon this Oregon judge, Judge Deady, to come to San Francisco and hold this court. I hope, therefore, that the amendment which the Senator from Oregon proposes will be readily adopted by the Senate. It is only an act of justice in this case.

Mr. CORBETT. I had the honor to present a bill for the increase of the salary of Judge Deady in the fore part of the session, which bill was referred to the Committee on the Judiciary. The Committee on the Judiciary did not feel disposed to report the bill back, as they feared that they might be obliged to raise the salaries of other judges, although it only proposed to give him the same salary that was given to the judges of California. The judge from Oregon, Judge Deady, informed me it was impossible for him to live upon his salary, it being paid in greenbacks, while his expenses were all payable in gold. Three thousand dollars in greenbacks, if that be his salary, would amount, with greenbacks at seventy cents, to about two thousand one hundred dollars in gold. That will not support his family. He has quite a large family. He is a very able man, and of course he must live

in accordance with his station and his position in society. He is not an extravagant man. I assure Senators that it will be nothing more than justice to him, a very worthy and very able lawyer and judge, to adopt this amendment.

Mr. TRUMBULL. I wish it to be understood by the Senate that this bill that is introduced here has nothing to do with salaries at all. It is not a bill either increasing or diminishing salaries. It is a bill requiring the judges of district courts to perform this service when called upon by the justices of the Supreme Court. I think that is the law now; but there is some question about it in the minds of some of the justices of the Supreme Court. This bill is only to make that specific; and I am sorry that there is this attempt to embarrass it by increasing compensation, either by way of paying expenses or otherwise, to any of these judges.

Let me say to the Senators from Oregon that the salaries of the district judges were put up only a year ago, most of them \$1,500, a much larger sum than their expenses would be, and the bill provided at that time that that was to be all their compensation. If you are to listen to every letter that is written here by a lawyer or a clerk of a court recommending the increase of the salary of a judge, you will have to increase the salaries of all the judges. They are not satisfied with them. You cannot put on this provision in regard to Oregon without having the same in reference to Rhode Island and Vermont and New Hampshire and Connecticut, and every other State whose district judge is sometimes called out into a neighboring district, perhaps at an expense of fifty or one hundred, or possibly five hundred dollars; and yet within a year we have given nearly every one of them \$1,500 increase of salary, which was intended at the time to be a full compensation. Let me say to the Senators from Oregon that, in my judgment, that bill increasing these salaries \$1,500, and some of them \$2,000, never could have passed unless it had been understood that that was to be all the compensation that the district judges were to have. I hope no attempt will be made in this bill to increase salaries.

Mr. CONNESS. The honorable Senator from Illinois is always clear and exact when he knows the facts connected with the subject upon which he speaks. That he does not in this case, he will permit me to say, is evidenced by what he has said while up. In place of discussing the exact facts, as stated by the Senators from Oregon, he goes into a general denunciation of the proposition, and involves it in connection with all the district judges of the United States and laws passed for the increase of their salaries. I will say to the Senator that all he may say on this subject does not meet the facts stated nor controvert them. The facts stated are exactly correct. There is but one district judge in California, Judge Hoffman, sitting at San Francisco. The second district has been abolished; and there is now a bill to create a second district before the committee of which the honorable Senator is chairman. It is simply impossible for Judge Hoffman to hold Judge Field's circuit court, because his own docket is behind hundreds of cases, and this condition of things cannot be changed until there is an increase of judicial labor given and provided for. Judge Deady cannot come down from Oregon upon his salary and hold court there; and yet he has done it, not feeling it to be his duty to refuse, and thus prevent the administration of justice in California. He has done it at an immense expense to himself. No \$100, I will tell the Senator, nor \$500, pays Judge Deady's expenses for coming down from Oregon and returning there, and living three months at the city of San Francisco. If you could by any means transfer the honorable Senator to one of these judgeships, he would understand the matter at once, and he would find out how far \$100 in greenbacks go toward paying the expenses of a United States district judge on that coast.

But, Mr. President, we may talk until we get hoarse here and state facts. They are not always listened to unless we succeed by personal appeals to Senators. The case stated yesterday from that country was voted down as inconsiderately as if it were not all surrounded by facts; but the honorable Senator's mode of discussing this subject does not appear to me to meet the facts of the case at all.

Mr. WILLIAMS. I wish to correct an impression conveyed by the Senator from Illinois, who stated that these salaries have been raised \$1,500. It was impossible to have the salaries of the district judges of Oregon and Nevada raised more than \$500. Their salary is now \$3,500 each.

Mr. TRUMBULL. What was the former salary?

Mr. WILLIAMS. Three thousand dollars originally; \$500 was added, making it \$3,500, which is paid in greenbacks.

Mr. TRUMBULL. Will not \$500 pay his expense from Oregon to California and back?

Mr. WILLIAMS. I think not; it will a little over pay the passage-money from Portland to San Francisco; not very much more than that, the passage-money being paid in gold. I wished simply to correct the statement.

Mr. CORBETT. It should be recollected that the distance between San Francisco and Portland is about as far as from New York to Charleston. It is quite a distance for a judge to go out of his district to attend court.

Mr. CONKLING. Mr. President, the Senator from Illinois stated that he did not believe the increase of salary could have been passed but for the assurance that it would be in lieu of this extra compensation. I think he made a very mild statement in saying that, and I venture to bear a little testimony on that subject, having been a member of the conference committee by which the present statute was adjusted, and having had a good deal to do actively with the adoption of the provision by the House of Representatives. The truth is, Mr. President, not only that the provision would not have met with acquiescence in the House without this assurance, but that it was adopted upon that ground, I may say, solely. The argument for the increase of salaries at that time, when the decadence of prices had commenced, began and ended with the allegation that all of these recipients of increased salary were to take the salary in lieu of per diem and expenses for services rendered outside their districts. In the case of the judge in Oregon, the increase was, I believe, \$500; in the case of some of the eastern judges it was \$1,000, and in two or three cases \$1,500; and, as I say, it proceeded not only largely, but, according to my recollection, entirely upon this idea.

There has been, Mr. President, several times in committee and in both Houses allusion made to the condition of the courts in California, and especially the condition, as we have heard this morning, of the district court in California, of which Judge Hoffman is the judge. Feeling, I presume, as I think he had a right to do, aggrieved by a good many of the statements which had been made, he wrote me a letter, a portion of which on this subject I beg to read to the Senate, in order that they may see what Judge Hoffman does, and what are the exactions and burdens which he bears. He says:

"The district court of this district is not overburdened with business: the labors of the judges are far lighter than those of either of the State district judges in this city. The calendar is at this moment nearly cleared."

Mr. HOWARD. What is the date of the letter?

Mr. CONKLING. The date of the letter is March 9, 1868:

"The calendar is at this moment nearly cleared. The district attorney informs me that the United States cases will all be disposed of this week. I am not informed what civil cases are ready for trial: certainly not more than two or three. I think it

quite probable that in the course of next month the court will adjourn for want of business."

I presume nobody will doubt that Judge Hoffman is an intelligent witness on this subject, and we have, therefore, the fact that the district judge in California is not burdened at all, but the reverse; is far more at liberty than the district judge of the district in which I reside to hold the circuit court, for he is, as he says, greatly overburdened. So are others of the district judges; but here seems to be a marked example to the contrary.

Now, this gentleman in Oregon has received an increase of salary of \$500 since the time when the cost of living was grievous, since the time when we commenced the descending scale of prices, and with the district judge of California, as able a man as Judge Hoffman is, and as pure a man, and situated as he is, I cannot conceive an exigency in California for the holding of the circuit court beyond the time which Judge Hoffman can give to it, for which \$500 will not be a suitable compensation, looking to traveling expenses and hotel bills during the session of the court; and I hope, considering how recently this matter was readjusted, and considering the liberality with which the present tariff of salaries was fixed, as we then supposed, the honorable Senator from Oregon will allow it to stand as it is, and let us at some future time, and more deliberately recast all these salaries, if, in truth, any alteration is necessary.

Mr. WILLIAMS. I should like to inquire of the Senator whether Judge Hoffman indicates his willingness or ability to hold the circuit court in the city of San Francisco? Has the letter any reference whatever to that subject?

Mr. CONKLING. The letter was not written especially to that point; but I submit to the honorable Senator that when a judge himself says that his calendar is clear, that his court is about to adjourn for want of business, it is not necessary when speaking to lawyers for him to add that he is then in condition, if need be, to hold a court going by another name in the same place. It is his duty to hold this court, as far as he has time to do it; and when he says himself that his occupation is light, that indeed he is at leisure at this time—for that is what this letter amounts to—surely it is not necessary for him to go further and say that he is now in condition to have the law act upon him which says he is to hold this court when he can.

Mr. WILLIAMS. I, of course, do not know the circumstances under which that letter was written, or the objects for which it was written, but I am very confident that Judge Field would not request the district judge of Oregon to attend the circuit court in California unless he conceived that there was a necessity for it, and that necessity arose out of the fact that Judge Hoffman was otherwise engaged. Now, it seems reasonable, whatever the representations in that letter may be—and certainly they are contrary to what I have always heard from other sources in reference to that matter—that in the State of California, where there is so much litigation about Mexican land titles and other matters of that description, there should be an accumulation of business in the district court when there is but one court of that description for the entire State. It may be that at that particular time to which Judge Hoffman referred, that particular season of the year, business had declined; but the circuit court continues there for some two or three months, and the district judge for the State of Oregon for two successive years, on account of the absence of Mr. Justice Field in Washington attending the Supreme Court, has held the circuit court for the State of California.

Mr. CONKLING. If the Senator will allow me, I can answer his question now more intelligently. It was some little time since I had been looking at this letter; and while the Senator has been speaking I have read it again,

and I beg now to read an additional passage to the Senate, following in order after what I before read:

"I do not, however, wish to be understood as saying that the district judge can readily dispatch all the business of the circuit court in addition to that of his own court. Some assistance in the former court is necessary. This has heretofore been furnished by Judge Deady, of Oregon, a gentleman of high character and capacity. He is now holding a circuit court here. In November last the term of that court was held by me, and all causes ready for trial were disposed of. Judge Deady will no doubt in the course of six weeks or two months dispatch all the business which has since accumulated. If a term of from two to three months be held annually by him, the business of both courts can with the utmost ease be disposed of, and with far less than the law's usual delay.

"These are the facts, notorious here to every member of the bar. I state them to you because I do not choose," &c.

Mr. WILLIAMS. I am much obliged to the Senator for the information which that letter conveys, for it shows that in the judgment of Judge Hoffman it is necessary that the district judge of the State of Oregon should attend in San Francisco for two or three months each year to hold the circuit court, and that they proceed upon the expectation that he will regularly each year attend to the circuit court in the city of San Francisco, traveling a distance of seven or eight hundred miles at a large expense, remaining there two or three months, holding that court, and then return to the State of Oregon; and it is claimed that under these circumstances when he is required, not occasionally but regularly, to perform the duties of a circuit judge for the circuit upon the Pacific coast, he shall not be allowed his traveling and other necessary expenses in addition to his moderate salary of \$3,500.

Mr. CONKLING. Will not \$500 pay his hotel bills and traveling expenses?

Mr. WILLIAMS. I do not know exactly how much the expenses of traveling from Portland to San Francisco, remaining there, and returning may be; but the passage money alone from Portland to San Francisco has been in the neighborhood of \$100 in gold. Then there are his individual expenses, to say nothing about the expenses of his family. He has a considerable family, whose expenses he must defray all the time. His hotel expenses in San Francisco must be at least four or five dollars a day in gold. The Senate, then, can very readily see how far \$500 goes toward paying his expenses. I think that it is no more than fair under all the circumstances that this amendment should be adopted.

Mr. CONNESS. Mr. President, I feel that it is due to myself, on account of what has been said and the production of this letter by the Senator from New York, to say a few words in regard to it. I do not know, as the Senator from Oregon said he did not, for what purposes this letter was written. If it was to affect a bill which is pending in this body for the creation of a second district in the State of California, which is most likely the case from the tenor of that portion of the letter which I have heard read, then it is very strange, indeed, that the judge should not address either one of the Senators from his own State, and that the information should come to the Senate through this particular channel. I think, sir, that I would be the last person in the country to advocate the unnecessary creation of a judicial district there. My information on the subject of the amount of business existing in the district court is diametrically contrary to the statement of the district judge contained in that letter. I stepped into the office of the Secretary of the Senate with a view of getting a statement from that gentleman, who was recently clerk of that court, to ascertain what the state of the docket was at the time he left the office; but he happened to be temporarily at the other House. Judge Field, before he left here last year—and whatever persons may think of his political opinions it can hardly be questioned that he would make a correct statement as to facts of that kind—said to me that Judge Hoffman's docket had from two to three hundred cases

upon it, and I regarded that as good authority. I still believe, notwithstanding that letter and the precise and specific statements it contains, that it is not a true reflex of the condition of things in his court, and I feel sufficient interest to follow it up and ascertain exactly the condition of business at the time stated in the letter that has been read here.

The southern part of the State of California is crying out by constant petitions sent to us here for the creation of a new judicial district that they may have a term of court at Los Angeles. Many cases there arise under the internal revenue laws, and the people are compelled to go more than five hundred miles to attend to the most trivial cases. Suits are brought against them, instituted very often for malicious purposes, and they must travel that extreme distance or submit to be beaten in the case. I am surprised, to say the least, at the statements contained in the letter of Judge Hoffman.

Mr. HENDRICKS. Will the Senator allow me to ask him a question?

Mr. CONNESS. Certainly.

Mr. HENDRICKS. There was an impression in the Committee on the Judiciary that there was but very little business from the region of Los Angeles and of southern California that came into the United States court; that the business which occupied the attention of that court was mainly from the neighborhood of San Francisco, where the commerce of the State concentrates. Is the Senator prepared to change our information on that subject?

Mr. CONNESS. I will answer the question by stating that undoubtedly the great mass of the United States district and circuit court business occurs at and near San Francisco, which is the center of population of the State. All the admiralty business originates there, and that is a very heavy business. A very large portion of the land business of the State originates at or about San Francisco. The cases under the Mexican land-grant system are in the main disposed of; it would be perhaps safe to say that there are not more than twenty pending in the State; but there are constant causes arising in the district court involving contests for property in and about San Francisco, where many small grants were made. Those cases are constantly arising and are pending. In the main, the statement the Senator from Indiana makes is correct; but under the internal revenue laws there are many suits, and that is a great pressure and a great hardship upon the interests of the people in the southern part of the State.

But, Mr. President, the statements I now make are so thoroughly met by the precise statements of that letter that I cannot press them any further until further investigation, and I promise to make that. But in regard to the statement made by the Senator from Oregon, it is clearly a correct one. If it be necessary for Judge Deady, as Judge Hoffman states, to come down to San Francisco to hold the circuit court there, there ought to be liberal and fair provision made for his payment. Prior to Judge Deady's coming the district judge from the State of Nevada was invited there to hold the circuit court by Judge Field; but Judge Deady has been chosen by Judge Field in preference to the Nevada judge, as I understand, because there were many mining suits pending in which the judge of the Nevada district had more or less interest, and Judge Deady, separated from all interest connected with those cases was preferred by the bar, and he was invited to come. That was one of the main reasons of his selection, and if it be necessary for him to come there, certainly provision ought to be made for his payment.

Mr. CONKLING. I should have listened with some surprise to the line of remark, consisting of a thinly-covered imputation upon Judge Hoffman from the Senator from California had he been a member of the bar and able to speak with so much personal knowledge as his membership would have given him; but

inasmuch as I understand his business pursuits have not led him into contact with the courts of California, I must be permitted to say that I think the insinuations which he has made against Judge Hoffman and his veracity are the more extraordinary. Having introduced this letter and read it, I feel bound to say this much: that those who know, as I know, Judge Hoffman, and who knew his father and his mother before him, will understand, without remark from me, that he needs no vindication in respect of his veracity, his manhood, or his character, from any member of this body. I shall be greatly amazed, no matter under what impulse he saw fit to drop a letter to me, his acquaintance and his friend, if in that letter he has made a statement of facts under his personal view, which statement is even inaccurate, much less open to the sort of criticism which has been bestowed upon it. I have no doubt of its correctness, and I feel that he needs no vindication or support from me; and there I leave it.

Mr. CONNESS. I do not know, Mr. President, just exactly the words that the reporter has got down as coming from myself when last up, but I do know that there was nothing which should justify this very nearly malicious imputation made by the honorable Senator from New York in that connection. I made no insinuations, Mr. President, but stated plainly and boldly that from the information that I had had, stating the source of that information, and the further effort I made to obtain information, it was exceedingly strange, as I now repeat, if the statements contained in that letter were exactly correct. I went further then, and said that in the face of these precise statements I could say nothing more, but would further investigate as I wished to do as to the facts of the case.

Now, Mr. President, the honorable Senator from New York may boast here his acquaintance with Judge Hoffman; he may also boast his connection with what is regarded as a learned profession. I will say nothing of either, not feeling that either could depress or elevate me in the estimation of anybody; nor will I undertake to make any remark as to the peculiar knowledge that the Senator has attained touching the present life and character of the eminent judge of whom he has spoken, by reason of his knowledge of his father and mother. If his investigations had been carried further and gone to the preceding generation perhaps they would have strengthened his case; but not in my opinion.

With these remarks I leave the subject, as well as the judge of the Senator from New York.

The PRESIDENT *pro tempore*. The morning hour having expired the unfinished business of yesterday is regularly before the Senate.

Mr. CORBETT. I trust we may have a vote on this question.

Mr. TRUMBULL. I presume the Senator from Ohio will allow the vote to be taken on this bill. I imagine no one will say anything more about it.

Mr. SHERMAN. If the vote can be taken without debate I shall not object.

Mr. ANTHONY. Is the amendment withdrawn?

Mr. WILLIAMS. No, sir.

Mr. ANTHONY. I wish to amend that amendment.

Mr. TRUMBULL. If it is to be discussed, let the bill go over.

Mr. ANTHONY. I only wish to make it general. I do not know why the judge of Oregon should have this additional compensation if the other judges are not to be included. I am in favor of the proposition, but I think the other judges should have the same.

Mr. SHERMAN. If we are to go into an increase of the salaries of all the judges I call for the regular order of business.

Mr. ANTHONY. Senators say that this amendment will be voted down. If that be so I will withdraw my amendment. I do not

want to impede the bill; but if this amendment prevails, I shall then move to add the other judges also.

Mr. TRUMBULL. I hope we shall now have a vote. The Senator from Rhode Island withdraws his motion.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Oregon [Mr. WILLIAMS] to the amendment of the Committee on the Judiciary.

The amendment to the amendment was rejected—ayes seven, noes not counted.

The PRESIDENT *pro tempore*. The question now is on the amendment of the committee striking out the original bill and inserting a substitute.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 284) for the relief of N. A. Shuttleworth, of Harrison county, West Virginia;

A bill (H. R. No. 255) for the relief of the heirs of James S. Porter, late of Hancock county, West Virginia;

A bill (H. R. No. 1365) for the relief of Captain Thomas W. Miller; and

A bill (H. R. No. 1367) for the relief of George Kaiser.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 436) for the relief of James Hooper;

A bill (H. R. No. 445) for the relief of Timothy Lyden, of Parkersburg, West Virginia;

A bill (H. R. No. 453) increasing the pension of Nancy Weeks, widow of Francis Weeks, an ensign in the revolutionary war;

A bill (H. R. No. 1069) for the relief of Charles B. Tanner, late first lieutenant sixtyninth Pennsylvania volunteers;

A bill (H. R. No. 1325) for the relief of Benjamin B. French, late Commissioner of Public Buildings;

A bill (H. R. No. 366) to incorporate the National Hotel Company of Washington city;

A bill (H. R. No. 869) prescribing an oath of office to be taken by persons from whom legal disabilities shall have been removed;

A joint resolution (H. R. No. 154) in relation to the settlement of the accounts of certain officers and agents who have disbursed public money under the direction of the chief of engineers; and

A joint resolution (H. R. No. 324) to extend the time for the completion of the West Wisconsin railroad.

#### PRESIDENTIAL APPROVAL OF BILLS.

A message from the President of the United States, by Mr. W. G. MOORE, his Secretary, announced that the President had approved and signed, on the 3d instant, the following acts and joint resolutions:

An act (S. No. 251) for the relief of Captain Charles N. Goulding, late quartermaster of volunteers;

An act (S. No. 367) for the relief of Albert Grant;

An act (S. No. 452) for the relief of Parker Quince;



An act (S. No. 474) for the relief of Captain Dan. Ellis;

An act (S. No. 522) to authorize the proper accounting officers of the Treasury to settle the accounts of Andrew S. Care;

A joint resolution (S. R. No. 123) donating certain captured ordnance for the completion of a monument to the memory of the late Major General John Sedgwick; and

A joint resolution (S. R. No. 143) for the relief of George W. Doty, a commander in the United States Navy on the retired list.

And that on the 4th instant he approved and signed the following acts:

An act (S. No. 166) for the relief of the owners of the land within the United States survey No. 3217, in the State of Missouri;

An act (S. No. 347) to confirm the title of Ethan Ray Clarke and Samuel Ward Clarke to certain lands in the State of Florida, claimed under a grant from the Spanish Government;

An act (S. No. 463) confirming the title to a tract of land in Burlington, Iowa.

And also that on the 7th instant he approved and signed the act (S. No. 505) to amend section five of an act entitled "An act concerning the registering and recording of ships or vessels," approved December 31, 1792.

#### HOUSE BILLS REFERRED.

The following bills received from the House of Representatives were severally read twice by their titles, and referred to the Committee on Military Affairs and the Militia:

A bill (H. R. No. 284) for the relief of N. A. Shuttleworth, of Harrison county, West Virginia;

A bill (H. R. No. 255) for the relief of the heirs of James S. Porter, late of Hancock county, West Virginia; and

A bill (H. R. No. 1365) for the relief of Captain W. Muller.

The bill (H. R. No. 1367) for the relief of George Kaiser was read twice by its title, and referred to the Committee on Claims.

#### DEPARTMENTAL VACANCIES.

The amendment of the House of Representatives to the bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments was referred to the Committee on the Judiciary, and ordered to be printed.

#### COMMITTEE SERVICE.

Mr. POMEROY. Some vacancies have occurred in the standing committees that ought to be filled. There is a vacancy in the Committee on Public Lands, and there are, I believe, vacancies on other committees. There are some new Senators who have not been assigned to committees. I move that the Chair be authorized to fill any vacancies that exist in the standing committees of the Senate.

The PRESIDENT *pro tempore*. The motion may be entertained by unanimous consent.

The motion was agreed to.

#### INTERNAL TAXES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

The PRESIDENT *pro tempore*. The Clerk will now resume the reading of the bill at the point where he left off last evening.

The Chief Clerk resumed the reading of the bill, as follows:

Cigars:

SEC. [81] 80. *And be it further enacted*, That upon cigars which shall be manufactured and sold, or removed for consumption or use, there shall be assessed and collected the following taxes, to be paid by the manufacturer thereof:

On cigarettes, cigars, and cheroots of all descriptions, made of tobacco or any substitute therefor, five dollars per thousand. And the Commissioner of Internal Revenue may prescribe such regulations for the inspection of cigars, cheroots, and cigarettes, and the collection of the tax thereon, as shall, in his judgment, be most effective for the prevention of frauds in the payment of such tax.

The Committee on Finance proposed two amendments to this section. The first was in

line six, to strike out the word "cigarettes" before "cigars."

The amendment was agreed to.

The next amendment was in line eight, after the word "thousand," to insert "on cigarettes weighing not exceeding three pounds per thousand, \$1 50 per thousand."

The amendment was agreed to.

The Chief Clerk read the following sections, to which no amendment was proposed:

SEC. [82] 81. *And be it further enacted*, That every person before commencing, or, if already commenced, before continuing the manufacture of cigars shall furnish, without previous demand therefor, to the assistant assessor of the division a statement in duplicate, subscribed under oath or affirmation, accurately setting forth the place, and, if in a city, the street and number of the street, where the manufacture is to be carried on; and if the same shall be manufactured for, or to be sold and delivered to, any other person, the name and residence and business or occupation of the person for whom the cigars are to be manufactured or to whom to be delivered; and shall give a bond in conformity with the provisions of this act, in such penal sum as the assessor of the district may require, not less than \$500, with an addition of \$100 for each person proposed to be employed by him in making cigars, conditioned that he will not employ any person to manufacture cigars who has not been duly registered as a cigar-maker; that he will not engage in any attempt, by himself or by collusion with others, to defraud the Government of any tax on his manufactures; that he will render truly and correctly all the returns, statements, and inventories prescribed; that whenever he shall add to the number of cigar-makers employed by him, he will immediately give notice thereof to the collector of the district; that he will stamp, in accordance with law, all cigars manufactured by him before he offers the same or any part thereof for sale, and before he removes any part thereof from the place of manufacture; that he will not knowingly sell, purchase, expose, or receive for sale any cigars which have not been stamped as required by law; and that he will comply with all the requirements of law relating to the manufacture of cigars. The sum of said bond may be increased from time to time, and additional sureties required at the discretion of the assessor, or under the instructions of the Commissioner of Internal Revenue. Every cigar manufacturer shall obtain from the collector of the district, who is hereby required to issue to him, a certificate setting forth the number of cigar-makers for which the bond has been given, which certificate shall be posted in a conspicuous place within the manufactory; and any cigar manufacturer who shall neglect or refuse to obtain such certificate, or to keep the same posted as hereinbefore provided, shall, on conviction, be fined \$100. Any person manufacturing cigars of any description without first giving bond as herein required, shall, on conviction, be fined not less than \$100 nor more than \$5,000, and imprisoned not less than three months nor more than five years. Cigarettes and cheroots shall be held to be cigars under the meaning of this act.

SEC. [83] 82. *And be it further enacted*, That within thirty days after the passage of this act every cigar manufacturer shall place and keep on the side or end of the building within which his business is carried on, so that it can be distinctly seen, a sign with letters thereon not less than three inches in length, painted in oil colors or gilded, giving his full name and business. Any person neglecting to comply with the requirements of this section shall, on conviction, be fined not less than \$100, nor more than \$500.

SEC. [84] 83. *And be it further enacted*, That it shall be the duty of every assistant assessor to keep a record, in a book to be provided for the purpose, to be open to the inspection of any person, of the name and residence of every person engaged in the manufacture of cigars in his division, the place where such manufacture is carried on, and the number of the manufactory, together with the names and residences of every cigar-maker employed in his division; and the assistant assessor shall enter in said record, under the name of each manufacturer, an abstract of his inventories and monthly returns; and each assessor shall keep a similar record for the district, and shall cause the several manufactories of cigars in the district to be numbered consecutively, which number shall not thereafter be changed.

Section [eighty five] eighty-four was read as follows:

SEC. [85] 84. *And be it further enacted*, That from and after the passage of this act all cigars shall be packed in boxes, not before used for that purpose, containing respectively, twenty-five, fifty, one hundred, two hundred and fifty, or five hundred cigars each; and any person who shall sell or offer for sale, or deliver or offer to deliver, any cigars in any other form than in new boxes as above described, or who shall pack in any box any cigars in excess of the number provided by law to be put in each box, respectively, or who shall falsely brand any box, or who shall affix a stamp on any box denoting a less amount of tax than that required by law, shall, upon conviction, for any of the above described offenses, be fined for each such offense, respectively, not less than \$100 nor more than \$1,000, and be imprisoned not less than six months nor more than two years.

The Committee on Finance reported two amendments to this section. The first was in line thirteen, after the word "offense," to strike out the word "respectively."

The amendment was agreed to.

The next amendment was to insert at the end of the section the following proviso:

*Provided*, That nothing in this section shall be construed as preventing the sale of cigars at retail by retail dealers who have paid the special tax as such from boxes packed, stamped, and branded in the manner prescribed by law.

The amendment was agreed to.

The following sections, to which no amendments were proposed, were read:

SEC. [86] 85. *And be it further enacted*, That every person now or hereafter engaged in the manufacture of cigars, shall make and deliver to the assistant assessor of the division a true inventory, in form prescribed by the Commissioner of Internal Revenue, of the quantity of leaf tobacco, cigars, stems, scraps, clippings, and waste, and the number of cigar-boxes and the capacity of each box, held or owned by him on the 1st day of January of each year, or at the time of commencing and at the time of concluding business, if before or after the 1st of January, setting forth what portion of said goods, and what kinds, were manufactured or produced by him, and what were purchased from others, which inventory shall be verified by his oath or affirmation indorsed on said inventory; and the assistant assessor shall make personal examination of the stock sufficient to satisfy himself as to the correctness of the inventory, and shall verify the fact of such examination by oath or affirmation taken before the assessor, also to be indorsed on the inventory; and every such person shall enter daily in a book, the form of which shall be prescribed by the Commissioner of Internal Revenue, an accurate account of all the articles aforesaid purchased by him, the quantity of leaf tobacco, cigars, stems, or cigar-boxes, of whatever description, manufactured, sold, consumed, or removed for consumption or sale, or removed from the place of manufacture; and shall, on or before the 10th day of each and every month, furnish to the assistant assessor of the division a true and accurate abstract from such book of all such purchases, sales, and removals made during the month next preceding, which abstract shall be verified by his oath or affirmation; and in case of refusal or willful neglect to deliver the inventory, or keep the account, or furnish the abstract aforesaid, he shall, on conviction, be fined not less than \$500 nor more than \$5,000, and imprisoned not less than six months nor more than three years. It shall be the duty of any dealer in leaf tobacco or material used in manufacturing cigars, on demand of any officer of internal revenue authorized by law, to render to such officer a true and correct statement, verified by oath or affirmation, of the quantity and amount of such leaf tobacco or materials sold or delivered to any person or persons named in such demand; and in case of refusal or neglect to render such statement, or if there is cause to believe such statement to be incorrect or fraudulent, the assessor shall make an examination of persons, books, and papers in the same manner as provided in this act in relation to frauds and evasions.

SEC. [87] 86. *And be it further enacted*, That the Commissioner of Internal Revenue shall cause to be prepared, for payment of the tax upon cigars, suitable stamps denoting the tax thereon; and all cigars shall be packed in quantities of twenty-five, fifty, one hundred, two hundred and fifty, and five hundred, and all such stamps shall be furnished to collectors requiring the same, who shall, if there be any cigar manufacturers within their respective districts, keep on hand at all times a supply equal in amount to two months' sales thereof, and shall sell the same only to the cigar manufacturers who have given bonds and paid the special tax, as required by law, in their districts respectively, and to importers of cigars who are required to affix the same to imported cigars in the custody of customs officers and to persons required by law to affix the same to cigars on hand on the 1st day of January, A. D. 1865; and every collector shall keep an account of the number, amount, and denominations of the stamps sold by him to each cigar manufacturer, and to other persons above described: *Provided*, That from and after the passage of this act the duty on all cigars imported into the United States from foreign countries shall be \$2 50 per pound, and twenty-five per cent. *ad valorem*.

SEC. [88] 87. *And be it further enacted*, That every manufacturer of cigars shall securely affix, by pasting on each box containing cigars manufactured by or for him, a label on which shall be printed, together with the manufacturer's name, the number of his manufactory, and the district and State in which it is situated, these words:

"NOTICE.—The manufacturer of the cigars herein contained has complied with all the requirements of law. Every person is cautioned, and from penalties of law, not to use this box for cigars again."

Any manufacturer of cigars who shall neglect to affix such label to any box containing cigars made by or for him, or sold or offered for sale by or for him, or any person who shall remove any such label, so affixed, from any such box, shall, upon conviction thereof, be fined fifty dollars for each box in respect to which such offense shall be committed.

Section [eighty-nine] eighty-eight was next read, as follows:

SEC. [89] 88. *And be it further enacted*, That all cigars which shall be removed from any manufactory or place where cigars are made without the same being packed in boxes as required by this act, or without the proper stamp thereon denoting the tax, or without burning into each box with a branding-iron the number of the cigars contained therein, and the name of the manufacturer, and the number of the district and the State, or without the stamp denoting

the tax thereon being properly affixed and canceled, or which shall be sold or offered for sale not properly boxed and stamped, shall be forfeited to the United States. And any person who shall commit any of the above-described offenses shall, on conviction, be fined for each such offense, respectively, not less than \$100 nor more than \$1,000, and imprisoned not less than six months nor more than two years. And any person who shall pack cigars in any box bearing a false or fraudulent or counterfeit stamp, or who shall remove or cause to be removed any stamp denoting the tax on cigars from any box, with intent to use the same, or who shall use or permit any other person to use any stamp so removed, or who shall receive, buy, sell, give away, or have in his possession any stamps removed, or who shall make any other fraudulent use of any stamp or stamped box, intended for cigars, or who shall remove from the place of manufacture any cigars not properly taxed and stamped as required by law, shall be deemed guilty of a felony, and, on conviction, shall be fined not less than \$100 nor more than \$1,000, and imprisoned not less than six months nor more than three years.

The Committee on Finance reported amendments to this section. The first was in line thirteen, after the word "offense" to strike out the word "respectively."

The amendment was agreed to.

The next amendment was in line twenty-five, to strike out "taxed" and to insert "boxed."

The amendment was agreed to.

The following sections, to which no amendments were proposed, were read:

SEC. [97] 89. *And be it further enacted*, That the absence of the proper revenue stamp on any box of cigars sold, or offered for sale, or kept for sale, shall be notice to all persons that the tax has not been paid thereon, and shall be conclusive evidence of the non-payment thereof; and such cigars shall be forfeited to the United States.

SEC. [91] 90. *And be it further enacted*, That in all cases where cigars of any description are manufactured, in whole or in part, upon commission or shares, or where the material is furnished by one party and manufactured by another, or where the material is furnished or sold by one party with an understanding or agreement with another that the cigars are to be received in payment therefor, or for any part thereof, the stamps required by law shall be affixed by the actual maker before the cigars are removed from the place of manufacturing. And in case of fraud on the part of either of said parties in respect to said manufacture, or of any collusion on their part with intent to defraud the revenue, such material and cigars shall be forfeited to the United States, and every person engaged in such fraud or collusion shall, on conviction, be fined not less than \$100 nor more than \$5,000, and imprisoned not less than six months nor more than three years.

SEC. [92] 91. *And be it further enacted*, That any manufacturer of cigars who shall remove or sell any cigars without payment of the special tax as a cigar manufacturer, or without having given bond as such, or without the proper stamps denoting the tax thereon, or who shall make false or fraudulent entries of manufactures or sales of any cigars, or who shall make false or fraudulent entries of the purchase or sale of leaf tobacco, tobacco stems, or other material used in the manufacture of cigars, or who shall affix any false, forged, spurious, fraudulent, or counterfeit stamp, or imitation of any stamp, required by law to any box containing any cigars, shall, in addition to the penalties elsewhere provided in this act for such offenses, forfeit to the United States all raw material and manufactured or partly manufactured tobacco and cigars, and all machinery, tools, implements, apparatus, fixtures, boxes, barrels, and all other materials, which shall be found in the possession of such person, or in his manufactory, and used in his business as such manufacturer, together with his estate or interest in the building or factory and the lot or tract of ground on which such building or factory is located, and all appurtenances thereunto belonging.

SEC. [93] 92. *And be it further enacted*, That all cigars imported from foreign countries after the passage of this act shall, in addition to the import duties imposed on the same, pay the tax prescribed in this act for cigars manufactured in the United States, and have the same stamps affixed. Such stamps shall be affixed and canceled by the owner or importer of cigars while they are in the custody of the proper custom-house officers; and such cigars shall not pass out of the custody of such officers until the stamps have been so affixed and canceled; but shall be put up in boxes containing quantities as prescribed in this act for cigars manufactured in the United States before such stamps are affixed. And the owner or importer of such cigars shall be liable to all the penal provisions of this act prescribed for manufacturers of cigars manufactured in the United States. Where it shall be necessary to take any of such cigars, so imported, to any place, for the purpose of affixing and canceling such stamps, other than the public stores of the United States, the collector of customs of the port where such cigars shall be entered shall designate a bonded warehouse to which they shall be taken, under the control of such customs officer as such collector may direct. And any officer of customs who shall permit any such cigars to pass out of his custody or control without compliance by the owner or importer thereof with the provisions of this section relating thereto shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined not less than \$1,000 nor

more than \$5,000, and imprisoned not less than six months nor more than three years.

Section [ninety-four] ninety-three was next read, as follows:

SEC. [94] 93. *And be it further enacted*, That from and after the passage of this act it shall be the duty of every dealer in cigars, either of foreign or domestic manufacture, having on hand more than five thousand thereof, imported or manufactured, or purporting or claimed to have been imported or manufactured, prior to the passage of this act, to immediately make a true and correct inventory of the quantity of such cigars in his possession, under oath or affirmation, and to deposit such inventory with the assistant assessor of the proper division, who shall immediately return the same to the assessor of the district, who shall immediately thereafter make an abstract of the several such inventories filed in his office, and transmit the same to the Commissioner of Internal Revenue; and a like inventory and return shall be made on the first day of every month thereafter, and a like abstract of inventories shall be transmitted, while any such dealer has any such cigars remaining on hand, until the 1st day of January, 1899. After the 1st day of January, 1899, all cigars of every description shall be taken to have been either manufactured or imported after the passage of this act, and shall be stamped accordingly; and any person who shall sell, or offer for sale, after the 1st day of January, 1899, any imported cigars, or cigars purporting or claimed to have been imported, not so put up in packages and stamped by this act, shall, on conviction thereof, be fined not less than \$300 nor more than \$5,000, and imprisoned not less than six months nor more than two years.

The committee reported two amendments to this section. The first was to strike out "January," wherever it occurs, and insert "April."

The amendment was agreed to.

The next amendment was in line twenty-six, after the word "stamped" to insert "as provided."

The amendment was agreed to.

The following sections, to which no amendments were proposed, were read:

SEC. [95] 94. *And be it further enacted*, That any person who shall, after the passage of this act, sell, or offer for sale, any cigars, representing the same to have been manufactured and the tax paid thereon prior to the passage of this act, when the same were not so manufactured and the tax not so paid, shall be liable to a penalty of \$500 for each offense, and shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than \$500 nor more than \$5,000, and imprisoned not less than six months nor more than three years.

SEC. [96] 95. *And be it further enacted*, That if any distiller, rectifier, wholesale liquor dealer, compounder of liquors, or manufacturer of tobacco or cigars, shall knowingly and willfully omit, neglect, or refuse to do or cause to be done any of the things required by law in the carrying on or conducting of his business, or shall do anything by this act prohibited, if there be no specific penalty or punishment imposed by any other section of this act for the neglecting, omitting, or refusing to do, or for the doing or causing to be done the thing required or prohibited, he shall pay a penalty of \$1,000; and if the person so offending be a distiller, rectifier, wholesale liquor dealer, or compounder of liquors, all distilled spirits or liquors owned by him, or in which he has any interest as owner, and if he be a manufacturer of tobacco or cigars, all tobacco or cigars found in his manufactory shall be forfeited to the United States.

SEC. [97] 96. *And be it further enacted*, That any internal revenue officer who shall be or become interested, directly or indirectly, in the manufacture of tobacco, snuff, or cigars, or in the production, rectification, or redistillation of distilled spirits, shall be dismissed from office; and any such officer who shall become so interested in any such manufacture or production, rectification, or redistillation, shall, on conviction, be fined not less than \$500 nor more than \$5,000.

Section [ninety-eight] ninety-seven was next read, as follows:

SEC. [98] 97. *And be it further enacted*, That if any officer or agent appointed or acting under the authority of any revenue law of the United States shall be guilty of any extortion or willful oppression, under color of law, or shall knowingly demand or receive greater sums than shall be authorized by law; or shall receive for fee, compensation, or reward for the performance of any duty except as by law prescribed; or shall willfully neglect to perform any of the duties enjoined on him by law, or shall conspire to collude with any other person to defraud the United States; or shall make opportunity for any person to defraud the United States; or shall do, or omit to do, any act with intent to enable any other person to defraud the United States; or shall negligently or designedly permit any violation of the law by any other person; or shall make or sign any false entry in any book, or make or sign any false certificate or return in any case where he is by law or regulation required to make an entry, certificate, or return; or having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States under any revenue law of the United States, shall fail to report in writing such knowledge or information to his next superior officer, and to the Commissioner of Internal Revenue; or shall demand or accept, or attempt to

collect, directly or indirectly, as payment or gift or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law, except as expressly authorized by law so to do, he shall be dismissed from office, and shall be held to be guilty of a misdemeanor, and shall, on conviction, be fined not less than \$1,000 nor more than \$5,000, and imprisoned not less than six months nor more than three years. And one half of the fine so imposed shall be for the use of the United States and the other half for the use of the informer, who shall be ascertained by the judgment of the court; and the said court shall also render judgment against the said assessor or assistant assessor for the amount of damages sustained in favor of the party injured, to be collected by execution.

The Committee on Finance proposed to amend this section in lines thirty-six and thirty-seven by striking out the words "assessor or assistant assessor" and inserting "officer or agent."

The amendment was agreed to.

The following sections, to which no amendments were proposed, were read:

SEC. [99] 98. *And be it further enacted*, That any person who shall simulate or falsely or fraudulently execute or sign any bond, permit, entry, or other document required by the provisions of this act, or by any regulation made in pursuance thereof, or who shall procure the same to be falsely or fraudulently executed; or who shall advise, aid in, or connive at the execution thereof, shall, on conviction, be imprisoned for a term not less than one year nor more than five years; and the property to which such false or fraudulent instrument relates shall be forfeited.

SEC. [100] 99. *And be it further enacted*, That every collector having charge of any warehouse in which distilled spirits, tobacco, or other articles, are stored in bond, shall render a monthly account of all such articles to the Commissioner of Internal Revenue, which account shall be examined and adjusted monthly by him, so as to exhibit a true statement of the liability and responsibility of every such collector on such account. In adjusting such account the collector shall be charged with all the articles which may have been deposited or received under the provisions of law in any warehouse in his district and under his control, and shall be credited with all such articles shown to have been removed therefrom according to law, including transfers to other collectors and to his successor in office, and also whatever allowances may have been made in accordance with law to any owner of such goods or articles for leakage or other losses.

The committee proposed to insert as section one hundred, the following:

SEC. 100. *And be it further enacted*, That the Secretary of the Treasury and Commissioner of Internal Revenue are authorized and empowered to alter, renew, or change the form, style, and device of any stamp, mark, or label used under any provision of the laws relating to distilled spirits, tobacco, when, in their judgment, necessary for the collection of revenue tax, or the prevention or detection of frauds thereon, and to make and publish such regulations for the use of such mark, stamp, or label as they may find requisite.

Mr. SHERMAN. I move to amend that section by inserting after "tobacco," in the sixth line, the words "snuff and cigars."

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

Section one hundred and one was next read, as follows:

SEC. 101. *And be it further enacted*, That in all cases arising under the internal revenue laws where, instead of commencing or proceeding with a suit in court, it may appear to the Commissioner of Internal Revenue to be for the interest of the United States to compromise the same, he is empowered and authorized to make such compromise with the advice and consent of the solicitor of internal revenue, whose opinion in the case, with the reasons therefor, shall be given in writing and delivered to the Commissioner; and in every case where a compromise is made there shall be placed on file in the office of the Commissioner the opinion of the solicitor, together with a statement of the amount of tax assessed, the amount of additional tax or penalty imposed by law in consequence of the neglect or delinquency of the person against whom the tax is assessed, and the amount actually paid in accordance with the terms of the compromise; but no such compromise shall be made of any case after a suit or proceeding in court has been commenced, without the recommendation also of the district attorney for the judicial district in which the suit or proceeding is pending, or of such other counsel as may be employed to conduct or prosecute the same on the part of the United States: *Provided*, That it shall be lawful for the court at any stage of such suit or criminal proceedings to continue the same for good cause shown on motion of the district attorney.

The committee reported various amendments to this section, the first of which was in line seven, to strike out the words "solicitor of internal revenue" and insert "Secretary of the Treasury."

Mr. TRUMBULL. It is one of the objectionable features of the internal revenue system that the officers have been permitted to compromise suits; and it has been charged—I do not say whether truly or not—that officers and persons who are vested with this discretionary power have abused it very often in the settlement of cases. I believe that we passed some law on the subject, that suits should not be compromised without the consent, perhaps, of the judge of the court. I see the House of Representatives provided in this section that no compromise should take place without the advice and consent of the solicitor of internal revenue. I was not aware that we had such an office as that, unless this bill creates it.

Mr. SHERMAN. There is such an office provided for by law, but the President and the Senate have never been able to agree upon a proper person to hold it.

Mr. FESSENDEN. There has never been a nomination for it.

Mr. SHERMAN. Probably there has never been a nomination, as the Senator from Maine reminds me. The duties of that office are now performed by a clerk really. The bill, as it came from the House, proposed to vest the solicitor of internal revenue with the power of controlling the Commissioner of Internal Revenue, and we thought that wrong. We have required by a clause of the bill the opinion of the solicitor of internal revenue to be filed; but the approval of settlement must be by the Secretary of the Treasury.

Mr. TRUMBULL. If there is such an officer, what is the objection to having the safeguard of his opinion and the reasons for it before the settlement is made?

Mr. SHERMAN. The Senator will see that that is provided for.

Mr. TRUMBULL. I see you have stricken out the words "whose opinion in the case, with the reasons therefor, shall be given in writing and delivered to the Commissioner."

Mr. SHERMAN. The Senator will find that it goes on below. We do not limit the power of the Commissioner of Internal Revenue to make a settlement, by the opinion of the solicitor of internal revenue, but of the Secretary of the Treasury; but we require that in every case where a compromise is made there shall be placed on file in the office of the Commissioner, the opinion of the solicitor of internal revenue, together with a statement of the amount of tax assessed, the amount of additional tax or penalty imposed by law, &c.

Mr. TRUMBULL. It seems to me that this is a very strange proceeding. You authorize the Commissioner of Internal Revenue to make a compromise, with the assent of the Secretary of the Treasury—just such a compromise as he pleases—and then you require the solicitor of the Commissioner or of the internal revenue department to put on file his opinion in writing. His opinion may be directly the reverse of that of the Commissioner. For what object do you require this solicitor to file an opinion after the case is decided and when it is to have no influence in the decision at all?

Mr. SHERMAN. The question is whether we shall make the opinion of the solicitor of internal revenue a final bar to a settlement. In the first place there is no such officer now.

Mr. TRUMBULL. But you have provided for the filing of the opinion of such an officer.

Mr. SHERMAN. If one is provided by law, as there ought to be one appointed by the President and confirmed by the Senate, then the Commissioner of Internal Revenue is bound to take the opinion of the solicitor of internal revenue, and that must be filed before a compromise can be made; but the opinion of the Commissioner of Internal Revenue and the opinion of the solicitor of internal revenue must be submitted to the Secretary of the Treasury, who alone, under the checks contained in this provision, has the power to make a compromise. The Senator, if he will look at the present law, will find that this is a great restriction on the powers conferred by it.

Mr. TRUMBULL. I know that there has been great complaint of the exercise of this power under the present law.

Mr. SHERMAN. This section is a very great, and, as they think in the office, almost an oppressive restriction upon their power to control the matter of internal revenue. The last clause of the section I think ought to be changed somewhat, and I have a substitute for it, in regard to the compromise of suits now pending in court. But at present the section as it now stands is a very great restraint upon any compromise whatever. No compromise can be made without the opinion of the solicitor of internal revenue, which must be filed in the case, and then the case thus made up, with the opinion of the Commissioner of Internal Revenue, is submitted to the Secretary of the Treasury, who must give his approval and must make the final settlement. That is the proper way.

Mr. TRUMBULL. I inquire of the Senator from Ohio if he has before him the last act that we passed on this subject, I think during the present Congress, restraining the power of officers to make these compromises?

Mr. SHERMAN. I do not think any law has been passed during this session. It was proposed by the Senator from Indiana, [Mr. Morton,] but it was not passed. I will read the present law as it now stands:

"That the Commissioner of Internal Revenue shall be, and is hereby, authorized and empowered to compromise, under such regulations as the Secretary of the Treasury shall prescribe, any case arising under the internal revenue laws, whether pending in court or otherwise."

This is the broad power conferred upon the Commissioner of Internal Revenue; and, as the Senator says, great complaints have been made. This section limits to a very great degree, perhaps to a dangerous degree, the power of the Commissioner of Internal Revenue to make compromises, and certainly it goes as far as we ought to go. There must be some power in some one to compromise cases pending in court, and cases as they arise.

Mr. TRUMBULL. I know we once had this subject up, and I thought we passed an act; but probably it failed between the two Houses. It seems to me that this section is somewhat incongruous the way the committee have amended it. The section as it stands authorizes the Commissioner of Internal Revenue, with the assent of the Secretary of the Treasury, to make a compromise; and then it provides:

And in every case where a compromise is made there shall be placed on file in the office of the Commissioner the opinion of the solicitor.

I do not see the object of that. The opinion of the solicitor is to have no effect whatever upon the decision. It is a requirement that seems to me to be useless, unless you require it to be given in advance. It seems to me that the word "where," in the tenth line, should be stricken out and the word "before" inserted; so as to read:

And in every case before a compromise is made there shall be placed on file in the office of the Commissioner the opinion of the solicitor.

Certainly there is no object in placing the opinion on file after the compromise is made.

Mr. SHERMAN. That is a mere point of phraseology. The present words mean that. If the Senator would prefer the word "before," I have no objection to it.

Mr. TRUMBULL. It does not mean that as it now stands. He may file the opinion after the thing is all over, and I think there can be no object in filing it unless it is to have some influence.

Mr. SHERMAN. As that is merely a question about words, I will not waste time upon it. It now reads:

And in every case where a compromise is made there shall be placed on file, in the office of the Commissioner, the opinion of the solicitor, together with a statement of the amount of tax assessed, &c.

The purpose of this is, that the Commissioner of Internal Revenue shall never make a compromise until after a full and fair investigation.

Mr. FESSENDEN. Perhaps you had better substitute the word "before."

Mr. SHERMAN. I say I will not stand upon a point of words. That is the object, to see that the Commissioner has all the facts before him, prepared by an officer who is supposed to be a lawyer. The facts of the case are to be submitted to the Commissioner of Internal Revenue, and then the Secretary upon the particular case is to make the compromise. Under the present law, the Secretary of the Treasury has nothing to do but prescribe regulations to control and govern the conduct of the Commissioner of Internal Revenue, without any check.

Mr. FESSENDEN. The Senator will allow me to say that if they are the same as they were made under my direction when I was in the Department, they prescribe that no settlements shall be made without the approval of the Secretary of the Treasury.

Mr. TRUMBULL. I should like to see a check from some other source upon these compromises than the internal revenue officers. They make up a case; they report it to the Commissioner of Internal Revenue and the Secretary of the Treasury, and it all goes through one channel, and the Secretary will generally approve what the officers recommend. Now, it would be very desirable, if it is practicable, to have a check from another source not connected with these internal revenue officers. For instance, if a suit is pending, let it be compromised only with the assent of the judge or on the recommendation of the district attorney.

Mr. SHERMAN. That is provided for. The Senator is talking about the section before reading it through. It goes on and provides that where a case is pending in court, the compromise shall have the assent of the district attorney, and in certain cases of the judge.

Mr. TRUMBULL. If it is not pending in court I would still have it by the assent of the district attorney or somebody else, for as it stands it virtually amounts to a compromise by the collector and the assessor, and the Secretary of the Treasury will know nothing about it from any other source. If you require the case to be laid before the district attorney and get his opinion, you have the opinion of a local officer who might know something in regard to the transaction that would not come through these officers. It is charged all over the country, whether truly or not I do not undertake to say, that many of these revenue officers are corrupt.

Mr. FESSENDEN. I will ask my friend whether it is any greater injury as a general rule to adopt the opinion of the assessor and collector than of the district attorney?

Mr. TRUMBULL. No, I do not say that it is. The Senator from Maine will not understand me to say that it is, but this will give the advantage of an additional check. It is more difficult to corrupt the assessor and collector and district attorney than to corrupt either one.

Mr. EDMUNDS. Mr. President, some little stability and adherence to one line of policy or another has generally been supposed to be a good thing in legislation. No longer ago than the 31st of March we supposed, all of us, at least that is the legal presumption, that we had found a panacea for this evil of unregulated compromises. We passed a bill to exempt certain manufactures from internal tax, which also provided for regulating whisky, and so on, and in that bill we passed a section of this character:

"That no compromise or discontinuance, or *nolle prosequi* of any prosecution under this act, shall be allowed without the permission, in writing, of the Secretary of the Treasury and the Attorney General."

I was quite sure when the matter was broached that we had at some stage of this session solemnly declared that the true check, upon the theory that the Senator from Illinois has named of having some extraneous person who was not in the line of promotion, so to speak—

Mr. SHERMAN. That provision is in the cases of suits pending; and the latter part of



this section provides a mode of proceeding in such cases.

Mr. EDMUNDS. The Senator is altogether mistaken. It does not provide for suits pending. It covers suits pending. It is true; but let me inform my friend, as he does not need to be informed if he will think a moment, that a prosecution is not necessarily a suit pending in court. Any seizure of property under process of law (as every seizure must be, of course, if it is legal) is a prosecution against that property.

Mr. SHERMAN. That means a judicial proceeding.

Mr. EDMUNDS. My friend says in his seat, "that means a judicial proceeding." I should like to know if the scope of this bill is to seize men's property and dispose of it without a judicial proceeding? My friend, if he will look into the decisions under the customs laws—and we have had just such laws for seizures ever since the Government was organized—will find that the seizure by the collector is the first step in a judicial proceeding; it is the first step in a prosecution; just as between private persons the first step of notice of suit or filing of a claim is a judicial procedure. Therefore, the term "prosecution" covers all that. The provision I have read was not put upon any such narrow grounds as the Senator from Ohio says. The line of argument when that bill was passed was that all proceedings, that is to say, every prosecution against a particular piece of property that was seized under the internal revenue laws covered by that act, should not be compromised unless the chief law officer of the Government should concur with the chief seizing officer, as the Secretary of the Treasury is at the head of that, in the compromise.

That I believe to be perfectly right, if you are to have any compromise at all. The theory is, and it is a correct theory, that the Attorney General is at the head of the law business of the Government. He ought to be the responsible head. He ought to be appealed to when any of these large settlements are made upon the recommendation of the district attorney, or of anybody else, to be a check upon the settlement of the prosecution against property, whether you say "prosecution" means after it has got into court or while in process of getting into court; and that is why I am opposed to having any solicitor of the Bureau of Internal Revenue, for one. You are dividing up the legal responsibility of defending and prosecuting the laws among a great number of subordinate officers without any single controlling and responsible head over them. If the Internal Revenue Bureau needs the advice of a law officer, as undoubtedly it does, as every other Department and branch of the service of the Government does, let it get that advice from the proper source; that is to say, from the office of the Attorney General.

It has been in that view that we have passed in this body with great unanimity, and it has passed the other House, I believe, without a division—no matter for that; it is not proper to refer to that—and I believe it has become a law in the late method of becoming laws; that is, by not being signed and returned, providing that all matters which had heretofore been pending in the Court of Claims in charge of several solicitors and bureaus should be consolidated under the control of the Attorney General; and it was upon the wholesome and proper theory that the public service is better administered by making some one chief law officer responsible for all the law affairs that the Government has.

Therefore I hope that what has been said by the Senator from Illinois will be attended to, and that this matter will be so adjusted as that, if these compromises are to be made, they shall be made upon the assent of the Attorney General as the law part of the assenting power, or of some officer of his department, and that we shall not ever have a distinct, independent, irresponsible (and by "irresponsible" I mean, of course, uncontrollable) officer to be called

the solicitor of any bureau. I think that is an abuse.

Mr. MORTON. The Senator from Vermont says that stability ought to be a part of our policy. That is true, sir, when you are sure that your policy is right; but I think that the experience of this country for the last three or four years shows that this policy of compromising has been the bane of our revenue system.

Mr. EDMUNDS. I agree to that.

Mr. MORTON. And hence I do not want stability in that direction. I say it has been the bane of it; it has been the destruction of it, so to speak; and yet we find most ample provision again made in this bill for compromising frauds in the collection of the revenue upon whisky and tobacco. Why, sir, it is not a matter of astorishment that our revenue on whisky has fallen from \$30,000,000 to \$13,000,000, when it ought to have been fifty or sixty or perhaps a hundred million dollars in the first place.

But the most remarkable thing about the whole history of the whisky tax is the almost total failure to enforce the criminal law. Think of it: there have been thousands of frauds; there have been hundreds, and perhaps thousands of compromises; the offenses against the law have been open and almost undisguised; and yet to-day there are not twelve authenticated cases of conviction to imprisonment for these many thousand frauds. While, perhaps, more than one hundred and fifty million dollars of revenue has been stolen, or the Government has been defrauded out of it, less than twelve persons have been convicted to imprisonment throughout the United States.

Mr. EDMUNDS. And less than twenty brought to trial, probably.

Mr. MORTON. And the Senator from Vermont suggests, less than twenty have been brought to trial. Why, Mr. President, it is incredible. The great failure is the failure to enforce the laws. The great failure comes right home to the courts, and perhaps to the district attorneys more than to all other officers. While this great fact is staring the country in the face we propose, substantially, to continue the same system. Will we learn nothing? Are we incapable of instruction by experience? That is what is substantially said again by this section. One hundred and fifty millions of revenue has been stolen, or the Government defrauded out of it, and there have been thousands of offenses committed, and yet less than twelve persons have been convicted throughout the whole United States. Sir, we need not wonder that the whisky tax has failed. There need be no surprise on that subject. The law has not been enforced. How does it occur? Indictments have been found by the hundred, I might say by the thousand, in the different States. What has become of them? Sir, they are frittered away one way and another; *not pros.* upon the advice of the district attorney, perhaps with the consent of the court, taking it for granted that the district attorney knows about the character of the cases; compromises have been made by the hundreds and the thousands; and the general result is that detection in a fraud upon the revenue carries with it no other penalty than that of a compromise. It carries with it no penalty of punishment. It only carries with it the penalty of a compromise, in which the offender escapes by paying much less than the honest tax would be. Need we wonder, then, that the whisky tax has failed? We are now doing that which is humiliating and mortifying to me—acknowledging the incapacity of the law, and surrendering to the whisky thieves by bringing down the tax from two dollars to fifty cents—a confession that because of the corruption of the judiciary and the revenue systems of this country we are incapable of collecting the tax.

Why, sir, when a man is detected in a fraud upon the revenue the first thing he does is to start for Washington city with his friends. If he is a man of wealth or has any kind of respectability he can get men to go with him, and

members of Congress sometimes, to the office of the Commissioner of Internal Revenue, or to the Secretary of the Treasury, and, if we refer this matter to him, to the solicitor of internal revenue, and represent that this man is an honest, intelligent man, who did not intend to do any wrong; and the thing is fixed up in some way. It has been done to such an enormous extent that the revenue upon whisky is a failure. Shall we repeat the same thing and provide for these compromises? I dare say that every dollar that this Government has obtained in the way of compromise of these whisky cases has cost the Government \$200. We have lost \$200 where we have made one dollar by a compromise. I would a great deal rather not provide for any compromise at all.

Mr. President, sometimes the greatest fact will fail to make any impression upon the public mind. Here is the great fact, and I must repeat it, that there have been thousands of offenses and many millions have been stolen, and these offenses have become so public and notorious that they are scarcely disguised, and yet less than twelve convictions have taken place to imprisonment in the United States.

Now, sir, what is the effect of this section? It provides:

He [the Commissioner of Internal Revenue] is empowered and authorized to make such compromise with the advice and consent of the solicitor of internal revenue.

That is the bill as it comes from the House. The Committee on Finance propose to strike out the words "solicitor of internal revenue" and to insert "Secretary of the Treasury." Then the bill as it comes from the House reads:

Whose opinion in the case, with the reasons therefor, shall be given in writing and delivered to the Commissioner.

These words are put in brackets, to be stricken out by the Committee on Finance of the Senate. Then it goes on to say:

And in every case where a compromise is made there shall be placed on file in the office of the Commissioner the opinion of the solicitor of internal revenue.

You have stricken out the solicitor above. He is not to be consulted; but the Secretary of the Treasury is consulted; but you provide below for filing his opinion after the decision has been made. The awkwardness comes from having put the solicitor of internal revenue in the bill, in the first place, as one to be consulted, and then striking out his name and putting in the Secretary of the Treasury, but leaving it below still for the opinion of the solicitor of internal revenue to be put on file.

Now, Mr. President, this solicitor of internal revenue will be very much of the same character with the district attorneys throughout the United States. He will, perhaps, be just as impressive as it turns out by terrible experience that they have been, and when he comes to give an opinion he will take the opinion that is sent up to him by the district attorney. He cannot examine all these cases originally and go back to the original sources of testimony. He will not have the time to do so. He could not possibly do that; but he will just take the opinion sent to him and excuse himself by falling back upon the advice given to him by the district attorney below. The Commissioner of Internal Revenue will do the same thing. I ask you, will he be more wise hereafter in compromising than he has been heretofore? Certainly not. I am not imputing anything against his integrity, nor that of the Secretary of the Treasury; but, I ask, will they be wiser hereafter than they have been heretofore? Their power is just the same as before. You leave the matter with the district attorney just as you have done before, not only for civil suits, but for criminal suits. When a man compromises a civil suit the criminal case always goes along with it. He never will compromise civilly if you will not compromise with him criminally. The indictment must be *nolle prosequi* or set aside, or he will never compromise with you civilly, and hence I find in

this bill, in the beginning of the section, these words:

That in all cases arising under the internal revenue laws where, instead of commencing or proceeding with a suit in court, it may appear to the Commissioner of Internal Revenue to be for the interest of the United States to compromise the same—

That seems to refer to a civil proceeding, although technically not necessarily so. But the proviso at the end of the section reads thus:

That it shall be lawful for the court at any stage of such suit or criminal proceedings to continue the same for good cause shown on motion of the district attorney.

The whole matter by this section in the future is to be left with the district attorney, as it has been in the past.

Now, sir, you start out with this great fact: that substantially the enforcement of this law heretofore has been almost a total failure; in view of the fact that there have been less than twelve convictions where there have been thousands of offenses, you may say a total failure; and yet you leave the machinery for compromising and defeating this system in the same hands in which it has almost totally failed heretofore. Sir, the compromise system is the bane of our revenue system. Let us have no compromise at all. Let us have every case tried through. If you leave that door open at all the great body of offenders will walk out through it. They have done so heretofore, and they will do it again. I want no compromise. If there is an offense committed, let it be tried out. If the man is innocent, let the court say so; if the man is guilty, let the court say so; but when you prepare a door of compromise and leave it open in the law the great body of offenders will march out through it, as they have done heretofore. Are we such Bourbons here that we cannot learn anything by experience? That would seem to be the fact.

Mr. SHERMAN. The only question now before the Senate—and it is rather surprising, after running along almost through the bill, that we should all at once be stopped by such a small pebble—is whether the compromises provided for by this section shall be approved by the solicitor of internal revenue or by the Secretary of the Treasury. That is the only question before the Senate. The general merits of the proposition to allow compromises to be made will come up at a later stage, when it will be open to amendment. I say the question we are to vote upon—no motion to amend is in order at present—is whether we shall make compromises upon the advice and consent of the solicitor of internal revenue or of the Secretary of the Treasury. Now, let us look at that for a moment. The solicitor of internal revenue is an officer of secondary importance, a mere adviser of the Commissioner of Internal Revenue, a mere aid of a bureau officer. There is none now appointed, and the duties of the office are being performed by a clerk. Therefore, to make his opinion a check upon the Commissioner of Internal Revenue would be the same as to say that the Secretary of the Treasury's action must depend upon the opinion of a clerk, because that is the effect of it.

Mr. MORTON. I did not argue that question. I argued against the whole section.

Mr. SHERMAN. I know; but that is not before us at present. That is what I am complaining of. The point before us is quite a different question from the one that has been argued.

Mr. MORTON. I think it is before us.

Mr. SHERMAN. Now we interpose the Secretary of the Treasury, and require his advice and consent to every compromise that is made in every individual case. Under existing law the Secretary of the Treasury has nothing to do with compromises unless his regulations require it. The Senator from Maine says that under the existing regulations they must be submitted to the Secretary; but under the law the Commissioner of Internal Revenue passes finally upon them, subject, however, to

such regulations as may be made. Now we provide that no compromise can be made except with the written assent of the Secretary of the Treasury; and further than that, in order to show that it cannot be done upon insufficient information, we require another officer to file his opinion in writing, setting out certain facts, the basis of the opinion by the Secretary of the Treasury.

It may be said that we ought to make the opinion of the solicitor of internal revenue final. That would not be right. Otherwise, we ought to leave it entirely to him. But with the aid of this written opinion the case is made up, goes to the Commissioner of Internal Revenue, is decided by him, and if his opinion in favor of compromise is approved by the Secretary of the Treasury in that particular case, it is made unless, forsooth, a suit has been commenced. If a suit has been commenced, the bill, as it came to us from the House of Representatives, required the assent, in addition, of the district attorney. In order to avoid the objection to that I intended, at the proper stage of this bill, to move to strike out so much of it as provides for the assent of the district attorney, and to require the assent of the Attorney General. This would make it harmonious. In all matters that arise before suit, the case must be settled by the Commissioner of Internal Revenue with the advice and consent of the Secretary of the Treasury, and upon the opinion in writing of the solicitor of internal revenue. That surely is a sufficient guard. After a suit is commenced I would require all these other aids or checks, and in addition to them the opinion of the Attorney General.

To require the opinion of the Attorney General in advance on matters not brought into court at all would be to burden him with the whole weight of the business of the Commissioner of Internal Revenue. Thousands and tens of thousands of cases arising out of ignorance or mistake or misapprehension or errors on the part of officers come to the Commissioner of Internal Revenue, and are decided as matters of formula. If every one of those cases must be brought before the Secretary of the Treasury or the Attorney General we might as well provide for half a dozen Attorneys General. He could not do it. But when a suit has been commenced and is pending, and a proposition is made to compromise that suit, we may then properly ask for the opinion of the Attorney General. There is, then, a good deal of force in the objection made by the Senator from Indiana that the opinion of the district attorney, who, perhaps, is interested, or who, by possibility, may be corrupt, or who is lazy, indolent, careless, and would rather settle a suit than try it, should not be final. I think it would be very proper there to interpose the opinion or assent of the Attorney General.

Mr. EDMUNDS. Will the Senator permit me to ask him if there is any provision in this bill fixing within what lapse of time after a seizure is made, an information or proceeding shall be filed in court against the property seized?

Mr. SHERMAN. That reminds me of another observation. More than nine cases out of ten are cases where no seizure has been made. For instance, suppose a mistake in the case of the income tax. The question comes before the Commissioner of Internal Revenue whether a certain man has been assessed properly for income. There may be no seizure. There may be no property to seize. The only remedy may be by suit. The Commissioner of Internal Revenue has the case made up before him, and he may say, "it is better on all the facts of the case to take so much money in settlement of this claim than to commence suit."

Mr. EDMUNDS. There may be no seizure in an income case. There the prosecution must be personal.

Mr. SHERMAN. As a matter of course this section applies to all cases, and in the

great body there are no seizures. There are no seizures except in regard to whisky and tobacco. It seems to me the committee have sufficiently guarded this section. If the Senate, upon the second reading of the bill, choose to strike out the whole section, that is another question; but my own judgment is that you cannot administer the collection of the internal revenue without trusting somebody with the power to adjust disputes, and compromise both before and after suit. All the checks and all the guards that may reasonably be suggested to guard against the abuse of this power I am perfectly willing to vote for; but the power itself must be provided for by this bill.

Mr. EDMUNDS. Mr. President, I did not get any answer to my inquiry from the chairman of the committee, who I supposed was familiar with the bill, whether there is any provision in this proposed law for requiring a prosecution, as he calls it, a suit, to be commenced against any property seized within a definite period of time?

Mr. SHERMAN. No, sir. There is a statute of limitations against commencing it after a certain time.

Mr. EDMUNDS. That we understand. That is quite a different thing. The result of it then would be, as the section will stand with this amendment put in, while the power of compromise would be left with the Commissioner of Internal Revenue, with his solicitor and the Secretary of the Treasury indefinite and absolute, there would be no obligation on the part of those officers, or anybody else, ever to commence a suit in the world. They might hang up a seizure, therefore, just as long as they pleased, until the party whose property had been seized could, through the instrumentalities that the Senator from Indiana has so well referred to, bring sufficient influence to bear to produce a compromise.

I do not see any difference in theory or in justice between requiring a check from the Attorney General's office after a libel, if that is the proper term, has been filed or before or after a seizure has been made. If you leave it as it now stands, a case may be hung up indefinitely; and then comes on the party whose property has been seized, who has committed the fraud, with his friends, and gets his member of Congress, or his Senator, to go first to the solicitor, and then to the Commissioner, and then to the Secretary. Failing there, he goes to the fountain-head of all honor and all pardon, the President of the United States; and at last through some of those officials he gets off entirely. That is altogether wrong in my opinion. It has been, as my friend from Indiana has said, the greatest abuse in this country—this matter of compromising these claims before any process is filed in court where parties upon both sides can see exactly what the charge is, and exactly how much the Government would be entitled to have by way of forfeiture or the duplication of the tax, as the case might be made.

In the external revenue service experience has provided a much more satisfactory way. The laws and regulations prescribe that within ten days—I believe that is the number of days—a very short period of time after a seizure is made, a libel shall be filed, so that the judicial officers of the Government, whose bounden duty it is to protect the Government against frauds of this kind, will have their hand upon the prosecution, as well as the mere executive officers of the Government; so that you then have an additional safeguard not only as to the rights of the citizen whose property may have been illegally or improperly seized, but you have a safeguard for the rights of the Government that no private settlement brought about by political favor, personal influence, corruption, bribery, or whatever improper influence may be brought to bear, can be had.

No provision of that kind is made here; and while you give an absolute and indefinite power of compromise and settlement to these mere executive officers, you do not impose upon

them any duty at any time which would be a corresponding check of proceeding against the property in court. The result is that you surrender the whole thing into their hands, and our experience has shown, as the Senator from Indiana has so well said, and I need not repeat it, that it has been the greatest abuse in the way of collecting taxes and the imposition of burdens that this country has ever experienced.

As the Senator from Ohio has said, all this does not necessarily and exactly arise upon this precise amendment; but when we are voting one thing out and another thing in without any explanation, the implication would fairly arise that we were satisfied with what we were voting in and were satisfied to leave it in that condition. I do hope we shall make some change that will impose upon these officers the duty of prosecuting the property in court so that there will be a check upon them, or else that we shall have this check enlarged by referring it to some other department of the Government, like that of the Attorney General.

Mr. WILLIAMS. I wish to inquire of the Senator from Vermont if he understands that in every case of seizure it is necessary to prosecute a suit in court under this act?

Mr. EDMUNDS. I do not know whether it is or not. I know it ought to be. I know the Constitution says a man shall not be deprived of his property without due process of law.

Mr. TRUMBULL. Before the Senator from Oregon goes on, I ask him to allow me to propose a distinct amendment and see if the Senator from Ohio and the committee will not agree to it. Instead of the committee's amendment, I suggest that we take the House section as it is down to the ninth line, and after the word "writing," in the ninth line, insert "and be approved by the Attorney General."

Mr. JOHNSON. How will it read then?

Mr. TRUMBULL. It would read in this wise:

That in all cases arising under the internal revenue laws where, instead of commencing or proceeding with a suit in court, it may appear to the Commissioner of Internal Revenue to be for the interest of the United States to compromise the same, he is empowered and authorized to make such compromise with the advice and consent of the solicitor of internal revenue, whose opinion in the case, with the reasons therefor, shall be given in writing and be approved by the Attorney General and delivered to the Commissioner.

Then before the Commissioner settles the case he would have the opinion of the solicitor of internal revenue approved by the Attorney General.

Mr. SHERMAN. As I said before, I have an amendment on my table already prepared to make the opinion of the Attorney General necessary after suit is brought.

Mr. TRUMBULL. This would not subject the Attorney General to very great labor, because he would not prepare an opinion himself, but would revise and examine the opinion of the solicitor, and would have simply to indorse it "approved."

Mr. SHERMAN. It would subject him to labor that the Attorney General cannot possibly perform. In order to understand this matter, you must take it generally; you have got to examine several laws. It is utterly impossible for him to do it. If the Senator wishes information on the subject, I will try to give it to him. The forty-first section of the internal revenue law, as it now stands, authorizes suits by collectors to collect all taxes and to enforce all fines, penalties, and forfeitures. No suit, however, can be commenced without the sanction of the Commissioner of Internal Revenue. In the great multiplicity of these cases a suit does not grow out of one in a hundred of them. They are decided first by the assessor, whose decision may, by appeal of the interested party, be finally brought to the Commissioner of Internal Revenue. No suit can be brought under the existing law without his sanction. It comes up before him usually, first upon the assessment by the assessor, and then upon the

resistance by the party assessed, and the case comes before him in the light of a judicial officer. Now, the question comes up before him, "Shall I sue?" He decides that in the first place. He says "It is better on the whole for the interests of the Government that this matter should be settled." Under the existing law he can settle it without limitation.

Mr. EDMUNDS. Does that apply to seizures, or only suits for underrating taxation?

Mr. SHERMAN. That applies to all proceedings of every kind and description.

Mr. EDMUNDS. Read that clause.

Mr. SHERMAN. I will read section forty-one of the present law, so that I shall not have to read it in another portion of the argument:

That it shall be the duty of the collectors aforesaid or their deputies, in their respective districts, and they are hereby authorized, to collect all the taxes imposed by law, however the same may be designated, and to prosecute for the recovery of any sum or sums which may be forfeited by law; and all fines, penalties, and forfeitures which may be incurred or imposed by law, shall be sued for and recovered in the name of the United States, in any proper form of action, or by any appropriate form of proceeding, *qui tam* or otherwise, before any circuit or district court of the United States for the district within which said fine, penalty, or forfeiture may have been incurred, or before any other court of competent jurisdiction. And taxes may be sued for and recovered, in the name of the United States, in any proper form of action before any circuit or district court of the United States for the district within which the liability to such tax may have been or shall be incurred, or where the party from whom such tax is due may reside at the time of the commencement of said action. But no such suit shall be commenced unless the Commissioner of Internal Revenue shall authorize or sanction the proceedings: *Provided*, That in case of any suit for penalties or forfeitures brought upon information received from any person, other than a collector, deputy collector, assessor, assistant assessor, revenue agent, or inspector of internal revenue, the United States shall not be subject to any costs of suit, &c.

Mr. EDMUNDS. That is not the question which I wished answered. I am alluding to a case of seizure for a violation of the law by fraud or otherwise, for the forfeiture of the very thing, as the seizure of a distillery of whisky. I wish to ask him if forfeitures of that kind are prosecuted by the collector of internal revenue instead of by the district attorney in court?

Mr. SHERMAN. As a matter of course, when an actual suit is commenced, it is by the district attorney. A seizure is not considered in these proceedings in the light of a suit. Provision is made for proceedings of various kinds before suit is commenced. A seizure is made by an officer, and finally by an appeal the merits of the case on the face of the papers, are brought before the Commissioner of Internal Revenue. He then, for the first time, decides whether he will appeal to the courts to enforce that seizure, or enforce that tax, or that claim, whatever it may be; and he directs it to be done either in one form of action or another. He directs a prosecution in criminal courts; he direct a *qui tam* proceeding; perhaps a seizure, or he directs a suit.

Mr. EDMUNDS. I am speaking of the case of seizure alone for the time being, so that we shall understand each other; whether in a case of seizure of property as forfeited, and which must be proceeded against *in rem*—"the United States against so much property seized for a violation of the revenue laws"—whether a prosecution of that description ought not to go into court, and be controlled by the same principles that relate to seizures for violations of external revenue, where, as the Senator knows, the law has always provided that the prosecution, as he calls it, the suit against it, the libel should be filed within ten, or a certain number of days? That is the point to which I wished to call attention.

Mr. SHERMAN. I have already answered that. As I understand it, it is not necessary at all to go into court to commence a suit or any proceedings in court to enforce a seizure. The officer goes on in pursuance of the authority conferred. He seizes the property and he sells it. He proceeds to act as the executioner of his seizure, to judge and sell the property. As a matter of course the owner of the property has a right by proper proceedings to re-

strain him, and to bring the case into court; but the officer may go on and enforce the sale of the property without any legal proceedings. However, upon complaint, and upon an appeal, in any stage of the proceedings, it comes before the Commissioner of Internal Revenue, and then he determines whether or not he will call to his aid the courts.

Mr. EDMUNDS. Do I understand the Senator from Ohio to say that in a case of seizure for a forfeiture instead of a seizure to enforce the collection of taxes by sale of the property, the collector of the internal revenue tax may dispose of that property finally without a decree of condemnation of a court?

Mr. SHERMAN. I do say so, and I say it has been done, and is done, and is provided for by this bill. The very portion of the bill which has been passed upon provides in case of forfeiture how the sale shall be conducted, the mode and manner of proceeding. As a matter of course any person believing himself injured has a right to appeal to the courts, and so the United States may, on an order of the Commissioner, appeal to the courts.

Mr. EDMUNDS. Then, may I ask my friend, if the United States have the right, under the power of seizure, to sell the forfeited property without any steps of a court at all, what is the object of their ever taking a step in court? Why file a libel if they can sell without a libel? That cannot be the construction of the act. I am very much mistaken—my friend from Ohio will pardon me if I say so—if he is not confusing himself by confounding the case of a seizure of a man's property under a warrant to compel him to pay what he owes, and the seizure of his property for a criminal violation of law which forfeits the property itself. In this last case I am very much mistaken, I repeat, if the law is not, and has not always been, that before the United States can dispose of that property they must file an information or a libel against it in a proper court, and have it tried where the claimant may appear and defend himself, and condemned by the judgment of the law. That is the class of cases that I am alluding to.

Mr. SHERMAN. I do not know that it is necessary for us to pursue the various and devious proceedings of the law; but I have stated to the Senate what I understand to be, and what is daily practiced, the ordinary mode of proceeding in the collection of internal revenue. Either party, the claimant or the United States, through the Commissioner of Internal Revenue, may at any time appeal to the aid of the courts.

Mr. EDMUNDS. What does the Commissioner want of the aid of the courts if he can sell the property?

Mr. SHERMAN. In not one case in a hundred is there property to seize.

Mr. EDMUNDS. I am speaking of the seizure of property.

Mr. SHERMAN. Then he must appeal to the courts, and where a private individual is aggrieved he has a right to appeal to the courts. Either side may appeal. The only question now is whether the solicitor of internal revenue or the Secretary of the Treasury ought to be selected as the advising and consenting officer to a settlement. Whether the Attorney General ought to be added in the multiplied cases that would arise where no suit is to be brought, is for the Senate to decide. I say to impose that duty on the Attorney General where no suit is pending, to pass merely in revision upon the acts of the Commissioner of Internal Revenue in the ordinary discharge of his duty, would be to incur his office with a mass of details totally inconsistent with the discharge of the duties of that high office. Even the amendment that I intend to propose, requiring his assent to the settlement of cases where suits are pending, will impose upon him a mass of labor which, in my judgment, will make it necessary to give him additional assistance more than the law now contemplates.

Mr. MORTON. The law already provided for the initiation of proceedings is very abun-



dant, as read by the Senator from Ohio; and it is so clear that I believe no two Senators agree as to what it means. Mr. President, as was remarked by the Senator from Ohio, there is not much use in discussing this law here. Why?

Mr. SHERMAN. I did not say that.

Mr. MORTON. "In discussing that question here," I understood you to say.

Mr. SHERMAN. I say it belongs to another stage of the bill. We are on the first reading of the bill, and no amendments to it are now in order except the amendments of the Committee on Finance.

Mr. MORTON. Perhaps this discussion is just as proper here as anywhere else; but a discussion as to what this law means is not very important at any time. It is practically a dead letter, and it has been. You might almost as profitably read from Robinson Crusoe or Baron Munchausen. The whole system is a failure. There is the great truth about it—it is a failure.

Now, Mr. President, let me refer once more to the amendment offered by the Senator from Illinois and that suggested by the Senator from Ohio. The Senator from Illinois proposes to throw an additional safeguard around this compromise by having it finally referred to the Attorney General. I will take the case of a compromise of an offense in a case where suit has not been commenced. The parties come before the Commissioner of Internal Revenue and the Secretary of the Treasury, or the solicitor of internal revenue, as the case may be. They present an *ex parte* statement, one that is very strong on their side and not on the other. They succeed in getting a compromise with the Commissioner of Internal Revenue, and the solicitor of internal revenue, not being any better lawyer, perhaps, and not having half the experience, they make out a case that is all fair on the face of it. It would perhaps satisfy you or me just by reading it; but bear in mind it is an *ex parte* case. They submit that to the Secretary of the Treasury. What time has he to go back to the original sources of information? Here is their paper that is fair on its face. He gives it his assent. Then they take it to the Attorney General, and the same paper, fair and unexceptionable on its face, making out a good case, receives his approval. What time has he to go to Cincinnati or St. Louis, or to send out there and make original examinations about the case? None at all. It is out of his power to do so. He is bound to take the case as it is sent to him.

Therefore I say that the proposition to send the case to him for revision is a mere sham; it is a humbug that amounts to nothing. And thus it is with the whole system. It is an *ex parte* system that is a sham from beginning to end. If you do not believe it, I ask you again how it has worked? Just go back to your experience of nearly five years and ask yourself how it has worked. If men will not learn from experience they cannot learn from any source. How has it worked? As it has worked in the past so it will work in the future. And yet, sir, here we are about to reenact the same old folly, the same system which has led to the great loss the Government has sustained and the almost universal escape of these great criminals, some of whom, perhaps, are now, or very often are, sitting in our galleries, the finest gentlemen about the city, who have robbed the Government of millions and yet have gone harmless from the law. They have suffered no penalty but that of a compromise, and we are reenacting the same thing right over again.

Sir, if they can cheat the Government out of two dollars on the gallon they can cheat it out of fifty cents on the gallon on the same system. The temptation is not quite so great; but they have now learned the business; all the processes have been studied out. It is not half the trouble now to get up a fraud that it was three years ago, because they know how to do it. It is a trade; and it will pay them just as well to get up a fraud now on fifty

cents a gallon as it did three or four years ago on two dollars a gallon, and they can do it just as easily. And here they find us coming in, constructing a great big door of compromise, through which they can travel without jostling each other, as they have done in times past.

Mr. MORRILL, of Vermont. Mr. President, I am as much in favor of closing the door against compromises as any Senator possibly can be; but it is indispensable that some party here in Washington should have the power of making compromises. As long as human nature is no purer than it is at the present day, there must be somebody to protect the honest tax-payer, or he will inevitably suffer if this power is not given. For instance, suppose that one of the officers either ignorantly or maliciously shall seize and confiscate the property of a tax payer; if it is ignorantly done, say that it is a mere mistake of figures; if it is maliciously, it is done for the purpose, say, of black-mail, of levying a contribution, or something of that kind. When this comes to the knowledge of the officers here in Washington there ought to be somewhere a power lodged for compromise.

But allow me to say to Senators who were so earnest on this subject that all the fault is not here at the office of the Commissioner of Internal Revenue. We have had positively no convictions in the last six months—

Mr. MORTON. Allow me to correct my friend from Vermont. I do not mean to say that the fault is here. I said last winter, and I say now, that the great power lodged in the hands of district attorneys has been fatal to prosecutions, because there have been no prosecutions.

Mr. MORRILL, of Vermont. The fault has been chiefly with the district courts. We have several district judges who have so charged that it was impossible that any jury should convict, and we have had in some places jurors who were in the interest of the "whisky ring" and would not convict.

There is another reason. Congress itself is not entirely exempt from blame. The district attorneys are not paid sufficiently to attend to these numberless cases. They are paid in some instances not more than their mere traveling expenses, so that they are no better off for attending to the cases than they would be if they stayed at home; and in some instances I am told that they cannot attend to the cases and pay their board and traveling expenses without absolute loss. These things ought to be remedied by Congress.

All that I rose for, Mr. President, was to protest against the idea which seemed to prevail from the current of the debate that there was great wrong and corruption here at Washington in relation to the compromise of cases. I do not believe it. There may be some errors, some blunders, some mistakes, and I am quite ready to go for a restriction of the rule; but it ought to remain there to some, at least to a moderate extent. If we find the courts all over the country, as they have done for the past six months in New York and in Richmond and in one other place, so charging the juries as to produce conviction, we shall have no trouble in executing the laws and collecting the revenue; but until we can do that, of course we shall fail.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Finance to section one hundred and one.

The amendment was agreed to.

The next amendment was, in lines eight, nine, and ten of the section, to strike out the words "whose opinion in the case, with the reasons therefor, shall be given in writing and delivered to the Commissioner."

The amendment was agreed to.

The next amendment was in line twelve of the section, after the word "solicitor," to insert "of internal revenue."

The amendment was agreed to.

Mr. SHERMAN. I am directed by the Com-

mittee on Finance to propose to strike out the words "the district attorney," in the twentieth line of section one hundred and one, and all the words to the end of the section, and insert in lieu thereof "the Attorney General," so that in cases where suits have been commenced and are pending the assent of the Attorney General shall be required to a compromise.

Mr. WILLIAMS. I think that amendment is objectionable notwithstanding it comes from the chairman of the Committee on Finance. I did not know that the committee had agreed to any such amendment. It seems to me that the district attorney is the person who must necessarily have personal knowledge of the transaction, and he ought to be required to recommend a discontinuance of a prosecution before it is discontinued or compromised by the Commissioner of Internal Revenue. The Attorney General has no knowledge of the subject at all, and can have none whatever except what he derives from other officers. The Commissioner of Internal Revenue has no knowledge on the subject except what he derives from others; and so of the Secretary of the Treasury. These officers here in Washington who are required to act, must necessarily derive their information from the officers in the district where the suit is pending. I would not object to an amendment requiring the consent of the Attorney General, also, in addition to the district attorney; but to strike out the district attorney and substitute the Attorney General it seems to me would be rather unwise.

Mr. SHERMAN. I am not authorized by the committee to accept such an amendment, but I have no objection personally to requiring the district attorney as well as the Attorney General. My own opinion is, however, that a district attorney ought not to have anything to do with the settlement of cases. He is an interested party. His fees are somewhat contingent on the number of cases he tries. As a matter of course the Attorney General would not consent to the settlement of cases without some information from the district attorney, and I would rather just throw the responsibility where suits are pending on the Attorney General. The preceding part of the section provides that the Commissioner of Internal Revenue must go through all these matters and make an arrangement, if that is deemed better than a suit; and then it goes on to provide in addition that the assent of the district attorney must be had to a compromise in cases where suits are pending. The district attorneys are sometimes men upon whom we can not place entire reliability, and they are somewhat interested. They may have acquaintances who are interested. Their friends may be the parties implicated. Now, the Attorney General is a responsible officer here, and he would act probably on information derived from the district attorney. I am disposed, therefore, to require his sanction as the chief of the law department. I agree with the logic of the Senator from Illinois so far as suits are concerned, but I would not burden him with the matter before suits are brought. It is, however, for the Senate to say.

Mr. HOWARD. I hope the amendment will be reported.

The CHIEF CLERK. It is proposed in section one hundred and one to strike out, in lines twenty, twenty-one, twenty-two, and twenty-three, the words "district attorney for the judicial district in which the suit or proceeding is pending, or of such other counsel as may be employed to conduct or prosecute the same on the part of the United States," and in lieu thereof to insert "Attorney General."

Mr. CORBETT. I have drawn up an amendment which I suppose is not in order at this time, but I may state it for the information of the Senate. I am opposed to striking out the district attorney, but I propose, after the word "pending," in line twenty-one, to insert "and his statement under oath that in his opinion said case cannot be maintained in court."

Mr. HOWARD. Most of the cases that are

compromised must, of course, rest on the mere facts of the case rather than upon the law; and I do not see what additional security the Government gets from consulting the Attorney General. I do not think we shall derive any advantage at all from such a provision, for the very reason that as the case must depend on the facts which are not within his knowledge, his recommendation would amount to very little indeed. The great difficulty is to make some provision for the settlement of cases of controversies as they happen to arise before they are brought into court. I think that a very dangerous practice. It cannot be denied that it will necessarily open the door to great temptation and to frequent frauds on the part of the officers of the Government, for it is in effect almost holding out an invitation to persons engaged in the administration of this law to get up cases against parties for the very purpose of compromising them and making something out of them and putting it into their own pockets.

I do not say that it is convenient, or even possible, perhaps, to frame a law which shall be entirely free from such an objectionable provision; but I think we ought to be very strict about it, and to give no more discretionary authority to officers of the Government than is absolutely necessary. Where the line is to be drawn I really am not able myself to see just at this time; but I am clear in one thing, that I would not impose on the Attorney General this additional burden contemplated by this amendment of the Senator from Ohio. He cannot look into the subject as it ought to be examined because he has not the means of ascertaining the facts of the case. Where do the facts come from? Where is the original proof, the original evidence upon which a compromise is to be made? It is presented in the first instance ordinarily by the officers of the revenue to the district attorney. The district attorney is first informed by the informers what the facts are in regard to a particular case. He derives his information from them; and if afterward he undertakes to make any recommendation in the case, his recommendation must of course rest entirely on the veracity and reliability of his informers. These informers in many cases, not to say in most cases, we all know to be men upon whose veracity the world is not very generally willing to rely.

I think myself, if it were practicable, it would be safer for the Government in all cases to permit no compromise unless a suit had been actually brought in court and the pleadings put in, and something like the facts of the case developed before the public. After that, if the case should present peculiar grounds of hardship to the accused, so frame your bill that the facts may be made public, may be made known, and somebody held responsible for the compromise made.

As a question of principle, Mr. President, I certainly should be in favor of such a provision, and in favor of excluding from the law this discretionary authority to settle controversies before they have been brought into court. There is the point of difficulty in this whole case, that it is to be done privately, secretly, when the eyes of the world are not upon it, when it is impossible for the public really, in most cases I mean, to ascertain what the real nature of the case is.

Mr. JOHNSON. Mr. President, the Senate has passed at this session—I am not sure whether the House of Representatives have concurred in it or not—a bill abolishing the solicitors of the Court of Claims and providing for the appointment of two Assistant Attorneys General, and casting upon these officers the duty of attending to suits in that court. It is very doubtful whether those two can properly discharge that duty, for there are some thousand or more of cases in that court; and the result of the measure will be to leave the Attorney General alone to attend to the business proper of his office as it exists under present laws, which is to give opinions to all the heads of Departments that may from time

to time request opinions of him, and to the President, and to try all the Government cases that may be in the Supreme Court either by appeal from the decisions of the Court of Claims or from the several circuits.

It is very obvious that duties so extensive as these can be of themselves hardly adequately discharged by any one man. They require not only a high order of ability and great professional knowledge, but they require the greatest possible industry; they will take up nearly all the time any man can devote to them. Now, it is proposed by this bill to cast upon him duties that will very seriously increase his labors, and duties which I think he is very unfit to discharge. He cannot know except through the district attorney of the district where the case may be pending, or through the Commissioner of Internal Revenue, what the facts of each case are; and when he is called upon to decide on statements made by those officers, either individually or conjointly, it will very often happen that whether he is to dismiss the suit or not will depend upon how he may view the facts in each case. Sometimes it may depend upon his opinion of the law. In the execution of this internal revenue bill, I can imagine that hundreds and hundreds of cases will be sent to him almost monthly that it will be impossible for him properly to attend to; and the result will be, unless he declines altogether for want of time, if he attends to them all, that he will take the statement of the district attorney or the Commissioner of Internal Revenue.

It is true, as stated by my friend from Indiana, as I believe, that one of the difficulties which we have had in connection with the revenue under this particular tax has been a want of integrity on the part of some of the subordinate officers, and perhaps that want of integrity may have been found in some of the district attorneys. We cannot expect to find integrity in all the multitude of officers the United States have. That would be almost a chimerical hope. But we must trust the officers; and the only safeguard that we have against suffering from their want of integrity is to be found, I think, in punishing them criminally. Make it a criminal offense for a district attorney to settle a case wrongfully, and knowing that it is wrongful, and he will, perhaps, very seldom be found to commit that wrong.

But what I rose for was merely for the purpose of saying that the bill, by the amendment proposed by the honorable chairman in behalf of the committee, will so add to the labors of the Attorney General that it will be impossible for him properly to discharge them.

The amendment was agreed to.

The Committee on Finance proposed to amend the bill by striking out sections one hundred and two and one hundred and three, which are as follows:

#### *Banks and Bankers.*

SEC. 102. *And be it further enacted,* That there shall be levied, collected, and paid a tax of one twelfth of one per cent, each month upon the average amount of the deposits of money, other than public money of the United States, subject to payment by check or draft, or represented by certificates of deposit or otherwise, whether payable on demand or at some future day, with any person, bank, association, company, or corporation engaged in the business of banking, and a tax of one fourth of one per cent, each month on the average amount of all deposits of public money in their possession to the credit of the Treasurer or any disbursing officer of the United States; and a tax of one twenty-fourth of one per cent, each month, as aforesaid, upon the capital of any bank, association, company, or corporation engaged in the business of banking, and on the capital employed by any person in the business of banking, beyond the average amount invested in United States bonds; and a tax of one sixth of one per cent, each month upon the average amount of circulation issued by any bank, association, corporation, company, or person, including as circulation all certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the vault of the bank, or redeemed and on deposit for said bank. And a true and accurate return of the amount of circulation, of deposit, and of capital, as aforesaid, and of the amount of notes of persons, State banks and State banking associations, and of States, cities, towns, or other municipal corporations, paid out by them for the previous month, shall be made and rendered monthly by each of them to the assessor of the district in which such bank, associa-

tion, corporation, or company may be located, or in which such person has his place of business, with a declaration annexed thereto, verified by the oath or affirmation of such person, or of the president or cashier of such bank, association, corporation, or company in such form and manner as may be prescribed by the Commissioner of Internal Revenue. And for any refusal or neglect to make or to render such return and pay the tax, any such bank, association, corporation, company, or person, so in default shall be subject to and pay a penalty of \$200, besides the additional penalty and forfeiture in such other cases provided by law; and in default of such return the several amounts subject to tax shall be estimated by the assessor, or assistant assessor, on the best information he can obtain. And in the case of banks with branches, each branch shall make a separate return, and the tax shall be assessed on each severally. And so much of the forty-first section of the act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, approved June 3, 1864, as imposes a tax on the banks organized under that act, and requires returns to be made to the Treasurer of the United States, be, and is hereby, repealed: *Provided,* That the deposits in associations or companies known as provident institutions, savings-banks, savings funds, or savings institutions, having no capital stock and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the association or company, shall be exempt from tax on so much of their deposits as they have invested in securities of the United States, and on all deposits less than \$500 made in the name of any one person; and the returns required to be made by such provident institutions and savings banks shall be made on the first Monday of January and July of each year, in such form and manner as may be prescribed by the Commissioner of Internal Revenue.

SEC. 103. *And be it further enacted,* That every national banking association, State bank, or State banking association, corporation, company, or person engaged in the business of banking, shall pay a tax of ten per cent, on the amount of notes of any person, State bank, or State banking association, or of any State, town, city, or other municipal corporation, used for circulation and paid out by them, and such tax shall be assessed and paid in such manner as shall be prescribed by law, and by the Commissioner of Internal Revenue: *Provided,* That this section shall not apply to banks, persons, or institutions which are in liquidation and which have not issued any notes for circulation for a period of more than one year.

The amendment was agreed to.

Section one hundred and four, now become one hundred and two, to which no amendment was proposed, was read, as follows:

SEC. [104] 102. *And be it further enacted,* That when any tax is imposed, and the mode or time of assessment or collection is not provided for, the same shall be established by regulation of the Commissioner of Internal Revenue; and the Commissioner is authorized to make all such regulations, not otherwise provided for, as may become necessary by reason of any change of law in relation to internal revenue made by this act.

Section [one hundred and five] one hundred and three was next read, as follows:

SEC. [105] 103. *And be it further enacted,* That where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the word "person," as used in this act, shall be construed to mean and include a firm, partnership, association, company, or corporation, as well as a natural person; and words of the masculine gender, as applied to persons, to mean and include the feminine gender; and the singular number to mean and include the plural number; and the word "State" to mean and include a Territory and District of Columbia; and the word "county" to mean and include parish, district, or other equivalent territorial subdivision of a State.

Section [one hundred and six] one hundred and four was next read, as follows:

SEC. [106] 104. *And be it further enacted,* That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed: *Provided,* That all the provisions of said acts shall be in force for levying and collecting all taxes properly assessed or liable to be assessed, or accruing under the provisions of former acts, the right to which has already accrued or may hereafter accrue under said acts, and for maintaining and continuing liens, fines, penalties, and forfeitures incurred under and by virtue thereof. And for carrying out and completing all proceedings which have been already commenced or that may be commenced to enforce such fines, penalties, and forfeitures, or criminal proceedings under said acts, and for the punishment of crimes of which any party shall be or has been found guilty: *And provided further,* That an office created by the said acts and continued by this act shall be vacated by reason of any provisions herein contained, but the officers heretofore appointed shall continue to hold the said offices without reappointment until their successors, or other officers to perform their duties, respectively, shall be appointed as provided in this act: *And provided further,* That whenever the duty imposed by any existing law shall cease in consequence of any limitation therein contained before the respective provisions of this act shall take effect, the same duty or tax shall be, and is hereby, continued until such provisions of this act shall take effect; and where any act

is hereby repealed, no duty or tax imposed thereby shall be held to cease in consequence of such repeal, until the respective corresponding provisions of this act shall take effect.

Mr. SHERMAN. I move to amend that section by striking out the word "and" before "continuing," in the eighth line, and by inserting after the word "continuing" the words "and enforcing."

The amendment was agreed to.

Mr. SHERMAN. I move further to amend the section by striking out lines ten, eleven, twelve, thirteen, and fourteen, as follows:

And for carrying out and completing all proceedings which have been already commenced or that may be commenced to enforce such fines, penalties, and forfeitures, or criminal proceedings under said acts, and for the punishment of crimes of which any party shall be or has been found guilty.

And inserting in lieu thereof:

But this act shall not be construed to affect any act done, right accrued, or penalty incurred under former acts and every such right is hereby saved; and all suits and prosecutions for acts already done in violation of any former act or acts of Congress relating to the subjects embraced in this act may be commenced and proceeded with in like manner as if this act had not been passed.

The amendment was agreed to.

The Chief Clerk read the following amendment reported by the Committee on Finance, to be added to the bill as section one hundred and five:

SEC. 105. *And be it further enacted*, That in any case where there has been a refusal or neglect to pay any tax imposed by the internal revenue laws, and where it is lawful and has become necessary to seize and sell real estate to satisfy the tax, the Commissioner of Internal Revenue may, if he deems it expedient, direct that a bill in chancery be filed, in a district or circuit court of the United States, to enforce the lien of the United States for tax upon any real estate, or to subject any real estate owned by the delinquent, or in which he has any right, title, or interest, to the payment of such tax. And all persons having liens upon the real estate sought to be subjected to the payment of any tax as aforesaid, or claiming any ownership or interest therein, shall be made parties to such proceedings, and shall be brought into court as provided in other suits in chancery in said courts. And the said courts shall have, and are hereby given, jurisdiction in all such cases, and shall, at the term next after such time as the parties shall be duly notified of the proceedings, unless otherwise ordered by the court, proceed to adjudicate all matters involved therein, and to pass upon and finally determine the merits of all claims to and liens upon the real estate in question, and shall, in all cases where a claim or interest of the United States therein shall be established, decree a sale, by the proper officer of the court, of such real estate, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States.

The amendment was agreed to.

The next amendment was to insert:

SEC. 106. *And be it further enacted*, That the internal revenue laws imposing taxes on distilled spirits, fermented liquors, tobacco, snuff, and cigars, shall be held and construed to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same shall be within a collection district or not.

The amendment was agreed to.

Mr. SHERMAN. I have several amendments to propose now, mostly of a verbal character that are not printed. In line five of section three, on page 4, I move to strike out the word "or" before "starch," and after "starch" to insert "molasses."

The amendment was agreed to.

Mr. SHERMAN. On page 9, after the word "business," in line three of section seven, I move to insert "after the passage of this act and on the 1st day of May of each succeeding year."

The amendment was agreed to.

Mr. SHERMAN. On page 11, in line thirty-four of section eight, before the word "conditioned," I move to insert "such bonds shall be."

The amendment was agreed to.

Mr. SHERMAN. In line twelve of section seven, line ten of section eight, and line thirty-seven of section eight, I move in each case to strike out the words "this act" and insert "law."

The amendment was agreed to.

Mr. SHERMAN. On page 13, I move to strike out all of section ten after the word

"provided," in line twenty. The words to be stricken out are:

And, in like manner and under like restrictions and provisions, there shall be ascertained, recorded, and reported, the capacity of every establishment now existing, or that may be hereafter commenced, for redistilling distilled spirits.

The amendment was agreed to.

Mr. SHERMAN. On page 15, after the words "carried on," in line nine of section twelve, I move to insert "nor within six hundred feet from premises authorized to be used for rectifying."

The amendment was agreed to.

Mr. SHERMAN. On page 19, before the word "spirits," in line eighteen of section sixteen, I move to insert "low wines or."

The amendment was agreed to.

Mr. SHERMAN. After the word "condenser," in the next line, I move to insert, "back to the still or doubler, or forward."

The amendment was agreed to.

Mr. SHERMAN. On page 30, section twenty-three, I move to strike out, in lines four and five, the words, "and shall be immediately removed into the distillery warehouse;" at the end of line five to strike out the word "and;" and after the word "proved," in line six, to insert "and marked," so as to make the section read:

That all distilled spirits shall be drawn from the receiving cisterns into casks, each of not less capacity than twenty gallons wine measure, and shall thereupon be gauged, proved, and marked by an internal revenue gauger, &c.

The amendment was agreed to.

Mr. SHERMAN. In line ten of the same section, after the word "shall," I move to insert "be immediately removed into the distillery warehouse, and the gauger shall."

The amendment was agreed to.

Mr. SHERMAN. On page 39, in lines nineteen and twenty of section twenty-eight, I move to strike out the words "on all money accounted for by him for tax collected on distilled spirits."

The amendment was agreed to.

Mr. SHERMAN. On page 49, in line two of section forty-two, after the word "distillery," I move to insert "nor distilling apparatus."

The amendment was agreed to.

Mr. SHERMAN. On page 56, in line twenty of section forty-eight, I move to insert the words "and sold," after "manufactured;" and in the same line, after the words "put up," to insert "and sold."

The amendment was agreed to.

Mr. SHERMAN. On page 73, at the end of section fifty-five, I propose to insert:

And whenever in the opinion of the Commissioner of Internal Revenue any distillery or other warehouse shall become unsafe or unfit for use, or the merchandise therein shall for any reason be liable to loss or great wastage, the Commissioner may discontinue such warehouse, and require that the merchandise therein shall be transferred to such other warehouse as may be designated by him within such time as he shall prescribe. Such transfer shall be made under the supervision of the collector, or such other officer as may be designated by the Commissioner; and the expense thereof shall be paid by the owner of such merchandise; and if the owner of such merchandise shall fail to make such transfer within the time prescribed, or to pay the just and proper expense of such transfer, as ascertained and determined by the Commissioner, such merchandise may be seized and sold by the collector, in the same manner as goods are sold upon distraint for taxes, and the proceeds of such sale shall be applied to the payment of the tax due thereon and the costs and expense of such sale and removal, and the balance paid over to the owner of such merchandise.

The amendment was agreed to.

Mr. SHERMAN. On page 79 I move to strike out the clause which has been agreed to in regard to retail liquor dealers, and substitute for it the following:

Retail dealers in liquors shall pay twenty-five dollars. Every person who shall sell or offer for sale foreign or domestic spirits, wines, ale, beer, or other malt liquors, and whose annual sales, including the sales of other merchandise, do not exceed twenty-five dollars, shall be regarded as a retail dealer in liquors.

The amendment was agreed to.

Mr. CAMERON. I desire to offer an amend-

ment striking out fifty cents and inserting two dollars as the tax on whisky per gallon.

Mr. SHERMAN. I am not quite through with the amendments of the Finance Committee.

Mr. CAMERON. Then I give way for the present.

Mr. SHERMAN. On page 85, in lines seven and eight of section sixty-one, I move to strike out the words "except snuff, which may, at the option of the manufacturers, be put up" and insert "or."

The amendment was agreed to.

Mr. SHERMAN. In line seventeen of section sixty-one, on page 86, I move to strike out "can be" and insert "has."

The amendment was agreed to.

Mr. SHERMAN. In lines six and seven of section sixty-seven, on page 93, I move to strike out the words, "the manufacturer's name and."

The amendment was agreed to.

Mr. SHERMAN. In section eighty-nine, line four, page 114, I move to strike out "conclusive" before "evidence" and insert "*prima facie*."

The amendment was agreed to.

Mr. SHERMAN. I offer an amendment now to come in at the end of the bill:

*And be it further enacted*, That all provisions of this act which requires any use of revenue stamps for denoting the tax thereby imposed, shall take effect at the end of sixty days from the passage of this act: *Provided*, That if at any time prior to the expiration of the said sixty days it shall be shown to the satisfaction of the Secretary of the Treasury that a longer delay is necessary for the preparation and due delivery of any such stamps, he shall be authorized to fix a day not later than the 1st day of December next for putting said provisions, relative to the use of either of such stamps into operation, and shall give public notice of the day so fixed and determined upon, which day shall then be held and taken to be the time when that portion of this act which requires the use of revenue stamps for denoting the tax thereby imposed, shall have effect.

The amendment was agreed to.

Mr. SHERMAN. Now, I believe, all the amendments of the committee have been acted on except those on pages 59 and 60 to section fifty, which were passed over informally last night. I ask that they be acted on.

The PRESIDENT *pro tempore*. The amendments to the fiftieth section which were passed over will now be considered.

The CHIEF CLERK. The Committee on Finance propose to insert as part of section fifty before the word "that:"

That the Commissioner of Internal Revenue shall have power, whenever in his judgment the necessities of the service may require, to employ competent persons, not exceeding fifty in number at any one time, whose term of service shall continue at the pleasure of the Commissioner of Internal Revenue, who shall perform such duties and at such places as may be required of them by the Commissioner of Internal Revenue, at a rate of compensation to be determined by the said Commissioner before the commencement of his employment.

Mr. FESSENDEN. I have been looking at that amendment and the other amendments in that section, and my opinion is that to adopt the amendment will be injurious. It is a change from the provision made by the House of Representatives, which, I think, is much better. To understand it you will have to look back a little. The House provided in the preceding section, on page 57:

That the Secretary of the Treasury, on the recommendation of the Commissioner of Internal Revenue, shall appoint one officer for each United States judicial district to be called a supervisor of internal revenue on distilled spirits and tobacco, whose duty it shall be to reside in such district and keep his office, &c.

The Committee on Finance have changed that, and I think have changed that section for the better. Instead of confining it to supervisors of distilled spirits and tobacco in each judicial district, they have provided for the appointment of a specified number of general supervisors of internal revenue. It is quite obvious that you do not want a supervisor of distilled spirits and tobacco in every judicial district, for there are many judicial districts in the United States where no spirits are distilled, and no tobacco grown. Therefore that pro-



vision has been very well changed to provide for the appointment of a specific number, not exceeding twenty. You want as many as may be needed for the districts in which spirits are distilled and tobacco is grown and manufactured; and if twenty are enough—upon that I give no opinion—I am willing to agree to it, and make them general supervisors, though the object is undoubtedly to supervise those particular manufactures.

Then it will be observed, and I call the attention of the chairman of the committee to the provision, that they afterward dispense with general agents in the section which is now under consideration, but they do retain the local inspectors. In conversation with the honorable chairman he thought it was not the intention to retain the local inspectors, but by looking at the preceding section he will see that it was the intention to retain them, because if you look on page 59 you will see that in speaking of the power of the supervisor of internal revenue, it is said:

"He shall have power to transfer any inspector, gauger, or storekeeper, from one distillery or other place of duty to another, or from one collection district to another within his district, and may by notice in writing suspend from duty any inspector, gauger, or storekeeper."

And then in the succeeding section they abolish the Treasury agents, special and general, but say nothing about inspectors. Now, the Committee on Finance have provided for another class of officers, who are in fact general agents, and authorize the Commissioner of Internal Revenue, "whenever in his judgment the necessities of the service may require them, to employ competent persons, not exceeding fifty in number at any one time, whose term of service shall continue at the pleasure of the Commissioner;" and then they strike out all the district inspectors, by adding the words:

"That from and after the passage of this act no general or special agent, by whatever name or designation he may be known, of the Treasury Department in connection with the internal revenue, and no district inspectors, except as provided for in this act, shall be appointed, &c."

It may be very well to substitute gangers and inspectors and supervisors in districts where tobacco is raised and manufactured, where those officers may be needed; and perhaps a small number of general supervisors all through may be useful; but in other districts, in my judgment, you cannot dispense, and it was not the intention of the House of Representatives evidently to dispense with the local inspectors altogether. The number of them has always been within the control of the Secretary of the Treasury. The Secretary by this new provision will undoubtedly be relieved of the necessity of appointing a great number of them; but if Senators will think a moment they will see that the information gained by local inspectors, which they have of the business of their immediate neighborhood, of the property of men, of the income of men and the business which they do, is absolutely essential to the collection of the revenue, more especially that part of it which arises from the income tax.

I cannot give a better example of it than my own State. We distill no liquor there; we raise no tobacco there. The revenue, such as there is, is derived from other sources. Of what use in the world for looking up the sources of revenue there would be these agents, of whom there may be fifty, who are to be sent wherever the Commissioner may want to send them? He will only send them in cases where he fears there may be fraud. They will not be on the spot, will not have the power to know what the property of men is, or the income of men, or the business of men that produces income. You want local knowledge on these points.

I think it vastly better, therefore, and it will work a great deal better, to leave the provision as the House of Representatives had it, and rely upon your storekeepers and gaugers and supervisors with reference to the two great sources of revenue, spirits and tobacco. But

when you come to all the other matters, and especially in districts where there are no spirits and tobacco manufactured, you must have the local knowledge of this set of men, because you see that if you strike down the inspectors you have no local agents except the collectors and assessors and their assistants, who have duties of their own to attend to, and they will not do and never have done this particular kind of business, and that is the reason why inspectors have been found necessary more or less in all the States. There has never been but two in the State of Maine, and they have been found sufficient. I suppose there has not been more than one in the State of New Hampshire and one in the State of Vermont, though perhaps there may be two in each of those States. You want the local knowledge of such men and the bestowal of their time upon ascertaining what the revenue ought to be.

For the reasons I have stated I do not think that the substitution of these fifty agents who may be sent away to distant places from time to time, as the Commissioner may see fit to send them, will be of any essential service. I have seen that done in other cases. After a fraud has been committed an agent is sent to look it up and settle it, but that is after the thing takes place. An agent of that kind cannot look after the things of which I have been speaking. If you are to provide for such agents, you had better have a smaller number and leave the local inspectors to be appointed in such districts as the Secretary of the Treasury or the Commissioner of Internal Revenue, no matter which, shall think necessary. Otherwise my judgment is that you will lose a great deal of your revenue, especially that revenue which is derived from incomes.

I hope, therefore, that this amendment will not be adopted, but that the section will be left substantially as it was passed by the other House originally. I think it will work much better and produce a better effect. I am told that the Commissioner of Internal Revenue favors this view of the case, and I think, unless he has changed his opinion entirely from what he said to me, he would be opposed to striking out all provision for local inspectors, and the Senator from Ohio will see by looking at the latter part of the previous section that that was not the design of the House. I hope that this amendment will not be adopted, or, at any rate, if it is, that the number provided for will be cut down, and the local inspectors left wherever the Commissioner may see fit to appoint them, as there are some places where they will be absolutely needed.

Mr. SHERMAN. I hope the Senators present will give me their attention for a few minutes while I state the reasons that actuated the committee, and then they can decide as to the best class of officers to be employed for the detective service. The existing law provides for detective service, for revenue agents, special agents, and revenue inspectors. The duties of inspectors are defined by existing law, and the provision in regard to them is:

"That the Secretary of the Treasury may appoint inspectors in any assessment district where in his judgment it may be necessary for the enforcement of internal revenue laws or the detection of frauds, and such inspectors and revenue agents aforesaid shall be subject to the rules and regulations of the said Secretary, and have all the powers conferred upon any other officers of internal revenue in making any examination of persons, books, and premises which may be necessary in the discharge of the duties of their office. And the compensation of such inspectors shall be fixed and paid for such time as they may be actually employed, not exceeding four dollars per day and their just and proper traveling expenses."

They are local officers appointed for detective service only; they have no powers except simply for the detection of frauds and look after the observance of the revenue laws. The House of Representatives, by section forty-eight of the bill, undertook, as we supposed, to strike out all detective officers and special agents. The Commissioner of Internal Revenue had the impression, and so stated to the committee, that the section repealed all authority to employ district inspectors; but on exam-

ining the law, I am satisfied, as the Senator from Maine is, that it did not do that, that it abolished the special and general agents, but left the district inspectors. The question was then with the committee whether we should continue these local officers in their offices or whether we should provide some other mode of detecting frauds; and that is the question presented to the Senate.

After consideration we thought it better to give to the Commissioner of Internal Revenue authority to employ temporarily, from time to time, upon compensation to be fixed by him, dependent on the character of the service, contingent or absolute, a certain number of inspectors or detectives, because they are detectives, with authority to send them from Washington wherever he might have reason to believe a fraud had been committed. For instance, there is a famous detective in the city of Chicago who it is believed can pursue any kind of fraud or allegation of fraud until he solves the riddle; and it is said that no one can avoid his detective power. It is important sometimes for the Commissioner of Internal Revenue to have it in his power to employ persons of that kind, men of great experience, to whom large pay has to be given; sometimes, perhaps, contingent pay. It was thought better to entrust him with this power to employ temporary service, even if it costs more, in order to follow out threads of fraud which may be in his possession from other officers. These inspectors are merely local officers; they, perhaps, have their affinities, their likes and dislikes in the district. They may not have the general knowledge and information required for this service, and at four dollars a day they are not likely to have. Their pay is too small to secure the character of service needed, and we propose to give to the Commissioner of Internal Revenue power to secure the service he needs.

The Senator may be correct in supposing that it is proper to give him a certain number of district inspectors, and the amendments are in such shape that the Senate can divide them; but I consider it vital to give the Commissioner of Internal Revenue power to employ the kind of service he needs. The present Commissioner will go out soon; but whoever is at the head of the office should have power to employ the best detective talent in the United States of America for the time being to follow up any frauds that are alleged.

When we reached this section last night the Senator from Illinois [Mr. TRUMBULL] and the Senator from Vermont [Mr. EDMUNDS] admitted the importance of this service, admitted that fifty was not an unreasonable number, admitted that the mode and character of employment here proposed was advisable, but they said they were troubled with a constitutional difficulty; that as the Constitution conferred the power of appointment of inferior officers upon the President, the heads of Departments, or the courts of law, according to the discretion of Congress, these persons could not be employed temporarily by the Commissioner of Internal Revenue because the employment is not by the President, the head of a Department, or a court of law. I did not think there was anything in that suggestion, and I do not now. There are more than a dozen officers who are neither heads of Departments nor courts of law who are now authorized to employ persons in just such language as is used here. The Superintendent of the Government Printing Office employs a whole army of people and fixes their pay almost without any limitation, or with only a general limitation. In the navy-yards hundreds of people are employed every day on indefinite pay, not by the head of a Department, but by a master workman, an inferior grade of officer. The officer in charge of the public buildings and grounds in this city employs great numbers of persons. So of the architect of the Treasury extension. I thought over this morning of more than a dozen officers who now exercise the power, according to law, of employing and

discharging people and fixing their pay; so that I think there is no constitutional difficulty.

Mr. FESSENDEN. None at all. This is nothing but an employment, not an office.

Mr. SHERMAN. So I said last night; but these learned lawyers thought there was some grave constitutional question. I think reflection must convince anybody that the power to employ persons temporarily in the discharge of the duties devolved on an officer may be confided to that officer, and it is not necessary to have those persons appointed by the President and Senate, or by the President alone, or by the head of a Department, or by a court of law.

If there is no constitutional objection to conferring this power upon the Commissioner of Internal Revenue, there are many reasons why it ought to be conferred upon him, and not upon the Secretary of the Treasury. The Commissioner of Internal Revenue is charged with the important duty of enforcing the revenue laws; the power of the Secretary is simply supervisory. It may be vitally important to give the Commissioner of Internal Revenue power to detect offenders, even without the knowledge of the Secretary of the Treasury. The Secretary of the Treasury is a political officer, more or less affected by political influences, and disposed to appoint persons to office for political reasons. If a detective applied to the Secretary of the Treasury for office, he would have to show that his political opinions were those of that great officer in position at the time. In order to make his application to the Secretary, he would have to be right on political issues. But if the Commissioner of Internal Revenue, having a suspicion of fraud or collusion in any collection district, or desiring to watch the conduct of any subordinate, was at liberty, without consulting any one, to just say to Mr. Pinkerton or any one else, "You go and follow out this suspicion of mine; see whether there is any ground for it; do whatever is necessary to detect it, and I will pay you a liberal compensation dependent on the character of the service," it might be of great advantage to the Government.

That power ought to be exercised, and it seems to me that the number of these employes is not too great under all the circumstances. Still, if the Senate think fifty are too many at any one time, they can reduce the number. Even if the Senate think it important to keep these revenue inspectors in certain districts they ought to furnish the Commissioner of Internal Revenue with these agents to follow up the system that is proposed by this section. At present the Commissioner of Internal Revenue has not a single officer having his entire confidence, whom he can appoint and set to work in the discharge of this duty. The special agents and revenue agents are not appointed by him, but are appointed upon political influence. There are now three or four hundred of them scattered over this country that do not do much else than attend to politics. This bill wipes them out, dispenses with them entirely. By another law the number of general revenue agents was entirely unlimited, but by this bill they are abolished. Not one of these persons can now be called upon by the Commissioner of Internal Revenue to perform this important duty, because they are all appointed either for political reasons or for local reasons as local agents.

As this is a divisible amendment, I trust the Senator from Maine will first allow the question to be taken on the first clause.

Mr. FESSENDEN. The Senator has convinced me—in fact I made no opposition to it—of the wisdom of putting it into the power of the Commissioner of Internal Revenue to employ these detectives; but according to his own showing they are only needed on special occasions. When the Commissioner thinks there is necessity to investigate affairs in any one district, he sends an agent he can trust. That is very well; he should have that power; but those things do not occur every day, and therefore it strikes me that the number of fifty at one

time presupposes that there is to be fraud going on continually of an enormous character all over the country, and that he must have a large force of detectives. It strikes me that if he were limited to a less number it would answer the purpose, though of course if you have a good officer he will not use any more than he wants, and so no harm will come by providing for fifty. But the Senator will perceive, and the Senate must see, that these men are only to be used on special occasions to hunt out particular frauds, and they are to be sent from Washington for that purpose. It is well that there should be such a class of officers; but they do not make up for the constant vigilance and supervision of officers who are on the spot. The small leaks are constantly occurring and it needs vigilance and care to guard against them. These detectives can know nothing about them and can find out nothing about them, whereas a vigilant and careful local officer on the spot, looking at the manner in which the collector and assessor perform their duties, and looking up the sources of revenue can render very great service to the Treasury. I speak of that from some little personal knowledge, for I have known of cases where they have been of great value. You get men that are shrewd, men that devote a certain portion of their time to that business, what is necessary, and they get their four dollars a day. You can find shrewd men who are willing to take that, and who do.

Under these circumstances, while I am perfectly willing that as many of these detectives to be at the command of the Commissioner of Internal Revenue as he may need, shall be granted to him, and approve very much of that idea and certainly do not design to make any opposition to it, yet I say, it will not do, unless you mean to leave all chances of small leakages open, not to be looked after, which in the end amount to a great deal, to dispense with the local inspectors; and as I said before, it is quite evident that the House of Representatives did not mean to dispense with them. They perceived the necessity of having them still kept. Undoubtedly the number will be very much diminished, when you have appointed the gaugers and storekeepers and supervisors for whom this bill provides. The probability is that the committee were led to strike them out from the consideration that they were legislating in this bill for nothing except liquor and tobacco. That is nominally so; but by changing the whole phraseology of these sections as the Committee on Finance propose, they dispense with all these other officers who are needed for other things, a separate class entirely. Whatever the Senate may do with the first amendment to the fiftieth section, I hope they will strike out the other, which dispenses entirely with the local inspectors, for I am satisfied that many of them are exceedingly useful and that as a class they are necessary to be kept.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) Does the Senator from Maine ask for a division of the question?

Mr. FESSENDEN. No, sir; the amendment as it stands is an amendment proposed by the committee. I express the hope that it will not be adopted. I had thought of proposing to limit the number; but if the committee say that they are satisfied that even if you keep the local inspectors there ought to be as many as fifty of these agents I will withdraw any opposition and yield my judgment to that of the committee who have examined the subject. My impression is that the Commissioner cannot want as many as fifty at any one time to investigate matters in different parts of the country, because they are to investigate only particular cases for which they are sent.

Mr. SHERMAN. In regard to the number I will say that it was fixed after full conference with Mr. Rollins. He thought fifty might sometimes be useful. Sometimes two or three may have to be sent off on the same errand. As a matter of course they will not be employed unless their services are required.

Mr. FESSENDEN. Very well; I make no objection to the number.

The PRESIDING OFFICER. The question is on the amendment proposed by the Committee on Finance.

Mr. CAMERON. Mr. President, I have a few words to say in regard to this bill.

Mr. FESSENDEN. I ask the Senator if he will not let us dispose of this section.

Mr. CAMERON. I would rather not. I have been waiting for an hour and a half to get an opportunity to say what little I desire to say, and I think I may as well do it now as at any other time.

Mr. FESSENDEN. I have been waiting here all day to get a chance to have this question settled.

Mr. CAMERON. To satisfy the Senator I will begin my remarks by reference to the motion now before the Chair, and by saying that I agree perfectly with the Committee on Finance as to the machinery for collecting the tax on whisky. I think it was very well gotten up by the Committee of Ways and Means of the other House, and was in very good shape when it was passed by the House; but the Finance Committee of the Senate have perfected it to a great degree, and have made great improvements on it. Hitherto one great trouble in collecting the tax on whisky has been in the means provided for doing it. Now, the difficulty I have with this measure is not in regard to the mode of collecting the tax, but it is with the bill itself.

Mr. President, I cannot give my consent to the proposed reduction of the tax on whisky, from two dollars to fifty cents per gallon. The arguments in favor of such a reduction are forcible, but they are not convincing to my mind.

From the beginning of the whisky frauds it has been the custom of dishonest distillers to place about one eighth of the amount manufactured in bond, with the intention of abandoning that portion to the Government. It was not possible, even for the "whisky ring," to steal all the tax levied, and this bonding of a small part of the manufacture was the result of shame rather than of duty to the Government. By abandoning a fraction, whenever payment became necessary, the pretext was secured for swindling the revenue of the tax on the remaining seven eighths boldly thrown on the market, and that proportion of the tax was openly stolen from the Treasury.

Mr. SCHENCK, the chairman of the Ways and Means Committee of the House, gives the amount of whisky now in bond at more than twenty-five million gallons. The Government now has a legal lien of two dollars per gallon on this whisky, amounting to \$50,000,000. By this bill we deliberately forego our legal rights to \$140 on each gallon of this whisky. By reducing the tax to sixty cents we make a present of \$40,000,000 to those who have been constantly and systematically robbing us. Would it not be wiser to adhere to the two dollar tax, and realize the \$50,000,000 now due, or, when the proper time arrived, confiscate and sell this twenty-five million gallons at the market rate, and so secure \$37,500,000, or about twice as much as has ever been paid in one year from this source of revenue, which should pay us \$200,000,000, and to that extent relieve the honest industries of the country.

It is claimed that an increase of revenue will follow a reduction of this tax as proposed in the bill before us. I doubt this very seriously. Whisky can be produced, I am informed, for forty cents per gallon. The proposed tax of fifty cents is one hundred and twenty-five per cent. of the cost of production. I believe it is much more. But I take the figures as I find them. The amount annually distilled is, say, one hundred million gallons. On this vast amount a tax of fifty cents per gallon is enough to excite the cupidity of the rogues who have been defrauding us, and enough to satisfy even the greed of the "whisky ring." For if, under the reduced rate, we

collect as much as we now do, and I have no idea we will collect more, there will remain unpaid and stolen the sum of \$30,000,000 a year as a premium on villainy.

I am satisfied that it is not good policy to reduce this tax now. It is a virtual admission that we cannot enforce the laws. The remedy does not lie in a modification of the laws, but in their enforcement. It may be that for a few months longer we must continue in the disgraceful attitude of a Government unable or unwilling to execute its laws. But had we not better continue the struggle until an honest Administration under Grant shall relieve us, than to abandon the contest to a corrupt combination of law-breakers and escaped criminals leagued in this stupendous villainy? There are plenty of men in this country who have both the nerve and the integrity to collect this tax; and when it shall become possible to secure the appointment of one such any tax we may choose to levy will be collected, depend upon it.

To surrender to this organized theft, and to admit the "whisky ring" to be the masters of the Government, may meet with favor from those to whom peace is precious; but it will not satisfy minds used to grappling with difficulties, and to overcoming opposition. We have the unquestioned right to levy whatever tax we please on whisky, and I am one of those who believe that we have the power to collect whatever we may choose to levy on this purely luxurious product. The English Government levys, and collects, ten shillings, or \$2 47 per gallon on spirits, and I am unwilling to admit, by the proposed reduction, that we are not equal to the task of collecting our revenues. A nation which suppressed the rebellion should not be guilty of this disgraceful surrender to the "whisky ring." The immense majority of the American people respect the laws, and pay, without resistance, what you impose upon them; in their name I protest against the passage of this bill, because it still further oppresses the honest tax-payers to enrich that band of thieves who have conspired to defy your laws, and to debauch and corrupt your public life. That conspiracy has already succeeded in making the revenue service a nest of robbers, and this bill is their payment for that work. These convictions account for the earnestness with which I renew my protest against its passage.

I have other grave objections to this reduction. The burdens of taxation should be borne by just such luxuries as whisky, wines, and tobacco. I know that, under the incoming Administration, this whisky tax can be and will be collected. If you reduce the tax on spirits now can you restore it a year hence? No candid man will assert that an increase can be passed after a surrender, which plainly admits our inability to enforce the payment now. It is not statesmanship to tamper with laws to suit temporary emergencies; especially laws which produce revenue should not be hastily changed. They should never be touched at the dictation of an admittedly corrupt combination engaged in defying them.

If the hope of increased revenue from this measure should be disappointed, if a less amount shall be collected than at present, which I fear, then must the inevitable deficit be made good by the honest and now suffering industries of the country. I, for one, will not place these interests in danger of additional burdens by relieving the most undeserving of all our productions from its just share of the expenses of the Government.

When the tax was fixed at two dollars per gallon an immense remission of taxes was made in the interest of the whisky manufactures. All whisky in first hands was allowed to go free of tax, and this was the entering wedge to all the corruption which has followed. How much we were mistaken as to the determination to collect this tax may be shown by a reference to the debates of the House of Representatives. If my memory is not at fault, General SCHENCK, the able chairman of the House Committee of

Ways and Means, at the beginning of this session declared that the two-dollar tax could and would be collected. This opinion prevailing, another large remission of taxes (about one hundred million dollars) was made in favor of the manufacturers. The result of all this must be a large deficit. What assurance have we now that an increased revenue will follow a diminution of this tax. What fair reason have we to hope that we can again restore this tax, when an honest Administration shall make its collection possible? I have no idea that a reduction of the tax will yield or secure an increased revenue, nor have I any hope that we may restore the two-dollar tax if we now abandon it. If I am right, I know that an enormous deficit must result from such legislation as this bill contemplates, and that this deficit must be made up by taxation which shall press with severity upon interests now staggering under heavy burdens.

I cannot approve legislation which makes such a danger possible, and I submit to Senators whether we ought not now to insist on the retention of the tax at two dollars per gallon, and throw on the present Administration and its supporters the odium of cheating the revenue at every point and on every pretext. By continuing to fight this universal corruption until a new order of things shall relieve us, we not only do our duty, but we lay bare the robbers, whose shameful thefts are the cause of so much danger and so much national disgrace, and we will fill the Treasury by a tax of which no one will complain.

One very important consideration with me is that we should give permanence to such laws as affect values. An honest manufacturer of whisky is not so anxious about the sum per gallon you tax his product as he is that the sum shall be fixed and reliable. It is large operators and speculators who are benefited by these changes in the revenue laws.

At this moment it is publicly announced that one of these wealthy speculators has bought an interest in bonded whisky, so large that he actually controls the whisky in bond, and the price of it in this country. This immense interest has been bought by this man for ten cents per gallon, and the passage of this bill will enable him and his associates to make millions, while the honest producer can justly claim that we are unsettling the basis of his business without benefiting any one except those who have become conspicuous in their opposition to the enforcement of the laws, and their accomplices who occupy high positions in the Government.

But my opposition to a reduction of the tax is intensified because of the improved machinery for the collection of whatever tax we may decide upon, which this bill secures. We are now collecting less than ten per cent. of the whisky tax. I hope that this bill will secure, even under the present order of things, not less than fifty per cent. of this tax; and I am certain that under an honest administration we shall be able to collect nearly all of it. Assuming this, how will we stand relatively? With a tax of fifty cents we shall obtain \$25,000,000 per year for the balance of this administration. After it passes away we shall, no doubt, succeed in collecting \$40,000,000 per annum, or just the amount we now present to the "whisky ring," in the vain hope of developing honesty in that batch of ruffians.

Now, let us calculate what would be the result if we retain the two-dollar tax, and it will appear that until the 4th of March next we may secure a revenue at the rate of \$100,000,000, and after that period \$180,000,000 a year, every cent of which will be so much taken off the better industries of the country and placed on that one which ought to pay the most heavily.

In every view of this case I hold it to be our duty to refuse to make the proposed reduction. Gentlemen favor this bill because under the corrupt influences now at work the "whisky ring" are enabled to cheat the Government out of vast sums, and with these sums

so stolen they may carry the elections next November. Will gentlemen who make this a pretext for voting a reduction of the whisky tax be good enough to demonstrate, if they can, that the people can be bought, and, if so, why the \$40,000,000 we now present to the "ring" owning the bonded whisky is not sufficient for their purpose?

If money stolen from the revenues can elect a Democratic successor to Johnson, does any sane man doubt that it will be stolen? I do not, for an instant doubt this, but I am determined that they shall steal this money and bear the odium of the theft, and by no means wheedle me into voting a corruption fund of \$40,000,000 into their pockets to enable them to defeat that man whom no one else has ever defeated.

Mr. BUCKALEW. I suggested some objections to this particular amendment last evening, which I will now repeat with some additional thoughts which I will state.

Here are a large number of appointees provided for without any designation; no name given. What are they to be? Commissioners, agents, superintendents, inspectors? They are called "persons," the most general term which could possibly be selected.

In the next place, it is a little remarkable that there is not the slightest attempt to define their duties; the section does not prescribe what they shall do! They may do anything, so far as this amendment is concerned, that the Commissioner of Internal Revenue tells them to do. Are they to be engaged in inspecting establishments on which taxation is imposed? Are they to examine and assess property? Are they to make collections of money that is to come into the Treasury under the revenue laws? Are they to detect frauds, pursue investigations with reference to those indirect and corrupt influences which we encounter in administering our system? What are they to do? The amendment does not inform us. I venture to say this is the most vague and indefinite designation or appointment to public duty of which our legislation bears any account.

Again, sir, it is a little remarkable that while compensation is provided for, no rate is fixed. Here are fifty persons or officials, whichever you call them, who may be engaged continuously in the public service; there is no limitation of time, and their compensation may be anything which the Commissioner of Internal Revenue may choose to fix. If he chooses to pay them twenty dollars per diem the faith of the Government is pledged to the appropriation of that money, or rather to its payment, for I suppose general appropriations would cover this outlay of public funds. Let me read this amendment in connection with my remarks:

"That the Commissioner of Internal Revenue shall have power, whenever in his judgment the necessities of the service may require, to employ competent persons, not exceeding fifty in number at any one time, whose term of service shall continue at the pleasure of the Commissioner of Internal Revenue, who shall perform such duties and at such places as may be required of them by the Commissioner of Internal Revenue, at a rate of compensation to be determined by the said Commissioner before the commencement of his employment."

That is a very remarkable amendment, and as I understand this is to supply all the existing provisions which relate to the appointment of agents of the Treasury Department in connection with the internal revenue, and also for the appointment of district inspectors except as provided in other parts of this act. I am very reluctant to assent to anything so vague, indefinite, and in my judgment so liable to abuse as the new system of appointment of revenue persons, I suppose I may call them, proposed in this amendment. As to the number of them I have no means of information. I am perfectly content to take the judgment of the committee as to that.

The PRESIDING OFFICER. The question is on the amendment proposed by the Committee on Finance.

The amendment was agreed to.

Mr. FESSENDEN. There is another amend-



ment proposed to the thirteenth line of the same section to insert the words "and no district inspectors." I move to amend that by striking out "and no district," and inserting "except inspectors;" and then after "inspectors" insert the word "and."

The PRESIDING OFFICER. The amendment will be reported.

The CHIEF CLERK. The Committee on Finance propose after the word "revenue," in line thirteen of section fifty, to insert the words "and no district inspector."

The Senator from Maine moves to amend the amendment by striking out the words "and no district," and inserting "except;" and after "inspectors" to insert "and;" so as to make the clause read:

That from and after the passage of this act no general or special agent, by whatever name or designation he may be known, of the Treasury Department in connection with the internal revenue, except inspectors and except as provided for in this act, shall be appointed, &c.

The amendment to the amendment was adopted.

The amendment, as amended, was agreed to.

Mr. FESSENDEN. Now, to carry that out, it will be necessary not to agree with the committee in inserting the words "or inspectors" on the next page.

Mr. SHERMAN. I have no disposition to press this matter; but one great complaint that has been made has been that an inspector has been appointed for almost every district in the United States. How true that is I cannot tell. I have no doubt this will continue them in office.

Mr. FESSENDEN. They can be reduced and will be unquestionably when you come to appoint these other officers, but there are some districts where there must be inspectors where we cannot get along without them.

The PRESIDING OFFICER. The amendment will be reported.

The CHIEF CLERK stated the amendment of the Committee on Finance to be to insert the words "or inspectors" after "agents," in line sixteen of section fifty.

The amendment was rejected.

Mr. FESSENDEN. I move the following as an additional section to come in at the end of the bill:

*And be it further enacted,* That the penalty provided by law for issuing any instrument, document, writing, or paper without being duly stamped, may be remitted by the collector in the manner and cases specified in section nine of the act approved July 13, 1866, entitled "An act to reduce internal taxation to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June 30, 1864, and acts amendatory thereof," at any time prior to the 1st day of January, in the year 1869, or at any time within one year after the making and issuing thereof.

I can explain this in a word if it needs any explanation. The chairman understands it. Section nine of the act referred to provides for remedying the difficulties occasioned by the want of a stamp. The provision is substantially that wherever a stamp has been omitted, it may in certain cases and in a certain way be put on afterward on paying the proper sum and paying the penalty affixed of fifty dollars. Then there is an additional provision that that penalty in different cases where the collector is satisfied that the stamp was omitted by accident or misunderstanding, without any intention to deter the Government, may be remitted, also. The provision is that it may be remitted at any time before the month of August of that year, or at any time within one year after the date of the instrument, application being made for the purpose. This amendment merely provides that the time within which the penalty may be remitted may be continued up to the 1st day of January next.

We have to pass these acts every once in a while in order to prevent a good deal of evil to the community.

It is merely continuing the time within which the collector, in old cases, where they come to the knowledge of persons may remit the penalty. My attention has been called to it by a let-

ter I received from West Virginia stating a very hard case, and I presume there are many cases of that kind in the southern States, particularly where they do not know the trouble until they come to use papers in court. In such cases, where there was no intention to defraud the revenue, to impose the penalty of fifty dollars would be very oppressive.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I desire to propose an amendment to section fifty-four, pages 70 and 71. It will be noticed by Senators that in the case of drawbacks the bill of lading is to be sent to the collector of customs at the port of entry, and then another transmitted to the Commissioner of Internal Revenue. It is deemed to be better that this should be confined to the collector of the port of entry and the returns made to the Secretary of the Treasury instead of the Commissioner of Internal Revenue, and I am about to propose amendments to effect that object. In line five I move to strike out the words "in charge of exports" and insert "of customs." Then in line nine I move to strike out "Commissioner of Internal Revenue" and insert "Secretary of the Treasury." In lines forty-four and forty-five I move to strike out "sent to the collector of customs at said port of entry and;" at the end of line forty-five, to strike out "the other;" in line forty-six, to strike out "entry shall be;" and in line forty-seven, to strike out "Commissioner of Internal Revenue" and insert "Secretary of the Treasury," so as to make the clause read:

One bill of lading, duly signed by the master of the vessel, shall be deposited with the said collector, to be filed at his office with the entry retained by him; one of said entries shall be, when the shipment is completed, transmitted with the duplicate of the bond to the Secretary of the Treasury, to be recorded, &c.

In line fifty I move to strike out the words "in charge of exports" and insert in lieu thereof the words "of customs," and at the end of that line and the beginning of the next to strike out the words "the internal revenue" and insert "a customs;" so as to read: "an order or permit signed by the collector of customs and directed to a customs gauger," instead of an internal revenue gauger.

The PRESIDING OFFICER. These amendments are to a section which has been inserted.

Mr. MORRILL, of Vermont. I propose to include all my propositions in one amendment after I have read all I propose. On page seventy-two, line fifty-five, I move to strike out "internal revenue" before the word "gauger;" and at the end of the line and beginning of the line fifty-six to strike out the words "in charge of exports;" and then, at the end of line fifty-six, and beginning of the next line, to strike out the words "Commissioner of Internal Revenue" and insert "Secretary of the Treasury;" and in line fifty-eight to strike out "in charge of export;" so that the clause will read:

The casks or packages shall be inspected and gauged alongside of or on the vessel by the gauger designated by said collector, under such rules and regulations as the Secretary of the Treasury may prescribe, &c.

Now, Mr. President, in order to effect all these changes I move to substitute the section as amended as I propose for the present section fifty-four. The effect is to place this matter in charge of the collector of the port of entry and the Secretary of the Treasury instead of the officers of internal revenue and the Commissioner of Internal Revenue.

Mr. POMEROY. The several amendments produce that effect?

Mr. MORRILL, of Vermont. Yes, sir; and I move it all in one amendment now. I move to substitute the section, as amended, for the section as it stands in the bill.

Mr. SHERMAN. It is right. The Commissioner of Internal Revenue requests that the amendment be made.

The PRESIDING OFFICER. The amendment of the Senator from Vermont proposing to modify what has been already amended is not strictly in order.

Mr. SHERMAN. I suggest that the bill be reported to the Senate and then it can be done.

Mr. POMEROY. It can be done now by general consent.

The PRESIDING OFFICER. The amendment will be received if there be no objection. The question is on the amendment of the Senator from Vermont.

The amendment was agreed to.

Mr. DAVIS. I desire to suggest an amendment. I do not see the necessity or propriety of more than one mode of taxation of whisky. The first section of the bill provides for a tax of fifty cents upon each and every gallon. There are other sections of the bill that impose a special tax, one a tax of four dollars for every cask of forty gallons, "and the collector shall proceed to collect the same as in cases of other assessments for deficiencies." These two classes of tax upon whisky and the different modes of collection tend to complicate the system. It seems to me that the more simple the system can be of taxation upon whisky the better for the tax-payer, and for the Government also. I think it would be much better that there should be but one tax imposed upon whisky. If the tax of fifty cents is not sufficient for the purpose of revenue let the additional special tax of four dollars per barrel be comprehended in an increase of the tax of fifty cents.

There are some other objections to this special tax of four dollars a barrel. It will be equivalent in large distilleries to a daily payment of tax. That is what some gentlemen write to me who are engaged in the distillation of whisky. I will read a paragraph from one of their letters:

"You will observe that the tax as imposed by sections twelve and sixty-five on future distillation are all collected monthly, which is equal to cash. A distiller making, say twenty-five barrels of whisky per day, will have to pay, perhaps, not less than \$120 per day of taxes in cash."

The tax being made payable monthly he deems to be equivalent to a tax collectable each day. I suppose there is very little difference. A man engaged in distilling whisky making that quantity will have to keep his deposits in bank from which to pay this tax monthly; and it would make very little difference to him whether he paid it daily or monthly. But it seems to me that a system of taxation cannot be too simple. In proportion as you simplify it you make it acceptable to the people who have to pay the tax; you make it easily comprehensible by them, and by the officers who are to collect the tax. Certainly there is much greater liability to misunderstandings and to vexatious delays and impediments under this double system of taxing whisky than there would be upon a simple principle of taxing it so much per gallon.

I think that the honorable chairman of the Committee on Finance could, without any sacrifice of the interests of the public Treasury, include both systems in one simple mode of taxation. Let the amount that shall be collected upon whisky, the total aggregate amount, be payable by a simple tax of so much per gallon.

There is another objection to the special tax. That is payable before the whisky is sold. It is payable monthly; it is payable, therefore, as a general rule, before the sale of the whisky. Large operators will have to advance a considerable sum in the way of this special tax before they can have the opportunity of selling their whisky and obtaining the money to pay the tax by the sale of the article. I think, and would respectfully suggest to the honorable chairman, that the system might be simplified and improved both in relation to the complexity that the two modes of taxation produce and the time of payment of the tax. I merely throw it out as a suggestion.

Mr. SHERMAN. I do not wish to discuss this question, because I hope we shall be able to get the bill reported to the Senate before five o'clock, and avoid an evening session.

I desire to say that the Committee on Finance considered itself concluded upon the amount

of tax to be levied upon whisky; not so precluded but that we could propose amendments; but the discussion in the other House, and the general concurrence of sentiment throughout the country in a measure precluded us from opening the question as to the rate of tax upon whisky. I regret myself exceedingly to surrender the large tax now imposed upon whisky. I thought at the time it was adopted that it was too high. I believed then that a dollar a gallon could be collected, and I still think that a dollar a gallon might be collected. But the general feeling in the country has been one of disgust at the failure to collect the whisky tax. The manifest frauds throughout the land, the gross and immoral practices that have grown out of it, have convinced men of the necessity of breaking them up even at the surrender of the tax, and I think the general judgment of the moral men of the country is that it is better to surrender this whole tax and all the revenue to be derived from whisky rather than to continue a rate of tax that is entirely for the benefit of what is called the whisky ring. It is a general satisfaction to the people throughout the country that this enormous profit, which went to the worst men in the country, should be broken up even at the sacrifice of a considerable amount of revenue. At any rate, the committee did not choose to open the question, although any Senator is at liberty to do so. We reported the fifty-cent rate because we found it in the bill.

In regard to the double tax referred to by the Senator from Kentucky, I will say that in the first place I thought the whole tax might properly be levied on spirits when sold, but I am now satisfied that it is better to divide the tax. This limitation prevents small distilleries from running to advantage. The minimum tax is levied on distilleries producing a hundred barrels or less. Consequently the small distilleries that produce twenty or thirty or forty barrels are at a disadvantage. It is to the interest of the Government to break them up, because the amount of revenue derived from these small distilleries does not pay for the gauger and proper officers to take charge of them. The tendency of the special tax we impose is to break up the small distilleries and confine the business to distilleries of a larger size.

I tried last night to get the Senate to raise the minimum. Instead of a hundred barrels I would make it five hundred, and that would have a more beneficial effect, by stopping the distillation of spirits at the small stills, where it cannot be properly watched. This arrangement divides up the tax, and they pay it monthly. It is put on in such a way that it is almost impossible to defraud the revenue. Most of the distillers prefer this division of the tax. Besides, by it the Government gets a uniform revenue, while by the other system the whisky may remain in store twelve months without the Government getting any tax, and in the mean time the Government lose by the waste, the stealing and the fraud that may occur in store during these twelve months. Under this system we at least get the tax upon the product as it is distilled paid monthly, assessed by the gauger, and ascertained by the storekeeper. It is no inconvenience, but rather, I think, a matter of convenience to the distiller, because the monthly payments break up the amount of his tax, and there is no difficulty in ascertaining it, because the same machinery which ascertains the producing capacity also ascertains the amount that is to be taxed when it is taken out of store. I will not debate it longer.

Mr. POMEROY. I am not going to occupy the time of the Senate, but I wish to say that if the Senator from Ohio expects that reducing this tax to fifty cents is going to make everybody honest, and that he will collect it, he will be, I think, mistaken. I read the debate in the other House, and I was sorry to see that our friends had all stampeded before the whisky ring. So I suppose it will be unavailable to try to make any effort here not to concur in

the tax of fifty cents per gallon, though I say distinctly that I have no more faith in collecting fifty cents on the gallon than I have in collecting two dollars.

Mr. SHERMAN. If my friend will allow me, as I find there is a general disposition in the Senate to avoid a recess to-night and to sit a little longer and try to finish this bill, I desire to submit a motion—

Mr. POMEROY. I am not going to take two minutes.

Mr. SHERMAN. I move that the recess for to-day be dispensed with, so that we may proceed along until we finish the bill. It will not take long.

Mr. BUCKALEW. I suppose the Senator means only to go on until the bill shall be reported to the Senate.

Mr. SHERMAN. No; I think we can pass it pretty soon. I move to dispense with the recess for to-day.

The motion was agreed to.

Mr. POMEROY. I was only going to observe that when there has been an organized system in the country of defrauding the Government that organization will exist, and when they cannot defraud it in dollars they will defraud it in dimes, and they will keep it up. If we all stamped before the whisky ring, and give it possession, I have no more faith that we shall collect the revenue at fifty cents than that we could do it at two dollars. The machinery of this bill, I think, has been well drawn and carefully guarded, and I do not know that it can be improved upon; but for the Congress of the United States and the American people to come down to say that we cannot collect a reasonable tax, a tax that other Governments can collect, not more honest than ours or more efficient, to say that there is a ring which beats the Government and beats the revenue officers, and that we will retire from the field and say that they may have their own way, and that we will only take fifty cents on the gallon, is not only, as the Senator from Pennsylvania [Mr. CAMERON] said, humiliating, but I do not believe in the policy of it, and we shall not get the revenue by it. I will content myself by voting against it.

Mr. COLE. Mr. President, I cannot bring myself to the point of acquiescing in a reduction of the tax on whisky from two dollars to fifty cents a gallon. It seems to me that it will be an acknowledgment exceedingly humiliating to us as a nation. I believe the machinery which is provided by this new bill that we are about to act upon is very complete; every exertion, at all events, has been made in committee to make it perfect; and if it is sufficient to collect fifty cents tax on whisky I am quite satisfied that it will be sufficient to collect a larger tax. If it is not sufficient to collect two dollars tax we had better leave the machinery as it is. I do not see that we are going to add to the revenue by dropping down from two dollars tax to fifty cents tax, with, at the same time, a confession that our machinery is imperfect. The "whisky ring," if there be such a concern, and nobody can question its existence, will cheat as readily for the purpose of avoiding the tax of fifty cents as they will for the sake of avoiding a tax at a larger rate.

The tax upon whisky collected in Great Britain, as I am told and believe it to be the fact, is \$2 50 a gallon—ten shillings a gallon. They are able to collect it very closely. They are able to collect, I believe, about all of that description of tax. We, it seems, are not so successful. But the presumption is, or ought to be, that we are improving our machinery, that we are getting it so nearly perfected that we can collect more and more of the tax. The machinery, no doubt, has been imperfect from the start so as to admit of many frauds; but it takes some time to perfect any description of machinery. Senators need not be reminded that the steam engine was many years in becoming perfected; and the means by which any particular description of tax is to be collected cannot be made perfect at once. With

this presumption that is now before us that the machinery about to be provided if this bill passes will be more efficient to collect the tax, we ought not certainly at the same time that we provide this machinery reduce the tax from two dollars down to half a dollar. I have thought all along since this matter has been discussed that we might reduce it from two dollars to one dollar, but to reduce it to one quarter what it was, and to do that in fear that we shall be unable to collect the tax because it is large is a confession which I think we ought not to make, and for one I am quite unwilling to make it.

Mr. VAN WINKLE. Is it in order to offer an amendment now?

The PRESIDENT *pro tempore*. An amendment is in order.

Mr. VAN WINKLE. I offer the following amendment, to come in as an additional section:

*And be it further enacted, That so much of all acts and parts of acts as impose any internal revenue tax on illuminating or other mineral oils, and on the product of the distillation, redistillation, or refining of crude petroleum, or of crude oil produced by a single distillation of coal, shale, peat, asphaltum, or other bituminous substances, together with all provisions relating to returns, assessments, warehousing, and bonding, and all other provisions for determining the quantity of mineral oil distilled for the purpose of securing the payment of the tax thereon, be, and the same are hereby, repealed; and no tax imposed by existing laws on such oils or products in the hands of the producer or manufacturer, or his agent or agents, at the passage of this act and unsold, shall be collected.*

Mr. President, when a similar bill was before the Senate in the spring I proposed a reduction of this tax of one half, and at that time gave many, as I think, good reasons for it. At any rate, the proposition was carried through both Houses. I presume it may be said that I ought to have asked for the whole then. There were reasons then assigned which it may not be necessary to repeat now except very briefly. I will only say that notwithstanding the reduction of one half the tax, it is still an extraordinarily high tax. It amounts to about one hundred per cent. on the crude material out of which this oil is manufactured. It is made an exception to all other manufactures of its class in this: that a tax for any amount whatever is continued upon it. Now, when a disposition has been manifested in both Houses of Congress to relieve our manufactures from taxation as far as possible, I do not think there is any good reason why this article should be singled out to bear a tax when others are let go.

This provision, I think, is germane to this bill, because petroleum and its products constitute one of the three articles which are subject to this host of inspectors and gaugers, and I do not know what all, in order to collect the tax on that which is consumed at home. It is loading an article of general use, an article of necessity, an article which now enters into the consumption of almost every family in the land out of the cities where gas is used, and even there, with unnecessary trouble and burdens, and thereby is interfering greatly with the business.

But, Mr. President, there is another reason, and one upon which I rely most in asking the favor of the Senate for this amendment. Within a very few years this article of petroleum in its manufactured state, and also in its crude state to a less extent, has become an article of export; so that the amount now exported from this country annually is about thirty million dollars. There is hardly any other article I presume at this time, to the amount to which it is exported, that is as valuable; and certainly it cannot be denied by anybody, and it will not be doubted by anybody, it will not be pretended even, that it is not the true interest of this country to encourage every article of export that we can produce. It saves the specie from being drained from the country; it tends to pay off our foreign debt of whatever nature; and of course recommends itself, therefore, rather as a thing to be encouraged than a thing to be depressed.

Now, sir, what is the consequence of the tax? This oil that is exported, it is true, is

free from tax; the tax is not exacted on that part of it which is exported, but in order to collect the domestic tax burdens are thrown upon this exportation which the country can well afford to rid them of. In order to insure the collection of the tax on that which is consumed at home the whole system is loaded with the same provisions which we have just gone over in reference to tobacco and distilled spirits. Those articles are mere luxuries and should be taxed high, and if they are taxed high means must be resorted to in order to secure the collection of the tax. They are also looked upon by many as having an ill effect upon the morals of the community. I see that clergymen now are beginning to discountenance the use of tobacco as they have of whisky for some time past. That shows, at any rate, in what esteem it is held by many of our citizens.

But, sir, nothing of this kind can apply to the mineral oil. It is not an article of luxury by any means. It is found in the family of every poor man, perhaps, in the country. It furnishes him a cheaper light than he has ever had before. It furnishes him at the same time, perhaps, a better light for the quantity of oil used. The considerations that may lead to imposing these heavy burdens on tobacco and whisky would argue a different way in reference to petroleum. And yet, sir, in order to collect this tax upon the oil that is consumed at home the export trade is heavily burdened; and it is necessary that a host of officers, inspectors, gaugers, and I know not what you call them, should be appointed. The manufacturers of oil are compelled to employ extra clerks to make regular returns, and are incumbered in that way with an additional expense which must affect them even in reference to their export trade, although nominally no tax is placed upon that.

Without attempting or wishing to detain the Senate one moment longer than is necessary, I ask them to take into consideration the fact I have last stated, that this article is a most valuable export; that it is one of our largest exports; and that this export trade, valuable as it is, is to a certain extent injured by means of the arrangements made for the simple collection tax on the home supply. For the fiscal year ending in June last the tax amounted to something short of five million dollars. One half of that is reduced, which would leave it considerably less than two and a half million dollars, and I apprehend, as the production has somewhat diminished during the last year, that it cannot be stated at over two million dollars. This is an amount, considered by itself it is true, large; but in proportion to the whole of our taxes it is a light amount. I have the opinion of the Special Commissioner of the Revenue that it can be dispensed with, and he thinks it ought to be dispensed with. I have the authority of at least a majority of the Finance Committee that they believe the tax might and should be dispensed with. I understand that the same opinion prevails in the Committee of Ways and Means, and that this amendment would probably have been made in the House, except for their strict rules, which after it was offered would have compelled it to go back to the Committee of the Whole. I trust, therefore, that this amendment will be fairly considered by the Senate, and that this relief may be given to so valuable a branch of manufacture.

Mr. WILLIAMS. I do not propose to controvert particularly what the Senator has said as to the necessity or justice of removing this tax; but the Committee on Finance did not consider it expedient to attach this amendment to the bill, as this bill is confined exclusively to whisky and tobacco; and it was partly upon that ground that those sections providing for the taxation of banks were stricken out of the bill, so that this legislation might be exclusively upon the two subjects of whisky and tobacco. If one amendment is proposed introducing another subject into this bill another amendment introducing another subject may be proposed; and so the bill may

be incumbered. All the various interests in the country, that are complaining of taxation, will of course claim a right to be considered in connection with this bill, and the consequence will be that the bill will be burdened down with these numerous amendments, and probably defeated. The interest which the Senator represents is not the only interest in the country that complains that taxation is too high; it is not the only interest that is demanding relief; and if we allow this amendment to go upon this bill then no objection can be made to any amendment that may be proposed affecting any other interest; and instead of being a bill which was intended by the House to be a bill to regulate the tax upon whisky and tobacco, taken out of the tax bill that was reported by the Committee of Ways and Means expressly for the purpose of legislating upon that subject, it will become a bill regulating the tax upon all the various subjects in the country upon which it is said the taxes ought to be modified or repealed.

It is upon that ground, without taking time to go into the discussion, that I oppose the amendment. I am not disposed now to say that if the proposition made by the Senator was in a different form or upon a general tax bill I should not be willing to support it; but at this late day in the session, when there is no time to discuss these various propositions, the only way to save this bill and pass it at all is to confine it exclusively to the two subjects which are contained in it.

Mr. VAN WINKLE. I think I can say to the Senator from Oregon, with perfect propriety and with great truth, that there is no parallel interest to this in the country. In the second place, I may say, as I have already said, that it is in some sense germane to this bill, as it has the same apparatus and body of officers that these other articles have.

Again, the Senator's remarks might well apply in the House of Representatives, where the committee were ordered to bring in a bill in relation to tobacco and distilled spirits only; but I think the Senate has the right, and has independence enough when a good proposition like this is offered to it, to pass it without being cowed by any consideration of that kind. It is the only manufacture, as I have already said, of its class that is now taxed at all.

I wish in this connection to read a letter from the chairman of the Committee of Ways and Means of the House. He says:

"We think, in my committee, that mineral oil ought to be put upon the footing of all other manufactures. If you can put this amendment in the bill in the Senate we can pretty certainly carry it through the House. It would have gone through to-day if we had not been limited to spirits and tobacco."

Now, sir, abstractedly considered, it may be a very nice thing not to have too many subjects in a bill; but when an interest like this, so great as I have shown, is suffering without occasion, for I may say it is without occasion that this interest should be put to so much expense in order to conduct it, when there can be no occasion for it either in reference to the amount of tax to be collected, or to any frauds that are taking place in it, or to the character of the commodity manufactured, I hope the Senate will not for that reason at least refuse to adopt this amendment.

Mr. BUCKALEW. Mr. President, the former argument made in the Senate on this subject, which was indorsed by the vote of the Senate, would cover completely in the pages of the Congressional Globe the amendment which is now proposed by the Senator from West Virginia. We then had a full debate on the subject of the taxation of the products of petroleum or manufactures therefrom; and it was only, in my opinion, because the Senator from West Virginia then proposed his amendment in the form of a reduction of the tax to one half, instead of an amendment proposing to remove it altogether, that we have this question again before us moved upon the present bill.

It is a decisive argument in favor of his proposition that this is the only manufacturing

tax yet remaining in our revenue system, the only general tax, and that it is imposed upon a manufacture which, instead of being discouraged by us, ought to be encouraged by our legislation. The only effect of permitting this tax upon the products of petroleum to remain while the crude article is free from taxation is to push the manufacture out of our own country, to cause the raw article to be exported, and the capital and labor of Europe to be employed in its manufacture instead of the capital and labor of our own country. Therefore the clearest reasons of policy are against the retention of this tax; and it is manifestly an unjust and odious one when we have relieved other manufactures from similar burdens. This I consider to be a conclusive view of this subject, without going fully into that argument which was submitted upon a former occasion, and which then enlisted favorably the judgment of the Senate.

The only objection made by the Senator from Oregon is in regard to the time and place when this amendment is offered. He is averse to entertaining it and voting for it, although he does not object to it upon its merits, because if we adopt this amendment other amendments may possibly be offered. Now, sir, those of us who are in favor of this amendment can give a conclusive answer, a satisfactory answer, at least, to that suggestion. In the first place, these taxes are entirely unlike any others in our internal revenue system. In the next place, this question is connected with the simplification of the revenue system, which is one of the leading objects of this bill. We are to dispense as far as we can with the inspectors of revenue and with other subordinate officers under the Commissioner wherever we can. These taxes upon petroleum require a considerable number of officers for their administration. I am told that some of the inspectors have been receiving as high as eight or ten thousand dollars a year. It is made a matter of complaint and of odium that such features are permitted to exist in connection with our revenue law. I believe public opinion everywhere is tending to this ground: that our tax system should be simplified; that we should confine the burden to as few objects as possible; that we should dispense with all the officers that we can, and should confine ourselves only to those necessary objects of revenue demanded in order to meet the public burdens.

I venture to say, in answer to the Senator from Oregon, that the adoption of this amendment by the Senate will not embarrass the Senate itself. No other amendments will be offered of a general nature leading to debate and producing delay. I venture to say, also, that the adoption of this amendment by the Senate will not produce a difference with the House. The Senator from West Virginia has already informed us that the House is disposed to it; that the Committee of Ways and Means are not only willing, but some of them at least anxious to accept this amendment and to incorporate it into the present bill.

The objection that this amendment will introduce a subject not in the purview of the bill as originally introduced in the House goes for nothing. Are we to have bills introduced into that House and sent here as they were originally formed? Have we no power of amendment? Are we not permitted to cast our eyes over the whole field of inquiry, and if we find a particular object deserving of our attention, exceptional in its character, and directly connected in its machinery with the measure sent to us, shall we not propose an amendment? And especially are we to be deterred from doing so when we have the best assurance that the House of Representatives will concur with us in our action, and that even if there should be objection in that House we can recede in a moment when the bill is returned with a non-concurrence in the amendment?

For these reasons I think there is no force in the point which has been made by the Senator from Oregon; and for the very satisfactory reasons which have already been stated by the



Senator from West Virginia, as well as for the reasons which were fully elaborated in the former debate and published to the country, I think we ought to adopt this amendment.

The *PRESIDENT pro tempore*. The question is on the amendment proposed by the Senator from West Virginia.

Mr. VAN WINKLE and Mr. BUCKALEW called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 15, nays 17; as follows:

YEAS—Messrs. Buckalew, Cameron, Cattell, Cole, Connors, Cragin, Davis, Fowler, Henderson, McCreery, Ramsey, Ross, Sumner, Van Winkle, and Wilson—15.

NAYS—Messrs. Anthony, Conkling, Corbett, Edmunds, Harlan, Howe, McDonald, Morgan, Morrill of Vermont, Osborn, Sherman, Trumbull, Vickers, Wade, Welch, Williams, and Yates—17.

ABSENT—Messrs. Bayard, Chandler, Dixon, Doolittle, Drake, Ferry, Fessenden, Frelinghuysen, Grimes, Hendricks, Howard, Johnson, Morrill of Maine, Morton, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Rice, Saulsbury, Sprague, Stewart, Thayer, Tipton, and Willey—26.

So the amendment was rejected.

Mr. DAVIS. I offer an amendment—

Mr. CONNESS. I move that the Senate do now adjourn. It must be evident that we cannot pass this bill to-night.

Mr. SHERMAN. We can pass it in a little while now.

Mr. CONNESS. It cannot be passed to-night.

The *PRESIDENT pro tempore*. The question is on the motion to adjourn.

Mr. SHERMAN. I call for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. VAN WINKLE. I desire to state that my colleague [Mr. WILLEY] is confined to his room by indisposition.

The question being taken by yeas and nays, resulted—yeas 16, nays 16; as follows:

YEAS—Messrs. Buckalew, Cameron, Cole, Connors, Cragin, Davis, Fowler, Harlan, Howe, McCreery, Ramsey, Sumner, Trumbull, Van Winkle, Vickers, and Yates—16.

NAYS—Messrs. Anthony, Cattell, Conkling, Corbett, Edmunds, McDonald, Morgan, Morrill of Vermont, Osborn, Patterson of New Hampshire, Ross, Sherman, Wade, Welch, Williams, and Wilson—16.

ABSENT—Messrs. Bayard, Chandler, Dixon, Doolittle, Drake, Ferry, Fessenden, Frelinghuysen, Grimes, Henderson, Hendricks, Howard, Johnson, Morrill of Maine, Morton, Norton, Nye, Patterson of Tennessee, Pomeroy, Rice, Saulsbury, Sprague, Stewart, Thayer, Tipton, and Willey—26.

So the Senate refused to adjourn.

Mr. SHERMAN. I now move that the Senate take a recess until half past seven o'clock. ["No!" "No!"]

Mr. SUMNER. I hope not.

Mr. CONNESS. On that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 20; as follows:

YEAS—Messrs. Anthony, Cattell, Cole, Conkling, Corbett, Harlan, Henderson, Morgan, Morrill of Vermont, Sherman, Stewart, Wade, Williams, and Wilson—14.

NAYS—Messrs. Buckalew, Cameron, Connors, Cragin, Davis, Edmunds, Fowler, Howe, McCreery, McDonald, Osborn, Patterson of New Hampshire, Ramsey, Ross, Sumner, Trumbull, Van Winkle, Vickers, Welch, and Yates—20.

ABSENT—Messrs. Bayard, Chandler, Dixon, Doolittle, Drake, Ferry, Fessenden, Frelinghuysen, Grimes, Hendricks, Howard, Johnson, Morrill of Maine, Morton, Norton, Nye, Patterson of Tennessee, Pomeroy, Rice, Saulsbury, Sprague, Thayer, Tipton, and Willey—24.

So the motion was not agreed to.

Mr. CONNESS. I move that the Senate do now adjourn.

Mr. SHERMAN. We may as well close the bill first as last.

Mr. CONNESS. It is impossible to pass this bill to-night. The Senator ought to see that, I think.

Several SENATORS, (to Mr. SHERMAN.) Do not give it up.

Mr. SHERMAN. I do not give it up; but if the Senate choose to adjourn they can do so.

The question being put, there were on a division—ayes twenty-one—

Mr. SHERMAN. I think we may as well have the yeas and nays on this motion.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 12; as follows:

YEAS—Messrs. Buckalew, Cameron, Cole, Connors, Cragin, Davis, Fowler, Harlan, Howe, McCreery, McDonald, Osborn, Patterson of New Hampshire, Ramsey, Stewart, Sumner, Trumbull, Van Winkle, Vickers, Welch, and Yates—21.

NAYS—Messrs. Anthony, Cattell, Conkling, Corbett, Edmunds, Morgan, Morrill of Vermont, Ross, Sherman, Wade, Williams, and Wilson—12.

ABSENT—Messrs. Bayard, Chandler, Dixon, Doolittle, Drake, Ferry, Fessenden, Frelinghuysen, Grimes, Henderson, Hendricks, Howard, Johnson, Morrill of Maine, Morton, Norton, Nye, Patterson of Tennessee, Pomeroy, Rice, Saulsbury, Sprague, Thayer, Tipton, and Willey—25.

So the motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, July 7, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was partly read, when

Mr. WASHBURN, of Illinois, moved that the further reading of the Journal be dispensed with.

The motion was, by unanimous consent, agreed to.

### PAYMENT FOR GOVERNMENT SUPPLIES.

Mr. DELANO, by unanimous consent, introduced a bill (H. R. No. 1869) to provide for the payment of certain demands for stores and articles used by the engineer department of the Army of the United States; which was read a first and second time, and referred to the Committee of Claims.

ISAAC I. RICHMOND.

Mr. BAKER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Claims be instructed to inquire what measure of relief is due to Isaac I. Richmond, of Alton, Illinois, for services rendered the Government as acting assistant assessor for the first division of the twelfth collection district of the State of Illinois during the months of December, 1866, and January, 1867, and to report by bill or otherwise.

### TERMS OF VIRGINIA DISTRICT COURT.

Mr. BOUTWELL, by unanimous consent, introduced a bill (H. R. No. 1370) to fix the time for holding the terms of the United States district court in Virginia; which was read a first and second time, and referred to the Committee on the Judiciary.

### NIAGARA SHIP-CANAL.

Mr. VAN HORN, of New York. I ask unanimous consent to submit the following resolution:

*Resolved*, That the bill now in the Committee of the Whole, providing for the construction of a ship-canal around the falls of Niagara, be postponed to, and made the special order for Thursday, the 10th day of December next, immediately after the morning hour, and continue as the special order from day to day until disposed of.

Mr. HOLMAN. I object.

### LEGISLATIVE, ETC., APPROPRIATION BILL.

The *SPEAKER* announced the appointment of Mr. WASHBURN of Illinois, Mr. DELANO, and Mr. PHELPS as the committee of conference on the part of the House upon the disagreeing votes of the two Houses on the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

### POTAWATTOMIE INDIAN LANDS.

Mr. JULIAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas a contract has been made which purports to be a treaty between certain commissioners acting in the name of the United States and the Potawatomi Indians, by which the unallotted lands of said Indians, amounting to three hundred and forty-two thousand acres, have been sold to the Atchison, Topeka, and Santa Fé Railroad Company, at the price of one dollar per acre; and whereas these lands are known to be valuable, and said price is believed to be in monstrous disproportion thereto, and said treaty, so called, is declared by prominent and respectable men in the State of Kansas to be similar

in character to the late Osage treaty, which has been emphatically condemned by this House: Therefore, *Resolved*, That the Committee on Indian Affairs be instructed to inquire into the facts and circumstances of said so-called treaty, that they have power to send for persons and papers, and that they report to this House by bill or otherwise.

### REFERENCE OF BILLS, ETC.

Mr. UPSON. I move to reconsider the various votes taken this morning on the reference of bills; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### IMPEACHMENT OF THE PRESIDENT.

Mr. STEVENS, of Pennsylvania. I rise to a question of privilege, and present a resolution, upon which, after it is read, I propose to submit some remarks.

The *SPEAKER*. The resolution will be read, after which the Chair will rule whether it is or is not a question of privilege.

The Clerk read as follows:

Whereas a high court of impeachment has lately been in session to try Andrew Johnson, President of the United States, for high crimes and misdemeanors, and has adjourned without completing its judgment; and whereas it is proper that additional articles should be filed, if the House deem expedient: Therefore,

*Resolved*, That a committee of — be appointed to prepare additional articles of impeachment, and report the same in substance as follows:

Additional articles of impeachment exhibited by the House of Representatives, in the name of themselves and all the people of the United States, against Andrew Johnson, President of the United States, in maintenance and support of their impeachment against him for high crimes and misdemeanors in office.

#### First Additional Article.

That the said Andrew Johnson, President of the United States, did abuse the patronage of the Government, which by virtue of his office had been intrusted to him, and did pervert it to improper and selfish purposes, inasmuch as he used it to corrupt the people of the United States, and to induce them to abandon and renounce the principles which they conscientiously held, and to adopt others which they did not approve, in order to promote the selfish purposes of said Andrew Johnson. The President of the United States came into power and received his office because he professed to hold the principles of the Republican party, and zealously avowed his determination to carry them into effect. When he came into power he found the offices of the Government, many thousands in number, filled with men professing the same Republican principles, and who had been appointed expressly to carry them into effect. When, by a fatal accident, he became the Chief Executive of the nation, he determined to seek an election for the same office at the next presidential term. He foresaw that it would become necessary to renounce the principles of the Republican party, and to establish a new personal party, specially devoted to himself, and he did not hesitate to apply to that object the profits of thousands of offices and of millions of revenue. He set deliberately about turning faithful officers out of their places because they would not renounce their principles, and of appointing others to office because they pledged themselves to support him and his principles. The removals and appointments were avowedly made for no cause of merit or demerit, but for the purpose of adding recruits to the new party.

#### Second Additional Article.

That the said Andrew Johnson, being the Chief Executive of the United States, and being assigned by law to the duties to take care that the laws shall be faithfully executed, and having no judicial or legislative powers confided to him by the Constitution, all his duties being strictly executive, did, on the 29th day of May, 1865, and before and after that time, usurp to himself the powers of another branch of the Government, and did do acts and exercise functions which belonged to the legislative branch alone; and in pursuance of such claim, having at the time the Army and Navy of the United States at his command, did establish and erect into a separate government that portion of the territory which had been conquered by the United States from the late y so-called confederate States of America, and which was lately embraced within the boundaries of the State of North Carolina, and did, by his own usurped authority, create a State and form of government hitherto unknown to the United States, and did create an office hitherto unknown to our Constitution, and appointed thereto an officer whom he called provisional governor, and directed him how to construct and carry out said government. He fixed, and by his own will decreed, the qualification of electors, and who should be eligible to office in the new government, which he by proclamation declared was deprived of all civil government by the armed forces of the independent belligerents with whom we had been at war. And he appointed William W. Holden to the office of provisional governor of North Carolina, and directed him to administer the offices of the newly-created State.

On the 13th of June, 1865, he usurped the same powers, and without any direction from Congress, to whom alone it belonged, erected into an independent State that part of conquered territory for-

merly known as the State of Mississippi, and appointed William L. Sharkey provisional governor thereof.

And on the 17th of June, 1865, he in like manner erected a portion of said territory into what he called the State of Georgia, and appointed James Johnson provisional governor thereof. On or about the 17th, 21st, and 30th of June and the 13th of July he, in like manner, created governments which he called the States of Texas, South Carolina, and Florida. And when afterward Congress declared such governments and institutions null and void, and prescribed other methods of governing said territory, and to enable it to enter the Union by the consent of Congress, the President declared such laws null and void, and advised the people to resist their execution; and he has never aided in carrying into effect, but has resisted, what are called the "reconstruction laws."

#### Third Additional Article.

For that Andrew Johnson, President of the United States, by his corrupt practices did attempt to induce the Senators-elect from the State of Colorado to perjure themselves, upon the condition of his signing the bill admitting Colorado into the Union as a State, and thereby admitting them as Senators of the United States.

He did also pardon and restore the rights of franchise to one hundred and ninety-three deserters who, during the war, had deserted from the United States Army, upon condition that they would vote for the Democratic party at the then immediately ensuing election; and they did thus vote, and give to the Democratic agent, Hon. Thomas B. Florence, the sum of \$1,000 in cash.

He appointed numerous persons to office who could not take the test- oath, and did not take it, but were allowed to act and discharge the functions thereof in defiance of law.

He ordered agricultural scrip to be issued to the State of North Carolina, which scrip was issued under the act of 1862, when North Carolina was in armed warfare against the Union.

He restored, without authority of law, large tracts of forfeited property; enough, it is believed, to pay the national debt, which had been forfeited under act of Congress, approved July 17, 1862. By reason of all which outrages this Government became impoverished, the people embarrassed, the rebel raiders allowed to flourish, and the Constitution flagrantly violated.

He sold pardons for money, or allowed it to be done through pardon brokers.

#### Fourth Additional Article.

He did take from the Treasury of the United States large tracts of land and large amounts of money, sufficient, it is believed, to have paid our national debts, and which had been transferred to the United States by act of the 17th July, 1862, as enemies' property, to be applied to the expenses of the war and the debts of the United States. This was corruptly and unlawfully done without any authority of Congress.

#### Fifth Additional Article.

He did usurp the powers of other branches of the Government, and exercise the legislative power in defiance of the Constitution, in creating or attempting to create new governments out of the territory conquered from the "Confederate States of America," so called, and to govern them by his own mere power, by forms unknown to the Constitution, without consulting Congress, but defying their authority when they had spoken, and denying the constitutionality of the laws of Congress enacted to govern said conquered territory.

The SPEAKER. The Chair decides that this is a question of the highest privilege.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, when the English jurists undertook to establish forms of jurisprudence, they established two or more sets of tribunals—one for the trial of high criminal offenses against the good morals and the heart of society, in which trials the most rigid rules of law and evidence were observed, especially in the defense and protection of the accused, and when conviction was had, the most rigid punishments were inflicted to deter from future wrongs upon society, not simply as punishment, but as example—example being a large portion of the object, but punishment by no means overlooked.

But such was the structure of their unequal society that it was very difficult to bring large malefactors to conviction and punishment for offenses involving disgrace and capital inflictions. Hence, wrongs committed by public men against the mere administration of Government, if prosecuted as such, were apt to escape punishment. Still it was necessary that such public offenders should be deprived of the opportunity of longer injuring the community, and another tribunal was established for their trial, composed of men elevated above their sphere or dread of influence; and to secure success the punishment for political offenses on such conviction was in most cases reduced to mere removal from office, without fine or imprisonment or disgraceful inflictions suffered. Although the criminal feature was

still retained in England, it was very much modified, indeed entirely changed, under our Constitution.

But in England the objects of such trial were soon perverted. Passion, revenge, and malignity refused to let large malefactors escape from the hands of those who were persecuting them by impeachment, and they changed the punishment to one of criminal extent, and inflicted death by the block and gallows, as well as imprisonment and banishment upon many of the high as well as low offenders. Many found themselves arraigned and tried for the deepest crimes in this form of proceeding, while the acts they had done were merely of a political character. It was in this perverted state of the English law that our Revolution broke out and our Constitution was formed. So that our statesmen and judges, groping in the dark for the right reason of the law and seeing it "as through a glass darkly," so construed our law of impeachment that when the first cases under it came to be decided, and indeed all the sound cases, the judges, though somewhat mystified in the proper construction to put upon it, almost uniformly excluded from the essence of the impeachment all necessity for the charge of moral guilt, malignity, crime, and *malum in se*. They rejected the whole idea of the necessity of the commission of indictable offenses, and followed the text of Story, of Wharton, and the precedent of Peck's case as stated by Buchanan, Wharton, and Curtis, of the earlier case of Chase, in neither of which is there any attempt to prove "*crimen* and *malum in se*," all recognizing the doctrine that the great offense was a political one purely, and the object of its punishment the prevention of further injury by the incumbent.

When lately—I mean by the Committee on the Judiciary—Andrew Johnson was impeached for high crimes and misdemeanors, which meant simply high political offenses, a grand opportunity was presented, for the first time in this country, for great judicial minds to lay down broadly and forever the law of impeachments, so that on the one hand they would not allow political offenders to escape for abusing their high trust, and on the other hand would not allow heated and malignant demagogues to persecute political opponents and rivals so as to carry their punishments to the bloody margin of hatred and vengeance.

If further punishment were found necessary there would be no advantage from political ascendancy, for then the prosecution would proceed according to the impartial principles of the common law, where justice could be administered between man and man. I had hoped that these great principles would have been so elucidated by the learned Judiciary Committee of this House that no future time would produce the risk of judicial persecutions and murders.

Of all prosecutions which I have ever witnessed, either in civil or military affairs, that result was to me the most unsatisfactory. I speak of the first prosecution. I have nothing to say of the last one, and I beg my remarks will be so understood throughout. But having my own views I must utter them in good faith, without regard to the position which the listener may happen to occupy. When that prosecution was first commenced, I believed it then, as I believe it now, to be the deep-seated conviction of nine tenths of the honest men of the party that the respondent was guilty and ought to be convicted.

I admit that after the election of the new President of the Senate there was a cooling off in certain quarters, from motives which I have never been able to fathom, and do not now intend to scan. When the Republicans of the House came to scrutinize the acts of the President preparatory to taking evidence I believe that none were of the opinion that the time occupied in taking testimony would extend over a period of more than twenty days.

To their minds the whole question was so patent, so clear, lay so completely upon the surface of events, that to seize it with the clear

intention to drag it into daylight was among the things which it was impossible to evade, for the slightest exposure would make everything apparent to the naked eye.

But the Republican party fell into a great error. In a short time it became apparent that this was to be a work of very considerable magnitude, if the course pointed out were to be pursued. Instead of investigating charges of impeachment against the President of the United States on specific allegations, charges extending to every crime and every folly which a wicked, bad man could be guilty of were eagerly sought for and gravely investigated, or the investigation entered upon with a malignity and feeling which could do no credit to so high a tribunal.

To my mind the whole question of the guilt of the respondent, the whole question of malfeasance in office by the President of the United States, the whole question of his official "high crimes and misdemeanors" lay within thirty-six hours of the examination of the testimony in chief if it had been properly confined to that testimony.

But these innumerable eggs were thrown into the nest of this investigation, until it was more than full, and their was great danger of their becoming addled.

They thought to break the elephant's back, broad as it was, by piling upon it straws and chaff bags, out of which was to be extracted the heavy metal of decomposition; and especially, if that would not prove sufficient, to mount upon it two or three buxom damsels seated on pillows; Mrs. Cobb proved too light.

Now, sir, I merely wished to lay before the House and the committee a few reasons why I was so wholly dissatisfied, as I have been and am still.

That a misdemeanor is triable by a common law court in England, and a felony is triable as a high crime before a common jury, no one doubts who has paid the least attention to the common law. But no one can, and so far as I know, no one does pretend that either of those offenses can be tried under the law of Congress at common law, there being no common law in the United States.

Why, then, is it pretended that any common law offense can be brought before a judicial tribunal of the nation? Why is it pretended that any of the offenses charged against Jefferson Davis and his associates can be tried as criminal offenses before the Government on impeachment? Whether they could now be tried for riots and mutiny I give no opinion, having always held that the sovereignty, when it once reconquered its sovereign power, could inflict just such punishment, and through just such tribunals as it saw proper, not by virtue of its old tribunals, but by virtue of its eminent domain, or by virtue of its remnant of municipal power.

Instead of alleging that impeachment can only be instituted where there is an indictable offense, I contend that the great object of impeachment was to punish for malfeasance in office—where there was no actual crime committed—no malfeasance against which an indictment would hold, and against which no allegation of evil intention need be made. In other words, that proceedings in impeachment should be had mainly where the true distinction was made between a charge against a party with malice aforethought in it, and a charge against a party with no evil intention, but with great injury to the country; in short, that they could be had mainly for political offenses; and that the grade of high crimes and misdemeanors spoken of by the Constitution as subjecting the party to impeachment, did not involve the guilt of *malum in se* or wickedness of heart, so that the highest official in the land can be impeached, convicted, and punished without having committed a single offense which involved malignity of heart.

If an officer cannot be impeached except for an indictable offense, then you must wait until he has done some injurious act with malice aforethought. It cannot be, sir, that malice

is an ingredient that makes the maladministration of an officeholder either more or less injurious to the public, better or worse, as it does not operate directly on the individual, but on the Government. He may believe that a certain course of conduct tends to the good of his administration and the country. He is warned by his advisers and by the legislative branch that he is mistaken and must desist. He reconsiders it and persists, under the conscientious belief that he is right and his advisers are wrong.

Here is no indictable offense, here is no ingredient which constitutes an indictable offense—malice aforethought. And yet if there be large interests at stake intrusted to his care he may be crushing the life of the nation while he believes himself but doing his duty. How can any man pretend that such acts as these, which are destroying the welfare of a whole people, and persevered in after repeated warnings, do not constitute impeachable offenses, although not indictable ones?

But has not this subject been adjudicated time after time, and by tribunal after tribunal? Have not the elementary writers of the various States of America, and of the General Government of the United States, clearly and decidedly pronounced the same judgment? I refer to Story, to Rawle, to Madison, Hamilton, May, and Curtis.

Seeing, then, that there are no obstacles in the way of impeachment, let us go a little further with the facts which are produced in some slight manner to sustain the preliminary action of this tribunal?

We will now partially consider the evidence and arguments applicable to the first additional article. To corrupt the youth of a nation was held by Socrates and Plato to be among the most atrocious of offenses, because it tended to overthrow the solid forms of government, and built up anarchy and despotism in their place. If it were so in an oligarchy how much more would it be so in a government where the laws control, and where the laws should be pure if that government is expected to be conducted with purity, and to survive the temporary shocks of tyrants? If it is proved or known that Andrew Johnson attempted at any time to corrupt the legal voters of the United States, so as to change them from their own true opinions to those which he himself had adopted, then, I suppose, there are few who will pretend that he was not guilty of a high misdemeanor. We need hardly call witnesses to prove a fact which everybody knows, and nobody will deny; and yet in legal accuracy it becomes necessary to prove by sworn evidence the facts to which I have referred. Does the sun shine at mid-day? It would hardly be thought necessary to answer that question by proof, and yet there is just as much necessity for it as to prove that Andrew Johnson had changed his whole principles and policy, and entered into the most dangerous and damaging contracts with aspirants for office to induce them to aid him in changing the principles of those who sought office. Did he not so authorize his known agents so to instruct Colonel Selfridge, a gentleman of high character? Who does not thence believe that the patronage was put into the hands of DOOLITTLE, Cowan, and that tribe of men for distribution on precisely such terms and conditions as Cowan stated to Colonel Selfridge? Show me a more shameless perversion of patronage in any country or in any Government, however corrupt and despotic, and I will admit that Andrew Johnson is pure as the icicles that hang on Diana's temple.

Can you look abroad over this country, even with imperfect vision, without shuddering, and forget the hundreds of instances even within your knowledge of the good and true Republicans ejected from office without any charge of misconduct, but simply for the reason that they had not joined the party of the President?

Now, sir, I admit that when a new Executive comes into office it is not only proper but it is his duty to change his office-holders,

especially the large ones, so as to remove from power those who differ, and place those in who agree with him, and in this way to propagate the principles he advocates, and upon which the people of the United States had placed him in power. Not to do that would, I think, be badly treating those who elevated him and expected him to teach their doctrines. But for an Executive who has been elected to office professing and loudly proclaiming one set of principles to change into a diametrically opposite course all those principles through which he was elevated to power, without surrendering that power to those who gave it, and to bribe by patronage, by money, or by the people's offices, the very men who had assisted to so elevate him to adopt other principles, and thus to corrupt and pervert the good morals of the country, so far as his patronage will allow, seems to me to fall little short in atrocity of the most corrupt practices of Europe in the worst days of the corrupt courts of Charles and Edward, and to put Judas Iscariot to the blush. Would to God that such an Executive had the repentance of that remorseful malefactor, who had been guilty of no indictable offense, but had simply indicated by a kiss the identity of the Master who trusted him.

But let us look a little further into the items which the evidence discloses. I will speak now of the acts which have been perpetrated by the President in attempting to corrupt and bribe citizens of the United States, now members of Congress, and here ready to discharge their duty.

Colorado, a virgin golden State, presented herself for admission into the Union of the States. She presented a constitution to which no branch of the Government objected, so far as I recollect, except the Republicans, who insisted upon the allowance of the enfranchisement of the blacks.

But it was objected to by the President upon various grounds, among which was want of population, together with others which I do not find it necessary to recapitulate; one of which, however, I believe was his desire to have all men enfranchised. Congress then so modified it as to agree to accept it, with one or two exceptions, among them that which I have before mentioned.

They so directed their members of Congress, the vote of whose Senators was necessary to give the requisite two thirds majority to pass it over the veto. Before this period had arrived the President had set up a kingdom for himself and determined to people it with apostates from honest communities. He informed the Senators from Colorado that he could not sign the bill for the admission of their State unless they agreed to support his policy in the course he had determined to pursue; and he most distinctly said, if there be any truth in those gentlemen, that if they thus supported him he would in turn support them, and become their friend, and give them his signature, which would admit them into the Union. I know that cavils have been had upon this point, but I know, also, that no man of common honesty would enter into the arrangement I have cited unless both parties fully understood it to mean precisely what I have stated. To say that there was no written pledge is but an insult to the high place and what ought to be the high character of the Executive.

Supposing, then, that this offer was made, is it a crime and misdemeanor, such as entitles the prosecution to a verdict against the respondent and a consequent removal from office? In my judgment if no other proposition were ever made and proved, if the testimony of Mr. Evans and Mr. Chaffee is not contradicted, there is no honest tribunal upon the face of this globe which would continue the President in his place and enable him to go on disgracing the high functions which a nation of freemen have placed upon him. There is no jury in any portion of the land who is not too intelligent to be deluded by any of the humbug arguments which would cast such remarks into another quarter, and make them mean anything else.

Here then, sir, I might stop and say to you and this body, which of you is it that is corrupt and fit to be impeached and thrust forth from your high offices? You cannot both remain where you are. One of you, or both, speak with a forked tongue, and require that the sons of Almonah, if they never complain, shall be so punished that the indomitable energy of their nature should never again be exhibited in the land of civilization.

Sir, I am almost ashamed to charge the respondent with so small an offense as corrupting the lawful voters of the United States to build up a party for himself, especially when there are so many graver charges, charges which, in any other country, would bring out the block and sharpen the ax. But it may be well to expose to the gaze of the loyal people of the nation the conduct of him who claimed to be pure, and who violated all his claims. It is charged and proved, beyond the possibility of a doubt, that one hundred and ninety-three deserters from the United States Army, who had taken with them their arms and accoutrements to the enemy, were pardoned by the President a few days before the election at which they were expected to vote, in order that they might cast their ballots for Mr. Andrews, of Virginia, and Colonel Montgomery, of Pennsylvania, both friends and partisans of the President.

No one doubts, from the evidence of Colonel McEwen, that he urged the pardons upon that ground alone. No one doubts that to procure such pardons he paid my friend Tom Florence \$1,000, and that, by the way, is the only redeeming part of the transaction; for had he made it \$2,000 I would have passed it over without comment, so anxious am I that my old friend should flourish in these times.

Does any one doubt that all these cases are fully proved? If they do not, where is there any man sufficiently corrupt to deny their impeachable character in the Executive of the nation? If there be any such, let him speak. But let us pass over the quires of scandalous testimony going to prove the respondent's depraved appetite and licentious habits, as matters to be dealt with to the shame of those who selected him rather than by his public accusers, and proceed to the graver charges of embezzling or allowing others to embezzle the public property, and of the abuse of the high prerogative of the pardoning power.

On the 17th of July, 1862, Congress passed a law, and a very comprehensive one, the first four sections of which defined the punishment of treason and misprision of treason. They extended no further than to punishment by death without confiscation. All the other portions of the law, which is a long one, treated the officers, soldiers, aiders, and abettors of the so-called confederate States of America as independent belligerents, and proceeded to denounce against them the punishment which should be inflicted and the penalties which they should endure when conquered. Among these penalties and forfeitures it was expressly provided that the President of the United States should seize all the property of any member of the belligerent army, and proceed to have the same confiscated, not as the property of traitors or citizens guilty of treason, but as enemies' property, engaged in a national war with the United States, whenever subdued, and that the same should be applied by the President to the Treasury of the United States, to pay the expenses and damages which the enemy had caused to be created on the part of the United States.

Here was a most distinct, emphatic transfer of all the property belonging to the independent belligerent, and to all the members, aiders, and abettors of the so-called confederate government, whether as officers or soldiers, and the same was directed to be appropriated to the Government of this nation. By virtue of subsequent laws, which I have not time nor strength to enumerate, all the abandoned property of the independent belligerents who should have left their homes was directed to be seized by



the Army and Navy of the United States and to be transferred to the officers of the Freedmen's Bureau, in trust for the freedmen and those who were made destitute by the war. These laws, also, were absolute and unqualified, and admitted of no ambiguity, no doubt of their construction, and under them large amounts of property were seized.

Under the first-named law the officers of the Government, as fast as our armies conquered the country, seized the lands and goods of the enemy, and instituted proceedings for confiscation. No one, I suppose, doubts that had these laws been fully carried out enough revenue would have been produced to pay the whole of our national debt, together with the damage done to loyal men by the enemy, both in southern territory and in the northern States which they invaded, and that, too, without seizing one particle of property whose owners were worth less than twenty thousand dollars. No poor man, guilty or not guilty, would have been disturbed in his possessions, or, if the proceeding be a hard one, would have been unjustly punished for his offense. Fortunately for such a proceeding the South was a land of satraps and nabobs, and their estates were of almost indefinite extent. I once had an estimate by competent men in the Census Bureau, and I found that it would affect less than sixty thousand men out of a population of some six million. Now, it would seem that no one who desired the punishment of crime and a remuneration for wrong done could much object to such a proceeding, unless all his ideas of justice were perverted, and he would turn the punishment of the malefactor on the innocent and his reward on the guilty.

When the President had been commissioned, like the tormentor of Job, to deal with a nation to whatever devilish extent he chose, in order, I suppose, to try their virtue and the endurance of the fire of liberty, and had commenced his acts of torture and injustice, he began by pardoning the most lofty rebels, having first exonerated all of the lower grade, and ordered to be restored to them the land which had been seized as enemies' property by the conquering power.

Of course I cannot now attempt to enumerate the one tenth part of the property which had been seized, and which, under the vain idea that a pardon restored it, the President ordered to be returned to his friends, the original owners. A few specimens may serve for the whole. General Sherman, in company with the Secretary of War, had seized Charleston and the adjacent mainland, together with the Sea Islands, so famous for cotton, and had set aside these islands and the margin of the water fronts as homesteads for the liberated freedmen, as some slight recompense for their lives of toil. On those islands more than forty thousand persons were thus provided with comfortable homes—made, as they thought and all thought, proprietors of the soil and independent landholders. The testimony shows that four hundred and fifty thousand acres of the mainland were laid off in a similar manner for the accommodation of these unhappy freedmen. The testimony also is that more than two thirds of Charleston were taken possession of on behalf of the United States, and for the same purpose.

Now, what those Sea Islands and Charleston were worth I have no means of knowing—many millions, says the testimony. I should think they were valued very low at a billion. And who were they given to? The testimony shows that they were given to the richest men in the South; Aiken, Trenholm, and Whaley, and others of the opulent, who were proved to have made vast amounts of money by blockade-running during the war. The estates of these three are estimated at from five to twenty millions each; taken altogether, but little short of a billion. The abandoned property in Virginia, Louisiana, and other provinces was proved to be very large, and would most probably carry up the aggregate to \$1,500,000,000. But it matters not what the abandoned property

was worth. The real estate of the rich belligerents over the value of \$20,000 each would more than pay all our national debt and the damages done loyal citizens. To be sure, the expenditures which we have already incurred, probably exceeding \$3,000,000,000, can never be regained from the enemy, for there is no trace of their amount. Let us see how the account would stand. The liquidated debt, as reported by the Departments, is returned at about \$3,000,000,000, and if the Government is foolish enough to pay, under the pretense set up by bondholders that it ought to be paid in gold instead of money, it will probably reach \$5,500,000,000—an enormous debt, which no nation ever incurred and survived. But taking it for granted that no Administration ever dared to give away of the people's money more than \$1,500,000,000 or \$2,000,000,000 that do not belong to the claimants, and taking it for granted that no clamor of bondholders or shavers or hired editors will ever induce an honest Secretary of the Treasury, or an honest Administration to pay the debt in anything but lawful money when it falls due, still I suppose the debt would amount to over \$3,000,000,000.

Now, the property already seized as confiscated and abandoned, from the evidence taken before the Committee on Reconstruction and the various reports from the Freedmen's Bureau, could it have been all applied in that direction, would have nearly paid, if not quite, the obligations due by the United States to the various holders both in Europe and America, including the certified indebtedness and legal tenders. This property, you remember, is ordered by act of 17th of July, 1862, and other acts, to be reduced to money and paid to defray these very claims. And if that course had been pursued by the President, who was expressly commanded to see it executed, the debt which now by the weekly statements looms up to about twenty-five hundred million dollars would have been liquidated and paid. Why was not this done? By the law of nations and by the practice of every well-regulated Government, the conqueror compels the vanquished belligerent in an unjust war to pay not only the debt incurred by the victorious party, but all the damages caused by the invasion and inroads of the enemy.

It was the duty of the President, and which he had sworn to perform, to convert this property into money and pay off this debt. Had he not been guilty of official perjury the whole of the bonded debt, which is now a lien upon every man's property, would have been paid or be in process of payment out of the confiscated funds of rebels.

But he preferred to grant them pardons, and then order that the property seized, either as belligerent or abandoned property, should be restored to its rebel owners. How much the restoration cost those whose influence was used to gain their pardons and procure their restoration I do not undertake to argue. I should be very sorry if any man's reputation were to depend upon the testimony of the Cobbs, Davises, and Bakers upon such points as these. That they were probably right in their account of his social intercourse with them I think likely; but that would no further implicate him in high crimes and misdemeanors, or be relevant evidence, than as it went to show a looseness of morals which would induce honest and upright men to give but little faith and credit to any of his acts.

If the property to which we have already referred had paid off the national debt and relieved the United States from its burdens, it is clearly proved that a very large amount of surplus remained to the large land-holding belligerents after the war was ended. In all the slaveholding States, farms, instead of occupying two or three hundred acres, were manors of from three to thirty thousand acres. The brothers of Jeff. Davis, it is shown, were owners of hundreds of thousands of acres of the richest bottom lands of Mississippi, and too proud to ask for pardon that they might save them. They bade defiance to the conqueror, and their relations had to

make the application for them. When one of these high culprits was pardoned, the President invariably ordered a restoration of his property by a clear violation of the Constitution. He has the pardoning power, but that power does not take from the Treasury any property of the United States and bestow it on the convict.

Where an act of Parliament or of the legislative power of a nation declares the forfeiture, and orders its application for the purposes of the Government, it is beyond the pardoning power of the Executive. It is not a case that comes within the law of forfeiture at common law, but it is one that requires precisely the same power to restore it that it did to take it away. I feel no doubt, therefore, that the restoration of this property was all a nullity, and it is the duty, and has been the duty, of the Executive ever since he has seized this property to convert it into money and apply it to the payment of the national debt. If we are right in this, is it not the duty of every member of this body who has any respect for his constituents or any regard for his oath to put the respondent upon his trial and see how far he is guilty? Any other course, it seems to me, savors so much of party corruption and party demoralization that it can be accounted for in no other way than, in looking over this body, to suppose we are beholding not an amphictyonic council, but an assembly of cowards. I will not, therefore, believe that any adverse vote will be had until I have heard the responses as the parties are called.

There is but one thing further on this branch of the subject which I deem it necessary or even proper to touch. For if the fact be as I suppose, and its exhibition do not induce this body to vote for impeachment, then all effort were vain, and we should not obey, though one were to raise from the dead to instruct us. After all the governments in the ten or eleven conquered States which had formed the confederate States of America had been subdued, crushed, conquered, by the United States, and were admitted to be subject to their disposal and lying prostrate at their mercy, the question, a grave though not difficult one, arose: in what way shall they be governed? The conqueror had a right to impose just such laws as he chose, within the bounds of humanity. He had a right to give them new forms of government, new constitutions and laws, to obliterate their old boundaries and make new ones. Who did I say had that right? The conqueror, the nation, the Government, that had subdued them. That conqueror, in every nation claiming to be free, consists of the legislative power of the empire. The Commander-in-Chief of its armies, its judiciary, had nothing to do with the permanent governments to be set up, except to obey and execute any laws which the legislative power might deem proper to pass. That was resolved and decreed, not once simply, but more than once, by a two-thirds vote, until every person belonging to either branch of the Government was fully aware of it. And until those governments were established it was just as clear that the conquered provinces had no lot in Israel. And, in order to give them any right, they must petition the conquering power and receive whatever terms it might deem fit to give.

Whatever might have been the doubt of ignorance and ambition immediately after the contest, no one not entirely destitute of the proper knowledge of the law of nations and the decrees passed by this Government can now be in ignorance of the fact that such is the law which this nation determined to enforce. But the executive officers thought themselves superior to the sovereign power of the nation, and instead of consulting them and obeying their instructions they proceeded to institute governments of their own, to dictate the kind of laws and constitutions under which their subjects should act, and how they should demean themselves so as to be represented in the nation. The sovereign legislative power rejected this proceeding, and ordered new governments to

be established as provisional until they had time to prescribe better ones. The President, with a dogmatism and determination which well became a tyrant, commanded the old States to revive and be again represented as live bodies in the Government of the nation. If this usurpation be not a high official misdemeanor, then the putting of a crown upon his head would have been an innocent amusement in Andrew Johnson; then the seizure of the property of his subjects and making it all subject to his good will, pleasure, and disposition would be no crime. That he did all this requires no other proof than his own official records; and had I been conducting this prosecution on the occasion referred to, when I had shown this usurpation and this abstraction, through pardoned rebel friends, of the billions of the public money, I would have stopped and asked the Congress either to appoint a new trustee for the nation or to become the slaves of a single man and change their whole form of government from republicanism to tyranny.

We will now briefly consider a few more things connected with the additional articles. We have already partially discussed the first additional article. We will add a little more, and refer to the second, under which we had intended to insert the evidence in the body of these remarks, but I have concluded to publish it as an appendix, lest the same should become too tedious.

It is not necessary again to refer to the cases of General McEwen, Colonel Montgomery, and the pardoned soldiers. These were cases of clear official misdemeanor, which appeared too brightly in the sunshine of truth to blind any but that bird of wisdom that sends forth his beautiful words by night.

Nor need we recapitulate the conclusive evidence of the shameless corruption as given by Colonel Selfridge. If an officer could be corrupt to the core, and abuse all the trusts confided to him, it was the man who made such shameful propositions to the gallant colonel. His own Cabinet minister has testified in seeming ignorance of its enormity of the causes for which he was compelled to remove from office and make appointments.

Hon. Alexander W. Randall, Postmaster General, testifies that up to the period he gave his evidence, a short time after the President's apostasy, there were removed from office, in his Department, the number of sixteen hundred and four, of whom twelve hundred and eighty-three were removed for political reasons alone. He explains what he means by political reasons, that the persons should abandon their honest principles and adopt those they did not approve of, ordered by the President. All of his removals and appointments were conducted upon this system.

If that number of victims were assailed and prepared for corruption in one of the most important Departments of the Government, within so short a period after the apostasy, how many similar cases in other branches of the Government felt the effect of this corrupting policy? The Treasury contains (?) several times more officers than the Post Office Department, and of ten times more value. I am afraid, without authentic information, to state the number; they, however, amount to tens of thousands. How many honest men were hurled from appointments? How many poor women and children were reduced to suffering by this political Nero because they would not swallow the wormwood and the gall of moral apostasy? God knows that there were vast numbers who fell because they believed they could not withstand the command without producing suffering upon those dependent upon them. They were to be pitied! Were not these things high misdemeanors? Shame on the caiff who denies it!

The testimony of the Senators from Colorado goes to show with what facility the President would lead men to perjury for his own vile purposes. How, in this corrupt and corrupting world, are men with human hearts to stand and not to fall?

Everything, whether mind or matter, however large or small, should stand on a square and firm foundation. Place it upon its apex, and it will topple down. Its frequent vibrations and jarrings will so loosen its hold on gravitation as to make it liable to be more easily overthrown in violent convulsion. Human virtue is believed to be so firm in most minds as not to be easily assailed. Human virtue is believed to be the great foundation of human excellence and human glory. Monuments of art are raised to celebrate the glory of virtue and truth, as if material monuments were to endure sufficiently long to be worth seeking. And yet scarcely a generation shall have passed away till you hear the vanity of their shortness deplored. The most costly and solid monuments of brass or marble, erected to the achievements of heroes and statesmen, in a few short years become the subject of the search of antiquaries, and their mutilated legs and arms and extracted eyes are scattered curiosities to enrich the museums of the world. This serves to illustrate not the worthlessness of virtue, but the folly of attempting to perpetuate its memory by mere material memorials. How many fragments of monuments strew the grounds of Palmyra without their indicating their original purpose. Enter the ever-glowing tombs of Egypt, cut from the solid rock, and painted with colors that never fade, and you will ask yourself in vain whose exploits and virtue do they commemorate? It is, therefore, but little wonder that men in the present and other generations should set such little value on the passing judgment of the age, or should endeavor to enjoy the benefits of their acts in present riches, however obtained, while they are yet in the way with them. Nor is it wonderful that men of the meanest intellect and meanest aspirations are no more easily open to the influence of corruption than the man of the loftiest position and most cultivated intellect. Hence many men have come to the conclusion that no republican government is above the influences of corruption, if the means that command it in patronage, honor, or gold, shall be sufficiently large, nor, with the exception of this great and pure Republic, without seeing any fact to justify it, but from pure theory and reflection I have been driven to the same conclusion.

I do not know that it is wise to ask for a vote upon this resolution; for, after mature reflection and thorough examination of ancient and modern history, I have come to the fixed conclusion that neither in Europe nor America will the Chief Executive of a nation be again removed by peaceful means. If he retains the money and the patronage of the Government it will be found, as it has been found, stronger than the law and impenetrable to the spear of justice. If tyranny becomes intolerable, the only resource will be found in the dagger of Brutus. God grant that it may never be used. Look at Themistocles and Alcibiades, who, after having rendered illustrious service to their country, touched the riches of Persia and the gold of the Great King. Even he who so sternly wept by unconquered Salamis was not proof against the temptations of gold.

This may seem to be the argument of spleen, emitted by disappointment at recent events; but I disclaim any reference to those events, nor do I intend that they shall be made to apply to any fact or individual connected with recent transactions. True, I cannot deny that certain modern events have attracted my attention and made me more deeply reflect upon the possibilities of the human heart, from which reasoning I have been led to conclude that the loftiest intellect, the most cultivated mind, and the most aspiring ambition is just as liable to be purchased with gold as the most moderate intellect and the most limited personal ambition, when the amount of the corrupting influence tendered to each shall be in proportion to their high intellectual qualities. The man of mean ambition and low aspirations may be more easily seduced into error by lower motives and probably by smaller amounts than

the man whose ambition grasps hemispheres and would induce him to desire the luxury of millions.

But let the latter be tempted by the *auri sacra fames* which would measure his capacity with the lighter one of his neighbor, and why would he not yield? Has he ever resisted from the time of the progeny of the Ptolemies—to the mean traitor who sold American liberty for a paltry sum, though fortunately for the world he failed to make delivery. Indeed, I am not sure that the less cultivated mind, who sails lower in his sphere of hopes and desires, may not be harder to mislead from the path of virtue, so far as corrupt argument is concerned, than the ripe scholar who has spent his time in perusing the works of philosophers. The latter have learned to measure glory and worldly good by the splendor of its earthly light, and they will not be as likely to be shocked by the mere upbraidings of conscience as those who have learned their principles by implicit reliance on the teachings of the Scriptures and are more likely to be startled by a proposed departure from them. Nor, supposing the temptation to be increased in proportion, do I believe that any of the finer qualifications of the human heart are a protection against such corruption unless it has been touched by the coal of regeneration from the burning altar of the living God. We have seen Lord Bacon, who, in everything but virtue, stood next to the angels, behold with cold indifference the corrupt and corrupting sutor fastening bags of gold to his horse's crupper. Beyond this human audacity could not soar; lower than this human depravity could not sink. The most austere appearances, the most sedate and virtuous demeanor, even the most repulsive austerity, is no sure indication of the intellectual man.

I can recollect but two men whom I deem absolutely impenetrable to temptation, he of Athens and He of Bethlehem. The counselor who gives the chief suggestions to our acquitted President did not deem the latter above corruption. He took him to the top of the highest mountain and offered him all the kingdoms of the earth to bow down and worship him. Here was enough "landed estates" to have tempted the land-loving "high court of impeachment of the House of Lords."

To what a pitch of fame would our Republic have been raised if could have been heard issuing from the lips of the most astute, eloquent, highly cultivated, and austere of our court of impeachment, in concert with the great tempted Divine, the rebuke, "Get thee behind me, Satan!" But, no; the sun of our glory is wading through watery clouds and the murky atmosphere of doubt and distrust.

I had spoken before of the different kind of persons open to seduction; I would not do injustice to the inambitious. Indeed, I am not sure that the man of modest pretensions and moderate acquirements is not less liable to yield to corruption, especially when conscience is relied upon as a monitor, than the man of highly cultivated, intellectual, and lofty aspirations. The one places faith in the solemn teachings of the Scriptures, while the other relies on his own strong reason and his cultivated intellect.

The one is startled with a violation of the teaching of his sacred Master, while the other views them with more reasoning equality, while gold is of more value to the philosopher than to the more moderate plebeian, and it takes more to satisfy his wants, and more to satisfy his doubts as to the flames of future torments than it does those of the implicit believer. Besides, how much more desirable it is to win the man of celebrity, so that he will cover the acts of others and give character to the transaction. Hence, I have come to the conclusion that the well-furnished mind, the cultivated intellect, may be the nest of malignity, corruption, and depravity, as well as less cultivated minds.

I trust that no corruption will ever so infect our public men, and especially our public tri-

bunals, as to taint the holy principles upon which our Government rests. If it should, the grief of the people, the grief of the friends of liberty throughout the world, will be more deeply moved than when the veil of the temple was rent in twain, and will be more intensely sad than was mourning Athens when they beheld the approach of the fatal vessel from Delos which was to seal the fate of their inspired teacher.

If this Government should learn to punish her delinquent rulers, and never to depart from the principles of the Declaration of Independence, especially from the inalienable rights of life, liberty, and its necessary concomitant—universal suffrage—she never can take a step backward, but will sail forward on a sea of glory into the very verge of that awful gulf which divides time from eternity.

Mr. Speaker, Providence has placed us here in a political Eden. All we have to do is to avoid the forbidden fruit, for we have not yet reached the perfection of justice. While nature has given us every advantage of soil, climate, and geographical position, man still is vile. But such large steps have lately been taken in the true direction, that the patriot has a right to take courage.

My sands are nearly run, and I can only see with the eye of faith. I am fast descending the downhill of life, at the foot of which stands an open grave. But you, sir, are promised length of days and a brilliant career. If you and your compeers can fling away ambition and realize that every human being, however lowly-born or degraded, by fortune is your equal, that every inalienable right which belongs to you belongs also to him, truth and righteousness will spread over the land, and you will look down from the top of the Rocky mountains upon an empire of one hundred millions of happy people.

Still, we must remember not to place our trust in princes, for we have seen that in the richest heart, the most highly cultivated mind, adorned with every literary grace, keen in argument as the Stagerite, and fortified with an outward shield of bronzed austerity which seemed to forbid the approach of levity or corruption; this richest composition of human mold may be the abode of malignity, avarice, corroding lust, and uncontrollable ambition, as the owl, the prairie-dog, and rattlesnake nestle together in loving harmony in the richest soil of the prairie.

I desire that the resolutions shall be postponed until next Monday, as certain gentlemen wish to look at them.

#### [APPENDIX.]

*Extract from the testimony taken before the Judiciary Committee of the House of Representatives, second session Thirty-Ninth and second session Fortieth Congress.*

Colonel Wood testifies as follows, in a direct interview with the President himself, being the least atrocious of an hundred similar cases:

"Question. After that did you apply to the President for any office?"

"Answer. I did, sir.

"Question. By whom were you recommended?"

"Answer. By Colonel Ruel, by Mr. H. F. Cosper, assessor, and several military recommendations.

"Question. When did you apply to the President?"

"Answer. On the 20th or 21st of September, 1866.

"Question. Did you wait for him to return from his journey to Chicago?"

"Answer. I did; I arrived in Washington during his western trip.

"Question. State as distinctly as you can the form of conversation and what took place between you and the President.

"Answer. I introduced myself and showed my recommendations, and stated my claims for Government employment; that I was a resident of the South, and being a Union man was driven away from the South, and compelled to lose all my property; that I had been in the Army and had a good record, and thought I was entitled to Government employment, as I was poor and out of employment. He looked at two of my recommendations, I think, and glanced at some others, but did not read them, and said my claim was good, or worthy of attention, I do not remember which. He then asked me what position I wanted. I suggested some appointment in the internal revenue department, as I was acquainted with that, and it had been suggested to me by some of my friends in Memphis that I should ask for something of that kind.

"Question. Did you suggest to him where?"

"Answer. I suggested in Alabama or some part of

the South. He then asked me—I suppose noticing that I was not much of a politician—what my political proclivities were. I told him I was in favor of the present Administration, had always been a loyal man and a Republican, and that I had faith or confidence in our Administration, in our present Congress, and in the Chief Executive of the nation. He then asked me if I was aware of any differences between himself and Congress. Wishing to make as good a case as I could, because I wanted the appointment, I said I was aware of some differences on minor points. He then replied: "They are not minor points, sir; and the patronage and influence of these officers must be in my favor," leaving me to infer, in his favor, as opposed to Congress. As I inferred that I replied that I could not accept an office, and retired."

#### Testimony of James L. Selfridge.

"Question. State your residence?"

"Answer. Bethlehem, Pennsylvania.

"Question. State if you were appointed to any office in the congressional district in which you reside?"

"Answer. In the latter part of June, 1865, I was appointed assessor of internal revenue of the eleventh district of Pennsylvania, to fill a vacancy.

"Question. How long did you continue to hold that office?"

"Answer. I held it until the 20th of November, 1866.

"Question. State, if you please, whether you held a commission in the usual form?"

"Answer. Yes, sir; I held a commission from the Secretary of the Treasury until the adjournment of the Senate.

"Question. Now state, if you please, whether your name was sent into the Senate for confirmation?"

"Answer. So far as I know it was not sent in.

"Question. Did you bring the matter, at any time during the session of the Senate, to the notice of the Treasury Department?"

"Answer. I came down here the 5th of June, I think; I do not recollect distinctly whether I saw the Assistant Secretary that day or the next day, the 5th or 6th of June; I called at the Treasury Department with the view of urging him to send my name in.

"Question. You know, then, that it had not been sent in.

"Answer. I so understood; I was unable to see the Secretary, and saw Assistant Secretary Chandler, who, after a moment, referred me to the Commissioner of Internal Revenue; he seemed to be aware that my name had not been sent in; Mr. Rollins could not be seen, and I saw Mr. Whitman, the deputy commissioner; I told him that I had been over to the Secretary's office and stated my business there, and they had referred me to the Commissioner's office; I inquired why the name had not been sent in; he replied that Mr. Cowan had charge of the Pennsylvania appointments, and that when Mr. Cowan said the name should go in it would go, and not until then.

"Question. State whether you called at any time upon the President himself in regard to it?"

"Answer. No, sir; I called on Mr. Cowan and stated to him what I learned at the Department. He replied that he supposed that was so.

"Question. Did he give you any advice?"

"Answer. He told me to go home and support the President and his policy and he would attend to the matter; I saw him before the adjournment of Congress, on the 3d day of July, in the city of Philadelphia; he there intimated to me that the name would not be sent in; he told me that if I stopped taking Radical papers and supported the President and his policy the President might reappoint me, but he would appoint no one who took Radical papers.

"Question. You had no conversation with any officers connected with the Treasury Department in regard to the matter after that?"

"Answer. I saw the Secretary of the Treasury subsequently, I think, about the 25th or 26th of February, and I inquired of him how the matter was. He said he supposed it was an omission; I told him I knew how it was; that the matter had been left entirely with Mr. Cowan. He made no reply.

"Question. Did Mr. Cowan state to you, as if by authority, what was the President's policy?"

"Answer. He stated very emphatically, so far as I was concerned, that unless I stopped taking Radical papers, and supported the President's policy, I would not be reappointed. I held the office after the adjournment of the Senate until November. I have a letter here from the Fifth Auditor of the Treasury Department, dated May 8, 1867, in which he speaks of there having been an omission in sending in my name, and they refused to pay salary and commissions after the adjournment of the Senate. I wrote to him about the matter, and he replied that there seemed to be an omission to send in my name, and that I therefore ceased to be entitled to receive compensation as assessor on the 28th of July, 1866."

#### Testimony of John Evans.

"Question. State your residence.

"Answer. Denver City, Colorado Territory.

"Question. To what position were you elected under the proposed State organization of Colorado?"

"Answer. United States Senator.

"Question. Were you in this city about the time of the passage of the bill, during the first session of the Thirty-Ninth Congress, providing for the admission of the State of Colorado into the Union?"

"Answer. I was.

"Question. State whether you had any interviews with the President of the United States after the passage of that bill, in reference to the same?"

"Answer. I had.

"Question. Were you invited to any such interviews?"

"Answer. I was, by an anonymous note.

"Question. Have you the note, and if so produce it?"

"Answer. Supposing it would be called for I brought it along, and present the original note.

"Question. Please read it.

"Answer. It reads as follows: 'Mr. Evans will please call at the President's house and see Mr. Edward Cooper, Monday.'

"Question. Do you know in whose handwriting this note is?"

"Answer. I do not.

"Question. By whom was it delivered to you?"

"Answer. It was left in my box at the hotel post office, National Hotel.

"Question. State whether in response to that note you called upon Mr. Edward Cooper?"

"Answer. I did.

"Question. What position was Mr. Cooper occupying at that time?"

"Answer. I understood him to be the Private Secretary of the President.

"Question. Please state what transpired at that interview between you and Mr. Cooper?"

"Answer. We had a long interview in regard to the political situation, and in regard to the probability of the President signing the Colorado Bill.

"Question. State substantially in detail what transpired during that interview?"

"Answer. It would be difficult at this late period to detail all the conversation that passed between us. The substance of it was that it was Mr. Cooper's impression that if Mr. Chaffee and I would sustain the President's policy he would not veto the Colorado bill.

"Question. Did he pretend to speak by authority?"

"Answer. I think that, although his general conversation would indicate that he did, he in terms disclaimed speaking by authority. He said the matter was in our hands, and that it was for us to say.

"Question. Meaning thereby that the approval or disapproval of that bill was in your hands?"

"Answer. That is what I understood him to mean.

"Question. After that interview with Mr. Cooper did you have an interview with the President the same day?"

"Answer. We did immediately following on the same night.

"Question. Did Mr. Cooper go in with you?"

"Answer. No, sir; he proposed that we should go in and see the President.

"Question. State as much as possible in detail the conversation that occurred between you and Mr. Cooper, and between you and the President?"

"Answer. Previous to our interview with the President we were invited into a private room by Mr. Cooper, who said he desired to talk with us in regard to the Colorado question. After a resume of the present political situation he said it was of vital importance for us to be friends of the President and his plan of restoration; said there would be no trouble about our bill if we would give our adherence to the President's policy; that believing, as the President did, that the future welfare and harmony of the country depended upon sustaining him, and against Congress, it would not be expedient in him, the President, to admit us to fix a ruling power over him in the Senate; that there was no constitutional reason or precedent upon which to veto—it was merely a question of expediency—and added, 'It is for you, gentlemen, to decide.' He said a great deal else of this import, to all of which we answered and stated that we had no personal hostility to the President; would be glad to see harmony, and hoped a more perfect understanding between the President and Congress would yet harmonize them; and that some plan would yet be agreed upon that would restore the union of all the States, so that loyalty could be encouraged and protected in the late rebel States; that one of us (Mr. Chaffee) had voted for him, the President, in the Baltimore convention; and that we should sustain him, so far as we could, in justice to our views upon the great national question of reconstruction. He then asked us to go in and see the President, which we did. The President met us very cordially; went over his whole plan in detail since his inauguration; said that our bill placed him in a rather awkward position; that he felt the necessity of carrying out his policy as the only one to restore the Union; that the Radicals in Congress, if allowed to succeed, would disrupt and destroy the Government. He characterized the leading men as actuated only by a desire to prolong themselves in power, and said he did not deem it expedient or in consonance with the future welfare of the Union to admit two more into the Senate to carry out their schemes; that he felt friendly to the West, and desired to do right, &c. To all of which we answered that we thought him mistaken about the animus and object of the majority in Congress; that we believed they, as well as himself, were actuated by patriotic motives; that we felt it to be our duty to be free to act as we thought best in our judgment, after taking the oath to support the Constitution of the United States; that we could have no object in this exigency but to act in a way that would restore the country upon a just basis, so that the rights of all would be guaranteed; that we should have sustained the civil rights bill, if we could have voted upon it; that we very much desired the admission of Colorado, and hoped he would approve the measure, &c. I further stated to him that I had been a Republican since the organization of that party. After we left him, Mr. Cooper held another private interview with us, in which he requested us to put our views in writing for him, not to be used, as near and as favorable as we could consistently with the President's policy, to think of it over night, and to see him again at nine o'clock in the morning. During this interview he left us and we went in to see the President, and after returning he made this request for us to put our views in writing. We called in the morning, separately and without consultation with each other, and declined, stating that we had said and done all that we could, and would have to submit to what the President saw fit to do in the premises."



*Testimony of Hon. James Harlan.*

"Question. State what you know, if anything, in regard to the issue of agricultural college scrip, under the act of 1862, to any of the States lately in rebellion against the Government.

"Answer. Some time during the summer of 1866, a gentleman appeared in the Interior Department representing himself to be the agent of the State of North Carolina, and made a demand for the agricultural college scrip to which that State was entitled. His request was submitted by me, as Secretary of the Interior, to the President at a Cabinet meeting, and I received the directions of the President to cause the scrip to be issued to that State, and I gave the necessary directions to the Commissioner of the Land Office. I do not remember the actual issue of any scrip, or countersigning any scrip; it may have been countersigned by me as Secretary of the Interior before I left.

"Question. Was the subject discussed in the Cabinet meeting to which you refer?

"Answer. Yes, it was talked over as such questions were usually talked over; not in a formal way.

"Question. Was there any question made, or any diversity of opinion expressed on the subject by members of the Cabinet, or did you yourself suggest any objections to the issue?

"Answer. I think the question of the right of the State to the scrip at the time was talked over. It was, however, the settled policy of the President to permit each of these States to receive and enjoy all the rights and privileges of any other State in the Union, on the ground that they had been fully restored to the Union. There were members of the Cabinet who dissented from the theory; but, with the concurrence of the majority and the President, it was acted upon as a settled question."

*Testimony of E. A. Rollins, Commissioner of Internal Revenue.*

"Question. State whether or not the executive removals made in the year 1866 in the internal revenue department were beneficial to the revenue service.

"Answer. I did not then, nor do I now, regard them so.

"Question. As far as you know, were the persons removed charged with incapacity or dishonesty in the performance of their duties?

"Answer. In but very few instances.

"Question. You stated that the removals were injurious to the revenue service. Have you made any estimate or have you any opinion of the extent of the injury to the revenue service growing out of these removals?

"Answer. I have made no estimate; it was from a variety of causes. The mere changing of experienced for inexperienced officers gave better opportunity for fraud upon such officers by experienced, designing tax payers. I have no doubt that the loss to the revenue was many million dollars.

"Question. Have you any means of saying whether the loss was five, ten, or twenty million dollars?

"Answer. I have not. This must be a matter of estimate rather than of calculation. There can be but little actual, reliable data, except what comes out of the nature of the cases and the character of the several officers removed and appointed.

"Question. Aside from the elements of experience, were the men appointed, in the qualities which public officers ought to possess, equal to those who were removed, considered as a body?

"Answer. I do not so regard them.

"Question. Do you trace any difficulties in collecting revenue on distilled spirits to the changes made in the year 1866?

"Answer. I do. I suggested in a previous answer that there was better opportunity for fraud upon inexperienced officers. Designing distillers and rectifiers were actually encouraged to combine for purposes of fraud.

"Question. Are there men in the revenue service whom you should have removed upon public grounds if the power of removal had been vested in you solely?

"Answer. There are.

"Question. Why have those persons not been removed?

"Answer. Because I had not the power to remove them?

"Question. What have you done, if anything, for the purpose of obtaining their removal by the agency of the Secretary of the Treasury or of the President, or of both?

"Answer. I have had no conference with, nor have I made a communication directly to, the President since the spring or early summer of 1866. To the Secretary I have, from time to time, expressed my opinion—unfavorable opinion—of some assessors and collectors, but made no formal communication until recently. I have filed with him, I believe, no distinct charges, based upon evidence received by me concerning the assessors and collectors of whom I had had an unfavorable opinion and whose removal I believed would be of advantage.

"Question. Why have you not recommended the removal of these persons?

"Answer. I have done so informally, but not formally, because I have supposed that my opinion would not receive much credit with the President. I have not formally done so until recently."

*Testimony of Matthew McEwen.*

"Question. What was your rank in the Army, and where were you stationed?

"Answer. I was surgeon in the Army. My brevet rank is brigadier general. In the early part of the war I was in charge of the United States general hospital in the valley of the Kanawha. I was afterward assigned to the second cavalry division as surgeon. I was surgeon-in-chief of the brigade, of the division,

and of the corps for a short time. I resided before the war in Charlestown, West Virginia.

"Question. As such surgeon, did you become acquainted with the fact that there was a large number of deserters from the Army?

"Answer. Yes, sir. I knew quite a number who were marked deserters, in our command especially.

"Question. State whether, after you were discharged from the Army, you conceived the idea of attempting to get those deserters, or any of them restored?

"Answer. I did.

"Question. Did you make up a list of men to make application to have them restored?

"Answer. I did.

"Question. How many names did that list contain?

"Answer. One hundred and ninety-three, I think.

"Question. What was your motive in getting these men pardoned?

"Answer. I expected to be paid for it, of course; I have been acting as claim agent for the soldiers of our division.

"Question. Having this list, state whether you conceived the design of applying to anybody to get political influence for that purpose?

"Answer. I did; I applied to Mr. Andrews, of Berkeley county, the editor of the Era, who was then a candidate for Congress in opposition to Mr. Kitchin, the present member of that district. I applied to him through his son, the father being then absent canvassing.

"Question. What was the message that you sent by the son to the father?

"Answer. That the restoration of those men would be of great importance to him in his election. That was the subject we had in discussion.

"Question. Did you receive an answer to that message?

"Answer. I did, in the form of a letter to the President of the United States by Mr. Andrews. I think I have a copy of the letter; and if so, I will furnish it to the committee. It stated that it would be a matter of great political importance to have those men restored; that they nearly all resided in his congressional district, and that the majority of them would vote the Democratic ticket. I received this letter three or four days after I had sent the message by the son. Two or three telegraphic dispatches had passed between us. The son named a time when the father would be at home. I went to see him, but he was not at home, and the son furnished me with this letter.

"Question. What did you do with the letter?

"Answer. I gave it, with the list, to Thomas B. Florence.

"Question. How was this list headed?

"Answer. List of deserters; giving regiments and companies. My impression is that the original list had that heading, but I am not positive.

"Question. Do you recollect whether you gave any other paper to Mr. Florence except Mr. Andrew's letter and this list?

"Answer. I do not think I did, unless it may have been some short statement of my own; but I do not recollect.

"Question. What did you tell Mr. Florence that you desired to have done with the letter and list?

"Answer. I wished him to get those men relieved of the charge of desertion, which would place them on the rolls again. He said he would attend to it. I think I saw him again about two days after that. He said that the application looked very favorable, and that he thought it probable the men would be restored. When I called again the second time he furnished me with the order of restoration. [Witness produces the order removing all pains and penalties from the men named therein on account of the charge of desertion. It is dated 'Adjutant General's Office, November 21, 1866,' signed by E. D. Townsend, Assistant Adjutant General, and is addressed to 'Dr. M. McEwen, care of Hon. T. B. Florence, Washington, District of Columbia.' The order and envelope in which it was inclosed are attached to the testimony, marked Exhibit B.]

"Question. As to how many on that list did you, of your own knowledge, know anything of the merits of their application?

"Answer. I was personally acquainted with nearly all the cavalry men.

"Question. As to how many of them had you any written evidence of the merits of their application?

"Answer. I had no evidence at all from their officers.

"Question. Did you file any evidence in the War Department?

"Answer. I did not. There were no papers filed except what I have already stated. I am satisfied that no one had anything to do with the application but myself.

"Question. How long prior to the election did you get the order restoring these men?

"Answer. A very few days; not over three or four.

"Question. As claim agent, what did you suppose would be the amount of penalties and forfeitures that would be lost to those men in case they were not restored, and that would come to them in case they were restored?

"Answer. Some ran as high as \$600, and others not over \$100. Taking them altogether I suppose the aggregate amount might be safely put at \$75,000.

"Question. How much were you to have as claim agent in case they were restored?

"Answer. Those with whom I had my understanding were to give me one half. With many of them I have had no understanding at all.

"Question. With how many had you such understanding?

"Answer. With nearly all the cavalry men.

"Question. You had no understanding with the infantry men.

"Answer. No, sir; there has been nothing done with any of them.

"Question. When you received that order from Thomas B. Florence, did you pay him any money therefor, as a reward for his services?

"Answer. I did.

"Question. How much?

"Answer. I paid him \$1,000.

"Question. In what form?

"Answer. In ten dollar notes.

"Question. Did you take any receipt?

"Answer. I did not.

"Question. Do you know any other matter or thing, in relation to these men, which the committee ought to know?

"Answer. I do not know of anything else. I think I have told all."

Mr. HOLMAN. I move that the resolutions be laid upon the table, and on that motion demand the yeas and nays.

The yeas and nays were not ordered.

Mr. STEVENS, of Pennsylvania. I will modify my motion and say Monday two weeks.

Mr. HOLMAN. I insist on my motion to lay upon the table.

The House divided; and there were—yeas 24, noes 60; no quorum voting.

Mr. HOLMAN. I withdraw my motion.

Mr. STEVENS, of Pennsylvania. I now move that the further consideration of the subject be postponed until Monday two weeks.

The motion was agreed to.

Mr. WILLIAMS, of Pennsylvania. Mr. Speaker, as this question now seems to be reopened, I desire to submit a series of additional articles involving the higher political crimes. They are as follows:

*Resolved*, That the following additional articles be exhibited by the House of Representatives against Andrew Johnson, President of the United States, in further maintenance and support of their impeachment against him for high crimes and misdemeanors:

## ARTICLE I.

That the said Andrew Johnson, President of the United States, not regarding the proper limitation of his powers as such officer under the Constitution and laws thereof, but contriving and intending by means and under color of the authority vested in him as the chief executive officer of this Government, and Commander-in-Chief of its armies, to bring back into the Union the lately revolted States upon terms and conditions dictated by himself, without the consent of Congress and in defiance of its will, did under the false pretense that it was his right and duty as such Executive under the Constitution to guaranty to every State in this Union a republican form of government, heretofore, to wit: on the day of —, 1865, and at divers other days and times, unlawfully usurp and exercise powers and functions belonging only to the Congress, by issuing proclamations, of his own authority, setting up new governments in sundry of the said revolted States, placing over them in the quality of provisional governors, which was an office unknown to the law, men of his own appointment, who were disqualified under the laws of the United States, by reason of their participation in the rebellion from holding any civil office therein, in violation of the Constitution and the laws thereof; whereby the said Andrew Johnson, President as aforesaid, did then and there commit, and was guilty of a high misdemeanor in office.

## ARTICLE II.

That the said Andrew Johnson, President of the United States, in contempt of the authority of Congress and of the laws passed thereby, and in order to the carrying out of the policy of reconstruction indicated in sundry proclamations issued by him for that purpose, without the aid of Congress, did pay and direct the payment of salaries to W. W. Holden, B. F. Perry, James Johnson, Lewis E. Parsons, and William Marvin, provisional governors unlawfully appointed by him over the States of North Carolina, South Carolina, Georgia, Alabama, and Florida, at rates fixed by himself, out of the contingent fund of the War Department, though well knowing that the said provisional governors were officers unknown to the Constitution and laws of the United States, and were disqualified by their participation in the rebellion from taking the oath of office required in all cases, and did not take the same; thereby disregarding and violating the provisions of the acts of Congress of the 2d of July, 1862, and 9th February, 1863, and misapplying and misusing the moneys appropriated by law to the proper and legitimate uses of the said Department; and this for the purpose of enabling him to dispense with the cooperation of Congress in and about the premises, and in violation of his high trust as chief of the executive department of this Government; whereby the said Andrew Johnson, President as aforesaid, did commit and was guilty of a high misdemeanor in office.

## ARTICLE III.

That in like contempt of the Constitution of the United States, the said Andrew Johnson, President of the United States, in order to pay the expenses of the provisional governments unlawfully set up by him within the said revolted States, in the absence of any means supplied by Congress for that purpose, and for the purpose of raising money therefor, without its authority or consent, did authorize his pretended governors, or some of them, to seize and appropriate for that use a portion of the property late of the rebel confederate and State governments within

their respective territories and jurisdiction, which had become by reason of the overthrow of those governments the property of the United States, and also to tax the people of the said States for the same purpose in violation of the provisions of the Constitution of the United States, which give to Congress alone the power to levy taxes and dispose of the public property of the United States; whereby the said Andrew Johnson, President as aforesaid, did then and there commit and was guilty of a high misdemeanor in office.

## ARTICLE IV.

That the said Andrew Johnson, President of the United States, in like contempt of the Constitution and laws thereof did, on or about the — day of —, 1865, without the authority or consent of Congress, surrender and turn over to the provisional government established by him for the State of North Carolina, a large amount of real estate at Greenville, in said State, consisting of buildings erected during the rebellion for the manufacture of arms, on lands donated for that object, and of the appraised value of \$33,918 78, and this for the purpose of paying in part the expenses of his said government and to enable him to maintain the same without the consent or cooperation of Congress; whereby the said Andrew Johnson, President as aforesaid, did then and there commit and was guilty of a high misdemeanor in office.

## ARTICLE V.

That the said Andrew Johnson, President of the United States, in like contempt of the Constitution and laws and of the authority of Congress, and with a view to the maintenance and recognition of the government established by him in the State of North Carolina, and in pursuance of a settled purpose on his part to permit each of the rebel States to receive and enjoy all the rights and privileges of any other States in the Union, on the ground that they had been fully restored by him, and in defiance of the known will of Congress in the premises, did, on the — day of —, 1865, order and direct the Secretary of the Interior to issue to the said government as one of the United States, a large amount of land scrip, under the pretended authority of an act of Congress passed during the rebellion, and authorizing the distribution thereof among the States for agricultural purposes, and in fraud of the said act, and of the true intent of Congress therein; whereby the said Andrew Johnson, President as aforesaid, did then and there commit and was guilty of a high misdemeanor in office.

## ARTICLE VI.

That the said Andrew Johnson, President of the United States, in like contempt of the Constitution and the laws thereof, did on or about the — day of —, 1865, without the authority or consent of Congress, and without any consideration whatever, surrender and deliver over to the rebel stockholders and owners of railroads within the revolted States, which were captured in the war waged by them against the Government of the United States, the roads so captured, on which very large sums of money had been expended by the said Government, together with the rolling stock and machinery belonging to the same—the whole being of the value of many million dollars; and did also surrender and deliver over to the same parties one or more railroads constructed by the so-called confederate government for the purposes of the war, and one or more railroads constructed at great expense by the Government of the United States itself, in violation of the provisions of the Constitution of the United States; whereby the said Andrew Johnson, President as aforesaid, did then and there commit and was guilty of a high misdemeanor in office.

## ARTICLE VII.

That the said Andrew Johnson, President of the United States, in like contempt of the Constitution and the laws thereof, did, on or about the — day of —, 1865, and at other times, without the authority or consent of Congress, sell and transfer to the disloyal stockholders of railroad companies within the rebel States, at a private valuation, on a long credit, and without any adequate security, a large amount of railroad rolling stock and machinery belonging to the Government of the United States, of the value of many millions of dollars; and did also, after repeated willful defaults on the part of the purchasers thereof, postpone the debt due to the Government therefor, which has never yet been paid, in order to enable them to satisfy the claims of other creditors, including long arrears of interest on a large amount of bonds of the said companies, of which the said Andrew Johnson was himself a large holder at the time, in violation of the Constitution of the United States and of his duty as President, and in fraud of the said Government; whereby the said Andrew Johnson, President as aforesaid, did then and there commit and was guilty of a high misdemeanor in office.

## ARTICLE VIII.

That the said Andrew Johnson, President of the United States, in like contempt of the Constitution and the laws thereof, did, on or about the — day of —, 1865, and at divers other days and times, order to be surrendered, and did surrender and deliver up, without equivalent, and under the pretense that he had authority so to do by virtue of the pardoning power vested in him by the Constitution, to the original rebel proprietors a large amount of real estate, comprising among others about one hundred and twelve tracts or parcels of land within the State of Virginia alone, which had been duly libelled and condemned by judgment of the courts for the treason of the said proprietors, in pursuance of law, and had thereby become expressly vested in the Government of the United States for the use thereof; whereby the said Andrew Johnson, President as aforesaid, did

then and there commit and was guilty of a high misdemeanor in office.

## ARTICLE IX.

That the said Andrew Johnson, President of the United States, in like contempt of the Constitution and laws, did, on or about the — day of —, 1865, and at other times, without the authority or consent of Congress, and in plain violation of law, not only restore to rebel owners large amounts of cotton and other abandoned property that had been seized by the agents of the Treasury, under and in conformity with the law in that case provided, but did pay and order to be paid back to the rebel claimants the proceeds of actual sales thereof to a very large amount of money, at his own mere will and pleasure and in utter defiance of the act of Congress of —, directing the same to be paid into the Treasury, and referring the parties aggrieved for remedy to the courts; whereby the said Andrew Johnson, President as aforesaid, did then and there commit and was guilty of a high misdemeanor in office.

## ARTICLE X.

That the said Andrew Johnson, President of the United States, in like contempt of the Constitution, did, on the — day of —, 1865, and at divers other days and times, unlawfully abuse and misuse the pardoning power bestowed on him thereby, to the great detriment of the public, by releasing the most active and formidable of the leaders of the rebellion, for the purpose of securing their services in aid of his plan of reconstruction by Executive authority, and further, by substantially delegating the same to one or more of his provisional governors by pledging himself to pardon all such persons as they might recommend for that purpose; whereby the said Andrew Johnson, President as aforesaid, did then and there commit and was guilty of a high misdemeanor in office.

## ARTICLE XI.

That the said Andrew Johnson, President of the United States, in like contempt of his obligation under the Constitution to see that the laws were faithfully executed, did not only refuse to enforce the laws passed by Congress for the suppression of the rebellion, and the punishment of those who gave it comfort and support, by directing proceedings against them and their property, but did absolutely obstruct the course of public justice by prohibiting the institution of legal proceedings for that purpose, and, where already commenced, by staying the same indefinitely or ordering absolutely the discontinuance thereof; and, in pursuance of a general policy adopted by him to that effect, did, among other things, on or about the — day of —, 1867, not only release from imprisonment a certain Clement C. Clay, then a State prisoner, charged, among other things, with treason, with complicity in the murder of Mr. Lincoln, and with organizing bands of pirates, robbers, and murderers in Canada to burn the cities and ravage the commercial coasts of the United States on the British frontier, but did also forbid his arrest on proceedings instituted against him for treason and conspiracy in the State of Alabama, and did further order his property, when the same was seized for confiscation under the laws of Congress, at the instance of the district attorney of the United States for that district, to be restored; whereby the said Andrew Johnson, President as aforesaid, did then and there commit and was guilty of a high misdemeanor in office.

## ARTICLE XII.

That the said Andrew Johnson, President of the United States, in like contempt and forgetfulness of his obligation under the Constitution to see that the laws were faithfully executed, did after procuring the arrest of Jefferson Davis under and by virtue of a proclamation, charging him among other things with a violation of the law of war in the inhuman treatment of prisoners and in conniving at and encouraging the assassination of Abraham Lincoln, and offering a reward of \$100,000 for his capture, and although the complicity of the said Davis in the said assassination was found by a military commission organized at Washington for the trial of the conspirators against the life of the said Lincoln, and although also an indictment for treason was known to be depending against him in the District of Columbia, did, on the — day of —, 1867, or about that time, surrender the said Davis to the civil authorities in Virginia to answer an indictment there also found against him for high treason, without making any return of the fact that he was held by him to answer for the other crimes aforesaid, and did allow him to go at large on bail taken from him to answer the said last mentioned indictment, without any discharge of the said Davis by due process of law from arrest for the other crimes for which he was so held and without any claim to hold or detain him to answer therefor; whereby the said Andrew Johnson, President as aforesaid, did then and there commit and was guilty of a high misdemeanor.

## ARTICLE XIII.

That the said Andrew Johnson, President of the United States, in like contempt of the Constitution thereof, and for the purpose of carrying out his policy of reconstruction by executive authority, and in pursuance of a public declaration made by him to that effect in a speech delivered by him at St. Louis, has grossly and willfully abused the appointing power conferred on him thereby.

First, in this, that he has removed on system, and to the great damage of the public service, a large number of meritorious public officers for no other reason than because they refused to induce and support his claim of the right to renege and restore the rebel States on conditions of his own, and because they favored the jurisdiction and authority of Congress in the premises.

Second, in this, that he has, in repeated instances, and in pursuance of the same object, declined and refused to make nominations at the next ensuing session of the Senate in cases of offices filled up by him during the recess, and has continued the persons by whom the said offices had been so filled in their public employments after the adjournment of that body; and

Third, in this, that he has reappointed, in repeated instances, after the adjournment of the Senate, persons nominated by him to that body and rejected by it as unfit for the places for which they had been so nominated.

Whereby the said Andrew Johnson, President as aforesaid, did then and there commit and was guilty of a high misdemeanor in office.

## ARTICLE XIV.

That the said Andrew Johnson, President of the United States, in like contempt of the Constitution and the laws thereof, and of his obligation to see that the said laws were faithfully executed, did, on the — day of —, 1865, and at divers other times, exercise a dispensing power over the act of Congress of July 2, 1862, prescribing a form of oath to be taken by all civil officers before entering upon the performance of their duties, by commissioning revenue officers, as well as others, who were well known by him to be disqualified to take the said oath by reason of their participation in the rebellion, in preference to loyal men, and allowing them to enter upon and exercise the duties appertaining to their respective offices, and paying them salaries for their services therein, and this in pursuance of a deliberate purpose confessed by himself of suspending the execution of the said law, because the same was not in harmony with his policy of reconstruction, and in order, as he falsely pretended, to give to the Congress an opportunity at its next assemblage of revising its policy and making it conform to his own views, although in point of fact the same was not communicated to Congress until it was drawn from the said Johnson by a call on the part of the House of Representatives; whereby the said Andrew Johnson, President as aforesaid, did then and there commit, and was guilty of a high misdemeanor in office.

Mr. WILLIAMS, of Pennsylvania, by unanimous consent, was then granted leave to print in the Globe as part of the debates, his argument in support of his additional articles of impeachment. [See Appendix.]

## CIVIL APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I ask unanimous consent that an order be made that the amendments of the Senate to House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1869, and for other purposes, may be considered in the House as in Committee of the Whole, under the five-minutes rule for debate *pro* and *con*.

No objection being made it was so ordered.

## LAND BOUNTIES.

On motion of Mr. JULIAN, a letter of the Secretary of War, relative to land bounties, was ordered to be printed, and referred to the Committee on Public Lands.

## MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that the Senate insisted upon its amendments to House bill No. 605, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, disagreed to the amendments of the House to other amendments of the Senate, agreed to the conference asked for by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. MORRILL of Maine, Mr. HOWE, and Mr. HENDRICKS managers of said conference on its part.

It also announced that the Senate had passed House bill No. 344, to incorporate the Washington Target-Shooting Association in the District of Columbia, with an amendment, in which the concurrence of the House was requested.

It also announced that the Senate had concurred in the amendment of the House to the amendment of the Senate to House bill No. 869, to prescribe an oath of office to be taken by persons from whom legal disabilities shall have been removed.

It also announced, in conclusion, that the Senate had passed the following House bill and joint resolutions:

An act (H. R. No. 366) to incorporate the National Hotel Company of Washington city;

A joint resolution (H. R. No. 154) relative to the settlement of the accounts of certain officers and agents who have disbursed public

money under the direction of the chief of the engineers; and

A joint resolution (H. R. No. 324) to extend the time for the completion of the West Wisconsin railroad.

#### WAREHOUSING SYSTEM, ETC.

Mr. MORRELL, from the Committee on Manufactures, reported a bill (H. R. No. 1369) to modify the warehousing system, and for other purposes; which was read a first and second time.

The first section of the bill provides that upon the entry of any goods, wares, or merchandise for warehousing, the owner, importer, consignee, or agent of such goods, wares, or merchandise shall make a declaration in writing, verified by oath or affirmation, stating the kind, description, and quantity of goods, wares, or merchandise entered; also signifying whether such goods, wares, or merchandise are entered for consumption or exportation, and such declaration shall be obligatory upon the party entering such goods.

The second section provides that upon the withdrawal of any goods, wares, or merchandise for consumption there shall be paid by the owner, importer, consignee, or agent of such goods, wares, or merchandise, in addition to the proper duties and charges, interest, at the rate of six per cent. per annum, upon the whole amount of the duties upon such goods, wares, or merchandise, from and after sixty days subsequent to the time of the entry of such goods for warehousing until the withdrawal of the same for consumption. Such interest to be paid in the same denomination as duties are payable.

The third section authorizes and directs the Secretary of the Treasury to make such rules and regulations, not inconsistent with law, as may be necessary to carry into effect this act; and he is further authorized and instructed to cause to be published a monthly schedule or statement of all goods, wares, or merchandise entered for warehousing, and on hand at the end of each month, stating names of owner, importer, consignee, or agent making entry; also the kind and quantity of goods, wares, or merchandise so entered, and whether for consumption or exportation.

The fourth and last section provides that so much of all laws as are inconsistent with the provisions of this act be, and they are hereby, repealed.

Mr. ALLISON. I rise to a point of order. I understand this to be a bill increasing the duties on imports, and therefore it ought to go to the Committee of the Whole.

Mr. MORRELL. I do not so understand it.

Mr. ALLISON. The second section provides for a rate of interest that shall be paid in coin, thus increasing the present duty on imported goods.

The SPEAKER. The Chair overrules the point of order. This does not seem to be an increase of the rate of tariff on any article whatever, for the reason that any person who does not see fit to warehouse his goods can receive them at the custom-house at exactly the rates now prescribed by law; but if they do not go to the custom-house, then six per cent. duty is to be collected. The Chair does not think this is an increase of the tariff, because it does not compel anybody to warehouse his goods.

Mr. MORRELL. Mr. Speaker, I do not propose to discuss the merits of this bill at length. The committee in a report, now in the hands of members, have presented the facts and argument which, in their judgment, should insure for it the favorable action of this House. It is certainly the highest duty of a Government which derives all its powers directly from the people, not only to give protection to person and property, but to guard all the rights and interests of the citizens, to protect him in his labor and in the rewards of his labor. The warehousing system has from its very inception and introduction here been fraught with evil to the country. It is

and has been in direct hostility to American interests, and the friend and ally of our commercial and industrial rivals and enemies. It has been the means of forcing upon our markets hundreds, and I might say thousands, of millions of dollars worth of foreign wares, which could have been better produced here, and the importation of which diminished to the extent of their cost in labor the production of our own people, while taking from their decreased earnings the money with which they had to be paid.

It is believed that the facts presented in the report of the committee demonstrate that the entire abolishment of the system would not injure or diminish our commerce with countries between which and ourselves the trade is reciprocal, and would only affect trade with manufacturing nations whose consumption of our breadstuffs and other articles of export depends solely on our ability to compete for their custom with the cheap labor products of agricultural Europe. The committee have not, however, thought it wise to recommend our entire abrogation of the system at this time, and have reported a bill which will correct some of its evils, and prepare the way for further modification, or eventual repeal by future legislation, without serious disturbance to the commercial interests of the country. The operations of the bill will be prospective and gradual; it proposes no violent change, and can harm no one except the foreigner who has found in our bonded warehouses an asylum and ambush from which to attack and destroy rival producers in this country.

The first section of the bill provides that the importer or owner of all goods entered for warehousing shall declare upon their entry whether they are intended for exportation or consumption and shall abide by that declaration. With upwards of forty million dollars worth of foreign goods constantly impending over our markets the business communities have no present means of ascertaining what portion of this crushing weight may be expected to fall, and can make no reliable calculations in regard to the regular trade supply and demand. Under the provisions of this section the American importing merchant who orders goods for his own sales and pays the duty on their arrival will be protected, and the manufacturer will be enabled at all times to know what amount of competing wares is likely to come upon the markets, and can make his calculations and govern his business accordingly. The second section provides that, in addition to the duties and charges, interest shall be paid upon the duties of all goods entered for consumption from the date of entry until their withdrawal. The other sections only provide for carrying the act into effect.

The average amount of goods in warehouse during the past year has been about forty-three million dollars, representing over twenty million dollars of unpaid duties.

This sum may be considered in the light of a bonus to the foreigner, to enable him more effectually to crush the American merchant and manufacturer.

The regular importer and domestic manufacturer have to pay the full cost of their wares before they can be placed on the market, while the foreigner, by the aid of our warehousing system, can, through his broker or agent, put his goods on sale by sample while in Government stores, and pay the duty (which is shown to represent about one third of their free value) from the proceeds of such sale. As most foreign manufactures which go into warehouses are sent here by foreign owners to be sold by agents or commission men, the business in all its magnitude and destructive consequences to legitimate trade and production requires and involves very little invested capital in this country, the only actual cash required being loaned by the Government without interest. It is incredible that, for more than twenty years, a system has been permitted to stand almost unchallenged, which thus supplies to foreigners a capital of from twenty to twenty-

five million dollars in gold, the greater part of which is used to prostrate our own industry.

The bill proposes, instead of allowing the foreign importer the free use of this large capital, as heretofore, that he shall pay simple interest for the use of it; and if this provision does not operate to diminish the amount of warehoused goods, the Treasury will be benefited to the extent of a million and a quarter to a million and a half dollars per annum, and our home industry relieved from just that amount of taxation. If it should operate to diminish imports of foreign competing manufactures we shall have less to pay abroad, and a better market for home products, and more constant employment for our own people. It is the opinion of the committee, and so expressed in the report, "that this boon to foreign commerce was obtained collusively and given unwittingly. When the warehousing laws were passed, Congress could not have conceived that their effect would be to furnish gratuitously a capital of over twenty million dollars to foreign exporters. The bold proposition to give \$1,500,000 annually to alien interests could not have been entertained a moment. The necessities of the Government, and the present stern demands of the people for the most rigid economy, require that this thoughtless and unwise concession should be revoked."

It will, perhaps, be charged that the purpose of this bill is to diminish imports. I admit the charge and defend the purpose. We want less of the products of foreign labor and more constant employment for our own. We want to bring the aggregate of our imports below the sum of our exports. We have sent abroad during the eleven months of the fiscal year up to May 31, \$64,486,258 in gold, besides a shipment, probably, of twice that amount in the interest-bearing bonds of the Government, States, and corporations, in the settlement of trade balances.

I do not know of the exact shipments of gold for June, but from unofficial reports judge it will be as heavy as in May, when it reached the enormous amount of \$10,608,712, or an aggregate of over seventy-five million dollars for the fiscal year ending June 30. The entire estimated annual production of the precious metals in the United States and Territories is thus swept away, while we are still adding to our foreign indebtedness at the rate of perhaps \$200,000,000 per annum.

We are constantly talking of a return to specie payments; and there is scarcely a member of this House who has not presented a plan to accomplish that desired end, and yet the price of gold continues to advance, and rules higher now than three years ago.

The necessities of the country demand some practical legislation in the interests of our own people, and especially such legislation as will tend to check over importations, employ our own labor, and prepare the way to a safe return to specie values. In the absence of a thorough revision of the revenue laws looking to greater protection and the suppression of frauds on the Government, the passage of this simple and brief bill will do some good, and I trust there will be no opposition to it.

I now yield to my colleague, [Mr. CAKE.]

Mr. CAKE. Mr. Speaker, as a temporary measure the recommendation of the Committee on Manufactures in relation to the warehousing system is just and proper; but in the interest of the manufacturers and producers of this country the practice of finding free storage room for importations that may or may not remain in the country and pay the duty ought to be discontinued. Until this can be done, in addition to interest upon the unpaid duty, the foreign article should be made to pay the same warehouse charges that the American production encounters while awaiting transportation or a market.

As a partial measure of justice to the labor of this country the proposition should encounter no opposition; all the more promptly should this suggestion be acted upon because the



tariff and the tax bills are probably to go over to December.

The importer, whether foreign or American, can complain of no injustice in this provision; for as American manufacturers cannot go into these national warehouses for free storage the system is a direct discrimination against them. A further and a more injurious discrimination against the American manufacturer is found in the fact that it requires more capital to carry the American than the foreign competing article. The foreign article is produced by the half-paid, or, if you please, the pauper labor of Europe. Our goods, costing the same in hours and days to produce, cost double, in most cases, in money, for the reason that our labor is comparatively well paid. On the Continent wages are much lower than in Great Britain. Hon. John W. Forney, in his "Letters from Europe," gives the figures running through all the trades. I make free use of the valuable information he furnishes. A carefully prepared newspaper article contrasts the wages paid in Belgium and New York:

"The present pay of mechanics in Belgium will be found compared with that of the New York artisans in the following table:

	Belgium.	New York.
Bakers.....	27@54 cents per day.	\$2 00
Tailors.....	54@80 cents per day.	3 00
Masons.....	27@67 cents per day.	4 50
Bookbinders.....	54@80 cents per day.	2 50
Coppersmiths.....	\$1 00 per day.	3 50
Coopers.....	40@67 cents per day.	4 50

"The difference in the cost of living in the two countries is not so great as is commonly represented. The luxuries of life are much higher here, but for actual necessities the prices are about the same."

In Germany farm laborers are paid thirty-two cents a day for men and sixteen cents for women during the harvest season. They work twelve hours, with one hour rest at midday. Their dress and food are of the coarsest description. Two pounds of black rye bread, one quarter of a pound of cheese, and half a pint of potato whisky, or its equivalent in wine or beer, form their diet. Three times a week they are allowed half a pound of meat. Mechanics receive from forty-eight to fifty-four cents per day. Meat costs from ten to fourteen cents a pound; flour, eleven cents a pound; and potatoes seventy cents for two hundred pounds. The price of labor has only risen two per cent. in ten years. The greatest burden, however, is the heavy taxes laid upon every class. These taxes fall heaviest upon the working classes and lightest upon the rich. Ministers, teachers, and Government officers pay nothing, and labor and industry bear the whole burden. In Prussia the laws are more equitable, but all persons are taxed at least three per cent. on their incomes, while a workman without property pays annually thirty-four cents or about one day's wages.

The condition of Irish laborers hardly needs description. Labor is a mere drug throughout Ireland, and is usually of the poorest kind. Wages are fearfully low—for men, on the average, one shilling a day; for women sixpence; and for children fourpence, or nothing. Skilled workmen receive less than ten shillings a week, about three dollars of our money. The houses, dress, and food of the majority are of the most wretched description.

By this is seen at a glance the difference in the cost of production, and how generous we are to the foreign manufacturer when we put up for him a fire-proof warehouse in which to store his goods produced at starvation wages, while we exclude our own manufactures from such benefits, although they are produced at rates of wages always at the highest point warranted by the market.

The difference in the cost of production is never made up by the tariff. The tariff is intended to, but rarely ever represents the full difference paid to mechanics and laborers in America and Europe. The whole cost of the American article is borne at once, while the foreign competitor is enabled to put his goods into competition at the mere foreign cost of production, the duty only being required to be paid at the moment of sale and removal from the bonded warehouse. The question involves the free discussion of the tariff and the tax bills.

Not only as a simple duty, but because it accords with my own conviction of right and justice to the laboring classes do I most earnestly protest against the postponement of the subject of protection as involved in that of the tariff. There is now no more important subject before the American people; and, whether my remarks be considered in season or out of season, I have no apology to offer for obtruding them upon the House at this time. My own position was taken upon this question at a very early period, and as I study it in all its bearings and inform myself more completely in regard to its importance, as my means and opportunities are from year to year enlarged, my early convictions are strengthened, and I am confirmed in the opinion that in no other way can Congress so well serve the mechanic and laborer and at the same time contribute so much to the wealth and greatness of our country as by vouchsafing complete protection to our skill, our land, and our labor.

The postponement of the tax bill, from which something of relief had been hoped, leaves the question in all its bearing to the future.

Sir, so full of anxiety am I upon this subject that I am willing to unite my political fortunes with any party honestly making the advocacy of American labor its leading principle. This is not said in any demagogical spirit. The business of my district depends so much upon what is done here, and upon the activity of the business of my district depends so much of my own comfort, that I may be open to the charge of pleading under the spur of private interest, though God knows I would willingly sacrifice myself if I could set this matter right for many suffering, breaking hearts at home.

The shifting policy of this Government upon the subject of the tariff produces all the fluctuations that disturb our domestic industries. A state of affairs that stimulates the production of our staples is followed by legislation tending to cripple our manufactures, and the vigorous arm of the mechanic and laborer is paralyzed. If the tariff of 1842 had been let alone this nation, instead of numbering less than forty would have numbered over fifty million of souls to day; and the district I represent, instead of less than two hundred thousand could have boasted over half a million. Its latent wealth is equal to the employment of over a million of men. In behalf of the thousands who are there now, and idle half the time, I propose to speak this day; and if what I have to say is to have no effect, my efforts shall not therefore be spared hereafter. But I shall continue to caution the friends of protection in Congress to work together, and to withhold their aid from other projects whose friends, favoring piecemeal legislation, are always ready to take a little off here and a little off there until we shall have our tariff cut and carved down to the destructive law of 1846, not the least objectionable feature of which was the warehousing system now under discussion.

Sir, I am not unmindful of the efforts of the advocates of labor here. When I study their speeches I am amazed that all are not convinced and that any difference of opinion should exist as to the true policy of the Government. My colleague, [Mr. KELLEY,] Representative of the fourth congressional district of Pennsylvania, and by virtue of the variety and value of his services here, representative and advocate of the whole Commonwealth, has on many occasions presented to the House the wants and claims of American labor and enterprise in a manner and with an effect that might well dispense with any service which I can hope to render to those interests. My other colleague, [Mr. MORRELL,] to whose courtesy I am indebted for the floor, has also found opportunities for giving us the results of an unusually large experience in departments of productive industry, which involve a practical acquaintance with the whole range of industries that interlock in that central one which he has long and successfully conducted. Nor have there

ever been lacking other educated representatives of Pennsylvania; gentlemen qualified both by study and practice in all the varieties of business interests which give to the State a representative character among the sister States of the Union, who, each in his own speciality, and all together, might well be trusted to fill up the circle of representative duty here and suffer no incompleteness by the lack of any contribution from me. Indeed, I would gladly escape the unequal trial of this general service, but there are reasons why my mite should be thrown in with their abundance—considerations which constrain me and amply justify my attempt to reinforce them, even by pressing to the front, though I may not claim equal rank among my peers in the performance of a duty charged alike by our respective constituencies upon us all.

The attention of Congress has been so long and so closely held to the consideration of questions either purely political or so remotely connected with the economic exigencies of the times that it will require some effort to secure the tone of mind and direction of thought demanded by the subjects involved in the great labor question pressing upon us now for a wise and happy solution.

We have a tariff of import duties to arrange in conformity with the sound principles and policy of international trade, the details of which, difficult enough in themselves, are besides greatly complicated by a necessary adjustment to the onerous system of internal duties which our national debt and current expenditure imposes upon our productive industry. In no circumstances, indeed, can a sound system of foreign trade be established without regard to domestic industry, for the prosperity of a country, even if entirely free from national debt, and the resulting burdens upon its industries, needs some protection, some guardianship, some general policy; aye, some favoring and fostering care; for, if every mechanic and every merchant must consider his business relations and rivalries, or the demand and supply of his neighborhood, much more must a nation shape its industrial policy to the state and requirements of its home demand and supplies, and to the foreign interferences with its own capabilities and opportunities.

It is conceded that labor is the primary source of all wealth; wealth being nothing else in its broadest and deepest meaning than "the measure of man's power over nature; power over nature, for man finds the earth and all its agencies in resistance to his dominion, and hence the significance of the original command given to the representative of the race, "to subdue the earth." This is the mission and commission appointed and enjoined; and labor, in its widest meaning, labor of muscle and mind, labor natural and artificial, the work of human hands, and the help of natural forces subdued to human service; labor of every kind which man commands is the agent by which the dominion of the earth is achieved, and this dominion is wealth. The wealth, or, in other words, the welfare of a nation, arising thus out of its labor, that labor must be the primary and principal care of human societies if they would not abandon their fortunes to chance or to the control of adverse interests and warring policies; and if there be any such opposition of interests among nations as exists everywhere among individuals, Governments, like private men, must consider and provide against them. Out of this dependence upon the prosperity of labor and its national competitions arise the necessity and the justification of defense, protection, and earnest guardianship. Household lock their doors against intruders, and if they admit a stranger to the business of their domestic concerns it is under the restraint of their own authority. Farmers build fences to protect their fields from stray cattle, and Governments construct forts and navies for the defense of their territories against invasion, and all men record their title papers for the security of their rights of property. Thus defensive means and measures are so far from being uncommon or

unwarrantable that they are universal in the concerns of individual life; and that aggregate of individuals which we call a nation has a clear authority for taking a like care of its general interests; and this all the stronger that the interests of the individual are all at risk in those of the community.

But let me not tire you with the generalities of the principle on which the policy of protection to home industry safely rests. The argument is usually carried into specialities, and these are both complex and numerous. Principles are much modified in their operation by circumstances and contingencies, and for practical uses they must be met where they eventuate in facts and effects. Indeed, I would rather carry the discussion into details, into history and experience, than rest it where our antagonists usually confine it, in logical and abstract propositions, however sound I hold it to be in philosophy as well as in practice.

Let us for a moment look at the doctrine of protection in the aspect usually presented by the enemy. Experience is against them, if the experience of all prosperous nations be admitted to be sound and true. The facts which confront them are that no nation which to-day holds a high and respectable rank in wealth and power on the earth has, during its stage of growth, followed the policy of free trade either in form or effect. European, especially British, literature and speculative philosophy are loaded down to the water's edge with argumentation against the doctrine of protection; but the policy of the British islands had no such freight aboard while they rode the tide of successful experiment. I need not enter into the proof of this assertion, for no one disputes it. But the utility as well as the principles of protection are denied by those who would confute its theory. English free-traders have the boldness to say now that the maritime supremacy of Great Britain was achieved not by aid of her navigation laws, but in spite of them; and that England made herself "the workshop of the world" in like manner, in spite of the protection of domestic industry, which she maintained for five centuries, from the time when Flanders was Europe's workshop and England was selling her raw materials and buying back the skilled labor of the Continent until the time when she became an importer of raw materials and a vender of the labor and skill and of the power and products of natural forces to all the world. Now, somehow English manufactures did grow to overtopping proportions under her system of protection, prohibition, and bounties, not only absolutely, but relatively, to the early supremacy of India and the southwestern half of Europe. And the only ground for affirming that the policy under which this wonderful success was secured was not the cause and the means is simply that it was—no, that it is—unphilosophical; a conclusion that would be just as valid if one were to affirm that the adhesive inflammation which accompanies the restoration of a broken bone is unhealthy, and the splints and bandages only so much impediment and incumbrance, because they are not necessary in the sound condition of a limb. But free-traders are not only poetical in respect to principles; they are habitually and utterly untrue as to facts.

They point to the abridged schedules and the diminished rates of duty of the British tariff, as a demonstration of their theory. They say in so many words that the English system is now what they are pleased to call free trade. Our answer is that it is not now and never has been free trade in principle or purpose, in any sense opposed to protection, rightly understood.

Protection is only and simply defense. The Esquimaux need no defense for their production of walrus beef, their reindeer or seal-skin trade. New York needs no defense for its daily newspapers, nor Massachusetts for its ice. Neither the principle of free trade nor of protection touches these commodities in these circumstances. Nor do they any more apply to

any product of skill in England of which she has the natural or acquired monopoly in her home market. Free trade as opposed to protection—that is, free trade as a distinctive economical principle—never had an inch of foothold in England, nor, though constantly so claimed, has it kept company with liberalism and progressiveness in the reforms of the last quarter of a century. Free trade has nothing in its spirit or aims which entitle it to fellowship with the movement in modern societies looking to and laboring for the amelioration of human conditions. The landed aristocracy of England resisted the repeal of the corn laws, indeed; and in this case English conservatism was arrayed against the form which free trade took there; but in our own country the planting interest, the slave-holding feudalists of this nineteenth century and of this progressive Republic were not protectionists, but out and out free-traders. This opposition of the conservatism in the United States and in Great Britain means something else than the assumed natural sympathy of free trade for progressiveness.

I have said that free trade, as an economic principle, has never existed in England. I go further, and say that free trade has never taken the shape and action of a principle anywhere, that an advocate dare quote its results, or supposed results, in the experience of the nation adopting it. Something of it exists as a sentiment in portions of our agricultural population where manufactures have as yet scarcely taken existence, and even there it is an opinion imported from that region of this country and from that foreign nation with which it is a mere matter of policy. Among us it has one way or other worked itself into some consideration through the agency of debating societies, off-hand editorials, and foreign treatises on political economy got up in the infected districts. The Democratic party, too, not sincerely nor advisedly, but through its unnatural alliance with the slave party of the South for twenty years before the rebellion, leaned away from the leadings of Jefferson, Madison, and Jackson toward this heresy along with its other apostasies, which together have plunged it into ruin. The building of a furnace, mill, or factory in a purely agricultural community, where the free-trade sentiment had obtained a foothold, by enhancing the value of property in the locality, stimulating the agricultural as well as all other pursuits, creating a market for the surplus labor, and by raising the value of that labor, speedily explodes the doctrine, and adds to the ranks sturdy advocates of protection.

I know that England is constantly, and it may be in many cases innocently, quoted as showing a great revolution in doctrine and practice in this matter. She is quoted as an instance of the triumph of the doctrine and of the benefit of its practical adoption. But her policy has not to this day entitled itself to the use or application of the term. It may be loosely taken to describe her present practice in reference to her foreign trade so far, but so far only, as that practice really extends; but this policy in no degree discloses the spirit or aim of her commercial system, even to the extent of its seeming application. It is not free trade that she wants, but cheap raw material and cheap provisions. Until within the last five and twenty years her system stood firmly upon protection, effected through fines, penalties, prohibitions, and import duties, high enough always to secure for her the monopoly of her home market and those of all her colonial dependencies.

This system of protection embraced food as well as fabrics, and until the towns mastered the country and the millocracy overtopped the landed aristocracy, the concession had to be made by the manufacturers and traders to the land owners. The revolution in policy, when it was effected, was really made to secure free, that is cheap, raw material, of which food is greatly more important than even any or all the substances which she works into her manufactures.

The articles which may be called food and drink imported into the United Kingdom in 1864, amounted to four hundred and thirty-nine million dollars, being thirty-three per cent. of the total value of all the British imports of that year. But when the exports of foreign goods are subtracted the food retained rises to thirty-six and a half per cent. of all commodities imported and consumed.

To show how far British free trade aims at cheap raw material for consumption and reproduction we have the striking fact that of her total imports in 1864, which amounted to two hundred and seventy-five millions pounds sterling, the manufactures amounted to no more than seventeen million pounds, or but six and three quarter per cent. of the total foreign imports.

The edifice of her industrial prosperity having been built up under protection to a height that overtopped all the nations which at first surpassed her in her own and in foreign markets, her supremacy (which certainly was attained long before she relaxed a hair-breadth of her protective system of duties) secured, and all its powers exhausted in its complete victory, the next advance step to be taken in order to preserve and extend her dominion in foreign trade was to obtain food and raw material at the cheapest possible rates that wages might be low as well as the price of the foreign materials to be employed.

This aim and object, this endeavor, pushed to its utmost capability, with no other intent than the maintenance of her enormous foreign trade against the rivalry of the Continent, which has been long her terror as well as her danger, is glozed over with the fancy name of a principle which she and her disciples elsewhere so fondly call free trade, in order that her prosperity, falsely credited to it, may be used to break down the barriers of self-defense against her commercial encroachments upon the welfare of the nations whom she seeks to reduce to, and hold in, industrial vassalage.

That this is the spirit of her so-called free-trade policy is made further evident by her constant and ever-growing policy of shifting taxation from consumption to accumulation, or the clear savings of production. This is the true secret of a continuous resort to the income tax to cover deficits of revenue, and especially to meet all extraordinary demands upon the national exchequer.

Whoever looks along the progressive reductions and remissions of impost and excise duties which mark the history of English legislation, especially since the free-trade era and corn-law repeal of 1846, will find that the burden of these reductions was invariably shifted upon the income tax when that would answer, and upon it and spirits and malt when the demand was unusually large. Sir Stafford Northcote, now a member of the Cabinet, in his work on the "Financial Policy of England," says, expressly, concerning the imposition of this tax in the year 1845, that "the Parliament deliberately adopted it, and that at the time when the tax was not proposed as a measure of urgency, as in 1798, or even in 1842, but it was calmly weighed in the balance against cheap sugar, cheap glass, cheap cotton, and the rest, and found to be a price worth paying for these countervailing benefits." This tax, always odious, and rightly described by Lord John Russell as "a tax in which inequality, vexation and fraud are inherent," and always proposed by the Government as a temporary measure, to tide the exchequer over the shallows of revenue, is nevertheless persistently maintained. Not only to meet such exigencies as the Irish famine year, the Crimean war, and revolts in India, but even when so small an item as the expense of the Abyssinian expedition somewhat increased the national expenditure we find the Minister of Finance proposing to add to the present levy twopence in the pound, rather than put three millions unprovided for upon any other objects of taxation, for upon any of these it would ultimately, if not directly, burden consumption, enhance wages, and in-

crease the cost of production, all of which is forbidden by the necessity of providing cheap living for labor, and cheap materials and wages for manufacturing. This policy of putting all extraordinary and much of the ordinary expenses of Government upon the income tax for the purpose of exonerating the productive industry of the realm has every whit as good a claim to be called a free-trade principle as the successive reductions and remissions of impost charges have in the practice of England. Not only has the income tax been permanently maintained since 1842, but it has been made to yield an average of about forty million dollars per year, since 1846, or much more than the average annual amount of all the duties upon foreign goods remitted since the cheap labor and cheap raw material movement was introduced into English policy. To the same end and with the same purpose the duties upon legacies and successions are charged upon continually higher and higher, that manufacturers might be still further and further relieved as continental rivalry pressed harder and harder upon England's foreign trade.

Here we see, and it seems to me worth the trouble of looking after, that that system of protection which by the imposition of import duties had been fairly strained to its last stretch of efficacy, and to the last moment and limit of its need, was repealed by statute only after it had been virtually repealed by its own complete success. And then that other form of protection, which consists in shifting taxation from industry to accumulated wealth, was substituted as necessary to the struggle with the cheap commodities of rival nations for the monopoly of the labor market of all such semi-barbarous nations as can be induced, first to accept a false theory of industry and trade, and afterward the goods manufactured for their defenseless markets.

But I go further, and assert here, not only that England has never adopted free trade as a principle, but she has to this day never abandoned protection, even in form, much less in fact. The free lists in her tariff schedules cover not an item or an article that in the slightest degree can compete with her domestic productions: articles of food and raw materials for her manufactures, so far as England produces any of these, excepted, the motives for which exceptions we have already shown, and shown, too, that they are so far from the principle of free trade that they are in essence and object protective of the manufacturing supremacy and foreign trade monopoly of the United Kingdom.

England now, and during the whole period since the formal installation of her pretended free trade in the statutes of the realm, has collected an average of twenty-two million pounds from customs. The estimate of the Chancellor of the Exchequer puts this item at one hundred and ten and a half million dollars for the coming year. I admit that this charge is in the main a tax upon consumption or an excise duty collected at the custom-house, and not protective in effect. About six of these twenty-two million customs duties, however, are raised from manufactures levied as protective duties. But the amount collected from foreign imports which directly or indirectly compete with British protection is by no means the measure of the positive protection afforded to domestic industry. To the extent that duty rates prohibit or abridge importation they operate effectively. Indeed, it is in this way that they are most effective, and the only unequivocal operation which they ever have, for a more increase of price upon imports charged with duties, when it does not diminish or prevent their introduction, may fail more or less to afford encouragement to home labor and capital. The duty often does fall wholly upon the foreign producer in diminution of his profits without hindering him entirely from entering the market for domestic labor. The value or force of protective or defensive duties leveled at though they fail to be levied upon imports is the true measure of their protective power.

Taking the average production of the manufactures of tobacco, sugar, and spirits in the United Kingdom, and the difference between the customs charged against such goods and of the excise duties charged upon the home-made articles, we find that the aggregate of these surcharges upon the foreign commodity amounts to ten million pounds sterling in round numbers; and if we add to these the duties made to stand guard over the home market against foreign beer, paper, cards, dice, vinegar, plate, hats, books, mill-boards, embroidery, musical instruments, linens, and a number of other articles which compete with similar articles of British manufacture, it is safe to say that the British Government, while it actually collects something over six millions sterling upon foreign manufactures, and manages besides to defend her home productions in her home markets by a scale of customs duties which prevent or diminish foreign importation by the threatened imposition, or, the barrier of preventive charges equivalent in protective force to more than twenty millions sterling, or one hundred million dollars per annum.

Is this free trade?

The pretense is an imposture.

The demonstration that protection, formal and actual, is thus maintained by the model free-trade nation under many disguises of names and methods of exaction with which I have ventured to detain the House, might seem, after being plainly produced, unnecessary. Unnecessary simply because it is obvious upon a moment's reflection that free trade, in the meaning claimed for her system, is in itself simply impossible. How in the name of common sense can it be supposed that any people whose dependence is so largely as that of Great Britain upon the full employment of her capital and labor could possibly give up to a phantom of theory the very substance of their industrial existence, to allow their labor and capital to be displaced at home, and all the work and profit of their necessary supplies to be transferred to any and every people who from local and special advantages should be able to underwork and undersell them? Can it be supposed that with a debt of four thousand million dollars resting upon the nation, and the necessity for ordinary expenditure of three hundred and fifty million dollars per annum, to say nothing of the extraordinary, which, if not as constant are quite as certain to occur, Great Britain could possibly allow France and Germany to seize her home markets and close her workshops? The defense to which they are compelled to resort is prettily phrased or styled countervailing duties. Countervailing; what does that mean? Usually it is applied to the duty imposed upon such articles as spirits, manufactured sugar, manufactured tobacco, malt liquor, and such other articles as are selected to bear the great burden of the domestic excise. The home market for these articles thus relied upon for the greater part of the necessary revenue must be guarded against the like articles of foreign countries by countervailing duties; that is, the competing imports must be charged up to the mark of excluding them altogether, reducing them to comparative insignificance, or, at the least, throwing the whole weight of such duties upon the foreign producer. And what does this mean when pushed to its central idea? Why only this, that England can bear anything in the way of prices of commodities better than she can bear turning her labor idle or reducing its amount and at the same time striking her active capital and her foreign commerce with the resulting paralysis.

Countervailing simply means "opposing with equal strength, balancing, obviating in effect." If import duties on this ground have the highest free-trade authority for their application where inland taxes raise prices upon the domestic producers of commodities, may they not also, and upon the very same ground, be applied where wages, or capital, or both are higher than among rival foreign producers?

The intention and the necessity are exactly the same; that is, the reserving and securing to home labor and capital its opportunity of productive and profitable employment. Whoever says "no" to this proposition says that labor must everywhere be leveled to the lowest remuneration that is given to it anywhere; that it must be driven in the New World by the bog-gary of the Old World to the low scale of wages which drives the millions of toilers of that Old World from their homes forever; or else it means that they shall be excluded from those departments of production which call into play all their higher powers, and exclude them from all those kinds of labor which an advanced civilization offers to the working-men of modern times.

I have occupied the attention of the House with this theme so long and so earnestly for the purpose of overthrowing the force of the pattern, the model free-trade nation, and for the reason that it is so often and so confidently pressed upon us as an authority in theory and a demonstration in practice, and for the further reason that if the claims, pretenses, and example of Great Britain are fairly silenced we have not another instance in the world's history to meet. I mean another instance where any apparent prosperity has attended an approach to free trade in foreign commerce.

Turkey bound herself by treaty with England to free trade three hundred years ago, when she feared no rivalry either in her own or in foreign commerce. A hundred and sixty years ago Portugal opened her ports and markets to the invasion of British products, under the temptation of a difference of duty in favor of her wines as against France; and India, now something more than fifty years subject to Great Britain, has had free trade forced upon her. And where do these people stand in the scale of nations now, and what is the state of their domestic affairs? Before their own folly or foreign force stripped them of self-protection they ranked as either first-rate Powers in Europe, or what is better, as self-supporting, independent, and prosperous. Now they are the wretched relics of decayed nationalities, having fallen under the disabilities of defenseless industry, blighted and blasted, and have become nuisances upon the face of the earth.

But, on the other hand, what peoples do we see rising into the front rank of European powers? Those, and those only, who have steadily, persistently, and wisely pursued the policy of fostering that home labor which is the only source of assured wealth. North Germany, Russia, and France are Europe to-day. Austria, that never entered the Zollverein or customs union of Germany, was defeated utterly and hopelessly in a campaign of a fortnight by her neighbor nations, who since 1825 have been doing their own work, just as our own southern States were conquered by the wealth and vigor of the trained industrials of the North.

Yes, sir, it is the treasure-chest quite as much as the camp that in these times expresses the force of embattled armies, and determines the result; determines it in favor of the muscles and mind educated together in the pursuits of a prosperous industry, whatever be the spirit or enthusiasm which it meets on the battle-field.

The argument for protection found in the example of England gains greatly increased force in its application to the condition and the necessities of the United States. The situation of the two countries at corresponding stages of their respective careers have such resemblance as fully warrants us in taking the economical history of the British islands, with its results for our example, and in so far as it has been successful for our guide under similar circumstances. The people of this country, in the main, are of the same race or races, and are of like generic type, for we mingle in our diversified nationalities only a larger portion of the best blood that has mixed its stray currents in theirs. No naturalist would pretend that in mental and physical constitution, or in



capabilities for the highest destiny, we are in any wise their inferior. They may claim an earlier descent from the best races of continental Europe, but we have these in their most recent and highest state of advancement, and our history since our severance from the mother country, by every test that tries the quality of men, proves at least such equality with them as logically includes us under the same law, and points us to a substantially similar directory for the conduct of our national interests.

The period of England's history which bears the closest analogy to our own present condition may be taken at the year 1816, when she had just emerged from a long war, which left her with a depreciated currency, a burden of debt, believed then to be more than she could bear, and an annual expenditure that taxed and strained all her productive energies to their utmost. Her estimated wealth then was but a little more than the half of ours. The proportion of their national debt to the property of the realm was full forty per cent., while its annual interest was about one hundred and sixty millions, or fully ten per cent. of the annual product of the United Kingdom.

How stands her wealth now? The best authorities put it at above thirty-six thousand millions, and her present national debt, at first near twice the amount of ours, and still but little reduced, has fallen in relative burden from forty to less than twelve per cent., and its interest from ten to three and a half per cent. of the annual product of the capital and industry of the country.

Now, the burden of our debt, State, national, and municipal, is, perhaps, more than three thousand millions, or equal to three fourths of that of Great Britain in 1816, and its interest is a charge relatively as heavy upon our annual products, though, perhaps, but little more than five per cent. We are struggling as she struggled after her great trial under a burden equally great upon our present means. For while the current demand is not less, our greater capital wealth lies largely in estimation, in possibility, depending for its availability upon the enterprise and industry that shall evoke its answering product.

There may or may not be a considerable difference in the figures which express the stock and the liabilities of the two countries at the dates compared; but there is a substantial likeness in our condition now and theirs then. Her territory is measured in square miles, ours in degrees of latitude and longitude. The map of our domain would cover her nearly twenty-five times over. Our mines of the precious and useful metals are practically unlimited, and we have every variety of the climates found in the temperate zone, with an equal diversity and richness of fertility and spontaneous products of the soil. Of these things we boast, which is well; but on these things, also, we are accustomed to count when we are brought to face the demands which they must meet. But what are they worth as a reliance, and what are the conditions of their availability? Not one of all these immense potentialities will adequately answer our need unless wisely managed and administered. A nation cannot live upon its capital. Its capital is only the base of its resources, but its actual support comes only from its constant productiveness. An idler may live upon his fortune as long as others are working for him and it, and no longer; a nation of idlers cannot sell its real estate, and must starve as soon as its money and surplus movables are exhausted. More immediately and directly than any individual does an entire community depend upon its every-day industry; and to secure, encourage, protect, and foster the work that yields current support and wealth is therefore the first and chief business of its Legislature.

But to our parallel: did England, circumstanced so nearly as we are now, after her war upon the Continent, lasting a quarter of a century, and with the United States during full

three years of the same period, abandon the industries of her people to an open competition under the doctrine of free trade? I need not answer this question to any one having but the most ordinary acquaintance with the history of her commercial policy; but it is worth while to note the extent of the protection given to her manufacturers, to her metals, coal, wool, flax, and to the labor and capital employed in their conversion. The scale is fairly indicated by the rates charged upon foreign imports generally under her tariff act of 1819. Foreign woollens were charged fifty per cent. of their value; cottons fifty to sixty-seven per cent.; glass an average of eighty per cent.; and iron six pounds ten shillings or thirty-one dollars and fifty-two cents per ton; and the cottons of the East Indies, where labor and the raw material were at extremely low rates, were prohibited. These are samples of rates which in the main are far higher than any ever levied by our Government under tariffs that the enemy abroad and at home denounce as monstrous; nor were these rates ever abated or this protection ever relaxed until they had raised the whole range of industries up to a strength which defied all competition in her own and in the markets of the world. Is there anything doubtful in this history, or anything unwarranted in claiming it as a guiding experience for our own conduct in difficulties as great and toward an issue equally fortunate, especially as England herself, in all her strength or means, and all her acknowledged supremacy of art, is now full armed in the field against us; a competition far stronger than any that she herself ever encountered in the days of her great trials?

It will be perceived that I have confined myself to a simple, straightforward line of argument, and adhered closely to practical considerations, to a thoroughly verified and fully justified experience, running through a period long enough to meet all sorts of contingencies, and sustained by a people every way competent to give a system of policy its fullest and fairest trial. Have I not gone safely by the clear light of an analogy that makes the general question as plain as though the pattern policy selected had been a parable made on purpose to reflect all the features, facts, and results of the principles for which I have been arguing? And are we not, having reached this standpoint, authorized to turn upon the propagandists of free trade in Great Britain and their echoes at home, and say we accept the authority of your example, and refuse to adopt the theory which you have manufactured to deprive us of its advantages? Let me add to these generalities that the assumed prevalence of the free-trade theory, and its growth among the nations, is simply untrue in point of fact. The commercial treaties made by England with several of the continental Governments, beginning with France in 1860, all stipulate that the duties charged upon British goods shall not exceed, but may reach, thirty per cent. in some cases, in others twenty-five per cent. *ad valorem*, and that the rates shall all be converted into specific levies whenever the subjects are capable of assessment by number, weight, or measure. Thirty per cent., or twenty-five, or twenty, is surely sufficiently defensive for these manufactures and products of France and Germany, where food, raw material, and capital are at least as cheap, and wages generally even lower, of which we have the proof in the fact that France has now a market in England for locomotives, and Germany has taken contracts for the supply of railroad iron to Russia at rates which undersell England herself. These continental countries, all of them, have so long protected their domestic industries that they are able now to meet the old-time work-shop of the world in foreign markets, and ask no odds in the strife for their own.

The propagandists of the free-trade theory are constantly proclaiming the progress of their pet policy as witnessed by these commercial treaties, of which the Anglo-French of 1860 is

the type. My answer to this boast is—and I am prepared to sustain it—that the tariff rates fixed by the convention between England and France are as high in figures, and greatly more effectual in operation, than our own tariff of 1861, commonly called the "Morrill tariff."

For the present I content myself with the assertion that the boast of progress made by free trade in modern opinion and action is simply a false pretense, of which I might cite the further evidence that the colonies of mother England, wherever they enjoy the right of governing their own industrial interests, are all in open revolt against the policy which she is endeavoring to impose upon them. The case is put plumply by the Westminster Review for April, 1868, in which the writer, after inveighing, in the true British spirit, against universal suffrage and Government affairs controlled by the people for their immediate interest, says that "the colony of Victoria, the most liberal and the most important in Australia, in pursuit of the popular fallacy that it is possible to turn taxation into a source of national wealth, or, at least, into a means of creating local manufactures; that is, of raising wages, the government of Victoria, representing the democratic majority, has, during the last two years, revolutionized its whole fiscal scheme in favor of a protective system, putting on new taxes, not for revenue, but for protection to native industry." Again, the reviewer says:

"Protection was taken to mean increased employment and higher wages; and protection thenceforth became, and still is, the cardinal article of the Australian democratic creed."

This is not so much a concession as a charge by the indignant critic, but it is the best sort of proof of the fact, and all the more reliable that it is extorted evidence from an unwilling witness. He ascribes the detested triumph of protection there, in plain words, to that "habit of governing by means of a democratic majority, which is very damaging to political virtue."

Agreeing entirely with this high free-trade authority as to the facts of the case, and happy that he confesses and exposes the grounds of his disgust, I merely cite him as the briefest and clearest authority against the brag of his party, "that liberalism, progress, and popular or democratic government tend toward free trade in international commerce." I am entirely safe in saying that this pretense, by whomsoever made, is either a mistake or a falsehood; and, in either case, equally untrue and the very reverse of the truth.

But protection is exposed to assaults that take the form of practical objections to its operation upon the interests of the Government, and of certain classes of the people adopting it. As against the general interests of the community, I trust that I have shown it not true. The foreign commerce and the maritime interests of Great Britain grew under a protective system of unequalled strictness into the supremacy in the markets of the world and to the domination of the seas. Nor is it true, either, that the alleged restriction of trade diminishes revenue from foreign imports. In our own experience we have the proof that high, very high, duties do not diminish either foreign trade or revenue to the Treasury.

In the year 1857, the largest amount of duty-paying goods ever till then imported, under whatever tariff, rose to the value of two hundred and eighty-three and a half millions, under an average rate of twenty-two and four tenths per cent.; while in 1867 the dutiable imports rose to the value of three hundred and seventy-two and three-quarter millions, under the average tariff rates of forty-seven and one third per cent. Here we have nearly one third more goods imported under a more than doubled average duty, and one hundred and seventy-six and one half millions of revenue derived, against forty-nine and a half millions, or an almost fourfold yield to the Treasury.

It may be noticed here that when the tariff of 1867 reduced the average rate upon duti-

able imports to nineteen and a half per cent., the largest imports of dutiable goods, at these rates, which happened in 1860, amounted to only two hundred and sixty-eight millions. This was the year of our largest exports of breadstuffs, provisions, cotton, and other staples. Every possible circumstance was favorable to the trade of the year, yet it yielded one hundred and twenty-eight and eight tenths millions less to the Treasury, and brought one hundred and five millions less of foreign goods to our shores than was afforded by the forty-seven and one third per cent. tariff in operation in the fiscal year 1867.

I am dealing with facts, and I cannot so well in any other manner contradict or refute the specious doctrines of free-traders; such, for instance, as that which affirms that the lower the tariff rates the larger both the importation and the resulting revenue. A notion derived from the idea that protection means prohibition, or at least diminution of imports, to the extent of its degree, which is not true. Protection means nothing of the kind. It does not diminish foreign trade, but it selects it, and at the same time increases it by enabling the country to purchase the more in proportion to the freedom and security given to domestic industry. Why, Mr. Speaker, there is no country under the sun so well protected against rival industries as England. Her supremacy in production bars out all the manufacturers of the world, except about six per cent. of her total imports, and those imports have risen under this security from seven hundred and thirty-nine million dollars in value in 1854, to one thousand three hundred and fifteen millions in 1865, thus increasing seventy-eight per cent. in ten years; and this for the reason that her exports came still nearer to doubling in the same time. Nor has her customs revenue fallen off. It amounted to twenty-two million pounds in 1846, and yielded twenty-two and a half million in 1865, having been as high as twenty-four millions in 1863.

So much for the answer of history and fact to the plausible notion that lower duties increase imports and revenue, which might be true if the ability to buy foreign goods, was not affected by paralysis of domestic industry; but it is seen to be false when we look to the prosperity produced by full work, large wages, and activity of capital, all secured by protection of each, and all alike.

There is also another fallacy of the let-alone school of economists, specious enough on the surface, but hollow at the core. It is the assumption that the price of all imported commodities to the consumer must be increased by the amount of duty imposed upon them. But is the producer's selling price such a fixed and constant quantity that it can be taken for the basis of such a calculation? Let us see. The export price of English merchant bar iron in Liverpool was at five pounds ten shillings in August, 1832, and at ten pounds ten shillings in January, 1836, and it hovered about the latter rate until 1840. The former price of five pounds ten shillings concurred with the operation of our tariff of 1828, and the increased price ruled during the reign of our compromise act. In April, 1843, our tariff of 1842 being in force, English merchant bar iron fell to five pounds. The tariff of 1842 being repealed it went up to nine pounds ten shillings in January, 1847.

These instances are enough for illustration. Now, who paid the duty on any such iron imported into the United States when our tariff rates were at the highest? The consumer? Manifestly no. The producer, capitalist, laborer, and trader, suffered it in abatement of their profits; sometimes even to the loss of all profits, and something of capital invested besides. Home production encouraged has the natural effect of holding the prices of foreign commodities in check, even when some considerable enhancement of prices is the result. One thing is certain, that the foreign article never can go above the living price at which the domestic article can be afforded, for

competition among home producers will fix the maximum for the market, and hold it there, or prevent it from fluctuation, to the injury of the consumer.

A country absolutely subjected to foreigners for their supplies in every article must allow the vendor to fix his own price upon it, and if it has but one such market for purchasing it must also be shut up to that market for the sale of the commodities with which it purchases, and the foreigner thus fixes the price of the exports as well as of the imports. This is the bondage of trade. A slave, sir, is one who can deal with but one man. A country which must deal only in one market is as much enslaved.

I have no doubt that an American consumer of tea or tropical spices must pay the whole duty imposed upon these articles at the custom-house, unless by a general abstinence the price is forced down upon the producer, and so a part or the whole of the charge be taken out of his profits. But who pays the duty when competition is open and a choice is free? How much must either party pay of such duty under the varying circumstances of the case? Alexander Hamilton, in the *Federalist*, touches this subject incidentally, not exhaustively, as was his usage whenever engaged upon any point of economic doctrine as the main topic of discussion. He says:

"When the demand is equal to the quantity of goods at market, the consumer generally pays the duty; but when the markets happen to be overstocked a great proportion falls upon the merchant, and sometimes not only exhausts his profits, but breaks in upon his capital. I am apt to think, [he concludes] that a division of the duty between the seller and the buyer more often happens, than is commonly imagined, for it is not always possible to raise the price of a commodity in exact proportion to every additional imposition laid upon it."

These considerations are enough to dispose of the bold assumption that all taxes and duties are necessarily and certainly so much additional charge upon the consumer of commodities. Prices are determined by supply and demand; and it is plain, therefore, that domestic competition must have the effect of regulating the cost of foreign products when they are obliged to meet the rivalry of domestic goods in the markets which they invade. If there were no other reason of policy for maintaining such a check upon the foreign domination of our home markets, this would be a sufficient one. But dependence for supplies from abroad, for anything that can be produced at home, even as a mere matter of mercantile policy, is liable to the objection that they are thus surrendered to the government of causes, accidents, caprices, and interests, over which we have no control. In the war of 1812, blankets previously costing but six dollars per pair went up to twenty, and opium rose to one hundred and sixty dollars per pound, and common pins, of which we made none at the time, became absolutely unattainable. It is even worse when arms and ammunition are to be had only from the nation with which we happen to be at war. But I need not press this point so well put by General Jackson in his letter to Dr. Coleman, written during the pendency of legislation which resulted in the highly protective tariff act of 1824 and its amendment in 1828. But the opponent returns to the charge after all his sophistries of theory are exploded with such objections as this: the protective duty must somehow increase the price of the commodity, else why impose it? I answer, it certainly increases the underselling price resorted to for the purpose of breaking up the domestic production, with the opportunity reserved of increasing it to more than indemnifying rates when dominion of the market is obtained, as we have seen always occurred in the matter of English iron.

Mr. Madison, in his letter to Judge Cabell, October 30, 1828, puts this point thus:

"Should it happen, as has been suspected to be an object, though not of a foreign Government itself, of its great manufacturing capitalists, to strangle in the cradle the infant manufactures of an extensive customer or an anticipated rival, it would surely, in such a case, be incumbent on the suffering party so

far to make an exception to the let-alone policy as to parry the evil by appropriate regulations of its foreign commerce."

Mr. Madison, forty years ago, spoke of the possibility of foreign combinations to break down American industries, threatening to displace the home market with them; but the report of a parliamentary commission appointed to consider the pressing evil of strikes among British workmen, makes Mr. Madison's hypothesis a matter of history. I ask attention to a somewhat lengthy extract for the reason that it covers the ground of an argument which I would be but too happy if I could sufficiently impress upon the people of this country who are so largely concerned and yet so little impressed by its facts and force. This parliamentary committee says:

"The laboring classes (of England) generally, in the manufacturing districts of this country, and especially in the iron and coal districts, are very little aware of the extent to which they are often indebted for their being employed at all, to the immense losses which their employers voluntarily incur in bad times in order to destroy foreign competition, and to gain and keep possession of foreign markets. Authentic instances are well known of employers having in such times carried on their works at a loss amounting in the aggregate to three or four hundred thousand pounds in the course of three or four years. If the efforts of those who encourage the combinations to restrict the amount of labor, and to produce strikes were to be successful for any length of time, the great accumulation of capital could no longer be made which enable a few of the most wealthy capitalists to overwhelm all foreign competition in times of great depression, and thus to clear the way for the whole trade to step in when prices revive, and to carry on a great business before foreign capital can again accumulate to such an extent as to be able to establish a competition in prices with any chance of success. The large capitals of this country are the great instruments of warfare against the competing capital of foreign countries, and are the most essential instruments now remaining by which our manufacturing supremacy can be maintained; the other elements—cheap labor, abundance of raw material, means of communication, and skilled labor, being rapidly in process of being equalized."

This murderous policy Mr. Madison thought possible as a means of holding an extensive customer in commercial and industrial bondage. That phrase very truly describes the mercantile relation of the United States to Great Britain. Taking the year 1860 for an example, I find that the British exports to us that year, according to their own reports, stood at twenty-one million six hundred sixty-seven thousand and sixty-five pounds, while to all the world besides, other than her own provinces, the total of her exports were but seventy million five hundred and fifty-three thousand three hundred and twenty-seven pounds. Thus we are a fair one quarter of the world to her; an extensive customer, indeed, and well worth holding at any cost, by losses, bribery, or sophistry, or all together, as may be required.

But the real sacrifices of this cut-throat competition are next to nothing, for whenever by a wise policy we have enlarged our home products toward a self-supplying point a glut happens in the English market in lack of so large a customer, and then it is no matter at what price the surplus is thrown upon our market, for the balance left is worth as much as the whole, including the excess, and the sacrifice of price, which at any rate must be borne, is amply repaid by the effectual breaking down of what the parliamentary committee called "the competing capital of foreign countries." A single instance will suffice: English common bar iron is quoted at New York during 1845, 1846, 1847, 1848, at an average of seventy-five dollars per ton. In 1849 three hundred and eighteen thousand eight hundred and seventy-five tons of English iron were thrown upon our markets at less than the cost of production, and the New York price fell from the average of seventy-five dollars in the preceding four years to forty-one dollars and twenty-five cents in July and to thirty-three dollars in September, 1851. Here was a glut let loose upon us, as the prices indicate, with the unflinching result, that so soon as its work was done the indemnifying process was begun, and accordingly we find British bar in New York as early as November, 1853, at sixty-six dollars and twenty-five cents, and in November, 1854, at seventy-

one dollars and seventy-five cents. In all these cases I have given the average prices of the years and months mentioned. They may be found in the appendix to the finance report of the Treasury for the year 1863. Is there no necessity, no justice, in putting up some defense against "the large capital," that thus lies in wait to spring upon us in our time of exposure to these murderous assaults? Observe, according to the parliamentary committee, neither cheap labor, abundance of raw material, nor skilled labor are any defense, as they certainly would be in fair competition. The large and cheap capital which can afford to await its opportunity and is sure by its successes to repair all losses, is the advantage of the foe. It is not even-handed competition that we have to fear, but domination from the vantage ground of capital which we cannot match.

Free trade, if it had any principle of justice in it, would at least put itself in the previous condition of a free field's fair play and an even chance. But it has neither soul nor sense.

A more plausible and harder pressed point than all others against protection in the form which it necessarily presents, is the cry of "class legislation," or the fostering care of manufactures, or the apparent overtopping and exclusion of mercantile and agricultural interests. This is one of the troubles of protection in popular apprehension. One of them, for its general trouble is that it requires to be understood; while free trade, its antagonist, requires neither knowledge of affairs, the history of national experience, nor any accommodation of general principles to the conditions which should modify their application. It means just the same thing to school girls, old ladies, and dyspeptic professors of logic that it does to its most elaborate propagandists. Protection puts restraint upon the wild liberty of international trade, and all the instincts of rebellion, revolution, and lawlessness are instantly in arms against it. A fashionable lady feels outraged at the very notion of having her traveling trunk searched, and of course decides that smuggling is merely "*malum prohibitum*," whose only evil effect is in its detection; and all those progressives who are in general "for liberty and against the Government" take the restrictions upon commerce to be a part of their dear, distinguishing martyrdom. Oh, my dear sir, the principles of free trade can all be written upon a thumb-paper, and any fool may have them always at his finger ends. That is their advantage, with the further help of the immediate interest of large classes to recommend them. Those classes are no less in number and power than, first, all capitalists of the commercial nation whose gains are in proportion to the supremacy they can obtain and hold over the countries less advanced in manufacturing power. Second, all the salaried officials, annuitants, and money lords, who are of the unproductive class, and are rich exactly in proportion to the poverty of the industrials of their own country, men who would have all commodities which they consume cheap, and the money they hold proportionately dear; and, third, all the poets and prattlers and peddlers of political economy that can be fooled or suborned into the service of universal levelers of labor-wages to the grade of the lowest among the nations. Moreover, these preachers of fustian have the superficial *ad captandum* advantage of the catching phrase of freedom, progressiveness, liberalism, natural law, and the countersigning cries of every man's right to the enjoyment of his own productions; the right to sell and buy where he pleases, with the chance of selling dear and buying cheap in all the open market-places of the earth. All of which means only a free scramble for the monopoly of trade by those who pay the lowest wages to the artificers of all commodities; by those that have the largest capital at the cheapest rate; by those who, being earlier and better provided with the means and appliances of converting skill, claim the right, as they have the power, of excluding all poorer and later strivers from entering the field of competition with any chance of success; or, in

one word, as all wealth is the product of labor, it means substantially that the wages of labor and the profits of capital shall everywhere be reduced to the lowest rates that can be compelled anywhere else.

Mr. Speaker, when this doctrine of free trade is leveled down to its solid substance, when all its bubbles are exploded, its froth skimmed off, and its flutter quieted, it stands on its legs, just nothing but pauper wages, primogeniture of capital and skill, and industrial vassalage to every grade of advantages, below the highest, the oldest, and the most tyrannical.

But this objection of class legislation: first, it happens generally, and with us especially, that agriculture needs no defense against foreign rivalry. The abundance and cheapness of our provisions and of the raw material of manufactures requires no defense against the like products of transatlantic countries, and from the laws of climate only, in a very few particulars, against the products of the contiguous countries north and south of us. Where ever these are exposed to the mischief of interference from abroad, however, the principle of protection embraces them, and they are thus left without any ground of complaint of partiality in legislative protection. The possession of a fertile soil, and a universal variety of its products naturally protected by the bulk of the rival commodities and consequent cost of carriage through great distances, is the real reason why they scarcely appear among the products of industry claiming protection from foreign rivalry in the home market; for, as we have said, protection is nothing else, more or less, than simply defense against foreign invasion; and it is therefore apparent that the corn and pork of Illinois are as safe, and even more so, from foreign competition than the daily newspapers of New York and Philadelphia.

If protection seems to be mainly occupied with the products of manufacturing and mechanical skill, it is because that this, the principal, almost the entire field of the strife, is among the nations for mastery upon the part of the older and stronger, and defense on the part of the younger and weaker. For this reason manufactures hold the front rank, and apparently the exclusive regards of the friends of industrial liberty and independence.

But this charge of class legislation exploded as a logical proposition, turns practical, and alleges that all increased cost of foreign commodities and of the domestic supply thus fostered is for the exclusive benefit of the manufacturing interest, a bonus or bounty to it, and an equal burden upon the consumer.

Here, in the first place, the free-trader forgets his fundamental proposition, that competition is the regulator of prices, and, of course, does not see that no domestic production fairly secured can possibly be made to yield a larger profit to the men engaged in it, either as capitalists or workmen, than any other investment or occupation which offer themselves to the enterprise of the country; for on their showing, and better than by their concession, under a true and operative principle of business, capital and enterprise always seek the highest remuneration, and so bring all business down to the level of uniform profits. Where, then, is the bounty, the bonus, resulting from protective duties against foreign products, when domestic competition is thus sure to level profits in the most favored occupation to the common standard of all?

On the plainest principle of logic and the clearest experience of fact, the bonus or bounty charge is a feebly-false accusation; and being so, and necessarily so, the complaint of a temporary increase of prices as the result of protective duties must take another aspect and find a different responsibility than that of the "class" of the community charged with it, which class, by the by, embraces at least one half of the contributing numbers to the common stock of the nation's industrial welfare, and whose prosperity may therefore be a matter of much concern to the other half. A paralysis

of one half the body politic can scarcely be less embarrassing to the whole community than a palsy of one whole side of the body to a single individual.

I am inclined to think, sir, that if this cowardly assault upon "the class" were explained to mean just what it must mean in the effect for which it is used, the croakers would find themselves directly confronted by the majority of the people. I do not admit that there is any such class, distinctive, hostile, or separate in object or interest. I look upon the entire productive community as an organism in which there are many functions, but all tributary to the well being of the whole, or all uniting in one body, without even independence of each other, much less disagreement or real difference of interests. If the enemy will have a census of what they must mean by "the class," which protection favors, they will find it, in its varied ramifications, too large to be encountered with either justice or safety.

The charge of undue favoritism thus finds a broader and a much less unpopular pet than the numerically few mill-owners and boss manufacturers of the country; nay, it really falls further back than the whole body of its representatives; it falls upon the community *en masse* for the fault that it is young, weak, poor, and unskilled relatively to the antagonist against whom it claims protection.

If the "class" cannot produce as cheap commodities; if the laborers will not work at as low wages; if capital is worth higher rates of interest than in the older countries of Europe, then this favoring legislation is a question for the nation, not for its manufacturing capitalists, to meet and answer. And the question simply amounts to this: Will you, for a brief period, pay a premium upon your own industry or permit it to be subordinated to that of all the world abroad, whose barbarism and pauperism in labor and supremacy of wealth and discipline demand your perpetual dependency? Will you suffer yourselves to be remitted to a uniform condition of unskilled labor, with your whole population struggling against each other, or will you, at the required cost, favor that distribution of occupations which will make you among yourselves mutually assistant and against all foreign rivalry, nationally and integrally independent?

But I will not any longer discuss these questions as matters of abstract principle. I will fall back upon the demonstration which my own State affords of a sound system of industrial economy, and leave the inferences from her history and condition to indicate their application to the conduct and policy of the entire Union, of whose varied interests she is an exemplar and representative.

According to the census of 1860 Pennsylvania had nine and a quarter per cent. of the population of the Union, having increased twenty-five and seventy-one hundredths per cent. in the decade; while the six New England States had a minute fraction less than ten per cent. of the national population, having grown but fifteen per cent. in the decade. The wealth of Pennsylvania was just ten per cent. of that of the Union, having increased ninety-six and five hundredths per cent. in the decade, while New England held thirteen and two hundredths per cent. of the wealth, with an increase of only sixty-five and two hundredths per cent. in the decade. The manufactures of the last census year in Pennsylvania are reported at fifteen and three hundredths per cent. of the whole, while those of the New England States reached twenty-four and eight hundredths per cent. of the total of the Union.

I quote these particulars for the purpose of remarking that while the aggregate personal and real property of Pennsylvania was about four hundred and forty-seven millions short of that of New England, in 1860, it had been growing faster in the decade as ninety-six is to sixty-five, or one half faster; and for the purpose of noticing some things in the condition and character of her varied industries which have not been generally considered or understood.



Iron and coal have been so conspicuous in her products, relatively to those of the other States, that they are commonly thought of as almost her sole reliance. Yet in the year 1860 (or rather 1859) the value of all her cast, forged, rolled, and wrought iron was but thirty per cent. of all the product of the Union; together they were valued at twenty-two and a quarter millions, or only seven and two-third hundredths of her manufactures. Now, recollecting that her wealth was but ten hundredths of that of the nation, it may be news to some of us that her woolen and cotton goods were twelve and one-third per cent. of the product of the nation, and came within less than two millions of the value of her iron; that her boots, shoes, and clothing reached beyond her iron in value; that her leather and harness almost equaled it; her flour and meal greatly exceeded; her sawed lumber was worth half as much; and her steam engines, carriages, wagons, and agricultural implements were again nearly equal in value to her whole iron product. Here, then, we have five several branches of manufactures, each yielding as much value in products per annum as her distinguishing staple product, iron; and another, sawed lumber, worth nearly half as much.

How broad is the range, how wide the diversity that reaches from the rank of the highest styles of modern manufactures back to the rudest products of the forest, and all of them nearly equal in commercial value and importance.

In agriculture she produces wheat enough to feed her population at the liberal rate of five bushels per head per annum; her Indian corn suffices for her wants; in slaughtered animals she stood fourth in rank among the States most distinguished for their herds and flocks; and in value of farming implements and machinery, which may be taken to indicate her agricultural grade, she stood second only to New York, whose greater wealth and larger territory will account for her larger value in this kind. Another proof that proportion is well maintained between the agricultural and the manufacturing industries of the State is that just as her aggregate wealth is to that of the nation, so the cash value of her farms bore the ratio of ten per cent. to the whole, greatly exceeding the value in this respect of the States that are purely agricultural; a farming State, ranking with the highest of those of the sister States, and at the same time on a level with the oldest and wealthiest, who have made converting skill the absorbing object of their productive industry.

In foreign commerce Pennsylvania makes no pretense to rank with New York or New England. Her wealth is otherwise, and every way better-wise, devoted and employed. In the commerce of home—of the vicinity—in the exchange that loyally yields all its benefits to the common country, she is behind none in the nation. In proof: of the railroads of the country, reported now at thirty-six thousand eight hundred and ninety-six miles, she has four thousand and thirty-seven miles, at a cost of over two hundred and ten million dollars, or nearly fourteen per cent. of the cost of the roads of the nation, and sixty millions more than New York, larger in territory, greatly excelling her in wealth, but behind her as greatly in the means and provisions of internal commerce.

May not a State thus balanced in the various departments of industry, thus reconciling the supposed antagonisms of trade, manufactures, and agriculture within her own limits, assume to speak for them all when they are all to be considered and provided for.

I have produced this great diversity of industrial interests and pursuits in the Keystone State to show that her policy must necessarily be impartial as between those branches of production which modern doctrines of political economy so industriously array as inimical to each other, and thus to fortify the authority of her policy and example in the legislative treatment of every one of them. And now I

invite attention to a different analysis of those six or seven branches of production, and the system of internal transportation which they have called into existence in the joint service of all, from that which a mere statement of their relative market value presents. We have found at least five classes of manufactures equal to the iron product of the State in annual money value; we have found the agricultural product fairly up to the highest standard in the States most favorable to its prosperity; and we have found the machinery of trade and transportation at the very highest figure. Now, let us inquire the reason at once of this great relative and absolute development of the State's industry, and of the happy proportion between these comprehensively developed enterprises of capital and labor.

As I have in this inquiry constantly avoided the metaphysics of statistics, I shall not now indulge in speculation, though the point submitted strongly invites a logical scrutiny of the principles involved. I will treat it by analogy, using a universally accepted pattern of industrial experience as an exemplar. In so doing I shall have the clear light of a well proved experience thrown upon the phenomena of Pennsylvania's condition, and shall make bold to assume for it the philosophy which has written itself out in the facts of a kindred case.

England is accustomed to credit her supremacy in manufactures of every kind to the possession and development of her iron and coal. Pennsylvania compares with her closely in this primary condition of industrial development. Curiously enough the exports of the United Kingdom in 1865, if they may be taken to indicate the rates of its productions, show a striking resemblance in the proportion of iron and steel and their manufactures to the total of the manufactures of both countries of the United Kingdom. This great staple and foundation product, which is believed to support and rule her other industries, amounted to no more than eight and one tenth per cent. of the total of British and Irish exports; while in Pennsylvania, as we have seen, the iron product was just seven and two thirds per cent. of the value of her total manufactures. The total British and Irish exports of 1865 were eight hundred and four million dollars; the iron and steel, &c., were sixty-five million two hundred and thirty-nine thousand five hundred and eight dollars and eight cents. Products of Pennsylvania in 1860 were two hundred and ninety million one hundred and twenty-one thousand one hundred and eighty-eight dollars; her iron, twenty-two million two hundred and fifty thousand dollars.\*

Opinion, however, both among experts in industrial statistics and all ordinarily intelligent observers, unites in carrying the mainspring of a generally diversified and prosperous system of production back of the supply and yield of native iron. English authorities are accustomed to say of the coal beds which underlie so large a portion of the kingdom that they are vastly more precious than mines of the precious metals, like those of Peru and Mexico, would have been; that it is the possession

\*Money value of some of the productions of Pennsylvania for 1859.

Iron of all kinds.....	\$22,500,000
Coal, anthracite and bituminous.....	24,000,000
Woolen and cotton goods.....	20,687,056
Boots, shoes, and clothing.....	22,829,742
Leather and harness.....	17,000,000
Flour and meal.....	29,925,573
Sawed lumber.....	10,743,752
Steam engines, carriages, wagons, and agricultural implements.....	19,404,403

The production of iron and coal has increased very rapidly since 1859. Over thirteen million tons of anthracite coal alone will be mined in 1868, at an average cost, including rent and lateral tolls, of two dollars per ton. It is not now bringing the cost of production in a market that cannot do without it, and its gross value at the "head of navigation" may, therefore, be put at \$25,000,000.

Much interesting and valuable statistical information compiled from the publications of that distinguished and most indefatigable journalist, Benjamin Bannan, esq., of the Pottsville Miner's Journal, has been fitted, in order that it may be introduced in an argument relating to additional railway communications with the anthracite coal fields.

of her coal mines which has rendered Britain in relation to the whole world what a city is to the rural district which surrounds it—the purchaser and dispenser of the various products of art and industry. Here, as in the proportion of the value of England's iron to her total manufactures, which we found to be eight per cent., very closely corresponds to that of Pennsylvania, which was seven and two thirds per cent. of her manufactures in 1860, and probably bears that ratio under all subsequent increase. So in the production of coal. Great Britain in 1867 mined one hundred and one million tons of coal, worth fifty million pounds sterling, which is as near as may be to seven per cent. of the total value of her industrial production in the year, which her own statisticians put at about seven hundred and twenty million pounds. The value of the coal mined in Pennsylvania in 1867, amounting to eighteen and three quarter million tons, had a gold value, according to the rate of prices in 1860, of twenty-three and a half million dollars, which is within a trifle of seven per cent. of the total industrial production of the State at the like rate of prices.

I do not think that the aggregate value of all the industries of either Great Britain or of any one or all the States of this Union is even approximately given by the exports of either country; but I believe it safe to say that the errors in each are so nearly equal that the ratio here taken may be relied upon. What there is in coal and iron which should thus be the exponent, and probably the cause, of the other industries of a nation favorably situated for their development need not be argued. It is enough that they are found in the constant connection of which Great Britain and the State of Pennsylvania exhibit such striking examples of concurrence. There is one feature in them, however, that looks as if it might go far to account for the fact that they thus serve as bases for the greatest variety and the largest extent of all manufactures. It is this: their products, from the rudest to the very highest powers which human skill can bestow upon them, have nearly their whole value made up of wages, of the earnings of those sorts of labor and skill which would be utterly wasted if not employed upon them; so that their great value in the market is created from nothing except the minds and muscles that were otherwise useless, or worse than useless, to the public weal. And, from this other consideration, that while the fabrics of the vegetable and animal world go forthwith into consumption: those of coal and iron are together the chief of those stupendous agencies which are concerned in reproduction of values, and that without them the other artificial labor in the workshops of the race, water, either liquid or in vapor, would scarcely suffice for the services even of savage life.

I may not detain the House upon a theme so much fitter, and so well fitted withal, for a philosophical essay, even in sufficient detail to impress its prominent features and captivating beauty. I cannot venture upon the patience of an audience even for the purpose of arraying the points which I have made in their most effective order. I submit them for their suggestiveness to the minds of thoughtful men. To my mind, though they are but a few in the multitude of facts and principles from which they are selected, they yet sufficiently sustain the doctrine of protection to the industry, capital, and enterprise upon which our welfare now more than ever, at least more immediately and imperatively than ever, depends.

Permit me now to make a general application of my argument to its purpose by quoting the matured opinions of two of the most eminent living statesmen of France. Count de Morny, finance minister at the time the Anglo-French treaty of 1860 was under negotiation, said, "Protection is the route to free trade." This one sentence is a summary of all history in the matter of international commerce as it affects national welfare. Not a step

has ever been gained by any nation toward true freedom of trade but by the system of protection which nurses productive industries into the maturity and independence which in due time dispenses with further guardianship. This maxim of the great practical statesman was uttered while the Cobden treaty was yet in debate. Eight years after its adoption, on the 13th of May, 1868, in the Legislative Assembly of France, M. Thiers, whose name alone is authority, as well in history and theory as in practical affairs, in an exhaustive argument upon the condition and prospects of the industrial interests of France, calls upon its Legislature and its Emperor to "Reserve the national market for the national labor." The prospect is that civilized Europe and all the rising nationalities among the British dependencies will more and more, as they are able, exclude British goods from their markets. And it is all the more necessary that we shall defend our labor from the accumulating force and the accumulating necessity that England will feel for deluging us with her fabrics, cheapened by the desperation to which her capitalists are driven.

Mr. PILE. Will the gentleman from Pennsylvania yield me five minutes?

Mr. MORRELL. Certainly.

Mr. PILE. I ask permission to move an amendment to the second section by inserting after the word "from" the words "and after sixty days subsequent to;" so that it will read, "from and after sixty days to the time of the entry of such goods for warehousing."

Mr. MORRELL. I will allow that amendment to be offered.

Mr. PILE. Mr. Speaker, this bill should have gone either to the Committee on Commerce or to the Committee of Ways and Means. I do not see what jurisdiction the Committee on Manufactures have over the question of importation, or the method of regulating the warehousing and delivery of imported goods. It is a subject that has always been considered and passed upon by either the Committee of Ways and Means or the Committee on Commerce. If the bill had received an examination by either of those committees, who are supposed to be conversant with the subject, I do not know but I should have been in favor of it. But it is too important a bill to pass hurriedly, having only received the consideration of a committee that is not supposed to be as conversant with the subject as the other two committees that I have named.

One specific effect of this bill upon interior importers I wish to advert to. It is that which I seek to remedy by the amendment I have offered. The present system of importing requires an appraisement of goods to be made at the sea-board port where the original entry is made, so that a shipment of goods made to Cincinnati, Chicago, St. Louis, or any interior city must be warehoused. It is not a matter of option with the importer. His goods must be examined and the duties appraised, and in the majority of cases the examination requires that the goods should be sent to the warehouse in order that the package may be opened and examined. Now, once they get into the warehouse at New York or New Orleans, as we have had abundant experience at St. Louis, they remain there in spite of the efforts of the importer from one to four months. This bill, taken in connection with the present law on the statute-book would compel the importer to send his goods to the warehouse and keep them there contrary to his desire, unless he is willing to submit to black-mailing on the part of custom-house officers, who make excuses that they cannot get at them conveniently, and then charge him interest for the time his goods are thus detained. That is, you compel him to warehouse his goods, detain them by the action of your officers, black-mail him, and then charge him interest for all the time you are doing this.

This bill, in application to and effect upon the importers living in the interior cities, would be most unjust and unfair. In fact the im-

porters in the cities which I have named are suffering now under so many burdens that unless they are released from some of those burdens the importing trade of the interior will be so crushed that it will go out of existence. This will not help the manufacturers, for the reason that our merchants will go to New York and Boston and buy of the wholesale dealers in imports and pay him a margin for his profits. That will be cheaper than to submit to the burdens of the present law, and will not help the manufacturers; but it will make richer the importers of the sea-board cities at the expense of the consumers in the interior and the interior merchants. This bill, in addition to all the hardships they are now laboring under in this trade, will impose upon them an interest of six per cent. upon their goods detained in warehouses against their will and when they are pressing to get them out.

Mr. MORRELL. Why need they put them in warehouses?

Mr. PILE. They cannot avoid it. Their goods must be examined and appraised, and for the purpose of that examination and appraisement and the opening of packages the goods must go into warehouses, and they cannot keep them out. It is not a voluntary matter with them. There is no provision of law by which goods can be removed at present from the original port of entry except after examination and appraisement of duties, and for the purpose of that examination they must be sent to a warehouse, and from that warehouse the importer cannot get them for months, and yet you propose to charge him interest for the time his goods are detained. I hope the amendment I have offered will be adopted if we are to act on this bill at this time.

[Here the hammer fell.]

Mr. MORRELL. I now yield for five minutes to my colleague from Philadelphia, [Mr. O'NEILL.]

Mr. O'NEILL. I do not think it is a matter of any importance to the interests of the country and the interests of commerce and trade to which committee this matter happened to have been referred. I have presented numerous petitions from the people of Philadelphia, asking for an entire abolishment of the warehousing system. Some of them went to the Committee of Ways and Means and some to the Committee on Manufactures; but when I look at the elaborate and most excellent report made by the chairman of the Committee on Manufactures, of course indorsed, I presume by the members of the committee, I think the House may congratulate itself and the country may congratulate itself upon the fact that the subject was referred to intelligent men who understood what they were doing. I do not pretend to say that the amendment offered by the gentleman from Missouri [Mr. PILE] might not improve the bill, for there may be some hardship in requiring the penalty upon the duties at the rate of six per cent. interest per annum to be put at once on the warehoused goods. But I look upon the bill generally as beneficial to the interests of the country—the industrial interests of the country, because it is well known here, and especially to the chairman and the members of the Committee of Ways and Means, that American industry is damaged to a great extent every day and every year by permitting imported goods to remain in warehouses as long almost as the importer pleases. Under the existing law the importer can keep his goods, if for home consumption, in the warehouse for one year without the payment of an advance upon the duties, and either before that period expires, or within two years thereafter, if they are for exportation, he may withdraw them without the advance; but if they are for home consumption he must pay the penalty of ten per cent. upon the amount of the duty in addition.

My colleague, the chairman of the Committee on Manufactures, intending, I suppose, to do something to aid in breaking down this deluging of the country with foreign goods as against the industrial interests of our own people, has

put this section in the bill requiring that the rate of six per cent. per annum shall be paid upon the duties for the length of time the goods remain in warehouse. I do not say that that is not altogether in the interest of our own manufacturers; but if it be in that interest let us help it. I am for a tariff to protect the American manufacturer, and I hope the House will show its good judgment and its desire to legislate for the manufacturing interest of the country by passing the bill reported by my colleague [Mr. MOORHEAD] from the Committee of Ways and Means. But if we can also do this much toward benefiting and encouraging our own home industry, let us do it by passing promptly the bill now under consideration. I am well aware that the whole of this warehousing system needs great change and alteration. There have been crying complaints against it. Petition after petition has come to Congress upon the subject, and I, for one, representing in part a city which is largely engaged in manufacturing, say I want to stand by our own manufacturers wherever and whenever I can, and for that reason I think the bill reported by the Committee on Manufactures should pass.

[Here the hammer fell.]

Mr. MORRELL. I now yield for five minutes to the gentleman from Illinois, [Mr. RAUM.]

Mr. RAUM. I desire to offer the following amendment to the bill under consideration, being additional sections, to come in after section two of this bill:

SEC. —. *De it further enacted*, That the duties on all imported goods remaining in custom-houses and warehouses upon the passage of this act, shall be paid within sixty days after the passage of this act. And the duties on all imported goods in transitu from ports of entry to ports of delivery at the date of the passage of this act, shall be paid within sixty days after such goods shall have reached the proper port of delivery: *Provided*, That any of said goods may be reexported without payment of duty if the person owning or controlling the same apply for such privilege within thirty days after the passage of this act.

SEC. —. *And be it further enacted*, That hereafter the duties on all imported goods entered for consumption shall be paid within thirty days after such goods shall have arrived at their proper port of delivery: *Provided*, That the duties on goods shipped in bond from one port to another shall be paid within thirty days after such goods shall have reached the latter port: *And provided further*, That goods imported for reexportation may remain in custom-houses and warehouses as now provided by law.

Mr. MORRELL. I will allow a vote to be taken on the amendment.

Mr. RAUM. Mr. Speaker, I do not profess to have any great amount of knowledge upon the subject now before the House. But I have examined the statistics of the country for a great number of years back, and I find that, under the present warehouse system, about two fifths of the total importations of this country go into the bonded warehouses of this country; and that something like from forty to fifty million dollars worth of imported goods remain in these warehouses from month to month the year round. Another startling fact is that we are exporting from seventy-five to one hundred million dollars of precious metals to pay for those imported goods. Under the existing laws and regulations of the warehousing system, these goods can be piled up on the edge of the market and remain there for twelve months without paying any duties to the Government of the United States; and the manufacturers and owners of these foreign goods have perfect control of the market by throwing them upon the market whenever they can find a ready sale for them.

Now, I believe we never can resume specie payments in this country, that we never can have a proper and healthy system of finances until we can reduce the importation of foreign goods so as to retain in this country the products of our mines, which now amount to about seventy-five million dollars per annum. As long as we pour out of the country the entire product of our mines into the coffers of foreign manufacturers, it is my belief that we can never have a healthy financial condition in this country. Why, sir, we at this time have not more than ten per cent., we have not ten per cent., of precious metals in this country, in

proportion to the amount of the public debt. The sum of \$250,000,000 will cover all the precious metals in the United States. Our mines now produce about seventy-five million dollars per annum. Yet we are exporting not only every dollar we produce from the mines, but also \$10,000,000, \$15,000,000, ay, even \$25,000,000 of the reserve in the country. Now, until we can break up this system, until we can produce in this country all the articles which are necessary for our own consumption, until we can retain in this country the products of our mines, we never can have a healthy system of finances in the United States. But suppose we can keep in the United States the products of our mines for ten or fifteen years, thereby accumulating \$75,000,000 from year to year for ten years, and increase the amount of precious metals in this country in ten years to \$1,000,000,000, we will have solved the great problem of our finances, and placed the financial condition of our country upon an enduring foundation.

Believing that some legislation should be adopted which would look to a reduction of the importation of foreign goods, I introduced a bill some weeks ago which is substantially the same as the amendment I have just offered to the bill now before the House. In that bill I proposed that all the duties which are now due upon the imported goods now remaining in the warehouses of the country shall be paid within sixty days; and that all duties levied upon goods hereafter imported shall be paid within thirty days after those goods are warehoused at the ports of entry or at the ports of delivery when they are shipped in bond. By this means we will certainly discourage the enormous importation of goods brought into our market, and the large drain of precious metals from the United States, amounting to seventy-five to one hundred million dollars a year continually.

[Here the hammer fell.]

Mr. MORRELL. I propose to call the previous question, but before doing so, I yield to the gentleman from Maine [Mr. LYNCH.]

Mr. LYNCH. I propose to amend the bill by inserting after the word "merchandise," in line three, the words "of foreign manufacture." I understand that the gentleman from Pennsylvania [Mr. MORRELL] is willing to accept this amendment.

The SPEAKER. The bill having been reported from a committee, the gentleman reporting it cannot accept an amendment.

Mr. MORRELL. I am willing that the amendment shall be offered.

Mr. LYNCH. I also propose to add at the end of the first section the following proviso:

*Provided, That unrefined sugar shall not be considered manufactured goods.*

Mr. SCHENCK. I desire to ask the gentleman from Pennsylvania [Mr. MORRELL], who I believe has indicated his purpose to demand the previous question, whether he wishes to cut off a motion to refer this bill to the proper committee. It is in fact a little tariff bill, and as I understand, does not properly come from the Committee on Manufactures. It proposes to regulate the warehouse system, and belongs either to the Committee on Commerce, or to the Committee of Ways and Means. I should like an opportunity to state why the bill ought to be referred to one of these committees.

Mr. MORRELL. I have no desire, and I know the Committee on Manufactures have no desire, to interfere with the jurisdiction of any other committee. This matter was referred to us by the House, and has been considered and reported upon by our committee. If, however, the House sees proper to take the matter out of our hands and refer it to another committee it can do so.

Mr. SCHENCK. I hope the previous question will not be sustained, as I wish to submit a motion to refer, and upon that motion make some remarks.

Mr. ALLISON. I ask the gentleman from Pennsylvania [Mr. MORRELL] to yield to me for five minutes.

Mr. MORRELL. I will do so.

Mr. ALLISON. Mr. Speaker, I was not aware that this bill was to come up for consideration this morning, and therefore I am not prepared to make any extended remarks upon it, even if I had time to do so. But I want to call the attention of members of the House to the fact that this is merely a bill to increase the duties on most imported goods about six per cent. in gold. It is a tariff bill in disguise, and it comes here from the Committee on Manufactures, when it should have been considered by the Committee of Ways and Means. I want to call the attention of the House to the fact that it increases the duties upon every pound of tea and every pound of coffee that goes into the poor man's hovel as well as into the rich man's palace. It not only does that, but it increases the duty upon every article of necessity that is used in this country. When those goods go into bonded warehouses, if our tariff is not high enough, why not readjust it in a proper way and increase the duties on these goods? Or if the warehouse system is corruptly conducted, why not abolish it or reorganize it in some form? The committee have made an elaborate report showing the defects of this system, but they do not produce a remedy for our consideration to cure these evils.

The gentleman from Pennsylvania [Mr. MORRELL] says that goods are placed in bonded warehouses free of charge. That is not the fact. The very highest rates of storage are paid by these importers when they place their goods in warehouses, whether they are put in bonded warehouses of the United States or in the bonded warehouses under the control and jurisdiction of the custom-house officers at the various ports of entry. Now, I submit to the House that it is not fair to advance under this disguise the duties so as to increase five or six per cent., on an average, the rates upon every article imported into this country, most of which necessarily go into bonded warehouses, not alone the articles that come into competition with the American manufacturer, but on all those articles of luxury or of necessity not manufactured at all in this country. The bill provides that there shall be paid at the rate of six per cent. per annum upon the whole amount of duties imposed upon such goods, wares, or merchandise from the time of such entry, most of which from the necessities of commerce remain in warehouse from six to twelve months. A few days ago we spent several hours for the purpose of showing that the ship-building interests of this country were in a depressed condition.

Mr. PIKE. I suppose the Committee of Ways and Means are greatly troubled about that matter! They are just beginning to wake up.

Mr. ALLISON. Here is a proposition striking a direct blow at the commerce of the country in saying that a man who imports goods shall, at the moment of importation, declare whether they are for consumption or exportation. How can the importer tell whether the goods he imports to-day are to be consumed in the United States or reexported to a foreign country; he may find a market for them in South America or Mexico a year hence? Yet, sir, this proposition compels him on the moment he enters them at the custom-house to say whether they are for consumption or exportation, which will discourage the making up of assorted export cargoes in our ports of entry.

Mr. O'NEILL. I wish to ask whether these poor importers do not know when they are going to ship goods whether they are for consumption or for exportation to South America or Mexico?

Mr. ALLISON. They do not know where the best market may be. They may be required to make up an assorted cargo at Boston or New York, or at some other port of entry.

Mr. O'NEILL. Let me ask the gentleman another question.

Mr. ALLISON. I cannot yield further.

Therefore, Mr. Speaker, it seems to me this bill should have further consideration. I have great faith in the Committee on Manufactures. I know they have examined the subject with great care. I have read the report of the chairman of the committee with great interest. He develops some important facts; but, sir, I am not prepared, as one member of the House, to increase the duties on imports some six per cent. without at least further reflection. I think the duties are high enough now upon most goods whether for purposes of revenue or protection. Is not fifty to sixty per cent. upon iron enough? Is not seventy-five to one hundred and twenty-five per cent. enough on woollen goods?

[Here the hammer fell.]

Mr. MORRELL. I yield now to the gentleman from Ohio.

Mr. SCHENCK. I move the bill be referred to the Committee of Ways and Means.

Mr. MORRELL. I yield to the chairman of the committee to make that motion, but I hope it will not prevail.

Mr. SCHENCK. Will the gentleman allow me a few minutes in which to state my reasons?

Mr. MORRELL. I will yield for three minutes.

Mr. SCHENCK. Mr. Speaker, I have read with a great deal of interest the exceedingly able report of the chairman of the Committee on Manufactures, but his committee must allow me to say I think this bill is rather an ignoble conclusion to so full and able a report. I agree with the gentleman, the warehouse system is full of rottenness; and the examination we have made to a certain extent in our committee have enabled us to agree with him in such conclusions. But does he propose to remedy any of them? Not at all. He discovers the warehouse system is all wrong, but there is a little tariff bill in disguise introduced by way of reform. It amounts to no more or less than that. I humbly conceive this subject of tariff, whether it comes in the shape of imposts on goods entered and lying in the bonded warehouses, or in any other shape, belongs to the Committee of Ways and Means, and therefore I think this bill should go to that committee.

My friend from Philadelphia [Mr. O'NEILL] congratulates the House that, instead of having gone to the Committee of Ways and Means or to the Committee on Commerce, it has fallen into the hands of intelligent men who understand it. I will not take issue with him on that, but such as we are and such capacity as we have we should endeavor to give to the subjects which under the rules of the House belong to our committee. Now, sir, I have said this is a tariff bill, repeating what I said when I first called attention to it, and which was afterward confirmed by my colleague on the committee, [Mr. ALLISON.] It is an indirect mode, says the gentleman from Pennsylvania, [Mr. O'NEILL,] devised by the Committee on Manufactures for protection to be given to the manufactures of this country. I have no remarks to make at this time on the merits of the bill itself, only it should have the investigation of the committee to which it belongs. But I will say this, that it certainly presents a subject about which there may be a question on both sides. The gentleman from Missouri [Mr. PIKE] referred to one of the objections which may exist to this bill. It gives an advantage to the importers or merchants at the sea-board over those in the interior. The latter must necessarily be subjected by lapse of time to these additional charges from which the former, being at the sea-board, may entirely escape.

Again, there ought to be some consistency in our legislation. The other day the Committee of Ways and Means proposed to allow whisky to remain in bonded warehouses three months. The House extended the time to six months. The Senate, as we see by the published proceedings, have extended it to twelve months. But nobody thinks of charging interest while it remains there. I observe that



whenever we come to the question about having protection to certain interests, gentlemen from Pennsylvania and elsewhere see things in a somewhat different light. I am merely speaking in the way of criticism, to show that the subject ought to have some further consideration.

[Here the hammer fell.]

Mr. MORRELL. I yield two minutes and a half to the gentleman from Illinois, [Mr. RAUM.]

Mr. RAUM. Having great respect for the chairman of the Committee of Ways and Means and for the committee generally, on the 5th of June last I had a bill which I had the honor to introduce referred to that committee, but I have never heard of their taking any action on the subject. I suppose the tax bill so engrossed their time that they were unable to consider it. Now, sir, I regard this as a question of great importance indeed, and worthy of the immediate consideration of the House; because it is a startling fact to announce to this country that we are now exporting specie at the rate of \$100,000,000 per annum to pay for imported goods. I therefore affirm that it is our duty, before we leave this Hall, to pass some kind of an act that will discourage importation of foreign goods; and while I would not have ingrafted upon the bill this provision requiring the payment of six per cent. interest on duties, yet I think we can amend the bill and pass it in such a shape as will discourage the importation of foreign goods and enable us to retain the products of our mines in this country; because we never can have a resumption of specie payment and we never can have a reliable system of finance until we can keep our gold from being exported at the present enormous rate.

[Here the hammer fell.]

Mr. MORRELL. I demand the previous question.

The previous question was seconded and the main question ordered.

The first question was on the motion of Mr. SCHENCK to refer the bill to the Committee of Ways and Means, and being put there were—ayes 48; noes 37; no quorum voting.

Tellers were ordered; and Messrs. MORRELL and SCHENCK were appointed.

The House divided; and the tellers reported—ayes 54, noes 46.

So the bill was referred to the Committee of Ways and Means.

Mr. BENJAMIN moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The morning hour has expired.

#### ENROLLED BILLS.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. 1325) for the relief of Benjamin B. French, late Commissioner of Public Buildings;

An act (H. R. 445) for the relief of Timothy Lyden, of Parkersburg, West Virginia;

An act (H. R. 453) increasing the pension of Nancy Weeks, widow of Francis Weeks, an ensign in the revolutionary war; and

An act (H. R. 1069) for the relief of Charles B. Tanner, late first lieutenant sixty-ninth Pennsylvania volunteers.

Mr. HOLMAN, from the same committee, reported that the committee had examined and found truly enrolled a bill (H. R. No. 436) for the relief of James Hooper; when the Speaker signed the same.

#### PERSONAL EXPLANATION.

Mr. MAYNARD. I ask permission to make a personal explanation in behalf of a portion of the Committee of Ways and Means.

The SPEAKER. How much time does the gentleman wish?

Mr. MAYNARD. Two minutes.

The SPEAKER. Is there objection? The Chair hears none.

Mr. MAYNARD. Members of the House will have seen lying upon their tables this morning a communication purporting to be from a correspondent of the Chicago Tribune of the date of April 25, 1868, touching the action of the sub-committee of Ways and Means on the tariff. A portion of that statement I will read:

"It is not published, but printed in this way: as fast as a sheet was revised, one of the members of the sub-committee transmitted a copy to the Manufacturers' Association, whose headquarters are at Philadelphia, for revision and approval, who proceeded to publish the sheets for the instruction only of the faithful. A similar course was adopted in reference to the Iron and Steel Association."

I desire simply to say, as a member of the sub-committee and speaking for the other members, that the correspondent, whoever he may have been, was misinformed entirely upon this matter. The action of the sub-committee had nothing in it which would justify such a representation as is here made.

#### HARBOR OF OSWEGO.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting, in compliance with the resolution of the House of the 9th ultimo, a report of the chief of engineers relative to the construction of wharves in the harbor of Oswego, New York; which was referred to the Committee on Commerce, and ordered to be printed.

#### FREEDMEN'S AFFAIRS IN KENTUCKY, ETC.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting, in compliance with the resolution of the House of the 1st instant, the report of Brevet Major General Carlin for the last six months, relative to the condition of freedmen's affairs in Kentucky and Tennessee; which was referred to the Committee on Freedmen's Affairs, and ordered to be printed.

#### CLAIM OF E. M. DAVIS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting papers pertaining to the claim of E. M. Davis, for alleged damages to his land while occupied and used as a military camp; which were referred to the Committee of Claims.

#### GOVERNMENT CONTRACTORS.

Mr. WASHBURN, of Massachusetts. I ask unanimous consent that the Committee of the Whole on the Private Calendar be discharged from the further consideration of the bill (S. No. 307) for the relief of certain Government contractors.

Mr. SPALDING and Mr. BENJAMIN objected.

#### TROOPS ON THE PLAINS.

Mr. BURLEIGH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to inform this House what number of troops are stationed along the line of the Union Pacific railroad between Omaha, Nebraska, and Great Salt Lake City, including those at Fort Laramie and Fort Fetterman, and those along the line of the eastern division of said road; also those in the Territory of Dakota, and on the Missouri river, at and below Fort Benton; also the names and number of the different military posts and the number of troops stationed at each.

#### PORTAGE LAKE SHIP-CANAL.

Mr. JULIAN. I ask unanimous consent to take from the Speaker's table the bill (S. No. 398) extending the Portage Lake and Lake Superior ship-canal to Keweenaw Bay, providing for the right of way, and making a grant of land to aid in the construction of said extension.

Mr. SPALDING. I object to taking up any more Senate bills out of their order.

#### EVENING SESSION.

Mr. BANKS. Before moving to go into Committee of the Whole on the state of the Union on the special order, if there are many gentlemen who desire to debate the Alaska

question, I will move that there be an evening session.

The SPEAKER. The chairman of the Committee of the Whole on the state of the Union [Mr. GARFIELD] can tell how that is.

Mr. GARFIELD. There are more gentlemen whose names are down as desiring to speak than can speak this afternoon, but whether any of them desire to speak in the evening or not I cannot say. The debate may continue to-morrow.

The SPEAKER. The Committee of Elections have given notice that to-morrow they intend to call up two contested-election cases from Missouri. They may postpone those cases.

Mr. GARFIELD. I cannot tell how many members wish to speak to-night.

Mr. BANKS. Then I ask that an order be made that the Committee of the Whole on the state of the Union shall take a recess from half past four o'clock until half past seven o'clock p. m.

There was no objection, and it was so ordered.

#### PURCHASE OF ALASKA.

Mr. BANKS, by unanimous consent, presented a letter from the Secretary of the Treasury, inclosing a report of Captain J. W. White, commanding a revenue cutter in the Alaskan waters, dated May 26, 1868; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

Mr. BANKS. I now move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. GARFIELD in the chair,) and resumed the consideration of the special order, being House bill No. 1096, making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867.

Mr. HIGBY. I now yield five minutes of my time to my colleague, [Mr. AXTELL.]

Mr. AXTELL. Mr. Speaker, the question of the value of this purchase has been so fully considered, and will be further considered by others who are to occupy the floor on this question, that I will pass it by with but the single remark that the standard of value is very different for the nation and for the individual. The extinguishment of a foreign flag and a foreign title on this continent is of itself of immense value. The necessity that a great nation occupying a position upon a great ocean should have harbors for the protection of its commerce is a matter of value that cannot be overestimated in the question of national purposes. The Pacific States, more intimately acquainted with this territory than the Atlantic States can be, are unanimously in favor of this purchase. Her citizens are enterprising commercial men. And it is fair to presume that, had this purchase been as valueless as the opponents of this bill have represented, the men in the Pacific States would have forewarned the Government and raised their voices against the payment of this money. But I desire to say that there is no distinction of feeling upon the Pacific coast in relation to the value, necessity, and propriety of this purchase.

Now, while it may not be a legitimate argument, perhaps it might be well for the Republican party, as they are responsible for the action of this House, to consider that no political party can be sustained in the Pacific States that acts in opposition to the acquirement of this territory. I desire, however, to say one word in relation to the enlargement of the territory of the United States. I refer, simply to the purchase of foreign territory, of Louisiana, of Florida, and the acquisition of California. I desire to say that the Pacific States up to this time have not been territory contiguous to the main portion of the settled territory of the United States. The learned and very able gentleman from Ohio, [Mr. SHELLBARGER,] who stated that great nations had fallen asunder

from the possession of too much territory, dwelt particularly upon the fact that the traditional policy of the United States was to purchase and acquire only contiguous territory. But the Pacific States are several thousand miles distant from the rest of the country.

Now, I point with great pride to the patriotism of the people of the Pacific States, to their love for your flag, for their flag, for our flag, to their love for the Union, in which feeling they, though distant, have been as earnest as any others can be. In referring to the remarks of the learned gentleman from Ohio [Mr. SHELLABARGER] I desire to refer to the fact that the greatest of modern nations, the most powerful now among the kingdoms of the world, gains her power and her greatness, in my judgment, from the territory which she owns and controls and governs, that is not contiguous to the mother country; by means of her foreign possessions, and the fact that her flag is on every sea, and her drum-beat can be heard from sun rise to sun rise all around the world. This shows that it is true that nations can achieve greatness by the possession of lands not contiguous to her own shores. I wish also to refer to the fact that if we would have our Government over the whole of North America, and we can acquire it by purchase instead of by war, we would act wisely and well and humanely by establishing the precedent in this case of acquiring territory by purchase rather than by conquest.

[Here the hammer fell.]

Mr. HIGBY. I will yield four or five minutes more to my colleague, if he desires it.

Mr. AXTELL. My colleague [Mr. HIGBY] is very kind in giving me any of his time in which to speak at all on this question. I desire only to finish the thought I was endeavoring to express.

The very learned and able gentleman who has the charge of this bill, the chairman of the Committee on Foreign Relations, [Mr. BAXES,] in speaking of the Pacific States and the Pacific ocean, has said what must have occurred to all who heard it as being not only very able and eloquent, but as announcing a truth which thrilled all hearers; a truth which, although lying on the surface, has attracted but little of the attention of the thinkers of our day. And that is that we have reached a point in the history of the world when the Pacific ocean is to be the great theater of the world's greatness from this time forward. I recollect that years ago, about the time of the acquisition of California, the attention of Congress was called, by eloquent men here, to the fact that the race had circled the world, and, making that circle, had come back to the shores of the Pacific, and that henceforth the theater of labor, the theater of improvement and conquest lay out there on the Pacific coast.

We acquire foothold there on the Pacific by treaty and by purchase. And allow me to say to this House that that ocean is a steam ocean. It has not the winds necessary to carry by sail the commerce of the world. It has that grandeur of distance and extent, requiring more rapid communication than by sailing vessels; and the race were not ready for that ocean until they had attained something like perfection in the use of machinery. That ocean is quiet. It is the steam ocean of the world. When we have, as we shall have in our time, three lines of railroad communication with the Pacific coast and a great ship-canal across the isthmus, we shall then find that the Pacific ocean is the great theater for the activity of our citizens; we shall then rejoice that we have extinguished, by purchase, any other national flag upon that coast; that we have given to our commerce harbors there; that we have opened up the means of holding and controlling, as it is our destiny to hold and control, not only all North America, but the great commerce of the Pacific.

Mr. Speaker, thanking my colleague [Mr. HIGBY] for the time he has so kindly granted me, I now return to him the floor.

Mr. BUTLER, of Massachusetts. I ask that

by unanimous consent it be ordered that when the gentleman from California [Mr. HIGBY] shall conclude his remarks speeches on this subject be limited to thirty minutes.

Mr. SPALDING. I object.

Mr. HIGBY. Mr. Chairman, before referring to the merits of this question, I wish to say a few words with reference to an amendment which was presented a few days ago by the gentleman from Massachusetts, [Mr. ELIOT.] While with him and others in this House I am ready to express what we together understand as the power and right of this House with respect to questions of this kind, I do not feel willing to incorporate that expression in this bill, because I am satisfied that the Senate will never assent to the passage of the bill in that shape. But in a separate expression by this House I will join with the gentleman from Massachusetts and other gentlemen.

Mr. ELIOT. Will the gentleman yield to me for an inquiry?

Mr. HIGBY. Yes, sir.

Mr. ELIOT. I understand the gentleman to say that he thinks the principle involved in my amendment is correct?

Mr. HIGBY. I do not speak as to the precise form of the amendment; but in a speech which I made here on a former occasion I held precisely the same principle asserted in that amendment; but I also maintained that this case stood in a peculiar attitude so as to be beyond our reach.

Mr. ELIOT. Then, Mr. Chairman, I wish to ask the gentleman this question: if the principle asserted in my amendment commends itself to his judgment, as of course it does if some time ago he made a speech in behalf of it, why should he object to asserting that principle in this bill simply because of an apprehension that the Senate may not think it wise to have such a declaration there?

Mr. HIGBY. Mr. Chairman, I have no apprehension whatever, because, according to the feeling and opinion of the great body of this House, the Senate took a step that they ought not to have taken. That is the view taken here; and the Senate is not going to take back its own doings.

Mr. ELIOT. My friend mistakes the amendment.

Mr. HIGBY. I cannot yield any further time for the discussion of that amendment.

Mr. ELIOT. My amendment applies to the future.

Mr. HIGBY. Mr. Chairman, I wish to notice two points with reference to the Pacific coast. One is the climatic condition; the other is a physical condition.

Mr. Chairman, before speaking of these two conditions, however, I will speak of another subject; and that is with reference to the treaty-making power. I have no doubt but it was intended by the framers of the Constitution that the President, by and with the advice and consent of the Senate, should constitute the treaty-making power. But when we come to the question of appropriating money there is this involved, not as the right of this House to dictate what the President and the Senate may do, but this House can refuse, whatever may have been done, to make appropriation. If we believe any great principles have been violated, or the rights of the people put in jeopardy, the House will assume its responsibility if it intervenes. It takes upon itself the consequences when it assumes that position. If there be a treaty made with a foreign Power, as in this case, and the House intervenes, feeling it to be its duty to do so, then it must do so in the face of the fact that war may be the result. It must at the time feel it is better for this Government and better for the people of this country to have war than that a treaty of this kind should be consummated. That is the position this House must assume.

I know, sir, it has been argued here if this House should refuse to make this appropriation it is no cause of war between this Government and Russia. I beg to differ with the gentlemen who take that side of the question.

I say, sir, that all foreign nations have the right under the Constitution to take the word of the President and the Senate as to a proposition of this character. Under the law of nations they need not stop to inquire whether there has been consultation or not with this body as to whether the President and Senate had done wrong or not. If a treaty be made by the President and the Senate, and this House refuses to make appropriation to carry it out, then this House takes the risk of war. That would be the position assumed.

When the emergency shall be of sufficient magnitude to justify the House in such intervention, let it be taken promptly and firmly; and with equal step let the national defenses be so strengthened as to resist successfully any hostile attempt from without. Let us see for a moment. What may be the law of the land is not the law for the nations of the earth; but what is assented to as the law of nations is something separate and distinct. This Republic has a national character among the nations of the earth, and no position could be more humiliating for this nation than bickerings among the different branches of the Government; and by this House withholding money to carry out a treaty we should give occasion for war according to international law. But, sir, I leave this part of the subject.

Now, Mr. Chairman, there are two conditions, one climatic and the other the physical features of the earth upon the Pacific coast. There is no gentleman within the hearing of my voice who has made a voyage from New York to San Francisco by way of Panama but will bear me witness to the truth of what I am about to say. When we have doubled the southernmost point of New Granada and take our course in a southwesterly direction on the Pacific we find a chain of mountains from that point until we get to San Francisco. I know of but one significant exception, and it is in the State of Tehuantepec, in the republic of Mexico, upon the isthmus, where the land is low and level for some twenty or thirty miles inland from the Pacific shore. With this exception it is a mountainous chain, and for most of the way it comes to the water's edge, and there is no man who would make a voyage upon that coast for the first time but would be impressed with the idea, without further information than what his eyes gave him, that there were no inducements held out to make any point upon the coast a dwelling-place. To the northern extremity of our territory on the Pacific this same mountain chain, bordering the ocean, continues. I have no doubt, sir, from the information I have received, that all along the British and Russian possessions it is nothing but a mountainous chain. There are high mountains, covered with ice and snow. Well, sir, where there are mountains there must be valleys. As you go along the coast of California you find precipitous mountains, but when you go beyond those mountains you find a valley stretching four hundred miles uninterrupted by mountains. This territory of Alaska may be the same; who can say it is not, and that valleys will be found in Alaska capable, under good tillage, of producing many articles of food for man in great abundance? I believe it will so prove on thorough exploration.

I do not know whether the people of the East yet believe what has been so often declared, that our winters on the Pacific coast are nearly as mild as our summers. And yet such is the fact. In my own little village, situated over fourteen hundred feet above the level of the ocean, I have seen a plant growing in the earth green through all the months from October to April. It is not always so; that is an exception; but yet such was the fact. I have seen the wild honeysuckle in bloom on the north bank of the Yuba, in latitude 39°, in the month of January, and I have seen other plants in blossom in the same month. These are facts, account for them as you will.

The prevailing winds on the Pacific coast for about six months in the year are north and

northwest, embracing the entire summer. During the rest of the year the prevailing winds are south and southwest, including the winter season. Now, it is well known that when south winds prevail here in the East for several days in mid-winter, when we have deep snows and ice, the sun melts away the snow and ice until we have great freshets. Should the south winds prevail much longer the green grass would appear and vegetation would spring up; and should these continue through the winter you would have a summer climate instead of a winter one. Such is one of the causes which, together with the ocean currents, modifies the climate on the Pacific coast. With me it accounts for the moderate climate which is reported to exist in Alaska. It must be that the south winds have the effect to mollify the climate so as to make the mean temperature moderate in comparison to what it is on the Atlantic coast in the same latitude, more particularly in the interior where the ocean winds do not reach. The river Yukon, that empties into Behring sea in latitude 65°, which is navigable more than a thousand miles inland, is clear of ice by middle to 25th May, and from that time for some five months is navigable. Point me to a condition of things like that on the Atlantic side.

Mr. WILLIAMS, of Pennsylvania. Will the gentleman name the authority from which he derives that information in regard to the river Yukon being navigable a thousand miles from its mouth? What civilized man has ever seen it?

Mr. BANKS. Lieutenant Pease.

Mr. HIGBY. I have it here. Major Kennicutt explored it, and died several hundred miles from the mouth of this river upon one of its banks, and Lieutenant Pease took his remains down the river in a small open boat, commencing his trip down the river in the latter part of May.

Mr. WILLIAMS, of Pennsylvania. He ascended only some three or four hundred miles.

Mr. BANKS. Major Kennicutt died five hundred miles from the month, and his body was carried down by Lieutenant Pease, who himself had traveled inland through the whole of that country.

Mr. WILLIAMS, of Pennsylvania. He did not undertake to say he traveled down the Yukon; his exploration was up the river about four or five hundred miles. That is all we have.

Mr. HIGBY. I find the gentleman from Pennsylvania is about as stubborn upon this matter as is the member from Wisconsin, [Mr. WASHBURN.] He is unwilling to derive any favorable information.

Mr. WILLIAMS, of Pennsylvania. I want authority.

Mr. HIGBY. The gentleman from Wisconsin [Mr. WASHBURN] is entirely incredulous about the discovery of gold there. And yet, as early as 1858—I may as well digress here—we had a great hegira from California of about twenty-five thousand miners, who went up to the Frazer river in search of gold. At one time we feared the State would be nearly depopulated. These miners traveled some three or four hundred miles north in British Columbia, lying east and adjoining Alaska, adjoining the British territory, and there found gold. My own neighbors went there, and I get information from them.

On the river Stikine, which is the most southern rivers in Alaska, miners are now taking out gold. And yet gentlemen insist there is no gold to be found there.

Mr. WILLIAMS, of Pennsylvania. I would ask the gentleman how much of the river Stikine is within this territory? Is there more than thirty miles of it?

Mr. HIGBY. Well, about thirty-five miles.

Mr. WILLIAMS, of Pennsylvania. Has any of this gold been found within that distance?

Mr. HIGBY. Well, it would be unfortunate if there had been. But that is a very small point for a great man to dwell upon, and I consider him one of the greatest in the House.

I never knew him to dwell upon so small a point before. I have none the less respect for him for it, but I am a little surprised.

Mr. Chairman, I have dwelt, on a former occasion, on what I conceive to be the value of this country to our Government, and I propose now more particularly to answer some of the points that have been raised by gentlemen on the opposite side of this question. The member from Wisconsin, [Mr. WASHBURN,] who makes the most vigorous fight against this appropriation, has been reading authorities to the House. I have examined several of them, and I find that he has been very particular to select those points that bear most heavily against this purchase. I have known lawyers in a small way, before ignorant justices of the peace, to select certain portions of law to suit their cases, and if an intelligent lawyer is on the opposite side he is quite sure to discover the strategy of his opponent and to defeat his end and purpose.

Now, sir, the information that has been presented on this subject lies upon the desk of every member of this House, and the investigations and explorations that have been printed for the reading of members controvert every position that has been taken by the gentleman on this question. I do not feel disposed to take up the books and read them, for the reason that every member has them for his own examination and perusal. The gentleman was careful in all he read to the House to read only those portions that made against the country. He read to us from the report which comes to us with the authority of the Russian Government how barren the whole country is, but he did not read the further statement that there are no Russians there of any consequence, that there are nothing there but Indians, and that the Indians want no land system. And yet, sir, the Indians of that country are raising some of our vegetables, and from three to four hundred barrels of potatoes are shipped from the Island of Kodiak to Sitka every year; there is an evidence of the power of the soil to produce. Good potatoes are raised also at Prince of Wales Island. So says Mr. Pearce, whose letter I published in my former speech, and who was on that coast continuously for three years, and is pretty good authority. He also says that copper is found at the north end of the Prince of Wales Island. And yet the member from Wisconsin says that no evidence has been produced of the fact that minerals are found in this territory.

I had a letter a few days since from a gentleman of the name of Crosby, an old Nantucket whaler, who has passed eight summers off that coast in the whaling business, and he says that from the southern extremity of Oonalaska along the Behring sea north for three hundred miles, at any time along the coast they could stop the ship and in a few hours' time cover the deck with the finest cod he ever saw. That is new testimony. This gentleman was in command of one of the four-teen vessels which, just near the close of the war, the Shenandoah got among in Behring sea and destroyed every one of the ships except his. He says that this nation ought to own that country, that it will be of vast importance to us and a great acquisition for us.

Mr. Chairman, I shall not comment more at length upon this subject. I would inquire how much time I have left?

The CHAIRMAN. The gentleman has thirteen minutes left.

Mr. HIGBY. I was entitled to an hour, I believe.

The CHAIRMAN. The gentleman was entitled to an hour; he yielded ten minutes to his colleague, [Mr. AXTELL,] and has fourteen minutes now left, speaking more accurately.

Mr. HIGBY. I supposed I had more time. However I will hurry on. My friend from Iowa [Mr. PRICE] made a speech here a few days ago. He is another gentleman than whom I respect none other more highly. But he is very warm and earnest when he comes to debate, and sometimes he may run ahead of

facts, and must then review what he says and be careful what he prints. Here are two things which do not go very well in juxtaposition. This is what he says:

"And yet we stand here doubting whether we have the financial ability to expend a few thousand dollars for the purpose of giving uninterrupted navigation through two thousand miles, the grandest river on the globe, forming the boundary for twelve States of this Union, each of them large enough for an empire, a river having capacity enough to bear upon its bosom the commerce of many nations. Gentlemen who doubt our ability to do that are to-day ready to vote \$10,000,000 to pay for the icebergs of Alaska."

"There are from fifty to seventy thousand Indians in Alaska, and from ten to twelve thousand white people of some kind."

Now, icebergs are very poor material on which to feed so many people. The three hundred days of rain each year of which the gentleman from Wisconsin [Mr. WASHBURN] spoke must come with lightning speed, and melt these icebergs in the twinkling of an eye.

Mr. PRICE. Will the gentleman point out any statement which I made and which is not correct?

Mr. HIGBY. The gentleman spoke of the sixty or seventy thousand people who live on these icebergs.

Mr. PRICE. I did not say they lived on icebergs. I will state what I said.

Mr. HIGBY. When I am summing up a case I never allow a witness to get up and explain his testimony.

Mr. PRICE. I do not wish to explain anything I have said. Take it as it is.

Mr. HIGBY. I let the witness do the swearing only, and then I do the talking. Mr. Chairman, I noticed when the river and harbor bill was under consideration he supported it, as did also the gentleman from Wisconsin, [Mr. WASHBURN,] and I noticed another thing, that when the other day we passed a bill appropriating \$10,000 for the botanical garden my friend from Iowa [Mr. PRICE] sat as calm as a summer morning and allowed that item to pass without his objection. Now, I think we could get along without a botanical garden, especially when the poor soldier has not got all his pay.

The distinguished gentleman from Ohio [Mr. SHELLABARGER] made a most extraordinary speech the other day. He said that it was a historical fact that those ancient nations which were compact and solid had been the most enduring, while those which had the most extended territory lasted the least space of time. Now, I agree with the gentleman that that is true. But it must be recollected that they had not the great agents and civilizers of the present day, steamboats, railroads, and telegraphs. By means of the latter the Atlantic kisses the Pacific morning, noon, and night.

Now, will any gentleman tell us of the Pacific, of Oregon, California, Washington Territory, and the furthest extreme of our Republic, that our people have shown less loyalty to this Government in its trying hour of need than the people right here and near by? If any member of this House dare cite that this rebellion was in the extremity of this nation he cites that which is not the fact. Sir, right in sight of this Capitol is one State, not now represented in this Hall, which was engaged in a rebellion founded upon an institution that has gone out of existence.

Now, do not tell me that by extending west and north we can gain any territory that will weaken us. I tell you that it gives us strength. It was said of California that it had no valuable land. I was there three years before the people began to find out that their land was cultivable. They were all for gold, as the Russian fur companies have all been for furs. They did not look for anything else. When the people came to look around a little they found that farming would be as profitable as gold hunting, and that there were millions of acres of as good land as any in the world, and genial seasons to bring forth the productions. The same might be said of Washington Territory and of all that country.

When the American people get hold of a



country there is something about them which quickens, vitalizes, and energizes it. No gold there? So it was said about California. And yet from six to eight hundred million dollars in the twenty years that Americans have held California have been exported from that State alone. Under Mexican rule it would have cut no figure in the history of the world. Under Russian rule, such as there can be upon a distant coast like that of Alaska, with an ocean and five thousand miles of wilderness intervening, Alaska has been useful only to a fur company, a company that does not desire that there shall be any improvements of the character I have indicated. Let American enterprise go there, and as if by electricity all that country will waken into life and possess value. I regret that the gentleman from Ohio [Mr. SHELLABARGER] is not in his seat. I should hope that so fine an intellect and so fine spirited a man would review such an argument as he made here and find that he had labored under a very great mistake.

The gentleman from Wisconsin [Mr. WASHBURN] questioned the truthfulness of the dispatch that General Halleck sent from the West with reference to the feelings of the people on the Pacific in regard to this acquisition. Notwithstanding the gentleman assumes here in this Hall to charge General Halleck and Professor Davidson with falsehood, I say to him, and all other members of the House, that there is no subject so vital to that people as this; and, sir, the whole population there, men, women, and children, without distinction of party, are in favor of this acquisition.

I hope, Mr. Chairman, that the little opposition which has been exhibited here to this proposition will melt away, and that the Republican side of this House will give us a solid front in favor of this appropriation, and let this question be disposed of. Let the American go to that country and follow the different pursuits of life with which he is familiar. Let him go and hunt for gold, copper, iron, coal. I venture the assertion that in less than one year's time, that within one season after this question is settled, there will be developments in that territory that will show to the American people its great value, and that the acquisition was one which this Government ought to make.

Mr. McCARTHY obtained the floor, and yielded three minutes to

Mr. PRICE, who said: Mr. Chairman, I am allowed three minutes to reply to my friend from California in reference to the comparative value of Alaska and the Mississippi valley.

Mr. HIGBY. I said nothing about the Mississippi valley.

Mr. PRICE. I only desire to reiterate what I said the other day, that while some members of this House have doubted and hesitated as to the propriety and financial policy of an appropriation by this Government of a few thousand dollars to remove the obstructions in the Mississippi river, the grandest river upon the globe, and inhabited by a loyal, intelligent, and energetic people, the same gentlemen who thus hesitate and object are ready to vote \$10,000,000 out of the Treasury for the purchase of the icebergs of Alaska.

Now, sir, if there is anything incorrect, if there is anything in that statement not consistent with the strictest truth, then I ask any gentleman upon this floor to show where the inaccuracy is. I did not say that the people of Alaska lived upon ice and snow. If they did it would have been a more desirable country. I say now as I said then, that the inhabitants of that territory consisted of about sixty or seventy thousand Indians and some eight or ten thousand white men of some sort. I say now as I said then, that it would have been better for us to have voted this \$7,200,000 for the purpose of removing obstructions in the Mississippi river, thus improving navigation and commerce, and enabling breadstuffs to be transported cheaply from the West to the seaboard, than to have purchased this remote and sterile territory of Alaska. In my judgment, looking at the acquisition of the territory of

Alaska as I do, occupying the stand-point I do, it is better, instead of paying this money for Alaska, to expend it in opening up and improving the great channels of commerce in which all of our people are interested. I believe it is better to improve the country we have than to buy new territory we do not want.

Mr. McCARTHY. I desire, sir, to give a few reasons for opposing this appropriation for the payment of Alaska. I understand the treaty-making power of this country exists in the executive and the Senate branches, and while I concede that I have yet to convince myself that those two powers of the Government can override a coordinate branch. As a Representative in this House I am called upon to vote an appropriation for the payment of money to fulfill a treaty in which I have not been consulted, in which my power or judgment has been completely ignored.

I ask the question here whether these two branches of the Government, by an agreement with the head of a foreign Power, can override this House in its action and destroy our constitutional obligation? We are sent here to perform legislative acts, and one of these under the Constitution is to vote upon all the appropriations of money. I am compelled to ask what makes the necessity for this appropriation? admitting that these gentlemen composing the two branches of the Government had the power to make the treaty. What was the pressing necessity for carrying out the treaty at that time by taking possession of the territory? The whole difficulty of this question now rests with the Secretary of State, and it is impossible that an officer in this Government, simply a Cabinet officer, can put us in a false position with Russia or with other nations, by which under the law of nations we are compelled to pay money or go to war. It is not a question as to the fulfillment of a treaty, because I believe a majority of this House, no matter how they vote, agree with me that Baron Stoeckl and Secretary Seward forced this matter along and took possession of Alaska for the purpose of putting this House into the position in which it now stands, an apparent necessity to vote the money. How so? The Secretary of State said it was not the business of members of the House to discuss this question; that they had nothing to do but to vote the money; in other words, mere machines without responsibility.

I hear gentlemen say it puts us in a position of honor in regard to Russia, that Russia is a friendly Power. I ask this House where this friendship comes from? It comes from self-interest. She is the absorbing Power of the Eastern continent, and she recognizes us as the absorbing Power of the Western continent, and through friendship with us she desires to override and over-balance the Governments of Europe which lay between her and us. Look at the principles of the two Governments. Hers the one-man power, a despotism; ours a republican Government, a Government of the people. Can there be real friendship, can there be true interest here. Not at all; only that kind of interest upon which to depend is to depend upon a broken reed. We are not obliged to court, much less to buy, the friendship of Russia or any other Government. Let us be just to humanity and freedom, and ever the enemy of oppression and despotism. No man can look at Poland, poor, decapitated, wiped-out Poland, without remembering the struggles of her sons and daughters for national existence. No man can forget the persecutions of that people, now suffering persecutions that disgrace the Christian religion and civilization.

And here I am obliged to depart a little from my regular argument and ask, what use had Russia for this territory? Already she owned five sixths of the frozen territory of the eastern continent, more than she could use or make profitable. Her policy is absorption not of distant but of contiguous territory. She is rapidly adding to her possession, without justice or mercy, nation after nation lying con-

tiguous. Napoleon said the time would come when all Europe would become Cossack or republican.

Look again at this matter. Russia had held possession of Alaska for a long period of time. It had never been profitable to her; it had always been a bill of expense. She was glad, therefore, of the opportunity to transfer it to another Power. It gave her no power or influence over the commerce of the Pacific ocean. No nation on the earth needed an addition to the number of her harbors and ports more than Russia herself for commercial and naval use; and yet she disposes of this vast extent of coast, this perfect Eldorado in imagination, for a pitiful sum, if only a hundredth part of what is said to be true.

It appears by some of the reports that every foot of the soil of Alaska is frozen from five to six feet in depth, and only during a few summer months, in some portion of the country on the coast, the soil thaws out to the depth of ten or fifteen inches, and bears some poor vegetation.

It also appears that few minerals had been discovered there up to the time of the purchase by this Government, and that no coal had been found suitable for supplying vessels. I believe that all these telegrams and newspaper items which have come to us within the last few weeks are *canards* to help on the passage of this bill. And I believe that as soon as this is completed you will see other purchases and additions coming into light. We see by the papers that Denmark is ready to accept Seward's proposition for the sale of St. Thomas. And when she has settled a little difficulty now under negotiation between herself and France she will sell us St. Croix. Then you will hear that Greenland and Iceland are in the market; and I know not where this acquisition of territory will stop.

Now, while I am in favor of an absorption of territory, I want that absorption to be contiguous, in accordance with the policy of Russia. We have now a thousand million acres of unoccupied land, far surpassing anything pictured by the vivid fancy of the chairman of the committee. In my own State we have from fifty to seventy-five miles square of land, and though we have a population of about four million that tract of land is almost entirely uninhabited. It is not frozen territory like Alaska. It has a heavy growth of forest, it contains numerous lakes and streams, and is capable of cultivation for some kinds of grain. Yet the people pass it by and seek more productive fields in other sections of the country.

Now, sir, I say the time has not come when we need Alaska; but that time may come when we shall have absorbed Canada and all the territory of Great Britain contiguous to our own. Then, and not till then, do we need Alaska. Then we can take it at a sum far less than \$7,200,000. I have the assurance of a friend of the Secretary of State that Alaska could have been had for \$5,000,000 at the time the treaty was made if the Secretary had shown a little Yankee shrewdness. Now, while I am not opposed to absorption when duty and necessity demands it, I am opposed to acquiring territory not contiguous, of little or no value, frozen and barren, utterly useless to Russia. It must be to us entailing the control and care of thousands of savage Indians under a great expense at a time when we cannot afford it, our burdens now being heavy and onerous.

We have got to settle the question of the power of this House over appropriations of money under treaties. Voting the money and protesting is mere child's play. Let us now establish a precedent that for all time will compel a recognition of our voice in the treaty-making power upon all questions when the Constitution demands it, and we shall have added security to the future welfare of our country.

Mr. LOAN. Mr. Chairman; that Alaska was created for some wise purpose I have just as little doubt as I have had since the rebellion of the necessity of the infernal regions. With-

out such a place one might, in view of events which have recently transpired in this Republic, well doubt the wisdom and providence of the Creator. The use and the necessity for such a place as the infernal regions we now fully comprehend, but in relation to Alaska our information is so limited that conjecture can assign no use for it unless it was to demonstrate the extent of folly to which those in authority are capable in the acquisition of useless territory. That it is an utterly barren waste, wholly incapable of supporting a population of civilized people, is substantially admitted by those who speak most earnestly in favor of its acquisition, and that it is entirely worthless for any useful purpose is not seriously denied.

It is true that we have had most glowing descriptions given us by some who favor this appropriation of the beautiful scenery of Alaska, of the salubrity of its climate, of the productiveness of its soil, of its azure skies and balmy breezes, of its boiling springs and brimstone vapors, of its vast mineral wealth, of its vast deposits of coal, iron, and copper; of its mines of cinnabar, silver, and gold, and of its brilliant diamonds of the largest size and purest water, lying around in the utmost profusion. And I acknowledge the pleasure derived from listening to these graphic descriptions drawn from the prolific imagination of some of our most gifted orators.

But everything that is pleasant to hear is not therefore necessarily accurate and truthful. Many of us have heard the pleasing stories of the Arabian Nights' Entertainment and of Gulliver's Travels, and of Baron Munchausen, and yet I doubt if the most zealous admirers of Alaska believe all these stories to be true, albeit there are none of them more improbable or unreasonable than are those told us of Alaska.

Alaska being the desolation that even its friends concede it to be, it may be well asked why we should appropriate \$7,200,000 in gold to acquire it.

One enthusiastic gentleman, drawing on his memory for a poetical quotation, hastens to reply—

"No pent-up Utica contracts our powers,  
The whole, the boundless continent is ours."

"Advance the flag to the frozen regions of the North, and extend the blessings of liberty and universal suffrage, without regard to race or color, sex or condition, to the utmost verge of the universe"—to all of which I most cordially say amen, if it is not to be done at our expense.

Another friend of this measure, and who, I believe, is also a great admirer of General Grant, and especially of his strategic movements in military operations, is greatly desirous of securing a position in Alaska as a flank movement against Great Britain, by means of which we will have British Columbia between the upper and nether millstone, and we will thereby be enabled to grind that country out of Great Britain. In this connection I would suggest to those who favor flank movements that it might also be very judicious to secure Greenland and Iceland as strategic points to operate against Great Britain; and I can assure my venerable friend from Pennsylvania that the boiling springs of Iceland are much larger and hotter than are those of Alaska. But a much more extended flank movement could be made against the British possessions in Australia, if we could secure a position on the Antarctic continent, say in the vicinity of Mount Erebus or of Mount Terror. I am unable to give any assurance as to the hot springs there; but I have no doubt the fires in the mountains will be perfectly satisfactory to all who explore them.

Returning to the upper and nether millstone argument, I desire to suggest that since the birth of this nation the success that others have met with in grinding territory out of the British Government has not been of that eminent character that ought to induce us to try that process on Great Britain. If I remember

aright, we have had some contests with that Government on the subject of territory, and perhaps some of our friends from Maine could inform us of the extent of the territory we acquired, or lost, on account of disturbances on the Aroostook. And at a later date I remember something of a political war-cry of "54-40 or fight." We did not fight, and I would be glad to know from my grinding friend how much territory we acquired as a condition of peace. My recollection is that our boundary was dropped to 49°, and that instead of gaining we lost 6° 40' of territory on that occasion.

The fact is, experience has proved that as grinders of other nations we are not a success, and if we ever acquire British Columbia it will not be by the grinding process, but most likely we will buy it as we have done in the case of all our other acquisitions. We bought Louisiana and Florida, annexed Texas, and then assumed her debts for a greater amount than she was ever worth. We acquired New Mexico and California under a treaty of peace, by which we stipulated to pay for them all they were worth, and afterward we purchased Arizona and the Mesilla valley. We have never acquired any territory, so far as I am advised, by force, and in the present condition of this country I most earnestly protest against taking position in Alaska for the purpose of appropriating British Columbia by force. In former times the grinding process would have been objected to as a means of acquiring territory, because of its dishonesty; but in these latter days, in view of the modern practices, it is very possible that such ideas will be considered somewhat out of fashion and entitled to no consideration.

And there are some who urge as a reason why this appropriation should be made that it would be so humiliating to have our flag hauled down in Alaska. I ask such how came the flag there, and by what authority was it raised there? It is there without the lawful authority of this Government, and was placed there by a set of intriguing speculators as one of the means to induce Congress to make this appropriation. I will never consent to have the flag lowered in any place that justly owes its allegiance to this Government, but I am not willing to permit intriguing demagogues to traffic on the patriotic sentiment of our people, and to invoke their pride in the supremacy of their flag as a means to unjustly prize money out of their pockets. The Representatives of the people should teach all such "Jeremy Diddlers" a lesson that will forever put an end to all such confidence games.

Another class of gentlemen favor this appropriation for the sake of perpetuating the friendship of Russia. While it is our policy as well as our desire to maintain amicable relations with all Governments, I am sure the people of this Republic will never consent to buy the friendship of any nation. If Russia or any other nation can afford to break the bonds of friendship that now exist between us, however much we might regret it, we could never consent to buy their restoration with money. We stand the equal of any nation, and we will not accept the friendship of any on terms that imply our inferiority.

If Russia will ask us to give her the price of Alaska as a donation because she is in distress, and the gift would be accepted as a favor conferred, I should have no objection to make the gift, for the sum of money demanded is but a trifle to us; and I should be willing to oblige a friend with such a trifle, but when Russia comes in the character of a "Jeremy Diddler," claiming the fruits of the confidence game which he has been playing on some of our agents, who are either incapable or unwilling to protect the interest and the honor of our country and threatens us with his displeasure if we refuse our consent to the swindle, I respectfully ask to be excused from acceding to his unjust demands. And if the Russian Government can do without our friendship I think we can survive its displeasure.

The price named in this appropriation is not worth an hour's debate if that was all there was in it, but the questions incidental to it are of the very gravest character. If approved by this House it furnishes a precedent which establishes the right of the Executive, by and with the approval of two thirds of the Senate, to acquire territory and annex it to the Republic to any extent they please, and to pledge the credit of this Government for such sums of money as they please in payment therefor, without the consent of the Representatives of the people and against the will of the people. This I do not believe can be lawfully done, and it would be very impolitic and unwise for us by our action to give any countenance or support to such usurpation. In Governments precedents almost at once acquire the force of positive law, and all such usurpations of power should be promptly suppressed.

In yielding our assent to the usurpation of the Executive, and the Senate in recognizing their right to acquire territory and annex it to the Republic without the consent of Congress, we incur a still greater danger to the Republic in this: that a concession of the right to acquire and annex territory by treaty necessarily carries with it the right by a treaty to dispose of and transfer the territory of the United States—a doctrine subversive of the fundamental principles of the Government and one which the people of this country will not tolerate for a moment.

Returning again to Alaska, the acquisition of this inhospitable and barren waste would never add one dollar to the wealth of our country or furnish any homes to our people. To suppose that any one would willingly leave the mild climate and fruitful soil of the United States, with its newspapers and churches, its railroads and commerce, its civilization and refinement, to seek a home among the Aleutes in the regions of perpetual snow, is simply to suppose such person to be insane. Besides, we have territory largely in excess of any demand for it, and we are seeking to induce emigration from Europe by all means that we can command. We are seeking to establish agencies of emigration and are substantially offering premiums to induce emigrants to come and occupy our rich, productive, but unsettled lands. On the rich soils of the Mississippi valley, under the mild climate of the temperate zone, we have room for one hundred million souls without crowding. The iron mines of Missouri adjacent to inexhaustible coal-fields can furnish, at the lowest rates, all the iron the world will want for the next five hundred years. Then why talk of the iron of Alaska as an inducement for its purchase?

The copper mines of Lake Superior, of Missouri, Nevada, and of California are ample to meet all the demands of the Republic for the next one thousand years. "The Comstock lode" in Nevada has already furnished more than eighty million dollars of gold and silver bullion, and the price of Alaska applied to the construction of the Sutro tunnel would open to the mining enterprise of this country known deposits of silver and gold that would furnish more bullion to the wealth of the Republic than all other mines in the world produce. Why buy Alaska for the sake of its contingent mines that could, if they exist, only be worked in eternal snow and ice? As to the diamonds said to exist in Alaska, better can be picked up any day on the streams of California. These gems are known in the markets of the world as California diamonds—beautiful but inexpensive jewels.

Alaska is utterly worthless, and if it were otherwise we have no earthly use for it. Our people do not wish to emigrate there, and if they did we have no population to spare, but we have territory in excess of our wants. General Wilson, of the Land Office, in making the best plea he could for Alaska, says there are twelve million acres of land on which grass will grow. Suppose it is so; what does it amount to? It was but the other day the Senate ratified a treaty by which the United States gave

to a citizen eight hundred thousand acres of the finest agricultural lands the sun ever shone upon; and now the Senate has under consideration another treaty by which it is proposed to give to a railroad company, said to be insolvent, nearly nine million acres more of similar lands, all situate in the flourishing State of Kansas—in the very heart of the Republic. Why the necessity of buying lands in the frozen regions of Alaska when we are almost daily giving away the best lands of the world? Let him answer who can.

But, as I said before, the purchase-money for Alaska is the smallest consideration connected with its purchase. If the purchase is consummated we must provide laws for its government; we will have to have a Governor and secretary, and other territorial officers; a territorial Legislature and judges of courts; a member in Congress, with his mileage, to look after the interest of the Territory; and we must have a coast survey and a geological survey and a mineralogical survey; we must have forts erected and soldiers sent there to guard our possessions; and we will require naval stations on that coast and harbors for our fishing fleet. The sum total of all of which will at first require us to draw from the pockets of our over-taxed constituents not more than twenty-five or fifty million dollars per annum. But when we have been there long enough to provoke a war with the Indians—and I see by the papers that it is said they are already showing signs of hostility—and our present managers of Indian wars on the plains have finished the business there, and have transferred themselves with their experience to those distant and new fields of operation, it is not unreasonable to suppose that they can very readily swell the costs of our possessions in Alaska to more than one hundred million dollars per annum.

And for what are we asked to incur this enormous annual expense? Not for any material benefit of our people—not for one dollar's return to the Treasury. One of our most eminent statesmen, and one of the most eloquent advocates of this purchase who has yet spoken in its favor, in a closely-printed double-column pamphlet of forty-eight pages, sums up as the strongest reasons for this purpose the following:

"An object of immediate practical interest will be the survey of the extended and indented coast by our own officers, bringing it all within the domain of science and assuring to navigation much-needed assistance, while the Republic is honored by a continuation of national charts, where execution vies with science, and the art of engraving is the beautiful handmaid. Associated with this survey, and scarcely inferior in value, will be the examination of the country by scientific explorers, so that its geological structure may become known with its various products, vegetable and mineral. But your best work and most important endowment will be the republican government, which, looking to a long future, you will organize, with schools free to all and with equal laws, before which every citizen will stand erect in the consciousness of manhood. Here will be a motive power, without which coal itself will be insufficient. Here will be a source of wealth more inexhaustible than any fisheries. Bestow such a government, and you will bestow what is better than all you can receive, whether quintals of fish, sands of gold, choicest fur, or most beautiful ivory."

Observe what our country is to gain by the acquisition of this territory. The privilege of making a "survey of the extended and indented coast by our own officers, bringing it all within the domain of science and assuring to navigation much needed assistance." Who wishes to navigate those inhospitable regions? "While the Republic is honored"—mark the words—is honored at a cost of at least \$100,000,000 per annum "by a continuation of national charts, where execution vies with science and the art of engraving is the beautiful handmaid;" and then we will also acquire the right to make an "examination of the country by scientific explorers, so that its geological structure may become known with its various products, vegetable and mineral."

Why not wait to make such examinations until something is known of these matters in Colorado, New Mexico, Arizona, Nevada,

Idaho, Montana, and Dakota. There within our own territory are ample fields for our explorers for the next one thousand years. But a stronger reason advanced by this advocate of Alaska is the "republican government, which, looking to a long future, will be organized" there, "with schools free to all." Would it not be just as well to wait for the establishment of free schools in Alaska for the Aleutes and Esquimaux until we have provided such institutions at home for the benefit of the children of the Republic? There is at present no necessity for us to purchase at great expense the frozen regions of Alaska for the humane purpose of establishing free schools there. Ample opportunity for our benevolence in that direction sufficient to exhaust our present ability meets us at every step.

[Here the hammer fell.]

#### ENROLLED BILLS SIGNED.

Here the committee rose informally, and the Speaker having resumed the chair,

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 366) to incorporate the National Hotel Company of Washington city;

An act (H. R. No. 869) prescribing an oath of office to be taken by persons from whom legal disabilities shall have been removed;

Joint resolution (H. R. No. 324) to extend the time for the completion of the West Wisconsin railroad; and

Joint resolution (H. R. No. 154) in relation to the settlement of the accounts of certain officers and agents who have disbursed public money under the direction of the chief of engineers.

#### MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was presented by his Private Secretary, Mr. W. G. MOORE, who also announced that the President had approved and signed bills and joint resolutions of the following titles:

On July 3, 1868,

An act (H. R. No. 347) for holding terms of the district court of the United States for the southern district of Illinois at the city of Cairo in said State;

Joint resolution (H. R. No. 312) relative to the pay of the Assistant Librarian of the House;

An act (H. R. No. 411) for the relief of Almira Wyeth;

An act (H. R. No. 523) granting a pension to James S. Todd;

An act (H. R. No. 671) granting a pension to the widow of Henry Keneday;

An act (H. R. No. 775) granting a pension to Rebecca Jane Kinsel;

An act (H. R. No. 780) for the relief of Martha M. Jones, administratrix of Samuel T. Jones;

An act (H. R. No. 1129) for the relief of the widow and children of Colonel James A. Mulligan, deceased; and

An act (H. R. No. 236) granting a pension to John Q. A. Keck, late a private in the third Missouri cavalry.

On July 6, 1868,

An act (H. R. No. 1027) to authorize the construction of a bridge over the Black river in Lorain county, Ohio; and

Joint resolution (H. R. No. 218) to correct an act entitled "An act for the relief of certain exporters of rum."

On July 7, 1868,

Joint resolution (H. R. No. 321) in relation to the erection of a bridge in Boston harbor;

An act (H. R. No. 503) for the relief of William B. Todd;

An act (H. R. No. 502) to incorporate the congregation of the First Presbyterian Church of Washington; and

Joint resolution (H. R. No. 96) for the relief of John Sedgwick, collector of internal revenue, third district, California.

#### EVENING SESSION DISPENSED WITH.

The SPEAKER. The Chair is informed that there is no member who desires to speak at the night session this evening, but, if the session can be extended until half-past five o'clock, probably all those who desire to speak to-day on this question can make their speeches before that time. If there is no objection, the order for a night session will be dispensed with, and the committee will remain in session until such time as they see fit to rise. The Chair hears no objection, and the evening session will be dispensed with.

#### PURCHASE OF ALASKA.

The Committee of the Whole on the state of the Union then resumed its session.

Mr. SPALDING. Mr. Chairman, I had an opportunity some months ago of giving to the House and the country my views in regard to the law which governs cases of this kind under the Constitution of the United States. I agree with the minority of the committee most fully in their opinion that this House has a constitutional right to judge in regard to the expediency of any treaty which brings into action any constitutional power that is devolved upon Congress, as the power of appropriating money is one confessedly.

I need say nothing further upon that branch of the subject except to say that the resolution which I now read and a copy of which I once introduced for the action of this House, and which is now in fact in Committee of the Whole for consideration, I should be glad to see adopted here by this Congress:

That when a treaty stipulates regulations on any subject submitted by the Constitution to Congress, it must depend for its execution as to such stipulations on a law or laws to be passed by Congress, and that it is the constitutional right and duty of the House of Representatives in all such cases to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good.

Mr. WASHBURN, of Wisconsin. Will the gentleman yield to me for a moment to ask him a question?

Mr. SPALDING. No, sir; not for a moment. Now, sir, in the face of that admission, which I give to the gentleman to its fullest extent, I say that I am prepared to vote for the appropriation of \$7,200,000 to pay for the acquisition of the Russian empire in America. I should be prepared to do so, sir, if this question was now in its inception. If we were just now negotiating a treaty of that sort, I would be prepared to say that even under all the present embarrassments of our Treasury I would vote the appropriation of \$7,200,000 to acquire a property so valuable to our nation as I believe Alaska to be.

Notwithstanding all the sneers that have been cast on this country, I maintain that if that property were now susceptible of being turned into an article of merchandise, individuals would take it off our hands and pay us two or three million dollars for the bargain. I believe that if the Government once paid for this country, and could give a lease of it for twenty-five years to individuals to go and take from it the profits that might be derived from its minerals, from its forests, from its furs, and from its fisheries, they would not only pay to us the purchase-money and millions more, but would pay us interest on the purchase-money from year to year. I have no question of that. But I say again that, were the Russian possessions in America made up of icebergs, and those icebergs covered with walrus, I would still give the purchase price of that country under present circumstances; for I think I can show that the honor and dignity of this great nation are now involved in carrying out this treaty by paying the purchase price.

Sir, last November the honorable member from Wisconsin [Mr. WASHBURN] introduced into this House a resolution of warning to our negotiators against making any more treaties of acquisition which should call for appropriations from the Treasury of the United States in order to carry them into effect, and his reso-



lution may be regarded as a very proper one. It says:

"That in the present financial condition of the country any further purchases of territory are inexpedient, and this House will hold itself under no obligation to vote money to pay for any such purchases unless there is greater present necessity for the same than now exists."

But mark what my honorable friend said further to us, the members of the House, upon that occasion:

"Mr. Speaker, I do not intend that resolution to apply to the purchase of Walrusia. That is something that has already transpired and it may be that this House will feel itself under obligations to sanction what has been done there."

True, true! The promptings of the gentleman's own heart at that moment told him that he could not remonstrate against carrying into effect the treaty made for the acquisition of what he was pleased to term "Walrusia," for, Mr. Chairman, we had then negotiated fairly for the purchase; we had ratified the treaty; we had exchanged ratifications with the Russian Government; and we had sent our officials with the flag of the United States to take manual possession of the property, and that without one single note of remonstrance on the part of the Congress of the United States or any citizen of the United States.

And now let me ask, we being in actual possession of this extensive country, a region equal to about one fifth of the whole empire of the United States, having taken that possession from the emperor of the Russias through his accredited agents, are we now, at this late period, to turn on our heel and say that we will not pay the purchase money?

Mr. Chairman, after answering the argument which fell from one of my esteemed colleagues [Mr. SHELLABARGER] upon this subject, I shall give to the House an example which has really called me to my feet on this occasion, an example of legislation which we ought to respect and to which we ought to adhere.

My colleague said that we were embarking in a new political enterprise, that we were endeavoring to acquire territory where there is no contiguity of territory with our own possessions, that we were acquiring foreign possessions. Sir, as an American citizen, and a republican at that, I deny that any territory upon this western continent is to be deemed foreign to the Government of the United States when it seeks to extend its limits. I believe that if anything under the heavens be fated, it is that the American flag shall wave over every foot of this American continent in course of time. This proud Republic will not culminate until she rules the whole American continent, and all the isles contiguous thereunto.

Mr. PIKE. Including South America.

Mr. SPALDING. Including South America, by all means. Now, sir, is there no contiguity between our possessions and the possessions of Russia in America? There would have been contiguity if we had not foolishly conceded to Great Britain the right to interpose between the parallel of 49° and the parallel of 54° 40'. I recollect very well when I was advocating the election of a certain statesman to the presidential chair, our rallying cry was, "fifty-four forty or fight." But the line "fifty-four forty" was abandoned, and we relinquished to Great Britain a great share of intervening territory in these six parallels of latitude. However, there is now almost a continuous line, for we are told by the learned chairman of the Committee on Foreign Affairs [Mr. BANKS] that for about three hundred miles on the Pacific coast there is a narrow strip of territory on the ocean which belonged to Russia, and which this treaty conveys to the United States, bringing down the continuity about half way through these six parallels of latitude.

Therefore the principle is not stretched very much, even if it be, as contended for by my colleague, [Mr. SHELLABARGER], that there is no contiguity between the territory of the United States and Alaska or Russian America.

I wish to say to this committee now, that after we have fairly negotiated a treaty with

Russia, after that treaty has been ratified by the respective Powers, after ratifications have been exchanged between the high contracting parties, and more especially after we have sent our official agents to receive manual possession of the territory itself, and still hold possession of it without any remonstrance, if we refuse to pay the purchase money we put ourselves in the same position that Louis Philippe was in when he came very near inciting a contest between the United States and France, by reason of a non-compliance with a treaty made at Paris in 1831.

During the consulate and empire of Napoleon aggressions had been made upon the commerce of the United States to that extent that our claims upon the French Government had amounted to millions of money. For a long series of years, for a quarter of a century, perhaps, our claims were unheeded. But during the reign of Louis Philippe, and during the administration of Andrew Jackson, a treaty was negotiated at Paris by which the French Government agreed to liquidate these claims for spoliation upon American commerce by paying to our Government the sum of 25,000,000 francs. This sum was to be paid in annual installments. The first installment became due and no money was paid; no appropriation of money was made by the French Chamber of Deputies. The second installment became due, and the third, and still no money was paid.

Finally the ire of Old Hickory was aroused, and he communicated, in a message to Congress, in December, 1834, his ultimatum upon the subject. He said that the treaty having been fairly negotiated, having been ratified by the respective contracting Powers, and the ratifications having been duly exchanged, it was the business of the French Government to make appropriations to pay the amount which they had agreed to pay us under that treaty. He said it became equivalent to a debt due to us by that country; and if it should not be paid within a reasonable time, our first resort under the law of nations would be to make reprisals upon the French commerce to make ourselves good in that amount of money; and if the French did not like the reprisals it lay with them to resort to war; but the United States, whether there came war or peace, was prepared to meet the issue, and the treaty must be complied with. And, sir, the House of Representatives at that time passed by a large majority a resolution sustaining that patriotic President, and insisting that by every principle of law the French Government was bound to pay the money under that treaty, or else we had the right to make reprisals upon the property of its subjects.

Mr. BANKS. That resolution was passed by a unanimous vote.

Mr. SPALDING. Now, sir, confessedly the treaty-making power of France was with the king; in accordance with the French constitution the king had the sole power of making treaties. He made and ratified that treaty on the part of France; our Government ratified the treaty on the part of the United States, and the ratifications were exchanged. It remained with the French Chamber of Deputies, and with that Chamber alone, to make appropriations of money; and they, assuming that the treaty was inexpedient and not proper to be carried into effect, refused to make the necessary appropriation. Now, how does that case differ from that of the American Congress at this hour?

Mr. HIGBY. I would like to ask the gentleman whether the House of Representatives in that instance objected to the exercise of the treaty-making power by the king without the concurrence of the Chamber of Deputies?

Mr. SPALDING. Not at all.

Mr. HIGBY. The principle was in our favor then?

Mr. SPALDING. Of course it was.

Mr. PIKE. Let me suggest that before the treaty was made there was a subsisting debt, the non-payment of which might have been made by us a cause of war prior to the treaty.

Mr. SPALDING. Yes, sir; I understand that kind of reasoning. But the French Chamber of Deputies did not admit the existence of the debt; they said there was no subsisting debt.

Mr. PIKE. We said there was.

Mr. SPALDING. They said that the negotiator on the part of France had improperly agreed to the payment of that sum of money, and that they would not make the appropriation. So that the question turned after all upon the terms of the treaty; and it was in virtue of the treaty that President Jackson and Congress were on the point of authorizing reprisals upon French commerce when Louis Philippe sent over here a minister to say that if we would wait a while he would endeavor to bring the Chamber of Deputies to terms; and they were brought to terms.

In view of this example which has been left on record by our American Congress and by our most patriotic American President, how can we at this late hour turn upon our heel and say to the Emperor of Russia, who has been our friend during at least one half a century, "Although this treaty has been fairly negotiated and fairly ratified, although we have taken possession of the territory six months after the treaty was negotiated, and with full knowledge of everything that is now set up by the House of Representatives in opposition to the fulfillment of the treaty, no protest or remonstrance being made by them—after erecting in that country our national standard and planting there our institutions, we now say we will not pay the money."

Why, Mr. Chairman, I have not long to stay in the Congress of the United States; within a few short months I shall go out of it; and I shall do so with pride if the character of this House should then be as untarnished as I believe it to be at this moment; but if I am obliged to go out of it drooping my head under a sense of national dishonor and national disgrace brought upon our great Republic by the action of this House, I shall wish I had never been a member at all. I have no idea my constituents would for one moment—saying nothing about parties, irrespective of parties—I say my intelligent constituents would hold me in contempt if I should refuse to vote this appropriation of \$7,200,000 to carry out this treaty made in good faith with the Emperor of all the Russias. I cannot believe this committee will agree to any such movement. I have too much faith in the virtue, patriotism, and good faith of the House. Sir, I have done.

Mr. BUTLER, of Massachusetts, addressed the committee. [His remarks will appear in the Appendix.]

Mr. BANKS. I object to the amendment as not in order. The bill is to execute a treaty, and the amendment is for an entirely different purpose.

The CHAIRMAN. The Chair sustains the point of order on the ground that the bill is in its terms to carry into effect the treaty, to fulfil the stipulations of the sixth article thereof. The sixth article of the treaty requires the payment of \$7,200,000. The Chair regards the question as not divisible, and no amendment to reduce the amount is germane. The Chair, therefore, sustains the point of order.

Mr. BUTLER, of Massachusetts. I propose to appeal from the decision of the Chair.

Mr. RAUM. At this time?

Mr. BUTLER, of Massachusetts. Yes, at this time. This is like any other appropriation bill, and I take an appeal.

Mr. BANKS. I desire to say that if this is an appropriation bill that is before the committee, the amendment cannot come in because it is not authorized by law. No amendment can be offered to an appropriation bill that is not authorized by law, and therefore upon that ground which my colleague states, his amendment is clearly out of order.

Mr. BUTLER, of Massachusetts. An appropriation can be limited in any way the House chooses.

Mr. BANKS. I call the attention of the Chair to the rule of the House that no amend-

ment can be made to an appropriation bill that is not for a purpose authorized by law. This claim may be just; I do not assail its justice; but the payment of it is not authorized by any existing law.

The CHAIRMAN. The Chair has already ruled the amendment out of order, and the subject is not debatable. If the gentleman takes an appeal, the Chair will submit the question to the committee.

Mr. WILSON, of Iowa. I should like to hear the amendment reported.

The Clerk read the amendment.

The CHAIRMAN. The Chair has decided that this amendment is not germane to the bill, and in addition to that it is an appropriation for which there is no law. From this decision the gentleman from Massachusetts [Mr. BUTLER] appeals, and the question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was put; and there were—ayes 18, noes 18; no quorum voting.

Mr. BANKS. I move that the committee do now rise.

Mr. MAYNARD. The gentleman from Illinois [Mr. RAUM] desires to speak this evening, and I hope the gentleman from Massachusetts will not break up the committee.

Mr. BUTLER, of Massachusetts. If it is understood that there shall be a vote on the appeal when there is a quorum here, I shall be satisfied.

The CHAIRMAN. The appeal will be considered as pending to be voted on hereafter.

Mr. BANKS. Then I withdraw the motion that the committee rise.

Mr. RAUM. Mr. Chairman, at this late hour of a hot day, I can scarcely hope to have the attention of the committee.

Mr. HIGBY. If the gentleman will yield, I will move that the committee rise.

Mr. RAUM. There is to be no discussion on this bill to-morrow.

The CHAIRMAN. The Chair will state that there is no probability of any further speaking on this subject until the time designated by the gentleman from Massachusetts [Mr. BANKS] when he proposes to call for the vote, except this evening, and the Chair does not know of any gentleman, except the gentleman from Illinois, who desires to speak.

Mr. RAUM. Mr. Chairman, if I can have the floor for a short time I will endeavor to present the views I entertain upon this very important question, which has been discussed with so much learning and so much ability by those who have preceded me. When I find myself differing with gentlemen of such great learning as the honorable gentleman from Massachusetts, [Mr. BUTLER,] who has just taken his seat, the honorable gentleman from Ohio, [Mr. SHELLABARGER,] who addressed the committee on Friday, and the other learned gentlemen who have addressed the committee on this very grave subject, I feel called upon to pause and to give the subject careful consideration before I make up my mind upon the legal questions involved. I approached the examination of this subject with a feeling averse to the purchase of Alaska; but, sir, my investigations have led me to the conclusion that good faith demands that the treaty for the purchase of that extensive territory shall be consummated by the passage of the bill now under consideration. The honorable gentleman from Massachusetts [Mr. BUTLER] and the honorable gentleman from Ohio [Mr. SHELLABARGER] have announced the doctrine that this treaty, because it provides for the payment of a sum of money, is not binding upon the United States until the action of this House is had upon the subject; and proceeding upon this ground, and adopting the minority report of the committee, they conclude that the President and Senate have made a bad bargain; and, therefore, the people of the United States should not ratify the treaty.

I propose very briefly to examine the question first stated, in reference to whether or not this treaty is binding upon the good faith of the

people of the United States for its execution. In doing so, it will be necessary to go back and examine the original grounds upon which this treaty-making power rests, and see whether or not we can ascertain what was the understanding of those who made the Constitution at the time this treaty-making power was delegated to the President and the Senate. As a power to be executed by some portion of the Government, it is no new one. It is a power as old as organized government itself. It is a power which was recognized by all the great nations of the earth, at the time the Constitution of the United States was made by the wise men of 1776 and 1787. In framing a system of Government it was necessary to delegate the treaty-making power to some portion of the Government, and in conferring this treaty-making power upon the President, in conjunction with the Senate, the framers of the Constitution were guided by the precedent which they found in the constitution of England, by which the king was invested with the treaty-making power of that great nation. With us the treaty-making power must be exercised in pursuance of the Constitution. And my reading of that instrument is that the President, by and with the advice and consent of the Senate, is authorized to exercise the treaty-making power. In Great Britain the sovereign has the absolute and unlimited power of making treaties for that country. A treaty made and executed by the queen of England binds not only all the subjects of the realm, but it binds the House of Commons and the House of Lords, and that, too, in the teeth of the fact that no appropriation of money can be made except by act of Parliament. Now, if this is the case with reference to the treaty-making power in England—and I presume that no one who is acquainted with that subject will gainsay it for a moment—I demand to know why it is, when that power is conferred upon the President of the United States, who, by and with the advice and consent of the Senate, is to exercise it, it is not an absolute power in respect to proper subjects of the treaty-making power?

Mr. BOUTWELL. Will the gentleman yield to me for a moment?

Mr. RAUM. Certainly.

Mr. BOUTWELL. Without expressing any opinion upon the propriety of this matter, I will state that it seems to me very clear that under the Constitution this treaty-making power is necessarily subject to this limitation: a treaty made by the President and Senate, which contemplates the appropriation of money, is not a treaty within the meaning of the Constitution until the appropriation of money has been made; and the Constitution being public law known to all mankind, if they deal with us they must take notice that under the Constitution no money can be drawn from the Treasury of the United States except by act of Congress, of which Congress the House of Representatives is a part; and the exercise of that power by the House must, in the nature of the case, be an exercise of the judgment of that House.

Mr. BANKS. It was exactly upon that ground that we threatened to make war upon France.

Mr. BOUTWELL. Very well; that did not change our Constitution.

Mr. LAWRENCE, of Ohio. Will the gentleman from Illinois [Mr. RAUM] allow me a moment at this point?

Mr. RAUM. Certainly.

Mr. LAWRENCE, of Ohio. In this country revenue can be raised only by authority of law; by an act of Congress. In England the sovereign has sources of revenue separate from and independent of the action of Parliament. So that in that country the sovereign has money to appropriate which the President of this country does not have.

Mr. RAUM. I know upon what ground this supposed limitation rests. But I state to the honorable gentleman from Massachusetts [Mr. BOUTWELL] and the honorable gentleman from Ohio [Mr. LAWRENCE] that they lay down a principle behind which they wish to take

shelter, which I say to them they must follow to its logical and legitimate conclusion. The power to appropriate money is no more sacred in this country than the power to make any other law which the Congress of the United States may in its discretion make.

Mr. LAWRENCE, of Ohio. To raise money.

Mr. RAUM. Or to raise money; each requires an act of legislation. And if gentlemen object on the ground that a treaty providing for the payment of money cannot be executed until the House of Representatives agree to it, they must go forward to the legitimate conclusion of that proposition, and assume the inevitable consequence of their position, and conclude at once that if any act of legislation is required to enforce a treaty, the treaty cannot be binding upon the nation until the necessary legislation is first adopted.

Mr. WILLIAMS, of Pennsylvania. Will the gentleman allow me to say a word to correct a misapprehension?

Mr. RAUM. Yes, sir.

Mr. WILLIAMS, of Pennsylvania. I understand the gentleman to say that in England the treaty-making power is vested entirely in the Crown.

Mr. RAUM. Yes, sir.

Mr. WILLIAMS, of Pennsylvania. It was conceded in the debate in Congress in 1796 upon Jay's treaty that the uniform usage in England was to submit all treaties, at least all treaties of this description, to Parliament, and that the final approval of all such treaties belonged to the jurisdiction of that body. More than that, I think it is unquestioned that, under the law of nations, as well understood by all the publicists, even an absolute monarch, so called, is not bound by a treaty which is not in accordance with the fundamental law of his empire.

Mr. BANKS. Let me say that no such doctrine as that stated by the gentleman from Pennsylvania was conceded in the debate of 1796. On the contrary, it was denied absolutely; and it is not true of the English Government or the English Parliament in any sense whatever.

Mr. WILLIAMS, of Pennsylvania. I think the debates will show that it was not questioned that such was the law.

Mr. RAUM. Mr. Speaker, the reading of the law of England by the gentleman from Pennsylvania does not accord with my reading of it. I understand that in the Crown of England is vested the absolute power to make treaties which bind all the people of the United Kingdom, including both Houses of Parliament. And, sir, what is the history of the exercise of the treaty-making power in England? Why, sir, divers treaties have been made by the British Crown; and the legislative branch of the Government always conforms its legislation to the treaties which have been thus made.

Then, sir, I lay it down as the law of the case, that under the laws of England, the sovereign of that kingdom has the unconditional and unlimited power of making treaties to bind all the people of the United Kingdom, including both Houses of Parliament. Such was the treaty-making power to which our British ancestors were accustomed; and it was in view of such exercise of that power under the British Crown that the treaty-making power was conferred upon the President of the United States by and with the advice and consent of the Senate. Refer to the debates of the convention that framed the Constitution; refer to the Federalist, in which the most learned governmental writers of that day expounded the Constitution, and it will be found that they all concur in the opinion that it is for the President and the Senate to make treaties, and that all the people, including both Houses of Congress, are bound thereby, if the treaty is within the scope of the treaty-making power under the Constitution. And I lay it down as the law of this country, that wherever a treaty is made by the President, by and with the advice and

consent of the Senate, if the treaty is within the scope of the treaty-making power under the Constitution, all the people of the United States are bound thereby, including the House of Representatives and the Senate.

But gentlemen say that it is the business of the House of Representatives particularly to originate the laws necessary to raise revenue and to appropriate money, &c. Conceding that to be true (and I understand it to be the law of the case) it is no limitation upon the exercise of the treaty-making power? What is the treaty-making power? It is the power conferred upon a branch of the Government for the purpose of making contracts with foreign countries; and the President of the United States, by and with the advice and consent of the Senate, has the right to make a contract with a foreign nation to bind all the people of the United States, including both Houses of Congress.

I say this because the Constitution of my country says it; because the Constitution has conferred upon the President and the Senate a well-known power to be exercised without the interference of other branches of the Government.

But gentlemen have said that when there is presented to the House of Representatives a treaty which requires an appropriation of money, the House has the right to determine whether or not the treaty shall be executed. I concede that; there is no question about the truth of the proposition. The Congress of the United States has entire and absolute control over the appropriation of money for all purposes. Why, sir, suppose you pass a law authorizing any particular officer of the Government to make a contract for the purchase of commissary or quartermaster stores, to be paid for by subsequent appropriations of money; when that question comes before the House of Representatives you may or may not appropriate the money; you can do just as you please about it; but will any man pretend to say that a debt thus created under the sanctions of law would not be a subsisting claim against the Government, a just demand, which should be paid; and that the good faith of the nation would be bound to appropriate the money for the payment of such a claim? So it is in a case of this kind.

Mr. WILLIAMS, of Pennsylvania. If the gentleman will yield to me for a moment, I desire to show that in what I stated awhile ago, though so strongly contradicted by the gentleman from Massachusetts, [Mr. BANKS,] I was not mistaken. I refer now to a speech of Mr. Gallatin, in the debates to be found on page 470 of the *Annals of Congress*, of 1795-96. He read a quotation from Blackstone, page 257, volume 1, to show that the power of treaty making in England is as extensively vested in the king as it possibly can be said to be here in our Executive. He then proceeded to show the operation of this limitation of the treaty-making power in England by the practice of Parliament. He says:

"It was always considered as discretionary with Parliament to grant money to carry treaties into effect, or not, and to repeal or not to repeal laws that interfere with them."

Again, on the next page, he says:

"On the same principle the King of Great Britain, when he mentioned the American treaty, promised to lay it before them in proper season, that they might judge of the propriety of enacting the necessary provisions to carry it into effect."

"It remains to be examined (said Mr. Gallatin) whether we are to be in a worse situation than Great Britain; whether the House of Representatives of the United States, the substantial and immediate Representatives of the American people, shall be ranked below the British House of Commons; whether the legislative power shall be swallowed up by the treaty-making authority as contended for here, though never claimed even in Great Britain."

I undertake to say, from my recollection of this debate, that it was conceded the practice was as I have stated it.

Mr. RAUM. In answer to the gentleman allow me to quote from an authority found in Story on the Constitution; and I wish to be brief in these quotations:

"The king of Great Britain is the sole and abso-

lute representative of the nation in all foreign transactions. He can, of his own accord, make treaties of peace, commerce, alliance, and of every other description."

"Every jurist of that kingdom, and every other man acquainted with its constitution, knows, as an established fact, that the prerogative of making treaties exists in the Crown in its utmost plenitude; and that the compacts entered into by the royal authority have the most complete legal validity and perfection, independent of any other section. The Parliament, it is true, is sometimes seen employing itself in altering the existing laws to conform them to the stipulations in a new treaty; and this may have possibly given birth to the imagination, that its co-operation was necessary to the obligatory efficacy of the treaty. But this parliamentary interposition proceeds from a different cause; from the necessity of adjusting a most artificial and intricate system of revenue and commercial laws to the changes made in them by the operation of the treaty; and of adopting new provisions and precautions to the new state of things, to keep the machine from running into disorder." "The one can perform along what the other can only do with the concurrence of a branch of the Legislature."

That is precisely the condition of affairs in this country. While it is true the British Crown possesses absolute and unrestricted power to make treaties for Great Britain, the President of the United States can only make a treaty by and with the advice and consent of the Senate. What, Mr. Chairman, is the binding efficacy of a treaty? This subject is most exhaustively discussed in the *Federalist*. And Mr. Hamilton there says that the only sanction at best for the execution of a treaty is the good faith of the country.

Now, sir, when I come to look at this treaty made by the President, by and with the advice and consent of the Senate, I come to the conclusion that honor and good faith demand at the hands of the United States that the treaty should be executed in the spirit in which it was entered into.

Coming to the question as to the power of the House of Representatives to determine the propriety of executing the treaty, for it is nothing more nor less than executing it, why, sir, they have to exercise such a discretion in respect to this subject that they would in reference to any other subject involving the question of peace or war with a foreign country. If the House of Representatives has the power by any provision of the Constitution to nullify a treaty it can only be through the exercise of those powers which are conferred upon Congress in the Constitution. Under the Constitution Congress has the absolute power of making war; and if a treaty is made requiring an appropriation of money to execute it, and the Congress of the United States, in the examination of the subject, should come to the conclusion that it would be better for this country that we should break off our friendly relations with the foreign nation with whom the treaty was made rather than to appropriate the necessary money to carry out the treaty, as a matter of course, exercising the high prerogative of the people of the United States, they would have the control over the subject, and might say, "We will not carry out this treaty; we prefer to have your displeasure, and to risk the consequences; and you must either peacefully rescind the contract, or, if you choose, settle the question by an appeal to arms."

Mr. Chairman, by reference to the *Journal of the Federal Convention* you will see that our forefathers, when they came to frame the Constitution of the United States, discussed this whole subject of the treaty-making power, and after a most exhaustive debate they came to the conclusion that they would confer that power upon the President, to be exercised by and with the advice and consent of the Senate. On the 7th of September, 1787, a proposition was made to amend the second section of the second article of the Constitution, which devolved upon the President and Senate the treaty-making power, so that the House of Representatives should have a voice in the making of treaties. It was proposed to confer upon the House of Representatives the authority to join the Senate in ratifying treaties, but that proposition was voted down by a large majority.

Now, sir, I undertake to say that the treaty-

making power, conferred as it is by the Constitution upon the President and the Senate, is a power which is to be exercised to the exclusion of all interference by the House of Representatives. And when this House shall undertake to say that a contract made by the President, by and with the advice and consent of the Senate, is not binding upon the people of the United States until it is confirmed by the House of Representatives, I say that it will be doing violence to the landmarks of the Constitution, and to all the memories which cluster around the adoption of that sacred instrument.

Mr. WILLIAMS, of Pennsylvania. A single question. Suppose the contract imported a declaration of war, or involved it by an alliance offensive and defensive; what then?

Mr. RAUM. I have an answer for the gentleman from the Constitution itself. The Constitution devolves upon Congress the war-making power, and a treaty cannot be entered into so as to absorb the powers which are delegated to the Congress of the United States. The President and Senate cannot make war; that power is conferred upon the Congress of the United States.

Mr. WILLIAMS, of Pennsylvania. Then am I to understand the gentleman as admitting that in those cases where Congress has power expressly conferred upon it its jurisdiction remains untouched, anything in the treaty made by the President and the Senate to the contrary notwithstanding?

Mr. RAUM. I answer the gentleman by saying that the powers which are delegated absolutely to the Congress of the United States cannot be executed by means of a treaty. But that is not the question before the House. The question is whether or not a contract made by the President and the Senate shall bind the people of this country when it is made in good faith? Not whether the House of Representatives may refuse to execute a treaty. But is a treaty made in good faith, and which is within the scope of the Constitution, binding upon the people. I affirm that a contract thus fairly and constitutionally made is binding upon the good faith of this nation without the approval of the House of Representatives.

Mr. Chairman, from the examination I have given this subject I have come to the conclusion that cases may arise where it would be the duty of Congress to refuse to execute a treaty; and to refuse to execute is all it can do. Congress does not ratify a treaty; it has only to execute the contract. If a treaty, although valid as being within the scope of the treaty-making power, was to devolve certain enormous consequences upon the country, such as would prove ruinous or dangerous to execute it, I, as one of the Representatives of this great people, would not hesitate to assume the responsibility of refusing to execute it, and to say to the foreign country, "You must not insist upon its execution; if you do we will go to war with you if need be rather than execute it."

But, sir, what shall we say of a treaty made in due form of law under all the sanctions of the Constitution, and within the unequivocal scope of the treaty-making power, when it is within the reasonable power of the people of the United States to execute it, when it does not devolve upon them the performance of any extraordinary duty or threaten any danger whatsoever? What shall we say when the Representatives of the people rise up in their places and declare that they will not carry out in good faith a treaty which the country is able to execute without doing any violence to its interests? Sir, as for me, I stand here ready to assist in carrying out such a treaty. I believe we can carry out this treaty not only without injury to this country, but with positive good. I believe in so doing we will aggregate to ourselves a great territory which will be a benefit to us. We will secure that distant territory which we are destined to have, and which will be of vast importance to us after the construction of our great thoroughfares penetrating to the Pacific coast.



Mr. PRICE. I would like to ask the gentleman a question if it will not embarrass him.

Mr. RAUM. I yield for a question.

Mr. PRICE. I understand the gentleman from Illinois to admit that occasions might arise under the treaty-making power, and under the Constitution as it exists, where the Representatives of the people would be not only fully justified, but it would be their duty to refuse to appropriate money.

Mr. RAUM. Refuse to execute the treaty; I do not stop at money. I refer to the performance of any legislative act.

Mr. PRICE. I understand, then, that that is the opinion of the gentleman.

Mr. RAUM. Yes, sir.

Mr. BANKS. That is what we all mean.

Mr. PRICE. That is the correct doctrine.

The question, then, is whether this is one of those occasions. I think it is; other gentlemen think that it is not.

Mr. BANKS. The theory of the gentleman from Iowa is that the treaty-making power may make any treaty provided it is not sent to this House. They may surrender the Constitution and the Government in any form provided they do not ask our concurrence. That is his theory.

Mr. PRICE. I do not hold any such theory. I see no common sense, no justice, no law in it. I have not held such a doctrine, and I hope I never shall.

Mr. RAUM. Mr. Chairman, in answer to the gentleman from Iowa I will say that the Congress of the United States holds within its hands the power to abrogate any treaty which may be executed in due form of law under the Constitution, and to assume for the people of the United States the whole responsibility which may result from an act of that kind. Not only may they refuse to execute a treaty which requires legislation, but they may abrogate all treaties which have been executed by legislation, or which by their terms do not require legislation for their execution. The Congress of the United States being the law-making power, and holding the sovereignty of the nation in its hands, has the power and the right, in exercising the sovereign will of this nation, to abrogate treaties or to execute treaties according to its sound discretion. That is my doctrine. The power to make treaties, the power to make contracts, and make them binding, is devolved upon the President and the Senate. It is for them to say whether or not they will make contracts. It is for us to say whether or not we will execute the contracts. That is the distinction.

Now, go through all the authorities. Go back to the time when this subject first sprang up in the House of Representatives, when the first treaty was made with Great Britain, and when an opposition House called upon General Washington, then President, to send down for their scrutiny all the instructions which had been given to our minister, for the purpose of making the treaty with Great Britain, and when they poised the subject in their minds whether or not they would execute the treaty what did General Washington say? He had assisted in framing the Constitution; he was recognized as one of the wise men of that day, who understood and expounded the Constitution as intelligently as any other person. He told the House of Representatives that the treaty which had been executed by the President, with the advice and consent of the Senate, was binding upon the people of the United States, and that as it contained a statement of all the subjects of legislation necessary for the information of the House, he refused to comply with the request. What was the result on that occasion? Why, sir, the House acquiesced in the principle of that message of General Washington, and they passed a resolution declaring that they had no power to interfere in the making of a treaty, but they asserted the right just as I have asserted it here to-day, the right of the House of Representatives, whenever stipulations are made on subjects committed

by the Constitution to Congress, to deliberate on the expediency of carrying them into effect. That is all there was of it, and the House of Representatives passed the necessary resolutions to carry the treaty into effect.

We are here to-day deliberating upon the expediency of carrying into effect the treaty with the emperor of all the Russias for the purchase of Alaska. Can we pay the money? Have we got it? We have it in the Treasury. We are able to pay it. We have the money at hand. It will be no extraordinary burden to the people of the United States to pay it. It will be no more than twenty cents apiece. We can pay it without injury to the people of the United States. Good faith requires that we should pay the money. Shall we refuse to do so? Shall we issue orders to that little handful of men, who to-day are standing around the stars and stripes up at Sitka, and tell them to haul down the old flag and return to California, that the people of the United States have taken a step backward, and have refused to execute a treaty entered into in good faith with the emperor of Russia, and which we can execute without inflicting any wrong upon the people of the United States, and in executing which we can carry out the great doctrine of expansion which animates the heart and mind of every American citizen. For one, sir, I say no, no, no. Mr. Chairman, if the United States has a traditional policy, a policy to which the people of the United States are attached, it is that of acquiring territory. I cannot express the doctrine in as apt terms as did the venerable gentleman from Ohio, [Mr. SPALDING;] but I believe that in the lifetime of these boys who are acting as pages here to-day, the American flag will wave in triumph over the undivided territory of North America. I do not know so much about South America; but, so far as I am concerned, I am ready to see all of North America, from the North pole down to the Isthmus of Darien, under the sway of the United States of America.

And, Mr. Chairman, I do not wish to see the legitimate expansion of the United States retarded by the adoption of the dangerous and unwarrantable doctrine urged upon the consideration of the House. I do not wish to see the good name of this Republic tarnished by the adoption of a theory in respect to the treaty-making power not justified by a fair construction of the Constitution. I will never agree, and I trust that this House will never agree, that the binding efficacy of a treaty shall depend upon the conclusions of a body of men who, according to the laws of the country making such treaty, can take no part in agreeing upon its terms.

Sir, the United States as a nation is now in its infancy, our commercial relations are extending and becoming more and more important every year. The time is not far distant when we will be the leading commercial nation of earth. Let us not set a bad example in respect to the obligation of treaties; let us say to all the nations of the world that we execute in good faith treaties entered into by the President, by and with the advice and consent of the Senate. Our citizens have claims against Great Britain which we regard as just, and the payment of which our minister has been urging for some time. Suppose, sir, that her Britannic Majesty Queen Victoria should conclude a treaty with this country, agreeing to pay a certain sum of money in settlement of the Alabama claims; and suppose further, sir, that the British Parliament should refuse to appropriate the necessary money to execute the treaty, is there a gentleman on this floor who would not regard such refusal as a violation of good faith, and would we not point to the British constitution and say that the treaty-making power is vested in the sovereign without limitation, and that an execution of the treaty upon the part of the British Government was necessary for the continuance of friendly relations between the two countries?

Such, sir, must be the inevitable result of a

refusal upon our part to execute this Russian treaty. Refuse to execute it, and Russia will turn from us with scorn and contempt, and all Europe will scoff at the perfidious conduct of the western Republic.

Mr. Chairman, we cannot afford to barter away our national honor by a refusal to execute this treaty. The honorable gentleman from Massachusetts, [Mr. BUTLER,] among other grounds of objection to the passage of this bill, insists that it is inexpedient to receive as citizens of the United States the few Russian citizens who inhabit Alaska. He seems to fear the extension of the suffrage to that people. Mr. Chairman, I must confess my surprise at hearing this sentiment come from the gentleman from Massachusetts. I thought that he was fully committed to the propriety and justice of the doctrine of the Declaration of Independence, that Governments derived their just powers from the consent of the governed; I supposed that he was fully imbued with the idea of the justice of extending the right of suffrage. For myself, sir, I see no cause of alarm in making American citizens of the forty or fifty thousand Russians now inhabiting Alaska, and of admitting them to the right of suffrage whenever Congress shall see fit to do so in the organization of a territorial government there.

Mr. Chairman, I do not propose to detain the committee much longer, but there is one point to which I wish to call attention, and that is the vast importance of acquiring a strong foothold along the whole Pacific coast with a view to aggregating the whole of the rich trade of the East, which will, with wise legislation, necessarily fall into our hands. That trade has been the prize of commerce for three thousand years. Solomon and those under his crown grew rich by that eastern trade. Jerusalem and Palmyra were made great cities by the eastern trade. So with Alexandria and Thebes; and at last it swung around Cape Horn to London, which is now the great distributing point for this trade, and which, per consequence, has grown to be the financial center of the world. Manifest destiny has pointed out a new route for this trade across the continent of America. There is no question about that. The trade of India alone is about five hundred million dollars. The trade of China has increased within the last six or eight years from \$80,000,000 to \$300,000,000. The trade of Japan is immense. We are now entering into new relations with that distant country. Five hundred million people live there, five hundred million producing population, who are to pour the wealth of their trade upon the Pacific coast of the United States, and across the continent of America, to be distributed at New York, Philadelphia, Boston, New Orleans, and other points on the seaboard, to the distant points across the Atlantic. Sir, within the lifetime of our young men, within the next fifteen or twenty years, I venture the prediction the total trade of that eastern country with the United States will reach \$2,000,000,000. It is capable of indefinite expansion. Shall we reach forth our hand and grasp that rich trade which has made opulent every nation that has controlled it?

I say that Alaska from 54° 40' to the frozen regions gives us a valuable portion of the Pacific coast. The 5° 40' now owned by Great Britain will drop into our hands like a ripe pear. Then looking down southwest we behold that Mexico has a long line of coast; it, too, must belong to us. And, sir, I believe that by constitutional and peaceful means within twenty years Mexico will form a part of our glorious Republic, and that from five to seven new States will there be added to the Union; and then, sir, our coast line will extend from the Isthmus to the frozen regions of the North.

We will want railroads. We are now building one to the Pacific, and are pluming ourselves upon the tremendous undertaking. What would our trade in the West do to-day with

one railroad? The roads from Baltimore, from Philadelphia, from New York, and from Boston westward are no more necessary now than an equal number of lines of railroad to the Pacific will be at a very early period. We must have more than one Pacific railroad. We must have a northern Pacific railroad. We must have the Kansas Pacific railroad. And we must have the International Pacific railroad provided for in House bill No. 847, from Cairo southwest through Missouri, Arkansas, and Texas, striking Mexico on the Rio Grande, and reaching the Pacific coast at San Blas or Mazatlan. The construction of all these railroads will aid in the aggrandizement of this great Republic by possessing the trade which must inevitably be developed on the Pacific ocean. And now, sir, in view of the existence of the law governing the treaty-making power as I have presented it, in view of the fact that good faith requires us to execute this treaty, and in view of the great law of expansion which must control the destiny of this country, I am ready to cast my vote for this bill to consummate the purchase of Alaska.

Mr. BANKS. I want to read a single extract from the document on Russian America, which was printed by order of the House, in reference to Major Kennicutt's passage through this country:

"In consequence of this suggestion he ultimately undertook, eight years since, his first trip by Lakes Superior, Winnipeg, Athabasca, and Great Slave lake down to Fort Simpson, where he spent the first winter; thence down the Mackenzie to the tide waters of its deltas; thence up the Pearl river to Fort McPherson; thence over the Porcupine mountains, the northern termination of the Rocky mountains, to the Porcupine river, and down to its junction with the Yukon, on the one hundred and forty-seventh degree of west longitude, where the British fur company have a large post over a degree on Russian territory."

There he died, and his dead body was carried down to Behring strait.

Mr. WILLIAMS, of Pennsylvania. The gentleman is mistaken; it was on a different expedition.

Mr. BANKS. The gentleman is correct.

Mr. WILLIAMS, of Pennsylvania. I did not dispute the fact that he had been as far as the junction of the Yukon and the Porcupine, but that the territory between the junction of those two rivers and New Labrador, a distance of one thousand miles, was unexplored.

Mr. BANKS. It has been explored, but Major Kennicutt died before making his report. If he had lived he would have given us invaluable testimony of this territory.

Mr. WILLIAMS, of Pennsylvania. I say that the country was never explored, and we have never had any report of it.

Mr. BANKS. There was no report, because Major Kennicutt died before he could make it. I move that the committee rise.

The motion was agreed to; and the committee accordingly rose, and the Speaker having resumed the chair, Mr. GARFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 1096, making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867, and had come to no resolution thereon.

#### REMOVAL OF DISABILITIES.

Mr. BOUTWELL. I report back from the Committee on Reconstruction a bill (H. R. No. 1355) for the removal of certain disabilities from the persons therein named. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at five o'clock and forty-five minutes p. m.) the House adjourned.

#### PETITION.

The following petition was presented under the rule, and referred to the appropriate committee:

By Mr. GARFIELD: The petition of Charles E. Broyles, of Dalton, Georgia, for the removal of political disabilities.

#### IN SENATE.

WEDNESDAY, July 8, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior communicating a letter from the Commissioner of Indian Affairs, in relation to the appropriation for subsisting the Navajo Indians on the Bosque Redondo reservation, New Mexico; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a report of the National Academy of Science, in conformity with the requirements of the act of incorporation, approved March 4, 1863, showing the operations of the National Academy of Science during the past year; which was referred to the Committee on Printing.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented the petition of Nancy Smith, widow of Benjamin Holden Smith, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. CATTELL presented a petition of citizens of New Jersey, praying an extension of the provisions of the thirty-third section of the bankrupt law; which was referred to the Committee on the Judiciary.

Mr. FOWLER presented a petition of Robert Wilson, praying to be allowed a pension; which was referred to the Committee on Pensions.

On motion of Mr. CORBETT, it was—

Ordered, That the petition of Henry Failing be referred to the Committee on Claims.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that he was directed to inform the Senate that in communicating the action of the House on the amendments of the Senate to the bill (H. R. No. 606) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1869, amendment No. 223 was erroneously announced as having been agreed to, the same not having been agreed to.

#### REPORTS OF COMMITTEES.

Mr. HOWARD, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 550) providing for the sale of a portion of the Fort Gratiot military reservation, in St. Clair county, in the State of Michigan, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 1354) to provide for the issue of arms for the use of the militia, reported it without amendment.

Mr. RAMSEY, from the Committee on Territories, to whom was referred the bill (S. No. 571) to provide for the more economical administration of the government of the several Territories of the United States, and for other purposes, reported it without amendment.

Mr. MORGAN, from the Committee on Finance, to whom was referred the joint resolution (H. R. No. 306) to authorize the Secretary of the Treasury to remit the duties on certain articles contributed to the National Association of American Sharpshooters, reported it without amendment.

Mr. EDMUNDS. I am directed by the Committee on the Judiciary, to whom was referred the bill (H. R. No. 293) to regulate and limit the admiralty jurisdiction of the district courts of the United States in certain cases, to report it back with the expression of the opinion that it ought not to pass. It appears to the committee that the principles of maritime law that now prevail are the appropriate ones for the administration of justice, and this bill would

be no improvement. I move its indefinite postponement to get it off the Calendar.

The motion was agreed to.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the following bills, reported them without amendment:

A bill (H. R. No. 218) granting a pension of seventeen dollars per month to David Dubigg, of Lynden, Vermont, father of late First Lieutenant Dennis Duhigg, of company M, first regiment Vermont artillery;

A bill (H. R. No. 258) granting a pension to George Truax, late a private in company H, first regiment Virginia volunteers;

A bill (H. R. No. 1164) granting a pension to Margaret Davis;

A bill (H. R. No. 1105) granting a pension to Elizabeth Cassidy;

A bill (H. R. No. 1166) granting a pension to Louisa M. Williston;

A bill (H. R. No. 1167) granting a pension to Esther Graves;

A bill (H. R. No. 1168) granting a pension to Frederic Denning;

A bill (H. R. No. 1169) granting a pension to Joseph B. Rodden;

A bill (H. R. No. 1170) granting a pension to Eliza M. Matthews;

A bill (H. R. No. 1171) granting a pension to William F. Nelson;

A bill (H. R. No. 1172) granting a pension to Lucinda J. Letcher;

A bill (H. R. No. 1173) granting a pension to Julia A. Barton;

A bill (H. R. No. 1174) granting a pension to Julia Carroll;

A bill (H. R. No. 1175) granting a pension to Cornelia Peaslee;

A bill (H. R. No. 1176) granting a pension to Mary Cover, widow of Samuel Cover, deceased, late a private in company G, of the fifty-sixth regiment of Pennsylvania volunteers;

A bill (H. R. No. 1177) granting a pension to Malinda Ferguson, widow of James Ferguson, late a private in company C, of the first regiment of Kentucky cavalry; and

A bill (H. R. No. 1178) granting a pension to Mary Merchant, mother of Timothy H. Pittsford, deceased, late a private in company G, of the first United States veteran engineer corps.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 1206) to restore to certain parties their rights under the laws and treaties of the United States, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred a resolution as to the propriety of a law to authorize Indians to testify in certain cases, have instructed me to report it back and ask to be discharged from its further consideration, on the ground that the committee are of opinion that the Indians have a right to testify under the law as it stands and no statute is necessary on that subject.

The report was agreed to.

Mr. TRUMBULL. The same committee, to whom was referred the bill (H. R. No. 90) to authorize and require the administration of oaths in certain cases, and to punish perjury in connection therewith, recommend its indefinite postponement, being of opinion that the laws already authorize the chairmen of committees, both standing and special committees, to administer oaths. There is no necessity for the bill.

The motion to postpone indefinitely was agreed to.

Mr. TRUMBULL. The same committee, to whom was referred the bill (H. R. No. 1194) to provide for the inauguration of State officers in Arkansas, North Carolina, South Carolina, Louisiana, Georgia, and Alabama, and for the meeting of the Legislatures of said

States, direct me to report it back and recommend its indefinite postponement, the subject having been acted on.

The bill was indefinitely postponed.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the memorial of the National Board of Trade, praying the passage of an act to incorporate said National Board of Trade, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of W. S. Chipley, praying the release of his son, William Dudley Chipley, imprisoned by order of the military authorities in Georgia, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 576) relating to the district courts of Utah Territory, reported it with an amendment.

F. N. BLAKE.

Mr. POMEROY. If there is no further morning business, I move that the Senate proceed to the consideration of House bill No. 1156. It is a private bill, and it will take but a moment of time.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the bill?

Mr. EDMUNDS. What is the bill?

The PRESIDENT *pro tempore*. The bill will be read by its title.

The CHIEF CLERK. "A bill (H. R. No. 1156) authorizing the Commissioner of the General Land Office to issue a patent to F. N. Blake for one hundred and sixty acres of land in Kansas."

Mr. POMEROY. The facts are all set out in the preamble of the bill. Let the bill be read at length.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. The preamble recites that military bounty land warrant No. 82578 for one hundred and sixty acres was issued under the act of March 3, 1855, in the name of Betsey Foster, and by her sold and assigned to F. N. Blake, and thereafter lost by Blake; that Blake proved the loss and ownership of the warrant to the satisfaction of the Commissioner of Pensions, and obtained the issue of a duplicate warrant and has located the same on the northeast quarter of section twenty-five, in township six south, of range one east, in the State of Kansas. The bill, therefore, directs the Commissioner of the General Land Office to cause a patent for the land to be issued to F. N. Blake, as if the duplicate land warrant had been assigned to him by the warrantee.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### ROCK ISLAND BRIDGE.

Mr. HARLAN. I move that the Senate proceed to the consideration of House joint resolution No. 201.

The motion was agreed to; and the consideration of the joint resolution (H. R. No. 201) in relation to the Rock Island bridge was resumed, as in Committee of the Whole, the pending question being on the amendment reported by the Committee on Post Offices and Post Roads, to insert as an additional section:

SEC. 3. *And be it further resolved*, That any bridge built under the provisions of this resolution shall be constructed so as to conform to the requirements of section two of an act entitled "An act to authorize the construction of certain bridges, and to establish them as post roads," approved July 25, 1866.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

Mr. MORTON. As this measure is a new one to me, I should like to have some one explain how it is that the Government of the United States is building this bridge. I do not know anything about it. I suppose there is some good reason for it.

Mr. HARLAN. When this question was up before I attempted to explain it. The Government has been building, and is still constructing, large works for an arsenal and armory on Rock Island, lying in the Mississippi river between the town of Rock Island, in Illinois, and the town of Davenport, in Iowa, and it is necessary to have a connection with each shore. This resolution provides for a bridge across the channel between the island and Illinois to be constructed entirely by the railroad company, and for a bridge between the island and the Iowa shore to be constructed jointly by the Government and the railroad company. The railroad company now have a structure across the river at that point which, it is insisted by the river men above and below, to some extent interferes with navigation, and it is thought desirable to have it torn out, and perhaps it ought to be torn out; and yet it answers all the purposes of the railroad for passing their trains. This bridge is intended to accommodate both a wagon-road and the railroad. It is provided that part of the expense shall be borne by the Government and part by the railroad company, and in that case the old bridge is to be torn out, and in that way remove what is regarded as an obstruction of navigation. The people of St. Louis are very anxious to have it done, and all the people above on the river, in Iowa, Illinois, Wisconsin, and Minnesota, are very anxious to have it done.

Mr. MORRILL, of Vermont. This is a resolution that ought not to be considered in the morning hour. If it is to pass I desire to occupy more time than there is now left, for I mean to fully expose the entire character of this measure. We have made liberal appropriations for Rock Island. I do not object to the appropriations for the establishment of an arsenal and armory at Rock Island. But here is a proposition, brought forward in the first instance in an appropriation bill some years ago, making an appropriation of barely \$200,000 for building a bridge from Rock Island to the Iowa shore, and of that sum the railroad company was to pay one half, and one half of the expense of keeping the bridge in repair was also to be paid by the railroad company. Subsequently, or at some time, a report was made making estimates for this bridge, and the estimates were, as I have been informed, \$1,200,000. Now, without stating a word as to the amount of appropriation needed, a new proposition comes in here that the bridge shall be built not to exceed the estimate of the cost, which is, as I believe, \$1,200,000. We have appropriated and paid out something like three hundred thousand dollars to extinguish the private rights upon this island. We then paid \$100,000 in order to acquire possession of some water-power upon the island. We have appropriated six or seven hundred thousand dollars to establish the arsenal and armory. I understand that it is the purpose here to have an establishment for which at least we have at present no use, that shall cost \$20,000,000, which is to exceed anything in the known world for its extent, magnificence, and beauty. But that is not the question that is under consideration here.

Why should the United States be called upon to build a bridge here at all? The facilities needed for reaching the Illinois shore are very small and inexpensive. We paid for one bridge, reaching to the Illinois shore, the amount of \$11,000. That has been swept away, but it could be replaced at a very small expense compared with this on the grand scale of a million or twelve hundred thousand dollars.

But this bill which it is proposed to pass in the morning hour as an example of the policy of this Congress on the subject of internal improvements, proposes not only to build a bridge at that expense, but to take upon itself the responsibility of tearing down another, of abating it as a nuisance, and thereby rendering the United States Government liable for at least from five to eight hundred thousand dollars more.

And why should this be done? Is there any

more reason why the United States should build a railroad bridge here for a private corporation than there would be at Troy? We have an arsenal opposite Troy, the Watervliet arsenal, and there is a railroad that crosses the Hudson to West Troy, where the arsenal is located.

If the Senators from New York were to come forward here and ask us to build a bridge there that would accommodate not only the great Central railroad from Troy to Schenectady, but passenger and foot travel, would the Senate listen to it for a moment? Take the case of Massachusetts. You have an armory and arsenal at Springfield, and the Massachusetts Western railroad has a bridge crossing at Springfield. Suppose the people of West Springfield should ask to have a bridge built there by Congress, for the use of the railroad and for accommodation of public travel, would the Senate of the United States listen to it for a single moment? And yet in both the cases I have mentioned there is as much reason why the United States should embark in this extraordinary enterprise as there is at Rock Island. I do not think our present revenues warrant any such expenditures.

Mr. MORTON. I should like to ask my friend from Vermont one question. If the Government of the United States authorized the building of a bridge at Rock Island which turned out to be an obstruction to navigation and a nuisance, is it under any legal obligations to build another one in its place, if it assumes the responsibility of pulling down this nuisance?

Mr. MORRILL, of Vermont. I have no question in relation to the equity of the claim the railroad company would have if we should go and destroy their property. If the courts, which have been appealed to, refuse to declare the bridge a nuisance, what attitude would the United States be in going forward and authorizing the War Department to abate and destroy it without any examination and without any ceremony?

But, Mr. President, this is a bill that ought to receive the careful scrutiny of Congress. It is time that we adopted some policy and adhered to it, a policy that we are willing to stand by, in relation to internal improvements. I am unwilling myself to vote for an appropriation of this extravagant character, which is for the benefit mainly of a private corporation, and so far as the interests of the United States are concerned they do not amount to a fraction of the whole case.

Mr. MORTON. There is a somewhat important lesson to be learned from this bill. The United States authorized the construction of a bridge at Rock Island, which turned out to be a serious obstruction to navigation.

Mr. RAMSEY. The Senator from Indiana is misinformed. The United States never authorized the construction of the old bridge. It was built there in virtue of laws of Illinois and Iowa.

Mr. MORTON. I may be mistaken about that, but the bridge turns out to be an obstruction to navigation. The Government resolves to pull it down, and may, therefore—I will not deny it—be under some obligation to bear some portion of the expense of building another bridge. I simply want to refer to this to show the importance of not allowing any more bridges to be built over these rivers, and especially the Ohio river, that the Government may afterward be called upon to pull down and then to rebuild at its own expense. I say there are bridges now authorized to be built over the Ohio river and applications pending here to build others over that river, which the Government will be called upon to pull down and afterward to rebuild at its own expense.

Mr. MORRILL, of Vermont. I move to strike out the second section.

Mr. HARLAN. I hope that will not be done.

The section proposed to be stricken out was read, as follows:

SEC. 2. *And be it further resolved*, That in case the Rock Island and Pacific Railroad Company shall



neglect or fail, for sixty days after the passage of this resolution, to make and guaranty the agreement specified in the act of appropriation aforesaid, approved March 2, 1867, then the Secretary of War shall be, and is hereby, authorized and required to direct the removal of the existing bridge and to direct the construction of the bridge aforesaid, and expend the money appropriated for that purpose in said act; and the said Rock Island and Pacific Railroad Company shall not have, acquire, or enjoy any right of way or privilege thereon, or the use of said bridge, until the agreement aforesaid shall be made and guaranteed according to the terms and conditions of said act of appropriation. All acts or parts of acts inconsistent with these resolutions are hereby repealed.

Mr. MORRILL, of Vermont. I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. MORRILL, of Vermont. I merely desire to have the Senate notice that this section is the one which authorizes and requires the Secretary of War to tear down the existing railroad bridge there.

Mr. HARLAN. I do not understand the logic of the Senator from Vermont. He first tells the Senate that this measure is in the interest of a corporation, and then moves to strike out that feature of it which is unfavorable to the corporation to enable them to keep their present structure and defeat the whole enterprise, for of course if that is stricken out the company will have no inducement to conclude the contract which the first section provides for.

Mr. MORRILL, of Vermont. My logic is that I desire to kill the bill. If I can kill one part of it at one blow I desire to do it, and with another blow the rest of the bill. If we are to be involved in an expenditure here of \$1,800,000 I desire to strike off \$600,000 if I possibly can.

Mr. HARLAN. I am gratified at the last announcement of the Senator. He says the purpose of this amendment is to destroy the joint resolution. I hope, therefore, that those who are friendly to this measure will understand it in the light in which the Senator has last presented it.

I wish to correct another statement made by the Senator, also, in his former speech, and that was that after an appropriation of \$200,000 had been made an investigation had been had and a report of commissioners. If I understand the history of this transaction correctly—I was not in the Senate at the time, however—a commission was appointed under the direction of the War Department and made a report, and in pursuance of that report an appropriation of \$200,000 was made. I ought to say here that I think the Secretary of War originally approved the proposition, and the present Secretary of War also approves it in a letter which I have in my hand.

Mr. MORRILL, of Maine. I do not know that I have any opposition to this resolution, but I rise simply, as the yeas and nays are called, to understand if I can what the question really is. I should like to ask the Senator from Iowa, who has charge of this resolution, by what authority this bridge has been constructed?

Mr. HARLAN. I think under a law of the State of Illinois, and perhaps a similar law enacted by the Legislature of Iowa.

Mr. MORRILL, of Maine. Has it ever been adjudged a nuisance or obstruction to navigation?

Mr. HARLAN. Litigation has been in progress for a number of years, eight or ten years, I think, on that subject. It never has been removed. It has not been removed in pursuance of any decree of any court. I do not remember the history of the litigation on the subject; but it has been in the courts for a long series of years, and is regarded as a nuisance by those engaged in navigating the river. It is an obstruction to some extent, I have no doubt; perhaps a serious obstruction.

Mr. MORRILL, of Maine. One question further. Do we understand that this is a direction to the Secretary of War in a certain contingency to remove the bridge?

Mr. HARLAN. Yes, sir, I so interpret the

resolution, that in case the company does not comply with the contract the Secretary of War shall have authority to tear down the bridge that is now regarded as a nuisance. But I ought to state, for the information of the Senator and of the Senate, that this resolution was drawn up in the War Department in pursuance of an understanding entered into between the railroad company and the War Department. So I do not apprehend that there will be any difficulty on that subject whatever. I do not suppose that the necessity will arise for tearing down the old bridge by the War Department.

Mr. MORRILL, of Maine. Then it is to enforce the conditions of a certain contract by which the company undertake to do that particular thing?

Mr. HARLAN. That we may have the history of the whole affair, I ask leave to read the original law, to be found on page 485 of the fourteenth volume of the Statutes-at-Large:

"For the erection of a bridge at Rock Island, Illinois, as recommended by the chief of ordnance, \$200,000: *Provided*, That the ownership of said bridge shall be and remain in the United States, and the Rock Island and Pacific Railroad Company shall have the right of way over said bridge for all purposes of transit across the island and river, upon the condition that the said company shall, before any money is expended by the Government, agree to pay and shall secure to the United States, first, half the cost of said bridge; and second, half the expenses of keeping said bridge in repair, and upon guarantying said conditions to the satisfaction of the Secretary of War by contract or otherwise the said company shall have the free use of said bridge for purposes of transit, but without any claim to ownership thereof."

In attempting to carry out that understanding, as provided for in this law, I have been informed that a legal difficulty was interposed. The Attorney General thought the company had not, perhaps, the right to bind the stockholders. It is thought that that difficulty is remedied by this resolution; that if this resolution becomes a law carrying out the original understanding it will be effective, and that the new structure will be erected.

Mr. MORRILL, of Maine. Allow me to ask the Senator, then, whether the difficulty which leads Congress to interpose is, that the company does not perform its conditions, or that it has built a structure which obstructs navigation?

Mr. HARLAN. The existing bridge was built a number of years ago. Of course the fact that that old structure does, to some extent, obstruct navigation was the primary reason for making this appropriation in the law of 1867, in order that a bridge may be constructed below at a point on the island where it is supposed it will not interfere materially with navigation.

The PRESIDENT *pro tempore*. The question is on the amendment striking out the second section, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 12, nays 24; as follows:

YEAS—Messrs. Anthony, Buckalew, Conkling, Edmunds, Ferry, Fessenden, McCreery, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Sherman, and Van Winkle—12.

NAYS—Messrs. Cattell, Chandler, Cole, Conness, Cragin, Davis, Drake, Harlan, Howard, McDonald, Morgan, Osborn, Pomeroy, Ramsey, Stewart, Sumner, Tipton, Trumbull, Vickers, Wade, Welch, Williams, Wilson, and Yates—24.

ABSENT—Messrs. Bayard, Cameron, Corbett, Dixon, Doolittle, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Howe, Johnson, Morton, Norton, Nye, Patterson of Tennessee, Rice, Ross, Saulsbury, Sprague, Thayer, and Willey—22.

So the amendment was rejected.

Mr. CORBETT. I desire to inquire what is the estimate made by the commissioners of the cost of the bridge? I see it is referred to in the first section of the resolution.

Mr. HARLAN. I regret very much that I have not had an opportunity to lay my hands upon the report of the commissioners appointed by the War Department to examine this question originally; but I have been told that the estimates were about a million dollars for the whole structure. The Senator from Vermont says \$1,200,000. But I do not consider that question material. Congress decided two years ago to put up this bridge according to this plan. That question therefore has been

settled, as it seems to me, and now this is merely a remedial act to enable the War Department to carry into effect what Congress heretofore has determined on. The law originally was passed when I was not a member of the body, under the guide and auspices of other Senators, and I should regret very much if the Senate should now turn its back on the State when it is differently represented.

Mr. CORBETT. I understood the Senator from Vermont to say that it would be about one million eight hundred thousand dollars. That was the reason why I made the inquiry. I thought that the Senator who has this matter in charge ought to know what the estimate of the commissioners was, and give information to the Senate on that question. I think the gentleman who has it in charge ought to be able to inform the Senate of the estimated cost of the bridge.

Mr. HARLAN. The Senator's criticism would be perfectly just if it were an original proposition; but Congress heretofore has passed a law directing this bridge to be constructed, and made an appropriation of \$200,000 to prosecute the work. That law, as it turns out, is somewhat defective, and this is intended merely to remedy that defect. Congress has, therefore, originally decided the main question, that it is a proper thing to be done, and has made an appropriation for that purpose. I do not ask for any additional appropriation.

Mr. CORBETT. I understand that by the former law the company was to pay half the cost of the bridge; but this resolution provides that in case they do not the Government is to proceed to build the bridge, does it not?

Mr. HARLAN. Yes; but the Senator will perceive that if the old structure is torn down by the order of the Secretary of War, the railroad company not agreeing to pay half the cost of the bridge, they will have to build a new bridge for themselves, which makes it perfectly obvious that they will close in with the proposition.

Mr. WILSON. I think the main question before us is, Why it is necessary for the Government to build this bridge at all? I should like to have that considered.

Mr. HARLAN. I have the same answer for the Senator from Massachusetts that I have just given to the Senator from Oregon. That would have been pertinent two years ago, when the original proposition was before Congress; but the same reasons that then induced Congress to make the appropriation and direct the structure to be erected, I suppose, still exist; in fact I know they do. In the opinion of the War Department the bridge ought to be built for the convenience of the Government, there being a vast amount of property on Rock Island where the principal depot of arms and the manufacture of arms for the entire Northwest is to be erected. A vast amount of money, the Senator from Vermont says, has already been appropriated and expended in Government works upon that island—not for the State of Illinois or Iowa, as the Senator intimated, as I thought unjustly, but for the Government itself, to promote the interests of the people of the United States, in order that there might be proper depots and manufactories for arms for the people of the United States at a convenient point for use when any emergency may arise requiring it. I have a letter here from the present Secretary of War approving and recommending the carrying into effect of the original proposition.

Mr. TRUMBULL. I am really somewhat surprised at the opposition that is elicited to this measure in the Senate, particularly by older members of the Senate. I was astonished at the motion of the Senator from Vermont, to strike out the second section of this bill which authorized the Secretary of War, in case the railroad company did not carry out their contract with the Government, to remove the bridge that is now there. He talks about damages. The Mississippi river is a highway by treaty and several acts of Congress, and the United States has a right, at any time, to

remove any obstructions in that river without paying any damages to anybody; and we would have the authority to remove this Rock Island bridge. It has never been declared a nuisance by any court. There have been various lawsuits in regard to damage to property in passing up and down the river.

Mr. EDMUNDS. Has there ever been an act making it a post route?

Mr. TRUMBULL. No, sir; there have been various attempts to do that, but that has not been accomplished. The proposition now, to build a bridge, is not for the benefit of the railroad company. This bridge is recommended by the engineer officers of the Government of the United States, and approved by the Secretary of War for the convenience of the army and arsenal established upon the island of Rock Island. The Senator from Massachusetts does not know why there should be any bridge, why there is a necessity for any at all. The Senator from Iowa replies to that that that was settled two years ago. We discussed it two years ago, and appropriated \$200,000 to commence this work. I suppose I might say to the Senator from Massachusetts, where is the necessity of the armory at Springfield, Massachusetts? Why are we appropriating \$1,000,000 every year there? Probably there is no necessity for it; we might as well abolish it.

Mr. WILSON. I have no objection.

Mr. TRUMBULL. The Senator says he has no objection. Well, I have an objection. I would not vote for abolishing it. I think we have need for a manufactory of arms at Springfield; and that we must have arms in case of war. I know how this country suffered, and particularly the West, for the want of arms when the recent rebellion broke out; I know that there was not an arsenal with arms in it from the Atlantic to the Rocky mountains, on the line of the northern States.

Mr. FESSENDEN. My friend talks about that, but that is a settled matter. I ask him to confine himself to the reasons showing the necessity for this bridge.

Mr. TRUMBULL. I have stated that the engineer department say that a bridge is necessary. They recommend the construction of a bridge. The island of Rock Island, as the Senate knows, is separated from the main land by water, and there must be some means of access to it; and the engineers say that a bridge is necessary, and they have recommended it. In the construction of that bridge it is thought desirable and economical to the Government to bring in this railroad company and make them pay half the expense. I am informed that the engineers estimate the expense of the bridge at \$1,000,000; and the railroad company have entered into a contract to pay one half of the expense of that construction, so that it will cost the Government of the United States \$500,000 and the railroad company \$500,000.

Mr. MORRILL, of Vermont. The Senator does not state that precisely as the Senator from Iowa does. The latter Senator says he does not want the second section stricken out, so as to compel them to do it.

Mr. TRUMBULL. They have already come to that understanding; and this bill, it has been stated to the Senator from Vermont by the Senator from Iowa certainly once, and I think twice, was drawn up at the War Department on an understanding between the company and the War Department, and the first section provides that the railroad company shall pay one half the cost of the construction of the bridge from the island of Rock Island to the Iowa shore, and shall build at their own expense the entire bridge on the Illinois side.

Mr. HOWARD. What is to be the expense of building from the island to the Iowa shore?

Mr. TRUMBULL. I do not know the expense of that part of it, but the whole superstructure is estimated at \$1,000,000.

Mr. HOWARD. On both sides?

Mr. TRUMBULL. On both sides of the island.

Mr. HOWARD. Then the bridge on that side will probably be worth \$500,000.

Mr. TRUMBULL. I do not know what it would be on that side, but the provision of the bill is:

That the ownership of said bridge shall be and remain in the United States, and the Rock Island and Pacific Railroad Company shall have the right of way over said bridge for all purposes of transit across the island and river, upon condition that the said railroad company shall pay to the United States, first, half the cost of the superstructure of the bridge over the main channel and half the cost of keeping the same in repair, and shall also build at its own cost the bridge over that part of the river which is on the east side of the island of Rock Island, and also the railroad on and across said island of Rock Island; and upon a full compliance with these conditions said railroad company shall have the use of said bridge for the purposes of free transit, but without any claim to the ownership thereof; and said railroad company shall, within six months after said new bridge is ready for use, remove their old bridge from the river and their railroad track from its present location on the island of Rock: And provided further, That the Government may permit any other road or roads wishing to cross on said bridge to do so by paying to the parties then in interest the proportionate cost of said bridge.

The railroad company pays half the expense of the bridge over the main channel, which is west of the island of Rock Island, and the bridge belongs to the United States, the United States controls it, and the company is to have the right to pass over it, and it is to be a wagon bridge as well as a railroad bridge.

Mr. HOWE. I wish to ask the Senator a question. My attention is just called to this measure for the first time, and I wish to ask of him if he conceives that Congress has the power to declare any structure placed by private parties over that river to be a nuisance and upon their own motion to abate it without paying damages to the owners of the structure?

Mr. TRUMBULL. I consider that the United States has the authority at any time to remove an obstruction by declaring it a nuisance, or without declaring it a nuisance, in the navigable waters of that river, without damages to anybody. We appropriate millions of dollars nearly every year to remove obstructions to the Mississippi river.

Mr. HOWE. But the question is whether the determination of Congress that a certain structure is a nuisance is final on the parties?

Mr. TRUMBULL. Congress has a right to remove it whether it be an obstruction or not.

Mr. HOWE. Remove a structure put there by a private individual?

Mr. TRUMBULL. If a structure made by any private party is an obstruction to the navigable waters of the Mississippi, Congress by law has a right to direct any officer to remove it without incurring damages to anybody.

Mr. HOWE. I must say that upon that question of law, I am obliged to differ with the Senator from Illinois, with great diffidence and respect. I think he is entirely wrong about that. I think the only right that the Government has to interfere with the private property of any individual over waters or in waters, is upon the ground that it is an obstruction to navigation.

Mr. FESSENDEN. A part of the present bridge of course rests upon Rock Island. Is not that the exclusive property of the United States?

Mr. TRUMBULL. The island is, and you can direct the bridge to be removed.

Mr. CORBETT. Then it is private property, and it has been built with the consent of, or without any objection from, the United States, and the parties have been suffered to use it for ten years. The question to my mind now is whether the United States can, without taking proper proceedings to condemn the property, go and tear down that bridge and destroy the rights of private property without compensation. It seems to me that the Government has not the right without condemning the bridge as a nuisance. If a commission is appointed and it is condemned as a nuisance and an obstruction to navigation, then it may be torn down; but without that I cannot see that there is any such right. It appears to me

that the bill is destructive of the rights of private individuals and private property, and that they can come upon the Government for damages. Unless there is an amendment made in that respect, I cannot vote for the measure.

Mr. WILSON. Mr. President—

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is regularly before the Senate.

Mr. HARLAN. I ask that we be allowed to take the vote upon this joint resolution. I think a vote can be had in a few minutes.

Mr. TRUMBULL. Yes, let us have the vote.

Mr. WILSON. I propose to discuss this question.

The PRESIDENT *pro tempore*. By unanimous consent the unfinished business of yesterday may be laid aside informally.

Mr. WILSON. If the consideration of this bridge bill is to be continued, I propose to discuss it now.

Mr. EDMUNDS. Let us finish the tax bill. I ask for the regular order.

Mr. HARLAN. I think there will be great economy of time in taking the question on this joint resolution now. There are doubtless a few members of the Senate who are opposed to it, but I think we can soon get a vote on it; and in order to test the question, I move that the special order be postponed for thirty minutes.

Mr. SHERMAN. I trust not.

Mr. TRUMBULL. It will not take long; give us thirty minutes.

Mr. SHERMAN. I do not think the tax bill will take long.

The PRESIDENT *pro tempore*. The Senator from Iowa moves that the unfinished business of yesterday be postponed for thirty minutes.

The motion was not agreed to, there being on a division—ayes 17, noes 19.

#### REPORTS FROM PRINTING COMMITTEE.

Mr. ANTHONY. The Committee on Printing, to whom was referred a motion to print the report of the Secretary of War, communicating information relative to the purchase and sale of vessels by the War Department during the war of the rebellion, have directed me to report it without recommendation. I move its indefinite postponement. There is no use in printing this document.

The motion was agreed to.

Mr. ANTHONY. The same committee, to whom was referred a resolution to print four thousand additional copies of the report of the Committee on Retrenchment upon the diplomatic and consular service of the United States, have instructed me to report it back without amendment and recommend its passage. I ask for its present consideration.

By unanimous consent, the resolution was considered and agreed to, as follows:

*Resolved*, That four thousand extra copies of the report of the Committee on Retrenchment upon the diplomatic and consular service of the United States be printed for the use of the Senate.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 600) to authorize the sale of portions of the military reservations at Forts Leavenworth and Riley, in the State of Kansas; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 601) granting land to the Territory of Dakota in aid of the Sioux City and Pacific Railroad Company, authorizing said company to extend said road through the Territory of Dakota; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 602) to provide levees to secure the low lands of Arkansas and Missouri from in-

undation, and to encourage the settlement thereof; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 603) to aid in the construction of the International Pacific railroad from Cairo, Illinois, to the Rio Grande river, to authorize the consolidation of certain railroad companies, and to provide homesteads for the laborers on said roads; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. WELCH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 604) regulating the times and places of holding the district and circuit courts of the United States for the northern district of Florida; which was read twice by its title, and referred to the Committee on the Judiciary.

#### PUBLIC BUILDINGS IN NEW MEXICO.

Mr. YATES submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, that the Secretary of the Interior be requested to inform the Senate what action, if any, has been had in consequence of the ninth section of the act approved March 2, 1867, directing him to procure an examination to be made of the condition of the public buildings in the Territory of New Mexico, and report to the next Congress an estimate of what amount is necessary to complete the same, and also the sums of money, if any, which have been expended in making such survey; also what sums, if any, have been expended in repairing or completing said public buildings since the date of the above-mentioned act.

#### REPORT OF ACADEMY OF SCIENCE.

Mr. SUMNER submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, that there be printed of the report of the National Academy of Science for the year 1867, together with the scientific memoirs appended to the same, one thousand extra copies for the use of the academy.

#### NAVY-YARD EMPLOYÉS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, that the Secretary of the Navy be directed to report for the information of Congress the number of persons employed in the navy-yards, and in what capacity, on the 1st day of January, 1868, and the number so employed on the 1st day of July, 1868.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to some and disagreed to other amendment of the Senate to the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, and agreed to other amendments of the Senate with amendments; asked a conference on the disagreeing votes of the two Houses on the said bill, and appointed Mr. ELIHU B. WASHBURN of Illinois, Mr. BENJAMIN F. BUTLER of Massachusetts, and Mr. WILLIAM S. HOLMAN of Indiana, conferees on the part of the House.

The Senate proceeded to consider its amendments to the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, disagreed to by the House, and the amendments of the House of Representatives to other amendments of the Senate.

On motion by Mr. MORRILL, of Maine, it was

*Resolved*, That the Senate insist upon its amendments to the said bill, disagreed to by the House of Representatives, and disagree to the amendments of the House to other amendments of the Senate thereto, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. MORRILL of Maine, Mr. HARLAN, and Mr. COLE.

#### RIGHTS OF CITIZENS ABROAD.

Mr. CONNESS. I wish to move to make

the bill reported by my friend from Massachusetts, to protect American citizens abroad, the special order for Friday evening next, at half past seven o'clock. I wish to say in this connection that—

Mr. SHERMAN. I must object. I call for the regular order of business.

The PRESIDENT *pro tempore*. The regular order is the unfinished business of yesterday, and nothing else is in order except by unanimous consent.

Mr. CONNESS. I hope the Senator will allow me to make this motion. It will not interfere with business.

Mr. SHERMAN. It will lead to debate.

The PRESIDENT *pro tempore*. Is there any objection to the motion?

Mr. SUMNER. I prefer that the Senator should withhold his motion for the present, and that we may take the bill up some day next week. I have my reasons for it.

Mr. SHERMAN. I object, then.

The PRESIDENT *pro tempore*. The motion is objected to, and cannot be received.

Mr. SHERMAN. Let us go on with the tax bill.

#### INTERNAL TAXES.

The PRESIDENT *pro tempore*. The bill (H. R. No. 1284) to change and more effectually secure the collection of internal tax on distilled spirits and tobacco and to amend the tax on banks is now before the Senate as in Committee of the Whole. The Senator from Kentucky [Mr. DAVIS] is entitled to the floor on an amendment which he was about to offer, and has not yet sent it to the Chair.

Mr. CONNESS. Now, with the leave of the Senator from Kentucky, and on this bill, I wish to say what the courtesy of my friend from Ohio would not permit me to say before, that in the report of the Associated Press made of the proceedings of the Senate the other day when a motion was submitted for evening sessions, it was stated that the Senate refused to order evening sessions for the purpose of considering the bill that I referred to a moment since. That was not a correct report. The Senate did not make any such refusal, and that statement I desire the reporters to take notice of this morning, because it is not just to the Senate. I now desire, in conclusion, to say that I accept the suggestion of the honorable chairman of the Committee on Foreign Relations, and with him or through him will hope for the consideration of the bill at an early day.

Mr. SUMNER. I should be glad to have an understanding with the Senator at an early day next week in regard to that bill.

Mr. DAVIS. I have had an amendment prepared on consultation with the Commissioner of Internal Revenue, which I now propose. It is to add to the third section of the bill the following provision:

But any person may produce alcoholic vapor by vaporization from fermented mash, using such vapors in the manufacture of vinegar in the same building where produced; and such person shall be deemed a distiller and subject to all the provisions of law relating to distillers, except that the special tax to be paid by him shall be twenty dollars instead of the special tax laid on distillers, and except that the vinegar produced not containing any alcohol shall not be deemed distilled spirits within the meaning of the law relating thereto, but upon vinegar so manufactured there is hereby laid a tax of five cents per gallon; and the method of return, assessment, and collection of such tax shall be regulated by the provisions of law relating to manufacturers, as those provisions existed on the 30th of March, 1863; not, however, to the exclusion of any provision relating to distilled spirits which shall be capable of being applied to the manufacture hereby allowed.

I will state to the Senate that I was up to see the Commissioner of Internal Revenue in relation to this proposition, and he called in his chemists and other officers to the number of about half a dozen, and after full consultation this amendment was agreed upon. It will provide more revenue, and is so guarded, as these gentlemen think, as to be impossible to be the cause of any fraud upon the revenue.

I will remark further that a patent for making vinegar upon this principle was obtained. It is prepared as though it was to be distilled; it

is vaporized, and in that state it is mixed with the mash, and it then makes vinegar; and when it is made into vinegar or in any intermediate stage it is wholly incapable of being put into alcoholic form. That is what all the gentlemen up there said this morning. This proposition is made with the approval of the officers of that bureau. It was drawn up by them after full and patient consideration, and I think it well guarded.

Mr. SHERMAN. The Committee on Finance examined this matter very carefully. The person claiming to have made an invention for making vinegar by this process came before the committee and made an explanation; but we were satisfied that this provision could not be complied with with safety to the revenue. The process of making vinegar according to this patent is a distillation of spirits precisely as in the form of ordinary distillation, but the spirits are held in vapor, vaporized instead of being condensed into whisky. It is transferred and forms the component part of the manufacture of vinegar. By this process a very cheap kind of vinegar has been made and sold in the market, and in this way this inventor has undersold all the ordinary forms of home-made or old-fashioned vinegar made out of cider, out of the pumice of apples. The only difference between his mode of distillation and the mode of distilling whisky is that he does not condense the vapor into spirits, but uses the vapor to make vinegar. It is nothing but whisky. According to his statement but five per cent. of the aggregate of the vinegar is whisky; and it is much safer and much better for him to pay the tax, which will be about equivalent to \$1 20 on a barrel of vinegar, than to open the door to wholesale frauds. While I do not impute to this gentleman any desire to commit frauds, yet as a matter of course, if this privilege is given a vast amount of the whisky instead of being condensed in the form of whisky will be transferred in the form of vapor into vinegar or other substances. It seems to me it would not be safe. The old-fashioned mode of making vinegar was by the very simple process of converting cider, or the drippings of the pumice of apples, into vinegar.

The Army regulations prohibit the use of this manufactured vinegar, and my own impression is that it is deleterious to the public health and ought not to be used by any one. The proper vinegar to be used is that made in the ordinary way by the simple process of souring cider. It seems to me that this proposition is encouraging an unwholesome practice at best to the danger of the public revenue. That is the conclusion to which the committee came.

As to the information that is now given from the Commissioner of the Internal Revenue, I only know that so far as we had any information officially he was opposed to it. Perhaps he has been able to draw up a section that he thinks they might with great care prevent frauds under, but we have no official information from him on the subject. I do not at all question what the Senator from Kentucky has said; but I do not think it will be wise for us to adopt this amendment without further examination.

Mr. HENDRICKS. I hope the amendment proposed by the Senator from Kentucky will be adopted. I have had a personal interview with one of the manufacturers of vinegar in Chicago, a former friend of mine in the State of Indiana, in whose statements I have entire confidence. I think the liquor used in the manufacture of vinegar ought not to be liable to be taxed. It has not heretofore, as I understand, been subject to tax, but it is supposed by the manufacturers that the phrasology of this bill will compel them to pay that tax. It is very sure that it would not be the purpose of Congress to tax an article so indispensable for domestic use as vinegar.

Mr. SHERMAN. We do not tax vinegar except that made under this patent process by the mixture of whisky. We do not tax vinegar made by the old process.

Mr. HENDRICKS. Of course there is no



direct tax on vinegar, but the phraseology of this bill imposes this indirect tax. and, as this gentleman informs me. it will very materially, and perhaps almost ruinously interfere with the business. I do not know anything about the quality of the vinegar that is thus produced. I take it that the people who buy and use it can judge of that. The parties claim to manufacture a good article. How that is, or what may be the decision of Army officers on the subject, I have no information; but it is vinegar that is very much used, and in the manufacture of which it is necessary to use some distilled liquor in the form, I suppose, mentioned by the honorable Senator from Ohio. It seems to me there will be no difficulty about preventing frauds. The great fear of frauds ought not to induce us to tax an indispensable article of food.

Mr. SHERMAN. There is one other consideration I wish to mention. If you yield to this demand that there shall be no tax on the spirits actually used in vinegar, you must also yield to the same demand in regard to medicines indispensably necessary for human life. There are a number of medicines, the names of which I could give, that are admitted to be excellent, which contain more or less of spirits. These spirits are not used in the raw form, but in various processes by distillation and redistillation. The very moment you open the door and allow any commodity that has spirit in it to escape tax, you must extend the same exemption to a multitude of articles that are much more meritorious than manufactured vinegar. There are a great many preparations that are necessary and proper medicines, and if you make this exemption in favor of whisky used in the manufacture of vinegar, how can you deny it to them? Here is a manufactured article that I think is deleterious. Vinegar is supplied cheaply and in great quantities by a natural process. This process simply reduces the price of ordinary vinegar about four or five dollars a barrel, according to the statement of this gentleman, while the whole tax levied by this act on the spirits in the barrel would be only \$1 20. The manufacturer may well afford to pay the tax on the two gallons of whisky consumed in manufacturing a barrel of vinegar, and he can then undersell the home-made article. I do not think it will do to open this door.

Mr. DAVIS. The proposition contained in the proposed amendment subjects the manufacturer of vinegar to two taxes, first to a specific tax of twenty dollars for the privilege of making vinegar, and second, it subjects the manufacturer of vinegar to tax on the amount of alcohol that he uses in the manufacture of the vinegar. There are from two and a half to five gallons of alcohol used to a barrel of vinegar, and whatever amount of alcohol may be used is subject to taxation by this proposition.

I admit that the manufacturer of vinegar by this process makes his mash precisely as mash is made to distill whisky. He then transfers the alcohol in the mash into the aeriform condition; but the amount of alcohol in each barrel of vinegar, it is provided, shall be ascertained and be subject to the taxation of fifty cents per gallon.

In relation to the article that is produced by this process, I say it is the best vinegar, as tested in the city of Louisville, that has been made by any process for the manufacture of vinegar. It is preferred by those who consume vinegar in all shapes and for any purpose, to any other article of vinegar, and the effect of its production has been in the city of Louisville to reduce the price from \$12 50 per barrel to \$7 50 per barrel. This manufacture under the present patent is yet in its infancy; but in that city the effect has been already to reduce vinegar at the rate of five dollars a barrel, and to produce a superior article. The gentleman who is engaged in manufacturing vinegar in that city is the patentee, and he has associated with him men of capital, and they have erected an establishment at a cost of

upward of fifty thousand dollars, which is now in full operation and making one hundred barrels of vinegar per day. Now, after this citizen has made a useful discovery, and has reduced it to practice, and has obtained from the Government letters-patent for the use of his improvement in the mode of making vinegar, and when he has expended \$50,000 in erecting a manufactory to distill it, and when he comes here with a proposition in which he agrees that he will pay a specific tax of twenty dollars for the privilege of making vinegar, and that every gallon of alcohol which he uses in the process shall be taxed fifty cents per gallon, and when all the revenue officers have devised the means of preventing fraud which they think will effectually prevent it, the question is whether the Senate will insist upon his losing the benefit of his patent-right and of his investment of \$50,000 for machinery and buildings for the purpose of manufacturing this article, or whether the Senate will consent that he shall manufacture it on the terms which he has assented to, and which make it impossible, with any degree of fidelity and vigilance on the part of the officers, that there should be any fraud whatever in the manufacture of the article. It seems to me that it would be peculiarly hard to refuse this to a man who has invented this mode of making vinegar, and who, with his associates, has adventured so much money in the preparations necessary for manufacturing it. Now, to deny to him the privilege of manufacturing it by insisting on terms that would amount to a suppression of the manufacture, would be acting in an improper manner, as I think.

I am sorry that this proposition encounters the opposition of the honorable chairman of the Committee on Finance. Here is a great necessity of absolute and universal use all over the country, the article of vinegar. Here is a great improvement in the manufacture of that article that improves the manufacture of the article itself, that cheapens it in the course of twelve months about thirty-three per cent. to the consumer, in which a large sum has been adventured for the purpose of continuing and expanding the manufacture; and it seems to me that it would be harsh and unjust in the extreme degree now to subject this man to conditions that would preclude him absolutely from the further continuance of the manufacture of the article. I trust that the amendment will be adopted. I ask for the yeas and nays upon it.

The yeas and nays were not ordered.

Mr. HENDRICKS. I understand from the Senator from Kentucky that this amendment was prepared at his suggestion in the Department, and that it is supposed that it will avoid any possibility of fraud or evasion. It only, then, leaves the question whether we are willing to tax such liquors as are necessary in the manufacture of vinegar.

Mr. SHERMAN. The Senator's own reflection will convince him that the cost of watching this distillation and avoiding fraud will be more than all we receive from vinegar. Another thing, we have provided here a small tax of twenty or twenty-five dollars as a special tax for a compounder of liquor. The vinegar-maker would be a compounder, because he would have the alcohol already made, condensed from the worm, and use that in his business. There is no trouble in his carrying on his business. Instead of taking the alcohol in vapor, as he proposes, he would take his alcohol in the ordinary state and use it in the manufacture of vinegar, and he pays a special tax for that of only twenty-five dollars. Under the present law as it stands, there is no difficulty in his carrying on his business, provided he is willing to pay the ordinary tax of sixty cents a gallon on whisky.

Mr. DAVIS. I will merely remark that this vapor is not condensed in the process of manufacturing vinegar, and the gentleman engaged in the manufacture would be perfectly willing to agree that if any condensing apparatus should be found upon the premises the

whole establishment should be forfeited. He entered upon this manufacture with the single purpose of making the best article of vinegar without any fraudulent intent whatever. He and his associates present themselves here, consenting to such guards as the officers of the Treasury upon full consultation have agreed to as sufficient for that purpose, and if they are not sufficient they are willing to submit to any other guards that the officers of the Treasury or the Committee on Finance may choose to impose upon them. They do not condense nor propose to condense the alcoholic vapor. They use it before it is condensed, and at any stage of the process to final conversion of it into vinegar, or any intermediate process, it is utterly impossible to extract alcohol from it. All the chemists, in the presence of the Commissioner this morning, at the Department so stated; and they drew up this proposition themselves, as calculated to protect the Treasury and the Government against all fraud; and if it is not sufficient, they may devise any other means that they please for the purpose of rendering fraud impossible, and especially they may make the presence of any machinery for condensing upon the premises evidence of fraudulent intent, and forfeit the whole establishment in consideration of the presence of any such machinery for condensing.

It is certainly, I think, a very hard case to this patentee, after having made this discovery of the most useful and the speediest and the cheapest way of manufacturing vinegar, and manufacturing it, as he does, at a cost of thirty-three and a third less than it has heretofore been manufactured. He has paid for his patent-right; he has the pledged faith of the Government that he shall be allowed to use that patent-right. He then goes on to invest \$50,000 in the construction of a building and the necessary manufacturing apparatus to continue the production of this article, and it would be, in my opinion, a want of faith on the part of the Government to deny him the right of continuing the manufacture when the Treasury officers themselves report that he can continue it without the possibility of fraud. I hope that the Senate will adopt the amendment.

The question being taken by yeas and nays, resulted—yeas 8, nays 25; as follows:

YEAS—Messrs. Buckalew, Davis, Fowler, Hendricks, Johnson, McCreery, Van Winkle, and Wade—8.

NAYS—Messrs. Anthony, Cattell, Chandler, Cragin, Drake, Edmunds, Ferry, Fessenden, Harlan, Henderson, Howard, Howe, McDonald, Morgan, Morrill of Vermont, Morton, Osborn, Ramsey, Sherman, Stewart, Sumner, Trumbull, Williams, Wilson, and Yates—25.

ABSENT—Messrs. Bayard, Cameron, Cole, Conkling, Conness, Corbett, Dixon, Decolittle, Frelinghuysen, Grimes, Morrill of Maine, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Rice, Ross, Saulsbury, Sprague, Thayer, Tipton, Vickers, Wolch, and Wiley—25.

So the amendment was rejected.

Mr. FOWLER. I move to amend the bill by striking out in line eight of section three the words "the distiller," and inserting "the United States."

The PRESIDENT *pro tempore*. That amendment is not now in order. It will be in order when the bill is reported to the Senate. The third section referred to has been inserted as an amendment, and is not now amendable.

The bill was reported to the Senate as amended.

Mr. FOWLER. Now I move to amend the third section by striking out in line eight the words "the distiller" and inserting "the United States;" so as to read, "and the same shall be furnished and attached to the distillery at the expense of the United States."

I suppose the object is to collect the largest amount of revenue we can, and in this view we are to encourage this interest of the country. It is to be considered for the purposes of this bill as one of the interests of the country in the same light as other interests are considered. It is to be viewed in the same light as the manufacture of iron, or the manufacture of cotton or woolen goods, or any other pursuit. There are a large number of distilleries that this provision would impose a burden of from twenty-

five to one hundred per cent. upon in getting this single instrument, and it is without any certainty as to the result. The only object of it seems to be to crush out the small distilleries of the country, whereas it is understood by those best versed in such matters that the frauds have been perpetrated on the Government not by small distilleries but by large ones. I do not think it can be the true policy of the Government to crush out any interest in this way. As well might you impose heavy burdens on small farmers or small manufacturers of cotton or woolen goods as upon small distillers. The result is to deprive small distillers of the use of their capital in this pursuit and force the business into large establishments, and prevent any persons pursuing this branch of business unless those who have a large amount of capital. I am opposed to that policy not only with respect to this, but with respect to every other pursuit.

Mr. SHERMAN. The only question here is whether the United States or the distiller shall pay for the necessary meters and meter-safes. Under the present law the distillers pay for them, and many of them have supplied themselves with them. All the United States have to do in regard to meters is simply to prescribe the form and manner and kind. Certainly to throw on the United States the burden of furnishing meters and meter-safes for all the distilleries in the United States would be an extraordinary thing.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on concurring in the amendments made as in Committee of the Whole. The question will be taken on all the amendments together, with the exception of such as may be indicated for a separate vote.

Mr. BUCKALEW. I ask for a separate vote on the amendment to the fiftieth section.

Mr. CONNESS. I desire to ask a question. In Committee of the Whole a proviso was adopted to the first section of the bill. I desire to know whether if that is concurred in will be subject to still further amendment. ["No," "No."] Then I desire to ask for a separate vote on the question of concurring in that amendment, because I wish to move an amendment to it.

Mr. McCREERY. I wish to give notice that I will offer amendments in the following sections: section twelve, now thirteen; section nineteen, now twenty; and section thirty-two.

The PRESIDENT *pro tempore*. The first excepted amendment will now be read.

The Chief Clerk read the amendment to add at the end of the first section the following proviso:

*Provided, That the tax on brandy made from grapes shall be the same and no higher than that upon other distilled spirits.*

Mr. CONNESS. I renew the amendment offered by my colleague in Committee of the Whole to that amendment. The proposition is to strike out the words "the same and no higher than that" and insert "one half the tax;" so as to make the proviso read:

*Provided, That the tax on brandy made from grapes shall be one half the tax upon other distilled spirits.*

Mr. HOWE. Mr. President, I desire to say to the Senate a few words on this first section, although not upon the particular amendment just now moved; and I take the opportunity, with the permission of the Senate, to say them now, because I am expecting every moment to be called out of the Senate to act upon a committee of conference.

The first section of the bill has one feature which is more obnoxious to me than I know how to state. I have done everything but lay awake at nights to discover some language by which I could express my view of the proposition contained in the first section and yet be consistent with my feelings toward the members of the committee who have reported it. I confess I have the most profound respect for each and every member of that committee;

and yet when I come to look at this piece of their handiwork I have thought of but one word in the English language yet that comes anywhere near the expression of my views of it, and that is that it is humiliating. But I do not suppose I ought to say that of the section, because it might by some persons be thought to reflect upon the committee of the Senate. I know the ability and the integrity and the industry which characterize that committee; but, after all, here is a proposition made to the American people to remit about one dollar and forty cents per gallon of the tax which for some years we have asserted should be collected upon this article known as whisky.

When this tax of two dollars per gallon was first imposed upon that article I had the distinguished honor of being a member of the Finance Committee. I outgrew that long ago. But while I was upon the committee I am happy to remember to-day that I took an active part in securing this increase of the tax on distilled spirits. While that measure was pending I was in the habit of conferring with numbers of gentlemen from different portions of the United States who were then engaged in the distillation of these spirits. I found among them many gentlemen as intelligent and as honest, I verily believe, as any men with whom I have ever conferred upon any subject; and I remember to-day that among the whole number I never found a man who professed to care a fig whether the tax was twenty cents a gallon or two dollars per gallon. I never found a man among them who did not believe that so far as the manufacturers were concerned they could just as well afford to pay two dollars as to pay anything. They asked that they should not be compelled to advance this high tax to the Government in advance of sales; but if they could be allowed to retain the payment until their sales were made they were perfectly willing to pay the two dollars per gallon simply because they knew the consumer would pay it to them. Whisky is just as sure to sell in the market at its cost as wheat is, or as corn is. It was then; it is now. That was the testimony of honest distillers engaged in the business at that time.

And, Mr. President, I am glad to say that I do not remember ever to have met but one consumer from that day to this who objected to paying or having the tax of two dollars per gallon paid. I believe the great body of consumers, especially of those who consume it as a beverage, feel, as I think I expressed myself at the time, that it made a more respectable beverage out of it when it had contributed two dollars per gallon to the necessities of the Government than when it came to you so excessively cheap as the distillers were in the habit of furnishing it before this tax was put on. I think to day as I thought then, that it is not creditable in the Government, it is not creditable to the industry of the people, to furnish so much drunkenness as there is in a gallon of whisky at forty cents, as you could furnish it at if there was no tax on it, or at a dollar, as you can furnish it with a tax of only fifty or sixty cents per gallon. I do not think it is a respectable thing.

Now, Mr. President, why is this proposition brought before us at this time to reduce this tax from two dollars to sixty cents a gallon? It is not because you are getting too much money; it is not because your Treasury is overflowing; it is not because you are debauching and demoralizing the American people with a superabundant Treasury; it is not because you have more money than you know how to expend. You are, on the contrary, racking every resource upon which you can place your hands to get the money with which to meet the pressing, the urgent demands of the nation. What, then, is the reason for putting this tax down? Does it discourage any branch of industry? Does it discourage any kind of production which the nation cares to foster, or wishes to build up, or to promote? No man here will pretend that. If it discourages anything, any kind of production, it is the pro-

duction of this one article, distilled spirits; and I do not think there is any sound interest in the Government which would be injured if we did, by our legislation, discourage the production of whisky. But the simple fact is, it would not discourage the production of that article, nor the consumption of it. There will be no more or less whisky drank in the country or consumed in the country whether the tax be sixty cents or two dollars. Where there is an appetite for the use of this article as a beverage that appetite is proof against any measure of taxation that you ever have proposed yet. Where there is a necessity for the use of it in mechanics, of course that necessity will have to stand this great tax. But the amount of this distillation which is used in mechanics as compared with the quantity which is used as a beverage is nothing at all.

Then what is the reason for urging upon us this reduction? I do not know but that it has been stated in the course of this debate; it is understood throughout the country, understood as plainly as if it was recited in a preamble to this bill. The proposition rests upon the allegation that two dollars per gallon cannot be collected; that the Government is not equal to the task of collecting this amount of two dollars per gallon. Why, sir, when you first commenced taxing whisky, the manufacture of that article was in the hands of men the great body of whom would have gone on foot to your collectors to pay any amount of tax you saw fit to impose rather than to rest under the odium of attempting to deprive the Government of any portion of its legitimate revenues. That the character of the gentlemen engaged in this manufacture may have changed very much since that time I cannot undertake to deny. That the individuals engaged in it have changed very much, I know; for I have seen many men who were engaged in the manufacture then who are no longer engaged in it, and I have heard of others who were engaged in it then and are no longer engaged in it. But I do not pretend to say that if every man who then was manufacturing distilled spirits was now doing it and was as honest to-day as he was then, he, under the operation of your revenue system, would take the trouble to walk out of his town or to walk out of his office to see this tax collected. He could not afford to do it. No man can afford to-day to be honest who is engaged in the manufacture of distilled spirits simply because the Government itself tolerates and winks at, and covers up, aids and abets so many dishonest, corrupt, wicked, nefarious men who are engaged in the same business. It is manifest that an honest distiller cannot afford to pay to your Treasury two dollars a gallon on his production when the dishonest one settles with the same Treasury at one dollar per gallon. He can afford to pay the two dollars if the Government will see to it that nobody else makes whisky cheaper than he does or settles with the Treasury at a less figure than he does. It is only upon that condition that he can afford to pay his taxes.

We know very well that the Government has not enforced the collection of this tax heretofore. Before you commenced the taxation of whisky you were making about eighty million gallons a year. I suppose no man pretends that the production is any less than it was then. I have no doubt it is much more. I believe we are now getting about one million dollars a month, or something like that, from this source. That shows you simply that your revenues from this one source are defrauded to the extent of about one hundred and seventy million dollars per annum. That money, I suppose, is divided among the dishonest and knavish men who are employed in the manufacture and who are employed in the collection of your revenue. It is an enormous sum.

Now, Mr. President, these laws have been in existence some five or six years. It is some six years since you first commenced to tax whisky. From year to year the Legislature has made it its business to perfect the system, to improve the machinery by which these taxes

are collected. This is the last attempt at improvement. I have not had the opportunity to examine this bill very carefully. So far as I have examined it I am inclined to think it is a decided improvement upon anything that we have ever had upon the statute-book before. It seems to me very carefully drawn. But I admit that there is no statute in the world, be it ever so cunning, that can stand in the place of, or answer for, an honest officer. The great defect in your system at this time is that you have not honest officers, and you have not men at the head of your system who will call dishonest officers to any just or fair accountability.

The different methods by which your revenues have been defrauded in this one article are just as familiar to the great body of the people of the United States, to the whole body of its business men, as they are to the men who are engaged in perpetrating those frauds themselves. They are in the mouths of everybody, Senators are repeating them, members of committees are repeating them, telling them here on the floor. They go into the columns of the Globe. They go into the columns of the newspapers throughout the country. You know all the expedients and all the tricks. Different schemes have been detailed here over and over again. This very season I have heard of some individuals connected with this branch of the service being brought to grief by reason of their rascalities. But, sir, it is known to the President of the United States; it is known to the Secretary of the Treasurer; it is known to the Commissioner of Internal Revenue; it is known to the country that hundreds and hundreds of the most gigantic frauds, amounting to millions in specific instances, have been perpetrated. Every step has been detailed, but no attempt has been made to call any one of the officers within whose jurisdiction these great frauds have been perpetrated to any sort of an account.

Mr. President, when the whole press of the country resounds with the fact that vessels are loaded with barrels under the pretext of exporting whisky and nothing but water is sent out, or when vessels under the same pretext are loaded with whisky and that whisky never goes out of sight of land, but returns and is unloaded within a particular collection district of the United States, one would suppose, when such facts as those are narrated, if you had an efficient and honest administration of the Executive Departments, the revenue officers would be in danger of losing their places.

Mr. CONNESS. Not a bit.

Mr. HOWE. "Not a bit," says the Senator. Yes; they would be in danger of losing their places if the Senator himself was at the head of one of these Departments. It would not do for a collector or an inspector in that district to say "I did not know anything about that." The Senator from California would tell him at once when he urged that plea that he was not the man for his place; that he was decidedly out of place; and that he could find a better man for it; for he knows, as you know, and as I know, that it is not difficult to find men for each one of these places who cannot be manipulated and put to sleep every time one of these fraudulent shipments is desired or attempted.

And so, Mr. President, when a large quantity of spirits is forwarded from a distillery in the interior of the country to the sea-board in bond and never reaches the warehouse, but goes upon the market before getting there, and that fact becomes notorious and is in the mouths of everybody, an efficient officer at the head of the revenue system having control of his subordinates would see that more vigilant and careful officers were put in the place of those who had allowed such things to be done.

I have another remark to make. When the whole country stands pointing their finger toward individual collectors and assessors and inspectors who are working at a prescribed salary, so many dollars a day, or so many thousands a year, and when you are told that they

are piling up fortunes in a month, and you are made to see the fortunes, to see them suddenly transformed from poor men to millionaires—I say, when such circumstances are pointed out, and they go on from day to day, it is an explanation of this mystery whereby your tax upon the statute book continues so very heavy, and your income from this source is so very light; and it is another instance I think, in which, if you had an efficient administration of the Executive Departments of your Government, such spectacles would not any longer be seen.

Now, we do encounter, we have encountered, these difficulties. I know the Finance Committee cannot change these officers; the Senate cannot; both Houses of Congress cannot. There was a time when we might have prevented a great many of these appointments, but we did not do it. Such men, men of this character, are now in office. For the purpose of what I have to say this morning I am willing to admit what I suppose the Committee on Finance assert, that the tax of two dollars per gallon cannot be collected. But I say, if the fact be so, it does seem to me, nevertheless, the Committee on Finance have mistaken terribly the remedy. It is no remedy to reduce this tax to fifty cents. You have dishonest men engaged in this branch of the service. They will not collect or they will not account for this tax. Why, sir, that same class of men will remain in office after you have passed this bill, and if they will not collect and account for two dollars, they will not collect and account for fifty cents.

I have heard it said that these distillers would pay the fifty cents rather than run the risk of detection. Why, Mr. President, they will pay two dollars just as quick as fifty cents. The great mass of them run no risk of detection. Their arrangements are perfected with the officers; they are in full communion with the Government itself, through its employés, and know exactly the terms upon which they are doing business; and they run no more risk than the Government does. To be sure, if somebody, who has no duty to perform, outwits the distiller, and the assessor, and the collector, and the inspector, and informs the Commissioner or the Secretary, then the distiller may come to grief, and so may the collector, and so may the inspector. Whatever risk there is is mutual. They all share in it. But that risk is so very light that I feel great confidence in assuring the Committee on Finance that they will find fifty cents a gallon abundant to encourage them still to go on with this same copartnership to the end. Fifty cents on eighty million gallons will yield \$40,000,000, and that is a pretty good fund to steal from. It ought to satisfy a large number of reasonable thieves.

The Senator from Nevada [Mr. STEWART] shakes his head; says it will not. I suppose he thinks they have been so high fed heretofore that they will not compromise for forty millions. He may be right. He may know better than I do. He may be right; but all I have to say in reply to that is, if they are not willing to take the forty millions, they will take the balance out of your other sources of revenue; and if that theory is correct you ought by all manner of means to keep up your tax to two dollars for the express purpose of furnishing a fund which will satisfy the rascals, which will content the thieves, and which will encourage or induce them to pay the balance of your revenue into the Treasury. To-day you start out in this bill with this proposition, that you have an army of thieves engaged in collecting the revenue, and in order to swell the resources of the Treasury you propose to reduce the amount of the revenue. You admit you cannot control them; you confess that they are stronger than the Government; you confess that rascality is supreme over honesty in the nation, and then reduce the fund upon which they are allowed to plunder, and you expect them to deal honestly with the other sources of revenue! It seems to me we shall find ourselves mistaken.

I do not venture the prediction that your revenues from this source will not be increased if you put this tax down to fifty cents a gallon, for I do not know what is in the future. If the gentlemen outside of Congress can control the action of Congress; can make us reduce a tax when they tell us to, or raise it when they tell us to, and if they have decreed that putting this down to fifty cents is only a temporary measure, that it is resorted to only to enable them to get out of bond the large quantity which is collected there, and to manufacture at this low rate an additional amount which will supply the consumption for a year, and then to be followed with another sudden and great rise—if that be the theory upon which this legislation is based, then I admit your revenues will be increased from this source, because the moment the tax is put down to fifty cents, everybody who has a distillery or can lease one will go to work distilling to the utmost of its capacity, and when the amount on hand is as large as they care to advance the tax upon, then they will come forward and tell us, as we were told some years ago, "It is a great scandal to let this article go to market so cheap, when you are taxing the direct necessities of life as heavily as your laws still will tax them." They will tell us that it is a great scandal that this article should pay only fifty cents a gallon, that it ought to pay a dollar and a half or two dollars again, and then the tax will be raised, and then they will reap the profits on their business transaction in the mean time.

But if that is not the theory; if the theory is that fifty cents a gallon is to be hereafter for all the future the maximum of the tax on whisky, then while you have your present corps of officers in control of this branch of the service you must not expect any additional revenue from this article. They are masters of the situation, and you tell them so by this bill. Their interests must be taken care of first, and you tell them they can and may take care of them first. Their interest is to fill their pockets, let what will happen to the Treasury; and if they cannot fill their pockets by taking the same percentage of the fifty cents that they have required of the two dollars, then they will take a larger percentage of that; and if the whole of the fifty cents will not fill their pockets, then, as I have already said to you, they will take the other revenue collected from other subjects.

But, Mr. President, leaving out all these economical considerations, if I knew that you could not get a dollar of revenue from this source for the next eight months, and if I knew that you could get fifty millions by reducing this tax to fifty cents, I should still insist that you did not make enough by the change to compensate for the indelible disgrace you inflict upon the character of the nation by the confession which the first section of this bill contains. If it is true that the Government is weaker than this band of thieves I would not be hired to place the acknowledgment of the fact upon the statute-book for any \$50,000,000. I would keep it off; and the more I felt my weakness the more I would pretend to be strong, if I were the Government. The more imminent I felt to be the danger of my being beaten in this protracted struggle, the more I would pretend that there was no danger at all. I would not make this humiliating confession for any amount of money that anybody proposes to realize out of this change in the law.

But, sir, I do not believe in any sort of necessity to adopt this measure. I believe that a revenue can be collected from this article. I have been told, and I believe that business men will enter into obligations to pay the Treasury of the United States from a million to a million and a half dollars every week in lieu of this tax on distilled spirits; that you can farm out this business of distilling liquors at from one million to a million and a half dollars per week. We never have done it. It is not exactly in harmony with our notions. It would require you to grant a monopoly to somebody



or other. You have granted that already. Your collectors and inspectors of internal revenue have a monopoly of this business. The only difference is that you get \$12,000,000 and they get \$170,000,000; whereas in the other case you would divide about evenly. That is all the difference. It is only a pretty stern necessity resting upon the Government that I should feel a justification to myself to vote for selling, farming out this or any other branch of the revenue; but before I would submit to such a confession as this first section makes, I would not only sell any branch of the internal revenue, but I do not know but that I would put up the Government itself at public auction and sell that. I would agree to anything rather than this.

It is just as easy, it seems to me, to enlist the honest men in the country on the side of the Government as it is to enlist the thieves; and if you will do that I believe they will take care of the interests of the Government. Sooner than agree to this I would give the Commissioner of Internal Revenue or the Secretary of the Treasury a commission of five or ten or fifteen or twenty per cent. on the whole revenue collected from this source, and give him full command of the force; let him employ his own assistants, and pay him the commission only on so much as he paid into the Treasury. It would make him immensely rich, I know, to give him that large commission; but then it would make the Government so much more independent than it has ever been yet. Is it not better to give one man a commission of ten per cent. than to distribute a commission of eighty per cent. among a number of men? Is it not better to save ninety per cent. of this revenue than it is to save five per cent. of it? It is less than that that you are getting now.

I cannot believe that an expedient might not be adopted which would enable the Government to realize a very large sum in spite of the men you now have employed in this branch of the service, not with their help. I guess that is hopeless; but in spite of them a very large revenue could be collected from this source; and I should have been heartily glad for the sake of the country if the Committee on Finance had seen proper to report in favor of trying some such expedient. Doubtless they thought they had, and perhaps they had, for I have not considered the subject very carefully, sufficient reasons for not trying any one of the expedients that I have suggested. Perhaps there is no expedient by which, as things now stand, this revenue can be collected; but I would still carry sail to the end; I would still stand upon the right of the Government to have this full tax; and I would wait for that happier day, not far distant I believe, when honesty will take command in the Executive Departments of the Government, and when the national will expressed in your statutes will be obeyed willingly by the honest men of the country, and necessarily by the thieves of the country.

Mr. STEWART. Mr. President, I shall vote against any change that may be proposed to this bill and shall vote for the bill with this tax at fifty cents. I do not think it is any backing down on the part of Congress or any humiliating acknowledgment on our part. We are not the administrators of the Government. We have ascertained that fact pretty thoroughly. We do not collect the taxes. I believe there is a larger margin for larceny in two dollars than in fifty cents; and upon that theory I shall go for the tax of fifty cents. I do not believe that putting the tax down to fifty cents will make those men honest; but I do not think it will give them quite as large a margin for larceny. I do not expect to infuse any life into the administration of the Government while it remains in its present hands. I do not say who is to blame; but it is manifest to me that no honest effort is made by the authorities to collect this tax. It is impossible for us to tell who is to blame. The whole administration of the Government, so far as the collection of this tax is concerned, is a failure.

I do not believe that the American people are so corrupt that they cannot administer their laws. I believe that a vigorous administration could find honest men that would administer the law. The fault is in the administration of the Government. I have no information that leads me to charge this man or that man particularly with it. Each one will find sufficient reasons to charge it upon another. But we have the fact that the revenue is not collected. I believe that two dollars gives them a wider margin for wholesale corruption than fifty cents. Of course officers who have once been corrupted will remain corrupted; but if the tax is put at fifty cents, there may be some honor in some men engaged in the business of distilling, and rather than continue in these corrupt combinations, rather than countenance this wholesale rascality, they may voluntarily pay the tax without coercion. I think we should be likely to get more from them at fifty cents voluntarily than we should by any system of coercion. We cannot coerce them; we cannot force them to pay the tax if we have to collect it through the machinery we now have. This measure looks to me rather like an appeal to the generosity of the distillers to pay something into the Treasury.

Mr. MORTON. That is what it is.

Mr. STEWART. That is about what it is. But when Senators talk about having any force in the Government to collect it, I do not expect it; and when they speak as if we were responsible, I deny it; we are not responsible in any degree. I do not care how good the laws are, in bad hands they amount to nothing. I vote for this bill as an appeal to the whisky distillers to pay something to the Government. We put the tax down to a very low figure and ask them to pay something to the Government and stop dividing with collectors, inspectors, and other officers.

Mr. HOWE. Will the Senator allow me to ask him a question?

Mr. STEWART. Certainly.

Mr. HOWE. That idea has occurred to me. I ask him if he does not think it would be expedient to change the form of the section and put it in the form of a petition to the distillers?

Mr. STEWART. I think we would be as likely to get about as much in that way. I do not think that with the present machinery of Government we have any means of collecting taxes. That is not expected; but there are some men engaged in this business who, rather than break the law, will be willing to pay this sum, and we shall be likely to get as much as we would if the tax were two dollars. There is not as wide a margin for rascality.

Mr. CAMERON. Will the Senator from Nevada allow me one word?

Mr. STEWART. Certainly.

Mr. CAMERON. I desire to call the attention of the Senator to this fact: we have twenty-five million gallons now in bond, on which we have the right and the power to collect the tax of two dollars. What will you do with that in bond?

Mr. STEWART. I think the Senator from Pennsylvania is mistaken in his proposition that we have the power to do that.

Mr. CAMERON. I am not mistaken, for the whisky is there in our possession, and we can command the payment of the tax any day we please. We can put a provision in this bill compelling them to pay the tax in ten, twenty, or thirty days from this time.

Mr. STEWART. I have no evidence before me to make me believe that if the whisky is there it would stay there if we attempted to realize from it. It has always disappeared in some way. I have no faith in that at all, not a particle. Our experience thus far has proved it to be a failure. When you supposed that you had whisky in bond you found only empty barrels there. They have a way of doing these things when there is a thorough partnership between the officials and the whisky manufacturers and dealers. When that partnership is complete, you may have whisky there on

paper, but it is very doubtful whether you have it in your warehouse. I think an honest appeal to the manufacturers of whisky to pay fifty cents into the Treasury may avail something. I think the constituents of my friend from Kentucky who manufacture Bourbon will pay fifty cents; and I think a great many of the country people will pay fifty cents rather than be in partnership with the whisky ring. I think we shall get more revenue by this reduced tax. I give notice now that I shall not support next winter any proposition to raise this tax again. I shall not vote to raise the tax again to make a speculation in that form. No doubt we shall get a very handsome revenue at a tax of fifty cents when it is thoroughly enforced, and it will be enforced, because we shall have an administration at some time, undoubtedly, that will do it.

Mr. POMEROY. I have been anxious to have a vote on this distinctive proposition at some time.

Mr. SHERMAN. Let us take the vote now on the pending amendment.

Mr. POMEROY. The question now I understand to be on concurring in the amendments made as in Committee of the Whole.

The PRESIDING OFFICER. (Mr. EDMUNDS in the chair.) The question now is on the amendment proposed by the Senator from California [Mr. CONNESS] to an amendment recommended by the Committee of the Whole.

Mr. CONNESS. I hope that before further discussion on the main question the Senate will allow the vote to be taken on this amendment.

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Mr. POMEROY. I have no objection to taking a vote. I was going to say that at some time or other, either in Senate or in committee, I shall move to strike out "fifty cents" and insert "two dollars," so as to have, if possible, a distinctive vote of the Senate on that proposition. I have no objection to waiting until we are in the Senate, and these various amendments are concurred in. I am informed that we are now considering this bill in the Senate. I will inquire if that is so?

The PRESIDING OFFICER. The bill has been reported to the Senate.

Mr. POMEROY. Then the first question will be on concurring in the amendments made in committee.

Mr. MORTON. That motion has been carried.

Mr. POMEROY. Then, if I am in order, I move to amend the first section of the bill, the main feature of the bill, by striking out "fifty cents" and inserting "two dollars."

The PRESIDING OFFICER. That is not now in order. The pending question is on the amendment proposed by the Senator from California to an amendment recommended by the committee.

Mr. POMEROY. That was the amendment moved when we were in committee by the Senator from California, who sits next to me, [Mr. COLE.]

Mr. CONNESS. Yes, sir, and renewed by me in the Senate. The vote can now be taken upon that.

Mr. POMEROY. Very well; let us have that vote first.

Mr. MORRILL, of Vermont. I do not desire to protract the debate on the question raised by the Senator from Wisconsin, but I am unwilling to be placed in the attitude in which he left the Senate in reference to the amount of tax upon whisky.

Mr. POMEROY. The Senator must be aware that that question is not before the Senate.

Mr. MORRILL, of Vermont. I am merely saying a word or two in reply to the Senator from Wisconsin.

Mr. CONNESS. You can do that by and by.

Mr. MORRILL, of Vermont. I may as well do it now. I do not want to occupy time.

Mr. President, I disagree with the Senator

from Wisconsin on the point as to its being wise ever to have placed so high a tax as two dollars upon whisky, but there was such a desire to obtain all the revenue that we needed from two or three articles that I was willing, or rather consented so far as my vote was concerned, to have the experiment tried, although I never had any faith that we could collect so large a sum. I was in favor of something like a dollar, not over a dollar, and I should be better satisfied now if this bill provided for a tax of a dollar than any other sum. But the Constitution of the United States places the main responsibility upon the House of Representatives of raising revenue. The committee of the House labored upon this bill very assiduously for over seven months. They received delegations and testimony from all parts of the country, and reached the conclusion that it ought not to be placed at any higher figure than that fixed in this bill.

I believe with the Senator from Nevada that it will depend greatly upon the men whom we have in office as to the amount that will be collected. But it has been found, as a recent minister of England has stated, that there, with the exception of this one article, when the duties are placed above thirty-five per cent. it is no object to the Government; there will be such smuggling carried on in England that they cannot increase the revenue upon many articles when they raise the duty above thirty-five per cent., because the temptation is so great. In relation to such articles as spirits they confine their operations within so narrow a field and make the license system so high that only a very few can enter upon the business, and then they place inspectors all over the island to ferret out any illicit distillation. Therefore they are able to collect nearly all the amount that they levy upon this article. But take it upon the continent: it is not so much that they are in favor of lower duties upon the continent than we are. They would levy higher rates of duty but for the impossibility of collecting them. They need the revenue. Take for instance Austria. She is bankrupt at this moment, and would be very glad to raise a larger sum of revenue. But where the boundary lines are as they are in Europe, sometimes countries not even separated by a river, merely an imaginary boundary line, it is impossible to collect revenue from a high tax, there will be so much smuggling going on. I think that our experience has demonstrated that a tax of two dollars affords too large a temptation for poor human nature either in this country or in any other. We are not worse here than they are in other countries, except, perhaps, in the *personnel* of our office holders at the present moment. I hope that there can be some improvement there. I do not think that we ought to be subjected to the reproach of a surrender to the whisky ring. I do not believe any such thing.

The PRESIDING OFFICER: The question is on agreeing to the amendment proposed by the Senator from California to the amendment made as in Committee of the Whole.

Mr. CONNESS. I have only to call the attention of the Senate to the amendment, and to hope that it will be adopted. I think it is a concession that ought to be made to us.

Mr. DAVIS. I will inquire what proposition is before the Senate.

The PRESIDING OFFICER. The amendment will be reported by the Clerk.

The CHIEF CLERK. In Committee of the Whole the following proviso was inserted at the end of the first section:

*Provided, That the tax on brandy made from grapes shall be the same and no higher than that upon other distilled spirits.*

On the question to concur with the Senate in that amendment, it is proposed to amend the amendment by striking out the words "the same and no higher than that," and inserting the words "one half of the tax;" so that the proviso will read:

*Provided, That the tax on brandy made from grapes shall be one half the tax upon other distilled spirits.*

Mr. DAVIS. That is an amendment to an amendment?

The PRESIDING OFFICER. Yes, sir, and upon this question the yeas and nays have been demanded.

The yeas and nays were ordered; and being taken, resulted—yeas 17, nays 18; as follows:

YEAS—Messrs. Buckalew, Cole, Conness, Corbett, Davis, Henderson, Hendricks, Howard, McCreery, Morton, Pomeroy, Ramsey, Stewart, Sumner, Van Winkle, Williams, and Wilson—17.

NAYS—Messrs. Anthony, Cameron, Chandler, Conkling, Cragin, Drake, Edmunds, Ferry, Fessenden, Harlan, Howe, McDonald, Morgan, Morrill of Vermont, Ross, Sherman, Vickers, and Yates—18.

ABSENT—Messrs. Bayard, Cattell, Dixon, Doolittle, Fowler, Frelinghuysen, Grimes, Johnson, Morrill of Maine, Norton, Nye, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Rice, Saulsbury, Sprague, Thayer, Tipton, Trumbull, Wade, Welch, and Wiley—23.

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment made in committee.

Mr. DAVIS. I move to amend that amendment by adopting the words of the amendment offered by the Senator from California with these additional words, after the word "grapes," "or any other fruit."

The CHIEF CLERK. It is proposed to amend the amendment so that the proviso will read:

*Provided, That the tax on brandy made from grapes or any other fruit shall be one half the tax upon other distilled spirits.*

Mr. SHERMAN. I do not know that it is necessary to debate this proposition, but I will state that if it is adopted but little, if any more whisky will be made. There are enough apples and peaches in this country to make a reasonable supply of brandy. It would be better at once to reduce the tax to twenty-five cents. The only difference is that brandy is the distillation of fruit and whisky is the distillation of grain; and if brandy can be made from apples and peaches at a tax of twenty-five cents a gallon, while whisky is made at a tax of sixty cents a gallon, all the spirits, or the great body, will be made from grain. We do not get much revenue from grape brandy, as the Senator from California says. It is not yet an important interest as it will be; but we get \$850,000 from brandies made from fruits. As a matter of course this proposition is a substantial abolition of this enormous revenue. The apple orchards of Pennsylvania, Ohio, and Indiana, and all the other States will furnish apple brandy enough, I think, to keep everybody drunk who wants to be drunk, at a tax of twenty-five cents. This is a much more important proposition than the proposition of the Senator from California.

Mr. CAMERON. I was about to say to the chairman of the Committee on Finance that under this proposition the frauds would be much more extensive than even he has imagined, because the flavor of brandy can be given to any spirits. There is no difficulty with the present knowledge and experience in chemistry in giving the taste of brandy to spirits made from oats or rye or corn or any other product. It is just as easy to call it brandy, color it a little, and give it a little different flavor, as it is to call it whisky. This would only be introducing another mode of defrauding the revenue. Why, sir, there can be apples enough raised in the northern part of New York and in the State of Michigan particularly—the best apple region now in the world—to make all the spirits that can be consumed in the whole country. It is most surprising to see the amount of apples raised in the little peninsula in Michigan between the two great lakes.

The argument against this proposition, to my mind, is that it will give another opportunity for fraud. The original proposition was wrong, because there is no more reason why you should give a bounty to the making of brandy from grapes than there is for giving a bounty to the making of whisky from rye or corn or potatoes or anything else. I am surprised that a gentleman so liberal as the Senator from California always is should ex-

pect us to vote such injustice to the other States in favor of the Pacific slope. That is the great word now. We used to talk of the West whenever anything extraordinary was to be done; but now it has got to be the "Pacific slope." From this time out we shall be legislating in favor of that slope. It is a great country, and every year it is getting to be greater; but there is no more reason why the wine-growers of the Pacific should have a bounty for its product than there is for giving one to the man who tills the soil in the valleys of Pennsylvania and who raises the corn there; nor, indeed, is there a bit more reason why he should have an opportunity of doing wrong there than there is that the man in the city of New York who is defrauding the revenue every day, seeking every opportunity he can to do it, should have such an opportunity. I do not charge the constituents of my friend from California with ever attempting to do wrong; but here will be a new temptation again.

The Senator from Nevada supported this bill on the ground that the present tax was giving too great a temptation to defraud the revenue. I think the whole thing is wrong. We ought to adhere to the tax which we have put upon distilled spirits, and make no exception of one product against another.

Mr. CONNESS. Mr. President, if that were the rule in the United States, you would hear one wail from Pennsylvania that would reach the Pacific slope. Every coal miner and the owner of a coal mine would cry out aloud; every iron miner and manufacturer of iron would join in the cry; and every politician in Pennsylvania would help them, as they always have. There is no State in the Union that has been so nursed, fondled, caressed, kept enriched, as the State my honorable friend so ably represents. I do not complain about that. I had a hand in helping him; but it is rather an ungrateful thing in him to turn upon us in our child-life and deny to us what he has experienced and what we have helped to give. I think a little sober reflection on the part of my junior friend from Pennsylvania ought to satisfy him of what a bad speech he has made.

Mr. CAMERON. It is true that my aged friend from California, as he will admit, is always zealous in what he believes to be right, but especially when that belief takes him to his great State of California. I am willing to admit everything that can be said in favor of its greatness and of its disinterestedness. It has never had anything to bolster itself up at all. The country has done nothing for California, and I am surprised they have asked so little. They have only been in the Union for about fifteen years, and I think they have had every year about as many millions to help them along as they have asked for; and therefore it is that I am surprised they have not asked for more, for children are very apt to be spoiled by kindly and tender treatment.

Now, Mr. President, as to Pennsylvania, she is what she is. She comes here to beg for nothing. She does not ask you to do for her what you are not glad to do for yourselves. Her coal mines have had no protection. They have taken care of themselves. You have protected her iron; but it was because in times past you could get iron of no place else but Pennsylvania. She was necessary to your safety in peace and your protection in war, and every time she came up and did her duty nobly, without complaining and without boasting of her merits.

Why, sir, she does not now want any reduction of this whisky tax. She only asks you to leave it as you have put it. She is unwilling that you should at once give a premium to these swindlers on the \$50,000,000 of revenue which you have now in your control, and which you may collect to-morrow if you will on the whisky in the bonded warehouses. We hear a clamor in different quarters to release that tax, and I am afraid my friend, the Senator from California, is willing to go with them. Brave and bold man as he is, I am surprised that he listens to this clamor of the

rogues and dishonest men who say that our whisky tax cannot be collected, and that he is willing, because they say it will not be collected, to have it taken off. That is not according to my notions of courage, and I am sure would not be according to his if he had reflected. I trust, sir, that we shall not agree to this amendment. I think, as I said in the beginning, it will introduce new and greater frauds than we have had.

Mr. FOWLER. I have but a single word to say on this proposition. I hope the amendment now proposed will be adopted. The production of brandy from grapes is only a small interest. As I said the other morning, the amount of tax collected from that source is almost nothing. Last year from California it was only \$11,000, and probably will not be more than half that this year unless the production has been increased, and the tax from that source is collected with a great deal more care than any other. It really might be stricken out from the list without any loss whatever, and perhaps it ought to be done. The only objection I had to that proposition was that it proposed merely a reduction of the tax on brandy made from grapes; but as brandies distilled from other fruits are now connected with it, I have no objection to it and shall vote for it. I was right in stating the other morning that the tax collected in California in 1867 was \$11,000 instead of \$67,000. Sixty-seven thousand was the amount collected from spirits made from all kinds of fruits in California. The \$11,000 from grape brandy is so inconsiderable a sum as to make no item whatever.

Mr. HOWARD. Mr. President, I voted for the amendment offered by the Senator from California to impose one half the amount of tax upon brandy manufactured from grapes. I did it with the sole view to encourage that, at present, infant enterprise existing in the United States. We all know very well that the grape culture is becoming every year more and more important; and the time, I think, is not far distant when the people of the United States will be able to manufacture their own brandies from their own grapes. I think it a very great interest in itself and one deserving of encouragement. Such is the case undoubtedly in California. Such is the case to a great extent, and to a far greater extent, doubtless, in the State of Ohio. The same branch of industry is now being pursued very vigorously all along through the lake country from the Mississippi to the State of New York. I voted, therefore, to reduce the tax upon brandy manufactured from grapes for that reason.

But I cannot go so far as to reduce it upon all brandies manufactured, whether from grapes or other fruits, as is contemplated by the amendment of the Senator from Kentucky. I do not think we are in a situation to remit so large a portion of the tax which we have been in the habit of collecting from those articles. I understand from the honorable Senator from Ohio, the chairman of the Committee on Finance, that we are now collecting about eight hundred thousand dollars upon these species of liquors, sometimes called brandy, sometimes by one name and sometimes another. I do not think this would be treating the Government fairly, and I do not think the manufacturers of that article generally throughout the country require any such reduction, and I cannot therefore vote for it.

The amendment to the amendment was rejected.

The amendment was concurred in.

The next excepted amendment was on page 59, section forty-eight, now section fifty, to insert after the enacting clause the following words:

That the Commissioner of Internal Revenue shall have power, whenever in his judgment the necessities of the service may require, to employ competent persons, not exceeding fifty in number at any one time, whose term of service shall continue at the pleasure of the Commissioner of Internal Revenue, who shall perform such duties and at such places as may be required of them by the Commissioner of Internal Revenue, at a rate of compensation to be

determined by the said Commissioner before the commencement of his employment.

Mr. BUCKALEW. I move to amend the amendment in the second line, by inserting after the word "revenue" the words "with the assent of the Secretary of the Treasury;" so that it will read:

That the Commissioner of Internal Revenue, with the assent of the Secretary of the Treasury, shall have power, &c.

This leaves the selection of these persons to the Commissioner of Internal Revenue; but leaves him subject to a very proper check, especially as the number of officers is left at fifty, and it is very questionable whether that number will be needed. Whenever the Commissioner shall lay before the Secretary information to warrant the employment of so large a number, he can doubtless obtain it.

Mr. SHERMAN. I trust the Senate will not agree to that. The purpose of this section is to give the employment of these persons to the Commissioner of Internal Revenue, and separate it from politics. The Secretary of the Treasury must employ collectors, assessors, and the great volume of officers. These detectives may be employed for a day or for a week, and there business may be to watch and ascertain whether frauds are committed by officers appointed by the Secretary of the Treasury. Cases may arise where it would be very impolitic to require the Commissioner of Internal Revenue, in the employment of a mere detective for a temporary occasion, to consult any one. He may not wish to disclose his purpose to any mortal man. I think, therefore, the whole matter should be left to him. It is a very small power at any rate, less power than is exercised by a master mason or a master joiner at any of our navy-yards. I think it had better be left to the Commissioner.

Mr. POMEROY. I think the responsibility of collecting this revenue should fall upon some one person. If you allow the Commissioner of Internal Revenue to name these persons and the Secretary to approve them, there will be a division of responsibility and no one held responsible. I think there has been a difficulty all the year past, and perhaps more in this way: we held the Commissioner of the Internal Revenue to collecting the revenue; yet he could not appoint a man; he could not appoint a clerk; he could not turn out one. He had not as much power as the chief clerk; and yet we held him to that responsibility. Under the old law he could do nothing except in concurrence with the Secretary of the Treasury, and if they did not concur nothing was done. I was glad to see this provision in the bill.

Mr. BUCKALEW. The Senator does not understand my amendment obviously. This amendment does not require that the person selected shall be approved by the Secretary.

Mr. POMEROY. But it requires that nobody can be approved of unless selected by the Commissioner of Internal Revenue.

Mr. BUCKALEW. The amendment is this: that the assent of the Secretary to the employment of persons by the Commissioner, shall be required. The maximum number is fifty. Whenever the Commissioner of Internal Revenue shall obtain permission of the Secretary to employ ten, twenty-five, thirty, forty, or fifty, he can employ them up to fifty. The Secretary is not to approve the persons selected. That is left to the Commissioner. Instead of moving an amendment cutting this number down to twenty or thirty, which I proposed doing in the first instance, I thought I would leave it all open, that the number might be fixed by the Secretary of the Treasury upon the application of the Commissioner; but, of course, the persons will be selected by the Commissioner himself. I thought it better to put my amendment in this form than to reduce the number to twenty or thirty, which might not possibly be enough.

Mr. POMEROY. The same effect is produced. If the question whether any shall be employed or not depends upon the concurrence

of the Secretary of the Treasury, and if he does not choose to concur with the Commissioner of Internal Revenue, then none are employed. I would rather leave it as it is now in the bill than leave it in that way.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on concurring in the amendment made as in Committee of the Whole.

The amendment was concurred in

The next excepted amendment was on page 26, section nineteen, now section twenty, line seven, to insert after the word "ascertained" the words:

By reckoning not less than twelve quarts of proof spirits for every bushel of grain used, nor less than seven tenths of one proof gallon of spirits for every gallon of molasses used.

The PRESIDING OFFICER. The question is on concurring in this amendment made as in Committee of the Whole.

Mr. McCREERY. I have given notice of the amendments that I desire to offer, and as there are several of them, I shall claim the indulgence of the Senate until they dispose of the several amendments that I have marked out, and I would ask the attention of the Senate for two or three reasons. One is, I have occupied very little time, and trespassed very little upon their attention since I have been here. Another reason is, that my State has probably as much, or more, interest in this liquor and tobacco law than almost any other State in the Union. I move to strike out the following passage on page 16, commencing at line eleven and running down to line fourteen:

But any distiller who shall suspend work, as provided by this act, shall pay only two dollars per day during the time the work shall be so suspended in his distillery.

The PRESIDING OFFICER. The Chair will inform the Senator from Kentucky that the question now is on concurring in the different amendments made as in Committee of the Whole, and the list is not yet exhausted. Therefore, the amendment proposed by the Senator from Kentucky is not in order. An amendment to this pending amendment would be in order, but not an amendment to another part of the bill.

Mr. SHERMAN, (to Mr. McCREERY.) Have you any objection to this amendment?

Mr. McCREERY. I have an objection to the amendment of the committee on page 26. I move to strike out the amendment.

The PRESIDING OFFICER. That is equivalent to the pending question.

Mr. McCREERY. I only ask one thing, and that is, that I may be informed when it will be in order to offer my amendments?

The PRESIDING OFFICER. The Chair will inform the Senator with pleasure. The question now is on concurring in the amendment made as in Committee of the Whole, which has been read.

Mr. SHERMAN. If the Senator from Kentucky has any objection to this amendment, it should be made now; now is the time. If it is adopted now, it cannot be reconsidered. The words that are inserted in this section were prepared by the Commissioner of Internal Revenue, and are in the main copied from the existing law. It is only a mode of ascertaining the amount of spirits distilled. That will be ascertained according to this method "by reckoning not less than twelve quarts of proof spirits for every bushel of grain used"—they make a little more than that—"nor less than seven tenths of one proof gallon of spirits for every gallon of molasses used."

Mr. JOHNSON, (to Mr. McCREERY.) Do you propose to strike those words out?

Mr. McCREERY. I propose to strike out those words.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. McCREERY. I am opposed to agreeing to this amendment, and I desire to submit a very few remarks to explain the ground of



my opposition to this amendment of the committee.

It appears to me that there is no use in the meters and measures which will cost the distillers a thousand or twelve hundred dollars apiece if you are to put a specific tax of \$1 50 a bushel upon the corn that is to be converted into whisky. The adoption of this amendment will be, in effect, a tax of eighty or ninety cents a gallon on good whisky, whereas it will reduce the tax on mean whisky to about thirty-five or forty cents. I state here before the Senate that three gallons of good copper distilled whisky cannot be made from one bushel of corn. After you have gone on and adopted your meters and your measures, and compelled every distiller in the United States at an expense of one thousand or twelve hundred dollars to adopt those meters, why, then, do you say you will tax corn \$1 50 a bushel if converted into whisky? Sir, it is a premium on mean whisky and a severe tax on good whisky. More than six or eight quarts of good copper distilled whisky cannot be made from one bushel of corn; but if you let the worm run until it gets to high wines and low wines, you may then make four or five gallons of whisky to the bushel. I hold that it is a fraud upon the country. All the whisky used for medical purposes in the United States will then be taxed from eighty to ninety cents per gallon, and the mean whisky, four or five gallons of which may be made from a single bushel of corn, will be taxed from thirty-five to forty cents a gallon.

I call upon the Senate to look at this measure and tell me why it is necessary to have your meters showing the precise number of gallons manufactured, and then say that a tax shall be imposed of \$1 50 on every bushel of corn manufactured into whisky? Every gallon of whisky manufactured for medical purposes, for the purposes of health, will be subjected under the provisions of this law to a tax of eighty or ninety cents; whereas the mean whisky, the rifle whisky, which is said to kill at forty yards, may be manufactured at thirty-five or forty cents. If these gentlemen are to go to the expense of meters and measures to show what quantity of liquor they have manufactured at their establishment, tax them according, tax them by the gallon as you propose to do; but do not compel a man to make three gallons of whisky from one bushel of corn when it is impossible to make that much good whisky from a bushel of corn. It cannot be done. From six to eight quarts of good copper distilled whisky is just as much as can be made from a bushel of corn. Why, then, offer a premium by legislation for mean whisky, and impose a double tax upon good whisky? Tax it fifty cents a gallon as you propose; and if you are going to discriminate at all, discriminate in favor of good whisky, and not in favor of mean whisky, which this provision in this bill does.

I hope that the Senate will strike out this amendment—for it is an amendment of our Committee on Finance—and stand on the bill as it came from the House. Take this bill from beginning to end, and, in my opinion, it is about double as good as it came from the House as our committee have made it. As far as I have been able to examine their amendments, in every instance, according to my judgment, they are in error, and especially in this proposition, because, if I discriminated at all; I would discriminate in favor of good whisky, and not against good whisky.

Mr. SHERMAN. This section simply provides a mode and manner of ascertaining the production of the distillery, and prescribes the rules and terms by which a collector or assessor can determine the productive capacity of the distillery. Among other modes of ascertaining that, it provides that three gallons of whisky shall be counted for every bushel of grain used. In all the distilling I know of the grain yields more than that. It says that not less than three gallons shall be counted for every bushel of grain. Usually a bushel of

grain yields three gallons and a quarter or a half, according to my information. This language that we have inserted here was inserted at the request of the Commissioner of Internal Revenue, and is the language of the present law, which prescribes the same rule and mode of ascertaining the capacity of the distillery. The Senator from Kentucky sees in this amendment a great deal of evil and error. I should be very sorry, indeed, to dispense with any good whisky or encourage the production of any bad whisky; but this amendment does not do that. It simply prescribes a rule and mode of ascertaining the capacity of the distillery. The quantity of spirits to be made in the distillery is afterward gauged and tested in the mode provided by law. This is nothing more than providing approximate rules by which the quantity of whisky distilled at a particular place shall be ascertained.

Mr. FOWLER. I should like to ask the chairman of the committee a question. After the number of bushels of grain is ascertained, are the distilleries to be taxed at the rate of three gallons for each bushel?

Mr. SHERMAN. The quantity on which they have to pay tax is not determined by this section. This is a mode of ascertaining the capacity of the distillery:

That on the receipt of the distiller's first return in each month, the assessor shall inquire and determine whether said distiller has accounted in his returns for the preceding month for all the spirits produced by him.

It is a mere question as to whether the distiller has made a proper return. Then it says: "And to determine the quantity of spirits thus to be accounted for," these rules shall be provided; that is, every bushel of grain which goes into the distillery, an account of which is provided for in a previous section, shall be accounted equal to a productive capacity of three gallons.

Mr. FOWLER. Suppose he returns seven hundred, does he not have to pay \$1 50 for each bushel?

Mr. SHERMAN. He will have to produce from that bushel three gallons; but if the grain is not consumed, or if it is consumed for some other purpose, as a matter of course he does not pay. It is a mere mode of ascertaining the capacity of a distillery. I maintain that there are no distilleries in Kentucky but what make three gallons of spirits from a bushel of grain. They may make some good spirits; but then they work off the balance into low wines or some other grade of spirits; but I maintain that all of them produce at least three gallons to the bushel.

Mr. FOWLER. I have taken some pains to ascertain the facts in regard to this question in my own State. The State of Kentucky occupies nearly the same relation toward the whisky-making business that Tennessee does. We have a large number of small copper-distilled distilleries in the States of Kentucky and Tennessee, and I apprehend in those distilleries every dollar of tax has been collected. There have been no frauds in any of those distilleries. Now, if they are compelled to pay a tax of a \$1 50 on each bushel of grain consumed, that will amount to a tax of seventy-five cents on the gallon, because I have been informed by those best calculated to give me advice on the subject that a bushel of grain will not make in these distilleries more than about eight quarts or two gallons of whisky—good whisky—as has been stated. It is very evident, then, that this section is liable to the objection made by the Senator from Kentucky, and these persons will have to pay a tax of seventy-five cents on the gallon, instead of fifty cents, which will be paid by the large establishments where they make three, four, or five gallons, as the case may be, from a bushel of grain. I hope that this portion of the bill will be stricken out.

Mr. MORTON. Living in a State where there is great deal of whisky made, I have heard the subject talked about often, and I understand the truth to be about this: where there are small distilleries, private still, per-

haps, where a man makes whisky for his own use and for his neighbors around, and where quality is looked to more than anything else, they will make about eight quarts or two gallons to the bushel; but in all large distilleries where it is made for sale, for gain, they make from three to four gallons to the bushel. In these small distilleries, where whisky is made on a small scale, for home use or the use of neighbors, and where quality is looked to almost exclusively, as stated by the Senator from Kentucky, they make from seven to eight quarts to the bushel; but where it is made on a large scale, and for commerce and trade, they make from three to four gallons to the bushel.

Mr. WILLIAMS. I do not know much about the manufacture of whisky; but taking the statement made by the Senator from Indiana, the necessity of this amendment, it seems to me, is perfectly obvious; for if you do not provide in the bill how many gallons shall constitute the product of a bushel, then these large distilleries may account for two gallons of whisky from each bushel of grain, and conceal or steal the other gallon; and these small distilleries to which the Senator has referred—

Mr. McCREERY. If the Senator will allow me to interrupt him, this bill provides that a meter shall be obtained by each distiller in the United States at his own expense. That will test the amount of whisky manufactured.

Mr. WILLIAMS. No matter about that. These meters have been tried, and they have not been found to be sufficient to prevent fraud; and this is only an additional provision. Where a certain number of bushels of grain are received into a distillery for the purpose of being manufactured into whisky it is necessary that the distiller should account for a certain number of gallons. The law requires him to do that; and it requires him for every bushel of grain to account for three gallons of whisky. So far as these small distilleries are concerned that make only say two gallons of whisky from a bushel of grain, the residue that is left is good for other purposes, I suppose; but if it is of no value, still the two gallons of whisky are so much more valuable than three would be, perhaps are worth so much more per gallon than if the grain had been converted into three gallons, that the owners of these small distilleries can afford to pay a little additional tax.

But, sir, it is impossible to provide by a general law for these particular and exceptional cases. The great bulk of the whisky manufacture in this country is made for sale, and the object of this legislation is to reach the large distilleries, and we must provide a law that will reach such a case and prevent frauds, even if it does in some cases operate with harshness upon the private distilleries that men set up and run for their own convenience and luxury or for the accommodation of their immediate neighbors. To undertake to say that there shall be no rule on this subject is to abolish one of the new guards which this bill undertakes to put upon distilleries to prevent fraud; and I do not think, therefore, that it is advisable to adopt the proposition.

Mr. DAVIS. The amendment of the committee is objectionable in two points of view. There are two modes of distilling whisky: one is by the copper worm, and the other by steam. The copper worm distilleries usually distill in the season which begins about the 1st of November and ends about the 1st of June from one hundred and fifty to three hundred barrels. By that mode of distillation not more than two gallons on an average can be made, but by the steam mode something like four gallons on an average can be made. The amendment, then, in its application to copper distillation, is too high by one third, and in its application to steam modes it is too low:

The whole quantity of spirits produced from the materials used shall be ascertained by reckoning not less than twelve quarts of proof spirits for every bushel of grain used, nor less than seven tenths of one proof gallon of spirits for every gallon of molasses used.

Now, there is no man who knows anything about distilling whisky by the copper mode who will say that more than two gallons an average can be made to the bushel of grain. That is the average, but it is a high average. The average by steam is four gallons the bushel. If this provision read that the copper distilleries should be charged for two gallons the bushel, it would be right; and if in addition it provided that steam distilleries should be charged for four gallons per bushel that would be right. I tell the honorable Senator from Oregon, and also the honorable Senator from Ohio, the chairman of the committee, that it is as easy to make a product of four gallons by the steam mode of distillation as it is to make two gallons by the copper mode of distillation. The whisky ceases to run at a certain degree of strength in the copper mode; and everything that is left after that degree of strength has been reached goes into slop and is fed to stock hogs and cattle and mules.

Mr. WILLIAMS. I inquire of the Senator if that slop is not much more valuable than the slop of steam distillation.

Mr. DAVIS. It is something more valuable, but nothing like in the proportion in which this provision operates to the detriment of copper distilled whisky. You cannot possibly make three gallons average by the copper mode. The highest average, taking the whole whisky season, is two gallons for that mode.

I would make this suggestion to the honorable gentlemen: much the larger amount of whisky that is made is by the steam mode, because more gallons are produced by that mode; and in making the product in this amendment less than four gallons there is a serious injury done to the Treasury, because the product is four gallons the bushel average. That is a high average, I admit; but to put the average at three gallons would be too low. This mode, then, of ascertaining the true quantity of grain that is distilled is delusive and defective in that respect in relation to the steam mode, and it is equally incorrect and inaccurate in relation to the copper distilled mode, because it gives an average that is one half more than the real average. If the committee insist on adhering to this feature of the bill I think they ought to reduce the product as to copper distilleries to two gallons, and they ought to raise it as to steam distilleries to four gallons per bushel, which would be about right, and the real product of these two modes of distillation.

Mr. McCREERY. I have but a single remark to make. I desire that Senators shall vote understandingly on this question. The adoption of this provision establishes a tax of thirty-seven and a half cents a gallon on mean whisky, and a tax of seventy-five cents a gallon on good whisky. That is the precise operation of this amendment proposed by the Committee on Finance, that a gallon of good whisky is to be taxed seventy-five cents, and a gallon of inferior, mean whisky is to be taxed thirty-seven and a half cents. As the good whisky is used for medicinal purposes, as it is an article that is used in the practice of medicine and tends to promote the health of the country, I do insist that the Senate of the United States ought not to discriminate against the good and force up the mean. If you are going to tax by the gallon, tax by the gallon. You have said that you will tax whisky fifty cents on the gallon. Be it so; but do not come in now and tax the product of a bushel of grain and say that three gallons of whisky shall be made from it, when three gallons of good whisky cannot be made from it, and when four gallons of mean whisky may be made and are made from it by the steam process, as my colleague has told you. I say that more than two gallons of good copper distilled whisky cannot be made from a bushel of corn. Tax by the gallon; put your tax at fifty cents a gallon, but do not come here and say in effect that good whisky shall be taxed seventy-five cents a gallon, and mean whisky thirty-seven and a half cents. I move to strike out this amendment of the committee.

Mr. BUCKALEW. The question is on the adoption of the amendment of the committee.

The PRESIDENT *pro tempore*. That is the question.

Mr. BUCKALEW. If this amendment of the committee should be rejected, the section would be left perfect; there would be no imperfection in its construction. Then it would be left to the department of internal revenue to adopt such rules as it may think proper in ascertaining the amount. If it thinks proper to adopt this rule of three gallons to a bushel, so be it. I think it would be very well to leave the department free-handed. There seems to be controversy about the amount which can be produced from a bushel of grain, and perhaps it will depend, as has already been stated, upon the process of manufacture. The rule may be different in different establishments. I think the best thing is to leave the bill as the House had it in this respect, to allow the department by its orders, by its rules, to establish the mode in which the amount shall be ascertained. Without this amendment the section will read, "and to determine the quantity of spirits thus to be accounted for, the whole quantity of spirits produced from materials used shall be ascertained" upon some intelligent and fair mode of computation. As the product may be different in different establishments, according to the habit of manufacture in different parts of the country, it seems to me we had better leave it where the House did, in the discretion of the department itself.

Mr. CATTELL. The statement made by the Senator from Kentucky in regard to the amount of whisky produced from a bushel of grain differs very much from the information which I have upon that subject. One of the largest distillers in the city of Philadelphia, and a distiller of fine whisky, informed me not long ago that the production from his distillery was four gallons and a fraction per bushel of grain. The entire production of his distillery for the year—and he showed me his books, which proved his assertion—was for every bushel of grain four gallons and a small fraction; five one hundredths, perhaps.

Mr. DAVIS. Will the honorable Senator inform the Senate by what mode his friend distilled, whether by the copper mode or the steam mode?

Mr. CATTELL. I cannot inform the Senator by what mode. I am only able to state this fact, which answers the remark of the other Senator from Kentucky that it was only mean whisky which could be produced in this quantity, that this gentleman informed me that very recently he had sold a thousand barrels of his whisky in bond at five dollars a gallon. So it could not have been a very mean whisky!

Mr. McCREERY. Has the Senator ever tasted that gentleman's whisky? [Laughter.]

Mr. CATTELL. I believe I have.

Mr. McCREERY. Was it good?

Mr. CATTELL. I think it was. [Laughter.]

Mr. DAVIS. The distillers of steam whisky resort to this expedient: they first get the product of the grain in the form of steam distillation, and for the purpose of giving it something like a tincture of good whisky they run it through a long copper pipe; and I suppose that was an expedient that the honorable Senator's friend resorted to.

Mr. CATTELL. I have no doubt the distillation of which I spoke was through copper stills. I ought to have stated when I was on the floor before, in answer to the inquiry of the Senator from Kentucky, [Mr. McCREERY,] that I had taken this whisky medicinally. I forgot to make that qualification.

Mr. SHERMAN. I hope the Senate will retain this clause, because it is recommended to us by the Commissioner of Internal Revenue as indispensably necessary in furnishing a rule. It is copied from the old law, and no complaint has been made of it. The Commissioner of Internal Revenue and the special commissioner, Mr. Wells, thought it had been omitted by mistake; and I have no doubt it is so. I will say, however, to the Senator from

Kentucky that if on the conference which will occur in regard to this matter any difficulty should appear by the introduction of this clause we can very easily arrange it. My own impression is that the clause is right now. The minimum product of a bushel of grain ought to be fixed by the law, and there is no trouble, I think, in the rate fixed. It is copied from the old law, and there seems to have been no trouble in its application.

Mr. McCREERY. I am in favor of making a man pay tax according to the number of gallons he makes. If he makes one gallon, let him pay fifty cents; if he makes two let him pay a dollar; but do not say he shall make so much out of a bushel of corn, and thus make it to his interest to make the whisky as mean as possible. Do not let us offer a premium for mean whisky. Let him pay tax on what he makes, but do not offer a premium for mean whisky. Do not let it go forth from this Hall that if a man will make mean whisky he shall pay thirty-seven and a half cents a gallon, when if he makes good whisky he must pay from seventy-five to eighty cents a gallon tax. Do not let us send that forth as the judgment of the Senate of the United States. If we discriminate at all let us discriminate in favor of good whisky, that which a man may take without hurt to his constitution or his health, that which physicians may administer to him and do administer to him in disease. If we are to discriminate at all let it be in favor of good whisky, and not say that that shall be taxed eighty cents a gallon, when mean whisky shall be let off at thirty-seven and a half cents a gallon, which is the positive and direct operation of this provision.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole.

The amendment was concurred in.

Mr. POMEROY. Now all the amendments made in committee have been disposed of, and I move to amend the bill by striking out "fifty cents," in line five of section one, and inserting "two dollars." If it is more desirable to the friends of the bill I am willing to say \$1 90, because I believe there is about ten cents per gallon additional tax in other forms; but in order that we may have the sense of the Senate I will simply move to strike out "fifty cents" and insert "two dollars." As the Senator from Indiana [Mr. MORTON] desires to address the Senate on this question, I yield the floor to him.

Mr. MORTON. Mr. President, I have but a very few words to say in regard to this proposition of the Senator from Kansas. The opinion in favor of reducing the tax on whisky from two dollars to fifty cents, or some sum thereabouts, I regard more as the result of a panic than anything else. I have never heard what I regarded as a good reason assigned for it. It was put on after considerable discussion, and I think will now be taken off, for I apprehend the vote will be that way here—as it has been in the House, so it will be probably in the Senate—without any specific reason assigned for it beyond this: that you cannot collect a tax of two dollars, because there is such great temptation to commit fraud, but that you can collect a tax of fifty cents, for the reason that the temptation to fraud is not so great, and that the manufacturers of whisky will consent to pay that tax.

Mr. President, the whole thing is narrowed down to the simple question whether there is not a sufficient temptation under the reduced rate for the commission of fraud to induce its perpetration. Let me remark to you that the perpetration of frauds upon the revenue is much easier now than it was two, three, or four years ago; that the mode of committing these frauds is now perfectly understood; has been reduced, I may say, to a science, and the whole country, almost, has come to understand how it is done.

Another thing: those engaged in frauds upon the revenue have now found out their men, their officers, their collectors, their assessors,

their inspectors, their district attorneys. They know who they are, and that they can rely upon them. In other words, the machinery for committing these frauds is all prepared. It has not to be invented, to be experimented on, and tried, as it has been, but it now exists ready-made. Under this law there will be a temptation to the extent of twenty-five dollars per barrel to commit fraud; a temptation yet under this law of twenty-five dollars per barrel, with the machinery all prepared to hand. The officers who will engage in the perpetration of the fraud are known, and the facilities are so much greater now than they were two or three years ago that manufacturers can, perhaps, make more money by frauds with the tax at fifty cents a gallon than they could two or three years ago with the tax at two dollars a gallon.

Mr. President, these facts cannot be disputed. Here is a tax of four dollars on the barrel and fifty cents on the gallon; call it in round numbers a temptation of twenty-five dollars on each barrel for the commission of fraud. Will you tell me that this is not sufficient to induce these men to perpetrate fraud? The Senator from Nevada stated the whole truth; it is an appeal to the manufacturers of whisky to pay some revenue, rather than a proposition to collect it. But, sir, the appeal will fail, for the reason that the temptations are still too strong, and the temptations will overcome the generosity that is appealed to.

Mr. President, I do not believe that this revenue will be collected better substantially than it has been before. That is to say, the temptations to fraud are so great that it will be perpetrated as heretofore in every part of the country; and all we shall gain by this bill will be in the new machinery that may have been devised and that would be equally operative in collecting the tax of two dollars as in collecting a tax of fifty cents.

We are throwing away a dollar and a half substantially on each gallon of whisky. We are conceding before the whole world that this Government has not the skill and the force to collect this tax. It is a concession to the robbers. It is almost a bargain made with the robbers. Why, sir, there are some countries in Europe that less than twenty-five years ago had to make terms with the highwaymen and banditti that invested the country. There were certain provinces in Italy that had to do that. I believe it has been done in Mexico within the last few years. And, sir, we are substantially making terms with the whisky thieves; we are asking them almost in the language of the Senator from Nevada, "How much will you consent to pay?" Mr. President, the principle upon which this bill has been brought here is wrong; it is shameful; it is disgraceful; it is a confession of weakness on our part that we have not the force nor the intellectual resources by which this tax can be collected.

I have heard as an excuse for this, all the blame laid on the executive department. While the executive department is to blame for much in the appointment of bad officers and the refusal to remove those, perhaps, that have been convicted of fraud, all the blame does not rest there. No, sir; the great fault and failure of our system has been in the failure to enforce the criminal laws of this country. If the committee had devoted themselves to the production of a new law by which the criminal laws would have been enforced, they would have made much more progress in the collection of this revenue. As I had occasion to state yesterday, there is now no personal danger connected with the violation of the revenue laws. The only penalty is a compromise. The men engaged in this business have no horror of being disgraced; they do not care very much about being exposed, especially when they make a great deal of money by it; but there is not one of them who is not opposed to going to the penitentiary. I do not care how low down he is, I do not care how mercenary and utterly corrupt, still he has almost as much objection to going to the penitentiary as an

honest man has; but the fear of going to the penitentiary has been removed; there has been no personal danger connected with the violation of these laws. As I have said before, the only penalty was a compromise, in which he always got off by paying less than he would if he had paid the honest tax in the first place. So that there has been substantially a premium offered in favor of committing frauds, with the expectation of getting off by a compromise. Why, Mr. President, there have been two or three men convicted recently in New York. It surprised the whole country. It has had a beneficial effect, too, in this very business. There has been one convicted at Richmond, in Virginia, and that has had a good effect.

Mr. BUCKALEW. Several have been convicted.

Mr. MORTON. If there was one man convicted in every State and sent to the penitentiary it would almost stop these frauds and you could collect the two-dollar tax better than you can collect this fifty cent tax under the operation of this bill. If only twenty-five out of the hundreds of scoundrels that have been engaged in this business had been tried and convicted and sent to the penitentiary it would have saved you from twenty-five to fifty million dollars. The great failure in the whole business has been the compromise system. I repeat it again; it is just as plain as the sun in the heavens. What explanation can be made?

The learned chairman of the Committee on Finance I know has paid a great deal of attention to this subject; but how can he explain the fact that up to this time out of many thousand cases there have been less than twelve convictions to imprisonment, while hundreds and thousands of indictments have been found. I know they have been found in Illinois, they have been found in my State, they have been found in New York; but what has become of them? They have all got off the docket in some way. The spirit of compromise emanating from the Treasury Department here, from the Commissioner's department, has gone abroad until the whole system has been debauched and nearly destroyed.

As I had occasion to say yesterday, there are perhaps some cases that ought to be compromised. I believe that; but as between the two evils of compromising everything and compromising nothing, I say we had much better compromise nothing. Let us try that awhile. We have tried the other and have ruined the system. You intended only to compromise with a few cases where perhaps it was proper to do so; you have compromised all. You have opened a door and the whole body of criminals have marched out through it. This bill contains the same door carefully and elaborately provided as it was before; and can any reason be shown why it will not have the same operation?

Mr. President, I am one of those who believe that two dollars can be collected as well as fifty cents on the gallon, and in doing that we shall collect almost four times the amount of revenue that we shall collect under this bill. We are making a shameful concession of three fourths of the revenue that we ought to collect upon whisky.

We are doing it, too, without reason; we are doing it under a kind of panic. I know just how it started, and I know the kind of talk by which it started. It started some three months ago. It was said that the whisky men would furnish enough money to carry the elections in this country, and that the only way to defeat that was by reducing the tax on whisky. That was the beginning of this panic. Now, sir, they will collect enough money with the tax at fifty cents, for that purpose, if it can be accomplished in that way, and as the Senator from Vermont [Mr. EDMUNDS] suggests, apply the balance that they do not have to pay. That reason is not a good one. Money will not carry these elections. I have more faith in the integrity of the people than that. I believe after all money has but a small share in determining the result of these great popular move-

ments. But, Mr. President, if it has its share they will get enough under the present bill to answer all practical purposes.

Sir, this bill contains a shameful concession, one that ought to bring the blush upon the cheek of almost every American Senator; an acknowledgment to the plunderers of the Government that they have beaten us; and, in the language of the Senator from Nevada, we are now making an appeal to their generosity. "How much will you give?" as it might have been said by the prince or governor of a little Italian principality to a gang of banditti, "How much will you take to let travel go on through this principality?"

Then, Mr. President, let us look in the proper direction, let us look to the enforcement of the laws. You may talk about your meters and your improved machinery and your walls around the distillery, and all these numerous little arrangements that are prepared for in this and other bills; but what do they all amount to? As long as the criminals, well known as they are, walk the streets of every city in the finest clothes and driving the finest horses, what do all these petty, miserable, little arrangements amount to when the criminal laws are not enforced? Sir, you had better appropriate \$1,000,000 to pay prosecuting attorneys; you had better appropriate money and present temptations on the side of officers to do their duty. You will make more money in that way than you will by beginning with a concession of three fourths of the whole amount of the tax to the thieves and then present the same facilities for escape after all that they have had before.

Mr. SHERMAN. Mr. President, I had resolved at one time not to say one word to endeavor to convince any Senator of the necessity of reducing the tax on whisky. It is a question that every man can determine for himself. What I say now is not at all for the purpose of convincing any one of what is plain and palpable to everybody, but rather for the purpose, on account of the remarks of the Senator from Indiana, of defending the Committee on Finance.

The Committee of Ways and Means reported the tax bill at this session to the House of Representatives with the tax on spirits left at two dollars a gallon. They reported it in that shape to the House of Representatives, taking ground, however, that they would not attempt to fix the rate of tax on whisky, because that was a question the reasons controlling which were within the mind of every member of the House, and so they reported a bill leaving the rate to stand as in the existing law. The House of Representatives, after full debate, after some five months' consideration, when the subject was presented in every possible form, and when various propositions were made, some to reduce the tax as low as twenty-five cents, finally fixed the tax at fifty cents a gallon and imposed special taxes equivalent to ten cents more. The whole machinery of the bill was then made to collect that tax, not a higher tax, but to conform to the rate fixed by the House. The bill has come to us. It is true a proposition was made in the Committee on Finance to change this rate; the members of the committee varying in their ideas just about as the members of the Senate do, some wanting it a little more, and some less; but on the whole we concluded that if there was to be any change in the rate of tax that change must be made by the Senate. I am perfectly willing that the Senate should take the responsibility, without any instruction or any information from the Committee on Finance as to the rate of tax.

Mr. President, I have heard before of my friend from Indiana's panacea for all the ills in the internal revenue system. He would not compromise with anybody; he would make an iron, unbending rule to put everybody in the penitentiary. I should be very willing to give him a \$100,000 of that \$1,000,000 he talks about, and make him prosecuting attorney of all the persons charged with crime under the



internal revenue laws. He says the Committee on Finance ought to have reported a criminal statute. We have had some experience of that kind.

Mr. MORTON. No, there are plenty of statutes, but you do not enforce them.

Mr. SHERMAN. I hope the Senator does not expect the Committee on Finance to enforce criminal statutes. We reported one criminal statute, and the Senate refused to agree to it because it was so harsh, and this bill contains at the end of almost every section a clause making something a penitentiary offense. So there are enough criminal statutes, enough offenses defined to fill all your penitentiaries and jails. The Senator asks, then, why these laws are not enforced? In the first place, so gross and palpable has been the corruption caused by the failure to collect the tax on whisky that these people have bought their way through the meshes of the law, district attorneys and courts, and assessors and collectors and inspectors, and so on through the whole list. Why? Because the temptation is so enormous, the fund is so great, the amount in their possession and control is so vast, that they are able to break through all the meshes of the law. I do not know why more cases have not been prosecuted, but I have authority to say from the Commissioner of Internal Revenue—and I give it only on his statement, because I have no information on the subject except what I derive from him—that he has attempted to settle no cases involving penitentiary offenses, that his settlements have usually been confined to smaller matters in regard to the ordinary machinery of managing the internal revenue, and that no case involving a criminal offense had been settled except with the approbation of the judge or the district attorney, one or both. This officer, I have no doubt, has endeavored to do the best he can, though he has not in all cases evinced the energy and vigor which some think he ought to have shown.

Mr. CAMERON. Allow me to say that I know some cases where settlements were made that the district attorney did not recommend. I know of one case of a thousand barrels of whisky—

Mr. SHERMAN. A criminal case?

Mr. CAMERON. I will state the facts, and the Senator can judge. There was one case where I was told, and believed, one thousand barrels of whisky were in the hands of an individual of great power, not far from my place. The Senate may remember that I took great pains a year ago to have a Democrat made collector of a certain district, because I believed he would honestly enforce the law, and it was a district where other men seeking the position were in league with large distilleries. In that district I was told of one thousand barrels of whisky in the possession and under the control of a certain man which he got through somehow or other without paying any tax. Although information of that fact was brought here by the collector, the man escaped in some way, not through the courts, but through the officers here, and as I am told through a member of Congress. I know another case where \$40,000 was gotten from a distiller, and the money is still in the custody of the Treasury Department here or some officer of it, and the most strenuous and determined exertions have been made for a year to get the collector removed who exposed that fraud of the \$40,000. The trouble is not in the courts.

Mr. ANTHONY. Allow me to say to the Senator from Ohio that several cases have been brought to my knowledge where considerable seizures of whisky have been made, and in the opinion of the prosecuting officer there was no possible doubt that it would be forfeited to the Government; but without any consultation with him, and, so far as he knows, without any consultation with the court, though there may have been consultation without his knowledge, he was directed to discontinue the suits, suits in which he had no doubt the Government would prevail. I do not know where the blame is, or whether there is any blame in the mat-

ter, but I think it is a very bad system that permits such things.

Mr. CAMERON. Allow me to make a further statement. There is one case of fraud in my immediate neighborhood where a man was removed who was an inspector or something of that kind, because I knew he was engaged in fraud. He was out for a little while, and then suddenly was reinstated, and within the last ten days the Commissioner of Internal Revenue came to me and said, "I have been compelled to reinstate that person." It is not necessary for me to mention his name. I know that members of Congress interfere in such cases. If a man of influence in a district is convicted in the public mind of fraud, his member of Congress will go to the Department and get a release. I have now mentioned the case of a man who I knew was engaged in frauds, knew by evidence so strong that I could not resist it, and he has been reinstated.

Mr. SHERMAN. Now, coming back to the declarations I made before, I say again, on the authority of the Commissioner of Internal Revenue, that no criminal case has been settled except upon the recommendation of either the judge or the district attorney, so I am informed; and the statements made by the Senator from Pennsylvania and the Senator from Rhode Island are not inconsistent with the truth of this statement. That in cases of forfeiture settlements have been made which are totally indefensible, if the facts are as stated in the public prints and stated here by Senators, is manifest and palpable; but if I was in the place of the Senator from Rhode Island, or the Senator from Pennsylvania, I would make a specific charge, and if I found that a high officer of the Government was guilty of gross neglect, or of malfeasance, I would bring the matter before the Senate of the United States with date and figures and amounts, and submit it to the other House as the basis for an impeachment proceeding. That is the remedy. If I knew, in the language of the Senator from Pennsylvania, of a distinct case of a man guilty of a palpable fraud, who was found guilty of that fraud, and then restored to office after examination, I would bring that to the attention of the House of Representatives.

Mr. CAMERON. I did not say that he was found guilty, but I say that I knew he was guilty of fraud, and so represented it to the Department, and he has been reinstated.

Mr. SHERMAN. I come back to the point again: are we not all satisfied that it is impossible for some reason or other to collect the tax of two dollars a gallon on whisky? I was the last man to yield my opinion on that subject. I was always opposed to the high rate of tax fixed by the law, two dollars, and preferred one dollar, but at the beginning of this session I made up my mind that it was the duty of Congress to deliberate upon some mode of collecting the two-dollar tax; but when the House of Representatives, the proper organs of the people, who directly represent the people, and who by the Constitution have power to originate revenue bills, have by their own motion after full consultation determined that they would only collect a tax of sixty cents a gallon on whisky, is it wise for the Senate at this stage of the session to go back on this proposition and change it, and thus run the risk of a controversy between the two Houses on a question vital and vitally necessary to be decided? That is the point. The Committee on Finance did not feel themselves at liberty to reopen the question; and if they had reported this bill with a substantial change from the proposition of the other House, they would not have been justified unless they were able to give clear and conclusive reasons for that change. If the Committee on Finance now stood here demanding that the judgment of the House of Representatives was not right, we should have to support that demand with strong and conclusive reasons.

On the other hand, there is a general acquiescence by the country that it is impossible to collect the two-dollar tax; that it presents so

strong a temptation that no law, no machinery, will enable us to collect it, and therefore the Committee on Finance simply report back this bill unaltered in this respect. If, however, the Senate choose to raise the rate it is for them to do it. Something is said about a tax of \$2 50 being collected in England. How is it done? If you give us the machinery adopted in England we can collect three dollars tax; but would our people submit to it? What is the English system? By their system of special licenses and prohibitions they confine the whole process of distilling spirits to about ten hands, ten great corporations, with vast capital, and those ten corporations distill all the spirits for the kingdom of Great Britain, and they do it under penalties and under a system of monopoly that our people would not submit to. Even the little attempts we make to restrain small distilleries and confine the distillation of spirits to the large distilleries are strongly opposed in the Senate.

The English system would uproot every distillery in the United States of America, destroy the whole of this property, and then charter corporations with capital so vast that the whole people would cry out against the monopoly, and I do not believe it would be possible, even if every member of the Senate and every member of the House believed it was better to organize this system of monopolies, to pass a bill fastening it on the country. There is one establishment in England that I was in which covers six acres of ground, and it can only be maintained by a vast aggregation of capital, and it is substantially run by the British Government. Are we prepared for that system? If we are, if we are willing to break down all the distilleries and substantially put the monopoly of this business into the hands of the Government to be operated only by great moneyed corporations, then we can collect three dollars or two dollars and a half, but the public judgment in this country would not tolerate it, and it would be idle for us to propose such a proposition.

In the other European countries, which are somewhat similar to our own, the tax varies from fifty to seventy-five cents. In Germany I think it is about thirty-six cents. In most of the other European countries, except England, it is about the rate proposed by this bill. It must be remembered that this is a vast country, covering many times the boundaries of Great Britain; that it has exposed frontiers where whisky may be smuggled; that it has vast deserts and great plains and unoccupied country; and very much of the fraudulent whisky in this country has been distilled in the various distilleries in the cities. Why, sir, it is supposed that about one third of all the fraudulent whisky has been distilled from molasses. Molasses may be distilled under this desk by a little machine that is sold at from ten to fifty dollars in the city of New York. It may be done in a garret, in a cellar, or in a shop; yes, it may be done in a box. As long as you maintain your present tax of two dollars this fraudulent distillation will go on, and all the detectives that the United States can employ, all the penitentiaries you may threaten, all the trials and prosecutions you may institute will not prevent this fraudulent distillation of whisky, if it can be made, as it can now be made from molasses in a little copper jug, you may say, when a single barrel distilled under the present act would pay a man eighty dollars a day.

Mr. MORTON. And under the proposed act it would pay him twenty-five dollars.

Mr. SHERMAN. No, sir; there is where the Senator is mistaken. No whisky can be distilled from molasses under this bill. It can only be distilled from molasses at from one dollar to \$1 10 a gallon. Perhaps I state it too low. The reduction to fifty cents utterly destroys that business. If you keep the tax above that, so that molasses spirits may be distilled, as a matter of course this molasses trade can supply the whole market, and it may be done in an illicit and improper way, and you cannot detect it, because it requires no

machinery. You cannot distill from grain without having mash-tubs and pipes and all the paraphernalia of a distillery; but you may distill from molasses without any of this paraphernalia. The process is more simple than the conversion of molasses into sugar—a very simple process, indeed.

It has been stated to us that a tax higher than sixty cents on the gallon would still encourage and leave open this chance for fraudulent distillation from molasses. This bill is framed upon the idea that in all the process of distillation from grain, every stage of it may be marked, may be tested. Officers have been devised, gaugers and inspectors have been provided, and all the machinery necessary for collecting this tax.

Now, I warn the Senate if you follow the advice of Senators and leave the tax at two dollars the machinery which is provided for in this bill is not adapted to the collection of that tax. The machinery was made by the Committee of Ways and Means for the collection of a lower tax. If you attempt to maintain the two-dollar tax you cannot collect it with this additional machinery, because you cannot collect a two-dollar tax except by having much more rigorous measures than are proposed by this bill. I, however, leave the question for the Senate to determine. My conviction is that if the Senate should raise this from fifty cents to one dollar or two dollars they will have to take the back track before the close of the session. For this Congress to adjourn without some adjustment of the question of the tax on whisky would be a crime as bad as the fraudulent distillation of spirits or any of the crimes committed against the revenue laws. We must settle this question; and I assure Senators that if they attempt to continue this tax at two dollars a gallon the whole machinery of this bill must be changed to adapt it to that rate, and long delay will occur again. However, that is a matter for the Senate to determine. I will not detain them longer.

Mr. MORTON. I have but a remark to make in answer to the Senator from Ohio. He states on the authority of the Commissioner of Internal Revenue that no penitentiary cases have been compromised except with the approbation of the court or the district attorney.

In the first place, the idea of compromising a criminal case in advance upon the recommendation of the court is somewhat novel, because the court until trial has no means of knowing anything about the case more than people outside; and it is not the practice of courts to give their opinions in favor of dismissing criminal cases. I should look with some degree of suspicion upon the conduct of any court that would go out of its way for the purpose of recommending that a man indicted for a penitentiary offense connected with the revenue should be compromised with and discharged. I have never known such a case. But the courts operate upon the advice of district attorneys who are their advisers under the law, and as a general thing where the prosecuting attorney asks a court to *non pros*, or dismiss a case, it will be done. According to that statement it is brought down to the operation of the district attorney and the judge of the court. We understand that but few convictions have taken place, and in fact but few trials have taken place; but we all know that there have been a great number of offenses committed and a great number of indictments have been found. Then it comes down to this, by the statement of the Commissioner of Internal Revenue, that those offenses are passed by and those indictments are *non pros*, by the advice of the district attorney or of the court.

There are many murders committed throughout the country, and in one fourth of all the cases of murder there are trials and convictions, although it is a crime that is usually committed with great secrecy; but in not one case out of one hundred is there a trial and a conviction for a fraud upon the revenue, although they are committed with far less secrecy, far more easy of discovery, and it is far more easy

to convict in them. Take the case of forgery: it is not too much to say from my experience in the practice of the law, that in one third of all cases of forgery that are brought to the public attention there are convictions; and yet it is a crime that is committed with great care, and usually by a person of more education and skill than a common thief.

But in the cases of frauds upon the revenue there has not been one conviction out of a hundred cases. And so you may run through the whole catalogue of crimes, and you find a fair proportion of convictions to the whole number of cases that are brought to notice; but in the cases of these great frauds upon the revenue, where millions and millions of dollars are stolen in one month, more money stolen in one month from the Government than is taken in the way of common larceny and stealing in the country in five years, there are hardly any convictions. I say the common stealings and larcenies of the country in five years do not comprehend as much money as the Government is robbed of in one month in this way. And yet, sir, there have been less than one dozen convictions in all these States in four or five years, and we are now told the responsibility is thrown back on the district attorneys and on the courts. And yet this very bill again provides for compromising these cases, civil and criminal, upon the recommendation of the district attorneys and the courts—a continuation of the very means heretofore resorted to. I might almost ask what excuse there is for it. What justification can there be for this kind of legislation with this terrible experience staring us in the face, with this great loss of revenue, this vast body of crime unpunished, well known but unpunished criminals walking abroad at noon-day with impunity? And yet we propose to leave the same means in operation by which this thing has been accomplished.

Mr. WILLIAMS. Mr. President, I have heard the distinguished Senator from Indiana declaim upon this subject two or three times with great vehemence, and denounce everybody and everything because there was within this law a provision that suits or seizures might be compromised by the public authorities; and he imagines that he has discovered an infallible remedy for all the frauds that are committed anywhere in the United States in the revenue system because he has discovered that suits have been commenced and have been compromised by the district attorney and by the judge, assuming, of course, that the district attorneys and judges were corrupt, purchasable men. In my opinion that provision in the law has no more effect one way or the other upon the violation of the revenue laws than a spoonful of water would have upon the body of the ocean.

Each individual seems to imagine that he has the specific remedy, and if his particular idea shall be adopted all evils will be cured. Some think it lies in a very high tax; some think in a very low tax; some think that it lies in a certain kind of meter, and some in a certain sort of machinery; but the Senator from Indiana has discovered that it all arises out of this provision of the act which allows the district attorneys and the judges, with the assent of the Commissioner of Internal Revenue, approved by the Secretary of the Treasury, to compromise a suit. All these men, of course, are corrupt; otherwise they would not compromise a suit that ought not to be compromised!

Now, sir, the argument of the honorable Senator, it seems to me, is entitled to very little weight, for the very plain reason that it proceeds upon the ground that the district attorneys of the country are venal and corrupt men. If that be the fact, is it not perfectly evident that any district attorney can defeat a prosecution without a compromise? Suppose that an individual who has made his hundreds of thousands of dollars by defrauding the revenue is indicted for a violation of the law. Is it not easy for him to suborn the district attor-

ney to induce him either not to subpoena the necessary witnesses to convict, or bribe the witnesses to be absent? May he not make any arrangement with the prosecuting attorney that he pleases? And the system proposed by the honorable Senator leaves it to the district attorney, without revision anywhere by anybody, and under his system the only thing the criminal would have to do would be to hire the district attorney so to conduct the prosecution as to eventuate in an acquittal; and that is the usual course wherever district attorneys are bribed. But under the system here proposed no compromise can be effected without the consent of the district attorney, that consent to be approved by the Commissioner of Internal Revenue upon a statement of facts, and to that is now superadded the approval of the Attorney General.

Sir, all the men who are concerned in the collection of revenue testify that it is necessary that this power should exist somewhere, that it cannot with safety be abolished, for the collectors of internal revenue may abuse the powers with which they are invested. No civil officers, I undertake to say, in any country, were ever invested with more dangerous powers than are conferred on these revenue officers. If one was so disposed, he could seize the property of an honest man and compel him to buy his peace and the Commissioner of Internal Revenue would have no power in his hands to protect the man who was innocent, to prevent abuses of power in this way; but it is left exclusively for collectors and subordinate officers in the service to exercise this extraordinary power at their pleasure. The difficulty does not lie here; it lies, I undertake to say, in the excessive tax that was imposed upon this article, a tax that was too high at the beginning, and experience has demonstrated that it was too high, and that it cannot be collected.

If the history of the excise system demonstrates one fact more than another, it is that any tax which is so greatly disproportioned to the cost of producing the article as the whisky tax is disproportioned to the cost of whisky cannot be collected, as a general rule. That is proved by the history of European countries. At the beginning of this session I took pains to look into this question and to read the various books I could lay my hands on upon the subject; and I was convinced—and no man can fail to come to the same conclusion who will examine the subject—that our experience in this respect has been like the experience of all other countries. When a gallon of whisky costs only forty cents to produce it, and you impose a tax of two dollars, there is a temptation to commit fraud that is irresistible, and that will produce fraud as long as men are as weak and as fallible as they are at this time. And it is not chargeable to one man or another man; it is chargeable to the selfishness and weakness of human nature. Sir, it is a tax that cannot in the nature of things be collected under our system of government at any rate. It is a tax that cannot be collected without the exercise of that tyrannical and arbitrary and absolute power over property and the rights of the citizens which the people of this country will not endure.

The Senator speaks of convictions for murder and convictions for forgery, and argues as though the violation of the revenue law stood upon the same ground. Let a man who has committed the crime of murder approach the honorable Senator or attempt to intrude into society, and how will he be treated? Will not all persons avoid him? Let a man who is known to be guilty of the crime of forgery endeavor to intrude himself into society, and what will be his reception? Men as to whom it is well known that they have made their hundreds of thousands of money by the violation of the revenue laws appear here and are treated and regarded as our most distinguished citizens. They glory in what they have done. Popular opinion is so perverted that it does not condemn this offense as it does the offense to which the Senator referred. Put a man

upon his trial before a jury of the country, propose to send him to the penitentiary because he has manufactured a gallon of whisky contrary to law; can you convict him before that jury as you can for the offense of forgery or of murder? Sir, there is something in the minds of that jury that influences their action, and they will not convict him of that crime with the readiness that they would of a crime that they regarded of greater criminality.

Mr. MORTON. I want to suggest to my friend, with his permission, that the responsibility cannot be laid upon the jurors, because, so far as trials have taken place, the jurors have done their duty so far as we know. The responsibility cannot be placed on them.

Mr. WILLIAMS. So far as we know from what has transpired we know nothing about that. The distinguished Senator made a very eloquent speech; but where were his facts? He denounced the district attorneys and the judges, and he talked about the corruptions of officials, and about the few convictions that had occurred, and about the acquittals, and all that sort of thing; but where were the facts? I know, and can call to mind, cases where men have been tried for violations of this law, and were acquitted, case after case; where the same individual was put upon his trial for violation of the revenue laws and was acquitted because the jury, to some extent, sympathized with the feeling that prevailed everywhere, that it is a law too severe and too harsh to consign a man to the penitentiary for making whisky, or buying or selling whisky contrary to law.

Now, sir, I believe that our true policy would be to reduce this whisky tax to twenty-five cents per gallon; and my reason for that is that it is necessary to destroy the system that has been organized for the purpose of defrauding the revenue. That can only be destroyed by removing the inducement for its continuance.

Mr. EDMUNDS. Then fifty cents does not do it?

Mr. WILLIAMS. I do not say that. I say that twenty-five cents would offer a less temptation than fifty cents; and fifty cents certainly offers a less temptation than two dollars. Will the honorable Senator pretend to say that fifty cents a gallon is an equal temptation to two dollars per gallon for the commission of crime? For the same reason you might say that \$1,000 is an equal temptation to \$10,000 for the commission of any crime. I say that the temptation to commit this crime is to that extent removed.

Then, again, with this reduction of the tax honest men can engage in the business of distilling. Now it is well known to every man who is disposed to be honest in this business that he cannot prosecute it with success and pay his two dollars per gallon tax on whisky; while it is selling in open market for ninety cents per gallon. That is an utter impossibility, and every man knows it; therefore, no honest man undertakes to follow that business at this time. The consequence of this tax of two dollars has been to drive every honest man out of the business and put it into the hands of rogues and rascals; men who disregard the laws of the country.

I say that honest men can engage in this business with this reduced tax, and they will be prompted—and that accords with the experience of the country upon all subjects of this nature—they will be prompted to pursue and prosecute those men who are disposed to violate the law, and thus defeat them in their business. Make this tax fifty cents or twenty-five cents, and you make every honest distiller in the country a prosecutor of the criminal. Let any man invest twenty-five or fifty thousand dollars in the business of distilling, with the tax of twenty-five or fifty cents, and that man is interested in prosecuting every one who undertakes to manufacture whisky without paying the tax, and so defraud the revenue and him in the transaction of his business.

But now no such men are in the business;

they are all out of the business, and the prosecution of those criminals is left to the hands of the officials of the country, many of whom are confessedly either incompetent or dishonest and do not enforce the laws.

It has been said that this is a shameful confession. Is it true that when Congress makes a mistake, and the experience of the country demonstrates that mistake beyond all controversy, Congress, from a feeling of pride and consistency, is to say, "We will not correct it, because it is a shameful acknowledgment," more shameful, perhaps, on account of the blunder that Congress made than for any other reason? All countries have been compelled to make this acknowledgment. Is it shameful to acknowledge the truth? Do we not know that this revenue from whisky has decreased from twenty or thirty millions down to \$13,000,000 per annum? Is not that a fact? May we not properly recognize that fact and act upon it? And if there be a remedy is it not our duty and our business to apply that remedy? We have tried every other expedient; we have amended law after law; we have superadded penitentiary to fine; we have been improving and elaborating this machinery year after year; and still the decrease in the revenue collected goes on. If there be any remedy whatever it lies in the reduction of the rate of tax.

I am satisfied that the men who are interested in the present state of things, the whisky ring, are working to keep this tax at two dollars per gallon, for the reason that they can make \$1,000 while it continues at two dollars where they can make \$100 when it is fifty cents a gallon. They know they can defraud the Government and defeat the collection of this tax, no matter what your machinery may be, so long as you keep it at two dollars a gallon; and they are interested in keeping this tax at its present figure, so that they can make their business profitable and flourish as they have flourished.

I think, Mr. President, without protracting these remarks, that we ought, at any rate, to try this experiment; that we ought to try this reduction of the tax; and I should be ready and willing to reduce it to twenty-five cents at this time; commence with that, and then after the system is broken up, after the thieves have been driven out of the business, after distilling has gone into the hands of honest men and they are established under the protection of the law, you could add five, ten, or fifteen cents with perfect propriety to the tax, and it would be paid and collected.

Mr. CAMERON. The Senator from Ohio said that no country collected a tax so large as we now impose on whisky. He said also that the machinery of this bill was made for the collection of a tax of fifty cents and not of two dollars. I had in the beginning of the session a good deal of conversation with the chairman of the Committee of Ways and Means in the other House, and I understood from him that he was preparing the machinery of a bill which would collect the two dollars; and he said to me in the most positive terms that no other bill should pass with his approbation than that which did collect the two dollars a gallon, because, as he said, he believed that the tax would be paid willingly by the honest manufacturer of whisky, and that all the other schemes were in favor of the dishonest ones.

On the other point, we know that in England, whose habits we have acquired to some extent, they collect ten shillings a gallon on their spirits, which are the same as our whisky, and that is about two dollars and forty cents of our currency.

Mr. COLE. Three dollars and forty cents.

Mr. CAMERON. Add the difference between gold and paper, it may be that.

Mr. SHERMAN. That is the imperial gallon, a higher proof, about the same as two dollars here.

Mr. CAMERON. I take it for granted, as they pay on gallons there, the opportunity would be about the same. I have said nothing

against the integrity of the district attorneys or the judges. I believe they have generally done their duty faithfully and wisely. I think there have been very few convictions; but latterly, under the legislation of the present session, five or six men have been sentenced to the penitentiary. Before the legislation of this session nobody was convicted of an offense. My belief is that all we want to secure the collection of the revenue is to make offenses against the law odious.

The Senator from Oregon says that nobody allows a murderer to go into society, and nobody allows a highway robber to go into society, but that it is different with men guilty of offenses under the revenue laws. He forgets that not one of these men will admit that he has been committing offenses against the law, because to a well-regulated mind the violation of any law of the country is a crime, whether it be murder or theft; and if you make the violation of the law in this case so offensive that every man who has committed it shall be sent to the penitentiary there shall be a mark on his children and his grandchildren for all time to come, because their parent or grandparent has served a number of years in the penitentiary as a felon, because he violated the law, then you will make that violation of the law disagreeable and offensive, and men will not be willing to undertake it.

I have no doubt that the man who has committed an offense against the law, with the tax at two dollars a gallon, will do it with the tax at fifty or twenty-five cents. We often hear of robberies being committed for fifty dollars. A poor old woman, not long ago, in my State, living in her hut, was murdered to get the little savings of her life, which were fifty or sixty dollars. It is not the amount, but the inclination to commit these offenses, the moral turpitude which is in the mind that makes the felon.

Then, again, as I said yesterday, we give up all the power we have as a party by admitting that we are unfit to carry out the laws which we have enacted. We talk about the offenses against the laws on the part of this Administration. If we believe that, we ought not to give them the power to offend the law and to put the money into the hands of their friends. These offenses are committed daily by men who desire to make money. It is not because they are Democrats or Republicans or anything else, but because they desire to defraud the Government, which is easiest defrauded.

As I stated a while ago, I know cases which have been settled by Government officers, and I believe that the great cause of the opposition to the law and the offenses against it is because the men here in Washington have had the power to make settlements. It is not the small men in Kentucky who make whisky out of their own corn that are the robbers of the Treasury; but it is the men in New York and in Philadelphia, and probably in Boston, and in Cincinnati, and in Richmond and Baltimore that have been the great offenders against the law. These men in large cities are hidden from public observation; they commit these offenses in their cellars and their garrets; and they say "If I am caught, some member of Congress will go and say it is a petty offense, not one for which a man ought to be put in the penitentiary; you are my constituent, and you will vote for me probably, and therefore I will get you out of this trouble." That is the cause of the difficulty.

Sir, having made the law, we ought to give it a fair trial; and as members of this great progressive party we ought not to admit that we will take the burdens off these thieves and robbers and put them upon the honest manufacturers of other products. Then, again, the whisky ring own the whisky in bond, and there are twenty-five million gallons now in bond, on which the Government is entitled to \$50,000,000. You make them a present of that, for the great head of that ring coming here from Cincinnati and now controlling things in New York to make a fortune out of. He



owns the greatest amount of that whisky in bond. These are the men who will be benefited, not the honest manufacturers. The Government will be robbed and the whisky ring will be enriched, and they will come here next year when we get the reins of Government and tell us we must have revenue; now raise the tax again.

When the tax was first put on they were about here convincing members of Congress and Senators that it was unjust to tax the whisky on hand, and by Congress refusing to do that they made money enough to enrich them; and now after they get this tax taken off, and get the control of the thing, they will come here next year and want the tax put on again. I can see very clearly that these same men will make forty or fifty million dollars now by the reduction of this tax, and having got it, they will come back next year and try to convince us that we should put an additional tax on whisky, that they may go to work and buy it in in the mean time under the lower tax. The operations in whisky are like dealings in the stock of the Erie railroad, or any other stock which has very little intrinsic value. Men bet on it, gamble on it. A man will imagine to-day that next week the stock of a particular railroad will go up to a particular price, and he will get somebody to join him, and they will make bets on it. So in regard to whisky; ever since the tax was first put on it has been a great matter of speculation in the hands of the great speculators of the country just as much as in stock gambling.

I am sorry that the Senator from Oregon pursued the argument which he did, for I have so much respect for his mind and for his reasoning powers that I always listen to him with pleasure; but to-day his remarks illustrate the strange perversity of the human head and human heart. When we imagine a particular idea we always, if we have ability, as the Senator has, can find a strong argument in favor of it, no matter how false its foundation may be. I wish he was on the other side, for then I am sure that in a couple of years hereafter he would rejoice if we keep this tax on and save worthier objects from being taxed.

The PRESIDENT *pro tempore*. The hour of five o'clock having arrived, the Senate will take a recess until half past seven o'clock.

Mr. MORTON. Before that is done, I desire, for the purpose of simply saying, in reply to the Senator from Oregon, that I did not intend to charge the judges of the courts with corruption. I did not speak words to that effect.

The Senate took a recess until half past seven o'clock.

#### EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

#### INTERNAL TAXES.

The Senate resumed the consideration of the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

Mr. SHERMAN. I wish to offer a couple of verbal amendments before proceeding further with the bill. On page 52, line six of section forty-four, I move to strike out the words "or rectifier" after "distiller."

The amendment was agreed to.

Mr. SHERMAN. On page 39, in lines twenty-nine and thirty of section twenty-eight, I move to strike out the words "on his monthly list."

The amendment was agreed to.

Mr. MORRILL, of Vermont. I desire to propose a few amendments, to which I think there will be no objection, which are merely verbal. On page 27, line sixteen of section twenty-one, after the word "distiller," I move to insert "or other person liable." By reference to page 2, line fourteen of section one,

it will be seen that there are some other persons made liable, and therefore they ought to be included here.

The amendment was agreed to.

Mr. MORRILL, of Vermont. On page 25, line fifty-six of section nineteen, I move to strike out the word "distilling" and insert "produce." This is a mere verbal amendment. It will be seen on the twenty-fourth page that in the oath to be taken the word "produce" is used, and the word used here should be the same.

The amendment was agreed to.

Mr. MORRILL, of Vermont. On pages 48 and 49, in section forty-one, line two, I move to strike out the words "seize and" before "detain;" in line eight to strike out "seized" and insert "detained," and in line twelve to strike out "seizure" and insert "detention."

The amendment was agreed to.

Mr. McCREERY. I wish to move a verbal amendment. In lines twenty-six, twenty-seven, and twenty-eight of section fifty-two, there is a clause which reads thus: "In no case, however, shall the aggregate monthly fees of any gauger exceed at the rate of \$3,000 per annum." I move to strike out the word "at." The clause is not grammatical as it stands, and I desire that this bill shall be grammatical, however erroneous it may be in principle. You cannot exceed "at" anything, or produce "at" anything, though you may exceed a thing or produce a thing.

The amendment was agreed to.

Mr. McCREERY. I move that wherever the word "meter" occurs in this bill it be stricken out. It will take about one thousand or one thousand two hundred dollars to buy a meter. The Senate have already determined that they will not tax the product fifty cents a gallon, but that they will tax the corn \$1 50 a bushel. That is the effect of the last amendment adopted by the Senate; and on that account, as these meters will be so costly, I move that the meters be dispensed with, and that wherever the word "meter" occurs throughout the bill it be stricken out, and that in place of the word "meter" the words "sealed half bushel" be inserted, so that the collectors of internal revenue may furnish every distiller throughout the United States a sealed half bushel, in order that the tax of \$1 50 may be imposed on each bushel of corn transformed into whisky.

Mr. POMEROY. How would you do that where they make whisky out of molasses?

Mr. McCREERY. I am not talking about molasses now, but of corn-distilled whisky. My motion may apply to grain-distilled liquor.

The PRESIDENT *pro tempore*. The amendment is not now in order. There is an amendment pending, offered by the Senator from Kansas, [Mr. POMEROY,] to strike out "fifty cents," in line five of the first section, and insert "two dollars." That is the pending question. The amendments which have been received this evening were mere verbal amendments.

Mr. COLE. I have to offer but a remark or two in addition to what I said yesterday in favor of keeping up the tax on whisky at two dollars, which is the substance of the amendment of the honorable Senator from Kansas. I believe it to be conceded that the only reason for reducing the tax below two dollars or one dollar and a half is the alleged inability of the Government to collect the higher rate. It is argued that by reason of the high rate of taxation upon whisky small establishments or distilleries are liable to be started, and have been in operation throughout the country. The distinguished chairman of the Committee on Finance tells us that there are some exceedingly small distilleries, such as could be put under a desk or in a box and be worked in that manner. That argument proves to my mind conclusively that in regard to this description of offenses there are persons disposed to commit small offenses as well as large. We have many thieves, those who commit petty larceny, and those who would disdain to do that,

but commit grand larceny. Precisely the same classes of characters, I suppose, exist among those who would evade the tax upon whisky; and if you were to put the tax down to half a dollar a gallon or to twenty-five cents a gallon you would find these petty-larceny fellows who would endeavor to avoid it even at these low rates, who would make a little out of the evasion of the law in that manner. So it seems to me we shall not attain the end aimed at in the report of the committee of putting the tax so low that nobody will be mean enough to evade the law. If we were to put it down to the lowest sum which has been mentioned to-day, ten cents a gallon, in my opinion there would be found men in the country mean enough to evade the payment of the tax at that low rate.

I am not at all willing to concede that this tax cannot be enforced at a higher rate than fifty cents a gallon. The tax has been enforced in some places at the rate that the law now fixes. It gives me great satisfaction to be able to say that in the first district of California, which includes the city of San Francisco, there has been no evasion of the law. I have before me an authentic statement of the amount of tax collected upon whisky during the year preceding the 1st of November, 1867, in the first district of California, and I find the amount to be \$1,803,458 for that year. I have also a statement showing the amount of tax collected upon spirits in the ten metropolitan districts of New York, including the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, and the thirty-second collection districts of that State:

Table showing the taxes paid on spirits in New York city and in the first district of California, from November 1, 1866, to November 1, 1867.

New York.	Amount of tax.
First district.....	\$41,628
Second district.....	43,482
Third district.....	41,656
Fourth district.....	40,186
Fifth district.....	75,446
Sixth district.....	158,222
Seventh district.....	67,320
Eighth district.....	159,116
Ninth district.....	216,020
Thirty-second district.....	1,021,006
Total.....	1,867,032
California.	
First district.....	1,803,458
Difference.....	\$63,574

Thus it appears that in one district of California, including San Francisco, there was collected in that year off whisky within \$63,574 of the amount collected in the ten metropolitan districts of New York.

I have in addition to this statement, not before me, to be sure, in a form to present to the Senate, but I have the utmost assurance that the tax has been collected in the portion of the United States to which I allude. The reason why it is collected there is because the officers have faithfully and honestly performed their duty, and in my judgment not one gallon out of twenty-five has escaped taxation, while perhaps scarcely a gallon out of twenty-five has paid the tax in the metropolitan districts of New York.

Mr. SHERMAN. Does the Senator from California want to know why the tax is collected in California? I can tell him.

Mr. COLE. I know the reason why.

Mr. SHERMAN. One reason is that elsewhere the great fraud is in the transportation of whisky.

Mr. COLE. That does not meet the argument, because this whisky is in great part manufactured in California. There are several very large distilleries in San Francisco; but the real reason that I would allege for this close observance of the law there is the fidelity of the agents of the Government who are employed to perform this duty. They have done it carefully and faithfully. I know that some little distilleries have been seized there, but very little, however, out of the whole quantity manufactured in that city has escaped taxation at the rate of two dollars a gallon.

I will add further that in the district to which I allude in California during the last fiscal year which ended on the last day of last month there were collected by the internal revenue department over five million dollars at a cost of less than one half of one per cent. for the collection. I do not say this in the way of boasting, but for the purpose of showing that it is possible to enforce the collection of this tax even at the rate that is prescribed by law.

Now, let me reiterate what I said at the start, to wit, that if the tax is reduced you will find these petty-larceny fellows in sufficient numbers to evade the payment of that tax; and you will not, by putting it down at this low rate, and in that manner appealing to the generosity of this class of people, succeed in collecting the small amount per gallon that you prescribe.

I am very loth to reduce the tax on whisky from two dollars to any very low sum. If we must concede that we cannot collect the tax unless we reduce it down to the low rate of fifty cents or less upon a gallon that argument is in favor of removing the tax entirely, and we had better throw it off that product entirely and tax bread or some more useful article than whisky for the purpose of raising revenue. This is of all articles that which should pay the most tax, and in my judgment we can enforce the tax. If we cannot get the very high rate which is now prescribed by law, let us not go away down through fear that these persons who are defrauding the Government will be able to continue their frauds, but put it down to \$1 50, and by no means lower than one dollar per gallon. We should not, in my judgment, so dispense with this means of revenue as to make it necessary to put a high tax upon the proper industries of the country to meet the deficiency which will result from so reducing this tax, provided of course that we are able to collect the tax levied by law. I appeal to Senators, with all the earnestness of my nature, not to reduce this tax to the low rate of fifty cents; but I shall not detain the Senate further.

Mr. POMEROY. Mr. President, the pending amendment I understand to be the one offered by me striking out fifty cents and inserting two dollars as the tax on each gallon of whisky. I moved that amendment sincerely, after considering the subject as well as I could, and believing that it was better not to reduce the tax than to reduce it. I have read as far as I have been able what was said in the House of Representatives and what has been said in the Senate on this subject, and at first I thought I might bring my mind to believe that after all it might be better as we are situated to reduce this tax; but it is so against every sentiment I ever entertained, so against my convictions of what is best, that on reflection I have concluded to adhere, so far as my vote goes, to the old tax. If there are any reasons why we should come down to a dollar or a dollar and a half, those reasons may be considered; but to come down to fifty cents I believe to be entirely out of the question.

I take it that every Senator feels as I do, that we are representing a Government in this matter, that it is not our interests simply, that it is not ourselves who are concerned, but the question is what is best for this great Government to do. We happen to be dealers and partners and holders of whisky, I am sorry to say. The Government itself holds and owns to-day more whisky than any other party, more whisky than the "whisky ring," of which we have heard so much. I am unable to state precisely the amount, but it is not less than twenty-five million gallons; it may be thirty millions. We represent a Government in interest in this matter. The thirty millions which we own, which have been forfeited to us, are worth to us two dollars a gallon, and it is our fault that whisky does not bring more than that in the market. There is an interest of not less than \$50,000,000 which this Government has in whisky because it owns it and holds it.

What would individual proprietors do if they

held this property? Knock down its price to a dollar a gallon? Would individual proprietors holding such a large interest in whisky pursue a course to reduce its value? That whisky ought to bring and by a judicious management might be made to net two dollars a gallon. Would individuals pursue a course to have it net them seventy-five or eighty cents?

In the first place, then, the Government is interested to a very large extent in keeping up the price of whisky and not in pulling it down. In the second place, I do not believe there is any utility to the country in having cheap whisky. Who wants it cheap? It is no interest to the manufacturer to have it cheap; it is no interest to the producer to have it cheap; it is none to the Government; and I do not know that it is any interest to the consumer, and in fact it is rather my opinion that his interest lies in the direction of expensive and dear whisky, and if there is such a thing, as my friend from Kentucky intimated, good whisky, of which I have always had my doubts. I regard the question of having cheap whisky as not worthy of consideration. No person in this country that produces it, no parties that hold it, no persons engaged in the manufacture or trade, either desire or can afford really to have cheap whisky. Besides, in itself it is not an article that ought to be cheap. It is an article that is making war upon us, war upon individuals, war upon society. It produces pauperism and crime. It makes everything else dear. It never ought to be cheap. It never ought to be tolerated. It is one of the enemies of our race, socially and in every other way, and we ought not to pursue a course to make it cheap. Who wants it cheap? If the tax can be kept up at two dollars a gallon, and religiously and strictly enforced, as I believe it can, the price should be at least \$2 40 a gallon.

The Senator from Ohio argued at considerable length to-day, and with a great deal of fairness, as I thought, until he came to the point that if we put the tax back at two dollars we should have to change the whole framework of this bill. Why change it? I thought this bill was drawn to enforce the collection of the tax. I thought many portions of it were peculiarly adapted to detecting fraud. I thought that if we had had the framework of this bill in the law that provided for assessing two dollars a gallon we should have got the two dollars. I am now at a loss to know why it is that if we raise this tax to two dollars we shall have to change the whole framework of the bill. I fail to see it. I do not believe we can afford to sacrifice the amount of whisky we have on hand to any temporizing policy, nor make any concessions to the combination that is organized to defeat the law. I would not disguise the fact that there is an organization and combination in this country, as I suppose, known and called "the whisky ring," the object of which is to make what they can off the defeat of the law, the object of which is to control the manufacture and sale of whisky in this country, so that they can defeat the ends the law has in view in levying the tax. I do not doubt that there is such an organization; but why surrender to it? It is an organization against law; it is a rebellion against statute; and I would no more surrender to this whisky rebellion that is got up to defeat the collection of the tax than I would surrender to an armed rebellion. It is no more respectable to do it; it is as much against our patriotic sentiments to do it; and we ought to organize this Government on purpose to defeat this whisky rebellion. But to surrender in advance, to come down before we have thrown stones or turf or anything, and say to these men, "We retire, and you shall have the tax at fifty cents," is too humiliating to me. I do not believe the necessity of doing that is upon us. I do not believe the interests of the country demand it. I believe we shall be cheated just as surely with fifty cents as with two dollars as the tax.

For these reasons, without desiring in the heat of this night to detain the Senate, I have

moved the amendment to ascertain what the sentiment of the Senate is. The other House has expressed its conviction, and now I want fairly and deliberately the judgment of the Senate.

Mr. MORGAN. Mr. President, I suppose the Senator from Kansas knows very well that the party that he alludes to, what is called the whisky ring, to which he says he would not surrender, want the defeat of this bill; and they want precisely what is now proposed, to keep the tax at two dollars a gallon. We have offered this tax of two dollars a gallon, and we find that we collect about ten per cent. of it. We may not do any better with the reduced tax; but it would be pretty hard to do worse. At any rate, I entirely agree with him in one thing, that I would not surrender; and I am very much in hopes that the Senate will not surrender; but they will surrender the moment they defeat this bill and keep the tax at two dollars. That I consider a perfect surrender to the whisky ring, for that is precisely what they want and what they intend to accomplish.

Mr. CATTELL. I fully concur in the sentiments just expressed by the Senator from New York; and in addition to what he has said I wish to remark that, in my judgment and the judgment of the Finance Committee the very highest possible rate of tax which can be properly collected without the intervention of bonded warehouses has been adopted by the committee. If we depart from about a fifty or sixty cent tax, it becomes a matter of absolute necessity that you shall provide a system of warehouses in which the liquor can be stored, because otherwise so an amount of capital is required to conduct the business at a tax of two dollars per gallon that it cannot be done except by concentrating it in the hands of capitalists throughout the country, which would not be submitted to by our people. For a distillery that makes fifty barrels per day, and that is moderate distilling—there are some in our country making more than two hundred barrels per day—for one that makes fifty barrels per day the tax, at two dollars a gallon, is \$4,000 per day. Every gentleman on this floor knows that, as with the brandy made in California, so with the whisky that is used for drinking, the fine whisky, it must be kept for a time in order to become fit for use; and in order that it shall be kept, if the tax must be paid at the distillery, think for a moment what the amount is of \$4,000 a day in taxes. It is \$120,000 on the production of a moderate distillery in a single month. It is impossible to conduct the business successfully, in my judgment, upon any higher rate of tax than is provided for in this bill unless you go back to the system of bonded warehouses.

Mr. POMEROY. Allow me to ask the Senator how much the Government has on hand?

Mr. CATTELL. The Government has not any, but in bonded warehouses belonging to other people I suppose there are about twenty-five million gallons.

Mr. POMEROY. How much has been forfeited to the Government; how much does the Government own?

Mr. CATTELL. I do not know; but not much, I take it. The chairman of the committee perhaps can tell.

Mr. SHERMAN. It cannot be much.

Mr. CATTELL. It is well for the Senate, when they are voting upon the question of the amount of the tax, to consider this point. I think the Senate will see that it will be absolutely necessary to go back to the warehouse system if we keep the tax at two dollars a gallon. We never can collect a tax of two dollars a gallon at the still. It is utterly impossible, in my judgment, to conduct the trade in that form.

Mr. President, every gentleman who has addressed the Senate on this subject seems to have the idea that the frauds upon the revenue in regard to whisky result from some particular cause. Some ascribe it to one cause and some to another. My judgment is that it results from just one cause, and one only, and

that is because you impose a tax of five hundred per cent. upon the production of this article, which is an absurdity, and which makes it an impossibility in an elective Government like ours to collect the tax. You cannot collect a tax of five hundred per cent. on any article. Every gentleman upon this floor knows that in our tariff laws we endeavor to avoid excessive rates of duty upon imported goods, because they lead to smuggling; because if they are excessive they will be avoided in some way or other, the ingenuity and avarice of man are so very great. Such is the case with this tax upon whisky at two dollars a gallon. Take, for instance, the case of a distillery to which I have just now alluded, one of fifty barrels capacity per day. The tax upon it at two dollars a gallon is \$4,000 per day. You employ a revenue officer to watch this distillery of spirits, and you pay him five dollars per day. The individual conducting such a distillery can afford, if that officer will shut his eyes, to pay him \$1,000 a day and make a large fortune himself besides in a single year. I insist upon it that the whole difficulty in this matter is that the amount of the tax is so enormous that there is enough in it to corrupt poor, weak human nature, and that we cannot collect the tax when there is so much money involved in it as there is at two dollars a gallon. The Finance Committee believe that many of the present rules will be remedied by the reduction proposed, and that if you put a tax of a little over one hundred per cent. on an article there is not so much inducement at any rate to commit fraud, there is not so much room for avarice to play, as there is in a tax of five hundred per cent. Besides, we have tried the experiment, and we have tried it faithfully under the two-dollar tax.

Mr. EDMUNDS. Faithfully!

Mr. CATTELL. Faithfully in point of time, and I do not know that we can do any better unless my friend proposes to find out a race of men better than those who have been attending to this duty, and proposes to have that race of men appointed. I think if my friend could select the men and appoint them himself he might find a much better set than those in office now; but unfortunately these appointments are not intrusted to him, nor even to the Senate of the United States.

Mr. President, in my judgment the whisky ring, as it is frequently called here, and by that I mean those connected with the frauds in regard to whisky all over the country, have been taking from the United States in this tax at least thirty or forty million dollars per annum, and I think a vote of the Senate to continue this tax at two dollars is an invitation to them to proceed in that direction, and is affording them the carcass upon which to prey. I am not disposed for one to gratify their avarice at the expense of the Government of the United States.

My impression is that a very large amount of the frauds upon the revenue in regard to whisky have arisen first in the bonded warehouses, and in the transmission of whisky from one bonded warehouse to another, and its transmission from the manufactory to the bonded warehouse. By arranging a tax which can be collected at the still, and abolishing the bonded warehouses, you certainly escape that avenue of fraud. The second great source of fraud has been, I think, the large illicit distillation of whisky from molasses in the little stills that are worked in the cellars and the garrets of private houses which are outside of the reach of the most vigilant detective in the revenue service. By the tax which we now propose to put upon whisky you destroy this illicit distilling of molasses, because even if those who distill it escape the tax they cannot produce it at a less rate than whisky can be produced from grain, adding the fifty cents tax to it. There is a second source of fraud which you escape by the reduction of the tax.

I confess, Mr. President, that with others I regret to be compelled to admit that the Government of the United States cannot collect

any tax which it chooses to impose; but as the Senator from Oregon said this afternoon, human nature is weak, and if the temptation is too great it will not stand it. I remember to have heard an incident which occurred with Mr. Lincoln, who was in difficulty about getting somebody to send down to the southern States as a cotton agent upon one occasion. He selected one of his old and long-tried friends and sent him into that locality, and was comforted by the belief that he had an honest man there. A few months after this gentleman had become fairly established in his duties, he wrote to Mr. Lincoln asking to be relieved. Mr. Lincoln replied inquiring why he wanted to add to his many troubles by asking him now to look for another officer in whom he had confidence to send down there. He replied to Mr. Lincoln that he was almost a believer in the doctrine that every man had his price; that the blockade runners in cotton had offered him already \$250,000, and he thought it likely the next offer would be \$500,000, and he did not know whether he had moral courage enough to resist it, and therefore he thought he had better be recalled while he was honest.

The difficulty of this whole matter, in my judgment, is that the amount of money involved is so immense that it is impossible by any improvements, or any taxation, or any guards of legislation which you can throw around it to prevent the revenue from being largely defrauded, so long as you continue so excessive a rate as five hundred per cent. tax on any article. I should be glad personally if this tax could be collected, because I believe that whisky is one of the articles that ought to pay a very heavy tax; and I adhered during last autumn, and the early part of this session, to the idea that we ought to make another and further attempt to collect the tax of two dollars a gallon; but the most careful investigation I have been able to give the subject has convinced me that it is time we made an experiment in some other direction.

Mr. EDMUNDS. Mr. President, I believe with the Senator from New Jersey, after his speech, that poor human nature is weak. We find from his own confession that after years of experience in business, having fully made up his mind that we ought to try the experiment of so adjusting our machinery and so selecting our officers as to see whether we could not collect two dollars a gallon on this greatest and most pernicious of luxuries, he has suddenly, through the weakness of human nature, under whatever temptation has been offered to him, turned a somersault and come over to the proposition that the tax has all the time been just four times too high. I am bound to believe, Mr. President, that human nature is weak, and that some share of that weakness—and I say it without any disrespect—may be found within the Committee on Finance as well as among those gentlemen who are so stubborn and so unable to receive light as to be determined to fight this question with the whisky men out on this line, if it takes until next March.

Philosophically there can be only one of two reasons or classes of reasons why this tax cannot be collected. The first is that the law adjusting this tax is unjust and oppressive, based upon a wrong principle. That is a legislative reason. The second is, assuming the law to be based upon a right principle, agents to execute that law have been selected who have been faithless to their duty. You may turn it over as much as you please; you may resort to as much sophistry or as much explanation as you please; you may be as vague as you like; nevertheless, under these two heads you are obliged to consider this question.

Now, I have not yet been convinced that the theory of this law, which was agreed upon four years ago, is wrong. We have had four years of legislation upon this principle of two dollars a gallon tax. I for one am unwilling to confess at this particular point of time or any other point of time, until I shall be convinced of it, that the representatives of the people, the responsible law-making power of the coun-

try, have been deceiving themselves session after session for four long years as to the principle upon which a tax upon this luxury ought to be imposed. I do not believe it. They have been home session after session; they have consulted with their constituents; they have understood what the public sentiment is; they have known that the hard-working classes of this country are in favor of imposing taxation upon the luxuries that are used in the land. And therefore I assume that they have returned to the legislative halls imbued with the principles that their constituents have reflected upon them of keeping up this tax to the point where it now stands. If they have not, then it is a confession of a greater weakness of human nature than that to which my friend from New Jersey has alluded, that we have not acted before. Why have we stood here idle all the day long, as the Scripture hath it, and not lifted our hands to correct this great legislative evil if the error and the fault has laid at the door of Congress all this time. I deny the assertion and insist upon the proof. And what is the proof brought forward by the Finance Committee in favor of this proposition that the error has been ours, and not at the other end of the avenue all this while? Why, they say you do not get the tax. Granted; but I fail to see the necessary connection between the fact that you do not get the tax and the fact that is now asserted that the fault is in the law, and not in the executors of it. It is an arbitrary choice the committee make if they stop there and say it is our fault rather than the fault of the Chief Executive. No, sir; the true principle upon which taxation ought to be imposed—and the experience of other countries has demonstrated that it can be imposed upon that principle—is to put the highest possible rate on articles of luxury; and what can be more so than this, an article the production of which it would be a great advantage to this country if it could be discouraged instead of encouraged, and leave the corn and the wheat and the rye that go into your poison to be fed to the children of the drunkard instead of turned into liquid and given to him as a drink.

I say, sir, that the principle of taxation has been and always must be that luxuries of this description ought to bear the highest possible rate of taxation, and that there is no limit beyond which you ought not to go if you choose to get it from this source at all, so long as anybody is willing to buy his glass of whisky if he does pay five hundred per cent. of the cost of it to the Government.

Mr. CATTELL. If the Government got it I would not object to any rate.

Mr. EDMUNDS. Then my friend from New Jersey admits that the true principle upon which the law-making power ought to proceed is to wring from this injurious and detrimental business of the country the largest possible penny that can be wrung from it. Then we turn over to the other question, can you get it? He says that you cannot, because the officers of the law may be exposed to such a great temptation in the way of bribery and corruption as that they will not resist, and that they will corruptly and unfaithfully neglect their duty in favor of the distillers of whisky. I do not believe the proposition. I will put it to my friend if he believes the proposition? Take his own district in New Jersey, if it were left to him to select an assessor, a collector, and an inspector of internal revenue in his district, will he rise in his place and say that he could not select one hundred men in that district to whom he could repose this trust with an absolute certainty in a moral sense that they would resist all temptation, no matter how great it might be? I know that my friend could resist that temptation, and I believe that in point of honesty, from the very fact that he is here, there are hundreds and thousands of men in the State of New Jersey as honest as he is. If there had not been my friend would not have honored us with his presence. He represents the honest party of New Jersey, made up of the honest



men; and if he could have the selection of the officers of the revenue in that State I will give him my bond, poor as it be, or my word, which is as good as my bond, neither having any pecuniary value, that he would find that the two-dollar tax would be collected.

But my friend says that at the two-dollar tax all the men will be driven out of the business. Suppose they are. Wheat and corn are good things to make into meal; they are good things to export; they are good things to feed to your operatives in your factories, much better than it is for them to drink them in liquid form. Although to the head of the family it does not always taste as well, the children like it better, as a rule. I do not think the country will be injured if we get no revenue at all from whisky, provided no whisky is made, and I believe my friend from Massachusetts [Mr. WILSON] will agree to that proposition.

Where, then, do we find ourselves? We find ourselves standing upon the Republican platform with a confession that, although this is one of the articles upon which the highest tax ought to be imposed, the Republican party that is to come into power in March next has not in it the virtue and persistent faith and courage to collect this imposition, that it cannot trust itself, and that the fault for the last four years has been that the members of Congress who make your laws have so adjusted them as that it cannot trust itself.

I deny the proposition, sir. If you will look at the history of this traffic, if you will look at the long list of revenue officers whose names have been associated with the frauds and neglects of duty, you will find in nine cases out of ten that those officers have been appointed and kept in office and have been dealt with under political influences that are adverse to the interests which my friend from New Jersey and myself have most at heart, and that they have been screened and continued in their misdeeds. And if he will turn to an official report which has been laid on our tables to-day touching some recent investigations into the causes that produced a sudden termination to a great trial which went on here, he will find that the "sinews of war" that were to be raised to accomplish that purpose were to be procured, as one of their sources, out of the settlement of whisky causes by the agents of the Executive of the United States in New York. I do not say, because I have no right to say it and I have not the proof, that the Executive of the United States was a party to that arrangement; but I say that the evidence which is detailed in this report shows that through the means of Government officials and the friends of the Executive, that was the great source, and that steps were taken to draw from that source, from which the "sinews of war" were to be drawn for that purpose.

Mr. CONNESS. Were drawn.

Mr. EDMUNDS. Were to be drawn. I do not know whether they were drawn or not. Where, then, do we find ourselves? The newspapers for the last two years have been full of these whisky cases, full of defection and corruption on the part of the assessors and collectors of this tax. I have stood on the ground, and I believe my constituents stand on the ground, that the fault in the non-collection of the tax is in the administration of the law, and that the chief administrator of the law, to whom the Constitution has confided the responsibility and the duty of executing it, and his aids and abettors, and his party are the responsible authors of these losses. And, therefore, I desire to stand upon the law as it is, and if we can, as I believe we shall, succeed in effecting a reformation in the administration of the law by the selection of a new officer, then I shall be willing to try the experiment, with some faith in its success, of getting out of this great luxury and out of these great monopolies that tax which such a luxury and such monopolies ought to bear, and thus relieve the burdens that are imposed on other branches of industry and commerce in the country.

So, Mr. President, without trespassing longer

on the time of the Senate, I propose for one to stand by the old-fashioned tax of two dollars a gallon, and to stand by it until it is tried by a fresh administration appointed by a new President, who, as I have said, I have faith to believe will come in in the interest of a real execution of the laws, and until I shall see that there is a practical proof of what the Senator from New Jersey alleges, that you cannot in this country find enough virtuous and honest people to collect a tax of two dollars a gallon upon this luxury.

Mr. CAMERON. I desire only to make a little calculation with my friend, the Senator from New Jersey. He said that a very small distillery would produce fifty barrels a day.

Mr. CATTELL. No; I said a moderate distillery. There is a great difference between that and a very small distillery.

Mr. CAMERON. Not so much. I will show that the Senator is still wrong. He says that a moderate distillery will make fifty barrels a day, upon which, at two dollars a gallon, the tax would be \$4,000 a day. Suppose a moderate distillery should make one hundred barrels a day, the tax on that at fifty cents a gallon, taking the barrels at forty gallons each, would be twenty dollars a barrel, or \$2,000 a day. It would not be a very immoderate distillery that would make two hundred barrels a day, and there the tax would be \$4,000 at once. There, then, under this fifty-cent tax is \$4,000 daily temptation at a moderate distillery making two hundred barrels. Then how much better off are we? The whole argument of the Senator from New Jersey was to show that men could not stand the temptation of large sums of money. I show him that in that respect he is no better off by his proposed reduction.

My notions are exactly those expressed by the Senator from Vermont, [Mr. EDMUNDS,] that we are now about to make a change of Administration; that the tax has not been collected because we believe, and have so told our constituents, that those in power have not carried integrity into the performance of their duty. I desire to go before the people at the next election and make that issue, and say to them, "Elect our man, and we will put honest and faithful people in power who will collect this tax, and thereby save you from all other taxation." On the other hand, by reducing this tax, you admit that you are unfit for government—unfit to hold the reins of power. Surely, if there is a proper tax in the world it is one on an article which is so entirely a luxury as this. Men who like whisky will drink it, no matter what it costs.

The Senator from New Jersey told us that it required years to make good whisky. Why, sir, good whisky does not sell for one dollar a gallon, nor two dollars either. Ordinary whisky, and not the most expensive whisky either, sells readily for five dollars a gallon; and upon a gallon of whisky which will sell for five dollars two dollars is a small tax. To be sure, a large amount of it, that which the Senator from Kentucky said would kill at forty yards, is sold for less than that. But I cannot see any reason whatever why we, a party who boast so much of our reform and our ability to conduct the Government better than the other party, should, on the eve of the election, admit that we are unfit for the place to which we aspire.

Mr. MORRILL, of Vermont. Mr. President, it would seem almost, from the persistent attacks of Senators in relation to the amount of the tax proposed by this bill to be placed upon spirits, that there was a combination at the last moment to defeat the bill. I am aware that on this subject Senators as well as Representatives are usually eloquent and sometimes prolix. The arguments that have been advanced to-night are not new to me. Every time Congress has met since the passage of the law imposing two dollars a gallon upon whisky, and every time that the facts have demonstrated that it has not been collected, the law has been amended, and each time we have said to ourselves, "This time at all events we will make

the penalties and forfeitures so severe that the law will be enforced;" and it is not all the time since we have had a perverse Executive. Before that, when we had officers recommended by ourselves, the law was not and could not be enforced.

Mr. EDMUNDS. How much did we collect in 1864?

Mr. POMEROY. I should like to inquire when the law fixing two dollars tax came into effect.

Mr. SHERMAN. In March, 1865.

Mr. POMEROY. When since then had we our friends in office?

Mr. MORRILL, of Vermont. I have heard various Senators say that it was a very novel and unusual thing in the Senate of the United States when a Senator rose to speak that he should be interrupted by colloquies from all sides of the Senate. I have sometimes transgressed in that respect myself, but I do not conceive it to be a proper precedent, and as I do not propose to occupy over five minutes, I prefer to have all of that time myself.

Mr. POMEROY. I ask the Senator's pardon.

Mr. MORRILL, of Vermont. My colleague says that the present tax can be enforced. I think we have demonstrated by practical experience that it cannot be, and as a practical man I think that we ought to legislate in view of practical results. The truth is that the world regards the transgression of laws which are enacted for the enforcement of revenue, whether foreign or domestic, not in the same light that they do any other criminal transgressions, where there is a forfeiture or a penalty of the penitentiary annexed. It is only evil because it is prohibited. They do not feel that there is any disgrace in evading a custom-house law or an internal revenue law; it is not evil in itself, but merely evil because it is prohibited. You cannot make the condition of a man who merely transgresses a revenue law the same as that of one who transgresses some other criminal statute. Take for instance, as an illustration, diamonds. Diamonds are of no use; they are used by men and women of wealth merely for ornamentation; and yet do we propose to levy any such duty on them as we do upon iron? No, sir; the only amount of duty we levy upon diamonds is ten per cent., and that is much more than we can collect. The old duty was a correct one, five per cent. upon diamonds; and at the time the duty was raised above that we had then the evidence before us that they could be freighted and delivered to parties in New York for seven and a half per cent., with the duty paid, even if the duty was ten per cent. Contracts were being entered into to that effect. And now this very week I have heard of parties here selling diamonds in the street; I have no doubt they were foreign Jews that brought them over, smuggled them in some way, and never paid any duty upon them. If the duty was reduced to five per cent. I have no question but that we could collect treble the amount we now do upon them. And yet it was utterly impossible to get a vote in the House of Representatives for any sum less than ten per cent. upon diamonds; and if it shall result here now to-night that this tax is kept at two dollars a gallon on whisky, it will prove in the end that we cannot collect it. Having faithfully tried for these last three years by some means to enforce it, and never believing that it could be collected, I am ready now to try another experiment, and it may be but an experiment; but I believe that the Committee of Ways and Means of the House of Representatives have labored long and faithfully on this subject, and I am for accepting their conclusions in the main, and adopting them here to-night. I trust we shall have a vote on this question and get through with this bill.

Mr. BUCKALEW. I voted against imposing this tax of two dollars a gallon originally, and I hold now the same opinions I then held with regard to the policy of its imposition. I did not then believe that the law would be enforced. I then believed that frauds would

be sown broadcast through the country by it. But all opposition to the rate proposed was then unavailing. There were two classes of persons who carried this tax. I do not allude to those persons who thought this a legitimate object of revenue and desired to get the largest amount from it for the simple purpose of easing the Treasury; I allude to two other classes: first, those who look upon the manufacture of whisky as an evil, a moral and social evil, in the community, and desire, by virtue of the law-making power of the United States to repress the manufacture, to prevent the creation of the article. It is very true that we have no power here in Congress to destroy the production of any article allowed to be created by the laws of the several States, and an article of common property and of common traffic in the country. We can only operate upon property in our revenue laws as a revenue question for the purpose of obtaining money to the Treasury. But, as I said before, there were a large number of persons who had votes upon the passage of that bill or who had influence which they exerted upon the men who passed that bill, who thought it was a favorable opportunity to introduce moral reform through the instrumentality of an act of Congress. There was another class of men, those who had quantities of whisky upon hand and who would receive large additional amounts upon its sale if a law should be passed taxing future production at the rate of two dollars a gallon. That was a powerful interest; and whether you regard it now, as some gentlemen did, with favor or not, the fact is undoubted that it had influence and that it did exert its influence, and that most efficiently, upon the action of Congress fixing the rate at two dollars a gallon.

It was these two interests which fixed this tax at two dollars, and we have tried the experiment for a period now somewhat exceeding three years, and it has been a failure; and not a failure merely so far as our revenue is concerned, but a scandal and an evil in the administration of the Government and in the action of our people. And the question now is, whether we shall retrace our steps, whether we shall undo the work we then performed, correct the error which we then committed, or not. The House of Representatives have made the attempt, and have sent to us the proposition upon which their opinions have finally been concentrated; and that is, that we shall tax this article fifty cents a gallon in future, instead of the extraordinary, improvident, fruitless, mischievous, and evil rate of two dollars, which we adopted in March, 1865.

Now, sir, what are the arguments against this proposed change? I have listened to the Senator from Kansas, [Mr. POMEROY;] I always listen to him with satisfaction and very often with instruction; and I have also listened to the astute and able Senator from Vermont, [Mr. EDMUNDS.] They have explored the field of argument and have stated to us their objections to this bill, and I suppose they are the best ones that can be produced. What are they? The Senator from Vermont states two points. First, he says this is a question of right or wrong; is this tax right? if so, it is to be maintained; has the Government not power to impose it? is this not a legitimate object of taxation? is it not an insult to us that our law shall be resisted, and should we retire before the assaults of fraudulent men and of objectors? As it is right let us enforce it, says he.

Again, he says this is a question with regard to machinery, the agents which we select to administer the system and the provisions of law by which they are authorized to enforce the tax which we have imposed. These are the two points which he suggests, but he omits the most important one, and because he does not touch that he does not touch the real point of the argument in this debate.

This is a question of expediency. It is not a question of right or wrong. There is no moral question involved in whether whisky should pay fifty cents or two dollars tax per

gallon. It is a question of expediency in arranging our revenue system; and our experience is so manifestly and clearly against the expediency of the present rate that I think there ought to be no hesitation in agreeing with the House of Representatives to change it. This is the answer, and I think the sufficient answer, to the argument of the Senator from Vermont, that he does not state the main, true, real, important, vital question by which this subject can be determined, and determined, in my judgment, right by the Senate.

The Senator from Kansas made two points, also. The first was that the Government was the holder of an immense quantity of whisky, now twenty-five million gallons, an amount which would stagger gentlemen almost when they come to contemplate it. Think of the Government of the United States holding as owner twenty-five million gallons of this property, now having it in hand and interested in a market for its sale! The Senator confounded two things that are entirely distinct in their character. He is alluding to the amount of whisky in store owned by private individuals, held in storehouses, and not yet introduced into market. The Government is not the owner; it has no direct necessary interest in its sale. His whole argument is misconceived, because it is founded upon a mistake. This is private and not Government property. Well, sir, that part of his argument which he stated so triumphantly, which would have been very powerful if it had been correct, must be put aside; there is nothing in that.

Then he recurred to the other argument always introduced when the debate pinches upon questions of that kind. He introduced the moral considerations involved in the discussion of such bills, and the one to which I referred a short time since in the first remarks I made, and that is, that this is an article of production which ought to be discouraged by the Government, repressed; that instead of grain being turned into liquid and used in the form of spirits by the people it should be consumed as flour or some other more innocent and meritorious form.

These are all the arguments, so far as I remember, which have been stated against this bill. Now, sir, instead of this two dollar tax upon whisky having produced reform in the country of any kind, it has introduced evil and mischief. It has produced no temperance reform, no apparent decrease in the consumption of spirits as a drink. Nothing of that sort has been secured, although this experiment has been going on for three years; but this tax has sown fraud broadcast through the land, demoralized the people, or at least a portion of them, and our public agents.

Upon the whole, Mr. President, the argument in favor of this bill, in my judgment, is irresistible, and I shall vote for it with a perfectly clear mind, with a judgment entirely convinced of its propriety.

There is only one other point to which I will allude. The Senator from Vermont [Mr. EDMUNDS] assails the selection of public agents for the administration of our tax laws; particularly our agents concerned in the collection of the tax on whisky. I consider that one of the main reasons for the present unsatisfactory condition of our public service is a law which was introduced by himself and which was passed by the Senate mainly upon the advocacy given to it by himself and by the Senator from Oregon, [Mr. WILLIAMS.] I mean the tenure-of-office law. I do not believe you will have a satisfactory administration of your revenue system until that law shall be repealed, removed from the statute-book, and you shall restore complete power to the executive department to select all the agents who are concerned in the administration of our laws, particularly our revenue laws. Until that is done you will never have a satisfactory administration of this or any other system connected with our revenue.

Mr. POMEROY. I merely want to correct a single statement of the Senator from Penn-

sylvania. What I stated and the Senator from Pennsylvania replied to was this: that the Government of the United States had twenty-five million gallons in bond; that the interest which the Government had in it was the tax. It is in our warehouses, put in and held for the tax at two dollars a gallon, and the interest of the Government in it is \$50,000,000. Some say that we have more than that; but the Finance Committee consider that there are at least \$50,000,000 worth to the Government in bond, and you provide in this bill that it must be taken out within a year. The House had it six months; but you provide that it must be taken out in a year, and it cannot be taken out without paying the tax. Then we are sure, with any tolerable administration of this law, if we do not manufacture a gallon, but shut up every distillery during the year, that you will be able to get, if it is fairly and honestly taken out, \$50,000,000.

Mr. HENDRICKS. I would like to ask the Senator one question. I would like to know of him how the Government can get \$50,000,000 out of twenty-five million gallons of whisky, when whisky sells in market at \$1 25 and \$1 50 a gallon?

Mr. POMEROY. My point is that under the law they are obliged to take it out within a year, and they cannot get it out without paying the tax, or else it is forfeited; so that the interest of the Government I say is not to depreciate the price but to appreciate it, to advance it. If you and I were holders in our individual right, we would not strike it down to sixty cents or fifty cents, when we held it and had a sure claim on it at two dollars a gallon. That is the interest of the Government which I was trying to protect.

Mr. EDMUNDS. Mr. President, the Senator from Pennsylvania informs us that the legislation of Congress must be had entirely with an eye to revenue, and that it is an unheard of impropriety that we should have any reference in our legislation to any question of morals; that we have to do with the sum of money that we can receive and with nothing else. I wish to ask my honorable friend if I did not misunderstand his position—

Mr. BUCKALEW. I spoke only with reference to the constitutional power to impose taxes. The power exists only for the purposes of revenue.

Mr. EDMUNDS. Then I did not misunderstand the honorable Senator; but that being so, I wish to ask him whether there has not always been in the customs laws a series of provisions that were based solely upon moral considerations, prohibiting the introduction into the country of a class of articles that the public will suppose to be injurious to the morals of the people? My friend from Pennsylvania knows, now that he is reminded of it, perfectly well that that is so. Therefore it is a little too late in the year 1868 to advance the doctrine that when we are dealing with subjects of taxation we have not a right to consider questions of morals as considered with the operation of such taxation.

Mr. BUCKALEW. I agree that the Government may do certain things with regard to the introduction of articles from abroad under the power to regulate commerce. I did not go into that.

Mr. EDMUNDS. I understand that the laying of taxes on imports does not necessarily come under the head of the regulation of commerce, any more than the laying of internal taxes does; but I should like to have the Senator tell us what greater connection there is between morals in the regulation of commerce and morals in the imposition of taxes? That would be a question for the casuists to determine, which would take as long as it did the Dutchman to determine whether a ghost could go from one place to another without going through the space between, which occupied, I believe, twenty volumes.

My friend from Pennsylvania asserts that after all the true question, which those who believe in standing by this tax have lost sight

of, is a question of expediency, which has nothing to do with morals; which has nothing to do with right and wrong, but only has to do with receiving the greatest reasonable amount of tax from a given article. Well, sir, it was upon grounds of expediency that I based my opposition to this change, because in the first place I have been brought up in a school of politics which has taught me that to do right is the highest possible expediency. I am aware that the party to which my honorable friend belongs never has taken exactly that view of the management of affairs. Success is the touch-stone with him and his associates to achieve the given point, no matter what the means may be by which that end is to be achieved, (I will keep within such limits as propriety and my friendship would confine me,) whether it is to be through a platform which has repudiation at one end of it and national rights at the other, or whatever the platform may be. But, sir, looking at it in the view of expediency, in that narrow and low sense in which he treats it, I say that it is expedient that we should receive from this article of luxury, as it is, the largest possible revenue that we can collect. I believe that is generally not disputed.

Then the next question is, Can we collect the two dollars a gallon? The committee and the Senator tell us that we cannot because we have not. They say that is the best proof. In the first year of this taxation, the year 1865, we collected, under an Administration that had been transmitted by one of the most unfortunate tragedies that ever happened in this or any other country, from one President to another, three or four times in round numbers the amount that we have collected in this year. I do not profess to state it with accuracy.

Mr. SHERMAN. Will my friend allow me to give him the figures?

Mr. EDMUNDS. I will remind my friend from Ohio, although I am very glad to be interrupted, that he refused me a similar courtesy yesterday; but I wish to be interrupted, because I believe that is the true way of conducting debate to get at the truth.

Mr. SHERMAN. I was going to say that the Senator is mistaken in one thing. The tax was put at two dollars in March, 1865. In 1864, when it was sixty cents, it yielded us \$28,431,000. The year following, 1865, during part of which it was sixty cents and part two dollars, it yielded us \$15,995,000. The next year, 1866, during the whole of which we had the two-dollar tax, the yield was \$29,198,000. In 1867 it was \$28,296,000; and in the present year, up to the 1st of July, a little less than sixteen million dollars.

Mr. EDMUNDS. I am much obliged to my honorable friend. In exact proportion as you are from the date of the death of President Lincoln, just in that proportion does the yield of the tax on whisky, or anything else in regard to which a "ring" can be formed, descend. I could have foretold, could have guessed, that that explanation would be reached if you looked at the documents. If you find that there is a whisky "ring," you find that every man of them is a supporter of that "conservative" and "constitutional" Administration, which is about to carry the country, amid thunders of applause, through Tammany Hall, as they say, on to some candidate, exactly who we do not yet know. They are all to be found on that side. They are all opposed to the tax and in favor of the Administration.

Mr. BUCKALEW. I desire to say a word to the Senator.

Mr. EDMUNDS. I shall be very happy to hear my friend from Pennsylvania.

Mr. BUCKALEW. I have paid some attention to the recent convictions at Richmond. I think there were four or five persons convicted and severely sentenced by the Chief Justice. There was also a recent conviction of a noted man at New York. In the whole number of those convictions, amounting to about half a dozen, there was but one among them who does not belong to the Senator's own party.

Mr. EDMUNDS. Yes, every man who has been convicted undoubtedly under this Administration has been an opponent of it. I should have expected that. And every man who has received a sentence from the Chief Justice has undoubtedly been or will be a Republican.

Mr. BUCKALEW. I rose to correct the Senator, "every one were friends of the Administration." These are the only known cases to which I can point.

Mr. EDMUNDS. Let us see about those. Who is a Republican and who is otherwise in the State of Virginia nobody of less talent than my friend, and a man in intimate connection with the Administration, could possibly guess. We have had a recent instance of that in executive session, to which, of course, I cannot refer, where whether the man is on one side of the fence or the other, and we have it every time in these southern States, nobody can know. Therefore, I set aside his Virginia instances as being somewhat problematical. Now to the New York instance to which he alludes, where the man had a position: it so happened that that gentleman, according to his history, was a member of the party of my honorable friend. It is true that he sold himself out, as the story goes. I do not wish to abuse a man who is in the State prison and cannot reply to me; but the story goes that he sold himself out to get the speakership at Albany one year, and got it by one vote, and then returned to the fold of that great party which is always ready to receive at least penitents, if not those who have sinned and have not repented. That is his history. I believe I state it fairly.

No, Mr. President, it is a fact that my friend from Pennsylvania cannot deny that this great combination of operators against this law is just as thoroughly a combination in favor of this Administration and of the Democratic party as it is that I, who stand up here and stand by the law, am opposed to it. I do not say that the Democratic party is to blame for it. I do not say that the Administration is to blame for it. People cannot help admiring men who befriend them; and inasmuch as the conduct of this Administration has been such as to encourage and uphold, either affirmatively or negatively, this gigantic, informal, unorganized corporation, I do not think it is very unnatural that that corporation should lend all its energies to the defense of the President of the United States when he is impeached, and to the support of whoever it may be when he comes to be a candidate for office. I am not surprised at it at all.

My friend says that the real difficulty after all is in the fact that we passed a bill which deprived the President of the United States of the power summarily to remove persons from office when they should be detected in any improper practice, and he imputes to me and my honorable friend from Oregon [Mr. WILLIAMS] the guilt and sin of the passage of that law. My friend from Oregon is probably more to blame than I am, if there is any blame. The idea in that form originated with him. I am proud to say that I did all I could to aid him in carrying through and perfecting that measure, and I do not believe either he or myself is at all ashamed of it yet. Mr. President, were it not for that law to-day, instead of getting only \$10,000,000 or \$11,000,000, you would not have got \$5,000,000. In my humble judgment—and our experience demonstrates it—if that law had not been in force there would not have been a man in the whole internal revenue service of the country, from the Commissioner down, who either was not in the whisky ring or a cousin to somebody who was in the whisky ring.

The truth is that everybody all over the country knows where this responsibility rests, and which are the birds that flock together. Look at the city of New York, where by far the largest proportion of all the whisky in the country, relatively speaking, is distilled and made, where the largest frauds are committed, where millions in a day or a week are taken

from the coffers of the Government, or rather kept out of them that ought to go in. What do you see there? Just in proportion as there are distilleries, and just in proportion as there are frauds, you find coming up on election day the greatest majorities for the Democratic party; and the city that can defraud the United States out of its millions in a year can give to the Democratic party majorities by the hundred thousand, I was about to say—by the seventy or eighty thousand. To be sure this may be a perfectly inconsequential coincidence. It may be so; but it so happens that there is the fact: and it is a fact that the intelligent people of this country will not shut up their eyes to; and it will stand the fact until through a reformation of the administrative department of the Government there shall be sent into that city, or selected from it a class of agents (and there are enough of them there now among those citizens who could be selected if there was anybody to select them) who will enforce with fairness and impartiality and incorruptibility the law which declares that upon this liquor whatever is imposed shall be paid.

My colleague has said, reasoning upon economic grounds, and upon ingenious ones, as he always does, that the fact that the article is a luxury does not necessarily prove that it will bear a given rate of taxation. That is true; and he illustrates by referring to the case of diamonds, among the greatest of luxuries, only carrying an impost of ten per cent., which he believes to be double what it ought to be for purposes of revenue. That is all very true; and the reason my colleague well knows is that diamonds are a species of luxury that are easily concealed; that the vigilant and honest and energetic custom-house officer cannot find them. If there is any comparison or illustration to be made between a diamond and a barrel of whisky, or between a small casket of \$1,000,000 of diamonds that you could put in your pocket and a huge distillery that runs its five hundred barrels a day, I fail to see it. You can collect the tax on whisky or stop the distilling if your agents are honest. You cannot collect a tax on diamonds where that tax is laid so high that it is an object for the holder and possessor of the diamonds to conceal them, as he can, nine times in ten, beyond the reach of their being discovered; and that I respectfully submit to my colleague is the fair difference between the two cases. But, sir, I do not wish to occupy more of your time.

Mr. CONNESS obtained the floor.

Mr. MORRILL, of Vermont. Allow me a moment in reply to my colleague?

Mr. CONNESS. Yes; I leave the discussion between the two Senators from Vermont.

Mr. MORRILL, of Vermont. I merely wish to say one word to my colleague in relation to the fact of diamonds being so easily concealed. I had supposed that a very considerable amount of whisky was very easily concealed. [Laughter.]

Mr. EDMUNDS. It is, through a glass. [Laughter.]

Mr. MORRILL, of Vermont. And in relation to this particular subject my colleague ought to know that our own good little State, where we drink no whisky, and where it was supposed we made none, has been shocked by the seizure of two distilleries there. There they thought they could go with entire impunity and hide their stills in the woods in some back town, and buy their molasses, cart it to their distillery, and make a very respectable little sum, much more than they could make by farming in Vermont. It is so over the country; in Tennessee, up and down the Mississippi. So that this high duty of two dollars per gallon tempts almost every rascal in the country to go to work. I say it is utterly impossible that we can collect it, and as practical men we should reduce it to the proper sum.

Mr. CONNESS and Mr. YATES addressed the Chair.

The President *pro tempore*. The Senator from Illinois.

Mr. MORRILL, of Vermont. I took the



floor from my friend from California, who yielded to me merely for explanation.

Mr. YATES. I will yield the floor to the Senator from California, if he wishes it.

Mr. CONNESS. No, sir; go on.

Mr. YATES. Mr. President, I do not think I should have said a word on this subject but for the insinuation which has been made that the advocates of the reduction of the tax are in some way or other associated with the whisky ring. I have not the pleasure of knowing any of that honorable fraternity. I will state that in the beginning I was in favor of the imposition of the two-dollar tax. But, sir, when it is intimated that the advocates of a reduction are in the interest of the whisky ring, I respond that the gentlemen are very unfortunate, indeed. They go upon the presumption that the whisky ring men can make more money when the tax is fifty cents on the gallon than they can when the tax is two dollars on the gallon—rather an unreasonable presumption, I think. What inducement is there that the whisky ring should be in favor of the reduction of the tax? Is not their margin great enough now? Will they leave the rich fields, in which they have garnered so much wealth, with a margin of two dollars to the gallon, to make immense fortunes upon fifty cents to the gallon? I say most unfortunate are these Senators. The experience of the country is against them. Under the system of two dollars on the gallon we have seen frauds which have shocked the sense of the nation, which have astounded the good and patriotic and honest of the land, and filled the whole country with demoralization and corruption. And yet these Senators say they are not in the interest of the whisky ring, and that the advocates of reduction are, when they are keeping wide open these doors to the continued commission of frauds.

I admit the correctness of the argument of the Senator from Vermont in so far as he says that we should tax luxuries more than we do the necessities of life. That is a correct principle. But, sir, the question now is whether we are to recognize this trade as lawful or not. If we are opposed to the manufacture and sale of ardent spirits then it is our duty as legislators not to collect a revenue at all from it, or we must tax it to the extent of absolute prohibition in order to carry out the doctrine for which the Senator contended. For instance, it is contended in many of the eastern States and in some of the western States that a State government which issues licenses to the grocery men is deriving a revenue from unlawful enterprises. What is this, if you carry out the same argument, but a license to the manufacturer of alcoholic liquor, that if he will pay two dollars upon the gallon he may continue his trade, however pernicious to society, however demoralizing, however much it fills the land with misery and woe?

But the question for us to decide, and which we must act upon, is this: do we recognize by taxation that the enterprise of manufacturing ardent spirits is a lawful one? If we do, then we must not administer oppressive taxation, burdensome taxation, to any lawful enterprise. While we may justly discriminate to a certain extent between the tax upon luxuries and necessities, yet if we admit that we can tax the article at all, and that the enterprise is a lawful one, then the tax must not be unreasonable. That is the question for the Senator to decide when he argues upon the mere morality of the question.

But, sir, I rose simply to say that I am not afraid of being identified with the whisky ring, when we propose to close up the avenues by which they have made immense fortunes, and filled the land with corruption, when by reducing the tax to a proper limit it can be collected, and when we know by sad experience that the present rate of tax not only cannot be collected, but has been a disgrace to the country in which we live.

Mr. CONNESS and Mr. DAVIS addressed the Chair.

The PRESIDENT *pro tempore*. The Senator from Kentucky.

Mr. DAVIS. I will yield to the honorable Senator from California, as he yielded courteously to the Senator from Vermont a few minutes ago, and lost the floor.

Mr. CONNESS. Not at all; go on, sir.

Mr. DAVIS. Mr. President, I do not intend to say many words. I am very fond of a joke, but I think that the finest joke of the season has been cracked to-night when it was announced solemnly that the Radical party disdained success and adopted principle alone as its polar star. I think that is about as ludicrous, when compared with the practices of the party, as anything could well be.

Mr. President, the experience of the world, as has been suggested by one of the Senators from Vermont, [Mr. MORRILL,] has established this truth in all countries: that where taxes reach to an excessive point collection becomes impossible. The whisky tax in the last few years has proved the truth of that proposition again. When the tax was twenty cents at first, and afterward fifty cents, the amount of revenue produced was thirty-eight million dollars and a fraction. The amount of the collections has never been equal to that sum since, except one year, and that was the year before the fiscal year that has just closed. I understand that the produce of the tax for the year that closed on the 30th of June last was about fifteen millions; in 1864 it was thirty-eight millions and a fraction. The highest rate of tax during the year, if I recollect aright, was fifty cents a gallon. Part of the year it was twenty cents and part of the year fifty cents a gallon.

Mr. WILSON. The amount collected was \$28,000,000, instead of \$38,000,000.

Mr. DAVIS. Twenty-eight million dollars. I thank the honorable Senator for correcting me. So that under the tax of last year of two dollars per gallon the produce was only a little more than half of the amount produced when it was twenty cents and fifty cents a gallon. The honorable Senator from Vermont [Mr. EDMUNDS] attributes this to the faithlessness of the power at the other end of the avenue. I have been expecting that that honorable Senator or some other Radical Senator would attribute the coming of the locusts to the same cause, [laughter,] for I suppose the power at the other end of the avenue had as much to do with the one as the other.

Mr. EDMUNDS. There is certainly a strong analogy between the two instances. [Laughter.]

Mr. DAVIS. I will give another fact to the honorable Senator. I have seen a comparison of the amount of falling off of the revenue in the different districts, the appointments of which were controlled by the Executive, and the districts that were ratified by the confirming power of the Senate, and the aggregate amount, and the amount in detail is in favor of the districts where the Executive alone controlled the appointments.

Mr. EDMUNDS. I should like to see the abstract.

Mr. DAVIS. I will make the issue with the honorable Senator, and I will compare notes with him critically and according to the record. As it has been shown to me, the amount of falling off in detail, and in the aggregate, in the districts controlled entirely by the Senate was greater than it was in the districts controlled by the Executive.

Mr. EDMUNDS. Will the Senator permit me to ask him if he has that table here?

Mr. DAVIS. I have not.

Mr. EDMUNDS. May I ask him what districts he refers to?

Mr. DAVIS. A great many.

Mr. EDMUNDS. Can he name some of them? Was New Orleans one?

Mr. DAVIS. I will bring up the whole matter in detail at a more convenient season, and I will confront the honorable Senator.

Mr. EDMUNDS. I wish to inquire if the district of which Steadman was collector was one?

Mr. PATTERSON, of New Hampshire. I

should like to say one word on that point, if the Senator from Kentucky has no objection. I saw that statement as it was printed in the newspapers, and wrote a letter to Mr. Rollins to know as to the facts. He replied to me that there was not one word of truth in it from beginning to end; that he had had nothing whatever to do with the appointments since the Philadelphia convention, and that that statement was totally false.

Mr. DAVIS. My honorable friend mistakes my statement. I did not state, nor did the statement which I saw make Mr. Rollins responsible for the appointments; but it made the Senate responsible for the appointments. I will give an example. I had nominated in a particular collection district in Kentucky five or six of the best business and most honest men in the district; and each of them successively was rejected by the Senate until an inferior and a less successful collector was eventually forced into the place. But I will bring that matter up at a more convenient season, and with a little more authenticity.

What I am after now is this: that as the honorable Senator from Oregon demonstrated with so much force this evening, whenever you raise the tax upon any article beyond a given point you make it an uncollectable tax and you necessarily produce frauds and evasions. That is the exact condition in which the whisky tax exists now and has existed for the last two or three years. The whisky costs in the production of it from thirty to forty cents a gallon. There is a tax imposed upon it of five times and more than five times the original cost. Whenever you lay a tax that has that disproportion to the cost of a particular article, you necessarily lay out a scheme for every kind of fraud and perjury and evasion of which the subject is susceptible. Such have been the operation and the effect of the tax of two dollars a gallon upon whisky.

A good deal is said about the "whisky ring" here. The distillers in my State do not belong to the whisky ring. As I understand, the whisky ring is composed of men who deal in the article upon which the tax has not been paid. So the producers in my State understand it. They know that they make the best article that is brought into market, and all they desire is that the tax, whatever it may be, shall be fairly collected. If you impose a tax of two dollars upon them, all that they desire is that the producers in New York and Brooklyn, and everywhere else, shall be made to pay faithfully the same tax; because, whenever other distillers are bound by the law and by the administration of the law to pay the same rate of tax that they pay, they can force the other distillers out of the market, because they can afford to sell as low and they will sell a superior article. The distillers in Kentucky do not complain of the rate of tax so much as they do that it is so high that it is not and cannot be collected. No fact is better authenticated than this. You may go into the New York markets, and you may find whisky branded properly, as having passed inspection and having paid the tax, that can be purchased at from a dollar and a half to two dollars a gallon. That proves only this general fact, that that whisky has passed into market without paying the tax; it has passed into the market by fraud, by perjury, by the defalcation of the officers whose duty it was to see that the tax had been paid.

It is these abuses and imperfections of the system of which the distillers in my country complain. They do not care the toss-up of a copper whether the tax on whisky is fifty cents or two dollars per gallon if the tax is honestly and faithfully and punctually collected. But their experience and the experience of the nation for three years proves that the present rate of tax is too high ever to be collected, and that all the frauds that are committed, and they amount to millions upon millions annually, are at the cost, more or less, of the honest producer who pays fairly the tax levied by the Government.

Now, Mr. President, the honorable Senator from Kansas is in favor of a high tax.

Mr. POMEROY. Yes, sir.

Mr. DAVIS. Does the honorable Senator wish a high tax in the aggregate which cannot be collected, or a low rate of tax which can be collected which would yield a greater amount in the aggregate? Which would the honorable Senator prefer?

Mr. POMEROY. I want the tax honestly collected at two dollars a gallon.

Mr. DAVIS. Suppose it cannot be.

Mr. POMEROY. There is no "cannot" about it.

Mr. DAVIS. Experience is the best of all teachers, and it has proved beyond doubt to every unprejudiced and reasonable mind that the tax of two dollars has not been collected and cannot be collected. But this is the proposition, and it was correctly stated by the honorable Senator from Pennsylvania, [Mr. BUCKALEW;] so far as the present bill is involved the only legitimate inquiry is, What rate of tax will produce the largest amount of revenue in the aggregate? If two dollars will produce the largest amount, there being no fairer subject for taxation than whisky, I say tax it. But when experience has proved for three years that the tax cannot be collected, and that at least three fourths of the whisky that is manufactured goes into market without the payment of any tax at all, and in that way not only defrauds the Government, but the honest producer of the article who does pay the tax, I ask the honorable Senator from Kansas if it is not time to abandon it? And when we recur to a previous time when the tax ranged from twenty cents to fifty cents per gallon, and learn that the amount of the tax then collected was nearly double what was collected under the two-dollar tax for the last year, can there be a reasonable doubt that the rate of two dollars is too high, and that it is impossible to collect that amount of tax?

Mr. President, I do not care what the rate of tax upon whisky is. I should be willing now and forever, if the Government had the power and could so legislate that a barrel of whisky should never be made again, that that legislation should take place. I am no friend of the production of whisky, or to its use as a beverage. I concede fully with the honorable Senator from Kansas that a great amount of the misery and crime that disgrace the world and deform humanity results from the excessive use of whisky. But next to the use of whisky, the most fruitful source of the crime of the present day is the legislation of Congress to enforce the tax of two dollars a gallon upon whisky. Why, sir, your laws are studded throughout with fines, forfeitures, penalties, perjuries, punishments by fine and imprisonment. All the paraphernalia of the most atrocious system of penal laws that was ever devised by the wit and the ingenuity of man teem in your present revenue laws in relation to whisky, and they have failed wholly and signally of the purposes for which they were made. I say that your whole legislation has been to organize and create a hot-bed of crime, fraud, immorality, perjury, the effect of which has been to corrupt this nation and the American people to a greater extent than they have ever been corrupted by any other cause save and except the intemperate use of the article upon which you impose this enormous rate of tax. Will you continue this system? It is a foul blot, a disgrace upon the nation and upon legislation.

Sir, there are laws that can be executed, and there are laws that cannot be executed. There is a higher law than your legislation in this country, and that higher law is the great public sentiment. As two or three honorable Senators have said, you cannot stamp upon an act that is merely *malum prohibitum* the infamy and the odium of an act *malum in se*. It is not of the heinous, immoral nature, that moral turpitude which is necessary to turn the sentiments of a community and a people against a crime that the law has denounced as one.

Sir, when you impose a tax of two dollars upon whisky, the men who pay it—the men who pay it at last—are the consumers, but both the distiller and the consumer begin to inquire, "Why is this enormous rate of tax imposed upon me?" They turn to your legislation, and they see that you maintain a Freedmen's Bureau to support and educate hundreds of thousands of lazy, vagabond negroes; and see that that is one of the enormous drafts upon the Treasury of the United States, and upon the taxes which they pay upon whisky. They turn then to your standing Army that is not kept up for the defense of the country, for the support of the Government in its just authority, for the protection of the frontiers and of the coast upon the ocean, but that is kept up to the number of twenty or thirty thousand men in the southern States. Here you have a standing Army of some fifty-eight or sixty thousand men that if the companies were filled up you could raise to one hundred and six thousand; and they inquire, why is this enormous standing Army maintained? For the purpose of keeping the southern people in a state of subjection to your legislation and to your friends, the negroes, the freedmen of those States. You deprive them of the power of self-government; you withhold from them every constitutional right and liberty for which their fathers fought, and which is guaranteed to them by the Constitution. This second great drain annually costs thirty or forty millions more than is necessary for the Army of the United States. Sir, when the intelligent people of the United States, who are ground to the dust for the payment of the enormous taxes that are impoverishing them and their families, begin to inquire where are the expenditures of this enormous tax of two dollars a gallon upon whisky—the original cost of which is only about thirty cents—do you expect to convince them, the juries of the country, and the public sentiment of the country, that it is a heinous and a base crime to evade the payment of these enormous taxes when they are collected for these purposes?

Mr. President, there are some great principles of human nature that can never be conquered by any legislation. I will state one or two. One is that temptation and fraud make crime; temptation and opportunity make criminals. If there are any men who are not criminals, and who will not commit crime, they are the ones who are not brought into contact with temptation.

Sir, it is utterly impossible to impose that rate of tax upon whisky and to dream of collecting it. The man who persuades himself that it can be collected is a dreamer. He does not understand the imperfect nature to which he belongs; he shuts his eyes against experience; and he refuses to listen to the silent teachings of that inward man that instructs us all. You cannot collect such a tax. You have attempted it by experiments that ought to have satisfied you not only of its impracticability but of its impossibility, and it is time that you should change your system of legislation.

Another principle of human nature is that there must be a proportion between crime and punishment. The guilt, the atrocity, the turpitude of the act must wear something like an equitable proportion to the severity of the punishment. You may inflict punishment as severe as you please in every line in your bill for the violation of the laws in relation to the payment of the tax upon whisky, and you will never instruct or teach the mind or moral sense of the people of the United States that they are atrocious and heinous crimes. They are not so. They are laws against justice; they are laws against equal rights; they are laws that forget entirely the proportion between crime and punishment; they are laws that shock human nature and the sense of justice that is innate in man; and whenever you introduce a code of that character in relation to any subject the people will subordinate your code to a higher code, namely, their own sense of propriety, of right and wrong, of what belongs to our

common humanity. There is no wise, practical legislation but what seeks a just apportionment between crime and punishment; and there is no wise and statesmanlike legislation that shuts the mind and the eyes to the lessons of experience as you, gentlemen, are attempting to do in relation to this subject. You must be taught by the great principles of human nature, common to us all, and you must be taught by the lessons of experience; and when these two sources of teaching instruct you that you are upon a wrong system it is wisdom and patriotism and common sense to change your course of legislation and to adopt a better and a more correct and philosophical line.

Mr. McCREERY. It is almost ten o'clock and the thermometer is standing at ninety-eight degrees. I move that the Senate do now adjourn.

Several SENATORS. No, no; let us finish the bill to-night.

The motion to adjourn was not agreed to.

Mr. CONNESS. I shall not detain the Senate long.

Mr. McCREERY. I call for a division on my motion.

The PRESIDENT *pro tempore*. It is rather late.

Several SENATORS. It is too late.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Kansas.

Mr. CONNESS. I thought I had the floor.

The PRESIDENT *pro tempore*. You did not seem as if you wished to occupy it. [Laughter.]

Mr. CONNESS. Mr. President, with great respect to the Chair, I have noticed that there was a kind of indisposition to let me occupy the floor this evening; but I rather think the Chair was right in the main, and that it ought not to have been occupied by myself or anybody else as long as it has been.

I desire simply to say a very few words before the vote is taken. I regretted, while listening to the honorable Senator from Vermont, [Mr. EDMUNDS,] to see an apparent attempt to resolve this debate into a political turn or aspect. One listening to the Senator while he was speaking would have supposed it was the mission just now of the Republican party to keep the tax on whisky at two dollars a gallon, and that the Democratic party were responsible and immoral in endeavoring to reduce the tax to fatten the whisky ring and keep money out of the Treasury. I did not understand, and cannot be made to understand, I think, the drift or pertinence of my honorable friend, who generally speaks with so much ability. I have a different view of this case. I believe that it is our legislation, dictated, I might say, by the committees of Congress, the Committee on Finance of this body, and of Ways and Means of the other House, that has organized the whisky ring in the Republic, by putting the tax at two dollars a gallon.

Mr. SHERMAN. I beg to correct my friend there, by saying that the Senate did it against the vote of the Committee on Finance and against their report.

Mr. MORRILL, of Vermont. And the House committee reported in favor of a much less sum; only sixty cents, I think.

Mr. SHERMAN. The Committee on Finance reported in favor of a tax of one dollar, and I stood faithfully by it, and the committee stood by it; but we were overruled by a deliberate vote of the Senate.

Mr. CONNESS. I am very glad to be corrected in that. My mind ought to have been right upon it, for I must have been here. But I am willing to repeat that we, the Congress of the United States, are responsible for organizing this so-called whisky ring by keeping the tax at two dollars a gallon. Experience has taught, and reason might have taught before experience, that two dollars a gallon cannot be collected in this country from whisky.

Mr. FERRY. Nor anywhere else.

Mr. CONNESS. My friend from Connecticut says, "nor anywhere else." An equivalent tax is collected in Great Britain.

Mr. FERRY. No; it is not.

Mr. CONNESS. I believe it is, with great respect to the Senator. But let me say the cases are very different. They have their population within a very small space, and the country is policed in a manner and to an extent that we could never police ours, and I trust never will; and, indeed, I might say here, that when my honorable friend from Kentucky who addressed the Senate shall have ceased, and his associates with him, their opposition to good measures in this country, and to the reign of peace and justice, this country will be, as I hope it will soon, policed to a lesser extent than it is at this time. But, sir, how is it possible to so police a continent, every acre of which, if you leave out your cities, is yet, as compared to European countries, a forest? It is simply impossible. We have undertaken to do it, and what has been the result? Less collections annually.

My honorable friend from Vermont said that those less collections were because of the appointment of bad officers by Andrew Johnson. I am willing to admit that the present President of the United States is very responsible, and his Secretary of the Treasury, for the failure to collect the revenue to an extent. They are responsible from Sheridan Shook down to Sloanaker. It is enough to say that you cannot get a revenue officer removed upon application, with facts sustaining the application, who is engaged in cheating and defrauding this Government. There is the fault there.

But that is not all the fault; nor is it fair or honest to say that it is but Democratic appointees and so-called Johnsonian appointees that do the stealing as officials. There is not integrity enough in the Republican party, nor any other party, to stand up against such a tax. Why, sir, in the State that I in part represent here whisky has not attained the price of your tax in the markets of San Francisco since the tax was imposed. The greatest distillery in that city, conducted by James Dowes & Co., has been closed at least ten months out of every year since the tax of two dollars was imposed. They are honest men, able to conduct their business, anxious to conduct it, anxious to pay the tax even of two dollars, but they could not do it. Between illicit distillations, as was stated here by a Senator to day, in cellars and by-places, the aggregate making a vast amount of spirits, and importations from New York escaping without paying the tax there, but securing the brand of the inspection officers, no establishment could be run in San Francisco or California paying the tax to the Government. The consequence has been a loss of revenue on one hand, an increase of other taxes upon honest and industrious people, and a deprivation of the right to carry on successfully private business on the part of citizens.

I listened to my friend from Kansas who moralized on the subject of whisky, and I imagined for a while that I was hearing a temperance lecture, that we had come together to-night for that purpose. It was a temperance lecture.

Mr. POMEROY. It would not hurt.

Mr. CONNESS. No, sir; and I am sorry to say it could not do anybody any good, for our experience is that those who want whisky will get it, and you cannot tax it away from them. Why, sir, if two dollars a gallon tax was calculated to make sobriety in the country, why does not my friend advocate four dollars, and then try eight dollars, and so go on until the people are universally rendered moral and sober under the legislation of my friend from Kansas? No, Mr. President, while I am not an advocate of the use of spirits as a beverage, and have never practiced it myself, I do not believe in its prohibition. I believe that its manufacture and use are legitimate things, and that we have no right to prohibit them. But that is not in this case; it is a question of revenue that we are discussing; it is a question of the money that we want, and we want to get money as revenue with as little oppression to

the industries of the country as possible. We have taken the way, I submit, by keeping this tax at two dollars a gallon, to oppress an industry in the country as much as possible and get the least possible amount of revenue after you have made politicians, important politicians, powerful politicians, out of the whisky dealers of the country—not the legitimate dealers, not the legitimate distillers, and yet many of these have had to engage in the business in self-defense.

There have been, I may say, thousands of barrels seized at San Francisco on their arrival there from New York with false inspection marks or brands, unquestionably the result of a combination between the fellows employed at New York by the Government as officers and the owners or importers of those spirits. They have been seized, and that is all I ever heard of them. The next thing after seizure is a compromise that no man hears anything of, another division of the spoils in which the Government gets little.

Mr. WILSON. And compromises a great deal.

Mr. CONNESS. It compromises its authority away; it compromises its dignity away; it becomes the sport of the worst men in the country. And yet gentlemen insist upon keeping up this condition of things. We have given this whisky combination to the present Administration, so far as they have got it, and they have got it entirely. Why? Because they are the source of appointment, because they are the source for compromise; and if there were a Republican President to-morrow and a Republican Secretary of the Treasury, and this law should be kept in existence, while there might be an honest struggle to administer the law, the whole mass would be corrupted notwithstanding.

It may be said that this is arguing a low estimate of human nature. Well, Mr. President, it is not so with me. I have a high opinion of human nature; but you must not subject it to these unnecessary strains. Nothing is truer than what was stated by my friend from Vermont [Mr. MORRILL] when up, that persons do not feel that the evasion of revenue is a crime equivalent to other crimes. The world-wide expression of "a custom-house oath" illustrates this. I am glad, sir, to see the sense of returning reason in the Government, and I hope that this tax will be reduced. I am not willing to launch a new Administration, if it shall be so that we shall get the one of our choice, as I have no doubt we will, upon the problem of government under influences and auspices such as a law of that kind would furnish. I want to begin anew, and I hope that by that time we shall be able to abolish all taxes upon all other industries and collect our internal revenue from the two articles contemplated by this bill, and I think we shall be able to do so.

Mr. PATTERSON, of New Hampshire. Mr. President, I do not wish to make a temperance speech or a political speech on this amendment; but I do wish to reply to two or three arguments which have been made use of here by different gentlemen this evening.

The honorable Senator from Kentucky, to whom I listened this evening, as I always listen with great interest and with great instruction to myself, stated that the difficulty had been that the law was not executed. I agree with him fully in that. Why, sir, the record of this whisky tax has been a path of crime and corruption, blackness and meanness, from the moment the law was passed until this time. But I understood him to intimate that the fault rested with Congress. Now, sir, it is not the function of the Congress of the United States to execute the laws which it passes.

Mr. DAVIS. If my honorable friend will permit me, I meant only in this respect, that it imposed a tax enormously too high.

Mr. PATTERSON, of New Hampshire. If it imposed a tax enormously too high, still it was not the duty of Congress to execute the law which it had passed, but it was the duty of the executive officers of this Government to

execute that law or to prevent the manufacture of whisky at all. Where does the difficulty rest? Does it rest with the Commissioner of Internal Revenue? Some of the arguments which have been used here to-day would seem to imply at least a reflection upon that officer. It has been my good fortune to know him from boyhood until this moment. He was a school-mate of mine as a boy, and from that time until now no man ever justly cast a shadow of a reflection upon his integrity, upon his moral character in any particular. Simple in his manners, unimpeachable in his integrity, he stands unscathed and unapproached by any taint of corruption through all this path of crime.

Mr. DAVIS. My honorable friend did not understand me as making any imputation upon him.

Mr. PATTERSON, of New Hampshire. Not at all. I have no allusion to the Senator. If improper officers have been appointed to execute this law the guilt does not rest on his skirts, the fault is not at his door; for I know that when he has protested against keeping in office corrupt and improper men his voice has not been listened to; when he has protested against the appointment of men of notoriously corrupt life and habits his voice has not been listened to, but his counsel has been passed by as a thing of no worth.

It was said by the Senator from Vermont [Mr. EDMUNDS] that this law could be executed, that the tax of two dollars could be collected, that there were honest men in this country who could collect it. I doubt not there are; but the trouble is you cannot get them into the places where they can execute this law. That class of men receive no appointments under this Administration.

Mr. EDMUNDS. That is exactly what I maintained.

Mr. PATTERSON, of New Hampshire. Therefore, if we would collect a revenue from whisky, let us put the tax at a point where we can collect it even under this Administration. It was said here to-day that it was dishonorable in the Government not to collect this tax of two dollars. I do not so understand it. If the law was a penalty, if it was imposed as a penalty for crime, then it would be dishonorable to put the tax at anything less than two dollars; but the tax was put on for the purpose of revenue and not for the purpose of punishment; it is not a penal act; it is a revenue law; and when it fails to secure its object, when it fails to bring revenue to the Government, then it is the privilege and the duty of the Government to put the tax at such a point that it can secure a revenue. That is the philosophy of the whole thing. We must expect corruption always when a tax approaches the point of prohibition. There must be in that case one of two things; either an entire exclusion of the article or corruption to secure it, and this tax is just at that point. We all know that this high tax was put on as a temporary measure; nobody anticipated that the tax on whisky would stand at two dollars. It was simply a temporary measure. The war has passed by, and why should not this extra tax pass down in keeping with the taxes on other matters?

I do not wish to extend this discussion. My judgment is that the tax ought to be about a dollar a gallon upon whisky.

Mr. HENDRICKS. I should like to inquire of the Senator why he states that the two-dollar tax was a temporary measure?

Mr. PATTERSON, of New Hampshire. Because I supposed that all of our internal revenue taxation was temporary; that when the debt shall have passed away which was incurred by the war we shall then return to our old policy; and I hope that day will some time come.

Mr. SHERMAN. Mr. President, I would not at this time occupy a single moment but for a remark made by the Senator from California. He seemed to argue that the rate of tax at two dollars had been proposed by the Committee



on Finance. I have now the record before me, and it proves that the Committee on Finance were always opposed to this high rate of taxation.

Mr. CONNESS. The Senator knows that I accepted his explanation.

Mr. SHERMAN. But still I wish to refer to the record to show the facts. I have before me the report of the Committee on Finance, made on the 25th of May, 1864, in which it appears that the committee proposed a graduated tax of one dollar, one dollar and a quarter, and finally one dollar and a half at a later period. I immediately, as it seems from the language uttered, stated that I believed that tax was too high; that one dollar was enough; that any attempt to enforce so high a rate of taxation would lead to frauds and defeat the revenue. Then the principal controversy that occurred was as to whether we should continue in the bill then pending the House tax upon spirits on hand. The great controversy was in regard to that point. My own position was, according to the opinion here expressed, to retain a tax of fifty cents a gallon upon spirits on hand, and impose one dollar upon the spirits to be manufactured in future, and I have no doubt if my advice had been followed we should have been receiving twice as much revenue as we have got. It was the action of the Senate, in refusing to approve and sanction the deliberate report of the Finance Committee, that got us into this hobble about two-dollar tax. My impression is that that rate was fixed by the report of a committee of conference, but I am not entirely certain as to that. The tax has been held at that for four years, with a constantly diminishing revenue, and I am satisfied now that if the Senate refuse to sanction the action of the Committee on Finance in reducing this tax to fifty cents the whole thing will be a bounty to the worst men in this country, and the tax will operate on the consumer at the rate of two dollars a gallon; but the whisky thieves will get three fourths of it, and this Government will not get fifty cents a gallon.

Mr. HENDRICKS. Mr. President, I do not feel it to be my duty to occupy the attention of the Senate at any length upon this question. The State that I represent at one time was largely interested in the production of whisky. The last census showed the production of that State for the year 1860 to be about nine million gallons. I suppose it is now less than one million gallons. The policy that has been insisted upon by Congress has substantially destroyed the interest and driven the production almost out of existence in the State of Indiana. I resisted the tax at that time of two dollars with such ability as I could command; but I saw it imposed, and I have not been at all disappointed in the results.

Senators who wish to charge all this upon the public officers, and to excuse some officers and to criminate others, will hardly relieve themselves from the responsibility of a very grave mistake in legislation. It was an unjust tax, because it was not proportioned to the value of the article taxed. A tax of six hundred or eight hundred per cent. is not just upon any production from the labor of the country, and of course the attempt to collect it has been a failure. This bill proposes to reduce it from two dollars to fifty cents. I do not know what fortunes are to be made out of this. I am going to vote for it. I had not expected to see the tax reduced below one dollar. I have believed that one dollar could be collected, and that we ought to realize \$30,000,000, perhaps \$50,000,000, at a dollar a gallon. But as the committee of this body and also of the House of Representatives have agreed on fifty cents, and as it is a proposition favorable to an interest in the section in which I live, I shall vote for the proposition, but am not prepared to say that it is the wisest. When we increased the tax from sixty cents to two dollars the millions of money that were made it is difficult to estimate. Whether there will be a corresponding profit or corresponding loss now sustained by reason of this legislation I am not prepared to

say; but when this becomes the law I hope it will be understood that it is not temporary, but that it is permanent. If there be any one thing demanded now by the interests of this country above all others, it is that there shall be some stability in the financial system and the revenue system of the Government.

The Senator from Kentucky suggests that nearly all the whisky is now in bond, having paid no tax, and therefore there cannot be large losses sustained. How much liquor is now held in the course of trade all over the country that has paid the tax I am not able to say, but there is a very considerable quantity, unquestionably. All the druggists of the country, the retail dealers and the wholesale dealers, have their establishments supplied in as limited quantities, of course, as will carry on their business; but that there is a large amount held by traders that has paid the tax I have no doubt, and that there will be very large losses sustained I have no doubt; but that has got to be endured, because this two-dollar tax cannot be endured. That is a failure; it is a failure, in my judgment, for the reasons assigned so well and so forcibly by the Senator from Kentucky.

I am going to vote to reduce the tax; but so far as the rest of the bill is concerned, this complicated machinery that requires a genius to comprehend it, I do not hold myself at all responsible for. I believe that one of the difficulties in collecting the revenue has been in the complicated machinery connected with it. I do not believe that it requires a book to write down the law for the collection of taxes. Plain, simple, direct provisions, punishing as men ought to be punished for the violation of law can be provided without this complicated machinery.

So, while I vote for the bill, I do not commit myself at all to this machinery, for I do not pretend to understand it, and I suppose it will take a revenue officer some considerable time to become familiar with it. What will be its practical effect I cannot tell. I do not believe any Senator who has not been upon the committee and investigated it can tell. Perhaps it will work very great injustice and hardship in many cases. Perhaps it will prove inefficient in others. I do not undertake to say. I vote for the bill simply because it reduces the tax on whisky and brings it down to something like a reasonable and fair rate, not just what I would have proposed, but what, as the case now stands, presents the question as between two dollars, and fifty cents. I vote for the bill exclusively upon that ground.

Now, Mr. President, I have no desire to discuss this bill with any political purpose in view. If we can collect some revenue it will be well. I am not surprised that the Senator from Vermont upon this, as he does upon almost every occasion, seeks to excuse Congress from the responsibility of any failure in the execution of the laws because of the tenure-of-office bill. That is a child of his begetting, and of course he must take care of it. If anybody reaches out a hand toward it he must guard off, of course; and that is a very considerable labor, let me say to the Senator, that is upon his hands, which he will have to discharge and meet as long as he is in the Senate and that law remains upon the statute-book. A vice in legislation is not to be met and apologized for by charging crime upon officers.

Mr. EDMUNDS. Will the Senator permit me to ask him a question, whether, by the laws of the State of Indiana, the Executive has the power of removal from office, or whether men are elected for a definite term?

Mr. HENDRICKS. In the State of Indiana the people elect and the people reelect. The Governor has not very much patronage under his control.

Mr. EDMUNDS. Do you fail to administer your laws because there is no executive power of removal?

Mr. HENDRICKS. The Governor of the State of Indiana, so far as he is held responsible for the execution of the laws, has the

power placed in his hands, and where the power is not placed in his hands he is not held responsible. But when by your bill you say that the President of the United States cannot remove a man from office unless you give him permission to do so, you take upon yourself the responsibility of the execution of the laws. That is, in very plain words, the proposition that came from the Senator from Vermont.

Mr. EDMUNDS. My friend does not answer my question, and that is, whether the laws of Indiana fail of fair and honest execution because there is not an executive power of removal?

Mr. HENDRICKS. There is very little difficulty in executing the laws of the State of Indiana.

Mr. EDMUNDS. There seems to be a great deal in answering the question.

Mr. HENDRICKS. We have our revenue system plain, simple, and enforced in the presence of all the people by officers of the counties. I cannot say that there is a failure there at all. The people elect men to discharge the duties of their offices in their immediate presence. So that there is no analogy between the case suggested by the Senator from Vermont and the case of the execution of laws of the United States. The Senator says there has been a failure, and he undertakes to charge the responsibility upon the President of the United States. I say that when he charges the fault upon the President of the United States he charges it upon Congress, and particularly himself as the author of the bill which took from the Executive the responsibility of the execution of the laws.

Now, Mr. President, it is too plain to the Senator from Vermont to need illustration that the present system is most demoralizing. I do not know now whether the whisky tax of two dollars is more demoralizing than the tenure-of-office bill. From my observation for the last year it is very difficult to tell. A man of reasonable honesty and cleverness comes to the city of Washington to obtain an office. He reports himself to the Executive. His duty there is to satisfy the Executive, first that he is qualified, and next that in political sentiment he is in harmony with the President. He succeeds in that, and then he comes down to the Senate for confirmation. You have laid it down as a rule that a man shall not be confirmed merely because he is qualified to discharge the duties of an office and may be honest. That is not enough. You say he must have another qualification: he must be in political harmony with yourselves. So when that man comes here for confirmation he commences the work of satisfying the Senate that he is in harmony with the majority here; and by the time he passes the ordeal of the White House and of the Senate he is ready for almost anything. [Laughter.] And it is difficult for me to see whether the two-dollar tax upon whisky has produced a greater demoralization in the country, or the tenure-of-office bill.

You send men from this capital every day into all sections of the country utterly and hopelessly demoralized. You, Senators, have seen this. It has not been seen by myself alone. You know much more of it than I do. They do not come to consult me much whether they shall be confirmed; for whether they shall be confirmed depends very little upon my wish upon the subject.

Mr. MORRILL, of Maine. But the appointment does.

Mr. HENDRICKS. And they do not consult me much about the appointments, I will say to the Senator from Maine. I have but very little to do with them, I will say to him.

Now, Mr. President, I am in favor of the earliest possible repeal of the tenure-of-office bill; and without reference to the next incumbent of the Presidency, without any reference to his politics at all, next winter I hope to see that law repealed. I hope to see it for the purity and efficiency of the public service. Then I hope to see this bill passed and have the tax so reduced as that there shall not be

this temptation that makes so many villains, as the Senator from Kentucky has so well expressed it.

Mr. President, disclaiming any responsibility for any portion of this bill except that which reduces the tax to fifty cents, I am now ready to cast my vote.

Mr. CONNESS. I wish to say, before the Senator takes his seat, that there is one thing for which he and his friends, in my opinion, are very responsible, and which really covers the whole case that he has described to us. It was through the fascinations and manipulations of the Senator and his friends that the President of the United States was separated from the party that elected him. Had it not been for their cajolery over him I have no doubt that the President and Congress would be together to-day, and the result would be that we should have better officers.

Mr. RAMSEY. I move that the Senate adjourn.

Several SENATORS. Let us vote.

Mr. FOWLER. There cannot be a vote just now.

Mr. RAMSEY. There are several amendments to be proposed, and there is no probability of reaching a final vote to-night. It is nearly eleven o'clock. If I thought there was any chance of getting a vote I would not insist on the motion, but as it is I think we had better adjourn.

Mr. SHERMAN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 18, nays 16; as follows:

YEAS—Messrs. Buckalew, Cameron, Chandler, Cole, Conness, Davis, Ferry, Fowler, Harlan, Hendricks, McGreevy, Pomeroy, Ramsey, Ross, Thayer, Van Winkle, Vickers, and Yates—18.

NAYS—Messrs. Cattell, Conkling, Cragin, Edmunds, Howe, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Osborn, Patterson of New Hampshire, Sherman, Stewart, Wade, Williams, and Wilson—16.

ABSENT—Messrs. Anthony, Bayard, Corbett, Dixon, Doolittle, Drake, Fessenden, Frelinghuysen, Grimes, Henderson, Howard, Johnson, Morton, Norton, Nye, Patterson of Tennessee, Rice, Saulsbury, Sprague, Sumner, Tipton, Trumbull, Welch, and Wiley—24.

So the motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, July 8, 1868.

The House met at twelve o'clock, Mr. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was partially read, when,

On motion of Mr. WASHBURNE, of Illinois, the further reading was dispensed with.

### SALE OF IRON-CLADS.

The SPEAKER laid before the House a letter from the President of the United States, transmitting a report of the Secretary of State of the 2d instant, together with accompanying papers, in relation to the iron-clads Onecota and Catawba, sold by the Navy Department to Swift & Co.; which was ordered to be printed, and referred to the Committee on Naval Affairs.

### NAVAJO INDIANS.

The SPEAKER also laid before the House a letter from the Secretary of State, with a communication from the Commissioner of Indian Affairs, relative to the Navajo Indians on the Bosque Redondo reservation; which was referred to the Committee on Appropriations.

### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Clerk be directed to inform the Senate that in communicating the action of the House on the amendments of the Senate to the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th day of June, 1869, amendment No. 223 was erroneously announced as having been concurred in, the same having been non-concurred in.

### ORDER OF BUSINESS.

The SPEAKER. The first business in order is the bill reported by the gentleman from Massachusetts, [Mr. BOUTWELL,] from the

Committee on Reconstruction, for the removal of certain disabilities, which was pending at the adjournment last evening.

Mr. WASHBURNE, of Illinois. I ask unanimous consent that the House take up the amendments of the Senate to the civil appropriation bill.

Mr. GARFIELD. Does the gentleman's motion interfere with the morning hour? I hope he will allow us to have a morning hour.

Mr. WASHBURNE, of Illinois. My proposition is in the line of the public interest. If we expect to get away we ought to take the appropriation bills in order to get them in committees of conference. There are a great many disagreeing votes between the two Houses which will take a great deal of time to consider. The civil appropriation bill ought to be taken up and disposed of this morning. After that we can have a morning hour.

Mr. GARFIELD. I desire to make one remark in regard to the Military Committee. That committee has not been called for public bills since the 22d of January. We have a large number of important bills, among others a bill now being matured by the committee to reduce the Army of the United States nearly one half. Now, in the regular order, as it appears to be going on, I cannot see that our committee will be called at all. Certainly if the morning hour is dispensed with or interfered with it cannot be called.

### EVENING SESSION FOR FRIDAY.

Mr. GARFIELD. I ask unanimous consent that a session be held next Friday evening for the sole use of the Committee on Military Affairs, at which time we will try to have the bill ready to which I referred for the reduction of the Army.

Mr. WASHBURNE, of Illinois. On condition that the business be confined to that bill alone.

Mr. GARFIELD. We may have other bills. Mr. WASHBURNE, of Illinois. Then I object.

The SPEAKER. The Committee on Military Affairs has not been called since January last, as the gentleman states.

Mr. WASHBURNE, of Illinois. I understand that. The Committee on Commerce have only been called once, and there is a great deal of business before them. I will agree to an evening session if it is understood that it is to be confined to that bill to which the gentleman refers; otherwise I object.

There being no objection, it was ordered that there be an evening session on Friday next for the consideration of the bill for the reduction of the Army.

### CIVIL APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I now ask that the House proceed to the consideration of the amendments of the Senate to House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes.

The House, pursuant to previous order, proceeded to the consideration of the Senate amendments to the civil appropriation bill, in the House as in Committee of the Whole under the five-minute rule.

The first amendment of the Senate was read, to strike out "\$564,904 32," and insert "\$1,500,000;" so that the clause will read:

For necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, \$1,500,000.

The Committee on Appropriations recommend non-concurrence in the amendment.

The amendment was non-concurred in.

### Second amendment:

Insert after line thirty-nine the following: For facilitating communication between the Atlantic and Pacific States by electrical telegraph, \$40,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

### Third amendment:

Insert after line forty-six the following: To meet expenses incurred in the prosecution and collection of claims due the United States, \$13,000, to

be disbursed under the direction of the Secretary of the Treasury.

The Committee on Appropriations recommend non-concurrence.

Mr. WASHBURNE, of Illinois. As the committee have recommended non-concurrence in this amendment, I desire to make a brief statement to the House. I have been informed by the Treasury Department that this amount is for the purpose of carrying on prosecutions which have already been commenced against a large number of persons who are in default. And I am told that if it is expected that these prosecutions shall be carried to a successful conclusion, it is necessary to make this appropriation. Individually, therefore, I am in favor of concurring in this amendment.

The amendment was concurred in.

### Fourth amendment:

In lines fifty-two and fifty-three strike out "\$250,000," and insert "\$150,000;" so that the clause will read:

For supplying deficiency in the fund for the relief of sick and disabled seamen, \$150,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

### Fifth amendment:

Insert after line seventy-one the following: *Provided*, That the building shall be completed without any further appropriation by the Government.

So that the clause will read:

Toward rebuilding the United States Military Asylum for disabled soldiers at Togus, near Augusta, Maine, destroyed by accidental fire, \$5,000. *Provided*, That the building shall be completed without any further appropriation by the Government.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

### Sixth amendment:

Insert after last amendment the following: For the payment of the Congressional Globe and Appendix, for the fiscal year ending June 30, 1868, \$20,000; to be taken from the appropriation heretofore made and unexpended for the purchase of one complete set of the Congressional Globe and Appendix for each Senator and Representative who have not already received them.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

### Seventh amendment:

In lines eighty-six and eighty-seven, strike out "\$300,000," and insert "\$ 00,000;" so that the clause will read:

For the survey of the Atlantic and Gulf coasts of the United States, including compensation of civilians engaged in the work, and excluding pay and emoluments of officers of the Army and Navy, and petty officers and men of the Navy employed in the work, \$300,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

### Eighth amendment:

In line ninety strike out "\$60,000" and insert "\$130,000;" so that the clause will read:

For continuing the survey of the western coast of the United States, including compensation of civilians engaged in the work, \$130,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

### Ninth amendment:

Strike out the following: For continuing the survey of the South Florida reefs, shoals, keys, and coast, including compensation of civilians engaged in the work, and excluding pay and emoluments of the officers of the Army and Navy, and petty officers and men of the Navy employed in the work, \$25,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

### Tenth amendment:

In lines one hundred and twenty-nine and one hundred and thirty, strike out "\$150,000" and insert "\$208,000;" so that the clause will read:

For the necessary repairs and incidental expenses, improving and refitting light-houses and buildings connected therewith, \$208,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

### Eleventh amendment:

In line one hundred and thirty-five strike out "forty-three" before the word "keepers;" so that the clause will read:

For salaries of keepers of light-vessels, \$22,300.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Twelfth amendment, (first clause:)

Insert after line one hundred and eighty-five, the following:

For a first order light-house at Point Año Nuevo, California, or vicinity, \$90,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Twelfth amendment, (second clause:)

Insert after line one hundred and eighty-seven the following:

For a new light-house on Half-way Rock, on the coast of Maine, \$50,000.

The Committee on Appropriations recommend non-concurrence.

Mr. LYNCH. I desire to state that Half-way Rock is one of the most important points on the coast of Maine for a light-house. The erection of a light-house there has been recommended by the Light-House Board. I hope, therefore, that the amendment will be concurred in.

Mr. WASHBURN, of Illinois. I hope that the amendment will not be concurred in. This is one of several similar items in reference to which the Committee on Appropriations had not before them the facts upon which the Senate committee acted; and it was deemed desirable they should go to a committee of conference.

Mr. LYNCH. I will ask the acting chairman of the committee [Mr. WASHBURN, of Illinois,] whether the committee had not before them a letter from the chairman of the Light-House Board in reference to this matter?

Mr. WASHBURN, of Illinois. No, sir; none that I saw.

Mr. LYNCH. This appropriation is recommended by the Light-House Board.

The amendment was non-concurred in.

Thirteenth amendment:

Insert after line one hundred and ninety-two the following:

For two buoy and light-house tenders for service on the Atlantic and Gulf coasts, \$80,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Fourteenth amendment:

Strike out in line one hundred and ninety-seven the word "four" and insert in lieu thereof the word "one;" so as to make the paragraph read as follows:

For enabling the Light-House Board to experiment with new illuminating apparatus and fog-signals, in addition to former appropriations, \$1,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Fifteenth amendment:

Insert after line two hundred and three the following:

For a life-boat and station at the south end of Narragansett beach, Rhode Island, \$2,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Sixteenth amendment:

In line two hundred and twenty-two, strike out "fifteen" and insert in lieu thereof "one hundred and fifty;" so that the clause will read as follows:

For repairs and out-fits, \$150,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Seventeenth amendment:

Strike out, in lines two hundred and twenty-eight to two hundred and thirty-three, the following:

The six steam revenue-cutters stationed upon the northern and northwestern lakes and their tributaries shall be laid up, and that no more of the money appropriated by this act shall be paid on their account than so much as may be necessary for their safe and proper care and keeping, and that.

Mr. SPALDING. Mr. Speaker, I move concurrence with this amendment of the Senate, and I do so for this reason: a subsequent amendment by the Senate proposes to leave this whole subject to the discretion of the Secretary of the Treasury, so that he may withdraw any of the revenue-cutters on the lakes or on the sea-coast that are not indispensable

to the public service. I think this is the form in which this matter should be left, as it will be by concurring in this amendment and the next. I therefore move concurrence in this amendment; and I shall also move concurrence in the next amendment.

Mr. WASHBURN, of Illinois. I hope the House will not concur in the amendment, but will non-concur, and let it go to the committee. There was a strong expression of the House against keeping up these revenue-cutters upon the lakes.

Mr. SPALDING. It is left to the Secretary of the Treasury.

Mr. WASHBURN, of Illinois. I do not propose to abdicate my judgment to the Secretary of the Treasury or anybody else.

Mr. SPALDING. I do not suppose the House is going to leave everything to the committee, certainly not to the minority of the committee.

The House divided; and there were—ayes 7, noes 56; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. SPALDING, and Mr. BUTLER of Massachusetts.

The House again divided; and the tellers reported—ayes 44, noes 56.

The Speaker voted in the affirmative to make a quorum.

So the amendment was non-concurred in.

Eighteenth amendment:

Insert the words "The six steam revenue-cutters stationed upon the northern and northwestern lakes and their tributaries, and;" so it will then read as follows:

That the Secretary of the Treasury be authorized and directed to lay up and withdraw from commission the six steam revenue cutters stationed upon the northern and northwestern lakes and their tributaries, and every revenue cutter off the Atlantic coast, bays, gulfs, &c., not actually required and needed for constant service.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Nineteenth amendment:

Strike out the words "and so forth" in the preceding paragraph.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Twentieth amendment:

Strike out "fifty" and insert "one hundred;" so the paragraph will read:

For the construction of a custom-house at Portland, Maine, \$100,000.

The Committee on Appropriations recommend non-concurrence.

Mr. LYNCH. I hope, Mr. Speaker, this amendment of the Senate will be concurred in, and for this reason: fifty thousand dollars will leave the building in the fall one half up, while with \$100,000 the building will be put under roof and the workmen will be enabled to work during the winter, thus saving the Government a large expense. It will also save the rent of a year. The buildings rented by the Government for the accommodation of the custom-house are inadequate, and the Government is at great expense for rent, because the city having been nearly burned up it is difficult to get buildings fitted for the purpose. If this appropriation of \$100,000, as recommended by the Senate, is made, the building can be put under roof this fall and a year's time gained. I hope, therefore, as a matter of public economy, the appropriation will be made.

Mr. WASHBURN, of Illinois. The Committee on Appropriations recommend non-concurrence in several items. They had better go to the committee on conference to be arranged there. I think we had better non-concur in the amendment.

The amendment was non-concurred in.

Twenty-first amendment:

Insert:

To enable the Secretary of the Treasury to enlarge the lot in the city of Nashville for the erection of a custom-house, \$25,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Twenty-second amendment:

Strike out "twenty-five," and insert "fifty;" so the paragraph will read:

For the construction of a building, to be used as custom-house and post office, at St. Paul, Minnesota, \$50,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Twenty-third amendment:

Strike out "twenty-five," and insert "seventy-five;" so it will read:

For the construction of appraisers' stores at Philadelphia, \$75,000.

The Committee on Appropriations recommend non-concurrence.

Mr. O'NEILL. Mr. Speaker, I hope the House will vote down the motion to non-concur. The House will recollect that some months ago this appropriation came before us. The Committee on Appropriations then reported \$25,000. I endeavored to add \$50,000 to that amount, but was voted down, although I had been sustained while in Committee of the Whole. I do not wish to intrude again on the House on this question, and my remarks will not be long. In my opinion the Senate has taken the proper course relative to this building, in appropriating a sufficient sum to almost complete it. It will need an appropriation of only \$18,000 more at a future session if we adopt the Senate amendment, and it will then be finished ready for use. This is a building demanded by the necessities of trade. It is to be a large brick structure, not an ornamental one, but a very plain one for business; and I hope the House will concur in the amendment of the Senate, notwithstanding the recommendation of the Committee on Appropriations to the contrary. It is better that the Government should finish it, especially as we have now come within \$18,000 of the entire amount necessary, should this appropriation be made.

The acting chairman of the committee [Mr. WASHBURN, of Illinois] asked on a former occasion how these appropriations ever commenced to be made. Not having had then an opportunity to answer him, I will do so now. They commenced by his own action, in part, by an appropriation of \$20,000, recommended first by the Committee on Commerce, of which he was chairman, which was subsequently recommended by the Committee on Appropriations. This amount was intended to be used in removing the old Pennsylvania bank building, then upon the lot. Fifty thousand dollars were added in another bill to go on with the work. A few days ago the House made a further appropriation of \$25,000 in the deficiency bill, and now the Senate proposes, for the current fiscal year, \$75,000. If that sum is appropriated, when we come here next winter we shall have a fine building almost completed. I learn from the superintendent in Philadelphia, and from the supervising architect of the Treasury here, that unless this appropriation is made the work already done will be greatly injured and the Government will incur great expense in consequence of its interruption. The contracts for brick and iron and other articles to be used in its construction have already been made. Therefore I insist that it is economy to appropriate sufficient money to finish the building, which can be done in the course of the summer and fall. I hope the acting chairman of the committee will let the amendment be concurred in.

Mr. WASHBURN, of Illinois. In reply to the speech of my friend I will say that I supposed he was entirely satisfied with the liberal appropriation he received from the Committee on Appropriations, and I am surprised that he should come in here now after having got \$25,000 in the deficiency bill, and attempt to get this \$75,000 in the civil appropriation bill. I ask the House to look at this matter a moment. When we appropriated a considerable sum of money in the first instance, we thought it was all that was necessary for that building. Now we have appropriated \$25,000 in the deficiency bill and \$25,000 in the civil appropriation bill, which the Senate has in-



creased to \$75,000, making some one hundred and ninety thousand dollars in all if this amendment is concurred in.

Mr. O'NEILL. Not at all.

Mr. WASHBURN, of Illinois. We appropriated \$70,000 in the first instance. The gentleman can figure up the various sums. The Senate has increased the appropriation by \$50,000, and about twenty thousand dollars more it seems will be necessary. Now, the committee recommended non-concurrence in the amendment, so as to let the matter go to a committee of conference; then, if we think the appropriation just and proper, we can concur in the amendment of the Senate or put in any proper amount.

Mr. O'NEILL. The first appropriation of \$20,000 was made for the removal of the rubbish of the old building, the old Pennsylvania bank. That was followed by an appropriation of \$50,000, making \$70,000. Now the deficiency bill which the House passed the other day contained an appropriation of \$25,000, and in this civil appropriation bill as it passed the House there was another appropriation of \$25,000. The Senate has added \$50,000, so that if the amount in the Senate amendment is concurred in the total amount appropriated will be \$170,000. That, as I said before, will nearly complete the building. I urge that it is necessary for us to make the appropriation now asked for and that this Congress will be acting unwisely if it permits such buildings as these to remain unfinished and hardly half built. I hope the House will concur in the amendment of the Senate. I have always insisted upon a large appropriation for the appraisers' stores in Philadelphia.

Mr. WASHBURN, of Illinois. I undertake to say that the Senate had no idea of the amount we had put in the deficiency bill, \$25,000, and which will pass. If we also pass this amendment of the Senate we will give more than was asked for in the estimates.

The question was then taken on concurring in the Senate amendment, and upon a division, there were—ayes twenty-one, noes not counted. So the amendment was non-concurred in.

Twenty-fourth amendment:

Insert after line two hundred and sixty-two the following:

For construction of a public building for a custom-house, United States court-room, and post office, at Portland, Oregon, \$50,000.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Twenty-fifth amendment:

Insert after line two hundred and sixty-nine the following:

For completion of the extension and repairs of the custom-house at Bangor, Maine, \$20,000.

The Committee on Appropriations recommended non-concurrence.

Mr. PETERS. I think if the Committee on Appropriations had understood this amendment they would have recommended concurrence in it. The matter was within the knowledge of my colleague, [Mr. BLAINE,] who is a member of the Committee on Appropriations; but he left the city without making that explanation to the committee which was necessary in order to have them all understand it. Now, I believe that I understand the propriety of this amendment as well as any other person, and I will explain it very briefly.

We are already at work on the custom-house at Bangor. The contracts for materials have been made, and the workmen have been engaged upon it. While in the middle of the work a new fact developed itself which was not known to the architect before; and that was that the foundation (which is right in the bed of the river, on both sides of which the city of Bangor is situated) will require a large sum of money, more than was at first supposed necessary. I happened to be at home when that fact was developed, in the last days of the month of May. There was a meeting of the citizens of Bangor in order to sell the building, which has already cost several hundred thousand dollars, and to abandon the location.

And a very strong pressure was brought to bear, in order to have a very large new appropriation for the construction of a new court-house. I opposed that plan, in the present state of our national finances, and also upon the ground that it would be very difficult to get Congress up to such a point.

Now, Mr. Mullins, who is there, the architect, and the assistant architect who is under him, have both come to the conclusion that at least \$20,000 additional must be expended on this building. The building cannot be left uncompleted in safety. The idea is to complete the work by September or November of this year. If you give us the \$20,000—and you must give it sooner or later—you will save a large additional outlay which will be required if this appropriation is not now made. By making this appropriation the building will be completed, and will not be left to the danger of the elements during the coming fall and winter in that climate and in the stream of that river. As it is now, we are accommodated with an insufficient post office building. With this additional sum we can have all the post office accommodation we want. And we can have all the custom-house accommodation we want; and we can have all the officers of internal revenue supplied with accommodations. And we can also have a sufficient court-house; while so mean and insufficient is the court-house now that it has never been used but once since the building was erected, on which these repairs are being made, the court seeking some other place to hold their terms. I know all about this matter; my colleague [Mr. BLAINE] knows all about it. It is a very strong case.

Mr. FARNSWORTH. Is this sum sufficient to complete the building?

Mr. PETERS. It will complete it.

Mr. FARNSWORTH. Then let us finish it.

Mr. PETERS. So I say.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. I have listened with a great deal of interest to my friend from the city of Bangor, [Mr. PETERS.] I have heard that speech several times before, and I always liked it; it is a good speech of its kind. [Laughter.] His predecessor, Mr. Rice, came before the Committee on Commerce and made just the same speech, and we appropriated the sum of \$30,000. It was not so good a speech as this, perhaps, but it was pretty much the same. He told us the same story about the location of the custom house building, for which the United States was not responsible. The good people of my friend's city, having a river running through the middle of the city, could not agree on which side of the river the custom-house and post office should be situated; so they put the building in the middle of the stream. The foundation began to wash away, and they came here and said, "We must have \$36,000 to finish this work, and we will never come here again if you will give us this appropriation." I had great doubts about the matter; but the predecessor of my friend from Maine, like the gentleman himself, had a great deal of influence over me, and upon the condition that that appropriation should end the matter I consented to the appropriation of \$36,000. Hence I have considered it very extraordinary that at this the very next session of Congress we should be called upon to appropriate \$20,000 more.

Now, sir, this appropriation, according to its terms, is not for the purpose which my friend specifies, the building of a foundation. The amendment is "for completion of the extension and repairs of the custom-house at Bangor, Maine, \$20,000." Now, sir, what I have protested against so often heretofore, and what I intend to protest against hereafter, is, when an appropriation has been made for a given purpose, allowing the officers to go on and contract for the expenditure of a larger sum. I do not understand that in this case there have been made any contracts which this appropriation is intended to cover; but I protest against making an appropriation like this

when we have no official information, no written statement from any authoritative source, on which to act. The statement of my friend from Maine [Mr. PETERS] is no doubt true, but it is not such a statement as we should act upon in a case of this kind. We should have written authority, we should have a full statement of all the facts in some official document. Independently of that, I am opposed to making this appropriation at this time. I hope my friend from Maine will consent to let the matter go to a committee of conference. Perhaps that committee, if they find the facts as stated, may deem it for the public interest to recede from our disagreement.

Mr. PETERS. Mr. Speaker, for the purpose of making a brief reply to the gentleman from Illinois, I move to amend the Senate amendment by making the amount of the appropriation \$25,000. I concur with the gentleman in the opinion that the location of this building was unwise. It was made, as the gentleman has said, for the purpose of pacifying conflicting interests. The mercantile gentlemen of Bangor, residing on the one or the other side of the stream, were very much divided in their notions; and hence this location. This building has been erected and also the approaches to it at an expense of several hundred thousand dollars. Repairs which have become necessary have been commenced, and are now in an unfinished condition. The question is whether they shall be completed. I went before the Senate committee with Mr. MULLINS, and he was very earnest in urging the necessity of this appropriation. Contracts have been made; materials are on the ground; the workmen are at work; and the question is whether these contracts shall be carried out in good faith; whether this work shall be done, my colleague [Mr. BLAINE] having encouraged Mr. MULLINS and the Senate committee to believe that there would be no difficulty in arranging this matter with the Committee on Appropriations.

Mr. BENTON. Can the foundation of the building be made perfectly secure?

Mr. PETERS. It can be. The only difficulty is that enough money has not been appropriated to do that and to complete the building as it should be completed.

Mr. PIKE. Mr. Speaker, I beg to say that this is no recent matter. This building was erected under a former Administration, not at the instance of my colleague [Mr. PETERS] or his predecessor, but long ago.

Mr. PETERS. Under the administration of Franklin Pierce.

Mr. PIKE. The present Administration is not responsible for the erection of this building. The only question now is whether a small appropriation shall be made for the completion of the work, or whether the whole thing shall be given up.

Mr. WASHBURN, of Illinois. I desire to inquire by what authority Mr. MULLINS exceeded the appropriation in making these contracts, when Mr. Rice, the predecessor of the gentleman from Maine, [Mr. PETERS,] pledged himself that the total expenditure should not exceed \$36,000?

Mr. PETERS. I will answer the gentleman. The contract has been made for a certain amount of work and for a certain amount of granite; but additional work is necessary in order to strengthen the foundations. We ask that this small sum be appropriated to complete this work. Now, sir, \$36,000 is a small sum.

Mr. MULLINS. Let me interrupt the gentleman with one remark. The foundations laid under the administration of Pierce have to be repaired. [Laughter.]

Mr. PIKE. Then we get off cheap with \$20,000.

Mr. PETERS. I withdraw my amendment to the amendment.

The House divided; and there were—ayes fifty-three, noes not counted.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were not ordered.

So the amendment of the Senate was concurred in.

Twenty-sixth amendment:

Insert:

For the completion of the custom-house and post office building at Ogdensburg, New York, \$40,000.

The Committee on Appropriations recommend non-concurrence.

Mr. HULBURD. Mr. Speaker, I rise to express the hope and belief that this House will concur in the amendment of the Senate. The Department recommends this appropriation as necessary, and this as the requisite amount.

I wish to say to the House and to the gentleman from Illinois, [Mr. WASHBURN,] who objects that it is "Monsieur Tonson come again" when these appropriations are brought before the House, this does not come within that objection, for it is its first appearance, at all events. This appropriation was recommended before the late war, but it was suspended during the war with the consent of the inhabitants there. It has been revived now, and this additional amount seems to be requisite partly and mostly in consequence of the advanced price of labor and material. It is intended for a custom-house and a post office, and is much needed. There has been a slight change of plan to accommodate the United States court and the internal revenue department in that district. There is the utmost propriety this appropriation asked for should be made. It will complete the building this year. If this appropriation is withheld the building must be stopped where it is. I therefore hope, under all the circumstances, the House will concur in the amendment of the Senate. It is predicated upon the interests of the Government.

Mr. WASHBURN, of Illinois. All I have to say is that this is a first-rate chance to get rid of \$40,000. As we have just voted \$20,000 to Bangor to save a foundation, I suppose the House will vote this \$40,000. It will only be a little more of burden to put upon the people.

The House divided; and there were—ayes twenty-eight, noes not counted.

So the amendment was non-concurred in.

Twenty-seventh amendment:

Insert:

For heating apparatus for custom-houses and other public buildings, \$35,000. For vaults and safes for depositaries, \$25,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Twenty-eighth amendment:

Insert:

For completion of the branch mint building at Carson City, Nevada, fencing the grounds, and for machinery, fixtures, and apparatus, and for putting up the same, \$150,000.

The Committee on Appropriations recommend non-concurrence.

Mr. ASHLEY, of Nevada. Mr. Speaker, in speaking in favor of concurrence with the Senate amendment, I do so in no partisan spirit, but out of consideration for the interests of the whole country. That a mint should be established at Nevada was conceded several years ago. Before that time the mines there were producing only six or eight million dollars. Now the production has increased more than one hundred per cent. An appropriation of \$100,000 was made for the purpose of establishing a branch mint at Carson. The mines within fifteen miles have been largely extended. It could not be expected that a mint could be built for \$100,000. It would never have been expected that appropriation was a final one, and a mint could be built for that. There is produced within fifteen miles of that branch mint now completed up to the roofing, \$16,000,000 a year. The exportation of \$16,000,000 every year from there is of vast advantage to all the people of the United States. If it be not desired to have it minted, it would be a great convenience to the people to have the bars of silver marked, and to have that mark received as authoritative in its

value. This appropriation of \$150,000 will finish the building fitted for the purposes of this branch mint. Now, I think this is really deserving of consideration. Perhaps this House may not agree upon that amount; but I maintain that something is required, and I think \$150,000 is little enough.

Mr. WASHBURN, of Illinois. Let the gentleman come before the committee of conference.

Mr. ASHLEY, of Nevada. I will leave it to the House; but I hope if the House should not concur in the amendment that it will receive the favorable consideration of the committee of conference.

The amendment was non-concurred in.

Twenty-ninth amendment:

Insert the following:

Mining:

For collecting statistics of mines and mining, \$5,000.

The Committee on Appropriations recommend non-concurrence.

Mr. ASHLEY, of Nevada. This is simply for a continuation of the collection of statistics, such as Ross Browne has been engaged in furnishing for the last two years, and upon which he has made such elaborate reports. The Secretary of the Treasury has named a gentleman who is reported to be entirely capable and efficient to continue that collection. Now, sir, our mining interest is of great value to this country. It furnishes us \$80,000,000 which can be used as circulating medium, and which helps us in our exchange with the world. In that view the product of our mines is of great importance.

Now, there is no necessity for this amendment going to a committee of conference. Members of the House know just as well now as they can at any other time whether they are willing to appropriate \$5,000 a year for this purpose. We appropriate \$700,000 a year for the Agricultural Department. It strikes me this is a very moderate request for the continuing of the collection of mining statistics. I am not so very anxious about this now, because up to this time we are very well satisfied with the reports that we have received. But \$5,000 a year is a comparatively insignificant sum for such an important national object, and it strikes me it is false economy to strike out this appropriation.

Mr. WASHBURN, of Illinois. The Committee on Appropriations thought it was about time to put an end to this practice of making appropriations of specific sums to these various matters. Now, we have appropriated a large sum for Ross Browne's report. He has made a very thorough examination of the subject, and we supposed it was pretty much exhausted.

The amendment was non-concurred in.

Thirtieth amendment:

Insert the following:

For expenses of receiving, arranging, and taking care of copyright books, charts, and other copyright matter, \$1,800, to be paid out of the Patent Office fund.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Thirty-first amendment:

Insert after the words "For repairing and finishing the Capitol extension, \$100,000," the following:

Provided, That no improvements, alterations, or repairs of the Capitol building shall be made except by direction and under the supervision of the architect of the Capitol extension; and the architect of the Capitol, under the direction of the Committee on Public Buildings and Grounds of the two Houses of Congress, is hereby authorized and directed to remove the bronze doors in the southern wing of the Capitol, temporarily to some position where they will be safe from injury.

The Committee on Appropriations recommend concurrence, with an amendment striking out all after the word "extension."

The amendment of the committee was agreed to; and the amendment of the Senate, as amended, was concurred in.

Thirty-second amendment:

Insert the following:

For heating the rotunda, the old Hall of the House

of Representatives, and the offices and the stairways connected therewith, \$15,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Thirty-third amendment:

Insert the following:

For painting the exterior of the eastern portion of city hall in Washington, \$1,400.

For resetting steps, calking cornice and painting, \$750.

For repairing rough casting and other plastering, \$100.

For repairs to tin roof and rain spouts, \$200.

For sundry brick and carpenter's work, \$350.

For renovating and ventilating court-room, \$400; *Provided*, That the corporate authorities of the city of Washington appropriate and expend a like sum for painting and repairs of the western portion of said building.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Thirty-fourth amendment:

Strike out "\$10,000" and insert "\$15,000;" so as to read:

For continuing the work on the north front of the Patent Office building, and for improving G street from Seventh to Ninth streets, \$15,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Thirty-fifth, thirty-sixth, and thirty-seventh amendments:

In lines four hundred and twenty-six, four hundred and twenty-seven, and four hundred and twenty-eight, strike out "eight dollars" and insert "two dollars;" strike out "seven dollars" and insert "ten dollars;" and strike out "\$25,000" and insert "\$40,000;" so that the clause will read:

For surveying the public lands in Colorado, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, \$40,000.

The Committee on Appropriations recommend non-concurrence.

The amendments were non-concurred in.

Thirty-eighth amendment:

Insert after line four hundred and twenty-eight, the following:

For surveying the boundary line between the State of Nebraska and Territory of Colorado, and that portion of the western boundary of the State of Nebraska embraced between the forty-first and forty-third degrees of latitude, estimated three hundred and twenty miles, at not exceeding fifteen dollars per mile, \$4,800; to be expended under the direction of the Commissioner of the General Land Office.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Thirty-ninth amendment:

In line four hundred and forty, strike out "\$20,000" and insert "\$50,000;" so that the clause will read:

For surveying the public lands in Nevada, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, \$50,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Fortieth amendment:

In line four hundred and forty-eight, strike out "\$30,000" and insert "\$50,000;" so that the clause will read:

For surveying the public lands in California, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, \$50,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Forty-first amendment:

In line four hundred and fifty-two, strike out "\$25,000" and insert "\$40,000;" so that the clause will read:

For surveying the public lands in Oregon, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, \$40,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Forty-second amendment:

Insert after clause last amended the following: *Provided*, That out of this appropriation the Commissioner of the General Land Office may pay a sum not exceeding \$1,000 for surveys of last year.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

## Forty-third amendment:

In line four hundred and sixty-seven strike out "\$15,000" and insert "\$25,000;" so that the clause will read:

For surveying the public lands in Montana Territory, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, \$25,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

## Forty-fourth amendment:

In line four hundred and seventy-one strike out "\$15,000" and insert "\$5,000;" so that the clause will read:

For surveying the public lands in Utah Territory, at rates not exceeding fifteen dollars per mile for standard lines, twelve dollars for township, and ten dollars for section lines, \$5,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

## Forty-fifth amendment:

Insert after line four hundred and seventy-one the following:

For surveying public lands in the State of Florida, \$20,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

## Forty-sixth amendment:

In lines four hundred and seventy-six, four hundred and seventy-seven, and four hundred and seventy-eight, strike out "fifteen dollars" and insert "twenty-five dollars;" strike out "\$6,375" and insert "\$10,625;" so that the clause will read:

For surveying the eastern boundary of Nevada, estimated four hundred and twenty-five miles, at not exceeding twenty-five dollars per mile, \$10,625.

The Committee on Appropriations recommend non-concurrence.

Mr. ASHLEY, of Nevada. I hope that some of the members of the Committee on Appropriations will listen for a moment to what I may say, because I can hardly believe that they wish to make an invidious distinction against the State of Nevada in this matter of boundary survey. It was conceded that a survey of at least the eastern boundary of Nevada was necessary. The Commissioner of the General Land Office recommended the survey of the northern and eastern boundaries. But when I appeared before the Committee on Appropriations I agreed to waive the survey of the northern boundary, because we have not many settlements there. But it is necessary to have the eastern boundary surveyed, because our officers, in levying taxes and collecting them, come in contact with the Mormon authorities for some distance there. We fixed it at fifteen dollars per mile. The recommendation of the Commissioner of the General Land Office was twenty-five dollars a mile.

Mr. BUTLER, of Massachusetts. Are these amendments of the Senate according to the recommendation of the Commissioner of the General Land Office?

Mr. ASHLEY, of Nevada. Certainly they are.

Mr. BUTLER, of Massachusetts. I think the Committee on Appropriations will not object to the amendments of the Senate.

Mr. ASHLEY, of Nevada. Very well; then I will not say anything further.

The amendment was then concurred in.

## Forty-seventh amendment:

Add to the clause just read the following:  
To be expended under the direction of the Commissioner of the General Land Office.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

## Forty-eighth amendment:

Strike out after line five hundred and twenty-three the following paragraph:

For care, support, and medical treatment of sixty transient paupers, medical and surgical patients, in some proper medical institution in the city of Washington, under a contract to be formed with such institution, \$12,000, or so much thereof as may be necessary.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

## Forty-ninth amendment:

In line five hundred and thirty-six strike out "five" and insert "three;" so as to make the paragraph read as follows:

For purchase of trees and tree-boxes, to replace, when necessary, such as have been planted by the United States, to whitewash tree-boxes and fences, and to repair pavements in front of the public grounds, \$3,900.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

## Fiftieth amendment:

Insert after line five hundred and forty-four the following paragraph:

For continuing the United States twenty-inch water main from its present terminus in north B street on the east side of Delaware avenue, to the United States twelve-inch main on First street east, \$10,000.

The Committee on Appropriations recommend non-concurrence.

Mr. STEVENS, of Pennsylvania. Although perhaps it may not be proper for me to state what took place in the committee, I wish to say that on this question there was a tie, and the gentleman from Ohio, [Mr. SPALDING,] who came in afterward, voted to non-concur, although I considered his vote too late. I ask the gentleman from Ohio to state whether this is not the fact.

Mr. SPALDING. I think my vote against concurrence decided the question in committee. But I now prefer that the amendment should be concurred in.

Mr. WASHBURN, of Illinois. I have no objection to that.

The amendment was concurred in.

## Fifty-first amendment:

Add the following new paragraph:  
To enable the Secretary of the Interior to pay for fitting necessary shelving, and for record books furnished or ordered for the office of register of deeds of the District of Columbia, during the period when Edward C. Eddie was such register, \$550.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

## Fifty-second amendment:

Add the following new paragraph:  
To enable the Secretary of the Senate to complete the alphabetical list of private claims to the end of the second session of the Thirty-Ninth Congress, and to pay outstanding claims for services rendered in the preparation of said work under a resolution of the Senate of March 16, 1866, \$2,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

## Fifty-third amendment:

Add the following new paragraph:  
That the sum of \$15,000, or as much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expenses of the Joint Committee on Ordnance, and that the same shall be drawn from the Treasury, upon the order of the Secretary of the Senate, as it shall be required; and any portion of the amount hereby appropriated that shall be allowed by the said joint committee to witnesses attending before it, or other persons employed in its service, for per diem, traveling, or other necessary expenses, and paid by the Secretary of the Senate, in pursuance of the orders of said joint committee, shall be accordingly credited and allowed by the accounting officers of the Treasury Department.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

## Fifty-fourth amendment:

Add the following new paragraph:  
To enable the joint Committee on the Library to pay Mrs. Sarah F. Ames an additional compensation for her marble bust of President Lincoln, \$500.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

## Fifty-fifth amendment:

Add the following new paragraph:  
For expenses of the trial of the impeachment of Andrew Johnson, President of the United States, \$6,000, or as much thereof as may be necessary, to be paid into the contingent fund of the Senate.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

## Fifty-sixth amendment:

Add the following new paragraph:  
For the purchasing of suitable sites for the erection

of additional school-houses, and for the maintenance of schools in the county of Washington, outside of the limits of the cities of Washington and Georgetown, the same to be expended under the direction of the levy court of the county of Washington, subject to the approval of the Secretary of the Interior, \$10,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

## Fifty-seventh amendment:

Insert:

For experiments in the cultivation and preparation of the madder root, \$10,500, to be expended under the direction of the Commissioner of Agriculture.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

## Fifty-eighth amendment:

Insert as an additional section the following:

SEC. —. And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$9,233 85, or so much thereof as may be necessary, to pay balance due for the survey of lands embraced in the Osage Indian reservation, in the State of Kansas, under contract dated August 14 and 16, 1866, the said sum to be returned to the Treasury out of the proceeds of the sale of said lands, as provided by treaties with said Indians.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

## Fifty-ninth amendment:

Insert the following as an additional section:

SEC. —. And be it further enacted, That the sum of \$7,775, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay for the balance due for surveying several Indian reservations in Utah Territory; the survey of which was provided for by act of Congress approved May 5, 1864.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

## Sixtieth amendment:

Insert the following as an additional section:

SEC. —. And be it further enacted, That the sum of \$39,014 63, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not heretofore appropriated, to pay for the survey of the Osage Indian trust lands ceded to the United States under treaty concluded September 29, 1865, upon a contract made with the General Land Office under date of September 18, 1866, and another contract for another portion of said trust lands, dated May 28, 1867; which survey is according to the provisions of the second article of treaty concluded with said tribe September 29, 1865.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

## Sixty-first amendment:

Add the following as an additional section:

SEC. —. And be it further enacted, That there be, and is hereby, appropriated out of any money in the Treasury not otherwise appropriated, the sum of \$3,362 08, to pay the balance due for the survey of the lands embraced in the Omaha and Winnebago Indian reservation in the State of Nebraska, under contract dated August 14, 1866, as provided by a treaty with the Omaha Indians, and authorized by act of Congress approved July 28, 1866.

The Committee on Appropriations recommend non-concurrence.

Mr. TAFTE. This ought to be concurred in. The survey has been made, and ought to be paid for.

Mr. BUTLER, of Massachusetts. Mr. Speaker, we have gone over this question in a separate bill, and the House, after full consideration, paid what they found to be deficient. What we struck out of that bill the Senate have put into this. For that reason we have not concurred in that action. The House have, by a large majority, sustained the action of the committee on the other bill.

The amendment was non-concurred in.

## Sixty-second amendment:

Insert the following as an additional section:

SEC. —. And be it further enacted, That the Commissioner of the General Land Office is hereby authorized to continue the extension of the geological explorations as begun in Nebraska under the provisions of the second section of the deficiency act of Congress, approved March 2, 1867, to other portions of the public lands; and for that purpose the sum of \$10,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The Committee on Appropriations recommend concurrence.



Mr. PAINE. I move to strike out "\$10,000" and insert "\$5,000." I hope the House will agree to that.

Mr. STEVENS, of Pennsylvania. I do not agree to that amendment. I do not see the necessity for it.

Mr. PAINE. Gentlemen say if I do not make a speech they will adopt the amendment and then concur in the amendment of the Senate.

The amendment to the amendment was agreed to; and the Senate amendment, as amended, was concurred in.

#### Sixty-third amendment:

Insert the following as an additional section:

SEC. —. *And be it further enacted*, That the Commissioner of Patents be authorized to rent, under the direction of the Committee on Patents of the Senate and of the House of Representatives, such rooms as may be necessary for the speedy and convenient transaction of the business of the office, and to pay for the same out of the patent fund.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

#### Sixty-fourth amendment:

Insert the following as an additional section:

SEC. —. *Be it further enacted*, That the city of Georgetown, the city of Washington, and the levy court of the county of Washington, District of Columbia, be, and they are hereby, authorized to levy and collect a special tax on the taxable property within their respective jurisdictions, for the erection of school-houses and the support of public schools, not exceeding fifty cents on each \$100 for any one year, to be assessed and collected as other taxes.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

#### Sixty-fifth amendment:

Insert the following as an additional section:

SEC. —. *And be it further enacted*, That all laws and parts of laws that regulate the price of labor in the Government Printing Office be, and the same are hereby, repealed; and it shall be the duty of the Congressional Printer to contract with the persons in that employment at such prices as are for the interest of the Government, and are just to those employed.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

#### Sixty-sixth amendment:

Add the following as a new section:

SEC. —. *And be it further enacted*, That for the purpose of executing the fourth article of the treaty of Washington, concluded on the 9th day of August, 1842, the Secretary of the Treasury is hereby authorized and directed to pay to the State of Maine for ninety-one thousand one hundred and twenty-five acres of land assigned by said State to settlers under said article, a sum equal to \$1 25 per acre; and to the Commonwealth of Massachusetts for twenty-six thousand one hundred and fifty acres of land a sum equal to \$1 25 per acre: *Provided*, That before said sums are paid the States of Maine and Massachusetts shall agree with the United States that the settlers upon their public lands in the late disputed territory in Maine entitled to be quieted in their possession, as ascertained by commissions heretofore instituted by said States, shall have been or shall be quieted by a release of the title of the said States.

The Committee on Appropriations recommend concurrence.

Mr. STEVENS, of Pennsylvania. I would like to know from the gentleman from Massachusetts whether that State did not assign all her interest in this land to the State of Maine or to the railroads within that State?

Mr. WASHBURN, of Illinois. I hope the House will not concur in that amendment.

Mr. STEVENS, of Pennsylvania. I move to amend the amendment by striking out the following words:

And to the Commonwealth of Massachusetts for twenty-six thousand one hundred and fifty acres of land a sum equal to \$1 25 per acre.

Mr. BUTLER, of Massachusetts. I desire to make a plain statement of the facts relating to this matter which compelled the judgment of the committee in their report in its favor. By the conventional line established by what is known as the "Ashburton treaty" two several parcels of land were taken from the jurisdiction of the treating parties. One from Maine, which was added to New Brunswick, and the other came into Maine from New Brunswick by the line of the treaty. The same line running westward gave large amounts of land to New Hampshire, Vermont, and New

York, and four million acres to the United States northwest of Lake Superior. By the fifth article of the treaty Maine was to have a certain specific sum for the land taken from her domain that was given to New Brunswick. By the fourth article of the treaty the United States agreed to quiet the titles of the British settlers and maintain them thereon on the land which came within the jurisdiction of that State from the territory of New Brunswick. The United States could not do that without the consent of the States of Maine and Massachusetts because by establishing the line it was declared that this land was the property of those States. Maine and Massachusetts therefore have undertaken to quiet the titles of these British settlers upon the State lands according to the terms of the treaty as soon as the United States will perform its part of the contract under the treaty by giving to these States the ordinary price of public lands, namely, \$1 25 per acre for the lands which they must give up to these settlers to carry out the terms of the treaty. The States thus will give titles to these settlers which the United States by the Ashburton treaty agreed to give, but which the Government had not the power to do without the action of the States who owned the land, and therefore the Government must in fact buy these lands of the States to fulfill its treaty stipulations. This question has been pending now twenty-three years. Estates of deceased persons cannot now be settled in that territory. Land titles cannot be passed. Improvements are stopped simply because these titles cannot be quieted. This question has been before Congress very frequently. There are eight several reports of committees in its favor. The claim has four times passed the Senate. There has never been a majority report of a committee against it, though there has been a very able minority report. There cannot be a report against it with any show of justice. The reason why we have not been able to get a hearing before in this House is that being a claim calling for an appropriation of money, and therefore contained in an appropriation bill, it has always come before the House in the last hours of the session, and has failed to be acted upon; and so, never having been open for discussion, it has not yet passed. But every committee that has examined the subject has reported in favor of the payment of the claim.

Mr. STEVENS, of Pennsylvania. A single question. I had but one moment to look at it; but in one of these reports I could not find that they gave anything to Massachusetts.

Mr. BUTLER, of Massachusetts. When Massachusetts gave up the district of Maine to be a State she had certain public lands in common with Maine, so that a portion of her lands were taken at the same time that the lands of Maine were taken. The United States have already admitted the justice of this claim by paying for the title of a township and one half of these lands which had been granted before the treaty. They settled for and paid for the land, the title to which did not stand either in Maine or Massachusetts. But for the land, the title to which stood in Maine and Massachusetts, has not been paid for by the United States, although gone to their benefit in carrying out their treaty with Great Britain according to its terms. Now, I appeal to the justice of this House, to which I trust no man will ever appeal in vain, to give to Maine and Massachusetts this money to which they are entitled, so that they may be enabled to quiet those titles.

Now, in regard to the question of the gentleman from Pennsylvania, [Mr. STEVENS,] whether Massachusetts has not assigned her portion of this money to a railroad company, and therefore he has made his motion to strike out the Massachusetts portion, I appeal to his fairness if this money belongs to Massachusetts will he not allow Massachusetts to do what she pleases with it? What has Massachusetts done with it? With her accustomed liberality, with her usual public spirit, she has devoted this

amount and much more to building a line of railroad inter-communication between the British provinces and the United States, an iron band to bind them to us and to bring them in sooner or later as a part of our territory. And is that action of hers to be raised as an objection against her or against Maine in this House of Representatives as a reason why either of them should not have what is their just right? Massachusetts, instead of desiring the money from our Treasury to help pay her burdens of debt arising out of the war, which debt she counts by millions—although this money is her just due, for which she has waited twenty-three years—she only desires it for the purpose of contributing it to aid a great line of public improvement between the United States and the British provinces. Will you not give her her own, that with it she may benefit you?

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. I was not able to concur with the nominal majority of the Committee on Appropriations in recommending a concurrence in this amendment of the Senate. My first reason was that it was a private claim in favor of a State on an appropriation bill, and against every just rule of legislation. We have, I think, invariably cut off all private claims from our appropriation bills, for the reason that it is unfair to give one claimant the advantage over another, which he would have by putting his claim upon an appropriation bill. Now, here are Maine and Massachusetts with an old claim which, according to the statement of my friend from Massachusetts, [Mr. BUTLER,] is of twenty-three years' standing; a claim which Congress has refused to pay over and over again. This claim is now thrust upon an appropriation bill, and we are asked to pass it.

Mr. PETERS. When did Congress ever refuse to pay this claim? The gentleman says Congress has refused over and over again to pay it. Will he state when?

Mr. WASHBURN, of Illinois. Well, we have not paid it; we have refused to pay it by not paying it. The gentleman from Massachusetts [Mr. BUTLER] says there have been eight reports in favor of this claim. Well, sir, all those reports have not been able to convince the Senate and House both together that this claim was just and proper and ought to be paid. I will not go into the merits of this claim, because I have not time for it, although my friend from Indiana, [Mr. ORTH,] while a member of the Committee on Foreign Affairs of the last Congress, made a conclusive report against the justice of the whole matter. I protest against putting on this appropriation bill this private claim in favor of the States of Maine and Massachusetts; hence I am against concurring in this amendment of the Senate. I now yield the remainder of my time to the gentleman from Indiana, [Mr. ORTH.]

Mr. ORTH. It must be apparent to every member of this House that in the course of two or three minutes, or even five minutes—

The SPEAKER. The gentleman has two minutes of the remaining time of the gentleman from Illinois, [Mr. WASHBURN.]

Mr. WASHBURN, of Illinois. I will move to amend the amendment, and yield my five minutes to the gentleman from Indiana.

The SPEAKER. There is now pending an amendment to the amendment.

Mr. WASHBURN, of Illinois. I hope that will be withdrawn.

Mr. STEVENS, of Pennsylvania. I will withdraw my amendment to the amendment if the gentleman from Indiana [Mr. ORTH] will renew it.

Mr. ORTH. I will renew the amendment to the amendment. It is utterly impossible, in the space of five minutes, to give anything like a correct history of this claim. I think my attention was first called to it some two years ago in connection with a bill which was referred to the Committee on Foreign Affairs. That bill had the specious title of "A bill to provide for the defense of the northeastern boundary of Maine." Upon examining the

bill I found that it was in the interest of the European and North American Railway Company, and that a claim was preferred against Congress for \$2,300,000, growing out of the treaty of Washington, of 1842. This claim now comes up before the House again, having grown "small by degrees and beautifully less." But I warn the members of this House that while this section states it is for the purpose of carrying out and executing the fourth article of the treaty, and that only \$146,000 are now desired, yet when that is acknowledged you will be called on to execute the fifth article of the treaty, and then the amount will reach the neighborhood of its original proportions, \$1,000,000. The claim upon which it is alleged this money is due is, first, for lands assigned to settlers under the fourth article of the treaty of Washington; second, for loss of timber upon the "disputed territory," between the years 1832 and 1839; third, for the correction of an error in the computation of interest on moneys advanced by the State of Maine in protecting and defending her territory under the treaty aforesaid; and, fourth, for interest upon Maine's third of the advances made by Massachusetts in the war of 1812-15.

The gentleman from Massachusetts, [Mr. BUTLER,] who has advocated this claim, has stated very correctly that some seven or eight reports have been made either in the Senate or the House of Representatives in favor of this claim; but if the gentleman would examine all these reports, as I did some two years ago, he would find that there is a very close resemblance between them—sufficient to enable one to trace their paternity to the same source. He would find, furthermore, that each one of those reports is in favor of the payment of what is called the "disputed territory" claim, when the fact is as stated for the first time in the minority report which I presented to this House, that there is a receipt in full from the States of Maine and Massachusetts for everything growing out of that claim with regard to the "disputed territory," that receipt being given as far back as the administration of James Buchanan—a receipt in full for every dollar which was due to the States of Maine and Massachusetts for that claim.

Mr. BUTLER, of Massachusetts. I agree to that.

Mr. ORTH. Yet in every one of those eight reports to which the gentleman from Massachusetts has alluded, that claim is put forward as a valid claim arising under the fourth article of the treaty. Now, then, we come to this fourth article of the treaty, the only one now under consideration. What was the object of the treaty of 1842 between the United States and Great Britain? It was to correct the disputed boundary between our territory and that of Great Britain upon this continent. That dispute arose as far back as the early history of the French colonists upon this continent, and it was never definitely settled till the treaty of 1842.

Mr. STEVENS, of Pennsylvania. With the permission of the gentleman from Indiana [Mr. ORTH] I would like to ask the gentleman from Massachusetts [Mr. BUTLER] a question. This treaty provided for something to be done hereafter. I would like to know whether the treaty is now of binding force?

Mr. ORTH. Mr. Speaker, prior to the ratification of the treaty of 1842 there was, as I have stated, a disputed question of boundary between Great Britain and the United States. A convention was held, and this treaty was agreed upon to correct the boundary. New Brunswick claimed that a part of her territory had gone to the State of Maine, while Maine claimed that a part of her territory had gone to New Brunswick. Pending the struggle, settlers from New Brunswick acquired title to certain lands within the disputed territory. The citizens of Maine likewise acquired lands within that disputed territory. The object, then, of this fourth article of the treaty was simply to say to the citizens of New Brunswick, who had come upon the American side of

the line, that they should be protected in the rights which they had acquired from the province of New Brunswick; and to say to the citizens of Maine who had settled north of the line that they should be protected by the British Government in the rights which they had acquired, as they supposed, under the authority of the State of Maine. The whole scope, object, and intent of the fourth article of the treaty was simply to quiet the titles of private individuals in the possession of the lands which they had acquired either from the province of New Brunswick or from the State of Maine. The treaty did not create or recognize any obligation on the part of the United States to pay one dollar of any such claim as this.

[Here the hammer fell.]

Mr. PETERS. Mr. Speaker, it is almost impossible to discuss a subject of this kind in the allotted time of five minutes. In the first place the acting chairman of the Committee on Appropriations [Mr. WASHBURN, of Illinois] would prejudice this appropriation by criticising the action of the Senate in allowing it to be inserted as a part of this appropriation bill. I can only say that the Senate (and I read the proceedings carefully) came almost unanimously to the conclusion, after a full ventilation of the subject, that as the matter arose under a treaty it was properly included in a bill of this character. However, that question is foreclosed.

Mr. Speaker, if there ever was an honest claim presented to Congress, this is such a claim; and I venture to say it will be met on this floor only by an appeal to prejudice, an appeal which is too often made by gentlemen on this floor under the guise of economy. The utmost scrutiny of fact, and the fair construction of the treaty of 1842, must irresistibly lead our minds to the conclusion that this claim is exactly right. Heretofore this claim has been associated with other claims which made in the aggregate two or three millions of money. There may be some question about some of these claims. There may be some question honestly raised about some of them; but on this question the people of the State of Maine have supposed from previous legislation, or attempted legislation on the subject, if it stood isolated and alone it would meet with no objection, not even from the distinguished and earnest member of the Committee on Foreign Affairs [Mr. ORTH] who has just taken his seat, who made the minority report in the last Congress. What, in a word, is the history of the whole matter? I have not time in the few moments allotted to me to present it as I would like to. Maine claimed a certain tract of land. Bear in mind that Maine claimed not only State sovereignty, but Maine owned the fee in connection with Massachusetts. A treaty was made by which we surrendered and lost three million acres of land. This land was ceded by the United States to Great Britain, and she proposed to give the United States as an equivalent for the same certain disputed land in New Hampshire, Vermont, and New York, and certain land not claimed by us at Rouse's Point, in New York, and certain mineral land upon Lake Michigan. Great Britain virtually acknowledged that the territory was ours, but wanted to traverse the northern part of it from province to province, and give a consideration for it. The United States gave to the State of Maine \$300,000 for the lands we lost; that is for the territory we gave up and which went on the other side of the line.

There is another article in the treaty alluded to, and that is that the Government of the United States shall quiet the titles of whatever British settlers there were upon our side of the line as the treaty has established the boundary to be. Now, according to the treaty, those occupants or squatters are to have a release of title of the lots occupied. From whom are they to have a release? The fee is in Massachusetts and Maine. Maine and Massachusetts are ready to give the releases. The settlers are anxious to receive them. These persons, by force of the treaty, have become

citizens of the United States, and I have no doubt have intelligence enough to vote next fall for the Union and the country. They are in my district, and I know them pretty well. It is for the interest of my section of country that this pacification of this question shall take place. Now, the United States have promised these men, they have promised the Government of Great Britain that these men shall receive their release of title to their lands. Release from whom? Why, of course, from the parties owning the lands in fee, from Massachusetts and Maine. Shall we call upon the States of Massachusetts and Maine to make such releases without a fair compensation for the lands which they will thereby give up?

But, sir, the question has been already foreclosed and settled. Individuals owning tracts in this formerly disputed territory upon which squatters have settled have come here, and Congress has paid them. Why, then, not pay this similar claim of the States. The whole question now at issue has been decided over and over again in the Senate. It was never reached before to-day in the House. There was never any adverse report or any adverse action. Eight favorable reports have been heretofore made in the two Houses. It has never met with any serious opposition in the other branch. It was sustained by the majority report of the Committee of this House on Foreign Relations in the Thirty-Ninth Congress. All the action of Congress heretofore, and all the precedents, favor our present proposition. The Senate have sent it to us with hardly any substantial opposition after the fullest debate.

[Here the hammer fell.]

Mr. BANKS. I move to strike out the amount named and to insert \$91,125. Mr. Speaker, it seems to me this claim is appropriate to this bill in every respect. A bill affecting the rights of a State is a public bill. The State is not a person, and its claims are not private claims. They have never been so held. I understand it was always held, at least formerly, wherever a State presented a subject for legislation it was never classed among private bills.

Mr. STEVENS, of Pennsylvania. Will the gentleman yield to me?

Mr. BANKS. Certainly.

Mr. STEVENS, of Pennsylvania. This arose under the treaty of Washington?

Mr. BANKS. Yes, sir.

Mr. STEVENS, of Pennsylvania. Is there not an express rule of the House that no claim arising under a treaty shall be put into an appropriation bill?

Mr. BANKS. I do not so understand. It is proposed to complete the action of the Government under the treaty of 1842. Now, there is no objection to this claim which has not been met. It has not been refused. Negative votes against this proposition cannot be found. It has failed of support, and every member of this House knows it would be almost impossible for a claim to be presented by anybody, however just its merits may be, and acted on and approved immediately. A great number of claims lie over from year to year without impeaching their justice in any manner whatever, and this is one of those claims.

Now, sir, the fourth article of this treaty requires that Massachusetts should satisfy the claims of citizens of the British Government. They were situated on our side by the new line of partition. Massachusetts did that. There is no provision in the treaty that made it incumbent upon the United States to do this. On the contrary, the United States required Massachusetts to do it. Massachusetts having done it is therefore entitled to the consideration which she may justly claim for having extinguished titles in behalf of the interest of the United States, which the treaty required the United States to do.

The gentleman from Pennsylvania [Mr. STEVENS] inquired whether this being to execute a condition of a past treaty that condition was not extinguished? Certainly not, no matter how long it may continue. Here the

condition is involved in the execution of the treaty, not by the United States, but by the State of Massachusetts; and the obligation being upon the United States to requite Massachusetts if it runs a hundred years, it still remains.

Mr. STEVENS, of Pennsylvania. Will the gentleman allow me to read the parliamentary rule on this subject?

Mr. BANKS. Certainly.

Mr. STEVENS, of Pennsylvania. The rule is this:

"In preparing bills of appropriations for other objects the Committee on Appropriations shall not include appropriations for carrying into effect treaties made by the United States; and when an appropriation bill shall be referred to them for their consideration which contains appropriations for carrying a treaty into effect, and for other objects, they shall propose such amendments as shall prevent appropriations for carrying a treaty into effect being included in the same bill with appropriations for other objects."

Mr. BANKS. I understand that rule. It does not affect this appropriation. This is not to carry a treaty into effect. The treaty has already been carried into effect. Massachusetts has done that which the United States ought to have done, and now claims that she should be made whole for the expenditure she has incurred. If it were proposed to carry into effect a treaty in regard to Alaska, for instance, I would concede the point made by the gentleman. I made the same point myself once on this question. But this treaty is executed so far as the United States is concerned, and neither Great Britain nor any other party has any claim whatever. Massachusetts asks to be made good for that which she has done in behalf of the United States.

Mr. MULLINS. Do I understand the gentleman to claim that Maine has carried out any treaty which the United States ought to have done, thereby recognizing the right of a State to treat with a foreign Power? Keep close to the moorings.

Mr. BANKS. The Government of the United States required Maine and Massachusetts to carry out the treaty. It did not offer to do it itself, because those States had jurisdiction of that question.

[Here the hammer fell.]

Mr. BANKS. I withdraw the amendment.

Mr. WASHBURN, of Wisconsin. I move to strike out the last word. I desire to say that my impressions were against this appropriation until I looked at it within the last twenty-four hours. I am now satisfied that there is no claim that can be presented that is more just than this. The State of Maine owned a large tract of land, several million acres, which the overshadowing treaty-making power which we have been discussing somewhat during the last few days, undertook to and did deprive her of. The United States received from Great Britain in exchange for that territory several million acres on Lake Superior, at Rouse's Point, and in New Hampshire and Vermont, to settle the dispute. This Government having received this exchange agreed to pay the States of Maine and Massachusetts \$300,000. Those States being under restraint and having no power to do otherwise, accepted the \$300,000. That settled the matter so far. But there were certain settlers located upon the land south of the conventional line whose lands came within the limits of Maine. Their land belonged as much to that State as my house belongs to me. Yet, to settle the difficulty, the Government of the United States—the treaty-making power—agreed that those settlers should be quieted in their titles, and that the States of Maine and Massachusetts should convey to them the property which belonged to the States of Maine and Massachusetts. That is the whole question as I understand it. You take lands that belong, beyond any question, to the States of Maine and Massachusetts, and give them to these settlers to quiet their titles. They ask you now to pay for some of the most valuable lands in the State of Maine. That is the whole story, as I understand it. And understanding it in that

way, and believing this amendment to be entirely equitable and just, I shall vote for it.

Mr. ORTH. Even admitting the position taken by the gentleman from Wisconsin [Mr. WASHBURN] to be correct, what data has this House to act upon? Is there a scintilla of evidence before this House—that is to-day asked to vote \$147,000 to a railroad company in the State of Maine—that the State of Maine has ever granted a title to a single quarter section of this land? What is the "title" referred to in the fourth section of the treaty of Washington? It is notorious that this disputed territory was squatted upon. Men went there and took possessory rights, and it is those rights which are alluded to and guaranteed by this treaty. The squatter not only had to take possession of the land, but to make payment for it. Now, without showing that a single dollar has been paid for this land, we are called upon to-day to vote to the State of Maine an enormous sum of money when we have no evidence that the State of Maine has ever granted one single acre of land to a settler without that settler paid for it. The object of that provision of the treaty was to prevent the settler from being driven from the piece of land he had selected for his home. It said to the settler, "You have selected your homestead and you may remain there, so far as the United States and Great Britain are concerned; but you must pay for the fee-simple of your land before you can ask the State of Maine or the province of New Brunswick to give you a title to it." It was simply the possessory right which was guaranteed by this treaty. It was not agreed that without any payment for the land we would give to the settler a guarantee deed for the land he has selected for his homestead.

Mr. WASHBURN, of Wisconsin. I now withdraw my amendment to the amendment.

Mr. PIKE. I renew the amendment to the amendment. The gentleman from Indiana [Mr. ORTH] seems to have forgotten the proviso to this section, which is as follows:

*Provided, That before said sums are paid the States of Maine and Massachusetts shall agree with the United States that the settlers upon their public lands in the late disputed territory in Maine entitled to be quieted in their possession, as ascertained by commissions heretofore instituted by said States, shall have been or shall be quieted by a release of the title of the said States.*

Mr. ORTH. In other words, the United States are expected to give these lands to those settlers without payment.

Mr. PIKE. There was an influx of these British settlers during the time this disputed territory was actually within the possession of the British Government; and, as the gentleman from Indiana [Mr. ORTH] said, these settlers went upon land, a part of which belonged to private individuals and a part of it to the States of Maine and Massachusetts. When the treaty came to be made it was thought advisable on the part of both Governments that those titles should be provided for. Now, in July, 1862, Congress gave compensation to owners of the private property so squatted upon, to Munroe and others, I forget the names now. But Congress recognized their title by giving to Munroe and others compensation for the lands so taken by these squatters, thus carrying out so far the provision of the treaty.

And this amendment is simply to carry out the provision of the treaty, so far as Maine and Massachusetts are concerned, as it was carried out in July, 1862, so far as private individuals are concerned. And even prior to that, in the case of Josiah S. Little, of Portland, the provision of the treaty was carried out in the same way. Therefore Congress has twice been committed to this idea of carrying out the provision of the treaty in this way. The State of Maine by that treaty sacrificed lands the value of which, if \$7,200,000 is a correct estimate of the value of Alaska, cannot be less than fifteen or twenty million dollars, and this, too, without our consent, for although there was a nominal consent on the part of our commissioners, Judge Little, when he went home,

said that he had been in "durance vile," and had been coerced into giving his consent. Yet, although we sacrificed by that treaty lands of this immense value, Congress at this late day is higgling about giving us this small compensation for those lands, while at the same time it is willing to give Russia \$7,200,000 for Alaska. Now, I submit that if this Congress can pay \$7,200,000 in gold for the friendship of Russia, it can as a matter of justice pay to the State of Maine \$140,000, which has for years been due her. As my colleague, [Mr. PETERS,] whose district is more particularly interested in this matter, knows these men personally, knows that they are good and faithful citizens, willing to do the fair thing upon all occasions, [laughter,] I submit it is proper that this amendment of the Senate should be concurred in.

Mr. MAYNARD. I would like to ask the gentleman from Maine how much of this general claim has been paid? I took occasion to examine the matter some years ago, and I believe there has been a considerable amount paid.

Mr. PETERS. Mr. Speaker, the gentleman from Indiana [Mr. ORTH] misconstrues the fourth article of the treaty. He seems to suppose that these persons, who were British squatters, or who held the land under British claims, must pay the State of Maine for their land. That is not the construction which has been put upon that article. If he will read the diplomatic correspondence which took place at the time the treaty was formed he will see that the idea was that those persons were to be protected because they had bought lands and paid for them to Great Britain. Now, that treaty stipulates that these men, who were British subjects and had bought their lands of Great Britain and paid her for them, should still hold them; and that inasmuch as the land came within the sovereignty of the United States the United States should confirm and quiet their title—should make their titles valid to the lands which had already been granted to them under British deeds. That treaty further provides the means by which this was to be done. It says it shall be done by releases. Releases from whom? Releases from the parties owning the fee. Who are the parties owning the fee? They are the State of Maine and the State of Massachusetts. And in reply to the gentleman from Tennessee [Mr. MAYNARD] I will say that these lands were owned a part by the State of Maine, a part by the State of Massachusetts, and a part by private individuals. The private individuals who had been ousted by this treaty, which is a law executing itself, came here and asked compensation. Compensation was granted them; and the honorable gentleman who makes the inquiry once made a report to this House favoring the grant.

Mr. MAYNARD. I ask the gentleman whether an appropriation of this kind was not made in the Thirty-Fifth or Thirty-Sixth Congress to the States of Maine and Massachusetts as States?

Mr. PETERS. Yes, sir; it was reported, but never reached so as to be passed.

Mr. MAYNARD. The gentleman will recollect that George M. Weston was claiming a bonus as the agent of the State of Maine, and Simon P. Hanscom as the agent of the State of Massachusetts.

Mr. DAWES. That was to pay the expenses incurred by Massachusetts in the war of 1812, an adjusted account, adjusted in the War Department and found to be due, a claim which had laid there forty years and was only paid in the Thirty-Sixth Congress.

Mr. PETERS. There have been reports time and again in favor of the payment of this claim; but there being at that time no Court of Claims in existence, the bills for the payment of this money went on the Private Calendar and were there buried. Reports in favor of the payment of the claim were made in the Senate by Mr. WADE, by Mr. CLARKE of New Hampshire, by Mr. DOOLITTLE, by Mr.



SUMNER, and by Mr. Simmons; and in the House by Mr. Walton of Vermont, and also by the Committee on Foreign Affairs of the Thirty-Ninth Congress. All these reports except one were unanimous, so far as I recollect. Yet although bills for the payment of this claim have passed the Senate over and over again without a division—although such a bill was passed in the Thirty-Ninth Congress, and again the other day by an overwhelming majority, the claim has never come before this House for action before to-day; no vote has ever been taken on it, nor any voice heard in debate for or against it. We are seeking pay for land we are willing to grant to the settlers, which they are entitled to under the treaty, provided we shall have compensation for it. The settlers are uneasy about their titles. They should, as soon as possible, be quieted. Our Government solemnly plighted its faith to Great Britain to do so. But are the United States to use the property of Maine and Massachusetts to make good a promise only of the United States and not pay us for such property? We have already released a portion of these lands, trusting to Government for compensation, but we will make no further steps in that direction till we get sufficient assurance that we shall not bear out of our own pockets what is strictly and honorably an obligation of the United States. Our own losses have been too great already.

Mr. BUTLER, of Massachusetts. I rise to oppose the amendment; but first, I ask unanimous consent to close debate on this section in ten minutes, five of which I will give to the gentleman from Ohio, [Mr. DELANO.]

Mr. BANKS. I want two minutes.

Mr. BUTLER, of Massachusetts. I will say twelve minutes, then.

A MEMBER. Say fifteen.

Mr. BUTLER, of Massachusetts. I ask, in order to bring this discussion to a close, that by unanimous consent debate shall terminate in fifteen minutes.

The SPEAKER. That can be done by a majority vote.

Mr. BUTLER, of Massachusetts. Then, I make the motion that it be closed in fifteen minutes.

The motion was agreed to.

The amendment to the amendment was withdrawn.

Mr. BANKS. I renew it; and I do so for the purpose of making a statement in reference to the report. It embraced a variety of considerations, and upon many grounds might have been sustained. These persons present a single point upon which there can be no doubt at all. I want to say a word in reply to the gentleman from Tennessee, [Mr. MAYNARD.] He inquired as to what part of this claim was satisfied. The fourth article of the treaty, in order to settle the question of boundary, required the States of Massachusetts and Maine to give up that portion of territory beyond the new line; and secondly, to surrender to the squatters that portion of territory which the British then occupied within the new line. They surrendered the territory beyond the new line, for which it is understood they were paid; but for the surrender of the territory within the line and the release to the squatters, nothing whatever has been paid. This was a concession for the peace of the country, to carry out a treaty made between the United States and Great Britain, for which Massachusetts and Maine have been paid nothing whatever. It is only proper and just they should have this amount.

Mr. MAYNARD. I find provision was made in 1858 for satisfying the claims of the States of Maine and Massachusetts under the stipulations of a treaty between the United States and Great Britain, concluded the 9th day of August in the year 1842, a sum not exceeding \$11,496 81 in satisfaction of such claims of the State of Maine; and \$92,156 13 in satisfaction of like claims of the State of Massachusetts to be paid by the proper accounting officers of the Treasury.

Mr. LYNCH. For what? Read the whole of it.

Mr. MAYNARD. I have given the whole of it. It is for the purpose of satisfying the claims of the States of Massachusetts and Maine under this treaty.

Mr. LYNCH. What were those claims?

Mr. MAYNARD. Claims under this treaty.

Mr. Speaker, I also find an act approved July 12, 1862, appropriating money for the purpose of quieting titles under this same treaty. There has also been other legislation making appropriations under this treaty. I have brought forward these facts for information. I want further information on the subject. Here are appropriations for satisfying claims under this treaty with Great Britain, and I have had a strong impression this was one of those things that had been finally settled and closed up.

Mr. DELANO. I rise to oppose the amendment. If it were in my power consistently with my sense of public duty to vote for this appropriation I should do it. I have several friends who feel a desire to have it passed, but knowing something about the transaction officially I cannot remain silent while this claim is attempted to be passed. In the first place, I want the House to understand this is part of a claim of over one million dollars which is said to grow out of the Ashburton treaty, and rests upon four grounds. They are stated in the able report of Senator PATTERSON, of New Hampshire, made in the other branch of Congress. Those points are as follows:

"First. A claim for lands assigned to settlers under the fourth article of the treaty of Washington.

"Second. A claim for the loss of timber upon their territory during the suspension of State jurisdiction between 1882 and 1899.

"Third. A claim for the correction of an error made at the Treasury in computing the interest on the expenditures made by the State in defending her territory.

"Fourth. A claim for interest upon advances made by Massachusetts in the war of 1812-15."

On those four claims the gentleman has reported in favor of this, and made out the balance due \$691,694. The present appropriation is for one branch of this quadrilateral claim.

Mr. PETERS. Allow me to say they have no connection with each other.

Mr. DELANO. That is matter of opinion. I think directly otherwise, and I think whenever this appropriation is made you have got the iron wedge in and are prepared to open the log with what the farmers call the clog. Now, sir, I want to say to this House that it is utterly impossible in a five-minutes' debate to discuss and analyze these claims so as to arrive at a correct conclusion in reference to any one of them. It is worse than idle, it is almost a crime, for this House, under such circumstances as these, to attempt to pass upon these large amounts. This ought to go to the Committee of Claims, where all claims go. That committee is represented now by the gentleman from Massachusetts, [Mr. WASHBURN;] and I am willing to say in advance, that for so much of it as he will report in favor of I will vote blindfolded, I know his integrity and his intelligence so well. This claim was presented to me while I was a member of that committee in the Thirty-Ninth Congress, and it is upon the knowledge that I derived from a preliminary examination, upon the supposition that it would have to come before me, that I assert that no man in this House can understand its merits in any discussion that may be had at this time. I am not now saying that it ought not to be passed, though such is my present opinion. But I want to enforce upon this House the wrong that would be done in attempting to pass this claim in the limited debate that can be had under these circumstances. It is a large claim, it involves intricate questions of international law, it involves important questions touching implied contracts, and it ought to receive careful examination before a deliberative body. Now, is there anybody here who will say that this is a

deliberative consideration which we are giving the subject at this time? I pray this House, therefore, in respect to the rights of the nation, not to pass upon this claim, either in whole or in part, upon an appropriation bill with the limited discussion that it can have under the rules of debate that apply to it.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. I have listened with unflinching attention to this debate, and I have heard only one class of arguments against this claim, and that is an argument to prejudice. The whole speech of my friend from Ohio [Mr. DELANO] is only that and nothing more. He says we cannot understand enough about this question in a five-minutes' debate to pass upon it. Yet the amount is only \$100,000. The rules of this House for many years have confined us to five-minutes' debate only upon every item of an appropriation bill by which we can understand how to appropriate millions. We cannot debate any question appropriating money more than five minutes at a time on each question. My friend has, therefore, thus stated a very good reason why this House should follow its Committee on Appropriations and sustain its report. The committee have examined this subject and have reported upon it favorably. Now, while the House follow your committees everywhere else in matters of great moment which it has not time to examine, whenever a matter affecting the intent of the East is brought up, why, then, do gentlemen seem to try to find some reason for not following the committee? You vote with your committees for anything except when a matter comes up in favor of somebody at the East. Now, I appeal to gentlemen to do us justice. The United States took nearly four million acres of land from Maine and Massachusetts by the conventional line established by this treaty, which was an inheritance from our fathers, and we agreed to it without a murmur. And now we ask only to have returned to us what we have had to pay to the settlers on the lands given us in exchange for ours, whose titles the United States agreed to maintain and to extinguish our claim thereon.

Now, I desire to call attention to what was urged by the gentleman from Tennessee, [Mr. MAYNARD.] He has brought in here an appropriation to pay for the survey of those lands which the States of Maine and Massachusetts had to make because the United States would not do it. The appropriation is \$9,000 for Maine and \$11,000 for Massachusetts. He says he thinks that this was an appropriation to satisfy our claims for the lands themselves. Is this just?

Mr. MAYNARD. Is not the language "to satisfy the claim?"

Mr. BUTLER, of Massachusetts. To satisfy certain claims, but not the claim for land.

Then the gentleman brings up again the fact that in 1862 the United States paid James Munroe, Benjamin Sewall, Rufus Mandell, and James A. True for a portion of this land. That is exactly what we did do, sir. Why? Because Maine and Massachusetts had ceded, had sold these parcels of land to those parties before the treaty; so that the lands were theirs, and those States had no further or other title in them; those private parties came here and got their money, as they ought to do. We are now asking for the money for the land which belonged to us, and which we had not ceded, and which is as much ours as that land which the United States paid for was theirs. Again, my friend [Mr. ORT] says: "What examination has this claim had?" It has had the examination of eight committees, and no committee has ever yet reported against it, and my able friend from Indiana [Mr. ORT] could get from his committee only three members to agree with him in his minority report, with all his ability in argument. And there has never been found at any other time during the twenty-odd years since this claim has been pending three men upon any committee that has examined this claim so

unwise as to go against it. And it is not until some man prejudiced against it starts out to find reason why it should not be paid that any ground can be found upon which he can make a specious argument, however great his ability.

Sir, this is a plain case. The Government of the United States took this land for its own purposes. The Government exchanged this land for four million acres of land beyond Lake Superior, and it has that land now. We must yield this land to settlers. We are bound by treaty to do so, and this appropriation is to be paid only when we have done so.

This is a just claim; and I appeal once more to the justice of this House to stand by the friends of the Government, and to stand by the faith of the Government.

[Here the hammer fell.]

The SPEAKER. Debate is exhausted on the amendment of the Senate.

Mr. STEVENS, of Pennsylvania. I withdraw my amendment to the amendment.

Mr. PETERS. I would inquire of the Chair whether, if we vote to concur in this amendment of the Senate, we do not vote to sustain the report of the Committee on Appropriations?

Mr. WASHBURNE, of Illinois. I will tell the gentleman.

Mr. PETERS. I asked the Speaker; not the gentleman from Illinois, [Mr. WASHBURNE.]

The SPEAKER. The Committee on Appropriations recommend concurrence in this amendment.

The question recurred upon concurring in the amendment of the Senate, to add to the bill the following:

SEC. —. *And be it further enacted*, That for the purpose of executing the fourth article of the treaty of Washington, concluded on the 9th day of August, 1842, the Secretary of the Treasury is hereby authorized and directed to pay to the State of Maine for ninety-one thousand one hundred and twenty-five acres of land assigned by said State to settlers under said article, a sum equal to \$1 25 per acre; and to the commonwealth of Massachusetts for twenty-six thousand one hundred and fifty acres of land a sum equal to \$1 25 per acre: *Provided*, That before said sums are paid the States of Maine and Massachusetts shall agree with the United States that the settlers upon their public lands in the late disputed territory in Maine entitled to be quieted in their possessions, as ascertained by commissions heretofore instituted by said States, shall have been or shall be quieted by a release of the title of the said States.

The question was then taken upon concurring in the amendment of the Senate; and upon a division there were—ayes 57, noes 43

Before the result was announced, Mr. WASHBURNE, of Illinois, called for the yeas and nays.

The yeas and nays were ordered. The question was again taken; and it was decided in the affirmative—yeas 64, nays 47, not voting 87; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Bates, R. Ashley, Bailey, Baldwin, Banks, Benton, Boies, Boutwell, Benjamin F. Butler, Chandler, Churchill, Dawes, Dewesse, Donnelly, Eckley, Ela, Eliot, Ferriss, Garfield, Griswold, Hamilton, Hitzig, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hubbard, Hunter, Jencks, Alexander H. Jones, Julian, Kelsey, George V. Lawrence, Loan, Lynch, Marvin, McClurg, Miller, Nicholson, O'Neill, Paine, Perkins, Peters, Pike, Platts, Pomroy, Price, Sawyer, Smith, Starkweather, Aaron F. Stevens, Stokes, Stone, Taffe, Twichell, Robert F. Van Horn, Cadwalader C. Washburn, William B. Washburn, James F. Wilson, Windom, and Woodbridge—64.

NAYS—Messrs. Axtell, Baker, Beatty, Beck, Blair, Bromwell, Cary, Cobb, Coburn, Cook, Cullom, Delano, Farnsworth, Ferry, French, Golladay, Gravelly, Grover, Hawkins, Hill, Holman, Judd, Kitchen, Knott, Koontz, William Lawrence, Loughridge, Maynard, McCarthy, McCormick, Mercer, Moore, Moorhead, Mullins, Nunn, Orth, Phelps, Poland, Shanks, Spalding, Thaddeus Stevens, Taber, Thomas, Trowbridge, Elihu B. Washburne, Henry D. Washburn, and John T. Wilson—47.

NOT VOTING—Messrs. Adams, Archer, James M. Ashley, Barnes, Barnum, Beaman, Benjamin, Bingham, Blaine, Boyer, Brooks, Broomall, Buckland, Burr, Clarke, R. Butler, Cape, Reader W. Clarke, Sidney Clarke, Cornell, Coyole, Dixon, Dodge, Driggs, Eggleston, Eldridge, Fields, Finney, Fox, Getz, Glossbrenner, Haicht, Halsey, Harding, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Johnson, Thomas L. Jones, Kelley, Kerr, Ketcham, Lufkin, Lincoln, Logan, Mallory, Marshall, McCullough, McKee, Morrill, Morrissey, Mungen, Myers, Newcomb, Niblack, Pile, Polsley, Prayn, Randall, Raum, Robertson, Robinson, Roots, Ross,

Sehenek Scofield, Selye, Shellabarger, Sitzgreaves, Stewart, Taylor, John Trimble, Lawrence S. Trimble, Upson, Van Aernam, Van Auker, Burt Van Horn, Van Trump, Van Wyck, Ward, Welker, Thomas Williams, William Williams, Stephen F. Wilson, Wood, and Woodward—87.

So the amendment was concurred in.

Sixty-seventh amendment:

Add to the bill the following as a new section: SEC. —. *And be it further enacted*, That the Secretary of the Interior, in his discretion, is authorized to expend the appropriation heretofore made for the purpose of erecting a penitentiary for the Territory of Colorado, on the site belonging to and provided by the said Territory for the purpose.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Mr. WASHBURNE, of Illinois, obtained the floor.

Mr. MAYNARD. I ask the gentleman from Illinois to yield to allow a motion to be made to reconsider the vote by which the amendment making an appropriation for the custom-house at Nashville was rejected. It is desired that a brief explanation upon that point may be made. The amendment was voted upon without attracting the attention of those more particularly interested in the matter.

Mr. MULLINS. I hope the gentleman from Illinois [Mr. WASHBURNE] will give us a little time to discuss that matter.

Mr. BUTLER, of Massachusetts. I hope there will be no objection to allowing the motion to reconsider to be made.

Mr. WASHBURNE, of Illinois. I yield to allow the motion to be made.

Mr. ARNELL. I move to reconsider the vote by which the House non-concurred in the twenty-first amendment of the Senate.

The SPEAKER. The amendment will be read.

The Clerk read as follows:

Insert after line two hundred and forty-two the following new paragraph:

To enable the Secretary of the Treasury to enlarge the lot in the city of Nashville for the erection of a custom-house, \$25,000.

Mr. ARNELL. Mr. Speaker, I feel sure that if the House understood the facts in regard to this amendment of the Senate they would concur in it. By act of August 18, 1856, an appropriation was made to this effect:

"At Nashville, Tennessee, for the accommodation of the custom-house, post office, United States courts, and steamboat inspectors, a building of like materials, eighty-five feet long by sixty deep and sixty feet high, to cost not more than \$95,000."

An additional appropriation was afterward made of \$20,000 to buy a site for this building. The lot was purchased in a very desirable and suitable part of the city of Nashville. Owing to various reasons, the war among others, the erection of the building was prevented. The ground purchased is much too small for the proposed custom-house, which is greatly needed. One hundred and twenty-four thousand five hundred dollars has been appropriated, but, as I understand, it cannot be used for the purchase of additional ground. In the report of the Secretary of the Treasury for 1861-62, I find the following tabular statement:

Location.	Custom-house.	Post Office.
	<i>Revenue collected.</i>	<i>Revenue collected.</i>
Nashville, Tenn.	\$18,022 00	\$20,336 07

This statement, the latest that I can find, is for the fiscal year ending June 30, 1857. From personal inspection, I know that additional ground is needed. My colleague who represents this district [Mr. TRIMBLE] is not in his seat, or he could state the necessity for this appropriation more forcibly and in detail than I can. The amount is small, is necessary, and I trust it will be granted.

Mr. MAYNARD. I ask my colleague [Mr. ARNELL] whether the officer having charge of this subject has not recommended this appro-

priation, and whether, from his knowledge of the property, he does not consider the amount named a very moderate price for the lot in question.

Mr. ARNELL. My understanding is that the appropriation has been recommended by the proper officer, and it is certainly a very moderate sum for property in the locality of the original purchase.

On the motion to reconsider, there were—ayes twenty-three, noes not counted.

Mr. ARNELL called for tellers.

Tellers were not ordered.

So the motion to reconsider was not agreed to.

Mr. WASHBURNE, of Illinois. I move to reconsider the votes on concurring in the various Senate amendments; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois. I move that the House ask the appointment of a committee of conference on the disagreeing votes of the two Houses on this bill.

The motion was agreed to.

#### SECURITY OF PASSENGERS ON STEAMBOATS.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, reported a bill (H. R. No. 1372) for the better security of life on board of vessels propelled in whole or in part by steam, and for other purposes; which was read a first and second time, ordered, with the accompanying papers, to be printed, and recommended.

THOMAS W. WARD.

Mr. ELIOT. I want to report back from the Committee on Commerce Senate bill No. 542, for the relief of Thomas W. Ward, collector of customs at Corpus Christi, Texas.

Several MEMBERS. Let us hear the bill first.

The bill was read. It proposes to direct the proper accounting officers of the Treasury to settle the accounts of Thomas W. Ward, late collector of customs for the district of Corpus Christi, Texas, from March 5, 1867, to July 31, 1867, and to allow him the same compensation and emoluments as if he had been legally collector of customs for that district for that period. It further proposes to recognize the deputy collector appointed by Thomas W. Ward on the 7th of March, 1867, as the legal deputy collector of the district, and the accounting officers are to settle his accounts in the same manner as if he had been legally appointed and all his acts were legal.

Mr. MULLINS. I do not understand that. I should like to know upon what ground this is proposed to be done for this gentleman?

Mr. BENJAMIN. I object, and call for the regular order of business.

The SPEAKER. Then the bill is not before the House.

#### REMOVAL OF POLITICAL DISABILITIES.

The SPEAKER stated the regular order of business to be the consideration of House bill No. 1353, for the removal of certain disabilities from the persons therein named, reported yesterday from the Committee on Reconstruction by the gentleman from Massachusetts, [Mr. BOUTWELL.]

The bill was read. It provides (two thirds of each House concurring therein) that the several persons hereinafter named shall be severally relieved from all disabilities imposed upon them, or either of them, by the act passed March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States," and the acts supplementary thereto, and the amendment of the Constitution of the United States known as article fourteen:

Jacob Kibler, Henry Summer, John P. Kinard, E. P. Luke, and W. W. Houseal, of Newberry county; H. P. Hammond, Greenville; Elihu Moore, Lancaster; S. B. Clowney, Fairfield; Lewis Dial, Laurens; H. H. Kinnard, Newberry; J. C. Miller, Charleston; A. P. Kinnard, Newberry; H. Beatie, Greenville; S. W. Maurice, Williamsburg; D. L. Thomas, Beaufort; F. C. Gowen, H. C. Markley,

Thomas Cox, and John D. Ashmore, of Greenville; William B. Johnson, Richland; M. C. Williams and G. W. Williams, of York; R. M. Wallace, Richland; John Twitty, Lancaster; Matthew McDonald, Abbeville; A. G. Baskin and E. B. Miller, of Richland; C. R. Rutland, J. Botton Smith, and Daniel Burton, of York; Walter W. Herbert and Thomas Jordan, of Fairfield; Thomas E. Dudley, Bennettsville; Alexander McBee, Greenville; J. B. Tolleson and B. F. Bates, of Spartanburg; William M. Thomas, Greenville; James A. Black, Abbeville; Willis Allen, Spartanburg; John S. Green, Sumter; Elijah U. Horner, Edgefield; H. W. Lawson, Abbeville; Doctor Robert Lebbey, Charleston; James Gibbs, Columbia, all of South Carolina.

Jacob Keichler, San Antonio; Jacob Eliot, Navarro county; Jacob Schmitz, Comal county; Richard W. Davis, Goliad; John Blair, Houston county, and Thomas Ochiltree, all of Texas.

P. M. B. Young, Cartersville; R. W. Bell, Banks county; H. H. Took, Thomas county; Walter Brock, thirty-eighth congressional district; W. C. Daniel, Savannah; William T. Martin, Banks county; John W. H. Underwood, Augustus Wright; Charles E. Broyles, Dalton, all of Georgia.

John F. Conoley, Dallas county; Henry C. Sanford, Cherokee county, all of Alabama.

Zenon Labauve; John E. Frudean, parish of Jefferson; Theodule Drouet and Rufus King Howell, of New Orleans; Wade H. Hough, W. W. Handlin, all of Louisiana.

George W. Marshall, Lafayette, Tennessee. Robert H. Gumble, Tallahassee; Thomas T. Long, Lake City; Josiah E. Lee, Sumterville; A. C. Blount, Pensacola; Benjamin Neal, Marion, all of Florida. Charles W. Helm, Leavenworth, Kansas.

Mr. BOUTWELL. Mr. Speaker, that bill provides for the removal of political disabilities from about seventy-four men from Florida, South Carolina, Tennessee, Alabama, Louisiana, Georgia, Texas, and one from Kansas. We have given in the report for the purpose of placing in the records of the House the recommendations in each case. Most of the persons named in this bill are members-elect of State governments in these States. P. M. B. Young, elected to this House from Georgia, is, I understand, a Democrat. He has been recommended by General Grant, General Meade, and others of the Union Army. He was a colonel of cavalry in the rebel army. He is engaged at present in helping forward reconstruction. I know no other name to be found in this bill which it is necessary to call particular attention to, that is to say, there is nothing to distinguish them from those heretofore reported. I move to amend by inserting the names of William M. Moore, of Yancey county, and Leonidas C. Edwards, of Oxford, Alabama. I yield now to my colleague on the committee.

Mr. FARNSWORTH. I observe in this bill the name of John D. Ashmore, of South Carolina.

The SPEAKER. The Chair was about to state the fact that he has been already relieved. His name was in the other bill. If there be no objection, it will be stricken out.

There was no objection, and it was ordered accordingly.

Mr. FARNSWORTH. I move to insert the names of James L. Seward, of Thomas county, Georgia, and Edward Cropland, of Graves county, Kentucky.

Mr. PAINE. I move to add the name of William E. Vaughn, of North Carolina. I send to the desk a letter which I have on the subject, the writer of which is well known by reputation. The gentleman from the first district of North Carolina, [Mr. FRENCH,] I believe, understands something about the merits of this individual, and will state to the House what he knows on the subject.

Mr. MULLINS. Who proves this?

Mr. PAINE. In the first place the writer of this letter, in the next place the gentleman from North Carolina, [Mr. FRENCH,] who, I believe, is not now in his seat. I will ask when he comes in that he have an opportunity to state the facts.

Mr. MULLINS. Has the gentleman related all the evidence he has received why this gentleman should be relieved?

Mr. PAINE. I have not related anything yet. I propose to have the letter read by and by.

Mr. MULLINS. Are you acquainted with the gentleman who writes this letter?

Mr. PAINE. The gentleman from North

Carolina [Mr. FRENCH] knows this gentleman by reputation or personally, and will inform the House about him as soon as he comes in?

Mr. MULLINS. You do not want the name acted upon then now?

Mr. BOUTWELL. I ask that a vote be taken on the several amendments already proposed. I shall allow some to be offered but I do not like to have the bill complicated with various amendments.

Mr. MULLINS. Before the question is put I desire to ask who is the gentleman from Tennessee that you propose now to relieve.

Mr. BOUTWELL. George W. Marshall, of Lafayette, Tennessee.

Mr. MULLINS. I do not know him.

Mr. BOUTWELL. But your colleague recommends him.

Mr. STOKES. I state to my colleague that I know the man and those who recommended him. He is a worthy man.

Mr. BOUTWELL. I call the previous question on the amendment to insert the names of William M. Moore and Leonidas C. Edwards.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

Mr. BOUTWELL. I now call for a vote on the amendment of the gentleman from Illinois, [Mr. FARNSWORTH,] to insert the names of James L. Seward and Edward Cropland.

Mr. FARNSWORTH. I desire to say that Mr. Seward is known to several members here, and I have no hesitation in vouching for him myself. I know him well, and have seen him recently, as have many members of the House. He is a fit and proper person to be taken into the church. As for Mr. Cropland, his petition was presented to the House this morning, and he is vouched for by the gentleman from Kentucky, [Mr. McKEE.]

Mr. BOUTWELL. I call the previous question on the amendment.

Mr. BANKS. I wish to say a word in favor of placing the name of Mr. Seward, of Georgia, on the list. I agree with what the gentleman from Illinois has said in regard to him.

Mr. LAWRENCE, of Ohio. These names had better go to the committee and be examined. It may be the opinion of the gentleman from Illinois and the gentleman from Massachusetts that these men ought to be relieved, but we are called upon to act simply upon the individual opinion of gentlemen who assign no reason; and when the House knows nothing about the particular cases at all. I shall not vote to relieve any man upon the simple opinion of one member of this House without any facts upon which to act. I think these cases ought to go to the committee for examination, and I hope the House will vote down all these names that are sent in with some letter written by somebody about whom we know nothing vouching for the parties. It will be a very cheap pardon if rebels can come in and have a bill passed for their relief merely because some gentleman at the South writes a letter saying that they are worthy gentlemen.

Mr. BOUTWELL. I now yield to the gentleman from Illinois, [Mr. CULLOM.]

Mr. CULLOM. I wish to inquire of the gentleman from Massachusetts [Mr. BOUTWELL] if the Committee on Reconstruction know anything about the history of Charles W. Helm, of Leavenworth, Kansas? I understand that he is a northern man, who voluntarily went South and got on Bragg's staff, and is now one of the worst rebels in the South.

Mr. BOUTWELL. We know nothing except what is in the report.

Mr. CULLOM. I hope, then, that his name will be stricken out of this bill. I make that motion.

Mr. BOUTWELL. I now call the previous question on the amendments of the two gentlemen from Illinois, [Mr. FARNSWORTH and Mr. CULLOM.]

Mr. JUDD. Will the gentleman allow me to present a name in connection with those already offered?

Mr. BOUTWELL. I would prefer to have the question taken separately on those amendments.

The previous question was then seconded and the main question ordered.

The first question was upon the amendment of Mr. FARNSWORTH, to insert "James L. Seward, of Thomas county, Georgia, and Edward Cropland, of Graves county, Kentucky."

The amendment was agreed to, there being, on a division—ayes 54, noes 46.

The next question was upon the amendment of Mr. CULLOM, to strike out "Charles W. Helm, of Leavenworth, Kansas."

The amendment was agreed to.

The next question was upon the amendment of Mr. PAINE, to insert "William E. Vaughn, of Pasquotank county, North Carolina."

Mr. PAINE. When I moved that amendment I stated that when the Representative from the first North Carolina district [Mr. FRENCH] should appear on the floor I would ask to have a letter read by the Clerk, and that then I would ask that gentleman to state to the House what he knows about Mr. Vaughn; for I have no knowledge of him except what I have obtained from this letter and from the honorable gentleman from North Carolina, [Mr. FRENCH.] He, however, is not here; but another member from North Carolina is here, [Mr. DEWESEE,] who can state about this man. I now ask the Clerk to read the letter I send to him.

The Clerk read as follows:

ELIZABETH CITY, N. C., June 30, 1868.

DEAR SIR: In looking over a printed list of North Carolinians whose disabilities have been removed, I discover that the name of William E. Vaughn, of Pasquotank county, is omitted. His name was included in the list sent up by the constitutional convention, and in addition we had sent previously a petition numerous signed by Republicans, asking a removal in Mr. Vaughn's individual case. He has recently been elected (first choice in nomination) to the most responsible office in the county. He has been constantly loyal and extremely Radical. At his request I drop you this, hoping that you will be able to do something for him soon.

Yours, &c.,

C. L. COBB.

Hon. R. C. SCHENCK, Washington, D. C.

Mr. PAINE. I now ask the gentleman from North Carolina [Mr. DEWESEE] to make a statement to the House.

Mr. DEWESEE. I know very well, indeed, the gentleman referred to in the letter just read by the Clerk. He has been a good, quiet citizen and a loyal man ever since I first obtained a residence in the State, now well on to three years. I have always heard Mr. Vaughn spoken of as a man who was bitterly opposed to the rebellion, and who did everything he could to break down Jeff. Davis and his oligarchy. I know he warmly supported the reconstruction measures of Congress, and did everything in his power to assist in carrying them out. He was a Radical candidate upon the Republican ticket in the late election in North Carolina, and did good service in carrying the election. He was elected to the office of clerk of the superior court.

Mr. MILLER. What part did he take in the rebellion?

Mr. DEWESEE. He was holding a civil office when the war broke out, and continued to hold it for some time afterward.

Mr. MILLER. Did he take the oath to support the confederate government?

Mr. DEWESEE. I do not know whether he did or not; perhaps he did. The office of magistrate, which was the one he held, carries no emoluments with it.

Mr. BOUTWELL. I now call the previous question on the amendment of the gentleman from Wisconsin, [Mr. PAINE.]

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

Mr. BUTLER, of Massachusetts. I move to insert the name of John F. Alexander, of Cleveland county, North Carolina. He is a man well known to me. He has never held any office, does not seek any office now, and is quietly at home attending to his business. He



is fully and thoroughly in favor of the Union, and as a man of probity and honesty of character, I know of no superior to him. He is under the employ of a northern company, carrying on a large business to their great satisfaction, enjoying their entire confidence.

Mr. MULLINS. If the gentleman knows, will he please state what part this man took in the rebellion, making it necessary that disabilities shall be removed from him now?

Mr. BUTLER, of Massachusetts. He was in the rebel army in some capacity.

Mr. MULLINS. As an officer?

Mr. BUTLER, of Massachusetts. He was, I believe, at first conscripted, and afterward held an office, as I remember it.

Mr. MULLINS. What evidence has the gentleman, beyond what he has stated, of this man's returning sense of crime and of his penitence thereof? [Laughter.]

Mr. BUTLER, of Massachusetts. I know from letters from him, and from the report of a gentleman formerly a member of this House, who has spent some time with him, that he is thoroughly "reconstructed."

Mr. MULLINS. Well, if he is thoroughly "reconstructed," no act of ours can give him any further relief.

Mr. BUTLER, of Massachusetts. Oh, yes; for he is technically under disability.

Mr. DEWEESSE. Will the gentleman give us the name of the ex-member of this body who recommended Mr. Alexander?

Mr. BUTLER, of Massachusetts. General Marston, of New Hampshire, who is one of the company employing Mr. Alexander.

Mr. DEWEESSE. If there is in North Carolina any man named Alexander who is loyal we have never been able to discover the fact. [Laughter.]

Mr. BUTLER, of Massachusetts. The gentleman may probably know this man when I state that he is a resident of the town of Selby.

Mr. DEWEESSE. I have no acquaintance with him; but so far as I have been able to understand, there is no loyal man in North Carolina named Alexander. On the contrary a by-word with us is, "You are as disloyal as the Alexander family." [Laughter.]

Mr. BUTLER, of Massachusetts. I think I can relieve the difficulty of my friend from North Carolina. This gentleman went from Virginia to North Carolina to take the superintendency of a business in the latter State.

Mr. DEWEESSE. Virginia is a very bad State to come from. [Laughter.] And I will say that while I am willing to go as far as any man in this House to relieve the political disabilities of men deserving such relief, I do not want to see the gate thrown open so that all these rebels whose hands are red with the blood of my fellow-soldiers shall be brought in. If this thing is to be carried to such an extent that every man who can get a letter written for him is to be relieved from political disabilities we might as well adopt at once a sweeping resolution relieving all the unrepentant rebels of the South.

Mr. BUTLER, of Massachusetts. Does the gentleman know this man at all?

Mr. DEWEESSE. No, sir.

Mr. BUTLER, of Massachusetts. I do.

Mr. DEWEESSE. If I have the evidence that this man is loyal I will vote for his relief; if I have not such evidence, I will vote against relieving him or any other man.

Mr. BUTLER, of Massachusetts. I wish simply to say that I know this gentleman; he has been in the employ of a company with which I am connected. I know him as well as I can know any man. He is as loyal as any gentleman in North Carolina or out of it. I think I have not given any evidence of being so forgiving to these people that I cannot be trusted to distinguish a rebel from a Union man. If I did not know this man, or if my friend from North Carolina [Mr. DEWEESSE] knew him and declared him an improper person to be relieved, I would not say a word in favor of such relief. But I do know him.

Mr. MULLINS. I do not; and I have been asking for information.

Mr. BOUTWELL. I think the disposition of the House is to go no further in the way of receiving amendments. I must therefore decline to give way for any further amendments. I am willing that a vote shall be taken on the amendment of my colleague, [Mr. BUTLER, of Massachusetts.] I call the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendment of Mr. BUTLER, of Massachusetts, was agreed to, there being—ayes 56, noes 45.

Mr. BOUTWELL. I find that I promised the gentleman from Illinois [Mr. JUDD] to allow him to propose an amendment. I yield to him for that purpose.

Mr. JUDD. I move to amend by inserting the name of A. J. Yorke, of Concord, Cabarrus county, North Carolina. Mr. Speaker, I desire to say this gentleman is a personal acquaintance of mine. He is a merchant of high standing, and a man of high character. Under the old government and under the government existing there at the time of the rebellion he held the position of a justice of the peace. For that reason it is necessary he shall be relieved from political disability.

Mr. MAYNARD. We have a delegation now upon this floor from North Carolina, and it seems to me if there are any applications from that State they had better come backed by that delegation. The gentleman from Illinois will pardon me for saying so. I intend no reflection upon any member of the House. I intend to state a general proposition for myself. They have better local information than any one else.

Mr. JUDD. I will simply remind the gentleman how recently North Carolina has been represented in any manner upon this floor. Bills were pending before the House for the purpose of removing political disabilities long before that State was represented upon this floor. The particular district in which this gentleman resides is not yet represented upon this floor. I made his acquaintance when I was in North Carolina for five or six weeks, and my colleague will indorse all I have stated in his behalf. He has favored the congressional policy of reconstruction. He is a man of high standing and character. He addressed a note to me on the subject of his relief. I also received a letter from persons as thoroughly radical as any can be, stating if there was ever any one entitled to be relieved of disability it is this gentleman. That is the reason for presenting his name for insertion in this bill.

Mr. FARNSWORTH. The case is exactly as my colleague says.

Mr. BOUTWELL demanded the previous question on the amendment.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was adopted.

Mr. MAYNARD. I notice names from Texas, which is not yet reconstructed, while there are none from Virginia or Mississippi.

Mr. PAINE. I have not yet brought up the bill for the relief of the citizens of Mississippi, as there was no necessity for immediate action for the purposes of the State government. The bill is ready.

Mr. BOUTWELL. I will say that, with the exception of a very few names of citizens of Texas, and one in Tennessee, and one in Kansas, which has been stricken out, this bill embraces only the names of those who are connected with offices in the States about to be reorganized and admitted to representation. We act upon the general principle that from time to time bills should be reported relieving persons from disability in order to carry on these State governments. I believe I cannot yield for further amendment. I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed

and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BOUTWELL demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 77, nays 23, not voting 92; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, Bailey, Baker, Beatty, Benjamin, Benton, Blair, Boies, Boutwell, Benjamin F. Butler, Calkins, Churchill, Cook, Cullom, Dawes, Deweese, Donnelly, Driggs, Eli, Eliot, Farnsworth, Ferriss, Ferry, French, Garfield, Griswold, Higby, Hinds, Hooper, Chester D. Hubbard, Hulburd, Jenckes, Alexander H. Jones, Judd, Kelsey, Kitchen, Koonz, George V. Lawrence, William Lawrence, Lou Bridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Moore, Moorhead, Morrell, Myers, O'Neill, Paine, Perham, Peters, Pile, Platts, Poland, Pomeroy, Rogers, Schenck, Scofield, Selye, Smith, Stewart, Stokes, Taylor, Thomas, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, John T. Wilson, and Windom—77.

NAYS—Messrs. Arnett, Bromwell, Cary, Chanler, Sidney Clarke, Cobb, Coburn, Golladay, Hamilton, Hawkins, Holman, Hopkins, Hunter, Julian, Loan, McCormick, Mercer, Miller, Mullins, Nicholson, Orth, Price, Sawyer, Shanks, Spalding, Starkweather, Aaron F. Stevens, Taber, and Taffe—29.

NOT VOTING—Messrs. Adams, Ames, Archer, James M. Ashley, Axtell, Baldwin, Banks, Barnes, Barnum, Beauman, Beck, Bingham, Blaine, Beyer, Brooks, Broomall, Buckland, Burr, Roderick R. Butler, Reader W. Clarke, Cornell, Covode, Delano, Dixon, Dodge, Eckley, Eggleston, Eldridge, Fields, Finney, Fox, Getz, Glossbrenner, Gravely, Grover, Haight, Halscy, Harding, Hill, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Johnson, Thomas L. Jones, Kelley, Kerr, Ketcham, Knott, Ladlin, Lincoln, Logan, Marshall, Maynard, McCullough, McKee, Morrissey, Munger, Newcomb, Nickles, Nunn, Phelps, Pike, Polsley, Pruyn, Randall, Raum, Robertson, Robinson, Ross, Shellabarger, Sigreaves, Thaddeus Stevens, Stone, John Trimble, Lawrence S. Trimble, Trowbridge, Van Aernam, Van Aiken, Van Trump, Van Wyck, Ward, Elihu B. Washburne, Welker, Thomas Williams, William Williams, James F. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—92.

So (two-thirds voting in the affirmative) the bill was passed.

During the roll call,

Mr. KELSEY said that Mr. WILLIAMS, of Indiana, was confined to his room by sickness.

The vote having been announced as above recorded,

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER. The morning hour has now commenced, unless the gentleman from Vermont [Mr. POLAND] calls up the election case of which he has given notice.

Mr. POLAND. I said I would call it up after the morning hour. I supposed, however, the morning hour would be in the morning. [Laughter.]

The SPEAKER. The Chair understands the gentleman to decline to call it up.

Mr. POLAND. I yield for the morning hour.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had passed, without amendment, a bill (H. R. No. 1156) authorizing the Commissioner of the General Land Office to issue a patent to F. N. Blake for one hundred and sixty acres of land in Kansas.

The message further announced that the Senate had indefinitely postponed the following bills of the House:

An act (H. R. No. 1313) granting an increase of pension to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman;

An act (H. R. No. 293) to regulate and limit the admiralty jurisdiction of the district courts of the United States;

An act (H. R. No. 90) to authorize and require the administration of oaths in certain cases, and to punish perjury in connection therewith; and

An act (H. R. No. 1194) to provide for the inauguration of State officers in Arkansas, North Carolina, South Carolina, Louisiana,

Georgia, and Alabama, and for the meetings of the Legislatures of said States.

The message further announced that the Senate had passed a bill (S. No. 49) to revive and continue in force the act of the 29th July, 1850, and the act amendatory thereof of the 2d of April, 1852; in which the concurrence of the House was requested.

#### STEAMER WAMPANOAG.

Mr. PIKE. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Secretary of the Navy be directed to furnish this House with a copy of his order of the 13th of April, 1868, directing a trial of the United States steamer Wampanoag, together with the reports of the trial of said vessel made previous or subsequent to said order, and such other information as the Department possesses relative to the efficiency or non-efficiency of that particular vessel or that class of vessels.

Mr. CHANLER. What is the object of that?

Mr. PIKE. To get at information about that class of vessels.

Mr. CHANLER. I have no doubt of that; but who owns this vessel?

Mr. PIKE. The Government.

Mr. CHANLER. Is she for sale?

Mr. PIKE. She is not.

Mr. CHANLER. What is the specific object?

Mr. PIKE. To learn the efficiency of this class of vessels.

Mr. CHANLER. Is she an isolated instance?

Mr. PIKE. She is a steamer of about three thousand tons, and made a trial trip the other day. We want information in relation to that trial trip. That is all there is of it.

Mr. CHANLER. All right.

The resolution was agreed to.

#### GOVERNMENT OF THE ARMY.

Mr. GARFIELD, by unanimous consent, reported from the Committee on Military Affairs a bill (H. R. No. 1873) establishing rules and articles for the government of the armies of the United States; which was read a first and second time, ordered to be printed, and recommended to the committee.

On motion of Mr. GARFIELD, by unanimous consent, the foregoing bill, together with other bills reported from the Committee on Military Affairs, were allowed to be considered at the evening session ordered by the House on Friday next.

Mr. GARFIELD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TREATY WITH THE CHEROKEES.

Mr. LAWRENCE, of Ohio. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Secretary of the Interior be and is directed to furnish to this House as soon as practicable the appraisals of lands made in pursuance of the treaty of July 19, 1866, between the United States and the Cherokee nation of Indians.

Mr. VAN HORN, of Missouri. I object.

#### CITIZENSHIP OF INDIANS, ETC.

The SPEAKER. The morning hour has now commenced, and the regular order is the call of the committees for reports. If there are no further reports from the Committee on Manufactures, the Committee on Indian Affairs is next in order.

Mr. WINDOM, from the Committee on Indian Affairs, reported back the petition of J. G. Olney, and others of New York, in reference to extending the rights of citizenship to Indians; also, the petition of the Peace Society of Pennsylvania for more peaceful relations with the Indians; also, fifteen other petitions on the same subject; all of which were laid on the table, and the committee was discharged from their further consideration.

#### SAMUEL KELLY.

Mr. MILLER moved that the Committee on Invalid Pensions be discharged from the further consideration of the petition of Samuel Kelly for an increase of an invalid pension under the act of June 6, 1866, and that the

same be referred to the Committee on Revolutionary Pensions and of the War of 1812.

The motion was agreed to.

#### SARAH A. BRIGGS.

Mr. MILLER also moved that the Committee on Invalid Pensions be discharged from the further consideration of the petition of Sarah A. Briggs for an increase of pension, and that the same be referred to the Committee on Revolutionary Pensions and of the War of 1812.

The motion was agreed to.

#### DENT, VANTINE & CO.

Mr. WINDOM, from the Committee on Indian Affairs, reported a bill (H. R. No. 1374) for the relief of Dent, Vantine & Co., for provisions furnished to the Indians of California during the years 1851 and 1852; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, directs the Secretary of the Treasury to pay to Dent, Vantine & Co., for provisions furnished to the Indians of California during the years 1851 and 1852, the sum of \$25,327 30, the same to be appropriated out of any money in the Treasury not otherwise appropriated.

Mr. CULLOM. I make the point of order that this is an appropriation bill, and must receive its first consideration in the Committee of the Whole.

Mr. WINDOM. I hope the gentleman will not insist upon his point of order.

Mr. CULLOM. This is an old claim; I insist upon my point of order.

Mr. WINDOM. Because this is an old claim, and these parties have been kept out of what was justly due them all this time, that is no reason why they should not now be paid.

Mr. CULLOM. I insist upon my point of order.

The bill was accordingly referred to the Committee of the Whole.

#### CONTROL OF INDIAN AFFAIRS.

Mr. WINDOM, from the Committee on Indian Affairs, also reported a bill (H. R. No. 1375) to transfer to the Department of the Interior certain powers and duties now exercised by the Secretary of the Treasury in connection with Indian affairs; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, provides that the powers and duties devolving upon the Secretary of the Treasury, under and by virtue of the fourth section of the act entitled "An act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June 30, 1849, and for other purposes," approved July 29, 1848, and the powers and duties devolved upon him under and by virtue of the laws relating to the investment of moneys in behalf of the Cherokee Indians from the sales of land under the treaties concluded at Pontotoc, October 20, 1832, and at Washington city, May 24, 1834, as also all other supervisory and appellate powers and duties in regard to Indian affairs which may now by law be vested in the Secretary of the Treasury, shall, from and after the passage of this act, be exercised and performed by the Secretary of the Department of the Interior.

Mr. CHANLER. I would inquire of the gentleman from Minnesota [Mr. WINDOM] in what stage is the present condition of these Indian affairs, whether in the hands of the military power or the civil power, and whether this bill relates in any way to the struggle about this matter now going on between those two powers?

Mr. WINDOM. I will state all there is in this bill as I understand it, and I think I fully understand it. By some anomaly the Secretary of the Treasury now has charge of about fifteen hundred Indians in North Carolina, while

the Secretary of the Interior has charge of all the Indians in every other portion of the United States. I hold in my hand a communication from the Secretary of the Treasury, asking that these Indians in North Carolina may be transferred to the jurisdiction of the Secretary of the Interior. Those two Cabinet officers have drawn up a bill for the purpose of accomplishing that result, which bill I have simply copied, and now report to the House by the direction of the Committee on Indian Affairs, who have examined it, and think it should pass.

Mr. ALLISON. As this bill was read I noticed something in it in reference to an investment of the Cherokee trust fund. I would ask the gentleman to give the House some explanation of that matter.

Mr. WINDOM. At the time the Cherokees were removed from North Carolina a provision was made that those who remained behind should have fifty-three dollars each set apart to them as a permanent fund, the interest of which was to be paid annually. About fifteen hundred of them remained behind, and they have been under the charge of the Secretary of the Treasury, who has been paying to them the interest on that fund of fifty-three dollars each. The desire on the part of both the Interior and the Treasury Department is that these Indians shall be transferred to where the others are.

Mr. ALLISON. How are those funds invested?

Mr. WINDOM. They are simply in the Treasury of the United States; they are not invested in bonds at all. We make no provision with reference to that.

Mr. ALLISON. I would like to ask the gentleman another question—whether or not the Secretary of the Interior can draw upon this fund under this bill except through the Secretary of the Treasury? How can he reach this fund which is set apart?

Mr. WINDOM. He can reach it, I suppose, as he reaches all other funds that are in the Treasury of the United States.

Mr. ALLISON. By requisition?

Mr. WINDOM. By requisition.

Mr. MULLINS. Mr. Speaker, it seems that this treaty was made twenty or thirty years ago with these Cherokee Indians; and by the action of the Government of the United States, certain funds were allowed to remain in the Treasury subject to the order of the Secretary of the Treasury. This is not a fund to be now created anew, but it is, as I understand, proposed to draw from the fund that has already been appropriated years ago for this object. It seems to be now the determination of those Indians to remove, and to reside with their fellow Indians who have gone to the country allotted them in the Indian territory. These Indians who remained in North Carolina have been the victims of the most atrocious swindling. Agents have come here pretending to represent them. One gentleman by the name of Thomas came here years ago and drew the amount due to each Indian and bought some fifty thousand acres of land and held it in his own name; and these Indians are now deprived of every dollar of the interest upon that money, the property being now levied upon to be sold for the individual indebtedness of Thomas. The man has been deranged for two or three years, and is now, or was recently, in a lunatic asylum. These Indians do not ask for reimbursement of that money; but they ask this expenditure out of the interest due to them upon the appropriation heretofore made, which, under the contract by the Government, was to inure to their benefit if they remained in North Carolina, and they have remained there. I will say further, that during this dreadful and bloody rebellion, which is costing this House so many days of labor in pardoning the men who were engaged in it, those Indians were under the stars and stripes of the United States; and now they come up as the wards of this Government and ask that this allowance shall be granted to them out of the original fund; so

that they may go and reside with their fellow Indians.

Mr. WINDOM. Gentlemen misapprehend, to some extent, this bill. It contains nothing with reference to the payment of this money. The Secretary of the Treasury can now pay it just as the Secretary of the Interior could do; but the Indian department is not under the control of the Secretary of the Treasury, and he has no means of managing properly this money. It is, therefore, desired that these Indians shall be placed with the other Indians. It may be said that there may be abuses under the provision now proposed; but there can be no worse abuses than those which we have heretofore had; and these Indians had better all go together. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WINDOM. I now yield to the gentleman from Ohio, [Mr. SCHENCK,] upon the condition that the business which he may introduce shall give rise to no debate.

#### REMISSION OF DUTY.

Mr. SCHENCK, from the Committee of Ways and Means, reported a joint resolution (H. R. No. 327) authorizing the Secretary of the Treasury to remit the duty on certain meridian circles; which was read a first and second time.

The joint resolution directs the Secretary of the Treasury to remit the duties on a meridian circle imported for the Observatory at Cambridge, State of Massachusetts, and on a meridian circle imported for the Observatory connected with the Chicago University, at Chicago, State of Illinois.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LOYAL CHOCTAW AND CHICKASAW INDIANS.

Mr. WINDOM, from the Committee on Indian Affairs, reported a bill (H. R. No. 1376) for the relief of the loyal Choctaw and Chickasaw Indians; which was read a first and second time.

The bill was read as follows:

A bill for the relief of the loyal Choctaw and Chickasaw Indians.

*Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and is hereby, authorized and directed to adopt and ratify the compromise and agreements entered into and executed on the 20th and 21st of April, 1868, between the legally-authorized representatives of the Choctaw and Chickasaw nations of Indians, and the legally-authorized representatives of the loyal Choctaw and Chickasaw Indians, claimants under the forty-ninth article of the treaty of April 28, 1866, between the United States and the Choctaw and Chickasaw Indians, as a full and final settlement of all claims under the aforesaid article of said treaty. And the amounts, as stipulated in the aforesaid agreement, to be paid to the loyal Choctaw and Chickasaw claimants, to wit: To the Choctaw claimants the sum of \$109,742 08, and to the Chickasaw claimants the sum of \$231,000 [\$150,000] shall be paid by the Secretary of the Interior to said claimants, out of any moneys in the Treasury of the United States belonging to or held in trust for said nations of Indians; but in case there is not a sufficient amount of money in the Treasury of the United States belonging to or held in trust for said nations of Indians to discharge their respective obligations to the loyal Choctaw and Chickasaw Indians, claimant, or in case [the representatives of] the Choctaw and Chickasaw nations of Indians shall request it, then the Secretary of the Interior is authorized and directed to sell such bonds or other securities held in trust by the United States for the Choctaw and Chickasaw nations of Indians as may be necessary to discharge their respective obligations to the aforesaid loyal Choctaw and Chickasaw claimants, as

stipulated in the aforesaid compromise and agreements: *Provided*, That no bonds or securities shall be sold for less than par.

Mr. SHANKS. I wish to file a minority report in this case.

Mr. KELSEY. I make the point of order that this bill, under the rules, must go to the Committee of the Whole on the state of the Union, as it appropriates money.

The SPEAKER. The Chair decides this is not an appropriation bill. It provides for the sale of bonds or other securities of these Indian nations for a certain purpose. An appropriation bill is to appropriate money of the United States out of the Treasury of the United States, and the rules require that such a bill should have its first consideration in Committee of the Whole, so that every person representing the people of the United States may have an opportunity to debate it.

Mr. WINDOM. I wish the House to understand this bill. It does not appropriate any money out of the Treasury of the United States belonging to the United States. It does appropriate money belonging to the Choctaw and Chickasaw Indians, but is no charge upon the Treasury of the United States. Mr. Speaker, in 1866 a treaty was made with these Indians. By one of the articles of that treaty it was agreed that a commission, to consist of a person or persons to be appointed by the President of the United States, shall be appointed immediately on the ratification of the treaty, who shall take into consideration and determine the claim of such Choctaws and Chickasaws as allege that they have been driven during the late rebellion from their homes in the Choctaw and Chickasaw nations on account of their adhesion to the United States, for damages, with power to make such award as may be consistent with equity and good conscience, taking into view the circumstances; and their report, when ratified by the Secretary of the Interior, shall be final, and authorize the payment of the amount from any moneys of said nations in the hands of the United States as said commission may award. At the time this treaty was made there were certain claims of persons denominated as loyal Choctaws and Chickasaws presented against the Choctaw and Chickasaw nations. The treaty provided this commission to ascertain the amount of damage due them. That commission went into the Indian Territory, examined witnesses, and reported a certain amount due to these parties for damages committed by the disloyal Indians during the war upon those who were our friends, stood by us, and fought manfully for the stars and stripes. I believe I have had occasion heretofore to refer to some of the sufferings which these people endured when they were driven out of the Indian country into Kansas. Many of them were frozen to death. The Choctaw and Cherokee nations have a considerable fund, amounting to about five hundred thousand dollars, I think, in the Treasury, upon which we pay them interest annually. They have also certain bonds which we hold in trust for them.

A MEMBER. To what amount?

Mr. WINDOM. I do not remember; but enough, at all events, to cover this bill. After the report of the commission finding a certain amount due to these loyal Indians had been made, it was found that there were certain persons in the nation opposing it, and it was difficult to get the ratification of the Secretary of the Interior. The attorney of the loyal claimants being present, and a delegation from the Choctaws and Cherokees properly authorized to make a settlement, being in this city, they met together and made an agreement, which I hold in my hand, in regard to the amount which should be paid. As I said in the outset, it is not a sum of money to be paid out of the Treasury, but simply a sum to be paid by the nation of Indians to certain individuals among themselves. These loyal Indians have agreed, and the nation has agreed by their delegates here in this city, upon a contract which is now ratified by the Secretary of

the Interior, and all that is asked is that we shall confirm that ratification and authorize the money to be paid according to the agreement which they have made among themselves, and which, it seems to me, we ought to carry out. Both sides have agreed to it, and are satisfied.

Mr. CHANLER. I desire to ask the gentleman this question: whether this does not divert from the specific purpose to which these funds which are now in bonds were appropriated by express law of this Government; whether, instead of appropriating the money which was given by the United States for educational purposes you are not taking this money and converting it to settle a question of contract, agreement, or treaty, whatever it may be, and not for the purpose originally specified when the money was appropriated?

Mr. WINDOM. I believe a portion of these funds was set aside for school purposes; not by treaty, however, but by simple act of Congress. But the nation, by its properly authorized delegate, Mr. Pitchlin, acting in its behalf, desire this thing to be done.

Mr. CHANLER. How can this Government be a party to the violation of a trust? How can we as trustees of these wards violate the law by diverting this property from the purpose originally designated by the Government to some new purpose?

Mr. WINDOM. I suppose if the parties in interest agree to it we have no right to object.

Mr. CHANLER. I do not profess to be aware of the exact relation of those Indians to this Government. But as I understand it, from what I have read in the books, certainly as held by Chancellor Kent and other excellent authorities—I think Story in his Commentaries holds the same—an Indian is a ward of this Government. Now, I hold that it does not become the Government of the United States to violate a trust, when the Government is the trustee and those Indians are our wards. It looks to me as if this matter should be referred to the Committee on the Judiciary before the House passes upon it.

Mr. PETERS. Will the gentleman from Minnesota [Mr. WINDOM] allow me to ask him a question?

Mr. WINDOM. Certainly.

Mr. PETERS. I would inquire of the gentleman whether all the treaties which protected these tribes were not lost by their declaring war against the Government of the United States; and whether there has not been a new treaty made with them since the rebellion; and whether there is not a clause in that treaty compelling these Indian nations to pay the loyal Chickasaws and Choctaws what they lost by reason of the rebellion.

Mr. WINDOM. The gentleman has stated the facts in the case.

Mr. CHANLER. Then I would ask the gentleman another question.

Mr. WINDOM. Very well.

Mr. CHANLER. Are the Indians themselves to be the recipients of this money, or the Indian traders? This is in relation to the destruction of the property of a citizen of the United States.

Mr. WINDOM. The gentleman is referring to another bill which has not yet been reported, but which will be soon reported.

Mr. CHANLER. Very well. Then I would ask the gentleman in what relation the Indians embraced in this treaty stand to the Government of the United States?

Mr. WINDOM. I have not time now to go at length into that question, because the Committee on Indian Affairs have several reports yet to make. But in reply to what has been said by the gentleman from New York, [Mr. CHANLER,] in relation to these Indians being the wards of the Government, I will say that these Choctaw and Chickasaw nations of Indians are very nearly as intelligent as white people. They have their own governments, their Legislatures, their printed statutes and laws; their governors, their attorney general, who is here in this city to-day—they have all



the forms of government we have, and are just about as sharp and intelligent as white men, and if they make an agreement such as we have in this case, and desire us to carry it out, I do not think that we should refuse to do it, on the ground that the ignorant Indians are our wards.

Mr. ALLISON. It is proposed that if there should be a deficiency the Secretary of the Interior shall be allowed to sell a portion of these securities upon the request of the representatives of the Choctaw and Chickasaw nations. Now I do not know who their representatives may be.

Mr. PETERS. Their Legislatures.

Mr. ALLISON. Then I should say their "Legislatures," or "the Chickasaw and Choctaw nations," so that the representation may be legal and authorized.

Mr. WINDOM. I have no objection to the amendment the gentleman suggests; although I think the bill is correct now.

Mr. ALLISON. I move to amend this bill by striking out the words "the representatives of;" so that that portion of the bill will read:

Or in case the Choctaw and Chickasaw nations of Indians shall request it, then the Secretary of the Interior is authorized and directed to sell such bonds or other securities held in trust by the United States for the Choctaw and Chickasaw nations of Indians as may be necessary to discharge their respective obligations to the aforesaid loyal Choctaw and Chickasaw claimants, &c.

Mr. WINDOM. I have no objection to that amendment.

The amendment of Mr. ALLISON was then agreed to.

Mr. WINDOM. I will add one or two words more, and then yield to my colleague on the committee [Mr. SHANKS] for some remarks he desires to make on this subject. In making this compromise of settlement the amount found due to the Chickasaw Indians has been reduced somewhat from the amount reported by the commission. The committee felt that as the claimants were anxious that this bill should pass it was better to report upon the compromise as they had made it. I now yield for a few moments to the gentleman from Indiana, [Mr. SHANKS.]

The SPEAKER. How much time does the gentleman yield?

Mr. SHANKS. I hope the gentleman will not limit me as to time.

Mr. WINDOM. I have not much time left of the morning hour.

The SPEAKER. The gentleman can yield indefinitely, and resume the floor when he pleases.

Mr. WINDOM. I will yield to the gentleman for ten minutes.

Mr. SHANKS. Mr. Speaker, I wish to call the attention of the House for a few moments to the facts of this case. Under the provisions of the forty-ninth and fiftieth articles of the treaty of April 28, 1866, between the Choctaw and Chickasaw Indians and the United States, it was provided that there should be appointed by the President a commission whose duty it should be to investigate, by taking testimony, and determine the amount of damages done to the loyal Choctaws and loyal Chickasaws by the disloyal Choctaws and disloyal Chickasaws during the late rebellion. When I say "loyal Choctaws and loyal Chickasaws" I speak of the relation which individual members of these nations bore to this Government. The Choctaw and Chickasaw nations were both disloyal, and as such gave all the assistance in their power to the confederacy; but a portion of the people of both nations decided to stand by the Government. For this they were oppressed by those two nations; their property was seized and sold; and in the case of the Chickasaws especially, was put into the Treasury and the money arising from the sale of the property was used to carry on the rebellion. The commissioners appointed under the provisions of the treaty took testimony in both those nations after giving due notice, and they

have rendered their awards to the Secretary of the Interior. The amount found to be due by the Choctaw government to the loyal Choctaws was \$109,742 08. That award was filed with the Secretary of the Interior; but for some reason not known to myself and not known to the world he has seen fit to decide that the award was too high, and that he would not confirm it.

The provision of the treaty is that the award shall only become final when it has been confirmed by the Secretary of the Interior. The further provision was that interest should be charged from the time the injuries had been done, which would amount to \$34,020 14 from June 28, 1863, to June 28, 1868. The amount due to the loyal Choctaws would be, principal and interest, \$143,762 22. But when the Secretary of the Interior decided not to confirm that award he carried his proposition further. He had no power to change the award, but he suggested—mark you, he suggested—to these parties that they should make a compromise. A decision had been rendered and an award brought in after the taking of sworn testimony; but the Secretary suggested that there should be a subsequent agreement made between these parties, and there has been between the agents of these Indians, not the Indians themselves. There was, in the first instance, a solemn treaty between the Government and these Indians in relation to this money; and an award was made in accordance with that treaty; but now the Secretary of the Interior suggests that the agents of those parties shall, forsooth, make another agreement, which he proposes to confirm. Now, I take it that these parties have no power to make that agreement. They have no power to depart from the provisions of that treaty and change the award which has been made. The Secretary of the Interior has no such power. But how is it proposed to change the award? In the case of the Choctaws it is proposed to strike off the interest, amounting to \$34,020 14. In the case of the Chickasaws the amount found to be due by the award was \$234,000, the interest upon that amount from August 1, 1862, being \$88,070. It is proposed not only to strike off this interest, but also to deduct \$84,000 of the principal.

Now, I want to call the further attention of the House to the facts of this case. These loyal men have been robbed. The Government has provided in its treaty that they shall be reimbursed by the people who have wronged them. Yet these agents propose now to reduce the award which has been made by making a deduction in the aggregate of \$201,090 14. That is the form in which the matter now comes before the House; and the Secretary of the Interior finds it to be convenient to recommend the approval of this scheme, by which it is proposed to strike off nearly one half the amount found to be due to these loyal Indians.

A MEMBER. One half?

Mr. SHANKS. Yes, sir; nearly one half is stricken off.

I here speak for the loyal Indians. I speak for the loyal Indians, who sacrificed their property in the war rather than be false to the Government. I wish to protect them against a combination—I believe that it is a combination against them—to take from them \$84,000, besides the interest in each case, in all \$201,090 14.

Mr. STEVENS, of New Hampshire. I desire to ask the gentleman if there was any evidence before the committee that the agents or attorneys of these loyal Indians were authorized to compromise this claim by reducing the amount of the award?

Mr. SHANKS. Not that I am aware of; there was none. I have filed a minority report, in which I have set forth the facts in reference to these claims. These commissioners were to report to the Secretary of the Interior their award. That was as far as they could go.

I am asked to state the reasons assigned by the Secretary of the Interior for not having

the award of the commission. The only reason assigned was that there were parties here from these Indian nations who opposed it.

Mr. WINDOM. Mr. Speaker, I should be glad, if it were possible, to carry out the views of the gentleman from Indiana. I think these loyal Indians will not thank him for acting as their friend here. They have been here for two years trying to get their claims adjusted, and they have been unable to do so. They have had their attorney here for two years. They have been unable to get a bill through Congress, and they have been unable to get the award ratified. If the over-zealous friendship of the gentleman from Indiana succeeds in carrying the House with him they will have to wait and wander up and down here for years longer. I believe when this commission went to take proof in reference to these Choctaw and Chickasaw Indians they had no attorney to resist, and this deduction is perhaps not more than ought to be made.

Mr. SHANKS. The gentleman is in error.

Mr. WINDOM. I am not.

Mr. SHANKS. The attorney for the loyal Indians, General Blunt, told me that they had an attorney, and the papers so show it, who cross-examined the witnesses. The testimony is on file in the office of the Secretary of the Interior, and shows the facts. The Choctaw nation had three attorneys and the Chickasaw nation one.

Mr. WINDOM. I am informed by the agent who acted for the loyal Indians that they did not have. The Choctaws did have an agent to resist this, but the Chickasaws did not. I hope the House will not follow the advice of the gentleman from Indiana, and leave these men to suffer for years longer simply on account of his over-zealous friendship for them. If the gentleman will offer an amendment, and the House will adopt it, requiring the Secretary of the Interior to pay the whole amount awarded, I will have no objection; only if that be done this will be the result: the treaty which authorized the commission to go out and make the award also provided that it shall only be paid upon the ratification of the Secretary of the Interior. If you declare for the whole amount he will not ratify the award. I prefer, therefore, they shall have this amount which they have agreed to accept than go without anything at all.

Mr. LAWRENCE, of Ohio. I wish to ask the gentleman a question. Have these loyal Indians, by agents or otherwise, agreed to the deductions which have been made?

Mr. WINDOM. They have.

Mr. LAWRENCE, of Ohio. By what authority?

Mr. WINDOM. By their attorney, who has been here for two years.

Mr. LAWRENCE, of Ohio. Did I understand the gentleman from Indiana to say that the agent receives fifty per cent. of the amount of deduction?

Mr. WINDOM. If the gentleman says so he knows more than I do. I do not know what percentage is received.

Mr. LAWRENCE, of Ohio. What agent receives fifty per cent. of this deduction?

Mr. SHANKS. The agent of the disloyal Indians. They give fifty per cent. on every dollar the agent gets.

Mr. LAWRENCE, of Ohio. There seems to be a question between the gentlemen, and I wish to know which is right. The gentleman from Minnesota says the loyal Indians by their attorney, have consented to this deduction.

Mr. SHANKS. They have not.

Mr. WINDOM. There are several hundred, and they all may not have done so, but their agent agrees to this deduction.

Mr. SHANKS. I do not deny these Indians may have some agent outside, but I am not in favor of it.

Mr. LAWRENCE, of Ohio. Will the gentleman allow me another question?

Mr. WINDOM. I will yield to the gentleman from Indiana [Mr. SHANKS] to make a

motion that they be paid the whole amount. I desire to make a further statement, however, on the subject.

Mr. SHANKS. I move to amend by increasing the amount payable by the Chickasaws to \$231,000. That is the amount of the principal. I leave the interest off in both cases.

The SPEAKER. That amendment will be regarded as pending.

Mr. PETERS. I desire to say a word.

Mr. WINDOM. I yield three minutes to the gentleman.

Mr. PETERS. I have taken an interest in this matter because I have long known the agent of the loyal Choctaws and Chickasaws. I refer to General Blunt, of Maine, a man who helped to fight our battles in Arkansas and in the southwest. All these loyal Indians were in his army; they were, as it were, children of his. They fled from persecution; they were driven from their homes, their houses were burned over their heads, and their property confiscated. When the new treaty was to be made he came here and befriended them. He knows them personally, their wants, and their condition. They have unlimited confidence in his integrity, as have I and every other man who knows him. He was anxious that there should be a clause in that treaty by which these men should be protected. He has a power of attorney from these men to look to their interest. He has been here two years acting in their behalf. He has been unable to have his action confirmed by the Department. They have made motions for a new trial and for reopenings, have brought witnesses and taken testimony, and there seems to be no end to the delay. Now, he understanding it all, and having the interest of these loyal Choctaws and Chickasaws intrusted to him, and having full power to act on their behalf, has made this compromise. Ay, sir, he has made it upon the belief that there must be a reduction in a part of the claim. Upon looking over all the legal evidence he has come to the conclusion that there would be a reduction, and that it was to the interest of these people to take what they can get and as quick as they can get it, and have an end to the matter. They have been waiting here two years, and may wait twenty before they can get it all. I appreciate the motive of the gentleman from Indiana, [Mr. SHANKS.] He not only favors the bill, but he wants to go further in the same direction. But, sir, his efforts will not subserve their interest, and I feel sure it will be an injury.

[Here the hammer fell.]

Mr. WINDOM. I yield five minutes to the gentleman from Kansas.

Mr. CLARKE, of Kansas. I cannot in the time allowed me by the chairman of the committee discuss this question as I would like to. Many circumstances connected with the exodus of the loyal Indians from the Indian territory into Kansas are known to me personally. Sir, one of the most affecting sights my eyes ever beheld was that of one thousand one hundred women and children of those loyal Indians who fled into Kansas during the progress of the rebellion in a state of destitution and suffering such as I trust I shall never witness again. If I had time I could read from documents, contained in the report of the Commissioner of Indian Affairs of 1862, facts related by responsible parties, which would not only excite sympathy, but which would compel, it seems to me, every member of this House to do this simple act of justice to the loyal Choctaws and Chickasaws included in the provisions of this bill. I have here letters from the Commissioner of Indian Affairs at that time; also, a letter from Surgeon A. B. Campbell, addressed to the Surgeon General of the United States, an extract from which I will read. Speaking of the condition of these loyal Indians he says:

"They are extremely destitute of cooking utensils, and axes or hatchets; many can with difficulty get wood to make fires, either to warm themselves or to cook with, which, together with the want of cooking

utensils, compels many of them to eat their provisions raw. They greatly need medical assistance; many have their toes frozen off, others have feet wounded by sharp ice or branches of trees lying on the snow; but few have shoes or moccasins. They suffer with inflammatory diseases of the chest, throat, and eyes. Those who come in last get sick as soon as they eat. Means should be taken at once to have the horses which lie dead in every direction, through the camp and on the side of the river, removed and burned, lest the first few warm days breed a pestilence among them. Why the officers of the Indian department are not doing something for them I cannot understand; common humanity demands that more should be done, and done at once, to save them from total destruction."

There is also a letter here written by Hon. George W. Collamore, formerly of Boston, and who, I doubt not, was well known to some of the honorable members from Massachusetts. At the time of the celebrated Lawrence massacre he was mayor of that city, and was murdered by Quantrell's band. I ask attention to the following extract from his letter, giving a minute description of the condition of these Indians from his own personal observation:

"In company with Dr. Coffin I visited nearly fifty patients in one afternoon. Not a few he pronounced incurable, their diseases being consumption and pneumonia, brought on from exposure and privations of the common necessities of life. Dr. George A. Culter, agent of the Creeks, informed me that in two months two hundred and forty refugees of that nation had died. Those of other tribes suffered in like degree. Dr. Coffin informed me that upwards of one hundred amputations of frost-bitten limbs had taken place. Among them I saw a little Creek boy, about eight years old, with both feet taken off near the ankles; others lying upon the ground whose frost-bitten limbs rendered them unable to move about. Five persons in a similar situation the physician pronounced past recovery. Sickness among them on account of their exposure and lack of proper food was on the increase. The following day I visited almost every lodge of several of the largest tribes, and found the same destitution and suffering among them. A cold drenching rain fell on the last day of the visit, and for eight hours I went from lodge to lodge and tribe to tribe, and the suffering of the well, to say nothing of the sick, is beyond description. Their numbers, as ascertained, are as follows: Creeks, 5,000; Seminoles, 1,096; Chickasaws, 140; Quapaws, 315; Uchees, 544; Keesies, 83; Delawares, 197; Ironeyes, 17; Caddoes, 3; Wichita, 5; Cherokees, 240—making an aggregate of 7,000 persons."

I have no hesitation in saying that if the true history of the retreat of these Indians into Kansas in the midst of winter could be written it would present one of the most graphic pictures of the great rebellion that could be shown during the whole of that strife.

In addition I will say this only: this case is a very simple one. These loyal Indians were driven out of the Indian territory, and their property taken and destroyed or confiscated. And what this bill asks is that they shall be remunerated for this property so taken and destroyed or confiscated by the governments of the Choctaw and Chickasaw nations. The representatives of the Choctaw and Chickasaw nations, under the instructions of their Legislature, have been here in Washington for more than two years resisting the claims of these loyal Indians. But at last this compromise has been effected.

[Here the hammer fell.]

Mr. WINDOM. I now call the previous question on the bill and pending amendment.

The previous question was seconded and the main question ordered.

Mr. WINDOM. I move that the House now adjourn.

The motion was agreed to; and accordingly (at four o'clock and forty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BECK: The petition of Coleman Short, of Harrodsburg, Mercer county, Kentucky, for a pension as a soldier in the war of 1812.

By Mr. ELA: The petition of Lemuel Worster, of Lebanon, Maine, for a pension, from 1858, when an act of Congress passed both Houses for his relief, but failed to reach the President.

By Mr. PAINE: A memorial of millers of Milwaukee, against taxation of breadstuffs.

By Mr. SCHENCK: A remonstrance of the manufacturers of flour of Montgomery county, Ohio, against tax of two dollars on manufacture of flour in addition to a tax of ten per cent. on sales.

#### IN SENATE.

THURSDAY, July 9, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. HARLAN, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate of the 8th instant, information in relation to the public buildings at Santa Fé, New Mexico; which was ordered to lie on the table, and be printed.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented papers in relation to the claim of Miss Sue Murphy, for compensation for damages done her farm by reason of the same being occupied for military purposes; which was referred to the Committee on Claims.

Mr. HARLAN presented resolutions of the Legislature of Iowa, in favor of the passage of an act declaring the Iowa river not navigable from the city of Wapello, in Louisa county, north; which was referred to the Committee on Commerce.

Mr. MORTON presented a petition of citizens of Indiana, praying for an appropriation for the improvement of the St. Mary's river and the St. Mary's ship-canal; which was referred to the Committee on Commerce.

Mr. NYE presented a report of the directors of the Washington and Georgetown Railroad Company for the year 1867; which was referred to the Committee on the District of Columbia.

#### REPORTS OF COMMITTEES.

Mr. HARLAN, from the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 631) amendatory of an act approved July 20, 1866, entitled "An act to authorize the construction of certain bridges, and to establish them as post roads," reported it without amendment.

Mr. WILLEY, from the Committee on Claims, to whom was referred the bill (S. No. 231) for the relief of Dr. John Templeton, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (S. No. 257) for the relief of Clement T. Rice and Chauncey N. Noteware, late registers and receivers at Carson City, Nevada, reported adversely thereon.

Mr. HOWARD, from the Committee on Claims, to whom was referred the petition of Valentine H. Voorhees, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 72) for the relief of John M. Broome and others, the band of the twelfth Kentucky infantry, reported it without amendment.

Mr. MORRILL, of Vermont, from the Committee on Claims, to whom was referred the bill (H. R. No. 1099) for the relief of Wait Talcott, reported it without amendment.

Mr. MORRILL, of Maine, from the Committee on Commerce, to whom was referred the bill (S. No. 565) to authorize the Secretary of State to adjust the claim of Gustavus G. Cushman for office rent, while commissioner under the reciprocity treaty, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 1275) relating to the Alexandria canal, reported it with amendments.

Mr. DRAKE, from the Committee on Naval Affairs, to whom was referred the bill (H. R.

No. 941) to amend certain acts in relation to the Navy and Marine corps, reported it with amendments.

Mr. VAN WINKLE, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment:

A bill (H. R. No. 1179) granting a pension to Mary A. Falardo, widow of Onesimus Falardo, deceased, late a private in company K, of the twelfth regiment of New York volunteers;

A bill (H. R. No. 1180) granting a pension to Phoebe McBride, mother of Thomas McBride, deceased, late a private in company B, of the eighty-seventh regiment of Illinois volunteers;

A bill (H. R. No. 1181) granting a pension to Harriet E. Shears, widow of John T. Shears, deceased, late a private in company H, of the fifty-seventh regiment of Illinois volunteer infantry;

A bill (H. R. No. 1182) granting a pension to William H. Blair, late a private in company G, of the twelfth regiment of Maine volunteers;

A bill (H. R. No. 1183) granting a pension to Christopher M. Cornmesser, late a private in the independent Iowa home guards;

A bill (H. R. No. 945) to place the name of Ellen Curry, widow of James Curry, deceased, a private soldier in company F, thirty-ninth regiment Illinois volunteers, upon the pension-roll of the United States;

A bill (H. R. No. 1220) granting a pension to Kate Higgins; and

A bill (H. R. No. 1221) granting a pension to Sarah J. Rogers.

Mr. Tipton, from the Committee on Public Lands, to whom was referred the bill (S. No. 379) to establish a new land district in the State of Nebraska, reported it with an amendment.

Mr. STEWART, from the Committee on Public Lands, to whom was referred the bill (S. No. 349) granting aid in the construction of a railroad from the town of Vallejo to Humboldt bay, in the State of California, reported it with amendments.

#### BILL RECOMMENDED.

On motion by Mr. STEWART, it was

Ordered, That the bill (S. No. 356) for the relief of Messrs. Gelott and Moore be recommitted to the Committee on Post Offices and Post Roads.

#### BILLS INTRODUCED.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 605) to declare a part of the Iowa river not a navigable stream; which was read twice by its title, and referred to the Committee on Commerce.

Mr. FOWLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 606) granting a pension to Robert Watson; which was read twice by its title, and referred to the Committee on Pensions.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 607) to amend an act incorporating the Washington and Georgetown Railroad Company; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. ROSS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 156) authorizing the appointment of commissioners to examine the claims of citizens of Douglas, Johnson, and Miami counties, Kansas, for spoiliations committed in what is known as the Quantrell raid in August, 1863; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

#### FOURTEENTH CONSTITUTIONAL AMENDMENT.

Mr. EDMUNDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of State be, and he is hereby, requested to communicate to the Senate, without delay, a list of the States of the Union whose

Legislatures have ratified the fourteenth article of amendment to the Constitution of the United States, with copies of all the resolutions of ratification in his office.

And resolved further, That he communicate to the Senate copies of all resolutions of ratification of said amendment which he may hereafter receive as soon as he shall receive the same, respectively.

#### MIDWAY ISLANDS.

Mr. DRAKE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be directed to communicate to the Senate all information in the Navy Department in relation to the discovery, occupation, and character of the Midway Islands in the Pacific ocean.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1353) for the removal of certain disabilities from the persons therein named:

A bill (H. R. No. 1375) to transfer to the Department of the Interior certain powers and duties now exercised by the Secretary of the Treasury in connection with Indian affairs; and

A joint resolution (H. R. No. 327) authorizing the Secretary of the Treasury to remit the duty on certain meridian circles.

#### IMPROVEMENT OF MISSISSIPPI RIVER.

Mr. POMEROY. I ask leave to withdraw a motion that I made the other morning to reconsider the vote on the passage of the bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river. I thought, at the suggestion of several Senators, that there was a mistake about it, and I made a motion to reconsider that I might look into it. I am satisfied by the map which I hold in my hand, made by General Warren, and from a further investigation, that the bill was right and ought to have passed.

The PRESIDENT *pro tempore*. The motion to reconsider will be withdrawn if there be no objection. No objection being made, it is withdrawn.

#### HOUSE BILLS REFERRED.

The following bills and joint resolution, received from the House of Representatives, were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 1353) for the removal of certain disabilities from the persons therein named—to the Committee on the Judiciary.

A bill (H. R. No. 1375) to transfer to the Department of the Interior certain powers and duties now exercised by the Secretary of the Treasury in connection with Indian affairs—to the Committee on Indian Affairs.

A joint resolution (H. R. No. 327) authorizing the Secretary of the Treasury to remit the duty on certain meridian circles—to the Committee on Finance.

#### PENSION BILLS.

Mr. VAN WINKLE. I ask permission to make a report from a conference committee. The PRESIDENT *pro tempore*. The report will be received.

Mr. VAN WINKLE. The committee of conference on the disagreeing votes of the two Houses on certain pensions, submit twenty-two reports. I will state that the committee was full on both sides, and there was a perfect agreement between them. There is nothing to be submitted to the Senate but the mere question of adopting the reports, and perhaps it may be done by one vote to save time.

The PRESIDENT *pro tempore*. The Senator from West Virginia moves that the Senate concur in these reports. They are pension bills on which there is no disagreement, and they may be taken separately or collectively. How shall it be done? ["All together."] The question is on concurring in the reports of the committee of conference on these various pension bills.

The motion was agreed to.

The following are the bills covered by the reports of the committee of conference:

A bill (H. R. No. 273) to place the name of Mahala A. Straight upon the pension-roll of the United States;

A bill (H. R. No. 456) granting a pension to the minor children of Pleasant Stoops;

A bill (H. R. No. 518) granting a pension to George F. Gorham, late a private in company B, twenty-ninth regiment Massachusetts volunteer infantry;

A bill (H. R. No. 521) to place the name of Solomon Zachman on the pension-roll;

A bill (H. R. No. 522) granting a pension to W. W. Cunningham;

A bill (H. R. No. 525) granting a pension to Jeremiah T. Hallett;

A bill (H. R. No. 661) granting a pension to the widow and minor children of William Craft;

A bill (H. R. No. 662) granting a pension to the widow and minor children of George R. Waters;

A bill (H. R. No. 663) granting a pension to Cyrus K. Wood, the legal representative of Cyrus D. Wood;

A bill (H. R. No. 664) granting a pension to the minor children of Charles Gouler;

A bill (H. R. No. 666) granting a pension to Henry H. Hunter;

A bill (H. R. No. 669) granting a pension to the widow and minor children of Myron Willkow;

A bill (H. R. No. 670) granting a pension to the widow and children of Andrew Holman;

A bill (H. R. No. 672) granting a pension to the widow and minor children of Charles W. Wilcox;

A bill (H. R. No. 673) granting a pension to the widow and minor children of John S. Phelps;

A bill (H. R. No. 675) granting a pension to the widow and minor children of Cornelius L. Rice;

A bill (H. R. No. 676) granting a pension to Thomas Connolly;

A bill (H. R. No. 677) granting a pension to the minor children of James Heatherly;

A bill (H. R. No. 770) granting a pension to John H. Finlay;

A bill (H. R. No. 771) granting a pension to John H. Lay;

A bill (H. R. No. 773) granting a pension to William H. McDonald; and

A bill (H. R. No. 825) granting a pension to John W. Hughes.

#### TEMPORARY LOAN CERTIFICATES.

Mr. CATTELL. I move that the Senate proceed to the consideration of Senate bill No. 543.

The motion was agreed to; and the bill (S. No. 543) to provide for a further issue of temporary loan certificates for the purpose of redeeming and retiring the remainder of the outstanding compound-interest notes was considered by the Senate as in Committee of the Whole. For the purpose of redeeming and retiring the remainder of the compound-interest notes outstanding, the bill directs the Secretary of the Treasury to issue an additional amount of temporary loan certificates, not exceeding \$25,000,000; such certificates to bear interest at the rate of three per cent. per annum, principal and interest payable in lawful money on demand, and to be similar in all respects to the certificates authorized by the act entitled "An act to provide ways and means for the payment of compound-interest notes," approved March 2, 1867; and the certificates may constitute and be held by any national bank holding or owning the same as a part of the reserve, in accordance with the provisions of the act of March 2, 1867.

The bill was reported to the Senate without amendment.

Mr. TRUMBULL. I ask for the reading of that bill. It is a very important bill to be considered in the morning hour.

The PRESIDENT *pro tempore*. It will not be heard. I do not suppose a member of the Senate has heard it read.



Mr. EDMUNDS: I heard it.

Mr. TRUMBULL. I want to hear it read.

The PRESIDENT *pro tempore*. Unless order can be preserved, there is no use of reading bills or anything else.

The Chief Clerk read the bill.

Mr. CONKLING. In addition to hearing the bill read, I should like to hear from the Senator who has it in charge some statement or information in regard to it.

Mr. CATTELL. The statement in regard to the bill is a very simple one; it can be made in a very few words. There are now outstanding about thirty millions of compound-interest notes, all of which will mature prior to the 15th of the coming October, and of course must be paid by the Government, as they are obligations falling due. The Secretary of the Treasury is of opinion that the Treasury is not in a condition to pay out of its own resources this amount in addition to the current expenses of the Government, and the necessary amount to be laid aside for the sinking fund in accordance with law. It is evident, therefore, that some provision of law must be made to take care of the obligations of the Government falling due, and necessarily to be paid.

At the last session of Congress there were some eighty millions of these notes outstanding, and upon the recommendation of the Secretary of the Treasury the Finance Committee unanimously recommended the passage of a law issuing these temporary certificates to the amount of \$50,000,000, which would cover the sum falling due up to the meeting of the present Congress. The Secretary of the Treasury at that time recommended the issue of these certificates to the extent of \$100,000,000, for the purpose of redeeming the whole of these notes. There are now \$30,000,000 outstanding, and the Finance Committee, in considering the subject, have unanimously arrived at the conclusion that the simplest, cheapest, and easiest form of meeting this indebtedness is in the way of these temporary loan certificates at three per cent. I hold in my hand a letter from the Secretary of the Treasury, to whom this bill was sent, and whose opinion was asked upon it by the Finance Committee. He says:

TREASURY DEPARTMENT, June 18, 1868.

DEAR SIR: I have merely time to acknowledge the receipt of your favor of the 17th instant, and to say that Senate bill 543, to provide for a further issue of temporary loan certificates, &c., has my hearty approval.

Very truly yours,

H. McCULLOCH,

Secretary.

Hon. A. G. CATTELL, *United States Senate*.

It is the cheapest form of loan, Mr. President, that the Government now has, and it is a loan which in my judgment, being held as a portion of the reserves of the banks, may be continued during the whole time of the existence of those bank charters, if the Government shall so desire—a loan at three per cent. in currency; the cheapest and most desirable loan, in my judgment, which the Government can possibly have. I have also inquired of the Comptroller of the Currency in regard to this loan in its relations to the banking institutions, and I hold in my hand a letter from him on the subject, which I beg permission to read to the Senate.

Mr. Hulburt replies to a note I addressed him, as follows:

TREASURY DEPARTMENT,  
OFFICE OF COMPTROLLER OF THE CURRENCY,  
WASHINGTON, June 26, 1868.

DEAR SIR: I am just in receipt of a copy of the bill introduced by you June 13, "to provide for a further issue of temporary loan certificates," &c.

I am glad to see this action on your part, and hope you will succeed in getting it through the Senate. When the act of March 7, 1867, was introduced, which provided for the issue of \$100,000,000 of three per cent. certificates, it was cut down by a committee of conference of the two Houses to one half the original amount. I was then, and am still, of the opinion that the national banks of the country could carry with ease \$100,000,000 of these certificates, and would be glad to do it probably for the whole duration of their corporate existence. I should regard the loan as quite as permanent as if it were made redeemable in twenty years, and as advantageous and affording a most valuable reserve to the banking interests of the country.

I notice that your bill contemplates the issue of \$25,000,000. I hope the Senate will increase the

amount to \$50,000,000, as I have no doubt that amount would be readily taken, and that it would prove the cheapest loan ever made by the Government.

Very respectfully, yours,

H. R. HULBURT,

Comptroller.

Hon. A. G. CATTELL, *United States Senate*.

I will only add that this measure received the hearty assent of every member of the Finance Committee; and the distinguished Senator from Maine, [Mr. FESSENDEN,] who was at the head of the Finance Committee at the last session, approved and advocated the bill for the issue of \$50,000,000 then, as I understand he does the issue of the present \$25,000,000.

Mr. TRUMBULL. I was not aware that so important a bill as this was to be called up this morning, and am not prepared with facts and figures this morning to present my objections to it. I hope, therefore, that it will go over. I will state in a word, what my objections is, and I wish to refer to the documents to show exactly the basis upon which my opposition to such a bill as this rests.

We have had in the Treasury of the United States for some two years—and it is to get the precise facts that I prefer the bill should go over—some seventy-five or one hundred millions in gold lying idle. I made an effort in this body a year ago, perhaps more, to have some scheme adopted by which this gold lying idle while the Government of the United States is paying interest upon its indebtedness should be taken from the Treasury. At that time I was met by the Senator from Ohio [Mr. SHERMAN] with the statement that all the gold we had would soon be needed to pay interest and maturing obligations of the United States; that there would be no surplus. A reference to his remarks at that time will show that his opposition to any scheme to deplete the Treasury of this amount of gold was based upon a statement that all the receipts from duties in gold would be required to meet the obligations of the United States which had to be paid in gold. Now, a year has transpired. We find that in the statement made at the time the Senator from Ohio was mistaken.

Now, I wish to ask the Senate, and I wish it to go to the country, to know why it is that the Government of the United States has lying idle in its Treasury, year after year, seventy-five to one hundred million dollars in gold, worth in paper from one hundred and twenty-five to one hundred and fifty millions, and at the same time we are paying interest at six per cent. in gold upon bonds that this gold would take up at any time. I am sure that such management cannot be justified.

Mr. CONKLING. Without some explanation.

Mr. TRUMBULL. Without some explanation, certainly, and I do not know what explanation there can be. I cannot conceive how it can be possible that a business man who owed large debts amounting to hundreds of thousands of dollars should retain in his vaults, useless, a twentieth part of all he owed. If a man owed \$20,000, and kept lying in his vaults year after year \$1,000 in money, paying interest upon what he owed, we would think that he was a very bad manager. Now, here is a proposition, when our bonds are falling due—

Mr. CATTELL. Will the Senator allow me to say a word right here?

Mr. TRUMBULL. Certainly.

Mr. CATTELL. Would it not be better to let this bill pass now, and make a loan of three per cent., and then use the money in the Treasury, if the Senator from Illinois can bring the Senate to a realization of his views on the subject for the retirement of the six per cents.? Would there not be good policy in that, I inquire?

Mr. TRUMBULL. I apprehend not. I apprehend it is bad policy to borrow money to pay an obligation when you have the money in your vaults ready to pay. I suppose you can pay it at three per cent. Use your gold to pay it off, and your gold will command a premium. These compound-interest notes are not pay-

able in specie. I think it is miserable policy to be borrowing money. But, Mr. President, there is another serious objection. We have been discussing here in this body for the last two or three days whisky frauds. We have been talking about the demoralization that exists throughout the land in the revenue department. What so well calculated to produce demoralization in all the departments of this Government as to allow \$100,000,000 of money to lie idle year after year in the vaults of your Treasury, subject to be used by the officers having charge of it? I do not say that it is used; I do not intimate that it has been used; but I say that it is there where it might be used by dishonest men; and I say, as I said a year ago, it is dangerous to the liberties of any people to hoard up millions and tens of millions of money in the hands of any individuals. Certainly the Committee on Finance can find some way to dispose of this gold in the Treasury; and when our debts fall due can make use of it to pay them rather than borrow again for the purpose of paying them. But, in order to present my views upon this subject, I wish to have the precise figures, and I wish to read to the Senate the remarks of the Senator from Ohio.

Mr. SHERMAN. I can give the Senator the precise amount of gold.

Mr. TRUMBULL. I want to read for the benefit of the Senate and the country the reasons which were given why no action could be taken a year ago to deplete the Treasury of this gold. If those reasons were unsound, I trust that they will not be adhered to by the Senator from Ohio. I hope this important measure may go over until to-morrow with a view of affording an opportunity of inquiring into the subject; and I make that motion that the pending proposition be postponed until to-morrow with a view of taking up the measure which the Senator from Iowa [Mr. HARLAN] has particularly in charge in regard to the bridge at Rock Island.

Mr. SHERMAN. I have but a few words to say in reply to the Senator from Illinois. If the Senator really desires time to look into this measure presented by the Senator from New Jersey, I certainly will give him the opportunity, if the Senator from New Jersey consents. This three per cent. certificate bill has been pending for a month or two, and it seems to me a very simple measure. It substitutes a three per cent. certificate payable principal and interest in lawful money, for a compound-interest note that must be paid. There are but two modes of paying the compound-interest notes. There is no surplus revenue to pay them, and the only mode now provided by law will be by the sale of bonds; and the Committee on Finance, as a matter of course, are unanimously of the opinion that it is better for the Government to use these three per cent. demand certificates rather than to issue bonds.

The question now raised by the Senator from Illinois for about the tenth time is, whether or not the Government of the United States ought to sell the gold on hand. That is an independent question. We can use that gold either in the purchase of bonds or in the payment of debts; but it has been the general opinion among the wisest men of this country that it was important to maintain in the Treasury this large reserve in gold, now about seventy millions, varying from seventy to one hundred millions. That is a question in no way connected with these three per cent. certificates. If Congress directs the sale of this gold, or the application of this gold to the payment of the national debt, it can be very easily disposed of; but such is not the opinion of the Committee on Finance. They think it would be better to keep the gold in the Treasury, where it is perfectly safe, where it cannot be used, to keep it as the great safety-valve, I may say, the power the United States hold over gold gamblers. But for that large mass of gold in the Treasury the fluctuations of gold would be very great indeed. I have no doubt that that amount of gold in the Treasury, by maintaining at a pretty

nearly equal balance the present price of gold, has prevented fluctuations that would be very injurious to the people of the United States.

But certainly it is not worth while to discuss that question on this bill. The Senator from Illinois, who seems to be troubled about this gold, drags it in in regard to every proposition. If he will introduce a proposition directing the Secretary of the Treasury to sell this gold, and will have it referred in the ordinary way, I promise him that a report shall be made promptly upon the subject, and then the Senate may do what they please in regard to the disposition of this gold. But whenever a collateral measure is brought up he seeks to bring forward this discussion about the gold. If the Senator will introduce a joint resolution directing the sale of this gold and refer it to the Finance Committee, I promise him that at the very next session a report shall be made, and the opinion of the Senate may be taken as soon as possible on the question of the policy of selling the gold. That has nothing to do with the temporary provision for the payment of compound-interest notes, unless the Senator desires to present the question that the gold shall be sold to redeem the compound-interest notes. If so, he can do it in the form of an amendment, and then the sense of the Senate can be taken on the question of the sale of gold on hand.

I have nothing to say in regard to the postponement. I leave that entirely to the Senator from New Jersey. This bill has been pending a month or two, and it is very important that it should be acted on at an early day. I do not want to interfere with the management of the bill.

Mr. COLE. Mr. President, I have some objections to this measure. I believe it to be another plan for drawing more interest from the Treasury. The idea of asking for this addition to the three per cent. certificates is in order that they may be used by the national banks as a part of their reserve, instead of non-interest-bearing United States notes or greenbacks. That I believe to be the object aimed at. It is therefore a plan for the benefit and the profit of the national banks. They seem to be unwilling to have any form of securities or money that is not producing some revenue in the form of interest to be drawn out of the United States Treasury. Their bonds that are left on deposit draw interest in greenbacks at the rate of about seven and forty hundredths per cent. Their loans draw interest. A part of their reserve fund draws interest. But as there are not enough three per cent. certificates to supply all of the reserve fund at present, this proposition goes to the extent of asking for the privilege of issuing more three per cent. certificates; in order that all this reserve fund may draw some interest as well. I am, therefore, opposed to the measure. If these compound-interest notes have ceased to bear interest, let them remain in that condition until we can make some disposition of them. I do not think it absolutely necessary that we should supply their places by issuing these three per cent. certificates.

Mr. CATTELL. Ordinarily I would not object to a postponement of this bill at the request of a Senator; but really I cannot see that there is any relevancy in the point made by the Senator from Illinois in regard to this bill. The chairman of the Finance Committee has sufficiently explained that that is an entirely different question. I ask again whether it would not be infinitely better for the Government of the United States, if they are disposed to sell this gold, to redeem the obligations upon which they are paying six per cent. interest, and then obtain this \$25,000,000 at three per cent. currency? I think that is the simplest proposition that can be submitted to anybody, that they will take \$25,000,000 at three per cent., and then, if the views entertained by the Senator from Illinois should prevail, and the Congress of the United States should determine that there is too much gold

in the Treasury, and should direct it to be sold in any form, the outstanding obligations of the United States, upon which we are paying six per cent. in gold, could be redeemed therefrom. I hope the Senator from Illinois will withdraw his objection and allow this bill to be disposed of. It is near the close of the session, and it must go to the House of Representatives. It has been upon our tables for nearly a month, and I trust the Senate will finish it this morning.

Mr. FESSENDEN. Mr. President, I will not undertake to combat the ideas of my friend from Illinois with regard to the gold in the Treasury. I leave that entirely to the Finance Committee. But I really hope that this bill will be acted upon now and passed, simply because I wish to save the credit of the Government, without exposing the Government to any extra and unnecessary effort to get funds for a purpose which must be accomplished.

The Senator from California says, if these notes have become payable, or are about to become payable, and the interest on them has ceased, all we have got to do is to let them lie until we can conveniently pay them. That applies to the public debt. That is repudiation; that is bankruptcy—nothing more nor less. These obligations become due at a certain date. We have promised to pay them at that date with interest accumulated upon them. But says the Senator from California, "It is not convenient to pay them; let them lie;" thus having \$30,000,000 more of this paper out, not taken up by the Government.

Now, I want to say to my honorable friend that doctrine will not do. We must pay them in some way or other, and we must pay them when they become payable, because they were not issued as currency at all. We do not propose to pay them by issuing more six per cent. gold-bearing bonds, or bonds with gold interest. Therefore I cannot consent with him, if these \$30,000,000 become payable, to let them lie, and simply say, "It is not convenient to pay them." That will not do for the Government of the country.

Mr. COLE. I need hardly remind the honorable Senator from Maine that we owe a great deal of indebtedness that we are utterly unable to pay. We are able to pay only a very small proportion of what we owe, at best.

Mr. FESSENDEN. We pay every dollar that is payable—everything except the notes which are issued as currency. Everything else we meet. But the Senator's proposition is to let our obligations to a large amount lie and take no notice of them, pay neither principal nor interest. That is what my friend says. I say to him again that that will not do. No Government on the face of the earth can deal upon those principles with its creditors. We must pay them in some way or other. Now, the question is, how? The Secretary of the Treasury says he will not have funds to meet the ordinary expenses of the Government and at the same time to pay \$30,000,000 out of the Treasury for the redemption of this paper. What, then, will you do? Will you borrow more money by the issuing of more six per cent. bonds? We shall have to do that if we cannot do any better. But what is this proposition? This proposition is simply to issue a quantity of paper, \$25,000,000, bearing three per cent. currency interest, which is sight paper, which may be taken up at any time. How much have you heard in this Hall about the necessity of reducing our interest? Is there any Senator in this Hall who does not recognize that necessity? If he does, here is an opportunity. I wish we could put the whole of our debt in the same condition and let it run at three per cent.

If the banks are willing to take \$25,000,000 more and hold it as part of their reserve, why not allow them to do so? The Senator says it will liberate so much of these United States notes. What if it does? It does not take them out of circulation because they cannot be taken out of circulation by law. He must

keep \$360,000,000, as the law stands, in circulation. They cannot be retired.

Mr. CATTELL. They are virtually out of circulation when they are held as a reserve in the banks.

Mr. FESSENDEN. I suppose they are. They are now used as a reserve; but suppose the banks put them out and substitute these \$25,000,000 for them, what then? They come into circulation, do they not? Then they come to the Treasury, and the Treasury must do what with them? It cannot retire them; the law prohibits it. It must put them out again. May they not as well be in the circulation of the country as in the vaults of the banks? I do not appreciate the force of that argument.

Then this is nothing but a simple proposition, and a very plain one, to pay off a six per cent. note which we must pay with a three per cent. note payable in currency. If that does not recommend itself to the common sense of everybody it is very strange to me. I was very glad when this bill was brought in increasing the amount of three per cent. certificates, and I hope the Senate will pass it.

Mr. TRUMBULL. I am a little surprised that a bill of this kind should be called up and its passage insisted upon in the morning hour, when a Senator asks to have it go over until to-morrow. The Committee on Finance are unanimous, it is said. They have been pursuing this policy for some years; and I am reminded by the Senator from Ohio that for the tenth time I have objected to retaining this amount of gold in the Treasury. I wish to show that the reasons that he gave for retaining the gold in the Treasury have proved by the lapse of time not to be well founded. I think, instead of its being such a plain proposition that we should issue notes bearing three per cent. interest, and take up those that are bearing six or more, that it is an equally plain proposition that when we have got the money we should pay off our indebtedness as it falls due, and not pay either three per cent. interest or any other rate of percentage, and that it would be a much wiser policy to sell some of this gold and pay these compound-interest notes than to issue another species of indebtedness in lieu of them. If the Finance Committee get up a loan bill by which they can reduce the rate of interest from six to three per cent. on such portions of the indebtedness as we cannot pay off, that will be very well; but it would be miserable economy, let me say to the Senator from Maine, to borrow money at three per cent. interest when we had no occasion to borrow it at all. When you have money in your vaults you do not want to pay any interest.

I trust that this bill will not be forced to a vote this morning, the first moment of its consideration, but that it will be suffered to go over. However, I will not place myself in the way of the action of the Senate by attempting to delay it unreasonably by taking up time. If the Senator from New Jersey considers it his duty to press such a bill as this to a vote in the morning hour when it is asked that it may go over until to-morrow morning, and the Senate sustain him in it, of course I have nothing to do but to submit to the decision of the Senate. I trust, however, the vote will not be taken upon it to-day.

The PRESIDENT *pro tempore* put the question on the motion to postpone the bill until to-morrow, and declared that the ayes appeared to have it.

Mr. CATTELL. I ask for a division on that question. There were but two or three responses.

Mr. TRUMBULL. Let us have the yeas and nays, then, and see if the Senate will refuse to give a Senator an opportunity to look into the bill.

Several SENATORS. Oh, no; another division will do.

The question being again put, there were—ayes twenty-two, noes not counted.

So the motion to postpone was agreed to,

## DROPPING OF ARMY OFFICERS FROM ROLLS.

Mr. WILSON. I move that the Senate take up the joint resolution (S. R. No. 151) to drop from the rolls of the Army certain officers absent without authority from their commands. It is a small matter.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It directs that the following named officers of the Army reported by the Secretary of War absent from their commands without authority, be, and they are hereby, dropped from the rolls with loss of all pay and allowances, namely, First Lieutenant D. H. Weiland, sixth infantry; First Lieutenant H. H. Lanty, fourth infantry; First Lieutenant A. J. McDonald, fifth artillery; First Lieutenant Richard Wilson, third artillery; Second Lieutenant J. W. Godman, sixth infantry; Second Lieutenant Guy Morrison, tenth infantry. This resolution is to take effect from the dates at which they absented themselves from their regiments.

Mr. JOHNSON. I am, of course, not familiar with legislation of this kind, but it seems to me singular to drop officers from the rolls without any trial. Why cannot it be done by a court-martial?

Mr. WILSON. These men cannot be found through the country. We had during the war a law that authorized the President to dismiss officers without trial from the Army; but it was thought that that was a power which ought not to exist in time of peace, and after the war it was repealed. These officers have absented themselves from the Army; in other words, deserted; they cannot be found in the country, cannot be brought to trial by court-martial, and they stand in the way of other officers; and the Secretary of War recommends this resolution as the only mode to get rid of them.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

## NEW LAND DISTRICT IN NEBRASKA.

Mr. THAYER. I move that the Senate proceed to the consideration of House bill No. 579.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Chair is informed that that bill is not reported from the committee.

Mr. THAYER. It was reported this morning by my colleague.

Mr. JOHNSON. With the consent of the honorable member from Nebraska, I move that the Senate take up Senate bill No. 588.

The PRESIDENT *pro tempore*. That may be done by common consent, pending another motion.

Mr. EDMUNDS. What is the title of the bill?

The CHIEF CLERK. "A bill (S. No. 588) for the relief of the Mount Vernon Ladies' Association of the Union."

The PRESIDENT *pro tempore*. There being no objection, the bill is before the Senate.

Mr. TRUMBULL. The Senator from Wisconsin [Mr. Howe] has been paying some attention to this matter, and has been looking up the charter. He was here a moment ago. I think the bill ought not to be disposed of until he is in.

Mr. JOHNSON. I did not know that he had objected to the bill in any way. The Senator from Vermont [Mr. Morrill] thought the bill ought not to be passed in the shape in which it was originally presented to the Senate; but the amendment which was proposed, and which will be adopted, relieves the bill of the objections to which it was subjected before, as it is supposed. I only ask that it be taken up now because I am obliged to leave the Senate to-day.

Mr. TRUMBULL. I stated some objections that I had to the passage of the bill the other day, and in conversation with the Senator from Wisconsin, not now in his seat, but who has been here—he has probably stepped out for a

moment—he informed me that he had been looking up the charter to see what the character of this association was, and I know it was his intention to present some remarks upon it when it came up. I trust the Senator will let it lie until he comes in.

Mr. JOHNSON. Very well.

The PRESIDENT *pro tempore*. The other bill, taken up on motion of the Senator from Nebraska, is before the Senate.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 579) to establish a new land district in the State of Nebraska. It provides that all that portion of the Omaha land district in the State of Nebraska included within the following limits: on the east by the line dividing ranges eight and nine east; on the north by the line dividing townships twenty and twenty-one north; on the south by the south bank of the Platte river; and on the west by the west boundary of the State, shall constitute an additional land district, to be called the "Grand Island" district, the location of the office for which is to be designated by the President of the United States, and by him, from time to time, to be changed as the public interest may seem to require.

The President is authorized to appoint, by and with the advice and consent of the Senate, a register and a receiver for the land district, who are to be required to reside at the site of their office, have the same powers, responsibilities, and emoluments, and be subject to the same acts and penalties which are or may be prescribed by law in relation to other land officers in the State.

The President is also authorized to cause the public lands in the district, with the exception of such as may have been or may be reserved for other purposes, to be exposed to sale in the same manner and upon the same terms and conditions as other public lands of the United States; but all sales and locations made at the office of the old district of lands situated within the limits of the new district which shall be valid and right in other respects up to the day on which the new office shall go into operation, are confirmed.

The Committee on Public Lands reported the bill with an amendment in section one, line five, after the word "ranges" to strike out the words "eight and nine" and to insert "six and seven."

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

## INTERNAL TAXES.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday, being the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, is before the Senate, the pending question being on the amendment offered by the Senator from Kansas [Mr. Pomeroy] in section one, line five, to strike out the words "fifty cents" and to insert "two dollars;" so as to read:

That there shall be levied and collected on all distilled spirits on which the tax prescribed by law has not been paid a tax of two dollars on each and every proof gallon, to be paid by the distiller, &c.

On this question the Senator from Tennessee [Mr. Fowler] had the floor. He does not appear to be present.

Mr. SHERMAN. I do not think he wants to speak upon it.

Mr. POMEROY. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 27; as follows:

YEAS—Messrs. Anthony, Cole, Edmunds, Harlan, McDonald, Morrill of Maine, Morton, Nye, Osborn, Pomeroy, Ross, Thayer, Tipton, and Wade.—14.  
NAYS—Messrs. Cattell, Chandler, Conkling, Cragin, Davis, Drake, Ferry, Fossenden, Fowler, Hendricks, Howard, Johnson, McCreery, Morgan, Morrill of Vermont, Patterson of New Hampshire, Ramsey, Sher-

man, Stewart, Sumner, Trumbull, Van Winkle, Vickers, Welch, Williams, Wilson, and Yates.—27.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Conness, Corbett, Dixon, Doolittle, Frothinghuysen, Grimes, Henderson, Howe, Norton, Patterson of Tennessee, Rice, Saulsbury, Sprague, and Wiley.—17.

So the amendment was rejected.

Mr. MORTON. I move to strike out "fifty cents," in the place already referred to in the first section, and to insert "ninety cents." That, with the ten cents, I believe, provided for in the tax on the barrel, will make it a dollar.

Mr. EDMUNDS. I believe this proposition meets the real opinion of most of the members of the Committee on Finance, and I therefore ask for the yeas and nays upon it. I hope they will be able to help us to carry it.

Mr. SHERMAN. That is very unjust to the Committee on Finance.

The yeas and nays were ordered.

Mr. EDMUNDS. The Senator from Ohio says that what I said is unjust. I did not say that I was authorized to speak for the committee. I said I believed it met the real opinion of most of the members of the Committee on Finance. I infer that, speaking of the chairman, from what he stated last night in debate and read from his former remarks, in which he insisted then, I believe, upon \$1 25 as the rate.

Mr. SHERMAN. In justice to the Committee on Finance, I desire to say distinctly that this very question has been discussed in the Committee on Finance, and a very large majority of them think it wise and best to retain the tax at fifty cents. I myself have always favored the one-dollar tax; but out of deference to the arguments that have been made, especially on the subject of molasses whisky, and the impossibility of breaking up the trade in the distillation of molasses whisky by a tax at a higher rate than fifty cents, I shall vote for the fifty-cent tax, although it is against the general course I have pursued. I have generally stood for a one-dollar tax, but I shall now vote for fifty cents as being the highest rate that can be collected. However, I do not wish to speak for other Senators. They will vote according to their conscientious convictions.

Mr. MORTON. From all I know about it I think the molasses consideration is a very small one, hardly enough to sweeten the objections to this amendment. If we can collect fifty cents on the gallon we can collect ninety cents. That is such a plain proposition, I think, that we would hardly be justified in throwing away forty cents of revenue from each gallon.

Mr. MORGAN. As one member of the Committee on Finance, I wish to say that the Senator from Vermont who spoke last does not represent me.

Mr. EDMUNDS. I did not profess to represent anybody. I expressed it as my opinion founded on what had taken place in open Senate.

Mr. MORGAN. From the very fact that the tax is now collected by this bill at the distillery, I should favor a small tax. The distilleries are not permitted to bond their whisky; but this tax is to be paid at the distillery warehouse, as will be seen by the first section of this bill:

A tax of fifty cents on each and every proof gallon, to be paid by the distiller, owner, or person having possession thereof, before removal from distillery warehouse.

That makes it necessary, in my judgment, to have but a moderate tax. I think the Government will obtain far more by the tax of fifty cents, or sixty cents, as it is with the other charges—

Mr. MORRILL, of Vermont. Sixty-four or sixty-five.

Mr. MORGAN. Sixty-four or sixty-five cents, than they would from a higher tax. Besides, I am sure it would be called very unjust to certain sections of the country to require them to pay a tax of a dollar a gallon without giving them the privilege of bonding. We do not propose by this bill to allow that



privilege, and we therefore reduce the tax so that it will not be too great a hardship upon the distiller. Instead of increasing it to a dollar, I should be disposed rather to reduce it even below fifty cents, inasmuch as the tax is to be paid at the distillery.

I only wished to make this explanation, as I understood the Senator from Vermont to say that he believed this amendment met the views of a majority of the Committee on Finance.

Mr. EDMUNDS. "The real opinion" I said.

Mr. MORGAN. I have always understood that the bill as reported met the opinions of the Committee on Finance.

Mr. MORRILL, of Vermont. The Committee on Finance are not all Seymours. [Laughter.]

Mr. MORGAN. The bill as reported met the views of the members of the Committee on Finance, and I think it is better for their report to speak for them than it is for Senators not on the committee.

Mr. NYE. Mr. President, I am in favor of the amendment offered by the Senator from Indiana. I differ with great reluctance from the Committee on Finance, to whom this bill was referred, but it is a subject to which I have given some little attention. While I have no doubt they have expressed their opinions fully in regard to the propriety of their course of action by their report, I entertain just as little doubt that this reduction of the tax has been brought about by the operation of distillers as I do that I am now here. I think that the reduction of this tax before the opposition that is made will have a bad effect. In the first place, it shows the weakness and impotency of the Government—a concession which, for one, I am unwilling to make. I deny that this Government, through its proper agents, is unable to collect two dollars a gallon upon every gallon of distilled spirits. To acknowledge that is to acknowledge that a band of associated distillers or a combination of thieves is stronger than the Government itself, and that in the face of the terrible frauds perpetrated upon the Government we must yield to their strength the power of the Government itself.

Sir, there has been but very little realized from this commodity to the revenue. That little was little enough; but there will be nothing now under this bill. I know that some put forth the theory that you cannot collect a tax upon a manufactured article where the tax is greater than the price of producing it; but, sir, against that theory I interpose the fact that England has done it for half a century, collecting a tax of seven shillings on the gallon.

Mr. HARLAN. Ten shillings.

Mr. NYE. Ten shillings upon a gallon, and it costs their distillers no more than it does ours; and yet they collect it. How do they collect it? They collect it by having honest, efficient, capable officers. They have reduced it to a system that defies fraudulent combinations, and their coffers are filled from this revenue.

Now, Mr. President, there are some things that we learn as well from observation as from theory. I lived in a vicinity in my early life where there were small duties collected upon every bushel of salt manufactured. They finally got it down to a penny a bushel; five cents a barrel, I think it is now, is it not?

Mr. MORGAN. Yes, sir.

Mr. NYE. The penalty for not paying the duty was the forfeiture of the vehicle in which the salt was found, and there were some other penalties beside; and yet not a single season rolls around but what canal-boats are forfeited for one hundred barrels of salt, when the whole tax would not cost them five dollars. There seems to be a natural propensity to steal from the Government. No matter what tax you impose upon any article, be it great or small, it seems to be the disposition of the world to resist it, and resist it by fraudulent and dishonest means. If you cannot collect a penny on salt in the State that my honorable friend

[Mr. MORGAN] represents, how are you going to collect fifty cents upon whisky? Men are no more honest in the commodity of whisky than they are in others. That is quite apparent. The secret of our failure lies in the inefficiency of the agents we have had to collect the tax.

There are other considerations that I desire to present to the Senate on this subject; but I suppose they have all been discussed before, and I am not going to take up time. I wished to be here in time to put in my protest against the reduction of this tax. Almost every other kind of merchandise and manufacture is taxed, and the tax is honestly collected. Men in legitimate business as it is called—and I do not know but that distilling should be just as legitimate as anything else—pay their full tax. Every little box is stamped, every yard is stamped, and every article is numbered by the assessor and the tax collected. I insist upon it that the Committee on Finance made a great mistake when they yielded to the pressure of the persons who have carried on these frauds, for the purpose of making their sins lighter, though more numerous. It gives them now a right to steal four gallons where they stole but one before. I hope that this amendment of the Senator from Indiana will be adopted. It will be a burning shame if we have got to stand up here and plead our inability to collect the tax upon this commodity. Sir, if we kept the collection of this tax out of the political arena, if it had not been a struggle to steal the most from this traffic for the purpose of enhancing the prospects of political parties, instead of receiving \$18,000,000 we would have had \$100,000,000 in the Treasury. Reducing it is not going to take it out of that arena.

I think the tax ought to be two dollars; but as that has been voted down I shall vote for this amendment. I think it ought to be at least a dollar. I think, in justice to other trades, in justice to the dignity of this country, in justice to ourselves, we ought to impose at least a tax of one dollar a gallon upon this traffic, every gallon of which is freighted with death. If we are to tax anything, let us tax this.

Now, sir, I smoke. What reduction is there on tobacco? Nothing. There is not near as much trouble about tobacco as there is about whisky. The truth is this whisky ring has got its finger upon every interest in this country. It makes Presidents and it unmakes them. It piles up frauds mountain high, and yet you cannot get at it by the impotency that this Government has manifested in the collection of this tax.

I hope that we shall put this tax at a dollar. I trust the Committee on Finance will agree to do that. Let us put it a dollar and see to it that it is collected. It is due to the other business interests that this traffic should pay its portion. Such a tax has been adopted in other countries successfully, and can be here if persistently followed out.

Mr. VAN WINKLE. I wish to present one consideration in reference to this subject which I do not think has been presented as forcibly as it might have been, although, perhaps, it would come much better from some other person. It is known to every member of the Senate that one evil of this high tax has been the demoralization, I might almost say, of the community; certainly of a very unusual number of persons in the community. It is true that such a chance will gather all the scoundrels in the country to the prey, for where the carcass is there will the eagles be gathered together; but the melancholy part of it is that so many men heretofore standing high in the regards of their fellow-citizens have yielded to this temptation. I have in my mind the case of two, who, within a few days past, have been sent to the penitentiary. I had in the course of business here in the Senate in connection with their names, a number of letters in my hands, and I saw several persons who had known them from their youth, all testifying that previous to their appointment as officers of the internal revenue their characters

stood as fair as that of any person now before me; and yet, sir, they yielded. They yielded at first, I think, for the sum of \$5,000 a year, and in a year or little more they had become so bold in crime that they demanded an increase of this infamous compensation. Nor did it stop there. It is evident to my mind from the facts that have been made known to me that they subsidized many of those who held office under them; so that in two cases of crime by the principal officers in the collection of the revenue, perhaps a dozen became criminal.

Now, sir, the consideration that I wish to present to the Senate, and which, as I have already stated, might come better from some other person, is that we are taught to pray "Lead us not into temptation." It is the only sentence in that admirable petition that relates to our own protection. "Lead us not into temptation." We have the further rule that we should do unto others as we would that they should do unto us.

Mr. President, I contend that there is some other object even in the passage of a tax bill than merely gathering money into the Treasury. We should always have reference to the morals, the happiness, and the permanent welfare of the community. In this case, it seems to me, that if we adopt this amendment, even in the form in which it now presents itself, we are ignoring that petition which all are commanded to use.

I am aware that by reducing the tax from two dollars to one dollar a portion of the temptation is taken away. But I have been of opinion for two or more years past that this tax ought to be reduced to fifty cents or less. I was afraid that there was almost too much temptation even in a tax of fifty cents. I am sure that the difference between the cost of this commodity and one dollar still affords a very broad temptation, which will be acted on. It is no use to talk of laws as certain prevention of crime. It is no satisfaction to punish these poor men of whom I have spoken. If we could have restrained them from the commission of their offenses, it would have been something to be proud of. But it is but a very sorry satisfaction to know that these men, in the prime of life, are now expiating their offenses in the penitentiary.

However feeble an advocate of this Christian principle is before you, and although, as I have already said, not being a professing member of any Christian church, I do not feel that it comes best from me, still I hope it will be taken into consideration, and that those of us who call ourselves Christians, will, as far as possible, prevent unnecessary temptation from being laid before our fellow-citizens.

Mr. NYE. If I understand the honorable Senator from West Virginia, his opinion is based upon the hypothesis that a man will steal two dollars who would not steal fifty cents. I do not believe a word of it.

Mr. VAN WINKLE. I did not intend to reply especially to the Senator from Nevada, but I did not say what he has attributed to me. I said that a tax of fifty cents will present less temptation than a tax of one dollar; that there will be less to act upon. I will tell the gentleman this: that the dependents, the subordinate officers, are not seduced by small sums; and not only they but even the laborers—every man that is connected with the removal of this whisky illicitly—has to be paid a large compensation. I do not suppose that the business could be carried on very profitably by these whisky operators if the tax should be placed at fifty cents. I wish it could be made less; but every one must be aware that the whole of the profit does not go into the hands of those who are at the head of the movement. They subsidize, they tempt, they make felons of a number of men by compensation such as they have never received before in their lives; one or two thousand dollars, perhaps, to a laborer for a few weeks' work.

Mr. NYE. I understood the honorable Senator to say, and I understand him now to say, that he favors the reduction of this tax upon the

ground that the smaller tax is less of a temptation to those who are inclined to steal. That is the point of his argument. I stand here to say that any man who will steal two dollars will steal fifty cents. When a man makes up his mind to steal at all, he will steal coppers as quick as he will silver coin any day.

But, Mr. President, is the Senate of the United States ready to make this concession which the honorable Senator from West Virginia makes, to get down before the majesty of these offenses and cry that men are unable to resist this temptation? Sir, that was the cry, that the rebellion was too large, we could not punish it; a doctrine that I repudiated as well in arms as in civil life. If we cannot collect two dollars we cannot collect two cents. My honorable friend from West Virginia will remember that this horde that has been upon the Treasury now for two or three years have got pretty well supplied. Now, there will be a lot of lesser thieves at it certainly, who will be as well content to steal from the fifty cents on the gallon as these older ones now are from two dollars.

I insist upon it that this reduction is a concession to rascality and villainy. The legislative power of the country get down on their knees and say: "Gentlemen, the only way we can save you from stealing everything is to make less for you to steal." Sir, I would make these men feel the power and the majesty of the law of the land. I would collect the tax; and it can be done. It is shameful, it is disgraceful to make that confession to the world. It goes all over the world that we as a nation are unable to collect our taxes because all of our agents will steal. The trouble has been, and is now, that these stealing agents are shielded by their masters who use them. Whenever the Executive, as recent events show, is in trouble he sounds the alarm and an agent is sent to go and settle seizures already made.

I comprehend all the embarrassments of this thing; but, sir, let not the legislative power, at least, of this Government say that they cower and shrink away before these frauds. Sir, I would clean out the revenue department from A to Z; I would put in more efficient men and hold them responsible for the discharge of their duty; and when they fail to return the revenue, let it be *prima facie* cause of removal. That is what I would do. I would not only bring the distillers, but I would bring my own agents up to the standard of honesty and make them collect this revenue. I repeat, it is disgraceful for us to say that we cannot collect this tax. We all know better. Get an honest fountain, an honest head, and the stream will be pure, when I hope in God we shall get sometime or other in the changes and mutations of life.

Mr. HOWARD. Mr. President, I regret to say that I have not been able to give this subject the consideration which its merits seem to command, in consequence of other engagements; but I cannot allow the final vote to be taken on the bill without saying a word.

I do not regard the reduction of the tax upon whisky from two dollars to fifty cents is any concession to what is known as the whisky ring, or as any cowering on our part before that combination of men whose purpose has been thus far to violate the law. The only question for Congress to decide is a very simple and a very plain one, according to my ideas, and that is, how can we raise most conveniently and with the least expense a rich revenue from the article of distilled spirits? That is the question for us to determine, and that is the only question. We are not here to decide upon a question of mere pique between Congress, the law-making power, and the whisky ring, but the simple, practical question, how can we raise the most revenue from distilled spirits with the least expense to the Government and the least inconvenience to the people.

If the Congress of the United States should see fit to resort to the same means which seem to be employed in England for the collection

of the tax upon distilled spirits, it is probable we might enforce the tax of two dollars a gallon. In that country, as the chairman of the committee informs us, there are some ten or a dozen distilling establishments, each possessing a vast amount of capital, and all of them together monopolizing the business of distillation within the kingdom, and each of them is under the immediate control of the Government, and the Government derives its revenue upon distilled spirits directly by a direct interference and supervision of this comparatively small number of large establishments.

Mr. ANTHONY. Why can we not do the same?

Mr. HOWARD. The Senator from Rhode Island asks why we cannot do the same. I have no doubt of the constitutional authority of Congress to do the same if they should see fit, because we can resort to any reasonable means to collect the tax; but will the Senator from Rhode Island undertake to say that it would be acceptable to the people of the United States that Congress should declare that no distilled spirits should be made except through such and such and such establishments organized under a law of the United States and under the direct control and supervision of the officers of the Government? Would the people endure such a system? I think not. I may be mistaken; but it would certainly be a great novelty in our legislation to attempt it. I think the thing would turn out in the end to be impracticable. It would produce popular complaints to which we should be compelled to listen. We cannot resort to such a system as that, in my judgment; at any rate, we cannot do so now.

Something must be done to insure the collection of the tax upon whisky and other distilled spirits. We have been losing, wonderfully losing our revenue from that rich source for the last two or three years. I think myself, so far as I can judge, that the bill now before us reducing the tax to fifty cents will in the end produce a larger amount of revenue than the old law imposing a duty of two dollars a gallon. I am satisfied that the House of Representatives, who have had this matter under their consideration for months past, cannot have come to the conclusion of thus reducing the tax without very good reason to influence them in so doing; and I am satisfied that the Committee on Finance of this body has given it their best attention, having in view only the amount of revenue which we are to obtain from this article.

I think we had better try another experiment. Our first legislation was merely experimental. We all knew very well that whisky and other distilled spirits were a mere luxury, and we thought very properly that they could endure a very heavy tax, and we imposed a very heavy tax upon them. The result has been to disappoint our expectations, for we have derived far less revenue from this source than we anticipated. Nobody will deny this. The amount of receipts has been very far less than you and I anticipated when we first enacted the law. Why? For this plain reason, that imposing so high a tax, you really by implication say to the manufacturer, "If you can smuggle your goods into market without the payment of the tax, the tax itself operates as precisely that amount of premium upon the gallon." A gallon of whisky sold in the market without the payment of the tax, sold clandestinely and illegally, is sure to bring the amount of the tax, although it may not cost in its manufacture one half that amount; and here is the great temptation which is held out to this illegal traffic. The law itself necessarily and unavoidably offers a premium for its own violation.

Undoubtedly it must be conceded that a large amount of our loss growing out of the whisky tax has been in consequence of the appointment of unfaithful and corrupt officials to attend to that business. Nobody doubts this; but still it cannot be denied that what ever class of officials may happen to be ap-

pointed to supervise this branch of the revenue the same temptation is presented to them; and I should almost distrust an angel from heaven in the exercise of his functions with such a temptation before him. It is the temptation which continues all along and presents itself to the mind of every man connected with this business through which we have incurred our losses.

Now, sir, we have tried the high tax. We have lost by it. We cannot collect it. The officers of the law are not sufficient to the task which we impose upon them. They fail either for want of vigilance or want of honesty and character. No matter what may be the cause of their inefficiency, we do not get money, but we lose money in consequence of the high tax. Now, sir, let us about ship; let us impose a smaller tax, and let us, at least, endeavor to lessen in some degree this enormous temptation to crime and pillage which our former law has held out to the public. I think myself that the bill now before us, imposing a tax of fifty cents on the gallon, will operate much better than the old law, and that from it we shall derive a larger revenue than we formerly derived. I shall, therefore, vote against the amendment offered by the Senator from Indiana to raise the tax from fifty to ninety cents.

Mr. WILLIAMS. Mr. President, much of the argument in favor of this amendment proceeds upon the ground that the Government will subject itself to great humiliation by reducing the amount of this tax; and it is to be with us in our legislation a matter of pride or ambition rather than a matter of revenue; and the question seems to be not so much as to what system of taxation will produce the greatest income as what course will most consist with our pride of feeling or with our self-respect.

Other Governments have been compelled to pursue the same course in reference to this identical subject that we propose to pursue; and to insist at this time upon this high tax upon whisky is not only to shut our eyes to experience in our own country, but is to shut our eyes to what the experience of other countries testifies upon this subject. I hold in my hand a book entitled "Buchanan on Taxation," in which this subject is discussed so far as it relates to Great Britain. I will read a few brief extracts from the book; to which I invite the attention of the Senate; and they will show not only that this cannot be regarded as a concession to the thieves, humiliating to the Government, but they will show that the true policy to be pursued under existing circumstances is to reduce the amount of this tax:

"It was by the smuggler, therefore, that the market was still supplied; and the years 1814 and 1815 were noted for the progress of illicit distillation over the whole country. In 1816 the use of small stills of forty gallons was again permitted; the duty was reduced to 6s. 2d. and 5s. 6d. But the illicit trade had in the meantime received such an impulse from the unwise restraints and heavy duties imposed on the legal distiller, that no vigilance could suppress it.

It was not till the year 1823, when the duty was reduced from 6s. 6d. to 2s. per gallon, that the legal distiller had any chance of a successful competition with his contraband rival. This act was extended to Ireland, and was in all respects a most successful measure. The lower duty increased the quantity of spirits brought to charge in Scotland, from 2,308,286 gallons, its amount in 1823, to 4,350,301 gallons in 1824, and in 1825 to 5,981,540 gallons; and the revenue which it yielded was nearly equal to the produce of the former high duty, amounting in 1825 to £682,848, while the duty of 5s. 6d. only produced, in 1822, £691,136. The efficiency of the measure was further attested by the cessation of the illicit trade, and the erection of legal stills all over the Highlands.

In 1826 the duty was raised in Scotland and in Ireland to 2s. 10d. the imperial gallon, which, making allowance for the difference of measure, was an addition to the tax of 6d. per gallon; and in 1830 it was raised to 3s. 4d.; while the drawback on malt, which had been increased to 1s. 2d. per gallon on spirits, in which it was exclusively used, was reduced in 1830 to 8d. The effect of those impolitic additions to the duty was to revive, to a certain extent, the illicit trade in the Highlands; and to suppress it, new severities were resorted to, namely, penalties and heavy fines, and in default of payment, the jail.

In Ireland similar errors were committed. In 1779 the duty was assessed, as it was afterward in Scotland, on the cubic contents of the still, and with precisely the same effects. The quicker process of distillation that was adopted entirely distanced the erroneous computations of the excise; and the tax, though it was continually increased till at length it was in proportion to its original amount, as thirty-

eight to one, never kept pace with the still more rapid increase of spirits which was produced by the improved process of distillation. This mode of assessment was in consequence superseded by a duty of 5s. 6d. on the gallon, at which rate it continued till the year 1823.

"All the evils which necessarily arose from excess of duty were during this interval experienced in Ireland. Smuggling was carried on to an alarming extent. The annual consumption of spirits was estimated at ten million gallons, while the duty in 1822 was only paid on 2,910,483 gallons. But the loss of revenue was by no means the worst evil; the prosecution of the illicit trade gave rise to the most lamentable scenes of violence and disorder; the country, traversed by armed and hostile bands of revenue officers and smugglers, presented in many districts the image of war. It was in vain that increased severities were resorted to; that the guilt of an unlicensed still was visited by a heavy fine on a whole parish; and that the smuggler was punished by transportation. The trade was still actively pursued all over the country until the year 1823, when the duty was reduced in Ireland, as in Scotland, to 2s. the gallon, and was transferred from the cubic contents of the still to the spirit. This measure was entirely successful; the illicit trade was suppressed; and the quantity of spirits brought to charge was increased from 2,910,483 gallons in 1822 to 6,690,315 in 1824, and to 9,262,744 in 1825; while the produce of the high duty of 5s. 6d., which was in 1821 £912,285, and in 1822 £707,518, was nearly equaled by that of the lower duty of 2s. in 1824, which was £776,690, and was exceeded by it in 1825, when it amounted to £1,084,191."

Showing that the reduction of the tax from five shillings sixpence to two shillings per gallon in two years produced an immense addition to the revenue.

"The same effects have still followed every reduction of duty on spirits; a clear proof that it is not one of those commodities on which a heavy tax can be safely imposed.

"The low duty of 2s. on the gallon, though it improved the revenue and put an end to smuggling, was not allowed to continue more than two years. The experiment of excessive duties was again tried. The tax was raised, as in Scotland in 1826, from 2s. to 2s. 10d. the imperial gallon; and in 1830 to 3s. 4d., followed as usual by a revival of the illicit trade, and by a loss of revenue."

Mr. ANTHONY. Now, will the Senator tell us what the present duty is in England, and what it yields?

Mr. WILLIAMS. I understand that the present tax in England is about the same that is levied in the United States.

Mr. ANTHONY. That is, after the English Government by reducing the tax found that the revenue increased, they afterward doubled it upon the highest duty that they had had before. That seems to have been their experience.

Mr. MORTON. Their tax is ten shillings now.

Mr. WILLIAMS. Ten shillings on the imperial gallon.

Mr. ANTHONY. That is higher than our tax.

Mr. WILLIAMS. Not at all.

Mr. ANTHONY. Reduce it to our currency and you will find that they levy more than we do.

Mr. MORTON. It is \$2 47 in gold.

Mr. SHERMAN. That is on the new system. They changed their system some years ago.

Mr. WILLIAMS. The history of the excise duty in England is contained in the book from which I read down to a given date. Do you undertake to controvert the facts that are stated in that standard work on taxation?

Mr. ANTHONY. No; but I want the subsequent facts.

Mr. WILLIAMS. I have given the figures, and they show that for centuries, perhaps, the English have been trying experiments in reference to the distilled spirits produced in that country. Sometimes they have levied a high duty under certain regulations, and that high duty has been found to produce illicit distillation, and a reduction in the revenue.

Mr. ANTHONY. Now, will the Senator allow me to ask him this question: the English Government having been experimenting so long on the subject of the duties on distilled spirits, what is the result at which the English Government has arrived as the rate of duty which will yield the highest revenue? I do not want to know what it was twenty-seven years ago; but now, after all their experience, at

what rate have they decided that they can collect the largest amount of duty on that article?

Mr. WILLIAMS. I do not know that they have made any absolute and conclusive decision that may not be changed by experience. If gentlemen will allow me to state what I propose to state, I will endeavor to satisfy them as far as I can upon that point. I stated that this book displays the history of England on that subject for a great number of years, and it presents incontrovertible facts and figures upon this question. It is true that at the present time the tax has been raised under a system of legislation that has been devised in Great Britain, to about the same amount of tax that is imposed in the United States upon distilled spirits; but it is under a system of legislation which cannot be adopted or enforced in this country.

Mr. ANTHONY. Why? That is what I want to know.

Mr. WILLIAMS. Why? Because this Government is not a monarchical Government. In Russia the whole business is taken out of the hands of the people and conducted by the Government, and all the liquor in Russia is made by the Government and sold to the people, and they are required to pay the taxes upon the article produced by the Government.

Mr. FESSENDEN. My friend will allow me to suggest another answer; and that is, that the English Government do not change their inferior officers for political considerations. When a man is appointed to such a place, it is not for political reasons, and a good man is retained and a bad man is turned out; while here, we keep continually changing people for political reasons.

Mr. EDMUNDS. That is the key to the whole matter.

Mr. ANTHONY. I have no doubt that under our system we cannot collect this tax; but I see no objection whatever to adopting the English system; and as to the idea that there is a difference, because England is a monarchical Government and ours a republican Government, allow me to say that our Government is stronger for collecting taxes, or for any other purpose than the English Government is, if we will only use our power. I think the answer given by the Senator from Maine is a perfectly good one, and I would have that difficulty avoided by making these officers independent of political appointment. I would have them appointed, as they are appointed in England, because they will do their duty, and not because they will carry votes in a certain ward.

Mr. WILLIAMS. I have stated that different systems are adopted in Europe by different Governments, and all the systems adopted there for the imposition and collection of taxes are of a most arbitrary nature and adapted to their systems of government. The number of distilleries in England, if I am not mistaken, does not exceed ten or twelve in all. The number of distilleries in Scotland is reduced to a still smaller number, and in Ireland about the same number; and these distilleries are regulated and covered by special legislation, a system of legislation that is not adapted to our circumstances. In addition to that, there is a country containing perhaps one hundred and twenty thousand square miles to be governed in this way, thickly populated, under the control of a monarchical form of government, and where, as everybody knows, the system of police has been brought to a great state of perfection in every respect, incomparably beyond ours in every respect; while here we have a country containing two millions of square miles, a wide, extensive country, thinly and sparsely populated, with opportunity afforded for the commission of fraud and the evasion of law. There are many reasons why a system of heavy taxation may be made successful in Great Britain and not be made successful in the United States; and I am not certain that the present system in Great Britain is the best that can be devised, for they have been experimenting upon this subject for centuries with

various successes; sometimes result showed a high tax produced a less amount of revenue, while in Ireland, in 1823, the country presented a state of civil war; policemen were marching everywhere through the country as armed bodies of men to enforce the law, while the smugglers were resisting—

Mr. ANTHONY. What was the duty at that time?

Mr. WILLIAMS. Then five shillings and sixpence.

Mr. ANTHONY. What is the duty now, when everything is perfectly quiet and it is collected without trouble?

Mr. WILLIAMS. I have answered what the duty is. It is the only duty of that description in the world that is levied upon liquor. The tax in Prussia and Austria amounts to only a few cents per gallon, and the English Government is the only one that imposes this enormous tax. It is collected, I suppose, but how successfully does not appear.

Mr. ANTHONY. Yet it does so appear from the returns, if the Senator will allow me to say so. When the tax was five shillings a gallon, I understand from the authority which he has read, all Ireland was in a state of insurrection, and when it was two shillings a gallon it was worse, or as bad; but now that it is ten shillings a gallon everything is quiet, and the tax upon spirits is collected in England. I do not recollect the percentage that is collected, but about as much as of the other taxes; there is not much difference. I think that is a fact; but the Senator is more familiar with that matter than I am. I want him to explain to me, if five shillings a gallon makes an insurrection and ten shillings makes everything quiet and brings the revenue, how it is that a low tax is better than a high one.

Mr. WILLIAMS. I do not know that I can explain these facts satisfactorily to the Senator; but I have stated the facts and I have produced the authority. That is either true or false. I did not make the authority. I make the statement, and have produced the brief.

Mr. ANTHONY. I agree to all that; but how does the Senator draw the inference that a five-shilling tax, which makes an insurrection, is a better tax than ten shillings which fills the Treasury?

Mr. WILLIAMS. I do not draw any such inference. There may have been peculiar circumstances at that time, which produced that commotion in the country; and there may be peculiar circumstances at this time which enable Great Britain to collect this tax, and it may be that next year it will be found that the tax cannot be collected, and there may be a necessity for its reduction on the part of Great Britain. Nobody can foretell as to what the future may develop on this subject. I only refer to the history upon this question, not so much to show that there would be economy in the reduction of this tax, as I believe there would, but to show that this attempted objection that it is exceedingly humiliating on the part of the Government to reduce an excise tax when it is found that it cannot be collected is a mistake, because that is a course which has characterized the history of other Governments.

I did not intend to take half as much time, and I should not have done so if I had not been interrupted. I simply intended to refer to this book on the subject. Senators can deal with the authority as they please. I did not make it. It is regarded as a standard book on the subject of taxation. They can see whether it is true or not true. They can deduce their own inferences from it. I say further that if I had time I could show that every standard work upon taxation maintains the doctrine that when you tax an article four or five hundred per cent. more than its cost, you impose a tax that tempts men to commit fraud, and will to a great extent defeat its collection. I lay that down as a proposition in political economy which the authorities maintain and the experience of all countries proves on that subject.



Now, sir, there is one fact to which I wish to call attention before I sit down. To adopt this amendment is to defeat this bill, and it ought to be defeated if this amendment is adopted. It is, then, only a bill that will promote the interests of the illicit distillers in this country.

Mr. EDMUNDS. Explain why?

Mr. WILLIAMS. I propose to explain why, if the Senator will not be impatient.

This bill requires the tax to be paid at the distillery. Before the distiller delivers his whisky from the place where it is manufactured, he must pay the tax. You require the distiller to pay a dollar per gallon upon every gallon of whisky that he manufactures before he delivers it from the still. Require a large tax to be paid in that way, and there is no man in the United States who can pursue the business and be an honest man. I say it is an utter impossibility, because he must necessarily invest a very large amount of money in these taxes while the whisky continues in the distillery, and then he must take the chances of sale; and that whisky may lie, and ought to lie, before it is marketable, in the warehouse for months or for years; and this amount of money is invested in these taxes. And the bill provides in addition that this tax must in any event be paid within a year, so that if a man makes twenty thousand gallons of whisky he must pay \$20,000 of tax before he can deliver that whisky from his distillery. Can any man do business in that way? When we provide for the exportation of articles we provide that they may be exported in bond or that there may be drawbacks, because no man can pay the tax on the article exported before any sale is made, before he receives any return; and to require in the exportation of articles that are taxed the tax to be paid before the article is exported, would be to stop the exportation from the country and to provide that this one dollar tax should be paid at the distillery, would stop the business in the country, so far as honest men are concerned, and put the manufacture of this article altogether into the hands of men who would avoid the payment of tax. That would be the inevitable result; and if this amendment is adopted I hope the bill will be defeated. In that event, I should certainly vote against it with its present provisions.

Mr. ANTHONY. I have been very much amused at the ingenuity and learning which have been displayed here to prove that we cannot do that which is done. The English now collect a tax of ten shillings a gallon on whisky, and when we ask why we cannot do the same we are told that our system is different; and when the question is put why not make our system to conform to the English, gentlemen say that our people would not stand it; that is, that our people would not stand the concentration of the distilleries now in operation into a few large establishments. Who is to be affected unfavorably by it? The men who are now distilling. Of course there are no honest men distilling now. That has been said here repeatedly; and there can be no doubt about the fact that a man who sells whisky for ninety cents does not pay the Government two-dollar tax. Thus nobody will be unfavorably affected by concentrating the distilleries into a few large establishments, except the men who are now cheating the Government; and there are no class of men who have or ought to have the public sympathy less than they.

The Senator from Oregon read the result of the English taxation up to forty years ago, and there he stopped. He proved that up to 1827 the English were experimenting upon the taxation of spirits, and that the lower the rate the higher the income until they got the duty down as low as two shillings. The English have gone on forty years since that period, and the net result of all their experience is that ten shillings is the duty that will yield the largest revenue. Certainly that fact outweighs all that has been read from the book. This is the result to which the country where taxation is

best understood, and where it has been heaviest endured, has brought the Government, to ten shillings a gallon upon spirits. I do not suppose that a tax of two dollars or one dollar or fifty cents, or any tax whatever, can be collected here under the system that prevails now. The great merit of this bill—and I think it is a very excellent bill—is in the machinery which it has provided for the collection of the tax, and that machinery is just as well adapted to one dollar a gallon as it is to fifty cents.

Mr. WILLIAMS. That is a very great mistake.

Mr. ANTHONY. The Senator has said that if a distiller was obliged to pay the tax of one dollar a gallon at the still before the whisky was removed he could not carry on the business. He can carry on just half as much business as he can at fifty cents. That is very clear. It would only take the same capital to do half the business at a one-dollar tax that it would take to do double the business at fifty cents; and I think there would be a very great advantage in driving the business of distilling into the hands of men who have property that will be responsible for fraud if they commit it. One of the great evils of our distillation is that it is in the hands of men who are not responsible. If only a man who has large wealth behind him would engage in distilling, the Government would have some security that the tax would be paid. I believe that no measure has ever been devised in any free Government for the collection of taxes that will not be cheerfully submitted to by the people of this country if they can collect the enormous amount of taxation that is due upon whisky.

Why, sir, what a singular situation it is that the people of this country are suffering under enormous taxation, that the financial question is the great question of the day, the question upon which the presidential election is to turn, and everybody knows that if the taxes that are due on whisky, and that are paid to the distillers by the people could be collected by the Government we might relieve industry from all its extraordinary burdens! I presume my friend from Vermont [Mr. MORRILL] will agree that the tax on spirits honestly collected, and the tax on stamps and incomes and gross receipts and what we derive from external duties would pay all the expenses of the Government. We stand here and submit to these enormous frauds. I agree with the Senator from Oregon that there is no humiliation in our reducing the tax because we cannot collect it. I do not think there is any more humiliation in that than there is in submitting to the continual frauds on the Treasury with the tax law on the statute-book. I think it is no more humiliating to repeal a law that we cannot enforce than it is to submit to the constant violation of it; but I believe that it is in the power of this Government to collect a tax of one dollar upon whisky. I thought that the tax of two dollars was rather high, and I voted for it with some reluctance, but a tax of one dollar, in my judgment, is liable to no objection that does not apply equally in kind, though, of course, not as much in degree, to any lower tax.

No one would think of taxing whisky less than one hundred or one hundred and twenty-five per cent. If a man will cheat for anything he will cheat for that. If a man, by violating the laws, can double the value of the entire article that he manufactures, he will do it under that temptation if he will do it under any.

Mr. MORRILL, of Vermont. Mr. President, if we could reach a vote I certainly would not add another word; but the experience of the day shows how this debate drags its slow length along. Senators that were not here yesterday come in and start the same questions that we had debated and I supposed had disposed of yesterday.

Now, the assertion of the Senator from Rhode Island in relation to the perfection of taxation in England I utterly repudiate and deny. Their system of taxation is no more

perfect than ours this very day. Look at their writers who have discussed the question, and you will find that they are continually finding fault with the imperfection of their laws. With us we levy our taxation somewhat in proportion to the means of the tax-payer to pay, whereas in England there is no such principle regarded with the exception of a single tax, and that is the income tax; all the rest is mainly on the idea of a *per capita* tax, or according to consumption, so that the poorer portion of the community there contribute far more than they do in our country; and to that extent their system of taxation is not as perfect as ours. But their system of collection of the tax on liquors is more perfect than ours. Why? They have hung a great many men and transported a great many men for a violation of their excise laws. If we had had any occasion to have a tax like this, so as to have a tithe of the experience of Great Britain, we might in time have reached the same degree of perfection in the execution of the law. After they had tried the tax at a high figure they were compelled to reduce it down to a low rate and then gradually raised it higher, in order that as they profited by experience they might increase the tax.

But the Senator from Vermont is troubled as to why we cannot enforce the same law here as can be enforced in Great Britain. The reason is that we cannot afford to police the country as Great Britain is policed in order to effect that object. That country has a regular patrol that runs around the whole borders of the island and penetrates into every county and every district of the country. You will see men in uniform everywhere, detectives in every part of the country. It would take an army almost like that commanded by General Grant to cover this country with a sufficient number of police to prevent illicit distillation as they undertake to prevent it in Great Britain.

But, Mr. President, there is one reason that has not yet been suggested why this tax should be reduced to a lower rate than it now is, and that is, that it will be very nearly the same amount that is levied upon the same article in the British provinces, the New Dominion, as it is called; and it is certainly a very great object if we can so assimilate our taxes upon this article as to make it no object for parties on either side to smuggle.

Mr. MORTON. Mr. President, there is one fact that perhaps might be considered with propriety in taking a vote on this question; and that is, that if this tax is now reduced to fifty cents on the gallon it will not hereafter be restored. We are making a final reduction. We threw away twenty or twenty-five millions of revenue by repealing the tax on cotton totally last winter under peculiar circumstances; and we can now see from the price of cotton and from the general promise of its production, I think, that we acted very unwisely and threw away twenty millions of revenue that we shall need very badly. We cannot restore that tax; and if we now reduce this tax we are reducing it finally; the same influences that are now swaying public opinion somewhat in the direction of the reduction of the tax on whisky will be strong enough to keep it down when they get it there.

The Senator from Oregon made the remarkable argument that the machinery of this bill was not calculated to collect a tax of one dollar, but could only collect a tax of fifty cents on the gallon; in other words, we must not adjust the machinery to suit the proper tax, but must make the tax to suit the machinery, that it seems has been invented or adopted for the collection. That is like the old metaphysical philosophers who marked out their theory and then sought to make the facts conform to it, instead of making the theory conform to the facts.

The Senator from Oregon has read from an old book, "Buchanan on Taxation," and I must say the name is rather against its being a very excellent authority; but it is an old work, which goes to show that the English Govern-

ment has swung around the circle on this question, started with about five shillings and put it down, and tried it one way and then tried it another, and finally, after a long and costly experience, have brought it to ten shillings, where it has been for years, and where it is likely to remain. We have the benefit of the English experience where, after having tried it in every way, they have come back to ten shillings, very nearly \$2 50 in gold, upon the gallon. The present proposition before the Senate is to levy a tax of one dollar in currency, equal to about seventy cents in gold; and yet gentlemen say that is too high, and they refer to English experience to establish the fact, though the English, after having tried the thing in every form, have settled down to \$2 50 in gold. Now, sir, the final action of the English Government, after long and costly experience, is a better answer to the argument of the Senator from Oregon than we can possibly make, and I shall leave it right there.

But, Mr. President, the great argument which has been offered in this case is the temptation argument. Says the Senator from West Virginia, "Lead us not into temptation." The Government must not establish any tax or any impost duty, or do anything else that presents a strong temptation to commit fraud. It is not right for any man to acquire a fortune, because he strongly tempts the poor vagabond to steal his money; he is leading his neighbor into temptation, and he is violating those Christian maxims quoted by the Senator from West Virginia. You must do nothing which will lead your neighbor into temptation! Not only does the Senator from West Virginia urge that to the Senator from Michigan, but he has said the temptation is too strong for poor human nature. I simply refer to this for the purpose of saying that this argument defeats itself. If this argument is true, then the tax at fifty cents a gallon ought not to be levied, because it still presents a powerful temptation, a temptation that will be found to be too great for the virtue of these whisky men, for whom so much sympathy has been expressed here this afternoon. Why, Mr. President, the temptation to steal fifty cents is not so great as that to steal two dollars; but when you have learned how to do it, and the facilities have been discovered, and the agencies have been created, and all the machinery, to use the language of the Senator from Oregon, has been already formed and laid down, then the temptation to steal the half dollar becomes as great, and it becomes as profitable as it formerly was to steal the two dollars.

Look at the temptation now presented by this bill, and we must then exclaim with the Senator from West Virginia, "Lead us not into temptation." The distiller can make twenty-five dollars a barrel even under this bill by committing a fraud. Take a distillery that runs one hundred barrels per day, and that is not a very large one, and there is a temptation of \$2,500 in one day. That is not so great as \$10,000, as it would be under the present law, but still \$2,500 in one day is an enormous temptation. Take a little country distillery, that only makes ten barrels a day, over in the neighborhood of the Senator from Kentucky, and that would be a temptation of \$250 a day. Take a little copper still, between two hills, over near Owensboro', Kentucky, where they only run one barrel a day, that is a temptation of twenty-five dollars a day, which would be more than the proprietor of that still could make perhaps in a month in any other way. So you see that if you go upon the ground that you must levy a tax that will not be a temptation to commit fraud you cannot pass this bill. It presents an enormous temptation, but not so great as the former rate.

Now, Mr. President, I do not believe in the force of this argument. I believe that if you can collect fifty cents on the gallon you can collect one dollar on the gallon. I said yesterday, and I repeat, that this whole movement is the result of a panic. I will not say how or by whom gotten up; but they desire to

have this Congress rush from one extreme to another. If you say two dollars is an extreme tax, then half a dollar is extremely small the other way. Because we have failed in collecting two dollars must we almost put the tax down to nothing? There seems to be no middle ground; there seems to be no reasonable position that Senators are willing to take; but it must now be fifty cents or nothing. The Senator from Oregon says if you put it at a dollar now he wants the bill to fail and hopes it will fail. He wants the tax put down to fifty cents or the bill to fail and the tax to remain at two dollars.

Mr. President, I do not understand that kind of logic. There is a right ground; it is generally found between the extremes; and if we concede that two dollars was too great a tax, can it be said that one dollar is too great? When this two-dollar tax was imposed there were Senators and Representatives in Congress who wanted it one dollar. It finally became a party measure, and it was put at two dollars; and we have heard it said in the Senate, or rather we have heard it intimated, that it is a party measure now to put it down to fifty cents. I deny both statements.

Sir, there is too much at stake in this matter for us to act hastily or unadvisedly in putting this tax down too low. If we can collect \$50,000,000 at one dollar on the gallon we can collect \$90,000,000 at one dollar a gallon. This amendment, if it is adopted and the bill itself is a success, will save to this Government not less than \$40,000,000. I tell you that we shall need the revenue very badly. It is a rush from one extreme to another extreme without any other or higher reason than because we have been tempting human nature too strongly for its strength; and yet the bill contains a temptation at least powerful enough to seduce those that have been seduced before; and their name is legion.

Mr. McCREERY. Mr. President, I thank the distinguished Senator from Rhode Island [Mr. ANTHONY] for the distinct and clear avowal which he has made of the principles which influence those who favor the high taxation of whisky. He has announced on this floor the doctrine that he favors high taxation because it takes the manufacture of this article from the hands of the poor and monopolizes it in the hands of the rich. It is the "money ring" which controls on that side which has been charging that the "whisky ring" controls upon the other. I differ with that gentleman and all others who hold the same doctrine. I stand up here to vindicate the labor of this country, and if need be, if either must fall, let capital fall in the struggle. Capital needs no protection. A man who has his bonds or his money in his pocket needs not the protection of this Congress; but it is the laboring man, the man who takes his ax upon his shoulder and marches out to the wilderness, fells the timber and clears up his farm, that I desire shall have the privilege of manufacturing whisky or any other article. I do not want to take it from the whole labor of this country and transfer it to New York or some other center of capital, and say that they and they alone shall have the right of manufacturing whisky.

Mr. President, the friends of my boyhood were the descendants of those men who were the pioneers of Kentucky and of the West, and I shall ever oppose every measure which says to the posterity of those men, the friends of my youth, "You are to stand back in this business; your distilleries are to be struck down, your manufactures are to be destroyed in order that for the convenience of collection the whole manufacture of whisky shall be transferred to New York or some center of capital."

We have had a great many taunts thrown at us during the discussion of this question. The distinguished Senator from Wisconsin [Mr. HOWE] has said, and repeated the assertion, that it is more respectable to drink high whisky than low whisky. All we ask of gen-

tle men is to keep their hands off us, not to run their hands in our pockets, and we will attend to the respectability of ourselves. We are respectable; we intend to remain respectable; but we ask Congress not to draw upon us too strong in the shape of taxation.

It does appear to me singular that gentlemen are pitching upon two articles, tobacco and whisky, in which Kentucky is more deeply interested than in any other, upon the ground and the only ground that these are luxuries, when one of the greatest luxuries that ever humanity did enjoy escapes them altogether. The greatest luxury, as I hold, upon the face of this earth is to set back behind two millions or five millions of Government bonds. This great luxury escapes the attention and animadversion of these gentlemen altogether; but let them find some little still-house up a creek or a branch where some honest man by his own labor is making from fifty to one hundred barrels of whisky, and this poor fellow living by the toil and sweat of his own brow is to be stricken down because he manufactures what these gentlemen call a luxury. Take one of your fine gentlemen who sits comfortably behind his two or three millions of Government bonds and probably he would hardly touch a plain glass of whisky; he would prefer his Mustcat, or his champagne, or something of that sort. He does not esteem whisky a luxury, certainly.

Mr. President, I have several amendments to propose to the bill, but there is an amendment at this time before the Senate, which is, I believe, to make the tax ninety cents. I propose to stand by the committee on that subject, to stand by the tax of fifty cents, and to place it in the power of any man, rich or poor, in this land, without favor or affection, to manufacture this or any other article. If the Senate intend to support the position taken by the distinguished Senator from Rhode Island, if they intend that those who are now wealthy shall monopolize all the wealth of the land, if they intend that all sources of revenue to any other men of the country shall be closed up, and that these men shall manufacture all the whisky, let it go forth in that shape; let it be said that you stand in this controversy on the side of capital and against labor. That is the position, and let it be so declared to the country.

Mr. FOWLER. Mr. President, I had supposed that the Committee on Finance had arrived at some definite conclusion on this subject, and had really submitted to us the result of their inquiries and investigations, and that they meant precisely what they said in their report. I had supposed that they had investigated this subject with care, and that they had recourse to those means of investigation which would enable them to arrive at a satisfactory conclusion. Until to-day I fancied that we had in this bill their deliberate and solemn conviction on the subject, and that fifty cents was the point they had fixed upon as the rate of tax that would yield the greatest amount of revenue to the Government, and render the least injury to the production of the country. But it seems that this opinion is not exactly certain on the part of the committee, that they are yet vacillating between this and some other point.

Mr. SHERMAN. I ask the Senator upon what authority he makes that statement?

Mr. FOWLER. The authority of the Senator from Vermont, [Mr. EDMUNDS.]

Mr. SHERMAN. That was contradicted at the moment and withdrawn.

Mr. FOWLER. I heard the statement, and I did not hear distinctly what followed.

Mr. SHERMAN. I repeat again that the Committee on Finance took this matter deliberately into consideration and have never changed their position. I trust my friend from Vermont will withdraw the remark he made, or explain it.

Mr. EDMUNDS. When I state a thing and turn out to be in error I will withdraw it; but what I said was something that the committee had no right to get, I was about to say in a

tantrum about, but that is not a polite word. The committee had no right to feel excited about what I said, because it was expressing only my own opinion of the individual conviction of the gentlemen of the committee as drawn from what the Senator from Ohio himself said last night. I may have been mistaken in the opinion, but I am entitled to the opinion just the same as if I was not mistaken.

Mr. FOWLER. I supposed the Senator from Ohio stated really the opinion of the committee, and that is, that the rate fixed in the bill is their deliberate conviction, and that they have arrived at it after mature consideration, that they are not vacillating in regard to this matter, that they do not entertain other views contrary to their report. I have so understood up to the present time, and I am glad to be confirmed in it by what the Senator from Ohio has said.

Mr. President, there is a certain point to which taxation on articles of production may be carried so as to yield the greatest amount of revenue with the least injury to production. I shall take it for granted that the rate fixed by this bill is the proper point, because it is an experiment; the committee cannot predict with certainty as to the result, but they have exercised their best judgment and arrived at this conclusion, and I am satisfied with the result, and shall support it. If they have arrived at this point, and ascertained the true law that governs the production of this article, any action on the part of the Government that tends to overthrow that law or to violate it is, to some extent, a crime, and quite as great a crime against labor as it is for labor to evade that law. There are laws that control and govern production; laws not made by legislatures, quite as sacred as those that emanate from any legislative body whatever. Now, sir, the Government has itself been the violator of these laws, and it is to blame in a great measure for all of the corruption that has manifested itself on the part of officers or of the people of the country by the violation of one of these fundamental laws of trade.

There is another consideration in reference to this matter. In order to collect the present unheard-of and exorbitant tax, unusual, unknown, uncongenial machinery was adopted, which is now proposed to be made even more oppressive than it has been. This machinery, when it comes to be considered by the American people, will be regarded as really startling. Above all, you have resorted to spies and informers and inspectors, showing an utter want of confidence in the people, distrusting everybody and everything, having no faith in anything. Now, let the Government return at once to its good old doctrine of confidence in the people, and to wise and equal legislation on this subject; give up your exorbitant taxation, dismiss your spies, exercise a manly and generous confidence in the people, and it will be reciprocated by them.

Sir, I have failed to see that evidence of corruption the charge of which has been repeated again and again here. Indeed, one Senator has gone so far as to state that since this tax has been established the whole American people, because they are all engaged in this thing, have advanced wonderfully in their education of iniquity. I am not prepared to arrive at any such conclusion from any facts that I have seen. Indeed, there has been no evidence on the subject except an allusion to a certain document which I propose to refer to at some other time, not at the present moment.

In my judgment we cannot adopt in the United States any such machinery as has been adopted either in England or in Russia for the purpose of collecting the tax on spirits. It would be resented more violently than the present tax has been resented, and we have sufficient evidence before us to show conclusively that the present tax cannot and will not be collected. The people will not pay it, nor do they sympathize very fully in the efforts of the Government to collect it, because it is admitted generally that the Government has violated

the laws of trade, and has gone beyond its duty and the interests of the people in its efforts to collect an exorbitant and an extraordinary tax, such a one as they have never submitted to before, and will not submit to hereafter.

Unless we do reduce the tax to fifty cents, or perhaps less, I would not advocate any less than that now—it will be utterly impossible to collect any considerable revenue from whisky. We have already seen that revenue fall off to about thirteen millions this year. This is due more to the fact that production has been crushed out by exorbitant taxation than to the fact that the people and agents of the Government have been corrupt. I know in my own State that it is for want of production that the tax is not paid, and in most of the other States it is more due to that cause than any other. I of course know nothing of the history of the small distilleries that have sprung up in New York and in other places. I know nothing of the existence of any facts of that kind. I suppose the committee who state such facts are perfectly conversant with them, and I take their word for them.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana, upon which the yeas and nays have been ordered.

Mr. FERRY. On this vote I desire to say that I am paired with the Senator from New Hampshire, [Mr. PATTERSON.] He would vote "yea" and I "nay."

The question being taken by yeas and nays, resulted—yeas 15, nays 23; as follows:

YEAS—Messrs. Cole, Edmunds, Harlan, Howe, McDonald, Morrill of Maine, Morton, Nye, Osborn, Pomeroy, Ross, Tipton, Wade, Wilson, and Yates—15.

NAYS—Messrs. Buckalew, Cattell, Conkling, Connors, Cragin, Davis, Drake, Fessenden, Fowler, Howard, Johnson, McCreery, Morgan, Ramsey, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Vickers, Welch, Willey, and Williams—23.

ABSENT—Messrs. Anthony, Bayard, Cameron, Chandler, Corbett, Dixon, Doolittle, Ferry, Frelinghuysen, Grimes, Henderson, Hendricks, Morrill of Vermont, Norton, Patterson of New Hampshire, Patterson of Tennessee, Rice, Saulsbury, Sprague, and Thayer—20.

Mr. VAN WINKLE. I move to amend the bill by inserting the amendment which I offered the day before yesterday in committee. The Clerk has it.

The Chief Clerk read the amendment, which was to insert as an additional section the following:

*And be it further enacted, That so much of all acts and parts of acts as impose any internal revenue tax on illuminating or other mineral oils, and on the product of the distillation, redistillation, or refining of crude petroleum, or of crude oil produced by a single distillation of coal, shale, peat, asphaltum, or other bituminous substances, together with all provisions relating to returns, assessments, warehousing, and bonding, and all other provisions for determining the quantity of mineral oil distilled for the purpose of securing the payment of the tax thereon, be, and the same are hereby, repealed; and no tax imposed by existing laws on such oils or products in the hands of the producer or manufacturer, or his agent or agents, at the passage of this act and unsold, shall be collected.*

Mr. VAN WINKLE. I do not think it necessary to repeat the remarks I made only two days ago on this question; and I shall not do so unless they may be called for by some gentleman who is opposed to the remission of the tax. I will simply state the general facts, trusting that gentlemen who were then present at least will remember what was said, and that there may be enough in the facts themselves to convince everybody that this amendment is just and proper.

I showed on that occasion first that all other manufactures of this class have been relieved, while at the time the others were relieved only one half this tax was removed. I showed that the tax itself was enormous, being about one hundred per cent. upon the raw product, the crude petroleum out of which these manufactures are made. I also adverted to the fact of the immense export of this article, now amounting to thirty millions per annum, and showed that this export, though so valuable to the nation, is trammelled by the rules and regulations that are necessary perhaps to be resorted to in order to collect the tax on the domestic use.

I have the sanction of the Special Commissioner of Revenue, and the opinion of many others that this tax can be dispensed with. The whole amount that will be collected from it, I presume, will not exceed \$2,000,000. It is not worth while to retain that amount, which is small compared with the whole aggregate of taxation, while it is operating as a discouragement to the export.

I showed, also, that, by reason of the trammels to which this interest is subjected, the necessity of warehousing, of inspectors, and of gaugers, and of extra clerks, in order to make the monthly reports, and all the consequent expenses that are, perhaps, justified in the case of tobacco and whisky, the tendency is, to some extent, to discourage the export of the manufactured article, and to substitute for it the unmanufactured article. The consequence is that a manufacture which might be readily retained here is now carried on abroad to a great extent.

It seems to me that if there is not some very cogent reason why an article of this kind, of common consumption, of use in every family—furnishing the poor and the rich a cheaper light than they can have in any other way—should be subjected to all these trammels and troubles, that are proper in reference to tobacco and whisky, it ought to be repealed for that reason if for no other. But the strongest consideration that present itself to my mind is what I have already stated in reference to discouraging the export of this article. It is so valuable to the country, it furnishes so large a proportion of our exports that it does seem to me it should present itself to every Senator as a proper case for relief. We do not certainly wish, upon any principle whatever that I can imagine, to decrease our export of an article that is profitable to the country, and which goes so far to pay the debt we are creating abroad continually, whether the mercantile debt or the debt of the Government bonds.

With these brief remarks I hope the Senate will take this amendment into their favorable consideration.

Mr. MORRILL, of Vermont. I rise to correct the statement of the Senator from West Virginia in one particular. He is mistaken in supposing that the Commissioner of Internal Revenue is in favor of this proposition.

Mr. VAN WINKLE. I said the Special Commissioner, Mr. Wells.

Mr. MORRILL, of Vermont. The Commissioner of Internal Revenue, the last time he was before the Committee on Finance, was particularly inquired of in relation to this matter, and also as to whether the revenues were coming in at such a rate that we could afford to dispense with the amount that would be lost to the Treasury if this tax were repealed; and he most emphatically replied in the negative. I should be almost willing to grant any favor that the Senator from West Virginia should ask, but one of this character cannot command my assent.

In the first place, I differ with the Senator in this respect. I believe this article can better sustain taxation than any other article, with the exception, perhaps, of whisky, in our whole country. It is absolutely without a competitor; and so far as the exportation of it is concerned, we do not interfere with the exportation. There is no duty on the raw material, and when the article is refined it is allowed to go abroad without the payment of duty.

Then I know that the parties who have been most largely engaged in this business have accumulated fortunes; and the property is not all owned in Pennsylvania or in West Virginia. There are many stockholders of this property at the East. I know of one that has been largely engaged in refining petroleum, who can count up his gains at the present time not only by hundreds of thousands, but beyond a million. From a man of only moderate circumstances he has become a millionaire.

But, Mr. President, we are in duty bound to look somewhat to the state of the Treasury. Our revenues have been decreasing for the last



month; even our customs duties for the last month are only about one half what they were a year ago. We have repealed nearly all our internal revenue taxes. We shall not be in the receipt of any large amount of revenue for four or five months to come; and I can assure the Senator from West Virginia that the Treasury every month obtain this, and next November will need all that it can get from petroleum or anything else. We are dragging on the very sands, not afloat. I trust we shall do nothing, when we are every day increasing our expenditures, to impair the amount of our receipts into the Treasury.

Mr. BUCKALEW. I call for the yeas and nays.

The yeas and nays were ordered; and being taken resulted—yeas 18, nays 16; as follows:

YEAS—Messrs. Buckalew, Cattell, Conkling, Connors, Davis, Fowler, Henderson, Hendricks, Johnson, McCreery, Pomeroy, Ramsey, Ross, Sumner, Van Winkle, Vickers, Wiley, and Wilson—18.

NAYS—Messrs. Drake, Ferry, Fessenden, Harlan, McDonald, Morgan, Morrill of Vermont, Morton, Osborn, Patterson of New Hampshire, Sherman, Tip-ton, Wade, Welch, Williams and Yates—16.

ABSENT—Messrs. Anthony, Bayard, Cameron, Chandler, Cole, Corbett, Cragin, Dixon, Doolittle, Edmunds, Frelinghuysen, Grimes, Howard, Howe, Morrill of Maine, Norton, Nye, Patterson of Tennessee, Rice, Saulsbury, Sprague, Stewart, Thayer, and Trumbull—24.

Mr. HARLAN. I move to amend the bill by striking out "four," in line eighteen of page 76 and section fifty-eight, and inserting "six;" so as to make the proviso read:

*Provided, That a like tax of six dollars on each barrel counting forty gallons of proof-spirits to the barrel, shall be assessed and collected from the owner of any distilled spirits which may be in any bonded warehouse, &c.*

I will state to the chairman of the committee that this amendment is in that part of the bill which provides for a tax on whisky in bond. If I understand the bill correctly that class of whisky now has an advantage in the rate of tax levied. Fifty cents is levied as a tax on whisky at the still, and four dollars a barrel, which is equal, we are told, to ten cents a gallon, and then, in addition, a tax on the material out of which the whisky is made, which I have understood from members of the committee amounts to four or five cents on the gallon; but the whisky in bond is taxed fifty cents and four dollars a barrel only, and thus escapes one part of the burden that is levied on whisky at the still.

I have also been informed that whisky in shipment from the West to the East loses four or five per cent. in leakage on account of handling, and the whisky in bond will derive an advantage in that regard also of several cents on the gallon. Unless there is some reason that I am not aware of for giving whisky in bond this advantage it seems to me the amendment ought to be adopted.

Mr. SHERMAN. If the Senator will look at the bill he will find that the tax on whisky in bond is precisely the same all the way through with that on whisky to be distilled in the future. There was a complaint that the House bill did not allow the same length of time for taking the whisky out of bond that would be allowed to the distiller to sell his whisky; and we have made it the same, twelve months. Whisky under this bill will pay, first, a direct tax of fifty cents a gallon, and then a tax of four dollars per barrel of forty gallons, or ten cents, so that the aggregate tax is sixty cents. There is no other tax on whisky. It is true there is a tax of four dollars a day for a distillery running with a capacity of one hundred barrels; but that is in the nature of a license tax.

Mr. HARLAN. Is there not a tax levied on the mash?

Mr. SHERMAN. No; that was discussed yesterday. The provision to which the Senator refers is simply a mode of ascertaining the quantity of spirits made from a given amount of grain. That clause does not levy a tax. There is no tax on the mash, none on the grain; but there is a provision declaring that every bushel of grain that goes into a distillery shall yield not less than three gallons of whisky.

Mr. HARLAN. What is the amount of tax now by the gallon at the still under this bill altogether? What does the Senator estimate it at?

Mr. SHERMAN. Sixty cents; and the expense of gauging, &c., which the distillers have to pay, has been estimated to bring the whole, including their license tax, up to about sixty-three or sixty-four cents a gallon; but the holders of the whisky in bond have to pay the expense of gauging and marking it just the same as the manufacturers do on the distilled whisky.

Mr. HARLAN. I inquire, then, if the chairman considers that there is no difference between the levy on the whisky at the still and the levy on whisky in bond.

Mr. SHERMAN. None whatever, unless you consider this a difference: that whisky to be distilled hereafter, as a matter of course will have to bear its part of what is called the daily tax—four dollars a day. That would be hardly appreciable on the gallon. That is the only difference I know of.

Mr. McCREERY. I will point out the difference to both Senators, a difference that I want removed. On page 60 it is provided:

*That there shall be appointed by the Secretary of the Treasury such number of internal revenue storekeepers as may be necessary, the compensation of each of whom shall be determined by the Commissioner of Internal Revenue, not exceeding five dollars per day, to be paid by the United States, one or more of whom shall be assigned by the Commissioner of Internal Revenue to every distillery warehouse established by law.*

If the Senate would just let the provision stand as it was passed by the House of Representatives, there would be no distinction between these bonded warehouses and the distilleries; but this provision contains a distinction, and a distinction that I want avoided by standing by the bill as it was passed by the House, and let this per diem be allowed to any man attending to any bonded warehouse established by law. Let the bonded whisky and the distilled whisky stand precisely on an equality. As far as I am able to discover, the intention of the committee, was to place them on terms of equality, but they do discriminate in favor of distilleries by assigning them a man at five dollars per day. If that is done, a man should also be assigned to the bonded warehouses.

Mr. SHERMAN. The Senator from Iowa will see that this is not a difference, because in both cases the expense of this office is paid by the United States. The fees of the inspector in one case, who has charge of the bonded warehouse, are paid by the United States; the fees of the officers provided for in the part of the bill read by the Senator from Kentucky are paid by the United States. The only difference is this, and the Committee on Finance made it at the request of the Commissioner of Internal Revenue: the bill as sent to us by the House of Representatives fixed the rate at five dollars a day for all distilleries, but the Commissioner of Internal Revenue said that in some of the country distilleries they did not run much, and it ought to be left to his discretion, that he will be able in country districts to get a proper person at two or three or four dollars a day to be employed temporarily; but that expense is paid by the United States, and does not rest as a burden on the whisky at all.

Mr. McCREERY. You provide here for a "distillery warehouse," striking out "bonded" before "warehouse" in the House bill.

Mr. SHERMAN. This bill abolishes the bonded warehouse. The only reason the word "bonded" is in is because the House bill as it was originally framed provided for removal in bond, and afterward, by a change in the House, that feature was stricken out of the bill, but in two or three cases they left the word "bonded" in the bill by mistake. Those errors we have corrected to adapt the language of the bill to the change made in the House.

Mr. FOWLER. Are the bonded warehouses abolished?

Mr. SHERMAN. Yes, sir; except those that now have whisky in store.

Mr. McCREERY. They will not be abolished for twelve months under the operation of the bill.

Mr. SHERMAN. It makes no difference to the owner of the spirits. The Senator is mistaken about it.

Mr. POMEROY. I understand that they will be abolished as soon as the whisky is removed. They remain until the whisky is removed.

Mr. WILLIAMS. I think that if there is any difference between the whisky in bond and the whisky to be manufactured it is in favor of the man who has the whisky yet to make. The bonded whisky has been in warehouse for a considerable length of time, and I suppose more or less expenses have been incurred in consequence of its being stored. In addition to that, it is yearly diminished some four gallons per barrel by evaporation.

Mr. HARLAN. With these explanations from members of the committee I shall not insist on the amendment.

Mr. WILLIAMS. Another remark. The law compels all these men to put the whisky on the market within a year. If you put on a high tax of six dollars a barrel they cannot sell it without a great sacrifice.

Mr. EDMUNDS. I wish to ask the Senator from Oregon, who understands this subject much better than I do, whether the whisky increases in value by the barrel in the warehouse from the time it is put in, the longer it remains, for a reasonable length of time, say three or four years.

Mr. WILLIAMS. I suppose it does, as a matter of course.

Mr. EDMUNDS. Does not that increase in value more than counterbalance the loss in quantity by evaporation? Is not the quality of the article so much improved all the time as to make it worth more at the end of the year than when first put in? That was the argument that was pressed upon us when we were on the subject of taxing it, that it would be ruinous to compel the distillers to pay the tax at once at the distillery, because it was necessary that the whisky should be kept some time before it was marketable in order that it might improve. Now, if the result of keeping is that it diminishes in quantity and does not improve in value, and the expenses eat it up, the sooner they pay the tax the luckier they will be.

Mr. WILLIAMS. The gentleman is exceedingly astute, and imagines, I suppose, that he has discovered some inconsistency in what I have said.

Mr. EDMUNDS. Not at all.

Mr. WILLIAMS. I have not said that the whisky did not improve in value by remaining in warehouse. I have no doubt that it does improve in value; but at the same time it diminishes in quantity, and to that is to be super-added the expense of storage and the necessity that this whisky should be all put upon the market within one year. The argument that I made upon the other question was that it would be ruinous to require the distiller to pay two dollars per gallon upon raw whisky before he could put it out of his distillery. I did not argue that he might not pay a reasonable tax, twenty-five or fifty cents upon a gallon. That was the argument that I made yesterday, and I do not perceive that it is inconsistent with the present argument. Now, as the bill stands, the man who makes the whisky only pays his fifty cents per gallon upon the raw whisky as it comes from the still, while the other man, with additional expenses, has to pay fifty cents on the whisky in bond.

Mr. POMEROY. I apprehend that the increase in the value of the whisky is only about equal to the interest of the money. You deposit whisky in warehouse, and it increases in value from year to year about the interest of the money, I think. I do not think it will increase faster than that, and the evaporation will decrease and lessen the quantity equal to ten per cent.

Mr. MORRILL, of Vermont. I am not sure that there is not some reason for the proposition of the Senator from Iowa. There are now twenty-five million gallons in bond. In forty-gallon casks it would be six hundred and twenty-five thousand barrels. We allow it to remain twelve months. It will shrink four gallons per barrel in that time, but it increases in value so that it compensates for this shrinkage. But the party who owns the article will not be required to pay tax except on what his barrels contain when he takes them out of the warehouse. That will be a benefit even for the twelve months, if it should be availed of by the parties, of two dollars on a barrel. So that while I have no settled opinions on the subject I am inclined to think that those having whisky in bond do derive a considerable advantage from it, and that the Government will suffer some loss as compared with anything else that we tax in the way of whisky.

Mr. CATTELL. I understand that this bill provides now that the whisky shall be gauged immediately, and that the tax shall be paid on the amount gauged at once.

Mr. MORRILL, of Vermont. I do not so understand it.

Mr. CATTELL. I do. I think the Senator will find it so.

Mr. MORRILL, of Vermont. I think not.

Mr. HARLAN. I will suggest that probably no harm would grow out of this. I have not studied this subject as thoroughly as I ought to have done, perhaps. I do not profess to understand the whole machinery of the bill; but I want to say in justification of this amendment that one of my colleagues in the House of Representatives, who is on the House Committee of Ways and Means, and who has studied it very thoroughly, informed me that there was this advantage; but if the amendment were adopted, as the bill will probably go to a committee of conference, if in consultation by the committee it is found not to be necessary in order to make the tax equal between whisky hereafter made and that in bond, it can be struck off in the committee of conference.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa.

The amendment was rejected.

Mr. DAVIS. I move to amend the bill on page 17, section fifteen, by striking out all after the words "to be" in the second line down to the words "the Commissioner" in the ninth line, in these words:

Situated on and to constitute a part of his distillery premises, to be used only for the storage of distilled spirits, of his own manufacture, but no dwelling-house shall be used for such purpose, and no door, window, or other opening shall be made or permitted in the walls of such warehouse leading into the distillery or into any other room or building; and such warehouse, when approved by.

And inserting in lieu thereof:

Selected by the collector of the district, by and with the approval of:

So that the section will read:

That every distiller shall provide, at his own expense, a warehouse, to be selected by the collector of the district, by and with the approval of the Commissioner of Internal Revenue, &c.

I will say only a single word on the amendment. The text of the bill requires a warehouse to be erected at the distillery. The larger distilleries in Kentucky already have warehouses in towns or on railroads that are convenient for sale and quite as safe for the keeping of the liquor and preventing frauds. The effect of this amendment, if adopted, would be that each distillery should have a warehouse, that it should be located by the collector in the district with the approval of the Commissioner of Internal Revenue, and that it should be constructed in such manner as those two officers should prescribe.

Mr. SHERMAN. This same amendment was proposed in the Committee on Finance, and, after discussion by parties interested, was found to be utterly inconsistent with the theory of this bill. In some cases in Kentucky they have warehouses three miles off. If you allow removal from a distillery to a warehouse three

miles distant you open the door to frauds, the very thing we have been trying to avoid. I trust the Senator will be satisfied with the action of the Committee on Finance. He was before the committee himself, but the committee concluded it would not answer to allow this. I can go into it more fully if necessary.

The amendment was rejected.

Mr. McCREERY. I move to amend the concluding clause of section thirteen. It now reads:

But any distiller who shall suspend work, as provided by this act, shall pay only two dollars per day during the time the work shall be so suspended in his distillery.

I move to amend the clause so as to make it read:

But any distiller who shall suspend work, as provided by this act, shall not be required to pay the tax during the time the work shall be so suspended in his distillery.

The distinguished chairman of the Committee on Finance very honestly and candidly admitted his opposition to small distilleries. I suppose it is one of the objects of his bill to tax them out of existence. I, on the contrary, would do all in my power to extend every facility and every support to small distilleries. I do not think this is a just provision; for after a man has once commenced a distillery there is no way in the world by which he can stop the tax unless to kill himself or burn up his distillery. I think it is a more just plan to tax a man while his distillery is in operation and stop the tax when he ceases to distill. A vast number of the small distilleries are unable to meet this tax. A great many men attempt no more than to distill the produce of their own farms; they are not engaged in it more than ninety or one hundred days during the year; and the infliction of such a tax as this would destroy their business altogether. They cannot afford to pay it. Large capitalists might afford to pay ten dollars a day; but the men of this class will be stricken down and destroyed by this clause of the bill under consideration. I do hope that if Senators concur with me in the opinion that it is the weak and the powerless who need support, and not the rich and the powerful, they will come up and vote for the amendment which I propose to this clause of the bill.

Mr. DAVIS. I will make a single suggestion in addition to what my colleague has said. It will be observed that this tax of two dollars a day for the time the distillery is suspended is to continue after the distilling season has elapsed. As my colleague said, the distilling season for many small distilleries continues but for a few months; indeed, for the most of it in my section of the country it commences about the 1st of November and ceases about the last of May or June. This provision is that the tax of two dollars a day shall continue during the whole term of the suspension; that is, in the recess of the distilling season. I think that it would at least be proper and right in any view of the subject that the imposition of the two dollars per day for the time the distillery suspended operations should not be continued later than the continuance of the distilling season; that in the interval of time between two seasons at least this tax ought to be suspended.

Mr. SHERMAN. The explanation of all this is that it is only a daily tax on the authorized distiller, who must take out a yearly license. If he runs, he pays four dollars a day. When he does not run, he pays two dollars a day. It is necessary during the time of his yearly authority to have constant watch over his distillery, whether it is running or not, and this tax is simply to pay about the expense of watching, two dollars a day. As a matter of course that expense ought to be paid by him. If he runs, he pays four dollars a day; if he does not, he pays two dollars a day. It is a very small tax, and it is merely intended to be a mode of assessing on him enough money to pay for watching the distillery. That is the substance of it.

The amendment was rejected.

Mr. McCREERY. I have an amendment to offer on the subject of tobacco. It is to insert a proviso to come in after the word "pound," in line eight, section sixty, page 84. The clause now reads:

On snuff, manufactured of tobacco or any substitute for tobacco, ground, dry, damp, pickled, scented, or otherwise, of all descriptions, when prepared for use, a tax of thirty-two cents per pound.

The amendment I offer is to add the following proviso:

Provided, That snuff and smoking tobacco manufactured of tobacco stems shall pay a tax of five cents per pound.

I would remark, in support of this amendment, that since the infliction of the high taxes upon tobacco manufactured in the country, stems, which were a very large item in the receipts of our tobacco-growers, have become almost valueless upon their hands. There is, and can be under this bill; no home demand whatever for the stems taken out of the leaf. The only demand for that article on the face of the earth known to myself is now confined to a single place, Bremen, and Bremen purchases these stems at any price it may choose to offer. They cannot be converted into snuff and they cannot be converted into smoking-tobacco, but they are hauled out and used as manure upon the adjoining farm. No tax whatever is derived from them. No revenue is derived by the Government, and their value in the hands of the owner is almost totally destroyed.

Where a law operates in this way to strike down the value of an article in the hands of the owner without putting a cent into the Treasury, it occurs to my mind that a good, honest policy would indicate the propriety of a change. If you place the tax on stems at five cents a pound, I have no doubt they will go largely into smoking tobacco and into snuff.

But, sir, it occurs to my mind that it is useless to support my view of this matter by any lengthy marks. I have no doubt that any Senator who will give the subject the slightest attention will come to the conclusion that it is the duty of Congress to lessen the taxation upon this article, to put it at an amount at which the owner will realize something, and at which some amount of revenue will be brought into the Treasury.

Mr. SHERMAN. All I can say in reply to the Senator from Kentucky is, that the gradations of snuff, tobacco, and cigars in this bill are fixed, not only after consideration by the committees of the two Houses, but with the assent of the manufacturers and growers of tobacco through their organized committees, and I believe every city and every portion of the interest was represented. There is no tax upon the leaf, the tax is upon the manufactured tobacco; and the very thing that the Senator now proposes to discriminate in favor of, the stems, created a great portion of the alleged frauds under the old system. By this bill the tax on stem tobacco when manufactured is sixteen cents. As a matter of course I should dislike very much to see any amendment adopted that would affect or mar the symmetry of this arrangement. It has been understood and now agreed on by the persons engaged in this business. It would be a very material reduction of the revenue from sixteen to five cents on what are called stems, a very indefinite term, that gave rise to a great many frauds under the existing law.

The amendment was rejected.

Mr. McCREERY. I have one more amendment to offer. Section thirty-four, on page 43, provides:

That it shall be lawful for any revenue officer, and any person acting in his aid, to break up the ground on any part of the distillery or premises of a distiller, rectifier, or compounder of liquors, or any ground adjoining or near to such distillery or premises or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cask, private conveyance, or utensil; and upon finding any such pipe or conveyance leading therefrom or thereto, he may break up any ground, house, wall, or other place through or into which such pipe or other conveyance shall lead, and break or cut away such pipe or other conveyance, and turn any cock, or examine

whether such pipe or other conveyance may convey or conceal any mash, wort, or beer, or other liquor which may be used for distillation of low wines or spirits from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

I move to add to the section the following proviso:

*Provided*, That if any revenue officer, or person acting in his aid, shall fail in said search to find any pipe, cock, private conveyance, or utensil, he shall be deemed and held a wrong-doer, and shall be responsible to the party aggrieved in a civil action for such damages as he may have sustained and for such smart-money as the jury may assess.

The object of the amendment is merely to protect the citizen in his rights against unlawful and unnecessary search of his premises, breaking down his walls and tearing up his grounds. It is a very great power to confer by the bill on revenue officers, and I want them to proceed at their peril. If they come to tearing down a man's walls and tearing up his grounds and find nothing I want them to pay for every bit of damage committed there.

The amendment was rejected.

Mr. SHERMAN. I wish to have a verbal amendment made. On page 84, line ten, of section fifty-nine, I move to strike out the words "except retail dealers."

The amendment was agreed to.

Mr. SHERMAN. On page 99, line seventeen, of section seventy-three, I move to strike out the words "manufacturer's warehouse," and insert "manufactory."

The amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time.

Mr. DAVIS. I will say another word on this bill on the question of its passage. It seems to be a part of the same bill that was introduced into the House of Representatives. I am greatly gratified, considering the character of what has come to this body, that the whole bill as it was reported to the House has not been offered here. I think that the bill is framed on this general idea: that the people of the United States exist for no other purpose than to pay taxes, and that the Government of the United States has no function to perform except to offer a scheme for imposing taxes upon every possible article, and establishing the most oppressive and vexatious mode of collecting them. If the bill in all its proportions, in its breadth and length, as introduced into the House, with the two-dollar tax upon whisky, had been presented here, it would have wanted but one or two other provisions to have made it the most completely organized system of despotism that the world has ever seen; and they would be that all of its pains and forfeitures and penalties should be enforced by military commissions, and that those military commissions should be organized by the General of the Army.

I think, Mr. President, the time for the continuance of this system of despotism is drawing to a close, and in that hope I content myself by saying further upon the subject.

Mr. CAMERON. I ask for the yeas and nays on the passage of this bill. I desire to record my vote against it.

The yeas and nays were ordered; and being taken resulted—yeas 35, nays 6; as follows:

YEAS—Messrs. Anthony, Buckalew, Cattell, Chandler, Conness, Cragin, Davis, Drake, Ferry, Fessenden, Fowler, Henderson, Hendricks, Howard, Johnson, McGreevy, Morgan, Morrill of Vermont, Osborn, Patterson of New Hampshire, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Vickers, Wade, Welch, Willey, Williams, and Wilson—35.

NAYS—Messrs. Cameron, Cole, Edmunds, Morton, Nye, and Pomeroy—6.

ABSENT—Messrs. Bayard, Conkling, Corbett, Dixon, Doolittle, Frelinghuysen, Grimes, Harlan, Howe, McDonald, Morrill of Maine, Norton, Patterson of Tennessee, Rice, Saulsbury, Sprague, and Yates—17.

So the bill was passed.

The title of the bill was amended so as to read: "A bill imposing duties on distilled spirits and tobacco, and for other purposes."

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPIERSON, its Clerk, announced that the House had passed the bill (S. No. 542) for the relief of Thomas W. Ward, late collector of customs, district of Corpus Christi, Texas.

The message also announced, that the House had passed the joint resolution (S. R. No. 107) in relation to the Maquoketa river, in the State of Iowa, with an amendment; in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1376) for the relief of the loyal Choctaw and Chickasaw Indians; and

A joint resolution (H. R. No. 328) for the donation of certain columns.

#### THE FUNDING BILL.

Mr. SHERMAN. I now move to take up Senate bill No. 207, which is the funding bill.

The PRESIDENT *pro tempore*. Senate bill No. 207, called the funding bill, is before the Senate, it having been included with the tax bill in the resolution making both a special order.

Mr. EDMUNDS. I ask that the funding bill be laid aside, and that the Senate proceed to the consideration of the joint resolution reported from the Judiciary Committee relating to the counting of the electoral votes. I have been requested by several Senators to call that to the attention of the Senate again, and I ask the Senator from Ohio to allow me to do so.

Mr. SHERMAN. I am perfectly willing, as I am somewhat fatigued at any rate and do not care about going on to-night, to allow the funding bill to go over until to-morrow, and be continued as the special order then at one o'clock.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the funding bill be postponed until to-morrow at one o'clock, and be continued as the special order for that hour.

The motion was agreed to.

#### MOUNT VERNON LADIES' ASSOCIATION.

Mr. EDMUNDS. I now move to take up the joint resolution to which I have referred; I have forgotten the number of it.

The PRESIDENT *pro tempore*. It is moved to take up the joint resolution (S. R. No. 139) excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized.

Mr. SUMNER. I do not like to interfere with my friend, but there is business in executive session to which I should like to call the attention of the Senate.

Several SENATORS. Let us take up this resolution now.

Mr. SUMNER. Very well; let the resolution be taken up, and then I will move an executive session.

The motion of Mr. EDMUNDS was agreed to.

Mr. JOHNSON. I ask the honorable member from Vermont to allow me, before this resolution is considered, to call up the bill for the benefit of the Association of Mount Vernon. The objections to it have now been met, and there will be no difficulty and it will lead to no debate. I ask it because I am obliged to leave the Senate to-day.

Mr. EDMUNDS. If it will lead to no debate this resolution may be laid aside informally, but if it leads to debate I shall feel obliged to ask the Senate to dispose of this resolution.

The PRESIDENT *pro tempore*. If there be no objection the bill mentioned by the Senator from Maryland will be taken up. It can be done by unanimous consent.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 588) for the relief of the Mount Vernon Ladies' Association of the Union.

The PRESIDENT *pro tempore*. The question is on the amendment submitted by the Senator from Maryland, [Mr. JOHNSON,] to insert at the end of the bill the following words:

To be applied to the repairs and preservation of the property under the direction of the military officer in charge of the public buildings and grounds.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### VALEDICTORY OF HON. REVERDY JOHNSON.

Mr. JOHNSON. Mr. President, I throw myself again upon the indulgence of the honorable member from Vermont and the Senate, as I am obliged to leave the Senate to-day, in order that I may say what I feel in separating myself from the body; but as I am unwilling to trust myself to utter what I really do feel I have reduced to writing what, with the permission of the Senate, I will ask my friend and colleague to read.

Mr. VICKERS read as follows:

Mr. PRESIDENT: May I be excused for arresting for a moment or two, the ordinary business of the Senate, by a few words personal to myself. Having agreed to accept a public trust abroad, committed to me by the President with the approval of the Senate, I am about to resign my seat in this body. Having been a member for nearly six years, and contracted friendships, which have been a constant source of pleasure, and which I shall ever value, I cannot retire without the deepest regret.

During the period of my service a civil war of unexampled magnitude was waged, threatening our national life, and since its successful termination by arms the consequences of the conflict have not wholly disappeared.

In both periods, questions of the greatest importance, involving the powers of the Government, and the reserved rights of the States have been discussed in this Chamber with a solicitude to uphold the Government in all its rightful authority, and to restore the entire country to its wonted prosperity. In these discussions I have more or less participated, and, although widely differing in regard to most of them with a majority of the Senate, and supporting my opinions with earnestness, it will always be a great gratification to me to remember that at all times, by every member, I was treated with uniform courtesy, and I need hardly say, Mr. President, that such courtesy I never failed most gladly to reciprocate.

In the new sphere of public duty which I am about to enter I may find subjects of controversy that for a time (as they have done already) may more or less disturb the friendly relations between the Government of Great Britain and our own. But that this disturbance will be temporary I do not doubt. The interests of both nations are so obviously dependent upon a mutual and friendly understanding that the people of each cannot fail to see the duty of having it observed. And I believe that this can be accomplished by the manifestation of reciprocal good will. As our Government is actuated by such a feeling all the complications of the present will, I am satisfied, soon be removed. And in whatever part, under instructions of the President, I may take in the negotiations preliminary to such a result, I shall be influenced by a sincere wish to secure to both Governments an adjustment honorable to each, and I have every reason to think that I shall be met in the same spirit by the British Government.

In all that I may do I shall look with hope to the approval of my associates in this body. And although I may fail in all respects to meet with it, I cannot be mistaken in thinking that they will do me the justice to believe that I have been governed throughout by an earnest desire to maintain all the rights and promote the interests of our beloved country.



Mr. President, it is not at all probable that I shall ever again be a member of the Senate, and it oppresses me to think that I may not after I leave the country have the pleasure to see again all its members. But I beg you, Mr. President, and them to be assured that whatever distance may separate us I shall never cease gratefully to remember the kindnesses evinced for me in this Chamber, or to hope for the happiness and prosperity of its members.

And when I return from my embassy, I trust and believe there will be an enduring peace between ourselves and the other nations of the world; and this I am sure can be secured by a firm and courteous maintenance of our own rights, and a scrupulous regard for the rights of others. And above all do I trust that all the troubles incident to our recent domestic conflict will then have totally disappeared, and that we shall be in the uninterrupted enjoyment of that "unity of Government," which, in the parting words of Washington, is the main pillar in the edifice of our real independence, the support of our tranquillity at home, our peace abroad, of our safety, of that very liberty which we so highly prize.

These ends being accomplished, imagination itself will be at a loss adequately to conceive the future greatness of our land. And now, Mr. President, I leave the body with but one word more, but a word which to friends it is ever most painful to utter—farewell.

[At the conclusion of the address the Senators rose simultaneously and advanced toward the retiring Senator to grasp him by the hand and wish him success in his new sphere of public duty.]

Mr. BUCKALEW. I move that the Senate adjourn. ["No!" "No!"]

Mr. HENDRICKS. Before that motion is put I suggest whether we had not better suspend the order for the night session.

Mr. EDMUNDS. I hope we shall not adjourn yet. It is only four o'clock.

Mr. DRAKE. Is the joint resolution that was informally laid aside before the Senate now?

The PRESIDENT *pro tempore*. The question of adjournment is pending. The Senator from Pennsylvania moves that the Senate do now adjourn.

The motion was not agreed to.

#### ELECTORAL VOTES OF LATE REBEL STATES.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 139) excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized.

Mr. DRAKE. I move to amend the joint resolution by striking out all after the word "that," in the third line, and inserting in lieu thereof:

No State heretofore in insurrection shall be entitled to representation in the Electoral College for the choice of President and Vice President of the United States, nor shall any electoral vote be received or counted from any such time, unless, at the time prescribed by law for the choice of such electors, the State shall have been readmitted to representation in Congress, nor unless the electors shall have been chosen under and by authority of a State government theretofore recognized by Congress as lawful and permanent, and not provisional.

Mr. CONKLING. I wish to offer a substitute for the resolution.

The PRESIDENT *pro tempore*. The Chair is informed by the Clerk that there was an amendment offered by the Senator from Illinois [Mr. TRUMBULL] which takes precedence of the amendment of the Senator from Missouri, [Mr. DRAKE.]

Mr. DRAKE. I suppose the honorable Senator from Illinois will agree to allow his amendment to be withdrawn for the purpose of testing the sense of the Senate upon this. I will inquire of the Senator from Illinois, whether he will be so good as to withdraw his amendment to this resolution in order to admit the amendment which I have just presented, and which does not name any State by name?

Mr. TRUMBULL. I suppose that the Sen-

ator's amendment is in order as a substitute for the whole. His is a substitute, I understand.

Mr. DRAKE. I have understood that when an amendment to a pending bill was before the Senate, it was not in order to move an amendment by way of substitute, and therefore it is that I ask the honorable Senator from Illinois to withdraw his amendment, which is merely to strike out the names of two States, so that I can offer this amendment.

Mr. TRUMBULL. I am willing to accommodate about it. If the Senator's amendment is not in order I will withdraw mine to allow him to offer his.

Mr. DRAKE. Then, sir, my amendment is in order.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Missouri.

Mr. DRAKE. I will say a few words in support of that amendment. I ask that it be read again before I proceed.

The Chief Clerk again read the amendment.

Mr. EDMUNDS. Now, I ask that the original proposition may be read, so that the Senate may see the difference.

The Chief Clerk read the joint resolution, as follows:

*Resolved, &c.* That the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas, respectively, shall not be entitled to representation in the Electoral College for the choice of President or Vice President of the United States, and no electoral votes shall be received or counted from any of such States unless at the time prescribed by law for the choice of electors the people of such States, pursuant to the acts of Congress in that behalf, shall have, since the 4th day of March, 1867, adopted a constitution of State government under which a State government shall have been organized and shall be in operation, and unless such election of electors shall have been held under the authority of such constitution and government, and such State shall have also become entitled to representation in Congress, pursuant to the acts of Congress in that behalf.

Mr. DRAKE. Mr. President, there are now before the Senate three distinct propositions in reference to this matter. One is the pending resolution; another is the amendment as I have presented it; the third is a joint resolution proposed by the honorable Senator from New York, [Mr. CONKLING,] and which lies upon our tables at this time. I object to the first because it names the States, which I do not think is necessary. The proposition that is involved in the amendment which I have offered applies directly to the insurrectionary States. We have been dealing with them in all of our measures of reconstruction. I desire to have this resolution recognize distinctly that it applies to them, and them alone. Therefore it is that I do not desire to see the Senate adopt the joint resolution which has been proposed by the Senator from New York. But it is not yet before us distinctly, because that joint resolution refers to all States, when the whole intention of it is to refer to States that have been in insurrection. As the final winding up of the dealings of Congress with those States is involved in the idea of readmission to representation in Congress, and the reestablishment of governments recognized by Congress, the amendment which I propose exactly accords with that, and I think it is better that in this probably final act of legislation with regard to the most of those States we should preserve the very same line of action that has heretofore characterized the course of Congress. Therefore it is that I propose this amendment, and hope it may be adopted.

Mr. CONKLING. I wish to offer a substitute for both the pending propositions.

The PRESIDENT *pro tempore*. The substitute will be reported.

The CHIEF CLERK. It is proposed to amend that portion of the amendment which proposes to insert words in lieu of words to be stricken out, by striking out after the word "that," in the first line—

Mr. CONKLING. Ah that is unnecessary. I move a substitute for the whole of both pending propositions, to strike out everything after the enacting clause and insert.

Mr. DRAKE. That, if I understand the rule, cannot be done.

Mr. CONKLING. We shall see whether that cannot be done or not.

The PRESIDENT *pro tempore*. It is not quite in order.

Mr. CONKLING. There is a joint resolution pending to which the Senator from Missouri offers an amendment. He offers no substitute, but he offers an amendment. Now, I offer a substitute for the whole pending proposition, the proposition pending, and the amendment. That is clearly in order, I submit.

Mr. POMEROY. Before you can strike out the whole proposition, if anybody proposes to amend the part proposed to be stricken out, that is first in order.

Mr. CONKLING. He proposes to strike out a part, and I propose a substitute for the whole. I do not care what the form is, but I want it understood that my proposition is complete in itself.

Mr. HOWARD. I ask for the reading of the substitute proposed by the Senator from New York.

The Chief Clerk read as follows:

That no State shall be entitled to representation in the Electoral College for the choice of President and Vice President of the United States, and no electoral votes shall be received or counted from any State, unless at the time prescribed by law for the choice of electors there shall be in such State a government recognized by Congress as regular and permanent and not provisional, nor unless the election for electors shall have taken place under the authority of a State government so recognized.

Mr. CONKLING. The Senator from Vermont, I believe, wishes to submit some remarks.

Mr. EDMUNDS. No, sir; go on. I do not wish to say anything at this moment.

Mr. CONKLING. I will say nothing at this moment beyond this: the proposition, as I make it, is designed to be a permanent law, which I think should always be on the statute-book, a law which covers the present case of three States which have not been readmitted, Mississippi, Texas, and Virginia, which covers any contingency that may arise in reference to any State heretofore in insurrection, and which covers the case of any State, wherever that State may be, in which by invasion, insurrection, domestic or foreign war, a difficulty of this sort shall arise. At this moment this is all I wish to say. Hereafter, I shall have a word to say as between these propositions.

Mr. EDMUNDS. I believe the Senator from Kentucky [Mr. DAVIS] had the floor the other day when this resolution went over, and therefore is now entitled to occupy it. I do not know that he wishes to do so. When the matter went over the other day he had addressed the Chair upon it. I do not wish to take the floor from him.

Mr. DAVIS. I will give place with pleasure to you, and listen to you.

Mr. EDMUNDS. What is the pending question now?

The PRESIDENT *pro tempore*. The pending question is on the amendment offered by the Senator from New York.

Mr. EDMUNDS. On that question I do not wish to occupy but a moment or two of the time of the Senate. It is a question of phraseology, as distinguished from the resolution reported.

On the propriety of the amendment I only wish to say a single word. When we reach the point of the general merit of the proposition I shall have a few words to say in explanation of it and in reply to the honorable Senator from Illinois, [Mr. TRUMBULL,] who addressed the Senate the other day at the end of the morning hour, when there was no opportunity for the friends of the measure to reply to the somewhat extraordinary address that he delivered to the Senate at that time.

This amendment offered by the Senator from New York is intended to accomplish, and I do not know but that it will accomplish, the same result that the joint resolution reported from the committee was intended to accomplish; but it does it by a species of circumlocution. It

applies in general on the face of it to all the States. It declares a general proposition, and declares that no State shall be entitled to vote in the presidential election unless it has a government in harmony with the Government of the United States, so to speak, and unless that government is recognized by Congress, and unless the vote shall have been taken under that government. We all understand just as well what that means as if it said it in express terms; and that is, it means, is intended to mean, for the present exigencies of the time, to apply to the ten States which have been in rebellion, whose governments have been overthrown and whose governments, seven of them, have been reorganized—reconstructed, as the common phrase is—upon constitutions that the whole people of those States, with very trifling exceptions, disfranchised for special participancy in rebellion in addition to perjury have set up.

Now, we are both aiming at the same result. We desire to declare, in logical accordance with what we have already done, that the governments in those States and the people in those States whom we recognize are the governments which have been re-founded upon the wreck of the rebellion, and are the whole people of those respective States; and we design to declare that any section or fraction of that people, that body of the people who boast and rally around the name of "the white man's Government," as they choose to call it, the rebellious government, as it might more properly be called, shall not be permitted, against this reorganized Government of the whole people, to undertake to set up an election for President or for anybody else; that is to say, that we mean to stand by the settled order of restoration that has been adopted, and to declare in advance to the rebels in that region that they will not be permitted to present for count, at the next presidential election, electoral votes which shall have been thrown by an organization, by whatever name you call it, existing or to be created, that is founded upon the notion that nobody in those States is entitled to vote but the white men who by the old slave laws of 1860 were allowed to vote; and that no government is entitled to exercise such functions there but the old governments that existed in 1860, or the new governments organized, or attempted to be organized, by the President of the United States in 1865; while at the same time we mean to declare with equal emphasis, that all the white men in those States, (because, as to voting in those States now nobody is disfranchised unless the people themselves disfranchise them,) that all the people of those States may vote for whom they please under the government that has been established. We do not have any desire to limit the free choice of the people of those States for President; we do not propose any legislation which is calculated to limit the free choice of those people; but we propose that their free choice shall be the free choice of the whole people, and the only method by which we can reach the free choice of the whole people is to reach it under and through the forms of a government of the whole people that has now been formed by the whole people. That is the proposition.

The Senator from New York proposes, instead of saying in express terms as applicable to this present exigency, that in those particular States no government is to be recognized by Congress except the governments that the people have freely set up since; to say, in general, that in no State shall any vote be recognized or counted that does not conform to certain conditions. Really, in effect, upon a fair construction, his amendment would reach probably the same result that the joint resolution reported from the committee does; but it is still open to some doubt and cavil. An ingenious man, like my friend from Pennsylvania, [Mr. BUCKALEW,] or the honorable Senator from Indiana who is not in his seat, [Mr. HENDRICKS,] might discover next February, when we come to count these votes, that under this general clause there were some govern-

ments there that had been recognized by Congress at some time, that had been founded before the 4th of March, 1867. Therefore, without going any further into this general question than merely to have stated the proposition, I should hope that the Senate would be willing to say, if it is to say anything—and it is very important for the peace of the country that we should say something—exactly what it means; that in these ten States, naming them, the governments that Congress recognizes are the governments that the whole people of those States have set up under the authority of Congress since the rebellion. That is the whole effect of the proposition.

Mr. HOWARD. Mr. President, I think on this subject we cannot be too specific; we cannot be too clear, and we ought not to attempt to create any fog or uncertainty as to what governments in the insurrectionary States are entitled to be represented in the Electoral College. It seems to me that the amendment offered by the honorable Senator from New York approaches the subject with somewhat too much caution. He treads as with a velvet step; as if he was moved by some apprehension that we should utter something in our statutes unkind in reference to those States. Sir, I have no such fear or apprehension.

As long ago as 1861, by a solemn act of Congress, the President of the United States, acting in pursuance of that statute, declared the States specifically named in this joint resolution to be in a condition of insurrection. We went to war under that proclamation, and from that day to this those States have been regarded, so far as the legislation of Congress is concerned, as insurrectionary States, with the exception of such of them as have been admitted to the right of representation in Congress.

We did not hesitate, when we passed the first reconstruction act, to designate by name the States of the Union to which that statute applied. Why should we hesitate now? Why should we not say, in so many words, that those insurrectionary States which have not embraced the privileges extended to them by our reconstruction acts shall not be recognized as possessing the right of voting at the next presidential election? I think the plainer we write down our sentiments and opinions in our statutes the better it is for us and for whomsoever the statutes may affect.

Now, sir, we are in danger, if I have a correct prevision, of having difficulty in the insurrectionary States at the approaching presidential election. We all know that at the present time there is in each of those States a sort of dual government, one State government having been inaugurated under the proclamation of the President, and in others a government organized or in the process of organization under the reconstruction laws. We know perfectly well that President Johnson regards the latter description of governments as being utterly unconstitutional and void. We know that he is of the opinion that the governments which he inaugurated and launched into being by virtue of his own *ipse dixit* and his own imperial decrees are the constitutional governments of those States, and that his purpose is, so far as practicable, to maintain and uphold those governments.

Now, sir, we may have such a state of things as this in some of those States, perhaps in more than one of them: we may have electors of President elected under and by virtue of the Johnson constitution, to use that expression for the sake of brevity, and another set of presidential electors elected under the reconstruction acts of Congress, and in pursuance of constitutions adopted under those acts. It will be insisted by the Democratic party, if I judge the signs of the times correctly, that the electors chosen under the Johnson constitution are the only persons to be admitted into the College of Electors. Those electors will be chosen by the original electors in the States, qualified as such, not by law, but by the decree of Andrew Johnson. They will represent the "white man's

government," so to speak, and it will be insisted by the whole Democratic party that those electors, and those only, are entitled to give the electoral votes of the State; while, on the other hand, it will be insisted by the friends of reconstruction that those electors have no rights, and that electors chosen under the reconstruction acts are the proper and lawful electors.

In order to remove, therefore, all uncertainty, all disputation, and all cavil as to the kind of electors for President and Vice President whose votes are to be counted, I prefer a clear, positive, unequivocal declaration that electors chosen under any other constitutions than those inaugurated under the reconstruction acts shall not be recognized by Congress as proper electors. Let us be clear and distinct. I have no fear of this issue. It is an issue, or it may become an issue, I am quite aware, attended with great danger, with great agitation to the country, with marked party divisions, and with party bitterness such as we have not seen since the war itself was flagrant and blazing into the skies.

I prefer the language of this joint resolution to anything which has been suggested. It makes the way clear, it expresses the purposes of Congress distinctly, and it designates by name the States to which it is to apply. We know very well that it cannot apply to any other States than those mentioned in this joint resolution, and we know that it is intended to apply to those States and to those only. Then why not say so?

Mr. MORTON. Mr. President, I do not rise so much to discuss the merits of these several propositions as to say that I shall vote for that offered by the Senator from Vermont, [Mr. EDMUNDS,] believing that it is more specific and direct than the other two; but perhaps any one of them would answer the purpose.

I desire, however, to say one word in regard to the importance of this measure. We have been noting the proceedings of a convention held in the city of New York, which has but just adjourned. I have read the resolutions adopted by that convention, the platform of principles it has laid down, and upon which its candidates have been placed; and I wish to call the attention of the Senate to the issue that is presented to the country by this platform and by the character of these candidates.

General Grant, in his letter of acceptance, said, "Let us have peace;" but the Democratic party by their convention in New York have said, "Let us have war; there shall be no peace." They have declared in substance, I might say, perhaps, in direct terms, that the reconstruction of these States under the several acts of Congress shall not be permitted to stand, but shall be overturned by military force if they get the power. They have announced that there shall be no peace in this country; that there shall be no settlement of our troubles except upon the condition of the triumph of those who have been in rebellion. This platform and these nominations are a declaration of renewal of the rebellion. Let me call your attention to a part of the eighth resolution in regard to this very question. In speaking of the reconstruction of the States, they go on to say that the power to regulate suffrage exists with "each State," making no difference between loyal States that have been at peace and States that have been in rebellion, putting them all upon the same footing:

"And that any attempt by Congress on any pretext whatever—"

That is, upon the "pretext" of the rebellion, if you please—

"to deprive any State of this right, or interfere with its exercise, is a flagrant usurpation of power which can find no warrant in the Constitution; and, if sanctioned by the people, will subvert our form of Government."

They declare that the interference of Congress with suffrage in States that have been in rebellion, though that interference may be absolutely necessary, as we have found it, to the reconstruction of the States, is unconstitutional,

that no justification can be found for it, and that it will subvert our form of government.

Mr. HOWARD. Read the rest of it.

Mr. MORTON. Yes, sir, I will read the balance of it:

"And can only end in a single centralized and consolidated Government, in which the separate existence of the States will be entirely absorbed, and an unequalled despotism be established in place of a Federal Union of coequal States, and that we regard the reconstruction acts (so called) of Congress, as such are usurpations and unconstitutional, revolutionary, and void."

This convention has called upon the rebels of the South to regard these governments organized by authority of acts of Congress by the people of those States as usurpations, unconstitutional, and void, and has thereby invited them again to insurrection and rebellion. That is what that resolution means. There is where the Democratic party has placed itself and its candidate, that there shall be no acquiescence in the action of Congress, but that continued resistance is and shall be their policy. They have replied to General Grant by saying, "There shall be no peace, but the war shall be renewed." There can be no other policy for that party unless it acquiesces. If it does not accept these reconstruction acts there can be no policy but that of resistance and a renewal of the war. They declare these reconstruction acts to be unconstitutional and void. Being void, nobody is bound to regard them; they have no authority over any one to coerce or to punish, and may be resisted by any one with impunity. That is not the language of this resolution, but it is the substance and the meaning of it; and in consequence of this it received the indorsement and the approbation of the hundreds of rebels who were in that convention from the South, men who organized the rebel government and organized and led the rebel armies in battle. This, then, is the issue, a continuance of the war; a renewal of the rebellion; because it is either that, or it is submission and acquiescence to what has been done.

But, Mr. President, we are not left to grope for the meaning of this convention; we are not left even to seek for it by inference. We have a letter of General Francis P. Blair, written, I believe, less than one week ago, and this letter has been indorsed by that convention this afternoon by his nomination as their candidate for the Vice Presidency. At least I am informed that he has been nominated.

Mr. POMEROY. Let us have the letter read. I want to hear it.

Mr. MORTON. It is as much a part of this platform as if it was incorporated in it, for the ink was hardly dry before it was indorsed by his nomination. I ask the Secretary to read the clause of this letter that I have marked.

Mr. CONKLING, Mr. POMEROY, and others. Let him read the whole letter, so that it can go into the Globe.

Mr. MORTON. I will ask the Secretary to read the whole letter, especially that which is distinctly marked.

Several SENATORS. Let us have the whole letter.

The PRESIDENT *pro tempore*. The letter will be read.

The Chief Clerk read as follows:

WASHINGTON, June 30, 1868.

DEAR COLONEL: In reply to your inquiries I beg leave to say that I leave to you to determine, on consultation with my friends from Missouri, whether my name shall be presented to the Democratic convention, and to submit the following, as what I consider the real and only issue in this contest:

The reconstruction policy of the Radicals will be complete before the next election; the States long excluded will have been admitted; negro suffrage established and the carpet-baggers installed in their seats in both branches of Congress. There is no possibility of changing the political character of the Senate, even if the Democrats should elect their President and a majority of the popular branch of Congress. We cannot, therefore, undo the Radical plan of reconstruction by congressional action; the Senate will continue a bar to its repeal. Must we submit to it? How can it be overturned? It can only be overturned by the authority of the Executive who is sworn to maintain the Constitution, and who will fail to do his duty if he allows the Constitution to perish under a series of congressional enactments

which are in palpable violation of its fundamental principles.

If the President elected by the Democracy enforces or permits others to enforce these reconstruction acts, the Radicals by the accession of twenty spurious Senators and fifty Representatives will control both branches of Congress, and his administration will be as powerless as the present one of Mr. Johnson.

There is but one way to restore the Government and the Constitution, and that is for the President-elect to declare these acts null and void, compel the Army to undo its usurpations at the South, disperse the carpet-bag State governments, allow the white people to reorganize their own governments, and elect Senators and Representatives. The House of Representatives will contain a majority of Democrats from the North, and they will admit the Representatives elected by the white people of the South, and with the cooperation of the President it will not be difficult to compel the Senate to submit once more to the obligations of the Constitution. It will not be able to withstand the public judgment, if distinctly invoked and clearly expressed on this fundamental issue, and it is the sure way to avoid all future strife to put the issue plainly to the country.

I repeat that this is the real and only question which we should allow to control us: shall we submit to the usurpations by which the Government has been overthrown, or shall we exert ourselves for its full and complete restoration? It is idle to talk of bonds, greenbacks, gold, the public faith, and the public credit. What can a Democratic President do in regard to any of these with a Congress in both branches controlled by the carpet-baggers and their allies? He will be powerless to stop the supplies by which idle negroes are organized into political clubs, by which an army is maintained to protect these vagabonds in their outrages upon the ballot. These and things like these, eat up the revenues and resources of the Government and destroy its credit—make the difference between gold and greenbacks. We must restore the Constitution before we can restore the finances, and to do this we must have a President who will execute the will of the people by tramping into dust the usurpation of Congress, known as the reconstruction acts. I wish to stand before the convention upon this issue, but it is one which embraces everything else that is of value in its large and comprehensive results. It is the one thing that includes all that is worth a contest, and without it there is nothing that gives dignity, honor, or value to the struggle.

Your friend,  
FRANK P. BLAIR,  
Colonel JAMES O. BROADHEAD.

Mr. MORTON. Mr. President, that is the Democratic platform: General Blair, whatever you may say of him, is a bold, outspoken man, and he spoke the sentiment of that convention. He says, "Upon these sentiments I want to stand before the convention;" and upon those sentiments he was nominated. Therefore, I say that the language of the Democratic convention at New York to the whole country is war; resistance by force of arms to congressional legislation; the overthrow by force of arms of the governments that have been erected in the rebel States under the laws enacted by Congress; the continuance of this rebellion; continuance of this struggle in a somewhat different form, but still the same struggle, contending for the same principles. It is now announced formally, not at Montgomery, not at Richmond, but at New York. The country need not be at any loss to understand the character of the contest upon which we are entering. It is not one of peace and acquiescence, of consolidation whereby the ravages of war may be repaired; but it is a new declaration of war; a new announcement of the rebellion under somewhat different circumstances, but under circumstances formidable, dangerous, and solemn. Let the country look the struggle in the face.

General Blair has said truly that all that is said about greenbacks and bonds and questions of finance is mere nonsense. The great issue is the question of overturning the new State governments by force, the restoration of the power of the rebels, or as they call it the white men's government in those States; and all the rest is leather and prunella. We owe a debt of gratitude to General Blair for his frankness. There need be no deception practiced now, and there can be none. There can be no other issue presented substantially to us but that of the future peace of this country. If Seymour shall be elected upon that platform he stands pledged to use the Army of the United States for the purpose of overturning the governments that have been established in the South by the voice of the whole people, and by that Army to place the power back again into the hands of the rebels. They were

there with him in that convention. They have given to him their counsel. They have indorsed Mr. Seymour, and the convention and all have indorsed General Francis P. Blair.

I know that we shall be told in the Northwest that they intend to have the same currency for the Government and the people, for the bondholder and the laborer. They will proclaim taxation of the bonds as the great issue upon which they expect to get votes; but that will all be a deception. The great issue underlying the whole contest—and we have the solemn declaration of their candidate for Vice President to that effect—will be the renewal of the war to overturn the State governments that have just been established under the acts of Congress. General Blair has relieved the Republican party of a great deal of labor. He has unmasked the enemy with whom we have to deal, and he has placed before the country the very issue, peace or war.

Mr. SHERMAN. There are now but fifteen minutes left before the time fixed for a recess, and I move that the Senate proceed to the consideration of executive business. There is some executive business that must be transacted.

The motion was agreed to.

The PRESIDENT *pro tempore*. Before the doors are closed, the Chair will receive a message from the House of Representatives.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had agreed to the amendments of the Senate to the following bills:

A bill (H. R. No. 420) to incorporate the Connecticut Avenue and Park Railway Company in the District of Columbia;

A bill (H. R. No. 650) to amend act of 3d March, 1865, providing for the construction of certain wagon-roads in Dakota Territory; and

A bill (H. R. No. 1068) to provide for certain claims against the Department of Agriculture.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 844) to incorporate the Washington Target-Shooting Association in the District of Columbia.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by President *pro tempore* of the Senate:

A bill (S. No. 542) for the relief of Thomas W. Ward, collector of customs at Corpus Christi, Texas; and

A bill (H. R. No. 1156) authorizing the Commissioner of the General Land Office to issue a patent to F. N. Blake for one hundred and sixty acres of land in Kansas.

#### WASHINGTON TARGET ASSOCIATION.

Mr. HARLAN. I hope the Senate will recede from its amendment to the bill which has just been returned to us from the House.

Mr. SHERMAN. You can do that in the morning.

Mr. HARLAN. It will not take a minute.

Mr. POMEROY. Let the title of the bill be read.

The CHIEF CLERK. A bill H. R. No. 844) to incorporate the "Washington Target Shooting Association" in the District of Columbia.

Mr. HARLAN. I will state that the Senate amended it by fixing the maximum capital at \$50,000. The bill itself fixed it at \$100,000.

Mr. SHERMAN. If it takes no time I will not object.

Mr. HARLAN. It will take no time. I move that the Senate recede from its amendment.

Mr. CONKLING. Is not this the amendment confining the transfer of real estate to the purposes of the bill?

Mr. HARLAN. No; it merely fixes the



maximum amount of capital the corporation may hold

Mr. CONKLING. Let us hear it read.

Mr. SHERMAN. I object to it. It will come up in the morning hour in the regular way. I desire an executive session for a particular purpose.

#### EXECUTIVE SESSION.

The Senate thereupon proceeded to the consideration of executive business; and at five o'clock the doors were reopened, and the Senate took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 1876) for the relief of the loyal Choctaw and Chickasaw Indians was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

The joint resolution (H. R. No. 238) for the donation of certain columns was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### DAMAGED ARMS AND ORDNANCE.

Mr. WILSON. The Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 292) directing the Secretary of War to sell damaged or unserviceable arms, ordnance, and ordnance stores, direct me to report it back without amendment and recommend its passage. I ask that it be considered now.

By unanimous consent the joint resolution (H. R. No. 292) directing the Secretary of War to sell damaged or unserviceable arms, ordnance, and ordnance stores, was considered as in Committee of the Whole. It is a direction to the Secretary of War to cause to be sold, after offer at public sale on thirty days' notice, in such manner and at such times and places, at public or private sale, as he may deem most advantageous to the public interest, the old cannon, arms, and other ordnance stores in possession of the War Department which are damaged or otherwise unsuitable for the United States military service, or for the militia of the United States, and to cause the net proceeds of such sales, after paying all proper expenses of sale and transportation to the place of sale, to be deposited in the Treasury of the United States.

Mr. BUCKALEW. I should like to understand whether the resolution applies to arms now on hand only, or does it confer a general power in all future time.

Mr. WILSON. I understand it to apply to such as we have on hand.

Mr. BUCKALEW. Then it should say so. Let it be read again.

The Chief Clerk read the joint resolution.

Mr. BUCKALEW. I move to insert the word "now" before the words "in possession."

Mr. WILSON. I have no objection.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the joint resolution to be read a third time. The resolution was read the third time, and passed.

#### KANSAS MILITARY EXPENSES.

Mr. WILSON. I move to take up Senate bill No. 214, to authorize the settlement of certain claims of the State of Kansas. It provides for a commission to examine the subject and report to Congress.

The motion was agreed to; and the bill (S. No. 214) to authorize the Secretary of War to settle the claims of the State of Kansas for services of the militia called out by the Governor of that State, upon the requisition of Major General Curtis, the commander of the United States forces in that State, was considered as in Committee of the Whole.

The Committee on Military Affairs and the

Militia proposed to amend the bill by striking out all after the enacting clause and inserting:

That immediately upon the passage of this act the President shall appoint, by and with the advice and consent of the Senate, two commissioners not residents of the State of Kansas, and shall detail one Army officer, whose duty it shall be to examine and audit the accounts of the State of Kansas for moneys expended in payment of the expenses of the militia called into service by order of the Governor upon the requisition of Major General Curtis, in 1864, to repel the invasion of General Price.

SEC. 2. And be it further enacted, That the commissioners so appointed shall proceed, subject to regulations to be prescribed by the Secretary of War, at once to examine all the items of expenditure made by said State for the purposes herein named, allowing only for disbursements made and amounts assumed by the State for enrolling, equipping, subsisting, transporting, and paying such troops as were called into service by the Governor at the request of the United States department commander commanding the district in which Kansas may at the time have been included, or by the express order, consent, or concurrence of such commander, or which may have been employed or used in suppressing rebellion in said State. And no allowance shall be made for any troops which did not perform actual military service in full concert and cooperation with the authorities of the United States, and subject to their orders.

SEC. 3. And be it further enacted, That in making up said account the commissioners shall state separately the amounts expended, respectively, for enrolling, equipping, arming, subsisting, transporting, and paying said troops; and they shall not allow for any expenditure or compensation for service at a rate greater than was at the time authorized by the laws of the United States and the regulations prescribed by the Secretary of War in similar cases; nor shall such compensation embrace a longer period than thirty days' service in any case.

SEC. 4. And be it further enacted, That as soon as said commissioners shall have made up said account and ascertained the balance, as herein directed, they shall make written report thereof, showing the different items of expenditure as hereinbefore stated, to Congress for final action.

SEC. 5. And be it further enacted, That the commissioners to be appointed as aforesaid shall, before proceeding to the discharge of their duties, be sworn that they will carefully examine the accounts existing between the United States and the State of Kansas, and that they will, to the best of their ability, make a just, true, and impartial statement thereof, as required by this act. They shall receive such compensation for their services as may be determined by the Secretary of the Treasury, not exceeding ten dollars per day for each commissioner. And the amount necessary to defray said expenses and the award made by the commissioners, not to exceed \$259,000, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in.

Mr. POMEROY. I believe the Senator from Massachusetts reported this bill with an appropriation of \$259,000. That is the limit, including the expenses of the commission. They cannot go beyond \$259,000.

Mr. WILSON. They can report anywhere within the limit of \$259,000.

Mr. POMEROY. The State has assumed a much larger amount.

Mr. WILSON. I know the claim is larger.

Mr. POMEROY. But as this is the amount that has passed the Senate once or twice I make no objection.

Mr. WILSON. We think it better to limit them to that amount; we do not want to throw the whole thing open.

Mr. POMEROY. I am willing that the bill should pass in this shape, as it has passed the Senate once or twice before. Indeed, I am very anxious that it should pass.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed. Its title was amended to read, "A bill to authorize the settlement of the claims of the State of Kansas for services of the militia called out by the Governor of that State, upon the requisition of Major General Curtis, to repel the invasion of General Price."

#### ARMY RULES AND ARTICLES.

Mr. WILSON. I move to take up the bill establishing rules and articles for the government of the armies of the United States. We nearly completed it some days ago, and I desire now to make a few small amendments.

The motion was agreed to; and the consideration of the bill (S. No. 529) establishing rules and articles for the government of the armies of the United States, was resumed as in Committee of the Whole, the pending ques-

tion being on the amendment of Mr. BUCKALEW, to insert after the words "within the theater of war," in the second line of the twelfth article, the words "and where the civil tribunals cannot act;" so as to make the article read:

In time of war or insurrection military commissions may be constituted, and shall, within the theater of war and where the civil tribunals cannot act, have jurisdiction, &c.

Mr. EDMUNDS. I had the impression that an amendment had been offered by the Senator from Connecticut [Mr. FERRY] that was designed as a substitute for that proposition, and which was more agreeable to the views of gentlemen on all sides of the Chamber, though I have forgotten what it was.

Mr. WILSON. I have the amendment proposed by the Senator from Connecticut, but I have shown it to the Senator from Pennsylvania, and he expresses his non-concurrence with it. I wish now to make a statement to the Senate in regard to this bill. I understand that the Military Committee in the House of Representatives have to-morrow in that House for their business. I was told so by the chairman of the committee yesterday, and they are very anxious to have this bill reach them so that they may act upon it. Situated as we are to-night, I am willing to let this section go out of the bill in order to get it to the other House and let them fix it as they please. If the Senator will agree to that course, I think it will be better, as probably the House of Representatives will have no other day but to-morrow to act on it.

Mr. BUCKALEW. The section to which the Senator refers I suppose is not at all necessary to the general scope and purpose of the bill. I think, therefore, it might be omitted without impairing the bill materially. It is simply declaratory. I was going to observe that the Senator from Nebraska [Mr. THAYER] intended to make a motion to strike out one of the later articles.

Mr. WILSON. He moved an amendment in regard to regular Army officers.

Mr. BUCKALEW. He intended to move to strike out the article which gave jurisdiction to military courts and commission over teamsters and contractors.

Mr. WILSON. I really think if the Senator from Nebraska were here he would not press that matter. It does seem to me that these teamsters, above all men, ought to be under the control of military tribunals.

Mr. BUCKALEW. I will not make it a point against the bill.

Mr. WILSON. I will let the twelfth article go out in order to get the bill to the other House.

Mr. BUCKALEW. In the latter part of the ninety-seventh article the words "or military commissions" are used in connection with "courts-martial." It will be necessary now to omit those words, and then the matter will be left to military courts.

Mr. WILSON. Well, I will agree to that. I propose to strike out, in line eight of article ninety-seven, the words "or military commissions." That will leave the persons covered by that article to be tried by court-martial.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. WILSON. I desire now to move an amendment, which is a mere matter of form. In the eighty-first article, after the word "any," in the sixth line, I move to insert "corps or staff department;" so as to read: "Brevet rank shall not take effect in any corps or staff department, regiment, troop, or company," &c. These words are left out by mistake originally.

The amendment was agreed to.

Mr. WILSON. In article eighty-two, after the word "officers," in the fourth line, I move to insert the words "unless such officers are at the time in command of their own or other troops." It is a mere matter of form.

The amendment was agreed to.

Mr. BUCKALEW. I now make a formal motion to amend the bill by striking out the twelfth article, the one referring to military commissions.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

JOHN POTTS.

Mr. MORRILL, of Vermont. I move to take up the bill reported by the Committee on Claims for the relief of John Potts.

The motion was agreed to; and the bill (S. No. 595) for the relief of John Potts was read the second time, and considered as in Committee of the Whole. It provides for the payment of \$3,500 to John Potts, chief clerk of the Department of War, for services as disbursing clerk from 1861 to July 1, 1868, and declares that it shall be lawful hereafter to pay the disbursing clerk of the Department of War the sum of \$200 yearly in addition to his salary, whether such officer shall have been appointed from the clerks of class four or from a higher grade, any existing law to the contrary notwithstanding.

Mr. MORRILL, of Vermont. There is a written report; but I can state the case more briefly, I think, than it is stated in the report. Mr. Potts has performed the duties not only of chief clerk but of disbursing clerk of the War Department ever since 1861, and has disbursed very large and extraordinary sums for that Department, amounting in all to something like nine million dollars. The labor has been very severe, and it has been performed with great faithfulness and accuracy; and yet, because he was chief clerk, he could draw no pay for it. The law existing on this subject confines the appointment of disbursing clerks to clerks of the fourth class who receive a salary of \$1,800 per annum. I suppose that Mr. Potts has really saved the Government the expense of an extra clerk. The claim is recommended by the various Secretaries of War. When General Cameron was Secretary he sent a communication to the other House asking that the law be changed so that payment might be made, and Secretary Stanton has also asked that the claim be paid.

Mr. BUCKALEW. I desire to ask the Senator what the compensation of this chief clerk is?

Mr. MORRILL, of Vermont. His salary is \$2,000 as chief clerk. This bill allows a compensation of \$500 a year as disbursing clerk up to the present time and hereafter of \$200.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

UTAH DISTRICT COURTS.

Mr. COLLE. I move to take up Senate bill No. 576, which was reported a day or two ago from the Committee on the Judiciary.

The motion was agreed to; and the bill (S. No. 576) relating to the district courts of Utah Territory was considered as in Committee of the Whole. It provides that the Governor of Utah Territory, shall assign the district judges of that Territory to their respective districts, and appoint the time and place of holding court in each of the districts.

The Committee on the Judiciary proposed to amend the bill by adding, "not exceeding two terms in each district in any one year."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

PORT GRATIOT RESERVATION.

Mr. HOWARD. I move to take up House bill No. 550, providing for the sale of a portion of the Fort Gratiot reservation in Michigan. It is a local bill that has passed the House of Representatives.

The motion was agreed to; and the bill (H. No. 550) providing for the sale of a portion of the Fort Gratiot military reservation in St. Clair county, in the State of Michigan, was considered as in Committee of the Whole. The Secretary of War is to be authorized to sell, at such times as he may deem most advantageous to the interest of the Government, and in such manner as hereinafter provided, all that portion of the military reservation known as Fort Gratiot, in St. Clair county, in the State of Michigan, which lies south of a line running due west from the south end of the Grand Trunk railroad wharf, on the St. Clair river, until it intersects the road known as the Lexington road and all that portion which lies west of the Lexington road. All that portion of these lands which lies east of a line running due south from the point of intersection with the Lexington road is to be divided into blocks and lots of convenient size for building purposes, with public streets conforming as near as may be, without detriment to the interests of the Government or the State, to the public streets of the city of Port Huron, adjoining such ground, and sold by lots at public auction, at the city of Port Huron, to the highest bidder, public notice of such sale having first been given for thirty days by advertisement in all the papers published in the city of Port Huron, and in at least two papers published in the city of Detroit, Michigan. A plat of this division, made in accordance with the laws of the State of Michigan, is to be filed with the register of deeds of the county of St. Clair. The remaining portion of the military reservation, for the sale of which provision is made, is to be sold at public auction at the city of Port Huron, after due notice, at such times and in such parcels as may be deemed most advantageous to the interest of the Government, by the Secretary of War. The proceeds arising from the sale are to be paid into the Treasury of the United States in the same manner as the proceeds from the sale of other public lands.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

O. N. CUTLER.

Mr. HOWE. I move to take up Senate bill No. 591.

The motion was agreed to; and the bill (S. No. 591) for the relief of O. N. Cutler was read the second time, and considered as in Committee of the Whole. It proposes to appropriate to O. N. Cutler the sum of \$50,000, in full compensation for two hundred and sixty-eight bales of cotton seized by order of General Ulysses S. Grant, at Lake Providence, Louisiana, the property of Cutler, and used for military purposes in equipping the steamer Tigress, for running the blockade of the Mississippi river, at Vicksburg, in the month of April, 1863, and destroyed.

Mr. WILLIAMS. That bill appropriates \$50,000, and I think it needs some consideration. I examined the report this morning, and I was not quite satisfied that a bill of that description ought to pass at all. It simply amounts to paying for property that was taken in the southern States for the necessities of the war. The question is presented to us in this bill whether or not we will adopt the policy of paying in the southern States for property that was taken for the purpose of prosecuting the war.

Mr. HOWE. I did not suppose there would be any objection to the bill; there was none in committee; but the Senate is very thin, and I do not want it considered now if there is any objection to it. I move to postpone the bill until to-morrow.

The motion was agreed to.

PUBLIC LANDS IN UTAH.

Mr. POMEROY. I move to take up for consideration House bill No. 202.

The motion was agreed to; and the bill (H. R. No. 202) to create the office of surveyor general in the Territory of Utah, and estab-

lish a land office in said Territory, and extend the homestead and preemption laws over the same, was considered as in Committee of the Whole.

The first section proposes to authorize the President, by and with the advice and consent of the Senate, to appoint a surveyor general for the Territory of Utah, whose annual salary shall be \$3,000, and whose power, authority, and duties shall be the same as those provided by law for the surveyor general of Oregon. He shall have proper allowances for clerk hire, office rent, and fuel, not exceeding what is now allowed by law to the surveyor general of Oregon.

The second section provides that the public land within the Territory of Utah, to which the Indian title is or shall be extinguished, shall constitute a new land district, to be called the Utah district; and the President is to appoint, by and with the advice and consent of the Senate, a register and receiver of public money for that district, who shall be required to reside at the places at which said offices shall be located, and shall have the same powers, perform the same duties, and be entitled to the same compensation as are or may be prescribed by law in relation to land offices of the United States in other Territories.

By the third section the Secretary of the Interior is hereby authorized to locate the offices of surveyor general and register and receiver of public moneys at some suitable place or places in the Territory.

The fourth section extends the preemption and homestead and other laws applicable to the disposal of the public lands over the district.

The Committee on Public Lands proposed to amend the bill in section two by striking out the word "land," in line one, and inserting "lands of the United States," and by striking out in lines two and three the words "to which the Indian title is or shall be extinguished;" so as to make the section read:

That the public lands of the United States within said Territory of Utah still constitute a new land district, &c.

The amendment was agreed to.

The next amendment was in section four, line two, to strike out the word "homestead," and after "laws," in the same line, to insert the words "of the United States;" so as to make the section read:

SEC. 4. And be it further enacted, That the preemption, homestead, and other laws of the United States applicable to the disposal of the public lands are hereby extended over said district.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

ELECTORAL VOTES OF LATE REBEL STATES.

Mr. EDMUNDS. Now I ask that the business regularly before the Senate may be proceeded with.

The PRESIDENT *pro tempore*. The joint resolution (S. R. No. 139) excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized is before the Senate as in Committee of the Whole.

Mr. DAVIS. I move that the Senate do now adjourn.

The question being put, there was one vote in the affirmative.

Mr. BUCKALEW. I believe the question pending is on the amendment of the Senator from New York, [Mr. CONKLING,] who is absent this evening. It is not possible, therefore, to have an explanation from him of his particular proposition in contrast with the original measure and the amendment offered by the Senator from Missouri, [Mr. DRAKE,] but as I desire to say a few words generally upon the subject involved in the measure, I suppose I had best seize the present occasion, as we are approaching the end of the session, and I am very anxious to do no single act which shall delay the arrival of that much wished for day.

Mr. DAVIS. If the honorable Senator will permit me I desire to make a suggestion. I want to go to my room because I have a very sick headache. I desire to speak some twenty or thirty minutes on the subject. If the understanding should be to-night that I shall have that opportunity in the morning, I have no objection to this matter going on; but I do not feel well enough to remain here and say what little I have to say on this subject to-night, and I therefore would prefer that gentlemen should understand that the question will not be pressed before morning.

Mr. EDMUNDS. It is perfectly obvious that it would be useless to press the question to-night as there is no quorum to-night, and at this hour it is not at all likely that there will be. I feel authorized for one, therefore, to say to the Senator from Kentucky that I shall not ask the Senate to vote to-night in the absence of a quorum, as there is not a quorum present now.

Mr. DAVIS. That is entirely satisfactory to me. I withdraw the motion I made.

Mr. BUCKALEW. Before speaking on this subject I should like to know which one of the three propositions that have been presented to our attention is the result of the caucus consultation among the majority of the Senate.

Mr. EDMUNDS. What did I understand the Senator to say?

Mr. BUCKALEW. I should like to know which one of the three propositions is acceptable to or accepted by the majority of the Senate upon consultation among themselves. It is hardly necessary to expend logic upon the two propositions which are not likely to obtain assent in that quarter. As the thermometer is now at a very high figure, it would, indeed, be a very bad expenditure of energy and time. I should like, therefore, to confine myself to the one proposition which has a sanction or some pretense of sanction before it comes up regularly for debate.

Mr. EDMUNDS. I should be very happy, for one, to gratify the honorable Senator from Pennsylvania if I was any wiser upon that subject than he is; but inasmuch as the Republican party always acts from the individual judgment of its members, and the Democratic party never does, and the Republican party therefore generally divides, and the Democratic party never does, and inasmuch as there has been no consultation on this subject, I must leave it to the genius of my friend to discover which he thinks is most likely to be acceptable to Republicans.

Mr. BUCKALEW. Mr. President, the Senator from Indiana, [Mr. MORRIS,] this afternoon argued at great length to convince the Senate that the expressed opinion of one individual member of the Democratic party was the platform of the party. He went to the extent of having such an expression of opinion read by the Chief Clerk of the Senate and sent forth to the country. Now, the Senator from Vermont lays down a very different doctrine. He insists that the opinions of an individual member of a party go for nothing.

Mr. EDMUNDS. Of the Republican party, I said.

Mr. BUCKALEW. Of the Republican party? I suppose the same principles of reasoning will apply to one political organization that do to another.

Mr. EDMUNDS. Not by any means.

Mr. BUCKALEW. Human nature will be very much the same however men may be arranged under particular party names or designations.

Mr. President, the Senator from Indiana this afternoon exhibited a degree of zeal and promptness in the performance of public duty which entitles him, perhaps, to some words of commendation, even from one who does not ordinarily think with him or act with him in public affairs. We received somewhere about two o'clock this afternoon by telegraph the announcement of the nominations made at New York. Thereupon the Senator from Indiana was found upon his feet before five o'clock with a regular piece of declamation,

eloquent in its terms, and earnest in its delivery, against one of the candidates. Within one hundred and fifty minutes after the nominations took place in the city of New York the Senator from Indiana was upon duty. He is in the advance guard and may be put down in the political history of the country as having made the opening speech of the campaign of 1868. He made it under somewhat unfavorable circumstances, without the opportunity of much previous deliberation, when the temperature was exceedingly inconvenient, and when the Senate itself was much fatigued.

The Senator from Indiana, instead of commencing with the chief candidate put in nomination at New York, flies at humbler game. He selects the gentleman who has been named for the office of Vice President for the advantage or the disadvantage—which ever it may be—of his criticism and censure. He had read and sent forth to the country a letter written by that gentleman recently, giving his expression of individual opinion as to the proper course to be pursued by the successful candidate for the Presidency of the United States; that he should repudiate the legislation of Congress on the subject of reconstruction, that he should hold it as invalid, and by an energetic exercise of popular and of legal power with which he would be clothed in consequence of his election defeat what has been done and send back this subject of reconstruction in the southern country for another determination by the people concerned. The Senator had that letter read, and then he announced to us and to the country that that was the platform of the Democratic party. It was a little unfortunate that, after he had taken here that ground, his friend, the Senator from Vermont, to-night asserts a very different doctrine, namely, that a party is not bound by the expression of opinion which may proceed from an individual member. I beg to tell the Senator from Indiana that that letter was written by General Blair as a declaration of his own individual opinion. It was so expressly declared, and it is most clearly so to be taken. He announced his ground as a candidate for the presidential nomination. He was not, however, nominated for that office, and his declaration of opinion looking to such nomination may be held as of little consequence. Now, sir, what the Senator should look to when he is concerning himself with the platform of the political organization to which he is opposed, is the official record as made up by the nominating convention.

Mr. STEWART. I should be very much gratified to learn if you indorse that platform?

Mr. BUCKALEW. I will answer the Senator's question in due time; I am now attending to the Senator from Indiana. The Senator from Indiana, by referring to what was done by the convention at New York when its proceedings come before him, will find that there was a platform adopted by the convention for itself. It took no man's individual opinions and indorsed them; it received no letter as official and authoritative exposition of its doctrine, of its faith, of its opinions, or of its future policy. It made its own platform, full and complete, upon all the leading questions which are now before the country in our political discussions; and by referring to that platform the Senator can get a distinct understanding of the various points of debate which will be considered in the coming campaign.

As to the personal opinions of General Blair himself, he is competent to answer. It is not incumbent upon me, it is not incumbent upon the Democratic party, to answer for him. He gave an expression of his opinion of what would be inexpedient in a certain future contingency. What he and the mass of those concerned in the nominations at New York agree upon is this: that the legislation of Congress for the reorganization of the southern States is not warranted by the Constitution of the United States; that by that instrument Congress has no power to prescribe the rule of suffrage in any one of the States; that Congress has no power to admit a State to representation in

Congress upon conditions or terms relating to suffrage or relating to anything else which belongs to State policy alone; that Congress has no power to admit a State to representation in Congress upon fundamental conditions which shall place that State on a different footing from the other States which compose the American Union; that Congress has no power by the establishment of military authority in a State, superseding all civil authority and civil power, to organize after its own fashion and according to its own pleasure the civil institutions of a State. Much more, and beyond all this, that it is beyond any possible construction of the Constitution that Congress shall admit States as it has admitted the States of Arkansas and Alabama, with, in the one case, a constitution rejected under the very law which authorized the proceeding of reconstruction, and, in the other case, a constitution manifestly rejected by a popular vote of the people, and only sent here and approved by Congress because a mass of between two and three thousand utterly illegal votes were taken during a protracted period of some eighteen days by certain election officers in that State.

Upon all these various matters pointing to the invalidity of that scheme of reconstruction which has been adopted by Congress and pursued by it down to this time, all parties concerned in the convention in New York and all who agree with them in opinion stand upon common ground; and that agreement and that opinion are expressed in the platform which was adopted. But as to a question in the future, as to what should be or what may be done after a presidential election shall have taken place and some man shall have been elected to the presidential office by virtue of Democratic votes, there is no decision and there is no position taken; and manifestly this arises from the very necessity of the case. It is impossible that a large association of men concerned in the business of making a nomination should now foresee what will be the condition of the country at that future time. It is impossible now to foresee what States will vote for the respective candidates who will be before the people for their support. It is impossible to foresee what will be the course of electoral action in the southern States themselves. In short, it is impossible now to take into account or even to conceive in an intelligible manner all the mass of facts and circumstances which will surround this question of reconstruction after the election in November next, much less to conceive how they will stand subsequently after Congress shall have reassembled and after further measures shall have been passed by it upon this subject. I take it for granted that the majority in Congress are not done with this question of reconstruction; they will be found enacting laws upon it next winter as they have been engaged in enacting such laws for several winters and for several sessions past. Now, then, from the very necessity of the case a large body of men, looking to the present condition of things and concerned in their platform only with the declaration of general principles and with general views upon public policy, could not specifically state to the country, nor was it expected that they should, what particular line of action they would adopt next year if successful at the coming election. There is, therefore, no declaration of opinion on that subject; and the Senator from Indiana has only the expression of the individual opinion of the gentleman who was selected not for the principal office of the country, but selected for the second and subordinate office. He has the advantage of knowing what that gentleman's opinions are and of discussing them before the country, and so far as he is concerned holding him responsible for what he has said.

Mr. President, inasmuch as this question is up, as it has been raised by the Senator from Indiana, I will restate what I have stated before at the present session. As things now stand in this country, I am of opinion that the



presidential election of 1868 must be decided by those States which are now represented in Congress. Of course I, in common with half at least of the electoral population of the United States, believe that this whole system of reconstruction is invalid under the Constitution, and that it can have no validity in future time except it get it from popular assent. I agree that if the people concerned in the southern States shall acquiesce in that system in the course of time it may become valid, just as in the case of a corporation where, by a supplemental act, the purpose or object of the corporation is entirely changed and there is a right in any one of the corporators to object to that change and to take the supplemental act into a court of law or a court of equity and have it pronounced invalid and to escape its operation altogether; yet if such stockholder stand by, if he acquiesce in what is done by his corporation in accepting the supplement and acting under it, in the course of time he, as well as all others concerned in the corporation, become bound by the law. And just so in the case of the States of the South with which our legislation is concerned. If the inhabitants of those States shall accept this system of reconstruction, if they shall proceed to act under the laws relating to it, and by open and notorious conduct through a series of years shall give to that system their assent and acquiescence, they may become bound by it.

The Senator does not expect that consummation; at least he does not expect it within a reasonable time. All the apparent assent that he will get from the great mass of the white population of the South in the present year or within any reasonable period of time will be coerced; it will be given under duress; it will not constitute a sanction for his legislation. Although these persons may go to some of the elections and formally vote, yet, protesting as they will against the entire system, you cannot infer their assent and their acquiescence.

But there is another kind of acquiescence and assent—from my point of view less conclusive, but, perhaps, for all practical purposes equally efficacious—which is the assent of a majority of the people of the northern and adhering States deliberately given. That has never been given to your system of reconstruction. It is only necessary to refer to notorious facts to establish this.

In 1866 you sent down to the Legislatures of the several States a constitutional amendment for adoption, which proposed some half a dozen things all in one amendment combined, united together, and to be accepted or to be rejected as an entire thing. You held your elections for the present Congress in that year, and in view of that proposition of constitutional amendment, and you obtained majorities in most of the adhering States. But there has been since that time no general popular election throughout the northern States to select members of Congress; and you now go to the people for the first time upon all these measures which you have adopted since 1866. You now submit to them in the elections of the present year your reconstruction act of March 2, 1867; of March 23, 1867; of July 19, 1867; and of the 11th of March, 1868, and the more recent acts readmitting certain of those States of the South to renewed representation in the two Houses of Congress. All this body of legislation is to be submitted by you to the people in the adhering States for the first time in the elections of the present year. They have never pronounced their opinion upon the reconstruction laws except indirectly and partially in the elections of last year; and as there was then no choice in most of the States of members of Congress, as the elections were mainly for State officers alone, their expression of opinion was not so distinct and emphatic as it will be the present year, when the gentlemen in the other House of Congress who have been voting upon these measures go home and submit themselves once more to the judgment of their constituents, to be reelected or to be condemned, as the case

may be, and according as the currents of public opinion may run in their several districts.

What I have to say then, Mr. President, is this: you are to go to the people of the adhering States now represented in Congress, and submit your policy to their judgment. If you get their concurrence and their approval, you will have a sanction for your course, for pursuing the policy which you have heretofore adopted and pursued.

This leads me to the third thought which I intended to present in rising to speak in answer to the Senator from Indiana. The first idea already mentioned is that your reconstruction system must receive to its justification a popular sanction in the States directly concerned, which must be the work of time if it shall ever be given. In the next place, an inferior sanction, but one which may be thought efficacious, may be given in the adhering States, North, West, and in the central section of the Union where your policy upon reconstruction has never yet been submitted, has never yet been approved. They may give an indorsement (though not a justification) of what you have done. But now there is a third mode or manner of obtaining assent and approval, or at least indorsement of your policy, which some gentlemen propose, and which is indicated in the present measure; and that is this: that although you may despise the assent of the white population in the southern States, although you may not require that it shall be given to your policy, and although when you go to the people of the adhering States a majority may decide against you, may condemn the policy of reconstruction which you have adopted, you will still have a resource in the extremity of your fortunes.

This bill points to it. What is the bill? That the States of the South that you have admitted here into Congress shall vote in the presidential election, and that those that you do not receive and approve shall not vote.

That is your proposition, to pick out certain of these States and count their electoral votes and to refuse votes to the others. This is a most extraordinary proposition. One thing is certain, it will not be misunderstood; it will be perfectly comprehended in this country from one end to the other; that you shall not have the assent of the people in the South to your work of reconstruction, those who were formerly electors, recognized as such; that you shall not have the assent of a majority of the adhering States to your work; but that you shall make up and count up a majority by picking out States, by selecting among them, counting the votes of such as you please, and rejecting the votes of the others. That is this bill, and it is to be sent forth at the present session as a parting gift by the Fortieth Congress to the American people.

Virginia is not to vote. Why shall she not vote? Let me take the case from your standpoint, departing for the time being from mine. You have said that these ten States of the South shall be restored to representation in Congress and in the Electoral Colleges upon a particular scheme which you have devised, with certain supplemental or fundamental conditions added as a sort addendum to the system, when the States actually come here through their representatives. Now, the proceeding has been perfected in seven States, and their electoral votes are to be counted; but how is Virginia to stand? A convention was held and a constitution formed some time since. The convention adjourned, and what was the next information we had? There was to be no election because there were no funds for holding it. All the moneys which you had voted to the purposes of reconstruction, so far as the share of Virginia was concerned, were exhausted, and the election could not be held. That was announced, and the information sent here. What was done? Nothing. We have voted money for almost every imaginable object except holding an election in Virginia, and I take it for granted there is to be no appropriation at the present session.

We have had committees in both Houses laboriously engaged in seeking out all the corners of our revenue and of our expenditure systems; but never once has a committee in either House cast its glance upon this State of Virginia and upon the pressing demands of reconstruction there. No election has been ordered, no money has been voted, no step taken to perfect the work which was begun and carried on to the point of a formation of a constitution in that State; and you are about to adjourn, leaving her in that condition, without the necessary means to hold the election under your own reconstruction laws; and now you are about to pass a bill to prevent her holding voluntarily an election for presidential electors and casting her vote in an Electoral College. You forbid her to act even by the registered voters whose names have been enrolled under your own laws and with the cooperation of the authorities which you yourselves have set up in that State.

What are we to understand by this? Why, evidently, that some gentlemen think that the vote of the State is not certain to be cast in the direction they desire.

Mississippi is also to be counted out, though I believe they are holding an election in that State. There is Texas also. Why should she not vote? One thing is certain. The majority in Congress have had complete control over this whole subject from the beginning, and there has been no indisposition to exercise that control. It only needed the will, and each one of these three States would now be in the same situation as the other seven, or, at all events, there would have been an election held in each and a decision made upon the question of the acceptance or rejection of a constitution in conformity with the reconstruction laws.

Mr. President, can any one state a reason founded upon any principle of equality and fairness why three of these States should by act of Congress be forbidden to vote in the presidential election, while the other seven are permitted? Especially, can there be any justification for this bill when the majority in Congress is itself responsible for the whole management of reconstruction, and for the existing condition of all these States? I pass, however, to another consideration.

Why should this bill be passed with reference to any purpose of counting or rejecting electoral votes? What necessity is there for it? Next winter the same Senate and the same House of Representatives will convene. They will be in session until the 4th of March, when the Congress will expire. They will possess the same powers which they now hold, and may now exercise. If there be any necessity to pass any law in regard to the counting of electoral votes it can be done then and done by the same men who will now pass this bill.

There is no necessity for passing a bill of this kind at present in order to avoid difficulty in the counting of electoral votes. Is not this but anticipating trouble which may never arise? Do you know that there will be any controversy to settle at all by such a law? It is all conjecture. You are borrowing trouble from the future of which you have no evidence, and which if it shall come may be determined when it comes better than now. Why, then, I repeat, should this bill be passed at present?

Mr. EDMUNDS. Will my friend from Pennsylvania permit me to ask him a question? Mr. BUCKALEW. Certainly.

Mr. EDMUNDS. I wish to ask my friend whether he thinks that the appropriate method of determining such a question is by the joint convention of the two Houses when they meet to count the votes, or by a rule prescribed by law in advance?

Mr. BUCKALEW. I am coming to that. The question anticipates the course of my remarks. Assuming that you have power to pass such a bill, can it not be passed at the next session of Congress, as well as now? Can it not meet an actual emergency when it is known better than anticipate it before it has occurred?

But, sir, have you the power to pass such a bill? That is a question hitherto unnoticed. The Constitution says that each State may vote for electors of President and Vice-President, as the Legislature of the State may direct; that those votes shall be transmitted to the President of the Senate, and then in joint convention of the two Houses they shall be opened and counted. The Constitution addresses itself to the Legislatures and citizens of the respective States so far as regards the choice of electors and the casting of electoral votes. Electors are to be chosen as the State itself shall prescribe. Then they are to vote in an Electoral College. So far the Constitution addresses itself to the States. It addresses itself to the President of the Senate in enjoining him to receive the electoral votes. It commands the two Houses of Congress to convene when those votes are counted. But where is the authority to the two Houses of Congress to pass laws regarding the choice of electors in the several States?

Mr. EDMUNDS. Will the Senator permit me to ask him another question?

Mr. BUCKALEW. Certainly.

Mr. EDMUNDS. Suppose there should happen to be from the State of Pennsylvania two sets of votes returned to the President of the Senate from what purported to be and ostensibly were two sets of electoral colleges, each claiming to represent the vote of the State of Pennsylvania; is the President of the Senate to settle which of the two represents the voice of that State, or who is to do it?

Mr. BUCKALEW. The Senator is simply anticipating the points to which I am coming.

Mr. EDMUNDS. Well, go on, then.

Mr. BUCKALEW. The Constitution, I say, addresses itself to the States. It does not address itself to Congress except in the single particular of convening at the counting the votes. Where, then, is your grant of power to say when a State shall vote and when it shall not; to prescribe how and under what circumstances it shall vote? You have no jurisdiction over the subject-matter. Your interference with it, if I may be allowed the expression, a pure impertinence, because it is not among the duties which have been charged upon you by the Constitution.

Mr. President, the question of a contested presidential election is one of the most delicate and difficult which can engage the attention of any gentleman who studies our political system and takes into account the dangers to which it may be subjected in future time. A provision for determining a contested election has not been pointed out; and the only inference of power that can arise from an express provision of the Constitution arises upon that provision which confers upon the two Houses the power, or rather prescribes the duty, of convening together when the votes are counted. The duty is charged upon the President of the Senate to open the returns and to announce them before the two Houses. Upon a celebrated occasion the President of the Senate, in opening the returns when there was a question with reference to the vote of a particular State, directed the result to be announced as it would stand if the vote of that State were counted and to be announced, also, as it would stand if the vote of that State were not counted. Very prudently and properly at that time the question of how a difficulty in regard to the counting of votes should be determined was passed by, because the necessity did not exist for deciding it, the result would be the same whether the vote of the State should be counted or should be rejected.

Therefore, speaking in the light of our history, and speaking with reference to any express provision of the Constitution of the United States, I am authorized to say, and I do say, that the question propounded to me by the Senator from Vermont is an open question; it has received no adjudication; it has not been decided. It is one upon which gentlemen are entitled to hold opinions such as they can form from the exercise of their best judgment.

Mr. EDMUNDS. I wish to know what the Senator's opinion is in order to guide my own.

Mr. BUCKALEW. Several years ago, the year before the close of the war, when it was impossible—I use the word with reflection—that presidential elections should be held in the States of the South, and when there was an attempt, countenanced to some extent even by Mr. Lincoln, to choose electors in those States, Congress passed a joint resolution on that subject. What was it? It was not a law. It was not in the nature of a law. The authority and the propriety of passing it, the Senator will find by referring to the debates of that time, were very much questioned, and there was a large vote in the Senate against passing it, given upon the ground that as a legislative body we had nothing to do with the question. Finally the resolution was passed, declaring in the then existing condition of those States their electoral votes could not be taken and should not be counted. It was the declaration of a fact of which most were fully convinced and against which view there was very little pretense of argument.

The war was then going on. It extended over every one of those States. We had but partial, limited possession of some parts of some of them, and very irregular and frail provisional governments were maintained by our bayonets. They were in such condition—I think that was the very word used in the resolution—that as a matter of fact they could not vote, and that joint resolution simply declared the fact, and there was then (even by many of those who voted for that measure) a denial of any power in Congress to admit or to forbid the voting of a State.

Mr. EDMUNDS. Will the Senator permit me to correct him?

Mr. BUCKALEW. The Senator had better hear me conclude on this point.

Mr. EDMUNDS. I merely wish to correct the Senator on a matter of fact as to the point he is now stating if he will permit me to do so. It appears from the debates that two gentlemen at least—I only remember these at the moment—who are now with my honorable friend, the three great lights of the Democratic party in this body, its representative men, the Senator from Wisconsin [Mr. DOOLITTLE] and the Senator from Maryland, who left us to-day, [Mr. JOHNSON], found fault with that provision upon the ground that the provision ought to have been made for such an emergency by a law passed antecedent to the fact upon which it was to operate; that is to say before the election; and that it was one of the highest duties of the legislative power under the Constitution to make such a regulation; and I will read the evidence to the Senator whenever he wants it.

Mr. BUCKALEW. The correction was quite unnecessary. I said that many of those who supported that measure held to the view I stated. I will add that most of the supporters held that it was a convenient measure as a rule or direction to the presiding officer of the convention, as a rule of order, as a declaration of the opinion of the two Houses; not as a law which would bind that convention when it was convened.

Mr. EDMUNDS. Did you not vote for it in the form of a law?

Mr. BUCKALEW. In the form of a resolution.

Mr. EDMUNDS. A joint resolution?

Mr. BUCKALEW. Yes; in the form of a joint resolution. It was a declaration of Congress put in the form of a joint resolution and passed through the two Houses, announcing their judgment upon the condition of things in the South, and that, as the case stood, it was impossible that they should vote or that their votes should be received in the Electoral College.

Mr. EDMUNDS. They had voted.

Mr. BUCKALEW. There was no pretense of a denial of right. No man who voted for that resolution supposed there was any right to vote in a State that was incapable of voting,

incapacitated in the very nature of the case. Those States had been engaged in the rebellion from the beginning. They were then engaged in flagrant open war against us, and I, for one, thought it shocking that one tenth of the population of one of those States should wield the whole electoral vote of the State, that any pretense should be made that such a one tenth part of a fugitive, straggling population within military lines should in this Government of ours claim that they had capacity to wield the political power of that State in this Government, to vote down the freedom of the northern States who were then engaged in behalf of this Government against those States to repress the insurrection which had broken out in them.

That congressional declaration stood upon those grounds, and the only question that then arose in my mind and in the minds of others was that the precedent might be misconceived and misapplied hereafter. There was hesitation for that reason with some gentlemen. If I had anticipated that it was to be cited as a precedent for a law which in time of peace should deprive any State of this Union by act of Congress of its right to poll electoral votes, I should have looked upon it as a much more important measure than I then regarded it, and one of an exceedingly pernicious character.

What right have you to say whether the State of Georgia shall vote or not, as a Congress, as a legislative body? Where did you get your authority? Under what clause of the Constitution? Under what inference from or construction of any clause? There is nothing of the sort. If you can deliberately say that the State of Georgia or the State of Arkansas shall not vote, and make your declaration a law, what is to hinder you from passing a law applicable to Pennsylvania in which you shall say that her vote shall not be counted? You may say that you have a better reason in the one case than you can suppose you would have in the other; but if the power be granted its exercise must be in the discretion of Congress. You have no such power. I can understand gentlemen who argue that when from a particular State votes are sent to be opened before the two Houses convened together under the direction of the Constitution there must be, by necessary implication, power of judgment upon the return vested in the two Houses. That is intelligible. It is not necessary now to argue whether it is a good opinion or not.

#### MESSAGE FROM THE HOUSE.

The PRESIDENT *pro tempore*. Will the Senator give way to receive a message from the House of Representatives?

Mr. BUCKALEW. Certainly.

Mr. McPHERSON, Clerk of the House of Representatives, appeared below the bar and said: Mr. President, I am directed to inform the Senate that the House of Representatives has passed a bill (H. R. No. 1381) providing for an election in Virginia, in which it requests the concurrence of the Senate.

Mr. BUCKALEW. You see, Mr. President, by the announcement from the House of Representatives the impropriety of the bill now before the Senate. By the bill we are considering provision is made that although the State of Virginia may hold an election under your reconstruction laws and adopt a Constitution, yet she shall not vote in the Electoral College unless Congress receives her, admits her to representation, which is not to be expected at the present session.

Mr. EDMUNDS. Why is that impossible?

Mr. BUCKALEW. It is impossible to hold an election in Virginia and receive her representatives if we adjourn within any reasonable time.

Mr. EDMUNDS. The bill does not require that we shall receive her representatives.

Mr. BUCKALEW. Mr. President, there is an old saying in a good book which is very applicable to this bill, "Sufficient unto the day is the evil thereof." I have already endeavored to point out that the very same Houses of Congress that are now in session will be in session

for months before this duty of opening electoral votes comes to be charged upon them or to be performed before them. I have pointed out that by this legislation you yourselves under your own system deal unequally with the States of the South which you are attempting to reconstruct. Why should a man in Texas be forbidden to vote by an act of Congress which allows a vote to a man in Georgia? I should like that very plain question answered.

Mr. EDMUNDS. Does the Senator want that answered now?

Mr. BUCKALEW. Certainly.

Mr. EDMUNDS. For the same reason that in 1865 upon the Senator's vote an elector in the State of Pennsylvania was permitted to vote and was not permitted to vote in the State of Georgia; that is to say, that the rebellion has left the State of Texas in such condition that she has not yet been reorganized. I do not know but that it would suit the purposes of my friend quite as well to have her vote in a rebellious condition as well as an organized condition. He can answer for that.

Mr. BUCKALEW. The Senator's flippant observation does not touch my point. The resolution of 1865 was passed upon the ground that it was impossible for the people to vote, because it was the theater of actual war. A bill passed now that a man in Texas shall not vote stands upon no ground of impossibility; it stands upon the pleasure, or rather upon the will of Congress. There is no difficulty in taking votes in Texas, and has been none for three years. They have voted long since upon the subject of holding a convention under your own laws, and other elections have been held there. There is no incapacity in Texas.

Mr. EDMUNDS. What elections have been held under our law in Texas?

Mr. BUCKALEW. An election for members of the convention.

Mr. EDMUNDS. Did they hold a convention?

Mr. BUCKALEW. The Senator goes off on a new question.

Mr. EDMUNDS. They voted that they would not reorganize; that they would not have any convention.

Mr. BUCKALEW. I am speaking as to the possibility of holding elections in Texas. The ground on which the resolution of 1865 was passed was that it was impossible, in the condition of things then existing, that those States could vote; that they were incapable from the circumstances in which they were placed of holding elections and selecting electors of President.

Mr. EDMUNDS. That was a mere judgment of Congress, because they had held an election in two of those States in 1864, and Congress declared by the aid of the Senator's vote, that the elections were held under such circumstances that they ought not to be considered as valid.

Mr. BUCKALEW. No, sir; there was no election held in those States, not the slightest pretense of an election held in those States under any authority of the State.

Mr. EDMUNDS. Where did the electoral votes come from?

Mr. BUCKALEW. There were elections held under military power for municipal purposes; and when it was attempted to expand that authority into a national one, we said it was an absurdity.

Mr. EDMUNDS. Does the Senator call the election for electors of President a municipal election for municipal purposes?

Mr. BUCKALEW. No, sir.

Mr. EDMUNDS. Does the Senator deny that in two of those States, Louisiana and Tennessee, elections were held for electors of President, and the votes were forwarded by the Electoral Colleges, having all the *prima facie* appearance of validity? And yet by the Senator's aid—loyal and good aid it was, too—it was declared to be an improper and invalid proceeding.

Mr. BUCKALEW. I have not denied that.

I spoke about that some time since, and gave my view of that subject, and stated the reason why those elections were not in fact elections in those States. A large part of Louisiana at that time was within the lines of the enemy.

Mr. EDMUNDS. And you assumed the right to decide that.

Mr. BUCKALEW. I assumed the right to decide a fact, not a matter of right, not to pass an enactment of legislation; I have already stated my view of the resolution of 1865?

Mr. President, the three particular points which I rose to mention I have gone through with and have given such replies as I supposed were appropriate to the questions of the Senator from Vermont. I only took the floor to-night under some inconvenience arising from fatigue and the heat of the Chamber because I was unwilling that this bill should pass the Senate without a formal and earnest protest. Of course I have not attempted to argue the subject of the validity of the reconstruction laws at length. I have not attempted to go over the different grounds upon which, as I think, their invalidity can be demonstrated. That field of debate is too large and too important to be entered upon at this time. But the grounds upon which objection can be made to this bill as an exercise of a power by Congress to forbid the votes of the States in the presidential election lie within a comparatively narrow compass. What I desire to enforce upon the Senate is this: that, in my judgment, there will be no acquiescence by our people in the result of a presidential election dependent upon votes introduced into the Electoral College by act of Congress while at the same time other electoral votes are forbidden. I insist that the people of the United States will not permit the result of a presidential election to be determined by act of Congress.

Mr. EDMUNDS. What, will they have it determined by?

Mr. BUCKALEW. The Senator has asked a sufficient number of questions, and if he will permit me I prefer to conclude what I have to say. I have yielded, I believe, to the full extent required by courtesy. In my judgment the people of the United States will not agree that a majority in Congress shall manipulate the votes by which the presidential election is to be determined. They will demand that the States represented in Congress during the war, who bore the heat and burden of the struggle, who are now unquestionably clothed with the political power of this Union, shall determine the results of this comparatively friendly, yet earnest political contest upon which we are entering. Its result is not to be changed or altered by devices of any description gotten up here, and passed by the men who are to reap the fruits of their own ingenuity and management. They will not agree that the vote of Virginia shall be counted out and the vote of South Carolina in; the vote of Texas out and the vote of Arkansas in. They know as well as you, sir, that your congressional legislation is outside of constitutional power, and that it must rest eventually for support upon the assent or acquiescence of the people of the United States, South and North, or at least either South or North; that when you reconstruct States in the South, you must get the assent of the electors of those States, or you must get the fair assent of a majority of adhering States; you cannot ignore both.

The Senator from Indiana speaks of the expression of individual opinion by General Blair. I agree with General Blair most fully in the whole material matter contained in his letter relating to the existing condition of things. I say your reconstruction laws are dependent upon the votes of the people. If you get their votes for them, if yet get popular acquiescence for them, they may stand; they cannot stand upon your votes here; they cannot stand upon resolutions, whether joint or not, in Congress; they must have popular support. Do you not know, sir, and does not the whole country know, that your reconstruction at present is a reconstruction coerced; a thing of duress; you have

compelled everything that has been done. Do you not know, and does not the country know, that republican government can stand upon no foundation except the consent of the governed. Republican institutions cannot be dictated by any earthly power except that of the people who are to be bound by and enjoy them; and a constitution in Georgia is as void when made under congressional command or coercion or under congressional direction which insures a particular result, as if it was prescribed to that State by the monarch of some foreign nation. How vain and idle, then, are such bills as this which decide nothing.

Mr. MORTON. Will the Senator allow me to ask him one question?

Mr. BUCKALEW. Yes, sir.

Mr. MORTON. I would ask the Senator if he approves of that part of General Blair's letter in which he says it will be the duty of the President-elect, at the coming election, to use the Army for the purpose of overthrowing what he designates as the "carpet-bag governments;" in other words, the new governments just constructed under the laws of Congress? He asserts that it would be the duty of the President to use the military power of the United States to overthrow those governments. Does my honorable friend from Pennsylvania indorse that part of the letter?

Mr. BUCKALEW. I am glad the Senator has called my attention to that. In answering him I will complete what I meant to say about the letter. My answer is, that for myself I say no such thing; I advise no extreme action. Early in my remarks I pointed out distinctly, in order to instruct the Senator from Indiana upon the position which I hold, and as I understand the Democratic party hold in their platform, that the question of a future remedy for what is wrong in reconstruction is left open and undetermined by the convention. We are deciding what belongs to the present time. The particular course that may be adopted with reference to the southern States is one of expediency—connected with ideas of justice, of course—when the question comes to be determined. It might, under a certain state of facts, be convenient and advisable that amendments even of those irregular constitutions should be submitted to popular acceptance, and stability, with reformed constitutions, be obtained in that way. There might be other courses adopted. General Blair has only expressed his individual opinion in favor of more stern and summary action, but the question is an open one and may be considered hereafter.

To come back to the point on which I was speaking, I repeat that, in my judgment, for the purpose of obtaining validity to reconstruction, safety to reconstruction, continuance to it, effect for it as it has been undertaken by Congress, it is necessary that a majority of the people in the adhering States shall indorse it in the elections of 1868. It has no support at present besides congressional will. Your own chief man—the master of the House—told us long since that your work was "outside of the Constitution." I have attempted to point out the only possible modes in which it can receive a sanction, in which it can get validity. It rests now upon congressional will. It must be baptized with popular approval; it must get the judgment of the people, and from those whose right to vote in this Union and to control its political destinies is unquestioned. If, when you carry your body of laws passed since 1866 to the people of the North and of the West and of the great central States, they say "Well done, good and faithful servants; you have performed our will and executed our wishes, and your work shall stand," then, and then only, will you command the situation; then, and then only, will you be entitled to ask of me and of others acquiescence in what you have done. I acknowledge a sort of common law in this country upon constitutional questions. I acknowledge that when a controverted question of public power long in debate has been sent to the people and deliberately determined by them their decision cannot be



reversed or disregarded. That is a sort of "higher law" to which I subscribe.

When the alien and sedition laws went to the freemen of America in the year 1800 and were trodden under their feet, there was a condemnation of them a thousandfold stronger than could have been given by any court; and when their principle emerged into notice in the late impeachment trial in the tenth article, it gave to that article a character of odium and weakness which attached to none of the others. After Louisiana was acquired by a doubtful exercise of constitutional power, but received the strong indorsement of the people, it stood good; and all that region, blooming beneath a southern sun, now brought back to us by the valor of our soldiers and sailors, is as legitimate a portion of our territory as the soil of Indiana or of Vermont. And so, sir, with regard to slavery; however much Mr. Lincoln's proclamations may have been questioned, and whatever of doubt may have attached to the adoption of the constitutional amendment upon that subject, its abolition has received such an assent, South and North, from the people that it stands good, and will stand good forever. Similar remarks might be made in regard to secession. The right of a State to secede is denied and the doctrine condemned, not merely by the issue of the war, but by a popular judgment which can never be reversed.

Pass on such bills, then, as this to manipulate electoral votes in the South; depart not from your constitutional powers to pass them; do not select from among those States certain ones for the possession of power denied the rest, and thus render yourselves odious before the people. Take the issue of reconstruction as it stands, and submit it to the freemen of the adhering States. If they go with you, we must acquiesce in their judgment, and your policy may stand good for the future. If they decide against you, you will not, I venture to tell you, supplement your northern weakness with southern strength, acquired through your own votes in Congress. You stand or fall before that tribunal which is competent to judge us both, and whose authority we cannot question here or elsewhere, now or hereafter. Your reconstruction may stand good to you, and the political fruits that you expect to obtain from it will come to you, sweet and delicious for your enjoyment in future years, if you get a verdict from the freemen of the adhering States, and then only.

I counsel no violence; I preach no revolution; I would not array men against each other with feelings of anger and passion; but there is a principle of justice which cannot be mistaken in this case, and there is a courage and firmness in American freemen which cannot be defied.

To end and to sum up the argument, reconstruction requires the support of the people. If it get it, it can stand; if it do not get it, and do not get it in the adhering States, it will fall; and all the enactments that Congress can now heap up, cannot alter or control that result.

Mr. EDMUNDS. I wish, now that I have the opportunity without offense to the honorable Senator from Pennsylvania, to ask him a question or two; but I wish to remind him of a rule of law with which he is undoubtedly familiar, if he has not forgotten it, that no man is bound to criminate himself, before I call upon him to answer.

Mr. BUCKALEW. That is quite a gratuitous piece of politeness. [Laughter.]

Mr. EDMUNDS. I wish to understand, as he has so covered up his answer, if he undertook to give one, by a flourish of words, that I was unable to understand how he meant to answer the question that I put to him as to where resided the rightful power of determining in a case of a double electoral vote from a State which of those two sets of votes was the true and rightful representation of the State, the political community in the Union?

Mr. BUCKALEW. As the Senator is from the East, I will answer him after the Yankee

fashion of asking him another question, and that is, is there not a great difference between denying to a State a right to vote and providing what votes shall be counted when sent up from the States?

Mr. EDMUNDS. No difference.

Mr. BUCKALEW. I think it would be thought in the House of Representatives a very different thing to deny a representative district representation at all, and to decide between two contestants.

Mr. EDMUNDS. Now, I have answered the Senator's question; will he be good enough to answer mine? I take it that the Senator has no answer to give, as he gives none. Now, I wish to ask him another question, and I shall be equally content by his silence, because from his fame in the country, the country will understand it just as well, and I do not know but a little better than they would if he were to answer. [Laughter.] I wish to ask him, where does the rightful power in this Government reside of determining what is a State; what political community pretending or asserting itself to be a State is a true State that belongs to the Union? Again, I have silence, Mr. President, and silence that speaks more than volumes of oratory from him.

Mr. BUCKALEW. I am waiting until you conclude; I do not know how much you are going to ask.

Mr. EDMUNDS. I am waiting to hear the Senator.

Mr. BUCKALEW. If the Senator leaves the floor I will answer his question.

Mr. EDMUNDS. Very well; I leave the floor.

Mr. BUCKALEW. The Senator invites me to a discussion over a very wide field of law. In the Rhode Island case the Supreme Court said that they would accept as the legitimate government of that State the one which was represented in Congress, and was held to be the legitimate government of the State by Congress and by the President; that it was a political question, and one not within their jurisdiction. I need not inform the Senator of all that; he knows it perfectly well already. There may be, certainly, cases where the courts, as an original question, might be called upon to determine what was the government of a State in a case of contest. I do not say that such cases are impossible; but where, as in the case of Rhode Island, there had been a government recognized by the Government of the United States, that is by the political departments, the judiciary held that they were concluded by it. I know very well that the Senator, and those who think with him, have argued at length from that opinion that Congress alone can determine as between two contesting governments which is the legitimate government in a State; while the Senator from Kentucky [Mr. DAVIS] has heretofore enlightened us, I believe, with a somewhat different opinion. I do not know that any further answer is necessary to the Senator from Vermont.

Mr. EDMUNDS. Mr. President, I have not maintained that Congress alone, if by Congress the Senator means the two Houses independent of their faculty as a law-making power, have a right to decide any such question. What I have maintained, and what our side have maintained, is precisely what the Supreme Court before it lost its head, as it has recently decided; and that was that the law-making power of the Government was the power to decide what was a State, and which was a State, where there was more than one power claiming to be a State. Therefore we have not maintained that either or both branches of Congress, independent of the President having control of the veto power could decide such a question; but we have maintained that after the President as a part of the law-making had exercised his voice, even if he chose to exercise it adversely to the opinion of a majority of the two Houses, if then, in pursuance of the Constitution that the honorable Senator professes, and I do not doubt sincerely, to reverence so much, that same Congress should have determined according to its

provisions what the law should be. That was the action of the whole political power of the Government, and it bound Presidents and Senators, and even the Democracy, who, through Mr. Frank Blair, are going to overturn all this at the point of the bayonet!

Mr. STEWART. Mr. President, I see the embarrassment under which the Democratic party is laboring; and the misfortune that has befallen it to-day will no doubt embarrass it still more hereafter. I see the embarrassment that this particular bill presents to the members of that party. Individuals of that party say they intend revolution, and Frank P. Blair sought to be nominated upon that issue. He avows his purpose of overturning seven States of this Union now entitled to representation upon this floor. He will do it by revolution. He says it cannot be done by legislation, because the Senate is in the way. He says it is nonsense to talk about legislation; it must be done by force. I have been reading the platform, and I find that it dodges the question and declares that the reconstruction measures are unconstitutional and void. That is what I make out of its declaration on that point, although it is a long jumbled-up sentence.

The Democratic party, it appears, are unwilling to say, in express language, what they intend to do with a portion of the States in this Union, whether they intend again to put them out. The Democratic party once broke up the governments of those States; we have partially restored them. None of them have come square up to the point except Mr. Frank Blair. He has come up to it pretty squarely. I do not understand the Senator from Pennsylvania on that issue.

I say this bill is undoubtedly embarrassing to them, because we tell them exactly what we intend to do in the bill; that we intend that every State restored to representation in this Union, that shall have been reorganized, that shall be a State in the Union at the time of the election, shall vote and participate in the presidential election; that no disorganized rebel State shall vote; that all the States represented in Congress, all the States restored to this Union, shall vote. That is the exact rule which we followed in 1864, and for which the Senator from Pennsylvania himself voted. We intend to take that broad, honest ground in advance; and we do not fear the threats of individuals, or of the whole Democratic party, that they will again attempt to destroy this Government. We want to have it distinctly understood that none but legitimate State governments shall be represented in Congress and the Electoral College, and that they shall be represented; and then we want to see which side of that issue the Democratic party will take. I know it is embarrassing to them to take either side. I know that it is embarrassing to them to admit that the work of reconstruction is legally, justly, and honestly progressing, notwithstanding all the obstructions that the Executive, that an organized band of rebels in the South, that the organized Democracy, and all the elements that are bad in this country put together, have been able to throw in the way. Notwithstanding all the obstructions of these elements that are attempting to destroy our country, the work is progressing—the States are being restored. We say that when the southern States are restored we will treat them in all respects as States, and that we will defend our carpet-baggers. We shall not be scared because the gentlemen who have organized these governments in the South, and have come here backed up by a loyal constituency, are denounced as "carpet-baggers" by the rebel leaders in New York, who treated as honored guests Forrest and Wade Hampton. Because they come to the metropolis of this Republic and denounce these men, the representatives of the loyal people of the South, as "carpet-baggers," we are not to be driven from standing by them. We had to fight once before against the same horde of men, many of the leaders of whom were in New York.

We know that they are powerful, but we whipped them once. Let them try again to pull down this Government that we build up. Let them laugh at the "carpet-baggers" as much as they please. We intend to declare most distinctly and unequivocally that States organized and represented here shall vote in the Electoral College, and none others. That is what we did in 1864, and that is what we intend to do now. We have seen all the schemes they concocted vanish into thin air. We know Seymour. He is not ready to revolutionize. I hold in my hand a speech of his made in 1863 which has enough sophistry, if it had been accompanied by the courage of a Hampton or a Forrest, to have plunged the North into civil war. He dare not lay his hand upon a State that we reorganize. Frank Blair is a braver man and an honest man, and he told plainly what they would like to do; but I tell you, sir, the Democracy dare not come up and say that they will tear down a single State of this Union. They dare not go before the people on that issue. Let us declare that we will stand by all the States of the Union that are entitled to representation, that we will receive their ballots, that we will stand by the loyal people of the South; and let the Democracy take issue on that ground if they dare. This bill is a simple declaration that we will stand by the States which are represented, and that no disorganized rebel State shall vote until it shall have been reorganized.

This is no new doctrine. It has been discussed over and over in this Hall. Let the Democracy, if they dare, go before the country saying that they will tear down and put out of the Union the seven reorganized States. I should like to have them sound the tocsin of war and see if the American people are prepared for another revolution. What Frank Blair says means revolution. These men cannot be turned from these Halls except by violence; these State organizations cannot be overthrown except by the shedding of blood.

Mr. HOWARD. It cannot be done in that way either.

Mr. STEWART. It cannot be done by modern Democracy in that way; and when they dare announce any such purpose they will have fewer followers than they had on a former occasion. I have before me their platform. They are going to pretend to the ignorant and the vicious that this means "we will wipe out of existence every State that has been redeemed," and when they meet a man who has a little money and does not want to go to war they will say "we are opposed to violence and willing to let things take their course."

Now, we want to declare affirmatively the ground we stand upon. We are the aggressive, we are the progressive party. We the party that have dared to declare our principles from the beginning. We have had to take advanced ground all the time, and I wish now to make the declaration contained in this bill. If the Democratic party dare say on the stump in any of the northern States that they will pull down a single State, even little Florida, they will have fewer followers than they had in 1864; they will have fewer followers than they ever had in any contest before.

I want to pass this bill beforehand. I do not want to wait until after the election has taken place and then pass a law which they will call *ex post facto*. I do not want to see them going through the farce of a rebel election in Virginia, and I do not want any election there until Virginia is reorganized. I do not want to deceive anybody. I want all the issues in this campaign understood. I want the people to know exactly what they are voting on, and who has a right to vote, before the election, so as to avoid any unpleasant consequences. The people of the United States want no more revolution, no more war. The people of the South do not believe they can subjugate us. They do not believe they can reverse the verdict of the war. They cannot humiliate the Union soldiers who sustained the old flag, and reverse the verdict of the

war, place the country under rebel rule, hurl seven States from their places in these Halls— whoever has laid that "flattering unction" to his soul will be undeceived next fall. It cannot be done.

Now, what is there in this bill? It is simply a declaration that the States represented in Congress that have been organized shall vote in the Electoral College, and none others. The Senator from Pennsylvania says that unless the disorganized vote the organized shall not; that unless you allow Texas to vote Arkansas shall not; that unless you allow Mississippi to vote Alabama shall not; that unless you let the three disorganized States that have not yet complied with our terms, that are not represented in Congress, vote, the represented States shall not vote. What does that mean? The Democratic party will not let organized States, States represented in these Halls, vote. I will not discuss the power of Congress, but I say there is not power enough in the Democratic party, with the Executive at their head, to maintain the position that they can put one of these States out of the Union. How are you going to prevent one of these States from voting? How are you going to prevent South Carolina from voting? How are you going to prevent her vote from being counted? In no other way than by putting her out of the Union.

If that is the position, if that is the new declaration of war, if that is the new rebellion we are to meet, let us know the issue now, and let us fight the battle before the people on that issue. The necessity of this bill has become apparent from this discussion. We want to know what are the purposes of this party, whether they mean revolution or whether they mean peace; whether they mean war and rapine and plunder and overthrow of the Government, and the prevention of the represented States from voting, or whether they mean to submit to the law. I think the Democratic party have had enough of war. I think they have had enough of tearing down States. But perhaps the ovation which the rebel generals received in New York has inspired them with new hope, and they think the "little unpleasantness" did not amount to much after all. Perhaps they are prepared to join the northern Democracy in another effort to put States out of the Union, and to overthrow State organizations; but I think they will hesitate a little. They do hesitate in their platform. They have a long sentence there on the subject that nobody can understand. Nobody can tell from the platform what they intend to do, and you cannot get any of their speakers on any stump before a promiscuous audience to say whether they intend to submit to the law or whether they intend to overthrow these governments. You can no more get a direct answer on this point than you can get a clear, straightforward idea out of their platform.

It is well enough for us to make the declaration contained in this bill, so that the people will know where we stand; but it is not to be supposed that the Democratic party are going to declare anything affirmatively on such a question. After having destroyed their best men by the two-thirds rule, and having got men that we are accustomed to, that we know all about, we have no apprehensions. We all know the connection of Seymour with New York politics during the war. We know how he acted during the New York riots. We know how his appeals to his friends in the city of New York affected the patriotic masses of the country. We know how we in the West felt at the obstruction of Seymour to the progress of the war. We know what power he had then, and we believed that he evinced a disposition, if he had had the requisite courage to back his disposition, to plunge the whole country in war. We have seen him go as far up to the verge of revolution as he dare go, but he has had a little experience since then.

Mr. NYE. Will my colleague allow me to ask him a question?

Mr. STEWART. Certainly.

Mr. NYE. I submit to my colleague whether he is not stepping rather hard upon the new-made graves of the hopes of the Democratic party. He is coming to the funeral rather quick.

Mr. STEWART. But they were talking about killing some of us; they were talking about having a funeral on our side.

Mr. NYE. They have not got over mourning yet themselves.

Mr. STEWART. They will not get over mourning very soon. I say that we of the West know how we felt at Mr. Seymour's conduct on that occasion.

Mr. BUCKALEW. What occasion?

Mr. STEWART. The occasion of the New York riots.

Mr. BUCKALEW. I was in New York at that time, and saw him in consultation with the present Senator from New York [Mr. Morgan] and the mayor of the city, acting together day by day in concert and perfect accord. The result of his visit to the city and of his extraordinary exertions was to preserve the peace. When he was addressing a large crowd inculcating peace, he spoke to them in a friendly manner, "My friends," just as any other gentleman would. His conduct on that occasion was that of a patriot and of a faithful chief magistrate of his State, and there never was anything impeaching his conduct except little newspaper slanders without the slightest foundation.

Mr. STEWART. I hold in my hands now a speech of Hon. Horatio Seymour, delivered on the 4th of July, 1863, a speech that I have read on several occasions. It is too long to read now. It is a speech full of fault-finding with the Government, full of suggestions with regard to the evil ways of the Government, putting ideas in the minds of the people to make them dissatisfied, complaining of your sectional strife and your sectional war, reminding the people of what he had told them before, calculated in every way to breed discontent; and this, too, when the country was in the most imminent peril. At that critical time, instead of coming forward and vindicating the authority of the Government, we find Horatio Seymour filling the minds of the people with distrust and reverting to the mistakes of the Government. He failed on that occasion most signally in that heroic duty which every American citizen owes to his country when it is in peril. When peril has come, when war is upon him, it is the duty of every American to say, "My country, right or wrong," and to stand up for his country. With a stern Governor of New York, such a Governor as Indiana had, there would have been no New York riots. With such a Governor as Ohio had there would have been no New York riots. The country felt the weight of Horatio Seymour as a thousand tons upon our hopes, and many graves can be laid to his charge. The weight of that great State, the moral influence of the Governor of that great State, was thrown against the cause of the Union in such a manner and at such a time as to prolong the war, I verily believe, more than one whole year. That Governor had all his predictions falsified, for he predicted failure all the time. After having seen our arms ride triumphant over a thousand battlefields; after having seen the rebellion put down; after having seen the loyal Congress engaged for four years in reconstruction and restoration, he is now the candidate of those opposed to the gallant leader of the armies that saved the nation. That noble man is at the head of the great party who conducted the war, and who have been endeavoring, against the efforts of rebels, Democrats and the Executive, to restore this Government. I say that after all this Seymour has not the nerve to do what this platform intimates that the Democracy will do, namely, tear down the States that have been built up.

Mr. BUCKALEW. The platform says nothing about tearing down States.

Mr. STEWART. That is a refinement of language. It speaks of them as "so-called

States," "usurpations," "mongrel governments;" and their Representatives are spoken of as carpet-baggers, and the Democracy talk of disregarding them. Frank Blair says it is the duty of the Executive to disregard them. I tell you that Horatio Seymour has not the nerve to carry out the programme. He will insinuate that it is all right; but when it comes to the sticking point he will back out.

Now, I want to place the Democratic party on one side or the other of this issue. The States that are represented in Congress ought to vote, and they will vote. We say they shall vote. The Democratic party say they shall not vote. We had better have that one of the issues in the campaign, so that it shall not be said afterward that any snap judgment is given. It is better to say it now instead of hereafter.

Mr. BUCKALEW. Mr. President, I did not say a word about Horatio Seymour in my speech. The Senator's assault upon him is entirely volunteer. I rose to correct him upon a question in regard to the New York riots, and he goes off into some speech. I am afraid it is too long to be discussed at this time of night. All I desire to call attention to at the close of this heated debate is the fact that the Senator from Indiana assailed the second gentleman on the ticket without any provocation to-day, and the Senator from Nevada to-night has assailed the first without any provocation, either. So far as I am concerned, I do not care to enter into a general political discussion. I have confined myself to this bill and to the elaboration of a single point in connection with it. All the matters to which the Senator from Nevada has referred no doubt will be discussed in due time and in a more appropriate place.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York.

Mr. CONKLING. I hope there will not be a vote on that amendment to-night. There is not a quorum here, and when it is to be voted upon I should like to have an expression of the Senate about it.

Mr. BUCKALEW. Then we had better adjourn.

Mr. CONKLING. Unless some Senator wishes to occupy the floor, I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, July 9, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

On motion of Mr. CAKE, the reading of the Journal of yesterday was dispensed with.

### ORDER OF BUSINESS.

Mr. CAKE. I desire to make some reports from the Committee on Printing.

The SPEAKER. The Committee on Printing are authorized to report at any time.

Mr. PAINE. Is it not necessary that the House should dispose of an order adopted some days since, that the vote should be taken on the Alaska bill to-day, immediately after the reading of the Journal?

The SPEAKER. It will be necessary, if the gentleman desires to interfere with the reports of the Committee on Printing.

Mr. PAINE. Will the reports of the Committee on Printing, if now received, displace the order in regard to the Alaska bill?

The SPEAKER. It will not.

Mr. PAINE. Then I will not object.

### DEMOCRATIC PROTEST.

Mr. CAKE, from the Committee on Printing, reported the following resolution:

*Resolved*, That twenty thousand copies of the protest of the Democratic members of the House against the representation of Arkansas be printed for the use of the House.

The question was taken upon adopting the resolution; and upon a division, (called for by Mr. SCOFIELD,) there were—ayes 22, noes 20; no quorum voting.

The SPEAKER. It is probable there is no quorum yet present.

Mr. CAKE. I will withdraw the resolution.

Mr. SCOFIELD. I desire to move to lay the resolution on the table.

The SPEAKER. The resolution has been withdrawn.

### REPORT ON MANUFACTURES.

Mr. CAKE, from the Committee on Printing, reported the following resolution; which was read, considered, and adopted:

*Resolved*, That there be printed for the use of the House three thousand extra copies of the report of the Committee on Manufactures.

Mr. CAKE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### TARIFF BILL.

Mr. CAKE, from the Committee on Printing, also reported the following resolution; which was read, considered, and adopted:

*Resolved*, That there be printed for the use of the House one thousand extra copies of the tariff bill.

Mr. CAKE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### BRIDGES ON MAQUOKETA RIVER, IOWA.

On motion of Mr. WILSON, of Iowa, a joint resolution (S. No. 107) in relation to the Maquoketa river, in the State of Iowa, was, by unanimous consent, taken from the Speaker's table, and read a first and second time.

The joint resolution proposes to give the assent of Congress to the construction of bridges across the Maquoketa river, in the State of Iowa, with or without draws, as may be provided by the laws of the State of Iowa.

Mr. WILSON, of Iowa. I move to amend the joint resolution by adding the following as a new section:

*And be it further enacted*, That dams and bridges may be constructed across the Iowa river, in the State of Iowa, above the town of Wapello.

The amendment was agreed to.

The joint resolution, as amended, was ordered to a third reading, read the third time, and passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### CONNECTICUT AVENUE, ETC., RAILWAY CO.

Mr. VAN HORN, of New York. I ask the House, by unanimous consent, to take from the Speaker's table the bill (H. R. No. 420) to incorporate the Connecticut Avenue and Park Railway Company in the District of Columbia, that we may concur in a few slight amendments.

Mr. SPALDING. I object to taking up out of their order any of the bills on the Speaker's table. I am willing that we shall go to the Speaker's table for the consideration of those bills in their order.

### THOMAS W. WARD.

Mr. ELIOT. I ask unanimous consent to report from the Committee on Commerce, for consideration at the present time, a bill (S. No. 542) for the relief of Thomas W. Ward, late collector of customs in the district of Corpus Christi, Texas.

Mr. SPALDING. I object, and call for the regular order.

Mr. ELIOT. Except by the unanimous consent of the House there will be no opportunity to report this bill this session.

Mr. SPALDING. I demand the regular order.

### LOYAL CHOCTAW AND CHICKASAW INDIANS.

The SPEAKER. The first business in order is the consideration of the bill (H. R. No. 1376) for the relief of the loyal Choctaw and Chickasaw Indians, which was pending at the

adjournment last evening, and on which the previous question was seconded and the main question ordered. The gentleman from Minnesota [Mr. WINDOM] is entitled to the floor.

Mr. WINDOM. It is not my intention to occupy more than five minutes in closing the debate on this bill.

Mr. SCOFIELD. I would like to ask the gentleman a question which he can answer whenever convenient in the course of his remarks. As a member of the Committee on Indian Affairs I have given my assent to this bill; but since the bill was acted on by the committee I have been informed that the agents of these Indians have a contract with them by which they are to get forty per cent. of this whole fund. If the gentleman has any information on that subject I hope he will give it to the House?

Mr. WINDOM. Does the gentleman allude to the agents of the loyal Indians or the others?

Mr. SCOFIELD. The agents of the loyal Indians.

Mr. WINDOM. I will answer the question now. I have no information whatever on that point. I do not know whether the agent of these Indians is to get one per cent. or forty per cent. I suppose that, as a matter of course, he is paid for being here two years attending to this matter; but I do not know about that. I have no knowledge of this matter, nor has such a statement as that referred to by the gentleman from Pennsylvania [Mr. SCOFIELD] ever been brought to my ears by anybody.

Mr. SCOFIELD. I do not wish to state it as a fact; but the statement I have mentioned was made to me on the floor this morning, and I presume it is likely to be made to other members in a quiet way. Hence I desired the chairman of the committee to state anything he might know about the matter.

Mr. WINDOM. I will say that there never has been anything before the committee on that subject, nor have I any personal knowledge of any such statement having been made.

Mr. SCOFIELD. Another allegation made to me this morning is, that certain men have bought this entire claim, or nearly the whole of it, from these loyal Indians, and that the passage of this bill will really inure to the benefit of some speculators, and not to the benefit of the Indians. Having now made these two statements as I have heard them, I wish to say that so far as the bill itself is concerned it seems to me unobjectionable, and I know no reason why it ought not to pass. But if the fact is as alleged, then it should be amended so as to leave it in the control of their own men.

Mr. WINDOM. So far as the last question is concerned I am equally in ignorance as on the first. I am ignorant whether any one has bought this claim, except this: when the question was asked General Blunt, who represents them, he flatly denied it to be true. He says the Indians hold the whole claim. Mr. Speaker, it is one of the easiest things in the world to cast suspicions upon a bill of this kind by some outside whisperings that some one has bought the claim, or that there is a large amount of speculation in it some way or the other. I know from my experience in such matters that such charges are brought by persons who are anxious to have a share in the speculation, one way or the other; and they go and whisper in the ears of members that something is wrong. The whole motive is they do not get anything for themselves. I do not know how the case is here. I will state to my friend from Pennsylvania, [Mr. SCOFIELD,] who I know is honestly for the bill, it has been pending already two years, and these Indians have been unable to get their pay; but if it is defeated and put over for two more years longer there is no doubt these Indians in their great necessity will be compelled to sell for whatever they can get. The best way to take this money from the parties here and to place it in the hands of speculators is to postpone, year after year, the appropriation for paying it. If the gentleman will propose an amendment which will avoid



any difficulty he fears I will yield to have it offered.

Mr. MULLINS. I ask the gentleman to yield to me.

Mr. WINDOM. I yield to the gentleman for two minutes.

Mr. MULLINS. The point now under consideration is to dispose of this money to the parties having interest in it. I sat down to draw up an amendment which I think will obviate all objection. It is that there should be appointed an agent who should take this fund into his own hands and notify these parties in the Indian country to come up within a given time and each receive the sum he is entitled to. If it is all paid out in that way, well and good. Whatever remains let it go back into the Treasury. Let this agent be appointed by the President and confirmed by the Senate. That will relieve it of every difficulty. It is suggested by the gentleman from Ohio [Mr. LAWRENCE] this attorney gets forty or fifty per cent. I do not know what he gets. I do not suppose he works for nothing. It is legitimate that he should have pay for his services.

Mr. WINDOM. I have no doubt he is paid.

Mr. MULLINS. I do not know of any combinations to defeat these worthy parties. It has been carried on for two dreadful, bloody years. My amendment will make the thing all right.

Mr. WINDOM. I wish to add a word, and then I have nothing further to say unless other gentlemen wish to be heard. Mr. Speaker, the gentleman from Indiana [Mr. SHANKS] proposes an amendment to increase the amount to be paid to these Indians \$234,000, the amount stipulated to be paid under this compromise being \$150,000. It seems to me the gentleman must modify his amendment in some way to make it consistent with the bill. The bill provides for carrying out certain agreements and compromises entered into between these Indians. That fixes the sum of \$150,000. He proposes \$234,000, which is inconsistent with that compromise. I said yesterday I had no objection to the amount he fixes if it were practicable. The treaty provides the award shall not be paid until it is ratified by the Secretary of the Interior. Until that is done we have no power to make an appropriation, but, sir, I believe we have the right to ratify any agreement between the parties themselves. If you pass the bill as reported by the committee these Indians who have been in a suffering condition will get this money, at least a large portion of it. If the amendment of the gentleman from Indiana prevails they will get no money, but will have to wait for years longer and until they will be compelled to sell out to speculators. I yield to the gentleman from Indiana five minutes.

Mr. SHANKS. Mr. Speaker, the claim, as allowed by the commissioners, against the Chickasaws was \$234,000. I am now simply asking that this House authorize the Secretary of the Interior to settle with these men at the exact amount which the commissioners made the award. These agents or attorneys have proposed to reduce that to \$150,000, striking out \$84,000 of the award made by the commissioners to the loyal Indians. I am now asking that the amount be raised to the amount of the award. I am not asking the interest to be added either in case of the Choctaws or the Chickasaws. But the chairman of the committee says these tribes have made this compromise. I insist that it has been made by agents in the city of Washington who have not seen the Indians since the proposition was made by the Secretary of the Interior to these agents. The contract to reduce these claims has been made here in Washington, and not by the authority of the parties in interest. They have their treaty, and under the treaty a commission was appointed, with power to examine witnesses, and both the Choctaws and Chickasaws have been heard in that examination.

I call attention to a remark made by the chairman of the committee on this subject on

yesterday. He said these parties had no attorney before the commission that examined these claims. This was an error. The Choctaws had three attorneys and the Chickasaws one. That will be found on the record. They cross-examined the witnesses. The case was heard before the commissioners, and was reported under oath. Now, I insist that the allowance that was awarded shall be made. The gentleman said I volunteered my defense of these loyal men. If I have, I hope I shall have at least the credit of being in earnest in what I say. But if I have volunteered, it is only as a Representative standing here that I speak for these men who have no person to speak for them, and whose agents have decided to take \$84,000 out of their pockets without consulting them about it. Against this I protest, and against this I speak. The agent has no authority to act in this case. We have no evidence to-day to show that these men are satisfied with that proposition. They know nothing about it, and will only know it when the action of this House is reported to them. This money does not come out of the Treasury of the United States. It is to be paid by those who wronged these men, and I insist that the entire amount should be paid. When the question goes back to the Secretary of the Interior for his decision, if he insists upon not only overruling the commissioners and the sworn proof, but the action of Congress, and still persists in deciding that the amount shall be reduced, then we will have another hearing of the case. For the present let the House decide that these loyal men shall have their full pay according to the award and according to the testimony in the case and I will be satisfied.

Mr. WINDOM. I yield five minutes to the gentleman from Ohio.

Mr. MUNGEN. I have only a word or two to say on this question. As I got back this morning I learned that the matter had been compromised by the reduction of \$84,000, and that the Indians are willing to pay the balance. I hold that if the matter goes through as agreed upon it will save to the Indians \$84,000. As to the question of loyalty, I would not give a snap of my finger for it. A big man, called Hopothoyoholo, or some other "big Indian" name, went there, and, claiming to be a prophet, he frightened them by telling them that they would be overrun by the troops of the North, which made them leave the country. Chepika, his brother-in-law, believing in his power as a prophet, induced a band of which he was chief to accompany the other big Indian and his band. It was not a question of loyalty or disloyalty by any means. They were not forced away at all; they went away of their own free will. They concluded they would go to Kansas, and on their way some of them were frozen to death, and many of them suffered great hardships. The object seems to be to punish these Indians who had nothing to do with putting them out of the country, and to give a bonus to the men who went away of their own free will. I am opposed to this whole thing; but inasmuch as the matter has been settled by the parties themselves, according to the best information I can get, I shall support this compromise, and save to these Indians \$84,000. Perhaps it will keep it from going into the hands of somebody else than the Indians who are claiming it. I do not like this thing; I think it is all wrong; but the thing has been adjudicated, and I do not think it will work much harm if we pass the bill as reported, without the amendment of the gentleman from Indiana, [Mr. SHANKS.] I am opposed to the amendment, because I think it is nothing but a proposition to give \$84,000 to some one who is no more entitled to it than I am.

Mr. SCHENCK. Will the gentleman from Minnesota [Mr. WINDOM] allow me to offer an amendment to this bill?

Mr. WINDOM. I will hear it read.

The SPEAKER. It will require unanimous consent to offer an amendment to the bill now, as the previous question is operating.

Mr. WINDOM. I had forgotten that.

Mr. SCHENCK. Let it be read for information.

The amendment was read, to add to the bill the following:

*And provided further,* That no payment shall be made nor bond delivered under the provisions of this act, except in every case to the person actually entitled in his own right to receive the same; nor shall any contract or power of attorney relating to the same be regarded or held as of any validity unless signed and executed after the passage of this act.

Mr. WINDOM. I certainly would have no objection to that amendment if it did not require every one of these Indians to make a trip to Washington, or the Secretary of the Interior to make a trip to the Indian country.

Mr. SCHENCK. It will not require that.

Mr. WINDOM. I do not see how else it can be done.

Mr. SCOTFIELD. The regulations of the Department at present are such that you cannot go to an Indian, pay him a certain sum for his claim, take his receipt for the full amount of the claim, and then go to an Indian agent and get the money for it. The regulations require that the money shall be paid by the Indian agent directly to the Indian entitled to it.

Mr. SCHENCK. I hope this amendment will be added to the bill by unanimous consent.

The SPEAKER. The Chair understood the gentleman from Minnesota [Mr. WINDOM] to object.

Mr. WINDOM. I will not object to the amendment if no one else objects.

Mr. MUNGEN. I object to the amendment.

Mr. SCHENCK. I move to reconsider the vote by which the main question was ordered, so that I may have an opportunity to offer the amendment I have indicated.

The motion to reconsider was agreed to.

Mr. SCHENCK. I now move the amendment which has been read.

Mr. MUNGEN. I withdraw my objection to the amendment; I did not understand the full effect of it.

The SPEAKER. The amendment will be regarded as pending.

Mr. WINDOM. I now call the previous question upon the bill and amendments.

Mr. MULLINS. Will the gentleman yield to me for a few minutes?

Mr. WINDOM. I cannot yield further.

The previous question was seconded and the main question ordered.

The first question was upon the amendment of Mr. SHANKS, to strike out "\$150,000" and insert "\$234,000;" so that that portion of the bill would read:

And to the Chickasaw claimants the sum of \$234,000.

The amendment was not agreed to; upon a division there being—ayes twelve, noes not counted.

The next question was upon the amendment of Mr. SCHENCK, to add to the bill the following:

*And provided further,* That no payment shall be made nor bond delivered, under the provisions of this act, except in every case to the person actually entitled in his own right to receive the same; nor shall any contract or power of attorney relating to the same be regarded or held as of any validity unless signed and accepted after the passage of this act.

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REDUCTION OF THE ARMY.

Mr. GARFIELD, by unanimous consent, reported from the Committee on Military Affairs a bill (H. R. No. 1377) to reduce and fix the military peace establishment; which was read a first and second time, ordered to be printed, and recommitted.

## RETIRED OFFICERS OF THE ARMY.

Mr. GARFIELD, by unanimous consent, also reported from the Committee on Military Affairs a bill (H. R. No. 1378) declaring the meaning of the several acts in relation to retired officers of the Army; which was read a first and second time, ordered to be printed, and recommittees.

## PURCHASE OF ALASKA.

The SPEAKER. The House will now resume the consideration of the bill (H. R. No. 1096) making an appropriation of money to carry into effect the treaty with Russia of March 10, 1867, which bill was to be considered to-day in Committee of the Whole immediately after the reading of the Journal. The gentleman from Massachusetts [Mr. BANKS] is entitled to the floor.

Mr. BANKS. I yield to the gentleman from Ohio, [Mr. SCHENCK.]

## REAPPRAISEMENT OF FOREIGN MERCHANDISE.

Mr. SCHENCK. I ask unanimous consent to report back from the Committee of Ways and Means, adversely, the petition of certain New York merchants in relation to the reappraisement of foreign merchandise imported. The petition is accompanied with drafts of two bills. The committee recommend that no such bills be passed. I will ask the reading of a short letter on this subject from the Secretary of the Treasury.

The SPEAKER. If there be no objection, the letter will be read.

There was no objection; and the Clerk read as follows:

TREASURY DEPARTMENT, June 11, 1868.

SIR: I have the honor to return herewith the petition of certain New York merchants and the drafts of two bills in relation to foreign merchandise, which were submitted by you on the 6th instant for my views thereon.

The legislation prayed for would, in my opinion, jeopardize the revenue from impost to an almost inconceivable extent, and would overthrow the whole revenue system and the laws and regulations governing it. Among the signers to the petition are to be found the names of firms who have been detected in heavy frauds upon the revenue, and the manifest object of the parties is to deprive the Government of the salutary checks it now holds over the unscrupulous importer.

I am, very respectfully,

H. McCULLOCH,  
Secretary of the Treasury.

Hon. JAMES K. MOORHEAD,  
House of Representatives, Washington, D. C.

The SPEAKER. If there be no objection, the petition and accompanying papers will be laid on the table.

There was no objection.

## TONNAGE DUTIES ON SPANISH VESSELS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury; which was read, as follows:

TREASURY DEPARTMENT, July 8, 1868.

SIR: Permit me to call the attention of the House to a communication addressed to you from this Department on the 11th of February last respecting the laws governing tonnage duties chargeable against Spanish vessels in ports of the United States. The law upon this subject is, in my opinion, in urgent need of early amendment; and I may be pardoned for expressing an earnest hope that action will be taken upon it during the present session.

Very respectfully,

H. McCULLOCH,  
Secretary of the Treasury.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

The communication was referred to the Committee on Commerce.

## WITHDRAWAL OF PAPERS.

Mr. ECKLEY asked and obtained leave to withdraw from the files of the House papers in the case of Benjamin Deford & Son.

THOMAS W. WARD.

Mr. ELIOT, by unanimous consent, reported back, from the Committee on Commerce, a bill (S. No. 542) for the relief of Thomas W. Ward, late collector of customs for the district of Corpus Christi, Texas.

The bill was read. It authorizes and directs the proper accounting officers of the Treasury

to audit and settle the accounts of Thomas W. Ward, late collector of customs for the district of Corpus Christi, Texas, from March 5, 1867, to July 1, 1867, and to allow him the same compensation and emoluments as if he had been legally collector of customs for that district for the period named, and that the deputy collector appointed by Ward on the 7th of March, 1867, be recognized as the legal deputy collector of the district; and the accounting officers are authorized to settle the accounts of the deputy in the same manner as if he had been legally appointed and all his acts were legal.

The bill was ordered to a third reading, read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## PUBLIC LANDS IN NEVADA.

Mr. JULIAN, by unanimous consent, introduced a bill (H. R. No. 1379) to aid in ascertaining the value of certain public lands in Story county, in the State of Nevada; which was read a first and second time, and referred to the Committee on the Public Lands.

## TAXATION AND PUBLIC DEBT.

Mr. BUTLER, of Massachusetts, introduced a bill (H. R. No. 1380) to equalize taxation and reduce the interest on the public debt; which was read a first and second time, and referred to the Committee of Ways and Means.

## REFERENCE OF BILLS, ETC.

Mr. UPSON. I move to reconsider the various votes by which bills and joint resolutions have been referred this morning, and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## DONATION OF MARBLE COLUMNS.

Mr. O'NEILL, by unanimous consent, introduced a joint resolution (H. R. No. 328) for the donation of certain columns; which was read a first and second time.

The joint resolution was read. It directs the Secretary of the Treasury to donate to such cemeteries as have been in whole or in part dedicated to the burial of soldiers and sailors who lost their lives in the service of the United States, or to such volunteer associations of citizens as attended to their wants and comforts while living, six columns taken from the old Pennsylvania bank building, provided only one column shall be donated to such cemetery or association in any one State and the same shall be used as a monument.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. O'NEILL moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ARKANSAS TAX COMMISSIONERS.

Mr. ROOTS. I ask unanimous consent to take from the Speaker's table Senate bill No. 564, concerning tax commissioners for the State of Arkansas.

There was no objection, and the bill was taken up and read a first and second time.

Mr. WASHBURN, of Illinois. I move that that bill be referred to the Committee of Ways and Means.

The motion was agreed to.

## PURCHASE OF ALASKA—AGAIN.

Mr. BANKS. I now resume the floor, and will state that my purpose is to ask the House to postpone the vote on the Alaska bill until Tuesday next. A large number of members on the other side are absent attending the Democratic convention in New York city, while a large number on this side are absent

attending the Republican convention at Syracuse. Many who are here are paired off. It is scarcely possible, therefore, that a quorum is present. I desire there shall be a full House when this question is decided, whatever the decision may be. I ask that the vote shall be taken on Tuesday next, under the same arrangement that we are now under.

Mr. BUTLER, of Massachusetts. I object.

The SPEAKER. The House, by unanimous consent, ordered this bill should be taken up in the Committee of the Whole and voted on after the reading of the Journal. It was postponed by a bill on which the previous question was called last evening, but which is now disposed of. The gentleman from Massachusetts moves to postpone with the same priority to Tuesday next, after the reading of the Journal.

Mr. PAINE. I rise to amend the motion of the gentleman from Massachusetts.

Mr. WASHBURN, of Illinois. I rise to a question of order. This bill was set down by unanimous consent for a vote to-day, and it is not in the power of a majority to postpone it. It can only be postponed by unanimous consent.

The SPEAKER. The Chair overrules the point of order. On page 182 of the Digest it will be found that "a special order may be postponed by a majority vote." It then goes on to state that according to the usage whenever the time arrives for the consideration of a special order in Committee of the Whole the same may be postponed by a vote in the House.

Mr. BANKS. The motion to postpone is always in order.

The SPEAKER. The bill having been reached for consideration in the Committee of the Whole, it may be postponed with the same priority. There was a precedent this session. The tax bill first reported from the Committee of Ways and Means was made a special order from day to day after the morning hour. The House will recollect the question being asked by the gentleman from Massachusetts [Mr. BUTLER] whether each day, when the time arrived to go into committee, the bill could be postponed. The Chair stated that it could, as the bill was within the control of the House.

Mr. WASHBURN, of Illinois. There is a difference between that state of facts and where the matter has been set down by unanimous consent.

The SPEAKER. Special orders are made by a two-thirds vote when the rules can be suspended, but when the rules cannot be suspended by unanimous consent. The tax bill was also made the special order by unanimous consent.

Mr. PAINE. I move the following as a substitute for the present motion.

The following is the proposition, only the first two lines of which were read:

Whereas it is one of the first duties of every Government to assert the just demands of its citizens against other Governments; and whereas Ann B. Perkins, administratrix, a citizen of Massachusetts, has petitioned the Government of the United States for its intercession with the Government of Russia for the adjustment of a certain demand for muskets and gunpowder sold to the Government of Russia during the Crimean war, which demand has been examined and pronounced just by the Secretary of State of the United States; and whereas in the treaty of the purchase of Alaska no provision is made for the adjustment of any demands of citizens of the United States against the Government of Russia; and whereas an opportunity ought to be afforded to the President of the United States to invite the Government of Russia to an examination and adjustment of the said demand of Ann B. Perkins: Therefore,

Resolved, That the further consideration of the appropriation for the payment for Alaska be postponed until the second Monday of next December.

The SPEAKER. It is not in order to the pending motion to postpone to move a proposition with "whereas."

Mr. PAINE. Let it be read. There is something more than "whereas."

Mr. WOODBRIDGE. I object.

Mr. PAINE. So much as is unobjectionable I suppose I have a right to have reported.

The SPEAKER. If the gentleman from Massachusetts [Mr. BANKS] yields, the gentleman can have it reported.

Mr. PAINE. I claim that I have a right to offer it.

The SPEAKER. When the Chair decided that the amendment was not in order, that took the floor from the gentleman from Wisconsin and gave it to the gentleman from Massachusetts. When a member offers a proposition which is not in order under the rules he cannot hold the floor to make a subsequent proposition.

Mr. PAINE. My proposition changes the day.

The SPEAKER. That is a new proposition. If the gentleman from Massachusetts yields it will be reported.

Mr. BANKS. Will the gentleman tell me what day he wishes to substitute?

Mr. PAINE. I rise to a point of order. The gentleman moved to postpone to a certain day. I proposed to amend by changing the day upon which a vote is to be taken.

The SPEAKER. The gentleman has not stated precisely the fact according to the recollection of the Chair. The gentleman from Massachusetts moved to postpone the further consideration of the bill till Tuesday next, immediately after the reading of the Journal. The gentleman from Wisconsin moved to amend. The Clerk commenced reading the amendment which commenced with a "whereas," being an argument and not a motion to change the time. A motion to postpone with an argument is not privileged. The Chair so stated. The gentleman then asked that the proposition be read. The Chair said it would be if there was no objection. Objection being made, the Chair gave the floor to the gentleman from Massachusetts.

Mr. PAINE. That does not cover my point. I insist I have now a right to move an amendment.

The SPEAKER. The Chair overrules the point of order, as the floor came into the possession of the gentleman from Massachusetts when the amendment of the gentleman from Wisconsin was ruled out of order. Does the gentleman from Massachusetts yield to allow the amendment to be offered?

Mr. BANKS. I do not.

Mr. BUTLER, of Massachusetts. Will it be in order to move to amend by substituting another day certain?

The SPEAKER. It will be if the gentleman from Massachusetts yields, or if the previous question is not sustained on the motion now pending.

Mr. BUTLER, of Massachusetts. Then I hope the House will vote down the previous question.

Mr. BANKS. Mr. Speaker, I do not wish to occupy the time. My only reason for moving to postpone is that there shall be—

Mr. BUTLER, of Massachusetts. Is this motion debatable?

The SPEAKER. It is within narrow limits. The Clerk will read the rule.

The Clerk read as follows:

"The motion to postpone to a day certain under the practice admits of but very limited debate."

The SPEAKER. This has always been the rule. Limited debate, not touching the merits of the bill, but as to the question of the propriety of postponing it to some future day is allowable.

Mr. BANKS. My only reason for moving to postpone this bill is that there may be a full vote upon this question. It is a public question of great importance, and the House should be full when it is decided. There are members on both sides of the House absent, and other members who are present are paired with them. It is doubtful even if there is a quorum here to-day. I think the public interest requires that this question should be decided by the vote of a full House. I therefore ask that it may be postponed until gentlemen who are absent on public business, may have an opportunity to return. It is immaterial to me whether Saturday or Tuesday be the time fixed, except that I believe Tuesday will be

the first day when the members of the House will generally be back here.

Mr. WASHBURN, of Illinois. I hope we shall adjourn on Wednesday.

Mr. BANKS. I move that the further consideration of this bill be postponed until Tuesday next, immediately after the reading of the Journal.

Mr. BUTLER, of Massachusetts. I desire to move that it be postponed until the second Monday of December next.

Mr. BANKS. I do not yield for that amendment; I wish to have this question postponed till such time as members will be here.

Mr. BUTLER, of Massachusetts. They will be here on the second Monday of December next.

Mr. WASHBURN, of Illinois. I would ask the gentleman from Massachusetts [Mr. BANKS] to make it Saturday next.

Mr. BANKS. If gentlemen are willing to agree to that I am willing to so modify my amendment.

Mr. PAINE. We are not willing.

Mr. WASHBURN, of Illinois. If this bill is put off till Tuesday next it will delay the adjournment several days.

Mr. BANKS. We will not adjourn on Wednesday next.

Mr. WASHBURN, of Illinois. I hope we shall.

Mr. BANKS. I call the previous question on the motion to postpone.

The question was taken upon seconding the previous question; and upon a division, there were—ayes 77, noes 30.

Before the result was announced, Mr. BUTLER, of Massachusetts, called for tellers.

Tellers were not ordered.

The previous question was accordingly seconded.

The main question was then ordered.

Mr. WILSON, of Iowa. I call for the yeas and nays on the motion to postpone.

The question was taken upon ordering the yeas and nays; and upon a division, there were twenty-two in the affirmative.

So (the affirmative being one fifth of the last vote) the yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 96, nays 35, not voting 67; as follows:

YEAS—Messrs. Ames, Arnell, Delos R. Ashley, James M. Ashley, Axell, Bailey, Baldwin, Banks, Barr, Beck, Benjamin, Benton, Blair, Bole, Boutwell, Calk, Carr, Churchill, Sidney Clarke, Dawes, Dewees, Dixon, Donnelly, Eckley, Eliot, French, Garfield, Glessbrenner, Golladay, Griswold, Grover, Hawkins, Higby, Hill, Hinds, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Jencks, Johnson, Alexander H. Jones, Thomas L. Jones, Julian, Kitchen, Kootz, William Lawrence, Loughbridge, Mallory, Marshall, Marvin, Maynard, McClurg, McKee, Miller, Moorhead, Morrell, Mullins, Mungen, Myers, Nicholson, Nunn, O'Neill, Orth, Phelps, Plants, Poland, Pomeroy, Raun, Roots, Ross, Sawyer, Selye, Shanks, Sitgreaves, Smith, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Stone, Taber, Taffe, Taylor, Thomas, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Henry D. Washburn, William B. Washburn, William Williams, John T. Wilson, Windom, and Woodbridge—96.

NAYS—Messrs. Allison, Baker, Beatty, Bromwell, Benjamin F. Butler, Cobb, Coburn, Cook, Cullom, Delano, Elia, Farnsworth, Ferriss, Hamilton, Holman, Judd, Kelsey, George V. Lawrence, Logan, McCarthy, McCormick, Mercur, Moore, Paine, Perham, Peters, Price, Schenck, Scofield, Trowbridge, Cadwalader C. Washburn, Elihu B. Washburn, Welker, Thomas Williams, and James F. Wilson—35.

NOT VOTING—Messrs. Adams, Anderson, Archer, Barnum, Beaman, Bingham, Blaine, Boyer, Brooks, Broomall, Buckland, Burr, Rodrick R. Butler, Chandler, Rander W. Clarke, Cornell, Covode, Dodge, Driggs, Eggleston, Eldridge, Ferry, Fields, Finney, Fox, Getz, Gravely, Haight, Halsey, Harding, Hooper, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Kelley, Kerr, Ketcham, Knott, Laffin, Lincoln, Loan, Lynch, McCullough, Morrissey, Newcomb, Niblack, Pike, Pile, Polsley, Pruyn, Randall, Robertson, Robinson, Shellabarger, Aaron F. Stevens, John Trimble, Lawrence S. Trimble, Van Aernam, Van Anken, Van Trump, Van Wyck, Ward, Stephen F. Wilson, Wood, and Woodward—67.

So the motion to postpone was agreed to.

Mr. WILLIAMS, of Pennsylvania. I desire to make an inquiry in regard to the effect of this vote? Will it cut off debate on this bill?

The SPEAKER. It will, unless debate should transpire previous to Thursday next.

Mr. WILLIAMS, of Pennsylvania. Then I ask leave to print in the Globe such remarks as I may desire to make on this bill.

No objection was made. [See Appendix.]

Mr. BANKS. I move to reconsider the vote by which the motion to postpone was agreed to; and I also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTION CONTEST—SWITZLER VS. ANDERSON.

Mr. POLAND. Mr. Speaker, I had designed to call up this morning the report of the Committee of Elections on the case of Switzler vs. Anderson, from the ninth district of Missouri; but for very much the same reason as that which has induced the postponement of the Alaska bill I have concluded not to press that case at this time, there being so many members absent. I give notice that I shall call up this case on next Tuesday after the morning hour.

MISSION BUILDING, SAULT STE. MARIE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a communication from the corresponding secretary of the American Baptist Home Mission Society, respecting a mission building erected on the military reserve at Sault Ste. Marie, and asking relief; which was referred to the Committee on Military Affairs.

ORDER OF BUSINESS.

Mr. MOORHEAD. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of proceeding to the consideration of the tariff bill.

The SPEAKER. The motion in that form would require unanimous consent.

Mr. MOORHEAD. Well, I move then simply that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union; and I give notice that in Committee of the Whole I shall move to lay aside all other bills to get at the tariff bill.

Mr. WASHBURN, of Illinois. Was not the deficiency appropriation bill, Mr. Speaker, made a special order for to-day?

The SPEAKER. The Chair will state the position of business. There has to-day been no morning hour. The morning hour would now commence, but the gentleman from Pennsylvania [Mr. MOORHEAD] rises to a privileged motion, that the rules be suspended and that the House resolve itself into the Committee of the Whole, his object being to lay aside all other bills in order to take up the tariff bill. The deficiency appropriation bill, in reference to which the gentleman from Illinois inquires, was made a special order for to-day after the morning hour and from day to day until disposed of; but if there should be no morning hour that bill will not be reached to-day.

Mr. MOORHEAD. I insist on my motion; and I give notice to the friends of the tariff bill that if they want it passed at this session now is the time to take it up.

On the motion of Mr. MOORHEAD there were—ayes 47, noes 49; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. MOORHEAD and Mr. MARSHALL.

The House divided; and the tellers reported—ayes 62, noes 53.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair.)

MEETING OF CONGRESS.

The CHAIRMAN. The pending question is upon the motion of the gentleman from Pennsylvania, [Mr. MOORHEAD,] to lay aside the pending bill, being bill (H. R. No. 81) in regard to the meeting of Congress. At the last sitting of the committee tellers had been



appointed on this question, and no quorum had voted. The gentleman from Pennsylvania [Mr. MOORHEAD] and the gentleman from Illinois [Mr. WASHBURN] will resume their places.

The committee again divided; and the tellers reported—ayes 66, noes 42.

So the bill was laid aside.

#### PAY OF MEMBERS OF CONGRESS, ETC.

The CHAIRMAN. The next bill on the Calendar is the bill (H. R. No. 87) to repeal part of an act therein named.

Mr. MOORHEAD. I move that that bill be laid aside.

Mr. STEVENS, of Pennsylvania. Would it not be in order to move to lay aside all the bills till we come to the tariff bill?

The CHAIRMAN. That could be done by unanimous consent.

Several members objected.

Mr. PAINE. I call for the reading of the bill.

The Clerk read the bill. It provides for the repeal of section seventeen of the act approved July 28, 1866, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," except so far as the same relates to mileage.

On the motion to lay aside the bill there were—ayes 61, noes 40.

Mr. LAWRENCE, of Ohio. I demand tellers.

Tellers were not ordered.

So the bill was laid aside.

#### REDUCTION OF THE CURRENCY.

The next bill upon the Calendar was House bill No. 89, relative to the reduction of the currency.

Mr. MOORHEAD. I move that bill be laid aside.

Mr. ROSS. I want that bill read and acted on. The bill was read. It provides that so much of any existing act of Congress as authorizes the Secretary of the Treasury to retire from circulation any part of the United States notes in circulation, or now in the Treasury, shall be repealed; and it shall be the duty of the Secretary of the Treasury to pay out in pursuance of law all such United States notes as may be in or may come into the Treasury, retaining in the Treasury only such amounts as the public interests may require.

Mr. ROSS. I hope, sir, that will be put on its passage.

Mr. MOORHEAD. I insist on my motion that it be laid aside.

The committee divided; and there were ayes 64, noes 27; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Mr. POMEROY and Mr. COOK.

The committee again divided; and the tellers reported—ayes 65, noes 44.

So the bill was laid aside.

#### TREATY-MAKING POWER.

The next business upon the Calendar was the following resolution submitted by Mr. SPALDING:

*Resolved*, That it being declared by the second section of the second article of the Constitution that the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur, the House of Representatives do not claim any agency in making treaties, but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress it must depend for its execution as to such stipulations on a law or laws to be passed by Congress according to its sound discretion.

Mr. CULLOM. I hope that will be put on its passage.

Mr. SPALDING. There will be no discussion on it.

Mr. STEVENS, of Pennsylvania. I move it be laid aside.

Mr. SPALDING. I move that the resolution be reported to the House without amendment.

The CHAIRMAN. The motion to postpone is not amendable.

The committee divided; and there were—ayes 58, noes 27; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Mr. BUTLER of Massachusetts, and Mr. MAYNARD.

The committee again divided; and the tellers reported—ayes 61, noes 16; no quorum voting.

Under the rules the roll was called, and the following members failed to answer to their names:

Messrs Adams, Allison, Anderson, Archer, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Barnes, Barnum, Beaman, Bingham, Blaine, Boles, Boyer, Bromwell, Brooks, Broomall, Buckland, Burr, Roderick R. Butler, Chanler, Reader W. Clarke, Cornell, Delano, Dodge, Donnelly, Eckley, Eggleston, Eldridge, Ferry, Fields, Finney, Fox, French, Getz, Gravely, Haight, Halsey, Harding, Hill, Hooper, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Johnson, Kelley, Kerr, Ketcham, Knott, Ladin, Lincoln, Mallory, McCullough, Mercer, Morrissey, Newcomb, Niblack, Nunn, Orth, Phelps, Polsley, Pruyn, Randall, Robertson, Robinson, Ross, Shellabarger, Smith, Starkweather, Aaron F. Stevens, Stewart, Thomas, John Trimble, Lawrence S. Trimble, Van Aernam, Van Auker, Van Trump, Van Wyck, Ward, Cadwalader C. Washburn, Stephen F. Wilson, Wood, and Woodward.

The committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole had, according to order, had the Union generally under consideration, and particularly a resolution relative to the treaty-making power, and finding itself without a quorum had caused the roll to be called, and had directed him to report the names of the absentees to the House.

A quorum having appeared the committee resumed its session.

The committee again divided; and the tellers reported—ayes 64, noes 40.

So the resolution was laid aside.

#### TAXATION OF UNITED STATES NOTES.

The next business on the Speaker's table was House bill No. 323, to authorize the taxation of United States notes and national bank notes by or under State authority.

Mr. MOORHEAD. I move that be laid aside.

Mr. WILSON, of Iowa. I make the point of order that a special order cannot be laid aside.

The CHAIRMAN. This does not appear to be a special order.

Mr. BUTLER, of Massachusetts. I should like to inquire whether, if the House refuses to lay this bill aside, it will come up for consideration at the present time?

The CHAIRMAN. It will.

Mr. BUTLER, of Massachusetts. I hope, then, we will go to the consideration of the taxation of United States bonds.

Mr. MOORHEAD. I hope we will not.

Mr. BUTLER, of Massachusetts. Bonds or tariff, that is the question.

Mr. BENJAMIN, and Mr. BUTLER of Massachusetts, demanded tellers.

Tellers were ordered; and the Chair appointed Messrs. BUTLER of Massachusetts, and MOORHEAD.

Mr. BUTLER, of Massachusetts. I call for the reading of the bill.

The CHAIRMAN. It is too late; the committee is dividing.

The committee divided; and the tellers reported—ayes 67, noes 32.

The CHAIRMAN. The Chair votes in the affirmative; and the ayes have it.

So the bill was postponed.

#### CURRENCY AND NATIONAL DEBT.

The next business on the Calendar was a bill (H. R. No. 542) to establish a uniform currency, provide for the management and liquidation of the national debt, and for other purposes.

Mr. ALLISON. I call for the reading of the bill.

The bill was read at length.

Mr. MOORHEAD. I move to lay aside this bill.

Mr. BUTLER. I desire to ask whether it will be competent for the committee, if this bill is taken up, to amend it by substituting a bill for the taxation of United States bonds, and funding the United States debt?

Mr. MOORHEAD. I do not yield for that. It is in the nature of debate.

Mr. PIKE. I rise to a point of order. A motion to amend has precedence of a motion to postpone indefinitely.

The CHAIRMAN. The motion of the gentleman from Pennsylvania has precedence of the motion to amend.

Mr. PIKE. Is that not a motion to postpone indefinitely?

The CHAIRMAN. It is to lay aside.

Mr. PIKE. Is not that equivalent to a motion to postpone indefinitely?

The CHAIRMAN. It is not.

The question being put on the motion to lay aside the bill, there were—ayes 58, noes 25; no quorum voting.

Tellers were ordered; and Messrs. INGER-SOLL, and WASHBURN of Massachusetts, were appointed.

The committee divided; and the tellers reported—ayes 67, noes 23; no quorum voting.

The roll was then called; and the following members failed to answer to their names:

Messrs. Adams, Archer, Axtell, Banks, Barnes, Barnum, Beaman, Beck, Benton, Bingham, Blaine, Boyer, Brooks, Broomall, Buckland, Burr, Benjamin F. Butler, Roderick R. Butler, Calk, Chanler, Reader W. Clarke, Cornell, Delano, Dodge, Donnelly, Eggleston, Eldridge, Farnsworth, Ferry, Fields, Finney, Fox, Getz, Golladay, Gravely, Grover, Haight, Halsey, Harding, Hawkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Ingersoll, Johnson, Thomas L. Jones, Kelley, Kerr, Ketcham, Knott, Ladin, Lincoln, Logan, Marshall, McCullough, Morrissey, Mullins, Newcomb, Niblack, Nunn, Phelps, Pike, Polsley, Pruyn, Randall, Robertson, Robinson, Ross, Selye, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, John Trimble, Lawrence S. Trimble, Van Aernam, Van Auker, Van Trump, Van Wyck, Ward, Stephen F. Wilson, Wood, and Woodward.

The committee then rose; and Mr. POMEROY having taken the chair as Speaker *pro tempore*, Mr. DAWES reported that the Committee of the Whole on the state of the Union, having had under consideration a bill (H. R. No. 542) to establish a uniform currency, provide for the management and liquidation of the national debt, and for other purposes, and having found itself without a quorum, had directed the roll to be called and the names of the absentees to be reported to the House.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate insisted upon its amendments to the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1869, and for other purposes, disagreed to the amendments of the House to other amendments of the Senate to the said bill, agreed to the conference asked for by the House on the disagreeing votes of the two Houses thereon, and appointed Messrs. MORRILL of Maine, HARLAN, and COLE, conferees on the part of the Senate.

The message further announced that the Senate had passed a bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river, with an amendment, in which the concurrence of the House was requested.

The message further announced that the Senate had passed a bill and joint resolution of the following titles; in which the concurrence of the House was requested:

An act (S. No. 579) to establish a new land district in the State of Nebraska; and Joint resolution (S. No. 151) to drop from the rolls of the Army certain officers absent without authority from their commands.

#### ENROLLED BILL SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 1156) to authorize the Commissioner of the General Land Office to issue a patent to F. N. Blake for one hundred and sixty acres of land in Kansas.

#### CURRENCY AND NATIONAL DEBT.

A quorum having appeared, the Committee of the Whole resumed its session. The question was on laying aside the pending bill.

The CHAIRMAN. The tellers will resume their places.

The committee again divided; and the tellers reported—ayes 60, noes 41.

So the bill was laid aside.

#### COLUMBIA DEAF AND DUMB INSTITUTION.

The next business on the Calendar was House bill No. 541, making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution.

Mr. SPALDING. I am entirely content that this bill should be laid aside to be reported to the House with a recommendation that the same do pass.

Mr. WILSON, of Iowa. I rise to a question of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WILSON, of Iowa. This bill having been made the special order by order of the House, it cannot be laid aside by the Committee of the Whole.

The CHAIRMAN. It can be laid aside to be reported to the House.

Mr. ROSS. I ask that the bill be read.

The bill was read. The first section appropriates for the support of the Columbia Institution for the Instruction of the Deaf and Dumb, in addition to the existing appropriation to meet the increased expense of maintaining pupils whose admission was authorized by an act of Congress, approved March 2, 1867, \$3,000. For continuing the work upon the buildings of the institution, in accordance with plans heretofore submitted to Congress, \$48,000.

The second section provides that in addition to the directors whose appointment has heretofore been provided for by law there shall be three other directors appointed in the following manner: one Senator by the President of the Senate, and two Representatives by the Speaker of the House; these directors to hold their offices for the term of a single Congress, and to be eligible to a reappointment.

The third section provides that no part of the real or personal property now held or hereafter to be acquired by the said institution shall be devoted to any other purpose than the education of the deaf and dumb, nor shall any portion of the real estate be aliened, sold, or conveyed, except under the authority of a special act of Congress.

The fourth section provides that so much of the act of February 16, 1857, as allows the payment of \$150 per annum for the maintenance and tuition of each pupil admitted by order of the Secretary of the Interior, be, and the same is hereby, repealed.

The question was upon the motion of Mr. SPALDING, to lay the bill aside to be reported to the House.

The question was taken; and upon a division there were—ayes 52, noes 20; no quorum voting.

Tellers were ordered; and Mr. SPALDING and Mr. GROVER were appointed.

The committee again divided; and the tellers reported that there were—ayes 75, noes 26.

So the bill was laid aside to be reported to the House.

#### BENEVOLENT INSTITUTIONS IN THE DISTRICT.

The next business on the Calendar was House bill No. 859, appropriating money in support of benevolent institutions and in aid of charities in the District of Columbia, for the fiscal year ending June 30, 1869.

Mr. MOORHEAD. I move that this bill be laid aside to be reported to the House, with a recommendation that the same do pass.

Mr. PIKE. Are amendments to this bill now in order?

The CHAIRMAN. The bill is now open to amendment.

Mr. PIKE. Has the bill yet been read a first time in Committee of the Whole?

The CHAIRMAN. It has not.

Mr. PIKE. Then I ask that it be now read.

The bill was then read at length.

The CHAIRMAN. The bill is now open to amendment.

Mr. SPALDING. I am directed by the Committee on Appropriations to submit sundry amendments to this bill.

Mr. WASHBURNE, of Illinois. I rise to a question of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WASHBURNE, of Illinois. My point of order is that this bill and the one just laid aside to be reported to the House were made special orders in Committee of the Whole, with the understanding that they should be fully discussed. Four of the members of the Committee on Appropriations have made a minority report, showing all the facts in regard to this deaf and dumb asylum. Now, I say it is wrong to put these bills through without discussion.

Mr. SPALDING. The gentleman is making no point of order.

The CHAIRMAN. The Chair does not understand the gentleman to be making any point of order, but merely stating reasons to affect the vote of the committee.

Mr. WASHBURNE, of Illinois. I was absent from the Hall on duty on a committee of conference when the bill was reached in committee, and a sort of snap judgment was taken on me.

Mr. SPALDING. I was obliged to take the course I did.

Mr. BANKS. I would make a suggestion, which I think will prove satisfactory. If these bills are laid aside informally, they can be taken up and discussed and amended when the House again reaches their consideration in Committee of the Whole.

Mr. WASHBURNE, of Illinois. I would ask that the bill which has been laid aside to be reported to the House be considered as laid aside informally in Committee of the Whole.

Mr. PIKE. I object.

Mr. WASHBURNE, of Illinois. Then I would suggest that these two bills be reported to the House, with the understanding that they shall be again referred to the Committee of the Whole when we go back into the House.

Mr. SPALDING. I have no objection to both being reported to the House.

Mr. ROSS. I object.

Mr. STEVENS, of Pennsylvania. I have no objection, provided these bills go over till next week; but this week we are all in confusion.

Mr. SPALDING. I will agree that the bill be reported to the House, and be next week considered by the House as in Committee of the Whole.

Mr. ROSS. I move that the committee rise.

On the motion there were—ayes 42, noes 58.

Mr. PIKE called for tellers.

Tellers were ordered; and Mr. PIKE and Mr. KNOTT were appointed.

The committee divided; and the tellers reported—ayes 50, noes 52.

So the motion that the committee rise was not agreed to.

Mr. SPALDING. I understood that the arrangement which I suggested was assented to.

The CHAIRMAN. Is there objection?

Mr. ROSS and Mr. PIKE objected.

Mr. SPALDING. I move to amend the bill by striking out lines eighteen to twenty-two inclusive, reading as follows:

For the purchase, by the Secretary of the Interior, for the agricultural purposes of the institution, one hundred and forty-eight acres, more or less, of land lying directly east of the present grounds of the hospital, and separated from them by the public road, \$23,000.

Mr. STEVENS, of Pennsylvania. Mr. Chairman, if the committee should now rise, could not the House, by a vote, resolve that, on going again into Committee of the Whole, all other bills should be postponed for the purpose of taking up the tariff bill?

The CHAIRMAN. It would be in order to

make such a motion; but any gentleman could call for a division of the question, so that the vote would have to be taken separately upon laying aside each bill.

Mr. WASHBURNE, of Illinois. I am willing to consent that both these bills shall be reported to the House with the understanding that they go back to the committee, or that they be considered in the House when consent can be had.

The CHAIRMAN. Is there objection?

Mr. ROSS. I object.

Mr. WASHBURNE, of Illinois. The gentleman from Ohio [Mr. SPALDING] can in the House move to refer the bills to the committee, and we will sustain the motion.

The amendment of Mr. SPALDING was agreed to.

Mr. SPALDING. I move further to amend by striking out in line thirty the word "five;" and inserting in lieu thereof the word "three;" so as to make the paragraph read as follows:

For the proper inclosure, improvement, and enlargement of the grounds of the institution, in accordance with plans heretofore submitted to Congress, \$3,600.

On agreeing to the amendment there were—ayes 39, noes 15; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers; and appointed Mr. BALDWIN and Mr. ROSS.

The committee divided; and the tellers reported—ayes 60, noes 19; no quorum voting.

Mr. PIKE. I move that the committee rise.

On the motion there were—ayes 54, noes 52.

Mr. KOONTZ. I call for tellers.

Tellers were ordered; and Mr. KOONTZ and Mr. PIKE were appointed.

The committee divided; and the tellers reported—ayes 57, noes 48.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, and particularly the bill (H. R. No. 541) making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution, had directed him to report the same back without amendment; also, that the committee had had under consideration the bill (H. R. No. 859) appropriating money in support of benevolent institutions and in aid of charities in the District of Columbia for the fiscal year ending June 30, 1869, and had come to no resolution thereon.

Mr. SPALDING. Mr. Speaker, I am content that the bill No. 541 shall be retained in the House and considered as in Committee of the Whole at some convenient time, as the gentleman from Illinois wishes to discuss it. Let it be postponed till next week and come up directly after the vote on the Alaska bill.

The SPEAKER. It will be postponed till the time indicated if there be no objection.

There was no objection.

Mr. MOORHEAD. I yield to my colleague on the committee.

Mr. SCHENCK. I move that House bill No. 859, making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution, be postponed until next Wednesday after the morning hour.

The motion was agreed to.

#### ENROLLED BILL SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate bill No. 542, for the relief of Thomas W. Ward, late collector of customs, district of Corpus Christi, Texas; when the Speaker signed the same.

#### UTAH CONTESTED ELECTION.

Mr. CHANLER, from the Committee of Elections, reported the following resolutions: Resolved, That William McGrorty is not entitled to

a seat in this House as a Delegate from the Territory of Utah.

*Resolved*, That William H. Harper is entitled to a seat in this House as a Delegate from the Territory of Utah.

The report and -accompanying papers were laid upon the table, and ordered to be printed.

Mr. SCHENCK moved that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Illinois, moved that the House adjourn.

The House divided; and there were—ayes 58, noes 50.

Mr. MOORHEAD demanded the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. The Chair will consider, unless objected to, the adjournment shall be until half past seven o'clock p. m., this evening having been set apart for invalid pension bills.

The question was taken; and it was decided in the negative—yeas 39, nays 76, not voting 83; as follows:

YEAS—Messrs. Axtell, Bailey, Baker, Baldwin, Barnes, Beck, Benton, Blair, Boies, Bromwell, Sidney Clarke, Eckley, Ela, Eldridge, Farnsworth, Ferriss, Glossbrenner, Golladay, Hamilton, Hawkins, Holman, Honkins, Ingersoll, Judd, Loan, Mallory, Marshall, McCormick, Nicholson, Orth, Ross, Sitgreaves, Stewart, Taber, Cadwalader C. Washburn, James F. Wilson, John T. Wilson, Windom, and Woodbridge—39.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Banks, Beatty, Benjamin, Boutwell, Cake, Cary, Chanler, Churchill, Cobb, Coburn, Cook, Covode, Dawes, Deweese, Driggs, Eliot, French, Garfield, Griswold, Grover, Hill, Hinds, Hooper, Chester D. Hubbard, Hubburd, Hunter, Jenckes, Alexander H. Jones, Julian, Kelsey, Kitchen, Koontz, George V. Lawrence, William Lawrence, Loughbridge, Lynch, Marvin, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Morrill, Mullins, Myers, O'Neill, Paint, Peters, Plants, Poland, Pomeroy, Price, Sawyer, Schenck, Seefield, Selye, Smith, Spalding, Starkweather, Stokes, Taffe, Taylor, Trowbridge, Tywicheil, Robert T. Van Horn, Henry D. Washburn, Welker, Thomas Williams, and William Williams—76.

NOT VOTING—Messrs. Adams, Archer, James M. Ashley, Barnum, Benham, Bingham, Blaine, Boyer, Brooks, Broomall, Buckland, Burr, Benjamin F. Butler, Roderick R. Butler, Reader W. Clarke, Cornell, Cullom, Delano, Dixon, Dodge, Donnelly, Eggleston, Ferry, Fields, Finney, Fox, Getz, Gravelly, Haight, Halsey, Harding, Higby, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Johnson, Thomas L. Jones, Kelley, Kerr, Ketcham, Knott, Laffin, Lincoln, Logan, McClurg, McCullough, Morrissey, Mungen, Newcomb, Niblack, Nunn, Perham, Phelps, Pike, Pile, Poley, Pruyn, Randall, Raum, Robertson, Robinson, Roots, Shanks, Shelabarger, Aaron F. Stevens, Thaddeus Stevens, Stone, Thomas, John Trimble, Lawrence S. Trimble, Upson, Van Arnam, Van Auker, Burt Van Horn, Van Trump, Van Wyck, Ward, Elihu B. Washburne, William B. Washburn, Stephen F. Wilson, Wood, and Woodward—83.

So the House refused to adjourn.

#### LEAVE OF ABSENCE.

Mr. MERCUR was granted leave of absence until Monday, Mr. INGERSOLL until Tuesday, and Mr. HOLMAN indefinitely on account of sickness of one of his family.

#### ORDER OF BUSINESS.

The question then recurred on Mr. SCHENCK's motion to go into committee.

Mr. MOORHEAD. I rise for the purpose of appealing to gentlemen. We do not expect to proceed with the tariff bill. All we wish is to get it up and then adjourn. I ask that it be considered as the pending question in the committee.

Mr. FARNSWORTH. I object.

Mr. SCHENCK's motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair.)

Mr. SCHENCK. I suggest that by unanimous consent all bills preceding the tariff bill be considered as laid aside, and then I will move the committee rise.

Mr. STEWART. I object.

#### COMPENSATION TO GOVERNMENT EMPLOYEES.

The next business upon the Calendar was House joint resolution No. 245, giving additional compensation to certain employes in the

civil service of the Government for the fiscal year ending June 30, 1868.

Mr. MOORHEAD. I move that be laid aside.

The motion was agreed to.

#### INTERNAL TAX BILL.

The next business on the Calendar was the bill (H. R. No. 106) to reduce into one act and to amend the laws relating to internal taxes.

Mr. SCHENCK. I am willing that this bill shall go over until the first week of the next session, when I confidently expect to pass it.

No objection being made, the bill was postponed accordingly.

#### NIAGARA FALLS SHIP-CANAL.

The next business on the Calendar was the bill (H. R. No. 1202) to provide for the construction of a ship-canal around the Falls of Niagara.

Mr. MOORHEAD. I move to lay that bill aside.

The motion was agreed to.

#### TARIFF BILL.

The next business on the Calendar was the bill (H. R. No. 1349) to increase the revenue from duties on imports, and tending to equalize exports and imports.

Mr. MOORHEAD. I ask for the reading of the bill.

Mr. SPALDING. I move that the first reading be dispensed with.

Mr. STEWART objected.

The Clerk commenced the reading of the bill.

Mr. SCHENCK. I ask unanimous consent that the further reading be dispensed with.

Mr. BROMWELL objected.

The Clerk resumed and concluded the first reading of the bill, and then read the first paragraph for amendment, as follows:

That from and after the passage of this act, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned there shall be levied, collected, and paid on the articles herein enumerated and provided for, imported from foreign countries, the following specified duties and rates of duty, that is to say: on all copper imported in the form of ores, three cents on each pound of fine copper contained therein; on all regulus of copper, and on all black or coarse copper, four cents on each pound of fine copper contained therein; on all old copper, fit only for remanufacture, four cents per pound; on all copper in plates, bars, ingots, pigs, and in other forms not manufactured or herein enumerated, five cents per pound.

Mr. MOORHEAD. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 1349, to increase the revenue from duties on imports and tending to equalize exports and imports, and had come to no resolution thereon.

#### ELECTION IN VIRGINIA.

Mr. FARNSWORTH reported from the Committee on Reconstruction a bill (H. R. No. 1881) providing for an election in Virginia; which was read a first and second time.

The bill was reported. It provides that the constitution adopted by the convention which met in Richmond, Virginia, on the 3d day of December, 1867, be submitted for ratification on Thursday, Friday, and Saturday, the 13th, 14th, and 15th days of August, 1868, to the voters of the State of Virginia, who shall then be registered and qualified as such in compliance with the acts of Congress known as the reconstruction acts, the vote to be for and against the constitution, the election to be held at the same places where the election for delegates to said convention was held, and under the regulations to be prescribed by the commanding general of the military district, and the returns to be made to him as directed by law.

Section two provides that an election shall be held at the same time and places for members of the General Assembly and for all State officers to be elected by the people under said

constitution, the election for State officers to be conducted under the same regulations as that for the ratification of the Constitution and by the same persons, the returns to be made in duplicate, one copy to the commanding general and one to the president of said convention, who shall give certificates of election to the persons elected, the officers so elected to enter upon the duties for which they are chosen as soon as elected and qualified in compliance with the provisions of said constitution, and to hold their respective offices for the term of years prescribed by the constitution, counting from the 1st day of January next, and until their successors are elected and qualified.

The third section provides that an election for members of the Congress of the United States shall be held in the congressional districts as established by said convention, one member of Congress being elected in the State at large, at the same time and places as the election for State officers, said election to be conducted by the same persons and under the same regulations mentioned in this act, and the returns to be made in the same manner provided for State officers.

The fourth section provides that no person shall act either as a member of any board of registration to revise and correct the registration of votes, or as a judge, commissioner, or other officer at any election to be held under the provisions of this act, who is a candidate for any office at the election to be held as herein provided for.

The fifth section provides that the General Assembly elected under and by virtue of this act shall assemble at the capitol in the city of Richmond, on Tuesday, the 1st day of September, 1868.

Mr. FARNSWORTH. This bill is simply to give a remedy to the people of the State of Virginia which they can get in no other way. Their constitutional convention provided for an election and fixed the day for the election, the election to be called and provided for by rules and regulations to be issued by the general commanding the district. The general so commanding did not call the election or make any provision for it on the day fixed, and the time passed over. His reason for not doing so was because there was no money appropriated for the purpose of defraying the expenses of the election. The time having passed, the commanding general thinks he has no authority to designate a day for the election. This bill is reported for the purpose of giving the people of Virginia a chance to vote on their constitution. It proposes no change of the reconstruction acts so far as registration is concerned, but simply fixes the time when they shall vote. It also provides that they may elect officers at the same election, as the other reconstructed States have done.

Mr. MULLINS. Does this bill state that this election shall be held in accordance with the provisions of the reconstruction act?

Mr. FARNSWORTH. It provides that the election shall take place in accordance with the reconstruction acts of Congress, and that the commanding general shall issue the needful rules and regulations, as has been done in other States.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### UNION PACIFIC RAILROAD.

Mr. PRICE, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the Secretary of the Interior be instructed to furnish to this House a copy of the report of General G. M. Dodge, chief engineer of the Union Pacific railroad, concerning the surveys and operations of the company for the year 1867.



## SCHOOLS FOR DISTRICT OF COLUMBIA.

Mr. STEVENS, of Pennsylvania, by unanimous consent, reported, from the Committee on Education in the District of Columbia, a bill (H. R. No. 1382) to establish a system of common schools for the District of Columbia; which was read a first and second time, ordered to be printed and recommitted.

Some time afterward,

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the bill was recommitted; which motion was entered upon the Journal.

## NIAGARA SHIP-CANAL.

Mr. VAN HORN, of New York. I ask consent to submit the following resolution for consideration at the present time:

*Resolved*, That the bill now in Committee of the Whole, providing for the construction of a ship-canal around the Falls of Niagara, be postponed to and made the special order for Thursday, the 10th day of December next, immediately after the morning hour, and continue as the special order from day to day until disposed of.

Mr. KELSEY. I object.

## ORDER OF BUSINESS.

Mr. SCHENCK. I move that the House proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

## WAGON-ROADS IN DAKOTA TERRITORY.

The first business on the Speaker's table was the amendments of the Senate to the bill (H. R. No. 650) to amend the act of March 3, 1865, providing for the construction of certain wagon-roads in Dakota Territory.

The amendments were read, as follows:

In line one, after the word "that," insert the words "so much of."

In line four strike out the words "or so much thereof as may be necessary" and insert in lieu thereof the words, "as shall not exceed the sum of \$6,500."

Mr. COOK. I move that the House concur.

The amendments were concurred in.

Mr. COOK moved to reconsider the vote by which the amendments were concurred in, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## CONNECTICUT AVENUE AND PARK RAILWAY.

The next business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 420) to incorporate the Connecticut avenue and Park Railway Company in the District of Columbia.

The amendment was read, as follows:

On page 3 strike out in line two the words "Baltimore and Ohio railroad," and insert in lieu thereof "Washington and Georgetown railroad."

The amendment was concurred in.

## AGRICULTURAL DEPARTMENT.

The next business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 1068) to provide for certain claims against the Department of Agriculture.

The amendment was read, as follows:

Strike out all after the enacting clause, in these words:

That there is hereby appropriated the sum of \$47,000 out of the Treasury of the United States, from which shall be paid such indebtedness and claims against the Department of Agriculture contracted prior to the 1st day of July, 1867, and included in the report of the Committee of Claims herewith, as shall be submitted to the Fifth Auditor of the Treasury, with sufficient evidence, under oath, as to the origin and validity of the same, respectively, and decided by the Fifth Auditor and the final accounting officer of the Treasury to be due to the respective claimants according to the rules and laws of equity.

And in lieu thereof insert the following:

That the proper accounting officers of the Treasury be authorized to audit the claims included in the schedule following, to wit: W. L. Ellison, \$150; C. C. Anderson, \$750; M. W. Beverage, \$150; W. B. Berry, \$647; J. H. Bourne, \$35; John Bell, \$22; C. J. Brewer, \$85; E. Baker, \$7; T. L. Boggess, \$450; J. A. Blake, \$4; Baltimore Journal of Commerce and Price Current, \$15; George Brown, \$13; L. C. Campbell, \$250; G. B. Carrow, \$85; Crut & Campbell, \$20; Carter, Yates & Wiswell, \$6325; F. W. Christensen, \$2; H. L. Chapin, \$650; Craigen & Clever, \$5; Collins, Alderson & Co., \$1,733 11; William B. Dana, \$5; R. F. Eaton & Co., \$150; Espey & Burdoff, \$62; Samuel S. Foss, \$2; Fisher & Schaeffer, \$10 90;

Nathaniel B. Fagitt, \$364 41; Fowler & Co., \$153 29; Z. D. Gilman, \$22; William Hacker, \$6,709 40; Hovey & Co., \$0 83; International Exchange, (J. Mudie, agent), \$2; Irving & Willey, \$397 35; Journal of Commerce, \$17; A. J. Joyce & Co., \$48 13; Aug. Jordan, \$25; J. Knox, \$15 50; J. M. Kuester, \$2; J. F. Luhn & Co., \$391 05; Linton & Co., \$45; A. M. Lawza, \$6 in gold; D. T. Moore, \$3; Pascal Morris, \$13,223 66; J. Markritor, \$10; W. B. Moses, \$316 65; Myers & McElhan, \$25 23; J. W. Marlin, \$86 98; E. Madlack, \$0 25; Munn & Co., \$3; National Intelligence, \$16; Plant & Brother, \$2; Z. Pratt, \$10; Philips & Solomon, \$15; R. & J. Rives, \$5; William Smith, \$6; John Saul, \$45 65; H. A. Swasey & Co., \$3; Schaeffer & Karadi, \$67 70; W. B. Smith & Co., \$4; E. W. Stewart, \$60; E. Slade, \$30; Stevens Brothers, (London), \$58 20; Sibley & Guy, \$44 97; J. Turner, \$1; R. O. Thompson, \$15; Charles S. Taft, \$128 47; J. E. Tilton & Co., \$3; Andreux, Vilmorin & Co., \$12 70; T. B. Winner, \$150; William Wood & Co., \$29; J. B. Ward, \$35 38; G. E. Woodward, \$250; Samuel Wagner, \$2; J. F. Wright, \$1; A. H. Young, \$48 17; Paschall Morris, \$20; A. S. Yorke, \$65 20; Stevens & Brother, (London magazine), \$80; James Sheehy, \$6 50; R. O. Thompson, \$80; W. C. Lodge, \$35; James S. Rippencott, \$428; J. F. Walfinger, \$47 50; Samuel Rixwalt, \$104; William H. Gardner, \$20; G. Hubart Bates, \$37 50; William W. Bates, \$204; H. D. Dunn, \$232; K. A. Willard, \$192; N. B. Cloud, \$28; S. F. Baird, \$20; H. F. French, \$149 50; C. W. Howard, \$67 50; John White, \$15 56; Henry A. Dreer, \$163 75; Israel S. Diehl, \$900; and to allow so much of the same as shall appear upon due proof under oath to be due and unpaid for goods delivered and services rendered to the Department of Agriculture upon contracts made by the Commissioner prior to the 1st day of July, 1867, for the payment of the same, \$40,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Sec. 2. *And be it further enacted*, That if any Commissioner or other officer of the Department of Agriculture shall hereafter, in the name of the United States, or in the name of said Department, contract for any goods or services for the use thereof beyond the amount of money appropriated and remaining in his or their hands unexpended at the time of such contract, the officer so offending shall be deemed guilty of a misdemeanor in office, and upon conviction thereof shall be punished by fine not exceeding \$5,000, or by imprisonment not exceeding two years, or both, at the discretion of the court.

Mr. WASHBURN, of Massachusetts. This amendment of the Senate simply corrects a clerical mistake, (\$47,000 having been erroneously inserted instead of \$40,000,) and adds a new section, to which there can be no objection. I hope the amendment will be concurred in.

The amendment was concurred in.

## WASHINGTON TARGET-SHOOTING ASSOCIATION.

The next business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 344) to incorporate the Washington Target-shooting Association, in the District of Columbia.

The amendment was read, as follows:

On page 2, insert at the end of line twenty-seven, the following:

*Provided*, That the amount of real property or estate to be held or owned by said association shall not exceed in value the sum of \$5,000; *And provided further*, That the property of the said association, real, personal, and mixed, shall be held for the purposes, and none other, expressed in the first section of this act.

Mr. WELKER. I move concurrence.

Mr. KOONTZ. I hope it will be non-concurred in.

The amendment was non-concurred in.

## IMPROVEMENT OF MISSISSIPPI RIVER.

The SPEAKER next laid before the House the following amendment of the Senate to House bill No. 554, making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river:

Add the following as a new section:

Sec. 6. *And be it further enacted*, That there be, and hereby is, granted to the State of Minnesota, the further quantity of one hundred thousand acres of public lands, subject to the same restrictions as to selection and sale as are hereinbefore named, the proceeds whereof shall be used in making such improvements in the Mississippi river at the Falls of St. Anthony as may be deemed necessary by the Legislature of that State to protect and secure the existing navigation immediately above said falls.

Mr. DONNELLY. Mr. Speaker, I will ask the attention of the House to a brief explanation of this matter. The House will recollect that some time since we passed through the House a bill making a grant of lands to the State of Minnesota of two hundred thousand acres, for the improvement of the navigation of the Mississippi river between the Falls of

St. Anthony and the city of St. Paul, the object being to bring the navigation of the Mississippi river up to that great water-power. The bill, after being thoroughly discussed, passed the House and went to the Senate for concurrence. The Senate have amended the bill by adding an amendment increasing the grant made by the House one hundred thousand acres. It was added for this reason: it was ascertained by the Senate committee upon examination of the whole subject that the Falls of St. Anthony were in the process of disintegration and destruction; that they had receded during a great number of years from the point where the Minnesota river joins the Mississippi river, back to the point where the Falls are now found. The process is as follows: the sand rock formation below the magnesian limestone formation being worn away by the action of the water the rock, losing its support, breaks off in great fragments. In other words, they are undergoing the same process that has been going on for ages in the great Falls of Niagara. The Senate committee have ascertained that there are but about one thousand feet of that rock left, and it diminishes in width as it approaches its northern limit. One or two more freshets of that river would destroy the falls entirely by carrying off the entire rocky formation. The result would be the water-power of St. Anthony would be destroyed, a result which would be a calamity of almost national proportions, for that water-power is the greatest available water-power on the continent. The Senate have added this amendment of one hundred thousand additional acres for the preservation of that water-power.

Mr. MULLINS. Who derives benefit from that water-power, the Government or individuals?

Mr. DONNELLY. In one sense individuals will be benefited by it, because the water-power is the property of individuals; but the results of the destruction of that water-power would be enormous. They would include not only the persons who own the water-power, but a large population gathered about that falls, consisting of many thousands of people in St. Anthony and Minneapolis, and including the whole agricultural country tributary to those falls. They are used in the manufacture of lumber and flour, consumed not only by the people of Minnesota, but by the people of the entire Mississippi valley. So in the judgment of the Senate the destruction of that water-power would be a national calamity. I will say further that this amendment is made to conform to the original bill, which was very carefully drawn in the interest of the settlers. It provides the land granted shall be sold to actual settlers at \$1 25 per acre, the proceeds to be devoted to this work. It is a grant of one section in each township; so that if there are any evil consequences to flow from it they will be diffused over a large extent of country. I now ask the Clerk to read a letter from General G. K. Warren, one of the most capable and efficient officers in our Army, and who has been, by the War Department, charged with the surveys of the upper Mississippi river.

The Clerk read as follows:

WASHINGTON, D. C., June 27, 1868.

SIR: I have the honor to acknowledge the receipt of your letter of the 26th instant, expressing the solicitude felt in regard to the breaking away of the rocks and recession of the Falls of St. Anthony, and asking my views concerning the formation of the falls, the danger of their destruction by successive floods, and the injury to navigation above the falls that would result from their destruction.

A brief description of the structure of the rocks at the Falls of St. Anthony is as follows:

The rock forming the bed of the river at and just above the falls is a stratum of hard magnesian limestone, having a well-marked jointed structure, so as to readily separate into large blocks from fifteen to thirty feet square. Immediately in contact with limestone, beneath it, is a layer of clay at about three feet in thickness, nearly or quite impervious to water.

Beneath this clay stratum is a very soft siliceous sand rock, easily worn away by the water, and extending downward an unascertained depth, into which the water washes deep holes below the falls. The hard capping rock is thus being undermined, especially in flood stages, and falling off in large

blocks, which are subsequently broken up into smaller pieces and carried away by the current.

This is the case with nearly all our waterfalls, but the preceding action is much more rapid at the Falls of St. Anthony than at any other existing fall with which I am acquainted.

It is obvious to an observer that at a distant period the falls were at Fort Snelling, the present junction of the Minnesota river, and that they have receded to their present position in the manner before described a distance of about seven miles.

Did this same formation of rock extend indefinitely above the present falls along the river the continued recession might only be considered as endangering the dams and mills in their present location and not to concern the question of navigation. And, as a consequence, the prevention of this wearing away by the water might be considered a mere local interest, and to be provided for by those specially concerned.

But it so happens that the stratum of hard magnesian limestone thins out and rises entirely above the surface of the river a few hundred feet above the present crest of the falls, and further on the soft sand rock alone is to be found in the bed of the river, so that when the action of the stream has destroyed all that remains of the hard layer but a few days will be necessary to lower the bed and produce a continuous rapid far above, not merely destroying the present water-power, but a long reach of navigable channel.

The Water-Power Company at Minneapolis expended in 1866 between thirty and forty thousand dollars in an unavailing attempt to stop this wearing away. The undertaking is a difficult and expensive one, and it is but fair that the protection and extension of the river navigation should lend its aid to that of the Water-Power Company in effecting a common object.

The danger which threatens the destruction of the Falls of St. Anthony requires prompt attention.

The present condition of the falls is further exhibited by the annexed diagram.

On this diagram the banks of the river are represented in green, the water blue, the soft sand-rock yellow, the magnesian limestone brown, and the clay bed pink.

The section is constructed to cut the dam at the point furthest up the stream, from which point the dam inclines downward toward each shore. This apex of the dam is at the upper end of the magnesian limestone, above which the bed of the river is twenty feet deep.

The water is represented falling over the lower edge of the magnesian limestone in two places, four hundred feet apart; the lower one is at the place where the crest of the falls was in 1866, at which time the Minneapolis Water-Power Company put in the apron below the falls to protect them from further wear; the upper place is where the crest of the falls was left after the flood of July, 1867, four hundred feet having been washed away in one flood, notwithstanding the attempt to prevent it. One more like freshet would probably destroy the falls, for only one thousand feet of the magnesian limestone remains, and its thickness diminishes as the recession goes on; it was eighteen feet thick at the crest in 1866, and at the present position of the crest of the falls it is about eight feet thick; hence the present pressing emergency.

Very respectfully, your obedient servant,

G. K. WARREN,

*Brevet Major General United States Army,  
Major of Engineers.*

His Excellency Hon. WILLIAM R. MARSHALL,  
*Governor of Minnesota.*

Mr. DONNELLY. I yield a moment to the gentleman from Indiana.

Mr. JULIAN. This proposition was before the House Committee on the Public Lands, and in that committee I voted against it. I subsequently voted against it in the House, and I shall vote against it now when it comes from the Senate with one hundred thousand additional acres of land granted. My reason for my vote is this: it allows the State of Minnesota to go out two hundred miles or more and cull lands here and there for a local improvement. It is a proper case for a grant in money, but a grant in land is in contravention of our policy in like cases. The conditions of the bill as to settlement and price are wholesome, and the bill is as little obnoxious as any bill of this character can be, yet I cannot consistently vote for it for the reasons stated. I desired simply to say this much in justice to myself, leaving the House to dispose of the measure as it may deem right.

Mr. LAWRENCE, of Ohio. I desire to put an inquiry to the gentleman from Indiana. I desire to call the attention of the House to the fact—and I wish to inquire of the gentleman if it be a fact—that the additional one hundred thousand acres of land which is proposed to be given away by this amendment of the Senate is simply a proposition to appropriate so many acres for the benefit of private mill owners, perhaps involving no public interest at all except so far as it may be involved in the interest of these mill owners? Now, I submit to the House, if we are to go on with this indiscriminate squander of the public lands for the

benefit of mere private parties, we may as well give them all away at once and put an end to the matter.

Mr. JULIAN. I only say that while this bill may benefit private mill owners, it is likewise of public interest; but, for the reason I have given, I cannot favor this grant of land.

Mr. DONNELLY. I would say, in answer to the statement of the gentleman from Ohio, [Mr. LAWRENCE,] that the magnitude of this question far exceeds any private interest involved in it. It is true the owners of the water-power will receive some benefit from this grant, but at the same time it will benefit the entire population gathered around these falls, numbering, I think, some fourteen thousand people. Now, if this bill does not pass it is evident from the statement made by General Warren in the letter which has just been read, accompanied with a map which is here for the inspection of the House, that this water-power will soon be destroyed. There are but one thousand feet of magnesian limestone rock eight feet thick intervening between the navigation above and below these falls, so that if that small belt is swept away the water-power will be gone and the people gathered around that place will have to seek homes elsewhere.

Mr. WINDOM. Allow me to ask what will be the effect upon some eighty miles of navigation above the falls, if they are swept away.

Mr. DONNELLY. I am obliged to my colleague for the suggestion. The bill is based not so much upon the preservation of this water-power, important as that is, as upon the preservation of the navigation above the falls for a distance of eighty miles. If you take away the magnesian limestone one thousand feet in breadth, which now constitutes a natural dam across the river, the sandstone rock will be swept away, the bed of the river will fall, and the entire navigation above that point will be destroyed. So that it is for the preservation of the entire navigation above the falls and for the interest of the people both above and below the falls that this bill should be passed.

Mr. BUTLER, of Massachusetts. How far has the limestone washed away?

Mr. DONNELLY. The letter of General Warren states that in the last year there were some four hundred feet of the rock destroyed by the freshets. There is a breadth of but one thousand feet left, and he states that it is diminishing in thickness as the falls recede, so that the probability is another great freshet will sweep away the whole stratum. Now, the owners of this water-power have attempted in their own interest to preserve it. They expended \$37,000 in the attempt, and found they had not money enough. The strength of their work was not great enough to resist the immense flood, and it was swept away. We ask the Government to give this aid out of the lands of Minnesota. There are in the State of Minnesota fifty-three million acres of land. We ask for only one hundred thousand of those acres for the preservation of this great water-power.

Mr. MULLINS. Will the gentleman yield to me for a question?

Mr. DONNELLY. Certainly.

Mr. MULLINS. What plan is proposed for this purpose for the benefit of private individuals?

Mr. DONNELLY. Of course the expenditure of the money arising from this grant of land would be a question of engineering skill. The proposition, as I understand it, is to make a wooden sheathing—"aprons" the technical name is—across the crest of the falls, which would serve as a roof, if I may so call it, over which the entire body of water would pass, so that the disintegrating process now going on, by eating away the sand below the rock, thus causing the rock to break off, would be arrested.

Mr. LAWRENCE, of Ohio. Under whose direction is the money to be expended?

Mr. DONNELLY. Under the supervision of the Engineer Bureau. We do not ask for one instant to interrupt the settlement of the country. We propose to let settlers take these

lands at the same price they would have to pay the Government for land under the preemption act.

Mr. LOAN. Will the gentleman allow me to offer an amendment?

Mr. DONNELLY. I will hear it.

Mr. LOAN. I move to amend the amendment of the Senate by adding the following:

*Provided, That said lands be selected from any public lands in Alaska.*

With that amendment I would be very glad to support this bill.

Mr. SCHENCK. Are there any public lands in Alaska?

Mr. LOAN. Certainly; we have the assurance of the distinguished chairman of the Committee on Foreign Affairs [Mr. BANKS] that there are in Alaska some of the best lands in the world, and with the most beautiful climate on earth. I hope the gentleman will agree to my amendment.

Mr. DONNELLY. I cannot yield for any such amendment. We are not asking for lands in the State of Missouri, but for lands in the State of Minnesota. The entire delegation from Minnesota are united in asking for this grant. If any evil consequences shall result from this grant, they will result to the people of Minnesota. We, as their representatives, are willing to take the responsibility. I now call the previous question.

Mr. MULLINS. I hope the previous question will not be seconded until something better than this is proposed. This wood stratum is not worth anything; I have tried it myself. Whenever a freshet comes it will carry away your wood-work and all.

The question was upon seconding the previous question.

The previous question was seconded, and the main question ordered; which was upon agreeing to the amendment of the Senate.

The question was taken; and upon a division, there were—ayes 35, noes 37; no quorum voting.

Tellers were ordered; and Mr. LAWRENCE of Ohio, and Mr. DONNELLY, were appointed.

The House again divided; and the tellers reported that there were—yeas 54, noes 46.

Before the result was announced, Mr. JULIAN called for the yeas and nays.

The yeas and nays were ordered.

The question was again taken; and it was decided in the negative—yeas 54, noes 58; not voting 86; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Barnes, Benjamin, Boies, Benjamin F. Butler, Calkins, Sidney Clarke, Dawes, Deweese, Donnelly, Driggs, Eliot, Hamilton, Higby, Hinds, Hopkins, Chester D. Hubbard, Ingersoll, Jencks, Alexander H. Jones, Loan, Logan, Loughridge, Marvin, McClure, McCormick, McKee, Morrill, Myers, O'Neill, Peters, Pike, Platts, Price, Ham, Root, Sawyer, Smith, Spalding, Starkweather, Stokes, Taff, Brownbridge, Twichell, Robert T. Van Horn, William Williams, James F. Wilson, Windom, and Woodward—54.

NAYS—Messrs. Ames, Arnold, Baker, Beatty, Beek, Boutwell, Brownell, Cary, Chanler, Churchill, Cobb, Coburn, Cook, Covode, Cullum, Eli, Eldridge, Ferriss, Fields, Garfield, Glossbrenner, Golladay, Grover, Hill, Hubbard, Hunter, Johnson, Thomas L. Jones, Judd, Julian, Keiser, Kitchen, Kootz, William Lawrence, Marshall, Maynard, Miller, Moore, Moorhead, Mullins, Munger, Orin, Paine, Perlman, Pike, Pomeroy, Ross, Schenck, Sheffield, Stewart, Taber, Thomas, Upson, Burt Van Hagen, Henry D. Washburn, William B. Washburn, Welker, and John F. Wilson—58.

NOT VOTING—Messrs. Adams, Archer, Baldwin, Banks, Barnum, Beaman, Benton, Bingham, Blaine, Blair, Boyer, Brooks, Brodhead, Buckland, Burr, Roderick, B. Butler, Reader, W. Clarke, Correll, Delano, Dixon, Dodge, Eckley, Eggleston, Farwell, Ferry, Finney, Fox, French, Getz, Grady, Griswold, Haight, Halsey, Harding, Hawkins, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Kelley, Korr, Ketcham, Knott, Laffin, George V. Lawrence, Lincoln, Lynch, Mallory, McCarthy, McCullough, Mercur, Morrissey, Newcomb, Niblack, Nicholson, Nunn, Phelps, Poland, Polsey, Pruyn, Randall, Robertson, Robinson, Selye, Shanks, Shellabarger, Stigmeaves, Aaron F. Stevens, Thaddeus Stevens, Stone, Taylor, John Trimble, Lawrence S. Trimble, Van Aernam, Van Aukon, Van Trump, Van Wyck, Ward, Cadwalader, C. Washburn, Eliza B. Washburne, Thomas Williams, Stephen F. Wilson, Wood, and Woodward—86.

So the amendment of the Senate was not agreed to.

Mr. PIKE. I move to reconsider the vote

just taken, and also move that the motion to reconsider be laid on the table.

Mr. DONNELLY. On that motion I call for the yeas and nays.

Mr. SPALDING. I move that the House now take its recess.

#### INTERNAL TAX BILL.

The SPEAKER. Before putting the question on the motion of the gentleman from Ohio, [Mr. SPALDING,] the Chair will state that probably the tax bill will, during the session of this evening, be returned from the Senate with amendments. Although the business for this evening has been limited to the consideration of reports from the Committee on Invalid Pensions, it would expedite business if the Chair should be authorized to order the printing of those amendments when received and their reference to the Committee of Ways and Means. If there be no objection, that order will be considered as made.

There was no objection.

The motion of Mr. SPALDING was agreed to; and the House (at half past four o'clock p. m.) took a recess till half past seven o'clock p. m.

#### EVENING SESSION.

The House reassembled at half past seven o'clock p. m., and was called to order by the Speaker, who announced as the only business in order reports from the Committee on Invalid Pensions.

SARAH BRIGGS—THOMAS MASON.

Mr. MILLER. Mr. Speaker, a few days ago I moved that the Committee on Invalid Pensions be discharged from the further consideration of the application of Sarah Briggs for a pension, and that the same be referred to the Committee on Revolutionary Pensions and of the War of 1812. I find that in submitting that motion I made a mistake. The papers from the consideration of which our committee should have been discharged were those of Thomas Mason. I move that the Committee on Revolutionary Pensions and of the War of 1812 be discharged from the further consideration of the application of Sarah Briggs, and that the same be recommended to the Committee on Invalid Pensions.

The motion was agreed to.

Mr. MILLER. I also move that the Committee on Invalid Pensions be discharged from the further consideration of the case of Thomas Mason, and that the same be referred to the Committee on Revolutionary Pensions and of the War of 1812.

The motion was agreed to.

SARAH E. BALL.

Mr. MILLER, from the Committee on Invalid Pensions, reported a bill (H. R. No. 13824) granting a pension to Sarah E. Ball, widow of James Ball, deceased, late a fireman on the steamer Vidette, connected with the Burnside expedition; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah E. Ball, of Poughkeepsie, New York, widow of James Ball, deceased, who was a fireman on the steamer Vidette, belonging to the Government of the United States, and connected with the Burnside expedition, and who died of disease contracted in the service, leaving a widow and two children under sixteen years of age; Elmore, born June 26, 1853, and George D., born January 3, 1855. She is to be paid a pension of eight dollars per month during her widowhood, to commence May 9, 1862, and at her death or marriage the pension is to be paid to such of the children of James Ball, deceased, as may then be under the age of sixteen years.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved

that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MISS ANN E. HAMILTON.

Mr. MILLER, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1383) granting a pension to Miss Ann E. Hamilton, of Alleghany City, Pennsylvania, aunt and adopted mother of James E. McKillip and Charles B. McKillip, deceased, late soldiers in the Union Army; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place on the pension-roll the name of Miss Ann E. Hamilton, aunt and adopted mother of James E. McKillip, late a private in company F, sixty-first regiment Pennsylvania volunteers, who was wounded in the battle at Fair Oaks, Virginia, May 31, 1862, and died of his wounds in Richmond, June 30, 1862; and Charles B. McKillip, late a corporal in company G, sixty-second regiment Pennsylvania volunteers, who was killed in battle at Gaines' Hill, Virginia, June 27, 1862, the pension to be at the rate of eight dollars per month during her natural life, to commence June 27, 1862.

Mr. MAYNARD. This is a rather unusual case, and I should like to have some explanation of it.

Mr. MILLER. The mother of these two young men died when one was a little over one year old and the other was three years old. On her death-bed she requested her sister to take charge of these children. The father lived but a year afterward. The sister, a milliner in Alleghany, took charge of these children and raised them up. Both went into the Army and both fell in battle.

Mr. MAYNARD. That is enough.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MILLER. I ask that the report of the Committee on Invalid Pensions upon the bill just passed be printed in the Globe, as the case is a peculiar one.

The SPEAKER. If there be no objection, it will be so ordered.

There was no objection.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the application of Miss Ann E. Hamilton, of Alleghany city, Pennsylvania, for a pension, beg leave to report:

That from the evidence laid before your committee it appears that in the year 1833 the sister of the applicant, to wit, Mrs. Emma McKillip, who was intermarried with Samuel McKillip, a resident in Indianapolis, in the State of Indiana, died, leaving two small children, named respectively James E. and Charles P. McKillip; the former of which was born in December, 1835, and the latter in August, 1837. That their father, Samuel McKillip, died in March, 1839, leaving said orphan children in destitute circumstances. That their aunt, the said Miss Ann E. Hamilton, then took said children to her home, and though dependent upon her own industry, (having to make her living by her needle,) fed, clothed, and educated them, giving them the same parental care and attention as if she had been their natural mother, they being in like manner attached to her, and after being raised and educated, and while in return for the parental care, were by their industry aiding in support of their said aunt, the rebellion broke out, known as the war of 1861, and both the young men, being patriotic, enlisted in the Union Army in defense of their country. Said Charles P. McKillip was enrolled and mustered into service July 31, 1861, as corporal in company G, sixty-second regiment Pennsylvania volunteers, to serve three years, and was killed in battle at Gaines' Hill, Virginia, June 27, 1862; and said James E. McKillip was enrolled August 1, 1861, and mustered into service October 31, 1861, in company F, sixty-first regiment Pennsylvania volunteers, to serve three years, and was wounded May 31, 1862, in battle at Fair Oaks, Virginia, taken prisoner by the rebels and died of wounds in Richmond, June 30, 1862.

Thus the two brothers both lost their lives battling in defense of the Union. Neither of them were married or left issue. Their kind aunt and adopted mother who had reared them from their infancy was deprived in her advanced age of these young men, on whom her affections centered, and of that support which they were then rendering her in return for

what she had done for them. She now makes application for a pension, back pay, and bounty. As to the back pay and bounty, though she seems in justice entitled to whatever was due these two young men, still that question properly belongs to the Committee on Military Affairs to decide; but as to the pension your committee are of opinion that, under the circumstances disclosed, the said Miss Ann E. Hamilton ought to be allowed a pension at the rate of eight dollars per month, during her natural life, to commence on the 27th of June, 1862, and therefore recommend the passage of the accompanying bill, and as to the application for back pay and bounty, your committee ask to be discharged from the further consideration thereof, and request that so much of her application as relates thereto be referred to the Committee on Military Affairs.

All of which is respectfully submitted.

GEORGE F. MILLER,  
*In behalf of the Committee.*

CAPTAIN JAMES DONALDSON.

Mr. MILLER, from the same committee, also reported back adversely the petition of Captain James Donaldson for pension as captain, or to be allowed to retire on same allowance as those in the Military Asylum; and the same was laid upon the table.

JASPER EVELAND.

Mr. MILLER, from the same committee, also reported back adversely the petition of Jasper Eveland, of company E, seventh regiment Illinois volunteers; and the same was laid on the table.

MRS. ELIZABETH LANE.

Mr. MILLER, from the same committee, also reported a bill (H. R. No. 1384) granting a pension to Mrs. Elizabeth Lane, of Boston, Massachusetts, mother of John Lane, deceased, late private in company A, twelfth regiment Massachusetts volunteers; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mrs. Elizabeth Lane, mother of John Lane, deceased, late private in company A, twelfth regiment Massachusetts volunteers, killed in action August 30, 1862, at the second battle of Bull Run, Virginia, and that she shall be paid a pension of eight dollars a month during her widowhood, commencing the 80th of August, 1862.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. CHRISTIANA DICKEY.

Mr. MILLER, from the same committee, also reported back House bill No. 563, granting a pension to Mrs. Christiana Dickey; and moved that it be laid upon the table, as the Commissioner of Pensions proposed to allow the pension.

The motion was agreed to.

MRS. ROSALINDA McCABE.

Mr. MILLER, from the same committee, also reported a bill (H. R. No. 1385) granting a pension to Rosalinda McCabe, widow of Barney McCabe, deceased, late private tenth regiment New York cavalry volunteers; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Rosalinda McCabe, widow of Barney McCabe, tenth regiment New York cavalry volunteers, who died 14th July, 1863, leaving surviving said widow, who has not remarried, and issue three children under sixteen years of age, namely, William, born October 20, 1859; Charles Edwin, born January 29, 1861; and Emily Jane, born May 11, 1863; and that there be paid during her widowhood a pension at the rate of eight dollars a month, to commence the 14th of July, 1863, and also be paid under the provisions of the act of Congress relative to pensions approved July 25, 1861, a further sum of two dollars per month



for each of said children until they shall respectively arrive at the age of sixteen years.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HINMAN L. HALL.

Mr. MILLER, from the same committee, also reported a bill (H. R. No. 1386) granting a pension to Hinman L. Hall; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Hinman L. Hall, late private company D, ninety-seventh regiment New York volunteer infantry, commencing July 17, 1862.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELIZABETH G. HIBBEN.

Mr. MILLER, from the same committee, reported a bill (H. R. No. 1387) granting a pension to Elizabeth G. Hibben, widow of Rev. Samuel Hibben, deceased, late chaplain of the fourth cavalry regiment Illinois volunteers; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of the applicant, widow of Rev. Samuel Hibben, who was appointed chaplain with the rank of captain, and who died of disease contracted in the service, leaving surviving said widow and one child, a son, of the name of John G. Hibben, born April 19, 1861; and that she be paid during her widowhood a pension of twenty dollars per month, to commence the 10th of June, 1862; and in the event of her marriage or death the pension to be paid to said child if then under sixteen years of age.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

KATE HIGGINS.

Mr. MILLER, from the same committee, reported a bill (H. R. No. 1388) granting a pension to Kate Higgins; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of the applicant, widow of John Higgins, late private in company F, twenty-eighth regiment Kentucky volunteers, commencing November 11, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELIZA DONNELLY.

Mr. MILLER, from the same committee, reported a bill (H. R. No. 1389) granting a pension to Eliza Donnelly, mother of Dudley Donnelly, deceased, late colonel of the twenty-eighth regiment infantry, New York State volunteers; which was read a first and second time.

The bill directs the Secretary of the Interior

to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of the applicant, and that she be paid during her widowhood a pension at the rate of thirty dollars per month, to commence on and after the 4th of December, 1868.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MICHAEL REILLY.

Mr. MILLER, from the same committee, reported a bill (H. R. No. 1390) granting a pension to Michael Reilly; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of the applicant, late a private in company A, thirteenth regiment Massachusetts volunteer infantry, commencing June 9, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JANE McNAUGHTON.

Mr. MILLER, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1391) granting a pension to Jane McNaughton; which was read a first and second time.

It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of the applicant, widow of Peter McNaughton, late contract surgeon, and pay her a pension as the widow of a contract surgeon, commencing June 13, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ANN WILLIAMS.

Mr. MILLER, from the same committee, reported back a bill (S. No. 851) granting a pension to Ann Williams.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of the applicant, widow of John Williams, late of company E, third regiment Wisconsin cavalry, commencing May 26, 1864.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHAUNCEY D. ROSE.

Mr. MILLER, from the same committee, also reported a bill (H. R. No. 1392) granting a pension to Chauncey D. Rose, father of Alvin G. Rose, late a sergeant veteran of company A, second regiment of Ohio cavalry volunteers, who was killed in action at Five Forks, Virginia, April 1, 1865; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Chauncey D. Rose, father of Alvin G. Rose, late a sergeant-

veteran in company A, second regiment of Ohio cavalry volunteers, who was killed in action at Five Forks, Virginia, April 1, 1865, to be paid a pension of eight dollars a month, to commence on the 1st of April, 1865, and to continue during his natural life.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HUGO EICHHOLTZ.

Mr. MILLER, from the same committee, also reported a bill (H. R. No. 1393) granting a pension to Hugo Eichholtz, which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Hugo Eichholtz, late a sergeant in company L, fifteenth New York heavy artillery, and pay him a pension from August 22, 1865, to April 23, 1866.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ZADOCK T. NEWMAN.

Mr. MILLER, from the same committee, reported back, with an amendment, a bill (H. R. No. 991) for the relief of Zadock T. Newman.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Zadock T. Newman, at the rate of eight dollars per month from the 2d of January, 1864, and to continue during his natural life.

The amendment was to reduce the pension from eight dollars per month to four dollars per month.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DANIEL SHEETS.

Mr. MILLER, from the same committee, also reported a bill (H. R. No. 1394) granting a pension to Daniel Sheets; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Daniel Sheets, late a captain in the seventeenth regiment of Ohio volunteers, commencing September 12, 1863.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ESTHER C. C. VAN GILDER.

Mr. MILLER, from the same committee, also reported a bill (H. R. No. 1395) granting a pension to Esther C. C. Van Gilder, widow of Charles F. Van Gilder, deceased, late a

private in company M, first regiment Vermont heavy artillery volunteers; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll, subject to the limitations and provisions of the pension laws, the name of Esther C. C. Van Gilder, widow of Charles F. Van Gilder, late a private in company M, first regiment Vermont heavy artillery volunteers, who died May 6, 1864, leaving surviving said widow and issue by her three children, namely: Charles Adelbert, born November 25, 1857; Martha Rosell, born June 8, 1861; and Hosea Rosell Van Gilder, born February 21, 1865, and pay to her during her widowhood a pension of eight dollars per month, commencing May 6, 1864; and also, under the provisions of the act of Congress of July 25, 1866, a further sum of two dollars per month for each of the children, until they shall respectively arrive at the age of sixteen years.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

STEPHEN T. CARVER.

Mr. MILLER, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1896) granting a pension to Stephen T. Carver; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Stephen T. Carver, late a private in company D, forty-ninth New York volunteers, and pay him a pension, subject to the report from an examining surgeon, the pension to commence February 5, 1863.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRESCOTT G. HOWLAND.

Mr. MILLER, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1397) granting a pension to Prescott G. Howland; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Prescott G. Howland, late a corporal in Company D, twelfth regiment, New Hampshire volunteer infantry, the pension to commence October 13, 1862.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUSAN THOMPSON.

Mr. MILLER, from the Committee on Invalid Pensions, reported back adversely the petition of Susan Thompson, for a pension; which was laid on the table.

MARTIN BURKE.

Mr. MILLER, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1398) granting a pension to Martin Burke; which was read a first and second time.

It authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Martin Burke, late a sergeant in company K, fifteenth regiment New

York heavy artillery, and pay him a pension from August 22, 1865, to December 31, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHILDREN OF WILLIAM M. WOOTEN.

Mr. MILLER, from the Committee on Invalid Pensions, reported back, with an amendment, the bill (S. No. 521) granting a pension to the children of William M. Wooten, deceased.

The bill provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Alfred C. Wooten, Susan M. T. Wooten, Jesse Wooten, and Rosalia M. Wooten, children under sixteen years of age of William M. Wooten, deceased, late a private in the Daviess county company of home guards, Kentucky militia, who, or their legally-appointed guardian or guardians, are to receive a pension at the rate of fourteen dollars per month, to commence on the 11th day of August, 1864, and to continue until they severally attain the age of sixteen years.

The amendment of the committee was to strike out the words "at the rate of fourteen dollars per month."

The amendment was agreed to.

The bill, as amended, was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN SHEETS.

Mr. MILLER, from the same committee, also reported back Senate bill No. 547, granting a pension to John Sheets, with an amendment.

The bill was read. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John Sheets, late a private in company F, twelfth regiment West Virginia volunteers, and to pay him a pension at the rate of fifteen dollars per month, to commence on the 14th day of March, 1863.

The amendment of the committee was to strike out the words "at the rate of fifteen dollars per month."

The amendment was agreed to.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN P. FETTY.

Mr. MILLER, from the same committee, also reported back Senate bill No. 518, granting a pension to the widow and child of John P. Fetty, with an amendment.

The bill was read. The Secretary of the Interior, under its provisions, is to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Fannie Fetty, the widow, and Ethel May Fetty, child under sixteen years of age, of John P. Fetty, late a private in company I, fourteenth regiment West Virginia infantry volunteers, and to pay her a pension at the rate of eight dollars per month for herself during widowhood, and two dollars per month for the child until she shall attain the age of sixteen years, commencing October 31, 1864.

The amendment of the committee was to strike out all after the words "pay her a pension" and insert in lieu thereof "commencing October 31, 1864."

The bill, as amended, was ordered to a third

reading; and it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

MRS. MARTHA STOUT.

Mr. MILLER, from the same committee, also reported back the bill (S. No. 520) granting a pension to Martha Stout, with the recommendation that it do pass.

The bill was read.

The Secretary of the Interior is to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Martha Stout, widow of Tinson Stout, late a private in the Daviess county company of home guards, Kentucky militia, and to pay her a pension at the rate of eight dollars per month, to commence on the 11th day of August, 1864, and to continue during her widowhood.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

OBADIAH T. PLUM.

Mr. MILLER, from the same committee, also reported back Senate bill No. 882, granting an increase of pension to Obadiah T. Plum, with an amendment.

The bill was read.

The Secretary of the Interior is directed by the bill to increase the pension of Obadiah T. Plum, late a private in company F, twenty-second regiment Iowa infantry volunteers, from eight dollars to twenty-five dollars per month from and after the passage of this act and to continue during his natural life.

The amendment of the committee was to strike out all after the word "continue," and insert in lieu thereof "while he remains blind;" so it will read, "to continue while he remains blind."

The amendment was agreed to.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LOUISA FITCH.

Mr. MILLER, from the same committee, also reported back Senate bill No. 359, granting a pension to Louisa Fitch, widow of E. P. Fitch, deceased, with the recommendation that it do pass.

The bill was read. It directs the Secretary of the Interior to place the name of Louisa Fitch, widow of E. P. Fitch, late a captain and assistant quartermaster United States volunteers, on the pension-roll, and to pay her at the rate of twenty dollars per month, to commence from the 31st of May, 1864, and to continue during her widowhood.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ANN KELLY.

Mr. MILLER, from the same committee, reported back a bill (S. No. 291) granting a pension to Ann Kelly, widow of Bernard Kelly, with a recommendation that it do pass.

The bill directs the Secretary of the Interior to place on the pension-roll, the name of the applicant, widow of Bernard Kelly, late a private in company I, thirteenth New York heavy artillery volunteers, at the rate of eight dollars per month, to commence on the 13th of May, 1864, and to continue during her widowhood.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EDWARD HAMEL.

Mr. MILLER, from the same committee, reported back a bill (S. No. 381) granting a pension to Edward Hamel, minor child of Edward Hamel, deceased, with a recommendation that it do pass.

The bill authorizes and directs the Secretary of the Interior to place on the pension-roll the name of the applicant, only surviving child of Edward Hamel, late private in company E, eighth regiment Kansas volunteers, who died in the service of the United States and in the line of duty, and to pay to him or his legally-appointed guardian or guardians a pension of eight dollars per month from the 11th day of October, 1861, the date of the death of his father, until he has attained his sixteenth year.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARY A. DAVIS.

Mr. MILLER, from the same committee, reported adversely on the bill (H. R. No. 596) granting a pension to Mary A. Davis, widow of William P. Davis, a private in the eighteenth regiment of Indiana volunteers in the war of 1861; and the same was laid on the table.

PAY OF A CLERK OF A COMMITTEE.

Mr. MILLER. I am instructed by the Committee on Invalid Pensions to report back the following resolution; on which I demand the previous question:

*Resolved*, That the Clerk of the House of Representatives be, and he is hereby, authorized and directed to pay to the clerk of the Committee on Invalid Pensions, a sum of money which shall make his compensation equal to that of the clerk of the Committee of Claims, to commence July 1, 1868.

Mr. MAYNARD. I must object to that.

Mr. MILLER. This is for the present Congress. The reason why we only say from July 1 is his account is settled up to that time, and we could not go back.

Mr. MAYNARD. The understanding was we should act on pension bills only.

The SPEAKER. The Journal reads "to receive reports from the Committee on Invalid Pensions."

Mr. MAYNARD. Whatever the Journal may say the understanding was manifestly that only pension bills were to be acted upon.

The SPEAKER. The gentleman from Pennsylvania [Mr. MILLER] is the author of the resolution, and probably remembers its language better than the Chair does.

Mr. MAYNARD. I am not making a point of order, but I am appealing to the gentlemen of the committee not to bring this subject up which does not relate to the passage of pension bills. We had this matter up before, and it underwent some discussion. If it is to be pressed I should feel it incumbent upon me to oppose the resolution in the shape in which it now is.

Mr. MILLER. I will merely state that this clerk's compensation is entirely inadequate. We have had before us some seven hundred cases. This resolution will give him \$1,500 a year, just what the clerk of the Committee of Claims and the clerk of the Committee of Private Land Claims receive. When this case was up before the objection of the gentleman was that he did not want any more perpetual offices. We do not require this office to be perpetual; but upon consulting the Clerk of the House (Mr. McPHERSON) we find that we cannot go back beyond the time named, because

the accounts up to that time are settled. We only propose to pay him a proper compensation for the duties he has performed. The committee of which the gentleman from Tennessee [Mr. MAYNARD] is a member has a clerk who will receive for the remainder of this session the same compensation we propose for our clerk; and surely he has no more work to do than our clerk has.

Mr. MAYNARD. I have notified the gentleman that I shall feel it incumbent upon me to resist this proposition. I trust he will not press it at this time, for we want this evening session for the benefit of the widows and children of soldiers who are the proper objects of our legislation.

Mr. BENJAMIN. I suggest to my colleague on the committee [Mr. MILLER] to withdraw the resolution for the present.

Mr. MILLER. Very well; I will withdraw it for the present; but I will offer it at another time.

HANNAH HINDMAN.

Mr. BENJAMIN, from the Committee on Invalid Pensions, reported adversely upon the petition of Hannah Hindman, for a pension; and the same was laid on the table.

GENERAL WARD H. BURNETT.

Mr. BENJAMIN, from the same committee, reported adversely upon House bill No. 618, for the relief of General Ward H. Burnett; and the same was laid on the table.

WILLIAM B. EDWARDS.

Mr. BENJAMIN, from the same committee, reported a bill (H. R. No. 1399) granting an increased pension to William B. Edwards; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William B. Edwards, who was granted a pension of eight dollars a month by an act approved April 20, 1854, and to pay him a pension at the rate of fifteen dollars per month in lieu of the pension he is now receiving, the increase to commence June 6, 1866.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JONATHAN H. PERRY.

Mr. BENJAMIN, from the same committee, also reported a bill (H. R. No. 1400) granting a pension to Jonathan H. Perry; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, at the rate of eight dollars a month, the name of Jonathan H. Perry, father of Anthony H. Perry, late of company I, third regiment New Jersey volunteer infantry, commencing August 15, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM I. COTTY.

Mr. BENJAMIN, from the same committee, also reported back, with a recommendation that it do pass, House bill No. 1295, granting a pension to William I. Cotty, late of the twenty-first Missouri infantry volunteers.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, at the rate of eight dollars per month, the name of William I. Cotty, late a member of the twenty-first Missouri infantry volunteers, commencing June 30, 1862.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MARIA RAFTERY.

Mr. BENJAMIN, from the same committee, also reported back, with a recommendation that the same do pass, Senate bill, No. 292, granting a pension to Maria Raftery.

The question was upon ordering the bill to be read a third time.

The bill, which was read, directs the Secretary of the Interior to place the name of Maria Raftery, widow of Patrick Raftery, late a corporal in company H, thirty-third regiment Massachusetts volunteers, on the pension-roll, at the rate of eight dollars per month during her widowhood, commencing June 2, 1863, and two dollars per month for each child of Patrick Raftery, under the age of sixteen years, commencing June 25, 1866, and to continue until they shall respectively attain the age of sixteen years.

The bill was then read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ANNA M. HOWARD.

Mr. BENJAMIN, from the Committee on Invalid Pensions, reported back without amendment a bill (S. No. 498) granting a pension to Anna M. Howard.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Anna M. Howard, mother of George W. Howard, late a private in company C, eleventh regiment New Jersey volunteers, and allow and pay her a pension at the rate of eight dollars per month, from February 12, 1864, to continue during her widowhood.

The bill was ordered to a third reading, and was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FRANCIS T. RICHARDSON.

Mr. BENJAMIN, from the Committee on Invalid Pensions, reported back, without amendment, a bill (H. R. No. 1337) granting an increase of pension to Frances T. Richardson, widow of the late Major General Israel B. Richardson.

The bill directs the Secretary of the Interior to place on the pension-roll the name of Frances T. Richardson, widow of the late Major General Israel B. Richardson, for pension at the rate of fifty dollars per month from November 3, 1862, when General Richardson died from wounds received in the battle of Antietam, the pension to be continued during her widowhood, and if that should terminate, then to be paid to Israel Philip Richardson, sole surviving child of General Richardson, until he shall become sixteen years old. The second section provides for the discontinuance of the pension heretofore allowed to Frances T. Richardson under general law; and the sum so received by her is to be deducted from the pension granted by this bill, which pension is to be subject to the provisions of the general pension law.

The bill was ordered to be engrossed and



read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INTERNAL TAX BILL.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that the Senate had passed a bill of the following title, with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 1284) to change and more effectually secure the collection of internal tax on distilled spirits and tobacco, and to amend the tax on banks.

The SPEAKER. By order of the House, this bill with the amendments of the Senate will be referred to the Committee of Ways and Means, and ordered to be printed.

MARY A. DAVIS.

Mr. WASHBURN, of Indiana. I desire to ask that in the case of the bill granting a pension to Mary A. Davis, instead of the adverse report being accepted and the papers being laid on the table, the bill be taken up for action now, in order that I may make a few remarks on the subject.

Mr. MULLINS. I shall object to that.

Mr. MILLER. I will merely say to the gentleman that the unanimous opinion of the committee was that this case was not one upon which they would be justified in reporting favorably.

Mr. WASHBURN, of Indiana. The House, I think, will not object to my making a few remarks on this bill when I state that the case occurred in my own regiment, and that I know more about it than any committee can know.

The SPEAKER. The gentleman can discuss the bill if the Committee on Invalid Pensions will grant him the time. This evening was set apart for business of that committee.

Mr. WASHBURN, of Indiana. This is a pension case.

Mr. PERHAM. If there is anything in the case meritorious the committee will be glad to hear it and to report favorably if the facts show that we can do so. From the papers before the committee we did not feel authorized to report on it favorably. The gentleman from Indiana can come before the committee, and if he can convince us, well and good.

The bill was recommitted to the committee with leave to report at any time after the morning hour.

BARBARA STOUT, OF TENNESSEE.

Mr. NUNN, from the same committee, reported back House bill No. 1332 for the relief of Barbara Stout, of Tennessee, with the recommendation that it do pass.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Barbara Stout, of Tennessee, widow of John P. Stout, at the rate of eight dollars per month, to commence on the 1st of October, 1864, and to continue during her widowhood.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. NUNN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NANCY COOK, OF TENNESSEE.

Mr. NUNN, from the same committee, also reported back House bill No. 1331 for the relief of Nancy Cook, of Tennessee; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Nancy Cook, of Johnson county,

Tennessee, at the rate of eight dollars per month to commence August 6, 1863, and to continue during her widowhood.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. NUNN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN LA MARSH.

Mr. BEATTY, from the same committee, reported a bill (H. R. No. 1401) granting a pension to John La Marsh; which was read a first and second time.

The bill was read at length. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John La Marsh, late private in company F, third regiment Vermont volunteer infantry, commencing August 4, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CATHARINE SKINNER.

Mr. BEATTY, from the same committee, also reported a bill (H. R. No. 1402) granting a pension to Catharine Skinner; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Catharine Skinner, widow of Charles P. Skinner, late private company C, second regiment Pennsylvania volunteers, at the rate of eight dollars per month, commencing December 27, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. MARY J. TRUMAN.

Mr. BEATTY, from the same committee, also reported back House bill No. 836 for the relief of Mrs. Mary J. Truman, with the recommendation that it do pass.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mrs. Mary J. Truman, widow of James Truman, late private company B, twelfth regiment West Virginia volunteer infantry.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HELEN L. WOOLF.

Mr. BEATTY, from the same committee, reported a bill (H. R. No. 1403) granting a pension to Helen L. Woolf; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of the applicant, widow of John Woolf, late a private in company K, one hundred and eleventh regiment New York infantry, commencing March 23, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved

that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM SMITH.

Mr. BEATTY, from the same committee, reported a bill (H. R. No. 1404) granting a pension to William Smith; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of the applicant, late a corporal in company H of the tenth United States infantry.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELIZABETH LAMAR.

Mr. BEATTY, from the same committee, reported a bill (H. R. No. 1405) granting a pension to Elizabeth Lamar; which was read a first and second time.

It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of the applicant, mother of James Curtis Lamar, who was killed while fighting with an organization of Union men in Kentucky, and pay her a pension of eight dollars per month, commencing September 20, 1862.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOSEPH A. FRY.

Mr. BEATTY, from the same committee, reported back a bill (H. R. No. 1263) granting a pension to Joseph A. Fry with a recommendation that it do pass.

It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of the applicant, a private soldier enlisted in company F, seventeenth regiment Ohio volunteer infantry.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. BEATTY, from the same committee, reported adversely on the following petitions; and the same were laid on the table:

The petition of Frances Evans, for a pension;

The petition of William D. Halsey, for a pension;

The petition of John A. Hudson, an invalid soldier, for a pension; and

The petition of Nancy A. Hammond, widow of George W. Hammond, of company M seventh Ohio, for a pension.

THOMAS STEWART.

Mr. BEATTY, from the same committee, reported back a bill (S. No. 342) granting a pension to Thomas Stewart with a recommendation that it do pass.

The bill directs the Secretary of the Interior to place on the pension-roll the name of the applicant at the rate of eight dollars per month, to commence from the passage of this act and to continue during his natural life.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved

that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN W. HARRIS.

Mr. BEATTY, from the same committee, also reported back, with a recommendation that the same do pass, Senate bill No. 332, granting a pension to John W. Harris.

The question was upon ordering the bill to be read a third time.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll the name of John W. Harris, late a pilot in the service of the United States, and to allow him from the naval pension fund a pension at the rate of twenty-five dollars per month, to commence on April 15, 1863.

The bill was read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HARRIET W. POND.

Mr. BEATTY, from the same committee, also reported back, with a recommendation that the same do pass, Senate bill No. 501, granting a pension to Harriet W. Pond.

The question was upon ordering the bill to be read a third time.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll the name of Harriet W. Pond, wife of James Pond, formerly Harriet W. Stinson, and to allow and pay to her as in her own right, and not subject to the claim or control of her husband, a pension at the rate of seven hundred dollars per month, to commence on the 21st day of August, 1864, and to continue during her natural life.

The bill was read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Some time subsequently,

Mr. MAYNARD said: I did not at the time pay particular attention to the bill granting a pension to Harriet W. Pond, or I would have asked some explanation of it, as it seems to be a bill granting a pension to a woman who has a husband living.

The SPEAKER. The Chair noticed at the time the bill was read that it was a peculiar bill.

Mr. BEATTY. The report accompanying the bill explains it fully. I ask that the report be printed in the Globe, in connection with the bill.

No objection was made.

The report was as follows, made by Mr. VAN WINKLE, of the Senate:

The Committee on Pensions, to whom was referred the petition of Mrs. Harriet W. Pond, respectfully report:

That the said petition, with accompanying papers, was originally referred to the Committee of Claims, who reported the facts of the case as follows, which, after due examination, this committee adopt as correct:

She represents that she volunteered her services to minister to the necessities of the soldiers during the rebellion; that she left her home in Old Town, Maine, and went out with the sixth Maine volunteers, and continued an active attendant upon the sick and dying until the close of the war; was on thirteen battle-fields and many heavy skirmishes, and among other things assisted in preserving the names of the dead and procuring the bodies of many for their friends; and spent freely of her own money for the sick, wounded, and dying to the amount of at least \$3,000. Her son, of that regiment, was killed in battle, but had expended \$1,000 of his own money, at his mother's request, for the same purpose.

She represents that in field and hospital she attended to the necessities of all soldiers alike, and without any expectation of remuneration, and would not ask for it now but her health and constitution have suffered by fatigues, hardship, and exposure, and she is left without means of support.

She further represents that at the battle of Antietam, while assisting in the removal of wounded soldiers, a wagon was overthrown, killing three soldiers and breaking her own leg; that she renewed her labors for the soldiers before her limb was strong, causing it to be thrown out of place, and erysipelas set in, by which she is permanently disabled.

She shows, too, that in 1863, while with the Maine regiment, she was captured by the rebels, and by them robbed of \$250 in money, and clothing beside.

Her affidavit shows that she expended \$4,000 in the service, and there is some corroborative testimony upon the subject. The papers indicate her good character and persistency in the work.

The Committee of Claims conclude their report as follows:

Your committee are of opinion that compensation in such cases, if made at all, should be by the States whose regiments accept the services and permit such attendance. This committee has hitherto declined to recognize such claims. But in consideration of the injury she has received, and loss of her son, on whom, it is alleged, she leaned for support, it may be proper that a pension be provided for the petitioner in this case; and they recommend that her papers be referred to the Committee on Pensions.

In accordance with this recommendation the said petition and papers were referred to this committee, who proceeded to consider the same. They do not find that there is any law under the provisions of which the petitioner is entitled to a pension, unless on account of the death of her son, a private in the service, who was killed in battle; but it does not appear that she was so dependent on him at and before the time of his death as to bring her within the said provisions.

If this is so, the case is one of a class of which several, within the last few years, after being previously referred to the Military, Naval, or other Committees, have been sent to the Pension Committee. The class referred to consists of cases in which relief or reward is asked of the Government on account of alleged exemplary services in the Army or Navy. It is evident that the consideration of such cases does not fall within the proper duties of the Committee on Pensions. They have, however, for two or three years reported on them, usually adversely, or have asked to be discharged from their further consideration, not because they had been improperly referred, but as a conclusion from the facts presented. Many of these cases have asked a double or increased pension for the widows of officers of the higher rank, the rate not increasing after the rank of lieutenant colonel is reached in the ascending scale. Such increase not being allowed by law, it will be readily perceived that what is asked in such cases is a mere gratuity. For at least two years past no such case has been reported on favorably by this committee. If they approved such increase, they would deem it their duty to report an amendment to the general law, increasing the rates of pensions in the cases mentioned, thus putting all on the same footing.

There are, however, in the case of the petitioner to whom this report more particularly relates, some facts at least analogous to the cases in which pensions are allowed by law. The petitioner had devoted herself to the service of her country by administering to the wants of sick and wounded soldiers, and this for years continuously; and while actually assisting in removing some of the wounded from the battlefield of Antietam, an accident by which three of her charge were killed made her a cripple for life. In consideration of this the committee submit to the Senate the accompanying bill granting her the pension of an acting assistant surgeon, as in her own right, from the time she left the Army during her natural life.

It is proper, in explanation of some of the phraseology of the bill, to state that since the war the petitioner, who during its continuance was a widow, was again married; but that her husband is himself greatly disabled by disease contracted while an officer in the Army during the war, and unable to contribute to her subsistence. In ordinary cases pensions are not granted to married women, but as in this case the pension, if granted, is in consideration of her own personal services and permanent disability, the committee have sought and intended to make it payable to her in her individual right until her death.

LUCINDA R. JOHNSON.

Mr. BEATTY, from the same committee, also reported back, with a recommendation that the same do pass, Senate bill No. 500, granting a pension to Lucinda R. Johnson.

The question was upon ordering the bill to be read a third time.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll, subject to the limitations and provisions of the pension laws, the name of Lucinda R. Johnson, the widow of Dr. B. Johnson, of Illinois, late a contract surgeon in the military service of the United States, and to pay her a pension at the rate of seventeen dollars per month, to commence March 7, 1865, and to continue during her widowhood.

The bill was read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

HENRY BROWN.

Mr. BEATTY, from the same committee, also reported back, with an amendment, Senate bill No. 517, granting a pension to the widow and children of Henry Brown.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Rehman Brown, the widow, and Nacey J., Alvey F., Sarah C., and Henry, children under sixteen years of age of Henry Brown, late a private in company K, tenth regiment Tennessee cavalry volunteers, and to pay her a pension at the rate of eight dollars per month during widowhood, and two dollars per month for each of the children until they shall attain the age of sixteen years, commencing January 31, 1864.

The amendment was to strike out from and including the words, "at the rate of eight dollars per month" and to insert "commencing January 31, 1864."

The amendment was agreed to.

The bill, as amended, was read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARIA SCHWEITZER AND CHILDREN.

Mr. BEATTY, from the same committee, also reported back, with an amendment, Senate bill No. 422 granting a pension to Maria Schweitzer and the minor children of Conrad Schweitzer, deceased.

The bill, which was read, directs the Secretary of the Interior to place upon the pension-roll the names of Maria Schweitzer, the widow, and Carl B. and Maria Schweitzer, children under sixteen years of age of Conrad Schweitzer, late a private in company C, sixty-first regiment New York volunteers, and allow and pay her a pension at the rate of eight dollars per month for herself during widowhood, and two dollars per month for each of the children, until they severally attain the age of sixteen years, commencing February 2, 1865.

The amendment was to strike out all after the words "pay her a pension" and to insert the words "subject to the provisions and limitations of the pension laws, commencing February 2, 1865."

The amendment was agreed to.

The bill, as amended, was read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHILDREN OF ROBERT T. WEED, DECEASED.

Mr. BEATTY, from the Committee on Invalid Pensions, reported back, with an amendment, a bill (S. No. 583) granting a pension to John A. Weed and Elizabeth J. Weed, minor children of Robert T. Weed, deceased.

The bill authorizes and directs the Secretary of the Interior to place on the pension-roll the names of John A. Weed and Elizabeth J. Weed, only surviving children of Robert T. Weed, late a private in the second Indiana volunteer battery, who died in the service of the United States and in the line of duty, and to pay to them, or their legally-appointed guardian or guardians, a pension of eight dollars per month from November 10, 1864, the date of the death of their father, until they respectively attain the age of sixteen years.

The amendment of the committee was to strike out all after the words "a pension," and insert "subject to the provisions and limitations of the pension laws, commencing November 10, 1862."

The amendment was agreed to.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. BEATTY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JULIA WHISTLER.

Mr. BEATTY, from the Committee on Invalid Pensions, reported back adversely a bill (S. No. 516) granting a pension to Julia Whistler; which was laid on the table.

JACOB LEIT.

Mr. BEATTY. I move that the Committee on Invalid Pensions be discharged from the further consideration of the petition of Jacob Leit, of Milwaukee, Wisconsin, for additional bounty, and that the same be referred to the Committee on Military Affairs.

The motion was agreed to.

GEORGE T. BRIEN.

Mr. VAN AERNAM, from the Committee on Invalid Pensions, reported back, with an amendment, a bill (S. No. 314) for the relief of George T. Brien.

The bill directs the Secretary of the Interior to allow and pay to George T. Brien, out of the naval pension fund, a pension at the rate of fifteen dollars per month, in lieu of the pension of five dollars per month heretofore allowed him, the pension to commence from and after the passage of this act and to continue during his natural life.

The amendment of the committee was to strike out all after the words "at the rate of" and insert in lieu thereof "eight dollars per month, subject to the provisions and limitations of the pension laws.

The amendment was agreed to.

The bill, as amended, was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PATRICK COLLINS.

Mr. VAN AERNAM, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1406) granting a pension to Patrick Collins; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Patrick Collins, a resident of Columbus, Franklin county, Ohio, and late an employé of the United States military railroad construction corps, and to pay him a pension at the rate of ten dollars per month.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN GRIDLEY.

Mr. VAN AERNAM, from the same committee, also reported a bill (H. R. No. 1407) granting a pension to John Gridley; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John Gridley, late of company G ninth regiment Michigan volunteers, commencing February 4, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CATHARINE GENSLE.

Mr. VAN AERNAM, from the same committee, also reported a bill (H. R. No. 1408) granting a pension to Catharine Gensler; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the

provisions and limitations of the pension laws, the name of Catharine Gensler, mother of John D. Gensler, late private company I one hundred and sixty-ninth regiment Pennsylvania volunteers, commencing June 29, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ASA F. HOLCOMB.

Mr. VAN AERNAM, from the same committee, also reported a bill (H. R. No. 1409) granting a pension to Asa F. Holcomb; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Asa F. Holcomb, private company B twenty-fourth regiment New York cavalry, commencing September 29, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EMILY B. BIDWELL.

Mr. VAN AERNAM, from the same committee, also reported back House bill No. 1363, granting a pension to Emily B. Bidwell, widow of the late Brigadier General Daniel B. Bidwell, with the recommendation that it do pass.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Emily B. Bidwell, widow of the late Brigadier General Daniel B. Bidwell, at the rate of fifty dollars per month from the 19th of October, 1864, at which date he was killed at the battle of Cedar Mountain, Virginia, to continue during her widowhood; and the pension heretofore allowed her under the general law shall be discontinued, and the sum received by her under the same shall be deducted from the pension hereby granted.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. EMMA M. MOORE.

Mr. BENJAMIN, from the same committee, also reported back adversely Senate bill No. 519, granting a pension to Mrs. Emma M. Moore.

Mr. MAYNARD. I hope the gentleman will give the House some reason why that bill ought not to pass.

Mr. BENJAMIN. Mr. Chairman, in that case the facts are about as follows: Mrs. Moore was at one time the widow of Lieutenant Cox, United States Navy. He died about fifteen years ago, and his widow was pensioned under the general law at the rate of twenty-five dollars per month. She continued to receive that pension for several years until she married Commodore Moore. Commodore Moore, prior to his marriage with widow Cox, had belonged to the United States Navy. He resigned from the United States Navy and went into the navy of Texas when Texas was an independent nation. He continued in the Texan service until about the time that country was annexed to the United States, and although the Texan navy was annexed to that of the United States, the officers belonging to the Texan navy were not commissioned in the United States service. They for a long time importuned Congress, and finally got their claim into the courts, but both the courts and

Congress decided adversely to them. Commodore Moore remained a private citizen up to his death, which was some five years ago. Mrs. Moore comes in now and asks that the pension she received by her former husband, who at the time of his death was an officer in the United States Navy, may be revived to her. The Senate passed a bill reviving it. The Committee on Invalid Pensions are of opinion that we should not extend the provisions of the pension law that far, or if we do, that it should be by general law which should cover all such cases. We are of opinion that this party has no claim on the United States Government for a pension; certainly not in consequence of her marriage with Commodore Moore, and certainly not, having married after the death of her first husband, by virtue of whose death she received the pension I have stated. Hence we report adversely upon the bill.

Mr. MAYNARD. If my memory is not at fault, there are some personal considerations clustering around this widow, this patriotic woman, that would incline the House to take the same view of the case that is taken by the Senate. She was unquestionably entitled to a pension by reason of the services and death of her first husband. She drew a pension until she married her second husband. The second husband is now dead, and she is doubly a widow. I see no principle that is to be violated, as we have intermitted the pension during the time of her coverture, by restoring her again to the pension-list, and I confess it would gratify me much to see that done. I speak without any personal knowledge of the party, without ever having even seen her, but merely from what I have learned through others who are somewhat acquainted with her personal history. If the gentleman will allow me, I will move that the bill be recommitted to the Committee on Invalid Pensions with permission to report at any time, and will ask them to give it another examination.

Mr. BENJAMIN. I do not think there is any necessity for recommitting the bill to the committee. I presume no instance can be found in the history of our legislation where we have revived a pension that has lapsed by virtue of the marriage of a widow. I am not aware of any such precedent. If there is any reason why it should be done in this case the same reason would unquestionably apply to every case of the kind, and they are numerous, as the committee know. Were the committee instructed by the House to inquire into the expediency of so amending the general law that in the event of the death of a second husband the pension should be revived to the widow, that would present the question distinctly as applied to all such cases. But I am decidedly opposed, and I believe that is the view of the committee, to taking this isolated case and making it an exception to all other cases. Numerous cases of the kind have come before the committee, and they have reported adversely upon them in every instance, so far as I know.

Mr. MAYNARD. If I am not mistaken in reference to the identity of this party, she presents an unusually strong and an unusually meritorious claim, if there can be such a thing as a meritorious woman connected with the naval service. If I am not mistaken she is descended on her father's side from a naval officer who has reflected great renown on our Navy. I mean Commodore Rogers.

Mr. BENJAMIN. I know nothing of her parentage.

Mr. MAYNARD. If I am not mistaken the family have reflected upon our naval service more renown than, perhaps, any other family in the country that has served in the Navy. If that be the case, it presents an appeal to us, it seems to me, that scarcely any other woman in the country could present. For that reason I would be glad to have this bill recommitted, so that the committee may again examine it and see whether there are not facts connected with it which would take it out of the general run of cases.



Mr. BENJAMIN. I know nothing of the parentage of this lady, or of her history, except what is contained in the papers before the committee. But I am of opinion that it makes no difference in that respect, and that we should not bend our legislation when dispensing favors of this kind—for they are nothing but favors—to fit any particular case; but we should legislate for all cases, and preserve a principle in the legislation for all these cases. If the principle in this bill is correct, it will apply with the same force to all the other cases of a like character; and, as I said before, they are numerous. This party received a pension under the law; she married the second time with the full knowledge that the pension would lapse in consequence of her second marriage. The committee of the Senate base their report in favor of this bill upon the fact that her second husband should have been incorporated in the Navy of the United States; that is the argument that is used in the report of the Senate committee. But the House committee were not able to see the force of that argument in every way. That question has been discussed over and over again in Congress, and had received an adjudication in the courts of the country, and the decision had been the same in each case; and we could see no good reason for coming in at this late day, when more than twenty years had elapsed, and reversing the decision of former Congresses, and the decision of the courts, and placing this party upon the pension-roll of the country; we did not think it would be right and just to do so. Hence there was no other alternative than to report adversely upon the bill of the Senate. I have no objection to having the bill recommitted, but I think the result would still be the same.

Mr. MULLINS. Will the gentleman yield to me for a few moments?

Mr. BENJAMIN. Certainly.

Mr. MULLINS. I know nothing of this case beyond what has been stated on this floor. But it strikes my mind forcibly that the Committee on Invalid Pensions have taken the right view of the matter. Because reminiscences cluster around this woman on account of her name or anything else, that is no argument to my mind in favor of departing from our general principles. As to her noble birth and the line from which she has descended, I beg leave to say that there are those who have sprung from very low families, whose parents were, perhaps, kicked out of the furrow a half dozen times by a bad plow while endeavoring to get corn for their children to live on, are just as much entitled to the mercy and magnanimity of this Government, and even much more so, than any one who had rich parents, or who may happen to be the widow of a naval officer.

Mr. MAYNARD. I would ask my colleague [Mr. MULLINS] whether all the pensions that we give by special legislation to widows and children are not in cases which come outside of the ordinary rule of law; the cases of persons who cannot obtain pensions at the Pension Bureau under our general laws? And I would also ask whether we do not give pensions to them in consequence of meritorious services rendered the country by their fathers, by their husbands, and possibly in some instances by their sons?

Mr. MULLINS. I comprehend the idea, and I would reply—

Mr. MAYNARD. The gentleman will allow me a moment further. Did we not, very early in the history of this country, give to the daughters of Count de Grasse, a foreigner, a gratuity, a bonus, and finally place them on the pension-roll?

Mr. MULLINS. Yes, I think the Government has fully acquitted itself in all such cases, and ought to have stopped long ago in many of them. And here there comes up a lady, who, being of proper age and disposing memory, [laughter,] elected by her own choice to abandon the protection of the Government and take to her side one whom she looked upon as

a more reliable support than the Government, which was pensioning her in consequence of the chivalrous acts of her first husband.

Mr. MAYNARD. My colleague will allow me to ask whether he, of all the men in this House, would interpose any obstacle in the way of either man or woman contracting a second marriage? [Laughter.]

Mr. MULLINS. By no means; but when persons do elect of their own choice to marry a second time I do not want to pay them for doing it. [Laughter.] It might be considered something like bribing them to go against their will. I want their choice to be open and free. We should not give a pension in this case. The lady might have a third husband, and he might die, and we might have to give her another pension for him. [Laughter.] To grant pensions in this way is perhaps bad luck to the husband. [Laughter.] I want this lady to die in peace and quietude. As she has elected her present position let her remain in it peacefully and quietly. She is now in fine credit. She is the widow of two naval officers, one of whom seems to have been in the service of a foreign country. The courts and Congress have decided that enough has been done in the way of payments for Texas by our paying in the first place millions on millions to buy her and afterward paying millions to fight her. I think it is time we should stop paying people coming from Texas, whether male or female. [Laughter.] I do not care to run in debt in that way. It does not pay. I think the committee are right in their report in this case.

Mr. BENJAMIN. I desire to correct the gentleman from Tennessee, [Mr. MULLINS.] This lady was never a Texan.

Mr. MULLINS. But she chose a husband who was a citizen of Texas; and husband and wife being one, how you can make her otherwise than a citizen of the same country? [Laughter.]

Mr. BENJAMIN. This lady married Commodore Moore in 1849, after the annexation of Texas, and when he was a citizen of the United States.

Mr. MULLINS. Had he become naturalized? He had been a citizen of the republic of Texas. Did he become naturalized by the annexation?

Mr. BENJAMIN. Yes, sir.

Mr. ALLISON. I move that this bill be recommitted to the Committee on Invalid Pensions.

The motion was agreed to.

#### HENRIETTA NOBLES.

Mr. PERHAM, from the Committee on Invalid Pensions, reported back without amendment a bill (S. No. 232) granting a pension to Henrietta Nobles.

The bill directs the Secretary of the Interior to place upon the pension-roll the name of Henrietta Nobles, widow of Daniel G. Nobles, late a captain of the fourth regiment Tennessee infantry, and to pay her a pension at the rate of twenty dollars per month, to commence November 2, 1862, and continue during her widowhood.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAYMENT OF PENSIONS IN COIN.

Mr. WASHBURN, of Indiana. I wish to inquire of the chairman of the Committee on Invalid Pensions whether there is any prospect of the committee acting on the bill referred to them for the payment of pensioners in coin?

Mr. PERHAM. Mr. Chairman, in regard to that subject I have to answer that the committee has been very busily engaged during all the session, when they could possibly be in committee, in providing pensions for the

widows and orphans and invalid soldiers and sailors who have no pensions, and have not been able to get any under the general law. They have not, however, been entirely regardless of the subject of the increase of pensions either in this or the preceding Congress. It will be recollected that a few years since our pension laws were such that a poor widow who had six or eight or ten children, as many had, dependent upon her for support, she received eight dollars a month. Measures have been matured and passed by this Congress whereby a widow who has children receives an additional pension of two dollars a month, and twenty-four dollars a year for each child dependent upon her for support. We found, so far as individuals were concerned, that a great many entirely disabled, where they had lost both arms, both legs, or both eyes, were receiving eight dollars a month. We have increased those in proportion to the disability; those partially disabled getting eight dollars; those very severely, fifteen dollars; another class, twenty dollars; and those totally disabled, so as to be entirely dependent on others, twenty-five dollars a month. This makes an increase on the pension bills of something like fifty per cent. We have thus done tolerably well in increasing pensions. So far as the particular subject referred to is concerned, the committee will be glad to take it up, as they have all questions in regard to pensions, at the earliest possible opportunity. They may be able to report at this session, but I cannot say whether they will or not.

#### CATHARINE ECKHARDT.

Mr. PERHAM, from the same committee, also reported back the bill (S. No. 549) granting an increase of pension to Catharine Eckhardt, with the recommendation that it do pass.

The bill was read. It directs the Secretary of the Interior to pay to Catharine Eckhardt, widow of Henry L. Eckhardt, late a private in company C, fifth regiment Missouri volunteers, in addition to the pension heretofore granted her, the further sum of two dollars per month, for and on account of the care, custody, and maintenance by her of Anna M. Eckhardt, a child under sixteen years of age of Henry L. Eckhardt by a former wife, from the 3d day of February, 1868, while she has such care, custody, and maintenance, until the child shall attain the age of sixteen years.

The bill was ordered to be read a third time; and was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CARRIE E. BURDETT.

Mr. PERHAM, from the same committee, also reported the bill (S. No. 238) granting a pension to Carrie E. Burdett, with the recommendation that it do pass.

The bill was read. It proposes to direct the Secretary of the Interior to place the name of Carrie E. Burdett, widow of James F. Burdett, late an acting assistant surgeon in the military service, on the pension roll, at the rate of seventeen dollars per month, to commence on the 6th of August, 1866, and to continue during her widowhood.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JOHN W. JAMISON, DECEASED.

Mr. PERHAM, from the same committee, also reported back Senate bill No. 427, for the relief of the widow and children of John W. Jamison, deceased, with the recommendation that it do pass.

The reading of the bill was dispensed with.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CATHARINE WANDS.

Mr. PERHAM, from the same committee, reported back a bill (S. No. 497) for the relief of Catharine Wands, with a recommendation that it do pass.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### HENRY REEMS.

Mr. PERHAM, from the same committee, reported back a bill (S. No. 495) for the relief of Henry Reems, with a recommendation that it do pass.

The bill was ordered to be read a third time; and was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SYLVESTER NUGENT.

Mr. PERHAM, from the same committee, reported back a bill (S. No. 456) for the relief of Sylvester Nugent, with a recommendation that it do pass.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ELIZABETH BARKER.

Mr. PERHAM, from the same committee, reported back a bill (S. No. 434) for the relief of Elizabeth Barker, widow of Alexander Barker, deceased, with a recommendation that it do pass.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JULIA M. MOLIN.

Mr. PERHAM, from the same committee, reported back a bill (S. No. 333) for the relief of Julia M. Molin, with a recommendation that it do pass.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MARY GAITHER.

Mr. PERHAM, from the same committee, reported back a bill (S. No. 321) for the relief of Mrs. Mary Gaither, with a recommendation that it do pass.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CHARLOTTE POSEY.

Mr. PERHAM, from the same committee, reported back a bill (S. No. 318) for the relief of Charlotte Posey with a recommendation that it do pass.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REBECCA SENOR.

Mr. PERHAM, from the same committee, reported back a bill (S. No. 316) for the relief of Rebecca Senor, mother of James H. Senor, deceased, with a recommendation that it do pass.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ELIZABETH STEEPLTON.

Mr. PERHAM, from the same committee, also reported back, with a recommendation that the same do pass, Senate bill No. 494, granting a pension to Elizabeth Steepleton, widow of Harrison W. Steepleton, deceased.

The question was upon ordering the bill to be read a third time.

The bill, which was read, directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Steepleton, widow of Harrison W. Steepleton, late a private in company E, sixth regiment Indiana legion, and allow and pay her a pension at the rate of eight dollars per month, to commence on the 9th of July, 1863, and to continue during her widowhood.

The bill was read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ANNIE E. DIXON.

Mr. PERHAM, from the same committee, reported adversely upon Senate bill No. 282, granting a pension to Annie E. Dixon; and the same was laid on the table.

#### CHILDREN OF LA FAYETTE CAMERON.

Mr. PERHAM, from the same committee, reported back, with an amendment, Senate bill No. 175, for the relief of Joseph McGhee Cameron and Mary Jane Cameron, children of La Fayette Cameron, deceased.

The bill, which was read, directs the Secretary of the Interior to place the names of Joseph McGhee Cameron and Mary Jane Cameron, residents of the District of Columbia, children under sixteen years of age of La Fayette Cameron, deceased, on the pension-roll, subject to the provisions and limitations of the pension laws, and to pay them a pension at the rate of eight dollars per month, and to each the additional sum of two dollars per month from the 17th of December, 1862, until they severally attain the age of sixteen years.

The amendment was to strike out all after the words "pay them a pension" and to insert the words "from the 17th day of December, 1862."

The amendment was agreed to.

The bill, as amended, was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CHILDREN OF JOSEPH BERRY.

Mr. PERHAM, from the same committee, reported a bill (H. R. No. 1410) granting a pension to the minor children of Joseph Berry; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Mary E. Berry and Louisa Berry, minor children of Joseph Berry, late a private in company B, fourth regiment Iowa volunteers, commencing October 27, 1862, and to continue until November 26, 1867.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MRS. ALICE A. DRYER.

Mr. PERHAM, from the same committee, reported back, with a substitute, a bill (H. R. No. 614) for the relief of Mrs. Alice A. Dryer.

The substitute, which was read, directs the Secretary of the Interior to pay to Alice A. Dryer, widow of Hiram Dryer, late a major of the thirteenth regiment United States infantry, whose name is now on the list of pensioners, the sum of twenty-five dollars per month, during her widowhood, in lieu of the pension she is now receiving. This act to take effect from the 5th of March, 1867, the day of the death of Hiram Dryer.

The substitute was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### POLLY W. COTTON.

Mr. PERHAM, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1411) granting a pension to Polly W. Cotton; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Polly W. Cotton, widow of Wayne W. Cotton, late of company G, seventh regiment Tennessee infantry, and pay her a pension as the widow of a captain in lieu of the pension she has been receiving, the pension to commence April 18, 1863.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CHILDREN OF WILLIAM R. SILVEY.

Mr. PERHAM, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1412) granting a pension to the children of William R. Silvey; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place on the pension roll, subject to the provisions and limitations of the pension laws, the names of William A. Silvey and Mary Elizabeth Ann Silvey, children under the age of sixteen years of William R. Silvey, late a private in company B, second regiment Tennessee infantry, the pension to commence November 13, 1863.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote

by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SETH LEA.

Mr. PERHAM, from the Committee on Invalid Pensions, reported back, with an amendment in the form of a substitute, a bill (H. R. No. 1315) for the relief of Seth Lea.

The substitute proposes to authorize and direct the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Seth Lea, of Knox county, Tennessee, and pay him a pension as a second lieutenant, commencing January 15, 1863.

The substitute was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JANE ROOK.

Mr. PERHAM, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1413) granting a pension to Jane Rook; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jane Rook, mother of James C. Rook, late a private in company A, third regiment Maine volunteer infantry, commencing July 16, 1862.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SARAH K. JOHNSON.

Mr. PERHAM, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1414) granting a pension to Sarah K. Johnson; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah K. Johnson, late of Salisbury, North Carolina, and pay her a pension at the rate of thirty dollars per month, commencing March 4, 1868, and to continue during her natural life.

Mr. MULLINS. I desire to inquire why the committee propose in the case of this lady that the pension shall continue during her natural life?

Mr. PERHAM. It is a pension on account of her own services.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. PERHAM. The gentleman from West Virginia [Mr. POLSLEY] has prepared a most interesting report in this case, and I move that it be printed in the Globe with the other proceedings.

The SPEAKER. The Chair thinks that would be proper, as it is a novel case.

Mr. MILLER. I think where there are reports in these cases they should go into the Globe.

The SPEAKER. That would enlarge the Globe very much.

The report was ordered to be printed. It is as follows:

The Committee on Invalid Pensions, to whom was referred the petition of Mrs. Sarah K. Johnson, have

given the same their most careful consideration, and ask leave to make the following report:

That our northern women have won the highest praise for their devotion and self-sacrifice in the cause of their country, but great as their labors and sacrifices have been they are certainly inferior to those of some of the loyal women of the South, who, for the love they bore to their country and its flag, braved all the contempt, obloquy, and scorn which southern women could heap upon them; who lived for years in utter isolation from the society of relations, friends, and neighbors because they would render such aid and succor as was in their power to the defenders of the national cause in prison, in sorrow, and in suffering. Among these heroines none deserves a higher place in the record of womanly patriotism and courage than Mrs. Sarah K. Johnson.

At the breaking out of the war Mrs. Johnson was teaching a school in Salisbury, where she was born and always resided. When the first prisoners were brought into that place the southern women turned out in their carriages and with a band escorted them through the town, and when they filed past saluted them with contemptuous epithets. From that time Mrs. Johnson determined to devote herself to the amelioration of the condition of the prisoners; and the testimony of thousands of the Union soldiers confined there proves how nobly she performed the duties she undertook. It was no easy task, for she was entirely alone, being the only woman who openly advocated Union sentiments and attempted to administer to the wants of the prisoners. For fifteen months none of the women of Salisbury spoke to her or called upon her, and every possible indignity was heaped upon her as a 'Yankee sympathizer.' Her scholars were withdrawn from her school, and it was broken up, and her means were very limited; nevertheless, she accomplished more by sympathetic arrangements than many would have done with a larger outlay of money.

When the first exchange of prisoners was made she went to the depot to arrange some pallets for some of the sick who were leaving, when she stumbled in the crowd, and looking down she found a young Federal soldier who had fainted and fallen, and was in danger of being trodden to death. She raised him up and called for water, but none of the people would get her a drop to save a 'Yankee's' life. Some of the soldiers who were in the cars threw their canteens to her, and she succeeded in reviving him; during this time the crowd heaped upon her every insulting epithet they could think of, and her life even was in danger. But she braved it all, and succeeded in obtaining permission from Colonel Godwin, then in command of the post, who was a kind-hearted man, to let her remove him to her own house, promising to take care of him as if he were her own son, and if he died to give him Christian burial. He was in the last stages of consumption, and she felt sure he would die if taken to the prison hospital. None of the citizens of the place would even assist in carrying him, and after a time two gentlemen from Richmond stepped forward and helped to convey him to her house. There she watched over him for hours, as he was in a terrible state from neglect, having had blisters applied to his chest which had never been dressed and were full of vermin.

The poor boy, whose name was Hugh Perry, was from Wisconsin, and belonged to the fifth Michigan cavalry, only lived a few days, and she had a grave dug for him in her garden, for burial had been refused in the public graveyard, and she had been threatened that if she had him interred decently his body should be dug up and buried in the street, and they even threatened to take his body from the house for that purpose. Mrs. Johnson assured them that they could only do that over her dead body, and that she would resist them to death.

For this and similar things she was cited to appear before the sessions of the Presbyterian church; for this and similar acts of humanity she was literally ostracised from society, and when the war came to an end she was compelled to leave the place.

During the first two years she was enabled to do a great many acts of kindness for the prisoners, but after that time she was watched very closely as a Yankee sympathizer, and the rules of the prison were stricter, and what she could do was done by strategy. Her means now were much reduced, but she still continued in her good works, cutting up her carpets and spare blankets to make into moccasins, and when new squads of prisoners arrived supplied them with bread and water as they halted in front of her house, which they were compelled to do for hours, waiting the routine of being mustered into the prison. They were not allowed to leave the ranks, and she would turn an old-fashioned windlass herself for hours, raising water from her well; for the prisoners were often twenty-four to forty-eight hours on the railroad without rations or water.

Generally the officer in command would grant her request, but once a sergeant told her, in reply, if she gave any of them a drop of water or a piece of bread or dared to come outside of her gate for that purpose he would pin her to the earth with his bayonet. She defied him, and taking her pail of water in one hand and a basket of bread in the other, she walked directly past him on her errand of mercy; he followed her, placing his bayonet between her shoulders, just so that she could feel the cold steel. She turned and coolly asked him why he did not pin her to the earth, as he had threatened to do, but got no reply. Then some of the rebels said, "Sergeant, you can't make anything out of that woman, you had better let her alone," and she performed her work unmolested. She came North last summer to visit her daughter who had been placed in school in Connecticut by the kindness of some of the officers she had befriended while in prison, transportation having been given her by Generals Schofield and Carter, who testified to the services she had rendered

our prisoners, and that she was entitled to the gratitude of the Government and all loyal citizens.

Your committee desire to include in their report extracts from a letter of Mr. Eddy, who was confined in Salisbury prison, North Carolina:

"I was a prisoner at that place, and as such formed the acquaintance of Mrs. Johnson, an acquaintance never to be forgotten. Her kindness to the prisoners literally knew no bounds but her abilities, and these seemed to increase with the demands of the case.

"For, like the poor woman of old, 'her barrel of meal wasted not, neither did her cruse of oil fail.' She was one of those mysterious women who seemed always to abound, and yet to have nothing herself. She is a wonderful woman. No prisoner was sick the fact of which she did not hear at once, and some comfort always came. There was not a single exception. She attended to our washing at a pecuniary loss to herself. She wrote letters of comfort and good cheer. She wept with us, and when we went away she rejoiced with us, and was the only one who extended to us a kind and parting hand.

"That she did what she did from pure motives is clear to my mind; first, in that she did it in face of such opposition; second, in that she did it to the impoverishing of herself; third, in that she did it when the almost universal sentiment of the South was that the confederacy must be a success. I believe her motives were pure. I believe she sacrificed everything for the Union soldiers. She was one among the few. We prisoners found but one woman like her."

The following is a copy of a letter signed by twelve officers of the United States Navy, and at the time it was written were prisoners in Salisbury:

CONFEDERATE STATES MILITARY PRISON, SALISBURY, NORTH CAROLINA, January 22, 1863.

MADAM: Allow me to tender you my many grateful acknowledgments, and those of my officers and fellow-prisoners, for your kind and very acceptable loan of crockery for the use of the mess, without which we should be compelled to take our meals with no regard to proprieties, not to say the decencies of civilized life.

Poor as we are in everything but thanks, we can only pray that this and all the other similar acts of kindness on your part may be abundantly recompensed by Him who has declared that inasmuch as they are done unto the least of one of these his brethren they are done unto Him. I trust that when (if ever) we are so happy as to be released from these bonds we shall be privileged, before returning to our homes and the beloved ones whose hearts are this day full of sorrow and anxiety on our account, to express to you in person our gratitude for your kindness and sympathy for us in the calamity which has befallen us, strangers as we are to you, and with no other claims than that of a common humanity and Christian brotherhood, both unhappily too often disregarded by both parties in these evil times.

Dr. C. D. Palmer, of Cincinnati, Ohio, certifies as follows:

"I have known her personally and intimately since September, 1866, during which time I have been family physician of Mrs. Sarah K. Johnson. My attention was first drawn to her in the capacity of city physician for the poor, on account of her pecuniary want. I found her much reduced in health, requiring my services almost constantly. Her nervous system has been so seriously impaired from what she has undergone during the war that she has not been, nor do I think she ever will be, able to maintain herself, or attend even to her ordinary household duties. She is a woman of great force of character and strength of will, and no ordinary amount of physical and mental labor could have so wrecked her constitution."

From evidence and letters presented to the committee they are of the opinion (as expressed in one of the letters written to her by one who had received aid and comfort from her) that she "lives in the hearts and memories of thousands of our people." She was "the angel of mercy—nobly stepping between the forlorn prisoner and the phantom of despair—giving to his crushed heart a bright remembrance of a good and kind mother, bidding him be patient and cheerful, that the hour of deliverance might find him able to enjoy the anticipated pleasure of a union with the loved ones around the family hearth."

Your committee have examined the case with much care, and take pleasure in reporting the accompanying bill, granting her a pension of thirty dollars per month, commencing March 4, 1868, it appearing that Mrs. Johnson is very feeble in health, and that she has been obliged to leave her native State of North Carolina in consequence of her continued kindness to Union prisoners in the Salisbury prison.

LAND BOUNTIES.

Mr. PERHAM, from the Committee on Invalid Pensions, reported back the following resolution; and the same was referred to the Committee on the Public Lands:

*Resolved*, That the Committee on Pensions be instructed to inquire into the expediency of providing by law for bounties in land, to be given to the soldiers of the nation in the late war of the rebellion, and report by bill or otherwise.

CLERK OF PENSION COMMITTEE.

Mr. MILLER. I now submit the resolution which is reported from the Committee on Invalid Pensions.

The Clerk read as follows:

*Resolved*, That the Clerk of the House of Representatives be, and is hereby, authorized and directed to pay to the clerk of the Committee on Invalid Pensions a sum of money which shall make his compensation equal to that of the clerk of the Committee of Claims, to commence July 1, 1868.



Mr. MAYNARD. I desire to say in this case that in the opposition I have made to the resolution I have not been moved by any doubt that the present clerk has rendered service commensurate with what it is proposed to pay him. It is not because I do not think he is worthy of all the resolution would give him; but I can see in this resolution that it fastens upon us another salaried officer in the shape of a committee clerk. Reference has been made to the clerk of the Committee of Claims. Before the establishment of the Court of Claims that committee had all the business before it that now devolves upon the Court of Claims. It was really a judicial body. It kept a record, and it was necessary to have a clerk of considerable acquirements. He was, in fact, a man of very high character. But since the Court of Claims has been established the business of the committee has dwindled and become inconsiderable, and the clerk of that committee ought not to be salaried any more than ten other clerks of committees in the House. We know that the Committee on Invalid Pensions has a great amount of business to do at this time, but after one or two Congresses the business will fall off unless we have another war. We know the claims of pensioners under the revolutionary war and the war of 1812 are referred to a single committee, and that it has very little work at all. If I am incorrect my colleague will correct me. I should be unwilling, therefore, to see the clerk of this committee made a salaried officer. The House has never been niggardly toward its officers. It has always been liberal, and I am quite sure it will be so in this case. I trust, therefore, that the gentleman will not feel bound to pass his resolution.

Mr. MILLER. A word in reply to the gentleman from Tennessee. I hope he will not insist upon his objection. This laborer is certainly worthy of his hire. We have had during this session seven hundred and eighty-five cases before the committee. This gentleman has received for his compensation during the last Congress for one year only \$792. He has had to commence early in the morning and work till late in the day. The lowest salary of Department clerks is \$1,200, and they work from nine till three or four o'clock. Now, I am perfectly willing to limit the compensation to the present Congress. We ought to include the entire Fortieth Congress, but as the Clerk of the House has settled the account till the 1st of July we cannot go back. This gives the young man a meager compensation for the labor he has before him. The constituents of the gentleman from Tennessee bring before our committee their full share of the labor which this clerk has to perform. I hope, therefore, the resolution will pass. I demand the previous question.

The SPEAKER. The Chair understands the gentleman to amend the resolution limiting the compensation to the 4th of March, 1869. If there is no objection the amendment will be considered as agreed to. The question is on the resolution as amended.

Mr. MAYNARD. I understood the gentleman to demand the previous question.

The SPEAKER. Does the gentleman insist on the previous question?

Mr. MAYNARD. Suppose the previous question is sustained, and the House then adjourns, when will the resolution come up before the House again?

The SPEAKER. The Chair thinks it will come up as unfinished business as soon as the business pending at the recess to-day is completed in reference to the Falls of St. Anthony.

Mr. MAYNARD. I suggest that it take that course.

Accordingly, by unanimous consent, the previous question was seconded and the main question ordered.

Mr. MAYNARD. I move that the House adjourn.

The motion was agreed to; and thereupon (at nine o'clock and forty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. COBURN: A memorial of Delass Root and others, citizens of Indianapolis, Indiana, praying for the enlargement of the ship-canal at Sault Ste. Marie, Michigan.

By Mr. HILL: The petition of John P. Brown and others, of Charlottesville, Morris county, New Jersey, representing that the depression of manufacturing industry affects disastrously every form of production and business, and must reduce the revenues and endanger the credit of the Government, and praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

By Mr. JONES, of North Carolina: The petition of Captain Hoghead and others, of North Carolina, asking compensation for services rendered the United States during the rebellion.

By Mr. KELLEY: The petition of La Fayette Green, Hon. W. W. Holden, and seven others, of the county of Stanley, North Carolina, asking for the removal of disabilities of said La Fayette Green.

Also, the petition of Edward W. Davis, of the county of Stanley, State of North Carolina, asking for the removal of his disabilities.

Also, the petition of James T. Ramsey, of the county of Stanley, State of North Carolina, asking for the removal of disabilities.

Also, the petition of John W. Morton and 7 others, of the county of Stanley, State of North Carolina, asking for the removal of disabilities of said Morton.

#### IN SENATE.

FRIDAY, July 10, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. WILLIAMS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### RESIGNATION OF SENATOR JOHNSON.

The PRESIDENT *pro tempore* laid before the Senate the following communication; which was read:

WASHINGTON, July 10, 1868.

SIR: I have the honor to inform you that I write by this day's mail, to the Governor of my State, resigning my seat as a Senator of Maryland, the resignation to take effect at once. Do me the favor to make the fact known to the Senate.

I remain, with high regard, your obedient servant,

REVERDY JOHNSON.

HON. BENJAMIN F. WADE, President United States Senate, Washington.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 1381) providing for an election in Virginia, yesterday received from the House of Representatives for concurrence, was read twice by its title, and referred to the Committee on the Judiciary.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented a petition of officers of the United States Army praying the passage of the bill to fix and equalize the pay of officers and to establish the pay of enlisted soldiers of the Army; which was referred to the Committee on Military Affairs and the Militia.

Mr. HOWE presented a petition of soldiers and widows of soldiers of the war of 1812, praying to be allowed pensions; which was referred to the Committee on Pensions.

#### REPORTS OF COMMITTEES.

Mr. DRAKE, from the Committee on the Pacific Railroad, submitted a report accompanied by a joint resolution (S. R. No. 157) in relation to the Union Pacific railway, eastern division. The joint resolution was read and passed to a second reading, and the report was ordered to be printed.

Mr. MORGAN. The Committee on Commerce, to whom was referred the draft of a section prepared by the Secretary of the Treasury for incorporation into one of the fiscal bills, together with a communication from the Sec-

retary of the Treasury recommending the repeal of all acts and parts of acts which authorise the abatement, reduction, or return of duties on account of damages occurring to merchandise during a voyage; or from injury or destruction by fire, or other cause, after reaching port and while yet in custody of customs officers, have had the same under consideration, and have come to a conclusion unfavorable to the recommendation of the Secretary, and have directed me to make a report in writing. I move that the report be printed.

The motion was agreed to.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the following bills, reported them without amendment:

A bill (H. R. No. 1222) granting a pension to Catharine Ginsler;

A bill (H. R. No. 1223) granting a pension to Margaret Filson;

A bill (H. R. No. 1224) granting a pension to Jane E. Rogers;

A bill (H. R. No. 1225) granting a pension to Patrick Collins;

A bill (H. R. No. 1226) granting a pension to Barbara Weisse;

A bill (H. R. No. 1228) granting a pension to Joanna L. Shaw;

A bill (H. R. No. 1229) granting a pension to Anna H. Pratt;

A bill (H. R. No. 1230) granting a pension to Hannah K. Cook;

A bill (H. R. No. 1231) granting a pension to John Morley;

A bill (H. R. No. 1232) granting a pension to Ruth Barton;

A bill (H. R. No. 1233) granting a pension to William F. Moses;

A bill (H. R. No. 1234) granting a pension to Frederica Brielmayer;

A bill (H. R. No. 1235) granting a pension to Johannah Connelly;

A bill (H. R. No. 1236) granting a pension to the minor children of Michael Travis;

A bill (H. R. No. 1237) granting a pension to the widow and minor children of James Cox; and

A bill (H. R. No. 1238) granting a pension to Lavinia A. Gittings, mother of Andrew J. Gittings.

Mr. VAN WINKLE. I also report back the bill (H. R. No. 1227) granting a pension to Martha Ann Wallace, with a view of asking to be discharged from it, and at the request of the friends of the applicant I move its reference to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. MORRILL, of Vermont, from the Committee on Finance, to whom was referred the memorial of members of the First Church and Society of Boston, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of the Protestant Episcopal parish of St. Mary's, Burlington, New Jersey, submitted an adverse report thereon; which was ordered to be printed.

#### TRUSTEES OF COLORED SCHOOLS.

Mr. PATTERSON, of New Hampshire. The Committee on the District of Columbia, to whom the subject was referred, have directed me to report a bill (S. No. 609) transferring the duties of trustees of colored schools of Washington and Georgetown, and to ask for action upon it at this time. It is very short and will take but a moment.

By unanimous consent, the bill was read twice by its title and considered as in Committee of the Whole. It proposes to so modify the acts of Congress authorizing the appointment and defining the duties of the board of trustees of colored schools for the cities of Washington and Georgetown as to transfer all the duties heretofore imposed by those acts on the trustees of colored schools to the trustees of the public schools in those cities.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

## PUBLIC EXPENDITURES.

Mr. HOWARD. I ask the Senate to take up the joint resolution (S. R. No. 72) for the relief of John M. Broome and others, the band of the twelfth Kentucky infantry.

The PRESIDENT *pro tempore*. It requires unanimous consent to take it up at this time.

Mr. POMEROY. Are resolutions in order. The PRESIDENT *pro tempore*. They are, if we can get at them.

Mr. POMEROY. The Senator from Indiana [Mr. HENDRICKS] some time ago offered a resolution of inquiry in the morning hour which was passed. Subsequently I moved a reconsideration with a view of amending it. I now desire to have the motion acted upon, and then to offer an amendment to the resolution and let it be passed. I suppose it is in order to do that now.

The PRESIDENT *pro tempore*. The Chair will put the question on the motion to reconsider.

The motion was agreed to; and the question returned on the passage of the following resolution:

*Resolved*, That the Secretary of the Treasury be requested to inform the Senate what have been the monthly expenditures and the average expenditures per month of the War, Navy, and Interior Departments since the 1st day of July, 1865; and also the monthly expenditures of each bureau of said Departments during the present fiscal year.

The PRESIDENT *pro tempore*. The resolution is now open to amendment.

Mr. POMEROY. I offer the following amendment—

Mr. CONNESS. I suppose it is not proposed to consider it now.

Mr. POMEROY. If it takes any time I do not wish to urge it.

Mr. CONNESS. I hope it will lie over.

The PRESIDENT *pro tempore*. It cannot be considered, objection being made. Reports from committees are still in order.

Mr. POMEROY. I do not understand the Chair. Does the Chair rule that it is not in order?

The PRESIDENT *pro tempore*. It is not in order because it is objected to, and the morning business has not been gone through with.

Mr. POMEROY. This is morning business, and resolutions are now in order.

The PRESIDENT *pro tempore*. The resolution has been reconsidered, and now you propose to put it on its passage, and I suppose that does not come within the rule. It must wait until the morning business is disposed of if objection is made.

Mr. POMEROY. Is there any objection?

Mr. HENDRICKS. It will be discussed.

Mr. CONNESS. I think it had better be laid over until to-morrow.

The PRESIDENT *pro tempore*. Objection is made, and the resolution will lie over.

## BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 608) to incorporate the United States Postal Telegraph Company and to establish a postal telegraph system; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 158) to extend the act establishing the Court of Claims to the claims arising under the act of the 2d of March, 1861, providing for the payment of the expenses of the Washington and Oregon Indian war of 1855-56; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 610) in relation to corporations created by laws of the United States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

## RESERVATIONS IN SAN FRANCISCO BAY.

Mr. WILLIAMS. I submit the following

resolution, and ask for its present consideration:

*Resolved*, That the Secretary of War be requested to furnish the Senate with a description of the Presidio military reservation, including Black Point, lying upon the Bay of San Francisco; accompanied by a diagram showing the external boundaries, the area, and the portions of said reservation actually occupied by the United States.

Mr. CONNESS. I wish to suggest that these are two several reservations, and the language ought to be changed a little if the information is wanted as to both.

Mr. WILLIAMS. I desire a description of all the military reservations lying between San Francisco and the ocean, both of the Presidio and of the Black Point reservation.

Mr. CONNESS. They are separate reservations.

Mr. WILLIAMS. I say "including Black Point."

Mr. CONNESS. Very well.

Mr. COLE. I suppose they are really all occupied by the military authorities as reservations and reserved for military purposes. I do not know the object of the resolution. I have no special objection to it.

Mr. WILLIAMS. I simply wish to say that there are questions pending before the Committee on Private Land Claims that render it necessary for that committee to have this information. I understand that there is a large tract of land reserved there by the United States, exceeding fourteen hundred acres, and I desire to know exactly the external boundaries of the reservations and these portions that are actually occupied. There are certain portions of the reservations that are not actually occupied by the United States for any purpose. I simply wish that information to enable the Committee on Private Land Claims to transact its business and to investigate claims that are pending before the committee.

Mr. COLE. Will the Senator from Oregon be so good as to state what claims there are before the committee on which this information is desired?

Mr. WILLIAMS. There may be business before the Committee on Private Land Claims of which the honorable Senator is ignorant. I have no objection to stating the business. One case is an application on the part of Mrs. Jessie Frémont for indemnification for property that was taken, as she claims, by the military authorities in violation of her rights; and this information is desired for the purpose of enabling the committee to consider that claim.

Mr. CONNESS. There can be no objection to it.

Mr. COLE. As it is an application for information, I do not suppose there can be any objection.

The resolution was agreed to.

## INTERNAL TAXES.

Mr. YATES. I happened to be absent yesterday in my committee-room when the final vote was taken on the tax bill. I simply desire to say that if I had been present I should have voted for the bill.

## BILL RECOMMITTED.

On motion of Mr. HENDRICKS, the joint resolution (H. R. No. 215) relative to the Louisville Bridge Company, was taken from the table and recommitted to the Committee on Post Offices and Post Roads.

## PRINTING OF A DOCUMENT.

Mr. ANTHONY. I move to reconsider the vote by which the Senate the day before yesterday rejected a resolution to print a report from the Quartermaster General of the Army. I desire to have it reconsidered with a view of recommitting it to the Committee on Printing.

The motion to reconsider was agreed to.

Mr. ANTHONY. I now move to recommit it to the Committee on Printing.

The motion was agreed to.

## RIGHTS OF CITIZENS ABROAD.

Mr. CONNESS. I move that the bill (H. R. No. 768) concerning the rights of American citizens in foreign States be made the special order for Monday next at one o'clock.

Mr. FESSENDEN. I should like to have that lie over until the chairman of the Committee on Foreign Relations comes in. I presume he will be here in a short time.

Mr. CONNESS. I wish to say that the honorable chairman has already suggested that he would be ready for its consideration at the beginning of the week, and it is in accordance with that suggestion that I make this motion.

Mr. FESSENDEN. I think it would be no more than right to let it lie until he comes in.

Mr. CONNESS. To let it lie until he comes in is simply to let it lie for another day. I ask a vote on my motion. There can be no objection to it.

Mr. SHERMAN. I desire to have an understanding with the Senator from California, that it shall not be antagonized to the funding bill which is now the special order, and on which I hope to get a vote to-day or to-morrow.

Mr. CONNESS. I agree with the Senator that that bill must have precedence.

Mr. SHERMAN. That is the only thing I have charge of, and with that understanding I have no objection.

The PRESIDENT *pro tempore*. The question is on making the bill mentioned by the Senator from California the special order for Monday next at one o'clock.

Mr. FESSENDEN. I hope not; I only ask the Senator to wait until the chairman of the Committee on Foreign Relations is present.

Mr. CONNESS. I make a full answer to that. It appears to me that the Senator ought to accept my answer. The whole Senate will bear witness to the motion I made a few days since, and at the suggestion of the Senator from Massachusetts I withdrew the motion that I then made. The suggestion was that he would be ready in the beginning of the week for that bill. I now make this motion in accordance with that suggestion, which I know will be acceptable to him.

Mr. POMEROY. I do not wish to object to the bill being considered; I want to consider it, but there are bills to protect American citizens at home that should be considered. I am quite as anxious to protect American citizens at home as I am to protect American citizens abroad, and I should not like to sacrifice the interests of American citizens at home to those abroad. I am ready to consider that bill at any time the Senator can get it up.

Mr. CONNESS. The honorable Senator is a little at fault in what he says. American citizens at home are not in jeopardy as citizens abroad are.

Mr. POMEROY. Some of them are very much so.

Mr. CONNESS. I ask for a vote on my motion.

Mr. FESSENDEN. I hope the bill will not be made a special order under the circumstances.

The PRESIDENT *pro tempore*. The question is on making the bill a special order for Monday next at one o'clock.

Mr. CONNESS. I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. MORTON. As a member of the Committee on Foreign Relations, I hope the bill will be made a special order for Monday. I know of no reason why it should not.

Mr. CONNESS. There is not any reason at all.

The question being taken by yeas and nays, resulted—yeas 22, nays 8; as follows:

YEAS—Messrs. Buckalew, Cameron, Gattell, Cole, Conness, Davis, Drake, Harlan, Hendricks, Howard, McCreery, Morgan, Morton, Nye, Ramsey, Ross, Stewart, Thayer, Wade, Williams, Wilson, and Yates—22.

NAYS—Messrs. Anthony, Edmunds, Fessenden, Fowler, Morrill of Vermont, Pomeroy, Trumbull, and Vickers—8.

ABSENT—Messrs. Bayard, Chandler, Conkling, Corbett, Cragin, Dixon, Doolittle, Ferry, Frelinghuysen, Grimes, Henderson, Howe, McDonald, Morrill of Maine, Norton, Osborn, Patterson of New

Hampshire, Patterson of Tennessee, Rice, Saulsbury, Sherman, Sprague, Sumner, Tipton, Van Winkle, Welch, and Willey—27.

So the motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills of the Senate without amendment:

A bill (S. No. 232) granting a pension to Henrietta Nobles;

A bill (S. No. 238) granting a pension to Carrie E. Burdett;

A bill (S. No. 282) granting a pension to Annie E. Dixon;

A bill (S. No. 291) granting a pension to Ann Kelley, widow of Bernard Kelley;

A bill (S. No. 292) granting a pension to Maria Raitery;

A bill (S. No. 316) for the relief of Rebecca V. Senior, mother of James H. Senior, deceased;

A bill (S. No. 318) for the relief of Charlotte Posey, widow of Sebastian R. Posey;

A bill (S. No. 321) for the relief of Mrs. Mary Gaither, widow of Wiley Gaither, deceased;

A bill (S. No. 332) granting a pension to John W. Harris;

A bill (S. No. 333) for the relief of Julia M. Molin;

A bill (S. No. 342) granting a pension to Thomas Stewart;

A bill (S. No. 359) granting a pension to Louisa Fitch, widow of E. P. Fitch, deceased;

A bill (S. No. 381) granting a pension to Edward Hamel, minor child of Edward Hamel, deceased;

A bill (S. No. 427) for the relief of the widow and children of John W. Jameson;

A bill (S. No. 434) for the relief of Elizabeth Barker, widow of Alexander Barker, deceased;

A bill (S. No. 456) for the relief of Sylvester Nugent;

A bill (S. No. 494) granting a pension to Elizabeth Steepleton, widow of Harrison W. Steepleton, deceased;

A bill (S. No. 495) for the relief of Henry Reens;

A bill (S. No. 497) for the relief of Catharine Wands;

A bill (S. No. 498) granting a pension to Anna M. Howard;

A bill (S. No. 500) granting a pension to Lucinda R. Johnson;

A bill (S. No. 501) granting a pension to Harriet W. Pond;

A bill (S. No. 520) granting a pension to Martha Stout; and

A bill (S. No. 549) granting an increase of pension to Catharine Eckhardt.

The message also announced that the House had passed the following bills of the Senate, with amendments, in which it requested the concurrence of the Senate:

A bill (S. No. 175) for the relief of Joseph McGhee Cameron, and Mary Jane Cameron, minor children of La Fayette Cameron, deceased;

A bill (S. No. 382) granting an increase of pension to Obadiah T. Plum;

A bill (S. No. 422) granting a pension to Maria Schweitzer and the children of Conrad Schweitzer, deceased;

A bill (S. No. 518) granting a pension to the widow and child of John P. Felty;

A bill (S. No. 547) granting a pension to John Sheets;

A bill (S. No. 314) for the relief of George T. Brien;

A bill (S. No. 383) granting a pension to John A. Weed and Elizabeth J. Weed, minor children of Robert T. Weed, deceased;

A bill (S. No. 517) granting a pension to the widow and children of Henry Brown; and

A bill (S. No. 521) granting a pension to the children of William M. Wooten, deceased.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1337) granting an increase of pension to Frances T. Richardson, widow

of the late Major General Israel B. Richardson; and

A bill (H. R. No. 1363) granting an increase of pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell.

#### ROCK ISLAND BRIDGE.

Mr. HARLAN. I move that the Senate proceed to the consideration of House joint resolution No. 201.

Mr. CATTELL. I cannot refrain from saying that I think a bill of a good deal of public importance, which was up yesterday and pretty well discussed, and laid over at the request of the Senator from Illinois, [Mr. TRUMBULL,] should properly come up first this morning and be disposed of.

The PRESIDENT *pro tempore*. There is nothing for the Senator to do but to object until the morning business is disposed of.

Mr. CATTELL. I do not like to do so ungracious a thing as to object.

Mr. HARLAN. I hope the Senator will not object.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution (H. R. No. 201) in relation to the Rock Island bridge.

Mr. TRUMBULL. I move to amend the joint resolution by inserting after the words "Rock Island," in the ninth line, the words "to connect said island with the cities of Davenport and Rock Island." That is the language of the original act. It will make it more specific.

Mr. EDMUNDS. Explain the necessity of it.

Mr. TRUMBULL. I want it to be specific, that it is the bridge provided for there, and not elsewhere.

Mr. SHERMAN. The island of Rock Island, as I understand, is a little above those two cities.

Mr. TRUMBULL. The language of the original act passed in 1867, is "a bridge to connect the island of Rock Island with the cities of Davenport and Rock Island," and I propose to insert these words so as to have it specific. They are the very words of the original act.

Mr. SHERMAN. Does that increase the length of the bridge?

Mr. TRUMBULL. I do not think it changes it at all; but I thought it was proper that it should be specific, and as the joint resolution must go back to the House I thought it better to adopt the very words of the law.

Mr. MORRILL, of Vermont. I desire to ask my friend from Iowa whether he would object to an amendment of this character:

*Provided*, That in no case shall the cost of the bridge exceed \$1,000,000?

Mr. HARLAN. The joint resolution now provides that it shall not exceed the estimates, and I think the estimates were \$1,000,000. Therefore I do not see any necessity for the amendment suggested by my honorable friend from Vermont.

Mr. MORRILL, of Vermont. I think you had better accept it.

The PRESIDENT *pro tempore*. The question now is on the amendment offered by the Senator from Illinois.

The amendment was agreed to.

Mr. HARLAN. I will not object to the amendment suggested by the Senator from Vermont.

Mr. MORRILL, of Vermont. Then I move to insert at the end of the first section the following proviso:

*And provided also*, That in no case shall the expenditure on the part of the United States exceed \$1,000,000.

The amendment was agreed to.

Mr. WILSON. I desire to say a word in regard to this measure. It is a very large appropriation, but I suppose we must make it as we have undertaken this work. I hope, however, that we shall for some time to come be

spared the pressure that I plainly see is to be made upon us for expenditures at Rock Island, amounting to millions of dollars. In the first place, as a matter of fact, it was not necessary to have this arsenal there. We have an arsenal now that can make ten thousand arms a day, three hundred thousand arms a year, and we have more than two million muskets and rifles on hand. We do not wish to make any, and do not wish to improve any. We have improved about fifty thousand of the Springfield muskets that we have on hand at the present time. That institution is more than ample for all the needs of the country. But it was thought best for local reasons to establish this arsenal. I voted for it on account of the fact that it was claimed as a local measure; but when I did so I had no idea that we were to go on and establish an institution on a plan so vast as is now proposed, and that we proposed to expend such enormous sums of money upon it. I know vast sums are to be asked for it, sums that will dwarf this appropriation or any that we ever dreamed of.

I consider it a great mistake that we entered on this work, because we do not need it, and we ought not to establish such institutions East, West, North, or South unless they are absolutely needed for the good of the common country; but we have entered upon it. This bridge, which is to connect the cities of Davenport and Rock Island, will be, of course, for the interest of this arsenal if we are to go on and build it up.

A considerable sum of money has already been expended there; and I know that the gentleman who has charge of it feels that it is a magnificent place; that it is a place where we should lay out several million dollars in establishing an arsenal. I expect that Congress will be called to appropriate six or ten million dollars to build up this work. I do not wish to undertake to arrest this work after we have begun it; but I hope that those who take an interest in it will see to it that all these extravagant aspirations and pretensions are kept down, and that we spend only such amounts of money as are necessary for the country at this place, and that we proceed gradually and slowly in building up that institution. It is fixed there, and I have no doubt will stay there.

I desire to say this much because I know that the gentleman who is at the head of this institution at Rock Island, desires to lay the foundations there on a large and broad scale, of an establishment that must cost many million dollars before it is completed. I hope that those who are friendly to it will not press us into these extravagant appropriations, and especially that those of us who think we ought to proceed with some degree of care in this project, will not be held here or elsewhere as being actuated by a local spirit or a feeling of jealousy simply because this institution is in another part of the country.

General Dyer, chief of the ordnance office, states in a note to me that the expenditures at Springfield armory from 1795 to 31st May, 1868, and at Rock Island arsenal from its establishment in 1862 to 31st May, 1868, have been as follows:

	Springfield armory.	Rock Island arsenal.
For purchase of land, including buildings, water privileges, &c., &c.	\$77,442 62	\$242,082 52
For erection of buildings, mills, dams, canals, races, and other improvements, machinery, &c., including repairs (if the same)	2,552,076 55	645,022 18
Total of each	\$2,629,519 17	\$887,104 70

It will be seen that the land and water privileges have already cost three times more at the Rock Island armory than at the Springfield armory, and that about one fourth as much have been appropriated at Rock Island as at



Springfield for buildings, improvements, and machinery. Unless carefully watched by Congress we shall soon find that the expenditures at Rock Island will cast in the shade all the expenditures made at Springfield during the past seventy years. I call the attention of our friends from the West to this demand for vast expenditures for this armory in time of peace.

Mr. HARLAN. Perhaps I ought to say, in response to the Senator's appeal, that I shall not press any appropriation for the construction of additional works at Rock Island beyond those which the committee, over which the Senator so ably presides, shall deem demanded by the best interests of the country. I do not agree with him as to the original propriety of locating these works there; I think it was highly proper that they should be located there. Arms will be needed on that side of the Republic probably for a long series of years, more than at any other point. I think it is a very appropriate place to have a depot of arms; but I shall not press any appropriation beyond that which his committee will recommend.

Mr. MORRILL, of Vermont. I shall content myself with merely calling for the yeas and nays on this resolution. Without any reference to the arsenal, I consider this appropriation wholly improper. I merely ask for the yeas and nays upon it.

The PRESIDENT *pro tempore*. Does the Senator ask for the yeas and nays on the third reading or on the passage of the joint resolution?

Mr. MORRILL, of Vermont. On its passage.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time. It was read the third time.

Mr. MORGAN. I beg to inquire of the Senator from Vermont whether it is expected that the Government is to pay \$1,000,000 for the building of this bridge?

Mr. MORRILL, of Vermont. The estimate is that it will cost \$1,000,000. There is a provision in the resolution that the railroad company across the river there may have the use of it by paying one half of the cost. There is also another provision that provides for tearing down the existing bridge, by which I think we shall render ourselves liable, if we go on, to pay probably more than half as much more.

Mr. HARLAN. The resolution provides specifically that the Rock Island Railroad Company shall pay one-half the cost of this structure, and if the old bridge is torn down, it renders it absolutely necessary that they should for their own convenience. It also provides that if any other railroad company shall avail themselves of this structure across the river they shall pay a proportional part of the cost, and I have been informed it is probable that another road will avail themselves of the opportunity, and this will still further reduce the amount that the Government will be called upon to pay.

Mr. YATES. I desire to state that I have seen the old bridge at this point, and it is perhaps the greatest obstruction to the Mississippi river. It is constructed so as not to run at right angles across the channel, but diagonally, so that a boat in passing is in danger all the time of being carried by the current on to the piers of the bridge. The consequence is that there have been many steamboats lost there, and navigation has suffered very materially. By the provisions of this joint resolution that obstruction is to be removed—a duty which devolves upon the United States, and is to a great extent the consideration for which the Government makes this appropriation. I think there can be no reasonable objection to it.

The PRESIDENT *pro tempore*. The question is on the passage of the joint resolution, on which the yeas and nays are demanded.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 10; as follows: YEAS—Messrs. Cameron, Cattell, Cole, Conness, Cragin, Davis, Drake, Fowler, Harlan, Howard, Morton, Nye, Osborn, Pomeroy, Ramsay, Ross, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Wiley, Williams, and Yates—26.

NAYS—Messrs. Anthony, Buckalew, Conkling, Edmunds, Fessenden, McCreery, Morgan, Morrill of Vermont, Sherman, and Vickers—10.

ABSENT—Messrs. Bayard, Chandler, Corbett, Dixon, Doolittle, Ferry, Frelinghuysen, Grimes, Henderson, Hendricks, Howe, McDonald, Morrill of Maine, Norton, Patterson of New Hampshire, Patterson of Tennessee, Rice, Saulsbury, Sprague, Welch, and Wilson—21.

So the joint resolution was passed.

#### TEMPORARY LOAN CERTIFICATES.

Mr. CATTELL. I now move that the Senate proceed to the consideration of Senate bill No. 543.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 543) to provide for a further issue of temporary loan certificates, for the purpose of redeeming and retiring the remainder of the outstanding compound-interest notes.

Mr. TRUMBULL. I move to amend the bill by striking out all after the enacting clause and inserting:

That for the purpose of redeeming and retiring the remainder of the compound-interest notes, saving the unnecessary payment of interest and reducing the public debt, the Secretary of the Treasury is hereby authorized and directed to make sale of \$10,000,000 of the surplus coin in the Treasury of the United States on the first Monday of the month of August next, and on the first Monday of every month thereafter, until the amount of coin in the Treasury, exclusive of that for which no certificates of deposits shall have been given, shall be reduced to the sum of \$10,000,000; the sale to be made in the manner following: The Secretary shall give five days public notice in one daily newspaper published in each of the cities of Washington and New York, that sealed proposals for ten millions of gold coin will be received at the office of the Assistant Treasurer in the city of New York, till three o'clock p. m. of the day appointed for the sale. Such proposals shall be addressed to the Assistant Treasurer at New York, and shall be opened by him in the presence of such persons as may choose to attend at the time designated in the notice. No proposals shall be received unless accompanied by a certificate of deposit in the Treasury of the United States of five per cent. in currency of the amount of coin bid for in such proposal, which shall be received in part pay for the coin bid for in case the bid is accepted, and if not accepted shall be returned to the party who made the bid. Payments may be received for coin in currency, or compound-interest notes with the interest accrued thereon. When compound-interest notes are received, they shall be canceled by the Secretary of the Treasury, and with the currency received he shall purchase and cancel any interest-bearing indebtedness of the United States, paying therefor not exceeding its current market value at the time. None but the highest bids shall be accepted for gold, and in case of different bids at the same rate said bids shall be accepted only *pro rata*; and the Assistant Treasurer, with the approval of the Secretary of the Treasury, shall have the right to reject all or any bids if deemed by him less than the fair value of gold at the time.

Mr. President, it will be observed that the amendment which I have offered proposes to reduce the coin in the Treasury of the United States to \$40,000,000 by monthly sales of \$10,000,000 until it is reduced to that amount. Had I followed my own inclinations entirely I should have introduced a proposition to reduce it much lower than that. I do not think there is any reason for retaining so large a sum as \$40,000,000 in gold in the Treasury. But inasmuch as Congress has manifested a disposition to keep more than twice that amount in the Treasury for the last two years, I thought it would be accomplishing much if we could reduce the amount to \$40,000,000.

Since this subject was up yesterday I have sent to the Treasury Department and received from that Department a statement showing the amount of coin on hand in the Treasury of the United States at the close of each month for the last two years beginning with July 1, 1866, and ending with July 1, 1868. The amount of coin, including that deposited for which certificates were issued, has frequently exceeded \$100,000,000. The average for the last year, after deducting the gold for which certificates of deposit have been issued, exceeds \$83,000,000. More than eighty-three millions of gold have lain idle in the Treasury for the last twelve months. Besides, an average of about twenty millions of gold certificates were issued. So that considerably over one hundred millions have been there in all. Over eighty-three millions in gold have been in the Treasury all the time for the last twelve months, and for the

last two years I think the average would be about the same. I have the figures here showing the amounts. The amount of currency on deposit during the same length of time and lying idle in the Treasury is also stated in a table which I have before me. The average for the last year has exceeded \$34,000,000. Now, if you change the gold which has lain idle in the Treasury for the last year into currency at its market value, and add to it the currency that has lain in the Treasury, you will find that more than one hundred and fifty million dollars of currency and gold turned into currency have lain idle in your Treasury for the last twelve months.

Mr. MORTON. I should like to ask the Senator if he can state the amount of gold that has been sold by the Treasury within the last two years?

Mr. TRUMBULL. I cannot; I have not those figures, but this amount remains after all the sales. I will state to the Senator that I can give him the receipts of gold for the year ending June 30, 1867. The amount received from customs, which is collected, as the Senator is aware, in gold coin, was \$176,000,000. One hundred and seventy-six millions were received during the last fiscal year which has been reported, and for the quarter ending on the 30th of September last there were received \$48,000,000. I have not the figures to show what the receipts into the Treasury for the entire year were, but assuming that the other quarters yielded as large an amount of customs as the quarter ending the 30th of September last, there would have been received during the fiscal year which has just expired into the Treasury \$192,000,000 in gold. The amount of the indebtedness of the United States as reported on the 1st day of June, 1868, upon which we have agreed to pay the interest in gold is \$2,020,827,841 80. This indebtedness does not at all bear the same rate of interest. Some of it bears a less rate than six per cent. interest; but assuming that we paid six per cent. upon the whole indebtedness of the United States on the 1st of June last, which we have agreed to pay in coin, the whole amount would be \$121,000,000. Thus you see that we are receiving very considerably more in gold for duties than the amount of interest which we pay in gold. We received \$50,000,000 more in gold during the last year which is reported than will be our interest for the coming year.

This being so, I can see no necessity for retaining on hand a surplus of forty millions of gold; but I have framed my amendment so as to require the disposition only of the excess over forty millions, and that at the rate of ten millions a month, and providing that there shall be received for the gold, when it is disposed of, the compound-interest notes, with their accruing interest, and the currency of the country; and that it shall be the duty of the Secretary of the Treasury, on the receipt of the compound-interest notes, to cancel them, and with the currency to purchase the interest-bearing indebtedness of the United States in the market, and destroy that interest-bearing indebtedness as soon as he receives it. This will be a saving to the United States of many millions of dollars. During the last year we might, by the disposition of gold which we had on hand, have saved in currency to the United States at least \$6,000,000, probably something more. In former times \$6,000,000 would have been considered a very considerable sum; and at this time, when the country is complaining of taxation, when the feeling of the nation is such that an attempt is being made to tax the bonds of the United States, as some suppose in violation of the good faith of the Government, it does seem to me that we should save this \$6,000,000 to the Treasury of the United States, and not suffer this money to lie idle in its vaults.

The PRESIDENT *pro tempore*. It is the duty of the Chair to call the attention of the Senate to the fact that the morning hour having expired the unfinished business of yesterday is before the Senate regularly.

Mr. SHERMAN. I will ask whether the unfinished business takes precedence of the special order?

The PRESIDENT *pro tempore*. Under the rule of the Senate the unfinished business supersedes everything else.

Mr. EDMUNDS. If we can once get up the joint resolution, which is the unfinished business, we can dispose of it in two or three hours.

Mr. SHERMAN. I have no objection to the special order going over informally, in the hope that we may get a speedy vote on that resolution.

Mr. POMEROY. It cannot go over informally, because the unfinished business takes precedence of it.

Mr. SHERMAN. But I want to continue the funding bill as a special order.

The PRESIDENT *pro tempore*. The special order will be laid aside informally, if that be the wish of the Senate.

Mr. SHERMAN. I do not ask it in regard to this; but I say I hope the unfinished business will be disposed of in a short time, so that we can proceed with the special order.

Mr. EDMUNDS. We shall get rid of it very soon, I trust.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is before the Senate.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had disagreed to the amendment of the Senate to the bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. F. A. PIKE of Maine, Mr. IGNATIUS DONNELLY of Minnesota, and Mr. WILLIAM MUNGEN of Ohio, managers at the same on its part.

The message also announced that the House had passed a joint resolution (H. R. No. 329) to amend the fourteenth section of the act approved July 28, 1866, entitled "An act to protect the revenue, and for other purposes."

The message also informed the Senate that Mr. JAMES B. BECK, of Kentucky, had been appointed a manager on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill (H. R. No. 318) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, in the place of Mr. W. S. HOLMAN, of Indiana, excused.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 420) to incorporate the "Connecticut Avenue and Park Railway Company" in the District of Columbia;

A bill (H. R. No. 650) to amend act of 3d March, 1865, providing for the construction of certain wagon-roads in Dakota Territory; and

A bill (H. R. No. 1068) to provide for certain claims against the Department of Agriculture.

#### IMPROVEMENT OF MISSISSIPPI RIVER.

The Senate proceeded to consider its amendment to the bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river, disagreed to by the House of Representatives.

On motion by Mr. RAMSEY, it was

*Resolved*, That the Senate insist upon its amendment to the said bill disagreed to by the House, and agree to the conference asked, by the House of Representatives on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. RAMSEY, Mr. HENDRICKS, and Mr. POMEROY.

#### ELECTORAL VOTE OF LATE REBEL STATES.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 139) excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized, the pending question being on the amendment of Mr. CONKLING to the amendment of Mr. DRAKE.

Mr. EDMUNDS. I believe the Senator from Kentucky [Mr. DAVIS] wishes to address the Senate for a short time this morning.

Mr. DAVIS. I believe the pending proposition is the substitute offered by the Senator from New York.

The PRESIDENT *pro tempore*. That is the pending question.

Mr. DAVIS. It is not my purpose to make many remarks upon the subject, but I would prefer that the vote should be taken upon that proposition before I make any.

Mr. EDMUNDS. If the Senator from Kentucky does not wish to submit his remarks now, I may just as well at this time, although an amendment is pending, (because these amendments are only changes of phraseology after all,) occupy ten or fifteen minutes of the time of the Senate in stating the grounds upon which I think this joint resolution ought to pass; and in doing that I shall endeavor to refrain from going into any political questions that are not necessarily connected with this measure; and I appeal to Senators on all sides of the Chamber, considering the lateness of the session, considering the nature of this joint resolution, to confine themselves in debate, so far as I may in courtesy appeal to them, to the very questions that are presented, and leave platforms and other considerations that appeal to the general political campaign to be discussed upon some bill that will not occupy so much time in its return to us as this may, possibly.

Therefore, Mr. President, confining myself strictly to the real question of the propriety of this joint resolution, I have to say, in the first place, that I think there is clearly no constitutional doubt of our power to pass it; that it comes clearly within the scope of those duties that the Constitution has remitted to us as lawmakers. The Constitution does not prescribe in terms how the votes of a State shall be ascertained to be its votes, but only prescribes that the votes of a State shall be opened and counted in the presence of the two Houses; but it gives to Congress the power to pass all laws that are necessary to carry into proper effect all the functions that are granted to any Department of the Government. Therefore, it seems plain that this is the proper subject of law to ascertain and define a rule of action in a case that may arise, that enters into the laws of all the States that we know of, under constitutions in these respects much like ours, providing by law as to how the people's will shall be ascertained, and providing some board or tribunal, regulated by law, pointing out their duties beforehand, who shall go through with the necessary functions of ascertaining what that will has been. So, I take it, that it is clearly within the scope of our constitutional powers.

This same question was up four years ago, and it was then fully debated, upon the passage of a resolution similar to this, excluding, after the votes had been taken in two of the States, the votes of the ten States to which this resolution applies; and in the course of that debate the propriety of legislation in advance was thoroughly laid down, and the propriety of it shown in order to avoid leaving anything to contests and discretions afterward. It was said by the honorable Senator from Illinois [Mr. TRUMBULL] the other day, against this resolution, that it was leaving discretion to somebody; but as he himself then stated, the propriety of passing a law in advance and of regulating the matter by law was to avoid leaving anything to be the subject of contest when the votes should come actually to be

counted in the convention of the two Houses; and I think then he was clearly right. The effect and object of the joint resolution is to remove from the arena of passion and of prejudice questions which would appeal to passion and prejudice when it was known at the time that a particular decision or a particular rule would produce a certain result. Now we declare the rule before any of us can know upon which political side of the question it is to operate. We do not declare, as I said yesterday, who shall vote, or how they shall vote, but we simply declare what we the political communities within the territories embraced in these States which make up the State in a political sense, and declare that those political communities, and no others, are the States mentioned in the Constitution as the ones whose electors shall vote for President.

Mr. TRUMBULL said on the 1st of February, 1865, on this same question:

"It is important to settle at an early day the mode of counting the votes for President and Vice President, which, under the Constitution and laws, are to be opened and canvassed a week from to-day in joint session of the two Houses. It is known probably to every member of the Senate that no rules have ever been adopted for action in that joint convention."

And then he goes on to say, with great propriety, that it is extremely desirable and proper that a rule provided by law should be laid down, and the scope and tenor of his remarks, properly and conclusively, were that that rule was to obviate as far as it is possible for the law to obviate such a thing, any discretion, any flexibility being left to the person or the bodies who were to count those votes. In that he was entirely right, although I regret very much to perceive that he, apparently, has changed his view on that subject now.

At a later point in the debate he stated the propriety of this in so much better and stronger language than I can, that I beg leave to read a little further:

"Now, sir, it is said that the votes of these States will not affect the result. That may be so; we may know outside that it probably is so; but this war may last four years more. I trust in God it will not; I do not believe it will; but suppose it shall run four years longer, and the doctrine contended for here is to obtain, how do you know but that at the next presidential election your President may be selected by these very States in rebellion? Sir, I say to you here what I believe, that if the result of the presidential election depended upon the vote of Louisiana, I care not which way it was cast, if the pretended electoral votes of Louisiana were to choose the next President of the United States after the 4th of March, decided either way, it would produce a revolution in this country unless you had some provision to settle it by law in advance."

That is precisely what this resolution proposes to do in all these States, to determine which are the political communities, and to declare in advance that none but those communities shall participate in this election.

The honorable Senator from Maryland [Mr. JOHNSON] said:

"The question, then, Mr. President, is whether Congress have any authority to legislate at all on this subject. I agree with the chairman of the Judiciary Committee and my friend from Vermont?"

The predecessor of my present colleague, Mr. COLLAMER—

"that the authority exists; and I was somewhat surprised to find that it was disputed by gentlemen of such distinction every way, and particularly in their profession, as the honorable member from Wisconsin and the honorable member from New York."

"I never heard before—I speak it with entire respect to my learned brothers—that it was doubted that it was within the province of Congress to provide for cases of this description. The doubt was, and perhaps that doubt was well founded, whether votes could be excluded by either branch of Congress or by the two when they met in convention. Nobody supposed that the Vice President could exclude them. But I was about to say that I never heard it doubted before that such a contingency, as might well happen, because of the manner in which the constitutional provision was framed, could not be provided for by legislation."

Then he quotes from Chancellor Kent to show that in the opinion of that eminent jurist, it is a proper and fit subject of legislation in advance, as much as it is in the States, to provide for ascertaining who are the persons who have voted and who they have voted for.

Now, I beg leave to read from an authority

quite as high and as respectable, the honorable Senator from Kentucky, [Mr. DAVIS.] He says:

"And the question now under consideration is, have the two Houses of Congress in their legislative capacity the power to lay down certain rules by which this office of counting the vote may be performed? I think that they have. The clause in the Constitution read first by the Senator from New Hampshire, and subsequently by other Senators, seems to me to confer full and plenary power in relation to the manner of counting the votes upon Congress; and Congress may declare by its legislative action certain rules to regulate the count of the presidential vote."

Still later he says:

"Now, sir, as I understand the effect of this joint resolution, it is simply in a form to do that duty."

Which he has described to be the duty of ascertaining whether the votes given are the votes of the State, and he illustrates by supposing the vote to have been given to some person whose eligibility was in question—

"that is, to ascertain whether the vote of certain States has been cast in conformity to the Constitution or not, and deciding that they have not been cast in conformity to the Constitution, to exclude them from the count. Some gentlemen here think the election in Louisiana was illegal for one class of reasons; I think it was illegal for another class of reasons; but as we both come to the same conclusion, it is immaterial upon what grounds. The vote of that State is illegal."

The honorable Senator moved an amendment to the joint resolution that was then pending, and apparently as expressive of his views, which contains in it so clearly the precise principle upon which this bill proceeds that I cannot forbear from reading it:

"Mr. DAVIS. I move to amend the amendment by striking out all after the word 'that,' where it first occurs, and inserting:

"The States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee, are not entitled to representation in the Electoral College for the choice of President and Vice President for the term of office commencing on the 4th day of March, 1865; and no electoral votes shall be received or counted from said States concerning the choice of President and Vice President for the said term of office."

At another place in the debate, which I will not occupy time in turning to, the honorable Senator from Wisconsin, [Mr. DOOLITTLE]—

Mr. DAVIS. Will the honorable Senator give me the exact date of that debate?

Mr. EDMUNDS. I will give you the book that contains the marks, so that you can look into it. It was between the 1st and 4th of February. The debate ran through two or three days.

Mr. DAVIS. What year?

Mr. EDMUNDS. Eighteen hundred and sixty-five. The honorable Senator from Wisconsin, [Mr. DOOLITTLE,] not now in his seat, expressed substantially the same opinions. The fault that he found with the passage of that resolution was that it was passed after the fact, after the votes had been cast, and he contended, and with a good deal of plausibility, that the law ought to provide in advance the rule which should govern. I cite him also as a good authority.

After this debate, in which all these eminent gentlemen on all sides agreed as to the power of Congress and the propriety of a regulating rule which should leave nothing to discretion or doubt when the event should come, the resolution passed by yeas 29, nays 10, and among the yeas are the names of my honorable friend from Pennsylvania, [Mr. BUCKALEW,] the Senator from Kentucky, to whom I have referred, [Mr. DAVIS,] the Senator from Indiana, [Mr. HENDRICKS,] and, I believe, one or two other distinguished members of that political party. I take this, in connection with the well-known principles of the Constitution and of the practice of all the States, to be, what is so well called by my friend from Kentucky, plenary proof that we have the power to pass a bill of this description, and that it is proper that we should exercise that power if there is any reasonable possibility that a case of dispute may arise.

Now, the honorable Senators are opposed to this resolution undoubtedly because those communities that have been permitted, after

the rebellion has been crushed, to organize themselves are not the sort of communities that they wish to recognize. They would be glad to have a bill passed, I do not doubt, which should declare that the men who were entitled to vote in 1860, and no others, in those States should be entitled now to vote for President. The honorable Senator from Pennsylvania put his opposition distinctly, last night, to this resolution upon the ground that those governments that are now organized there are irregular, usurpations, unconstitutional, void governments; and he went so far as to intimate—but I do not wish to follow him into that, because that enters into the political field, and I desire to have this resolution considered upon its merits and got through—he went so far as to intimate that the reception of the votes from those reorganized communities and under their authority would be resisted if they affected the result. But I will not follow him into that. I merely allude to it now so far as I can legitimately, to show that here is a possibility of a question being raised which ought to be provided for in advance by the law.

Other citizens of our country of great distinction, the newspaper press of the country of the party to which the honorable Senator belongs, have intimated a different line of policy, but still opening the question; that is to say, not only that the votes of these organized communities should not be counted, but that votes taken under some preëxisting organization, or without any organization at all, from the body of electors who by the old laws before the rebellion were entitled to vote, should be the votes received and counted in this election for President. Now, all those are questions. They are fair questions for debate; and I respect the opinions of any Senator who believes that any of these branches of the proposition is the true one. All that I beg to remind these Senators of is that, it being a question of dispute, the law-making power, binding upon us all, upon our consciences, requires the concurrence of a majority to determine the rule beforehand how this dispute shall be disposed of; that is all. There must be, in the nature of things, rules where there is this possibility, a provision made which shall be a controlling guide to the disposition of the question; and the Constitution, happily for the peace of the country, has confided the making of that rule, as I have shown from these debates and from the Constitution itself, to the law, just as in all systems of civilized governments such questions are confided to the disposition of the law, made in advance of the fact, and laying its calm but steadfast hand upon whatever state of circumstances and in whatever interest they may arise, when they do arise, impartially and according to that rule; leaving no discretion to anybody, as the honorable Senator from Illinois supposed it was to do, but taking away discretion from everybody, and pointing out, as the Senator confessed we were the political power who were to point out and to ascertain, which are the States now embraced within the territories that were the States in 1860, what political communities are the ones which are the States; because there cannot be two States within one territorial boundary of a State.

There can be but one political community that is the true one; and as my honorable friend from Pennsylvania conceded last night—and it is nothing new, of course; we all understand it—it is the political department of the Government, the law-making power, acting through its laws which recognize that condition of things that is to determine what the State is. We have determined as to these States we have provided for the readmission of, who have chosen to reorganize themselves after this rebellion, that that political community is the State. We have not undertaken to interfere in that political community, as the Senator said, to compel them to organize a State. We have not undertaken to interfere by excluding one half of the people from determining what

sort of institutions they would have; but we have, with a very narrow class of exceptions founded upon crime, appealed to the whole body of the community to organize such governments, republican in form, as they should think fit. Having organized them and submitted them to our approval, they have been completely restored and rehabilitated. Now, we must decide that they, and no other organization, are the political community in those States; and therefore from them, and from no other organization, can votes for President and Vice President be received.

I should have been glad, if the time would permit, to make some remarks especially in reply to some of the observations of the Senator from Illinois, founded upon the fear that somebody would say that this was a partisan movement; but I have not the time consistently with the patience of the Senate to do that. He of all other men, I think, ought not to be afraid of doing what justice and propriety would seem to require on account of people finding fault with his action. He has given us eminent proofs of his courage in that respect a great many times.

Mr. DAVIS. Mr. President, between the resolution presented by the Senator from Vermont and the substitute offered by the Senator from New York, I believe there is only a formal difference. The one speaks in particular terms designating States, and the other in general terms, which necessarily comprehends them. I agree with the Senator from Vermont in one of his propositions most unhesitatingly, that there can be but one State within the same limits. I lay down the further proposition that the State, the true State, that occupies and consists of the people within the particular boundary of a State, has the right to elect presidential electors.

I agree with the Senator in another of his propositions, that any law of Congress or any regulation which does not infract the Constitution, but which is merely directory of the manner in which the ministerial duty of counting the votes of the presidential electors may be prescribed by Congress; but whenever such a law in any of its provisions impinges upon any of the provisions of the Constitution, to that extent it is null and void. I will read what the Constitution says on this subject of presidential electors:

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress."

Now, as to what is to be done with the votes of those electors when they are chosen:

"The electors shall meet in their respective States, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted."

These are the portions of the text of the Constitution which settle the principles, and I concede that any legislation within the limit of those principles would be constitutional.

Now, I will proceed to examine each one of the principles established by these provisions of the Constitution which I have read, and endeavor to compare them with the proposition of the honorable Senator:

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors."

The first question is, What is the State that is to appoint in such manner as the Legislature thereof shall direct, the electors to which that State is entitled? It is the people of the particular portion of the country organized into a State, under a constitution formed by the people who are clothed with the political power



within that State. The first requisite in the process is that there must be a State. The people alone can form a State. To constitute a State, it must have a government, a government by a constitution; and that is just as necessary as people or territory to constitute a State. How is this government of constitution to be formed? It is to be formed by the people of the State alone. Congress has no power to form the government of a State. It has no power to form that government in whole or in part. It has no right to meddle with that duty and right of the people of the State, the formation of their government, except on a single point; and that is, to see that it is republican in form.

Now, when it is inquired whether a particular country being called a State has elected presidential electors or not, I admit that the two Houses may and must necessarily inquire whether there is a State within that country. To reach that conclusion there must be a defined territory; there must be a people; there must be a constitution or a form of government creating a Legislature; and this form of government must be made by the people of the State in their sole and sovereign capacity, irrespective of any manipulation or interference by Congress. The government of the State made by the people thereof must have a legislative body, and that legislative body that is created and organized must direct the manner in which the presidential electors shall be chosen. If there are any of these essential, constitutional requisites absent, it is a fatal defect in its non-conformity to the Constitution, and such a State in which such constitutional and organic defects exist has no power whatever to choose electors.

I will illustrate my proposition by an example, and I will take an example in point. Here are Alabama and Arkansas. It is said they have been reconstructed. Both of those States before their governments were destroyed had constitutions and State governments formed by or with the consent and acquiescence of the people of those States respectively, and those governments have been recognized by Congress and all the departments of this Government in various official acts. The honorable Senator from Vermont and his associates on this floor were not satisfied to let those governments formed by the people remain and perform their legitimate functions, but they proceeded to pass what are called the reconstruction laws of Congress, which profess to abrogate those governments, and to dictate conditions upon which they should be reformed in conformity to the laws of Congress.

My position is that those governments which Congress found in existence, and which it recognized by passing laws for the government of those respective States, being formed by the people of the States, or they having acquiesced in and adopted those governments, were the only legitimate, constitutional governments of the States. It was not competent for Congress to abolish those governments. The reconstruction laws which proposed to effect that object were flagrantly in violation of the Constitution, and are utterly null and void. They had no right to abrogate a State government. A State government can be formed by but one power on earth under the Constitution of the United States, and that is by the people of the State. They are not only to exercise the power, but all the power; and if Congress interferes by its dictation and by military force for the purpose of coercing, constraining the people of a State to form a government after a particular manner, or not to form it after a particular manner, it is an interference without sanction of power and utterly destroys and renders null and void the bastard fruit of such interference.

Then, sir, I am led to this position: not only that the State governments of Alabama, Arkansas, and all the other southern States which had been formerly adopted by their people, could not be legitimately or constitutionally or authoritatively abolished by Congress,

but also to the second position that Congress had no legitimate or constitutional power to build up other States in their stead. This reasoning leads me to the conclusion that electors chosen by the governments and the Legislatures of those States that were provided for by their previous constitutions would be literally and strictly in conformity to the Constitution, and that any electors chosen by these spurious and bastard governments in those or in any of the other southern States that have been erected by the usurped power of Congress, in conjunction with the military power of the nation, perverted to that illegitimate and unconstitutional use, with the instrumentality of the negroes, who are not entitled, constitutionally, to vote at all, are utterly null and void, and have no power whatever to choose electors in the presidential election.

Suppose there should be two electoral tickets elected from the southern States, one under their governments that existed before the interposition of Congress by force to destroy them, and by the Legislatures of those States respectively, and then other classes of electors chosen or appointed by these subsequent illegitimate governments. My position is that the former would have all the legitimate and constitutional power to cast the vote of their respective States in the presidential election, and that the latter would not have a particle of power to do it.

Mr. CONKLING. To which governments do you refer, the provisional governments, or those before the rebellion?

Mr. DAVIS. I refer to the governments which the people recognized after the rebellion had ceased. They were not provisional governments. The people do not make provisional governments. They make absolute governments. The provisional governments were set up afterward by military power, in derogation of and upon the ruins of the legitimate governments which the people themselves had formed. I maintain that it is the right of those previously existing legitimate governments formed by the people themselves, and not the right of those meretricious governments set up by Congress, to choose electors for those respective States; and I believe that whenever the question is presented that a class of electors chosen by the negro governments offer to vote for President of the United States the white people will see to it that the negro governments do not cast their votes, and that the white men do.

Now, sir, what does this joint resolution propose? I will read it:

*Resolved, &c., That the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas, respectively, shall not be entitled to representation in the Electoral College.*

Did any American statesman or legislator ever before assume so monstrous and so unsound a principle? This resolution recognizes that they are States, and yet it says that the States shall not, except on particular conditions, be entitled to choose electors whose votes shall be received and counted. Whence does the honorable Senator from Vermont derive that power to the Senate or to Congress or to himself? There is this important difference between the honorable Senator and myself: he thinks that Congress have sole, sovereign, and absolute power over the subject; I, on the contrary, believe that they have not a particle of power over the subject. But, to proceed with this resolution:

That the States of Virginia, &c., shall not be entitled to representation in the Electoral College for the choice of President or Vice President of the United States, and no electoral votes shall be received or counted from any such States, unless at the time prescribed by law for the choice of electors, the people of such States, pursuant to the acts of Congress in that behalf, shall have, since the 4th day of March, 1867, adopted a constitution of State government, &c.

I ask the honorable Senator where does he derive the power to assume the position that Congress shall or shall not receive electoral votes? I put that question pointedly and with emphasis to the honorable Senator or any of his coadjutors.

Mr. HOWARD. What is the question?

Mr. DAVIS. Where do gentlemen derive the power that authorizes Congress to pass a law saying that an electoral vote for President shall be received or shall not be received?

Mr. HOWARD. As the honorable Senator from Vermont, to whom the interrogatory was more particularly addressed, has been obliged to leave the Chamber for a moment, and as the Senator has included others who hold with him in his interrogatory, he will pardon me for making a very brief answer.

Mr. DAVIS. I do not ask the honorable Senator for an argument. I just ask him to refer me to the power.

Mr. HOWARD. Yes; I will immediately, without circumlocution; the power to suppress rebellion and to subdue insurrection.

Mr. DAVIS. That is the most universal and illimitable power that was ever contended for on this earth, but instead of meaning anything and everything, it comprehends but a single, simple point; and that is to suppress insurrection, and when that is done the power is as dead as a door-nail. It exists no longer.

Mr. DRAKE. If the honorable Senator will consider me included among those to whom he appeals for a designation of the power, I would give it a little different direction from that of the honorable Senator from Michigan. The Constitution says:

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress."

I presume that in that clause of the Constitution is the power of Congress to determine what States are entitled to representation in Congress.

Mr. DAVIS. I am much obliged to the honorable Senator for his remark; and I will answer him by this conclusive quotation from the Constitution, which says positively, explicitly, and unconditionally, that every State shall be entitled to two Senators in Congress, and to Representatives in proportion to her population under the ratio, and then that every State shall be entitled to as many electoral votes as she is entitled to Senators and Representatives in Congress. There is the whole of it. Every State is entitled to two Senators. My State is entitled to nine Representatives in Congress. Consequently, my State is entitled to eleven electoral votes. That is the plain language of the Constitution; that is its permanent and immutable meaning until it is altered in the mode prescribed for the amendment of the instrument itself; and this Congress has no power to impinge the right of my State or any other State to her representation in the Senate, in the House of Representatives, or in the Electoral College.

But I will proceed. I was denying the position assumed by the honorable Senator from Vermont in this resolution, that Congress had the right to say whether a presidential electoral vote shall be received or counted from any State. I say there is no power in Congress to deny the receipt of an electoral vote, or to receive it at all. With the matter of accepting a vote Congress has nothing to do. The two Houses are authorized to count the votes. It is not Congress; it is not the two branches acting legislatively; it is the two Houses of Congress acting in a convention, and acting ministerially. They are then performing no legislative duty; they are performing no duty whatever except a mere simple ministerial duty which they could be commanded by a court of competent jurisdiction by *mandamus* to execute; and if they refused to execute it, their non-execution would not affect the question of the election of a President at all. It would be as good without the count, if Congress was to refuse to count, as with the count.

But this resolution goes on to declare:

And no electoral votes shall be received or counted from any of such States.

That is the provision of the proposed law

of Congress; that is its mandate; and I say for that command and that provision there is not a shred of authority anywhere. It is a simple, unconditional usurpation of power for which Congress has not a color of authority. The Constitution declares that the electors, after they have voted:

"Shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted."

Now, sir, after the next presidential election there will be but that single, plain, simple duty to be performed by the two Houses. They do not receive the votes; they cannot accept the votes; they cannot reject the votes. That matter is provided for specifically by the Constitution itself. After the votes shall have been cast and sealed up the requisition of the Constitution is that they shall be transmitted to the President of the Senate, and they shall be kept by him until a certain day, and on that certain day the two Houses shall get together and perform the simple ministerial duty, not of adjudging between the candidates at all, but of counting the votes for the respective candidates for whom the electors had voted.

Suppose when the business reaches that stage that Congress should make a false count, that they should decide that a candidate who had received the majority of the votes had not received that majority, and that another candidate who had received a minority of the votes had received a majority, would that make the election? Would that decide the election? No, sir. A false and fraudulent count cannot unmake a presidential election. The election is a different matter. It takes place from another power, on another theater. It takes place when the Electoral College of each State gets together and casts its electoral vote for a particular candidate, and seals that vote and sends it on to the President of the Senate. When that is done the election is complete; it is consummate; it can never be reversed nor set aside nor nullified.

Suppose the two Houses were not together to count the presidential vote at all; suppose they did not get together to make a count, but the fact was that the electoral vote of each State college had been cast, and had been cast so as to give one of the candidates a majority; would the failure of the two Houses to meet in convention to count the electoral vote annul the election, set it aside, and introduce chaos and confusion, and leave this country without a President? No such nonsense. That is not the principle; that is not the meaning of the Constitution. The President is not elected by the two Houses of Congress in convention. Where one of the candidates does not get a majority of the electoral vote the House, acting by States, makes an election; and that is the only condition or state of case in which the House or either branch of Congress can interfere in the presidential vote at all.

The honorable Senator from Vermont has strange notions of the Constitution and of the constitutional powers of Congress, or I have. There is so much not only of discrepancy but of actual and positive contradiction between that honorable Senator's ideas and my own in relation to such matters, that he or myself is totally at fault. His measure—and the substitute proposed by the honorable Senator from New York adopts the same principle—by language proposes to invest Congress with the power to accept or to reject the electoral votes for a candidate for President. Sir, a power more destitute of foundation, with less color, not only of reality, but with less color of existence, never was attempted to be exercised even by this Congress.

The first proposition that I set out was this: an electoral vote can only be cast under the authority and direction of the Legislature of a State. That Legislature can only be created

and organized by its constitution, its form of government. That constitution or form of government can only be created by the people of the State; and all devices of constitutions, laws, rights of suffrage, electoral colleges, in derogation of that general principle are in flagrant conflict with the Constitution and utterly null and void. They are not only usurpations of power, but they are revolutionary, and dangerously revolutionary. They subvert our free, representative, constitutional form of government, and bring the whole under the indefinite and absolute power of a usurping and aggressive Congress.

These observations lead me to adopt the conclusion that there is not a government in the southern States set up under the reconstruction acts that has one particle of constitutional obligation. Those governments are all made in derogation of the Constitution. They are all made in derogation and in dethronement of the political power in those States as it had been organized and recognized by the Constitution of the United States and by the constitutions of the several States. I can put an apposite case, I think. There was a Dorr government in Rhode Island at one time. Two governments occupied the territory of that small State at one time, and both were struggling for existence and for ultimate supremacy. Before the first or charter government was deposed and set aside legitimately, suppose the Dorr government had had authority and power enough there to have chosen electors for that State for the Presidency; suppose the votes of those electors had been counted by Congress, would the counting of these spurious and unconstitutional votes by Congress have made them valid, and, under a particular division between the candidates, have controlled the election and decided who should be elected President of the United States? No, sir; no, sir.

Mr. President, my honorable friend from Indiana [Mr. MORTON] yesterday stated the issue which had now been formed for the decision of the American people, frankly and candidly, when he said that the question now was to be decided whether this should be the white man's Government or the negro's Government, I accept the definition of the issue. I meet that definition, and I meet it in full and proud confidence that the great mass of the American white people will decide it against the negro and in favor of the white man. Gentlemen, I have no doubt, are looking to the possibility, yea, the probability of the presidential election being decided by the negro vote. It was for that purpose that they made Grant, the General of the Army, their candidate. It is for that purpose that they refuse to disband the enormous standing Army. It is to use that Army for the purpose of subjugating the white people of the United States, if it shall become advisable and practicable to do so. Here we have had the Committee on Finance with its honorable chairman racking their brains to find out resources for revenues to meet the vast expenditures of the Government; but when you say to them, "Abolish the Freedmen's Bureau; diminish the Army from sixty thousand, with a capacity to be raised to one hundred and six thousand to twenty thousand, and in that way you will be able to save fifty or seventy millions," you cannot get the ear or the attention of the majority of this Chamber to any such proposition.

Sir, if they were devoted friends to freedom, the representative rights of the people, to their liberties, to economy in the expenditures of the Government; if they had an ardent desire to establish an equilibrium between the expenditures and the receipts of the Treasury, here are the plainest modes in the world that would secure it to them. Why do they not adopt them? They are looking to the General-in-Chief, a military dictator, some of his minions say greater than Alexander or Cæsar, Napoleon or Cromwell, and to enable him to trample with his iron military heel upon the necks of the white men of this country, and to

elevate above them the four or five millions of negroes, he and you hold on to a standing army of sixty thousand. Not only that, you are proposing now to give him the power of distributing two thousand arms into every congressional district in the southern States. Not only that, you have organized your "Grand Army of the Republic," negroes and white renegades, carpet-baggers, minions of power and spoils, and they are to be marched forward under your dictator, your military chieftain, to rivet the chains and add immeasurably to their weight upon the people not only of the southern States, but of all the States.

Mr. President, no people can live half free and half slave. When the southern people are reduced to hopeless, irremediable servitude to negroes, the fate of the white men of the North will soon follow. The one will be a rapid precursor of the other. Do gentlemen expect that the General of the armies or the Grand Army of the Republic, white and black, or the minions who are now in the regular Army, and who will be willing to enlist in such a cause, to enslave the white man to the negro, can ever effect it? No, gentlemen, no. You are aiming at impossibilities. I will tell you when you will elect your President, and when he will take his seat, and never before: when he gets a majority of the electoral votes cast by the white people of the United States, under the governments of States which governments have been formed by the white people. When you do that, if you bring him here with a majority of that vote, there will be no obstacle to his inauguration; there will be no obstacle to his installation into office; and the men who would and will oppose him in the canvass would then strike with as much boldness and fidelity in favor of his right to the Presidency, and to serve out his term in it, as his own friends. But when you present the case in this form: here is Seymour, who has twenty, thirty, or forty more of the white electoral vote than Grant, and Grant's election is decided by the negro vote, the question then presents itself to the American mind, to its heart and soul, will you permit these negroes to appoint a President for you? No; no; not even the General of the Army, backed with all of his military power. One day of virtuous liberty in resistance to such a system of tyranny would be worth whole ages of such slavery.

Sir, these are my sentiments. I am no party man. I am no Democrat. I never was. I am for my country, for the Union, the Constitution, and the enforcement of the laws; and I will go under any man's standard who strikes in that glorious cause; and I oppose every man who takes up arms against it to the extent of my feeble ability. I am not responsible for the nominations or for the platform at New York. I believe in the platform. I hug it to my heart, to my reason, to my soul; and I have no doubt that under its banner the free white men of America will march on in November next to a glorious victory—peacefully. There will be no blood. You will be beaten so fairly that you will not have ground to stand upon. You will have the votes of some six or eight States. The storm of 1840 will rise and will sweep with more fury than it did then. It will be the best day for you and your posterity, for your country and the whole country that this people has known since the Revolutionary war.

But my friend from Indiana received this platform as a sound and tocsin of war. Sir, there will be no war. A reckless band of revolutionists and all the hosts of the negroes of the South, with all their carpet-baggers and leaders and adventurers cannot make any stand against the hosts of the white freemen of America that will on that day rally for the Constitution which Washington made, and for the liberties which it secures, and which were fought for during the revolutionary war. The time will come when you yourselves will sound your praises and your peans for the mighty, free, white host that will perform this great work.

My honorable friend [Mr. MORTON] a few days ago said that it was a vulgar prejudice to approve negro equality. My honorable friend from West Virginia [Mr. WILLEY] made a most passionate and eloquent appeal in favor of the negro and negro suffrage, the equality of the negro; in the language of the honorable Senator from Massachusetts [Mr. SUMNER] the equality of the negro before the law. That is an equality that wiser men than you have been seeking to establish for the last six thousand years. You have never made anything but a negro out of the curly-headed African, and you never will be able to make anything but that out of him. He has no fitness for self-government. But Senators said that it was the debasing effects, the demoralization, the degradation, the ignorance, the brutality that have been brought upon this race by slavery that rendered them unfit to take part in the Government. They admitted their unfitness. Now, let us see what is the truth of the case. I will read a passage from Malte Brun. He says:

"The slave coast of Africa consists of several petty States, which are all under the despotic sway of the king of Dahomey. This barbarian monarch chooses to have women for his body-guard, and his palace is surrounded by one thousand of these Amazons, armed with javalins and muskets, from whom he selects his special military aids and messengers. His ministers, when they come into the royal presence, are obliged to leave their silk gowns at the gates of the palace, and approach the throne walking on all fours, and rolling their hands in the dust. The ferocity of this African despot almost surpasses conception. The road to his residence is strewed with human skulls, and the walls are adorned and almost covered with jaw-bones. On public occasions the sable monarch walks in solemn pomp over the bloody heads of vanquished princes or disgraced ministers. At the festival of the tribes, to which all the people bring presents for the king, he drenches the tomb of his father with human blood. Fifty dead bodies are thrown around the royal sepulchre, and fifty heads displayed on poles. The blood of these victims is presented to the king, who dips his fingers in it and licks them. Human blood is mixed with clay to build temples in honor of deceased monarchs. The royal widows kill one another till it pleases the new sovereign to put an end to the slaughter; and the crowd assembled at these most joyous festivals applaud such scenes of horror, and delight in tearing the unhappy victims to pieces."

There is the start from which you say the debasing and unhumanizing and degrading influences of slavery have redeemed their posterity and given them self-government! It is not necessary to read more.

Senators, abler men, truer philanthropists than you are, or can possibly be, have undertaken in the past ages of the world this thing of elevating the negro race and bringing him up to an equality and a level with the white man. It is impossible. Why do not you, who are so fond of it and want to see it tested, go to Jamaica or to Saint Domingo? It has there received a test within the past generation, and yet every day it is more demoralizing and barbarizing. The negro population of Saint Domingo is now much more degraded, ignorant, debased, ferocious, immoral, incapable of self-government and all the duties of social life than it was when their insurrection commenced under Ogé in 1790.

Gentlemen, we will beat you. We are for the Constitution. We are for peaceful force, and peaceful remedies. You march along like the king of Dahomey, and all along your path are the skeletons and blood of the Constitution. You perpetrate your orgies as he did. We want to rescue the Constitution. We want to rescue law and order from your violence, your misrule, your revolutionary gambols. We expect to do it without any bayonets. We expect to do it by the united and omnipotent voice of the great mass of the American white men; and when you shall be beaten, as I have the fullest faith that you will be beaten, three or four electoral votes to one by the November election, if there is any war you will make it. If there is any clash of arms, any drenching of the land in blood, any crossing of bayonets, any wail of misery and woe from the widow and the orphan, you will be the cause of it—you and your Grant, your General of the Army, your armed military dictator who, I have heard

some of the men who served with him in the Army say, would march as cold and with as little twinge of nerve over such scenes as he smoked his cigar when tens of thousands of his men were falling around him in battle.

But I care not what hero you bring up to maintain a cause against the Constitution, against the liberties of this country, in favor of negro governments, to subjugate the white men's Government, in favor of the bayonet against the Constitution and constitutional and representative liberty, you will find a host who will encounter you, and who will scatter you like chaff before the whirlwind. There will be no war. I have had enough war in my day. I never saw much of it, but I do not want to see any more. I have a great and instinctive and immovable mistrust of military men. Standing armies are the natural foes of constitutional government and popular liberty. The two things cannot continue and live and flourish together. One or the other must yield. The military, from the days of Washington up to the commencement of this war, was always subservient to the civil power. You have reversed the order of things, and you have made the military power omnipotent. You bring the Constitution of the United States and all its civil authority, and the constitutions of the States and all their civil authority, and all the majesty and rights of the people, to the feet of the military power, and ride over them rough-shod.

Sir, it is time this thing was coming to an end. You have performed your mission. The Republican party, in its first days, when it was pure compared with what it is at present, performed a noble service to the country in suppressing the rebellion. When the rebellion was quelled your mission was executed. You became then legitimately and properly under the Constitution and the laws of humanity *functus officio*. It is time that you should die, and you will die upon the ides of March, without any more ensanguined plains and without any further clash of arms.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from New York.

Mr. NYE. Mr. President, I care but little whether the amendment offered by the Senator from New York is adopted or not. It amounts to about the same thing as the original proposition. But I am not willing to let go unchallenged the things that have come from the honorable Senator from Kentucky. While he has been speaking I have thought whether there would not be a change in the form of the Lord's Prayer in Kentucky: "Give us this day our daily bread, if consistent with the Constitution; but be sure, O Lord, to give us white bread made for white men." That form, I think, would be adapted to the creed which the honorable Senator has just proposed.

In the course of an existence as long as that of the honorable Senator from Kentucky, there is hardly a phase of political life that he has not seen. I was forcibly impressed with that in his allusion to 1840. Where, then, was the honorable Senator's heart?

Mr. DAVIS. Exactly where it is now, for the Union, the Constitution, and the enforcement of the law.

Mr. NYE. I recollect very distinctly that very year hearing the distinguished Senator denounce the Democracy in more unmeasured terms than he is capable of denouncing the Republican party. They had beaten his pet, Mr. Clay, and he never has forgiven them. He came here at the commencement of this rebellion a strong Union man; and he says now that he hugs to his very soul a platform that disunionists have made. I merely suggest these things to show that where next he may be found, the Lord only knows, in the new catechism which Kentucky may put forth.

He has spoken of the barbarities of some negro chieftain, whose name I did not understand, of whom he read. And yet those bar-

barities pale into insignificance in comparison with the butchery of Forrest at Fort Pillow; and he was one of the men who made the platform that my honorable friend loves so well. Above all men living, the honorable Senator is the last one, if he can hug such a thing to his bosom, to be shocked at the barbarities of barbarism, untutored as it is.

Mr. President, the honorable Senator says that the Republican party will die. So it will. So will the honorable Senator die. So will all the parties to which he has belonged die. But, sir, the fruits that this Republican party has brought forth will never die. They have not expended their strength, like the honorable Senator, in trying to depress a race numbering four millions in our midst. They have not taxed their ingenuity to find arguments by which they could make the bonds with which the slaves were bound strong. Their boast is, and will be when the honorable Senator's memory will be forgotten, that they felt for those who were in bonds as though they were bound with them, and broke the shackles that made man a slave. Let the honorable Senator and his colleagues and his coadjutors glory in their oppression, and glory in the fact that they have trampled the oppressed deeper in the mire of oppression where they found them. But, sir, let it be my boast and the boast of the party to which I belong, that there is not a man so low but what they would elevate him to the pure, highest heavens where angels dwell. Sir, that seems to me to be more in accordance with the spirit of our Master; that is more in accordance with the spirit of republican institutions; and that sentiment will grow. Let not the honorable Senator think that that sentiment will die. No, sir; it is now having its second birth amid the troubles and conflicts and toils of arms and civil strife.

Sir, I witnessed the gathering from which salvation is to come, which the honorable Senator perches upon and proclaims to be his roost during the campaign. I witnessed this organization. I looked in upon it. What did I see? I wish I had a Hogarth's pencil to sketch it, or words in which I could convey the faintest idea of that group of indescribable animals. Who was there? Wade Hampton; and at the mention of his name the Democracy shouted by order. That is what they call "fraternal love." Who else was there? Rhett, of South Carolina; it ought to be spelled with a *ch*. Who else was there? Hammond, who pronounced the people of the color of my honorable friend "mud-sills." Oh, what a source to look to for salvation! Who else was there? Forrest, the butcher. No milder name is fit to use as descriptive of him—a man who coldly murdered by order defenseless men who stacked their arms and surrendered. Tell me, sir, what kind of salvation you will get from that source? And where were they? In the largest city upon this continent. With whom were they associated? With men of the North. There sat Forrest and Seymour, the latter presiding over the deliberations, as they were called, of this convocation of unclean things. Whose voices were heard first? Men whose hands were red with loyal blood. Oh, the spirit of fraternity there exhibited! They always agreed. One was a traitor with a sword, and the other a traitor without a sword; that was all the difference. But how my honorable friend from Kentucky hugs their progeny! A sweet thing to hug! May your embrace be long and enduring!

Mr. President, what is this thing that the honorable Senator hugs so fondly? A greenback platform with an anti-greenback candidate.

Mr. SHERMAN. A grayback.

Mr. NYE. A grayback candidate.

Mr. SUMNER. On a greenback platform.

Mr. NYE. That is what I say. It is a platform for peace and a general for lieutenant on it, second in command, and a general who was nominated by rebels. I think, if my recollection



tion is correct, an honorable gentleman from Kentucky nominated Frank Blair. I do not wonder that my honorable friend loves the platform. It is a platform whose every line and lineament is marked with repudiation. Is it for that that the distinguished Senator hugs it? It is a platform whose every line is a fraud and almost every word a lie; a platform of professions in which they do not believe, of hope to the head to be broken to the heart. That is the platform on which my honorable friend expects to ride into that happy haven where he is going to look with so much complacency, much as he describes Grant looking upon the battle-field, upon the destruction of the hosts of the Republican party. Perched away up on that uncertain roost he is going to have his vision satisfied by looking upon the ruins of those below. In 1864 I read a speech at quite a distance from here in which the honorable Senator was fully as sanguine in expression at least as now, that in 1864 the Republican party were to be demolished; but the Republican party survived both the prediction of the honorable Senator and the power of his opposition.

Sir, to these saviours we are to look. These are the men to whom in these troublous times my honorable friend from Kentucky and those who act with him turn for protection. Who are they? Men who are yet counting the notches upon their swords that they wore gallantly by their sides for four or five years in an earnest, terrible struggle to overthrow this country. They are the saviours now who are going to uphold them! How are they going to uphold them? By overturning all that has been done to build up the waste places they made. When a man is sick he seeks a physician the most skillful he can find. When a nation is troubled the people seek the friends of the nation to uphold it. They feel its pulsations. They want men loyal to the country, loyal to our institutions. There is where I look for help, for aid in this struggle. But my honorable friend and the Democratic host with which he is surrounded look to the rebels. They will give you such protection as vultures give to lambs. They will give you the protection that Forrest gave at Fort Pillow, and the thousand bloody fields upon which we met. What, sir, trust a man with a ballot to uphold this country who has been for five years with the bullet trying to overthrow it! It is an insult to the intelligence of the world; and I assure the honorable Senator from Kentucky the world will not swallow the hook as greedily as he has, nor hug a platform so full of dead men's bones.

Sir, I am sick, my very soul is sick with this struggle through which we have been passing. I thought we had reached the quiet haven of repose. The country needs it, the world needs it; and just as we get to the very goal in comes this firebrand of distraction to say that they are to wrest, and to wrest by force of arms, the governments that we have given these States, and it is done because we have provided that black men may vote.

Mr. President, on earth or in heaven I would rather be found by the side of the blackest man in the country than with Forrest. How will stand the account of the loyal black man that has been led by the uncertain glimpses of his vision to follow that flag which had heretofore only been a symbol of oppression to him, and followed it faithfully to the end; how will his account stand in the day of judgment with the God that loves liberty and of whom liberty was born, beside the man who did all in his power to tear down the fairest fabric that liberty ever reared? and such is Forrest; such is Wade Hampton; such is all the Democratic party in the southern States. There are not enough men in the Democratic party in the southern States who were not rebels to count as "scattering;" and therefore I shall not hereafter in what I have to say of them draw any distinction.

I want this resolution introduced by the honorable Senator from Vermont to guard against

the very catastrophe that the honorable Senator from Kentucky threatens us with. Sir, is Congress to inquire, and who is to keep register whether the votes cast for General Grant are cast by colored men or white men? Who is going to see in the books when the ballot is deposited, which class of man it was who deposited it? Are the honorable Senators and his conferees going to have censors upon the box? Are they going to stamp the ballot of the white man and not stamp the ballot of the black man? If not, what does the honorable Senator mean when he defiantly tells us that no matter what Congress may do, the vote that the white man casts will be the vote that is counted. Sir, I repudiate all such nonsense as that, as it appears to me to be.

I have nothing against white men, sir. My complexion is not far different from that of the honorable Senator from Kentucky; but I never was educated to think that a difference in the hue of the skin made any particular difference in manhood. Hannibal, whose history has been the study of modern generals, was blacker than any negro in Kentucky. He led his armies to victory; and modern generalship is copied after his measures. I suppose the honorable Senator, from his prejudice on that score, would hardly accept the boon of liberty itself if it was won by a skin darker than his own.

But, sir, the honorable Senator has spoken very confidently of what the Democracy are going to do. I want to mention to the honorable Senator one or two things which the Republicans have done that will stay done. We have given the loyal men of the southern States the ballot. Now, take it away, if you can, and show us the process by which you will do it. Let us see what you will do it with. They have availed themselves of that ballot. They have deposited it; they have put on the garment of citizenship, and I challenge the Democracy to touch one thread of that garment. It is stamped, it is sealed with the insignia of freedom, and I charge you lay not your hands upon it. Sir, it is the decree of a mighty people as irrevocable as the decrees of God, and the honorable Senator may satisfy himself on that point. And the honorable Senator from Pennsylvania [Mr. BUCKALEW] last night seemed to be waiting for the voice of the people. Sir, you have had it twice; and the same voice that emanated from heaven is echoed back by man, *Vox populi vox Dei*. Touch not that seal; it is the freeman's power. The ballot is his shield. He has got it. I defy you to take it from him. Attempt that and bloodier scenes will be reenacted upon the already fresh bloody fields. Sir, men fight for freedom. They will not lay it down. They have fought for freedom upon the battle-field; they won their quit-claim to liberty; they have got it; and let not the Democratic party dream of taking it away. And yet, sir, the honorable Senator, or those who act with him, find no sort of awakening, enlivening sentiment from this great fact, but the contrary.

Sir, there has not been a transaction on earth since the crucifixion that thrilled the world with such ecstatic joy as when the last shackle of the slave was broken and fell at his feet. Music never reached its perfection until they sang the song of universal freedom; and if I was at all accustomed to deal in fancy I could fancy now that I hear the angel chorus catching up the sound "Peace on earth and good will to man; the last slave is free; liberty is triumphant." But over this my Democratic friends feel no jubilee. It is a source of mourning to them. Weep on, weep on; the seal is set; the Democratic party will never again have power in this nation until it changes its principles, until it ceases to be oppressive and learns to glory in freedom.

I am strengthened in this conviction by the proceedings of the last Democratic convention. Whoever saw two such elements of weakness combined? If there was any folly in the Republican party, the wisdom of God has come in. Who could have conceived that

two such men would have been born of that Democratic convention. Blair, (to begin with the last and most unimportant first,) who, as restless as the spirit that fomented rebellion in heaven, who acknowledges no discipline to man or law, "a law unto himself;" who throws on defiantly to such patriots as Hampton and Forrest that the only way to put these States into their original status is for the President to take the helm and drive this Senate out. No wonder that it woke an echo in Wade Hampton's bosom and in Forrest's and in Hammond's; it was the old signal for rebellion again. They were going to get a Blair to lead them in that rebellion. The world knows that the health of the gentleman they have nominated for President is very precarious, and he refused, as many times as Cæsar did the crown, to take it on account of his health. They have put forward this ticket in point of physical strength like the hyena, the strength in the hind legs to endure disease, its weak man ahead to be shoved off as Lincoln was, or in some other way, and then they will have got not only old rebels, but a new one with the whole machinery of government. It was well planned, and no wonder it awoke echoes of ecstasy in Forrest's and Hampton's bosom when they heard the name of Blair and his letter; and that is the platform and that the candidate that my friend from Kentucky loves so well.

Sir, who is nominated for President? A man that I have known all my life; and a gentlemanly man he is undoubtedly, but no unsound man, politically, walks than he. I listened last night to a little running debate between my colleague and my honored friend from Pennsylvania, in which the latter bore testimony to the patriotism and fidelity of the then Governor of New York. I took occasion to reread last night the speech made by that distinguished gentleman on the 4th of July, 1863, just ten days before the bloodiest riot in the world. It was a terrible day, that 4th of July, for the rebels; there came up a wall of woe from the rebels at Vicksburg and at Gettysburg.

Mr. STEWART. Will my colleague allow me to read a sentence of that speech?

"Remember this, that the bloody and treasonable and revolutionary doctrine of public necessity can be proclaimed by a mob as well as by a government."

Mr. NYE. Yes; I remember that sentence well. That was to this country a most important day. The cause for which my distinguished friend from Kentucky is laboring so hard today was in peril then. It was suffering from the blows of cool, quiet Grant, who smoked his cigar amid the confusion of the battle, as my friend from Kentucky says, which may be so. Abiding in that faith which patriotism always bears within itself in the result, he looked coolly, perhaps, upon the exciting moment, knowing that substantially peace was to follow. On that day thirty and five thousand Democrats laid down their arms within the intrenchments of Vicksburg. On that same day our noble soldiers gained a victory which paralyzed rebellion and gave freedom new life upon the bloody fields of Gettysburg. There was a great loss to the Democratic party; but true to their instincts, as soon as paroled from Vicksburg they took up their arms and stole to other fields.

On that day, after a draft had been ordered by the President of the United States to fill up the ranks, the head of this ticket was addressing a Democratic meeting in a hall in the city of New York, and he said that the law of necessity was never to be invoked by a nation, and said, not in the precise words, and they are here, that the mob could invoke the law of necessity as well as a nation. Sir, quick as the lightning's flash and as electric in its influence the mob did arise, caught up the idea that had been slumbering, touched the torch which engulfed a city in blood, and fatal were the consequences of that riot. I think eleven thousand—I am not quite certain as to the number—troops had to be taken from the

army of the Potomac; a large number of troops had to be taken to the city of New York, the chief magistrate of which State is now the head of the Democratic ticket, to do what? To keep the peace in that city and to enforce the drafting of men and to put down the spirit of rebellion which was as rife there as at Charleston. The world will not forget the correspondence between Governor Seymour and General Dix, and I remember how my blood jumped a little quicker, old as I am, when the General informed the Governor at a certain time that he had troops enough there then to preserve the city and take care of him, too. Oh, such a patriot! Sir, if you look for salvation from that mob engendered by him go look at the ashes of the colored orphan asylum in New York. Would it have done the heart of the Senator from Kentucky good to have seen demons in human shape beating out the brains of black infancy? Look at the lurid light of the hospital reared by the best charity in the world. Look at the murder of O'Brien, who was brutally hanged and his form mutilated worse than would have been done by the barbarians whom the honorable Senator described this morning. This Governor addressed these bloody-handed scoundrels, and called them "friends." They were his friends; they are to-day; it is no misnomer. They caught up the torch which he lighted; they had performed the work; he was congratulating them upon it, and he addressed them as "friends." They received him as such. He is.

Mr. President, it is this ticket with this platform which my honorable friend loves so well. Sir, I know something of the Democratic party. I have been there. It is a party that never was beaten, and never could be so long as it fought the battle of freedom. In its vigor and its purity it was always as potent as my honorable friend thinks it is now in its decrepit, broken-down, rickety old age. Then, sir, it was a power. We quoted the founders of that party with profound love and respect. We repeated with admiration their principles everywhere. The mission upon which the Democrats then went out was to fight the battles of the oppressed wherever and whenever an opportunity occurred. Never till they trailed their honor in the dirty waters of slavery and took up the war of caste, which the honorable Senator from Kentucky now takes up, did they lose their power. Since they have taken that course they never have had the confidence of the country, and they never will till they cease to do evil and learn to do well.

Sir, I want the rule proposed by this joint resolution prescribed by legislation. I want no more trouble in this matter. We have wooed these States as a mother woos her first-born. We have given them milk in their weakness and meat in their strength. We have invited them back time after time to the mansion where there is bread enough and to spare, but they would not come. Now, sir, I do not propose that they shall come under the fiery and erratic lead of Blair or Seymour, and break into the mansion, the door of which they have heretofore refused to enter. To do that they shall, at least so far as my vote is concerned, break over the forms of law.

But, sir, we are gravely told by the honorable Senator and everybody that talks on that side, that all these laws of ours are unconstitutional. It is reserved, perhaps, for the historian to write that the only true constitutional lawyers are the honorable Senator from Kentucky and the honorable Senator from Pennsylvania, and that my friend from Vermont, my friend from Illinois, and my friend from Maine know nothing of the Constitution. It is reserved for Kentucky alone to save the Constitution, to save the white man, to curse the black man, and to wind up things generally in that way. Be it so. That is a point on which I shall not comment.

Mr. President, indulge me in a word more. It is said that in union there is strength. We have a platform made with entire unanimity.

But recently, for four or five sweltering hot days in the city of New York, in that new-born Babel of Tammany, did hundreds of Democrats sweat, voting for this man and that man, with no result, and all the time there was a deep laid plan, which the mass of them did not comprehend, to get the very man they have got. I cannot help contrasting in my mind that convention with the one at Chicago. The convention at Chicago had just twice as many delegates as the one at New York. The first thing done there was to make a platform on which they all agreed, and the next thing was to nominate a President, and each State was called and each State answered until six hundred and three delegates had spoken, and every vote was for one man right off, without any caucus, without any consultation. They looked to him as the child looks to its father for protection. They remembered the thousand victories to which he had led them, and their eyes as involuntarily turned upon him as a leader in the civil strife as in the strife of arms. To me that was a noble and inspiring sight. Let not the honorable Senator from Kentucky believe that such unity of sentiment is to be overborne by this fragmentary party called Democratic.

Let me refer to another difference. We have a warrior at the head and a man of peace emphatically as the second nominee, a man whose name is written as firmly and as broadly on the civil page of his country's history as General Grant's is on the military page. When Grant was leading our armies against the hosts of the rebellion it was prophesied that Lee would never surrender. Now, the Senator from Kentucky, bolder, braver, and less considerate than Lee, says that this platform with its backers will never surrender. Let him that casteth off his armor boast; not he that putteth it on. Sir, there will not be enough of it for formal surrender. They will be suffered to go home without terms. Their arms are worthless, for they are the arms of error; their weapons are powerless, because they are untruthful. No, sir; my gallant friend from Kentucky will have to seek affiliation with another party before he gets in a majority. He will have to join the army of progress and freedom, hitching to no snub-post of the past, but marching on to that haven of destiny of man where all men shall be equal before the law.

Mr. DAVIS. Mr. President, I have been very much interested by the speech of my honorable friend from Nevada. It has been very various and very rich, but not much to the point, and there was not much logic in it, either. My honorable friend reminds me very much of the exclamation of an old lady who went to hear a preacher who was said to be a very eloquent pulpit orator. After she had listened to him for some time she exclaimed, "Oh Lord, what a good preacher he would make if he only had grace," and I think grace is all that my honorable friend needs to make his oratory effective. [Laughter.]

He is not always accurate in his information. A little while ago he spoke of the ticket at New York as a hyena ticket, for the reason, as he said, its strongest part was behind. I have heard such a thing called before a kangaroo ticket, but never a hyena ticket, [laughter;] and what similitude my honorable friend can make out between that ticket and a hyena I do not know. Again, he spoke of the presence of Hammond of South Carolina at that convention, and how he exulted in its work. According to my recollection, Governor Hammond has been dead about six years. I believe he was the author of the celebrated phrase in regard to the mud-sills; but I think in his lifetime it was his boast either that he was born in the North or that his father was a Massachusetts man. I believe in olden times when there were slave owners and slave drivers, the Massachusetts men who strayed off to the South were worse than the southern men.

My honorable friend speaks of what has been done by the Radical party to win for itself immortality, and among his first boasts was

that it had broken the shackles of all the slaves in the land. I do not think in justice that party could have done much less. I have read that about three hundred and thirty thousand negroes were brought from Africa to the colonies; and that the northern shippers brought about three hundred thousand others, and according to my recollection when the law of Congress abolishing the slave trade went into operation, the State of my honorable friend, the Senator from Rhode Island, had about fifty-seven ships engaged in the slave-trade. I think the northern people and their posterity who did so much to plant slavery on the Continent of North America, owed it to the injured race at least to give this evidence of the great change which had come over them. I do not object to it.

The honorable Senator from Nevada has spoken of the Chicago convention and of the New York convention, and of the Chicago platform and the New York platform. Well, sir, the platform at New York repudiates forever slavery. Has my honorable friend any exception to that plank? It repudiates forever the principle of secession. Has my honorable friend any exception to that plank? I have none. But his convention of Chicago spoke of negro suffrage to be imposed by the northern States upon the South; and they themselves to be exempted from it. What sort of a plank is that? What sort of statesmanship and philanthropy is there in any such nonsense as that? My honorable friend spoke of nonsense and he spoke of the decrees of God. I should think that the latter at least was a matter about which he knew very little. It may be because he is deficient in that article of grace which the old lady thought so necessary to constitute a good preacher.

My honorable friend spoke of Forrest being at the New York convention. Who was at his Chicago convention from Georgia? Was there not one Joe Brown; and was not Joe Brown the first man to pull down the flag of the Union from Fort Pulaski at the beginning of the rebellion? The honorable Senator spoke of men who were in the convention at New York reeking with blood of Union soldiers. That was very bad; but I care not what rebel comes up from the South, how red his hand may be with the gore of slaughtered Union soldiers, if he chooses to abjure his position and makes a declaration, and especially an oath in favor of Radicalism, the honorable Senator and his compeers are willing to hug him to their bosom, and they do it constantly. I suppose they have this advantage of the honorable Senator, in the estimation of the old lady at least, that they have received grace. Now, sir, I have not much confidence in a traitor, and I have no confidence in a double traitor. A man who has betrayed his country, his Government, the stars and stripes, and with impious hand has drawn the sword to murder his country, ought to be satisfied with that one act of perfidy and perjury, without seeking to get into the ranks of an ascendant party that he may be tempted to commit another treason. Where repentance is sincere and reaches the soul it is modest, and shrinks back from the gaze of the public, and especially from imputed allurements of office.

Mr. President, the honorable Senator is a popular orator. I will not say that he is a demagogue, but I will say that he is a powerful and a most dexterous, popular orator. He understands the game of waving the hand and putting aside the main issue. There was a time when there was a main issue in this land, formed in this and the other House of Congress. It was when the resolution was passed a few days after the battle of Bull Run, declaring the objects and purposes for which the war should be prosecuted, and under what circumstances it should be terminated. That was a wise, patriotic, and statesman-like platform; it won the hearts and confidence and hopes of the nation; and if the party in the majority here had fought their battles upon it constantly with fidelity from that time to this,

they would, I think, be impregnable. It is because they yielded that platform with its great and patriotic principles that they have become weak.

The honorable Senator spoke of my reference to Grant and his indifference in battle. I believe that General Grant is a patriotic and honest man; he is unquestionably a man of courage and of will; but I do not think he has one other single quality of a great military man. When you speak of intellect that can plan a great campaign and that can take intuitively and comprehensively into its conception of the movements of a great army, he is as unequal to that work as he is to make a world. He has had success. What was the secret of it? He fought the battle of Belmont, in which he was badly used up. He went to Pittsburg Landing and there he encountered sore defeat, and even the Union officers who followed Buell's lead there and regained the lost day say that if Johnston had reformed he would have destroyed Grant and the Army under him; and I doubt it not. It was the gunboats in the river that saved him then. The siege and capture of Fort Donelson was the work of Smith, a much abler man naturally and as a soldier and as a scientific warrior than ever Grant was or ever could be, if he should live to the age of Methuselah. If Buell had not reached the field of Pittsburg Landing, Grant and his army would have been destroyed and we should not have heard of this candidate for the Presidency.

When he came here to the Wilderness and moved upon that line, as he said he would fight it out on that line if it took him all summer, he did not fight it out on that line; he deployed from it every day until he reached the point where McClellan struck for Richmond, and in this bloody enfilade upon the enemy he lost fifty per cent. more of soldiers than that enemy commanded. He lost in killed, wounded, and missing from eighty to one hundred thousand men. Look at the correspondence between McClellan and Stanton when McClellan was before the same point two years before. You recollect the story, not of McClellan's disastrous campaign, but of the base and infamous manner in which he and his army were abandoned by the authorities here. He was promised the corps of McDowell, forty-five or fifty thousand, a division of ten thousand in the upper valley, and ten thousand more from Fortress Monroe. If he had received these reinforcements then and there, in thirty days Richmond would have fallen; the rebels would have yielded; half a million of slaughtered men would have been saved to their country and their families, and a thousand or fifteen hundred millions of treasure would have been saved to the nation. We all knew that the object was not to suppress the rebellion; it was not war to put down the insurgents; it was war upon slavery and slaveholders, and the war was to be prosecuted until slavery was abolished and until the slaveholders were subjugated. All who were here at the time knew it to be so. This man Stanton was in the War Office.

After McClellan met with his reverses in the seven days' battles and he and the Government began to feel apprehensive for the safety of the Army, he wrote to McClellan exhorting him to bring it off safely. What did McClellan say? "If I am enabled to effect that work, I shall owe its success neither to you nor to any man in Washington." He had said before, "Give me fifty thousand men of reinforcements; give me the men you promised me, and I will bring this war to a close." He called for fifty thousand troops to reinforce his Army that then was not more than equal, if it was equal, to the enemy behind his intrenchments. That was refused. Then he asked successively for thirty thousand and twenty thousand, and the invariable answer was, "No; a man cannot be spared," but when the present candidate for the Presidency was appointed to command that Army he could meet the enemy and suffer his bloody slaughter

of ten thousand a day and each day more than replenish the places of those slaughtered in his ranks. He received in the way of reinforcements thousands and tens of thousands more of men than McClellan had when he beleaguered Richmond.

Mr. President, it is not because he is a military hero. It is not because he has great capacity in war. He has no such capacity. It is because he is an uninformed man, a stranger to statesmanship and policy. He comes a novice into the hands of his keepers; they will manipulate him as they please; and because he holds the command of the Army, and you have made him by your unconstitutional laws to supersede the Constitution itself, and to supplant the President in the command of the armies in the ten States and to a limited extent in the whole United States, you have nominated General Grant.

Sir, I told the honorable Senator from Nevada that we had two great issues here. The first is, Shall the bayonet or the Constitution be the law? and the other is, Shall the negroes appoint the President of the United States, and shall this be a negro Government or a white man's Government? These are the issues, simple, comprehensive; and we care not where men stand on other and immaterial issues if they are right here. If the men who voted for the resolution proposed by Andrew Johnson after the battle of Bull Run had adhered faithfully to that resolution, I would always have been their supporter as I was then. Now, I do not care who battles against the bayonet for the Constitution, who battles for the white man's Government against negro Government, I am with him. If the honorable Senator from Nevada would come I would hail him as an ally in that cause if I believed him faithfully and truly enlisted in it. Talk not of "greenbacks!"

What are greenbacks when put in contrast with popular liberty and constitutional government? Nothing; but that platform says that the obligations of the Government are to be met according to the bond. If the honorable gentleman excepts to that let him except to it; but that is nothing, not the dust in the balance compared with the great, controlling, grand issues that address themselves to the American mind with resistless force. Are you for maintaining the supremacy of the bayonet and martial law, or are you for sustaining the Constitution? Are you for the white man's Government or are you for negro Government? Are you for eight million white slaves under the mastery of four million negroes in the South, or are you for enlarging the white men of the South and restoring to them that political power and that right of government which the Constitution secures to them? These are the issues. They are important issues. They are the issues on which I enter into this contest and upon which I intend to wage and maintain it.

The honorable Senator seemed to suppose that I contemplated there being double sets of electoral votes from the southern States. I expect no such thing. I do not believe the majority of Congress and the Army will permit any free election in those States. Whenever the Army is withdrawn those States, white men and negroes, will vote against the Radicals. Any of those States which may be allowed to vote at the ensuing election will vote under their reorganized constitutions. I have no dream that there will be any attempt to set up any previous governments and to cast a vote under them. If it should be so, they will be stifled, suppressed, they will not be allowed; but if you will allow a free election there under your own laws, you will lose more than half the votes of those States. I have no hope nor dream of a free election under your own laws. You back up your laws by military compulsion and by the presence of the bureau, and you will not allow anything like a free election even under your own laws.

Mr. MORTON. Mr. President, I have no defense to make for General Grant; he needs

none. I simply rise to call the Senator from Kentucky back to the great issue presented by the New York convention, and that issue is the issue of peace or war. General Blair wrote a letter to a member of that convention less than one week ago, in which he said, "If we elect our President"—that is the substance of it—"it will be his duty to use the Army of the United States to overturn and to disperse the State governments that have been erected in the South under the action of Congress." That is rebellion; that is war. He says, "If I go before the convention I want to go before it upon these principles." He says, "The question of greenbacks, of finance, of taxing bonds and all that are unimportant compared with this." And he went before the convention on that letter, and he was nominated almost unanimously on the first ballot. That is the great and broad issue presented to this country, and is not to be obscured by attacks on General Grant or by anything that may be said of the past. It will now be more important to talk of the future rebellion that is threatened and promised by the Democratic party than even to talk of the past.

Mr. President, this is the issue, and I should have been glad to have heard the Senator on that issue. He supports General Blair, he supports Mr. Seymour. The Senator from Pennsylvania last night said that they had laid down a platform. Yes, sir; the logical result of the platform laid down by the convention is the same thing as General Blair's letter. They declare that the reorganized State governments in the South are unconstitutional, null, and void. The logical result of that is what General Blair has said. General Blair has made his utterance. He says, "I go before the convention upon this declaration of war against these State governments," and the convention takes him; the Senator takes him; the convention has affirmed the declaration of General Blair and there is no escape from it. I call upon Senators, therefore, to meet the issue boldly and frankly and not attempt to obscure it as the cuttle-fish does in which he makes his escape. Sir, this, then, is the issue: shall there be acquiescence in and submission to the action of Congress; shall we again have peace in this country; shall we again resume our progress, growth, and prosperity; or shall war become the normal condition of the United States as it has been of other countries? The Democratic party has declared for war, continuous, unending war except upon the condition of the success of the principles of the rebellion.

Mr. DAVIS. Mr. President, a word in reply to my honorable friend. The convention at New York formed their platform before they nominated their candidates. They do not square their platform according to their candidates, but they make their candidates square their opinions and purposes according to the platform. As I understand the platform, it does not present any issue of war which has occurred to the imagination of the honorable Senator from Indiana. They do not allow their candidates, if I understand the principle upon which they act, to make platforms for the party. I am not of the party; I was not represented in it; I had no voice in making the platform; I am speaking of it simply as I understand it. They make a platform upon which their candidates must take position, and by which they must square their principles and their purposes in the canvass if they should be elected.

Now, sir, I am not for any war at the termination of this election for the Presidency; nor for war for the inauguration of the President who is elected, whoever he may be; but I believe, as I said before, that the numbers in favor of the Constitution over the bayonet, and of the white man's President over the President of the negroes will be a majority of three fourths of all the electoral votes.

Mr. MORTON. I desire to ask the Senator a question, with his permission. I ask if there is any repugnance or disagreement between



the platform adopted, in the shape of resolutions, and the letter of Francis P. Blair, and if so to point it out?

Mr. DAVIS. I have not read Mr. Blair's letter with any particularity, but I think that it speaks wider, broader, than the platform speaks or intended to speak.

Mr. BUCKALEW. Mr. President, my idea is that the issue of reconstruction is dependent upon popular votes in the States represented in Congress. I went over the grounds of that opinion last night, and attempted to vindicate it. Of course I shall not repeat the argument on this occasion, but I refer to it as constituting, in the main, my answer to the present remarks of the Senator from Indiana.

I have an idea that when the people in their sovereign capacity—I mean in the States about whose organization there is no doubt—shall have pronounced their judgment, there will be an acquiescence in it and no necessity for any party to resort to force. I have an idea that the currents of human action, particularly in our country, are governed by moral causes; that this country is under the dominion of moral power, and that the force of popular judgment, as expressed in the presidential election of the present year, will be potential and efficacious in itself and in its direct and necessary consequences to terminate this protracted dispute over reconstruction. That is my view.

Now, let me tell the Senator that in the case supposed, the case of a majority given in the adhering and regularly-organized States, I undertake to say that the Supreme Court will have its mouth opened; there will be no longer any attempt to muzzle that court; we shall get its honest judgment of the legality of the system, at least of the military part of it which was involved in a case pending before it, when the present Congress undertook to withdraw jurisdiction by a particular bill. I undertake to say that when the freemen of this country in their sovereign capacity, upon this very subject of reconstruction, have pronounced their voice, in these very ten States concerned there will be acquiescence, there will be no popular turbulence, there will be no necessity to resort to force in order to carry into execution the judgment of the people.

I do not agree with General Blair that it would be necessary to overturn everything and remit society back into a state of complete disorganization. It may be thought provident and politic to use existing forms, to give them such modification as the Constitution and the principles of justice may require; and I have no doubt that there will be concurrence and assistance, as well as acquiescence in these very States themselves. They understand that a majority of the adhering people of the United States, who went to war with them and by whose patriotism and whose sacrifices the result was achieved have a moral power to determine this very question of reconstruction; and they will acquiesce, I venture to say, promptly and thoroughly in any judgment which these northern and western populations may pronounce.

However this may be, sir, the whole point made by the Senator from Indiana is answered by the platform itself, made before candidates were selected, in which the judgment of the convention was pronounced upon this question of reconstruction, and it was handed over to the people for their judgment. There is no threat of war, of violence, of revolution, of unlawful action. These men are freemen, loving the institutions of our Government and desirous to maintain them; and in an orderly and legal and patriotic manner they submit this subject of reconstruction which Congress has controlled to the decision of the masters of Congress, the decision of the people themselves. That is all they have done in their platform; that is all they have asked of the people, a judgment upon the merits of this question, and a judgment upon it for the first time. The people have never had an opportunity yet to pronounce upon it, because there has been no election of members of Congress since 1860,

and all these reconstruction laws have been passed since. What the convention did was to send down to the people for their sovereign judgment this question. It was an appeal from the political majority in the two Houses of Congress that they framed there, and they have sent it to those who are competent to pass judgment upon it and whose judgment will carry such moral power and strength that it will be felt throughout our country and it will repress all elements of turbulence and disorder. It will not be necessary to levy armies, to gather munitions of war, to awake the passions of the people of this country, to array them in hostile camps against each other. The institutions of our fathers give us means for a peaceable solution of this question of reconstruction.

We ask no more; we expect nothing else. If we are beaten in this issue, we submit because it is the decision of the highest authority and of the highest power in this country. If the decision is with us, justly and of right, and of necessity also, the contrivances of the political majority in Congress must go down before the judgment of the people, and they will go down. I attempted last night to state the grounds for this judgment and to vindicate it by reasons which must be most apparent to every intelligent observer.

The Senator from Indiana would raise a specter of war to fright us from our propriety; to prevent a just popular judgment upon the real question in controversy between the great parties of this country. Sir, he will fail. They were not alarmed in former years when the specter of war was shaken before them. They went forward and they executed their purpose. Whether it was right or wrong they had courage and will to pursue their own course and to pronounce their own judgment; and just so it will be in the elections of the present year. The Senator from Indiana is to go to his people upon the merits of this controversy and get their judgment as freemen upon it from beginning to end. All these laws are to be passed in review, and for the first time, as I said before, judgment is to be pronounced upon them; and nobody is to be frightened, nobody is to be alarmed. This people are sovereign; and their will is the fundamental law, higher and behind even the written forms of the Constitution itself. They are not to be alarmed by this cry which comes up to us from the Senator from Indiana.

Mr. CONKLING. I ask for the yeas and nays on this question.

The yeas and nays were ordered.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York to the amendment of the Senator from Missouri.

Mr. SHERMAN. I should like to have the original resolution and the amendment both read.

Mr. DRAKE. I ask that all three propositions that are lying on the Clerk's desk be now read, the original resolution, the amendment I proposed, and that offered by the Senator from New York.

The resolution and amendments were read.

Mr. CONKLING. Mr. President, if there be any one here who has not listened with pleasure to the very eloquent speeches of which this measure has been the occasion it is he who remembers, that this is the 10th of July, and that abundant opportunity will be afforded on the platform and at the hustings for the discussion of all those questions which have been so earnestly presented to-day. The proposition before us is an eminently practical one; it is a proposal to do that which, properly understood, it seems to us, will be the subject of universal accord, if we can only hit upon the mode of bringing it about. The law as it is now, by the Constitution, is precisely the law as each one of these three propositions attempts to declare it. By the Constitution, without referring to any part of it except a single clause of the second article, it is clearly for Congress, or for the Senate sitting in the presence of the House of Representatives and counting the

votes, to see to it that no State is represented unless the condition of things concurs provided in each of these propositions. The language of the Constitution is that—

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress."

"In such manner as the Legislature thereof may direct," thus presupposing, thus having as an indispensable prerequisite to the proceeding here ordained, the existence of a constitution in the State and a Legislature operating under that constitution. The pending proposition, therefore, is merely declaratory, declaratory of the law, which, I submit, would be administered without objection and without agitation on any ordinary occasion; but we stand in the presence of events, and we are waited upon by contingencies which admonish us that a declaration should be made in advance so plain and specific that no political party, that no political faction, maddened by disappointment or ambition, may plausibly insist that action has been taken by the national Legislature in either of its branches for the purpose of accomplishing the success or the overthrow of a party ticket or a party measure.

Article twelve of the amendments to the Constitution—I need not stop to quote it—proceeds upon this same theory. And therefore, as I have said once before, the simple question is in what form we shall declare the law so as to make the declaration certain and ample for the occasion.

Now, beyond all question, three communities known in the history of our country as States, are not at this time entitled to have their votes counted in the choice of a President. I refer to Texas, Mississippi, and Virginia. Whatever may be the theory of gentlemen as to the status, politically, of these States, the historical fact is patent that the forms of government as they once existed have been prostrated, and, in the language of the acting President of the United States, "all civil government has become extinct," unless the provisional governments which were set up afterward are for this purpose to obtain; and upon that I believe nobody insists. We have presented to these States, in common with all the other States—and I make this remark now in answer to an observation which fell from my honorable friend from Pennsylvania [Mr. BUCKALEW] yesterday—the plan which, for the time being, at least, must be accepted by all concerned as the only road leading to restoration. Neither Texas, nor Mississippi, nor Virginia has qualified itself in this the only recognized mode of representation in the Electoral College. Unless they shall be qualified hereafter in season, beyond all question, accepting what is fixed now as legislation, however we may differ as to its propriety, these three States must be excluded from representation in the Electoral College. This follows, let me stop to observe, and I will devote a moment to it, according to the law as announced by the Supreme Court in the case which has been quoted here many times, and as the law has been accepted always by all departments of the Government. It follows from the theory that to Congress as the law-making power, or the political power of the country, belongs the recognition or the refusal to recognize a State government in any particular State as the legitimate government there, because, although the Rhode Island case did say that to the President belonged the power to determine which government he should aid by ordering troops in that instance, as I heard the honorable Senator from Kentucky argue at great length some time ago, the court said that that was the result because the act of 1795 committed to the President the determination of that question, that Congress might have committed its determination to a court or to any other body known to our organism, and then the prerogative of recognizing which government was regular would have been located as Congress had located it; but the action of the Legislature was that the act of 1795 had reposed that

power in the President, and therefore the court said that to him and to nobody else at that time appertained the administration of that power.

Mr. DAVIS. The honorable Senator, I think, has misrecalled the point that was decided. The court did not decide that Congress could have conferred on the President or any other power the right to recognize the government; but the court decided that Congress might have conferred on the President or any other power the authority to determine the fact of an insurrection in a State.

Mr. CONKLING. I should not have referred to that case if I had supposed it would lead to any controversy; but, without sending for the book, the point of that case, I undertake to say—and I submit to be tried by the honorable Senator for my error if I commit any—was this: The Governor of the State of Rhode Island had a right to make a requisition for troops in order to quell insurrection; and the original question in the case was which of the two governments was the true one. By the act of 1795 Congress had reposed in the President the power of responding to a call for troops; the President had responded; and the court held that in so responding, by that act he had determined for himself and for the Government of the United States which was the true government in Rhode Island. Why? Because there resided inherently in the Executive the power to determine that question? Not at all; but because Congress had invested him with the power; and the court say in so many words that Congress might have invested a judge or a court with the same power, and had Congress done so the determination of the question by the court or judge so invested would have had the same virtue and the same effect as they held attached to the determination of the President of the United States. But I beg my honorable friend not to draw me into a discussion of the particular point of that case any further, as he will see that the question between him and me is not important to the purpose for which I introduced it. I say that it has been held universally by bench, bar, Government, and people, that to Congress pertained the power of saying which government in a State was regular, as an elementary proposition; and when you add to that the fact that the Senate, in the presence of the House of Representatives, is to count the votes which represent a State organization, I think I need not argue or split hairs with the honorable Senator in order to come to the conclusion that in this instance, at all events, the determination of that question is reposed either with Congress or with the Senate sitting to count the votes in the presence of the House of Representatives.

Now, the question arises as to the mode of making this declaration and making it most effectual. The honorable Senator from Vermont advances a proposition which he speaks of as coming from the Judiciary Committee, and in a certain sense it does come from the Judiciary Committee. It does not, however, I violate no propriety in saying, come from any portion of that committee, majority or minority, as a proposition without amendment to be supported in the Senate. The honorable Senator had permission, by the votes of a majority of the committee, to report that proposition, those who composed that very majority saying at the time that they reserved the right to perfect it, and expected it to be perfected and changed in the Senate.

Mr. EDMUNDS. I do not so understand, though it is not a matter of any very great consequence. We want to get it in the best form, and if my friend's form is the best we shall all say "amen." The only difficulty is that a great many of us do not see it. In committee the measure was considered in the usual way, if it is proper to state what occurred there, and the honorable Senator himself moved an amendment in committee which, after discussion, was agreed to, and the measure was directed to be reported, as I understood, in the ordinary way. I do not mean by that that any member of the

committee is not at liberty to move to amend it further and make it as perfect as it can be; but I certainly do not understand it as stated by my friend. However, he may be correct.

Mr. CONKLING. I hope we shall not get into any controversy over so small a point. In committee I voted that the Senator be permitted to report this joint resolution, but I accompanied with it the statement that I would not support it in the Senate as it stood. The honorable Senator from New Jersey [Mr. FRELINGHUYSEN] did the same thing, and the chairman of the committee [Mr. TRUMBULL] did the same thing. This point is of no importance except that I do not want the Senate (this discussion having run very wide, so that Senators cannot be expected to follow it all the way through and give close attention to it all) to take it for granted that either of these forms has the approbation of the Committee on the Judiciary of this body. On the contrary, we shall all agree that the committee decided that the measure should be reported, and that we should perfect it in the Senate.

The joint resolution offered by the honorable Senator from Vermont proposes, naming certain States, to make a special act applicable to them and applicable to this one single case. Why should we do that? If we are going to declare, not to bind our successors, but simply to bind ourselves in February next, what we will do in counting votes from certain States, we do not need any law for that, we do not need to wait here ten days for a veto and struggle to pass by a two-thirds vote over a veto such a law; we only need a concurrent resolution. Why? Because it would not be designed to apply to any case except one now before us, or to bind anybody except ourselves. The resolution which was passed in 1865, although it took the form of a joint resolution, and not a concurrent resolution, was special and temporary. It was sent to President Lincoln, and he signed it, and what did he say in doing it? He was criticised with some harshness at the time for saying that, although he signed it, he thought it did not pertain to him at all; that it was a mere concurrent resolution. I have here the message which he sent to the two Houses, and I beg to read it, as it is very brief:

*To the honorable the Senate  
and House of Representatives:*

The joint resolution entitled "Joint resolution declaring certain States not entitled to representation in the Electoral College," has been signed by the Executive, in deference to the view of Congress implied in its passage and presentation to him. In his own view, however, the two Houses of Congress, convened under the twelfth article of the Constitution, have complete power to exclude from counting all electoral votes deemed by them to be illegal; and it is not competent for the Executive to defeat or obstruct that power by a veto, as would be the case if his action were at all essential in the matter. He disclaims all right of the Executive to interfere in any way in the matter of canvassing or counting electoral votes, and he also disclaims that by signing said resolution he has expressed any opinion on the recitals of the preamble, or any judgment of his own upon the subject of the resolution. ABRAHAM LINCOLN.

EXECUTIVE MANSION, February 8, 1865.

Why was that? What was the idea of the President? That there was a resolution reciting certain facts about certain States relating to a certain election; and if that was all that was to be done it was not for him to express any opinion about it or enter into it one way or the other; and no doubt he felt the delicacy of his position, as he was at that time the successful candidate between whom and his competitor those votes were to be counted. I agree entirely that if the whole purpose is to make provision for a given case at this particular time, and not to bind our successors or to make a general provision, we need nothing except the suggestion of Mr. Lincoln, a concurrent resolution giving notice beforehand what we shall do.

But again, the proposition of the Senator from Vermont calls by name certain States, and says the votes from them shall not be counted in certain contingencies. Now, to show the danger of that sort of enumeration let me mention that in looking over this bill I see that

Tennessee is omitted entirely. Why omit Tennessee? Is there not as much danger in Tennessee of irregular action, of the interposition of military force, of lawless invasion, and of electoral votes being sent here despite that State organization quite as hateful to the honorable Senator from Kentucky and as obnoxious to his criticisms, to say the least, as the organizations in the residue of these States, and quite as liable, I may say, in the face of current history to be disordered and overturned as the organization in some at least of the States which are here enumerated?

But, Mr. President, the votes of North Carolina, South Carolina, Alabama, &c., are not to be counted upon the happening of certain things. Suppose that the same things occur in the State of Maryland, is the vote of Maryland to be counted? Suppose they occur in Kentucky or in New York, are the votes of those States to be counted? If there is a Shays in Massachusetts, or a Dorr in Rhode Island, or a whisky insurrection in Pennsylvania, or an anti-rent insurrection, which we have had in most formidable proportions over and over again in the State of New York, and they prostrate the modes of election, overturn regularity, and send by lawlessness and usurpation electors to an Electoral College, and their votes are transmitted here, are they to be counted on this occasion, or on any future occasion?

In 1864, we stood upon the law as the Constitution makes it; as we might have stood upon it since but for these troublous times, full of suspicion, of discord, of animosity, and of elements of disturbance. But now that we do so stand, why should we adopt a provision, partial, special, technical, temporary, if we are going to pass any law on the subject? I agree that the amendment offered by my honorable friend from Missouri [Mr. DRAKE] is an improvement upon the original proposition, and I shall vote for it with great pleasure if I am unable to get the consent of the Senate to my own proposition.

Mr. FOWLER. I desire to ask the Senator from New York whether his proposition provides that in any case New York shall not be represented in the Electoral College? Does he so understand it?

Mr. CONKLING. The proposition provides that the vote of no State, whether it is New York or any other, in which the State government has been overturned, in which there is at the time no government under which an election can be held or is held, can be counted. That is precisely what the Constitution says now, as I have been arguing longer than perhaps I should, to show; for when the Constitution says that electors shall be chosen in such mode as the Legislature of the State shall prescribe, if there is no legal Legislature there, then electors cannot be chosen and votes cannot be counted. Therefore, it says precisely what the Constitution declares it shall say, provided we are to declare anything on the subject.

But I was saying that the amendment of the Senator from Missouri goes further than the original proposition, and it would, at least, embrace Tennessee. I am inclined to think it would embrace something which the Senate are hardly contemplating; and I beg the Senator's attention to these words, "No State heretofore in insurrection." The words are not "No State heretofore declared in insurrection." Maryland was in insurrection; and literally, according to this amendment as he proposes it, the vote of Maryland would not be counted at all.

Mr. DRAKE. Will my honorable friend from New York be so good as to name the time when the State of Maryland was in insurrection?

Mr. CONKLING. Oh yes, sir; I will name that time. My friend, who is a lawyer, will remember the maxim that that is certain which can be rendered certain; and I therefore render the time certain by referring to the occasion when George B. McClellan, with the universal

acquiescence of the loyal people of America, swept away the Legislature of the State of Maryland and blotted out her Statehood entirely, for the reason that she was in open, rampant rebellion against the Constitution of the United States and the laws of Congress. I do not say it was declared by the President to be in insurrection, and was in that sense technically in insurrection; nor does this amendment require that she should have been so; and therefore it is that I invite the attention of the Senator from Missouri to the fact, that in order to exclude Maryland from the operation of his amendment he should change its language thus, "No State declared in insurrection." Maryland was not so declared; but practically, historically, politically, militarily, Maryland was in insurrection quite as much as some of these other States.

Now, Mr. President, not to detain the Senate on this subject, I wish to suggest, as briefly as I may, the idea with which I have proposed the amendment I have submitted. It is first to put upon the statute-book a permanent provision for all cases and for all times, and a provision so specific that it cannot be eluded and cannot be baffled by the omission, accidental or otherwise, of any particular State—a provision which, looking not only to the dangers immediately before us, to the three States whose condition is special, to the residue of the eleven States, the condition of some or all of whom may be special, but looking to all the States, shall make adequate provision.

Why should we not do that? What is the object, I beg to ask the Senator from Michigan, [Mr. HOWARD,] referring to a remark which he made yesterday. What is the object we have in view here? It is to close the door of the Electoral College against all those not entitled to enter. The Senator assents to that, as he must. That is what we are all driving at. The object is to close the door of the Electoral College against all States not entitled to enter. Then why not say so?

Mr. HOWARD. Against those mentioned in the bill.

Mr. CONKLING. Does the honorable Senator mean that if between now and the election an outbreak should occur in some State not mentioned in the bill, in consequence of which the same state of things legally should come about which he fears, he would be in favor of counting those votes? I beg the Senator to let me know what he means by saying "those mentioned in the bill."

Mr. HOWARD. I have this to say: I do not anticipate any further insurrection in the States at present; and least of all do I anticipate any insurrection in the loyal States; and to pass such a law as that which is contemplated by the amendment of the Senator from New York appears to me to be a very unnecessary and gratuitous reflection upon the loyal States of the Union who have never rebelled, and who never intend to go into a state of insurrection. "Sufficient unto the day is the evil thereof"—a very sound and ancient maxim. When one of the loyal States goes into rebellion, I take it we can deal with it as the occasion requires.

Mr. CONKLING. Well, Mr. President, I am very glad that the honorable Senator has reversed the current of his objection, as he has done, if I understood him correctly last night. He says now that he does not anticipate that any of the loyal States will have an insurrection. Does he anticipate, I should like to inquire of him, that those governments which we have been setting up will fall down before November?

Mr. HOWARD. No, sir.

Mr. CONKLING. Then this, as I said before, is a declaratory measure for abundant caution, to provide for possible contingencies, and that is all it is. Then why does the Senator say that it is a reflection to suppose that, within the range of possibility, things which have occurred in the loyal States in the past may be repeated in the future at some time.

Mr. FOWLER. Before the Senator from

New York proceeds further, I wish to know whether his amendment provides for this possibility: in case any insurrection or disturbance occurs in a State between this and the election, may Congress when it meets declare such State in insurrection and refuse to count its votes? Is that the Senator's understanding of the effect of his proposition?

Mr. CONKLING. I am not sure that I understand the question of the Senator.

Mr. FOWLER. Does the Senator's proposition authorize Congress, when it shall meet next winter, to say that any particular State may have been in insurrection; or, in other words, that there is no regularly organized government in that State, and therefore refuse to count its votes?

Mr. CONKLING. The amendment authorizes the Senate, in the presence of the House of Representatives, to do exactly this: if votes shall be received purporting to come from a certain State, to pass upon the question first, whether when that election took place there was a constitutional government in that State, and second, whether the election was held under the auspices and authority of that government; so that, although there should be in Tennessee a regular government, as there is, if marauders, moss troopers, a mob, a vigilance committee, should hold an election and send electoral votes here, the Senate would adjudicate that, although there was a regular government there, the election had not been held by force of that government, and therefore the votes were not entitled to be counted.

Returning for a moment to the honorable Senator from Michigan, his objection now is that my amendment embraces too much, that it is too strong, that it is a reflection upon the States which have not been in insurrection. I thought I heard him say last night that the objection to it was that it was "velvet-clawed." I think he used that very expression.

Mr. HOWARD. "Velvet-footed."

Mr. CONKLING. I beg pardon, "velvet-footed," a troop of horse shod with felt. That was the idea, that the oars were muffled, that there was not spattering enough, that the words were not valiant enough, that there was some bravery or some virtue in calling these States by name and saying something snappy and crisp with regard to them. I differ entirely with that criticism. I do not think that using strong words or having anything declamatory in a bill makes anything for it. On the contrary, when you say that no State shall be permitted to do a certain thing under certain circumstances, that includes all States. A very old lawyer in my State once said to a nervous client who was troubling him about a contract, thinking the thing was not sufficiently described, that it did not say all that was necessary. "Never mind; when you said that you sold a horse, that meant that you sold his head and his tail and his mane and all the rest of him, just as if you wrote it all down." So I think when you say that votes shall not be counted from any State whatever, in which such a condition of things exists as is here described, that is no more velvet-footed, it is no more squeamish or mealy-mouthed than it would be if you wrote in the names of all these States and called them some hard name besides.

Now, Mr. President, there is no doubt whatever as to the meaning of this provision as it will stand in the light in which it was criticised last evening by the Senator:

Unless at the time prescribed by law for the choice of electors there shall be in such State a government recognized by Congress.

Stopping there the criticism might be that Congress had recognized the provisional governments in the South, or had in time gone by recognized the old governments. Therefore the provision is:

Unless there shall be in such State a government recognized by Congress as regular and permanent and not provisional only.

Stopping there the criticism might be, "True, there may be such a government there,

but yet they may have elected these electors under the old governments which are held by those of a certain opinion to have smoldered and continued through the rebellion." To meet that the further safeguard is:

Nor unless the election for electors shall have taken place under the authority of a State government so recognized.

Does not that provide for every case?

Mr. HOWARD. Will the Senator allow me to call his attention to one fact?

Mr. CONKLING. Certainly.

Mr. HOWARD. It is claimed by the President of the United States, certainly a very sagacious man in some respects, as well as by his entire train of followers, including the whole of the Democratic party lately so ably represented in the New York convention, that Congress has already recognized the Johnson governments established in the ten rebellious States. Does the Senator from New York intend to leave that question open by his amendment; and does he not leave that question open for discussion; and may it not happen in the future that under such a provision the two Houses might hold that the governments established under the decrees of Johnson were the recognized governments of the rebel States? Had we not better close the door against all doubt on that point? I look upon it as one of great delicacy, not to say difficulty, in the future.

Mr. CONKLING. I hardly think the Senator would have asked that question if he had attended to the reading of the language of the amendment; but as he has asked it let us examine the language once more:

Unless at the time prescribed by law for the choice of electors there shall be in such State a government recognized by Congress as regular and permanent, and not provisional only.

Upon that language I have two points to which I should like to direct the Senator's attention. "Unless there shall be in such State a government." What does that imply? A government in existence, not merely a government in theory. I have not a right to say that? Because the subsequent provision is that the election must have been held under the authority of that government. Therefore is it not merely hypercritical, but is it not going a bow-shot beyond hypercriticism for the Senator to insist that this might be held to mean the Johnson provisional governments, when, in the first place, in every one of these States the ground is occupied by a later government substituted for it, and when the amendment expressly provides that every government which has been recognized merely as provisional is denounced by its terms, and that electoral votes coming from such a government as that shall not in any event be considered.

Mr. HOWARD. The honorable Senator will not fail to observe that Mr. Johnson and his followers do not regard those governments established by him as provisional governments. They are spoken of by him and them as the permanent lawful governments of the States, and in no sense provisional. The addition of the word "only" certainly gives no force to the language.

Mr. CONKLING. The honorable Senator loses sight of the parties to this controversy. The bill is not providing in reference to governments recognized by the President; it is providing for governments recognized by Congress; and does the Senator say that Congress, even if it can be said that those governments were ever recognized at all by Congress, recognized them in any sense except as provisional and temporary governments merely? The language of the statutes, several of them, is the precise language here. I not only say that no votes shall be counted from a government which has been recognized as provisional, but I add after "provisional" the word "only," and therefore, how does the Senator make headway when he argues that the President has recognized those governments? Has Congress recognized them? That is the point.

Mr. HOWARD. I do not argue that there



is any weight in the recognition of these governments by the President; I do not think there is. I do not think he had any right to recognize governments in the rebel States at all. I suppose the honorable Senator and myself agree on that subject; but there is a party who hold that his organization of State governments in the rebel States was valid and constitutional, and that those governments are the permanent lawful governments of the States; and they insist upon it, they have insisted upon it in this Chamber, as the honorable Senator knows very well, that Congress has on repeated occasions recognized by its legislation the existence and the validity of those governments. Would the honorable Senator leave that very important question open to debate and discussion hereafter?

Mr. CONKLING. Not at all; and therefore I propose to close the question by excluding from the provision all governments which have been recognized as temporary or provisional. Now, does the Senator mean to say that anybody has argued that Congress, speaking at this time, recognizes or has recognized those governments as legitimate, permanent governments, contradistinguished from provisional governments, when the President himself and his party, as has been argued here over and over again, and greatly at length the other day by the honorable Senator from Indiana, [Mr. HENDRICKS,] have never treated them as anything except temporary and provisional governments?

It may be said that that objection which the honorable Senator makes, which is so unlike the objection he made last night, has the recommendation of ingenuity; but he must pardon me for saying that I do not see that it has. It seems to me that it is a criticism made in the very teeth and letter and obvious meaning of the provision. "Unless at the time prescribed by law for the choice of electors, there shall be in such State a government recognized by Congress as regular and permanent, and not provisional only." How anybody in the face of that language can say that there is room for the shadow of a doubt as to its meaning in the behalf suggested I cannot comprehend.

Mr. BUCKALEW. I will ask the Senator whether his amendment would not exclude the votes of States situated as Wisconsin once was, whose votes were counted in the joint convention of the two Houses? Would it not exclude the votes of States that may have been taken under provisions made by their constitutional conventions before State organizations have been actually organized or an act of the State Legislature passed authorizing the election of electors? There may be cases of that kind where it would operate very inconveniently; cases where there would be no question about the validity of the new State; no objection to its organization or its constitution; and yet it might not have gone through all the necessary forms to meet the requirements of his amendment before the electoral votes were taken.

Mr. CONKLING. I should like to ask the Senator what he means by not having gone through the forms required by this amendment?

Mr. BUCKALEW. The form of setting up a State government, and having regular authority by virtue of State law for holding the election of electors, and the acceptance of the constitution by Congress, and the admission of Senators and Representatives, all which would seem to be contemplated as constituting recognition by Congress under the amendment.

Mr. CONKLING. I do not understand the provision at all as the Senator does in that respect. The original proposition recites what are to be the prerequisites, and recites the things to which the Senator has referred among others. This provision is that there shall be in the State a government which Congress recognizes, and that the election shall have taken place under the authority of that government. If the Senator can put me the case of a Territory which does not come within this

provision, the votes from which ought to be counted, I should like to hear such a case as that stated.

Mr. BUCKALEW. Of course the territorial organization might continue until the State was fully organized under the enabling acts of Congress. The electoral votes might be taken before the new State organization was perfected, and yet there be no earthly objection to the reception of those votes.

Mr. CONKLING. How would this amendment interfere with that?

Mr. BUCKALEW. I think it would exclude the vote.

Mr. CONKLING. If the Territory is to be treated as a State within the provision at all, then it seems to me the language is exactly adapted to admit it. Why not? It would have a government, which government would be recognized by Congress, and the election would have taken place under the authority of that government. That is precisely what is provided for here.

Mr. BUCKALEW. I think the new government set up in such a case would be strictly provisional, until the State constitution and representatives should be accepted by Congress, and the State fully admitted. It would fall exactly under the description of a provisional government.

Mr. CONKLING. I do not think so. I cannot imagine any case which would fall within it. I do not think there can be such a case put. If there can then it would be impossible to have any general provision on this subject, and it would be impossible, I submit to the Senator, to execute in its terms the mandate of the Constitution in that respect.

Mr. DRAKE. I will state to the honorable Senator from New York that just such a case has occurred in the history of this country. The constitution of the State of Missouri was adopted in July, 1820, the year of a presidential election. Suppose that State had gone on at the presidential election to elect electors in the expectation of being admitted. There would occur a case where it had not been recognized at the time of the election in November, and such a case may occur again, and yet Congress would recognize it afterward, and before the counting of the electoral vote. If the honorable Senator perceives my meaning, he will perceive at once a case that might arise.

Mr. CONKLING. I say that is a case that did not happen. If in addition to what did occur other things had occurred that would have been a case. My answer to it, to be brief, is this: there are several answers to it, but one will do; if afterward Congress recognized it as a State, that would be the end of the whole thing. If Congress did recognize it and did count the votes, of course it would be held to be within the provision as it would be, and that would settle it altogether. You might state the case on the constitution as it stands just as strongly as you can state it upon this provision, and I ask the Senator from Missouri to look at the language of the Constitution: "Each State shall appoint in such a manner as the Legislature thereof may direct." That cannot happen in such case as he states, for it would not be a State, but Congress afterward in the case he has supposed would condone that and treat it as State for that purpose, and that would settle the whole thing, and that would be just as much under this declaratory provision as it would be under the Constitution without any provision of law about it, because if you are to stick in the letter the Constitution stands just as much in your way as would a provision of this sort.

Mr. DRAKE. How can that be, when the Senator's amendment says that at the time prescribed by law for the choice of electors there shall be in such State a government recognized by Congress, and the election shall have been held under the authority of that government. The constitution of the State of Missouri was formed in July, 1820, and its Legislature was elected in August, 1820, and that Legislature went on to perform the functions of a State

Legislature and elected Senators in Congress, and they by virtue of that election were admitted into Congress as soon as the State was admitted. Now, suppose a question had never arisen there in regard to the admissibility of Missouri; suppose a controversy over the question of slavery had not arisen, and Missouri had been admitted before the counting of the votes, but not before the day of the election, and had presented her electoral votes, if such a law as this had been on the statute-book, it would have excluded them and required repeal.

Mr. CONKLING. To go back to the point of the Senator's question, which, I think, was in his first suggestion, all that can be just as the Constitution can be, and if the Senator will give me his attention I will try to answer him precisely. "Each State shall appoint in such manner as the Legislature thereof may direct." That implies literally that there is to be a State with a Legislature, and that the direction is to precede the choice of electors, not only to be at the same time, but earlier than that. To enforce this literally, how could you ever count the votes in such a case as he has put? You could not do it obviously, because there was no State, there was no Legislature of a State prior to or at the time of the choice, and therefore all you can do is to condone it and treat it as virtually complied with afterward when you count the votes, and that you can do under this provision. If the Senator will look at the Constitution he will find that his criticism is just as strong applied to the discrepancies between the case he states and the Constitution itself, and I think more so, than it is between the case he states and this provision.

Mr. President, I have occupied much more time about this matter than I intended when I rose; and when I make a single further observation, I shall relieve the Senate. I do not think it is worth while for legislative or for political purposes to put forth in an act of Congress the idea that we expect that the particular States which we have been reconstructing are to tumble down or collapse before the next presidential election. I do think it is prudent to have a general provision on this subject for abundant caution, as we had in 1864; and as we are compelled to make one now in reference to the three States of Virginia, Mississippi, and Texas, which are not in condition to vote, I think it is worth while, while attending to them, to extend it so as to provide for any possible danger; but to select suspiciously and tremulously those States which we have just rebaptized, and say that while we fear no commotion anywhere else, we are trembling lest there the rebellion should break out again, as an act of legislative or party policy does not commend itself to my judgment. Nor does it commend itself to my judgment to pass a temporary act, as we did in 1864; and now let me remind my honorable friend from Michigan that if ten years ago the very proposition which I offer to-day had been adopted, there would have been no such occasion in 1864. He will agree with me about that. There would not have been any necessity for the provision, nor any proposition by joint or concurrent resolution in 1864 to provide for this.

If the provision is adopted now no matter what may take place in this presidential election or any future presidential election on this head, we have a statute which stands a harmless statute unless difficulty arises, and which, if difficulty of this sort does arise, will provide for every case, be it North, South, East, or West, just as well for a Dorr or a Shay's rebellion, or an anti-rent rebellion in the State of New York, as for secession in the State of South Carolina. While we are about it why should we not adopt a general and lasting provision on this subject, disclosing no weakness and no unreal apprehension in any direction, but providing abundantly for every adverse contingency which any Senator can apprehend?

I have no pride about this, Mr. President, I need not say. I shall vote with great pleasure for the original proposition introduced by the Senator from Vermont, if we come to that,

with one or two amendments, which I shall take the liberty to offer; and I have no doubt that, so far as the present occasion is concerned, and the substance of it, that provision will be adequate; and yet I must think that a general provision to be made durable, and to apply to all cases, would be much wiser for the present and the future than this special and temporary proposition.

Mr. DRAKE. Mr. President, there is so much said in the Senate that might just as well not be said for the purpose of shedding light on any question that the greatest trouble I ever have to address the Senate at all is to determine whether I have anything worth saying. I think there is something worth saying about this matter. I am not going to wander from the points of the case and not going into any political discussion; I simply wish to have the matter shown in its true light and in as brief terms as I can possibly command.

It is of no manner of use for the Senator from New York to talk about introducing a general proposition here and putting it upon the statute-book of the country when he knows, as well as he knows anything else, that it never would have occurred to him in the world to introduce such a proposition as this but for the fact that this Congress has been through its whole history so far, and the next preceding Congress through its whole history, dealing with States that were in insurrection; and, sir, we might just as well come out and treat the subject upon that basis, admit to the country that we are still dealing with States that were in insurrection and not undertake to salve over the whole thing by adopting a general proposition which, in my opinion, is an insult to the loyal States to adopt at all. The very proposition that we have gone upon in all our legislation is that these insurrectionary States ceased to be States in connection with the Union by their insurrection, and that it was necessary that they should be readmitted to representation in Congress. The amendment that I propose directly affirms that fact by its terms. The Senator from New York shies clear round it, and says nothing whatever about it. It does not refer, either, to the insurrectionary States; but proceeding upon the idea that there is a necessity for a general law, it goes into the enactment of a law which could have no possible necessity except in the fact that insurrectionary States exist.

Why should we do this? Why should there be such a law put on the statute-book with regard to Maine, Vermont, New Hampshire, Massachusetts, Missouri, and all the other loyal States of the Union to determine the question here whether their governments had been recognized by Congress when the joint session of the two Houses meet in February next? There is necessity for it. I do not understand the reason which lies at the bottom of the amendment of the Senator from New York. Does he dislike to come up and talk in plain terms about these insurrectionary States and deal with them upon the basis of their readmission to Congress and the substitution there of lawful and permanent for provisional governments? If he does, I do not. I choose to take this matter by the horns exactly as it stands, to put no general statute upon the book for which there can be no justification in the circumstances of the country. You can find no justification in the condition of any of the States but those that engaged in rebellion; and I wish to make it distinctly and pointedly applicable to them. This is the whole purpose of my amendment; that is the difference between the amendment of the Senator from New York and the one that I have proposed, that he undertakes to deal as to the whole nation and all the States on a condition of things that is not applicable to all, while I undertake to deal with the rebel States and the condition of things applicable to them only. Therefore, sir, it is that I think the amendment I have proposed is preferable to his.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from

New York [Mr. CONKLING] to the amendment of the Senator from Missouri, [Mr. DRAKE.]

The question being taken by yeas and nays, resulted—yeas 19, nays 20; as follows:

YEAS—Messrs. Conkling, Cragin, Fessenden, Fowler, Harlan, Henderson, Howe, McDonald, Morgan, Osborn, Patterson of New Hampshire, Ross, Stewart, Thayer, Trumbull, Van Winkle, Wade, Willey, and Wilson—19.

NAYS—Messrs. Buckalow, Cattell, Cole, Conness, Davis, Drake, Edmunds, Ferry, Howard, McCreery, Morrill of Maine, Morrill of Vermont, Morton, Nye, Pomeroy, Sumner, Tipton, Vickers, Williams, and Yates—20.

ABSENT—Messrs. Anthony, Bayard, Cameron, Chandler, Corbett, Dixon, Doolittle, Frelinghuysen, Grimes, Hendricks, Norton, Patterson of Tennessee, Ramsey, Rice, Saulsbury, Sherman, Sprague, and Welch—18.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from Missouri.

Mr. DRAKE. I propose to amend the amendment by inserting in the first line after the word "heretofore" the words "declared to be."

The PRESIDENT *pro tempore*. The amendment will be so modified. The question is on the amendment.

Mr. POMEROY. We have never declared them to be simply in insurrection; we always say "rebellion."

The PRESIDENT *pro tempore*. Five o'clock having arrived, the Senate according to the order will take a recess until half past seven o'clock.

#### EVENING SESSION.

The Senate reassembled at seven and a half o'clock p. m.

#### POST ROADS.

On motion of Mr. RAMSEY, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 589) to establish certain post roads.

Mr. RAMSEY. I am instructed by the Committee on Post Offices and Post Roads to move a few amendments. I move to strike out lines seven and eight, under the head of "California," in these words:

From Trinity Centre via Summersville, Petersburg, Cecilville, Centreville, and Black Bear to Sawyer's Bar.

The amendment was agreed to.

Mr. RAMSEY. I move to strike out line thirty-seven under the head of Minnesota, in these words:

From Sauk Rapids, via Princeton, to Taylor's Falls.

The amendment was agreed to.

Mr. RAMSEY. I move to insert after line twenty-one:

#### KANSAS.

From Waterville, via the county seat of Clay, Cloud, Ottawa, and Saline counties, and Sharp's Creek to Wichita on Walnut Creek.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### MAQUOKETA RIVER.

The Senate proceeded to consider the amendment of the House of Representatives to the joint resolution (S. R. No. 107) in relation to the Maquoketa river in the State of Iowa.

The amendment was to add as an additional section to the resolution, as follows:

And be it further resolved, That dams and bridges may be constructed across the Iowa river in the State of Iowa above the town of Wapello.

Mr. HARLAN. I move that the Senate concur in that amendment, and I will state that the Legislature of the State has memorialized Congress asking for this authority.

The amendment was concurred in.

#### TARGET-SHOOTING ASSOCIATION.

The Senate proceeded to consider its amendments to the bill of the House (H. R. No. 344) to incorporate the Washington Target-Shooting Association, in the District of Columbia, disagreed to by the House; and

On motion by Mr. HARLAN,

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. HARLAN, Mr. CONKLING, and Mr. VICKERS.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating further, in connection with his message of the 23d of May last, information relative to transactions which have occurred in Japan in connection with the civil war which exists in that empire; which was referred to the Committee on Foreign Relations.

#### WAIT TALCOTT.

On motion of Mr. TRUMBULL, the bill (H. R. No. 1099) for the relief of Wait Talcott was considered as in Committee of the Whole. It is a direction to the Secretary of the Treasury to credit to Wait Talcott, (as of the 18th February, 1865,) internal revenue collector for the second district of Illinois, the sum of \$556 93, in consideration of the loss of that sum by the robbery of his deputy, Captain Richard A. Smith.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 1337) to increase the pension of Mrs. Frances T. Richardson was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

The bill (H. R. No. 1363) to increase the pension of Emily B. Bidwell was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

The joint resolution (H. R. No. 329) to amend the fourteenth section of an act approved July 28, 1866, entitled "An act to protect the revenue, and for other purposes," was read twice by its title, and referred to the Committee on Finance.

#### VALLEJO AND HUMBOLDT BAY RAILROAD.

Mr. CONNESS. I move to take up for consideration Senate bill No. 349. My object is to get the bill read; I shall not ask action upon it just now.

The motion was agreed to; and the bill (S. No. 349) granting aid in the construction of a railroad from the town of Vallejo to Humboldt Bay, in the State of California, was considered as in Committee of the Whole. The Committee on Public Lands proposed to amend the bill by striking out all after the enacting clause and inserting:

That there be, and is hereby, granted to the State of California, for the use and benefit of the San Francisco, Vallejo, and Humboldt Bay Railroad Company, (a company organized and created under the general laws of said State,) the right of way through the public lands of the United States for the construction of a railroad and telegraph line from the town of Vallejo to Humboldt bay, and the right, power, and authority is also hereby given to take from the public lands adjacent to the line of said road material of timber, earth, and stone for the construction thereof; said way is granted to the extent of one hundred feet in width on each side of said railroad, where it may pass through the public domain.

SEC. 2. And be it further enacted, That there be, and hereby is, granted for the purpose of aiding in the construction of said railroad and telegraph line, and to secure the transportation of the mails, troops, munitions of war, and public stores over the route of said line of railway, every alternate section of public land, not mineral, designated by odd numbers, to the amount of five alternate sections per mile on each side of said railroad on the line thereof, between Calistoga Springs and Humboldt bay, where the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from preemption or other claims or rights at the time the line of said road is designated by a plat thereof filed in the office of the Commissioner of the General Land Office. And whenever, prior to said time, any of said sections or parts of sections shall have been granted, sold, reserved, occupied by homestead settlers, or preempted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof, under direction of the Secretary of the Interior, in alternate sections, and designated by odd numbers, not more than five miles beyond the

limits of said alternate sections, and not including the reserve numbers: *Provided*, That all mineral lands be, and the same are hereby, excluded from the operations of this act: *Provided further*, That the word "mineral," where it occurs in this act, shall not be held to include iron or coal: *Provided further*, That the lands hereby granted to aid in the construction of said railroad shall be sold by the State of California to actual settlers in quantities not to exceed one quarter section to any one person, and at a price to be fixed by the company not exceeding \$2 50 per acre, and the amount received for said land shall be paid by the State to said company, after deducting all the expense incurred by the said State in making such sales. And all sales so made shall be made upon the following terms, namely, one-fourth of the amount thereof shall be paid in cash at the time of purchase, and the balance thereof shall be paid by the settler in three annual installments with interest, not to exceed seven per cent. per annum, until paid. And the Secretary of the Interior shall have power to prescribe rules and regulations for carrying this act into effect, and no person shall be deemed an actual settler who does not furnish evidence, in such form as the Governor of the State may prescribe, that it is his or her intention to enter upon, improve, and reside upon the lands he or she may purchase: *Provided further*, That any alternate even-numbered sections along the line of any railway, which have not been sold or entered upon by actual settlers within ten years from and after the survey and location of said railway, shall be disposed of on the same terms as other public lands of the United States.

SEC. 3. *And be it further enacted*, That whenever said San Francisco, Vallejo, and Humboldt Bay Railroad Company shall have ten consecutive miles of any portion of said railroad and telegraph line ready for the service contemplated, the Governor of the State of California shall certify to the Secretary of the Interior that ten consecutive miles of the said road and telegraph line have been completed in a good, substantial, and workmanlike manner, as in all other respects required by this act; and thereupon patents of lands, as aforesaid, shall be issued to said State, confirming to the said State for the said company the title to said lands situated opposite to and commencing with said completed section of said road. And from time to time, whenever ten additional consecutive miles shall have been constructed, completed, and in readiness as aforesaid, and verified as aforesaid to the President of the United States, then patents shall be issued to said State for the use of said company, conveying the additional sections of lands as aforesaid, and so on as fast as every ten miles of said road is completed.

SEC. 4. *And be it further enacted*, That said Vallejo and Humboldt Bay railroad shall be constructed in a substantial and workmanlike manner, with all the necessary draws, culverts, bridges, viaducts, crossings, turn-outs, stations, and watering-places, and all other appurtenances, including furniture and rolling-stock, equal in all respects to railroads of the first class when prepared for business, with rails of the best quality; and a uniform gauge, being the same as that of the Union and Central Pacific railroads, shall be established throughout the entire length of the road. And there shall be constructed a telegraph line of the most substantial and approved description to be operated along the entire line. And it shall be the duty of the San Francisco, Vallejo, and Humboldt Bay Railroad Company to permit any other railroad which shall be authorized to be built by the United States, or by the Legislature of the State of California, to form running connections with it on equitable, just, and fair terms.

SEC. 5. *And be it further enacted*, That the President of the United States shall cause the lands to be surveyed for ten miles in width on both sides of the entire line of said road, after the general route shall be fixed, and as fast as may be required by the construction of said railroad; and the said odd-numbered sections of land hereby granted shall not be liable to sale or entry or preemption after the line of said railroad is designated by a plat filed in the office of the Commissioner of the General Land Office, as provided in section two of this act, except by said company, as provided in this act. And the reserved alternate even-numbered sections shall not be sold by the Government at a price less than \$2 50 per acre when offered for sale.

SEC. 6. *And be it further enacted*, That each and every grant, right, and privilege herein, are so made and given to and accepted by said San Francisco, Vallejo, and Humboldt Bay Railroad Company, upon and subject to the following conditions, namely: that the said company shall commence the work on said road within one year from the passage of this act, and shall complete not less than ten miles per year after the second year, and shall construct, equip, furnish, and complete the main line of the whole road by the 4th day of July, A. D. 1880.

SEC. 7. *And be it further enacted*, That the United States make the several conditional grants herein, and that the said San Francisco, Vallejo, and Humboldt Bay Railroad Company accept the same upon the further condition that if the said company make any breach of the condition hereof, and allow the same to continue for upward of one year, then in such case, at any time hereafter, the United States may do any and all acts and things which may be needful and necessary to insure a speedy completion of the said road.

SEC. 8. *And be it further enacted*, That the acceptance of the terms, conditions, and impositions of this act by the said San Francisco, Vallejo, and Humboldt Bay Railroad Company shall be signified in writing under the corporate seal of said company, duly executed pursuant to the direction of its board of directors, first had and obtained, which acceptance shall be made within one year after the passage of this

act, and not afterward, and shall be deposited in the office of the Secretary of the Interior.

SEC. 9. *And be it further enacted*, That the directors of said company shall make and publish an annual report of their proceedings and expenditures, verified by the affidavits of the president and at least five of the directors, a copy of which shall be deposited in the office of the said Secretary of the Interior.

SEC. 10. *And be it further enacted*, That the better to accomplish the object of this act, namely: to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order, and to secure to the Government at all times, but particularly in time of war the use and benefits of the same for postal, military, and other purposes, Congress may at any time, having due regard for the rights of said San Francisco, Vallejo, and Humboldt Bay Railroad Company, add to, alter, amend, or repeal this act.

Mr. CONNESS. Now I move that the bill be postponed until to-morrow.

The motion was agreed to.

#### PENSION BILLS.

A message from the House of Representatives, by Mr. McPHERSON, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 614) for the relief of Mrs. Alice A. Dryer;

A bill (H. R. No. 851) granting a pension to Ann Williams;

A bill (H. R. No. 886) for the relief of Mrs. Mary J. Trueman;

A bill (H. R. No. 991) for the relief of Zaddock T. Newman;

A bill (H. R. No. 1263) granting a pension to Joseph A. Fry;

A bill (H. R. No. 1295) granting a pension to William J. Cotty, late of the twenty-first Missouri infantry volunteers;

A bill (H. R. No. 1315) for the relief of Seth Lea;

A bill (H. R. No. 1331) for the relief of Nancy Cook, of Tennessee;

A bill (H. R. No. 1332) for the relief of Barbara Stout, of Tennessee;

A bill (H. R. No. 1382½) granting a pension to Sarah E. Ball, widow of James Ball, deceased, late fireman on the steamer Vedette, connected with the Burnside expedition;

A bill (H. R. No. 1383) granting a pension to Miss Ann E. Hamilton, of Alleghany city, Pennsylvania, aunt and adopted mother of James E. McKillip and Charles P. McKillip, deceased, late soldiers in the Union Army;

A bill (H. R. No. 1384) granting a pension to Mrs. Elizabeth Lane, of Boston, Massachusetts, mother of John Lane, deceased, late a private in company A, twelfth regiment Massachusetts volunteers;

A bill (H. R. No. 1385) granting a pension to Rosinda McCalee, widow of Barney McCalee, deceased, late a private in company I, tenth regiment New York cavalry volunteers;

A bill (H. R. No. 1386) granting a pension to Hinman L. Hall;

A bill (H. R. No. 1387) granting a pension to Elizabeth G. Hibben, widow of Rev. Samuel Hibben, deceased, late a chaplain in the fourth cavalry regiment, Illinois volunteers;

A bill (H. R. No. 1388) granting a pension to Kate Higgins;

A bill (H. R. No. 1389) granting a pension to Eliza Donnelly, mother of Dudley Donnelly, deceased, late colonel of the twenty-eighth regiment infantry, New York State volunteers;

A bill (H. R. No. 1390) granting a pension to Michael Reilly;

A bill (H. R. No. 1391) granting a pension to Jane McNaughton;

A bill (H. R. No. 1392) granting a pension to Chauncey D. Rose, father of Alvin J. Rose, late a sergeant-veteran in company A, second regiment of Ohio cavalry volunteers, who was killed in action at Five Forks, Virginia, April 1, 1865;

A bill (H. R. No. 1393) granting a pension to Hugo Eichholtz;

A bill (H. R. No. 1394) granting a pension to Daniel Sheets;

A bill (H. R. No. 1395) granting a pension to Esther C. C. Vangilder, widow of Charles F. Vangilder, deceased, late a private in com-

pany M, first regiment Vermont heavy artillery volunteers;

A bill (H. R. No. 1396) granting a pension to Stephen T. Carver;

A bill (H. R. No. 1397) granting a pension to Prescott Y. Howland;

A bill (H. R. No. 1398) granting a pension to Martin Burke;

A bill (H. R. No. 1399) granting increased pension to William B. Edwards;

A bill (H. R. No. 1400) granting a pension to Jonathan H. Perry;

A bill (H. R. No. 1401) granting a pension to John La Marsh;

A bill (H. R. No. 1402) granting a pension to Catharine Skinner;

A bill (H. R. No. 1403) granting a pension to Helen L. Wolf;

A bill (H. R. No. 1404) granting a pension to William Smith;

A bill (H. R. No. 1405) granting a pension to Elizabeth Lamar;

A bill (H. R. No. 1406) granting a pension to Patrick Collins;

A bill (H. R. No. 1407) granting a pension to John Gridley;

A bill (H. R. No. 1408) granting a pension to Catharine Gensler;

A bill (H. R. No. 1409) granting a pension to Asa F. Holcomb;

A bill (H. R. No. 1410) granting back pension to the minor children of Joseph Berry;

A bill (H. R. No. 1411) granting a pension to Polly W. Cotton;

A bill (H. R. No. 1412) granting a pension to the children of William R. Silvey;

A bill (H. R. No. 1413) granting a pension to Jane Kook; and

A bill (H. R. No. 1414) granting a pension to Sarah K. Johnson.

These bills were read twice by their titles, and referred to the Committee on Pensions.

#### ELECTORAL VOTES OF LATE REBEL STATES.

Mr. EDMUNDS. Now I call for the regular order.

The PRESIDENT *pro tempore*. The unfinished business of the morning session is the joint resolution (S. R. No. 139) excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized. That joint resolution is before the Senate as in Committee of the Whole; and the pending question is on the amendment of the Senator from Missouri, [Mr. DRAKE.]

Mr. DRAKE. With regard to that amendment, in consequence of a suggestion made by the Senator from Kansas just before the Senate adjourned, as to the use of the word "insurrection," I have examined the acts of 1861, and the proclamation of the President in regard to the insurrectionary States, and have found that I had correctly used the word "insurrection." I have now modified my amendment so as to embrace the very language of the acts and proclamations of 1861; and it reads thus:

"No State whose inhabitants were by the proclamation of the President of the United States of August 16, 1861, declared to be in a state of insurrection, shall be entitled to representation in the Electoral College for the choice of President and Vice President of the United States, nor shall any electoral vote be received or counted from any such State, unless at the time prescribed by law for the choice of such electors the State shall have been readmitted to representation in Congress, nor unless the electors shall have been chosen under and by authority of a State government theretofore recognized by Congress as lawful and permanent, and not provisional."

Mr. EDMUNDS. I wish Senators to pay a little attention, because the only object any of us have is to get the measure in the best form. I studied the subject somewhat myself before the original resolution was introduced; and going over the debates of 1864 and 1865, and the various forms in which Senators then offered amendments to reach this same result, I thought it was altogether wiser to take what was then settled upon as the foundation of this proposition, because men of all parties agreed to that form and voted for it. As I stated to-day, it was maintained that in that form it was the true and proper expression of legislative will; and I would be glad to have



the Associated Press—who have to-day, I see, reported my advocacy of the joint resolution, which was all I was entitled to, but who have omitted to report what I read as to the previous opinions and declarations of the Senator from Kentucky and the Senator from Maryland and the Senator from Illinois—if it is not too much trouble to them, to put what they said, or the substance of it, into their report, because, as the report goes out to the country in the evening papers, the Senator from Kentucky is represented as contending that Congress has not any power or jurisdiction whatever over this question. I would beg of the Associated Press, as a favor to the country, and for the cause of history, to put in the opinion of the honorable Senator from Kentucky delivered three years ago, in which he most clearly demonstrated that this was one of the subjects over which Congress had jurisdiction, and upon which they ought to act.

That having been settled in 1865, and in this very form that the resolution I have introduced settles it, naming the States, and declaring what should be the rule as it respects those States, I thought it was altogether wiser upon a question of this kind that we should take that as the settled and proper form, and merely reenact it by declaring that the state of things which then existed still continued until those communities should have restored themselves according to the plan laid down by Congress.

Mr. DAVIS. With the honorable Senator's permission, as he has referred to the argument contained in the remarks which I made in 1865, I beg to say that he is mistaken. I did not admit the power of Congress to decide whether a State had the right to cast electoral votes or not. What I admitted was that Congress might regulate the simple matter of computing the electoral votes. If I recollect what I did say, and if I recollect what the honorable Senator read this morning from that debate, this was the extent of my position.

Mr. EDMUNDS. To that I have only to reply by asking the reporters of the Associated Press to report exactly what the Globe shows that the Senator from Kentucky did say, which I read this morning, and the country then will judge what his two positions are as distinguished between 1865 and 1868.

Mr. DAVIS. I am sorry that the honorable Senator gives himself any trouble about what the reporters of the Associated Press report of his remarks.

Mr. EDMUNDS. I do not.

Mr. DAVIS. I never give myself any trouble about or any attention to what they report me as saying. I would as soon they should report one thing of me as another, because I care not what they do report, and I should hope the honorable Senator was as indifferent as I am in relation to that matter.

Mr. EDMUNDS. I have found no fault with the Associated Press as to reporting me. They have always done me entire justice by condensing what I have to say into a very narrow compass indeed. What I was saying was that inasmuch as my honorable friend from Kentucky is known over the whole country as a public man and as a jurist, I hoped they would do the country the benefit of reporting what he did declare in 1865 as well as what he declared to-day. That is all.

Mr. DAVIS. I am obliged to the honorable Senator for his courtesy, and I hope he will extend it a little further by reading himself all that I said on the subject.

Mr. EDMUNDS. I have done so with the greatest satisfaction and instruction. Now, to come back to the precise point that is pending: when you have studied the debates of 1865 and the form in which they were finally crystallized into a statute, we find that our predecessors at that time thought the wise and safe way was to say exactly what we did mean as it respected the very States of which we spoke, and it therefore declared that those States, naming them, there having been votes sent here from two of them, were not legally entitled to be represented, using in the main,

so far as the prohibitory branch of it is concerned, the very language which is contained in the joint resolution now reported from the Committee on the Judiciary, and which was copied from that joint resolution. That resolution had a preamble which recited "that the inhabitants and local authorities of the States of Virginia, North Carolina," and so on, reciting them, "rebelled against the Government of the United States, and were in such condition on the 8th day of November, 1864, that no valid election for electors of President and Vice President of the United States, according to the Constitution and laws thereof, was held therein on said day;" and therefore Congress proceeded to resolve that "the States mentioned in the preamble" were "not entitled to representation in the Electoral College" at that election. That was the declaration. Now, this joint resolution stands precisely upon that position, which was then agreed to, with the concurrence of all parties, and merely declares, naming those same States, that they shall not now be entitled to representation unless they shall have organized themselves into a new political community, and shall have thereafter once more been restored into the brotherhood of States. It is a logical, necessary consequence of that legislation. Now, on a question which is represented by the Senator from Illinois and several others to be a delicate question, is it not wiser to take a settled form, and follow it in substance and in form, which has been agreed to by gentlemen of all parties, than it is to resort to any new rule? I think it is; and it was so thinking, and after having tried almost all the experiments that my friend from Missouri and my friend from New York have, that I came to the conclusion that it was wisest to follow what our predecessors had settled upon.

One very serious objection to the amendment proposed by the Senator from Missouri, until he has now modified it in the light of later events, (which shows how unsafe it is to pass upon an amendment in a hurry,) was that as he proposed it it declared that "no State heretofore in insurrection" should be entitled to representation, &c. That leaves open the very question that we are trying to foreclose, because our honored friends on the other side maintain that no State as a State ever has been in insurrection or rebellion. That is the very dogma upon which they hang all their hopes. But my friend from Missouri has now modified it, so that as to that particular objection the difficulty is removed, and his amendment now provides that "no State whose inhabitants were by the President's proclamation of August 16, 1861, declared to be in a state of insurrection shall be entitled," and then copies at quite a little distance the language of the original joint resolution. I do not now remember whether all these States were named in the proclamation of 1861. I presume the Senator from Missouri has looked to that.

Mr. DRAKE. Every one.

Mr. EDMUNDS. That proclamation, as I remember it, was partial as to several States, omitting several districts in some of the States, and naming the others altogether. Of course in a running debate in the Senate we cannot tell precisely how such a provision will apply. But still if Senators think it is better, instead of naming, as the joint resolution of 1865 did, by name the very States that we meant to operate upon, and in respect to which as a matter of precaution there is a necessity for action, to pass a general formula, be it so. Action is called for, not necessarily on account of the violence that has been talked of, but because according to the distinct announcement of the Democratic press and of the Democratic leaders it is fairly to be presumed that there is an intention to have a vote cast for electors there by white men, as they call them, not necessarily by overturning the other governments, but quietly, and on the ground that by the laws of 1860, still in force as they say, the white men are entitled to do that—to have a quiet election and send on a set of votes from

the white men alone, when another set will come from the reorganized governments. It is, therefore, necessary to declare by law which of these two ostensible representations from such a State is to be received.

Then there is another provision in this amendment that these States shall not be entitled to hold this election, and so on, until the States "shall have been readmitted to representation in Congress." It is a somewhat equivocal phrase. One gentleman would say "that meant 'until they had become entitled to representation,'" and so far I should agree to it. Another would say, my honorable friend from Pennsylvania with his keenness and clearness would say "that meant 'until their Senators and members had been actually admitted,'" that they could not hold an election although they might have become entitled to be admitted, and therefore next February, when the votes come to be counted, if the State of Alabama or North Carolina should happen to have voted in a direction that he should consider to be the wrong one or the unconstitutional one, and their Senators and Representatives had not before the 8d of November actually taken their seats, he would say their votes under this provision were not to be counted. That may or may not be a correct construction. It is somewhat equivocal. It will bear either interpretation, whereas the object of this law is to provide against any such open question being raised and to determine by a rule which does not admit of any misinterpretation, no matter how ingenious may be the person who would wish to misinterpret it, what shall be done in that contingency.

Now, Mr. President, saying this, and only saying it in the interest of getting that which shall state what we propose in the clearest and most specific way, having the sanction of all parties for its form adopted in 1865, I feel obliged to oppose this amendment of my friend from Missouri. Otherwise I have no objection to his amendment or to that of my friend from New York. What they desire I desire.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Missouri.

Mr. DRAKE. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DRAKE. I notice one feature of the original joint resolution to which I desire to call the attention of the Senate. Simply that if the Senate choose to put this matter upon that basis, it will do so with a full knowledge of the exact position of things. The original resolution does not make the admission of the electoral vote of any of these States dependent upon the readmission of the Representatives and Senators of these States to their seats in Congress, but upon the fact that the people of such State and before the day of choosing the electors have adopted a constitution under which a State government shall have been organized and shall be in operation. Therefore, Mr. President, we are to leave the matter, if the original resolution is adopted, at loose ends so far as determining the question whether these States are again admitted to representation in Congress. If I am wrong in this matter the honorable Senator from Vermont will correct me.

Mr. EDMUNDS. I will correct my friend. What the resolution reported from the committee provides is—that is the substance and effect of it—that when these States, Alabama and North Carolina, and those that we have now provided may be admitted and yet whose Senators and Representatives have not come, shall, under our law which authorizes them to come have complied with it and become entitled to have their Senators and Representatives in this Capitol, then they shall be entitled to cast their votes for President, and to have them counted. That is the proposition which the bill contains; and it is not indispensable to their voting that their Senators and Representatives should actually have been received, because according to ordinary expect-

ation we shall probably have adjourned before the Senators and Representatives from all those States will have been received here, as a mere matter of time. Suppose we should; I do not know that we shall; but take it for granted that we may; my proposition is that having adopted the fourteenth article of amendment, having got their governments in operation under this act of admission which has passed, as the Senate knows, and having taken every step pursuant to our law to put themselves upon their original restored footing, they may be entitled to vote on the first Tuesday of November, and let their Senators and Representatives come here and be sworn in, if they are not before, on the first Monday of December, to which we shall adjourn when we do adjourn; and that I think is right. They ought not to be deprived of their vote for whomsoever they may cast it, because we do not interfere with that; nobody wishes to interfere with it. They are perfectly at liberty to vote the Democratic ticket if they think they can carry the platform and candidates; nobody objects to that; but they ought to be permitted, when they have complied with all that Congress requires, and their Senators and Representatives have become fully entitled to be admitted, to then cast their vote for President, although it may be three or four weeks afterward before those Senators and Representatives actually come in.

Now, I understand my friend's construction of his amendment to be the one I supposed might be put upon it, and he would require that they should actually have come here and been sworn in and admitted to their seats. I think that is going too far.

Mr. DRAKE. I think that I can state the whole proposition in much fewer words than those employed by my friend from Vermont.

Mr. EDMUNDS. I do not doubt that.

Mr. DRAKE. It is simply this: whether the Senate will agree to letting the electoral vote be counted in those States which have not been declared by Congress to be entitled to representation here by the admission of their Senators and Representatives, or whether they shall go on and elect upon their assumption that they are entitled to be readmitted. There is the whole thing. The question is, in other words, whether we shall take their electoral vote before we have ourselves recognized practically their right to readmission, or whether we shall wait until after that practical recognition has taken place.

Mr. EDMUNDS. My friend will permit me to say that as to five States, North Carolina, South Carolina, Alabama, Georgia, and Louisiana, who have not yet their Representatives here, by a bill we have passed they be now readmitted and entitled to representation as soon as they adopt the fourteenth article of amendment; and as to one of them, Georgia, there is another little condition about not enforcing a particular article of her constitution, and that the Legislature is to vote upon it. No matter for that. Then we have declared as to these five States that their constitutions are satisfactory to us, that their people are justly entitled to be remitted to self-government now. If we should happen to adjourn before their Senators and Representatives get here, after they have adopted the fourteenth article, I can see no ground of justice on which they should be precluded from voting for President. If the Senate do, very well.

Mr. DRAKE. Then the matter stands in this way: we have declared that they may be admitted upon the happening of a certain contingency, may be admitted upon their doing certain things; and now the proposition is to give them the right to send in an electoral vote here before we ourselves have declared that the conditions of admission have been complied with. I merely wish the Senate shall see sharply and distinctly the point of difference between the two propositions, and if it is the desire of the Senate to take the original instead of my amendment, certainly with all cheerfulness I will abide their judgment.

Mr. CONNESS. Mr. President, I like the amendment of my friend from Missouri best in one respect, and yet I think there is a great deal of force in the last argument I have heard from the Senator from Vermont. Is an amendment to the amendment in order?

The PRESIDENT *pro tempore*. The amendment is amendable.

Mr. CONNESS. Then I beg to submit a slight amendment to the amendment of the Senator from Missouri to strike out in the sixth line the words "been readmitted," and insert in lieu thereof the words "become entitled." I do not like that part of the committee's resolution which recites the States. I prefer that they should not be recited. I like the style of the amendment best.

Mr. WILLIAMS. I should like to inquire of the Senator from Missouri if he has referred to the proclamation mentioned in his amendment, and is quite certain that it enumerates the States that were in rebellion. I do not wish to make any mistake on that subject.

Mr. DRAKE. I did so, and had the book here. I will have it again.

Mr. WILLIAMS. I prefer the phraseology employed by the Senator from Missouri in his amendment, if it be true that that proclamation does refer to the eleven States that were at one time in rebellion against the Government.

Mr. HOWARD. If the Senator from Oregon will listen a moment, I will read him a clause from the proclamation:

"Now, therefore, I, Abraham Lincoln, President of the United States, in pursuance of an act of Congress, approved July 13, 1861, do hereby declare that the inhabitants of the said States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Texas, Arkansas, Mississippi, and Florida, (except the inhabitants of that part of the State of Virginia lying west of the Alleghany mountains, and of such other parts of that State and the other States hereinbefore named as may maintain a loyal adherence to the Union and the Constitution, or may be, from time to time, occupied and controlled by forces of the United States engaged in the dispersion of said insurgents,) are in a state of insurrection against the United States."

Mr. DRAKE. That is it.

Mr. HOWARD. Yes, that is it; but the Senator from Missouri will observe that the proclamation contains exceptions. One exception is the whole of what is now West Virginia, and then there are exceptions of parts of other States which are not in insurrection, and those parts of States which are occupied by the troops of the United States. It presents a very complicated question.

Mr. DRAKE. When the proclamation expressly declares that the inhabitants of those States were then in insurrection, with some slight and inconsiderable exceptions, I should hardly think there could be any question as to the States referred to in the language of my amendment.

Mr. WILLIAMS. I am not altogether pleased with the phraseology of the joint resolution reported by the Senator from Vermont, but at the same time, since the reading of that proclamation, I can see that a door will be left open there for controversy, and it is desirable, if we legislate upon this subject at all, to make our legislation clear, certain, and definite, so that it can be understood, and so as, if possible, to avoid any future controversy on the subject. I suppose that the object of this joint resolution is simply to provide that so many of the States which were in rebellion as are not entitled to representation in Congress when this session of Congress adjourns shall not be allowed to cast electoral votes for President and Vice President. That is the purpose of the joint resolution. I should prefer to have phraseology employed less diffuse and more pointed than that contained in this original joint resolution. I suppose that it will be necessary for somebody or tribunal to decide this question as to whether or not these several States have complied with the reconstruction acts of Congress.

Mr. TRUMBULL. I should like to inquire of the Senator from Oregon if he has any doubt as to whether Arkansas and Florida have complied.

Mr. WILLIAMS. I have none whatever.

Mr. TRUMBULL. Then why should we pass a resolution declaring "if they comply."

Mr. WILLIAMS. I think that there is objection to including those States; but there is a suggestion which perhaps would have some force upon the idea proposed by the Senator from Illinois, and that is, that it is not only necessary under this resolution that these States should be entitled to representation in Congress, but it is necessary that electors should be elected under the government that is recognized by Congress.

Mr. TRUMBULL. I should like to inquire again of the Senator from Oregon if he has any expectation that anybody is to be elected in Arkansas or Florida under any other government, or would give color or countenance to such an idea for a moment by passing a resolution to provide against it.

Mr. WILLIAMS. I must confess that I have not much expectation that any such election will be held in those States; but it is impossible to foresee what may happen, and from what has been put forth to the country by very high authority it is possible that revolutionary proceedings may be organized there for the purpose of carrying the presidential election. It is possible, although I acknowledge it is not very probable in my opinion, that the white men of those States may undertake to hold a presidential election under the provisional governments that were set up there by the President, and repudiate the governments that were organized under the reconstruction acts of Congress because they allow suffrage to the black men. I am very sure that proclamations have been made by men very prominent in the party opposed to the reconstruction policy of Congress that some means were to be devised to overthrow and destroy these State governments that were set up under the reconstruction acts of Congress. Whether that attempt will be made at the presidential election, or whether those persons may suppose it most expedient to wait and see if their candidate is not elected, is more than I can determine. But if we are to have any legislation at all on this subject it is desirable that it should be as explicit and as unambiguous as possible.

I was about to say that these questions as to whether or not these States have complied with the reconstruction acts of Congress, as to whether or not their electors were chosen under the governments that have been recognized by Congress, must be questions to be decided, I suppose, by Congress when it proceeds to count the electoral votes, for there must be some tribunal or some body somewhere to decide these questions in case a controversy should arise; and although I am not so fully impressed with the necessity of this legislation as some other Senators, because it seems to me that the power is in Congress at that time to pass upon all these questions, yet it is perhaps advisable to have some legislation on the subject, and I would prefer to have this joint resolution so constructed as to refer exclusively to those States that are not entitled to representation in Congress when this session adjourns. That is the way the resolution ought to read, and that is what it ought to mean, and not provide that certain States whose Senators and Representatives are now in Congress, shall not, in a certain contingency, be entitled to representation in the Electoral College. I have no time to suggest an amendment, but that would suit my views better than any of the propositions that have been submitted. I concur with the Senator from Vermont that whenever a State is entitled to representation in Congress it should be entitled to have its electoral votes counted for President and Vice President; and if we should adjourn in a week or two before Senators and Representatives from some of those States are able to take their seats in Congress, I do not think that therefore those States should be denied the right to have their votes counted for President of the United States.

Mr. DRAKE. I have concluded to accept

a modification of my amendment at the suggestion of the Senator from California, and have further modified it, so that it now reads:

No State whose inhabitants were by the proclamation of the President of the United States of August 16, 1861, declared to be in a state of insurrection, shall be entitled to representation in the Electoral College for the choice of President and Vice President of the United States, nor shall any electoral vote be received or counted from any such State, unless at the time prescribed by law for the choice of such electors the State shall have become entitled to representation in Congress under the reconstruction acts thereof, nor unless the electors shall have been chosen under and by authority of a State government theretofore recognized by Congress as lawful and permanent, and not provisional.

Mr. CONKLING. I wish to ask the Senator one question in reference to this modification. I understand the amendment now to be applicable to those States which were proclaimed by the proclamation of 1861 to be in insurrection. Am I right?

Mr. DRAKE. Yes, sir.

Mr. CONKLING. Virginia was declared in that proclamation to be in insurrection, except that part of Virginia lying west of the Alleghenies. That did not describe correctly the present State of West Virginia. On the contrary, a considerable part of West Virginia was embraced within that proclamation as West Virginia stands to-day. What is to become of her under a description like that? She has never been readmitted, and she was proclaimed in insurrection as she stood geographically.

Mr. DRAKE. West Virginia?

Mr. CONKLING. A large portion of West Virginia.

Mr. DRAKE. Never.

Mr. CONKLING. I hope the Senator will not say "never" without looking at the proclamation, because if he will look at it he will see that Virginia was declared to be in insurrection except that part lying west of the Alleghenies. Well, a large portion of West Virginia does lie west of the Alleghenies, but some of West Virginia also lies east of the Alleghenies, and that portion of West Virginia was and is embraced in the proclamation. I ask him what sort of a question are we going to get up in that regard if we adopt this language.

Mr. DRAKE. I would say to the honorable Senator from New York that the State of West Virginia was not named in the proclamation at all.

Mr. CONKLING. The State of West Virginia was not then created. It was all Virginia; but anticipating the erection of West Virginia and the division of the State, Mr. Lincoln pointed out what he supposed would be the boundaries. When the State came to be erected it was not confined to those boundaries, but went over and took a portion of the territory which was and is embraced within that proclamation.

Mr. DRAKE. All I have to say is that if the honorable Senator from New York can make anything out of that he is able to discriminate better than I can.

Mr. CONKLING. What does the Senator make out of it? What shall we understand the law to be?

Mr. DRAKE. I beg leave to say that I make nothing whatever out of the point that the Senator from New York has now made, for the reason that we are referring to the State of Virginia, and whether that State has the same limits now that it had then is a matter of no consequence. It comes now with reduced limits, seeking to cast its vote for President and Vice President; and what is it to us if since it was declared in insurrection in 1861 a part has been taken off and a new State formed out of it. This act only applies to the State of Virginia with its present limits; and that State with larger limits was declared in insurrection in 1861.

Mr. HOWARD. I far prefer the original resolution reported by the Committee on the Judiciary to the amendment offered by the Senator from Missouri, because it is more specific; it tells us and tells the country exactly what communities we intend to embrace in

our legislation and what geographical limits we intend to include. It leaves nothing uncertain, as the amendment offered by the Senator from Missouri seems to do. For instance, the difficulty pointed out by the Senator from New York, is, in my judgment, rather a serious one. The amendment offered by the Senator from Missouri refers to the proclamation of the 16th of August, 1861, as containing the States or territorial extension to which that amendment is to apply. Now, it turns out on inspection that a portion of Virginia lies west of the Alleghany mountains. The proclamation did not declare the inhabitants of that portion of Virginia which was west of the Alleghany mountains to be in insurrection at all, but excepted that region entirely out of its operation. There are other exceptions in that proclamation. Portions of Louisiana are excepted; other portions of Virginia, and portions of the several rebel States that should happen to be in the occupancy of our troops in the field. Now, I submit to the Senator from Missouri that we hardly ought to incur any of the difficulties or embarrassments that may grow out of these little debatable points. Why not, therefore, say in so many words that the several States named in this bill that have not complied with the terms which we impose upon them shall be excluded from the right of representation in the Electoral College.

But it is asked with a great deal of earnestness, "Why include Arkansas and Florida in the bill; are they not already readmitted into the Union; they are not only admitted entitled to readmission, but they are actually readmitted in the persons of their Senators and their Representatives in Congress?" That is all very true; but the reason for applying the bill to those States is this: as I said the other day, there are dual governments established even in those two States. There is a Johnson Governor in Florida and one in Arkansas, a Johnson Legislature in Florida and another in Arkansas. That is to say, such Legislatures have been elected in those two States.

Mr. SHERMAN. I will say to my friend from Michigan that I understand that those Legislatures called the Johnson Legislatures and the Johnson Governors have acquiesced in the new organizations and gone in, some of them being members of the new Legislatures.

Mr. HOWARD. If that be the fact I certainly am very happy to learn it.

Mr. SHERMAN. Senators are here representing those States; and, as I understand, some of the members of the Johnson Legislatures are members of the Legislatures of the new organizations. It does seem to me very absurd to provide a rule now for Florida and Arkansas that is not provided for Ohio and New York.

Mr. HOWARD. Suppose there should be a revival and resuscitation of the Johnson governments in these two States; suppose they should reappear on the theater of action and should undertake to set up governments of their own, and as one of the steps toward it should organize a presidential election to be carried on exclusively by white men, and that they should select presidential electors and send on certificates of election to the President of the Senate. That such a state of things may happen is by no means impossible, and I wish to guard against it, and to advertise the whites, as well as the blacks, that no government will be recognized in those States which are already admitted except such as we have recognized by our reconstruction legislation. I think that would have a tendency at least to prevent these difficulties and these squabbles which I foresee may take place even in the reconstructed States that have been admitted into the Union.

There is no trouble in doing this, and we may possibly prevent a great deal of embarrassment; and I may go further and say we may even prevent bloodshed in these States by taking these precautionary measures.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Missouri, [Mr. DRAKE.]

The question being taken by yeas and nays, resulted—yeas 5, nays 31; as follows:

YEAS—Messrs. Drake, Harlan, McDonald, Pomeroy, and Tipton—5.

NAYS—Messrs. Anthony, Buckalew, Cameron, Cattell, Chandler, Cole, Conkling, Connors, Cragin, Edmunds, Ferry, Howard, Howe, McCreery, Morgan, Morrill of Vermont, Nye, Osborn, Patterson of New Hampshire, Ramsey, Ross, Sherman, Stewart, Trumbull, Van Winkle, Vickers, Wade, Welch, Wiley, Williams, and Wilson—31.

ABSENT—Messrs. Bayard, Corbett, Davis, Dixon, Doolittle, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Morrill of Maine, Morton, Norton, Patterson of Tennessee, Rice, Saisbury, Sprague, Sumner, Thayer, and Yates—21.

So the amendment was rejected.

Mr. SHERMAN. I move to strike out "Florida" and "Arkansas." I will simply state that either of these propositions I could have voted for with great pleasure; and if I had been present I should have voted for, because I have preferred the language of, the amendment of the Senator from New York, for it was more general. It does seem to me that we ought not to express a doubt on the completeness of our work so far. We have these two States represented here by Senators; they are represented in the other House; and I would just as lief think of guarding against double election in Ohio as I would in these two States. I do not like to acknowledge to the world a doubt of the completeness of the reorganization of these States; they are here; and it does seem to me that the Senator from Vermont ought to yield to striking out these two States. This bill was probably framed when these two States were not represented. Certainly we ought not to provide one rule for Ohio and a different rule for them. I should be perfectly willing, as I said before, to vote for any of these propositions; I do not see any material difference between any of the three propositions submitted to us; but at the present time we ought not to legislate for Arkansas and Florida anticipating a state of things that cannot exist in all human probability; that will be no more likely to exist there than in the State of Oregon. We shall be here two months at the next session before the electoral votes are counted with the same Senators and Representatives we have now. Why need we guard against a contingency so remote and problematical? It seems to me to be legislating as if we were in doubt about the completeness and perfectness of our work, which I consider as concluded and perfected.

Mr. EDMUNDS. I will assure the Senator from Ohio that the Senator from Vermont will yield, and with pleasure, to the judgment of the Senate. The Senator from Ohio is mistaken in supposing that I inserted these names before these States were readmitted. I inserted them with the others after I had studied the conduct of the Democratic members of the House of Representatives, as it respected the admission of their members there, after I had observed the conduct of the Senators of the Opposition when the Senators from those States were admitted here, and their declarations.

Mr. SHERMAN. Why not insert Tennessee?

Mr. EDMUNDS. I will come to that presently if you want to consider it. We are now on these two States. I inserted their names after I had noticed from time to time the constant declarations of the Democratic press, not that there was any doubt about the fact that we had restored these two States, or that there was any doubt about the fact that we intended to stand by that restoration to the last extremity, as we do, not only with votes; but as Senators talk about sweeping away things by the white man's government, I will say also by the same kind of influence that we have exerted over that community and over the Democratic party for the last five years; that is to say, the influence of force upholding the law.

These papers—I have my hands full of them—all the Democratic press, North and South, maintain this proposition as to these two States distinctly, although they have been readmitted; that everything which has been done down to



this hour, and the existing state of things is a pure nullity. They propose, some of them, to overturn these existing organizations. That I do not believe they will have the courage to attempt. Others propose to vote peaceably and quietly what they call the white man's ticket, claiming that the laws of 1860 are still in force, which authorize the citizens of those States, the persons entitled to vote, to meet together on the first Tuesday in November and cast their votes for electors.

We believe all that to be a farce, a sham, as it would be if they went through with it; but suppose it should happen that two sets of votes were sent up from these States, one from the regular and legal organization that exists there now and the other from the white men, as they call themselves, acting under the laws of 1860. It would be an easy question to decide, to be sure; but suppose the votes of those two sets, whichever were received, determined the election of General Grant or of Mr. Seymour; what then? The Democrats have given us notice—I could occupy the whole evening in reading extracts I have from them which come right up to that point—through all their press North and South that in that event their votes shall be counted or there shall be tumult and disorder.

Mr. WILSON. That is the way they expect to win.

Mr. EDMUNDS. I know it is so. I do not anticipate that they will come to any such scratch as that. These same Democrats, through their leaders in this Senate three years, declared that it was the subject of legislative provision to make laws in advance for just such a case, and that they ought not to be made in any other way. Serious complaint was made against the legislation of 1865 because the legislation was enacted after the votes had been taken in November, operating in the nature of an edict rather than in the nature of a law prescribing a future rule of action.

I do not want to take the time of the Senate in reading, as I can, if any Senator wants it, to show the state of public opinion and the threat that is held out in these papers, the evidence that I hold in my hands; and it has cropped out even after the remarkable speech of the Senator from Illinois the other day, in a leading article of the National Intelligencer, quoting that speech with approbation, and going on further and declaring that this whole thing was a nullity, and was to be disregarded.

Now, Mr. President, when as it is remarked it is merely a matter of formality, at the worst to leave in these names, I say it is not the part of wisdom to run any risk of leaving a question open; not that it is a real question as we understand it, but the Senators on the other side maintain that it is. I say, therefore, it is not wise to leave out these names.

The Senator from Illinois has told us that we are anticipating trouble; he told us so the other day; that we are alarmists, and that we are now in such condition that we can fold up our arms and believe all is peace. I should have more confidence in the opinion of my distinguished friend from Illinois upon these points if I had not reposed myself upon those opinions before during the past winter. We had the same opinion from my honorable friend about Alabama, that we ought not to change the regulation requiring a full majority, because it was all going right as it was, and people would say that we had begun to tinker again with the reconstruction laws, and all that. We reposed, as generally we well may, upon his judgment; but it turned out to be wrong, and it led us into serious difficulty.

There was another case in which the faith of my honorable friend in the safety of everything touching our legislation was put to a severer test respecting certain transactions in the Supreme Court of the United States, which it is only necessary to allude to; they are in the mind of everybody. My honorable friend was mistaken, I think he will confess, again in that

sense of repose and security that he trusted in almost too long.

I do not speak of these things as criticising the judgment of my friend from Illinois. He will not understand me so. I only remind him of them in all respect and good will to show that it is wiser to take what may seem to be an unnecessary step as a matter of precaution when you are threatened, than it is to wait until the evil is upon you and then have a tumult. But I do not wish to trespass upon the time of the Senate. They will understand why I think it is that the names of these States should be left in the resolution.

Mr. SHERMAN. Mr. President, the idea of firing a bill or a joint resolution at every newspaper that threatens an overthrow of the acts of Congress, when no Senator representing any State in the Union makes such a threat, it seems to me is rather preposterous.

Mr. EDMUNDS. All the Democratic members of the House did it in a written protest.

Mr. SHERMAN. No member of the Senate has made any such declaration. I have listened to the argument, and no member of the Senate denies that the States represented in this body must conduct the counting of the electoral votes, and that the organization provided under the reconstruction acts must provide the mode and manner of conducting the election. The Senators are here, and this Senate is the very body that is to act on the question. Now, because the National Intelligencer or some other newspaper threatens a great many things to be done, I do not think we ought to be moved from the even tenor of our way. We had in Ohio a great many threats that they were going to march a hundred thousand Democrats into Canada on one occasion and get a candidate for Governor, and bring him over and instal him as Governor of the State of Ohio. The people of Ohio were not troubled much about them. It seems to me idle to legislate in view of such things. I am willing, and I think it is proper, to provide for the contingency of some of these States not having a legal State government when the next election comes off, and when clearly they would not have the right to vote. Therefore, so far as the main feature of this bill is concerned I am willing to vote for it; but to provide for a double election in States that are represented in Congress now in as full and complete a manner as the State of Ohio or the State of New York, it seems to me is preposterous, and is a confession of weakness that I am not willing to make.

But I am perfectly indifferent about it. I do not wish to take time at this late period of the session, but I trust the Senate will, for its own sake, strike out of this bill the names of the States which are represented by Senators on this floor.

Mr. TRUMBULL. The Senate has been engaged in what seems to be rather a profitless debate for a day or two upon a joint resolution which was thrust, as I conceive, very inconsiderately upon us; and it has been spoken of as the report of the Judiciary Committee. The Judiciary Committee did authorize the Senator from Vermont to bring in this joint resolution. I objected to it in the committee, and those who authorized the report to be made gave notice at the time that they should not be bound by the joint resolution as reported by the Senator from Vermont, but the Senator from Vermont, in his haste and anxiety to bring the thing before the Senate, succeeded in getting permission to bring his resolution here; and we have lost probably a couple of days in the discussion of it because it was brought here without having been considered and agreed upon by any considerable number of the members of the Senate before it came here; and you see after it gets here that the members of the committee that authorized it to be reported are not satisfied with it. I am sorry that it was brought in in that way.

Sir, the Senator from Vermont has thought

proper to speak of my having been mistaken in views that I have entertained. Why, Mr. President, I never set myself up to be infallible. I have been mistaken often. The Senator from Vermont is wiser, and very seldom makes mistakes, though I think that his resolution has occupied the Senate here unnecessarily for a day or two, and I very much fear that it may lead us into trouble hereafter. All that I would do, if I could have my way about it, would be simply to wait until we see the Carolinas and Georgia and Alabama and Louisiana, as well as Arkansas and Florida, ratify the constitutional amendment, and send their representatives here; and if they do so, then reconstruction as to all of those States will be complete; and I would no more have passed such a resolution about them than I would in reference to my own State, as to whether they should vote or not; and when you falter in your work in the face of some newspaper article in which somebody says that your reconstruction measures are good for nothing, you encourage opposition. We shall never have an end of this matter if we are going on to provide against two elections. The idea, to my mind, is preposterous of a double election in Arkansas. There is no organized government in Arkansas except that represented here. There is no other Legislature in Arkansas except that represented here; there is no other government there; there is nobody in authority there or pretending to be in authority or exercising authority in that State except the organization represented in the Congress of the United States. Now, sir, here is a resolution reciting what? Reciting that no electoral votes shall be received or counted from the State of Arkansas "unless at the time prescribed by law for the choice of electors," the people of Arkansas, "pursuant to the acts of Congress in that behalf, shall have, since the 4th day of March, 1867, adopted a constitution of State government under which a State government shall have been organized." We have said that they have done that already.

Mr. EDMUNDS. Suppose you read the rest.

Mr. TRUMBULL. We have already said that they have done what is here required, and now you repeat it over again. It is a thing accomplished and ended. I will read the rest:

"And shall be in operation, and unless such election of electors shall have been held under the authority of such constitution and government, and such State shall have also become entitled to representation in Congress pursuant to the acts of Congress in that behalf."

Are they not entitled? Why do you say "unless they are entitled." You have voted that they are entitled? Congress has done it. They are represented; and you want it to be reiterated and represented over.

Sir, it is the very way to get up a dual election. It is the very thing that has caused debate. It is fraught with mischief. It will cause debate when you come to count the votes next February for two days, very likely, again, and confusion and disorder, and I know not but civil war.

Mr. EDMUNDS. How can that happen if there is only one set of votes cast?

Mr. TRUMBULL. By a resolution that invites them to cast two sets of votes.

Mr. EDMUNDS. But you say there will be only one set cast.

Mr. TRUMBULL. There would be but one; but when you pass a resolution in regard to two, that you will only count the one, it shows that you anticipate and put it into the minds of those people to have two elections. You are reciting over in this resolution "unless" certain things are done, which you have said are done.

The Senator from Vermont has repeated over and over again that we enumerated the States four years ago. We did enumerate them; but how? We said that whereas the States of Virginia, North and South Carolina, &c., were in rebellion, no electoral votes

should be counted from them; and so I am prepared to say to-day that no electoral vote shall be counted from the States of Virginia, Mississippi, and Texas, because they have not organized State governments recognized by Congress, and it is impossible now that they should. You need not put in a provision here that they are to have electoral votes when they are entitled to representation. It is impossible under our legislation that they should be entitled to representation in this body on the first Tuesday of November next, because under the legislation of Congress they can only have representation when they present constitutions here which Congress approves. They have not presented such constitutions to be approved. Texas has not framed hers. Mississippi has not ratified hers. Virginia has not ratified hers. No election has been held in Virginia or Texas, and so far as we have heard from Mississippi the people at the polls have not ratified the constitution adopted by the convention. The reconstruction acts require that before a State can be admitted to representation its constitution shall be ratified by the people at the polls. More than that, they require that the constitution shall be approved by Congress after it has been thus ratified at the polls. It is impossible that the constitutions of these States should be ratified at the polls and approved by Congress in time to have representation in this body. I would have no discretion about it. Pass a resolution as we did four years ago, that no electoral votes are to be counted from those States, and let the people of all parties understand it, and the people of all parties do understand that in regard to States which are admitted to representation in this body, there can be no question as to their right to vote for President and Vice President.

I shall not vote myself for the resolution as it is introduced by the Senator from Vermont which comes here, not having the sanction, in the form in which it is, of the Judiciary Committee, but having the sanction of that committee for the Senator to bring it into this body. I hope that the motion to strike out Arkansas and Florida will prevail. I should prefer myself waiting to see what these other States do, and before our adjournment passing a concurrent resolution that from those States that are not reorganized and represented in Congress no votes shall be counted.

Mr. WILSON. Four of them will be here within a week.

Mr. TRUMBULL. Four of them will be here, as the Senator from Massachusetts reminds me, within a week.

Mr. HOWARD. Suppose they do not come?

Mr. TRUMBULL. Suppose they do not come. Let us pass a concurrent resolution, as suggested by President Lincoln, and let the country know, and let the people of those States know, that no votes will be counted from those States. That is all we have to do. I think it important that we should do that much.

I should not have said this much, having made some remarks the other day, had not the Senator from Vermont thought proper to refer to what I had said, and to remind me (which I well knew before) that I had often made mistakes in my expectations as to future events. I never claimed to be a prophet, and least of all did I ever profess that I was infallible. I exercise my best judgment in regard to measures as they arise, and that judgment tells me that it is improper to pass a resolution making a discrimination against the States that we have just admitted to representation.

Mr. EDMUNDS. Mr. President—

Mr. POMEROY. If the Senator will allow me, I should like to know what committee reported this joint resolution?

Mr. EDMUNDS. That is what I am trying to find out now.

Mr. POMEROY. Every member of the Judiciary Committee seems to be opposed to it, and I should like to know how it got here.

Mr. EDMUNDS. The only members of the Judiciary Committee who have thus far opposed it are the Senator from New York and the Senator from Illinois.

Mr. CONKLING. I dislike to interrupt the Senator, but I hope he will not make that statement. My honorable friend from Nevada [Mr. STEWART] voted with us on the amendment I offered.

Mr. EDMUNDS. That may be. That does not prove my statement incorrect.

Mr. CONKLING. Then the Senator should not say that the only Senators who did not vote for his proposition are the Senator from New York and the Senator from Illinois.

Mr. EDMUNDS. I did not say Senators who did not vote for it; I said the only Senators who had opposed it. The only merit probably that the joint resolution now has is contained in two lines that were inserted in committee on the motion of the Senator from New York, which any Senator will find in italics. I confess that that is the only merit that the joint resolution has, but inasmuch as it has that merit, I still have some hope that the Senate will look upon it with favor.

The Senator from Illinois has talked as if this joint resolution was reported by the gracious permission of the Judiciary Committee, as a matter of personal favor, to one of its junior members. I do not know but that it was. It was a great favor if it was. I do not urge this resolution upon the Senate. I have not urged it upon them unduly, I think. My constituents live so far from the scene of war, and from their experience in the rebellion they have so much dislike to any further difficulty, that probably we can stand any grief that may come as long as anybody.

I quite agree with the Senator from Illinois that we have spent the last two days in profitless debate about this joint resolution, and the reason, which my friend did not give and that I will, is the fact that he addressed the Senate more than two days ago and has not done it since until now. I admit that all that the rest of us have said has not had the pungency, at least it has not satisfied the Opposition so well as the remarks of my friend from Illinois, which received the next day a first-rate notice from the organ of the Democratic party. My friend is not to blame for that.

Now, my friend says that all this is moonshine about these States; that we are not bound to suppose any such thing. I do not want to repeat what I said before. I will not refer any more to the newspapers and to public opinion; but we have had the official action of the Democratic party in the House of Representatives on this very point put as a protest upon the records. Is not that worth taking any precaution against? Does it invite double voting or tumultuous elections to provide by law against them?

Mr. FERRY. I should like to ask the Senator from Vermont whether a dual vote in these States which shall have been admitted like Arkansas and Florida will be any more unlawful after you have passed this joint resolution than before?

Mr. EDMUNDS. No, sir; it will not.

Mr. FERRY. Then what is the use of the joint resolution?

Mr. EDMUNDS. That is what I should be glad to have my friend from Connecticut give enough attention to, to understand.

Mr. FERRY. That is what I want to do. That is the reason I asked the question.

Mr. EDMUNDS. The distinguished gentlemen who composed this body in 1865, on all sides, led by the Senator from Illinois, whose remarks I read this morning, declared that it was wise and proper and necessary to provide by a rule of law what votes, and under what circumstances, should be counted in the House of Representatives, because the Constitution does not provide for judicial powers in that body; and it will be remembered that when the Wisconsin case arose earlier there was a great difference of opinion when they got in

convention as to what they could do, and they finally decided that they could not do anything inasmuch as it did not make any difference, and thus got themselves out of that scrape. The Senator from Illinois, rightly and wisely—and I hope he will not consider me as having overstepped the proprieties in alluding to these things—maintained, in so many words, that in these cases of irregular voting and improper voting, although the House of Representatives and the Senate meeting together and acting upon the returns were the persons who in the end must judge, yet they must judge according to a rule of law that the legislative power of the country should have prescribed in advance. That was his proposition. I think I do not misstate it. It was a perfectly sound proposition, a proposition that lies at the basis of all law, which is, in its definition, the prescription of a rule, in advance of the event, to guide the executors of the law in acting when that event arises; and I should as much expect, in reply to my honorable friend, to hear him argue that we ought to pass no law against piracy, no law against counterfeiting, because it would put it into people's heads to commit piracy and go to counterfeiting, and rather stimulate them to do it, as to hear him say, after this rebellion and turbulence, and in the face of these organized and authentic threats, that they will have a tumult, that we should not declare in advance by law which are the States that we intend to count the votes of, and that no others shall be counted. It does not invite any such query. It does not raise any such doubt. It is the usual exercise of a prudent foresight in providing a prohibition by law, in advance, of an illegal act that is threatened; and that is all there is of it.

But, as I have said, Mr. President, I do not wish to prolong this discussion. I shall be perfectly satisfied if the wisdom of the Senate chooses to strike out these States and put in any others, or to leave them all out.

Mr. DAVIS. I feel some sympathy with my honorable friend from Vermont this evening. Some of his friends seem disposed to twit him, among other things, with showing a propensity to talk too much. I agree with the honorable Senator that it does not become any of the pots on the other side to call his kettle black. [Laughter.] But the discussion this evening has certainly resulted in establishing this proposition: that the honorable Senator is not only the original, but the sole patentee of this measure in its original form. I will do this much justice to his merits: we have had an attempt to take out two additional patents, but I do not think either of them has enough of novel and important discovery in it to entitle it to any patent; and I believe my honorable friend from Vermont is entitled to the whole and sole credit of the affair, not only the original, but the sole inventor and patentee.

I agree with the honorable Senator from Vermont on one point. He says this is a specific remedy, not for all cases, but for certain descriptions of cases, and that the remedy in its language ought to speak for the cases to which it is intended to present a cure. I agree with him in that. If this proposition is not to apply to three fourths of all the States in the Union, why leave it in such vague and general language that a casual observer would be disposed to apply it to all the States, when the real gist and object of the thing is to apply it only to one fourth of the States. I think the honorable Senator is quite right in his desire and his solicitude in relation to the verbiage of the resolution, that it ought to state the specific and precise objects and subjects for which it was intended to be a remedy.

I have been amused to-night with one reflection that has passed in my mind, not merely in relation to the honorable Senator from Vermont, who finds himself beset by his friends all around him and in distress. I certainly feel a good deal of sympathy and interest for him and with him. I believe that in part he is right, and I trust, as he has such odds against

him, that he will find himself a full match for the whole of them. But I have been surprised at one feature in the affair. We used to hear a good deal about State-rights politicians and State-rights men. I once thought that they applied to old Virginia and South Carolina and some sections of the South between those States; but it seems that the doctrine of State rights is becoming general in the Senate of the United States with the Radical portion of the members. I do not mean State rights exactly in the sense in which it used to be used in the Old Dominion and in South Carolina. There they held to State rights for the purpose of maintaining and sustaining their sovereign State edifices, as they attached an idea of sovereignty to them, their State governments, their State sovereignty; but the modern application of the idea seems to be of a contrary tendency. It is not to preserve, to protect, to defend, but it is to pull down and build up at pleasure. Here is the majority of the Senate pulling down State rights and State governments and building them at will. It seems to me eminently ludicrous when the Senate of the United States shall be engaged from year to year and session to session, and week to week, and frequently from day to day, in the work of pulling down States and then building them up. That is a sort of State rights, as I said, not such as used to be heard of in old Virginia, but in the sense in which we speak of millwrights, wheelwrights, playwrights, [laughter;] men who like to dabble with the machinery, and who amuse themselves from day to day in being with the machinery; a sort of tinkering. To be sure, it is not a very apt subject to apply the term "tinkering" to, but there are various tinkering beside those with metals, I believe; but my honorable friend [Mr. STEWART] who represents the metal country, I do not know whether most in the brass or the gold, can give me full information on that point. [Laughter.]

Mr. STEWART. The brass mines are further east. [Laughter.]

Mr. DAVIS. But it is in this sense, Mr. President that I am perfectly charmed with the idea in which the Senate have become State-wrights, mill-wrights, wheel-wrights, playwrights, patent-wrights, patentees, and all that sort of thing. [Laughter.] I think, however, they might just as well quit fun and get back to the old principles and the old vocations of statesmanship, and let these amusing ephemeral novelties of the day pass into oblivion.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Ohio, [Mr. SHERMAN.]

Mr. WELCH. I should like to hear the amendment read.

The CHIEF CLERK. The amendment is to strike out the words "Florida" and "Arkansas," in the fourth line of the joint resolution.

Mr. WELCH. I should be glad of the privilege of saying a single word in respect to that amendment. I ought to know something of the state of things in Florida. I do not know whether the exception of these two States is on account of the condition of things there or not. If it is I am ready to bear testimony that the reconstructed government of Florida is to-day more firmly settled and more generally accepted, I believe, than that of any other reconstructed State in the South. There is not a trace of a Johnsonian Legislature there, and I never have heard one mentioned; nor is there a Johnsonian Governor there. There is one Governor and one Legislature.

Mr. HOWARD. I will ask my friend from Florida whether there was not a convention, and afterward a Legislature, elected in Florida under the proclamation of Mr. Johnson in 1865?

Mr. WELCH. Yes, sir.

Mr. HOWARD. Has the term of office of the members of the Legislature expired?

Mr. WELCH. Nobody claims that that Legislature is now in existence. The term

has expired. The government, with all the archives, has been handed over to the present Governor.

Mr. HOWARD. Can the honorable Senator inform us who was the Johnsonian Governor, or the last one, if there was more than one?

Mr. WELCH. David S. Walker.

Mr. HOWARD. And has he delivered up the archives of the State to the new Governor under the reconstruction?

Mr. WELCH. He has.

Mr. HOWARD. I merely inquired for information.

The PRESIDENT *pro tempore* put the question on Mr. SHERMAN'S amendment, and declared that the yeas appeared to have it.

Mr. SHERMAN. I ask for the yeas and nays, or a division. I am perfectly willing to take a division.

Mr. TRUMBULL and Mr. EDMUNDS. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. WILLIAMS. I desire to offer a substitute, which I should like to have read now, if there is no objection.

Mr. TRUMBULL. Let us vote on this amendment first.

Mr. STEWART. I should like to hear the substitute.

Mr. WILLIAMS. The vote on this amendment might depend on the reading of that.

Mr. POMEROY. If any States are to be stricken out, all ought to be stricken out, excepting Texas, Mississippi, and Virginia. While I agree to what the Senator from Florida has said, that there is a regularly organized government in Florida, and it is acquiesced in, I must say that that is true also of North Carolina, Alabama, and other States. I do not like to make any distinction, simply because we have sworn in Senators and members from Arkansas and Florida.

Mr. CONKLING. Suppose the other States vote down the constitutional amendment?

Mr. FESSENDEN. They have not yet adopted the fourteenth amendment.

Mr. POMEROY. That is only a question of time. They are just as certain to adopt it as they are to meet together. I am speaking of the Carolinas and Alabama. Now, the States that we put into the law of this session, in which we said they were entitled to representation, include all the original seceding States excepting the three I have mentioned. If we are to legislate with reference to specific States I think we ought to confine our legislation to that class, or else leave the names of all of them out and make a general law that shall be applicable to all.

Mr. WILLIAMS. I ask the Clerk to read the proposed substitute that I sent to the desk for the information of the Senate.

The PRESIDENT *pro tempore*. It will be read.

The CHIEF CLERK. The proposed amendment is to strike out all of the joint resolution after the enacting clause and to insert:

That all the States that have been in rebellion against the United States, who have not, upon the adjournment of the present session of Congress, become entitled to representation in Congress, shall not be entitled to vote for electors for President and Vice President at the next presidential election, nor shall the electoral votes of such States be received or counted.

Mr. POMEROY. The difficulty about that is, that it depends upon the contingency of an adjournment. We do not know but that there may be some reasons why we may have a hasty adjournment or may delay the adjournment. I do not want the question of the right of States to vote in the presidential election to depend upon the contingency of an adjournment of Congress.

Mr. CONNESS. If the date of the next presidential election, the 3d of November, were substituted for that it would be better.

Mr. EDMUNDS. There is another thing about that: it speaks of the "States that have been in rebellion." That is exactly what the

Democratic party on the other side say has never happened; that the States never have been in rebellion.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 17, nays 21; as follows:

YEAS—Messrs. Ferry, Harlan, Howe, McDonald, Morgan, Morrill of Vermont, Osborn, Ramsey, Ross, Sherman, Thayer, Tipton, Trumbull, Van Winkle, Welch, Willey, and Wilson—17.

NAYS—Messrs. Anthony, Buckalew, Cameron, Chandler, Cole, Conkling, Conness, Cragin, Davis, Drake, Edmunds, Fessenden, Howard, McCreery, Nye, Patterson of New Hampshire, Pomroy, Stewart, Vickers, Wade, and Williams—21.

ABSENT—Messrs. Bayard, Cattell, Corbett, Dixon, Doolittle, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Morrill of Maine, Morton, Norton, Patterson of Tennessee, Rice, Saulsbury, Sprague, Sumner, and Yates—19.

So the amendment was rejected.

The PRESIDENT *pro tempore*. Does the Senator from Oregon offer an amendment?

Mr. WILLIAMS. I will modify the amendment that I suggested by inserting the words, "the States whose inhabitants have been in rebellion."

Mr. CONKLING. "Inhabitants or authorities."

Mr. WILLIAMS. "Inhabitants" will do; and to substitute "the 3d day of November" for "the adjournment of Congress."

Mr. POMEROY. I should like to hear it read as modified.

The PRESIDENT *pro tempore*. The amendment will be read.

The CHIEF CLERK. It is proposed to strike out all of the joint resolution after the resolving clause, and insert the following:

That all the States whose inhabitants have been in rebellion against the United States, who shall not on the 3d day of November, 1865, become entitled to representation in Congress, shall not be entitled to vote for electors for President and Vice President at the next presidential election, nor shall the electoral votes of such States be received or counted.

Mr. McCREERY. There are two negatives in that.

Mr. HOWARD. I venture to suggest to the Senator from Oregon to use the word "only" instead of "all," and to strike out "not."

Mr. WILLIAMS. I guess I had better withdraw it.

Mr. POMEROY. "Entitled to representation by law" would do.

Mr. WILLIAMS. That amendment embodies my idea. I had not time to prepare the phraseology quite satisfactorily to myself; but as I see that there is so much diversity of opinion about it, I believe I will withdraw the amendment.

Mr. WILSON. I desire to move an amendment. I propose to amend the joint resolution by striking out all after the word "that," and inserting:

The States of Virginia, Mississippi, and Texas, respectively, shall not be entitled to representation in the Electoral College for the choice of President or Vice President of the United States, and no electoral votes shall be received or counted from any of such States, unless at the time prescribed by law for the choice of electors the people of such States, pursuant to the acts of Congress in that behalf, &c.

And then following the language of the original resolution. The States of Virginia, Mississippi, and Texas will not be in a condition to vote at the presidential election. I propose to say that they shall not vote. They will not be entitled to be represented in Congress this year. As to the other States, North Carolina, South Carolina, Alabama, Louisiana, and Georgia, four of them will probably be here within a very few days, three of them perhaps next week, and the other in a few days after. There is doubt about the State of Georgia complying with the conditions we have imposed. The House of Representatives of Georgia is said to have a majority who are opposed to the policy of reconstruction. I saw in a letter or telegram received from there yesterday that Howell Cobb and Robert Toombs were at Atlanta struggling to defeat the constitutional



amendment; it was the great object to do it; and I saw by the paper to-night that they were there last night indorsing this new revolutionary ticket put before the country, and which is in perfect harmony with Toombs's doctrine to "let discord reign forever," which he avowed here some years ago. I think North Carolina and South Carolina will choose their Senators on Tuesday next, probably, and adopt the constitutional amendment. Louisiana has already chosen hers. In Alabama the Legislature is all on one side; it will be unanimous on all these questions. Georgia is doubtful. The State of Arkansas and the State of Florida have complied with the conditions and are here, and I do not think it is necessary to say anything about them. I think we might just as well say something about Massachusetts. I have just as much confidence in their standing as I have in that of my own State. I believe North Carolina and South Carolina and Louisiana will do the same. There is doubt about what Georgia will do in the matter.

Now, why not say that Virginia, and Mississippi, which has voted down the new constitution by a majority probably of three or four thousand, and Texas, which is not yet prepared, shall not be entitled to representation in the Electoral College, say it squarely, and stop there, and that these other States which have not complied shall not vote, unless they do comply. Four of them unquestionably will do so in a day or two, and perhaps the others, and that will leave the matter, it seems to me, all safe.

Mr. FERRY. I do not like the proposition to say peremptorily that Virginia, Texas, and Mississippi shall not participate in the election, especially as in Virginia the submission of the constitution to the people for ratification may take place, the constitution be ratified, and the State comply with all the requisitions of the reconstruction laws before November. Our peremptory declaration to her now that she shall not participate in the presidential election, I think, would be used to our disadvantage.

Sir, I had prepared an amendment which I intended to submit, but the Senator from Oregon in the first portion of his amendment used somewhat similar phraseology. As his amendment has been withdrawn, and mine does not cover as much ground, I will read mine in order to suggest a mode which it seems to me will relieve us from the difficulty under which we are laboring. From the tone of the discussion, it seems to me that the main objection to the joint resolution, as reported by the committee, has now dwindled down to an objection to the enumeration of the States in the third, fourth, and fifth lines of the joint resolution; and it is desirable to find some mode of expression which shall convey the idea expressed in those three lines by that enumeration, without making the enumeration. I therefore propose to insert in lieu of that enumeration this language:

That such States as, by reason of the participation of their inhabitants in the late rebellion, shall not be represented in either branch of the Fortieth Congress on or before the 3d day of November, 1863, shall not be entitled to representation in the Electoral College, &c.

Adopting the entire joint resolution as it remains, simply describing by the phraseology of my amendment instead of enumerating the States as they are enumerated in the joint resolution.

Mr. WILSON. Read the resolution as you have it.

Mr. CONNESS. Send it to the Clerk and let the amendment be read in connection with the joint resolution.

The CHIEF CLERK. It is proposed to amend the joint resolution so that it shall read:

That such States as by reason of the participation of their inhabitants in the late rebellion shall not be represented in either branch of the Fortieth Congress on or before the 3d day of November, 1863, shall not be entitled to representation in the Electoral College for the choice of President or Vice President of the United States, and no electoral votes shall be received or counted from any of such States, unless at the time prescribed by law for the choice of elect-

ors the people of such States, pursuant to the acts of Congress in that behalf, shall have, since the 4th day of March, 1867, adopted a constitution of State government under which a State government shall have been organized and shall be in operation, and unless such election of electors shall have been held under the authority of such constitution and government, and such State shall have also become entitled to representation in Congress, pursuant to the acts of Congress in that behalf.

Mr. CONKLING. I ask that it may be read again, and I beg to ask the Senator who drew it to attend to the first and last part of it in connection with each other.

The Chief Clerk again read the joint resolution as it would stand, if amended.

Mr. CONKLING. I inquire of the Senator if that is not a contradiction in terms?

Mr. FERRY. I do not see it.

Mr. CONKLING. Let me indicate how it strikes me. I may be wrong; I only know from listening. The provision is that those States which at the expiration of this session—that is it practically—

Mr. FERRY. Practically.

Mr. CONKLING. Are not represented in Congress shall not be represented in the Electoral College unless, in those same States which are not represented, the votes shall be cast pursuant to a government set up and they shall have become entitled to representation. How can both those predicaments exist, where in point of fact they have not become entitled to representation before this session ends?

Mr. FERRY. There the Senator makes his mistake. The first clause provides that States not actually represented before our adjournment shall not participate in the election unless, to come to the very point, in the mean time they shall become entitled to representation by carrying out the reconstruction laws. There is no inconsistency.

Mr. CONKLING. But what is to be the criterion? Who is to determine whether they have become entitled?

Mr. FERRY. The law itself, when they have.

Mr. CONKLING. In other words, if my friend will pardon me, is it not true that this is the sole place of arbitration? Is not Congress the arbiter of all that question, and can it be politically or legislatively determined until we have the evidence that they have ratified the fourteenth amendment, and done the various things which are required? And would it not be, in reality, leaving it all at sea to make such a distinction as he now makes between their actually having received recognition and readmission of representation, and having become in theory entitled to it, when there is no tribunal except this to pass upon the question?

Mr. FERRY. Under the joint resolution, if it should pass with this amendment, the practical operation will be this: any State which has been represented in this session of the Fortieth Congress, in either branch, will vote, and from the fact that its admission to representation in either branch is a sanction by Congress, the proper authority to its right to membership in the Union, and thus to its right to participate in the presidential election. In addition to that, should any State, after the adjournment of Congress, and before the presidential election perform all on its part incumbent to be performed under our reconstruction laws, so as to be entitled to representation, in the language of the joint resolution as originally reported from the committee, it also would be entitled to participate in the presidential election, and the votes would be returned to this Congress at its next session. If it should have entitled itself to representation, so as to make its votes in the Electoral College legitimate, that fact would also appear at the next session, and their Senators and Representatives would be here and would be admitted, I suppose.

Mr. CONKLING. Then, if my friend will allow me, at that point, to make a suggestion, would it not be much better to say that all States which are not admitted to representa-

tion at the next session of Congress, or by the time the vote is to be counted, shall be excluded? If that is what he means, I suggest that would be a simpler way to get at it.

Mr. FERRY. You cannot pass a law that all States that shall not be admitted in December shall be excluded from voting in November.

Mr. CONKLING. No, no; but all States which have not been admitted by the second Wednesday in February, when the votes are to be counted; all States which have not been admitted to representation when the count of electoral votes takes place, shall not be entitled to have their votes counted. That would be the effect of this.

Mr. FERRY. The object now is to prevent an election being held in those States. If the object of the joint resolution is to prevent the counting of the votes after the States have held elections, the phraseology could be changed in that way.

Mr. CONKLING. How can any of these States foresee whether they are to be admitted or not? Of course, they will go on and vote at a venture in November. How can any State in November know that she may not be admitted by February afterward?

Mr. FERRY. Under the joint resolution as it now stands with this amendment in it, each State would know whether it had conformed to the reconstruction acts, and was thereby entitled to representation. It seems to me the argument of the Senator goes against the whole joint resolution, the whole principle.

Mr. PATTERSON, of New Hampshire. This matter seems to have got a good deal muddled by the numerous amendments which have been offered here this evening. I suggest that it might be well to refer it back to the committee for revision; or perhaps a better suggestion than that might be made: the Committee on the District of Columbia reported a bill here a few days since, which was finally referred to the Committee on the Judiciary; now, I apprehend that while they are fixing up that bill, the District Committee could fix up this joint resolution, and I suggest that we reciprocate the kindness that was paid to our committee the other day. [Laughter.]

Mr. EDMUNDS. I merely wish to say one word, and that is to remind the Senator from New Hampshire that there have not been any amendments adopted to the resolution yet. I have no objection to any amendments if they can be so considered that we understand we are accomplishing the purpose. Everybody agrees that the joint resolution, which it seems that the Judiciary Committee did not report, but I did, will accomplish the object, as to these specific States, we have in view; but gentlemen are dissatisfied with the mode in which that object is stated in the resolution. Now I suggest, let us take a vote on these amendments, and if we do not adopt any and are not in favor of the joint resolution, to reject it and then try again.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Massachusetts.

Mr. WILSON. I withdraw it.

Mr. FERRY. Then I offer mine.

Mr. THAYER. I rose to inquire if amendments are still in order?

The PRESIDENT *pro tempore*. There is one pending. There are generally two. [Laughter.]

Mr. CONKLING. An amendment to the amendment is in order.

Mr. THAYER. There seemed to be a general offering of amendments, and I thought I would offer mine. If I were called upon to solve this difficulty, it seems to me we might agree upon a form to obviate all disagreement. I would take the original resolution as reported by the Senator from Vermont and modify it so as to read:

That none of the States lately in rebellion shall be entitled to representation in the Electoral College, &c.

It seems to me that covers the whole ground. I propose to take the original resolution, strik-

ing out the names of the States and inserting a few other words, so as to make it read:

That none of the States lately in rebellion shall be entitled to representation in the Electoral College for the choice of President and Vice President—

Mr. DAVIS. Will you not stop there? [Laughter.]

Mr. THAYER. No, sir; I prefer to go through. I waive the reading of the residue of the resolution. If it is in order, I move that amendment.

Mr. CONKLING. That would shut out Maryland.

Mr. THAYER. Not at all.

Mr. CONKLING. Look and see.

Mr. DAVIS. I will say but one word on the proposition of my friend from Nebraska. This is not my dish, and I do not help to cook it; but at the same time I would ask leave to make a single suggestion which gentlemen can accept or reject. I think I can tell pretty certainly what their purposes are, and it seems to me that, without any more trouble or waste of words, they might just provide a short bill in this form:

*Be it enacted, &c.,* That the electors of Alabama, Arkansas, &c., shall not be counted in the next presidential election except so far as those electors are pledged to vote for the Radical candidate for the Presidency.

I think a few simple words like those would achieve the whole object. [Laughter.]

Mr. HOWE. I do not know how this is. I should like to have a night to think of it. There are some forty odd thousand words, I am told, in the English language, and I am a little inclined to think that by studying over night I could frame a proposition which has not been yet offered by way of amendment, [laughter,] and I move that the Senate adjourn. ["No!" "No!"]

The motion was not agreed to.

Mr. CONNESS. Before the vote is taken on the pending amendment I wish to try a vote on recommitting the resolution, and let the Senate decide whether they will take that course or not. I move to recommit the joint resolution to the Committee on the Judiciary.

The motion was not agreed to; there being on a division—ayes 16, noes 18.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Connecticut, [Mr. FERRY.]

The amendment was rejected—ayes nine, noes not counted.

Mr. POMEROY. If the Senator from Vermont is not particular in regard to the naming of these States, there is a form which I think will suit almost every one by just leaving out the names of the States.

Mr. EDMUNDS. I am not particular about anything, except I am particular in believing in my own opinion; but I am ready to give up to a majority at any moment if you can find a majority.

Mr. POMEROY. I am in favor of the resolution. The form of amendment which I have prepared is simply to make the resolution read thus:

That all the States whose inhabitants have been declared to have been lately in rebellion or insurrection against the United States shall not be entitled, &c.

Mr. CONKLING. That we voted upon before. That leaves West Virginia out in the cold, for example.

Mr. POMEROY. No; West Virginia has a State government organized.

Mr. CONKLING. The difficulty about West Virginia is this: a part of West Virginia was embraced in the proclamation of 1861. Virginia was embraced except that part west of the Alleghanies. That exception included the bulk of West Virginia, but not all of it. Therefore, there is a part of West Virginia which would be included in that proposition.

Mr. POMEROY. It does not apply to West Virginia or Tennessee.

Mr. VAN WINKLE. The proclamation of 1861 embraced a number of counties which are now a part of West Virginia.

Mr. POMEROY. I withdraw the amendment. Let us have a vote.

Mr. TRUMBULL. If the resolution should be reported to the Senate, and the Senator from New York [Mr. COXKING] would offer his proposition again, perhaps the Senate would adopt it. That certainly covers the whole case, and I do not think there is any serious objection made to it.

The PRESIDENT *pro tempore*. If there are no further amendments to be offered, the joint resolution will be reported to the Senate.

The joint resolution was reported to the Senate as amended.

Mr. CONKLING. If it is in order, at the suggestion of several Senators, two or three of whom voted against the proposition before, I beg leave now to renew the amendment that I moved in committee in the nature of a substitute. The Secretary has it.

Mr. POMEROY. We have not concurred in the amendment made in committee yet.

Mr. CONKLING. There was no amendment made.

Mr. POMEROY. An amendment was made which will be found in italics on the second page.

Mr. CONKLING. I beg pardon; I had forgotten that.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole, to insert in line fourteen, after the word "operation," the words:

And unless such election of electors shall have been held under the authority of such constitution and government.

The amendment was concurred in.

Mr. CONKLING. Now I renew my proposition in the nature of a substitute.

Mr. CONNESS. Let it be read.

The Chief Clerk read the amendment, as follows:

Strike out all after the resolving clause of the joint resolution, and insert:

That no State shall be entitled to representation in the Electoral College for the choice of President and Vice President of the United States, and no electoral votes shall be received or counted from any State, unless at the time prescribed by law for the choice of electors there shall be in such State a government recognized by Congress as regular and permanent, and not provisional only, nor unless the election for electors shall have taken place under the authority of a State government so recognized.

Mr. WILLIAMS. I am opposed to this amendment. If some others have changed their minds I have not seen any good reason to change mine. I think it is a bad time for the Congress of the United States to assert in this form this jurisdiction over all the States of the Union. It may be that this proposition can be supported by an argument, but the doubt in my mind is as to whether that argument will be satisfactory to the people so as fully to vindicate our cause if we adopt this amendment.

If there is any objection that has been urged with force against the present Congress, it is the assumption of power over the States of the Union; the disregard of the rights of the States. I do not of course fully sympathize with that objection; but at the same time this proposition assumes that whenever a party majority in Congress chooses not to recognize a State government, at that moment that State ceases to have any right of representation in the Electoral College. It will be said, as it seems to me, by those who are opposed to the policy of the present Congress, that the majority here have assumed the power to say that any State in the Union shall not be entitled to have representation in the Electoral College. Is that a power which can safely at this time be exercised by this Congress? I ask if we have not burdens enough to carry at this time, derived from the legislation that has taken place in reference to the reconstruction of the rebel States? Is it necessary now that we should adopt this abstraction relating to all the States of the Union, by which we put ourselves in the position before the country of saying that at any time, whenever it suits the views or interests of a party majority in Congress, any State of this Union may be deprived of its right to vote for President or Vice President of the

United States? I say we expose ourselves to this criticism at the hands of our political opponents, and it is a criticism that it will be difficult to answer. It will afford another ground for assailing the policy of Congress. It will be argued from one end of this country to the other that the Congress of the United States, not content with assuming absolute power over the States which have been in rebellion, because they have been in rebellion, are now undertaking to assume a similar power over all the States of the country.

I do not undertake to say that that is a sound argument. I pronounce no opinion upon it; but I say that we expose ourselves to that charge, and it puts upon us the necessity of explaining and defending this proposition everywhere before the people. But if a law is passed here that relates exclusively to the rebel States, the people understand it and know what it means, because we have heretofore assumed and maintained the ground that these States on account of their rebellion have entitled Congress to exercise jurisdiction over them and regulate the reorganization of the State governments.

I think, therefore, that this amendment ought not to be adopted. There is no necessity now for providing that Congress may at any time declare that the State of New York shall not be entitled to representation in the Electoral College or the State of Pennsylvania or any other State. "Sufficient unto the day is the evil thereof." Let us confine our legislation at this time, under existing circumstances, to these rebel States, and not undertake to add to the burdens that we have to carry this other which is contained in this amendment. I hope, Mr. President, that the amendment will not be adopted.

Mr. HOWARD. I am very anxious to come to a vote upon the main proposition offered by the Senator from Vermont. I will, therefore, allow myself but a single moment of time to speak upon the amendment offered by the honorable Senator from New York.

I see no necessity whatever for so general a statute on this subject. There is no necessity for it, and as I said before, it seems to me to be a gratuitous reflection upon the loyal States who have carried the Government successfully through this war; and I protest, in the name of ninety thousand brave men whom my State sent to the war and who did their duty gallantly, and their parts in the great drama fully, against this insult to their State, conveyed by the very language of the amendment of the Senator from New York, implying that there is a danger that any of those loyal States will hereafter embark in a rebellion against the United States. Does the honorable Senator fancy that his State will be guilty of this crime? He does not. Does he fancy that my State will be thus guilty; or that any one of the loyal States is likely in the future to commit this high offense? If there is no such danger, why reflect upon them this wanton insult? Why accuse them, in the language of this amendment, of being ready to embark into rebellion? Sir, if this amendment shall prevail, I am obliged to say here in my place that I shall vote against the whole resolution.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York.

Mr. CONKLING called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 17, nays 18; as follows:

YEAS—Messrs. Conkling, Cragin, Ferry, Howe, McDonald, Morgan, Osborn, Patterson of New Hampshire, Ramsey, Ross, Sherman, Stewart, Thayer, Trumbull, Van Winkle, Wiley, and Wilson—17.

NAYS—Messrs. Buckalew, Cattell, Chandler, Cole, Conness, Davis, Drake, Edmunds, Harlan, Howard, McGreevy, Morrill of Vermont, Pomeroy, Tipton, Vickers, Wade, Welch, and Williams—18.

ABSENT—Messrs. Anthony, Bayard, Cameron, Corbett, Dixon, Doolittle, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Morrill of Maine, Morton, Norton, Nye, Patterson of Tennessee, Rice, Saulsbury, Sprague, Sumner, and Yates—22.

So the amendment was rejected.

Mr. DRAKE. I move to amend the joint

resolution by striking out all after the word "that," and inserting the amendment that I offered in committee, and I ask for the reading of it. My impression is, that if the Senate will listen to the reading of it they will see that it puts the language on a better basis than any other proposition that has been offered.

The Chief Clerk read the amendment, which was to strike out all of the resolution after the enacting clause and to insert in lieu thereof:

That no State whose inhabitants were by the proclamation of the President of the United States of August 16, 1861, declared to be in a state of insurrection shall be entitled to representation in the Electoral College for the choice of President and Vice President of the United States, nor shall any electoral vote be received or counted from any such State, unless, at the time prescribed by law for the choice of such electors, the State shall have become entitled to representation in Congress under the reconstruction acts thereof, nor unless the electors shall have been chosen under and by authority of a State government theretofore recognized by Congress as lawful and permanent, and not provisional.

Mr. DRAKE. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 29; as follows:

YEAS—Messrs. Cragin, Drake, Ferry, Harlan, Howe, McDonald, Osborn, and Pomeroy—8.

NAYS—Messrs. Anthony, Buckalew, Cattell, Chandler, Cole, Conkling, Conness, Davis, Edmunds, Howard, McCreery, Morgan, Morrill of Vermont, Nye, Patterson of New Hampshire, Ramsey, Ross, Sherman, Stewart, Thayer, Tipton, Trumbull, Van Winkle, Vickers, Wade, Welch, Willey, Williams, and Wilson—29.

ABSENT—Messrs. Bayard, Cameron, Corbett, Dixon, Doolittle, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Morrill of Maine, Morton, Norton, Patterson of Tennessee, Rice, Saulsbury, Sprague, Sumner, and Yates—20.

So the amendment was rejected.

Mr. THAYER. I move to amend the resolution by striking out all after the word "that" in line three, down to and including the word "not" in line five, and in lieu of those words to insert "none of the States lately in rebellion, and not now represented in Congress shall;" so as to read:

That none of the States lately in rebellion and not now represented in Congress shall be entitled to representation in the Electoral College, &c.

Mr. SHERMAN. I hope this amendment will be adopted. Many Senators have a serious objection to naming States which are now represented here. This amendment embraces all that were lately in rebellion, and are not now represented. What objection can there be to it? There has been none stated. And as for legislating to provide for a double election in States which are represented in Congress, it seems to me, to say nothing stronger, to be an absurd proposition. It seems to me to be looking for dangers that do not exist, to be making windmills and then beating them down. I am perfectly willing to vote for anything that is agreed upon; but certainly there can be no objection to this amendment, because it includes in the provision all the States lately in rebellion which are not now represented in Congress.

Mr. EDMUNDS. I must be pardoned for saying one word in reply to the Senator from Ohio. I do not wish to be thought captious about this business, and I am sure I do not feel so; but now this proposition of the Senator from Nebraska is open to three distinct and special objections that have been made to other propositions which were substantially like this and which were voted down, one including West Virginia, another that I do not remember on account of the haste in which it was read. But I will say no more; I do not wish to take time.

Mr. CONNESS. I call for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. THAYER. It will be seen that this amendment can have no reference whatever to West Virginia. It provides for all the States lately in rebellion except these now represented in Congress, and those who come in hereafter will not be excluded from the Electoral College. I do not see how any one can object to it.

The question being taken by yeas and nays, resulted—yeas 23, nays 14; as follows:

YEAS—Messrs. Conkling, Conness, Cragin, Drake, Ferry, Harlan, Howe, McDonald, Morgan, Morrill of Vermont, Osborn, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Thayer, Tipton, Trumbull, Van Winkle, Welch, Willey, and Williams—23.

NAYS—Messrs. Anthony, Buckalew, Cattell, Chandler, Cole, Davis, Edmunds, Howard, McCreery, Nye, Stewart, Vickers, Wade, and Wilson—14.

ABSENT—Messrs. Bayard, Cameron, Corbett, Dixon, Doolittle, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Morrill of Maine, Morton, Norton, Patterson of Tennessee, Rice, Saulsbury, Sprague, Sumner, and Yates—20.

Mr. HOWARD. I should like to hear the resolution reported as it is amended.

The Chief Clerk read the resolution, as amended.

Mr. HOWARD. Let me suggest to the mover of the last amendment that he may be able to make an improvement in the language. It reads now, "none of the States not now represented."

Mr. DRAKE. "None of the States now unrepresented," probably would be better.

Mr. EDMUNDS. I suggest to the Senator from Nebraska to insert after the word "States" the words "whose people were lately in rebellion," because otherwise it leaves open the same old doubt we have been disputing about three years.

Mr. THAYER. The meaning is made perfectly plain by the first part of the amendment, "and not now represented in Congress."

Mr. EDMUNDS. I only suggest it to the Senator. He may take it at his own risk.

Mr. BUCKALEW. I move to strike out the last clause of the bill.

The words proposed to be stricken out were read, as follows:

And such State shall have also become entitled to representation in Congress, pursuant to the acts of Congress in that behalf.

Mr. BUCKALEW. I will state in a word what I understand that to be. It requires not only that the State shall be reorganized under the reconstruction laws, but that representatives shall be actually received by the two Houses.

Mr. EDMUNDS. That is a mistake. The language is "entitled" not "admitted" "to representation."

Mr. BUCKALEW. The question of the right under our recent legislation must be determined by the two Houses in order to come within the meaning of that clause.

Mr. EDMUNDS. No; it has been determined by law.

Mr. BUCKALEW. These recent acts which have been passed proved that the State shall accept the amendment of the Constitution; they shall agree to certain fundamental conditions, and then they shall be entitled to be received in Congress; and until an actual vote is taken receiving them their votes will be excluded under that clause. The prior part of the bill provides for a full compliance by the State with the requirements of the reconstruction laws, but this additional clause will require in my judgment, if I understand it at all, that Senators and Representatives shall be actually admitted into Congress before the State is allowed to vote.

The amendment was rejected.

Mr. THAYER. I will suggest this modification:

That none of the States whose inhabitants have lately been in rebellion.

The PRESIDENT *pro tempore*. That modification will be made if there be no objection. The Chair hears none.

The joint resolution was ordered to be engrossed for a third reading.

Mr. STEWART. Let it be read, so that we can understand just how it stands.

The Chief Clerk read the joint resolution, as amended.

Mr. VAN WINKLE. There is an amendment necessary in the first clause to make it congruous. It should read "whose inhabitants were lately in rebellion, and which States are not now represented," &c.

The PRESIDENT *pro tempore*. That

amendment will be made, there being no objection.

Mr. DRAKE. There is another verbal change which ought to be made to put the resolution in grammatical structure. It reads now, "that none of the States whose inhabitants were lately in rebellion, and which States are not now represented in Congress shall be entitled to representation in the Electoral College for the choice of President or Vice President of the United States; and no electoral votes shall be received or counted from any of such States," &c. I suggest that this latter clause should read, "nor shall any electoral votes be received or counted from any of such States."

The PRESIDENT *pro tempore*. That amendment will be made, there being no objection. The joint resolution was read the third time, as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That none of the States whose inhabitants were lately in rebellion, and which States are not now represented in Congress, shall be entitled to representation in the Electoral College for the choice of President or Vice President of the United States, nor shall any electoral votes be received or counted from any of such States, unless at the time prescribed by law for the choice of electors the people of such States, pursuant to the acts of Congress in that behalf, shall have, since the 4th day of March, 1867, adopted a constitution of State government under which a State government shall have been organized and shall be in operation, and unless such election of electors shall have been held under the authority of such constitution and government, and such State shall have also become entitled to representation in Congress, pursuant to the acts of Congress in that behalf.*

The PRESIDENT *pro tempore*. The question is on the passage of the joint resolution.

Mr. BUCKALEW and Mr. VICKERS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 29, nays 5; as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Cole, Conkling, Cragin, Drake, Edmunds, Ferry, Harlan, Howard, Howe, McDonald, Morgan, Morrill of Vermont, Nye, Osborn, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Stewart, Thayer, Van Winkle, Wade, Welch, Willey, and Wilson—29.

NAYS—Messrs. Buckalew, Davis, Henderson, McCreery, and Vickers—5.

ABSENT—Messrs. Bayard, Cameron, Conness, Corbett, Dixon, Doolittle, Fessenden, Fowler, Frelinghuysen, Grimes, Hendricks, Morrill of Maine, Morton, Norton, Patterson of Tennessee, Rice, Saulsbury, Sprague, Sumner, Tipton, Trumbull, Williams, and Yates—23.

So the joint resolution was passed.

Mr. WILSON. I move to take up House bill No. 1354 to provide for the distribution of arms for the use of the militia.

The motion was agreed to.

Mr. CONKLING. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, July 10, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was partially read, when, on motion of Mr. ELA, the further reading was dispensed with.

### PRINTING, BINDING, ETC.

Mr. ELA, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved, That the Committee on Printing be instructed to inquire whether the Commissioner of Patents has procured any printing, binding, or blank books except at the Government Printing Office; and if so from whom, what amount, and by what authority of law; with power to send for persons and papers.*

Mr. ELA moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### IMPROVEMENT OF MISSISSIPPI RIVER.

The SPEAKER. The first business in order is the consideration of the motion pending at the close of the session yesterday afternoon, being the motion to lay on the table the mo-



tion to reconsider the vote by which the House non-concurred in the amendment of the Senate to the bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river. The Clerk will report the amendment of the Senate.

The amendment of the Senate was reported, as follows:

Add the following as a new section:

SEC. 6. *And be it further enacted*, That there be, and hereby is, granted to the State of Minnesota, the further quantity of one hundred thousand acres of public lands, subject to the same restrictions as to selection and sale as are hereinbefore named, the proceeds whereof shall be used in making such improvements in the Mississippi river at the Falls of St. Anthony as may be deemed necessary by the Legislature of that State to protect and secure the existing navigation immediately above said falls.

Mr. DONNELLY. If the House refuses to lay on the table the motion to reconsider in what condition will that leave the pending amendment?

The SPEAKER. In that event the next question will be on reconsidering the non-concurrence of the House in the amendment of the Senate.

Mr. SCOFIELD. Is it in order to lay the bill on the table.

The SPEAKER. It is not. The motion to lay on the table the motion to reconsider has priority.

The question was put; and there were—ayes 30, noes 37; no quorum voting.

Tellers were ordered; and Messrs. SCOFIELD and DONNELLY were appointed.

The House divided; and the tellers reported—ayes 30, noes 47; no quorum voting.

Mr. PIKE. I withdraw the motion to reconsider.

Mr. SCOFIELD. Is it in order to move to lay the bill on the table?

The SPEAKER. The non-concurrence in the amendment of the Senate removes the bill from before the House.

Mr. DONNELLY. I move that a committee of conference be asked on the disagreeing votes of the two Houses on the amendment of the Senate to the bill.

The SPEAKER. That brings the question again before the House.

Mr. BOUTWELL. Is this the usual stage to ask a committee of conference?

The SPEAKER. It is. The motion of the gentleman from Pennsylvania [Mr. SCOFIELD] is now in order, if he desires to make it.

Mr. SCOFIELD. If the gentleman from Minnesota will let the bill go as it is, I will not make the motion.

Mr. DONNELLY. I insist on the motion for a committee of conference.

Mr. SCOFIELD. Then I move to lay the amendment of the Senate upon the table.

The SPEAKER. That will carry the bill with it.

The question was put on Mr. SCOFIELD's motion; and there were—ayes 23, noes 52; no quorum voting.

Mr. MAYNARD. I hope the Senate may be invited to a conference on this bill.

Mr. SCOFIELD. I will not insist on my motion.

The question was then taken on Mr. DONNELLY's motion; and it was agreed to.

#### CLERK OF PENSION COMMITTEE.

The SPEAKER. The next unfinished business is the resolution pending at the adjournment of last night's session reported from the Committee on Invalid Pensions, and on which the previous question was seconded and the main question ordered. The Clerk will read the resolution.

The Clerk read the resolution, as follows:

*Resolved*, That the Clerk of the House of Representatives be, and he is hereby, authorized and directed to pay to the clerk of the Committee on Invalid Pensions a sum of money which shall make his compensation equal to that of the clerk of the Committee of Claims, to commence July 1, 1868, and to terminate on the 4th day of March, 1869.

Mr. COVODE. Is it in order to move to amend the resolution so as to make it apply to

other clerks, who do double the work this clerk does?

The SPEAKER. It is not, the previous question having been seconded and the main question ordered.

Mr. MAYNARD. Is it in order to move to lay the resolution on the table?

The SPEAKER. It is.

Mr. MAYNARD. I make that motion.

The question was put; and there were—ayes 30, noes 49; no quorum voting.

Mr. SPALDING. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—ayes 54, nays 62, not voting 82; as follows:

YEAS—Messrs. Ames, Baker, Beatty, Blair, Boutwell, Boyer, Bromwell, Cuke, Cobb, Coburn, Cook, Covode, Cullon, Driggs, Fields, French, Getz, Glossbrenner, Hawkins, Hinds, Hulburd, Hunter, Judd, Julian, Kelsey, Ketchum, George V. Lawrence, William Lawrence, Marshall, Maynard, McCarthy, McKee, Moore, Mullins, Orth, Pile, Pomeroy, Raum, Robertson, Roots, Scofield, Selye, Shanks, Taber, Taylor, Upson, Burt Van Horn, Van Trump, Cadwalader C. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, and Woodbridge—54.

NAYS—Messrs. Adams, Allison, Anderson, Arnell, Delos R. Ashley, Axtell, Baldwin, Banks, Barnes, Beck, Benjamin, Brooks, Cary, Sidney Clarke, Dixon, Donnelly, Eckley, Eliot, Farnsworth, Garfield, Grover, Higby, Hooper, Hopkins, Chester D. Hubbard, Jencks, Johnson, Alexander H. Jones, Thomas L. Jones, Kitchen, Knott, Koontz, Loan, Loughbridge, Lynch, Mallory, Marvin, Miller, Moorhead, Morrell, Mungen, Nicholson, Nunn, O'Neill, Paine, Plants, Poland, Sawyer, Schenck, Sitgreaves, Spalding, Thaddeus Stevens, Stewart, Stokes, Stone, Taffe, Lawrence S. Trimble, Twichell, Van Aernam, Henry D. Washburn, Thomas Williams, and Windom—62.

NOT VOTING—Messrs. Archer, James M. Ashley, Bailey, Barnum, Beaman, Benton, Bingham, Blaine, Boies, Broomall, Buckland, Burr, Benjamin F. Butler, Roderick R. Butler, Chanler, Churchill, Reader W. Clark, Cornell, Dawes, Delano, Deweese, Dodge, Eggleston, Ela, Eldridge, Ferriss, Ferry, Finney, Fox, Golladay, Gravely, Griswold, Haight, Halsey, Hamilton, Harding, Hill, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Kelley, Kerr, Laffin, Lincoln, Logan, McClurg, McCormick, McCullough, Mercor, Morrissey, Myers, Newcomb, Niblack, Perham, Peters, Phelps, Pike, Polsley, Price, Pruyn, Randall, Robinson, Ross, Shellabarger, Smith, Starkweather, Aaron F. Stevens, Thomas, John Trimble, Trowbridge, Van Aiken, Robert T. Van Horn, Van Wyck, Ward, Elihu B. Washburne, John T. Wilson, Stephen F. Wilson, Wood, and Woodward—82.

So the House refused to lay the resolution upon the table.

The question recurred upon adopting the resolution.

Mr. ARNELL. Is it in order now to move to refer this resolution to a committee?

The SPEAKER. It is not; the previous question is now operating.

Mr. WELKER. I desire to ask the gentleman from Pennsylvania [Mr. MILLER] how much this resolution, if adopted, will give this committee clerk? That is not very well understood by members here.

Mr. MILLER. It will give him the same as the clerk of—

Mr. WELKER. I know that. I want to know how much in dollars.

Mr. MILLER. I was told the clerk of the Committee of Claims received \$1,800 a year.

Mr. WELKER. I have been told it will give him \$3,500.

Mr. MILLER. Oh, no; that is a mistake. It is only from the 1st of July to the 4th of March next.

Mr. WELKER. How much does it increase the compensation of this clerk? That is what I want to know.

Mr. MILLER. I will tell the gentleman I have been informed that the clerk of the Committee of Claims receives \$1,800 a year. I have no objection to naming that amount in the resolution, or to naming any specific per diem compensation.

Mr. WELKER. My objection to this resolution is that it does not disclose to the members of the House how much it is proposed to give this clerk. I want it fully understood, so that gentlemen may be able to vote intelligently on the subject, for no doubt there are other clerks as well as this one who are entitled to increased compensation.

Mr. WILSON, of Iowa. I am told that the clerk of the Committee of Claims gets \$2,100 a year besides the twenty per cent.

Mr. MILLER. No, sir; with the twenty per cent.

Mr. WILSON, of Iowa. Well, with the twenty per cent.

Mr. MILLER. It is only \$1,800, without the twenty per cent.

Mr. FARNSWORTH. I understand that this resolution does not cover any back time.

Mr. MILLER. No, sir.

Mr. FARNSWORTH. It applies only to the balance of this Congress.

Mr. MILLER. That is all.

Mr. FARNSWORTH. It seems to me that it is a very fair proposition.

Mr. MILLER. The compensation this clerk has received has not much more than paid for his board. As I stated yesterday, the Committee on Invalid Pensions have had more bills to consider than any other committee of this House; and the clerk of the Pension Committee has probably had more labor to perform than almost any other clerk.

Mr. MAYNARD. Would it be in order to ask a question of the Chair, or of the gentleman from Pennsylvania, [Mr. MILLER?]

The SPEAKER. The gentleman can make an inquiry of the gentleman from Pennsylvania, who has charge of the resolution.

Mr. MAYNARD. Is this resolution to pay this clerk an increased compensation during the recess, from the adjournment until December next?

Mr. MILLER. It pays him precisely as the other clerk is paid.

Mr. MAYNARD. A per diem or a salary?

Mr. MILLER. A salary from the 1st of July to the 4th of March next.

Mr. MAYNARD. I think it would be better to frame the resolution so as to allow a per diem compensation. The principal objection I have to this resolution is that it makes this clerk a salaried officer.

Mr. MILLER. I will modify the resolution so as to give this clerk seven dollars per day for the time he shall be actually employed from the first of this month.

Mr. STEVENS, of Pennsylvania. The clerk of the Committee on Reconstruction receives but four dollars per day for the time he is actually employed.

The SPEAKER. If no objection is made, the amendment of the gentleman from Pennsylvania [Mr. MILLER] will be received.

No objection was made.

Mr. WELKER. I understand that other clerks get but four dollars a day, and it is proposed to give this clerk seven dollars a day.

Mr. MILLER. Other clerks get as much as I propose to give this one?

Mr. WELKER. What clerks?

Mr. MILLER. The clerk of the Committee of Claims, and some other clerks.

Mr. WELKER. There may be two clerks who get that amount.

Mr. MILLER. There are five or six of them.

The question was on the amendment of Mr. MILLER, to make the compensation seven dollars per day, from the 1st of July, while actually employed.

The amendment was agreed to.

The question was upon the resolution, as amended.

Mr. WELKER. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—ayes 47, nays 60, not voting 91; as follows:

YEAS—Messrs. Anderson, Delos R. Ashley, Axtell, Baldwin, Barnes, Beck, Benjamin, Cuke, Chanler, Deweese, Dixon, Eckley, Farnsworth, Grover, Hinds, Hooper, Chester D. Hubbard, Jencks, Johnson, Alexander H. Jones, Thomas L. Jones, Judd, Koontz, Logan, Lynch, Marshall, Maynard, McCormick, Moorhead, Morrell, Mungen, Myers, Nicholson, Nunn, O'Neill, Pile, Plants, Poland, Roots, Sitgreaves, Spalding, Stokes, Lawrence S. Trimble, Twichell, Van Aernam, Robert T. Van Horn, and Windom—47.

NAYS—Messrs. Allison, Ames, Arnell, Bailey,

Baker, Beatty, Blair, Boles, Boutwell, Bromwell, Benjamin F. Butler, Cary, Churchill, Cobb, Cook, Covode, Cullom, Dawes, Driggs, Ela, Ferriss, Fields, Geitz, Glossbrenner, Golladay, Hamilton, Hopkins, Hulburd, Kelsey, Ketcham, George V. Lawrence, William Lawrence, Loan, Loughridge, McCarthy, McKee, Miller, Moore, Mullins, Orth, Paine, Pomeroy, Robertson, Ross, Schenck, Seofield, Smith, Thaddeus Stevens, Stone, Taber, Taffe, Taylor, Upson, Burt Van Horn, Elibu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, and Woodbridge—60.

NOT VOTING—Messrs. Adams, Archer, James M. Ashley, Banks, Barnum, Beaman, Benton, Bingham, Blaine, Boyer, Brooks, Broomall, Buckland, Burr, Rodrick R. Butler, Reader W. Clarke, Sidney Clark, Coburn, Cornell, Delano, Dodge, Donnelly, Eggleston, Eldridge, Eliot, Ferry, Finney, Fox, French, Garfield, Gravely, Griswold, Haight, Halsey, Harding, Hawkins, Higby, Hill, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Ingersoll, Julian, Kelley, Kerr, Kitchen, Knott, Laflin, Lincoln, Mallory, Marvin, McClurg, McCullough, Mercer, Morrissey, Newcomb, Niblack, Perham, Peters, Phelps, Pike, Polesley, Price, Pruyn, Randall, Raum, Robinson, Sawyer, Selye, Shanks, Shellabarger, Starkweather, Aaron F. Stevens, Stewart, Thomas, John Trimble, Trowbridge, Van Auken, Van Trump, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William Williams, John T. Wilson, Stephen F. Wilson, Wood, and Woodward—61.

So the resolution was not agreed to.

Mr. MILLER. Having voted in the negative for the purpose, I move to reconsider the vote just taken.

Mr. ROSS. I move that the motion to reconsider be laid on the table.

The motion of Mr. Ross was agreed to.

#### PAY OF NAVAL OFFICERS.

Mr. BUTLER, of Massachusetts. The Committee on Appropriations, to whom was referred the petition of Joshua E. Sands, in reference to the pay of naval officers, have directed me to report back the petition, move that they be discharged from its further consideration, and that it be referred to the Committee on Naval Affairs.

The motion was agreed to.

#### MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. WILLIAM G. MOORE, one of his Secretaries, notifying the House that House bill No. 598, to continue the Bureau for the Relief of Freedmen and Refugees, and for other purposes, having been presented to him June 24, 1868, and not having been returned by him within ten days, Sundays excepted, had, agreeably to constitutional provision, become a law.

#### MESSAGE FROM THE SENATE.

A message was also received from the Senate of the United States by Mr. GORHAM, its Secretary, notifying the House that that body had passed House bill No. 550, providing for the sale of a portion of the Fort Gratiot military reservation in St. Clair county, in the State of Michigan.

It also announced that the Senate had passed a bill and joint resolution of the House of the following titles, with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 202) to create the office of surveyor general in the Territory of Utah, to establish a land office in said Territory, and to extend the homestead and preëemption laws over the same; and

A joint resolution (H. R. No. 292) directing the Secretary of War to sell damaged and unserviceable arms, ordnance, or ordnance stores.

It also announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 588) for the relief of the Mount Vernon Ladies' Association of the Union;

An act (S. No. 576) to regulate the district court of Utah Territory;

An act (S. No. 593) for the relief of John Potts;

An act (S. No. 529) to establish rules and articles for the government of the armies of the United States;

An act (S. No. 609) transferring the duties of trustees of colored schools of Washington and Georgetown; and

An act (S. No. 214) to authorize the settle-

ment of claims of the State of Kansas for services of the militia called out by the Governor of that State upon the requisition of Major General Curtis to repel the invasion of General Price.

It announced, in conclusion, that the Senate had adopted the report of the committee of conference on the disagreeing votes of the two Houses on the following pension bills:

A bill (H. R. No. 373) to place the name of Mahala A. Straight upon the pension-roll of the United States;

A bill (H. R. No. 456) granting a pension to the minor children of Pleasant Stoops;

A bill (H. R. No. 518) granting a pension to George F. Gorham, late a private in company B, twenty-ninth regiment Massachusetts volunteer infantry;

A bill (H. R. No. 522) granting a pension to W. W. Cunningham;

A bill (H. R. No. 525) granting a pension to Jeremiah T. Hallett;

A bill (H. R. No. 661) granting a pension to the widow and minor children of William Craft;

A bill (H. R. No. 662) granting a pension to the widow and minor children of George R. Waters;

A bill (H. R. No. 663) granting a pension to Cyrus K. Wood, the legal representative of Cyrus D. Wood;

A bill (H. R. No. 664) granting a pension to the minor children of Charles Gouler;

A bill (H. R. No. 666) granting a pension to Henry H. Hunter;

A bill (H. R. No. 669) granting a pension to the widow and minor children of Myron Wilklow;

A bill (H. R. No. 670) granting a pension to the widow and children of Andrew Holman;

A bill (H. R. No. 521) to place the name of Solomon Zachman on the pension-roll;

A bill (H. R. No. 673) granting a pension to the widow and minor children of John S. Phelps;

A bill (H. R. No. 672) granting a pension to the widow and minor children of Charles W. Wilcox;

A bill (H. R. No. 676) granting a pension to Thomas Connolly;

A bill (H. R. No. 677) granting a pension to the minor children of James Hetherly;

A bill (H. R. No. 770) granting a pension to John H. Finlay;

A bill (H. R. No. 675) granting a pension to the widow and minor children of Cornelius L. Rice;

A bill (H. R. No. 771) granting a pension to John L. Lay;

A bill (H. R. No. 773) granting a pension to William H. McDonald; and

A bill (H. R. No. 825) granting a pension to John W. Hughes.

#### ORDER OF BUSINESS.

Mr. MOORHEAD. I call for the regular order.

The SPEAKER. This being Friday, the regular business of the morning hour is the consideration of reports of a private nature; and the House resumes the consideration of the bill (H. R. No. 1277) to provide for the distribution of the reward offered by the President of the United States for the capture of Jefferson Davis. This bill was, on Monday last, reported from the Committee of Claims by the gentleman from Massachusetts, [Mr. WASHBURN,] who is now entitled to the floor.

Mr. WASHBURN, of Massachusetts. I yield for a moment to the gentleman from Kansas, [Mr. CLARKE.]

#### BRIDGE ACROSS MISSOURI RIVER.

Mr. CLARKE, of Kansas. I ask unanimous consent that the bill (S. No. 355) authorizing the construction of a bridge across the Missouri river, upon the military reservation at Fort Leavenworth, Kansas, to be taken from the Speaker's table for consideration at the present time.

Mr. SPALDING. I object to taking any bill from the Speaker's table out of its order.

#### DIRECT TAXES IN SOUTHERN STATES.

Mr. WASHBURN, of Massachusetts. I yield to the gentleman from Ohio [Mr. SCHENCK] on the condition that the business he may introduce shall take but little time.

Mr. SCHENCK. I ask unanimous consent to report from the Committee of Ways and Means, for consideration at the present time, a joint resolution to amend the fourteenth section of the act approved July 28, 1866, entitled "An act to protect the revenue, and for other purposes."

The joint resolution, which was read for information, provides that the fourteenth section of the act named in the title be so amended as to extend the operation thereof until January 1, 1869.

Mr. ROSS. Reserving the right to object, I would like to hear some explanation of this bill.

Mr. SCHENCK. As the gentleman is aware, there is, by existing law, an imposition of direct taxes which has been met by most of the States of the Union; but the southern States have not been able to meet or to assume these taxes. By the act of July 28, 1866, the time for the collection of the direct taxes in those States was extended till January 1, 1868. Those States are still in a condition of transition, as it may be called, and are so situated that the tax cannot be readily or conveniently collected even by resorting to oppressive measures for that purpose. It is proposed by the Department that the provision of the act of July 28, 1866, shall be extended till January 1, 1869; and that is the object of this joint resolution.

Mr. ROSS. I do not object to the resolution.

Mr. MULLINS. Let me say to any gentleman who may be disposed to oppose this joint resolution, that if such a measure be not passed, and if we should attempt to force the collection of the direct tax in those States, the effect will be most disastrous. The property of the people will be sacrificed everywhere. I hope that there will be no objection to the passage of this joint resolution.

The joint resolution (H. R. No. 329) was, by unanimous consent, read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REBUILDING OF LEVEES.

Mr. HINDS, by unanimous consent, presented the memorial of the Arkansas constitutional convention, asking aid in rebuilding the levees along the Arkansas and Mississippi rivers, in the States of Arkansas, Mississippi, and Louisiana; which was referred to the Committee on Freedmen's Affairs, and ordered to be printed.

#### CAPTURE OF JEFF. DAVIS.

The SPEAKER stated the first business in order in the morning hour was the consideration of House bill No. 1277, to provide for the distribution of the reward offered by the President of the United States for the capture of Jefferson Davis, reported from the Committee of Claims.

Mr. WASHBURN, of Massachusetts moved various verbal amendments correcting the names of parties mentioned in the bill.

The amendments were agreed to.

Mr. WASHBURN, of Massachusetts. I move the following amendment, to come in at the end of the first section:

And the Secretary of War is hereby authorized to receive evidence to correct misnomers or the omission of any of the names of those actually present rendering service with either of said detachments according to the true intent and meaning of this act, and to certify the same to the Secretary of the Treasury, who shall cause the same to be audited and paid.

The amendment was agreed to.

Mr. RAUM. I ask the gentleman to yield to me for the purpose of moving an amendment.

Mr. WASHBURN, of Massachusetts. I cannot yield to the gentleman for that purpose.

Now, Mr. Speaker, I will state in the first place, if I supposed the members of the House had read the report of the committee I should take no time in explaining the action of the committee, but I know at this period of the session few have the time to read any reports. I wish to say, so far as the action of the committee is concerned in reference to this reward, the committee doubt whether, strictly speaking, the reward could be legally claimed by any of the military force engaged in the service of the country. They believe the reward when offered was not intended to apply to that class of persons. While they were engaged in this duty they were merely performing that which devolved upon them in the service of the country; but the course having been taken in regard to the capture of Booth to divide the reward among the military engaged in his capture, the committee felt it was too late to discuss that question, and therefore, believing from the previous bills referred to the committee it was the opinion of the House the reward offered for the capture of Jefferson Davis should also be divided among the military officers and men entitled to it, we have taken the precedent adopted in the case of Booth's capture, and have reported the pending bill.

As the question presented itself to the minds of the committee—what class of persons are entitled to this reward; if it is to be divided among the military force which of them is entitled to it?—it will be noticed by those who have examined the bill we have divided it, so to speak, into three parts. First we state that the individual who had the control of these operations, who had been so energetic and so active in sending out all these various squads of soldiers in order that success might attend their efforts in the capture, he who laid the plans, without which the capture in all human probability would not have been made, certainly deserves consideration at our hands. No one disputes that Major General Wilson was the individual who sent out all these different parties. He planned and controlled and guided and directed the course to be taken by these different officers and men. The committee therefore state, in the first place, he should be rewarded for this direction and superintendence and guidance, and they have, therefore, included his name as one of the officers to receive this reward.

But it has been said, and I suppose the gentleman from Illinois [Mr. RAUM] rose to move an amendment on the subject, we have not allowed him as much as he is entitled to. The committee were of the opinion that we should adopt the principle in distribution that no man or officer shall be made rich by this award. Therefore we allow no officer a higher sum than \$3,000. We recognize his services by the allowance of that sum, and so far as I know there has been no complaint made by any of these officers that the amount of \$3,000 which we have given them is not satisfactory. Agreeing, then, in the first place, that General Wilson should receive a portion of the award, the next step was to determine what classes of persons in addition to him should receive it. We said it should be given to those men who were instrumental in accomplishing the result. The first party that was sent out for this purpose was Captain Joseph A. O. Yeoman, with a company of thirty-three men, who started May 3, under the order of General Wilson to one of his sub-officers to select one of the most enterprising officers and a company with him, to be sent in a certain direction to see if they could ascertain anything in reference to Davis and his party, who were supposed to be fleeing from the country. Captain Yeoman and his detail dressed themselves in rebel uniform and went forth, using such energy and perseverance in the work in which they were engaged as rarely ever was displayed before by a like body of men; they fell upon the trail and the train of Davis and his escort, mingled with them for three days in order to ascertain his course and

give such information as would lead to his capture. On the 6th of May, having ascertained his whereabouts and the direction which he and his party were taking, he sent two of his men with all possible speed to convey the intelligence to General Wilson. The couriers in one day and night rode one hundred and twenty miles in order to convey the intelligence to their commander, and to dispatch the forces that were to be sent out to cut off Davis and his party. They were ordered to go with the utmost speed, and to kill their horses if necessary, and to seize others in order to convey the intelligence in the shortest possible time.

Now, it was from the action of Captain Yeoman and his men that the intelligence was communicated which led to the dispatch of the other officers and men for the certain capture of Davis. He informed General Wilson in reference to the late action, and the probable future course of Davis. His information was relied upon, and was correct. Had it not been for his energy in that regard the capture of Davis would never have been effected. From the information thus communicated the marching regiments were sent out which succeeded in the capture. It is on that ground, Captain Yeoman and his men having been instrumental in guiding and directing the forces which succeeded in the capture, that we have seen fit to embrace this detail and their officer in this award. We believe they are as much entitled to it as any who were engaged in the pursuit. They risked their lives, and encountered the peril and fate of spies, a more hazardous enterprise than any other command engaged in this duty can boast of. General Wilson having received information from Captain Yeoman at once sent off Colonel Harnden, of the first Wisconsin cavalry, with his regiment, to cut off Davis in the direction he was supposed to be escaping. Colonel Harnden started on the 5th of May, at night. He marched with all possible speed until he arrived at Jeffersonville, where he left thirty of his men. He went forward and arrived at Dublin, where he left forty-five more of his men, who were directed to scout the country around and guard the fords and passes in that direction if, perchance, Davis and his party should come there, in order to cut them off. Colonel Harnden, with the rest of his command, went on, and at length fell upon the trail of Davis and his party on the very route indicated by Captain Yeoman. He followed them day and night for some two days, until, on the 9th of May, he reached Abbeville, where he discovered Davis had passed a few hours before. Stopping at a house near Abbeville he inquired the way to Irwinsville, where he proposed to go in order to obtain forage for his horses, intending to follow Davis as rapidly as possible.

At three o'clock in the afternoon of the 8th of May, he left Abbeville on the road to Irwinsville, where he believed Davis had gone. After he had thus started his command, and was about to follow with his orderly, he saw four men riding down from the Hawkinsville road. He went to see those four men to ascertain whence they came and what was their object, noticing that they were United States troops. He ascertained from them that they belonged to Colonel Pritchard's regiment which had been sent from Macon, and had been following the river down in pursuit of Davis. He accordingly waited until Colonel Pritchard came up. And here let me say, that while there is some dispute in regard to the exact conversation which took place, it will not be my object to say to the House that there is any dispute in reference to. When Harnden met Pritchard, Pritchard told him his object, that he had been ordered to examine the passes of the river and see if Davis and his party undertook to cross the river, or if he could discover them in the valley of the river, to pursue and capture him if he could succeed in doing so. But the point to which I wish to call the attention of the House is this, that Colonel Harnden at this time asked Colonel Pritchard if he had heard anything of Davis and his party, and Colonel

Pritchard replied that he had not. Up to this time, so far as there is any evidence before the committee, Colonel Pritchard had heard nothing of Davis and his companions.

Harnden told Colonel Pritchard that he had been following Davis's trail for two days, and that Davis had gone on the road to Irwinsville a few hours before; that he was in pursuit of him on that line, and was then going to Irwinsville. He left Colonel Pritchard with that understanding, Pritchard guarding the line of the river, and at the same time informing him that he understood another party had taken the left toward the river supposed to be a part of Davis's escort. Colonel Harnden then left, and started in pursuit of his command. They pressed on toward Irwinsville till nine o'clock in the evening, when they arrived near the outskirts of the town. Being dark, and their horses unable to undergo a further continuous march, it was deemed best to encamp for the night, and start early in the morning in order that they might succeed in the capture. They accordingly rested at nine o'clock, with orders to start the next morning at three o'clock. At three o'clock Colonel Harnden and his men started in pursuit of Davis. An officer and six men went in front in order that they might lead the way. They had gone, as is known to those who have examined the testimony, but a short distance when they fell in with an advance guard which gave the order to "halt and dismount." Supposing this company to be a part of Davis's band of rebels, they fell back and were fired upon. Two men were killed and three were wounded in the action. It seems, then, that Harnden with his entire force pressed forward supposing that this was a part of Davis's band. At length light began to dawn. They had taken one of the men who opposed them prisoner, and it turned out that he was one of the fourth Michigan cavalry, Colonel Pritchard's men. This was the first knowledge they had of Colonel Pritchard's being in that region, and of course all firing ceased. But the question which arises is how came Pritchard's men in that position? Colonel Harnden inquired and ascertained that Colonel Pritchard, a short time after he left him, left the river and took a portion of his regiment and hastened by another road to the same point, Irwinsville, and that he arrived there the night previous and encamped about the same distance from the town that Harnden had. He also rose early in the morning and sent a squad of men to capture Davis in order that they might be there as soon as it was light.

Mr. UPSON. The gentleman is mistaken in saying that Colonel Pritchard encamped at Irwinsville. He never encamped, but immediately surrounded Davis's company and lay there until morning.

Mr. WASHBURN, of Massachusetts. No matter; he stopped near Irwinsville, whether any of them camped or not; there is where they stopped. I do not know that Harnden camped during the night; perhaps he did not. But he rested near Irwinsville, and marched in the morning about the same time. And as Pritchard states he sent a squad of men upon this Irwinsville road, which road Harnden took, for fear Davis and his train might attempt to escape by that road.

After the discovery was made that these were Pritchard's men, and that Colonel Pritchard was near, Pritchard himself came in and told Harnden that he with his command had just started; and that a squad of his men had just captured Davis and some persons with him. Harnden and Pritchard then went together to where Davis was, and there found, what is known to every member of this House, the company that were captured with Davis.

Now, all I wish to say is this: here were Harnden and his regiment who had been on the track of Davis, and were ready to capture him. Here was Pritchard and his men who also had used uncommon energy, and who had succeeded in arriving near Irwinsville the night before, and were also ready to capture Davis. There is no dispute but what the squad of



Pritchard's men surrounded the camp of Davis, and so far as the immediate capture of Davis was concerned they were instrumental in accomplishing it. It is claimed on the part of Harnden's men that had it not been for Pritchard's advance-guard, which halted them when they were marching to the camp of Davis, they would have arrived there as soon as, if not sooner, than Pritchard's men, and been instrumental in making the capture rather than Colonel Pritchard himself. But the committee think that that fact does not necessarily follow, for it is neither necessary to admit it or deny it.

It is enough for me that the two commands occupied about the same position, as far as their distance from camp was concerned; and had it not been for Pritchard, Harnden would have captured Davis about the same time that Pritchard did; and that if Harnden had not been there, Pritchard and his men would have captured him as he did. The escort with Davis was so small that either party of our men would have been more than enough to make the capture; but the force of Davis was previously unknown; it had been strong, but had abandoned him, and was finally reduced by desertion, fear, and poverty to the meagre squad which yet, by the sympathy of a common misery, clung to his fallen fortunes.

It is proposed to divide this reward equally among these men. Pritchard was not in advance of Harnden, nor was Harnden in advance of Pritchard; but all the information that Pritchard had in regard to Davis was obtained from Harnden, was volunteered by Harnden, and there is every reason to suppose that had not Pritchard happened to meet Harnden at Abbeville, it is very doubtful whether he would have turned his course so as to have succeeded in the capture of Davis at all.

However that may be, I say for the Committee of Claims, in regard to both of these regiments and their officers, that they did all in their power to accomplish the object for which they were sent out, and which they had in view. Both were equally meritorious, and with the men who were immediately present surrounding Irwinsville and ready to capture Davis as soon as the dawn appeared, are equally entitled to this award. I am not prepared to say that because one party happened to get there a few minutes before the other therefore that party is entitled to any more of this reward than the other; but that they are entitled to be treated both alike, with equal praise, equal merit, and equal generosity. I must insist, that under all the circumstances, we should treat them all alike. All that I have intended in these remarks has been to state the reasons which have brought the committee to the conclusions embodied in the bill. I now yield ten minutes to the gentleman from Michigan, [Mr. Urson.]

Mr. UPSON. Before proceeding with my remarks upon this subject, I desire to inquire of the gentleman from Massachusetts [Mr. Washburn] whether the bill is now open to amendment? I have an amendment which I would like to offer.

Mr. WASHBURN, of Massachusetts. In order that there may be no misunderstanding, I will say that the committee were unanimous in this report, and that the Committee of Claims of the last Congress were unanimously in favor of a report substantially similar to this. I have no authority from the committee to permit any amendment, but I will allow the gentleman's amendment to be read. Of course, if the House should see fit to vote down the previous question when the time comes, the amendment can be offered.

Mr. UPSON. I send my amendment to the Clerk's desk.

The Clerk read as follows:

Strike out the following:

To Henry Harnden, of the State of Wisconsin, late lieutenant colonel of the first Wisconsin cavalry, \$3,000.

Officers and enlisted men of the first Wisconsin cavalry engaged in the pursuit and present at the time of the capture of Jefferson Davis:

Orson P. Clinton, second lieutenant company B; Walter O. Hargraves, sergeant major; James Aplin,

private company K, orderly for Colonel Harnden; Austin M. Hove, sergeant company A; David N. Bell, William Billsbeck, Martin M. Coleman, William Deyer, John Huntermer, Gottlieb J. Klinefinc, Sidney Leonard, James McMillon, George W. Silsbee, Christopher Stinebreck, Herbert Schelter, privates company A; Luther L. Blair, Melvin T. Olin, and John Clark, sergeants company B; Thomas B. Culbertson, James McCrary, and Ezra H. Stewart, corporals company B; Albert L. Beardsley, Thomas Coleman, Rawson P. Franklin, Sylvester Fairbanks, William Gill, William Grimes, Lewis Jacobson, Honore Leverner, William Matshie, Ira Miller, John Nolan, John Norton, Warren P. Otterson, Steven Pouquette, William A. Spangler, Frederick Stein, field, Joseph Smith, George Wright, and John Wagner, privates company B; George D. Hussey and J. M. Wheeler, sergeants company D; Gustavus W. Sykes (wounded), L. Philip Pond, Joseph Myers, and George La Bode, corporals company D; Nelson Apsey (wounded), P. F. Anderson, Donald Brandor, F. Bublitz, J. S. Burton, Lawrence Bird, Joseph Begun, A. J. Craig, Thomas Day, Thomas Dickerson, Jerrod Fields, James Foley, Jacob Gosh, D. H. Goddreich, Lewis Harting, N. M. Heppner, C. Helgeson, Henry Hamilton, A. E. Johnson, John Ludwick, N. F. Nickerson, P. W. O. Herron, J. A. L. Pooch, Alexander Pingilly, Arne Renom, Jerome Roe, Herman Stone, John Spear, Henry Sidenburg, J. H. Warren, C. W. Seely, (wounded), privates company D.

Mr. UPSON. Mr. Speaker, on the 2d day of May, 1865, the President of the United States issued a proclamation, of which the following is a copy, offering rewards for the arrest of Jefferson Davis and others:

*By the President of the United States of America.*  
A PROCLAMATION.

Whereas it appears from evidence in the Bureau of Military Justice that the atrocious murder of the late President, Abraham Lincoln, and the attempted assassination of Hon. William H. Seward, Secretary of State, were incited, concerted, and procured by and between Jefferson Davis, late of Richmond, Virginia, and Jacob Thompson, Clement C. Clay, Beverly Tucker, George N. Saunders, William C. Cleary, and other rebels and traitors against the Government of the United States, harbored in Canada:

Now, therefore, to the end that justice may be done, I, Andrew Johnson, President of the United States, do offer and promise for the arrest of said persons, or either of them, within the limits of the United States, so that they can be brought to trial, the following rewards:

One hundred thousand dollars for the arrest of Jefferson Davis.

Twenty-five thousand dollars for the arrest of Clement C. Clay.

Twenty-five thousand dollars for the arrest of Jacob Thompson, late of Mississippi.

Twenty-five thousand dollars for the arrest of George N. Saunders.

Twenty-five thousand dollars for the arrest of Beverly Tucker.

Ten thousand dollars for the arrest of William C. Cleary, late clerk of Clement C. Clay.

The Provost Marshal General of the United States is directed to cause a description of said persons, with notice of the above rewards, to be published.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed. Done at the city of Washington, this 2d day of May, in the year of our Lord 1865, and of the [U. S.] independence of the United States of America the eighty-ninth.

ANDREW JOHNSON.

By the President:

W. HUNTER, Acting Secretary of State.

Subsequently on the 10th day of May, 1865, the arrest of Jefferson Davis was effected near Irwinsville, Georgia, by the fourth Michigan cavalry regiment, under the command of Lieutenant Colonel B. D. Pritchard. After the capture of the assassins of the late President, there being numerous conflicting claimants for the rewards offered for the apprehension of the said murderers, and for the rewards offered by proclamation, as aforesaid, for the apprehension of Jefferson Davis and others, a commission was appointed by the Secretary of War, consisting of E. D. Townsend, Assistant Adjutant General, and Joseph Holt, Judge Advocate General, to examine and determine the respective claims, and thereupon the following order was issued and public notice thereof given:

[General Orders, No. 65.]

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
WASHINGTON November 24, 1865.

Ordered, That—

1. All persons claiming reward for the apprehension of John Wilkes Booth, Lewis Payne, G. A. Atzerott, and David E. Herold, and Jefferson Davis, or either of them, are notified to file their claims and their proofs with the Adjutant General, for final adjudication by the special commission appointed to award and determine upon the validity of such claims, before the 1st day of January next, after which time no claims will be received.

2. The rewards offered for the arrest of Jacob

Thompson, Beverly Tucker, George N. Saunders, William C. Cleary, and John H. Suratt are revoked. By order of the President of the United States:  
E. D. TOWNSEND,  
Assistant Adjutant General.

The Secretary of War, in a communication to this House on this subject of date of April 18, 1866, (Ex. Doc. No. 90, first session Thirty-Ninth Congress,) states that—

"Claims continued to be presented after the expiration of the time specified in that order; and on the 16th instant, a year having elapsed from the date of the murder of Mr. Lincoln, it was considered that ample time had been allowed and the commission were directed to make their final report."

The final report of said commission was made January 13, 1866, and their findings and awards, without the evidence, will be found in said Executive Document No. 90, first session Thirty-Ninth Congress, and by it the reward for the capture of Jefferson Davis was awarded to Lieutenant Colonel Pritchard and the fourth Michigan cavalry under his command, as stated in the present report of the Committee of Claims now under consideration. The entire evidence upon which said awards for the apprehension of Jefferson Davis were made will be found in Senate Executive Document No. 64, first session Thirty-Ninth Congress, having been communicated to the Senate by the Secretary of War in compliance with a resolution of that body calling upon him for the same.

The reports and evidence on behalf of the claim of Lieutenant Colonel Henry Harnden, three officers, and one hundred and forty-eight non-commissioned officers and men of the first Wisconsin cavalry, for arrest of Davis, is contained therein, and the report of the commission states that the said claimants were adjudged to be not entitled to the reward under the terms of the published offers. (House Ex. Doc. No. 90, first session Thirty-Ninth Congress, pp. 22, 23.) The subject having been referred to the Committee of Claims in the House of the Thirty-Ninth Congress, Mr. HOTCHKISS, from said committee, on the 24th day of July, 1866, reported a bill authorizing the payment of the various rewards offered for the capture of the assassins, and for the capture of Jefferson Davis, the said bill, so far as the captors of Davis were concerned, following out the finding and award of said commission, and of which the bill presented by me was a copy. Said bill was ordered to be printed and the further consideration of the same was postponed till the next day. On being taken up in the House, that portion of it relating to the reward offered for the arrest of Jefferson Davis was objected to, and it being just at the close of the session and little time left for debate, and as delay would be likely to kill the whole bill and thus defeat the payment of claims for the other rewards, a substitute was adopted leaving out from the bill all that part of it relating to the reward offered for the capture of Jefferson Davis, and the bill thus substituted passed on or about the last day of the session, with some amendments. Up to this time no application or claim for the reward had been made on the part of any one save the officers and men of the fourth Michigan and first Wisconsin cavalry, although the report of General Wilson and his recommendations in regard to the capture and the reward were returned and filed with the evidence before the commission which made the finding and award heretofore referred to, and notwithstanding the publication of the order for the presentation of claims as hereinbefore stated.

On the 15th January, 1867, on the motion of one of the Wisconsin delegation in the House, [Mr. Cobb,] an order was passed for the Committee of Claims to take certain testimony in the case, which testimony, as far as taken, was, on the 2d March, 1867, just at the close of the session, ordered to be printed, and will be found in Miscellaneous Document No. 82, second session Thirty-Ninth Congress. It contains a further report of General Wilson, and also a further statement, with an application or claim on his part, of date of January 27, 1867, for a portion of the reward. Also, the

testimony taken again of Lieutenant Colonel Harnden; and new and enlarged affidavits again made and filed by Orson P. Clinton and J. J. Aplin, and an original affidavit of George L. Wright, all of the said first Wisconsin cavalry, being all, except Wright, the identical persons whose reports and affidavits were filed before the said commission, on behalf of the said first Wisconsin cavalry regiment, and which will be found in Senate Executive Document No. 64, first session Thirty-Ninth Congress; and being, therefore, only a restatement, with additions, as they might deem proper, of the evidence in support of their claim. But the committee did not see proper, or did not have time, to call upon or examine further any of the officers or men of the fourth Michigan cavalry, or to call for their evidence before the commission; and, in that respect the evidence in said House Miscellaneous Document No. 82, second session Thirty-Ninth Congress, if, perhaps, we except General Wilson's new report and statement, is entirely *ex parte*.

I am not aware that any additional testimony has been taken in this case by the Committee of Claims of this Fortieth Congress, though one or two official reports may have been referred to them; and I have also presented in the House and had referred to them the affidavit of Lieutenant J. G. Dickinson, adjutant of the fourth Michigan cavalry, who was present at the capture, and who is particularly referred to by General Wilson in his report of January 17, 1867. (See House Mis. Doc. No. 82, second session Thirty-Ninth Congress, p. 11.)

This sketch or history of the proceedings in this case, with references to the documents where the evidence is to be found, and suggestions as to the circumstances under which it was taken, has been deemed necessary to facilitate its examination and to lead to a proper understanding of its merits. The claim of the fourth Michigan cavalry has once been favorably reported on by the commission appointed by the War Department, and approved by the Secretary; and subsequently a bill to carry out said award has once been reported by a former committee of this House, while by the same commission the claim of the first Wisconsin regiment has once been rejected. The claim presents itself in two aspects, first before the commission, and, secondly, before this House. Before the commission, and in the first session of the Thirty-Ninth Congress, the parties claiming the reward were comprised in the fourth Michigan and first Wisconsin cavalry.

Now, the parties claimants are more numerous, but in each instance Lieutenant Colonel Harnden and the witnesses he brings with him have unwisely, as it seems to me, seen fit in presenting their claim on behalf of the first Wisconsin cavalry to assail the honor of Lieutenant Colonel Pritchard, as if acknowledging that, without making good their charges against him, their claim had no just foundation. The aforesaid commission appointed by the Secretary of War to examine and determine upon the evidence, the merits of the respective claims, in their report to the Secretary announcing their finding, use this language in giving their conclusion upon the evidence before them, expressly referring therein to these charges made by Colonel Harnden:

"The arrest of this chief traitor was effected on May 10 last, near Irwinsville, Georgia, by the fourth Michigan cavalry regiment, under the command of Lieutenant Colonel B. D. Pritchard, who started upon the pursuit with his command, from Macon, Georgia, on May 7. The reward in this case, however, is also claimed by Lieutenant Colonel Henry Harnden, who, with his regiment, the first Wisconsin cavalry, also engaged in the pursuit, arrived upon the ground but a few minutes after the command of Colonel Pritchard had taken possession of the camp of Davis. Without discussing at length the charges which have been made by Colonel Harnden in regard to the course adopted by Colonel Pritchard upon this pursuit, it will be sufficient to observe that upon a careful consideration of all the evidence these charges are not deemed to be sustained in any particular; and it is concluded by the undersigned that the latter officer, both in the pursuit and the capture, acted in entire good faith toward the former, and cannot be held

responsible for the momentary unfortunate collision which took place between the two commands.

"The charges in question not being sustained, it must be held that the regiment or detachment of Colonel Pritchard were the actual captors, and that it is among the officers and men who constituted such detachment that the specific reward for the 'arrest' of Davis is to be divided.

"At the same time it is proper to bear testimony to the valuable services upon this occasion of the first Wisconsin cavalry and its commander, and to note that, while the Michigan regiment is deemed under the terms of the offer to be entitled to the reward, the activity and zeal displayed in the pursuit by the other must commend it to a hardly less honorable mention than its more fortunate ally."

This finding having been approved by the Secretary of War, the said claim and charges restated are now pressed by Colonel Harnden and his friends as if in the nature of an appeal from that decision, and to Colonel Pritchard and the fourth Michigan cavalry it becomes a matter of far higher and more important consideration than any mere pecuniary reward.

The report of the Committee of Claims accompanying their present bill, after quoting the aforesaid testimony and report of General Wilson of January 17, 1867, and also the last statement of Colonel Harnden on oath, made 29th January, 1867, before the Committee of Claims of the Thirty-Ninth Congress, and giving an extract from the report of General Thomas of June 1, 1868, (probably 1865,) makes this extraordinary statement, namely:

"From this testimony may be gathered the facts of the capture of Jefferson Davis and the merits of the contest between the fourth Michigan and first Wisconsin regiments. That contest was one of true heroism, in which both parties rendered the most honorable service in the field, and it ought not, in the opinion of the committee, to be now degraded into a controversy for the pecuniary reward."

The report then refers to affidavits of Lieutenant Clinton and privates Aplin and Wright, of Colonel Harnden's regiment, but gives no extracts from, and makes no reference to the report or affidavits of any officer or private of the fourth Michigan cavalry in regard to the capture, nor even to the prior reports or recommendations of either General Wilson or Colonel Harnden, so that the facts, according to the report of the committee in regard to the contest between the fourth Michigan and first Wisconsin cavalry, are to be gathered entirely from the *ex parte* statements of the officers and men of the first Wisconsin cavalry, and the last statement of General Wilson, after he had been apparently importuned to make some further declaration to favor Colonel Harnden's cause; but the statements of the officers and men of the fourth Michigan regiment apparently are not deemed worthy of notice or even of mention in the case. I have too high an opinion of the committee, and especially of the gentleman who made the report, to believe that this omission was intentional, but it is so remarkable that I must conclude that the reports and affidavits of the officers and men of the fourth Michigan regiment must have been by some mistake overlooked or forgotten, for they contain some statements totally at variance with the testimony of Colonel Harnden, and somewhat seriously affecting the "merits" of what the report styles the "contest" between said regiments.

As the committee in their report quote from the finding and award made by Assistant Adjutant General Townsend and Judge Advocate General Holt, the commission appointed by the Secretary of War to examine and determine the respective claims for the reward offered for the capture of Jefferson Davis, and as they in effect overrule and set aside the same in their report and bill it is fair to presume that they have examined all the evidence upon which the award of said commission was made. That evidence will be found in Senate Executive Document No. 64, first session Thirty-Ninth Congress, communicated by letter from the Secretary of War, April 30, 1866, in compliance with a resolution of the Senate calling upon him for such evidence, and is comprised in the following list, given at the commencement of said communication:

1. Report of General J. H. Wilson, dated May 12, 1865.

2. Report of Colonel Minty, dated May 18, 1865.

3. Report of Lieutenant Colonel Harnden, first Wisconsin cavalry, dated May 18, with indorsements.

4. List of officers and men of the first Wisconsin cavalry reported as engaged in the pursuit.

5. Report of Captain Hathaway, fourth Michigan cavalry, dated May 15, 1865.

6. List of officers and men of the fourth Michigan cavalry reported as actually present at the capture.

8. Lieutenant Colonel Pritchard's report, dated May 25, 1865.

9. Brevet Brigadier General Minty's letter of July 6, 1865, forwarding report of Lieutenant Colonel Pritchard, dated July 2, 1865, with two inclosures.

11. Supplemental report of Lieutenant Colonel Harnden, sworn to December 11, 1865, with inclosures.

12. Copy of proclamation by the President of May 2, 1865, offering reward for the apprehension of Jefferson Davis and others.

Copies of the said report of General Wilson, with that of Captain Hathaway, Lieutenant Colonel Harnden, and Colonel Minty, with the indorsements thereon, as transmitted by General Wilson, are also contained in Senate Executive Document No. 13, second session Thirty-Ninth Congress, communicated by the Secretary of War, January 31, 1867, in obedience to a resolution of the Senate. Yet, notwithstanding the report of the committee accompanying, this bill overrules and sets aside the finding and award of this commission. It does not once allude to the aforesaid evidence on which it was founded, or any part thereof, but bases its conclusions wholly, as would seem, so far as the fourth Michigan and first Wisconsin cavalry are concerned, upon the subsequent statements of General Wilson and Colonel Harnden, in Miscellaneous Document No. 82, with the exception of the brief reference to the report of General Thomas; and it would seem as if the evidence on the part of the fourth Michigan cavalry had never been seen by the committee, or had been wholly overlooked and ignored, and even the sworn statement of Lieutenant Dickinson, of the fourth Michigan cavalry, which gives a full statement of the transaction, and particularly of the interview between Lieutenant Colonel Harnden and Lieutenant Colonel Pritchard, at Abbeville, and which was presented by me and referred to the committee on the 18th of December, 1867, seems also wholly to have escaped the attention of the committee or to have been considered immaterial and unworthy of notice.

As Lieutenant Dickinson's statement of the capture of Jefferson Davis has never been printed, and as it contains some matters which I deem material and pertinent, and as controverting some of the statements contained in the first report of Colonel Harnden, and also in his sworn statement of December 11, 1865, filed before the commission, and in the affidavits accompanying the same, I will now send it to the Clerk to have it read.

The Clerk read as follows:

STATE OF MICHIGAN, County of Wayne, ss:

Before me, a notary public in and for said county, personally appeared J. G. Dickinson, of the city of Detroit, county and State aforesaid, who being by me duly sworn, deposes and says that he was first lieutenant and adjutant of the fourth Michigan cavalry during the month of May, A. D. 1865, and was with his regiment during the pursuit and capture of the rebel Jefferson Davis and party, on the 9th and 10th days of May, A. D. 1865, in the vicinity of Irwinsville, Georgia. That he was personally present at the meeting and interview of Lieutenant Colonel B. D. Pritchard, commanding the fourth Michigan cavalry, and Lieutenant Colonel Harnden, commanding detachment first Wisconsin cavalry, on the afternoon of the 9th day of May aforesaid, near Abbeville, in the State of Georgia, and heard the whole of the conversation between those two officers at that time; and deponent further says that during said conversations Colonel Pritchard did not tell Colonel Harnden that he should remain at Abbeville or at any particular point, but told him in general term that his (Colonel Pritchard's) orders were to take possession of all the fords and ferries on the Ocmulgee river below Hawkinsville, as far as the strength of his command would permit, and to scout

the country on both sides of the river for the purpose of the capture of Davis and others; and deponent further says that he has good reason to believe, and does believe, that Colonel Harnden did not and could not have understood from what Colonel Pritchard said during said conversation that he (Colonel Pritchard) was going to remain at Abbeville, from the fact that Colonel Harnden met Colonel Pritchard on the west side of Abbeville, and continued to ride with him at the head of his column until it had passed Abbeville on its way down the river from that place about a quarter of a mile, when Colonel Harnden struck across the country to the road on which he said the first Wisconsin cavalry had passed out, leaving Colonel Pritchard and his command still moving down the river on the river road; and deponent further says that he was with the detachment of the fourth Michigan cavalry, under command of Colonel Pritchard, which effected the immediate capture of Davis and party, on the morning of May 10, aforesaid, and was cognizant of all orders issued by Colonel Pritchard to his command, and of the movements of the same, and knew that all such movements were executed with the most strict fidelity toward Colonel Harnden and his command, and that no effort was made to reach Irwinsville in advance of Colonel Harnden and his command. And that Colonel Pritchard and all of his command was surprised on their arrival at that place to find that neither the train or Colonel Harnden had reached there, as Colonel Harnden had told Colonel Pritchard at Abbeville that he should go through to Irwinsville before he went into camp that night; and deponent further says that he was present and participated in the immediate seizure and capture of Davis and party, and that Colonel Pritchard had the camp of Davis surrounded for more than an hour and a half before he attacked the same, and that the actual seizure had been made complete from five to ten minutes before the first shot was fired between the detachment of the fourth Michigan cavalry, under Lieutenant Purinton, and the first Wisconsin, and any statements to the effect that the first Wisconsin was fought back while the capture was being made is incorrect, and all statements to the effect that the fourth Michigan cavalry waylaid the first Wisconsin is unqualifiedly false and without foundation in fact or otherwise; and deponent further says that he was present at another conversation between Colonel Pritchard and Colonel Harnden immediately after the capture of Davis, in which Colonel Harnden stated frankly and voluntarily that he did not think that he would have captured Davis in the manner he was moving, as his advance (which was a sergeant and six or seven men only) would have given the party notice in time for Davis, and those who desired to escape, to have fled before the rest of his force could have come up sufficient to make the capture.

J. K. DICKINSON.

Subscribed and sworn to before me this 23d day of February, 1867.

DAVID B. BROWN,  
Department Clerk of the Circuit Court, for Wayne County, Michigan.  
[Stamp.]

Mr. UPSON. The material statements in this affidavit are substantially corroborated by the report of Colonel Minty, the two reports of Colonel Pritchard of May 25 and July 2, 1865, the affidavits of Lieutenant Purinton and of Lieutenant Boutelle of the fourth Michigan cavalry, who were both personally present at the capture of Davis, and at the unfortunate collision immediately thereafter between the two detachments, in which two men of the Michigan regiment were killed and Lieutenant Boutelle severely wounded, and several men of the Wisconsin regiment were severely wounded, all of which evidence will be found in said Senate Executive Document No. 64, first session Thirty-Ninth Congress; and they also seem to be supported by the reports and indorsements of General Wilson, found in the same document. The reports of Colonel Pritchard of May 25, 1865, of July 2, 1865, beginning on page 24 of said document, contains a very full, clear, complete, and candid statement and history of the transaction, and its material facts are also sustained by the general current of the whole testimony.

The facts as shown by all the testimony may be stated substantially as follows: some days before the capture of Davis General Wilson had ascertained that Jefferson Davis and family with a train of a few followers and an escort was moving southward through Georgia toward the Ocmulgee river, evidently seeking to escape, and he at once sent out various detachments to intercept his train and capture him, giving his subordinates information of the general course in which Davis and party were moving. Colonel Harnden with his detachment was sent eastwardly through the country north of the Ocmulgee river, to discover his trail and if possible to intercept or follow and capture him. Colonel Pritchard, with his

detachment, was sent down the south bank of the Ocmulgee river, the general course of which is southeast, to guard the fords, picket the river, and scout it on both sides for the same purpose, and if he found Davis and party had crossed the river to pursue and capture him.

Harnden, on his expedition east, struck the trail of a train some distance north of the Ocmulgee, which he believed belonged to Davis and party, and followed it south to where it crossed the Ocmulgee at Brown's ferry, near Abbeville; and, after some little delay by an accident in getting over the river, he crossed and learned that the train had, early on the morning of the 9th of May, 1865, moved on in the direction of Irwinsville, which is some twenty or twenty-five miles south and a little to the east of Abbeville. Harnden had just sent on his command in pursuit toward Abbeville when Colonel Pritchard appeared, coming down the river to Abbeville, having also just learned that a train had crossed the night previous at Brown's ferry. Harnden rode up to meet him as he came into Abbeville, and accompanied him as he moved down the river through Abbeville, informing him that he was pursuing the train toward Irwinsville, and that he thought Davis's family was with it, but Davis probably was not, as he had been reported as traveling by himself with a small escort. Colonel Pritchard, in the conversation, offered Colonel Harnden some of his men, which offer Harnden declined, as he deemed his force was strong enough, and Pritchard continued moving down the river, while Harnden, leaving him, rode across the country to overtake his own men. This was between two and three o'clock p. m.

Pritchard says he told Harnden before parting that it was useless for him to follow on the same road with him, (Harnden;) mentioned to him what his orders were, and that he should continue down the river and act as circumstances might dictate, and Harnden said he should press forward to Irwinsville before he encamped if the train went to that place. No plans of action were agreed upon between them, as neither of them knew anything about the roads. Colonel Pritchard, after continuing down the river some three miles, found a negro guarding his master's wagon, broken down in the road, and from him learned such information of the passage of the party over Brown's ferry as satisfied him that Davis was undoubtedly with the party. Learning, also, from the same negro and a lady living close by that there was another road leading to Irwinsville, about fifteen miles down the river road from Abbeville, at a point known as Wilcox's mills, Colonel Pritchard, feeling that no effort should now be spared on his part to insure the capture of the party, decided at once to pursue the party by way of the river road, believing that if they were hard pressed at any time by Colonel Harnden they would be likely to abandon the direct road in order to escape, and might drive over the road by which he (Colonel Pritchard) would approach Irwinsville, and if Colonel Harnden pressed forward to Irwinsville as he had intimated, the party would then fall between the two commands. As the distance by this new route was much greater, and as Colonel Harnden's command was then two hours on its way, he could not anticipate reaching Irwinsville in advance of him.

Selecting a part of his force, and leaving the remainder under Captain Hathaway to picket the river, &c., he started at four p. m., reached Wilcox mills at sunset, halted an hour and fed and refreshed his horses, and then proceeded by a blind wood's road some eighteen miles, mostly through a pine forest, to Irwinsville, without seeing any traces of the train or of Colonel Harnden, and arrived there about one o'clock on the morning of the 10th.

Surprised at this they began to make inquiries, and by representing themselves as Confederates they soon learned from the inhabitants that a party had encamped about sunset near a mile and a half out, toward Abbeville, and

some of the party had been in the town during the evening. Pressing a negro for a guide, Colonel Pritchard moved up cautiously near the camp and surrounded it, sending Lieutenant Purinton with twenty-five men to the rear to cut off all possibility of escape, and giving him orders to carefully ascertain the character of any men he might meet before firing upon them.

This was about two o'clock in the morning, and after waiting about an hour and a half, thus keeping watch, with the first appearance of dawn a dash was made on the camp, which was immediately captured without firing a shot. In about five or ten minutes after this capture of Davis and his party the collision occurred between Lieutenant Purinton's men and the Wisconsin cavalry, which was attended with such serious results, and which probably would have been wholly avoided had Sergeant Hussey, when challenged by Lieutenant Purinton, properly disclosed himself or answered to the challenge instead of retreating, as stated by Colonel Harnden in his first report of May 13, 1865; but which, as it occurred, was clearly a misadventure, the result of mutual misapprehension, and far from the intention of either party, both unquestionably acting in good faith, in ignorance of the identity of each other, and if any error occurred on either side it was an error of judgment. Neither party at that time knew anything of the reward that had been offered for the capture of Davis, nor could they have any possible object or motive to induce them thus to assail each other.

I come now to notice the most unpleasant feature in the subsequent history of this case. Colonel Harnden in his first report, while claiming that he understood from his conversation with Colonel Pritchard at Abbeville that he (Colonel Pritchard) was going into camp at Abbeville, and hence that he had no intimation of the presence of Union troops near Irwinsville where the collision occurred, and while expressing his regret at the occurrence did not seem disposed to be harsh or censorious in his judgment so far as Colonel Pritchard and his command were concerned. His superior officer, Colonel Lagrange, in forwarding that report saw fit, however, gratuitously to make an indorsement thereon, wantonly and unjustly, if not maliciously, assailing Colonel Pritchard. That indorsement is as follows:

HEADQUARTERS SECOND BRIGADE,  
FIRST CAVALRY DIVISION, M. D.,  
MACON, GEORGIA, May 14, 1865.

From this report it appears that Lieutenant Colonel Harnden faithfully discharged his duty, and no blame can attach to him in relation to the unfortunate collision between his detachment and Colonel Pritchard's, which he had every reason to believe remained at Abbeville. It is, however, a source of painful regret that the satisfaction experienced in this consummation is clouded by the knowledge that an act having every appearance of unsoldierly selfishness, in appropriating by deception the fruits of another's labor, and thus attaining unearned success, resulted in unnecessary bloodshed, and a sacrifice of lives for which no atonement can be made. What may have been intended merely as an act of bad faith toward a fellow-soldier resulted in a crime, and for this closing scene of the rebellion, inglorious in itself but historic by circumstance, it is difficult to repress a wish that accident had afforded the Government a representative above suspicion.

Respectfully forwarded:

O. H. LAGRANGE,  
Colonel Commanding.

By some means, and contrary to military regulations, as I am advised, this report and indorsement was soon after published in the Cincinnati papers, and copied with comments by the press generally, while Colonel Pritchard's report was only forwarded to the War Department in the usual way. Colonel Harnden at first seemed conscious of the great wrong and injustice which was done to Colonel Pritchard by this act, and endeavored to disclaim all connection with it, as would appear from a disclaimer published in the Nashville Press and Times of the last of June, 1865, as follows:

"A Disclaimer.—An article appeared in our paper last week under the head of 'Personal,' in which, after several sentences commendatory of Brevet Brigadier General Pritchard, the gallant officer whose command captured 'the confederacy in petticoats,' the following passage occurs: 'We shall have something to say hereafter regarding the false and vil-



laneous charges made against him by the jealous officer," &c. On Saturday we had a visit from Lieutenant Colonel Henry Harnden, who feared that the public might take the reference as applicable to himself. He authorizes us to say that he neither published nor caused to be published any charges against General Pritchard; that he would disdain to do such an act; and that he knew nothing about his report of the campaign, in which he indulged in no reflections, and the indorsement of Colonel La Grange appearing in the newspaper, until he saw both in print. The warmest relations exist between General Pritchard and Colonel Harnden, and the prompt manner in which the latter has come forward with his disclaimer is creditable alike to his head and heart."—*Senate Executive Document No. 64, first session Thirty-Ninth Congress, p. 34.*

So far, then, all appeared to be well as between these two officers; and yet, on the 11th day of December, said Harnden made oath to a new statement or report of the capture, addressed to Judge Advocate General Joseph Holt, and claiming a share of the reward, in which, after giving his new version of the affair, he makes the following strange, new, unworthy, and insinuating statement, namely:

"Had we not been waylaid and fired upon by the fourth Michigan cavalry, we should, without a doubt, have captured Jeff. Davis even sooner than it was effected."

This statement is also made in the face of the fact that is shown in his same deposition, that he was then approaching Davis's camp, without even knowing where it was, and with an advance guard of only seven men; and this statement or claim laid before the commission he attempts to fortify by having it also sworn to, in a somewhat general or qualified way, by J. J. Aplin and Orson P. Clinton. (Senate Mis. Doc. No. 64, first session Thirty-Ninth Congress, p. 37.)

This also, notwithstanding General Wilson in forwarding Colonel Harnden's first report, with Colonel La Grange's aforesaid indorsement thereon, had properly rebuked Colonel La Grange, and vindicated Colonel Pritchard, by adding his indorsement thereon as follows: after the indorsement of General Croxton had been first appended to the report and following that of Colonel Lagrange, namely:

HEADQUARTERS FIRST DIVISION, C. C., M. D. M.,  
MACON, GEORGIA, May 15, 1865.

As an act of justice to all parties I recommend that this report, together with that of Lieutenant Colonel Pritchard, be forwarded to the Secretary of War, with the request that they be published in the Army and Navy Gazette.

Respectfully forwarded,

JOHN T. CROXTON,  
Brigadier General Commanding.

HEADQUARTERS CAVALRY CORPS,  
MILITARY DEPARTMENT MISSISSIPPI,  
MACON, GEORGIA, May 19, 1865.

Justice to a brave and skillful officer impels me to say I do not think the strictures of Colonel La Grange warranted by the facts. Colonel Pritchard would have been more culpable had he have remained in camp, knowing the object of his search had already passed on. I am unwilling to believe him intentionally guilty of any act unbecoming a good soldier.

Colonel Harnden and his command are certainly, on the other hand, entitled to a full share of the credit in apprehending Jeff. Davis, and in no way to blame for the collision between his own command and that of General Pritchard.

Respectfully forwarded; the recommendation of General Croxton approved.

J. H. WILSON,  
Brevet Major General.

The vindication of Colonel Pritchard was as soldier-like and manly on the part of General Wilson as the rebuke of Colonel La Grange was timely and deserved.

Alike manly and just was the indorsement of General Wilson on the report of Colonel Minty, accompanying that of Captain Hathaway, narrating the circumstances of the capture of Davis, and which is as follows:

HEADQUARTERS CAVALRY CORPS,  
MILITARY DIVISION MISSISSIPPI,  
MACON, GEORGIA, May 9, 1865.

Respectfully forwarded: a comparison of the inclosed reports with that of Colonel Harnden, first Wisconsin cavalry, will show that Colonel Pritchard acted in good faith with Colonel Harnden. I must, therefore, and in view of all the facts, respectively recommend that medals of honor be given to the officers and men of both regiments actually engaged in the pursuit south of Abbeville. In the distribution of the reward, the families of the two men killed should be amply provided for.

J. H. WILSON,  
Brevet Major General.

Defeated, as we have seen, before the commission, and his claim rejected, he next appears before the committee of the last House, and makes a new and enlarged statement, and somewhat amplifies and reiterates his charges and insinuations against Colonel Pritchard and his men, again calls to his aid Aplin and Clinton with new affidavits, and a further affidavit from one George D. Wright, in which affidavits, among other things, pretended hearsay statements are given of persons whose names are not stated, and who are in no way identified, other than that they are alleged to have been with the Michigan men, and affidavits thus patched up to fit the case he proposes or hopes to dignify into evidence to support his charges.

It is sufficient for me to refer the House to all the evidence and reports before the commission, and to their report and the affidavit of Lieutenant Dickinson, to show both the fallacy and injustice if not maliciousness of these charges thus reiterated and attempted to be substantiated. I should be sorry to be compelled to believe that a desire to obtain a share in the reward has originated or prompted these charges; but it is suggestive that until the claim for the reward was made before the commission by Colonel Harnden he had never made any such statement or imputation against Colonel Pritchard and his regiment.

We next come to the new recommendations of General Wilson. General J. H. Wilson, in his last report of January 17, 1867, on this subject, uses the following language, which is quoted by the committee in their report in this case:

"In my correspondence with the War Department just after the capture I recommended, probably without due consideration, that the reward of \$100,000 offered by the President for the capture of Davis (or that part of it remaining after the families of the men killed in the pursuit had been amply provided for) should be divided according to the law of prize among the actual captors, and that Colonel Harnden and his men should receive medals of honor specially commemorating the part they had taken in the pursuit. This recommendation had not been carried into effect, but the commission, of which General Townsend was president, disallow the claims of Colonel Harnden, and recommend that the members of the fourth Michigan cavalry, scouting and picketing the Ocmulgee river, over thirty miles north of Irwinsville, as well as the 'actual captors,' shall be included in the distribution of the reward, on the ground that they were performing service of a 'most important precautionary character.' With just as much reason every other man of the entire cavalry force then on duty in Georgia should also be included in the distribution, as they were performing service of 'a most important precautionary character incidental to the immediate purpose of the expedition, and such as could not, without an imputation of neglect of duty, have been omitted to be provided for.' Colonel Harnden and his detachment, who were actually within gun sound of the capture, certainly deserve more consideration in this case than any one who remained behind, no matter upon what duty he was engaged. I am therefore compelled, in equity and justice, to respectfully recommend, in the further consideration of this matter by the proper authorities, that the strict law of prize be observed. Under this law it seems to me that Colonel Harnden and Captain Yeoman should receive share and share alike with the officers who were actually present at the capture."

Had General Wilson looked at the report and recommendation of Colonel Pritchard of May 23, 1865, which is referred to by the commission in giving their decision, he would have found that Colonel Pritchard did not insist that strictly any but those of his regiment present at the capture had a right to the reward; but when he advised that those of the regiment picketing the river should share in the reward, he added, "and when I say this I believe I but utter the wishes of a large majority of both officers and men." If those who were present at and participating in the capture and entitled to the reward were willing that their fellow members of the regiment on duty at the river should share with them in the reward the rights of no one else were violated in allowing it, and the rule of law was not changed. No one else had any right to complain, not even General Wilson, on that account, nor can he justify any change of his first recommendation on that ground. But this extract from General Wilson's last report also shows this important fact, that up to January 17, 1867, he had never

considered Colonel Harnden or his men entitled to share in the reward, and had not recommended that they should share in it. He had only recommended that Colonel Harnden and his men should receive medals of honor; nor does he now recommend that the men of the first Wisconsin should share in the reward, but only that Colonel Harnden himself, and Captain Yeoman, of the first Ohio cavalry, should receive share and share alike with the captors.

Yet the committee, in their report and bill, allow shares not only to these officers but to all the men serving under them, and disregard the law of prize advocated by General Wilson as well as adhered to by the commission. Never has General Wilson considered the first Wisconsin cavalry as among the captors of Davis, and entitled to share in the reward. Having a high regard for General Wilson, his services and his manly, soldierlike qualities, I desire to speak only in praise of that gallant officer. But in preparing his last report, as he was about to prefer a claim of his own for a share in the reward, in changing a little his recommendation it would have been a delicate matter to have so enlarged it as to include only himself, especially when it is possible he might have been greatly importuned by officers and friends for whom he doubtless had a high personal regard.

He briefly presented his claim to the committee as follows, referring therein to his said report:

WASHINGTON, D. C., January 27, 1867.

Having given all the orders and instructions, as commanding general of the cavalry corps, military division of the Mississippi, for the movement and disposition of the troops which resulted in the capture of Jefferson Davis and his suite, I have the honor to ask that a portion of the reward offered by the President under proclamation dated Washington, D. C., May 2, 1865, to which I am entitled under the law of prize, be paid to me.

I have also the honor to ask that the reward offered for the capture of Clement C. Clay, jun., under the same proclamation, or that part of it to which I am entitled, may also be paid to me, the said Clay having surrendered in person to me at Macon, Georgia, May 11, 1865.

The full facts and particulars in these cases are set forth in an official report, dated January 17, 1867, now in the hands of General Grant.

Very respectfully, your obedient servant,

J. H. WILSON,

Lieut. Col. 35th Inf., Brev. Maj. Gen. U. S. A., late Maj. Gen. Vols., commanding Cav. Corps, M. D. M. Chairman of the Committee of Claims, House of Reps.

The reward was offered for the arrest of Jefferson Davis, and when that rule of distribution to the actual captors is passed, there is no fixed line of discrimination, and it then becomes an arbitrary matter, or rather one of caprice. The reward was offered not for information which might lead to his arrest, nor for vigilant efforts, labors, and services, however meritorious in pursuing and endeavoring to arrest or capture him, but which did not succeed. The actual arrest was to be the crowning work, which was to earn, achieve, and receive the reward. This was the work of Colonel Pritchard and his men, of the fourth Michigan cavalry. While, therefore, strictly as a matter of right under the terms of the award, we do not consider that General Wilson or Captain Yeoman and his men are entitled to share in it; yet our estimation of and regard for them is such that, under the circumstances, we would not object to the bill reported by the committee, on account of the provisions it contains in their favor, preferring to yield to their recommendations where it does not affect our honor. But Colonel Harnden and his regiment not only are not entitled by the terms of the offered reward to share in it as a matter of right, but they have seen fit, in presenting their claim, to base it upon a charge against the fourth Michigan regiment of the commission of an act most diabolical and dishonorable in its nature, and for the commission of which no possible motive or object is shown to have existed, and which charge is wholly unsupported by the facts.

They cannot, then, claim a share of the reward as a matter of right nor by the law of courtesy, nor can the fourth Michigan consent

to the allowance of their claim as thus presented and urged, without contributing to their own dishonor. Far be it from us to disparage the first Wisconsin cavalry or their services as soldiers. The Union soldiers of all the States during the late great rebellion wrote their own glorious and patriotic record in imperishable characters on the brightest page of their country's history. But we are called upon to defend Colonel Pritchard and his men from what we consider a most foul and unjust imputation and aspersion which owns Colonel Harnden as its author, and hence we have spoken. Colonel Pritchard, for gallant and meritorious services in the war, was made a brigadier general of volunteers by brevet, and I am proud to number him, as well as many of his regiment, as among my constituents. My honored colleague from the third district, [Mr. BLAIR,] who so ably and patriotically filled the executive chair of my State during the four long, bloody, and devastating years of the war, assisted him in organizing his regiment and issued to him his commission, and will not fail to bear testimony with all my colleagues to his worth, his integrity, and high standing both as a soldier and as a citizen.

By virtue of the suffrages of a vast majority of the people of his State, he has held for two years past the honorable and responsible office of commissioner of the general land office of the State, for which office he has recently been renominated by acclamation.

The people of Michigan who know him, honor, trust, and confide in him, and will continue to do so; and while we say nothing, as we know nothing, against the character of Colonel Harnden, outside of his connection with this charge, we do know Colonel Pritchard, and his reputation and his honor, the honor of his regiment and of his State alike forbid that we should consent or vote to reward Colonel Harnden and his men for thus unjustly assailing him and his regiment in connection with this transaction, which has now become a matter of history.

Mr. WASHBURN, of Massachusetts. The gentleman from Michigan [Mr. UPSON] has in the course of his remarks referred to the charge that the first Wisconsin cavalry were waylaid and fired upon by the fourth Michigan cavalry, and that but for this the former would have captured Jefferson Davis. I wish to say that the committee did not base their report on any such ground. We do not say whether that charge is correct or not.

Mr. UPSON. Colonel Harnden predicates his claim on that charge.

Mr. WASHBURN, of Massachusetts. Oh, no.

Mr. UPSON. That is the charge which was made before the commission, and repeated in an affidavit before the committee.

Mr. WASHBURN, of Massachusetts. We understand that Colonel Harnden made that charge; but the committee, without attempting to determine the correctness of that charge, say that even if the charge were unfounded Colonel Harnden gave the information leading to the capture; he had been on the track; he had been riding day and night; he had encamped during the dark hours of the night, and started out at three o'clock in the morning with his regiment ready to make the capture. Now, even though the other party happened to get to the scene of the capture, as the affidavit says, five minutes sooner, that did not seem to us a reason why they should receive the entire reward.

Mr. UPSON. I wish to correct the gentleman in one respect. He will find by Colonel Pritchard's report, and by the affidavits in the document to which I have referred, that Colonel Pritchard obtained from a negro and from a lady residing three miles below Abbeville, information that Jefferson Davis was with the party—

Mr. WASHBURN, of Massachusetts. But the gentleman must be aware that that was subsequent to the information he received from Colonel Harnden; that up to the time he met

Colonel Harnden he had not heard anything of the kind. I know it is claimed that subsequent to the time when Colonel Harnden told him that Davis had gone to Irwinsville, he was on the track; but it was not claimed by Colonel Pritchard that he had heard one word in reference to the whereabouts of Jefferson Davis before that.

Mr. UPSON. Another point is this: the evidence shows that Colonel Pritchard's party had surrounded Davis's camp an hour and a half, not five minutes, before the other party arrived.

Mr. WASHBURN, of Massachusetts. I yield ten minutes to the gentleman from Michigan, [Mr. BLAIR.]

Mr. BLAIR. Mr. Speaker, I have been anxious that this important bill might be considered in Committee of the Whole, or in some such manner that the facts might be fully brought to the attention of the House, in order that the questions involved might be properly decided. I deny altogether that we have any special care as to the particular persons who may receive this money. This question reaches further than that. This bill proposes to unsettle the finding that has heretofore been made in regard to this transaction. The committee do not deny that this capture was made entirely by the fourth Michigan cavalry; but they undertake to weaken the statement of this matter which has heretofore gone forth to the country. These and other matters I should like to consider; but I am unable to do so in the ten minutes allowed me, and I must speak directly to the point.

Now, sir, it is within the recollection, I suppose, of everybody in this country that soon after the assassination of President Lincoln in April, 1865, his successor, President Johnson, issued a proclamation bearing date May 2, 1865, in which, upon evidence in the department of military justice, he charged Davis with being accessory to the assassination of Mr. Lincoln. Upon that ground he offers a reward for various persons, and among others a reward of \$100,000 for the arrest of Jefferson Davis, not to troops, not to soldiers, not to anybody in particular, but to any person or any single individual, any one who should arrest Jefferson Davis—not to any regiment which should well conduct itself; the reward was offered to nobody or for any other purpose than the single one of the arrest of Jefferson Davis as a criminal, not as a traitor to his country at all, not as president of the southern confederacy, but only and simply because he was charged with being an assassin this reward was offered and was to be given to whomsoever should make this arrest. I submit, sir, that statement disposes of the whole view the committee have taken.

The chairman of the committee, in the outset of his remarks, stated that, strictly speaking, none of these people would be entitled to this reward. Why not? There is no restriction. It would go to the soldier, it would go to the troop of soldiers, it would go to the civilian, or to the sheriff or constable, or to any number of persons who might make the arrest, but it is confined to the persons who shall arrest Davis. There is no denial by the committee or any one else that the arrest was made by Pritchard and a detachment of the fourth Michigan cavalry. They did make the arrest. He captured Jeff. Davis and lodged him in Fortress Monroe and came to Washington and reported the matter to the Secretary of War, who ordered a commission to examine in reference to the capture, and that commission declared he was entitled to the reward, with his detachment of the fourth Michigan cavalry.

This is a plain, unvarnished statement of the case. Now, Lieutenant Colonel Harnden says he is entitled to a part of the reward. He is not pretended to have captured Jeff. Davis, but it is claimed he acted as meritoriously as those who did. Very likely. I should say that the whole Army did the same thing. I am not about to find fault with anybody on this subject at all. It may be very true that

he acted as meritoriously as Colonel Pritchard and his men. But the fact nevertheless remains that Colonel Pritchard did in fact make the capture.

Now, in my own State this question is one of great importance, and I feel it pretty hard that the Representatives of that State should be confined to twenty minutes in defending the claim of this officer and his men. But we must do the best we can in the limited time. We say that upon the plainest principles which are applied in all such cases this reward belongs to these men. But it is said in the argument of the committee—with some force it is true—that the allowance was made by the commission of the Secretary of War to all Pritchard's men, including those who were not present. But, sir, why? Simply because Pritchard and those who were present agreed to it. If they chose to take a reward which belonged to them and divide it with their comrades, that harms nobody and nobody has a right to complain. It does not alter the principle. I maintain that if five men of Colonel Pritchard's force without an officer had arrested Davis they would be entitled to the reward. Ay, if one man, and he a civilian, a man who had never served in the Army at all, had arrested Davis and brought him in, he would have been entitled to the entire reward. Can there be any doubt of it? Is it not entirely clear?

Now, sir, this was the view taken of this question by the military authorities. I will read very briefly from the letter of the Secretary of War of the 18th of April, 1866:

"The arrest of this chief traitor was effected on May 10 last, near Irwinsville, Georgia, by the fourth Michigan cavalry regiment, under the command of Lieutenant Colonel B. D. Pritchard, who started upon the pursuit with his command from Macon, Georgia, on May 7. The reward in this case, however, is also claimed by Lieutenant Colonel Henry Harnden, who, with his regiment, the first Wisconsin cavalry, also engaged in the pursuit, arrived upon the ground but a few minutes after the command of Colonel Pritchard had taken possession of the camp of Davis. Without discussing at length the charges which have been made by Colonel Harnden in regard to the course adopted by Colonel Pritchard upon this pursuit, it will be sufficient to observe that, upon a careful consideration of all the evidence, these charges are not deemed to be sustained in any particular; and it is concluded by the undersigned that the latter officer, both in the pursuit and the capture, acted in entire good faith toward the former, and cannot be held responsible for the momentary unfortunate collision which took place between the two commands."

A collision which sent two men of the fourth Michigan cavalry to the grave, but none of the Wisconsin men. If anybody has a right to complain of that collision I claim that it is ourselves, and if I felt disposed to enter into a statement of facts in that regard I am sure I could easily show that that statement of the Secretary of War is true. It is said further by the Secretary of War:

"At the same time it is proper to bear testimony to the valuable services upon this occasion of the first Wisconsin cavalry and its commander, and to note that while the Michigan regiment is deemed, under the terms of the offer, to be entitled to the reward, the activity and zeal displayed in the pursuit by the other must commend it to a hardly less honorable mention than its more fortunate ally."

I have not a word to say in opposition to that.

And now one word more upon this subject. The committee have put in the name of General Wilson for an award of \$3,000. I am not about to quarrel with that now as it stands, but I ask what is the reason why, when the committee put in the name of General Wilson, they did not put in the name of Colonel Minty, who commanded the Michigan cavalry, or rather the division. It was under his order that Colonel Pritchard was acting. Now, if there is anything to be given to those who were concerned in the matter, why not include Colonel Minty, who gave the order?

[Here the hammer fell.]

Mr. WASHBURN, of Massachusetts. I now call the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. Does the gentleman from Massachusetts propose to have a vote now?

Mr. WASBURN, of Massachusetts. I propose to have a little time for discussion.

Mr. DRIGGS. Allow me five minutes.

Mr. UPSON. I understood the gentleman would allow my amendment to be voted upon.

Mr. WASHBURN, of Massachusetts. I stated expressly that I had no authority.

Mr. UPSON. I hope it will be allowed to be read.

Mr. WASHBURN, of Massachusetts. I have no objection to that. I now yield five minutes to the gentleman from Tennessee.

Mr. STOKES. As there has been a good deal of controversy about this claim, I desire, as a member of the Committee of Claims, to state my position in regard to it. I have no feeling in regard to the claim of Colonel Pritchard or of Colonel Harnden. I have no respect for persons. An examination of the proof submitted to the committee satisfied my mind most clearly that the only way in which satisfaction can be given is to allow each man who was engaged in the capture his *pro rata* share according to the rules of the Army. I consider that Colonel Harnden and his men are just as much entitled to a portion of the \$100,000 as are Colonel Pritchard and his men. The two regiments, or parts of regiments, were ordered and instructed to go in that direction. Their business was to capture Jeff. Davis. As has been truly remarked, Davis was then a criminal; the reward of \$100,000 was offered for his capture, because it was alleged that he had been engaged in the murder of Mr. Lincoln, and therefore all the men, the colonels, the majors, the captains, and the privates were entitled to their *pro rata* share of the reward.

There was a lieutenant or sergeant with a squad of twenty or thirty men who were in Davis' camp in disguise; they traveled with Davis, dropping information that it was Davis and his band to negroes and other persons, so that our commanders could obtain information. We have awarded a portion of the payment to that lieutenant and his squad. The idea of sending out two different commands to capture one man and one party, and because a major, or captain and five or ten men came up with him first—the advanced guard or the men to the right or to the left—came up with him first, the whole amount of the reward is to go to that little squad of men is simply ridiculous. If you mean to do justice, you must give the reward to the men who were in the command and were moving in that direction at the time. I consider that the committee have done the best they could under the circumstances, and that is to divide the money equally between these parties. There is no other way to do justice. The idea of excluding Harnden and his men when they were upon the ground, and in fact did as much as Pritchard and his men is absurd.

Mr. WASHBURN, of Wisconsin. Let me ask the gentleman who it was that first struck the trail of Jeff. Davis and followed him for one or two days?

Mr. STOKES. I think it was Captain Yeoman.

Mr. WASHBURN, of Wisconsin. It was Colonel Harnden.

Mr. STOKES. I am saying that Colonel Harnden rendered as much service in the matter and is as much entitled to reward as Colonel Pritchard or any of his men.

Mr. WASHBURN, of Wisconsin. I believe the man who first struck the trail was Captain Yeoman, and he communicated the fact to Colonel Harnden, who followed the trail for two days.

[Here the hammer fell.]

Mr. WASHBURN, of Massachusetts. I yield now for five minutes to the gentleman from Illinois. [Mr. LOGAN.]

Mr. LOGAN. I desire merely to make a statement with reference to the question as presented by the report of one of the officers. I have not time to elaborate very much. I have examined the report of the committee and I have examined the bill, and I am clearly of the opinion that it is the only equitable way

to get at a distribution of this reward among the different soldiers that were engaged in the capture. The fact that any particular portion of these men captured Davis does not or would not in equity give them a right to all the money. General Wilson, I think, answers this proposition in his report a great deal better than I could answer it. The report that was first made from the War Department awarded this \$100,000 to Colonel Pritchard and his regiment. General Wilson, in answering that, makes this statement which strikes me with great force, that if in justice Colonel Pritchard's whole regiment was entitled to a part of this reward, what justice would there be in excluding a part of Colonel Harnden's regiment when they were nearer capturing Davis than a portion of Pritchard's regiment. A part of Colonel Pritchard's regiment were stationed as a kind of picket some twenty or thirty miles off from the main regiment on watch at the different crossings of the Ocmulgee river, while Harnden's regiment were in close pursuit and close proximity to Jefferson Davis.

Now, if the portion of Colonel Pritchard's regiment, the greater portion of it which were thirty miles off acting as picket guards at the crossings of the Ocmulgee river, are entitled to a portion of this money, I would ask with what justice we can exclude Harnden's men who were in close pursuit of, and in close proximity to, Jefferson Davis? In equity there would be none. Hence I come to the conclusion that inasmuch as you cannot distribute this money according to the law of prizes—which would not be fair, giving the officers the greater portion, and very little to the men—I come to the conclusion that the committee have recommended what is just and equitable in the premises; that is, to divide the money fairly between both regiments, both having been in close pursuit of Jefferson Davis, the division to be made according to the pay-roll of the Army.

Mr. WASHBURN, of Massachusetts. I should be very glad to have the vote now taken on this bill. But there are two or three members who insist that they must have a few minutes to speak. I will yield first for five minutes to the gentleman from Michigan, [Mr. DRIGGS.]

Mr. DRIGGS. I am very much obliged to the gentleman for the five minutes he has yielded to me. I urged him to allow me eight minutes, and even then the members from the State of Michigan would have had less than half an hour in which to present their view of this matter. As I have not time to make the remarks I would like to submit, I will merely ask the Clerk to read a letter from Colonel Pritchard on this subject.

The Clerk read as follows:

ALLEGON, December 26, 1867.

DEAR SIR: In compliance with your request of the 16th instant I transmit herewith copies of my reports of the Davis capture, together with extracts from the reports of Colonel Minty to General Wilson setting forth the orders under which I acted in the pursuit and capture, together with such other statements and references as I think may be of use to you in preparing your argument. First I give you the orders as embodied in the official report of Colonel Minty, namely:

[Extract.]

"On the evening of the 7th instant the major general commanding directed me to make immediate arrangements to prevent the escape of Jefferson Davis across the Ocmulgee and Flint rivers, south of Macon.

"I already had pickets at all fords and ferries as far south as Hawkinsville. I directed Lieutenant Colonel Pritchard, commanding fourth Michigan cavalry, to march at six o'clock p. m. with his regiment, move as rapidly as possible to Spalding, Irwin county, and there establish his headquarters, leaving pickets at all fords and ferries between Hawkinsville and that place and also to picket from there to the mouth of the Oconee river; but if he found that Davis had already crossed the Ocmulgee to follow and capture or kill him."

These orders were given to me verbally by Colonel Minty in person and from the maps which we then had before us of the country, Colonel Minty saying at the time that any orders which could be given would and could be only an outline of operations which it might be necessary to change or abandon entirely upon arriving upon the ground, and that I would be at liberty to make any change in the distribution of the forces that I might think best after

arriving on the ground, and the entire details of operations were left wholly to my discretion with unlimited range in case of necessity. There can be no question or doubt in regard to the orders being sufficient to cover the whole confederacy if it became necessary in pursuit.

I left Macon at eight o'clock p. m. of May 7 and marched all night, halting on the morning of the 8th at nine o'clock and rested until ten o'clock p. m. in order to feed, groom, and rest the horses, having marched thirty-six miles. Moving on again I passed through Hawkinsville just at sunset, halting for the night three miles below, having marched fifty-one miles inside of twenty-four hours. I moved the command out on the morning of the 9th at five o'clock a. m. in the direction of Abbeville, where we arrived at three p. m. of the same day, having marched seventy-five miles from Macon. When about one mile out from Abbeville (and before I had met Lieutenant Colonel Harnden) I first learned of the passage of the Davis train over Brown's ferry the night before of a citizen, but could learn nothing definite in regard to the character of the train or parties with it further than that there were several wagons, the citizen denying that he had any definite knowledge of whose train it was. I continued to move on, and just as I was entering Abbeville was met by Colonel Harnden, first Wisconsin cavalry, accompanied by a single orderly. Colonel Harnden also gave me an account of the passage of the train through Abbeville as he had gathered it from the inhabitants of the town among whom it was no secret. He also stated that he had been following on the track of the train for some distance on the north side of the river with a detachment of the first Wisconsin cavalry, and that his men had gone on in the direction of Irwinesville and were from one and a half to two hours in advance. I asked him how many men he had; he replied that he had with him seventy or seventy-five men. I asked him if he thought his force sufficient, if not I would give him a detail from my regiment; he replied that he thought it ample.

During our conversation the subject of who probably was with the train was talked upon some extent, Colonel Harnden remarking that he was inclined to believe that Mrs. Davis was with it, as it was reported that there was a very lady-like appearing woman along, but expressly said that he did not think Davis was with the train, but believed that he was traveling on parallel roads with an escort, and communicated with the train from time to time. I asked Colonel Harnden how far he intended to march that night and he said he should press through to Irwinesville before he went into camp if the train went there, remarking at the time that it was very uncertain where the train would go, as it was in the habit of driving off from the road to camp sometimes several miles.

The question of a concert of action was also discussed, but it was apparent at once that no definite plan could be agreed upon, as both Colonel Harnden and myself were entirely unacquainted with the roads and country, and no agreement or understanding was entered into between Colonel Harnden and myself whatever, further than that each agreed that no definite arrangement could be made. I told Harnden in general terms what my orders were, and that I would continue to move on down the river and would act as circumstances might dictate. And when Colonel Harnden states in his reports that he understood or that I said that I should remain at Abbeville on the night of the 9th, he is mistaken, for during all the time I was in conversation with Colonel Harnden he was riding with me at the head of my regiment, and continued to ride with me until my command had passed full one half mile below Abbeville, and when he left me and struck across the woods to the road his command had taken he left my command still moving down the river with no preparation or intention of halting. These facts can be proved by a regiment if necessary. At the time Harnden left me neither he or myself had any knowledge of the roads by which I approached Irwinesville, and I did not learn of the roads myself until I had marched three miles below Abbeville, when I met a negro who was watching his master's wagon which was broken down in the road. This negro gave me more definite information than I had received before in regard to the character of the train and the parties with it, by describing the actions of those with the train. He said that at the time the train was crossing Brown's ferry, one mile and a half above Abbeville, they would not allow the ferryman to make a light even to make change, saying that they would pay him amply for his services, and did pay him a ten-dollar gold piece and a ten-dollar confederate note; also described the general movements of the company which convinced me that there were parties with the train whom they were desirous should not be seen.

I then set about inquiring about the roads, and learned that the road Colonel Harnden was on was the direct road to Irwinesville, and that there was another road leading into Irwinesville from the river road at a point fifteen miles below Abbeville, known as Wilcox mills. This road from Wilcox mills was a road running nearly in a direct line from Jackson-ville, on the north side of the Ocmulgee, to Irwinesville. As soon as I learned of this route to Irwinesville I became convinced that it was my duty to move on this road at once, for if Davis was moving on parallel roads it was very probable that he would be moving on this very road as its course lay on the most direct line from Augusta to Irwinesville, and that if Davis expected to meet the train there it would be the road he would undoubtedly approach Irwinesville on, and that if the train was pressed by Harnden it would undoubtedly break and scatter and drive on to any road which might offer any chance of escape, and in that case would be as apt to drive over on to the road I was on as any other. I had no idea at the



time that it would be possible for me to reach Irwinesville before Colonel Harnden, as he did not have to exceed twenty-five miles to march, and his command, according to his own statements, was then full two hours on the way, while I would have to march full thirty-three miles after he left me at Abbeville. And the object and only expectancy I had when I determined to pursue by the road I did was that by Colonel Harnden shoving through on the direct road to Irwinesville, and my coming up at a later hour would place Davis or any other parties or trains which might be on the road between Wilcox mills and Irwinesville between the two commands, and thus increase the probabilities of capture, and if none of the parties were looking for were discovered I would be able to communicate with Colonel Harnden at Irwinesville, when we could then, perhaps, fix upon a plan for future operations, as he was then on the identical territory I was ordered to occupy. These and these alone were the reasons why I moved on to Irwinesville as I did, simply because I thought it my duty and an act of wisdom to move as I did. It was with no desire or intent to cut the corners of Colonel Harnden or to rob him of any of the fruits of his earnings, and I would sooner lose all that is or should be coming to me to-day of the reward, than take one cent from Colonel Harnden wrongfully, though poverty has always been my nearest guest.

I have thus given you as briefly as I could and make my statement as explicit as I desired. I would also refer you to the very strong language used by the military commission in determining the award, which you will find in the report from War Department to the Thirty-Ninth Congress, first session, entitled Executive Document No. 90, House of Representatives. Also to the endorsement of Major General Wilson on Colonel Harnden's report, to be found in report from War Department to Senate, Thirty-Ninth Congress, first session, Executive Document No. 64. Also to reports and affidavits herewith inclosed. I would also refer you specially to the affidavit of Lieutenant J. G. Dickinson, who was my adjutant, which is now in the hands of Mr. Urson, of which I have no copy, if I had I would send you one. And in conclusion will give you a statement of distances marched by my command from time of leaving Macon up to time of capture, namely: from Macon to camp three miles below Hawkinsville, fifty-one miles, marched in twenty-four hours, from eight o'clock p. m., May 7, to eight p. m., May 8; from camp to Abbeville, twenty-four miles; from Abbeville to Wilcox mills, fifteen miles; and from Wilcox mills to Irwinesville, eighteen miles; from Irwinesville to Davis camp, about one and a half miles; marched in twenty hours. Total distance marched from Macon to Davis camp by fourth Michigan cavalry, one hundred and nine and a half miles, inside of forty-four hours, including all halts.

For the full particulars of the collision with first Wisconsin, please see my reports and the affidavits of Lieutenants Boutelle and Purinton, inclosed.

Before closing, I would again express my gratitude for the interest you have always manifested in this troublesome and perplexing matter, and would earnestly ask that the thing may be brought to as speedy a close as possible.

I am, sir, very truly, your obedient servant,

B. D. PRITCHARD.

Hon. JOHN F. DRIGGS, Member of Congress.

Mr. WASHBURN, of Massachusetts. I now yield for a few minutes to the gentleman from Wisconsin, [Mr. HOPKINS.]

Mr. HOPKINS. I do not deem it necessary to occupy the attention of the House very long, in addition to the able report of the Committee of Claims and the statement of the case made by the chairman of that committee, [Mr. WASHBURN, of Massachusetts.] Now, if the question was this, whether the first Wisconsin cavalry or the fourth Michigan cavalry were entitled to this reward, we should insist most decidedly that the reward was due to the first Wisconsin cavalry. And we insist further, that we can produce the proof to satisfy any reasonable man that, as between the two regiments, the first Wisconsin cavalry is entitled to the reward. But I am satisfied that the Committee of Claims, after patient investigation, have come to perhaps a correct adjustment of this matter. Certain it is that somebody is entitled to this reward. Jeff. Davis was captured; and the reward is due to his captors. But we are not disposed to be tenacious about the matter. We are willing to acquiesce in this settlement. Nevertheless, we claim that the first Wisconsin cavalry is entitled to the honor of the capture of Jeff. Davis. Now, inasmuch as the gentleman from Michigan [Mr. DRIGGS] has had read a statement from Colonel Pritchard, I ask to accompany it that the testimony of Colonel Harnden before the Committee of Claims, giving his account of the capture, be also read.

The statement was read as follows:

Henry Harnden, late lieutenant colonel of the first Wisconsin cavalry, being called before the congressional Committee of Claims, and being duly sworn, deposes and says: that on the 6th of May, 1865, he

(Lieutenant Colonel Harnden) was ordered to report in person at the headquarters of Brigadier General Croxton, commanding first division cavalry corps, military division of the Mississippi, at Macon, Georgia; that he (Lieutenant Colonel Harnden) did report forthwith as ordered, and received from General Croxton certain orders, to wit: To take one battalion of the first Wisconsin cavalry and proceed in search of Jefferson Davis; to march immediately: to go to Jeffersonville; from thence to Dublin; thence to go toward Millen, and on to the Savannah river, leaving detachments of men at the most important cross-roads; but in case that he (Lieutenant Colonel Harnden) obtained any information of said Jefferson Davis, then to pursue and capture him (Davis) if possible. That in obedience to such orders, he (Lieutenant Colonel Harnden) did detail one battalion of his regiment, consisting of one hundred and forty-eight men and three officers, and began his march from Macon, Georgia, at six o'clock p. m., May 6, 1865, proceeding to Jeffersonville, distance about twenty-five miles; he (Lieutenant Colonel Harnden) left Lieutenant C. Hewitt, with thirty men, and proceeded with the balance of his command to Dublin, arriving about five o'clock p. m., May 7. Distance from Macon fifty-five miles.

The day was intensely hot and roads sandy; the men and horses were much exhausted. The command bivouacked near the ferry. During the night information, which was deemed reliable, was received by Lieutenant Colonel Harnden from a negro man that some wagons had passed during the day through the town, and that they had gone South on the river road. This information was confirmed yet later in the night by another negro, who stated that the party was that of Jefferson Davis and his wife. The negro further stated that he had heard one of said party addressed as President Davis and one of the ladies as Mrs. Davis, and that they had come across the Oconee river ferry, and left Dublin, going South, about twelve o'clock (noon) that same day, which was May 7, 1865. Acting upon this information, he (Lieutenant Colonel Harnden) immediately detailed Lieutenant Lane, with forty-five men, to remain at Dublin and watch the ferry and patrol the cross-roads, starting himself with the balance of his command in pursuit of Davis.

On the outskirts of Dublin some delay was caused by the darkness and the difficulty in finding the right road, so that it was daylight before the pursuit was fairly commenced. When five miles from Dublin and at the crossing of Turkey creek, he (Lieutenant Colonel Harnden) obtained information which rendered it almost certain that Jefferson Davis was with the party ahead. The pursuit was now pressed with vigor, as the trail of the wagon could be plainly seen. The country through which this day's march led was a wilderness of pine woods and swamps, with scarcely any inhabitants. At the time of leaving Turkey creek it commenced to rain and continued to fall heavily during the day. During a portion of the day the tracks of the wagons were lost, but by pressing a guide, he (Lieutenant Colonel Harnden) was enabled to continue the pursuit through the swamps of the Alligator creek and on until after dark, when the command bivouacked on the borders of Gum swamp.

Before daylight, May 9, the pursuit was begun and continued to the Ocmulgee river, where a crossing was effected about noon that day at Brown's ferry. At this point it was ascertained that the Davis party had left at one o'clock that morning and gone in the direction of Abbeville, and to Abbeville the pursuit was continued, where it was ascertained that the Davis party had called at a house and inquired the way to Irwinesville, and the trail of the wagons led in that direction. They had passed before daylight. At this place a short halt was ordered to feed the horses with corn. Just as the command was leaving Abbeville, (the scouts had already gone on,) four men appeared in sight on the Hawkinsville road, dressed in the United States uniform. He (Lieutenant Colonel Harnden) inquired of them who they were, and was informed that they belonged to the fourth Michigan cavalry, Lieutenant Colonel Pritchard commanding; and that Lieutenant Colonel Pritchard, with his regiment, was advancing on the Hawkinsville road, and only a short distance away. He (Lieutenant Colonel Harnden) ordered Lieutenant Clinton to press on after the Davis party, and rode himself, attended by his orderly, to meet Lieutenant Colonel Pritchard. That, at meeting Lieutenant Colonel Pritchard, he (Lieutenant Colonel Harnden) introduced himself, and inquired if Lieutenant Colonel Pritchard had any information in regard to Jefferson Davis, and was told by Lieutenant Colonel Pritchard that he had none. He (Lieutenant Colonel Harnden) then gave to Lieutenant Colonel Pritchard all the information in his (Lieutenant Colonel Harnden's) possession in regard to Jefferson Davis, and informed him (Lieutenant Colonel Pritchard) that he (Lieutenant Colonel Harnden) with his command had struck the trail of said Davis and had been then two days in pursuit, and also that Davis, with a party and some wagons, had passed Abbeville that same morning and gone toward Irwinesville; and also that his (Lieutenant Colonel Harnden's) command had then gone on toward Irwinesville in pursuit.

He (Lieutenant Colonel Harnden) further informed him (Lieutenant Colonel Pritchard) that there was another party of confederates with wagons on the other side of the river, and that they, the confederates, probably were a part of Jefferson Davis's party, and that they would most probably try to cross the river below. He (Lieutenant Colonel Pritchard) then informed him (Lieutenant Colonel Harnden) that he (Lieutenant Colonel Pritchard) with his regiment were also out after Davis, but, up to that time, had heard nothing of said Davis, and also that he (Lieutenant Colonel Pritchard) had orders to encamp at Abbeville and patrol the Ocmulgee river and

guard the ferries on said river. That he (Lieutenant Colonel Harnden) then parted with Lieutenant Colonel Pritchard, and with his orderly hastened on and joined his (Lieutenant Colonel Harnden's) command, and continued the pursuit of Davis in the direction of Irwinesville until some time after dark, (probably about nine o'clock, p. m.;) when, coming to water, he (Lieutenant Colonel Harnden) ordered a halt and the horses to be grazed for a short time (as there was no corn) and some food prepared for the men, with orders that no noise should be made, and for all to be ready to start at three o'clock in the morning.

At three o'clock a. m., May 10, the march was resumed. He (Lieutenant Colonel Harnden) selected a sergeant and six picked men to lead the advance, and gave said sergeant particular instructions to proceed with caution, and to look out for the rebel pickets and report to him (Lieutenant Colonel Harnden) instantly the first indications that might be discovered of the enemy.

After marching a mile, or possibly two, the advance was suddenly ordered, by a voice a few yards ahead of them, to halt and dismount, when, instead of its being obeyed by the sergeant, he endeavored to retreat. A heavy volley was fired upon them, (the sergeant and his party,) which was almost instantly followed by a second volley from the same unseen source, wounding three of the seven men composing the advance. That he (Lieutenant Colonel Harnden) then gave orders for his command to take the trot, dashing ahead at a gallop with ten men to reconnoiter, when another and third volley was fired upon the Wisconsin men. That at this time it was quite dark, and the opponents could only be seen by the fire from their guns. That he (Lieutenant Colonel Harnden) very soon formed a line, dismounting a part of his command, and pressed on the enemy vigorously, driving them into a swamp, which lay to the right of the first Wisconsin. At this time a large force of mounted men were seen approaching more to the left of the first Wisconsin men. That he (Lieutenant Colonel Harnden) ordered Sergeant How, of the first Wisconsin cavalry, with ten men, to pursue the dismounted force of the enemy, who had disappeared into the swamp aforementioned.

At this time it was getting to be light, and the enemy could be plainly seen. Brisk firing now took place between both parties, the enemy being gradually driven back. At this period of affairs Sergeant How came running to him, (Lieutenant Colonel Harnden,) saying that he (Sergeant How) had captured a prisoner, and that their opponents were the fourth Michigan cavalry. That he (Lieutenant Colonel Harnden) instantly gave orders to stop firing, which soon ceased on both sides. That he (Lieutenant Colonel Harnden) then rode a few yards and met Lieutenant Colonel Pritchard, and asked him (Lieutenant Colonel Pritchard) how he came to be there fighting them, (Lieutenant Colonel Harnden and his party.) Lieutenant Colonel Pritchard explained that after parting with Lieutenant Colonel Harnden the day previous, at Abbeville, he (Lieutenant Colonel Pritchard) had selected a portion of his best mounted men, and taking the river road, and then by the way of House mills, had arrived near Irwinesville, when learning that a wagon party was camped out on the Abbeville road a short distance, he had sent a lieutenant and party of men dismounted across on to that road in the rear of the wagon party's camp, and it was this party of his command that had fired upon them, (Lieutenant Colonel Harnden and his party;) and further, that while the fight was going on a portion of his (Lieutenant Colonel Pritchard's) command had captured the wagon train near at hand. That he (Lieutenant Colonel Harnden) then inquired if Jefferson Davis was captured. That Lieutenant Colonel Pritchard replied that he did not know who was captured. That he (Lieutenant Colonel Harnden) and Lieutenant Colonel Pritchard then rode in company across a narrow strip of swamp, a distance of about fifty yards, where they (Lieutenant Colonel Pritchard and Lieutenant Colonel Harnden) found Jefferson Davis and family, with other officials of the so-called confederate government, and wagon train, in the hands of and guarded by a portion of the fourth Michigan cavalry. That after resting a couple of hours or so, and caring for the wounded, both commands began their return march to Macon, arriving on the 13th day of May, 1865.

That he (Lieutenant Colonel Harnden) further says that he (Lieutenant Colonel Harnden) had received no intimation from Lieutenant Colonel Pritchard or any one else that he (Lieutenant Colonel Pritchard) intended to go to Irwinesville, or to pursue Jefferson Davis; but, on the contrary, was distinctly told by Lieutenant Colonel Pritchard that his (Lieutenant Colonel Pritchard's) orders were to camp at Abbeville and patrol the Ocmulgee river and guard the ferries; and further, he (Lieutenant Colonel Harnden) says that when first fired upon, and all during the fight, he sincerely believed that his opponents were the escort of Jefferson Davis; and that the first intimation which he (Lieutenant Colonel Harnden) had of there being any Union troops nearer than Abbeville was from Sergeant How, of the first Wisconsin cavalry; and further, he (Lieutenant Colonel Harnden) says that the collision and capture of Jefferson Davis aforementioned occurred near Irwinesville, Irwin county, State of Georgia, and twenty-five miles south of Abbeville aforementioned. That upon his (Lieutenant Colonel Harnden's) return to Macon, Georgia, on the 13th day of May, 1865, he made an official report to General Croxton, from whom he (Lieutenant Colonel Harnden) received his orders, of his doings during the pursuit and capture of Jefferson Davis. That said report was forwarded through the proper channels to the Adjutant General of the Army, and said report is essentially the same and agrees with this statement.

And he (Lieutenant Colonel Harnden) further says

that the collision with the fourth Michigan cavalry aforementioned, in his opinion, was not caused by any fault or negligence on the part of any member of the first Wisconsin cavalry; that the sergeant in command of the advance of the first Wisconsin cavalry acted as a soldier should always act under such circumstances, and that the distinct and heavy volleys were fired by the fourth Michigan cavalry before a shot was returned by the first Wisconsin cavalry, and that a constant firing was kept up by both parties from the time that the engagement commenced until he (Lieutenant Colonel Harnden) ordered the firing to cease on the part of the first Wisconsin cavalry; and further, it is the firm belief of him (Lieutenant Colonel Harnden) that had not the first Wisconsin cavalry been fired upon and checked for a time, they (the first Wisconsin cavalry) would have been in the camp of Davis and effected his capture as soon or even sooner than it was effected.

Mr. WASHBURN, of Massachusetts. Mr. Speaker, after occupying a few moments, I will call for a vote on this question. I find that I was somewhat mistaken in my statement in relation to the action of the committee in the Thirty-Ninth Congress; but the gentleman from Michigan was altogether mistaken in the statement which he made. I knew that upon an examination of this question the majority of the Committee of Claims of the Thirty-Ninth Congress, and I thought the entire committee, were in favor of the same report that we have made at this session. I find upon an examination of the fact that just at the close of the session Mr. Hotchkiss, a member of that committee, made a report; but it did not come before the House as a report from the committee, and was never acted on as such. When the question came before the House, the gentleman from Ohio [Mr. DELANO] offered a substitute, striking from the bill all referring to the capture of Jeff. Davis, which was adopted by the House almost unanimously.

The gentleman from Michigan has said that this reward actually belongs to the person or persons who made the capture of Jeff. Davis. If that principle be adopted, we must throw aside completely the action of the commission appointed by the War Department. This the gentleman will not deny. To whom did that commission award this money? Not to the little squad of half a dozen men who surrounded Davis and actually made the capture. That commission awarded \$10,000 to General Pritchard. Why? Did General Pritchard actually make the capture? Not at all. Did he arrive at the place where Davis was before Colonel Harnden did? Not at all; nothing of the kind is claimed. I say, then, to the gentleman from Michigan that if the persons who actually made the capture are entitled to this reward it must be paid to the handful of privates who surrounded him, and General Pritchard would not be entitled to one dollar, for he and Colonel Harnden arrived at the scene of the capture at the same moment. That fact is not denied.

Mr. UPSON. The gentleman is mistaken. There is no such report and no such evidence.

Mr. WASHBURN, of Massachusetts. That is the evidence sworn to before the committee; and it has never been denied by any witness that has appeared before the committee.

Mr. UPSON. I can show reports and affidavits to the contrary.

Mr. WASHBURN, of Massachusetts. But the gentleman from Michigan says, "Give this reward to the persons who actually made the capture." Why, sir, more than one hundred of Pritchard's men were thirty-three miles distant from the scene of the capture when the capture was made. Can this money be spread out among those men? "But," says the gentleman from Michigan, "General Pritchard and his men have agreed to it." Sir, what right have they to say how this money shall be distributed? They are interested parties. It is for the War Department to determine who are entitled to this reward for the capture of Davis. Are the men who were patrolling the river thirty-three miles distant, who were not within a day's march of the scene of the capture, entitled to receive a portion of this reward? We say they are not; but we say the money should be distributed among each of

these bodies of men who contributed to the capture, all who were in the immediate vicinity and ready to seize Davis; and we care not if one body of men was five minutes ahead of the other. Even the affidavit which has been read by the gentleman from Michigan shows simply General Pritchard's party had arrived at the place where Davis was only five minutes previous to the guns being fired.

Members will bear in mind that Colonel Harnden and his party were then immediately on the trail, having been engaged in the pursuit night and day for three days. The night before the capture they encamped to await the light of the morning; and the result shows that Pritchard's men started a little too early, for had they waited until the dawn of morning the lives which were lost on account of their starting so early would have been saved. It so happens that Pritchard and his men, starting a few moments earlier than the other party, arrived at the scene of the capture, as is claimed by their own affidavits, only five minutes before this regiment that had been on the trail for two or three days night and day.

Mr. DRIGGS. The gentleman is mistaken.

Mr. WASHBURN, of Massachusetts. Will this House say that because Pritchard's men happened to arrive there and succeed in making the actual capture a few moments before the other party arrived, therefore all this money should go to them? If so, place it upon that principle, and you will give every dollar of it to the little squad of men who actually made the capture and shut off Pritchard and his one hundred and twenty-eight men who were not there at the actual capture, but were thirty-three miles distant upon the banks of the river. We say in our award that no part of this reward for the capture of Jeff. Davis shall be given to the forty-five men belonging to Harnden's regiment that he left behind at Jefferson City.

Mr. DRIGGS. I wish to correct a misstatement the gentleman has made.

Mr. WASHBURN, of Massachusetts. I have yielded the floor to the gentleman, and when the proper time comes I will yield again.

Mr. DRIGGS. I think the gentleman unintentionally misrepresents the facts in this case.

Mr. WASHBURN, of Massachusetts. When I come to the proper time I will yield to the gentleman. There were different squads of Harnden's men in different sections of the country in pursuit of Jefferson Davis. Part of Pritchard's men were thirty-three miles distant patrolling the banks of the river to prevent the escape of Jefferson Davis. They were not present at all at the time of his capture. They were all engaged in the pursuit of Davis and making their best efforts for his capture. We have, therefore, attempted to divide this money equally among those who seemed to be most meritorious. From the nature of the case there is no one who can stand up and say, "I did more than another."

Mr. DRIGGS. I understand the gentleman to state that the affidavit read by my colleague admits there were only five minutes between the arrival of the Wisconsin party and the detachment of the fourth Michigan regiment. Let me say to the gentleman he is mistaken. It says distinctly they were there an hour or an hour and a half before the Wisconsin troops.

Mr. WASHBURN, of Massachusetts. I am not mistaken. The affidavit sustains me. Here is what I said: General Harnden claims his men, if they had not been hindered by Pritchard's men and kept back, would have made the capture sooner than Pritchard's men. The affidavit states that Pritchard's men had actually made the capture five minutes before the sound of the guns was heard.

Mr. UPSON. The gentleman is mistaken about the action last session.

Mr. WASHBURN, of Massachusetts. I think not. The then chairman of the committee [Mr. DELANO] is here and can correct me if I am wrong. He offered a substitute which

was adopted. It only referred to the capture of Booth and had nothing to do with the capture of Jeff. Davis.

Mr. UPSON. I had examined the House Journal, and was of the impression the amendment was made after discussion and was objected to in the Senate.

Mr. WASHBURN, of Massachusetts. I demand the previous question.

Mr. UPSON. What becomes of my amendment?

Mr. WASHBURN, of Massachusetts. I did not yield for it.

The previous question was seconded and the main question ordered.

Mr. DRIGGS demanded the yeas and nays. The yeas and nays were not ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### UNITED STATES POSTAL TELEGRAPH COMPANY.

Mr. FARNSWORTH, by unanimous consent, introduced a bill (H. R. No. 1415) to incorporate the United States Postal Telegraph Company, and to establish a postal telegraph system; which was read a first and second time, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

#### REGULATIONS OF THE PUBLIC DEBT.

Mr. LOGAN, from the Committee of Ways and Means, reported a bill (H. R. No. 1416) to provide certain regulations as to the public debt; which was read a first and second time, ordered to be printed, and recommitted.

#### TERMINAL PACIFIC RAILROAD COMPANY.

Mr. ASHLEY, of Nevada, from the Committee on the Public Lands, reported a joint resolution (H. R. No. 380) relative to the Terminal Central Pacific Railway Company; which was read a first and second time, ordered to be printed, and recommitted.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bills and joint resolution were severally referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PENSION BILLS.

Mr. PERHAM, from the committee of conference on the disagreeing votes of the two Houses on the amendments to sundry pension bills, reported that the committee recommended that the House recede from its disagreement to the Senate amendments to the following bills:

A bill (H. R. No. 373) to place the name of Mahala A. Straight upon the pension-roll of the United States;

A bill (H. R. No. 522) granting a pension to W. W. Cunningham;

A bill (H. R. No. 670) granting a pension to the widow and children of Andrew Holman; and

A bill (H. R. No. 770) granting a pension to John H. Finley.

The committee further reported that the Senate recede from its amendments to the following bills:

A bill (H. R. No. 456) granting a pension to the minor children of Pleasant Stoops;

A bill (H. R. No. 521) to place the name of Solomon Zachman on the pension-roll;

A bill (H. R. No. 666) granting a pension to Henry H. Hunter;

A bill (H. R. No. 672) granting a pension to the widow and minor children of Charles W. Wilcox;

A bill (H. R. No. 673) granting a pension to the widow and minor children of John S. Phelps;

A bill (H. R. No. 675) granting a pension

to the widow and minor children of Cornelius L. Rice; and

A bill (H. R. No. 676) granting a pension to Thomas Connelly.

The committee further reported that the Senate recede from some of its amendments and the House recede from its disagreement to other Senate amendments to the following bills:

A bill (H. R. No. 518) granting a pension to George F. Gorham, late a private in company B, twenty-ninth regiment Massachusetts volunteer infantry;

A bill (H. R. No. 525) granting a pension to Jeremiah T. Hallett;

A bill (H. R. No. 661) granting a pension to the widow and minor children of William Craft;

A bill (H. R. No. 662) granting a pension to the widow and minor children of George R. Waters;

A bill (H. R. No. 663) granting a pension to Cyrus K. Wood, the legal representative of Cyrus D. Wood;

A bill (H. R. No. 664) granting a pension to the minor children of Charles Gouler;

A bill (H. R. No. 669) granting a pension to the widow and minor children of Myron Wilkow;

A bill (H. R. No. 677) granting a pension to the minor children of James Heatherly;

A bill (H. R. No. 771) granting a pension to John H. Lay;

A bill (H. R. No. 773) granting a pension to William H. McDonald; and

A bill (H. R. No. 825) granting a pension to John W. Hughes.

The report of the committee of conference was agreed to.

#### DAMAGED ARMS AND ORDNANCE.

On motion of Mr. GARFIELD, by unanimous consent, the amendment of the Senate to the joint resolution (H. R. No. 292) directing the Secretary of War to sell damaged or unserviceable arms, ordnance, and ordnance stores was taken from the Speaker's table.

The amendment, which was to insert after the word "stores" the word "now," so as to read "now in possession of the War Department," was concurred in.

Mr. GARFIELD moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DEFICIENCY BILL.

The House resumed, as the regular order, the consideration of the bill (H. R. No. 1341) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes, which had been postponed till to-day.

Mr. STEVENS, of Pennsylvania. There are but two or three amendments—but one, I think, of any importance—to be acted upon. I will simply say—for I do not wish to provoke discussion—that that one is what is called the twenty per cent. proposition. It is to be reduced now from five to ten per cent. below the twenty per cent., making in all, as I am informed by the Department, about one third the amount contained in the former bill. I have simply one other word to say. Every employé of this House is now, under the various laws passed during this session, entitled to twenty per cent. additional compensation.

A MEMBER. Some of them forty.

Mr. STEVENS, of Pennsylvania. I am speaking of the lowest. These civil employés who alone have been excluded, we now move to provide for in this bill. I will not make a speech. The House understands it so well it will act according to its own judgment. I demand the previous question on all the amendments.

Mr. KELSEY. I suppose I am entitled to a vote on some amendments that were proposed to this bill and were not adopted in Committee of the Whole. This bill was considered in

Committee of the Whole by a general agreed consent order, and it was that where a quorum did not vote upon an amendment offered and it was not adopted by the committee a vote could be had upon it in the House. Am I right in that?

The SPEAKER. The gentleman is not exactly correct. The Chair does not rule in regard to what occurred in Committee of the Whole unless he happened to be present. The gentleman from Iowa [Mr. WILSON] was in the chair and he overruled the very point of order and had the reporter's notes read as to the agreement made at the suggestion of the gentleman from Illinois, [Mr. WASHBURN.]

Mr. KELSEY. I understand that I am entitled to a vote upon amendments which were proposed and not adopted in Committee of the Whole?

The SPEAKER. The Chair does not so understand.

Mr. KELSEY. Then I raise the point of order that this bill has not been considered in Committee of the Whole at all.

Mr. STEVENS, of Pennsylvania. Allow me to say a word.

The SPEAKER. The Chair must decide the point of order.

Mr. KELSEY. I desire the privilege of stating my point of order.

Mr. STEVENS, of Pennsylvania. May I say to the gentleman from New York that I understood the matter as he did, and made that point in Committee of the Whole, and the Chair overruled me, very much to my disgust, of course. [Laughter.] But I want to say that the point of order was decided in that way.

Mr. KELSEY. If I am not right in claiming the privilege of a vote on those amendments I make the point of order that this bill has never been considered in Committee of the Whole at all. It was not competent, as I claim, for the House to refer this bill to the Committee of the Whole and then constitute a Committee of the Whole out of a less number than a quorum. Both of those things were done by order of the House, if the ruling of the Chair is correct; and I now insist either that the bill shall be sent to the Committee of the Whole for consideration or that we shall have a right to vote in the House on the amendments that were then offered and were rejected when no quorum was present.

The SPEAKER. The Chair overrules the point of order on two grounds. The first is that under the rule, which will be found in the Digest, a point of order cannot be renewed after it has once been settled and decided even by suggesting additional reasons, and this is the precise point made by the gentleman from New York in Committee of the Whole. The second ground on which the Chair overrules the point of order is that the chairman of the Committee of the Whole reported the bill to the House with various amendments. That was entered on the Journal and the Journal was approved the next day. That is the record, and the gentleman cannot deny the record in sustaining the point of order. The Chair, therefore, overrules the point of order.

Mr. MULLINS. Another point of order. By what political right—

The SPEAKER. That is not a question of order.

Mr. MULLINS. The point of order is, how does the gentleman from Pennsylvania get his amendment in and cut off the other amendments that were pending?

The SPEAKER. The gentleman from Pennsylvania offered this amendment on Friday last. When the bill was reported from the Committee of the Whole on the state of the Union he renewed the amendment which he had offered in the Committee of the Whole. The gentleman from Illinois [Mr. WASHBURN] stated that he reserved a point of order upon it, and the Chair stated that it could not be reserved, because the rule states that amendments of this character must be first consid-

ered in Committee of the Whole, and this precise amendment had been considered in Committee of the Whole and could, therefore, be offered in the House.

Mr. MULLINS. Then I ask that all the amendments that were adopted in Committee of the Whole to this amendment be carried with it.

The SPEAKER. If the gentleman from Pennsylvania yields for that purpose, the gentleman from Tennessee can offer any amendments.

Mr. STEVENS, of Pennsylvania. I do not distinctly understand the gentleman, and therefore I think we had better go on. [Laughter.]

Mr. MULLINS. He understands too well to admit it.

The previous question was seconded and the main question ordered.

The amendments of the Committee of the Whole were then concurred in.

Mr. LAWRENCE, of Ohio. I now ask unanimous consent to submit an amendment to this bill; to insert after line seventy-four the following:

*Provided, That nothing in this act shall be construed to give validity to any treaty or part thereof, which otherwise would be invalid.*

The bill under consideration contains this provision, to which I propose my amendment:

To enable the Secretary of the Interior to pay the balance due for surveys of land embraced in the Osage Indian reservation, and the Cherokee neutral lands, in the State of Kansas, under contracts dated, respectively, August 14 and 16, 1866, (the said sum to be returned to the Treasury out of proceeds of sales of said lands, as provided by treaties with said Indians,) \$27,980 51.

The amendment I have submitted is designed to shut out any claim of a legislative recognition of the validity of sales of public lands made in pursuance of treaties with Indian tribes. I have constantly denied the validity of such sales, and I presented some of the reasons in a speech I had the honor to make on the 21st of March last. Since that time the House has sustained the opinions I then expressed by a joint resolution passed June 8, in these words:

Joint resolution relative to the lands of the Cherokee and Great and Little Osage Indians.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, directed to withhold the issuing of patents to the purchasers of lands heretofore sold, or which may hereafter be sold, under and by virtue of the treaty between the United States and the Cherokee Indians, concluded on the 19th day of July, 1866, and the treaty between the United States and the Great and Little Osage Indians, concluded on the 29th day of September, 1865, or under any Indian treaty which may hereafter be concluded, until otherwise provided for by law.*

Again, on the 18th of June, the House denied the validity of such sales by a resolution adopted in relation to the Osage Indian treaty of May 27, which resolution is in these words:

*"Resolved, (as the sense of this House,) That the objects, terms, conditions, and stipulations of the aforesaid pretended treaty are not within the treaty-making power, nor are they authorized either by the Constitution or laws of the United States; and therefore this House does hereby solemnly condemn the same, and does also earnestly but respectfully express the hope and expectation that the Senate will not ratify the said pretended treaty."*

I think it may be said that so far as this House is concerned the purpose is settled to prohibit the sale of the public lands under treaties with the Indian tribes. The amendment I have offered is a mere affirmation of that doctrine, a provision by way of abundant caution, deaying that Congress shall give any legislative recognition of the validity of such sales.

The SPEAKER. The amendment requires unanimous consent.

Mr. MAYNARD. I think this amendment had better be considered in the Senate.

Mr. STEVENS, of Pennsylvania. I would have no objection to the amendment if it did not look so ludicrous.

Mr. LAWRENCE, of Ohio. The gentleman from Tennessee [Mr. MAYNARD] agreed to allow my amendment to be offered in the



House, and on the faith of that agreement I did not offer it in Committee of the Whole.

Mr. MAYNARD. If the gentleman says that, all I have to say is that such was not my understanding with regard to it. I did not understand it in the same way at all. But as he has made the statement in the House, and it goes upon the record, I will withdraw my objection.

Mr. STEVENS, of Pennsylvania. I renew the objection.

The next amendment was one offered by Mr. WASHBURN, of Illinois, to add to the bill the following:

City of Washington:

Sec. 2. *And be it further enacted*, That the chief engineer of the Army shall reimburse to the corporation of the city of Washington for expenses incurred in improving the property of the General Government in said city, under provisions of an act of May 5, 1864, and in accordance with the recommendations of the Secretary of War, in book of estimates of appropriations, pages 244 and 245, \$296,943 88: *Provided*, That section fifteen of an act entitled "An act to incorporate the city of Washington and to repeal all acts heretofore passed for that purpose," approved May 15, 1820; and section three of an act approved May 5, 1864, entitled "An act to amend an act to incorporate the inhabitants of the city of Washington, passed May 15, 1820," are hereby repealed; and no improvements of the streets, alleys, avenues, or other property of the United States in the city of Washington shall hereafter be made until an appropriation shall have been made therefor, and such appropriation, when made, shall be expended under the direction of the chief engineer of the Army.

Mr. MAYNARD. I would inquire how this amendment comes before the House?

The SPEAKER. It was offered on Monday last under a suspension of the rules.

Mr. MAYNARD. If my memory serves me correctly this amendment was a part of the original bill. In Committee of the Whole, by the interposition of an objection, the proviso was stricken from the bill as being improperly there. An amendment was then moved to strike out all that part of the bill to which the proviso was attached, which amendment prevailed in Committee of the Whole. I would inquire if that amendment has been acted on by the House?

The SPEAKER. The Clerk has reported to the House all the amendments made by the Committee of the Whole. Those parts of a bill which are stricken out on points of order are never reported, because they should never have been in the bill.

Mr. MAYNARD. Certainly; I am aware of that. But has the amendment of the Committee of the Whole, to strike out the part of the bill to which the objectionable proviso was attached, been submitted to and acted upon by the House?

The SPEAKER. All of the amendments reported to the Committee of the Whole have been concurred in by the House.

Mr. MAYNARD. Is this amendment divisible? It contains two distinct substantive propositions.

The SPEAKER. The amendment is not divisible, having been offered under a suspension of the rules.

The amendment was then agreed to.

The next amendment was one submitted by Mr. WASHBURN, of Illinois, under a suspension of the rules, to add to the bill the following:

Sec. 3. *And be it further enacted*, That hereafter no contract shall be entered into for the erection, repair, or furnishing of any public building, or for any public improvement whatever, which shall bind the Government to pay a larger sum of money than the amount in the Treasury appropriated for the specific purpose, and no person shall be employed by any Department of the Government unless an amount of money shall have been previously appropriated sufficient to pay all such persons. And if any officer of the Government shall contract for the erection, repair, or furnishing of any public building, or for any public improvement which shall bind the Government to pay a larger amount than the specific sum appropriated for such purpose, or shall employ any persons in any Department of the Government unless an appropriation sufficient to pay all such persons shall have been previously made, such officer shall be deemed guilty of a misdemeanor, and upon conviction thereof by a court of competent jurisdiction, shall be punished by imprisonment not less than six months nor more than two years, and shall pay a fine of \$2,000, and shall thereafter be deemed incapable of holding any office of trust or profit under the Government of the United States.

Mr. MAYNARD. The penalty proposed by this additional section should be limited to acts knowingly or wittingly committed; not to those committed through ignorance or inadvertence.

Mr. WASHBURN, of Illinois. I ask consent to modify my amendment; so that the portion referred to by the gentleman from Tennessee [Mr. MAYNARD] shall read as follows:

And if any officer of the Government shall knowingly contract for the erection, repair, or furnishing of any public building, or for any public improvement which shall bind the Government to pay a larger amount than the specific sum appropriated for such purpose, or shall knowingly employ any persons in any department of the Government unless an appropriation sufficient to pay all such persons shall have been previously made, such officer shall be deemed guilty of a misdemeanor.

No objection was made; and the amendment was modified accordingly.

Mr. GARFIELD. At the present time the whole body of the officers of the Government are running into the new fiscal year ending June 30, 1869. Now, under the strict letter of this amendment, would not each one of those officers be liable to punishment for continuing to exercise the functions of their offices during that portion of this new fiscal year for which no appropriations have yet been made?

Mr. WASHBURN, of Illinois. Of course not.

Mr. GARFIELD. I do not know about that.

Mr. WASHBURN, of Illinois. I am surprised that the gentleman from Ohio [Mr. GARFIELD] should seek to defeat this amendment, to which no one else makes objection.

Mr. GARFIELD. I have no desire to defeat it; I merely wish to have obviated an objection that may arise under it.

Mr. WASHBURN, of Illinois. If there is any objection of the kind it can be remedied in the Senate. I think it the most important provision of law that has ever been presented to Congress for its consideration.

The amendment was then agreed to.

Mr. WASHBURN, of Illinois moved to reconsider the various votes taken on agreeing to the amendments; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. STEVENS, of Pennsylvania. The gentleman from Ohio [Mr. LAWRENCE] informs me that I mistook the purport of the amendment which he sought to offer a few moments ago. I withdraw my objection to the amendment.

The SPEAKER. The amendment will be again read, and if there be no objection will be considered as agreed to.

The Clerk read as follows:

At the end of line seventy-four, insert the following:

*Provided*, That nothing in this act shall be construed to give validity to any treaty or part thereof which otherwise would be invalid.

There being no objection, the amendment was agreed to.

The SPEAKER. The next question is upon an amendment offered by the gentleman from Pennsylvania, [Mr. STEVENS,] which will be read.

The Clerk read as follows:

Add the following as a new section:  
Sec. —. *And be it further enacted*, That there shall be allowed and paid, to the same classes of officers and other persons in the civil service of the United States Government at Washington embraced in the joint resolution of Congress entitled "Joint resolution giving additional compensation to certain employees in the civil service of the Government at Washington," passed February 28, 1867, an additional compensation on their respective salaries as fixed by law, or where no salary is fixed by law, upon their pay respectively, from and after the 30th day of June, 1867, to the 30th day of June, 1868; including, also, such persons as have been employed in any capacity in any of the Departments, and the watchmen on the Dome of the Capitol and in the Capitol grounds, the inspector of marble, and the foreman of mechanics at work on the Capitol extension and the watchmen in said extension, whether inside or out, and to the employees of the jail; and to include not only those now in service, but those who have at any time during said year been in service, as follows:

To all those whose annual compensation does not exceed \$1,400 an increase of fifteen per cent. upon the amount of their compensation.

To all those whose annual compensation does not

exceed \$1,600, but does exceed \$1,400, an increase of twelve and a half per cent. thereupon.

To all those whose annual compensation does not exceed \$1,800, but does exceed \$1,600, an increase of ten per cent. thereupon.

And a sum sufficient to pay the same is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. BENJAMIN. On that amendment I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 54, nays 66, not voting 78; as follows:

YEAS—Messrs. Anderson, Arnell, Delos R. Ashley, Axtell, Barnes, Brooks, Cake, Chandler, Cobb, Dixon, Driggs, Egleckly, Eldridge, Farnsworth, French, Garfield, Grossbrenner, Golladay, Higby, Hinds, Hopkins, Jencks, Johnson, Thomas L. Jones, Kitchen, Knott, Mallory, Marshall, Moore, Moorhead, Morrill, Mungen, Myers, O'Neill, Paine, Poland, Roots, Schenck, Seagraves, Smith, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Taber, Taffie, Trichell, Upson, Robert T. Van Horn, Van Trump, Henry V. Washburn, Windom, and Woodbridge—54.

NAYS—Messrs. Adams, Allison, Ames, Bailey, Baker, Baldwin, Beatty, Benjamin, Boies, Boutwell, Bromwell, Benjamin F. Butler, Sidney Clarke, Coburn, Cook, Covode, Dawes, Delano, Deweese, Donnelly, Ela, Ferriss, Fields, Getz, Hamilton, Hawkins, Hubbard, Hunter, Alexander H. Jones, Judd, Julian, Kelsey, Ketcham, Koontz, George V. Lawrence, William Lawrence, Loan, Loughbridge, Lynch, Marvin, Maynard, McCarthy, McKee, Miller, Mullins, Orth, Payham, Peters, Pike, Price, Raum, Robertson, Sawyer, Scofield, Selvy, Taylor, Lawrence S. Trimble, Van Aernam, Burt Van Horn, Elihu B. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, and John T. Wilson—66.

NOT VOTING—Messrs. Archer, James M. Ashley, Banks, Barnum, Benham, Beck, Benton, Bingham, Blaine, Blair, Boyer, Broomall, Buckland, Burr, Buderick, R. Butler, Cary, Churchill, Reader, W. C. Clarke, Cornell, Cullom, Dodge, Eggleston, Eliot, Ferry, Finney, Fox, Gravely, Griswold, Grover, Haight, Halsey, Harding, Hill, Holman, Hooper, Hotchkiss, Ashael W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Kelley, Kerr, Laffin, Lincoln, Logan, McClurg, McCormick, McCullough, Mercer, Morrissey, Newcomb, Niblack, Nicholson, Nunn, Phelps, Pile, Platts, Polsey, Pomeroy, Pruyn, Randall, Robinson, Ross, Shanks, Shellabarger, Aaron F. Stevens, Stone, Thomas, John Trimble, Trowbridge, Van Aukon, Van Wyck, Ward, Cadwalader C. Washburn, Stephen F. Wilson, Wood, and Woodward—78.

So the amendment was rejected.

During the roll-call, Mr. ROSS said: On this question I am paired with the gentleman from Pennsylvania, [Mr. WOODWARD.] He would have voted for the amendment and I against it.

The result of the vote was announced as above stated.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 420) to incorporate the Connecticut Avenue and Park Railway Company, in the District of Columbia;

An act (H. R. No. 1068) to provide for certain claims against the Department of Agriculture; and

An act (H. R. No. 650) to amend act of 3d of March, 1865, providing for the construction of certain wagon-roads in Dakota Territory.

ORDER OF BUSINESS.

Mr. MOORHEAD. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Massachusetts. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole House upon the Private Calendar. This is private bill day, and there are a number of bills on the Private Calendar which ought to be considered.

The SPEAKER. The motion of the gentleman from Massachusetts [Mr. WASHBURN] has priority, under the rule, to be found on page 151 of the Digest, which will be read by the Clerk.

The Clerk read as follows:

"A motion to go into Committee of the Whole House on the state of the Union may be entertained on private-bill day; but the motion to go into a Committee of the Whole House takes precedence."

The House divided; and there were—ayes 63, noes 38.

Mr. MOORHEAD demanded tellers.

Tellers were not ordered.

So the motion of Mr. WASHBURN, of Massachusetts, was agreed to.

The House accordingly resolved itself into the Committee of the Whole House on the Private Calendar, Mr. ELDRIDGE in the chair.

RICHARD CHENERY.

The first business upon the Private Calendar was Senate joint resolution No. 40, to provide for the payment of the claim of Richard Chenery.

Mr. WASHBURN, of Illinois. Is this objection day?

The CHAIRMAN. It is not.

Mr. SCHENCK. Then the gentleman's vocation is gone. [Laughter.]

Mr. WASHBURN, of Massachusetts. I move that joint resolution be passed over for the present.

The motion was agreed to.

#### BOUNTIES FOR MISSOURI TROOPS

The next business upon the Private Calendar was House joint resolution No. 147, placing certain troops of Missouri on an equal footing with others as to bounties.

Mr. McCLURG. The same subject has been referred to the Committee on Military Affairs, and it will come up in another shape. I move, therefore, that it be passed over.

The motion was agreed to.

#### IRON-CLAD CONTRACTORS.

The next business upon the Private Calendar was Senate bill No. 307, for the relief of certain Government contractors.

Mr. WASHBURN, of Massachusetts. I move that be laid aside to be reported to the House with the recommendation that it do pass.

Mr. BENJAMIN. Let it be read.

The bill was read. It directs the Secretary of the Treasury to pay to Secor & Co., and Perine, Secor & Co., the sum of \$115,539 01; to Harrison Loring, \$38,513; to the Atlantic Iron Works, of Boston, Massachusetts, \$4,852 58; to Aquilla Adams, \$4,852 58; to M. F. Merritt, the sum of \$4,852 58; to Tomlinson, Harteepee & Co., \$15,171; to Harlan & Hollingsworth, the sum of \$38,513; and to Poole & Hunt, the sum of \$3,694 81; being the amount found to be due to each of the parties herein respectively named by the Secretary of the Navy under an act of Congress entitled "An act for the relief of certain contractors for the construction of vessels of war and steam machinery," approved March 2, 1867, which shall be in full discharge of all claims against the United States on account of the vessels upon which the board made the allowance, as per their report, under the act of March 2, 1867.

Mr. WASHBURN, of Massachusetts. Mr. Chairman, the circumstances of this case will be recollected by the members of the Thirty-Ninth Congress. We had what was called an "iron-clad bill" that came before the Committee of Claims. It was before that committee at both sessions of Congress. The committee were of the opinion that it ought not to pass. It gave to these contractors twelve per cent. on the contract price for the vessels they built. The committee were of the opinion that if the Government had, by alterations of plans or delays, caused loss to these contractors it should be reimbursed to them. We believed the Government was bound to that extent. So far as the increase of price of

material, &c., is concerned, which would apply to all the contractors of the country, we believed the Government could not be held bound. Accordingly, the Committee of Claims reported back that bill with a resolution, the terms of which were as follows: that a board should be appointed by the Navy Department, before which board should appear all these contractors, to ascertain whether any of the increased price of these various vessels had been caused by the Government on account of alterations or delays which had not been paid for by the Government; and if they could show that on account of the action of the Government, not provided for in the contracts, alterations had been made increasing the cost to the contractors, which had not been paid for, on that point this board should report to this Congress and this Congress would act upon it. The result was that the Navy Department appointed a board, notified all these various contractors—forty-eight in number—to appear before them, and, on the basis of that resolution, to show any claim they might have for additional compensation. They accordingly appeared, and after an examination it was found that but eight out of the forty-eight contractors were entitled to additional compensation, the aggregate amount being some two hundred thousand dollars. All the rest of the contractors being entitled to nothing.

The board made their report to Congress. The Senate examined it, acted upon and confirmed it by a joint resolution which, after having passed that body, came before the Committee of Claims of the House. That committee examined it and unanimously reported that the resolution ought to pass, and for this reason: those of us who opposed what was called the omnibus bill did so upon the ground that a resolution of the House upon the subject had been adopted. Now, that board has been appointed by the Navy Department, and the result of the action of the board is the joint resolution now before us. Believing it to be right and just, and upon the basis of the resolution which the committee of the last Congress reported, and which this House adopted, we unanimously report this joint resolution with a recommendation that it do pass.

Mr. BENJAMIN. I wish to put a question right here. I desire to know whether any portion of this appropriation is for extra pay for the iron-clads Catawba and Oneota?

Mr. WASHBURN, of Massachusetts. No, sir; those contractors receive nothing in this bill.

Mr. BENJAMIN. I see the names of the contractors of those vessels in this bill. I ask the gentleman what vessels it is for which this extra compensation is allowed? One of the names I see is Secor & Co.

Mr. WASHBURN, of Massachusetts. Swift & Co., I understand, made the vessels to which the gentleman refers.

Mr. BENJAMIN. Secor is one of the parties.

Mr. WASHBURN, of Massachusetts. Not at all; he is not connected with Swift & Co.

Mr. BENJAMIN. If the gentleman will look at the testimony taken by the Retrenchment Committee in connection with the sale of these vessels he will find that Secor is a member of that firm.

Mr. WASHBURN, of Massachusetts. Mr. Chairman, I wish to state to this House that we have spent many days' time in the last Congress, and much time in this, in examining this matter, and Secor & Co. had nothing to do with Alexander Swift & Co., and nothing to do with these vessels. I know what the gentleman refers to, but it has no connection with this matter. Secor & Co. never were interested with Swift & Co. either directly or indirectly. All the gentleman can show, so far as Swift & Co. are concerned, is that they made a trade with the Government for these vessels and proposed to sell them to the Government of Peru, and that that Government, feeling that they were unacquainted with Swift & Co.,

and wanting some one to indorse them, got the indorsement of Secor & Co. Knowing that they were old manufacturers, they said to the agent of Swift & Co., "If you can get Secor & Co. to indorse the bond that you are to give for the performance of your contract, we will make the contract with you." Accordingly, Swift & Co. got the indorsement of Secor & Co. But, I repeat, Secor & Co. are not interested either directly or indirectly in either of these iron-clads nor with Swift & Co., and never have been.

But what I am saying is this: many of these contractors do not desire this resolution passed. Why? Because that under the original board the sum of \$2,300,000 was awarded to these men as the cost of the vessels above the contract price, and the old omnibus bill of the Senate gave them \$1,500,000.

Mr. DELANO. One million eight hundred thousand dollars.

Mr. WASHBURN, of Massachusetts. These contractors agreed to go before the board appointed by the Navy Department and submit their claims on the basis of our resolution. They have done so, and the result of the action of that board is that forty out of the forty-eight get nothing. Accordingly the contractors generally would prefer that this bill should not pass, but the committee were of the opinion, as we had offered that resolution and agreed to stand upon it, and as the doings of this board seemed to be just, so far as they were concerned, that this money was due to these men and that we ought to report this bill. It is for the interest of the Government to act upon it and to stand by our own resolution, and I cannot see how any member of Congress—I care not who he is and where he comes from—who looks to the interests of the Government and knows the trouble and difficulty we have had with these cases, can fail to see the necessity of carrying out our contract and standing upon that resolution.

Mr. WASHBURN, of Indiana. I would ask the gentleman what is the difference between the original Senate bill and the present award? How much do we save between the two bills?

Mr. WASHBURN, of Massachusetts. The original bill gave \$1,500,000.

Mr. WOODBRIDGE. One million eight hundred thousand dollars.

Mr. WASHBURN, of Massachusetts. Yes, \$1,800,000; and this gives a little over two hundred thousand dollars.

Mr. ALLISON. I desire to offer the following amendment:

*Provided*, That the several sums hereby appropriated shall be accepted by the several parties in full satisfaction of all claims against the United States arising out of the construction of vessels by the several parties herein named.

Mr. WASHBURN, of Massachusetts. I cannot yield for that amendment. There is a provision attached to this bill by the Senate that if the contractors receive this award it is to be in full.

Mr. ALLISON. I think that is not very fully stated.

Mr. WASHBURN, of Massachusetts. That question was discussed in the Senate.

Mr. PIKE. Let the last clause of the bill be read.

Mr. ALLISON. My idea is that if the contractors receive this amount it is to be a final settlement.

Mr. WASHBURN, of Massachusetts. I ask the Clerk to read the last clause of the bill.

The Clerk read as follows:

Which shall be in full discharge of all claims against the United States on account of the vessels upon which the board made allowances as per their report under act of March 2, 1867.

Mr. WASHBURN, of Massachusetts. I now yield five minutes to the gentleman from Ohio, [Mr. SPALDING.]

Mr. SPALDING. I want to say to the committee that in the Thirty-Eighth Congress this whole subject came before the Committee on Naval Affairs of which I was then a member. It was then an omnibus claim. All these

iron-clad contractors combined together and presented a united claim of \$7,000,000. We looked into these claims and we found the truth to be that they had made their contracts with the Secretary of the Navy, built their vessels and got their pay according to their contracts. Not only so, but they had afterward charged for extra work, and brought in their bills and received their pay for extra work. Now, what was this \$7,000,000 for? It was for an alleged claim against the Government because the materials and labor which entered into these iron-clads had increased in price after they had made their contracts, and they, therefore, did not make as much money as they supposed they would. Now, if these claims that are about to be passed upon are for increased price of labor or increased price of materials, I object to paying them, because we shall never get through paying such claims. But if they are claims for delay on the part of the Government in enabling them to carry out their contracts, why then I will go with the gentleman in paying them.

Mr. WASHBURN, of Massachusetts. The gentleman will recollect that the committee rejected these claims on the grounds which he has stated, and simply reported a resolution that if they could show that the action of the Government had caused delay, and that they had not been paid for the delay and the alterations which the Government had caused, and which were not provided for in the contracts, they might do so. And that is all this bill proposes to pay. I yield for a moment to the gentleman from Maine, [Mr. PIKE.]

Mr. PIKE. I merely wish to remind the gentleman from Ohio [Mr. SPALDING] of the action of the Committee on Naval Affairs at the time to which he has referred. He and I coincided and acted together, but a majority of the committee reported in favor of those claims.

Mr. SPALDING. Oh, I beg your pardon. In the first instance there was a majority with us, but from day to day they turned over to the other side.

Mr. PIKE. A majority of the committee, through Mr. Brandegee, of Connecticut, reported in favor of the claims to a very large amount.

Mr. SPALDING. At first they were opposed to them.

Mr. PIKE. I cannot say about that. I am only speaking of the report of the majority of the committee. The minority of the committee were quite willing to have accepted a proposition of this kind, and would have been glad to have got off in this way. Although they thought some amount was due, they did not think it was right to grant so large an amount. I would be glad to get rid of these claims by the passage of this bill.

Mr. WASHBURN, of Massachusetts. I now yield to the gentleman from Ohio, [Mr. DELANO.]

Mr. DELANO. I feel anxious that this bill should pass; and I think if the House will listen to the history of this matter there will be no difficulty about it. There was originally introduced in the Senate, at the close of the Thirty-Eighth Congress, a resolution which was adopted—

Mr. PIKE. During the extra session of the Thirty-Ninth Congress...

Mr. DELANO. I am corrected. A resolution was adopted appointing a committee to inquire into the claims of certain contractors for the construction of iron-clads during the war. Under that resolution forty-eight contractors came forward and had their accounts and claims examined by the committee. And according to my recollection that committee reported in favor of appropriating about two million five hundred thousand dollars to satisfy these forty-eight claims. Besides those forty-eight claimants there stood behind them an indefinite number—I do not know how many more—who did not come before the first naval board established by the Senate. But they stood ready to come forward the moment a principle was adopted which would let them in.

As I said, the Naval Committee reported upon the claims of these forty-eight contractors to the amount of \$2,500,000. A bill was introduced in the Senate, based on that report, which resulted in the passage by the Senate of a bill allowing about one million eight hundred thousand dollars to these forty-eight contractors. The \$7,000,000 alluded to by my colleague [Mr. SPALDING] embraces the claims of the large number of contractors who stood back ready to come in with their claims whenever the principle was adopted which would allow them to come in. The bill appropriating \$1,800,000 for the benefit of the forty-eight contractors came to this House and was referred to the Committee of Claims. Upon examination we found that it rested upon this theory: that, in consequence of the war, prices for labor and materials had advanced, and as the advance had been occasioned by the inflation of the currency by the action of the Government to put down the rebellion, therefore the Government was responsible for that result, and ought to pay enough more to meet the advance in prices.

The committee repudiated that theory, and adopted as a rule for all these cases substantially this: that where by action of the Government, causing a delay in the construction of a vessel, or an alteration in the form of the structure, any damage or loss had resulted to the contractor, or any increase of expense had ensued, then in those cases, and in those only, the Government would be responsible in justice and in equity. A joint resolution was introduced as a substitute for the Senate bill referred to us, in which we set forth the rule I have stated, and also directed the Secretary of the Navy to appoint a new commission to examine into the claims of these forty-eight claimants, and all others that might present claims on the basis I have stated. That commission was appointed and proceeded to act, and found that out of the forty-eight claimants to which I have alluded, there were only eight who had meritorious claims. And this bill is based on that report, making an aggregate of about two hundred thousand dollars. Now, it seems to me that it is right that this amount should be paid. It seems to me that it is judicious to pay it, because it will be saying to those contractors, "We live up to the principle which we have declared to be right." It seems to me that we will be also saying at the same time, when we pay this amount, that we do not intend to go back and re-examine those claims on the basis that they are entitled to damages for the increase of prices of labor and materials caused by the inflation of the currency.

I regard the passage of this bill as an act of justice in these cases and as necessary to protect the Government against the presentation of these claims hereafter. If we now recede from the contract that we virtually made when we established in the Thirty-Ninth Congress the rule that we would make compensation where damages had resulted from the action of the Government; if we fail to comply with that rule we open this whole matter, and these claims will be pressed upon us hereafter, when, judging the future from the past, no man can tell how much may be allowed. I have made a simple statement of facts, which I hope will induce the House to pass this bill.

Mr. BENJAMIN. I ask the gentleman from Massachusetts [Mr. WASHBURN] to yield to me that I may offer an amendment and make some remarks upon it.

Mr. WASHBURN, of Massachusetts. I yield to the gentleman five minutes. I cannot permit him to offer an amendment; but I am willing it shall be read.

Mr. BENJAMIN. Mr. Speaker, the amendment which I desire to offer is to strike from the bill all that portion relating to Secor & Co., Perine, Secor & Co., and M. F. Merritt. I will give my reasons for proposing to strike out the names of these parties.

It will be recollected that this House a short time ago instructed the joint select Committee on Retrenchment to investigate the sale of the

iron-clads Oneota and Catawba. That investigation has been made, and the report of the committee in relation to the sale of those vessels has been laid before this House. I presume gentlemen have not given much attention to that report; but I will say that it discloses one of the most gigantic frauds ever perpetrated upon this Government.

One of the first things that the committee endeavored to ascertain was, to whom were those vessels sold? Ostensibly they were sold to the firm of Alexander Swift & Co. We desired to ascertain who constituted that firm. I send to the Clerk's desk, to be read, a part of the evidence upon that point.

The Clerk read as follows:

"Question. The question now simply is, Who are your associates in the firm? That is all I am now asking.

"Answer. You mean the firm of Alexander Swift & Co.? Mr. Merritt is not a member of that firm.

"Question. I ask who else besides yourself, Merritt, and Swift are concerned in the firm of Alexander Swift & Co., either as partners, or as holding the anomalous condition that you describe yourself and Mr. Merritt to hold?

"Answer. The firm of Alexander Swift & Co. was composed of Mr. Seth Evans and Mr. Swift. They started the manufacture of iron under that firm name several years ago, and it has been continued ever since. Mr. Evans went out I think in 1864, but the name of the firm has been continued right along. Nobody but Mr. Swift and myself have been since connected with the house of Alexander Swift & Co., proper, but I have not been a partner, as I have explained to you my position. As connected with Alexander Swift & Co. in the sale of these ships there are some other parties.

"Question. Associates?

"Answer. Yes, sir; associates.

"Question. Who are they?

"Answer. Do you insist upon my answering the question?

"Question. Certainly.

"Answer. Mr. Secor.

"Question. Of New York?

"Answer. Yes, sir.

"Question. What is his first name?

"Answer. Zeno.

"Question. Anybody else?

"Answer. Charles and James Secor, I suppose, are associated with him in their business?

"Question. Anybody else?

"Answer. Not directly.

"Question. What do you mean by that?

"Answer. Mr. Swift's son has a little interest in the business, which I did not think of at the time; but there is no party of any account."

Mr. BENJAMIN. That testimony discloses that these Secors were members of the firm of Alexander Swift & Co., who, by means of a system of chicanery, the like of which has rarely been known in the history of this Government, got these two iron-clads from the Government for \$755,000, when at the time of the purchase they had a contract to sell them for \$2,000,000. These iron-clads are down in New Orleans today. They have been refused a clearance and cannot sail from that port. This committee has reported that sale was fraudulent and void. Now, sir, when we have a large unsettled account against Merritt and Secor for a large sum of money I do object to appropriating this sum to reimburse them, or rather to pay them an additional sum for their work, and that, too, when they have been the perpetrators of so great a fraud as this. I hope, therefore, I will be allowed to offer the amendment I have indicated, and I hope it will be adopted so as to strike out Secor and Merritt.

Mr. WASHBURN, of Massachusetts. I do not yield for the amendment. As I have said already, Secor is not one of the firm at all. It has been so expressly stated again and again. Neither Secor nor Merritt is a member of the firm of Swift & Co. But so far as that matter is concerned it has nothing to do with this case whatever. I understand the only connection Secor & Co. had with that transaction, and so it was understood by the Government, was, in order to carry out the contract, they simply indorsed the bond and certified Alexander Swift & Co. were good men to carry out the contract, that they were reliable men. But it has nothing to do with this case. Nothing, sir, has been allowed on those vessels. The contractors of those vessels do not receive a dollar. But, sir, suppose what the gentleman says to be true, has that anything to do with this claim?

Mr. WELKER. Does not the bill the gentleman has reported pay Mr. F. Merritt



\$4,852 58? I wish to ask what this allowance is made to Mr. F. Merritt for? With my colleague on the Committee on Retrenchment, I was not aware he was the builder of any boats to entitle him to this sum of nearly five thousand dollars.

Mr. WASHBURN, of Massachusetts. It is the allowance on an iron boat he built for the Government, not an iron-clad. This is the allowance on that boat.

Mr. WELKER. Has the gentleman the name of the vessel?

Mr. WASHBURN, of Massachusetts. I have not. I have heard it but cannot now turn to the papers.

Mr. WELKER. I should like to have it.

Mr. WASHBURN, of Massachusetts. This is a wholly separate matter. My opinion is, and I say it frankly, with all the gentleman's ingenuity he has failed to bring the least just charge against these gentlemen, Secor & Co. It is very easy in this House for any man to get up and assail the character of the best men and of the best firms of this country; but it is not so easy for those firms or for individuals holding high position in business to show those charges are all false. And now, sir, I say, from the information I have, that I do not believe there is a better, purer, abler, more enterprising firm in the whole country than that of the Messrs. Secor & Co. Notwithstanding all the gentleman has said I believe, from the information I have and from what I have seen, that it will turn out these men have acted purely and fairly in all their transactions with the Government. But I care not to go into matters now which neither directly or indirectly have anything to do with this bill. I wish to say, sir, that these contractors for iron-clads, these builders of iron-clads did more to put down the rebellion than almost any other class of men in the country. When we had no iron-clad boats and Farragut was appealing for them, Secor & Co. went to work and gave us the vessels by which we were able to take Mobile and Fort Fisher. Yet the gentleman gets up and produces charges against them. I say that I have the greatest confidence in these men. If they have done anything wrong I should like to see it. I protest against the gentleman doing them injustice.

Mr. PIKE. I have not a copy of the report, but have sent for it. I understand that we have in our possession the vessels themselves and the money for which they were sold.

Mr. BENJAMIN. We have the money but not the vessels. The Government refuses to clear the vessels.

Mr. PIKE. I understand we have the money, but declare the sale void on account of fraud, and the vessels are now at New Orleans. They are within our jurisdiction. What difficulty is there, that being the case, of retaining possession of those vessels and reimbursing our own expenses out of the transaction? I see no difficulty. Why go into some other transaction when we have a perfect Army under our own control in that transaction?

Mr. WASHBURN, of Massachusetts. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. DAWES, as Speaker *pro tempore*, having taken the chair, Mr. ELDRIDGE reported that the Committee of the Whole House on the Private Calendar had, according to order, had under consideration the bill (S. No. 397) for the relief of certain Government contractors, and had come to no resolution thereon.

Mr. WASHBURN, of Massachusetts. I move that when the House again resolves itself into the Committee of the Whole all debate on the pending bill terminate in five minutes.

The motion was agreed to.

Mr. WASHBURN, of Massachusetts. I now move that the House resolve itself into the Committee of the Whole House on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into

the Committee of the Whole House on the Private Calendar, (Mr. ELDRIDGE in the chair,) and resumed the consideration of the bill (H. R. No. 307) for the relief of certain Government contractors.

Mr. WASHBURN, of Massachusetts. I yield to the gentleman from Pennsylvania for a question.

Mr. MILLER. What I desire to ask is whether this bill proposes to pay anything more than the original contract price to these contractors?

Mr. WASHBURN, of Massachusetts. It proposes to pay for the increased cost in the construction caused by the action of the Government according to the report of the board of examiners.

Mr. MILLER. Nothing more than that increased cost?

Mr. WASHBURN, of Massachusetts. No, sir.

Mr. PILE. I understand the gentleman to say he believes the award of this naval board to be just and right. I desire to ask him if there were not fourteen light-draught monitors built, all of them after precisely the same drawings and specifications, the same kind of boats in every particular and with the same alterations made in each boat; and further, if this board did not allow an award to three of the contractors for those boats and reject all the others?

Mr. WASHBURN, of Massachusetts. There is not time to go into that. In saying this award is just, I speak so far as these men are concerned. I have no reason to suppose it was otherwise in regard to the other contractors. But it is unnecessary to go into that. I yield the remainder of the five minutes to my colleague.

Mr. BUTLER, of Massachusetts. I desire only to put right one or two assertions so far as I know the facts. It has been asserted in the course of this debate that these iron clads were necessary to the prosecution of the war. I desire to say that the most gallant engagement fought by the Navy in the late war, where more risk was undergone and heavier armament met than anywhere else, at Fort St. Philip and Fort Jackson, on the Mississippi river, under Commodore Farragut, there was not a single iron-clad; and there was but one boat lost, and she was a merchant steamer simply fitted up as a naval vessel. One thing further, in justice to all. It is said that we are under great obligation to Secor & Co. I desire to say here that the country is under the greatest obligation to a member of this House, a member from New York, who advanced the money and paid the entire expenses out of his own funds in order to get the monitor built which met the Merrimac in Hampton roads.

Mr. SCOFIELD. Name him.

Mr. BUTLER, of Massachusetts. The gentleman is absent or I would not have said anything about it. [Laughter.]

A MEMBER. He is present, [Mr. GRISWOLD.]

Mr. BUTLER, of Massachusetts. I beg pardon; I did not know he was here. [Laughter.]

Mr. WASHBURN, of Massachusetts. I move that the bill be laid aside to be reported to the House.

Mr. BENJAMIN. I believe my amendment is pending.

The CHAIRMAN. The gentleman will offer his amendment.

Mr. BENJAMIN. I move to strike out the following:

To Secor & Co., Perrine, Secor & Co., the sum of \$115,539 01.  
To M. F. Merritt, the sum of \$4,852 58.

The question being taken on the amendment it was disagreed to—ayes thirteen, noes not counted.

The bill was then laid aside to be reported to the House with the recommendation that it do pass.

L. MERCHANT AND COMPANY, ETC.

The next bill on the Calendar was the bill

(H. R. No. 1320) for the relief of L. Merchant & Co., and Peter Rosecrantz.

The bill was read. It directs the Secretary of the Treasury to pay out of any money in the Treasury, not otherwise appropriated, to Leander Merchant, of the firm of L. Merchant & Co., the sum of \$109,412 81, the proceeds of six hundred and eighty-four bales of cotton, the private property of said firm, taken erroneously and without due authority by the agents of the United States civil and military authorities at Mobile, Alabama, in the month of April, 1865, shipped to New York, sold by the United States, and the proceeds thereof paid into the Treasury, the charges and expenses of the United States having been deducted therefrom; and to Peter Rosecrantz the sum of \$39,253 10, the proceeds of two hundred and forty-one bales of cotton, the private property of said Rosecrantz, taken, sold, and appropriated at the same time and place, and in the same manner, the charges and expenses of the United States having likewise been deducted therefrom.

Mr. WASHBURN, of Massachusetts. I move that that bill be laid aside to be reported to the House.

Mr. SCOFIELD. That bill appropriates a good deal of money. We ought to have some explanation of it.

Mr. WASHBURN, of Massachusetts. I call for the reading of the report.

The report was read. The committee state that the claimants were natives and citizens of the State of Rhode Island previous to the late rebellion, but doing mercantile business at Mobile, Alabama, where their principal possessions were; and to protect their property until it could be disposed of they were obliged to remain in Mobile, after the secession of the State of Alabama, with the so-called southern confederacy. In disposing of their stocks of merchandise they received cotton in payment almost exclusively, until their property in this article amounted to nine hundred and twenty-five bales.

The evidence submitted in the case shows that in April, 1865, twelve days prior to the capture and military possession of Mobile by the United States forces, and when Federal troops were daily expected to appear before the city, the confederate authorities ordered all the cotton in the city of Mobile to be deposited in a designated place near the city and to be forthwith burned to prevent its capture by the United States Government. This order was carried into effect, but the very promulgation of it raised such an outcry for mercy and forbearance from the reduced and impoverished people of Mobile that General Dick Taylor, the rebel commander, was induced to modify its terms, and accordingly issued a general order permitting such persons as could procure transportation for their cotton, either by water or rail, to take it one hundred miles distant from Mobile, and beyond the reach of the Federal Army. With this exception the cotton at Mobile was to be burnt.

At this juncture, Captain Merchant, one of the claimants, succeeded in employing two steamboats and freighting them with six hundred and eighty-four bales of his own cotton, and two hundred and forty-one bales of the cotton of Peter Rosecrantz, and immediately steamed up the Alabama river, under charge of Rosecrantz, some thirty miles distant, where it was run into a small bayou or lake and secreted as well as possible until further directions should be given by Merchant. On the 12th of April the Federal forces occupied Mobile. On the 13th following, the claimant, Merchant, stated the circumstances of running off and secreting the two boat-loads of cotton to General Gordon Granger, the Federal commander, who upon full inquiry, and being satisfied of the loyalty of these parties, gave a permit to restore the cotton to Mobile and to protect the claimants in its ownership and possession. It was accordingly restored to claimants' warehouses, and guards placed about the building to protect it from rebel depredations at Mobile.

Immediately following this the whole of said cotton was taken possession of by Captain Samuel Lappin, assistant quartermaster of volunteers in charge of steamboat and water transportation at Mobile, and who was on duty shipping captured cotton from that port under the authority of the military commander and the supervising special agent of the Treasury Department. As soon as claimants were informed that their cotton was being loaded on vessels to be shipped away they remonstrated with Captain Lappin, and showed to him that their cotton was private property, brought to the city under a safe conduct from General Granger, and stored and to be protected under the permit and order of that officer, who was then absent from the city. Captain Lappin stated in reply that when he loaded the cotton he supposed it was a portion of that captured, and that as it was now mostly loaded he would furnish them with a bill of lading on the part of the United States, and they could proceed to New York, claim the cotton, and the agent there would undoubtedly turn it over to them. Accordingly, claimants procured insurance on the same, paying premium of \$4,000 therefor, and proceeded to New York and claimed the amount as stated in their bill of lading. The Secretary of the Treasury declined to turn over the cotton to them at once, but had it stored in warehouses, when claimants again procured insurance on it, and awaited the final action of the Secretary. And finally the cotton was ordered to be sold, and the proceeds thereof to be separately accounted for; so that the claim could be more easily adjusted after it was thoroughly investigated.

The committee, after citing the testimony of General Granger as to the title to the cotton and his own action concerning it, say that the voluminous evidence submitted shows conclusively that few men suffered greater indignities and fiercer persecution on account of their loyalty to the United States than these claimants, and few did more to aid the cause of the Union than they. Every sacrifice seems to have been endured by them but the actual submission to the attempted coercion of marching in rebel ranks. Imprisoned and threatened with death, the halter prepared to facilitate that dread event, the age and feebleness of the parties, became their only protection. Their fortunes mostly confiscated and destroyed, the remnants of all they possessed are found in the nine hundred and twenty-five bales of cotton here in question. Now upward of seventy years of age, the claimants have neither hope for the future nor means of subsistence for the present, except in the justice of their Government, to which they appeal to restore to them their own and their all.

Under these circumstances, and from the considerations which follow, the Committee of Claims, after a most careful examination, have unanimously agreed to recommend the passage of the bill, restoring to claimants the value of the cotton taken and sold, deducting the charges and expenses of the United States as found and stated at the Treasury Department.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

Mr. WASHBURN, of Massachusetts. I move that the committee do now rise.

Mr. MAYNARD. I hope the gentleman will not insist on that motion. We may as well go through the Calendar.

Mr. WASHBURN, of Massachusetts. Well, I withdraw the motion.

#### CAPTAIN A. G. OLIVAR.

The next bill on the Calendar was the bill (H. R. No. 1366) for the relief of Captain A. G. Olivar.

The bill was read. It directs the Secretary of the Treasury to pay to Captain A. G. Olivar, out of any moneys in the Treasury not otherwise appropriated, the sum of \$2,010, being the full amount that the said Olivar had stolen from him the 13th of May, 1864, which was Government funds.

The bill was laid aside to be reported to the House with the recommendation that it do pass.

#### DENT, VANTINE AND COMPANY.

The next bill on the Calendar was the bill (H. R. No. 1374) for the relief of Dent, Vantine & Co., for provisions furnished to the Indians in California during the years A. D. 1851 and 1852.

The bill was read. It directs the Secretary of the Interior to pay to Dent, Vantine & Co. for provisions furnished to the Indians in California during the years 1851 and 1852, the sum of \$25,327 30; and appropriates that amount for the purpose out of any money in the Treasury not otherwise appropriated.

Mr. KELSEY. I move that the committee do now rise.

Mr. WINDOM. I hope not. I hope this claim which has been hanging here for a year or two will now be considered.

Mr. SCOFIELD. I hope we shall hear something about this bill before we rise.

The question was taken on Mr. KELSEY's motion; and it was agreed to—ayes 27, noes 18.

So the committee rose; and the Speaker having resumed the chair, Mr. ELDRIDGE reported that the Committee of the Whole House had had under consideration the bills on the Private Calendar, and had directed him to report to the House, with the recommendation that they do pass, the bill (S. No. 307) for the relief of certain Government contractors, the bill (H. R. No. 1320) for the relief of L. Merchant & Co., and Peter Rosecrantz, and the bill (H. R. No. 1366) for the relief of Captain A. G. Olivar.

#### UNION PACIFIC RAILROAD.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting, in compliance with the resolution of the House of the 9th instant, a copy of General Dodge's report to the President of the Union Pacific Railroad Company; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. WASHBURN, of Massachusetts. I call for the previous question on the bills just reported from the Committee of the Whole.

The previous question was seconded and the main question ordered.

#### CONTRACTORS FOR IRON-CLADS.

The bill (S. No. 307) for the relief of certain Government contractors, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### L. MERCHANT AND CO.—P. ROSECRANTZ.

The bill (H. R. No. 1320) for the relief of L. Merchant & Co. and Peter Rosecrantz, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CAPTAIN A. G. OLIVAR.

The bill (H. R. No. 1366) for the relief of Captain A. G. Olivar, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ALLISON. I move that the House now take its recess.

The motion was agreed to; and the House (at four o'clock and fifteen minutes p. m.) took a recess till half past seven o'clock p. m.

#### EVENING SESSION.

The House reassembled at half past seven o'clock p. m., and was called to order by the Speaker, who announced the business in order to be bills and reports from the Committee on Military Affairs.

#### PURCHASE OF ALASKA.

Mr. ORTH, Mr. BLAIR, and Mr. CUL-LOM obtained leave to have printed as part of the debates, speeches on the bill (H. R. No. 1096) making an appropriation of money to carry into effect the treaty with Russia of March 10, 1867. [See Appendix.]

#### COLORADO MILITIA.

Mr. GARFIELD, from the Committee on Military Affairs, reported back a letter of the Secretary of War, transmitting a statement of the settlement of the accounts of the Colorado militia for 1864 and 1865, and moved that it be laid on the table.

The motion was agreed to.

#### SUBSISTENCE DEPARTMENT.

Mr. GARFIELD also, from the Committee on Military Affairs, reported adversely upon joint resolution (H. R. No. 13) authorizing the subsistence department to furnish sutler's goods; which was laid on the table.

#### SUTLERS IN THE ARMY.

Mr. GARFIELD also, from the Committee on Military Affairs, reported adversely upon a resolution relative to reestablishing the office of sutler in the Army; which was laid on the table.

#### MILITARY ROAD IN THE TERRITORIES.

Mr. GARFIELD also, from the Committee on Military Affairs, reported adversely upon the bill (H. R. No. 758) to reopen the military road over the Cœur d'Alene mountains; which was laid on the table.

#### FORT RILEY MILITARY RESERVE.

Mr. GARFIELD also, from the Committee on Military Affairs, reported adversely upon a concurrent resolution of the Legislature of the State of Kansas memorializing Congress for a donation of a portion of Fort Riley military reserve; which was laid on the table.

#### TRANSPORTATION OF MILITARY SUPPLIES.

Mr. GARFIELD also, from the Committee on Military Affairs, reported adversely upon the bill (H. R. No. 406) to facilitate the transportation of United States supplies and prevent the loss of United States property in New Mexico; which was laid on the table.

Mr. GARFIELD also, from the Committee on Military Affairs, reported adversely upon a bill (H. R. No. 404) to facilitate and cheapen the transportation of military supplies in Kansas, Colorado, and New Mexico; which was laid on the table.

#### INDIAN AFFAIRS IN TEXAS.

Mr. GARFIELD also, from the Committee on Military Affairs, reported adversely upon the petition of J. M. Comparet, of Fredericksburg, Texas, late colonel one hundred and forty-third Indiana infantry, in relation to the condition of Indian affairs in that State, and asking for military protection; which was laid on the table.

#### CLAIMS OF COLORED SOLDIERS.

Mr. GARFIELD also, from the Committee on Military Affairs, reported adversely upon a bill (H. R. No. 635) in relation to claims of colored soldiers; which was laid on the table.

#### WAGON-ROAD IN NEW MEXICO.

Mr. GARFIELD also, from the Committee on Military Affairs, reported adversely upon the bill (H. R. No. 708) to construct a wagon-road from Cimarron to Virginia City, New Mexico; which was laid on the table.

#### TROOPS FOR ARIZONA.

Mr. GARFIELD also, from the Committee on Military Affairs, reported adversely upon the memorial of the Legislative Assembly of the Territory of Arizona, asking that the Gov-

ernor of the Territory be authorized to raise a regiment of volunteer troops; which was laid on the table.

#### COMMITTEE ON ENROLLED BILLS.

The SPEAKER. The gentleman from Kentucky [Mr. GOLLADAY] declines further service on the Committee on Enrolled Bills. The Chair appoints to fill the vacancy the gentleman from Kentucky, [Mr. TRIMBLE.]

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed a joint resolution (H. R. No. 201) in relation to the Rock Island bridge, with an amendment, in which the concurrence of the House was requested.

The message further announced that the Senate had insisted upon its amendment, disagreed to by the House, to the bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river, had agreed to the conference asked by the House, and had appointed as conferees on the part of the Senate Messrs. RAMSEY, HENDRICKS, and POMEROY.

#### UNMUSTERED ARMY OFFICERS.

Mr. BOYER, from the Committee on Military Affairs, reported back, with a recommendation that the same do pass, a joint resolution (H. R. No. 288) amendatory of joint resolution for the relief of certain officers of the Army, approved July 26, 1866.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The first section of the joint resolution, which was read, provides that the joint resolution entitled "Joint resolution for the relief of certain officers of the Army," approved July 26, 1866, shall be so construed and amended that, in all cases arising under the same, the persons to whom the commission shall have issued shall be considered as actually commissioned to the grade named therein, immediately upon the arrival of said commission at the headquarters of the regiment to which such person so commissioned belonged or was at the time attached, or, if a staff officer, at the headquarters of the department in which he was serving, with like effect as if such commission had been received into the actual possession of the person so promoted; provided, however, that a non-commissioned officer or private so promoted shall be considered as commissioned, within the meaning of said joint resolution, from the date when his commission was actually issued by competent authority, provided at the time he was performing the duties of the grade to which he was commissioned, or from such time after the issuing of his commission when he actually entered upon such duties.

The second section provides that this resolution shall not be construed to apply to cases in which, under the laws and Army regulations existing at the time, there could have been no lawful muster into service even after the actual receipt of the commission.

Mr. BOYER. I ask that the report be read.

The report accompanying the bill was as follows:

The committee in reporting the resolution amendatory of joint resolution for the relief of certain officers of the Army, approved July 26, 1866, have done so with the expectation that it will include most of those cases in which further relief should be granted on account of the delay or absence of regular muster into the military service.

The committee are aware that it is not practicable by the terms of any general law to provide for every meritorious case; but they are impressed with the belief that special legislation ought to be avoided unless in very exceptional cases, as always likely to involve great irregularity, mistakes, and uncertainty.

There is a large and somewhat varied class of claims, arising out of cases in which commissions were issued to persons who were either never mustered into service, or mustered in after long delay, for which they were not personally responsible. If all these claims were allowed it is estimated that it would require the appropriation of about twenty million dollars to pay them.

In many of these cases the claimants never performed any duty in the grades to which they were respectively commissioned, because by reason of capture, wounds, or sickness, they were either absent from their commands or unfit for actual service.

In other cases a long time elapsed from the same

causes before the claimants could present themselves for muster agreeably to the regulation of the service, but the muster having finally taken place, back pay is claimed for the whole time lost between the commission and the muster.

In some instances there was no vacancy in the rank to which the promotion was made, and another person was filling the rank and drawing the pay, but absent on recruiting service, or on account of sickness or other cause.

In other cases the regiment or company in which the promotion was made had been reduced below the minimum, or was consolidated with some other regiment or company. In most of these cases your committee is of opinion that there is no sufficient ground for relief.

It must be remembered that in nearly all the cases of this description which come before Congress for special legislation, the muster could not take place because prohibited by some Army regulation in force at the time.

It is also to be borne in mind that the regimental and company organization of the volunteer forces was such that the Governors of States issued the commissions, and the United States paid the officers. General regulations for muster and pay were absolutely necessary for the protection of the General Government, and it by no means followed that because a person was commissioned he should be at once advanced to the rank to which he had been promoted, and mustered in and paid accordingly. Nor is it always equitable that a second lieutenant who does the duty of a first lieutenant, or a first lieutenant who acts as a captain, &c., should each be paid as of the higher rank in which the duties were performed. That one officer should often exercise the authority of a higher rank than that in which he is commissioned, is a common and honorable incident of the service, and does not generally carry with it any well-founded claim to increased pay and emoluments.

Still less is the equity in favor of a commissioned officer who while in captivity was promoted to a higher grade, but was unable by reason of his situation to receive his new commission, or to perform any of the duties it devolved upon him, which in the mean time were necessarily discharged, if discharged at all, by some other person.

The committee have, however, recognized as a class of persons entitled to additional relief those who, while performing the duties incident to the rank to which it was intended to commission them, were excluded from the muster solely because, by some accident over which they had no control, their commissions, actually issued, were not promptly received. And they have also considered themselves justified in making a slight discrimination in favor of non-commissioned officers and privates, promoted to be commissioned officers under the circumstances recited.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BOYER moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MISSOURI VOLUNTEERS.

Mr. PILE, from the Committee on Military Affairs, reported back, with a recommendation that the same do pass, Senate joint resolution No. 81, placing certain troops of Missouri on an equal footing with others as to bounties.

The question was upon ordering the joint resolution to be read a third time.

The joint resolution provides that the troops recognized in an act entitled "An act making appropriations for completing the defenses of Washington, and for other purposes," approved February 13, 1862, shall be placed on an equal footing with volunteers as to bounties, and that all laws relating to bounties shall be applicable to them as to other volunteers.

Mr. PAINE. Of course I have no desire to throw any obstacle in the way of the passage of any bill to-night that ought to pass. But inasmuch as this joint resolution does not show the real state of facts as they are, I would like to have some explanation of it.

Mr. SPALDING. We all know about it.

Mr. PILE. This joint resolution has received the unanimous approval of the Committee on Military Affairs of this House. It has been twice examined by the Military Committee at previous sessions of Congress, and it has passed the House twice. It simply proposes to place certain classes of troops in Missouri upon the same footing with other volunteers. Those troops were mustered into the service, paid by the United States, and they served just as other volunteers, and it is a simple act of justice to them to place them upon an equal footing with other volunteers.

Mr. PAINE. Does this joint resolution allow bounty for any shorter period of service than is allowed to other volunteers?

Mr. PILE. Not at all.

The joint resolution was then read the third time, and passed.

Mr. PILE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NEW YORK WAR CLAIMS.

Mr. KETCHAM, from the Committee on Military Affairs, reported back, with the recommendation that the same do pass, House bill No. 1278, providing for the appointment of a commission to examine and report upon certain claims of the State of New York.

The question was upon ordering the bill to be engrossed and read a third time.

The first section of the bill, which was read, provides that the President shall appoint three commissioners, by and with the advice and consent of the Senate, who are not residents of the State of New York, whose duty it shall be to ascertain the amount of moneys expended by the State of New York in enrolling, organizing, uniforming, equipping, subsisting, quartering, supplying, transporting, and paying such troops as were called into service by the Governor in pursuance of any request or proclamation of the President of the United States, or at the request or upon the order of the Secretary of War, since the 15th day of April, 1861, to act in concert with the United States forces in the suppression of the rebellion against the United States.

The second section provides that the commissioners so appointed shall proceed, subject to regulations to be prescribed by the Secretary of War, at once to examine all the items of expenditure made by said State for the purposes herein named, or such portion thereof as yet remains unallowed or unadjusted, allowing only for disbursements made and amounts assumed by the State for enrolling, organizing, uniforming, equipping, subsisting, quartering, supplying, transporting, and paying such troops as were called into service by the Governor in pursuance of any request or proclamation of the United States, or at the request or upon the order of the Secretary of War, since the 15th day of April, 1861, which may have been employed or used in suppressing the rebellion against the United States; and no allowance shall be made for any troops which did not perform actual military service in full concert and coöperation with the authorities of the United States and subject to their orders.

The third section provides that in making up said account, for the convenience of the accounting officers of the Government, the commissioners shall state separately the amounts expended, respectively, for enrolling, equipping, arming, subsisting, transporting, and paying said troops.

The fourth section provides that in the adjustment of accounts under this act the commissioners shall not allow for any expenditure or compensation for service at a rate greater than was at the time authorized by the laws of the United States and the regulations prescribed by the Secretary of War in similar cases.

The fifth section provides that so soon as said commissioners shall have made up said account and ascertained the balance, as herein directed, they shall make written report thereof, showing the different items of expenditure, as hereinbefore stated, to the Secretary of the Treasury, which report shall by him be laid before Congress for its consideration.

The sixth section provides that the commissioners to be appointed as aforesaid shall, before proceeding to the discharge of their duties, be sworn that they will carefully examine the accounts existing between the United States and the State of New York, and that they will, to the best of their ability, make a just, true, and impartial statement thereof,



as required by this act. They shall receive such compensation for their services as may be determined by the Secretary of the Treasury, not exceeding ten dollars per day for each commissioner.

Mr. MAYNARD. It seems to me that in forming this commission one member of the commission should be an Army officer, for reasons that I suppose will be obvious to every one.

Mr. GARFIELD. I think that is a good suggestion.

Mr. MAYNARD. I would suggest that the commission should consist of two persons, who are not citizens of the State of New York, and that there should be associated with them an Army officer of a grade not lower than colonel, to be detailed by the Secretary of War.

Mr. KETCHAM. This bill is very similar to acts heretofore passed in relation to the States of Missouri and West Virginia. It makes no appropriation of money, but simply appoints a commission to examine the war claims of the State of New York.

Mr. SPALDING. I think the gentleman from Tennessee [Mr. MAYNARD] had better waive his point. The bill is very well guarded, indeed.

Mr. MAYNARD. It is very obvious that an Army officer would bring to bear upon the question information that other persons would not possess.

Mr. SPALDING. The report is to be made to Congress.

Mr. MAYNARD. The Army officer would have the greater part of the information possessed by the commission; and then, so far as my acquaintance with the Army goes, their education has made them fair men, honest toward the Government and toward the citizen. I should much prefer to see the commission organized in this way.

Mr. GARFIELD. I move there be added one officer of the Army on the retired list, so as not to take any out of active service, not below the grade of colonel.

Mr. MAYNARD. I accept that; but I should think two were enough.

Mr. GARFIELD. Let it be, then, one of whom shall be an officer of the Army on the retired list.

Mr. SCOFIELD. I do not wish to see this bill pass without knowing there is some necessity for it. The gentleman from New York, who has it in charge, says it costs nothing.

Mr. KETCHAM. It authorizes the appointment of a commission to examine what claims there are of New York and to report the results of their examination.

Mr. SCOFIELD. While the gentleman says it costs nothing, it is to appoint a commission to go into New York to see whether they can find some one to make a claim against the Government.

Mr. KETCHAM rose.

Mr. SCOFIELD. Let me finish my sentence. It is an inquisition for claims, as I understand it. We are not satisfied with the claims sent on from the State of New York. We are afraid some one in that State has something against the Government which has not been paid. This is to hunt him up and to get him to send it on. We appoint a commission to wander through that State to advertise for military claims against the Government. When they have found out all they can they are to report the amount they think we owe them.

Mr. KELSEY. I ask whether such a bill as this was not passed to settle the claims of Pennsylvania to the extent of \$700,000?

Mr. KETCHAM. Yes, sir.

Mr. SCOFIELD. The gentleman asks me a question, and my friend answers it. The gentleman who asks it is mistaken, and the gentleman who answers it is equally mistaken. No such bill was ever passed for Pennsylvania. No such sum was paid to Pennsylvania. No such demand or claim was presented. At the time the rebel army entered into Pennsylvania in 1863, the States of Pennsylvania, New York,

and adjoining States were called upon for a volunteer force to repel it by the President of the United States, assigning the quota to each State. The President telegraphed and the Secretary of War telegraphed to the Governor of Pennsylvania to raise those troops, and to pay them from the fund of Pennsylvania, and they would repay it as soon as they could ascertain the amount. A bill was passed to pay that amount. They paid the troops from New York and West Virginia at the time. They were paid directly by the War Department. The troops from Pennsylvania having been paid on the telegram of the President and Secretary of War, it needed a bill to authorize the United States to refund the money loaned. The loan had been made from the banks of Philadelphia.

Mr. SPALDING. What was the amount?

Mr. SCOFIELD. About seven hundred thousand dollars, as the gentleman from New York has stated. The gentleman asks whether it was an honest claim? It was not a claim of the State of Pennsylvania. The Governor had a telegram from the President and Secretary of War to raise the troops, and the banks of Philadelphia advanced the money. They said they would pay it as soon as they obtained the necessary appropriation.

Mr. MAYNARD. There seems to be a play upon terms. It is denied it was a claim.

Mr. SCOFIELD. It was a debt contracted by the United States and not a claim, and an appropriation was needed to pay it.

Mr. CULLOM. I ask whether there is not a law upon the statute-book for the settlement of these claims? There is such a statute for the settlement of such claims growing out of the war.

Mr. SCOFIELD. I know we have such a law, but that does not compel any one to bring in their claims. Here we are going to send out a commission to wander over the State of New York to see whether they cannot find some one who has a forgotten claim.

Mr. KETCHAM. My friend misunderstands the object of this bill.

Mr. SCOFIELD. I rise to a point of order. When the gentleman gets through his hour, or the length of time he chooses to occupy, if there should not happen to be a quorum present, I desire to know whether I cannot get a chance to say something more. I want the gentleman to know that he need not be so rough to me. He should allow me a little courtesy, because I may be able to take some advantage of his discourtesy if a quorum should not be present when the bill comes to be acted upon.

Mr. SPALDING. I desire to know if the Committee on Military Affairs recommend this bill.

Mr. KETCHAM. They do, unanimously.

Mr. CULLOM. I wish to inquire whether the object of this bill is not to allow the Government of the United States to settle the claims that the State of New York presents to the Government on account of war expenses.

Mr. KETCHAM. Certainly.

Mr. CULLOM. There is a law already on the statute-book expressly covering this very case, and under the law as it now stands various States have been settling their war claims from year to year. The State of Illinois is now doing it.

Mr. WILSON, of Iowa. I think there is a misunderstanding on the part of the gentleman from Illinois [Mr. CULLOM] and the gentleman from Pennsylvania [Mr. SCOFIELD] in regard to this bill. If my recollection is not at fault, we have provided for an examination of the claims of almost every State in this way, so that this involves precedents which have been pursued in other States. And the claim of the State of Pennsylvania although it took the form of a money demand, for money paid out by that State, was based upon precisely the same services rendered by that State that this claim presents. I remember in the case of Missouri, Illinois, Ohio, Indiana, and Iowa, similar bills were passed.

Mr. CULLOM. Does the gentleman say that the State of Illinois had a special bill passed for the settlement of these claims?

Mr. WILSON, of Iowa. I do say so. The appropriation in the bill that passed in 1862 had become exhausted and there was new legislation.

Mr. CULLOM. I undertake to say that the State of Illinois to-day has its agent here for the purpose of settling the claims of the State against the General Government on account of war expenses.

Mr. WILSON, of Iowa. That is another class of claims entirely. It is a class of claims where money was expended by the State of Illinois for the equipment and transportation of troops who were mustered into the service of the United States.

Mr. CULLOM. What claim is this of New York?

Mr. WILSON, of Iowa. I do not know what is included in it, but I suppose the same class as was included in the Pennsylvania bill—for State troops not actually mustered into the service of the United States.

Mr. GARFIELD. Several States of the Union having claims against the General Government for moneys advanced for Army expenses and war expenses of various sorts which the State authorities believed the General Government ought to assume, have heretofore acted precisely in the way the State of New York now proposes to act, namely, to ask a commission to be appointed to examine these claims and report precisely in accordance with the custom that has been followed hitherto in reference to at least five States. This bill has been drawn with care. It provides that not a dollar should be paid except the expenses of the commission; that the commission shall have no power to settle the claims, but that it shall simply examine all the testimony on file, all the records in the case, and make a full report to Congress of what is good and what is bad—not that Congress is to be bound by the report of the commissioners, but for the purpose of laying the facts before Congress for its ultimate action. I do not know any possible ground upon which this request can be refused, unless we agree that what we have done in several precisely similar cases is wrong.

Mr. SCOFIELD. Can the gentleman name the States?

Mr. GARFIELD. I name the State of Missouri; I name the State of Iowa; I name the State of Illinois; I name my own State; and I name the State of Massachusetts.

Mr. SCOFIELD. I know the gentleman names one State that never had any such roving commission.

Mr. CULLOM. And so he does another.

Mr. SCOFIELD. Pennsylvania never had any such bill or anything like it, or any such commission.

Mr. GARFIELD. Perhaps their work was not done on the same system that this bill proposes, but that I myself have assisted the gentleman, since I have been a member of this Congress, in paying out of the public Treasury three quarters of a million of claims of the State of Pennsylvania arising out of the war I very well remember.

Mr. SCOFIELD. The gentleman has never assisted us in paying one dime to the State of Pennsylvania. The War Department had contracted a debt to the banks of our State by telegraph, and an appropriation was made to pay it. The claims were all audited by the Second Auditor. I have the act before me. Now, I would like to ask the gentleman before I sit down how the Committee on Military Affairs happened to find out that there were probably some persons in the State of New York who had claims against the General Government? What evidence had they before them?

Mr. GARFIELD. The gentleman will allow me to say that the committee of the last Congress of the United States had papers and a memorial from the State of New York before

them, and drafted the bill which is now before this House and had it ready to be acted on, but the Congress expired before the committee could get the bill before the House. A bill based on the same memorial and the same papers came before the committee of the present Congress and was revised. We cut out several sections which we thought gave too large powers and restricted the operations of the commission, allowing them to settle nothing, but only to examine and report. We have reported the bill to the House in that form, and I cannot consent that the whole evening session shall be consumed in its consideration.

Mr. CULLOM. Will the gentleman allow me to ask him a single question?

Mr. GARFIELD. I will.

Mr. CULLOM. Why should not this bill be a general law covering all the States? If there is any special reason why a bill of this sort should pass at all why should not all the States of the Union be included in it, and thus save the trouble of passing special acts in favor of each State?

Mr. GARFIELD. In the first place, I suppose that not all the States of the Union have claims of this kind. Some of the great States, Pennsylvania, Ohio, New York, and some others along the border, made advances to the Government. The State of Ohio advanced \$8,000,000 in money. I happened to be a member of the General Assembly of the State of Ohio, and was one of those who voted for making that advance to the General Government when it was found with a bankrupt treasury at the beginning of the war.

Mr. SCOFIELD. What is this for?

Mr. GARFIELD. It is for miscellaneous claims, for advances made by the State, and claims of a nondescript sort that have been reported to the Department, and finally a memorial to cover the whole subject was sent to Congress, and the committee have answered that memorial by reporting this bill. I now yield for a moment to my colleague, [Mr. WELKER.]

Mr. WELKER. I wish to say one word in regard to the claims of Ohio. My colleague is mistaken when he says that a commission was created to hear all applications on behalf of Ohio for advances made during the war. It is true that a commission was appointed to investigate into the expenses of the calling out of our squirrel-hunters by the Governor at the time when Morgan made his raid into Ohio and Indiana. But all the other claims of Ohio were settled by the Department at Washington, and not through the instrumentality of a commission, as proposed by this bill.

Mr. WILSON, of Iowa. I desire to ask the gentleman from Ohio whether any claims of Ohio were settled by the Department excepting those that came within the regulations of the Army arising out of the expenses connected with troops mustered into the service?

Mr. WELKER. In reply to the gentleman I would say that every claim Ohio presented at the Department was settled there. I know that a great many claims might have been originated in Ohio, and I have no doubt that if a commission had been sent to Ohio to hunt up parties who may have had claims for damages a great many claims might have been got up.

Mr. WILSON, of Iowa. I desire to ask the gentleman why all the claims of Ohio for the payment of the expenses connected with the calling out of the squirrel-hunters at the time of Morgan's raid were not paid at the Department?

Mr. WELKER. Because there were no laws or regulations that would reach that class of troops—"squirrel-hunters," as they were termed.

Mr. WILSON, of Iowa. I submit that the gentleman has answered the very question in this case; that the "squirrel-hunter" claims of the State of Ohio did not come within the regulations of the Army.

Mr. WELKER. Is not that the character

of the claims coming from New York? I understand these claims to be for money advanced during the whole progress of the war.

Mr. WILSON, of Iowa. I understand that a part of this claim—I do not know whether all of it or not—grows out of the claims of the State of New York for expenses incurred in raising militia during the period of the invasion of Lee in Pennsylvania. Those troops were irregularly raised; they were not mustered into the service of the United States; they did not become United States troops; their accounts cannot be settled at the Department under existing regulations. Therefore this commission is asked, as I understand.

Mr. GARFIELD. I now call the previous question on the bill.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. SCOFIELD. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. GARFIELD. I do not desire to have the session broken up because of the absence of a quorum. I do not know whether there is a quorum in the Hall or not.

The SPEAKER. The Chair doubts whether a quorum is now present or not.

Mr. GARFIELD. Then I would ask my colleague on the committee [Mr. KETCHAM] to allow this bill to be laid aside informally, so that we can proceed with other business of the committee.

Mr. SCOFIELD. I object to that.

The SPEAKER. Objection being made, the only way the gentleman from Ohio [Mr. GARFIELD] can reach his object is to move to reconsider the vote ordering the main question, and have the bill recommitted to the Committee on Military Affairs.

Mr. GARFIELD. Then I move to reconsider the vote by which the main question was ordered.

The motion to reconsider was agreed to.

Mr. GARFIELD. I withdraw the call for the previous question, and move that the bill be recommitted to the Committee on Military Affairs.

The question was taken upon the motion to recommit; and upon a division there were—ayes 60, noes 2; no quorum voting.

Tellers were ordered; and Mr. SCOFIELD and Mr. KETCHAM were appointed.

The House again divided; and the tellers reported that there were—ayes sixty, noes not counted.

So the bill was recommitted.

#### DISABLED OFFICERS AND SOLDIERS.

Mr. GARFIELD moved that the Committee on Military Affairs be discharged from the further consideration of the concurrent resolutions of the Legislature of the State of Kansas instructing the Senators and requesting the Representatives from the State of Kansas to use their influence to procure the enactment of a law by which officers and soldiers wounded or disabled in the late war shall be entitled to pensions from date of discharge or resignation, the same as if they had made application at that time, and that the same be referred to the Committee on Invalid Pensions.

The motion was agreed to.

#### RETIRED OFFICERS OF THE ARMY.

Mr. GARFIELD, from the Committee on Military Affairs, reported back, with a recommendation that the same do pass, House bill No. 1378, to declare the meaning of the several acts in relation to retired officers of the Army.

The question was upon ordering the bill to be engrossed and read a third time.

The first section of the bill, which was read, provides that any officer of the Army who has

been or who may hereafter be retired from active service under existing laws, and whose disability shall have been occasioned by sickness, injuries, or wounds incurred or received in the line of his duty as a commissioned officer in the volunteer service of the United States at any time since the 19th day of April, 1861, and previous to his appointment as an officer of the regular Army, shall receive, in the application of said laws, the same pay and allowances, and enjoy the same rights, privileges, and benefits of all kinds whatsoever as he would be entitled to receive and enjoy if such sickness, wound, injury, or other disability had been incurred or received while in the regular Army.

The second section provides that the Secretary of War is hereby authorized and directed to revoke and declare null and void all orders of the War Department heretofore issued which are not in accordance with the provisions of the preceding section.

The third section provides that so much of section twenty-five of an act entitled "An act providing for the better organization of the military establishment," approved August 3, 1861, and so much of section twelve of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862, as authorizes the assignment by the President of any officer of the Army who has been retired under the provisions of said acts, or any other acts, to any appropriate duty, is hereby rescinded; and hereafter retired officers of the Army, except in time of war, shall not be assigned to any duty other than at the Military Academy, at certain colleges and universities, as provided in section twenty-six of the act entitled "An act to increase and fix the military peace establishment of the United States," approved July 28, 1866.

Mr. GARFIELD. I will explain briefly the provisions of this bill. There are but three sections, and it will take but a few minutes to explain them. There is now this difficulty under the law in regard to the retirement of officers: that such officers who have received wounds or have been otherwise disabled while in the volunteer service and afterward have been transferred to the regular service are not permitted by the retiring board to be retired upon the same terms as though they had received their wounds while in the regular Army. This is a manifest injustice which the bill now before us is designed to correct. In the second section of the bill it is proposed that officers who have been thus unjustly retired shall be restored. The third section is designed to prevent the abuse which is now growing up of officers getting themselves retired and then put into easy places on duty with restoration of their full pay. Those are the three points which the bill is designed to cover. I hope that it will be passed.

Mr. FARNSWORTH. Mr. Speaker, the first section of this bill, if I understand it and the gentleman's explanation of it, will open a door to the retirement of all the officers now in the Veteran Reserve corps.

Mr. GARFIELD. The gentleman will remember that there is now a provision of law, that not more than seven per cent. of the officers of the Army shall be on the retired list at any one time. That restriction will obviate the difficulty which the gentleman apprehends.

Mr. FARNSWORTH. I am opposed to continuing a Veteran Reserve corps in the Army for the purpose of getting up a retired list. It seems to me that that would be a very expensive way of carrying on the military department of this Government.

I desire to say further, that if I understand correctly the last section of the bill, it provides that an officer who is retired shall not be detailed for duty except in time of war, or upon service in the Military Academy. Now, I do not see any good reason why an officer who has been placed on the retired list should not have an

opportunity occasionally to perform, if he is able to do so, some duty. I do not see why he should not have an opportunity to be ordered to duty, if he desires it, and to receive full pay. A good many of the retired officers of the Army are now on duty. Under the existing law the Secretary of War has authority to detail for active duty an officer who has been retired, and such officer, while performing this duty, receives the full pay of his rank instead of the half pay to which a retired officer is entitled. I would like the gentleman to give us some explanation on this point.

Mr. GARFIELD. The bill which I propose to offer to the House immediately after this shall have been disposed of proposes to make a very large reduction in the roster of the Army; and that bill provides that those who may be dropped from active duty in consequence of such reduction of the Army may be assigned by the Secretary of War to special duty, receiving full pay while so engaged. If officers retired in consequence of inability to perform duty are allowed to be put on duty we simply open the door to the continuance and increase of an evil which already exists to a considerable extent. Officers get up claims for retirement, make a persuasive array of their aches and pains, and thus secure positions on the retired list, and then, perhaps, after two or three months' relief, they obtain, through political or personal influence, an assignment to some pleasant duty, and thus again enjoy the full pay which they received before being retired, with the additional advantage of being in a comfortable place instead of in the field.

I have before me a record from the Adjutant General's office showing the number of persons who, under the present laws, have been retired, and are now upon the retired list. The list shows an exceedingly large number. It shows one hundred and forty-two officers upon the retired list: four major generals, seven brigadier generals, twenty-eight colonels, thirteen lieutenant colonels, twenty-nine majors, thirty-four captains, sixteen first lieutenants, four second lieutenants, two military storekeepers, and five chaplains; and of the entire number, seventy-seven are now on duty, more than one half on the retired list, and so far as I know, they are upon the most comfortable duty in the whole range of the Army service. Officers upon the retired list receive pay at the following rates: major general, \$247 per month; brigadier general, \$195; colonel, \$177; lieutenant colonel, \$158; major, \$139; captain, \$114; first lieutenant, \$101; second lieutenant, \$95; military storekeeper, \$127; and chaplain, \$114.

Mr. FARNSWORTH. Does the gentleman state their full pay?

Mr. GARFIELD. This is their pay and allowances while unemployed, which is about half the pay of an officer on the active list. When employed they have full pay as if they were not retired. It is said that officers who received only a scratch in the Army, enough to make them a little lame, men in full and robust health, young men, men in the prime of life, good for forty years yet, are on the retired list. They can go to Europe and elsewhere, and through political influence by and by be put upon light duty at full pay. They can go into business and practice their profession while not on duty.

Now, sir, I wish to call attention to two extracts from the Army and Navy Journal. They will show the working of the present law for retiring officers in two cases where officers have been retired by the retiring board.

The Clerk read as follows:

"A board of examination having found Brevet Major William G. Edgerton, captain twenty-ninth United States infantry, 'incapacitated for active service, and that said incapacity is not the result of long and faithful service, of wounds or injury received in the line of duty, sickness, or exposure therein, or any other incident of service, but results from "dipsomania," produced by his own willful intemperance in the use of alcoholic drinks," the President directs that, in accordance with section seventeen of the act of Congress, approved August

3, 1861, he be wholly retired from the service with one year's pay and allowances, and that his name be henceforward omitted from the Army Register."

"A board of examination having found Brevet Colonel W. M. Kilgour, captain forty-first United States infantry, 'incapacitated for active service, and that said incapacity is the result of a gunshot wound received at the battle of Perryville, Kentucky, October 8, 1862, and that said incapacity existed before he was commissioned in the Army, July 23, 1866,' the President directs that in accordance with section seventeen of the act of Congress approved August 3, 1861, he be wholly retired from the service with one year's pay and allowances, and that his name be henceforward omitted from the Army Register."

Mr. GARFIELD. In the first case the officer having been found by the retiring board totally incapacitated, not in consequence of meritorious and long service, but of long continued dissipation, having become a confirmed "dipso-maniac," having had the *delirium tremens*, he was, by the operation of the law, dropped from the rolls of the Army, with one year's pay and allowances. That was according to the law; but here was another who was found to be totally incapacitated in consequence of a wound received while an officer of volunteers, at the battle of Perryville, at that time not in the regular Army, but in the volunteer service, but transferred to the regular Army some months subsequent, but in which he served faithfully until his wounds grew worse—this man, incapacitated by his wounds, was retired upon the same terms as the "dipso-maniac"—dropped from the rolls with one year's pay and allowances, whereas if he had been in the regular Army when he received the shot he would have been retired on half pay for life. Such a decision makes a wound in battle no more meritorious in a volunteer than *delirium tremens* in a regular. Precisely that kind of decision is being made perpetually by the board of retirement, notwithstanding it has again and again been declared in the law that in all matters of pay, emolument, and allowances, there shall be no distinction whatever between a volunteer and a regular officer. I yield to the gentleman from Massachusetts.

Mr. BUTLER, of Massachusetts. As a matter cognate to this discussion I wish to call the attention of the chairman of the committee to the language of the first section, which requires that a wound should be "incurred or received in the line of his duty as a commissioned officer in the volunteer service" in order that he may be retired as an officer in the regular Army. Now, if that remains in, if a private soldier got a wound in the course of his duty and became incapacitated from it, he cannot be retired as an officer.

Mr. GARFIELD. The committee have simply followed the law as it now stands. We did not design to enlarge the scope of its action; but if the House chooses to amend that provision I shall have no objection.

Mr. BUTLER, of Massachusetts. I hope it will be so amended.

Mr. GARFIELD. Make the amendment.

Mr. BUTLER, of Massachusetts. I move to strike out the words "as a commissioned officer," so as to allow a private who was incapacitated while a private and for gallantry and courage has been made an officer, to be retired.

Mr. PAINE. I suggest an amendment, which will probably accomplish the same object and be less objectionable, to strike out the word "commissioned" and add the words, "or enlisted man."

Mr. BUTLER, of Massachusetts. That will be just the same thing. It will then read "as an officer or enlisted man." That will accomplish the purpose exactly.

Mr. GARFIELD. I will personally accept the amendment. I cannot do it on behalf of the committee, but I presume they will have no objection.

The amendment was agreed to.

Mr. GARFIELD. I will yield for a question to my colleague.

Mr. MUNGEN. I observe that the first clause of the first section reads:

That any officer of the Army who has been or who

may hereafter be retired from active service under existing laws, and whose disability shall have been occasioned by sickness, injuries, or wounds incurred or received in the line of his duty as a commissioned officer in the volunteer service of the United States at any time since the 10th day of April, 1861, and previous to his appointment as an officer of the regular Army, &c.

Now, I have a friend who is on the retired list, General Walker, of Ohio, who was a captain in the twelfth regulars, and held a commission as such before he was appointed colonel of the thirty-first Ohio volunteers. At the battle of Chickamauga, I believe, he was severely injured by a shell, and has been unable since to do even office business as a lawyer. Now, does not this bill cut off that officer from any benefit whatever?

Mr. GARFIELD. He was in the regular Army at the time he was disabled.

Mr. MUNGEN. Does not this bill prohibit him from the benefits of the bill?

Mr. GARFIELD. Not at all. Those officers of the regular Army, who were also officers of volunteers when they received their disabilities, can now by law be placed on the retired list. I know the officer to whom the gentleman refers. I entirely concur with what he says, and will do anything in my power to assist his friend.

Mr. MUNGEN. If the bill does not interfere with that case and other similar cases I have nothing further to say.

Mr. FARNSWORTH. Will the gentleman yield to me two minutes?

Mr. GARFIELD. I will.

Mr. FARNSWORTH. I desire to say that it seems to me this is a very expensive method of protecting a wounded and disabled officer. If he is wounded in the service and is fortunate enough to get an appointment in the Army the next day he is retired on half pay, as a captain, if he is appointed captain. He is retired, say, on \$150 a month. Another man wounded equally badly by his side, but not so fortunate as to get an appointment in the Army, is retired on a pension of twenty dollars a month. It seems to me either that we ought not to open the door to enlarge the retired list of the Army, or else that we ought to raise the pensions of our officers to the retired pay of the rank that they hold. There is a manifest impropriety and injustice in this thing. A man is killed outright and leaves a large family. His widow gets a pension of twenty, twenty-five, or thirty dollars a month, which is the highest she can get, even if her husband was a major general. A man who was wounded subsequently and appointed a major general is next day retired on \$200 a month. Now, that is not fair; it is not just. I suppose my two minutes have expired. I am opposed to opening the door to enlarging the retired list of the Army. If a man has worn himself out in the service and grown old, then I am willing to retire him and let him go down gently to his grave.

[Here the hammer fell.]

Mr. GARFIELD. I desire to say, in response to my friend from Illinois, that if we were now proposing new legislation on the subject his argument would be entirely germane, and perhaps I might agree with him. But we do not in this bill enlarge the law at all, except to abolish the distinction between volunteers and the officers of the regular Army. That is all; and the second section provides that in cases of such injustice as the one that I had read at the desk, the action of the board shall be reversed, and such persons shall be retired in accordance with the provisions of this law. Now, I hope that is an answer to the gentleman, because I would not be willing at this time to enlarge the scope of the law on that subject. But I refer the gentleman again to the fact that but seven per cent. of the officers of the Army can under the existing law be retired. I ask the previous question.

Mr. LOGAN. I would like the gentleman to yield to me for a moment.

Mr. GARFIELD. I will do so.



Mr. LOGAN. I have not, I confess, examined this bill as carefully as I perhaps should have done, but I would like to know of the chairman of the Committee on Military Affairs whether, under the present law, it is not at the option of the Secretary of War to retire seven per cent. of the officers of the Army without their being wounded?

Mr. GARFIELD. I will answer the gentleman that that is not the law. An officer who has been in the service forty-five years he may retire at his option, but those persons who are sick or disabled he may order before a board, and on the recommendation of that board he may retire them. Other persons voluntarily, at their own request, may be allowed to go before a board. There are now three ways by which an officer may be retired by law, first by the order of the President when the officer has been forty-five years in the service, and then in the two ways I have mentioned.

Mr. LOGAN. Of course that answers satisfactorily in reference to that question; but it seems to me that, as stated by my colleague, [Mr. FARNSWORTH,] unless there is some restriction placed on this section, it is rather an expensive manner or mode of pensioning a great many men who are now in the Army. I would suggest to the chairman for his consideration whether it would not be better to amend this section so as to provide that no officer shall be retired from the service of the United States unless by his own consent or who may be competent to perform duty. I desire to see this bill pass because I wish to see a change effected that will place men who have not heretofore been in the regular Army upon the same footing as those who have been in the regular Army. But there are a great many officers in the Army now who do not desire retirement, but under the manipulations that might be brought to bear by boards, injustice might be done them, such as we know has been done and as the very paragraph which has been read at the desk shows is done. Hence I desire to see the law changed and perfected in that particular. I do not desire to see men driven from the service and placed on the pension-roll against their will in order merely to make places for somebody else. There are a great many meritorious men now in the Army who have received wounds, and perhaps would not be as well qualified for severe service as men of perfect health. Yet they are well qualified to perform many of the duties that are incumbent upon commissioned officers in the Army. Now, if these men may be retired, under this bill, by the mere edict of the Secretary of War or by the report of a commission they may be made to give place to others who may desire to have their places. Hence I suggest that this section be amended by providing that no officer shall be retired against his will who is competent to perform services in the Army.

Mr. GARFIELD. I would not object to that if it was not the law now, except as to officers over forty-five years of age.

Mr. LOGAN. I think it better to amend the first section of this bill by adding to it:

*Provided, That no officer shall be retired against his will who may be competent to perform service in the Army.*

Mr. GARFIELD. Very well; I will allow the amendment to be offered.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILLS SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that he had examined and found truly enrolled

bills of the following titles; when the Speaker signed the same:

An act (S. No. 238) granting a pension to Carrie E. Burdett;

An act (S. No. 282) granting a pension to Annie E. Dixon;

An act (S. No. 291) granting a pension to Ann Kelly, widow of Bernard Kelly;

An act (S. No. 292) granting a pension to Maria Rastery;

An act (S. No. 321) for the relief of Mrs. Mary Gaither, widow of Wiley Gaither, deceased;

An act (S. No. 332) granting a pension to John W. Harris;

An act (S. No. 333) for the relief of Julia M. Molin;

An act (S. No. 342) granting a pension to Thomas Stewart;

An act (S. No. 359) granting a pension to Louisa Fitch, widow of E. P. Fitch, deceased;

An act (S. No. 381) granting a pension to Edward Hamel, minor child of Edward Hamel, deceased;

An act (S. No. 427) for the relief of the widow and children of John W. Janeson, deceased;

An act (S. No. 434) for the relief of Elizabeth Barker, widow of Alexander Barker, deceased;

An act (S. No. 454) for the relief of Samuel N. Miller;

An act (S. No. 466) for the relief of Sylvester Nugent;

An act (S. No. 494) granting a pension to Elizabeth Steepleton, widow of Harrison W. Steepleton, deceased; and

An act (S. No. 498) granting a pension to Anna M. Howard.

#### MILITARY PEACE ESTABLISHMENT.

Mr. GARFIELD, from the Committee on Military Affairs, reported back House bill No. 1377, to reduce and fix the military peace establishment.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. GARFIELD. I am instructed by the Committee on Military Affairs to offer some amendments to this bill; and first I will move to amend the eighth section.

Mr. WILSON, of Iowa. Will that preclude amendments to previous sections of this bill?

The SPEAKER. It will not; but the Chair would suggest that unless the amendments of the committee are such as will give rise to debate they better be acted upon first and incorporated in the bill.

Mr. PAINE. I know that some members of the House propose to offer amendments to this bill, which will, if adopted, be substitutes for, or come in conflict with, the amendments to be proposed by the gentleman from Ohio [Mr. GARFIELD] on behalf of the Committee on Military Affairs. Therefore I think it would be much better to have this bill read by sections for amendment, and the committee's amendments can then be offered.

The SPEAKER. Then the gentleman from Ohio better report back this bill with these amendments incorporated in the text of the bill, so that they may be open to amendment like other portions of the text.

Mr. GARFIELD. I will ask that the amendments be read.

The amendments were read as follows:

Add to the seventh section the following:

*Provided further, That if, in the opinion of the Secretary of War, it is necessary for the continuance of garrisons at important forts and arsenals, and the protection of our Indian frontiers, to retain all or any portion of the artillery and cavalry force authorized to be mustered out of service or relieved on half pay by this act, it shall be lawful for him to do so until the further action of Congress.*

Amend the eighth section by adding to it the following:

*And provided, That not more than one third of the officers of each grade in the regiments known as the Veteran Reserve corps, nor more than one third of the officers belonging to the regiments of colored troops, shall be placed on the list of officers to be relieved from duty under the provisions of this section; but upon application of any officer whose rank would*

retain him in active service the Secretary of War may place such officer upon the list in lieu of the officer oldest in commission of the same grade who would otherwise be placed on said list under the provisions of this act.

Mr. WASHBURN, of Indiana. I rise to a question of order. I desire to inquire whether the gentleman from Ohio presents this last amendment as coming from the Committee on Military Affairs?

Mr. GARFIELD. Yes, sir.

Mr. WASHBURN, of Indiana. When was it considered by the committee?

Mr. GARFIELD. If my colleague insists on his point of order, I will say that all the amendments I am now offering, save one, were considered and acted on by the committee, and as to that one I have obtained from all the members of the committee with whom I have had an opportunity to consult consent to report it. It has happened unfortunately that I have had no opportunity to consult with the gentleman from Indiana.

Mr. WASHBURN, of Indiana. It happens, also, that the gentleman has not consulted a quorum of the committee.

Mr. GARFIELD. I trust that the explanation I have made will be a sufficient apology to the gentleman; if not, I will withdraw the amendment.

The SPEAKER. If the gentleman from Indiana makes the point of order that this amendment has not been agreed on by the committee, and if the gentleman from Ohio states that it has not been, then the amendment must be withdrawn.

Mr. GARFIELD. I have obtained the consent of every member of the committee whom I have been able to see; but as I understand my colleague on the committee to insist upon his point of order, I withdraw the amendment. I will not ask the reading of further amendments which I was about to present. In order to facilitate and hasten the consideration of the bill, I will waive any general remarks on my part, and will ask that the bill be considered in the House section by section, as in Committee of the Whole, under the five-minute rule.

The SPEAKER. That course will be adopted if there be no objection.

There was no objection.

The first section was read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the office of General of the Army shall be continued until a vacancy shall occur in the same, and no longer; and on the occurrence of a vacancy all laws and parts of laws creating or regulating said office shall cease and determine.*

Mr. WILSON, of Iowa. I move to amend by striking out all of this section after the enacting clause. I am in favor of the reduction of the Army; yet I am also in favor of preserving the harmony of its organization. I do not see why we should not continue the office of general as well as that of major; and particularly is it inadvisable to discontinue this office while we have so many distinguished soldiers who have rendered eminent service to the country during the late rebellion. Besides, there are laws imposing duties upon the General of the Army; and this section contains no provision imposing those duties upon any other officer. I am in favor of preserving the present organization of the Army. I desire this section stricken out, so that if there should be, by any soon-coming event, a vacancy in the office of General of the Army, the Lieutenant General may succeed to the position, some other worthy officer taking the place of the present Lieutenant General. I therefore hope this section, unless there be some good reason for preserving it, will be stricken out.

Mr. GARFIELD. Mr. Speaker, the reason for introducing this section was, first and chiefly, to reduce the Army, to make that reduction effective and possible, and at the same time to save as far as possible the rights, honor, and dignity of every officer in the Army. If they had begun at the bottom and reduced it only among the lower officers they would be

justly chargeable with unfairness; but they have reduced it throughout.

There is another consideration. The offices of General and Lieutenant General of the Army were never known in this country, except in two instances, before. The office was created for General Washington. The office of Lieutenant General was subsequently revived for General Scott. In both instances they were personal, and intended as personal decorations for citizens of the United States who had performed great and distinguished services for the country. For precisely similar reasons they were recently revived to decorate two eminent citizens who have rendered great and distinguished services to the nation, and it is thought the same custom should prevail henceforward, and when the offices are vacated by the persons for whom they were intended, they should cease and determine, leaving the whole subject to the action of Congress when it may see fit to revive the offices for similar services to the country. There is still another consideration which had great weight with the committee. We did not feel it safe to allow the present Executive to fill the vacancy as he might choose to fill it. Who knows the person he might select as the successor of either of the two great captains who now fill the offices? This was of great and paramount weight with the committee. We did not think it safe or proper to leave such a power with the present President of the United States. We therefore thought it best to follow the custom which has prevailed hitherto, and leave the office to cease and determine with its present holder. I trust we shall have the hearty approval of the House for this legislation.

Mr. LOGAN. I move to insert after the last word "and the duties thereof shall devolve upon the officer next in rank."

Mr. WILSON, of Iowa. That will not effect the result. It will still provide that all laws or parts of laws regulating said office shall cease and determine.

Mr. LOGAN. I move, then, to strike out "or regulating;" so it will then read, with the words added which I have indicated, as follows:

The office of the General of the Army shall be continued until a vacancy shall occur in the same, and no longer; and on the occurrence of a vacancy all laws and parts of laws creating said office shall cease and determine, and the duties thereof shall devolve upon the officer next in rank.

The amendment was agreed to.

Mr. JOHNSON. I desire to amend the section, and it will necessitate the striking out of the amendment just adopted. I move to insert the word "dis" before "continued," and to strike out so it will read:

The office of General of the Army shall be discontinued, and all laws or parts of laws creating or regulating said office shall cease and determine.

Now, Mr. Speaker, I should not have proposed this amendment or any amendment to this bill but for the remarks made by the distinguished chairman of the committee. He has announced to this House and the country it is the object of the committee to reduce the Army and to reduce the expense of the military establishment, but he has carefully avoided in this bill the turning out of a single soul who wears shoulder-straps. In consequence of this fact I doubt the sincerity of it. I wish to test the sincerity of the committee, and I shall continue to test it all through this bill, providing in the next section for the abolition of the office of Lieutenant General, and in the following section reducing the major generals to four, and in the subsequent section the number of brigadier generals to eight. If the committee is in earnest, if it is their sincere desire to reduce the military force and save the Treasury of the country and the tax-payer, what is to prevent this reduction at the present time?

What great service is the General of the Army rendering to this country at the present time? When he was acting as Secretary of War *ad interim* the country went on as smoothly as it is going to-day, when he is traveling with

his family on leave. The General of the Army issued not a single order by virtue of his office as such for three or four months, and yet the country was safe.

What is the Lieutenant General of the Army doing by virtue of his office? Not one thing that could not be done as well without the office. Now, as to the General and the Lieutenant General of the Army, I certainly have no attack to make upon those distinguished individuals. But I do attack the offices that were created to reward them for the distinguished services they have rendered to the country. They should have been paid in some other way, not by giving them these offices, which, if gentlemen crawl on their bellies before the men who achieve such positions, will in the end, as I remarked, destroy the liberties of the country.

[Here the hammer fell.]

Mr. GARFIELD. I rise to oppose the amendment, and ask for a vote.

The amendment of Mr. JOHNSON was disagreed to.

The question recurred on the amendment of Mr. WILSON, of Illinois, to strike out all of the first section except the enacting clause; and it was disagreed to.

The Clerk read as follows:

SEC. 2. *And be it further enacted*, That the office of Lieutenant General of the Army shall be continued until a vacancy shall occur in the same, and no longer; and on the occurrence of such vacancy, all laws and parts of laws creating or regulating said office shall cease and determine.

Mr. ALLISON. The same amendment that was made to the first section should apply to this. Strike out the words "or regulating" and add at the end "and the duties thereof shall devolve on the officer next in rank."

The amendment was agreed to.

Mr. JOHNSON. I propose an amendment to this section for the same reason that I proposed it to the other section. I move to add the syllable "dis" before "continued;" to strike out all thereafter down to and including the word "vacancy;" and to insert before the word "all" the word "and;" and to strike out the words just added at the end of the section; so that it will read:

That the office of Lieutenant General of the Army shall be discontinued, and all laws and parts of laws creating said office shall cease and determine.

That will legislate the Lieutenant General out of office immediately, and let him enjoy his rural comfort with General Grant on his farm.

The amendment was disagreed to.

The Clerk read as follows:

SEC. 3. *And be it further enacted*, That no brevet appointment of General or Lieutenant General shall be made after the passage of this act.

Mr. BUTLER, of Massachusetts. I move to strike out the words "of General or Lieutenant General," so that it will read, "that no brevet appointment shall be made after the passage of this act." Brevet appointments are for meritorious services in battle or in great emergencies during war. They do not belong to a peace establishment of an army. They are now so thick that the only distinction is that a man has never had a brevet.

Mr. WILSON, of Iowa. I suggest to add the words "except in time of war."

Mr. BUTLER, of Massachusetts. I am content with that.

Mr. PIKE. I suggest another amendment—"for services in war."

Mr. BUTLER, of Massachusetts. Oh, no.

Mr. GARFIELD. I suggest in opposition to the amendment—though I do not very much oppose it, but quite agree in the general with what the gentleman has said—that in the bill in relation to the rules and articles of War which passed the Senate last night, and which we hope to be able to pass before this session ends, it is provided that no brevet shall be conferred except in time of war and for one year thereafter, and then only in consequence of special meritorious services during the war. It seemed to the committee that it would be wiser to make that standing provision, which

would cover them both in peace and in war, and would be better than to say absolutely that there shall be no brevets.

Mr. BUTLER, of Massachusetts. When that comes in it will repeal this, and it will be all right.

Mr. PIKE. I move to amend the amendment by striking out the words "except in time of war." I understand the rule to be now at the War Department that brevet appointments in worthy cases are given so that the brevet rank may run as high as the actual rank in the field; that is, where an officer was a brigadier general and was subsequently appointed a major or captain in the regular Army he may have a brevet as high as brigadier general. It is a satisfactory recognition of very many worthy officers now in the Army.

Mr. LOGAN. Many of them have not smelled gunpowder.

Mr. PIKE. Many of them have. I know of one case in which I applied the other day, a very worthy case, and I know of several other instances. And it seems to me very ungracious for us to refuse such a very simple recognition as this of the value of services rendered during the war.

Mr. LOGAN. If you will make it "for services in the front of the enemy," I will have no objection.

Mr. PIKE. I will change my amendment, and move to insert the words "for gallant and distinguished services in presence of the enemy."

Mr. GARFIELD. I will ask both gentlemen to accept in lieu of their amendments the amendment which I send to the desk, which has been carefully prepared as one of the Rules and Articles of War.

The Clerk read as follows:

Commissions by brevet shall only be conferred in time of war or within one year thereafter, and for distinguished conduct and important services in presence of the enemy, which shall bear date from the particular action or service for which the officer was breveted.

Mr. BUTLER, of Massachusetts. I accept that.

Mr. PIKE. I do not like the word "important." I suggest the words "distinguished and meritorious."

Mr. GARFIELD. I have no objection to that modification.

Mr. WILSON, of Iowa. I would like to know if the service rendered by the person to whom the gentleman from Maine referred was not "important?"

Mr. PIKE. It was. He is now a colonel in the regular Army, and he could not have got that position unless he had rendered important services.

Mr. GARFIELD's amendment, as modified, was agreed to.

The Clerk then read the fourth section, as follows:

SEC. 4. *And be it further enacted*, That no vacancies shall hereafter be filled in the office of major general until the number of major generals shall be less than four, and thereafter there shall be but four major generals.

Mr. BUTLER, of Massachusetts. I move to strike out all after the enacting words of that section, and to insert in lieu thereof what I send to the Clerk's desk.

The Clerk read as follows:

There shall hereafter be but three major generals, and the officers who shall retain their positions as such shall be designated by the General of the Army without regard to seniority, and all others shall be mustered out of service within sixty days after the passage of this act.

Mr. BUTLER, of Massachusetts. The reason, Mr. Speaker, why I offer that amendment is this: before the war we had but one major general in the United States Army; that was Major General Scott, by brevet Lieutenant General; then we had General Wool, who was brevet major general; and between the two they governed an army of seventeen thousand men, and governed it very tolerably well. Then came the war, and now we have a General, a Lieutenant General, and five major generals, and we have seven general headquarters in

this District of Columbia to take care of the District only, with full staffs. The President, the Commander-in-Chief, is one, the General of the Army another, the Secretary of War still another, the Commissioner of the Freedmen's Bureau is another, General Hancock, commander of the military division, is another, General Emory, the commander of the department of Washington, is another, General Wallace, the commander of the garrison of Washington, is another; there are, therefore, seven general headquarters to take care of this District in time of peace, and, I believe, from twelve to fifteen generals on duty here in various ways. A friend suggests nineteen. I always understate in my statements.

Now, sir, that being so, I desire that we shall come down somewhere near a peace establishment, and I know of no man better situated to designate who shall hold these commissions of major generals than the General of the Army.

I propose to follow up this amendment by an amendment providing that, instead of ten brigadier generals, there shall be only six, to be selected in the same way. This bill provides for only twenty-five thousand soldiers, and three major generals and a lieutenant general are amply sufficient to take charge of twenty-five thousand men; and those are twice as many general officers as are employed with a like number of troops in the best European armies. A friend near me says that he would give them six months. Why? Did you give any six months to the volunteer generals after they were no longer wanted? When you get through with them they go out at once. The most of them knew, too, where to go. We of the volunteer service asked no favors. I am willing to give those officers sixty days after this act shall pass. They have all been educated, with one exception, at the expense of the Government. They were given a first-rate education at the expense of their country. They are all wanted as engineers of railroads and on other public works. They can all be employed and be of some use, which they are not now, although that is not their fault. I hope, therefore, my amendment will be adopted.

[Here the hammer fell.]

Mr. GARFIELD. I hope the House will not adopt the amendment of the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. MULLINS. I do hope they will.

Mr. GARFIELD. In the first place, it is a very ungracious task which the Committee on Military Affairs have felt it their duty to perform, to cut down so large a number of persons in official positions as this bill proposes; and particularly in the case of persons who have performed so distinguished services as have been performed by the officers embraced in this section. There are five major generals now in the Army: Halleck, Meade, Sheridan, George H. Thomas, and Hancock. Now, to require the General of the Army to select two of them to be stricken from the rolls, to let the burden, and especially what odium there might be in that selection rest upon the General of the Army, I think would not be treating him fairly, nor would it be treating fairly the officers who now occupy these positions. Without undertaking to debate this matter further, I ask for a vote on the amendment.

Mr. BUTLER, of Massachusetts. I modify my amendment so that it shall read "on the 1st day of January next," instead of "sixty days after the passage of this act."

The question was on the amendment, as modified.

Mr. LOGAN. I move to amend the amendment by striking out the last word for the purpose of saying a word in reply to what has been said by the chairman of the Committee on Military Affairs, [Mr. GARFIELD.] I do not look upon this as being so great a hardship as some men seem to consider it. A great many men might have considered it a hardship, after they had served as generals in the Army for four years, and lost their business at home, to be mustered out at a day's notice.

But I presume none of them did so consider it. If we intend to reduce the Army, if that is our intention in good faith—and I hope that we do intend it—it is not right for us to commence by cutting off the private soldiers, and leaving the great army of generals drawing their pay of \$3,000, \$5,000, or \$6,000 a year each, with staffs around them drawing as much more.

It is wrong to have in service officers for whom we have no use. This bill proposes to reduce the Army to twenty-five thousand men. Now, the chairman of the Committee on Military Affairs [Mr. GARFIELD] was himself at one time a general in the Army; and I should be glad if he would tell me by what rule of the Army it will require a general, a lieutenant-general, four major generals, ten brigadier generals, and twelve staffs to command twenty-five thousand troops. Both he and I in our military experience, have known that number of men to be commanded by a far less number of generals without any major generals whatever except at the head. There is no necessity in time of peace for such a body of officers as this bill proposes. These officers ought not to consider it a hardship that their services are dispensed with. No man ought to consider it a hardship that, when the country does not require his services, it shall say so. I know that when my country required my services no longer I was informed of the fact, and that was enough for me. It ought to be enough for everybody in such a position. It was enough for many men who are now on this floor.

I do not know what is the present number of our Army; but this bill proposes that when the number of officers shall be reduced those relieved from duty shall be put on a retired list. I am not in favor of that. I am in favor of mustering out of service those officers for whose services the Government has no occasion. There is no more justice in putting an unnecessary officer on half pay than there is in putting upon half pay a private who is no longer needed. This bill contemplates that the privates shall be mustered out. They are to be turned loose without a dollar, for there is not one in a thousand who has a dollar within a few weeks after receiving his pay. The privates are to be turned loose upon the country without occupation, while at the same time you propose to retain in service almost an army of general officers for whom the country has no occasion. No man who is truly a patriot will, when his services are dispensed with, in order to reduce the burdens of the people, and because those services are no longer required, say, "I have done service for my country and my country has forgotten me; and in its forgetfulness has inflicted disgrace upon itself and a great wrong upon me." No man with proper self-respect and proper love for his country will say that. For these reasons I am in favor of the amendment of the gentleman from Massachusetts, and I hope it will be adopted.

Mr. PILE. Mr. Speaker, I rise to oppose the amendment to the amendment. The theory of this bill is that supernumerary officers shall be retained until vacancies occur in their grade, and that subordinate officers below the rank of brigadier general shall be placed upon a list to be relieved and put upon half pay. I am in favor of mustering out of service such major generals and brigadier generals as we have no further occasion for. If we are to adopt the rule that supernumerary officers throughout all the lower grades of the Army shall be mustered out, it certainly would not be proper to retain the supernumerary major generals and brigadier generals. Hence I shall regard the vote upon this amendment as a test of the sense of the House upon the question whether these supernumeraries shall be retained or whether all supernumeraries shall be mustered out. There is, as has been suggested by the gentleman from Illinois, [Mr. LOGAN], a distinction between the position of the officer and that of the private soldier in this respect: the private soldier is enlisted for a term of years, and his pay is not supposed to be such as to make it

especially desirable on his part to remain in the service, while the position of the officers is a position for life—a position for which they have prepared themselves by years of study.

Mr. WASHBURN, of Indiana. Do not their commissions run during the pleasure of the President?

Mr. PILE. They do; but the practical construction of that, as the gentleman very well knows, is that unless the officer is guilty of some misconduct for which he is amenable under the rules and articles of war, and is sentenced to dismissal by a court-martial, the President cannot dismiss him. Though the commission nominally runs during the pleasure of the President, it is a commission for life unless the officer by misconduct renders himself liable to dismissal by the judgment of a court-martial.

Mr. WASHBURN, of Indiana. Do I understand the gentleman to say that Congress cannot control this subject?

Mr. PILE. Certainly, Congress has power over the whole subject. It can abolish these officers; it can do away with the army entirely; but the President has no such power.

[Here the hammer fell.]

Mr. CARY. I move to strike out the word "General" and to insert "the President of the United States." Mr. Speaker, I see no reason why this duty should be devolved upon the General of the Army any more than upon the Lieutenant General; but I do see a manifest propriety in it being assigned to the President of the United States, he being the Commander-in-Chief. I am not disposed to occupy my five minutes. It seems to me the propriety of the amendment is apparent.

Mr. MUNGEN. I ask my colleague to yield me the remainder of his time.

Mr. CARY. I yield to my colleague.

Mr. MUNGEN. If I understand the amendment of the gentleman from Massachusetts in extending the operation of this law to the 1st of January—and I should like to know whether that is not the fact—it is to save General Grant, provided he should not be elected President by the people of the United States.

Mr. BUTLER, of Massachusetts. No, sir.

Mr. MUNGEN. Does this leave General Grant and Lieutenant General Sherman in their present positions?

Mr. BUTLER, of Massachusetts. Yes, sir.

Mr. MUNGEN. I would as soon leave them out as any private soldier.

Mr. BUTLER, of Massachusetts. One of them will go out next March.

Mr. SCHENCK. I rise to oppose the amendment. Mr. Speaker, it seems to be a foregone conclusion that there is to be some reduction of the Army. When we do come to a decision of that sort it seems to me we should approach the subject with a consideration looking to all the interests involved both of public and private citizens affected by our action. Now, sir, it strikes me the mode proposed by the gentleman from Massachusetts [Mr. BUTLER] would be an exceedingly harsh one. I do not pretend to say Congress may not abolish the office of major general, or reduce the number of major generals. I am inclined to think hereafter in our Army three will be enough in any organization we propose to keep up. But what is the amendment? That hereafter there shall be three major generals; that is, after the 1st of January next, and those three shall be designated by the General of the Army. I suppose there are to be three selected from the present five, but the amendment does not say so.

Mr. BUTLER, of Massachusetts. Yes, it does.

Mr. SCHENCK. The selection, then, is to be made from the present five major generals. Who are they? Halleck, Meade, Sheridan, Thomas, and Hancock. I am not an especial admirer of General Halleck. I have regarded him always as a paper general, if I may make a criticism of that kind. I do not suppose any one would think of excluding Meade, Sheridan, or George H. Thomas; and I confess I



should be unwilling to see a harsh measure of this kind extended to General Hancock, for while I never have believed, if he had been the fortunate or unfortunate man selected for defeat with any of the chances tendered to him by the convention at New York, he would or would not have made much of a President; yet he has proved himself a respectable soldier. Now, these five men entered in boyhood the public service in the profession of arms and have continued up to this time. They have been put upon an increased establishment as compared with what existed before the war. It is now proposed that they shall be thrust out of service in their comparatively old age in this manner, without provision. I object to it. If there has been any wrong in promoting them, in advancing them until we have more of these officers than we need, the wrong has not been theirs. They are not to be blamed for the natural ambition of getting advancement. If there has been any wrong the wrong has been in Congress making this provision for them. Now, after Congress has done this, it seems to me the least thing we could do would be to let them down in some graceful way, considering who they are and what they have done.

Mr. LOGAN. Will the gentleman let me ask him a question?

Mr. SCHENCK. In five minutes' time one has not much to spare.

Mr. LOGAN. Does not the gentleman from Ohio know that quite a number of officers who were educated at West Point, and served in the Army as major generals and brigadier generals, have been compelled to return to the positions of captains and lieutenants?

Mr. SCHENCK. Certainly I do; but that does not make the slightest reply to my argument. These men are now regularly in the service by the action of Congress, obtaining advancement as it has been held open to them, and this amendment proposes to thrust them out without provision, without half pay, without retirement, with only the general declaration, "Begone, we have no further need of your services." I am not ready for that. I prefer that we shall gradually let ourselves down from that point to which we extended our legislation, if we are to take a back track upon it; and in letting ourselves down, that while we take care of the public interest, we shall at the same time try not to do any injustice to those who served the country.

[Here the hammer fell.]

The SPEAKER. The question recurs on the amendment of the gentleman from Ohio, [Mr. CARY.]

Mr. WILSON, of Iowa. I propose to perfect the text.

The SPEAKER. That is in order.

Mr. WILSON, of Iowa. I move to strike out "four" in both instances where it occurs and insert "three;" so that the section will read:

That no vacancies shall hereafter be filled in the office of major general until the number of major generals shall be less than three, and thereafter there shall be but three major generals.

I only say in support of this that I fully concur in the remark of the gentleman from Ohio, [Mr. SCHENCK,] as to the principle of reducing the Army; and, entertaining that view, I move to reduce the number of major generals to three.

Mr. BUTLER, of Massachusetts. I rise to oppose the amendment. Now, sir, let us see what is proposed. We cannot strike out anybody here who does not find a friend to uphold him. We cannot strike out any provision in the Army bill without disturbing the gentleman who is the author of it; for he always stands by his child. Now, I want to call the attention of the House to the provisions of the bill. It proposes to keep these men in office until they die. They never resign. They are of an average age of perhaps forty-five. They are good for thirty years longer. Now, it is proposed to pass a measure called a bill for the reduction of the Army. If we pass this bill as it stands it will be no reduction, but a *reductio ad absurdum*.

Now, let us see further about the argument that these officers shall not be discharged. In the first place General Halleck left the Army before the war and went into the law to serve his own interests after he had been educated at the public expense. I have nothing to say against him. But when he was in the Army he wrote two or three military books. I do not pretend to say whether he is a man to be selected to be discharged or not. I am not going to discuss personally any of these officers. I only say that if we cannot begin here with our reduction—with these general officers—if there is not nerve enough in this Congress to stand up here and now, you might as well throw this bill into the fire and go home.

What is our proposition? To strike out these generals? Out from what? Simply because they are no longer needed for the service. Seven years ago some of them were captains, quartermasters, and right glad to have those positions. At the end of six years what do we propose to say to them? "We say we do not want to saddle the people of the country with your salaries any longer." My friend from Ohio agrees they are not needed; the Military Committee agrees also; but it is said we must let them down easy. Sir, who will let the tax-burdened people down easy? Why should we pension these men? We have educated them all, given them a thorough education, and I was about to say if they cannot make a living, what are our poor volunteers to do who left their homes and their colleges, with their education unfinished, and went into the war, and having fought it through were then thrust out of the Army without education, without preparation, without position, without any saving clause whatever, many of them without arms or without legs, and with gaping wounds? You gave them fifteen dollars a month at most, but when you come to the man who is receiving \$12,000 or \$15,000 a year you must treat him very gently. Why? Because he has somebody here to speak for him.

Now let us have it understood, if we propose to pass this bill let us begin with the powerful men, these major generals, and deal with them first, not harshly, but simply say to them, "Your services are no longer needed; you have done well; we give you full recognition of your services; we have done so by continuing you in your places more than three years after the war is ended with nothing for you to do; we have had to make military provision for you by giving you commands, but from this time you, as military officers, with your staffs or military households are to cease."

[Here the hammer fell.]

Mr. GARFIELD. I rise to oppose the amendment, and to say simply before making a motion, that it is the opinion of the committee that these officers—

The SPEAKER. Debate is exhausted on the amendment.

Mr. WILSON, of Iowa. I withdraw the amendment to enable the gentleman to renew it.

Mr. GARFIELD. I renew it. It will take some time to reduce the Army as provided in this bill, and during that time a large number of experienced officers are certainly needed in the large departments we now have and the extended number of posts. There are nearly twelve hundred separate military posts now occupied by troops of the United States. And in addition to the reasons given, we thought it would be violent and almost in bad faith to strike down the officers at once.

Having said these few words, I move to close debate on this section.

The motion was agreed to.

The question was taken on the amendment of Mr. WILSON, of Iowa, (renewed by Mr. GARFIELD,) and it was agreed to.

The question was next on the motion of Mr. CARY, to amend the substitute for the section offered by Mr. BUTLER, of Massachusetts, by striking out "General of the Army" and inserting "President of the United States."

Mr. BOYER demanded the yeas and nays.

The question was put on ordering the yeas and nays; and there were 13 in the affirmative and 71 in the negative.

So (one fifth not voting in the affirmative) the yeas and nays were not ordered.

Mr. BOYER. I would inquire if a quorum voted?

The SPEAKER. It does not need a quorum. By constitutional provision one fifth of those present can order the yeas and nays. If there were only fifteen members present three could order the yeas and nays.

The amendment was disagreed to.

The question recurred on the amendment offered by Mr. BUTLER, of Massachusetts, as a substitute for the fourth section.

Mr. GARFIELD. I will ask if the gentleman will not consent to let the vote be taken to-morrow when we have a fuller House. [Cries of "No!" "No!"]

The SPEAKER. The gentleman can attain his object by moving to reconsider if the amendment shall be adopted.

The question was taken on the amendment, and it was agreed to.

The Clerk then read the fifth section, as follows.

SEC. 5. And be it further enacted, That no vacancy shall hereafter be filled in the office of brigadier general until the number of brigadier generals shall be less than eight, and thereafter there shall be but eight brigadier generals.

Mr. ALLISON. I move to amend the section by striking out the word "eight," in the two places where it occurs, and inserting "five."

The amendment was agreed to.

Mr. BUTLER, of Massachusetts. I move to strike out all after the enacting words of the section and to insert in lieu thereof what I send to the desk.

The Clerk read as follows:

There shall be but six brigadier generals, and the officers who shall retain their commissions as such shall be designated by the General of the Army without regard to seniority, and all others shall be mustered out of service on the 1st day of January next.

Mr. BUTLER, of Massachusetts. I do not care to debate it.

Mr. SCHENCK. I do. I propose to oppose it. Mr. Speaker, all the answer that I need to make to what is insisted upon by the gentleman from Massachusetts [Mr. BUTLER] and others in reply to what I have before said of the injustice of this summary mode of proceeding considered in a proper light, they have answered themselves by going for the first two sections of the bill. By their votes they admit that a General is not needed in the organization proposed for the Army. By their votes they also admit that a Lieutenant General is not needed. But, by their votes they say that in the case of the General they will wait until a vacancy occurs and then there shall be no future General appointed; and by their votes they say that in the case of the Lieutenant General, they will let him continue in office until a vacancy occurs and then no successor shall be appointed. The very principle, therefore, for which I contend as being the principle that pervades this bill, they themselves have sustained in the first and second sections of the bill. If it be right as to the General, if it be not wrong as to the Lieutenant General, then surely and on principle it is as right and as far from wrong as applied to major generals or to brigadier generals.

Mr. LOGAN. We want a head of the Army.

Mr. SCHENCK. The gentleman says we want a head of the Army. Suppose that be so; if you abolish your General you have the Lieutenant General for the head of the Army; if you abolish the Lieutenant General you have the senior major-general; if you abolish the major generals you have the senior brigadier general; and so on. Therefore that consideration is entitled to no weight. Do what you may, you still have a head of the Army; muster out or retain, in either case there would be some officer remaining senior to all the rest. So that does not answer my propo-

sition. All I contend for is this: enter upon your business of reducing the Army, and if these men are to be put aside, who have retained their positions under your laws, with advancement provided for them, some little provision ought to be made for them in their old age, either in the shape of half-pay, or else apply to the brigadier and major generals the same principle that you apply to the General and Lieutenant General in this bill. I will not assume that it was because it was supposed it might, perhaps, be unpopular to apply such a rule to the general or Lieutenant General that it is not applied to them; or that it was applied to these others because it was supposed it would reach a class of officers among whom would be found, in the first grade, one or two over whose removal we would shed no tears, or, in the second grade, five or six over whom none of us would weep. Yet it does look so.

Now, if we do not want a General, if we do not want a Lieutenant General, why not apply your rule of at once reducing the Army by getting rid of these still higher officers, who, if anything, are wanted still less than those of the lower grades? The suggestion of the gentleman from Illinois [Mr. LOGAN] that you would not then have a head to the Army, is no answer to the proposition, because, reduce the Army as you may, there would still be some officer senior to all the rest who would be the accepted head of the Army. It must be, therefore, that it is not thought advisable to apply the same rule to one class of officers that you propose to apply to the others, yet I cannot understand why the distinction should be drawn. I am not opposing the reduction of the Army. I am not seeking to preserve what the gentleman from Massachusetts [Mr. BUTLER] seems to think my own peculiar child. I have my own opinion in regard to the reduction or the enlargement of the Army. I have my own opinion in regard both to the officers and the privates. I will not enter into a controversy as to who sympathizes most or least with the privates. I leave that for every soldier who ever served under me to decide for himself.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. I move to amend the amendment *pro forma* by striking out the last word. This is not a new dilemma for us to be in. After the late war with Great Britain, Scott and Gaines were both major generals. They claimed rights against each other, which finally led to an open quarrel between them. To compose that quarrel, John Quincy Adams hunted up General Maccomb, who was almost paralyzed, and put him in command, in order to have a senior officer to compose the difficulties between Scott and Gaines. He also made two great military departments—the department of the East and the department of the West, and put Scott in one and Gaines in the other, so as to keep them apart; and to keep the peace between them. That went on until Maccomb died. Then came the Mexican war. After the Mexican war, the same trouble arose between Wool and Scott. Scott was made Lieutenant General by brevet—he being at the time a major general—and Wool was made a major general by brevet. That composed all difficulties there, and gave an acknowledged head.

Now, sir, the reason we did not strike down the General was that some of us have a reasonable expectation that there will be a vacancy in the course of a few months in that office; and then there being a vacancy in the office of General, it would not only be removing him for three months, if we put him on the same ground as to vacating his office with the major general.

We come, then, to the position of Lieutenant General. That officer we keep so that there may be a head to the Army—an acknowledged head with authority in his own right—not an accidental head that any President may over-throw or whose orders any President may reverse by relieving him. This is our reason for retaining the office of Lieutenant General;

and this was a sufficient reason if we had no other. So we do keep the Lieutenant General until there is a vacancy.

Mr. SCHENCK. We are always to keep him, according to that.

Mr. BUTLER, of Massachusetts. The answer to that is a very plain one. "Sufficient unto the day is the evil thereof." We are now making a peace establishment for the present. We think that in the course of forty years there may be a necessity for a change. The difficulty is that gentlemen here do not want any change, if I may say so, under forty years. Now, we have ten brigadier generals. I propose six in my amendment. Why? Having three major generals, there should be two brigades and two brigadier generals to a division. My own belief is that one major general is sufficient and two brigadier generals for the whole Army. But, if I should propose that it would be considered very harsh; and I have to do the best I can when I cannot do as I would. Therefore, I have agreed to propose three major generals and six brigadier generals, a great number.

Now, I do not admit the force of the argument of my friend, the chairman of the committee, when he says that there are twelve hundred posts. There ought to be nine hundred and fifty less. And I will venture to say that none of these generals have seen one third of those posts within the last year. That being so they are absolutely of no use. Why, then, should we pension them? If you will pension your judges, if you will pension your collectors of internal revenue, especially if you will pension all the civil officers of this Government when they get to a certain age and you turn them out, then I may vote for pensioning these military officers. That is the English system, I know; and I fear we are fast verging toward it. When men are once fastened on the country it is very hard to get rid of them. But our theory of Government has been that a man is called into the service of the Government when we want him, and that he goes out when we get through with him.

[Here the hammer fell.]

Mr. GARFIELD. Mr. Speaker, in answer to what has been said by the gentleman from Massachusetts, [Mr. BUTLER,] I desire to say that his argument in favor of retaining the Lieutenant General, if good at all, is good in favor of always having a Lieutenant General, so as to have a recognized head of the Army, not an officer who can be assigned by the President of the United States at his pleasure.

One word in regard to the section now under consideration. There are now ten brigadier generals. We have many different kinds of military duty to be performed, requiring officers of considerable rank. If the proposition presented by the gentleman from Massachusetts should prevail, we shall then have but six brigadier generals in the Army; and with our great extent of country, with the military departments and the districts within those departments, we should not have a general officer to command each leading department and sub-department.

In addition to that, let me say once for all that it has been the purpose of the Committee on Military Affairs to reduce the Army as much as we thought the condition of the country required, while at the same time we have endeavored to avoid all invidious personal distinctions and all personal injustice. And it seems to me that if we require the General of the Army to determine which of his comrades in arms shall be dropped from the Army and which retained, we shall impose upon him a duty which we ought not to ask him to perform.

Mr. BUTLER, of Massachusetts. Then put it on the President.

Mr. GARFIELD. If it is proposed to put it on the President of the United States, I ask whether gentlemen on this side of the Hall are willing that the President shall perform that duty at his discretion?

One word further. The profession of arms is recognized throughout the world as peculiar in this: that when a man has adopted it as the

profession of his life, he becomes, after a time, unfitted for other pursuits. Not so in any other department of the Government to anything like the same extent. A man who lives many years in the Army cannot go to business. He is out of the range of employments which belong to civil life. It seems to me, therefore, to be a just principle recognized in England, recognized in France, recognized in all the civilized nations of the world, that an officer of the army shall be treated with some special regard in reference to his tenure of office.

I shall be sorry, sir, to see any attack upon the Army of the United States, which I believe to-day has no peer on the face of the earth; an Army made up of men who have won fame on many battle-fields, and in a manner most honorable to our country. They took their places in the Army as now constituted with the distinct understanding that they were fixed and permanent places. Why, sir, in the bill which passed when my colleague [Mr. SCHENCK] was chairman of the Committee on Military Affairs, it was declared in the title that it was an act "to fix the military peace establishment of the United States." Every man who took position under that law understood it was a part of the fixed and permanent establishment. Every man now holding a commission in the Army holds it as he understood at the beginning as a commission which shall not be affected except by decision of court-martial upon his own merits or demerits. Now, to say that these commissions shall be vacated, that these men shall be thrown out, is to violate all the customs of civilized nations, and all the customs of our own during all our history.

[Here the hammer fell.]

The question was upon the amendment to the amendment.

Mr. GARFIELD. I hope by unanimous consent all further debate on this section will be closed.

Mr. PAINE. I hope not; I wish to say a word.

Mr. BUTLER, of Massachusetts. I withdraw the amendment to the amendment.

Mr. PAINE. I offer the following amendment.

The Clerk read as follows:

Add the following:

There shall be but six brigadier generals after the 31st day of March 1869, and the officers who shall retain their commissions as such shall, after the tenth day of March, 1869, be designated by the President of the United States without regard to seniority, and all others shall be mustered out of the service on the 31st of March, 1869.

Mr. PAINE. Mr. Speaker, I hope I should never for one moment be willing to say or do anything upon this floor or elsewhere which would seem to involve a want of appreciation of the services of the officers and enlisted men of the Army of the United States, but I cannot for one consent that any particular class of officers should be picked out and allowed upon this floor to monopolize the fruits and results of all the honor and all the merit which attached to the entire Army during the war. I cannot be satisfied to hear my friend behind me [Mr. GARFIELD] say, when so many men served gallantly and meritoriously in the last war, that a few men shall be picked out and made the recipients of the honors and benefits which we are so ready and willing to accord to the great Army which crushed the late rebellion. Let us give honor where honor is due. Let us give to these men now in the Army the honor that is due to them, but for heaven's sake do not let us shower down upon their heads all the honor won by the volunteer and regular officers and soldiers from the beginning of this war to the end.

And let us not for one moment forget the provisions of the eighth section of this bill, in which the gentleman himself proposes to put upon half pay all junior officers of the Army who shall be thrown out of full commission as the result of the consolidation of regiments from sixty down to forty-one. Let us not forget that the gentleman himself adopts in this

bill the very principle he now deprecates. He says that when a man enters the Army as General Halleck did for the second time he enters it for life, and so understands it, and yet he proposes to cut out the officers of nineteen regiments who happen, indeed, to be junior in rank, but who, I venture to say, won their commissions, in a large majority of cases, on the field of battle itself.

Mr. GARFIELD. We do not cut out those men at all.

Mr. PAINE. The committee retires them from active service on half pay.

Mr. GARFIELD. No: we do not retire them. They are simply relieved temporarily, until vacancies occur.

Mr. PAINE. Call it by whatever name you will, they are virtually robbed of their commissions and left mere pensioners in the Army.

Mr. GARFIELD. They are withheld from duty.

Mr. RAUM. There is a provision in this bill which authorizes the Secretary of War to detail these officers on special service.

Mr. PAINE. I am aware of that; it is a proviso in the eighth section.

Mr. RAUM. That proviso will certainly put very nearly all these officers on active duty.

Mr. PAINE. I cannot yield any longer. The sole effect of that is to neutralize, so far as it goes, the whole plan of reduction.

But I must ask the attention of the House to one great fallacy into which my friend has fallen. He says that when these officers entered the Army they were justified in the understanding that it would become to them a permanent position. Sir, the Constitution of the United States stands directly across the track of the gentleman when he makes that assertion. The Constitution provides that appropriations for the Army shall be limited to two years; and if we do not know it from our study of the history of the convention which framed that instrument, yet Thomas Jefferson has told us and James Madison has told us that that provision was incorporated for the express purpose of guarding against semblance of anything like permanency in the military establishment; placed there for the express purpose of affording to either branch of the Legislature an opportunity in every period of two years to abolish the Army of the United States in spite of the other branch of the Legislature and in spite of the President by withholding appropriations for its support.

Mr. MILLER. Does the gentleman desire to retain all those officers?

Mr. PAINE. Oh, no.

[Here the hammer fell.]

Mr. GARFIELD. I would not rise now but for what seems to be a very probable misunderstanding, if not misrepresentation, on the part of my friend from Wisconsin. I perfectly recognize what the gentleman says, that the Constitution of the United States provides that no appropriation for the Army shall last for more than two years. The purpose of that provision is that the civil shall always control the military establishment of the Government, and the provision is made so as to give either branch of Congress the power to control the military establishment. But I wish to know if the gentleman means, by the interpretation of the Constitution he has given, to intimate that it was ever presumed that the Congress of the United States would abolish the Army altogether?

Mr. PAINE. I will answer the gentleman that it was the design of the framers of the Constitution to put it in the power of the Senate alone or of the House alone at any time in two years to abolish the Army of the United States in spite of the other branch or in spite of the President.

Mr. GARFIELD. Well, I have said that myself just now. But does the gentleman suppose it was the purpose or intention of Congress ever to use that power absolutely to abolish the Army?

Mr. BUTLER, of Massachusetts. What is the use of having it?

Mr. GARFIELD. I suppose every gentleman will agree that the halcyon day will never come, the glorious age will never arrive, when we will not need to keep an Army; and while we do keep it the Congress of the United States, I suppose, will endeavor to retain its valuable officers and its men of experience.

Now, one word in reply to the gentleman's suggestion that I have intimated that all the wisdom and glory of the late great struggle was concentrated in the regular Army, I am not behind any gentleman in my admiration of the great body of citizen soldiers who won the victory and saved the nation. But I desire to say that while there are thousands of noble men, not now in the Army, who did their part as worthily as any who are in it, yet our present Army has in it more history, more glory, and the record of more heroism and patriotism than any other Army that ever existed in time of peace; and I for one, though I am compelled by the necessities of the country to put the knife to the Army and reduce it nearly fifty per cent., will not by my voice or vote consent that we shall strike down by the brutal force of numbers half the official staff of the Army, only to be under the necessity of reappointing them in less than six months. By papers from the Secretary of War which I now hold in my hand, it is shown that the Army, by the reduction now going on by usual casualties, will by the 1st of July next have reached twenty-eight thousand men. Officers are resigning fast. Many who received wounds and became partially incapacitated during the war are becoming invalids. Many are leaving the Army for other reasons. All that is needed is that we simply let these patriotic men hold their positions on half pay or in regular active service for a few months, and the Army will reduce itself.

[Here the hammer fell.]

Mr. LOGAN obtained the floor.

Mr. PAINE. I will withdraw my amendment if the gentleman will renew it. I want a vote upon it.

Mr. LOGAN. I will renew it.

Mr. MAYNARD. Is it in order to move to adjourn? I suggest to the gentleman who has charge of the bill that it is now nearly half past ten o'clock. We have been here for three hours. I dislike to make the motion without his consent.

The SPEAKER. When the gentleman from Illinois [Mr. LOGAN] closes his remarks a motion to adjourn will be in order.

Mr. LOGAN. I will give way for a motion to adjourn.

Mr. GARFIELD. I would inquire if this bill will come up to-morrow?

The SPEAKER. It will be the unfinished business immediately after the reading of the Journal.

#### ROCK ISLAND BRIDGE.

On motion of Mr. PRICE, by unanimous consent the amendments of the Senate to the joint resolution (H. R. No. 201) in relation to the Rock Island bridge were taken from the Speaker's table.

The amendments of the Senate were read and concurred in, as follows:

Page 1, line eight, after the word "island" insert "to connect said island with the cities of Davenport and Rock Island."

Page 2, line thirteen, after "sixty-six" insert "And provided, also, that in no case shall the expenditure on the part of the United States exceed \$1,000,000."

Add the following new section:  
SEC. 3. And be it further resolved, That any bridge built under the provisions of this resolution shall be constructed so as to conform to the requirements of section two of an act entitled "An act to authorize the construction of certain bridges and to establish them as post roads," approved July 23, 1866.

Mr. PRICE moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CLERICAL FORCE STATE DEPARTMENT.

Mr. BANKS, by unanimous consent, presented a communication from the Department of State in relation to a deficiency in the clerical force of that Department; which was referred to the Committee on Appropriations, and ordered to be printed.

#### MOUNT VERNON LADIES' ASSOCIATION.

Mr. SCHENCK. I propose to the House to take up from the Speaker's table the bill (S. No. 588) for the relief of the Mount Vernon Ladies' Association of the Union. It has passed the Senate, and a large majority of the House once agreed to pass it; but it required a suspension of the rules.

Mr. LAWRENCE, of Ohio. I object.

Mr. SCHENCK. As my colleague is a standing objection, I move that the House do now adjourn.

The motion was agreed to, and the House (at half past ten o'clock p. m.) adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of J. A. Richardson, Elizabethtown, North Carolina, for removal of political disabilities incurred by participation in the rebellion.

By Mr. ALLISON: A memorial of Roswell Bates, asking for back pension on account of services in the war of 1812.

Also, the claim of heirs of Richard Cheney for reimbursement on account of lands sold by the United States.

By Mr. LAWRENCE, of Pennsylvania: The petition of General Leon and others, asking that the forfeited franchises of a certain railroad in Louisiana be granted to parties herein named, that the road may be completed.

By Mr. TRIMBLE, of Kentucky: The petition of T. M. Davis and others, praying for the improvement of Cumberland bar, in the Ohio river.

#### IN SENATE.

SATURDAY, July 11, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. POMEROY presented a petition of citizens of Kansas, praying for the establishment of a mail route from Waterville to Wishita; which was referred to the Committee on Post Offices and Post Roads.

Mr. CONKLING presented a petition of citizens of New York, praying for the passage of the bill granting pensions to the surviving soldiers in the war of 1812; which was ordered to lie on the table, a bill on that subject having been reported from the Committee on Pensions.

He also presented a memorial of merchants and importers of New York city, in relation to the appraisement of merchandise; which was referred to the Committee on Finance.

Mr. WILLEY presented the petition of Hoy McLane, of Beverly, West Virginia, praying for compensation for a house destroyed and the lumber thereof appropriated to the building of barracks for the soldiers of the twenty-eighth Ohio volunteers, in November, 1863; which was referred to the Committee on Claims.

Mr. WILSON presented a petition of officers of the Army, praying for the passage of the bill "to fix and equalize the pay of officers, and to establish the pay of enlisted soldiers in the Army;" which was referred to the Committee on Military Affairs and the Militia.

Mr. ROSS presented resolutions of the Board of Trade of Leavenworth, Kansas, in favor of the ratification of the treaty with the Osage Indians; which were referred to the Committee on Indian Affairs.



Mr. CRAGIN presented a report of a committee of the Legislature of Montana, recommending the passage of a memorial to Congress, praying for an appropriation for the purpose of paying the Montana volunteers for the late expedition against the Indians; which was referred to the Committee on Territories.

Mr. MORRILL, of Maine, presented additional papers in relation to the claim of John H. Crowell; which were referred to the Committee on Claims.

#### REPORTS OF COMMITTEES.

Mr. VAN WINKLE, from the Committee on Pensions, to whom were referred the following bills, reported them without amendment:

A bill (H. R. No. 1239) granting a pension to Owen Griffin;

A bill (H. R. No. 1240) granting a pension to Margaret Lewis;

A bill (H. R. No. 1241) granting a pension to Mrs. Mary Brown;

A bill (H. R. No. 1242) granting a pension to Esther Fisk;

A bill (H. R. No. 1243) granting a pension to William O. Dodge;

A bill (H. R. No. 1244) granting a pension to the widow and minor children of Solomon Gause;

A bill (H. R. No. 1245) granting a pension to Matthew C. Griswold;

A bill (H. R. No. 1244) granting a pension to the widow and minor children of Hiram Hitchcock;

A bill (H. R. No. 1247) granting a pension to Orlena Walters;

A bill (H. R. No. 1248) granting a pension to Elizabeth Richardson;

A bill (H. R. No. 1249) granting a pension to Margaret C. Long;

A bill (H. R. No. 1250) granting a pension to James Rooney;

A bill (H. R. No. 1251) granting a pension to Charles Hamstead;

A bill (H. R. No. 1252) granting a pension to the minor children of Garrett W. Freer.

A bill (H. R. No. 1253) granting a pension to Julia L. Doty; and

A bill (H. R. No. 1254) granting a pension to Francis M. Webster.

#### REPORT OF ACADEMY OF SCIENCES.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print additional copies of the report of the National Academy of Sciences for the year 1867, have instructed me to report it back with an amendment as a substitute, and I ask for its present consideration.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ANTHONY. The Clerk need read only the substitute.

The Chief Clerk read the amendment, as follows:

*Resolved*, That the report of the operations of the National Academy of Sciences for 1867-68 be printed; and that one thousand extra copies be printed for the use of the Senate, and one thousand extra copies be printed for the use of the Academy.

The amendment was agreed to.

The resolution, as amended, was adopted.

#### BILLS INTRODUCED.

Mr. CRAGIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 611) authorizing the appointment of a commission to examine the claim of the Territory of Montana for volunteers during the late Indian war, and to report upon the same; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 612) in relation to the proof of wills in the District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

JAMES COEY.

Mr. CONNESS submitted the following

resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President be requested to communicate to the Senate whether a commission has been issued to James Coey, who has been nominated and confirmed as collector for the first internal revenue district of California; and if the same has not been issued, the reasons therefor.

#### AMENDMENTS TO PENSION BILLS.

On motion by Mr. VAN WINKLE, the Senate proceeded to consider the amendments of the House of Representatives to the following bills of the Senate:

A bill (S. No. 175) for the relief of Joseph McGehee Cameron, and Mary Jane Cameron, minor children of La Fayette Cameron, deceased;

A bill (S. No. 382) granting an increase of pension to Obadiah T. Plum;

A bill (S. No. 422) granting a pension to Maria Schweitzer and the children of Conrad Schweitzer, deceased;

A bill (S. No. 518) granting a pension to the widow and child of John P. Felty;

A bill (S. No. 547) granting a pension to John Sheets;

A bill (S. No. 814) for the relief of George T. Brien;

A bill (S. No. 888) granting a pension to John A. Weed and Elizabeth J. Weed, minor children of Robert T. Weed, deceased;

A bill (S. No. 517) granting a pension to the widow and children of Henry Brown; and

A bill (S. No. 521) granting a pension to the children of William M. Wooten, deceased.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1337) granting an increase of pension to Frances T. Richardson, widow of the late Major General Israel B. Richardson; and

A bill (H. R. No. 1363) granting an increase of pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell.

On motion by Mr. VAN WINKLE, it was

*Resolved*, That the Senate disagree to the amendments of the House of Representatives to the above mentioned bills, and ask a conference on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore* of the Senate.

The PRESIDENT *pro tempore* appointed Mr. VAN WINKLE, Mr. TRUMBULL, and Mr. EDMUNDS.

#### REGISTRATION OF FOREIGN VESSELS.

Mr. MORGAN. I move that the Senate proceed to the consideration of House bill No. 1119, reported from the Committee on Commerce. It is a bill of about twenty lines, and will not occupy any time.

The motion was agreed to; and the bill (H. R. No. 1119) for the registration or enrollment of certain foreign vessels was considered as in Committee of the Whole. It directs the Secretary of the Treasury to issue certificates of registry or enrollment and license to the schooner Bob, of Saint Andrew, New Brunswick; and to the following named Canadian-built vessels, to wit: the schooner Royal Albert, of Oakville; the bark John Breden, the schooner Prince Alfred, and the brigantine Orkney Lass, all of Kingston; the schooner George Henry, of Toronto; the schooner Annexation, of Port Hope; and the schooner Emperor, of Saint Catharines; also to the barges Champlain and Hochelega, of Quebec; the bark Monarch, the brig Sea Gull, and the schooner Smith and Post, all of Oakville; the schooner Welland, of Saint Catharines; the schooner Governor, of Montreal; the schooner L. S. Shicklana, of Saint Catharines; the schooner Victoria, of Toronto; those vessels being owned by citizens of the United States, and having been at all times employed upon the waters of the lakes; but there is to be paid upon each of the foreign-built vessels a tax equal to the internal revenue tax upon the materials and construction of similar vessels of American build.

The bill was reported to the Senate without

amendment, ordered to a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the following bills:

A bill (H. R. No. 373) to place the name of Mahala A. Straight upon the pension-roll of the United States;

A bill (H. R. No. 456) granting a pension to the minor children of Pleasant Stoops;

A bill (H. R. No. 518) granting a pension to George F. Gorham, late a private in company B, twenty-ninth regiment Massachusetts volunteer infantry;

A bill (H. R. No. 522) granting a pension to W. W. Cunningham;

A bill (H. R. No. 535) granting a pension to Jeremiah T. Hallett;

A bill (H. R. No. 661) granting a pension to the widow and minor children of William Craft;

A bill (H. R. No. 662) granting a pension to the widow and minor children of George R. Waters;

A bill (H. R. No. 663) granting a pension to Cyrus K. Wood, the legal representative of Cyrus D. Wood;

A bill (H. R. No. 664) granting a pension to the minor children of Charles Gouler;

A bill (H. R. No. 666) granting a pension to Henry H. Hunter;

A bill (H. R. No. 669) granting a pension to the widow and minor children of Myron Wilklow;

A bill (H. R. No. 670) granting a pension to the widow and children of Andrew Holman;

A bill (H. R. No. 521) to place the name of Solomon Zachman on the pension-roll;

A bill (H. R. No. 673) granting a pension to the widow and minor children of John S. Phelps;

A bill (H. R. No. 672) granting a pension to the widow and minor children of Charles W. Wilcox;

A bill (H. R. No. 676) granting a pension to Thomas Connolly;

A bill (H. R. No. 677) granting a pension to the minor children of James Heatherly;

A bill (H. R. No. 770) granting a pension to John H. Finlay;

A bill (H. R. No. 675) granting a pension to the widow and minor children of Cornelius L. Rice;

A bill (H. R. No. 771) granting a pension to John L. Lay;

A bill (H. R. No. 773) granting a pension to William H. McDonald; and

A bill (H. R. No. 825) granting a pension to John W. Hughes.

The message further announced that the House had passed the following bill and joint resolution:

A bill (S. No. 307) for the relief of certain Government contractors; and

A joint resolution (S. R. No. 81) placing certain troops of Missouri on an equal footing with others as to bounties.

The message also announced that the House had agreed to the amendments of the Senate to the following joint resolutions:

A joint resolution (H. R. No. 201) in relation to the Rock Island bridge; and

A joint resolution (H. R. No. 292) directing the Secretary of War to sell damaged or unserviceable arms, ordnance, and ordnance stores.

#### FREEDMEN'S BUREAU.

Mr. WILSON. I move to take up the bill (S. No. 567) relating to the Freedmen's Bureau and providing for its discontinuance. I presume it will take but a moment.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that the duties and powers of Commissioner of the Bureau for the Relief of Freedmen and Refugees shall continue to be discharged by the present Commissioner of the bureau, and in case of vacancy

in the office occurring by reason of his death or resignation, it is to be filled by appointment of the President on the nomination of the Secretary of War, and with the advice and consent of the Senate; and no officer of the Army is to be detailed for service as Commissioner or to enter upon the duties of Commissioner unless appointed by and with the advice and consent of the Senate; and all assistant commissioners are to be appointed by the Secretary of War on the nomination of the Commissioner of the bureau. In case of vacancy in the office of Commissioner happening during the recess of the Senate the duties of Commissioner are to be discharged by the acting assistant adjutant general of the bureau until such vacancy can be filled. According to the section, the Commissioner of the bureau, on the 1st day of January next, is to cause the bureau to be withdrawn from the several States within which the bureau has acted and its operations discontinued as soon as it may be done without injury to the Government. But the educational department of the bureau and the collection and payment of moneys due the soldiers, sailors, and marines, or their heirs, is to be continued as now provided by law until otherwise ordered by act of Congress; but the provisions of this section are not to apply to any State which shall not, on the 1st of January next, be restored to its former political relations with the Government of the United States, and be entitled to representation in Congress.

The bill was reported to the Senate without amendment.

Mr. DAVIS. When did that bill receive its second reading? Did it receive its second reading to-day?

The PRESIDENT *pro tempore*. It has been read the first and second time. The question now is on ordering it to be engrossed for a third reading.

Mr. DAVIS. I desire to make some observations in opposition to this bill. It has been called up pretty suddenly. I will read the first section:

That the duties and powers of Commissioner of the Bureau for the Relief of Freedmen and Refugees shall continue to be discharged by the present Commissioner of the bureau, and in case of vacancy in said office occurring by reason of his death or resignation, the same shall be filled by appointment of the President on the nomination of the Secretary of War, and with the advice and consent of the Senate; and no officer of the Army shall be detailed for service as Commissioner or shall enter upon the duties of Commissioner unless appointed by and with the advice and consent of the Senate; and all assistant commissioners shall be appointed by the Secretary of War on the nomination of the Commissioner of the bureau. In case of vacancy in the office of Commissioner happening during the recess of the Senate, the duties of Commissioner shall be discharged by the acting assistant adjutant general of the bureau until such vacancy can be filled.

Now, Mr. President, that is a subterfuge to make another encroachment upon the appointing power of the President.

All assistant commissioners shall be appointed by the Secretary of War on the nomination of the Commissioner of the bureau.

That selects the Commissioner himself as the appointing power. The Constitution provides that Congress may authorize the heads of Departments to appoint subordinate officers, but it nowhere authorizes Congress to give the power of nomination to an inferior of the head of a Department. But, sir, the last provision in this section is the one that is most exceptional in its principles:

In case of vacancy in the office of Commissioner happening during the recess of the Senate the duties of Commissioner shall be discharged by the acting assistant adjutant general of the bureau until such vacancy can be filled.

The express provision of the Constitution is that where vacancies in any office occur during the recess of the Senate the President shall have the power to fill them. Here is an important office, not important for its duties to the country or to the Government, not important for the necessity of the office, but important in a political point of view. Here is a sort of political adjutant general denominated the Commissioner of the Freedmen's Bureau, and this portion of the section provides that in the event

of that commissionership becoming vacant by the death of the Commissioner during the recess of the Senate, the President shall not exercise his constitutional function and power to fill the vacancy. That is doing by indirection and obliquely what the Senate cannot do directly. It is worse than that; it is attempting by this bill to strip the President of his plainright of making an appointment *pro tempore*, for the time, in the event of a vacancy occurring. Sir, will this party in Congress never pause? Will it never stop in its aggressive march upon the President of the United States in his constitutional power? Will it know no suspension in its efforts to break up the division of powers made by the Constitution, and absorb all the powers of the President? I should suppose that it ought to be somewhat appeased by its great though temporary success; but instead of that its appetite seems to be whetted by that upon which it feeds. It only seeks to gormandize upon and absorb one executive power in order to increase its appetite and its capacity to move on upon another.

Mr. CONNESS. That is savage!

Mr. DAVIS. Well, this is a most savage bill in a small way. Not satisfied with having crammed down its capacious maw the great and vast constitutional powers which were secured by the Constitution to the President, the little remnant of presidential power which has been left by its aggressions upon the President of the United States it seems determined in its voracity to wrest from the proper constitutional officer, and to exercise it itself, or that some of its minions, instead of the President, shall exercise the power. Let me read this clause:

In case of vacancy in the office of Commissioner happening during the recess of the Senate, the duties of the Commissioner shall be discharged by the acting assistant adjutant general of the bureau until such vacancy can be filled.

If the bill proposed to abolish the office on the death of the Commissioner it would be right enough; but it continues the office after the death of the Commissioner, and it provides how the Commissioner shall be appointed; in other words, it directs that the acting assistant adjutant general of the bureau shall himself act as Commissioner. Does any gentleman contend that Congress has any power to pass such a bill? Suppose such a provision as that was offered in relation to the other departmental officers of the Government. Take, for instance, the Adjutant General, the Commissary General, the Quartermaster General. Suppose a bill in relation to those and all other similar offices was passed, that in the event of one of those offices becoming vacant by the death of the incumbent, it should be filled by some named officer until it could be filled during the next session of the Senate according to the direction of the act. Can gentlemen say that that would be proper, legitimate, or constitutional legislation?

The object of this provision cannot be disguised, and it could not be concealed if it was attempted to be disguised. It is purely an electioneering office, an officer maintained at the cost of the Treasury of the United States, and the object is to continue it under its present auspices in the interest of the party in power until after the next presidential election. Therefore, this clause provides that in the event of the office becoming vacant by the death of the Commissioner of the Freedmen's Bureau before the next session of Congress, another officer known to be in the interests of the party in power shall assume the exercise of the duties of that office, and in that way the President is to be excluded from his plain constitutional power to fill the vacancy occasioned by the death of the incumbent during the recess of the Senate.

Sir, the provision is outrageous; it has no authority whatever; and Congress is not competent to pass a law that will oust the President of his right to fill an office made vacant by the death of the incumbent during the recess of the Senate, and to fill it itself by its own direction, and by the designation of another

officer who shall make the appointment *pro tempore* an *ad interim* appointment. Sir, we have lately heard a great deal said about *ad interim* appointments, and *pro tempore* appointments. This bill provides for an *ad interim* appointment. What functionary of the Government has the constitutional power to make an *ad interim* appointment under an act of Congress? The President; because he has the sole appointing power in the absence of the Senate, and the sole nominating power when the Senate is in session. In relation to all other offices, the laws have made an explicit general provision that in the event of their becoming vacant during the recess of the Senate, the President shall have the power to make *ad interim* appointments to them. Here this fertile and advancing party is improving and expanding upon that idea; and, instead of allowing to the President, as the general appointing power of the Government, the right to fill the vacancy thus created, it proposes to fill it itself; and thus obliquely and indirectly to deprive the Executive of the power of making the appointment *ad interim*.

Now, sir, protesting against this section, I will move to amend it by striking out all after the word "Senate" in line sixteen of the first section to the end of the section, and inserting "said office shall thereupon cease and determine;" so as to make the clause read:

In case of vacancy in the office of Commissioner happening during the recess of the Senate said office shall thereupon cease and determine.

Mr. CONNESS. To pass that would be a premium on taking the life of the Commissioner.

Mr. DAVIS. I ask for the yeas and nays upon the amendment.

The yeas and nays were ordered.

Mr. POMEROY. The bill ought to be amended; but if this amendment is voted down, it can be done afterward. I think I can suggest an amendment that will remove the difficulty.

The question being taken by yeas and nays, resulted—yeas 3, nays 26; as follows:

YEAS—Messrs. Davis, McCleery, and Vickers—3.  
NAYS—Messrs. Anthony, Cole, Conkling, Conness, Drake, Edmunds, Harlan, Howard, McDonald, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Pomeroy, Ramsey, Sherman, Stewart, Thayer, Van Winkle, Wade, Welch, Willey, Williams, Wilson, and Yates—26.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Cattell, Chandler, Corbett, Cragin, Dixon, Doolittle, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Howe, Morgan, Norton, Patterson of New Hampshire, Patterson of Tennessee, Rice, Ross, Saulsbury, Sprague, Sumner, Tipton, and Trumbull—28.

So the amendment was rejected.

Mr. HOWARD. I move to amend the bill in the thirteenth line by inserting after the words "assistant commissioners" the words "agents, clerks, and assistants," making the bill far more perfect than it would be otherwise. The clause will then read:

All assistant commissioners, agents, clerks, and assistants shall be appointed by the Secretary of War on the nomination of the Commissioner of the bureau.

The amendment was agreed to.

Mr. POMEROY. I think the proviso to the second section should be stricken out. It defeats the object of the section. The object of the section is to continue the educational department of the bureau, and the collection and payment of moneys due the soldiers, sailors, marines, or other heirs. It provides that that work shall be continued, and it ought to be continued whether the State is represented or not; but if the proviso is allowed to remain, it defeats that. It is the best provision of the bill, and it ought to be continued in those States not represented. There may be three or four States that will not be represented here, and we ought to continue the system of paying bounties and helping the colored soldiers of that section.

Mr. HOWARD. That proviso is manifestly an oversight, and it ought to be stricken out. I hope it will be stricken out.

Mr. POMEROY. I move, then, to strike out the proviso.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and it was read the third time.

Mr. DAVIS. I believe, standing solitary and alone, I shall call for the yeas and nays on the passage of this bill. I beg pardon; I see one friend in his seat, [Mr. VICKERS.] I frankly admit that I generally have to rely upon the courtesy and magnanimity of our opponents in this Chamber to sustain me in calling for the yeas and nays. I ought to call for the yeas and nays upon the passage of this bill; but the men who profess to act with me are not here to enable me to secure the yeas and nays, or to vote and put themselves properly upon the record. That is not my fault. I shall stand up here, or endeavor to stand here, in opposition to all such measures.

Mr. HOWARD. We are very anxious to have the yeas and nays on this side of the Chamber for the purpose of enabling the honorable Senator from Kentucky to put himself on the record.

Several SENATORS. Let us have the yeas and nays.

Mr. CONNESS. I only desire to say that I am very much astonished at my friend from Kentucky who has labored us so much from time to time for passing these Freedmen's Bureau bills, that now, when we have a bill before us providing for its abolishment and discontinuance, he abuses that bill with might and main.

Mr. DAVIS. You do not dispose of it quite so soon as I would wish. To be sure I wish the gentlemen many years of life: I do not want them to die naturally; but I do not care how soon this concern dies officially.

The PRESIDENT *pro tempore*. On the passage of the bill the yeas and nays are demanded.

The yeas and nays were ordered; and being taken, resulted—yeas 34, nays 3; as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Cole, Conkling, Conness, Cragin, Drake, Edmunds, Ferry, Harlan, Howard, McDonald, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Stewart, Thayer, Tipton, Trumbull, Van Winkle, Wade, Welch, Willey, Williams, Wilson, and Yates—34.

NAYS—Messrs. Davis, McCreery, and Vickers—3. ABSENT—Messrs. Bayard, Buckalew, Cameron, Corbett, Dixon, Doolittle, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Howe, Morgan, Norton, Patterson of Tennessee, Rice, Salisbury, Sprague, and Sumner—20.

So the bill was passed.

#### DISMISSED ARMY OFFICERS.

Mr. WILSON. I move that the Senate proceed to the consideration of the bill (H. R. No. 201) declaratory of the law in regard to officers cashiered or dismissed from the Army by the sentence of a general court-martial.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### PUBLIC ROAD THROUGH A RESERVATION.

Mr. WILSON. I now move that the Senate proceed to the consideration of the bill (S. No. 16) donating a portion of the Fort Leavenworth military reservation for the exclusive use of a public road.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that a strip of land one hundred feet in width along the southern boundary of the Fort Leavenworth military reservation, in the State of Kansas, extending from the Missouri river to the western boundary thereof shall be set apart for the perpetual and exclusive use of a public road.

The Committee on Military Affairs and the Militia reported the bill with an amendment, to add to it the following words:

And the said road shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charges upon the transportation of any property, troops, or mails of the United States.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in.

Mr. CONNESS. I should like to inquire of the chairman who reported the bill, whether this is to be a road built by private parties. I understand that this is a grant of land for the purposes of a common road, with the guarantee that the Government shall not be charged for its use. What is the condition of the company or persons who are to undertake to make the road? Are they to get a gift of this land, and then private persons to be charged for its use?

Mr. WILSON. I will, in reply, call on the Senator from Kansas, [Mr. ROSS,] who introduced the bill, and who knows all about the facts of the case, and can state them with more precision than I can.

Mr. CONNESS. I will state to the Senator from Kansas what my inquiry was. The bill proposes to make a gift of land for the purpose of establishing a public road to be established for that purpose, and forever securing the free use of it to the Government. I inquire by whom the road is to be established and built, and whether private persons are to be charged tolls, or under what condition it is to be used?

Mr. ROSS. The design is what the bill expresses—a public road for the purposes of the Government as well as of citizens. It is upon land owned by the Government, and is to be free.

Mr. CONNESS. That is all I desire to know.

Mr. ROSS. The company make the road running through the reservation.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1227) to provide for the distribution of the reward offered by the President of the United States for the capture of Jefferson Davis;

A bill (H. R. No. 1320) for the relief of L. Merchant & Co., and Peter Rosecrantz;

A bill (H. R. No. 1341) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes;

A bill (H. R. No. 1306) for the relief of Captain A. G. Olivar;

A bill (H. R. No. 1370) to fix the time for holding the terms of the United States district court in Virginia;

A bill (H. R. No. 1378) to declare the meaning of the several acts in relation to retired officers of the Army;

A joint resolution (H. R. No. 288) amendatory of joint resolution for the relief of certain officers of the Army, approved July 26, 1866;

A joint resolution (H. R. No. 310) to extend the provisions of the act of July 4, 1864, limiting the jurisdiction of the Court of Claims to the loyal citizens of the State of Arkansas; and

A joint resolution (H. R. No. 331) to grant an American register to Hawaiian brig Victoria.

The message also announced that the House had passed the bill (S. No. 355) authorizing the construction of a bridge across the Missouri river, upon the military reservation at Fort Leavenworth, Kansas, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 344) to incorporate the Washington Target-Shooting Association, in the District of Columbia, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. D.

BALDWIN of Massachusetts, Mr. M. WELKER of Ohio, and Mr. A. J. GLOSSBRENNER of Pennsylvania, managers at the same on its part.

EDWARD B. ALLEN.

Mr. HENDRICKS. I move to take up House bill No. 1080, for the relief of Edward B. Allen.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It is a direction to the Paymaster General of the Army to pay to Edward B. Allen, of the State of Indiana, out of any money appropriated for the pay of the Army, the full amount of the pay and emoluments of a captain of infantry from the 18th day of August to the 1st day of November, 1862.

Mr. HENDRICKS. I will make a brief statement for about a minute about this case, and then if the Senator from California, [Mr. COLE,] who reported adversely upon it, desires its recommittal, I shall have no objection. The facts that I state I believe are known personally to my colleague, who was the Governor of the State at the time.

Captain Allen was elected captain of his company and went into the service; but he was not commissioned, and therefore did not receive his pay as a commissioned officer. Perhaps he did not desire to take his commission, because at the time he was holding a lucrative county office, the office of county auditor, and it was supposed if he did not take the commission and went into the war and discharged the duties, the county office would not be disturbed; but the supreme court of the State decided that the taking of the command without a commission took away his county office. That is a fact which was not known to the committee at the time they made their report.

If upon this statement of the facts, the committee desires the recommittal of the bill, I have no objection to it; but it seems to me, as the bill is so inconsiderable, it might as well be passed. The other House passed it, knowing these facts which were not communicated to the committee of this body. It is simply to give him the pay of the command that he actually had. He went into the field and commanded a company, and was an able officer. His pay was not allowed him at the Department because he had no commission, and he had not a commission because he held a county office, which county office, worth three or four thousand dollars a year, he lost because he took the command.

Mr. HARLAN. I ask the Senator if he drew the pay for the county office during any part of the time for which this bill is reported?

Mr. HENDRICKS. No; the litigation came up, and it went to the supreme court, and the supreme court decided that he was not entitled.

Mr. HARLAN. For any part of it?

Mr. HENDRICKS. I suppose not. The exact details I cannot give. The supreme court decided that the taking of the command lost him his county office.

Mr. COLE. The committee to whom this bill was referred had less objection to paying this very small amount claimed by Mr. Allen for his proper services than to establishing a precedent. But as stated by the Senator from Indiana, it was not at the time known to the committee that the party was deprived of the civil office that he was occupying. That did not appear in the papers referred to the committee, and the report of the committee was based upon the presumption, among others, that he was at the time occupying a civil office and receiving compensation for that. I will not insist upon a reference of the case to the committee.

Mr. MORTON. I had personal knowledge of this transaction at the time it took place. It was some time ago. I take it my colleague has stated the facts correctly. Mr. Allen did not receive actually a captain's commission at the time with a view of holding on to and receiving the emoluments of the office of



county auditor; but the supreme court decided that accepting the command was equivalent to receiving a commission. He therefore lost the office of county auditor, and having no commission he got no pay for his services in the Army. I think he ought to be paid.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### COMPANY F, EIGHTEENTH INFANTRY.

Mr. THAYER. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 281) authorizing the issue of clothing to company F, eighteenth regiment United States infantry, to report it back without amendment and recommend its passage; and I ask for its present consideration. It is a resolution of but a few lines, and will occupy only the time required in reading it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It is an authority to the Secretary of War to issue to the thirty-three enlisted men of company F, eighteenth regiment United States infantry, clothing in lieu of and equal in amount to that lost by them in crossing the North Platte river, in June, 1866, as shown and recommended in the report of the board of survey convened under Special Orders No. 3, headquarters post Fort Bridger, Utah, of date of January 24, 1867.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. MORRILL, of Maine. I desire to submit a report from the committee of conference on the disagreeing votes of the two Houses on the legislative, executive, and judicial appropriation bill, which I send to the desk to be read.

The Chief Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. No. 603) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1869, having met after full and free conference have agreed to recommend, and do recommend, to their respective House, as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 2, 3, 12, 18, 19, 32, 37, 39, 42, 43, 45, 46, 47, 48, 49, 52, 54, 55, 56, 57, 58, 59, 61, 62, 63, 70, 71, 72, 73, 74, 75, 82, 83, 85, 87, 88, 90, 91, 93, 94, 95, 97, 99, 103, 104, 105, 106, 107, 108, 109, 110, 115, 116, 117, 118, 119, 120, 121, 130, 131, 132, 133, 134, 143, 144, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 184, 199, 200, 201, 202, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 318, 219, 220, 221, 223, and 227, and agree to the same.

That the Senate recede from their amendments numbered 15, 38, 50, 63, 69, 76, 77, 84, 86, 89, 92, 92, 96, 98, 98, 101, 101, 122, 123, 124, 125, 126, 127, 135, 136, 166, 167, 183, 186, 187, 197, 198, 204, and 206.

That the House recede from their disagreement to the eleventh amendment of the Senate, and agree to the same with an amendment as follows: at the end of said Senate amendment add the following: "Provided, That after the 30th June, 1869, members of the Capitol police shall furnish at their own expense, each his own uniform, which shall be in exact conformity to regulation, and all provisions of law requiring an appropriation for such uniform are hereby repealed."

That the House recede from their disagreement to the fourteenth amendment of the Senate, and agree to the same with an amendment as follows: strike out of said amendment the word "five" and insert in lieu thereof the word "eight;" and the Senate agree to the same.

That the House recede from their disagreement to the thirtieth amendment of the Senate, and agree to the same with amendments, as follows: strike out all of said amendment and insert in lieu thereof the following: "For compensation to the Private Secretary, assistant secretary, who shall be a short-hand writer, two clerks of class four, steward, and messenger of the President of the United States, \$12,500: Provided, That so much of the fourth section of the act of July 23, 1866, making appropriation for legislative, executive, and judicial expenses of the Government for the year ending June 30, 1867, as authorizes the President of the United States to appoint a clerk of pardons, and one clerk of the fourth class, is hereby repealed;" and the Senate agree to the same as so modified."

That the House recede from their disagreement to the forty-first amendment of the Senate, and agree to the same with an amendment as follows: at the

end of said amendment add the following words: "Provided, That the office of examiner of claims shall be abolished on the 30th day of June, 1869," and the Senate agree to the same as so modified."

That the House recede from their disagreement to the fifty-third amendment of the Senate, and agree to the same with the following amendments: strike out of said amendment the following words: "And for temporary clerks \$9,000;" and in line two of said amendment strike out the words "fifty-two thousand seven hundred" and insert in lieu thereof the words "forty-three thousand seven hundred and forty;" and the Senate agree to the same.

That the House recede from their disagreement to the sixtieth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "three" and insert in lieu thereof the word "two;" and the Senate agree to the same.

That the House recede from their disagreement to the sixty-third amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "forty-two thousand seven hundred" and insert in lieu thereof the words "forty thousand nine hundred and twenty;" and the Senate agree to the same.

That the House recede from their disagreement to the sixty-fourth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "four" and insert in lieu thereof the word "three;" and the Senate agree to the same.

That the House recede from their disagreement to the sixty-sixth amendment of the Senate, and agree to the same with amendments, as follows: strike out of said amendment the word "nine" and insert in lieu thereof the word "seven;" and on page 14, line nine of the bill, strike out the word "three" and insert in lieu thereof the word "five;" and the Senate agree to the same.

That the House recede from their disagreement to the seventy-eighth amendment of the Senate, and agree to the same with amendments, as follows: strike out of said amendment the words "one hundred" and insert in lieu thereof the word "fifty;" and on page 17 of the bill, after the word "dollars," in line twenty-three, add the following words: "and it shall be the duty of the Secretary to lay before the House of Representatives annually with his report of receipts and expenditures a statement in detail of the disbursements made from the same hereby appropriated;" and the Senate agree to the same.

That the Senate agree to the amendment of the House to the seventy-ninth amendment of the Senate.

That the House recede from their disagreement to the eightieth amendment of the Senate, and agree to the same with the following amendment: in line two of said amendment strike out the following words, "and fifty."

That the House recede from their disagreement to the one hundred and second amendment of the Senate, and agree to the same with amendments, as follows: in line one of said amendment strike out the word "four," and insert in lieu thereof the word "seven," and strike out of said amendment the words "six thousand four" and insert in lieu thereof the words "eleven thousand two."

That the House recede from their disagreement to the one hundred and eleventh amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "nineteen," and insert in lieu thereof the word "twelve;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and twelfth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "thirty;" and insert in lieu thereof "nineteen;" and on page 23 of the bill, line twenty-seven, after the word "thousand" strike out the word "four" and insert in lieu thereof the word "two;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and thirteenth amendment of the Senate, and agree to the same with the following amendment: strike out of said amendment the words "fifty-two" and insert in lieu thereof the word "thirty;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and fourteenth amendment of the Senate, and agree to the same with an amendment as follows: strike out of said amendment the words "fifty-eight," and insert in lieu thereof the words "forty-two;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and twenty-eighth amendment of the Senate, and agree to the same with an amendment as follows: strike out of said amendment the words "twenty-five" and insert in lieu thereof the word "fifteen;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and twenty-ninth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "thirty;" and insert in lieu thereof the word "eighteen;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and thirty-seventh amendment of the Senate, and agree to the same with amendments, as follows: on page 26 of the bill, line three, after the word "for" insert the following words: "Chief Clerk \$2,000;" and also strike out the word "our" in said amendment and insert in lieu thereof the word "three."

That the House recede from their disagreement to the one hundred and thirty-eighth amendment of the Senate, and agree to the same with an amendment, as follows: strike out "seven thousand two" and insert in lieu thereof "five thousand four;" and

in line four of the bill, on page 26, strike out the word "one" where it first occurs and insert in lieu thereof the word "two;" and in the same line strike out the word "one" where it occurs the second time, and in lieu thereof insert the word "three;" and in the same line strike out the word "six" and in lieu thereof insert the word "two."

That the House recede from their disagreement to the one hundred and thirty-ninth amendment of the Senate, and agree to the same with an amendment, as follows: strike out "eight" and insert in lieu thereof the word "six."

That the House recede from their disagreement to the one hundred and fortieth amendment of the Senate, and agree to the same with the following amendment: strike out "eleven thousand two" and insert in lieu thereof "eight thousand four."

That the House recede from their disagreement to the one hundred and forty-first amendment of the Senate, and agree to the same with an amendment, as follows: strike out "twenty" and insert in lieu thereof "ten."

That the House recede from their disagreement to the one hundred and forty-second amendment of the Senate, and agree to the same with an amendment, as follows: strike out "twenty-four" and insert in lieu thereof "twelve;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and forty-sixth amendment of the Senate, and agree to the same with amendments, as follows: in lines two and three of said amendment strike out the words "three thousand five hundred" and insert in lieu thereof the words "two thousand six hundred and sixty-three;" and at the end of said amendment, add the following: "Provided, That this office shall cease on the 4th day of March, 1869, and no further appropriation for its continuance shall be made until said office shall have been established by law;" and the Senate agree to the same as so modified."

That the House recede from their disagreement to the one hundred and forty-eighth amendment of the Senate, and agree to the same with amendments, as follows: in line one of said amendment strike out the word "four" and insert in lieu thereof the word "three;" and in line two of said amendment strike out the word "four" and insert in lieu thereof the word "three," and in the same line strike out the word "eight" and insert in lieu thereof the word "six."

That the House recede from their disagreement to the one hundred and ninety-third amendment of the Senate, and agree to the same with an amendment, as follows: at the end of said amendment add the following: "Provided, That from and after the 30th day of June, 1869, the Department of Education shall cease, and there shall be established and attached to the Department of the Interior an office to be denominated the office of education, the chief officer of which shall be the Commissioner of Education, at a salary of \$3,000 per annum, who shall, under the direction of the Secretary of the Interior, discharge all such duties, and superintend, execute, and perform all such acts and things touching and respecting the said office of education as are devolved by law upon said Commissioner of Education;" and the Senate agree to the same."

That the House recede from their disagreement to the one hundred and ninety-four and a half amendment of the Senate, and agree to the same with amendments, as follows: in lieu of said Senate amendment insert the words "four hundred;" and the Senate agree to the same."

That the House recede from their disagreement to the one hundred and ninety-fifth amendment of the Senate, and agree to the same with the following amendments: in line two of said amendment strike out the word "eight" and insert in lieu thereof the word "seven;" and in line six of said amendment strike out the words "twenty-five hundred" and insert in lieu thereof "two thousand;" and in line six of said amendment strike out the words "two thousand" and insert in lieu thereof "eighteen hundred;" and the Senate agree to the same."

That the House recede from their disagreement to the one hundred and ninety-sixth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "ninety-one" and insert in lieu thereof the words "seventy-five;" and the Senate agree to the same."

That the House recede from their disagreement to the two hundred and third amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "fifty-seven" and insert in lieu thereof the word "ten;" and the Senate agree to the same."

That the House recede from their amendment to the two hundred and twenty-fifth amendment of the Senate, and the Senate recede from said amendment and agree to the following as a substitute for both amendments:

SEC. — And be it further enacted, That all advertisements, notices, proposals for contracts, executive proclamations, treaties, and laws to be published in the District of Columbia, Maryland, and Virginia, shall be published in the papers now selected under the provisions of section ten of an act approved March 2, 1867, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," and shall also be published in the paper selected under the provisions of the second section of this act: Provided, That no advertisement from any State, District, or Territory other than the District of Columbia, Maryland, and Virginia shall be published in the papers designated, unless at the direction first made of the proper head of a Department."

That the Senate recede from their disagreement to

the amendment of the House to the two hundred and twenty-eighth amendment of the Senate, and agree to the same.

E. B. WASHBURN,  
CHARLES E. PHELPS,  
C. DELANO.

*Managers on the part of the House.*

L. M. MORRILL,  
TIMOTHY O. HOWE,  
T. A. HENDRICKS.

*Managers on the part of the Senate.*

The PRESIDENT *pro tempore*. The question is on agreeing to the report of the committee of conference.

Mr. MORRILL, of Maine. I will make a general statement in regard to it.

Mr. CONNESS. Let me call the Senator's attention to one point before he begins. The provision in regard to advertising, as it appears to me, as I heard the latter part of it read, by implication clearly authorizes the publication of such advertisements in other papers than those named, "unless selected by the head of a Department."

Mr. MORRILL, of Maine. No, sir.

Mr. CONNESS. I ask the Clerk to read the latter part of that provision, and I call the attention of the chairman to it.

The Chief Clerk read as follows:

*Provided*, That no advertisement to any State, district, or Territory, other than the District of Columbia, Maryland, or Virginia, shall be published in the papers designated, unless, at the direction first made of the proper head of a Department.

Mr. CONNESS. Now, sir, it appears to me clearly, by implication, they may publish them, "if not directed by the head of a Department," that is under other circumstances, in any other paper.

Mr. MORRILL, of Maine. This report presents the bill very much as it came from the Committee on Appropriations on the part of the Senate and as it was perfected by the Senate when it was returned to the House of Representatives. It is substantially that. I will name the general exceptions in which it differs, and then I will notice what the honorable Senator from California has drawn my attention to.

The first material exception to the statement I have made that this is substantially the bill as it was left by the action of the Senate is the appropriation for the execution of the laws in regard to loans. The Senate proposed to appropriate \$1,600,000. This report leaves it at \$1,250,000.

Then the Senate agreed to appropriate \$8,000,000 for the expenses of the internal revenue. The House proposition was \$6,000,000. The committee of the Senate and the Senate concurred in raising it to \$8,000,000. This report puts it at \$6,000,000 upon the ground that there has been a large deduction in the taxes, or rather in abatement of the taxes, which will necessarily tend to decrease the expenses, and then, as we understand, the large reduction in the force renders it probable that \$6,000,000 will answer for the expenses of that Department this year.

There is one particular to which I think I ought to call the attention of the Senate, and that is the Department of Education. It will be noticed that the original establishment of the Department as a Department of Education is to cease at the close of the present fiscal year, that is June 30, 1869; but provision is made for a Commissioner, who is to be transferred to the Interior Department, and subject to the directions and authority of the head of that Department, and his duties are to be those of the present Commissioner.

Pretty much all the other amendments relate to the clerks in the several Departments. They are limited; but it is of no great consequence, I suppose, that I should detail the amendments in regard to those matters.

Now, in regard to the question to which the Senator from California adverts, the understanding of the committee is that all laws, treaties, and advertisements required by law to be published in the States of Virginia and Maryland, and the District of Columbia, are to be published in the papers which are authorized by law to make this publication.

Mr. CONNESS. I am satisfied.

Mr. MORRILL, of Maine. I understand the Senator is satisfied that the objection is not sound, and therefore, that unless some Senator desires a further explanation, I will say no more.

The report was concurred in.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 873) to place the name of Mahala A. Straight upon the pension-roll of the United States;

A bill (H. R. No. 456) granting a pension to the minor children of Pleasant Stoops;

A bill (H. R. No. 518) granting a pension to George F. Gorham, late a private in company B, twenty-ninth regiment Massachusetts volunteer infantry;

A bill (H. R. No. 522) granting a pension to W. W. Cunningham;

A bill (H. R. No. 525) granting a pension to Jeremiah T. Hallett;

A bill (H. R. No. 661) granting a pension to the widow and minor children of William Craft;

A bill (H. R. No. 662) granting a pension to the widow and minor children of George R. Waters;

A bill (H. R. No. 663) granting a pension to Cyrus K. Wood, the legal representative of Cyrus D. Wood;

A bill (H. R. No. 664) granting a pension to the minor children of Charles Gouler;

A bill (H. R. No. 666) granting a pension to Henry H. Hunter;

A bill (H. R. No. 669) granting a pension to the widow and minor children of Myron Wilklow;

A bill (H. R. No. 670) granting a pension to the widow and children of Andrew Holman;

A bill (H. R. No. 521) to place the name of Solomon Zachman on the pension-roll;

A bill (H. R. No. 678) granting a pension to the widow and minor children of John S. Phelps;

A bill (H. R. No. 672) granting a pension to the widow and minor children of Charles W. Wilcox;

A bill (H. R. No. 676) granting a pension to Thomas Connolly;

A bill (H. R. No. 677) granting a pension to the minor children of James Heatherly;

A bill (H. R. No. 770) granting a pension to John H. Finlay;

A bill (H. R. No. 675) granting a pension to the widow and minor children of Cornelius L. Rice;

A bill (H. R. No. 771) granting a pension to John L. Lay;

A bill (H. R. No. 773) granting a pension to William H. McDonald;

A bill (H. R. No. 825) granting a pension to John W. Hughes;

A bill (S. No. 232) granting a pension to Henrietta Nobles;

A bill (S. No. 238) granting a pension to Carrie E. Burdett;

A bill (S. No. 282) granting a pension to Annie E. Dixon.

A bill (S. No. 291) granting a pension to Ann Kelley, widow of Bernard Kelley;

A bill (S. No. 292) granting a pension to Maria Raftery;

A bill (S. No. 316) for the relief of Rebecca V. Senor, mother of James H. Senor, deceased;

A bill (S. No. 318) for the relief of Charlotte Posey, widow of Sebastian R. Posey;

A bill (S. No. 321) for the relief of Mrs. Mary Gaither, widow of Wiley Gaither, deceased;

A bill (S. No. 332) granting a pension to John W. Harris;

A bill (S. No. 333) for the relief of Julia M. Molin;

A bill (S. No. 342) granting a pension to Thomas Stewart;

A bill (S. No. 359) granting a pension to Louisa Fitch, widow of E. P. Fitch, deceased;

A bill (S. No. 381) granting a pension to Edward Hamel, minor child of Edward Hamel, deceased;

A bill (S. No. 427) for the relief of the widow and children of John W. Jameson;

A bill (S. No. 434) for the relief of Elizabeth Barker, widow of Alexander Barker, deceased;

A bill (S. No. 456) for the relief of Sylvester Nugent;

A bill (S. No. 494) granting a pension to Elizabeth Steepleton, widow of Harrison W. Steepleton, deceased;

A bill (S. No. 495) for the relief of Henry Reens;

A bill (S. No. 497) for the relief of Catharine Wands;

A bill (S. No. 498) granting a pension to Anna M. Howard;

A bill (S. No. 500) granting a pension to Lucinda R. Johnson;

A bill (S. No. 501) granting a pension to Harriet W. Pond;

A bill (S. No. 520) granting a pension to Martha Stout;

A bill (S. No. 549) granting an increase of pension to Catharine Eckhardt.

A bill (S. No. 307) for the relief of certain Government contractors;

A joint resolution (S. R. No. 81) placing certain troops of Missouri on an equal footing with others as to bounties;

A joint resolution (H. R. No. 292) directing the Secretary of War to sell damaged or unserviceable arms, ordnance, and ordnance stores; and

A joint resolution (S. R. No. 107) in relation to the Maquoketa river in the State of Iowa.

#### THE FUNDING BILL.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is before the Senate, being the bill (H. R. No. 1354) to provide for the issue of arms for the use of the militia.

Mr. SHERMAN. With the consent of the Senator from Massachusetts, I move to postpone the unfinished business and all prior orders and take up the special order for one o'clock to-day, the funding bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Ohio, which will be read.

The Chief Clerk read the amendment, which was to strike out all of the original bill after the enacting clause and to insert in lieu thereof the following:

That the Secretary of the Treasury is hereby authorized to issue coupon or registered bonds of the United States in such form and of such denominations as he may prescribe, redeemable in coin at the pleasure of the United States, after twenty, thirty, and forty years, respectively, and bearing the following rates of yearly interest, payable semi-annually in coin, that is to say: the issue of bonds falling due in twenty years shall bear interest at five per cent.; bonds falling due in thirty years shall bear interest at four and a half per cent.; and bonds falling due in forty years shall bear interest at four per cent. which said bonds shall be exempt from taxation in any form by or under State, municipal, or local authority, and the same and the interest thereon, and the income therefrom, shall be exempt from the payment of all taxes or duties to the United States, other than such income tax as may be assessed upon other incomes; and the said bonds and the proceeds thereof shall be exclusively used for the redemption, payment, or purchase of, or exchange for, an equal amount of any of the present interest-bearing debt of the United States, other than the existing five per cent. bonds and the three per cent. certificates, and may be issued to an amount, in the aggregate, sufficient to cover the principal of all outstanding or existing obligations as limited herein, and no more, but not to exceed \$700,000,000 dollars shall be of the issue redeemable in twenty years.

SEC. 2. And be it further enacted, That there is hereby appropriated out of the duties derived from imported goods the sum of \$135,000,000 annually, which sum during each fiscal year shall be applied

to the payment of the interest, and to the reduction of the principal of the public debt, in such a manner as may be determined by the Secretary of the Treasury, or as Congress may hereafter direct; and such reduction shall be in lieu of the sinking fund contemplated by the fifth section of the act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States" approved February 25, 1862.

SEC. 3. *And be it further enacted*, That the holder of any lawful money of the United States, to the amount of \$1,000, or any multiple of \$1,000, may convert the same into bonds for an equal amount, authorized by the first section of this act, under such rules and regulations as the Secretary of the Treasury may prescribe; and any holder of any of the bonds provided for in the first section of this act, may present the same to the Treasurer of the United States and demand lawful money of the United States for the principal and accruing interest thereon, and the Treasurer shall redeem the same in lawful money of the United States, unless the amount of the United States notes then outstanding shall be equal to \$400,000,000; and such bond shall not be so redeemable after the United States have resumed the payment of coin for their notes.

SEC. 4. *And be it further enacted*, That any contract hereafter made specifically payable in coin shall be legal and valid, and may be enforced according to its terms, anything in the several acts relating to United States notes to the contrary notwithstanding.

Mr. SHERMAN. Mr. President, I do not intend to discuss the general subject of funding the public debt. I did that in January last, and have no desire to repeat the argument I then submitted to the Senate. I am willing to stand on what I then said. My position has only been strengthened by the debates since that time.

Mr. POMEROY. I do not wish to interrupt the Senator, but I hope he will tell us wherein the first section of this bill differs from the law of 1866, the present authority of the Secretary of the Treasury?

Mr. SHERMAN. I will answer the question of the Senator when we proceed to consider the details of the bill.

Recent events, however, show the importance, the absolute necessity of making some movement toward the reduction of the interest on the public debt, with a view to lighten the burdens of the people. The Chicago convention pledged the Republican party to make vigorous efforts to reduce the rate of interest on the public debt. The platform is familiar to all. The majority of the House of Representatives, comprising men of both parties, and the recent Democratic convention at New York, propose to lessen the burdens of the public debt by taxing the income from it. This subject is exciting a great deal of attention and anxiety among the people. There is a universal demand that the burden of the public debt, which now bears six per cent. in gold, shall be reduced as rapidly as possible, either by funding it at a lower rate of interest, or by taxing it in some form or other by the States or by the national Government.

These are questions that I do not propose now to discuss at any length. My convictions are that the States cannot tax the Government securities. The loan laws expressly prohibit this. The United States has been in debt since the foundation of the Government, and no party ever proposed to tax the Government securities until the Democratic party proposed to do it. The courts have always held that there is no power in a State government to tax the Government securities. It is inherent in the nature of our Government. The power to borrow money is a power necessary to the existence of the Government, and no subordinate authority can affect that power. It is not necessary to discuss these questions further than to refer to the cases, and that I have already done.

Nor can the United States impose a discriminating tax against Government securities. The United States may impose the same tax on the income derived from Government securities that it does on other incomes. There can be no objection to that. It is done by the English and other Governments. But the United States cannot make a discriminating property income tax against Government securities. Such a thing would be a plain and palpable violation of the tenor of the loan acts.

It ought never to be tolerated or thought of by any one. I was very much gratified, and I think that is the opinion of the whole Senate, at the prompt action of the Committee of Ways and Means on the proposition sent to them by the House of Representatives.

The only way, in my judgment, to reduce the burden of the public debt is by selling our bonds at a lower rate of interest and redeeming existing bonds according to the spirit and terms of the law under which they were issued. It can be done now. The state of the money market is such that we can do it now. I have no doubt that a simple offer now made to the bondholders will induce many of them to accept bonds at a lower rate of interest, and thus, without disturbing or affecting the public credit, reduce the rate of interest considerably.

Upon another point. I have no doubt, I said here in January last, that the Government of the United States have now the right to pay the principal of the five-twenty bonds, as they mature or become redeemable, in the lawful money of the United States. We have no power and no right, without violating public faith, to issue any more greenbacks, because the law under which our bonds were negotiated limits the amount of greenbacks to \$400,000,000, and we cannot violate that stipulation by increasing the quantity of greenbacks or lawful money. But so fast as this money comes into the Treasury of the United States, either by taxes or by new loans, we have a right to apply those taxes or that money to the payment of the principal of the public debt, precisely as we have a right to apply it to the payment of pensions or salaries, or any other expenditure of the Government. The law makes no such discrimination in favor of bondholders. The only discrimination that is made is in regard to interest. That is expressly provided to be paid in gold coin. In regard to the principal there is no stipulation as to the five-twenty loan. There is a stipulation in regard to the ten-forty loan, and no one proposes to violate it. But the committee do not present that question. It is a question upon which there is a difference of opinion among men of all parties. We do not wish to present that question by the bill, nor does the bill present the question.

This bill is simply an authority to the Secretary of the Treasury to sell the bonds of the United States of a specific character at a price that will enable him to redeem dollar for dollar the outstanding six per cent. bonds of the United States. It is so carefully prepared that the Secretary has no authority to sell except as he is able to redeem an equal amount, dollar for dollar, of existing bonds. So that the question upon which there is a difference of opinion among us as Republicans and as Senators about the power of the United States to pay off the bonds as they mature in lawful money does not arise.

My own deliberate judgment, however, is that we have the right to do it; and that, unless this conversion is made in a reasonable time by the voluntary action and interest of the bondholders, that power will be exercised. The state of the money market shows that this is the general opinion of the commercial world, because the difference between the ten-forties and five-twenties does not exceed three or four per cent. I have no doubt that a proposition to give to the holders of these bonds a bond bearing five per cent. interest payable in twenty years will be accepted by them; or if not, the Secretary may go into the markets of the world and sell these new bonds at a price that will enable him to take up and buy in the open market the five-twenty bonds; so that the question about which there is a difference of opinion will be postponed. If the state of the money market will not allow him to do this, the bill does no harm.

This bill contains four distinct propositions, all of which ought to go together. The first is that a bond bearing a lower rate of interest may be exchanged or sold to redeem a bond bearing a higher rate of interest. The sec-

ond proposition is that a specific sum of \$135,000,000 in gold shall be set aside for the payment of the interest on the public debt, and for the redemption of the principal. If this is allowed its uninterrupted course, it will pay off the whole national debt in thirty-five years. The effect of a fixed appropriation operates as a sinking fund. As the interest is diminished by funding, the amount to be applied to the principal increases. The reduction proposed on the first five-twenty loan of \$500,000,000 will operate as a saving to the United States of \$269,912,460 by the year 1898, when it becomes payable. I will append a carefully prepared table to these remarks showing this in detail.

The next proposition is that the holder of a greenback shall stand on precisely the same footing as the holder of a bond; that whatever privilege is conferred upon the holder of a bond shall be conferred upon the holder of a greenback; that the holder of a United States note may go and present it at the Treasury and demand a bond for it, and that the holder of a five-twenty bond may go and present it at the Treasury and demand a new bond for it. By this simple provision we answer the demagogical cry so prevalent in the country that one kind of currency is provided for the poor man and another for the rich man, because we place the United States note on a precise footing with the most favored security now offered in the market. Unless this is done the man who is compelled to receive your United States note, which is, after all, a promise of the Government to pay on demand, is placed in a more disadvantageous position than the person who holds your bond payable in the long future. This provision is inserted for the purpose of making an equality between the bondholder and the noteholder, to remove the discrimination between them. All discriminations between different kinds of debt, between note-holders and bondholders are anti-republican, and should be dispensed with as rapidly as possible.

The last section of the bill is simply the bill that the Senate have already unanimously passed, providing that the people may, if they choose, trade in gold. Under the existing laws merchants are compelled to buy large amounts of gold to pay duties, and yet they cannot make a legal contract, according to the construction of some of the courts, payable in gold. The result is, that they are embarrassed. Frauds may be committed. Contracts made upon the basis of gold must be enforced by the courts in lawful money. This section simply restores to the people the right to trade as they please, to do as they please, and authorizes the courts to enforce those contracts according to their letter and spirit. This section has been objected to, I believe, by the Senator from Minnesota because it might enable the rich man to demand a gold contract for the purpose of raising the rate of interest. Such a contract would be usurious, and would not be enforced.

Mr. RAMSEY. How does the Senator know that? It is not so upon the face of the law.

Mr. SHERMAN. If the contract is made upon the basis of paper money, and the stipulation to pay in gold is merely used as a device or means to extort usury, it is a usurious contract and will not be enforced. This section only applies to contracts hereafter made that are based upon gold values—to be paid in gold in the future, and therefore it is perfectly just and right. Indeed, my own opinion is, that under the legal-tender clause there is nothing to prevent the enforcement of contracts based upon gold being enforced in gold; but there is a difference of opinion on that point in the legal profession, and many of the courts have held that a contract payable in gold, based upon gold, where gold was lent, may be enforced now in the lawful money of the United States, creating an injustice which is as wrong as would be a forfeiture of a portion of the debt.

Now, Mr. President, these principles are



involved in this bill. I believe that the public judgment demands that we should take some steps, this much at least, toward equalizing the position of the noteholder and the bondholder and toward reducing the interest of the public debt. At this late period of the session I do not intend to renew the discussion of last January; but if Senators wish fuller information on the subject than I now choose to give them, they will find in the remarks made by the Senator from Vermont, [Mr. EDMUNDS,] by the Senator from Missouri, [Mr. HENDERSON,] and by myself, statistical information that will enable them properly to answer most of the questions that would naturally arise in this debate. It is scarcely worth while at this period of the session to repeat these arguments, especially by those who participated in the former debate:

Table A.

Five-twenties of 1862, due 1882, } bear six per cent.  
Five-twenties of 1864, due 1884, } interest.  
Five-twenties of 1865, due 1885, }

If these are exchanged for a five-per-cent. bond due thirty years from 1st November, 1868, what will the country gain?

Take \$500,000,000 five-twenties, 1862:

From November 1, 1868, to May 1, 1869, it saves one half of one per cent. gold.....	\$2,500,000
Interest on this at six per cent. from May 1, 1869, to November 1, 1869.....	75,000
	2,575,000
From May 1, 1869, to November 1, 1869.....	2,500,000
Interest.....	5,075,000
	152,250
	5,227,250
From November 1, 1869, to May 1, 1870.....	2,500,000
Interest.....	7,727,250
	231,817
	7,959,067
From May 1, 1870, to November 1, 1870.....	2,500,000
Interest.....	10,459,067
	813,773
	10,772,840
From November 1, 1870, to May 1, 1871.....	2,500,000
Interest.....	13,272,840
	393,185
	13,671,025
From May 1, 1871, to November 1, 1871.....	2,500,000
Interest.....	16,171,025
	485,130
	16,656,155
From November 1, 1871, to May 1, 1872.....	2,500,000
Interest.....	19,156,155
	574,685
	19,730,840
From May 1, 1872, to November 1, 1872.....	2,500,000
Interest.....	22,230,840
	686,925
	22,897,765
From November 1, 1872, to May 1, 1873.....	2,500,000
Interest.....	25,397,765
	761,930
	26,159,695
From May 1, 1873, to November 1, 1873.....	2,500,000
Interest.....	28,659,695
	859,790
	29,519,485
From November 1, 1873, to May 1, 1874.....	2,500,000
Interest.....	32,019,485
	960,585
	32,980,070
From May 1, 1874, to November 1, 1874.....	2,500,000
Interest.....	35,480,070
	1,064,405
	36,544,475
From November 1, 1874, to May 1, 1875.....	2,500,000
Interest.....	39,044,475
	1,171,335
	40,215,810
From May 1, 1875, to November 1, 1875.....	2,500,000
Interest.....	42,715,810
	1,281,475
Carried forward.....	43,997,285

Brought forward.....	\$43,997,285
From November 1, 1875, to May 1, 1876.....	2,500,000
Interest.....	46,497,285
	1,394,920
	47,892,205
From May 1, 1876, to November 1, 1876.....	2,500,000
Interest.....	50,392,205
	1,511,735
	51,903,970
From November 1, 1876, to May 1, 1877.....	2,500,000
Interest.....	54,403,970
	1,632,120
	56,036,090
From May 1, 1877, to November 1, 1877.....	2,500,000
Interest.....	58,536,090
	1,756,080
	60,292,170
From November 1, 1877, to May 1, 1878.....	2,500,000
Interest.....	62,792,170
	1,883,765
	64,675,935
From May 1, 1878, to November 1, 1878.....	2,500,000
Interest.....	67,175,935
	2,015,280
	69,191,215
From November 1, 1878, to May 1, 1879.....	2,500,000
Interest.....	71,691,215
	2,150,735
	73,841,950
From May 1, 1879, to November 1, 1879.....	2,500,000
Interest.....	76,341,950
	2,290,260
	78,632,210
From November 1, 1879, to May 1, 1880.....	2,500,000
Interest.....	81,132,210
	2,433,965
	83,566,175
From May 1, 1880, to November 1, 1880.....	2,500,000
Interest.....	86,066,175
	2,581,985
	88,648,160
From November 1, 1880, to May 1, 1881.....	2,500,000
Interest.....	91,148,160
	2,734,445
	93,882,605
From May 1, 1881, to November 1, 1881.....	2,500,000
Interest.....	96,382,605
	2,881,480
	99,264,085
From November 1, 1881, to May 1, 1882.....	2,500,000
Total saving to May 1, 1882, when five-twenties mature.....	\$101,764,085

This sum reinvested will, with its interest at six per cent. per annum, amount by November 1, 1898, as computed in table B:

Table B.

What will \$101,764,085 amount to by November 1, 1898, with compound interest every half year at six per cent. per annum, from May 1, 1882?	\$101,764,080
Interest to Nov. 1, 1882, at 3 per cent.....	3,652,925
Interest to May 1, 1883, at 3 per cent.....	\$101,817,005
	3,144,510
	107,961,515
Interest to Nov. 1, 1883, at 3 per cent.....	3,238,845
Interest to May 1, 1884, at 3 per cent.....	111,200,360
	3,336,010
	114,536,370
Interest to Nov. 1, 1884, at 3 per cent.....	3,436,030
Interest to May 1, 1885, at 3 per cent.....	117,972,460
	3,539,170
	121,511,630
Interest to Nov. 1, 1885, at 3 per cent.....	3,645,350
Interest to May 1, 1886, at 3 per cent.....	125,153,980
	3,754,710
	128,911,690
Interest to Nov. 1, 1886, at 3 per cent.....	3,867,350
Interest to May 1, 1887, at 3 per cent.....	132,779,040
	3,983,370
	136,762,410
Interest to Nov. 1, 1887, at 3 per cent.....	4,102,870
Carried forward.....	140,865,280

Brought forward.....	\$140,865,280
Interest to May 1, 1888, at 3 per cent.....	4,225,980
	145,091,260
Interest to Nov. 1, 1888, at 3 per cent.....	4,652,740
	149,743,980
Interest to May 1, 1889, at 3 per cent.....	4,483,220
	153,927,300
Interest to Nov. 1, 1889, at 3 per cent.....	4,617,820
	158,545,120
Interest to May 1, 1890, at 3 per cent.....	4,756,355
	163,301,475
Interest to Nov. 1, 1890, at 3 per cent.....	4,899,045
	168,200,520
Interest to May 1, 1891, at 3 per cent.....	5,046,015
	173,246,535
Interest to Nov. 1, 1891, at 3 per cent.....	5,197,395
	178,443,930
Interest to May 1, 1892, at 3 per cent.....	5,353,320
	183,797,250
Interest to Nov. 1, 1892, at 3 per cent.....	5,513,920
	189,311,170
Interest to May 1, 1893, at 3 per cent.....	5,679,535
	194,990,505
Interest to Nov. 1, 1893, at 3 per cent.....	5,849,715
	200,840,220
Interest to May 1, 1894, at 3 per cent.....	6,025,205
	206,865,425
Interest to Nov. 1, 1894, at 3 per cent.....	6,205,085
	213,070,300
Interest to May 1, 1895, at 3 per cent.....	6,392,140
	219,463,590
Interest to Nov. 1, 1895, at 3 per cent.....	6,583,955
	226,047,435
Interest to May 1, 1896, at 3 per cent.....	6,781,425
	232,828,860
Interest to Nov. 1, 1896, at 3 per cent.....	6,984,865
	239,813,725
Interest to May 1, 1897, at 3 per cent.....	7,194,410
	247,008,135
Interest to Nov. 1, 1897, at 3 per cent.....	7,410,245
	254,418,380
Interest to May 1, 1898, at 3 per cent.....	7,632,550
	262,050,930
Interest to Nov. 1, 1898, at 3 per cent.....	7,861,520
	\$269,912,450

Thus by exchanging with the holders of \$500,000,000 of five-twenties of 1862 the country is saved:

1. Till the maturity of the five-twenties in 1882..... \$101,764,085
2. From 1882 till the maturing of a new thirty-year bond..... 168,148,875

Total saving till 1898..... \$269,912,450

It is thus plain that more than half of the \$500,000,000 would be self-extinguished by 1898. The other half would be redeemed by the strict application and operation of the one per cent. out of customs receipts, which is stated in the act of 1862.

The same principles and figures will apply to the five-twenties of 1864 and 1865, except that the country would gain two and three years more savings in the diminution of interest.

Mr. SUMNER. The bill before the Senate opens the whole question of financial reconstruction. I do not know but that the Senator from Ohio would prefer to proceed with the amendments or the consideration of details, but if not disagreeable to him at this stage, I should like to proceed with its discussion in some of its more general aspects.

Mr. SHERMAN. I will state to the Senator that I shall be very glad to hear him upon the general proposition, but this amendment now offered is the careful result of the frequent deliberations of the Committee on Finance, and I do not know that the members of that committee desire to change a single word of it. We desire that the Senate shall not adopt any amendments to this amendment unless they appeal themselves clearly to their judgment, because the amendment, as it is now offered, is the result of our deliberate consideration, and the striking out of a word, or any

material alteration might very seriously change the meaning of the bill. We have no proposition to make and no amendment to offer except this.

Mr. SUMNER. If I should not interfere, then, with the plans of the Senator, I will proceed now.

Mr. SHERMAN. Very well.

Mr. SUMNER. After a tempest sweeping sea and land, strewing the coast with wrecks; and tumbling houses to the ground, nature must become propitious before the energy of man can repair the various losses. Time must intervene. At last ships are launched again and houses are built, in larger numbers and fairer forms than before. A tempest has swept over us, scourging in every direction; and now that its violence has ceased we are occupied in the work of restoration. Nature is already propitious, and time, too, is silently preparing the way, while the national energies are applied to the work.

To know what to do we must comprehend the actual condition of things and how it was brought about. All this is easy to see, if we will only look.

#### FINANCIAL QUESTION A PART OF THE POLITICAL.

It is a mistake of too constant occurrence to treat the financial question by itself, without considering its dependence upon the abnormal condition through which the country has passed. The financial question, in all its branches, depends upon the political, and cannot be separated from it. I might use stronger language. It is a part of the political question, and now that reconstruction seems about to be accomplished, it is that enduring part which still remains.

#### THE REBELLION AND ITS CONSEQUENCES, POLITICAL AND FINANCIAL.

Our present responsibilities, whether political or financial, have a common origin in that vast rebellion, when the people of eleven States, maddened by slavery, rose against the Nation. As the rebellion was without example in its declared object, so it was without example in the extent and intensity of its operations. It sought nothing less than the dismemberment of our Nation and the establishment of a new power with slavery as its quickening principle. The desperate means enlisted by such a cause could be encountered only by the most strenuous exertions, in the name of country and of Human Rights. Here was slavery, barbarous, brutal, vindictive, warring for recognition. The tempest or tornado can typify only feebly the ravage that ensued. There were days of darkness and despair, when the national existence was in peril. Rebel armies menaced the Capitol, and slavery seemed about to vindicate its wicked supremacy.

Looking at the scene in its political aspects, we behold one class of disorders; and looking at it in its financial aspects, we behold still another; both together constituting a fearful sum total, where financial disorder mingles with political. Turn, first, to the political, and you will see States, one after the other renouncing their relations with the Nation, and constituting a new government, under the name of confederacy, with a new constitution, making slavery its corner-stone; all of which they sought to maintain by arms, while, in aggravation of these perils, Foreign Powers gave ominous signs of speedy recognition and support. Look, next, to the financial side, and you will see business in some places entirely prostrate, in others suddenly assuming new forms; immense interests destroyed; property annihilated; the whole people turned from the thoughts of peace to the thoughts of war; vast armies set on foot, in which the youthful and strong were changed from producers to destroyers, while life itself was consumed; an unprecedented taxation, commensurate with the unprecedented exigency; and all this followed by the common incident of war in other countries and times, first, the creation of a national debt, and, secondly, the substitution of inconvertible paper as a currency. In this catalogue of calamities, political and financial, who shall

say which was the worst? Certainly, it is difficult to distinguish between them. One grew out of the other, so that they belong together and constitute one group, all derived ultimately from the rebellion, and directly depending upon it. So long as slavery continued in arms, each and all waxed in vastness; and now, so long as any of these remain, they testify to this same unnatural crime. The tax-gatherer, taking so much from honest industry, was born of the rebellion. Inconvertible paper, deranging the business of the country at home and abroad, had the same monstrous birth. Our enormous taxation is only a prolongation of the rebellion. Every greenback is red with the blood of fellow-citizens.

To repair these calamities, political and financial, the first stage was the overthrow of the rebellion in the field, thus enabling the Nation to reduce its armaments, to arrest its accumulating debt, and to cease anxiety on account of foreign intervention so constantly menaced. Thus relieved, we were brought to a resting place, and the nation found itself in condition to begin the work of restoration.

#### POLITICAL RECONSTRUCTION.

Foremost came the suppression of slavery, in which the rebellion had its origin. Common prudence, to say nothing of common humanity, required this consummation, without which there would have been a short-lived truce only. So great a change necessarily involved other changes, while there was the ever-present duty to obtain from the defeated rebels, if not indemnity for the past at least security for the future. It was impossible to stop with the suppression of slavery. That whole barbarous code of wrong and outrage, whose first article was the denial of all rights to an oppressed race, was grossly inconsistent with the new order of things. It was necessary that it should yield to the Equal Rights of All, promised by the Declaration of Independence. The citizen, lifted from slavery, must be secured in all his rights, civil and political. Loyal governments, republican in form, must be substituted for rebel governments. All this being done, the States, thus transformed, will assume once more their ancient relations to the Nation. This is the work of political reconstruction, constituting the new stage after the overthrow of the rebellion.

#### FINANCIAL RECONSTRUCTION DEPENDS ON POLITICAL.

Meanwhile there has been an effort and a longing for financial reconstruction also—sometimes without sufficiently reflecting that there can be small chance for any success in this direction until after political reconstruction. Here also we must follow nature, and restore by removing the disturbing cause. This is the natural process. Vain all attempt to reconstruct the national finances while the rebellion was still in arms. This must be obvious to all. Vain also while slavery still domineered. Vain also while Equal Rights are without a sure defense against the oppressor. Vain also while the Nation still palpitates with its efforts to obtain security for the future. Vain also until the States are all once more harmonious in their native spheres, like the planets, receiving and dispensing light.

Nothing is more sensitive than credit, which is the essential element of financial restoration. A breath will make it flutter. How can you expect to restore the national credit, now unnaturally sensitive, while the Nation is still uneasy from those rebel pretensions, which have cost so much? Security is the first condition of financial reconstruction; and I am at a loss to find any road to it, except through political reconstruction. All this seems so plain, that I ought to apologize for dwelling on it. And yet there are many, who, while professing a desire for an improvement in our financial condition, perversely turn their backs upon the only means by which this can be accomplished. Never was there equal folly. Language cannot picture it. Every denial of Equal Rights—every impediment to a just

reconstruction in conformity with the Declaration of Independence—every pretension of a "white man's government" in horrid mockery of self-evident truths declared by our fathers, and of that brotherhood of mankind declared by the sermon on "Mars' Hill"—is a bar to that financial reconstruction without which the Rebellion still lingers among us. So long as a dollar of irredeemable paper is forced upon the country, the Rebellion still lives—in its spurious progeny.

Party organization and Presidential antagonism have thus far stood in the way, while at each stage individual perverseness has played its part. The President has set himself obstinately against political reconstruction; so also has the Democratic party. Others have followed, according to the prejudices of their nature; and so the national finances have suffered. Not the least of the offenses of Andrew Johnson is the adverse influence he has exerted on this question. All that he has done from the beginning has tended to protract the rebellion and to extend the disorder of our finances. And yet there are many not indifferent to the later, who have looked with indifference upon his criminal conduct. So far as their personal interests depended on an improved condition of the finances, they have already suffered; but it is hard that the country should suffer also. Andrew Johnson has postponed specie payments, and his supporters of all degrees must share the responsibility.

Such is my confidence in the resources of our country, in the industry of its people, and in the grandeur of its destinies, that I cannot doubt the transcendent future. Alas! that it should be interrupted by unwise counsels, even for a day. Financial reconstruction is postponed only. It must come at last. Here I have no panacea that is not as simple as nature. I know of no device or trick or medicine by which this cure can be accomplished. It will come with the general health of the body politic. It will come with the renovated life of the Nation, when it is once more complete in form, when every part is in sympathy with the whole, and the rebellion, with all its offspring, is trampled out forever. In such a condition of affairs, inconvertible paper would be an impossibility, as much as a bill of sale for a human being.

#### FAITH TO BE KEPT WITH THE NATIONAL FREEDMEN.

Meanwhile there are certain practical points which must not be forgotten. Foremost among these I put the absolute dependence of the national finances upon the faithful performance of all our obligations to the national freedmen. Pardoned rebels will never look with complacency upon the national debt, or the interest which testifies semi-annually to its magnitude. Their political colleagues at the North will be apt to sympathize with them. Should the scales at any time hang doubtful it is to others that we must turn to adjust the balance. Therefore, for the sake of the national finances, I insist that the national freedmen shall be secured and maintained in Equal Rights, so that local prejudices and party cries shall be unavailing against them. You who have at heart the national credit, on which so much depends, must never fail to cherish the national freedmen, treating their enemies as if they were your enemies. Every blow at them will rebound upon yourselves.

#### DIMINUTION OF TAXATION AND SPECIE PAYMENT BOTH NECESSARY.

In dealing with the financial question there are two other points of ever-present importance. First, the necessity of diminishing, so far as practicable, the heavy burden of taxation so oppressive to the people; and, secondly, the necessity of substituting specie for inconvertible paper. Here are two objects which when accomplished will add infinitely to the wealth and happiness of the country, besides being the assurance that the Nation has at last reached that condition of repose so much longed for.

#### THE PUBLIC FAITH MUST BE SACREDLY PRESERVED.

Before considering these two points in detail, I venture to remark that there is one condition

preliminary in character and equally essential to both, through which taxation will be lightened and specie payments will be hastened. I refer to the Public Faith, which must be sacredly preserved above all question or suspicion. The word of our Nation must be as good as its bond; and nobody must attempt to take a title from either. Nothing short of universal wreck can justify any such bankruptcy. Let the Public Faith be preserved, and all that you now seek will be easy.

A virtuous king of early Rome dedicated a temple in the capitol itself to a Divinity under the name of *Publica Fides*, who was represented with a wreath of laurel about her head, carrying ears of corn and a basket of fruit—typical of honor and abundance sure to follow in her footsteps. In the same spirit another temple was dedicated to the god Terminus, who presided over boundaries. The stones set up to mark the limits of estates were sacred, and on these very stones there were religious offerings to the god. The heathen maledictions upon the violator were echoed also by the Hebrews when they said, "Cursed be he that removeth his neighbor's landmark, and all the people shall say, Amen." (Deut., ch. xxvii., v. 37.) In those early Roman and Hebrew days there was no national debt divided into bonds; there was nothing but land. But a national bond is as well-defined as a piece of land. Here, then, is a place for the god Terminus. Every obligation is like a landmark not to be removed without curses. Here also is a place for that other Divinity, *Publica Fides*, with laureled head, and hands filled with corn and fruit.

Public Faith may be seen in the evil which springs from its loss and in the good which overflows from its preservation. It is like honor, and yet once lost, more than dishonor is the consequence; once assured, more than honor is the reward. It is a possession surpassing all others in value. The gold and silver in your Treasury may be counted; it stands recorded, dollar for dollar, in the national ledger, but the sums which the unsuspected credit of a magnanimous Nation can command are beyond the record of any ledger. Public Faith is more than mines of silver or gold. Only from Arabian story can a fit illustration be found, as when, after all human effort had failed, the genius of the lamp reared the costly palace and stored it with beauty. Public Faith is in itself a treasury, a tariff, and an internal revenue, all in one. These you may lose; but if the other is preserved it will be only for a day. The Treasury will be replenished; the tariff will be renewed; the internal revenue will be restored. With Public Faith as an unfailling law, the nation, like Pactolus, will sweep over golden sands, or, like Midas, it will change into gold whatever it touches. Keep, then, the Public Faith as the "open sesame" to all that you can desire; keep it as you would keep the philosopher's stone of fable, having which you have all.

And yet, in the face of this plain commandment, on which hangs so much of all that is most prized in national existence, we are called to break faith. It is proposed to tax the national bonds, in violation of the original bargain on which the money was lent. Sometimes the tax is to be by the Nation and sometimes by the States. The power to do this wrong you may possess; but the right never. Do what you will, there is one thing you cannot do: you cannot make wrong right. It is in vain that you undertake to set aside the perpetual obligation which you have assumed. Against every such pretension, whether by speech or vote, there is this living duty, which will survive Congress and politician alike. Puny as the hand of a child is the effort to undo this original bargain. The Nation has promised six per cent. interest, payable semi-annually in coin, nor more nor less without any abatement, and then having bound itself, it proceeds to guard against the States by declaring specifically that the bonds shall be "exempt from taxation by or under State authority." Such is the bargain.

There it is; and it must continue unchanged, except by the consent of the parties, until the laws of the universe tumble into chaos.

The rogue in Shakespeare exclaims, "What a foolish honesty! and trust, his sworn brother, a very simple gentleman!" In equal levity it is said, tax the bonds, although, by the original bargain on which the money was obtained, amid the trials of war, for the safety of the Nation, it was expressly stipulated that these bonds should not be taxed. Nevertheless, tax the bonds. Of course, by taxing the bonds, the bargain is brutally broken; and this, too, after the Nation has used the money. Such a transaction in common life, except where bankruptcy had supervened, would be intolerable. A proud nation justly sensitive to national honor, as the great Republic, through whose example liberal institutions are commended to mankind, cannot do this thing.

The proposition to tax the bonds, in open violation of the original bargain, is similar in spirit to that other enterprise, which, under various discordant ensigns, proposes to pay the national bonds with inconvertible paper. Here at once and on the threshold Public Faith interposes a summary protest. On such a question debate even is dangerous; the man who doubts is lost. The money was borrowed and lent on the undoubting faith that it was to be paid in coin. Nothing to the contrary was suggested, imagined, or dreamed, at the time. Behind all forms of language and even all omissions, this obligation stands forth, in the nature of the case, explained and confirmed by the history of our national loans and by the official acts of successive Secretaries of the Treasury interpreting the obligations of the Nation.

#### NO PAYMENT OF BONDS BY GREENBACKS.

So much stress is laid upon the language of the five-twenties that I cannot let it pass. The terms employed were precisely those in previous bonds of the United States where the principal was paid in coin; some of which are still outstanding. Had there been any doubt about the meaning it was fixed by the general understanding and by special declarations of responsible persons speaking for the Nation. On 26th May, 1863, Mr. Harrington, the Assistant Secretary of the Treasury, in an official letter, says: "These bonds will, therefore, be paid in gold." On 16th February, 1864, Mr. Field, also Assistant Secretary of the Treasury, writes: "I am directed by the Secretary to say that it is the purpose of the Government to pay said bonds, like other bonds of the United States, in coin at maturity." On 18th May, 1864, Mr. Chase, at the time Secretary of the Treasury, wrote: "These bonds, according to the usage of the Government, are payable in coin." Mr. FESSENDEN, while Secretary of the Treasury, in his annual report to Congress, expressed the same conclusion; and his successor, Mr. McCulloch, in a letter of 15th May, 1866, says: "I regard, as did also my predecessors, all bonds of the United States as payable in coin." There are also numerous advertisements from the Treasury and from its business agents, all in the same sense.

Here is a succession of authorities embracing high functionaries of the United States, all concurring in affixing upon these bonds the obligation to pay in coin. As testimony to the meaning of the bonds, it is important; but considering that all these persons represented the national Treasury, and that they were the agents of the Nation for the sale of these very bonds, their representations are more than testimony. Until their authority is disowned by Congress and their representations discarded, it is difficult to see why their language must not be treated as part of the contract, at least in all sales subsequent to its publication. The Senator from Ohio, [Mr. SHERMAN,] apparently feeling the pressure of this argument, explicitly says that "Congress never acquiesced," thus admitting the force of acquiescence, if it could be shown, and he then adds that Congress "was not in session when any portion of this loan was sold." Congress adjourned on the 17th of July, 1863; but the letter

of Assistant Secretary Harrington of the 26th May, antedates this adjournment nearly two months, during which time Congress might have set aside this explicit representation that the bonds would be "paid in gold." It did no such thing, and the sales were proceeded with. It must not be forgotten that these original sales were mainly to bankers and brokers and in large amounts for the purpose of resale to small purchasers seeking investments. It was in reply to parties interested in these resales that the subsequent letters of Assistant Secretary Field and of Mr. Chase were written, pledging the Nation to payment in coin. At the date of these important letters Congress was in session, and although the opportunity was constant, there was no protest against the meaning thus authoritatively affixed to these obligations. The bonds were in the market, advertised and sold daily, with a value established by the representations of these national agents; and Congress did not interfere to set aside these representations. By subsequent acts, similar loans were authorized and nobody protested. There was the supplementary clause of 3d March, 1864, for the issue of eleven millions of these bonds to cover an excess subscribed above the amount authorized by the original act. This was debated in the Senate on the 1st March, 1864; but you will search the *Globe* in vain for any protest. Then came other acts, at different dates, by which the loan was further enlarged to its present extent, and all the time these representations were uncontradicted. Against them there was no act of Congress, no protest, nothing. If this is not "acquiescence," then I am at a loss to know how acquiescence can be shown. Therefore do I insist that these representations are a part of the contract by which the Nation is bound.

It is said that, in the five-twenties bonds, there are words promising interest in coin, but nothing with regard to the principal. Forgetting the contemporary understanding and the official interpretation, and assuming that at maturity the bond is no better than a greenback, it becomes important to know the character of this obligation. On its face a greenback is a promise to pay a certain number of dollars. It is paper, and it promises to pay "dollars." Here is an example which I take from my pocket: "The United States promise to pay to the bearer five dollars." Not five dollars in paper, or in some other substituted promise; but "five dollars," which can mean nothing else than the coin known over the world with the stamp of Spain, Mexico, and the United States, being a fixed value, which passes current in every zone and at the antipodes. The "dollar" is an established measure of value, like the five-franc piece of France, or the pound sterling of England. As well say that, on a promise to pay so many francs in France, or so many pounds sterling in England, you could honestly acquit yourself by handing over a scrap of printed paper, inconvertible in value. This could not be done. The promise in our greenbacks carries with it an ultimate obligation to pay the silver dollar, whose chink is so familiar in the commerce of the world. The convertibility of the greenback is for the present suspended; but when paid, it must be in coin. To pay with another promise is to renew, and not to discharge the debt. But the obligation in our bonds is to pay "dollars" also, *whenever the bonds are paid*; it may be after five years, or, in the discretion of the Nation, not till twenty years. But *when paid* it must be in "dollars." Such is the stipulation; nor could the addition of "coin" or "gold" essentially change this obligation. It is contrary to reason that a bond should be paid in an inferior obligation. It is dishonest to force inconvertible paper without interest in payment of an interest-bearing obligation. The statement of the case is enough. Such an attempt disturbs the reason and shocks the moral sense.

Between the bond and the greenback, there is an obvious distinction, doubly-attested by the act of Congress creating them both; for



they were created together. This distinction appears, first, in the title of the act, and, secondly in its provisions. According to its title it is "An act to authorize the issue of United States notes, and for the redemption or funding thereof and for funding the floating debt of the United States." In brief, greenbacks were made a legal tender, and authority was given to fund them in these bonds. This appears in the very title of the act. Now the object of funding is to bring what is uncertain and floating into a permanent form; and accordingly greenbacks were funded and placed on interest. The bonds were a substitute for the greenbacks; but the new theory makes the greenbacks a substitute for the bonds. To carry forward still further the policy of the act, it was provided that the greenbacks might be exchanged at once for bonds; and then, by the act of 11th July, 1862, it was further provided that these very greenbacks "may be paid in coin," at the direction of the Secretary, instead of being received in exchange for bonds;—thus treating the bonds as the equivalent of coin. The subsequent repeal of these provisions does not alter the testimony to the character of these bonds. Thus, at every turn, we are brought to the same conclusion. The dishonor of these obligations, whatever form it may assume, and whatever pretext it may adopt, is nothing but repudiation.

#### ALL REPUDIATION DISHONORABLE.

The word *repudiation*, now so generally used to denote the refusal to pay national obligations, has been known in this sense only recently. In the early dictionaries of our language, it had no such signification. According to Dr. Johnson, it meant simply "divorce," "rejection," as when a man put away his wife. It began to be known in its present sense when Mississippi, the State of Jefferson Davis, dishonored her bonds. From that time the word has been too familiar in our public discussions. It was not unnatural that a State mad with slavery should dishonor its bonds. Rejecting all obligations of humanity and justice, it easily rejected the obligations of Public Faith. Slavery was in itself a perpetual *repudiation*, and slave-masters were unblushing *repudiators*. Such an example is not fit for our Nation at this great period of its history.

It is one of the calamities of war, that, while it compels the employment of large means, it blunts the moral sense and breeds too frequently an insensibility to the obligations incurred. A national debt shares for the time exceptional character of war itself. Contracted hastily, it is little regarded except as a burden. At last when business is restored and all things assume their natural proportions it is recognized in its true character. The country accommodates itself to the pressure. This time is now at hand among us, if not arrested by disturbing influences. Unhappily the demands of Public Faith are met by higgling and chaffering, and we are gravely reminded that the "bloated bond-holders" now expect more than they gave; forgetting that they gave in the darkness of the war, at the appeal of the Nation, and to keep those armies in the field through which its existence was preserved; forgetting also that among these bond-holders, now so foully stigmatized, were the poor, as well as the rich, all giving according to their means. It was not in the ordinary spirit of money-lending that those contributions were made. Love of country entered into them and made them more than money. If the interest was considerable, it was only in proportion to the risk. Every loan at that time was a contract of bottomry on the Nation, like money lent to a ship in a strange port and conditioned on its arrival safe at home; so that it failed entirely, if Slavery, by the aid of Foreign Powers, established its supremacy. God be praised! the enemy has been overcome. It remains now that we should overcome that other enemy, which hardly less malignant than war itself, would despoil the Nation of its good name and take from it all the might of honesty. And here to every citizen, and especially to

every legislator I would address those incomparable words of Milton in his sonnet to Fairfax:

"O, yet a nobler task awaits thy hand,  
(For what can war, but endless war still breed?)  
Till truth and right from violence be freed,  
And Public Faith clear'd from the shameful brand  
Of public fraud."

#### FOLLY OF REPUDIATION.

The proposition to pay bonds in greenbacks becomes futile and fatuous, when it is considered that such an operation would be nothing more than the substitution of greenbacks for bonds, and not a payment of anything. The form of the debt would be changed; but the debt would remain. Of the twenty-five hundred millions which we now owe, whether in greenbacks or bonds, every dollar must be paid, sooner or later, or be ignobly repudiated. By paying the interest of the bonds in coin, instead of greenbacks, the annual increase of the debt to this extent is prevented. But the principal remains to be paid. If this be attempted in greenbacks, it will be by an issue far beyond all the demands of the currency. There will be a deluge of greenbacks. The country must suffer inconceivably under such a dispensation. The interest on the bonds may be stopped by the substitution; but the currency will be depreciated infinitely beyond any such dishonest saving. The country will be bankrupt. Inconvertible paper will overspread the land, to the exclusion of coin or any chance of coin for some time to come. Farewell, then, to specie payments. Greenbacks will be everywhere. The multitudinous mice that swam the Rhine and devoured Bishop Hatto in his tower were not more destructive. The cloud of locusts described by Milton as "warping on the eastern wind" and "darkening all the land of Nile," were not more pestilential.

#### DIMINUTION OF TAXATION.

I am now brought to the practical question, to which I have already alluded, how the public burdens shall be lightened. Of course, in this work the Public Faith, if kept sacred, will be a constant and omnipresent agency, powerful in itself and powerful also in its reinforcement of all other agencies.

#### ECONOMY.

It will not seem trivial if I insist on systematic economy in the administration of the Government. All needless expenditure must be lopped off. Our swollen appropriations must be compressed. Extravagance and recklessness, so natural during a period of war, must give way to moderation and thrift. All this, without any denial of what is just or beneficent. The rule should be economy without niggardliness. Always there must be a good reason for whatever we spend. Every dollar, as it leaves the national Treasury, must be able to exhibit its passport. Doubtless, the Army and Navy can be further reduced without detriment to the public service. Beyond this great saving there should be a constant watchfulness against those schemes of public plunder, great and small, from which the Nation has latterly suffered so much. All those things are so plain as to be little more than truisms.

#### SIMPLIFICATION OF TAXATION.

Another help will be found in the simplification of our system of taxation, so that it shall be less complex and shall apply to fewer objects. In Europe taxation has become a science, according to which the largest possible amounts are obtained at the smallest possible inconvenience. Instead of sweeping through all the highways and by-ways of life, leaving no single thing unvisited, the English system has a narrow range and visits a few select articles only. I see no reason why we should not profit by this example, much to the convenience of the Government and of the citizen. The tax-gatherer will never be a very welcome guest; but he may be less of an intruder than now. A proper tax on two articles, whisky and tobacco, with proper securities for its collection, would go far to support the Government.

#### THE DIMINUTION OF INTEREST ON THE NATIONAL DEBT.

Still another agency will be found in some

proper scheme for a diminution of the interest on our national debt, so far as this can be done without a violation of Public Faith; and this brings me to the very bill now before the Senate.

All are anxious to relieve the country from recurring liabilities, which come round like the seasons. How can this be done best. First, by the strict performance of all existing engagements, so that the Public Faith shall be our inseparable ally; and, secondly, by funding the existing debt in such ways as to provide a reduced rate of interest. A longer term would justify a smaller interest. There may be differences as to the form of the substitute; but it would seem as if something of this kind must be done.

Immediately after the close of the war, as the smoke of battle was disappearing, but before the national ledger was sufficiently examined to justify a comparison between liabilities and resources, there was a generous inclination to proceed at once to the payment of the national debt. Volunteers came forward with their contributions for this purpose, in the hope that the generation which suppressed the rebellion might have the added glory of removing this great burden. This ardor was momentary. It was soon seen that the task was too extensive, and that it justly belonged to another generation, with aggrandized population and resources, in presence of which the existing debt, large to us, would be small. Here the census has its instructive lesson. According to the rate of increase in past years, our population will advance in the following proportion:

In 1870.....	42,323,841
In 1880.....	56,967,216
In 1890.....	76,677,872
In 1900.....	103,208,415
In 1910.....	138,918,528

The resources of the country, already so vast, will swell in still larger proportions. Population increasing beyond example; improved systems of communication expanding in every direction; and the mechanical arts, with their infinite activities, old and new—all these must carry the Nation forward beyond any present calculation so that the imagination tires in the effort to grasp the mighty result. Therefore, to the future we may tranquilly leave the final settlement of the national debt, meanwhile discharging our own incidental duty, so that the Public Faith shall be preserved.

Here is a notable difference between the United States and other countries, where population and resources have arrived at such a point that future advance is very gradual. With us each decade is a leap forward; with them it marks a gradation sometimes scarcely appreciable. This difference must not be forgotten in the estimate of our capacity to deal with a debt larger than that of any European Power except England. But we must confess our humiliation, as we find that our debt, with its large interest in coin, secured by mortgage on the immeasurable future of the Nation, is less regarded abroad than the English debt, with its smaller interest and its more limited security. Our sixes will command only seventy-four per cent. in the market of London, while the three per cent. consols of England are freely bought at ninety-four per cent. One of our bonds brings twenty per cent. less than an English bond, although the interest on it is one hundred per cent. more. I know no substantial reason for this enormous difference, except in the superior credit established by England. With the national credit above suspicion, our debt must stand as well, and, as our multiplying resources become known, even better still. Thus constantly are we brought to the same lesson of Public Faith.

In spite of the general discredit of our national stocks abroad, Massachusetts fives, payable in 1894, sell at the nominal price of \$4, with the pound sterling at \$4 44, equal to 94½ in our gold with the pound sterling at \$4 83. There can be no other reason for this higher price than the superior credit enjoyed by Massachusetts; and thus again is Public Faith

exalted. Why should not the Nation, with its infinite resources, surpass Massachusetts?

#### THE FUNDING BILL.

The bill before us proposes a new issue of bonds redeemable in coin after twenty, thirty, and forty years, with interest at five per cent. four and one half per cent., and four per cent. in coin, exempt from State or municipal taxation and also from national taxation, except the general tax on income; these bonds to be used exclusively for the conversion of an equal amount of the interest-bearing debt of the United States, except the existing five per cent. bonds and the three per cent. certificates. These proposed bonds have the advantage of being explicit in their terms. The obligations of the Government are fixed clearly and unchangeably beyond the assaults of politicians.

A glance at the national debt will show the operation of this measure. The sum total on the 1st of February, 1868, according to the statement from the Treasury was \$2,504,845,878, being in round numbers twenty-five hundred millions. Out of this may be deducted legal-tender and fractional notes, as currency, amounting to \$388,405,505, and several other smaller items. The following amounts represent the portions of debt provided for by this bill:

Six per cent., due 1881.....	\$283,766,600
Six per cent., five-twenties.....	1,308,483,850
Seven and three-tenths Treasury notes convertible into five-twenty bonds at maturity.....	214,953,850
	<u>\$1,897,200,300</u>

This considerable sum may be funded under the proposed bill.

#### THE PUBLIC FAITH AGAIN.

If this large portion of the national debt, with its six per cent. interest in coin, can be funded at a less interest, there will be a corresponding relief to the country. But there is one way only in which this can successfully be accomplished. It is by making the Public Faith so manifest that the holders will be induced to come into the change for the sake of the longer term. All that is done by them must be voluntary. Every holder must be free to choose. He may prefer his short bond at six per cent. or a long bond at five per cent. or a longer at four and a half per cent., or still a longer at four per cent. This is his affair. There must be no compulsion. Any menace of compulsion will defeat the transaction. It will be nothing less than repudiation with a certain loss of credit, which no saving of interest can repay. You must continue to borrow on a large scale; but who will lend to the repudiator, unless at a destructive discount? Any reduction of interest without the consent of the holders will reduce your capacity to borrow. A forced reduction of interest will be like a forced loan. While seeming to save interest, you will lose capital. Do not be deceived. Any compulsory conversion is only another form of repudiation. It is tantamount to this declared crime. It is the same misdeed, taking still another shape—as Proteus was the same fleethen god in all his various transformations. It is repudiation under an *alias*.

Happily the bill before us is free from any such damning imputation. The new bonds are authorized; but the holders of existing obligations are left free to exercise their judgment in making the change. I am assured by those, who, from practical acquaintance with business, ought to know, that these bonds will be rapidly taken for the five-twenties.

#### FUNDING BILL AGAIN.

The same bill, in its second section, sets apart \$125,000,000 annually to the payment of the interest and the reduction of the principal of the national debt: and this is to be in lieu of a sinking fund. This is an additional security. It is another assurance of our determination to deal honestly.

The third section of the same bill is newer in its provisions, and, perhaps, more open to doubt. But, though uncertain with regard to it in the beginning, I have found that it com-

mended itself on careful examination. On its face it provides for a system of conversion and reconversion. The holder of lawful money to the amount of \$1,000, or any multiple of \$1,000, may convert the same into the funded debt for an equal amount; and any holder of the funded debt may receive for the same at the Treasury lawful money, unless the notes then outstanding shall be equal to \$400,000,000. If bonds in the funded debt shall be worth more than greenbacks, the latter would be converted into bonds, according to the ordinary laws of trade. The latest relation of these two is as follows: \$100 greenbacks equal seventy-one dollars gold; \$100 five per cent. equal seventy-six dollars gold. If the greenbacks are convertible into the five per cent., they will, of course, be converted while the above relation continues. This must be so long as the national credit is maintained abroad and the demand for our securities continues there. By this process our greenbacks will be gradually absorbed and those that are not absorbed will be lifted in value. It would seem as if bonds and greenbacks must both gain from this business, and with them the country must gain also. Here would be a new step to specie payments.

The bill closes with a provision authorizing contracts in coin, instead of greenbacks, according to the agreement of parties. This authority is in harmony with the other provisions of the bill, and is still another step toward specie payments.

#### NECESSITY OF SPECIE PAYMENTS.

I am now brought to the last branch of this discussion, in which all the others are absorbed; I mean the necessity of specie payments, or, in other words, the necessity of coin in the place of inconvertible paper. Other things are means to this end. This is the end itself. Until this is accomplished financial reconstruction exists in aspiration only and not in reality.

The suspension of specie payments was originally a war measure, like the suspension of the *habeas corpus*. It was so declared by myself at the time it was authorized. Pardon me if I quote my own words in the debate on the bill:

"It is a discretion kindred to that under which the *habeas corpus* has been suspended so that citizens have been arrested without the forms of law: kindred to that under which an extensive territory has been declared to be in a condition of insurrection, so that all business with its inhabitants is suspended; kindred to that which unquestionably exists, to obtain soldiers, if necessary, by draft or conscription instead of the free offering of volunteers; kindred to that under which private property may be taken for public uses; and kindred, also, to that undoubted discretion which sanctions the completest exercise of the transcendent right of self-defense."

As a war measure, it should cease with the war, or so soon thereafter as practicable. It should not be continued a day beyond positive exigency. While the war lasted, it was a necessity, as the war itself. Its continuance now prolongs into peace this belligerent agency and projects its disturbing influence into the most distant places. Like war, whose greatest engine it was, it is the cause of incalculable evil. Like war, it troubles the entire nation, deranges business and demoralizes the people. As I hate war, so do I hate all its incidents and long to see them disappear. Already in these remarks I have pictured the financial anarchy of our country, the natural reflection of the political; but the strongest illustration is in a disordered currency, which is present to everybody with a dollar in his pocket.

The derangement of business may be seen at home and abroad. It is not merely derangement; it is dislocation. Everything is out of joint. Business has its disease also, showing itself in opposite conditions; shrunk at times, as with paralysis; swollen at times to unhealthy proportions, as with *elephantiasis*. The first condition of business is stability, which is only another form of security; but this is impossible when nobody can tell from day to day the value of the currency. It may change in a night. The reasonable contract of to-day may become onerous beyond calculation to-morrow. There is no fixed standard. The seller is afraid to sell; the buyer afraid to buy. Nobody can

sell or buy a farm; nobody can build or mortgage a house, except at an unnatural hazard. Salaries and all fixed incomes suffer. The pay of every soldier in the Army, every sailor in the Navy, every office-holder from the President to the humblest postmaster is brought under this tyrannical influence. Harder still, innocent pensioners, wards of the Nation, must bear the same doom. Maimed soldiers, bereaved widows, helpless orphans, whose cup is already full, are compelled to see their scanty dole shrink before their sight till it seems ready to vanish in smoke.

A greenback is a piece of paper with a promise on its face and green on its back, declared to be money by act of Congress, but which the Government refuses to pay. It is "failed paper" of the Government. The mischief of such a currency is everywhere, enveloping the whole country and penetrating all its parts. It covers all and enters all. It is a discredit to the national name, from which the Nation suffers in whole and in detail. It weakens the Nation and hampers the citizen. There is no national enterprise which it does not impede. The Pacific railroad feels it. There is not a manufacture or business which does not feel it also. There is not a town, or village, or distant place, which it does not visit.

A practical instance will show one way in which individuals suffer on an extensive scale, being generally those who are least able. I follow an ingenious merchant, Mr. Atkinson, of Boston, whose figures sustain his conclusion, when I insist that our present currency, from its unstable character, operates as an *extra tax* of more than one hundred millions annually on the labor and business of the country; and this vast sum is taken from the pockets of the people, not for the support of the Government, but to swell the unreported fund out of which the excesses of the present day are maintained. There are few business men, who would not put the annual loss in their affairs, from the fluctuation in the currency, somewhere from one to five per cent. One per cent. is the lowest. Mr. Hazard, of Rhode Island, puts it at two per cent. Now, the aggregate sales in the fiscal year ending June, 1867, were over eleven thousand millions (\$11,000,000,000) in currency, excluding sales of stocks or bonds. One per cent. on this prodigious amount represents a tax of one hundred and ten millions, paid annually by consumers, according to their consumption and not in any degree according to their ability. This is one instance only of the damages annually paid on account of our currency. If we estimate the annual tax at more than one per cent. the sum total will be proportionally larger. Even at the smallest rate, it is many millions more than all the annual expenses of our Government immediately preceding the rebellion.

Fluctuations in the measure of value are as inconvenient and fatal as fluctuations in the measures of length and bulk. A dollar which has to-day one value and to-morrow another is no better than a yard, which has to-day one length and another to-morrow, or a bushel, which has to-day one capacity and another to-morrow. It is as uncertain as "Equity," measured by the varying foot of successive chancellors, sometimes long and sometimes short, according to the pleasant illustration of Selden in his *Table-Talk*. Such fluctuations are more than a match for any prudence. Business is turned into a guess, or a game of hazard, where the prevailing anarchy is overruled by accident:

"Chaos umpire sits,  
And by decision more embroils the fray,  
By which he reigns; next him high arbiter  
Chance governs all."

In such a condition of thing, the gamblers have the advantage. The stock exchange becomes little better than a faro bank. By such scenes the country is demoralized. The temptation of excessive gains leads from the beaten path of business. Speculation, without money, takes the place of honest industry, extending from the stock exchange everywhere. The failed paper of the Government teaches the lesson of bankruptcy. The Gov-

ernment refuses to take up its notes, and others do likewise. These things cannot be without a shock to public morals. Honesty ceases to be even a policy. Broken contracts prepare the way for crime, which comes to complete the picture.

Our foreign commerce is not less disturbed, for here we are brought within the sphere of other laws than our own. Gold is the standard of business throughout the civilized world. Until it becomes again the standard among us we are not, according to the familiar phrase of President Lincoln, "in practical relations" with the civilized world. We are States out of the great Union. Our currency has the stamp of legality at home; but it is worthless abroad. In all foreign transactions we are driven to purchase gold at a premium, or to adopt a system of barter, which belongs to the earlier stages of commerce. Corn, wheat, and cotton are exchanged for the products we desire, and this traffic is the coarse substitute for that refined and plastic system of exchanges which adapts itself so easily to all the demands of business. Commerce with foreign Powers is prosecuted at an incalculable disadvantage. Our shipping, which in times past has been the pride of the Nation, whitening every sea with its sails, is reduced in number and value. Driven from the ocean by pirate flags during the rebellion, it cannot struggle back to its ancient supremacy until the accustomed laws of trade once more resume their rule.

#### HOW TO ARRIVE AT SPECIE PAYMENTS.

There are few who will deny the transcendent evil which I have set forth. There are few who will advocate inconvertible paper as currency. How shall the remedy be applied? On this question, so interesting to the business and good name of the country there are theories without number; some so ingenious as to be artificial rather than natural. What is natural is simple; and I am persuaded that our remedy must be of this character.

The legal-tender note, which we wish to expel from our currency, has two different characters; first, as mere currency, for use in the transactions of business; and, secondly, as real value from the assurance that ultimately it will be paid in coin, according to its promise. These two different characters may be sentimentally expressed as *availability* and *convertibility*. The notes are now available without being convertible. Our desire is to make them convertible; in other words, the equivalent of coin in value, dollar for dollar. On the 1st of June last past these notes were \$388, 645, 801 in amount.

Discarding theories, however ingenious, and following nature, I call attention to a few practical points before reverting to those cardinal principles applicable to this subject, from which there can be no appeal.

*First.* The present proposition for *funding* is an excellent measure for this purpose, being at once simple and practical; not that it contains any direct promise for the redemption of our currency, but because it places the national debt on a permanent footing at a smaller interest than is now paid. By this change three things, essential to financial reconstruction, are promoted; economy, stability, and national credit. With these once established, specie-payments cannot be long postponed.

*Secondly.* Another measure of immediate value is the *legalization of contracts in coin*, so that henceforth all agreements made in coin may be legally enforced in coin or its equivalent. This would establish specie payments wherever parties desired, and to this extent begin the much-desired change. Contracts in coin would increase and multiply, until the exception became the rule. There would for a time be *two currencies*; but the better must gradually prevail. The essential equity of the new system would be apparent; while there would be a charm in once more looking upon familiar faces long hidden from sight, as the hoarded coin came forth. Nor can any possible injury ensue. The *legalization* is appli-

cable only to future contracts, as the parties mutually agree. Every citizen in this respect would be a law to himself. If he chose in his own business to resume specie payments, he could do so. There would be a voluntary resumption by the people, one by one. But this influence could not be confined to the immediate parties. Beyond the contagion of its example, there would be a positive necessity on the part of the banks, that they should adapt themselves to the exigency by the substitution of proper commercial equivalents; and thus again we take another step in specie payments.

*Thirdly.* Another measure of practical value is the *contraction of the existing currency*, so as to bring it on a par with coin, dollar for dollar. Before alluding to any of the expedients to accomplish this precious object, it is important to arrive at some idea of the amount of currency of all kinds required for the business of the country. To do this, we may look at the currency before the rebellion, when business was in its normal condition. I shall not occupy space with tables, although they are now before me, but content myself with results. From the official report of the Treasury, it appears that, on the 1st of January, 1860, the whole active circulation of the country, including bank circulation, bank deposits available as currency, specie in bank, specie in Treasury, estimated specie in circulation, and deducting reserves, amounted to \$542,097,264. It may be assumed that this sum total was the amount of currency required at the time. From the same official tables, it appears that, on the 1st of October, 1867, the whole active circulation of the country, beginning with greenbacks and fractional currency, and including all the items in the other account, amounted to \$1,245,138,193. Thus from 1860, when the currency was normal, to 1867, some time after the suspension of specie payments, there was an increase of one hundred and thirty per cent. Omitting bank deposits for both years the increase was one hundred and forty six per cent. Making due allowance for the increase of population, business, and Government transactions, there remains a considerable portion of this advance, which must be attributed to the abnormal condition of the currency. I follow various estimates in putting this at sixty or seventy per cent., representing the difference of prices at the two different periods, and the corresponding excess of currency above the requirements of the country. Therefore, for the reduction of prices, there must be a reduction of the currency; and this must be to the amount of \$300,000,000. So it seems, unless these figures err.

Against the movement for contraction, which is commended by its simplicity and its tendency to a normal condition of things, we have two adverse policies; one the stand-still policy, and the other, worse yet, the policy of inflation. By the first the currency is left *in statu quo*—stationary—subject to the influence of other conditions which may operate to reduce it. Better stand still than move in a wrong direction. By the latter the currency is enlarged at the expense of the people—being at once a tax and a derangement of values. You pamper the morbid appetite for paper money and play the discarded part of John Law. You blow up a bladder, without thinking that it is nothing but a bladder, ready to burst. As the volume of currency is increased the purchasing power of each dollar is reduced in proportion. As you add to the currency you take from the dollar. You do little more than mark your goods at higher prices and imagine that they have increased in value. Already the price is too high. Do not make it higher. Already the currency is corrupted. Do not corrupt it more. The cream has been reduced to skimmed-milk. Do not let it be reduced to chalk and water. Let there be national cream for all the people.

Obviously any contraction of the currency must be conducted with caution, so as to interfere as little as possible with existing interests.

It should be understood in advance, so that business may adapt itself to the change. Once understood, it must be pursued wisely to the end. I call attention to a few of the expedients by which this contraction may be made.

1. Any holder may have liberty to fund his greenbacks in bonds, as he may desire, so that, as coin increased, they would be merged in the funded debt and the currency be reduced in corresponding proportion.

2. Greenbacks when received at the Treasury may be canceled, or they may be redeemed directly, so far as the coin on hand will permit.

3. Greenbacks may be converted into compound-interest notes, to be funded in monthly installments, running over a period of years, thus reaching specie payments within a brief period.

4. Another expedient, more active still, is the application of the coin on hand to the payment of greenbacks at a given rate, say \$6,000,000 a month—selecting for payment those holders who present the largest amount of five twenties for conversion into the long bonds at a low rate of interest, or shall pay the highest premium on such bonds.

I mention these as expedients, calculated to operate in the same direction—without violent change or spasmodic action. Under their mild and beneficent influence the currency would be gradually reduced, so that the final step when taken would be hardly felt. With so great an object in view, I do not doubt its accomplishment at an early day, if the Nation only wills it. "Where there is a will there is a way," and never was this proverb truer than on this occasion. To my mind it is clear that, when the Nation wills a currency in coin, then must this victory over the Rebellion be won; provided always that there is no failure in those other things on which I have also dwelt as the *conditions precedent* of this final victory.

#### CONCLUSION.

How vain it is to expect financial reconstruction until political reconstruction has been completed, I have already shown. How vain to expect specie payments, until the Nation has once more gained its natural vigor, and it has become one in reality as in name. Let this be, and the Nation will be like a strong man, in the full enjoyment of all his forces, coping with the trials of life.

There must also be peace within our borders, so that there shall be no discord between President and Congress. Therefore, so long as Andrew Johnson is President, the return to specie payments is impossible. So long as a great party, called Democratic, better now called Rebel, wars on that political reconstruction, which Congress has organized, there can be no specie payments. So long as any President, or any political party, denies the Equal Rights of the freedman, it is vain to expect specie payments. Whoso would have equity must do equity; and now, if you would have specie payments, you must do this great equity. The rest will follow. When General Grant said, "Let us have peace," he said also, "Let us have specie payments." Among all the blessed gifts of peace there is none more certain.

Nor must it be forgotten, that there can be no departure in any way from the requirements of Public Faith. This is a perpetual obligation, complete in all respects and just as applicable to the freedman as to the bondholder. Repudiation in all its forms, direct or indirect, whether of the freedman or the bondholder, must be repudiated. Both are under the same safeguard, and there is the same certain disaster from any repudiation of either. Unless the Public Faith is preserved, you cannot fund your debt at a smaller interest; you cannot convert your greenbacks; you cannot comply with the essential terms of reconstruction. Amid all surrounding abundance you are poor and powerless, for you are dishonored. Do not say, as an apology, that all should have the same currency. True as this may be, it is a cheat when used to cover dishonor. The currency of all should be coin,



and you should lift all the national creditors to this solid platform rather than drag a single citizen down. A just Equality is sought by leveling up instead of leveling down. In this way the national credit will be maintained, so that it will be a source of wealth, prosperity, and renown.

Pardon me, if now, by way of recapitulation, I call your attention to three things in which all others center. The first is the *Public Faith*. The second is the *Public Faith*. The third is the *Public Faith*. Let these be sacredly preserved, and there is nothing of power or fame, which can be wanting. All things will pay tribute to you, even from the uttermost parts of the sea. All the sheaves will stand about, as in the dream of Joseph, and make obeisance to your sheaf. Good people, especially all concerned in business, whether commerce, banking, or labor—our own compatriots or the people of other lands—will honor and uphold the Nation which, against all temptation, keeps its word.

#### EXECUTIVE SESSION.

Mr. TRUMBULL. It is manifest that we cannot get through with this bill to-day, and as it is desirable to have an executive session I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. Why not let us proceed with this bill a little longer?

Mr. TRUMBULL. It is after three o'clock on Saturday afternoon; and there is some business that ought to be done in executive session.

Mr. SHERMAN. We can have an executive session later in the day, say at half past four.

Mr. TRUMBULL. We cannot get through the executive business by beginning the executive session at half past four.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The motion is not debatable.

Mr. SHERMAN. I ask for the yeas and nays. We might just as well go on a little longer with this bill.

The yeas and nays were ordered; and being taken, resulted—yeas 33, nays 6; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Cattell, Chandler, Cole, Conkling, Connors, Davis, Edmunds, Ferry, Fessenden, Fowler, Harlan, Howard, Howe, McCreery, McDonald, Nye, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sumner, Tipton, Trumbull, Van Winkle, Vickers, Willey, Williams, and Yates—33.

NAYS—Messrs. Morgan, Morrill of Maine, Morrill of Vermont, Morton, Sherman, and Stewart—6.

ABSENT—Messrs. Bayard, Corbett, Cragin, Dixon, Doolittle, Drake, Frothinghuyson, Grimes, Henderson, Hendricks, Norton, Rice, Saulsbury, Sprague, Thayer, Wade, Welch, and Wilson—13.

So the motion was agreed to.

After more than two hours spent in executive session the doors were reopened.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the joint resolution (S. R. No. 139) excluding from the Electoral College the votes of States lately in rebellion which shall not have been organized, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, asked a conference on the disagreeing votes of the two Houses thereon, and has appointed Mr. R. C. SCHENCK of Ohio, Mr. SAMUEL HOOPER of Massachusetts, and Mr. W. E. NIBLACK of Indiana, managers at the same on its part.

#### ELECTORAL VOTES OF LATE REBEL STATES.

On motion of Mr. EDMUNDS, the Senate proceeded to consider the amendments of the House of Representatives to the joint resolution (S. R. No. 139) excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized.

The amendments were read. They were in

lines four and five, to strike out the words "and which States are not now represented in Congress;" in line fifteen, to strike out the word "and" and insert "nor," and to add to the resolution the words, "Provided, That nothing herein contained shall be construed to apply to any State which was represented in Congress on the 4th day of March, 1867;" so as to make the resolution read:

*Resolved, &c.,* That none of the States whose inhabitants were lately in rebellion shall be entitled to representation in the Electoral College for the choice of President or Vice President of the United States, nor shall any electoral votes be received or counted from any of such States, unless at the time prescribed by law for the choice of electors the people of such States, pursuant to the acts of Congress in that behalf, shall have, since the 4th day of March, 1867, adopted a constitution of State government under which a State government shall have been organized and shall be in operation, nor unless such election of electors shall have been held under the authority of such constitution and government, and such State shall have also become entitled to representation in Congress, pursuant to the acts of Congress in that behalf: *Provided, That* nothing herein contained shall be construed to apply to any State which was represented in Congress on the 4th day of March, 1867.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments of the House of Representatives.

Mr. TRUMBULL. It seems to me that the amendments put the resolution in a shape which the Senate several times voted down. The objection to the resolution as it originally stood was that it embraced States which had already been admitted to representation. That was the point upon which the discussion arose in the Senate, and the Senate repeatedly voted down this very proposition.

Mr. DRAKE. No.

Mr. TRUMBULL. Yes; I think, in substance, the very same thing. The Senator from Nebraska [Mr. THAYER] made a motion which saved the States of Arkansas and Florida by providing that the resolution should apply only to those States not now represented. The Senator from Nebraska moved the amendment so as to confine the resolution to those States not represented; and that was satisfactory to the Senate. The very difficulty we had in this body was that the original resolution reflected upon States already represented in Congress, and it was making a distinction, which many thought invidious, between the States of Arkansas and Florida and the States of Illinois and New York and Nebraska; and hence the amendment of the Senator from Nebraska was adopted by a very decided vote of the Senate. Now, the House of Representatives has stricken out that very provision which made the resolution satisfactory to the Senate. As there was so much trouble about it, I think it would be best to non-concur.

Mr. CONKLING. I was going to make that suggestion, that we non-concur and ask for a conference.

Mr. TRUMBULL. I move, if it be in order, that we non-concur in the House amendments and ask for a conference. I think that will be the better way, and then we shall arrive at a conclusion.

Mr. EDMUNDS. A motion to concur has precedence, and I make that motion. I have looked at the amendments of the House. Aside from the feeling of my friend from Illinois who has had it all the time—it has been chronic with him; and therefore it is to be expected that he will continue it—I think the resolution as amended by the House of Representatives comes nearer to harmonizing all the views that the Senate had than any other would. It leaves out the names of these States just as they were left out last night, and makes the sweeping declaration that none of the States which have been in rebellion shall be considered as having been restored out of the rebellion so as to vote until they shall have reached the point through the instrumentality of our reconstruction measures where they will be entitled to admission; that is, until they shall have adopted their new constitutions under the authority of Congress, submitted them to Congress for approval, have them approved, and then have ratified the four-

teenth article; and then, in order not to include Tennessee in that, which was admitted before with a constitution formed prior to the 4th of March, 1867, the proviso is added. I do hope that on this mere question of form we shall not baffle with the House of Representatives, but concur in their amendments at once.

The question being put on concurring in the House amendments; there were, on a division—yeas 20, nays 12.

Mr. WILLIAMS. Mr. President—

Mr. TRUMBULL. I should like to have the yeas and nays on concurring in the House amendments. I think an important principle is involved.

Mr. EDMUNDS. It is too late.

Mr. TRUMBULL. I do not think it is too late.

Mr. EDMUNDS. \* After the vote has been taken and announced?

Mr. TRUMBULL. If the Senate does not want to give me the yeas and nays, be it so.

Mr. EDMUNDS. I should not have thought of suggesting that objection if the Senator had not been so exceedingly nice. I withdraw the objection.

Mr. TRUMBULL. If the Senate will not give me the yeas and nays, be it so.

The PRESIDENT *pro tempore*. The Senator from Oregon addressed the Chair.

Mr. WILLIAMS. I was about to make a motion to adjourn; but if the Senator from Illinois wants the yeas and nays, of course I shall not make the motion now.

Mr. TRUMBULL. I think we had better have the yeas and nays.

Mr. EDMUNDS. I make no objection.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 15; as follows:

YEAS—Messrs. Anthony, Cattell, Cole, Cragin, Drake, Edmunds, Harlan, Morrill of Vermont, Morton, Nye, Osborn, Ramsey, Ross, Stewart, Sumner, Tipton, Wade, Williams, and Yates—19.

NAYS—Messrs. Buckalew, Conkling, Davis, Ferry, Fowler, Henderson, Hendricks, Howe, McCreery, Morgan, Patterson of Tennessee, Thayer, Trumbull, Van Winkle, and Vickers—15.

ABSENT—Messrs. Bayard, Cameron, Chandler, Connors, Corbett, Dixon, Doolittle, Fessenden, Frothinghuyson, Grimes, Howard, McDonald, Morrill of Maine, Norton, Patterson of New Hampshire, Pomeroy, Rice, Saulsbury, Sherman, Sprague, Welch, Willey, and Wilson—23.

So the amendments were concurred in.

Mr. WILLIAMS. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, July 11, 1868.

The House met at twelve o'clock m.

The Journal of yesterday was partially read, when, on motion of Mr. BOUTWELL, the further reading was dispensed with.

#### UNITED STATES COURTS IN VIRGINIA.

Mr. BOUTWELL, by unanimous consent, from the Committee on the Judiciary, reported back, with the recommendation that it do pass, the bill (H. R. No. 1370) to fix the time for holding the terms of the United States district court in Virginia.

The bill was read. It provides that the terms of the United States district court for the district of Virginia shall be held as heretofore at Richmond and Norfolk, and that the terms in Staunton shall be held on the second Tuesday of April and October, and at Wytheville on the fourth Tuesday of April and October in each year.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. CAKE asked and obtained leave of absence for two days.

## COURT OF CLAIMS—ARKANSAS.

Mr. WILSON, of Iowa, by unanimous consent, reported back from the Committee on the Judiciary, with a substitute, a joint resolution (H. R. No. 310) to extend the provisions of the act of July 4, 1864, limiting the jurisdiction of the Court of Claims to the loyal citizens of the State of Arkansas.

The substitute, which was read, provides that the provisions of the act of July 4, 1864, entitled "An act to restrict the jurisdiction of the Court of Claims," is hereby extended to loyal citizens of the State of Arkansas, anything to the contrary notwithstanding in the act to declare the sense of an act entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to the Army of the United States," passed February 19, 1867.

The substitute was agreed to; and the joint resolution, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## BRIDGE OVER MISSOURI RIVER.

Mr. CLARKE, of Kansas. I ask unanimous consent to have taken from the Speaker's table Senate bill No. 355, authorizing the construction of a bridge across the Missouri river upon the military reservation at Fort Leavenworth, Kansas.

No objection was made; and the bill was taken from the table and read a first and second time.

The question was upon ordering the bill to be read a third time.

Mr. CLARKE, of Kansas. I yield to the gentleman from Missouri [Mr. LOAN] to offer an amendment.

Mr. LOAN. I move to amend the bill by adding to it the following:

SEC. —. *And be it further enacted*, That it shall be lawful for the St. Joseph and Denver City Railroad Company, a corporation created by the laws of the State of Kansas, to build a bridge over and across the Missouri river at St. Joseph, Missouri; and all the rights and privileges conferred by sections one, two, four, and five, of this act are hereby extended, so far as they are applicable to the St. Joseph and Denver City Railroad Company, and the restrictions, limitations, and conditions contained in said sections are hereby made applicable to said company.

The amendment was agreed to.

The bill, as amended, was then read the third time, and passed.

Mr. CLARKE, of Kansas, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## HAWAIIAN BRIG VICTORIA.

Mr. AXTELL, by unanimous consent, reported from the Committee on Commerce a joint resolution (H. R. No. 331) to authorize the issue of an American register to the Hawaiian brig Victoria; which was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution, which was read, directs the Secretary of the Treasury to issue an American register to the derelict Hawaiian brig Victoria, said vessel being now owned by a citizen of San Francisco, California.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. LYNCH. I hope some reason will be given why this joint resolution should be passed.

Mr. AXTELL. This is a Hawaiian brig

which was wrecked in our waters and abandoned; but it does not come under the provisions of any general law by which an American owner of the vessel can obtain an American register. The Committee on Commerce had before them a letter from the Secretary of the Treasury explaining all the facts, and after examination the committee agreed unanimously that I should be allowed to report this joint resolution to the House.

Mr. SPALDING. I will not oppose the passage of this joint resolution. What I object to is the Committee on Commerce singling out one or two cases where any of their own number are interested and excluding others. Some of us have introduced applications for registers of vessels as favorable as this can possibly be, and we hear nothing from them. I have nothing further to say except that I shall vote for the resolution.

The SPEAKER. The Chair will state that if there should be a morning hour to-day the Committee on Commerce will be called for bills of a private nature.

Mr. ELIOT. I ask the gentleman from California [Mr. AXTELL] to yield to me for a moment that I may say a word in reply to the gentleman from Ohio, [Mr. SPALDING.]

Mr. AXTELL. I yield to the gentleman.

Mr. ELIOT. I wish to say to the gentleman from Ohio [Mr. SPALDING] that if he will at any time bring before the Committee on Commerce a case similar in principle to that now reported by the gentleman from California it will probably receive the same favorable consideration that this has received. I will say that the cases which have been submitted to the committee by the gentleman from Ohio are not cases deserving the favorable consideration of the committee; and so long as such cases come before us, and so long as the Committee on Commerce shall be constituted as it now is, the gentleman from Ohio must expect that adverse reports will be made. The case now reported is one which would fairly come within the provisions of the act of 1852, if the vessel had been wrecked on our coast. In point of fact, much more than the amount called for by that statute has been expended upon the vessel, which was an abandoned vessel, not a wreck. In other respects, the case would fairly come within the purview of that statute.

Mr. SPALDING. In reply to the gentleman from Massachusetts [Mr. ELIOT] I will say that I cannot tell whether the cases which have been referred by me to the Committee on Commerce deserve the favorable consideration of that committee; but I do say that they deserve the favorable consideration of all men of patriotism and good sense.

Mr. ELIOT. In the judgment of my most excellent and excitable friend from Ohio.

The joint resolution was passed.

Mr. AXTELL moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## SINKING FUND.

Mr. PHELPS, by unanimous consent, submitted the following resolutions; which were laid on the table, and ordered to be printed:

*Resolved*, That the Committee of Ways and Means are hereby instructed to report for the action of the House a bill to carry into immediate effect the fifth section of the act of 1862, February 25, providing that the coin received for duties on imports shall, after paying interest on bonds and notes, be applied to the purchase or payment of one per cent. of the entire debt of the United States within each fiscal year, to be set apart, with the accruing interest, as a sinking fund.

2. That the said committee are also instructed to provide in said bill for the establishment of a board of commissioners of the sinking fund, to be composed of the Secretary of the Treasury, the Vice President of the United States, and the Speaker of the House of Representatives, whose duty it shall be, without additional compensation, to make from time to time such lawful rules and regulations as may be necessary for the management of said sinking fund.

3. That said committee are further instructed to provide in said bill that all money which may accrue from taxes that may be imposed upon the bonds or coupons of the public debt shall be, from time to time, appropriated to the increment of the sinking

fund, and that all special funds held under the several Departments of the Government and not covered into the Treasury of the United States, be forthwith transferred and charged to the commissioner of the sinking fund, for the purposes thereof.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that that body insisted upon its amendment to the bill (H. R. No. 344) to incorporate the Washington Target-Shooting Association in the District of Columbia, disagreed to by the House, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Messrs. HARLAN, CONKLING, and VICKERS conferees on the part of the Senate.

The message further announced that the Senate had agreed to the amendment of the House to the joint resolution (S. No. 107) in relation to the Maquoketa river in the State of Iowa.

Also, that the Senate had passed without amendment the bill (H. R. No. 1099) for the relief of Wait Talcott.

Also, that the Senate had passed a joint resolution and a bill of the following titles, in which the concurrence of the House was requested: Joint resolution (S. No. 139) excluding from the Electoral College States lately in rebellion which shall not have been reorganized; and

A bill (S. No. 589) to establish certain post roads.

## WASHINGTON TARGET ASSOCIATION.

The SPEAKER. If there is no objection the House will reciprocate the request of the Senate for a committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (H. R. No. 344) to incorporate the Washington Target-Shooting Association in the District of Columbia.

No objection being made, it was so ordered; and Messrs. BALDWIN, WELKER, and GLOSSBRENNER were appointed conferees on the part of the House.

## ELECTORAL COLLEGE.

On motion of Mr. FARNSWORTH, by unanimous consent, the bill (S. No. 139) excluding from the Electoral College States lately in rebellion which shall not have been reorganized was taken from the Speaker's table, and referred to the Committee on Reconstruction.

## MILITARY PEACE ESTABLISHMENT.

The SPEAKER. The House now resumes the consideration of the business unfinished at the adjournment last evening, being the bill (H. R. No. 1377) to reduce and fix the military peace establishment.

The pending section was the following:

SEC. 5. *And be it further enacted*, That no vacancy shall hereafter be filled in the office of brigadier general until the number of brigadier generals shall be less than eight, and thereafter there shall be but eight brigadier generals.

The pending question was upon the amendment offered by Mr. PAINE (renewed by Mr. LOGAN) to the amendment of Mr. BUTLER, of Massachusetts.

The amendment of Mr. BUTLER, of Massachusetts, was to strike out all after the enacting clause and insert the following:

There shall be but six brigadier generals; and the officers who shall retain their commissions as such shall be designated by the General of the Army without regard to seniority; and all others shall be mustered out of service on the 1st day of January next.

The amendment of Mr. PAINE was to substitute for the amendment of Mr. BUTLER, of Massachusetts, the following:

There shall be but six brigadier generals after the 31st day of March, 1869; and the officers who shall retain their commissions as such shall, after the 10th day of March, 1869, be designated by the President of the United States without regard to seniority, and all others shall be mustered out of service on the 31st day of March, 1869.

Mr. PAINE. I wish to submit a modification of my amendment. I have only changed the phraseology and not the substance.

The Clerk read as follows:

Strike out all after the enacting clause, and insert the following:

After the 31st day of March, 1869, there shall be only six brigadier generals; and the President shall,

within ten days preceding said date, designate, with regard to seniority, the best six brigadier generals to remain in commission; and the others shall be mustered out of the service of the United States at said date, or within ten days thereafter.

Mr. GARFIELD. I trust that amendment will be voted down; and I will say a few words, as a good many members are now here who were not present last evening. The purpose of the committee is not to strike down absolutely any Army officers. The amendments proposed by the gentleman from Wisconsin [Mr. PAINE] and the gentleman from Massachusetts [Mr. BUTLER] muster out officers absolutely, reducing them to a greater extent perhaps than the Committee on Military Affairs deem necessary, beginning with major generals and going down to the lowest grade. It seems to me if we undertake this kind of policy we will inaugurate invidious legislation. It puts it upon the President of the United States to take the list of ten brigadier generals, some of the most distinguished generals ever in our Army, and select four who are not the best and order them to be mustered out absolutely. That is an invidious and difficult task to impose upon any President of the United States. Every one mustered out is to be mustered out upon the express condition that he is not ranked among the best brigadier generals in the service. It puts a stain, and it cannot be otherwise, upon the name and honor of every man who is mustered out. If the present President should be in power, and he should act on political grounds, then this side of the House would have good reason to feel aggrieved at his action. If, on the other hand, a President should be in power who was a Republican, and should do the same, this side of the House would feel justly aggrieved. I am unwilling to go into these political distinctions. I am unwilling to put upon the President of the United States a task so invidious as to declare who are not the best brigadier generals in a list of ten. Therefore, I trust the amendment will be voted down.

Mr. PAINE. I withdraw the amendment.

Mr. BUTLER, of Massachusetts. I renew it. Now, Mr. Speaker, this is a very important matter, and I ask the attention of the House for a moment. The whole question is, shall we reduce the Army, or shall it not be reduced? The bill of the committee provides that there shall be no reduction in the number of generals until it is accomplished by death or resignation, or by dismissal for cause. I am very anxious there should be a reduction of this Army, and I wish to begin with the generals. The amendment I offered puts it in the hands of the General to select. I am content it shall be done by lot, if you please, or in any other way to justly and fairly get rid of them when they are not wanted by the country. They cost, each one of them with his complement, \$20,000 every year; and they are to be imposed upon the country when the committee themselves say some of them are useless, because they provide in their bill for less than eight; and the House last night agreed to the amendment to strike down the major generals to three out of five. This is in exactly the same proportion. I say again I am willing they should be struck out by lot; but I thought it was best to allow the selection to be done by the General of the Army.

Now, sir, when you pass this so-called bill to reduce the Army you pass what, in my judgment, is an "electioneering dodge" and nothing else. Talk about reducing! Why, sir, you have not reduced a man until you come to the privates, and you do not in fact reduce any there. The simple question is, are we in earnest? If we are not then we will vote to keep these men in. Otherwise strike them out in some way or other, because the committee agree they are not wanted and the country agree they are not wanted. The question is, is there any way to get rid of them?

I want for a moment to recur to what was said by the chairman of the committee last evening on this topic. He said he would never consent to do this "by the mere brutal force of num-

bers." I have heard that phrase before. We have been told that we conquered the South by the "brutal force of numbers." We established great political right of freedom to all men by the "brutal force of numbers," and by the brutal force of numbers I trust we are to protect ourselves from unnecessary expense. It is agreed that these officers are not needed now, yet this bill provides that they shall remain in their places useless so long as they and each of them shall live, because it is invidious to make any discrimination among them.

Now, the amendment of my friend from Wisconsin, which I am bound to renew, but which I hope will be voted down, puts that over till next March for the action of the President who shall be chosen. That is speculating on the chances of the election. Now, I propose that these men shall be mustered out after six months and that the General of the Army shall select those who, in his judgment, are the best officers. Every general in the Army has had to do this very thing during the war. We had to consolidate regiments, and there were sent down orders mustering out the supernumerary officers. It is invidious, I agree, but it is necessary to get rid of these officers in some way, and I know no better way than this to do it.

[Here the hammer fell.]

Mr. PAINE. I renew the amendment.

The SPEAKER. The Chair will state that it requires the consent of the House to withdraw an amendment. If there is no objection the amendment will be considered as withdrawn, and the gentleman from Wisconsin [Mr. PAINE] will now renew it.

Mr. PAINE. I quite agree with my friend from Massachusetts as to the main principles involved in his amendment; that is to say, that there should be a reduction in the Army, carrying along with it a reduction of the number of brigadier generals. But I differ with him on three points, for my amendment contains three points which distinguish it from his.

In the first place I intrust to the President of the United States the power and impose upon him the duty of selecting the four brigadier generals who shall be mustered out of the service; whereas he intrusts that power to and imposes that duty upon the General of the Army.

In the next place, by my amendment, I extend the period of time for which these officers shall hold their commissions three months beyond the time allowed by his amendment.

In the third place I require the President of the United States to select as those who shall be retained, the best officers of this grade.

Now, to begin with the last distinction. I am surprised that the chairman of the committee should make this a ground of objection to my amendment. Why does he desire that the President should be authorized and required arbitrarily to select these brigadier generals and continue them in the Army without reference to their qualifications or merits? Is he unwilling that this question of qualification and merit shall be examined? Does he say that it touches the honor of these officers that they should be mustered out on an adverse decision as to their qualifications? Will he have them retained simply because they are senior in rank? Why, sir, I am amazed at the principle involved in that objection to my amendment. It strikes at the root of the efficiency of the Army. I can conceive of no more salutary provision on this subject than one which requires the President to select the best men among these generals and continue them in office.

Sir, I believe that it would appear invidious; that it would have a partisan aspect if we should intrust this matter to the General of the Army. It would impose upon him a duty which we ought not to require him to perform. If, on the other hand, we impose the duty upon the President of the United States, to be performed after the next presidential election, then if one candidate shall be elected it will become his duty, and if the other candidate shall

be elected it will become his duty, and no gentleman upon this floor can characterize this amendment as partisan in spirit. And let me say further, that while I desire this reduction of the Army and believe that it should be made as promptly as it can be made, I am satisfied that this difference between my amendment and the amendment of the gentleman from Massachusetts, which postpones the muster-out for three months, is not a fault, but is rather a merit in my amendment. I hope, therefore, the House will accept it, not as a compromise between the committee and the gentleman from Massachusetts, but as a measure which on the whole will come nearer to meeting the views of all Representatives of both parties on this floor, and will at the same time secure to the greatest degree practicable one object which the committee themselves have in view, by avoiding undue rigor of treatment toward the officers mustered out.

Mr. GARFIELD. By agreement last night it was arranged that a vote should be taken to-day on the amendment of the gentleman from Massachusetts [Mr. BUTLER] to the fourth section, to reduce the number of major generals from that provided in the bill. I suggest that we go back and take that vote now; because our determination on that will probably influence the vote of the House on this question.

Mr. PAINE. I must object. We can go back and reconsider if it shall become necessary.

The SPEAKER. The Chair would state to the gentleman from Ohio that as the House is considering the bill in Committee of the Whole a motion to reconsider is not now in order. When the bill is finished it will then be in the same condition as if reported from the Committee of the Whole, and then the motion to reconsider will be in order. A motion to reconsider is not in order while the bill is being perfected in Committee of the Whole.

Mr. PAINE. I withdraw my objection to the suggestion of the gentleman from Ohio that a vote shall be taken first on the amendment to the fourth section.

The SPEAKER. Then if there be unanimous consent the vote of last night agreeing to the amendment to the fourth section will be reconsidered. Is there objection? The Chair hears none, and the question recurs on the amendment of the gentleman from Massachusetts [Mr. BUTLER] to the fourth section, to strike out all after the enacting words and insert what the Clerk will read.

The Clerk read as follows:

There shall hereafter be but three major generals; and the officers who shall retain their commissions as such shall be designated by the General of the Army without regard to seniority, and all others shall be mustered out of service on the 1st day of January next.

Mr. PAINE. I desire to offer an amendment to the amendment, which I send to the Clerk's desk.

Mr. GARFIELD. I make the point of order that an amendment to the amendment is not now in order. Last night it was agreed that the amendment of the gentleman from Massachusetts [Mr. BUTLER] should be voted on to-day, but I do not understand that it is amendable.

Mr. PAINE. The gentleman seems to have forgotten what he asked the House to assent to. The amendment of the gentleman from Massachusetts was adopted last night.

Mr. GARFIELD. With the understanding that the vote should be taken this morning because there was not a quorum. I desire to know if it is in order for the gentleman from Wisconsin now to offer to amend the amendment which was to be submitted to a vote of the House this morning.

Mr. PAINE. I make no such proposition, except as I supposed in accordance with the suggestion of the gentleman. I understood the gentleman to desire an amendment of this kind to be offered to the fourth section at this time, because it comes before the fifth section. If the gentleman objects to the amendment I have offered I will withdraw it.



Mr. GARFIELD. I understood the gentleman to move to amend the pending amendment to the major general section. It is upon that amendment to the amendment that I make my point of order.

The SPEAKER. The Chair will state the condition of this question. Last night, the House being thin, the gentleman from Ohio [Mr. GARFIELD] asked consent that the vote be taken upon the amendment of the gentleman from Massachusetts [Mr. BUTLER] to the fourth section when the House was full. The Chair responded to that suggestion that a motion to reconsider could be made, bringing the whole subject again before the House. The matter passed over on that statement.

Mr. PAINE. Then I insist upon my amendment to the amendment.

The SPEAKER. The Chair has not concluded his statement.

Mr. PAINE. I beg pardon; I did not intend to interrupt the Chair.

The SPEAKER. This morning, by unanimous consent, the vote by which the amendment to the fourth section was adopted was reconsidered. The fourth section, therefore, is again before the House, and like every other section is open to amendment. And the gentleman from Wisconsin [Mr. PAINE] proposes to amend the substitute offered by the gentleman from Massachusetts, [Mr. BUTLER], by striking it all out and inserting what will be read by the Clerk.

The Clerk read as follows:

That after the 31st day of March, 1869, there shall be only three major generals, and the President shall, within ten days preceding said date, designate without regard to seniority the best three major generals to remain in commission; and the others shall be mustered out of the service of the United States on said date, or within ten days thereafter.

Mr. GARFIELD. I move that debate on this section be now closed.

The motion to close debate was agreed to.

The question was then taken upon the amendment of Mr. PAINE to the amendment of Mr. BUTLER, of Massachusetts; and it was agreed to.

The question was upon the amendment, as amended.

Mr. WASHBURNE, of Illinois, and Mr. BUTLER, of Massachusetts, called for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 79, nays 43, not voting 76; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Axtell, Baker, Banks, Bently, Benton, Bolos, Brooks, Benjamin F. Butler, Sidney Clark, Coburn, Cook, Callom, Deweese, Donnelly, Ela, Eldridge, Ferriss, Fields, French, Getz, Glessdrenor, Golladay, Grover, Hamilton, Hoykins, Hulburd, Hunter, Johnson, Alexander H. Jones, Judd, Julian, Kelsey, Kitchen, Knott, Koonitz, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Marshall, McCarthy, McClurg, McKee, Miller, Moore, Morrell, Mullins, Mungen, Niblack, Paine, Perham, Peters, Price, Rick, Ross, Sawyer, Scofield, Shanks, Smith, Stokes, Taber, Taffe, Thomas, Lawrence S. Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Van Trump, Ward, Henry D. Washburn, Welker, William Williams, John T. Wilson, and Windom—79.

NAYS—Messrs. Anderson, Archer, Delos R. Ashley, Baldwin, Blair, Boutwell, Boyer, Brownell, Cary, Churchill, Cobb, Dawes, Dixon, Driggs, Eliot, Garfield, Griswold, Hawkins, Higby, Hooper, Chester D. Hubbard, Mallory, Marvin, Maynard, O'Neill, Phelps, Pile, Plants, Poland, Pomeroy, Raum, Robinson, Schenck, Sitgreaves, Spalding, Starkweather, Stewart, Stone, Twichell, Elihu B. Washburn, William B. Washburn, Thomas Williams, and James F. Wilson—43.

NOT VOTING—Messrs. Adams, James M. Ashley, Bailey, Barnes, Barnum, Beaman, Beek, Benjamin, Bingham, Blaine, Broomall, Buckland, Burr, Roderick B. Butler, Cake, Chanler, Reader W. Clarke, Cornell, Covode, Delano, Dodge, Eekley, Eggleston, Farnsworth, Ferry, Finney, Fox, Gravelly, Haight, Halsey, Harding, Hill, Hinds, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Jencks, Thomas L. Jones, Kelley, Kerr, Ketcham, Ladin, Lincoln, Lynch, McCormick, McCulloch, Mercut, Moorehead, Morrissey, Myers, Newcomb, Nicholson, Nunn, Orth, Pike, Polsley, Pruyn, Randall, Robinson, Selye, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Taylor, John Trimble, Van Auken, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Stephen F. Wilson, Wood, Woodbridge, and Woodward—55.

So the amendment to the amendment was agreed to.

The question recurred upon the amendment

of Mr. PAINE to the amendment of Mr. BUTLER, of Massachusetts, to the fifth section.

Mr. GARFIELD. This is the same amendment in principle as the one just adopted to the fourth section relating to brigadier generals instead of to major generals. I will therefore not oppose this amendment.

The amendment to the amendment was then agreed to; and the amendment, as amended, was then agreed to.

The next section was then read, as follows:

SEC. 6. *And be it further enacted*, That any vacancies which may hereafter occur in the office of Adjutant General, Quartermaster General, Commissary General of Subsistence, chief of ordnance, chief of engineers, Paymaster General, Surgeon General, or Bureau of Military Justice, shall be filled by the appointment or assignment of an officer who shall have the rank, pay, and allowances of a colonel of cavalry. And all laws and parts of laws authorizing the appointment of any officer of a higher grade than colonel in any of said offices shall cease and determine on the occurrence of a vacancy in each respectively.

Mr. BUTLER, of Massachusetts. I move to amend by striking out after the word "that" where it first occurs the words "any vacancies which may hereafter occur in;" and by adding at the end of the section the following:

*Provided*, That in the offices above named the present incumbents may continue therein at the last-mentioned rank and pay; and the whole number of officers serving in the above-named staff departments shall be reduced one half, the officers retained to be designated by the General of the Army.

So that the section will read, as follows:

That the office of Adjutant General, Quartermaster General, Commissary General of Subsistence, chief of ordnance, chief of engineers, Paymaster General, Surgeon General, or Bureau of Military Justice, shall be filled by the appointment or assignment of an officer who shall have the rank, pay, and allowances of a colonel of cavalry; and all laws and parts of laws authorizing the appointment of any officer of a higher grade than colonel in any of said offices shall cease and determine on the occurrence of a vacancy in each, respectively: *Provided*, That in the offices above named the present incumbents may continue therein at the last-mentioned rank and pay; and the whole number of officers serving in the above-named staff departments shall be reduced one half, the officers retained to be designated by the General of the Army.

Mr. GARFIELD. I ask the gentleman to withdraw for the present the last clause of his amendment, reading as follows:

And the whole number of officers serving in the above-named staff departments shall be reduced one half; the officers retained to be designated by the General of the Army.

The committee propose to offer hereafter a new section regulating in detail this whole subject of the staff corps. If the gentleman will waive for the present that part of his amendment we can, if it should be necessary, return to this section.

Mr. BUTLER, of Massachusetts. Very well; I will withdraw for the present the last clause of my amendment.

Mr. Speaker, the amendment I have offered is designed to bring down, if we can, all these brigadier generals to the rank of colonels, so far as their pay and allowances are concerned. Before the war there never was any brigadier general in the office of Adjutant General, Quartermaster General, Commissary General, chief of ordnance, chief of engineers, Paymaster General, Surgeon General, or in the Bureau of Military Justice. In the present establishment these officers are all brigadier generals. This amendment is designed to bring them down to the rank and pay of colonels. If the amendment should be adopted another amendment will be necessary to bring down the colonels in the same manner; and such an amendment has already been prepared by the gentleman from Wisconsin, [Mr. PAINE.] But it is first necessary to bring down these eight brigadier generals to the rank and pay of colonels.

Mr. GARFIELD. The amendment offered by the gentleman from Massachusetts [Mr. BUTLER] is somewhat different in principle from any other of the propositions which he has offered. It provides in effect that these eight officers, now holding the grade of brigadier general, according to law, may all continue in office, provided they shall hereafter be only colonels. In other words, it proposes to downgrade—I use the word of course, in its etymo-

logical sense—all these officers from the rank they now hold.

Mr. BUTLER, of Massachusetts. Ungrade. Mr. GARFIELD. It proposes to reduce by one grade all these eight officers now holding the rank of brigadier general. The gentleman made a mistake in saying that prior to the war none of these officers were of the grade of brigadier general. The Quartermaster General was, in 1860, a brigadier general, as will be seen by the Army Register for that year. The statement is correct as to the others. I believe that since the Mexican war the Quartermaster General has held the rank of brigadier general; but during the late war, from time to time, the laws authorized the increase of rank; so that these eight departments are now, in accordance with law, filled by officers holding the rank of brigadier general.

The Committee on Military Affairs thought that in this regard we ought to go back to the practice which prevailed before the war, and provide that hereafter no vacancy in any of those eight offices shall be filled by the appointment or assignment of any officer higher than a colonel. We placed the proposition in that form so as not to degrade or dismiss any officer now in service, because the persons who now hold those positions received them for meritorious service. The principle which the committee designed to introduce into the bill was that no officer should be mustered out of the service or degraded. The House, it is true, has indicated its preference for a different principle in regard to the single question of mustering out those officers. But the principle which the gentleman asks us to adopt is that these officers shall remain in service, but shall be put down one grade from that which they now hold. That is a new principle, one never before adopted in American legislation, and I shall be sorry if it is adopted now. Although the House has followed the gentleman from Massachusetts in his proposition in regard to major generals and brigadier generals, greatly to my regret, I trust the House will not follow him in this. This proposition is inconsistent with the previous sections already settled in the bill. Why did not the gentleman propose to reduce the rank of the major generals to that of brigadier general and of brigadier to that of colonel? The proposition would have been too bold when applied to such men as stand on the list of our generals.

Mr. PAINE. I am opposed to the amendment of the gentleman from Massachusetts, and I am inclined to think if he will wait until the amendments proposed by the committee have been read to the House, so he could understand them, he would not himself insist upon his amendment. I will state to the House what the effect of these amendments is. In the first place section six provides in these several staff bureaus for the reduction of the grade or rank when vacancies occur in the office. With the consent of the chairman of the committee I have prepared an amendment which provides when vacancies occur in any of the staff departments the officers appointed or designated to fill such vacancies shall have the rank and pay of the cavalry grade next below that fixed by the act of 1866; the committee propose to muster out a small number of these staff officers.

Mr. GARFIELD. If the gentleman will permit me to correct him, it does not muster out absolutely.

Mr. PAINE. I am mistaken about that.

Mr. BUTLER, of Massachusetts. I move to strike out the last word. Mr. Speaker, if possible, let me state the exact difference between myself and my friend from Wisconsin and the gentleman from Ohio. It is this, I propose to "ungrade" not degrade certain officers. I propose this ungrading, so far as rank and pay goes, shall take place now. The committee and my friend propose it shall not take place until these men resign, and as a rule they will not resign until they die. That is the difference between us.

Mr. PAINE. Ask the gentleman from

Massachusetts why it is he selects the heads of these bureaus and reduces them and yet leaves the subordinates in their present grade so we shall have in the quartermaster's department six colonels under his arrangement. He reduces the head of the department now a brigadier general, but he does not reduce those under him.

Mr. BUTLER, of Massachusetts. My amendment indeed does, and I will answer the question. I have not yet got so far as the next in rank. I am dealing with the head now, and I propose to reduce the tail in the same ratio. I am coming to that as soon as I get the head right. I must deal with the thing I have before me. I want to drop the heads of these Departments down to the rank I have indicated. Then I propose the subordinates down to captains shall drop a peg lower to correspond. The committee will not muster out anybody. They will not take anybody's commission. This bill keeps all these useless officers. This bill, as reported, gives of staff officers one to every thirty-eight men. There are six hundred and fifty-one staff officers to deal with twenty-five thousand men. They will not let one of them go. There are more than twice as many as for the like number of men before the war. There are seventeen general officers, twenty adjutant generals, nine inspector generals, seventy-six quartermasters, sixty-four paymasters, one to five hundred men; twenty-nine subsistence men, one hundred and twenty-four medical officers—one medical officer to every two hundred men—sixty-four ordinance men, and one hundred and seven engineers, making a total of six hundred and fifty-one officers to twenty-eight thousand men. That is what makes the expense of the Army. The committee have not proposed in their bill to drop one of these men until he dies. They hold on to him till that moment, and apparently would do so afterward if they could, but then he slips out of their hands. They take care of him as long as he lives, whether he is useful to the service or not. Now, my proposition is that these chiefs of bureaus shall come down to the pay of colonels, and their subordinates to the pay of lieutenant colonels, majors, and captains.

[Here he hammered fell.]

Mr. GARFIELD. I propose to close debate on this section.

Mr. LOGAN. Allow me to be heard.

Mr. GARFIELD. I will yield the gentleman five minutes.

Mr. LOGAN. The gentleman from Massachusetts [Mr. BUTLER] withdraws his amendment, and I renew it. When I say I am in favor of reducing the Army I mean reducing the Army. The idea of presenting to this House and the country a mere pretense is not the way and manner in which we should deal with the people. Now, I mean no offense to the chairman of the committee when I say this, but I do say that this bill does not reduce the Army, though it pretends to do so.

I had a conversation with the Secretary of War this morning, in which this subject was incidentally referred to. Now, what is the proposition? It is to retire one seventh of the officers of the Army on half pay, and it is then proposed that they may be assigned to special duty. The Secretary of War would easily find special duty for them, and then you would have no actual reduction either in numbers of officers or in expense.

Now, sir, the way to reduce the Army is this: the people of the country do not understand that an officer of the Army has an inalienable right to hold on to his commission as long as life lasts—with more tenacity, apparently, sometimes than ordinary men adhere to it. The people do not understand that we are to support an aristocracy without daring to say to these officers "When your services are no longer needed they shall be dispensed with." I know there are old men in the service, men who have families, and who are capable in every respect of taking charge of some of these departments and perform the duties. These men I do not want to have

shoved out in the cold. But there are other men in the Army with ranks that they have no right to retain, not because they have not won it, not because we desire to degrade them, but because the country has no use for their rank or service.

Now, how do you reduce an army? What do you call an army? Does it consist of mere soldiers? Certainly not. You may discharge every soldier in the Army to-day, and yet you have an Army; but it would be an Army of officers. If you mean to reduce the Army discharge your officers as well as soldiers. The idea that because men have been educated at the Government expense or otherwise, and happen to be retained in the Army to-day, they shall not be retired or removed as soon as we have no further use for them is preposterous. The argument of the gentleman from Ohio [Mr. GARFIELD] last night astounded me. He said these men were placed there, and it would be an outrage to remove them.

Why, sir, the gentleman is placed here in Congress by the vote of his constituents. Would he consider it an outrage to be left at home by them? I think, myself, it would be doing themselves a great injury, but they have a right to do it nevertheless, as have the constituents of each one of us here. Now, these officers have no more right to be retained for life because they have commissions given to them by the President than any other officer of the Government. Such a doctrine is the essence of aristocracy. You are maintaining an aristocracy in the organization of the Army, and the people are to become menials. Every officer in this country, whether civil or military, should be the servant of the people, and should be willing to yield obedience to their will, and when the people say they have no further use for their service they should acquiesce and decline to impose their services upon the people.

Sir, I am in favor of reducing the Army. How? By reducing the generals, the colonels, and other officers in the same ratio that you reduce the men in the Army. When you do that you will have just as many men as you have officers to command them, and just as many officers as you have necessity for in order to command your Army, and no more.

[Here the hammer fell.]

Mr. GARFIELD. I oppose the amendment, and will close the debate in a few words. The gentleman, I am sure, does not desire to misrepresent what the bill proposes, and I was sorry to hear him say that the bill made only a pretense of reducing the Army when it did not really reduce it. There are now in the Army of the United States twenty-eight hundred and fifty-eight commissioned officers. This bill proposes to place seven hundred and eighty-five—more than one quarter of all those officers—on a list to be relieved from duty and placed on half pay.

Mr. LOGAN. That is exactly what I said.

Mr. GARFIELD. That is equivalent to ceasing to pay three hundred and ninety-two officers of the United States Army a dollar from this time forward. Now, if anybody will say that that is no reduction at all, I cannot understand his reasoning or his arithmetic.

There are now forty-five thousand enlisted men in the Army, and it is proposed that that number shall be reduced to twenty-five thousand. There are now forty-five regiments of infantry. It is proposed to reduce the number to thirty. There are ten cavalry regiments. It is proposed to reduce the number to seven. There are five regiments of artillery. It is proposed to reduce the number to four. The statement I have now made is a simple statement of the facts of the bill, and I am unwilling that it shall go to the country that the committee have brought in a bill which pretends to reduce but does not really reduce the Army and its expenditures. If the bill passes as reported by the committee it will reduce the annual expenses of the Army not far from fifteen million dollars per annum.

Mr. LOGAN. I would like to ask the gentle-

man a question. When I used the word "pretense" I did not mean to say that the committee was designedly trying to impose on the country, but only that that was the effect of the bill upon its face. Now, I will ask the gentleman this question: Is it not a fact that during the late war when an order from the Secretary of War was issued for the consolidation of regiments, you were required when you consolidated regiments to muster out the surplus officers and non-commissioned officers? Is not that the fact?

Mr. GARFIELD. I have no doubt of that fact.

Mr. LOGAN. I know I did it frequently. Then I would ask the gentleman, if, in the consolidation of regiments in front of the enemy, officers in commission were required to be mustered out, where is the hardship now in time of peace of mustering out officers in commission when we consolidate regiments and have a surplus of officers? That was the rule in the Army during the war, and I have mustered out many a one.

Mr. GARFIELD. I have several times in the course of this debate stated the distinction between a military peace establishment and an army in time of war. That distinction has always prevailed in the military service of the United States, and it seems to me not unreasonable that it should prevail now.

Mr. WASHBURN, of Indiana. I would ask the gentleman how many officers are mustered out by this bill?

Mr. GARFIELD. I have several times said that this bill does not propose absolutely to muster out any officers. The gentleman understands that very well. But I say that it reduces the aggregate pay of officers the same as if we mustered out three hundred and ninety-two officers absolutely.

Mr. PILE. In addition to the number of officers placed on the relieved list under this bill there will be a further reduction from the fact that no vacancies can be filled except by transfers from the relieved list to the active list. In the opinion of the Secretary of War a careful examination of the line of officers of the Army would result in the dismissal of a large number—probably one fourth of the whole number—that in fact many dismissals have recently been made for incompetence, drunkenness, or other immoralities. The point I make is that we can reduce the number of officers to the required amount by weeding out by court-martial and a board of examination incompetent and worthless men, thus mustering out for cause a number equal to the number of supernumeraries, thereby saving the Army good officers and getting rid of worthless ones, all this can be accomplished in six months.

Mr. GARFIELD. I move now to close debate on this amendment.

The motion was agreed to.

The question was on the amendment offered by Mr. BUTLER, of Massachusetts, to strike out in lines one and two the words "any vacancies which may hereafter occur in;" in line ten to strike out the words "on the occurrence of a vacancy in each respectively," and to add to the section the following:

*Provided, That in the offices abovenamed the present incumbents may continue therein at the last mentioned rank and pay.*

So that the section will read:

SEC. 63. *And be it further enacted, That the office of Adjutant General, Quartermaster General, Commissary General of Subsistence, chief of ordnance, chief of engineers, Paymaster General, Surgeon General, or Bureau of Military Justice, shall be filled by the appointment or assignment of an officer who shall have the rank, pay and allowances of a colonel of cavalry. And all laws and parts of laws authorizing the appointment of any officer of a higher grade than colonel in any of said offices shall cease and determine: Provided, That in the office abovenamed the present incumbents may continue therein at the last-mentioned rank and pay.*

Mr. GARFIELD. The question is on degrading these officers.

Mr. BUTLER, of Massachusetts. No; that is not a fair statement of the question. The

question is whether we shall pay brigadier generals when we only want colonels.

The question was put on the amendment; and there were—ayes 37, noes 20; no quorum voting.

Mr. BUTLER, of Massachusetts, and Mr. LOGAN called for the yeas and nays.

The yeas and nays were ordered.

The question was again taken; and it was decided in the affirmative—yeas 84, nays 25, not voting 89; as follows:

YEAS—Messrs. Arnell, Axtell, Bailey, Baker, Baldwin, Banks, Beatty, Benton, Boies, Boyer, Brooks, Benjamin F. Butler, Roderick R. Butler, Cary, Coburn, Covode, Cullom, Deweese, Eckley, Eldridge, Ferriss, Fields, Getz, Glossbrenner, Golladay, Grover, Hamilton, Hawkins, Hinds, Hopkins, Hulburd, Hunter, Johnson, Alexander H. Jones, Judd, Julian, Kelsey, Knott, Koontz, George V. Lawrence, William Lawrence, Loan, Logan, Lourbridge, Mallory, Marshall, McCarthy, McClurg, McKee, Miller, Moore, Morrell, Mullins, Mungen, Niblack, Orth, Perham, Peters, Phelps, Piko, Plants, Pomeroy, Price, Robertson, Ross, Sawyer, Seefield, Shanks, Smith, Stokes, Taber, Taffe, Thomas, Lawrence S. Trimble, Upson, Van Aernam, Burt Van Horn, Van Trump, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and John T. Wilson—84.

NAYS—Messrs. Anderson, James M. Ashley, Bromwell, Churchill, Cobb, Dixon, Farnsworth, Griswold, Higby, Hooper, Chester D. Hubbard, Marvin, Myers, O'Neill, Paine, Pile, Poland, Raum, Schenck, Sitgreaves, Spalding, Stone, Trowbridge, Twissell, and James F. Wilson—25.

NOT VOTING—Messrs. Adams, Allison, Ames, Archer, Delos R. Ashley, Barnes, Barnum, Benham, Beck, Benjamin, Bingham, Blaine, Blair, Boutwell, Broome, Buckland, Burr, Caine, Chanler, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Dawes, Delano, Dodge, Donnelly, Driggs, Eggleston, Eli, Eliot, Ferry, Finney, Fox, French, Garfield, Gravelly, Haight, Halsey, Harding, Hill, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Jencks, Thomas L. Jones, Kelley, Kerr, Ketcham, Kitchen, Luffin, Lincoln, Lynch, Maynard, McCormick, McCullough, Mercut, Moorhead, Morrissey, Newcomb, Nicholson, Nunn, Polasey, Pruyn, Randall, Robinson, Root, Selye, Shalinger, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Taylor, John Trimble, Van Aken, Robert T. Van Horn, Van Wyck, Welker, Thomas Williams, William Williams, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—89.

So the amendment was agreed to.

Mr. BUTLER, of Massachusetts. I move to further amend the section by adding to it the following:

That hereafter every officer in either of the staff departments above named, except as herein provided for the chief thereof, shall be reduced one step in grade down to the grade of captain, and shall receive pay and allowances accordingly.

The chief of staff departments having been reduced to the rank of colonel, this amendment is to bring down one grade all the subordinate officers, until we get down to the grade of captain, so as to reduce men heretofore colonels to lieutenant colonels, men heretofore lieutenant colonels to majors, and men heretofore majors to captains. I now yield to the gentleman from Wisconsin, [Mr. PAINE.]

Mr. PAINE. I have already stated my opposition to the principle involved in this amendment. But if some such amendment is to be adopted, as I think will be the case, judging from the expression of opinion already made by the House, I propose to offer an amendment to the amendment which I think will put the matter in a better form; and I hope the gentleman from Massachusetts [Mr. BUTLER] will accept it in lieu of the one he has offered, I propose to amend the amendment so that it will read as follows:

That from and after the passage of this act all officers of the staff departments of the Army shall have the rank, pay, and emoluments of the cavalry grade next below that fixed for the office by the act entitled "An act to increase and fix the military peace establishment of the United States," approved July 28, 1866.

Mr. BUTLER, of Massachusetts. I will accept the amendment of the gentleman from Wisconsin [Mr. PAINE] in lieu of my amendment, because it reduces captains to lieutenants, going further than my amendment goes. The bill proposes to leave in the quartermaster's department six colonels, eleven lieutenant colonels, fifteen majors, and forty-four captains. Now, I propose that those six colonels shall come down to be lieutenant colonels; that the ten lieutenant colonels shall come down to be majors; that the fifteen majors

shall come down to be captains, and that the forty-four captains shall come down to be lieutenants. I do not intend by any means to retain all this swarm. I propose to offer an amendment to the eleventh section, reducing this force one half, which will be quite as much as we had before the war.

Mr. GARFIELD. I desire the gentleman from Massachusetts to explain how his proposition will operate in circumstances which I will state. He proposes to reduce a brigadier general to the rank of colonel; a colonel to the rank of lieutenant colonel; a lieutenant colonel to the rank of major; a major to the rank of captain, &c. Suppose a major, for instance, has just been put down from the rank of lieutenant colonel, will he be the highest major or the lowest major? To what extent would previous service count in such a case? I do not understand how the matter of relative rank would be regulated, this being an entirely new question in military administration. If the gentleman will explain how a lieutenant colonel major and a major major—if I may use that phraseology—would rank relatively to each other, it may obviate some little difficulty which I now see in his plan.

Mr. BUTLER, of Massachusetts. Far be it from me, Mr. Speaker, to undertake to instruct in military law the learned chairman of the Committee on Military Affairs; but in order to remove an argument which is made to the prejudice and not to the fact, I desire to say that the military law settles this whole matter. The higher officer will have been longer in the service and will take rank in accordance with his service.

Mr. GARFIELD. Not necessarily.

Mr. BUTLER, of Massachusetts. If there is any difficulty in that respect I hope the learned chairman of the Committee on Military Affairs, when he finds out what is the will of the House on this subject, will endeavor to relieve any little difficulty of that sort. There will be ample opportunity for examination and amendment; and if there is any difficulty of that sort (which I do not see) it can be obviated.

The amendment was agreed to.

Mr. GARFIELD. I send to the Clerk an amendment which I offer on behalf of the committee, as a new section, to come in after section six. I had intended to offer it as section eleven; but in view of the action already taken by the House it will come in more properly here.

The Clerk read as follows:

Insert the following as a new section:  
And be it further enacted, That, in addition to the prospective reduction in the staff of the Army provided for in section six of the act, the following reduction shall be made in the number of officers in the staff now authorized by law.

The number of assistant quartermasters general with the rank of colonel shall be reduced to five. The number of deputy quartermasters general with the rank of lieutenant colonel shall be reduced to eight. The number of quartermasters with the rank of major shall be reduced to twelve. The number of assistant quartermasters with the rank of captain shall be reduced to thirty. The number of commissaries of subsistence with the rank of major shall be reduced to six. The number of commissaries of subsistence with the rank of captain shall be reduced to twelve. The number of assistant paymasters general shall be reduced to one. The number of paymasters shall be reduced to forty. The number of surgeons with the rank of major shall be reduced to forty. The number of assistant surgeons with the rank of captain shall be seventy-five. That in the ordinance department the number of colonels shall be reduced to two, of lieutenant colonels to three, of majors to seven, of captains to eighteen, of first lieutenants to fourteen, of second lieutenants to eight. And immediately upon the passage of this act the Secretary of War shall prepare lists of all the officers now in active service in each of the staff corps in excess of the number in each grade authorized by the provisions of this section, said lists to be made in accordance with the provisions of the eighth and ninth sections of this act; and all officers so placed on said lists shall be in like manner relieved on half pay.

Mr. GARFIELD. I propose that we consider this amendment by paragraphs.

The SPEAKER. If there be no objection that course will be pursued.

There was no objection.

The Clerk read the paragraph in regard to the quartermaster's department.

Mr. GARFIELD. The amendment I have

offered proposes to reduce to the number indicated the various grades in the staff corps. In the closing paragraph the mode of reduction is provided, which is to be the same as that provided in section eight of the bill. If, when we come to that section, the House should see fit to change that mode of reduction, the new method would, of course, apply to this section, also. So the question of the mode of reduction need not be discussed now. It can all be covered in the discussion of the eighth section.

In recommending a reduction of the staff of the Army, the committee took into consideration how many officers there were in each corps before the war, when we had an Army of ten or twelve thousand men; then the number we now have with an Army of forty-five thousand men. From those two elements we have tried to determine what is the smallest number consistent with the necessities of an Army reduced as proposed in this bill. In regard to the quartermaster's department, I will state for the information of the House that there are now in service seventy-seven officers in that department. Before the war there were thirty-seven. The committee propose to reduce the aggregate number to fifty-five, that being about half way between the old Army before the war and the Army as it now stands. The present organization of the department has six colonels. We propose to reduce the number to five. There are ten lieutenant colonels. We propose to reduce the number to eight. There are fifteen majors. We propose to reduce the number to twelve. There are forty-five captains, and we propose to fix the number at thirty. Then the quartermaster's department will be about half way between what it was before the war and what it is now, and as the Army will be nearly three times as large according to the provisions of this bill, we thought it only reasonable.

I will say to the House one thing further, and I feel it due to the committee that the statement should be made. The Secretary of War having recommended an increase of several of the staff corps, we have in our consideration of this question not reduced some of them as much as we reduce some others. The Committee on Military Affairs received a letter a few days ago asking that the present law requiring the gradual reduction of the quartermaster's department shall be repealed. It is asked that the officers in that department shall not be reduced; yet, sir, notwithstanding that recommendation, the committee propose the reduction here of one colonel, two lieutenant colonels, three majors, and fifteen captains. I trust the House will consent to no further reduction. It is very easy to denounce the Army and to commend retrenchment, and to be able to recommend a measure which will lighten the burdens of taxation is always a pleasant task for a Representative. I trust we shall not let that desire lead us to injure the noble Army which has been in great part created out of the precious materials of the great volunteer Army which saved the nation.

Mr. BUTLER, of Massachusetts. I move to amend so that the whole number of officers serving in the above-named staff department shall be reduced one half, and the other officers to be retained shall be designated by the General of the Army. I will not now discuss this question of how to reduce—that will come up in another section. We have, or shall have, in our Army now about twenty-eight thousand men. We have of cavalry, as estimated by the Secretary of War, five thousand four hundred and fifty-five men; of artillery, three thousand four hundred and eighty-one men, and twenty thousand six hundred and thirty-one infantry. That is the way it will stand on the 1st of January.

Mr. GARFIELD. That is what it will be under the present law.

Mr. BUTLER, of Massachusetts. I understand that well enough. I know what I am saying.

My friend from Missouri [Mr. PILE] says officers are being so reduced by drunkenness and misconduct that if we do not pass any bill they



will reduce themselves. I want to hurry that reduction.

Mr. PILE rose.

Mr. BUTLER, of Massachusetts. The gentleman has been heard, and I cannot yield to him. I have not the time.

Mr. PILE. I hope, then, the gentleman will not misrepresent me.

Mr. BUTLER, of Massachusetts. The gentleman's remarks will be in the Globe and so will mine. He stated expressly that if the drunkenness and misconduct of the Army continued it would be reduced. Now, I find while the committee propose to reduce largely on captains they propose to reduce only one colonel. They propose to reduce largely on captains but only two or three majors. What I want is a clean thing. If six colonels are necessary for forty majors, then it does not require more than three colonels for twenty-two majors. If twenty-two majors are necessary for seventy-six captains, it does not require but one half as many majors for half the number of captains. The difficulty is, there is an attempt on the part of the committee to save these higher officers. Now, I am for reducing them by cutting them down fairly and squarely, doing justice like fate. If it is right to reduce at all it is right to reduce all alike. Even-handed justice is what I demand. Therefore I propose an amendment to cut down squarely one half right through. The committee reduce the lowest grades almost one third, and the upper grades of generals, colonels, and lieutenant colonels, who attend balls and parties here in the winter, or have social and political influence in Washington, who stick like leeches, because of their influence are reduced very little. As many as are wanted for the good of the service let us keep. I propose that Congress shall be just in its measures, and cut off all alike squarely. Make the deduction one third or one half; settle the question as to what shall be the deduction, but when you have done so strike as the justice of God strikes, directly, and not yield this way or that to save personal, political, or social favorites.

[Here the hammer fell.]

Mr. PILE. I rise to oppose the amendment simply for the purpose of saying that what I intended to say and what I think I did say with reference to the process of reduction was this: that it was the opinion of the Secretary of War and my opinion, from information received at the War Office, that a careful and rigid examination would reduce for cause the subordinate officers of the Army now in service one fourth; that at the rate dismissals had been occurring recently, some of them for crime, others for drunkenness, and others for absence without leave, or other acts of misconduct, the reduction in the course of eight or ten months would approximate one fourth. Now, the number of officers rendered supernumerary by the provisions of this bill is a little more than one fourth, so that by the time the major generals, for whose dismissal or muster out the bill as amended by the House provides, shall have been relieved, if we shall amend section eight so as to appoint a board of officers to examine the qualification of officers and their fitness for retention, at the rate of reduction now going on by the causes alluded to we shall have a reduction of one fourth. Now, I think this would much better conserve the real interest of the country by promoting the efficiency of the Army than any wholesale muster out of supernumerary officers, whether beginning at the top of the list as to rank or at the bottom.

Mr. AXTELL. I wish to ask the gentleman a question. When an officer is mustered out for drunkenness or incompetency, does his place become vacant, and is it to be filled by somebody else?

Mr. PILE. Under the law, as it now stands, it becomes vacant, but if the theory of this bill is adopted there will be no vacancies except such as occur in the reduced number of regiments; and all supernumerary officers will be placed on the relieved list and relieved from

duty; so that any vacancies occurring in the active list from the causes alluded to will be filled by a transfer from the relieved list of officers selected by the War Department for that purpose, and by that process the number of officers will be reduced until by the 31st of March next, at the rate now going on, by weeding out incompetent, inefficient, and improper officers, and the selection of others to take their places from the lists of relieved officers, we will get rid of the supernumeraries and have left the very best officers in the Army.

Mr. BUTLER, of Massachusetts. I desire to offer an amendment in lieu of the section.

Mr. GARFIELD. We proceed by paragraphs, and the amendment is therefore not in order now.

Mr. BUTLER, of Massachusetts. Then I ask to have it read for information.

Mr. GARFIELD. Very well.

The Clerk read the amendment, as follows:

That the whole number of officers serving in the above-named staff department shall be reduced one half, the officers retained to be designated by the General of the Army; and those not selected to be retained shall be mustered out on the 10th day of March next.

Mr. GARFIELD. I object to that as not being germane to the section.

The CHAIRMAN. The question is on the amendment first offered by the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER, of Massachusetts. I withdraw it till the section is gone through.

The question being taken on the paragraph offered by the committee, it was agreed to.

The Clerk read the following paragraphs of the section:

The number of commissaries of subsistence with the rank of major shall be reduced to six.

The number of commissaries of subsistence with the rank of captain shall be reduced to twelve.

The number of assistant paymasters general shall be reduced to one.

The number of paymasters shall be reduced to forty.

The number of surgeons with the rank of major shall be reduced to forty.

Mr. BUTLER, of Massachusetts. On this question of paymasters I want to call attention to the fact that the committee do not propose to have more than thirty regiments in the line of infantry, and I hope the House will never agree to more than twenty regiments of infantry, and more than five of cavalry and three of artillery. If those regiments are full they will give you an army of twenty-nine thousand six hundred men. The regiments reported by the committee call, when full, for forty-four thousand four hundred men. The committee only provide for twenty-five thousand men in this bill by another section, but they do not cut down the number of regiments to call for the proper number of men only. They propose to keep a large number of the regiments half full, the effect of which is to enable them to retain double the number of officers. It is the old sore spot which we have been probing, all the while holding on trying to save the officers. There are sixty-four paymasters now to pay those regiments, and they do not propose to cut them down to less than forty-five. Now, why cannot one paymaster do more than pay one thousand men when the rolls are all made out for him? I should like to know why, especially when each one of these paymasters has a clerk at a large salary, who generally knows more than the paymaster about the business. That has been my experience. The clerk and company officers do all the work. Now, why should this be allowed to go on. In a manufacturing establishment in Lowell, for \$1,500 a year we can find a man who can pay off fifteen hundred hands every month, and keep all their accounts without any clerk. He is clerk for all hands. I hear gentlemen say that the men he pays are all in one house. So they are, but they have to be paid every month. Their wages have to be carried to one cent and odd cents, and the whole record has to be kept for monthly payments. It is eight times as much work as it is to pay a regiment. I have seen a paymaster pay a regiment in an hour and a half. The sums

are generally all even, the men's names are signed on the pay-roll beforehand, and the men just walk in and take their money, and away they go almost as fast as they can march past the paymaster. And yet we are told here that we must not cut down substantially the number of paymasters.

Now, I am not going to discuss each one of these propositions, because at last I propose to offer my amendment, which is to cut down all the staff departments one half. I have here a list of general and staff officers in the register of 1867, and there are six hundred and fifty-one, which to an army of twenty-five thousand men is one staff officer to every thirty-eight men. There are sixty-four ordnance men, one hundred and seven engineers, one hundred and seventy-four surgeons, or one to every two hundred and odd men, and seventy-six quartermasters. They propose to reduce the number of these officers but one per cent. in the higher grades and twelve per cent. in the lower grades. I do not propose to attempt to perfect the section. Let gentlemen of the committee put their section in the shape in which they want it, and when they get through I shall move to cut down one third or one half, right straight through, serving all alike.

No amendments were offered, and the Clerk read the remaining paragraphs of the section, as follows:

The number of assistant surgeons, the rank of captain, shall be seventy-five:

That in the ordnance department the number of colonels shall be reduced to two; of lieutenant colonels to three; of majors to seven; of captains to eighteen; of first lieutenants to fourteen; and of second lieutenants to eight.

And immediately upon the passage of this act the Secretary of War shall prepare lists of all the officers now in active service in each of the staff corps, in excess of the number in each grade authorized by the provisions of this section. Said list to be made in accordance with the provisions of the eighth and ninth sections of this act; and all officers so placed on said lists shall be in like manner relieved on half pay.

Mr. BUTLER, of Massachusetts. I now offer the substitute for the section which I send to the Chair, and I ask a vote upon it.

The Clerk read as follows:

That the whole number of officers serving in the above-named staff departments shall be reduced one half, the officers retained to be designated by the General of the Army, and those not selected to be retained shall be mustered out on the 10th day of March next.

Mr. BUTLER, of Massachusetts. I desire to call the attention of the House to the difference between the modes of selection provided by the Committee on Military Affairs, and by the amendment. The chairman of the committee [Mr. GARFIELD] proposes to have the selection made in this way: to have a list of these staff officers made out, and then have the selection of those to be mustered out or retained made from the youngest in office. The cat under that meal is this: that the youngest officers being volunteer officers who have lately been appointed since the war, every volunteer officer on these staff departments will be swept out, and the old Army officers kept in. That is exactly what is meant here. "Eternal vigilance is the price of safety" for the volunteer officers in our Army. I want to have this understood by the House. The effect of this section reported by the committee will be to turn out of office every volunteer officer who has been appointed for gallant and meritorious services in either of these staff departments. I heard here last night a very high eulogy upon the regular Army. Now, I am not going to say a word against the regular Army, but I am going to state a few facts. I insist that it was the volunteer army that did the fighting in the late war; and I will prove it, and will not be long about it either.

I hold in my hand the Army Register, which has their own brag records on the tops of the pages; I do not think they are very near correct, but it is their own story. I will state some facts from that register. When the war ended there was not a single regular regiment of infantry in either of the great armies of the

Cumberland under Sherman, of the Tennessee under Thomas, of the James and of the Potomac under Grant. Now, let us see if I do the regular Army injustice, for I would not do it for the world. I knew a great many brave and gallant officers in the regular Army—many commanding volunteers also—and there were a great many that—I will not say anything about.

The first regiment of regular infantry fought their last battle during the rebellion on the 4th of July, 1863, and was not any more in active service in that war. The second regiment fought their last battle in the war on the 12th and 14th of May, 1864, and saw no more active service. The third regiment fought their last battle in the war on the 2d and 3d of July, 1863, and saw no more active service. The fourth regiment fought their last battle in the war on the 17th and 20th of June, 1864, and saw no more active service. The fifth regiment of regular infantry fought their last battle in the war on the 15th of April, 1862. The sixth regiment fought their last battle on the 2d and 3d of July, 1863, and saw no more active service. The seventh regiment fought their last battle in the war on the 2d and 3d of July, 1863. The eighth regiment fought their last battle in the war on the 9th of August, 1862, at Cedar mountain. The ninth regiment was stationed on the Pacific coast, during the rebellion, and saw no active service at all so far as the rebellion was concerned. The tenth regiment of regular infantry fought their last battle in the war on the 1st of October, 1864, and saw no more active service. The eleventh regiment fought their last battle on the 18th and 21st of August, 1864. The twelfth regiment fought their last battle on the 1st of October, 1864. The thirteenth regiment fought their last battle in the war on the 24th and 25th of November, 1864. The fourteenth regiment fought their last battle in the war on the 19th and 21st of August, 1864. The fifteenth and sixteenth regiments fought their last battles on the 1st of September, 1864. The seventeenth regiment fought its last battle on the 18th and 21st of August, 1864. The eighteenth regiment fought their last battle on the 1st of September, 1864. The nineteenth regiment fought their last battle in the month of August, 1864. The twentieth regiment fought their last battle on the 18th and 21st of August, 1864. The twenty-first regiment fought their last battle on the 1st of October, 1864. The twenty-second regiment fought their last battle in the war on the 24th and 25th of November, 1863. The twenty-third regiment fought their last battle on the 19th and 21st of August, 1864. The twenty-fourth regiment fought their last battle on the 1st of September, 1864. The twenty-fifth regiment fought their last battle on the 1st of September, 1864. The twenty-sixth regiment fought their last battle in the war on the 21st of August, 1864.

[Here the hammer fell.]

The SPEAKER. The gentleman's time has expired.

Mr. BUTLER, of Massachusetts. Very well; it is the same with the rest of the regiments.

Mr. GARFIELD. I confess myself unable to understand the operation of the mind of any man who sees in almost every proposition that other men offer something that warrants him in calling it a "cat under the meal." I have not been accustomed so to look at life and business and the doings of my fellow-men. I take it for granted generally, when a committee of the House of Representatives proposes a bill, that the committee consists of honorable men who bring us no "cats under the meal;" and therefore it never occurs to me to hunt for them.

I felt that the Committee on Military Affairs, in bringing in a proposition to reduce the staff department of the Army by dispensing with one hundred and ten men now in service, were doing a thing which would commend itself as a measure of economy—of severe retrenchment. But the gentleman from Massachusetts thinks this low and poor and mean as a meas-

ure of retrenchment. He discovers in the proposition "cats" and "meal" in any numbers and any quantities; and in order to show that the persons legislated about in this bill are men not very worthy of the consideration of this Congress or of the country, he undertakes to tell when the several regiments went out of active service in the late war. And how does he ascertain it? Why, he opens the Army Register, containing a little brief of the battles in which each regiment participated, and when he discovers the date of the last great battle they fought—for only the great battles are named—he indicates that as the period when that regiment ceased to do any worthy or honorable service. This treatment of the Army is no more just than it would be for me to raise the question when any honorable gentleman here fought his last battle of the war, and then say that that should be considered the time when he ceased to do honorable and meritorious service for the country. Sir, it cannot be considered just reasoning to say that the last great battle in which any regiment happened to be mentioned was the date at which it went out of the Army or out of honorable and active service in the late war.

Now, here is another specimen of the "cat-in-the-meal" argument in which the gentleman deals. He says the Committee on Military Affairs propose to reduce the staff about one per cent. in the higher grades, and about twelve per cent. in the very lowest grades. He wants the committee and the House to strike the Army at the top. He has great sympathy for all but those whom the country has honored by placing them in important stations of trust and responsibility.

Now, Mr. Speaker, I desire to say that in his own propositions offered during the consideration of this bill, the gentleman does not ask us to act thus in regard to the two highest officers of the Army; but only after we get below those in high political positions does he propose to strike down the Army.

Mr. BUTLER, of Massachusetts. Is it not true, as I have said, that your bill would turn out all the volunteer officers?

Mr. GARFIELD. By no means.

Mr. BUTLER, of Massachusetts. Will you explain why not?

Mr. GARFIELD. Let me notice, in the first place, the remark of the gentleman that the bill would strike off one per cent. of the higher grades and twelve per cent. of the lower. In the case of the head of a Department, consisting of a single officer, how can you make a reduction unless it be a reduction of one hundred per cent. How can you reduce the number of colonels in a given department when there are only two, unless you make a reduction of fifty per cent. This is an answer to all that argument, if it be an argument at all.

We have proposed, Mr. Speaker, a reduction which I am very sure every man who has ever held the position of Secretary of War will say is the very extreme of reduction which the interests of the service will allow. We propose to reduce the staff corps by one hundred and ten officers; and all these are officers who by reason of their long service in their respective positions are in a great degree indispensable to the administration of the Army. Yet the gentleman proposes by the simple rule of division to make a reduction of one half.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. I call attention to the fact that the gentleman has not answered my question as to the volunteer officers.

On the substitute of Mr. BUTLER, of Massachusetts, for the amendment offered by Mr. GARFIELD, there were—ayes 35, noes 36; no quorum voting.

Mr. BUTLER, of Massachusetts, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 66, nays 54; not voting 78; as follows:

YEAS—Messrs. Ames, Arnell, Axtell, Bailey,

Baker, Banks, Beatty, Benton, Benjamin F. Butler, Roderick R. Butler, Cary, Sidney Clarke, Coburn, Cook, Covode, Cullum, Delano, Devreesse, Donnelly, Ela, Eldridge, Ferriss, Fields, Getz, Glossbrenner, Golladay, Grover, Hinds, Hopkins, Hulburd, Hunter, Johnson, Judd, Julian, Kelsoy, Kitchen, Koonz, William Lawrence, Loan, Logan, Loughridge, Marshall, McKee, Mullins, Niblack, Orth, Porham, Plants, Roots, Ross, Scofield, Shanks, Smith, Thaddeus Stevens, Stokes, Taffo, Thomas, Lawrence S. Trimble, Van Arnam, Bart Van Horn, Van Trump, Henry D. Washburn, Welker, William Williams, John T. Wilson, and Windom—66.

NAYS—Messrs. Adams, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Benjamin, Blair, Boles, Bromwell, Churchill, Cobb, Dawes, Dixon, Diggs, Eckley, Eliot, Farnsworth, French, Garfield, Griswold, Higby, Hooper, Chester D. Hubbard, Alexander H. Jones, Thomas L. Jones, Ketcham, George V. Lawrence, Mallory, Marvin, Maynard, McCarthy, Miller, Moore, Morrell, Munken, O'Neill, Paine, Peters, Phelps, Pile, Poland, Pomeroy, Raum, Schenck, Spalding, Starkweather, Stone, Taber, Twichell, Robert T. Van Horn, Ward, Blinn B. Washburne, William B. Washburn, and James F. Wilson—54.

NOT VOTING—Messrs. Allison, Archer, Barnes, Barnum, Beaman, Beck, Bingham, Blaine, Boutwell, Boyer, Brooks, Broomall, Buckland, Burr, Cake, Chanler, Reader W. Clarke, Cornell, Dodge, Eggleston, Ferry, Finney, Fox, Gravely, Haight, Halsey, Hamilton, Harding, Hawkins, Hill, Holman, Hotchkiss, Asabel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Jenekes, Kelley, Kerr, Knott, Lullin, Lincoln, Lynch, McClurg, McCormick, McCullough, Mercur, Moorhead, Morrissey, Myers, Newcomb, Nicholson, Nunn, Pike, Polsley, Price, Pruyn, Randall, Robertson, Robinson, Sawyer, Selye, Shellabarger, Sitgreaves, Aaron F. Stevens, Stewart, Taylor, John Trimble, Trowbridge, Unson, Van Aukon, Van Wyck, Cadwalador C. Washburn, Thomas Williams, Stephen F. Wilson, Wood, Woodward, and Woodward—78.

So the substitute of Mr. BUTLER, of Massachusetts, was agreed to.

The amendment, as amended, was adopted.

Mr. GARFIELD. I move the following as an additional section:

*And be it further enacted*, That the organization of the Bureau of Military Justice shall hereafter consist of one Judge Advocate General, with the rank, pay, and emoluments of a colonel; one Assistant Judge Advocate General, with the rank, pay, and emoluments of a lieutenant colonel, and eight Assistant Judge Advocates General, with the rank, pay, and emoluments of a major; and all promotions and appointments hereafter made in said bureau shall be in accordance with the provisions of this section.

The amendment was agreed to.

#### ENROLLED BILL AND JOINT RESOLUTIONS.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 307) for the relief of certain Government contractors;

Joint resolution (S. R. No. 81) placing certain troops of Missouri on an equal footing with others as to bounties; and

Joint resolution (S. R. No. 107) in relation to the Maquoketa river, in the State of Iowa.

#### MILITARY PEACE ESTABLISHMENT—AGAIN.

The Clerk read the next section, as follows:

SEC. 7. *And be it further enacted*, That hereafter the line of the Army shall consist of thirty regiments of infantry, seven regiments of cavalry, and four regiments of artillery; said regiments to have the same organization as now provided by law, except as hereinafter provided.

Mr. GARFIELD. I move to add the following:

*Provided*, That three regiments of colored infantry and one regiment of colored cavalry, the officers for such regiments to be selected by seniority from officers of infantry and cavalry respectively now belonging to the regiments of colored troops and not less than two thirds of the officers and enlisted men of the Veteran Reserve corps shall be retained in the service.

Mr. GARFIELD. I wish to say a word in regard to that amendment. There were four regiments in the infantry arm provided for in the bill under which the Army was reorganized of persons who have been wounded in the service. They constitute what are called the Veteran Reserve corps. Every one of the officers and men has some honorable scar received in battle. It did not occur to the committee when the bill was first drafted that it might sweep all of those men out of the service. We now propose that at least two thirds of the officers and enlisted men of the Veteran Reserve corps shall be retained in the service. That will allow only of the mustering out of

one regiment. There are also six regiments of colored troops, four infantry and two cavalry, the enlisted men being colored soldiers. We do not propose to disturb the present proportions of the Army in that regard. We propose there shall be three colored regiments of infantry and one regiment of colored cavalry. I now yield to my colleague on the committee to offer an amendment.

Mr. WASHBURN, of Indiana. I wish to move an amendment that all the regiments of the Veteran Reserve corps shall be retained.

The SPEAKER. The gentleman will reduce his amendment to writing.

Mr. SCHENCK. I have an amendment here which, I think, will meet with the gentleman's acceptance. It is to insert in this section at the end of the second line, "four of which shall be regiments of the Veteran Reserve corps, and four regiments of colored troops."

Mr. WASHBURN, of Indiana. I accept that. It is an amendment which should be adopted. Every officer in that corps has been wounded or disabled in the service of the country. If any individuals have any claim on the Army it is these wounded and disabled officers. They are in the Army and they should not be mustered out. If any one is turned out or dropped from the Army it should not be those who have been wounded and disabled in the service. If any are to be turned out rather let it be the robust and able-bodied who can take care of themselves, and not the wounded officers and soldiers who have fought and suffered for the country. If they are turned out they will become pensioners. If they were not in the Army they would be drawing pensions, and we are saving money by keeping them there.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that that body had disagreed to the amendments of the Senate to sundry bills concerning pensions, asked a conference on the disagreeing votes of the two Houses, and had ordered that Messrs. VAN WINKLE, TRUMBULL, and EDMUNDS, be the conferees on the part of the Senate.

The message further announced that the Senate had agreed to the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1869.

Also, that the Senate had passed without amendment the following bills and a joint resolution of the House:

A bill (H. R. No. 1119) for the registration and enrolment of certain foreign vessels;

A bill (H. R. No. 201) declaratory of the law in regard to officers cashiered from the Army by sentence of a general court-martial;

A bill (H. R. No. 1080) for the relief of Edward B. Allen; and

Joint resolution (H. R. No. 281) authorizing the issue of clothing to company F, eighteenth regiment United States infantry.

The message further announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 567) relative to the Freedmen's Bureau, and providing for its discontinuance; and

A bill (S. No. 16) devoting a portion of the Fort Leavenworth reservation for the exclusive use of a public road.

#### CONTRACTS FOR COAL.

The SPEAKER laid before the House a letter from the Secretary of the Navy, transmitting, in compliance with House resolution of the 6th instant, a communication from the chief of the Bureau of Equipment and Repairs, relative to contracts for the purchase of coal; which was referred to the Committee on Re-trenchment, and ordered to be printed.

#### TRUSTEES OF COLORED SCHOOLS.

The SPEAKER also laid before the House a communication from the trustees of colored

schools of Washington and Georgetown, District of Columbia, remonstrating against the passage by the House of Representatives of the bill (H. R. No. 609) transferring the duties of trustees of colored schools of Washington and Georgetown to the trustees of public schools.

On motion of Mr. WELKER, the communication was referred to the Committee for the District of Columbia.

#### MILITARY PEACE ESTABLISHMENT.

The House resumed the consideration of the bill (H. R. No. 1377) to reduce and fix the military peace establishment.

The SPEAKER. The Chair will state the condition of the question: the gentleman from Ohio [Mr. GARFIELD] moved an amendment in the nature of a proviso to the section. The gentleman from Indiana [Mr. WASHBURN] proposes to amend the original text. That will be reserved till after the former is considered, as it is not an amendment to an amendment.

Mr. GARFIELD. I withdraw my amendment till the other is voted upon. I now yield to the gentleman from Massachusetts, [Mr. BOUTWELL.]

#### ELECTORAL COLLEGE.

Mr. BOUTWELL. I report back from the Committee on Reconstruction the joint resolution (S. No. 189) excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized, with amendments.

The SPEAKER. The consideration of this resolution at this time requires unanimous consent. Is there objection?

Mr. PHELPS. I object.

Mr. BOUTWELL. I move to postpone the bill under consideration in regard to the reduction of the Army for the purpose of reporting the joint resolution.

The motion was agreed to; and the House proceeded to the consideration of the joint resolution reported by Mr. BOUTWELL.

The joint resolution was read as follows:

*Be it resolved by the Senate and House of Representatives, &c.,* That none of the States whose inhabitants were lately in rebellion, and which States are not now represented in Congress, shall be entitled to representation in the Electoral College for the choice of President or Vice President of the United States, nor shall any electoral vote be received or counted from any of such States unless at the time prescribed by law for the choice of electors the people of such States, pursuant to the acts of Congress in that behalf, shall have, since the 4th day of March, 1867, adopted a constitution of State government under which a State government shall have been organized and shall be in operation, and unless such election of electors shall have been held under the authority of such constitution and government, and such States shall have also become entitled to representation in Congress, pursuant to the acts of Congress in that behalf.

Mr. BOUTWELL. The Committee on Reconstruction have directed me to move the following amendments:

Strike out the words "and which States are not now represented in Congress."

Strike out the word "and" after the word "operation," and insert the word "nor."

Add the following proviso:

*Provided,* That nothing herein contained shall be construed to apply to any State which was represented in Congress on the 4th of March, 1867.

So that the joint resolution, as amended, will read as follows:

*That none of the States whose inhabitants were lately in rebellion shall be entitled to representation in the Electoral College for the choice of President or Vice President of the United States, nor shall any electoral vote be received or counted from any of such States, unless at the time prescribed by law for the choice of electors the people of such States, pursuant to the acts of Congress in that behalf, shall have, since the 4th day of March, 1867, adopted a constitution of State government, under which a State government shall have been organized and shall be in operation, nor unless such election of electors shall have been held under the authority of such constitution and government; and such States shall have also become entitled to representation in Congress, pursuant to the acts of Congress in that behalf.*

*Provided,* That nothing herein contained shall be construed to apply to any State which was represented in Congress on the 4th of March, 1867.

Mr. BOUTWELL. Mr. Speaker, the purpose of this resolution is so apparent from the reading of it I presume the House will be prepared to vote upon it without any explanation. The

object is, of course, to provide that all those States which may be admitted previous to November next, shall be entitled to vote for electors of President and Vice President; and that the States, if any, which shall not then have been restored to the Union shall be excluded from participation in the presidential election. The text of the resolution would exclude Tennessee, inasmuch as she was fully restored to the Union previous to the passage of the original act concerning reconstruction. The sole object of the proviso reported by the Committee on Reconstruction is to relieve Tennessee from the terms of the resolution.

Mr. ELDRIDGE. Will the gentleman from Massachusetts inform the House by what authority this House or the Congress can undertake to exclude any State from the right of representation in the Electoral College? Under what provision of the Constitution can Congress declare that a State shall not be represented? The gentleman seems to think this a very plain matter, and one on which, I infer from his remarks, the House should vote under the operation of the previous question; and yet the gentleman has not undertaken to give us the authority by which Congress can exclude a State from representation in the Electoral College. I would be glad to hear from him on that point and to understand upon what he bases the authority of this Congress to act in that behalf.

Mr. BOUTWELL. I cannot go at great length into all the circumstances by which these States, through the influence of the gentleman's political friends, lost their representation in the Congress of the United States; but it so happened that they did withdraw seven or eight years ago and they have not yet been readmitted to representation here. But I say to him that I suppose the purpose of the majority here, and, I take it, the purpose of the country unmistakably is to hold these States in the grasp of the loyal people of the country until they are reconstructed under loyal influences, with loyal majorities, loyal State governments, and until loyal Representatives and Senators are elected to Congress, and when all those things have transpired, then, as I suppose, these States are to participate in the election of President and Vice President of the United States.

Mr. ELDRIDGE. The gentleman from Massachusetts has certainly not answered, if he has attempted to answer, the question which I propounded to him. I ask him for the authority by which Congress may exclude States from their representation in the Electoral College, and he tells us that by the action of myself and my friends these States have ceased to be in a position whereby they have a right to vote or to act in this capacity. The gentleman need not tell this House any such thing as that, for he knows, and I know and God knows that it is not so. [Laughter on the Republican side of the House.] I tell the gentleman from Massachusetts that the war was a success against the rebellion, and these States were saved to the Union, and he cannot humbug me or this Congress or the people by declaring that we have kept them out or that we have taken any step that has that effect. I say to the gentleman that every State that ever belonged to this Union is to-day in this Union.

Mr. MULLINS. I advise the gentleman not to call on God about this question.

Mr. ELDRIDGE. The gentleman will not interfere with me I trust. We shall be enlightened by his eloquence when the gentleman from Massachusetts yields the floor to him. [Laughter.]

I say, that if the States are kept out at all, they are kept out, as the gentleman asserts, by the grasp of what he terms "loyal" men upon the throats of the States. I deny that loyal men hold any States in their grasp except the States in which they live. The loyal men of Massachusetts have no more right to hold the State of South Carolina by the throat than the State of South Carolina has the right to hold the State of Massachusetts by the throat, and prevent her from voting in the Electoral Col-



lege. I say that no such power exists and the gentleman from Massachusetts has not undertaken to give us the source from which he derives his authority. I ask him again to answer to me and to this House upon what he does base his right to exclude a State from representation in the Electoral College and from its right to vote?

Mr. BOUTWELL. We do not claim any such right, Mr. Speaker. All the organized States of this Union are entitled to vote and will vote; but in 1864—I believe the gentleman from Wisconsin was then a member of this House—we passed a resolution unanimously, nobody contradicting it, that the eleven States, as he calls them, naming them, that had gone into rebellion in 1861 should not vote for electors of President and Vice President. How does the gentleman account for his neglect to do his duty then? Why did not he raise his voice then and ask that his associates and coworkers in the Democratic party in the attempt to dissolve the Union should come here and participate in the presidential election of 1864? The gentleman then was silent, as I remember.

Mr. ELDRIDGE. I thank the gentleman for the opportunity to say that the country was then at war with the people of those States; to-day peace exists from one end of this Union to the other. The armies of the Union have been successful, the rebellion has been subdued, the people of the South acknowledge the authority of the Constitution, and their States to-day have the right to be represented in this Congress and in every other department of this Government, as they were represented before the rebellion. If they are excluded longer, it will be the gentleman and his party who will exclude them. It is not their rebellion, it is not war, but it is the "loyal people," as the gentleman terms them, who are treading under foot the Constitution and the rights of these people, and excluding them, as some day—I pray God that day may never come—the people of some other locality may unite to exclude the State of Massachusetts, if the doctrine of the gentleman be true.

Mr. BOUTWELL. The gentleman does well to remind the House and the country that these States, as he calls them, were excluded in 1864 on account of the war. And three of them are excluded to-day on account of that war, the effects of which have not yet ceased.

In 1860 and 1861, as the gentleman very well knows, the Democratic party of the country entered upon a crusade to break up this Government and attempted to wrest eleven States from the control of the Constitution and to separate them from the Union. Under the lead of the loyal men in the South we have substantially restored eight of these States to the Union against the protests made by the forty-five gentlemen who sit on the other side of the House. And now, under the lead of that protest and of the platform laid down by their candidate for the Vice Presidency, they propose to again involve this country in a war for the purpose of thrusting those eight restored States out of the Union. That is exactly the position the Democratic party occupies now. For the purpose of destroying the Union they brought upon this country one war, which cost four million dollars, and three hundred thousand lives; and now, when we have nearly restored it, without the sacrifice of a single life, so far as the restoration is concerned, the Democratic party proposes to engage in another war, under the lead of an aspirant for the Vice Presidency, who is, in fact, a conspirator against the Government of the country, and this for the purpose of driving out of the Union the eight States that have already been restored under our lead and under the power of peace.

"War for the destruction of the Union" is the motto under which the gentleman's friends and former associates have rallied during the last eight years; it is the motto which he and they now emblazon on their banner for this presidential contest, and for the next four years.

Our motto is "peace and the restoration of the Union." And so soon as the other three

States can be restored by the instrumentality of peace and under the lead of loyal men, they will be restored. We work under the ensign of peace, for the restoration of three more States to the Union. The gentleman and his associates raise the banner of war for the expulsion of eight States that have already been restored. That is the issue on which we now go to the country.

Mr. ELDRIDGE. The gentleman from Massachusetts [Mr. BOUTWELL] cannot fasten any such position as he has stated upon me and my associates; no such position has ever been taken by us. I say that the Democratic party has never taken any such position as that which the gentleman from Massachusetts ascribes to us. We have never been opposed to a restoration of this Union; we have never been opposed to the return of these States. There has never been a moment since the war was inaugurated, or since peace came, or as it ought to come to bless this land, but which it has not, there has not been a moment when we would not cheerfully have received all those States back into the Union.

But the gentlemen on the other side have been the means of prolonging what the gentleman from Massachusetts [Mr. BOUTWELL] terms this war. If war exists to-day, if it has existed within the last two or three years, I say the Republican party of this country is responsible for that war.

But, sir, there has, during the last three or four years, been no war except the acts of war which this Congress has perpetrated upon that people and upon those States. The people of those States are broken down, crushed, trampled into the dust by the usurpations, by the, I had almost said, atrocious acts of this Congress. Sir, the gentleman from Massachusetts knows well that the only reason why those States are held in the grasp of despotic power which he calls "loyal power" is that he and his associates fear that those States, if left, as they ought to be, free to act, would act in accord with the Democratic party. The gentleman knows that all this continuation of the acts of war upon that people is designed to coerce them into the support of the Republican party and its candidates. He knows that he and his associates and the party with whom he acts would never have thought of subjecting those States to the control of the ignorant negroes there but for the purpose of extending the lease of power of the party to which he belongs. He dare not, upon his conscience and before his God, deny that that is the sole purpose for which this whole scheme was inaugurated and for which he now seeks to pass this bill. The only object is to prolong the lease of unhallowed power which his party has too long held in this country. I challenge that gentleman to join with us and place those States, as the Constitution places them, upon terms of perfect equality with his State. I say again that if this doctrine upon which gentlemen on the other side have been acting is still to be carried out, the day will come, which I with those gentlemen would deplore, when Massachusetts may be upon her knees begging for the rights which the Constitution guarantees her and all the States, and which are now denied to the States of the South.

Mr. BOUTWELL. Mr. Speaker, no State that is true to this Union will ever have occasion to go upon its knees begging for its rights. If the Democratic party had been true to this Union, as Massachusetts was true, during the last eight years, none of these States would now be here suppliants for restoration to the benefits of a Government which a few years ago, under the lead of the gentleman and his friends, they spurned.

Now, sir, one word more, which I would be glad to address to the people of the South. In 1860 and 1861, Democrats of the North—such men as Franklin Pierce of New Hampshire—encouraged the rebels of the South to engage in war, telling them that in the event of such a contest blood would flow in the streets of the North, intending it to be under-

stood that the Democrats of the North would give the Radicals, as we were called, plenty to do at home, so that the twelve or fifteen States of the South should have an opportunity to set up governments of their own in defiance of the national authority. The rebels of the South were deceived. The Democrats of the North had not the courage or the heart to make good the pledges which they had given to their traitorous allies in the South; and the southern men were sacrificed—in an unholy enterprise, to be sure—because they were deserted by the men in the North on whom they had relied.

Again, in 1865, when Andrew Johnson came to the Presidency, the men of the South trusted to his professions and the professions of the Democratic party that they would be sustained in their attempt to reorganize rebel white men's governments and to trample under foot the loyal white and black men of the South. In that they were disappointed; and they are now reaping the bitter fruits of their reliance upon Mr. Johnson and the Democracy of the North.

What does the Democratic party, by its late action in New York, promise the South? It says "If we can elect a Democratic President and Vice President, a 'white man's government' shall be reestablished in the eight States of the South." Thus the Democracy would again deceive the men of the South, whom I warn no longer to put trust in that party. Whatever may happen, the Senate will be Republican for the next two years. We have already relieved twelve or fifteen hundred men of the South who participated in the rebellion from the disabilities imposed by the fourteenth amendment to the Constitution. Our purpose is, as far and as fast as they bring forth "fruits meet for repentance," to liberate them all. But if by accident or by a fatality which seems outside the range of providential influences, the Democracy should succeed in the election of a President, what can they do for the South? Nothing—nothing. We shall be obliged to stand upon the defensive and hold all these men for four years where they now are, and the Democracy will be powerless to redeem a single promise they now make. The interest of the South, of the men who have been in the rebellion, is to stand fast by the Republican party, which has shown a disposition to be just and generous to every man in the South when we can so do without danger to republican institutions.

But, sir, look at the letter of Frank Blair. [Cries of "Read it!" from the Republican side of the House.] Yes, sir, let it be read. It cannot be read too often in the presence of the forty-five men who signed and presented a protest here against the admission of members from the State of Arkansas, upon the same grounds substantially as those presented in Blair's letter.

Mr. ELDRIDGE. I am glad the gentleman is going to have that letter read.

The Clerk read as follows:

WASHINGTON, June 30, 1868.

DEAR COLONEL: In reply to your inquiries I beg leave to say that I leave to you to determine, on consultation with my friends from Missouri, whether my name shall be presented to the Democratic convention, and to submit the following, as what I consider the real and only issue in this contest:

The reconstruction policy of the Radicals will be complete before the next election; the States so long excluded will have been admitted; negro suffrage established and the carpet-baggers installed in their seats in both branches of Congress. There is no possibility of changing the political character of the Senate, even if the Democrats should elect their President and a majority of the popular branch of Congress. We cannot, therefore, undo the Radical plan of reconstruction by congressional action; the Senate will continue a bar to its repeal. Must we submit to it? How can it be overthrown? It can only be overthrown by the authority of the Executive who is sworn to maintain the Constitution, and who will fail to do his duty if he allows the Constitution to perish under a series of congressional enactments which are in palpable violation of its fundamental principles.

If the President elected by the Democracy enforces or permits others to enforce these reconstruction acts, the Radicals by the accession of twenty spurious Senators and fifty Representatives will control both branches of Congress, and his administration will be as powerless as the present one of Mr. Johnson.

There is but one way to restore the Government and the Constitution, and that is for the President-

elect to declare these acts null and void, compel the Army to undo its usurpations at the South, disperse the carpet-bag State governments, allow the white people to reorganize their own governments, and elect Senators and Representatives. The House of Representatives will contain a majority of Democrats from the North, and they will admit the Representatives elected by the white people of the South, and with the cooperation of the President it will not be difficult to compel the Senate to submit once more to the obligations of the Constitution. It will not be able to withstand the public judgment, if distinctly invoked and clearly expressed on this fundamental issue, and it is the sure way to avoid all future strife to put the issue plainly to the country.

I repeat that this is the real and only question which we should allow to control us: shall we submit to the usurpations by which the Government has been overthrown, or shall we exert ourselves for its full and complete restoration? It is idle to talk of bonds, greenbacks, gold, the public faith, and the public credit. What can a Democratic President do in regard to any of these with a Congress in both branches controlled by the carpet-baggers and their allies? He will be powerless to stop the supplies by which idle negroes are organized into political clubs—by which an army is maintained to protect these vagabonds in their outrages upon the ballot. These, and things like these, eat up the revenues and resources of the Government and destroy its credit—make the difference between gold and greenbacks. We must restore the Constitution before we can restore the finances, and to do this we must have a President who will execute the will of the people by trampling into dust the usurpation of Congress, known as the reconstruction acts. I wish to stand before the convention upon this issue, but it is one which embraces everything else that is of value in its large and comprehensive results. It is the one thing that includes all that is worth a contest, and without it there is nothing that gives dignity, honor, or value to the struggle.

Your friend,  
Colonel JAMES O. BROADHEAD.

Mr. BROOKS. If the gentleman will go on and have the Democratic platform read it will then be complete.

Mr. BOUTWELL. We have had it read already.

Mr. BROOKS. I mean the platform adopted by the Democratic convention.

Mr. BOUTWELL. Mr. Speaker, it is worthy of observation that the Democratic convention at New York sat four days, differing, I suppose, judging from their votes, as to who should be their candidate for the Presidency, and after the disposition of that question on a single ballot and with perfect unanimity they nominated the writer of this letter to be their candidate for the Vice Presidency of the United States. Now, what does he propose to do? He proposes that the President of the United States, without law, and of course without constitutional authority, shall take the Army and drive out of this House and out of the Senate the members entitled by the operation of the law and under the provisions of the Constitution to seats in this House and in the Senate; and not only that, but to proceed with the Army to the eight States in the South and disperse the Legislatures thereof, set up new Legislative Assemblies to be elected by the votes of rebel white men only, and Senators and Representatives are to be elected by those men to the Congress of the United States, and by the military power to be put into their seats. It is distinctly declared by Frank P. Blair, jr., that it is the duty of the President of the United States, a Democratic President of the United States, to usurp the powers of the Senate and of the House and to annihilate eight States by arms and to set up in those eight military governments States.

Mr. MUNGEN. Will the gentleman let me ask him a question?

Mr. BOUTWELL. Yes, sir.

Mr. MUNGEN. I ask the gentleman where he was when Frank Blair was fighting the battles of his country?

Mr. BOUTWELL. I was in the service of the country; but one thing I never did, I never professed to serve under a commission as a General in the Army, and to serve in this House as a member of Congress, exercising civil functions and military authority at the same time, in violation of the Constitution and the theory of the Government of the United States.

Mr. BROOKS. I wish to make a few remarks.

Mr. BOUTWELL. I yield to the gentleman from New York.

Mr. BROOKS. The honorable gentleman

from Massachusetts announced in his opening remarks it was well known what was the purpose of this bill, and therefore he reluctantly admitted of any discussion, and indicated his intention to put it through under the previous question.

The purpose of the bill is perfectly well known. It is to hold this vast territory stretching from the Potomac to the Rio Grande under the tutelage of this and the other branch of Congress; not of the convention appointed by the Constitution to count these votes, the only constitutional authority which can take cognizance of the electoral votes, but to hold this vast territory under the tutelage of the two-thirds majority in the two Houses of Congress. If in the Electoral College the ten southern States are found to be "loyal" their electoral vote will be counted, but if they are found to be Democratic the two Houses of Congress will reject their votes.

The gentleman from Massachusetts [Mr. BOUTWELL] has discovered by the election recently held in Mississippi that the negroes, even the ignorant negroes of the South, are unwilling to be ridden, booted and spurred, by delegates and carpet-baggers from Massachusetts and other States of the Union. The negro is about tired of that sort of operation by emigrants from the North who have gone down there for the purpose of being sent to the Capitol at Washington from the plantations of the South. Hence the purpose of this bill, clearly written on the face of it, is if these southern States vote as the two Houses of Congress direct their votes shall be counted; if not, hold them in tutelage and reject their votes.

Mr. DAWES. Will the gentleman yield?

Mr. BROOKS. I would rather be answered by the gentleman from Massachusetts in his place when I am done. I am but a tenant of the floor at will.

Mr. BOUTWELL. If my colleague desires to put a question I will consent to allow the gentleman time to answer.

Mr. DAWES. I desire to put a question touching the political aspect of the case. Does not the gentleman hold that Congress has authority to prescribe the mode in which members of the Electoral College shall be chosen?

Mr. BROOKS. But this bill goes further.

Mr. DAWES. I would like to have an answer to the question.

Mr. BROOKS. But this bill goes further. When that case is presented I will answer it, but it is not a case presented here.

Mr. DAWES. If the gentleman declines to answer I will put another.

Mr. BROOKS. That only relates to the time and place of holding elections—to time more especially.

Mr. DAWES. Does the gentleman hold that any one may be a member of an Electoral College who is not chosen in conformity to law?

Mr. BROOKS. Congress has explicit power, and only the power, as I have stated before, to determine the time of choosing the electors and the day on which they shall give their votes, which shall be the same throughout the United States. Any other power on this subject exercised by Congress is an arbitrary power. The Constitution of the United States prescribes that every State is entitled to two Senators in the other House, and a representation in proportion to population on this floor. It in like manner prescribes that the number of electors shall correspond with the number of Senators and Representatives, while this bill assumes on the part of Congress, in defiance of those two provisions of the Constitution, to exclude these States from having their electoral votes counted here on the floor of the House.

Mr. DAWES. Will the gentleman answer another question I will venture to put to him? I would like to inquire where in the Constitution the legislative power of Congress over this matter is confined to time, place, and manner?

Mr. BROOKS. What is not granted in the Constitution is refused in the Constitution. It

is for the gentleman from Massachusetts to show with his own finger the clause in the Constitution which confers the power this bill assumes to give. It is not my duty to prove a negative; it is his to make out an affirmative.

Mr. DAWES. Does the gentleman claim that the electors from each State may be chosen according to the law of, in the manner prescribed by each State, or that they shall be chosen by some uniform law, and that a law of Congress?

Mr. BROOKS. Suppose I admit that. All the Constitution says is that Congress shall determine the time of choosing electors, and the day on which they shall be chosen.

Mr. DAWES. On what page is that.

Mr. BROOKS. Article two, section one, of the Constitution.

Mr. STEVENS, of Pennsylvania. Read the whole of it.

Mr. BROOKS. I will read it:

"The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States."

That is all the power Congress has. And now permit me to go on.

Mr. BOUTWELL. We have not a great deal of time.

Mr. BROOKS. The gentleman allowed me to be interrupted by his colleague [Mr. DAWES] on the express condition that I should go on. I did not seek this side controversy.

Mr. FARNSWORTH. Let me call the gentleman's attention to another provision of the Constitution.

Mr. BROOKS. Oh, no; the gentleman can obtain permission after I am done, because he has ample power. I am here at the mercy of a very large adverse majority, and time is precious to me.

Mr. FARNSWORTH. It might aid the gentleman's argument.

Mr. BROOKS. I must decline to yield. The honorable gentleman from Massachusetts, [Mr. BOUTWELL,] doing what I wish could have been avoided, introduced party topics and party excitement in the midst of this discussion, and in the course of his remarks he said that our political friends on this side of the House had brought about the late calamitous war. Sir, there was a history of that war written out long before the firing on Fort Sumter, and long before the assembling of the southern States in convention, and in all their principles and associations, and practically in their very acts of rebellion, they were educated by the State which the gentleman from Massachusetts in part represents, and which were carried out in the Hartford convention, and in other victorious acts of the State of Massachusetts.

Sir, the war was not begun by the Democratic party of the South. The war was no more begun by the Democratic party of the South than by the Whigs of the South. The one party was as much responsible for it as was the other. When the honorable gentleman spoke of the incitement and the promises given by the Democrats of the North to support the war against the Union, I wonder that on looking at the gentlemen around him who were then leaders in the Democratic party he did not have sufficient respect for their feelings to abstain from making such remarks in their presence. Sir, he is surrounded on all sides by Democrats who were conspicuous by their positions and by the speeches which they made prior to the opening of the war, and whatever imprudent remarks may have been made by any other persons, they are as much responsible for such remarks as any one, and they are now leading gentlemen upon that side of the House.

Sir, the war did not begin by the firing on Fort Sumter, but it began by the invasion of John Brown, [laughter,] supported by guns and pikes and arms and money contributed by the State of Massachusetts and other New England and northwestern States. The first inva-

sion of that war was the invasion of Virginia by the little cohort of John Brown. The first tocsin of war was sounded then. The first resistance to an act of Congress which was preached and practiced came not from the South, but was in the State of Massachusetts and in the city of Boston. However unpopular or odious may have been the fugitive-slave law, however distasteful it may have been to all parties, to the Democratic as well as to the Republican party, it was a law of Congress, a constitutional law, a law which, when first enacted, was approved by George Washington, supported throughout by all Administrations and declared to be a constitutional law, I am told by the gentleman from Massachusetts himself, and yet the first fatal lesson of resistance to law, the first educator in the violation of law was in the city of Boston and in the contiguous towns, which rescued from the writs of the United States marshal of the district a subject of that fugitive-slave law in utter defiance of the law. They who have educated others to defy the laws—the constitutional laws—who have been teachers of violation of laws, and who have brought the country up to a disregard of those laws, ought to be among the last to reproach others who have followed their example and who have been educated in their school.

The honorable gentleman from Massachusetts was pleased to say, in imputation upon or in derogation of the Democratic party, that there were evidences of this war all around us. Sir, there are in our taxation and in our debt, in that taxation to which we and our posterity will be subject throughout all time, unless we can recover the power and better frame and control the legislation of Congress. For that war, the honorable member from Massachusetts and the men with whom he has acted and whose principles were his in the olden time are as much responsible as the party with which I am associated at the present time.

The honorable gentleman from Massachusetts [Mr. BOUTWELL] then grew eloquent upon the position of the Democratic party in its recent convention in the city of New York; and in the course of the remarks of the gentleman upon the letter of the next Vice President he asks us what is to be our course, and what we intend to do.

Sir, I dare not undertake to be the exponent of the Democratic party; no man now on this floor has the right to be that. There is the platform of our party; there it is on the record. Upon that we stand, and upon that we intend to stand. I refer to the resolution of the Democratic national convention assembled in the city of New York; that is our record.

If the honorable gentleman expects us to accept the issue he proposes, if he expects that we are to sit down in quiet and contentment under these reconstruction acts, I tell him that he indulges in the vainest of all dreams. We will exert all our power here and everywhere to repeal and overthrow those acts in every possible constitutional manner. We go before the people with pride upon this issue. Shall the eight so-called reconstructed States of the South continue to be governed by negroes almost exclusively, or are they to be governed as are the States of Ohio, Minnesota, Wisconsin, New York, and Pennsylvania? Are they to be governed by white men, or are they to be governed by negroes? That is our issue, and upon that issue we proudly appeal from you in this Hall to the people of the United States.

Mr. BOUTWELL. I must now resume the floor; but I would like to put a question to the gentleman from New York, [Mr. BROOKS.]

Mr. BROOKS. Is it generous on the part of the gentleman from Massachusetts, [Mr. BOUTWELL,] with his control and power over this debate, to arrest it in this way?

Mr. BECK. Will the gentleman from Massachusetts allow me five minutes to speak to this joint resolution, and the amendments proposed to it by the Committee on Reconstruction, eschewing politics altogether?

Mr. BOUTWELL. I will yield five minutes

to the gentleman from Kentucky [Mr. BECK] after I get a reply from the gentleman from New York [Mr. BROOKS] to a question I desire to ask him. I wish the gentleman from New York to give a definite answer without argument to the question, whether he approves and sustains the letter of Francis P. Blair, jr., which has been read by the Clerk.

Mr. BROOKS. The gentleman and myself are both Yankees; let us exchange questions. I propose, if the gentleman will allow me, to dwell upon the Blair letter at some little length in answer to his question.

Mr. BOUTWELL. I will yield five minutes more to the gentleman on the Blair letter.

Mr. BROOKS. In the first place I do not suppose that Mr. Blair had a right to create a platform for the party. I presume when he accepts the nomination for Vice President he accepts the platform of the party without reference to his own individual opinions. But in regard to the Blair letter allow me to say what I understand the letter to be, and what is the doctrine of the Democratic party upon the subject of that letter. If the Supreme Court of the United States has declared, as we believe the Supreme Court of the United States has declared, that the reconstruction acts of Congress are unconstitutional, then the moment that declaration of the Supreme Court is promulgated all those acts become officially null and void, and it then becomes the duty of the President of the United States to repeal those acts by all the executive authority which is within his power. They are acts without the authority of law, and are binding upon no one, and whoever attempts to execute those acts goes against the law and the decision of the constituted judicial authority of the land. That is all I understand Mr. Blair to say in his letter; that the Supreme Court of the United States, as it is believed, having declared in the McCord case that the reconstruction acts of Congress are unconstitutional, it becomes the duty of the Executive, whenever the promulgation of that decision is made, to carry out the declaration of the Supreme Court, and to restore the laws of the country to what they were before the enactment of those acts by the two Houses of Congress.

I believe those laws to be unconstitutional and void; we have so declared them to be in our platform; but if the Supreme Court of the United States should declare them constitutional, we shall submit to them, if not with cheerfulness with deference profound and humble; for we acknowledge our constitutional duty to obey all the laws of the land as expounded by the supreme judicial tribunal. That is the platform of the Democratic party; that is the platform of General Blair, our candidate for the Vice Presidency; and if the honorable gentleman from Massachusetts can make more of it than the explanation I have given, he has greater astuteness than New England men usually have; and few have more than they.

Now, Mr. Speaker, as we are both Yankees, I wish the gentleman would give me his opinion of the third resolution of the Republican platform?

Mr. BOUTWELL. No, sir; I cannot go into a discussion of the Republican platform at present. We are disposing of another platform to-day, and that is sufficient.

Mr. Speaker, I have agreed to yield five minutes to the gentleman from Kentucky [Mr. BECK.]

Mr. STEVENS, of Pennsylvania. I would like to have about three minutes.

Mr. BECK. I will postpone my remarks until the gentleman from Pennsylvania gets through.

Mr. BOUTWELL. I yield, then, in the first place to the gentleman from Pennsylvania.

Mr. STEVENS, of Pennsylvania. I merely want to inquire of the gentleman from New York [Mr. BROOKS] whether he recollects that in 1864, before the last presidential election, this Congress passed a law similar to the bill now before us, to regulate the opening and

counting of the electoral votes; and by that law we excluded from the count all the States in rebellion, thus showing at least the jurisdiction of Congress upon this subject?

Mr. BROOKS. Let me ask the gentleman from Pennsylvania whether the existing state of the country now in 1868 is not very different from what it was at the time to which he alludes?

Mr. STEVENS, of Pennsylvania. Not a bit! [Laughter.]

Mr. BROOKS. Are we in a state of rebellion?

Mr. STEVENS, of Pennsylvania. You are in a state of rebellion, [laughter;] and Frank Blair so declares. He declares that the only course for the Democratic party is to elect a President who shall send the armies of the Union to uproot all we have done in reconstructing the South, forcibly deprive of the right of suffrage about half of the legal voters, reestablish the institution of slavery, reorganize the "white man's Government," and enforce as the law of that country, not what Congress says shall be the law, but what he and the Democratic party may determine. Is not that rebellion?

Mr. BROOKS. Sir, the Democratic party is always in rebellion against tyranny and tyrants. [Laughter.]

Mr. STEVENS, of Pennsylvania. So it is; and anything but a "white man's Government"—a "Democratic" Government—is with that party "tyranny." They are always in rebellion against everything but "Democratic," pro-slavery rule. For slavery is as the apple of their eye; slavery they "roll like a sweet morsel under their tongues." And when the Republicans have stricken slavery from the institutions of this country, declaring every man as free as air, the Democracy call upon the people to elect a President who shall reestablish the old Government, (those are the very words, I believe,) a President who shall exclude from the ballot a large part of the present voters, and allow the right of suffrage to those only who enjoyed the right under the old slave system.

But, sir, I rose simply to show that Congress possesses jurisdiction of this subject, which the gentleman from New York denied. We exercised jurisdiction before Mr. Lincoln was elected the second time. We passed a law to exclude in the presidential election the votes of the rebel States. That settles the question of jurisdiction. So that the only question is as to the expediency of the proposed law.

Mr. BROOKS. Let me ask the gentleman a question. From what provision of the Constitution, unless it be that with regard to suppressing insurrection and rebellion, does he derive the authority to pass such a bill as this?

Mr. STEVENS, of Pennsylvania. I derive it from the provision giving Congress authority to open and count the electoral votes. Of course we are to provide the means by which that shall be done. Should Canada be allowed to send in electoral votes? And on the same principle have we not the power to exclude the rebel States? Yet they were always in the Union, they were always entitled to be represented here, according to the doctrine of the gentleman and his slavery tribe, for it is nothing better. The Democratic party! Why, sir, it is the slave party. It is nothing but a slave party, and it will be a slave party until we grind them to powder under our heels, and Freedom, with the flapping of her wings, shall blow the dust out of existence and consign them to everlasting oblivion. God grant that day may soon come! [Laughter.]

The SPEAKER. The gentleman from Massachusetts has twelve minutes left.

Mr. BOUTWELL. I will yield five minutes to the gentleman from Kentucky.

Mr. BECK. Mr. Speaker, as the proposition before the House seemed to have been lost sight of in the political discussion which has sprung up, I promised the gentleman from Massachusetts [Mr. BOUTWELL] if he would allow me five minutes that I would avoid general politics



and confine myself to the pending question. I will endeavor to comply with my promise. I find no warrant in the Constitution for the powers sought to be conferred by this resolution on the Congress of the United States. It provides that each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in Congress; that they shall meet in their respective States and vote by ballot for President and Vice President, making distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the President of the Senate, who shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted, the person having the greatest number of votes shall be President, &c. The opening of the certificates and counting the votes is the only power Congress has, unless it be the power to determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States. From what source, then, does Congress derive the power or authority to pass such a resolution as is now proposed?

But flagrantly wrong as the Senate resolution is, the amendment proposed by the Reconstruction Committee is infinitely worse. The Senate excluded from the operation of the resolution the States lately in rebellion which are now represented in Congress; the proposed amendment brings within its provision the States of Arkansas, North Carolina, and Florida, whose Representatives are now occupying seats here and at the other end of the Capitol, whether rightfully or wrongfully I do not care to consider now. They are here—admitted, I suppose, with the same rights and privileges as any of us. The States they represent are either coequal States with all the others, or their Representatives are not properly on this floor. What right, then, has this House to say that the electors chosen in accordance with the laws of these States shall not have the same rights and be entitled to the same privileges as the electors appointed or elected in any other State? Are these States still unreconstructed? Are they still in vassalage to Congress? Are they existing only so long as they shall continue to vote and act in all things as the majority here may dictate? I have no doubt the whole meaning and purpose of the resolution and the amendment is to count as valid all such electoral votes from all these States as may be cast for General Grant, and on some pretext or other to reject all such as may be cast against him, and the sooner the country understands it the better. Tennessee is expressly excluded from the operation of this resolution. Perhaps it is understood that she has been so managed and her people so far disfranchised that her vote is safe, while that of Arkansas, North Carolina, and Florida, as well as that of the other southern States, cannot be controlled even under the process of reconstruction to which they have been subjected.

The resolution is artfully drawn so as to invest Congress with full power to do whatever may be necessary in determining whether the electoral vote shall be counted or not, and the gentleman who presented the amendment will not deny that I have stated truly the meaning and object of the amendment proposed. In order to extend the power of Congress over the electoral votes of the ten States of the South as far as possible, this resolution sets aside the reconstruction acts of Congress, and not only allows the Senate and House of Representatives when assembled to count the electoral votes, to admit or reject the votes of such of the southern States as shall by law be admitted to representation in the Congress of the United States, but of all such as shall be entitled to be admitted to such representation. Of course, whether they are entitled to be so admitted will depend altogether upon how they cast

their electoral votes. If they vote for Grant they will be considered as entitled, if against him they will not be entitled; not even the now fully-admitted States of North Carolina, Arkansas, and Florida. In this way the two Houses when assembled simply to count the vote will determine, not in their legislative capacity, but as a convention, all the legal questions relating to these States, the reconstruction laws to the contrary notwithstanding.

The fifth section of the act of March 2, 1837, after setting forth in detail what the southern States shall be required to do as indispensable prerequisites to their readmission, says after all these things are done:

"Said State shall be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said States."

Section six provides that until the people of said rebel States shall be by law admitted to representation in the Congress of the United States any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same; yet in defiance of this, their own favorite measure, the majority here now propose to count the votes of all the southern States that may happen to cast their electoral votes for General Grant, whether they have been admitted or not, their vote being the requisite evidence that they are entitled to admission, and to reject the electoral vote even of North Carolina, Arkansas, and Florida, though now fully admitted, notwithstanding the provisions of the fifth section, which I have read, declaring all the reconstruction acts inoperative as soon as the States are admitted, if these admitted States shall, as they will, cast their votes against the Radical candidate.

[Here the hammer fell.]

Mr. BOUTWELL. I now demand the previous question, and after it is seconded, I will reply to remarks made by gentlemen on the other side.

Mr. ELDRIDGE. I ask for a division on seconding the previous question. I do not think the House is prepared to second it.

The question being taken, there were—ayes 81, noes 22.

So the main question was seconded.

Mr. ELDRIDGE. I only wanted to see how many Democrats were out of their places. [Laughter.]

Mr. STEVENS, of Pennsylvania. Every one is out of his place that is here. [Laughter.] The main question was then ordered.

Mr. BOUTWELL. I do not wish to occupy much time in debate. The House will bear witness that I was brought into the political discussion by the question or series of questions which were put by the gentleman from Wisconsin, [Mr. ELDRIDGE.] But now I have a few observations to make upon those matters which have been introduced during the discussion on the one side and the other.

The gentleman from New York [Mr. Brooks] was pleased to speak of me personally and of gentlemen on this side of the House as having in times past disregarded the laws of the land. Sir, I know of no such case. And when I speak of myself personally I speak also of the party to which I belong. We have obeyed the laws at all times and under all circumstances, when, as I am free to confess, those laws were disagreeable in their character and of doubtful constitutionality. But can the gentleman say as much for himself and for his associates? In 1860, by the strictest observance of the Constitution and laws of the country we elected Abraham Lincoln, of Illinois, President of the United States. Three months before his inauguration the State which was the champion of the ancient, pro-slavery, secession, disunion Democracy passed an ordinance of secession from the Union in violation of the laws and of the Constitution of the country, and followed by ten other of these eleven States, for four long

years under the lead of the Democracy of the South, and with the sympathy, coöperation, and support of the Democracy of the North, carried on a war aggressive always, and sometimes formidable, against the laws and Constitution of the country.

Mr. MARSHALL. Will the gentleman yield to me for a very short time?

Mr. BOUTWELL. I have only a few minutes. The chairman of the Committee on Appropriations gives me notice that in twenty minutes he will bring up a question of privilege which will take me from the floor. Therefore I cannot yield.

Mr. MARSHALL. The gentleman has put a very pertinent question to this side of the House.

Mr. BOUTWELL. I am not putting a question; I am stating facts.

Mr. MARSHALL. I wish to say a single word if the gentleman will permit me.

Mr. BOUTWELL. Very well.

Mr. MARSHALL. I have heard these charges frequently made against the Democracy of the northern States of their having directly or indirectly taken part in secession or rebellion; but, sir, they are not sustained by facts, as every intelligent man in the country must know. There were a few men in the North that did, at Charleston, when the Democratic party was unfortunately broken up, inaugurate a movement in that direction, gentlemen who were inclined for a time to act with the secession party in going into rebellion. But they were very few in number, while the entire party in the North neither directly nor indirectly took part in the rebellion. On the other hand, thousands and thousands laid down their lives in defense of the Union and the Constitution, by which they have stood at all times. The few who stood by the secession movement in the South were not in affiliation with the Democratic party, but are acting with the Republican or Radical party today.

The great body of the Democratic party of the North have been true to the Union, the Constitution, and the enforcement of the laws at all times. They opposed the rebels when in arms, and they are opposed to rebels called now the Radical party, when by an unfortunate coincidence of circumstances they have control of the legislation of this country, and have disregarded the Constitution and have been for three years trampling it beneath their unhalloved feet. The gentleman cannot point to the action of the Democratic party anywhere in the North in any State, or in any organization anywhere giving encouragement to the rebels while in arms against the Constitution and the Union. The charge is not only not true, but every gentleman of intelligence in this country must know that it has no foundation in fact. Mr. Lincoln himself time and again acknowledged that if it had not been for the Democratic party at the North the rebels in the South must have been successful in their efforts to break up the Government, or rather to withdraw from it and set up a separate government. He time and again acknowledged that, and it can be proved. And he remarked at one time to a distinguished gentleman, in the presence of a Radical member of this House, that the gentlemen of his own party were very good at resolutions and long prayers, but if it was not for the stubborn valor of the Democracy of the North the Union would have been compelled to go down before the rebellion.

Mr. BOUTWELL. I resume the floor. The gentleman cannot have forgotten the letter of his leader, Franklin Pierce, of the 16th of January, 1861. He cannot have forgotten the letter of his associate upon this floor, when mayor of the city of New York, to the authorities of Savannah, in the State of Georgia. He cannot have forgotten the resolution of the convention at Chicago in August, 1864, declaring the war a failure and demanding a cessation of hostilities. He cannot have forgotten the riots of the 2d and 3d of July, 1863, in the city of New York, when his candidate for the

Presidency addressed the rioters of that city who had kindled the flames of war in the commercial metropolis of the country and murdered children and unoffending persons—addressed those men, then reeking with the crimes from which they had just come, as “my friends.” He cannot have forgotten the hostility which his political associates throughout the North manifested to the enforcement of the draft. He cannot have forgotten the sympathetic speeches that were made upon the floor of this House in the Thirty-Eighth and Thirty-Ninth Congresses. He cannot have forgotten the declarations of the press in various parts of the country representing the Democratic party, denouncing every measure for the prosecution of the war and holding up the generals of the Army and the men intrusted with civil affairs to the odium of the people of the country and to the anathemas of the world. More than this, to-day the party with which he cooperates is sympathizing with rebels. They demand the prostration of the loyal people of the South, black and white, and the restoration to authority in those States of the men who had been engaged in the rebellion. Let me read; and you, men who fought at Shiloh, you who were encamped before Vicksburg in 1863, you who returned maimed and wounded from the bloody fields of Antietam and Gettysburg, you who marched with Sherman from the mountains to the sea, you who remain of that bloody band who fought the battles of the Wilderness and who finally at Appomattox Court-House saw the surrender of Lee and the end of the rebellion, listen to what the organ of the Democratic party, on the 4th of July, 1868, under the influence of the rebels assembled in council at Tammany Hall, said to the people of New York and of the country concerning the men who inaugurated the rebellion, and whom you subdued in arms. I read from the New York World, and first the heading:

“THE DELEGATES.”

“PERSONAL DESCRIPTION OF THE MEMBERS OF THE CONVENTION.”

“THEIR RECORD OF SERVICES TO THE NATION.”

The men on whom the Republic relies for salvation.

First:

“Hon. John A. Winston is also an ex-Governor, a merchant at Mobile, was an old-line Whig, supported Douglas in 1860; was colonel of the ninety-first Alabama infantry, C. S. A.”

Then comes:

“James H. Clanton is chairman of the Democratic State executive committee, an old-line Whig, Douglas elector, during the war was a general of cavalry in the confederate service.”

That is his “record of services to the nation!” He is one of the men on whom the Republic relies for salvation in the estimation of the friends of the gentleman from Illinois.

Here still further from South Carolina, in this record of men on whom the Republic relies for salvation, listen to the record of the services of General Wade Hampton to the nation:

“He heads the delegation. He was one of the most prominent cavalry generals on the southern side during the war. He is unquestionably the leading man in South Carolina, and fills more nearly than any other the place left vacant by Calhoun in the hearts of the white people.”

Mr. MULLINS. Will the gentleman allow me to interrupt him a moment.

Mr. BOUTWELL. No, not now. These are the men on whom the gentleman from Illinois [Mr. MARSHALL] and his associates rely “for the salvation of the Republic.” Yes, they are the men on whom the Democracy relies for the salvation of the Republic, according to their ideas of salvation. And they are as much in error in regard to salvation in this world as I have no doubt they are in regard to salvation in another state of existence.

Mr. WASHBURN, of Illinois. I hope the gentleman from Massachusetts [Mr. BOUTWELL] will allow another extract to be read in regard to another distinguished member of the Democratic party.

Mr. BOUTWELL. I will yield to the gentleman for that purpose.

Mr. BROOKS. I hope the gentleman will also allow to be read some extracts I have from

letters written by Governor Holden, of North Carolina.

Mr. WASHBURN, of Illinois. I ask the Clerk to read the extract I send up to his desk. The Clerk read as follows:

“GENERAL N. B. FORREST.

“General Forrest is the hero of the Tennessee delegation and divides attention in the convention with Wade Hampton. As a cavalry officer he had no equal in the war, and even now as he moves up and down the hall his tall, handsome figure looms up, and his fine face lit: the same old soldier spirit is strong within the man, and he evidently mistakes the secretary's voice for a bugle-call, and his nature will not let him keep still or steadfast in one place. The general, although in the costume of a civilian, has about him the look of one who wants to be accipied and doing something. His manner is free and pleasing, with a characteristic *bonhomie* which is quite taking with all whom he is introduced to. He does not say much at present, and cannot sit quietly because of his nature, but will be heard of, no doubt, before the convention closes.”

Mr. MULLINS. That is the hero of the bloody massacre at Fort Pillow.

Mr. BOUTWELL. I have now said enough to show that the Democratic party were in sympathy with the men who inaugurated this rebellion; that they were in sympathy with the men who carried it on; that they are now in sympathy with the men who propose to inaugurate another rebellion, of whom the leader is Frank Blair.

I say this to the people of the country: when you look at the bills reported by the Committee on Appropriations and find \$30,000,000 for pensions to the widows and orphans of the dead, and to the wounded and maimed of the living, know that it is the Democratic party which has imposed this responsibility of justice and benevolence upon you. When the tax-gatherer comes and demands five per cent. of the income of each man in this country, that is the tribute which you pay for the supremacy of the Democracy up to the year 1861. When you are called upon to appropriate \$180,000,000 a year to meet the interest upon the public debt, that is the penalty the people of this country pay for having so long confided their interests to the Democratic party. When the figures are presented to your consideration, representing the present amount of the national debt, \$2,500,000,000, then remember that that is a burden upon you and your posterity for the folly of four generations in intrusting the public interests to the care of the Democratic party.

The cemeteries of the dead, South and North, filled with the humble testimonials there raised to the memory of the men who fell in defense of the Union, are sacred and affecting evidence of the penalty, O people of America! which you have paid for intrusting the destinies of this country to a party that acknowledged fealty to nothing but the right of States to tyrannize over an oppressed people and to enslave four millions of human beings. Those four millions of people, by the grace of God and against the protest of the Democratic party, have been emancipated and made citizens of the Republic.

And now, in this last struggle, we are moving to the consummation of the great work we have in hand, which is that those whom we have redeemed from slavery shall be endowed with all the rights of men,—rights guarded by the power of forty million of people, who have learned the lessons of truth and of freedom in defiance of the teachings of the Democratic party of this country.

Mr. MARSHALL. Will the gentleman yield to me for a minute?

Mr. BOUTWELL. I have agreed to yield to the chairman of the Committee of Ways and Means, [Mr. SCHENCK.] I have already yielded to the gentleman from Illinois, [Mr. MARSHALL.]

Mr. SCHENCK. I will yield a minute to the gentleman from Illinois, [Mr. MARSHALL,] and I will keep him to his minute.

Mr. MARSHALL. Well, that is very liberal to gentlemen on this side of the House. I can now only say that this is one of probably a hundred or a thousand times that I have been compelled to sit here and listen to the most gross and unfounded libels upon the Demo-

cratic party, and under the power of the majority we have had no opportunity to reply.

I wish to say now to the House and to the country that there is a forum where we will be able to be heard on equal terms. The great mass of the people of the country will be at the polls in November next, and there we will brand these libels as they deserve; there we will meet our accusers and rebut their unfounded calumnies. We have no opportunity of doing so here, under the outrages practiced by the majority in depriving the minority of their just rights in debate. Thus the most outrageous libels and falsehoods may be promulgated from day to day, we being deprived of the opportunity to meet and refute them. I appeal to the people of the country to observe the manner in which the minority are treated here from day to day; and I remind gentlemen on the other side that there is a forum where we shall be heard—a forum before which we will fasten upon the party that has held possession of the Government for the last eight years the atrocities of which they have been guilty; and they will receive at the hands of an indignant people the verdict which they deserve.

Mr. SCHENCK. Mr. Speaker, we accept that appeal to the people and to the polls. We shall be there to meet these threats made in 1862, repeated in 1864, rehearsed again in 1866, and now revived in 1868—to meet them with the same result, the putting down by the power of the people of men who have assailed every interest of the country and sought to betray the loyal men of the nation into the hands of the country's enemies.

Mr. MARSHALL. If gentlemen on the other side were capable of magnanimity they would allow us to meet those questions here.

Mr. SCHENCK. I have already yielded to the gentleman a part of my time, and I propose now to go on without interruption.

Now, Mr. Speaker, I am glad that this little preliminary discussion, to be followed hereafter by those others to which the gentleman refers us, has taken place. I am glad that the gentleman from Wisconsin [Mr. ELDRIDGE] interrupted my friend from Massachusetts [Mr. BOUTWELL] with his interrogatory, which elicited some allusion to the issues now just made up again in new form before the people of this country. What was that interruption? The gentleman from Wisconsin was opposed to the bill now under consideration because he claimed that there are no States which are in any sense whatever out of their normal relations to the rest of the Union. He made the objection because he claims that every one of those States is now entitled to representation upon this floor and in the Senate and to votes in the Electoral College for President and Vice President. Why, sir, this is only in accord with what we have heard and witnessed all along. These gentlemen, short of memory, have forgotten that there has been a war, and would have us, following them, shut our eyes to that historical fact and to the consequences of that war.

But let us take the gentleman upon his own ground. Let us assume that these States are now entitled to vote for President and Vice President; and that the governments of these States are now to be recognized. What governments of those States? Gentlemen on the other side have failed to tell us. Are we to recognize those governments which existed prior to 1861? Andrew Johnson, in his celebrated North Carolina proclamation and other papers of like character, declared (and gentlemen on the other side have indorsed the declaration) that all civil government within the limits of those States had been destroyed. Surely, then, the gentleman from Wisconsin cannot mean that we should recognize the State governments which existed prior to 1861. Are we, then, to recognize the civil governments set up by Andrew Johnson, assuming to be himself the United States, and therefore authorized to carry out the guarantee of the Constitution toward States found without civil governments? Gentlemen do not pretend that

now. We know they do not mean to advocate the recognition of the loyal governments which have grown up under the legislation of Congress; for against those governments they are all the time arraying themselves. Then what governments are they that are to send their Representatives to Congress, their Senators to the other end of this Capitol, their electors to vote for President and Vice President? Frank Blair has told us, and it will not do for gentlemen now to attempt to throw off that exposition of their creed, that declaration of their position, which has been so clearly defined for them before the country by their candidate for the Vice Presidency.

The gentleman from New York [Mr. Brooks] and others are uneasy. They tell us that the letter of Frank Blair is not their platform. What is their platform? Why, sir, on Monday, the 6th day of this month, the Democratic party in their convention at New York agreed upon a series of propositions, many of them mere axioms in politics against which nobody will protest; others generalities and commonplaces about which no question is likely ever to be made; others a wrapping-up of meaning in ambiguous phrase with the intention of catching people of the widest dissimilarity of opinion, so that your Chase men and your Pendleton men might meet upon the same ground. And that they say is their platform. That was on the 6th of July. Three days afterward, on the 9th of July, when, throwing aside all others, they had taken Horatio Seymour as their candidate for the Presidency, and the question came who should be their second on the ticket, Frank Blair marched into that hall, not in person, but through the representatives of himself and his position, with a platform in his hand, which he presents to these men, in which he not only lays down distinct positive views, which they by acclamation adopted with him, but which he presents to them accompanied with the declaration that all else they have been declaring about is of no consequence whatever, and this which he presents is the only issue. Now, see whether I overstate it. That is his platform thus presented. They say it would be rather a sudden change between the 6th of July and the 9th of July to have altered their whole position. Is there any change impracticable to these men? Do they not fight for Seymour and Blair just as they would have fought for Chase or Hendricks or for Hancock, had they been nominated? If any man thinks he can find a plank too short to afford room to allow the Democratic party to turn a somersault on in two days or one day, or in two hours or one hour, he knows less of the history of that party than I do.

Mr. JONES, of Kentucky. I ask the gentleman to let me put a question to him.

Mr. SCHENCK. I cannot yield. They cannot plead shortness of time, especially they cannot plead it in the face of the recorded facts; and I repeat, therefore, although they adopted that platform under which they seek now to take refuge on the 6th, by the decision of the 9th they virtually threw it aside when they nominated this candidate whom they accepted by acclamation, who said there was one great issue, and on that they meant to go to the country.

I will have some of this literature repeated in order to refresh the memory of gentlemen on the other side, although it has been read in full at the Clerk's desk. First, as to that platform. Here it is in a few lines:

"There is but one way to restore the Government and the Constitution, and that is for the President-elect to declare these acts null and void."

Not submit them to the court. Oh, no! the Democratic President-elect is to declare them by his first proclamation null and void.

"Compel the Army to undo its usurpations at the South, disperse the carpet-bag State governments, allow the white people to organize their own governments, and elect Senators and Representatives."

One way is for the President to sweep aside all acts of the legislative power, and to substitute creatures in the shape of State governments

of his own making instead of those established by law.

"The House of Representatives will contain a majority of Democrats from the North."

May be so!

"And they will admit the Representatives elected by the white people of the South, and with the cooperation of the President it will not be difficult to compel the Senate to submit."

That is your platform moved as an amendment to the resolutions of July 6, and you shall hear of it everywhere whether you will or no. You will have to stand on it and abide by it.

Let me go on with it:

"I repeat that this is the real and only question which we should allow to control us: Shall we submit to the usurpations by which the Government has been overthrown, or shall we exert ourselves for its full and complete restoration? It is idle to talk of bonds, greenbacks, gold, the public faith, and the public credit."

Away with your generalities, commonplaces, platitudes, and delusions in the pretended platform which you adopted two days ago. That is not the issue. There is but one real, true issue; all those are of the slightest possible consequence which two days ago you thought worthy to be made the declaration of your faith.

"I wish to stand before the convention upon this issue, but it is one which embraces everything else that is of value in its large and comprehensive results. It is the one thing that includes all that is worth a contest, and without it there is nothing that gives dignity, honor, or value to the struggle."

Mr. MARSHALL. I raise the question of order that the gentleman is not discussing the question before the House. [Laughter.] Unless he gives a chance on this side I shall object to his proceeding. I have no objection at all if he will permit us to have one fourth the time he occupies.

The SPEAKER *pro tempore*, (Mr. SCOFIELD in the chair.) The gentleman will confine himself to the subject of debate.

Mr. SCHENCK. That is precisely what I am doing. It is claimed that there are or are to be certain Democratic State governments established at the South by these means, which, being about to be established, will obviate all necessity for passing this bill. We disagree to that; and I comment upon the character of those governments and the issue sought to be made before the people by which those governments are to be thus made the law for these southern States. I say, therefore, that is one distinct issue, the issue which General Blair concludes his letter by claiming to be the only one "that gives dignity, honor, or value to the struggle." It is to be found in the secondary platform overriding the first accepted by these gentlemen, and it now presents the one ground upon which they go to the people. Why, sir, how was General Blair taken? How were any of the candidates taken? Is there anything in the selection of either of them which would indicate that the gentlemen would not have taken this as their position in regard to these southern States?

Mr. MARSHALL. I rise to a point of order.

The SPEAKER *pro tempore*. The Chair is of opinion that the gentleman is wandering somewhat from the subject.

Mr. SCHENCK. Will the Chair be kind enough to tell me wherein?

The SPEAKER *pro tempore*. The Chair thinks that the Democratic candidates and their platform have nothing to do with this question.

Mr. SCHENCK. I regret to differ from the Chair, and from the gentleman on the other side.

Mr. NIBLACK. The Democratic platform does not go into effect till after the 4th of March next, whereas this is intended to go into operation before that. [Laughter.]

Mr. SCHENCK. Under the advice of the Chair I shall have to desist from the course of remark I was entering upon, but it did seem to me that when it was claimed that upon certain principles and positions taken by these men whom they selected to lead them, indicated, embodied, and personified in this way, a bill like this was unnecessary. I might be

allowed to say it was necessary, for the very reason that they had selected such exponents of their opinions. I am a little at a loss to know to what I may properly direct my argument under the ruling of the Chair, which certainly was unexpected after the course which this debate had been permitted to take.

Mr. SPALDING. I move that the gentleman be permitted to proceed.

Mr. SCHENCK. But I shall certainly take some opportunity hereafter, if it presents itself, to submit my views, not in a straight-jacket, upon this subject.

The SPEAKER *pro tempore*. The Chair will state that the debate had been allowed to run on without objection from any quarter; but when objection was made and insisted upon, the Chair felt bound to rule as he did.

Mr. MARSHALL. If the other side will give us something like half a show I have no objection.

The SPEAKER *pro tempore*. Does the gentleman withdraw the objection?

Mr. MARSHALL. Only on the condition stated.

Mr. SCHENCK. It comes with a bad grace from the gentleman who told me he only wanted a minute, and I gave him more. I inquire if it would be in order to supply some omissions in the account he gave of the personnel of that convention which made this platform which opposes itself to the bills we have under consideration?

The SPEAKER *pro tempore*. The Chair is of the opinion that all of this debate is not relevant to the joint resolution before the House, and if objection is made it cannot proceed.

Mr. WASHBURNE, of Illinois. I have no objection to this debate being pursued at some subsequent time, if gentlemen wish to go on with it; but if they mean to continue it now, I propose to make a report from a committee of conference on the legislative, &c., appropriation bill, because it is important to have the report adopted, so that the enrolling clerks may get the bill.

Mr. BOUTWELL. Objection being made by gentlemen on the other side of the House to a further continuance of the debate, and the gentleman from Illinois desiring to proceed to other business, I surrender the floor and ask for the question.

The first question was on the amendments reported by the Committee on Reconstruction; which are as follows:

In lines four and five strike out the words "and which States are not now represented in Congress."

In line fifteen strike out the word "and" and insert "nor."

Add to the resolution the following:

Provided, That nothing herein contained shall be construed to apply to any State which was re-constructed in Congress on the 4th of March, 1867.

Mr. ELDRIDGE. I demand the yeas and nays on agreeing to the amendments.

The yeas and nays were ordered.

Mr. HAMILTON. I desire to offer an amendment.

The SPEAKER. No amendment is in order, the main question having been ordered.

The main question was taken; and it was decided in the affirmative—yeas 110, nays 28, not voting 65; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beatty, Benjamin, Benton, Blair, Boles, Boutwell, Bromwell, Benjamin F. Butler, Roderick R. Butler, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Coyode, Cullom, Dawes, Delano, Deweese, Dixon, Driggs, Eckley, Ela, Eliot, Farnsworth, Ferriss, Fields, French, Garfield, Griswold, Hamilton, Higby, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Jenckes, Judd, Julian, Kelsey, Ketchum, Kitchen, Koontz, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, McKee, Miller, Moore, Morrill, Mullins, Myers, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Pomeroy, Price, Raum, Robertson, Roots, Sawyer, Schenck, Scofield, Shanks, Smith, Spaulding, Starkweather, Thaddeus Stevens, Stokes, Taft, Thomas, Trowbridge, Twichett, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, and John T. Wilson—410.



**NAYS**—Messrs. Adams, Axtell, Beck, Brooks, Cary, Eldridge, Getz, Glossbrenner, Golladay, Grover, Johnson, Thomas L. Jones, Knott, Marshall, Mungen, Niblack, Phelps, Ross, Stewart, Stone, Taber, Lawrence S. Trimble, and Van Trump—23.

**NOT VOTING**—Messrs. Anderson, Archer, Baker, Barnes, Barnum, Beaman, Bingham, Blaine, Boyer, Broomall, Buckland, Burr, Cake, Chanler, Reader W. Clarke, Cornell, Dodge, Eggleston, Ferry, Finney, Fox, Gravelly, Haight, Halsey, Harding, Hawkins, Hill, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Alexander H. Jones, Kelley, Kerr, Laffin, Lincoln, McCormick, McCullough, Mercier, Moorhead, Morrissey, Newcomb, Nicholson, Nunn, Polesley, Prunyn, Randall, Robinson, Selye, Shellabarger, Sitgreaves, Aaron F. Stevens, Taylor, John Trimble, Van Aukun, Van Wyck, Thomas Williams, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—65.

So the amendments were agreed to.

The joint resolution was ordered to a third reading, and it was accordingly read the third time.

**Mr. BOUTWELL.** I demand the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered.

**Mr. ELDRIDGE.** I demand the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 112, nays 21, not voting 65; as follows:

**YEAS**—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beatty, Benjamin, Benton, Blair, Boles, Boutwell, Brownell, Benjamin F. Butler, Roderick R. Butler, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Delano, Deweese, Dixon, Donnelly, Driggs, Eckley, Elia, Elliot, Farnsworth, Ferriss, Fields, French, Garfield, Griswold, Hamilton, Higby, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hubbard, Hunter, Jenckes, Judd, Julian, Kelsey, Ketchum, Kitchen, Koontz, George V. Lawrence, William Lawrence, Loan, Logan, Loughbridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, McKee, Miller, Moore, Mullins, Myers, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Pomeroy, Price, Baum, Robertson, Roots, Sawyer, Schenck, Seefeld, Shanks, Smith, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Taft, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, and John T. Wilson—112.

**NAYS**—Messrs. Adams, Axtell, Beck, Brooks, Cary, Eldridge, Getz, Glossbrenner, Grover, Johnson, Thomas L. Jones, Knott, Marshall, Mungen, Niblack, Phelps, Ross, Stone, Taber, Lawrence S. Trimble, and Van Trump—21.

**NOT VOTING**—Messrs. Anderson, Archer, Baker, Barnes, Barnum, Beaman, Bingham, Blaine, Boyer, Broomall, Buckland, Burr, Cake, Chanler, Reader W. Clarke, Cornell, Dodge, Eggleston, Ferry, Finney, Fox, Golladay, Gravelly, Haight, Halsey, Harding, Hawkins, Hill, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Alexander H. Jones, Kelley, Kerr, Laffin, Lincoln, McCormick, McCullough, Mercier, Moorhead, Morrell, Morrissey, Newcomb, Nicholson, Nunn, Polesley, Prunyn, Randall, Robinson, Selye, Shellabarger, Sitgreaves, Aaron F. Stevens, Taylor, John Trimble, Van Aukun, Van Wyck, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—65.

So the joint resolution was passed.

During the roll-call,

**Mr. POLAND** stated that his colleague [Mr. Woodbridge] was out of town on important business; if present he would have voted for the resolution.

The result of the vote having been announced as above recorded,

**Mr. BOUTWELL** moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INTERNAL TAX BILL.

**Mr. SCHENCK.** The amendments of the Senate to House bill No. 1284, to change and more effectually secure the collection of internal revenue on distilled spirits and tobacco, and to amend the tax on banks, have been referred by the House to the Committee of Ways and Means. There were one hundred and eighty-three amendments made by the Senate to that bill, generally verbal, but there are some of them which are of substance, very few of them. Since obtaining the printed bill this morning containing those amendments we have been diligently at work, but have considered only some fifty-two or fifty-three of the amend-

ments. If we continue upon them we will probably be able to report them back to the House on Tuesday morning next with our recommendations in regard to them. I have, however, been instructed by the committee to ask permission to report those amendments back to the House, and ask that they all be non-concurred in, and that a committee of conference be requested upon them. In that way we suppose there may be had a saving of three or four days of time in the final disposition of the bill. I hope, therefore, that there will be no objection to that course being taken at this time.

No objection was made.

The report was accordingly received.

**Mr. SCHENCK.** I now move that the House non-concur in the amendment of the Senate, and request a committee of conference.

The motion was agreed to.

**Mr. SCHENCK** moved to reconsider the vote just taken, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to **Mr. PRICE**, on account of the illness of his wife.

Indefinite leave of absence was also granted to **Mr. VAN HORN**, of Missouri, after to-day.

**Mr. SCHENCK.** I would inquire of the Chair how many members were present when the last vote was taken.

The **SPEAKER.** Only thirty-three more than a quorum.

**Mr. WASHBURNE**, of Illinois. I give notice that I shall hereafter object to the granting any leave of absence except for good reason stated.

#### ENROLLED BILLS, ETC., SIGNED.

**Mr. HOPKINS**, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 373) to place the name of Mahala M. Straight upon the pension-roll of the United States;

An act (H. R. No. 456) granting a pension to the children of Pleasant Stoops;

An act (H. R. No. 522) granting a pension to W. W. Cunningham;

An act (H. R. No. 525) granting a pension to Jeremiah T. Hallett;

An act (H. R. No. 550) providing for the sale of a portion of the Fort Gratiot military reservation in St. Clair county, in the State of Michigan;

An act (H. R. No. 676) granting a pension to Thomas Connolly;

An act (H. R. No. 677) granting a pension to the children of James Heatherly;

An act (H. R. No. 770) granting a pension to John H. Finlay;

An act (H. R. No. 771) granting a pension to John L. Lay;

An act (H. R. No. 773) granting a pension to William H. McDonald;

An act (H. R. No. 825) granting a pension to John W. Hughes;

An act (H. R. No. 1099) for the relief of Wait Talcott; and

Joint resolution (H. R. No. 292) directing the Secretary of War to sell damaged or unserviceable arms, ordnance, and ordnance stores.

#### INDIAN EXPENSES.

The **SPEAKER**, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, with an estimate of the appropriations necessary to carry out treaty stipulations with the Seneca and other Indians, lately ratified by the Senate; which were referred to the Committee on Appropriations, and ordered to be printed.

#### REMOVAL OF POLITICAL DISABILITIES.

The **SPEAKER** also laid before the House a

communication from the Secretary of War, transmitting certain petitions forwarded by the several military commanders, for the removal of political disabilities; which were referred to the Committee on Reconstruction.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

**Mr. WASHBURNE**, of Illinois, from the committee of conference on the disagreeing votes of the two Houses on House bill No. 605, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1869, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1869, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 2, 3, 12, 18, 19, 32, 37, 39, 42, 43, 45, 46, 47, 48, 49, 52, 54, 55, 56, 57, 58, 59, 61, 62, 65, 70, 71, 72, 73, 74, 75, 82, 83, 85, 87, 88, 90, 91, 93, 94, 95, 97, 99, 103, 104, 105, 106, 107, 108, 109, 110, 115, 116, 117, 118, 119, 120, 121, 130, 131, 132, 133, 134, 143, 145, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 194, 199, 200, 201, 202, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 223, and 227, and agree to the same.

That the Senate recede from their amendments numbered 13, 38, 50, 63, 69, 76, 77, 84, 86, 89, 92, 92½, 96, 96½, 98, 101, 101½, 122, 123, 124, 125, 126, 127, 135, 136, 166, 167, 185, 186, 187, 197, 198, 204, and 226.

That the House recede from their disagreement to the eleventh amendment of the Senate, and agree to the same with an amendment, as follows: at the end of said Senate amendment add the following: "Provided, That after the 30th June, 1869, members of the Capitol police shall furnish at their own expense, each his own uniform, which shall be in exact conformity to regulation, and all provisions of law requiring an appropriation for such uniform are hereby repealed."

That the House recede from their disagreement to the fourteenth amendment of the Senate, and agree to the same with an amendment as follows: strike out of said amendment the word "five" and insert in lieu thereof the word "eight," and the Senate agree to the same.

That the House recede from their disagreement to the thirtieth amendment of the Senate, and agree to the same with amendments, as follows: strike out all of said amendment and insert in lieu thereof the following: "For compensation to the Private Secretary, assistant secretary, who shall be a short-hand writer, two clerks of class four, steward, and messenger of the President of the United States, \$12,500: *Provided*, That so much of the fourth section of the act of July 23, 1866, making appropriation for legislative, executive, and judicial expenses of the Government for the year ending June 30, 1867, as authorizes the President of the United States to appoint a clerk of pardons, and one clerk of the fourth class, is hereby repealed," and the Senate agree to the same as so modified.

That the House recede from their disagreement to the forty-first amendment of the Senate, and agree to the same with an amendment, as follows: at the end of said amendment add the following words: "Provided, That the office of examiner of claims shall be abolished on the 30th day of June, 1869," and the Senate agree to the same as so modified.

That the House recede from their disagreement to the fifty-third amendment of the Senate, and agree to the same with the following amendments: strike out of said amendment the following words: "And for temporary clerks \$9,000;" and in line two of said amendment strike out the words "fifty-two thousand seven hundred" and insert in lieu thereof the words "forty-three thousand seven hundred and forty," and the Senate agree to the same.

That the House recede from their disagreement to the sixtieth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "three" and insert in lieu thereof the word "two," and the Senate agree to the same.

That the House recede from their disagreement to the sixty-third amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "forty-two thousand and seven hundred" and insert in lieu thereof the words "forty thousand nine hundred and twenty," and the Senate agree to the same.

That the House recede from their disagreement to the sixty-fourth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "four" and insert in lieu thereof the word "three," and the Senate agree to the same.

That the House recede from their disagreement to the sixty-sixth amendment of the Senate, and agree to the same with amendments, as follows: strike out of said amendment the word "nine" and insert in lieu thereof the word "seven;" and on page 14, line nine of the bill, strike out the word "three" and insert in lieu thereof the word "five," and the Senate agree to the same.

That the House recede from their disagreement to the seventy-eighth amendment of the Senate, and agree to the same with amendments, as follows: strike out of said amendment the words "one hundred" and

insert in lieu thereof the word "fifty," and on page 17 of the bill, after the word "dollars," in line twenty-three, add the following words: "and it shall be the duty of the Secretary to lay before the House of Representatives annually with his report of receipts and expenditures a statement in detail of the disbursements made from the same hereby appropriated;" and the Senate agree to the same.

That the Senate agree to the amendment of the House to the seventy-ninth amendment of the Senate. That the House recede from their disagreement to the eightieth amendment of the Senate, and agree to the same with the following amendment: In line two of said amendment strike out the following words, "and fifty."

That the House recede from their disagreement to the one hundred and second amendment of the Senate and agree to the same with amendments, as follows: in line one of said amendment strike out the word "four," and insert in lieu thereof the word "seven," and strike out of said amendment the words "six thousand four," and insert in lieu thereof the words "eleven thousand two."

That the House recede from their disagreement to the one hundred and eleventh amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "nineteen" and insert in lieu thereof the word "twelve;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and twelfth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "thirty;" and insert in lieu thereof "nineteen;" and on page 23 of the bill, line twenty-seven, after the word "thousand" strike out the word "four" and insert in lieu thereof the word "two;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and thirteenth amendment of the Senate, and agree to the same with the following amendment: strike out of said amendment the words "fifty-two" and insert in lieu thereof the word "thirty;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and fourteenth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "fifty-eight" and insert in lieu thereof the words "forty-two;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and twenty-eighth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "twenty-five" and insert in lieu thereof the word "fifteen;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and twenty-ninth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "thirty," and insert in lieu thereof the word "eighteen;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and thirty-seventh amendment of the Senate, and agree to the same with amendments, as follows: on page 26 of the bill, line three, after the word "for" insert the following words: "Chief Clerk \$2,000;" and also strike out the word "four" in said amendment and insert in lieu thereof the word "three."

That the House recede from their disagreement to the one hundred and thirty-eighth amendment of the Senate, and agree to the same with an amendment, as follows: strike out "seven thousand two" and insert in lieu thereof "five thousand four;" and in line four of the bill, on page 26, strike out the word "one" where it first occurs and insert in lieu thereof the word "two;" and in the same line strike out the word "one" where it occurs the second time, and in lieu thereof insert the word "three;" and in the same line strike out the word "six" and in lieu thereof insert the word "two."

That the House recede from their disagreement to the one hundred and thirty-ninth amendment of the Senate, and agree to the same with an amendment, as follows: strike out "eight" and insert in lieu thereof the word "six."

That the House recede from their disagreement to the one hundred and fortieth amendment of the Senate, and agree to the same with the following amendment: strike out "eleven thousand two" and insert in lieu thereof "eight thousand four."

That the House recede from their disagreement to the one hundred and forty-first amendment of the Senate, and agree to the same with an amendment, as follows: strike out "twenty" and insert in lieu thereof "ten."

That the House recede from their disagreement to the one hundred and forty-second amendment of the Senate, and agree to the same with an amendment, as follows: strike out "twenty-four" and insert in lieu thereof "twelve;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and forty-sixth amendment of the Senate, and agree to the same with amendments, as follows: in lines two and three of said amendment strike out the words "three thousand five hundred" and insert in lieu thereof the words "two thousand six hundred and sixty-three;" and at the end of said amendment, add the following: "Provided, That this office shall cease on the 4th day of March, 1869, and no further appropriation for its continuance shall be made until said office shall have been established by law;" and the Senate agree to the same as so modified.

That the House recede from their disagreement to the one hundred and forty-eighth amendment of the Senate, and agree to the same with amendments, as follows: in line one of said amendment strike out the word "four" and insert in lieu thereof the word

"three;" and in line two of said amendment strike out the word "four" and insert in lieu thereof the word "three," and in the same line strike out the word "eight" and insert in lieu thereof the word "six."

That the House recede from their disagreement to the one hundred and ninety-third amendment of the Senate, and agree to the same with an amendment, as follows: at the end of said amendment add the following: "Provided, That from and after the 30th day of June, 1869, the Department of Education shall cease, and there shall be established and attached to the Department of the Interior an office to be denominated the office of education, the chief officer of which shall be the Commissioner of Education, at a salary of \$3,000 per annum, who shall, under the direction of the Secretary of the Interior, discharge all such duties, and superintend, execute, and perform all such acts and things touching and respecting the said office of education as are devolved by law upon said Commissioner of Education;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and ninety-four and a half amendment of the Senate, and agree to the same with amendments, as follows: in lieu of said Senate amendment insert the words "four hundred;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and ninety-fifth amendment of the Senate, and agree to the same with the following amendments: in line two of said amendment strike out the word "eight" and insert in lieu thereof the word "seven;" and in line six of said amendment strike out the words "twenty-five hundred" and insert in lieu thereof "two thousand;" and in line six of said amendment strike out the words "two thousand" and insert in lieu thereof "eighteen hundred;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and ninety-sixth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "ninety-one" and insert in lieu thereof the words "seventy-five;" and the Senate agree to the same.

That the House recede from their disagreement to the two hundred and third amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "fifty-seven" and insert in lieu thereof the word "ten;" and the Senate agree to the same.

That the House recede from their amendment to the two hundred and twenty-fifth amendment of the Senate, and the Senate recede from said amendment and agree to the following as a substitute for both amendments:

SEC. —. And be it further enacted, That all advertisements, notices, proposals for contracts, executive proclamations, treaties, and laws to be published in the District of Columbia, Maryland, and Virginia, shall be published in the papers now selected under the provisions of section ten of an act approved March 2, 1867, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," and shall also be published in the paper selected under the provisions of the second section of this act: *Provided*, That no advertisement from any State, District, or Territory other than the District of Columbia, Maryland, and Virginia shall be published in the papers designated, unless at the direction first made of the proper head of a Department.

That the Senate recede from their disagreement to the amendment of the House to the two hundred and twenty-eighth amendment of the Senate, and agree to the same.

L. M. MORRILL,  
TIMOTHY O. HOWE,

T. A. HENDRICKS,  
*Managers on the part of the Senate.*

E. B. WASHBURN,  
CHARLES E. PHELPS,  
C. DELANO,

*Managers on the part of the House.*

The report of the committee of conference was adopted.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MILITARY PEACE ESTABLISHMENT.

The House resumed the consideration of the bill (H. R. No. 1377) to reduce and fix the military peace establishment.

The pending question was upon the amendment of Mr. WASHBURN, of Indiana, to the amendment of Mr. GARFIELD to the seventh section of the bill.

Mr. GARFIELD. I desire to make a proposition in regard to this bill; that we now proceed with its consideration until we get through with the next section, which is simply a provision to determine the number of regiments we are to have in the Army. When that question shall have been determined, if it then be the pleasure of the House, to recommit the bill to the Committee on Military Affairs with instructions to draft a bill more in harmony, in its terms and provisions, with the opinion of the House as exhibited by the

votes of to-day. I will make no objection; the committee to have leave to report at any time.

The SPEAKER. It will require unanimous consent for the committee to report at any time.

Mr. WASHBURN, of Indiana. I object.

Mr. GARFIELD. I move that the bill with the amendments already adopted be ordered to be printed.

The motion was agreed to.

Mr. SCHENCK, Mr. PHELPS, and Mr. GARFIELD gave notice of amendments which they propose to offer and which were severally ordered to be printed.

#### LEAVE OF ABSENCE.

Mr. WASHBURN, of Wisconsin, obtained indefinite leave of absence on account of the sickness of his daughter.

Mr. GARFIELD. I move that the House take a recess till half past seven o'clock this evening.

Mr. SPALDING I move that the House adjourn.

The motion of Mr. SPALDING was agreed to; and the House (at five o'clock and five minutes p. m.) adjourned.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. COVODE: The petition of David R. Stouffer, of the fourth Pennsylvania cavalry, asking Congress to pay him the balance due for his services during the war.

By Mr. DRIGGS: The petition of Philip Carman and 194 others, together with affidavits of Robert Brown and Carl Heisterman, setting forth the facts and praying Congress to grant a pension to the said Philip Carman for services rendered and wounds received in the Mexican war.

#### IN SENATE.

MONDAY, July 13, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. MORTON, and by unanimous consent, the reading of the Journal of Saturday last was dispensed with.

#### HOUSE BILLS REFERRED.

The following bills and joint resolutions received from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (H. R. No. 1277) to provide for the distribution of the reward offered by the President of the United States for the capture of Jefferson Davis—to the Committee on Claims.

A bill (H. R. No. 1320) for the relief of L. Merchant & Co., and Peter Rosecrantz—to the Committee on Claims.

A bill (H. R. No. 1341) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes—to the Committee on Appropriations.

A bill (H. R. No. 1366) for the relief of Captain A. G. Olivar—to the Committee on Claims.

A bill (H. R. No. 1370) to fix the time for holding the terms of the United States district court in Virginia—to the Committee on the Judiciary.

A bill (H. R. No. 1378) to declare the meaning of the several acts in relation to retired officers of the Army—to the Committee on Military Affairs and the Militia.

A joint resolution (H. R. No. 288) amendatory of joint resolution for the relief of certain officers of the Army, approved July 26, 1866—to the Committee on Military Affairs and the Militia.

A joint resolution (H. R. No. 310) to extend the provisions of the act of July 4, 1864, limiting the jurisdiction of the Court of Claims to the loyal citizens of the State of Arkansas—to the Committee on the Judiciary.

A joint resolution (H. R. No. 331) to grant an American register to the Hawaiian brig *Victoria*—to the Committee on Commerce.

#### BRIDGE AT FORT LEAVENWORTH.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate the bill (S. No. 355) authorizing the construction of a bridge across the Missouri river upon the military reservation at Fort Leavenworth, Kansas, which has been returned from the House of Representatives with an amendment.

Mr. POMEROY. I presume the Committee on Military Affairs will be disposed to concur in that amendment. I ask to have it lie on the table for a few minutes until they can see it. I have no doubt they will concur in it, and that we can pass it without being referred. As soon as the committee have examined it I will call it up.

The PRESIDENT *pro tempore*. It will be laid aside for the present.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 6th of February last, information in relation to the expense of maintaining the military establishment in the Territories of New Mexico and Arizona; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of the Interior, communicating estimates of appropriations required to carry out such provisions as will need immediate action of the treaty concluded February 23, 1867, with the Senecas, Shawnees, Quapaws, Peorias, Kaskaskias, Weas, Piankeshaws, Ottowas of Blanchard's Fork and Rock de Boeuf, and the Wyandottes; which was referred to the Committee on Indian Affairs.

#### PETITIONS AND MEMORIALS.

Mr. FESSENDEN presented a petition of officers of the United States Army, praying an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. HARLAN presented a petition of Frederick Hall, praying the confirmation of the title to certain lands which he purchased of two Chippewa Indians; which was referred to the Committee on Public Lands.

Mr. ANTHONY presented two petitions of officers of the United States Army, praying an increase of compensation; which were referred to the Committee on Military Affairs and the Militia.

Mr. CONNESS presented a petition of officers of the United States Army, praying the passage of the bill to fix and equalize the pay of officers, and to establish the pay of enlisted soldiers of the Army; which was referred to the Committee on Military Affairs and the Militia.

Mr. HOWE presented a petition of officers of the United States Army, praying the passage of the bill to fix and equalize the pay of officers and to establish the pay of enlisted soldiers of the Army; which was referred to the Committee on Military Affairs and the Militia.

Mr. FERRY presented a petition of officers of the Army, praying an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORGAN presented the memorial of Charles Gaylord, praying aid in the construction of a marine railway for passing ships across the Isthmus of Darien; which was referred to the Committee on Commerce.

Mr. WILLEY presented a petition of officers of the United States Army, praying an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. HARLAN presented a petition of Violet Henry, widow of Sherrod Henry, late a private of company D, sixtieth United States colored troops, praying to be allowed a pen-

sion; which was referred to the Committee on Pensions.

Mr. CHANDLER presented a petition of officers of the United States Army, praying an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. COLE presented a petition of officers of the Army, praying an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. HOWARD presented a petition of officers of the United States Army, praying an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

#### REPORTS OF COMMITTEES.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (S. No. 605) to declare a part of the Iowa river not a navigable stream, asked to be discharged from its further consideration, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 323) in relation to surveys and examinations of rivers and harbors, reported it without amendment.

Mr. STEWART, from the Committee on the Judiciary, to whom were referred various petitions and memorials relative to the removal of civil disabilities imposed by act of Congress upon the persons therein named, asked to be discharged from their further consideration; which was agreed to.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 1052) amendatory of an act entitled "An act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State," approved June 3, 1856, reported it without amendment.

Mr. DAVIS, from the Committee on Claims, to whom was referred the petition of Joseph Wilson, asked to be discharged from its further consideration, and moved that the petitioner have leave to withdraw his petition; which was agreed to.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 610) in relation to corporations created by laws of the United States, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 584) relating to the finding of indictments in the courts of the United States in the late rebel States, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 604) regulating the times and places of holding the district and circuit courts of the United States for the northern district of Florida, reported it without amendment.

He also, from the same committee, to whom were referred the amendments of the House of Representatives to the bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments, reported an amendment to the House amendments; which was ordered to be printed.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 326) for the relief of Henry B. St. Marie, reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 323) for the donation of certain columns, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 1365) for the relief of Captain Thomas W. Miller, asked to be discharged from its further consideration and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 255) for the relief of the heirs of James S. Porter, late of Hancock county, West Virginia, asked to be

discharged from its further consideration and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 284) for the relief of N. A. Shuttleworth, of Harrison county, West Virginia, asked to be discharged from its further consideration and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 600) to authorize the sale of portions of the military reservations at Forts Leavenworth and Riley, in the State of Kansas, reported it with amendments.

#### LEAVENWORTH COAL COMPANY.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 988) to authorize the sale of twenty acres of land in the military reservation at Fort Leavenworth, Kansas, to report it back without amendment, and recommend its passage.

Mr. POMEROY. As I presume there can be no objection to that bill, I hope the Senate will allow it to be put on its passage now. I think there can be no objection to it.

Mr. WILSON. I move that the Senate proceed to the consideration of the bill.

Mr. POMEROY. I think there will be no objection to it.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill on the day it is reported.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The preamble recites that the Secretary of War, in behalf of the United States and in accordance with the previous practice of the War Department, on the 13th of November, 1860, executed to Samuel Denman, William H. Russell, and Thomas Ewing, jr., and their assigns, a lease of twenty acres of land in the military reserve at Fort Leavenworth, State of Kansas, for the term of sixteen years thereafter, with a preference to them of an extension of the term and with the exclusive right to them to mine for coal under the lands of the military reserve; that the lessees and their assigns accepted the lease, and upon the faith thereof have prosecuted their mining operations under many difficulties at great expense and have finally succeeded in striking the deep coal beds of that geological region after having expended their entire capital to the amount of \$40,000; that it is now discovered that the lease is invalid because the Secretary of War was unauthorized in law to make the same, by reason of which the lessees are deprived of their right to proceed and are threatened with the total loss of their money and are without redress; that in view of the incalculable benefit to be derived, not alone by the State of Kansas, but by the whole country adjacent thereto by the development of the coal strata of the region, the Senate and the House of Representatives of the State of Kansas on the 18th day of February, 1868, concurred in a joint resolution reciting the above and respectfully requesting Congress to act in the premises; and the House of Representatives of the United States have heretofore passed an act directing the sale, in small tracts, of a body of land in the military reserve. The bill therefore provides that the Leavenworth Coal Company, being the successors and assigns of Samuel Denman, William H. Russell, and Thomas Ewing, jr., in the lease, shall have the right to purchase from the United States twenty acres of land lying in the military reserve at Fort Leavenworth, Kansas, and described as follows: beginning at the intersection of the south line of the military reserve and the Missouri river, running northwardly thence along the west line of the Missouri river, thence westwardly in a line parallel to the south line of the military reserve, thence southwardly in a line at right angles with the south line of the military reserve, thence eastwardly in the south line of the military reserve to the point of begin-



ning, the lines to be run so as to make the form of the twenty acres as nearly square as practicable. The Leavenworth Coal Company are to pay therefor the sum fixed by the United States district judges of the State of Kansas, the eastern district of Missouri, and of the northern district of Illinois, whose reasonable expenses are to be paid out of any money in the Treasury not otherwise appropriated; and the lease is extended sixteen years from the passage of this act. Upon the payment of the purchase money, the Secretary of the Interior is directed to issue to the Leavenworth Coal Company and its successors and assigns, a patent for the above described lands, which patent shall also grant to the company and its successors and assigns the exclusive right to mine for coal underlying the lands now comprised in the military reserve.

Mr. HARLAN. I did not hear the amount that they are to pay for this land.

Mr. HOWARD. No particular amount is mentioned. The property is to be appraised by three district judges.

Mr. EDMUNDS. How soon after the appraisal are they to pay?

Mr. HOWARD. They are to pay when they purchase, I suppose.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 564) concerning the tax commissioners for the State of Arkansas.

The message also announced that the House had passed the following bill and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1428) authorizing the admission in evidence of copies of certain papers, documents, and entries;

A joint resolution (H. R. No. 332) authorizing the appointment of examiners to examine and report upon the expediency of discontinuing the navy-yard at Charlestown, Massachusetts, and uniting the same with the yard at Kittery, Maine;

A joint resolution (H. R. No. 338) exonerating certain vessels of the United States from the payment of tonnage fees to consular agents in Canada;

A joint resolution (H. R. No. 335) for the protection of settlers on the Cherokee neutral lands in Kansas; and

A joint resolution (H. R. No. 337) continuing the refining of bullion in the Mint of the United States and branches.

The message also announced that the House insisted on its amendments to the following bills of the Senate:

A bill (S. No. 175) for the relief of Joseph McGhee Cameron and Mary Jane Cameron, minor children of La Fayette Cameron, deceased;

A bill (S. No. 382) granting an increase of pension to Obadiah T. Plum;

A bill (S. No. 422) granting a pension to Maria Schweitzer and the children of Conrad Schweitzer, deceased;

A bill (S. No. 518) granting a pension to the widow and children of John P. Felty;

A bill (S. No. 547) granting a pension to John Sheets;

A bill (S. No. 314) for the relief of George T. Brien;

A bill (S. No. 383) granting a pension to John A. Weed and Elizabeth J. Weed, minor children of Robert T. Weed, deceased;

A bill (S. No. 517) granting a pension to the widow and children of Henry Brown; and

A bill (S. No. 521) granting a pension to the children of William M. Wooten, deceased;

And had agreed to the conference asked by the Senate, and had appointed Mr. S. PERHAM of Maine, Mr. H. VAN AERNAM of New York, and Mr. J. BEATTY of Ohio, managers at the conference on its part.

#### PAPERS WITHDRAWN.

On motion of Mr. HOWE, it was

Ordered, That the petition of N. Daniels be withdrawn from the files of the Senate and referred to the Committee on Claims.

On motion of Mr. POMEROY, it was

Ordered, That William Pollard have leave to withdraw his petition from the files of the Senate.

#### MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had on this day signed the following acts and joint resolutions:

A bill (S. No. 232) granting a pension to Henrietta Nobles;

A bill (S. No. 238) granting a pension to Carrie E. Burdett;

A bill (S. No. 291) granting a pension to Ann Kelley, widow of Bernard Kelley;

A bill (S. No. 292) granting a pension to Maria Raftery;

A bill (S. No. 307) for the relief of certain Government contractors;

A bill (S. No. 332) granting a pension to John W. Harris;

A bill (S. No. 333) for the relief of Julia M. Molin;

A bill (S. No. 316) for the relief of Rebecca V. Senor, mother of James H. Senor, deceased;

A bill (S. No. 318) for the relief of Charlotte Posey, widow of Sebastian Posey;

A bill (S. No. 321) for the relief of Mrs. Mary Gaither, widow of Wiley Gaither, deceased;

A bill (S. No. 342) granting a pension to Thomas Stewart;

A bill (S. No. 359) granting a pension to Louisa Fitch, widow of E. P. Fitch, deceased;

A bill (S. No. 381) granting a pension to Edward Hamel, minor child of Edward Hamel, deceased;

A bill (S. No. 427) for the relief of the widow and children of John W. Jameson, deceased;

A bill (S. No. 436) for the relief of James Hooper;

A bill (S. No. 456) for the relief of Sylvester Nugent;

A bill (S. No. 494) granting a pension to Elizabeth Steepleton, widow of Harrison W. Steepleton, deceased;

A bill (S. No. 495) for the relief of Henry Reens;

A bill (S. No. 434) for the relief of Elizabeth Barker, widow of Alexander Barker, deceased;

A bill (S. No. 407) for the relief of Catharine Wands;

A bill (S. No. 498) granting a pension to Anna M. Howard;

A bill (S. No. 500) granting a pension to Lucinda R. Johnson;

A bill (S. No. 501) granting a pension to Harriet W. Pond;

A bill (S. No. 520) granting a pension to Martha Stout;

A bill (S. No. 542) for the relief of Thomas W. Ward, late collector of customs, district of Corpus Christi, Texas;

A bill (S. No. 549) granting an increase of pension to Catharine Eckhardt;

A joint resolution (S. R. No. 81) placing certain troops of Missouri on an equal footing with others as to bounties; and

A joint resolution (S. R. No. 107) in relation to the Maquoketa river, in the State of Iowa.

#### INTERNAL TAXES.

The Senate proceeded to consider its amendments to the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, disagreed to by the House; and

On motion by Mr. SHERMAN,

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. SHERMAN, Mr. MORRILL of Vermont, and Mr. BUCKALEW.

#### BILLS INTRODUCED.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 613) prescribing the time for appeals in certain land cases; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 614) to pay loyal citizens in the States lately in rebellion for services in taking the United States census of 1860; which was read twice by its title, and referred to the Committee on Claims.

Mr. ROSS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 615) to provide for a commission to investigate claims arising from depredations committed by or upon Indians in Kansas; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. OSBORN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 159) authorizing the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands to sell certain portions of public lands within the corporate limits of the city of Pensacola, Florida, for educational purposes; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

#### MESSENGERS, PAGES, ETC.

Mr. McDONALD. I submit the following resolution, and ask for its present consideration:

Resolved, That the Sergeant-at-Arms be, and he is hereby, authorized and directed to retain during the coming recess the special messengers, pages, and laborers now employed.

Mr. FESSENDEN. I think that had better go over.

The PRESIDENT *pro tempore*. Objection being made, the resolution goes over under the rule.

#### BRIDGE AT ST. LOUIS.

Mr. HENDERSON. I move that the Senate proceed to the consideration of House bill in regard to the construction of a bridge at St. Louis. It has been reported by the Committee on Post Offices and Post Roads, and it is important that it should pass.

The motion was agreed to; and the bill (H. R. No. 681) amendatory of an act approved July 26, 1866, entitled "An act to authorize the construction of certain bridges, and to establish them as post roads" was considered as in Committee of the Whole.

The preamble declares that the St. Louis and Illinois Bridge Company, organized under the laws of the State of Missouri, and the Illinois and St. Louis Bridge Company, organized under an act of the General Assembly of the State of Illinois, have been consolidated, in pursuance of the authority granted to the Illinois and St. Louis Bridge Company, in their act of incorporation, and the authority granted to the St. Louis and Illinois Bridge Company, by an act of the General Assembly of the State of Missouri, approved March 19, 1861. The bill proceeds to provide that the company formed by this consolidation, under the name and style of the Illinois and St. Louis Bridge Company, is hereby recognized and declared to be a corporation by that name, with full power and authority to construct a bridge across the Mississippi river opposite the city of St. Louis, in conformity to the act of which this is amendatory, with all the rights, privileges, and powers granted and conferred by the several acts of the General Assemblies of the States of Illinois and Missouri to the respective companies by the consolidation of which the Illinois and St. Louis Bridge Company was formed, and not inconsistent with the provisions of the act to which this is amendatory. In constructing the bridge there shall

be one span of at least five hundred feet clear between piers. The corporation may execute a mortgage and issue bonds payable, principal and interest, in gold; and their bridge across the Mississippi river and approaches thereto, when constructed, is to be a post road to carry the mails of the United States, and enjoy the rights and privileges of other post roads. The corporation may hold their meetings in either the State of Illinois or the State of Missouri, as the board of directors may elect, and the directors may be citizens of any of the United States; and the corporation may sue and be sued in any circuit court of the United States. Nothing in the act or in any previous legislation affecting the premises is to be so construed as to deprive the Legislatures of the States of Illinois and Missouri of the right to regulate the tolls and fares which may be charged by the company for the use of the bridge; but the tolls now fixed by the Legislatures of Illinois and Missouri shall not be increased.

Mr. HOWARD. I do not know from what committee the bill now before us has proceeded, but I observe, from the reading of the bill, that it assumes to recognize two State corporations as constituting but one, for the purpose of erecting this bridge across the Mississippi river; and the bill goes further: it assumes to limit and regulate the powers and faculties of that corporation by providing that the bridge shall be built in a particular manner, and with a certain span. I wish to inquire of the honorable Senator from Missouri whether the State corporation, or corporations, having this bridge in charge will be bound to follow out the provisions of the bill which we now have under consideration. If those provisions alter the charter of the company granted by the State, may it not turn out that these companies will refuse to comply with the provisions of the act, to build the bridge in the manner prescribed by it; and if they should so refuse, I inquire of the honorable Senator from Missouri what remedy the United States will have? Have Congress a right to alter and amend charters granted by the States? That is the question to which I desire an answer.

Mr. HARLAN. I believe there can be no doubt but that Congress could prohibit the construction of any bridge across the Mississippi river under existing laws. This bill provides that the bridge may be built as provided for by the laws of Illinois and Missouri, with the condition that one of the spans shall be five hundred feet in length, and the company agree to put in a span of that length. There is no conflict, therefore, between the company as now organized and the Government either of the United States or of Missouri or Illinois.

Mr. HOWARD. Suppose they should fail to comply with that provision?

Mr. HARLAN. I suppose if they decline to build the bridge no damage will be done except to those who expect to use it; certainly no detriment to the Government of the United States only so far as they would be deprived of the use of the bridge for a post road.

Mr. HENDERSON. The bill under consideration provides simply for a change, as I understand it, in the construction of this bridge from the requirement of the act of July 26, 1866, which the Senator from Michigan will remember required bridges to be built in a certain style. This bill requires a wider span, a span of five hundred feet. Some say that the bridge cannot be built with that span. The engineers at St. Louis say that it can be built. The State charters did not require any particular width of span, and, as stated by the Senator from Iowa, there is no conflict between this bill and the State charters. The State charters authorize the construction of a bridge in such a manner as not to obstruct navigation at the city of St. Louis. The Senator from Michigan will remember that in 1866 there was a general law passed upon the subject of bridging the Mississippi river. I resisted the passage of that bill, but I was overpowered; the Senate passed it, and it has become a law.

Mr. RAMSEY. The Senator will recollect

that there was a special bill passed authorizing the bridging of the Mississippi river at St. Louis, or a special provision in that general bill.

Mr. HENDERSON. I am very well aware of that.

Mr. RAMSEY. This is amendatory of that.

Mr. HARLAN. I understand that two companies were organized to construct a bridge in pursuance of that law, one under the authority of Missouri and another under a charter granted by the Legislature of Illinois. These two companies were for a time in conflict; that is, they were contending each for the right to construct the bridge; but ultimately they have consolidated under the law of the State of Missouri authorizing them to do so. A certified copy of that act was before the committee, and also a certified copy of the articles of consolidation, so that it appeared to the committee that there was a perfect agreement now that these two companies would consolidate and construct the bridge after the pattern mentioned in this bill.

Mr. HOWARD. I understand the Senator from Missouri to say that there is not laid down in the charter any particular mode or manner in which this bridge shall be built, except that it shall not be so built as to obstruct navigation. Now, suppose the State corporation should refuse to make the bridge according to the requirement of this act, what would be the result? Is there any remedy which the United States could resort to? They are authorized to construct a bridge across the river so as not to obstruct navigation. I am not sure by any means that the States have not the right to authorize the construction of a bridge across the Mississippi river, and I am by no means sure that it is in the power of Congress to say that they shall not do it. It is on this point that I wish a little light from the Senator from Missouri. If the State corporation refuses to do what we prescribe, is there any remedy for the United States?

Mr. HENDERSON. I do not know that the United States could compel the construction of a bridge at St. Louis. That is not the purpose of this bill; it is merely to declare the mode of constructing by State corporations, a consolidation of which has now taken place, a bridge which shall be a post road. I believe it has been customary to pass such bills here in Congress.

Mr. HOWARD. I understand that very well; but there is a corporation authorized to construct a bridge in its own way across the Mississippi river, and we undertake to dictate to that corporation as to the manner in which the bridge shall be constructed. Suppose the corporation refuses to construct it in that manner, and contends for making it in a different style?

Mr. HENDERSON. I do not understand that this bill dictates to the corporation in what manner they shall construct the bridge. It does require them to construct it of a certain span, and the company desire to construct the bridge in that way. Senators may rest assured there will be no difficulty, so far as the company is concerned, about their building the bridge. They intend to proceed and construct it, and their plans have been adopted in strict accordance with the principles laid down in this bill.

Mr. HOWARD. Suppose they should wish to depart from them?

Mr. HENDERSON. Then it might, perhaps, defeat the construction of the bridge; that is all; but the bridge, I apprehend, will be built, as the bridge company itself is willing to build under this restriction; that is, with span of five hundred feet, a greater span than has been required of any bridge over any navigable waters of the United States at the present time. Surely the Senator from Michigan should not object. The company are willing to take upon themselves this restriction and build a bridge wide enough in the span to admit the largest steamers and the largest rafts that float upon the Mississippi river, and high enough to allow even the largest New Orleans steamers

to go beneath it. Of course the Senator ought not to object. I understand the consolidated company is now anxious and desirous to proceed to the construction of the bridge, subject to these restrictions.

Mr. HOWARD. The Senator from Missouri entirely misunderstands me if he supposes that I am objecting to the bill. I merely put an inquiry to the Senator involving a question of law as to the rights of the United States.

Mr. HENDERSON. It is a very nice question of law, and really I am not prepared to discuss it this morning. I have not examined the question as to the authority of a State Legislature to authorize the construction of a bridge over a navigable stream of the United States. I refer the Senator, however, to various decisions on that subject, the Wheeling cases and other very interesting cases decided by the Supreme Court of the United States, where he can find perhaps much more law than I should be able to give him in the short compass of an hour this morning. I hope he will withdraw his objection and let the bill pass.

Mr. MORTON. I had supposed that there was no doubt that the Government of the United States had a right to prevent the building of a bridge over any navigable water, which would obstruct navigation, and I had supposed there was no doubt about the power of the Government to pull down any bridge that had been built under State authority which did obstruct navigation.

Mr. POMEROY. I am very anxious that this bill should pass, because it is an experiment in bridge building. This is to be a bridge without a draw, with a span of five hundred feet, and eighty or ninety feet above low water. There is no such bridge built anywhere in the United States. An engineer states that he can build this bridge and I want it tried. It is so high as to be out of the reach of human sympathy; but if he builds it so that it can stand I shall be gratified. I confess I have my doubts about the whole project, but these companies are willing to try it, and I want to see it done if possible.

Mr. CONNESS. I rise only to say a word or two about this bill. To me it is one of the strangest bills that has been presented to Congress since I have been in it. It proposes to take two corporations, organized under the laws of different States, for the purpose of building a bridge across the Mississippi river; and by this act to recognize and declare them to be a corporation by a given name. In other words, it organizes two corporations, chartered under separate States, into one corporation under an act of Congress. The language is specific. I beg to read it:

That the company formed by this consolidation, under the name and style of the Illinois and St. Louis Bridge Company, is hereby recognized, and declared to be a corporation by that name, with full power and authority to construct a bridge across the Mississippi river, &c.

Then it imposes a limit upon the extent of the span of the bridge, that is to reach, as the Senator from Kansas says, out of the range of human sympathy, and the second section continues the purpose of the first, and says:

That the said corporation may execute a mortgage and issue bonds payable, principal and interest, in gold, and their bridge across the Mississippi river, and approaches thereto, when constructed, shall be a post road.

Now, sir, if we can pass an act of this kind, I do not know any reason why this should not be passed. I certainly have no objection to the limit upon the span, and am as anxious as any one that the experiment shall be tried; but by act of Congress consolidating two corporations organized in several States under the laws of those States into one, and giving them authority to proceed to do certain acts within each of those States, is at least a novel proposition.

Mr. HENDERSON. The difficulty about this matter is this: the Illinois Legislature organized a company under a charter to build a bridge at the city of St. Louis, and the Legislature of the State of Missouri passed a similar

act, but organized into a corporation different individuals. A conflict of right and of jurisdiction over the river occurred between these two companies, each claiming the sole and exclusive right to construct a bridge at St. Louis, and claiming the right by virtue of the respective charters of the different States. They enjoined each other from proceeding, each company claiming, as the Senator from Michigan now claims, that the Legislature of a State interested has a perfect right to proceed to authorize the construction of a bridge across the navigable waters of the United States. The Senator will observe that these two companies are now organized into one. They have so organized themselves, so far as they possibly can, by articles of agreement into one company, thereby doing away with the difficulty that occurred from this claim of right of each State.

Mr. CONNESS. I have no objection to the bill except to call attention to its peculiarity. I should not object to a bill, and I should think it entirely right, giving the consent of the United States to the consolidated corporation doing certain things, namely, building a bridge.

Mr. HENDERSON. That is all the bill does.

Mr. CONNESS. No; the bill goes further. It organizes these companies into a corporation under a national statute, and authorizes them to issue bonds, declaring the manner in which they shall be made payable, and that, I submit, is going further than we have ever gone.

Mr. HARLAN. The Senator from California is evidently in error in that respect. Congress has recognized a railroad company under the laws of California, and authorizes that railroad company to do certain things, among others to issue bonds, the principal payable in thirty years, and the interest payable in gold at a certain rate; and the same law authorized certain companies incorporated in Kansas and certain companies in California to consolidate and proceed to do certain work as consolidated companies, or as one company consolidated under that provision.

Mr. HENDERSON. All that will be found in the Pacific railroad charter.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### NAVY AND MARINE CORPS.

Mr. DRAKE. I move that the Senate take up for consideration House bill No. 941.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 941) to amend certain acts in relation to the Navy and Marine corps.

The bill provides that from and after its passage the Marine corps shall consist of the number of officers, non-commissioned officers, and musicians authorized by the act for the increase of the Marine corps of the United States, approved March 2, 1847, and the acts previous thereto, and of fifteen hundred privates; but the commissions of officers now in the Marine corps are not to be vacated by this act, and no appointment is to be made in any of the grades of the said corps until the number in the corps is reduced below the number herein provided for each of the grades.

No appointment of engineers is to be made in either of the grades of the corps until the number is reduced below that provided in the first section of the act to regulate the appointment and pay of engineers in the Navy of the United States, approved August 31, 1842, and the number so authorized is to be based upon the number of steamships now in commission, and the grade of third assistant engineer is abolished.

The third section proposes to repeal the second section of an act entitled "An act to increase the pay of midshipmen and others," approved March 3, 1865, and the ninth section of an act entitled "An act to amend certain

acts in relation to the Navy," approved March 2, 1867; but the repeal of the section is not to be construed to increase the pay now allowed by law to officers promoted in accordance with its provisions.

The fourth section repeals all acts and parts of acts authorizing the appointing of temporary acting officers in the Navy.

The Committee on Naval Affairs reported the bill with various amendments. The first amendment was to strike out the first section of the bill after the enacting clause in the following words:

That from and after the passage of this act the Marine corps shall consist of the number of officers, non-commissioned officers and musicians authorized by the act for the increase of the Marine corps of the United States, approved March 2, 1847, and the acts previous thereto, and of fifteen hundred privates; and all acts and parts of acts inconsistent herewith are hereby repealed: *Provided*, That the commissions of officers now in the Marine corps shall not be vacated by this act, but no appointment shall be made in any of the grades of said corps until the number in said corps is reduced below the number herein provided for each of said grades.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I think it would be well to have the Senator from Missouri explain this bill and state how much it increases the pay of any officers of the Marine corps or of the Navy.

Mr. DRAKE. That explanation would come up in proper connection with an amendment proposed by the committee. If, however, the honorable Senator from Vermont desires to have that explanation made before we come to that amendment, I will make it now. There are several amendments of small character that can be acted upon at once. I will explain the point referred to when we come to the amendment which involves it.

The next amendment was in section two, to strike out the enacting clause; in line three to insert the words "first three" before the word "grades;" in line four to strike out the word "provided" and to insert "authorized;" in line eight, after the word "steamships," to insert "of war;" in lines nine and ten to strike out the words, "and the grade of third assistant engineer is hereby abolished," and to insert, "and no appointment of third assistant engineer shall hereafter be made;" so as to make the section read:

That no appointment of engineers shall be made in either of the first three grades of said corps until the number is reduced below that authorized in the first section of the act to regulate the appointment and pay of engineers in the Navy of the United States, approved August 31, 1842, and the number so authorized shall be based upon the number of steamships of war now in commission. And no appointment of third assistant engineer shall hereafter be made.

The amendment was agreed to.

The next amendment was in section three, now made section two, lines four, five, and six, to strike out the words, "and the ninth section of an act entitled 'An act to amend certain acts in relation to the Navy,' approved March 2, 1867, are," and to insert the word "is;" and in line nine, after the word "repealed," to strike out the following proviso:

*Provided*, The repeal of said section shall not be construed to increase the pay now allowed by law to officers promoted in accordance with its provisions.

So that the section will read:

That the second section of act entitled "An act to increase the pay of midshipmen and others," approved March 3, 1865, is hereby repealed.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of Saturday, being the funding bill, is now before the Senate.

Mr. DRAKE. As this is a bill of very great public importance, reducing the expenses of the Navy more than half a million dollars a year, and conforming its official personnel to the reduction of the number of seamen in the Navy which Congress has already made at this session, I ask the honorable Senator from Ohio in charge of the funding bill to allow us to go through with the amendments which the committee have reported, which will probably take but a few minutes, and let the bill be sent back

to the House for concurrence. I would not ask this for any private measure, or any measure of individual interest; but this is a bill of great public importance, and it is very desirable to get it through, and I think it will take but a little while to do it.

The PRESIDENT *pro tempore*. The unfinished business can be laid aside informally, if there be no objection.

Mr. SHERMAN. I happen to know that that bill will probably excite some comment and create some delay. It is a bill of much greater importance than I supposed when the Senator spoke to me about it a little while ago. I desire to get through with the funding bill to-day if possible, so as to get it out of the road. Senators all around me are impatient. They say it stands in the way of other business; and I hope, therefore, we shall proceed with the regular order. I have no doubt I shall vote for the Senator's bill when it comes up again.

#### RIGHTS OF CITIZENS ABROAD.

Mr. CONNESS. With the leave of both Senators I desire to submit a motion to transfer the special order appointed for to-day to another day, which will be removing one of the obstacles. I move to make the special order for to-day at one o'clock, the bill for the protection of American citizens abroad, the order of the day for Thursday next at one o'clock, by agreement with the chairman of the Committee on Foreign Relations, giving notice that we shall expect it to be considered on that day.

The PRESIDENT *pro tempore*. The Chair will put the question on that motion.

The motion was agreed to.

The PRESIDENT *pro tempore*. The unfinished business of Saturday, the funding bill, is now before the Senate.

Mr. DRAKE. I will say to the Senator from Ohio that if this bill of mine should lead to debate, I would, of course, give way at once; but if it should not lead to debate, we could get through with it in a few minutes.

Mr. SHERMAN. I can say to the Senator that I am requested by other Senators to state that the bill will lead to discussion. They wish time to look into it. It is a very important bill, which is called up now for the first time. No doubt the Senator having called it up now and called the attention of the Senate to it will get the advantage of that when he calls it up again.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 676) granting a pension to Thomas Connolly;

A bill (H. R. No. 938) to authorize the sale of twenty acres of land in the military reservation at Fort Leavenworth, Kansas;

A bill (H. R. No. 201) declaratory of the law in regard to officers cashiered or dismissed from the Army by the sentence of a general court-martial;

A bill (H. R. No. 1119) for the registration or enrollment of certain foreign vessels;

A joint resolution (S. R. No. 139) excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized;

A joint resolution (H. R. No. 201) in relation to Rock Island bridge;

A joint resolution (H. R. No. 281) authorizing the issue of clothing to company F, eighteenth regiment United States infantry; and

A bill (H. R. No. 1099) for the relief of Wait Talcott.

#### HOUSE BILLS REFERRED.

The joint resolution (H. R. No. 335) for the protection of settlers on the Cherokee neutral lands, in Kansas, was read twice by its title,



and referred to the Committee on Indian Affairs.

The joint resolution (H. R. No. 337) continuing the refining of bullion in the Mint of the United States and branches, was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. No. 1428) authorizing the admission in evidence of copies of certain papers, documents, and entries, was read twice by its title, and referred to the Committee on the Judiciary.

#### THE FUNDING BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States, the pending amendment being on the amendment reported by Mr. SHERMAN, from the Committee on Finance, as a substitute for the bill.

Mr. HENDERSON. I move to amend the amendment in line nine by striking out "five" and inserting "four and a half;" in line ten, after the word "four," by striking out the words "and a half;" and in line eleven by striking out "four" and inserting "three and a half," so that the clause will read:

The issue of bonds falling due in twenty years shall bear interest at four and a half per cent.; bonds falling due in thirty years shall bear interest at four per cent.; and bonds falling due in forty years shall bear interest at three and a half per cent., which said bonds shall be exempt from taxation, &c.

I should like to have the yeas and nays on this proposition.

The yeas and nays were ordered.

Mr. FESSENDEN. I shall feel disposed to vote for this amendment if the bill is to stand as it does now, issuing bonds at twenty, thirty, and forty years; but I have an amendment to propose which I think ought to be made to the bill, and if that amendment be adopted I shall not vote for this amendment because I think it would be limiting the interest too much. I propose to amend the bill, when I have an opportunity, in the first section, line five, by inserting after the word "after," the words "ten years and payable after," so that it will read, "redeemable in coin at the pleasure of the United States after ten years, and payable after twenty, thirty, and forty years respectively." If that amendment should be adopted, I should be willing to vote for the rates of interest as they stand now in the bill, and think that that would be as well as we could do.

I am opposed to taking off the limit of ten years. As our financial system stands at the present time it is a perfectly fixed and stable system. We have, in reality, only two kinds of funds, the five-twenties, so called, redeemable after five years, and payable in twenty years, and the ten-forties, redeemable after ten years and payable in forty years. I think ten years is the furthest point to which we ought to go and put out of our hands the power to redeem. The system as it stands now was predicated upon the idea of controllability; that our funds bearing the interest they did, might, in a reasonable time, be within our control; that if a better state of things occurred, as we believed a better state of things would occur, and the country became stable and prosperous again, it would be perfectly easy for us then to reduce the rate of interest, and reduce it materially, and place our funds on a very different footing from that on which they now stand. That is a power, and an important power, which those who had charge of the finances thought should always be retained as far as possible. I presume that there is no one of the committee but what would agree with me upon the important principle; and yet the first section of this bill abandons that idea and carries the lowest point forward for ten years more, so that the bonds we may put out now are not to be redeemable within twenty years, or only after that time has expired. I think that that is inexpedient and unnecessary.

I know the answer that may be given. It is that we shall not be likely to negotiate the bonds with such a provision. I think, in the

first place, we should be quite as likely, because the people would reason, "If I should get my money at that time, very well; but if not, I go on precisely as if this limit had not been placed upon the bill originally." In my judgment, we had very much better pay the six per cent. interest, as we are paying it, for a few years longer, than put the control of the finances, of the funds, so called, out of our hands for the period of twenty years. Remember that when we have once transposed these bonds in this way, they are no longer within our control for the long periods that we fix. If this country becomes as prosperous as I believe it will within ten years from this period, if it arrives at that point of prosperity, which we may well foresee for it, with our troubles settled, and everything going on as it did, I believe that within ten years from this time the credit of this country will be rivaled by the credit of no country on the face of the earth, and that it will be perfectly easy for us to borrow money, if we are disposed to borrow it to take up the debt that falls due, the accruing debt, upon terms most favorable to ourselves, and at the lowest rate of interest. Believing that for the sake of putting out a bill at the present time for any purpose, either to affect the mind of the public at this particular crisis, or for the still better purpose of reducing the interest, I have not been able to persuade myself that what we should gain for a short period in interest by the reduction of one per cent. would, by any means, pay us for putting the control of these large sums of money out of our hands for so long a period as twenty years.

Now, sir, this is an opinion which I state for what it is worth. It is my settled conviction, and I know it to be the settled conviction of men wiser than myself. For that purpose I propose to offer the amendment I have suggested to the Senate, and see what the Senate think of it, and upon the vote on that will depend my vote upon my friend's amendment to reduce the interest. If my amendment prevails, I shall let the interest stand as it does now; if not, I shall vote for the Senator's amendment.

Mr. HENDERSON. I shall not argue this financial subject. I did not suppose, a short time since, that anything would be done upon these bills at the present session; but it seems to be the desire of the chairman of the Finance Committee at least to put before the creditors of the United States a proposition for funding their debt, and for the reduction of the rate of interest. At an early part of the session, on the 21st of January last, I introduced a bill, the second section of which provided for the funding of the public debt—

"Principal and interest to be paid in coin, and bearing interest at a rate not exceeding three and a half per cent., payable semi-annually, the same to be paid in fifty years from their date, but redeemable at the pleasure of the Government after ten years from the date of issue, which said bonds the Secretary may dispose of at not less than their par value," &c.

The Committee on Finance reported a bill for funding the debt—I do not remember the time—at five per cent. I desire simply to state, without taking up any of the time of the Senate during such hot weather as this in the discussion of a proposition of this character, that a large portion of the people of the United States believe that about two thousand million dollars of our public debt is payable in lawful money; in other words, in greenbacks. A large number of them also believe that the Government may properly issue any quantity of United States notes for the payment of the public debt; while another large portion of the people believe that we have a perfect right to pay the five-twenties in lawful money of the United States, but that it would be bad faith to exceed in the issue of lawful money \$400,000,000; but that with an outstanding circulation of \$400,000,000 we may proceed from year to year to pay off the greenbacks in five-twenties. In this contrariety of opinion a proposition is now presented to fund the public debt, including the five-twenties, in a new set of bonds or

a new fund, payable at the pleasure of the United States after twenty, thirty, and forty years, but to change the character of the payment; in other words, that if we have the right now to pay the five-twenties in lawful money of the United States, which is worth, say seventy cents to the dollar, we will make an agreement upon this occasion to pay it, not in lawful money, but in coin; to make a new contract with our creditors, and, as the Senator from Maine says, extend the time from two years, in fact, two, three, and five years, payable now at the pleasure of the United States, up to twenty years, and debar ourselves of the privilege of making payment to the creditors in that time, and agree to pay upon that twenty years' security five per cent. in coin.

I for one am totally unwilling to make any such contract. I believe with the Senator from Maine that it is possible at least—I do not say that it is probable, but it is possible—that with lessened expenditures of the Government, with economy on our part, and with an intention to pay off the public debt at an early day, with prosperity in the country, good crops, and a revival of industry, we may possibly be able to borrow money within twenty years for far less than five per cent. Suppose such should be the case, we shall by this bill have tied up our hands in such a way that it will be utterly impossible for us to do it. We have changed this contract, which we may now liquidate in lawful money of the United States, into a gold bond, binding ourselves to pay the principal in gold. We shall then be obligated for twenty years to pay five per cent., when in all probability we may be able to borrow money at three and a half or four per cent. Even if we could borrow it at four per cent. it would be a very large saving. Then we further obligate ourselves upon the thirty-year bonds to pay four and a half per cent., and upon the forty-year bonds to pay four per cent. I think that that interest ought to be reduced. I do not know that I desire especially a funding of the public debt under a proposition such as is contained in this amendment. It is too much interest.

Mr. FESSENDEN. It is already funded.

Mr. HENDERSON. It is true it is already funded; and although we are paying six per cent. upon it, yet we certainly do have the advantage, in my judgment, of the right to pay it off in lawful money. I do not desire now to go into the discussion of that question. I discussed it at an early part of the session, whether to the satisfaction of any member of the Senate or not it is now unnecessary to inquire. I do not desire to renew the discussion. But this is a proposition made to the creditors. It is not obligatory upon the creditors to take it. It is not mandatory upon them. We do not pretend to force them to take this course. We do not do as some Governments have done, and, in fact, as the English Government has done on several occasions. Although we hear the credit of England boasted of in our country so much, they have actually put their creditors in a position upon several occasions to compel them to take a fund with a smaller rate of interest.

I do not advocate any such legislation on our part. I do not think it is necessary. I did not advocate it before and I do not now. I do not desire to make it obligatory on our creditors to reduce their interest or to confiscate any part of their indebtedness. I think it is bad legislation, but if we are to repudiate any part of our debt we shall do it after it becomes perfectly manifest that we cannot pay the interest, and not until then. I know that some have called those who believe that the five-twenties can be paid in lawful money, repudiators. I for one say that I have no feeling of that kind, although I believe that the contract is such that they can be lawfully so paid, and believing it, of course, I never could consent to such rates of interest as are prescribed in this bill, especially as the Senator from Maine says, if the time of payment is to be so long prolonged. Now, inasmuch as this

is a mere proposition to the creditors, and they can take it or not take it, I do not think we have much to gain by it. For myself, I would rather the creditors should refuse to fund than to fund under the proposition of this bill. I must say that the securities this bill will give them will be infinitely better to the creditors than the present securities. In other words, this is a bad contract on the part of the Government; it is a contract we, as guardians of the public interest, ought not to be willing to make, and I for one, being unwilling to make it, move this amendment, and I hope it will be adopted.

Mr. CATTELL. Of the two propositions, the one presented by the Senator from Missouri and the one presented by the Senator from Maine, I very greatly prefer that presented by the Senator from Maine. There is a manifest propriety in holding the control of this large indebtedness, if we can possibly do it at this rate of interest, and succeed in funding the debt, or, as the Senator from Maine says, in refunding it. The proposition of the Senator from Missouri proceeds on the opinion which he expresses here that we may lawfully pay the five-twenty bonds in lawful money. To that proposition of the Senator from Missouri I respectfully enter my dissent. I believe, in the language of the platform of the great party which the majority in this Chamber represent, that we are bound to maintain the public faith and honor, and to meet our obligations not only in the letter but in the spirit of the laws under which they were contracted; and so long as I occupy a seat in this body I cannot consent, under any conceivable circumstances, to give my sanction to the payment of the public debt in anything else than that in which the Government of the United States has always paid its bonded debt, in coin, the legal tender of the country and of the world. I therefore must vote against the proposition of the Senator from Missouri, because I believe the rate of interest which he proposes is so low as to entirely defeat the operation of this bill. I believe all the members of the Finance Committee, with the exception of the Senator from Missouri, are under the impression that the terms proposed in the bill under consideration are the shortest in point of years and the lowest in point of interest under which the public debt may be refunded.

It is perfectly proper that those who entertain the views of the Senator from Maine, who prefer that the debt should remain in its present position at the interest of six per cent. rather than be refunded under this bill fixing the time so long as twenty years, without any option of the Government, should be opposed to the bill; but whoever is in favor of refunding the public debt at five per cent. interest, with a bond of positive conditions, payable in twenty years, should vote in favor of this bill, in my judgment. If you attach to it any other conditions or any other rate of interest I fear that you defeat the working of the bill. It is with this view that I shall vote against the proposition of the Senator from Missouri; and I hope it will not prevail.

The question being taken by yeas and nays, resulted—yeas 8, nays 25; as follows:

YEAS—Messrs. Buckalow, Cole, Conkling, Davis, Henderson, Hendricks, Patterson of Tennessee, and Vickers—8.

NAYS—Messrs. Anthony, Cameron, Cattell, Conness, Cracin, Drake, Ferry, Fessenden, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Raunsey, Rice, Ross, Sherman, Sumner, Van Winkle, Wade, Welch, Williams and Wilson—25.

ABSENT—Messrs. Bayard, Chandler, Corbett, Dixon, Doolittle, Edmunds, Fowler, Frothinghuyzen, Grimes, Harlan, Howe, McGreevy, McDonald, Norton, Patterson of New Hampshire, Pomeroy, Saulsbury, Sprague, Stewart, Thayer, Tipton, Trumbull, Willey, and Yates—21.

So the amendment to the amendment was rejected.

Mr. FESSENDEN. I move to amend the amendment by inserting in the fifth line of the first section after the word "after," the words "ten years and payable after;" so as to read "redeemable in coin at the pleasure of the

United States, after ten years, and payable after twenty, thirty, and forty years respectively."

Mr. SHERMAN. I wish to submit to the Senate a few considerations that bear directly on this proposition, and trust, on account of the importance of the subject, that Senators will give them such weight as they merit.

The proposition to issue a bond redeemable at the pleasure of the United States after ten years was the original proposition made by me in January last. It is one which I submitted, and which, for the reasons stated already by the Senator from Maine, met my judgment at the time. But there was great difference of opinion in regard to terms and conditions of the various bonds proposed to be issued. That difference existed in the Committee on Finance, and after the fullest consideration I was willing to waive my opinion and vote for a twenty-year five per cent. bond in connection with a proposition to issue a thirty-year bond at four and one half per cent., and a forty-year bond at four per cent. I will state the reason which induced me to change my position on this question. In order to make this funding a success one of two things must be done. One is for you to declare that the bonds of the United States now redeemable may be paid in the lawful money of the United States, and if that is done we can undoubtedly receive enough money for a five per cent. ten-year bond to pay off the principal of the five-twenty bonds. But the Senate were indisposed to adopt any such view. No doubt a large majority of the Senate is against any such proposition. Therefore there is no inducement for the holder of a five-twenty bond bearing six per cent. interest in gold to take a five per cent. bond unless you give to him a longer time for it to run. Let us reason on this point precisely as we would if we were the holders of five-twenty six per cent. bonds. The holder of such a bond will say "the United States offers me a five per cent. twenty-year bond; what reason is there why I should give up a six per cent. for a five per cent. bond? One answer is that by this new bond the time within which it may be redeemed is extended. The present bond is redeemable on the payment of its face in gold according to the claim of a majority of the Senate. Why, then, surrender my six per cent. bond and take a five per cent.? The answer is that an extension of time is had, the redemption of the bond is postponed. The five-twenty bond becomes payable in 1882, and this new bond is not redeemable until 1888. There is an extension of time, which gives additional value always to a bond.

Another argument in favor of these new bonds, and which will induce many people to fund in them, will be this: the old bonds are taxable by the United States to a certain extent; we now levy an income tax on them, and the House of Representatives, by a decided vote, directed a bill to be reported levying an income tax of ten per cent. on all bonds issued by the United States. Although this proposition never will meet the sanction of the Senate, in my judgment, yet it tends to impair the market value of the five-twenty bonds, and the holders of those bonds, in order to get a bond which is definite on its face, clear in its terms, which limits the power of the United States to tax it to the same income tax that is levied on all other incomes, will take this new security, and it will have an additional value on that account.

These two incidents of the new bond, together with the clear stipulation that the principal and interest shall be paid in gold, give to the new bond a value which, in my judgment, will induce the great body of the holders of the five-twenties to convert them into the new bond without any other stipulation or any threat or any other measure.

If the amendment of the Senator from Maine prevails, and you reduce the running of these bonds to ten years, the new bonds will fall due before the old ones. The old bonds would fall due in 1882, and the new one would fall due in 1878 so that the new bond would fall

due sooner than the old one. That is a conclusive argument against it.

When I found that Congress was not willing to take my legal opinion as to the right of the Government of the United States to pay the five-twenties in lawful money I as a matter of course was compelled by these reasons to waive my opinion and favor a longer bond in order to make an additional inducement for the funding of the debt. The Senator from Maine seems to think that the United States may very soon negotiate a bond at less than five per cent. I do not believe that time will arrive in this country for thirty or forty years. My own impression is that the rate of interest cannot be kept below that in this country. Although we are growing rapidly we are yet a vast new country, with undeveloped enterprises demanding capital, and a great deal of it. I do not believe that in this country the rate of interest will fall below five per cent. for a generation or two generations of men, because the demand for capital is so great and the accumulation is so little. I think five per cent. will be the lowest rate of interest that can be had for many years to come; and if we desire to make this funding scheme a success it is idle for us to issue a bond running for a shorter time than twenty years, and bearing a less rate of interest than five per cent.

My friend from New Jersey said that he desired to make the best terms possible for the United States. The Committee on Finance, with possibly a single exception, agreed that a less rate than five per cent. and a shorter time than twenty years would not do, and I will say, as my friend from Maine knows also, that that is the opinion of the Secretary of the Treasury. It is true his opinion would not prevail against our deliberate judgment; but we can only make this negotiation through him. He is limited by this bill so that he cannot sell a single bond unless he can redeem an equal amount of five-twenties. He must, therefore, sell them according to the market rate, now 118 or 114. A five per cent. ten-year bond cannot be sold at that rate unless you give it additional value. You limit him by the terms of this bill to selling the new bonds at a rate which will take up an equal amount of five-twenties. He cannot sell them at par in lawful money, he can only sell them in such a way as to take up an equal amount of five-twenties. He cannot do that, because he cannot get anybody to give that price for a five per cent. ten-year bond, and surrender a six per cent. bond which has fifteen years yet to run.

In regard to all these details, let me say to Senators who have not examined this subject, and probably will not give to it the consideration we have done, that in my judgment, unless they are clearly convinced by reasons given, it is better to take the terms of the bill as reported here by the committee after careful and mature consideration rather than make changes, unless the changes are defended and maintained by reasons that approve themselves to their consciences. If I thought it possible, I should be very glad to negotiate a shorter bond, but in my judgment you cannot negotiate on the basis of this bill in exchange for an equal amount of five-twenties a bond more favorable to the Government than a twenty-year five per cent. bond.

Mr. FESSENDEN. On looking further at this provision I find it is new; it does not impose upon the Government the obligation of paying the principal of these bonds at any time. It takes what I believe is the English system, the idea of a permanent debt. It says "redeemable after twenty, thirty, and forty years respectively." Redeemable when? At no specific time; but it simply says: "If you take this bond we will not redeem it before twenty years, or thirty years, or forty years shall have expired, as the case may be, and after that we will redeem it when we can." The bonds which were first issued during the war were redeemable after five years, and payable in twenty years, as I recollect; that is, we became absolutely bound to pay them at the end of

twenty years. It is a question to be considered whether in our country, where money is changing hands so rapidly, a bond which imposes no obligation to pay at any specific time would be favorably received. I propose to modify my amendment by substituting for the last word, "after," the word "in," so as to read "redeemable after ten years, and payable in twenty, thirty, and forty years respectively."

Mr. SHERMAN. I have all the loan laws before me, and I will state to the Senator from Maine that, with two or three exceptions, their provisions have been in this form, redeemable after a certain time.

Mr. FESSENDEN. And payable when?

Mr. SHERMAN. Payable at the pleasure of the United States after a certain time. Even in regard to the bonds redeemed in July last we were not bound to pay them unless we chose. I have here the act of 1790, the original funding act of Hamilton which made the same provision.

Mr. FESSENDEN. My idea is that we should follow out the system which was inaugurated at the beginning of the rebellion. It might have done in old times when our debt was very small and we were borrowing small sums to leave the time of payment indefinite; but my judgment is that if you want bonds to be taken you should fix a definite period when they become payable, and that it will not do to issue a bond which is simply redeemable at the pleasure of the Government, because that is the amount of this bill as it stands. I think the people prefer to take a bond which has some definite period of payment fixed. I still adhere to what the Senator has said to be my original opinion. He says truly that this bill confers additional advantages upon the takers of these bonds. One which is a very important one is that it settles the doubt as to the medium in which they are payable, whether in coin or in currency. If the holders exchange the present bonds for those issued under this act they get rid of that difficulty. Then there is a limitation upon the power of taxation by the General Government which does not apply to the other bonds. Thus making these two things definite and taking the bonds out of the domain of legislation or of temporary excitement or temporary purposes, you give to them a character of stability which at present our public obligations very much need. I think with these changes it becomes an object with the holders of the bonds to exchange them, and that they would probably—because it is all mere probability—take the bonds which they hold now, redeemable but not exactly payable, floating in the market, subject to all the contingencies, and exchange them for ten-year bonds on these terms.

But, sir, I recur to my original proposition. I believe it would be better for the United States to let their bonds already funded and not yet payable for many years stand as they are at present. I believe the five-twenty bonds, although redeemable, do not become payable for thirteen or fourteen years to come, so that we have an ample margin. Our obligations are not pressing upon us. It would be better, in my judgment, to let them remain as they are funded for the present, rather than make an effort at this time, when the credit of the United States, owing to certain circumstances, accidents, and considerations to which I need not advert, does not stand as it ought to stand, and defer that effort to refund them until a few years longer. I would prefer to pay the additional per cent. for a few years rather than put ourselves in a position where we could not lay our hands on any of these bonds, whatever might be our condition and circumstances, and whatever might be the state of the money market, and however high our credit might be, until the expiration of such a long period of time.

That is the answer I make. I do not agree with the honorable Senator that the change would necessarily affect their negotiability, because in the constantly fluctuating state of things in this country, particularly with regard

to the demands for money, people would just as willingly, in my judgment, have a bond liable to be redeemed in ten years as in twenty provided that the bond itself had what they considered ample security for its redemption in the credit of the obligor, but whether they would or not I think we had better let things stand as they are for any purpose whatever except for the mere temporary purpose of making an impression on the public mind, which in my judgment amounts to just nothing at all. Nothing will be affected by it at the present period by changing our bonds from one condition to another. The effect will be to put off the period when we shall have power to take them into our own hands by payment. I am strongly impressed with the belief that I am right about this matter; but whether I am or not will be for the Senate to judge.

Mr. SHERMAN. I have looked over the loan laws, and I find that all the loans of the United States up to 1862 were in the form contained in this bill as to redeemability. The loan of 1881 now running is not payable in 1881, but payable at the pleasure of the United States after 1881.

Mr. FESSENDEN. I am aware of that. Up to that period the bonds were always so issued, making no difference between redeemability and payability; they were all redeemable and payable at the same moment, and it would amount to the same thing. But when we found that we were to be so largely in debt, having a war upon us the end of which we could not foresee, the system was adopted of fixing a short time within which the bonds might be redeemable if the Government was able to redeem them and another time when the Government would be obliged to pay. That is the system which we then adopted, and which we have carried through. In my judgment it was one of the wise ideas of the then Secretary of the Treasury who had recourse to it, and I have always believed that we ought not to depart from it, and that we should not issue long bonds which were entirely out of our power for the whole time they have to run.

Mr. EDMUNDS. If the Senator will permit me in that connection I will say that is the actual form in which the form was actually issued. The bond reads "redeemable at the pleasure of the United States after the 30th of April, 1867, and payable the 1st day of May, 1882." That is the express form of the contract.

Mr. SHERMAN. The United States never stipulated to pay money at a specific day until it was done under the severe pressure of the war, and we never ought to do it again. Suppose a great amount of bonds, \$500,000,000 or \$1,000,000,000, should fall due when the five-twenties would be due, the 1st of May, 1882, the United States are compelled on that day to pay this vast sum of money, because they have no power as before to pay it at their pleasure after a specific day, but they must pay on that day. That is a very severe and onerous burden on the Government of the United States, and the stipulation that was put in the five-twenty bonds was an advantage to the creditor which at that time the United States was compelled to insert, that they would pay the money at a certain time whether it was able to pay or not. Now, however, the United States is at peace, and I think we ought to go back to the old system, make our bonds, like the bonds of other Governments, payable at the pleasure of the Government after a specified time. The specified time is for the benefit of the holder of the bond, within which his investment may not be interfered with. The time after that is for the benefit of the Government, which may not find it convenient to pay at the stipulated time. Therefore the language used in this section is introduced following the uniform language of all loan laws with the exception of those in regard to the five-twenties and ten-forties.

Mr. FESSENDEN. That is the very question I am trying to test in the Senate. If we go back to the old system we necessarily take

from the Government the power, whatever may be the state of things, to take these bonds out of the market and stop the interest on them. I know that was the old system, but I wish to adhere to the system we adopted since the war began.

But, Mr. President, what I wish to impress on the Senate is the importance to this country, in my judgment the great importance, of retaining control over its bonds in regard to the time of paying them. We have it now. The five-twenties are becoming redeemable. It is in our power to pay them; but, as I remarked before, we are not compelled to pay them. I wish to retain that principle. The moment you depart from it, whatever may be the state of our credit, however flush we may be in funds, we cannot take up our obligations, because the very fact that they are not payable until after a certain time in the future swells the value of your paper, and you cannot take it up unless you go into the market and buy it at the mercy of the holders; whereas if you fix a short time and adhere to the system of controllability which has been adopted, the result is that in a short period the Government can take up its bonds, and, of course, a large premium will exist upon them. Then when the time arrives, if we have the money we pay it; but we know that if our credit is good it will be very easy to substitute a similar bond. There is no question about that. The interest is what the creditor looks to, and the right to pay off within a reasonable time is what the debtor wants. I do not know that it is worth while for me to say anything more about it. It is for the Senate to say. I do not like to abandon the system which we have adopted.

Mr. MORGAN. The amendment proposed by the Senator from Maine is more advantageous to the Government than the bill. That was the case with the amendment of the Senator from Missouri, and that is the real trouble about them. They are too advantageous to the Government, for neither of them can be availed of. I should gladly have voted for the amendment of the Senator from Missouri, because I would much prefer that the Government should pay four and a half, four, and three and a half per cent. per annum, than to pay five, four and a half, and four. So by this amendment there is a great advantage reserved to the Government in having control of all its debt in ten years, so that it can at the end of ten years pay it; but it is impossible to make the loans if that advantage is retained, in my judgment.

I suppose, sir, that if there is anything well settled among financial men and in the country generally, it is that we are not disposed to pay off a public debt of \$2,000,000,000 rapidly. The Secretary of the Treasury commenced it rapidly, but Congress has stopped him, and the general judgment of the country is that the payment of the debt should be spread over a long period and should be very slow until the country, especially the South, has more ability to pay than it now has. If that is the case, what are you to do?

Gentlemen object to this rate of interest; but you now pay six per cent. in gold; and if I am correct in saying that there will be no great attempt to pay the debt, then it will at that rate take fourteen years, and we shall have to pay six per cent. for fourteen years and pay it in gold. I prefer to make the time twenty years and the interest five per cent.

Certainly, Mr. President, there are a great many very intelligent men all over the country who believe that if Congress will give the option this debt can be exchanged for a lower rate of interest. Will Congress hesitate to give the option? We do not propose to compel anybody to make the exchange. We do not propose to say to the holders of our bonds that if they do not take these new bonds they shall be paid in greenbacks. We do not propose to repudiate. We propose to pay our debts honestly, in the spirit in which they were contracted.

It seems to me to be proper that Congress



should not leave it to the Secretary of the Treasury to fix the length of time for which these bonds should run, ten, twenty, thirty, or forty years. I would rather have, and it is more proper to have, the judgment of Congress on that subject. I am therefore in favor of the first section of this bill. I believe we ought to pass it. I believe we ought to make the time specific. If I thought we could get the money on ten-year bonds, I should certainly vote for the amendment of the Senator from Maine; but my judgment is very much against it.

Mr. MORRILL, of Vermont. Mr. President, I have been heartily in favor of the practice of the Government in keeping control of its loans, which has been eulogized by the Senator from Maine; but I ask whether it can be expected that we are to continue this controllability and yet obtain our money at a lower rate of interest. Whenever we succeed in obtaining a loan at a reduced rate of interest it is to be expected that we shall relinquish this control. It was only in order to obtain at some future time better terms that we made provision for this control; and if we continue the control in relation to the time when we are to pay these loans of course we must still pay a higher rate of interest for that control.

The Senator from Maine suggests that the parties who are to take this loan would very readily accept shorter bonds. I fear they would, at the rates fixed by this bill, and might make it so short that they would hardly take it at all. It is only in consequence of making a long loan that any inducement is held out to parties to take these new bonds. Now, the question fairly arises whether in this country a large loan can be obtained for a less rate than is proposed in this bill. After having given some attention to the subject I do not believe it is possible. Look abroad, where money is at the rate for private purposes ordinarily of not more than two and a half to four per cent. per annum, and yet the average rates paid by Governments are nearly five per cent. on national loans. In our own country there is scarcely any State in the Union where six per cent. is not paid by private parties. In some States, eight, ten, or even more. Is it to be supposed that in this country, when very large sums, sums in the aggregate of thousands of millions of dollars, can be obtained at less rates than four, four and a half, and five per cent.? I do not believe it. By this bill only \$700,000,000 can be obtained at the rate of five per cent., and of course, if more bonds are negotiated, it must be either at four or four and a half per cent. In my judgment, that is as low as we can, in the most prosperous times, ever expect for many years to come, in a new country like ours of such vast extent, with so many opportunities for new enterprises, to borrow money. We cannot hope that the rate of interest will fall below that. There will be full employment of all the capital of the country at better rates. Only on the ground that we give better security than can be had elsewhere is there any chance of the success of this loan.

I am in favor of this measure because I believe it is wise, so far as the first section is concerned; I believe it is practical. I believe that if we pass it we can induce those who now hold our bonds to exchange them for the new bonds at a lower rate of interest; and at all events, if the parties who now hold bonds do not accept our terms there will be found others who will. If we are successful we shall certainly reduce the amount of interest that we are to pay, which is far better, in my judgment, than to raise taxes. I hope, therefore, that no amendment will be made to this part of the bill.

Mr. CATTELL. I said when I was last on the floor that I very much preferred the amendment of the Senator from Maine to that of the Senator from Missouri. I confess that the argument of the Senator from Maine in favor of the Government holding control of its loans makes a decided impression on my mind; and I should be very glad to vote for the amendment if I believed that funding would progress under this bill with that amendment in it; but

believing, as I do, that it would arrest the progress of funding under the bill, I shall be compelled to vote against it.

But, sir, I rose mainly for the purpose of making a statement in regard to the condition of our loans as bearing on this question. We now have some two hundred and twenty millions of five per cent. bonds which the Government will have the option of redeeming at the end of ten years from their date. We are now within seven or eight years of the time when the Government will have the right to exercise that option. It occurs to me that these \$220,000,000 will be quite as much as we shall be likely to pay off by the expiration of ten years. In addition to that the bonds of 1881, of which we have issued \$291,000,000, are really due and payable in thirteen years from this time, which comes so close upon the heels of the time fixed as the option by the amendment of the Senator from Maine that it seems to me it is not advisable to adopt it. We have something like five hundred millions of our debt falling within our power within from eight to thirteen years; so that there will be a sufficient amount of our obligations for us to take up in that time under any conceivable circumstances. For this reason I do not consider the amendment of the Senator from Maine so important as it would be if these circumstances did not exist. We shall have over five hundred millions to take up, as I say, nearly three hundred millions of which we must pay in thirteen years, and we have an option upon \$220,000,000 more within eight years; so that we shall have control of one fourth of the whole amount of our public debt, by the terms of the bonds already out, within a short period of time.

Mr. FESSENDEN. May not the 1881 bonds be funded under this bill?

Mr. CATTELL. I apprehend that there is no probability that the holders of such bonds having thirteen years to run, without any question as to the payment of the principal in coin—for that question has not been mooted at all in regard to the 1881 bonds—will exchange them for five per cent. That is the point of difficulty I have in regard to this bill.

Mr. FESSENDEN. But I suggest to my friend that every law on such a subject as this is *prima facie* intended to be a permanent law. Suppose this law to be enacted and stand upon the statute-book when you come within a year or two of the time when the 1881 bonds are positively payable, would it be a strange thing if the holders should desire to convert them into these bonds? If so, they would be taken out of my friend's calculation.

Mr. CATTELL. Yes, sir; and my answer to my friend from Maine is, that the Congress of the United States I apprehend would be ready to say that no such bargain could be made under this law.

But, Mr. President, I only rose for the purpose of saying that really I concur in the argument which the Senator from Maine adduces in favor of the Government holding the controllability of its loans, but that I believe, in the language of the Senator from New York, in private conversation a moment ago, that this bill requires all the cork that is in it to float it; and I am under the impression that if you change its terms you will embarrass the process of funding.

Mr. MORTON. Mr. President, in order to make this funding proposal successful there must be some inducement for men to take the new bonds and give up the old ones. The Senator from Maine holds that the present five-twenties are payable in gold. The new bonds are to be payable in gold, and no more. What inducement can there be under his proposition to give up a six per cent. bond payable in gold in fifteen years and take a five per cent. bond payable in ten years? If you have to present some inducement, to give some advantage to the new bond over the old bonds, what is it except the length of time you give the new bond to run?

Mr. FESSENDEN. The Senator is mis-

taken; the six per cent. bonds are redeemable to-day.

Mr. MORTON. Redeemable in gold only according to the Senator's theory. If he would adopt the idea that the present bonds are payable in legal-tender notes; I could understand his proposition. But he now proposes to exchange for the present five-twenties, payable in gold as he holds, new bonds drawing less interest.

Mr. FESSENDEN. It does not depend upon what I hold or upon what the Senator from Indiana holds. It depends upon the impression of the community with regard to the value and nature of the paper. I may hold that these bonds are payable in gold. The Senator from Indiana may hold directly the other way. A large portion of the community does so hold. The Senator from Ohio, the chairman of the Committee on Finance, has intimated his opinion to that effect. Now, the idea is that there is this doubt hanging over them, not that it is positive one way or the other.

Again, the five-twenties bonds, whether payable in gold or payable in greenbacks, are redeemable to-day if the Government had the means of redeeming them. The time has arrived; the five years are out. Then there is this difference: that they take a bond that the Government has no power to redeem to-day and can only redeem in ten years at the shortest period, but at the same time free from all the doubts which now hang over the existing five-twenties. That is the idea.

Mr. EDMUNDS. Mr. President, the way that I think doubts ought to be solved where they respect one of the parties to a contract is for the party to declare frankly and honestly where he stands upon that doubtful question; and if there is any real doubt or any supposed doubt as to what our obligation is, now that we are making new terms with our creditors, we ought to tell those creditors man-fashion what we mean; we ought to tell them either that we acknowledge what they understood to be the fair construction and the real spirit of our obligation when they lent us the money, and therefore say we mean to pay in coin or its equivalent; or that they were mistaken about it if they had any such idea and that we mean to pay them in a new promise to pay, what we call a greenback, which does not bear any interest, which is overdue on the face of it, and which we decline to pay until we get ready. We ought to be frank. I cannot endure the idea of a great Government like the United States, that claims to be the home of liberty and of all sorts of people who have escaped oppression and dishonesty everywhere else; the place where the American eagle is the greatest bird that floats, playing fast and loose with its creditors when it is trying to make a new loan, shaking a doubt at them instead of telling them plainly one thing or the other on that point. I do not think it is greatly to the credit of the United States that we should occupy such a position a great while. I am happy to say that, as I understand it, the party to which I belong has already got out of that position.

But, sir, I rose for the purpose of saying a few words in reply to the honorable Senator from Ohio on the question of how the five-twenties bonds are payable. I am not going to weary the Senate by going over the whole argument or much of the history, but in five or ten minutes to come to the precise point on which he contended that the five-twenties of 1862, as they are ordinarily called, are not payable in coin, but are payable in currency, and to say that I think I can show—as I was about to say, to convince my friend—that he is laboring under an error. I understand him by his printed speech delivered on the 27th of February, 1868, to admit that down to the passage of the act of March 3, 1863, the true construction of the act of February 25, 1862, which was called the five-twenty act, was that the bonds issued under that were fairly and truly payable in coin.

Mr. SHERMAN. No, sir. My friend will allow me to state my position. I said that the question would never have been raised under the act of February 25, 1862. That law specifically declared that the United States notes should be a legal tender in payment of all debts, public and private; but it also said that the amount to be issued under that act should not exceed \$150,000,000. I put the question to him for his answer, if no law had ever been passed changing the act of February 25, 1862, as to the limitation of the amount of greenbacks, has he any doubt that under that act these \$150,000,000 of greenbacks would have been a legal tender for the principal of the debt issued under that act? I have not any.

Mr. EDMUNDS. When the Senator entered upon this discussion on the 27th February last, I endeavored by a colloquial debate to come to a precise understanding with him upon this very point; but after one or two interruptions, my friend from Ohio declined to be interrupted further, and went on with his speech, in which he said, referring to the position that I had taken in some previous observations:

"I anticipate the argument and wish again to refer to the act of February 25, 1862. This act further provides that the amount of legal tenders shall be limited to \$150,000,000. It also provides that the holders of these legal tenders may at any time convert them into five-twenty bonds, the very bonds we are now discussing; and the second section goes on and provides for the issue of those bonds. If those bonds had been issued and negotiated solely under the act of February 25, 1862, it would have been irresistible logic that it was not contemplated that the \$500,000,000 authorized by this act should be paid with \$150,000,000 legal tenders, themselves convertible into bonds. But here is the weakness of the argument, in my opinion, of my friend from Vermont; no bonds were issued under that act."

Now, Mr. President, so far I am capable of understanding the force of language, the plain meaning of what the honorable Senator said—I believe I have read enough to show that that was his point under that act—that was that under the act of February 25, 1862, standing by itself and until subsequent legislation had altered it, the logic was irresistible that these bonds were not payable in the very notes that by the terms of the act itself were to be converted into the bonds. If therefore they were not payable in these notes, but were payable in dollars, as on the face of them they said they were, I take it the argument becomes irresistible that by force of that act the legislation as it then stood they were payable in coin. Now, how does my friend escape that? He escapes from it by the assertion of a matter of fact that no bonds were issued under that act. Now, let us see how that fact is. Being somewhat surprised at that statement of my honorable friend, because having been one of the people when these bonds were negotiated, and seen them issued from day to day, and having had something to do with inducing the people in my part of the country to take them, I always noticed that when the bonds came to the bank or express office, and were taken out and circulated, they said on the face of them that they were issued under the act of February 25, 1862, and the people believed it, and I believed it. Believing so I was somewhat astonished at the statement of my friend and I addressed an inquiry to the Secretary of the Treasury on the subject, as to when these respective bonds were issued, and I received this reply:

TREASURY DEPARTMENT, March 16, 1868.

Sir: I have the honor to inclose herewith, in compliance with your request, the information desired in regard to the amount of subscriptions at the periods designated to the loan of February 25, 1862.

Also, canceled copy of \$500 coupon bond of first series of said issue. The bonds of subsequent issues were precisely similar to the one inclosed except in the number of coupons attached.

Very respectfully, your obedient servant,

H. McCULLOCH,

Secretary.

Hon. G. F. EDMUNDS, United States Senate.

Subscriptions to the loan of February 25, 1862.

Previous to March 3, 1863.....\$26,275,150  
Between March 3, 1863, and June 30, 1864, 484,505,350  
Between June 30, 1864, and April 12, 1866. 4,000,000

Total.....\$514,780,500

Mr. SHERMAN. How much after the 11th of July, 1862?

Mr. EDMUNDS. I am not able to state at this moment. Here is the form of a bond, the thing itself that the people saw and paid for and took, issued prior to the 3d of March, 1863, and during that period of time when, according to the construction that, as I understand the Senator himself in his speech of the 27th of February last, gave to the act of February 25, 1862, it was payable in coin.

The United States of America are indebted unto —, or bearer, in the sum of \$500, redeemable at the pleasure of the United States after the 30th of April, 1867, and payable on the 1st day of May, 1882, with interest from the 1st day of May, 1862, inclusive, at six per cent. per annum, payable on the 1st days of May and November, in each year, on presentation of the proper coupon hereunto annexed.

This debt is authorized by the act of Congress approved February 25, 1862.

L. E. CHITTENDEN,  
Register of the Treasury.

WASHINGTON, May 1, 1862.

With the seal of the Treasury I hold in my hand another of these bonds of 1862 issued after March 3, 1863, which, according to the argument of my friend from Ohio is payable in currency, and not in coin, as the first one is according to his own confession, as I understand his speech:

The United States of America are indebted unto —, or bearer, in the sum of \$500, redeemable at the pleasure of the United States after the 30th of April, 1867, and payable on the 1st day of May, 1882, with interest from the 1st day of May, 1862, inclusive, at six per cent. per annum, payable on the 1st days of May and November, in each year, on the presentation of the proper coupon hereunto annexed.

This debt is authorized by the act of Congress approved February 25, 1862.

WASHINGTON, May 1, 1862.

And signed and sealed as before it would be a little difficult for the common people, the widows, the farmers, the mechanics, even the bankers, or the lawyers who are supposed to understand statutes in the course of business, to understand when these papers were being put out in this form, that one of them was issued under the act of 1862, and was payable in coin, and that the other was issued in some other way, and was not so payable, when both of them bore on their face precisely the same terms, payable in precisely the same way, and were, as I will now show, issued solely under the act of 1862 and no other act.

My friend still maintains that the act of March 3, 1863, operated to repeal the act of 1862, authorizing the issue of these bonds, and provided a new authority for issue, a new regulation for the mode of issue. If that were true, and these bonds were really issued under the act of the 3d of March, 1863, as the act that authorized their issue, then the bonds should have said so on their face, and the people having them would have been referred to the law, and would have been bound to take the law at their own risk as to what the form and legal effect of the promise was. But what did the act of 1863 say touching these bonds? That act was to authorize the Secretary of the Treasury to issue certain ten-forty bonds, as they are called, and certain Treasury notes, and the last part of the third section provided as follows:

"And so much of the act to authorize the issue of United States notes and for other purposes," approved February 25, 1862, and of the act to authorize an additional issue of United States notes and for other purposes," approved July 11, 1862, as restricts the negotiation of bonds to market value is hereby repealed. And the holders of the United States notes issued under and by virtue of said acts, shall present the same for the purpose of exchanging the same for bonds, as therein provided, on or before the 1st day of July, 1863, and thereafter the right so to exchange the same shall cease and determine."

All that the act of 1863 professed to do, giving it the broadest scope, was, as to the issue of these bonds, as to the authority of the Secretary of the Treasury to put them forth to the country to anybody that would take them, simply to repeal the limitation which had been before imposed on him that he should sell them at market value. The previous act had imposed on him a certain restriction as to the price he was to get for the paper. The act of 1863 repealed that restriction, and left the act

of 1862 in every other respect in force, furnishing the sole and only authority that ever existed to that time, or ever has existed since, for the issue of a single dollar of these bonds. Therefore the honorable Senator from Ohio is mistaken in supposing that these bonds were not issued under the act of 1862. If they were not issued under the act of 1862 they were issued in violation of law, because the act of 1863 does not profess to authorize them to be issued at all; it professes to authorize the issue of another and different class and character of bonds, called ten-forty bonds, and refers to the act of 1862, as I have said, not to affect the authority to issue or the nature of the contract, or the character or redeemability of the bonds, but merely speaking to its own agent it informed him that he need not hold them up to a certain price as he had done before; and that is all it contains.

My friend says with an air of plausibility that in the mean time, on the 11th of July, 1862, an act was passed which authorized the increase of the legal tenders adding another \$150,000,000 and that therefore the public must have been supposed to know that what was before the real and true construction of the act of February 25, 1862, had been changed by that. How did it change it? It did not profess to change it; it only said that so many legal tenders shall be issued, and being issued the act of February 25, 1862, operated upon them, also, as making them convertible into the same kind of bonds that had been authorized to be issued before; and how if it did were the public to know that? They were referred when these bonds were issued, to the act of February 25, 1862. The regulations and the law require that each bond shall show under what authority it is issued. The people were referred on looking at the bond to the act on which the bond was based, the act of February 25, 1862, and no other act. Looking, then, from the bond which directed them where to find the authority of law to show the true nature and authority of the contract, it was the act of February 25, 1862. The act declared the form in which these bonds should be issued and when they should be payable, and it declared that all the gold and silver received from customs should be set aside as a sacred fund to pay them and that the legal tenders that the law had provided for should be convertible into them instead of their being payable in legal tenders.

Looking to that act, my friend from Ohio, as I understand him from this speech—it is not capable of any other construction—looking to that act, I understand from this speech which is in print before me that the holders of these bonds would have been justified by an irresistible logic in supposing that they were to receive their pay in money. That is all I have to say.

Mr. SHERMAN. I only want to make one or two remarks in reply to the Senator from Vermont, because as the question he has debated is not involved in this bill I think it ought not to be discussed now.

Mr. EDMUNDS. Pardon me, my friend opened the discussion himself on this bill by reiterating his opinions on these points.

Mr. SHERMAN. I still reiterate those opinions; and all I have to say in reply to the honorable Senator is that not a single bond was issued under the act of the 25th of February, 1862, until that act was changed in material and important provisions. I know that fact, and now call upon the Senator to answer me whether a single bond was issued under the act of February 25, 1862, until after the passage of the act of July 11, 1862, whether he knows of any?

Mr. EDMUNDS. I do not know whether it was so or not, because on looking at the Senator's speech, and endeavoring to get the information which would apply to his speech, I understood him to refer to the act of March 3, 1863, as an act which repealed some part of the act of February 25, 1862; but it seems, on looking at it, that the act of 1863, as well as

the act of the 11th of July, 1862, merely provided for an increase of legal tenders, making them convertible into bonds as before.

Mr. SHERMAN. I repeat, and no one who has gone through the history can contradict me, that no single bond was issued under the act of February 25, 1862, until after that act was changed in material respects. It is true all these bonds, in one sense, were issued under the act of February 25, 1862, as it was amended from time to time; and those amendments were adopted before a single bond was issued. The most material amendment was the act of July 11, 1862. By the act of February 25, 1862, \$150,000,000 was the limit of legal tenders, and those legal tenders could be used to pay the principal of the public debt.

The Senator from Vermont cannot question that. Any bond issued under the act of February 25, 1862, could be used as a legal tender to pay the principal of the public debt, because the act of February 25, 1862, said in so many words that the notes issued under this act shall be a legal tender in payment of all debts, public and private. What language could be clearer? Therefore if the legal tenders were issued under the act of February 25, 1862, and the bonds issued under that act, one was convertible into the other, the bonds into the greenbacks and greenbacks into bonds. No language could be plainer than was used to effect that purpose; but this right of conversion was taken away by the act of March 3, 1863, and the limit on the amount of greenbacks was changed. This did not affect the legal obligation or the legal right to use greenbacks in payment of the principal of the bonds; but I will not argue the question; I will let it stand upon what I have said.

Mr. MORTON. Mr. President, the question as to whether the five-twenties are payable only in coin or may be paid in legal-tender notes has been brought prominently into this debate. The chairman of the Committee on Finance, who has had much to do with the financial affairs of this country for six or seven years past, insists that the Government has a right to pay the five-twenties in existing legal-tender notes. I say "existing" as contradistinguished from notes yet to be issued. The distinguished Senator from Massachusetts [Mr. SUMNER] on Saturday, in a very elaborate speech argued at length that the Government was compelled by law to pay these bonds in coin. An argument of great ability and length was made to the same effect by the Senator from Vermont early in the session. This question is not important beyond the time that the Government shall resume specie payments. Whenever we make the legal-tender note as good as gold then this question is settled. But it is an important question, and may be an important and troublesome question until that time occurs. I, for one, believe that the true policy for the Government is to take steps first and foremost to bring about the resumption of specie payments. I believe that that lies at the foundation of our financial troubles, and there is where we should begin.

I will remark that this question is entirely distinct from the question of the right of the Government to make a new issue of legal tender notes and pay off the five-twenties in that new issue. As I shall speak of the question, I shall speak of the right of the Government to redeem the five-twenties in existing legal-tender notes.

Mr. President, I believe that the law—and it is to the law that we must look in regard to this question after all—is with the Senator from Ohio on this question. When it is asserted that the Government is bound to redeem the five-twenties in coin I say it is not only without the law, but it is in express violation of at least four statutes. The law authorizing the ten-forties declares that principal and interest shall be paid in coin. The several laws creating the five-twenties declare that the interest shall be paid in coin, but are silent as to the principal of the debt, and do not say in what kind of

money the principal shall be paid. This silence is very significant.

But it is said by the Senator from Massachusetts and the Senator from Vermont that the Government is as much bound to pay the principal of the five-twenties in coin as if it was so expressed in the several acts authorizing and creating those bonds, and that there is no difference between the legal obligation of the Government in regard to the five-twenties and in regard to the ten-forties. Let me say to the Senator from Vermont and the Senator from Massachusetts that if they desire to ascertain the qualities and capacities of the legal-tender notes, what debts they will pay, and what debts they will not pay, they must look to the laws creating the legal-tender notes and not to the statutes authorizing the five-twenties bonds.

The act of February 25, 1862, by its second section authorized the first issue of five-twenties bonds, and by its first section the first issue of legal-tender notes; and in said first section declares such notes herein authorized shall be received in payment of all taxes, internal duties, excises, debts, and demands of every kind due the United States, except duties on imports, and all claims and demands against the United States of any kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin, and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid.

The declaration is that such notes shall be receivable in payment "of all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin." More comprehensive language could not be employed, and you cannot conceive of any debt against the United States left out of this phrase save that which is specially excepted. It comprehends all claims and demands of whatsoever kind. A bond is a claim; a bond is a demand. The very exception proves that bonds were comprehended in the phrase, for if they were not there was no necessity for excepting the interest upon them. But the statute does not stop here. It goes on to say tautologically that such notes "shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid." Every debt which the United States owes is a public debt; it has no private debts, and a five-twenties bond is a public debt in the fullest sense of those words for which the law declares such notes shall be lawful money and a legal tender. Was ever a statute more comprehensive, unequivocal, or plainly written? If the effect of this language can be varied or destroyed by argument then no statute can be drawn which can withstand the lawyers' ingenuity. But there are three other statutes to the same effect with the one I have just considered.

The act of the 11th of July following provided for the issue of another \$150,000,000 of legal-tender notes, and declared like the former that they should be legal tender in payment of all claims and demands of whatsoever kind against the United States except interest on notes and bonds, and further declared that these notes—

"Shall also be lawful money and a legal tender in payment of all debts, public and private, in the United States, except duties on imports and interest as aforesaid."

There are but two exceptions stated in the law, but it is sought by argument to establish a third, compared with which the two stated in the law are mere trifles.

This statute is unconnected with any provision for the issue of bonds, and was passed before any bonds were sold, authorized by the preceding act of February.

Again, in January, 1863, Congress passed a joint resolution authorizing the issue of another \$100,000,000 of legal-tender notes, in which it was again declared that they should be received

as "a legal tender in payment of all claims and demands against the United States of whatsoever kind, except interest on notes and bonds," and this joint resolution was unconnected with any provision for the issue of bonds.

And again in February, 1863, an act was passed authorizing the issue of another \$150,000,000 of legal-tender notes, including the \$100,000,000 authorized by the joint resolution just referred to, in which it is declared in language somewhat different from the other acts, but in substance the same, that "these notes so issued shall be lawful money and a legal tender in payment of all debts, public and private, within the United States, except for duties on imports and interest on the public debt."

Here are four plain, unequivocal, and emphatic declarations of the law, declaring that these notes shall be a legal tender in payment of every conceivable species of indebtedness against the United States. And whether the fact be agreeable or disagreeable it is one that cannot be overcome by argument or ingenuity.

But it is argued that Secretary Chase, and perhaps one or two Assistant Secretaries or chief clerks of the Treasury, gave it out in letters and speeches that these bonds would be paid in coin and that the bonds were sold upon such an understanding. It is to be noticed that in giving these opinions by the Secretary and the Assistant Secretaries or chief clerks, that it was predicated entirely upon the practice of the Government heretofore, and not upon any construction of the law authorizing the issue of the bonds or creating the legal-tender notes. In none of these opinions is there any reference made to these statutes, and what was said seemed to have been said in ignorance or indifference toward them, for no reference was made to them, and the opinions were predicated entirely upon what had been the practice of the Government heretofore. These several acts creating the legal tender were public laws, of which every man in the country was bound to take notice at his peril. Every man in the country purchasing a bond is presumed to know the character of the law creating the bond or the existence of any other law affecting the bond either as to time, manner, or mode of its payment.

In matters of such immense magnitude the nation can only be bound by the law. Its rights must be defined by the law, and by the law only. I cannot be bound by the opinion of public officers given either in ignorance or in violation of the law.

The Government of the United States, which has the power to borrow money and create a new loan, has put the terms of that loan into the law, and they cannot be varied by the opinion or the action of any public officer.

It would be a monstrous doctrine that the rights of the nation and of future generations, in matters of such immense importance, could be varied or changed by the illegal or unwarranted declaration of a public officer who has no power to say or do anything, except that which is conferred upon him by law. Nor can it be said that the good faith of the nation can be affected by its refusal to comply with the representations of a public officer, when those representations are made in direct conflict with a public statute of which he and everybody else is bound to take notice. Even in matters of private right and of the smallest importance men are presumed to know the law, and their rights are determined accordingly, and no man is bound by the act of his agent when that agent is acting outside of the authority or the presumed authority conferred upon him. Every man buying a bond of the Government must know that the liability of the Government could not be fixed or changed by a declaration of the Secretary of the Treasury, but that the liability of the Government must be determined absolutely and only by the law creating the bond or making regulations for its payment.

The good faith of the nation in a matter of this kind can only be measured by the promise given by the law-making power, which promise



must be in the form of a law. The Constitution declares that Congress shall have power to borrow money, from which it must be inferred that Congress and Congress only can prescribe the terms, limits, and conditions of the loan. The attempt therefore to erect a standard of good faith for the nation not only outside of the law, but in violation of its express provisions does the nation great injustice by contributing to place it in a false position before the people of other countries.

That is all I have to say on that question. If you prove that the Government is bound to pay these bonds in coin, you do it in the face of four direct and plain statutes as unequivocal as any statutes that ever were written.

There is the statute, plain, direct, even tautological upon this subject, declaring in not less than six or seven places that these notes shall be received in payment, and as a legal tender, in discharge of every claim and demand of whatsoever kind against the United States except interest upon notes and upon bonds, and then going on to say, as I remarked before, tautologically, that those notes shall be received as lawful money and as legal tender in payment of all debts, public or private, in the United States except the interest on notes and bonds as aforesaid. And yet in the face of language so plain, language that cannot be misunderstood, it is argued from day to day in this Senate that the Government is bound to pay the five-twenties in coin.

Now, Mr. President, this question is important or unimportant as Congress shall make it so. When we return to specie payments it is unimportant; as long as we fail to return to specie payments it is important. As I took occasion to say some weeks ago in the Senate, the first duty of Congress and the first great thing to do, in my opinion, is to take some direct step toward the return to specie payments.

I will say further, that it is in the existing legal-tender notes that the Government has a right to pay those five-twenty bonds. There was a limit of \$400,000,000 fixed by law to the issue of those notes. I believe that to pass that limit would be a violation of public faith; but that the Government has the right to pay the five-twenty bonds out of the existing legal-tender notes is as clear, in my opinion, as any right that is defined by any statute of the United States.

Mr. WILSON. I should like to ask the Senator what practical importance there is in maintaining that doctrine if we have got no greenbacks to pay the bonds with? I take it there is not anybody here who supposes, if we are limited to the present amount of greenbacks, that we have got any greenbacks to redeem the bonds with. Therefore the question is not a practical one in any sense of the word, it seems to me.

Mr. MORTON. I think I can answer that question. The Senator has kindly called my attention to a point that I had forgotten for the moment, and that right in connection with this funding bill. Four hundred million dollars of currency is enough in which to invest all the bonds authorized by this bill. It is not done at once. The Government sells \$50,000,000 of these new bonds to-day, and receives pay in existing legal tender notes. Those notes are paid out to-morrow in the redemption of an equal number of existing five-twenty bonds; and so the process goes on. The Government can redeem the five-twenty bonds in the existing legal-tender notes without issuing a new note, simply by selling the new bonds for legal-tender notes, and applying those legal-tender notes in the redemption of the existing five-twenty bonds.

That comes right down to this funding bill. This bill provides that the proceeds of the sale of these bonds "shall be exclusively used for the redemption, payment, or purchase of, or exchange for, an equal amount"—that is a very important phrase right there—"of the present interest-bearing debt of the United States." If you exchange them, it must be

done for par. If you sell these new bonds you must sell them for par. Then you cannot buy up the five-twenty bonds in the market. You cannot buy them unless you buy them for par, because you make the proceeds of these bonds take up and cancel an equal amount of the outstanding bonds. We will suppose that the Secretary of the Treasury has sold \$100,000,000 of these five per cent. bonds at par. He has got \$100,000,000 of greenbacks in the Treasury of the United States. How is he going to apply that to the extinguishment of an equal amount of the outstanding debt? The holders of the five-twenty bonds will not sell them to the Government on the market at par, because they are commanding a large premium. He cannot exchange bond for bond because the bonds to be exchanged for command a premium, whereas the new bond can only be sold at par; there is no premium on that. He cannot obtain the five-twenties by exchange; he cannot obtain them by purchase, because the law would require him to purchase the old bonds at par, and they are at a premium. Therefore, he cannot use the proceeds of the new bonds unless he avails himself of the right of the Government to redeem the old bonds in these legal-tender notes.

Mr. SHERMAN. The Senator is a little mistaken in regard to the legal effect. The plain meaning is that he shall only sell the bonds as he can redeem an equal amount. He would not sell these bonds at a less price than the market value of the five-twenties; but he can do that or make the exchange.

Mr. MORTON. I presume the chairman of the committee is entirely right upon that point; but the practical difficulty is that the Secretary cannot sell them for more than par; that will not be pretended, and he cannot buy the existing five-twenty bonds at par. So there can be nothing done in the way of buying them on the market. Then there can be nothing done in the way of exchange, because the old bonds command a premium, while the new ones do not. Therefore the holders of the old bonds would lose by the exchange. Then there can be nothing done with these bonds, unless he avails himself of the lawful right of the Government to take in these five-twenty bonds by paying them off in legal-tender notes. I have often heard it said that unless you issue more greenbacks, you cannot redeem the five-twenties in greenbacks. I have shown that that is a mistake; that by selling the new bonds at par, to be paid for in the existing legal-tender notes, those notes, when thus received, can be applied in redeeming and absolutely paying off a portion of the existing five-twenty bonds.

I am in favor myself of passing the first section of this bill. I am in favor of making this offer. I am in favor of trying to give an additional value to these bonds by the length of time that has been fixed in the bill for them to run. That is the only advantage they will have over the old bond.

One word in regard to the amendment of the Senator from Maine, which is to make these bonds all redeemable at the pleasure of the Government after ten years. He takes away the inducement to buy these bonds. He says, however, that these bonds can be made available by the existence of a doubt in the public mind as to how they shall be paid, whether they shall be paid in gold or in greenbacks. I should like to ask that distinguished Senator if it is very broad statesmanship to hang a great measure of this kind simply upon a doubt existing in the public mind? I very much prefer making a frank statement of this question to the whole country. As the law is written, so it must remain; you cannot help it; you cannot rub it out; you cannot argue the seal off the bond; and the distinguished Senators to whom I have referred, with all their ability and ingenuity, cannot take a single word from these four statutes.

I am in favor of tendering this funding bill to the country. I hope it will be accepted; I hope it may be received; but, sir, to make a candid confession, I have very little faith in

any funding bill until such time as we have returned to specie payments. I believe we could return to them in a very short time by legislation in that direction. With a surplus of over eighty million dollars of gold in the Treasury, and with an accruing surplus from month to month, if we were simply to say that the gold we now thus hold and the gold we shall receive in surplus shall be applied to the redemption of these legal-tender notes it would send the premium on gold down one half at the very beginning. The very existence of that gold standing in the shadow behind these legal-tender notes, although the Government has declared no purpose in holding that gold, has given strength and value to these notes, simply from the impression upon the part of the people of the United States that some time or other that gold will be applied to the redemption of these notes. I believe that the accumulation of surplus gold in the Treasury with what we now have, even for a year or a year and a half, would be sufficient to enable us to begin the work of redemption and place the legal-tender notes at par, and then all these troublesome questions will disappear; but, sir, until that is done, they will remain to plague us.

Mr. FESSENDEN. I did not design saying anything on the particular matter which the Senator from Indiana has been arguing, for I think his speech is altogether out of place. We are discussing a particular point of construction upon the first section, and the bringing in here a discussion upon the question whether these bonds are in reality payable one way or the other strikes me to be a mere—

Mr. MORTON. I should like to say to the Senator that his censure is somewhat misplaced. I did not bring that question here. It was brought here on Saturday by the chairman of the committee and by the Senator from Massachusetts, and to-day discussed just before by the Senator from Vermont and the Senator from Ohio. If there is anything wrong in bringing the question here I am not responsible; but I find it here, and I will say to the Senator that he cannot keep it out.

Mr. FESSENDEN. Oh, I shall not attempt it, Mr. President. I shall not attempt to keep anything out here on any question. I have seen for years that that is useless. Senators will discuss every conceivable question under the sun upon a bill whether it has anything to do with it, or not, and the time has gone by when I ever attempted to interfere with anything of that sort.

But I rose simply to say that so far as the remark I made had any application it was merely repeating a remark made by the chairman of the committee. I said that if it was true that this bill relieved the question of a doubt that of itself was an inducement to the change from one species of obligation to another; and I think it is an inducement, because it cannot be disputed that the question has been made a question of doubt; and that is all I said about it.

But, sir, I wish to repeat what I said before: if there are not inducements enough to affect the judgments of the community with reference to taking the new obligations without extending the time of redemption from ten years to twenty, in my judgment it had better remain as it is, and we had better pay six per cent. for a little time longer than to burden ourselves with any such obligation as that. That is my opinion about it, which I gave very distinctly. Why, sir, what is the object? This is called a funding bill. Is not our debt all funded now, pretty much? Certainly it is. It is merely to change the bonds, and the ostensible object is to hold out some inducement to take other paper at a lower rate of interest. Undoubtedly if taken it would save so much; but then do not all men inquire, what are we to gain? Are we in reality to be the gainers? Certainly not, if in the process of time, say ten years hence, it so happens that we shall be able to redeem a large amount of our paper, as I think we shall be by borrowing at a lower rate owing to the improved state of our credit, and

by pursuing the course now proposed; we then find ourselves in a condition where we shall have to pay from twelve to twenty per cent. premium in order to get it. What do we gain by that? Nothing at all; we are the losers in the long run. Sir, it has nothing but the appearance of benefit about it, and that appearance is, in my judgment, delusive, and nothing compared to what we shall lose by putting ourselves in a position where we cannot lay our hands upon the funds within a long period of time if we desire to do so. I leave that there, because I do not like to repeat arguments that I have used; but I wish to be specifically understood.

Now, sir, the honorable Senator from Indiana argues this matter of the real character of the five-twenty bond upon the contract, upon the laws passed, as if there is no dispute about it. He states it strongly. He says in so many words that there can be no doubt about it. That, I suppose, he only intends as another mode of saying there can be no doubt about it in his mind, because my honorable friend does not mean to say that the numbers of gentlemen who have expressed an opposite opinion are arguing what is nonsense and folly. Now, sir, I prepared a while ago, in the only way I ever do prepare, a speech upon this very question; and that is by studying the statutes and making some memoranda; and I thought at some period of time I would deliver that speech and express my opinions in detail and give my reasons for them; but my judgment is; that we have got to a period of the session when long speeches on questions that are not immediately pending are a little out of place, and that we had better devote ourselves to short discussions of the questions at issue. But for fear that there should be any misunderstanding about it, I will say in a few words—in hardly more than a sentence—that I came to an exactly opposite conclusion. I have no doubt that we are bound by every principle of honor, as expressed upon the paper and as connected with the contemporaneous exposition of the thing itself, to pay the principal of every bond we have issued in coin. That is my judgment, and I do not think I shall change it; and so positive am I that that was the understanding of everybody in the community that even if there was a narrow chance of escape by a technical construction of the paper itself I should deem myself dishonored, as a member of this body, if I should take the first step in any direction that would look like paying or attempting to pay our obligations of that description in paper. So that I am equally positive with my honorable friend on that subject.

Mr. MORTON. That is some relief to me.

Mr. FESSENDEN. But I do say that gentlemen may make an argument on the other side, and although it does not address itself to my mind, it will undoubtedly to the minds of the community. My judgment, however, is, situated as we are at present, with the majority of the Senate subscribers to a platform which sets forth the noblest, most generous, manly, and statesmanlike principles with regard to the whole thing, that we had better adhere to it and not even raise or intimate a doubt upon what the country will do when it becomes necessary that it should do anything.

Mr. HOWARD. Mr. President, I do not rise to occupy the time of the Senate further than to say that I do not concur at all in the conclusions to which the honorable Senator from Indiana seems to have arrived in regard to the mode of payment of the bonds to which he has alluded. I believe that I was a member of the Senate and voted for every one of the statutes authorizing the issue of those bonds, and it never occurred to my mind that the Government of the United States was not under the obligations of honor and good faith to pay those bonds in coin, in that kind of metal out of which the dollar mentioned on the face of the bond is made. Those bonds stipulate that the Government of the United States will pay so many dollars to the bearer. What is a dollar? The old statutes of the United States

describe it, how it is made, of what metal it is made, and how much it weighs in silver, and also describes the same measure of value when made of gold.

Sir, we all know that the use of the greenback as a legal tender, as money, was expected to be temporary. It was one of those shifts to which we were driven by the pressure of the war. No member of the Senate, no member of the other House, as I understand it, supposed at that time that the bonds which we were issuing, and upon which we were acquiring loans of money, were redeemable merely in the depreciated paper currency of the Government. I hold the Government of the United States to be bound by the terms of its own contract, and by every sentiment of honor and justice, whatever may be the doubts that may be raised upon the language of the statutes, to redeem every bond issued by it in gold or silver coin, according to the terms of the bond itself. Sir, I think when we consent that those bonds may be taken up, or shall be taken up in the depreciated currency of the Government, when we refuse, in other words, to pay over to the honest bondholder the specie called for in his bond, or its equivalent, we contract a stain upon ourselves and upon the Government, whose servants we are, which will take a long time to wipe out. The good faith of a Government is as precious as the apple of the eye. When once that good faith is even suspected, its credit falls and sinks, and the character of its people, as well as the character of the Government, is injuriously affected. Even if there were a stipulation in those bonds that they should be payable in greenbacks, now that the country is reaching a period of peace and prosperity, I should hold it to be the duty of the Government, notwithstanding such a stipulation, to see to it that the honest bondholder was paid in coin. Sir, I dislike all such shifts as those. Let us meet our obligations like men, like patriots, and like a Government true to its own interests and entertaining a proper respect for the great people whom we represent.

Mr. CAMERON. Mr. President, I have felt very sorry from the beginning that this question was brought before the Senate and before the country. I believe as early as February last the Finance Committee brought in a bill on this subject which did not meet the approbation of the Senate, and it was withdrawn. Subsequently, in March, the bill in an amended form was brought in; but that has been withdrawn. And now, ten or fifteen days before the close of the session, we have brought before us again a question which cannot fail to do great harm. It seems to me as if this was done purposely to agitate the country improperly and injuriously to the Republican party. What good can arise from the discussion of this measure? Surely nothing good can come from it, but harm must result, because not one of our debts is now due, or will be for years. It would have been wiser to postpone this subject until the next presidential election had passed over, and the country should be in a condition to view it with that calmness with which it should always consider great financial questions.

I am one of those who believe that when you make a promise you should fulfil it; and I have such undoubted faith in the integrity of the people of this country that I do not believe there is a man anywhere entitled to confidence or respect who would countenance, or endeavor to give countenance, to those who would attempt to repudiate one penny of its obligations. If you repudiate a part of the interest you repudiate the whole debt. If you fail to pay in gold and silver, the currency of the world, you refuse to pay your debts. I do not believe anybody really intends to do that. I have in my life, at various times, seen parties springing up in my State, when she was in trouble about her finances, attempting to repudiate the debt of the State, and I never failed to see those put down and displaced. I never have seen a demagogue who, in my State,

asserted that he was unwilling to pay every copper which the State had contracted in the time of her need, that did not sink into political obscurity; and so it will always be.

But this is the practical question. What good can come from agitating this subject now? Why not better postpone the whole matter until after the election is over, and then we shall come here with new lights, with all the questions cleared off from the public mind except that of reconstruction; and when we have reconstructed the country, as was said wisely and ably by the Senator from Massachusetts [Mr. SUMNER] the other day, the redemption of specie payments will be easy. You must first reconstruct the country and have peace throughout our borders before you can attempt to talk about specie payments. When specie payments have arrived, as they will in a short time, nobody will talk about repudiation; nobody will moot the question whether these bonds shall be paid in gold or greenbacks. Greenbacks were an expedient of the war, and they answered a good purpose then. They saved the country. They enabled us to feed and clothe our armies. But they have done their work, and now they will go out of use directly.

I wish I could speak more at length on this subject to-day, for it is one which is most interesting to me, as it is of interest to every man who loves his country and who has a feeling of personal honor; but I am not well enough to do so, and I shall content myself, if the bill is to pass, by offering some amendments which I think will make it more acceptable to the country and better for the interests of the Government. My opinion is that this is a scheme gotten up by the Treasury Department for its own use. I think there is something hidden in it, something not seen, or else it would not be so persistently pushed upon us. I remember that some time ago, perhaps in February, it was understood that after a certain section of the bill was disagreed to the whole bill was to fail. I think I remember particularly that we were told that the bill would not be urged after that date, after the vote against a particular section. I am positive of that. But if the bill is to be pressed, I shall try to make some amendments to it.

Mr. COLE. Mr. President, I am very much pleased with some of the remarks that the Senator from Pennsylvania has made; those of his remarks which go to the extent that this discussion is out of place. But I am unwilling to let the declarations that have been made by the Senator from Maine and the Senator from Michigan go to the country without expressing my views, which are not in harmony with theirs.

There are two classes of indebtedness in this country. Some of our obligations are payable in gold; others are not so specified, and are payable in the lawful money; and I do not know how those Senators discriminate between a portion of the obligations which do not call for gold payments and allege that they are payable in gold and another class of indebtedness of the same description, and recognize the right to pay the latter class in greenbacks. We are incurring liabilities every day. This is a very costly Government. The expenses amount to perhaps \$300,000,000 a year, a large portion of which is payable in United States notes. It is just as dishonorable, and no more dishonorable in the Government to pay the current indebtedness in United States notes, as it is to pay other forms of indebtedness, where gold is not called for, in that same currency.

We cannot—the fact might as well be acknowledged—now pay our indebtedness in gold; at some day we hope to be able to do it. When we have improved our credit to such an extent that our obligations will be equivalent to gold then our payments will be in gold. But our credit is not to be improved by vain declarations. Our credit is to be improved by degrees, by adding to the productive industry of the country, the wealth of the country. That cannot be done in a day, nor by declara-

tions. It must grow up as the credit of an individual would grow up.

It has been well stated heretofore that we have suffered a great deal by the war. We were during all the period of the war destroying instead of producing; we were reducing our wealth rather than adding to it; and so great was the destruction, so great the reduction of our wealth as a nation, that it became impossible for us to pay as we were paying before that time; and at this day our credit is very considerably below par. Our promises to pay are only worth about seventy cents on the dollar in gold. This is a fact that is patent to us all. Our credit is so much below par that there is no use in trying to conceal the fact, or by vain declarations to reach some other conclusion.

We are now improving our condition as a nation. We are adding to its wealth rapidly. In a few years we shall be in a position to pay our current liabilities in the ordinary coin of the world, and to pay also our bonds in the same currency. But until we have built up our credit, until time elapses, until our wealth has been increased, it will be utterly in vain for us to attempt the payment of all our obligations in gold. I suppose the credit of a nation does not differ much from that of an individual. Before the war we were exceedingly prosperous. We lacked hardly anything that makes a nation great. But we suffered calamity after calamity; and so our credit was reduced. If an individual who was in a prosperous condition meets with calamity by fire or flood it for the time being will destroy his credit; and if he is compelled to borrow for the purpose of replacing his losses he will pursue precisely the same course that we as a nation have done; he will have to mortgage the property that he has, and pay a heavy interest, and his credit will be for the time reduced; but when he has had time to repair his losses, then, and not before, his obligations will be at par. I do not believe that it is possible by a declaration to bring ourselves back to a specie basis. The only way in which it can be done, in my judgment, is by the process which adds to our national wealth. When we have reached the position that we occupied before the war we shall then be upon a specie basis; but we cannot reach there by any short cut.

Mr. CONNESS. Mr. President, I do not know that I have any views on the subject now before the Senate which are of any value to the public; but, like all other Senators, I feel a deep interest in it, and as the discussion has progressed I have been not a little pained at the direction it has taken.

The proposition directly before us is an amendment offered by the Senator from Maine, to leave the option of payment within ten years to the Government of the bonds proposed to be issued, the effect of which, in my opinion, if adopted, would be to defeat the purpose of the pending bill, which is, as I understand it, an offer to the bondholders to release and give up the bonds they now hold for bonds of a longer date and lower rate of interest, absolutely and positively, by the terms of the law providing for their issue, payable principal and interest in gold. I regard that proposition as a fair one.

In place of attempting to hold the Senator from Ohio up to public odium for inconsistency or change of opinion I hail and welcome the proposition that he has now presented to us, as contradicting from that presented at the early part of the session by him. The former was a coercive proposition, and the views in which it was advocated were perhaps more strongly coercive than the terms of the measure, and I regretted the utterance of both. You cannot deal with a creditor and maintain your character except in one of two ways: you must either pay what you owe or you must propose an honest and honorable mode of settlement and adjustment; that is to say, you must pay when you can, and if you cannot pay him now, or when the debt is

due, and you can agree upon terms with your creditor for an extension of the day of payment, those terms must be acceptable to him, or else your credit falls. Therefore, as the pending measure offers a long bond with absolute security by the terms of the law of the payment of the principal and interest in gold or silver, though presented at a lower rate of interest, which the public welfare demands, it is a fair and honest proposition, and one, in my opinion, that will be accepted by the bondholders. It is therefore an advantageous proposition. It is one that I am in favor of.

I regretted most deeply when the honorable Senator from Pennsylvania [Mr. CAMERON] denounced the measure in the severe language which he applied to it. I do not think that my friend could have meant what he said in truth and earnestness in imputing to the Senator from Ohio the introduction of a measure here gotten up, as he said, by the Treasury Department, having for its purposes some mysterious objects, which he could not comprehend nor understand. I do not always, while I sit here and listen to the able Senator from Ohio, agree with all he says; but I think no one can deny him the highest integrity and purity of motive and purpose. I do not think that my honorable friend from Pennsylvania intended to say just what he did. I agree with him in both the letter and spirit of what he otherwise said, except that part of it which so strongly deprecated the presentation of this measure at this time. Mr. President, I think it is an opportune time. It is a time when a party in this country, seeking and contesting for the power of this nation, have emblazoned upon their banners repudiation of the public debt and destruction, consequent of the public credit. The time when such a proposition is made is, in my opinion, the time to meet it.

It is not many days since a resolution was adopted in the House of Representatives, not by a party vote, but by a non-political vote, instructing the Committee of Ways and Means of that body to report to it a measure imposing a tax of ten per cent. upon the coupons of the bonds. The committee obeyed the behest of the House, but to their lasting credit reported that they were against the measure, and between that bold and honest declaration and the indignation and common sense of the country standing by the public credit, that not simply questionable, but corrupt and faithless proposition fell still-born. It fell as it ought to fall, stamped with the infamy of an attempted violation of the public faith.

But, Mr. President, while I say this it is an unmistakable fact that the rates of interest paid upon the public debt of the United States are rates that make great additional public burdens; and I welcome the proposition at this time and in the manner proposed to reduce the rate of interest without in any manner tainting the public credit. Therefore it is that I regret the remarks of my honorable friend from Pennsylvania. In the other part of his remarks, which described in a few short, terse sentences the political failure of every man in his State who, in the days of its distresses, undertook to ride into power by an assault upon the credit of the Commonwealth, I recognized a true and just statement; and so it will be with those who undertake to originate or to cater to a dishonorable public sentiment touching our national credit and our national debt.

Why, Mr. President, when and how and under what circumstances was that debt created? When the national existence was assailed by a party that through long years of war proved nearly our equals in point of use of force; when loans that might be obtained from existing banking institutions were totally inadequate to the payment of the public expenses, and the nation itself had to go out among its own people, we were proud, and should still be proud, of the patriotism which furnished the means of carrying on the war and defending the nation's integrity. It is yet fresh in the memory of every Senator and of every man in

this land how we hailed each morning the heralded statements of the amount of our obligations that the people from hamlet and village, from town and city, all over our broad-spread land, sent in to invest in the national bonds. We said, "here is America, in defense of republican institutions and in defense of human liberty, not only ready to take the field and spill its people's blood, but here, too, it comes with its means ample from every source;" and it was our proud boast that this was the case.

Mr. President, have we forgotten so soon what were then our proud boasts? Shall we now join in this dishonorable cry of a party who seek the acquisition of power for other reasons and purposes by uniting in their assault upon the public credit? No, sir; I am happy to say that that is not the position of the party to which I belong; and though there are found here and there men weak for the time, who live in the midst of a public sentiment that they feel either their interest or to their taste for the time to cultivate and pander to. Yet they are the inconsiderable numbers. The banner which we have erected of "security of national unity and national credit" will go on and attract the support of the people of this country until both shall be consolidated in the results of the next election.

There are some views touching some of the causes which lie at the foundation of the present condition of our public debt that I should like just at this time to go on and utter, but I did not rise to make a speech and will confine myself within narrower limits.

I regretted, and regretted deeply, the speech made by my honorable friend from Indiana, [Mr. MORRIS.] I know that there is in the West what is termed a greenback sentiment, a common sentiment such as has been uttered by the convention recently convened at New York, that the money in which the soldiers and the people are paid is good enough for the bondholder. Why, Mr. President, the money in which all are paid and shall be paid shall be made good, and we are not the men to cast a stain or discredit upon it.

I regretted, too, the utterances of my colleague. My object is not to reprobate either him or his views, but I feel it incumbent upon me to make a statement to the contrary of them. He of all men, representing the Commonwealth he does, should not undertake to reduce the standard of the public credit. If there be in regard to any part of the bonds that have been issued by the United States a doubt as to the currency in which they shall be paid, and the letter is not positive as to their payment, let the spirit of the statute be obeyed; let us go further than the letter of the law to maintain inviolate the public credit. Why, sir, what did his own State do? It had issued more than four millions of bonds when this war took place. They were not made payable in gold by any specific statement. They stated expressly even less than the condition of the five twenty bonds. When Congress, in the exercise of its power—an extreme case we all admit it to have been, but it was done and exercised under a controlling public necessity—passed the legal-tender act, California might have paid its debt to the holders of its bonds, and the interest upon them, in legal-tender notes. Did it do so? No, sir. When gold was at three hundred in notes, California came forward and voluntarily paid its interest in gold. Massachusetts did the same. I honor Massachusetts not for that alone, but for all of her proud record, and for none more than that; and so the credit of those two States stands preëminent to-day.

Mr. MORRILL, of Vermont. Should they stand higher than the credit of the United States?

Mr. CONNESS. My friend asks should they stand higher than the credit of the United States. Certainly not. The United States with its great resources, with its now proud history, with its recent accomplishments, with a conceded status in the economy of the world



over all nations and all peoples, should stand high and peerless above all States; and so it will if we manfully do our duty. Let us not let the standard trail; let it not come down. Let us go beyond either the letter or the spirit of the law, if necessary to maintain the public credit.

But, Mr. President, we are not called upon to do that. What is the proposition before us? It is whether we will offer to the public creditors a long bond at low interest which they may voluntarily take or not. I am in favor of passing affirmatively upon that proposition. There is no compulsion about it. It will be profitable to those who seek investments, and the exchange will be made. I cannot characterize it nor see it as an effort of interested men to make money out of the public faith or the public necessities. I think that our highest duty consists in it.

But, sir, are we called upon to discuss the question of whether the five-twenties shall be had in legal tenders, or not, at this time? Certainly not. It is not involved. If we pass this bill, those bonds will be exchanged for the bonds we propose to issue under this act, and then the question will be set at rest. But if we continue eternally to discuss the question between ourselves as to what that statute meant, whether it meant national honor or national disgrace, whether we are to maintain it as the one or the other, our credit necessarily is to fall by that discussion. I hope that in the further discussion of this bill we shall confine ourselves simply to the propositions before us and pass upon them. Let us reduce the public burden by reducing the public interest. For some time past money has been in the New York market at three and four per cent. Why shall we not avail ourselves of such advantages as the money market shall give us? Why shall we not offer the means of a longer investment to those who will exchange their bonds? I think it is but a simple duty. But, Mr. President, over and above all, let there be no word and no taint of repudiation. Let there be no question as to what both the interest and principal shall be paid in where the law does not specifically affirm it. Let our contract be kept not only in its letter but in its spirit, and then the credit of our country will stand high; and when reconstruction shall be complete, when peace shall obtain, when the national industries shall again be reënlivened, all will be well.

Mr. ORIGIN obtained the floor.

Mr. CAMERON. I hope the Senator from New Hampshire will allow me to make a brief explanation.

Mr. ORIGIN. Certainly.

Mr. CAMERON. I am reminded by the Senator from California that other persons like himself may have supposed that I intended to cast a censure on the Senator from Ohio, the chairman of the Committee on Finance. Certainly I had no such intention. There is no member of this body of whom I have a higher opinion, personally and politically. His relations and mine have always been pleasant, and I think I am the last man who would willingly encounter so able an adversary as he would be. But I intended to say that I had no confidence in the Treasury Department, and I look upon the Finance Committee as the agents of the Treasury Department.

Mr. CONNESS. You are wrong in that.

Mr. CAMERON. I suppose these bills are in a great measure instigated from the Treasury.

Mr. MORRILL, of Vermont. Not a bit of it.

Mr. CAMERON. I think I am not wrong in that. We are all very apt to take impressions from the heads of the Departments which we represent. I believe there are in this country a large number of persons who would like to depreciate our credit. Some men in the South would very gladly have our public debt reduced as low as their own, in the hope that at some future day we should be compelled to redeem their debt as well as our own. There are

people in this portion of the country who affiliate with them. A great many probably have interests with them. There are a large number of persons in the North who are interested in the rebel debt. They would like very well to have this country in such a condition that the larger portion of both debts should be made a common stock and the whole country bound for them.

I think the Secretary of the Treasury has shown a great want of ability in the management of his Department. I am satisfied that no wise man, acquainted with finance, would have suffered for years, as I believe he has done, \$100,000,000 in gold to lie unused in the Treasury, equal to \$150,000,000, probably, of greenbacks, taking the average of the price of gold, thus losing every year about nine million dollars in interest. Those \$9,000,000, making \$27,000,000 for three years, applied to the public debt, would be a very good item off.

Now, as to the payment of the public debt, I repeat and reiterate that I do not believe there is anybody belonging to the Republican party in this country who will ever consent that the public debt shall be paid in anything but the currency of the world. I am sure that the Senator from Indiana will be one of the last to do so. He has a right to argue, as every other man has, that there is a possibility, on looking at the form of these laws, that some of the loans may legally be payable in something else than gold. I do not admit it; but men's minds may come to that conclusion; and I know that good lawyers sometimes get very technical, and they say things may be done which they would not do themselves. But I have no doubt of the payment of the whole debt, every dollar of it, in gold or silver.

I meant to say, when up before, that I deprecated bringing this question now before the country. No good can come from it, and it naturally brings up matters of detail, and makes men's minds give forth the results of their own reflections. They are thrown out here without much consideration, and they are sent abroad, not only as the sentiments of the individual, but as the sentiments of the party. I believe, indeed I am sure, that we shall elect General Grant, and when we have him at the head of affairs, a wise and able statesman as I believe he will prove to be, with the Republican party in its full strength and vigor, I think we shall present to the country such a bill funding our debt as will enable us to reduce the amount of our interest very much.

The Senator from California said a little while ago in passing, and I have heard it repeated so often that I desire to contradict it, that money can be had in New York at four per cent. If the Senator from California had \$10,000 in bonds of the State of California, and wanted to loan \$8,000 for twenty days, he could probably get it at four per cent.; he would be more likely to get it if he only wanted it for a week; but if he went there with the best security of the State of California, and desired to borrow ten or twenty thousand dollars or any other sum of money for any length of time, he could not get it at anything like four per cent.; he would have to pay six or eight per cent.

Mr. CONNESS. The market is falling all the time.

Mr. CAMERON. Yes, the market is falling, because the credit of the country is rising. Therefore, after we shall have completed the work of reconstruction we shall be in a condition to make terms about our loans. When an individual is in trouble he can make no terms with his creditors; but whenever he becomes prosperous they are willing to trust him and give him better terms. The affairs of a nation are but the affairs of an individual carried to a greater extent.

I rose only to say that as between the Senator from Ohio and myself there will be no wrong done him by me.

Mr. SHEPHERD. I did not hear the remarks of the honorable Senator from Pennsylvania when he first rose, the distance was so great

across the room, and his voice was not raised so that I could hear him. I am very glad that I did not, because if I had drawn the same inference from the remarks that the Senator from California did it would make me feel very unkind, and I should at once have said something that I perhaps would not like to have said. I am very glad, indeed, to hear what the Senator from Pennsylvania now says on that point.

I desire to say, in justice to the Secretary of the Treasury, as the Senator's remark would seem to have a reflection upon him, that he should not be held responsible, nor any one else, for this bill. This bill is the emanation of the Committee on Finance, and if any one ought to take the most blame I am perfectly willing to do it, although the first section of the bill was not drawn by me, but by the Senator from New York, [Mr. MORGAN.] I desire to say that every section of this bill is framed in the interest of the people of the United States without regard to any other interest whatever. Every clause of the bill tends to lower the burden of the public debt; and no comment by the people at large, or in the newspapers, or even here would make me hesitate a moment in pressing constantly upon the attention of the Senate this and all other measures that I deem advisable to lower the burden of the public debt and to advance the interests of the people. I believe I can say that it is the unanimous opinion of the Committee on Finance, who have studied the matter over, that this course should be taken. Their whole purpose is to elevate the character of the greenbacks, to raise the greenbacks as near as possible to the standard of gold, and to lower the burden of the public debt by reducing the rate of interest. That is the whole object of the bill. It can have no other purpose. No person can be benefited, no interest can be benefited, except the general interest of the people of the United States. I have no doubt that this measure, if passed unabridged in the form in which it is presented, will do a great deal of good. It can by possibility do no harm, and it will, in my judgment, do a great deal of good. It will not impair the public credit.

It does not trench upon that question which has been partially discussed to-day, as to whether the principal of the five-twenty bonds is payable in lawful money or not. It seeks to avoid that issue, about which there is greater division among the people of the United States than there is here in the Senate. If this bill is successful, by funding the public debt the Government of the United States will save \$20,000,000 of gold in a year; enough in itself without any other provision to pay off the whole of this debt in forty years. If it should fail in its purpose by the refusal of the bondholders to take the new bonds in exchange for the old, it can do no harm; it is simply an offer refused; and then it will be for Congress to determine whether or not the people of the United States must go on paying six per cent. interest in gold, free from all tax, to the end, I may say, of time. That is a question I am perfectly willing to postpone.

In regard to another question mentioned by the Senator from Pennsylvania, there is a provision in this bill which, in my judgment, will do more to promote specie payments than any other provision that can possibly be introduced. The people of the country do not favor a reduction of the amount of greenbacks now outstanding. They demanded of us a repeal of that law which authorized the cancellation of greenbacks and the diminution of the amount further and further under existing laws. This bill restores the old provision of the act of February 25, 1862, by which the owner of a greenback may at any time put himself on a par with the bondholder by converting his note into bonds.

Mr. FESSENDEN. I ask the Senator if that note must not be put out again?

Mr. SHERMAN. Not necessarily. It may remain in the Treasury, or it may be used—

Mr. FESSENDEN. It cannot be canceled;

it must go out. If it is used for paying other duties it goes out, because, as the law stands now in relation to that subject, there must be a certain amount of greenbacks always kept in circulation.

Mr. SHERMAN. The fallacy of the Senator's argument—and I will not anticipate that, because when the third section comes up I desire to submit my views upon it, not at any considerable length, but more than I shall say now—the fallacy of his argument is the idea that the Treasurer must pay out greenbacks as rapidly as they come in. If he can properly pay them out in the payment of debts well and good. But I will not answer that observation now.

There was another observation made by the Senator from Pennsylvania that I want to correct his mind about. This bill does not confer additional power on the Secretary of the Treasury. Not one particle of power is given by the bill to the Secretary of the Treasury. This section is a limitation upon his power. He may now take your six per cent. bonds, payable forty years after date, and sell them at par for lawful money.

Mr. CAMERON. If the Senator will allow me, I think it does give a great deal more power to the Secretary of the Treasury in this respect: it enables him to employ agents, paying them just what he pleases, for the purpose of converting these bonds.

Mr. SHERMAN. I will correct that.

Mr. CAMERON. I shall be glad to hear the correction.

Mr. SHERMAN. Under the existing law, the Senator from Maine will bear me witness unless we pass some other law on the subject, the Secretary of the Treasury has the power without limit to employ agents, or any agency whatever he chooses, provided only the expense is not more than one per cent. Under the law as it now stands he employs agents. Whether that is wise or unwise I do not stop to argue. But under this bill he can employ no agent whatever who can be engaged in this matter or do anything.

Mr. CAMERON. I know he has the power under existing law; but there is no use for that power now, unless you give him authority to reinvest these bonds. At present that authority is utterly powerless; but if you go on to make another \$2,000,000,000 of bonds he will have the right to convert them, and whenever he does convert them he pays what he pleases by way of commissions and allowances. I desire to prevent that; and I shall offer an amendment for that purpose.

Mr. SHERMAN. Under this bill the Secretary cannot employ anybody. He cannot by himself or any one else sell a single dollar except of the particular kind named in this act, and then he can only lift a bond bearing a higher rate of interest by issuing a bond bearing a lower rate of interest; that is, under the first section of the bill he cannot sell a five per cent. bond running twenty years unless he can get what is equivalent now to the market value of a five-twenty bond; so that this is a vast limitation upon his power under the law as it stands. If Senators want to leave in the hands of the Secretary this unlimited power, and then shield themselves from responsibility by saying he has the power to do all this, that is one way.

Mr. FESSENDEN. Allow me to ask my friend a question. According to my recollection of those bills, for the purpose of negotiating bonds or other securities he might negotiate he had power to expend a sum of money not exceeding one per cent. He has negotiated nearly the whole, as I understand, except a very small sum. What is there left?

Mr. SHERMAN. If my friend will reflect a moment, under the law of April 12, 1866, the Secretary may go on and convert any description of bond described in the act of 1864, which is a bond bearing six per cent. interest and running forty years.

Mr. FESSENDEN. Has he the right to use the fund for that purpose?

Mr. SHERMAN. Certainly he has.

Mr. FESSENDEN. Then that ought to be restrained by law.

Mr. SHERMAN. It was the subject of complaint two years ago by me that that law gave him such extraordinary power. Now, I say to the Senator from Pennsylvania and the Senate, so far from this bill giving the Secretary of the Treasury any power whatever every section of it is a restraint upon his power. The first section is a vital and material restraint upon his power. It takes away from him all authority, all license, all discretion unless he can negotiate, par for par, the new bond for the old.

It is due to the Secretary of the Treasury that I should make this statement: he has never come before the Committee on Finance to urge us to pass this bill, or, so far as I know, ever asked a single member to urge the passage of the bill. It is a restraint and limitation upon his power. I have no doubt he is satisfied with it. He has stated to myself and to others that he thinks he can, if the market continues favorable, exchange a considerable portion of these bonds, if they are left twenty-year five per cent. bonds for the existing six per cent. bonds; but we must leave him free to make that exchange on the best terms he can by selling the new bonds at a rate that will enable him to buy the old; and if we do so, and he makes the exchange, it is for our benefit. If he fails, there is no harm in it. That is the way in which the bill appears to me.

I am indebted to the Senator from New Hampshire for his courtesy in yielding the floor.

Mr. MORTON. I ask the Senator to yield to me for a few minutes.

Mr. CRAGIN. These personal explanations are rather long.

Mr. MORTON. The Senator from California made one remark to which I desire to reply. He said he regretted my speech, but there were certain greenback localities, and the intimation was that I had come from one of them, and I was in some way pandering to that sentiment. I have as little occasion, perhaps, to pander to public sentiment as any other Senator here. I am not a candidate for anything, and do not expect to be very soon. But I would say to that Senator and to others, when they come to discuss this question, instead of indulging in general declarations about good faith and preserving the nation's honor, it would be better if they would condescend to argue the law for a moment. I did not argue it as a question of opinion, nor as a question of choice; I simply argued it as a question of law. Those who generally argue on the other side hardly ever condescend to argue the laws which creates and determine the quality of what are called greenbacks or legal-tender notes.

Now, Mr. President, I desire to enter my protest against having the Republican party committed to the dogma that the five-twenties are to be paid in coin. As a question of law it is a dogma that cannot be sustained. There is not a Democratic lawyer in the country who has ever read Blackstone and Kent, and who can read these statutes, but what can meet Senators on the stump and beat them on this legal question; and I protest against the Republican party being committed to that doctrine throughout this contest.

Mr. CONNESS. Mr. President—

Mr. CRAGIN. I must decline to yield any further.

Mr. CONNESS. I did not know the Senator had the floor.

Mr. CRAGIN. I shall only occupy a few moments.

Mr. ANTHONY. Will my friend allow me to ask the Senator from Ohio, with the thermometer at 90°, whether he wishes us to come here this evening?

Several SENATORS. Oh, yes; let us finish the bill.

Mr. SUMNER. I hope we shall have no night session. I suggest to the Senator from Rhode Island to move to suspend the evening session for to-night.

Mr. ANTHONY. What does the Senator from Ohio wish?

Mr. SHERMAN. I think we had better sit along and get through with this bill.

Mr. ANTHONY. Very well.

Mr. CRAGIN. Mr. President, I am opposed to the amendment offered by the Senator from Maine because I believe it will defeat the objects of this bill. Being strongly in favor of the passage of the bill, I am opposed to that amendment. If the Government finds itself in a condition to pay any considerable amount of its indebtedness within twenty years it will have ample opportunity. Some eight hundred millions of the public debt will be outside of the bonds provided for by this bill, if it becomes a law, and I apprehend that that is more than can be paid in the next twenty years. I am in favor of this bill because it looks to a large reduction of interest on the public debt, and a consequent reduction of the burdens of the people. The amount of indebtedness likely to be funded under this bill, if it should become a law, is about seventeen hundred million dollars. The interest on this amount at six per cent., as at present authorized, is \$102,000,000 per annum. By this bill only \$700,000,000 are to be funded at five per cent. The annual interest on this amount would be \$35,000,000. If the other \$1,000,000,000 is divided equally between the four and a half and four per cent. bonds, the annual interest will be \$42,500,000, or a total interest of \$77,500,000 on the entire \$1,700,000,000. This will be a saving of \$24,500,000 in the amount of interest paid by the Government. In other words, the burden of the people will be lightened to that extent. A tax of ten per cent. on the income, supposing it remains at six per cent., would be only \$10,200,000, or less than one half the reduction of interest under this bill.

If States were allowed to tax the five-twenty bonds, as other property is taxed, the aggregate tax would not begin to amount to \$24,500,000, the amount that will be saved by funding them under this bill. This reduction of interest is equal to a tax of one and three eighth per cent. on the principal, or about twenty-four per cent. on the income.

The reduction of interest on the public debt will reduce the rate of interest generally in commercial and business transactions among the people. Industry will be relieved all over this land. Those doing business on borrowed capital will be able to make more profits, and consequently pay more for labor. I regard it as of the first importance that the rate of interest should be reduced in this country. It will benefit all our industries, and tend to elevate the condition of the laborers. The Government must begin this work, and now is a good time.

I am for this bill for another reason—because it puts further off the time for the payment of this large debt. A very large amount of this debt is now due, if the Government chooses to pay it. It cannot be paid without crushing the people with taxation. It should not and must not be done. The debts incurred by the States, counties, and towns, for the patriotic purpose of prosecuting the war for the Union are very great. Indeed, they are more than the people ought to be called upon to pay in the next twenty years. The resources of this country are almost beyond calculation.

The wealth of the nation is increasing more than three times as fast as its population. The individual wealth of the people is increasing annually more than the total amount of the national debt. In 1860 our aggregate wealth, not including property owned by the United States or by any State, was over sixteen thousand million dollars, being an increase of one hundred and twenty-six and a half per cent. over that of 1850. The increase of our population was only about thirty-five per cent. Supposing we increase one hundred per cent. during each ten years in the future up to 1900 the result will astonish the world. In 1870 our national wealth will be over thirty-two thousand million dollars; in 1880 over sixty-

four thousand million dollars; in 1890 over one hundred and twenty-eight thousand million dollars; and in 1900 over two hundred and fifty thousand million dollars, or more than eight times what it now is. The people can then pay eight dollars as easy as they can pay one now. This generation has paid largely in life, toil, and treasure for the blessings we now enjoy. If we transmit them to a future generation unimpaired they should pay the national debt that now hangs over us as their price for the legacy of liberty and human rights.

The *PRESIDENT pro tempore*. The question is on the amendment of the Senator from Maine [Mr. FESSENDEN] to the amendment of the Senator from Ohio, [Mr. SHERMAN.]

The amendment to the amendment was rejected.

Mr. RAMSEY. I move to amend the amendment of the Committee on Finance by striking out the last section of it, which is in these words:

*And be it further enacted*, That any contract hereafter made specifically payable in coin shall be legal and valid, and may be enforced according to its terms, anything in the several acts relating to United States notes to the contrary notwithstanding.

I am opposed to the enactment of such a law as is contemplated in this section, because I believe it will virtually result in specie payments, for which the country is not prepared and of which it has had no notice. The practical effect of it in the country will be that small borrowers, men of small means, men who must take money where they can get it, will be compelled to enter into contracts payable in gold; and thus indirectly, and not in a bold and manly way, you attempt the resumption of specie payments. That object is desirable, of course, but the country is not prepared for it, the people do not anticipate it. Almost every scheme of resumption heretofore has contemplated a notice to the people, notice of a twelvemonth, of eighteen months, of two years; but here, immediately upon the passage of this section, you say that contracts for payment in gold shall be legal. The man who wants \$300 to improve his farm has not the choice of places to which to go and get this small accommodation. Probably there is but one moneyed man in his vicinity, one of those men that we find in the West who have gone from the East without conscience, who have no scruple about exacting five per cent. and sometimes even ten per cent. a month. Many a farmer will want a few hundred dollars to carry on his operations, and when he goes to borrow the money he is told, "You can have it; but evidently Congress contemplates that in a short time there will be a resumption of specie payments, and I must be prepared for that time. Now, I will give you this money in greenbacks, but you must enter into a contract with me to pay me in gold."

I do not believe the Senate contemplate that state of things. I do not think they intend to do this injustice. I do not believe the country contemplate it or desires it or will endure it. Instead of "taking the bull by the horns" boldly and repealing your legal-tender act and letting the whole country come to a resumption of specie payments, you attempt to do it indirectly by commencing with the small dealers and the men who borrow small sums of money throughout the country. This will be the effect of it. They will be oppressed; they will be compelled to enter into these contracts. It is true the Senator from Ohio may tell us that a contract of that kind would be usurious; but why should it? A dollar in greenbacks is a legal dollar, and so is a gold dollar. How, then, could such a contract be pronounced usurious? What court in the land would so declare? We have nothing to do with the construction of the law; it is the enactment of it which is our province. We cannot guarantee against a construction by the courts that such a contract would be legal.

I say this is not contemplated, not expected by the country. They have had no notice of

it. When the time comes for the resumption of specie payments ample notice should be given and the whole country placed on an equality in regard to it. By this kind of special legislation the small borrowers of the country, the poorer men of the land, will be compelled to pay specie, while the larger dealers, the men borrowing large sums, will be dragged on in their own good time. I say it is unfair, partial, and oppressive to the country, and I hope the Senate will reject this portion of the committee's amendment. The honorable Senator from Massachusetts, [Mr. SUMNER,] in his very fine speech the other day, said that the effect of this provision was that men would make their contracts as they pleased, and he added, let them take their choice. He regarded it as a matter of contract in regard to which each man would have a right to act for himself. If the honorable Senator had seen a great part of the western world he would find that it is the money-lender who is a law unto the money-borrower. They do not meet on equal terms. It is the man who has the funds to lend that makes the law to the man who wants to borrow money. You propose here to give him this assistance to enable him to exact a gold contract from the borrower. I do not believe the country expects it. I believe the country will reject it, and I hope the Senate will.

Mr. MORRILL of Vermont. We have existing laws that require the payment of all duties in coin, and yet under a construction of the law, as it now stands, any contract that is made for the procurement of the coin cannot be enforced. Is it not reasonable, while we are under the necessity of collecting our duties in coin, that the parties who make contracts to obtain that coin may make valid contracts which can be enforced? The Senator from Minnesota talks as though all the people who go from the East to the West are parties with their pockets filled with "rocks" and without conscience.

Mr. RAMSEY. I do not say all; I say many.

Mr. MORRILL, of Vermont. I am afraid the Senator judges of the East by himself. I believe he went from the East to the West. I want this law passed for the protection of the poor men who are going West to buy land, among other reasons. Men, as the Senator from Minnesota, who have large possessions in land are now able to dispose of them at an inflated currency price, take a mortgage for payment for the property at a long term of years, and when that comes due the party who has purchased the land finds to his surprise that he is obliged to pay some forty or fifty per cent. more than he would have been compelled to had he had an opportunity to make a coin contract. Take, for instance, a man who is going to build a house: he cannot pay for in for a long term of years; he is a mechanic; if he could obtain a credit upon that house upon any terms which he would venture to risk he might afford to take it and buy it, but under present circumstances it is so dangerous that no man with ordinary prudence, unless he is possessed of extraordinary wealth, is willing to make a contract payable at any future term of time.

Mr. President, I do not believe that this idea of the Senator from Minnesota is at all a valid one. Every Senator must be aware, I think, that contracts that are made where the usury laws are attempted to be evaded, where property of any kind is put in above its value, are always decided to be usurious; and so it would be in this case. If a contract was made where the consideration was currency, and the agreement that the interest should be paid in coin, the courts, I believe, would hold it to be usurious.

Mr. HOWE. Mr. President, I am decidedly of the opinion expressed here by the Senator from Minnesota, and I differ with the Senator from Vermont. I do not believe when that law is passed any law in any State of the Union against usury can be enforced. I believe that it is in effect a repeal of every limitation upon

the rate of interest now existing in the statutes of the States. I cannot think there is a doubt upon that point. The Senator from Vermont says, and truly, that the laws now require duties on foreign imports to be paid in coin, and he urges that it is nothing more than right and reasonable that the men who have to pay the coin into the Treasury upon those importations should be allowed to make a contract for the coin. He is right; but there is no sort of difficulty in his making a contract as the law now stands. He can go anywhere where he can find a man with coin to sell and buy the coin and pay for it, and then he has it, and then he can meet his obligations to the Government. But buying coin to be delivered now is one thing and buying coin to be delivered sixty days or sixteen months hence is a very different thing. The first he can do; the second, it is the purpose of this clause in the bill to enable him to do.

Now, the Senator from Minnesota says, and I think he says with absolute truth, that the practical effect of this provision will be to change all contracts from currency contracts to coin contracts; at least all men who want to borrow will be compelled to borrow of those who stipulate to be repaid in coin, whether they borrow to be repaid in sixty days or six months or six years. The lender will require the contract to be redeemed in coin. And what is the effect of that? Why, in two months after this provision is passed every borrower in the country is a purchaser of coin, of necessity, to redeem his contracts, to meet his obligations. He is upon the market seeking to purchase coin; he must have it because his mortgages can be canceled in no other way; so that your borrowing classes who have not any coin at once become responsible for paying the indebtedness of the country in coin of their own contracts. At the same time your Wall street operators, your speculators there, are operating upon the price of coin. The capital of the country is released by the law as it stands; they are released from the obligation of furnishing a dollar of coin to any body; but the borrowers of the country are put under obligations by virtue of their own contracts to procure it. Your coin speculators have the necessities of the borrowing classes then to operate upon, and when coin goes up one cent or five cents, it is the pocket of the borrower that feels it; and the borrowing classes have then a double difficulty to deal with, the exactions of the lender, always quite as much as the borrower can stand, and the ingenuity and the schemes and the contrivances of the coin speculator in the great markets. I do not believe that this is the way to commence to bring about specie payments. The capital of the country should take the lead in this matter, and not the necessities and the poverty of the country. The question is suggested to me now for the first time. I am speaking to it as from first impression. I believe the operation of it will be just as has been stated.

The *PRESIDENT pro tempore*. The question is on the amendment of the Senator from Minnesota to the amendment of the Senator from Ohio.

Mr. RAMSEY called for the yeas and nays, and they were ordered; and being taken resulted—yeas 6, nays 29; as follows:

YEAS—Messrs. Cameron, Harlan, Howe, Osborn, Ramsey, and Wade—6.

NAYS—Messrs. Cattell, Chandler, Cole, Conkling, Conness, Cragin, Drake, Ferry, Fessenden, Howard, McCreery, McDonald, Morgan, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Rice, Sherman, Stewart, Sumner, Tipton, Trumbull, Van Winkle, Welch, Willey, Williams, and Wilson—29.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Corbett, Davis, Dixon, Doolittle, Edmunds, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Morrill of Maine, Norton, Patterson of Tennessee, Ross, Saulsbury, Sprague, Thayer, Vickers, and Yates—22.

So the amendment to the amendment was rejected.

Mr. WILSON. I move to amend by striking out the three first sections of the amendment, and inserting what I send to the Chair.



The words proposed to be inserted in lieu of the first three sections of Mr. SHERMAN's amendment were read, as follows:

*And be it further enacted, That the Secretary of the Treasury be, and he is hereby, authorized and required to issue, upon the faith and credit of the United States, in sums of not less than fifty dollars each, coupon or registered bonds to an amount sufficient to redeem all the interest-bearing bonds of the United States, except the five per cent. bonds, to be known as the "consolidated debt of the United States."*

*And be it further enacted, That the bonds issued under the provisions of this act shall be payable in fifty years from the dates thereof, and shall bear interest at the rate of five per cent. per annum; the said interest shall be paid semi-annually, and at such dates as will cause an equal amount thereof to be paid quarterly, to wit: On the first days of January, April, July, and October, in each year; and the principal and interest of the said "consolidated debt of the United States" shall be paid in coin as hereinafter specified.*

*And be it further enacted, That the said bonds shall be issued solely in exchange for and in redemption of the heretofore mentioned interest-bearing bonds of the United States, and such exchange and redemption shall be made at any time prior to the 1st day of January, 1870, at such places and under such regulations as the Secretary of the Treasury may prescribe.*

*And be it further enacted, That the said bonds shall be subject to a national tax of one half of one per cent. per annum, to be paid semi-annually in coin at the date of maturity of the interest thereon, and the amount of said tax shall be specified on the face of said bonds; and it shall be the duty of the Secretary of the Treasury, under such regulations as he may prescribe in making payment of the interest on said bonds, to deduct therefrom the tax hereby provided, and to cover the same into the Treasury of the United States.*

*And be it further enacted, That it shall be the duty of the Secretary of the Treasury to ascertain, as nearly as may be, the residences of the persons or corporations owning the bonds upon which said tax of one half of one per cent. shall be collected, and he shall thereby determine as accurately as is possible the amount of said tax paid by each State respectively through persons and corporations resident therein, which amount shall, by said Secretary, be paid over annually to the State from whose citizens and corporations the same was received. And such taxes shall be in lieu of all State, municipal, or local taxation on said "consolidated debt of the United States."*

*And be it further enacted, That the gradual reduction and final extinction of the said "consolidated debt of the United States" shall be accomplished in the following manner, to wit: All the taxes paid under the provisions of this act on bonds held or owned by persons and corporations not resident in the United States shall be applied annually to the payment and liquidation of the principal of said debt and to no other purpose, and the Secretary of the Treasury shall for ten years, from and after the passage of this act, redeem annually by purchase, in coin, \$10,000,000 of said debt; from the tenth to the twentieth year thereafter he shall in like manner redeem \$20,000,000 annually; from the twentieth to the thirtieth year thereafter he shall in like manner redeem \$40,000,000 annually; from the thirtieth to the fortieth year thereafter he shall in like manner redeem \$60,000,000 annually; and from the fortieth to the fiftieth year thereafter he shall in like manner redeem \$80,000,000 annually, or until the whole of said debt is redeemed.*

Mr. WILSON. Mr. President, this amendment proposes to submit to the bondholders the simple proposition to change their six per cent. bonds without taxation for five per cent. bonds running fifty years with one half of one per cent. taxation. The amendment does not propose to put upon the market this consolidated debt of the United States, amounting to nearly two thousand million dollars, and using the proceeds to redeem the outstanding bonds. In this particular the amendment differs from the amendment of the Committee on Finance, which provides for exchanging these new bonds for the old bonds, or for using the proceeds of the new bonds to redeem the old ones. The amendment of the Committee on Finance necessarily raises the question whether the five-twenties shall be paid in gold or in greenbacks. My amendment avoids that disturbing question, a question upon which gentlemen of unquestioned capacity and character entertain widely different opinions. My amendment gives the bondholders the privilege, from its passage to the 1st day of January, 1870, of exchanging their bonds bearing an interest of six per cent. for bonds bearing an interest of five per cent. less one half of one per cent. taxation, and having fifty years to run.

There has been, and there will doubtless continue to be, unless we remedy it, much complaint that millions of dollars of active capital, invested in the bonds of the United

States, are exempt from municipal or State taxation. In the dark and trying hours of the war the necessities of the nation imposed upon Congress the policy of exempting the bonds of the United States from taxation. It was clear to the comprehension of all that the exemption of these millions of capital, invested in the bonds of the Government, would work inequalities among those who bore the burdens of local taxation. Congress could not permit if it would the municipal or State authorities to tax the bonds of the United States, and thus impair if not destroy the credit of the Government. Congress could not, in those days of stern necessity, provide for the taxation of bonds, either for local or national purposes. But the pressing needs of the country are now over; the opportunity is now given us to consolidate our national debt upon new terms and conditions. It is in the power of Congress now to do something to equalize the burdens of State taxation. Many of the States, especially those east of the Alleghenies, owe large amounts for moneys borrowed to fill the ranks of the armies during the war. Hundreds of millions of bonds held in these States where local taxation bears heavily on the people escaped contributing anything toward the burdens of State taxation. By imposing upon the bondholders a tax of one half of one per cent., and paying over that tax to the treasuries of the States where the persons or corporations who hold the bonds reside or do business, Congress does something to equalize taxation and to lighten the burdens of the people. The inequalities of taxation and the burdens of taxation are greatest where the largest amounts of bonds are held. The taxes received upon the bonds held abroad go into the Treasury of the United States, and may be used toward paying the interest on or extinguishing the principal of the bonded debt.

Mr. HOWE. Would it not suit the purposes of the honorable Senator just as well to make the interest on the bonds four and a half per cent. and exempt them from taxation as to make it five and take out one half per cent?

Mr. WILSON. No, sir.

Mr. HOWE. Why not?

Mr. WILSON. I think the two thousand millions of active capital invested in the consolidated debt of the United States ought to pay something toward the support of the State governments. It is a source of complaint among the people that the money invested in Government bonds contributes nothing to the support of the schools, the poor, the roads, or to pay the county or State taxes. The inequalities of taxation in States or municipalities are in proportion to the amounts invested in Government securities. Those communities that came forward in the most prompt and patriotic manner during the war and furnished money to carry on the contest suffer most from the inequalities of taxation. Those sections of the country where many of the people believed the bonds of the Government were worthless, who would not invest in bonds themselves, and who advised their neighbors not to invest in Government securities, are burdened the least by the inequalities of taxation. I notice, however, that those persons who denounced greenbacks as wanderers and vagabonds like Cain, and who denounced the bonds of their country as worthless, who predicted the repudiation of the obligations of the Government, incurred for the preservation of the national existence, have the most now to say about the inequalities of taxation. I therefore propose that in funding anew the debt of the United States we do something to relieve the people of the States from the inequalities of taxation that press upon them.

I propose that the consolidated debt of the United States shall be paid mainly by the increasing population and wealth of the country. My amendment provides that the Secretary of the Treasury—

shall for ten years, from and after the passage of this act, redeem annually by purchase in coin \$10,000,000 of said debt; from the tenth to the twen-

tieth year thereafter he shall in like manner redeem \$20,000,000 annually; from the twentieth to the thirtieth year thereafter he shall in like manner redeem \$40,000,000 annually; from the thirtieth to the fortieth year thereafter he shall in like manner redeem \$60,000,000 annually; and from the fortieth to the fiftieth year thereafter he shall in like manner redeem \$80,000,000 annually, or until the whole of said debt is redeemed.

The property of the United States is now estimated to be \$22,000,000,000. It is proposed to pay \$10,000,000 annually for the next ten years; in 1878 the property of the United States will have increased to \$37,466,000,000. From 1878 to 1888 it is proposed to pay \$20,000,000 annually; in 1888 the property of the United States will have increased to \$65,184,000,000. From 1888 to 1898 it is proposed to pay \$40,000,000 annually; in 1898 the property of the United States will have increased to \$114,824,000,000. From 1898 to 1908 it is proposed to pay \$60,000,000 annually; in 1908 the property of the United States will have increased to \$263,724,000,000. From 1908 to 1916 it is proposed to pay \$80,000,000 annually; in 1916, forty-eight years hence, the property of the United States will have increased to \$323,212,000,000, and our debt will have been extinguished. By this plan it is proposed to pay during the next twenty years only \$300,000,000 of the \$2,000,000,000 of the consolidated debt. The balance of the debt, amounting to \$1,700,000,000, will be paid during the following twenty-eight years. Twenty years hence the property of the United States will have increased more than threefold, and the debt will have become a light burden, easy to be borne. Our national debt can easily be carried and easily extinguished if the nation is honest and if we make wise provisions for its payment.

Mr. FESSENDEN. I desire to have an executive session.

Mr. SUMNER. Allow me to ask the Senator whether he thinks we had better come here to-night?

Mr. FESSENDEN. I think not.

Mr. SUMNER. I think we had better adjourn.

Mr. FESSENDEN. We shall adjourn at five o'clock.

Mr. SUMNER. The Senator is aware that unless we do adjourn there will be a recess at five o'clock.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of executive business. We can settle that matter in due time.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

Monday, July 13, 1868.

The House met at twelve o'clock m.

The Journal of Saturday last was read and approved.

### INTERNAL TAX BILL.

The SPEAKER announced the appointment of Mr. SCHENCK, Mr. HOOPER of Massachusetts, and Mr. NIBLACK, as the committee of conference on the part of the House upon the bill (H. R. No. 1281) to change and more effectually secure the collection of internal revenue on distilled spirits and tobacco, and to amend the tax on banks.

### ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order is the call of the States and Territories for bills and joint resolutions for reference to their appropriate committees, not to be brought back into the House by a motion to reconsider, commencing with the State of Maine. Under this call memorials and resolutions of State and Territorial Legislatures may be presented.

### NAVY-YARD AT CHARLESTOWN.

Mr. LYNCH introduced a joint resolution (H. R. No. 332) authorizing the appointment of examiners to examine and report upon the

expediency of discontinuing the navy-yard at Charlestown, Massachusetts, and uniting the same with the yard at Kittery, Maine; which was read a first and second time, and referred to the Committee on Naval Affairs.

OTIS A. WHITEHEAD.

Mr. ROBERTSON introduced a bill (H. R. No. 1417) to release the sureties on the official bond of Otis A. Whitehead, an additional paymaster in the Army of the United States, for moneys lost after his death; which was read a first and second time, and referred to the Committee of Claims.

HOMESTEADS FOR SOLDIERS.

Mr. SCOFIELD introduced a bill (H. R. No. 1418) to authorize soldiers to select homesteads from the public lands; which was read a first and second time, and referred to the Committee on the Public Lands.

AMENDMENT OF PATENT LAWS, ETC.

Mr. MERCUR introduced a bill (H. R. No. 1419) in addition to the act of July 4, 1836, to promote the progress of the useful arts; which was read a first and second time, and referred to the Committee on Patents.\*

W. H. COX.

Mr. MILLER introduced a bill (H. R. No. 1420) directing the Commissioner of Pensions to proceed to hear evidence and determine the right of W. H. Cox, deceased, late a sergeant in company E, second regiment Pennsylvania artillery, to a pension, in the same manner as if he were still alive, he having died of disease contracted while a prisoner of war at Andersonville, Georgia, and if found to be entitled to a pension then the same from time of his discharge till death to be paid over to his father Charles D. Cox; which was read a first and second time, and with the accompanying papers referred to the Committee on Invalid Pensions.

LIEUTENANT HARRIS L. REED.

Mr. WELKER introduced a bill (H. R. No. 1421) for the relief of Lieutenant Harris L. Reed; which was read a first and second time, and referred to the Committee of Claims.

PUBLIC BUILDINGS, PADUCAH, KENTUCKY.

Mr. TRIMBLE, of Kentucky, introduced a bill (H. R. No. 1422) appropriating \$100,000 for the erection of a custom-house, post office, and court rooms at Paducah, Kentucky; which was read a first and second time, and referred to the Committee on Appropriations.

TENNESSEE—WAR EXPENSES.

Mr. STOKES presented joint resolutions of the Legislature of Tennessee asking to be reimbursed for expenses incurred in calling out the militia in 1867; which were referred to the Committee of Claims.

SUITS AGAINST RAILROAD CORPORATIONS.

Mr. COOK introduced a bill (H. R. No. 1423) to provide for bringing suits in the courts of the United States against railroad corporations where portions of the line are in several States; which was read a first and second time, and referred to the Committee on Roads and Canals.

IRON MOUNTAIN RAILROAD.

Mr. ROOTS introduced a bill (H. R. No. 1424) to amend an act entitled "An act making grants of lands in alternate sections to aid in the construction and extension of the Iron Mountain railroad from Pilot Knob, in the State of Missouri, to Helena, in the State of Arkansas;" which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

WASHINGTON AND CINCINNATI RAILROAD.

Mr. HUBBARD, of West Virginia, presented a joint resolution of the Legislature of the State of West Virginia, requesting the passage of the bill incorporating the Washington and Cincinnati National Railroad Company; which was referred to the Committee on Commerce.

MINNESOTA VALLEY RAILROAD.

Mr. DONNELLY introduced a joint resolution (H. R. No. 333) to protect the existing land grant to the Minnesota railroad; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

CALL OF STATES, ETC., FOR RESOLUTIONS.

The SPEAKER. The next business in the morning hour is the call of States and Territories for resolutions in their inverse order, commencing with Montana.

INDIAN TERRITORIES.

Mr. CAVANAUGH submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Interior be, and is hereby, directed to furnish to this House copies of all treaties made by the peace commissioners with the several tribes of western Indians during the last and present years.

TELLER OF THE SERGEANT-AT-ARMS.

Mr. FLANDERS introduced a joint resolution, (H. R. No. 334), on which he demanded the previous question.

The resolution was read. It provides that for the present Congress and commencing thereafter with the Clerk of the House is directed to pay from the contingent fund of the House to the messenger and acting teller in the office of the Sergeant-at-Arms of the House the difference between his present pay and the pay of the file and engrossing clerks of the House.

Mr. BENJAMIN. What is his pay now? How much does the gentleman propose to increase it?

Mr. FLANDERS. The present pay is \$1,200, and it is proposed to increase it to \$1,800.

Mr. BENJAMIN. It proposes to increase his pay \$600 a year?

Mr. FLANDERS. Yes, sir.

Mr. BENJAMIN. Is that in addition to the twenty per cent. which we have already increased it?

Mr. FLANDERS. I understand not.

Mr. BENJAMIN. I understand it does, and I hope the previous question will not be seconded.

The previous question was not seconded.

Mr. BENJAMIN rose to debate it, and the joint resolution, under the rules, went over.

SETTLERS ON CHEROKEE NEUTRAL LANDS.

Mr. CLEVER. I introduce a joint resolution (H. R. No. 335) for the protection of settlers on the Cherokee neutral lands in Kansas, on which I demand the previous question.

The Clerk read as follows:

Whereas in the treaty between the United States and the Cherokee nation of Indians, made July 19, 1866, proclaimed August 11, 1866, there is a provision purporting to authorize a sale by the Secretary of the Interior of the Cherokee neutral lands in Kansas, but which reserves from said lands having improvements of the value of fifty dollars, not being mineral and occupied by any person for agricultural purposes, and which gives to occupants the right to purchase one hundred and sixty acres each of said lands, under and by virtue of which about eight hundred families are provided for; and whereas between August 11, 1866, and June 6, 1868, about twenty-seven hundred additional families have settled on said Cherokee neutral lands, each family occupying one hundred and sixty acres, on which improvements have been made at an average cost of about five hundred and ten dollars, beside expenditures for living of \$150 for each family, said settlement and improvements being made without objection from any source and on the faith that the settlers would be protected in the right to acquire title to said lands as other settlers on the public lands; and whereas on the 30th day of August, 1866, a contract was made by and between JAMES HARLAN, Secretary of the Interior, and the American Emigrant Company, for the sale of certain portions of said lands, which contract has been assigned by said company to James F. Joy, said contract and assignment being on file in the Department of the Interior; and whereas a supplemental treaty between the United States and said Cherokee Indians was made April 27, 1868, ratified June 6, and proclaimed June 10, 1868, all without any knowledge thereof by any of the persons occupying said lands, and which ratifies said contract with the American Emigrant Company and the assignment thereof to said Joy with certain modifications provided in said supplemental treaty, but which makes no provision for the protection of the persons or families who have settled upon and improved said lands, but purports to ratify a sale of said lands including the improvements thereon: Therefore,

*Resolved by the Senate and House of Representatives*

*of the United States of America in Congress assembled*, That in all cases where any person, prior to June 10, 1868, shall have settled on any tract of land of one hundred and sixty acres or less, in the body of lands known as the Cherokee neutral lands, and shall have made improvements thereon of the value of fifty dollars, and occupied such tract for agricultural purposes, such person, his heirs or assigns, so occupying any such tract of land shall, after due proof made in such manner as may be prescribed by the Secretary of the Interior, be entitled to enter and receive a patent for the lands so occupied on paying \$1 25 an acre within one year, in such manner as the Secretary of the Interior may prescribe. And the money so to be paid for said lands shall be paid over to said Cherokee Indians.

The joint resolution was read a first and second time.

Mr. RANDALL. I would like to know whether this legislation proposes to interfere with the treaty which was ratified by the Senate on the 6th of June last.

Mr. LAWRENCE, of Ohio. It proposes to protect twenty-seven hundred families who have settled on these lands and made improvements without objection, having expended each nearly one thousand dollars in improvements. We want to prevent them from being turned out of their possessions and deprived of their rights by a treaty which assumes to dispose of public lands without the authority of Congress. The facts in relation to this preamble and resolution are perhaps sufficiently stated therein in view of the debates already had in this House; but I may say a few words as to the duty and power to pass the resolution. On the 31st December, 1838, a patent was issued to the Cherokee nation of Indians for the Cherokee neutral lands. This patent was issued in pursuance of a treaty and on the authority of the act of Congress of May 28, 1830, which, however, provided that—

"Such lands shall revert to the United States if the Indians become extinct or abandon the same."

By treaty of July 19, 1866, proclaimed August 11, 1866, the Cherokees ceded to the United States these lands in trust to be sold for not less than one dollar an acre, reserving to actual settlers on the lands on the 11th August, 1866, the right to purchase the lands by them occupied at an appraisement therein provided for. In pursuance of this treaty, Secretary HARLAN made a sale of the lands not occupied by settlers to the American Emigrant Company, August 30, 1866. Secretary Browning claiming this sale to be invalid, on the 9th October, 1867, sold the same lands to James F. Joy. The emigrant company, to settle the conflict, assigned their contract to Joy. By a supplemental treaty, made April 27, ratified June 6, and proclaimed June 10, 1868, this assignment and sale are confirmed. Between August 11, 1866, and June 6, 1868, some twenty-seven hundred families settled each upon one hundred and sixty acres of these lands and made large improvements, and yet this sale and supplemental treaty profess to sell out their lands, improvements, and all without compensation, and leaving the settlers to be turned out of possession or to buy their lands at such prices as may be imposed on them by Mr. Joy. I object to the sale to Joy because it is unjust to the settlers; I object to it because it is made upon the authority of a treaty; and this House has again and again declared a treaty cannot authorize a sale of public lands. The sale to Joy is void. But if a sale could be authorized by treaty, the sale in this case is void. The treaty purports to cede the lands to the United States in trust to sell them. The execution of a trust cannot be provided for by treaty; and, at all events, it can be regulated by law; and the joint resolution before us is a mere regulation of the execution of the trust, or its execution by law. I have said that the treaty professes to cede a title to the United States in trust; but the Indians have no title to cede. The title of all public lands is in the United States. The Indians only have a possessory right. If it be said the Cherokees had a patent, I answer, the patent was granted in pursuance of a treaty which could not convey the legal title. So far as any title rests on the act of Congress of May 22, 1830, the act expressly provides that the title

shall revert to the United States when the lands are abandoned by the Cherokees, as they have been. The fifth section of the Indian appropriation act of March 3, 1863, confers no authority to sell public lands by treaty. If the Indians by treaty can sell the title to lands they occupy or even as tribes acquire title, then they may sell to foreign nations, which never will be permitted. The Indian tribes are not nations in the sense of the treaty-making power. If it be said this joint resolution violates Joy's contract, I answer, his contract is unauthorized and void. Congress may disregard it and contracts still more valid when the public interests require it. For the purpose of doing justice the resolution now before us was introduced at my instance to-day, as it was a week ago, and I hope it will pass.

Mr. RANDALL. Mr. Speaker, I always believed this was an outrage, but it ought to have been corrected at some time prior to the confirmation of the treaty.

Mr. LAWRENCE, of Ohio. It can be corrected now, as I can prove to the satisfaction of anybody.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TAXATION AND THE PUBLIC DEBT.

Mr. ASHLEY, of Nevada, introduced a bill (H. R. No. 1425) to equalize taxation and reduce the interest on the public debt; which was read a first and second time.

Mr. WASHBURNE, of Illinois. Let the bill be reported.

The bill was accordingly read in full. It provides that upon all gains, profits, and income arising from the bonds and other interest-bearing securities of the United States, payable to any person, State, municipality, body politic or corporate, company or society, whether corporate or not corporate, out of the Treasury of the United States there shall be charged yearly as a tax for every \$100 thereon ten dollars, and for a lesser sum in the same proportion. Said tax shall be assessed and collected by the Treasurer or other disbursing officers of the United States charged with paying any of the interest upon the debt of the United States in the same currency in which said interest is paid, and said tax shall be instead of all other taxes assessed or levied as tax upon income from any of the interest-bearing securities of the United States.

Mr. ASHLEY, of Nevada. I demand the previous question.

Mr. MILLER. I object to that.

The SPEAKER. The Clerk will read the rule on page 185 of the Digest.

The Clerk read as follows:

"No motion or proposition for a tax or charge upon the people shall be discussed on the day on which it is made or offered, and every such proposition shall receive its first discussion in a Committee of the Whole House."

The SPEAKER. The point of order being made, this bill is referred to the Committee of the Whole.

Mr. MAYNARD. This does not propose a tax on the people, as I understand it.

The SPEAKER. The Chair supposes it is a tax on the people. Tax bills, tariff bills, and money bills are required by this rule to be referred to the Committee of the Whole.

Mr. BUTLER, of Massachusetts. I move to suspend the rules for the purpose of considering the bill in the House at the present time.

The SPEAKER. The rules cannot be suspended during the morning hour. The bill is referred to the Committee of the Whole on the state of the Union.

#### PROTECTION OF LIFE IN THE NAVY.

Mr. ORTH introduced a bill (H. R. No. 1426) for the better protection of life in the Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

#### GREAT AND LITTLE OSAGE INDIAN TREATY.

Mr. CLARKE, of Kansas. I offer the following preamble and resolution, upon which I demand the previous question:

Whereas on the 13th day of June, 1868, the House of Representatives adopted a resolution relating to the treaty lately concluded with the Great and Little Osage Indians, in the following words, to wit:

"Resolved, That the President is hereby requested to furnish to this House copies of all instructions, records, and correspondence connected with the commission authorized to make the above-named treaty, and copies of all propositions made to said commission from railroad corporations or by individuals, and the President is requested to withhold said treaty from the Senate, or if sent to the Senate to withdraw the same, until a full investigation can be had and report made by the Committee on Indian Affairs of this House."

And whereas on the 15th day of June, 1868, the President, in reply to said resolution, transmitted to this House a message and a report from the Secretary of the Interior purporting to give the information requested; and whereas the said report of the Secretary of the Interior did not contain all the records, correspondence, and propositions connected with the commission authorized to make said treaty; and whereas the chairman of said commission was Hon. N. G. Taylor, Commissioner of Indian Affairs, and a subordinate officer of the Interior Department; and whereas a portion of the records of said commission must have been suppressed by said officer if the Secretary of the Interior is correct in the statement that "no propositions made to said commission from railroad corporations or by individuals have come to the knowledge or possession of this Department." Therefore,

Resolved, That the President is again respectfully requested to furnish to this House copies of all instructions, records, and correspondence connected with the commission authorized to negotiate the late treaty with the Great and Little Osage Indians, and copies of all propositions made to said commission from railroad corporations or by individuals.

Mr. BROOKS. I do not know that there is any objection to the furnishing of the information called for by the resolution, but it seems to me that the language of the preamble is hardly respectful to the Secretary of the Interior. The use of such word as "suppressed" is hardly appropriate.

Mr. CLARKE, of Kansas. Can I have an opportunity of making a statement to the House?

The SPEAKER. If debate arises, the resolution goes over under the rules.

Mr. BROOKS. I must object to the resolution unless it is put in a different shape.

The SPEAKER. The resolution being a call for executive information, it must go over if any gentleman objects.

Mr. CLARKE, of Kansas. I will modify the resolution by inserting the words "it is believed;" so that it will read: "And whereas it is believed the said report of the Secretary of the Interior did not contain all the records," &c. I will also strike out the word "suppressed" and insert "withheld."

Mr. BROOKS. Then I withdraw my objection.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. CLARKE, of Kansas, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MINNESOTA LAND GRANT.

Mr. DONNELLY introduced a joint resolution (H. R. No. 333) to protect the existing land grant of the Minnesota valley railroad, in the State of Minnesota; which was read a first and second time.

Mr. DONNELLY. I demand the previous question.

The joint resolution, which was read, directs the Secretary of the Interior to permit to be filed in the proper office the plat of the location of the Minnesota valley railroad through unsurveyed lands of the United States within the State of Minnesota; and from the date of such filing he shall withdraw from settlement all such lands as would, if such lands were

surveyed, inure to the State of Minnesota for the benefit of said road.

The question was upon seconding the previous question.

Mr. UPSON. What necessity is there for this resolution? If the lands are unsurveyed, how can they be brought into market?

Mr. DONNELLY. I would ask consent to answer the question.

The SPEAKER. Debate is not in order pending the call for the previous question, unless by unanimous consent.

Mr. WASHBURNE, of Illinois. I object.

The question was taken upon seconding the previous question; and upon a division there were—ayes 16, noes 52; no quorum voting.

Mr. DONNELLY. If the gentleman from Illinois [Mr. WASHBURNE] will withdraw his objection for two minutes, I can explain this resolution so that there will be no objection to it.

Mr. WASHBURNE, of Illinois. I insist upon my objection.

Tellers were ordered; and Mr. DONNELLY and Mr. MULLINS were appointed.

The House again divided; and the tellers reported that there were—ayes five, noes not counted.

So the previous question was not seconded.

Mr. WASHBURNE, of Illinois. I rise to debate the joint resolution.

The SPEAKER. The resolution giving rise to debate goes over under the rule.

#### REFINING OF BULLION.

Mr. WINDOM. At the request of the gentleman from Ohio, [Mr. DELANO,] I introduce the joint resolution I send to the Clerk's desk, and I ask the previous question upon it.

The joint resolution (H. R. No. 337) continuing the refining of bullion in the Mint of the United States and branches was then read a first and second time.

The question was upon seconding the previous question.

The joint resolution, which was read, provides that the Mint of the United States and branches shall continue to refine gold and silver bullion, but no contract to exchange crude or unparted bullion for refined bars shall be made until authorized by law; and section five of the act of March 3, 1853, and section three of the act of February 20, 1861, shall be repealed.

The previous question was seconded and the main question was ordered.

The question was upon ordering the joint resolution to be engrossed and read a third time.

Mr. AXTELL. As a member of the Committee on Coins, Weights, and Measures, this subject having been before that committee this session, I ask unanimous consent to speak upon this joint resolution for five minutes.

Mr. DELANO. I have no objection.

Mr. WILSON, of Iowa. I object.

Mr. AXTELL. I desire to inform the House that this subject has been before the Committee on Coins, Weights, and Measures, of which the gentleman from Pennsylvania [Mr. KELLEY] is the chairman, and we were unwilling to report any such measure to the House.

Mr. BROOKS. Would it not be in order to move to refer this joint resolution to the Committee on Banking and Currency?

The SPEAKER. That motion would not be in order, except by reconsidering the vote ordering the main question.

Mr. WASHBURNE, of Illinois. I think the joint resolution should pass.

Mr. BROOKS. I move to reconsider the vote by which the main question was ordered.

The question was taken on the motion to reconsider; and upon a division there were—ayes 36, noes 66.

So the motion was not agreed to.

The question recurred upon ordering the joint resolution to be engrossed and read a third time.

Mr. BROOKS. Upon that question I call for the yeas and nays. While the yeas and



nays are being taken, we may be able to find out what the joint resolution is about.

The yeas and nays were ordered.

Mr. AXTELL. Would it be in order to have the sections read which it is proposed to have repealed by this joint resolution?

The SPEAKER. It would not, for it would be in the nature of debate.

The question was then taken upon ordering the joint resolution to be engrossed and read a third time; and it was decided in the affirmative—yeas 95, nays 34, not voting 69; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Beatty, Benjamin, Benton, Boies, Boutwell, Bromwell, Buckland, Benjamin F. Butler, Roderick R. Butler, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Delano, Driggs, Eckley, Eli, Eliot, Fields, French, Garfield, Hamilton, Hinds, Hooper, Hopkins, Hulburd, Alexander H. Jones, Judd, Julian, Kelsey, Koontz, George V. Lawrence, William Lawrence, Loan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, McKee, Mercer, Miller, Moore, Moorhead, Mullins, Myers, O'Neill, Orth, Paine, Perham, Peters, Pile, Plants, Pomeroy, Raun, Robertson, Sawyer, Schenck, Seefeld, Selye, Shanks, Spaulding, Starkweather, Thaddeus Stevens, Stokes, Taffe, Taylor, Trowbridge, Van Aernam, Burt Van Horn, Van Wyck, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—95.

NAYS—Messrs. Adams, Archer, Axtell, Baker, Beck, Blair, Boyer, Brooks, Cary, Chandler, Dixon, Eldridge, Ferriss, Getz, Glossbrenner, Golladay, Grover, Haight, Higby, Jenckes, Knott, Marshall, Mungen, Niblack, Randall, Ross, Sitgreaves, Stewart, Taber, Thomas, Lawrence S. Trimble, Upson, Van Alden, and Van Trump—34.

NOT VOTING—Messrs. Banks, Barnes, Barnum, Beaman, Bingham, Blaine, Broomall, Burr, Cake, Reader W. Clarke, Cornell, Dewesse, Dodge, Dannelly, Eggleston, Farnsworth, Ferry, Finney, Fox, Gravelly, Griswold, Halsley, Harding, Hawkins, Hill, Holman, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Ingersoll, Johnson, Thomas L. Jones, Kelley, Kerr, Ketchum, Kitchen, Ladlin, Lincoln, Logan, McCormick, McCullough, Morrill, Morrissey, Newcomb, Nicholson, Nunn, Phelps, Pike, Poland, Polsey, Price, Pruyn, Robinson, Root, Shellabarger, Smith, Aaron F. Stevens, Stone, John Trimble, Twitchell, Robert T. Van Horn, Ward, Cadwalader C. Washburn, John T. Wilson, Wood, and Woodard—69.

So the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DELANO moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had insisted on its amendments, disagreed to by the House, to the bill (H. R. No. 1284) to change and more effectually secure the collection of internal revenue on distilled spirits and tobacco, and to amend the tax on banks, had agreed to the conference asked by the House on the disagreeing votes of the two Houses, and had appointed Mr. SHERMAN, Mr. MORRILL of Vermont, and Mr. BUCKALEW conferees on the part of the Senate.

The message also announced that the Senate had agreed to the amendments of the House to the joint resolution (S. R. No. 139) excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized.

The message further announced that the Senate had passed, without amendment, the bill (H. R. No. 938) to authorize the sale of twenty acres of land in the military reservation at Fort Leavenworth, Kansas.

#### ENROLLED JOINT RESOLUTIONS AND BILLS.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolutions and bills of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 281) authorizing the issue of clothing to company F, eighteenth regiment United States infantry;

Joint resolution (S. R. No. 139) excluding

from the Electoral College votes of States lately in rebellion which shall not have been reorganized;

Joint resolution (H. R. No. 201) in relation to the Rock Island bridge;

An act (H. R. No. 1119) for the registration or enrollment of certain foreign vessels;

An act (H. R. No. 1080) for the relief of Edward B. Allen;

An act (H. R. No. 675) granting a pension to the widow and child of Cornelius L. Rice;

An act (H. R. No. 672) granting a pension to the widow and children of Charles W. Wilcox;

An act (H. R. No. 670) granting a pension to the widow and children of Andrew Holman;

An act (H. R. No. 669) granting a pension to the widow and children of Myron Wilklow;

An act (H. R. No. 666) granting a pension to Henry H. Hunter;

An act (H. R. No. 664) granting a pension to the children of Charles Gouler;

An act (H. R. No. 663) granting arrears of pension to Cyrus K. Wood, legal representative of Cyrus D. Wood, deceased;

An act (H. R. No. 662) granting a pension to the widow and children of George R. Waters;

An act (H. R. No. 661) granting a pension to the widow and child of William Craft;

An act (H. R. No. 521) granting a pension to Solomon Zachman;

An act (H. R. No. 518) granting a pension to George F. Gorham, late a private in Company B, twenty-ninth regiment Massachusetts volunteer infantry;

An act (H. R. No. 201) declaratory of the law in regard to officers cashiered or dismissed from the Army by the sentence of a general court-martial; and

An act (H. R. No. 673) granting a pension to Saffrona C. Phelps, widow of John S. Phelps.

#### WITHDRAWAL OF PAPERS.

Mr. STOKES asked and obtained leave to withdraw from the files of the House papers in the case of R. Kirkpatrick.

#### PAY OF JOHN D. YOUNG, CONTESTANT.

Mr. HIGBY submitted the following resolution, on which he demanded the previous question:

*Resolved*, That the Clerk of the House of Representatives be directed to pay to John D. Young the sum of \$2,500 for expenses incurred by him in the contested-election case between himself and Samuel McKee.

Mr. WASHBURNE, of Illinois. Has this resolution been before the Committee of Elections?

Mr. HIGBY. The Committee of Elections are unanimously in favor of it.

Mr. ASHLEY, of Ohio. Then let them report it. I move that the resolution be referred to that committee.

The SPEAKER. That motion would be in order if the previous question should not be seconded.

Mr. HIGBY. I ask the chairman of the Committee of Elections to state whether the committee has not acted on this resolution?

Mr. COOK. As a member of the committee, I will state that the Committee of Elections have agreed to this resolution.

On seconding the demand for the previous question, there were—ayes 50, noes 41; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. Higby and Mr. Ashley of Ohio.

The House divided; and the tellers reported—ayes 57, noes 58.

So the previous question was not seconded.

Mr. ASHLEY, of Ohio. I move the reference of the resolution to the Committee of Elections.

Mr. DAWES. This resolution has been before the Committee of Elections, and it has been unanimously agreed to.

Mr. McKEE. Mr. Speaker, I rise to debate the resolution.

The SPEAKER. The resolution then goes over under the rules.

#### CIVIL-SERVICE BILL.

The SPEAKER. The morning hour has expired, and the House now resumes the consideration of the motion pending at the adjournment last Monday, that the rules be suspended so as to make the civil-service bill the special order as soon as the general appropriation bills are disposed of, and not to interfere with the tax bill.

Mr. JENCKES. I yield for a moment to gentlemen to introduce bills.

#### ARKANSAS TAX COMMISSIONERS.

Mr. SCHENCK, by unanimous consent, from the Committee of Ways and Means, reported back Senate bill No. 564, concerning the tax commissioners for the State of Arkansas, with the recommendation that it do pass.

The bill provides that all acts and proceedings which have been had or performed by any two of the tax commissioners in and for the State of Arkansas, shall have the same force and effect as if had and performed by the three of said commissioners.

Mr. SCHENCK. This is a Senate bill, and provides that the action of two commissioners where the other was sick and did not reach the place shall be legal. The committee recommend that it pass as it came from the Senate.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### POST ROUTE BILL.

Mr. FARNSWORTH, by unanimous consent, from the Committee on the Post Office and Post Roads, reported a bill (H. R. No. 1427) to establish certain post roads; which was read a first and second time.

Mr. FARNSWORTH. The bill contains nothing but post routes. It provides for no general legislation.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NATIONAL BOARD OF TRADE.

Mr. PILE. I desire to present the petition of the National Board of Trade, which met several weeks ago in Philadelphia, and ask that it be ordered to be printed in the Globe, as it is an important paper relating to the Mississippi river.

It was ordered accordingly. The petition, which is as follows, was referred to the Committee on Commerce:

#### SECRETARY AND TREASURER'S OFFICE.

BOSTON, June 6, 1868.

Whereas a bill is now pending before Congress having for its object the granting of a charter to certain individuals for the purpose of constructing a canal or channel through Pass l'Oute, one of the outlets of the Mississippi river to the sea, with the right to collect tonnage dues or toll from all vessels making use of the same; and whereas the imposition of such a tax would be a serious detriment to the carrying trade of the country by necessarily increasing the cost of transportation on the products and manufactures of all sections: Therefore,  
*Be it resolved*, 1. That the Mississippi river, being a national highway, should always be kept free from its highest navigable point to its outlet, and no charge of any nature whatever should ever be exacted from the shipping navigating its waters.

2. That Congress be respectfully requested to refuse the passage of any such bill as is referred to in the preamble.

3. That Congress be requested to pass a bill providing for the removal of all obstructions to the navigation of the Mississippi river and its tributaries, the work to be done under the direction of Government officers, and not, as heretofore, by contract.

The above were unanimously adopted at the first meeting of the National Board of Trade, held in the city of Philadelphia, on the 6th of June, 1868.

F. HALEY, President.

Attest: HAMILTON A. HILL, Secretary.

## FEES TO CONSULAR AGENTS.

Mr. SPALDING. I ask unanimous consent to introduce a joint resolution (H. R. No. 328) exonerating certain vessels of the United States from the payment of tonnage fees to consular agents in Canada. It meets with the approval of the Committee on Commerce.

There was no objection; and the joint resolution was read a first and second time. It provides that no consul or consular agent shall exact tonnage fees from any vessel of the United States touching at one or more ports in Canada on her regular voyage from one port to another in the United States, unless said consul or consular agent shall perform some official service required by law for such vessel when she shall thus touch at a Canadian port.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SPALDING moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## CONSULAR PAPERS IN EVIDENCE.

Mr. WASHBURN, of Illinois. Mr. Speaker, I have a communication from the Treasury Department in relation to making certain consular papers record evidence in courts of justice. It is a matter of importance, and will be of great convenience in the trial of cases in which the United States is interested. I ask, therefore, to introduce a bill (H. R. No. 1428) authorizing the admission in evidence of the copies of certain papers, documents, and entries.

The bill was reported. It provides that copies of any and all papers and documents filed or remaining in the office of any consul, vice consul, or commercial agent of the United States, and of any and all entries in the books or records of any such office, shall, when certified under the hand and official seal of the proper consul, vice consul, or commercial agent, be admissible in evidence in all courts of the United States, and shall have, as evidence, the same force and effect as the original papers, documents, or entries.

The Clerk read the following letter:

TREASURY DEPARTMENT,  
Solicitor's Office, July 11, 1868.

SIR: Inconvenience sometimes arises from the want of a provision making properly certified copies of consular papers and records evidence in our courts. I have, therefore, prepared a short bill supplying this defect, which I herewith inclose, and I have the honor to request that, if it meets the approval of your committee, you will report it to the House of Representatives, with a view to its passage by that body.

I have the honor to be, very respectfully,  
EDWARD JORDAN,  
Solicitor of the Treasury.

Hon. E. B. WASHBURN, Chairman Committee on Commerce, House of Representatives.

The bill was read a first and second time, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## NATURALIZATION.

Mr. STEVENS, of Pennsylvania, by unanimous consent, introduced a bill (H. R. No. 1429) to amend an act entitled "An act to establish a uniform rule of naturalization," passed April 14, 1802; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

## GOVERNMENT STOCK IN CANALS, ETC.

Mr. BUTLER, of Massachusetts, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of author-

izing the Secretary of the Treasury to dispose of the property of the United States in certain canals and navigation companies, wherein the United States hold stock, which have for many years been non-interest paying.

## PENSION BILLS.

The SPEAKER. The Senate have asked for a committee of conference on nine pension bills, the amendments being verbal. If there is no objection the House will reciprocate the request.

No objection was made; and the Speaker appointed Messrs. PERHAM, VAN AERNAM, and BEATTY.

## FREEDMEN'S BUREAU.

Mr. ELIOT. I ask unanimous consent to take from the Speaker's table Senate bill No. 567, relative to the Freedmen's Bureau, and providing for its discontinuance. I have the authority of the committee to which it would be referred to move that it be considered in the House.

Mr. RANDALL. I object.

Mr. ELIOT. I move to suspend the rules.

Mr. JENCKES. I do not yield the floor for that.

## OUTRAGES IN THE SOUTH.

Mr. ARNELL. I ask unanimous consent to offer the following preamble and resolution:

Whereas outrages, assassinations, and murders of unparalleled atrocity continue to be perpetrated at the South upon law-abiding and unoffending Unionists by bands of masked and armed desperadoes, in such numbers and to such extent as to terrify whole communities and paralyze labor in its lawful and peaceful avocations:

Resolved, That it is the duty of the Government to extend full and ample protection to all its faithful, loyal citizens at the South, white and colored, and that a special committee, to consist of three members of this House, be appointed to investigate these alleged outrages; and said committee is hereby empowered to send for persons and papers, and to report to this House, with all reasonable dispatch, by bill or otherwise.

Mr. RANDALL. I object only to the latter part—the appointment of a committee.

Mr. BROOKS. I object to the whole. I have information of some thirty or forty outrages in Minnesota and Illinois—awful outrages.

## EVENING SESSIONS FOR DEBATE.

Mr. WASHBURN, of Illinois. Gentlemen around me desire that there may be an evening session for debate every night this week. I therefore move that evening sessions be ordered at half past seven o'clock during the week.

Mr. RANDALL. With the understanding that no vote is to be taken?

Mr. WASHBURN, of Illinois. No business whatever—just a speaking school.

No objection being made, it was ordered accordingly.

## LEAVE TO PRINT REMARKS.

Mr. STEVENS, of Pennsylvania, asked and obtained consent to print a speech on the question of the purchase of Alaska. [It will be published in the Appendix.]

## LOUISIANA CONTESTED ELECTION.

The SPEAKER laid before the House testimony, &c., in the case of the election contest of Jones vs. Mann, second congressional district of Louisiana; which was referred to the Committee of Elections.

## FINES ON MAIL CONTRACTORS.

The SPEAKER also laid before the House a letter from the Postmaster General, transmitting, in compliance with the act of July 2, 1836, a report of fines imposed and deductions made from the pay of contractors for carrying the mails of the United States for the year ending June 30, 1867; which was referred to the Committee on the Post Office and Post Roads.

## SCHOOL TRUSTEES, DISTRICT OF COLUMBIA.

The SPEAKER also laid before the House resolutions of a mass meeting of citizens of Washington, protesting against the passage by the House of Representatives of the Senate bill transferring the duties of trustees of colored schools to the trustees of white schools; which

were referred to the Committee for the District of Columbia.

## CIVIL-SERVICE BILL.

The SPEAKER. The question is on suspending the rules for the purpose of considering the civil-service bill. The effect of the motion would be to bring the bill before the House now, neither the appropriation bills nor the tax bill being pending.

Mr. WELKER. I would like to have the motion read.

The Clerk read as follows:

Suspend the rules so as to make the civil service bill a special order as soon as the general appropriation bills are disposed of, and not to interfere with the tax bill.

Mr. MOORHEAD. I would ask the gentleman from Rhode Island [Mr. JENCKES] if he did not intend to put in the tariff bill?

Mr. JENCKES. No, sir.

Mr. WELKER. I hope the rules will not be suspended.

The question was put; and there were—ayes 70, noes 49.

Mr. JENCKES called for tellers.

Tellers were ordered.

Mr. PIKE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 68, nays 62, not voting 68; as follows:

YEAS—Messrs. Anderson, Archer, Arnell, James M. Ashley, Axtell, Bailey, Baldwin, Beck, Boutwell, Boyer, Bromwell, Brooks, Roderick R. Butler, Cary, Chandler, Cook, Dawes, Delano, Dixon, Donnelly, Eila, Eliot, Ferriss, French, Garfield, Griswold, Grover, Haight, Hamilton, Higby, Hooper, Hulburd, Jenckes, Johnson, Alexander H. Jones, Judd, Julian, Ketcham, Mallory, Marvin, McKee, Niblack, Nunn, Perham, Peters, Pike, Plants, Poland, Pomeroy, Randall, Raun, Ross, Schenck, Scofield, Smith, Spalding, Starkweather, Stewart, Stokes, Taber, Taylor, Lawrence S. Trimble, Twichell, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen E. Wilson, and Woodbridge—68.

NAYS—Messrs. Adams, Ames, Delos R. Ashley, Baker, Banks, Beatty, Benton, Blair, Bolcs, Buckland, Sidney Clark, Cobb, Coburn, Driggs, Eckley, Eldridge, Fields, Getz, Glossbrenner, Golladay, Hawkins, Hinds, Hopkins, Chester D. Hubbard, Kelsey, Kitchen, Koontz, George V. Lawrence, William Lawrence, Loan, Marshall, McCarthy, McClurg, Morcour, Miller, Moore, Moorhead, Mullins, Mungen, Myers, O'Neill, Orth, Paine, Robertson, Root, Sawyer, Selye, Shanks, Sitgreaves, Thaddeus Stevens, Caffie, Trowbridge, Unson, Van Aernam, Van Auken, Burt Van Horn, Van Trump, Van Wyck, Welker, Thomas Williams, William Williams, and Windom—62.

NOT VOTING—Messrs. Allison, Barnes, Barnum, Beaman, Benjamin, Bingham, Blaine, Broomall, Burr, Benjamin F. Butler, Calk, Churchill, Reader W. Clarke, Cornell, Covode, Cullom, Dewesse, Dodge, Eggleston, Earnsworth, Ferry, Finney, Fox, Gravely, Halsey, Harding, Hill, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Ingersoll, Thomas L. Jones, Kelley, Kerr, Knott, Ladin, Lincoln, Logan, Loughridge, Lynch, Maynard, McCormick, McCullough, Morrell, Morrissey, Newcomb, Nicholson, Phelps, Pile, Polesley, Price, Pruyn, Robinson, Shellabarger, Aaron F. Stevens, Stone, Thomas, John Trimble, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, John T. Wilson, Wood, and Woodward—68.

So (two thirds not voting in favor thereof) the rules were not suspended.

Mr. MAYNARD stated, during the roll-call, that he was paired on this question with Mr. LOUGHRIDGE.

## MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. W. G. Moore, his Private Secretary, announced that the President had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 869) prescribing an oath of office to be taken by persons from whom legal disabilities shall have been removed;

An act (H. R. No. 445) for the relief of Timothy Lyden, of Parkersburg, West Virginia;

A joint resolution (H. R. No. 324) to extend the time for the completion of the West Wisconsin railroad;

A joint resolution (H. R. No. 154) in relation to the settlement of the accounts of certain officers and agents who have disbursed public money under the direction of the chief of engineers;

An act (H. R. No. 1325) for the relief of Benjamin B. French, late Commissioner of Public Buildings;

An act (H. R. No. 1069) for the relief of Charles B. Tanner, late first lieutenant sixtyninth Pennsylvania volunteers;

An act (H. R. No. 453) increasing the pension of Nancy Weeks, widow of Francis Weeks, late an ensign in the revolutionary war;

An act (H. R. No. 1156) authorizing the Commissioners of the General Land Office to issue a patent to F. N. Blake for one hundred and sixty acres of land in Kansas;

An act (H. R. No. 366) to incorporate the National Hotel Company of Washington city;

An act (H. R. No. 420) to incorporate the Connecticut Avenue and Park Railway Company in the District of Columbia;

An act (H. R. No. 1069) to provide for certain claims against the Department of Agriculture; and

An act (H. R. No. 650) to amend the act of 3d of March, 1865, providing for the construction of certain wagon-roads of Dakota Territory.

#### PAPERS WITHDRAWN.

Mr. BENJAMIN asked and obtained leave to withdraw from the files of the House the papers of Robert V. Keller, copies to be left on the file.

#### WASHINGTON TARGET-SHOOTING ASSOCIATION.

Mr. BALDWIN, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 344) to incorporate the Washington Target-shooting Association in the District of Columbia, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 344) to incorporate the "Washington Target-shooting Association" in the District of Columbia, having met, after full and free conference, have agreed to recommend, and do recommend to their respective Houses, as follows:

That the House recede from its disagreement to the amendment of the Senate to the said bill, and agree to the same with an amendment, as follows:

Strike out of said amendment, after the word "provided," in the first line, the following words: "The amount of real property or estate to be held by the said association shall not exceed in value the sum of \$50,000; and provided further that."

And the Senate agree to the same.

JOHN D. BALDWIN,

M. WELKER,

A. J. GLOSSERENNER,

*Managers on the part of the House.*

JAMES HARLAN,

GEORGE VICKERS,

ROSCOE CONKLING,

*Managers on the part of the Senate.*

The report of the committee of conference was adopted.

Mr. BALDWIN moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SUTRO TUNNEL.

Mr. JULIAN. I move that the rules be suspended in order that I may have an opportunity to submit the following resolution:

*Resolved,* That the House will hold an evening session on Tuesday evening, at half past seven o'clock, for the purpose of receiving and considering the report of the Committee on the Public Lands on the Sutro tunnel.

Mr. WASHBURN, of Illinois. I hope not; that is nothing but a huge gambling operation.

The question was taken on the motion to suspend the rules, and it was not agreed to.

#### FREEDMEN'S BUREAU.

Mr. ELIOT. I move that the rules be suspended, for the purpose of taking from the Speaker's table Senate bill No. 567, relating to the Freedmen's Bureau, and providing for its discontinuance, in order that it may be considered at the present time.

Mr. BROOKS. I think I must call the yeas and nays on the motion to suspend the rules unless some time can be allowed to discuss this bill. I know it will be passed; but I would prefer to have a little discussion on it.

Mr. ELIOT. If the gentleman desires to discuss this bill for ten minutes, I will consent to yield that time to him.

Mr. BROOKS. That is a great deal of time; we are usually allowed one minute. We are profoundly grateful to the gentleman for his generosity.

The question was upon the motion to suspend the rules in order to take the Freedmen's Bureau bill from the Speaker's table.

Mr. ELIOT. If the bill can be considered as before the House, I will yield for ten minutes to the gentleman from New York, [Mr. Brooks.]

No objection was made, and the bill was accordingly taken from the Speaker's table, and read a first and second time.

The question was upon ordering the bill to be read a third time.

The first section of the bill, which was read, provides that the duties and powers of the Commissioner of the Bureau for the Relief of Freedmen and Refugees shall continue to be discharged by the present Commissioner of the bureau, and in case of vacancy in said office occurring by reason of his death or resignation the same shall be filled by appointment of the President on the nomination of the Secretary of War, and with the advice and consent of the Senate; and no officer of the Army shall be detailed for service as Commissioner or shall enter upon the duties of Commissioner unless appointed by and with the advice and consent of the Senate; and all assistant commissioners shall be appointed by the Secretary of War on the nomination of the Commissioner of the bureau. In case of vacancy in the office of Commissioner happening during the recess of the Senate the duties of Commissioner shall be discharged by the acting assistant adjutant general of the bureau until such vacancy can be filled.

The second section provides that the Commissioner of the bureau shall, on the 1st day of January next, cause the said bureau to be withdrawn from the several States within which said bureau has acted and its operations discontinued as soon as the same may be done without injury to the Government. But the educational department of the said bureau and the collection and payment of moneys due the soldiers, sailors, and marines, or their heirs, shall be continued as now provided by law until otherwise ordered by act of Congress.

Mr. ELIOT. I now yield to the gentleman from New York [Mr. Brooks] for ten minutes.

Mr. BROOKS. I have hardly had time to read this bill sufficiently to fully understand it. But it is presumed that we know all about it, by a sort of happy instinct, so that it is hardly necessary to discuss it or to know anything about the scope and effect of it. This bill turns up in the House for the first time this morning, and will be put upon its passage and made a law, so far as this House can make it a law, within twenty-five or thirty minutes at the furthest. We do business by steam, at high pressure, at the speed of a locomotive in full course, sixty and sometimes eighty miles an hour. Put into plain English, this bill, as I understand it, creates General Howard supreme and absolute sovereign over the affairs of the Freedmen's Bureau so long as he may choose to continue at its head, without any interference upon the part of the President or the Secretary of War. It makes him entire master and controller of the bureau. This bill provides that:

No officer of the Army shall be detailed for service as commissioner or shall enter upon the duties of commissioner unless appointed by and with the advice and consent of the Senate; and all assistant commissioners, agents, clerks, and assistants shall be appointed by the Secretary of War, on the nomination of the commissioner of the bureau.

Thus this bill, as I have said, makes General Howard supreme in all his appointments. I believe it has been established in a speech made by my friend from Pennsylvania [Mr. BOYER] that, notwithstanding the declaration of the honorable gentleman from Massachusetts, [Mr. ELIOT,] that this bureau has cost but \$6,000,000 a year, the actual cost is \$15,000,000. I ask my friend from Pennsylvania whether I am right?

Mr. BOYER. From some investigation

which I have made in relation to the expenses of the Freedmen's Bureau, I verily believe that the annual cost of the bureau is at least \$15,000,000 a year.

Mr. BROOKS. So that, in point of fact, the sum of \$15,000,000 annually is confided to the absolute and supreme disposal of General Howard. I do not know how honest this General Howard may be; but this is too much money and too much power to be put at the disposal of any one man. General Howard's prosperity has been wonderful. This, it is said, has arisen from the contributions of individuals and societies; but, however that may be, I can only say that he has in course of erection on one of the beautiful hills adjacent to this city one of the most palatial residences to be seen in this or any other city of the Union. The second section provides in the beginning for the discontinuance of the bureau on the 1st of January next; but that provision is afterward nullified by the words "as soon as the same may be done without injury to the Government." The provision is in these words:

That the commissioner of the bureau shall, on the 1st day of January next, cause the said bureau to be withdrawn from the several States within which said bureau has acted, and its operations discontinued, as soon as the same may be done without injury to the Government.

Who is to judge of this "injury to the Government?" General Howard. And it is not likely that General Howard will ever think it for the interest of the Government to discontinue this bureau so long as he may be at the head of it. But even if the bureau could be discontinued without, in General Howard's estimation, "injury to the Government," the bill makes the following provision:

But the educational department of the said bureau, and the collection and payment of moneys due the soldiers, sailors, and marines, or their heirs, shall be continued as now provided by law, until otherwise ordered by act of Congress.

So that this bill, pretending to be a discontinuance of the Freedmen's Bureau, provides in reality for its continuance and perpetuation, subject only to the future action of Congress. I object, therefore, to the bill as deceptive in its provisions. It is not an abolition or a discontinuance of the bureau, but its prolongation and permanent establishment until repealed by further action of Congress. The bill contains this additional provision:

*Provided, however,* That the provisions of this section shall not apply to any State which shall not, on the 1st of January next, be restored to its former political relations with the Government of the United States, and be entitled to representation in Congress.

Who is to judge of this restoration to "former political relations" and the right to representation in Congress? Is this to be determined by General Howard, or by the two Houses of Congress and the President of the United States? The bill contains no exposition, no declaration whatever on this subject. My objection to this proviso is that under it, in such States as Mississippi, Texas, and Virginia, and other States that may not be restored to their "former political relations," this bureau is to be continued indefinitely until the two Houses of Congress shall repeal the act. Here is a bill which in the beginning pretends to discontinue the Freedmen's Bureau, but in the end provides for its continuance through all time in certainly three States of the Union, unless the commissioner of the bureau or the two Houses of Congress should hereafter otherwise determine. Sir, we may disguise this matter of the Freedmen's Bureau as we please, it is nothing but an electioneering machine from the beginning to end. It is the contrivance of this Congress to manipulate, control, regulate, and dominate the southern States of this Union in order to keep those States subject to this Congress. Through the agency of this Freedmen's Bureau the northern people have heavy additions to their burdens of taxation. The northern people, who pay \$1 25 per pound for tea, the people who buy sugar, the people who buy coffee, the people who are taxed in every form, are taxed for the support of the Freedmen's Bureau. It is to affect the



elections of the South, to manipulate and control the southern States; and it costs, not the \$1,500,000 as pretended here, not the \$6,000,000, as alleged by the gentleman from Massachusetts, [Mr. ELIOT,] but the \$15,000,000 proved by the gentleman from Pennsylvania, [Mr. BOYER.] This enormous sum is to be imposed upon the tax-ridden dupes of the North, tools of the North in that respect. We are to be ground to powder by taxation solely for the purpose of keeping up northern electioneering agents in ten States of the South to manipulate and control elections in those States.

Mr. PIKE. I wish to ask the gentleman a question.

Mr. BROOKS. Not out of my time. My time is precious.

Mr. ELIOT. How much longer does the gentleman ask?

Mr. BROOKS. Five minutes.

Mr. ELIOT. I yield five minutes longer to the gentleman.

Mr. BROOKS. Why not move that it shall expire on the 1st of November or December next, when this Congress reassembles? Why have it expire at some indefinite time? The gentleman from Massachusetts [Mr. ELIOT] is generally frank in his political maneuvers. I will not use those words, but in his political manipulations and intentions. Why not, if he intends to end this bureau, end it December 1, in a frank and honorable way, instead of these ambiguous terms extending it over all time. And I tell the gentleman from Massachusetts [Mr. ELIOT] he may as well end this Freedmen's Bureau at one time as another. Our northern countrymen, our western countrymen, cannot longer manipulate and control the negroes of the South. There is an instinct even higher than intelligence and education, because it is God given. The instinct of the negro is at last discovering that he is being used, as his donkey or mule or his horse is used, by northern adventurers for the purpose of riding into the capital of the United States from the plantations of the South. The Freedmen's Bureau had as well be ended at first as at last. Its day is over, or nearly over, and it will be hardly able to manipulate the negroes during the election. The instinct of the negro has discovered at last, as in Mississippi and southern Georgia, what is the object and intent of this Freedmen's Bureau, and there soon will be an end to it throughout the southern States. I thank the gentleman from Massachusetts for the opportunity he has given me, so seldom given to my side of the House.

Mr. ADAMS. I ask leave to offer an amendment.

Mr. ELIOT. I cannot yield for that purpose.

Mr. ADAMS. Allow it to be reported?

Mr. ELIOT. I will hear it read.

The Clerk read as follows:

Strike out all after the enacting clause in section two, and insert the following:

That said bureau shall be immediately withdrawn and discontinued in all the States now represented in Congress, and shall be discontinued in the remaining States, as soon as they shall be restored to their former political relations with the Government of the United States.

Mr. ADAMS. Will the gentleman allow me five minutes to state why that amendment should be adopted?

Mr. ELIOT. There is no use, as I could not let the amendment be offered. The gentleman from Kentucky is opposed to the Freedmen's Bureau. He has been consistently opposed to it from the beginning, and I do not know but if I were in his situation and represented the political feelings he does on the general subjects embraced in the bureau I should feel as he does. I have been familiar also with the opinions of the distinguished gentleman from New York, [Mr. BROOKS.] From the inception of the bureau to the present time he has been one of its most bitter opponents.

Now, sir, there have been some things said by the gentleman from New York which I heard indistinctly, but to which I propose to reply briefly. It is of no use, so far as the gentleman

and his political associates are concerned, for me to state again, as I have before, the precise expense which this bureau has been to the Treasury of the United States; because these same old stories are reiterated which have been commenced at the White House and echoed through the Democratic prints, that the expenses of the bureau have ranged from ten to twenty million dollars. Sir, on the 1st of January last, every dollar that had come out of the Treasury for the support of this bureau, from its commencement, was between three and four million dollars, beside the amount of stores and clothing issued from the quartermaster's department. In the bill passed in July, 1866, no appropriation at all in money was made. From the first inception of the bureau down to the present hour there has not been an appropriation by Congress of a sum equal to the smallest amount that the gentlemen have charged against it as its annual cost.

I wish to say in this connection that besides the speech which I had the honor to make here some time ago I took a great deal of care and pains to prepare a report upon this subject, showing the precise expenses and the operation of the bureau under General Howard; showing the good it had done and the evil it had prevented. Gentlemen will find in the folding room at their credit some twenty or thirty copies of that report, in which I assure them they will find material to answer all the charges which have been made against this bureau on account of its expenses. They will find moreover that, had it not been for the unprecedented and unexpected animosity which the measure received at the hands of the Executive, by the provision which was made in the first bill all the expenses that the bureau could have charged upon the treasury of the United States could have been paid out of funds which should have been appropriated to the bureau from rebel sources. It was designed that the rebellion which created the war should pay for the whole expense of this bureau, and that would have been the case but for the fact that the rebels, pardoned and unpardoned, with their hands red with the blood of Union men, property by the thousand was turned over by the President taken from the bureau under whose charge it was, in order that the expenses might be thus defrayed.

Now, sir, the gentleman from New York [Mr. BROOKS] will pardon me for saying he has made a statement unjust, unfair, and untrue against the gentleman who now holds the office of Commissioner of this bureau, because he has recently been building a house for himself in the city of Washington. I do not, of course, impute to him the making of a statement that he does not believe. But, sir, I do not believe there can be found a man more upright in his dealing than the Commissioner of this bureau. I have known him long. I believe him to be a man of high integrity, and one of the last that would permit himself to be made richer by a single dollar from the public money that does not legitimately belong to him from the salary he receives as a major general of the Army.

Sir, when General Howard went into the Army he had a few thousand dollars. During the existence of the war he by great economy saved a few thousand dollars more out of which he has built a house, putting in it all he has, and being compelled to give security, as I understand, for the payment of the full indebtedness. General Howard has laid on the battle-field of his country his right arm, and I believe he would consign the other in companionship with it before he would permit himself to be a party to any transaction involving a taint of pecuniary fraud. It is not fair because of certain personal hostilities which have grown up against him in the church with which he is connected, about which I do not propose to speak, that gentlemen ordinarily so careful should throw out slurs and reproach upon his private character. Gentlemen should not permit themselves to be organs of communication through this House to the country of stories like that to which allusion was made.

As regards the remark of the gentleman from New York in reference to the proviso contained in the printed bill, I will say to him that the bill on the Speaker's table does not contain that proviso. It was stricken out in the Senate, although it was reported to the Senate by the committee; so that the bill stands free from that objectionable feature—objectionable in the view of the gentleman from New York, [Mr. BROOKS]—although I believe myself that the provision was wise and proper. The gentleman complains that this bill provides for the termination of the bureau. It is very well known that when the first law was passed creating it it was designed in its nature to be temporary. Why, sir, if it had not been for Andrew Johnson and those who have supported him the bureau would have ceased to exist before this time. It would have discharged all its work. It has been opposed and hindered at every step. That it has encountered the animosity of gentlemen from the southern States, such men as Wade Hampton and Forrest; that it has encountered the opposition of such men as General Rousseau of Kentucky, and all those men who were disposed to crush down the negro and permit the rebel to control now, after defeat in the field, as he did control before in council, I am not surprised. But I apprehend that there are gentlemen now on this floor who, if it were needful, would come to the rescue of this bureau and would show that the loyal men—the loyal white men in the South—have had no agency like that of this bureau to sustain them at home in their strife and struggle with rebels. This bill peremptorily terminates the life of the bureau on the 1st of January. It is believed that under existing circumstances it would not be safe or prudent for the operations of this bureau to be discontinued at an earlier day than that. We were disposed to let the country see that although this measure in its character was temporary, although it has been continued against our desires, because of the animosity which has been exercised toward it, the hostility shown to it by the Executive and his friends, yet that we were disposed at the very first moment practicable to withdraw its operations, leaving the fate of the negroes and of the loyal whites in the hands of their own respective States.

Mr. ALLISON. I understand the gentleman to say that the bureau is to be absolutely withdrawn on the 1st day of January. I suggest that it would be better to strike out the words "as soon as the same may be done without injury to the Government." I think that may not be quite clear.

Mr. WASHBURN, of Illinois. I hope the gentleman from Massachusetts will agree to that amendment.

Mr. ELIOT. The object of those words is simply this: if the provision is peremptory that on the 1st of January it shall be withdrawn, no fact, however important to the Government, could permit it to continue another day. I will consent, however, to the amendment being offered.

Mr. ALLISON. Then I move to strike out the words "as soon as the same may be done without injury to the Government." That will require the Commissioner to withdraw the bureau absolutely on the 1st of January.

Mr. ELIOT. I yield five minutes to the gentleman from Tennessee, [Mr. ARNELL.]

Mr. ARNELL. I hope sincerely that the amendment offered by the gentleman from Iowa [Mr. ALLISON] will not prevail, and in order to show the necessity for the continuance of the bureau, and that it is best that the time of its withdrawal should be left indefinite, I ask the Clerk to read an article from one of the Nashville papers received to-day.

The Clerk read as follows:

*The Ku-Klux—Murders, robberies, and outrages by the Klan—School teaching and Bible reading proscribed.*

Accounts reach us from Giles, Marshall, Hamilton, and Bedford counties of fresh outrages perpetrated by the Ku-Klux on colored people. The horrors practiced by these wretches grow more intensely black every day. They roam through the country and per-

petrate their crimes with apparent impunity and a satanic determination and disregard of consequences perfectly appalling.

From Giles county a dozen or more colored men arrived yesterday morning by way of the Alabama railway. Their narrative of suffering is heartrending. They all have families depending on them, are farmers who cultivated pieces of land, and were just housing their crops. They had from thirty to fifty acres each under cultivation, besides other little property in the way of stock. They are men rugged and knotted up with ceaseless toil in an up-hill struggle, not only to make a little for future contingencies, but even to make bread wherewith to live. Honest laborers, out in the fields from early dawn to dewy eve, earning, as they simply express it, "meat and clothes for their little ones." They all lived in the neighborhood of Cornersville, about twelve miles from Pulaski, in Giles county.

A Mr. J. Clark, a very mild and gentlemanly man, who used to teach school down there, was compelled to quit by the persecuting members of the Klan. He is even afraid to write about their doings. George Bose, a colored teacher, had a prosperous school of over forty children, was also compelled to give up his school, and is now in town. The Klan is represented as being perfectly reckless, and the house of one widow Gordon, twelve miles from Pulaski, and five from Cornersville, is said to be the headquarters. They meet there almost nightly, and hold deliberations and plan their infernal work of blood. The wives and families of these colored fugitives are now in the woods living in the best manner they can. They, too, are driven out of their houses. Giles county needs purging.

#### *Assassination of the Registration Commissioner of Overton County.*

##### *Editor Press and Times:*

On the 1st day of July five armed men appeared before the dwelling house of James Francis, commissioner of registration for Overton county, and pointing their guns in at the windows demanded his surrender. On being informed by Mrs. Francis that her husband was not at the house, they proceeded to search the premises, took what arms they could find, and such other articles as they chose to appropriate.

By this time some confederates, who had concealed themselves on the farm, called to them to "come on, they had him." At this the ruffians left, taking their booty. A short time after they were gone Mrs. F. heard two guns fire, and supposing her husband had been shot, she and two neighboring women followed in the direction of the firing. Directly they heard other guns, and in a few minutes twenty or more shots were fired. Continuing to follow the trail she came upon a waste-house in an old field, some mile or more from her house, where she found her husband lying dead. His hands were tied, and he was literally riddled with bullet-holes.

#### *Marshall County.*

A letter from Marshall county of the 1st gives a fearful account of the resurrected rebels in that district:

##### *MARSHALL COUNTY, July 1.*

We have gathered some further particulars about the cruel intentions of those infamous wretches, the Ku-Kluxers, or resurrected rebels, as they call themselves. On the night of the 15th of June those infamous wretches went to the house of Mr. Lewis Strickland and abused him, and wore him out in calculations were to serve in a like manner the person of Berryman Scales, Mr. Willis, and also R. Royster, for the sole cause of boarding a teacher at his house. They expressed an intention to hang Mr. Jenkins for his habit of reading the Bible to those of his own race, thereby making them as wise as the white men, as they allege. Mr. Jenkins is the minister in this vicinity and is worthy of protection. He is allowed to preach but once a month. Five hard-working, honest citizens were dragged out of their beds in the night and maltreated in the most shocking manner. While the whipping was being done the cause given for it was that he voted for Brownlow, and if he did not vote the Conservative ticket next time he would be killed. John Street, one of the officers of Chapel Hill, openly declared that there never has been any peace, and that they only retired awhile to rest and gather force for another rebellion. The son of another squire has been engaged in these night law-breaking and citizen-terrifying expeditions. He had his right arm wounded. Three of the Klan have been wounded, one mortally, but they are busily recruiting, and have an immense amount of guns and revolvers, and they swear they will fight again. There is a regular war here between the whites and blacks.

#### *Outrages in Bedford county.*

SHELBYVILLE, July 7, 1868.

##### *Editor Press and Times:*

The facts are simply these: Mr. Dunlap is a northern or western man, first sent here by some society to teach the colored people. He has been in our midst three or four years, leading a quiet, unobtrusive life, well qualified to teach, devoted and correct in the work. He has never attempted to force himself upon the notice of the white people, but has attended to his own business, offering no contempt or insult, nor permitting it to be done by his pupils toward any person, but, on the contrary, as some of our best conservative citizens are ready to testify, readily and promptly rebuked and corrected any inproprieties on their part that came to his knowledge or were suggested to him. He has been honest, upright, and just in all his dealings with white and black since he has been here. He has had no quar-

rels or difficulties with any one so far as known to us.

He was here during the cholera scourge of the fall of 1866, and Hon. Edmund Cooper has testified in public speeches that he kindly and faithfully waited upon the sick and dying, and was of great help to him in discharging his charities and benevolence to the poor and needy where most others fled the dreadful plague.

On the 4th of July, Mr. Dunlap, as he had done on former occasions, formed a procession of his large school, and under the school banners and stars and stripes, marched around the square and out to the grounds of Hon. William H. Wisner, where they had a large gathering and pic-nic. They sang, danced, and celebrated the glorious Fourth in a social gathering of their own race principally. Enough whites were present, the writer among the number, to testify that there was no disorderly conduct, profane swearing, or dissipation upon the ground.

After night, and when many had retired to repose, no friend of law, order, and peace dreaming of a raid from the Ku-Klux, they made their appearance on the square, about fifty in number, mounted on caparisoned horses, revolver in hand and whistle in mouth, and proceeded directly to Mr. Dunlap's house. He shut the door in their faces. They fired a shot into the house; forced the doors; promised to spare his life if he surrendered; disarmed him of his pistol, (and still have it,) and made him mount behind one of them.

They then went to the house of Jim Franklin, a colored man, and found him in bed; made him follow them. They returned to the square, gave three cheers for Andrew Johnson, and proceeding a short distance from town, stripped and whipped their victims with a strap most unmercifully, cruelly, and shamefully, and discharged them, with orders to Dunlap to leave immediately, or his life would be taken.

The supposed offense of the colored man was that he wore the sash of a marshal. Threats were made against others, and the brave and gallant troop left, no doubt vastly proud of their achievements.

LEWIS TILLMAN.

Mr. ARNELL. I desire to state that in Middle Tennessee the only guardian for these colored persons that is capable of ferreting out these outrages and bringing them to public notice is this much-abused bureau. I hold in my hand two sworn statements from ex-Federal soldiers, who did gallant service in the Army.

[Here the hammer fell.]

Mr. ELIOT. I now ask for a vote on the bill.

Mr. ADAMS. Is this bill to be pressed through without allowing the minority of the Committee on Freedmen's Affairs to say a word upon it?

Mr. ELIOT. I will yield five minutes to my colleague [Mr. ADAMS] on the Committee on Freedmen's Affairs.

Mr. ADAMS. Mr. Speaker, much has been said about the cost of the Freedmen's Bureau, and the gentleman from Massachusetts [Mr. ELIOT] has time and time again asserted in this House that only about three million dollars have been drawn from the Treasury for the purpose of supporting the operations of this bureau. Now, sir, I am prepared to prove to this House, if I had time, that this bureau has actually cost the Government, not in money appropriated and taken from the Treasury, but from various sources, taken altogether, the sum of \$16,000,000 up to the 1st of January last. I have never seen the statement which the gentleman from Massachusetts has made in his report; but he has made the statement in the House, and repeated it time and time again, that only about three million dollars have been taken from the Treasury for this bureau. That statement was intended to leave upon the House and the country the impression that the entire cost of this bureau has been only \$3,000,000. Now I say, as I said some time since, when I made some remarks upon this subject, that this bureau has cost the Government in property and in money over sixteen million dollars, and I am prepared to support that statement by the report and statements of General Howard himself.

Now, in regard to the continuance of this bureau, it is proposed to discontinue it after the 1st of January next, provided it may be done "without injury to the Government." I offered, or desired to offer, an amendment to the effect that this bureau should be discontinued now in all the States which are at present represented in Congress, and that it should be discontinued in those States which are not represented in Congress as soon as they shall

be restored to their former political relations with the Federal Government. Why does not the gentleman from Massachusetts [Mr. ELIOT] accept that amendment? What is the necessity for continuing this bureau, with all its vast expenditures, until the 1st day of January next? The reason assigned for its continuance heretofore has been that the southern States were in such a disorganized and disarranged condition that it was necessary to have this bureau in order to protect the freedmen in their rights and privileges; that the civil institutions and civil officers down there were not adequate to the protection of that class of people.

Now, there are to-day three of those States represented on this floor; three of them are now restored to all their relations with this Government, having State governments established which are competent to afford the most ample and abundant protection to the freedmen, giving them even greater civil and political rights than are given to the whites. Then where the necessity for continuing this bureau for a single hour in those States? If the gentlemen who have advocated this bill heretofore were sincere in the reasons they have assigned for the further continuance of this bureau, then I must say that those reasons no longer exist, at least so far as they apply to the States which have been already restored. I wish to ask what better reason will there be for withdrawing this bureau from those three States now represented here on the 1st of January next than exists to-day? None whatever. But there is one reason to which I desire to call the attention of the House as being the reason which prompts the chairman of the committee [Mr. ELIOT] and the majority on this floor to favor the continuance of this bureau, which is so plain that no one can mistake it. One of the reasons assigned by the gentleman from Massachusetts [Mr. ELIOT] for the continuance of this bureau was in a letter which he incorporated in his speech, and of which I will read an extract, as follows:

"3. The bureau should be continued one year longer to act as a sort of moderator between white and black during the exciting contest now impending over the whole country. It can thus assist wonderfully in reconstructing the South on a loyal basis. To continue the bureau one year more than is provided will cover most all the exciting political issues about to be made in the election for President, and this is of no little importance to the whole country."

I have shown that the reason heretofore assigned for the continuance of this bureau, the protection of freedmen in their rights, is not now applicable to some of these States, and will not be applicable to the others so soon as they shall be restored to their former political relations. Why should this bureau be continued in these States? Why should you not as to these States do now what you propose to do in January next? Why is it more appropriate to discontinue the bureau in January next than now, unless we intend the bureau to operate as a political machine to control political sentiments and to accomplish political ends in those States. Mr. Speaker, it is apparent and cannot be denied—the gentleman from Massachusetts knows it, and dare not deny it—that all the reasons heretofore assigned for the continuance of the bureau have now ceased to exist. There is at this time no reason why this bureau should not be withdrawn from States so soon as they are reorganized and restored to their former political relations. I cannot see, therefore, why the amendment I have proposed should not be accepted, and why it should not be adopted by the House. But, sir, if the object is to have the benefit of this institution, as indicated by the correspondent of the gentleman from Massachusetts, until after the presidential election, why not discontinue it on the first Wednesday after the presidential election, when they have realized the benefits and accomplished the ends desired instead of postponing until the 1st of January as proposed.

[Here the hammer fell.]

Mr. ELIOT. Mr. Speaker, the only point that has been made by the gentleman from

Kentucky [Mr. ADAMS] is the same one attempted to be made by other gentlemen here in regard to the expense of the bureau. I have answered it two or three times already; and I only want to say now one word upon the point. The gentleman knows or ought to know that all the expenses of this bureau would have been defrayed from the collections of cotton made by the labor of freedmen under the operations of the bureau. Not one dollar of expense would have been imposed upon the Treasury of the United States if it had not been for the action of President Johnson in returning property, both personal and real, to the rebels from whom it had been taken. It is by that action, and that alone, that any expense for the support of the bureau has been put upon the Treasury of the United States.

Mr. ELDRIDGE. I desire to know whether the gentleman from Massachusetts [Mr. ELIOT] denies specifically the charge made by the gentleman from Kentucky, [Mr. ADAMS,] the gentleman from Pennsylvania, [Mr. BOYER,] and the gentleman from New York, [Mr. BROOKS,] that the expense of this bureau has been within the time stated \$16,000,000?

Mr. ELIOT. I deny it emphatically. The gentlemen have had before them the figures which would have shown them their statement is not correct.

Mr. ELDRIDGE. They all affirm that it is true.

Mr. ELIOT. Certainly; and the gentleman's President has stated the amount at \$20,000,000. There is no truth in any such statement.

Mr. ELDRIDGE. President Johnson, I believe, stated the amount as \$12,000,000.

Mr. ELIOT. I yield to the gentleman from Wisconsin, [Mr. PAINE.]

Mr. PAINE. Mr. Speaker, by the second section of the thirteenth article of the amendments of the Constitution authorizing Congress to "enforce by appropriate legislation" the abolition of slavery, we are empowered to use for that purpose this bureau whenever it may be necessary. So long as it is impossible for the State governments in the South to do this it would seem to me to be reasonable to continue the Freedmen's Bureau, and I should be in favor of such continuance. But as a member of the Committee on Freedmen's Affairs, I am in favor of discontinuing this bureau just as soon as the people of those reconstructed States shall themselves be able to secure to the freedmen of the South that which it is the duty of the nation to see secured to them. The reconstruction of these States will, I trust, speedily be followed by such a condition of things in the South as will enable the States themselves to accord to the freedmen the protection to which under this thirteenth article they are entitled.

I am therefore in favor of the amendment of the gentleman from Iowa, [Mr. ALLISON,] making compulsory the discontinuance of this bureau on the 1st of January next. I should be in favor of discontinuing it in each of those States as fast as they are reconstructed but for the fact that it will require time for the State governments there to acquire the power to carry out to the freedmen the guarantees of this new amendment of the Constitution. It will be our duty to furnish these State governments with the means of doing it. It will be our duty to furnish the militia of those States with arms which will enable them to protect these freedmen. Already measures have been inaugurated which will result in a provision for that necessity of the case, but time will be required to consummate these arrangements. Therefore it would be wrong for us to violate this constitutional amendment by discontinuing the Freedmen's Bureau at once. But I cannot see, if arms are furnished by the Federal Government to the militia of these States to enable them to protect themselves and the freedmen within their limits against outrages, why we cannot safely withdraw the Freedmen's Bureau and the Federal Army. I cannot see why the State of Tennessee hereafter cannot protect the

freedmen within the limits of the State of Tennessee. I trust the State of Tennessee will be able to do that. I confess, sir, I am a little surprised to hear gentlemen from Tennessee admit, as they seem to admit, the inability of the State government of Tennessee, of the loyal people of Tennessee, to afford this protection. Why are they not able? Is it because they have not arms in their hands to defend them against the outrages of these rebels? If that is the reason let us give them out of the immense supply of unnecessary arms now on hand, enough of arms so they can protect themselves and the freedmen against these outrages.

Unless there is some reason, then, not suggested on this floor to-day, I hope the amendment of the gentleman from Iowa [Mr. ALLISON] will be adopted, and the Freedmen's Bureau be discontinued in every reconstructed State as soon as the 1st of January next.

Mr. BOYER. Will the gentleman from Massachusetts allow me to correct some of the fallacies in his calculation?

Mr. ELIOT. I cannot yield. I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. ALLISON's amendment was adopted.

The bill, as amended, was ordered to a third reading, and it was accordingly read the third time.

Mr. ELIOT demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. BROOKS and Mr. BECK demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 104, nays 81, not voting 53; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Beatty, Benjamin, Benton, Blair, Boles, Boutwell, Bromwell, Buckland, Benjamin F. Butler, Roderick R. Butler, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Delano, Dixon, Donnelly, Driggs, Beckley, Ela, Eliot, Farnsworth, Ferriss, Fields, French Garfield, Griswold, Hamilton, Higby, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Jenckes, Alexander H. Jones, Judd, Julian, Kelsey, Ketcham, Kitchen, Koontz, William Lawrence, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, McKee, Mercer, Miller, Moore, Moorhead, Mullins, Myers, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Pomerooy, Raum, Robertson, Root, Sawyer, Schenck, Scofield, Shanks, Smith, Starkweather, Thaddeus Stevens, Stokes, Taylor, Thomas, Trowbridge, Twichell, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Eihu B. Washburne, Henry D. Washburn, William B. Washburn, Wolker, Thomas Williams, William Williams, and John T. Wilson—104.

NAYS—Messrs. Adams, Archer, Axtell, Beck, Boyer, Brooks, Cary, Chanler, Eldridge, Getz, Glossbrenner, Golladay, Grover, Haight, Hawkins, Johnson, Thomas L. Jones, Kerr, Knott, George V. Lawrence, Marshall, Mungen, Niblack, Phelps, Randall, Ross, Sitgreaves, Stewart, Taber, Lawrence S. Trimble, Van Auker, and Van Trump—31.

NOT VOTING—Messrs. Anderson, Baker, Banks, Barnes, Barnum, Beaman, Bingham, Blaine, Broomall, Burr, Cake, Reader W. Clarke, Cornell, Deweese, Dodge, Eggleston, Ferry, Finney, Fox, Gravely, Halsey, Harding, Hill, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Kelley, Laffin, Lincoln, Loan, Logan, Loughridge, McCormick, McCullough, Morrell, Morrissey, Newcomb, Nicholson, Nunn, Polsey, Price, Pruyn, Robinson, Selye, Shellabarger, Spalding, Aaron F. Stevens, Stone, Taffe, John Trimble, Upson, Ward, Cadwalader C. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Wood, Woodward, and Woodward—63.

So the bill was passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NORTH CAROLINA MEMBERS.

Mr. DAWES. I rise to a question of privilege. The Committee of Elections, to whom were referred the credentials of Nathaniel Boyden and Oliver H. Dockery, claiming seats from the third and seventh districts of North Carolina, instruct me to report they find the credentials in due form of law, but that these gentlemen are unable to take the oath of office prescribed by the statute of July 2, 1862, because

one of them, Mr. Boyden, was a member of the Legislature of North Carolina under the confederate government, and the other, Mr. Dockery, served in 1863 for three months in the confederate army. The disabilities incurred by these acts have been removed by act of Congress, and therefore the committee recommend that these gentlemen be admitted to their seats upon taking the oath of office required by the act prescribing an oath of office to be taken by persons from whom legal disabilities shall have been removed.

The SPEAKER. The President of the United States having notified the House of his approval, on the 11th of July, of the act referred to, it has therefore now become the law. The question is on agreeing with the report of the Committee of Elections.

The report of the committee was agreed to.

Mr. NATHANIEL BOYDEN and Mr. OLIVER H. DOCKERY then appeared, and were duly qualified by taking the oath prescribed by the act of July 11, 1868.

Mr. BROOKS. A very sensible oath.

#### BRIDGE IN BOSTON HARBOR.

Mr. MOORHEAD obtained the floor, but yielded to Mr. BUTLER, of Massachusetts, who asked unanimous consent to offer a joint resolution for the appointment of an additional commissioner on the commission relative to a bridge in Boston harbor.

The SPEAKER. The joint resolution will be reported; after which the Chair will ask for objections, if any.

The joint resolution was reported. It authorizes the Secretary of War and the Secretary of the Navy to appoint an additional commissioner from civil life to determine the question of the feasibility and propriety of throwing a bridge across a portion of Boston harbor called "Maverick bridge," so that said commission shall consist of five.

Mr. PIKE and Mr. BANKS objected.

#### NIAGARA FALLS SHIP-CANAL.

Mr. JUDD. I desire to offer the following resolution:

*Resolved*, That the bill providing for the construction of a ship canal around the Falls of Niagara, now in Committee of the Whole, be postponed to the 10th day of December next, and made the special order immediately after the morning hour.

Mr. KELSEY. I object.

Mr. WASHBURN, of Illinois. There will be no objection, I take it, to a simple postponement.

Mr. JUDD. I will strike out so much of the resolution as makes it the special order if the gentleman will withdraw his objection.

Mr. KELSEY. I still object.

Mr. JUDD. I move to suspend the rules.

Mr. MOORHEAD. I cannot yield for that.

Mr. WASHBURN, of Illinois. The gentleman will have a right to move to suspend the rules for a special purpose which would override the objection of the gentleman from Pennsylvania.

The SPEAKER. The Chair is not aware of any such rule in the Digest. Two motions to suspend the rules cannot be made at the same time if the maker of the first motion insists upon it.

#### SOLICITOR AND NAVAL JUDGE ADVOCATE.

Mr. SCHENCK, by unanimous consent, introduced a bill (H. R. No. 1430) to abolish the office of solicitor and naval judge advocate, and for other purposes; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

#### REMISSION OF DUTY ON BELLS.

Mr. GRISWOLD, by unanimous consent, reported from the Committee of Ways and Means a joint resolution (H. R. No. 339) authorizing the remission of the duties on a chime of bells imported for presentation to the Episcopal church at Hoosack, Rensselaer county, New York; which was read a first and second time.

The joint resolution was ordered to be en-



grossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GRISWOLD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ROSWELL BATES.

On motion of Mr. MILLER, by unanimous consent, the Committee on Invalid Pensions were discharged from the further consideration of the memorial of Roswell Bates, asking for a pension from 1817 to 1852; and the same was referred to the Committee on Revolutionary Pensions and of the War of 1812.

THE TARIFF BILL.

Mr. MOORHEAD. I now move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of considering the tariff bill; and pending that motion, I move that all general debate on the bill be closed in thirty minutes.

Mr. ELDRIDGE. Cannot the gentleman say thirty-one minutes?

Mr. MOORHEAD. No, sir.

Mr. ELDRIDGE. I think he ought to give us another minute.

Mr. MOORHEAD. Not at this stage of the session.

Mr. ELDRIDGE. Surely on a bill of this importance he might let us have thirty-one minutes. I move to amend his motion so as to make the time thirty-one minutes.

Mr. WASHBURN, of Illinois. I move to amend the motion so as to close debate in two hours.

Mr. ELDRIDGE. As the gentleman from Illinois is so liberal, I withdraw my amendment.

The question was put on the amendment; and there were—ayes 57, noes 46.

Mr. MOORHEAD demanded tellers.

Tellers were ordered; and Mr. MOORHEAD and Mr. GOLLADAY were appointed.

The House divided; and the tellers reported—ayes 60, noes 56.

So the amendment was agreed to.

The motion to close debate, as amended, was then agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CULLOM. Is it in order to move to postpone the bill until next session?

The SPEAKER. It is.

Mr. CULLOM. Then I make that motion.

The SPEAKER. The motion to postpone will be reserved until the vote is taken on the motion to suspend the rules to go into Committee of the Whole on the state of the Union, as that motion, if adopted, would suspend the rule allowing the motion to postpone to be made.

Mr. CULLOM. I demand the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

The SPEAKER. The Chair will state that the House or the Committee of the Whole on the state of the Union can take a recess at any time they please, but the House will meet at half past seven o'clock this evening in Committee of the Whole (Mr. CULLOM in the chair) for general debate exclusively.

The question was taken on Mr. MOORHEAD's motion; and it was decided in the affirmative—yeas 84, nays 56, not voting 60; as follows:

YEAS—Messrs. Ames, Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Benton, Blair, Boies, Boutwell, Boyden, Boyer, Buckland, Roderick B. Butler, Churchill, Covode, Dawes, Dixon, Dockery, Driggs, Eckley, Ela, Ferriss, Fields, Garfield, Getz, Griswold, Haight, Hamilton, Higby, Hinds, Chester D. Hubbard, Hubbard, Jenckes, Alexander H. Jones, Kelsey, Ketcham, Kitchin, Kootz, George V. Lawrence, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, McKee, Moreau, Miller, Moore, Moorhead, Mullins, Myers, O'Neill, Pomeroy, Pile, Plants, Poland, Pomeroy, Randall, Robertson, Sawyer, Schenck, Scofield, Selye, Smith, Spalding, Starkweather, Stokes, Taylor, Trowbridge,

Twichell, Upson, Van Aukon, Burt Van Horn, Van Wyck, Ward, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, and Stephen F. Wilson—84.

NAYS—Messrs. Adams, Allison, Axtell, Baker, Beatty, Beck, Benjamin, Brownell, Brooks, Benjamin F. Butler, Cary, Chanler, Sidney Clarke, Cobb, Cook, Cullom, Donnelly, Eldridge, Farnsworth, Gossbrenner, Golladay, Grover, Hawkins, Hopkins, Hunter, Johnson, Thomas L. Jones, Judd, Julian, Kerr, Knott, William Lawrence, Loan, Logan, Loughridge, Marshall, Mungen, Niblack, Nunn, Orth, Paine, Peters, Phelps, Pike, Ross, Shanks, Sitgreaves, Stewart, Taber, Talle, Thomas, Lawrence S. Trimble, Van Trump, Elihu B. Washburne, William Williams, and James F. Wilson—56.

NOT VOTING—Messrs. Bailey, Barnes, Barnum, Beaman, Bingham, Blaine, Broomall, Burr, Cake, Reader W. Clarke, Coburn, Cornell, Dellano, De-weese, Dodge, Eggleston, Eliot, Ferry, Finney, Fox, French, Gravelly, Halsey, Harding, Hill, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Kelley, Lallin, Lincoln, McCormick, McCullough, Morrell, Morrissey, Newcomb, Nicholson, Polesley, Price, Pruyn, Raum, Robinson, Root, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Stone, John Trimble, Van Aernam, Robert T. Van Horn, Cadwalader C. Washburn, John T. Wilson, Windom, Wood, Woodbridge, and Woodward—60.

So the motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAVES in the chair,) and resumed the consideration of the bill (H. R. No. 1349) to increase the revenue from duties on imports and tending to equalize exports and imports.

The CHAIRMAN. By order of the House all general debate on the bill is closed in two hours.

The pending paragraph of the bill was as follows:

That from and after the passage of this act, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid on the articles herein enumerated and provided for, imported from foreign countries, the following specified duties and rates of duty, that is to say: on all copper imported in the form of ores, three cents on each pound of fine copper contained therein; on all regulus of copper, and on all black or coarse copper, four cents on each pound of fine copper contained therein; on all old copper, fit only for remanufacture, four cents per pound; on all copper in plates, bars, ingots, pigs, and in other forms not manufactured or herein enumerated, five cents per pound.

Mr. MOORHEAD. Mr. Chairman, I am not at all surprised at the vote that has just been taken, nor will I be surprised at any motions that may be made to delay action on this bill. I congratulate the country and the House upon the fact that we have now reached this bill, and that the Representatives of the people will now have a chance to express their views upon this subject.

I do not intend to make a speech; I do not want any speaking. It is now so late in the session that the time for action has arrived; and I want voting and not speaking. But I deem it proper to spend a few minutes in calling the attention of the House to the history of the action of the Thirty-Ninth Congress upon the tariff question. These facts are somewhat important, and I invite the attention of the House to them; and particularly I urge upon gentlemen here who are in favor of the tariff to examine those facts. During the Thirty-Ninth Congress, at every time and at every step when we had action on this subject, we had a large majority; just about as large a majority as we have on the vote to-day. Time after time, again and again, the yeas and nays were called, and votes were had, and on each occasion we had a large majority. But by superior financiering of some kind, we were intercepted at every step, and finally failed to get a tariff bill passed into a law.

I will proceed very briefly to give the history of the tariff bill of the last Congress, House bill No. 718. On the 25th of June, near the termination of the long session, the Committee of Ways and Means reported that bill to the House. It was passed through the House and sent to the Senate. The Senate postponed the bill until the commencement of the next session, until the December following. And I believe they postponed it mainly at the suggestion of the gentleman who occupies the position of Special Commissioner of Internal Revenue.

Mr. ALLISON. I should like to know the gentleman's reason for the statement he has just made, that the Senate postponed the tariff bill at the instance of the Special Commissioner of Internal Revenue. I never heard of it before.

Mr. MOORHEAD. If the gentleman will only be cool and keep his seat, I will endeavor to give him all the light I have on the subject; and which, perhaps, may be all he will want to know.

The gentleman to whom I referred, who has the title of Special Commissioner of Internal Revenue, represented to the Senate that the bill of the Committee of Ways and Means, which was a small, delicate, genteel bill, as the House may see by examining the files of the last Congress, merely amending the tariff—he represented that that was not a perfect bill; that we wanted an entirely new tariff bill, one that should contain every article upon which any tariff duty was imposed. The Senate supposed there was something in that, and agreed to postpone the bill, with the understanding that he would prepare the details, the outlines, the groundwork of an entire tariff bill, and have it ready for them at the commencement of the next session.

At the commencement of the next session here was his bill, containing three times as much as the bill which passed the House, which was merely a bill amendatory of the tariff. In his bill there were included hundreds of articles upon which the tariff was not changed at all, neither enlarged nor reduced. They were put in merely as a make-weight, as I believe, put in merely to kill the bill, to prevent its passage during that Congress. And it had that result most effectually. I have frequently told that gentleman that he had drugged that bill to death.

There were hundreds, perhaps thousands of drugs named in that bill; and every drug was named and carried out with its rate of duty, either *ad valorem* or specific. The rates in more than two thirds of the cases were not changed, yet they were all inserted, and had to be gone over and considered. The result was that so much time was occupied in the Senate that, Congress meeting early in December, the bill was not reported to the Senate until January, 11, 1867. It was then ordered to be printed. That bill afterward came to the House.

But before leaving this point, as my sensitive friend, the gentleman from Iowa, [Mr. ALLISON,] seemed a little anxious about the Special Commissioner of Internal Revenue, to whom I unfortunately referred in this connection, I deem it proper to say to the House and to the country that if it is necessary or important that this Government should keep an officer in its service at a large salary for the purpose of guarding the interests of the foreign manufacturer, the foreign importer, the foreign agent in New York, then the Secretary of the Treasury has been signally fortunate in the selection he has made, and Mr. Wells is the proper man for the place. I want to put that on the record before leaving this point.

Mr. ALLISON. Mr. Chairman—

Mr. MOORHEAD. I cannot yield to the gentleman. There are two hours allowed for general debate, and he will have a portion of that time.

This bill came from the Senate to the House. We had to take it up—how? Not as in the form of amendments to our bill. It was an amendment, it is true; but it was a single amendment, because the Senate struck out all after the enacting clause and inserted a new bill. I am not a parliamentarian nor a tactician. I have been in this House a considerable time; but I have not yet learned all the rules, and I do not expect that I ever shall. But under the ruling made by our very able Speaker, (and I do not doubt its correctness,) when that bill came in here it required a two-thirds vote to take it up. The bill had passed this House and gone to the Senate. The Senate had adopted the plan of Mr. Wells, making

an immense bill. They had passed upon everything embraced in our bill and a thousand things beside. Yet, although as to nearly all the articles embraced in the original bill both Houses agreed upon the same rates we were not able to enact the bill into a law, because we could not get the Senate amendments considered here without a two-thirds vote.

This is a fact in the history of this measure. It is new, perhaps, to some gentlemen who were not here at that time. It is not new to the old members; it is not new to you, Mr. Chairman; it is not new to the Speaker of this House; for we tried every method to get the bill up. Mr. MORRILL, of Vermont, who was then chairman of the Committee of Ways and Means, implored the House on different occasions to take up the bill, and made various motions with that object. By reference to page 1658 of the Congressional Globe for the second session of the Thirty-Ninth Congress it will be found that on the 28th of February, 1867, after the Committee of Ways and Means had reported the bill back to the House, a motion was made to suspend the rules, on which the yeas were 106, the nays 64. We could not obtain quite the necessary two thirds, and hence the bill could not be taken up. On the same day we made another effort, and on a similar motion the yeas were 102, the nays 69; there being all the time, as will be seen, a large majority in favor of considering the bill.

I have thus referred to the history of this measure for the sake of calling the attention of the tariff men here to the facts of the case. I do not want them to allow themselves to be hoodwinked in that way again. We have got this bill now in such a position that a majority can put it through, and I ask the tariff men of the House to put it through. I do not want to make a speech; but I have here some statistics which show the importance of passing this bill. They exhibit the immense drain of gold which has been going on from this country, showing that something must be done to stop this drain unless we wish to go into bankruptcy, and demonstrating that this bill is a step in the right direction. I ask the Clerk to read the statistics which I send to the desk.

The Clerk read as follows:

*"The drain of gold and the tariff."*—The published statements of our imports and exports for the eleven months ending May 31, 1868, show of imports \$229,241,447 against about two hundred and fifty-eight million for 1867, and about two hundred and eighty-three million for 1866. Our receipts of revenue on these imports are \$102,503,849, against about one hundred and twelve millions for the same period in 1867, and \$123,000,000 in 1866. Of these imports, \$73,000,000 in gold values were dry goods. Our exports, exclusive of specie, for the same period were \$163,249,520, as against about one hundred and sixty-five million for the same period in 1866-67, and \$203,000,000 in 1865-66. The balance of trade against us was paid for by an export of gold amounting to \$41,979,398, in the eleven months ending with May, 1866; \$34,642,660 in the same period ending with May, 1867, and the enormous sum of \$64,486,258 for the like period ending with May, 1868, nearly twenty millions more than our export of gold has ever reached before in the same period. Mr. J. Ross Browne, in his report of our production of the precious metals, estimated our total annual product of both gold and silver at \$75,000,000. Taking into account the amount of specie leaving directly for Europe from San Francisco it is evident we are draining every dollar of gold we are producing to pay for these imports.

"The balance of trade against this country has been \$723,266,717 gold since 1861. To meet this we have exported \$436,391,029 of Government bonds, and \$286,965,688 of coin above our imports. From 1860 to 1861, both inclusive, our importations were \$476,923,616 in excess of our exports, and the excess of our coin export over import was \$421,551,794, making a balance of trade amounting to \$1,002,195,331 against us for eighteen years, with a loss of coin amounting to \$11,517,667, or an amount equal to the whole gold and silver product of the country for that period. The consumption of foreign goods in 1865 was equal to \$12 22 per capita for a population of thirty-five millions, and all of our factories were stopping for a lack of support. In 1867 this consumption amounted to \$11 15 per capita, whereas it was only \$11 81 per capita in the crash of 1857, and averaged but \$5 44 under the tariff of 1842.

"There is no other country on the face of the earth, not even excepting opulent Great Britain, that could have endured such a drain on its gold and such a tax on its industry as is shown by the above figures to have been sustained through a term of years by this. The fact that we have sustained it and live only proves the extent and variety of our resources and our ex-

ceeding vitality. To remedy our losses and build up that prosperity we so much need, there is no other instrumentality than the one now presented. It must either be improved, and at once, or the losses must continue, and prosperity be remitted for another doubtful term. To prevent this, and to garner what is so essential for the country and for all its parts, we trust that Congress will not adjourn before the opportunity afforded by partisan zeal has been wisely and effectually improved."

Mr. MOORHEAD. Mr. Chairman, the facts set forth in the statistics just read by the Clerk ought to be carefully examined and pondered upon; and they should satisfy any man, or any set of men, that unless we can stop this drain of gold to foreign countries we must go into bankruptcy. I know of but one way to stop that, and that is through the tariff. I have been the advocate of a tariff for many years. I have been denounced frequently for my advocacy of the principle of protection to our home industries. Some of the free-trade papers have gone so far as to say "MOORHEAD has tariff on the brain." Well, Mr. Chairman, I have, and I will continue to have it upon the brain until I can induce the whole country to stand up in favor of the development of our great national resources, and until we lift the country out of the mire into which it has been thrown by free-trade doctrines.

Now, sir, I want to read a little myself. I will read a short paragraph which appeared in a New York paper, for which I am indebted to the able report of my colleague [Mr. MORRELL] on the warehousing system; and I should like very much to have the House listen to it. I do not expect I can get the House to give me its attention for any great length of time; and therefore I shall be brief.

Now listen to what this New York paper says:

"One of the immediate effects of a high tariff is to keep up the price of labor, which is more than four times as high in this country as it will average in Europe. I am for unqualified free trade. I would sell out the custom-houses, discharge the leeches that swarm around them, and allow people to sell and buy products and goods wherever they found it for their interest to do so. This will bring us to a true and normal condition. I see clearly what the effect would be. Commercial disturbance would be the natural result, for it would be a great and radical change. We should be on an entirely new foundation. The first effect would be to stop manufacturing here, and the country would be filled with foreign goods, many of which Europe would never see her money for. A commercial revulsion would follow, laborers would be out of employment, and the price of labor would come down, down, down, until it touched the European standard."

Shall I read the last words? "And then success is secured." Think of that, Mr. Chairman! After you bankrupt the country, get labor down, down, down, until it touches the European standard, and then success is secured! Why, sir, it puts me in mind of a story I heard when I was a boy: a simple-minded woman was raising a child of her own, and some wag, not contemplating the result of his advice, asked her why she did not teach her child to live without eating. She went to work to practice the advice. She kept her child without eating on and off, trying to teach it to do entirely without eating for weeks, and at last the child died. The woman lamented the death of the child, for, said she, "How sad it was I lost the child just as I had taught it to do without eating." [Laughter.]

Now, here is the free trade doctrine, they endeavor to teach us to do without a tariff, and just as we get well enough learned, so that, according to this writer, success is attained, we are literally dead to all prosperity.

But I did not intend to say half as much as I have on this subject. I only wanted a few minutes to appeal to members of the House, and then let the discussion go on, hoping that when it is ended we shall get at a speedy vote. I have shown members of the House that during the last Congress when we had a majority we did not succeed in getting a tariff bill through. Now, I appeal to members not to succumb to that same kind of influence that defeated us before. I expect there will be all sorts of amendments offered. You will find one gentleman who thinks he will strike a

hobby by moving to take the duty off tea and coffee. He will get up and appeal to you about the poor people who pay the duty on these articles. You will find a great many other amendments of various sorts offered. But I ask my tariff friends to scrutinize these amendments, and when you find them coming from an enemy of the bill vote them down. This bill is by no means perfect; it is far from what I would have had it. The sub-committee to which this subject was referred some months ago when the tax bill was in the way, could not do anything about it until that was disposed of. That is the only apology I can make for bringing this in so late. We reported to the Committee of Ways and Means a pretty good bill, about the size of the one reported by the entire committee last year. The committee postponed that bill till December next, but from the pressing necessity for action upon the subjects of copper, lumber, and some other articles, the sub-committee were authorized to prepare a small bill which we have reported, and which is now before the Committee of the Whole. It consists of only ten pages, and it can be passed in half an hour. I ask the friends of the tariff to stand by it, and vote down amendments unless they are recommended by the committee. That is asking a good deal, I know, but the bill which was postponed till December next I trust will be taken up when all the various other subjects will be acted upon. But I will not spend any more time. I yield to my colleague on the committee [Mr. GRISWOLD] for two minutes.

Mr. GRISWOLD. I did not wish the gentleman to yield to me for the purpose of discussing this bill, but merely to express for his special benefit, as well as that of the House, my regret that he should have felt called upon to invite attention to the fact that the Special Commissioner of Internal Revenue, Mr. Wells, was, in his judgment, inimical to the tariff question. I feel bound, for one, to raise a demurrer to that interpretation of the acts and sentiments of that gentleman. It is unlike my colleague on the committee thus to characterize the motives and opinions of a man holding such a position. I am bound to say, from the intimate knowledge I have derived from association with the Commissioner, I feel entirely certain that while we may differ with the gentleman from Pennsylvania, and upon some points possibly with me, he is not opposed to a tariff, but that on the other hand he is as much in favor of a proper tariff as either the gentleman from Pennsylvania or myself. I have felt that I could not resist the sense of duty which impelled me to express these sentiments in regard to that gentleman.

Mr. MOORHEAD. In reply to my worthy and esteemed colleague, I must say that I feel justified in what I have said about that gentleman. It is the result of long examination and investigation, and I am as perfectly satisfied of what I say as ever I was of anything in the world. I said it knowing what I was saying, and I am ready here and anywhere to take the responsibility of it.

Mr. CULLOM. I desire to ask the gentleman from Pennsylvania whether the majority of the Committee of Ways and Means authorized him to report this bill.

Mr. MOORHEAD. If I should answer the gentleman exactly as he deserved, I might say that his question was not a proper one. But I have already stated that I was authorized by the committee to report it, and so it appears on the record, and no member of the committee will say I was not authorized to report it.

Mr. CULLOM. The gentleman seems to intimate that I put an impertinent question. I do not see it in that light. It seems to me this House has a right to know whether the bill that is now before the committee was the result of the action of the majority of the Committee of Ways and Means.

Mr. MAYNARD. If the gentleman will allow me, I suppose he means to inquire whether this bill was reported by a majority of

the entire committee, or by a majority of a quorum.

Mr. CULLOM. That is what I want to know.

Mr. MAYNARD. The gentleman from Pennsylvania, [Mr. MOORHEAD,] I am sure, did not so understand the gentleman. It may be proper that I should say to the gentleman that the bill has the concurrence of a majority of the entire committee.

Mr. CULLOM. I was about to say that it very frequently occurs in committees that only a quorum is present when bills are acted on, and from some remarks that have been made I was induced to believe that it was only a majority of a quorum that ordered this bill to be reported to the House and not a majority of the committee.

Mr. O'NEILL. I would like to ask the gentleman from Illinois if he is a member of the Committee of Ways and Means?

Mr. CULLOM. No, sir.

Mr. O'NEILL. Then how is it that he knows all these points?

Mr. CULLOM. I have not stated that I knew anything about it. I asked the gentleman from Pennsylvania [Mr. MOORHEAD] the question, because I wanted to know what the fact was in reference to it.

Mr. O'NEILL. I presume my colleague from Pennsylvania knew what he was doing when he reported the bill, and knew what he was authorized to do.

Mr. CULLOM. I have no doubt of that.

Mr. O'NEILL. I supposed that the gentleman from Illinois was a member of the Committee of Ways and Means, and felt outraged because he had not been consulted about the bill.

Mr. CULLOM. The gentleman from Illinois simply wanted to know whether a majority of the whole committee were in favor of the bill, and had ordered it to be reported to the House.

Mr. O'NEILL. If my colleague answers in the affirmative, will the gentleman from Illinois vote for the bill?

Mr. CULLOM. No, sir; he will not. I only wanted to know what the position of the Committee of Ways and Means is in regard to this bill.

Mr. MYERS. I hope the gentleman is satisfied.

Mr. MOORHEAD. I yield now to the gentleman from New York, [Mr. McCARTHY.]

Mr. McCARTHY. Being new in legislation and not well conversant with the history of it, I have had occasion to ask how long this office of Special Revenue Commissioner has been in existence, and I am told about three years. Now, sir, it strikes me as a strange condition of things that men who are sent here from different portions of the country, representing different interests, many of them manufacturing interests, some of them free-trade interests, must necessarily have placed over them a Commissioner to regulate and direct their organization of a tariff. I see no necessity of any such officer. And so far as I know of the actions of this gentleman, he starts from Washington, he goes through Baltimore, Philadelphia, and New York, and lands in Liverpool or London, being entirely in the interest and under the control and advice of the commercial interest of the country, and never going about visiting the manufacturing interests and arriving at a practical knowledge of the wants of those interests. I understand that to be the fact. We have a large interest in our section of country, and, so far as I know, this gentleman has not the least idea or knowledge of its wants. I think the remark of the gentleman from Pennsylvania [Mr. MOORHEAD] is correct, that while this gentleman may be an advisory officer it is beyond his province or duty or power to regulate and manage the operations of a tariff bill as between one House and the other.

Mr. GRISWOLD. I would ask my colleague if the information is true that the Commissioner

to whom he refers does undertake to regulate tariff bills as between the House and the Senate?

Mr. McCARTHY. I understand that he does regulate that matter when he takes into his hands the entire formation of a tariff bill, retaining it until so late a period in the session as to defeat its passage. I understand that to be this gentleman's power in relation to the organization of the tariff; and more than that, the feeling outside in the country is that that gentleman is not a representative of the manufacturing interest, but of the commercial interest of the country; that he is absorbed soul and body by the free-trade interest.

Mr. MOORHEAD. I now yield ten minutes to the gentleman from Tennessee, [Mr. MAYNARD.]

Mr. MAYNARD. Mr. Chairman, I do not rise for the purpose of entering into a discussion of the tariff either in the abstract or in its details. As a member of the Committee of Ways and Means I voted in favor of reporting this bill, and I would have been very glad had it been more extended, embracing all those articles which in the legislation of the last Congress it was thought wise by the Senate and House to include in the change of existing law. The fluctuations of trade and the ceaseless triumphs of industry require a periodical revision of our system of imposts. I will not deny that in my votes upon this measure I am actuated to some extent at least by local, not to say sectional considerations. The part of the country which I have the honor with other gentlemen to represent is in need of industrial quite as much as of political reconstruction. The war put a stop to our industries, blighted our prosperity, and has placed us in a condition where we must start out in the career of business anew. The doctrines which prevailed with us for a great many years were what are called free trade, anti-tariff doctrines; and they had a fair practical development. Among the other teachings of our great war, not the least important, perhaps, was the effect of this so-called free trade upon the public welfare. The peculiar industry of that region tended to foster that doctrine. Manufactures were not fostered; shipping was not fostered. There were neither miners to penetrate the earth for the ores, nor mariners with the daring spirit of commerce to skim the sea for the productions of other lands. The agricultural products of the country were kept until enterprise from abroad came for them, bringing in exchange whatever was wanted by the people.

A more injurious and pernicious system of political economy I cannot conceive; and we have felt the effects of it. I say "we;" I mean the population of that part of the country. We felt the effects of this system when we found ourselves as a section involved in war. A cordon of bayonets on one side, and a rigorous blockade on the other, hemmed us in from the outside world, and we were driven to depend upon our own resources.

We had been fighting the fishing bounties, given originally as an encouragement to seamen in the hope of fostering a Navy, instead of seeking to avail ourselves of those bounties. The navigation laws had been assailed by us from time immemorial, instead of availing ourselves of their benefits and opening up our three thousand miles of coast to a maritime commerce that might have equaled the commerce of all the rest of the world. Our inlets, our bays, and harbors were, therefore, wholly unimproved and unoccupied except by foreign sails. And when the war came upon us, and we were hemmed in, we had neither ships nor seamen. And, for the purpose of opening the blockade and getting our supplies from abroad, we were driven to the ship-yards of England, Scotland, and France, and depended upon the sailors of every nation under the sun.

I had occasion, during the last Congress, I think it was, to recur to the article of salt, which our part of the country might produce in great abundance, sufficient to have supplied

the wants of the entire region. But the theory had prevailed there that salt was one of the necessities of life, and therefore no burden must be imposed upon it. I recollect one of our prominent public men used to say, as an illustration of the doctrine, that the poor man's cow in the mountains of Tennessee consumed more salt than the broker in Wall street, and to tax salt, therefore, was an intolerable inequality of burdens. What was the result of that theory? The moment the war closed in upon us and cut off the outside supply the people were absolutely famished for the want of that necessary of life, and a barrel of salt passed in exchange for the piano in the parlor.

There were abundant salt-springs had we been in condition to work them. We had salines lying below the surface, but it was too late then to penetrate to them, to develop them, and engage in salt manufacture. The great salt deposits in Louisiana lay there wholly unimproved, in fact hardly discovered, until long after the war began. On the other hand, sugar had been protected and its production encouraged by our legislation. As a consequence the South had no lack of sugar, and until the supply was cut off by the occupation of Louisiana it was cheaper and more abundant than in the other parts of the country.

The South furnishes facilities beyond any other part of the country for manufactures. All the Alleghany region of country, comprising the western part of Virginia, eastern Kentucky, eastern Tennessee, western North Carolina, western South Carolina, northern Georgia, and northern Alabama, abounds in manufacturing facilities, its water-power, its forests, the productiveness of its soil, its mineral wealth, and especially the abundance of coal lying exposed at the surface. Nothing that enters into industrial pursuits except productive labor and capital to stimulate and sustain it is wanting to make that region one of the most wealthy and populous of America.

The tariff policy which has done so much for cold, bleak, sterile, barren New England, which has made Pennsylvania to flourish and blossom as the rose, if applied to that region would produce there the same beneficent results.

The change which has come over our country as the results of the war, as yet only partially felt and observed, necessitates a change in our industries, in our labor, in the general economy and enterprise of our people. I believe that the policy known as the tariff policy, as that term has been used in our political dialect, will be our building up, our salvation. I believe it will reward and dignify labor, and make productive industry not only profitable but respectable. It will infuse a new spirit into our people and give an altered tone to society. It is for this reason, representing my immediate constituents, that I am at this time in favor of the legislation proposed in this bill.

One of the interests, for example, embraced in the bill is copper. It is designed to give further protection to the domestic copper found in great abundance in various parts of the country, not a little of it lying in my own congressional district. There are there copper mines already partially developed, producing annually not less than two millions of refined copper, and giving employment to a great number of people, and capable of being extended almost indefinitely. The copper mines of Lake Superior and of California are still more productive, the domestic supply being fully equal to the demand. Another interest protected by the bill is zinc. The increasing demand and value of this metal, both in the metallic state and as a pigment make it important to develop the domestic mines. In southwestern Virginia and in eastern Tennessee there are mines of zinc very promising which are already beginning to be developed, and the product of which is already very large and likely soon to become still greater. Then there are iron mines and other mineral treasures lying there awaiting development by the investment of capital and other application of labor. If judiciously



protected against the undue competition of older and better established works abroad, population will be attracted, skilled industry will be awakened, a new prosperity will dawn, and the blessings which always attend well-rewarded labor will be ours. However it may be elsewhere, the tariff policy is essentially the true financial policy for the South. Instead of being satisfied, as hitherto, with producing raw material alone, our real interest requires us to give it form fit for immediate use. But I will not enlarge.

[Here the hammer fell.]

Mr. MOORHEAD. I now yield to the gentleman from Michigan, [Mr. DRIGGS.]

Mr. DRIGGS. Mr. Chairman, like my friend from Tennessee, [Mr. MAYNARD,] who has just taken his seat, I might perhaps admit that in giving my adhesion to this bill I am somewhat influenced by local interests. But, while making that admission, I still contend that I am governed by broader and more national views of the industrial interests of the country, and not solely by any local consideration or any peculiar interest in my own district. We have in the district which I have the honor to represent two or three large interests, in the development of which we are deeply concerned, and which are embraced in the terms of this bill. One of them is the copper-mining interest. Upon copper there is at present a duty of only about seven per cent. *ad valorem*, the duty being two and a half per cent. per pound on pure copper, one and a half per cent. per pound on ores and old copper, making, as copper ranges at about twenty-three cents per pound, a duty of only about seven per cent. The committee has very carefully, and I believe fairly and ably considered this question. They have investigated all the points bearing upon this great interest. All that we ask is simply what was agreed upon in this House two years ago—an increase of the duty on copper from its present rate to about twenty per cent. We ask an increase of five cents per pound on pure copper imported in ingots, four cents on regulus and old copper, and three cents on pure copper from foreign ores.

Sir, while I do not desire to injure any interest engaged in smelting foreign ore, still I know it to be a fact that unless we have some protection more than that afforded by our present laws \$50,000,000 of capital invested in the production of copper in my own district will be lost and the mines will be closed. This is a fact; it is no idle tale told here to induce gentlemen to support this measure, but it is true.

Now, Mr. Chairman, there are some other important interests in my district. We have a large interest in iron and salt and lumber, though I believe lumber is not embraced in this bill.

Mr. MOORHEAD. Yes, it is.

Mr. DRIGGS. I have not investigated thoroughly the question with reference to iron; but in regard to copper I know that our section of the country needs all that is asked in this bill, and that without it we cannot exist as a copper-producing community. There are about forty thousand people engaged in this branch of business. And, Mr. Chairman, let me mention an instance of the patriotism of those people. During the war they sent to Europe and brought to this country hundreds of Swedes, paying their passage; yet they afterward allowed these men to be enlisted by the United States recruiting officers; and in a regiment which I raised myself there was an entire company composed of Swedes, thus brought here at the expense of our copper-producing men of the Lake Superior region, who not only paid the expenses of their passage to this country, but supported their wives and children after the men had enlisted in the Army.

Now, sir, I hold that no interest will be brought before this House that so strongly appeals to us as this one.

Mr. Speaker, probably no portion of the country has so deep an interest in the success

of the bill before the House as the district I have the honor of representing here; and I deem this an opportune time to place before this honorable body some facts connected with the history of a section which has not hitherto received that attention its importance justly merits, trusting, as I do, that it may have some influence upon its passage.

In the year 1835 a difficulty arose between the State of Ohio and the then Territory of Michigan concerning their boundary line, and great excitement existed on both sides. Militia were called out and moved toward the disputed territory, which was a strip of about ten miles in width, including the mouth of the Maumee river and the then village, now city, of Toledo. There was immediate danger of collision and bloodshed, but the dispute was fortunately settled by the interference of the General Government. Ohio, having most weight and influence in the national councils, succeeded in obtaining the boundary line she claimed, and Michigan was consoled by an immense addition to her natural area, of a comparatively unknown and wild region now known as the "Upper Peninsula," lying between Lakes Michigan and Superior.

This region was reported to be rich in minerals and precious stones, but particularly copper, as far back as 1636, by the Jesuit missionaries, who doubtless obtained their information from the Indians. The first attempt at regular mining was in 1770, when an English company was formed, the partners being his royal highness, the Duke of Gloucester; Mr. Secretary Townshend; Sir Samuel Tucket, baronet; Mr. Baxter, consul of the Empress of Russia; and Mr. Cruikshank, residing in England, and Sir William Johnson, baronet; Mr. Bostwick, Mr. Baxter and Mr. Henry, residing in America.

A vessel of forty tons was built above the Sault Ste. Marie, and miners and supplies were sent to the south shore, and work was prosecuted about twenty miles west of the Ontonagon river, for about two years. The venture did not turn out profitably, and the company was dissolved in 1774. The mass of copper now lying between the War and Navy Departments in this city was discovered on the west branch of the Ontonagon river, about 1800, not more than twenty miles from the working of the English company. This block or mass is mentioned in most of the works on geology and mineralogy as the largest known in the world, and was visited at different times by General Cass, Hon. Henry R. Schoolcraft, and others.

During the last war with England, or soon after, Dr. Francis Le Baun, of Plymouth, England, visited Lake Superior, and took with him a piece of the great copper rock of Ontonagon, which was placed in the British Museum.

After the admission of the State of Michigan into the Union quite an interest sprang up in regard to the newly-acquired territory, and Dr. Douglass Houghton was appointed State geologist.

The first proper scientific explorations of the mineral lands of Lake Superior were made by him while employed as State geologist, and subsequently while engaged in a connected linear and geological survey under the direction of the General Government. His publications were annual reports, in which he described the geology of the country, and the minerals he had discovered; but he withheld designations of localities of metallic veins, of which he was doubtless aware, as he had traversed the region where they occur. It is supposed that he reserved a more full description of the minerals and ores, with the localities, for his final report, which he unfortunately did not live to write, as he perished in the field of his labors by the capsizing of his boat, in the fall of 1845, in a violent snow storm, and most of his notes and papers were lost with him. In 1843 explorers and adventurers began to flock to the district with permits from the Treasury Department or Land Office to examine and locate the min-

eral lands; and for their protection against the Indians, Fort Wilkins, on Copper harbor, was in that year established by the Government and garrisoned by two companies of soldiers. In this year Mr. Julius Eldred, of Detroit, having purchased the great copper rock of the Ontonagon Indians, after much labor and expense removed it to the Sault Ste. Marie, intending to exhibit it in different parts of the United States and Europe, and expecting to make his fortune by so doing; but information having reached the Treasury Department, a revenue cutter was dispatched from Detroit for the purpose of seizing it, which was done notwithstanding the protest of the owner, and the vessel proceeded with her prize to Detroit, whence it was sent to Washington. I am glad to say that the owner was afterward reimbursed by a special act of Congress, obtained principally through the exertions of General Lewis Cass.

In the year 1845 a Government mineral agency was established at Porter's island in Copper harbor, for the purpose of registering, and certifying the permits issued in Washington, which numbered several thousands.

Explorers, miners, and adventurers of all kinds flocked to the country to locate and register their permits. Locations were made at random; and reports prepared by incompetent persons (so-called geologists) were scattered all over the country. Mining companies were formed in the principal cities on the certified permits, and speculation in mining stocks was prevalent throughout the country. Stock gambling became the rage, and the result, as might have been foreseen, was to injure the confidence of the people in all mining adventures, and especially in Lake Superior, the site of so many absurd speculations. A few mining companies continued work, though under the most discouraging circumstances, as the country was covered with dense forests, through which it was difficult to make roads, and communication with the more settled parts was difficult and expensive.

Under the system of permits Government exacted a percentage of three per cent. on the copper mined, which was paid to the mineral agent; but after a few years it was discovered that the expense of collection far greatly exceeded the receipts, and the system was wisely abandoned. A price was fixed upon the land, those occupying under permits having the option of paying so much per acre for a given time; after which all the United States lands were subject to entry without any reservation of mineral rights. This wise determination on the part of the Government, and the passage of a liberal general mining law on the part of the State, gave an impetus to mining, and new companies continued to be organized.

The interruption to navigation caused by the falls of the St. Mary's river, which connects Lake Huron and Lake Superior, added very largely to the cost of transportation of supplies to the mines, and of copper to the eastern markets; and for several years Congress was flooded with petitions for aid toward cutting a ship-canal of about a mile in length.

Steamers and sailing vessels had been hauled over the Portage at the Sault Ste. Marie, for the purpose of navigating Lake Superior, from the head of the falls. All supplies, machinery, &c., for the mines arriving from the eastern cities were landed at the foot of the falls, hauled a distance of a mile by tram-road or by wagons, and then loaded on the vessels above by means of scows; and the same process was necessary in getting the copper to market. This added largely to the expense of working the mines, to say nothing of the irregularity and delay which was unavoidable.

In 1853 a grant of seven hundred and fifty thousand acres of land was made by Congress to the State of Michigan for the purpose of building the ship-canal, and in 1854 the splendid work which now connects the two lakes was opened, when an immense impulse was given to the mining of both copper and iron.

The product of copper from the first opening

of the mines to 1854, a period of about eight years—

	Tons.	Pounds.
Was.....	7,642	-
1855 to 1857.....	11,312	-
1858.....	3,500	-
1859.....	4,200	-
1860.....	6,000	-
1861.....	7,400	-
1862.....	9,062	-
1863.....	8,548	-
1864.....	8,472	-
1865.....	10,790	1,156
1866.....	10,375	1,688
1867.....	11,735	552
Total.....	99,037	1,396

This copper was shipped to the eastern market and sold for over forty millions dollars, contributing this enormous amount to the material wealth of the country. Unless crushed down by foreign competition the product will be largely increased, as the mines never looked better; and with the improvements in machinery and skill in mining gained by experience, work can be prosecuted much more effectually, as well as more economically, than heretofore. The number of mines organized is about one hundred and fifty, of which only forty are now working, and many of these with greatly reduced forces, the present price of copper ruling lower than it can be produced for except at a loss. These mines have built up thriving towns, such as Houghton, Hancock, Eagle River, Eagle Harbor, Copper Harbor, and Ontonagon, and Rockland, with churches, stores, and dwellings fully equal to those of the eastern States. They have erected mills for stamping and washing copper ores, and works for smelting which are not equaled in the world. They support a population of from thirty to forty thousand, who are intelligent, industrious, and law abiding. In exploring and working these mines, building the towns, and employing the labor, capital has been invested exceeding fifty million dollars. For the past two years this important interest has experienced unprecedented depression, so much so that the present market value of its capital is less than ten million dollars. The cause of this excessive depreciation is briefly stated in the fact that the high cost of labor, supplies, and taxes, without any offset from a corresponding tariff, has prevented even the best and richest mines from making any adequate return for the capital invested, and compelled the utter abandonment of many which formerly promised to be profitable. Great distress prevails in the mining districts owing to the stoppage of some of the mines, and the reduction of force in others, by which large numbers of men are thrown out of employ. Why is this? Here is an interest of national importance endangered, a hard working population of some forty thousand souls whose earnings for the best part of their lives are invested in their little homes, threatened with ruin and desolation, and thriving settlements on the verge of depopulation and consequent destruction! I say, why is this? It is because there is no adequate protection for the producers of copper; and foreign importations of copper ores are flooding the country, the product of Chili and Cuba, of peon and slave labor, and our highly-taxed mines are forced to compete with them. Seventy-five per cent. of the outlay in mining is for labor, and the balance is for steel, iron, coal, powder, fuse, &c., all of which are heavily protected, while the product, copper, is alone among metals admitted into the country on a merely nominal duty. In the recent national struggle the mining districts came promptly forward and sent fifteen per cent. of their population to the seat of war, and to replace the labor thus lost raised a fund of \$100,000 for the purpose of bringing miners from Norway and Sweden. Arrangements were made to pay the passage of these emigrants, whereby their expenses to this mining region were to be advanced and deducted from their earnings. Ships were chartered and the men with their families embarked; but on their arrival in this country

the majority of them could not withstand the extraordinary offers of the Government recruiting officers, and were enlisted in the Army and moved to the South, thus entailing upon the miner not only the loss of their advances, but throwing upon them the burden of support of the families abandoned by their natural protectors.

In common justice and fairness, the copper-mining interests should be placed upon something like an equal footing with other interests, aside from the fact that they are adding largely to the wealth of the country; and policy would dictate that the relief asked for in this bill should be afforded unhesitatingly and at once.

The district which I represent is of as much importance as any other in the United States, which the figures following will plainly prove:

In the year 1867 it produced in pig iron and iron ore, 500,231 tons, valued at \$3,500,000; lumber, valued at \$30,000,000; fish, 60,000 barrels, valued at \$600,000; salt, 450,000 barrels, valued at \$900,000; copper, 9,200 tons, valued at \$4,500,000; amounting to \$39,500,000.

My constituents are looking hither hopefully, but most anxiously, for the passage of this bill, for on it now rests the question of success or ruin. If it passes the mines will be able to resume work, and give employment to a large population now idle; if it fails the closing up of the mines is inevitable, and the prospect of their ever being worked again doubtful, as most of them are of great depth with large openings.

Should they cease work they will be filled up with water, entailing certain ruin to the proprietors. Desolation will then become widespread among the working population, and Government must look elsewhere and be dependent on foreign countries for its copper. All, or nearly all, of the ores imported from foreign countries are carbonates, which require sulphureted ores to flux them advantageously. Our products are principally sulphurets and copper in a native state, and consequently require no foreign ores to create a flux or aid in smelting them. This is proved at all the American mines where copper is constantly cast into ingots without the admixture of foreign ores. The argument raised by those engaged in smelting foreign ores that it is necessary to mix the same with American ores to smelt them, is simply ridiculous, for the reason, as before stated, that American ores require no admixture with imported ores. We admit that they need the American ores to mix with the foreign to aid them in smelting the same, but what we contend for is that we do not need the foreign ores at all; that we can produce all that is needed for home consumption and exportation if Congress will give us the small increase in the tariff we ask. The present duty on foreign copper imported pure in ingots is only two and a half cents per pound; on old copper, one and a half cents; and on copper ores, five per cent. *ad valorem*; being about seven per cent. all around. The rate we ask in the pending bill is five cents per pound on pure copper, four cents on old copper, and on regulus of copper and all black or coarse copper four cents on each pound of fine copper contained therein, and three cents on each pound of fine copper contained in foreign ores. This, at the present price of copper in the market, is equivalent to about twenty per cent. *ad valorem*. Many other mineral products of the country are now protected by a tariff nearly three times as great as that which we ask for copper; and while we are not opposed to this, and while in the present condition of the country we are in favor of protection to every American interest, we respectfully submit to this House and the country whether it is just that this vast interest should be left without any adequate protection, while many other similar interests are so fully provided for. I quote from a memorial on this subject already presented to the House:

"The copper mines of Lake Superior, California,

Tennessee, Vermont, and in other parts of the country, are suffering extreme depression because the price of copper has fallen below the cost of production, and unless they obtain relief in the way of a fair tariff there is imminent danger of a general stoppage of copper mining throughout the country.

"Our recent national struggle has necessitated the imposition of such heavy taxation upon the industry of the country that, with a few exceptional cases, we cannot compete with foreign products without the aid of protective duties.

"This fact has been recognized in regard to the majority of our industrial products, but owing to the opposition of a few interested parties, (the smelting works at Baltimore principally,) the article of copper has been hitherto overlooked entirely, although those most heavily engaged in mining have for the past two or three years been begging Congress to have it placed on something approximating an equal footing with other metals, of which they are large consumers in their mining operations.

"The amount of capital actually invested in the Lake Superior mines and mining lands is not less than \$50,000,000, and the present market value is less than \$10,000,000. The cause of this excessive depreciation is briefly stated in the fact that the high cost of labor and supplies and heavy taxes, without any offset from a corresponding tariff, have prevented even the richest mines from making adequate returns for capital invested, and compelled the abandonment of many which formerly promised to be profitable.

"Upon these mines a population of from thirty to forty thousand souls depend for support, and the towns and villages on the lake have been built up by them.

"These settlements must become depopulated and go to decay, and the lands become a worthless waste, if the mines are abandoned for want of sufficient protection against copper produced by foreign cheap labor. Already at Portage lake unemployed and hungry men demand work to supply themselves and families with food and fuel, and threaten the worst features of mob violence unless provision is made for them. To prevent the destruction of their property several of the mines levied new assessments to provide means of employment for the men during the winter months, though working at a heavy loss.

"During the past twenty years the mines of Lake Superior have produced over eighty thousand tons of fine copper, thus adding to the material wealth of the country more than forty million dollars. Their development has rendered the United States independent of foreign countries for this important metal, and they surely have just claim for protection.

"With a duty of five cents per pound on ingot, pig, bar, and rolled copper, four cents per pound on pure copper in regulus, and three cents per pound on fine copper in ores, the mines can manage to keep on working, and pay a fair return on the capital invested. Without it there is certainty of a general stoppage, entailing immense loss of property, and a vast deal of distress among an industrious and hard laboring population, whose all is dependent on the active working of the mines.

"Opposition to the passage of the tariff, so sorely needed by copper mining interest, has come from the smelting works on the seaboard, who claim to have a large capital invested for the purpose of smelting foreign ores. Aside from the immense capital invested in the mines, there are smelting works at Houghton, Ontonagon, and Lac La Belle on Lake Superior; Detroit, Michigan; Cleveland, Ohio; and Pittsburg, Pennsylvania, which have more capital employed than those at the sea-board, and are entirely dependent on home-produced ores.

"The estimated consumption of refined copper in the United States is per annum twelve thousand tons.

During the past year (1867) there were produced—	
From Lake Superior.....	about 9,000 tons
From Tennessee.....	about 1,000 tons
From California, Vermont, and other points.....	about 2,500 tons
	<u>12,500 tons</u>

"Added to this were imported—	
From Chili in ores and regulus, equivalent to fine copper.....	1,750 tons
From England, in ores and regulus, equivalent to fine copper.....	500 tons
From Canada, in ores and regulus, equivalent to fine copper.....	500 tons
From Cuba and other countries, in ores and regulus, equivalent to fine copper.....	250 tons
	<u>3,000 tons</u>

"It can be plainly seen from the figures that there is no doubt about the supply from our own mines being sufficient for home demand.

"The passage of a fair tariff will lead to the development of new mines, and the country will export copper instead of importing it. At present all imported is paid for in gold or exchange on London. Copper ores pay but five per cent. *ad valorem* under the existing tariff, and the amount of revenue accruing therefrom to the Government is comparatively insignificant in amount."

Mr. Speaker, I do not believe that any member of this House who has investigated the subject, and who knows the facts above stated to be true, will oppose this bill; and I hope and trust that it will pass and become a law. Unless it does I assure you that the destruction of all the mines in my district is no idle tale, but a reality which will speedily follow the rejection of this much-needed act of jus-

tice, and in order to prevent which I earnestly beg this House and every member within my hearing to give it their vote.

Mr. GARFIELD. Mr. Chairman, I should not have risen at this time but for a single remark which dropped from the gentleman from Pennsylvania, [Mr. MOORHEAD,] and which was seconded by the gentleman from New York, [Mr. MCCARTHY.] I very well remember the occasion to which the gentleman refers when in the Thirty-Ninth Congress we labored here for many hours attempting to secure the passage of a tariff bill and were prevented by the filibustering efforts of a minority of the House. I labored with my friend from Pennsylvania against that effort to break down the tariff bill, and I entirely sympathize with what he said in condemnation of the efforts so persistently made to prevent the action of this House on the tariff measure which certainly would have passed but for factious resistance.

But, sir, I was sorry to hear the gentleman from Pennsylvania make the remarks he did in regard to the Special Commissioner of the Revenue. I desire to say to the House that I totally dissent from the opinion he has expressed concerning that officer. Previous to this session few members of the House have had better opportunities than I have to know the character and the amount of labor that gentleman has performed for the country; and I do not believe any man appointed by the Government in the civil service has done for this country more work and more valuable work than he has. Finance is a science both complex and difficult, and its foundations rest on statistical knowledge. The whole subject of the tariff is one of the most delicate to manage properly of any that can be considered by a deliberative body. Any man who expects with rough instruments to make a tariff machine that will run with any degree of success will be mistaken. He is like one who attempts to mend a clock with a crowbar. The questions entering into a tariff are of a most delicate nature and involve the rights and interests of many classes of the community. Now, what we have needed in this country more than anything else has been an array of carefully-arranged facts, gathered from all sources and brought to the attention of Congress as the raw material out of which to construct financial legislation. Into the financial chaos resulting from the war Mr. Wells threw the whole weight of a strong, clear mind, guided by an honest heart, and during the last three years he has done more, in my judgment, to bring order out of chaos than any one man in the United States. He has furnished us what we most needed—classified knowledge of the subjects of financial legislation.

Mr. MOORHEAD. What has he done to favor the protection of American manufactures?

Mr. GARFIELD. I will call my friend's attention to a single point. Who drew the tariff bill which he and I tried to pass, but which was defeated in consequence of the efforts made against us in the last hours of the session? That tariff bill was prepared from beginning to end by a special commission, of which Mr. Wells was a leading member.

Mr. MOORHEAD. I beg to differ with the gentleman. He did not draw the bill the committee reported, and that is the one I referred to. The one he prepared was with the purpose of killing the tariff.

Mr. GARFIELD. I beg the gentleman's pardon. If the bill reported by David A. Wells and his associates had become a law it would have been a great improvement on tariff laws as they then existed. The gentleman, I am sure, will admit this. I do not desire to speak further on this subject except to say this: I differ from my friend in one respect on the subject of tariff. It is my conviction that one of the worst things that could happen to the friends and supporters of American industry would be to pass a prohibitory tariff. I do not say my friend from Pennsylvania would go that length, but there are many protectionists in this country who would make a tariff bill a

Chinese wall around the country and prohibit all importation. I have sometimes thought that the gentleman leans a little too much in that direction. I desire to say I am not that kind of a tariff man.

Mr. MILLER. I would like to ask my friend—

Mr. GARFIELD. I cannot yield.

Mr. MILLER. Nobody advocates such a doctrine as that.

Mr. GARFIELD. I do not say he does, but I do say there is danger in that direction. Prohibitive legislation would, in my opinion, soon precipitate us into free trade and all its resultant evils.

Mr. MULLINS. Will the gentleman—

Mr. GARFIELD. I decline to yield. I do not say that any gentleman in this House proposes a prohibitory tariff in terms, or means to propose one, and I hasten to say that I do not charge this bill with being of that character; but I do affirm that the tendencies of a very considerable number of tariff men in this country are in that direction, and unless they take heed, unless they consent to a rational, considerate adjustment of the tariff such as can only be made by the full light that a careful statistical study of the subject will bring, I fear from them more than from any other source a reaction which will bring us by and by into free trade and all its consequences of evil to the manufacturing interest of the country.

Now, I say these things at this time for the purpose of indicating the ground upon which I answer the charges made against the Special Commissioner of Revenue. I do not believe the tariff men of this country will denounce David A. Wells. What I ask is that we shall take into consideration the immense financial facts of the situation. We have now an annual product of our great manufacturing interest, amounting to nearly one million eight hundred thousand dollars. That must be guarded, not by force of arms, not by denunciation and clamor, but by careful, prudent legislation, which will not be so extreme as to bring reaction and overthrow. Our manufactures need stability, permanence, and a steady policy. I am glad the gentleman from Pennsylvania [Mr. MOORHEAD] has been successful in getting this bill before the House, and in consideration in Committee of the Whole. He has had my assistance at every step. But I desire to say to him that, in my judgment, it is not the best mode of defending a tariff bill to denounce every man who does not pronounce the shibboleth after our fashion as an enemy of the tariff. We have appointed a Special Commissioner of the Revenue to gather facts and report them to Congress, to bring out the great considerations that underlie trade, and to explore the sources of revenue. He does not bring us theories but facts, and while he does that we ought not to be afraid of the results of his work. For my part, I am not afraid to welcome truth and to follow wherever it may lead. To shrink from such investigation, is to confess that we have no faith in our positions. I trust every true friend of protection will welcome and challenge the fullest investigation. I have an abiding faith in the principles on which our prosperity rests, and I should be sorry to think that a full exhibition of all the facts in the case could endanger my position. I have no such fear, and I trust the protectionists on this floor will harbor none.

[Here the hammer fell.]

Mr. BROOKS obtained the floor, but yielded ten minutes to

Mr. PIKE, who said: I was one who voted not to go into Committee of the Whole for the purpose of considering this bill. But the gentleman from Pennsylvania, in his remarks, spoke of those who voted against going into Committee of the Whole as if they were "anti-tariff," and he calls upon members of the House who are "tariff" men to stand by this bill not only in general but in detail, to support not only the bill he has presented, but to sup-

port all the amendments he may submit, and to vote blindly and without reason against any amendments that he may not give his assent to; and that too, when the bill comes before the House in the dubious attitude of having a doubtful assent of the majority of the very committee that has authorized him to report it; for, when questioned on that very point, he declined to say whether or not it had the assent of the majority of that committee.

Now, sir, for one, I protest that I am not an "anti-tariff" man, and I protest that I am not in favor of free trade. A "free-trade" man is a person described by the gentleman himself in one of the extracts he had read today by the Clerk; that is, he is a person in favor of abolishing custom-houses and allowing unrestricted trade, collecting the revenues of the country from direct taxation either by means of the internal revenue system, or of the land tax prescribed by the Constitution. Very likely there are members of this House who are in favor of free trade. I do not know whether it be so or not. I know that I am not, and I suppose the large majority of the House are tariff men, perhaps all of them are as contradistinguished from free traders. We have now a tariff which yearly yields this Government a revenue of \$16,000,000 in gold, and in some years \$180,000,000. It is a tariff of an average of forty-seven per cent. upon all dutiable articles. One would think that that was a tariff, as Captain Cuttle would say, "As is a tariff." It yields the largest revenue and averages the highest percentage of any tariff ever upon our statute-book. Can those of us who are indisposed to disturb such a tariff as that be called anti-tariff men? Under what nomenclature is it that the gentleman from Pennsylvania or any other gentleman upon this floor can call us "anti-tariff" men.

What is this bill which he introduces here as a small bill, to be disposed of in five minutes' consideration, in any half hour when the House may turn its attention to it? Is it a general bill, in which the great industrial interests of this country are considered? By no means. Is it a bill for the purpose of regulating or increasing the revenues of the country under a system which, as the gentleman from Ohio [Mr. GARFIELD] has said, has puzzled the wisest statesmen from the formation of this Government to the present time? By no means. It has no pretension of that sort. But it is a bill which apparently comes from a few interests who have got together and persuaded the able and intelligent gentleman who presented it that they are in a suffering condition and should receive from this Congress pecuniary relief. We are asked here upon the heel of this session, after the House has voted to adjourn on the 16th of July, and when the whole House is expecting to get away by the last of this week, to enter upon a new consideration and adjustment of this most difficult and important branch of the public revenues for the benefit of these few local interests. The first one that appeals for our assistance is the copper interest. It is the first named in this bill. Well, how stands the copper interest? In a depressed condition. It asks that you relieve it by raising the price of copper by additional duties? That is the first proposition. What is the effect of it? Why, in the other end of the Capitol the other day a Senator from Michigan stated that one half of the copper produced in this country was consumed by ship-builders, and two gentlemen from Michigan upon this floor [Mr. BLAIR and Mr. DRIGGS] stated that if copper was allowed to come in for the use of ship-builders untaxed, it would destroy the great copper interest of Michigan. Then this proposition which is to be passed now as a matter of great public necessity, is to levy a tax upon the ship-builders along our whole coast for the benefit of the copper interest of Michigan. That is the bold proposition before the House.

Mr. LYNCH. Will my colleague allow me to ask him a question?

Mr. PIKE. I have but a few minutes, and



my colleague must excuse me. I by no means say that either the Senator from Michigan or the Representatives from that State were correct in their statements. I do not place the consumption of copper by ship-builders at so large an amount as they do by any means. But I do say that so far as that consumption is concerned, either for the purpose of coppering vessels or for the purpose of bolting vessels, or any other purpose connected with ship-building, this is simply asking a contribution from the ship-builders of the country for the benefit of the copper producers.

Will gentlemen thus array interest against interest, and if you will do it I ask you as the Representatives of the American people which is the national interest? Is this great interest of commerce that bears our flag to foreign ports of no consequence to you? Are you disposed to drive what little remains of it out of the ocean entirely, and substitute for the stars and stripes the cross of St. George in the few remaining ports where our grand old flag still, in defiance of your legislation, persists in flying, and for the benefit of a manufacturing interest of this character? Is it fair? I submit, gentlemen, is it fair here at the very heel of the session to do that? And am I to be driven out of the tariff church because I object to it?

The next interest that asks relief here is the iron interest. Well, it is nothing new for the iron interest to be discussed here in connection with the tariff. The duty on iron has been run up from time to time, I do not know how high, but it is ever on the ascending grade; and now the question is, shall it go still higher? Of course we use it largely in ship-building, and every dollar of increase of price will be paid partly by ship-builders, who are poor as poverty itself compared with the great iron manufacturers of the country. Is it the policy of the House to make the poor still poorer?

I have no cause of quarrel with iron-workers. I would give them ample protection, but I do claim that consumers have some interest in this matter as well as manufacturers, and that this difficult and delicate matter of adjusting the relative necessities of the two should not be decided now at the heel of the session and under the authority of the gentleman from Pennsylvania, who is to give the word of command and vote in or vote out propositions as he may dictate, and without regard to what others think of their merits.

Iron is used by everybody, and we should adjust the tariff upon it in general consultation and upon a general bill. I have no idea of aiding anybody in crushing out this great interest, even if it were possible to do so, as it is not; nor do I wish it to crush out the interests of those I represent.

Salt is another of the favorites of the gentleman from Pennsylvania. In this bill he increases the duty, already exceedingly large, thirty-three and a third per cent, while lumber, which my constituents produce, and which, no doubt, they would like to have protected, is left at the modest rate of something like twenty per cent., the only change made being from *ad valorem* to specific duties. I do not complain of the lumber adjustment, but it illustrates the scale of favor which the leading pursuits of my people get as compared with the favored elsewhere.

There is no expectation that this tariff measure, even if it should pass the House, will be considered in the Senate, and it seems but a waste of time to discuss it now. We can more profitably turn our attention to other matters which it is possible for us to consummate before we finally adjourn.

[Here the hammer fell.]

Mr. BROOKS resumed the floor.

Mr. PIKE. If the gentleman will yield I will move that the committee now rise. It is about time for the committee to rise, considering that we are to have a night session.

Mr. BROOKS. I will yield for that purpose.

Mr. PIKE. I move that the committee now rise.

The motion was agreed to.

The committee accordingly arose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union, according to order, had had under consideration the Union generally, and particularly House bill No. 1349, to increase the revenue from duties on imports and tending to equalize exports and imports, and had come to no resolution thereon.

#### ENROLLED BILL SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House bill No. 938, to authorize the sale of twenty acres of land in the military reservation at Fort Leavenworth, Kansas; when the Speaker signed the same.

Mr. DAWES. I move that the House now take a recess.

The motion was agreed to; and accordingly (at four o'clock and thirty minutes p. m.,) the House took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

The SPEAKER. The recess having expired, the Speaker resumes the chair, and in the absence of the chairman of the Committee of the Whole [Mr. CULLOM,] will call to the chair the gentleman from Michigan, [Mr. TROWBRIDGE.]

The CHAIRMAN. The House is in Committee of the Whole on the state of the Union for debate only. The gentleman from Indiana [Mr. WASHBURN] is entitled to the floor.

Mr. WASHBURN, of Indiana. Mr. Chairman, believing that the great and overshadowing question of reconstruction is progressing fairly and certainly toward the consummation so anxiously wished for by the loyal men that saved our nation from the parrioidal hands that would have blotted from the roll of nations the name of our fair country; believing, as I said, that the great question whether those who thus endeavored to destroy, by every means in their power, should again hold the places of trust in that Government, or those who in its hour of dark disaster stood by the flag of our fathers, has been decided in favor of the latter, I shall to-day, Mr. Chairman, in the few minutes allotted to me, discuss the question of the currency, that life-blood of every nation; and I do this with diffidence, following in the wake of so many able financiers of this House. And I now frankly confess that I have no new facts or figures, and should any gentleman fancy that he sees his own facts or figures in my argument I trust he will here accept my apology, as this question has been discussed by the statesmen of their respective eras during the past centuries. And in order that we have a clear idea of our position let us look for a moment at the definition involved when we say currency, "expansion of the currency," &c., and a clear understanding of what enters into and makes the currency will settle many of the vexed points now troubling us.

The definition used and quoted for long years until its familiarity has given it much force, is as follows, namely: "Coined gold, silver, and copper, and notes issued by banks or the Government, payable on demand." This definition comes far short of my idea of currency, which is nothing more nor less than any article used to facilitate the exchange of commodities, and I will adopt the definition of Mr. Pitt, "That it consists in anything that answers the great purposes of trade and commerce, whether in specie, paper, or any other term that may be used."

Under this definition, then, or even under the one first quoted, how much currency do we as a nation require? In answering this question we settle most of the great questions of finance, and to answer it by a comparison made between this country and the older countries of Europe, must necessarily be as

fallacious. The necessity for an exchanging medium will always be greater in a new and sparsely settled country than in an old and densely populated one. Extent of territory, when that territory is peopled by an energetic business people, adds to the demand. Public improvements, such as railroads, canals, public buildings, and even private improvements, demand and call for more currency, and it is by confining its meaning to the narrow limits of my first definition that we are apt to make mistakes in estimating the amount that the country can carry on demand.

The notes that the Wabash merchant, under the old régime before the war, gave to his New York or Cincinnati jobber for the goods he purchased, were as much a part of the currency as are the greenbacks with which he now makes his purchases; not as safe, but nevertheless currency. Then to determine the amount necessary we must take into consideration the area of our territory, extending across a continent larger than England, France, and Prussia combined, with a net work of railroads unparalleled anywhere. Soon the great iron artery will be spanning our whole country, furnishing the great through route to China. With everything as yet in its infancy and unfinished from the cabin in the far West to our magnificent Capitol above us, farms to be opened, and manufactories building, railroads reaching out here and there with a rapidity unknown anywhere else, no calculation can tell how much we need or can use. You have no past to judge from, for nowhere upon the page of history do you find the counterpart of ours, nor can you institute a comparison with our past. During the last ten years of our history take, for instance, the item of postage. Five times as much postage is paid to-day as was paid ten years ago, consequently five times as much of a circulating medium to transact this little item of business as previously needed. Glance at the table of the honorable gentleman from New York, [Mr. BARNES,] showing how New York stands.

New York may be taken as a representative city of the United States. The business of that city for the past eleven years, as represented by the business of the banks, has been as follows—I give the average per day for three hundred and thirteen days of each year:

1856	\$23,278,000
1857	26,968,000
1858	15,393,000
1859	20,867,000
1860	23,401,000
1861	19,269,000
1862	22,237,000
1863	48,428,000
1864	77,984,000
1865	84,796,000
1866	93,541,000
1867	93,101,000

It will here be seen that the business of the country last year was four times in excess of that done in the great speculating year of 1857, six times in excess of 1858, five times greater than in 1861; that it reached the exact point in 1862 which it occupied in 1856; that in 1863 it increased over one hundred per cent.; in 1864 near seventy per cent.; in 1865 ten per cent.; in 1866 ten per cent.

Many believe that the war has largely expanded the currency. I cannot and do not subscribe to this theory. By the war gold and silver are no longer currency, simply bullion merchandise. The system of long credits has gone, I hope, never to return. Previous to the war the merchant of my district purchased his goods from the eastern cities on long credits; these goods were again sold by him to his customers on a credit; the notes of these different parties entering into and for a time forming part of the currency, in extent equal to all the rest. Previous to the war we had in circulation gold, silver, bank notes, checks, notes, &c., to an amount I have no means of ascertaining, but I believe far greater than our present circulation.

You have forced the growth of the last ten years of our country back into its old size, and with what results let the groans of the great

West prove to you as they have been coming up calling for help. You can hear the cries now, as she feels her life's blood being drawn from her veins and her limbs chafed and swollen by the gyves of contraction. In the language of the honorable gentleman from Massachusetts, [Mr. BUTLER,] you have not done enough by simply leaving the tourniquet as it was; you must loosen it, let in more circulation. Why, pause for an instant and reflect; \$200,000,000 of the life-giving current taken away since the close of the war, and you are no nearer specie payment than when the war closed. But, says my hard-money friend, the price of gold proves that we have a redundancy of money. No such thing; if it did we had less when the war closed than now, for gold was lower. When Atlanta fell the currency was reduced, the great cause that made gold go to 280 was the fact that there was a doubt in the minds of some as to our ability to conquer the South; not because we had too much paper, but too little confidence. And this same thing enters into the price of gold to-day, and any return to a gold basis before it is settled will be only at the expense of the people. All values are unsettled by it, and could we by any means return to a specie basis it would only be knocking off one third of the value of every species of property except the debts, public or private. You would take away one third of the debtor's means, while the creditor, Shylock-like, could claim his pound of flesh because it was so denominated in the bond.

I have no words of scorn for the bondholders. They made a good bargain with the Government, as the most of men would have done under similar circumstances. The blame rests alone upon that party and those men who decried the public credit; those men who, in the forum and on the stump, proclaimed that the nation was "dying, dying, dying," until our neighbors believed the cry and thought the dead man's estate would be far from solvent. Upon these rests the odium of this hard bargain. The country needed the money to carry on the war, to buy food and clothing for our soldiers, ammunition for our battle-fields. She had no time to wait, her necessities were immediate and pressing, and she was compelled to make such bargains as she could; but, thank God, the "sick man" is recovering; in spite of evil predictions he is still alive and fast approaching convalescence. There is no doubt of our ability to pay; and now comes the great question of how we shall pay this debt hanging so heavily over us. For one, I am opposed to any repudiation. Not one dollar should be taken from the nation's creditor; but, on the other hand, not one cent should be taken from the nation's coffers and given to the creditor more than stipulated in the bond—"the flesh, but not one drop of blood." But I need not detain the committee to go over the arguments so ably adduced on this floor to prove that a large portion of our bonds, when due, will then be payable in the lawful money of the Government, let that be gold or greenbacks.

For my part I am willing to leave the construction of the contract to the courts and am ready to abide the issue; but to my mind the most serious point to be considered is the manner by which we are to provide the lawful money that is to liquidate these bonds, for a mere change of name without other relief does not reach the disease. Our people are burdened with taxes, pressed down by a weight that must be lightened or it will grow intolerable. How can we best relieve this pressure? Honorable gentlemen say let it alone, and as an argument say that the present generation has done enough; let the next pay the debt. I agree with my learned friends as to the argument; but does letting it alone relieve the present generation? Let any of those in favor of the let-alone policy but take pencil in hand and solve the problem when that debt will pay itself in interest alone at compound interest every six months, with gold at forty, and he will be surprised to find that this generation, by letting the debt alone, will pay it several times in interest and the

principal yet remain as a legacy for our children. Raising by taxation enough to pay the debt in less than ten years is not my plan of letting it alone. You might talk of leaving the debt for future generations were it not that it is day by day eating up our substance. We must have some plan to stop so much interest, and then we can let it alone, and in no other way. And now, Mr. Chairman, come the dangerous shoals of our financial course.

I know that many of the wise patriots and financiers of our land believe they see beneath every attempt to relieve the people the murky form of repudiation. For my part the hue and cry has no terror to me, as repudiation can only come when our people are crushed down; until every ray of hope is gone; only by keeping up the interest on the bonds paying the principal in gold; exempt them from taxation; then contract; reduce the currency—the means of the people; and in my opinion you are fast finding the road to universal bankruptcy, from which may be seen leading repudiation. For my part I would issue as many greenbacks as the country can carry; how great that amount may be I will not pretend to say. With these greenbacks I would redeem the five-twenty bonds as they become due; the balance not so redeemed I would refund at a low rate of interest taxable on its face, if not at such a low rate that the people might see that the bondholder was assisting in carrying the burdens of the nation. Bondholders, of course, will cry aloud, but the currency that you force upon our crippled soldiers and the widows and orphans of those who fell that our country might live, certainly ought to be good enough for the bondholder. I believe that the business of the country calls for and requires more currency, and our highest duty to a suffering people is to relieve them as far as is in our power from the crushing load of taxation.

But we are met by the hue and cry of expansion. I am distinctly in favor of expansion. Our country, as well as everything else, must keep pace with our growth as a nation. Already you can see—Brother Jonathan-like—the extremities protruding far beyond the financial unmentionables of our country. No wonder, then, that cold piercing winds cause the body-politic to shiver as we vainly endeavor to make upper and nether garments meet upon our fast-growing body. Expansion is the natural law of currency and a healthy growth as a nation. Hume well says:

"It is of no manner of consequence with regard to the domestic happiness of a State whether money be in greater or less quantity. The good policy of the magistrate consists only in keeping it, if possible, increasing, because by that means he keeps alive a spirit of industry in the nation, and increases the stock of labor, in which consists all real power and riches. A nation whose money decreases is actually at that time weaker and more miserable than another nation which possesses no more money, but is on the increasing hand. This will be easily accounted for if we consider that the alterations in the quantity of money either on the one side or the other is not immediately attended with proportionable alterations in the price of commodities."

The workman has not the same employment from the manufacturer and merchant, though he pays the same price for everything in the market. The farmer cannot dispose of his corn and cattle, though he must pay the same rent to his landlord. The poverty and beggary and sloth which must ensue are easily foreseen. Another English writer says:

"That the greatest distress among the laboring classes of England was in 1816, when gold was par, when the new sovereigns lay at the bankers' uncalled for, and when Spanish dollars sold at four shillings and three pence."

How did our currency stand in 1861? Total amount of gold in country \$275,000,000; silver \$110,000,000. Total coin \$385,000,000. Held by banks and the Government \$97,674,507; amount of coin in circulation \$287,325,493; bank notes in circulation \$202,005,767. Total amount notes and coin in circulation \$487,991,260. How stands the currency to-day? Legal tenders and fractional currency, \$387,142,457; bank notes, \$293,887,941. Total, \$681,030,398; but to be deducted from this amount held by banks as reserve \$157,430,099;

supposed to be held in Treasury probably \$45,000,000 more. Total out of circulation, \$202,430,099, leaving actual circulation \$478,591,299; or \$11,399,061 less than the circulation in 1861.

No wonder, then, that the giant of the last six years' growth feels the iron cutting into his flesh as you attempt to force his limbs into the iron boots of contraction.

My plan is to increase our circulation until it will be commensurate with the increase of our country in every other particular.

How stood the figures in 1863? From the best data at hand the New York banks in three years inflated their circulation \$185,348,634. If other banks did the same we then had an entire inflation of \$700,000,000, which, added to the circulation then out, \$535,000,000, would give us \$1,200,000,000. And when, financially, did we ever have a better year than 1863? No one broke up; and yet to-day you hear the cry of the dead and dying, financially, all around you.

France has a circulation per capita of thirty-dollars. England twenty-five; and we, with our extent of territory and improvements, certainly require more than either, and the Government should furnish it. The Government credit to-day furnishes the sole basis of the bank currency. I would remodel the national bank system so as to take away the power of issuing bills. I do not propose to blot them out of existence, but to take away that branch of their business, once, perhaps, a necessity, but now an expensive luxury.

Mr. BURLEIGH. I would like to ask the gentleman a question.

The CHAIRMAN, (Mr. CULLOM.) Does the gentleman yield?

Mr. WASHBURN, of Indiana. Certainly.

Mr. BURLEIGH. I would like to ask the gentleman where he obtains his data in regard to the circulation of our currency?

Mr. WASHBURN, of Indiana. I cannot give the particulars now. But I can assure the gentleman they are correct, and that I have obtained my information from authorized sources.

Now, let me illustrate: A goes to B, and in order to assist him to pay his debts, says: "Now, B, you give me your notes for \$100,000 and pay me the interest and I will loan you \$90,000 of my notes that your indorsement will make good, and you can pay your debts with them." Now, if A's credit is better than B's he may in this manner get rid of his notes easier. But if he is solvent and pays his notes and interest promptly, how much has he made by the transaction, as he has only borrowed of A \$10,000 more than he returns to him, with this difference, that on the total amount of his own notes he pays six per cent. interest in gold while A pays nothing on his notes given in exchange? Then, as is readily seen, B is paying for the use of \$10,000 the interest on the entire \$100,000, that is sixty per cent. in gold on the \$10,000, and this privilege of loaning is rendered a monopoly by restricting the amount of bank capital so that only a few have this golden opportunity.

I believe that Government alone should furnish the currency of the country, thereby saving millions in interest now paid banks for furnishing a currency that without Government indorsement would not be worth a farthing. And just in proportion as you change the bonds into greenbacks have you settled the question of taxation of bonds. The greenbacks entering into circulation can be taxed as so much money on hand without difficulty; and while you are reducing the taxes you are increasing the taxable property. That the bonds are to be taxed either directly or indirectly seems to be a foregone conclusion. Whether it is policy to tax the people of one State to be paid into the coffers of another is at least of doubtful propriety. The retention of one per cent. for distribution to the State can only result in this. The States paying the largest share of the taxes, either by internal revenue or by tariff, are to be the losers. You can hardly delude

the people into believing that it is right that the heavy tax-paying communities of the North shall be taxed to distribute to the southern States. Indiana may be allured by the glittering bait of \$900,000 to be paid into her coffers by the General Government; but when she finds that this has been drawn from her hard earnings, and an additional sum to be paid as a bonus to southern States, she will spurn your offer. You may compare the tax tables and prove to them that the older States pay all the taxes, and she will in answer show that we of the West, the consumers, are the ones that after all bear the burden; we may not pay the tax to the collector, but we do to the manufacturer and the importer. Every cup of coffee, every draught of tea, the coat worn, and the wagons driven, have, by their enhanced value, paid the tax that is under this proposition given to the support of the South, and she will repudiate your plan as equally unjust to the East and the West. You can tax the bonds directly more honestly than by this method. And in connection with this point I wish to allude to the bill lately introduced by my colleague [Mr. HUNTER] on this subject.

The first section provides for an issue of a new bond; principal and interest payable in gold at six per cent., interest payable semi-annually, one per cent. to be retained and paid to the States in lieu of taxes; the holders of five-twenty bonds to be allowed to exchange their bonds for these, or refusing to do so are to be forced to take greenbacks. This bond is simply a five per cent. bond, interest and principal guaranteed in coin. If my colleague had reflected for a moment he would have seen that we had a similar bond already out, the ten-forty; and let us see how much the bondholder has been obliged to disgorge, how much he pays for converting a greenback bond into coin and that coin-bond protected from taxation; he is forced to take a bond that now is quoted above par; for by looking at the market quotations of bonds in New York you will see the five per cent. ten-forties above par. Should the gentleman be so lucky as to secure the passage of his bill, not a bondholder in the country but will see that he has achieved a glorious victory. He has changed his uncertain bond into coin.

The bill proposes to settle the dispute as to whether the principal of the five-twenties is payable in gold or currency by agreeing to pay gold, and in return for this the bondholder deducts one per cent. interest. How stands the bargain, taking it for granted that the bonds are payable in lawful currency? Say the bonds are, in round numbers, \$2,000,000,000 and gold forty per cent., then the gold value of the bonds would be \$1,428,571,428. Then to settle this matter we give \$571,500,000 in gold, and to compensate us for this we deduct one per cent. of the interest. Let us see how much that would be. One per cent. on the principal, \$2,000,000,000, having fifteen years to run, would be \$30,000,000 per annum. The present worth of an annuity of that kind would be far less than \$200,000,000, that is, the Government gets \$200,000,000 while the bondholder gets \$571,428,572, the bondholder making by the bargain the snug little sum of \$371,428,572 in gold, and he has escaped what the people demand, that the bondholder's property should share the burdens of the Government.

Mr. BURLEIGH. Does the bondholder in this case get more than the Government agreed to pay him for the money he advanced?

Mr. WASHBURN, of Indiana. I think he does. I believe the five-twenty bonds are payable in greenbacks.

Mr. BURLEIGH. Then it ought to be corrected by the Supreme Court of the United States, or by the Congress of the United States.

Mr. WASHBURN, of Indiana. If the gentleman had been here when I began my speech, he would have heard me say that I thought the matter should be left to the Supreme Court.

Mr. BURLEIGH. There I agree with the gentleman.

Mr. WASHBURN, of Indiana. The differ-

ence between us is that I believe I will beat him when I get to the Supreme Court.

Mr. BURLEIGH. Do the people demand repudiation of the national debt?

Mr. WASHBURN, of Indiana. The people do not demand repudiation, and the only way to save repudiation is to make all the property of the country pay taxes equally. If that is repudiation, then I am for repudiation.

Mr. BURLEIGH. No doubt of it.

Mr. WASHBURN, of Indiana. If it is proposed to tax a part of the property of the people to protect the property of another part of the people, then I am opposed to it.

Mr. BURLEIGH. Did the Government agree to give greenbacks to the man who came forward in the hour of its need and loaned the Government the gold he had earned and saved?

Mr. WASHBURN, of Indiana. The Government made the man take greenbacks who risked his life in its defense, and when they made the pension list they promised him the same they promised the bondholder; and today they make him take greenbacks. What is the superior merit of the bondholder who took bonds at forty cents on the dollar that he should be preferred to the soldier of the war and his widow?

Mr. BURLEIGH. I desire to ask the gentleman this question: the Government having taken my gold and agreed to repay me in gold, am I to be required to take payment in greenbacks at forty cents below par?

Mr. WASHBURN, of Indiana. That is exactly what I say, that where the Government agreed to pay in gold it will pay in gold; but where the contract is otherwise it will pay in the same currency in which it pays the rest of its debts. The Government did not come and beg the soldier to go into the ranks; it said, "You shall go."

Mr. BURLEIGH. I was not a soldier-broker or anything of the kind. It was gold that I gave, and not soldiers; and the Government agreed to pay me in gold.

Mr. WASHBURN, of Indiana. If the gentleman had been a soldier, and had given his blood for the preservation of the Government, he would appreciate the difference between a bondholder and a soldier, and he would realize the injustice of distinctions in favor of the bondholder as against the soldier.

Mr. BURLEIGH. Mr. Chairman, I understand the situation of my friend. He is, as I understand, a candidate for reelection in his State. Hence I will not interrupt him further.

Mr. WASHBURN, of Indiana. The gentleman is mistaken, as he has been all the way through. I am no candidate for anything. I am only standing up for the rights of the people as against a portion of the people who, through false pretenses, have, in the late Democratic convention, attempted to foist upon us Seymour and a bondholder's party.

Mr. BURLEIGH. Does the gentleman suppose for one moment that I advocate that party or its candidate? I would sooner affiliate with the devil and his host. [Laughter.]

Mr. WASHBURN, of Indiana. I am glad to hear the gentleman say that he does not affiliate with that party. I was fearful that he had been affiliating with the party that nominated Seymour at the New York convention.

Mr. BURLEIGH. The gentleman certainly had no ground for any such suspicion.

Mr. WASHBURN, of Indiana. I was certainly justified in thinking that the man who could stand on this floor and boast that he had obtained more official appointments at the hands of Andrew Johnson than any other man, would support that party.

Mr. BURLEIGH. Does the gentleman from Indiana boast of anything of that kind?

Mr. WASHBURN, of Indiana. I do not say who made such a boast. I leave it for the gentleman to say.

Mr. BURLEIGH. The remarks of the gentleman are a fitting commentary on his loyalty and fidelity. I never made any boast of that kind.

Mr. WASHBURN, of Indiana. I resume

my remarks at the point where I was interrupted.

Not a single greenback will be added to the currency under this bill, for greenbacks are being daily exchanged for a similar bond and a premium paid. The only result arising from this bill will be this: under the guise of giving the country more greenbacks you provide the means by which our only chance to pay our indebtedness in lawful money will be closed entirely and a guarantee given that the bondholder will not be taxed. The people will not be so easily hoodwinked. You must either tax your new bonds as other property is taxed or you must reduce the rate of interest so that it will be plainly seen that the holders of the bonds are doing something for the Government. What rate of tax does many on-hand notes at interest pay in your several States, and then answer why these bonds should only pay one per cent. For my part four per cent. is as high as I can be got to go if you are to exempt them from taxation. What is the difficulty? Now, in the West the Government has been paying too high a rate of interest until all the surplus is locked up in bonds. Suppose a farmer wants to borrow a thousand dollars by mortgaging his farm, he cannot find an opportunity, for he is met at every hand by the response, "My money is in bonds at six per cent. in gold, equal to nine per cent. in currency, and no tax. If I take your note I will be taxed from two to three per cent." No wonder he refuses to change the investment, for many cannot and ought not to bear any such rate.

The last clause of the sixth section of the bill under review [Mr. HUNTER'S] is as follows:

And the Secretary of the Treasury is hereby authorized and empowered to collect from duties upon imports only such proportion of the same in coin as may be necessary to meet the obligations of the United States which are payable in coin, and the residue he shall receive in the lawful currency of the United States.

And I here enter my solemn protest against legislating upon the tariff bill in this covert manner. Here is a proposition to reduce the tariff just in proportion as the amount so collected should bear to the whole and the price of gold, in other words, gold now at forty per cent. If one half the customs are collected in greenbacks, it will reduce the tariff on everything twenty per cent. Now, those manufacturers who claim that they are only kept alive by protection, will by this fell swoop have that protection taken away; but the West complains not so much of the tariff, but of the unjust discrimination against our western products. How will it be with our grain, our pork, our beef, now just sufficiently protected as to keep out Canada? By this reduction you open the markets of New York and New England to Canada. Articles of luxury, now but little taxed, instead of being increased, decreased; all the mistakes and blunders of our present tariff made more glaring. What we need is a reduction of interest, equal taxation, a fair and judicious tariff, and time will take care of our national debt and solve our financial trouble.

Mr. BLAIR addressed the committee on the issues of the present political campaign. [His remarks will be published in the Appendix.]

Mr. ELA. Mr. Chairman, I take this opportunity, lest I may not get another, to say a word in defense of a vote given on the resolution of the gentleman from Wisconsin, [Mr. COBB], and the bill so ungraciously reported by the Committee of Ways and Means taxing the interest on Government bonds ten per cent. These bonds now bear comparatively none of the burdens of the country, and their exemption from taxation causes great dissatisfaction and discontent which ought in some way to be remedied. They are not allowed to be taxed under State authority, because the right to tax is without limit as to rate or amount, and might be used by States adversely to destroy the whole credit of the Government.

The power of the General Government to



tax bonds is unquestioned. The acts of Congress only prohibited taxation by or under State authority. We have taxed the income from bonds for the last six years, and if we have no right to do so that tax ought to be refunded. We are proposing no new principle by taxing incomes unequally.

The first year of internal revenue taxation incomes from Government bonds were taxed one and one half per cent., while incomes from other sources were taxed three per cent. Subsequently incomes under \$5,000 were taxed five per cent. while incomes above \$5,000 were taxed ten per cent., which is the amount fixed in this bill to tax interest on these bonds, and which is, in my judgment, rather below than above the amount we ought to impose.

All our taxes have been laid unequally, and with regard to whether the commodity to be taxed was an article of luxury or necessity, and in proportion to its supposed ability to bear taxation. We have taxed shoes and leather two per cent., woolen fabrics two and one half per cent., paper three per cent., cotton manufactures five per cent., and whisky five hundred per cent. Congress having the right to tax, it is confined by no limits but such as justice, expediency, and necessity impose.

Justice requires that the present bonds should be taxed that the burdens upon property may be equalized, or that a new bond should be immediately issued bearing a low rate of interest to reduce the expenses of the Government. A new bond will not be easily put upon the market. Persons who get six per cent. in gold will not take less willingly. Those who have fastened themselves upon the revenues of the country and are sucking its life-blood will not release their grasp unless enticed to by the same measures which were taken to entice State banks out of existence to make way for national banks. Expediency requires that exemption from taxation, which has already caused discontent and dissatisfaction and raised the banner of repudiation shall no longer continue. But few comparatively would repudiate, yet the fact that some propose it had better be heeded in season. We must bear in mind that to those discontented we must add those who were engaged in the rebellion, who will never willingly pay for being whipped. Their allies in sympathy will pay, if at all, grudgingly. The interests of bondholders require that bonds should bear just taxation, and an over-taxed people require it.

I notice that the press, who are *par excellence* the defenders of the bond interest, are free to denounce all who would tax bonds as repudiators. They raise the idiotic cry if you have the power and right to tax ten per cent. you have a right to tax fifty or a hundred per cent.; granted. But does it follow that because you have the power to do an unjust thing that you will therefore do it? We taxed all manufactures five per cent. We had a right to do it. Did it therefore follow that we should tax them one hundred per cent. instead of removing it altogether, as we did when it became oppressive? Am I to be branded as a repudiator because I am tired of seeing the sons of toil bending their backs to the sun and their faces to the earth, building highways and keeping them in repair, and may only look up to see their bondholding neighbor roll by in his coach and exempt from that burden? Am I to be branded as a repudiator because I am unwilling to see the poor man's children kept in ignorance and at toil to build school-houses and provide schools for the bondholder's children, while he makes no contribution to that object? And worse than that, to pay the policeman who stands guard over the bondholder's safe, while I have a right to tax him, and am following established precedents by doing it. The whole debtor community have had one third added to their interest by exemption from taxation, and high rates of interest on bonds. It has also vastly increased taxation by the high rates of interest States, counties, and towns have to pay on their indebtedness.

If we fail to tax bonds others will take our

places to do it, or to repudiate. Bondholders are interested to the amount of their bonds in defeating repudiation. It is therefore for their interests to have the bonds taxed to remove discontent and dissatisfied agitation, and many of the heaviest bondholders in my district have urged upon me the justice and necessity of their taxation.

Taxing in the form presented in the resolution is in accordance with the precedents both here and abroad, and the gentleman from Wisconsin [Mr. COBB] had hardly introduced his resolution when the ocean wires flashed to us the information that the debtor nations of Europe were taxing the interest on their debt in the same manner as he proposed, only at a much higher rate. By taxing in this form now much clamor and agitation of the subject will be removed from the presidential contest, and the necessity of a new loan rendered less imperative during that contest. A new loan involves delay—involves undiminished burdens during that delay—involves the question of paying bonds in coin or paper, and the expense of negotiation; all of which will be better matured and considered after than during a presidential contest.

The bugbear that foreigners will send back their bonds which pay them five per cent. or more, while the rates of interest, according to the tables of the gentleman from Ohio, [Mr. GARFIELD,] are two per cent. in London, one and one half per cent. in Paris, three per cent. in Berlin, two and one half per cent. in Frankfurt, three per cent. in Amsterdam, and two per cent. in Hamburg, may frighten the gentleman from Maine, [Mr. BLAINE,] who presented it; but it ought not to prevent the House from doing an act of justice in providing additional revenue from a source better able to bear taxation than any other.

If these bonds come back it is so much the better. It will check importations and give additional employment to our own labor. They ought never to have gone abroad, and did not to any extent until the war was over. We have received in exchange for them imported luxuries which our people had been better without, and which have tended to depress our labor while being taxed to pay interest abroad.

Tax these bonds as they should be, and the rates of interest paid by States, municipalities, and individuals will be lessened, and all State and local taxation will be lessened. If it is not done labor and business must continue to sink and stagger under the enormous load until the evil corrects itself by business reverses and financial disaster, strewing their wrecks on every hand. Then by leaving capital idle and labor unemployed the payment of the debt, otherwise certain, will be subject to doubt.

Mr. JULIAN spoke on the policy of land bounties and in defense of the existing homestead system. [His remarks will be published in the Appendix.]

Mr. ARCHER. Mr. Chairman, when the civil war between the North and South terminated, chaos ruled supreme in the latter. State governments there were literally "without form and void," if those States were to be regarded as subjugated territory, and not a parcel of our common country existing under and by virtue of our Constitution. That they were a part and parcel of that country, and that they did exist under that Constitution, had never been denied by any one of the three coordinate branches of the Federal Government. Congress, the Supreme Court, and the Executive had, time and again, by resolutions, decisions, and proclamations, asserted and reasserted that they were within the Union of the States and must then remain as States. It was in pursuance of this doctrine that President Johnson, soon after his accession to the Presidency, proceeded to restore order where this chaos reigned, by reacknowledging the rights of the States. Occupying the position of Commander-in-Chief of the armies, and martial law still prevailing, he spoke to those States as Commander-in-Chief when he said to them

that slavery had ceased to exist in fact; but he at the same time showed the necessity of action on the part of the States themselves before it could legally cease to exist. His democratic training had instilled this doctrine of the rights of the States firmly into his mind—rights of the States, I mean, under the Constitution and within the Union.

The southern people, acknowledging the results of the war and wearied with its fearful carnage, appalled by their desolated homes and threatened with starvation, hastened to avail themselves of the opportunity to return to their allegiance—not sullenly, but cheerfully; so cheerfully that northern people and northern capital flowed into their midst and were welcomed warmly. Peace and quiet reigned supreme where a few months before the dreadful carnage of war had prevailed. This peace and this tranquility proved the humanity, patriotism, and statesmanship of Andrew Johnson. A man of the people, he knew their wants; a lover of the Constitution, he knew that adherence to its principles would accomplish the desired end. Would to God that his humane, patriotic, and statesmanlike plan had been adhered to, and that this poor, bleeding country, North and South, had been allowed to return to the old fraternal feeling. Would to God that the same chivalrous feeling which, on the termination of the war, animated the soldiers who had fought on both sides, had animated our law-givers. Had it been so, we should then have challenged the admiration of the civilized world, and the people of this great Republic would have been spared an untold amount of suffering.

No one doubts that it was the desire of President Johnson that the war should so terminate. No one doubts that it was the desire of those patriotic Republicans who joined the great Conservative party of the country that the war should so terminate. No one doubts that it was the desire of the great Democratic party that the war should so terminate. No one will doubt, in next November, that the great masses of the people of this country desire that it shall so terminate.

Who, then, prevented the consummation of this desirable end? I do not hesitate to say the Radical part of the Republican party. And for what purpose was this interference? Simply to retain in their grasp the power and patronage of the Government by the enfranchisement of an ignorant and degraded race. By the elevation of this race to the elective franchise all obstacles were to be swept from their way to power. The plan, revolutionary as it was, was to be carried out to the desired consummation let the consequences be what they might. If a twinge of conscience stole in the soul of one of their number who still retained a vestige of love for the old landmarks of liberty, he was to be upbraided with a taunt that he had "splinters from the ghost of the old Constitution sticking in his kidney." If a general of the Army, like the gallant Hancock, asserted the cardinal doctrine of a free Republic, that the military should be subservient to the civil authorities in times of peace, or that the writ of *habeas corpus* should be respected, he was to be dropped from the Army roll by the passage of a law over the President's veto. If the Supreme Court dare intimate its intention of maintaining its proper dignity by considering the constitutionality of one of their laws, then special legislation was to be resorted to for the purpose of depriving that court of its jurisdiction. If the President asserted his constitutional prerogative, he, too, was to be assailed and hurled from his place, to make way for some supple tool who would bow the pliant knee to their tyranny.

In this contest for power the Republican party resembles in their recklessness Sampson of old when led into the temple of the Philistines. He, blind with fury and hate against the surrounding masses, who scoffingly looked upon him and upbraided him for the loss of power and strength which his own folly had destroyed, stood between the mighty pil-

lars of that temple, and rending them asunder all perished in one vast ruin. As Sampson seized those pillars even so did the Republican party seize upon the two great pillars which are the supports of our temple. I mean the Supreme Court and the Executive. By the power still left in this party they have striven and are still striving to uproot those pillars from their foundations and overwhelm at one fell swoop the masses of the American people. But not like the Philistines of old do those masses stand idly and listlessly by, to see themselves crushed by a hydra-headed monster. Andrew Johnson, placed by his countrymen as a sentinel upon a watch-tower, sounded the tocsin which woke them from their lethargy. Thus aroused, they spoke from the eastern boundaries of Maine to the western shores of California to show that "there was life in the old land yet." And from that time the mighty hosts of freemen of this great Republic have been heaving and surging and gathering their strength for the coming struggle. That struggle, sir, will vindicate alike the intelligence, the manhood, and the love of liberty which ever have animated and ever will animate the Anglo-Saxon race.

We have stood for the last few months upon the verge of a precipice, a dark abyss of anarchy yawning at our feet. This giant Republican party hoped by one last wild effort to throw off the life-sustaining restraints of the Constitution of our fathers. This was to be done by the impeachment and displacement of the constitutional head of our Government. They would then arrogate to themselves, as an oligarchy, all the powers of the Government. In other words, the aim was to establish just such a power in the Congress as was usurped by the Assembly of France during the reign of terror. But do any of them for a moment dream that, along with the attainment of such a power, they may also reach the fame and fate of Danton, Robespierre, and Marat, their counterparts in French history?

That power, like that which existed in the French Assembly, was not attained, is due to the wisdom of the framers of our Constitution, who wisely gave us two branches of the legislative department. The one to act as a check on the other. The Senate, thank God, existed, and stood as an effectual barrier against the rushing storm to check "the waters wild" of this storm. The Senate saved the Republic at least for the time. The Senate saved a patriot, and in saving him from partisan persecution they have made for themselves names which will be revered by generations yet to come. The Senate, by their verdict, have given peace and quiet to the North, and the people in the coming contest will, by the election of a Democratic President, give such a verdict against the misdoings of those now legislating as will revive the desolated South, and she will be again the "sunny land," with blooming fields and happy homes. She will once more be brought fairly and equally into the sisterhood of States, and cause the wealth of Europe, and even of the Celestial Empire, to flow into our coffers, and thence into the hands of our laboring artisans.

As "straws show us which way the wind blows," so the recalling of one or two little occurrences here may serve to illustrate the intensity of the hatred entertained by the impeachers against the President. Foiled in their plot of ruining him, they immediately cast about them for minor objects on which to wreak their long pent-up vengeance. A few days since, by resolution of the two Houses, a room was furnished and fitted up in the Capitol that an accomplished woman might there, without danger of interruption, pursue her noble and ennobling profession in the interest of the nation. In the midst of her quiet labors, although guaranteed by Congress against disturbance, behold her charged upon most furiously by "a gallant band of brothers from the old"—impeachment clique, supposed to be more capable of conducting this sort of campaign than the kind in which they had just failed so sig-

nally as managers. The reason for this sudden onslaught upon Miss Vinnie and her helpless statues, the *casus belli*, so soon after a solemn treaty of peace, was the fact that she—although her sentiments are said to have accorded with those of the Republican party—had refused to truckle to extreme Radical behests or to work the wires of the impeachment machinery. To this bold charge these iconoclastic woman-fighters were unflinchingly led by a doughty warrior who has ever shown himself eager for such a fray. Although the concussions produced on Fortress Freedom by the violent explosions of his wrath, on this occasion appeared to the veteran sentinels on duty far more startling than formidable; yet poor woman and poor art were terrified, and fled appalled before the fiendish charge and the brimstone cloud. The frenzied and persistent attempts of this great champion of the "woolly-head" to ride the woolly-horse were not quite so successful; and, unless he beware the former, though more docile just now than the mule ridden by a still greater general and sometimes bottle-corker in his strolling boyhood, may throw him at the November races.

The plan of reconstruction which President Johnson proceeded to carry out in May, 1865, was the ideal one previously agreed upon by Mr. Lincoln and his Cabinet in accordance with the views then entertained by the Republican party. The States yielded ready obedience to the conditions imposed, and up to this point all moved smoothly toward restoration. The old constitutional lights, which had been dimmed by war clouds and threatened with total extinction, blazed forth again; old land-marks loomed up once more in the hazy distance, and lent their friendly guidance to wanderers over the benighted waste. But the Republican party, just here, snuffed danger. They knew that after the nation's long winter of discontent, the fruition of a spring-like peace would be to them but bitter, or, like Dead Sea apples, become ashes on their lips. They knew that the scepter of power must slip from their grasp and pass into the hands of their untiring foe, the great constitutional party of the North. It was at that critical juncture that they made a closer league with the powers of darkness. It was then that they concocted the hell-broth of African rule, and gloatingly stirred it into the political cauldron. They are now dancing, hug-like, around it as they administer the paralyzing potion with no stinted hand to the best, the bravest of the southern people.

It has been said that to crush the rebellion nearly a half million men lost their lives. Three years of almost uninterrupted Radical rule have followed, and thus far with what results? Three momentous results, indeed. We see now a truckling, mongrel platform, without an infinitesimal portion of patriotism, justice, or magnanimity in it, substituted for the glorious Constitution of better days; and while the dark hues of bondage have in one sense been lightened by the substitution of white slavery for black, the nation's hopes have been thereby most hideously darkened. It has been customary with those in authority to refer for guidance to the acts of their predecessors. With what degree of safety to the liberties of the people, to the observance of constitutional guarantees, or to the stability of the Government, can future parties, as they come into power, regard as guiding precedents the congressional acts of the last two or three years? Why, each party, as soon as it obtained sway, would, were such examples followed, throw everything into chaos; and, although the people might rise each time in their boasted majesty and vote them out and a new party in, it would be, at best, but exchanging one chaotic condition for another—the Radical for the Democratic, or the reverse, as the case might be; the void and formless monster would still brood above the waters.

In the name of justice and peace and national prosperity; in the name of good government, ay, of any government in contradis-

tion to this ruinous anarchy that menaces our favored land; a land that has been, and may be again, the hope of the world and the terror of oppressors; but most of all, in the sacred name of the constitutional republican Government established by our ancestors; honored by their faithful observance; hallowed and sealed by their blood; in the name of five millions of suffering people; their homes desolated, hearts crushed, hopes blighted; in the name of all these I appeal, through its constituted and acknowledged leaders here assembled, to the great Radical party; a few years ago unborn from the womb of time, but lately Titan for strength; breaking from its bonds; shaking the land with its strides of progress; knocking fetters from millions and welding them on double the number; wresting scepters from sovereign States; sweeping those States themselves from existence and blotting out their lines in blood. I appeal to this great power in the land to say where, with those glaring examples of high-handed usurpation on record for the use of unscrupulous factions, ever prompt and eager to avail themselves of precedents in justification of contemplated villainies; where and when and how is such chaotic state to have an end? Do they envy and would they fain perpetuate here the condition of our wretched neighbors of Mexico? All hope of peace and order solemnly promised, but indefinitely postponed on each accession of a new party to power; a chronic, mortal anarchy ranking in the nation's heart eating out its very life; pillage, oppression, and reeking murder eternally ramping through the land. Can such be the condition they have in store for this proud people, this model Republic?

In this gigantic and unscrupulous struggle of the Republican party for power thousands and tens of thousands of whites—most of them men of intelligence and education—have been practically disfranchised in the South, while more than that number of ignorant, imbruted, vagrant, penniless negroes have been suddenly invested with the right of suffrage. And for what have this abject race been thus clothed with new rights, of which their enlightened masters have been so ignominiously stripped? Perchance, to reward their loyalty. Did they give any appreciable proof of loyalty during the war? On the contrary, they toiled and sweated, if they did not bleed, in aid of the rebellion; and although numbering two thirds as many as the whole white population; although, in numerous instances, inhabiting sections of country many miles in extent, where scarcely a southern soldier was to be seen for months, they never struck a blow for freedom. There was not, throughout the whole war, a single instance of even the feeblest attempt at insurrection. Thus did the negro falsify even in the "glorious" hour of his emancipation one of the noblest of sentiments, a sentiment hitherto accepted by none more cordially than by his present eulogists and vindicators—

"Who would be free, himself must strike the blow."

Was it done for the Union, for which this race cared not, and never will care, a copper's toss? Far from it; in truth, the very reverse of this. Their real aim, as is now well understood by all and pretty generally conceded by themselves, was to keep the country in a state of disruption until their party might be able to secure permanent control. Instead of investing those half million negroes with the right to vote had they doubly enfranchised as many intelligent whites of the North by giving each one of them two votes it would have been, for decency's sake, far better, and would have accomplished their fell purpose quite as effectually. Would the northern people have endured this? And yet the wrong inflicted thereby on the remaining voters of that section and the shock to good government would not have been one whit greater.

To show how insatiable is their lust of power and to what a fearful length it goads them on for spoils, a recent occurrence may be briefly

referred to. A prominent member of the Radical party in answer to a direct query put to him during debate, declared, without shame or even hesitation, that the condition imposed by his party for the removal of disabilities from southern whites was, virtually, that they would vote the Radical ticket. Now, as to the admission of the African race to a prominent share in the conducting of our political affairs, this outrage has been blindly consummated in the face of certain disastrously resulting experiments made by pseudo-philanthropists and ignorant, wretched, vicious fanatics. The tottering relics of these miserably abortive governments, the fruits of these experiments, still stand; yet they stand only as a butt for satire, for true philanthropy a warning beacon, for civilization a reproach. They are a stench in the nostrils of the world, and if such absurd innovations of mongrelism here, such wild ingraftments on our political stock, be not speedily receded from, the repetition of Jamaica and St. Domingo must needs be upon us; and the black incubus that now weighs so horribly on the South must soon cause her to sleep the "sleep that knows no waking."

With the same object they gagged the judiciary, and wrested from the Executive the clear constitutional right of selecting the heads of Departments, who are not only his counselors, but his agents, for whose acts he alone is held responsible, and have aimed in various other ways to curtail and abolish his rightful powers. Why should they tamper thus by degrees with the Constitution and the Government? Why not at one fell blow destroy them both, then merge the three branches into one—a result to which all their acts have lately tended—by legislative enactment, and dub that one "the Congressional oligarchy of the free and independent States of America?"

The most solemn obligations imposed by the Constitution are no longer regarded when expediency demands their infraction; and, for all that Constitution can ever avail the country while under Radical rule, it may as well be at once buried away out of sight. But let the undertakers of this melancholy sepulture perform it with a solemnity befitting the momentous occasion. Perhaps some "suppressed" judicial ermine might be obtained as a shroud. The coffin might be appropriately made of slivers from the charter-oak, or the parchment of poor *habeas corpus*, if there is no further use for it, or the door of the Woolley bastle. Let the pall-bearers be the district satraps, both past and present, with a few of the Republican leaders from the Capitol here, if, indeed, they have respect enough left for the deceased to accord a decent burial, or sympathy befitting the sad office. Let the chief mourners be the southern States, (for heaven knows they have chief cause to mourn this illustrious dead,) and let them be represented at the grave by as many sad-faced maidens draped in the habiliments of woe. The border States might follow these, their tweeds not quite so black; then the great throng of the sorry and indifferent, the glad and the gay, mixed and merged, like all funeral crowds when the great have departed. Let the solemn cavalcade then pass beneath the shadow of the Bunker Hill shaft, where it is no longer likely Mr. Toombs will call the roll of his slaves. Let them pause there a while, and call a far different roll, that of the great fathers of the deceased Constitution and of those famous signers who hurled defiance at King George, and hear or imagine their answer from the spirit world. Let them then wind through the inevitable hub of the Juggernaut, whose wheel has so horribly mangled the deceased, and proceed to Plymouth Rock. Out of this a sarcophagus might be hollowed for its reception, and some of the "loyal" New England clergy—some of the far famed "three thousand"—might be induced to read the burial service, and offer up a "petition" (this time to Heaven, and not to Congress) as earnest and no doubt as sincere as the old one, that the defunct may rest in peace and never rise.

Now, seeing the danger which impends this great charter, let us inquire what is the object of the Constitution, (of all constitutions, in fact,) or, rather, what was its object, since it is to be, at least for a little while, a thing of the past? It cannot be designed for the protection of the majority, for they are self-protecting. It is to shield the weak against the strong. Take away this guarantee, and the minority have no earthly appeal from oppression. It is then a mere mob that rules. But the Republican party have found a precious though it seems a rather fluctuating substitute for the Constitution. That substitute is any platform (amended, altered, and juggled to suit immediate and pressing party necessities) by which they may hope to retain their supremacy. Their cardinal doctrine is that the majority may, without any curb or check whatsoever, do even as they will. As was done in times of full Puritanical sway, they virtually resolve, first, the world is the Lord's and the fullness thereof, (which most probably means the "spoons" of office;) secondly, what is the Lord's belong to His saints; and thirdly, we are His saints.

Now, let us examine the platform which, if the Radical party be continued in power, is to supersede the Constitution. To the most of it the sarcastic utterance of a great Frenchman is peculiarly appropriate. "The object of language," said he, "is to conceal our ideas." Some portions of it, had it not been adopted in solemn conclave, might well be regarded as ironical, and might have enabled it to pass as one of the grandest jokes of the age. Take the first paragraph:

"We congratulate the country on the assured success of the reconstruction policy of Congress, as evinced in the adoption in the majority of the States lately in rebellion of constitutions securing equal civil and political rights to all," &c.

Now, even the Republicans themselves—at least such of them as are not either fanatical or demented, or utterly unhumanized—must feel in their hearts and consciences, whatever policy may prompt their tongues to say, that with two exceptions there is not a gleam of truth in that whole paragraph. One of these exceptions is that the convention really do "congratulate the country;" but it is just as though one individual might congratulate another on having been robbed by him, delicately suppressing the fact that he is soon to be also hung, or destroyed in some other way. The other exception is that "constitutions were adopted in a majority of the States lately in rebellion"—adopted in the States, not by them. Mark that well; it speaks volumes: adopted in the States by carpet-baggers and vagabond negroes; even the unscrupulous Radicals, then, have not the hardihood to contend that these infamous constitutions were adopted by those States but only in them.

Paragraph the seventh abounds in the same species of sarcasm. The assertion that "corruptions call for radical reform," emanating, as it does, from that incorruptible source, is withering; the play upon the word radical, and its juxtaposition to reform, is quite inimitable.

In the twelfth paragraph, where "the convention declares its sympathy with all oppressed peoples," and in the last, where it recognizes "the great principles laid down in the Declaration of Independence as the foundation of democratic government," the irony becomes so glaring that the wonder is the convention did not organize some of its trained ferrets into a "smelling committee" to spy out whether there might not be a traitor in their camp in the person of the member—whichever he might be—that drafted the platform. Was he not endeavoring to "sell" them? The more especially should they have suspected this as there is another fine piece of pleasantry perpetrated here, and this time upon the word democratic, as before upon the word radical: "The great principles laid down in the Declaration of Independence are the foundation of democratic government." How scathing to them who adopted the platform! for while it

cannot possibly, in consistence with truth, refer to the Radical party, it is, in every respect, applicable to their opponents.

Paragraphs ninth and eleventh are simply a bid for the foreign vote, with a swagger and a shaking of the fist in John Bull's face; for, with all the powers of the Government in their hands; they have done nothing. The eighth is such a wide plank and occupies such a conspicuously central position in the platform as to necessitate the belief that it was constructed by some one whose vindictive wrath had been foiled, or whose chances for political preferment had been hopelessly blasted by the sudden collapse of the impeachment bubble, pricked by seven Republican free-lancers. It sounds like the last growlings of a baffled fiend when he has failed to drag down to perdition an innocent victim, whose high estate he envied, on whose ruin he has built his hopes, and gloatingly set his malignant heart. The concerted growl of their sanction, as it rang around the walls of the menageries when read to them, may be better imagined than described. President Johnson is therein denounced as a villain of the deepest dye. He is called a usurper, a traitor, a wholesaler in corruption, and a dabbler in moral filth generally. Such are some of the vituperative and indecent expressions applied to the great head of the nation, merely because he will not debase himself to their level or be molded to their sinister designs. And these foul-mouthed maligners are the same, or cordially indorsed by the same, who have lately arrogated to themselves, with sanctimonious hypocrisy, to inculcate upon others the use of what they are pleased to style "decorous language." There surely should have been a special paragraph inserted recommending that this exceedingly courteous style of theirs should henceforth be adopted as a model of decorum in all communications between the three great coördinate branches of the Government.

This eighth paragraph also professes that they "profoundly deplore the untimely death of Abraham Lincoln." This they do just about as sincerely as they would "deplore" the sudden demise of Andrew Johnson at this time; the latter having simply endeavored to carry out, in good faith, the pledges to which the whole Radical party, with Abraham Lincoln at their head, had, time after time, committed themselves. For, with the recent history of that party before us, no one can doubt that had Mr. Lincoln persisted in executing the then fully indorsed reconstruction measures of his party, which there is every reason to believe he would have done, the blot of infamy attempted to be affixed to his name would have been of as deep and damning a dye as in the case of his successor.

The tenth paragraph says, "Of all who were faithful in the trials of the late war, there were none entitled to more especial honor than the brave soldiers and seamen." Now, the ironical man, the traitor in the Chicago camp, has been along here, too; the mark of his slimy trail is visible all over this plank; there is one little word among those just quoted which is unmistakably in the interest of their opponents. "There were none," the sentence reads, "entitled to more especial honor than the brave soldiers and seamen." We are justifiable in inferring from this that although there were none there are some entitled to more honor than the soldiers and sailors; but they are not content that we shall merely infer this; for a few days since, in an election held under the very shadow of this Capitol, they gave us a substantial illustration of it by excluding from the count all the soldiers' tickets on which, as they slid them into the ballot-box, they had slyly scratched, with their hyena claws, an "ear-mark" of infamy by which they were identified as soldiers' votes when the counting commenced. These soldiers had been duly registered, and the recognition of this "ear-mark" afterward was sufficient to cause the rejection of every ticket so branded.

The truth is they were thought to be Radicals



when registered, and it was cheerfully done; when they came to vote, however, their politics were suspected and their tickets were marked; and as soon as they were known to have been cast in the opposing interest, and that their exclusion from the count was absolutely necessary to secure the election of the Radical candidates, they were unhesitatingly excluded. The veteran soldiers are thus denied, without the slightest investigation, all share in the government of the nation's capital, which they saved from destruction; while the bloated vagabonds of Africa are allowed to hold the city's destinies in the hollow of their hand, and the burning infamy indorsed by Congress! How appropriate, then, how consistent for once, were these Jacobins in substituting the past tense for the present; for soldiers are verily with them among the things that were. Is it not well known that the President has been foiled times without number by the Senate in his efforts to appoint to office such men as the gallant Slocum, the dashing Blair, and renowned McClellan, who had bravely fought to put down the rebellion; men whose only offense was that after conquering ten States they were not willing to make of them pandemoniums, where dark-skinned fiends and white-faced, white-livered vampires might rule and riot on the little blood they could still suck out by fastening on helpless throats, but were anxious to restore them to their pristine status in the Union, that they might prove a source of happiness to themselves and of glory as well as profit to the nation so nearly crushed by financial burdens, not the least formidable of which have arisen out of the very acts wherewith this party affect to be seeking the restoration of the Union; but which instead is still further embittering and estranging the two discordant sections.

God forbid that the party now in power here, represent fairly a majority of their constituents; for if that constituency indorse (which, however, recent elections forbid our believing) one half the diabolism displayed in their treatment of the South malignant, indeed, must they be. It were enough to harrow up the glistly heart of a fiend. Not content with inflicting on a brave but now prostrate people the retributive tortures of a few months, while the hot blood engendered by the strife was still careering through their veins, they keep up a studied infliction in cold blood for years, although the pecuniary maintenance of this black inquisition threatens to bankrupt the nation. And what manner of people are they torturing on this gigantic rack which they have erected, covering half the land? Vainly will you search the earth for their superiors; may I not say their equals? Brave, generous, kind—the noblest of a noble race. What soldiers in war, what captains to lead them when they deemed their rights imperiled! What a galaxy of statesmen and orators in peace! What happy hours were theirs—happy now no more! How favored their clime, how soft their breezes, fragrant their bowers! How lovely their women, at all times warmhearted and true, gentle in their luxurious hours; yet, amid perils and wrongs, how spirited! But now, no more can

"The light foot rove,  
Safe through the orange grove."

These Jacobins, instead of welcoming back into the temple of the Union such a country and a people endowed with these noble characteristics, the very highest elements of a nation's greatness, which can adorn in times of quiet and prove a mighty bulwark against a foreign foe, they prefer to be guilty of national mayhem. One portion of a great people are deliberately maiming the other into absolute impotence. After desolating the southern States, they have converted them into one vast prison-pen, where bayonets gleam at every turn. They have set over them an abject, half-savage race, which the northern people themselves erewhile thought it no sin to hold as slaves, or sell like brutes, according as the holding or selling thereof was prospectively the

more profitable to their greedy pockets. What more effectual means than these could be concocted by the evil brain of the great adversary himself to crush out all manliness from the rising generation in the South? The best men are daily bullied, and the loveliest women insulted with impunity by this inferior race, who prowl around their homes, pillage their property, shrink from honest labor, and reek with filth as a luxury. Reared amid such revolting scenes, their high-spirited fathers and mothers compelled to submit tamely, what short of a miracle can prevent every particle of manliness from being finally extinguished in the children?

Their education, too, is of dire necessity, sadly subjected. Excelsors are becoming fainter in their souls, and must soon die into an echo. Many who might have been stars of the first magnitude, far up in the national zenith, are fated now to grope along the dim horizon of ignorance. Thousands, before in affluent circumstances, are so constantly engaged in struggling to supply their mere physical necessities, that their is neither time nor money, even if there were opportunity, to advance the mental condition. Still, despite all these efforts, many are suffering for the plainest food. But their physical wants and sufferings, urgent as they are, are as nothing compared with the mental torture, the burning consciousness of degradation. Not long since Rev. Henry Ward Beecher said in a speech that just before the war commenced "the crust between the South and hell was only an inch thick." I am rather inclined to think the reverend gentleman's assertion was, in the main, correct, so far as it went. But he, characteristically, stopped short of the whole truth. The legislation of the Opposition has broken through that crust, and is fast making for the Anglo-Saxon race a hell of that part of our once fair domain.

Trusting, however, in the virtue and intelligence of the people, I believe a few months more will sound the death knell for those who have so misruled us, and that in the coming success of the great Democratic party the true intelligence and virtue of the country will be in the ascendancy, and so save our temple of constitutional liberty. And that pure patriot, Horatio Seymour, will stand at our helm of state and guide us to the haven of rest. He, like Cincinnatus of old, has been sought out and brought forth from his quiet home, and the acclamations which greeted his nomination in New York will be repeated in November next.

#### NATIONAL DEVELOPMENT.

Mr. RAUM. Mr. Chairman, the people of this country have but recently emerged from a long and bloody war in which patriotism triumphed over treason; and the perpetuation of free government became an assured fact in the United States. In the midst of that tremendous struggle, when millions of men rushed to the grim edge of battle ready to die for their country, and where hundreds of thousands fell to rise no more, save in response to the final trump of God, the cry upon every patriot lip, and which was responded to by every patriot heart, was that all the blood and treasure necessary to save this great nation must be freely poured out by the people. This sacred impulse became an enthusiasm, moving the heart of the nation, and lasted to the end, giving us victory at an enormous sacrifice of life, and an unheard-of expenditure of money. But our troops were paid and fed and clothed and cared for in health and in sickness as no other troops were cared for before; the people individually and as a nation accepted as a holy trust the duty of providing for the wants of that mighty host of patriot heroes who marched and fought for liberty and Union, for the support of their widows and orphans, and for the interment in national cemeteries of the sacred remains of those, who, consecrating their lives to their country, died that their country might live, and made death beautiful and glorious by the freedom of the sacrifice, the grandeur of the cause.

The war through which we have passed, in

addition to having filled the land with mourning, has fastened upon the people an enormous debt, a debt incurred to preserve the unity and life of the nation, and which must be paid.

Mr. Chairman, although the sacrifice of human life was great, and the expenditure of the people's money was enormous, I believe that the hand of Providence, for a good purpose, guided us through the thick smoke and hurricane of battle. I believe that the heroic deeds and patient suffering and death of our soldiers, and the lofty self-denial and patriotic grief of our wives and mothers was not in vain. I believe that the defeat of our enemies was designed for their ultimate good! And, above all, I believe that we are to have broader, grander views of the destiny which awaits us as a nation. And that we are now making a new departure in the race of progress for the protection of life and liberty, and for the development of processes and means by which labor is to reap its richest reward. To the American people is confided the greatest and grandest subdivision of the earth upon which to work out the problem of perfect human government. Let us endeavor to be equal to the epoch in which we live, and by wise legislation accelerate the wheels of progress and secure to our whole people prosperity, union, liberty, and justice.

Mr. Chairman, I have stated that the war debt of this country, incurred for the preservation of the Union, must be paid. But how it shall be paid and when it shall be paid are profound questions for American statesmanship, whose successful solution will require the exercise of the most comprehensive wisdom. This debt, Mr. Chairman, is a first mortgage upon the present and prospective wealth and labor of the country, and must be paid and will be paid with the fruits of labor. And, sir, in the development of the productive industry and commerce of our country will be found the true means for the solution of this great problem.

The great triumph of this age is the invention of machines and processes by which labor is not only economized in the production of articles of commerce, but in their distribution throughout the world. And, Mr. Chairman, in my judgment the great strife among the nations during the next half century will be to secure to freight and passengers cheap and rapid means of transportation; for, sir, we have arrived at that point when the value of a day's labor is not to be estimated so much by what it will produce as by the facility with which the article produced can be transported to market. I lay it down as an axiom, that the value of articles of industry is regulated by the facilities with which such articles can be placed upon the market.

And further, that the production of articles of commerce depends upon the same law; such production being stimulated and increased in exact ratio to the increased means of cheap and rapid transportation. Thus, sir, we find that since the application of steam to vessels and railroads a complete revolution has been brought about in the production and commerce of the world. I must confess, sir, that I was greatly startled when I came to examine statistics showing the tremendous increase in the trade of the world during the past thirty-six years. And, sir, it is a curious and interesting fact, that in all the commercial nations whose trade has materially increased, railroads have been extensively constructed; and what is more interesting, the increase of trade has been in exact ratio to the increase of railroads, so that the commerce of a country can now be safely approximated from year to year from figures already known if the increase of railroad construction is given. And, sir, the increase of production and trade in a country is limited only when such country has no fertile region through which to build railroads, or no new market to reach by the same means.

I ask the indulgence of the House for a short time while I present a few figures showing the progress of railroad construction and the in-

crease of commerce in some of the great producing and trading nations of the world; and I will begin with

#### GREAT BRITAIN.

The United Kingdom has about four thousand miles of navigable waters. For a number of years prior to 1833 the exports and imports of that country had averaged about four hundred million dollars; but during the seven succeeding years lines of railroads were constructed, which have been added to from year to year; and the construction of railroads and increase of commerce is shown to be as follows:

Years.	Miles of railroad.	Total exports and imports.
1840.....	1,200	\$581,000,000
1845.....	2,441	659,000,000
1850.....	6,733	840,000,000
1855.....	8,534	1,227,000,000
1860.....	10,433	1,832,000,000
1865.....	13,239	2,393,000,000
1867.....	-	2,500,000,000

Thus it will be seen that the commerce of Great Britain, which had increased but little for many years, received a new impulse from railroad development, and from \$400,000,000 in 1833 reached the enormous sum of \$2,500,000,000 in 1867.

#### FRANCE.

Let us now see what effect the construction of railroads has had upon the commerce of France, whose people are blessed with about seventy-seven hundred miles of navigable waters.

The following figures will show the progress of commercial development in connection with railroad construction in that country:

Years.	No. miles railroad.	Total exports and imports.
1840.....	564	\$403,000,000
1845.....	847	475,000,000
1850.....	1,807	500,000,000
1855.....	3,315	845,000,000
1860.....	5,586	1,134,000,000
1865.....	8,130	1,432,000,000
1867.....	-	1,440,000,000

Here it will be seen that commercial prosperity kept pace with railroad construction; so that from \$403,000,000 in 1840 the exports and imports of France increased to \$1,440,000,000 in 1867.

#### BELGIUM AND NETHERLANDS.

I will now bring to the attention of the House the remarkable effect that the construction of railroads has had upon the trade of the two busy little States of Belgium and Netherlands. While under the Government of the United Netherlands their commerce reached a point of considerable importance; but at the time of their separation in 1830 the total exports and imports of the Netherlands were nearly treble those of Belgium, resulting mainly from the fact of superior means of transportation by canals and by sea; but in 1835 Belgium commenced the construction of a wise system of railroads, so as to give her an outlet into Germany, Austria, and France.

Immediately production and trade received a powerful impulse, and with the progress of her railroad system the commerce of Belgium increased in a ratio unparalleled by that of any other nation on earth; the soil was more skillfully tilled; valuable mines were opened; furnaces and work-shops were erected, and the little State, insignificant in point of territorial extent, outstripping her neighbor, the Netherlands, has taken a first-class position as a producing and commercial people. The following figures may prove interesting as showing the progress of commerce in Belgium in relation to railroad construction and the manner in which she outran the Netherlands in the race of progress:

Years.	Miles of railroad constructed.	Total exports and imports.
1835.....	-	\$53,000,000
1839.....	185	77,000,000
1845.....	335	130,000,000
1853.....	720	232,000,000
1860.....	1,037	352,000,000
1862.....	1,180	380,000,000
1864.....	1,350	475,000,000

I now wish to compare the figures showing the commerce of those two countries, calling

your attention to the fact, Mr. Chairman, that the Netherlands constructed no considerable extent of railroads until as late as 1856. And that she possessed vastly superior advantages over Belgium in the way of water communication, by means of her extensive canals and by the river Rhine, commanding the trade of Germany:

Years.	Total Exports and Imports.
1835 { Belgium.....	\$53,000,000
Netherlands.....	105,000,000
1839 { Belgium.....	77,000,000
Netherlands.....	139,000,000
1862 { Belgium.....	380,000,000
Netherlands.....	288,000,000
1867 { Belgium.....	473,000,000
Netherlands.....	322,000,000

This enormous production and interchange of wealth is the result of the labor of a population of a little more than four million five hundred thousand, on a territory of eleven thousand four hundred and two square miles, Belgium being in fact but little larger than the State of Maryland.

#### INDIA.

Mr. Chairman, I now propose to detain the House for a short time while I examine very briefly the progress of railroad and commercial development in the distant and almost unknown British province of India. That vast, fertile, and populous region has for more than a century been under the domination of Great Britain, and is now controlled by a Governor General, who, in the name of the Queen, under the instructions of a secretary of state for India, makes and administers the laws for one hundred and fifty million people.

The climate and productions of a considerable portion of India are very similar to those of our southern States, and it has long been the earnest wish of British statesmen to stimulate the production of cotton in that distant province so as to compete with our country in the growth of that great staple. As long ago as 1849 the British Parliament incorporated railroad companies for India. For many years, however, very slow progress was made under the lead of private enterprise; in 1856 about two hundred and twenty miles of railroad had been completed, and it is probable that under the same management five hundred miles of railroad would not have been completed at this day. British statesmanship, however, conceived the grand design of securing the construction of five thousand miles of railroad in that vast empire by Government aid. Eight great companies were incorporated, and the Government guaranteed the payment of \$366,000,000 five per cent. bonds to aid in the construction of the roads. The rebellion in this country causing a great dearth in the cotton markets of the world greatly stimulated the construction of these India railroads. Early in 1863 the India cotton regions were penetrated, and the crop of that season was brought to the coast by rail, and to-day a net-work of four thousand nine hundred and forty-four miles of railroads is about completed in that country. Let us see what effect the construction of these railroads has had upon the commerce of India. The following are the figures:

Year.	Imports.	Exports.	Total.
1858.....	\$151,000,000	\$133,000,000	\$289,000,000
1859.....	172,725,000	132,660,000	335,385,000
1860.....	203,110,000	144,445,000	347,555,000
1862.....	186,360,000	185,000,000	371,360,000
1863.....	215,705,000	244,850,000	460,555,000
1864.....	250,540,000	334,475,000	585,015,000
1865.....	247,570,000	347,430,000	595,000,000

The following figures show the value of the exports of raw cotton for a series of years:

Years.	Exports.
1859.....	\$20,000,000
1860.....	27,000,000
1861.....	35,000,000
1862.....	107,000,000
1863.....	168,000,000
1864.....	183,812,000

The enormous expansion of British production and trade at home and in India is really one of the marvels of this great age of progress, and is to be attributed to the wise development of their railroad systems. Let us contemplate for a moment these amazing commercial results. The United Kingdom has a yearly

trade of \$2,500,000,000, India has a yearly trade of \$595,000,000, making a grand total of \$3,095,000,000.

#### UNITED STATES.

Mr. Chairman, I now come to examine this subject with reference to our own country. The people of the whole civilized world recognize the fact that no nation in the "tide of time" has ever made such grand material progress as has the United States of America. The people of this country know that we owe much of our prosperity to the construction of railroads, but many persons, no doubt, have not examined the statistics of commerce and railroad construction, to mark how steadily the trade of this country has kept pace with the increasing facilities for internal communication. Following, I give a table showing the progress of railroad construction and commercial development in the United States:

Years.	Miles of railroad.	Total exports and imports.
1830.....	41	\$160,000,000
1840.....	2,197	239,226,000
1845.....	4,522	232,000,000
1850.....	7,475	380,000,000
1855.....	17,398	536,625,000
1860.....	28,771	762,300,000
1866.....	37,027	1,003,000,000

Here we see the commerce of the United States, which in 1830 amounted to \$160,000,000, reach the enormous sum of \$1,003,000,000 in 1866. And while Great Britain, India, France, Belgium, and the United States had a total commerce in 1840 of \$1,471,000,000, in 1866 their commerce reached the startling sum of \$6,003,000,000.

An examination of prior statistics, shows that this marvelous growth of commerce is far in excess of the increase of population in those countries, and can only be accounted for upon the self-evident proposition that productive industry is developed and stimulated by an increase of cheap and convenient means of transporting the fruits of labor to market.

And now, Mr. Chairman, let us explore this great maze of figures, and ascertain, if possible, the law which has governed the growth of enterprise, industry, and trade in the countries I have named. I affirm that production and commerce in Great Britain, France, India, Belgium, and the United States—the leading commercial nations of the world—has kept pace with the progress of railroad construction. I give the figures of the *pro rata* increase of exports and imports of those countries since 1833, for each mile of railroad constructed, as follows:

Countries.	Yearly exports and imports per mile of railroad.
Great Britain.....	\$110,000
France.....	69,000
India.....	65,000
Belgium.....	83,000
United States.....	25,000

As I have just shown, the total exports and imports of those countries increased from 1840 to 1866, a period of twenty-six years, \$4,532,000,000, while the increase of railroads during the same period was sixty-three thousand and eighteen miles, which gives an average increase of \$71,000 of commerce for every mile of railroad built. And, sir, startling though these figures appear, I challenge an investigation as to their correctness. And I affirm that for every mile of railroad constructed in the United States our exports and imports are increased to the extent of \$25,000; and assuming that \$10,000 of this sum is composed of articles paying a duty of thirty per cent., we find that the annual revenue of the Government is actually increased to the extent of \$3,000 in coin for every mile of railroad constructed. And, sir, the experience of the last thirty-six years demonstrates the fact that this increase of commerce produced by railroad construction is not ephemeral, but enduring, and that it enlarges from year to year with the permanent improvement of the country.

And now, sir, I come to the consideration of House bill No. 847, entitled "A bill to aid in the construction of the International Pacific railroad, from Cairo, Illinois, to the Rio Grande

river; to authorize the consolidation of certain railroad companies, and to provide homesteads for the laborers on said roads," which I had the honor of introducing on the 3d day of March last, and which was printed, referred to and has been considered by the Committee on Roads and Canals.

This bill, Mr. Chairman, contemplates the construction of continuous lines of railroad and telegraph from the Mississippi river, opposite Cairo, Illinois, through the States of Missouri, Arkansas, and Texas, to the Rio Grande river, in the direction of San Blas, Mexico, on the Pacific coast, and to connect with such railroads as may be built in Mexico from the Rio Grande river, either to San Blas or the City of Mexico.

The bill proposes that the United States shall aid certain companies heretofore chartered by the Legislatures of Missouri, Arkansas, and Texas to build said railroad, loaning the bonds of the United States to said companies upon a second mortgage on said railroad—the bonds to be issued as sections of the road are completed, \$10,000 per mile from Cairo to Little Rock, and \$16,000 per mile from Little Rock to the Rio Grande. The bonds to run fifty years and to bear currency interest at the rate of six per cent. per annum, the interest to be paid by the railroad companies. At the end of ten years the railroad companies are to create in the Treasury of the United States a sinking fund of two and one half per cent. per annum of the total debt, so that the debt will be paid by the railroad companies at maturity.

The bill also provides that the lands heretofore granted by the United States to aid in the construction of that portion of the road that lies in Missouri and Arkansas, and known as the Cairo and Fulton railroad, amounting to about two million acres, and the lands granted by general law in Texas, which will amount to about seven million acres, in all about nine million acres of land, shall be sold by the railroad companies at the maximum price of \$2 50 per acre, to such persons who, being laborers on said railroads, may wish to purchase any part of said lands. The bill also provides that in the construction of the road preference shall be given to persons wishing, in whole or in part, to buy land for their labor; and the bill also provides that the Commissioner of Refugees and Freedmen shall supervise the contracts made with freedmen, and aid them in securing homes along the line of said road by the purchase of lands from the railroad companies.

The bill also provides that the railroad companies shall have authority to borrow money upon a first mortgage to an amount equal to the Government loan; also that the United States shall at all times have preference in sending dispatches and transporting troops and munitions of war, and that all the earnings of the railroad companies for transporting the mails, troops, munitions of war, and Government freights and forwarding telegraphic dispatches, shall be retained by and accounted for semi-annually by the Secretary of the Treasury, to be applied exclusively to the payment of interest on the Government bonds issued to the railroad companies, any surplus of semi-annual earnings to be paid to the railroad companies.

The bill also provides that the railroad companies shall have authority to consolidate their corporate powers by virtue of State laws under the corporate name of "The International Pacific Railroad Company." The companies are required to make a full and complete report to the Secretary of the Treasury annually of their condition and business.

These, Mr. Chairman, are the material provisions of the bill, and to their earnest consideration I desire to call the attention of Congress and the country. There are many reasons, sir, why this railroad should meet the hearty approval and aid of Congress. In the first place, the construction of a railroad southwest from the mouth of the Ohio river was seconded by Congress as long ago as 1856 by a grant of

land through Missouri and Arkansas. In 1866, the grant being about to expire by limitation, was renewed and enlarged by act of Congress, upon the recommendation of the honorable gentleman from Indiana, [Mr. JULIAN,] the chairman of the Committee on the Public Lands, and to-day nearly two million acres of land in Missouri and Arkansas are withheld from sale to aid in the construction of the road.

That the construction of this road would permanently secure the reconstruction and development of Arkansas and Texas and place them upon the high road to prosperity, I presume will not be doubted by any gentleman on this floor. Those States are great outlying, undeveloped Territories, with rich soil, admirable climate, and capable of supporting ten million inhabitants. With the exception of her frontage on the Mississippi river, Arkansas has no reliable means of transportation. She had thirty-eight miles of railroad in 1860, and she has the same to-day, with little hope of increasing the amount except through the generous aid of Congress.

The condition of Texas is but little, if any, better. From her coast-line a few short roads point to the interior, but are not being extended for want of funds. There are four hundred and ninety-six miles of railroad in Texas, none of them having connections beyond the State. So utterly insufficient are these railroads for the convenient transportation of freight that a large proportion of the products of the soil are transported in ox wagons from two to five hundred miles to market. The natural result of this condition of affairs is, that in both Arkansas and Texas production is at the very lowest possible stage, and labor is absolutely without hope for remunerative returns.

Another consideration which weighs heavily upon my mind is the great importance of fostering and encouraging the cultivation of sugar and cotton, both necessities which enter largely into the daily consumption of the world.

The production of both of these articles was almost abandoned during the war, and while the growth of cotton has been resumed with partial success the production of sugar is in a very languishing condition. It is a matter of absolute necessity to the whole country to stimulate the production of sugar and cotton in the southern States.

1. That the importation of sugar may be reduced.

2. That the exportation of cotton may be increased. For by these means the balance of trade now largely against this country will be changed in our favor.

3. That the prices of these articles may be reduced to the benefit of our whole population.

4. That the labor of the sugar and cotton growing regions may be prevented from permanently engaging in the production of breadstuffs and provisions, thus securing to the great West and Northwest a home market for all their productions; for be it known, Mr. Chairman, that at no time have we been able to find a foreign market for more than five per cent. of the grain produced in the United States.

And well did the honorable gentleman from Pennsylvania, [Mr. KELLEY,] in discussing the tax bill the other day, raise the note of warning to the West of the danger that the South would soon be able to monopolize the foreign grain trade, to the exclusion of the West; but I call the attention of that gentleman and of the House and the country to the fact that if the South is encouraged to return to the vigorous production of sugar and cotton, the grain growers of the West will find a better market at home than abroad.

And fifthly, Mr. Chairman, I insist that it is necessary to stimulate the production of sugar and cotton in the southern States as a means of securing prosperity, happiness, and peace to the people of those States.

And who among us, I ask, does not desire to see peace and prosperity abound from ocean to ocean and from the lakes to the gulf? It is hardly necessary to state, Mr. Chairman,

that Louisiana, Mississippi, Tennessee, Kentucky, Missouri, Illinois, Indiana, and Ohio are deeply interested in the speedy construction of this great thoroughfare.

Another consideration which should press heavily upon the minds of gentlemen is the fact that the construction of this railroad would greatly cheapen the cost of living through the North and East by causing a reduction in the price of beef. At this time there are five millions of cattle in the State of Texas, the value of which will not average four dollars per head. There is absolutely no market for the millions of fine fat beeves this immense herd contains in consequence of the inadequate means of transportation from that State. There is no reason why the price of beef in our cities and large towns should not be reduced from thirty to fifty per cent. by the introduction of Texas cattle by means of railroad transportation and at the same time increase the value of cattle in Texas from one to two hundred per cent. Texas is now the most extensive and best grazing country in the United States. I am satisfied that she could furnish half a million of beeves annually twenty dollars per head cheaper than similar stock is now sold in our city markets; thus by the construction of the "International Pacific railroad" would the consumers of beef North and East save millions of dollars annually by the reduction of the price of that article, and the value of the stock of Texas would be increased from the nominal sum of \$20,000,000 to an actual value of \$50,000,000.

Another consideration I desire to bring to the attention of the House is the paramount importance of making the most ample provisions for the hundreds of thousands of landless, homeless poor persons, white and black, in the States of Arkansas, Texas, and contiguous States, whereby they may secure homesteads. As previously stated, about two million acres of land in Missouri and Arkansas were granted to aid in the construction of the proposed railroad. These lands are now withheld from market, and constitute some of the best lands in those States. By the laws of Texas about seven million acres of land will inure to the proposed railroad as constructed.

Upon these nine million acres of land one hundred and fifty thousand homesteads or three quarters of a million of inhabitants can be located where they can till their own lands by day and sleep under their own roofs by night in peace and prosperity. By the passage of the bill under consideration the railroad companies are required to sell their lands at the maximum price of \$2 50 per acre to all persons who, in whole or in part, wish to pay for land in labor. Under the provisions of this act thousands of persons would secure valuable homesteads along the line of this great thoroughfare and pay for them in labor, reserving enough from their daily earnings to support themselves and families.

And, sir, by the passage of this act an immense land monopoly will be prevented by requiring the sale of these lands at a fair and fixed valuation; for Mr. Chairman, the legislation of Congress in respect to the public lands of the country should be to prevent as near as may be the aggregation of large bodies of land for speculation in the hands of individuals and corporations, and to secure to actual settlers and cultivators of the soil homesteads free of cost or at a price within the reach of the poor; for sir, there is no curse to any country so great as the ownership of the lands in the hands of the few, and for the husbandman to be a tenant and not the owner of the soil he cultivates. Sir, the landless poor of this country are children of the Republic, and should be encouraged by the most liberal legislation to secure homesteads for themselves and their posterity.

Mr. Chairman, I desire that Congress and the country shall also examine this subject from the stand-point of economy; for I affirm, sir, that as respects the economical administration of public affairs in those States and con-



iguous Territories that the United States can well afford to aid in the construction of this railroad. We all understand that millions of dollars are annually expended for the transportation of troops, military and Indian supplies to our distant ports by the slow and expensive means of mule and ox teams.

Now, sir, at the military depot of San Antonio alone our disbursing officers pay annually more than a million and a quarter of dollars for the transportation of supplies in wagons from Indianola to San Antonio and other points, these same supplies having first been transported from New York by sea or from Cincinnati, Louisville, Jeffersonville, or St. Louis to New Orleans by river, thence across the Gulf. And, sir, the disbursements at San Antonio do not cover more than one-half of the sum expended annually by the United States for wagon transportation to our military posts in that distant region. I think, sir, that it is safe to assume that \$1,000,000 per annum would be saved to the Treasury by the construction of this railroad by cheapening transportation.

Mr. Chairman, this railroad, extending a thousand miles through the fertile lands of Missouri, Arkansas, and Texas, where there are no means of transportation save by wagons on miserable roads, would operate like an enchanter's wand in the development of production and trade along the entire line; a new field would be opened for the energies of our people and a new market for the production of our manufactures. And, sir, this railroad would have the same effect upon our foreign trade that other railroads have had; our exports and imports would be increased \$25,000 per mile for the entire length of road, amounting to \$25,000,000 per annum; and the duties paid into the national Treasury upon dutiable imports would amount to at least \$8,000,000 per annum. These conclusions are inevitable and cannot be escaped; they are deducible from the statistics of the country, running back through the past thirty-five years, and are entitled to the attention of Congress and the country.

#### MEXICO.

Having demonstrated the importance of this railroad to our own people, and the economy of the United States aiding in its construction from Cairo to the Rio Grande, I now come to the discussion of the subject with reference to the influence it will have upon the future of Mexico, and the trade of this country with that republic. The republic of Mexico has a population of eight million. Her capacities for the development of industry and trade are surpassed by few countries; her mineral wealth is absolutely inexhaustible and fabulous. The revolutionary fires which have unfortunately enveloped that country for the past thirty years have about burned out, and it is hoped that the Liberal Government will be able to maintain itself against all its enemies.

Mr. Chairman, I affirm that the people of the United States are interested in the permanent establishment of the Republic of Mexico and in the prosperity of its people. And, sir, I express it as my deliberate opinion that nothing would more conduce to secure these ends than the construction of a system of railroads connecting the two countries. I propose, sir, that the United States shall aid in building a railroad to the Mexican border; and by friendly offices encourage the construction in Mexico of two railroads, the one to the Pacific and the other to the city of Mexico. To say that the construction of such a system of railroads would advance the interests of both countries is stating the matter tamely; for, sir, the imagination can scarcely conceive the wonderful advantages which would inevitably result to both peoples. Mexico would at once awake from her lethargy and enter the lists in the race of progress; her liberal Government would become a fixed fact; new fields would be tilled, new cities built, and the riches of her mines would be laid bare. Industry, production, and trade would increase, and her people would become contented, prosperous, and

happy. We would penetrate the very heart of Mexico by twelve hundred miles of railroad, and thus secure a monopoly of her trade by lines inaccessible to foreign countries.

Her people would want our agricultural and mechanical implements and manufactured goods, and would pay for them mainly in the precious metals. A new and profitable field for commerce would be opened to our people. The products of the mines of Mexico, amounting now to some fifteen million dollars annually, would at once be diverted to this country, and the amount augmented to \$50,000,000 within a few years. And, Mr. Chairman, reaching the Pacific coast by this shortest and best of all routes, may we not look down upon the west coast of South America and out upon the islands of the sea and hope for a rapid extension of trade; and may we not look out and beyond those islands to that distant Asiatic clime known as the "East," whose trade for three thousand years has been the prize of commerce, and which in turn enriched Tyre, Jerusalem, Palmyra, Alexandria, and Constantinople, and which by the genius of Vasco de Gama was brought around the Cape of Good Hope to fill the coffers of Lisbon, London, and the whole of Europe; and extending our commerce over shorter lines divert into new channels across this continent a trade which has enriched every country controlling it, and which is now separated by the diameter of the earth from the point of distribution, and which is a rich prize now within our grasp, and may, by enterprise and energy, be secured to this country as an eternal heritage by the building of this proposed railroad and others in process of construction.

Mr. Chairman, it is my opinion that the United States is about to make a new departure upon the road to prosperity; and as the Republican party is likely to remain in power for a series of years, and will be responsible for the legislation of the country, I take this occasion to say that it is not enough that we shall be the champions of liberty and union; we must also be the champions of such legislation as will develop industry, production, and trade, so as to bring about that degree of universal prosperity which will make liberty enjoyable and Union a thing to be loved by all. Therefore I say, sir, that we should, without unnecessary delay, devise a just and wise system of improvements, in whole or in part at public expense, to stimulate production, and to cheapen and facilitate the transportation of the products of labor, thus securing to the producer the greatest possible sum for the fruits of his toil, and thereby largely increasing the capability of the country to sustain the heavy burden of taxation pressing upon it. And it is in view of the conclusions just given, and the considerations heretofore mentioned, that I earnestly impress upon Congress and the country the vast importance of the speedy construction of the International Pacific railroad.

For the construction of four thousand nine hundred and forty-four miles of railroad in India the British Parliament guaranteed \$366,000,000, and has actually paid \$65,000,000 interest thereon. To aid in the construction of the International Pacific railroad, one thousand miles long, about fourteen million dollars in bonds will be required. Thus we can secure a railroad one fifth in length of the India railroads at one thirtieth the cost. During the construction of the road the railroad companies are required to pay the interest on the bonds. When the road is completed the payments by the United States for the transportation of mails, troops, and supplies, will far exceed the interest on the bonds, and thus obviate the necessity of appropriations from the Treasury for that purpose. The sinking fund provided by the bill will be ample for the payment of the principal; and thus, without cost to the national Treasury, a work enduring as time, the importance of which the most sanguine imagination can now scarcely foreshadow, will be secured to this and future generations in perpetuity.

Mr. Chairman, progress is the watchword of

this Republic; progress in civil government; progress in the recognition and protection of the rights of men; progress in education, morality, and religion; progress in the arts and sciences; progress in industry, production, and trade; progress in multiplying facilities and overcoming obstructions to commerce; progress in spreading the self-evident truths of free government, not by bloodshed and war, but by the humane process of peace. And, oh! what a field is here spread out for human thought and human action, stretching from ocean to ocean, a distance of three thousand miles, and extending over seventy-five degrees of latitude: with a climate varying from perpetual spring to perpetual winter; with productions to suit all climes; penetrated by immense rivers, worthy the name of inland seas; bordered by navigable lakes, and indented with bays and gulfs unequalled in size and beauty; traversed by giant mountains filled with precious ores; diversified with hill, valley, and plain; timber land and prairie; with soil of unsurpassed fertility; with mountains of iron and measures of coal four times greater in extent than those of all the world beside is the land committed for development to American freedom, American genius, and American statesmanship. Here the fierce battle of liberty was fought and won, and here every man is free. Hence has gone forth the grand political and religious truths which are now revolutionizing and christianizing the world. Here the downtrodden and oppressed, of every nation, tongue, and clime, save one, have found refuge and repose. And even they, sons of Africa, although held in chains and slavery, have here, here in America, learned to forget their instincts and practices of barbarism. And, sir, may it not be the Divine purpose out of the crime of slavery to bring a great good; may it not be, when these children of misfortune shall have learned the principles of liberty and justice, that, turning their eyes to the home of their ancestors, inspiration may lead them to seek it as their inheritance, where christianizing and civilizing their kindred they may grow up to be a great and a free people. And, sir, hither have come children of the celestial empire, with their quaint costumes and quaint religious rites. Bringing their habits of industry, sobriety, and economy, they have found homes, protection, and employment.

And, sir, catching the inspiration of free government and guided by the genius of American statesmanship the rulers of the Empire of the Sun have sent hither an embassy, distinguished mainly by being led by one of the sons of our Republic. They come to announce the readiness of that singular people to open wide their gates and to throw down the "Chinese wall" which for three thousand years has made them a separate people. They offer us their trade, which within eight years has grown under American influences from \$80,000,000, to \$800,000,000, and which is capable of indefinite extension. Shall we not reach forth and grasp it? Yes; with our iron arms, spanning a continent will we bring it to our embrace.

And, then, sir, Asia, the birth-place of mankind, awakened from her dark slumbers by America, will receive our merchants, artisans, school-men, and missionaries, and through American influence and American civilization will march forth with newness of life to receive the Divine truths of the Gospel for her five hundred million souls.

And now sir, thanking the House for the courtesy of its attention, I close by repeating a sentiment already uttered, that to the American people is confided the greatest and grandest subdivision of the earth, upon which to work out the problem of perfect human Government. Let us endeavor to be equal to the epoch in which we live, and by wise legislation accelerate the wheels of progress and secure to our whole people prosperity, union, liberty, and justice.

Mr. JONES, of Kentucky, obtained the floor, but yielded to

Mr. HIGBY, who moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. HIGBY having taken the chair as Speaker *pro tempore*, Mr. CULLOM reported that the Committee of the Whole on the state of the Union having had under consideration the Union generally, had come to no resolution thereon.

And then, on motion of Mr. GETZ, (at nine o'clock and forty minutes p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BUCKLAND: The petition of William Robertson and others, owners of steamers and vessels engaged in the coasting and other trade on the southern shore of Lake Erie, for the passage of the bills introduced into the Senate of the United States by Mr. CHANDLER regulating such trade.

By Mr. LOAN: The petition of A. L. H. Crenshaw, of Jackson county, Missouri, for relief.

By Mr. MILLER: The petition of sundry Army officers, praying an allowance of forage for an additional number of horses, and also the continuance of the compensation of ten dollars per month to every company commander for responsibility of clothing, arms, company property, &c.

By Mr. PETERS: The petition of John G. Chandler and others, Army officers, for an increase of compensation.

By Mr. POLAND: The petition of Colonel J. G. Chandler and others, officers in the United States Army, praying for an increase of compensation.

By Mr. RANDALL: The petition of sundry officers asking the passage of the bill known as "the Schenck bill," to equalize the pay of the officers and enlisted men of the Army.

By Mr. SCHENCK: The petition of officers of the Army asking for the passage of General Schenck's bill, to fix and equalize the pay of officers and to establish the pay of enlisted soldiers of the Army.

By Mr. WASHBURN, of Massachusetts: The remonstrance of C. H. Jones, and 7 other legal voters of Athol, Massachusetts, against the increase of the tariff on steel.

By Mr. WELKER: A memorial of Colonel J. G. Chandler and 10 others, officers of the Army, asking the passage of General Schenck's bill fixing the pay of officers and soldiers in the Army.

#### IN SENATE.

TUESDAY, July 14, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. FERRY, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### SENATOR FROM MARYLAND.

Mr. VICKERS presented the credentials of Hon. William Pinkney Whyte, appointed by the Governor of the State of Maryland a Senator from that State to fill the unexpired term of Hon. Reverdy Johnson, resigned.

The credentials were read; and the oaths prescribed by law having been administered to Mr. WHYTE, he took his seat in the Senate.

#### HOUSE BILLS REFERRED.

The joint resolution (H. R. No. 332) authorizing the appointment of examiners to examine and report upon the expediency of discontinuing the navy-yard at Charlestown, Massachusetts, and uniting the same with the yard at Kittery, Maine, was read twice by its title, and referred to the Committee on Naval Affairs.

The joint resolution (H. R. No. 338) exonerating certain vessels of the United States from the payment of tonnage fees to consular agents in Canada was read twice by its title, and referred to the Committee on Commerce.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, communicating information relative to the third article of the treaty of April 28, 1866, with the Choctaw and Chickasaw Indians, and an estimate for \$15,000 with which to meet the requirements of that article; which was referred to the Committee on Indian Affairs.

Mr. CONNESS presented a petition of citizens of Los Angeles, California, praying Congress to establish a district court of the United States for the southern district of California to be located at Los Angeles; which was referred to the Committee on the Judiciary.

Mr. CONKLING presented a petition of officers of the United States Army, praying an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. FRELINGHUYSEN presented a petition of officers of the United States Army, praying an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. TRUMBULL presented a petition of officers of the United States Army, praying an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILSON presented a petition of officers of the United States Army, praying an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORGAN presented a petition of citizens of New York, praying an extension of the time of the so-called fifty per cent. clause of the bankrupt act; which was referred to the Committee on the Judiciary.

Mr. FESSENDEN presented a petition of officers of the United States Army, praying an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. HOWE presented the petition of Levi Herzog, praying compensation for goods furnished the first regiment Maryland volunteer cavalry in 1861; which was referred to the Committee on Claims.

He also presented the petition of George Fuerst, praying to be allowed transportation to Port Vancouver, Washington Territory; which was referred to the Committee on Military Affairs and the Militia.

#### ORDER OF BUSINESS.

Mr. DRAKE. I ask the unanimous consent of the Senate to resume at this time the consideration of the bill which was cut off yesterday morning by the expiration of the morning hour. It will take but a little time, and it is a bill of public importance, which has already passed the House of Representatives, and been reported with amendments from the Committee on Naval Affairs. It is a bill (H. R. No. 941) to amend certain acts in relation to the Navy and Marine corps.

Mr. CATTELL. I am very sorry to interfere with the purpose of the Senator from Missouri, but a bill of, I think, very great public import, Senate bill No. 543, has been up under discussion more than once in the morning hour and been cut off, and I am extremely anxious that it should be disposed of now. I am quite unwell, scarcely able to be in the Senate this morning, and came here hoping that that bill would be disposed of. I think it will not give rise to much discussion.

Mr. DRAKE. I beg the gentleman not to object to taking up the bill I indicated.

The PRESIDENT *pro tempore*. Reports of committees are in order.

#### REPORTS OF COMMITTEES.

Mr. POMEROY. I am directed by the Committee on Public Lands, to whom was referred the resolution relative to printing extra copies of the Land Office report, to report it back. It has been before the Committee on Printing and was referred again to the Committee on Public Lands, and they recommend the amendment of the Committee on Printing, with a

slight amendment. I suppose under the rules, strictly, it should go to the Committee on Printing again, but I conclude that the Committee on Printing will concur in this recommendation.

Mr. ANTHONY. It is not necessary to send it to the Committee on Printing again, but I should like to know what the amendment is.

Mr. POMEROY. The amendment is to allow one thousand copies in French. We concurred in the recommendation of the Committee on Printing with the exception of allowing one thousand copies in French, which the Committee on Printing did not agree to.

Mr. ANTHONY. Do you propose to print the maps?

Mr. POMEROY. We have not recommended that.

Mr. EDMUNDS. Let it go over until to-morrow and be printed.

The PRESIDENT *pro tempore*. Objection being made, it goes over under the rule.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

The message further announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 344) to incorporate the Washington Target-Shooting Company.

The message also announced that the House had passed a joint resolution (H. R. No. 339) authorizing the remission of the duties on a chime of bells imported for presentation to the Episcopal church at Hoosic, Rensselaer county, New York.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (S. No. 564) concerning the tax commissioners of the State of Arkansas; and it was signed by the President *pro tempore*.

#### SAMUEL PIERCE.

On motion of Mr. FERRY, the bill (H. R. No. 783) for the relief of Samuel Pierce, which had been reported on adversely, was postponed indefinitely.

#### DEFICIENCY APPROPRIATION BILL.

Mr. FERRY submitted an amendment intended to be proposed to the bill (H. R. No. 1341) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes; which was referred to the Committee on Appropriations.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 339) authorizing the remission of the duties on a chime of bells imported for presentation to the Episcopal church at Hoosic, Rensselaer county, New York, was read twice by its title, and referred to the Committee on Finance.

#### NORTHERN MICHIGAN RAILROAD.

Mr. HOWARD. I desire to appeal to the Senate to take up Senate bill No. 276. I only want to have it taken up and read, and it may be laid aside then if any gentleman has anything more pressing.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan, to take up the bill (S. No. 276) to grant lands to the Northern Michigan Railroad Company in extension of the Northern Pacific railroad.

Mr. EDMUNDS. Is it just reported?

Mr. HOWARD. No; it has been reported for months.

Mr. TRUMBULL. Before that is taken up

I wish to make a statement to the Senate in regard to a bill that is pending between the two Houses on an amendment. It is the bill (S. No. 352) to authorize the temporary supply of vacancies in the Executive Departments. It belongs to that class of bills which ought to be passed early that it may go to the Executive. It is pending now on an amendment of the House of Representatives, and in the Judiciary Committee we have agreed to the House amendment with a slight amendment which we have recommended. I do not think it will take three minutes to dispose of it. I was very anxious yesterday to dispose of it, but the Senator from Vermont [Mr. EDMUNDS] wanted to look at it.

Mr. HOWARD. Let us take a vote on this bill first.

Mr. TRUMBULL. If you will lay it aside for a moment after it is taken up in order to have this amendment disposed of I will not object.

Mr. HOWARD. Very well.

Mr. CATTELL. I must object to taking up the bill of the Senator from Michigan if it is to supplant the bill which I have moved that the Senate proceed to the consideration of. It is a bill that ought to be disposed of. I have been instructed by the Committee on Finance to insist upon the consideration of the bill. I am sorry ever to interfere with a Senator, but I am constrained, as a matter of duty, to do it on the present occasion.

Mr. HOWARD. I have this to say in reply: if I can get this bill up and read that will satisfy me for the present, and I will throw no more embarrassment in the way of other gentlemen; but I want to put this bill in a way so that at the proper time I can have it passed.

Mr. CATTELL. Will the Senator from Michigan give way to this bill afterward?

Mr. HOWARD. After the bill is read I will yield.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan.

The motion was not agreed to.

#### VACANCIES IN EXECUTIVE DEPARTMENTS.

Mr. TRUMBULL. Now I move that the Senate proceed to the consideration of the amendment to the bill which I have indicated, which I am sure will take but a moment or two. I assure the Senator from New Jersey that it will take no time scarcely, and it is important that it should go back to the House.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 352) to authorize the temporary supply of vacancies in the Executive Departments. The amendment of the House was to strike out all of the original bill after the enacting clause and to insert in lieu thereof the following:

\*That in case of the death, resignation, absence, or sickness of the head of any executive Department of the Government, the first or sole assistant thereof shall, unless otherwise directed by the President of the United States, as is hereinafter provided, perform the duties of such head until a successor be appointed, or such absence or sickness shall cease.

SEC. 2. And be it further enacted, That in case of the death, resignation, absence, or sickness of the chief of any bureau, or of any officer thereof whose appointment is not in the head of any executive Department, the deputy of such chief or such officer, or if there be no deputy then the chief clerk of such bureau, shall, unless otherwise directed by the President of the United States, as is hereinafter provided, perform the duties of such chief or of such officer until a successor be appointed or such absence or sickness shall cease.

SEC. 3. And be it further enacted, That in any of the cases hereinbefore mentioned it shall be lawful for the President of the United States, in his discretion, to authorize and direct the head of any other executive Department or other officer in either of those Departments whose appointment is, by and with the advice and consent of the Senate, vested in the President, to perform the duties of the office vacant as aforesaid until a successor be appointed, or the sickness or absence of the incumbent shall cease: *Provided*, That nothing in this act shall authorize the supplying as aforesaid a vacancy for a longer period than ten days when such vacancy shall be occasioned by death or resignation, and the officer so performing the duties of the office temporarily vacant shall not be entitled to extra compensation therefor.

SEC. 4. And be it further enacted, That all acts here-

tofore passed on the subject of temporarily supplying vacancies in the Executive Departments, or which empower the President to authorize any person or persons to perform the duties of the head of any executive Department, or of any officer in either of the Departments, in case of a vacancy therein or inability of such head of a Department or officer to discharge the duties of his office, and all laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

The Committee on the Judiciary reported an amendment to the House amendment, to insert at the end of the third section the following:

And provided also, That in case of the death, resignation, absence, or sickness of the Commissioner of Patents, the duties of said Commissioner, until a successor shall be appointed or such absence or sickness shall cease, shall devolve upon one of the examiners in chief in said office, to be designated by the President.

Mr. TRUMBULL. There is another slight amendment before that, to insert the words "except the Commissioner of Patents" after the word "thereof," in line three of section two.

Mr. CONKLING. That is really part of the same amendment.

Mr. TRUMBULL. Yes, sir.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on concurring in the amendment of the House as amended.

Mr. WILLIAMS. We ought to know what that is.

Mr. TRUMBULL. It is printed and on your table.

Mr. EDMUNDS. If there is no special objection, before this bill passes I should like to offer an amendment.

Mr. TRUMBULL. I do not think there is any objection to the amendment the Senator from Vermont wishes to offer. I think it means that now.

Mr. EDMUNDS. So do I; but we have had so much discussion about these loose and latitudinarian powers that I wish to offer an amendment to come in at the end of the second section, and which will read as follows:

And no appointment, designation, or assignment otherwise than as herein provided in the cases mentioned in the first and second sections of this act shall be made, except to fill a vacancy happening during the recess of the Senate.

The amendment was agreed to.

The amendment of the House of Representatives, as amended, was concurred in.

#### WASHINGTON TARGET-SHOOTING ASSOCIATION.

Mr. HARLAN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 344) to incorporate the "Washington Target-Shooting Association" in the District of Columbia, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from its disagreement to the amendment of the Senate to the said bill, and agree to the same with an amendment, as follows:

Strike out of said amendment, after the word "provided," in the first line, the following words: "The amount of real property or estate to be held by the said association shall not exceed in value the sum of \$50,000; and provided further that,"

JAMES HARLAN,  
GEORGE VICKERS,  
ROSCOE CONKLING,

Managers on the part of the Senate.

JOHN D. BALDWIN,  
M. WELKER,  
A. J. GLOSSBRENNER,

Managers on the part of the House.

The report was concurred in.

#### TEMPORARY LOAN CERTIFICATES.

Mr. CATTELL. I now move to proceed to the consideration of the bill (S. No. 543) to provide for a further issue of temporary loan certificates, for the purpose of redeeming and retiring the remainder of the outstanding compound-interest notes.

Mr. POMEROY. I do not like to oppose these bills from the Committee on Finance, but they have every day after one o'clock, and they will have during the whole session; but for them to occupy the morning hour, and then every day from one o'clock out, seems to me to be a little too much.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the

consideration of the bill (S. No. 543) to provide for a further issue of temporary loan certificates, for the purpose of redeeming and retiring the remainder of the outstanding compound-interest notes, the pending question being on the amendment of Mr. TRUMBULL, to strike out all of the bill after the enacting clause and in lieu thereof to insert:

That for the purpose of redeeming and retiring the remainder of the compound-interest notes, saving the unnecessary payment of interest, and reducing the public debt, the Secretary of the Treasury is hereby authorized and directed to make sale of \$10,000,000 of the surplus coin in the Treasury of the United States, on the first Monday of the month of August next, and on the first Monday of every month thereafter, till the amount of coin in the Treasury, exclusive of that for which gold certificates of deposit shall have been given, shall be reduced to the sum of \$40,000,000, the sale to be made in manner following: The Secretary shall give five days' public notice in one daily newspaper published in each of the cities of Washington and New York, that sealed proposals for \$10,000,000 of gold coin will be received at the office of the Assistant Treasurer in the city of New York till three o'clock p. m. of the day appointed for the sale. Such proposals shall be addressed to the Assistant Treasurer at New York, and shall be opened by him in the presence of such persons as may choose to attend at the time designated in the notice. No proposals shall be received unless accompanied by a certificate of deposit in the Treasury of the United States of five per cent. in currency of the amount of coin bid for in such proposal, which shall be received in part pay for the coin bid for, in case the bid is accepted, and if not accepted, shall be returned to the party who made the bid. Payments may be received for coin in currency or compound-interest notes with the interest accrued thereon. When compound-interest notes are received they shall be canceled by the Secretary of the Treasury, and with the currency received he shall purchase and cancel any interest-bearing indebtedness of the United States, paying therefor not exceeding its current market value at the time. None but the highest bid shall be accepted for gold; and in case of different bids at the same rate, said bids shall be accepted only *pro rata*; and the Assistant Treasurer, with the approval of the Secretary of the Treasury, shall have the right to reject all or any bids if deemed by him less than the fair value of gold at the time.

Mr. TRUMBULL. When the morning hour expired some days ago, I was addressing the Senate upon the subject of that amendment. I shall not repeat this morning what I said on that occasion, and will say nothing more, as I wish to take up no time unnecessarily; but I simply beg to call the attention of the Senate to what it is, as there are some Senators now present who were not here on that occasion, and it may have passed out of the minds of others.

The object of my amendment is to dispose of the gold in the Treasury. I presented tables when up before showing that the average amount of gold per month in the Treasury during the last year exceeded eighty-three million dollars, beside about twenty million dollars for which certificates of deposit had been issued. I also showed that the amount of currency in the Treasury during the same period averaged something over thirty-four million dollars, and that the two together, the gold being turned into currency at its market price, would make a sum of more than one hundred and fifty million dollars which lay in the Treasury idle during the whole of the last year. The tables which I have also show that the amount which lay idle in the Treasury during the previous year was about the same; so that during the last two years there has been in the Treasury of the United States at all times from eighty to one hundred millions of coin lying idle, and from thirty to forty millions of currency, which I undertook to show was very bad economy; and I have proposed an amendment to this bill the object of which is to dispose of this gold. The amendment is in print and on the tables of Senators. It provides for disposing of this gold in the city of New York at the rate of \$10,000,000 per month until the amount is reduced to \$40,000,000, not to be reduced below that, and the gold to be sold on proposals, and to be awarded to those who give the highest price for it, after giving five days' notice in the papers of New York and Washington city, so as to have the benefit of this gold. If the gold which has been in the Treasury for the last two years had been sold and used by the Government, it would have saved the Govern-



ment more than \$10,000,000. It seems to me there is no object in keeping the money there; at least, I know of none. No financial policy has been adopted which requires this money to be kept in the Treasury.

Mr. CATTELL. Mr. President, I listened with attention to the remarks of the Senator from Illinois when he addressed the Senate last week in opposition to the bill under consideration, and am surprised at his hostility to a measure so obviously advantageous to the Government.

The provisions of the bill are so simple, its purpose so obvious, and the advantage to the Government so apparent, that I am at a loss to account for the opposition of the Senator from Illinois. The entire question, and the only one involved, is whether the Government, owing as it does something over two thousand million dollars, for nearly all of which it is paying six per cent. interest in gold, shall accept a loan of \$25,000,000 at three per cent. currency, thus reducing the interest on that amount more than one half.

Now, Mr. President, if there is one subject which more than any other is engaging the attention of the American people, and challenging the consideration of both statesmen and politicians, it is how the Government can, while maintaining its faith with the public creditor, reduce the interest on the public debt, and thereby lighten the burdens of taxation. This has been a fruitful theme for discussion in Congress and out of Congress, and it has been declared to be the duty of Congress to work in this direction by the great political party with which the Senator and myself affiliate.

I commend the fifth article of the Chicago platform to the consideration of the Senator from Illinois. It reads:

5. The national debt, contracted as it has been for the preservation of the Union for all time to come, should be extended over a fair period for redemption, and it is the duty of Congress to reduce the rate of interest thereon whenever it can possibly be done.

And I desire to say in this connection that while I hold it to be the first duty of the Government to maintain at all hazards the faith of the nation and meet all its obligations to the public creditor, not only according to the letter, but the spirit of the laws under which they were contracted, I also hold that it is the bounden duty of Congress to avail itself of all honorable means to reduce the rate of interest by negotiating, if possible, a loan at a lower rate, as is proposed in the funding bill of my friend from Ohio, by exchanging the five-twenty bonds, with the consent of the holder, for a longer bond with more distinct and definite terms as the equivalent for a lower rate of interest, or by any other method consistent with the perfect maintenance of the public faith and honor.

And yet when the Finance Committee brings to the Senate a feasible proposition to convert a debt upon which we are paying six per cent. compound interest into a three per cent. currency loan, the astute Senator from Illinois objects, and expresses his surprise that so important a bill should be called up in the morning hour. Is the Senator from Illinois opposed to the Government taking money at three per cent. if it can get it, and reducing to that extent the loans upon which we are paying six per cent. in gold?

Now, the question of how much or how little balance shall be held in the Treasury, so largely discussed by the Senator, has no bearing upon this bill. That is entirely a different question, one which I am aware is a source of great distress to the honorable Senator, and I sincerely wish he could obtain relief in some form. But the Senator will find that there are differences of opinion on this question which seems so clear to him, even in this Chamber, and it ought not to be mixed up with a proposition such as that now before the Senate.

But suppose, for the sake of the argument, that we are holding more coin in the Treasury than is wise, that the surplus ought to be sold

and the proceeds applied to the payment of the public debt, surely it would be the part of wisdom to apply this surplus to the reduction of the debt upon which we are paying six per cent. gold interest. This proposition is so simple it does not admit of argument. Why, sir, we are issuing bonds almost daily in exchange for the seven-thirties, with interest at six per cent. in gold. Why not use the surplus, if we have any, to take up some of these notes at the market rate, and accept a three per cent. currency loan to retire the compound-interest notes. The interest on \$25,000,000 at six per cent. gold, estimating the premium at forty per cent., the present rate, would be \$2,100,000 in currency, while the interest on \$25,000,000 at three per cent. currency would be but \$750,000, thus making an annual saving of \$1,350,000. We have already, in the form of these temporary loan certificates, placed \$50,000,000, and when these \$25,000,000 are added the annual saving of interest on the \$75,000,000, as compared with our six per cent. gold loans, will be \$4,050,000. Has the Senator from Illinois any objection to this saving of over four million dollars annually, or does the arithmetic he uses give a different result?

I submit, therefore, Mr. President, that even if we have a surplus in the Treasury it does not make against the proposition to accept a loan at three per cent., which may be applied to the payment of bonds upon which we are paying more than twice as high a rate of interest.

But have we this large surplus of coin of which the Senator speaks now in the Treasury? If the Senate will give me their attention I think I shall be able to show that the Senator has not been as careful as he should be when he deals with figures as connected with the national finances; and I cannot consent that his statement shall go to the country without correction. The Senator proceeds upon the assumption that we have something over eighty millions of gold in the Treasury belonging to the United States. Now, what are the facts in the case? I read from a statement prepared for me by the Secretary of the Treasury himself on Friday last, which is as follows:

Amount of gold in the Treasury July 1, 1868.	\$99,914,105
From which deduct—	
Interest payable July 1, 1868.	31,000,000
Bonds of 1848 maturing July 1, 1868.	6,893,441
Gold certificates.	17,678,640

	\$55,572,081
Leaving a balance July 1.	\$44,342,024

Now, if you deduct also from this amount the \$7,000,000 for Alaska it would reduce the amount of coin in the Treasury to about thirty-seven millions, a sum below that to which the Senator from Illinois proposes by his amendment to reduce it. Under this statement will not the Senator from Illinois admit that his amendment would prove a poor dependence for providing \$30,000,000 to meet a maturing obligation of the Government.

Beside the currency in the Treasury on the 1st July was but \$27,377,751, quite low enough when we consider the magnitude of the Treasury operations, and the fact that we owe \$10,000,000 payable on demand and liable to be called for any day.

Moreover, we have at this session of Congress made very important reductions of internal revenue taxes. We have taken off the tax on cotton, and also on all manufactures, making an estimated reduction of some fifty or sixty million dollars; and although we expect some increase from other sources the amount to be received from internal revenue in the next fiscal year is somewhat problematical, and we ought not, therefore, run the Treasury too close.

I do not, however, sympathize with the views entertained by many that we shall have a deficit at the end of the next fiscal year. The development of our great country is so rapid and its resources so immense, the enterprise and energy of our people so wonderful, that our receipts are almost uniformly in excess of

our estimates, both for import duties and internal tax. This has been largely the case since the close of the war, so much so that estimates made to about cover current expenses and interest on the public debt have so far exceeded as to furnish a surplus of some three hundred millions to be applied to the reduction of the public debt. But it would be unsafe and unwise in the face of the reductions we have made on the tax list to depend upon our receipts to pay the \$30,000,000 of compound-interest notes which fall due between this and 15th October, and of course must be paid.

I submit, then, Mr. President, that the proposed loan is the simplest, easiest, and cheapest form of providing for these maturing obligations, and trust that the Senate will disagree to the amendment offered by the Senator from Illinois as impracticable and pass the bill as it came from the committee. As I stated on a previous occasion, the Committee on Finance are unanimously in favor of the bill, and it is warmly approved by the Secretary of the Treasury and the Comptroller of the Currency.

Mr. TRUMBULL. Mr. President, I cannot permit the manifest fallacy of the statement of the Senator from New Jersey to go unchallenged. It is a most remarkable way of stating a balance in the Treasury to compute all the payments that will have to be made out of the Treasury and say nothing about the receipts. The Senator from New Jersey tells us that we are liable to pay \$7,000,000 for Alaska; that there is a maturing indebtedness of the United States which we may be called upon to pay.

Mr. CATTELL. It is paid.

Mr. TRUMBULL. That we have to pay interest on the debt. Surely we do. We would not want this gold if there were none of these obligations. But did the Senator tell us how much gold we were receiving? He told us he was afraid, in consequence of the reduction of the internal revenue taxes, that our receipts would be less. What has that to do with the receipts from customs? Did the Senator from New Jersey tell us that the duties had been reduced? He did not say a word about that. I stated the other day, and the official report of the Secretary of the Treasury will show the facts which I state, that the receipts from customs for the year ending June 30, 1867, were upward of \$176,000,000 in gold. What does the Senator from New Jersey propose to do with that? I stated that during the last year, for which we had full reports, as shown by the report of the Secretary of the Treasury in his last annual report, there were received in gold from customs for the year ending June 30, 1867; the report for the year ending June 30, 1868, in full I have not seen; but that is the report made to us at the commencement of the present session of Congress—\$176,417,810 88. What does the Senator from New Jersey propose to do with that?

Mr. CATTELL. I answer the gentleman just here. The constant practice of the Secretary of the Treasury is to sell the gold down to a point which he thinks is safe and convert it into currency and use it for current expenses. Further, while I am on my feet, let me say to the Senator that the receipts of gold from duties were only about one half for the month of June, 1868, what they were for June, 1867. The receipts have fallen off and have been falling off, and the probabilities are that they will continue to do so. The Secretary of the Treasury told me that you could not compute at the extreme the income now at more than from ten to twelve millions per month.

Mr. TRUMBULL. I have a little information on that subject. I stated what the receipts from customs were for the fiscal year ending June 30, 1867. The Secretary in his report gave us one quarter's receipts during the last fiscal year. The receipts from customs for the quarter ending September 30, 1867, were \$48,081,907 61; so that the receipts were much larger that quarter of the fiscal year ending June 30, 1868, than they were the year before.

Mr. CONKLING. That would be \$192,000,000 a year.

Mr. TRUMBULL. Yes; that would be \$192,000,000 for the year if it kept on at that rate. But the Senator from New Jersey says the receipts were very small for last June. Possibly they may have been. I have not those figures before me, but it appears from the last official report to which I had access that we were receiving duties at the rate of \$192,000,000 a year in gold during the last fiscal year that ended only a few days since. Certainly during the first quarter of that year we received more than forty-eight millions. The Senator, when I ask him what is to be done with this money, says the Secretary is to sell it. Well, I want him to sell it down to \$40,000,000. My amendment would do no harm, let me say to the Senator from New Jersey, if there is no gold more than is required.

Mr. CATTELL. You do not provide for the payment of the \$30,000,000 of compound notes.

Mr. TRUMBULL. I think you will find enough to sell. The Senator from New Jersey did not tell us what the receipts for July were. We had eighty-three millions of gold on the 1st day of July belonging to the Government. If any of it has gone out since, it has been paid since this report, which was made by the Secretary of the Treasury at my instance within a few days.

Mr. CATTELL. That was made up to June 1, I think.

Mr. TRUMBULL. No, sir; made up to July 1, and if any money has been paid, if any thirty millions have been paid for interest, it is since the 1st of July.

Mr. CATTELL. It was not due till the 1st of July.

Mr. TRUMBULL. We all know it has been very much the custom to anticipate the interest and to pay it out before the 1st day of July. I do not know whether any of the interest was paid in this particular instance before the 1st day of July; but on the 1st day of July, according to this official report, there were \$82,285,465 95 of gold coin in the Treasury belonging to the Government, and \$17,000,000 more for which certificates of deposit had been issued. In round numbers, there were \$100,000,000 of gold in the Treasury on the 1st day of July last.

What do you want to keep \$40,000,000 of gold in the Treasury at all for, except to guard against a contingency? As I said the other day, my own judgment was that it was wholly unnecessary to keep such a large sum as that. I think \$25,000,000 would be ample, but out of deference to the opinions of others who have insisted upon keeping this amount in the Treasury for the last year, I have put it at \$40,000,000. How does the Senator from New Jersey meet it? The official report of the Secretary of the Treasury says that there have been in the Treasury during the last two years more than eighty millions all the time, notwithstanding the interest we have to pay. Now, I propose that we shall sell this gold monthly in the manner proposed, until we reduce it down to \$40,000,000. That is my proposition, and I do not think it is fairly met by telling us what we have got to pay, and not saying a word about the receipts. The receipts in coin greatly exceed the payments in coin, and have done so for the last two years, and I have not the least doubt will greatly exceed the payments in coin during the present year.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Illinois.

Mr. TRUMBULL. I should like to have the yeas and nays on that.

Mr. CONKLING. Is it a substitute or an addition?

Mr. TRUMBULL. It is a substitute.

Mr. HENDRICKS. I should like to hear the amendment read.

The Secretary read the amendment.

Mr. CAMERON. Mr. President, it seems to me proper that we should begin to pay the

public debt; and I do not see any project offered that looks better than this. We have, I believe, about one hundred million dollars lying in the Treasury idle. We have certainly had about that amount there lying idle for the last three years. That does not appear to me to be wisdom. It is not the way an individual would manage his own affairs. An individual whose credit was not very good, and who wished to restore it and get it on a proper basis, would begin by paying every surplus dollar that he had to his creditors, thereby convincing them of his honesty and his belief in his own ability to pay his debts. If we sell ten millions of gold per month, as proposed by the Senator from Illinois, we shall pay off with it fourteen millions of our debt, taking gold at an average of about forty per cent. premium. In place of that we suffer this money to remain idle in the Treasury, in the vain hope, as I believe, that men who are now getting six per cent. for the obligations of the Government which they hold, will give up the right to demand six per cent. and take three per cent.

I object to all these expedients. They are like the constitutional drunkard trying to cure himself by taking a little each day. The only cure for him is to leave off immediately. The only cure for our troubles is for us to get back to a regular system and not resort to these expedients. It would have been better, in my opinion, if the Committee on Finance had given us a general system of finance, one which would have recommended itself to the common sense of everybody here, and which would have convinced the country that we were going to do something toward paying our debts. I do not believe that except in a few cases anybody will give up an obligation of the Government drawing six per cent. interest for a certificate bearing but three per cent. There are a few cases where it will be done. Banks that want to hold these certificates as part of their reserve will do it because in that way they get three per cent. upon their surplus capital, and it will be very convenient for some of the banks to use these three per cent. certificates. It will have but little effect beyond here and there a bank that will be glad to use them.

As I have said frequently, I would much rather leave this whole business until we come back next winter. Let us go before the country on no new questions, allowing us to devote our whole time to convince our constituents that the country is in a condition to be reconstructed, if we do our duty, relying also for ourselves upon our acts here, upon the disposition we have shown to meet every public engagement, and our determination to keep the public faith and pay fully the public obligations.

I have not paid much attention to the subject immediately before us; but I am satisfied, as a plain business man, that if I had money lying in my vaults, and I had creditors pushing me daily and doubting my intention to pay, the first thing I would do would be to give them every cent that I had in my possession; and especially would I do so if I had daily and hourly large sums of money coming into my treasury. We are receiving money from imports and from taxes all the time, and yet we leave this money lying in the Treasury in the vain hope that keeping it there will enable us to meet specie payments. To my mind, as the Senator from Vermont said on another occasion, that is ridiculous. When the country is in a condition to resume specie payments, this little sum of \$100,000,000, much as it may sound, will be very small. Let us get clear of the greenbacks, as we shall after a while when our credit is restored, and there will be very few demands upon the Treasury; but above all things let us have all the States of the Union here in the Senate acting together with one heart and one mind for the restoration of the credit of the country, and there will be no difficulty about it. I object to this measure entirely because it is one of those temporary expedients; one of those things which are put forward by those who do not look at the whole subject before them, and is unfit, I

believe, for the consideration of the Senate of the United States.

Mr. MORTON. I desire to offer a substitute for the amendment of the Senator from Illinois, if it is in order, in these words:

That the surplus gold now in the Treasury, and such as shall accrue during the present and next fiscal year, shall be reserved and set apart for the redemption and payment of the legal-tender notes.

Mr. CONKLING. Allow me to ask a single question, that I may understand this amendment. The Senate having, by the aid of the vote of the honorable Senator from Indiana, prohibited the Secretary of the Treasury from retiring any more legal-tender notes, if the gold is set apart for the purpose of that retirement under this amendment, I should like to know what will become of it in fact?

The PRESIDENT *pro tempore*. The amendment is in order now as an amendment to the amendment of the Senator from Illinois.

Mr. MORTON. I offer it as such. I will only say that we now hold in the Treasury a large surplus of gold. The object of holding it is not expressed by law. Let us say by law that this surplus of gold and the gold which shall accrue in the next year or two shall be held for the purpose of redeeming the legal-tender notes, and for no other purpose. Such a declaration in itself, in my opinion, will knock down the premium on gold from ten to twenty per cent. at once.

Mr. CONKLING. Does the Senator mean that it shall be held, and that at the same time we shall retain on the statute-book a prohibition against the cancellation of legal tenders?

Mr. MORTON. I am opposed to the cancellation of legal tenders as that has been done; but, as I said the other day, I am in favor of this Government fixing a time in the future when we shall redeem the legal-tender notes in gold and resume specie payments, and I am in favor of reserving the gold now in the Treasury and that which is to accrue in the ordinary way as a surplus for that purpose, the time to be designated hereafter when the Government will begin the work of redemption and resume specie payments.

Mr. HOWE. Mr. President, I am inclined to vote for the amendment offered by the Senator from Illinois. I am not prepared to discuss the question very satisfactorily to myself how much coin we ought to keep in the Treasury; but it has seemed to me that a prudent Administration ought to be able to calculate their wants a good deal closer than \$100,000,000; that it ought not to be necessary to keep \$100,000,000 in the Treasury to meet unforeseen demands. That, I believe, has been about the way our finances have been administered since the close of the war. I think we could calculate our necessities more closely than that, and I am, therefore, inclined to adopt some expedient which will reduce this surplus in the Treasury.

The Senator from New Jersey, however, says that if we conclude to do that it is better to sell this coin and redeem the five-twenties. Why so? The five-twenties we are not obliged to pay. The compound-interest notes we are obliged to pay. If you have funds in the Treasury which you can dispense with it seems to me the better use to make of them is to supply the most pressing demand, and the most pressing demand seems to me to be that which you cannot postpone.

Mr. CATTELL. You can postpone it by paying three per cent. interest.

Mr. HOWE. The Senator says we can postpone it by paying three per cent. interest. And so we can postpone the same amount of five-twenties.

Mr. CATTELL. By paying six per cent. in gold.

Mr. HOWE. We can raise the same amount of money with your three per cent. certificates. But it was upon this point that I wished to say the few words I have to say; and I speak on this question always with a great deal of diffidence, and not at all certain that I can express the views which I really entertain.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is regularly before the Senate.

Mr. CATTELL. I trust the chairman of the Committee on Finance will allow this bill to be disposed of. The discussion must be nearly exhausted. This bill is from the same committee.

Mr. SHERMAN. If the Senator really thinks we can soon get a vote on this proposition I shall not object; but I am inclined to think the discussion will go on. I have no objection to letting the unfinished business be laid aside informally for a short time.

The PRESIDENT *pro tempore*. The unfinished business of yesterday will be laid aside informally, if there be no objection.

Mr. HOWE. I was about saying that the Senator from New Jersey represents this merely as a provision by which we are to borrow money at a less rate of interest than we are paying now. Of course that would be desirable. If we can substitute a loan at three per cent. for one at seven and three tenths or any higher rate of interest, that would seem to be desirable if that were all there were of it; but I do not understand that that is the extent of this proposition. I do not understand that a man who is borrowing money at six per cent. on time can always afford to change that for a loan at two or three or four per cent. on demand if he has due regard for his credit.

Mr. President, the money we borrow under this bill we are to borrow on demand; and we are to borrow it not of individuals, but to borrow it of banks, as I understand, practically, and we are to assume a very grave obligation. In addition to paying the three per cent. interest which is required to be paid, we assume the obligation under this bill of furnishing a fund amounting to the whole amount of the loan, \$25,000,000, and we are to become responsible for the redemption of the bank circulation to the exact amount of this loan. So it seems to me a proposition by which we pay three per cent. for the privilege of becoming responsible for the redemption of the bank circulation to this amount. It is true we are released from the payment of a larger rate of interest on the same amount of money. That advantage we get. Can we afford, can the Government afford, to assume this obligation at that rate? Mr. President, suppose we do assume the obligation. When you provided for these banks you thought it necessary to the security of the bill-holders that they should have a certain reserve of lawful money in their vaults at all times, to be used for the redemption of their bills when returned to them. You thought and you said that was necessary to the security of the bill-holder. Now, this measure proposes to take away that security, or \$25,000,000 of that security, from the bill-holder, and to substitute something which is not lawful money, to substitute the obligations of the Government, demand obligations to be sure.

Mr. CATTELL. Is lawful money of the Government anything else but the demand obligation of the Government; and is not this the same thing?

Mr. HOWE. It is very different. Lawful money is not only an obligation which the Government is bound to respect and receive on demand, but which each Senator and every business man in the country is bound to respect and to receive as lawful money on demand. You cannot say that of these three per cent. certificates. The Government is bound to meet them when presented; but when will they be presented? Just when the holders of the bank circulation want lawful money; then they will call on the banks and the banks will not be able to respond, because their money is in the hands of the Government, and the bill-holder must wait until the bank can collect of the Government. How long that will take I am sure I do not know.

Mr. CATTELL. Allow me to say a word. I expressed the opinion the other day that the loan in this form can remain as long as the

charters of the national banks continue; and in this opinion the Secretary of the Treasury concurs, the Comptroller of the Currency concurs, and the Finance Committee concurs, all of whom have paid some particular attention to the subject. In the nature of things there will not be a call for the redemption of these certificates.

Mr. HOWE. I cannot express any opinion about that. I am not a banker; I am not a Secretary of the Treasury; I am not a financier; but I do not understand for my life how that opinion can be reconciled with the opinion of all those authorities expressed at the time these banks were organized. Then it was thought essential that this reserve should be in the vaults of the bank; essential to the security of the bill-holder—

Mr. CATTELL. It never has been required to be in the vault.

Mr. HOWE. A certain per cent. has not been in the vault of the individual banks, to be sure, and has been provided for elsewhere, but it has always been in lawful money ready to meet the calls of the bill-holders. I can only say it is not worth while to spend any time in discussing which of those opinions is true and sound; the two opinions do not harmonize with each other. If this reserve is not essential to the security of the bill-holder, then you imposed an unnecessary burden on the banks when you incorporated them. If it is essential to the bill-holder, it seems to me you do a wrong to the bill-holder when you take twenty-five millions of that security away and substitute something very different. But the real question which I wish to put to the Senator from New Jersey and to the Senate is this: can the Government afford to become directly responsible, and to hold itself so, for the redemption of twenty-five millions of bank circulation in order to save the difference between the interest to be paid on these temporary certificates and the interest payable on the compound-interest notes? If it is the opinion of the Senate that the Government can afford to do that, this is a good bargain to make; but I take it there is no man who has regard for his own credit who would assume that obligation upon those terms; and I should not want to impose an obligation on the Government that I would not think it safe for a capitalist to assume himself. It seems to me if the Government assumes this obligation the Government will think it necessary to retain some means in the Treasury to meet this liability, perhaps not the whole twenty-five millions, for that is the extent of the liability; but will not the Government retain something for that purpose? If so, how much? Will it be half? If so, then one half of that interest is sacrificed; instead of saving four and three tenths, you save but one half of that. If you retain seventy-five per cent. in the Treasury to meet this obligation you only make one fourth of the difference. That the Government should assume this obligation, and make no provision whatever for it, seems to me to be rather risky financing.

This is the objection I have to the proposition of the Senator from New Jersey. Of course I should have more confidence in the Senator's opinions than I would in my own ordinarily on a question of this kind, and I do not know but that I should defer to him; but I have not heard him or any one else meet this objection, and therefore I have thought it proper to state it.

Mr. WILLIAMS. Mr. President, one idea has occurred to me bearing on the amendment proposed by the Senator from Illinois to which no allusion has been made in the discussion; that is as to the effect which the retention of this amount of gold in the Treasury of the United States has upon the public securities. Now, is it quite clear that if the amount of gold in the Treasury is greatly reduced the bonds and other securities of the United States will be worth as much as they are at this time? Public credit is very sensitive, and the people who own our bonds have not that particular inform-

ation which is possessed by Senators, and they judge from general appearances; and the fact that there is in the Treasury of the United States seventy-five or one hundred million dollars in gold is a fact that imparts confidence to the people of this country and to the people elsewhere who hold the securities of the United States. People generally are not supposed to be acquainted with the necessities or the contingencies that may arise in the transactions of the Government, and if the amount of gold was wholly withdrawn from the Treasury is it not probable that such a fact would, to some extent, affect public confidence in the securities of the United States? I know, as to persons who have access to the records of the Treasury, who understand the condition of the finances of the country, and know exactly what its receipts are, and what its obligations are, this fact may not be of any considerable consequence; but in the estimation of the people, who judge generally without particular information on the subject, the fact that there is in the Treasury of the United States a large amount of surplus gold to meet any of the necessities of the Government that may arise, or any contingencies that may occur, is a circumstance which imparts confidence to the people in the credit of the Government; and it may be that if this gold was withdrawn from the public Treasury the securities would fall in price more than enough to counterbalance the supposed injury the public may receive from the retention of this money in the Treasury. That may not be a very important consideration in a financial point of view among those who study correctly and carefully the condition of the Government; but it has appeared to me that that was a consideration which was entitled to some weight in determining as to the value of the amendment proposed by the Senator from Illinois.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana [Mr. MORTON] to the amendment of the Senator from Illinois, [Mr. TRUMBULL.]

Mr. MORTON called for the yeas and nays; and they were ordered.

Mr. CONKLING. Compelled as I am to vote against this amendment of the Senator from Indiana, I dislike to do it without assigning briefly my reasons. As a proposition by itself, looking, as it seems to me, to replacing greenbacks with coin, I should approve it; but we have legislated, and that recently, that greenbacks are not to be canceled or retired gradually or otherwise, but that the volume of greenbacks now out is to be left outstanding. In the presence of that legislation, and proposing no change, the proposition is to lay away idle and dead all the gold which shall accumulate in the Treasury beyond the current gold expenses; and with what view? Why, to leave it for some possible by-and-by; for some time, we know not when, that the hands of the Secretary may be untied, and he be permitted to take up greenbacks with gold, or redeem greenbacks with gold. If it looks to a restoration of specie payments it is a mere exceptional spasmodic effort in that direction; it will have no tendency to accelerate or approach to specie payments without other things being done as cognate measures; certainly not without removing repugnant and inconsistent provisions of law. Therefore it seems to me that the sole effect of the proposition is to bury in the ground this amount of gold, with the premium for which it might be sold, lose premium, lose interest, and lose the right to dispose of the gold in the mean time until some unfixed and indefinite future period which, in point of fact, may never come. Therefore, Mr. President, although I entirely agree with the motive, if I understand it, of this amendment, because it seems to me entirely inadequate to the end and not wisely adapted to it, I am compelled to vote against it.

Mr. MORTON. Mr. President, one word in explanation of this amendment. I suggested some days ago that the way to return to specie payments was to fix a day when the Government would begin the redemption of its



notes. The Government cannot redeem the notes without gold any more than a man can pay his debts without money, and the gold cannot be obtained all at once upon a given day, but it must be collected and reserved. What day that shall be, what time shall be fixed to begin this work, I am not now prepared to say; but we are prepared to say that we will begin the work of reserving the gold for that purpose.

We have now in the Treasury a large amount of surplus gold. We have sold within one year back perhaps \$40,000,000 that might also have been reserved for this very purpose. We shall collect in the next year at least \$40,000,000 of gold that may be reserved for this purpose; and in the course of a year from this time we shall have a very large sum. If we now declare that this gold is to be held as a reserve for the purpose of redeeming these notes, it would at once give the notes a credit they have never had, as I believe. I heard one of the ablest financiers in the country—it was his suggestion—say that the very existence of a large surplus of gold in the Treasury, although there was no declared purpose for which it was held, gave a strength and support and credit to the legal-tender notes from expectation of the people that at some time that gold would be applied to their redemption.

Mr. President, the Senator from New York says that we resolved that contraction should cease. What kind of contraction? Not contraction by redeeming our notes in gold and then building up the credit of the Government; but contraction by taking in these notes and putting out gold-bearing bonds. That did not restore the credit of the country; it simply gave one form of paper for another. That kind of contraction ceased, and ought to have ceased some time before it did. But, sir, let us hold the gold and collect more, and then say that at a certain time, a year hence or two years hence, whatever time Congress in its wisdom next winter may say, the Government shall begin to redeem these notes; and my prediction is that before you get to the time fixed the premium on gold will be down to almost nothing, and a greenback will be as good as gold, and when a greenback is as good as gold it settles the question as to how the bonds are to be paid and it settles a hundred other difficult and troublesome questions.

Sir, we have a debased and depreciated currency to-day not worth more than seventy cents on the dollar. This lies at the foundation of all our financial troubles, and I believe the way to begin is to begin at the foundation, to take some step directly in the direction of returning to specie payment. Let us say to-day that we pledge the surplus gold in the Treasury and that which shall accumulate this financial year and the next to the redemption of the legal-tender notes, and the very moment that declaration becomes a law, in my opinion the premium on gold will go down one half.

Mr. FRELINGHUYSEN. Mr. President, I understand the argument of the Senator from Indiana to be that the best mode to improve our financial condition is to increase the public confidence in our ability and intention to pay. I agree that this is the grand idea to our financial recovery. We want to give confidence to the people; and the suggestion made by the Senator from Oregon [Mr. WILLIAMS] that the gold in the Treasury has some value in that regard is well taken. But, Mr. President, nothing can do so much to check the confidence of the American people in the purpose of the Government to deal fairly with its creditors as suggestions every now and then thrown out that we are not legally bound to pay as the people of the United States understand that we undertook to pay that debt. Nothing is so injurious to this country as the suggestion that our securities are to be paid in promises instead of in dollars, as made in the Senate yesterday. The Republican party at Chicago took the true

ground on this subject when it declared in these impressive words:

"We denounce all forms of repudiation as a national crime, and the national honor requires the payment of the public indebtedness in the utmost good faith to all creditors at home and abroad, not only according to the letter, but according to the spirit of the law under which they were contracted."

"Not only according to the letter, but according to the spirit," "the utmost good faith," are the expressions of our party. Can any one deny that, when that convention met, there were some in the country who insisted that our securities might lawfully be paid in promises to pay in greenbacks; and can any one deny that that declaration of the convention was made for the express purpose of negating the idea that they were to be paid in anything else than coin? That was the purpose of that provision of the platform, and it was received by this country with acclamation; and I think that wherever a leader undertakes to commit this party to any other doctrine than that we are to pay all our securities as those who took them understood they were to be paid, he goes contrary to the avowed principles of his party and does it great injury. And while my distinguished friend from Indiana [Mr. MORTON] would be selected by me, perhaps, sooner than any other Senator to be my leader, he cannot represent me or my constituents in holding the doctrine that the bonds of this country are payable in any other mode than those who received the bonds understood and had a right to understand they were to be paid; and I am satisfied that any party which holds a contrary doctrine underrates the integrity of the American people; the honor of this country is sacred to them. They have invested their money for the purpose of saving this country, and it has been wrung from the sweat of honest toil at the loom and anvil and plow; and the people are ready to pay the last farthing of it.

My learned friend in his argument said that the law does not require that these securities should be paid in coin. I do not agree with him. I understand that by the custom of this and of every other Government, its promises were always payable in coin; and unless some declaration is made in the law contravening that custom, when this country makes a promise it is by strict legal construction payable in coin. I have examined these statutes. The statutes say that the interest shall be payable in coin, without saying the principal. Why? Because it was at a time when specie payments were suspended; and it was only to give the assurance that notwithstanding specie payments were suspended elsewhere, and as to other contracts, this interest as it accrued should be paid in coin. It does not say the principal, because that would be a work of supererogation; and no one doubted that if the country was saved before the principal fell due, being twenty years after date, we would have resumed specie payment, and I do not doubt it now. We find, too, by looking at the act of February 25, 1862, that the Government has by law provided that both the principal and interest shall be paid in coin, for that act expressly declares that there shall be a sinking fund set aside, not to pay the interest of these bonds alone, but also to pay the principal.

But it is argued that because the act of March 3, 1863, authorizing the issue of what are known as ten-forties, provides that the principal as well as the interest shall be paid in coin, that the omission of such a provision as to the principal in the prior acts is very significant. The fact that the law creating the ten-forties states that the principal is to be paid in coin has no significance.

Mr. SHERMAN. I ask my friend to allow the funding bill to be taken up. It is manifest that the other bill is lost sight of and we cannot get a vote on it to-day, and then his speech would be nearer the question before the Senate.

Mr. FRELINGHUYSEN. I shall detain the Senate but a minute or two longer.

Mr. SHERMAN. It is manifest that a vote cannot be obtained on this bill to-day.

Mr. FRELINGHUYSEN. I will finish my remarks, Mr. President.

Mr. SHERMAN. Very well.

Mr. FRELINGHUYSEN. The act of March 3, 1863, does say that the principal is to be paid in coin. But if any one will look at that act of March 3, 1863, he will find that the second act provides for the issue of Treasury notes which are not to be payable in coin, but to be payable by express provision in lawful money, and therefore it was requisite in the same act to specify how the principal of these ten-forties should be paid. As the act necessarily provided that the Treasury notes should be paid in lawful money, when speaking of the principal of these bonds it became necessary to say that they should be paid in coin; and that is clearly the manner in which the expression "in coin" grew into that act.

Besides, those who invested in these bonds had the declaration of the Secretary of the Treasury, Mr. Chase, the Secretary of the Treasury, Mr. Fessenden, and Mr. McCullough, that these securities were to be paid in coin. We had the declaration and the public advertisements of the agents of this Government; and we all sat here and saw those advertisements made without ever controverting or contradicting them; and the people of this country, men who had fifty and one hundred dollars which they had earned by hard toil came forward with the capitalist and poured their money into the Treasury and took our securities. I rejoice that the great liberty party of the country, the strength of which consists in its advocacy of what is right and just, have in their platform declared that those securities shall be paid in the utmost good faith and according to the letter and the spirit of the contract.

Mr. SHERMAN. Now, unless we can have a vote I ask that the funding bill be taken up.

Mr. CATTELL. I hope that the vote will be taken now.

Mr. SUMNER. Let us have a vote.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana, [Mr. MORTON], on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 8, nays 30; as follows:

YEAS—Messrs. Corbett, Edmunds, Morton, Osborn, Patterson of Tennessee, Pomeroy, Ramsey, and Wade—8.

NAYS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conness, Ferry, Fessenden, Frelinghuysen, Harlan, Henderson, Hendricks, Howard, McGreevy, McDonald, Morgan, Nye, Patterson of New Hampshire, Rice, Ross, Sherman, Sumner, Tipton, Trumbull, Vickers, Welch, Whyte, Wiley, Williams, and Wilson—30.

ABSENT—Messrs. Bayard, Baekalew, Conkling, Cragin, Davis, Dixon, Doolittle, Drake, Fowler, Grimes, Howe, Morrill of Maine, Morrill of Vermont, Norton, Saulsbury, Sprague, Stewart, Thayer, Van Winkle, and Yates—20.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from Illinois.

Mr. TRUMBULL. At the suggestion of several Senators I will change my amendment so as to offer it as an additional section and not as a substitute, leaving the bill to stand, and moving as an additional section the amendment which I offer, striking out the words relating to the compound-interest notes; in the third line striking out the words "redeeming and retiring the remainder of the compound-interest notes;" and in the twenty-eighth and twenty-ninth lines striking out the words "or compound-interest notes with the interest accrued thereon."

Mr. HENDRICKS. I am embarrassed to know how to vote upon the amendment proposed by the Senator from Illinois. The evil of accumulating gold in the Treasury ought to be overcome if possible; but I do not like this mode of overcoming it. My opinion is that the tariff ought to be so adjusted as to bring into the Treasury only the amount of gold that the demands in gold upon the Treasury require. This system of collecting by duties \$50,000,000 each year more than are required in

gold under existing laws, and selling the excess, \$10,000,000 at a time, in the market seems to me to be very vicious. On the other hand, it is an evil and a burden to commerce that \$100,000,000 should be kept idle in the Treasury; and I am very much embarrassed in knowing how to vote. Perhaps to the extent that accumulations have already taken place, it will be safe to vote for the proposition, hoping that the proposition which ought to be adopted will be provided for before long.

Mr. CONKLING. It seems to me that the amendment as now modified by the mover obviates both the objections which we heard from the honorable Senator from New Jersey, [Mr. CATTELL.] I was impressed with his statement that the proposition at first was one to employ coin to extinguish the least costly obligation of the Government, and I should have been embarrassed in voting for the proposition had it stood as a substitute for the whole bill. Now, the two propositions taken together provide for the issue of three per cents. to be held as a reserve; and to that I am unable to appreciate the objections assigned by the honorable Senator from Wisconsin.

I understand in a word the history of that matter to be this: originally a reserve was to be held by the banks of lawful money, thereby meaning legal-tender notes, the promises to pay on demand of the United States. Under that authority the banks assumed to hold compound-interest notes, notes bearing interest at the rate of six per cent., payable semi-annually, the accruing interest itself bearing interest. Whether that was within or without the permission of the law was questionable; but that question has been condoned, and the banks were permitted thus to hold, and they still hold, a large sum of compound-interest notes. Upon and for these notes the United States is liable. They are matured and therefore the liability is immediate, as much so as it can be upon these call three per cent. certificates. It seems to me that that answers in large part the argument of the honorable Senator from Wisconsin.

But he said further, that we became at once responsible to this amount for the circulation of these banks. Why, sir, the Government is responsible now for every shilling of national bank circulation. We hold bonds to indemnify the Government against that responsibility; but failing those bonds or not, still the Government stands as the guarantor of every farthing of national bank circulation. Therefore I do not see that we increase our liability at all by the issuance of these certificates. It so happens, however, that the peculiar function, the characteristic quality of these certificates is such that they have an extrinsic value; and therefore the banks, perforce, if you please, will accept them when the public at large would not; so that I can see and appreciate the truth and the force of the suggestion made by the honorable Senator from New Jersey that here is an exceptional instance in which, for peculiar reasons, we are able to extend a certain portion of the debt at an interest so cheap as three per cent. Very well, sir; that is an argument upon which I am willing to vote for that portion of the bill.

Now, the Senator from Illinois proposes, this matter being disposed, that gold accumulated in the Treasury shall be sold at monthly periods, down to \$40,000,000. What is the answer to that? It is, first, speaking of the present, that the current payments of the Treasury will themselves reduce to \$40,000,000 the accumulated gold. Very well; then this is a harmless provision, and it will have nothing to act upon. To be sure, we shall take nothing in the present by our motion, but no detriment can come. That, I think, is enough to answer it, because the argument of the Senator from New Jersey presupposes that there is no danger and no harm in exhausting gold down to \$40,000,000 or thereabouts. That, he says, is the operation of the present administration of the Government. If, then, there is no overplus upon which this provision is to take hold, I

repeat no harm can come. If there is an overplus, has anybody of late made an argument and satisfied the people of this country, or the two Houses of Congress, that beyond this large working residuum, working balance or deposit, whatever you please to call it, of \$40,000,000, it is worth while to hoard gold in the Treasury for some unexplained reason? I know that heretofore arguments have been made on this subject, and I think I may say truly that those arguments have expired by their own terms. Those arguments have exhausted themselves in the actual experience of the occasion. Nobody is more competent than the honorable Senator who sits on my right, [Mr. CATTELL,] to enlighten us on that subject, and he has stated, I have no doubt, with candor, exhaustively, all that can be said in favor of this proposition; and I think he will agree with me when I say, that giving the utmost force to all his suggestions, it leaves him and leaves me at liberty to conclude that, beyond \$40,000,000, or some such sum conceded to be sufficient as the residuum remaining on hand, the surplus gold in the Treasury ought to be disposed of.

But, Mr. President, I have heard the suggestion made since this debate has proceeded that we are withdrawing from the Secretary a discretion on this subject and assuming it ourselves. Yes, sir, we are; and in that respect I submit this proposition stands in marked advantage and has marked recommendations when compared with another proposition for which this will presently be put aside. Here is one single point of administration, a simple proposition which has been viewed round and round by the business community of the country and by Congress. As far as its isolation, its simplicity, and our long experience with it go to enable any person, Secretary of the Treasury or others, to determine what is right, we ourselves are enabled to form an opinion; and therefore, when we legislate with regard to it, it seems to me that we do not invade that wholesome discretion which ought to be left to the Secretary of the Treasury.

But, Mr. President, if we do invade that discretion, if we arrogate to ourselves what ought to be left to administrative action, what shall be said of the funding bill, as it is called, which waits upon this measure? There is a subject into which various and complex considerations and elements enter. There is a question which if in private business it were to be determined by an individual, a firm, or a corporation, it might well be said that we should cut according to the cloth; that our way should be felt; that that mode of disposing of it should be resorted to which belongs peculiarly and alone to administration, to experiment, and to discretion; and yet the Senate is not stopping as to that.

Now, sir, without dwelling upon this, I insist that if this proposition of the Senator from Illinois be obnoxious to the criticism that it is taking hold of a discretion which ought to be lodged with the Secretary of the Treasury, the other measure which we are considering is so obviously and so hopelessly obnoxious that we can hardly expect properly to deal with the subjects which it embraces. I think this discretion has been left long enough with the Secretary, and I think the people of this country, and not only the people, but the experts in finance, bankers, business men, and political economists who have written about it, have been left long enough to grope in the dark for a reason, as the Senator from Indiana said, for, in the first place, raising a large surplus gold revenue, and then, beyond the working capital or balance in favor of which an argument can be made, holding it for some unrevealed purpose and in deference to some argument which, I repeat, has not yet been made, and in circumstances which are wholly unsatisfactory to the people of the country by whom this amount is raised and for whose interest it ought to be used.

Therefore, I shall vote for this amendment, relying upon the fact that if there is no surplus upon which it can take hold, it will do no

harm; and if, beyond the surplus for what it provides, there is a quantity of gold in the Treasury, that gold should not be there, but should be sold to extinguish the most expensive interest-bearing obligations which go to enhance the burden of taxation under which the people of this country are compelled to groan.

Mr. SHERMAN. If this amendment is to pass I call the attention of the Senator from Illinois to an amendment that must be made, unless he wishes entirely to stop the payment of interest upon the public debt in coin. The amendment as it now stands provides that when the amount of gold shall be reduced to \$40,000,000, exclusive of the gold certificates, then the excess shall be sold. I submit to him this consideration: that the amount of payments maturing at a single time are from thirty to thirty-six million dollars. On the 1st of July and on the 1st of January interest matures, and is payable on each of those days to the amount of between thirty and thirty-six millions, and that amount is increasing daily as the seven-thirties are being converted into the gold notes. The result is that on the 1st of December, for instance, if the balance in the Treasury was \$45,000,000, the Secretary would be bound to sell all above \$40,000,000, and then on the 1st of January he would be unable without exhausting the entire surplus, to meet the interest of the public debt.

I know that there is a strong feeling against the hoarding of this gold, and at one time I introduced a proposition here limiting the amount to \$50,000,000. I did not press it, because the argument was urged with a great deal of force that the very presence of this gold in the Treasury, although it was a loss of interest to the Government, operated as a great safety-valve to prevent speculations in gold and to prevent the rise and fall of gold. However, I do not wish to discuss it.

If the Senate choose to add this as an additional section to this bill the amendment ought to be made that I now suggest: to insert in line eleven, after the word "given," the words "and exclusive of interest accruing within sixty days thereafter;" so that it will read:

Till the amount of coin in the Treasury, exclusive of that for which gold certificates of deposit shall have been given, and exclusive of interest accruing within sixty days thereafter, shall be reduced to the sum of \$40,000,000.

For instance, suppose this bill had been in force on the 1st day of July last. There are \$99,914,000 in the Treasury in coin. Taking out the certificates leaves about eighty-two million dollars. The amount maturing on the 1st of July is \$31,000,000. Alaska will consume \$7,000,000 more, and the expenses of our foreign intercourse and the expenses of our Navy abroad, all of which are paid in gold, might sweep every dollar of gold in the Treasury, a contingency that I think the Senator ought to provide against. I think the amount of the limit he has put, \$40,000,000, is entirely too low. Then, any sudden fluctuation or falling off of customs might leave us without money to pay the interest of the public debt.

With this statement I am perfectly willing to leave the question. I do not think this section ought to be added to a small bill providing for \$25,000,000 of three per cent. certificates—a mere temporary measure—nor do I think the Senate ought to adopt it without full consideration.

Mr. MORTON. I simply wish to say that the adoption of this amendment now will have the effect to provide that the surplus gold in the Treasury shall at no time hereafter exceed \$40,000,000, and is equivalent to the declaration on the part of the Government that the legal-tender notes never will be redeemed. That is simply what it amounts to. We provide that the gold shall never accumulate to exceed \$40,000,000, and we are saying to the nation that the legal-tender notes which we have promised to pay in gold never will be paid, because we have determined that we will not accumulate the gold with which we can do it.

Mr. TRUMBULL. I do not think it is say-

ing any such thing, as the Senator from Indiana supposes, to the people; and I do not suppose that the credit of this Government depends on the amount of gold that it has in its Treasury. Does the Senator from Indiana, or the Senator from Oregon, who urged this suggestion, suppose that the credit of this Government, which owes to-day \$2,500,000,000, depends upon the amount of gold it hoards up in its Treasury rather than upon the wealth of the nation, the production of the nation, and the enterprise of its people? It is the wealth of the country, the enterprising population we have, the vast productions and resources of the country that give the nation credit. It does not depend upon \$40,000,000 or \$80,000,000 that is hoarded up in the Treasury. The Senator from Indiana is not more in favor of specie payments than I am. I am in favor of returning to specie payments, and I wish some measure could be adopted to-day looking to an early resumption of specie payments.

There is great force in what the other Senator from Indiana [Mr. HENDRICKS] said, that we ought not to collect more gold than we need. I do not believe in burdening the people with taxation and collecting money for the purpose of selling it. I agree with him that our tariff ought to be so adjusted as not to collect more gold than the necessities of the country require. But no proposition is suggested in regard to the tariff. This surplus has been coming into your Treasury; it has been lying there for years; and shall we keep it there? This measure will not prevent a reduction of the tariff. I shall be ready to unite with the Senator from Indiana whenever a fitting occasion offers to reduce the tariff, so as not to allow more gold than we need to be collected. That is no reason, however, for keeping gold in the Treasury. I hope that the amendment I have suggested will be adopted.

One word, however, in reply to the Senator from Ohio, who says that \$40,000,000 is not a sufficient surplus, and then he illustrates by what would have been the condition of the Treasury on the 1st day of July last if this proposition had been in operation. Why, sir, the \$40,000,000 would have met every obligation, and more, too, and we are constantly in the receipt of gold. I presume the receipts of gold during the month of July will amount to fifteen or twenty millions; I do not know the precise sum.

Mr. SHERMAN. They amount to about ten million dollars a month now.

Mr. TRUMBULL. The receipts for the first quarter of last year, as I have already shown, were more than \$48,000,000—more than \$16,000,000 a month.

Mr. SHERMAN. The actual receipts are about one hundred and forty-five million dollars a year now.

Mr. TRUMBULL. Have the receipts for any year within the last three years been as low as \$145,000,000? The receipts were \$156,000,000 in 1866-67, and for the first quarter of 1867-68 \$48,000,000. I should be glad to know if the Senator can inform me what the actual receipts were for the fiscal year ending the 30th of June last?

Mr. SHERMAN. The accounts have not been made up yet.

Mr. TRUMBULL. I suppose not; but we have two quarters I think; certainly we have the first quarter.

Mr. SHERMAN. I think it will be about one hundred and sixty million dollars for the whole of last year.

Mr. TRUMBULL. That is \$40,000,000 more than the interest upon our entire debt that is payable in gold; so that we are receiving all the time more than we have to pay out. There can be no danger in reducing the surplus down to \$40,000,000. Suppose it does take nearly all of it; so much the better. We do not want a dollar of surplus in the Treasury for any other purpose than to meet the calls upon it. Certainly the Senator from Ohio would not be in favor of keeping a single dollar in the Treasury if he knew he would always

have the means coming in to meet every obligation. It is only for that particular purpose that you propose a surplus.

Mr. EDMUNDS. Are the greenbacks obligations?

Mr. TRUMBULL. They are, in one sense, obligations.

Mr. EDMUNDS. In what sense?

Mr. TRUMBULL. They are such a kind of obligation on the part of the Government that I suppose they ought to be redeemed at some time or other.

Mr. EDMUNDS. What in?

Mr. TRUMBULL. We ought to redeem them in coin, unquestionably. As to these other obligations I am not disposed to say how we ought to redeem them. That question is not necessarily involved in the present discussion. The suggestions I was giving were in reply to those thrown out by the Senator from Ohio; and, according to his own statement, these \$40,000,000 would be ample to meet any call that might come upon the Treasury at any time.

Mr. CATTELL. I beg the Senate to come to a vote on this question. The Senator from Ohio, the chairman of the Committee on Finance, has very kindly allowed the funding bill to run along now for more than an hour. I only wish to say, in regard to the amendment of the Senator from Illinois, that it is a very big question, and opens a wide field for discussion, and it ought not to be attached to a bill to which it has no positive relation, at any rate in its present shape. It is a question, as has been seen already, on which there is a wide diversity of opinion on this floor, and there will be a wide diversity of opinion in the other House. I think the bill which I have had the honor of advocating here is so plain and so simple that it will pass this Chamber, freed from this amendment, and pass the other House without difficulty. I shall be very glad to listen to the Senator from Illinois on this question when it comes up in a distinct form, not trammeling a little bill of this kind at the close of the session with so big a measure, one on which so wide differences of opinion are held. Therefore I rose now, without entering into the discussion of that question on its merits, to say that I hope for that reason the amendment of the Senator from Illinois will not prevail.

Mr. TRUMBULL. I am not disposed to take up time about it.

Mr. SHERMAN. I call for the funding bill. I think that this bill is going to lead to a long discussion, and therefore I insist upon the regular order.

Mr. CATTELL. I think we can get a vote now.

Mr. SHERMAN. I am perfectly willing to yield, if we can get a vote; but I am satisfied that we cannot. I know other Senators want to discuss it. I call for the special order.

Mr. CORBETT. Mr. President—

Mr. CATTELL. May I make an appeal to my friend from Oregon to allow a vote to be taken, unless he feels compelled to say something upon it?

Mr. CORBETT. I have been trying to obtain the floor for an hour to make some remarks on this bill. I think it is a very important bill, one that should not be considered in haste, and on which all the Senators should be heard who desire to speak upon it.

Mr. SHERMAN. Then I call for the regular order.

The PRESIDENT *pro tempore*. The regular order is before the Senate, it having been passed over by common consent.

Mr. STEWART. I wish the chairman of the Committee on Finance would let me pass a bill, that will take but a minute or two, removing political disabilities from certain persons. It is very important that it should go through in order to remove the disabilities from a large number of persons, who are necessary to the organization of the southern Legislatures.

Mr. SHERMAN. That would lead to debate.

Mr. STEWART. I do not think anybody will want to discuss it. If they do I will withdraw it. I only ask for five minutes.

Mr. SHERMAN. I insist upon the regular order of business.

The PRESIDENT *pro tempore*. The regular order is before the Senate.

Mr. FRELINGHUYSEN. Believing that a vote can be taken very soon, and that much of the time which has been expended this morning will be wasted unless we do get a vote, I was going to move that that be postponed until the bill introduced by my colleague is voted upon.

Mr. SHERMAN. I think when the bill is taken up the next time the Senate will be in a better temper for voting. I do not believe a vote can be had to-day upon it. That is my opinion. I hope we shall proceed with the funding bill.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills of the Senate:

A bill (S. No. 454) for the relief of Samuel N. Miller; and

A bill (S. No. 486) to facilitate the settlement of certain prize cases in the southern district of Florida.

The message also announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 387) to fix the compensation of the United States depository at Chicago;

A bill (H. R. No. 1096) making an appropriation of money to carry into effect the treaty with Russia, of March 30, 1867;

A bill (H. R. No. 761) to construct a wagon-road from West Point to Cornwall Landing, all in the county of Orange, State of New York;

A bill (H. R. No. 1427) to establish certain post roads; and

A joint resolution (H. R. No. 340) for the relief of Peter M. Carmichael, surveyor of the port of Albany.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 454) for the relief of Samuel N. Miller; and

A bill (S. No. 486) to facilitate the settlement of certain prize cases in the southern district of Florida.

#### HOUSE BILLS REFERRED.

The following bills received from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 387) to fix the compensation of the United States depository at Chicago—to the Committee on Finance.

A bill (H. R. No. 761) to construct a wagon road from West Point to Cornwall Landing, all in the county of Orange, State of New York—to the Committee on Military Affairs and the Militia.

A bill (H. R. No. 1096) making an appropriation of money to carry into effect the treaty with Russia, of March 30, 1867—to the Committee on Foreign Relations.

A bill (H. R. No. 1427) to establish certain post roads—to the Committee on Post Offices and Post Roads.

A joint resolution (H. R. No. 340) for the relief of Peter M. Carmichael, surveyor of the port of Albany—to the Committee on Commerce.

#### THE FUNDING BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 207) for funding the national debt, and for the conversion of the notes of the United States, the pending question being on the amendment



offered by Mr. WILSON to the amendment of the Committee on Finance.

Mr. HENDRICKS. Mr. President, it was my desire at this time to submit some rather extended remarks to the Senate upon the political questions now occupying public attention; but the condition of my health to-day will only allow a brief reference to them.

I have observed for some days past a purpose on the part of Senators who represent the majority to avoid the position of the defensive, and to assume, if possible, that of the offensive in this political contest. In my judgment, that is neither practicable nor possible on their part; it is not in the nature of the case. For eight years the Federal Government and most of the State governments of the North have been controlled by the party now in the majority in Congress, and it is not possible that that party can avoid a response to the people upon the questions that attract public attention.

Waiving an inquiry into the conduct of that party during the war, which they claim it is not just to make, and confining the inquiry to the three years since the close of the war and the return of peace, there are certain important questions that must be answered. And, first, the people will desire to know very distinctly and emphatically what has been done with the \$1,200,000,000 that have been collected from them under the internal revenue law and the tariff system since the 1st day of July, 1865. I know that \$400,000,000 may be accounted for at least in part in the payment of interest upon the public debt. Then the people will want to know how it is, independently of the interest upon the public debt, that it has taken \$800,000,000 to carry this Government through a period of three years, when in a time of peace it used to require but from sixty to seventy or eighty million dollars annually. The people will wish to know during this contest whether this enormous sum of money, which has put the citizen everywhere over the land upon the observance of the strictest economy to respond to the demands of the Government, has been expended in the promotion of the public welfare, or whether it has been expended in the promotion of the interests of a party; whether it has been expended to extend the enterprises of the country, or to maintain in the southern States that system of government which has gradually proceeded from step to step in arraying one race against another; whether it has been expended in genuine acts of benevolence and kindness, or in maintaining a political system by which the colored people have been organized throughout the South into a political party; in other words, whether this enormous sum that has been wrung from the people has been expended for their benefit, for the promotion of their interests and for their good, or for other purposes; and no arts of the orator or ingenuity of the sophist can avoid an answer to that grave, direct, and important inquiry.

Why is it, sir, that in a time of profound peace it has cost \$100,000,000 a year to support an Army of fifty-six thousand? The people especially will want an answer to that question when you propose to elect to the Presidency the head of that Army, who for a portion of that period was not only the General of the Army, but the Secretary of War. They want to know how it was that during the administration of the Department by him it cost at the rate of \$120,000,000 to support the War Department and Army, when it used to cost but \$1,000,000 to the regiment. The people will want to know why it is that in a time of profound peace, when we have no war, except inconsiderable strifes on our borders with the Indians, \$95,000,000 were expended, in the fiscal year before the last, to maintain the Army, independent of bounties, and that for the quarter when the candidate for the Presidency was the Secretary of War, it cost about thirty million dollars, or at the rate of \$120,000,000 per annum; \$2,000,000 to the regiment; \$2,000 to the man. The people will want the majority in Congress, when they demand the continu-

ance of power beyond this period of eight years, to answer why it is that so much money is drawn from them by the extraordinary power of taxation, that it may thus go to support the most expensive military system that has ever been known in the world.

I might speak of some of these expenditures. I might speak of that favoritism in a small way which has shown itself in the publication in the newspapers that are favored by special legislation in the District of Columbia of notices for inconsiderable Army supplies upon the Rio Grande, and at the distant forts, when it was impossible from the date of the publication that any man could receive information by such publication which would enable him to compete in the bidding. I might speak of other expenditures of like sort, indicating a favoritism not worthy of any political party that claims the confidence of the country, but I will not occupy so much of the time of the Senate.

The people will wish to know during this contest why it is that the Supreme Court has been denied the right to inquire into the constitutionality of the legislation of this Congress. The people know that the Supreme Court was established as one of the securities to their liberty, as one of the props and pillars underneath their institutions. They want to know why this prop and pillar has been stricken down, and for what political and party purpose it has been done. If your legislation be constitutional, valid, and right, then the people will wish to know why Congress should shield itself in its enactments from that inquiry that the Constitution intended should be had in regard to all legislation.

The people during this contest will wish to know why it is that the executive department has been stripped of that power which has been conferred upon it by the Constitution; why it is that Congress has assumed to itself all those powers which, for nearly eighty years, were exercised under the Constitution by the executive department; and for what purpose of good to the people this was intended. Why is it that from the Executive has been taken the responsibility for the execution of the laws? Why is it that to the Senate has been assumed that responsibility? Why is it that Congress has said that the power to remove from office shall be taken from the Executive, when that power has been exercised, and as I believe according to the spirit of the Constitution, and as I know, according to the construction of the fathers, by the Executive all the time; and that in the Senate, a many-headed body, where responsibility is divided so that it lights upon no particular individual, a responsibility should be assumed which is worth nothing to the people and guarantees nothing to the fidelity and security of the public service.

The people will want to know why for three years a party with a majority of two thirds in Congress have not restored the southern States to their practical relations to the Federal Government; why it is that such a period has elapsed and no genuine, peaceful, and permanent results have been attained? They know what is the condition of affairs. They know what temporary enterprises have been set on foot in the southern States. They understand all that quite well; but they want to know, and they demand to know, in my judgment, with a very earnest demand, why it is that these States have not been restored in the spirit of the Constitution and with that harmony which will promote the permanency of the Union, the stability of our institutions, and the prosperity of every section of the country. The people will want to know in this contest why it is that Congress stepped in between the Executive and an immediate, peaceful, practical, and permanent restoration of the States to their practical relations to the Federal Government; why it was that when we were so far advanced in that work under the policy inaugurated by the Executive, when States were accepting the propositions, adopting constitutions that were acceptable everywhere, agree-

ing to everything demanded by the North, acquiescing in the results of the war in every respect whatever, Congress came in and, exciting a strife with the Executive, stopped, and to some extent defeated, that restoration policy which was bringing again permanent union and permanent prosperity. That question will be asked by a sensible, thinking people, and it is for the majority in Congress, and for their partisans over the country, to give a direct, plain, and unequivocal answer.

The people will want to know in this connection why it is that by this political controversy that Congress has gotten up with the Executive, striking down the policy that was then almost a success, the return of trade, production, and of prosperity have been indefinitely delayed. They know, as Senators know, that from the time when this controversy was gotten up by Congress to break down the policy of restoration, then almost completed, the productions of a large portion of the country have from year to year fallen off, and that the exports which those productions furnished, enabling us to keep up the balance of trade somewhat in our favor, have fallen off so much that in a large degree that balance has been made up in gold and in the Government securities. The people want to know why it is that trade cannot be allowed to return to its ancient channels; that the industries of the country are not encouraged, but that, on the contrary, they are kept in that disturbed condition that investments dare not be made by capital, and that labor is afraid to make an effort even if capital should be invested.

The people will ask one further question, what has been gained by this controversy, like the question that in former times was asked by the grandchild of the grandfather in relation to the great battle, "What has all this been about?" Senators know very well that when the Thirty-Ninth Congress met the work of restoration, according to the policy of Mr. Johnson, was almost completed. Constitutions had been adopted in the southern States abolishing slavery, or declaring it abolished forever, repudiating the southern debt, and making every pledge to the Federal Union which northern sentiment demanded; but Congress intervened against that policy and interposed its own, and now the people, after two or three years of delay, of distraction, of the disturbance of trade and commerce, want to know what has been gained by it. When you come to answer that question to the people you cannot show them a single southern constitution which any republican mind can say is a better constitution than had been adopted under the Johnson policy, unless you say it is a better constitution because the negroes are enfranchised and a part of the whites disfranchised, and the power in a great section of the country taken from the white men and given to the colored men.

The people will want to know why it is that after the close of the war, after there was no longer a rebel soldier with a gun in his hand, after the South had amended its constitutions and changed its laws according to the demands of the North in every particular, after they had declared slavery abolished, secession a fallacy, and the rebel debt not to be collected, why, then, in one third of this country did the party in power break down State governments and establish in their stead military governments; why was it in that work you made the civil law subordinate to the military law; the judge upon the bench subordinate to the commanding officer; and gave to a military officer the power to drive the legislators from the halls of legislation, and to substitute men of his own selection in their place, and subverted all the principles of free government, recognized, honored, and revered in this country, and established in their stead a system of government that finds no parallel in any of the countries of the world since the days of the proconsuls. To that question, it seems to me, it will be difficult to find a suitable answer. It is not enough to say that in neighborhoods

there were broils and murders. Why, sir, some time ago I read to the Senate, from one of the papers published in this city, a telegram coming from the central portion of Alabama that the fifth white man had been murdered in the same neighborhood, and no notice whatever had been taken of it; and that, too, under the government, military, powerful, and despotic, which you had established there.

Mr. President, when the people of the country demand to know of their legislators why civil law is subordinated to military law, why the judge upon the bench is stripped of his robes of office, and in his stead there is substituted a military commander to decide upon the rights of the people; when they demand to know why in secret commission and military court the citizen is tried for a criminal offense, or touching a civil right, why these things are done in this country in a time of profound peace, some grave and weighty answer must be given them.

They will want to know why it is that you pretend for the time to repudiate on the part of Congress the right to establish negro suffrage in the northern States and yet establish it in the southern States; why it is that you rally upon a platform attempting to avoid the responsibility of this issue at home, and yet would seek to establish such a system of suffrage in ten of the States of the South; and what answer will you give? Do you tell the people of the North that they are not interested in the question of suffrage in the southern States? You cannot make that answer, for this fall it may occur that the negro votes of the South will decide the presidential election. It may occur that a majority of the electoral votes in the North will be overcome by the negro votes of the South. It may not so occur; but yet if it does occur, and if the colored people of the southern States, holding the balance of political power in this country, shall decide who is to be the President and the Vice President of the United States, is not that coming home, as a practical and direct question, to every northern man; his vote being overcome by the vote of the colored man of the South, and that, too, by an act of Congress? So that the people of the North will want to understand how it is that you pretend not to force upon them negro suffrage at home, and yet establish it in ten of the States of the South.

The people will want to know why, in a time of peace, the rights of the citizen have been trampled under foot, and the ancient writs of the law which protect and secure them in their property and in their personal liberty have been abrogated; why it is that instead of the courts of law where men are heard face to face, the witnesses called face to face, the jury from the neighborhood hearing all the evidence, deciding the case, why that mode of trial in court has been abolished, and in its stead has been established the military court, where there are none of the guards and securities for justice that a thousand years of experience have shown to be essential?

Mr. President, the two parties into which the people of this country are now divided have declared their platforms of principles; they have put their tickets in nomination; and it is for the people now to decide which set of principles they will adopt, and which set of candidates they will elect. Upon this subject I have but very few remarks to submit.

In my opposition to the ticket that was nominated at Chicago I never expect to place it upon personal grounds. I recognize the gentleman at the head of that ticket as an eminent military man, and his associate as a distinguished civilian. Against them, personally, I expect never to express a sentiment. I oppose their election because they have become, by acquiescing in their nomination, the representatives of the sentiments that have controlled Congress for the last three years; because they stand upon a platform which is objectionable in part and equivocal in part.

The convention at New York has expressed

its views in a platform which in no section can be misunderstood. The man that runs may read and understand. The plainest as well as the most learned will interpret it alike. It declares our views and our purposes so distinctly and emphatically that the people are not and cannot be misled.

The contrast between the two platforms struck me with great force as I listened to the Senator from New Jersey [Mr. FREELINGHUYSEN] some minutes since, as he read one of the sections of the Chicago platform declaring that the public debt must be paid in accordance with the letter and the spirit of the law. What does that mean? My colleague would say, I have no doubt, that it means one thing, and the Senator from New Jersey would claim that it means another, a very different thing. Many Senators claim that the spirit of the law is that the bonds shall all be paid in gold; while other Senators, eminent and clear-headed, say that it means they shall be paid in greenbacks, if Congress chooses so to pay them.

The resolution of the Democratic convention is as follows:

"Payment of the public debt of the United States as rapidly as practicable; all moneys drawn from the people by taxation, except so much as is requisite for the necessities of the Government, economically administered, being honestly applied to such payment; and where the obligations of the Government do not expressly state upon their face, or the law under which they were issued does not provide that they shall be paid in coin, they ought in right, and in justice, be paid in the lawful money of the United States."

The resolution declares that, unless the obligation issued by the Government, or the law authorizing its issue, expressly provides that it is to be paid in gold it may be paid in lawful money.

The law authorizing the issue of the five-twenties provided for a lawful money, and declares Treasury notes, with the legal-tender clause, to be lawful money; and neither the law nor the obligation provides that these bonds shall be paid in gold.

Governor Seymour stands upon this platform, and I claim that the platform explains itself, and standing upon the platform his position is not and cannot be misunderstood.

I had thought of reading one or two other of the resolutions adopted at New York, in contrast with the resolutions adopted at Chicago, to show that at New York positions were assumed plainly, distinctly, directly, so that the people could not be misled by anything that was there said. But, sir, as it would likely take more time than I am able to occupy this morning, I will not go further in that direction.

With a platform explicit and direct upon all the great questions that now attract public attention, it only remains to inquire who are the men that stand upon it. I need not, in addressing either the Senate or the country, occupy much time in speaking of Governor Seymour. He has been long known to the country as one of the first of her statesmen. A ripe scholar and profound thinker, in times and in positions of great difficulty he has done the State much service. He has filled positions the highest in this country except that to which he has been nominated, and to which, in my judgment, he will be elected. A statesman cool in thought and efficient in action he will command the confidence of the country.

I know that criticisms have been made upon his conduct during the war. I am glad that it requires but a sentence to answer all criticisms. So efficient was he as the Executive of the great State of New York, in the raising of troops, and especially in the aid he gave to the Government about the time of the battle of Gettysburg, that Mr. Lincoln returned him, in the most earnest and emphatic manner, his thanks.

He is an eastern man, but he is acceptable to the Northwest. We know from the sentiments that he has always expressed that he is not a sectional man. He is a man who, at the head of this Government, will recognize all sections, and respect and labor to promote the interests of each. While the chief Executive of the State of New York he favored,

publicly and privately, that policy which would encourage the producers of the great Northwest. He favored on the part of the State of New York the adoption of a policy that would allow our heavy freight to pass over the State canal almost without charge; and if his policy had been carried out to the extent that he desired the Northwest would have been benefited to the extent of millions of dollars. A national man, fair to all sections, he may well receive the support not only of his own but of that section from which I come; and I believe that he will receive a support, whether sufficient to control the votes in the South or not I will not say, but a cordial support in that section of the Union. Whether he can obtain the electoral votes in the southern States will depend, in my judgment, upon the question whether the military are kept organized in those States, and the Freedman's Bureau, with its party machinery, to control the elections.

Of General Blair, the candidate for the Vice Presidency, I need say but little to the Senate. He was at one time a member of the other branch of Congress, and recognized by all as possessing high attainments and abilities. Talented, generous, and brave, he will receive an enthusiastic support. Connected with the Army, and participating in some of its grand movements that have made its heroes immortal, his name and fame will be cherished and guarded by his late associates in arms. The criticisms, sharp and ingenious, that have been made upon the views which he may have expressed upon the condition and rights of the people of the subjugated States will not be heeded by the people when they reflect that you have shut the door of the Supreme Court against all inquiry in regard to the legislation which he has denounced. You have declared that your legislation shall not undergo that review and examination which the Constitution itself contemplated. You have declared that the judiciary shall not decide whether your acts of reconstruction are constitutional and valid. You have therefore left it to the executive to decide for itself.

Mr. President, I believe that the highest interests of this country demand the election of this ticket, and that it will be elected, and that the country will again be restored to permanent peace—peace that rests not upon subjection to despotic power, but upon the restored supremacy of the Constitution and the rightful authority of all the departments of the Government, and to a prosperity as enduring as that peace.

Mr. STEWART obtained the floor.

Mr. MORRILL, of Maine. If the Senator will yield the floor I desire to make a report from the committee of conference on the miscellaneous appropriation bill.

Mr. STEWART. Very well.

#### CIVIL APPROPRIATION BILL.

Mr. MORRILL, of Maine, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate recede from their amendments numbered 12, 18, 21, 32, 34, and 57.

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 2, 6, 8, 9, 20, 25, 38, 39, 40, 41, 42, 48, 56, 58, 59, 60, and 61, and agree to the same.

That the House recede from their disagreement to the first amendment of the Senate, and agree to the same with amendments, as follows: strike out of said amendment the words "five hundred," and insert in lieu thereof "two hundred and fifty," and at the end of line twelve, page 1, of the bill, add the following: "Provided, further, That all necessary letter-press printing and book binding, in all the Departments and bureaus shall be done and executed at the Government Printing Office, and not elsewhere, except registered bonds and written records, which may be bound as heretofore at the Department."

That the House recede from their disagreement to the seventh amendment of the Senate, and agree to the same, with an amendment, as follows: in lieu of

said amendment insert the words "two hundred and seventy-five;" and the Senate agree to the same.

That the House recede from their disagreement to the tenth amendment of the Senate and agree to the same, with an amendment, as follows: strike out of said amendment the words "and eight;" and the Senate agree to the same.

That the House recede from their disagreement to the twelfth amendment of the Senate and agree to the same, with the following verbal amendment: strike out of said amendment the word "California," where it occurs, and insert the word "California;" after the word "vicinity."

That the House recede from their disagreement to the thirteenth amendment of the Senate, and agree to the same, with the following amendments: strike out the word "two" in line one of said amendment and insert in lieu thereof the word "one;" and strike "s" from the word "tenders" in line two; and in line three of said amendment strike out the word "eighty" and insert the word "forty;" and the Senate agree to the same.

That the House recede from their disagreement to the sixteenth amendment of the Senate and agree to the same, with an amendment, as follows: strike out of said amendment the word "fifty" and insert in lieu thereof the words "twenty-five;" and the Senate agree to the same.

That the House recede from their disagreement to the seventeenth amendment of the Senate and agree to the same, with the following amendment: in lieu of the words stricken out by said amendment insert the following: "Five of the six steam revenue-cutters stationed upon the northern and northwestern lakes and their tributaries shall be laid up, and that no more of the money appropriated by this act shall be paid on their account than so much as may be necessary for their safe and proper care and keeping, and that;" and the Senate agree to the same.

That the House recede from their disagreement to the twenty-third amendment of the Senate and agree to the same, with an amendment, as follows: strike out of said amendment the words "seventy-five" and insert in lieu thereof the word "fifty;" and the Senate agree to the same.

That the House recede from their disagreement to the twenty-fourth amendment of the Senate, and agree to the same, with an amendment, as follows: at the end of said amendment add the following: "Provided, That said building, when completed, shall cost not more than \$100,000;" and the Senate agree to the same.

That the House recede from their disagreement to the twenty-eighth amendment of the Senate, and agree to the same, with an amendment, as follows: at the end of said amendment add the following: "Provided, That the Mint of the United States and branches shall continue to refine gold and silver bullion, and no contract to exchange crude or imported bullion for refined bars shall be made until authorized by law;" and the Senate agree to the same.

That the House recede from their disagreement to the twenty-ninth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "five thousand" and insert in lieu thereof the words "twenty-five hundred;" and at the end of said amendment add the following words: "to be expended under the direction of the Commissioner of the General Land Office;" and the Senate agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the thirty-first amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the forty-third amendment of the Senate and agree to the same, with the following amendment: strike out of said amendment the word "five;" and the Senate agree to the same.

That the House recede from their disagreement to the forty-fourth amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment the word "five," and insert in lieu thereof the word "twenty;" and the Senate agree to the same.

That the House recede from their disagreement to the forty-fifth amendment of the Senate and agree to the same, with an amendment as follows: strike out of said amendment the word "twenty;" and in lieu thereof insert the word "ten."

That the House recede from their disagreement to the fifty-first amendment of the Senate and agree to the same, with an amendment as follows: at the end of said Senate amendment add the following: "to pay William H. West for services rendered in taking care of and keeping safely the bonds held in trust by the Secretary of the Treasury for the benefit of the Smithsonian Institution from March 1, 1850, to July 1, 1853, \$2,500, to be paid out of the Smithsonian fund;" and the Senate agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the sixty-second amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the sixty-third amendment of the Senate, and agree to the same, with amendments as follows: strike out all of said amendment after the word "office," in line seven, and insert in lieu thereof the following: "Provided, That all the moneys standing to the credit of the 'Patent Fund' or in the hands of the Commissioner of Patents, and all moneys hereafter received at the Patent Office for any purpose or from any source whatever, shall be paid into the Treasury as received, without any reduction whatever, and the sum of \$250,000 is hereby appropriated for salaries and miscellaneous and contingent expenses of the Patent Office and for withdrawals and for moneys paid by mistake, to be disbursed under the direction of the Secretary of the Interior; and it shall be the duty of the Commissioner of Patents to communicate to Congress at the commencement of every December session a full and detailed account of moneys received for duties on patents, and for copies of

records, and drawings, and all other moneys received by virtue of said office, and of all moneys expended by him under and by virtue of this provision for said contingent and miscellaneous expenses and for salaries, and the names of persons to whom such salaries are paid and the amounts thereof paid to each."

That the House recede from their disagreement to the sixty-seventh amendment of the Senate, and agree to the same, with an amendment, as follows: at the end of said amendment add the following: "Provided, That no part of this property shall be sold or transferred without the consent of the United States first had and received."

L. M. MORRILL,  
J. HARLAN,  
C. COLE,

*Managers on the part of the Senate.*

E. B. WASHBURN,  
B. F. BUTLER,  
J. B. BECK,

*Managers on the part of the House.*

Mr. MORRILL, of Maine. I perhaps ought to make a statement in regard to two or three points of this report, which provide matters of legislation outside of an appropriation, which I should like the Senate to understand so that hereafter it may not be said that they were taken by surprise. As a general thing I am opposed to legislating on these appropriation bills, and I should be very glad for the relief of the committee if the rule of the Senate was the same as that of the House of Representatives that no matter of legislation should be put upon these bills; but it is otherwise, and the practice is otherwise. What I want to call the attention of the Senate to, and particularly of the Committee on Finance, is the first amendment, which is in the appropriation for the necessary expenses of carrying into effect several acts of Congress authorizing loans. The Senate agreed to appropriate \$1,500,000. The conference committee agreed to a reduction of \$250,000 upon the ground that there has been so much reduction in the expenditures under the tax bill that possibly that may be sufficient; but we have agreed to that with an amendment relative to the printing in that department which is now very large. We have no means of estimating it; it is not so large of course as the printing establishment proper, but it has grown to very large dimensions; in that establishment a great deal of printing for all the Departments and all the bureaus, of a character over which Congress has not the slightest control, is done; and the cost of it of course we have no information about, and the expense of which it is impossible for us to tell. This is a proposition that all the letter-press printing and binding for the Departments and bureaus hereafter shall be done at the general printing establishment of the Government, except in relation to the binding of the registered bonds and blank books that are peculiar to this department and bureau, and which may more appropriately be done there.

That is one point. Another is in regard to the mints. It may have been noticed that there is a provision in one of the amendments that the refining of gold shall continue to be done in the Mint and branch mints in the country, and that no contract shall be made by the Secretary of the Treasury to the contrary; that is, he shall be authorized to make no contract by which the refining shall cease to be done in the mints. I may be permitted to remark, perhaps, that yesterday a bill passed the House of Representatives repealing the laws on the subject of refining in the Mint and branch mints of this country. The law stands in this wise: in 1853 an act was passed authorizing the director of the Mint at Philadelphia, whenever a private establishment was capable of doing the refining then being done at the Mint, to cease refining at the Mint.

In 1861 this provision was extended to all branch mints, so that it came to be regarded as the settled policy of the Government that it was not worth while for the Government to do the refining in the Mint and branch mints, provided it could be done by private establishments. The Committee on Appropriations were not very well informed on this subject, but it seems to have been the policy since 1853 to discountenance the refining of bullion in the public establishments of the Government, for what reason I do not know; probably it was

thought that it would be done to better advantage in private establishments. Now, upon an apprehension that there was some contract about to be made on the Pacific coast, which was prejudicial to the general policy of the Government and the general interests of the miners particularly, a bill passed the House of Representatives such as I have referred to; and this proposition in this bill is made in some sense to meet what are supposed to be the reasonable expectations or demands on the part of the House who passed that bill. As it now stands, it will be seen that the laws on this subject remain as heretofore; but the Secretary of the Treasury is prohibited from making any contract for refining. Whether he ever had that power I do not know; or whether he ever undertook to exercise that power I do not know. I suppose that the policy that has existed since 1853 will continue to exist under these statutes, so that where at any mint or branch mint it is found that a private establishment is refining under circumstances more favorable to the Government than it could be done by the Government, still that policy would be pursued. That is all there is of that.

Then we make a change in regard to the Patent Office fund, which is a radical change and which the Senate ought to understand. This provision provides that the Patent Office fund so called, a fund arising from established fees in that department, shall be covered into the Treasury of the United States. That is the amount of that. I understand the fund to be about a quarter of a million dollars; and all the funds which shall arise from fees in that establishment hereafter are to be paid into the Treasury of the United States, and \$250,000 is appropriated out of the Treasury for the payment of the current expenses of the establishment. This branch of the service is entirely, I may say, conducted at the discretion of the Commissioner of Patents. I do not know that there are any complaints against the Commissioner of Patents now, or that there have been heretofore of any abuses. But it is a very extraordinary exercise of discretion to be deposited in any Department or bureau of the Government. This establishment, from very small beginnings, beginning, I think, with a Commissioner and two or three clerks, has now grown up so that the expenditure the last year was between six and seven hundred thousand dollars, all collected and disbursed entirely in the discretion of the Commissioner. He receives it all and disburses and expends it all, with no oversight or supervision from any quarter, not even under the direction of the Secretary of the Interior. But then I say, in justice to the present incumbent and his predecessors, that I know of no complaint. Still this fund has grown to such dimensions and the discretion is so very great that, in justice to the officer himself and the department itself, it would seem that the money as it arises should go into the Treasury of the United States and be paid out under such limitations and conditions as apply to other funds. As this is so radical a change and upon an appropriation bill, I thought it my duty to state thus much to the Senate that hereafter it shall not be said that they were taken by surprise.

Mr. SHERMAN. I wish to ask the Senator a question as to the construction to be placed on one of these amendments. I am not familiar with the technical language in which these provisions have been made; but the first proviso added is "that all necessary letter-press printing and book binding in all the Departments and bureaus shall be done and executed at the Government Printing Office and not elsewhere, except registered bonds and written records may be bound, as heretofore, at the Department." That applies to all printing except that connected with money. The tax law now under consideration contemplates the possibility of new stamps which are really in the nature of Government bills, being printed at the Treasury Department for safety. I ask whether this would prevent that?



Mr. MORRILL, of Maine. No; it is not understood to apply to that. That is engraving.

Mr. SHERMAN. Then I have no objection.

Mr. MORRILL, of Maine. I will say in regard to the exception that we have the language of it from the Department itself.

Mr. FESSENDEN. I desire to ask my colleague whether the matter of paying the patent fund into the Treasury was a matter discussed in either House, or whether it is put on by the committee of conference?

Mr. MORRILL, of Maine. It is put on by the committee of conference. The subject was introduced into the bill and was before us, growing out of an appropriation to rent a building to accommodate a portion of the clerks of the Patent Office; and the committee on the part of the House insisted upon some provision of this kind.

Mr. FESSENDEN. How is it in regard to the printing?

Mr. MORRILL, of Maine. This printing was not the subject of any action in either House that I know of.

Mr. FESSENDEN. It originated with the committee of conference.

Mr. MORRILL, of Maine. Yes, sir; but it was involved in the appropriation bill in this way: we appropriated \$1,500,000 to execute the loan laws; heretofore the appropriation has been more; and the Senate and House disagreed on that appropriation; the House insisting that it was very much larger than was necessary; they agreeing to appropriate, I think, \$450,000 only. The House seemed to think that a good deal of the expenditures of that office might be transferred economically to the Government Printing Office, and they insisted upon cutting down the appropriation \$250,000, and believed that by transferring the work to the Government Printing Office it could be done at lower rates, and all that portion of the expenses involved in the printing and binding for the several Departments and bureaus saved.

Mr. FESSENDEN. There is no printing done there except blanks used in the Treasury Department, and no binding at all, I think.

Mr. MORRILL, of Maine. Our information on that subject was derived from the head of the Printing Bureau, Mr. Clark. We understood that there was a pretty extensive business of printing and binding for the several bureaus and Departments, not always of a private and confidential character, but of various descriptions, which might as well be done at the proper place.

Mr. FESSENDEN. I do not know what may have grown up there within the last three or four years. I merely made these inquiries to get information. I disapprove entirely of general legislation or legislation of any kind by committees of conference which has not been presented to the two Houses for consideration and discussion. It is very apt to lead to difficulties, and I think is wrong in principle.

Mr. MORRILL, of Maine. I want to take this occasion to say that no man can be more averse to it than I am myself. I have attempted on all occasions to resist it as far as practicable; I think the principle is pernicious; but the Senate will bear me witness that while I have attempted to resist it on these bills the Senate has invariably held that it was the right of the Senate to attach such measures to the bills.

Mr. FESSENDEN. I am speaking of legislation by a committee of conference outside of the Senate. The Senate can put on anything it pleases after discussion, and it goes to the House, and is there discussed; but if it is a matter of legislation which is adopted by a conference committee it is settling a question that has not been considered in either branch as it ought to be, and it results in this; that a committee of conference may legislate on matters which have not been before the two Houses.

Mr. MORRILL, of Maine. It was for that

reason that I felt it my duty to explain distinctly to the Senate what there was in this report which was matter of legislation, and to bring it to the attention of the Senate, that they might see how far it was legislation and how far it was germane to the bill.

The report was concurred in.

#### IMPROVEMENT OF MISSISSIPPI RIVER.

Mr. RAMSEY submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same.

ALEXANDER RAMSEY,

T. A. HENDRICKS,

S. C. POMEROY,

Managers on the part of the Senate.

I. DONNELLY,

W. MUNGEN,

Managers on the part of the House.

The report was concurred in.

#### THE FUNDING BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States, the pending question being on the amendment of Mr. WILSON to the amendment proposed by Mr. SHERMAN from the Committee on Finance.

Mr. STEWART. Mr. President, I am glad to see the Democratic party again on the aggressive. I am glad that their leader in the Senate has recovered so that he can assume the aggressive. It is gratifying to all his friends that he is able to come forth and put on his armor, and has got again into the war-path. He says that the American people are going to ask some questions; that they are going to ask why we have been compelled to expend so much money, why we have done this and that; but he intimates that they will confine their inquiries to what has been done since the surrender of Lee, and he says that he does not propose to go back further than that time. Let me tell the Senator from Indiana that there are some other questions the American people will ask. They will ask why the Democratic convention indorsed Andrew Johnson's administration, and why they now denounce it as corrupt. We have never denied it. They will ask why it is that the Democratic party plunged this country in civil war, and involved it in a debt of \$2,500,000,000. They will ask why that party sought to overthrow the Government. They will ask why it was that not only the present debt, but a vast amount of taxation, running into the thousands of millions, almost beyond computation, has been expended to put down the Democratic rebellion. Especially will they ask why it is that the Democratic party has put forward as its leading standard-bearer Horatio Seymour, the leading copperhead of the North, who aided the rebellion more than any other. What does that signify? Why did they abandon HENDRICKS of Indiana? Why did they abandon the Chief Justice of the United States, the head of the great court which is so much respected? Why did they abandon Hancock? Why did they throw all these men overboard? It was to get a representative man who would be acceptable to the rebel wing of their party. They have a representative man. I cannot let this occasion pass without alluding to the significance of this nomination, and the reason why Mr. Seymour was selected.

Mr. President, Mr. Seymour was a peace Democrat, was an associate and friend of Pendleton, Vallandigham, and of those who opposed the war. Why is it that the Democrats have nominated for President the man of bad eminence, who was Governor of New York in the most critical hour of the rebellion, when everything was trembling in the balance? Why have they taken the man who, when the South

was red with loyal blood, when the hearts of all men beat with anxiety, went to the Academy of Music in New York, on the 4th of July, 1863, in company with Pendleton and others, there and then to advocate resistance to the draft, there and then to proclaim to the excited people of New York city, that a mob had an equal right to proclaim the law of necessity with a Government? Why did they take the men who, on the 4th of July, 1863, told the American people that the war was a failure, and that the only way to preserve their liberty was to resist law? Why did they take the man who, on that occasion sneered at every effort of this Government to maintain its own existence? Why, above all things, did they pass over every patriotic name and take up the representative of the cold-blooded, treasonable peace Democracy? I will tell you the reason. If anybody doubts his record I have before me a small portion of it, and I can produce more. One or two extracts are enough. He commenced his speech on the 4th of July, 1863, thus:

"When I accepted the invitation to speak, with others at this meeting, we were promised the downfall of Vicksburg, the opening of the Mississippi, the probable capture of the confederate capital, and the exhaustion of the rebellion. By common consent, all parties had fixed upon this day when the results of the campaign should be known, to mark out that line of policy which they felt that our country should pursue. But in the moment of expected victory, there came the midnight cry for help from Pennsylvania to save its despoiled fields from the invading foe; and, almost within sight of this great commercial metropolis the ships of your merchants were burned to the water's edge."

That was the way he talked. Why is it that they put him at the head of their ticket, a man who used such language on the day when the invincible Grant took Vicksburg? Why is he selected? I call the special attention of the loyal Senator from Indiana, whose virtues that convention could not appreciate, to the following beautiful sentences of his successful rival:

"Are you not exposing yourselves, your own interests, to as great a peril as that with which you threaten us. Remember this?"

He was discussing the draft and advising them in this very speech to defend their hearths, declaring the draft unconstitutional, declaring that the Government of the United States had no right to enforce it. He said:

"Remember this, that the bloody, and treasonable, and revolutionary doctrine of public necessity can be proclaimed by a mob as well as by a Government."

That is the language of your presidential nominee.

Mr. HOWARD. Read it again.

Mr. STEWART. "Remember this, that the bloody, and treasonable, and revolutionary doctrine of public necessity can be proclaimed by a mob as well as by a Government."

And within eight days from that time the most disgraceful mob that mars the good name of our nation was raging in the very metropolis of the State of which he was Governor, vindicating his words, taking the ground that they had as good a right to proclaim the law of necessity by which they might take life and destroy property as the Government of the United States. He was the representative of the idea of mob violence. Every line of that speech contains a suggestion to disobey the law. The mob came and you say he helped to put it down. I say he ought not to have advised his friends to enter into it.

But I will proceed a little further. I have another one of Governor Seymour's speeches which he made to the mob. It was after this mob had raged some days, after he had got a little news from Vicksburg, and a little news from Gettysburg, and he was not quite so brave as he was on the 4th of July. Then he makes a speech, and he calls them "my friends." This mob had burned down orphan asylums, had gibbeted men in the streets, and had destroyed \$2,000,000 of property, which the city of New York has since refunded. He calls this mob of blood and violence "my friends," and he says to them:

"I have come down here from the quiet of the country to see what was the difficulty; to learn what all this trouble was concerning the draft."

He had been there on the 4th; he had told them about the draft; he had made a speech, and so had Pendleton and Seymour of Connecticut and O'Gorman, and they had agreed, one and all, that the mob had the right to take this matter into their hands. Then he returned to the country, and comes down after they had been killing and murdering for several days, and he says:

"My friends: I have come down here from the quiet of the country to see what was the difficulty; to learn what all this trouble was concerning the draft. Let me assure you that I am your friend. [Uproarious cheering.] You have been my friends, [cries of 'Yes,' 'Yes,' 'That's so;'] 'We are and will be again;'] and now I assure you, my fellow-citizens, that I am here to show you a test of my friendship. [Cheers.] I wish to inform you that I have sent my adjutant general to Washington to confer with the authorities there, and to have this draft suspended and stopped. [Vociferous cheers.] I now ask you, as good citizens, to wait for his return; and I assure you that I will do all that I can to see that there is no inequality, and no wrong done any one. I wish you to take good care of all property as good citizens, and see that every person is safe. The safe-keeping of property and persons rests with you; and I charge you to disturb neither. It is your duty to maintain the good order of the city; and I know you will do it. I wish you now to separate as good citizens, and you can assemble again whenever you wish to do so. I ask you to leave all to me now, and I will see to your rights. Wait until my adjutant returns from Washington, and you shall be satisfied. Listen to me, and see that no harm is done to either persons or property, but retire peaceably."

The meeting at the Academy of Music was brought together for the purpose of inflaming the people against the draft, and the Governor of the State, who held the reins of power to enforce the law, was there, telling them that they had as much right to do that as the Government had to enforce the draft, and after they had done their bloody work he tells them, "Wait a little while; if we have not scared the Government enough yet so that they will yield and surrender to us, you may reassemble."

Why is it that this man was nominated? Is there not some purpose to be carried out? There is a little piece of evidence that explains that. There is a war to be prosecuted. I hold in my hand the letter of his colleague on the ticket, Mr. Frank Blair. Mr. Frank Blair, it is true, was once a Republican; but in order to secure a nomination at New York he sent to that convention a manifesto which the Senator cannot approve, from which he recoils with horror; which, excuse it as he must, he cannot but condemn; and he says that upon that letter he wants the nomination. In that letter he declares that seven States shall be expelled from this Union by force of arms if his friends are successful. He declares for war, and declares that they have a right to expel States.

Mr. McCREERY. Will the Senator read any portion of Mr. Blair's letter that declares for war.

Mr. STEWART. The whole of it.

Mr. McCREERY. Just read that part.

Mr. STEWART. The whole of it is for war.

Mr. McCREERY. Just read one sentence.

Mr. STEWART. The letter says this: that it is idle to talk of legislation to accomplish the purpose; it cannot be passed through the Senate, and therefore the President must upset these governments, treat them as nullities, and call upon the military commanders to undo the work that has been done there, overturn them all. Why was he selected? What do they propose? They propose war. The American people want to know why it is, after four years of bloody war, after such vast expenditures of blood and treasure, after years of effort to restore the country, when we are returning to our habits of industry and economy and peace, Horatio Seymour, an advocate of mob violence, Horatio Seymour, who proclaimed the war a failure, Horatio Seymour, who denied the right of this nation to maintain its own existence, is placed as a candidate by the Democracy at the head of the ticket. They will want to know why Vallandigham placed him there. They will want to know why Vallandigham took him by the neck

and said, "No, you shall not resign." They will want to know why Forrest, of Fort Pillow notoriety, eulogized him. They will want to know why he is the special friend of Wade Hampton. They will want to know why these gallant chieftains of the rebellion brushed the loyal Democrats, like so many flies, behind them, and took this chieftain of the peace Democracy, odious in the nostrils of the people, held him up, and shook him over that convention amid the cries of the bewildered and befooled western delegates.

These are some of the questions the people will desire to have answered. They will want to know why the delegates from the West and from the East congregated in that modern city of iniquity allowed themselves to be hoodwinked and allowed him to be placed in that position. I tell you, Mr. President, the object of putting him there, the embodiment of the peace Democracy, the embodiment of opposition to the war, the embodiment of the slave-ruling idea, the embodiment of everything that is anti-American, anti-progressive, and anti-Democratic, is to endeavor to reverse by the verdict of the people the verdict of the war. They put him there to do honor to the lost cause. They put him there to condemn the efforts of the loyal people of this nation to maintain this Government. They put him there knowing that his election above that of any other man would be a condemnation of the war, would be a repudiation of everything loyal, just, and noble. They put him there to insult the memory of those of our noble heroes sacrificed by his neglect. They put him there because they believed that with him they could most effectually humiliate Grant. They put him there because they had grown brave and rash. They put him there because they were on the aggressive and had determined to make loyalty odious. They put him there because they intended to make every Union, liberty-loving man in the country bow down in the dust. They put him there in a fit of over-confidence, to please their southern friends, to revive the rebellion, to reverse the order of things.

But now the amazement and the chagrin that are felt show that they mistook the temper of the people. They forgot that the evil he had done was still remembered. They might have taken Hendricks or Hancock or somebody who was not identified with riot and bloodshed and treason to the Government. They see that they have made a great mistake. It was the over-confidence of the rebels in the beginning that they could overthrow the Government which made them light the torch of civil war. It was their over-confidence that led to their destruction. It is the over-confidence of these schemers for a new rebellion that has opened the eyes of the people; and I tell you when the contest is ended the record of those who stood by the country during the war will be vindicated. The people will maintain those who stood for the Government through the sorrows, losses, dangers, and privations of the war. They are not willing to reverse its verdict. They are not willing to humiliate loyalty. They are not willing to renew the war for the sake of reestablishing peonage or slavery in the South. Why should not people desire peace and security and Union? Why should they wish to put Vallandigham, Hampton, Vance, and Forrest in power? What have these worthies done to merit office? They will not stop to talk about little quibbles in regard to the consistency of the Republican party or little irregularities in carrying on the war. They know that our financial troubles since the war grew out of the corruption of Johnson's Democratic administration. They are not willing to reverse the verdict of arms, to re-erect the chains of the slave, and to make this a white man's Government for the benefit of a few arch-traitors. Those who raise this cry do not propose to make it a white man's Government for the sake of the white man, but for the sake of treason. Why should this be made a white

man's Government for the sake of treason? It will not be a white man's Government when you have done; it will be a rebel Government, in which the poor, white and black, will be trampled into the dust, as they ever have been. Why tear down governments based upon equal rights where all are protected? Why tear down governments which are an honor to the American name? The American people will pause long before they enter upon this work.

The verdict is already recorded. My friend from Indiana sees the handwriting upon the wall. Let him go home to his State. Let him go home and fight for his individual self there. Nobody has any personal hostility to him. Let him make his own fight as he can; but after the convention has repudiated everything that looks like loyalty or love of country, when they put up nothing but the black idols of rebellion for him to worship I beseech him not to load himself too heavily with the record of Blair and Seymour; it may endanger his own little fight in that great State which he seeks to govern. But this attempt to elect such men with such a record means that every loyal man is to be humiliated and trampled in the dust. It means that the debt is to be repudiated, the honor of the nation to be destroyed. It means a dissolution of the Union by the expulsion of States, because Blair distinctly stated it and desired to be nominated on that issue. It comes to us in that shape; and if the deserters, the traitors, the cowards, and the rebels were right; if the American people think they were right and we were wrong all the time; if all the Union armies were wrong, then let the verdict be recorded that Grant is the greatest murderer that ever was or ever can be in history; then let Sherman and Sheridan and Thomas be disgraced; let their names be stricken from the rolls of the Army; let none but traitors be placed there; let Lee take the place of Grant and Forrest of the gallant Sheridan; stop paying your pensions to the widows of the soldiers who have fallen; let anarchy reign supreme; ratify the glorious doctrine of your leader, that mob violence is as legitimate as governmental power; adopt the motto, "Let ruin come again."

But, sir, the American people are not so inclined, and however aggressive my friend from Indiana may be in defending the forlorn hope of his successful competitor in the New York convention, he will make very little impression on the country except that he intends to be true to his party, that he means to prove to the world that his head is not sore although his heart aches a little, and he is very much disgusted with the proceedings of the convention. He has said enough on that subject; let him leave it to a generous people. They will not condemn him too severely, they will sympathize with him; but he must not attempt to get them to worship at the altar of Seymour or Blair, because they will not be persuaded. He must not try to transfer the love and admiration felt for him to two such men representing such ideas as they do, because he will fail in that and they will cease to confide in him.

Mr. CORBETT. Mr. President, the provision now proposed inaugurates a new system which, it seems to me, would be very detrimental to the interests of the United States. The amendment of the Senator from Massachusetts provides for imposing upon our bonds a tax of one half of one per cent., which has certainly never been attempted by the Government before. These bonds have been popular, and will continue to be more popular if we maintain our public faith, provided we do not tax them. We have always contended, and the Supreme Court of the United States has decided, that United States Government bonds cannot be taxed; that it is necessary for the Government to have power to issue bonds free from taxation so as to maintain the national credit, to be able to protect ourselves from incursions from abroad and to subdue rebellions within. If we now inaugurate a system of taxing the bonds one half of one per cent. there is nothing hereafter to hinder Congress from taxing them

one per cent. or two per cent., and when we commence that we do not know where it will stop. Once begin that system, and those abroad who have invested their money in United States Government stocks will send them home very soon. Confidence will be destroyed. Persons who hold stocks from the income of which a tax is deducted will not wish to hold them longer. Thus, the stocks held abroad will be returned upon us, and the result will be that we shall have to send gold or something else out of the country to pay for them. We are not in a condition now to send anything abroad. We are not sending anything abroad in place of gold. In three months, since the 11th of March last, we have sent abroad over thirty-eight million dollars in gold in consequence of the decline of United States securities in foreign markets. One reason of that decline is the agitation of the question whether the bonds of the United States Government shall be taxed, and whether we are going to repudiate this debt or not. All these considerations have had their effect on the price of the bonds, and the result is that gold is going out of the country instead of United States bonds, and we have got to send something out of the country by and by, as we are sending out gold at the rate of \$120,000,000 a year, and only producing sixty or sixty-five million dollars. We certainly must stop sending gold very soon or we shall be bankrupt.

It seems to me that the principle proposed by this amendment in place of the present bill is one that will be very injurious. I would rather have a bond specifying upon its face only four and a half per cent. interest than a bond for a higher rate conceding the right of the Government to tax it. Reduce the rate of interest as you may think best in your wisdom, but do not tax the United States bonds. It will destroy the market for them abroad, and destroy the confidence of your own people in them.

I see no objection to the present bill as the Committee on Finance propose to amend it, with the exception of section three, which I think should be stricken out. I have had some little conversation, and attempted to inform myself as to the effect of that section, and my opinion is that it will only tend to create embarrassment and to court speculation in the money markets of the United States at the great commercial centers.

Now, in New York city if stock brokers and speculators desire to create a panic in the money market they go to the banks, and, borrowing all the money they have to lend, seal it up and deposit it for security for thirty days or more, saying to them, "We will pay you interest on this money; but we want it sealed up and placed in your vaults." That takes it from the circulation of the country. An association of men in this way who desire to control the stock market may with \$250,000 withdraw \$50,000,000 of currency from circulation if they choose. In thirty days they can produce such a stringency in the money market as to reduce the price of stocks to the extent of five, ten, or fifteen per cent. Having done this, they let the money loose again, and in a very short time up go the securities ten, fifteen, or twenty per cent., and they thereby make large fortunes.

I think the provisions of the third section will tend to favor those who seek to bring about such results. If this additional \$44,000,000 is placed in circulation it certainly adds \$44,000,000 to the circulating medium of the country. The result of the section will be that those holding bonds can at any time go to the Treasury and deposit those bonds and withdraw the money in the Treasury from circulation, provided there is not at the time a total of \$400,000,000 in circulation. Men can go to the Treasury, deposit \$50,000,000 of bonds, and at once withdraw \$50,000,000 of legal tenders from the Treasury, and we must wait for that money until it comes in from taxation. If the men put the money away, the result of the operation is to reduce the circulating medium of the coun-

try for the time being \$50,000,000, and these men give up four and a half for five per cent. upon the \$50,000,000, whereas now in order to control the market they have to pay seven per cent. to the banks. Here is a saving of two or three per cent. by this way of controlling the stock market and making a crisis every now and again under the third section.

Mr. President, what the people of this country desire is stability, something that they can depend on, something that they know will not create distrust and will not be a disturbing element in the money market. They desire to know how much circulation there is in the country and to make their calculations accordingly. If we have a stated amount of circulation, and the only increase is the gold that comes into the country, they can make some calculations in regard to their business transactions; but if you have a circulation that is exchangeable from currency into United States bonds and from United States bonds into currency there will be doubt and uncertainty. When money is easy people will be investing their money in United States securities, and when there is a panic in the market they may convert their bonds into greenbacks, so as to lend them at a high rate of interest. Thus there will be a constant change from one to the other, and men can make no safe business calculations. Such a provision in the bill will have a tendency to disturb the money market and cause more distress than even the present state of things. Now, money is plenty in New York; it can be had for short loans on good security at three and a half, four, or five per cent. At another period of the year money will be scarce there, because it will be wanted in the West to move the crops. If you issue this increased amount under the third section how are they going to get this money in the West? They will not get it. Persons who hold bonds will deposit their bonds with the Assistant Treasurer at New York, draw the greenbacks, increase the currency, and probably reduce the rate of interest there; and there will be speculations to advance the prices of stocks, and when money is wanted West to move the crops there will be a tight money market and financial distress. The bonds may be presented to the Government for currency at a time when the Government has not the money to spare, when it may not have over forty or fifty millions in the Treasury, and under this provision every cent of it may be drawn out and the Government left without the means of defraying its current expenses. There is no guard at all around this provision.

If the third section were stricken out I should think the bill unexceptionable. The other sections provide that the new bonds provided for shall be issued and sold or exchanged for the existing loans now outstanding. It is at the option of the holders of the present bonds whether they will exchange them or not. If they desire to get a permanent loan, something that they are sure of, something which is clear and undoubted on its face, this provides for it, and they can so exchange. In that respect I think the bill is well drawn; but at the proper time I propose to move to strike out the third section.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts [Mr. WILSON] to the amendment of the Committee on Finance.

The amendment to the amendment was rejected.

Mr. HOWARD. I wish to offer an amendment to that section which relates to gold contracts, to come in at the close of the clause. I do not propose to make a speech upon it; I think it will address itself to the good sense of every Senator. My amendment is to add to the section:

*Provided*, That this section shall not apply to the renewal or extension of an indebtedness under a contract already entered into.

Mr. CORBETT. I do not see that that would affect particularly the States on the Atlantic side, but it might those upon the Pacific.

They have gold contracts there now under existing laws called specific contract laws. I do not know whether this amendment would interfere with the extension of their contracts. If this should supersede their laws, the law of Congress overriding the law of the State, it might work injury to those interests.

Mr. HOWARD. I can modify it so as to except all those cases.

Mr. SHERMAN. I have a modification of that amendment which, if the Senator from Michigan will allow me to state, I am willing to adopt. To avoid the argument that has been made I am willing to adopt this proviso instead of the one he proposes:

*Provided*, That where the stipulation to pay coin is a device to secure illegal or usurious interest, it shall not be enforced.

This is what the Senator wants: where the stipulation to pay coin is a device of the party to impose illegal or usurious interest it shall not be enforced. That is as far, I think, as we can go to limit contracts.

Mr. HOWARD. That is not so far as my amendment contemplates going. My amendment contemplates exactly this: that where contracts have been made not payable in gold, and now exist, any contract for the renewal or extension shall not be made in gold, but shall rest upon the same basis as it rested originally. That is my idea.

Mr. WILLIAMS. I have never been impressed as much as some others with the necessity or advantage of this section; and the criticisms made upon it yesterday by the Senator from Minnesota and the Senator from Wisconsin seemed to me to have some plausibility, at any rate, if not foundation in fact.

I believe that this section ought to be so amended as to except loans of currency, and I would suggest to the Senator from Michigan that he amend his amendment so as to provide that persons who desire to borrow currency shall not be required to give contracts payable specifically in gold, for I can very readily understand that great hardships may be imposed in that way upon persons whose necessities compel them to borrow money; and the object of this provision is to enable those persons who are required to make use of gold for the payment of customs duties or otherwise, to make contracts by which they can buy gold. Here are money-lenders scattered all over the country. There are men whose necessities require them to go to these persons for accommodation. A man, perhaps, expecting that at some time not very far distant specie payments will be resumed, or, induced by some other consideration, may enter into a contract by which he borrows a certain amount of money in currency and agrees to repay it in gold. Thousands of men may be induced to enter into contracts of this kind, and the consequence will be that they will put themselves entirely in the power of the money-lenders, who are notorious for having no conscience, or no scruples, as a class, in pursuing their debtors.

Mr. HOWARD. I have modified my amendment to read thus:

*Provided*, That this section shall not apply to the renewal or extension of an indebtedness under a contract already entered into, unless such contract originally required payment in coin.

Mr. CONKLING. That amendment enables me better to put a question to the Senator from Oregon. Suppose the amendment is adopted first for my illustration, who is it going to protect? One man has borrowed money from another; the debt has fallen due; he goes to him to rearrange it. This provision would not extend to that contract. The creditor therefore says, "I will not extend this debt; you must pay me now;" and in order to raise the money with which to make the payment he must go to the next man and make a fresh contract with him answerable in coin; so that it would be the old case which has been caricatured in the play and a thousand times in real life of a man saying, "I cannot lend you this money, but I have a friend or a brother who can do it." So in the case supposed by the Senator from Oregon, I ask him



whether if his amendment be, as I understood him to suggest, that contracts heretofore made payable in currency should not, in any event, be answerable in coin—

Mr. WILLIAMS. My amendment, if I was to draw one, would be to change the section so as to make it read "that any contract hereafter made—excepting for loans of currency—specifically payable in coin, shall be legal and valid." I claim that where a man borrows currency, if his necessities, or the power which the lender has over him, induce him to give a contract payable specifically in gold for the currency, it ought not under existing circumstances to be enforced.

Mr. CONKLING. Take that very case; the debtor comes to the creditor to get an extension. The creditor says, "No; I will not extend this a moment; you must pay me now or I shall sue you on your note." Is he not then at once driven to go to the next man, who is either in concert with the creditor or not, as you please, to borrow from him in a coin answerable to contract in order to get the money to come back and pay his creditor?

Mr. WILLIAMS. I think not.

Mr. CONKLING. Why not?

Mr. WILLIAMS. In the first place, I suppose the question assumes that the existing contract is payable in currency. If that be so, and the debtor is unable to pay, the creditor will sue and recover a judgment for currency, and the debtor's property will be sold for currency, his debts will be paid in currency. But if he enters into a contract specifically payable in gold, under this bill the judgment will be for so much gold.

Mr. CONKLING. I wish my honorable friend to enlighten me upon this point. Of course if the contract is returnable in currency, and proceedings are taken to enforce it, the case will be as the Senator states; but suppose, to avoid a suit and seizure of his property on execution, the debtor goes to some other person to borrow this money with which to pay, then he is brought immediately within the scope of the law as it would be after the amendment is adopted. So I ask the Senator how it is in reality that it amounts to a protection even in the case he puts?

Mr. WILLIAMS. I do not think the Senator understands the amendment I propose. Suppose that A goes to B to borrow money, and B insists that if he loans him currency A shall make a contract specifically payable in coin. A declines to do it, and he is compelled to go to C to borrow the money. He can no more make a contract specifically payable in gold with C to bind him than he could make a contract with B payable in gold to bind him. He cannot make a contract payable in gold with anybody for the purpose of borrowing currency. That is the extent of my amendment. It is to hold that a man shall not be compelled upon a contract which he makes for the purpose of borrowing currency under any circumstances to refund the amount in gold.

Mr. CONKLING. Suppose I go to the Senator under the law as it would stand with this amendment to borrow \$100 in currency, and suppose I make a contract to repay him coin less forty per cent., gold being at 140, would not such a contract as that be within the law as he intends to make it?

Mr. WILLIAMS. I do not understand that any contract made for the purpose of borrowing currency, where the payment is specifically to be made in coin, would be a contract which could be enforced under this law, no matter what the amount specified in the contract might be.

Mr. CONKLING. That is, it would not be valid unless coin had been paid out and coin was to be received back?

Mr. WILLIAMS. Certainly, that is what I mean.

Mr. CONKLING. Surely the Senator must see that the moment such a law as that is passed contracts are restricted to the sale of property, because if I cannot go to the Senator and borrow \$100 in gold, and in place of gold repay him \$140 in greenbacks, the currency of the

country, equivalent to gold at the market value, gold being now demonetized, it is entirely impossible that any transaction should take place under the law except it may be to sell my chattels or real estate and take an agreement payable in gold, so that this would not be a commercial law at all.

Mr. COLE obtained the floor.

Mr. TRUMBULL. Will the Senator from California give way for a motion to go into executive session? That will afford an opportunity for these other Senators to confer and come to understand each other, so that we shall get along more speedily hereafter.

Mr. COLE. I have but a few remarks to offer at this time. If the Senate, however, desire to go into executive session I shall not insist on addressing them at this moment.

Mr. SHERMAN. I know the Senator from Illinois wants an executive session, but I trust he will not interpose at this time, and will allow us to go on with this bill. I have seen a great majority of the Senators, and they have told me they are disposed to close this bill to-night. If so, I hope we shall sit on until the hour comes for the recess, and then take the recess, and sit it out to-night, and to-morrow the Senator can have his executive session in time to accomplish something, but if we go into executive session now we shall accomplish nothing before the recess.

Mr. TRUMBULL. Oh, yes; we shall be able to do something by going in now.

Mr. MORRILL, of Maine. I desire to give notice to the Senate that on to-morrow the Committee on Appropriations are extremely anxious to present to the consideration of the Senate the Indian appropriation bill.

Mr. TRUMBULL. I hope, then, the Senator from California will give way and let me move an executive session. We certainly ought to do some executive business.

Mr. COLE. As the chairman of the Committee on Finance, who has this bill in charge, is extremely anxious that it should be disposed of to-night, I prefer to go on. This is a part of the bill in which I have from the commencement taken very considerable interest, and though I am in favor of every section of the bill this is the only one upon which I propose to offer any remarks.

Gold and silver have always been the currency in the State which I have the honor in part to represent. The late war, which drove hard money from circulation in the Atlantic States, produced no such result on the Pacific side. Greenbacks have all the while been bought and sold there precisely as gold and silver have been bought and sold in the markets of New York. They have been used to pay Federal taxes and the salaries of Federal officials, but further than that they have not entered into business on that coast. This unusual condition of things is attributable mainly to the fact that banks of issue never had an existence in that State. By her constitution they are prohibited, and before the advent of United States notes her people had no paper money whatever. The facility, therefore, which existed in other States for gliding from the use of one description of paper money into the use of another was wholly wanting in California.

The prime obstacle in the way of bank paper, and afterward greenback circulation, there was the large production of gold, which first led to this constitutional prohibition upon banks of issue.

This condition of things impelled the Legislature of that State to pass a law which is known there as the "specific contract law." It provides that any agreement in writing to pay in coin may be enforced according to its terms. I need not now discuss the validity of such a statute, the local courts having sustained it, and its principles having entered into thousands of business transactions. It is sufficient to say that the necessity for such a law and such a decision was far more pressing in California than in any other State of the Union.

That law effected for California precisely

what is sought to be effected for the whole country by the section under consideration. It is intended simply to modify the legal-tender act so as to allow the making and enforcing of contracts to pay in coin, if people shall choose to make such contracts.

United States notes will remain a legal tender, as at present, for all debts public and private unless the specific agreement calls for something else. If there is a single sound objection to this measure it has not yet appeared.

The proposition has been before the country since early in December last, and has elicited much comment from the public press and from private citizens; but I have not heard a single solid reason urged why it should not become a law. It is said that sharpers will take advantage of it to oppress their debtors, by exacting payment in coin where only paper money is due. But this is not likely to occur. No man would exact and no one submit to pay forty per cent. in addition to his debt. This objection to the measure is imaginative, not real. No such advantage could be taken of it. The arguments in its favor, though not numerous, are, in my opinion, forcible. They address themselves directly to the practical sense of the people. There is no compulsion about this measure. The adoption or rejection of its principles is left entirely to the volition of each individual. Unlike every other financial scheme, it is totally devoid of pressure to secure its adoption, and yet there is no doubt it will go into operation. Its own merits will ensure its success. Coin contracts will most certainly be made. Whenever credit is given both parties will prefer it shall be upon the basis of hard money, because that will ensure to both greater safety and certainty. Instead of continuing the undivided use of a standard of value, which is scarcely any two days the same, and which, within the life-time of many a contract, has ranged from par down to forty cents on the dollar of gold, all good business men will substitute the world-wide, time-honored and more steady standard of the precious metals. This standard is not affected by the misfortunes of any nation, but, like the waters of the ocean, keeps on the same grand level throughout the whole world, and is only subject to inconsiderable tides.

Uncertainty in the value of the circulating medium enhances the prices of all commodities, and as well those of prime necessity as those that can easily be dispensed with. The tradesman cannot safely assume the risk of a sudden decline in the value of greenbacks, and he must therefore preserve a larger margin of profits on his sales. The importer and manufacturer must do the same, and the unfortunate consumer at last has to bear the burden.

Mr. President, this bill is calculated to encourage and promote business of every sort. It will restore confidence where now is only distrust. Let us illustrate its workings by presuming a case. Suppose you have for sale a piece of property valued at \$10,000 in the ordinary currency, you would just as readily take its equivalent in gold, \$7,000. And if the payment were to be postponed one, two, or three years, both the purchaser and yourself would still prefer to specify the \$7,000 in coin as the price rather than the \$10,000 in a fluctuating and uncertain medium.

All prices are now exorbitant and unnatural. This provision will reduce them to what they were before the war, because they will again be measured by the same standard of value. They will be brought down to the same general level that they have continued to occupy in California. There the only changes in prices have been such as ordinarily flow from supply and demand.

The rise and fall of greenbacks from time to time have produced as little effect upon values there as in England.

There being but little use for coin in this country at present, it goes abroad, too often in exchange for products we do not need. But the passage of this bill, by creating a necessity

for it, will keep the coin at home. The amount of coin in the Atlantic States at this time must be very small. There is, on the average, about ninety millions in the Treasury, and outside of it probably not a very much larger sum. The only demand for it is to pay duties on imports; and the brokers and bankers retain a little for speculation, but most of it has gone out of the country because not needed here. All Californians, on landing in New York, rush to Wall street to sell their gold, and I suppose everybody who happens to have a little or much is equally anxious to convert it into some more useful form. Those who had coin hoarded up before the war have been forced by necessities, or tempted by large premiums to sell it, and there is but little of this sort of dead capital remaining in the country. The speculative character of our people precludes the idea that any considerable quantities of the precious metals are hid away in chests and corners. The fact that there is but little coin in the banks is shown by the proposition to-day discussed, asking for the issue of more three per cent. certificates to be used as their reserve. Of those certificates, \$50,000,000 are already out. And as gold and silver, being lawful money, may constitute a part of the reserve, it certainly leads to the conclusion that there cannot be much coin in the national banks.

Every contract to pay in specie is in effect an agreement that so much gold shall be retained in the country to meet it; and when such contracts become common, as they will, gold and silver will be found sufficient for the demands of business, and we shall reach a specie basis almost without knowing it, and without the slightest injury to anybody.

Every other method yet proposed for returning to specie must lead to injustice, by enforcing the payment of debts in coin, which were contracted upon the basis of a depreciated paper currency. There is no plan so fair as this for reaching a specie basis, and no other which will not produce convulsions in business and lead to untold distress throughout the country.

But if it be true, as often alleged, that a large amount of gold and silver is hoarded up in this country, why should it not be unlocked? What reason is there why it may not be allowed to go into circulation, so that the people may become accustomed to its use again? If we are ever to go back to specie it must be by some such gradual process, and not by a single stride. If we should blindly adopt one of the many suggestions upon this head, and declare that on a certain day the Government would resume payments in specie, the gold in the Treasury would last so long, and only so long, as would be required to transfer it to the broker shops, and after that single day or so of specie payments we should be further than ever from the end aimed at. The country would find itself absolutely at the mercy of the "gold ring," and its credit would only be saved, if at all, from utter ruin in order that it might further subserve their selfish purposes.

I will mention one other reason for the passage of this law. If the gold and silver coin of the country is put in circulation it will be adding somewhat to the circulating medium now afloat. This at present is too restricted in certain portions of the Union, the South and the West, where the quantity is quite inadequate to the demands of business. The amount of circulating medium in a country ought never to be fixed by law. It should be left to be regulated by the requirements of trade. Money is the element upon which business floats, and without a sufficiency of which it is liable to perish. Good, hard money, or paper money, well secured, is never likely to become too abundant. The former being the accepted medium of exchange among all nations is as certain as the waters of the sea to find its level, and the quantity of the latter will always be governed by the character of the security. If secured by hard money, and equal to it in actual value, it is not more likely to

become too abundant. Let loose this gold from its hiding places, and you will hear less complaint about contraction. This coin will by degrees take the place of paper money, and before long you can spare from circulation the \$4,000,000 of paper a month without trouble. But should that amount, or even a much less sum per month, be withdrawn, with no provision for supplying its place, the business of the country would soon be hard aground, and general disaster would follow.

Since the Government has taken upon itself the task of furnishing the people a circulating medium it cannot decline the responsibility of providing so much and such sort of circulation as is demanded by the business wants of the people. These wants vary greatly from time to time, and depend upon many circumstances. They increase with population and wealth; they vary with the productiveness of the seasons; they are affected more or less by every summer's shower and chilling wind. It is not possible at any time to determine in advance what amount of circulation will be needed, and the legislator errs when he undertakes to prescribe a rule fixing one definite quantity for different times and different circumstances.

The bill before the Senate will relieve the country from the great embarrassment arising from time to time out of the present law fixing a definite limit upon the amount of circulation. It will unlock just so much gold and silver as may be needed in the current business of the country, and no more. I am sure it will improve the public credit and bring all Government secured paper up to near the common standard of value among all the nations. I believe the passage of the measure will work good, and only good, to the people and the country in every way.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. I hope not.

Mr. TRUMBULL. It is half past four o'clock.

Mr. SHERMAN. I doubt whether there is a quorum here, and many Senators have gone away supposing the discussion would be continued till the recess.

Mr. TRUMBULL called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 25, nays 15; as follows:

YEAS—Messrs. Buckalew, Cole, Davis, Doolittle, Drake, Ferry, Fessenden, Fowler, Frelinghuysen, Hendricks, Howard, McDonald, Morgan, Morrill of Vermont, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Rice, Tipton, Trumbull, Van Winkle, Vickers, Welch, and Wiley—25.

NAYS—Messrs. Cameron, Chandler, Conkling, Connors, Corbett, Morrill of Maine, Nye, Pomeroy, Ross, Sherman, Stewart, Sumner, Wade, Williams, and Wilson—15.

ABSENT—Messrs. Anthony, Bayard, Cattell, Craig, Dixon, Edmunds, Grimes, Harlan, Henderson, Howe, McCree, Morton, Norton, Saulsbury, Sprague, Thayer, Whyte, and Yates—18.

So the motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate took a recess till half past seven o'clock p. m.

#### EVENING SESSION.

The Senate resumed its session at half past seven o'clock p. m.

#### VALLEJO AND HUMBOLDT BAY RAILROAD.

On motion of Mr. CONNESS, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 349) granting aid in the construction of a railroad from the town of Vallejo to Humboldt bay, in the State of California, the pending question being on the amendment reported by the Committee on Public Lands as a substitute for the original bill.

Mr. HARLAN. I think there ought to be a provision added confining the grant to lands within fifteen miles.

Mr. CONNESS. I have no objection.

Mr. HARLAN. I move this amendment, to come in at the end of the second section:

*Provided, That no land shall be granted under the*

provisions of this act situated more than fifteen miles from the track of said road.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to. The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed. Its title was amended to read: A bill granting lands to the State of California to aid in the construction of a railroad and telegraph line from the town of Vallejo to Humboldt bay, in the State of California.

#### FREEDMEN'S BUREAU.

Mr. WILSON. I move to take up the bureau bill, which has been returned from the House of Representatives with amendments.

The motion was agreed to; and the Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 567) relating to the Freedmen's Bureau and providing for its discontinuance.

The amendments were in line twenty-two, after the word "operations," to insert "shall be," and after "discontinued" to strike out the words "as soon as the same may be done without injury to the Government."

Mr. WILSON. I move that the Senate concur in those amendments.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had disagreed to the amendments of the Senate to the amendment of the House to the bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. G. S. BOUTWELL of Massachusetts, Mr. JAMES H. WILSON of Iowa, and Mr. S. S. MARSHALL of Illinois, managers at the same on its part.

#### BILL INTRODUCED.

Mr. CAMERON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 616) to remit the duties on a certain statue intended to surmount the soldiers' monument at Harrisburg, Pennsylvania; which was read twice by its title, and referred to the Committee on Finance.

#### MRS. L. T. POTTER.

Mr. HOWE. I move that the Senate proceed to the consideration of the bill for the relief of Mrs. Potter.

The motion was agreed to; and the bill (S. No. 596) for the relief of Mrs. L. T. Potter was read the second time, and considered as in Committee of the Whole. It proposes to appropriate the sum of \$20,000 to Mrs. L. T. Potter, of Charleston, in the State of South Carolina.

Mr. HARLAN. I would inquire of the Senator who has called up this bill what is the nature of the claim?

Mr. HOWE. If the Clerk will read the report of the committee the Senator will see.

The Chief Clerk proceeded to read the following report, made by Mr. Howe:

The Committee on Claims, to whom was referred the petition of Mrs. Eliza K. Potter, submit the following as their report of the case:

The petitioner is the wife of L. T. Potter, of Charleston, South Carolina. She represents that at the opening of the war her husband was very wealthy, and that she possessed considerable means of her own. She further represents that throughout the war her husband and herself were devotedly attached to the cause of the Union, and that she herself and her son, a lad of some sixteen years, devoted nearly their whole time to the care and nursing of Federal prisoners in Charleston, and she represents that in the course of the war she expended of her own and her husband's money more than forty thousand dollars in ministering to the support and comfort of Union soldiers in rebel prisons. She represents that during the war her husband met with heavy losses; that some valuable mills situate near Charleston, and some docks and storehouses in Charleston, were burned; that her husband, from time to time during the war, sold portions of his property in Charleston and invested the proceeds in cotton, in the hope that when the war would close the cotton would be available; that some three hundred bales of cotton were

stored at Florence, in the State of South Carolina, and over two hundred bales, part of it sea-land, were stored at Sumter: that the confederate army retreating before General Sherman burned the cotton at Florence, and that after the surrender of Charleston some national troops, under the command of General Potter, made a raid on Sumter and burned the cotton there.

The petitioner concedes that the Government is not legally liable, either for her services, her charities, or her losses; she never expected any compensation for either. And although she found her family at the close of the war reduced from affluence to poverty it was no part of her purpose to ask any recognition from the Government of the sacrifices which she had made, or of the sacrifices to which she had been subjected. Her trust was that business would return to Charleston with peace, and that with returning business the fortunes of her husband would revive. That hope has been disappointed, and she now feels compelled by necessity to ask of the Government some return for what she and her family have done and suffered.

The loyalty of the petitioner and her husband, and the excellence of their personal characters, are approved by Senators who have known them for years, and by many prominent citizens who have enjoyed the same advantage, and some of whom reside in this city, and some elsewhere.

The tireless diligence displayed by Mrs. Potter in her care of our sick and imprisoned soldiers is attested by a voluminous correspondence submitted to your committee, to which correspondence such soldiers and their friends in different portions of the country are parties.

The nature and extent of the services rendered by Mrs. Potter are graphically stated by Mr. Fredrick R. Jackson, formerly a sergeant in the seventh regiment of Connecticut infantry, and now a clerk in the Treasury Department.

Mr. Jackson was himself one of the subjects of Mrs. Potter's care. His own good character and truthfulness are vouched for by one of the Senators from that State. His statement is as follows:

WASHINGTON, D. C., June 18, 1863.

HONORABLE SIRS: Your chairman, Senator HOWE, having requested me to put in writing a short statement that I made to him in the committee-room this morning, I now comply, adding such facts as during my short audience with the honorable gentleman I was unable to state, and which I think will be further proof of the loyalty and devotion to the Union cause of the noble woman in whose behalf the statement was made:

I, Fred. R. Jackson, formerly a sergeant in company F, seventh Connecticut volunteer infantry, lost my left arm in an attack made by the United States troops upon Fort Lamar, at Secessionville, James Island, South Carolina, June 16, 1862. I lost my arm at five a. m.; lay upon the field until half past ten p. m., when I was taken prisoner and carried through the earthwork which we had attacked to a house in the rear, where my arm was amputated. The amputation took place after I had been stripped of all my clothing. I lay upon the bare floor of the house until late in the afternoon of June 19, 1862, when I, with others who were severely wounded, was placed upon a tug-boat and taken to Charleston, South Carolina; arriving there after dusk of the same day, I was transferred with the rest to a building known as the Mart, and which then was styled the Mart hospital, upon Queen street, near Church street. I was placed in a cell upon the third floor. When I was carried into it there were six already in it; one more was brought in after me, making eight in all in the cell. I was wrapped up in a horse blanket, which smelled as though fresh from the stable, when put on board of the boat to be taken to Charleston. This blanket was removed from me when put into the cell, and I was laid naked upon the floor and hearth, with my head resting in a pile of wood ashes in the fire-place. A small piece of dirty cloth was laid over me to hide my body from waist to feet. I laid there in that condition until about ten a. m. next day, when one of the nurses (an Irishman by the name of Flynn, who was a confederate soldier) came and brought me a small piece of meat and a small piece of corn bread or cake. Soon after he appeared and washed the stump of my arm with cold water, although not effectually enough to cleanse it of the maggots which literally covered it. In washing it he allowed the water to run under my shoulder and head, and that, together with the perspiration which the weakness of my body naturally caused, coming in contact with the wood ashes under my head and neck, made a lye which ran down the entire length of my back, and in the space of a few hours my back was one large, raw sore.

I think it was the second morning (June 21, 1862) after my arrival in Charleston that Mrs. L. T. Potter, in company with a gentleman, came into the Mart hospital, and went through the various cells and saw our condition. She immediately sent out and had food of sufficient quantity and most excellent quality cooked for us. She also obtained clothing, such as shirts, drawers, and socks, &c., for we were all in an almost nude condition, towels, soap, tooth-brushes, cups, sponges, and cologne, and had almost all of the men (forty-nine) on mattresses, before seven p. m. A large, broad, and very soft lounge was obtained for me. She supplied us all with sheets and pillows, and within three days each man had a mosquito-bar resting over his bed on a frame-work. After this she came every day, bringing sufficient and excellent food for all, and often custard, arrow-root, lemons, &c., for such as could not eat heavy food. Occasionally she brought us delicacies that one or two of her friends had given her for us. Every second or third day she furnished clean under-clothing for us all, and, as fast as occasion required, all articles which necessarily pertain to a

hospital where wounded men are lying. Almost daily she brought her son Fred., a young man about fourteen years of age, who performed such services for us as it was not proper that she should. He actually performed all of the menial services of a hired man-nurse.

After she first came to us she came daily (Sundays not excepted) at about nine a. m., and distributed to those who had soiled clothes the clean clothing she had brought. While the men were donning their clean garments in one cell, she would be in another dressing the wounds of all there, taking always the worst wounded first.

The wounds of all literally swarmed with maggots, and, as the surgeon who had us in charge took no steps to keep them from our wounds, she herself took the matter in hand, and procured, as often as was necessary, all of the "labaruge" that was needed. (This was the name by which we knew the solution; so named, I understand, from its discoverer or original maker. I believe it is otherwise known as solution of chloride of soda.) The wounds of some discharged so much that it was actually necessary to change their clothing two and three times a day. I have in mind now the case of a man named Cole, of the eighth Michigan infantry, whom Mrs. Potter always gave daily three changes of clean linen, and another by the name of McVeigh, of the same regiment. I remember was always given the same.

This man Cole complained that his mattress was not high enough above the waist; he wanted to be propped up; so Mrs. Potter had an inclined plane made for him, and he used it until he was sent to Columbia, South Carolina. All of this clothing she procured, bought and distributed herself. She daily had two or three large baskets of soiled clothes taken away by the washerwoman, whom to my knowledge she paid out of her own pocket. I know this from having heard the washerwoman talking with her about it in the entry by our cell.

In addition to all this she never entered our cell door in the morning without being followed by a negro carrying a basket of peaches and ripe figs, and frequently watermelons and cantelopes. She always carried upon her own arm a basket in which she brought us brandy and wine and sometimes cordials. The day never passed during the two months I was in Charleston that Mrs. Potter did not bring for the eight in our cell either brandy, wine or cordial, which she distributed around after dressing our wounds, which she always did in the most tender and motherly manner, talking to us, when not watched by the guard or nurses, kindly, and in a lively vein, apparently striving to keep up the spirits of all. Those in the other cells were treated in precisely the same way. She furnished all with pipes and smoking tobacco, and those that chewed with chewing tobacco. (A paper of "Solace" cost then two dollars; a paper of "Mrs. Miller's" put up in blue paper, seventy-five cents.) We were never, while in Charleston, out of this article; in fact, all of us carried tobacco away with us when we went from Charleston to Columbia. When we were sent to Columbia she furnished every man with coat, pants, boots (or shoes), caps, shirts, drawers, socks and towels, besides many with handkerchiefs. She generally remained with us until four or five o'clock p. m., always busy either waiting upon us or mending our clothes when they were worn, and I have known her upon two or three occasions to stay until eleven o'clock p. m. The guards at the lower door always used to stop her and examine her servant's baskets, but she hired them by giving them money, and in some cases clothes for their children, not to examine hers. Once she came into our cell quite agitated, and upon Captain Pratt's asking, "Why, Mrs. Potter, you seem quite agitated—what is the matter?" she replied, "Not much, only the guards charged bayonets on me at the lower door when I attempted to come in, and I had to coax and finally to push my way in; it seems they had orders to stop me" or words to that effect. I think, however, I have given the conversation verbatim. Finally she was stopped, and through the doctor and by means of money, she got permission from headquarters of General Pemberton to visit us.

After a long talk he, the doctor, was told—so I understood at the time—that "if she was such a fool as to spend her money on those Yankees why then let her, as she claims British protection." His position as us regularly, day by day, against all opposition and the entreaties of former friends, many of whom had not only said that they "would no longer recognize her as a friend," but actually went so far as to insult her upon the public street. These facts we learned from others, who knew Mrs. Potter, and who knew of the insults above stated. She herself never complained of any trouble that she encountered on account of visiting us, and never would let us know any of the trials which she sustained on our account. The nurses which the rebels placed over us were two Irishmen in the confederate service and one Irish woman. Although I believe the confederate government furnished us with something approaching to full rations, we never got one-tenth part of a ration. In fact when able to walk, (about five weeks after I was put into the cell,) I went one day into the cell opposite ours, (the doors being left open as all were too weak to make any attempt to escape,) and looked out of the window fronting on Queen street. While there I saw the man Flynn go out of the lower door with an uncovered basket full of meat and corn bread. The nurses have said in my presence that "we did not need any government ration, as Mrs. Potter fed us all more than anybody could get at any of the hotels." I suppose that was the reason they stole our government rations. Certain it is that during the latter part of our imprisonment none of us got any of the confederate rations. The man Flynn was continually drunk. We used to think that he stole our rations for liquor. His duty was to wash our wounds, so the doctor told him, twice a day, in

the morning and in the evening; but he never washed the wounds of any in our cell in the morning, and but seldom in the evening. In the morning either Mrs. Potter or her son Fred would wash my wound and the wounds of the others in the cell. It was always the first attention we had in the morning. She and her son did the same for all in the other cells. The man Flynn would sometimes come up and sit in the entry in the evening, opposite our cell door, and smoke; when called to come and dress our wounds, he would curse us and call all of the evil names he could make his vile tongue utter. I've used to hire him to come in and wash and dress our wounds. I have often paid him five dollars to come in with his pan of water and dress my own wound. The money that I did this with was given by Mrs. Potter. She gave me all of us all the money we wanted. There was not a man in that prison but that had all he wanted, and none of them asked for it. She came around daily and offered it to all in sums of ten, fifteen, and twenty dollars. Captain Pratt once, to my knowledge, took fifty dollars. If any of us were nearly out, she always pressed more upon us. We used it to hire the nurses to do what we wanted done when she was not there; also to send out for anything we wanted in her absence.

We seldom got any change back, no matter what the price of the article sent for. One of our officers once sent out, shortly after our arrival, a gold piece, which he had managed to keep, in payment for something he wanted, and only got back a few Confederate shillings; they charged the regular price, but would give no premium for gold, as they said "it was a prison offense to deal in United States money;" no citizen could use it for fear of being imprisoned. The money Mrs. Potter gave us was Confederate money, but it was worth just as much there, it seems, as our own money. She dared not circulate our money," she said. From hearsay, we all knew, or thought, that Mr. Potter was one of the richest men in Charleston, and that Mrs. Potter was rich in her own right. She sent us money while in Columbia. I received money from her while there four or five times; once she sent it through an officer who had been a friend of hers from early life; he happened to be "officer of the day" soon after, and then came in and gave it to us. For this he was arrested and kept under arrest for a year. When in Columbia we corresponded with her, addressing her by an assumed name at times, but we never told her of our troubles and sufferings there, feeling that she had done so much for us, and knowing that she still had so many to do for there. She earnestly desired to know our wants, saying that she would supply them, but we could not bear to write her of them, as we knew it would sorely grieve her. We did not realize that we were prisoners while under her care, but after a few hours' stay in Columbia we knew only too well what it meant to be in a rebel prison. Holmes and Gilbert of my regiment, and others of other regiments, who died at the Mart hospital, all died in Mrs. Potter's arms, expressing to her, in the hearing of all, their deep and heartfelt thanks for her great kindness and solicitous care for them and us, and praying, with their dying breath, that she might have her reward both on this earth and in heaven.

In stating all that Mrs. Potter and her son did for us I should require two or three days, and the statement would be so lengthy, I fear, as to cause your honorable committee to cast it aside without a reading. She has suffered, in one way or another, as no other woman, North or South, ever has suffered in the cause of the Union. I could tell your committee things that would make your hearts bleed concerning the death of that same son, Fred, caused by injuries received for coming to our hospital and tending to our wants; but I forbear, as an allusion to the subject might be very painful to Mrs. Potter's feelings.

If you require further evidence of me I should be most happy at any time to testify in this dear and noble-souled woman's behalf.

I am, very respectfully, your obedient servant,

FRED. R. JACKSON,

Room 59, Third Auditor's office, (late sergeant company F, seventh Conn. vol. inf.)

Hon. Senators of the United States Senate Committee on Claims.

The committee are of opinion that the Government cannot undertake to make return for all the individual charities by which the history of the late war is distinguished, nor to make compensation for all the property destroyed in the prosecution of that war. But, considering the munificence with which the petitioner voluntarily ministered to the necessities of the nation's soldiers when they were in distress, the committee think it would befit the generosity of the nation to relieve her necessities now that she and her family are in distress, more especially since that distress has been in part occasioned by the national forces.

Your committee therefore ask leave to report the accompanying bill, and to recommend its passage.

Before the reading had been concluded,

Mr. STEWART. It seems to me a bill of that kind ought to be considered in a full Senate. It is a matter about which there is a diversity of opinion. When we commence to pay these claims in the South, it seems to me we ought to have a quorum.

Mr. CONNESS. There will be a quorum here soon.

Mr. STEWART. I move that the further consideration of the subject be postponed.

Mr. HOWE. No, no. The reading has now come to the statement of Mr. Jackson.



I wish the Senate would hear that statement, and then see who will object to the passage of the bill.

The Chief Clerk resumed the reading of the report, and having proceeded for some time further,

Mr. STEWART. I think enough has been read to satisfy the Senate in regard to the character of the evidence. I presume the committee have examined the items. It appears to me that the claim ought to pass. I do not think there is any necessity for reading the report further.

Mr. HARLAN. I will not insist on reading any more of the report, as I perceive my honorable friend from Nevada has become impatient; but I wish to call attention to the character of this class of claims, not this one in particular, for this is the second one that I remember of this kind where an attempt has been made by Congress to pay for the charities that our noble women have bestowed on our brave men on and near the battle-fields of the country. There is no nation on earth that can pay for these charities. I had supposed that the reward they would receive was laid up in a surer place; that it was a higher reward. This may be an anomalous case; but if you will notice the report, there is no evidence that this is a case different from a thousand cases that I think I could name, except the testimony of the woman herself and one sergeant who says he was nursed. There are hundreds of ladies in this city, some of them the wives of members of this and the other branch of Congress, and their sisters and daughters, some of whom are not now living, who bestowed the same kind of charities with as lavish a hand as this report says that this excellent lady bestowed on this patient and others. I do not know where such appropriations would end.

Of course it is a very ungracious thing for any Senator or member of Congress to vote against an appropriation of money for such an object. This is only \$20,000; but can the nation pay \$20,000 to every noble American woman who has bestowed charities and kindness on our suffering soldiers? I suppose they never dreamed of any such thing themselves originally; and if we undertook to do this, to reward them from the Treasury of the United States, every Senator will bear me evidence that the less meritorious as a general rule will receive the reward.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### REMOVAL OF DISABILITIES.

Mr. STEWART. I move that the Senate proceed to the consideration of House bill No. 1353.

The motion was agreed to; and the bill (H. R. No. 1353) for the removal of certain disabilities from the persons therein named was considered as in Committee of the Whole.

An amendment had been reported by the Committee on the Judiciary, to strike out all after the word "namely," in line ten, being the names in the House bill, and in lieu thereof to insert a long list of names.

Mr. SHERMAN. I ask the Senator from Nevada whether there is anything in the bill except to remove from certain individuals who are named the disabilities imposed by the fourteenth constitutional amendment.

Mr. STEWART. There is not; and I will say that as we propose to amend it it includes additional names which have been sent on by prominent men and by the North Carolina delegation recently admitted.

Mr. SHERMAN. And concurred in by the Judiciary Committee?

Mr. STEWART. The amendment is reported by them and I have added some names. I have consulted them from time to time. There is no name that is not vouched for by good authority.

Mr. SHERMAN. I move to dispense with

the reading, because that gives us no information.

The PRESIDENT *pro tempore*. The reading of the amendment can be dispensed with by unanimous consent. The Chair hears no objection, and it is dispensed with.

The amendment was agreed to.

Mr. WILLEY. After the name of "Peter Saunders," in line one hundred and forty, I move to insert the word "senior."

The PRESIDENT *pro tempore*. That correction will be made.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. DOOLITTLE. I do not wish, as a matter of course, to move an amendment that I know the Senator from Nevada is disposed to oppose; but I appeal to the Senator from Nevada to adopt some general provision in the bill that shall operate generally in a State on persons in the same condition. I have received several letters from persons stating that they have been elected to little offices in counties in some of the States, some as justices of the peace, and some as county commissioners, and so on; and if they have been properly elected, and the authorities there certify that they are properly elected, the bill had better apply to them generally, and not put us to the trouble of stating by name all these persons of whom we can know nothing. Because their names are put in the bill we cannot know them to be any more entitled to this relief than anybody else. I wish the honorable Senator from Nevada would just put some general clause in the bill by which all persons who are elected to county officers, or members of the Legislature, if they are properly elected under the laws in force there, shall have their disabilities removed. I suggest to the honorable Senator to add that, and save a great deal of trouble. Men have been elected together at the same time, and you pass a bill by which some can be sworn in and some cannot. It is a very improper mode of dealing with persons who have been properly elected to have one class of men send up their names and have their disabilities removed while the others are to remain under those disabilities, whatever they are. I do not think it just to deal with this question in this way. It is utterly impossible for the Senate to take up each case and judge of the merits of the particular case. I suppose there are five hundred names in the bill. We can know nothing of them. I will not divide the Senate, but I will ask the honorable Senator to allow the bill to lie over until to-morrow morning, and then without any discussion I shall simply propose to amend the bill and let it come to a vote.

Mr. STEWART. It will be impossible to get such a measure as that through. There are difficulties about that.

Mr. WILSON. Put it on the next bill.

Mr. STEWART. Let this go through.

Mr. DOOLITTLE. I will draw an amendment in a moment. I should like to take the sense of the Senate upon this subject.

Mr. SHERMAN. If the Senator from Wisconsin insists upon it, I call for the regular order.

Mr. STEWART. I appeal to the Senator from Wisconsin to let his proposition be tested on some other bill. Let this go through.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

#### THE FUNDING BILL.

Mr. SHERMAN. I now call for the regular order.

The PRESIDENT *pro tempore*. The bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States is before the Senate as in Committee of the Whole, the pending question being on the amendment of the Senator from Michigan [Mr. HOWARD] to the amendment proposed by the Senator from Ohio, [Mr. SHERMAN,] from the Committee on Finance.

Mr. WILLIAMS. I desire to suggest a modification of the amendment proposed by the Senator from Michigan, which I believe he is willing to accept. That is to insert after the word "apply" the words "to contracts for the borrowing of currency."

Mr. HOWARD. I accept that modification of the amendment, and I ask the Clerk to report the amendment as now modified.

The CHIEF CLERK. The amendment, as now modified, reads:

*Provided*, That this section shall not apply to contracts for the borrowing of currency or the renewal or extension of an indebtedness under a contract already entered into, unless such contract originally required payment in coin.

Mr. RAMSEY. Will not the Senator add "or payment of interest," to guard against possibility of adding gold interest?

Mr. HOWARD. This guards every species of contract.

The amendment to the amendment was agreed to.

Mr. RAMSEY. I move to amend the third section by striking out "hereafter," in the second line, and inserting after the word "made" the words "from and after the 1st of July, 1870;" so as to read:

*And be it further enacted*, That any contract made from and after the 1st of July, 1870, specifically payable in coin shall be legal and valid, and may be enforced according to its terms, anything in the several acts relating to United States notes to the contrary notwithstanding.

Mr. SHERMAN. I would rather at once strike out the section than have it put off a year and a half. People are compelled to get gold to pay duties, and they cannot make contracts for it now.

Mr. RAMSEY. Does the Senator expect to resume specie payments in a year or a year and a half?

Mr. SHERMAN. It is idle to ask that question now. Congress will meet twice before January 1, 1870. I trust the Senator will not press the matter any further. Every objection to the section has been fairly met by the amendment already adopted, and it is not worth while to postpone its operation so long.

Mr. RAMSEY. I propose the amendment; it simply postpones its going into operation for eighteen months.

The amendment to the amendment was rejected.

Mr. FERRY. I have been seeking an opportunity to offer an amendment to come in at the end of the first section, which I will now offer with a remark or two as to the object of it:

No payment compulsory upon the creditor of any portion of the interest-bearing debt whose payment is authorized in this section shall be made under its provisions, otherwise than in coin.

I will state the reason why I offer this amendment. The chairman of the Committee on Finance informs us that by his construction of the existing law, under this section authority is given to pay the five-twenty bonds in greenbacks to the extent of the \$400,000,000 of currency now authorized by law. In other words, the chairman of the Committee on Finance informs us that it is his construction of the law now that those bonds may be redeemed to the extent of \$400,000,000 in greenbacks. The Senator from Indiana [Mr. MORRIS] yesterday in the argument which he made demonstrated that under that legal theory which he himself held and argued for, the new bonds authorized by this first section might be sold, as he stated, to the amount of \$50,000,000, and so much of currency received into the Treasury by that sale, and then that currency employed to pay \$50,000,000 of the five-twenty bonds which have run more than five years. I do not see but that if the theory of the chairman of the Committee on Finance and of the Senator from Indiana with regard to the lawfulness of paying any portion of the five-twenty bonds in greenbacks is correct, or shall hereafter be held to be correct by the Administration that now is or that is to be, I do not see but that the reasoning of the Senator from Indiana is correct; and that in this first sec-

tion the Secretary might, if we are to have a Secretary holding the views either of the chairman of the Committee on Finance or of the Senator from Indiana, thus apply the avails received from the sale of the new bonds in greenbacks in compulsory payment of so much of the interest-bearing debt of the Government.

And, sir, as was remarked by the Senator from Maine, this bill is not a mere temporary affair; it is a law which is likely to be permanent. None of us know with certainty what is to be the political character of the next Administration; and if it should so happen by possibility that the next Administration should have one holding the doctrine announced by the New York convention, then most certainly under the first section of this bill the fifty-two bonds could and would be paid in greenbacks derived from the sale of the bonds provided for in the first section of this bill; and if we are to judge by the somewhat strange developments which are surprising us every day, even if the next Administration is a Republican Administration we have no security that the principle adopted by the Republican party at Chicago will be held to be binding upon those who shall conduct that Administration, for it was but yesterday that the Senator from Indiana, not now in his seat, declared that we should not impose upon the Republican party the doctrine that the five-twenty bonds were not payable to some extent at any rate in greenbacks, therefore for himself thus far directly repudiating the Chicago platform. So that, sir, whatever may be the political character of the incoming Administration, I see certainly under the first section of this bill, as it now stands, a danger of a direct authority given by law to apply the currency avails of the sale of these bonds in compulsory payment of the fifty-two bonds. If there be no such danger, then certainly the amendment which I have offered is harmless. If there be such a danger, I, for one, holding the Republican principle of the inviolability of the faith of this Government pledged for the payment of the now outstanding fifty-two bonds in coin to be as cardinal a principle of the Republican party as any for which it has been fighting for the last fourteen years, cannot consent to the enactment of a law under which the possibility of a violation of that faith may be incurred. I hope, therefore, this amendment will be adopted.

Mr. SHERMAN. I trust it is not necessary for me at this period of the session to say that it is unwise in every sense of the term to bring that question into this bill. As I said in the opening, there is nothing in the first section to compel the payment of any existing bond or to authorize its payment except by the consent of the holder. If you introduce this very troublesome question, in regard to which there is a difference of opinion in both political parties, you not only defeat the bill, but destroy any hope whatever of passing any bill by which we can reduce the burden of the public debt. This provision would not at all settle the question in favor of the views of the Senator from Connecticut. If under the present law, as it stands, the holders of these bonds are entitled to coin this bill does not change it, nor can any change of their security be had except by their free and voluntary consent. To put this construction of preceding laws on this bill would be simply to raise a question that is not involved in the bill, that has no relation to the bill, and it would at once defeat any effort or any purpose on the part of the people of this country to relieve themselves from the burden of the debt by a voluntary conversion of a bond bearing a higher rate of interest into a bond bearing a lower rate. I trust the Senator from Connecticut will withdraw the amendment, and that we may come to a vote and pass the bill.

Mr. DAVIS. I do not believe the Senate or Congress at the present time is prepared to take any action on the subject of this bill, and I therefore move to lay the bill on the table.

Mr. DRAKE called for the yeas and nays,

and they were ordered; and being taken, resulted—yeas 9, nays 24; as follows:

YEAS—Messrs. Cameron, Davis, Fessenden, Fowler, Harlan, McCreery, McDonald, Patterson of Tennessee, and Wade—9.

NAYS—Messrs. Anthony, Cattell, Cole, Conkling, Conness, Cragin, Drake, Ferry, Frelinghuysen, Howard, Morgan, Morrill of Vermont, Osborn, Patterson of New Hampshire, Potomero, Ramsey, Rice, Sherman, Stewart, Tipton, Welch, Willey, Williams, and Wilson—24.

ABSENT—Messrs. Bayard, Buckalew, Chandler, Corbett, Dixon, Doolittle, Edmunds, Grimes, Henderson, Hendricks, Howe, Morrill of Maine, Morton, Norton, Nye, Ross, Saulsbury, Sprague, Sumner, Thayer, Trumbull, Van Winkle, Vickers, Whyte, and Yates—25.

So the motion was not agreed to.

Mr. FERRY. I wish to modify my amendment.

Mr. FESSENDEN. I desire to suggest to the Senator whether an amendment that I propose to offer, if adopted, will not meet the difficulty he has.

Mr. SHERMAN. The Senator from Connecticut, I understand, has prepared a modification of his amendment which I am perfectly willing to adopt.

Mr. FESSENDEN. The amendment I was about to suggest is in the eighteenth and nineteenth lines of the first section to strike out the words "for the redemption, payment, or purchase of or," and to insert the word "in," so as to provide "the said bonds and the proceeds thereof shall be exclusively used in exchange for an equal amount of any of the present interest-bearing debt," &c. As the purpose of this bill, and the sole purpose, as I understand from the committee, is simply to substitute one kind of obligation for another, that is, an obligation bearing five per cent. interest for one bearing six per cent. interest, at a longer time, there is no need whatever of giving the Secretary the power—and it is not necessary to give him a power which he ought not to wish to use—to sell any portion of the present bonds and appropriate the proceeds to the purchase of others. Why not simply confine him to exchanging the new bonds for other bonds? That will answer the purpose.

Mr. CORBETT. Will the Senator not add the words "at the option of the holder?"

Mr. FESSENDEN. That is not necessary. The holder, of course, will not give up his present bonds unless he sees fit.

Mr. CORBETT. Should it not be expressed to be "at his option?"

Mr. FESSENDEN. I ask the chairman of the committee what objection there is to confining it to an exchange.

Mr. SHERMAN. I know that the Senator from Maine is astute enough to know that the effect of this amendment would simply be to defeat the bill. It would be to confine all negotiations, all efforts to reduce the burden of the debt to a simple arrangement between the Secretary of the Treasury and the present holders of the bonds. As a matter of course, that would be perfectly idle. Instead of passing such a bill, you had better lay it on the table and be done with it. The way this will operate, the way the Senator himself as Secretary of the Treasury would act, would be to take advantage of the money market wherever he could to sell the new bonds at a rate which would enable him to buy up in the open market an equal amount of the fifty-two bonds. I have no doubt it can be done; and I say this authoritatively, for propositions have already been made by persons who are perfectly able to comply with their stipulation, both at home and abroad, to surrender to the Government of the United States fifty-two bonds and take in payment these new bonds par for par. How is this to be done? The persons who make this contract to take these new bonds sell them at a price which will enable them to buy up in open market the fifty-twenties.

The proposition of the Senator from Connecticut, as he has modified it, there is not in my mind the slightest objection to. He proposes, if I understand him, to make the clause read:

To be used exclusively for the redemption or pay-

ment at the option of the holder, or purchase of, or exchange for, any of the present interest-bearing debt.

I have no objection to that. Indeed, the payment could not be made under this bill except with the consent of the holder. Undoubtedly the new bonds will be used in the purchase of the old. With that modification I am perfectly willing to accept it; but to confine this simply to a narrow exchange between the holder of the bond who has it in his possession and the Secretary of the Treasury would be to simply cripple the power of the Secretary, so that it would be perfectly nugatory for him to have the power.

Mr. FERRY. I prefer that the vote should be had upon my amendment as I have modified it, and then if the Senator from Maine wishes to move a further amendment the vote can be taken upon that. My sole object in proposing the amendment was to prevent a construction of this first section whereby the public creditor might, against his consent, be compelled to have his pay for his bond in greenbacks. The modification is to insert between the word "redemption," at the end of the eighteenth line, and the word "payment," in the nineteenth line, the word "or," and after the word "payment," to insert "at the option of the holder," so as to make the clause read:

And the said bonds and the proceeds thereof shall be exclusively used for the redemption or payment at the option of the holder, or purchase of, or exchange for, an equal amount of any of the interest-bearing debt.

So that the bond cannot be paid to the holder, without his consent, in greenbacks.

Mr. SHERMAN. That leaves the Secretary perfectly at liberty to purchase them at the market price, provided he can purchase as many of the old bonds as he issues of the new.

Mr. SHERMAN. I have not the slightest objection.

Mr. FERRY. The only effect it has is to prevent the compulsory payment in greenbacks.

Mr. SHERMAN. The Senator from New York principally framed this section, and I would ask him if he sees any objection to the amendment?

Mr. MORGAN. I think the exchange should be made wholly at the option of the holder.

Mr. SHERMAN. Then I am perfectly willing to accept the amendment.

Mr. CORBETT. I desire to call the attention of the Senate to the point that this amendment is not sufficiently explicit. The phrase is, "at the option of the holder." Does that begin before the first five years have expired, or is it the option of the holder after the first five years have expired? The point in my mind is that after the first five years have expired it might be construed that the bonds were then due, and the holder would not have the option of refusing payment. I think it ought to be expressed that this option is to be after the first five years.

The amendment to the amendment was agreed to.

Mr. CAMERON. I offer this amendment as an additional section, to come in after the last section of the amendment of the committee:

And be it further enacted, That from and after the passage of this act, no percentage, deduction, commission, or compensation of any amount or kind, shall be allowed to any person for the sale or negotiation of any bonds or securities of the United States disposed of at the Treasury Department or elsewhere on account of the United States; and all acts and parts of acts authorizing or permitting, by construction or otherwise, the Secretary of the Treasury to appoint any agent, other than some proper officer of his Department, to make such sale or negotiation of bonds and securities, are hereby repealed.

Mr. SHERMAN. All I have to say is that to-day, in an act which has been passed, that very provision is inserted as part of the law, and it has now passed both Houses, that no money shall be paid from the Treasury for any commissions directly or indirectly for the negotiation of any loans.

Mr. CAMERON. I did not know there was any such law.

Mr. SHERMAN. If the Clerk has the mis-

cellaneous appropriation bill, the report of the committee of conference which was acted on to-day, it can be read, and it will be seen that there is such a provision there.

The PRESIDENT *pro tempore*. The Chair is informed that the bill has gone to the other House.

Mr. SHERMAN. I can assure the Senator from Pennsylvania that he will find that both Houses in that bill have agreed to an express provision that no money shall be paid out of the Treasury for commissions on the negotiation or sale or transfer or exchange of any loan of the United States.

Mr. CAMERON. I believe that bill has not become a law.

Mr. SHERMAN. It has passed both Houses.

Mr. CONNESS. It is an appropriation bill; it must necessarily become a law.

Mr. CAMERON. Well, let us hear what it is.

The PRESIDENT *pro tempore*. That bill has gone to the other House to be enrolled.

Mr. CONKLING. Does the Senator from Pennsylvania withdraw the amendment?

Mr. CAMERON. No, sir. I still think this had better be passed. The clause in the appropriation bill can only apply to such bonds as were then authorized. This bill authorizes the issue of a new edition of bonds; and it can do no harm to have this clause in. It is only repeating the good word.

Mr. SHERMAN. I do not like to incur this bill with this provision; and I say to the Senator that it has now passed both Houses in another bill. If the Senator has any doubt about it, any member of the committee of conference on that bill who is present can inform him that it is so. The Senator from Maine [Mr. MORRILL] was here and consulted me about the terms of it. The only authority under which commissions were paid was the law of April 11, 1860, which authorized the exchange in accordance with previous laws. That is expressly, in as few words as possible, repealed in the appropriation bill.

Mr. CONKLING. How does it incur this bill?

Mr. SHERMAN. This bill does not contain any provision by which any commissions can be paid to mortal man.

Mr. HOWARD. It will be a mere superfluity, then, and will do no harm.

Mr. CONKLING. I did not know there was such a provision in the bill that was passed to-day on the report of a conference committee. I do know, however, that this was, until a recent period, a customary provision in loan bills. I have before me now the act of July 2, 1846. One portion of it is this:

"And provided further, That no commission shall be allowed or paid for the negotiation of the loan authorized by this act."

I think it is a very wholesome provision; and if it be true, as the Senator supposes, that it has already as to the action of Congress become a law, as the Senator from Michigan says, it will be merely surplusage to add it here, it will not incur or embarrass the bill, and I hope it will be adopted.

The amendment to the amendment was agreed to.

Mr. PATTERSON, of New Hampshire. I wish to ask the chairman of the Finance Committee a question in relation to the third section. When our tea-forties were thrown on the stock exchange in London they immediately went up, and they now stand at a premium of seven and one fourth per cent. Suppose these new bonds shall be at a premium of seven and one fourth per cent., are they still to be sold at par for greenbacks? A thousand-dollar bond in that case would be worth \$1,072 50, and every time the Government sold a bond of \$1,000 it would be giving the individual \$72 50.

Mr. SHERMAN. That question will enable me to say the few words that I desire to say in regard to the third section of the bill. I was expecting some Senator to move to strike out the third section, so as to enable me briefly to

state the reasons why that section was inserted. I will first, however, answer the question of the Senator from New Hampshire.

Under this bill the new bonds of the United States cannot rise above par in legal tenders. In other words, legal tenders will always be equivalent to these bonds. That is not the case now; and it presents one of the most vicious and scandalous features of our financial system. Here is the holder of a note which upon its face declares that the United States owes the sum of five dollars and that note is less valuable than any security of the Government in market except a three per cent. certificate. That is the scandal and reproach of the system. It is seized upon by our political adversaries as a just ground of complaint. A poor man may have \$100 of United States notes in his hands which are an over-due debt of the Government of the United States. He cannot get a bond for them; he can do nothing with them except pay his debts; but every bondholder may exchange his bonds for notes. The result is that the least valuable Government security in the market is the over-due note on demand of the Government of the United States of America, while all the bonds are above that in value.

The object of the third section is to give to the holder of the United States notes the right at his pleasure at any time to demand bonds for them; so that it will not be possible hereafter that these notes which a man is compelled to take willing or unwilling in payment of his labor and in payment of his debts, shall be less valuable than any other security of the United States.

I say, then, in response to the Senator from New Hampshire that if this bill passes such a state of affairs cannot occur, because this bill will raise the value of the notes up at least to the value of the new five per cent. bonds, and I have no doubt that this provision will be the most rapid, the most easy, the most natural road to specie payments that can possibly be devised by mortal man.

What is now the difficulty in the market? Money is too abundant. Money is not valuable. The note of the Government which is over due is now worth only seventy cents on the dollar, while the five per cent. bond of the United States is worth seventy-two; the six per cents are worth seventy-eight, and a bond of 1881 is worth eighty-two. Why should that be so? Why should not the note of the Government, which every man is compelled to take in payment for his labor, have equal value with the lowest security of the Government? There is no reason for it in the world. You never can resume specie payments until you elevate the value of the greenbacks up nearer to the standard of both bonds and gold. This is the crying scandal of our system now, and I heard it last fall upon the stump and I never could answer that point, that this note which a man is required to take is less valuable than any other form of Government securities. I say the third section of the bill, which I regard as the best feature in it, the only feature that relates to currency and advances the value of the currency, is important, for it will raise the value of the greenback up to the standard of gold.

Mr. PATTERSON, of New Hampshire. I wish to know if the provision in the first section which has just been amended will not counteract the influence of which the Senator speaks. All the money that comes from the sale of these new bonds is to go into the Treasury of the United States; and it is to be used, how? Exclusively for the redemption, payment, purchase, or exchange of the old bonds. If you are to buy the old bonds in greenbacks, that process is constantly throwing down the value of your greenbacks quite as rapidly as they will be elevated by the third section.

Mr. SHERMAN. I may represent the idea better by the illustration of a yard-stick or gold. A yard-stick represents the par; or gold represents the par of all the money on the earth. That is worth one hundred cents

on the dollar. Our bonds of 1881 are worth eighty-two cents on the dollar. The five-twenties are worth seventy-eight cents in the markets of the world in gold. The five per cent. bonds are worth seventy-two. The greenback is worth seventy cents. What is the first duty of the people of the United States? Here is the greenback which is the promise of the United States to pay so many dollars in money. It is worth but seventy cents. Is it not the duty of the United States to lift the value of that greenback up nearer to the standard, first of bonds, and finally of gold? The operation of this section will be undoubtedly to raise the value of the greenback nearer to that of the bond, and then both the bonds and the greenback will gradually, as the credit of the country is restored, advance to the par of gold.

There are two ways of restoring specie payments. One is by contracting the currency until it becomes so valuable as to be equal to gold. That can only be done through distress and ruin, through a disturbance of the prices of all commodities and of all contracts in this country. The other way is by the gradual process pointed out by this bill, by raising the value of your greenback nearer to the value of bonds, and then of gold.

The principal objection that has been made to the third section is that it provides for what is called the oscillating process. It is said that if, by the rapid contraction of currency under the operation of this law, from other causes or from any panic or unforeseen events, money will become more valuable than bonds, it provides that the money may be supplied by a voluntary exchange of the new bonds for currency. Thus those bonds and the greenbacks will be convertible one into the other, and both will advance to the standard of gold. I have no doubt that that process, simply in itself, will do more to restore our credit than any other feature of this bill or of any bill that has been proposed.

I do not wish, under the terrible heat that is prevailing in the Senate Chamber, to discuss this matter further. I simply throw out these ideas as most palpable, and leave the matter to the Senate to judge.

Mr. FESSENDEN. Mr. President, I cannot possibly take the view which the honorable Senator from Ohio does of this third section, and especially in the existing condition of the law on the subject. The Senator says he wants to bring the greenback up to the par of the bond. Now, I wish to bring the bond, and the greenback too, up to the par of gold. He stops short of that. He wishes to place the bond and the greenback on a level, but he does not design to place them all on a level with gold, which is the object we wish to accomplish by the resumption of specie payments.

I do not agree with him, either, that the process of reduction is to bring about distress. That depends entirely upon how rapid or how gradual it is. I have stated here before that I am not in favor of doing the thing suddenly, but I am in favor of moving toward that object gradually and surely so as not to produce distress, but so as by degrees to get this currency out of the market. There is one way in which you can relieve the poor man that my friend talks about, and that is to take out of the market this depreciated currency not redeemed, and I wish that our legislation should point in that direction, so that we may have only one currency, and that a sound one, and that all our paper, whether it is in the shape of bonds or in the shape of greenbacks, may be brought to a par with gold.

The Senator has not answered the question of my friend from New Hampshire. My friend asked this question: the six per cent. bond now in the market is above par some four or five per cent.; this bill is predicated upon the idea that the new five per cent. bonds running for a longer time will be exchanged for them dollar for dollar; then they will be above par necessarily.

Mr. SHERMAN. Above par in what?

Mr. FESSENDEN. Above the nominal par.



Mr. SHERMAN. That is paper.

Mr. FESSENDEN. Undoubtedly. I am speaking now of the comparison merely. I am not on the other point. They are nominally above par in paper. My friend says they will be exchanged for these new bonds. Very well; if a six per cent. bond is to-day worth 105, and the five per cent. bond will be exchanged for it, then that five per cent. bond will be worth 105 in the estimate of those who make the exchange.

Mr. CATTELL. And so will \$100 in greenbacks.

Mr. FESSENDEN. No; because they are not up to that. But what do we do in that case? We take \$100 in greenbacks for a bond which is worth \$105, and which is only worth \$105 because we agree to take it for that. Therefore, whatever our five per cent. bond may be worth in the market, under the operation of the bill, we have got to take \$100 in greenbacks for it; that is to say, we have got to take that which is nominally \$100 for that which is really \$105.

Mr. CATTELL. The Senator from Maine objects, then, to increasing the value of greenbacks.

Mr. FESSENDEN. No, sir; I do not object to that, but this provision simply increases their value so far as they are used in exchange for the bonds. *Non constat*, to use a legal phrase, that they will buy more in the market, that they will buy more beef or more pork or more flour or anything else in the way of commodities than they buy to-day; but they will buy our bonds which are nominally 105, because by the law we say we will take them for them. You do not raise the value of the greenback for any purpose in the world except to buy the bond with it; and you will buy the bond with it because the law says it shall be taken for that purpose. That may be right enough; but the answer of my friend's question is in fact precisely what I say it is; you oblige yourself to take \$100 in greenbacks in exchange for a bond which you can sell to anybody else in the market for \$105 in greenbacks. You raise the greenback in that way, to be sure nominally. I do not know but that it is right; I am not objecting specially to it. The ground of my objection to the whole system is that as long as the law stands as it does now you are providing in this third section for an indefinite emission of bonds. Why? Because you must keep out the greenbacks; you say by your law that the quantity of greenbacks shall not be reduced below \$356,000,000, where it stands now.

Mr. SHERMAN. That they shall not be canceled.

Mr. FESSENDEN. Very well; that they shall not be canceled beyond that amount. So long as you do not cancel them they are subject to the uses of the Treasury. What is the consequence? A bond is brought in, is sold for greenbacks, one of these bonds if you please; that money goes into the Treasury, and it is paid out by the Treasury; it is there, and will be used. It goes out into the community. You must take it in exchange for your bonds, and thus you are constantly increasing your funded debt, running it over and over, and for no purpose whatever that I can see, and you are indefinitely extending the greenback system.

Mr. SHERMAN. Suppose \$100,000,000 of greenbacks should come in and be funded into bonds, does the Senator suppose they would come in indefinitely until we got out several hundred thousand millions of bonds?

Mr. FESSENDEN. I do not know how far you would get it to. The only limit is as to the \$400,000,000 of greenbacks; but as to the bonds you may go to any extent.

Mr. SHERMAN. The greenbacks cannot be paid out unless the people bring these very bonds to exchange for them. According to the Senator's argument they would never do it because the bonds are worth 105.

Mr. FESSENDEN. I say, if they do bring them back that will be the consequence.

Mr. CATTELL. Then we get the greenbacks out of the way.

Mr. FESSENDEN. But you do not get them out of the way; you are using them all the time.

Mr. HOWARD. Why not cancel them?

Mr. FESSENDEN. Because a law passed at this session prohibits their cancellation.

Mr. HOWARD. Down to a certain minimum.

Mr. FESSENDEN. Three hundred and fifty-six or three hundred and sixty millions. They are canceled down to that already. That is to say, that is about all there are out. You do not go beyond that; and I cannot see—unless my friend can explain to me, and if he will I shall be very much obliged to him—as long as you cannot cancel these notes, and are not permitted to cancel them, what is to prevent the purchase of bonds over and over by an exchange of greenbacks just as long as they are in the market. The Senator says the bonds will be brought back again and the greenbacks paid out for them; but the greenbacks are paid out for something else; they are paid out for the ordinary expenses of the Treasury. My friend from New Jersey shakes his head. What is to prevent this operation? Will he tell me now?

Mr. CATTELL. I will answer the question. The greenbacks exchanged for these bonds are not part of the current money of the Treasury to be paid out again, but they are to be held in reserve to pay these bonds.

Mr. FESSENDEN. Where does my friend find any such thing?

Mr. CATTELL. In the very nature of the bill itself. This money must be held, because the holder of the bond has the right to bring it and exchange it.

Mr. SHERMAN. And the law forbids the cancellation of the greenbacks, so that there must be \$356,000,000 either in circulation among the people or in the Treasury to answer every call.

Mr. FESSENDEN. But my friend from New Jersey says it all will be in the Treasury, and must be kept there.

Mr. CATTELL. All that will be funded. That is the very point I make. Surely by the provisions of this bill the Treasury cannot use this money in meeting the current expenses when they come under obligation to return it again when these bonds are presented for payment.

Mr. FESSENDEN. My friend is mistaken. They can use and they will use it, and must use it; and when the bonds are presented they must find enough greenbacks to take them up. There is nothing in this bill which provides for that contingency. My friend says that will be the necessary operation. I differ with him entirely. It may not be the necessary operation, because there is no provision in the bill which compels the Secretary of the Treasury to keep these greenbacks there. If you change the law and let them be canceled, very well; but suppose you do not change the law and it is as my friend says, what is the effect? Then you are contravening the provisions of that very law, because you are reducing the greenbacks—I want to accomplish that—far below the amount which you yourselves have fixed, because if you must keep them in the Treasury, it is all the same as if they were canceled; in fact, for the purposes of circulation in the country, they are so.

Mr. CATTELL. They will come out again if currency is wanting.

Mr. FESSENDEN. But suppose the currency is not wanting?

Mr. CATTELL. Then they ought to be there.

Mr. FESSENDEN. If my friend concedes that, that is so much; but I apprehend that would not be the operation. It strikes me that it is a contrivance with reference to that matter, and it amounts to nothing more than that. It is making the Government a banker to a certain extent. When a man has money that he does not know what to do with he buys a

bond with it, and the Government says, "We will keep your money for you, and let you have a bond bearing five per cent. interest, and when you want it again come and take it;" that is to say, the Government is paying everybody who has a surplus of greenbacks five per cent. interest for the privilege of taking care of his money until he wants it; and five per cent. gold interest, too; seven per cent. in paper. That is all there is of it that I can perceive. I do not believe in the section nor in the contrivance. I do not believe it will have the effect gentlemen think, and I am opposed to the whole of it.

Mr. SHERMAN. I wish to reply very briefly to the honorable Senator from Maine. The Senator would seem to infer that this process of funding the debt was something very novel. I desire to state that this very provision is in the law of February 25, 1862, which was reported by the honorable Senator from Maine, and without this provision the legal-tender clause, in my judgment, would never have passed Congress. The reason was this: the Government of the United States was unable to pay its notes in gold. What was the next best thing? It said, "We will issue \$150,000,000 of legal-tender notes; we are not able to pay them in gold, but we will do the next best thing."

Mr. FESSENDEN. I ask the Senator if there is any provision in that law that a man holding a bond may at any time bring it back and receive pay in greenbacks?

Mr. SHERMAN. I will answer that.

Mr. FESSENDEN. One part of the provision was in that bill I know, but the other part of it was not.

Mr. SHERMAN. I hope the Senator will not interrupt me. I will answer him before I get through. The very principle, almost *in hæc verba* the words of this bill, was contained in the act reported by himself, of February 25, 1862; and without the provision the legal-tender clause never could have passed. If the Senator will look back at the argument that he and I both used at that time he will find that this clause was commented upon as one of great importance. Why? "We are not able to pay off in gold our notes; we must coin our credit; we must issue \$150,000,000 of legal-tender notes; we must compel everybody to take them; but as we cannot pay in gold we will give them something as good as gold; we will do the next best thing; we will give them our bond;" and, according to the language of this law, it was provided:

And any holders of said United States notes depositing any sum not less than fifty dollars, or some multiple of fifty dollars, with the Treasurer of the United States, or either of the Assistant Treasurers, shall receive in exchange thereof duplicate certificates of deposit, one of which may be transmitted to the Secretary of the Treasury, who shall thereupon issue to the holder an equal amount of bonds of the United States.

That is, the five-twenty bonds. It so happened as the war progressed that it was necessary for us to depreciate the value of the United States notes in order to induce them to flow more rapidly into the Treasury. What did we do? It was then our policy during the war to depreciate the value of these notes, so that they would come into the Treasury more freely for our bonds. Why, sir, we did a very natural thing for us to do, we increased the amount to \$300,000,000, then to \$450,000,000, and we took away this important privilege of converting them into bonds on the ground that while this privilege remained the people would not subscribe for bonds, and the notes would not be converted; that the right a man might exercise at any moment he would not exercise at all; and on this ground that this clause prevented the conversion of the United States notes, we repealed it by the act of March, 1863.

Now, what was the duty of the United States; as soon as the war was over, when we no longer had occasion to borrow money? It was to restore to these notes their former value. Every privilege that was given to them under former laws ought to have been promptly

restored, unless we made them up to par of gold by retiring them from currency. That we could have done if we chose to embarrass our people then engaged in business. If we could not do that, we ought at least to give the holders of these notes our bond bearing interest. Why not? I ask any Senator—and my friend from Maine will find it very difficult to answer this question—why should not a man who holds these notes in his hands, which he is compelled by your laws to take, have the right to convert them into a bond? Why should they be less valuable than the bond? Why should he be compelled to sell at a discount in order to get a bond? Sir, it is wrong in principle, and from the very beginning of peace we ought to have restored this right to convert the legal-tender note into a bond, and the failure to do it, it seems to me, has postponed specie payments.

But we repealed this provision during the war in order to take away this privilege, on the very ground that the man who had this privilege all the time would not exercise it. There was no substantial difficulty in regard to the right to convert these notes into bonds. That was so plain and palpable a provision that the Committee on Finance had not much trouble about it; but here was the difficulty: it was feared that if this right to convert alone was given the result would be that in times of great expansion, when everything was free and money was plenty, this money would flow into bonds rapidly, and then by a sudden contraction in the money market, there would not be sufficient currency to carry on the operations of the Government. There would be no flexibility in the movement. During specie payments, when bank notes are thrown out freely at one time, and come back freely at others, that furnishes a flexible currency; a convertible currency.

It was feared by many Senators, members of the Committee on Finance and others, that if you made this rule only work one way; that is, if you authorized the floating currency to go into bonds, the time might come of contraction, when it would become necessary, until specie payments were resumed, when the banks could perform their functions, to furnish something in the nature of an oscillating movement; that is, when your bonds, by a sudden contraction of the currency, fall below par, currency was needed to carry on the operations of the Government, it was felt to be right that, until we were able to redeem these notes at par in gold, we should give to the holders of the bonds, which were another form of our credit, the right to present them at the Treasury of the United States for the notes, and thus furnish the means by which a flexibility would be given to the operations of the currency.

In the first place there was a good deal of doubt as to the limit. Some preferred, like my friend from Missouri, [Mr. HENDERSON,] that there should be no limit in this oscillating movement; that is, that the \$400,000,000 of greenbacks should not be the fixed limit; but when we looked at the law we found that the United States had agreed never to issue more than \$400,000,000. Therefore we thought the \$400,000,000 should be the necessary limit. On the other hand, my friend from Vermont [Mr. MORRILL] thought that it ought in no event to go beyond the present amount, because we had gradually got down to the present amount, and we ought not to provide that by any possibility there should be an increase of this amount.

I do not suppose myself that the operations of this law would ever call out of the Treasury a greater amount than the present circulation in the country; but I believe the effect of this provision, simple in itself, would be, first, to reduce all that margin between bonds and paper, and gradually to bring them to the standard of gold, and that this right to present a bond to the Treasury of the United States for greenbacks is a right that will probably never be exercised to any considerable extent.

My own conviction is, and that is the conviction of a great many men who have given their attention to the subject, that the fluctuation in this amount of currency will never exceed twenty or thirty millions. Undoubtedly, now, these greenbacks being over abundant in the market would flow into these bonds; but probably ten or twenty millions would supply the whole current. I have no doubt that the mere passage of this law would restore to our greenbacks the value that bonds now have, and probably would raise both nearer to the standard of gold; but if twenty or thirty or even fifty millions should flow into the Treasury and bonds should be issued, what harm is that? It is simply paying our debt, paying the United States notes in the best thing we have to pay, that is, our bonds, nothing more. We ought to do that.

But the Senator from Maine says the law compels the Secretary of the Treasury to pay out the greenbacks thus received. Not at all. This money must be kept, or sufficient of it at least kept, for the purpose of meeting the countervailing provision of this bill. Whatever is necessary to pay the ordinary course of operations of the Treasury would be paid out. The currency would be diminished to the extent that a superabundant currency was pervading in the money markets of this country. Probably ten, twenty, or thirty millions would flow into the Treasury in that way, and these bonds would be negotiated without cost by the voluntary actions of the people. Then if there should be a change in the money market, which occurs at least two or three times every year, and generally every seven or ten years, a powerful contraction occurs, the other provision of the law would take effect, and immediate relief would be given by presenting these bonds for currency. Either operation would be beneficial to the Government. In the first case we redeem our notes which are due by giving our bonds at par, and thus make a voluntary exchange—the very thing the Senator seems to desire—of our bonds for our notes; and in the other case, the case of contraction, all we do is to issue our notes for bonds bearing five per cent. interest in gold.

Mr. President, we are bound, in my judgment, to make this provision for the noteholder of the country, and without this it will be impossible for any man to answer either to the laborer or to the banker the palpable fact that now stands in the financial eye that this note of ours, which we promise to pay on demand, we do not try to pay and refuse to take in payment of our own bonds. Suppose I was a business man in the world and had my bank notes out payable on demand, and I should refuse to give my promissory note for them; would I not be dishonored? Now, sir, all that this bill does is to provide that the United States shall, when any man presents \$1,000 of these notes, either pay them in specie or give its time-note bearing five per cent. interest, and with the privilege also, if for that bond he should desire to get back these identical notes, of doing so.

This section would be complete without the last clause; that is, it would be complete in one sense; but it is better, in my judgment, to leave it as it is, so that this provision may meet the sudden contractions in the currency of the country, and may yet provide to raise the value of the greenback nearer the standard of gold. It will not have the operation the Senator from Maine fears. No considerable amount will flow into the Treasury under the operations of this bill, because the very fact that it flows into the Treasury will tend to raise the value of all that is left outstanding, and bring it nearer to the standard of bonds, to remove the discrimination which my honorable friend from New Hampshire pointed out; and under this bill there never can be any difference in value between the bond and the note, nor ought there to be. That disgraceful fact in our financial history will be removed, and we shall be standing in the position at least of a debtor who, not hav-

ing gold to pay, is willing to give his time note, amply secured by the national credit, in payment of his demand note.

Mr. FESSENDEN. Notwithstanding the great heat I seem, from the few remarks I have made, to have increased the strength of my friend from Ohio very much. His strength was exhausted a short time ago, but he has now manifested that his strength has not all gone, at any rate.

I do not pay much attention to the guess of any gentleman, however wise he may be, in regard to what will be the effect, of how many millions will come in and how many millions will go out. We cannot tell much about that until we see the practical operation. But, sir, with regard to this matter the Senator is mistaken in his recollection. The law was not changed because people would not convert fast enough. That was not the trouble. We put that clause into the bill originally that the United States notes might command a bond at the same rates, for this reason: we were of necessity at that time borrowers of money; we wanted to sell our bonds with rapidity; we wanted to get out as many of them as we could; and for that reason we made it easy and advantageous to make the exchange. But what was found to be the case? It was found by your Secretary of the Treasury that the bonds never would rise above nominal par. Why? Because there was no competition. Anybody who could get a sufficient quantity of greenbacks could command them at par. For \$100 in greenbacks he could have a bond of \$100. Consequently, as that could be commanded at any time by anybody who could raise the notes of course the bonds in the market would stay at par, and for that reason the Secretary of the Treasury was very anxious to get rid of the obligation; and we did it by a lucky thought of one of the Senators from Vermont [Mr. Collamer] at that time. The great difficulty was in the way of the contract in the law; but we shuffled out of that by giving notice that we would not do it after a certain time, and they must bring their greenbacks in; and as they were not in at that time, or whether they were or not, after that time the greenbacks were put out as usual, and they could not command the bonds. That was a necessity of the time.

But allow me to say to my honorable friend that the case of a man who is anxious to sell bonds because he wants money is very different from that of a man who has the money and does not wish to sell bonds. At this time we do not want to sell our bonds; we do not want to increase our funded debt; we want to keep it where it is if we cannot diminish it. The logic does not apply in any one sense of the word. We are in an entirely different condition; and therefore he does not meet the objection I raise with regard to the possible effect—I might say probable effect—of the operation of this clause.

He talks again about the necessity of raising the character of our greenbacks for the benefit of the poor man. Now, sir, how does this operate? Look at it for a moment. Will the day laborer be able to buy any bonds, as a general rule? Will it be for his benefit? In order to show that it is for his benefit you have got to show that after you have passed this the greenback will buy more in the market, that it will command a greater amount of the necessities of life, not that it will buy a bond.

Mr. CATTELL. Will the Senator allow me to ask him a question right here?

Mr. FESSENDEN. Certainly.

Mr. CATTELL. If the bond is worth 105 and can be bought for \$100 in greenbacks, the greenbacks are worth \$105, and will they not buy \$105 worth of either meat or bread or flour?

Mr. FESSENDEN. No; I say it does not follow.

Mr. CATTELL. I differ with the gentleman entirely.

Mr. FESSENDEN. It might appreciate them a little, but probably very little. Who would command these greenbacks? The cap-

italist. He is the man who would buy the bonds. The laborer would not be able to buy them. The man who gets three or four dollars a day would not be able to buy them.

Mr. FRELINGHUYSEN. The greenbacks would be all the scarcer.

Mr. WILLIAMS. They would be nearer worst specie then.

Mr. FESSENDEN. They might appreciate somewhat, and I presume they would; but the idea that they would ever be in the hands of the laborers, who get these small quantities of them, is, in my judgment, an entire misapprehension. But suppose money to be plentiful; they would be gathered up in that case—and the more plentiful greenbacks are in the market the less they will buy—by the man who is able to take them in quantities to the amount of \$1,000, if you please, and he while money is plenty transforms them into a bond which is worth 105. That is for his benefit. The rule works (and the more facilities you afford in this way by these contrivances, the more it works so invariably,) for the benefit of the capitalist and against the man who is not a capitalist and who is a day laborer, the man you are talking about. Then the person who has the funds gathers the funds and makes his speculation upon the bonds.

But suppose it changes and money becomes scarce and he wants it: the man who has plenty of bonds already, the capitalist, does not need your greenbacks, but it is the people who are doing business. He will change his bond back again, but will he do it without a consideration? Will he do it unless he finds he can make money after he has done it, by lending out the funds he gets? What else is it but giving him another and additional premium for the use of the very money with which he bought up the bond originally? That will be, in my judgment, or very likely to be the operation of the whole contrivance. The truth of the matter is, it will have only one effect that I can perceive, and that is indefinitely to put off specie payments, to get out the whole amount of \$400,000,000 of greenbacks and keep them out, because there will be no inducement in the community then to put them in; and it is only an escape from what, if you would pursue any regular system, you could accomplish in a very short time; and that is, to bring us back to a regular, stable currency that does not fluctuate from day to day. You cannot reach it by any of these contrivances in my judgment, and instead of reaching it by this, you are only deferring it to an indefinite period, and those who wish to accomplish that end of course will support it.

Mr. SUMNER. There is a phrase that has been much used in this discussion which impresses my mind at this moment. The Senator from Ohio has spoken of the "oscillation" of these bonds. Let me confess that on this identical question before us I have had an oscillation of my own. When I first read this section and undertook to study it, as I did most carefully and conscientiously, I inclined against it; I inclined to the course of reasoning which the Senator from Maine has so ably presented to-night, as he always presents his views. But the more I have meditated, the more I have studied it, the more I have been able to communicate with those elsewhere to whose judgment I sometimes defer on questions of this kind, the more I have been inclined to conclude in favor of it.

And now let me state the process by which I have been brought to my conclusion. In the first place, as I studied it, I saw that this section was, as the Senator from Ohio has told us to-night, little more than a reproduction of a clause in the original bill which at the same time created the greenback, and also created the five-twenty loan; for the greenback and the five-twenty loan were born out of the same womb. You will find them defined and described and taking their financial life out of the same act of Congress. If you will refer to that you will find, as the Senator from Ohio told us to-night, that this very provision appears there substantially. It was there provided that

the greenback might be turned at once on presentation into the five-twenty bond. Now, that is what is proposed to do at this moment. It was when I saw that in the original statute that I was led, in the first place, to think more favorably of this proposition.

As I undertook to analyze its character I saw in it, as it seemed to me, an agency toward specie payments. I call it an agency. The Senator from Maine has made an ingenious argument to show that it might act in another way. I do not think so. I think the action of this provision would be toward specie payments; and I will tell you how I was brought to that conclusion. By looking at any newspaper you will see what the market value of the greenback is, and the market value of the bond. At this moment the greenback stands at 71; the bond stands at seventy-six or seventy-seven.

Mr. SHERMAN. Seventy-eight.

Mr. SUMNER. Seventy-eight; so much the better. Now, there is the difference between them. Just so sure as the bond stands at seventy-six, seventy-seven, or seventy-eight, and the greenback stands at seventy-one, as a mere matter of business, there will be an irresistible tendency of the greenback into the bond. What is the consequence of that? The greenback will be in demand; the greenback will be raised in value; it will be lifted; it will be nearly as good as gold. There will be a demand for these bonds in Europe. What better operation could a great financial house in New York—I will not mention any name, but Senators may supply the name—do than, when greenbacks are at seventy-one and bonds in Europe, for instance, are at seventy-six or seventy-seven under this very provision, to turn their greenbacks into bonds, send them to Europe, and by the return mail get their cash; and they will make an operation which, in a business point of view, is better than cotton or corn or any other subject-matter of business would enable them to make, so it seems to me. What will be the irresistible tendency then? The bond will be raised in the market and the greenback will be raised in the market. Both will be raised, and both will be brought nearer than they now are to an equality with gold. I believe that is what we are all desiring.

That brings me to the question which the Senator from Maine has just touched upon, as to whether this proceeding should have in it anything of stringency. Clearly not if it can possibly be prevented. It ought to be so conducted, to have in it such elements of moderation, of caution, of precaution, as will, if possible, prevent all stringency. The money market should not be tightened beyond what might necessarily grow out of the exigency of the case; but, nevertheless, the business should proceed, and as it proceeds the necessary and the inevitable consequence of it, as it strikes my mind, must be, in the first place, to elevate the greenback, and then almost at the same time, or immediately after, to elevate the bonds, and, of course, to bring them both on a par with gold.

I am at a loss to see any one specific measure which can possibly bring us by a shorter cut to that conclusion than this very provision; and when I say that in my inquiries and studies I have been brought to this conclusion, I say again that I have been brought to it against my first judgment; that I have gone through the processes, in my humble way, of course, of reasoning that the Senator from Maine has presented to-night. I have gone through them, and I have been obliged to abandon them. It seemed to me that they could not be sustained, and that if we adopted them, if we founded our conduct upon them, we should interpose an impediment to specie payments. I want specie payments. I do want that instrumentality of peace in this country. I wish to have the anarchical condition of our finances brought to an end. I want that repose which we are now seeking to establish in our politics transferred also to our finances. I believe that this whole bill is a very important measure in that

direction; and among the agencies of this bill I do not put as the least this very third section.

Mr. CONKLING. Mr. President, I move to strike out the third section, and I beg to assign briefly my reasons for making the motion.

To enable myself to comprehend the bearings of this section I begin by considering the bargain we are about to make. I understand that, in substance, to be this: having determined for ourselves that an opportune time to refund has arrived, we propose to put it into obligations binding us for at least twenty years to pay interest amounting now, as far as we can see, to about ten per cent. If any Senator thinks I overstate this, I beg him to notice the way in which it computes itself. A bond, not redeemable until after twenty years, is to be issued bearing five per cent. interest in coin. With gold at 140, the interest is precisely seven per cent. Taking taxes as they are in the State from which I come, three per cent is to be added for the immunity, unknown up to this time in our Federal obligations, which is to be conferred upon these bonds. I have been looking at some of the previous loan laws, and none of them affect to exempt Government securities from anything but State taxes. Here is a provision peculiar in itself, peculiar in its effect, and I am afraid destined to be somewhat more peculiar in the manner it will strike the common eye:

Which said bonds shall be exempt from taxation in any form by or under State, municipal, or local authority, and the same and the interest thereon, and the income therefrom, shall be exempt from the payment of all taxes or duties to the United States, other than such income tax as may be assessed upon other incomes.

I say, then, including this unprecedented immunity, we so far favor the obligations which we are to issue that, to begin with, as I understand it, they bear an interest, with the equivalents of interest, amounting to not less than ten per cent.

Now, sir, by this section, which does not strike me as being an oscillating section, but which is rather a provision for an automatic currency, a self-adjusting volume of currency, first of all, it seems to me, (and I submit with great deference to the Senator from Maine that that is the way to put it, rather than to accept the idea that it is to elevate the greenback in the market,) we reduce these favorite securities which we are to issue to par, to par in paper. I understood the honorable Senator from Maine to accept, for argument or illustration's sake, the idea that we were to appreciate greenbacks by this, and that the greenbacks were to become worth 105. Not at all. I submit.

Mr. FESSENDEN. I did not accept it. I said I supposed they would appreciate somewhat; but I did not believe for practical purposes they would appreciate except for the purpose of buying bonds.

Mr. CONKLING. I am aware that the Senator made that qualification; but I mean for the purpose of buying bonds, and I submit to him and I ask him to consider whether it is not true that greenbacks are not to be appreciated at all even for the purpose of buying bonds? Why? For the reason which the Senator so clearly stated, which led to the repeal of the provision, so unlike this, in the law of 1862, to which this has been likened. There was a provision that a man having greenbacks in requisite quantity might take them to the fiscal agent of the Government, and in lieu of them receive a bond, and there it stopped. What was the reason, borrowing the expression of the honorable Senator from Maine, that the Government eventually "shuffled out" of this provision? Because, as the Senator said, and as is perfectly obvious, we thereby established a standard for the bonds, above which they could not go, and which irrevocably fixed their value at par, par in paper. Why? Because a bit of paper stamped by the Government with "\$100" bought a bond for \$100; did it not? And, therefore, just as much as a bank note formerly, anterior to the suspension of 1857,



redeemable in coin, and exchangeable for a gold dollar, it being itself of the denomination of a dollar, was of equivalent value for all commercial purposes, so I submit it to be \$100 of greenbacks and the bond which the fiscal agent of the Government is compelled to deliver for the identical amount upon receipt of this \$100.

Mr. FESSENDEN. I do not know but that my friend is right; I am inclined to think he is; but I ask him if this consequence would follow: if the effect of this provision that any man for \$100 in greenbacks may get a hundred-dollar bond at the Treasury at any time, bearing five per cent. interest, is to keep it at par nominally as it did before and might now, then does it not unavoidably follow that this exchange which gentlemen are talking about as about to take place of a six per cent. bond, which is worth more than par, never will be made, and therefore the bill will be inoperative?

Mr. CONKLING. That very likely follows. But to pursue for one moment this point, I ask gentlemen to consider whether by these two provisions together we are not launching a bond which, for the present, is as good as a ten per cent. security where taxes are as high as they are in the State of New York, and yet fixing upon it a brand, so to speak, amounting to a prohibition against its ever rising above par in paper. It seems to me we are.

The honorable Senator from Massachusetts finds in this operation a parallel with that provision to which I have referred, contained in the act of 1862, which I have before me. What was the philosophy of that act? We put out legal-tender notes, destined—as a conspicuous candidate for the Presidency then in the House of Representatives and a member of the Committee of Ways and Means, was fond of saying—to be wanderers and fugitives on the face of the earth, with a brand like Cain upon their brow, and so on. Those who took part in issuing the first \$150,000,000 in greenbacks—

"Back recoiled, they know not why,  
E'en at the sound themselves had made."

We remembered continental money; we remembered the *assignat* of France; and we wondered what was to become of these legal-tender notes; and as one of the modes of appreciating and commending them, after we had stated in speeches and reports that \$16,000,000,000 was the assessed valuation of the property which the securities of the United States mortgaged, we provided that mortgages upon this magnificent basis of taxation should be exchangeable for these greenbacks; and there we stopped. But did anybody ever dream of providing that the operation should be not to receive absolutely the greenbacks, to use them for their paying and circulating property afterward, but, as the Senator from New Jersey now zealously insists this bill intends, for the purpose of holding them idly as money borrowed upon call? Why, sir, what sort of a concomitant would that have been of the policy inaugurated by the act of 1862? Everybody will see that it would have defeated and refuted the whole theory upon which it went; and so I submit does this provision here, for the additional reasons which I shall endeavor to assign.

The honorable Senator from New Jersey insists as a part of the case that this money is to lie idle. How much money? As much as we can become possessed of under a limit of \$400,000,000.

Mr. FESSENDEN. Then consider the bargain we are to make, paying five per cent.

Mr. CONKLING. I am coming to that in one moment. Not paying five per cent—I beg to protest against that *sotto voce* admission of the Senator. It is more than five per cent.

Mr. FESSENDEN. In coin?

Mr. CONKLING. Five per cent. in coin, with this extraordinary exemption which ties us up for twenty years at least, to the bargain that these bonds shall go unburdened, untaxed with tribute of any kind whatever, either by State or national authority. I was just coming,

as the Senator from Maine admonishes me to come, to the consideration of the bargain that we are to make. We take these promises to pay of our own, not absolutely as in 1862, not above all things for bonds which we are anxious to put out; but we are to create afresh an addition to our funded debt for the purpose of paying it out in exchange for this money. Why? Not to use it as money is used, not to turn around with it and extinguish so much of the five-twenty interest-bearing bonds, not to buy so much of commodity or defray so much of current expenses, but to have it lie idly by in the coffers of the realm, to be called for at any moment as a call loan. Did anybody ever hear of an arrangement like that, of banker, of Government, of broker, of pawnbroker, or any sort of person engaged in traffic, paying ten per cent., or seven per cent., or five per cent., or one per cent., for money on call, which was not even to be so much available that he could contribute it as a balance to put anywhere to his credit with a view to enhance it, or seeming to enhance it? That is this proposition.

But again, Mr. President, when are we to receive this money? Whenever money is comparatively useless and worthless, then we are to receive it. So that the Government is to stand as a trustee, as a backer for this purpose in all times of need to speculators who are unwilling to invest their money permanently even in Government securities, rich as that investment is, but who wish to keep it all the time, using a vulgar phrase, where "now you see it and now you don't," where it can earn something all the time, be it for a month or a week that they do not want it while they are lurking for speculative opportunities, and instantly when they find them they are permitted to call for it and the Treasury must respond. Is that a wise thing, looking—

Mr. SHERMAN. Do I interrupt my friend by interposing?

Mr. CONKLING. Not at all.

Mr. SHERMAN. I will ask the Senator from New York whether in this the Government of the United States is in any respect different from an ordinary banker. A banker has \$100,000 outstanding of his notes. To all the world that is money; but to the banker it is a debt. Now, the United States have \$360,000,000 outstanding. To all the world that is money; to us it is a debt that we are bound to pay. Ought we to refuse to pay that at any time, either by payment in gold, the money of the world, or by giving our note? Is not every banker under the same burden of liability which the Senator describes now? Every banker is bound to pay his notes when presented, and every broker outside, and every speculator, and every sharper watches when that money is worth the most and presents it to the banker for payment. Can he then refuse to pay it merely because more possibly is made out of it than at any other time? Is not that the condition of our Government? Our notes are out. They are our debts. They are not money to us, but debts. Are we not bound to pay them whenever they are presented, and whenever payment is demanded by the creditor? Is not he the judge of the time he wants it; and ought we not, if we cannot pay the money, that which we are giving to the bondholder, exchange it for other bonds.

Mr. FESSENDEN. That is one side; now look at the other.

Mr. CONKLING. Let me answer.

Mr. SHERMAN. I will not trench upon the Senator from New York.

Mr. CONKLING. Not at all. I am very much obliged to the honorable Senator from Ohio for putting that question, because it enables me to state two propositions, each of which I believe to be precisely in answer to his.

In the first place, his question whether we ought not in ethics and in commercial honor, to redeem these promises to pay, goes back to the old question of the legal-tender act; it goes back to the old question of an enforced loan; of an individual assuming the right, if you

could suppose the prerogative to rest in an individual, of issuing his checks bearing no interest and compelling his creditors to receive them at par. That is all there is to that; and I submit, stopping there for a moment, to the honorable Senator, that no consideration of ethics or of casuistry rests upon us at this moment with one feather of weight in addition to that which the same consideration had two years or four years ago. When the time shall come that we can resume specie payments, that we can atone in the commercial atonement of the world to all of these creditors, undoubtedly we shall be bound to do it, and undoubtedly within every principle we shall be in guilty default if we do not do it. I do not see why that does not answer entirely one branch of the suggestion which the Senator makes.

But I want more especially to come to the other. He asks me whether this is not precisely what every banker does? No, sir; no banker who is permitted to hold up his head in any commercial community stoops so low as we propose shall stoop the Treasury of the United States. Why? I ask the honorable Senator from Ohio whether he was ever upon terms so confidential with any bank that he would be tolerated for one moment, in a stringent money market, in going to that bank and borrowing money for seven per cent., or the ordinary per cent., in order that he might turn around and speculate upon the vicissitudes of his neighbors, making them pay him for it a much larger per cent. Every man knows a bank would not tolerate that. What would the honorable Senator from New Jersey think of me, if I were his most esteemed friend, and I should resort to his bank in times of commercial panic and stringency to borrow money by reason of my access there, in order that I might turn around and lend it to men who would pay me more for it than the interest I paid him? Is not that what the Treasury is to do? The honorable Senator shakes his head. I beg him to hear me a moment upon that. I say that the money in this automatic arrangement will transmute itself into bonds when money is worthless and useless, comparatively. I say it will be resumed whenever it can be used for speculative purposes at a far greater profit; and when I have said that, I have affirmed, in other words, that the capitalists who have it there upon call, drawing it as they will, will turn around in every period of panic and lend it to men and venture it in operations by which there will be brought back to them an interest greater than that they realize by lending it upon call. Is there anything plainer than that? "Where a man's treasure is, there is his heart also;" and where the mode of speculating upon this money is, there will be the attention, and in that direction the action of those with whom we are about to treat.

Is there any bank that would tolerate that? Is there any bank, I ask again, that will discount for stockholders, directors, officers, confidential men of any kind, in order that suiting the action to the time and the opportunity, they may get money, not for their own business, but to turn around and lend it to other persons? Why, sir, it strikes me that one of the conspicuous things in which this provision is odious is that the Government becomes the accomplice of usurers. That is what no respectable bank means to do.

Now, Mr. President, there is one other item that I omitted, speaking of what is paid for this, and a very important item too. This five per cent. in coin is to be paid semi-annually. I do not stop to dwell upon it, but I ought to have included it in stating the value of these bonds.

What else does this section do? The honorable Senator from Massachusetts finds in it a look toward the resumption of specie payments in the third section; so he says. I have looked at it very closely; I have read the letters and the comments of those whose eyes are far sharper and better than mine; and I have been entirely unable to discover anything like

that. I can discover an inflation of the currency to the amount of forty-five or fifty or fifty-five millions; and I doubt very much whether my honorable friend from New Jersey, so candid always, and so well instructed on this subject, will say that I am wrong when I affirm that the effect of that section is to inflate the currency forty-five or fifty millions. Why do I say that? Men carrying greenbacks to the Treasury receive bonds, and carrying bonds to the Treasury they receive greenbacks, and they continue to receive them until they have received \$400,000,000. Is not that so?

Mr. CATTELL. Yes, sir.

Mr. CONKLING. Will my honorable friend tell me how many greenbacks are afloat now?

Mr. CATTELL. Three hundred and fifty-six million dollars.

Mr. CONKLING. Three hundred and fifty-six million dollars: so that there is a provision specific for an inflation of \$44,000,000, to be adopted by the champions of hard money and sound prices! It seems to me that is very extraordinary. If there is any need of an automatic currency—and, by the by, I ought to apologize for the use of that word—this scheme was conceived, as I understand it, some time ago, two years ago, I think, at least, in the State of Massachusetts, by a man who put out a pamphlet, and several Massachusetts people who spoke to me about it were fond of calling it an automatic currency, and I wish to give credit for that word lest it may be supposed I was capable of inventing it myself, which I was not; if there is any need, I say, of this automatic currency, it presupposes that shift from side to side in the market which will render it desirable or convenient to take back the greenbacks for the bonds. That you must presuppose in order to suppose that the scheme is to have any substantial working; and when you do suppose that, then you at once embrace not only the possibility, but the incident actually to occur, of an increase of the currency to the amount of \$44,000,000.

Again, Mr. President, let us look at the morals of this in another direction. The whole country is astir upon the question of taxing Government securities; and the cause of that stir and the reason of it perhaps all gentlemen do not appreciate. I can mention a township within my knowledge in which nearly all the men of substance and means upon whom the bulk of taxation used to rest, have exempted themselves entirely by the purchase of Government securities. What sort of a provision is this in reference to eluding taxes? To-day a man holds Government bonds for the bulk of his property, and to-morrow the assessor calls upon him, and he explains his position and makes his affidavit; and day after to-morrow he goes to the Treasury and takes back his money, for which he deposits a bond, and then he does not hold any Government securities at all; and yet in the meantime he has not been taxed. Is that a wholesome provision? In the State of the honorable Senator from Ohio, I know from one of his colleagues at whose suggestion I myself reported a bill from the Ways and Means Committee in the House, that the exemption, or supposed exemption, of national bank bills has led to an abuse of this sort upon a very large scale.

Mr. SHERMAN. I will ask the Senator if a man cannot do that under the law as it stands?

Mr. CONKLING. I should like to inquire how?

Mr. SHERMAN. Cannot he take his money on the 1st of April, convert it into bonds at the market price, and the next day after he has made his return sell his bonds without any loss or trouble? This does not change the case at all?

Mr. CONKLING. Mr. President, that is ingenious in the Senator; but he knows the answer to it a great deal better than I, though I think I know the answer well enough to explain it.

Mr. SHERMAN. What is the answer?

Mr. CONKLING. The answer to it is this:

the man who chooses to take all the chances of the market can do what the Senator says; and if it so happens that at the time it is fortunate to buy Government securities and make on them, he is able to do it; if it happens to be the other way he cannot do it. That is the answer to it. There are other answers to it, but that is sufficient. He does it across all the side winds that blow, all the other things which go to make up this consideration; and the honorable Senator understands as well as I do that the avoidance of taxation in stock operations would only be the dust in the scale, so to speak—a make-weight, and not even a controlling make-weight. But what is this operation? Here every fraudulent tax-payer and shirk is indemnified beyond all question. By an operation perfectly simple, costing him nothing but the expressage from his home to the Treasury Department or the sub-Treasury, he lays down his greenbacks and takes up his bonds, and when the occasion has passed by he lays down his bonds and he takes up his greenbacks. I admit that there is force in what the Senator says. It might happen at times that a sharp man could do it now, and very likely it is done; but is that a reason why we should open another door, make a place which will be "as wide as a church door and as deep as a well," which the other is not?

Now, Mr. President, I have said quite as much as I intended to say about this matter, and I leave it with a further suggestion: As I understand it, saying nothing about the morals involved, nothing about the expansion of the currency, nothing about those things which determine whether it is a wholesome or an unwholesome operation as introduced now as an element in our finances, it is a proposal by which when money is worth nothing, or substantially nothing, we take it and pay ten per cent. for the privilege of keeping it, being all the time forbidden to use it; because the Senator from New Jersey said with entire candor, as the bill pre-supposes, that it was not to go into circulation, but must be held all the time subject to call. We are the custodians of it, holding it in a fiduciary capacity, to exchange back with the owner the moment that he comes. That is the proposition; to pay this enormous percentage for the privilege of being the unpaid custodians of money which we cannot use while we hold it.

I do not attach the same importance that others do to any part of this bill. I have not the same faith in its financial aspects, or in some other aspects to which I have heard reference made; and if a provision of this sort is to be embraced in it I shall feel clear in my conscience and in my judgment in voting against it until I see reason to face about and advance again in the direction of expansion, turning my back upon the resumption of specie payments.

Mr. MORRILL, of Vermont. I desire to offer an amendment to the third section before the vote is taken on the motion to strike out the section. My amendment is to strike out all of the section after the word "prescribe," in line six, and to insert in lieu of the words proposed to be stricken out the words "and the lawful money so received shall be canceled and not again reissued;" so that the section will read:

That the holder of any lawful money of the United States, to the amount of \$1,000, or any multiple of \$1,000, may convert the same into bonds for an equal amount, authorized by the first section of this act, under such rules and regulations as the Secretary of the Treasury may prescribe; and the lawful money so received shall be canceled and not again reissued.

Mr. President, I have heretofore submitted my views at length on this subject, upon a bill containing the main and very similar provisions to this bill, and I shall not weary the Senate or myself by repeating them again to-night. I am cordially in favor of the first and second sections and the last section of the bill, and trust they will pass. I think they will tend to settle this financial question on a permanent basis, and settle it to the advantage of the Government and to the general welfare of the peo-

ple, by making a very large reduction in the amount of interest that we are called upon to pay annually. But the third section, notwithstanding I have had every disposition in the world to be in accord with the majority of the Committee on Finance, I am yet compelled to regard as a drag upon the bill. I believe that it is an excrescence, and that it is calculated to defeat the purposes of the previous sections, and therefore I offer this amendment. If this amendment should prevail the bill will be as near perfect as it can be, so far as I can comprehend it. I trust the Senator from Ohio and the Senator from Massachusetts, who cite the section of the law of 1862, will recognize the value of my proposed amendment; for if this amendment should be adopted we shall then have the precise measure with which those Senators are so much in love. If their arguments are valid they must accept it.

Mr. President, I cannot regard it either for the interest of the United States, or of any sound bank, to receive money and agree to pay interest thereon and keep it all the time, earning nothing, in their own strong vaults. If it is to be paid in let it be canceled. I know that Senators may say that it will produce a stringency if it is canceled. Why, sir, all that risk is encountered by launching this section. If there is to be any stringency in this bill it will be created by the first branch of the section, whether the last branch is attached or not, and no bonds will ever be returned to the Treasury until that stringency occurs. Then, if we are to encounter all the evils of the bill, why not place ourselves in a position to reap the benefits from it? If all are anxious, as all profess to be, for a return of specie payments, when we have advanced three steps in the day time, why shall we, like the frog in the well, go back two feet every night? Worse than the frog, why shall we, after reducing our legal-tenders to \$356,000,000, suddenly authorize an increase to \$400,000,000? Some Senators think they can discover some approach to specie payments in this section. On the contrary it is a section to perpetuate paper currency. With such a law in force resumption would never take place.

I agree with the Senator from Ohio in one respect, that this measure will have a tendency to equalize the value of bonds and of United States notes; but look and see at what an immeasurable cost. Here are fifteen or sixteen hundred million dollars now outstanding that are to be affected by a reduction of values, and only \$356,000,000, as it now stands, or \$400,000,000, if the whole shall be issued, to be affected by a rise in values. Suppose that we equalize the value, will it be pretended that the notes are to be brought up to the value of seventy-eight cents from seventy or seventy-one? That cannot be expected. Then, if the bonds are to be brought down from seventy-eight to seventy-one or seventy, see what a loss we throw upon the world. Instead of this being a work of financial wisdom and propriety, it is a work of destruction, in my judgment, of something like one hundred million dollars of property in the hands of somebody. The Senator from Massachusetts, [Mr. SUMNER,] within my hearing, says he does not believe it. It must have a tendency to equalize the value. Where will you fix it? If you put it at half way between and say that it raises the value on \$400,000,000 four per cent., and that it reduces the value on sixteen or seventeen hundred million dollars four per cent., then adjust your loss. It must obviously be a losing operation to somebody.

Mr. FRELINGHUYSEN. There is a suggestion which has occurred to me which I think corresponds with the view just expressed, and I submit it to the Senator. If the bonds which are now out were all worth 140, they would be equal to gold.

Mr. MORRILL, of Vermont. Certainly.

Mr. FRELINGHUYSEN. They are worth from one hundred and ten to one hundred and fourteen. So just as much as they are above par they approach gold. If these bonds which are

created by this law are as good, being free from taxation and payable in coin, as the five-twenties, as we assume they are if the one is to take the place of the other, then we are not only to destroy what the Senator from Vermont has said, but we are to destroy the great value of all the bonds that are out and bring them all down to the level of par instead of being worth 114.

Mr. MORRILL, of Vermont. Certainly, that will be the tendency. But, Mr. President, the Senator from New Jersey and the Senator from New York have so thoroughly discussed the points upon which I had proposed to make a few comments that I shall not trouble the Senate in relation to them. It appears to me, however, that the proposal at the end of this section defeats the first part of the bill. What is the desire? Evidently that the parties now holding our bonds shall come forward and exchange them for these new bonds. While I am ready to admit that we may make the new bond in its purchasing power equal to the six per cent. bond, which has only a short time to run, and therefore induce the parties to make the exchange, yet at the same time, if we accompany it by a provision whereby bonds cannot possibly be above par, as the Senator from New York so well stated, how is it possible that we can expect these parties to come forward and make this exchange? I cannot but regard the third section, therefore, as a clog to the bill. I do not impute any purpose to any party; but whether the object is or not to have the entire bill a success, in my judgment, if the last part is tacked on to the first as it stands it will defeat the exchange which is proposed.

Now, sir, I desire to have a vote on this amendment. I wish to see whether there is a majority or not in the Senate who are willing to take any steps by which we can approach specie payments and by which we can be relieved from all trouble in relation to all our financial questions.

Mr. CHANDLER. Mr. President, I hope that this third section will be stricken from the bill, for I should like to vote for the other three sections, but with this third section in I should feel compelled to vote against the whole bill. The bill would then be evil and only evil in all its workings.

In the first place, we are to-day borrowing all the money that we choose to borrow on call at three per cent., payable in currency. We can borrow \$100,000,000 and probably \$200,000,000 payable on demand at three per cent. But this bill proposes instead of borrowing money on call at three per cent. in currency, to pay five per cent. in gold up to the amount of \$400,000,000. Of course all your three per cent. certificates would be taken up. It is true you prohibit the conversion of those three per cents into these new bonds, but they would change their three per cents into a security that could be converted into these bonds, and you would immediately, instead of paying as now three per cent. in currency, begin to pay five per cent. in gold for every dollar that you borrow on call. Now, sir, take \$100,000,000—and that amount is now in demand, called for, and the Senator from New Jersey [Mr. CATTELL] to-day introduced a proposition increasing the amount of three per cent. certificates \$25,000,000—take \$100,000,000; three per cent. in currency on that \$100,000,000 would be \$3,000,000 per annum which you pay; but, sir, if you pay five per cent. in gold on that self-same \$100,000,000, and it would be converted immediately, you would pay \$5,000,000 in gold, and the price of gold being to-day forty per cent would make it \$2,000,000 more; and upon that single transaction on \$100,000,000 that you could obtain to-day for three per cent. in currency you would lose \$4,000,000 the very first year.

Now, sir, if the Senate has decided not to resume specie payments, or approximate to them, there never was a proposition introduced equal to this in satisfying the world that you

never will come to specie payments. You proclaim to the world that while this law stands, you may have \$400,000,000 in circulation all the time. Sir, whenever this Government is prepared to resume specie payments, specie payments will be resumed on that day and that hour; but the Government never will resume so long as it has \$400,000,000 outstanding demand notes.

The first section of this bill in its action will be good, if there is any action under it. I like the section very well. I have no objection to the second section, and have already voted for the fourth; but with this third section in, I should be compelled to vote against the bill. I hope it will be stricken out. If it is not I shall vote against the bill.

Mr. CATTELL. With the temperature of the Chamber as it is to-night, and in my present physical condition, I am unable to say over a dozen or two words upon this third section. I object to the amendment proposed by the Senator from Vermont, because so long as the Government holds its hand upon the currency of the country, and limits and controls it, I am unwilling that any process of funding shall go on which shall take one or two hundred millions out of the currency which may be needed for its legitimate business purposes.

Mr. CONNESS. It is direct contraction.

Mr. CATTELL. That is a direct contraction, and a contraction how rapid you cannot tell. Therefore I would greatly prefer to have the section stricken out entirely than to have the amendment of the Senator from Vermont adopted. I am in favor of the section as it stands. I believe with the Senator from Ohio, that the least thing we can do for the creditor of the United States, who holds our promise to pay on demand either five, five hundred, or five thousand dollars, in the maintenance of our public faith and our honor, if we cannot pay it, is to give him an obligation of indebtedness and pay him interest on it. My own opinion always has been that the highest stretch of power which Congress took during the whole of this rebellion was the passage of the legal-tender act; when they took pieces of paper and stamped upon them the authority of the Government that they should be received throughout this nation in the payment of all debts, public and private. I think that the only authority for it was to be found in that unwritten law which provides that a Government may do anything to save its own life.

Now, Mr. President, that act was done, and you have got \$356,000,000 of those notes in circulation. They are in the hands of your people everywhere. You are not prepared to redeem them. You have promised to redeem them, but you do not do it. I am compelled to receive them for any obligation which is due me; I can pay them for any obligation which I owe; but the Government of the United States, the promisor to pay, you propose shall be excused from any effort at payment, or any sort of recognition of them whatever. Is it not the least possible thing that the Government of the United States could do to give to its creditor, upon whom it has forced this issue of legal-tender notes, an obligation that it will pay at some time, and at the lowest rate of interest which it is paying to all other creditors? Is there not justice and equity in such a course as this? My friend from New York said in the course of his argument that when the money becomes worthless it will be taken to the Treasury and left there. What money will become worthless? The promises of the Government of the United States to pay so many dollars on demand. That is the thing that is worthless, and the more it is worthless the more you are bound in honor and in justice and in good faith to give to the holder of it something that is valuable.

Now, Mr. President, I say just that far in regard to this bill the right to do this does not admit of an argument. If these notes had only one single quality there would nothing

remain but to give a bond, take them in, and cancel them because they are a debt; but unfortunately or fortunately, whichever it may be considered, these legal-tender notes of ours possess three distinct qualities. What are they? First, they are a public debt: they are a debt of the Government of the United States, and as such they ought to be paid. If they cannot be paid they ought to be funded. If they had no other character than simply that of a debt they ought to be canceled as fast as they are taken in.

But what are their other characters? The second character which this note has is that it is currency. It has become an essential element in our commerce and in our trade, and the Congress of the United States has seen proper, from time to time and from year to year, to limit the amount of this currency, to judge for the people of the United States just how much they want, and just how much they shall have. They begun with the legal-tender notes without any such limit at all; but they said, "You shall have \$300,000,000 of bank circulation, and you shall not have any more. You have now got \$656,000,000 of circulation, and that is just what you want. This is a wise Congress, and always has been, and it has fixed now just exactly the amount you want. It shall not be any more, and it shall not be any less." Therefore these legal-tender notes become an essential necessity for the conducting of our trade and of our commerce. They occupy not only the character of a debt of the United States, but they occupy a material character in relation to our commerce and to our trade. You cannot take these in any given quantity that you may choose and put them into your Treasury and cancel them. Why? Not unless you give the people of the United States some other currency in place of them. If we have not got too much money, if you take \$100,000,000 out of the currency and cancel them, and reduce it that much, what is the result? The result is distress in business. At the very commencement of this session we concluded that we could not afford to continue to reduce \$4,000,000 a month, and the Congress of the United States by a very large vote in both branches directed that the Secretary of the Treasury should cease canceling them. Is not that saying that we have not too much?

If you adopt this plan it will obviate a state of things which, I think, is discreditable and disgraceful to the Government of the United States, that a man should come and say, "Here is your promise to pay me so much money; will you be kind enough to do it?" "No; I have not got the means." "Will you give me your obligation at some future day, at a low rate of interest, the same rate of interest you are paying other persons?" Will my friend from New York object to that? Ought we not to do it? Is it not honest? Is it not right?

Mr. CONKLING. No more honest now than it would have been all the time.

Mr. CATTELL. We ought to have done it before. Because we have done wrong is that any reason why we should not do right now? We ought to have done this before. We have had a great many things said about this. We have not, perhaps, been brought to a careful view of the subject until now.

Now, we have come just to this point: this is a thing that ought to be done; we have no right to refuse it under the circumstances; but if you say you will do this, allow these notes to be funded and canceled, you are interfering with the currency; you are taking the life-blood of trade and commerce; and you cannot afford to take it away.

But more than that, these notes have another character. They are not only a debt of the United States, and not only currency of the United States, but they are the very highest order of currency. And why? Because they are a legal tender, and the foundation upon which all trade and all business is based; the foundation on which my bank and everybody



else's bank stands; the kind of material that you require by law we shall keep in our vaults in order that we may be ready to meet our debts. Now, you propose not only to take it away as currency, but you propose to take away an article which has a higher character than that of currency, which is the foundation upon which you permit me to issue four dollars to one; for in a bank I may owe four dollars and keep one as a reserve. I say under this condition of things you cannot afford to open a door by which, in easy times when money is plenty, this money can be funded into the bonds of the United States and then destroyed, with Congress all the time sitting here with its hands clutched upon the currency of the country and saying it shall not be increased, you shall only have so much. If we have not got too much money now, with the growing interests of our country and its commerce, it will be too little by and by.

What is the answer to this argument? I insist upon it the only condition is just this: that having agreed you will fund this money, having agreed you will give the holder what he deserves, he ought to have your bond for the money. From the very character which you have given to this money and the very position in which you have placed it, you are compelled to take care of the interest of the country and to provide that if this money shall be needed for legitimate purposes there shall be some method of getting at it. That is all there is in the whole third section. It is nothing more and nothing less.

The Senator from New York talks about the extravagant rate of interest. It is the same rate of interest that we are offering to other creditors. We would like to fund all our debt at five per cent. in gold; and all this talk in the country about taxation is a thing of the past. All that was arranged when your laws were made. All that is a question which I do not think pertinent here. I wish to say just in this connection, however, that, in my opinion, the very moment this great Government gives up the right to borrow money and to make it free from taxation by State authority, it surrenders the greatest element of its sovereignty, and I do not believe the Government of the United States will ever consent to it in the world. It may work evil somewhere, at some time and in some place; but it is one of the evils that we cannot avoid. We give up an essential element of sovereignty when we admit that the States may tax our bonds; for if they can tax them one per cent. they can tax them five per cent., and if they can tax them five per cent. they can tax them fifty per cent.; and what is your credit good for to borrow money if a State can tax it? But that is off the line of my argument.

What I am trying to argue is just this position: that we are bound to do something for the creditors who hold these greenbacks of ours, and that from the very character which you have given them; from the very fact that you keep your hands clutched upon the currency of the country, and say to the people of the United States "Thus much you shall have and no more;" from the fact that you limit the banking circulation and prevent the institution of State banks because your tax on their circulation is so great that State banking institutions cannot under any possibility exist, you cannot refuse to do this much. Then you ought to adopt the other principle of the section and give them an opportunity when necessity requires it, when the business of the country requires it, and it will not be done at any other moment. People do not convert an interest-bearing security into money unless the money is wanted for the legitimate purposes of the country. It is not likely to be done at any other time.

Another thing: there are great differences of opinion in regard to how much or how little we ought to have. You adopt this section and it will settle that whole question. Whenever there is a surplus of currency it will be funded. My friend from Maine will perhaps be gratified

by finding that more than fifty million dollars in the first year may be funded, and it is very possible that it may never be drawn at all. We may issue more national bank circulation; we may do something else; we may be in the very road to fund all this money.

One word in regard to the argument of the Senator from Maine and of my colleague in reference to the reduction in the value of the bonds. In my judgment, the argument is utterly fallacious. The passage of this bill would not affect the price of the bonds a solitary shade per cent. in the European markets where they are sold for gold, and that is the true test of this question. To measure these bonds as to their premium by an India-rubber yardstick, which is longer to-day and shorter to-morrow, which depends for its value exactly upon the value of gold, is not a fair test to test this question by at all. The fact is that it would improve the value of the greenback. It would elevate that beyond all sort of question. It is only our home measure by which we are measuring the value of these bonds. It is not their actual value in the money of the world, because it does not change them a single stiver. They will bring precisely the same amount of money on the other side of the water with this clause in the bill as if it were out, because it only has relation to our currency, not to gold and silver. It does not affect them in the slightest degree, and therefore I insist that the whole argument is a fallacy.

Mr. President, as I have said, I have not the strength, nor do I wish to detain the Senate with any lengthened argument. I see clearly that this section, I was going to say this very much abused section, this section which has had its share of argument, and had its share of abuse, this wonderfully-abused section, is likely to fail in the Senate from the expressions of opinion which I have heard around me. I submit to the wisdom of Senators that they may know better than I do on this subject. I surrender my judgment cheerfully to theirs; and if the bill is more agreeable to them after the section be stricken out, I shall still vote for the bill; but I think I shall live to see the day when, on a careful examination of the section, and its probable influence upon the currency of the country, and upon the trade and commerce of the country, it will have a higher reputation than it has in the Senate of the United States to-night.

Mr. CORBETT. Mr. President, as the motion of which I gave notice, to strike out the third section, has been anticipated by the Senator from New York, I desire to express my views upon it. In my opinion this section will have a tendency to drag down the price of United States securities. We desire to keep those securities at the highest point possible, that we may reap as much from them as we can in exporting them to foreign countries. We must now send the United States bonds out of the country, or we must send gold or its equivalent. We are now shipping the gold out of the country, and, as I stated before to-day, we have shipped during the past three months between thirty-eight and thirty-nine million dollars of gold. We are shipping two dollars of gold where we are producing one.

The tendency of this bill, in my opinion, is to reduce the price of United States bonds. Possibly it might increase the price of legal tenders one per cent. where it will reduce the price of United States bonds five per cent. If they are to be brought on a par so that they can be exchangeable, United States bonds for legal tenders and legal tenders for United States bonds, they then become the foot-ball of every man who chooses to use them as a circulating medium; and all the smaller denominations will go into regular circulation, and it will be one of the grandest schemes of expansion that could possibly be adopted. If you desire to place the finances upon a system that will secure the greatest expansion and the greatest difficulty of returning to specie pay-

ments, it seems to me this is the process. You directly inflate the currency forty-four millions, and then you place them upon a par, so that the bonds of the United States can be used in a circulating form. They are both upon a par, and they circulate equally.

It seems to me that this section, if adopted, will work great harm to the stability of the financial affairs of the country, and will give an opportunity to speculators to oscillate and to operate in these bonds, and to create a stringency in the market from time to time, as they feel disposed to control the market, and you will distress the poorer classes, because the poorer classes are not the people who are handy to the Treasury of the United States. Those who are in the interior do not have the opportunity of exchanging their greenbacks for United States bonds and United States bonds for greenbacks. It is the bankers, the men who are at the money centers, who will have that opportunity; and they will take advantage of it as occasion requires and as they see a speculation presents itself. I hope, therefore, that this section will be stricken out.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Vermont.

The question being put, it was declared that the yeas appeared to have it.

Mr. MORRILL, of Vermont. I call for a division.

The PRESIDENT *pro tempore*. Those who are in favor of the amendment will rise.

Two Senators rose.

Mr. MORRILL, of Vermont. I withdraw the call for a division. I see it is too warm to-night for anybody to rise. [Laughter.]

The PRESIDENT *pro tempore*. The amendment is rejected. The question recurs on the amendment offered by the Senator from New York, to strike out the third section of the bill.

Mr. CONNESS, Mr. SUMNER, and others called for the yeas and nays; and they were ordered.

Mr. SHERMAN. I was requested by Mr. VAN WINKLE to state that he was paired off on this question, and also on the bill, with Mr. DAVIS, of Kentucky. He would have voted against the amendment, and Mr. DAVIS, I understand, would have voted for it.

The question being taken by yeas and nays, resulted—yeas 19, nays 17; as follows:

YEAS—Messrs. Cameron, Chandler, Conkling, Corbett, Drake, Ferry, Fessenden, Frelinghuysen, Harlan, Hendricks, Howe, McDonald, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Rice, and Wilson—19.

NAYS—Messrs. Cattell, Cole, Conness, Henderson, Morgan, Nye, Osborn, Ramsey, Ross, Sherman, Stewart, Sumner, Tipton, Wade, Welch, Willey, and Williams—17.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cragin, Davis, Dixon, Doolittle, Edmunds, Fowler, Grimes, Howard, McCreery, Morton, Norton, Saulsbury, Sprague, Thayer, Trumbull, Van Winkle, Vickers, Whyte, and Yates—22.

So the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on agreeing to the amendment of the Committee on Finance, as amended.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### INDIAN APPROPRIATION BILL.

Mr. HOWE. I move that the Senate proceed to the consideration of the bill (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1869.

The motion was agreed to.

Mr. CONKLING. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, July 14, 1868.

The House met at twelve o'clock m.

On motion of Mr. MYERS, the reading of the Journal of yesterday's proceedings was, by unanimous consent, dispensed with.

SAMUEL N. MILLER.

Mr. MYERS. I ask unanimous consent to report back from the Committee on Patents Senate bill No. 454, for the relief of Samuel N. Miller. It is to correct an error which the Commissioner of Patents writes was made in the Patent Office.

Mr. SPALDING. I will not object if it does not give rise to debate.

Mr. MYERS, from the Committee on Patents, reported the bill back, and moved that it be put on its passage.

The bill was read. It provides that Samuel N. Miller, who obtained a patent for an improved compound anchor, dated the 29th day of June, 1852, for fourteen years, which expired on the 29th day of June, 1866, be authorized to apply to the Commissioner of Patents for the extension of said patent for seven years, under the regulations now in force in relation to the extension of patents; and the Commissioner of Patents is hereby directed to investigate and decide the application for extension on the same evidence and in the same manner as other applications for extension are decided, provided that the applications for extension be made within sixty days after the approval of this act, and the decision of the Commissioner be rendered within ninety days from the filing of said application in the Patent Office; and provided also, that nothing herein shall be so construed as to hold responsible in damages any person who may have manufactured or used the said improved compound anchor between the expiration of the said patent and the approval of this act.

Mr. MYERS. I do not propose to debate it, but will state that the Commissioner of Patents writes that this claimant did not get a hearing, as some of the clerks mislaid the papers. The bill is only to grant him a hearing.

Mr. WASHBURNE, of Illinois. It seems that he has already had the use of the patent for fourteen years.

Mr. MYERS. The Commissioner of Patents asks that this error of his office be corrected so as to let this party have the privilege of the ordinary application.

Mr. WASHBURNE, of Illinois. Let the letter be read.

The Clerk read as follows:

UNITED STATES PATENT OFFICE,  
WASHINGTON, D. C., March 16, 1868.

SIR: On the 14th of March, 1866, an application was filed in this office by Samuel Nye Miller, of West Roxbury, Massachusetts, for the extension of the patent granted to him on the 29th of June 1852, for an "improved compound anchor." Owing to an inadvertence on the part of one of the officers of this office, the case was not brought to the attention of the examiner in charge of the class to which Mr. Miller's case belonged until after the expiration of the patent, too late to correct the mistake.

As the requirements of the law had been complied with, and the mistake being of the Patent Office, as will further appear from the affidavit of the examiner, (a certified copy of which is herewith inclosed,) I respectfully request that authority be given, by special act of Congress, to examine the application as presented, just as though the error had not been committed.

I have the honor to be, very respectfully, your obedient servant,

A. M. STOUT,  
Acting Commissioner.

Hon. W. T. WILLEY, Chairman Committee on Patents,  
United States Senate.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. MYERS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## WAGON-ROAD AT WEST POINT.

Mr. McCARTHY, by unanimous consent, from the Committee on Roads and Canals, reported back House bill No. 761, to build a wagon-road for the use of the Military Acad-

emy from West Point, in the county of Orange, to Cornwall Landing, in said county, with the recommendation that it do pass.

The bill was read. It authorizes and directs the superintendent of the Military Academy at West Point to use the labor in the employ of the United States Government at that post, when not otherwise employed, in building and constructing a wagon-road from West Point to Cornwall Landing, in the county of Orange, said road to be located under the direction of said superintendent over land now belonging or hereafter to be ceded to the Government of the United States for that purpose.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. McCARTHY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PETER M. CARMICHAEL.

Mr. WASHBURNE, of Illinois. The member from the Albany district of New York, [Mr. PRUYN,] who is now absent and may not be able to be here before the close of the session, has sent to me a little private bill which has received the approval of the Committee on Commerce, and which I ask in his behalf that the House may now pass. It is a bill entirely proper, simply enabling a man to get his salary at the Treasury Department, there being at present a technical difficulty in regard to his not having taken the oath a second time on assuming the duties of an office similar to that which he had before held.

There being no objection,

Mr. WASHBURNE, of Illinois, reported from the Committee on Commerce a joint resolution (H. R. No. 340) for the relief of Peter M. Carmichael, surveyor of the port of Albany; which was read a first and second time.

The joint resolution authorizes the proper accounting officers of the Treasury, in auditing and adjusting the accounts of Peter M. Carmichael, surveyor of the port of Albany, to admit and allow the charge of \$1,008, that sum having been paid by him to John Hastings, deputy surveyor and inspector of that port.

Mr. SPALDING. Is there any report accompanying this bill?

Mr. WASHBURNE, of Illinois. There is not; but I send to the Clerk a letter from the Department which will explain the reasons for the passage of the bill.

The Clerk read as follows:

TREASURY DEPARTMENT,  
OFFICE OF COMMISSIONER OF CUSTOMS,  
June 25, 1868.

SIR: Upon receiving the appointment of surveyor of customs at the port of Albany, Mr. Peter M. Carmichael appointed John Hastings as deputy surveyor and inspector with the approbation of the Secretary of the Treasury; but as Mr. Hastings occupied at that time the position of deputy collector at New York, and as Albany constituted a part of the district of New York, Mr. Carmichael did not think it necessary that Mr. Hastings should take the oaths over again; and he has been performing his duties without taking the required oaths. This prevents the charges for the money paid to Mr. Hastings from being allowed at the Treasury without authority from Congress for their allowance; and I herewith send you a joint resolution authorizing the allowance of said charges, which I trust Congress will see fit to pass.

I am, very respectfully, your obedient servant,

N. SARGENT,  
Commissioner of Customs.

Hon. E. B. WASHBURNE, Chairman of the Committee  
on Commerce, House of Representatives.

Mr. SPALDING. Does this bill give double pay?

Mr. WASHBURNE, of Illinois. It does not. This officer took the oath once, and did not suppose it necessary to take it the second time; but the requirement of the law is otherwise.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the joint resolu-

tion was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## UNITED STATES DEPOSITARY, CHICAGO.

Mr. LOGAN, by unanimous consent, reported back from the Committee of Ways and Means a bill (H. R. No. 387) to fix the compensation of the United States depository at Chicago.

The bill, which was read, provides that after January 1, 1868, the whole allowance of compensation to the United States designated depository at Chicago shall not exceed \$2,500; and so much of the first section of an act to provide compensation to such persons as may be designated by the Secretary of the Treasury to receive and keep the public money under the fifteenth section of the act of 6th August, 1846, for the additional services required under that act, approved March 2, 1853, as provides for fixing and limiting the annual compensation of the designated depository at Chicago, not to exceed the annual sum of \$1,500, be amended and modified to conform to this act.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LOGAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## PRIZE CASES IN FLORIDA.

Mr. DAWES. I desire the House to consider at the present time a Senate bill now on the Speaker's table, to which there will be not the slightest objection, and which it is very important should be passed. I will state in a word what it is, and if there is the slightest objection I will not urge it. The United States marshal at Key West, James C. Clapp, died in an insane asylum. It was found after his death that he was a defaulter to the Government. The Secretary of the Treasury and Secretary of the Navy have settled with his representatives, and they have deposited \$116,000 to adjust that settlement in a bank in the city of New York. But they find that there must be a distribution of this money, and there is no law regulating the distribution, so that they cannot close it up without the passage of this act. Consequently this money has been held in a bank for two years, and nobody has had any benefit of it except the bank. This bill is to dispose of that money according to the recommendation of the Secretary of the Treasury and Secretary of the Navy. There can be no objection to it.

The bill (S. No. 486) to facilitate the settlement of certain prize cases in the southern district of Florida, was accordingly taken up and read a first and second time. It directs the Secretary of the Treasury, upon the execution and delivery to him by the administratrix of the estate of James C. Clapp, deceased, late United States marshal for the southern district of Florida, of a proper written release of all claims and demands for, or on account of, all costs, charges, fees, and expenses due, or claimed to be due, the said Clapp as marshal aforesaid, or to his estate, in any prize or other cases in said district, to accept from said administratrix the sum of \$50,000 in full satisfaction of all claims and demands of the United States against the estate of the said James C. Clapp, and against the sureties in said Clapp's official bond; and that said sum of \$50,000 when paid, together with the sums now on deposit with the Assistant Treasurer in New York to the credit of the said Clapp and to the credit of the United States district court for the southern district of Florida, shall be deposited with the Assistant United States Treasurer at Washington, District of Columbia, subject to the order of the United States district court for the southern district of Florida, for the purpose of meeting decrees of distribution or restitution in certain named prize causes pending in said district. Sections two

and three regulate the distribution of the prize moneys of the steamers *Adela* and *Nita*, &c.

Mr. LAWRENCE, of Ohio. Has this been before any committee?

Mr. DAWES. The Committee on Naval Affairs are in favor of it. It does not take any money out of the Treasury, but puts money into the Treasury which cannot be otherwise disposed of.

Mr. LAWRENCE, of Ohio. It is a compromise of a law-suit, I believe.

Mr. DAWES. It does not confirm any suit. The money has got to be distributed, and the law does not describe how. It has got to be distributed *pro rata*. The adjustment of the account of the United States with the representatives of Mr. Clapp is made under a general law which authorizes such compromises; it was done two years ago, and this money has been on deposit in a New York bank all the time because it could not be covered into the Treasury until some act authorizing the distribution of it should be passed. That is the origin of this bill. It has been before the committee of the Senate, and the Senate were unanimously in favor of it. It was before the Committee on Naval Affairs of the House, who had the same bill ready to report, and they recommend its passage.

Mr. LAWRENCE, of Ohio. Cannot prize money be covered into the Treasury without the authority of a special act of Congress?

Mr. DAWES. Most certainly it can; but when the whole sum total is not enough to adjust all the cases there is no law to authorize the *pro rata* distribution. Here is a sum total against which all the prize cases in the court at Key West are to be settled, and this bill authorizes the holding of this money when it goes into the Treasury to answer to those prize cases. Some of them have been decided in the Supreme Court and some are pending in it. The representatives of Mr. Clapp have no interest at all in their adjudication. They have deposited this money according to an arrangement between them and the Treasury and Navy Departments. But it cannot go into the Treasury until some act is passed of this kind. Two committees have examined it thoroughly.

Mr. LAWRENCE, of Ohio. It is rather an unusual bill, but I have so much confidence in the Naval Committee who have examined it that I do not deem it proper to interpose any further objection.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. DAWES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LIGHTING STREETS OF WASHINGTON.

Mr. KOONTZ. I ask unanimous consent to report back from the Committee for the District of Columbia a joint resolution (S. No. 57) relative to lighting the streets of Washington city, District of Columbia.

Mr. WASHBURN, of Illinois. I object.

Mr. KOONTZ. I hope the gentleman will withdraw his objection. Pennsylvania avenue and Four-and-a-half street are in darkness on account of the failure of an appropriation.

Mr. WASHBURN, of Illinois. I will state to my friend from Pennsylvania [Mr. KOONTZ] that I do not make any captious objection. We had that matter before the Committee on Appropriations, and concluded that Washington city might light her own streets.

Mr. KOONTZ. A part of this joint resolution provides that the council of the city shall levy a tax for the purpose of lighting the streets.

Mr. WASHBURN, of Illinois. Well, let the substitute be read.

The substitute was read, as follows:

Joint resolution relative to lighting the streets of Washington, District of Columbia, reducing the expense, and for other purposes.

Whereas the municipal authorities of the city of Washington have failed to carry out the arrange-

ments for lighting the streets of said city, in accordance with the provisions of an act entitled "An act making appropriations for sundry civil expenses of the Government," approved July 23, 1866: Therefore

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the mayor and city councils of the city of Washington be, and they are hereby, authorized and directed to levy and collect a tax from the property-holders of the city of Washington sufficient to defray the expense of lighting the avenue and street lamps of said city with six-foot burners twenty-one nights in each month, from dark until daylight, and keep said lamps so lighted each year.

*Sec. 2. And be it further resolved,* That the Secretary of the Interior, for the Government of the United States, and the mayor and city councils of the city of Washington, for the city, be, and they are hereby, authorized and directed immediately upon the passage of this joint resolution, severally, to contract with the Washington Gas-light Company (if said company shall agree thereto) for a term of fifteen years for the United States Government, and for the city for such a term, not exceeding fifteen years, as may be agreed upon, for all the illuminating gas required in the city of Washington by the United States and for the avenue and street lamps and public offices of the city in the city of Washington, in accordance with the provisions of this joint resolution, at the reduced price of three dollars net per thousand feet: *Provided however,* That the price paid under said contract shall at no time within said term of fifteen years exceed the price charged by said company to the citizens of Washington, and that the quality of said illuminating gas shall not be less than fifteen candles standard: *And provided further,* That the right is reserved to the United States and to the mayor and city councils of Washington to annul the contracts authorized hereby at any time after ten years by giving two years' notice.

*Sec. 3. And be it further resolved,* That the mayor and city councils of the city of Washington be, and they are hereby, authorized and directed to increase from time to time, as the public good may require, the number of street lamps on any of the streets, lanes, alleys, public ways, and grounds in the city of Washington, and to do any and all things pertaining to the well lighting of the city, and to levy and collect a tax from the property holders therefor.

*Sec. 4. And be it further resolved,* That in the event of the failure of the mayor and city councils to levy and collect the tax herein authorized, or to light the said city as herein directed, then the Secretary of the Interior be, and he is hereby, authorized and directed to levy a tax upon the property of said city and to collect the same, so from year to year, in case of such failure of said mayor and city councils to light as herein directed, and to fully execute the provisions of this joint resolution in the place and stead of the said mayor and city councils.

*Sec. 5. And be it further resolved,* That nothing herein contained shall be construed to relieve the said Washington Gas-light Company from paying the internal revenue tax imposed by law.

Mr. DELANO. I object to the report.

#### ST. JOSEPH CATHEDRAL, BUFFALO.

Mr. GRISWOLD. I have been directed by the Committee of Ways and Means to report for action at this time a joint resolution authorizing the Secretary of the Treasury to refund duties paid on a chime of bells and a clock imported for St. Joseph Cathedral, Buffalo, New York.

The joint resolution, which was read, remits the duties on the set of bells and the clock for St. Joseph Cathedral, in the city of Buffalo, in the State of New York, and directs the Secretary of the Treasury to repay the amount paid for duty thereon.

Mr. KELSEY. I object.

Subsequently Mr. KELSEY withdrew his objection, but

Mr. FARNSWORTH said: I renew the objection unless I can offer an amendment to the effect that all bells imported for religious purposes shall be allowed to come in free.

Mr. SPALDING. Oh! no.

#### UNION PACIFIC RAILROAD.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House, a statement of the troops stationed along the line of the Union Pacific railroad between Omaha and Salt Lake City; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### IMPROVEMENT OF GALVESTON HARBOR.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting, in compliance with the act of March 2, 1867, a communication from the chief of engineers, with a report from General M. D. McAllister, relative to the most practicable mode of improving the

harbor of Galveston, Texas; which were referred to the Committee on Commerce.

#### TRIAL OF GENERAL E. WHITTLESEY.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting, in compliance with House resolutions of the 30th ultimo, the record of a military court held at Raleigh, North Carolina, for the trial of Brevet Brigadier General E. Whittlesey; which was referred to the Committee on Military Affairs.

#### PARIS EXPOSITION, OF 1867.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of State, transmitting the financial reports of N. M. Beckwith, United States commissioner general to the Paris Exposition of 1867; and of J. C. Derby, general agent at New York; which were referred to the Committee on Foreign Affairs, and ordered to be printed.

#### CHOCTAW AND CHICKASAW TREATY.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, asking an appropriation of \$15,000 to carry out the treaty stipulations with the Choctaw and Chickasaw Indians; which was referred to the Committee on Appropriations.

#### ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 564) concerning the tax commissioners for the State of Arkansas.

#### PURCHASE OF ALASKA.

Mr. BANKS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. GARFIELD in the chair,) and resumed the consideration of the special order, being House bill No. 1096, making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867.

Mr. MILLER asked and obtained leave to have printed in the Globe some remarks upon the Alaska bill. [See Appendix.]

The CHAIRMAN. No debate is in order. When the Committee of the Whole was last in session on this bill there was an appeal pending from the decision of the Chair in regard to an amendment offered by the gentleman from Massachusetts, [Mr. BUTLER.] The question pending is upon that appeal.

Mr. BANKS. As it is some days since this question was under consideration, I ask the Chair to state the question and the grounds of his decision.

Mr. BUTLER, of Massachusetts. I ask that the amendment be read.

The Clerk read as follows:

Add to the bill the following:

*Provided,* That the payment of \$500,000 of said appropriation be withheld until the imperial Government of Russia shall signify its willingness to refer to an impartial tribunal for adjudication and settlement all such claims by American citizens against the imperial Government of Russia as have been investigated by the State Department of the United States and declared by said Department to be just, and the amount so awarded to be paid from said \$500,000 so withheld.

The CHAIRMAN. The Chair will state that this amendment offered by the gentleman from Massachusetts was objected to as out of order. The Chair sustained the point of order on the ground that the treaty is indivisible: that the object of the pending bill is to fulfill the stipulations of the sixth article of the treaty; that that article requires the payment of a specific sum, and any proposition to withhold a



part of that sum is inconsistent with the purpose of the bill, and is, therefore, not in order. The gentleman from Massachusetts has appealed from the decision of the Chair. That appeal is now pending.

Mr. BUTLER, of Massachusetts. Would it be proper for the Chair to state, as a great many members were absent when the question was up before, that at that time the majority of those present sustained the appeal?

The CHAIRMAN. It would not be proper, for the reason that it is the recollection of the Chair that there were thirty-six members present, and eighteen voted on each side. The question is, Shall the decision of the Chair stand as the judgment of the committee?

On the question there were—ayes 93, noes 27.

So the decision of the Chair was sustained.

The question then recurred upon the amendment of Mr. LOUGHRIDGE, to insert the following preamble and additional section:

Whereas the President of the United States, on the 30th of March, 1867, entered into a treaty with the emperor of Russia, by the terms of which it was stipulated that in consideration of the cession by the emperor of Russia to the United States of certain territory therein described, the United States should pay to the emperor of Russia the sum of \$7,200,000 in coin; and whereas it was further stipulated in said treaty that the United States shall accept of such cession, and that certain inhabitants of said territory shall be admitted to the enjoyment of all the rights and immunities of citizens of the United States; and whereas the subjects thus embraced in the stipulations of said treaty are among the subjects which by the Constitution of the United States are submitted to the power of Congress, and over which Congress has exclusive jurisdiction; and it being for such reason necessary that the consent of Congress should be given to the said stipulations before the same can have full force and effect; having taken into consideration the said treaty, and approving of the stipulations therein. To the end that the same may be carried into effect; Therefore,

Sec. 1. *Be it enacted, &c.,* That the assent of Congress is hereby given to the stipulations of said treaty.

Mr. LOUGHRIDGE. I modify my amendment by striking out the word "exclusive" before "jurisdiction;" so as to make the language read, "over which Congress has jurisdiction."

Mr. HIGBY. I ask the gentleman from Iowa [Mr. LOUGHRIDGE] to accept the following as a substitute for his amendment:

That in the opinion of this House, after full debate the money stipulated by treaty made with Russia to be paid for the purchase of Alaska ought to be appropriated; but in making this declaration the House at the same time asserts its right to decide, at all times whether an appropriation for the purpose of carrying into execution a treaty made by the President, by and with the advice and consent of the Senate, ought to be made or withheld; and holds further that it is the right and duty of the House to investigate with close scrutiny any such appropriation asked for, and act according to its best judgment, the same as upon any and every other appropriation.

Mr. LOUGHRIDGE. I cannot accept that as a substitute for my amendment.

Mr. BANKS. There is no objection, I believe, to the proposition of the gentleman from Iowa, [Mr. LOUGHRIDGE.] I hope it will be adopted.

Mr. STEVENS, of Pennsylvania. I hope it will not be adopted. It contains doctrines altogether false.

Mr. ELIOT. I hope my amendment may be read before that of the gentleman from Iowa is acted on.

The CHAIRMAN. The amendment of the gentleman from Massachusetts [Mr. ELIOT] is not in order now unless he offers it as a substitute for that of the gentleman from Iowa.

Mr. ELIOT. I offer it as a substitute, and ask the Clerk to read it.

The Clerk read as follows:

Add at the end of the original bill—

The CHAIRMAN. This is not in order as a substitute for the pending amendment.

Mr. ELIOT. Let it be reported.

Mr. BANKS. It is not now in order, and I object to its being reported.

Mr. STEVENS, of Pennsylvania. I move to add to the amendment of the gentleman from Iowa [Mr. LOUGHRIDGE] the words, "and that the members of this House shall be taken into secret session with the Senate be-

fore the treaty is confirmed." Otherwise the whole thing is a folly.

The amendment to the amendment was disagreed to.

The question then recurred on Mr. LOUGHRIDGE's amendment.

The committee divided; and there were—ayes 61, noes 36; no quorum voting.

Mr. STEVENS, of Pennsylvania, demanded tellers.

Tellers were ordered; and Mr. BANKS and Mr. ORTH were appointed.

The committee again divided; and the tellers reported—ayes 71, noes 34.

So the amendment was adopted.

The question then recurred on Mr. ELIOT's amendment.

The committee divided; and there were—ayes 64, noes 57.

Mr. BANKS demanded tellers.

Tellers were not ordered.

So the amendment was adopted.

Mr. BUTLER, of Massachusetts. I desire to move an amendment which is short of the objectionable feature of the other amendment I offered.

The Clerk proceeded to read as follows:

*Provided, The imperial Government of Russia shall signify its willingness to refer to an impartial tribunal for adjudication—*

Mr. BANKS. I raise the first point of order on the amendment that it is not in order, as it imposes a new condition to the treaty.

Mr. BUTLER, of Massachusetts. Let the amendment be read.

The CHAIRMAN. The amendment will first be read.

The Clerk read as follows:

*Provided, The imperial Government of Russia shall signify its willingness to refer to an impartial tribunal for adjudication and settlement all such claims by American citizens against the imperial Government of Russia as have been investigated by the State Department of the United States, and declared by said Department to be just.*

Mr. BANKS. I rise to a question of order. It defeats the appropriation and imposes a new condition upon the treaty.

The CHAIRMAN. The Chair sustains the point of order that new conditions imposed upon the treaty are not in order.

Mr. BUTLER, of Massachusetts. Mr. Chairman—

Mr. BANKS. Debate is not in order.

Mr. SPALDING. I move that the committee rise and report the bill.

The committee divided; and there were—ayes 71, noes 32.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. GARFIELD reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the special order, House bill No. 1096, making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867, and had directed him to report the same back with sundry amendments.

Mr. BANKS. I rise to close the debate under the rule. I yield to the gentleman from Ohio [Mr. SCHENCK] for the space of ten minutes.

Mr. SCHENCK. Mr. Speaker, I do not know I shall want ten minutes, for I do not rise for the purpose of entering into any lengthy debate on this subject. There is neither time nor opportunity nor fitness, and I will not endeavor to do anything of that sort. The amendments which have been adopted in the Committee of the Whole asserting the power of the House of Representatives, to my mind take away much of what otherwise exists with me as objection against this bill. So far as the matter of the acquisition of this territory from Russia is concerned, I admit I have not that high opinion of its value which many gentlemen seem to entertain. I have never been able to feel my imagination worked upon to the extent of according to the bargain we have made anything like the value which other gentlemen seem to find in it. Perhaps, if any-

thing could reconcile myself, or any man, to the acquisition of this Alaska territory it might be found in the weather under which we are now suffering, and that probably is a more earnest argument in its favor than almost anything else I can find in my mind. [Laughter.]

So far, however, as to any other question or all other questions underlying the whole subject is concerned I remain precisely of the same opinion I expressed to the House when this subject was first introduced early in the session. I took the ground then which I desire to repeat now. I hold that in what has been done in relation to the purchase of Alaska and the taking possession of that territory, the treaty-making power in the first place, and afterward the Executive, have both transcended the powers given or intended to be given to them respectively by the Constitution. I admit that by the letter of the Constitution treaties made by the President and Senate are the supreme law of the land; but when I admit that by the terms of that instrument they are thus made the highest obligatory law I claim that they must be clearly within the meaning of the law intended to be made. Now, what law in the shape of a treaty can the President and the Senate make? To my mind clearly only that law which is within the scope of their power as President and Senate exercising such functions. They are the President and the Senate, respectively, of the United States. When they exercise their functions in the making of treaties they do so by and for the United States. If they go beyond that which is done by and for the United States, then, I say, they are outside of the scope and authority which the Constitution confers upon them.

Now, let me explain myself. What constitutes a nation? What constitutes a State? What is the United States as a nation? Like every other State or independent sovereignty it is made of three component qualities. It consists, first, of a people; second, of a given territory inhabited by that people; and third, of a form of government which the people within the territory have adopted for themselves. When, therefore, the supreme law in the shape of a treaty is to be made for the United States that supreme law must not interfere with either of the elements which make up the nation for which the President and the Senate act. I hold, therefore, that the President and the Senate can make no treaty which changes the people of the country. They can make no obligatory treaty which changes the territory inhabited by the people, and they can make no treaty which changes the form of Government which the people maintain within that territory. I will not stop to inquire how far these general propositions may be modified by the settlement of a question of boundary, for that I do not regard as properly an acquisition of territory. But I hold that it is out of the power of the President and Senate to make a treaty which shall disturb either of the three original component elements which constitute the United States a Government. They cannot give us a different people from what we have, a different territory from that which the people occupy, or a different form of Government.

What, then, can give validity to anything of this kind done by the President and Senate? Simply the assent of the people to this extra constitutional power, which assent can only be gathered by the concurrence of all the Departments of the Government. This I understand to have been the doctrine of Thomas Jefferson, when he claimed that the purchase of Louisiana was altogether outside of the Constitution. Mr. Jefferson, we are well advised, never regarded that purchase as having any validity under the Constitution, as an exercise of the treaty-making power, but only as obtaining its validity by the subsequent assent of the nation given through all the Departments of the Government.

Now, then, I claim that the President and Senate have transcended their power in making a treaty of this kind which acquires foreign

territory not in any way contiguous to our own, seeking to make the people of that territory a part of our population and to incorporate them into the body of our citizens. And while I object to that on the same ground that I would object to their introducing one of the Japanese islands with all its people as a part of the United States, I claim that the President has himself gone much further astray when he failed to wait and see whether this treaty would have the concurrence, through the action of every Department of the Government, of the people of the country. And I hold that if Andrew Johnson has done any one thing which as much as any other would make it proper he should be arraigned by impeachment, to be tried at the bar of the Senate, it would be for having dared, without awaiting for the assent of the people of this country, by the mere making of a treaty of this kind, altering our people and our territory, to go on and assume the exercise of a jurisdiction over that territory, to send his army there, to run up our flag and take formal possession, and accept the surrender of that territory by the high contracting power with which the treaty had been made.

What, then, is our position? We stand here to cure or not by our assent this irregularity; to accept or not the bargain which has been made for us.

But I am frank to admit that I am willing to accept that bargain, not because I believe in the value of the purchase, as other gentlemen do; not because I believe the President and the Senate had the power to make such a treaty, and that treaty a conclusive one upon all the Departments of the Government; not because I believe the President did other than very wrong in taking possession of that country, and establishing our Army and our flag there; but because the treaty has been made with a friendly Power, one of those that stood by us, almost the only one that stood by us when all the rest of the Powers of the world seemed to be turning away from us in our recent troubles. We have been brought into such complications with the Government of Russia that it seems almost necessary to agree with what has been done, so as to avoid a misunderstanding with Russia herself. It is on account of Russia, therefore, that I am willing to vote for this bill.

[Here the hammer fell.]

Mr. BANKS. I now call the previous question on the bill and pending amendments.

The previous question was seconded and the main question ordered.

Mr. BANKS. I would inquire of the Chair how much time I have left?

The SPEAKER. The gentleman has fifty minutes remaining.

Mr. BANKS. I have agreed to yield for ten minutes to the gentleman from Vermont, [Mr. WOODBRIDGE.]

Mr. WOODBRIDGE. As I will not have the opportunity, by reason of the little time allowed me, to present my views fully to the House, and disagreeing with many members of the House, both as to the law and the public policy of this treaty, I will ask permission to have printed in the Globe some remarks which I may hereafter prepare.

No objection was made. [See Appendix.]

Mr. BANKS. I now yield to the gentleman from Ohio, [Mr. DELANO,] my colleague on the Committee on Foreign Affairs, for ten minutes.

Mr. DELANO addressed the House. [His remarks will appear in the Appendix.]

Mr. BANKS. I now yield to the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. STEVENS, of Pennsylvania. Mr. Speaker, the amendment of the gentleman from Iowa is to my mind so objectionable that if it be adopted I care but little whether this bill shall pass or not. Every provision in our Constitution is perfect in its form. Wherever a power is granted to one of the branches of Government no other power can encroach upon it. Now, to Congress is granted the power

of regulating commerce, yet we have had repeated instances of what I have always deemed improper commercial treaties. Now, the Constitution provides that the President, by and with the advice and consent of the Senate, shall make treaties. No reference is made to any other power in our Government. When the Senate shall have ratified it, and it is proclaimed to the world as a treaty, it is then a perfect instrument. Now I ask the Clerk to read the ratification of this treaty.

The Clerk read as follows:

#### ARTICLE VII.

When this convention shall have been duly ratified by the President of the United States, by and with the advice and consent of the Senate, on the one part, and on the other by his majesty the Emperor of all the Russias, the ratifications shall be exchanged at Washington within three months from the date hereof, or sooner, if possible.

In faith whereof, the respective plenipotentiaries have signed this convention, and thereto affixed the seals of their arms.

Done at Washington, the 13th day of March, in the year of our Lord 1867.

[L. S.]

WILLIAM H. SEWARD.

[L. S.]

EDOUARD DE STOECKL.

And whereas the said treaty has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Washington on this 29th day of June, by William H. Seward, Secretary of State of the United States, and the Privy Counselor Edouard de Stoekl, the envoy extraordinary of his majesty the Emperor of all the Russias, on the part of their respective Governments.

Now, therefore, be it known that I, Andrew Johnson, President of the United States of America, have caused the said treaty to be made public, to the end that the same and every clause and article thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington, this 20th day of June, in the year of our Lord 1867, and of the

[L. S.]

independence of the United States the ninety-first.

ANDREW JOHNSON.

By the President:

WILLIAM H. SEWARD,

Secretary of State.

Mr. STEVENS, of Pennsylvania. Now, sir, it either was or was not a treaty. If it was a treaty, what does it provide? It did not provide to make an appropriation of money, but it undertook that this body should make an appropriation of money. If this body made that appropriation of money, then the treaty became a valid fulfillment. The Russian Government delivered up everything she was bound to deliver up. She faithfully executed every part of her stipulations. This Government agreed that it would do a certain thing. If we do not do it, then we annul the treaty. Do we break down this proclamation, or does it simply stand as an obligation of the United States unexecuted on our part but executed on the other part? Does it not stand as a repudiated instrument, to be executed whenever the Government chooses to fulfill the treaty? At what time should this nation interfere to make that instrument valid? If it were a valid instrument when it was proclaimed, where is the power to annul it without the consent of both parties? If it were not, and there was to be a condition precedent before it went into operation, when was this House to be called upon to intervene? When they first began to negotiate? That never was heard of. When the terms were offered? That never was heard of. When the terms were agreed upon and it went before the Senate for ratification, was this body then to be called in to state their objections? Such a thing was never heard of. It then became a perfect obligation and we were to do certain things, and Russia undertook to do certain other things. She has done them, and we have not. Shall we repudiate our part of the obligation? That, sir, is the whole question.

Mr. BANKS. How much time have I left?

The SPEAKER. Thirty-two minutes.

Mr. BANKS. I yield for a few moments to the gentleman from Ohio, [Mr. MUNGEN.]

Mr. MUNGEN. Mr. Speaker, I am in favor of the measure, if for nothing else, as a national necessity. The Atlantic has been the scene of maritime operations since we have any historically correct account of the same. The right to the fisheries, from the herring fisheries in the North sea down to the cod and mackerel

fisheries off of our coasts, has been the fruitful theme of wars and treaties. The Protestant nations of northern Europe have been enriched by the products of northern fisheries sent to the markets of the Catholic countries of southern Europe. The Atlantic fisheries are to a considerable extent exhausted; not exactly exhausted, but they do not yield nearly so greatly as they did fifty or seventy-five years since. I beg to have printed in the Globe, not having time to have the same read to the House, the opinions of Admiral Ricord, who was Governor of the Russian possessions on the North American continent from about 1830 to 1840. They give many important reasons why this Government should be anxious to obtain possession thereof. The opinions were given by the admiral in 1841-42, long before this treaty was thought of, made to a gentleman not then an American citizen, but a subject of Great Britain. Admiral Ricord's father was an Englishman, and the admiral had been retired from active service in the Russian navy; the Pacific coast from Petropaulovski, then the territorial seat of government of the Russian possession, southward to Cape St. Lucas, or, perhaps, to Acapulco, was almost an unbroken wilderness. But he saw the importance of Alaska, and gave utterance to his views thereon in a conversation with one who, although now an American citizen, was then a young English gentleman of fortune traveling for information and observation, and a subject of Queen Victoria, who, if I remember right, had then recently ascended the throne. I ask that the letter be printed in the Globe.

WASHINGTON, July 11, 1868.

DEAR SIR: About 1840-41 I was well acquainted in St. Petersburg with Admiral Ricord of the Russian navy. He had been for many years governor of the Russian possessions on the Pacific. I had repeated and very interesting conversations with him on that subject. He was a highly cultivated and intellectual old gentleman, who took great pleasure in giving information to a young man desirous of receiving it.

This opinion in brief was, that the Asiatic coast would only be valuable when settlements were made much further South and occupation pushed in that direction; but that the American possessions would eventually prove far the most valuable on account of the fisheries. These whenever developed at some future time he said would render that territory infinitely more valuable than Georgia, (called the Italy of Russia,) far more valuable than Italy itself would be. He had studied and thoroughly posted himself on the great fisheries of the north Atlantic, beginning with the herring fisheries of the German ocean, (or North sea,) and with the cod and whale fisheries of the American Atlantic coast and the northernmost waters of the Atlantic.

He pointed out the immense source of wealth and political importance they had been to Holland, to Great Britain, to France, and to the United States. How the Governments of these countries had been fully aware of that importance—the right to fish or to exclude others having been repeatedly a determining cause of wars and of treaties. How tens of thousands of seamen had been engaged in that occupation, France alone having at one time ten thousand for many consecutive years. How it was a singular fact that the market afforded by the Roman Catholic countries of southern and middle Europe had during a long period of years poured millions into the lap, and built up navies, for northern Protestant States, their rivals.

But these fisheries of the Atlantic (then much exhausted) had never, he said, begun to compare with those of the North Pacific. The fisheries of the Russian waters he considered as inexhaustible—except as regarded the whales—the least valuable part, destined, in his opinion, everywhere, at no very remote period, to become so thinned out by active pursuit as to become an unimportant branch.

To the development of this vast source of individual and national wealth there had been two objections:

Firstly, the Pacific coasts of the North American continent down to the Columbia river, down to Cape St. Lucas, and almost to the tropical region, were uninhabited wastes. The islands of Japan were then so closely sealed as to be practically non-existent.

The distant islands of Oceania—such as the Sandwich Islands—were the nearest points for vessels to refit up to that time. Russian possessions further south, on the Asiatic side, might in time remedy this. But for the second difficulty: the inaptitude of the Russians for that kind of maritime pursuit. The admiral said that the Russian, as you are aware, is a first-rate fisherman in fresh water, but you cannot make a salt-water fisherman of him. Thus, he said, we move in a vicious circle; we cannot have vast fisheries in the Pacific for want of sailors, and not having the materials for a navy these fisheries must remain undeveloped to Russia.

He feared that before his Government had taken or could take steps in the right direction, and before it had progressed sufficiently in a maritime point of view to avail themselves of the vast advantages of the American-Russian possessions as it regarded the

fisheries alone, wars might ensue in which some maritime Power of greater strength in those waters would appropriate these possessions, which assuredly they would never relinquish, because they would soon find them self-paying to hold; besides being susceptible of immense development, notwithstanding their extreme remoteness from civilized settlement. So remote were they from the seat of Government that when he was Governor at Petropaulovski he only received his mails and dispatches overland once every six months, and he was only regularly visited every second year by two Russian vessels which brought out stores, &c., from the Baltic.

The climate of the sea-board of these possessions was, he said, for the most part milder than that of St. Petersburg—the islands much milder. In the vicinity of St. Petersburg all the small grains are cultivated, and many fruits come to high perfection.

This, my dear general, is the substance of what I gathered many years ago from my conversation with the ex-Governor, on a subject which for me had only the interest of referring to a comparatively *terra incognita*, what was then considered as the most desolate and inhospitable region on earth.

Very truly, yours,  
C. F. HENNINGSEN.  
Hon. W. MURGEN, House of Representatives.

Mr. BANKS addressed the House. [His remarks will be published in the Appendix.]

The SPEAKER. Debate has closed, and the first question is on the following amendment of the Committee of the Whole:

The Clerk read as follows:

Whereas the President of the United States, on the 30th of March, 1867, entered into a treaty with the emperor of Russia, by the terms of which it was stipulated that in consideration of the cession by the emperor of Russia to the United States of certain territory therein described, the United States should pay to the emperor of Russia the sum of \$7,200,000 in coin; and whereas it was further stipulated in said treaty that the United States shall accept of such cession, and that certain inhabitants of said territory shall be admitted to the enjoyment of all the rights and immunities of citizens of the United States; and whereas the subjects thus embraced in the stipulations of said treaty are among the subjects which by the Constitution of the United States are submitted to the power of Congress, and over which Congress has jurisdiction; and it being for such reason necessary that the consent of Congress should be given to said stipulation before the same can have full force and effect; having taken into consideration the said treaty, and approving of the stipulations therein, to the end that the same may be carried into effect: Therefore,

SECTION 1. *Be it enacted*, That the assent of Congress is hereby given to the stipulations of said treaty.

Mr. MAYNARD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 98, nays 49, not voting 53; as follows:

YEAS—Messrs. Adams, Allison, Ames, Anderson, Archer, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beatty, Benjamin, Benton, Bontwell, Broomall, Broomall, Buckland, Benjamin F. Butler, Roderick R. Butler, Cary, Chanler, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Dawes, Delano, Dockery, Donnelly, Eckley, Elia, Eliot, Farnsworth, Ferriss, Garfield, Gravelly, Griswold, Hamilton, Hill, Hinds, Hopkins, Richard D. Hubbard, Hubard, Hunter, Judd, Julian, Ketcham, Kitchen, Koonz, Ladin, George V. Lawrence, William Lawrence, Loan, Logan, Lynch, McCarthy, McClurg, McKee, Miller, Moore, Mullins, Paine, Perham, Peters, Pike, Plants, Sawyer, Schoenck, Scofield, Selye, Sitgreaves, Spalding, Taffa, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Elihu B. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, John T. Wilson, and Windom—38.

NAYS—Messrs. Arnell, Axtell, Barnes, Blair, Boyden, Brooks, Calk, Dixon, Driggs, Eldridge, Getz, Glossbrenner, Golladay, Grover, Haight, Hawkins, Higby, Hooper, Hotchkiss, Chester D. Hubbard, Jenckes, Johnson, Kelsey, Marshall, Marvin, Maynard, Mercur, Morrell, Mungen, Nicholson, O'Neill, Orth, Paine, Phelps, Pike, Randall, Raum, Robertson, Shanks, Smith, Starkweather, Thaddeus Stevens, Stewart, Stokes, Stone, Taber, Lawrence S. Trimble, Van Auker, and Woodbridge—49.

NOT VOTING—Messrs. Baker, Barnum, Beaman, Beck, Bingham, Blaine, Boies, Boyer, Burr, Reader W. Clarke, Cornell, Coyode, Deweese, Dodge, Eggleston, Ferry, Finney, Fox, French, Halsey, Harding, Holman, Asahel W. Hubbard, Humphrey, Ingersoll, Alexander H. Jones, Thomas L. Jones, Kelley, Kerr, Knott, Lincoln, Lynch, McCormick, McCullough, Newcomb, Niblack, Perham, Pile, Polesley, Price, Pruyn, Robinson, Shellabarger, Aaron F. Stevens, John Trimble, Robert T. Van Horn, Ward, Cadwalader C. Washburn, James F. Wilson, Stephen F. Wilson, Wood, and Woodward—53.

So the amendment was agreed to.

The next question was on the amendment of Mr. ELIOT, reported from the Committee of the Whole, as follows:

Provided, That no purchase in behalf of the United

States of any foreign territory shall be hereafter made until after provision by law for its payment; and it is hereby declared that the powers vested by the Constitution in the President and Senate to enter into treaties with foreign Governments do not include the power to complete the purchase of foreign territory before the necessary appropriation shall be made therefor by act of Congress.

Mr. ELIOT. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 78, nays 80, not voting 42; as follows:

YEAS—Messrs. Adams, Allison, Ames, Anderson, James M. Ashley, Bailey, Baker, Beatty, Beck, Benton, Bontwell, Broomall, Broomall, Buckland, Benjamin F. Butler, Calk, Chanler, Sidney Clarke, Coburn, Cook, Coyode, Cullom, Dawes, Delano, Eliot, Farnsworth, Ferriss, Garfield, Gravelly, Hamilton, Hill, Hinds, Hopkins, Richard D. Hubbard, Hubard, Hunter, Jenckes, Thomas L. Jones, Judd, Julian, Kelsey, Ketcham, Ladin, George V. Lawrence, William Lawrence, Loan, Logan, Lynch, McCarthy, McClurg, McKee, Miller, Moore, Mullins, Paine, Perham, Peters, Pike, Plants, Sawyer, Schoenck, Scofield, Selye, Sitgreaves, Taylor, Thomas, Van Aernam, Van Wyck, Elihu B. Washburn, Henry D. Washburn, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—78.

NAYS—Messrs. Archer, Arnell, Delos R. Ashley, Axtell, Banks, Barnes, Benjamin, Blair, Boyden, Brooks, Roderick R. Butler, Cary, Churchill, Cobb, Dixon, Dockery, Donnelly, Driggs, Eckley, Eldridge, Fields, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight, Hawkins, Higby, Hooper, Hotchkiss, Chester D. Hubbard, Johnson, Alexander H. Jones, Kitchen, Knott, Koonz, Loughridge, Mallory, Marshall, Marvin, Maynard, Mercur, Moorhead, Morrell, Morrissey, Mungen, Myers, Niblack, Nicholson, Nunn, O'Neill, Orth, Phelps, Pile, Poland, Pomeroy, Randall, Raum, Robertson, Roots, Ross, Sawyer, Schoenck, Selye, Shanks, Sitgreaves, Smith, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Stone, Taber, Taffa, Lawrence S. Trimble, Trowbridge, Twichell, Upson, Van Auker, Burt Van Horn, Van Trump, and Woodbridge—80.

NOT VOTING—Messrs. Baldwin, Barnum, Beaman, Bingham, Blaine, Boies, Boyer, Burr, Reader W. Clarke, Cornell, Deweese, Dodge, Eggleston, Elia, Ferry, Finney, Fox, French, Halsey, Harding, Holman, Asahel W. Hubbard, Humphrey, Ingersoll, Kelley, Kerr, Lincoln, McCormick, McCullough, Newcomb, Polesley, Price, Pruyn, Robinson, Shellabarger, Aaron F. Stevens, John Trimble, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Wood, and Woodward—42.

So the amendment was disagreed to.

During the roll-call,

Mr. PAINE said. My colleague, Mr. WASHBURN, is paired with Mr. VAN HORN of Missouri. On this question my colleague would vote ay. I do not know how he would have voted on the question already taken.

The result having been announced as above,

Mr. BANKS moved to reconsider the vote by which the amendment was disagreed to; and also moved to lay the motion to reconsider on the table.

Mr. FARNSWORTH. On that I demand the yeas and nays.

Mr. BANKS. I withdraw it.

The SPEAKER. The question is on ordering the bill to be engrossed and read a third time. If a separate vote is desired on the preamble it will be reserved until the vote is taken on the engrossment of the bill.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed; it was accordingly read the third time.

Mr. BANKS. I demand the previous question on the passage.

Mr. MAYNARD. Will it be in order to ask for a separate vote on the preamble?

The SPEAKER. It would have been in order when the Chair stated that the preamble would be reserved if any gentleman desired it. It is not in order now.

Mr. MAYNARD. I then ask the gentleman from Massachusetts to allow me to make a motion to reconsider the vote by which the bill was ordered to be engrossed and read the third time.

Mr. BANKS. I have no objection if it be by general consent.

Mr. SPALDING. I object.

Mr. MAYNARD. I make the motion to reconsider in order that we may have a separate vote on the preamble.

Mr. FARNSWORTH. I move to lay that motion on the table.

The motion was accordingly laid on the table.

The previous question was then seconded and the main question ordered on the passage of the bill.

Mr. WASHBURN, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 113, nays 43, not voting 44; as follows:

YEAS—Messrs. Adams, Ames, Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnes, Beck, Benjamin, Blair, Bontwell, Boyden, Brooks, Buckland, Roderick R. Butler, Cary, Chanler, Churchill, Sidney Clarke, Dawes, Dixon, Dockery, Donnelly, Driggs, Eckley, Eldridge, Eliot, Fields, French, Garfield, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight, Hamilton, Hawkins, Higby, Hinds, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hubard, Hunter, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Ketcham, Kitchen, Koonz, Ladin, William Lawrence, Loughridge, Mallory, Marshall, Marvin, Maynard, McKee, Mercur, Moorhead, Morrissey, Mullins, Mungen, Myers, Niblack, Nicholson, Nunn, O'Neill, Orth, Phelps, Plants, Poland, Pomeroy, Randall, Raum, Robertson, Roots, Ross, Sawyer, Schoenck, Selye, Shanks, Sitgreaves, Smith, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Stone, Taber, Taffa, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Auker, Burt Van Horn, William B. Washburn, William Williams, Stephen F. Wilson, Windom, and Woodbridge—113.

NAYS—Messrs. Allison, Baker, Beatty, Benton, Broomall, Broomall, Benjamin F. Butler, Calk, Cobb, Cook, Coburn, Coyode, Cullom, Delano, Elia, Farnsworth, Ferriss, Gravelly, Judd, Julian, Kelsey, George V. Lawrence, Loan, Logan, Lynch, Miller, Moore, Morrell, Paine, Perham, Peters, Pike, Scofield, Lawrence S. Trimble, Van Aernam, Van Trump, Van Wyck, Elihu B. Washburn, Henry D. Washburn, Welker, Thomas Williams, James F. Wilson, and John T. Wilson—43.

NOT VOTING—Messrs. Barnum, Beaman, Bingham, Blaine, Boies, Boyer, Burr, Reader W. Clarke, Cornell, Deweese, Dodge, Eggleston, Ferry, Finney, Fox, Halsey, Harding, Hill, Holman, Asahel W. Hubbard, Humphrey, Ingersoll, Kelley, Kerr, Knott, Lincoln, McCormick, McClurg, McCormick, McCullough, Newcomb, Pile, Polesley, Price, Pruyn, Robinson, Shellabarger, Aaron F. Stevens, John Trimble, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Wood, and Woodward—44.

So the bill was passed.

During the roll-call,

Mr. PAINE said: My colleague, Mr. WASHBURN, is paired with Mr. VAN HORN, of Missouri. If present he would have voted no.

Mr. McCARTHY said: My colleague, Mr. PRUYN, is absent, and I am paired with him. If he was here he would vote ay, and I should vote no.

Mr. BOYER said: Upon this question my colleague, Judge WOODWARD, and myself are paired. He would have voted ay and I would have voted no.

The result of the vote having been announced as above recorded,

Mr. BANKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

OBSTRUCTIONS IN NEW YORK HARBOR.

Mr. CHANLER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be, and hereby is, directed to inform this House of all facts which have come to his knowledge relating to the obstruction to free and safe navigation of the main or ship channel off Sandy Hook, known as the wreck of the ship Scotland, and what means in his judgment can best be used to protect the commerce of the United States from the annoyance and danger to which it is now exposed from the said wreck.

Mr. CHANLER obtained unanimous consent to have printed in the Globe some papers in relation to the resolution. [See Appendix.]

COLUMBIA DEAF AND DUMB INSTITUTE.

The SPEAKER. The next business is the consideration of the bill (H. R. No. 541) making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution. This bill was reported from the Committee of the Whole on the state of the Union, and was postponed until after the consideration of the Alaska bill with the understand-



ing that it should be considered in the House as in Committee of the Whole. That allows five minutes debate on amendments.

Mr. STEVENS, of Pennsylvania. I offer the following as a new section, to come in at the end of the bill:

Sec. —. *And be it further enacted*, That the number of students in the collegiate department from the several States as authorized by act of March 2, 1867, shall be increased from ten to twenty-five.

Mr. WASHBURNE, of Illinois. I hope that amendment will not be agreed to, and I desire to make a statement with regard to this whole institution.

Mr. SPALDING. The gentleman from Illinois is opposed to the whole bill, and he has agreed with me that the previous question may be called, and then I will give him forty minutes of my time to make known his objections to the passage of the bill.

The SPEAKER. Then the question is first on the amendment of the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. WASHBURNE, of Illinois. I desire to offer another amendment after that shall be disposed of, and I hope the bill will not be closed for amendments. My amendment is a substitute for the bill, and I also desire to offer an additional section.

Mr. STEVENS, of Pennsylvania. I appeal to the gentleman from Ohio [Mr. SPALDING] whether amendments of this sort are to be offered, and then the previous question is to be moved and debate closed in forty minutes?

Mr. SPALDING. I will hear what the amendments are.

The SPEAKER. The Chair knows nothing of any arrangement made privately by members. The bill is to be considered as in Committee of the Whole on the state of the Union and read by sections for amendments.

Mr. MULLINS. By what rule do we get into an hour speech by moving the previous question while considering the bill in Committee of the Whole?

The SPEAKER. For the reason that after the previous question shall be seconded and the main question ordered the consideration of the bill as in Committee of the Whole will have terminated, and the gentleman from Ohio, [Mr. SPALDING,] having originally reported the bill, will be entitled to the floor for one hour to close the debate.

Mr. WASHBURNE, of Illinois. I would like to have the gentleman from Ohio [Mr. SPALDING] give me a portion of his time before the amendment and substitute are voted upon, because I desire the House to understand this matter.

Mr. SPALDING. Very well; I have no objection.

The SPEAKER. If there be no objection, the bill will now be considered as having been perfected in Committee of the Whole, and as being now before the House with the amendments pending.

No objection was made.

The SPEAKER. Will the gentleman from Ohio [Mr. SPALDING] take his hour now, or after the previous question shall have been seconded?

Mr. SPALDING. I will take it now, and yield forty minutes to the gentleman from Illinois, [Mr. WASHBURNE.]

Mr. WASHBURNE, of Illinois. I desire to get the attention of the House to a simple matter of business. This bill now before the House is a bill making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution. I can say that in the first instance the Committee on Appropriations were divided upon this bill, and there was a minority report of four members of the committee, the gentleman from Massachusetts, [Mr. BUTLER,] the gentleman from Michigan, [Mr. BEAMAN,] the gentleman from Maine, [Mr. BLAINE,] and myself.

I desire the attention of the House to the

minority report in this matter that we may know what we are to vote upon, and what is this Columbia Institution for the Deaf and Dumb. It is an institution in which the Government has no interest whatever, but which has obtained from the Government the sum of \$325,000; and if we vote the appropriation here called for the total amount will be \$376,860.

Now, I wish to ask the Clerk to read the report of the minority of the Committee on Appropriations, in order that the House may know how this money has been expended, and in order that we may know what we have been paying for the education of the deaf and dumb in the District of Columbia, while we assent to the proposition that it is but right and just that the Government should educate the deaf and dumb of the District of Columbia we deny that it has the right to educate the deaf and dumb of all the States, and to build up an immense institution here with the money of the people.

This report will show that these pupils which have been educated here have each cost the Government the enormous sum of \$7,200. This bill proposes to appropriate the sum of twenty-five or thirty thousand dollars; when less than \$7,000 will educate at the best institutions in any of the States every deaf and dumb pupil we have here in the city of Washington.

The facts in relation to this whole matter are set out in this report, and I ask the Clerk to read it.

The report is as follows:

The undersigned, a minority of the Committee on Appropriations, being unable to concur in the action of a majority of the committee in reporting House bill No. 541, entitled "A bill making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution," and also being unable to concur in the provisions of House bill No. 859, entitled "A bill appropriating money in support of benevolent institutions and in aid of charities in the District of Columbia for the fiscal year ending June 30, 1869," so far as relates to appropriations for the Columbia Institution for the Deaf and Dumb, beg leave to submit the following views:

They find that an act was passed February 16, 1857, to incorporate the Columbia Institution for the Instruction of the Deaf and Dumb and the Blind, which act is to be found in volume two United States Statutes-at-Large, page 161, and is as follows, to wit: (see act marked A.)

It will be seen that certain persons, and such persons as might thereafter be associated with them by contributions for the instruction of the deaf and dumb and the blind, were created a body politic, &c., with the usual privileges of perpetual succession, and of taking, holding, and enjoying lands, &c., and using the common seal, &c. It will be observed that the further provisions were, in brief, that whenever the Secretary of the Interior should be informed, in a manner prescribed by the act, of any deaf and dumb or blind person of teachable age, properly belonging to the District of Columbia, who should be in indigent circumstances, and without the command of means to secure an education, it was made the duty of the said Secretary to authorize the said person to enter the said institution for instruction, and to pay for his maintenance and tuition therein at the rate of \$150 per annum, payable quarterly out of the Treasury of the United States. And it was made lawful for the said institution to receive and instruct deaf and dumb and blind persons from any of the States and Territories of the United States on such terms as might be agreed upon, &c. A further provision was also made, as will be perceived by reference to the act, that the condition of the said institution should be reported to the Secretary of the Interior on the 1st day of July in each year.

This act seems to have had its inception in an enlightened spirit and the most humane motives, to enable certain liberal and charitable gentlemen to carry out a most benevolent and praiseworthy purpose. And in the line of such purpose it was provided by law that where any deaf and dumb or blind persons of teachable age, properly belonging to the District, was in indigent circumstances and unable to command means to secure an education, the Government should pay maintenance and tuition at the rate of \$150 per annum for such person.

It will be perceived, therefore, that the only obligation which the Government took upon itself in this regard was to pay \$150 a year to this institution for each deaf and dumb and blind person properly belonging to the District of Columbia, in indigent circumstances and unable to command means to secure an education. No obligation was assumed to maintain or educate any deaf and dumb or blind person not properly belonging to the District, and who was not in indigent circumstances, and who could command the means to secure an education. The permission granted to the institution to receive and instruct deaf and dumb and blind persons from

any of the States and Territories on such terms as might be agreed upon between the parties and the institution did not imply any obligation on the part of the Government to maintain and educate such persons.

This institution having been incorporated for the purposes and upon the terms set out in the act, procured the passage of an amendatory act, approved May 29, 1858. (Act of May 29, United States Statutes-at-Large, vol. 11, p. 283.)

This last-mentioned act provides that in addition to the liberal provision for the maintenance and tuition of pupils in that institution the sum of \$3,000 per annum, payable quarterly, should be allowed for five years for the payment of salaries and incidental expenses. Three thousand dollars additional were allowed for the then fiscal year, and it will be seen that the Government further took upon itself to authorize the education of all deaf and dumb and blind children of all persons in the military and naval service, while such persons were actually in such service, to receive instruction in said institution upon the same terms as deaf, dumb, and blind children belonging to the District of Columbia.

By an act approved June 13, 1860, the "Washington Manual Labor School and Male Orphan Asylum Society of the District of Columbia" was dissolved, and the transfer of its effects to the "Columbia Institution for the Instruction of the Deaf and Dumb and the Blind" authorized.

The next act upon this subject was passed March 16, 1862, and it was therein provided that the sum of \$4,400 per annum should be allowed for the payment of salaries and incidental expenses, which was \$1,400 more a year than was allowed by the act of May 29, 1858. By the second section of this act the sum of \$9,000 was appropriated for the erection, furnishing, and fitting up of two additions to the buildings of said institution. (See act, vol. 12 Laws, page 369.)

In the act making appropriations for sundry civil expenses, approved March 3, 1863, (12 Laws, page 747,) \$4,400 were appropriated for salaries and incidental expenses of said institution; \$1,470 for supplying the institution buildings with gas-making apparatus and fixtures, and \$2,530 for supplying the institution buildings with heating apparatus.

By the act approved April 8, 1864, the said institution was authorized to confer degrees, grant diplomas, &c. After the passage of this act the institution undertook to assume to itself the more sounding title of "The National Deaf Mute College," by which title the advance department was thereafter to be known and designated, but the Secretary of the Interior, in his report of December 4, 1865, doubted the right of the institution to change its name without the consent of Congress, and the matter seemed to be then dropped.

In proceeding further with this matter, it appears by reference to the act making appropriations for sundry civil expenses, approved July 2, 1864, (13 Laws, p. 349,) \$7,500 were appropriated for salaries and incidental expenses, and for the salary of an additional teacher, and for the construction of a new sewer, and for the construction and repair of fences; and \$26,000 were also appropriated to purchase a tract of improved land, not for the Government, but for this institution, under the pretext of enabling male pupils to be instructed in horticulture and agriculture, and to furnish sites for mechanic shops and other necessary buildings. And there was further appropriated by this act \$3,200 for the purpose of bringing the Potomac water into the institution.

Notwithstanding the very large and liberal appropriations to this institution for the maintenance and tuition of the deaf and dumb and the blind properly belonging to the District of Columbia, it would seem that the institution proposed to relieve itself of all obligation of maintaining and educating the blind, and to cast upon the Government the additional expense of instructing and educating them elsewhere. An act was therefore procured to be passed, approved February 23, 1865, (12 Laws, p. 439,) which provided for changing the name of the institution, so that its corporate name and style was thereafter to be known as "The Columbia Institution for the Instruction of the Deaf and Dumb." The Secretary of the Interior was authorized by this act to cause all the indigent blind children who had been or would be entitled to instruction in the said institution to be instructed in some institution for the education of the blind in Maryland, or some other State, at a cost not greater for each pupil than is or might be for the time being paid by such State, and the amount was to be paid out of the Treasury of the United States.

Being divested of the obligation to maintain and instruct the blind, and having imposed upon the Government such obligation to instruct them in Maryland or some other State at the public expense, it would naturally be supposed that the amount thereafter to be asked for, for salaries and incidental expenses, would be lessened; but instead of that it is found by reference to the deficiency bill, approved April 7, 1866, (14 Laws, p. 21,) there was appropriated for salaries and incidental expenses, including \$500 for books and illustrative apparatus, \$12,500; for the erection, furnishing, and fitting up of the two extensions to the buildings, to provide enlarged accommodations for the male department under the former pretense of furnishing rooms for the instruction of the pupils in useful labor, there was appropriated \$39,445 87; and a further sum of \$3,500 was appropriated to inclose, grade, and improve the grounds of the institution. The amounts last above mentioned were in a deficiency bill, but in the act making appropriations for sundry civil expenses for the year ending June 30, 1867, approved July 2, 1866, (14 Laws, p. 317,) there was appropriated as follows: "For the Columbia Institution: for the support of the institution, including \$500 for books and illustrative apparatus, \$20,700; for the erection, furnishing,

and fitting up of two extensions to the buildings, to provide enlarged accommodations for the male and female pupils and the resident officers of the institution, \$32,240; for the erection of a brick barn, carriage-house, cow-house, shop, gas-house, and ice-house, \$14,500; for the improvement and inclosure of the grounds of the institution, including under-drainage and sewerage, \$4,500."

We now come to 1867, and we find by reference to the act making appropriations for sundry civil expenses, approved March 2, 1867, (14 Laws, p. 464,) that instead of the last appropriation of \$12,500 for salaries and incidental expenses, there was an appropriation of \$25,000 for the support of the institution, including \$1,000 for books and illustrative apparatus. And it was provided "that deaf mutes, not exceeding ten in number, residing in the several States and Territories of the United States, applying for admission to the collegiate department of the institution, shall be received on the same terms and conditions as those prescribed by law for residents of the District of Columbia, at the discretion of the president of the institution;" that is to say, that the Government, by this proviso, assumes to maintain and instruct not exceeding ten deaf mutes residing in the several States and Territories, who are in indigent circumstances and cannot command the means to secure an education, and to pay therefor at the rate of \$150 per annum for each deaf mute; and here it is to be observed the constant, extraordinary, and progressive demands of this institution upon the Government, for this same act appropriates \$21,675 for the erection, furnishing, and fitting up of additions to the buildings of the institution, to provide and enlarge the accommodations for the male and female pupils and the resident officers of the institution. There is a further appropriation in this act of \$7,500 for the improvement and enlargement of the grounds of the institution, and \$5,000 for an increased supply of Potomac water.

To sum up in regard to the amounts appropriated by Congress for the Columbia Institution for the Deaf and Dumb and the Blind, and the Columbia Institution for the Deaf and Dumb, the following official statement from the Secretary of the Interior is herewith submitted:

*Columbia Institution for the Deaf and Dumb, Washington, D. C.—Private institution not owned by the Government, nor the title to the property vested in the United States. Nor has the United States any control or supervision whatever over this institution.*

*Expended in carrying out the purposes for which appropriated under supervision of the board of directors.*

For the erection, furnishing, and fitting up of additions to the Columbia Institution for the Deaf and Dumb.....	\$168,280 87
For supplying the building with gas-making apparatus and fixtures.....	1,470 00
For the erection of a brick barn, carriage house, cow house, &c.....	14,500 00
For furnishing an increased supply of Potomac water, &c.....	5,000 00
For supplying the institution with steam heating apparatus, &c.....	2,250 00
For the enlargement of the grounds.....	7,280 00
For inclosure, grading, and improvement of grounds.....	8,000 00
For salaries and incidental expenses for instruction of deaf and dumb.....	89,500 00
For maintenance and tuition of pupils.....	29,359 51
	<b>\$325,560 38</b>

After the appropriation of so large a sum of money as \$325,560 38 for the institution, and in view of the fact that we are now asked to appropriate a further sum of \$51,000 for the same purpose, which, if appropriated, would make a total of \$376,560 38, it would seem to be the duty of Congress to inquire into the obligations and the rights of the Government in the premises. The original obligation on the part of the Government, which was a very just and proper one to be assumed, was to pay a certain sum per annum to the institution it had incorporated for the maintenance and tuition of such deaf and dumb and blind persons, properly belonging to the District, who were in indigent circumstances and could not command the means to secure an education. This was all that seemed to be expected of the Government; and if Congress were to undertake to maintain and educate the deaf and dumb and blind of the District, who were in indigent circumstances, it would seem to have been proper to maintain and educate them at an institution in the District, if the same could be done on the same terms as at an equally good institution outside of the District. The provision of law by which the institution was authorized to receive and instruct deaf and dumb and blind persons from any of the States and Territories on terms to be agreed upon, implied that it was to be an institution that should be self-supporting—an institution which, with the contributions made by benevolent persons, would support itself. In compliance with the law, annual reports have been made by the institution to the Secretary of the Interior. The first report was made for the fiscal year ending 30th of June, 1855, by which it appears that the institution received from the United States, for the maintenance and tuition of beneficiaries, by the act of February 16, 1857, \$2,125 25; and salaries and incidental expenses by the act of May 29, 1858, \$3,000; and other amounts by subscription and otherwise, making a total, up to that time, of \$6,513 25; and the expenditures that are given are a little less than that amount. The number of deaf and dumb pupils was twelve, and the number of blind pupils six, and all from the District of Columbia with one exception; but it is not stated in this report how many of these were beneficiaries of the Government, and how many were pay pupils. According to the regulations of the

institution affixed to the report, pay pupils were to pay \$150 per annum.

The second report of the institution, for the year ending June 30, 1859, shows that \$5,451 96 were received from the Government and \$1,158 91 from other sources, and the expenditures were very nearly the same sum. There were this year fourteen deaf and dumb pupils and seven blind pupils, all but three being from the District of Columbia; and it is not shown by this report how many were Government beneficiaries and how many were pay pupils.

The report for the year ending June 30, 1860, shows receipts \$6,509 26; the amount received from Government being \$5,759 26, and \$750 from other sources, and the expenses were about the same. The number of deaf and dumb pupils was twenty-four, the number of blind pupils was six.

The report for the year ending June 30, 1861, shows the receipts from the Government \$6,425 91, and \$1,700 25 from other sources, making in all \$8,126 19, and the expenditures very near the same amount. Number of deaf and dumb pupils, twenty-four; and number of blind pupils, six.

The report for the year ending June 30, 1862, shows the same number of deaf and dumb and the same number of blind pupils, and that the institution received that year from the Government and other sources the sum of \$8,863 49, and the expenditures varying a very little from this amount.

The report for the year ending June 30, 1863, shows there were forty-nine deaf and dumb pupils and five blind pupils, but only nineteen of these were from the District of Columbia. The amount received from Government and other sources was \$1,050 49, the expenditures the same.

The report for the year ending June 30, 1864, shows there were fifty-six deaf and dumb and six blind pupils, but twenty-four of whom were from the District of Columbia. The receipts of the institution this year were \$13,085 16, and expenditures, \$13,475 67.

The report for the year ending June 30, 1865, shows eighty-five deaf and dumb pupils and nine blind pupils, thirty-five of whom were from the District of Columbia and belonging to the Army. The receipts were \$21,732 24, of which sum \$11,775 was received from the Treasury of the United States; the expenditures, \$22,602 30.

The report for the year ending June 30, 1866, shows one hundred and seven deaf and dumb pupils and no blind pupils, the institution having procured them to be detached from it. Only twenty-two of this number of one hundred and seven belonged to the District of Columbia and to the Army. The receipts were \$26,388 44—\$15,937 50 being from the Treasury of the United States. It will be perceived that, for the year ending June 30, 1865, with thirty-five pupils from the District of Columbia, there was received from the Government \$11,775. In the year ending June 30, 1866, with twenty-two pupils from the District of Columbia and the Army, there was received from the Treasury \$15,937 50. It will thus be seen, in the year ending June 30, 1865, that, instead of the \$150 per annum, which the Government obligated itself to pay for each pupil, it actually paid \$336 43 for that year; and for the year ending June 30, 1866, instead of the \$150 per annum, it actually paid \$724 43 per annum for each pupil.

From the last report, which is the tenth annual report, for the year ending June 30, 1867, there were one hundred and seventeen deaf and dumb pupils, and twenty-five from the District of Columbia and from the Army. The receipts of the institution were \$33,661 07; the expenses were the same amount.

It appears from an examination of the reports that there were at this institution deaf, dumb, and blind pupils from the District of Columbia and from the Army, as follows:

1858.....	17
1859.....	18
1860.....	20
1861.....	25
1862.....	24
1863.....	16
1864.....	24
1865.....	35
1866.....	22
1867.....	25

Total..... 226

Equal to about fifty-six pupils in all, as it is estimated each pupil is at the institution for four years.

It has been shown herein from official sources that the sums appropriated by Congress for this institution up to the present time, for salaries and incidental expenses, buildings and grounds, for supply of Potomac water, for carriage-house, barn, cow-house, shop, ice-house, gas-house, and for inclosing, grading, and improving the grounds, amount to \$325,860 38; this is the sum which it has cost the Government to maintain and educate two hundred and twenty-six pupils; or, in other words, each pupil has cost the Government the sum of \$7,202 10. The statement is put in this way for the reason that the Government has no interest whatever in the property of this institution, and has no control or direction in its management. The institution is under no obligation to the Government whatever after all of these appropriations, except to maintain and educate the indigent deaf and dumb of the District and of the Army who cannot command means to secure an education for the sum of \$150 per annum. It seems extraordinary that Congress should have gone on from year to year making these large appropriations for this institution without reserving to itself any right or control whatever. The Government has had no voice whatever in the expenditure of the money appropriated. It appears that the only bond ever given by any one for the faithful disbursement of the money appropriated by the Government to this institution was a bond for \$3,000, given by the superintendent in March, 1862,

and the accounts of the disbursement in the various reports are not satisfactory. A statement of the expenditures in detail is hereto annexed. Although the Government appropriates for salaries and incidental expenses, and for the support of the institution, it has no voice in fixing the number of teachers and the rate of salary; and the report ending June 30, 1867, shows that the large sum of \$14,732 56 was expended for salaries and wages.

The following statement from the Register's office of the Treasury Department, dated March 31, 1868, is interesting as showing the increase of the expenses of the institution from year to year for salaries and incidental expenses:

Salaries and incidental expenses.	
June 30, 1858.....	\$1,789 40
June 30, 1859.....	3,459 60
June 30, 1860.....	3,000 00
June 30, 1861.....	3,000 00
June 30, 1862.....	3,750 00
June 30, 1863.....	4,400 00
June 30, 1864.....	4,400 00
June 30, 1865.....	7,500 00
June 30, 1866.....	12,500 00
June 30, 1867.....	20,434 14
June 30, 1868.....	24,873 34

As will be observed, Government has had but little to do with the institution except to appropriate its money and to require reports to be made to the Interior Department. The Interior Department has, in its annual reports to the President, made reference to this institution for the information of Congress, and it has sometimes attempted to check the assumptions of the institution. Hon. O. H. Browning, Secretary of the Interior, in his annual report of November 19, 1866, speaking of this institution, says:

"This is not a Government institution. The United States have no control over it, nor are they vested with the title to the property purchased with their munificent benefactions. It had its origin in the generous purpose of public spirited individuals to secure a home and the means of intellectual and moral training for the indigent children of this District who were blind or deaf and dumb."

The Secretary further says:

"The directors submit the following estimate for the next year: \$25,000 for the support of the institution, and \$62,175 for buildings and improvements, making an aggregate of \$87,175, being \$15,235 in excess of the last appropriations for the same objects."

"The expediency of granting so large a sum is submitted for consideration. If it is the intention of Congress to pay the salaries of the officers and teachers, and to provide merely for those who are entitled under existing laws to the privileges of the institution at the charge of the Government the sum of \$25,000 is fully adequate to the purpose. But it has been suggested that the advanced department should be maintained on such a footing that the deaf mutes of the several States on completing their preliminary studies may enjoy, free of charge, the privileges of a course of instruction equal to that pursued in the best American colleges. Such persons, if in indigent circumstances, have been heretofore maintained and educated at the State establishments at the expense of the State, to which they belong. The directors conceive that an institution which offers advantages which cannot be afforded in the local institutions should be as free to the citizens of the States as to those of the Federal District and to children of the Army and Navy. There is in my judgment an obvious distinction between the exercise by Congress of its conceded power to legislate for the local wants of this District and for the Army and Navy, and its assumption of a power which has wisely and to the fullest extent been conferred upon the States. No necessity whatever exists for the erection of additional buildings to meet present wants."

"The whole subject is respectfully presented for consideration, in connection with the estimates furnished by the board. In my opinion no further sums should be advanced until the charter of the institution be so modified as to secure to the Government an efficient control in its management, and a proper accountability in the application and disbursements of the funds appropriated."

The Secretary of the Interior, in his last report of November 13, 1867, refers still further to this "Columbia Institution for the Deaf and Dumb." After speaking of the character of the institution, he says:

"I am, nevertheless, of the opinion that when Congress shall have liberally provided for the indigent deaf mutes who reside in this District, or are the children of persons actually in the military or naval service, it will have fully discharged its duty, if not exhausted its constitutional power over the subject. The present buildings are more than sufficient for the ample accommodation of the Government pupils. The board of directors, in addition to the school for the primary branches, desires to maintain a preparatory department, where the deaf mutes of the several States may be prepared for admission into the college proper. The studies in the latter will embrace as thorough and comprehensive a course of instruction in ancient and modern languages, and in the literary and scientific branches, as is furnished in the best American colleges. The indigent deaf mutes of the several States who are competent to profit by these advantages are to be maintained and instructed at the expense of the General Government. It certainly was not the original intention of Congress to provide for the gratuitous instruction of these afflicted persons. If unable to incur the expenses of an education they should appear to individual munificence, or to that of the States in which they reside. The support of paupers is an appropriate subject of State legislation, and has never been regarded as falling within the province or constituting a duty of the

General Government. The arguments advanced to justify Congress in furnishing educational privileges for the indigent deaf mutes of a State would equally require a similar provision for the blind or lame or those who, without natural infirmities, desire collegiate instruction, but are excluded by their poverty from obtaining it.

"Should these views be regarded as erroneous, however, and Congress deem it their constitutional duty to establish and maintain a national deaf-mute college, the United States should control it, and be vested with a title to the grounds purchased by their means for its uses. The erection of buildings required for the accommodation of all the students who may desire instruction and maintenance free of charge will require a very large outlay independent of the amount which, from time to time, must be advanced to meet the annual expenses of the institution."

Assuming, what is readily conceded, that it may be the duty of the Government to educate the deaf and dumb of the District in poor and indigent circumstances, and unable to command means to secure an education, we find by the last report of the institution there are twenty-five deaf and dumb pupils belonging to the District and the Army. The question arises, what would it cost the Government per year to educate each pupil at the best institutions in the country?

The following is a statement of the annual expense per pupil in the following deaf and dumb asylums for the year 1857:

Asylums.	Annual expense per pupil.	Annual charge to paying pupils.
American asylum, Hartford.....	\$166	\$100
New York institution for deaf and dumb, New York.....	138	150
Pennsylvania institution for deaf and dumb, Philadelphia.....	113	140
Ohio institution for deaf and dumb, Columbus.....	135	100
Kentucky institution for deaf and dumb, Danville.....	123	105
Indiana institution for deaf and dumb, Indianapolis.....	170	100
Illinois institution for deaf and dumb, Jacksonville.....	190	100
Michigan institution for deaf and dumb, Flint.....	123	100

There are no later figures so complete as these, but the State documents in three States show the following expense per pupil for 1856:

Pennsylvania.....	\$240
New York.....	225
Ohio.....	220

In Great Britain the annual expense per pupil (in twenty deaf and dumb asylums) varies from eighteen to thirty pounds per annum.

It will be seen by this statement that the highest cost per pupil in any institution for 1856 was \$240 per annum, in the Pennsylvania asylum. The expense therefore for educating the twenty-five pupils from the District at the Columbia Institution would have been \$6,000, as against the one item of \$25,000 for salaries and incidental expenses and the other appropriations, taken in connection with the interest upon the money which the Government has appropriated to this institution.

In reply to suggestions which may be made touching the charitable contributions made by private individuals for the benefit of this institution, the following statement is given:

Amount of private contributions to the Columbia Institution for the Deaf and Dumb.	
1858.....	\$1,250
1859.....	875
1860.....	400
1861.....	400
1862.....	400
1863.....	2
1864.....	130
1865.....	-
1866.....	-
1867.....	100
Total.....	\$3,557

They also received for fourteen scholarships, at \$150 each, the sum of \$2,100.

Hon. Amos Kendall subscribed \$200 a year for five years. This amount he paid for two years, making cash..... \$400  
And on the third year he made a donation of real estate, which he estimates at..... 10,600

Making the whole contribution.....\$11,000 as the yearly sum of \$200 appears to have stopped with this latter donation.

The whole amount of contributions from private sources, including real estate at a valuation of.....\$10,600  
And cash..... 3,557  
And including scholarships subscribed..... 2,100

Total.....\$16,257

It will be seen by this statement that the whole amount of actual money subscriptions was \$3,557, exclusive of money received for fourteen scholarships, at \$150 each, making the sum of \$2,100; to this should be added \$200 a year, paid by Amos Kendall for two years. The contribution of real estate, valued at \$10,600, might be taken in connection with the subsequent purchases of real estate of Mr. Kendall for the institution, amounting to \$25,000; giving credit

for the full amount of contributions, including the estimated value of real estate, they only amount to \$16,257, against \$325,860 38, amount appropriated by the Government.

The following letter shows the amount of land purchased for the institution, of whom purchased, and the amount paid:

COLUMBIA INSTITUTION FOR THE DEAF AND DUMB.  
WASHINGTON, May 5, 1868.

DEAR SIR: I received last evening a note from Major Stevens, requesting me to furnish you a statement of the several purchases of land made for this institution, with money appropriated by Congress.

On the 13th of July, 1864, a lot of ground containing two acres, and having upon it a dwelling-house and barn, was purchased of William Stickney, esq., for the sum of \$7,500. On the same day a portion of ground, containing twelve acres and having upon it three frame buildings, was purchased of Hon. Amos Kendall for the sum of \$18,500.

The payments for these two tracts were made out of an appropriation of \$25,000, made on the 2d of July, 1864, with special reference to these purchases, the price having been agreed upon before the appropriation was made.

On the 30th of March, 1867, a piece of ground was purchased of Mrs. Catharine Pearson, which contained about three and a half acres, (one hundred and forty-six thousand nine hundred square feet,) the price agreed upon being \$9,000. On this purchase there remains yet to be provided for by Congress \$1,600, the appropriation of the 2d of March, 1867, namely \$7,500 not being sufficient.

I inclose herewith a plan of our grounds, with marks which will indicate the several purchases above explained.

I have the honor to be, very respectfully and truly, yours,  
E. M. GALLAUDET.

Hon. RUFUS P. SPALDING.

Amount of appropriation for the Columbia Institution for the Deaf and Dumb, as reported by the Secretary of the Interior.....\$325,560 38  
Error in stating amount of one appropriation..... 300 00

Total amount appropriated.....\$325,860 38

The Register of the Treasury gives vouchers for—

1. Salaries and incidental expenses.....\$89,500 00
2. Erection, furnishing, fitting up additions..... 142,280 87
3. Maintenance and tuition of pupils..... 29,351 00
4. Inclosure and grading grounds..... 15,500 00
5. Erection of barn, carriage-house, &c..... 14,500 00
6. Increased supply of Potomac water..... 5,000 00

296,140 38

7. Appropriation for the purchase of land.....\$25,000

8. Appropriation for supplying gas arrangements..... 1,470

9. Appropriation for supplying steam heating apparatus..... 2,250

29,720 00

\$325,860 38

It will be seen by the above statement that there have been expended for salaries and incidental expenses \$89,500, and for maintenance and tuition of pupils \$29,351, making in all \$118,851. Taking this amount from the total amount appropriated, \$325,860 38, leaves \$207,009 38, which the Government has invested in buildings, grounds, improvements, &c., which is about two thirds of the whole amount, and for which it has nothing to show, and over which it has no control, the institution being, as has been shown, one of a private character. The question now is, what shall be done under the circumstances? It is evident that Congress would not be justified in making any further appropriations for this institution, unless it shall become a Government institution, with the property all transferred to the Government, and the institution to be managed and controlled by the Government. Even that is not now recommended, as it would devolve upon the Government a vastly greater expense than it would cost to educate all the deaf and dumb of the District at the very best institutions in the country.

Congress has made donations to other charitable institutions in the District, and is now called upon to make still further appropriations for them, and without reserving to itself any right of control over the expenditures. As the amounts appropriated and the amounts asked for are so large, it is evident that before any further appropriation shall be made the whole subject should be further considered and a special law passed, establishing a "commission of charities" for the District, to regulate and control all the charitable institutions of the District, sustained by the beneficence of the Government.

E. B. WASHBURN.

We agree to the conclusions of the above report, because we are opposed to the collegiate course introduced into the institution, and also to any appropriation of Congress to a corporation that is not wholly under the control of the Government.

BENJAMIN F. BUTLER,  
F. C. BEAMAN.

I concur in the foregoing report so far as it recommends, as a condition of further appropriation to the

institution, its transfer to the full ownership and control of the General Government.

J. G. BLAINE.

Mr. WASHBURN, of Illinois. I have asked the Doorkeeper to place a copy of this report upon the table of each member. I call the attention of gentlemen to the fourth page of this printed report, where they will see stated the amounts we have appropriated for this institution, in which, as I have already said, the Government has no interest whatever. The statement is as follows:

For the erection, furnishing, and fitting up of additions to the Columbia Institution for the Deaf and Dumb.....	\$168,280 87
For supplying the building with gas-making apparatus and fixtures.....	1,470 00
For the erection of a brick barn, carriage house, cow-house, &c.....	14,500 00
For furnishing an increased supply of Potomac water, &c.....	5,000 00
For supplying the institution with steam heating apparatus, &c.....	2,250 00
For the enlargement of the grounds.....	7,200 00
For inclosure, grading, and improvement of grounds.....	8,000 00
For salaries and incidental expenses for instruction of deaf and dumb.....	89,500 00
For maintenance and tuition of pupils.....	29,351 51
Total.....	\$325,560 38

All this has been appropriated for the purpose of educating twenty-five pupils a year in this institution. And a little further on in the report gentlemen will find a statement showing how this thing has grown up; how we have gone on year after year increasing these appropriations. There have been expended for salaries and incidental expenses as follows:

For the year ending June 30—	
1858.....	\$1,789 40
1859.....	3,460 60
1860.....	3,000 00
1861.....	3,000 00
1862.....	3,750 00
1863.....	4,400 00
1864.....	4,400 00
1865.....	7,500 00
1866.....	12,500 00
1867.....	20,334 14
1868.....	24,873 34

We appropriate this sum in gross. Yet we have no control over the institution. We put the whole of this vast amount under the control of the superintendent, who has given only one bond, which is in the sum of \$3,000. Yet we appropriate thousands and tens of thousands and hundreds of thousands to build up this establishment, and allow the money to be disposed of as the superintendent sees fit, without any control whatever on the part of the Government.

Now, sir, I understand very well how this institution started. It was at first merely a private institution. But afterward those interested in it came in here and said that many benevolent individuals had made large subscriptions for the benefit of the institution; hence we were asked to make appropriations for it; and we did so. Now, sir, the aggregate of subscriptions from private sources was \$16,257. How was that amount contributed? It will be seen by the statement contained in the report of the minority that the actual amount of cash subscribed was \$3,557, exclusive of the money received from scholarships, which, at the rate of \$150 each amounts to \$2,100. To this is to be added \$200 a year paid by Mr. Amos Kendall. Then there was a contribution also by Mr. Kendall of real estate valued at \$10,600. The Government afterward purchased additional real estate of Mr. Kendall, paying him \$26,000, and giving him credit for the full amount of contributions, including the real estate at its estimated value. The total amount of private contributions from all sources is \$16,257, against \$325,000 appropriated by the Government. The appropriations proposed to be made in this bill will make the aggregate \$376,000, which we shall have given to a private institution in this District.

And what do we get for this amount taken from the pockets of our constituents and expended on a private corporation here in the District of Columbia? By reference to the



fifth page of the report it will be seen that the number of pupils maintained and educated in this institution since 1858 has been as follows:

1858.....	17 pupils
1859.....	18 "
1860.....	20 "
1861.....	25 "
1862.....	24 "
1863.....	16 "
1864.....	24 "
1865.....	35 "
1866.....	22 "
1867.....	25 "

Total..... 226 "

Mr. WELKER. Can the gentleman state how many of those pupils were actually residents of the District of Columbia?

Mr. WASHBURN, of Illinois. I cannot state the exact number; but the gentleman will find on examination that the education of these pupils have cost us \$7,200 apiece.

Mr. BENJAMIN. I would like to ask the gentleman, in this connection, whether these are all indigent pupils?

Mr. WASHBURN, of Illinois. They are pupils of this institution, I presume, in accordance with the terms of the law. I know nothing to the contrary.

Mr. BENJAMIN. Is any difference noted in the report between those who are indigent and those who are able to pay for their own support?

Mr. WASHBURN, of Illinois. I think there is not. The law is very loose on that subject.

Mr. BENJAMIN. Is it not to be presumed that a portion of these pupils are abundantly able to pay the expenses of their support and education?

Mr. WASHBURN, of Illinois. It may be so; but I am assuming, for the purposes of the present argument, that they are all indigent; and I say there can be nothing to justify us in voting away this vast sum of money to build up a private corporation here in the District of Columbia. I say it is a private corporation. We have no control over it; we have no part in its direction. Will any gentleman on this floor say that the education of these pupils from the various parts of the country is a proper subject for these expenditures by Congress?

Mr. STEVENS, of Pennsylvania. I desire to ask the gentleman a question. Are not the accounts of this institution annually settled at the Interior Department, and have they not been ever since the institution came under the patronage of the Government?

Mr. WASHBURN, of Illinois. The accounts have all to go to the Treasury Department; but there is no control there over those accounts. I have taken pains to obtain from that Department a copy of the accounts, that the House might see where the money of their constituents is going. Now, sir, here it is. I said there was no control over the superintendent, and I have the estimate here. It seems he paid \$4,500 for an architect. There are many other items of that kind. There is a large amount for traveling expenses, for express hire, for garden seeds, for kitchen utensils, for furniture, for farming tools, for lounges, for carts, for rockaways, and so on. Every sort of thing is purchased by the superintendent out of the appropriations we make.

Mr. LOGAN. Are the appropriations the only things by which he is controlled?

Mr. WASHBURN, of Illinois. If my colleague will look he will see that the law of 1857 has been amended by subsequent laws which are set out in the first part of the report.

Mr. LOGAN. Is there any authority other than that for any appropriation of Congress?

Mr. WASHBURN, of Illinois. If my colleague will look he will see all the statutes set out, and they will show him the full authority.

Mr. LOGAN. I have examined that. I do not know whether there is any authority other than the sums appropriated from year to year for these purposes.

Mr. WASHBURN, of Illinois. Nothing but mere appropriations, and they are unlim-

ited; and, sir, it shows us how the people of the District of Columbia can come here and button-hole members and get appropriations to these vast amounts for themselves. This minority report was concurred in by the distinguished gentleman from Massachusetts, [Mr. BUTLER,] the distinguished gentleman from Michigan, [Mr. BEAMAN,] not now here, and the distinguished gentleman from Maine, [Mr. BLAINE.] The report says:

"Taking this amount from the total amount appropriated, \$325,860 38, leaves \$207,009 38, which the Government has invested in buildings, grounds, improvements, &c., which is about two thirds of the whole amount, and for which it has nothing to show, and over which it has no control, the institution being, as has been shown, one of a private character. The question now is, What shall be done under the circumstances? It is evident that Congress would not be justified in making any further appropriations for this institution, unless it shall become a Government institution, with the property all transferred to the Government, and the institution to be managed and controlled by the Government. Even that is not now recommended, as it would devolve upon the Government a vastly greater expense than it would cost to educate all the deaf and dumb of the District at the very best institution in the country."

Here is a great abuse. Year after year we have been making these appropriations for putting up these buildings and saddling these great expenses upon the Government. Now, the question is, What shall we do? I propose, and I think the minority of the committee agree with me, that we shall make no further appropriation for this institution. It is our duty to take care of these deaf mutes, but let us do it by adopting the amendment I have proposed, and make an appropriation of a sufficient sum to educate them in one of the best institutions of the country. I took the pains to ascertain the cost of educating these pupils in institutions in the States, and what do you suppose it is as compared with what we are paying here? In Pennsylvania it is \$240, in New York \$223, and in Ohio \$220. I say, therefore, let us appropriate the money and let these pupils be educated in some of these institutions, and instead of saddling our constituents with \$50,000 a year to keep up this man's establishment, we can do all that humanity and duty require of us for less than \$7,000 a year.

Now, sir, I think every member upon this floor, when he comes to look upon the contributions we have made for charitable institutions in this District—and I would make all we are called upon to make as humane men—will agree that we should have some control of these charities. I wish, therefore, to call attention to the amendment I have pending, and to see whether every member of the House will not agree with me that it should pass, my distinguished friend from Ohio [Mr. SPALDING] among the number. If we are to appropriate so much for the Deaf and Dumb Asylum, for the Providence Hospital, and so much for the Lying-in-Hospital in the District, then I say we should have some control over the expenditure of the money. I trust my friend will agree to my amendment which provides in the first section that the Secretary of the Interior, the chief justice of the supreme court of the District of Columbia, the Surgeon General of the Army, the chief of the Bureau of Medical Surgery of the Navy, and the chief engineer of the Army, shall constitute a commission, which shall be known and designated as the "Commission of Charities for the District of Columbia."

The second section provides that the said commission shall organize immediately upon the passage of this act, and the Secretary of the Interior shall be the president thereof, and he shall designate as secretary of said commission a clerk of his Department who is of the fourth class, and who shall keep a record of all the proceedings and transactions of the said commission.

Now, let me ask what objection any gentleman can have to this provision of my amendment?

That the said commission shall have the full control and direction of all the appropriations made by Congress to the charitable institutions of the said District of Columbia, and of all such appropriations as may be made for the purposes of charity in the said District, and shall have the power of visitation

and examination of all the institutions in the said District to the support of which appropriations shall be made by Congress. No money shall be drawn from the appropriations made to the charitable institutions of the District or for the purposes of charity in said District, except upon the requisition of the president of the commission, made upon an order of the commission, duly entered in the journal of their proceedings, and all the accounts of the said commission shall be audited by the First Auditor of the Treasury. And it is hereby provided that the provisions of this act shall not be deemed to include the Government Hospital for the Insane in the District of Columbia.

Then I further propose by my amendment:

That no money shall be expended for the Columbia Institution for the Deaf and Dumb, for the Columbia Hospital for Women and Lying-in Asylum, and for the Providence Hospital, until the title to the property, real and personal, of such institutions shall be transferred to the United States by conveyances, certified as being valid by the Attorney General of the United States, and conveying all the right, title, and interest of the said institutions in the property conveyed.

Now, I ask gentlemen, is it right for us to go on constructing these buildings upon property which does not belong to the United States but to private parties? If we are to make these large donations is it not just and proper, ay, imperatively demanded by every consideration of public justice, that this Government should have the title to the property.

Mr. STEVENS, of Pennsylvania. Allow me to ask the gentleman whether he would not be content with one half the total amount paid by Congress?

Mr. WASHBURN, of Illinois. Congress is paying all the money and constructing all the buildings, and I insist that this Government should have the title. At any rate I will not consent to put up buildings on land belonging to individuals unless we shall have some control over them. Now, I propose further in my amendment:

That it shall be the duty of the said commission to make a full report to Congress, at the December session of each year, of all its transactions and of all the expenditures made under its direction, together with a statement of the condition of the charitable institutions of the District for which appropriation shall have been previously made and which shall have been expended under its direction.

I ask my friend from Ohio [Mr. SPALDING] if he will not agree to that, so that we may have some control over these institutions. Then, if the House will pass my other amendment, and appropriate enough money to educate every one of these pupils in one of the best asylums of the country, we shall then have cured a great abuse and accomplished a great work. I call attention to the fact that my amendment has nothing to do whatever with the amounts we have appropriated, but it provides that when appropriations are thus made we shall have somebody to overlook and control the expenditure. Is it right that you should put \$300,000 into the hands of a man here to disburse with only a bond of \$3,000 a year. I trust the House will adopt both my amendments, so that we may have some control over this matter.

Now, look at what the bill before us proposes. First, an appropriation of \$3,000. Then for continuing work upon the building in accordance with plans heretofore submitted—how much? Forty-eight thousand dollars. All for this private building. Then there is a provision—

That no part of the real or personal property shall be devoted to any other purpose than the education of the deaf and dumb, nor shall any portion of the real estate be aliened, sold, or conveyed except under the authority of a special act of Congress.

That is not what we want. If we are building upon this real estate we want the title to the property; we want control of the institution. All the private subscriptions to that land amount to only \$16,000, as I have shown, and yet we have paid out \$325,000, and now we are asked to pay \$51,000 more.

Mr. DELANO. I understand there is another appropriation of \$80,000 for construction and improvement.

Mr. WASHBURN, of Illinois. It is only carrying out what we have commenced and what has been going on from year to year. If we pass this appropriation this year we will

have another call for a larger amount next year, and there will be no end to the demands made upon us. Hence I say here to-day when we have this matter before us, while we do justice to those pupils whom we are bound to educate let us do justice to the people by preventing this squandering of their money in the way in which it has been done, in my judgment, heretofore.

Mr. SPALDING. Mr. Speaker, I hope the House will bear with the learned gentleman from Illinois, for he means well in his course on this matter as he does in all his opposition to appropriations by Congress. But he is so morbidly constituted that he cannot make any distinction between an appropriation necessary and requisite to be made and one which is improper. He does not know, he does not realize, that while—

"The primal duties shine aloft, like stars;  
The charities that soothe and heal and bless  
Are scattered at the feet of man like flowers."

My friend has made it during this whole session of Congress his principal aim to destroy this appropriation bill which is intended for the benefit of the deaf and dumb, the poor mutes to the number of about a hundred assembled here in the District from all the States and Territories of this great Union, and he says that we must cut it down because it is a private institution, a private corporation. Mr. Speaker, I deny that it is a private institution. I acknowledge that it had its origin in the day of small things. It had its origin in private munificence, but it could not go upon the donations of private charity for six short months. Congress was obliged at once to interpose, and when it authorized these few charitable individuals in the District of Columbia to collect these poor, forsaken, stricken objects of humanity together and attempt to make their lot more endurable, Congress agreed to pay \$150 for every deaf mute collected from the District of Columbia, and also the sons of men in the Army and Navy. They afterward, and within the first six months, found that this provision would not answer, and they passed an act of Congress amendatory of the act of incorporation, assigning for five consecutive years, \$3,000 a year out of the national Treasury to pay the expenses of the officers and students of the institution. That was paid for some three years, and then it was found that this sum was not sufficient. Then it was that Congress passed another act. And here I would say to the gentleman from Illinois, that he must not complain of the founders of this institution, not of its trustees, not of its officers and agents; but he must complain of the Senate and House of Representatives, and the various Presidents who have approved of these acts. In 1862 an act was passed, and I have it here, amendatory of the first act incorporating the deaf and dumb institution and essentially making it an institution of the United States; and for the truth of this, after having read it, I will appeal to the good judgment of every man within the sound of my voice. The act is as follows:

An act to amend an act to incorporate the Columbia Institution for the Instruction of the Deaf and Dumb.

*Be it enacted, &c.,* That the sum of \$4,400 per annum, payable quarterly, shall be allowed for the payment of salaries and incidental expenses of said institution, and the sum of \$1,400 is hereby appropriated for that purpose out of any moneys in the Treasury not otherwise appropriated for the fiscal year ending June 30, 1863.

*Sec. 2. And be it further enacted,* That the sum of \$9,000 be, and the same is hereby, appropriated out of any moneys in the Treasury not otherwise appropriated for the erection, furnishing, and fitting up of two additions to the building of said association.

*Sec. 3. And be it further enacted,* That all receipts and disbursements under this act shall be reported to the Secretary of the Interior, as required in the sixth section of the act of which this is an amendment.

The very first act required that reports should be made annually to the Secretary of the Interior. The agent for the expenditure of the money appropriated from time to time by Congress is required to give bonds to the Secretary of the Interior.

Mr. WASHBURN, of Illinois. How much?

Mr. SPALDING. I do not care. They can be given in any amount the Secretary sees fit to require. I am proud to say that there is no complaint that one half dollar has ever been lost through the misconduct of the principal of this institution. No man dares impute to him any want of faith or honesty. Nay, the Secretary of the Interior in his famous report, of which my friend avails himself, says that if this be not a private institution, and if it be such an one as Congress sees fit to foster and encourage, no more faithful officers can be found in the United States of America than those who have been intrusted with the care of this institution for the deaf and dumb of the District of Columbia.

Now, further, Congress for a series of years appropriated this sum of \$4,400 under this permanent law, and then found it necessary to appropriate a still larger sum. They also added to the capacity of the institution by providing that it should have power to confer collegiate degrees; and a branch of the institution was established for the instruction of teachers for deaf and dumb institutions in other States. Now, it is of this that the gentleman mainly complains.

Mr. WASHBURN, of Illinois. We want to get at the truth.

Mr. SPALDING. I hope the gentleman will not interrupt me. He has had the advantage from the very first of the session up to this time; and I have given him two thirds of my time to-day.

Mr. WASHBURN, of Illinois. I want to ask the gentleman a question.

Mr. SPALDING. I do not want to hear the question; I do not consent to be interrupted for any such purpose.

There are now in this institution more than one hundred deaf mutes, collected from the different States of the Union, and there are thirty-five pupils in the collegiate department of the institution. I have here somewhere a statement showing the different States from which they come.

And let me say here that there are young men in this collegiate department, deaf mutes, who would put to shame the most astute and learned man to be found here. I would not be ashamed of them if put in competition with any man in the Senate or in the House; these poor deaf mutes, some of whom have been instructed in this institution for only twelve months in the higher branches of philosophy and mathematics. I have seen the experiment tried, and I know it to be so. There are thirty-five of these pupils from the different States in the collegiate department of this institution, as follows: from Maine, two; New Hampshire, one; Massachusetts, one; Connecticut, two; Vermont, one; New York, two; Pennsylvania, six; Maryland, two; Ohio, two; Michigan, four; Illinois, one; Wisconsin, four; Iowa, two; District of Columbia, two; and from England, one. There are about seventy in the other branches, the primary department of the institution. Some of them, perhaps thirty of them, are those contemplated by the first law enacted upon this subject; deaf and dumb children of people here in the District of Columbia, and deaf and dumb children of officers in the Army and the Navy. In addition to those there are deaf mutes from Maryland who actually pay for their board in the institution.

But I must be concise. The gentleman from Illinois [Mr. WASHBURN] says the expenses of this institution amount to over seven thousand dollars each for all the boys and girls that the Government is bound to take care of in this institution. Now, will the House believe me when I tell them that in order to make out his candid argument my friend from Illinois has charged over to these deaf and dumb pupils all the expenses of the institution? He takes into account all the expenses of the land, the buildings, apparatus, and everything in connection with the institution for all time past and all time to come; he charges it all over, and di-

vides the round sum by the number of pupils the Government has to take care of.

Mr. WASHBURN, of Illinois. Is not that fair?

Mr. SPALDING. Will any man say that it is fair? Suppose the gentleman charged all this over to the first five or ten pupils that entered the institution, how much would it cost them?

There was laid awhile ago on the table of each member, a statement showing the whole amount of appropriations to this institution. For all purposes there have been appropriated the sum of \$321,824.52 during the past eleven years. Of that sum there have been appropriated for the current expenses of the institution \$104,401.50; leaving a balance expended for grounds, buildings, furniture, and fixtures of \$217,383. That property is all visible, is all tangible here. It is estimated that that very property is worth at this time at least \$270,000.

Mr. WASHBURN, of Illinois. Whose is it?

Mr. SPALDING. There again is a specimen of the gentleman's fairness. He came in here with the report of a minority committee. There were in fact but three members of the committee who objected to this appropriation. One of them, the gentleman from Maine, [Mr. BLAINE,] signs the report with the express reservation that he does not object to the appropriation provided the property be put under the control of Congress. Now, sir, this bill is specially framed for the very purpose of obviating the gentleman's objections, and he knows it. It was drawn up for that very purpose by a majority of the committee; and by that majority I was authorized to report it and advocate its passage as obviating those objections. The bill by its terms appropriates \$3,000 which has been called for by the Secretary of the Interior as a deficiency, to pay for the increased expense of maintaining nine or ten pupils from the different States who were admitted into the institution under the law of March 2, 1867. That amount is due, as every one admits. The institution has now one large building completed; and there is a central building which has been carried up one story or one story and a half; but it is going to decay for the want of this appropriation. By the bill we propose to appropriate \$48,000 for completing that building, so that it may furnish accommodations for the poor youth for whose benefit the institution is designed. Those are the two items of appropriation contained in the bill, \$3,000 for a deficiency which, as the Secretary of the Interior states, is justly due; and \$48,000 for the purpose of carrying on to completion the building, the foundation of which has been laid, and which has been carried to the height of a story and a half.

The gentleman from Illinois has complained that Congress has no control over the management of this institution. Now, sir, the directors have passed a resolution unanimously agreeing that Congress may, if it sees fit, provide for choosing three or more directors, to be members of the board, and to have a voice in the management of all the affairs of the institution. In accordance with that proposition, the second section provides—

That, in addition to the directors whose appointment has heretofore been provided for by law, there shall be three other directors appointed in the following manner: One Senator by the President of the Senate, and two Representatives by the Speaker of the House; these directors to hold their offices for the term of a single Congress, and to be eligible to a reappointment.

The third section meets the objection which has been raised that these donations made by Congress may be wasted. It provides—

That no part of the real or personal property now held or hereafter to be acquired by the said institution shall be devoted to any other purpose than the education of the deaf and dumb, nor shall any portion of the real estate be aliened, sold, or conveyed, except under the authority of a special act of Congress.

The board of directors have unanimously accepted these provisions, and they agree to the repeal of the provision contained in the

act of incorporation providing for the payment of \$150 per annum for the maintenance and tuition of each pupil admitted by order of the Secretary of the Interior. They have not taken this money for several years. They say they are not entitled to it because Congress has given them a gross sum to assist in carrying on the institution. Accordingly the fourth section makes the following provision:

That so much of the act of February 16, 1857, as allows the payment of \$150 per annum for the maintenance and tuition of each pupil admitted by order of the Secretary of the Interior, be, and the same is hereby, repealed.

Now, sir, I have here an exhibit showing what has been the annual expense for the pupils chargeable to the Government, and none others during the eleven years last past. The annual expense ranges from two hundred and nine dollars to five hundred and twenty-one dollars; but the average is \$294 for each of those pupils for whom Congress was bound to provide. The greater part of the outlay upon which the gentleman from Illinois has dwelt so long and loudly is for the purchase of the land, the erection of the buildings necessary for the accommodation of the pupils, the introduction of water, gas, &c., and other necessary expenses.

Now, sir, although Congress has by its uniform action since 1857, recognized this institution as eminently worthy of the fostering care of the General Government and has contributed most bountifully toward its support, the objection suggests itself that perhaps under a strict construction of the Constitution we ought not to appropriate money for such a purpose. But I ask where throughout our wide empire will you find any objects of charity which have been so little cared for by the Government of the United States as these stricken people, the deaf and dumb of the United States? We have provided homes for the landless. We have colleges for farmers. We have provided for the insane. We have erected an institution for that purpose across the river where some three or four hundred lunatics are cared for. No one says anything against those appropriations.

The gentleman says that each State will take care of these matters for itself. To the honor of the different States they have provided for them in the most handsome manner, and provided for them in a different spirit from that manifested upon this floor to-day. Be it remembered, however, that no one State has enough deaf mutes of its own to erect a college to educate teachers for them. It is expected this should be done by the Federal Government, by an appropriation from the Federal Congress. Here, now, by a small outlay, we can bless thousands and the nation will never feel any loss. Our constituents will not feel it. It is easy to talk about taking tax from the tax-payers and about the poor man's light; taking the tax off petroleum and thereby enriching a few capitalists; but when you come to the great want of educating these deaf mutes every difficulty is raised. Shall we close the doors of this charitable, humane, hospitable institution, and turn these mutes out upon the world? Shall we deny them bread; shall we deny them food for their intellects, which they crave more than bread for the body? I hope not.

I do not desire to detain the House in this warm weather. I did not want to speak. I ought not to have been required to speak in this behalf. I am only one member of the committee. It is true I belong to the majority of the committee which recommends the passage of this bill; and I do honestly recommend its passage with all the force and earnestness I can muster. If this House sees fit to vote it down the responsibility rests with them, not with me.

An amendment was introduced by my friend from Pennsylvania [Mr. STEVENS] to increase the number of college pupils from ten to twenty-five. This is called for by a great number of States, and the pupils are ready to enter. They are only waiting for the action of Congress to enter. The president of the institu-

tion says it will only cost \$6,000. The following letter is from one of those pupils:

AURORA, ILLINOIS, May 5, 1868

DEAR SIR: I wish to apply for admission to the collegiate department of the institution under your charge.

I am twenty-two years of age, and have been totally deaf since my twelfth year.

I was at the Hartford school a short term, leaving there in 1862. Since I have been in various printing offices in this State, in all capacities—boy of all work, compositor, foreman, and editor; and during the closing years of the civil war was a correspondent of the Chicago Tribune.

I can lay no claim to "scholarship," as the term is usually received; have no acquaintance with any foreign language, except such phrases as a general and too desultory reader gathers.

I regret that I was not sooner aware of the advantages which you have placed within the reach of myself and fellow-unfortunates; because, at my age, I do not think it will be profitable for me to undertake either the study of the dead languages or the four-year course. As to the former (Latin first) I would be willing to accept your better judgment, and make all the preparation I can in my leisure moments between now and the opening day. I should much prefer to take up German, rather than Latin, as I can turn the former to practical use; also algebra the first year, object-drawing, and such other studies as will be most apt to perfect me as a writer.

Being entirely dependent on my own exertions for support, I ask the aid granted by Congress in such cases.

In case you decide to admit me, an early reply to that effect would greatly oblige me, for the reason mentioned above in speaking of studies.

Mr. John B. Hotchkiss was acquainted with me at Hartford, and, I think, will be pleased to answer any questions you may see fit to ask concerning me.

Yours, most respectfully,

AMOS G. DRAPER.

Mr. E. M. GALLAUDET.

Mr. WASHBURNE, of Illinois. I ask the gentleman to withdraw the demand for the previous question.

Mr. SPALDING. I cannot.

The previous question was seconded and the main question ordered.

The question first recurred on the amendment of Mr. STEVENS, of Pennsylvania.

The House divided; and there were—ayes 60, noes 31.

Mr. WASHBURNE, of Illinois, moved that the House adjourn.

The House divided; and there were—ayes 48, noes 59.

Mr. WASHBURNE, of Illinois, demanded tellers.

Tellers were not ordered.

So the House refused to adjourn.

Mr. WASHBURNE, of Illinois, demanded tellers on the amendment.

Tellers were ordered; and Mr. WASHBURNE of Illinois, and Mr. SPALDING were appointed.

The House again divided; and the tellers reported—ayes 60, noes 50.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

The yeas and nays were not ordered.

So the amendment was adopted.

The question recurred on the amendment of Mr. WASHBURNE, of Illinois, to strike out all after the enacting clause and insert in lieu thereof the following:

That there be appropriated out of any money in the Treasury not otherwise appropriated a sufficient sum of money for the support of the deaf and dumb pupils now in the Columbia Institute for the Deaf and Dumb in some good deaf and dumb asylum in one of the States of the Union for the year ending June 30, 1869, all to be under the direction of the Secretary of the Interior.

The question being put on agreeing to the amendment, there were—ayes 51, noes 52.

Mr. WASHBURNE, of Illinois, demanded tellers.

Tellers were ordered; and the Chair appointed Messrs. BUTLER of Massachusetts, and KELSEY.

The House divided; and the tellers reported—ayes 54, noes 50.

Mr. SPALDING. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 63, nays 68, not voting 69; as follows:

YEAS—Messrs. Ames, Bailey, Beatty, Benjamin, Benton, Boutwell, Broomall, Benjamin F. Butler, Cary, Churchill, Sidney Clarke, Cobb, Cook, Covode, Cullom, Delano, Dockery, Ela, Ferriss, Fields, Haight, Hamilton, Hawkins, Hill, Hinds, Hopkins, Hotch-

kiss, Hulburd, Hunter, Judd, Ketcham, Kitchen, Koontz, William Lawrence, Loan, Logan, Loughridge, Marshall, McCarthy, McKee, Moore, Mullins, Nunn, Orr, Perham, Peters, Pike, Pomeroy, Ross, Sawyer, Sitgreaves, Taffe, Taylor, Lawrence S. Trimble, Trowbridge, Van Wyck, Elithu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, and John T. Wilson—63.

NAYS—Messrs. Adams, Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Baker, Banks, Barnes, Beck, Blair, Boyer, Bromwell, Buckland, Cako, Chanler, Coburn, Dawes, Dixon, Donnelly, Driggs, Eldridge, Elliot, French, Garfield, Getz, Glossbrenner, Golladay, Grover, Chester D. Hubbard, Jenckes, Alexander H. Jones, Julian, Kelsey, Knott, Ladin, George V. Lawrence, Mallory, Marvin, Maynard, McClurg, Mercur, Miller, Moorhead, Morrell, Mungen, Niblack, Nicholson, O'Neill, Phelps, Poland, Randall, Roots, Shanks, Smith, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stone, Taber, Twichell, Upson, Van Aken, Burt Van Horn, Van Trump, Windom, and Woodbridge—68.

NOT VOTING—Messrs. Allison, Axtell, Baldwin, Barnum, Beaman, Bingham, Blaine, Boles, Boyden, Brooks, Burr, Roderick R. Butler, Reader W. Clarke, Cornell, Deweese, Dodge, Eckley, Eggleston, Farnsworth, Ferry, Finney, Fox, Gravely, Griswold, Halsey, Harding, Higby, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Johnson, Thomas L. Jones, Kelley, Kerr, Lincoln, Lynch, McCormick, McCullough, Morrissey, Myers, Newcomb, Paine, Pile, Plants, Polesley, Price, Prunty, Baum, Robertson, Robinson, Schenck, Scofield, Selye, Shellabarger, Aaron F. Stevens, Stokes, Thomas, John Trimble, Van Aernam, Robert T. Van Horn, Ward, Cadwalader C. Washburn, James F. Wilson, Stephen F. Wilson, Wood, and Woodward—69.

So the amendment was disagreed to.

Mr. WASHBURNE, of Illinois. I rise to make a privileged report from a committee of conference.

Mr. SPALDING. I ask the gentleman to withhold that report till we can dispose of the pending bill.

Mr. WASHBURNE, of Illinois. I cannot do so.

Mr. SPALDING. I did not suppose the gentleman would. [Laughter.]

#### MESSAGE FROM THE SENATE.

A message from the Senate by Mr. GORHAM, its Secretary, announced that that body had passed without amendment the bill (H. R. No. 631) amendatory of an act approved July 26, 1866, entitled "An act to authorize the construction of certain bridges and establish them as post roads."

Also, that the Senate had agreed to the amendment of the House to the bill (S. No. 352) authorizing a temporary supply of vacancies in the Executive Departments, with an amendment in which he was directed to ask the concurrence of the House.

Also, that the Senate had indefinitely postponed the bill (H. R. No. 783) for the relief of Samuel Pierce.

The message further announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes.

Also, that it had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 344) to incorporate the Washington Target-Shooting Association of the District of Columbia.

Also, that it had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river.

#### CIVIL APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I have been instructed by the conference committee on the disagreeing votes of the two Houses on House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, to make a report, which I send to the Clerk's desk.

The report was as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 818) making appropriations for sun-



any civil expenses of the Government for the year ending June 30, 1869, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate recede from their amendments numbered 12, 13, 21, 32, 34, and 57.

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 2, 6, 8, 9, 20, 26, 38, 39, 40, 41, 42, 48, 56, 58, 59, 60, and 61, and agree to the same.

That the House recede from their disagreement to the first amendment of the Senate, and agree to the same with amendments, as follows: strike out of said amendment the words "five hundred," and insert in lieu thereof "two hundred and fifty;" and at the end of line twelve, page 1 of the bill, add the following: "Provided, further, That all necessary letter-press printing and book binding, in all the Departments and bureaus shall be done and executed at the Government Printing Office, and not elsewhere, except registered bonds and written records, which may be bound as heretofore at the Department."

That the House recede from their disagreement to the seventh amendment of the Senate, and agree to the same, with an amendment, as follows: in lieu of said amendment insert the words "two hundred and seventy-five;" and the Senate agree to the same.

That the House recede from their disagreement to the tenth amendment of the Senate and agree to the same, with an amendment, as follows: strike out of said Senate amendment the words "and eight;" and the Senate agree to the same.

That the House recede from their disagreement to the twelfth amendment of the Senate and agree to the same, with the following verbal amendment: strike out of said amendment the word "California," where it occurs, and insert the word "California," after the word, "vicinity."

That the House recede from their disagreement to the thirteenth amendment of the Senate, and agree to the same, with the following amendments: strike out the word "two" in line one of said amendment and insert in lieu thereof the word "one;" and strike "s" from the word "tenders" in line two; and in line three of said amendment strike out the word "eighty" and insert the word "forty;" and the Senate agree to the same.

That the House recede from their disagreement to the sixteenth amendment of the Senate and agree to the same, with an amendment, as follows: strike out of said amendment the word "fifty" and insert in lieu thereof the words "twenty-five;" and the Senate agree to the same.

That the House recede from their disagreement to the seventeenth amendment of the Senate and agree to the same, with the following amendment: in lieu of the words stricken out by said amendment, insert the following: "Five of the six steam revenue-outlets stationed upon the northern and northwestern lakes and their tributaries shall be laid up, and that no more of the money appropriated by this act shall be paid on their account than so much as may be necessary for their safe and proper care and keeping, and that;" and the Senate agree to the same.

That the House recede from their disagreement to the twenty-third amendment of the Senate and agree to the same, with an amendment, as follows: strike out of said amendment the words "seventy-five" and insert in lieu thereof the word "fifty;" and the Senate agree to the same.

That the House recede from their disagreement to the twenty-fourth amendment of the Senate, and agree to the same, with an amendment, as follows: at the end of said amendment add the following: "Provided, That said building when completed, shall cost not more than \$100,000;" and the Senate agree to the same.

That the House recede from their disagreement to the twenty-eighth amendment of the Senate, and agree to the same with an amendment, as follows: at the end of said amendment add the following: "Provided, That the Mint of the United States and branches shall continue to refine gold and silver bullion, and no contract to exchange crude or imported bullion for refined bars shall be made until authorized by law;" and the Senate agree to the same.

That the House recede from their disagreement to the twenty-ninth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "five thousand" and insert in lieu thereof the words "twenty-five hundred;" and at the end of said amendment add the following words: "to be expended under the direction of the Commissioner of the General Land Office;" and the Senate agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the thirty-first amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the forty-third amendment of the Senate and agree to the same with the following amendment: strike out of said amendment the word "five;" and the Senate agree to the same.

That the House recede from their disagreement to the forty-fourth amendment of the Senate and agree to the same with an amendment as follows: strike out of said amendment the word "five;" and insert in lieu thereof, the word "twenty;" and the Senate agree to the same.

That the House recede from their disagreement to the forty-fifth amendment of the Senate and agree to the same, with an amendment, as follows: strike out of said amendment the word "twenty;" and in lieu thereof insert the word "ten."

That the House recede from their disagreement to the fifty-first amendment of the Senate and agree to the same with an amendment as follows: at the end of said Senate amendment add the following: "to pay William H. West for services rendered in taking care of and keeping safely the bonds held in trust

by the Secretary of the Treasury for the benefit of the Smithsonian Institution from March 1, 1850, to July 1, 1863, \$2,500, to be paid out of the Smithsonian fund;" and the Senate agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the sixty-second amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the sixty-third amendment of the Senate, and agree to the same with amendments, as follows: strike out all of said amendment after the word "office," in line seven, and insert in lieu thereof the following:

"Provided, That all the moneys standing to the credit of the 'Patent Fund' or in the hands of the Commissioner of Patents, and all moneys hereafter received at the Patent Office for any purpose or from any source whatever, shall be paid into the Treasury as received, without any deduction whatever, and the sum of \$250,000 is hereby appropriated for salaries and miscellaneous and contingent expenses of the Patent Office and for withdrawals and for moneys paid by mistake, to be disbursed under the direction of the Secretary of the Interior; and it shall be the duty of the Commissioner of Patents to communicate to Congress at the commencement of every December session a full and detailed account of moneys received for duties on patents, and for copies of records, and drawings, and all other moneys received by virtue of said office, and of all moneys expended by him under and by virtue of this provision for said contingent and miscellaneous expenses and for salaries, and the names of persons to whom such salaries are paid and the amounts thereof paid to each."

That the House recede from their disagreement to the sixty-seventh amendment of the Senate, and agree to the same, with an amendment, as follows: at the end of said amendment add the following: "Provided, That no part of this property shall be sold or transferred without the consent of the United States first had and received."

B. B. WASHBURN, E. F. BUTLER,

J. B. BECK,

Managers on the part of the House.

L. M. MORRILL,

J. HARLAN,

C. COLE,

Managers on the part of the Senate.

The report of the committee of conference was then adopted.

Mr. MAYNARD moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### COLUMBIA DEAF AND DUMB INSTITUTION.

The House then resumed the consideration of House bill No. 541, making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution.

The pending question was upon the amendment of Mr. WASHBURN, of Illinois, to add to the bill the following:

SEC. — And be it further enacted, That the Secretary of the Interior, the chief justice of the supreme court of the District of Columbia, the Surgeon General of the Army, the chief of the Bureau of Medical Surgery of the Navy, and the chief engineer of the Army, shall constitute a commission, which shall be known and designated as the "Commission of Charities for the District of Columbia."

SEC. — And be it further enacted, That the said commission shall organize immediately upon the passage of this act, and the Secretary of the Interior shall be the president thereof, and he shall designate as secretary of the said commission a clerk of his Department, who is of the fourth class, and who shall keep a record of all the proceedings and transactions of the said commission.

SEC. — And be it further enacted, That the said commission shall have the full control and direction of all the appropriations made by Congress to the charitable institutions of the said District of Columbia, and of all such appropriations as may be made for the purposes of charity in the said District, and shall have the power of visitation and examination of all the institutions in the said District, to the support of which appropriations shall be made by Congress. No moneys shall be drawn from the appropriations made to the charitable institutions of the District, or for the purposes of charity in said District, except upon the requisition of the president of the commission, made upon an order of the commission, duly entered in the journal of their proceedings, and all the accounts of the said commission shall be audited by the First Auditor of the Treasury. And it is hereby provided that the provisions of this act shall not be deemed to include the Government hospital for the insane in the District of Columbia.

SEC. — And be it further enacted, That no money shall be expended for the Columbia Institution for the Deaf and Dumb, for the Columbia Hospital for Women and Lying-in Asylum, and for the Providence Hospital, until title to the property, real and personal, of such institutions shall be transferred to the United States by conveyances, certified as being valid by the Attorney General of the United States, and conveying all the right, title, and interest of the said institutions in the property conveyed.

SEC. — And be it further enacted, That it shall be

the duty of the said commission to make a full report to Congress at the December session of each year, of all its transactions and of all the expenditures made under its direction, together with a statement of the condition of the charitable institutions of the District for which appropriations shall have been previously made and which shall have been expended under its direction.

Mr. TROWBRIDGE moved that the House adjourn, but withdrew the motion.

#### MILITARY PEACE ESTABLISHMENT.

Mr. PILE, from the Committee on Military Affairs, by unanimous consent reported two amendments to the bill (H. R. No. 1877) to reduce and fix the military peace establishment; which were ordered to be printed and recommitted.

#### ENROLLED BILLS.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 454) for the relief of Samuel N. Miller; and

An act (S. No. 486) to facilitate the settlement of certain prize cases in the southern district of Florida.

#### SURVEYOR GENERAL OF LOUISIANA.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of the General Land Office relative to the office of the surveyor general of Louisiana and the archives of that office; which were referred to the Committee on Public Lands.

#### VACANCIES IN EXECUTIVE DEPARTMENTS.

Mr. BOUTWELL. I ask unanimous consent to have taken from the Speaker's table the amendments of the Senate to the amendments of the House to Senate bill No. 352, to authorize the temporary supplying of vacancies in the Executive Departments.

No objection was made.

Mr. BOUTWELL. I move that the amendments of the Senate be non-concurred in; and that the House ask for the appointment of a committee of conference.

The motion was agreed to.

The SPEAKER appointed as the committee on the part of the House Mr. BOUTWELL, Mr. WILSON of Iowa, and Mr. MARSHALL.

#### COMMANDER D. LYNCH.

Mr. RANDALL, by unanimous consent, presented the petition of Commander D. Lynch, asking to be restored to the active list of the United States Navy; which was referred to the Committee on Naval Affairs.

#### EMMELINE H. RUDD.

Mr. MILLER, by unanimous consent, reported from the Committee on Invalid Pensions a bill (H. R. No. 1431) granting a pension to Emmeline H. Rudd; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Emmeline H. Rudd, widow of John Rudd, late a commodore in the United States Navy, and to pay her a pension at the rate of thirty dollars per month, commencing November 12, 1867, and to continue during her widowhood.

Mr. WASHBURN, of Illinois. Is there any report in this case?

Mr. MILLER. There is a report, but I have not it here.

Mr. WASHBURN, of Illinois. I should like some explanation of this bill.

Mr. MILLER. This officer entered the Navy in 1814, and remained in the Navy until 1867, when he died of disease contracted in the service. And this bill is to give his widow a pension.

Mr. BENJAMIN. This bill should be

amended so as to provide for the payment of this pension out of the naval pension fund.

Mr. MILLER. I will not object to that amendment.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. TROWBRIDGE. I move that the House now take a recess.

The motion was agreed to; and accordingly (at four o'clock and thirty-five minutes p. m.) the House took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

The House reassembled at half past seven o'clock p. m., and, agreeably to order, resolved itself into the Committee of the Whole on the state of the Union (Mr. CULLOM in the chair) for general debate, Mr. JONES, of Kentucky, being entitled to the floor.

Mr. JONES, of Kentucky. At the request of my friend from Ohio [Mr. VAN TRUMP] I have consented to yield to him this evening, and will take some future occasion to express my views upon the pending political issues.

#### CONGRESSIONAL REGULATION OF SUFFRAGE.

Mr. VAN TRUMP. Mr. Chairman, I propose to speak to-night to a bill now pending in committee, and introduced into this House by my colleague, [Mr. SHELLABARGER,] intended to regulate, by Federal authority, the election of members of Congress in Ohio at the coming elections; and I do so for the reason that we are rapidly approaching the close of the session, in consequence of which, under a recent rule of the House, the bill may at any time be reported back under the operation of the previous question, thus cutting off all opportunity of exposing to the country, and especially to the people of Ohio, the unconstitutional enormities which it involves. Sir, the Chinese have a proverb that "Medicine is good for sickness, but not for fate;" the moral of which is, that it is useless to struggle against the Inevitable. This wise saw of our oriental friends is daily exemplified within these walls in regard to everything the minority may say or do upon any matter which, by any possibility, can be tortured into a party question.

Sir, if it were not that we may occasionally exhibit some wholesome constitutional medicine to a people sick with the political nostrums of Republican quacksalvers, we on this side of the House would have very little inducement to indulge in the *cacoethes loquendi* so liberally enjoyed by our friends across the way. It is not, therefore, with any vain or delusive hope that I shall possess the power to change a single vote, the capacity to reach a single conscience, or even for a moment be able to check the wild and revolutionary onward march of the majority on this floor, that I rise to speak to this extraordinary bill. Sir, "Ephraim is joined to his idols;" and although we here on this side of the House may not be disposed to "let him alone" in his idolatrous worship stern necessity compels us to yield to "superior force," and to content ourselves, by voice and vote, to protest in the name of the people against such oft-repeated and accumulating outrage and oppression. This bill, as presented by my colleague from the capital district, [Mr. SHELLABARGER,] is only a part of a deliberate and well-planned scheme to centralize and consolidate all the powers of the Government, the total absorption of the rights as well as the sovereignty of the States, into the all-ingulfing maelstrom of congressional usurpation.

Sir, the apprehensions and the prophetic warnings of many a revolutionary patriot in

the debates upon the formation of our Constitution in general Convention, and of the several State conventions in its ratification, are now being fearfully realized in almost every measure of the party now in power—reconstruction acts, negro suffrage bills, radical changes in the judiciary for mere party ends, unconstitutional aggression upon the executive department of the Government, the demolition of State rights, the supremacy of the military over the civil authority, corruption and extravagance unbounded, the dictation and erection by Federal power of State constitutions against the will of the people over whom they are declared to be perpetual and unchangeable; all these bold, bad acts, by bold if not bad statesmen, tend to fasten upon the thoughtful mind the inevitable conviction that our unhesitating and unscrupulous opponents have formed the devilish determination to change this proud and well-ordered confederation of independent States into a centralized and powerful despotism, the Republic into an empire.

Sir, these men and this party forget or seem to be indifferent to the great political and philosophical fact, that there exists in the civilization of free government something higher and holier than mere party; that private selfishness is not public virtue; that temporary success in political organizations may be purchased at too dear a price; and that the penalty of violated law and the inevitable consequences of a criminal disregard of moral and constitutional obligations on the part of public rulers will sooner or later follow as the avengers of public justice. Sir, I know it is attempted to make the advocates of State-rights under the Constitution odious in public opinion because a portion of the American people, led on by selfish and ambitious leaders, in an evil and most unfortunate hour for them attempted to assert the doctrine through the heresy of secession. But their error, or even their wicked design, does not affect or invalidate its existence under the Constitution. The fact that they mistook their remedy does not vindicate us in an equally unjustifiable and revolutionary assault upon that same Constitution. If they wickedly braved the dangers of Scylla it is no reason why we should foolishly encounter the kindred dangers of Charybdis. Because they attempted to destroy the Government by force of arms is no good reason why we should subvert and overthrow it by usurpation. I know, sir, that the self-approving excuse offered for all these high-handed usurpations of power, both during and since the war, is the miserable delusion and fallacy that it was necessary to do so in order to save what is flippantly called the "life of the nation." The life of the nation, sir! What is the life of the nation? "The way, the truth, and the life" of this nation, if it may appropriately be called a nation, is its organic law, the Constitution, which gave it vitality and being. That Constitution is the political pabulum which sustains its existence; it is the breath of its nostrils; it is the blood of its veins and arteries; it is that, and that alone, through which it "breathes and moves and has its being." The whole legal, national life pulsates from the heart of the Constitution, sending its currents of health and vigor through every part and ramification of the body-politic. I am aware, Mr. Speaker, that some enterprising speculators in the theory of government upon the floor of this House have boldly repudiated this old-fashioned principle of the inner life of the Republic, and claim to have discovered in their indefatigable researches a more convenient external power of national life "outside of the Constitution."

So enamored was the distinguished gentleman from Pennsylvania [Mr. STEVENS] with this new discovery that he not long ago rebuked his friends for denying that he had made the declaration that we were legislating outside of the Constitution. He seems to be specially proud of the position, wholly unconscious or regardless of the fact that the proposition is a naked political *felo de se*. Does not the hon-

orable gentleman know that Congress itself is nothing more than the mere creature of the Constitution? He knows as well as any man can know, for no one doubts his great legal ability, that Congress has no rightful powers but such as it derives from the Constitution, and that all powers exercised not derived from that instrument is mere naked, unqualified usurpation. He knows that he can just as reasonably affirm that animal life could exist without an atmosphere as that the legislative powers of this Government can legally exist without or outside of the Constitution. He knows that the Constitution is the creator of the law-making power just as well as he knows that God created him; and that it is just as absurd to declare that we, as a political body, can exist "outside" of the Constitution as it would be impious to say that poor, weak, and erring man could exist without God, the universal Creator.

Now, Mr. Chairman, I shall show very conclusively I think before I take my seat that the legislation proposed by this bill is just as clearly "outside" the Constitution as are any of the acts admitted by the gentleman from Pennsylvania [Mr. STEVENS] to be extra-constitutional. Sir, the fact that this most anomalous bill now under consideration has been introduced into this House for the purpose of improperly interfering with the just authority of State legislation, is only another indication that the party now in power is the legitimate successor of the old Federal party of 1801 in everything which tends to centralize and consolidate the powers of the General Government by the absorption of all local State authority, so carefully separated and distributed by the Constitution existing in common over all. I shall not stop to recite the evidence of this proposition; it is to be found upon almost every page of the Statutes-at-Large, teeming with congressional usurpation for the last eight years.

The bill now before us is of the same character. In order that its vicious object may be clearly understood a brief analysis of its provisions should be presented. The preamble recites that by the constitution of the State of Ohio persons of African descent with a preponderance of white blood are entitled to vote for members of Congress; that on the 16th day of April, 1868, the Legislature of said State passed an act designed to render it impracticable for such electors to vote at any election in said State, and which said act, for that reason, has been declared by the supreme court of said State to be in violation of the constitution of said State and void; that by the Constitution of the United States the Congress may at any time, by law, make or alter the regulations of any State as to the time, place, and manner of holding elections for Representatives in Congress; that to the end that all the legal electors of said State may be permitted freely to vote for such Representatives, it is provided in said bill that so far as the act of the Legislature of said State attempts to control the manner of holding elections of Representatives in Congress, the same is set aside and rendered void; and the manner of holding such elections, and of challenging and determining upon the right of such electors to vote for such Representatives, and the character and amount of evidence, interrogatories, and answers which may be required to determine the right of such electors to vote as aforesaid, and the rights of such electors shall, in all respects, be the same as they would be if the said act had not been passed. The bill further provides that whenever said electors having African blood shall tender to the judges of election a ballot, with the words "for Representative in Congress only" written or printed on the back thereof, and said judges or other persons shall, under the provisions of said act, challenge said electors' right to vote, or shall in any way attempt to enforce the provisions of said act, and said electors having African blood shall be prevented from voting, either by force, violence, threats, intimidation, or by reason of the en-

forcement by said judges of the provisions of said act, then it shall be lawful for such electors having African blood to hold at such place in said voting precinct as they may select a separate poll for Representative in Congress, at which all such electors of said precinct may vote for Representative in Congress; that for the organization of such poll it shall be lawful for such electors having African blood to choose the judges and officers of such separate poll in the same manner as is provided by law in said State when the judges of election shall fail to attend.

The bill further provides that any judge or other officer of election, who shall enforce any of the provisions of said void act so as to prevent any such elector from voting at the same poll with the other electors of said State for Representative alone, or so as to hinder, delay, or control his casting such ballot for Representative alone, at either the regular or said separate poll, shall be guilty of a high crime, and upon conviction thereof shall be fined in any sum not exceeding \$10,000, or imprisonment not exceeding one year, or both, at the discretion of the court.

Such, Mr. Chairman, are the extraordinary provisions of this most extraordinary bill now, by the force of party drill, sought to be enacted into a solemn law by what ought to be the solemn Congress of the United States! Sir, a high and weighty responsibility rests upon the Republican party for these persistent innovations upon the well-settled practice of the Government, and these oft-repeated perversions of the plainest provisions of the Constitution. Where, I would most seriously inquire, in the Constitution of the United States, upon a state of fact as here alleged in this bill, does the honorable gentleman from Ohio [Mr. SHELLABARGER] find authority for any legislation such as he now proposes? I confidently assert that nowhere within the lids of that Constitution can such authority be found. I defy any gentleman on this floor to point to a single line or syllable to sustain such a bill upon such a state of facts.

The honorable gentleman, [Mr. SHELLABARGER,] with all his acknowledged legal ability, in his over-wrought zeal for the negro and the supremacy of his party, has wholly misconceived and misapprehended the true meaning of the constitutional provisions upon which he has evidently framed this bill. Sir, what are these provisions? Let us examine them for a moment in the light of the contemporaneous history of the Constitution, as exhibited in the debates upon its formation and ratification, as well as in the commentaries of those great legal minds who have established its construction, and see whether the founders of the Government ever contemplated a bill like the one now before us. The fourth section of the first article of the Constitution reads as follows:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

Mr. Chairman, as illustrative of the genius and peculiar structure of our Government, and which marks so clear and distinctive a line of separation from all other civilized Governments, whether ancient or modern, I know of no clause in this Constitution of ours more characteristic than the one now under consideration. None more clearly exhibits that equipoise of power, or the manifestation of that system of checks and balances which runs through the Constitution in the distribution of its powers, either as between the several departments or the Federal and State Governments. Edmund Burke, in his beautiful picture of the British constitution, a mere traditional organ of Government, not made permanent by parchment covenants, like ours, but subject to change and revolution through the whims and caprice of unrestricted parliamentary power, describes it as—

"A scheme to prevent any one of its principles from

being carried as far as, taken by itself, and theoretically, it would go; that to avoid the imperfection of extremes all its several parts are so constituted as not alone to answer their own several ends, but also each to limit and control the other; inasmuch that take which of the principles you please you will find its operation checked and stopped at a certain point; and that the whole movement stands still rather than that any part should proceed beyond its boundary."

Sir, that magnificent description of the workings of the English political machinery, by one of England's profoundest thinkers, is but a literal transcript, a constitutional photograph, of the very spirit and design of the section we are now considering. The Federal Congress is a direct representation of the people of the several independent States of the Union. But while it represents the entire body of the people, subdivided into States, it also forms one of the great branches of the General Government. The Constitution, therefore, as the instrument of supreme government over all, carefully provides that while the power of fixing the times, places, and manner of holding the elections for these Representatives shall be given primarily and plainly to the people of these several States, yet, for the purpose of checking a possible abuse of this power, and more especially with the object of shielding the General Government from any combination among the States to harass or break it up by a non-user or misuser of the power, the Constitution, thus understood, wisely confers upon Congress a supervisory but contingent and secondary authority to prevent such calamity.

It is not to be denied, Mr. Chairman, that upon first blush and a hasty and inconsiderate reading of this section by those not thoroughly familiar with the history of the Constitution there would seem to be some probable ground for the legislation now proposed. But we are not to stop at even the most careful and thoughtful reading of the section. There is a vast field of other elements of interpretation. In the first place, allow me to say that there is furnished to us no inconsiderable canon of construction, no trifling circumstance for our consideration as legislators, in the remarkable fact that this section has been suffered to lie dormant for more than eighty years, a period which embraces some of the fiercest struggles between parties strictly founded upon the great question of Federal power in the Government as against the counterpoising force of local and State authority. It is, Mr. Chairman, a most pregnant fact—a fact which cannot be ignored or disregarded upon the question of power now sought to be exercised—that this is the first bill of the kind ever presented for the action of the Representatives of the people since the foundation of the Government.

In the stormiest periods of the Republic, at a time when Federal supremacy was sought to subordinate all State authority whatever, even upon questions in which the Constitution in express terms recognizes the paramount force of the State governments, no man ever dreamed, no Congress ever imagined, that the fourth section of that Constitution would support a bill like the present upon any such state of fact as is therein set forth, even in relation to white men, much less to negroes. Mr. Chairman, I repeat, because it is the point of the argument, that nothing in that entire Constitution better exhibits and exemplifies the peculiar character of our Government in its checks and balances, in its limitations of power upon and among its several departments, as well as between the State and Federal Governments, by way of protection to each against the aggressive spirit of any or all the others, than this very fourth section now under consideration. It was not for the accumulation of indefinite legislative power at large in the General Government, but it was for the simple purpose of protecting that Government in the specific powers with which it was clothed by the States themselves, that this section was inserted in the Constitution.

It was intended as a shield of defense, and not as a weapon of attack in the hands of the Government. Our fathers, in balancing and

adjusting this complex machinery of Government, understood as well as any mere human comprehension could understand the aggressive and grasping character of all organized political power, and the imminent danger which was to be apprehended in a struggle for supremacy between the General and State Governments. That this is the true character of the provisions of the Constitution upon which this bill is sought to be sustained, I shall now proceed to show by the debates upon this subject, both in the general and in nearly all of the State conventions. But before I come to this part of the argument I wish to recur to another point already touched upon. The provisions of this section belong to what has been very aptly termed the "extreme medicine" of the Constitution—a dormant power reserved to be exercised only on extraordinary emergencies, when what our friends on the other side of the House denominate the "life of the nation" is endangered by the encroachments of one branch of the Government upon another. This is manifest from the fact that the power has never heretofore been resorted to in the ordinary arrangements for the election of members of the House of Representatives. If it was intended that Congress should have the right to interfere in the usual arrangements for the election of Representatives, without regard to any danger, real or apprehended, to the entirety of representation in the General Government, it is a most remarkable and unexplained fact that Congress never has interfered, even at periods when such danger might have been reasonably anticipated. Even at an early day in the history of the Government, when one of the New England States, in a spirit of secession, whose votaries now they would consign to "hell's dark concave" and everlasting fires, withdrew her representatives from the national Legislature, no attempt was made by Congress to exercise the power granted in this fourth section of the Constitution. Again, sir, if my learned colleague [Mr. SHELLABARGER] is right in his construction of these provisions by supposing they will support the principles of his bill, why is it that Congress has never heretofore corrected the numerous discrepancies and want of uniformity growing out of the exercise of the power of regulating these elections by the several State Legislatures?

The States have regulated the times, the places, and the manner of electing Representatives to Congress, exclusively and without Federal interference, since the foundation of the Government. Will my learned friend explain this fact consistently with his present interpretation of the Constitution? There is a total want of uniformity both in the time and in the manner of these elections, and yet we never, until now, when party success is so transcendently important, heard of any attempt by Congress to correct the evil. In some of the States the candidate must have a majority of all the votes cast; in others a plurality is the rule. In some they are chosen *viva voce*; in others by ballot. The discrepancy of the time of holding these elections in the several States sometimes works very marked results as to representation in the House, because we all know that it has frequently occurred that at an extra session, called perhaps by some pressing public emergency, whole States have been without representation in this body. And yet no one of the many very able men in Congress, during all this time, has been lawyer enough to understand the proper interpretation of these provisions of the Constitution, if the learned gentleman from Ohio, [Mr. SHELLABARGER,] has at last discovered their true intent and meaning.

Sir, if this last construction is the right one, then the fathers who framed the Constitution, and the ablest law-writers whose commentaries upon it have been accepted as its correct interpretation, have been most singularly mistaken in regard to its true intent and meaning. I shall cite but a few of the many passages from the writings of these able men to sustain the view I have taken of this question. In the first place, Mr. Justice Story will be recog-



nized as competent authority on this subject, not only because of his great ability as a constitutional lawyer, but mainly for the reason that his political opinions leaned to the side of Federal power; and therefore, when we find him ranged on the side of State authority we can feel some assurance that his judgment is unbiased by prejudice or partisan feeling. He, in effect, says that the single object of the fourth section is protection to the General Government. He declares that—

"Its propriety rested upon this plain proposition: that every Government ought to contain in itself the means of its own preservation." \* \* \* \* \*

"The regulation of elections is submitted in the first instance to the local governments which in ordinary cases and when no improper views prevail, may both conveniently and satisfactorily be by them exercised. But in extraordinary circumstances the power is reserved to the national Government, so that it may not be abused, and thus hazard the safety and permanence of the Union." \* \* \* \* \*

"Nothing can be more evident than that an exclusive power in the State Legislatures to regulate elections for the national Government would leave the existence of the Union entirely at their mercy."

So much, Mr. Speaker, for the leading commentator upon the Constitution. Now let us turn to the solemnly expressed opinion of one who, next to Mr. Madison, had the most controlling influence in its formation and adoption. Alexander Hamilton, a man of all others of his time the most ultra-Federal in his views, who was in favor of the strongest Government consistent with public liberty, and who looked upon purely Democratic institutions as the dream of an enthusiast rather than the practical convictions of a sound and enlightened statesman. In the fifty-ninth number of the *Federalist* he thus refers to this question:

"I am greatly mistaken if there be any article in the whole plan more completely defensible than this. Its propriety rests upon the evidence of this plain proposition, that every Government ought to contain in itself the means of its own preservation." \* \* \* \* \*

"They have submitted the regulations of elections for the General Government, in the first instance, to the local administrations, which, in ordinary cases, and when no improper views prevail, may be both more convenient and more satisfactory; but they have reserved to the national authority a right to interpose whenever extraordinary circumstances might render that interposition necessary to its safety." \* \* \* \* \*

"Nothing can be more evident than that an exclusive power of regulating elections for the national Government in the hands of the State Legislatures would leave the existence of the Union entirely at their mercy."

In the debates upon this clause in the North Carolina convention in 1788, Mr. Davie made the following remarks:

"The gentleman from Edenton has pointed out the reasons of giving this control over elections to Congress, the principal of which was to prevent a dissolution of the Government by designing States. If all the States were equally possessed of absolute power over their elections, without any control of Congress, danger might be justly apprehended where one State possesses as much territory as four or five others, and some of them being thinly peopled now, will daily become more numerous and formidable." Without this control in Congress those large States might successfully combine to destroy the General Government. It was, therefore, necessary to control any combinations of this kind. Another principal reason was that it would operate in favor of the people against the ambitious designs of the Federal Senate. I will illustrate this by matter of fact. The history of the little State of Rhode Island is well known. An abandoned faction have seized on the reins of government, and frequently have refused to have any representation in Congress. If Congress had the power of making the law of elections operate throughout the United States, no State could withdraw itself from the national councils without the consent of a majority of members of Congress. Had this been the case that trifling State would not have withheld its representation. What once happened may happen again; and it was necessary to give Congress this power to keep the Government in operation. This being a Federal Government, and involving the interests of several States, and some acts requiring the assent of more than a majority, they ought to be able to keep their representation full. It would have been a solecism to have a Government without any means of self-preservation."

I shall make, Mr. Speaker, but one more quotation from these debates. One of the ablest lawyers who sat in the Convention which framed the Constitution, Mr. Wilson, of Pennsylvania, was also a member of the State convention which ratified it. He was also a Federalist in his political opinions; and in answering the objections of the Republicans to this clause, and giving the reasons for its incor-

poration into the organic law of the land, he said:

"This clause is not only a proper, but necessary one. I have already shown what pains have been taken in the convention to secure the preservation of the State governments. I hope, sir, that it was no crime to sow the seed of self-preservation in the Federal Government; without this clause it would not possess self-preserving power." \* \* \* \* \*

"If the Congress had it not in their power to make regulations, what might be the consequences? Some States might make no regulations at all upon the subject. And shall the existence of the House of Representatives, the immediate representation of the people in Congress, depend upon the will and pleasure of the State governments? Another thing may possibly happen, I do not say it will; but we were obliged to guard even against possibilities as well as probabilities."

"A Legislature may be willing to make the necessary regulations, yet the minority of that Legislature may, by absenting themselves, break up the house and prevent the execution of the intention of the majority. I have supposed the case that some State governments may make no regulations at all; it is possible, also, that they may make improper regulations. If those Legislatures possessed, uncontrolled, the power of prescribing the times, places, and manner of electing members of the house of representatives, the members of one branch of the General Legislature would be the tenants at will of the electors of the other branch, and the General Government would be prostrate at the mercy of the Legislatures of the several States."

Here, then, Mr. Chairman, we have in these clear and distinct views of the framers of the Constitution the true interpretation and meaning of this power of the General Government over the times, places, and manner of choosing members of the House of Representatives. It is shown to be a mere supervising and corrective power, for the single purpose of self-protection and defense; not an original and absolute dominion over the subject-matter itself.

It has authority only to regulate that subject-matter simply as a check to an abuse which may tend to strike at its own existence. It assimilates itself to the veto power of the President. It is a principle of self-preservation, not an inherent and unqualified power of administration. It is to repel an attack; not to sound a charge. It is a fortification thrown around the Federal Legislature; not a battering-ram to be used by Federal power to break down the original, and within its proper sphere, the supreme authority of the State Legislatures. Sir, any other construction to be put upon this clause of the Constitution places it in the power of Congress to abolish all State government whatever. It was the intention of the framers of the Constitution, and such has been its operation ever since its adoption by the people, that Congress itself should exist only through the constitutional action of the State Legislatures. The Federal Senate owes its continuous existence to these bodies, inasmuch as it is only by the action of the State Legislatures that Senators of the United States are, or can be, constitutionally elected.

So, too, with the Federal House of Representatives; if the framers and commentators of the Constitution knew what they were saying and doing then it is only through the action of the State Legislatures, by establishing the districts and providing for the time and manner of election, that the Federal House of Representatives can exist as a constitutional body. Let Congress once assume, by usurpation, and God only knows what it may not yet assume in that direction, to keep up and sustain its organization independent of State legislation, and there will be an end at once of all State government; State rights, State sovereignty, and all local independent authority will become absorbed and merged in one gigantic centralized and consolidated despotism. Sir, I am drawing no improbable or exaggerated picture—no uncommon occurrence in these days of change and revolution. It is a picture, sir, which other and better men than myself have limned in the better days of the Republic, in regard to the misuse and abuse of this very power in the Constitution. Patrick Henry, in the Virginia convention, was especially alarmed at the facility with which an unscrupulous Congress might seize upon this power, and

he denounced it with that fervid eloquence for which he was so remarkable beyond all his compeers. In reply to a speech of Mr. Nicholas he thus speaks of the dangers which would follow an improper use of this power:

"I shall make a few observations to prove that the power over elections which is given to Congress is contrived by the Federal Government that the people may be deprived of their proper influence in the Government by destroying the force and effect of their suffrages. Congress is to have a discretionary control over the time, place, and manner of elections. The Representatives are to be elected, consequently, when and where they please. As to the time and place gentlemen have attempted to obviate the objection by saying that the time is to happen once in two years, and that the place is to be within a particular district or in the respective counties. But how will they obviate the danger of referring the manner of election to Congress? Those illumined geni may see that this may not endanger the rights of the people; but in my unenlightened understanding it appears plain and clear that it will impair the popular weight in the Government. Look at the Roman history. They had two ways of voting; the one by tribes, and the other by centuries. By the former numbers prevailed; in the latter riches preponderated. According to the mode prescribed Congress may tell you that they have a right to make the vote of one gentleman go as far as the votes of one hundred poor men. The power over the manner admits of the most dangerous latitude. They may modify it as they please. They may regulate the number of votes by the quantity of property without involving any repugnancy to the Constitution. I should not have thought of this trick or contrivance had I not seen how the public liberty of Rome was trifled with by the mode of voting, by centuries, whereby one rich man had as many votes as a multitude of poor men. The plebeians were trampled on till they resisted. The patricians trampled on the liberties of the plebeians, till the latter had spirit to assert their right to freedom and equality. The result of the American mode of election may be similar. Perhaps I shall be told that I have gone through the regions of fancy, that I deal in noisy declamation and mighty professions of patriotism. Gentlemen may retain their opinions; but I look on that paper as the most fatal plan that could possibly be conceived to enslave a free people. If such be your rage for novelty take it, and welcome; but you never shall have my consent. I am anxious, if my country should come into the hands of tyranny, to exculpate myself from being in any degree the cause, and to exert my faculties to the utmost to extricate her. Whatever may be the result I shall wait with patience till the day may come when an opportunity shall offer to exert myself in her cause."

Mr. Chairman, I think I have shown clearly and conclusively that the purpose of inserting this clause in the Constitution was for anything else than to sustain a project such as is contained in this bill. Sir, the design of this legislation is too manifest to be mistaken. It is only a continuation, in a new phase, of the great scheme of the Republican party to crush out the sovereignty of the several States of this Union, to break down and overthrow their independence, and thus render them the mere political vassals of Federal power and domination. One of the most startling and extraordinary propositions contained in this bill, clearly looking to the consummation of this design, is the wild and visionary assumption that Congress is invested with the great supreme judicial power of passing upon the validity or invalidity of a State law! This bill serious and with solemn enunciation undertakes to set aside a public statute of the sovereign State of Ohio, and to declare it absolutely null and void. Sir, can party madness or political fanaticism go any further than this? Are we to overthrow and trample under our feet every principle upon which this Government has heretofore been admitted to be based? Does the gentleman from the capital district claim that Congress is clothed with any power not expressly granted, or which does not arise by necessary implication upon the terms of the grant itself? I challenge him, or any gentleman on this floor, to point to a single provision in the Constitution upon which such implication can be raised by the most violent presumption or the most latitudinarian construction. The honorable gentleman, unless he is willing to usurp this power, must have had some confusion of mind upon the subject of the power. It may be, Mr. Chairman, that because the attempt was made in 1787 to ingraft this power upon the Constitution the gentleman supposed, from an imperfect or confused recollection of that circumstance, that such power was in fact embodied in the Con-

stitution. But in this he is wholly mistaken. A congressional negative upon all State legislation was attempted in the Convention which framed the Constitution. On the 8th day of June, 1787, Mr. Pinckney, of South Carolina, (and it is one of the strange things of our early history that such a proposition should come from that State,) moved "that the national Legislature should have authority to negative all laws which they should judge to be improper."

In support of this proposition he argued that such a universality of the power was indispensably necessary to render it effectual; that the States must be kept in due subordination to the nation; that if the States were left to act of themselves in any case it would be impossible to defend the national prerogatives, however extensive they might be, on paper; that the acts of Congress had been defeated by this means, nor had foreign treaties escaped repeated violation. Mr. Madison held kindred sentiments on this particular question in the Convention, although he afterwards completely changed his views, as will be seen by consulting his introduction to the "Madison Papers." After full debate the motion was lost by a vote of—ayes 3, noes 7. Virginia stood 3 ayes and 2 noes, General Washington not voting. The State of Delaware was equally divided. And yet, Mr. Chairman, in the face and eyes of all this, the extraordinary proposition is now submitted for Congress to declare a law of the sovereign State of Ohio null and void! Sir, Congress has no more power to make such a declaration, by way of effecting such a law, than has the Superintendent of the Freedmen's Bureau. That is a naked, judicial power, a power which has been already exercised and exhausted by the supreme court of the State of Ohio; for that court has decided this very law to be unconstitutional and void under the State constitution. Is not the honorable gentleman satisfied with the decision of his own court, every judge of which entertains political opinions in harmony with his own?

Sir, whether that decision is right or wrong, whether partisan or impartial, it stands as the law of the land until it is legally and properly reversed; and I here affirm, with the utmost confidence, that the Democrats of Ohio are too law-abiding, too much the tried friends of good order and good government, to disregard its authority, so long as it shall stand as the pronounced adjudication upon the question which it involves. This bill, then, Mr. Chairman, has no practical purpose to sustain, unless it is intended to indicate the ultimate designs of a party in relation to radical changes in the whole system of our Government. If it has any other end to accomplish, it must be the covert and sinister one of obtaining the surreptitious votes of full-blooded negroes, in a state too doubtful, in the apprehension of somebody, to submit the question to an honest ballot-box.

Mr. Chairman, there is, in my opinion, another power usurped in this bill, to which I wish to draw the attention of the country. Sir, I will be very much obliged to the gentleman who introduced this bill, or the committee who reported it, if they can make it clear that Congress have the constitutional power to invade a sovereign State with a criminal statute to punish its citizens, upon a subject-matter over which the legislative authority has exclusive jurisdiction, and as to which they have, by their own laws, declared the penalty. This bill provides a punishment by fine and imprisonment against certain State election officers for misconduct in office, in legal effect covering the same acts, for the commission of which a law of the State already provides a punishment by imprisonment in the penitentiary.

By a law of Ohio, passed March 20, 1841, it is provided that—

"If any judge or clerk of election, on whom any duty is enjoined by this act, shall be guilty of any willful neglect of such duty, or of any corrupt conduct in the execution of the same, such judge or clerk, on conviction thereof, shall be imprisoned in

the penitentiary and kept at hard labor not more than five years nor less than one year."

Now, what is the duty enjoined by law on a judge of election? It is that he shall receive the votes of all duly-qualified electors presented to him; and a violation of that duty would be a willful or corrupt refusal to receive such vote, the punishment for which would be imprisonment in the penitentiary. The law of Ohio now is, under this decision of the supreme court, that every male citizen of the proper age, who has a preponderance of white blood, is a qualified elector.

Now, then, Mr. Chairman, the Ohio statute and this bill, if it shall become a law, will cover the same ground, and provide separate punishments for the same act. Which shall be paramount? or shall the delinquent be punished under both? Sir, I hope gentlemen will well consider both whether Congress has the constitutional power to pass such a criminal statute, and also the effect of two penal laws, State and Federal, upon the same subject-matter, when that subject is the elective franchise and the protection of the ballot-box within the jurisdiction and touching the sovereignty of a State.

And now, Mr. Chairman, I want to put the question squarely to the majority on this floor, whether they intend to pass such a bill as this? Sir, if I could forget my obligation as a sworn Representative of the people, and was willing to look only to party advantage in the discharge of my public duty here, I would wish and vote for the passage of this bill. As the result of its passage I would expect, from what I know of the people of Ohio, that the fifty thousand Republicans who voted against negro suffrage last year in despite of the whip and spur of the party leaders, would unite with the Democracy in carrying the State by a still greater majority against the nominees of the Chicago convention. No "war-horse" nomination could withstand the tide of popular feeling running in the same direction. Not even the new-born cry for "peace," so hypocritically sounded in our ears of late, could check the swelling flood of popular indignation against these oft-repeated outrages.

"We want peace," says General Grant in his letter of acceptance. Yes, sir; we want peace; but not that kind of peace which follows the subjugation and degradation of millions of proud and intelligent freemen; not that kind of peace held in the grasp of tyranny and despotism; not that kind of peace which the wolf grants to the sheep-fold; not that kind of peace which exists amid desolation and humiliation, the peace of helpless despair, the peace of ruined trade, of wasted energies, of the tortured and crushed pride of humanity, and the utter deprivation of everything which belongs to liberty and independence. Sir, the people at last are becoming aroused to a higher sense of "peace" than such as is meant by General Grant. They are at last resolved to redeem the country by placing new men in old places; they are at last determined that these gross usurpations of power shall cease, and the Government once more brought back to its former dignity and prosperity. If this great effort is made as it should be made, the dark clouds which now hang over us will be dispelled, the storm will pass away, and the bright bow of promise will once more span our political firmament as a covenant of real peace between the two great sections of a common country under a common Constitution, and will again shine out in all its former beauty and splendor "upon the broken and retreating tempest."

#### PURPOSES OF THE REPUBLICAN PARTY.

Mr. SCOFFIELD. Mr. Chairman, which way are we moving? Are we, as some persons apprehend and charge, drifting under party excitement and confusion, through misrule and usurpation, toward despotic government, or are we, though in the midst of the storm, but in spite of it, still holding a compass-line inside

the words and spirit of the Constitution toward a more perfect development of republican government?

What line should we follow? What is the fundamental theory of our Government? The great men who laid its foundations held that "all men are created equal." They proclaimed this sentiment in the face of a world heavily oppressed with inequality, rank, and privilege. They spoke and fought for it. Their eloquence and valor established it upon this continent. And that, I understand, is or ought to be the recognized theory of our Government. It is a simple formula, a few words, a single principle, one idea; but upon it our fathers raised the fabric of the new Government. It is that one idea which makes the Government great, gradually rising above all other Powers on the face of the earth, even in its infancy giving liberty and protection to forty million people at home, and reaching out a helping hand to the oppressed and humble all over the world.

I know it is said that the founders of the Republic did not really mean that all men are created equal, because they did not at first and at once confer equal rights upon all. It was impossible. Existing institutions, vested interests, erroneous convictions, and deep prejudices stood in the way. They went as far as they could then, as far as the public sentiment of their day would permit, and then holding to and advocating equal rights for all men as the correct Republican theory, awaited the fit times and opportunities and the proper development of the public sentiment to make that theory more and more practical. Upon this theory they founded a new political party, which they called the "Republican party." This word indicated as near as any one word in the language could the commonality of all governmental rights. They added to this name the adjective "progressive," to indicate that they did not mean to go backward nor to stand still, but move forward on this theory of human rights. It was not many years before this "progressive Republican party" came to control the country.

See what was done. The slave trade was interdicted and the trader declared a pirate. In many of the States slavery was abolished, and by an irrevocable ordinance all the territory then held made free forever. The franchise was enlarged; and except in the single State of New York, without distinction of race. Legislation could not make all men equal in talents, but it could give all an equal opportunity to cultivate whatever God had been pleased to bestow, and therefore free schools were established. It could not make all men equal in wealth, but it could give all an equal chance to acquire it; and so imprisonment for debt was abolished, exemptions from execution allowed, and the laws of inheritance equalized. These great advances toward the equalization of governmental advantages were not secured without resistance. There were conservatives in those days as well as in ours. They saw ruin in every progressive step. The prohibition of the slave trade would deprive the poor African heathen of a chance to hear the gospel and save his soul. The dedication of the territories to freedom was sectional and unconstitutional. Non-imprisonment for debt and exemption from execution would both defraud the creditor and destroy the credit of the debtor. Free schools would burden the thrifty with taxes to educate the children of idlers. The enlargement of the franchise would be its degradation. But in spite of conservatism and its evil prophecy the country improved, and what is far more important mankind improved. But conservatism did not surrender; it never does surrender. The "progressive Republican party" becoming in time divided into several parties upon temporary questions, and losing its distinctive name and organization, conservatism allied itself with the slave power and obtained for the time the mastery over the several divisions. Immediately the brakes are whistled down; all progress stops. It is now

found out that the great declaration of our fathers for equal political rights was "a glittering generality," "a rhetorical flourish," "an unmeaning abstraction." It is now found out that political distinctions are necessary; that political equality is a degrading level; that the law should assign duties to one class and privileges to another. The revival of this old doctrine was not received without objection among the disbanding progressives. Small dissenting parties began to spring up. The abolitionists, the equal rights party, the free Democracy, barnburners, free-soilers, Benton Democrats, and others which escape my memory as I speak, from time to time and in various States attracted the attention of the public.

They were numerous enough to exhibit the deep discontent of thinking, progressive men, but too feeble to resist the retrograde movement inaugurated by the allied powers—conservatism and slavery. In 1856 representatives of these various organizations, or rather of the sentiments indicated by them, met in Philadelphia, and then and there, in the old State House, in which the theory of political equality had been first proclaimed, formed a national party, pledged to take up the principles and carry forward the work of the fathers. They took the name which had been honored by the advocates of equal rights in the better days of the Republic. The friends of freedom and equality all over the country began to gather into this new organization, while the advocates of privilege, the conservatives, the anti-progressives and the backgoers squatted at the feet of the slave power and assumed the misleading name of Democracy. These Philadelphia conventionists assumed the name and reaffirmed the doctrine of the first Republican party, to wit: that "all men are created equal," but like that party they did not expect to secure to all men their equal rights at once. Centuries of vested wrongs still stood in the way. Reasserting the principle, holding fast to the liberties already acquired, they only proposed to move forward slowly, securing to the unprivileged classes, act by act and measure by measure, as time and opportunity should permit, greater influence and advantage in the Government; until, in the course of time, in the distant future, the world should behold a great nation in which every citizen, without exception or distinction, had secured to him his equal right to life, liberty, and the pursuit of happiness—a nation with no ignorant, no poor, no enslaved, no degraded class.

It is now twelve years since this party was organized, and I submit that the history of the country proves that it has held steadily to its declared purpose; to give every child an equal chance of education, it has advocated and legislated, both in the States and Territories and in the District of Columbia, in favor of free schools; to give every man an equal chance to acquire property, the old Republican party, as I said before, abolished imprisonment for debt, and made the necessities of life exempt from execution. Following in these footsteps, the new Republican party, in the first year of its national triumph, secured to every landless man a one-hundred-and-sixty-acre farm without money and without price; and in the further practice of the same principle only last year it released the honest but broken debtor from the further pursuit of unrelenting credit. By an amendment to the Constitution slavery in sixteen States, in the District of Columbia, and in all the vast Territories of the country has been abolished, and its restoration made impossible forever. We have many bright pages in our short history—I trust we are to have many more—but the page that records this brief amendment will be the brightest of them all. The franchise, which lifts up the humble, protects the weak, educates the ignorant, and endows the poor, the synonym of liberty and self-respect, has from time to time been greatly enlarged. Under Republican legislation the volunteer soldier retains his privilege and sends home his vote. One year's service of the country endows the alien with the ballot. In twelve

States, in all the Territories, and in the District of Columbia, the franchise has been extended to all and without distinction of race, and the whole tendency of Republican debate and legislation has been toward an enlargement of the franchise without restriction, except for crime.

All these measures look in one direction, and lead only to one result. They enlarge the rights, privileges, and opportunities of all the people, and subordinate the laws to the popular will. That is not despotism, but freedom. These measures may all be wrong, but if so, it is because the theory of popular government is wrong. I have a right, therefore, to conclude that the charge of despotic tendency preferred against the Republican party is entirely without foundation.

It may be said that two of these measures, namely, the emancipation of the slaves in all the States and their enfranchisement in the eleven rebel States have been too much hurried. The Republican party did not in the beginning intend to move so rapidly. Emancipation, which would withdraw from the enemy and add to us four million population, became a military necessity. The great purpose of the rebellion was to withdraw slavery from the wasting influence of the nineteenth century; to build it around with a new nationality, and wall out the light and warmth of a Christian age. That motive could only be destroyed by the destruction of slavery itself, and we struck it a hurried but fatal blow. Premature enfranchisement, if premature it is, has been forced upon us for a somewhat similar reason. The returning rebels demanded two sets of Congressmen, all their own, and thirty-three more for the blacks, both sets to be elected exclusively by themselves. Under the amended Constitution the claim was legal. But such double power would enable them to vote down your soldiers' pensions, repudiate your plighted honor, force upon you the payment for emancipated slaves, and finally to master and redivide the Union. To break the strength of this disunion element, we put the ballot in the hands of the loyal black man. Our own safety and the safety of the Union demanded it, but it is in accordance with the theory of our Government, and if a little premature, time will soon overtake it.

But you have passed laws restraining the power of the President; where is the despotism of that? A despotic government is a one-man government. All executive. How can restraints upon that one-man power be also despotic? They might be considered too Republican, too Democratic, but to call them despotic involves a contradiction. What are the facts? During the war the President was clothed with extraordinary powers. The Democrats complained. They apprehended that these powers might be used to destroy the liberties of the people. At length the war was over, Mr. Johnson had come to be President, but the extraordinary powers were still attached to the executive office. They were no longer needed, but were as dangerous as ever. Mr. Johnson himself said in his celebrated East Room speech, that he possessed power enough to make himself dictator. A great many people thought he intended to try it. Then Congress began to do what the Democrats claimed they should have done long before, confine the executive power to its old peace limits. Then they complain again. To confer these powers was despotic, to recall them is despotic. One or the other complaint is unfounded. We could not be wrong each time. We were really right each time. It was proper that the President should have large powers to suppress the rebellion, and that these powers should be surrendered after the necessity was passed.

But your mode of reconstructing the South is despotic! Not so much so as yours, provided you adopt the President's plan; and you have adopted it. The President put the people of the South under military rule; Congress did not. We did not order the Army there. We did not keep it there. We took no action till March 3, 1867. Up to that time

the President had his own way, and all this time he governed the South by the Army. Till then his despotic will was law. He got up conventions. He selected the voters. He shaped the constitutions and declared them adopted. He allowed no popular vote. That was his plan. It was your plan. This was real despotism—unrestrained one-man military power. Our plan was only a restraint upon yours. We did not order the Army away, to be sure; but we put it under the control of law. We did not prohibit the assembling of conventions, but released them from the dictation of the President. We did not forbid constitutions to be framed, but required their submission to the people. Your plan was to originate State governments in accordance with the President's will, ours in accordance with established law.

But you are making encroachments upon the Supreme Court! A bill which requires the concurrence of two thirds of the judges to declare a statute of the United States void was proposed, but never became a law. Suppose it had, what despotism is there in that? Who compose the Supreme Court? Usually nine judges. They are appointed by the President and hold their offices for life. The people can change their Representatives once in two years, their President once in four, and their Senators once in six; but the judges of this court are always beyond their reach. This is the only anti-republican, aristocratic, despotic feature in our Government. While these judges are entirely above the influence of the people, they are not above the common passions and infirmities of mankind. They are still politicians, as much so as Senators and Representatives, though not progressive. They held to whatever was uppermost when they were lifted out of politics to the bench. You can tell the politics of a judge by the date of his commission, and the date of his commission by his politics.

They crystallize in the sentiments of their day and are changeless ever after. Some of them cannot even now realize that there has been a great war; and, on trying to decide that a constable and grand jury were equal to the "late political disorder." Some cannot realize that the slave power had been legally dethroned; and, on trying to retain in the legislation of the country at least a few memorial shreds of the odious institution, I have the best authority for saying that a majority of these judges have made up their minds that the "legal tender" law is unconstitutional, and will so decide in the cases now pending in their court. I mention this fact, not for present criticism, but as an illustration of the vast power of these nine men over the fortunes of the people. Is a law that requires the agreement of one or two more judges before they make a decision that will ruin all the debtors of the country by requiring them to pay their debts in gold despotic? Every debtor in the country who now thinks such a law would be despotic will have reason to change his mind before he is two years older.

Again, it is said that our legislation tends to centralization of power in the General Government, and that centralization tends to despotism. I deny it. We have endeavored to preserve the Union of the States, because individual liberty can be best secured in a single republic. The Republic was divided before we came to power. On the 4th of March, 1861, Mr. Buchanan surrendered to Mr. Lincoln the northern half, having surrendered the southern half to Jefferson Davis nearly a month before. We found the Union dismembered, and we have restored it. We found it with slavery, the chief incentive to disunion, and we broke the chains of four million bondmen. We found an hundred kinds of money that would not pass as many miles from home, and we have reduced them to one uniform system of equal value all over the land. We found the Pacific States separated from the East by a vast unoccupied country, and growing up into isolated nationality, and we have



stretched out great lines of railway to secure their commerce and hold their interests and affections in the Union. We found commerce between the States everywhere burdened and obstructed by local and illiberal State legislation, and we have undertaken some measures of relief. These enterprises, undertaken to preserve the harmony of the States and secure the growth and development of the whole country, are mistaken by small politicians for acts of centralization.

In addition to carrying on a four-year war for the suppression of the rebellion all these beneficent and permanent reforms have been secured during the short life of the Republican party. Take as many years of Democratic administration prior to that and tell me what record you have left to awaken the gratitude or pride of the people. There stands the gallows upon which they immolated old John Brown, a brave but erring enthusiast of human freedom; but its victim is more honored to-day than its cruel architects. Just beyond is the Dred Scott decision, rendered in violation of precedent, law, and Constitution for the brutalization of four million Christian people. It has no friends now. Further on you behold the Missouri compromise—our fathers' bond of Union—the peace offering of its day, repudiated, broken, and trampled under foot that the inhumanity of the hour might be without restraint. Standing around it, as fit witnesses of the wrong, are the "border ruffian war," the "Lecompton villainy," and the small tyrannies of Pierce and Buchanan. Still further down this dreary history stands the "fugitive slave law," to which every Democratic knee was wont to bow. Its manacles are broken. Its bloodhounds no longer bay upon the track of its victims. No gurlands crown its ugly brow. It has no worshippers, no admirers, no defenders, no apologists even. All have sneaked away. These are the monuments of their administrations. During all these weary years nothing was done by the predominant party to elevate and honor labor, to educate the poor, to lift up the fallen, to endow the landless, or to soften the cruelties of bondage. You cannot point to a single act that anybody will celebrate, that anybody will honor, that anybody will remember even except with regret or shame.

This doctrine of political equality forms the great "divide" between parties now as heretofore. The conservative or anti-progressive element, always beaten, except when allied with the slave power, takes heart from the complication of public affairs and enters the arena with new disguises. The remnant of the slave aristocracy rallies to its standard. The foiled secessionists extend their crimson hands both to aid and to be aided. A great church, believing that the mass of mankind should be guided rather than educated, leads its vast flock when otherwise we would least expect it into the support of anti-republican distinctions. Many submit to the theory which degrades them because it degrades others more than themselves. And many mistake license to the vicious for liberty to mankind. It is the old combination, so often beaten. There may be a few recruits; some few who have attained senatorial and judicial honors by the advocacy of equal rights, through the natural selfishness of the human heart, have come to believe in rank since they have reached the highest. A few descendants of eminent men, unable by personal merit to command the position of their fathers, reject their fathers' doctrine. John Quincy Adams was a progressive Republican, and his grandson is a conservative. The descendant claims by law what the ancestor acquired by desert. To these add a few natural grumblers, and you have the present Democratic-conservative-sorehead-rebel party.

Such elements can be held together in a party of opposition, because a minority party need have no affirmative policy. They bring forward measures of their own. It is their business to hold back, to oppose, to criticise, to denounce, to threaten, not to originate, to propose, to

decide, or to act. To avoid present accountability for the past they even condemn their own history and acquiesce in the defeat of their own measures. They were opposed to the "Lecompton fraud" and "border ruffian war" after Kansas became a free State. They approved the homestead law after it was enacted. They do not worship the fugitive slave law after it is repealed. They are in favor of the war after it is over. They are opposed to slavery after it is abolished. They will doubtless be opposed to repudiation after the debt is paid, and in favor of universal suffrage after everybody can vote. But they attack whatever is proposed by others, whatever is uppermost for the time being. During the last seven years they have done nothing but scold. Scolding is their vocation; their sovereign remedy for all public ills.

They scolded the Union party when Buchanan divided the Republic, and scolded harder when we attempted to restore it. If the Army lacked men they would scold. If a draft was ordered to fill it they would scold. If the Treasury was empty they would scold. If taxes were levied they would scold. If a loan was attempted they would scold. If a battle was lost they would scold about mismanagement. If it was won about subjugating the South. They scolded terribly when \$300 would commute the draft, and worse when the law was repealed. They scolded when greenbacks were issued, and scolded again when the issue was stopped. They scold when the rebel States are kept out, and scold when they are brought in.

While this party remains in the minority scolding may answer their purpose. It may even enlarge their numbers by the addition of malcontents and impracticable men. But if they carry the elections next fall they must become actors instead of critics. What will they then do? If they have been honest in their opposition to Republican measures they must attempt to undo them all. They were opposed to coercion; they must, therefore, restore the confederacy and treat for terms of separation. They were opposed to emancipation, they must reestablish slavery. They were opposed to the amendment of the Constitution, which forbids payment for emancipated slaves and the assumption of rebel debts; they must, therefore, repeal it. They were opposed to the repeal of the fugitive-slave law; they must therefore reenact it. They opposed the readmission of the eight reconstructed rebel States; they must therefore turn them out. Their candidate for Vice President says they will, and that by revolution if they cannot by law. They were opposed to the enfranchisement of the colored people in the rebel States; they must therefore disfranchise them and leave the rebel power without check or division. They opposed the enfranchisement of the citizen soldiers, and they must be disfranchised also. It may be said they cannot accomplish all this. That is true, but they can try it. They must try it, because if they do not it is a confession that they have all along been wrong, and we have all along been right, which is a confession that they ought to be defeated at the polls. They carried the Legislature of Ohio last fall, and immediately began the work of demolition. Their first attack was on the franchise. They at once withdrew from the soldier, the student, and the quadroon, whom they classed and proscribed together, the right to vote. Ohio had given her consent to the constitutional amendment, which makes the loyal States equal in representation in the Federal Government to the rebel States, and prohibits payment for slaves and the assumption of rebel debts, but this Legislature revoked it. Suppose they fail in their efforts, how is the country to be benefited by a four years' struggle over it? If they succeed, the old slave aristocracy becomes again the masters of the country. The defeated rebels become the political victors. Hampton and Forrest and Preston will be the honored soldiers at Washington, as they were in the New York convention, and Grant and Sherman and Sheridan will be discharged on parole.

It is said they will not carry matters so far; the northern wing of the party will moderate and restrain the insolence of the rebel wing. So we were told when Pierce and Buchanan were candidates, but after the election we soon found that the southern Democrats controlled the northern. Whether the northern Democrats design it or not it will be so again.

But it is said this party can get us out of all financial trouble. The southern wing got us into it, but how can they get us out? Will they pay it? They ought to do so, but they will not, and I suppose they cannot. They pay no taxes. They say they have nothing to pay with. They could do nothing, then, but tax us and dispose of our money. Why should they be selected for that office? When have they shown any financial ability superior to northern men? They run the confederacy four years and two months, and so far from developing financial ability they developed a great lack of it. Their only schemes were forced loans, to be paid out of taxes on the loans themselves. Their currency became so worthless that they were forced to collect taxes in kind. They developed great military ability, I concede, but as financiers they were total failures. It was always so. Before the war they borrowed from the North the money to improve their estates, build their railroads and public works, and it has been mostly paid in confiscation and bankruptcy. They might double your debt by adding theirs to it, but how would they, or could they, discharge it, except by repudiation?

What could the northern wing of the party do? They have had the Administration and run the Treasury Department for the last three years. The whisky tax that ought to yield \$90,000,000 per year has, under their management, yielded less than fourteen million dollars. They are in favor of free trade, so they would get nothing from customs. The internal taxes are now nearly all collected from whisky, tobacco, banks, and incomes. Could they find any better sources of revenues? Would they take the tax from whisky and put it on bread? From tobacco and put it on coffee? From incomes and put it on labor? Or would they abolish taxes altogether? How, then, could they relieve us of debt? No way, sir, except by following their southern wing into repudiation. That would be an expensive payment. It implies disgrace abroad, and distress, revolution, and anarchy at home. I have always thought the liberties of this country could not survive a repudiation of its debt. In my judgment it would produce a convulsion which would end in the establishment of a less popular form of government.

But it is said, again, they could tax the bonds. Very well. But why make that a party question any more than taxing whisky or incomes? If all the bonds were taxed, including those held abroad, at the rate proposed, that is, ten per cent. upon the interest in addition to the five per cent. already collected, we could only realize from this source \$12,000,000. Compared with our other sources of revenue, this is a small sum. Why surrender the Government, with all its financial, military, and political interests to those who but three years ago were in arms to destroy it altogether, in order to secure so small a modification of the tax law? If the people think it best, upon full consideration, to levy this tax, can they not so instruct their Representatives in the several districts? If General Grant is elected so as to give confidence in the stability of the Government and the continued peace of the country, we can exchange our bonds for a long bond bearing from one to two per cent. less interest. This would save to the country from twenty to thirty million dollars per year instead of \$12,000,000. We would not only realize in this way more than as much again money, but avoid the charge of incipient repudiation. Why has that not been done already?

If you can tell me why God in his providence has seen fit to afflict this country with such a President as Andrew Johnson, I can answer

the question. For three years he has been sitting there, an obstruction to all proper legislation and administration. If we propose a new bond with low interest he calls before him the correspondent of the London Times, and fills him with apprehensions of repudiation to be scattered all over Europe. If we put a tax on whisky, which, if honestly collected, would relieve us of all other internal taxes, he is careful to see that it never goes to the Treasury. He counsels with the bitterest opponents of the war and plots with the bitterest rebels. Their common purpose seems to be to keep the country distracted; to defeat the reconstruction of the South; to advise, prompt, and aid resistance; to encourage mobs and murders to fulfill their prophetic war of races; to keep the finances unsettled and business men in doubt; to worry the men who trusted the Government when they would not and make them unpopular with the people; to magnify the burdens of taxation, and thus confuse the judgment and tire the patience of the people. The more distress, real or imaginary, they can produce in the country the greater will be their chances of political success.

They make the trouble and hold the Republicans responsible for it. With Johnson controlling the Treasury and all the Executive Departments we can do nothing. He can and will and does thwart all our efforts. If the Government now goes into the hands of the southern rebels with only such restraints as their northern allies choose to impose, capitalists will have no confidence in the maintenance of any new contract and will make none.

But it is said, again, that this party would pay off the bonds in greenbacks at once and have done with interest. At present we have no surplus of greenbacks to pay with, and unless taxation is very much increased we will not have for several years to come. Whether the bonds shall be paid in greenbacks or gold is a question for the future. It is not a question for this year or next. It may never be a question. Before we will be able to pay at all, or can be called on to pay, gold and greenbacks may and probably will be of equal value. It may become a troublesome question at some future day; but why anticipate the trouble? Do not the times furnish trouble enough without this?

Yes; but the Democrats would print greenbacks enough to pay off the bonds. That would give us \$2,500,000,000 of currency at least; if the bank issue was still outstanding, \$2,800,000,000. During the war the Democrats declared that in time it would take a cord of greenbacks to pay for a cord of wood. They would thus fulfill their own prophecy. Such a course would wipe out the bonds; but the public creditors would not be the only sufferers. It would discharge all private debts as well. But like the confederate currency it would have little value except to pay debts, and after that nobody would take it. A debtor might sell a horse for enough to pay for a farm he purchased on credit the year before; but there the traffic would end; all trade would stop; all manufactures would stop; the poor would have no employment, and property command no price. But, after all, it might not effect a discharge of debts either public or private. Suppose the debtors should refuse to take it, and the Supreme Court should decide the law unconstitutional and void. That would bring everybody to specie payments at once. It is well understood that this court will ultimately render such a decision on the present legal-tender law. They only wait a favorable time. Such an avalanche of irredeemable paper might force the decision at once.

As proof of the financial ability of this party we are reminded that in 1861 they left the country free from debt, and that under our administration a debt of \$2,500,000,000 has been created. The statement is not quite true. They left the country in debt nearly one hundred million dollars in time of peace, and its credit so low that Howell Cobb, the Secretary of the Treasury, informed Congress in December,

1860, that he was unable, after repeated efforts, to borrow the little sum of \$10,000,000. It is true, we have a large debt now; but who caused it? It will be admitted that the debt was created to suppress the rebellion, and the southern wing of the party which now complains of it got up the rebellion to divide the Union. It ought also to be admitted, but I suppose will not be, that the rebellion was prompted and encouraged by a portion of the northern wing. Upon some portion of the Democratic party, as at present organized, lies the whole responsibility of this rebellion. Is it fair, then, to hold us responsible for a debt caused by the misconduct of our opponents?

In 1863 there was a great anti-war riot in New York. To suppress it and repair damages cost the city a large sum of money. Suppose these rioters and their sympathetic friends the next year had formed a party and nominated a ticket to contest with the old officials the possession of the city government, would they have had the cheek to urge as a reason for the change that the debt of the city had been enlarged the year before? During the war the beautiful town of Chambersburg, in the State of Pennsylvania, was burned by the rebels. A large debt was created to rebuild it. Suppose these incendiaries had settled in Chambersburg after the war was over and had finally been placed on the Democratic ticket for local officers, would it have been altogether modest in them to urge the people to select them because the old officers had created this debt? If a discharged cashier, turning thief and robbing your bank, and thus entailing upon it a heavy debt, should, upon his return from the penitentiary, ask to be restored to his old place, and give as a reason that your bank was out of debt when he was discharged, and a large debt had been created by his successor, would you be likely to restore him? And yet the impudence of the New York rioters, the Chambersburg incendiaries, and the discharged cashier would not be greater than that of the late rebels and their northern allies, who ask to be restored to power because their own misconduct has forced the contraction of a large debt.

The talk about relieving the country of its obligations means repudiation or it is a deception. They cannot levy the taxes more judiciously, nor collect and apply them more honestly than anybody else. Their three years trial under Mr. Johnson has not developed any superior character in this direction. They certainly could not negotiate for a low rate of interest to advantage. Capitalists, knowing the debt will always be hateful to a large portion of their party because it must ever remind them of their folly and humiliation, would fear to trust them.

This portion of their party, to frighten the people into total or partial repudiation constantly magnify the burden and decry the ability of the country to discharge it. Why, Mr. Chairman, the amount of our property to-day is \$22,000,000,000. Every twelve years it doubles. Our population is forty millions, and doubles every twenty-five years. The increase in the wealth of the country, as shown by an able and accurate mathematician, would pay the whole debt in two years. In twenty-five years from this time our population will be eighty millions, and our property worth \$86,414,000,000. To our increased wealth and population the whole debt would be no more than one fourth of it is to us. If, then, they mean repudiation we do not need it, and cannot afford it. If, in any other respect, they claim financial superiority, it is unfounded presumption.

Aside from this question of finance, this party promise nothing except to fight over and fight backwards the political battles of the last twelve years. Is the country prepared to embark in such a struggle? Do we want an Administration which will not only resist all further progress, as Mr. Johnson has done, but undertake to work the country back, act by act and measure by measure, to the days of Pierce and Buchanan? Is any human being

to be benefited by it? Would it not be better to choose an Administration which will not only hold fast to the liberty and privileges already secured to the people, but, as time and opportunity permit, move slowly forward on the great Republican doctrine of equal political rights?

Mr. BUTLER, of Massachusetts, addressed the committee upon the subject of the taxation of Government bonds. [His remarks will appear in the Appendix.]

Mr. GARFIELD. I dislike very much to trespass upon the patience of the committee at this late hour. But I desire to say a few words upon the topics which have been discussed by the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. MULLINS. If the gentleman does not desire to go on to-night I will move that the committee rise.

Mr. GARFIELD. I do not think what I have to say will require more than half an hour. But gentlemen can do as they please about the committee rising.

Mr. MULLINS. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. BECK having taken the chair as Speaker *pro tempore*, Mr. CULLOM reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, had come to no resolution thereon.

And then, on motion of Mr. CULLOM, (at nine o'clock and thirty minutes p. m.) the House adjourned.

#### PETITION.

The following petition was presented under the rule, and referred to the appropriate committee:

By Mr. O'NEILL: The petition and affidavit of Mrs. Sarah Adelaide Scherr, widow of Captain William E. Scherr, asking for a pension.

#### IN SENATE.

WEDNESDAY, July 15, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. DRAKE, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### NAVY AND MARINE CORPS.

Mr. DRAKE. I ask the unanimous consent of the Senate to take up now for consideration House bill No. 941, which was under consideration the day before yesterday. I do not mean, in asking this, to interfere with the morning business, and will give way for that if the Senate will be so kind as to allow the bill to be taken up, so that I may get a chance to have it put through. It is a House bill, with amendments agreed to by the Committee on Naval Affairs.

Mr. POMEROY. If the bill is not going to excite discussion I will not object; but if it is going to be debated all the morning hour—

Mr. DRAKE. I do not think it is, and I will give way immediately for the usual morning business if the Senate will allow the Committee on Naval Affairs to have its amendment considered.

Mr. POMEROY. Yesterday morning we lost the morning hour and all the day; and if this bill is going to excite discussion I shall object to its being taken up now.

Mr. DRAKE. I will state for the information of the Senator from Kansas that this is simply a bill in regard to naval affairs that came from the House, and the Naval Committee of the Senate propose certain amendments to it which I do not think will give rise to discussion. We acted on part of them the other day; and all I want is that the amendments may be concluded and the bill go back to the House of Representatives for agreement in these amendments. I do not think any such result as the Senator from Kansas apprehends will follow

the allowing of this bill to come up. I beg him not to interpose an objection.

Mr. POMEROY. With the understanding that it is not to be discussed I shall not object.

The PRESIDENT *pro tempore*. Will the Senate unanimously consent to take up the bill at this time?

Mr. MORGAN. I should like to hear the title of the bill.

The CHIEF CLERK. A bill (H. R. No. 941) to amend certain acts in relation to the Navy and Marine corps.

By unanimous consent, the consideration of the bill was resumed as in Committee of the Whole, the pending question being on the amendment of the Committee on Naval Affairs to the fourth section, to strike out in line three the words "are hereby" and insert "shall on the 1st day of November next be;" and after the word "repealed" to insert "except as to assistant surgeons;" so as to make the section read:

SEC. 4. *And be it further enacted*, That all acts and part of acts authorizing the appointment of temporary acting officers in the Navy shall, on the 1st day of November next, be repealed, except as to assistant surgeons.

The amendment was agreed to.

The Committee on Naval Affairs further proposed to amend the bill by adding the following additional sections:

SEC. 5. *And be it further enacted*, That officers who have been promoted in pursuance of the ninth section of the "Act to amend certain acts in relation to the Navy," passed March 2, 1867, shall be entitled to receive, from the date of such promotion, the same pay, when not on active duty, that they were at the time of being so promoted entitled to when not on such duty, under the laws then in force regulating the pay of officers on the retired and reserved lists of the Navy; and the said ninth section of said act is hereby repealed.

SEC. 6. *And be it further enacted*, That the students in the Naval Academy shall hereafter be styled cadet midshipmen; and they shall be selected and appointed as prescribed in the eighth section of the "Act to amend certain acts in relation to the Navy," passed March 2, 1867, and shall be subject to the laws applicable to the students at said Academy under the style of midshipmen. When cadet midshipmen shall have passed successfully the graduating examination at said academy they shall receive warrants as midshipmen, ranking according to merit; and as such shall have the rank, lineal and relative, and receive the pay now held and received by ensigns. And such midshipmen as have heretofore graduated at said academy, but have not yet become ensigns, shall in like manner receive warrants as midshipmen, of the date of their graduation, and shall from that date be entitled to the rank and pay aforesaid. The number of midshipmen in the Navy shall not be limited by any law now in force, but shall be according to the number of graduates of said academy now holding the rank of midshipmen, with such as may hereafter, upon graduation, become from time to time midshipmen under the terms of this section. And all acts or parts of acts inconsistent with this section are hereby repealed.

SEC. 7. *And be it further enacted*, That no further appointment of ensigns shall be made; and whenever there shall no longer remain in the Navy any officer of that grade the grade shall be abolished. Future promotions of midshipmen shall be to the grade of master.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed; and the title was amended to read, "A bill to amend certain acts concerning the Navy."

#### PETITIONS AND MEMORIALS.

Mr. MORGAN presented a memorial of Army officers, praying for the passage of the bill to fix and equalize the pay of officers and to establish the pay of enlisted soldiers of the Army; which was referred to the Committee on Military Affairs and the Militia.

Mr. PATTERSON, of Tennessee, presented a petition of officers of the United States Army, praying an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. CONKLING presented a petition of citizens of New York, praying the passage of the bill granting pensions to the surviving soldiers in the war of 1812; which was ordered to lie on the table.

Mr. CORBETT presented a memorial of Rev. John Schoenmakers, against the ratifi-

cation of the treaty with the Osage Indians; which was referred to the Committee on Indian Affairs.

He also presented resolutions of the common council of Lawrence, Kansas, in favor of the ratification of the treaty with the Osage Indians; which was referred to the Committee on Indian Affairs.

#### CIVIL APPROPRIATION BILL.

Mr. SHERMAN. I desire to enter a motion to reconsider the vote by which the conference report on House bill No. 818, the civil appropriation bill, was yesterday agreed to. I am informed that the legislative clause in the bill in regard to the patent fund was not acted upon in either House, and will create embarrassment. I have not had time to examine it. I ask that the motion to reconsider be entered.

The PRESIDENT *pro tempore*. The report has been sent, with the bill, to the House of Representatives.

Mr. SHERMAN. I submit a motion that it be recalled for that purpose.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 1341) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes, reported it with amendments.

Mr. MORGAN and Mr. CHANDLER, from the Committee on Commerce, submitted amendments intended to be proposed to House bill No. 1841; which were referred to the Committee on Appropriations.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 451) providing for the sale of the arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes, reported it with amendments.

He also, from the same committee, to whom was referred the petition of George Fuerst, praying to be allowed transportation to Fort Vancouver, Washington Territory, asked to be discharged from its further consideration; which was agreed to.

Mr. WILLEY, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 310) to incorporate the Georgetown and Washington Canal and Sewerage Company, reported it without amendment, and submitted a report; which was ordered to be printed.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom were referred the following message, memorials, and petition, asked to be discharged from their further consideration; which was agreed to:

A message of the President of the United States of February 19, 1868, communicating a list of the names of counterfeiters pardoned by the President since May 1, 1865;

Memorials of citizens of Louisiana, protesting against the reconstruction laws of Congress; and

A petition of citizens of New York praying an extension of the time of the fifty per cent. clause of the bankrupt law.

He also, from the same committee, to whom was referred the bill (S. No. 177) regulating the rights of property of married women in the District of Columbia, reported it with amendments.

Mr. WILLEY, from the Committee on Patents and the Patent Office, reported a joint resolution (S. R. No. 161) providing that a certain part of the act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, shall not take effect until the 1st day of March 1869, which was read and passed to a second reading.

#### AGRICULTURAL REPORT.

Mr. CAMERON submitted the following

resolution; which was referred to the Committee on Printing:

*Resolved*, That there be printed for the use of the Senate twenty-five thousand extra copies of the last agricultural report, and five thousand extra copies for distribution by the Agricultural Bureau.

#### CORRECTION OF A REPORT.

Mr. COLE. Mr. President, I rise to a privileged question. I observe in the report in the Chronicle this morning:

"Mr. COLE spoke in favor of the amendment of the Finance Committee, expressing the opinion, however, that the third section, authorizing the interchange of bonds and lawful money, would lead to great confusion in the money market."

Though in favor of the report of the Finance Committee, I expressed no such sentiment as that attributed to me in the latter part of this paragraph. It is seldom that I take notice of what is said concerning me, or reported as from me, in the papers, and I would not now except that this entirely misrepresents my views.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting to the Senate a report of the Secretary of State, inclosing a list of the States of the Union whose Legislatures have ratified the proposed fourteenth article of amendment to the Constitution of the United States, and a copy of the resolutions of ratification, as called for in the Senate's resolution of the 9th instant, together with a copy of the respective resolutions of the Legislatures of Ohio and New Jersey purporting to rescind the resolutions of ratification of the amendment which had previously been adopted by the Legislatures of those two States respectively, or to withdraw their consent to the same; which was referred to the Committee on the Judiciary, and ordered to be printed.

He also laid before the Senate a message from the President of the United States, transmitting a report to Congress, with the accompanying papers, from the Secretary of State, in compliance with the requirements of the eighteenth section of the act entitled "An act to regulate the diplomatic and consular systems of the United States," approved August 18, 1856; which was ordered to lie on the table.

#### VACANCIES IN EXECUTIVE DEPARTMENTS.

On motion of Mr. TRUMBULL, the Senate proceeded to consider its amendments to the amendment of the House of Representatives to the bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments, disagreed to by the House; and

On motion by Mr. TRUMBULL,

*Resolved*, That the Senate insist upon its amendments to the House amendment to the said bill disagreed to by the House of Representatives, and ask a conference on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. TRUMBULL, Mr. EDMUNDS, and Mr. VICKERS.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 617) to reduce the military peace establishment of the United States; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 618) legalizing certain locations of agricultural college scrip therein designated; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 619) to extend the laws of the United States relating to customs, commerce, and navigation, over the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes; which



was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 169) relating to the Territorial Central Pacific Railway Company; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. McCREERY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 620) for the relief of Thomas Menarch and William P. Mobberly; which was read twice by its title, and referred to the Committee on Finance.

Mr. CATTELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 621) authorizing the Manufacturers' National Bank of New York to change its location; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1431) granting a pension to Emmelene H. Rudd, widow of the late Commodore John Rudd, deceased, in which it requested the concurrence of the Senate.

#### AMERICAN STEAM LINE TO EUROPE.

Mr. POMEROY. I move to take up House bill No. 939.

The motion was agreed to; and the consideration of the bill (H. R. No. 939) to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports, was resumed as in Committee of the Whole.

Mr. POMEROY. I only wish to say that this is an effort to establish an American line of steamships. It is giving that line in part what we have been giving to foreign lines in years back. I suppose every member of the Senate has read this bill, and I think it is easily to be understood. For some years past we have been giving to a European line all the postage that was earned. To two of the lines that we have employed we have given over five hundred thousand dollars a year, to the Cunard line nearly three hundred and fifty thousand dollars, and to the Inman line \$200,000. This is what we have been paying for the last three years on the average. It was thought a year ago that we might establish an American line and not give them any more than we are giving European lines. This company applied for a subsidy something like the Pacific line, but as the committee thought it was inopportune to press that question the House of Representatives have finally sent us a bill giving them no subsidy, but simply securing to them for a term of years the postages accruing on the letters that they carry, to the amount of \$400,000 a year. That sum is to be sequestered by the Post Office Department, and to be paid out for the services of this company according to the terms of the bill. There is no liability of the Government beyond that. There is no indorsement of the bonds. There is no liability beyond what is received from the postages on the letters they carry, and when they amount to over four hundred thousand dollars the balance goes to the Government, and in no event in future years can they get over four hundred thousand dollars, but they can get the postages to that amount, to be held by the Post Office Department, and paid out annually in discharging the interest of the bonds that the company are allowed to issue, the Government not guarantying the bonds, not becoming security for the payment of either principal or interest, but only holding the postages as a security for the interest on the bonds the company issue.

I know it is the morning hour, and every Senator dislikes at this time to listen to extended remarks; but as this bill has passed the House of Representatives unanimously

and been reported from the Committee on Post Offices and Post Roads, I hope it may pass at once.

Mr. CONNESS. Mr. President, I wish to say that upon this subject of aiding in the establishment of American lines of sea-going steamships, there is no one who has a deeper interest in favor of such establishment of lines than myself; and my course upon this bill, whatever it shall be, is guided by the interest I feel in the accomplishment of that end, and not by opposition to any particular scheme, except so far as that scheme opposed may be in the way of the establishment of proper lines. I was unfortunate in not being in the Committee on Post Offices and Post Roads, of which I am a member, when the committee concluded to report this bill, though I was in the committee on other occasions when it was considered. I may say here that I would not have consented to its being reported. I do not know to what extent it had the indorsement of the committee. Perhaps the honorable chairman of the committee [Mr. RAMSEY] can state that.

Mr. RAMSEY. I think it met the approbation of a quorum of the committee then present.

Mr. CONNESS. I should like, in the first place, to have the bill read as printed for the Senate. It is not very long, and its reading will not take much time. After it has been read I will proceed with what I have to say.

The Chief Clerk read the bill.

Mr. CONNESS. Mr. President, I believe that it is a disgraceful fact to this nation that there is not an American steam line upon the Atlantic ocean. Whatever aid should be required from the public Treasury to establish such a line or lines in my opinion would be a good investment; but the plan, according to which the bill proposes to provide for the establishment of a line, is one that does not meet my approbation. Let us see what that is.

The plan proposed in this bill is that the company shall be guaranteed for a period of twenty years in a claim upon the weekly or semi-weekly postages, both the inland and sea postages, until such period as the sea postages alone shall make up the necessary amount, upon the credit of which bonds to the amount of between four and five million dollars are to be issued by the company, for which the bill provides that the Government shall be in no wise responsible, but they are required to be registered at the Post Office Department, and countersigned by the Postmaster General, or head of that Department, which, if done, is to be done for the purpose of giving them credit in the world's markets without fixing any responsibility upon which that credit is to be based. That is the credit derived from that particular source; I mean the official indorsement. Now, suppose this company should fail and these bonds should depreciate in the market and remain unpaid, which is not, I apprehend, an impossibility, what would the state of the case be? Bonds floating around the markets of the world, registered, registered in the Post Office Department of the United States of America, countersigned by the head of that Department—

Mr. POMEROY. The Senator may not be aware that that is not the provision of the bill. They are not to be countersigned by the Postmaster General. That is not in the bill. This is the provision:

For the protection of the holders of such bonds they shall be severally registered at the Post Office Department, and certified by the chief clerk of the Department, without liability.

And that is to be put on the bond.

Mr. CONNESS. That is precisely as I have stated it. The chief clerk in the Post Office Department is the official exponent of the Postmaster General. The point I was making is this: that if these bonds are discredited we shall necessarily be discredited on their account if we do not pay them, notwithstanding the provision that we are not to be made responsible for their payment.

I object to that point. I object, also, to the guarantee or the lien that is established for twenty years in behalf of this company upon the inland and sea postages. The postages of this country, the laws relating to them, should be left free. There should be no answer made to us here when we propose to reduce the postage, as I hope we shall do so soon, to the lowest possible amount, that there are bonds issued on the faith of these postages as now established, and that if we reduce their amount we are responsible necessarily for these bonds if we take their substance or base away. I want no impediment of that kind in the way of postal reform.

In fact, sir, if we are to have an American line or lines to compete successfully with foreign lines in the Atlantic waters, or which shall reflect credit upon the American name and nation, they must have more substantial basis than this. The company or persons who will establish them must be able to build their ships, and their ships must be of the most unquestionable character and quality.

I object to the tonnage specified here. Ships of that tonnage are not of sufficient size for this day and hour in naval architecture and for the carriage of passengers and freight.

But I have stated my principal objection, which is to the plan upon which this line is to be established. There are some details which I might object to, but my purpose is not to defeat the bill, it being near the end of the session, by consuming time. I simply wish it fairly considered and to have the Senate decide whether they are in favor of this plan for the establishment of an American line of steamships on the Atlantic ocean.

Mr. FRELINGHUYSEN. Mr. President, I hope that this bill will pass the Senate. It has passed the House of Representatives, and I think it must commend itself to every person who feels a proper pride in having our mails carried in an American line of vessels, and who will examine the act.

There is one peculiarity about this bill, that it asks for no subsidies. It asks the Government to give nothing at all, simply to recognize this line as a line to carry the mails; that is all. By doing that we have a line of American ships carrying our own mails, the ships to be first class, to be constructed under the inspection of Government officers, and to be subject to be taken by the Government in case of necessity for its use. So far, then, as the vessels are concerned, there is every possible guard. Now, all that the line asks the Government to do is to be trustees for the bonds which this line issues; and to hold those bonds and to hold the postages as security for the payment of the interest.

Mr. HOWARD. For what purpose are bonds to be issued?

Mr. FRELINGHUYSEN. The bonds are to be issued by the company for the purpose of constructing their vessels. There is no liability on the part of the Government. Even the failure to pay these bonds would not involve the Government in any dishonor whatever.

Now, what is the compensation? In 1858 there was an act passed providing that when our mails were carried in an American line the parties carrying them should receive as compensation both the sea-going and inland postage; where they were carried in foreign lines they should only receive the sea postage. This bill provides that this line shall receive the inland and the sea postage until the sea postage amounts to \$400,000. When it amounts to that sum then after that they are only to receive the sea postage.

Mr. FESSENDEN. Until the sea postage amounts to \$400,000.

Mr. FRELINGHUYSEN. Yes, sir; until the sea postage amounts to \$400,000; then the inland postage is no longer to be received. I hope there will be no opposition to this bill.

Mr. HOWARD. Do I understand that this bill provides that the Government shall stand as guarantor for the payment of the bonds?

Mr. FRELINGHUYSEN. Not at all; it merely holds the bonds as trustee, not as guarantor.

Mr. HOWARD. Will the Government be in any event liable for the payment of these bonds?

Mr. FRELINGHUYSEN. None whatever; it is only as any other trustee, to account for the money in its hands.

Mr. CONNESS. If the Senator from Michigan will read section four he will find the provision of the bill on that subject.

Mr. HOWARD. I have not a copy by me.

Mr. CONNESS. I will read it. Section four reads thus:

That to insure the construction of the above-mentioned vessels within the time and in the manner hereinbefore provided, and the maintenance of the said line, the said Commercial Navigation Company may issue bonds to such an amount that the entire annual interest thereon shall not exceed the sum of \$250,000, such bonds to be made payable at the expiration of the before-named twenty years, and the interest thereof to be made payable semi-annually, the principal and interest of such bonds to be made payable in coin of the United States. That for the protection of the holders of such bonds they shall be severally registered at the Post Office Department and certified by the chief clerk of the Department, without liability for the payment of the interest or principal of said bonds upon the part of the Post Office Department only in manner as hereinafter provided.

That is to say, these postages are made the basis upon which the bonds are to be issued.

And the Postmaster General shall receive all moneys for postage earned by the steamships of said company, and shall apply the same as far as needed to the payment of the semi-annual interest upon the before-named bonds, and shall retain the surplus after paying such interest, and shall invest the same quarterly in the securities of the United States to form a sinking fund, to be held solely for the benefit of the bondholders, and to be applied to the payment of the principal of such bonds. And whenever, and as soon as such sinking fund shall equal in amount the entire principal of said bonds, then from that time forward the interest of said bonds shall be paid out of the income of such sinking fund, and the principal thereof out of the same fund at their maturity. And all postage earned after the time when said sinking fund shall be made up to the amount aforesaid shall belong to and be paid quarterly to the said company by the Postmaster General of the United States.

That is to say, the Postmaster General is to manage the financial part of their business.

Mr. WILLIAMS. I desire to make an inquiry. I do not know that I have any opposition to this bill; I rather approve of the principle contained in the bill; but I desire to make an inquiry for information. I find that section three provides:

That the compensation for carrying and transporting the mails by sea, as herein provided, shall be agreed upon, and shall be in conformity with the act of Congress approved June 11, 1858, and shall, in no event or contingency, exceed the sum therein provided, being all postage on letters, newspapers, and all other matter transported by or in the mails carried by said navigation company, shall belong to said company, and shall be paid to said navigation company quarterly, or applied to their use or benefit, as hereinafter provided.

According to that section, as I understand it, the postages that are received are to be applied to pay the company for transporting the mails to the amount of \$400,000 a year. That is the way in which they are to be paid, and the postages constitute the fund out of which the payment is to be made. Now, section four provides that these postages, if I understand the bill, shall be applied in another and a different way. That provides that—

The Postmaster General shall receive all moneys for postages earned by the steamships of said company, and shall apply the same as far as needed to the payment of the semi-annual interest upon the before-named bonds.

The difficulty that occurs to my mind is that the postages are appropriated for one purpose in one section of the bill and appropriated for another purpose in another section. It may be, however, that I do not understand the bill.

Mr. FRELINGHUYSEN. I understand it to be this: the Commercial Navigation Company is the party with whom the contract is made; they issue the bonds; they are to receive the compensation for carrying the mails in postages; the Post Office Department acts as trustee, receives and holds for them the postages which compensate the Commer-

cial Navigation Company for carrying the mails; but instead of paying that money to the company the Department holds it and pays the interest on the bonds of the company. That is the whole of it.

Mr. POMEROY. Holds it to pay the interest on the bonds in part, and the balance is held as a sinking fund.

Mr. MORTON. I am for this bill. I am in favor of building up American shipping. That is my general feeling. But I desire to ask the Senator from New Jersey a question touching the construction of the third section in relation to the compensation. It provides that the company shall receive the postages according to a certain act of Congress approved in 1858. The provision is that they shall not receive more than is allowed by that act. That I suppose is a general act fixing the price of ocean postage, is it not?

Mr. FRELINGHUYSEN. That act provides that where the mails are carried in an American line, that line shall be entitled to receive the sea postage and the inland postage, and that where the mails are carried in a foreign line that line shall only receive the sea postage. This third section provides that this company shall receive the sea postage and the inland postage until the sea postage amounts to \$400,000 a year, and that after that it shall be restricted to the sea postage and shall not receive the inland postage.

Mr. MORTON. I understand that; but my question goes to this point: whether this general act of 1858 fixes the rate of sea postage, and whether if a subsequent act should be passed making postage cheaper at the end of five or ten years this compensation would be governed by the rate of postage that might be fixed in a subsequent act of Congress.

Mr. FRELINGHUYSEN. It has been changed several times since 1858. The contract is made subject to such sums as may be passed on that point.

Mr. POMEROY. We can change the rate of postage at any time.

Mr. MORTON. That is satisfactory.

Mr. FESSENDEN. I desire to ask a question merely for information. I notice that the provision to which the Senator from New Jersey has referred is that when the sea postage amounts to \$400,000 or more the company shall be confined to that, as I understand it. Suppose the postage amounts to \$300,000, and the inland postage to as much more, then they are to continue to receive the whole amount, I suppose, up to the time when the sea postage alone amounts to \$400,000. Is that the construction?

Mr. RAMSEY. The sea postage is twelve cents, and the inland postage but three cents, so that there could not be that equality in the aggregate of the postages that the Senator from Maine supposes.

Mr. FESSENDEN. I merely put the question by way of illustration. Is it intended that they shall receive the sea postage and the inland postage, whatever each may amount to, supposing both together may amount to \$600,000, until the sea postage goes up to \$400,000?

Mr. RAMSEY. The inland postage can at no time be more than one fourth of the sea postage.

Mr. FESSENDEN. But if at any time the sea postage itself amounts to double \$400,000 they will be entitled to receive it. They are not limited to \$400,000 at all events, as far as I can see. I merely want to know what is meant, whether it is meant that \$400,000 a year shall be the limit to which they can go. If so, it ought to be expressed.

Mr. NYE. The provision is that whenever the sea postage shall amount to \$400,000, the right of the company to receive the inland postage shall cease. The bill fairly gives to them the sea postage.

Mr. FESSENDEN. It may be right; I am not objecting to it; but I ask if in the course of ten years from the present time the sea postage alone should amount to double \$400,000

is it the intention of the bill that they shall receive the whole? Is it also the intention of the bill that if the sea postage and the inland postage together amount to \$600,000, so that the sea postage itself does not quite come up to \$400,000, they shall receive the whole until it does come up to \$400,000? If this be the meaning of it it does not limit them to \$400,000 altogether.

Mr. PATTERSON, of New Hampshire. I think this bill should pass, because I think that American postal matter should go in American steamers rather than in British steamers. We have been paying out for years to the amount of \$500,000, the whole amount of the subsidy, to the Cunard and to other steamers by the postage which we have paid to those steamers. It will be an absolute saving to the Government to establish this American line of steamers, because the entire cost to the Government in the way of postage will be only \$400,000 a year, while the amount which we pay out now to English steamers is \$500,000. Then there is an indirect advantage, which will be very great, resulting from the establishment of this line of steamers. The Cunard steamers run to \$1,300,000 annually in the way of freights. A large portion of that will come to this American line if it is established. It now happens that when an American vessel goes into one of the docks at Liverpool or any of the English ports, they put into half-tide basins, as they are called, where they are exposed to damage, and they have to run their own risk. The English lines immediately put into some other harbor near by one of the first-class English vessels, and under the notice in the English harbor of the entrance of this American vessel put the entrance of the English vessel; and they put down the price of freightage to about two thirds what the American vessel can carry it for; and in that way American vessels are not able to get freight from the English harbors. The English vessel which takes the freight does not suffer the loss; the Cunard, the Inman, and the Bremen line of steamers divide the loss on this freight; and so American navigation suffers by the establishment of the English lines, and the subsidy to them is paid out of the American Treasury in the way of postage.

Then, sir, there are large numbers of emigrants now waiting for passage in Germany and in different parts of the islands of Great Britain who cannot come to this country because they have no means of conveyance. It has happened that within a little period Americans have chartered vessels and sent them over to England and Bremen to secure these passengers, and immediately advertisements have been put up all about the city that they were unseaworthy in order to prevent the emigrants from taking passage with American lines of steamers. Let us have an American line of steamers, and we shall then be able to bring these emigrants to this country; we shall be able to take freightage from Europe; we shall be able to carry our own mail matter under the American flag, and in time of war it will not be exposed to the enemies of the country.

Mr. MORTON, of Vermont. Mr. President, I am decidedly in favor of establishing a line of American steamships to transport some portion of the American mails, passengers, and American freight. I think it is almost disgraceful that it has not been done heretofore, and in doing this I think we ought to do it in a way and manner which will satisfy the country for some considerable period of time. The bill as presented, however, in my judgment, covers much too long a time. Twenty years in the progress of improvements for steamships is a long period, and to grant a monopoly for that length of time to a single line of steamers I think would be attended with some inconvenience. Especially we should be likely to find at the end of the term that there had been great advances and improvements during that time, so that we could either obtain the service for a less price, or obtain a very much better service for the same price. I shall therefore

move several amendments which I will now indicate.

In the second section, in line five, I would strike out "five of," before "which," and in lines six and seven strike out the words "and two others of not less than two thousand tons each." If we are to pay for a first-class service here we do not want to place it in the power of this company to at once inaugurate and perpetuate a second class service. I know that some of the enemies of this company charge that the company are immediately going to buy a couple of inferior vessels and put them upon the service. I do not believe that that is their purpose; but I want to place it out of their power to do that or anything else less than we have a right to expect. If we are to grant this large amount of postages for their benefit and for a long series of years, amounting to millions of dollars, let us at least have the first-class service we bargain for.

While I am on the floor I will indicate some further amendments which I think ought to be made. It should be made clear in the third section, what is meant by the provision in regard to the postages. Ordinary readers will understand it to mean that the company are to have only \$400,000 a year of the postages. I think that is quite enough, for this is to give the company, as I understand, a monopoly of the business; but if it were not enough I would be willing to increase the amount. Any company that carries the mail of the United States has great prestige. I would therefore move to impose a limit that it shall be confined to \$400,000.

Then, in all places when "twenty years" are mentioned, I would move to substitute "ten years." Twenty years is altogether too long a period—two thirds of a generation! Then to section six I shall propose a proviso by which we shall secure first-class service. If we are to give this contract to this company we do not want any "slow coaches" on the line; they must equal other lines engaged in the same kind of business. My proviso to the sixth section will be that if for the period of three months they shall fall below the average rate of speed, shall make slower voyages than other steamships sailing between the same points, the act shall in that event be null and void.

Mr. HOWARD. If the Senator from Vermont will look at the first section he will see that it provides that these steamers shall be first class sea-going steamships.

Mr. MORRILL, of Vermont. I know there is that general provision but there is no way of enforcing it. I propose, if we pass this bill, that we shall do the business in earnest. I am earnestly in favor of having an American line, but I do not want to have an American line and have it inferior to and distanced by any foreign line.

Mr. PATTERSON, of New Hampshire. The first section provides that the contract shall be "for a term not exceeding twenty years;" and the second section gives the Postmaster General "power to modify such agreements from time to time as may best promote the object in view."

Mr. MORRILL, of Vermont. I would quite as soon trust the wisdom of Congress as the wisdom of any Postmaster General. I propose that we shall fix the matter according to our own discretion.

Mr. POMEROY. And the eighth section says that Congress may at any time hereafter during the period of twenty years terminate or abandon the contract.

Mr. MORRILL, of Vermont. I know; but if we make this arrangement for twenty years, and we should undertake to terminate it before that time, they would ask us to make them some compensation for damages. I do not propose to leave it so that there will be any contingency about damages, and twenty years is too long a time for any mail contract to run.

Mr. FRELINGHUYSEN. I ask my friend from Vermont whether he would be willing that the United States should make a contract with this company or with anybody else, and

then terminate that contract before the time limited for its expiration, and not compensate them for the injury thereby done?

Mr. MORRILL, of Vermont. I certainly would not, and therefore I propose to have it fixed at ten years, so that there shall be no question of damages about it.

Mr. FRELINGHUYSEN. In fixing a contract of this kind where parties are going into an investment of millions, time is of the very essence of its whole value. Nobody would go into this expenditure of four or five million dollars for a contract of a few years. I think the bill as it stands in that regard is as correct as it can be made:

Congress may at any time hereafter during the period of twenty years, terminate or abandon any contract of the United States with such company, and having a due regard to the accrued rights of the said company, alter, repeal, or amend this act.

Then, as to the other suggestion of my friend—

Mr. MORRILL, of Vermont. I hope the Senator will allow me to finish what I have to say. He is making a longer speech by way of interruption of me than I proposed to make myself.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is regularly before the Senate, being the Indian appropriation bill.

Mr. NYE. I hope the honorable Senator who has that bill in charge will allow it to be passed over informally for a few minutes, and I think we may get a vote on this bill.

Mr. CONNESS. If it is the intention of those who make themselves the peculiar friends of this bill to resist amendments reconciling it to what we have done in other cases, and to what seems to some of us at least proper to do, they cannot pass it in a few minutes.

Mr. NYE. I do not know what the honorable Senator from California means when he talks about "the peculiar friends of this bill."

Mr. CONNESS. I will explain—

Mr. NYE. I am no more a peculiar friend to this bill than I am to any other. I have witnessed for long years the dwarfing and dwindling of our commerce until I have seen that not a mail goes from our country under the American flag; and, in that respect, when I see that the postages alone will pay for the investment, and start and sustain and maintain a line of steamers under our own flag, I do feel a "peculiar interest" in having that state of things brought about. I have no other interest than that.

Mr. CONNESS. The honorable Senator from Nevada need not at what I said have gone off into a pet. It would be very far from me to impute to that honorable Senator, or to any other Senator, such a sense to the word I used as to need the expression of any indignation at all. I meant, what I was going to say, if the Senator had permitted me, those who are in favor of passing the bill without amendment, nothing more. I am in favor of its passage if Senators will consent to its proper amendment, and not otherwise.

Mr. POMEROY. I ask that the Indian appropriation bill be laid aside informally until we come to a vote on this bill.

Mr. HOWE. If the vote could be taken, I would not object, but it has already been intimated that there are amendments to be moved.

Mr. POMEROY. It is so late in the session that I think it important to dispose of this bill when we have it before us. I feel no more interest in it than I suppose every Senator does who is concerned for the public interest, but it was placed in my charge by the committee, and I have tried on that account to secure its passage.

Mr. HOWE. I ask the Senator from Kansas if he does not think he will expedite the measure by laying it aside, and having a conference with those gentlemen who wish to amend it. There seem to be differences of opinion prevailing about the bill at present, and a little conference among Senators perhaps would reconcile those differences.

Mr. POMEROY. The simple proposition whether this contract shall run for ten or twenty years can be settled by a vote very soon. There is only one way to settle it.

Mr. HOWE. With how long a time will the Senator be satisfied?

Mr. POMEROY. I should presume thirty or forty minutes would be sufficient.

Mr. HOWE. Then if there be no objection in any other quarter I shall consent that the appropriation bill be laid aside informally for half an hour.

The PRESIDENT *pro tempore*. There being no objection, the consideration of House bill No. 939 will be continued for half an hour.

Mr. MORRILL, of Vermont. Mr. President, a monopoly of the mails of the United States to Europe introduces a new system, and it is one which any company can afford to offer liberal terms in order to obtain. It is a matter of some question whether this system is a better one than to give to all vessels the postages which might accrue on the mails they carry. I, for one, am strongly in favor of establishing a line of American steamships, and I do think there ought to be some party in favor of the interests of the United States and not all upon the side of the navigation company; that we should see to it that we obtain first-class service; and the amendments which I propose I think will secure that, and then, if there should be, ten years hence, such improvements, such changes as may require a different system, we shall have it within our power to make a new contract. Certainly, ten years is a long time for any one company to have a monopoly of this business. It is twice and a half as long as any land-service contracts are given out, and it would seem to be long enough for any sea service. I move, in the first place, in line fourteen of section one, to strike out "twenty" before the word "years" and insert "ten."

Mr. POMEROY. I hope that will not be agreed to. The Senator from Vermont seems to apprehend that those who are in favor of this bill are not in favor of the American Government, but are in favor of some company. I apprehend—and if I had not have so thought I should not have reported the bill—that this bill is for an American line in the interest of the American Government. Of course it is not simply for carrying mails; there is a system of emigration connected with it which will be of great interest to the country, and I confess that that section of country which I try here in part to represent is more interested in that feature than in simply carrying the mails.

The Senator from Vermont is always an American and for American interests, especially on questions of tariff and trade between this country and other countries. I thought this was peculiarly in that interest, and it was surprising to me that the Senator from Vermont should not have so considered it. The Senator must be aware that for an American company to start out and raise from five to seven million dollars and get into successful competition with the companies that are subsidized by the British Government, requires no ordinary energy and no ordinary capital. To guard against a continued monopoly, to be complained of by American citizens, such as the Senator suggests, those who drew this bill were led to insert in it a provision that at any time during the twenty years Congress may terminate or may abandon the contract, or amend or repeal the act. They can require such additional speed or security as the interests of the service may require. We do not lose our control over it.

We give, we think, in this bill enough to encourage a company to organize; and give them standing and character sufficient to raise some capital, and, within one year, to put seven steamers on the ocean. It is no ordinary enterprise. It is an enterprise of magnificent proportions. The Senator from California knows very well what the Pacific line have been required to do, and how they have labored, and the obstacles they have had to overcome; and that with a subsidy of five millions hang-



ing over them—that is \$500,000 a year for ten years. This company, without a subsidy guaranteed of that character, but having precisely what we give the foreign lines, now propose to do the same thing; and I cannot see why we should not, at least, allow them to try the experiment. I know very well that we hereafter, in the course of ten or twelve years, require greater speed, different kinds of vessels; but that whole subject is within the control of Congress.

At a hint from the Senator from New Jersey, I will not say any more. I see he wants to vote, and, as I believe the Senate understand the measure, I will be contented to abide by the vote.

Mr. CONNESS. Well, Mr. President, we are not going to vote until this question is discussed a little. We have had some precedents in this business, and I am only a little astonished to find gentlemen so ready to travel out of the line of the precedents established. We have subsidized two lines of steamships; one is the line to Brazil for ten years; the other the line between San Francisco, Japan, and China, for ten years. In the one case we pay \$150,000 per annum for the first-named service; in the second case we pay for twelve round trips a year \$500,000 per annum for a distance exceeding six thousand miles per trip; a round trip doubling that reaching about thirteen thousand miles. This is a very considerable subsidy if it be reduced to \$400,000, and I should be willing to vote them more than that. But why shall we leave the track of these precedents, I ask the Senator from Kansas?

It is very properly stated by the Senator from Vermont that twenty years of time is now a great period. Why shall we mortgage the postages of the United States for twenty years? Is it necessary for the purpose of establishing this line? The Senator from Kansas says that it is to be established against subsidized lines. That is not true, sir. There is but one subsidized line, and that subsidy is now about to be withdrawn, and will be withdrawn. The Senator shakes his head. It is to be withdrawn, sir; and some of the most successful lines now crossing the Atlantic receive no subsidy from any source. Among these are the Bremen line and the Inman line; the Inman line never received a subsidy. But I am not arguing against a subsidy because I would put an American line beyond the peradventure or question of success; but I am not in favor of voting the postages of this country for twenty years.

The Senator says that the last section provides that we may alter or amend or repeal this bill at any time; and what does it provide for otherwise in another section? That bonds for twenty years for between four and five millions of dollars shall be issued by this company based upon the postages. Suppose we change the act before that time, shall we not be responsible to the holders of those bonds? Of course we shall be.

I hope, sir, we shall not change in this respect the rule that has been established. Ten years of time is long enough. I would sooner vote \$800,000 of postages for ten years than \$400,000 for twenty years. Who would not? I think it would be very bad statesmanship to refuse to vote double the amount for half the time. The navigation of the Atlantic has changed and is changing very rapidly. Within the last two years there has been a mighty change. Why is this? The whole American nation in the last five years have taken to traveling. In the last two years the travel has doubled and quadrupled; and it will go on at that rate because there is no country in the world the population of which are so well off, so able to travel, as that of ours, and navigating the Atlantic ocean is no longer a problem of success.

But, Mr. President, if the friends of this bill are disposed to fix upon us a monopoly of the postages for twenty years with bonds to be issued based upon them, so that we are to be made responsible, then I, for one, object to the

passage of the bill *in toto*, and propose to discuss it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont, striking out "twenty" and insert "ten."

Mr. CONNESS. On that I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 17; as follows:

YEAS—Messrs. Anthony, Buckalew, Cole, Conness, Corbett, Fessenden, Harlan, McCreery, Morgan, Morrill of Vermont, Patterson of Tennessee, Ramsey, Sherman, Tipton, Van Winkle, Vickers, Whyte, Willey, Williams, and Wilson—20.

NAYS—Messrs. Cattell, Chandler, Drake, Frelinghuysen, Howard, Howe, Morrill of Maine, Morton, Nye, Osborn, Patterson of New Hampshire, Pomeroy, Rice, Ross, Stewart, Wade, and Welch—17.

ABSENT—Messrs. Bayard, Cameron, Conkling, Cragin, Davis, Dixon, Doolittle, Edmunds, Ferry, Fowler, Grimes, Henderson, Hendricks, McDonald, Norton, Saulsbury, Sprague, Sumner, Thayer, Trumbull, and Yates—21.

So the amendment was agreed to.

Mr. MORRILL, of Vermont. I do not know that the next amendment is so important; but still I think we ought not to permit any of these vessels to be of so low a tonnage as two thousand tons. All the vessels that are engaged in this business are of much larger tonnage, and if we are to make this line a respectable line, and one that is to grapple in competition with other lines and be a success, the ships all ought to be not less than three thousand tons burden. I therefore move in line five of section two to strike out the words "five of," and in lines six and seven to strike out "and two others of not less than two thousand tons each;" so as to read: "seven first-class sea-going steamships which shall not be of less than three thousand tons each."

Mr. NYE. I despair entirely of having anything passed here that will be of the least benefit. Every effort that has been made to establish a line of steamers, when the proposition comes before Congress, is a foot too long or a foot too short or too narrow for somebody. One man wants ships of two thousand tons and another of three thousand tons. So it goes on until I have come to the conclusion that it is the settled determination of the legislative power of this country that there shall never be another ocean steamship that has the countenance and support of the Government under our own flag. There has been a line of steamers established lately across the Atlantic by efforts made in the city of Baltimore, and yet it does not carry the American flag except when it enters our port. It sails under a foreign flag. Our own stars and stripes are doomed to banishment from the great ocean, because there is no sort of plan upon which a majority of Congress can be found to agree which will provide for an American line.

Now, sir, the project before the Senate as presented in the bill reported by the Committee on Post Offices and Post Roads was simply this: this company proposed for the postages for twenty years to establish a line of steamers consisting of seven ships, which could not cost in the market, as is well known, built in this country, where the bill obligates them to build them, less than \$6,000,000. That is a large outlay, an outlay that but very few men will undertake. Now I ask my ever-ready mathematical friend from Vermont to see what \$400,000 for twenty years will come to.

Mr. CONNESS. Ten years.

Mr. NYE. Twenty years; I am talking about the bill. Now, sir, with this encouragement, without the possibility of bringing the Government into liability for one penny, this company offer to undertake this work allowing the power to be reserved to cancel or abolish the contract at any time, first with the Postmaster General, and second with Congress.

Sir, what does the history of the past show in regard to this matter? We once had one of the best lines of steamships that this country or any other ever saw. It was driven from the ocean by foreign Powers and by individual exertions here. The history of the past shows that those experiments have been failures where

the Government voted millions of dollars to uphold them. Why were they failures? In the first place the outlay of the Collins line was too great, and in the next place they were run on the most extravagant plan possible, and subsequent invention, subsequent discoveries in science, have shown that ships of the same size can now be run for much less money. Hence these people are ready to undertake this work.

There are two classes of service that this line want to perform; the first is the mail service and general passenger business, and the next an immigrant line. These lighter ships of two thousand tons will answer for the immigrant business. In this connection let me say to my friend from Vermont that the three thousand-ton ships that this company propose to put upon the line will carry more passengers, are wider and deeper and broader than the four-thousand-ton ships at British measurement, of which the Cunarders are a fair sample. The three thousand-ton ship by our measurement has more surface measurement, carries more tons, has more room than a ship of four thousand tons British measurement. The Senator from California laughs with incredulity, but if he will look at the measurements of the two countries he will find that what I say is correct. I speak from the book.

But now my friend from Vermont is not satisfied with that. He wants to knock these two-thousand-ton ships out of this bill. "He is not satisfied with cutting down the term of the contract to ten years, but he wants to make it obligatory on the same company that take it for ten years to build a thousand tons more on the two ships, after he has already crippled and hampered them. I insist upon it that we might as well say once for all that we do not want or will not have a line of American steamers across the Atlantic ocean. Sir, it is a shame to the nation, it is a shame to the representatives of the nation, that this condition of things has been tolerated so long. We have sat quietly by and seen ship after ship driven from the ocean until the stars and stripes are a curiosity to-day in the greatest commercial emporium of the world, New York, and there is not a mail that goes from our shores that does not go in foreign bottoms.

Sir, I am earnest about this matter, and I hope my honorable friend from Vermont will not be too tenacious about his amendments. If we pass the bill now we can amend it next year; but I insist upon it, and I ask the honorable Senator from Vermont and the honorable Senator from California, for God's sake let us get once, and in this year, one American flag floating over an American vessel in which an American heart will feel pride as an American citizen steps on its deck to travel to a foreign country.

Mr. CONNESS rose.

Mr. NYE. My friend from California will be patient for a moment.

Mr. CONNESS. I hope I do not disturb the honorable Senator.

Mr. NYE. No; you do not disturb me; but you look as though you wanted to speak so bad that it bothers me a little. [Laughter.]

I insist upon it that the original bill ought to be passed. It is a great and liberal undertaking on the part of these contractors to attempt to do that. My opinion is that they will find themselves troubled when they attempt to do it; but I sincerely hope that this bill will pass, and that the honorable Senator from Vermont, when he has knocked ten years off from the existence of the contract, will not attempt to put two thousand tons more upon their vessels.

I have witnessed for years the failure of efforts to aid in the establishment of a line of American steamers, and the reason is that somebody always wants somebody else subsidized. If it is a line from Maine that is proposed, somebody wants a line from Boston; if it is a line from Boston some one from New York wants a line from New York; and so we go on and all find themselves beaten at last; and the sad, sickening, disgraceful spectacle is presented to us squarely in the face that we

have not to-day afloat an American steamer that carries our mail. Sir, I want not only to see individuals but our property and our mails under the protection of our own flag.

Mr. CONNESS obtained the floor.

Mr. SHERMAN. I wish to call up a privileged motion which is lying on the table—the resolution fixing the time of adjournment.

Several SENATORS. Not now.

Mr. SUMNER. Not to day.

Mr. SHERMAN. I think we ought to fix the time. The state of business is such that I think we can do it now.

The PRESIDENT *pro tempore*. That resolution can only be taken up at this time by common consent. I do not know that it has any privilege over any other question.

Mr. SHERMAN. I move to suspend all other business for the purpose of taking it up.

Mr. CONNESS. I believe the Senator cannot take the floor from me.

Mr. SHERMAN. I did not know that the Senator had the floor.

Mr. HOWE. I think I must call for the order of the day. I do not see that it is likely to have a vote on the bill which was called up by the Senator from Kansas.

Mr. CONNESS. I am as anxious that that bill shall pass as anybody, so that it is passed in the right form; but I think if we have a little time we shall perhaps agree in regard to it. I have an amendment to propose, which I think will reconcile what I will call again the friends of the bill to the amendment that has been made. I will endeavor to occupy as little time as possible.

Mr. POMEROY. I see there is such opposition to the bill that it will necessarily take some time. I am only sorry that it is not for a line of steamships in the Pacific seas, and then it would go through.

Mr. CONNESS. That is an entirely gratuitous speech which the honorable Senator from Kansas makes, and it is an unworthy one, too, in my opinion.

The PRESIDENT *pro tempore*. The half hour for which the regular order was postponed has expired, and the unfinished business of yesterday is now regularly before the Senate.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 1431) granting a pension to Emmeline H. Rudd, widow of the late Commodore John Rudd, deceased, was read twice by its title, and referred to the Committee on Pensions.

#### COMMITTEE SERVICE.

Mr. SUMNER. I move that the vacancy upon the Committee on Foreign Relations caused by the resignation of Mr. Johnson, of Maryland, be filled by the Chair.

The motion was agreed to; and Mr. DOOLITTLE was appointed to supply the vacancy.

#### CIVIL APPROPRIATION BILL.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, and having laid on the table a motion to reconsider the vote thereon, it was out of the power of the House, except by unanimous consent, (which had been refused,) to return to the Senate, pursuant to its request, the resolution of the House agreeing to said report.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 631) amendatory of an act approved July 26, 1866, entitled "An act to authorize the construction of certain bridges and to establish them as post roads;"

A bill (H. R. No. 818) making appropriations for sundry civil expenses of the Govern-

ment for the year ending June 30, 1869, and for other purposes;

A bill (S. No. 567) relating to the Freedmen's Bureau and providing for its discontinuance; and

A bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, and for other purposes.

#### WEST POINT AND CORNWALL ROAD.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 761) to construct a wagon-road from West Point to Cornwall Landing, all in the county of Orange, State of New York, to report it back without amendment. This is a bill of only ten lines, which passed the Senate on a former occasion, and I should like to have it put on its passage now.

By unanimous consent the bill was considered as in Committee of the Whole. It proposes to direct the superintendent of the Military Academy at West Point to use the labor in the employ of the United States Government at that post, when not otherwise employed, in building and constructing a wagon-road from West Point to Cornwall Landing in the county of Orange, the road to be located under the direction of the superintendent, over land now belonging or hereafter to be ceded to the Government of the United States for that purpose.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### PENSION APPROPRIATION BILL.

Mr. MORRILL, of Maine, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 678) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from their disagreement to the first amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the second amendment of the Senate, and agree to the same, with an amendment as follows, namely: strike out all of said amendment after the word "laws" in line eight; and the Senate agree to the same so modified.

L. M. MORRILL,

GEO. F. EDMUNDS,

T. A. HENDRICKS,

Managers on the part of the Senate.

B. F. BUTLER,

WM. LAWRENCE,

A. G. BURR,

Managers on the part of the House.

Mr. MORRILL, of Maine. Perhaps I ought to state to the Senate the effect of this report. It simply requires pensions to be paid from the pension fund. The House required the fund known as the naval pension fund to be covered into the Treasury; they now recede from that and leave the fund as now provided by law. That is the substance of the report.

The report was concurred in.

#### BRIDGES ON THE MISSOURI RIVER.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 355) authorizing the construction of a bridge across the Missouri river upon the military reservation at Fort Leavenworth, Kansas, which was to add to the bill the following additional section:

And be it further enacted, That it shall be lawful for the St. Joseph and Denver City Railroad Company, a corporation created by the laws of the State of Kansas, to build a bridge over and across the Missouri river at St. Joseph, Missouri; and all the rights and privileges conferred by sections one, two, four and five, of this act are hereby extended, so far as they are applicable, to the St. Joseph and Denver City Railroad Company, and conditions contained in said sections are hereby made applicable to said company.

Mr. WILSON. I move that the Senate concur in the amendment.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representa-

tives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1420) directing the Commissioner of Pensions to proceed to hear evidence and determine the right of W. H. Cox, deceased, late a sergeant in company F, second regiment Pennsylvania artillery, to a pension in the same manner as if he was still living, he having died of disease contracted while a prisoner of war at Andersonville, Georgia, and if found to be entitled to a pension, then the same from the time of his discharge till death to be paid over to his father, Charles D. Cox; and

A joint resolution (H. R. No. 296) giving the assent of the United States to the construction of certain wharves in the harbor of Oswego, New York.

#### INDIAN APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1078) making appropriations for the current and contingent expenses, of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1869.

The PRESIDENT *pro tempore*. If there be no objection, the amendments reported by the Committee on Appropriations will be considered as they are reached in the reading of the bill.

The Chief Clerk proceeded to read the bill.

The first amendment reported by the Committee on Appropriations was on page 7, line one hundred and forty-four, to insert the following:

Chippewas of Saginaw, Swan Creek, and Black River:

For this amount, to be placed to the credit of the educational fund of the Chippewas of Saginaw, Swan Creek, and Black river, per fourth article treaty 18th October, 1864 \$20,000.

The amendment was agreed to.

The next amendment was on page 8, after line one hundred and eighty-three, under the appropriations for "Chippewas of Lake Superior" to insert the following:

For the support of a smith and shop for the Boisé Fort band, during the pleasure of the President, per twelfth article treaty 30th September, 1854, and third article treaty April 7, 1866, \$600.

The amendment was agreed to.

The next amendment was to insert after the amendment just adopted the following:

For the support of two farmers for the Boisé Fort band, during the pleasure of the President, per twelfth article treaty September 30, 1854, and third article treaty April 7, 1866, \$1,200.

The amendment was agreed to.

The next amendment was on page 15, under the appropriations for "Chippewas, Pillager, and Lake Winnebogoshish bands," in line three hundred and forty six, to strike out "one" and insert "three;" so that the clause will read:

For fourteenth of twenty installments for purposes of education, per third article treaty 22d February, 1855, \$3,000.

The amendment was agreed to.

The next amendment was on page 15, lines three hundred and forty-nine and three hundred and fifty, to strike out "twelve hundred and forty" and to insert "twenty-one hundred and twenty;" so that the clause will read:

For fourteenth of fifteen instalments for support of two smiths and smiths' shops, per third article treaty 22d February, 1855, \$2,120.

The amendment was agreed to.

The next amendment was on page 22, in the appropriations for the Creeks, after line five hundred and nine, to insert the following:

For blacksmith and assistant and for shop and tools, during the pleasure of the President, per fifth article treaty 14th February, 1833, and fifth article treaty 7th August, 1856, \$840.

For iron and steel for suop, during the pleasure of the President, per fifth article treaty 13th February, 1833, and fifth article treaty 7th August, 1856, \$270.

For wagon-maker, during the pleasure of the Pres-

ident, per fifth article treaty February 14, 1833, and fifth article treaty August 7, 1856, \$600.

For assistance in agricultural operations, during the pleasure of the President, per eighth article treaty January 24, 1826, and fifth article treaty August 7, 1856, \$2,000.

For education, during the pleasure of the President, per fifth article treaty February 14, 1833, and fifth article treaty August 7, 1856, \$1,000.

The amendment was agreed to.

The next amendment was on page 35, under the head of appropriations for the Nez Perce Indians, line eight hundred and thirty-six to insert "twenty" before "five," so that the clause will read:

For third of four installments to enable the Indians to remove and locate upon the reservation, to be expended in ploughing land and fencing lots, as per first clause fourth article treaty of June 9, 1863, \$25,000.

The amendment was agreed to.

The next amendment was on page 35, line eight hundred and forty-four, to strike out "one" and insert "three;" so that the clause will read:

For third of the sixteen installments for boarding and clothing the children who shall attend the schools, providing the schools and boarding-houses with necessary furniture, the purchase of necessary wagons, teams, agricultural implements, tools, &c., and for fencing of such lands as may be needed for gardening and farming purposes for the schools, as per fourth clause fourth article treaty of June 9, 1863, \$3,000.

The amendment was agreed to.

The next amendment was on page 35, line eight hundred and forty-six, to strike out "four" and insert "five," and after the word "dollars" to insert the word "each;" so that the clause will read:

For salary of two subordinate chiefs, as per fifth article treaty of June 9, 1863, \$500 each.

The amendment was agreed to.

The next amendment was on page 36, line eight hundred and fifty-five, to strike out "one" and insert "two;" so that the clause will read:

For second of fifteen installments for repairs of houses, mills, shops, &c., and providing the necessary furniture, tools, and materials, as per article fifth treaty June 9, 1863, \$2,000.

The amendment was agreed to.

The next amendment was on page 36, line eight hundred and sixty, to strike out "\$3,000" and insert "\$7,600;" so that the clause will read:

For salary of two matrons to take charge of the boarding-schools, two assistant teachers, one farmer, one carpenter, and two millers, as per fifth article treaty of June 9, 1863, \$7,600.

The amendment was agreed to.

The next amendment was on page 36, under the appropriations for the Omahas, after line eight hundred and sixty-six, to insert:

For third of ten installments for keeping in repair a grist and saw mill, and support of blacksmith shop, per eighth article treaty March 16, 1864, and third article treaty March 6, 1856, \$400.

For third of ten installments for pay of one engineer and assistant, per same treaties, \$1,800.

For third of ten installments for pay of one miller, per same treaties, \$900.

For third of ten installments for pay of one farmer, per same treaties, \$900.

For third of ten installments for pay of blacksmith, per same treaties, \$900.

The amendment was agreed to.

The next amendment was on page 38, under the appropriations for the Pawnees, after line nine hundred and eighteen to insert:

For support of two manual labor schools during the pleasure of the President, per third article treaty September 24, 1857, \$10,000.

For purchase of iron and steel and other necessities for the shops, during the pleasure of the President, per same treaty, \$500.

For pay of two blacksmiths, one of whom to be a gun-smith and tin-smith, per same treaty, \$1,200.

For compensation of two strikers or apprentices in blacksmith's shop, per same treaty, \$480.

For the purchase of farming utensils and stock, during the pleasure of the President, per same treaty, \$1,200.

For pay of farmer, per same treaty, \$600.

For the last of ten installments for pay of miller, at the discretion of the President, per same treaty, \$600.

For last of ten installments for pay of an engineer, at the discretion of the President, per same treaty, \$1,200.

For compensation to apprentices to assist in working the mill, per same treaty, \$500.

For keeping in repair the grist and saw mills, per same treaty, \$300.

The amendment was agreed to.

The next amendment was on page 41, in the appropriations for the Pottawatomies, after line nine hundred and ninety-five, to insert:

For education, during the pleasure of Congress, per third article treaty of October 16, 1826, second article treaty September 20, 1828, and fourth article treaty October 27, 1832, \$2,000.

The amendment was agreed to.

The next amendment was on page 57, line thirteen hundred and seventy-eight, after the word "objects" to strike out "at the discretion of the President;" and in line thirteen hundred and eighty to strike out "six" and insert "eight;" so that the clause will read:

Yakama nation:

For fourth of five installments of second series for beneficial objects, per fourth article treaty 9th June, 1855, \$8,000.

The amendment was agreed to.

The next amendment was on page 62, line fifteen hundred and eight, to strike out "five" and insert "fifteen;" so that the clause will read:

For this amount to carry out the action contemplated by act of Congress, approved May 5, 1864, entitled "An act to vacate and sell the present Indian reservations in Utah Territory, and to settle said Indians in Uintah valley, \$15,000.

The amendment was agreed to.

The next amendment was on page 63, line fifteen hundred and twenty-eight, to strike out "thirty" and insert "fifty-five;" so that the clause will read:

For the purchase of cattle for beef and milk together with clothing and food, teams and farming tools for Indians in California, \$55,000.

The amendment was agreed to.

Mr. HENDERSON. I am instructed by the Committee on Indian Affairs to offer various amendments to this bill. The Clerk has a printed copy. He can read them.

The Chief Clerk read the first amendment of the Committee on Indian Affairs, which was in line eleven, after "agents," to strike out "\$99,000" and insert "\$116,550;" so as to make the appropriation for the pay of superintendent of Indian affairs and of Indian agents \$116,550.

Mr. HOWE. I would propose to the Senator to omit that amendment now until the other amendments on which that depends are acted on.

Mr. HENDERSON. Very well; let it be passed over for the present and let the next be read.

The Chief Clerk read the next amendment, which was in line sixteen, under the heading of "Superintendents of Indian Affairs," after "California" to insert:

One for the State of Nevada, one for the Territory of Arizona, and one for Montana and Idaho.

The amendment was agreed to.

The next amendment was in line eighteen to strike out "one" and insert "three;" so as to allow three Indian agents for the tribes in Oregon.

The amendment was agreed to.

The next amendment was in line twenty-three to strike out "four" and insert "six;" so as to allow six Indian agents for the Indians east of the Rocky mountains.

The amendment was agreed to.

The next amendment was in line twenty-eight, after "Wisconsin," to strike out "one" and insert "three;" so as to allow three Indian agents for the tribes in Washington Territory.

The amendment was agreed to.

The next amendment was to insert after line fifty-three the following:

For temporary clerks to superintendents of Indian affairs, \$5,000.

Mr. HOWE. I ask for an explanation of that amendment.

Mr. HENDERSON. I believe there are eleven superintendents of Indian affairs. The Department say that it is necessary to furnish clerks to some of these superintendents, not for the entire year, but for a portion of the year. It is obligatory on the superintendents to keep

the accounts of the Indians, especially in Washington Territory and Oregon and California, where the Indians now are farming to a very considerable extent, doing a large business, and I understand from the Department that it is necessary for the superintendent, there being but one to each of these States and Territories, to have, a portion of the year at any rate, a clerk. The Senator will find with the estimate of the Department in Senate Executive Document No. 62, which he has before him, about the middle of the second page:

Pay of temporary clerks for superintendents of Indian affairs, \$5,000. This item is omitted in the bill. It is utterly impossible for superintendents to perform their duties with dispatch without the assistance of clerks.

I will state to the Senate that in looking at former appropriation bills I find that this appropriation has been for a number of years made. The business of superintendents is increasing, and very largely increasing, as the Indians become more civilized; that is, they have clerical duties to perform which they had not formerly. I can only state what the Department say in regard to it.

Mr. HOWE. It is introducing a new item of expenditure.

Mr. HENDERSON. Not by any means. It has been made heretofore.

Mr. HARLAN. If the Senator will pardon me, it is not new. It was left out I suppose accidentally by the House in the original bill. This is a service that must be had. The superintendents are compelled to travel a part of the time around the different agencies, and while they are away, the correspondence has to be taken care of, and during part of the year, therefore, they must have some clerical help.

Mr. HOWE. Does the Senator understand that this is an ordinary appropriation?

Mr. HARLAN. I think so. I think it is estimated for and appropriated regularly.

Mr. HOWE. I do not so understand it; but I may be wrong about it. If it is supposed to be necessary for the service, of course the money must be appropriated, but I was not able to see the necessity of it myself. I shall submit, however, to the vote of the Senate.

The amendment was agreed to.

The next amendment of the Committee on Indian Affairs was in lines fifty-four and fifty-five, after the words "pay of interpreters" to strike out "\$20,400" and insert "\$29,200."

Mr. HOWE. This amendment calls for an additional appropriation of over eight thousand dollars for the pay of interpreters. I will ask the Senator from Missouri if he supposes that additional sum to be necessary?

Mr. HENDERSON. The Department, in reference to this appropriation say, as follows:

"Pay of interpreters changed from \$29,200 to \$20,400, being a deficiency of \$8,800. It is necessary that each agent and sub-agent should have an interpreter, and where one agent has charge of more than one tribe it is necessary to have one for each tribe. There are seventy agents and sub-agents, consequently there should be that number of interpreters. Only sixty-three are asked to be provided, which number is certainly not too great."

I believe that that gives a salary of \$500 to interpreters west of the mountains, and a salary of \$400 per annum to interpreters east of the mountains, and there are sixty-three asked for, which, at the prices I have named, amounts to \$29,200, the amount I asked for. I am exceedingly anxious to reduce the expenses of the department, but I cannot understand how it is that this item of \$20,400, contrary to all the precedents on the subject, should have been adopted. I do not understand that interpreters can be employed at such prices as to enable the department to get along with that amount of money. If I saw that it was possible to do so, I should not ask to increase it, but my impression is that the department do not ask for more than they ought to have. Surely qualified interpreters cannot be employed for a less sum of money, and the Senator will see at once the number that is required. I refer him to page 2 of the remarks of the



department on the subject of this bill as it came to the Senate.

The amendment was agreed to.

The next amendment was to insert after line fifty-five:

For presents to Indians, \$5,000.  
For provisions for Indians, \$11,800.

Mr. HOWE. I must ask for an explanation of that.

Mr. HENDERSON. I understand that it has been usual in years past to make a small appropriation, and put it in the power of the Department at certain times when it is supposed that something in the way of an amicable feeling may be encouraged with Indian tribes, to use a small amount of money in making presents. It has heretofore been appropriated, and the Department ask that it should be done now. As a general thing I am not very favorable to making these presents; but the Department thinks that it will facilitate their operations to have a small sum appropriated.

The \$11,800 asked for provisions ought certainly to be appropriated. I can state to the Senate what I understand to be the object of that appropriation. Sometimes it becomes necessary for superintendents or agents to notify Indians to appear before them, and sometimes Indians from other tribes visit them, and on occasions of that sort it is absolutely essential during the time of the visits to support the Indians that come. It is a very small amount of money, and I suppose it can be profitably used. Something of course ought to be had for occasions of that character. The Senate will see at once that occasions may arise where peace commissioners make visits from one tribe to another, where it is necessary to make expenditures, where the Department ought to have some fund at its discretion to pay these expenses. As to the presents, I care but little about that item.

Mr. HOWE. I suppose substantially both appropriations are for presents. Whenever the Indians are called to a conference with the agents or officers of the Government, it is on the business of the Indians themselves, and they are always able to travel. The means of locomotion, being provided by themselves, are always at hand. They are never at a want for such facility. It appropriates just so much money for which there is no just accountability, and I think the sooner we drop off these expenditures, which are not required by any law, not required by any treaty, and which I submit with all respect are not required by any necessity of the service, the better. Come down to the contracts existing, and abide by those, and make new ones when these existing ones are found inadequate.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Missouri from the Committee on Indian Affairs.

The question being put, there were on a division—ayes 11, noes 4; no quorum voting.

Mr. WILSON. I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. HOWE. There is evidently a disposition to agree to this amendment. The chairman of the Committee on Indian Affairs himself says that one branch of it is not necessary. I do not think either is necessary. I hope the Senate will not insist upon an appropriation on which both committees are at least indifferent or disagree. I hope the Senate will not force any money out of the Treasury.

Mr. HENDERSON. I suppose, in order to compromise the case between the two committees, it would be well perhaps to withdraw that part of the amendment which relates to presents and let the other go, if that will be satisfactory to the Senator. I have no desire to press against his wishes the first part of the amendment; but the latter portion of it the Senator will see from the explanation I have made may be very necessary. I suppose if the money is not needed by the Department it will not be used, but will remain in the Treasury. There are occasions when this money might

well be used beneficially to the Government, and I think that that portion of the amendment anyhow ought to be adopted. I will withdraw the first part of it, "for presents to Indians \$5,000," and renew the amendment "for provisions for Indians \$11,800." Both these appropriations have been made regularly from the year 1836.

Mr. HARLAN. I am perfectly amazed that anybody who has any converseance with this subject should object to this little appropriation of \$5,000 for presents to the Indian tribes numbering some three or four hundred thousand, with whom we are constantly in communication. Take, for instance, a case where the Indians steal a white woman or child and carry it off. Friendly Indians go and steal it back, and the agent has to recognize this service and give the Indian who released the white child or white woman a few dollars in silver to encourage this fidelity to the Government. It is a branch of the service in which it is impossible to get along without an appropriation. Somebody will have to spend the money; and if you do not appropriate it, it will have to be taken out of the salaries of some of the employes of the Government.

Mr. RAMSEY. Is this an appropriation of \$5,000 for presents for all the superintendencies in the country?

Mr. HENDERSON. That is it.

Mr. RAMSEY. Is there no other appropriation for that purpose?

Mr. HENDERSON. None other.

Mr. RAMSEY. Then I am surprised that the Committee on Appropriations should hesitate a moment about it. How can a superintendent of Indian affairs treat with Indians unless he has the power to give them a little tobacco and flour and powder and things of that kind when visiting them? How is he to effect anything? Mere reasoning with them, as you would among Senators here, will not effect anything. They sometimes, as the Senator from Iowa very properly says, render very great service to us, and it is desirable to encourage such service, and we must reward them in some way. When a large body of Indians are to be treated with, they must be fed of course; you must have an ox at least, a couple of barrels of flour, and a box of tobacco, and by this means you effect a great deal, save an expenditure of much money in some other way, possibly avoid war, and save trouble. These little presents made in due and proper time may be very efficacious in that way. The Indian department from the beginning of the Government has had to use money in this way. Five thousand dollars, as the Senator from Iowa says, for three or four hundred thousand Indians is a very small matter indeed. If they were concentrated in a small territory it would be different; but they are scattered over the whole continent, there are some half a dozen or dozen superintendencies, and of course each superintendent will require a portion of the money to expend among the Indians under his charge. It is a very small thing, and I do not think the Senate ought to hesitate a moment about it.

The PRESIDENT *pro tempore*. The Chair will put the question again on this amendment.

Mr. HOWE. I do not know but that I shall have to yield, if the Senator from Minnesota is sure that these tribes are not as reasonable as the Senate. I do not know but that \$5,000 may be necessary to keep a few hundred thousand of them in peace and amity with the people of the United States. But when it is seriously argued here in the Senate that \$5,000 serves any good purpose in keeping peace with all the Indian tribes between the two oceans, I can only reply that that idea may answer in the Senate, but it would be laughed at in any Indian lodge between these two oceans. I do not think we are buying captive women back with this money. I do not believe that that is the way our authority is maintained. I do not know, I never have seen any account of the manner in which this \$5,000 is disbursed. It is said to have been regularly appropriated since 1836. The Senator from Missouri thought

it was not essential; the Committee on Appropriations thought it was not essential; but other Senators seem to think it is indispensable. I shall submit to the vote of the Senate.

Mr. HARLAN. Mr. President, I mentioned the word "woman" to which the Senator has just referred because I happen to know personally of a case of that kind within the last three years. One tribe of Indians captured a woman on the frontier and took her off to the mountains. The officers interested some friendly Indians in an attempt to recover her; and they sent out some runners for her, and finally negotiated a pony or two and brought back the captive woman, and the President of the United States ordered that fifty silver dollars should be given to the Indian who had sold his ponies to the other tribe for this captured woman.

Mr. HOWE. Did it come out of this fund?

Mr. HARLAN. Out of some such fund. Where else did it come from?

Mr. HOWE. The President had no control of this fund.

Mr. HARLAN. He controls all these miscellaneous disbursements, if he chooses. It is for such purposes that these little appropriations are called for and are necessary.

The PRESIDENT *pro tempore*. The question is on the amendment.

The amendment was agreed to.

Mr. POMEROY. The last vote we had disclosed the fact that we were without a quorum. I do not think that we can go on until there is a quorum. It was announced by the Chair that we were without a quorum. How are you going to get over the want of a quorum?

The PRESIDENT *pro tempore*. It was announced by the Chair that there was not a quorum voting.

Mr. POMEROY. The only evidence that there is a quorum here is that a quorum votes. That is the evidence to the Chair; and when the Chair says that there is no quorum voting the presumption is that there is no quorum here.

The PRESIDENT *pro tempore*. The Chair now sees a quorum present.

Mr. POMEROY. The Chair's judgment that there is a quorum does not alter the record.

The PRESIDENT *pro tempore*. The next amendment will be read.

The Chief Clerk read the next amendment of the Committee on Indian Affairs, which was in lines fifty-six and fifty-seven to strike out "\$5,000" and insert "\$10,000;" so that the clause will read:

For buildings at agencies and repairs thereof, \$10,000.

The amendment was agreed to.

The next amendment was in lines fifty-eight and fifty-nine, to strike out "\$20,000" and insert "\$36,500;" so that the clause will read:

For contingencies of the Indian department, \$36,500.

The amendment was agreed to.

The next amendment was in line eighty-nine, after the head line "Apaches" to insert "Kiwis and Comanches."

The amendment was agreed to.

The next amendment was to strike out from line ninety to line one hundred and six, inclusive, in the following words:

For third of forty installments, to be expended under the direction of the Secretary of the Interior, according to the terms of the second article treaty October 17, 1865, \$10,000.

For this amount, or so much thereof as may be necessary, for the transportation of goods, provisions, &c., purchased for the Apache Indians, according to the terms of the same article of same treaty, \$2,000.

Arapaho and Cheyenne Indians of the Upper Arkansas river:

For third of forty installments, to be expended under the direction of the Secretary of the Interior, according to the terms of the seventh article treaty of October 14, 1865, \$40,000.

For transportation of goods, provisions, &c., purchased for the Arapaho and Cheyenne Indians of the Upper Arkansas river, \$10,000.

And to insert in lieu thereof the following:

For the first of thirty installments provided to be expended under the tenth article of the treaty of Octo-

ber 21, 1867, concluded at Medicine Lodge Creek, in Kansas, with the Kiowas and Comanches, and under the third article of the treaty of the same date, made with the Apaches, the amount herein appropriated to be in lieu of the third of forty installments, to be paid to the Kiowas and Comanches under the fifth article of the treaty of October 18, 1865, and in lieu of the second article of the treaty with the Apaches of October 17, 1865, \$56,000, or so much thereof as may be needed to comply with the requirements of said treaties.

For the construction of an agency building, according to the fourth article of said treaty, \$3,000.

For the construction of a warehouse and store-room for the use of said agent, \$1,500.

For the building of a residence of a physician to said Indians, \$3,000.

For the salary of a physician, \$1,500.

Mr. HARLAN. I would inquire of the chairman of the Committee on Indian Affairs on what estimates the sum of \$3,000 is put in for the residence of a physician? Is it a mere conjecture that it will cost that amount, or has some estimate been made?

Mr. HENDERSON. It is the amount specified in the treaty, the treaty made at Medicine Lodge Creek last fall by the peace commissioners, and all these items are the precise amounts stated in the treaty.

The amendment was agreed to.

The next amendment was to strike out lines one hundred and thirteen to one hundred and thirty-two, inclusive, in the following words:

Comanches, Kiowas, and Apaches, of Arkansas river;

For the last of five installments, being the second series for the purchase of goods, provisions, and agricultural implements, per sixth article treaty 27th July, 1863, \$3,000.

For expenses of transportation of the last of five installments of goods, provisions, and agricultural implements, per sixth article treaty 27th July, 1863, \$1,000.

Comanches and Kiowas:

For third of forty installments, to be expended under the direction of the Secretary of the Interior, according to terms of the fifth article treaty of October 18, 1865, \$40,000.

For transportation of goods and provisions purchased for the Comanche and Kiowa Indians, in accordance with the fifth article of the treaty of October 18, 1865, or so much thereof as may be necessary, \$5,000.

And to insert in lieu thereof the following:

Cheyennes and Arapahoes:

For the first of thirty installments provided to be expended under the tenth article of the treaty of October 28, 1867, concluded at Medicine Lodge Creek, in Kansas, the amount to be in lieu of the third of forty installments stipulated to be paid under the terms of the treaty of October 14, 1865, \$40,000; or so much thereof as may be necessary to furnish the articles named in said first-named treaty.

For the construction of an agency building, according to the fourth article of said treaty, \$3,000.

For the construction of a warehouse and store-room for the use of said agent, \$1,500.

For the building of a residence of a physician to said Indians, \$3,000.

For the salary of a physician, \$1,500.

The PRESIDENT *pro tempore* put the question on the amendment, and declared that the ayes appeared to have it.

Mr. EDMUNDS. I call for a division.

The affirmative being called for, nine Senators rose.

Mr. HENDERSON. I suppose the object of the Senator from Vermont is to ascertain whether there is a quorum present. I suppose there is really no objection to the amendment.

The PRESIDENT *pro tempore*. The poorest evidence of that is the fact that Senators do not rise to vote for it.

Mr. HENDERSON. If there is a disposition to act on the bill at all I suppose we might as well ascertain whether there is a quorum, to gratify the Senator from Vermont. There is no doubt about a quorum being present if Senators will vote.

Mr. EDMUNDS. I wish the record to show it.

The question being put, there were, on a division—ayes 31, noes 5.

The PRESIDENT *pro tempore*. The amendment is agreed to, and a quorum present. The Clerk will proceed with the reading.

The next amendment was to insert after the one just adopted:

For surveying exterior boundaries of selections of land to certain persons related by blood to the Cheyennes and Arapahoes, under provisions of fifth article of treaty concluded with said Indians, October 14, 1865, \$4,000.

Mr. HOWE. I should like to have the Senator, if he insists on that amendment, state the reasons for it.

Mr. HENDERSON. The Department ask this appropriation for the purpose of surveying some lands which in the treaty of 1861 we agreed to give to certain half-breeds. I will read the fifth article of the treaty with the Cheyennes and Arapahoes made in 1861, and then a letter of the acting Commissioner of Indian Affairs, which will show perhaps as well as any statement that I could make, the condition of the case. The fifth section of the treaty provides:

"At the special request of the Cheyenne and Arapahoe Indians, parties to this treaty, the United States agree to grant, by patent in fee simple, to the following named persons, all of whom are related to the Cheyenne or Arapahoes by blood, to each an amount of land equal to one section of six hundred and forty acres, namely: To Mrs. Margaret Wilmarth and her children, Virginia Fitzpatrick and Andrew Jackson Fitzpatrick; to Mrs. Mary Keith and her children, William Keith, Mary J. Keith, and Francis Keith; to Mrs. Matilda Pepperdin and her child, Miss Margaret Pepperdin; to Robert Poisal and John Poisal; to Edmund Guerrier, Rosa Guerrier, and Julia Guerrier; to William W. Bent's daughter, Mary Bent Moore, and her three children, Adia Moore, William Bent Moore, and George Moore; to William W. Bent's children, George Bent, Charles Bent, and Julia Bent; to A-ma-che, the wife of John Prowers, and her children, Mary Prowers and Susan Prowers; to the children of Ote-se-o-se, wife of John T. Sickles, namely: Margaret, Minnie, and John; to the children of John S. Smith, interpreter, William Gilpin Smith, and daughter, Armana; to Jonny Lind Crocker, daughter of Ne-sou-hoe, or Are-you-there, wife of Lieutenant Crocker; to — Winsor, daughter of Tow-e-nah, wife of A. T. Winsor, sutler, formerly at Fort Lyon. Said lands to be selected under the direction of the Secretary of the Interior, from the reservation established by the first article of their treaty of February 18, A. D. 1861."

The Acting Commissioner says:

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
WASHINGTON, D. C., January 14, 1868.

SIR: I have the honor to acknowledge the receipt by reference from you on the 20th ultimo of a letter addressed to you by General John B. Sanborn, dated the 17th ultimo, requesting that patents may issue for selections, described in his letter, to the half-breeds, entitled under the fifth article of the Cheyenne and Arapahoe treaty of 1865, (see pamphlet Laws, second session Thirty-Ninth Congress, treaties, p. 143,) and upon which you direct a report of the views of this office. In reference to the same I would respectfully say that I doubt the practicability of having patents issue in the absence of surveys.

In your letter to this office of October 23, 1867, you authorized this office to direct Colonel Albert G. Boone to make the survey of the exterior boundaries of the tracts for these half-breed selections. A draft of a letter to him, in accordance with the instructions in your letter of the 23d of October last, was prepared on the 25th of the same month, but the question of funds to defray the expenses of such surveys was raised, and the letter was not sent to Colonel Boone. He being present in this city the draft of letter was shown to him, and he has treated the draft as a letter received by him, and has addressed a letter to this office in reply thereto, dated the 20th ultimo, copy herewith, from which you will observe that he estimates the amount that Congress should be requested to appropriate for these surveys at \$4,000.

It is important that these treaty stipulations should be carried into effect without delay. The Union Pacific railway, eastern division, will probably pass through the reservations from which these selections are to be made, and if the lands are not previously patented to the half-breeds, trouble will probably arise, and they will fail to secure the land they desire. I therefore respectfully recommend, in case you should concur with this office in the view that it is impracticable for patents to issue in the manner suggested by General Sanborn, that you request of Congress an appropriation of the sum of \$4,000, in order that Colonel Boone can proceed to make the half-breed selections, in accordance with the terms of the treaty.

A form of estimate is herewith inclosed, and the letter of General Sanborn is also herewith returned. It is provided in said fifth article of the treaty of 1865 that said lands shall be selected from the reservation established by the first article of the Arapahoe and Cheyenne treaty of February 18, 1861, (see Statutes-at-Large, vol. 12, p. 1163.) In view, therefore, of the fact that many of the half-breeds entitled to selections under said treaty are settled and have made valuable improvements upon the lands they desire to have patented to them, as there may be delay in the appropriation for the survey of these selections, during which time the railway company referred to may procure legislation granting them lands on the reserve from which these half-breed selections are provided by treaty to be made, I respectfully recommend that the President be requested to direct that this reserve be withdrawn from sale until these selections are made.

Very respectfully, your obedient servant,

CHARLES E. MIX,  
Acting Commissioner.

Hon. O. H. BROWNING,  
Secretary of Interior.

Mr. HOWE. Now, if the Senate will listen to me I can tell them in a few words just what this question is. In the southern part of the Territory of Colorado, bordering on New Mexico, in 1865 we purchased an Indian reservation, and in the treaty we stipulated to give to the persons named in that article, some fifty or sixty of them, a section of land apiece. It is far removed from our settlements and far removed from our surveys. This is a proposition to appropriate \$4,000, which, under the direction of the Indian department, shall be expended by some surveyor going away out there disconnected from the lines of existing surveys, and surveying out these locations. I object to it, because these half-breeds are comfortably settled there; their lands cannot be sold until they are surveyed, and when they are surveyed, when our surveys reach them, or when the Commissioner of the General Land Office, who superintends this branch of our service, is in a condition to survey them in connection with our regular surveys, then their titles can be perfected. Inasmuch as they are in no sort of danger it seems to me that it is decidedly better not to make this survey until it can be made in connection with the regular surveys.

Mr. HENDERSON. In order that the Senate may know what they are voting upon, I will state that in 1861 we made a treaty with the Cheyennes and Arapahoes, under which they gave up the entire Territory of Colorado, and perhaps a portion of what was then New Mexico, reserving to themselves a small reservation down at the mouth of the Purgatory river. I do not remember the extent of the territory reserved to them, but it was laid out on the maps; and as the Senator from Wisconsin says, it is beyond the region of surveys, though a very fine country, an agricultural country. In 1865 we made another treaty with the Cheyennes and Arapahoes, by which we purchased from them this territory at the mouth of the Purgatory river, agreeing to give them a country south of the Arkansas river; but we agreed in this treaty of 1865 that we would give some fifty or sixty of the half-breeds of the Cheyennes and Arapahoes each a section of land, and that we would survey it for them. These half-breeds are living on the land, and are now farming there. They are uneasy because we have granted lands to certain railroad companies, who will ultimately survey their lines right through these lands. If the railroad companies file their plats, and the alternate sections given to the companies, when they come to file them, shall fall upon the lands occupied by these half-breeds, I cannot see that the railroad companies will not hold them. Why is it that a white man cannot go and locate upon a portion of these six hundred and forty acres and hold it by pre-emption? An Indian cannot do it. There is no right to the Indian to hold under the pre-emption laws, and none for him to hold under the homestead laws.

The Indian half-breeds are there farming and farming quite extensively, and they are uneasy. They are fearful that when the surveys are made under Government authority other persons will seize upon their lands and will hold them; and what they want now is to have a survey of the exterior lines of their six hundred and forty acres each, so that it may be marked out and patents issued to them by the Government of the United States. As the Senator from Wisconsin says, there will be some little difficulty about it. The only way it can be done is to extend a base line from Arkansas or Kansas out, survey it out, and upon that base line to locate these surveys. There will be some little difficulty attending it, I admit. If the Senate think the surveys cannot be properly made in that way, they can refuse the appropriation. They now understand the facts, I apprehend, and they can do as they like.

I can see that the Indians may be robbed of their lands. We have agreed in the treaty to give the half-breeds the lands and assure them

to them, to survey them for them, and to patent the lands to them. Now we cannot give them patents unless we know the lands patented. We must describe them, or else there will be no protection to the Indians at last. The Indians gave up all, I say, of Colorado, including all the gold and silver mines of that country, reserving only a small place, and they even gave that up in 1865, reserving only these fifty or sixty sections for their half-breeds. We agreed to survey them and patent them to them. If we do not do that the probability is the Indians will lose them after having made valuable improvements; and that is one difficulty of the Indians now. They are afraid to make improvements for fear others will come along and reap the rewards of their labor.

Mr. HOWE. Let me add one word. If I supposed there was any sort of danger of these parties losing their lands, I should be as anxious to have the survey made as the Senator. They ought to have the lands and must have them; but nobody can get these lands until the President patents them, and he certainly is never going to patent these lands to anybody in defiance or disregard of the obligations of that treaty.

One other word as to the matter of survey. Suppose this appropriation is made and a surveyor goes out and surveys these lands; it is true he may form a connection by surveying through from the point at which our surveys now stop in Kansas, or wherever it is, so that these lands could be described in the patent as other lands are described. But if that can be done, it can be done by the Commissioner of the Land Office with the moneys already in his hands. We have appropriated from twenty to thirty thousand dollars for surveys in Colorado this year. He has money enough if you will allow him to make the surveys, and I think he is the better party to direct all surveys, and he has money enough to do it.

Mr. HENDERSON. The Senator is aware of the very great complaint at the Land Office now about appropriations for surveys, and very great complaints among the people in the West in reference to them. They say sufficient appropriations have not been made to carry on the surveys. There is sad complaint there now.

The amendment was agreed to.

Mr. SHERMAN. I ask leave to submit a report from the committee of conference on the tax bill.

The PRESIDENT *pro tempore*. The report will be received.

#### INTERNAL TAXES.

Mr. SHERMAN submitted the following report from the committee of conference:

The committee of conference on the disagreeing votes of the two Houses, on the amendments of the Senate to the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from their disagreement to the amendments of the Senate numbered: 2, 3, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 51, 52, 53, 54, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 81, 82, 83, 85, 86, 87, 87a, 88, 88a, 89, 89a, 90, 90a, 91, 92, 93, 94, 95, 96, 103, 104, 106a, 108, 109, 110, 112, 113, 114, 115, 115a, 116, 120, 121, 122, 123, 124, 125, 126, 127, 130, 134, 135, 136, 137, 138, 139, 140, 141, 146, 147, 148, 150, 151, 153, 153a, 154, 155, 157, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 171, 173, 174, 175, 176, 177, 178, 179, 183; and the House agree to the same.

That the Senate recede from their amendments numbered: 1, 26, 50, 79, 80, 128, 129, 143, 144, 145, 156, 181.

That the House recede from their disagreement to the fourth amendment of the Senate, and agree to the same, with amendments, as follows: in line one of said amendment of the Senate strike out the word "and" and insert in lieu thereof the words "the tax on brandy made from grapes shall be the same and no higher than that upon other distilled spirits: and;" in line four of said Senate amendment, after the word "such," insert the word "other."

That the House recede from their disagreement to the fifth amendment of the Senate, and agree to the same with an amendment as follows: strike out all of the fifth line of said Senate amendment down to

and including the word "be," in the eighth line, and insert in lieu of the same the words "furnish and attach, at his own expense, such meter, meters, or meter-safes, as may have been prescribed for use at his distillery, and."

That the House recede from their disagreement to the eighth amendment of the Senate, and agree to the same with amendments, as follows: strike out all after the word "construed" in said amendment and insert the words "to apply to fermented liquors;" and in lines twenty-four, twenty-five, and twenty-six, page 5, strike out the words "or shall have been lawfully imported into the United States and the duties thereon paid."

That the House recede from their disagreement to the forty-ninth and a half amendment of the Senate, and agree to the same, with an amendment, as follows: strike out the word "produce" inserted by the Senate and insert in lieu thereof the word "production."

That the House recede from their disagreement to the fifty-third amendment of the Senate, and agree to the same with an amendment, as follows: strike out the words proposed to be inserted by said Senate amendment together with the words "spirits produced from the materials used shall be ascertained," and insert in lieu of the same the words "materials used for the production of spirits shall be ascertained."

That the House recede from their disagreement to the fifty-fourth amendment of the Senate, and agree to the same with an amendment, as follows: strike out the word "and" in said Senate amendment and insert in lieu thereof the words "together with the special tax of."

That the House recede from their disagreement to the fifty-fifth amendment of the Senate, and agree to the same with an amendment, as follows: strike out the word "by" in said amendment and insert the word "under."

That the House recede from their disagreement to the seventy-seventh amendment of the Senate, and agree to the same with an amendment, as follows: strike out the words, "which branding and cancellation shall be done under such rules and regulations as the Commissioner of Internal Revenue may prescribe."

That the House recede from their disagreement to the seventy-eighth amendment of the Senate, and agree to the same with amendments, as follows: insert the words proposed to be stricken out by the Senate, and in line forty-three, page 35, after the word "affixed," insert the words "and the number of proof gallons;" and at the end of line forty-nine, page 35, insert "proof gallons."

That the House recede from their disagreement to the seventy-eighth and a half amendment of the Senate, and agree to the same with amendments, as follows: insert the words proposed to be stricken out by the Senate, and in line fifty-eight, page 36, after the word "affixed" insert "and the number of proof gallons;" and at the end of line sixty-four, page 36, add the following: "proof gallons."

That the House recede from their disagreement to the eighty-fourth amendment of the Senate, and agree to the same with an amendment, as follows: strike out the word "they" proposed to be inserted, and insert in lieu thereof the word "there."

That the House recede from their disagreement to the ninety-seventh, ninety-seventh and a half, ninety-eighth, ninety-ninth, one hundredth, one hundred and first, and one hundred and second amendments of the Senate, and agree to the same, with an amendment, as follows: strike out the words proposed to be inserted and all from line four inclusive, down to and including the word "business," in line fifteen, (printed bill), and insert in lieu thereof the words "not exceeding twenty-five officers, to be called supervisors of internal revenue, each one of whom shall be assigned to a designated territorial district, to be composed of one or more judicial districts and territories, and shall keep his office at some convenient place in his district to be designated by the Commissioner, and shall receive, in addition to expenses necessarily incurred by him and allowed and certified by the said Commissioner, as a compensation for his services, such salary as the Commissioner of Internal Revenue may deem just and reasonable, not exceeding \$3,000 per annum."

That the House recede from their disagreement to the one hundred and fifth and one hundred and sixth amendments of the Senate, and agree to the same, with the following amendments: strike out from and including line four of said one hundred and fifth amendment down to and including line fifteen of the bill, (section fifty,) and insert in lieu thereof the following: "employ competent detectives, not exceeding twenty-five in number at any one time, to be paid under the provisions of the seventh section of the act to amend existing laws relating to internal revenue, and for other purposes, approved March 2, 1867; and he may, at his discretion, assign any such detective to duty under the direction of any supervisor of internal revenue, or to such other special duty as he may deem necessary; and that from and after the passage of this act no general or special agent or inspector, by whatever name or designation he may be known, of the Treasury Department in connection with the internal revenue, except inspectors of tobacco, snuff, and cigars, and except as provided for in this act, shall be appointed, commissioned, employed, or continued in office, and the term."

That the House recede from their disagreement to the one hundred and seventh amendment of the Senate, and agree to the same, with an amendment, as follows: insert in lieu of the words stricken out the following:

Sec. 7. And be it further enacted, That from and after the passage of this act no assessor or collector shall be detailed or authorized to discharge any duty

imposed by law on any other collector or assessor, but a supervisor of internal revenue may within his territorial district suspend any collector or assessor for fraud or gross neglect of duty or abuse of power, and shall immediately report his action to the Commissioner of Internal Revenue, with his reasons therefor in writing, who shall thereupon take such further action as he may deem proper.

That the House recede from their disagreement to the one hundred and eleventh amendment of the Senate, and agree to the same, with the following amendment: before the word "distillery" insert "bonded or."

That the House recede from their disagreement to the one hundred and seventeenth amendment of the Senate, and agree to the same, with the following amendments: strike out in line seven, page 69, all after the word "spirits," down to and including the word "required," in line ten, and insert in lieu thereof the words: "which shall be due and payable only after the proper entries and bonds have been executed and filed and all other conditions complied with as hereinafter required, and thirty days after the vessel has actually cleared and sailed on her voyage with such spirits on board;" in lines fifteen and sixteen, strike out the words "and run on which no internal tax shall have been paid," and insert in lieu thereof the words "or run;" page 72, line fifty-four, strike out the word "internal."

That the House recede from their disagreement to the one hundred and eighteenth and one hundred and nineteenth amendments, and agree to the same with amendments, each, as follows: strike out "twelve" and insert "nine."

That the House recede from their disagreement to the one hundred and thirty-first amendment of the Senate, and agree to the same, with the following amendments: in line ninety-one, page 80, strike out the word "any;" in line ninety-two, page 80, strike out the word "two" and insert "ten;" in line ninety-three, page 80, after the word "dollars" insert the words "of sales of such spirits, wines, or liquors;" in line ninety-four, page 80, after the word "dollars" insert "and on other sales shall pay as wholesale dealers, and such excess shall be assessed and paid in the same manner as required of wholesale dealers;" in line ninety-five strike out all after the word "liquors" down to and including the word "made," in line ninety-seven, and insert the words "whose annual sales shall exceed \$25,000."

That the House recede from their disagreement to the one hundred and thirty-second amendment of the Senate, and agree to the same, with the following amendment: strike out the word proposed to be inserted and insert after the words "retail dealer," in line one hundred and forty-two, page 82, the words "liquor dealer."

That the House recede from their disagreement to the one hundred and thirty-third amendment of the Senate, and agree to the same, with an amendment, as follows: after the word "four," in line six, page 66, insert the word "six."

That the House recede from their disagreement to the one hundred and forty-second amendment of the Senate, and agree to the same, with an amendment, as follows: insert in lieu of the words proposed to be stricken out the words "the manufacturer's name and place of manufacture, or the proprietor's name and his trade mark, and."

That the House recede from their disagreement to the one hundred and forty-ninth amendment of the Senate, and agree to the same, with an amendment, as follows: insert in lieu of the words proposed to be stricken out the words "the proprietors or manufacturer's name," and in line seven, page 93, strike out the word "his" and insert the word "the."

That the House recede from their disagreement to the one hundred and fifty-second amendment of the Senate, and agree to the same, with the following amendment: strike out the words "provided that any" and insert "any."

That the House recede from their disagreement to the one hundred and fifty-eighth amendment of the Senate, and agree to the same, with an amendment, as follows: at the end of said amendment add "when weighing exceeding three pounds per thousand, five dollars per thousand;" and in line six, page 106, section eighty, strike out the words "and cheroots."

That the House recede from their disagreement to the one hundred and seventieth amendment of the Senate, and agree to the same, with an amendment, as follows: add to the said Senate amendment the following: "But in no case shall such renewal or change extend to an abandonment of the general character of the stamps provided for in this act, nor to the dispensing with any provisions requiring that such stamps shall be kept in book form and have thereon the signatures of revenue officers."

That the House recede from their disagreement to the one hundred and seventy-second amendment of the Senate, and agree to the same, with the following amendment: add to said Senate amendment the words "or officer acting as such, with his reasons therefor."

That the House recede from their disagreement to the one hundred and eightieth amendment of the Senate, and agree to the same, with amendments, as follows: in line two of said amendment strike out the word "revenue;" in line three strike out the words "for denoting the tax thereby imposed;" in line fourteen strike out the word "revenue;" in lines fourteen and fifteen strike out the words "for denoting the tax thereby imposed."

That the House recede from their disagreement to the one hundred and eighty-second amendment of the Senate, and agree to the same, with an amendment, as follows: "But distillers and refiners of mineral oils shall be considered as manufacturers, and subject to the tax on sales provided for in the fourth section of the act to exempt certain manu-



factures from internal tax, and for other purposes, approved March 31, 1868.

JOHN SHERMAN,  
JUSTIN S. MORRILL,  
C. R. BUCKALEW,  
*Managers on the part of the Senate.*  
ROBERT C. SCHENCK,  
S. HOOPER,  
WILLIAM E. NIBLACK,  
*Managers on the part of the House.*

Mr. NYE. I should like to inquire of the Senator from Ohio if the meter system is retained?

Mr. SHERMAN. Yes; the House of Representatives agree to the Senate amendment on that point substantially as we had it.

Mr. NYE. How is that?

Mr. SHERMAN. The Commissioner of Internal Revenue prescribes the kind of meters, but the distillers are required to get them. It takes away from the Commissioner the power of procuring them.

Mr. NYE. Is the distiller bound to get them before he distills?

Mr. SHERMAN. No; that is all left to regulation.

Mr. NYE. I understand it will take years to supply the distillers with them.

Mr. SHERMAN. That is all left to regulations as under the present law.

Mr. NYE. I think the whole meter system is a very great humbug, and the advantage of it a great deal more delusive than real.

Mr. SHERMAN. If any Senator desires to know what disposition has been made of any particular amendment I will answer. I may state generally that the amendments of the Senate have been almost entirely concurred in, with a few modifications that have been made. I will not stop to explain the amendments unless some Senator has a question to ask in regard to particular items.

The report was concurred in.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 541) making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution;

A joint resolution (H. R. No. 341) for the relief of Z. M. Hall;

A joint resolution (H. R. No. 342) for the restoration of Commander Greenleaf Cilley and Commander Aaron K. Hughes, United States Navy, to the active list from the retired list; and

A joint resolution (H. R. No. 343) to admit free of duty certain statuary.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 1353) for the removal of certain disabilities from the persons therein named.

#### EXECUTIVE SESSION.

The PRESIDENT *pro tempore*. The Indian appropriation bill will now be resumed.

Mr. TRUMBULL. The Indian appropriation bill is a lengthy bill, and it will be impossible to finish it between now and the hour of adjournment. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, July 15, 1868.

The House met at twelve o'clock m.

The Journal of yesterday was read and approved.

#### ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 605) making appro-

priations for the legislative, executive, and judicial expenses of the Government for the year ending 30th of June, 1869; when the Speaker signed the same.

#### REPRESENTATIVE FROM SOUTH CAROLINA.

Mr. DAWES presented the credentials of James H. Goss, claiming a seat as a Representative from the fourth district of South Carolina; which were referred to the Committee of Elections.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 207) for funding the national debt, and for the conversion of the notes of the United States;

An act (S. No. 596) for the relief of Mrs. L. T. Potter; and

An act (S. No. 349) granting lands to the State of California to aid in the construction of a railroad and telegraph line from the town of Vallejo to Humboldt bay, in the State of California.

The message also announced that the Senate had agreed to the amendment of the House to the bill (S. No. 567) relating to the Freedmen's Bureau, and providing for its discontinuance.

The message further announced that the Senate had passed House bill of the following title, with an amendment, in which the concurrence of the House was requested:

An act (H. R. No. 1353) for the removal of certain disabilities from persons therein named.

#### REMOVAL OF POLITICAL DISABILITIES.

Mr. BOUTWELL. I ask unanimous consent that the bill just received from the Senate, with amendments, bill (H. R. No. 1353) for the removal of certain disabilities from the persons therein named, be taken from the Speaker's table and referred to the Committee on Reconstruction.

The SPEAKER. If there be no objection, the bill will be so referred.

There was no objection.

#### Z. M. HALL.

Mr. JUDD. My colleague [Mr. WASHBURN, of Illinois] has a bill which he is authorized to report from the Committee on Appropriations. I hope there will be no objection to considering it now.

Mr. WASHBURN, of Illinois, by unanimous consent, reported from the Committee on Appropriations a joint resolution (H. R. No. 341) for the relief of Z. M. Hall; which was read a first and second time.

The joint resolution authorizes the Secretary of the Treasury, in his discretion, to refund to Z. M. Hall, of Chicago, the sum of \$104 10, being the tonnage tax paid on the schooner S. M. Pomeroy, in error, by her master at the port of Bay City, April 21, 1868, the tax having been paid by Hall at Chicago, April 16, 1868.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. JUDD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CONTINGENT FUND OF THE HOUSE.

Mr. WASHBURN, of Indiana, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That a committee of five be appointed to investigate into the disbursement of the contingent fund of the House for the years 1867 and 1868, with power to send for persons and papers when the same can be done without expense to the Government.

#### MRS. JULIA CODY.

Mr. BARNES introduced a bill (H. R. No. 1432) to place upon the pension-roll the name

of Mrs. Julia Cody, mother of James Cody; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### GOVERNMENT PROPERTY AT HARPER'S FERRY.

Mr. GARFIELD. I ask unanimous consent to report back from the Committee on Military Affairs, for consideration at the present time, a bill (S. No. 186) providing for the sale of the lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, in the county of Jefferson, West Virginia.

The SPEAKER. The bill will be read for information, after which there will be an opportunity for objection.

The bill, which was read, provides in the first section for authorizing and directing the Secretary of War to make sale at public auction of the lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, in the county of Jefferson, West Virginia, except as hereinafter provided, in such parcels as shall, in his opinion, be best adapted to secure the greatest amount of money therefor on a credit of one and two years, taking bond and security from the purchaser or purchasers for the payment of the purchase money. But no such sale is to be made until the time, terms, and place thereof shall have been published in one of the principal newspapers in each of the cities of Washington, New York, and Cincinnati for sixty days prior to the day of sale. The proceeds of the sale are to be applied by the Secretary of War as follows: first, in defraying the expenses of making the sale; second, in refunding to the United States the principal sum of purchase-money paid for the lands, tenements, and water privileges by the United States, and for the erection of buildings thereon; and third, if any surplus remain, he is to deliver the same to such agent as the Legislature of the State of West Virginia shall appoint to receive the same; but upon condition that such surplus shall be received by the State of West Virginia, to be set apart, held, invested, used, and applied as a part of the school fund of that State, under and by virtue of, and in manner and form as provided in section first of the tenth article of the constitution of West Virginia, and for no other purpose. And on making such sale of the lands, tenements, and water privileges, or any part thereof, the Secretary of War is empowered and required, on receiving the purchase-money in full, to execute all necessary deeds therefor to the purchaser or purchasers thereof, on behalf of the United States. The second section authorizes and directs the Secretary of War to convey by deed to Storer College, an institution of learning chartered by the State of West Virginia, all those certain portions of the aforesaid property, namely, the buildings, with the lots on which they stand, numbered thirty, thirty-one, and thirty-two, also building numbered twenty-five, with enough of the lot on which it stands to give a breadth of ten rods on High street, otherwise known as Washington street, all of said buildings and lots being situated at Harper's Ferry aforesaid, being the same which have heretofore been assigned by the War Department to the Bureau of Refugees, Freedmen, and Abandoned Lands, for educational purposes; and also to convey by deed to the proper persons all such other lands and buildings, portions of the aforesaid property, as have heretofore been set apart by the proper authority for religious, charitable, and town purposes.

Mr. WASHBURN, of Illinois. I will not object provided the gentleman will amend his bill by striking out a portion of the bill, so as to provide the proceeds of this property shall go into the Treasury of the United States.

Mr. GARFIELD. I will allow the gentleman to offer it.

Mr. WASHBURN, of Illinois. I shall not withdraw my objection if that is not incorporated in the bill.

Mr. HUBBARD, of West Virginia. I want five or ten minutes to debate the proposed amendment of the gentleman from Illinois.

Mr. SPALDING. I cannot yield if it gives rise to debate.

#### WHARVES IN OSWEGO HARBOR.

Mr. CHURCHILL. I ask unanimous consent for leave to the Committee on Commerce to report back a joint resolution.

There was no objection.

Mr. WASHBURNE, of Illinois. The Committee on Commerce direct me to report back House joint resolution No. 296, giving the assent of the United States to the construction of certain wharves in the harbor of Oswego, New York. The committee found no objection to its passage, but many reasons why it should be passed. I am instructed to move a proviso to the joint resolution, that it shall be subject to the approval of the engineer of the Army.

The amendment was agreed to.

The joint resolution, as amended, is as follows:

Joint resolution giving the assent of the United States to the construction of certain wharves in the harbor of Oswego, New York.

Whereas the common council of the city of Oswego, in the State of New York, by resolutions unanimously adopted April 7, 1863, and May 12, 1868, in pursuance of the authority granted them by the Legislature of New York, in the charter of said city, have given permission to the owners of lots 11 and 12, also of lots 13, 14, 84, and 82, and of lots 15, 16, 17, and 18, in Fortification block, number two, in the first ward of said city, to construct wharves in front of said lots, seventy feet in width, and extending northerly so that the north end of said wharves may be on a line with the north line of the Ontario elevator pier, but not less than two hundred and fifty feet distant from the nearest point of the United States pier, which wharves will extend into the navigable waters of said harbor; Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the assent of the United States be, and the same is hereby given, so far as Congress has power to give the same, to the owners of the lots above-mentioned to construct said wharves in accordance with the terms of said resolutions, subject, however, to the approval of the engineer department of the Army.

The joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CHURCHILL moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### W. H. COX, DECEASED.

Mr. MILLER, from the Committee on Invalid Pensions, reported back House bill No. 1420, directing the Commissioner of Pensions to proceed to hear evidence and determine the right of W. H. Cox, deceased, late a sergeant in company F, second regiment Pennsylvania artillery, to a pension, in same manner as if he was still living, he having died of disease contracted while a prisoner of war at Andersonville, Georgia; and if found to be entitled to a pension, then the same from the time of his discharge till death be paid over to his father, Charles D. Cox, with the recommendation that it do pass.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was read the third time.

Mr. MILLER. Mr. Speaker, I will give a brief explanation of this bill. W. H. Cox, a healthy young man of about twenty years of age, residing with his father, Charles D. Cox, in Lewisburg, Pennsylvania, the town in which I reside, on the 16th of February, 1864, was enrolled and sworn in as a sergeant in company F, second regiment Pennsylvania artillery. That the regiment to which he was attached was ordered to the front, and on the 2d of June, 1864, at the battle of Coal Harbor, Virginia, the said W. H. Cox was taken prisoner by the rebels, conveyed to Andersonville, Georgia, and there confined as prisoner of war for about ten months. Then, being released, was taken to Philadelphia, Pennsylvania, at which place he was, on the 8th of August, 1865, hon-

orably discharged from Government service in pursuance of a telegram from Adjutant General's office dated May 12, 1865. That he returned to his father's, in Lewisburg, Pennsylvania, and being, in consequence of his treatment in rebel prison, broken down in health, and found by his physician to be incurable, made application on the 14th of June, 1866, for a pension; but before the evidence was completed, to wit, on the 9th of July, 1866, died, so that all proceedings before the Commissioner, in consequence of his death, were suspended. The object of this bill, Mr. Speaker, is to authorize and require the Commissioner of Pensions to proceed to secure evidence and determine whether said W. H. Cox was entitled to a pension in same manner as if he was still living, and if he decide that he was so entitled, then the same, from date of his discharge till death, be paid to his father, Charles D. Cox, who wants to apply that money toward paying for a plain monument to mark the grave of his son, who lost his life in the cause of our country. I trust, Mr. Speaker, that this bill may pass by a unanimous vote.

The bill was passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CHANGE OF REFERENCE.

On motion of Mr. SITGREAVES, by unanimous consent, the Committee on Military Affairs were discharged from the further consideration of the petitions of Almira Ambler and Alexander Moffitt, and the same were referred to the Committee of Claims.

#### COMMANDERS CILLEY AND HUGHES.

Mr. PIKE, by unanimous consent, from the Committee on Naval Affairs, reported a joint resolution (H. R. No. 342) for the restoration of Commander Greenleaf Cilley and Commander Aaron K. Hughes, of the United States Navy, to the active list from the retired list; which was read a first and second time.

The joint resolution was reported. It authorizes the President to appoint, by and with the advice and consent of the Senate, the aforesaid commanders to the active list with the rank they may be entitled thereon.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PIKE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MOORHEAD. I call for the regular order.

Mr. STEVENS, of Pennsylvania. Allow me to offer a joint resolution.

Mr. MOORHEAD. I yield to my colleague on account of his indisposition.

#### REMISSION OF DUTY ON STATUARY.

Mr. STEVENS, of Pennsylvania, by unanimous consent, introduced a joint resolution (H. R. No. 342) to admit free of duty certain statuary; which was read a first and second time.

The joint resolution provides that the statue representing the figure of Victory, intended to surmount the monument in memory of Pennsylvania soldiers who fell in the Mexican war, now about being erected on the capitol grounds at Harrisburg, being in marble cut in Italy, and which will soon be ready for shipment, shall be admitted free of duty.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SURVEYOR GENERAL IN UTAH.

Mr. JULIAN. I ask unanimous consent to take from the Speaker's table, for the purpose of concurring in the amendment of the Senate thereto, the bill (H. R. No. 202) to create the office of surveyor general in the Territory of Utah, to establish a land office in said Territory, and extend the homestead and preemption laws over the same.

Mr. RANDALL. I object, unless we take up the bills from the Speaker's table in their regular order.

#### HOMESTEAD AND PREEMPTION LAWS.

Mr. JULIAN. I ask unanimous consent to offer the following resolution:

*Resolved,* That the Committee on the Public Lands be instructed to inquire into the expediency of reporting a bill extending the preemption and homestead laws of the United States over the territory of Alaska, establishing a suitable number of land districts therein, and providing for the appointment of registers and receivers therefor, and of a surveyor general for said territory.

Mr. MOORHEAD. Mr. Speaker, is this the regular order?

The SPEAKER. It is not.

Mr. MOORHEAD. I called for the regular order.

The SPEAKER. The gentleman had left the Hall after calling for the regular order.

Mr. MOORHEAD. I did so, but I did not withdraw the call.

The SPEAKER. The gentleman must be within the Hall if he insists on demanding the regular order.

Mr. MOORHEAD. I do insist.

The SPEAKER. Then the resolution is not before the House.

#### COLUMBIA DEAF AND DUMB INSTITUTE.

The SPEAKER. The regular order is the consideration of the bill pending at the adjournment yesterday (H. R. No. 541) making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution. The pending question is on the amendment of the gentleman from Illinois, [Mr. WASHBURNE,] to add to the bill various sections. Pending that motion the gentleman from Indiana [Mr. SHANKS] moved to reconsider the vote by which the House disagreed to the substitute offered by the gentleman from Illinois, [Mr. WASHBURNE.]

Mr. MAYNARD. I move to lay the motion to reconsider on the table.

Mr. WASHBURNE, of Illinois. I hope it will be reconsidered; it will save \$40,000.

Mr. SPALDING. I hope it will not be reconsidered.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 67, nays 49, not voting 84; as follows:

YEAS—Messrs. Archer, Arnell, Delos R. Ashley, Baldwin, Banks, Barnes, Bingham, Blair, Boies, Boyer, Brooks, Broomall, Roderick R. Butler, Dawes, Dixon, Dockery, Donnelly, Driggs, Eckley, Eldridge, Fox, Garfield, Higby, Hinds, Chester D. Hubbard, Ingersoll, Jenckes, Alexander H. Jones, Kelsey, Kerr, Kitchen, Knott, Koontz, Ladin, George V. Lawrence, Mallory, Maynard, McKee, Miller, Moorhead, Morrissey, Mungen, Myers, Nicholson, Perham, Peters, Phelps, Pike, Plants, Poland, Smith, Spaulding, Starkweather, Thaddeus Stevens, Stone, Taber, Taylor, Thomas, Lawrence S. Trimble, Twichell, Upson, Van Auken, Van Trump, Henry D. Washburn, Thomas Williams, Stephen F. Wilson, and Woodbridge—67.

NAYS—Messrs. Bailey, Baker, Beatty, Benjamin, Benton, Buckland, Benjamin F. Butler, Churchill, Sidney Clarke, Cobb, Cook, Covode, Cullom, Delano, Ela, Ferriss, Fields, Getz, Golladay, Grover, Hawkins, Hopkins, Hotchkiss, Hunter, Judd, Julian, William Lawrence, Logan, Loughbridge, Marshall, McCarthy, McClurg, Mercier, Moore, Mullins, O'Neill, Orth, Paine, Pomeroy, Scofield, Shanks, Stokes, Trowbridge, Van Aernam, Elihu B. Washburne, William B. Washburn, Welker, William Williams, and James F. Wilson—49.

NOT VOTING—Messrs. Adams, Allison, Ames, Anderson, James M. Ashley, Axtell, Barnum, Beaman, Beck, Blaine, Boutwell, Boyden, Brownell, Burr, Calk, Cary, Chanler, Reader W. Clarke, Cornburn, Cornell, Deweese, Dodge, Eggleston, Eliot, Farnsworth, Ferry, Finney, French, Glossbrenner, Gravely, Griswold, Haight, Halsey, Hamilton, Hard-

ing, Hill, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Johnson, Thomas L. Jones, Kelley, Ketcham, Lincoln, Loan, Lynch, Marvin, McCormick, McCullough, Morrell, Newcomb, Niblack, Nunn, Pike, Polsley, Pruyn, Randall, Raum, Robertson, Robinson, Roots, Ross, Sawyer, Schenck, Selye, Shellabarger, Sitgreaves, Aaron F. Stevens, Stewart, Taffe, John Trimble, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, John T. Wilson, Windom, Wood, and Woodward—84.

So the motion to reconsider was laid on the table.

The question recurred on the amendment of Mr. WASHBURNE, of Illinois, to add to the bill the following:

SEC. — *And be it further enacted*, That the Secretary of the Interior, the chief justice of the supreme court of the District of Columbia, the Surgeon General of the Army, the chief of the Bureau of Medical Surgery of the Navy, and the chief engineer of the Army, shall constitute a commission, which shall be known and designated as the "Commission of Charities for the District of Columbia."

SEC. — *And be it further enacted*, That the said commission shall organize immediately upon the passage of this act, and the Secretary of the Interior shall be the president thereof, and he shall designate as secretary of the said commission a clerk of his Department, who is of the fourth class, and who shall keep a record of all the proceedings and transactions of the said commission.

SEC. — *And be it further enacted*, That the said commission shall have the full control and direction of all the appropriations made by Congress to the charitable institutions of the said District of Columbia, and of all such appropriations as may be made for the purposes of charity in the said District, and shall have the power of visitation and examination of all the institutions in the said District, to the support of which appropriations shall be made by Congress. No money shall be drawn from the appropriations made to the charitable institutions of the District, or for the purposes of charity in said District, except upon the requisition of the president of the commission, made upon an order of the commission, duly entered in the journal of their proceedings, and all the accounts of the said commission shall be audited by the First Auditor of the Treasury. And it is hereby provided that the provisions of this act shall not be deemed to include the Government hospital for the insane in the District of Columbia.

SEC. — *And be it further enacted*, That no money shall be expended for the Columbia Institution for the Deaf and Dumb, for the Columbia Hospital for Women and Lying-in Asylum, and for the Providence Hospital, until the title to the property, real and personal, of such institutions shall be transferred to the United States by conveyances, certified as being valid by the Attorney General of the United States, and conveying all the right, title, and interest of the said institutions in the property conveyed.

SEC. — *And be it further enacted*, That it shall be the duty of the said commission to make a full report to Congress, at the December session of each year, of all its transactions and of all the expenditures made under its direction, together with a statement of the condition of the charitable institutions of the District for which appropriations shall have been previously made, and which shall have been expended under its direction.

Mr. SPALDING. Is that debatable?

The SPEAKER. It is not, the previous question having been ordered.

Mr. SPALDING. The Committee on Appropriations do not recommend these amendments.

Mr. WASHBURNE, of Illinois. Does the gentleman object to the amendment?

Mr. SPALDING. I do, and the majority of the committee object to it.

Mr. STEVENS, of Pennsylvania. I ask the gentleman if he will allow me to have a paper read—

Mr. WASHBURNE, of Illinois. I should be glad to have this matter open to debate.

Mr. STEVENS, of Pennsylvania. Oh, no; the gentleman has not heard me through.

Mr. WASHBURNE, of Illinois. I object to debate unless I can have a chance.

The SPEAKER. Debate is not in order.

Mr. STEVENS, of Pennsylvania. The gentleman has debated it more than any one else.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 63, nays 71, not voting 66; as follows:

YEAS.—Messrs. Ames, Axtell, Bailey, Baker, Beatty, Benjamin, Benton, Boutwell, Broomwell, Buckland, Benjamin F. Butler, Calkins, Cary, Churchill, Sidney Clarke, Cobb, Cook, Covode, Cullom, Delano, Elia, Ferriss, Fields, Getz, Gravely, Grover, Haight, Hawkins, Hopkins, Hotchkiss, Hunter, Judd, Julian, Ketcham, Ladin, William Lawrence, Logan, Loughridge, McCarthy, McClurg, Mercier, Moore, Morrell, Mullins, Orth, Paine, Pomeroy, Randall, Robertson, Roots, Scofield, Shanks, Stokes,

Taylor, Trowbridge, Van Aernam, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, and John T. Wilson—63.

NAYS.—Messrs. Anderson, Archer, Arnell, Delos R. Ashley, Baldwin, Banks, Barnes, Beck, Blair, Boles, Boyden, Boyer, Brooks, Dawes, Dixon, Donnelly, Driggs, Eckley, Eldridge, Fox, Garfield, Glossbrenner, Golladay, Griswold, Hamilton, Higby, Hinds, Chester D. Hubbard, Ingersoll, Jenekes, Alexander H. Jones, Kelley, Kerr, Kitchin, Knott, Koontz, Loan, Mallory, Maynard, McKee, Miller, Moorhead, Morrissey, Mungen, Myers, Niblack, Nicholson, O'Neill, Perham, Peters, Phelps, Pike, Pile, Plants, Poland, Raum, Schenck, Smith, Spalding, Starkweather, Thaddeus Stevens, Stone, Taber, Thomas, Twichell, Upson, Van Auker, Burt Van Horn, Van Trump, Stephen F. Wilson, and Woodbridge—71.

NOT VOTING.—Messrs. Adams, Allison, James M. Ashley, Barnum, Beaman, Bingham, Blaine, Broomall, Burr, Roderick R. Butler, Chanler, Reader W. Clarke, Coburn, Cornell, Dewese, Dockery, Dodge, Eggleston, Eliot, Farnsworth, Ferry, Finney, French, Halsey, Harding, Hill, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Johnson, Thomas L. Jones, Kelley, George V. Lawrence, Lincoln, Lynch, Marshall, Marvin, McCormick, McCullough, Newcomb, Nunn, Polsley, Price, Pruyn, Robinson, Ross, Sawyer, Selye, Shellabarger, Sitgreaves, Aaron F. Stevens, Stewart, Taffe, John Trimble, Lawrence S. Trimble, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, Windom, Wood, and Woodward—66.

So the amendment was not agreed to.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. WASHBURNE, of Illinois. I move that the bill be laid on the table.

The SPEAKER. Before it has been ordered to be engrossed?

Mr. WASHBURNE, of Illinois. Has the bill been engrossed yet? I object to it if it has not.

Mr. GARFIELD and Mr. MAYNARD called for the yeas and nays on the motion to lay the bill on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 42, nays 84, not voting 74; as follows:

YEAS.—Messrs. Ames, Bailey, Beatty, Benjamin, Benton, Calkins, Churchill, Sidney Clarke, Cobb, Cook, Covode, Dockery, Elia, Ferriss, Fields, Golladay, Grover, Haight, Hinds, Hopkins, Hotchkiss, Hulburd, Hunter, Judd, Knott, Loughridge, Marshall, McCarthy, Mercier, Moore, Mullins, Orth, Paine, Perham, Pomeroy, Sawyer, Scofield, Shanks, Trowbridge, Elihu B. Washburne, William Williams, and James F. Wilson—42.

NAYS.—Messrs. Anderson, Archer, Arnell, Delos R. Ashley, Axtell, Baker, Baldwin, Banks, Barnes, Bingham, Blair, Boles, Boutwell, Boyer, Broomwell, Brooks, Buckland, Cary, Dawes, Dixon, Donnelly, Eckley, Eldridge, Eliot, Fox, Garfield, Getz, Glossbrenner, Gravely, Hamilton, Higby, Hooper, Chester D. Hubbard, Richard D. Hubbard, Ingersoll, Jenekes, Alexander H. Jones, Julian, Kelley, Kerr, Ketcham, Kitchin, Koontz, George V. Lawrence, Mallory, Marvin, Maynard, McClurg, McKee, Miller, Moorhead, Morrissey, Mungen, Myers, Niblack, Nicholson, O'Neill, Peters, Phelps, Pike, Plants, Poland, Randall, Raum, Roots, Schenck, Smith, Spalding, Starkweather, Thaddeus Stevens, Stokes, Stone, Taber, Taylor, Thomas, Twichell, Upson, Van Aernam, Van Auker, Van Trump, William B. Washburn, Thomas Williams, Stephen F. Wilson, and Woodbridge—84.

NOT VOTING.—Messrs. Adams, Allison, James M. Ashley, Barnum, Beaman, Beck, Blaine, Boyden, Broomall, Burr, Benjamin F. Butler, Roderick R. Butler, Chanler, Reader W. Clarke, Coburn, Cornell, Cullom, Delano, Dewese, Dodge, Driggs, Eggleston, Farnsworth, Ferry, Finney, French, Griswold, Halsey, Harding, Hawkins, Hill, Holman, Asahel W. Hubbard, Humphrey, Johnson, Thomas L. Jones, Kelley, Ladin, William Lawrence, Lincoln, Loan, Logan, Lynch, McCormick, McCullough, Morrell, Newcomb, Nunn, Pile, Polsley, Price, Pruyn, Robinson, Robinson, Ross, Selye, Shellabarger, Sitgreaves, Aaron F. Stevens, Stewart, Taffe, John Trimble, Lawrence S. Trimble, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, Welker, John T. Wilson, Windom, Wood, and Woodward—74.

So the motion to lay on the table was not agreed to.

The question recurred upon ordering the bill to be engrossed and read a third time.

Mr. SPALDING and Mr. GARFIELD called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 35, not voting 93; as follows:

YEAS.—Messrs. Anderson, Archer, Arnell, Delos R. Ashley, Baker, Baldwin, Banks, Barnes, Beck, Bingham, Blair, Boles, Boutwell, Boyden, Boyer, Brooks, Broomall, Roderick R. Butler, Cary, Coburn, Dawes, Dixon, Donnelly, Eckley, Eldridge, Eliot, Fox, Garfield, Getz, Glossbrenner, Gravely, Higby, Hinds, Hooper, Chester D. Hubbard, Rich-

ard D. Hubbard, Ingersoll, Jenekes, Kelsey, Kerr, Kitchin, Koontz, George V. Lawrence, Mallory, Marshall, Marvin, Maynard, McClurg, McKee, Miller, Moorhead, Mungen, Myers, Nicholson, O'Neill, Perham, Peters, Phelps, Pike, Plants, Poland, Raum, Smith, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Stone, Taber, Thomas, Twichell, Upson, Van Aernam, Van Auker, Burt Van Horn, Van Trump, Henry D. Washburn, William B. Washburn, Thomas Williams, Stephen F. Wilson, Windom, and Woodbridge—82.

NAYS.—Messrs. Bailey, Beatty, Benjamin, Benton, Sidney Clarke, Cobb, Cook, Covode, Cullom, Ferriss, Fields, Golladay, Haight, Hamilton, Hotchkiss, Hunter, Judd, Loan, Logan, Mercier, Moore, Mullins, Orth, Paine, Pomeroy, Randall, Sawyer, Scofield, Shanks, Taylor, Trowbridge, Elihu B. Washburne, William Williams, James F. Wilson, and John T. Wilson—35.

NOT VOTING.—Messrs. Adams, Allison, Ames, James M. Ashley, Axtell, Barnum, Beaman, Blaine, Broomwell, Buckland, Burr, Benjamin F. Butler, Calkins, Chanler, Churchill, Reader W. Clarke, Cornell, Delano, Dewese, Dockery, Dodge, Driggs, Eggleston, Elia, Farnsworth, Ferry, Finney, French, Griswold, Grover, Halsey, Harding, Hawkins, Hill, Holman, Hopkins, Asahel W. Hubbard, Hulburd, Humphrey, Johnson, Alexander H. Jones, Thomas L. Jones, Julian, Kelley, Ketcham, Knott, Ladin, William Lawrence, Lincoln, Loughridge, Lynch, McCarthy, McCormick, McCullough, Morrell, Morrissey, Newcomb, Niblack, Nunn, Pile, Polsley, Price, Pruyn, Robinson, Robinson, Roots, Ross, Schenck, Selye, Shellabarger, Sitgreaves, Aaron F. Stevens, Taffe, John Trimble, Lawrence S. Trimble, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Welker, Wood, and Woodward—83.

So the bill was ordered to be engrossed for a third reading.

The question being on the third reading of the bill,

Mr. WASHBURNE, of Illinois. I call for the reading of the bill in full.

The bill was read.

The question being on the passage of the bill,

Mr. SPALDING called for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. SPALDING moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same, namely:

An act (S. No. 567) relating to the Freedmen's Bureau and providing for its discontinuance.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate insisted on its amendments to the amendments of the House to Senate bill No. 352, to authorize the temporary supplying of vacancies in the Executive Departments, and agreed to the conference asked by the House, and had appointed Mr. TRUMBULL, Mr. EDMUNDS, and Mr. VICKERS, as the conferees on the part of the Senate.

The message further announced that the Senate requested the House to return to the Senate its resolution of concurrence in the report of the committee of conference on the disagreeing votes of the two Houses on House bill No. 818, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes, for the purpose of making a motion to reconsider the same.

REPRESENTATIVE FROM NORTH CAROLINA.

Mr. SCHENCK presented the credentials of David Heaton, claiming to be a Representative-elect from the second district of North Carolina; which were referred to the Committee of Elections.

IMPROVEMENT OF MILWAUKEE HARBOR.

Mr. WASHBURNE, of Illinois, by unanimous consent, submitted the following report from the Committee on Commerce; which was laid on the table:

The Committee on Commerce, to whom was referred the memorial of the city of Milwaukee for re-



imbursement for certain expenditures on the harbor of that city, with accompanying documents, report that they have postponed the further consideration thereof until the first meeting of the committee in December next, and have referred the same to a subcommittee consisting of Hon. T. D. ELIOT and Hon. P. SAWYER, with instructions to ascertain the facts and to report at such meeting.

#### CIVIL APPROPRIATION BILL.

The SPEAKER laid before the House the following message from the Senate of the United States:

IN THE SENATE OF THE UNITED STATES,  
July 15, 1868.

*Resolved*, That the Secretary be directed to request the House of Representatives to return to the Senate its resolution of concurrence in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, for the purpose of making a motion to reconsider the same.

The SPEAKER, The House has agreed to the report of the committee of conference on this bill, and the motion to reconsider has been laid on the table. The Chair is therefore of the opinion that it is not within the power of the House to comply with the request of the Senate, except by unanimous consent.

Mr. WASHBURN, of Illinois. I object.

The SPEAKER. A message will be sent to the Senate stating that, under the rules, the House is unable to comply with the request.

#### REPRESENTATIVE FROM NORTH CAROLINA.

Mr. DAWSON. The Committee of Elections, to whom were referred the credentials of David Heaton, claiming a seat in this House as a Representative from the second district of North Carolina, have directed me to report that they have examined the credentials and find them in due form of law; and they therefore recommend that he be admitted to a seat upon taking the oath of office prescribed by the act of 1862.

The report was agreed to.

Mr. DAVID HEATON presented himself at the Speaker's desk and was duly qualified by taking the oath prescribed by law.

Mr. MOORHEAD. I call for the regular order.

#### INDIAN TREATIES.

The SPEAKER, by unanimous consent, laid before the House the following communication from the Secretary of the Interior.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, D. C., July 15, 1868.

SIR: I have the honor to acknowledge the receipt of a resolution of the House of Representatives, of the 13th instant, in the following words, namely:

*Resolved*, That the Secretary of the Interior be, and he is hereby, directed to furnish to this House copies of all treaties made by the peace commissioners with the several tribes of western Indians during the last and present years."

In reply I have to state that all the treaties referred to, which have been reported to this Department have been laid before the President and by him transmitted to the Senate for its constitutional action thereon, and that none of said treaties are now in the possession or under the control of this Department.

Very respectfully, your obedient servant,

O. H. BROWNING,  
Secretary.

Hon. SCHUYLER COLFAX,

Speaker House of Representatives.

The communication was laid on the table.

#### FUNDING BILL.

Mr. MOORHEAD. There is so much pressure upon me that I will withdraw my demand for the regular order of business.

Mr. POLAND. I will yield, then, to the chairman of the Committee of Ways and Means.

Mr. SCHENCK. I ask unanimous consent to take from the Speaker's table Senate bill No. 207, for funding the national debt and for the conversion of the notes of the United States in order that it may be referred to the Committee of Ways and Means.

Mr. RANDALL. I object.

#### RELIEF OF DRAFTED MEN.

Mr. BOYER. I ask unanimous consent to report back from the Committee of Ways and Means House bill No. 421 amendatory of an act entitled "An act for the relief of certain drafted men."

Mr. MULLINS objected, but afterward withdrew his objection.

The bill was read. It provides for the repeal of so much of the second section of an act entitled "An act for the relief of certain drafted men," approved the 28th day of February, A. D. 1867, as provides that said section "shall apply only to claims received at the War Department prior to its passage;" provided that all claims under said second section of said act shall be presented and filed within two years from the date of the final passage of this act and not afterward.

Mr. WASHBURN, of Illinois. Does that give anything to the District of Columbia?

The SPEAKER. It does not.

Mr. WASHBURN, of Illinois. I want the District of Columbia included.

The SPEAKER. That would not be in order to this bill.

Mr. WASHBURN, of Illinois. Then I object.

Afterward the objection was withdrawn.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BOYER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BOYER, from the same committee, also reported back the following as having been provided for by the general bill just passed; and the same were laid on the table:

An act (H. R. No. 186) to extend an act entitled "An act for the relief of certain drafted men," approved February 28, 1867;

An act (H. R. No. 463) to amend an act for the relief of certain drafted men, approved February 28, 1867;

Memorial of Henry Tibby, of Ohio, for the return of commutation money;

Memorial of J. W. Kirker, praying for the passage of an act for return of commutation money; and

Petition of J. W. Jack, praying for return of commutation money.

#### REMOVAL OF POLITICAL DISABILITIES.

Mr. BOUTWELL. I am directed by the Committee on Reconstruction to report back the amendments of the Senate to House bill No. 1853 for the removal of certain disabilities from persons therein named. The Senate strike out eight names and add some others. The committee are of the opinion that the amendments are proper and reasonable. I shall demand the previous question.

Mr. BROOKS. The pardoning of rebels is so important that I ask the names be reported.

The Clerk proceeded to read the amendment.

Mr. BROOKS. I will not ask all these names be read if we have some information of who they are. Who is Mr. Moore?

Mr. BOUTWELL. The report came from the Committee on Reconstruction; his name is in the original bill.

Mr. BROOKS. Mr. Dyer is an old rebel; I would like to know something about him.

Mr. BOUTWELL. The gentleman is on the Committee on Reconstruction, and ought to know as much as the rest of us.

Mr. BROOKS. They do business so fast it is impossible for me to keep up with them. There is one Beatty in the list; is it the poet Beatty?

Mr. ELDRIDGE. It is very good reading; I hope it will all be read; we want to know all these men who have been born again. [Laughter.]

The Clerk resumed, and concluded the reading of the names.

Mr. BROOKS. I call for the yeas and nays on agreeing to the amendment of the Senate.

Mr. FARNSWORTH. This is a substitute for the House bill, and requires a two-third vote. The Journal should show that it passed by a two-third vote.

The yeas and nays were ordered.

The question was taken; and there were—yeas 111, nays 20, not voting 71; as follows:

YEAS—Messrs. Ames, Anderson, Archler, Bailey, Baker, Banks, Beatty, Benjamin, Benton, Blair, Boies, Bontwell, Boyden, Brooks, Broomall, Buckland, Benjamin F. Butler, Roderick R. Butler, Calk, Churchill, Cook, Cullom, Davies, Delano, Dixon, Dockery, Donnelly, Driggs, Eliot, Farnsworth, Ferriss, Fields, Fox, French, Garfield, Getz, Glossbrenner, Griswold, Haight, Hamilton, Heaton, Higby, Hill, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jencks, Alexander H. Jones, Judd, Kelsey, Ketcham, Koontz, Ladin, William Lawrence, Loughbridge, Lynch, Mallory, Marshall, Marvin, McCarthy, McKee, Miller, Moore, Moorhead, Morrell, Mullins, Mungen, Myers, Nicklack, O'Neill, Paine, Peters, Phelps, Pike, Pile, Plants, Poland, Pomeroy, Randall, Raup, Robertson, Roots, Sawyer, Schenck, Shanks, Smith, Spalding, Starkweather, Stokes, Stone, Taylor, Lawrence S. Trimble, Twichell, Upson, Van Aernum, Van Auker, Burt Van Horn, Elihu B. Washburn, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Stephen R. Wilson, Windom, Woodbridge, and the Speaker—111.

NAYS—Messrs. Adams, Arnell, Barnes, Brownwell, Cary, Cobb, Coburn, Eldridge, Golladay, Hawkins, Hotchkiss, Johnson, Julian, Loan, Mercur, Nicholson, Orth, Taber, Thomas Williams, and William Williams—20.

NOT VOTING—Messrs. Allison, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Barnum, Leaman, Beek, Bingham, Blaine, Boyer, Burr, Chanler, Reader W. Clarke, Sidney Clarke, Cornell, Covode, Dewesse, Dodge, Eckley, Eggleston, Eia, Ferry, Finney, Gravely, Grover, Halsey, Harding, Holman, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Thomas L. Jones, Kelley, Kerr, Kitchen, Knott, George V. Lawrence, Lincoln, Logan, Maynard, McClurg, McCormick, McCullough, Morrissey, Newcomb, Nunn, Perham, Polsey, Price, Prayn, Robinson, Ross, Scofield, Selje, Shellabarger, Sitgreaves, Aaron R. Stevens, Thaddeus Stevens, Stewart, Taffe, Thomas, John Trimble, Trowbridge, Robert T. Van Horn, Van Trump, Van Wyck, Ward, Cadwalader C. Washburn, Wood, and Woodward—71.

So (two thirds having voted in favor thereof) the amendment of the Senate was agreed to.

Mr. BOUTWELL moved to reconsider the vote by which the amendment of the Senate was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. JULIAN on account of sickness; also leave of absence to Mr. BARNES till Monday next.

#### LEAVE TO PRINT A SPEECH.

Leave to print a speech on irrigation, intended to have been made last evening in Committee of the Whole, was granted to Mr. DONNELLY. [See Appendix.]

#### HOT SPRINGS RESERVATION.

Mr. POLAND obtained the floor on a question of privilege, being the contested-election case of Switzer vs. Anderson, but yielded to

Mr. JULIAN, who asked unanimous consent to report back from the Committee on the Public Lands a bill (H. R. No. 1276) for the sale of the Hot Springs reservation in Arkansas.

Mr. BENJAMIN. I object if it gives rise to debate.

The bill was read. It recites that the public reservation known as the Hot Springs reservation, in the State of Arkansas, is now held and occupied without color of title by various persons, whose claims have never been acknowledged by the United States Government, and that the public interest and humanity require that said springs be made available for public use, and the welfare and settlement of the State will be promoted by the sale of lands adjacent thereto; and provides that upon the passage of this act the Secretary of the Interior shall cause to be surveyed, platted, and laid out into streets, blocks, and lots, or parcels of ground of such form and area as will best facilitate the construction of a town, a certain portion of the public domain known as the Hot Springs reservation. The bill makes further provision in regard to the appraisement, &c., of the lots and parcels of ground.

Mr. BROOKS. Unless the gentleman from Indiana insists on the reading of that long bill I tell him now that I shall object, and I object on the ground that it refers only to "loyal" persons, which means Republicans, and excludes all Democrats.

Mr. JULIAN. If the gentleman objects I have no power to press the bill.

Mr. WASHBURN, of Illinois. Before the gentleman from New York makes his objection, I would like to have read an amendment which I propose to offer to the bill.

The SPEAKER. The bill is not before the House.

Mr. WASHBURN, of Illinois. I ask that the amendment may be printed and referred to the Committee on the Public Lands.

Mr. BROOKS. I object.

#### CONTINGENT FUND OF THE HOUSE.

Mr. BROOMALL. I desire to enter a motion to reconsider the vote by which the House this morning adopted the resolution offered by the gentleman from Indiana, [Mr. WASHBURN,] directing the appointment of a committee to inquire into the disbursement of the contingent expenses of the House. My object is to amend the resolution so as to direct the Committee on Accounts to make the investigation.

The SPEAKER. The Chair will state that motions to reconsider entered now may possibly not be reached if Congress shall adjourn next week, as seems to be probable.

Mr. BROOMALL. Then the motion to reconsider had better be disposed of now.

The SPEAKER. Does the gentleman from Vermont [Mr. POLAND] yield for that purpose?

Mr. RANDALL. If he yields he must yield the floor finally.

Mr. ELDRIDGE. I insist on the regular order. It is time this gentleman, Mr. Switzler, was admitted to his seat or rejected.

The SPEAKER. It depends on the gentleman from Vermont, whether he calls up the report of the Committee of Elections or not.

Mr. POLAND. I yield to the gentleman from Pennsylvania.

Mr. BROOMALL. All I desire to say is that the gentleman from Indiana, [Mr. WASHBURN,] who offered the resolution, is satisfied that the proper committee is the one I have mentioned, the Committee on Accounts. I see no objection to its going to the regular standing committee, in preference to a select committee to be raised.

Mr. WASHBURN, of Indiana. I did not in offering the resolution propose to censure any committee of the House. I do think that an examination is necessary, and that it ought to be had. If the House thinks it better to send the matter to the Committee on Accounts I am perfectly satisfied. I do not court a select committee so that we have an examination.

Mr. BROOMALL. All I want is that the examination shall be in the regular way. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to reconsider was agreed to.

The question recurred on the adoption of the resolution.

The Clerk read the resolution, as follows:

*Resolved*, That a committee of five be appointed to investigate into the disbursement of the contingent fund of the House for the years 1867 and 1868, with power to send for persons and papers where the same can be done without expense to the Government.

Mr. BROOMALL. I now move to strike out the words "a committee of five be appointed" and insert "the Committee on Accounts be directed."

Mr. WASHBURN, of Indiana. I would ask the gentleman if it has not been their duty for the last two years?

Mr. BROOMALL. No; it has not. The Committee on Accounts have had no power of inquiring into what I understand to be the irregularities. They have desired it, but it has never been conferred on them by the House.

Mr. RANDALL. What are the irregularities.

Mr. BROOMALL. I do not know; I never heard of them till this morning.

Mr. RANDALL. Common rumor says they extend to very large amounts. I hope, there-

fore, that if the Committee on Accounts undertake the job they will do it thoroughly.

Mr. BROOMALL. The Committee on Accounts are in the habit of doing their duty conscientiously.

Mr. RANDALL. They ought to have done it for two years.

Mr. BROOMALL. They had no power.

Mr. FARNSWORTH. Have the committee asked for that power?

Mr. BROOMALL. During the last Congress the committee tried upon various occasions to get the floor, but failed to do so.

Mr. RANDALL. They are a privileged committee.

Mr. BROOMALL. No; they are not a privileged committee as to such matters.

The SPEAKER. The Committee on Accounts are not privileged to report at any time.

Mr. ELDRIDGE. I understood the gentleman from Pennsylvania [Mr. BROOMALL] to say that the Committee on Accounts have been in the habit of investigating these accounts; and yet he says they have not had the power for two years. Now, I would like to ask the gentleman what he means?

Mr. BROOMALL. I understood my colleague [Mr. RANDALL] to imply that the committee might not investigate this matter. I replied to him that the Committee on Accounts were in the habit of doing their duty fully and conscientiously.

Mr. MAYNARD. If the object is to have the contingent fund of the House fully investigated the Committee on Accounts can do it more fully than any special committee that can be organized. The only practical question, I conceive, is whether we have sufficient confidence in their honesty and capacity. If I had sufficient confidence in them to believe that they would go to work and make this investigation honestly and faithfully, I would vote for their amendment; if I had not, then I would vote against it. I shall vote for the amendment.

Mr. RANDALL. I understand that the gentleman has pledged himself in advance to vote for it.

Mr. BROOMALL. If I thought there was a member in this House who really had not enough confidence in the honesty of the Committee on Accounts to be willing to permit them to examine and report upon a matter of this sort, I would before night get out of the position of the chairman of that committee.

Mr. NIBLACK. I beg leave to assure the gentleman, as this matter has come before the House, that some of these irregularities are by common rumor and report charged to some extent at the door of the Committee on Accounts itself. They therefore assume to do what is to them a very delicate task. It is charged that in their examinations they have done nothing more than make merely formal examinations, taking the statements that are submitted to them without further examination.

Mr. BROOMALL. All that is new to me, and I do not think any member of this House will venture upon making any such charge as that. No committee of this House has ever worked harder and tried more to get at truth, justice, and exactness than the Committee on Accounts. If any gentleman wants to be satisfied whether or not I state the truth, he can have access to all our records at any time, and can attend our sessions at any time.

Mr. SPALDING. Does the committee propose to report at this session?

Mr. BROOMALL. I presume we will; we will if we can. I now call the previous question.

The previous question was seconded, there being, upon a division—ayes eighty-three, noes not counted.

The main question was then ordered.

The question was upon the amendment of Mr. BROOMALL, to substitute the "Committee on Accounts" for a "select committee."

Mr. RANDALL. Upon that question I ask for the yeas and nays.

The question was taken upon ordering the yeas and nays, and upon a division there were seventeen in the affirmative.

So (the affirmative not being one-fifth of the last vote) the yeas and nays were not ordered.

The amendment was then agreed to.

Mr. BROOMALL moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The resolution, as amended, was then adopted.

#### MESSAGE FROM THE PRESIDENT.

A message in writing, from the President of the United States, was delivered to the House by Colonel WILLIAM G. MOORE, his Secretary.

#### HOT SPRINGS, ARKANSAS.

Mr. JULIAN. The gentleman from New York [Mr. BROOKS] withdraws his objection to the consideration of the bill providing for the sale of the Hot Springs reservation in Arkansas.

Mr. ARCHER. I renew the objection.

#### UNITED STATES CONSULAR SYSTEM.

The SPEAKER laid before the House the following message from the President of the United States:

*To the Senate and House of Representatives:*  
I herewith transmit to Congress a report, with the accompanying papers, received from the Secretary of State, in compliance with the requirements of the eighteenth section of the act entitled "An act to regulate the diplomatic and consular systems of the United States," approved August 18, 1856.

ANDREW JOHNSON.

WASHINGTON, July 15, 1868.

Mr. BANKS. I move that the message and accompanying documents be referred to the Committee on Foreign Affairs, and ordered to be printed.

The motion was agreed to.

#### FUNDING THE NATIONAL DEBT.

Mr. SCHENCK. I now ask unanimous consent to have taken from the Speaker's table the bill of the Senate No. 207, for funding the national debt, and for the conversion of the notes of the United States, in order that it may be referred to the Committee of Ways and Means.

No objection was made, and the bill was taken up and read the first and second time.

Mr. SCHENCK. I now move that the bill be referred to the Committee of Ways and Means, and ordered to be printed.

The motion was agreed to.

#### ELECTION CONTEST—SWITZLER VS. ANDERSON.

Mr. POLAND. I rise to a question of privilege, and call up the resolutions reported by the Committee of Elections upon the contested-election case of Switzler vs. Anderson, from the ninth congressional district of Missouri.

The Clerk read the resolutions, as follows:

*Resolved*, That George W. Anderson is not entitled to a seat in this House as a Representative in the Fortieth Congress from the ninth congressional district of Missouri.

*Resolved*, That William F. Switzler is entitled to a seat in this House as a Representative in the Fortieth Congress from the ninth congressional district of Missouri.

Mr. POLAND. Mr. Speaker, at this period of the session, and especially in this temperate, I do not propose to take very much of the time of the House in discussing the question that is raised by these resolutions reported by the Committee of Elections. Any gentleman upon this floor who has taken interest enough in this case to read the report of the committee which has been before the House for several months, a report which is very full and elaborate, will have learned more about the case than I should be able to tell him in the short time which I propose to occupy; and, as to any gentleman who has not felt interest enough to read the report of the committee, I can hardly expect he will take interest enough to listen to what I shall have to say upon the subject.

This case, Mr. Speaker, presents something a little unusual, I might almost say remarkable. A very large majority of the Committee of Elections belong to the dominant party in this House—the Republicans—and this committee unanimously, with one exception, have reported against the sitting member, who also belongs to that party, a gentleman whom we all regard as a valuable member of this House, and whose association with us we should be glad to continue if we could find that he was legally elected. The committee, I say, are, with one exception, unanimous in this report. This exception is the gentleman from Missouri, [Mr. McClure,] and I cannot but believe that if he had been as free from personal and political bias in reference to this case as were the other members of the committee he would have concurred with us in the result to which we arrived.

This case is in somewhat narrow compass. The ninth congressional district in Missouri comprises ten counties. At the election held on the 6th of November, 1866, for member of Congress, in all the counties of the district except the county of Callaway, George W. Anderson received 4,876 votes, and William F. Switzler received 4,698, making a majority for Anderson of 178 votes. The county of Callaway gave Anderson 163 votes and Switzler 1,463 votes. If the vote of this county had been added to the others Switzler would have been elected by a majority of 1,122 votes over Anderson. This case turns wholly upon the question whether the vote of the county of Callaway should have been counted. The secretary of State, who, by the statutes of Missouri, is the proper officer to open the returns and count the votes, or to use the precise language of the statutes, to cast up the votes given for members of Congress, took it upon himself to say that there had been no legal registration in this county of Callaway, and therefore he assumed the responsibility of throwing aside the vote of this county, and thus giving the election to his political friend, the sitting member. Whether the secretary of State had any legal right to go behind the return and say that the vote of that county should not be counted is one question. Another question is this: admitting he had not the right, is there sufficient in the evidence introduced in this case to show it is the duty of the House to disregard the vote of the county of Callaway so as to give the election to the sitting member? There is something certainly very curious in this case. The secretary of State took it upon him to reject the vote of Callaway on the ground there had been no legal registration of the votes of that county; upon the ground there was such a state of violence, not open violence, but such concerted or secret violence, such fear and intimidation on the part of the registrars in that county, that they were not able to do their legal duty in registering voters; and therefore the vote of that county was to be thrown out. It is conceded the registration in that county and the voting in that county was as peaceable as any registration or any voting in any county in New England or any county in the Union. There is not a particle of evidence there was an act of violence or even an act of threatened violence either in the registration or in the voting. Yet the majority for the contestant is to be set aside upon the ground there was intimidation, there was fear in that county; that it was impossible for the registrars to do their duty and there was no registration.

This is a queer state of things, a strange state of things, when it was conceded before the committee by the sitting member and his counsel, and the proof may be looked over ever so carefully and there is not a particle of evidence to show there was anything but quiet during the voting in that county. Still that vote is to be thrown aside.

It is proper I should allude for a moment to the law of Missouri in reference to registration. In the first place, the Governor of the State is to appoint a superintendent of registration in each county. The superintendent of registra-

tion in each county is to appoint registrars in the various election precincts whose duty it is to make the actual registration. The Governor of the State by whom the superintendents were appointed was a member of the same political party with the sitting member. The superintendent of registration in the county was of the same political party with the sitting member. Every single district registrar, so far as the evidence shows anything about it, was the political friend of the sitting member. The entire machinery of this registration was in the hands of the political friends of the sitting member, and yet the secretary of State of Missouri took upon himself to say, and I say by entire usurpation of legal power, without having any kind of authority for it, he took it upon himself to say this registration was so illegal, so fraudulent, so affected by the power of violence, by intimidation because of threats of violence, as to throw aside the vote of this county. Now, sir, it is very singular, with the entire machinery of this registration, the entire control over the registration of that county in the hands of the sitting member, that such a complaint should lie in the mouth of the sitting member, or the members of his political party.

As the superintendent of this registration the Governor appointed for the county of Callaway William H. Thomas, and Thomas appointed the various district registrars. There is no question each one did not proceed in due legal form to perfect the registration, or that copies were not made and duly certified. In accordance with the laws of the State of Missouri the superintendent of registration and the registrars of the various districts, the superintendent being the president of the board, were to assemble to revise the registration of the district. When this was done, when this registration was supervised by this board, the copies of registration having been duly certified to them by the district registrars, then it became the duty of this superintendent to furnish a copy of the registration to the secretary of State of Missouri. A copy of the registration was duly certified and placed in the hands of Superintendent Thomas, and was carried by him to the capital of the State, where the secretary of State had his office. There, the evidence shows, the matter was discussed between the secretary of State, Rodman, and superintendent of registration, Thomas, whether there was not some mode by which the vote of this county of Callaway might be got rid of and leave the majority in favor of the sitting member. Thereupon this William H. Thomas, the superintendent of registration, appended to the registration of the county this certificate:

"I hereby certify that the above and foregoing list of registration is a correct copy 'as furnished me by the officers of registration' for the various election districts in and for Callaway county, Missouri."

That was a proper and legal certificate, and there ended the duty of Mr. Thomas as the certifying officer of registration of that district. But in pursuance of this arrangement between Mr. Rodman and the secretary of State, he went on to add something entirely beyond his legal power as a returning officer, and something that was entitled to no weight with the secretary of State or with the Committee of Elections or with this House, as evidence in relation to the validity of the registration. The residue of the certificate is as follows:

And I hereby further certify that the registration law in its letter and spirit was not carried out in any one of the election districts of said county; that such a system of intimidation and threatening was carried on by the disloyal, and those opposed to the law, as to deter loyal men from undertaking the registration in most of the election districts, and was consequently intrusted to men who most shamefully disregarded the law.

In the few districts where men could be had who were willing to register according to the law, there was such intimidation and threatening used as to deter those who were willing to make objections to those they knew not to be entitled to registration as qualified voters, and, as a consequence, the law could not and was not carried out, as the certificates hereto appended show.

Given under my hand this December 12, 1866.

WILLIAM H. THOMAS,  
Supervisor of Registration for Callaway  
County, Missouri.

In addition to this, Thomas procured three certificates or statements, one signed by H. S. Turner, who was appointed as registrar for Round Prairie township, and served one day and then resigned; another signed by James E. Turley, who was the registrar of Bourbon township, and another signed by John Yount, the registrar of Cedartownship, stating in substance what is stated by Thomas in his certificate.

Now, in the first place, Mr. Speaker, the committee report that this was no legal evidence whatever. These men were not certifying officers for any such purpose as to make statements of this kind. They had simply the power by statute to certify to the registration. When it was completed they could certify that that was a legal registration, and they could also certify to copies of registration. But any statements beyond that they had no official power to certify, nor had the superintendent of registration himself any more power to certify facts to the secretary of State than had the district registrars to certify them to him.

I do not apprehend that it will be contested by the sitting member or by his friends, but that the secretary of State went entirely beyond his power when he undertook to go behind the returns and upon this evidence to decide whether there was a legal registration or not. But I conceive that it is not very important whether I am right or whether the committee are right in relation to this or not, because even conceding that the secretary of State had power to go beyond the returns, it is very clear that this House have no right to go behind them. But if the facts disclosed in the evidence before the committee in this case were sufficient to show that there was such a state of affairs, of violence and intimidation in that county as to prevent a fair and honest registration, why, then, I concede it would be entirely within the power of this House to determine that the registration was illegal and that the vote of the county ought not to be reckoned in determining who was elected from this congressional district. So that it becomes important to consider the power of the secretary of State in this matter except as showing the purpose, the intent, the animus that existed on the part of this secretary of State and this returning officer, Thomas, when they undertook to mutilate the registration of this county and to blur and blot it for the purpose of inducing the secretary of State to throw the vote of the county aside, and give the certificate to the sitting member instead of the contestant who was elected.

MR. LOAN. I desire to ask the gentleman this question: whether there is any evidence in the record that any registration was made by the board of registrars of the various townships in that county presided over by the supervisors of registration and certified to by them to the secretary of State, as required by law?

MR. POLAND. I am very happy to answer the inquiry of my friend from Missouri. In the first place, the statute of Missouri provides that after the appointment of these district registrars, and after they have performed their duty in making the registration in the various election precincts, it shall be their duty to come together and act as a board of registration, and the superintendent of registration is, by law, to act as president of the board. Now, if there were no evidence on the subject the legal presumption would be that the officials did their duty. Wherever there is no proof one way or the other the legal presumption is that the officers of the law did their legal duty. But appended to the registration of each of these election precincts there is a certificate of this sort:

I, Isaac D. Snedcor, officer of registration in and for the first election district in and for the county of Callaway and State of Missouri, do hereby certify that the foregoing list of registered voters is a true and perfect copy of the register of qualified voters in said election district, as ascertained and determined by the board of appeals and revision sitting for that purpose in and for said county.

Given under my hand this 27th day of October, A. D. 1866.  
ISAAC D. SNEDCOR,  
Officer of Registration.



To the registration of each township or election precinct there was a certificate signed by the registrar in precisely those identical words.

Mr. LOAN. One word in this connection. I will state that I have diligently examined this record and that I can find in it nowhere any evidence that these officers did perform the duties devolved upon them by law, and as far as I am concerned I do not believe they ever did that thing.

Mr. POLAND. I cannot yield for a speech.

Mr. LOAN. I believe there was no such board of registration held, and that there was no revival of the lists and no copy of the registration forwarded to the secretary of State. The certificate of Mr. Snedecor just read, not being authorized by law, furnishes no evidence to the committee or to the House that any such board was held. Now, I ask the gentleman to state to the House whether that board of registration was held, and whether they supervised the registration and certified it to the secretary of State as required by law? Those are points I want answered.

Mr. POLAND. As I said before, if there was not a particle of evidence on the subject the legal presumption would be that these officers of the law did what the law made to be their duty. That is a principle that applies to public officials everywhere in relation to their official conduct, as everybody knows who knows anything about law. The familiar maxim is *Omnia presumuntur rite esse acta*. So I say that if there is no proof upon the subject the fact is to be taken to be so. But more than that, here is this certificate. The district registers certify that the revival took place and that they returned copies of the registration to the superintendent of registration of the county. And the superintendent of registration acknowledges this by his own certificate. He says:

"I hereby certify that the above and foregoing list of registration is a correct copy as furnished me by the officers of registration for the various election districts in and for Callaway county, Missouri."

That is the certificate of superintendent Thomas himself. He certifies that they are correct copies as furnished him by the officers of registration for the various election districts in and for Callaway county.

Mr. LOAN. The answer to that is that not being authorized by law it is of no force here or elsewhere.

Mr. POLAND. I say that not only the legal presumption but the legal evidence is that these several district registrars met as a board of appeal and were presided over by the superintendent, Mr. Thomas, and that the registration of each one of these election precincts was revised and corrected by the board of appeal. There is all the evidence which the law can furnish upon the subject. This record of registration could not have been legally completed without that. The only legal evidence that that was done was to be the certificates of the officers; because the law provides that they shall make such certificate, and that the certificate shall be evidence of the fact. So I say there is all the legal evidence that is necessary, and all the law can furnish in relation to the revision of the registration of that county. Therefore I say that the attempt of Mr. Thomas to slur over this registration by putting on this outside certificate, and especially when he took that registration and entered upon it, against several hundred names, that this man was a bushwhacker, that man was a rebel sympathizer, &c., he did what he had no right to do, and what the secretary of State for Missouri had no right to regard.

But this Mr. Thomas seems to be the very soul of this case on the part of the sitting member. He not only got the secretary of State to throw aside this registration upon his certificate, but he is the great witness relied upon by the sitting member, before the Committee of Elections, for the purpose of proving the fact he has put in his certificate. What do they claim here? That there was an illegal and invalid registration; that there was such a system of fear and intimidation that these

registrars felt themselves in such peril that they dared not to go on and do their legal duty. He not only certified this county out, and got the secretary of State to disregard it, but he is the principal witness by which the sitting member undertook to establish the fact before the committee, and to have us find it and report it to the House.

Now, I will recur for a moment to the testimony in relation to this matter as to the fact, without taking any more time to discuss the legal question as to whether the Secretary of State had any right to do as he did do, to throw out the returns from Callaway county. Let us now come to the fact itself, as if the secretary had counted the vote of Callaway county; as if the case between those parties was reversed; as if Switzer had received the certificate of election, as he ought to have received it, and his seat was contested by Mr. Anderson, who is now the sitting member. Is it established that there was such a system of intimidation and fear in Callaway county that there could not be and was not a legal registration of voters? Now, as I said, the important witness, the principal witness on the part of the sitting member to establish this, is this same William H. Thomas. The only evidence introduced for the purpose of showing a disregard of the provisions of the law by any of the district registrars is that of William H. Thomas, as to the registration in Fulton township, of which J. D. Snedecor was registrar, and appointed by Thomas. Thomas testifies that he was present and saw Snedecor register a number of persons. He says:

"I thought his whole movements were contrary to law, in this, that he subscribed the names of the applicants instead of their subscribing their own names as the law directs; and that he merely asked them if they could take the oath, instead of administering it; and that he totally failed to administer the additional oath given under the attorney general's instructions, by which to ascertain the true qualifications of applicants. I protested against the proceeding as being illegal, became disgusted, and left the office."

That is the only evidence there is in the case in relation to improper conduct on the part of any district registrar. On the other side Snedecor, the registrar of that district, says there was no person registered who did not take the oath. That, perhaps, deserves some explanation. Every man who applies for registration in Missouri is obliged to take the test-oath, the strict test-oath prescribed by the Missouri statute. He cannot even be allowed an examination before the registering officer until he has first taken that test-oath, which any gentleman who will take the trouble to read it will find to be a very strict one. Mr. Snedecor says that no man was registered who did not take that oath. He says:

"There were about twenty-five—not exceeding twenty-five—of the first who registered to whom I explained the oath, and asked them if they took the oath, and upon being answered that they did, I had them subscribe their names."

Now, I apprehend that there is no lawyer in this House who will say that this was not a legal administration of an oath. I am not aware that any statute in force in Missouri, or anywhere else provides the form of administering the oath. The laws merely provide for an oath; and when a man appears before the proper officer and the oath is explained to him, and he subscribes it, the officer duly certifying that he took the oath, that I take it is a legal administration of the oath. According to my apprehension, there is no propriety in sticking about forms. Whether the person taking the oath shall hold up his hand or kiss the book is not a matter of statute regulation; it is a matter of usage everywhere.

Now, in relation to this registration in Fulton township, and as to whether there were irregularities there, the evidence is that of Thomas upon the one side and of Snedecor, the registrar, upon the other; and so far as appears in this case there is quite as much ground to believe that Mr. Snedecor is an honest and truthful man as that Mr. Thomas is such a man. I know nothing of Mr. Thomas, except as he appears in this case, but there

certainly is very great ground for doubt in relation to the truth of the statement of Mr. Thomas when he testifies in relation to this registration in Fulton township; and there is not a particle of evidence that while he sat on this board of appeals he ever raised the slightest objection to the registration in this township or in any other.

Mr. LOAN. I cannot believe that the gentleman from Vermont [Mr. POLAND] would intentionally make any statement not strictly correct, and I ask him to read the testimony of Mr. Garner in regard to this man Snedecor, and the character of the men who registered, and then I desire to know whether he undertakes to indorse the character of Snedecor in comparison with that of Mr. Thomas or anybody else.

Mr. POLAND. Mr. Speaker, I cannot go into all the details of the evidence. It is several months since the case was examined by the committee and this report presented to the House.

Mr. LOAN. The gentleman was speaking of Mr. Snedecor as a man who stands fairly before the House upon the evidence presented, and I want him to refer to the evidence of Mr. Garner, which will show—

Mr. POLAND. My friend from Missouri will have abundant opportunity to present to the House the facts about Mr. Thomas, and about all parts of this case.

Mr. MILLER. I desire to inquire whether any of these men, notwithstanding they were registered, had participated in the rebellion.

Mr. POLAND. Very few. There is evidence that perhaps half a dozen of those who were registered—I think not more than that—were disloyal persons and ought not to have been registered. Upon this registration Mr. Thomas, before he delivered it over to the secretary of State, made various minutes and memoranda, and on page 4 of the report of the committee we present a copy of an entire page of this registration, with the comments made upon it by this Thomas, superintendent of registration. This is a specimen:

"Agee, James H., enrolled disloyal in 1862.  
 "Allen, James G., enrolled disloyal in 1862.  
 "Atkinson, C. O., enrolled disloyal in 1862; required to take the oath of allegiance.  
 "Atkinson, J. A., required to take oath of allegiance.  
 "Bailey, William H., disloyal, rebel sympathizer; refused to take convention oath as clerk of court, now county clerk elect.  
 "Barnes, T. S., enrolled disloyal.  
 "Bartley, Joseph D., has been in rebel or bushwhacking service; registered in Fulton, lives in St. Aubert.  
 "Bicket, Martin, enrolled disloyal.  
 "Beavan, Charles, enrolled disloyal.  
 "Beavan, John T., enrolled disloyal.  
 "Becker, Engel, enrolled disloyal.  
 "Bedding, Thomas H., enrolled disloyal; registered in Fulton, lives in Round Prairie.  
 "Bellana, George W., enrolled disloyal.  
 "Bennet, Willis D., enrolled disloyal; required to give bond of \$1,000.  
 "Berry, John G., enrolled disloyal.  
 "Berry, Samuel H., influential rebel sympathizer.  
 "Blackmon, James, been in rebel army. (H. S. Turner, witness.)  
 "Blackmon, James A., rebel sympathizer, notoriously disloyal. (H. S. Turner, witness.)  
 "Blackburn, Thomas, enrolled disloyal; under bond of \$2,000; stated on oath he could not take the oath as juror at circuit court.  
 "Blagg, William D., enrolled disloyal; took Judge Ansell's two horses in 1861; said they were for Porter."

Mr. Thomas, in his testimony, says that he copied some of these memoranda from some military record, or a copy of a military record that he had found, which does not appear to have been made under any authority of law, or to be authenticated in any form. Hence, I say there is no evidence, except as to a very small number of persons, that those registered as qualified voters were really disloyal.

But to come to the evidence particularly as to the question of intimidation, whether there was such a state of feud and intimidation in that county that the district registrars dared not do their duty. I have already referred on the part of the sitting member to the evidence of Thomas, the man who certifies the vote of this county out in the first place, and now undertakes to swear it out. I have referred to him. Then there is the testimony of James E.

Turley; and I ask to take a little time to read the testimony of this lion-hearted Turley, this man who says he could not do his duty because he was intimidated. I wish gentlemen to listen; for, saving the testimony of Thomas, it is the most minute testimony on the part of the sitting member to show there was fear and violence on the part of the registrars, so they could not do it. Here is a good picture of the man and a good picture of the state of things, and a good picture of the pretenses upon which the vote of this county was thrown out by the secretary of State. James E. Turley, the registrar for Bourbon township, whose statement or certificate to the secretary of State has before been referred to, was called as a witness by the sitting member, and was asked as follows:

"Question. In signing the certificate to your registration for Bourbon township, did you believe that the law was faithfully carried out?"

"Answer. I did then, sir; and if I had to do it again would do just as I did then; but I heard after I signed the certificate things which if I had known when I registered I would not have signed the certificate.

"Question. Was there not a system of intimidation in the county at the time?"

"Answer. There was against me, sir. I was intimidated by fear of being interrupted."

On his cross-examination by the contestant, he was examined as to the grounds of his fear, and what was said, and by whom, and as he is the only one of the registrars who claims to have been prevented by fear from doing his proper duty, his testimony on that subject is worthy of attention:

"Question. What did the people say that scared you?"

"Answer. When you (the contestant) spoke in the court-house, you asked if the supervisor was present, and when told that he was not, you then asked if any registrars were present, and he told them that we were in a very delicate situation, and to be careful."

"Question. What other persons said anything to scare you?"

"Answer. James K. Sheely made another very frightful remark to me."

"Question. When and where did Sheely make the remark, and what was it?"

"Answer. It was after I was appointed, in front of his office, in Fulton. He said if this registration law was carried out according to Radical rule there would be five hundred law suits in Callaway county."

"Question. Did not you carry out the registration according to the Radical rule?"

"Answer. I do not think I did, as I had to skin between two parties, as it was rather a zigzag course, liable to a suit from either party."

"Question. Were there any suits brought against you?"

"Answer. Not that I know of."

"Question. What other persons scared you by remarks?"

"Answer. Jeff. Jones made remarks in a speech here that scared me."

"Question. What did Jones say?"

"Answer. Jones advised the people, soldiers and all, to open polls of their own, and hold an election in spite of the registration."

"Question. Was not Jones's advice not to resist the registration law?"

"Answer. I did not understand it; but he advised them not to register at all, but to hold polls of their own at the election."

"Question. What other persons made frightful remarks to scare you?"

"Answer. Well, sir, I will take Mr. Hockaday as the next man, as he struck more terror to my heart than anybody else. Mr. Hockaday got up the day Mr. Jones spoke and read a document, one clause of which was that 'we will put down the Radical party so that they will never destroy any other nation as they have done this.'

"Question. Was not that document a resolution ratifying the action of the Philadelphia convention?"

"Answer. I don't know."

"Question. What other persons frightened you?"

"Answer. It was M. Y. Duncan, of Audrain county."

"Question. What did he say?"

"Answer. He said just what you said; only he went further and said that if any man came forward and took the oath of loyalty, and the registrar refused to register him, he was liable to prosecution."

"Question. Are these all that scared you?"

"Answer. These were all the important ones; there was some neighborhood chat of minor importance."

H. S. Turner, whose certificate to the secretary of State has been quoted, was appointed registrar for Round Prairie township, and after registering one day resigned the position. He was asked:

"Question. What were your reasons for so doing? [resigning.]

"Answer. I found I could not execute the law properly."

"Question. What were the difficulties you had to contend with?"

"Answer. A great many refused to be questioned as to their qualifications."

"Question. Those whom you registered, did they refuse to be questioned?"

"Answer. A good many did, sir."

"Question. Did you believe from your knowledge of the township at the time that a proper registration could be made under the law?"

"Answer. I did not, sir."

"Question. Were persons whom you knew to be disqualified demanding to be put on the list as voters?"

"Answer. Yes, sir."

I have taken the trouble, Mr. Speaker, to read the testimony of this witness at length because, aside from Mr. Thomas, this lion-hearted Turley is the great witness of the sitting member. Now, sir, is it not perfectly ridiculous for a sober and serious man to undertake to say this officer of registration was prevented from doing his duty; that he dared not do his duty; that he dared not include men who were entitled to registration; that he dared not register men who were entitled to vote, and all this upon the ridiculous pretense we have here? Is there any man here, any man upon this floor, upon this side, who, to serve a political friend, or with any idea of serving his political party, will stand upon so ridiculous a ground as this?

Then we have the testimony of J. J. P. Johnson, who said:

"I think there were some who said they would have a free election or a free fight."

Next we have John Yount:

"Were threats made against officers of registration?"

"Nothing, except lawsuits; they said around they would have a free election or a free fight."

"Were objections made to those registering?"

"No, sir; some told me they were afraid to act as witnesses. Witnesses said they would not attend, and I did not think it safe to risk it myself."

Abram Snithen testified as follows:

"I thought it not safe to object to registration. They said if they could not vote others should not."

William H. Thomas said:

"It was the general talk throughout the country among the disloyal that they intended to have a free election or a free fight; and they intended to register anyhow or have a fuss over it. That kept men from going to the place of registration and laying in objections."

J. S. Henderson, of Fulton, was applied to to be registrar, but declined, and was asked for his reasons:

"I did not wish to register the township."

"Did you believe you could properly enforce the law?"

"I did not know that I could not; but didn't wish to have any conflict with the inhabitants. Thought it would be an unthankful and unprofitable business to enforce the law."

Then, on the other hand, John Vinson, registrar of Nine-Mile Prairie, says there was no opposition or interference with registration; not threatened and heard of no threats by anybody; everything was quiet.

Thomas H. Beeding, of Round Prairie, heard of no threats, and does not think persons would have been in any danger by appearing and making objections. He heard Turner say he had no fears; but people did not like the way he questioned them.

A. B. Maupin, registrar of Round Prairie, was not threatened or interfered with; does not think persons would have been in danger of insult or violence who made objections; heard nothing of the kind.

T. J. Ferguson, registrar of Cote Sans Dedain, was not threatened or interfered with in any way.

L. B. Hunt, registrar of Aux Vasse, was not threatened or intimidated or in any way interfered with in making the registration.

John Yount, registrar of Cedar, was threatened only with lawsuits. Some men said if they were not registered there would be a lawsuit about it; but they never brought any.

John K. Boyd, of Round Prairie, says the registration was quiet, peaceable; no disturbance; does not believe persons would have met any difficulty by objecting to persons registering.

George A. Moore, registrar of St. Aubut, was not threatened, intimidated, or interfered with in any way in registering.

M. T. Moore, of Cedar, does not know or believe there was any threats or intimidation used to retard or interfere with registration.

Morgan B. White, of Nine-Mile Prairie, says

the same; was present every day; never saw it more quiet.

Martin Baker, of Bourbon, says the same in substance.

Rawdon H. Hood, of Liberty, was present at registration; it was quiet, and orderly; heard of no threatening or intimidation; registrar said he had met no difficulty.

John Wilson, of Cedar, says the registration was quiet and peaceable; heard of no threatening or intimidation; men were not deterred from voting or making objections.

James W. Overton, of Cedar, says so far as Thomas's certificate applies to his town it is false.

William King, sheriff of the county, was a good deal among the people during the canvass; heard of no threatening or intimidation to interfere with the registration law, except some men said if registrars did not carry out the law they would sue them; heard Turley say twice after the session of the board of appeals that he had got along as well as any registrar in the county, and his books did not show a scratch.

Isaac D. Snedcor, registrar of Fulton, had no difficulty; registration was quiet and orderly; says Thomas's certificate is false as to his township.

But, Mr. Speaker, as I said in the outset, all that is conceded. They do not deny it on the other side. It was conceded by the gentleman who argued the case before the committee for the sitting member, and who I suppose will make a speech in reference to the case before the House, that there was no violence and no appearance of violence. It all resolves itself into a certain fashionable color a few years ago called invisible green. It was violence that nobody saw. One piece of evidence that is relied upon on the part of the sitting member to establish this, is the state of things that existed in that county during the war. Several witnesses have testified that the general sentiment of that county during the war was disloyal. They estimate, I think, from one hundred and fifty to two hundred persons in that county who were rebel sympathizers. There is no pretense that it is shown in the testimony that there was any such proportion of the people of the county who were guilty of any disloyal acts, but it is claimed that they were rebel sympathizers. That has come to be, not only in the political, but in the legal world of Missouri, a very important phrase.

Mr. LOAN. I ask the gentleman if he does not understand that the law of Missouri disfranchises rebel sympathizers?

Mr. POLAND. Yes, sir; I do. That is the law of Missouri. Whether wisely or unwisely they undertook to say that people shall not vote merely upon matters of conscience and opinion. The committee have not undertaken to decide here that the State of Missouri did wisely or unwisely in passing such a law. It is the law of Missouri and we have not undertaken to gainsay it. But when you undertake to apply this in practice, when you undertake to get witnesses to estimate the number of persons who sympathized with the rebellion and who cast their votes, the result will be that they will estimate just as many such persons as voted against the candidate of their choice. Practically that is the result of such a law as this which undertakes to exclude men from voting on the ground of having sympathized with the rebellion, not for illegal acts, but for entertaining wrong opinions. The witnesses that you call on one side or the other will limit their testimony to the number that voted for or against their choice.

Mr. LOAN. I would like to ask the gentleman if he would be willing to take the contestant's estimate of the number of rebel sympathizers and the number of loyal men in that county?

Mr. POLAND. I have nothing to say about that.

Mr. LOAN. I am willing to take his statement.

Mr. MULLINS. The gentleman from Vermont [Mr. Poland] has said that there were

men there who sympathized with the rebellion, whose hearts were set on rebellion, but who did not take any active part in the rebellion. Now, admitting that their hearts were set upon rebellion, how much more would it take to make rebels of them?

Mr. POLAND. I do not think the gentleman and myself will differ about that. I stated the other day here in the House that I was as willing to vote for the man who fought for the rebellion as for the man who prayed for it. But the difficulty is that when you undertake to throw out the vote of a county or a township upon the estimate of somebody as to the number of persons there who entertain bad opinions, every man will estimate that number according to the number who vote with him or against him. That is the great difficulty of going into the consciences of men and taking their standard of belief as the test of their right to vote. That is the practical evil of such a system. I do not say that the Legislature of a State may not say that a man shall not vote because he entertains improper or erroneous opinions upon any subject. But I say that practically, when you come to the case of a contest between representative men of different parties, and to the question of who are entitled and who are not entitled to vote in a township or county, if you undertake to decide that question upon the basis of men's consciences and opinions, that estimate will be made just as the exigencies of party require.

Mr. LOAN. The contestant in this case has made his estimate, and it is upon the record of this case as evidence. Will the gentleman place that estimate before the House?

Mr. POLAND. The gentleman is satisfied with it?

Mr. LOAN. Yes, sir.

Mr. POLAND. I say this: the estimate of the number of persons in that whole county who sympathized with the rebellion, as really put in evidence, is wholly upon the part of the sitting member. According to the opinion of this witness a very large majority were of that class. He does not leave more than two hundred and fifty or two hundred and eighty persons who entertained such proper and loyal sentiments as would entitle them to be voters.

Now, as I have said, and I have undertaken to give some reason for it, that species of evidence is entirely unreliable; no sort of dependence can be placed upon it. The Committee of Elections upon this subject have undertaken to mete out equal and exact justice. There was one case before them previous to this, which was decided by the House—the case of Birch vs. Van Horn of Missouri. Between twenty five hundred and three thousand persons voted for Birch, more than enough to give him the election. And he had plenty of witnesses who were ready to swear that in their opinion those persons did not entertain such disloyal sentiments, and had not been guilty of such disloyal acts as, by the law of Missouri, would preclude them from being voters. But the committee said they could not take any such general estimate at all. If a man relies upon the fact that persons had been registered who were not entitled to be registered, then he must show who those persons were. We say now that we cannot go upon any general estimate. We decided in that case that Mr. VAN HORN was entitled to his seat, although there was no evidence on his side, and there were abundant witnesses on the other side who were willing to testify that in their judgment more than twenty-five hundred men had voted for Birch who were not disloyal. We struck out all that testimony in that case, and we apply the same principle in this case to a man of our own party, whom we would be glad to retain on the floor of this House if we believed him to have been elected.

But the theory of the sitting member proves altogether too much. It is said that this fear was so universal and all-pervading that it need not be put in evidence, that everybody knew it without being told. Now, sir, a recurrence to a very few facts will show how fallacious

this is. In the first place, the vote of this county fell short by eight or nine hundred votes of that which was cast in 1860.

[Here the hammer fell.]

Mr. BENJAMIN obtained the floor.

Mr. POLAND. If the gentleman from Missouri [Mr. BENJAMIN] will yield to me a moment I desire, as the contestant in this case may, in a certain contingency, desire to address the House, to move that he be permitted, if he should desire it, to do so under the rules of the House.

The motion was agreed to.

Mr. BENJAMIN next addressed the House. Before the conclusion of his remarks he yielded for the transaction of other business. His speech, when concluded, will be published entire.

#### ENROLLED BILLS SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 631) amendatory of an act approved July 26, 1866, entitled "An act to authorize the construction of certain bridges, and to establish them as post roads;" and

An act (H. R. No. 318) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes.

#### COMMITTEE ON EMIGRATION.

Mr. CHANLER, by unanimous consent, submitted the following resolutions; which were referred to the Committee on the Rules:

*Resolved*, That Rule 74 be amended so as to add to the standing committees to be appointed at the commencement of each Congress, and to consist of nine members, a Committee on Emigration; said amendment to take effect after the close of the present session of the Fortieth Congress.

*Resolved*, That the following be added to the standing rules of the House from and after the close of the present Congress:

**RULE.**—It shall be the duty of the Committee on Emigration to take into consideration all propositions relative to emigration to or from this country as shall be presented, or shall come in question and be referred to them by the House, and to report their opinion thereon, together with such propositions relative thereto as to them shall seem expedient.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 678) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869.

The message further announced that the Senate had agreed to the amendment of the House to the bill (S. No. 355) authorizing the construction of a bridge across the Missouri river upon the military reservation at Fort Leavenworth, Kansas.

The message also announced that the Senate had passed without amendment the bill (H. R. No. 941) to amend certain acts in relation to the Navy and Marine corps.

The message further announced that the Senate had passed House bill of the following title, with an amendment, in which the concurrence of the House was requested:

An act (H. R. No. 761) to construct a wagon-road from West Point to Cornwall Landing, all in the county of Orange, State of New York.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I rise to a privileged question, and submit the following conference report.

The report is as follows:

The committee of conference on the disagreeing votes of the two Houses, on the amendments of the

Senate to the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the amendments of the Senate numbered 2, 3, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 51, 52, 53, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 81, 82, 83, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 103, 104, 106, 108, 109, 110, 112, 113, 114, 115, 116, 120, 121, 122, 123, 124, 125, 126, 127, 130, 134, 135, 136, 137, 138, 139, 140, 141, 146, 147, 148, 150, 151, 153, 153, 154, 155, 157, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 171, 173, 174, 175, 176, 177, 178, 179, 183; and the House agree to the same.

That the Senate recede from their amendments number: 1, 26, 50, 79, 80, 123, 129, 143, 144, 145, 150, 181.

That the House recede from their disagreement to the fourth amendment of the Senate and agree to the same with amendments, as follows: in line one of said amendment of the Senate strike out the word "and," and insert in lieu thereof the words "the tax on brandy made from grapes shall be the same and no higher than that upon other distilled spirits; and."

In line four of said Senate amendment, after the word "such" insert the word "other."

That the House recede from their disagreement to the fifth amendment of the Senate, and agree to the same with an amendment as follows: strike out all of the fifth line of said Senate amendment down to and including the word "be," in the eighth line, and insert in lieu of the same the words "furnish and attach, at his own expense, such meter, meters, or meter-safes, as may have been prescribed for use at his distillery, and."

That the House recede from their disagreement to the eighth amendment of the Senate and agree to the same with amendments, as follows: strike out all after the word "construed" in said amendment and insert the words "to apply to fermented liquors;" and in lines twenty-four, twenty-five, and twenty-six, page 5, strike out the words "or shall have been lawfully imported into the United States and the duties thereon paid."

That the House recede from their disagreement to the forty-ninth and a half amendment of the Senate and agree to the same with an amendment, as follows: strike out the word "produce" inserted by the Senate and insert in lieu thereof the word "production."

That the House recede from their disagreement to the fifty-third amendment of the Senate and agree to the same with an amendment as follows: strike out the words proposed to be inserted by said Senate amendment together with the words "spirits produced from the materials used shall be ascertained;" and insert in lieu of the same the words "materials used for the production of spirits shall be ascertained."

That the House recede from their disagreement to the fifty-fourth amendment of the Senate, and agree to the same with an amendment, as follows: strike out the word "and;" in said Senate amendment and insert in lieu thereof the words "together with the special tax of."

That the House recede from their disagreement to the fifty-fifth amendment of the Senate, and agree to the same with an amendment, as follows: strike out the word "by" in said amendment and insert the word "under."

That the House recede from their disagreement to the seventy-seventh amendment of the Senate, and agree to the same with an amendment, as follows: strike out the words "which branding and cancellation shall be done under such rules and regulations as the Commissioner of Internal Revenue may prescribe."

That the House recede from their disagreement to the seventy-eighth amendment of the Senate, and agree to the same with amendments, as follows: insert the words proposed to be stricken out by the Senate, and in line forty three, page 35, after the word "affixed" insert the words "and the number of proof gallons;" and at the end of line forty-nine, page 35, insert "proof gallons."

That the House recede from their disagreement to the seventy-ninth and a half amendment of the Senate, and agree to the same with amendments, as follows: insert the words proposed to be stricken out by the Senate, and in line fifty-eight, page 36, after the word "affixed" insert "and the number of proof gallons;" and at the end of line sixty-four, page 36, add the following: "proof gallons."

That the House recede from their disagreement to the eighty-fourth amendment of the Senate and agree to the same with an amendment as follows: strike out the word "they" proposed to be inserted, and insert in lieu thereof the word "there."

That the House recede from their disagreement to the ninety-seventh, ninety-seventh and a half, ninety-eighth, ninety-ninth, one hundredth, one hundred and first and one hundred and second amendments of the Senate, and agree to the same with an amendment as follows: strike out the words proposed to be inserted, and all from line four inclusive, down to and including the word "business," in line fifteen, (printed bill,) and insert in lieu thereof the words "not exceeding twenty-five officers to be called supervisors of internal revenue, each one of whom shall be assigned to a designated territorial district to be composed of one or more judicial districts and territories, and shall keep his office at some convenient place in his district to be designated by the Commissioner, and shall receive in addition to expenses necessarily incurred by him and allowed and certified by the said Commissioner, a compensation



sation for his services such salary as the Commissioner of Internal Revenue may deem just and reasonable, not exceeding \$3,000 per annum."

That the House recede from their disagreement to the one hundred and fifth and one hundred and sixth amendments of the Senate and agree to the same with the following amendments: strike out from and including line four of said one hundred and fifth amendment down to and including line fifteen of the bill, (section fifty,) and insert in lieu thereof the following: "employ competent detectives, not exceeding twenty-five in number at any one time, to be paid under the provisions of the seventh section of the act to amend existing laws relating to internal revenue and for other purposes," approved March 2, 1867; and he may, at his discretion, assign any such detective to duty under the direction of any supervisor of internal revenue, or to such other special duty as he may deem necessary; and that from and after the passage of this act no general or special agent or inspector, by whatever name or designation he may be known, of the Treasury Department in connection with the internal revenue, except inspectors of tobacco, snuff, and cigars, and except as provided for in this act, shall be appointed, commissioned, employed, or continued in office, and the term."

That the House recede from their disagreement to the one hundred and seventh amendment of the Senate and agree to the same with an amendment, as follows: insert in lieu of the words stricken out the following:

Sec. —. And be it further enacted, That from and after the passage of this act no assessor or collector shall be detailed or authorized to discharge any duty imposed by law on any other collector or assessor, but a supervisor of internal revenue may within his territorial district suspend any collector or assessor for fraud or gross neglect of duty, or abuse of power, and shall immediately report his action to the Commissioner of Internal Revenue, with his reasons therefor in writing, who shall thereupon take such further action as he may deem proper.

That the House recede from their disagreement to the one hundred and eleventh amendment of the Senate and agree to the same, with the following amendment: before the word "distillery" insert "bonded or."

That the House recede from their disagreement to the one hundred and seventeenth amendment of the Senate and agree to the same, with the following amendments: strike out on line seven, page 69, all after the word "spirits," down to and including the word "required," in line ten, and insert in lieu thereof the words: "which shall be due and payable only after the proper entries and bonds have been executed and filed and all other conditions complied with as hereinafter required, and thirty days after the vessel has actually cleared and sailed on her voyage with such spirits on board."

In lines fifteen and sixteen, strike out the words "and run on which no internal tax shall have been paid," and insert in lieu thereof the words, "or run."

Page 72, line fifty-four, strike out the word "internal."

That the House recede from their disagreement to the one hundred and eighteenth and one hundred and nineteenth amendments and agree to the same with amendments, each, as follows: strike out "twelve" and insert "nine."

That the House recede from their disagreement to the one hundred and thirty-first amendment of the Senate and agree to the same, with the following amendments: in line ninety-one, page 80, strike out the word "any;" in line ninety-two, page 80, strike out the word "two" and insert "ten;" in line ninety-three, page 80, after the word "dollars," insert the words "of sales of such spirits, wines, or liquors;" in line ninety-four, page 80, after the word "dollars," insert, "and on other sales shall pay as wholesale dealers, and such excess shall be assessed and paid in the same manner as required of wholesale dealers."

In line ninety-five strike out all after the word "liquors" down to and including the word "made," in line ninety-seven, and insert the words "whose annual sales shall exceed \$25,000."

That the House recede from their disagreement to the one hundred and thirty-second amendment of the Senate and agree to the same, with the following amendment: strike out the word proposed to be inserted and insert after the words "retail dealer," in line one hundred and forty-two, page 82, the words "liquor dealer."

That the House recede from their disagreement to the one hundred and thirty-third amendment of the Senate and agree to the same, with an amendment, as follows: after the word "four," in line six, page 86, insert the word "six."

That the House recede from their disagreement to the one hundred and forty-second amendment of the Senate and agree to the same, with an amendment, as follows: insert in lieu of the words proposed to be stricken out the words "the manufacturer's name and place of manufacture, or the proprietor's name and his trade-mark, and."

That the House recede from their disagreement to the one hundred and forty-ninth amendment of the Senate and agree to the same, with an amendment, as follows: insert in lieu of the words proposed to be stricken out the words "the proprietor's or manufacturer's name," and in line seven, page 93, strike out the word "his" and insert the word "the."

That the House recede from their disagreement to the one hundred and fifty-second amendment of the Senate and agree to the same, with the following amendment: strike out the words "provided that any" and insert "any."

That the House recede from their disagreement to the one hundred and fifty-eighth amendment of the Senate and agree to the same, with an amendment,

as follows: at the end of said amendment add "when weighing exceeding three pounds per thousand, five dollars per thousand;" and in line six, page 106, section eighty, strike out the words "and cheroots."

That the House recede from their disagreement to the one hundred and seventieth amendment of the Senate, and agree to the same with an amendment, as follows: add to the said Senate amendment the following: "But in no case shall such renewal or change extend to an abandonment of the general character of the stamps provided for in this act nor to the dispensing with any provisions requiring that such stamps shall be kept in book form and have thereon the signatures of revenue officers."

That the House recede from their disagreement to the one hundred and seventy-second amendment of the Senate, and agree to the same with the following amendment: add to said Senate amendment the words "or officer acting as such, with his reasons therefor."

That the House recede from their disagreement to the one hundred and eightieth amendment of the Senate, and agree to the same with amendments, as follows: in line two of said amendment strike out the word "revenue;" in line three strike out the words "for denoting the tax thereby imposed;" in line fourteen strike out the word "revenue;" in lines fourteen and fifteen strike out the words "for denoting the tax thereby imposed."

That the House recede from their disagreement to the one hundred and eighty-second amendment of the Senate, and agree to the same with an amendment, as follows: "But distillers and refiners of mineral oils shall be considered as manufacturers and subject to the tax on sales provided for in the fourth section of the act to exempt certain manufactures from internal tax, and for other purposes," approved March 31, 1868."

ROBERT C. SCHENCK,  
S. HOOPER,

WILLIAM E. NIBLACK,  
*Managers on the part of the House.*

JOHN SHERMAN,  
JUSTIN S. MORRILL,

C. R. BUCKALEW,  
*Managers on the part of the Senate.*

MR. DELANO. I hope the gentleman will explain the action of the committee of conference.

MR. SCHENCK. I have every disposition to give whatever explanation gentlemen may ask in regard to this report. I propose to call for the previous question on the adoption of the report; but I am ready to answer any question gentlemen may ask in regard to particular amendments.

MR. PETERS. How about the tax on banks?

MR. SCHENCK. The committee agree to strike out all that part of the bill in conformity with the amendment of the Senate, being entirely satisfied no bill could pass the Senate at this session which contained a provision in regard to banks, such as the House agreed to.

MR. KOONTZ. What action was had in reference to the payment of storekeepers?

MR. SCHENCK. They are to be paid by the United States.

MR. UPSON. What about special agents?

MR. SCHENCK. That stands in this condition: the Senate amended the provision in regard to supervisors of revenue limiting the number to twenty. It has been agreed to extend the number to twenty-five, their territorial districts to be made up by composing those districts of judicial districts.

The next section, which provided for repealing any law authorizing the appointment of general agents and special agents, stands with this addition. We also repeal the appointment of inspectors with the exception of inspectors of tobacco, snuff, and cigars; and instead of any of these officers we authorize the appointment of not exceeding twenty-five detectives at any one time, the number now being unlimited, who shall be assigned to duty in the different divisions of supervisors. The whole appointment of those officers, who have roving commissions to enter districts and interfere with local officers, has been swept away.

MR. SCOTFIELD. Has the whole tax been removed from petroleum?

MR. SCHENCK. The distillers and refiners of petroleum or mineral oil are to pay the same price as other manufacturers. The House conferees agreed to the Senate amendment with an amendment to make it clear they should pay the tax other manufacturers did, which was not before clear in the Senate amendment.

MR. SCOTFIELD. No tax per gallon?

MR. SCHENCK. No tax except on sales.

MR. GARFIELD. What has been done in

regard to the removal of spirits in bond and in regard to bonded warehouses generally?

MR. SCHENCK. The system adopted by the House remains. There is to be no removal in bond and only drawback allowed to the amount of sixty cents per gallon. There are some few verbal amendments to make the matter clear and precise, but there is no change in principle.

MR. GARFIELD. In the same connection I desire the gentleman to state what time is allowed for the removal of spirits now in bond?

MR. SCHENCK. On that question there was a compromise between the committees on the part of the two Houses. The House having required the removal in six months from the present bonded warehouses by the payment of tax thereon, of all spirits that might be now deposited there and the Senate having extended the time to twelve months, a compromise was made by fixing nine months as the time within which the spirits must be removed under penalty of forfeiture.

MR. BECK. I desire to ask what will be the loss to the revenue by the striking off of the tax on petroleum?

MR. SCHENCK. The original tax on petroleum having amounted to some four or five million dollars when it was fixed at twenty cents, and having been reduced to ten cents, I should think the reduction would amount to more than two million dollars. That amount would be lost except for the fact that we get rid of all the machinery which was kept up for this single article similar to that which prevails in relation to distilled spirits. This was the only remaining article upon which such a tax was collected in that way.

I will say in this connection that so far as a part of this machinery is concerned—the inspectors of oil—the payment of the inspectors' fees was made not by the Government, but by dealers in oil; but we get rid of a very great abuse so far as that is concerned. The committee found that in the allowance of a certain amount per gallon to these inspectors, as their fees for gauging and inspecting oil, they were in many parts of the country, especially in New York and Brooklyn, receiving many thousands of dollars per annum. In one instance they were equivalent from month to month to \$56,000 a year.

MR. KOONTZ. I would inquire if the conference committee have fixed the same amount of special tax to be paid by distillers as was fixed by the House.

MR. SCHENCK. That remains as before. It is due to the House I should say that the Senate having reduced the tax upon the sales of wholesale dealers in liquor to one fifth of one per cent., putting them on the same footing as other dealers, whereas the House had made it three per cent., we succeeded in getting a compromise by which wholesale dealers in liquor are to pay on their sales one per cent., which is five times as much as the Senate had agreed to.

MR. GETZ. I wish to inquire whether the phraseology of the section defining what shall constitute a distiller has been relieved of the ambiguity which it was alleged to contain, under which brewers were fearful they might be classed as distillers.

MR. SCHENCK. Yes, sir; there is a phrase introduced to prevent its application to producers of fermented liquors.

MR. O'NEILL. I will ask the gentleman again, do I understand that these twenty-five inspectors or detectives are in the place of all the present inspectors and detectives?

MR. SCHENCK. No; the gentleman does not quite understand it. At present the Commissioner of Internal Revenue is permitted to employ, upon such terms as he pleases, and pay out of any appropriation made for that purpose, an unlimited number of detectives. I am speaking of the present law. There are four classes of inspectors by the existing law: first, general inspectors, of whom there are some two hundred and fifty-five, I think, altogether; second, inspectors of distilled spirits; third,

inspectors of oil; and fourth, inspectors of tobacco, snuff, and cigars. The whole number of these four classes of officers, including special agents and general agents, amounts to about seventeen hundred. We get rid of the special agents and revenue agents, of which I think there are eleven general agents, ten under one law and one under another, and some forty-two or forty-four special agents provided for by the existing law. We also repeal the law providing for general inspectors, amounting to some two hundred and twenty-five in number, and provide, instead of the five hundred inspectors of spirits or thereabouts, that there shall be a gauger and storekeeper paid by the Government and under the reach and control of the Government instead of these inspectors of spirits who now belong to the distillery. The inspectors of oil are of course got rid of by the repeal of the tax on oil. There remain, therefore, none but the inspectors of tobacco, snuff, and cigars. All of them, sixteen or seventeen hundred officers, are got rid of, with the exception of some one hundred and fifty or two hundred who have been employed as inspectors of tobacco, snuff, and cigars by the substitution for them of supervisors of revenue, and not exceeding twenty-five detectives, who may be employed throughout the United States, and the gaugers and storekeepers under the control of the authorities of the United States.

Mr. ELDRIDGE. Will the gentleman inform the House how many in number the officers have been reduced by this bill?

Mr. SCHENCK. More than one half the number have been got rid of, I should say, and I think a very much better system has been adopted.

Mr. ELDRIDGE. Does the gentleman include in that the number who have been substituted?

Mr. SCHENCK. Yes, sir; after allowing for all the substitution I should say that the whole aggregate number will be less than one half what it was before, the names and duties being in some degree changed, but the actual number largely reduced.

Mr. BECK. One other question. By section twelve of this bill it is provided that two dollars per day shall be paid by all distillers fermenting over twenty bushels of grain, and so on in proportion; and that any distillery that shall suspend work shall pay two dollars per day during the time the work is suspended. Now, is it intended that they shall pay two dollars per day whether they are running or not?

Mr. SCHENCK. In regard to that matter we have agreed to adopt the language employed by the Senate, "except Sundays;" they are not charged for Sundays. We also agree to the amendments of the Senate, and substitute the word "stopped" for the word "suspended." Now, if no other gentleman desires to catechise me any further, I will call the previous question.

The previous question was seconded and the main question ordered.

The question was upon agreeing to the report of the committee of conference.

Mr. ROSS. Can the question be taken separately upon the part in relation to the tax on banks?

The SPEAKER. It cannot; the report must be considered as a whole.

The report was then agreed to.

Mr. SCHENCK moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CONDITION OF PUBLIC BUSINESS.

Mr. WASHBURN, of Illinois. I want to ask the gentleman from Ohio [Mr. SCHENCK] a question in view of the probable adjournment of this session, in which we are all so much interested. I would inquire of him what business there is now before the Committee of Ways and Means?

Mr. SCHENCK. The principal business before that committee of a public character is the funding bill, which has passed the Senate. We have bestowed considerable consideration upon that bill; and as the House referred it to us to-day, we hope to be able to report it back to the House in forty-eight hours with whatever amendments we may desire to have made to it.

#### PRINTING THE TAX LAW.

Mr. BECK. I would suggest to the gentleman from Ohio [Mr. SCHENCK] the propriety of moving that there be printed of the tax law a sufficient number of copies to inform the people of the country about the law.

Mr. SCHENCK. I think that is a very good suggestion. The report of the committee of conference having been agreed to by both Houses, it only remains for the President to sign the bill for it to become a law. I therefore move that twenty-five thousand copies of the tax bill, when it shall have been approved by the President, be printed for the use of members of this House, in pamphlet form, with an index, to be prepared by the clerk of the Committee of Ways and Means.

The motion was referred to the Committee on Printing under the law.

#### LAND OFFICE IN UTAH TERRITORY.

Mr. WASHBURN, of Illinois. There is a bill upon the Speaker's table which will undoubtedly become a law. Some unimportant amendments have been made to it by the Senate. Those amendments ought to be concurred in for the purpose of putting the necessary appropriations in the deficiency appropriation bill, which is now in the Senate, and will be probably acted on there to-morrow. I ask unanimous consent to take it from the table for consideration at this time.

The SPEAKER, by unanimous consent, laid before the House amendments of the Senate to the bill (H. R. No. 202) to create the office of surveyor general in the Territory of Utah, establish a land office in said Territory, and extend the homestead and preemption laws over the same.

The amendments were read as follows:

On page 1, in line seven, strike out "shall" and insert "have."

On same page, in line seventeen, after "land," insert "of the United States."

On same page, in lines twelve and thirteen, strike out the words "to which the Indian title is or shall be extinguished."

On same page, in line ten, strike out "and" where it first occurs after the word "lands" and insert "of the United States."

The amendments were concurred in.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ROBERT FORD.

Mr. SHANKS. I ask the unanimous consent of the House to take from the Speaker's table for consideration at the present time the bill (S. No. 550) for the relief of Robert Ford.

There being no objection, the bill was taken from the Speaker's table and read a first and second time. It appropriates the sum of \$814 to Robert Ford, in full payment for his time and services as a teamster in the quartermaster's department of the Army from May 1, 1862, to August 1, 1864.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. SHANKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CONTRACTS PAYABLE IN COIN.

On motion of Mr. SCHENCK, by unanimous consent, the bill (S. No. 180) relating to contracts payable in coin, was taken from the Speaker's table, read a first and second time, and referred to the Committee of Ways and Means.

#### SUITS AGAINST RAILROAD CORPORATIONS.

Mr. COOK, from the Committee on Roads and Canals, reported back a bill (H. R. No. 1423) to provide for bringing suits in the courts of the United States against railroad corporations where a portion of the line is in several States; which was ordered to be printed and recommitted.

Mr. RANDALL moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PUBLIC DEBT.

Mr. LOGAN. I ask unanimous consent to report back from the Committee of Ways and Means, for consideration at the present time, the bill (H. R. No. 1416) making certain regulations as to the public debt.

The SPEAKER. The bill will be read for information, after which there will be an opportunity for objection.

The bill, which was read, provides in the first section that no percentage, deduction, commission, or compensation of any amount or kind, shall be allowed to any person for the sale or negotiation of any bonds or securities of the United States disposed of at the Treasury Department or elsewhere on account of the United States; and all acts and parts of acts authorizing or permitting, by construction or otherwise, the Secretary of the Treasury to appoint any agent, other than some proper officer of his Department, to make such sale or negotiation of bonds and securities, are to be repealed.

The second section provides that all authority under any existing law to issue bonds, Treasury notes, or other interest-bearing obligations of the United States shall cease and determine. But nothing herein is to prevent the conversion of Treasury notes known as seven-thirties into the five-twenty bonds, nor the conversion of compound-interest notes into the three per cent. certificates of temporary loan, nor the issue of bonds as subsidy to railroad companies, as provided by law.

The third section provides that the Secretary of the Treasury shall publish monthly a detailed statement of the public debt at the close of each month, in which statement all bonds and other obligations of the United States issued from the Treasury Department, payable after the year in which such statement is made, including the amount of seven-thirty Treasury notes convertible into five-twenty bonds, but not including the amount of subsidy bonds issued to railroad companies, are to be classed as the "funded debt;" the United States notes and the fractional notes issued for circulation as money, are to be classed as the "currency debt;" the three per cent. certificates of temporary loans are to be classed as the "temporary-loan debt;" and all debt that is past due, or that will be payable within the year, stating the same in detail, are to be classed as the "matured debt," and the interest is to cease on such matured debt when it becomes due, and the same is to be paid on presentation at the Treasury. Such statement is also to contain the amount outstanding of subsidy bonds issued to railroad companies; and the amount of coin, the amount outstanding of gold certificates, and the amount of currency in the Treasury of the United States.

Mr. ELDRIDGE. I cannot understand that; it is too long, and I object.

Mr. LAFLIN. I wish to state that my colleagues, Mr. VAN WYCK and Mr. VAN AERNAM have been detained from the House to-day by illness.

#### HOMESTEADS TO ACTUAL SETTLERS.

Mr. WASHBURN, of Indiana, from the Committee on Military Affairs, reported a bill (H. R. No. 1433) to amend an act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1802; which was read a first and second time, ordered to be printed, and recommitted.

Mr. WASHBURN, of Indiana, moved to

reconsider the vote by which the bill was re-committed.

The SPEAKER. The motion will be entered on the Journal, and will be passed over for the present.

#### ADVERSE REPORTS.

Mr. BOYER, from the Committee on Military Affairs, reported back the following cases adversely; and the same were laid on the table:

Resolution relative to the officers of the fifth regiment of Wisconsin volunteers;

Petition of Colonel Jacob M. Davis and forty other officers of Pennsylvania regiments, for the passage of a supplementary act extending the three months' extra pay to all officers mustered into the United States service before April 26, 1865, and honorably mustered out thereafter;

Claim of Selden P. Clark, for pay and allowances of captain of infantry from October 31 to December 20, 1861;

Petition of James W. Strobe, first lieutenant company K, fifth Kentucky cavalry;

Petition of D. S. Curtis, for an amendment of the act granting three months' pay;

A bill (H. R. No. 625) for the relief of David L. Wright, late captain company E, fifty-first regiment Indiana volunteers;

Petition of Samuel Wills, of Illinois, for relief;

Petition of William W. Wilcox, praying compensation for services as second lieutenant seventy-seventh Illinois volunteers;

A bill (H. R. No. 17) for the relief of Major James B. Thompson, of Perrysville, Juniata county, Pennsylvania, who was first lieutenant and subsequently captain of company F, one hundred and ninetieth regiment Pennsylvania volunteers, having been commissioned during his confinement in rebel prisons; and

Petition of William Bass.

#### DEFICIENCY IN APPROPRIATIONS FOR INDIANS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, reporting a deficiency in the appropriation made for the subsistence of friendly Indians, amounting to \$172,827; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. WASHBURNE, of Illinois, moved to reconsider all the votes recently taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois, moved that the House take a recess.

The SPEAKER stated that there would be evening sessions for debate only one or two evenings more, as the evening sessions would be required for public business.

The motion was agreed to; and thereupon (at four o'clock and forty-five minutes p. m.) the House took a recess till half past seven o'clock p. m.

#### EVENING SESSION.

The House reassembled at half past seven o'clock p. m., and, agreeably to order, resolved itself into the Committee of the Whole on the state of the Union (Mr. BECK temporarily in the chair) for general debate.

#### INTERNAL REVENUE SYSTEM.

Mr. CULLOM. Mr. Chairman, when the tax bill was before the committee for examination and discussion some time ago I desired to give my views in relation to it, but there seemed to be such uncertainty about the passage of any bill unless the House acted promptly that I determined to content myself with my votes upon the various amendments as presented. The bill passed the House, however, has been to the Senate, and passed with amendments, and there is now no reasonable doubt but that it will become a law, and I feel justified in taking a few minutes time in

saying what I think in relation to the general subject of taxation, and especially the tax on spirits.

The burdens of taxation now resting upon the people are so heavy that they are calling upon us for relief. Our duty is to give it if in our power to do so consistent with public safety, public credit, and national honor. There has seldom been a time when business has been so depressed. Thousands of the best and most enterprising men of the land are struggling against the waves of misfortune, and are in danger of being swallowed up in the depths of financial ruin. They are looking toward Congress and expecting help. Can we give it? If we can, shall we give it? If we can, and fail, we shall fail to perform a duty for which we should be held accountable to our people. One of the means of relief is the passage of the tax bill. I was in favor of revising the whole revenue law, and was therefore against laying aside the original bill reported to the House by the committee, for the reason that in my judgment it is unwise for the Government at present to require the collection of any more revenue than is necessary to meet the current expenses of the Government and pay the interest on the public debt. By going over the whole system we could have lightened the tax in many particulars, and to that extent relieved the people of burdens. I was for going on with that bill for this reason. I was for going on with it for another reason. Men are not specially fond of paying taxes at any time. The people are disposed to put off that duty about as long as the law will permit when taxes are light and the burdens easy. And they are sure to object and procrastinate when the burdens to be borne are not equitably distributed among all the people. When one man is called upon to pay and his neighbor is excused because his property may be in a different shape, (the one and the other equally able,) the man who is able to pay may well be pardoned if he complains that he is not treated fairly, and he enters his protest.

Justice is an indispensable element in the tax laws as well as every other, if you will have them enforced and receive a cheerful response from the people. The American people are ready to answer to the calls of the Government whenever made upon a fair showing of necessity, and when made to all upon the solid basis of justice. The revenue law, in my judgment, might be greatly improved and made much more equitable in its operation and bearing upon the various classes of industry in the country. For these two reasons I regret that it was not the judgment of the House to go over the whole subject. While the burdens are piled up almost mountain high, and while trade and commerce and all the varied employments of the people are so depressed and are struggling to pass through the present crisis, which amounts almost to a panic, I am unwilling to pile them up higher for the sake of having it to say that this nation, just out of a great war, is rapidly paying off the public debt.

Mr. Chairman, I wish the debt were paid. I wish that it had been so ordered that we had never been called upon to incur it; but, sir, it is upon us; it was incurred in a war for national existence, and we must deal with the subject as we find it. Our public debt amounts to about twenty-seven hundred million dollars. The annual interest upon the public debt amounts or is estimated for the year ending June 30, 1869, to be \$129,678,078 50. I am unwilling to do very much more at present than raise sufficient money to pay the interest as we agree and to meet the current expenses of the Government honestly and economically administered. Let the people recover from the shock of battle; let prosperity again prevail; let commerce regain its wonted energy and life; let the people have time, and with it will come an ability to pay that which to-day would paralyze and prostrate the people. The Government has been in too great haste to pay off its debt. The war closed in the spring of 1865,

and since that time we have paid \$300,000,000 of the public debt; in which time also an army of nearly a million of men had to be mustered out and paid off, and all the other varied and extraordinary expenses incident to the closing up the war had to be met.

A hundred millions a year since the close of the war has been taken from the people by duties and internal taxes in addition to the extraordinary expenses, as I have said, and in addition to the interest, and paid toward liquidating the principal of the debt of the country. Sir, it is proof sublime of the capacity and latent power of this great and free people, and an example worthy to be heralded to all the nations of the earth; but, sir, I think it, to say the least, is unwise for us in the future to continue to tax and strain the energies of the people for the purpose of producing such results; and I am, therefore, for the present in favor of giving the people as little to do in the payment of taxes as possible, consistent with honor and a healthy condition of the country, until they get upon their feet again and get to business. Then, Mr. Chairman, when we have determined to raise no more money than we actually need, and have determined to raise what we do need by the enactment and enforcement of laws just and equitable, then the next great business for us is to see that the taxes provided by law to be paid by the people shall be honestly collected, and honestly paid into the Treasury by the officers and agents appointed for that purpose.

It may be easy to pass just laws in which all the people would cheerfully acquiesce if properly enforced, but when they are not properly enforced or if enforced so far as to collect the tax from the people, and then violated by a failure to pay over to the Government, it is not surprising that the people complain and murmur.

But, sir, when it comes to the question of enforcing or executing the laws Congress is powerless. It is our duty to enact, it is the duty of the Executive to execute. With this plain duty before each of the two branches of the Government what are the facts? At the outset good officers of the Government are removed on account of political opinions, and men put in their places because they profess to agree with the Executive.

Then after various demonstrations in various ways calculated to demoralize the public service we have the sad spectacle in this land, the great glory of which is that it is a land governed by the people's laws, of the chief Executive, the highest officer of the nation, the man whose special duty under the Constitution is to see that the laws be faithfully executed, violating the law, and yet protected in his action by the high tribunal which alone can remove him from office.

Who can expect that his appointees, with commissions signed by him, with his example before them as a guarantee of protection, will discharge their duties with fidelity to the interests of the people and in accordance with the law which alone should be their guide?

I do not charge that the persons holding position under the President are all dishonest. Some of them I know are faithful to their duty; but, sir, in view of the example set by the President it would not be strange if many of his subordinates should follow his example and set the law at defiance when for corrupt or other motives it seemed desirable to do so. And, sir, I assert that the corruption that seems to prevail among the revenue officers and custom officers of the country, and which has well nigh depleted the Treasury within the last two years, is mainly chargeable to the course pursued by the President of the United States.

But, Mr. Chairman, I desire to say a word in relation to the tax on spirits. When I came here at the first session of the Thirty-Ninth Congress the tax on whisky had been raised to two dollars per gallon. It had come up by a series of steps from twenty cents, I believe, until it got to two dollars.

The reports of the Commissioner then showed



that instead of the revenue from that source increasing as the tax was increased the amount was materially diminished. My judgment then was that the tax was too high. It was too high to insure large revenue, and too high, having in view the interests of western people, where the larger part of the grain out of which spirits is or should be manufactured. I thought then that it should be reduced to one dollar per gallon. It was urged, however, by those having the subject specially in charge, that the two-dollar tax had not had a fair test, and the Government would be able to do better after the supply on hand when the tax was raised was used up, and by a heavy tax on spirits and tobacco other interests could be relieved. With these statements, and others of a similar character, those in favor of a high tax were able to keep it at two dollars. So we have gone on from year to year until the amount of revenue from spirits has run down from about thirty millions a year to \$13,000,000; and there seems at last to be a conviction here, and everywhere else, that the tax will have to be reduced soon or we shall get no revenue at all from that source.

It is humiliating, sir, to be compelled to admit that we are driven to this point by the rascals in the country. And I very much fear, sir, that its reduction will not insure the honest collection of the tax that we shall agree upon, however stringent we make the law in providing for its collection.

The judgment of Congress now is to place the tax at fifty cents per gallon and require its collection at the still or distillery warehouse. We can do no less than try this plan and hope for good results. Fraud in connection with this interest must be stopped somehow. Unless it is we had better repeal the law entirely and get back to the days of free whisky, and let the distilleries run.

But, sir, I desire to offer some suggestions touching this subject, showing the effect of high taxation of spirits upon the general economy and welfare of the country.

And, sir, I am glad to state that a gentleman of my own district, a man of wealth and business, and high character, and who has not been engaged in the business of manufacturing or dealing in spirits, has furnished me the facts and figures which I shall use in this portion of my argument. The greater portion of the distilled spirits which pays no tax is made in an illicit manner and with imperfect machinery. It is a well known fact that such a still, run in the dark and secret, cannot produce as great a quantity of spirits from a given quantity of grain as will the large establishment with perfect machinery worked in an open and scientific manner. The object of the dishonest man, secretly engaged in defrauding the Government, is to escape detection and get as much money in his pocket as he can quickly as possible. In his haste and fear he fails to get as much spirits from a bushel of grain as the large distiller can make; besides, the slops with which to fatten beef and pork running from the illicit still are an entire and absolute waste.

There is supposed to be made about seventy-five million gallons of spirits each year. It is estimated, I believe, that distilleries properly run can make about three and a half gallons of spirits from a bushel of grain. If this is so, in the manufacture of seventy-five million gallons of spirits about twenty-one and a half million bushels of grain would be consumed. It is not supposed that an illicit distiller could produce more than two and a half gallons from a bushel of grain. If so, in the illicit distillation of seventy-five million gallons of spirits thirty million bushels of grain would be consumed—making a difference of about nine millions in the amount of grain consumed; the difference being an entire loss to the wealth of the country. To this loss must be added the amount of slops thrown away. It is said the slops will make half as much beef and pork as the corn itself if fed to the animals, but if it will make one third as much then it is equal to a loss of over seven million bushels

of grain, making a total loss to the country equal to about fifteen and a half million bushels of grain, which, at the lowest calculation, would be worth, according to the ruling prices in the country, about twelve million dollars.

These figures are made upon the assumption that the spirits are all made in an illicit manner; the evidence is that the greater portion is so made. The exports of grain from this country during the year 1867 did not amount to more than ten million bushels. Thus it will be seen that the waste from illicit and fraudulent distillation of spirits amounts to more than all our exports of grain, and of course is felt by all who consume a bushel of grain or a pound of meat, and by all those who contribute in taxes to the support of the country.

Every honest business in the land demands that the distillation of spirits should be conducted openly and honestly, like other business conducted by honest men; that the taxes legally imposed upon such products should be paid, and that when paid it should find its way into the Treasury of the United States.

Mr. Chairman, I will not take up the time of the House longer. I trust this bill will become a law very soon, and that when it does we may hear of better results in the collection of the revenue from spirits and tobacco, and that we may soon be able to relieve entirely all the other branches of industry from taxation, and rely upon custom duties and tax on spirits and tobacco to pay the interest on the public debt and meet the current expenses of the Government.

Since the close of the war, notwithstanding the enormous expenditures incurred in paying off and reducing the Army, notwithstanding the fact that we have reduced the public debt \$100,000,000 a year, and have paid in bounty to the soldiers millions of dollars annually, and to the pensioners millions more, and have paid the interest on the public debt, and raised money necessary to support the Government, yet we have every year lightened the burdens upon the people by the modification of the tax laws. The first year after the war closed we repealed taxes which had amounted to \$60,000,000; the next year \$40,000,000, and this year we have already relieved the people by the repeal of taxes which last year amounted to \$90,000,000. We might still go further, and still have a surplus, after meeting all just demands due, to be applied in discharge of the principal of the debt.

Mr. Chairman, with all the burdens for the last few years resting upon the people they have gone forward enjoying a reasonable degree of prosperity. With a little encouragement, by wise and prudent legislation a degree of prosperity will soon prevail all over the land, which will double the aggregate wealth of the nation and enable us to provide for the payment of the debt without oppressing the business of the people. Then let us adopt such a policy as will produce such results.

Mr. BROOMALL addressed the committee on general political topics. [His remarks will be published in the Appendix.]

Mr. PAINE spoke on the New York Democratic convention, its candidates and platform. [His remarks will be published in the Appendix.]

Mr. GARFIELD, Mr. BUTLER, of Massachusetts, Mr. PIKE, and Mr. STONE addressed the committee on the taxation of the United States bonds. [Their speeches will be published in the Appendix.] Mr. STONE, before concluding, yielded to

Mr. VAN HORN, of New York, who moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. VAN HORN, of New York, having taken the chair as Speaker *pro tempore*, Mr. CULLOM reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, had come to no resolution thereon.

And then, on motion of Mr. CULLOM, (at ten o'clock, p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BLAIR: The petition of several officers of the regular Army, for continuance of increased pay upon the passage of Mr. SCHENCK's bill to fix and equalize the pay of officers, &c.

By Mr. FERRISS: The petition of certain officers of the Army, for the continuance of increased pay.

By Mr. GARFIELD: The petition of officers of the Army, for the passage of the bill known as General SCHENCK's pay bill.

Also, the memorial of Joseph W. Burke, protesting against the admission of John B. Callis as a Representative in Congress from the fifth district of Alabama.

By Mr. HUBBARD, of West Virginia: The petition of William M. Simpson, of Wood county, West Virginia, asking that his name may be placed on the pension-roll.

By Mr. POLAND: The petition of Foster & Tower, praying relief on account of error in contract for furnishing crucibles to Navy Department.

#### IN SENATE.

THURSDAY, July 16, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (H. R. No. 1420) directing the Commissioner of Pensions to proceed to hear evidence and determine the right of W. H. Cox, deceased, late a sergeant in company F, second regiment Pennsylvania artillery, to a pension in the same manner as if he was still living, he having died of a disease contracted while a prisoner of war at Andersonville, Georgia, and if found to be entitled to a pension, then the same from the time of his discharge till death, to be paid over to his father, Charles D. Cox—to the Committee on Pensions.

A bill (H. R. No. 541) making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution—to the Committee on Appropriations.

A joint resolution (H. R. No. 296) giving the assent of the United States to the construction of certain wharves in the harbor of Oswego, New York—to the Committee on Commerce.

A joint resolution (H. R. No. 342) for the restoration of Commander Greenleaf Cilley, and Commander Aaron K. Hughes, United States Navy, to the active list from the retired list—to the Committee on Naval Affairs.

A joint resolution (H. R. No. 343) to admit free of duty certain statutory—to the Committee on Finance.

A joint resolution (H. R. No. 341) for the relief of Z. M. Hall—to the Committee on Commerce.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 3d instant, information in relation to the condition of the appropriation for the publication of the medical and surgical history of the war; which was referred to the Committee on Printing.

#### PETITIONS AND MEMORIALS.

Mr. SUMNER presented a petition of officers of the United States Army, praying an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILSON presented two petitions of officers of the United States Army, praying an

increase of compensation; which were referred to the Committee on Military Affairs and the Militia.

Mr. NYE presented a petition of Robert B. Riell, captain United States Navy, praying to be allowed the retired pay of his present grade; which was referred to the Committee on Naval Affairs.

#### REPORTS OF COMMITTEES.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom the subject was referred, submitted a report, accompanied by a bill (S. No. 622) to authorize the construction of bridges across the Ohio river. The bill was read the first time and passed to a second reading, and the report was ordered to be printed.

Mr. RAMSEY. I ought to state that there are certain blanks in that bill; but the committee instructed me to report it at this time in order to have the report and bill printed, with a view subsequently to the recommitment of the bill to fill those blanks.

Mr. DAVIS, from the Committee on Claims, to whom was referred the petition of John A. Wilcox and the memorial of Asa Price, asked to be discharged from their further consideration; which was agreed to.

Mr. CATTELL, from the Committee on Finance, to whom was referred the bill (S. No. 621) authorizing the Manufacturers' National Bank of New York to change its location, reported it without amendment.

Mr. FRELINGHUYSEN, from the Committee on Claims, to whom was referred the bill (H. R. No. 834) for the relief of Hon. George W. Bridges, a member of the Thirty-Seventh Congress, reported it without amendment.

Mr. HOWE, from the Committee on Claims, to whom was referred the bill (H. R. No. 1322) for the relief of Major F. F. Stevens, assistant paymaster United States Army, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 1365) for the relief of Captain Thomas W. Miller, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 1366) for the relief of Captain A. G. Olivar, reported it without amendment.

Mr. VAN WINKLE, from the Committee on Finance, to whom was referred the bill (H. R. No. 39) authorizing the Commissioner of Internal Revenue to adjust the accounts of Mark Howard, reported it without amendment.

Mr. MORRILL, of Maine, from the Committee on Commerce, reported a bill (S. No. 623) for the registration or enrollment of certain foreign-built vessels; which was read and passed to a second reading.

He also, from the Committee on Appropriations, to whom was referred the joint resolution (H. R. No. 325) relative to the pay of the chief clerk in the office of the Sergeant-at-Arms of the House, reported it without amendment.

Mr. MORGAN, from the Committee on Commerce, to whom was referred a resolution of a meeting of citizens of Cincinnati, in relation to the carriage of passengers in steamships and other vessels, submitted a report, accompanied by a joint resolution (S. R. No. 162) to regulate the carriage of passengers in steamships and other vessels. The joint resolution was read and passed to a second reading, and the report was ordered to be printed.

Mr. COLE, from the Committee on Claims, to whom was referred the petition of Caleb Lyon, praying to be relieved from liability for the loss of certain money stolen from him on the night of December 13, 1866, while on his way to Washington city to settle his accounts as Governor of the Territory of Idaho, asked to be discharged from its further consideration; which was agreed to.

Mr. WILLEY, from the Committee on Claims, to whom was referred the bill (H. R. No. 1320) for the relief of L. Merchant & Co., and Peter Rosecrantz, reported it without amendment.

Mr. ANTHONY, from the Committee on Naval Affairs, to whom was referred the joint resolution (H. R. No. 232) authorizing the appointment of examiners to examine and report upon the expediency of discontinuing the navy-yard at Charlestown, Massachusetts, and uniting the same with the yard at Kittery, Maine, reported it with an amendment.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the joint resolution (S. R. No. 104) relating to the ocean mail steamship service between the United States and China, authorized by act of Congress, approved February 17, 1865, reported it with amendments.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom were referred the following message, resolutions, memorials, and petitions, asked to be discharged from their further consideration; which was agreed to:

A message of the President of the United States, communicating, in compliance with a resolution of the Senate, information in relation to instructions issued to General Pope and General Meade on their being assigned to the command of the third military district;

Resolutions of the Legislature of Kansas in favor of a change of the jurisdiction of the United States courts pertaining to the Indian country south of Kansas, from the State of Arkansas to the State of Kansas;

Resolutions of the constitutional convention of Texas, in favor of the transfer from the military commander of fifth military district to that convention of the power and authority to appoint and remove registrars for ascertaining and recording the qualified voters of that State; and

A petition of citizens of Alexandria, praying the passage of the bill to repeal an act entitled "An act to retrocede the county of Alexandria, in the District of Columbia, to the State of Virginia," and for other purposes.

He also, from the same committee, to whom was referred the resolution (S. R. No. 10) proposing an amendment to the Constitution of the United States, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 37) attaching the Indian territory to the State of Kansas for judicial purposes, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 2) to repeal an act entitled "An act to retrocede the county of Alexandria, in the District of Columbia, to the State of Virginia," and for other purposes, asked to be discharged from its further consideration, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 480) in relation to the pay of grand and petit jurors in the District of Columbia, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 145) in relation to the district court of the United States for the northern district of Ohio, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

Mr. SHERMAN, from the Committee on Finance, to whom were referred the following resolutions, memorials, and petitions, asked to be discharged from their further consideration; which was agreed to:

A memorial of the Chamber of Commerce of Charleston, praying that the building known as the post office may be rented to them for the purpose of establishing a public exchange and reading room;

A memorial of J. Sumner Powell, praying a loan of \$2,000 to be secured by a lien on a farm;

A petition of Samuel Bullock, of Georgia, praying that he may be allowed to distill spirits for medical purposes;

A petition of Little & Dana, woolen man-

ufacturers, praying to be relieved from internal revenue taxes now charged against them and remaining due and unpaid;

A resolution instructing the committee to inquire into the expediency of reporting a bill to provide new bonds to take the place of the five-twenties as they mature;

Resolutions of the constitutional convention of Georgia in favor of a loan of \$100,000 by the Government to the South Georgia and Florida railroad; and

A resolution of the Senate directing the committee to inquire into the expediency of repealing all laws imposing taxes on income and manufactures.

He also, from the same committee, to whom were referred a bill (S. No. 480) to provide for the change of name or location of national banking associations, asked to be discharged from its further consideration; and a bill (S. No. 154) to provide for the issue of gold in place of legal-tender notes, and to facilitate resumption of specie payment, moved their indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 225) respecting national banks in liquidation, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 141) requiring the Special Commissioner of the Revenue to act as Superintendent of the Bureau of Statistics in the office of the Secretary of the Treasury, asked to be discharged from its further consideration, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 493) providing for a reduction of the rate of interest on the public debt, asked to be discharged from its further consideration, and that it be indefinitely postponed; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 387) to fix the compensation of the United States depositary at Chicago, asked to be discharged from its further consideration, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the petition of James F. Joy, praying such action as will give him the possession of the marine hospital and grounds at Chicago, Illinois, purchased by him under act of Congress, asked to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary; which was agreed to.

Mr. SHERMAN. I am also directed by the same committee to report back the joint resolution (H. R. No. 337) continuing the refining of bullion in the Mint of the United States and branches. This is already disposed of by an amendment in one of the appropriation bills. I move its indefinite postponement.

The motion was agreed to.

Mr. SHERMAN. I am also instructed to report back a bill (H. R. No. 788) to regulate the appraisement and inspection of imports in certain cases, and for other purposes, with an amendment.

Mr. MORRILL, of Vermont. I desire to say in behalf of the minority of the Committee on Finance that when the bill comes up they will ask leave to make a minority report.

Mr. MORGAN. I would like the chairman to state that the committee are divided.

Mr. SHERMAN. The amendment reported is by a majority of the Committee on Finance.

#### COMMERCIAL LAWS EXTENDED TO ALASKA.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the bill (S. No. 619) to extend the laws relating to customs, commerce, and navigation over the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes, have had the same under consideration, and directed me to report it back with amendments, and recommend its passage. I



ask the unanimous consent of the Senate to allow it to be put on its passage now. It is a bill extending the revenue laws over Alaska, and it is a matter of necessity, and must go to the House. Therefore I ask the unanimous consent of the Senate to put it on its passage at once.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that the laws of the United States relating to customs, commerce, and navigation, shall be extended to and over all the mainland, islands, and waters of the territory ceded to the United States by the emperor of Russia by treaty concluded at Washington on the 30th day of March, 1867, so far as the same may be applicable thereto. By the second section all of the said territory, with its ports, harbors, bays, rivers, and waters, will constitute a customs collection district, to be called the district of Alaska, for which district a port of entry is to be established at some convenient point to be designated by the President, at or near the town of Sitka or New Archangel, and a collector of customs be appointed by the President, by and with the advice and consent of the Senate, who shall reside at the port of entry and receive an annual salary of \$2,500 in addition to the usual legal fees and emoluments of the office. But his entire compensation is not to exceed \$4,000 per annum, or a proportionate sum for a less period of time. The third section provides that ports of delivery not exceeding six in number may be established by the Secretary of the Treasury at such other points in the district as, in his opinion, the interests of the revenue may demand, for each of which a surveyor shall be appointed by the Secretary, who may, at his discretion, be by him clothed with any part or all of the official powers of a collector, and required to give bond to the United States for the faithful discharge of his official duties in such amount as the Secretary shall direct; and who shall receive a salary of \$2,000, and in addition, when clothed with the powers and responsibilities of a collector, the fees and emoluments of a collector accruing at the port where each surveyor is stationed. And in that case the collector of the district is not to be entitled to the same; but the entire compensation of any such surveyor is not to exceed \$3,000 per annum, or a proportionate sum for a less period. The Secretary of the Treasury is by the fourth section authorized to make and prescribe such regulations as he may deem expedient for the nationalization of all vessels owned by actual residents of the ceded territory on and since the 20th day of June, 1867, and which shall continue to have been so owned up to the date of such nationalization.

The President is to have power, by the fifth section, to restrict or regulate or to prohibit the importation and use of fire-arms, ammunition, and distilled spirits into the territory; and the exportation of the same from any other port or place in the United States when destined to any port or place in that territory; and all such arms, ammunition, and distilled spirits, exported or attempted to be exported from any port or place in the United States and destined for such territory, in violation of any regulations that may be thus prescribed; and all such arms, ammunition, and distilled spirits, landed or attempted to be landed or used at any port or place in that territory, in violation of those regulations, are to be forfeited; and if the value of the same shall exceed \$400, the vessel upon which the same shall be found, or from which they shall have been landed, together with her tackle, apparel and furniture, and cargo, are to be forfeited; and any person willfully violating such regulations is, on conviction, to be fined in any sum not exceeding \$500, or imprisoned not more than six months. And bonds may be required for a faithful observance of such regulations from the master or owners of any vessel departing from any port in the United States having on board fire-arms, ammunition, or distilled spirits, when such vessel is destined to

any place in the territory, or, if not so destined, when there shall be reasonable ground of suspicion that such articles are intended to be landed therein in violation of law; and similar bonds may also be required on the landing of any such articles in the territory from the person to whom the same may be consigned.

The sixth section provides that the coasting trade between the territory and any other portion of the United States is to be regulated in accordance with the provisions of law applicable to such trade between any two great districts.

By the seventh section it is to be unlawful for any person to kill any otter, mink, marten, sable, fur-seal, or other fur-bearing animal within the limits of the territory, or in the waters thereof; and any person guilty thereof will, on conviction, be fined in any sum not exceeding \$100 for each offense, one half of which will be for the use of the informers. The President is to have power to issue to individuals or incorporated companies annual licenses, by virtue of which such individuals or corporations may lawfully kill or cause to be killed, under such restrictions and regulations as the President may prescribe, such number of otters, minks, martens, sables, fur-seals, or other fur-bearing animals as shall be by such license specially authorized, and no more. And the President is empowered to prescribe all necessary regulations, and to require from persons and corporations licensed, or to be licensed, bonds with sufficient security, conditioned upon a faithful observance of all general or special regulations prescribed; and any license so granted is not to be assignable, but shall be effectual only for the person or corporation to which it shall have been issued, or an agent of the same duly authorized in writing, and shall be and become forfeited and void upon any violation of the regulations.

By the eighth section, until otherwise provided by law, all violations of this act, and of the several laws by it extended to the territory and the waters thereof, committed within the limits of the same, are to be prosecuted in any district court of the United States in California or Oregon, or in the district courts of Washington, and the collector and deputy collectors appointed by virtue of this act, and any person authorized in writing by either of them, or by the Secretary of the Treasury, is to have power to arrest persons and seize vessels and merchandise liable to fines, penalties, or forfeitures under this and the other laws, and to keep and deliver over the same to the marshal of some one of those courts, which are to have original jurisdiction and may take cognizance of all cases arising under this act and the several laws by it extended over the territory so ceded to the United States by the emperor of Russia, and shall proceed therein in the same manner and with the like effect as if such cases had arisen within the district or territory where the proceedings shall be brought. According to the ninth section, in all cases of fine, penalty, or forfeiture, mentioned and embraced in the act entitled an act to provide for mitigating or remitting the forfeitures, penalties, and disabilities accruing in certain cases therein mentioned, or mentioned in any act in addition or amendatory of that act, that have occurred or may occur in that collection district of Alaska, the Secretary of the Treasury is authorized if, in his opinion, the fine, penalty, or forfeiture was incurred without willful negligence or intention of fraud, to ascertain the facts in such manner and under such regulations as he may deem proper without regard to the provisions of the act referred to, and upon the facts so to be ascertained he may exercise all the power of remission conferred upon him by that act as fully as he might have done had the facts been ascertained under and according to the provisions of the act.

The tenth section provides that bonded warehouses may be established under the provisions of the warehousing laws, if authorized

by the Secretary of the Treasury, under such regulations, general or special, as the Secretary shall prescribe, at any port of entry or delivery thus established. But all expenses incurred by the United States in connection with private bonded warehouses of any class established under the custom laws at any port in the United States, and for the reception, delivery, custody, and safe-keeping of the merchandise stored therein, are to be reimbursed by the proprietors or occupants of such warehouses respectively, and moneys received by collectors on account of such reimbursement are to be duly accounted for as moneys received from that specific source, and not be considered as storage for any purpose whatsoever.

The Secretary of the Treasury may prescribe all needful rules and regulations to carry into effect all parts of this act, except those specially intrusted to the President alone; and the sum of \$100,000 is appropriated to carry this act into effect and meet the expenses of collecting the revenue from customs within the limits of the territory. And the ports of delivery established under this act by the Secretary of the Treasury may be, at his discretion, by him discontinued or changed to different localities.

The Committee on Commerce reported amendments to the bill, the first of which was to strike out the third section.

The amendment was agreed to.

The next amendment of the Committee on Commerce was to strike out the seventh section of the bill, and in lieu thereof to insert the following:

*And be it further enacted*, That until Congress shall otherwise provide by law the Secretary of the Treasury, with the approval of the President, shall have power to prescribe such rules and regulations as he may think proper in relation to the killing and the preservation of fur-bearing animals from indiscriminate destruction.

Mr. STEWART. I should like to inquire of the Senator having charge of this bill whether this amendment strikes out the provision allowing the President to grant exclusive privileges?

Mr. CHANDLER. Yes, sir; the whole of that is stricken out, and this provision is put in about fur-bearing animals.

Mr. STEWART. May they not construe this provision as enabling them to give such privileges?

Mr. CHANDLER. This section provides that until Congress shall pass a law regulating the matter, the Secretary of the Treasury, with the approval of the President, may make such regulations as may be deemed necessary.

Mr. STEWART. Why not add "but shall grant no special privileges?"

Mr. CHANDLER. You may put that in if you please.

Mr. STEWART. I move to amend the amendment by adding:

*Provided*, That no special privileges shall be granted under this act.

Mr. POMEROY. I suppose the Secretary of the Treasury will have to give the privilege to somebody temporarily until Congress passes a law on the subject. If he gives the privilege to everybody it will be no privilege at all.

Mr. CHANDLER. Congress will by law regulate the matter at the next session.

Mr. STEWART. If the amendment be made he will not give a special privilege to anybody, but he may make regulations against killing that will leave it open. There is a company now organized at San Francisco who are the successors of the Russian company. They were very desirous of having special privileges. That company is a very worthy company, and would probably protect the animals as well as any other. I think, however, there ought to be a provision that no exclusive privilege shall be granted to anybody.

Mr. CHANDLER. I do not object. The whole measure is a temporary thing.

Mr. COLE. I realize the necessity, because it is very great, of affording some protection to these animals. The Russian Government,



before the acquisition of the territory by the United States, made very wise provisions on the subject, giving certain privileges to a company which was then in power in that territory, which resulted in the protection of these animals from indiscriminate slaughter. Unless we adopt some similar plan, there will be great danger of an indiscriminate slaughter of these animals. Unless a privilege be granted to some party or company or companies to exercise supervision over these animals, I do not know how there can be any way to prevent the slaughter of them. If all parties are allowed to go in and kill them indiscriminately, they will be destroyed or driven away from the islands where they resort, and there will be a total loss to the whole country and to commerce of that product. It is clear to my mind that some agency will have to be adopted by the Secretary and the President by which to afford this protection.

I am not speaking on behalf of any particular company, but rather on behalf of all companies who are interested in this, and on behalf of the country at large. I think the amendment had better not be adopted; that the Secretary, with the consent of the President, may be allowed to exercise such means as he may see fit to adopt for the protection of these animals. I think the Senator from Nevada will withdraw the amendment upon this statement of the case. Certainly there must be some agency by which to carry out this plan of protecting those animals.

Mr. STEWART. There is no difficulty in making rules and regulations for their protection, but I should hate to place it in the hands of the President and Secretary, remote from the localities, without the facts before them to exclude any business company that is now engaged in that traffic. I should hate to have that power placed in their hands. I would rather that no special privileges be granted this year; that regulations be made for the protection of the animals, and that Congress may consider the matter, after a careful investigation, at the next session. I think that is the fairest thing to all parties.

There is one company that have invested a very large amount of money in buying ships and are in the trade, and they want special privileges; but the thing has not been sufficiently investigated, and cannot be at this session. There are several others who want special privileges who have not money invested. I think it will be safer to leave the whole thing as it is, with regulations for the protection of the animals, and let Congress be fully advised when any special privileges are granted. The Secretary will not be, in four months, in a position to ascertain so as to do justice, but may send somebody out to examine. To grant special privileges would work hardship to those engaged in the business. I think it would be entirely better for him simply to make his regulations in advance. He can get the material from which to make regulations from the reports of the Russian Fur Company, showing the regulations that the Russians had for the protection of these animals. It will be very easy for the Secretary to get those regulations, and from them to make regulations and send them out there and have them enforced. That country is in charge of the military, and it will be very easy to enforce the regulations. They can be made out in a single day from authentic reports. The Russian Government have the best safeguards that can possibly be put over these islands to protect these animals. Let the Secretary adopt those and have them enforced by the military until next year, and I think nobody will object.

Mr. CORBETT. What the Senator from Nevada complains of has been stricken from the bill on purpose to guard against that, leaving it to the Secretary of the Treasury to make such rules and regulations for the protection of these furs as he may think best. If he gives privileges at all they are special privileges. If he leaves it entirely open he may leave it open to people who will not protect the interests of

that trade, men who are intemperate, who will go in and commit an indiscriminate slaughter upon these animals. If the Senator from Nevada desires to accomplish that he can say that no special privileges to companies shall be granted. He will have to give special privileges to individuals certainly, unless it is to be left entirely open for every one, and they cannot control it at all. I think the amendment had better be withdrawn and leave the matter to the Secretary of the Treasury.

Mr. MORTON. I am in favor of this amendment and opposed to conferring monopolies or special privileges upon any corporation in the way of collecting furs. We have seen the effect of granting monopolies to these large corporations in that part of British America controlled by the Hudson Bay Company, which has literally prevented that country from being settled. But, Mr. President, it is very important that there should be stringent regulations to prevent the destruction of these fur-bearing animals out of season. I would have very much preferred that this bill should contain those regulations, made them a matter of law, and provided appropriate and even severe penalties. I doubt whether regulations made by the Secretary of the Treasury will be successful in preventing the destruction of these animals. The regulations ought to be a matter of law, contain penalties to be enforced by the courts, or in such a way as might be provided for.

Mr. CHANDLER. If the Senator will pardon me, this is intended only as a temporary measure to prevent the destruction of the animals until Congress can perfect such a law as he suggests. I will accept the amendment of the Senator from Nevada to this substitute and let it pass. It is merely a provision for four months.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Nevada.

Mr. COLE. I cannot acquiesce in the amendment. Very early in this session I introduced a joint resolution, Senate resolution No. 116, relating to this subject. It is a subject upon which I have been furnished with very considerable information. I know the great necessity there is for protecting these animals, and unless the Secretary or the Government is able to establish some agency to afford protection to them, there will be an indiscriminate slaughter of them. The Secretary can prescribe rules which all companies and all persons can adopt, but I feel quite certain that any such restriction as that which is put upon the bill by the amendment of the Senator from Nevada will result in the complete destruction of these animals. It is necessary that there should be some parties interested, if you please, in protecting them, in order that the protection shall be afforded. I shall therefore vote against the amendment, although the chairman of the committee seems willing to accept it.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

The question being put, it was declared that the yeas appeared to have it.

Mr. STEWART. I should like to have the yeas and nays on that. I think it is very important.

Mr. HOWARD. I ask that the amendment be again reported.

The CHIEF CLERK. It is proposed to insert at the end of the substitute—

Mr. WILLIAMS. Read the whole of the proposed amendment.

The CHIEF CLERK. The committee report to strike out the seventh section of the bill and to insert:

That until Congress shall otherwise provide by law the Secretary of the Treasury, with the approval of the President, shall have power to prescribe such rules and regulations as he may think proper in relation to the killing and to the preservation of the fur-bearing animals from indiscriminate slaughter.

It is proposed to add to the amendment the following proviso:

*Provided*, That no special privileges shall be granted under this act.

The PRESIDENT *pro tempore*. On this question the yeas and nays are demanded.

Mr. CHANDLER. Oh, no; let us have a division.

The yeas and nays were not ordered.

The amendment to the amendment was agreed to—yeas twenty-seven, noes not counted.

The amendment, as amended, was agreed to.

The next amendment was to strike out the tenth section of the bill.

The amendment was agreed to.

The next amendment was in section eleven, line five, to strike out "one hundred" and insert "twenty-five" before "thousand;" so that the clause will read:

And the sum of \$25,000 is hereby appropriated from any unappropriated money in the Treasury to carry this act into effect and meet the expenses of collecting the revenue from customs within the limits of the said territory.

The amendment was agreed to.

The next amendment was in the eleventh section, to strike out the words "and the ports of delivery established under this act by the Secretary of the Treasury may, at his discretion, be discontinued or changed to different localities."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### DIRECT TAX IN INSURRECTIONARY STATES.

Mr. SHERMAN. I am directed by the Committee on Finance to report back the joint resolution (H. R. No. 329) to amend the fourteenth section of the act approved July 28, 1866, entitled "An act to protect the revenue, and for other purposes." This joint resolution simply extends the time for assessing and collecting the residue of the direct tax in the late insurrectionary States, until the 1st of January next. It is a House resolution, and if it is to pass at all it ought to be passed now. I therefore ask that it be put on its passage.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to amend the fourteenth section of the act approved July 28, 1866, entitled "An act to protect the revenue, and for other purposes," so as to extend the operation thereof until January 1, 1869.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### VACANCIES IN EXECUTIVE DEPARTMENTS.

Mr. TRUMBULL submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendment of the House to the bill of the Senate No. 352, to authorize the temporary supplying of vacancies in the Executive Departments, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from its disagreement to the first amendment of the Senate, and agree to the same.

That it recede from its disagreement to the second amendment of the Senate, and agree to the same amendment, as follows: strike out the word "and" after the word "first" and insert the words "and third" after the word "second;" and that the Senate agree to the same.

That the House recede from its disagreement to the third amendment of the Senate, and agree to the same, with an amendment adding thereto the following words: "and in any such case it shall be the duty of the President to make such designation without delay;" and that the Senate agree to the same.

LYMAN TRUMBULL,

GEORGE VICKERS,

Managers on the part of the Senate.

GEORGE S. BOUTWELL,

JAMES F. WILSON,

Managers on the part of the House.

The report was concurred in.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 202) to create the office of surveyor general in the

Territory of Utah and to establish a land office in said Territory, and extend the homestead and preemption laws over the same.

The message further announced that the House had passed the following bill and joint resolution of the Senate:

A bill (S. No. 550) for the relief of Robert Ford; and

A joint resolution (S. R. No. 113) authorizing the Secretary of the Treasury to issue an American register to the British-built brig Highland Mary.

The message also announced that the House had passed a bill (H. R. No. 424) amendatory of an act entitled "An act for the relief of certain drafted men," in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 355) authorizing the construction of a bridge across the Missouri river, upon the military reservation at Fort Leavenworth, Kansas;

A bill (S. No. 550) for the relief of Robert Ford;

A bill (H. R. No. 202) to create the office of surveyor general in the Territory of Utah, and to establish a land office in said Territory and extend the homestead and preemption laws over the same;

A bill (H. R. No. 1853) for the removal of disabilities from certain persons therein named; and

A joint resolution (S. R. No. 113) authorizing the Secretary of the Treasury to issue an American register to the British-built brig Highland Mary.

#### LOYAL CHOCTAWS AND CHICKASAWS.

Mr. THAYER. The Committee on Indian Affairs have under consideration the bill (H. R. No. 1876) for the relief of the loyal Choctaw and Chickasaw Indians, and have directed me to report it back without amendment. I ask to have it considered at this time.

By unanimous consent, the bill was considered in Committee of the Whole. It proposes to direct the Secretary of the Interior to adopt and ratify the compromise and agreements entered into and executed on the 20th and 21st of April, 1863, between the legally authorized representatives of the Choctaw and Chickasaw nations of Indians, and the legally authorized representative of the loyal Choctaw and Chickasaw Indians, claimants under the forty-ninth article of the treaty of April 28, 1866, between the United States and the Choctaw and Chickasaw Indians, as a full and final settlement of all claims under that article of the treaty. And the amount as stipulated in these agreements to be paid to the loyal Choctaw and Chickasaw claimants, namely, to the Choctaw claimants the sum of \$109,742 08, and to the Chickasaw claimants the sum of \$150,000, is to be paid by the Secretary of the Interior to the claimants out of any moneys in the Treasury of the United States belonging to or held in trust for these nations of Indians; but in case there is not a sufficient amount of money in the Treasury of the United States belonging to or held in trust for these nations of Indians to discharge their respective obligations to the loyal Choctaw and Chickasaw Indians, claimants, or in case the Choctaw and Chickasaw nations of Indians shall request it, then the Secretary of the Interior is to sell such bonds or other securities held in trust by the United States for the Choctaw and Chickasaw nations of Indians as may be necessary to discharge their respective obligations to the loyal Choctaw and Chickasaw claimants as stipulated in the compromise and agreements referred to; but no bonds or securities are to be sold for less than par. No payment is to be made nor bonds delivered under the provisions of the act except in every case to the person actually entitled in his own right to receive

the same; nor is any contract or power of attorney relating to the same to be regarded or held as of any validity unless signed and executed after the passage of the act.

Mr. MORTON. I desire to add a proviso to the section authorizing the sale of bonds, providing that the bonds of the State of Indiana held by the Government shall not be sold. The State of Indiana has a large claim against the Government, and it is agreed by virtue of a bill which passed the Senate some days ago that such an amount shall be deducted from the claim of the State against the Government as shall be sufficient to satisfy the bonds held by the Government against the State. That arrangement will be defeated if these bonds should be sold; and as there is no necessity for selling the bonds of Indiana, the Government having plenty of other securities, I desire to have the sale of the Indiana bonds prevented by a proviso. I therefore move to add to the bill:

And provided also, That the bonds of the State of Indiana held by the United States shall not be sold under this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time; and the question being put on its passage, it was declared to be passed.

Mr. HENDERSON. Since that bill has been reported I understand that some objection has been made to it, and I prefer that the Senator from Nebraska should let it lie over for a short time. In fact, one of the attorneys for the Choctaws and Chickasaws just now called on me and stated a very important fact, that the Choctaws and Chickasaws have made no agreement whatever which will justify the bill. The claim has been examined under an old treaty and a report made. In fact, Congress had nothing to do with it. It was a question entirely with the Secretary of the Interior, and if he ratified the report of the commissioners under the treaty, that made the claim valid against the Choctaws and Chickasaws, and their funds must necessarily be taken to pay the claim. It was an agreement in the treaty with the Choctaws and Chickasaws that the claims of the loyal Indians should be examined and a report made to the Secretary, and if the Secretary reported that the claim was proper upon an examination of the testimony, then, of course, the money should be paid. There was a long contest after the report was made, and the Secretary refused to confirm it. It stood, however, for a year or two, and legislation has been asked from Congress, but we have refused persistently up to the present time to take away the rightful jurisdiction of the Secretary or to interfere with it in any manner whatever.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the Indian appropriation bill.

Mr. HENDERSON. I have a word more to say about this matter.

The PRESIDING OFFICER. If there be no objection the Senator may proceed. The Chair will suggest to the Senator from Missouri that the bill on which he is speaking has been passed, and that the proper course for him is to make a motion to reconsider.

Mr. HENDERSON. I rose at the moment to object to its passage, but the Chair did not recognize me. I rose as he was putting the question.

The PRESIDING OFFICER. That being the case, if there be no objection, the Chair will consider the bill as not passed, and the question now is on the passage of the bill.

Mr. HENDERSON. I gave my consent to the report of the bill; but the attorney for the Choctaws and Chickasaws tells me within the last few minutes that they do not agree to it. There must be some very serious misunderstanding about it. Instead of ratifying the

report of the Secretary of the Interior, who presented the matter to Congress, we refused to do anything at the last session; and since that time I understand that the claimants and the Choctaws and Chickasaws made an agreement as to the amount which should be paid. I think I state it correctly when I say that it is upon that agreement that this bill is predicated. Now, I understand from the attorney of the Indians that they have made no agreement which will bind them to the passage of this bill. It is startling information to me, because I gave my consent to the bill supposing the whole matter was settled, and I have no doubt the Senator from Nebraska was of the same opinion; and therefore we suffered the bill to go through the committee. We had better have some further information on the subject, and I suggest that it lie over for an hour or two, and in the meantime we can make some further investigation. I do not wish to have any misunderstanding about it.

Mr. THAYER. I ask the Senate to give me a few minutes, and I will consent to the suggestion of the Senator from Missouri, the chairman of the committee. Prior to the war, the Government held over two million dollars in trust, in money and in bonds, belonging to the Choctaw and Chickasaw nations. After the war commenced, those two nations united with the southern confederacy. Several hundred Indians belonging to those tribes, however, refused to go with the nations into the southern confederacy, or to be allied with it, and remained loyal to the Government of the United States. They were subjected to all kinds of persecution. They made their way into our lines, and several hundreds of them went into the Union service as soldiers. After that was done the Legislatures of these two nations passed acts of confiscation, seizing the property of these loyal Indians. After the war, in the treaty of 1866, it was provided that these moneys which the Government held in trust should be restored to the nations, on condition that they paid these loyal Indians for the destruction of their property. When the time came for carrying out this provision, the disloyal portion of these Indian nations refused to carry out the stipulations of the treaty, and the matter has been hanging from that time to this. Finally an agreement was entered into, and the two nations embracing those who were disloyal, as a matter of compromise, agreed that the funds named in this bill should be paid to the loyal Indians. This bill was passed some weeks since by the House of Representatives, and its pendency here has been known to every agent of these Indians, and to every member of these tribes who was here. Now, why this statement comes in at this moment, when the bill has been before us for weeks, I cannot conceive. I consent, however, to let it go over this morning with a view to inquire into that matter. They cannot allege that it has come up unexpectedly; it has been pending all the winter, and this agreement was entered into by all the parties some time ago.

The PRESIDING OFFICER. By general consent, the vote on the final passage of the bill will be considered as not having been taken. It is now superseded, however, by the unfinished business of yesterday.

#### BILL RECOMMITTED

On motion of Mr. MORTON, the bill (H. R. No. 1313) granting an increase of pension to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman, was recommitted to the Committee on Pensions.

#### PROTECTION OF CITIZENS ABROAD.

Mr. CONNESS. There is a special order for one o'clock to-day.

The PRESIDING OFFICER. The unfinished business supersedes the special order.

Mr. CONNESS. I was aware of that by the rule of the Senate, but I very much prefer that the special order should be considered. The unfinished business is the Indian appropriation bill, which will undoubtedly become a law. The special order is the bill for the protection of